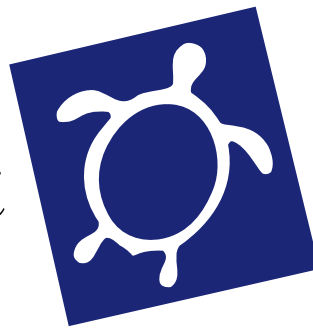


Environment



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Down in the Dump

Waimanalo Gulch: the name is synonymous with a mountain of trash that has been building ever since the City and County of Honolulu opened it nearly two decades ago.

Those who want to see it closed have been frustrated. Those who want to see it operating with a valid solid-waste permit can't be too happy, either.

As Teresa Dawson reports this month, many obstacles stand between the landfill and the new permit it needs. Confounding the picture even more is a dispute over whether waste from shredded autos contains impermissible levels of heavy metals, including mercury.

Also in this issue, we review recent publications on the Hawai'i Superferry, take a look at the proposed budget for the Department of Land and Natural Resources, and, on Page Two, consider the unprotected state of many of the marine mammals in Hawai'i.

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We're Sweet on our Supporters

City, Waste Management Struggle To Renew Waimanalo Gulch Permit



The Waimanalo Gulch Sanitary Landfill overlooks the Ko Olina development, many residents of which have called for the dump's closure.

Once again, the City and County of Honolulu is in a pickle over the continued operation of the Waimanalo Gulch Sanitary Landfill, O'ahu's only municipal solid waste facility.

The city's special use permit from the state Land Use Commission, which allows it to deposit solid waste in the agriculture-zoned landfill, expires on November 1. A planned 92.5-acre expansion would add some 15 years of capacity. But without amendments to the special use permit allowing for that additional capacity, the state Department of Health appears to be unable to approve a new solid waste management permit for the facility – or even deem the city's permit renewal application complete.

And because the city and landfill manager Waste Management Hawai'i (WMH) are currently accepting waste without a

solid waste permit, if they falter even just a little in complying with past permit conditions, operations could come to a screeching halt.

Permit Troubles

Last March, the LUC extended the permit's term, from May 1, 2008 to November 1, 2009, or until the landfill reaches its permitted capacity, whichever comes first. Although an extension of that deadline is not guaranteed, correspondence with the DOH suggests that both the city and WMH seem to expect that it will be, and they have been working to secure approval of a new solid waste management permit.

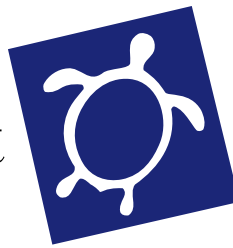
Their last permit expired on April 30, 2008. While the LUC was able to approve the special permit extension rather quickly, the DOH has yet to receive a complete solid

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Environment Hawai'i

Volume 19, No. 8

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NEW AND NOTEWORTHY

Whales, Dolphins Unprotected from Fishers:

The Government Accountability Office has found that the National Marine Fisheries Service has failed to take protective measures for 14 marine mammal populations that, by law, it is required to protect. Among them are Hawai'i false killer whales, the Central North Pacific stock of humpback whales, and the Hawai'i stocks of sperm whales and bottlenose dolphins.

Nothing has been done for the false killer whale due to a lack of funding, NMFS told the GAO. "According to the most recently available information, the false killer whale is the only marine mammal for which incidental take by commercial fisheries is known to be above its maximum removal level that is not covered by a take-reduction team," the GAO found. Lack of funds was also given as the reason for failing to establish a take-reduction team for the Cen-



False killer whale with mahimahi catch.

PHOTO: DAN MCSWEENEY/CASCADIA RESEARCH COLLECTIVE

tral North Pacific stock of humpback whales; "however, because its population size is increasing," the GAO wrote, "NMFS officials consider the stock to be a lower priority for establishing a team than stocks with declining populations."

The Hawai'i stock of sperm whales is also not a high priority for NMFS officials, who told NMFS that interactions of the longline fishery with sperm whales to account for little or no incidental take.

The GAO reports instances "where fishery-related mortality estimates were missing important information. For example, NMFS scientists identified spinner and bottlenose dolphins in Hawai'i as non-strategic" – the level of harm from the fishery was not enough to warrant action by NMFS – "but raised concerns about these decisions because the estimates of fishery-related mortality for the stocks were likely to be incomplete.... While the agency has observer program data showing that incidental take from a longline fishery was below the maximum removal level, it did not have observer programs

in gillnet fisheries that were also likely to incidentally take the stocks, and therefore might have increased the fishery-related mortality estimate if these fisheries had been observed."

In 2003, attorneys from the Honolulu office of Earthjustice sued NMFS, on behalf of Hui Malama I Kohola, the Center for Biological Diversity, and Turtle Island Restoration Network, seeking to force the agency to reclassify the Hawai'i longline fishery from Category III (having "a remote likelihood of or no known incidental mortality and serious injury of marine mammals") to Category I (a fishery having "frequent incidental mortality and serious injury of marine mammals), based on threats to false killer whales. A year later, NMFS changed the Hawai'i longline fishery's classification to Category I. When that occurred, NMFS should have convened a take-reduction team and prepared a take-reduction plan for Hawai'i's false killer whales. But that has not yet happened.

"For years, NMFS has illegally ignored its own data, which show that the Hawai'i-based longline fleet is injuring and killing false killer whales at over twice the level the population can sustain," said Earthjustice attorney David Henkin. "Hawai'i's marine mammals are paying with their lives for NMFS' refusal to comply with the law.

"This new GAO report confirms NMFS never took seriously its responsibility to reduce the killing of marine mammals caused by industrial fishing gear. Earthjustice and our clients are currently investigating ways to compel NMFS to heed Congress's command to protect Hawai'i's false killer whales and other marine mammals from needless death and injury."

According to the Cascadia Research Collective, the population of false killer whales in the insular waters of Hawai'i is distinct from that of the offshore population – and is in serious decline. The organization now estimates the insular population numbers around 120, one-fourth of the estimated population just 20 years ago. For more, see <http://www.cascadiaresearch.org/robin/falsekillerwhale.htm>.

The GAO report is available online: <http://www.gao.gov/new.items/do978.pdf>.

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Quote of the Month

*"In effect, Act 2 bargained away
Hawai'i's environmental policy process
to benefit a single operator."*

— Marion Higa, state auditor

R E V I E W

The Hawai'i Superferry: An Audit, a Screed, And a Draft Environmental Impact Statement

The Auditor, State of Hawai'i. *Performance Audit on the State Administration's Actions Exempting Certain Harbor Improvements to Facilitate Large Capacity Ferry Vessels from the Requirements of the Hawaii Environmental Impact Statements Law: Phase I [April 2008] and Phase II [December 2008]*. Office of the Auditor: Honolulu, 2008. Available online: www.state.hi.us/auditor.

Koohan Paik and Jerry Mander. *The SuperFerry Chronicles: Hawai'i's Uprising Against Militarism, Commercialism and the Desecration of the Earth*. Koa Books: Kihei, Hawai'i, 2008. \$20.00 paper.

State of Hawai'i Department of Transportation. *Statewide Large-Capacity Inter-Island Ferry Draft Environmental Impact Statement*. Honolulu, 2008. Available online: www.hawaii.gov/dot/harbors and at public libraries statewide.

Three significant works have recently been published about the Hawai'i Superferry. The first to come out was the two-part report of Hawai'i's legislative auditor, Marion Higa, charged by an act of the Legislature to document the means by which the 351-foot-long vessel was cleared to operate in Hawai'i. The second, *The Superferry Chronicles: Hawai'i's Uprising Against Militarism, Commercialism and the Desecration of the Earth*, is, as its title hints, a far more polemical (and far more speculative) account. Rounding out the list is the legislatively mandated "environmental impact statement" for the Superferry – the term is in quotations because, as is well known, the Superferry evaded the usual EIS process, which requires it to be done *before* any decision to commit state resources is made.

Higa's two-part performance audit is, for the most part, a step-by-step reconstruction of the interactions of government workers (civil servant, appointed, and elected) and private businessmen that led, ultimately, to the Hawai'i Superferry arriving in Hawai'i waters and shuttling passengers and vehicles between Maui and Honolulu. (A planned route to Nawiliwili, Kaua'i, was scrubbed after it became clear that many of the island's residents were not likely to stop protests.) The tone of Higa's

work is dispassionate, but the outrage that she obviously feels – over the Lingle administration's efforts to frustrate her legislatively mandated work, over the damage to the state EIS precedent, and over the costly burden that the Superferry operation imposes on taxpayers – seeps through the text like a slowly rising tide. In both Phase I (released in April 2008) and Phase II (December 2008) of Higa's *Performance Audit*, the deceptions of the administration and HSF officers, the contortions they performed to cover up their failure to follow the state's environmental impact statement law, Chapter 343, the strained attempts to justify a \$40 million investment in what will probably turn out to be useless harbor infrastructure – all build to a boiling point on their own. No exclamation point, italicized text, or editorial comment from Higa is given – nor is any required – for the reader to get the point.

The calls of professional staff within the Department of Transportation urging compliance with Chapter 343 and permanent harbor improvements were ignored, Higa found, at the clear direction of the governor. Instead, high-ranking DOT officials opted to build temporary harbor improvements to accommodate the Superferry's refusal to build its vessel with a loading ramp as well as its "deadline" to settle all environmental issues. "Hawai'i Superferry Inc. officials claimed that the deadline was imposed by the U.S. Department of Transportation's Maritime Ad-

ministration as a provision of its loan guarantees," Higa writes. "However, Phase I of our report found that the deadline was not imposed by the federal agency. Rather, it was part of an agreement between Hawai'i Superferry Inc. and Austal, USA, LLC, the [ferry] shipbuilder."

Superferry officials refused to cooperate in Higa's work, she writes, "unless we amended our standard audit procedures." (She did not do so.)

Higa concludes with detailed policy recommendations. The Office of Environmental Quality Control should develop guidelines to ensure that agencies follow all steps required by law before issuing to themselves Chapter 343 exemptions and that state and county officials are properly trained in the environmental impact disclosure law. The Department of Transportation should also investigate a new mooring system for the Kahului pier, determine responsibility for maintenance of the damage-prone barge, and work out who should pay for the costly tug services needed to hold the barge against the pier.

The Lingle administration is raked over the coals in Higa's report – but so, too, is the Legislature. After the Hawai'i Supreme Court ruled in 2007 that an environmental impact statement was required before the Superferry could begin operations, the Legislature, in a special session called by Lingle, enacted a law, Act 2, allowing the ferry service to continue pending a statewide environmental review. "In effect," Higa writes, "Act 2 bargained away Hawai'i's environmental policy process to benefit a single operator." This, she notes, "compromised the state's environmental laws and set a worrisome precedent for future government accommodation that puts the interests of a single business before the state's



PHOTO: OFFICE OF THE AUDITOR

environmental, fiduciary, and public safety requirements.”

Hot and Heavy

Contrasted with Higa's cool description of the Superferry fiasco is the fever-pitch prose of Mander and Paik. Mander, of San Francisco, is a public relations professional and an activist against economic globalization. Paik is a filmmaker and writer based on Kaua'i. Their recounting of the events surrounding the Superferry's arrival is enveloped in a breathless blue cloud replete with italicized text in nearly every paragraph, unbounded speculation, and at times a casual regard to fact. Every event they describe, every motive they assign, is a brick in the ideological edifice they build – one that places the Superferry smack in the middle of a vast conspiracy to militarize the Hawaiian islands and, more generally, the entire Pacific.

The evidence they adduce in support is circumstantial and the weight one accords it depends in large measure on one's political predilections. The authors get a lot of mileage from the fact that an investment firm owned largely by John F. Lehmann, former Navy secretary, took the reins of the Superferry company in March 2005. “*Is it a coincidence that Lehman moves in just as soon as the money is secured by a federal agency and the pesky EIS requirement is circumvented?*” the authors ask rhetorically.

Tying the Superferry to a larger military purpose is a theme that helps explain the inclusion in the volume of events that, on their face, seem to have little bearing on the vessel's operations. Much attention is given to the plans of the Army to deploy a Stryker task force in Hawai'i. Noting that an August 2004 report of the General Accounting Office found that the Army's Stryker vehicle will be difficult to transport in C-130 aircraft, the authors write: “It would not be long before the management and board of the Hawai'i Superferry, as well as [shipbuilder] Austal USA, begin to see a rich opportunity not only in potential government contracts to transport those Stryker vehicles to military bases within the Hawaiian Islands, but also in much larger contracts to transport them and other equipment to war zones and military bases around the globe.”

The book is rife with sloppy mistakes. To take one example, a short boxed section by Paik is meant to bolster claims of environmental harm from the military by describing “Depleted Uranium on Hawai'i Island.” Paik fails to locate the resort nodes

and population centers of West Hawai'i in their proper districts of South Kohala and North Kona, placing them instead in rural South Kona. She states as fact that the “means of transporting ... Stryker tanks back and forth between O'ahu and the Big Island will soon be the Hawai'i Superferry.” And she claims unequivocally that “the ammunition used by these tanks, and in the exercises at Pohakuloa, are *depleted uranium* shells.” The depleted uranium at Pohakuloa Training Area derives from exercises in the 1960s, not from current training.

Or, to take another example, the authors state in their epilogue that “panicked Maui residents are fearing extinction of certain species, in the wake of inspections that revealed that, each month during the summer of 2008, hundreds of pounds of seaweed and reef fish had been plundered by Superferry riders.” Some residents may indeed fear that coastal flora and fauna may be depleted, but extinction? That's a claim no one has seriously made.

The sloppiness is gratuitous. The facts are bad enough. Overstating them or misstating them may add drama, but whatever is gained is more than lost in terms of the overall credibility of the authors. What's more, it's a sign of disrespect for readers: do we not deserve an account that pays attention to getting things right?

Other aspects of the book detract more than they add. On the very first pages of the book, for example, Mander treats us to what he apparently expects us to believe is a *verbatim* transcription of a conversation he had “in New York at a party at the home of a well-known literary editor.” (Is this to set him up as some kind of member of high society, a cosmopolitan man-about-town who has graciously interceded on Hawai'i's behalf in the writing of this book? Whatever the motive for this self-serving section, it should have been junked before going to press.) The conversation, which runs to a page and a half, is obviously contrived. Who really believes that Mander or anyone could say, in the course of cocktail-party conversation, that the Superferry is “an environmental nightmare, and it also carries hundreds of cars out to these little islands that are choking from traffic already, and it moves all kinds of bad bugs and animals like mongoose – that eat up everything in sight – and anyway, it's owned by this really scary New York military-finance guy, John F. Lehman, one of the most aggressive right-wing *necon* war promoter militarists...” By now, whoever Mander had cornered would have wan-

dered off in search of another martini.

Then there's the Kaua'i-centric approach to events, a reflection almost certainly of Paik's involvement and interest. To be sure, the sight of hundreds of surfers and paddlers in Nawiliwili Bay as the Superferry pulled into the harbor was stunning and memorable. But much if not most of the action that drove events occurred on Maui, where attorney Isaac Hall artfully – and nearly single-handedly – pressed the legal case against its operation without a sanctioning environmental impact statement. Hall's lawsuits, on behalf of the Sierra Club of Maui, Maui Tomorrow, and the Kahului Harbor Coalition, are mentioned briefly in an eight-page chapter summarizing litigation over the Superferry, but he is not given his due. It was, after all, the Supreme Court decision arising from Hall's challenges that precipitated the Superferry's sudden start of operations in August 2007 and the explosive events that followed.

The Long Awaited EIS

In January, the after-the-fact draft environmental impact statement for Superferry operations, required by Act 2, was made public. Use by the two planned Superferry vessels of state harbors at Nawiliwili, Honolulu, Kahului, and Kawaihae will have an impact on cultural uses, traffic, and humpback whales, and will exacerbate problems caused by invasive species. But, the document states, “with the mitigation measures proposed in this EIS, significant adverse impacts can be substantially or fully mitigated, with the exception of certain cultural uses at Kahului Harbor.”

Early critical comments on the EIS are to be found on the websites of many Hawai'i bloggers, including that of Save Kaua'i (<http://savekauai.org>), Brad Parsons' Hawai'i Superferry Unofficial Blog (<http://hisuperferry.blogspot.com>), and Ken Stokes' SusHI (Sustainable Hawai'i) blog (<http://kauaian.net/blog>).

The Superferry's extravagant carbon footprint is one of the points discussed. According to the draft EIS, the total annual greenhouse-gas emissions, in terms of carbon-dioxide equivalence, is 87,882 metric tons. In 2007, greenhouse-gas emissions in Hawai'i (excluding air transportation) were calculated to be 16.61 million metric tons. Figured as a percentage of the 16.61 million metric tons of greenhouse-gas emissions from Hawai'i sources (excluding air transportation) in 2007, the Superferry emissions represent a non-negligible increase of half a percent.

Propelling the Superferry are four 8200-

kilowatt diesel engines. Power within the vessel itself is provided by three electric 425-kW electric generators, also powered by diesel. Jeff Mikulina of the Blue Planet Foundation estimates that the “climate impact of Superferry is equivalent to adding 26,500 cars to Hawai‘i.” Brad Parsons has commented that the four engines alone “put out enough energy to power 16,500 Hawaiian households ... [The Superferry] burns 15 times the petroleum-based fuel (MDO diesel) ... that a Hawaiian [Air-lines] airplane burns to cover the same route, and even if you multiply the Hawaiian flights up to [the Superferry’s maximum] capacity, Hawaiian is still at least twice as fuel efficient as [the Superferry] at transporting people interisland. There are those who might say, yes, but Hawaiian Air can’t transport vehicles. For which the response would be, in this day and age, given the oil situation now and in the future, consumers in Hawai‘i *don’t really need to move their personal cars quickly* for leisure 100+ miles between islands.”

The impact of the Superferry on humpback whales has received much attention. In the “conditions and protocols” imposed by Governor Lingle on the vessel’s operation, condition A.2. deals with this topic – weakly. The Superferry is to avoid operating within the boundaries of the Hawaiian Islands Humpback Whale National Marine Sanctuary or in waters less than 100 fathoms deep from January 1 to April 30 unless the vessel is approaching port or operation in shallow water “is in the interest of passenger



PHOTO: OFFICE OF THE AUDITOR

The state has been paying for a tugboat at Kahului harbor to hold a barge against the pier when the ferry is in port. The state also paid for the barge and other improvements, which have been repeatedly damaged by storm surges and high winds since entering service in August 2007.

safety and comfort or vessel safety.” If operating in shallow water, the Superferry’s speed is not to exceed 25 knots, the condition stipulates.

But, according to the draft EIS, “vessels larger than 80 meters long [the Superferry is more than 100 meters in length] and traveling at speeds greater than 14 knots have a tendency to inflict the most severe or lethal injuries to whales,” while at speeds greater than 20 knots, the probability of a lethal injury occurring as a result of a strike is near 100 percent.

One of the greatest concerns about the Superferry’s operations is the potential to spread invasive species of plants and animals to islands where they are not yet

found. The draft EIS mentions the requirements imposed by the governor on Superferry operations to address this risk, but acknowledges that the “Rapid Risk Assessment of Operational Compliance and Environmental Risks of the Hawai‘i Superferry” found that inspections were not always effective. Many dirty vehicles “seem to show up at the terminal facility,” and while they are not supposed to be allowed onboard until they are clean, the inspections, especially of vehicle undercarriages, are not thorough.

The full draft EIS and appendices are available online and at public libraries. The deadline for comment is February 23.

— **Patricia Tummons**

Waimanalo Gulch from page 1

waste permit application from WMH and the city, despite urgings from the department more than a year and a half ago that it should do so quickly.

In a July 27, 2007, letter to the city and WMH, Laurence Lau, DOH deputy director for Environmental Health, asked them to submit a renewal application as soon as possible, since his department typically requires landfill facilities to submit complete applications at least one year before their permits expire. Given the ongoing controversy, driven mostly by residents of the adjacent Ko Olina development, over whether the landfill should continue operating, Lau said the DOH would need four months to allow for public comments and responses, in addition to the time his staff would need to review the application.

Lau also stated that solid waste regula-

tions require the city and WMH to obtain certification of compliance with local ordinances, including zoning requirements.

“As such, we need assurances that the City and Waste Management have obtained necessary land use approvals that will allow continued operations at the site, for us to deem a solid waste application complete and develop a preliminary decision on an application,” he wrote.

Although the DOH received a renewal application from the city and WMH about two months later, the department quickly deemed it incomplete because none of its major supporting documents – the engineering report, the operating plan, the groundwater monitoring plan, and the closure and post-closure plan – were current. While the city and WMH supplied additional information through December 2007, the DOH did not renew the application before the existing permit expired at

the end of April 2008.

Instead, on April 16, the DOH notified the city and WMH that they could continue to operate the landfill while a renewal application is pending. As justification, the DOH cited Hawai‘i Revised Statutes Chapter 342H, subsection 4(e), which states that an applicant is not in violation of state laws if it operates while an application is pending so long as it acts in accordance with the permit previously granted, the application, and all information included in the application.

Because the city had not accepted the final environmental impact statement for the landfill expansion until October 2008, the September 2007 application did not include reference to the proposed 92.5-acre expansion in any of its documents. Once the environmental review process was complete, however, the city and WMH submitted a revised application in Decem-

ber, which includes a long discussion and description of the proposed expansion. But again, the DOH found the application to be incomplete because many of the major supporting documents were “either missing or obsolete” since they did not reflect the changes that would need to be made to accommodate the expansion.

According to an April 25 letter to the DOH regarding planned drainage improvements, WMH expects the state to approve the expansion by the end of September 2009. But even if the city and WMH manage to supply the DOH with a complete application before the November 1 expiration of the LUC special permit, it is unclear whether the department can deem it complete until the LUC modifies the special

landfill that had been identified during site inspections in May. While WMH has attempted to remedy or justify all of the potential violations cited in the DOH letter, it's clear from correspondence between the two parties that some violations did, in fact, occur.

Over the course of three site visits, DOH inspectors found a variety of possible violations at the landfill:

- ◆ Failure to submit a written request for temporary storage of excavated material and for the storage of asphalt and concrete slab mixed with soil.
- ◆ Failure to submit a request for operation of a screener and for commencing operations without DOH approval.
- ◆ Failure to maintain an elevation con-

“The FEIS, in this regard, is not compiled in good faith [and] is procedurally defective...”

— state Sen. Colleen Hanabusa

permit to include in the landfill boundaries the area of planned expansion and associated improvements – and extends the duration of the special permit as well.

A challenge filed last October in First Circuit Court by state Sen. Colleen Hanabusa to the city's acceptance of the final environmental impact statement for the expansion could also complicate matters, since the application is incomplete without a final, unchallenged EIS for the expansion.

In her filings, Hanabusa, who represents the leeward coast and lives in the Ko Olina development, states that the FEIS “lacks any discussion as to under what authority the expansion is sought when there are existing orders which mandate its closure. [In addition to requiring closure of the landfill by November 1 at the latest, the LUC's March decision required the city to report to the commission every six months on actions taken to alleviate further use of the landfill.] The FEIS, in this regard, is not compiled in good faith, is procedurally defective, and does not set forth sufficient information to enable a decision-maker to consider fully the environmental factors involved.”

Violations

As the city and WMH struggle with the solid waste permit application, they also seem to be having trouble complying with the default conditions of operation while the application is pending approval. On September 5, the city and WMH received a warning letter/request for information from the DOH about potential violations at the

control point for the leachate system.

- ◆ Failure to notify the DOH about the exceedance and verification of methane gas monitoring results within seven days.

In its September letter, the DOH's Environmental Management Division chief, Thomas Arizumi, pointed out that his department had fined WMH in 2006 for similar unauthorized storage and crushing activities and that illegal stockpiling had resulted in inadequate storm water management and had generated excessive leachate. (On December 7, 2007, the DOH, the city and WMH reached a \$1.5 million settlement agreement resolving most of the

2008, “staff assumed that DOH had acknowledged the material and would allow for its gradual use and removal over time,” he wrote in his September 30 response. As for the asphalt/concrete/soil mixture, Whelan wrote that he didn't believe permit conditions required DOH approval since the piles are used up within a few days of being delivered.

He went on to say that the overfilled areas were now below permitted grades, that he had requested permission for a screener, and that elevation control points have been in place since 2007. He did admit that his company failed to notify the DOH about excessive methane readings.

On December 11, the DOH Solid and Hazardous Waste Branch chief Steven Chang acknowledged that some of the violations had been remedied, but disagreed with Whelan's positions on stockpiling.

“Waste Management of Hawai'i was aware of the permit conditions for some time and the condition on material storage is not something new,” Chang wrote, adding that piling up concrete slabs and asphalt to be used as wet weather material for the ash monofill (which receives ash from the H-POWER incinerator) is considered storage, even if it's only for a few days, and is a permit violation.

“Our concern over the temporary storage of material on the landfill for use has to do with WMH's use of contaminated soil and/or ash as daily cover. We are concerned that the materials could be moved from the delivery area, and in the process, contaminate other areas within or outside the facility. The short duration of storage will not

“Waste Management of Hawai'i was aware of the permit conditions for some time and the condition on material storage is not something new.”
— Steven Chang, DOH

18 alleged violations included in a January 2006 Notice and Finding of Violation and Order. The remaining violations, regarding overfilling, were resolved by a permit modification to increase the landfill's grades, which not only brought the excessive grades into compliance but also increased the capacity of the landfill by about two years. That modification was approved on February 20, 2008.)

With regard to the alleged stockpiling of excavated material, WMH general manager Joseph Whelan said it was due to a simple misunderstanding. Because the material had been there since before the DOH modified the company's permit in February

alleviate this concern,” Chang wrote.

There is no correspondence in DOH files indicating that WMH has resolved the stockpiling problem. Should the DOH bring an enforcement case against WMH and the city, it's unclear how the landfill could continue to operate, given the restrictions placed on facilities operating without a permit.

By press time, the Department of Health had not responded to questions about the potential violations' effect on the landfill's ability to operate and about the requirement that necessary land use approvals be in place before a solid waste application is deemed complete. **— Teresa Dawson**

Auto Scrap Lawsuit Draws Concern Over Metals in Waimanalo Gulch

Second only to sludge, auto fluff, also known as auto shredder residue or ASR, is one of the largest waste components in O'ahu's Waimanalo Gulch landfill. In 2006, 29,786 tons of auto fluff were dumped into the landfill, accounting for 16.2 percent of all of the landfill's waste that year, according to a waste characterization study by R.W. Beck. Sludge from sewage treatment plants accounted for 22.2 percent.

A recent lawsuit against Hawai'i's largest metal recycler, Schnitzer Steel Hawai'i Corp., claims that some of the ASR (almost all of which comes from Schnitzer) contains recyclable metals. And while none of it should contain any hazardous waste, the lawsuit claims mercury, which is considered hazardous waste at 0.2 parts per million, is undoubtedly in that mix.

The suit, filed last June in U.S. District Court by competing metal recycler Paragon Metals, Inc., is still in its infancy, but officials with the state Department of Health, responsible for administering all solid waste management permits, and the City and County of

attorneys R. Patrick Jaress, Ted Pettit, Mark Valencia, and Alexis McGinness point out in court filings that under an ordinance intended to promote recycling, Schnitzer receives an 80 percent discount off tipping fees it would otherwise have to pay. To receive the discount, the ordinance states, a recycling operation must meet several conditions, including one that requires the material that's left over after recycling to contain no recyclable material. To document this, the recycler is to submit monthly reports to the city's Department of Environmental Services on the type and quantity of materials received and residues disposed of. According to Paragon, Schnitzer is the only company in Hawai'i that receives the discount for its scrap metal residue.

Paragon argues in its complaint that the auto shredder Schnitzer uses limits the company's ability to produce residue free of recyclable materials. It claims that two recent sample tests show that, in fact, between about 5 percent and 10 percent of the residue Schnitzer dumps at Waimanalo Gulch con-

"The Schnitzer Steel lawsuit ... raises serious concerns as to what is being placed in the landfill."
— **state Sen. Colleen Hanabusa**

Honolulu, which owns the Waimanalo Gulch landfill, are keeping an eye on the progress of the litigation.

The case has also caught the attention of state Sen. Colleen Hanabusa, whose district includes the landfill and who has been fighting for years to close it. In a filing in her most recent suit aimed at shutting it down she has written, "the Schnitzer Steel lawsuit...raises serious concerns as to what is being placed in the landfill."

While Paragon claims it has evidence that proves Schnitzer is sending recyclable material to the landfill, thereby violating the city ordinance under which it has received significant tipping fee discounts, a review of Schnitzer's solid waste management permit records at the state Department of Health suggest that it is no easy task to determine whether those materials have ever contained hazardous levels of any heavy metals.

The Complaint

Apart from the concerns over heavy metals, the thrust of Paragon's complaint is to end what it says is unfair competition. Paragon

sists of recyclable material. It adds, "By misrepresenting that its residue does not contain any metal scrap, Schnitzer is misleading the City and County of Honolulu into paying a subsidy that ought not to be paid and allowing it thereby to unfairly compete with Paragon Metals that dumps no residue into the O'ahu landfill or other landfill in the state of Hawai'i."

To prove its claims, Paragon sent samples of Schnitzer's ASR (collected at the Waimanalo Gulch landfill with permission from its operator, Waste Management Hawai'i) to James Carpenter of the University of Hawai'i's College of Tropical Agriculture and Human Resources for testing. Carpenter found that wire and metallic compounds accounted for 5 to 11 percent of each sample, with the rest being wood/paper cardboard, Styrofoam, plastics, and "loose fibrous stuff."

Hanni Hartmann, principal of Paragon Metals, told *Environment Hawai'i* that Carpenter's tests also found iron, aluminum, and copper in large enough amounts to be recovered and recycled. He added that the

UH tests focused on metal in general and not heavy metals like mercury, lead and cadmium.

In its complaint, Paragon suggests that mercury from the tiny switches found in certain older model cars are at least one of the metallic compounds in Schnitzer's ASR.

Schnitzer processes an estimated 50,000 vehicles a year at its Campbell Industrial Park facility, many of which are from outer islands, the complaint states. According to the End-of-life-Vehicle Solutions Corporation website, however, in 2006, none of the 11 companies that participated that year in Hawai'i's End-of-life-Vehicle Program — a group that includes Schnitzer and some of its suppliers — recovered any mercury switches. In all of 2007, companies in Hawai'i recovered a total of just 31 switches, containing a total 0.07 pounds of mercury. In 2008, 605 switches containing 1.33 pounds of mercury were recovered. (The ELV program is a voluntary program formed in 2006 under an agreement between the scrap metal industry and the federal Environmental Protection Agency to recover mercury switches from vehicles before they are junked.)

Today the ELV program has 14 participants in the state, most of which report no recovery of mercury switches. According to the ELV website, Big Island Scrap Metal recovered 453 switches in 2008. All of the 31 switches recovered in 2007 came from Maui's SOS Metal Recycling, which also recovered 152 last year. Seven of the companies, including Schnitzer Steel, are on O'ahu, there are three each on Maui and Hawai'i, and one on Kaua'i.

Hartmann said that although Schnitzer has provided his attorneys some information on heavy metals in its ASR, the company has "sidestepped the issue" of recyclable metals.

Schnitzer's Response

In Schnitzer's defense, the company's attorneys Gary Grimmer and Ian Sandison point out in their October 28, 2008, answer to the complaint that under the city's definitions, "recyclable material" is metal scrap for which a market exists.

"There is no market for the shredder residue in which a small amount of metal scrap is allegedly present disposed of by Schnitzer Hawai'i at the landfill," Grimmer and Sandison wrote.

But on the very same day, Schnitzer's general manager, Jim Banigan, wrote the Department of Health, seeking a modification to its operations manual that would allow the company to process various metals that had already been put through the auto shredder.

"Recent routine internal evaluation of the material identified a higher than normal concentration of recyclable metals... Metallic constituents in the material will be reclaimed and

sold as either (1) shredded ferrous scrap metal, identified as shredded scrap, or (2) shredded non-ferrous scrap metal, collectively identified as aluminum copper, brass, zinc, lead and stainless steel," Banigan wrote.

According to Markus Owens, a public information officer for the City and County of Honolulu, the city does not conduct periodic inspections to monitor whether companies that receive tipping-fee discounts are keeping recyclable materials from entering the landfill. He added, however, that Schnitzer does submit to the landfill operator, Waste Management Hawai'i, an annual characterization of the material it takes to Waimanalo Gulch.

With regard to Paragon's hazardous waste claims, Owens states, "[T]he [city] Department of Environmental Services asserts that proper federal guidelines are in place and adhered to by our operator, Waste Management, Inc. These guidelines require proper characterization by waste generators, under federal RCRA-D [solid waste] regulations, before disposal." (RCRA is the Resource Conservation and Recovery Act.)

Grimmer and Sandison argue that nothing prohibits Schnitzer from delivering to Waimanalo Gulch mercury and other toxic substances at levels below the EPA thresholds, but, in any event, they deny that Schnitzer has ever done so. The attorneys submitted these statements to the court about a week after an October 18 KITV news report stated that Schnitzer "discovered it put too much toxic lead into the Waimanalo Gulch landfill and is trying to fix the problem... The fluff pile has grown to nearly 50-feet high after the company discovered the residue which goes into the Waimanalo landfill contained excessive amounts of lead."

Grimmer explained to *Environment Hawai'i*, "From time to time...we do test for certain metals. If an anomaly comes up, then we deal with it...and do not send that part of the pile to the Waimanalo landfill."

Although Grimmer said he doesn't know how many anomalies there have been over the years, he said that annual ASR tests done for Waimanalo Gulch operator Waste Management Hawai'i "have always come out clean." He also said that those reports have been given to Paragon's attorneys.

"Paragon claims to be a competitor of Schnitzer. We don't think that's true. If it is true, it's always suspicious when a party claiming to be a competitor [takes another competitor to court] and uses it as a method of competing," he said, adding, "We do not intend to try the case in the press... We do categorically deny the allegations in the complaint."

According to Schnitzer's shredder waste

monitoring procedures, the company sporadically tests its ASR for arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver and test more frequently for lead, cadmium and polychlorinated biphenyls, or PCBs. Throughout the 1990s, the company Schnitzer took over, Hawai'i Metal Recycling, submitted these test results to the DOH, but the company's current solid waste management permit does not require the submission of ASR test results. Instead, those results are required to be made available to the DOH only on request. Schnitzer does submit some of its test results to Waste Management Hawai'i, according to a DOH official, but those are not forwarded to the department and are only required to be maintained on site.

'Competitively sensitive'

While Schnitzer isn't required to submit ASR reports to the DOH, the department does have some of them. Whether the public is allowed to see all of them is another matter.

"We do categorically deny the allegations in the complaint."

— Gary Grimmer, attorney for Schnitzer

Back when Hawai'i Metal Recycling held the solid waste permit, letters from the company and its attorneys over the years clearly claimed that ASR test results were confidential. "These analytical results are competitively sensitive and may be of great value to our competitors," Banigan, then HMR's general manager, stated in an April 4, 2000, letter to Steven Chang, chief of the state DOH's Solid and Hazardous Waste Branch. "As such, we will require written confirmation, prior to our submission [of ASR reports], that the ASR data will be treated as confidential commercial information and will not be released to the public."

Banigan's comments were in response to the DOH's request that HMR submit ASR test results for the previous three years in accordance with the company's solid waste permit. And the DOH held its ground at first. On June 6, 2000, Chang informed Banigan that state law requires all solid waste management permit applications and reports to be made available for public inspection, "unless such reports contain information of a confidential nature concerning secret processes or methods of manufacture."

Chang continued, "[P]lease identify in writing the specific information asserted to be confidential, including a justification of that assertion.... We require that you either submit your argument of confidentiality or the ASR records within fourteen calendar days of receipt of this letter." The DOH and HMR

(which was taken over by Schintzer in late 2005) debated the issue over the next few years and when the department finally issued the company a new permit in September 2005, it appeared as though HMR won out — this despite concerns Chang raised in 2001 that data for lead and cadmium were "beginning to show an increasing trend" and that the company was not regularly testing for any other metals. The permit no longer required quarterly testing, but stated only that "the department may require the permittee to conduct sampling and testing to determine the degree of pollution, if any, from the solid waste facility." The company's annual reports to the department needed only to contain information on the volume and destination of the material and a summary of any abnormal incidents.

Last November, Paragon's attorneys filed a scheduling conference statement asking Schnitzer to provide its ASR results from the time it began operating in 2006. Shortly

thereafter, someone (most likely representatives from Paragon) sent a letter to the DOH asking it to suspend Schnitzer's solid waste permit and claiming they had evidence that the company's ASR contained "ferrous and non-ferrous metals...likely to be lead and even mercury."

"This is certainly a health hazard," the letter stated. (While the DOH blanked out the author's name, the "evidence" accompanying the letter were the test results of Carpenter.)

ASR test results on file at the DOH are spotty at best and include only a handful of reports from the 1990s and four tests conducted by Tennessee consulting firm W.Z. Baumgartner & Associates, Inc. in November and December of last year. Still, all suggest that heavy metals and PCBs in the company's ASR are below EPA thresholds (although the cadmium level in one sample taken in December came very close, within 0.008 ppm). Mercury levels were consistently below 0.010 ppm, well below the EPA threshold. ASR test results from last October, when Schnitzer found excessive levels of lead in its shredder residue, are not in DOH files.

Although the DOH released the recent ASR test results, which had been stamped "PRIVILEGED AND CONFIDENTIAL, PREPARED AT THE DIRECTION OF LEGAL COUNSEL," the department denied *Environment Hawai'i* access to Schnitzer's annual reports because they allegedly contain confidential business information. — T.D.

Core Natural Resource Programs Face Crippling Curbs in New DLNR Budget

As with most other state agencies, the Department of Land and Natural Resources is facing straitened circumstances as Hawai'i attempts to deal with forecasts of crashing revenues. From an authorized spending level of roughly \$111.6 million for the current fiscal year, the DLNR will, under Governor Lingle's proposed budget, see a cut of about 2 percent, to \$109.5 million for the 2009-10 fiscal year.

That's what a quick glance at the budget figures proposed to the Legislature suggests.

But a closer look reveals a cut of more than \$6 million proposed for the DLNR's operational expenditures of general funds (from \$33 million in FY 2008-09 to \$27 million in fiscal years 2009-10 and 2010-11). To make up for some of that loss, the biennium budget proposes increases of \$2 million and \$1.5 million, respectively, in special fund ceilings for the two fiscal years. It also anticipates increases of roughly \$2 million a year in federal funds.

Yet the budget forecasts do not tell the whole story. For that, one needs to look at actual versus authorized expenses. And here, again, the DLNR falls short. For years actual spending in the department has fallen far short of authorized levels. When the 2007-08 fiscal year ended last June 30, for example, the DLNR had spent just 91 percent, or \$98.3 million, of the \$107.6 million operating budget the Legislature had approved. Half of the difference between what was authorized and what was spent can be found in the Division of Boating and Ocean Recreation, which always sees a shortfall between its expected and actual expenditures; in FY 2008, that amounted to \$4.6 million. The overall difference (excluding DOBOR's \$12 million authorization level) between authorizations and expenditures comes to \$4.7 million, or 5 percent of the department's remaining non-DOBOR budget.

In the current fiscal year (2008-09), the DLNR has an operating budget of \$111.6 million, but in the wake of spending curbs imposed by the Lingle administration, the actual amount spent by June 30, when the fiscal year ends, is certain to fall far short of that. As of September 30, when the first quarter of the current fiscal year ended, the department's expenses were running at about 70 percent of the projected pace,

according to the Variance Report issued by the Department of Budget and Finance. So, instead of burning through some \$29 million, the amount that the department was projected to need for the first quarter, it limped along on just \$20 million.

Most of the savings is a result of empty seats. The department's vacancy rate has historically been far higher than the 5 percent that the Legislature customarily uses in figuring a department's budget. When *Environment Hawai'i* reported in November 2004 on Draconian cuts to the DLNR budget for the 2004-05 fiscal year, the vacancy rate stood at 21 percent of authorized positions; by comparison, the overall vacancy rate in state government was between 12 and 13 percent. As of the end of last September, the number of vacancies at the DLNR was reported to be 128 of 804 authorized positions, which translates into a 16 percent vacancy rate. In other words, one in every six authorized positions is unoccupied. And there seems to be little effort to fill the posts: in mid-January, the department's website advertised only three vacancies (a botanist on Kaua'i, and two non-civil service positions in the Historic Preservation Division).

In narratives accompanying the numbers in the governor's proposed budget, one after another of the DLNR divisions describes how it plans to cope with the anticipated reduction in revenues. Many say that they are using the funds saved by keeping positions vacant to pay for other program costs. This statement, attached to the spending request for the Division of Forestry and Wildlife's commercial forestry program, is typical: "Due to economic downturn and the need for General Fund budget restrictions, vacancy savings will be employed to meet reduced available budgets."

Yet many of those same divisions that propose to make up for operational budget deficits by not hiring to the full level of authorized personnel also face cuts in their authorized personnel. That can only result in even more vacancies or serious deficiencies in their missions.

Lost Gains

Overall, Lingle proposes cutting 34 full-time positions from the DLNR, giving it 775 full-time equivalent positions for the

2009-10 and 2010-11 fiscal years. That nearly sets it back to the level (771) authorized for the 2007-08 fiscal year, effectively cutting away gains made in the current budget.

More than half of the personnel cuts—18—are proposed to come from the Division of Conservation and Resources Enforcement, the DLNR's enforcement agency. That division has experienced extreme swings in personnel levels over the last several years. In the 2003-04 fiscal year, it was authorized to have 119 permanent positions, but in FY 05, that was reduced to 107. For FY 06, DOCARE was given 16 new posts. By the 07-08 fiscal year, DOCARE was authorized to have 152 full-time positions. Now, for the coming fiscal year, it is to be pared back to 147. Yet the cuts do not mean pink slips or layoffs for any existing employees, since, with just 130 employees now on the rolls, DOCARE will still need to fill 17 vacant positions to get up to the authorized level. Furthermore, one enforcement officer and an office assistant are to be transferred from DOCARE to the DLNR administrative office to manage a proposed Office of Civil Compliance. That office, according to the budget document, will "process DLNR's minor, non-criminal enforcement cases and administrative civil actions in an expeditious and cost-effective manner." Of the remaining positions lost, 12 are for enforcement officers.

Other DLNR areas that will see authorized personnel levels reduced are the Division of Forestry and Wildlife's commercial forestry branch (from 22 currently authorized to 19) and its native species work (from 63.5 to 60); the Division of Aquatic Resources' natural resources branch (from 29 to 26); the Commission on Water Resource Management (from 24 to 20); and Historic Preservation (from 13 to 11).

Adding insult to injury in DOFAW's budget for hunting programs were revenue losses estimated at more than \$200,000 in fiscal year 2008. The cuts resulted from a court case decided in 2007 by the Intermediate Court of Appeals, which held that a provision in DLNR rules that allowed the Board of Land and Natural Resources to set fees for game tags, stamps, and applications was improper. A bill to allow the practice was introduced in the 2008 legislative session, but failed to make it out of committee. Now the division has begun the long process of amending its rules to put higher fees in place.

Innovation

In budget document narratives, the various

agencies within the DLNR explain how they intend to cope with cuts of 20 percent – the target level that state managers were told to shoot for when developing their FY 2010 budgets.

The approach of the Engineering Division is innovative, to say the least. It says it will shift “general-funded operational expenses (e.g., phone, network expenses, office supplies, parking, gas, travel, training, etc.)” to “CIP or Special funds under the Engineering Division.” This, however, “could create a burden on non-general funded programs” and “will not present a true picture of program costs.” The transfers, the division says, will allow savings of \$25,000 in the division’s water and land development budget and \$29,085 in its “prevention of natural disasters” budget, which includes funds for inspection of reservoirs and dams.

While Engineering may have found a way to cope with the requested cuts in general funds by tapping into CIP or special funds, other agencies were not so fortunate. Take the Division of Aquatic Resources, for example. It anticipates serious cuts in its programs as a result of the budgetary restrictions.

“Projects in coral reef monitoring and management ... may be terminated or the scope of the project reduced. Statewide marine monitoring to ensure the health and identify threats to Hawai'i's coral reefs may not continue, including surveys of the commercial and recreational important deep bottomfish species... Mapping and monitoring of the anchialine pool ecosystem ... may not continue. All attempts to manage this severely threatened habitat could be lost. Reduction of funds for the investigation of coastal fisheries ... could significantly curb fishing opportunities for shoreline fishermen.... Native stream species and ecosystem studies may end or be reduced, thereby severely impairing the collection of information necessary to develop environmental stream flow requirements for native aquatic species when setting Instream Flow Standards as mandated by the Hawai'i Supreme Court.”

Natural Resources

The Division of Forestry and Wildlife budget narrative suggests that the reduction in general funds could be magnified if it means that the state cannot provide matching funds needed to receive some federal grants: “Major sources of program revenue are federal grants for conservation initiatives (\$21 million in the

FY09 budget). Many of the federal programs are competitive grants that require state matching funds which to this point have been provided by state general fund salaries and conveyance tax revenue into the Natural Areas Reserve Fund. Additional sources of state match are needed to maintain current federal grants and continue to secure additional federal funds.”

DOFAW’s natural area reserves and watershed management program gets much of its money from a portion of the state conveyance tax. Although its budget anticipates a cut of roughly \$300,000 in general funds plus reduced conveyance tax revenues, overall spending proposed for the two coming fiscal years is actually up ever so slightly, the result of an expected half-million a year increase in federal funds. Yet if conveyance tax revenues fall further, the agency states, “this would seriously impact all areas of the division.”

The situation is described in starker terms by Christy Martin of the Coordinating Group on Alien Pest Species (CGAPS), a public-private partnership that works closely with the DLNR. “With the down real estate market, there is significantly less conveyance tax revenue to help support ... environmental programs,” Martin said in a recent press release. In fiscal year 2009, she continued, the state’s Natural Area Reserve Fund “will provide a projected \$6 million for conservation programs – a sharp contrast to the \$12 million deposited in the NARF for FY 2007. This means that programs will see their state funding reduced for Fiscal Year 2010, resulting in fewer federal matching dollars, laying off staff and cutting back on conservation management work.” What’s more, she warned, all special funds, including NARF, are “at risk of being reallocated to meet shortfalls in the state’s general fund budget.”

“From a total of 458 non-civil service conservation staff employed in 2008 with NARF and matching dollars, an estimated 150 will lose their jobs starting in FY 2010,” with deeper cuts expected the following year.

The budget narrative of the Commission on Water Resource Management contains dire warnings about the impact on core programs of cuts of more than half a million dollars in general funds, including more than \$379,000 for stream studies, more than \$51,000 for its Stream Protection and Management (SPAM) program, and more than \$48,000 as its contribution to the U.S. Geological Survey’s coopera-

tive hydrologic monitoring program. The reduction “for regional stream studies and SPAM activities and functions will severely hamper the undertaking and completion of those studies and investigations necessary to establish and regulate measurable instream flow standards statewide.”



Capital Improvements For a ‘Recreational Renaissance’

The sorry condition of many state recreational areas has been a concern for years. Uninhabitable cabins, restrooms in disrepair, dangerous trails, unusable berths at small harbors, litter – all are widespread among the state facilities that serve as the primary backdrop for recreational activities for many residents and visitors alike.

But that may change. The administration recently announced its “Recreational Renaissance” plan, which anticipates up to \$240 million in capital investment in Hawai'i's “recreational infrastructure” over the next five years. DLNR administrator Laura Thielen wrote that the plan includes “238 projects around the state and leverages an investment of \$40 million over 12 years to generate new, non-taxpayer dollars that will support an additional \$200 million in capital improvements in the next five years.”

To make this possible, she wrote, the “DLNR has come up with a way to raise new, non-taxpayer dollars to make the payments on the bond debt.” The “new” way is to float something called “general obligation reimbursable bonds,” which differ from standard G.O. bonds in that any taxpayer money spent in paying off the bonds is to be restored, eventually, by fees paid by people using the improvements the bonds paid for. The so-called GORBs (which are to pay for the “additional \$200 million” in improvements) differ from revenue bonds as well; bondholders are assured that the state will make good on its debt through general funds, should fee-based revenue streams fall short. This should make the bonds more attractive to financiers – and accordingly reduce the interest the state has to pay. While GORBs are nothing new (they were used, for example, to finance the purchase of the barges in Kahului and Kawaihae needed to load the Superferry), they are an innovation for the DLNR. One of the features that makes

GORBs attractive to state managers is that the indebtedness they create is not counted against the state's overall limit on general-obligation debt.

Because the scope of the plan is far larger than anything handled to date by any of the DLNR's line divisions, the DLNR's administrative division, rather than, say, DOFAW or the Division of State Parks, will oversee the work. Russell Tsuji, deputy DLNR administrator, explained in a telephone interview: "This involves not just one, two, or three divisions, but almost every single division of the DLNR except Historic Preservation and the Kaho'olawe Island Reserve Commission."

Central to the plan is income from state land leased for commercial, industrial, agricultural, or other purposes. This includes not just land currently occupied and leased, but also vacant land, some of which will require infrastructure development, either by the state or by lessees.

One of the potential revenue sources Tsuji mentioned is the "Ke'ehi Triangle," a 300-acre industrial development proposed for submerged lands on the leeward coast of O'ahu more than two decades ago. The Triangle, to be built on fill, would be nestled between Lagoon Drive, the eastern end of the Honolulu Airport reef runway, and the existing piers of Ke'ehi small boat harbor and La Mariana Sailing Club. An environmental impact statement for the project was prepared and accepted by Governor Waihe'e in 1990, but no developer came forward. According to Tsuji, a new EIS would be done before any further work occurred on the project.

Tsuji added that people in the DLNR had already been talking to people in the U.S. Army Corps of Engineers and other agencies. To mitigate loss of waterbird habitat and other natural resources damages, he said, "we've been talking to the feds about creating a marine conservation district further out to sea from the reef runway."

But even as the DLNR talks about the 'Recreational Renaissance,' users of state recreational facilities in the short term may be inconvenienced or shut out altogether. The current biennium budget contains a \$1.2 million per-year reduction in the operating expenses of the Division of State Parks, including a quarter-million dollar reduction in repair and maintenance costs, a quarter-million savings by park closures, and more than half-a million in lifeguard services.

— **Patricia Tummons**

Hawai'i by the Numbers

The annual Variance Report, published by the state Department of Budget and Finance, is a rich mine of information on the operation of Hawai'i government agencies. Here are a few tidbits:

Average number of business days the Department of Taxation holds taxpayer checks before deposit:	16
Time frame, expressed in business days, within which the Department of Taxation's plans call for depositing taxpayer checks:	55
Number of authorized permanent positions in the Department of Taxation in fiscal year 2008: ..	404.5
Number of vacancies in Department of Taxation at end of fiscal year 2008:	38.5
Percent of treasury transactions the Department of Budget and Finance expects to be unreconciled within 30 days:	8
Actual percent of such transactions unreconciled within 30 days in fiscal year 2008:	54
Percent of state agencies with retention schedules approved by the state Archives:	29
Anticipated percent return on investments of the state Employees Retirement System for the 2008 fiscal year:	10
Actual percent return on ERS investments in FY 2008:	-3.5
Net investment income for ERS in FY 2008:	-\$461 million
Anticipated percent return on ERS investments in FY 2009:	-16
Net investment income for ERS expected in current fiscal year:	-\$1.7 billion
Fair market value of state buildings and contents:	\$1.5 billion
Percent of tenants on state land who were delinquent in payments in fiscal year 2008:	7
Total estimated dollar value of such delinquencies:	\$70,000
Number of inspections of state-leased land planned by the Department of Land and Natural Resources in fiscal year 2008:	1,500
Actual number of inspections carried out:	437
Number of pothole claims processed by state Department of Accounting and General Services in FY 2008:	248
Number of sites the DLNR expected to nominate to the National Register in FY 2008:	95
Actual number of sites nominated to National Register:	0
Percent of Hawai'i wastewater systems in compliance with rules in 2008:	62
Percent of solid and hazardous waste facilities in compliance:	55
Number of authorized positions in the state Occupational Safety and Health Program:	67
Actual positions occupied in state OSHA program at end of 2008 fiscal year:	43
Number of authorized positions in state Workforce Development Program in FY 2008:	123.5
Actual number of employees in that program:	67
Ratio of empty to filled positions in Workforce Development Program:	1:1
Number of registered users of marijuana for medical purposes:	4,200
Number of physicians participating in medical use of marijuana program:	81
Number of investigations of narcotics use in state prisons in fiscal 2008:	574
Number of marijuana plants eradicated from state land in FY 2008:	104,775



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