

# LIFE OF THE LAND

*Ua Mau Ke Ea o Ka `Aina i Ka Pono*

*The Life of the Land is Perpetuated in Righteousness*

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August 10, 2007

Ted Liu, Director

Hawai`i Department of Business, Economic Development, and Tourism

No. 1 Capitol District Building

250 S. Hotel Street, 5th Floor

Honolulu, HI 96813

re: BlueEarth Environmental Impact Statement

## **State Law**

**Hawai`i Revised Statutes (HRS) §343-1** Findings and purpose. The legislature finds that the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions. The legislature further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.

It is the purpose of this chapter to establish a system of environmental review which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations.

**HRS 343-5(a)** Except as otherwise provided, an environmental assessment shall be required for actions that (9) Propose any ... (D) Oil refinery

**HRS 343-5(c)** Whenever an applicant proposes an action specified by subsection (a) that requires approval of an agency and that is not a specific type of action declared exempt under section 343-6, the agency initially receiving and agreeing to process the request for approval shall prepare an environmental assessment of the proposed action at the **earliest practicable time** to determine whether an environmental impact statement shall be required.

## **DBEDT: Discretionary Approval (Act 261)**

BlueEarth Maui Biodiesel, LLC (BlueEarth) wants to float Special Purpose Revenue Bonds (SPRBs) to build a biorefinery on Maui. Act 261-2007 requires specific acts by each of BlueEarth and the Department of Business, Economic Development, and Tourism (DBEDT).

### **Act 261-2007 mandates that BlueEarth**

- \* "shall not import fuel stock that is the product of growth on farms where forests have been cleared to accommodate the growing of such crops"
- \* "shall give priority to utilizing Hawaii grown fuel stock"
- \* "shall be required to import fuel stock produced only from sustainable sources"
- \* "shall document that sustainable sources are utilized"
- \* "documentation shall be transmitted or otherwise made available to the department of business, economic development, and tourism"

### **Act 261-2007 mandates that DBEDT**

- \* "shall certify the documentation submitted"
- \* "notify ... in writing as to whether BlueEarth Maui Biodiesel, LLC, and its affiliates are in compliance with this section"

## **The Project is a Biodiesel Refinery**

- \* "In February 2007, BlueEarth Biofuels LLC (BlueEarth) announced plans for a new **biodiesel refining plant** to be built on the island of Maui by 2009. ... Both the lease agreement and biodiesel fuel contract will require PUC approval. ... HECO is working with the Natural Resources Defense Council to develop an environmental policy for procuring sustainable biodiesel from palm oil and locally-grown feedstock"
  - HEI 10-Q Quarterly Report filed with the U.S. Securities and Exchange Commission, dated Aug 6, 2007 for the period ending June 30, 2007, pgs 62-63
- \* "Authorizes special purpose revenue bonds to BlueEarth Maui Biodiesel, LLC, for construction of a **biodiesel refinery** on Maui."
  - Act 261. (SB 1718 CD1). July 6, 2007
- \* "But even the electric company admits, there aren't enough farmers to grow the bio-diesel crop needed to fuel a planned **new refinery** and the modified power plants on several islands."
  - A Greener Future For Power Plants? Paul Drewes. KHNL. June 28, 2007
- \* "Hawaiian Electric and BlueEarth Biofuels LLC propose to build a **biodiesel refinery on Maui** to produce fuel for Maui Electric Company generators."
  - HECO and NRDC Develop Policy to Insure Sustainable Palm Oil Use by Island Utilities. HECO Press Release, June 25, 2007
- \* "A panel of experts will discuss how to guarantee that only sustainable palm oil feedstocks are used in a proposed **Maui biodiesel refinery** in a series of sessions around the islands, including a Maui presentation July 2."
  - Panel to review biofuel options. Maui News. June 15, 2007
- \* "A plant to **refine biodiesel** for Maui Electric Company will be under construction, with plans to be completed by 2009. It will be jointly owned by BlueEarth Biofuels, LLC, a company with decades of experience with renewable and other energy projects ... HECO

is working with the Natural Resources Defense Council to craft an effective and enforceable sourcing model. Said Mayor Charmaine Tavares, "We welcome BlueEarth Biofuels' commitment to build a plant here, and I commend Maui Electric Company and Hawaiian Electric Company's willingness to work with them."

-- MECO Consumer Lines, April 2007

- \* "In February 2007, BlueEarth Biofuels LLC (BlueEarth) announced plans for a new **biodiesel refining plant** to be built on the island of Maui by 2009. ... Both the lease agreement and biodiesel fuel contract will require PUC approval."  
-- HEI 10-Q Quarterly Report filed with the U.S. Securities and Exchange Commission, dated May 4, 2007 for the period ending March 31, 2007, page 54

- \* "The Hawaii Farm Bureau supports the intent of SB 1718 which authorizes SPRBs for BlueEarth Maui Biodiesel for the planning, design and construction of a **biodiesel refinery** on Maui."  
-- Hawaii Farm Bureau Federation testimony to the House Finance Committee dated March 30, 2007 re SB 1718

- \* "The Maui **biodiesel refinery** project provides ..."  
-- Robert Wellington, *Co-managing partner, BlueEarth Biofuels LLC. Letter to the Editor, Honolulu Advertiser, Saturday, March 10, 2007*

"In February 2007, BlueEarth Biofuels LLC (BlueEarth) announced plans for a new **biodiesel refining plant** to be built on the island of Maui by 2009. ... Both the lease agreement and biodiesel fuel contract will require PUC approval."  
-- HEI 10-K Annual Report filed with the U.S. Securities and Exchange Commission, dated February 28, 2007, for the period ending December 31, 2006, page 73

"The **biorefinery concept** is analogous to today's petroleum refineries, which produce multiple fuels and products from petroleum. Industrial biorefineries have been identified as the most promising route to the creation of a new domestic biobased industry."  
-- National Renewable Energy Laboratory, Facility of the US Department of Energy (DOE) for renewable energy and energy efficiency research, development and deployment. [www.nrel.gov/biomass/biorefinery.html](http://www.nrel.gov/biomass/biorefinery.html)

Refinery - an industrial plant for purifying a crude substance. Oil Refinery, Petroleum Refinery  
- a refinery for petroleum. Sugar Refinery - a refinery for sugar.  
-- [www.thefreedictionary.com/refinery](http://www.thefreedictionary.com/refinery)

Refinery: The building and apparatus for refining or purifying, esp. metals and sugar. [1913 Webster]  
-- <http://onlinedictionary.datasegment.com/word/refinery>

Refinery: an industrial plant for purifying a crude substance  
-- <http://www.online-thesaurus.net/wn/refinery>

## **Biorefineries Have Global Impacts**

There is a plethora of web-based information on the environmental, social, political, economic, cultural, food, agricultural, water impacts associated with biofuels production. These include:

- \* "Pursuit of biofuels bring new global security risks."  
-- Jane's (defense analysis for over 100 years), July 16, 2007
- \* "A study presented last month at a U.N. Climate Change Conference in Nairobi showed that Indonesia is the world's third-biggest carbon emitter behind the U.S. and China, when emissions from fires and other factors are considered."  
-- The Growing Danger of Ethanol, Biofuels. Wall Street Journal, December 5, 2006, Page A1
- \* "Food v. Fuel: As energy demands devour crops once meant for sustenance, the economics of agriculture are being rewritten."  
-- BusinessWeek.com, February 5, 2007
- \* "The oil for ape scandal -- how palm oil is threatening orangu-tan survival."  
-- Friends of the Earth, 2005
- \* "Can Hawaii's water resources be reliably accessed in sufficient quantity to support biofuels production? This answer needs further study. It is not clear whether there are sufficient water resources."  
-- Hawaii Biofuels Summit Briefing Book (page 5)
- \* "What systemic barriers have prevented the expansion of Hawaii's biofuels industry? ... The most critical barriers in the agricultural sector appear to be availability of water rights and supply, along with the attendant need to invest in rehabilitating irrigation systems and the pressures of the real estate market prices toward shifting land from larger scale agricultural uses into more profitable dispositions."  
-- Hawaii Biofuels Summit Briefing Book (page 12)

## **Summary**

It is clear that under state law an Environmental Impact Statement is warranted.

Please respond as to when it will be prepared/submitted/reviewed?

**Mahalo,**

Henry Curtis

cc: OEQC, Environmental Council, PUC HECO, MECO