

**FOR ACTION**

**I. REQUEST**

Consider Authorizing the Executive Director to Reject and Decline the Conveyance from the United States of America, Acting by and Through the Department of Navy, to the Hawaii Community Development Authority, Pursuant to the 1993 Base Realignment and Closure Process by the Naval Facilities Engineering Systems Command, Pacific, of Certain Navy Owned Parcels Located in the Hawaii Community Development Authority’s Kalaeloa Community Development District, Described as the “Northern Trap and Skeet Range” (Tax Map Key (“TMK”) No. (1) 9-1-013-039), “Southern Trap Skeet Range” (TMK No. (1) 9-1-013-042), and “Ordy Pond” (TMK No. (1) 9-1-013-041) Parcels [no street addresses] Totaling Approximately 213 Acres.

**II. BACKGROUND**

This topic was presented to the Kalaeloa Authority on August 2, 2023 and relates to the potential transfer of the three below properties from the Navy to the HCDA (collectively referred to as “the Parcels”):

**Kalaeloa Parcels for Potential Public Benefit Conveyance**

Parcel	Lot No.	Tax Map Key	Size (acres)
Northern Trap and Skeet Range (“NTSR” or “Northern Skeet”)	13058-D	9-1-013-039	145.8
Southern Trap and Skeet Range (“STSR” or “Southern Skeet”)	13058-G	9-1-013-042	57.9
Ordy Pond	13058-F	9-1-013-041	9.3

Environmental studies and the disposal process for these Parcels have been underway since the late 1990s.

**III. DISCUSSION**

Between August 2023 and May 2024, the HCDA discussed the possible conveyance of these Parcels with the U.S. Navy and U.S Fish and Wildlife Service. The following concerns were identified:

Endangered Plants: The ‘akoko (*Euphorbia skottsbergii* var. *skottsbergii*) is a perennial shrub that is typically 1-3 feet tall that is only found in the Ewa Plains on ‘Oahu.

- There are about 233 ‘akoko plants surviving within the critical habitat conservation area in the Northern Skeet.
- The Navy will require that an ‘akoko conservation and management plan (CMP) be approved by the State of Hawaii DLNR and be in place prior to conveyance of the Northern Skeet. The goal of the CMP is to establish four viable populations

of ‘akoko, including a minimum of 1,000 reproducing individuals in the conservation area within five years of land ownership transfer. The CMP calls for fencing around the conservation area, installation of irrigation, and fire control management. Long-term goals also include restoration of the native dry shrubland ecosystem to support the ‘akoko.

- In 2015, HCDA estimated that the conservation of the ‘akoko could cost as much as \$100,000 to \$300,000 per year. Current costs to implement the required CMP are unknown but will likely far exceed 2015 estimates. There are currently no funding or resources in place for the HCDA to implement a CMP.

Contaminated Soil: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requires federal agencies to clean up contamination and impose covenants warranting that all remedial actions with respect to remaining contaminants have been taken prior to transfer. The Navy has spent at least \$1.35 million on cleanup of the Northern and Southern Skeets to date.

- The surface waters and sediments of Ordy Pond remain contaminated with hazardous substances, ordinance, munitions, explosives of concern, heavy metals, polynuclear aromatic hydrocarbons, PCBs, pesticides, and other organic compounds. Signage and fencing must prevent unauthorized removal of munitions and explosives of concern (MEC) and contaminated sediment, and annual and five-year inspections must also be conducted.
- Although there is a possibility the HCDA may be defended from liability under the bona fide prospective purchaser (BFPP) provision, further legal review is necessary. The BFPP provisions would require the HCDA to perform an “all appropriate inquiry” (AAI) study prior to the acquisition and then exercise ongoing appropriate care to the hazardous substances on the property. This represents a large potential liability and an ongoing unknown cost to manage the known hazards across the Parcels.

Historic and Archaeological Resources: All three Parcels have high potential for buried cultural deposits.

- The Northern and Southern Skeets include known Native Hawaiian habitation and agricultural features, possible kuleana features, possible religious structures, modified sinkholes, and trail features.
- Traditional Hawaiian burials have been encountered in Hawaiian habitation complexes and within existing or previously covered sink holes. Ranching, sisal cultivation, and early 20th century habitation sites, and WWII military components such as defensive, training and bivouac features are also known properties on the Parcels.

Historic and archaeological resources must be protected and preserved in accordance with the Hawaii State Historic Preservation Division (SHPD). Any proposed development would require SHPD review.

The aforementioned issues place certain obligations and liabilities on the HCDA upon transfer of the Parcels, including, but not limited to; 1) assuming responsibility for an ‘akoko conservation management plan and 2) holding title to properties with known

hazardous materials, contaminated soil, and munitions and explosives of concern. The costs of such obligations and liabilities are greater than any potential benefits of the limited development that could occur on the Parcels.

**IV. RECOMMENDATION**

It is recommended that the Authority authorize the Executive Director to decline the proposed conveyance by special legislation of the Parcels.

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