

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WESTERN-PACIFIC REGION

***FINDING OF NO SIGNIFICANT IMPACT
AND
RECORD OF DECISION***

**Proposed Reimbursement for the Acquisition
of 78.1 Acres of Land and Easements**

Kahului Airport
Kahului, Maui County, Hawaii



For further information

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GENERAL INFORMATION ABOUT THIS DOCUMENT

WHAT'S IN THIS DOCUMENT? This document is the Federal Aviation Administration's (FAA) Finding of No Significant Impact (FONSI) and Record of Decision (ROD) for federal reimbursement of costs associated with acquisition of land and easements adjacent to Kahului Airport (OGG), Kahului, Maui County, Hawaii. This document includes the agency determinations and approvals for those proposed Federal actions described in the Final Environmental Assessment dated December 2015. This document discusses all alternatives considered by FAA in reaching its decision, summarizes the analysis used to evaluate the alternatives, and briefly summarizes the potential environmental consequences of the Proposed Action and the No Action alternative, which are evaluated in detail in this FONSI and ROD. This document also identifies the environmentally preferred alternative and the agency preferred alternative. This document identifies applicable and required mitigation.

BACKGROUND. In August 2015, the State of Hawaii, Department of Transportation – Airports Division (HDOT-A) prepared a Draft Environmental Assessment (DEA). The DEA addressed the potential environmental effects of the proposed acquisition of approximately 78.1 acres of land and easements adjacent to OGG. The DEA was prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) [Public Law 91-190, 42 USC §§ 4321-4347], the implementing regulations of the Council on Environmental Quality (CEQ) [40 CFR Parts 1500-1508], and FAA Orders 1050.1F *Environmental Impacts: Policies and Procedures* and 5050.4B, *National Environmental Policy Act (NEPA), Implementing Instructions for Airport Actions*. The HDOT-A published the Notice of Availability for the DEA on August 20, 2015 and received comments on the document through September 25, 2015. FAA approved the Final EA on January 6, 2016.

WHAT SHOULD YOU DO? Read the Finding of No Significant Impact and Record of Decision to understand the actions that FAA intends to take relative to the proposed land acquisition reimbursement Project at Kahului Airport.

WHAT HAPPENS AFTER THIS? The HDOT-A may begin to implement the Proposed Action.

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FINDING OF NO SIGNIFICANT IMPACT
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RECORD OF DECISION

PROPOSED REIMBURSEMENT FOR THE ACQUISITION OF
78.1 ACRES OF LAND AND EASEMENTS

KAHULUI AIRPORT
MAUI COUNTY, KAHULUI, HAWAII

1. **Introduction.** This document is a Finding of No Significant Impact (FONSI) on the environment and Record of Decision (ROD) (FONSI/ROD) as a result of proposed reimbursement for the acquisition of 78.1 acres of land and easements adjacent to Kahului Airport (OGG), Maui County, Hawaii. The State of Hawaii, Department of Transportation – Airports Division (HDOT-A) is the sponsor for Kahului Airport. The Federal Aviation Administration (FAA) must comply with the National Environmental Policy Act of 1969 (NEPA) before being able to take the federal actions of approval of those portions of the Airport Layout Plan (ALP) that depict the acquired land and easements and reimbursement through the Airport Improvement Program and/or Passenger Facility Charge programs. Approval of the ALP is authorized by the Airport and Airway Improvement Act of 1982, as amended (Public Laws 97-248 and 100-223).

2. **Purpose and Need of the Proposed Action.** As discussed in Section 1.4 of the Final Environmental Assessment (EA), the purpose of the Proposed Action is to protect the approach to Runway 23, by controlling the land within the Runway Protection Zone (RPZ) for Runway 23, maintain compatible land use on and around the airport, and to have a non-potable irrigation water source for airport use. Paragraph 212 of FAA Advisory Circular 150/5300-13, *Airport Design*, describes "*The RPZ's function is to enhance the protection of people and property on the ground. This is achieved through airport owner control over RPZs. Such control includes clearing RPZ areas (and maintaining them clear) of incompatible objects and activities. Control is preferably exercised through the acquisition of sufficient property interest in the RPZ.*"

The acquired parcel will remain zoned for agriculture (existing use). Agricultural use of the property, now owned by HDOT-A must be at fair market value. Any future development of the acquired land will go through a separate environmental review process. The FAA's statutory mission is to ensure the safe and efficient use of navigable airspace in the United States. Pursuant to Title 49, United States Code (USC), Subtitle VII, as amended, FAA must ensure the proposed project does not derogate the safety of aircraft and airport operations at Kahului Airport.

3. **Proposed Project and Federal Actions.** The Proposed Project includes the acquisition of land and easement and reimbursement for the acquisition of 78.1 acres of land and easements adjacent to OGG.

The federal actions necessary to carry out the proposed projects include:

- Unconditional approval of a portion of the Airport Layout Plan (ALP) to depict the acquired land pursuant to 49 U.S.C. § 40103(b) and § 47107(a)(16)
- Determinations under 49 U.S.C. § 47106 and § 47107 relating to the eligibility of the proposed action for federal funding under the Airport Improvement Program; and
- Approval of the appropriate amendments to the Airport Certification Manual pursuant to 14 CFR 139.

4. Reasonable Alternatives Considered. Chapter 2 of the Final EA examined the Proposed Alternative and No Action.

The proposed action (preferred alternative) is federal reimbursement for acquisition of land and easements adjacent at Kahului Airport for approach protection, to maintain compatibility with airport use and to have a non-potable irrigation water source that has already been acquired by HDOT-A. HDOT-A is seeking FAA approval for reimbursement of their acquisition of the property. In 2012, HDOT-A has acquired approximately 78.1 acres of land and easements adjacent to the Airport, as shown on Figure 1 of the Final EA. The Final EA also evaluates the acquisition of land and easement for the no-action alternative, which is required to be analyzed under Title 40, Code of Federal Regulations (CFR) § 1502.14(d). For both alternatives, the Airport Layout Plan will need to be approved as the land has been acquired by HDOT-A. Therefore, the Airport Layout Plan will reflect the expanded airport land ownership.

The properties were acquired in fee with the accompanying easements for a price of \$14,533,000. The federal funding request would be at a maximum of 80 percent of the total purchase amount. A land appraisal was conducted by the HDOT-A as required by federal rules and guidelines.

Analysis of the No Action Alternative is required pursuant to Title 40, Code of Federal Regulations (CFR) § 1502.14(d). Section 2.2 of the Final EA, states the no-action alternative would not reimburse HDOT-A's property acquisition with federal funding. Therefore, the subject property would be acquired only with State of Hawaii funds.

Paragraph 405(d) of FAA Order 1050.1E states, in part: *"An EA must consider the proposed action and a discussion of the consequences of taking no action, and may limit the range of alternatives to action and no action when there are no unresolved conflicts concerning alternative uses of available resources."*

The primary considerations for the FAA in selection of a preferred alternative include the Purpose and Need for the project and the environmental impacts of the project. In its consideration of alternatives, the FAA is mindful of its statutory charter to encourage the development and safety of civil aeronautics in the United States (49 USC § 40104). The various environmental impacts associated with both the No Action Alternative and the Proposed Action Alternative are the same and existing land use does not change.

5. Assessment. The potential environmental impacts and possible adverse effects were identified and evaluated in a Final EA prepared in December 2015. The Final EA has been reviewed by the FAA and found to be adequate for the purpose of the proposed Federal action. The FAA determined that the Final EA for the proposed project adequately describes the potential impacts of the Proposed Action. There were no comments received for the Draft EA. No new issues surfaced as a result of the public review process.

The Final EA examined the following environmental impact categories: Farmlands; Fish, Wildlife and Plants; Historic, Architectural, Archeological and Cultural Resources; and Cumulative Impacts.

The environmental impact categories of Air Quality, Coastal Resources, Compatible Land Use, Construction Impacts, Department of Transportation Act Section 4(f) Resources, Floodplains, Hazardous Materials, Pollution Prevention and Solid Waste, Light Emissions and Visual Impacts, Natural Resources, Energy Supply and Sustainable Design, Noise, Secondary (Induced) Impacts, Socioeconomic Impacts, Environmental Justice and Children's Health and Safety Risks, Water Quality, Wetlands, and Wild and Scenic Rivers, were not evaluated further because the Proposed Action at OGG would not create an impact to these environmental resources since there will be no change in the existing agricultural land use. The HDOT-A has provided the FAA with the required Land Use Assurance Letter dated February 11, 2013.

A. Farmlands. Section 4.1 of the Final EA describes farmland impacts resulting from the Proposed Action and the No Action alternatives. Section 4.1 notes that one portion of the subject properties (55.5 acres; parcel 2-3-8-001:004) was actively cultivated for sugarcane production until 2011. The parcel was fallow when it was acquired by HDOT-A in 2012. Following acquisition by HDOT-A, the sugar cane growing and harvesting has not resumed, and the land has remained fallow. The remaining portion of the subject properties (23.6 acres) was subdivided into private farm lots by the previous owners and was fallow prior to acquisition by HDOT-A. The subject properties will remain designated for agricultural land uses, and HDOT-A has proposed no development. The parcel remains available for agricultural use by lease at fair market value. In the past, HDOT-A has leased lands to the sugarcane companies to grow and harvest sugarcane on their lands. In 2014, Hawaiian Commercial and Sugar Company (HC&S) cultivated approximately 36,000 acres of sugar cane in Central Maui. Therefore, since the parcel remains available for agricultural use, there is no adverse impact to farmland potential and no significant impact to sugarcane production resulting from the proposed reimbursement.

B. Fish, Wildlife, and Plants. Section 4.2 of the Final EA states the property was in active sugar cane cultivation until 2011. There are no native habitats on the acquired parcels; and there is no change in use or proposed development. Therefore, there will be no impact to listed species. On June 8, 2012, FAA determined the proposed acquisition of the subject parcel along with the proposed federal reimbursement of HDOT-A for the costs associated with the acquisition would not affect any federally listed species or designated critical habitat. Further, since the parcel was in active sugar cane production until 2011, the soil has been significantly disturbed. There is no designated critical habitat on the parcel. Since the FAA has determined the proposed action and the no action alternatives would not affect federally listed species or designated critical habitat, Formal Section 7 consultation under the Endangered Species Act of 1973, and its implementing regulations, found at 50 CFR 402, is not necessary for this proposed action. FAA received no response from USFWS concerning FAA's determination of no effect.

C. Historical, Architectural, Archaeological, and Cultural Resources are discussed in Section 4.3 of the Final EA. Section 4.3 of the Final EA states the FAA determined the Proposed Action would not affect any historic properties listed or eligible for listing on the National Register of Historic Places within the Area of Potential Effects (APE). FAA provided a letter, dated June 8, 2012, to Ms. Pua Aiu, Administrator, State of Hawaii Historic Preservation Division, with its determination of the APE and FAA's finding of effect. The State Historic Preservation Division did not respond to FAA's consultation letter, seeking concurrence with FAA's APE, determination of eligibility and finding of effect. Pursuant to 36 CFR Section 800.4(d)(1), FAA may consider a lack of objection within 30 day of receipt of the adequately documented find as satisfying FAA's obligation under Section 106.

D. Cumulative Impacts. An evaluation of cumulative impacts from these cumulative actions is discussed in Section 4.4 of the Final EA. For the purposes of the cumulative impact analysis, other projects at OGG or within one mile of OGG that have been completed within the last five years or are currently ongoing were considered for the past and present projects. Reasonably foreseeable actions that have requested or received approval for implementation were also considered. As a result of this evaluation, no significant cumulative impacts were identified.

E. Environmentally Preferred Alternative and FAA Preferred Alternative. In connection with its decision to approve the proposed ALP revisions, the FAA considered the environmental impacts from the Proposed Action and the No Action Alternatives. The FAA determined that both the Proposed Action and No Action alternatives will not create any significant environmental impacts and that the Proposed Action would not jeopardize the safe and efficient operations at the Airport. No Action alternative does not meet the Purpose and Need for the proposed project. Thus, the FAA's preferred alternative (Proposed Action), meets the Purpose and Need of the proposed project with no adverse environmental effects.

6. Public Participation.

The public was encouraged to review and comment on the Draft EA which was released for public review on August 24, 2015. The HDOT-A published a notice of availability of the Draft EA in *The Maui News*, local newspaper in the vicinity of the Airport. Notification of the document's availability was also accomplished through the State of Hawaii Office of Environmental Quality Control's "*The Environmental Notice*" and the Draft EA document was available in their online library for review. The Draft EA was distributed to federal, state, and local agencies and organizations having an interest and/or jurisdictional responsibility in the study. Copies of the document were also available for review at Kahului Public Library on Kahului, the administrative offices of Kahului Airport on Maui and HDOT-A on Oahu, at FAA's office in Honolulu, Hawaii, and Los Angeles, California. The public review of the Draft EA ended on September 25, 2015. No comments were received. No new issues surfaced as a result of the public review process. Copies of the Draft EA newspaper Affidavit of Publications are provided in Appendix F of the Final EA

7. Inter-Agency Coordination.

In accordance with 49 USC § 47101(h), the FAA has determined that no further coordination with the U.S. Department of Interior or the U.S. Environmental Protection Agency is necessary because the Proposed Action does not involve construction of a new airport, new runway or major runway extension that has a significant impact on natural resources including fish and wildlife; natural, scenic, and recreational assets; water and air quality; or another factor affecting the environment.

8. Reasons for the Determination that the Proposed Action will have No Significant Impacts.

The attached Final EA examines each of the various environmental resources that were deemed present at the project location, or had the potential to be impacted by the Proposed Action. The proposed acquisition of land acquisition and easement at Kahului Airport would not involve any environmental impacts that would exceed the threshold of significance as defined by FAA Orders 1050.1F and 5050.4B. Based on the information contained in the Final EA, the FAA has determined that the Proposed Action is the most feasible and prudent alternative. The FAA has decided to implement the Proposed Action as described in Section 3 of this FONSI/ROD.

9. Agency Findings.

The FAA makes the following determination for this project based on information and analysis set forth in the Final EA and other portions of the administrative record.

- a. **The project is reasonably consistent with existing plans of public agencies for development of the area [49 U.S.C. 47106(a)].** The proposed project is consistent with the plans, goals and policies for the area, including the County of Maui's *Wailuku-Kahului Community Plan*. The proposed project is also consistent with the applicable regulations and policies of federal, State and local agencies.
- b. **Wetlands:** The FAA has determined that the project will not affect wetlands as discussed in Sections 3.14 and 4.0 of the Final EA.
- c. **Floodplain:** The FAA has determined that the project will not affect floodplains discussed in Sections 3.6 and 4.0 of the Final EA.
- d. **Independent and Objective Evaluation:** As required by the Council on Environmental Quality (40 CFR § 1506.5), the FAA has independently and objectively evaluated this proposed project. As described in the Final EA, the Proposed Action and the No Action alternatives were studied extensively to determine the potential impacts and appropriate mitigation measures for those impacts. The FAA provided input, advice, and expertise throughout the analysis, along with administrative and legal review of the project.

10. Decision and Orders.

Based on the information in this FONSI/ROD and supported by detailed discussion in the Final EA, the FAA has selected the proposed acquisition of land and easement as the FAA's Preferred Alternative. The FAA must select one of the following choices:

- Approve agency actions necessary to implement the Proposed Action, or
- Disapprove agency actions to implement the Proposed Action.

Approval signifies that applicable federal requirements relating to the proposed airport development and planning have been met. Approval permits HDOT-A to proceed with implementation of the Proposed Action and associated mitigation measures. Disapproval would prevent HDOT-A from implementing the Proposed Action elements within Kahului Airport.

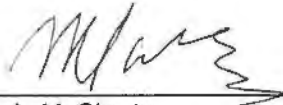
Under the authority delegated to me by the Administrator of the Federal Aviation Administration, I find that the project is reasonably supported. I, therefore, direct that action be taken to carry out the agency actions discussed more fully in Section 3 of this FONSI/ROD.

1. Unconditional approval of the portion of the Airport Layout Plan (ALP) that depicts the 78.1 acre parcel acquired by HDOT-A, proposed for federal reimbursement submitted by HDOT-A for Kahului Airport, pursuant to 49 U.S.C. § 40103(b), 44718 and 47101(a)(16) and 14 CFR Part 77. The approval of the ALP is based on determinations through the aeronautical study process regarding obstructions to navigable airspace, and the Airport development proposal is acceptable from an airspace perspective.
2. Approval to proceed with further processing of an application for Federal assistance for those eligible development projects described as the Proposed Action within the Final EA and this FONSI/ROD, under 49 U.S.C. §§ 47106 and 47107, for federal funding under the Airport Improvement Program (AIP) and under 49 U.S.C. § 40117, as implemented by 14 CFR § 158.25 to impose and use passenger facility charges (PFCs) collected at OGG for the Proposed Action to assist with construction of potentially eligible development items shown on the ALP.
3. Determination under 49 U.S.C. § 44502(b) that the proposed acquisition of land and easement is reasonably necessary for use in air commerce or in the interest of national defense.

This order is issued under applicable statutory authorities, including 49 USC §§ 40101(d), 40103(b), 40113(a), 44701, 44706, 44718(b), and 47101 et seq.

I have carefully and thoroughly considered the facts contained in the attached EA. Based on that information, I find the proposed Federal action is consistent with existing national environmental policies and objectives of Section 101(a) of the National Environmental Policy Act of 1969 (NEPA). I also find the proposed Federal action will not significantly affect the quality of the human environment or include any condition requiring any consultation pursuant to section 102(2)(C) of NEPA. As a result, FAA will not prepare an EIS for this action.

APPROVED:



Mark A. McClardy
Manager, Airports Division, AWP-600

1/7/16

Date

DISAPPROVED:

Mark A. McClardy
Manager Airports Division, AWP-600

Date

RIGHT OF APPEAL

This FONSI/ROD constitutes a final order of the FAA Administrator and is subject to exclusive judicial review under 49 U.S.C. § 46110 by the U.S. Circuit Court of Appeals for the District of Columbia or the U.S. Circuit Court of Appeals for the circuit in which the person contesting the decision resides or has its principal place of business. Any party having substantial interest in this order may apply for review of the decision by filing a petition for review in the appropriate U.S. Court of Appeals no later than 60 days after the order is issued in accordance with the provisions of 49 U.S.C. § 46110.