

# Court should clarify worth of years-old EIS

The state Supreme Court has been asked to intervene in a longstanding dispute over whether a 24-year-old environmental review should clear the way for a planned resort expansion at Turtle Bay. If the high court decides to take the appeal, as it should, the state will get clearer direction of how environmental law should apply to development that has languished on the drawing boards for years.

And although the Kuilima Resort Co. project is at the center of this case, there are other projects with environmental impact statements prepared long ago. The original proposal for Makena Resort on Maui, for example, was based on an EIS completed in 1974.

Last week, environmental groups Sierra Club and Keep the North Shore Country made the strong case in their final appeal that the original Turtle Bay EIS no longer provides the comprehensive review that's needed.

It did not project traffic impacts beyond the year 2000, they argue, and the document never mentioned how the expansion could affect the threatened green sea turtles and the endangered Hawaiian monk seals, which in recent years have been spotted more frequently in the area.

The plaintiffs contest a decision by city officials not to require a supplemental EIS when Kuilima applied for a subdivision permit in 2005. The city and the developers contend, with the backing of lower courts, that if the design remains unaltered the original EIS will suffice.

Complicating matters is that the developers and the city struck a unilateral agreement on this project, which itself has no expiration date. Abridging that agreement now would surely invite further legal challenges.

But the court needs to offer clear guidance on what effect environmental changes over time should have on the validity of an EIS.

Lawmakers should consider enacting clearer rules for considering supplemental EIS requests. An administrative appeal in a public setting, similar to a contested-case hearing, would make the process more transparent.

In a state where vacant land is at a premium, allowing projects to lie fallow for years without the option of revisiting the environmental studies is not rational land-use policy.

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**Aloha\_Girly** wrote:

After all the Superferry EIS hype, a new Turtle Bay EIS should be done. The old study today, is worth about as much as not having had one done at all. If the State doesn't demand a new study be done, then bring back the Superferry.

I am on the Sierra Club side on this. I have never agreed on anything the SC has ever said, and this will probably be the last. I am, however, embarrassed to admit it..

**tdsells** wrote:

Could an environmental assessment conducted in 1985 POSSIBLY be relevant today? Even if we believe that the natural, social and economic aspects of the North Shore of Oahu have miraculously remained unchanged since the assessment was conducted twenty four years ago, CERTAINLY the technology, tools and expertise used to gather and analyze the information required for an environmental assessment have changed.

In order to ensure that decision makers have the best information available today, we must require a supplemental Environmental Impact Statement

be done with today's technology, using today's tools, and today's knowledge. Science and technology has progressed far too much in the last twenty four years to disregard its advances and accept the antiquated impact statement written at a time when the internet was in its infancy there were fewer than one million cell phone subscribers in the nation.

**wiliki** wrote:

The EIS should be accepted. Any changes over time since then should be considered. I don't see why the impact to the environment should be greatly affected even if it is many years since the statement was written. OTOH the city has had many years to review the document and find errors that will invalidate the conclusions of the EIS. And quite often the study is conservative so the worse on worse is not likely to happen. It's time to let the builder go ahead. If not, then the City should be liable for the losses of the land owner.

**manini** wrote:

Although the issue is whether Kuilima's EIS is still valid, please also consider that just a short distance away, the LDS church wants to add nearly 2000 more homes which will further burden traffic on the NorthShore. That single issue alone should be of enough concern to stall both projects until a traffic solution is available. Or will they follow the traffic planning model used for the Ewa plains area and let development go rampant and then look for a traffic solution 10 years later.