

DOCUMENT RESUME

07665 - [C3068168]

[Acquisition of Kealia Pond in Hawaii]. CED-79-6; B-118307.  
November 1, 1978. 4 pp.

Report to Cecil D. Andrus, Secretary, Department of the Interior; by Henry Eschwege, Director, Community and Economic Development Div.

Issue Area: Land Use Planning and Control: Management of Federal Lands and Related Resources (2306).

Contact: Community and Economic Development Div.

Budget Function: Natural Resources, Environment, and Energy: Conservation and Land Management (302).

Organization Concerned: U.S. Fish and Wildlife Service.

Congressional Relevance: House Committee on Merchant Marine and Fisheries; Senate Committee on Environment and Public Works.

Authority: Endangered Species Act of 1973 (16 U.S.C. 1531).

Approximately \$6.4 million has been appropriated for the Department of the Interior to acquire Kealia Pond on the Island of Maui, Hawaii. This is part of a Fish and Wildlife Service (FWS) recovery plan to protect the habitat of two endangered Hawaiian waterbirds, the coot and the stilt. The acquisition of 500 acres of land containing the pond does not meet FWS' land acquisition policies. The pond's sanctuary status and its location within a State conservation district preclude uses that are not compatible with a wildlife refuge and represent an alternative to Federal acquisition. State protection of the pond was never considered a viable alternative by FWS even though State and county officials have made every effort to stop Federal condemnation proceedings. The State, county, and principal landowner have indicated a willingness to further improve the pond to enhance its potential for waterbirds. The Secretary of the Interior should discontinue acquisition of Kealia Pond and monitor State and county actions to assure that the pond remains a waterbird habitat. (RRS)



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

8168

IN REPLY  
REFER TO:

B-118307

COMMUNITY AND ECONOMIC  
DEVELOPMENT DIVISION

NOVEMBER 1, 1978

The Honorable Cecil D. Andrus  
The Secretary of the Interior

Dear Mr. Secretary:

The General Accounting Office, during its review of the implementation of the Endangered Species Act of 1973, (16 U.S.C. 1531 et seq.) found that approximately \$6.4 million has been appropriated for the Department of the Interior to acquire Kealia Pond on the Island of Maui, Hawaii. This action is part of a recovery plan approved by the Director of the Fish and Wildlife Service (FWS) on June 19, 1978, to protect the habitat of two endangered Hawaiian waterbirds, the coot and the stilt. However, our review has shown that the acquisition of Kealia Pond is not consistent with FWS's land acquisition policies or program criteria and should be discontinued.

BACKGROUND

Kealia Pond is one of two suitable habitats for the coot and the stilt on Maui. The other, Kanaha Pond, is probably the best area in the State for waterbirds and is the primary nesting and feeding habitat for both the coot and the stilt. Kanaha Pond and surrounding land are owned by the State of Hawaii, which has designated it as an endangered wildlife sanctuary and has improved the habitat to increase its potential for waterbirds.

Privately owned Kealia Pond is one of the largest lowland ponds in the State. It is within a zoned conservation district and also has been designated by the State as a wildlife sanctuary. The pond, which was dry during the waterbirds' mating season, has been enhanced by the establishment of a small aquaculture farm. Water from the farm drains into the pond, providing needed water during the dry months. Kealia Pond complements Kanaha Pond by providing a feeding area for both the coot and the stilt and a nesting habitat for the coot. Improvements to the pond area could also expand the nesting habitat of the stilt.

CED-79-6  
(14337)

ACQUISITION NOT CONSISTENT WITH  
FWS POLICIES AND CRITERIA

FWS's land acquisition policies dated August 8, 1977, state that land will be acquired "only when other means of achieving Program goals and objectives are no longer available and/or effective." All alternatives for protecting the habitat must be exhausted before resorting to acquisition. Condemnation can be used only "when specific tracts present management problems or after failure of reasonable negotiations."

During our review, we visited Kealia Pond and found that the acquisition through condemnation of 500 acres of land containing the pond does not meet FWS's land acquisition policies. The pond's sanctuary status and its location within a State conservation district preclude uses that are not compatible with a wildlife refuge and represent an available alternative to Federal acquisition. However, State and county officials informed us that continued State protection of the pond was never considered a viable alternative by FWS.

According to the Hawaiian waterbirds recovery team, appointed by the Director of FWS, they are concerned that pressures to convert Kealia Pond to a medium draft harbor or marina will lead to rezoning. Therefore, the team has recommended including the pond in FWS's National Refuge System. FWS officials told us they have recognized the potential value of Kealia Pond as a waterbird habitat for many years and support the recovery team's concern and recommendation.

State and county officials informed us that they have made every effort to stop the Federal condemnation proceedings. They stated that commercial development of Kealia Pond was discussed about 8 years ago but that the only development currently planned for the area is expansion of the aquaculture farming. They also pointed out that State law requires a lengthy review process prior to any rezoning, including preparation of a State environmental impact statement and public hearings, and that development of a harbor or marina would require a permit from the Army Corps of Engineers. FWS would have ample opportunities for comment and time to reinitiate condemnation proceedings, if required. Further, the county and State will consider improving the pond to enhance its potential as a waterbird habitat if Federal acquisition does not occur. The principal landowner agrees that there are currently no plans to commercially develop Kealia Pond and is willing to negotiate with the State and county regarding its future use.

The acquisition of Kealia Pond is also not consistent with FWS's criteria relating to the endangered species program. A criterion that must be met before habitat can be acquired for an endangered or threatened species is that the species must be in a high priority category based on FWS's endangered species recovery priority system. However, both the coot and the stilt are in a low priority category based on this priority system because the degree of threat to their survival is low and their recovery potential is high.

Data in the approved recovery plan support these rankings. The plan establishes a population objective of 2,000 for each of the two species. The 1977 estimated statewide populations were 2,500 coots and 1,500 stilts as compared to the previous 10-year January census average of 966 coots and 701 stilts. These figures show that the coot has already surpassed its population objective and that the stilt is well on the way to recovery without the acquisition of Kealia Pond.

Interior officials responsible for FWS land acquisitions stated that when the decision to acquire Kealia Pond was made in fiscal year 1974, the degree of threat to the species' survival appeared to be high, and that land acquisition was recommended to improve their recovery potential. However, the officials admitted that changes in the species' status have not been monitored, and that the initial decision has never been reevaluated.

#### CONCLUSIONS AND RECOMMENDATIONS

The acquisition of Kealia Pond through condemnation is not consistent with FWS's land acquisition policies or program criteria. The pond's location within a zoned conservation district and designation as a wildlife sanctuary by the State represent a viable alternative to Federal acquisition. Actual and planned development in the pond area are compatible with a wildlife refuge and have actually served to enhance the pond as a waterbird habitat. The State, county and principal landowner have also indicated a willingness to further improve the pond to enhance its potential for waterbirds. Therefore, we recommend that you:

- Discontinue acquisition of Kealia Pond.
- Monitor State and county actions to assure that the pond remains a waterbird habitat.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of this letter and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of this letter.

We are also sending copies of this report to the Chairmen of the following committees: Senate Committee on Environment and Public Works, House Committee on Merchant Marine and Fisheries, and House Committee on Public Works. Copies are also being sent to the Director, Office of Management and Budget and your Director, Office of Audit and Investigation.

Sincerely yours,

A handwritten signature in black ink that reads "Henry Eschwege". The signature is written in a cursive style with a large, prominent "H" and "E".

Henry Eschwege  
Director