



## Conservation District Rule Update

Edward Henry, Division of Land Management, Hawai'i Department of Land and Natural Resources

The State Conservation Land Use District: What is it, and how do the law, administrative rules, and processes operate? Additionally, what is the Conservation District Review Update?

First, let's start with some basic understanding of the State Conservation District. There are a total of about 4,051,398 acres of fast land within the State of Hawai'i. The State Land Use Law, Chapter 205 HRS, segments this land within four major land use districts: urban, agricultural, rural, and conservation.

Chapter 205, HRS, provides that the Board and Department of Land and Natural Resources administrate the State Conservation District, while the county jurisdiction administrates the Urban, Agricultural and Rural Districts.

As of 1993, about 49 percent of the land statewide was classified within the State Conservation District. This land area is predominately upper mountain regions, watersheds, forest reserves, some river/stream water-

ways, and coastal shorelines. It includes both public and private land holdings.

The first set of administrative rules for the State Conservation District was established in October 1964, identified as Regulation 4. The rule established two subzones: restricted watershed and general use. In the restricted watershed subzone, land uses were restricted to water and forestry resource development, the installation of transmission facilities, and government programs and activities.

In 1968, Section 41 of Chapter 183 HRS was established to provide a more legal basis for the department to administer the State Conservation District. Following the preparation of a Conservation District Plan in 1977, Regulation 4 was revised to provide for four subzones: protective, limited, resource, and general, with permitted land used identified. A special subzone is also identified for such areas as Sea Life Park.

A conditional use permit was also established which



ered, but how far down I'm not sure.

**Bill Cowern:** I think that happened through the Board of Appeal. I think there was an appeal of the Prudential plantings which created a different tax level for that particular operation. I don't believe it applies statewide, but it certainly sets a precedent.

**Representative from County of Hawai'i, Real Property Tax:** Tree farms are currently covered under the law, that was put in as a separate section before Bill 160. It's true that through the appeal process Prudential is now getting a forest rate. The new revision is out of committee, Thursday is hopefully its final hearing, and it will establish a category for forest.

**Q:** What's the rate?

**A:** \$500 per acre for Prudential, and category rates haven't really been established. That's the assessment so the taxes equate to \$5 per acre.

**Q:** For Mike Tulang, what's the area of responsibility for the soil and water conservation districts? Is it all lands or just certain lands?

**Mike Tulang:** It's generally all private lands. I just wanted to comment on the \$500 per acre assessment. I think the deliberation at the county was to ensure that it was the plantation rate of agriculture to ensure that the county wouldn't experience a drop in revenues when the plantations went out. That's the rationale for the \$500 per acre.

**Steve Smith (Hamakua Timber):** That \$500 rate is without a 20 year ag dedication. We are looking, and have in fact applied, for dedication of that property. That hopefully will change the thing again in a year or two. I think it was a very encouraging sign from the County of Hawai'i, and I would like to thank all the people on the review panel and in the administration and the council who have supported our efforts to get an equitable tax rate to encourage both large-scale and small-scale silviculture efforts.

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would allow uses that may be permissible under certain conditions, as determined by the Land Board.

Regulation 4 was replaced by Title 13, Chapter 2, HAR, in 1981. Very few amendments were proposed to either the law (Chapter 183-41 HRS) or the administrative rules (Title 13, Chapter 2 HAR) for the next 12-year period.

Now we come to the Conservation District Review Project. Beginning in the spring of 1993, the department initiated a project to review the then-existing law (Chapter 183-41 HRS) and the administrative rule (Chapter 2) to see if possible amendments or revisions were warranted. The department assembled a group of 26 parties in a Project Advisory Committee representing state and county government agencies, the legal and planning profession, land owners, Hawaiian organizations, and environmental and special-interest groups. They assisted the department in developing a report entitled "The Discussion Document" in November 1993, which identified a number of specific recommendations including the need to formulate a new Law specific to the State Conservation District and to draft administrative rules that provided for major and minor land use permit processes. It also identified the need to further the review project with more substantial planning effort.

Following that report, the department prepared a bill for the 1994 Legislature which would establish a new legal basis for the administration of the State Conservation District. This bill was passed and coded as Chapter 183C HRS.

With a new law, the department initiated the undertaking of formulating new administrative rules. This was done in the spring and summer of 1994 with the assistance of the Conservation District Review Project Advisory Committee. They helped to formulate and generally support the new administrative rules, known as Title 13, Chapter 5, HAR, which the Land Board, and then-Governor John Waihe'e, approved in December 1994.

The new Chapter 5 rules are much different from the old Chapter 2 rules. There are a number of specific areas to highlight. First, commercial forestry and agriculture are specifically listed as "identified land uses" in the State Conservation District. The new rules also defines what type of proposed land uses are minor and require minor permits to be reviewed by the department, versus more intense land uses requiring Land Board review. Commercial forestry is listed as an identified land use in the Resource Subzone requiring a management

plan, as provided by specific components in the rule. All commercial forestry Conservation District applications will be forwarded to the Land Board for decision making. However, most data collection is considered a minor land use and can be reviewed by the department.

The department's report: "The Process of Revision and Proposed Changes," prepared in November 1994, highlights the changes between Chapter 2 and Chapter 5 rules and contains a rationale for making the revision.

The Conservation District Review Project is continuing with the assistance of a consultant. We are now focused on reviewing known resource attributes for areas situated within each of the four major subzone categories. The objective is to affirm, or recommend, changes to the subzone regime and zoning maps as may be warranted. An overall management plan for the Conservation District is also being pursued. We anticipate having a draft management plan and draft subzone maps in the spring of 1997 for public review.

Following public and agency input, the department will be forwarding a report to the Land Board for review and approval. Subsequent revisions, or as pertinent, may be made to Chapter 183C HRS and to Title 13, Chapter 5 HAR.

With regard to whether the new law and rules for the Conservation District will assist or hinder private landowners, we have not yet experienced an application for commercial forestry. But we are continually re-assessing our rules and procedures to determine the efficiency and consistency of departmental processes.

Your input in this endeavor is encouraged.