

Crossing boundaries at Haleakala: the struggle to get improved quarantine protection prior to expansion of Maui's airport

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The Park Service will be given as much opportunity to comment on the EIS as any other member of the public.

— David Welhouse, Federal Aviation Administration airport planner, quoted in *The Maui News*, 7 May 1996

I had been superintendent of Haleakala National Park for little more than a year when on October 23, 1989, Lloyd Loope, a research scientist, briefed me about plans to expand Maui's airport to accommodate international flights. The \$250-million expansion project and perceived economic benefits had widespread support from the Federal Aviation Administration (FAA), the governor of Hawai'i, state legislators, the Hawai'i Department of Transportation (HDOT), the Maui mayor, and business. They eagerly anticipated Maui-to-Japan direct flights. Loope said that without better alien species prevention measures, the project would expose Maui to a greater quantity of biological invaders and new sources of origin. He stated that because oceanic island ecosystems are so susceptible to invasions and because Maui has such a diversity of habitats in close proximity to the airport, the project would result in severe ecological consequences for the park. In my daily notes I wrote apprehensively: "Not so sure I want to get involved!"

What business did the National Park Service (NPS) have concerning itself with this issue? The airport is 15 miles from the park boundary.

On the other hand, it was logical to ask: "What about NPS protection laws like the Organic Act and the Redwood Amendments? How about the National Environmental Policy Act and the Endangered Species Act?"

All that Haleakala wanted was better invasive species inspection and interdiction practices for an airport quarantine system that Loope characterized as a leaky sieve. NPS in Hawai'i was the leader in effectively dealing with goats, pigs, mongooses, and a myriad of non-native plants and insects. Park and university scientists had ample evidence of ecosystem destruction by alien species, as well as evidence that an average of 20 new immigrant insect species become established in the Hawaiian Islands annually. Furthermore, extraordinary numbers of Maui citizens were concerned about alien invasion, as well as other environmental impacts that come with an international airport. I signed and mailed the letter Loope had drafted and followed up by testifying at the Maui County Council General Plan meeting in which the airport expansion was discussed.

Fast-forwarding to today, April 17, 2001, nearly 12 years later, the airport project remains on hold pending the implementation of a seven-agency memorandum of understanding including an alien species prevention plan. The governor has deferred the runway extension. We had set out to effect implementation of state-of-the-art procedures to filter out invasive aliens, the number one nemesis of endangered Hawaiian native ecosystems. Our cause was helped because invasive alien species pose major threats to agriculture and tourism as well (Deleon 1990). How did we get to this point and what will be the ultimate outcome?

Beginning in 1989, Haleakala staff began aggressively communicating with county, state, and federal agencies to ensure that the Kahului Airport improvements project would be environmentally benign, causing no significant adverse impacts to Haleakala ecosystems. Haleakala staff testified at hearings of the Hawai'i Land Use Commission, Maui County Council, and Maui Planning Commission, and produced numerous letters to express concern and offer advice. We argued that the airport expansion plan would permit aircraft from foreign countries to arrive in ever-increasing numbers and thus expose Maui to more alien species. We argued that an international airport in Maui, with its higher-elevation habitats, would facilitate establishment of species likely to threaten the park. Additionally, we argued that whereas new immigrant insects might tend to be blown out to sea by the trade winds at Honolulu International Airport, they would be blown inland at Kahului.

Partly on the strength of NPS concerns, the state's initial two-volume environmental impact statement (EIS) was invalidated by a Hawai'i Circuit Court 1991 ruling, requiring the preparation of a federal EIS (Hawai'i Dept. of Transportation 1992).

In a September 7, 1993, letter to the FAA, the lead agency, we requested participation in the federal EIS process as a cooperating federal agency. FAA informed NPS that this request was denied because the park was 20 miles away and endangered species are the jurisdiction of the U.S. Fish and Wildlife Service (USFWS). The response included no attempt to address the points raised in the NPS letter. Applicable federal laws protecting national parks that NPS cited were ignored by FAA without so much as a word of explanation or analysis.

In March 1996 the draft EIS was released to the public. At no time before then did FAA contact Haleakala or the park's National Biological Service (NBS; now the U.S. Geological Survey Biological Resources Division, (USGS-BRD) research scientist for information on potential impacts to the park. The draft EIS did not address the NPS concerns. Instead, the FAA's airport planner responded with the quote which heads this article.

The day after that quote appeared, May 8, 1996, a public hearing was conducted. According to *The Maui News*, "of the 64 people who testified ... six spoke favorably of the draft EIS, three testimonies were unclear on the issue and the remaining 55 blasted it as being totally inadequate. By far, the most frequently cited complaint about the EIS was its treatment of alien species introductions and their potential effects on Haleakala National Park" (Hurley 1996).

The regional environmental officer for the U.S. Department of the Interior (USDI), Patricia Port, submitted USDI comments on the draft EIS that expressed NPS and USFWS concerns about the project. Port made strong recommendations that NPS concerns be addressed; if they were not, USDI would make a referral to the president's Council on Environmental Quality (CEQ).

In 1993, the park had suggested that a biological assessment (BA) was in order even though USFWS did not initially make this request. In USDI's comments on the draft EIS, Port also stated that a BA should be prepared to assess the impacts to threatened and endangered species. Faced with USDI's compelling comments, FAA called for a meeting on June 6, 1996, with the NPS, NBS, and USFWS. Attendance by Regional Director Stanley Albright and Pacific Islands Support Office Superintendent Bryan Harry added credibility to Haleakala's stand. Mention was made for the first time by the transportation agencies that it might be possible to use airport funds for mitigation of the alien species threat. As a result of this meeting, the FAA decided it would prepare a BA.

In September 1996, the FAA selected members to serve on a biological assessment technical panel (BATP) to advise USFWS and FAA during the BA drafting process. Included on the panel were Loope and me. The BA's scope of work retained the language of the draft EIS, stating: "The proposed project in itself will not have a direct impact on the introduction of non-native (alien) species, or the

endangered species within the airport boundaries...”—still ignoring NPS concerns. However, in the ensuing meetings, much substantive information was revealed about the impact of alien species and airport front-line quarantine officials’ concerns about severe current understaffing and the need for accommodating additional flights.

Loope and I believed the mitigation measures agreed to by the FAA were largely ineffective. The measures were non-contractual and unlikely to intercept alien species arriving aboard foreign and domestic flights. The members of the BATP were excluded in the preparation of the recommendations for mitigation listed in the BA. Recommendations were left to the discretion of the transportation agencies, without asking for BATP review or comment. The BA was submitted to USFWS, which negotiated in private the final mitigation measures it would accept in exchange for a “no jeopardy” opinion.

It is unclear why USFWS rendered a “no jeopardy” biological opinion in view of the weak mitigation measures offered by the FAA. Later it was revealed that USFWS’s major consideration was what the agencies could accomplish rather than what was necessary to make “no jeopardy” a reality. It was clear to NPS that the inadequate current anti-alien species system at Kahului Airport would not be substantially improved by the proposed mitigation measures.

On October 31, 1997, the final environmental impact statement (FEIS) was released for comment. NPS was still not satisfied that enough mitigation had been committed to justify moving ahead with the project. Pursuant to Part 1504 of Title 40 of the Code of Federal Regulations, Haleakala submitted a “CEQ referral” up through the ranks of NPS to the USDI. The complainant agency has 25 days to prepare and submit the referral to CEQ. To reduce interagency confrontation and facilitate a solution to the impasse, CEQ intervened, recommending that the involved agencies resolve the issues with CEQ oversight but not under the procedures required by statutes. So NPS did not make a formal referral to CEQ. How the avoidance of CEQ deliberations and legal decisions affected the outcome will never be known.

Periodic teleconferences over a year’s time, involving four state and three federal departmental agency’s representatives, were coordinated by Molly Ross, a special assistant to the assistant secretary of USDI. After much negotiation, a “Memorandum of Understanding (MOU) Regarding the Prevention of Alien Species through [sic] the Kahului Airport” was produced and signed in August 1998 by responsible officials in the federal Departments of Agriculture, Interior, and Transportation and Hawai’i Departments of Agriculture, Health, Land and Natural Resources, and Transportation.

The document was a compromise which fully satisfied no one but which, as part of the final “record of decision,” allowed the project to proceed while suggesting positive measures for vastly improving quarantine procedures. An appended letter from an FAA administrator documented that “airport funds” can be used for all invasive species prevention activities as long as these activities take place on airport grounds and are part of airport operations. Nevertheless, funding the various mitigation measures is a perpetual bone of contention.

In August 1998, the record of decision including the appended MOU and an alien species action plan was released. It reiterated the finding of the FEIS that “the proposed project will not significantly affect Haleakala National Park.”

The MOU established a Kahului Airport Alien Species Prevention Team (ASAP) comprising official and non-official representatives, co-chaired by HDOT and the Hawai’i Department of Agriculture (HDOA). The team first met in October 1998, with meetings thereafter at intervals of one to three months.

Implementation of the alien species action plan has been slow. Some of the greatest setbacks have been due to:

- A conceptual recognition, to some extent used as an excuse for not doing anything, that improving quarantine measures at Kahului are not necessarily going to help the entire state;
- A tendency for the HDOT to drag its feet because of concern about costs;
- Negative reaction among some team members to a legal petition challenging the FEIS that was filed with the Federal Court of Appeals, Ninth Circuit, by the National Parks and Conservation Association (NPCA) and others in February 1999; and
- A concern by the airlines serving Hawai'i about additional costs to them because of the Kahului ASAP and precedents it might set. The airlines were concerned that (a) airport landing fees, a major source of airport funds, would be increased in Hawai'i; (b) revenue from duty-free shops in Hawai'i would decline, which in recent years had contributed a major source of airport revenues; and (c) delays in passenger off-loading would result from increased quarantine efforts to protect Hawai'i.

In the beginning there was every reason for HDOT and FAA to believe they could get by without major concessions for addressing invasive species issues. The NPS Organic Act and Redwoods Amendment never were addressed in the EIS process or by the litigants in the NPCA legal challenge, for NPCA felt that this was not the case to test the legal potency of these statutes. On the other hand, the NPS position was no doubt buoyed by strong and broad public concern among Mauians about invasive alien species introductions (even among many runway extension proponents). The invasive species issue was used advantageously by a strong anti-growth faction in the Maui environmental community to bring runway expansion to a standstill.

Newspaper articles about the discovery of snakes, reptiles, and new insects that evaded the almost non-existent inspection program provide periodic reminders of the problem. In its mission to protect mainland agriculture (with special emphasis on keeping fruit flies out of California), the U.S. Department of Agriculture (USDA) uses sophisticated x-rays to discern organic matter in all outgoing luggage and carry-on bags. The contrast is striking between the relatively well-funded and equipped USDA program to protect the mainland from Hawai'i and the poorly funded state programs.

A hearing on the NPCA challenge to the FEIS was held in Honolulu by the Ninth Circuit Court of Appeals in December 1999. Then, in January 2000, Hawaii Governor Benjamin J. Cayetano announced that he was withdrawing his administration's proposal for expansion of the Kahului runway. Subsequently, the three-judge ruling was 2 to 1 in favor of the defendant, HDOT. How much the court's opinion was influenced by the governor's action is open to question. NPCA filed an appeal for reconsideration, which was denied by the court. Likewise, in a suit filed in 2001 by Hui Alanui O Makena, et al. before the 2nd Circuit Court of Hawai'i, the court ruled that the FEIS was adequate. An appeal to the State Supreme Court has been made, but as of this writing there has been no ruling.

So, after eleven-and-a-half years of meetings, teleconferences, reams of paper expended, interagency friction, and millions of dollars spent on environmental compliance and legal costs, what has been gained? Unfortunately, not one sustained action has been implemented so far to keep alien species from becoming established on Maui and in Haleakala National Park. However, the Kahului Airport controversy has had a major educational effect because it has thrust invasive alien species concerns into the public arena. An excellent video has been produced to educate airline passengers as a deterrent to willful or inadvertent alien species introductions. A reinforcing informational handout to accompany the standard agricultural declaration form has been produced and is ready to go. That these are not mandatory is symptomatic of major weakness of the ASAP.

A concept we want to promote is federal appropriations and authority for domestic quarantine protection for Hawai'i — as has long existed (since 1912) to protect mainland agriculture from Hawai'i's pests. An act of Congress would be required, but seems potentially doable if the state pushes for it. It is difficult to speculate on the final outcome, but we believe that pressure from Haleakala National Park and Maui can catalyze programs to give Hawai'i the protection it needs to deal with the increasingly worldwide invasive species problem.

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