

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

April 24, 2020

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Board Members:

SUBJECT: APPROVE GRANT AWARDS FROM AVAILABLE FUNDS IN THE LAND CONSERVATION FUND, AS REQUESTED IN APPLICATIONS TO THE FISCAL YEAR 2020 LEGACY LAND CONSERVATION PROGRAM AND AS RECOMMENDED BY THE LEGACY LAND CONSERVATION COMMISSION, FOR THE ACQUISITION OF INTERESTS AND RIGHTS IN SPECIFIC PARCELS OF LAND HAVING VALUE AS A RESOURCE TO THE STATE, FOR:

- A. ALA KAHAKAI TRAIL ASSOCIATION, \$2,400,000, FOR THE ACQUISITION OF APPROXIMATELY 1,363 ACRES AT KA'Ū, HAWAII (KAUNĀMANO), TAX MAP KEY NUMBERS (3) 9-5-011:001, :004, :005, AND :006, AND (3) 9-5-012:001
- B. MOLOKAI LAND TRUST, \$1,100,000, FOR THE ACQUISITION OF APPROXIMATELY 1,816 ACRES AT KONA, MOLOKAI (MAPULEHU: VALLEY TO SUMMIT), TAX MAP KEY NUMBERS (2) 5-7-005:002 AND :027
- C. KE AO HĀLI'I (SAVE THE HANA COAST), \$1,581,700, FOR THE ACQUISITION OF APPROXIMATELY 30.3 ACRES AT HĀNA, MAUI (MAKA'ALAE LANDS), TAX MAP KEY NUMBERS (2) 1-4-012:002 AND (2) 1-4-010:030, :032 AND :034
- D. ALA KAHAKAI TRAIL ASSOCIATION, \$875,000, FOR THE ACQUISITION OF APPROXIMATELY 348 ACRES AT KA'Ū, HAWAII (MANĀKA'A FISHING VILLAGE), TAX MAP KEY NUMBER (3) 9-5-010:026
- E. WAIPĀ FOUNDATION, \$600,000, FOR THE ACQUISITION OF APPROXIMATELY 0.25 ACRES AT HALELE'A, KAUA'I (HALULU FISHPOND ACCESS), TAX MAP KEY NUMBER (4) 5-6-004:017
- F. DIVISION OF FORESTRY AND WILDLIFE, \$500,000, FOR THE ACQUISITION OF A CONSERVATION EASEMENT OVER

ITEM C-3

APPROXIMATELY 2,780 ACRES AT KONA, HAWAII (HĀLOA 'ĀINA – ROYAL HAWAIIAN SANDALWOOD), TAX MAP KEY NUMBERS (3) 7-9-001:013, :014, AND :015

- G. DIVISION OF FORESTRY AND WILDLIFE, \$2,000,000, FOR THE ACQUISITION OF APPROXIMATELY 11,020 ACRES AT WAILUKU, MAUI (NĀ WAI 'EHĀ), TAX MAP KEY NUMBERS (2) 3-2-014:001, (2) 3-3-003:003, AND (2) 3-5-003:001
- H. HAWAIIAN ISLANDS LAND TRUST, \$700,000, FOR THE ACQUISITION OF A CONSERVATION EASEMENT OVER APPROXIMATELY 17.1 ACRES AT KO'OLAUPOKO, O'AHU (WAIKALUA LOKO I'A), TAX MAP KEY NUMBER (1) 4-5-030:001 (POR)
- I. DIVISION OF FORESTRY AND WILDLIFE, \$1,191,500, FOR THE ACQUISITION OF APPROXIMATELY 0.5 ACRES AT HONUA'ULA, MAUI (KEONE'Ō'IO BAY COASTAL PROTECTION), TAX MAP KEY NUMBER (2) 2-1-004:068
- J. MĀLAMA KAUA'I, \$1,000,000, FOR THE ACQUISITION OF APPROXIMATELY 21.6 ACRES AT PUNA, KAUA'I (OLOHENA 'ĀINA CENTER), TAX MAP KEY NUMBER (4) 4-4-002:039

AND

EXEMPT EIGHT PROPOSED AWARDS OF GRANT FUNDS FOR THE ACQUISITION OF INTERESTS AND RIGHTS IN SPECIFIC PARCELS OF LAND, IDENTIFIED AS ITEMS A, B, C, D, F, G, I, AND J ABOVE (KAUNĀMANO; MAPULEHU: VALLEY TO SUMMIT; MAKALAE LANDS; MANĀKA'A FISHING VILLAGE; HĀLOA 'ĀINA – ROYAL HAWAIIAN SANDALWOOD; NĀ WAI 'EHĀ; KEONE'Ō'IO BAY COASTAL PROTECTION; AND OLOHENA 'ĀINA CENTER), FROM THE REQUIREMENT TO PREPARE AN ENVIRONMENTAL ASSESSMENT, PURSUANT TO CHAPTER 343, HAWAII REVISED STATUTES AND CHAPTER 11-200.1, HAWAII ADMINISTRATIVE RULES.

SUMMARY

The Division recommends that the Board (1) approve up to \$3,500,000 in Legacy Land Conservation Program grant awards, from available funds in the Land Conservation Fund, as requested in ten applications to the Fiscal Year 2020 Legacy Land Conservation Program and as recommended by the Legacy Land Conservation Commission, for the acquisition of interests and rights in specific parcels of land having value as a resource to the State, and (2) exempt eight awards of Fiscal Year 2020 grant funds from the requirement to prepare an environmental assessment, pursuant to State environmental review law. These grant awards contribute to important public-private stimulus packages that help reshape and diversify our economy and make Hawai'i more resilient to future economic downturns.

BACKGROUND

In 2012, the Board adopted regulations implementing the provisions of Hawai'i Revised Statutes (Haw. Rev. Stat.) Chapter 173A, Acquisition of Resource Value Lands, that include a delegation of authority to the Division of Forestry and Wildlife for the administration of the Legacy Land Conservation Program. *See* Hawai'i Administrative Rules (Haw. Admin. R.) Section 13-140-3. Haw. Rev. Stat. § 173A-5(f) authorizes the Department to administer and manage the Land Conservation Fund. Under § 173A-5(h), the Land Conservation Fund "shall be used for:

- (1) The acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the establishment of permanent conservation easements under chapter 198 or agricultural easements;
- (2) The payment of any debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State;
- (3) Annual administration costs for the fund, not to exceed five per cent of annual fund revenues of the previous year; and
- (4) Costs related to the operation, maintenance, and management of lands acquired by way of this fund that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands; provided that the costs related to the operation, maintenance, and management of lands acquired by way of this fund do not exceed five per cent of annual fund revenues of the previous year."

Acquisition of Interests or Rights in Land

Haw. Admin. R. § 13-140-22 directs that "[a]pplicants for land acquisition grants shall submit requests for funding by the annual deadline, using the forms and instructions provided by the department as may be revised from time to time." The Department processes the applications, makes recommendations, and grants awards in accordance with § 13-140-6:

- (b) The department shall recommend to the board specific parcels of land to be acquired. The department shall consult with the senate president and the speaker of the House of Representatives and may consult with the legacy land conservation commission prior to making recommendations.
- (c) Awards shall be subject to the approval of the governor.

Haw. Rev. Stat. § 173A-4.5(a) establishes appraisal processes for the acquisition of land having value as a resource to the State, and § 173A-4.5(b) mandates that "[n]o land shall be purchased for a sum greater than the highest value fixed by any appraisal accepted [by the Board] or performed [by the Board's contractor] under subsection (a)." During post-award due diligence, if a grantee submits an appraisal that is more than one year old, then the Department will require either (a) a letter from the appraiser certifying that market conditions have not

changed, significantly, during the post-appraisal period; (b) an update to the appraisal; or (c) a new appraisal. While the amount requested and recommended for each grant award arises from the applicant's current estimate of fair market value, the future expenditure of awarded grant funds can be limited by the approved appraised value and by the amount of matching funds secured for the acquisition. Unexpended grant funds return to the unencumbered and unappropriated cash balance of the Land Conservation Fund.

Application and Consultation Process

During public meetings in May 2018, October 2018, and April 2019, the Legacy Land Conservation Program (LLCP) consulted with the Legacy Land Conservation Commission (LLCC) and LLCP constituents about the timeline, forms, and procedures for the Fiscal Year 2020 (FY20) grant application cycle. After the Department approved the timeline and forms, the LLCP posted the application materials and instructions on its website; announced the application schedule in a Department news release (*see* <https://dlnr.hawaii.gov/dofaw/featured/state-land-board-approves-4-5-million-in-land-conservation-grants>); and notified interested constituents directly via email.

Throughout the application process, the LLCP advised applicants that approximately \$3,200,000 in FY20 funding would be available for land acquisition awards, and suggested that applicants consider this funding situation for project planning purposes. The LLCP received eleven timely applications for land acquisition awards before the deadline of July 22, 2019, with funding requests that ranged from \$66,500 to \$5,566,500 and totaled \$16,559,500. As required by Haw. Rev. Stat. § 173A-5(i)(7), each application for land acquisition included the results of applicant consultation with the Department, the Department of Agriculture, and the Agribusiness Development Corporation "regarding the maximization of public benefits of the project, where practicable." The request form for agency consultation suggested that a consulting agency consider the maximization of public benefits within the context of:

- (a) the criteria that the Legacy Land Conservation Commission (LLCC) may consider in forming its recommendations for acquisitions (Haw. Admin. R. § 13-140-39, *see* page 18);
- (b) the lands to which the LLCC shall give priority in its recommendations for acquisition (Haw. Rev. Stat. § 173A-2.6); and
- (c) the appropriate legal mechanisms to ensure the long-term protection of the land and to preserve the interests of the State (*see* Haw. Rev. Stat. § 173A-4). In particular, would the consulting agency be willing to accept/hold a conservation easement, agricultural easement, deed restriction, or covenant that runs with the land, or would an exemption from the easement requirement be more appropriate?

The results of applicant consultation with consulting agencies are summarized in the DISCUSSION section, below.

In accordance with Haw. Rev. Stat. § 92-2.5(a)(1), concerning permitted interaction of members to investigate a matter relating to the official business of their board, the LLCC held a public meeting on July 30, 2020 (Meeting 67), during which it assigned eleven groups—composed of two to four commissioners each—as task forces to conduct a field visit at each location proposed in the applications for funding, and appointed a lead commissioner for each

group (Agenda Item 3). The LLCC held a second public meeting on September 4, 2019 (Meeting 68), during which each assigned group reported on the findings and recommendations of its respective field visit (Agenda Item 4). The LLCC held a third public meeting on September 4-6, 2019 (Meeting 69) that included discussion about the applications that were the subject of the field visits (Agenda Items 4, 5, and 6). The LLCC review and ranking of each of the eleven grant applications that it received incorporated the results of agency consultations, field visits, and public testimony into the recommendation that the LLCC issued on September 6, 2019 (please see the Ranking and Recommendation Summary in Attachment 1—which also includes maps and photos as submitted in the applications—and note that the Division subsequently withdrew its last-ranked application for Nānu'alele Anchialine Pool Reserve at Hāna, Maui).

On September 16, 2019, the Department forwarded the LLCC recommendation to the Senate President and the Speaker of the House of Representatives, along with the Department's request for consultation. On October 8, 2019, the Senate President and the Speaker of the House of Representatives held a consultation meeting with the Department Chair, Deputy Director, Division Administrator, and LLCP staff, followed by written replies dated October 14, 2019 that stated “no concerns or objections” about the ten applications that are presented for approval in this Board submittal (please see Attachment 2).

Legacy Land Conservation Commission Recommendation

As indicated in Attachment 1, the LLCC recommended that the Board approve full funding, from available funds in the Land Conservation Fund, for the top two proposed land acquisition projects, in the order ranked by the LLCC (up to a total of \$3,500,000 from the budget for Fiscal Year 2020). Given the funding currently available for grants from the Land Conservation Fund, Board approval of the LLCC recommendation would result in awards of:

- (1) \$2,400,000 to Ala Kahakai Trail Association for the acquisition of approximately 1,363 acres at Ka'ū, Hawai'i (Kaunāmano); and
- (2) up to \$1,100,000 to Molokai Land Trust for the acquisition of approximately 1,816 acres at Kona, Molokai (Mapulehu: Valley to Summit).

In order to provide for greater flexibility in the awards program, the LLCC also recommended that the Board:

- (3) Approve—as a contingency in the event that an awardee is unable to accept its awarded funds—the LLCC recommendation to award remaining, available funds from the Land Conservation Fund, up to the amounts originally requested in the applications, to:
 - (i) Ke Ao Hāli'i, as first alternate, for the acquisition of approximately 30.3 acres at Hāna, Maui (Maka'ala'e Lands);
 - (ii) Ala Kahakai Trail Association, as second alternate, for the acquisition of approximately 348 acres at Ka'ū, Hawai'i (Manāka'a Fishing Village);
 - (iii) Waipā Foundation, as third alternate, for the acquisition of approximately 0.25 acres at Halele'a, Kaua'i (Halulu Fishpond Access);
 - (iv) Division of Forestry and Wildlife, as fourth alternates (two-way tie) for (a) the acquisition of a conservation easement over approximately 2,780 acres at Kona,

- Hawai'i (Hāloa 'Āina – Royal Hawaiian Sandalwood), and (b) the acquisition of approximately 11,020 acres at Wailuku, Maui (Nā Wai 'Ehā);
 - (v) Hawaiian Islands Land Trust, as fifth alternate, for the acquisition of a conservation easement over approximately 17.1 acres at Ko'olaupoko, O'ahu (Waikalua Loko I'a);
 - (vi) Division of Forestry and Wildlife, as sixth alternate, for the acquisition of approximately 0.46 acres at Honua'ula, Maui (Keone'ō'io Bay Coastal Protection); and
 - (vii) Mālama Kaua'i, as seventh alternate, for the acquisition of approximately 21.6 acres at Puna, Kaua'i (Olohena 'Āina Center).
- (4) Delegate authority to the Chair to redirect funding for a discontinued Fiscal Year 2020 award to other Fiscal Year 2020 applications that the Legacy Land Conservation Commission recommended for funding, so as to accomplish full or partial funding for each approved award, in the order ranked by the Commission, up to a total of \$3,500,000 from the Legacy Land Conservation Program budget for Fiscal Year 2020.

DISCUSSION

1. Kaunāmano: Ala Kahakai Trail Association applied for \$2,400,000 to acquire approximately 1,363 acres in Ka'ū, Hawai'i for all nine of Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (Application, Section D):

- (1) Watershed protection
- (2) Coastal areas, beaches, and ocean access
- (3) Habitat protection
- (4) Cultural and historical sites
- (5) Recreational and public hunting areas
- (6) Parks
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

Section C.15 of the application explains that Kaunāmano is an undeveloped coastal property [five parcels] east of Nā'ālehu and south of Honu'apo. From the shore, it stretches almost 2 miles to the 600 foot elevation. In ancient times, the land supported a thriving community with vast resources including fertile soil, prime fishing grounds and underground freshwater springs. The land contains a high concentration of cultural sites including two large settlement areas at Pā'ula and Pauku, numerous heiau, habitation caves, a rock paved anchialine pool, a lua training area associated with the nearby makahiki grounds, and almost three miles of the ala kahakai trail. Since the plantation era, the land has been used for cattle grazing.

The four miles of coastline provides excellent habitat for native coastal plants and nesting seabirds. The anchialine pond within Puhi'ula teems with 'ōpae'ula. Kaunāmano's marine ecosystem is home to humpback whales, dolphins, endangered monk seals and Hawksbill turtles, threatened green sea turtles, an abundance of native fish, limu and shellfish. Makai areas are used for cultural access, hiking, and subsistence fishing and gathering. The entire property is leased to Kuahiwi Ranch for cattle grazing.

At Meeting 69 of the Legacy Land Conservation Commission (September 4-6, 2019), Keoni Fox (Ala Kahakai Trail Association) and Reyna Ramolete Hayashi (The Trust for Public Land) presented the application, and Michelle Galimba (VP, Kuahiwi Ranch) testified in support of the application, which also included letters of support from Michelle Galimba, Office of Hawaiian Affairs (Administration), The Nature Conservancy (Hawai'i Program), Hawai'i Wildlife Fund, Hawai'i Farm Bureau, Ho'omalū Ka'ū, and Huliāuapa'a; 166+ signatures on a "Community Statement to Protect Manāka'a Fishing Village and Kaunāmano in Ka'ū"; and nine "Keiki Support Statements."

The applicant expects that matching funds estimated at \$3,701,000 (61% of total project costs) would be provided from (1) the County of Hawai'i Public Access, Open Space, and Natural Resources Preservation Fund (\$3,600,000, pending final award under County Council Resolution 351-14, Draft 2, that authorizes the Director of Finance to enter into negotiations for the acquisition of the property), with the County holding a conservation easement over the property; (2) The Trust for Public Land and Ala Kahakai Trail Association (\$75,500, secured); and (3) the landowner/seller (\$25,500, pending).

The applicant considered and incorporated responses from consulting State agencies as summarized in the following table (Application, Section K):

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	<u>Division of Aquatic Resources</u> : Please see Attachment 3(a), DAR# 5947:2. Commission on Water Resource Management Standard Regulatory Language, plus: We did not find any water delivery infrastructure or improvements nor significant features that may provide additional public benefit. There is a stream that runs through parcels (3) 9-5-011:001 and (3) 9-5-011:004. The stream is located on the north-western portion of the properties. The stream does not have an official name. <i>[Applicant "has no plans for stream diversions or wells"]</i>
Department of Agriculture	Comments attached.	Requests more information on the Kuahiwi Ranch operation (acres grazed, number of cattle, number of years leased, and contact/consultation about the proposed acquisition) and the management plan for the ranch and how they will operate in conjunction with other proposed uses such as habitat preservation. <i>[1,363 acres, 400 head, 15 years, Ranch is a close partner that provided a letter of support]</i>
Agribusiness Dev. Corp.	We do not object to the proposed project.	

2. Mapulehu: Valley to Summit: Molokai Land Trust applied for \$1,100,000 to acquire approximately 1,818 acres at Kona, Molokai, for eight of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (see Application, Section D):

- (1) Watershed protection
- (2) Coastal areas, beaches, and ocean access
- (3) Habitat protection
- (4) Cultural and historical sites
- (5) Recreational and public hunting areas
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

Section C.15 of the application locates the property [two parcels] in East Moloka'i, east of Kalua'aha and west of 'Ohi'a branch of the Moloka'i Forest Reserve. The makai border of the property begins at East Kamehameha V Highway, a few hundred yards from the ocean, and extends to the summit of East Moloka'i. The lower property contains the platform of 'Ili'iliopae Heiau, which was a training area for Kahuna and a sacrificial heiau. The lower property was also used for kalo cultivation and was likely to some extent in lo'i along Mapulehu Stream and its tributaries. The upper property is largely watershed, which was likely more robust before western contact, the introduction of cattle and other invasive species, and climate changes that reduced precipitation on East Moloka'i. Historical human activity on the upper property likely included agricultural use at lower elevations, and hunting, and gathering of materials for daily use and cultural use. After western contact, the population of Moloka'i decreased considerably, and with the spread of Christianity, 'Ili'ili'opae fell into disuse. The property was thereafter used for ranching, a dairy, and orchard land, as well as for dwellings located on the property and in surrounding and inholding parcels.

At Meeting 69 of the Legacy Land Conservation Commission (September 4-6, 2019), presenters for the applicant included Molokai Land Trust Board members (George Benda, President, and Davianna McGregor), staff (Kali Arce), and partners (Stephen Rafferty, The Trust for Public Land). Dr. Emmett Aluli testified in support of the application, which also included letters of support from Dr. Emmett Aluli, Patrick V. Kirch, the Pacific Islands Fish and Wildlife Office (U.S. Department of the Interior, Fish and Wildlife Service), and Collette Machado (President, Ke Kua'aina Hanauna Hou).

The applicant recently secured a \$1,800,000 grant from the U.S. Department of Interior (Fish and Wildlife Service, Endangered Species Section 6 Recovery Land Acquisition) and expects that additional matching funds (estimated at \$800,000) would be provided from the Fiscal Year 2021 Maui County Open Space Fund, such that all matching funds combined would total 70% of total estimated project costs. If Maui County grant conditions continue following their recent trend, then Hawaiian Islands Land Trust and Maui County would co-hold a conservation easement over the property.

The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources*	We do not object to the proposed project. Comments attached.	Commission on Water Resource Management Standard Regulatory Language, plus: Our records indicate that there are three wells on parcel (2) 5-7-005:002. Two wells (Well number 4-0448-002 and 004) are owned by Pearl Hodgins ETAL. There are no records indicating usage during the year 2018. The third well (Well number 4-0448-006) is owned by Diana Chong. There are no records indicating usage during the year 2018. Our records indicate that there is a well on parcel (2) 5-7-005: 27. The well (Well number 4-0549-001) is owned by Pearl Hodgins ETAL and is filed under WUPA No. 00310. <i>[Applicant's understanding is that there is currently a historically used stream diversion for irrigation, and will investigate whether the wells are or can be operable.]</i>
Department of Agriculture	Comments attached.	Provides information on land use classification, soil ratings, soil characteristics, and irrigation needs; advises that the applicant should be prepared to explain how the agricultural production areas will be managed to allow a balance between commercial agricultural production with protecting historic cultural sites. <i>[Management to allow balance will be part of the community planning process.]</i>
Agribusiness Dev. Corp.	Not indicated on Form 5c signature page (no comments).	

* After the Legacy Land Conservation Commission issued its recommendation, the Department's Historic Preservation Division completed a review of its records, which indicate that Mapulehu Ahupua'a is part of the Hokukano-Ualapue Complex which was listed on the National Register of Historic Places on October 15, 1966 (NRHP 66000304). The historic Hokukano-Ualapue Complex is a discontinuous district made up of 7 heiau and 2 fishponds which are all significant for their size, quality, setting, association, and information potential. This complex is one of the most important archaeological complexes in Hawaii. 'Ili'iliopae Heiau (SIHP 50-60-04-200), Wailau Trail (SIHP 50-60-04-201), and the Kulahaloa Bell Stone (SIHP 50-60-05-198) are located within the subject TMKs.

3. Maka'ala'e Lands: Ke Ao Hāli'i (Save the Hana Coast) applied for \$1,581,700 to acquire approximately 30.3 acres at Hāna, Maui for eight of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (see Application, Section D):

- (1) Watershed protection;
- (2) Coastal areas, beaches, and ocean access;
- (3) Habitat protection;
- (4) Cultural and historical sites;
- (5) Recreational and public hunting areas;
- (7) Natural areas;
- (8) Agricultural production; and
- (9) Open spaces and scenic resources.

Section C.15 of the application explains that the four parcels in this application are part of a larger 18 parcel area that Ke Ao Hāli'i (KAH) is working to protect and place into conservation.

The total area stretches from Mokae, adjacent to Hamoa Beach, to Waioka Pond (Venus Pool) and is bound by the ocean and the Hana Highway. KAH has a purchase contracts on both ends of this 150 acre area (Mokae 004 and Waioka Pond 002) with plans to take ownership by December 2019 while continuing to work towards control of the parcels in between. Ignoring KAH's efforts, the owners continue to market these same properties for sale.

The four parcels are a combination of oceanfront pastureland, intermittently used for grazing cattle (and including the ruins of the Reciprocity Sugar Mill, closed 1902), old stables, and other settlements. The other areas, adjacent to Waioka Stream, are rocky, more heavily treed, subject to flooding, and have been identified as archaeologically significant (Cleghorn and Rogers). The coastal area consists of tide pools and rocky outcroppings with easy access to the sea. These are prime fishing and gathering spots for Hana residents. A line of Cook Pines just inshore from the beach provides excellent shade & is a popular camping spot for local families.

At Meeting 69 of the Legacy Land Conservation Commission (September 4-6, 2019), presenters for the applicant included Ke Ao Hali'i Board members Robin Rayner, Scott Crawford (Chair), Chad Meyer, and Dawn Lono; Roger Lane (KAH fundraising); and lineal descendants of the area. State Senator Kalani English expressed his support in a pre-recorded video, and Duane Lammers (Manager, Hana Ranch Agriculture), Roxie Silva (The Nature Conservancy), and Laura Kaakua (Hawaiian Islands Land Trust) provided additional information and testimony in support of the application.

The application included letters of support from Senator English, Maui County Council member Shane Sinenci, Chris Sanita (Principal, Hana High and Elementary School), Hāna Business Council, Hana Ranch Agriculture, Hana Youth Center, realtors Lisa Starr Land Company and Chris Harrington Pryor (Keller Williams Realty Maui), Christopher E. Bird, PhD (Texas A&M University), Marie Orr (Kaimipono Consulting), Kua'āina Ulu 'Auamo, Ma Ka Hana Ka 'Ike, Maui Nui Marine Resource Council, Nā Mamo O Mū'olea, 33 letters from Hana High School Students to Maui Mayor Arakawa requesting support for the acquisition of Maka'alaie Lands with Maui Open Space Funds, and a report of over 500 paper signatures and 1,363 electronic signatures to a petition supporting the allocation of funds for the acquisition of lands at Maka'alaie from the County's Open Space Fund ("Protection of Maka'alaie Lands, Hana, Maui"), which is *available at* <https://www.change.org/p/mayor-of-maui-county-and-county-council-budget-committee-protection-of-maka-alaie-lands-hana-maui>. Numerous emails received from Guy Aina expressed opposition to the proposed acquisition of "stolen lands."

The applicant expects that matching funds estimated at \$1,571,000 (50% of total project costs, pending) would be provided through a grant from the Maui County Open Space Fund (\$1,500,000, secured) and a combination of private donations (cash and in-kind services) and other County grants. If Maui County grant conditions continue following their recent trend, then Hawaiian Islands Land Trust and Maui County would co-hold a conservation easement over the property. The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	General support for Ke Ao Hāli'i efforts to preserve land protect resources along the Hāna coast.
Department of Agriculture	Comments attached.	Requests more information on the planned conservation/ agricultural easement; the existing cattle operation (acres grazed, number of cattle, management plan for the ranch, and how they will operate in conjunction with other proposed uses such as habitat preservation); and applicant's current and past land management experience.
Agribusiness Dev. Corp.	Not indicated on Form 5c signature page (no comments).	

4. Manāka'a Fishing Village: Ala Kahakai Trail Association applied for \$875,000 to acquire approximately 348 acres at Ka'ū, Hawai'i for all nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (see Application, Section D):

- (1) Watershed protection
- (2) Coastal areas, beaches, and ocean access
- (3) Habitat protection
- (4) Cultural and historical sites
- (5) Recreational and public hunting areas
- (6) Parks
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

Section C.15 of the application explains that the 348-acre property is an undeveloped coastal parcel 1.5 miles south of Nā'ālehu Town, in Ka'ū, Hawai'i Island, in the ahupua'a of Kāwala. Manāka'a Fishing Village sits on the cliffs overlooking Waikapuna. In ancient times, the property was home to Native Hawaiians who fished and gathered shellfish and limu at the shoreline below the pali. During the Plantation era, the property was used to pasture cattle and goats. Later, it was used to grow sugar and experimental crops by C. Brewer and its successor, Ka'ū Agribusiness. Today, the western portion is a mix of pasture grass, haole koa, and christmas berry. The eastern portion is primarily pasture grass with some haole koa. While the native dryland forest was lost during the plantation era, Māniana Pali's bluffs are strongholds for native coastal vegetation.

Since 2012, Kuahiwi Ranch has leased the property for cattle grazing. Kuahiwi Ranch also leases pasture lands to the east at Kaunāmano and west at Waikapuna. Last year, the ranch purchased 800 acres of land in Kāwala, mauka of the subject parcel. The makai areas are currently used for cultural access, hiking along the Ala Kahakai Trail, subsistence fishing and gathering.

At Meeting 69 of the Legacy Land Conservation Commission (September 4-6, 2019), presenters for the applicant included Keoni Fox (Ala Kahakai Trail Association) and Reyna Ramolete Hayashi (The Trust for Public Land). Michelle Galimba (VP, Kuahiwi Ranch) testified in support of the application, which also included 166+ signatures on a "Community

Statement to Protect Manāka'a Fishing Village and Kaunāmano in Ka'ū," and nine "Keiki Support Statements."

The applicant expects that matching funds estimated at \$938,000 (52% of total project costs, pending) would be provided as cash from (1) the County of Hawai'i Public Access, Open Space and Natural Resources Preservation fund (\$875,000, pending), with the County holding a conservation easement over the property; (2) The Trust for Public Land and Ala Kahakai Trail Association(\$46,500, secured); and (3) the landowner/seller (\$16,500, pending). The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	<u>Division of Aquatic Resources</u> : Please see Attachment 3(b), DAR# 5947:1. <u>Commission on Water Resource Management</u> Standard Regulatory Language, plus: We did not find any water delivery infrastructure or improvements nor significant features that may provide additional public benefit. There is a stream that runs the eastern portion of the property. The stream does not have an official name.
Department of Agriculture	Comments attached.	Requests more information on the Kuahiwi Ranch operation (acres grazed, number of cattle, number of years leased, and contact/consultation about the proposed acquisition) and the management plan for the ranch and how they will operate in conjunction with other proposed uses such as habitat preservation.
Agribusiness Dev. Corp.	Not indicated on Form 5c signature page (no comments).	

5. Halulu Fishpond Access: Waipā Foundation applied for \$600,000 to complete a partially-funded acquisition (\$50,000 from Fiscal Year 2019 grant awards) of approximately 0.25 acres at Halele'a, Kaua'i for seven of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (Application, Section D):

- (1) Watershed protection;
- (2) Coastal areas, beaches, and ocean access;
- (3) Habitat protection;
- (4) Cultural and historical sites;
- (7) Natural areas;
- (8) Agricultural production; and
- (9) Open spaces and scenic resources.

Halulu Fishpond Access sits within the coastal plain of Waipā ahupua'a and includes a portion of Halulu Fishpond fed by Wai'oli Stream and emptying into Hanalei Bay, with important estuarine habitat for many native fish such as 'ama'ama and āholehole. The land is currently vacant and overgrown with tall non-native trees, although Waipā Foundation uses the land for access to its management activities at Halulu Fishpond and Hanalei Bay. The area surrounding Halulu provides valuable ecosystem services and community spaces for festivals, gatherings, and educational programs (Application Section C). Waipā Foundation already manages a majority of the Waipā ahupua'a, so acquiring the access would connect the landscapes promoting contiguous and integrated watershed management. The property also demonstrates

cultural and land tenure history, being previously awarded as a kuleana lot. If the Halulu Fishpond Access property is not protected and acquired by Waipā Foundation, it would likely be purchased for residential development and use. A real threat is the local community losing shoreline access, provoking community conflict (Application, Section G). Waipā Foundation would incorporate Halulu Fishpond Access into its Master Site Plan and Strategic Plan (Application, Section H), and public benefits would include safeguarding community access to Halulu Fishpond and Hanalei Bay—to protect against harm to resources and culturally inappropriate uses—and managing access for public use during community festivals and educational, recreational, and youth programs (Application, Section K).

Stacy Sproat-Beck (Executive Director, Waipā Foundation) presented the application at Meeting 69 of the Legacy Land Conservation Commission (September 5-6, 2019), including 530 signatures on a "Petition Supporting State/County Funding for The Waipā Foundation to Buy Halulu Fishpond Access and Kaluanono."

The applicant expects that matching funds estimated at \$561,500 (46% of total project costs, pending) would be provided as (1) a grant from the County of Kaua'i Open Space Fund (\$540,000, pending), with the County holding a conservation easement over the property; (2) cash from The Trust for Public Land and Ala Kahakai Trail Association (\$46,500, secured); and (3) cash from the landowner/seller (\$16,500, pending). Because the applicant has an existing contract with the State to fund the acquisition of a nearby property from the same landowner (LLCP 15-01, Kaluanono), both the landowner and the County prefer that the two properties be conveyed in a single transaction. The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	<u>Division of Aquatic Resources</u> : While there will be no direct or indirect impacts to aquatic resources . . . [the] land[s] are very important to keep as public trust lands and not be developed. <u>Commission on Water Resource Management</u> Standard Regulatory Language, plus: We reviewed the parcels and did not find any water delivery infrastructure or improvements nor significant features that may provide additional public benefit. Our records do not indicate any wells, streams or surface water sources present on the properties.
Department of Agriculture	We do not wish to comment on the proposed project.	
Agribusiness Dev. Corp.	We do not object to the proposed project.	

7 (tie). Hāloa 'Āina – Royal Hawaiian Sandalwood: The Division of Forestry and Wildlife applied for \$500,000 to acquire a conservation easement over approximately 2,780 acres at Kona, Hawai'i, for seven of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (Application, Section D):

- (1) Watershed protection
- (3) Habitat protection
- (4) Cultural and historical sites
- (5) Recreational areas
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

Section C.15 of the application explains that the property consists of dry montane forest (4,500 – 5,500 ft elevation) and is located on Hawaii Island in the South Kona District at the top of the Hokukano watershed. The property is bordered on the west by private conservation lands, Kamehameha Schools lands on the North and East, and the Kealakekua Mountain Reserve, protected through a Forest Legacy Program conservation easement, to the South. The property's dry forests consist of 'ōhi'a (*Metrosideros polymorpha*) and koa (*Acacia koa*), sandalwood or 'iliahi (*Santalum paniculatum*), māmane (*Sophora chrysophylla*), Naio (*Myoporum sandwichensis*), and understory shrubs such as a'ali'i (*Dodonea viscosa*). The forest condition was severely degraded due to 150 years of forest clearing and uncontrolled grazing by domestic cattle, and the more recent impact of feral sheep grazing. Since 2010, management by the current owners has significantly rejuvenated the forest by fencing and removal of domestic and feral ungulates, resulting in the regeneration of native trees, particularly māmane. Additionally, harvest of dead and dying sandalwood or 'iliahi results in regeneration of trees through root sprouting.

Hāloa 'Āina, a family owned native Hawaiian company, is utilizing innovative, sustainable forest management to yield the most abundant regeneration of native sandalwood in the state (application, Section G). Dry forest here connects to the Hawaii Volcanoes National Park through Kamehameha Schools land, and is adjacent to two properties conserved with easements held by DLNR through the Forest Legacy Program (Application, Section I). However, Hāloa 'Āina is at high risk for conversion with high land value speculation, active subdivision, and sales in adjacent areas (Application, Section G). Acquisition of this conservation easement would forfeit the right of the landowner to subdivide, protecting the property from development in perpetuity, and would require the implementation of a long-term forest management plan (Application, Section J). Public benefits would include enhancing existing restoration efforts that increase fog water capture and groundwater recharge and that regenerate cultural resources for future generations. This provides a good example of forest restoration to influence neighboring landowners, and facilitates continued visits, access, and educational and volunteer opportunities for local community organizations, partners, students, researchers, youth groups, and cultural groups (Application, Section K).

At Meeting 69 of the Legacy Land Conservation Commission (September 4-6, 2019), presenters for the applicant included Tanya Rubenstein (Division of Forestry and Wildlife) and Wade Lee (Hāloa 'Āina). Mr. Lee provided the Commission with a link to a recent Sandalwood Documentary video, available at <https://f.io/kah6AHmG>.

The applicant expects that matching funds estimated at \$3,910,250 (89% of total project costs) would be provided through (1) a grant from the U.S. Department of Agriculture, Forest Service Forest Legacy Program (\$1,500,000, secured); (2) a State Capital Improvement Project appropriation (\$1,000,000 from above the spending ceiling of the Land Conservation Fund, secured); and (3) other federal, county, and private sources (\$910,250, pending). The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	<u>Commission on Water Resource Management</u> Standard Regulatory Language, plus: We did not find any water delivery infrastructure or improvements nor significant features that may provide additional public benefit. Our records do not indicate any streams or surface water sources present on the properties.
Department of Agriculture	We do not wish to comment on the proposed project.	
Agribusiness Dev. Corp.	Not indicated on signature page.	

7 (tie). Nā Wai 'Ehā: The Division of Forestry and Wildlife applied for \$2,000,000 to acquire approximately 11,020 acres at Wailuku, Maui, for seven of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (Application, Section D):

- (1) Watershed protection;
- (3) Habitat protection;
- (4) Cultural and historical sites;
- (5) Recreational areas;
- (7) Natural areas;
- (8) Agricultural production; and
- (9) Open spaces and scenic resources.

Section C.15 of the application explains that the three parcels proposed for acquisition span over eleven thousand acres from across the West Maui Mountains north of Waihee all the way to Wailuku, on the island of Maui. It is strategically adjacent to a Natural Area Partnership Preserve, a Natural Area Reserve and a Forest Reserve. These parcels are in the Conservation District, Resource subzone. The lands are actively managed by the West Maui Mountains Watershed Partnership but they are closed to the public. The West Maui Watershed is home to thousands of species of native plants, birds, snails, insects and other invertebrates. All native Hawaiian species are relatively rare in the world, and there are at least 18 plant species that are endemic to West Maui in particular, making them especially extraordinary. The watershed encompasses an array of vegetation communities that are arranged across climatic and elevation zones. Studies in the West Maui Watershed have already contributed to an improved understanding of evolution, unique genetic information transfer and other central biological concepts.

Scott Fretz (Maui Nui Branch Manager) presented the application for the Division of Forestry and Wildlife, and Peter Landon (Division of Forestry Wildlife staff) testified in support as a private citizen.

The applicant expects that matching funds estimated at \$8,000,000 (80% of project costs) would be provided from federal, State, and county sources (pending). The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	<u>Commission on Water Resource Management:</u> Please see Attachment 3(c).
Department of Agriculture	We do not wish to comment on the proposed project.	
Agribusiness Dev. Corp.	We do not object to the proposed project.	

8. Waikalua Loko I'a: Hawaiian Islands Land Trust applied for \$700,000 to acquire a conservation easement over approximately 17.1 acres at Ko'olaupoko, O'ahu for eight of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (Application, Section D):

- (1) Watershed protection
- (2) Coastal areas, beaches, and ocean access
- (3) Habitat protection
- (4) Cultural and historical sites
- (5) Recreational areas
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

Section C.15 of the application notes that Waikalua Loko I'a is one of the few remaining traditional Hawaiian fishponds on the island of O'ahu. The property is an important access point to the shoreline along Kaneohe Bay for traditional and customary purposes, as well as current recreational users and fishermen. Currently used as an educational and cultural learning center, the fishpond also serves as a critical sediment basin to slow down and reduce pollutants from entering Kaneohe Bay. Section J of application indicates that the proposed conservation easement would reserve the rights of the grantor to conduct habitat and fishpond restoration activities, remove non-native plant and animal species, and conduct recreational and educational activities including educational programs for local schools and community volunteer stewardship programs. The proposed conservation easement prohibit subdivision of the property; construction of additional buildings, structures, and vehicular roads; and excavating and removal of topsoil, sand, gravel or rock from the property.

At Meeting 69 of the Legacy Land Conservation Commission (September 4-6, 2019), presenters for the applicant included Mrs. Laura Kaakua (Hawaiian Islands Land Trust) and Mr. Herb Lee, Jr. (Waikalua Loko Fishpond Preservation Society and Pacific American Foundation), with video testimony and letters provided by numerous supporters. The applicant expects that matching funds estimated at \$840,000 (55% of project costs, pending) would be provided by the City & County of Honolulu (Clean Water and Natural Lands Fund) and donations and grants

from private sources. The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	<u>Commission on Water Resource Management</u> Standard Regulatory Language, plus: We did not find any water delivery infrastructure or improvements nor significant features that may provide additional public benefit. Our records indicate that the Kawa stream runs through the property. Furthermore, our records indicate a pond located at the south-eastern portion of the property.
Department of Agriculture	We do not wish to comment on the proposed project.	
Agribusiness Dev. Corp.	Not indicated on Form 5c signature page (no comments).	

9. Keone'ō'io Bay Coastal Protection:

The Division of Forestry and Wildlife applied for \$1,191,500 to acquire approximately 0.46 acres at Honua'ula, Maui for six of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (Application, Section D):

- (2) Coastal areas, beaches, and ocean access
- (3) Habitat protection
- (4) Cultural and historical sites
- (5) Recreational and public hunting areas
- (7) Natural areas
- (9) Open spaces and scenic resources

Section C.15 of the application explains that the coastal parcel is located at Keoneoio Bay, south of the town of Wailea at the end of Mākena Alanui Road at 20°35'54"N 156°25'12"W on the island of Maui. It is strategically adjacent to the highly used Keoneoio Bay and Hoapili Trail access points. This undeveloped lot is in the Conservation District, Resource subzone. The southwest corner of the parcel provides ocean access and the property also comes with an easement access to the fishponds located at the western end of the bay and also provides access to the eastern edge of Ahihi-Kinau Natural Area Reserve. To the north west of the property are several privately held developed parcels. The north east and south sides of the parcel are highly used unencumbered state land. This private property is surrounded by a rock wall and public access is discouraged.

At Meeting 69 of the Legacy Land Conservation Commission (September 4-6, 2019), Peter Landon (Division of Forestry and Wildlife staff) presented the application. The applicant expects that matching funds estimated at \$378,000 (24% of project costs) would be provided by land value donation (\$375,000, secured) and other sources. The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	<u>Division of Aquatic Resources</u> : Please see Attachment 3(d), (DAR# 5947-6) <u>Commission on Water Resource Management Standard Regulatory Language</u> , plus: We did not find any water delivery infrastructure or improvements nor significant features that may provide additional public benefit. Our records do not indicate any streams or surface water sources present on the properties.
Department of Agriculture	We do not wish to comment on the proposed project.	
Agribusiness Dev. Corp.	We do not object to the proposed project.	

10. Olohena 'Āina Center:

Mālama Kaua'i applied for \$1,000,000 to acquire approximately 21.6 acres at Puna, Kaua'i for agricultural production resource preservation purposes as established in Haw. Rev. Stat. § 173A-5(g)(8) (see Application, Section D). Section C.15 of the application explains that the property is in the Puna district, in the Waipouli ahupua'a - a historic cattle plantation since the early 1900's that's been in the Tesoro family since Hawai'i became a state. It is currently permitted for residential and commercial use with ag and open zoning. In 2013, it lost its ag dedication and has remained a private residence with unmaintained agricultural lands and three old housing units. The property is unique in that it has never been subdivided and has the same footprint of its original award, but it is up for sale with interest from developers.

The land is hilly with plateaus, providing a variety of land types for agroforestry, native reforestation, and traditional sustainable agriculture. It hosts what could be the island's largest individual Banyan and Rubber trees, several old canoe plant trees, and a few native fern species. The property is teeming with invasives and would benefit from restoration and rehabilitation, especially the seasonal stream and valley wetlands. The surrounding areas were agricultural, although in recent years there has been increasing development. The property is just before the Department's Wailua Game Management Area.

At Meeting 69 of the Legacy Land Conservation Commission (September 4-6, 2019), Megan Fox (Executive Director, Mālama Kaua'i) presented the application, with assistance from Laura Kaakua (Hawaiian Islands Land Trust). The application included 26 letters of support from government officials, the agriculture and conservation industries, and the general community (please see list of authors in Attachment 3(e)). Public testimony submitted via email by Paul Marshall raised concerns about the applicant's management of its existing Mālama Kaua'i Community Farm, and opined that "While the County of Kaua'i is in need of such a project [Olohena 'Āina Center], Malama Kaua'i is not the organization to carry it out."

The applicant expects that matching funds estimated at \$763,932 (41% of project costs, pending) would be provided by private donations (\$577,918, pending), land value donation (\$162,900, secured), County grant funds (Office of Economic Development, \$20,000, pending), and landowner/seller cash (\$3,114, pending). The applicant considered and incorporated responses from consulting State agencies (Application, Section K) as summarized in the following table:

Agency	Agency Response	Agency Comments
Department of Land and Natural Resources	We do not object to the proposed project. Comments attached.	<u>Division of Aquatic Resources</u> : While there will be no direct or indirect impacts to aquatic resources . . . [the] land[s] are very important to keep as public trust lands and not be developed. <u>Commission on Water Resource Management Standard Regulatory Language</u> , plus: We did not find any water delivery infrastructure or improvements nor significant features that may provide additional public benefit. There is a stream that runs through the northern portion of property. The stream does not have an official name.
Department of Agriculture	Comments attached.	Requests more information on the planned conservation/agricultural easement; how the existing three buildings will be utilized in the proposed "residency-based" ag park model; and existing agricultural uses on the property. <i>[Please see email responses from applicant to DLNR and HDOA, Attachment 3(e).]</i>
Agribusiness Dev. Corp.	We do not object to the proposed project.	

Conservation Easements, Agricultural Easements, Deed Restrictions, and Covenants

Under Haw. Rev. Stat. §§ 173A-4(c) and (d), a recipient of funds from the LLCP must:

provide a conservation easement under chapter 198, or an agricultural easement or deed restriction or covenant to the department of land and natural resources; the department of agriculture; the agribusiness development corporation; an appropriate land conservation organization; or a county, state, or federal natural resource conservation agency, that shall run with the land and be recorded with the land to ensure the long-term protection of land having value as a resource to the State and preserve the interests of the State . . . [and t]he board shall require as a condition of the receipt of funds that it be an owner of a conservation easement.

However, § 173A-4(d) provides that “[t]he board or an appropriate land conservation organization or county, state, or federal agency required to be provided an easement pursuant to this section may grant an exemption for any easement required pursuant to this section.”

Historically, the Department has required that each recipient of LLCP funding record a deed of conveyance that includes restrictions and covenants that meet the requirements of § 173A-4. Similar to many federal land acquisition programs, the LLCP restrictions for deeds to county and nonprofit grantees reference the grant agreement that is executed between the Board and the grantee, and all deeds must recite the State’s statutory restrictions on the sale, lease, or other disposition of the acquired interests and rights in land. These statutory restrictions include (1) a requirement that the Board approve disposition of the land (§§ 173A-4 and 173A-9) and (2) post-disposition payback provisions (§ 173A-10). Per the grant agreement, deed restrictions also require that an owner manage the land in a manner consistent with the protection of the resources as described in the original grant application.

The Board is authorized to impose a conservation easement on land acquired by LLCP grant recipients, and to grant exemptions from the easement requirements. The Department advises that the deed restrictions that the LLCP customarily imposes on grant recipients—as bolstered by statutory and contractual provisions—are generally sufficient to ensure the long-term protection of land having value as a resource to the State and to preserve the interests of the State, and the Department frequently recommends that the Board exempt an awardee from additional easement requirements.

The Division advises that additional easement requirements should not apply to the two Fiscal Year 2020 grant applications that propose the acquisition of a conservation easement, only (Hāloa 'Āina, Hawai'i, and Waikalua Loko I'a, O'ahu). Of the remaining eight applications recommended for funding, the Division advises that the Board exempt the two State grants (Nā Wai 'Ehā and Keone'ō'io Bay Coastal Protection, Maui) from the easement requirement, which would be for lands that would be held and managed by the Department. If federal matching funds are used for these acquisitions, then it is likely that the deed of conveyance to the State would include restrictions mandated by a federal natural resource agency, and if County matching funds are used, it is likely that the property would be encumbered with a conservation easement held by the County of Maui.

The Division advises that the Board require, for the remaining six applications recommended for funding, that each awardee provide a conservation easement to an appropriate land conservation organization or a county, state, or federal natural resource conservation agency:

Ala Kahakai Trail Association – Kaunāmano and Manāka'a Fishing Village: These two grants are for the acquisition of fee title by a nonprofit land conservation organization. It is likely that the deed of conveyance would include restrictions mandated by the County of Hawai'i. The application included a letter indicating that the County of Hawai'i is willing to hold a conservation easement over the property.

Molokai Land Trust – Mapulehu Valley to Summit: This grant is for the acquisition of fee title by a nonprofit land conservation organization. It is likely that the deed of conveyance would include restrictions mandated by the County of Maui and federal agency sponsors. The application included a letter indicating that Hawaiian Islands Land Trust (HILT) is willing to hold a conservation easement over the property, as reconfirmed by HILT at the Legacy Land Conservation Commission meeting in September 2019. Based on a recent transaction funded by the County of Maui, it is likely that the County would be a co-holder of the conservation easement if it provides funding for the acquisition.

Ke Ao Hāli'i (Save the Hana Coast) – Maka'alae Lands: This grant is for the acquisition of fee title by a nonprofit land conservation organization. It is likely that the deed of conveyance would include restrictions mandated by the County of Maui. The application included a letter indicating that Hawaiian Islands Land Trust (HILT) is willing to hold a conservation easement over the property, as reconfirmed by HILT at the Legacy Land Conservation Commission meeting in December 2018. HILT already holds easements over other properties nearby. Based on a recent transaction funded by the County of Maui, it is likely that the County of Maui would be a co-holder of the conservation easement if it provides funding for the acquisition.

Waipā Foundation – Halulu Fishpond Access: This grant is for the acquisition of fee title by a nonprofit land conservation organization. The application included a letter indicating that the County of Kaua'i is willing to hold a conservation easement over the property.

Mālama Kaua'i, Olohena 'Āina Center: This grant is for the acquisition of fee title by a nonprofit land conservation organization. The application included letters indicating that Hawaiian Islands Land Trust (HILT) is willing to hold a conservation easement over the property. If the County provides funding and HILT accepts the easement, then it is possible that the County will require that the County be a co-holder of the conservation easement.

Chapter 343, Hawai'i Revised Statutes, Environmental Review

1. Statutory Exemptions

Section 343-5(a), Hawai'i Revised Statutes (Haw. Rev. Stat.) provides, in part, that an environmental assessment is not required for an action that proposes the use of state funds for the acquisition of unimproved real property. However, Chapter 343 does not define "unimproved real property." Regardless of this definitional uncertainty, the Division advises that the results of the application process indicate that none of the properties that the Legacy Land Conservation Commission (LLCC) recommended for acquisition are "unimproved."

Two of the ten properties that the LLC recommended for acquisition involve the proposed use of a Hawaiian fishpond (Halulu Fishpond Access and Waikalua Loko I'a Conservation Easement). Under Haw. Rev. Stat. § 183B-2:

[t]he proposed reconstruction, restoration, repair, or use of any Hawaiian fishpond shall be exempt from the requirements of chapter 343; provided that it will comply with the following conditions:

- (1) The fishpond is not adjacent to a sandy beach;
- (2) The fishpond stocks only native aquatic organisms;
- (3) The fishpond does not operate as an intensive culture system in which cultured organisms require frequent or periodic artificial feeding, artificial aeration of water, or artificial pumping of water through the fishponds for their growth and survival;
- (4) Bulk chemicals are not added to the water for the control of pathogens or parasites;
- (5) Coastal access is allowed to any person mauka of the fishpond and makai of walls;
- (6) The fishpond and its operations do not harm any threatened or endangered species; and
- (7) The fishpond is not used for water recreational purposes except those recreational activities customarily and traditionally practiced in Hawaiian fishponds prior to 1778.

Based on the results of the application process, the Division advises that the proposed acquisitions of Halulu Fishpond Access and Waikalua Loko I'a Conservation Easement are exempt from the requirements of Chapter 343.

2. Administrative Exemptions

For the remaining eight properties that the LLCC recommended for acquisition, Haw. Rev. Stat. § 343-6(a)(2) provides for "procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an environmental assessment." The recent repeal of Chapter 11-200, Hawai'i Administrative Rules (Haw. Admin. R.) and the adoption of Haw. Admin. R. § 11-200.1 (new rule cited below) established new procedures that simplify the Department's process for exempting the use of state funds for a land acquisition grant, awarded through the Legacy Land Conservation Program, from the preparation of an environmental assessment by securing concurrence from the Environmental Council for a two-part "exemption list" as defined in § 11-200.1-2 and implemented as follows:

§ 11-200.1-16 Exemption lists. (a) Each agency, through time and experience, may develop its own exemption list consistent with both the letter and intent expressed in this subchapter and in chapter 343, HRS, of: (1) Routine activities and ordinary functions within the jurisdiction or expertise of the agency that by their [de minimis] nature do not have the potential to individually or cumulatively adversely affect the environment more than negligibly and that the agency considers to not rise to the level of requiring chapter 343, HRS, environmental review

(b) An agency may use part one of its exemption list, developed pursuant to subsection (a)(1), to exempt a specific activity from preparation of an EA and the requirements of section 11-200.1-17 [Exemption Notices] because the agency considers the specific activity to be de minimis.

However, under § 11-200.1-15, an exemption is inapplicable "when the cumulative impact of planned and successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment."

On March 3, 2020, the Environmental Council concurred with the Department's new two-part exemption list, which includes, under Exemption Class 1 (Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing), PART 1:

- Action Type 38, "[a]cquisition of land or interests in land," and
- Action Type 42, "[t]he award of grants under Haw. Rev. Stat. Chapter 173A provided that the grant does not fund **an activity that causes any material change of use of land or resources beyond that previously existing**" (emphasis added).

The Division believes that its three proposed acquisitions (Nā Wai 'Ehā, Maui; Hāloa 'Āina, Hawai'i; and Keone'ō'io, Maui) are Department actions that are exempt from the preparation of an environmental assessment under Action Type 38, "acquisition of land or interests in land," and under Action Type 42, "[t]he award of grants under Haw. Rev. Stat. Chapter 173A," and that five acquisitions of land proposed by nonprofit land conservation organizations (Kaunāmano,

Hawai'i; Mapulehu, Molokai; Maka'ala, Maui; Manāka'a, Hawai'i; and Olohena 'Āina, Kaua'i) are exempt from the preparation of an environmental assessment under Action Type 42.

The governing authorities for Action Type 42 (Chapter 343, Haw. Rev. Stat.; Chapter 11-200.1, Haw. Admin. R.; and the Department Exemption List) do not define "material change of use," and the Board and the State courts have not addressed the interpretation and application of this exemption. The Division believes (1) that the "activity" of land acquisition funded by a grant from the Legacy Land Conservation Program merely enables the possibility of—rather than "causes" with certainty—a future "change of use" action by an awardee that takes ownership of a property, and (2) that such land acquisition is thus exempt from the preparation of an environmental assessment. Importantly, a post-acquisition "change of use" action would be subject to environmental review requirements under Chapter 343, subsequent to and independent of the acquisition, if applicable at that time to that action.

Based on the applications, presentations, and public comments received by the Division during the grant application process, the Division concludes that the mere acquisition of interests in land funded by each grant to a state agency or nonprofit land conservation organization, in and of itself, is not an activity that causes any material change of use of land or resources beyond that previously existing. Moreover—as authorized under Haw. Admin. R. § 13-140-24(a)(8)—the Division may require awardees to meet any requirements of Chapter 343 prior to disbursing funds for land acquisition grants. Internally, the Department's Land Division imposes the same requirement on land acquisition by a state agency. In any case, it is important to distinguish that post-acquisition management activity described in an application is aspirational, not obligatory, and does not represent an irrevocable commitment that would be enforceable under a Legacy Land Conservation Program grant agreement. Also, for each of the eight proposed acquisitions, the Division believes that the action of awarding State grant funds for land acquisition (a) is not related to the significance of "cumulative impact of planned and successive actions in the same place, over time," and (b) "will not be significant in a particularly sensitive environment" pursuant to Haw. Admin. R. § 11-200.1-15.

Therefore, the Division believes that eight of the ten proposed awards of State grant funds for land acquisition, through the Legacy Land Conservation Program (using the Fiscal Year 2020 Land Conservation Fund), are exempt from the requirement to prepare an environmental assessment, pursuant to State environmental review law.

RECOMMENDATIONS

That the Board:

- 1) Authorize the Chairperson to enter into agreements and encumber Fiscal Year 2020 funds from the Land Conservation Fund with (a) Ala Kahakai Trail Association for \$2,400,000 for the acquisition of approximately 1,363 acres at Ka'ū, Hawai'i, with a conservation easement held by the County of Hawai'i or other suitable entity (Kaunāmano), and (b) Molokai Land Trust for up to \$1,100,00 for the acquisition of approximately 1,816 acres at Kona, Molokai with a conservation easement held by Hawaiian Islands Land Trust or other suitable entity, and co-held by the County of Maui if the County so requires (Mapulehu: Valley to Summit), using a total of up to \$3,500,00 from beneath the Fiscal Year 2020 spending ceiling for the Legacy Land Conservation Program, subject to:
 - a. compliance with Chapter 173A, Hawai'i Revised Statutes;
 - b. compliance with Chapter 343, Hawai'i Revised Statutes;
 - c. execution of a Grant Agreement with the Board;
 - d. certification of an appraisal by the Department;
 - e. insertion of Legacy Land Conservation Program restrictions and covenants into the deeds as a condition of contractual agreements with the grant recipients;
 - f. approval of the Grant Agreement and of the Deeds by the Attorney General's office;
 - g. the availability of funds;
 - h. the approval of the Governor; and
 - i. such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 2) Approve—as a contingency in the event that an awardee is unable to accept its awarded funds—the Legacy Land Conservation Commission recommendation to award remaining, available Fiscal year 2020 funds from the Land Conservation Fund, up to the amounts originally requested in the applications, but not to exceed \$3,500,000 from beneath the Fiscal Year 2020 spending ceiling for the Legacy Land Conservation Program, to:
 - a. Ke Ao Hāli'i, as first alternate, for the acquisition of approximately 30.3 acres at Hāna, Maui, with a conservation easement held by Hawaiian Islands Land Trust or other suitable entity, and co-held by the County of Maui if the County so requires—(Maka'ala'e Lands);
 - b. Ala Kahakai Trail Association, as second alternate, for the acquisition of approximately 348 acres at Ka'ū, Hawai'i, with a conservation easement held by the County of Hawai'i or other suitable entity (Manāka'a Fishing Village);
 - c. Waipā Foundation, as third alternate, for the acquisition of approximately 0.25 acres at Halele'a, Kaua'i, with a conservation easement held by the County of Kaua'i or other suitable entity, and co-held by the County of Kauai if the County so requires (Halulu Fishpond Access);
 - d. the Division of Forestry and Wildlife, as fourth alternates (tied), for the acquisition of a conservation easement over approximately 2,780 acres at Kona, Hawai'i (Hāloa 'Āina) and the acquisition of approximately 11,020 acres at Wailuku, Maui (Nā Wai 'Ehā);

- e. Hawaiian Islands Land Trust, as fifth alternate, for the acquisition of a conservation easement over approximately 17.1 acres at Ko'olaupoko, O'ahu, to be co-held by the City and County of Honolulu if the City so requires (Waikalua Loko I'a);
- f. the Division of Forestry and Wildlife, as sixth alternate, for the acquisition of approximately 11,020 acres at Wailuku, Maui (Nā Wai 'Ehā); and
- g. Mālama Kaua'i, as seventh alternate, for the acquisition of approximately 11,020 acres at Puna, Kaua'i, with a conservation easement held by Hawaiian Islands Land Trust or other suitable entity, and co-held by the County of Kaua'i if the County so requires (Olohena 'Āina),

subject, as applicable, to conditions a-i as stated in Recommendation 1, above, and to all other standard conditions governing Legacy Land Conservation Program grant agreements and Department land acquisitions.

- 3) Delegate authority to the Chairperson to redirect funding for a discontinued Fiscal Year 2020 award to other Fiscal Year 2020 applications that the Legacy Land Conservation Commission recommended for funding, so as to accomplish partial or full funding for each approved award in the order ranked by the Commission, up to a total of \$3,500,000 from the budget for Fiscal Year 2020.
- 4) Require the imposition of Legacy Land Conservation Program restrictions and covenants into the deeds for each completed acquisition of land or interests in land as a condition of contractual agreements with the grant recipients, and exempt each acquisition of a conservation easement and each acquisition by a State agency from any additional conservation easements that may be required under Section 173A-4, Hawai'i Revised Statutes.
- 5) Exempt the following eight proposed uses of State funds (for Fiscal Year 2020 Legacy Land Conservation Program grant awards from the Land Conservation Fund to acquire interests and rights and interests in land having value as a resource to the State) from the requirement to prepare an environmental assessment, in accordance with Sections 343-5 and 343-6, Hawai'i Revised Statutes; Sections 11-200.1-1, -2, -8, -13, -14, -15 and -16, Hawai'i Administrative Rules; and the Department of Land and Natural Resources Exemption List, reviewed and concurred on by the Environmental Council on March 3, 2020:

Exemption Class 1, PART 1, Action Type 42

- LLCP 20-01 Ala Kahakai Trail Association (Kaunāmano)
- LLCP 20-02 Molokai Land Trust (Mapulehu: Valley to Summit)
- LLCP 20-03 Ke Ao Hāli'i (Maka'ala'e Lands)
- LLCP 20-04 Ala Kahakai Trail Association (Manāka'a Fishing Village)
- LLCP 20-10 Mālama Kaua'i (Olohena 'Āina Center)

Exemption Class 1, PART 1, Action Types 38 and 42

- LLCP 20-07.1 Department of Land and Natural Resources, Division of Forestry and Wildlife (Hāloa 'Āina – Royal Hawaiian Sandalwood)
- LLCP 20-07.2 Department of Land and Natural Resources, Division of Forestry and Wildlife (Nā Wai 'Ehā)

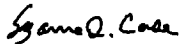
- 6) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the Fiscal Year 2020 Legacy Land Conservation Program grants and acquisitions approved by the Board and the Governor.

Respectfully submitted,



DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

ATTACHMENTS:

- Attachment 1: Table of recommended awards for the Fiscal Year 2020 Legacy Land Conservation Program, with project maps and photos attached
- Attachment 2: Consultation Letters from the President of the Senate (October 14, 2019) and the Speaker of the House of Representatives (October 14, 2019)
- Attachment 3: Agency Consultation Comments for applications from:
- (a) Ala Kahakai Trail Association (Kaunāmano, Ka'ū, Hawai'i)
 - (b) Ala Kahakai Trail Association (Manāka'a Fishing Village, Ka'ū, Hawai'i)
 - (c) Division of Forestry and Wildlife (Nā Wai 'Ehā, Wailuku, Maui)
 - (d) Division of Forestry and Wildlife (Keone'ō'io Bay Coastal Protection, Honua'ula, Maui)
 - (e) Mālama Kaua'i (Olohena 'Āina Center, Puna, Kaua'i)

Attachment 1

Legacy Land Conservation Commission Ranking and Recommendation* Summary, Fiscal Year 2020

Meeting 69, Agenda Items 5-6

*Commission Recommendation: Approve funding for the top two applications, in the order ranked, as fully as possible.
As a contingency, if a higher-ranked application does not proceed with its funding award, then award funding for lower-ranked applications, in the order ranked, as fully as possible.

APRIL 24, 2020
ATTACHMENT 1-1

Text in *italics* indicates revised information, as requested by applicant during the meeting or corrected by staff.

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres <i>approx</i>	State Land Use District	County Zoning	Matching \$ Match % <i>(rounded)</i>	LLCP \$	TOTAL \$
4B	1	Kaunāmano	Ala Kahakai Trail Association	Kaʻū, Hawaiʻi	Fee + Easement (County of Hawaiʻi)	<p>Kaunāmano is an undeveloped coastal property [five parcels] east of Nāʻālehu and south of Honuʻapo. From the shore, it stretches almost 2 miles to the 600 foot elevation. In ancient times, the land supported a thriving community with vast resources including fertile soil, prime fishing grounds and underground freshwater springs. The land contains a high concentration of cultural sites including two large settlement areas at Pāʻula and Pauku, numerous heiau, habitation caves, a rock paved anchialine pool, a lua training area associated with the nearby makahiki grounds, and almost three miles of the ala kahakai trail. Since the plantation era, the land has been used for cattle grazing.</p> <p>The four miles of coastline provides excellent habitat for native coastal plants and nesting seabirds. The anchialine pond within Puhīʻula teems with ʻōpae ʻula. Kaunāmanoʻs marine ecosystem is home to humpback whales, dolphins, endangered monk seals and Hawksbill turtles, threatened green sea turtles, an abundance of native fish, limu and shellfish. Makai areas are used for cultural access, hiking, and subsistence fishing and gathering. The entire property is leased to Kuahiwi Ranch for cattle grazing.</p> <p>TMKs: (3) 9-5-011:001, :004, :005, :006; (3) 9-5-012:001</p>	1,363	Agricultural (including IAL) + Conservation (Resource Subzone)	A-20a	\$3,701,000 61%	\$2,400,000	\$6,101,000
4J	2	Mapulehu: Valley to Summit	Molokai Land Trust	Kona, Molokai	Fee + Easement (Hawaiian Islands Land Trust)	<p>East Molokaʻi, east of Kaluaʻaha and west of ʻOhiʻa branch of the Molokaʻi Forest Reserve [two parcels]. The makai border of the property begins at East Kamehameha V Highway, a few hundred yards from the ocean, and extends to the summit of East Molokaʻi. The lower property contains the platform of ʻIliʻiliopae Heiau, which was a training area for Kahuna and a sacrificial heiau. The lower property was also used for kalo cultivation and was likely to some extent in loʻi along Mapulehu Stream and its tributaries.</p> <p>The upper property is largely watershed, which was likely more robust before western contact, the introduction of cattle and other invasive species, and climate changes that reduced precipitation on East Molokaʻi. Historical human activity on the upper property likely included agricultural use at lower elevations, and hunting, and gathering of materials for daily use and cultural use.</p> <p>After western contact, the population of Molokaʻi decreased considerably, and with the spread of Christianity, ʻIliʻiliʻopae fell into disuse. The property was thereafter used for ranching, a dairy, and orchard land, as well as for dwellings located on the property and in surrounding and inholding <i>TMKs</i>.</p> <p>TMKs: (2) 5-7-005:002, :027</p>	1,816	Agricultural + Conservation (Resource Subzone)	AG + C (Open Space)	\$2,600,000 70%	\$1,100,000	\$3,700,000

Legacy Land Conservation Commission Ranking and Recommendation* Summary, Fiscal Year 2020

Meeting 69, Agenda Items 5-6

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres <i>approx</i>	State Land Use District	County Zoning	Matching \$ Match % <i>(rounded)</i>	LLCP \$	TOTAL \$
4E	3	Maka‘alaе Lands	Ke Ao Hāli‘i (KAH- Save Hana Coast)	Hāna, Maui	Fee + Easement (Hawaiian Islands Land Trust)	<p>The 4 parcels in this application are part of a larger 18 parcel area KAH is working to protect & place into conservation. The total area stretches from Mokae, adjacent to Hamoa Beach, to Waioka Pond (Venus Pool) & is bound by the ocean, & the Hana Highway. KAH has a Purchase Contracts on both ends of this 150 acre area (Mokae 004 and Waioka Pond 002) with plans to take ownership by Dec. 2019 while continuing to work towards control of the parcels in between. Ignoring KAH's efforts, the owners continue to market these same properties for sale.</p> <p>The 4 parcels are a combination of ocean front pastureland, intermittently used for grazing cattle & include the ruins of the Reciprocity Sugar Mill (closed 1902), old stable and other settlements. The other areas, adjacent to Waiokapia Stream are rocky, more heavily treed, subject to flooding and have been identified as archaeological significant (Cleghorn and Rogers).</p> <p>The coastal area consists of tide pools and rocky outcroppings with easy access to the sea. These are prime fishing & gathering spots for Hana residents. A line of Cook Pines just inshore from the beach provides excellent shade & is a popular camping spot for local families.</p> <p>TMKs: (2) 1-4-012:002 (<i>replaced parcel (2) 1-4-010:014</i>); (2) 1-4-010:030, :032, :034</p>	30.3	Agricultural + Conservation (Limited Subzone)	AG + SMA	\$1,571,000 50%	\$1,581,700	\$3,152,700
4A	4	Manāka‘a Fishing Village	Ala Kahakai Trail Association	Ka‘ū, Hawai‘i	Fee + Easement (County of Hawai‘i)	<p>The 348-acre property is an undeveloped coastal parcel 1.5 miles south of Nā‘ālehu Town, in Ka‘ū, Hawai‘i Island, in the ahupua‘a of Kāwala. Manāka‘a Fishing Village sits on the cliffs overlooking Waikapuna. In ancient times, the property was home to Native Hawaiians who fished and gathered shellfish and limu at the shoreline below the pali. During the Plantation era, the property was used to pasture cattle and goats. Later, it was used to grow sugar and experimental crops by C. Brewer and its successor, Ka‘ū Agribusiness.</p> <p>Today, the western portion is a mix of pasture grass, haole koa, and christmas berry. The eastern portion is primarily pasture grass with some haole koa. While the native dryland forest was lost during the plantation era, Māniania Pali’s bluffs are strongholds for native coastal vegetation.</p> <p>Since 2012, Kuahiwi Ranch has leased the property for cattle grazing. Kuahiwi Ranch also leases pasture lands to the east at Kaunāmano and west at Waikapuna. Last year, the ranch purchased 800 acres of land in Kāwala, mauka of the subject parcel. The makai areas are currently used for cultural access, hiking along the Ala Kahakai Trail, subsistence fishing and gathering.</p> <p>TMK: (3) 9-5-010:026</p>	348	Agricultural (including IAL) + Conservation (Resource Subzone)	A-20a	\$938,000 52%	\$875,000	\$6,101,000
4L	5	Halulu Fishpond Access	Waipā Foundation	Halele‘a, Kaua‘i	Fee + Easement (County of Kaua‘i)	<p>Halulu Fishpond Access sits within the coastal plain of Waipā ahupua‘a. It includes a portion of Halulu Fishpond, fed by Wai‘oli Stream, and emptying into Hanalei Bay. The land is vacant and overgrown with tall non-native trees that block Halulu Fishpond from the adjacent highway. A portion of the land is used by Waipā Foundation to access Halulu Fishpond and Hanalei Bay, and another portion is part of Halulu Fishpond which Waipā Foundation manages. Human activity on the property itself is restricted to the above current uses, but the lands around Halulu Fishpond are used by hundreds during Waipā Foundation’s community festivals and gatherings, and in their educational programs.</p> <p>TMK: (4) 5-6-004:017</p>	0.25	Agricultural	Agricultural + SMA	\$561,500 46%	\$600,000 (+50,000 from FY19)	\$1,211,500

Legacy Land Conservation Commission Ranking and Recommendation* Summary, Fiscal Year 2020

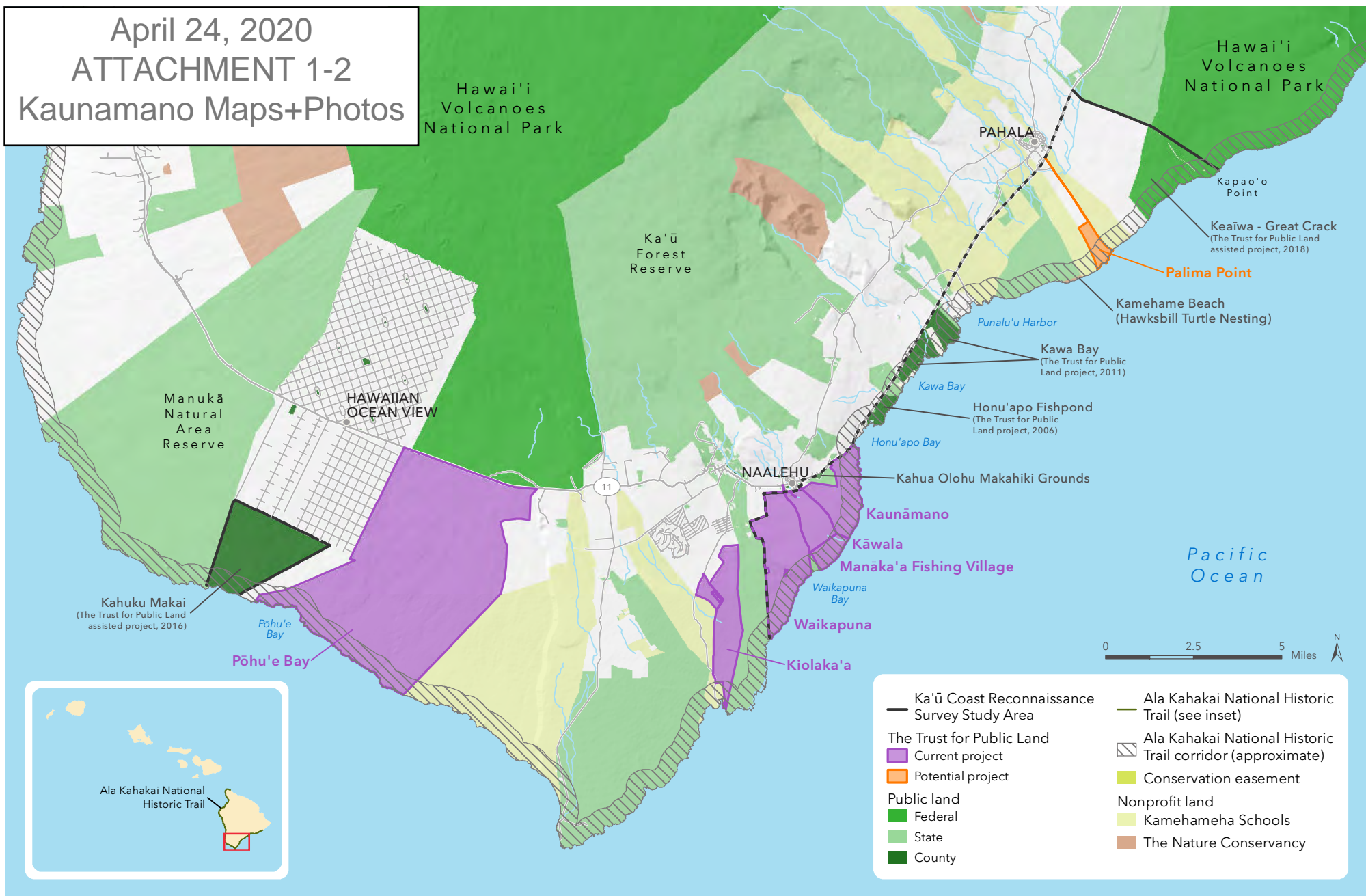
Meeting 69, Agenda Items 5-6

Item	Rank	Application FYs	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$	TOTAL \$
4D	7 (tie)	Hāloa 'Āina – Royal Hawaiian Sandalwood	State DLNR, Division of Forestry and Wildlife	Kona, Hawai'i	Easement	<p>The property consists of dry montane forest (4,500 – 5,500 ft elevation) and is located at on Hawaii Island in the South Kona District at the top of the Hokukano watershed. The property is bordered on the west by private conservation lands, Kamehameha Schools (KS) lands on the North and East, and the Kealakakua Mountain Reserve, protected through a Forest Legacy Program conservation easement to the South. The property's dry forests consist of 'ōhi'a (Metrosideros polymorpha) and koa (Acacia koa), sandalwood or 'iliahī (Santalum paniculatum), māmane (Sophora chrysophylla), Naio (Myoporum sandwichensis) and understory shrubs such as a'ali'i (Dodonea viscosa).</p> <p>The forest condition was severely degraded due to 150 years of forest clearing and uncontrolled grazing by domestic cattle, and the more recent impact of feral sheep grazing. Since 2010, management by the current owners has significantly rejuvenated the forest by fencing and removal of domestic and feral ungulates, resulting in the regeneration of native trees, particularly māmane. Additionally, harvest of dead and dying sandalwood or 'iliahī results in regeneration of trees through root sprouting.</p> <p>TMKs: (3) 7-9-001:013, :014, :015</p>	2,780	Agricultural	Ag20 ----- Extensive agriculture	\$3,910,250 89%	\$500,000	\$4,410,250
4I	7 (tie)	Nā Wai 'Ehā	State DLNR, Division of Forestry and Wildlife	Wailuku, Maui	Fee	<p>The three parcels span over eleven thousand acres from across the West Maui Mountains north of Waihee all the way to Wailuku, on the island of Maui. It is strategically adjacent to a Natural Area Partnership Preserve, a Natural Area Reserve and a Forest Reserve. These parcels are in the Conservation District, Resource subzone. They lands are actively managed by the West Maui Mountains Watershed Partnership but they are closed to the public. The West Maui Watershed is home to thousands of species of native plants, birds, snails, insects and other invertebrates. All native Hawaiian species are relatively rare in the world, and there are at least 18 plant species that are endemic to West Maui in particular, making them especially extraordinary. The watershed encompasses an array of vegetation communities that are arranged across climatic and elevation zones. Studies in the West Maui Watershed have already contributed to an improved understanding of evolution, unique genetic information transfer and other central biological concepts.</p> <p>TMKs: (2) 3-2-014:001; (2) 3-3-003:003; (2) 3-5-003:001, --003</p>	11,020	Conservation (Protective and Resource Subzones)	Interim + SMA	\$8,000,000 80%	\$2,000,000	\$10,000,000
4K	8	Waikalua Loko I'a	Hawaiian Islands Land Trust	Ko'olaupoko, O'ahu	Easement	<p>The Waikalua Loko I'a is one of the few remaining traditional Hawaiian fishponds on the island of Oahu. The property is an important access point to the shoreline along Kaneohe Bay for traditional and customary purposes, as well as current recreational users and fishermen. Currently used as an educational and cultural learning center, the fishpond also serves as a critical sediment basin to slow down and reduce pollutants from entering Kaneohe Bay.</p> <p>TMK: (1) 4-5-030:001 (por)</p>	17	Conservation (Resource)	Preservation	\$840,000 55%	\$700,000	\$1,540,000
4H	9	Keone'ō'io Bay Coastal Protection	State DLNR, Division of Forestry and Wildlife	Honua'ula, Maui	Fee	<p>The coastal parcel at Keoneoio Bay, south of the town of Wailea at the end of Mākena Alanui Road at 20°35'54"N 156°25'12"W on the island of Maui. It is strategically adjacent to the highly used Keoneoio Bay and Hoapili Trail access points. This undeveloped lot is in the Conservation District, Resource subzone. The southwest corner of the parcel provides ocean access and the property also comes with an easement access to the fishponds located at the western end of the bay and also provides access to the eastern edge of Ahihi-Kinau Natural Area Reserve. To the north west of the property are several privately held developed parcels. The north east and south sides of the parcel are highly used unencumbered state land. This private property is surrounded by a rock wall and public access is discouraged.</p> <p>TMK: (2) 2-1-004:068</p>	0.5	Conservation (Resource Subzone)	PK (Park) + SMA	\$378,000 24%	\$1,191,500	\$1,569,500

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres <i>approx</i>	State Land Use District	County Zoning	Matching \$ Match % <i>(rounded)</i>	LLCP \$	TOTAL \$
4M	10	Oloheua 'Āina Center	Mālama Kaua'i	Puna, Kaua'i	Fee + Easement (Hawaiian Islands Land Trust)	<p>The property is in the Puna district, in the Waipouli ahupua'a - a historic cattle plantation since the early 1900's that's been in the Tesoro family since Hawai'i became a state. 21.6 acres, it is currently permitted for residential and commercial use with ag and open zoning. In 2013, it lost its ag dedication and has remained a private residence with unmaintained agricultural lands and three old housing units. The property is unique in that it has never been subdivided and has the same footprint of its original award, but it is up for sale with interest from developers.</p> <p>The land is hilly with plateaus, providing a variety of land types for agroforestry, native reforestation, and traditional sustainable agriculture. It hosts what could be the island's largest individual Banyan and Rubber trees, several old canoe plant trees, and a few native fern species. The property is teeming with invasives and would benefit from restoration and rehabilitation, especially the seasonal stream and valley wetlands.</p> <p>The surrounding areas were agricultural, although in recent years there has been increasing development. Property is just before the Wailua Game Management Reserve (DLNR DOFAW).</p> <p>TMK: (4) 4-4-002:039</p>	21.6	Agricultural	Agricultural + Open	\$763,932 41%	\$1,000,000	\$1,843,932
4G	11	Nānu'alele Anchialine Pool Reserve	State DLNR, Division of Forestry and Wildlife	Hāna, Maui	Fee	<p>Coastal parcel on Nanualele Point, the northern point of Hana bay, Hana on the island of Maui, contains unique windward anchialine pools, land-locked small bodies of water that connect to the ocean subterraneously and provide habitat for extremely rare plants and animals. This undeveloped area is in the Conservation District, Resource subzone. Nanualele represents a pocket of rare coastal hala forest ecosystem surrounded by developed parcels on the mauka side and unencumbered state land on the Makai side. This private property is currently unused and public access is discouraged.</p> <p>TMK: (2) 1-3-007:024</p>	9.78	Conservation (Resource Subzone)	Interim ± SMA	\$1,700,002 2556% <i>land donation</i>	\$66,500	\$66,500

APPLICATION WITHDRAWN

April 24, 2020
ATTACHMENT 1-2
Kaunamano Maps+Photos

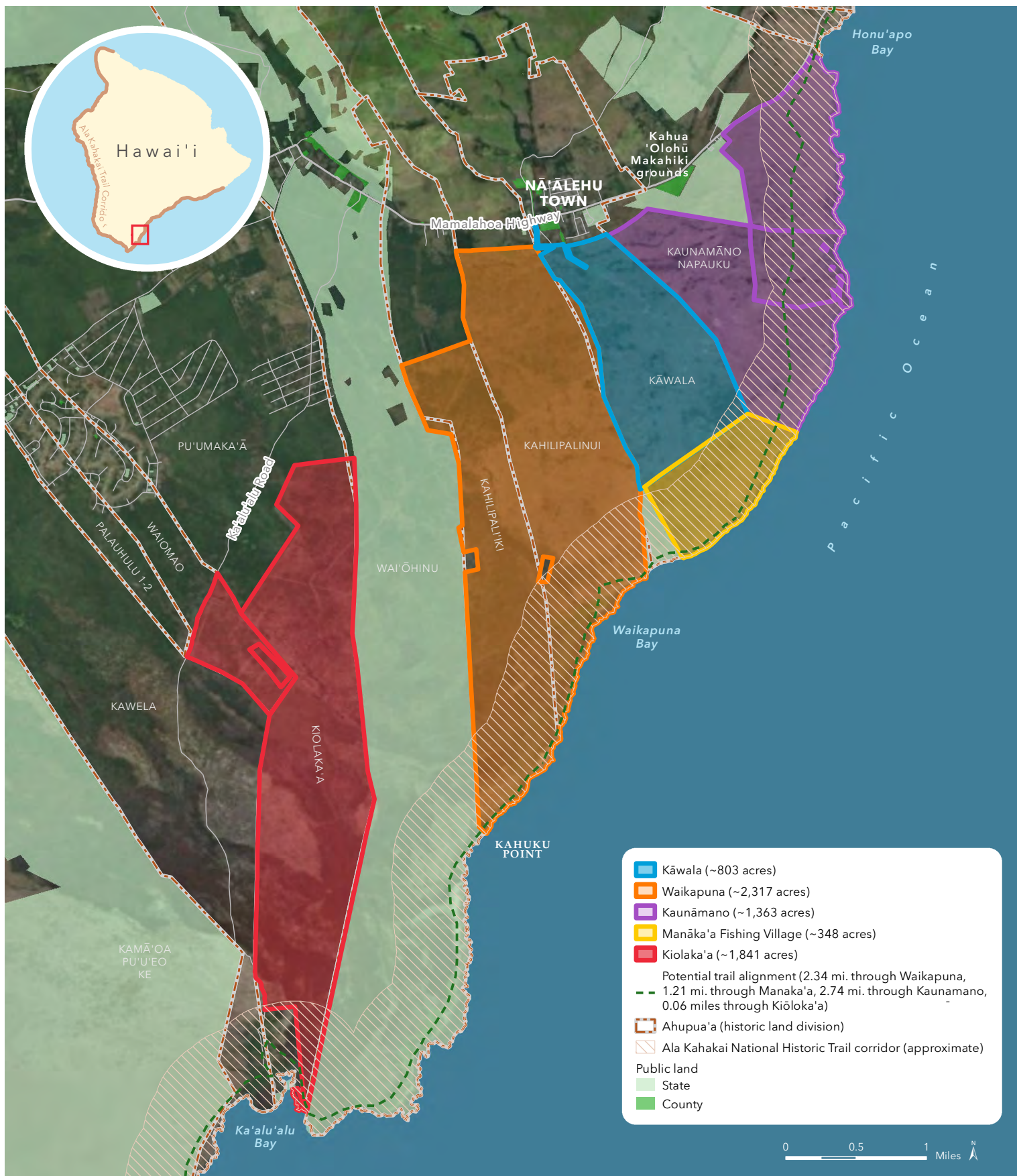


Ka'ū Coastline

KA'Ū COSTLINE, ISLAND OF HAWAII

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Protecting Ka'ū's Coast

WAIKAPUNA, KĀWALA, KAUNĀMANO, MANĀKA'A FISHING VILLAGE, AND KIOLAKA'A, HAWAII ISLAND

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THE TRUST FOR PUBLIC LAND

Pā'ula Fishing Village & Native Coastal Vegetation



Ancient Stone path at Pā'ula Fishing Village connected to Ala Kahakai Trail



Puhi'ula Cave



Stone-lined anchialine pool with 'ōpae'ula



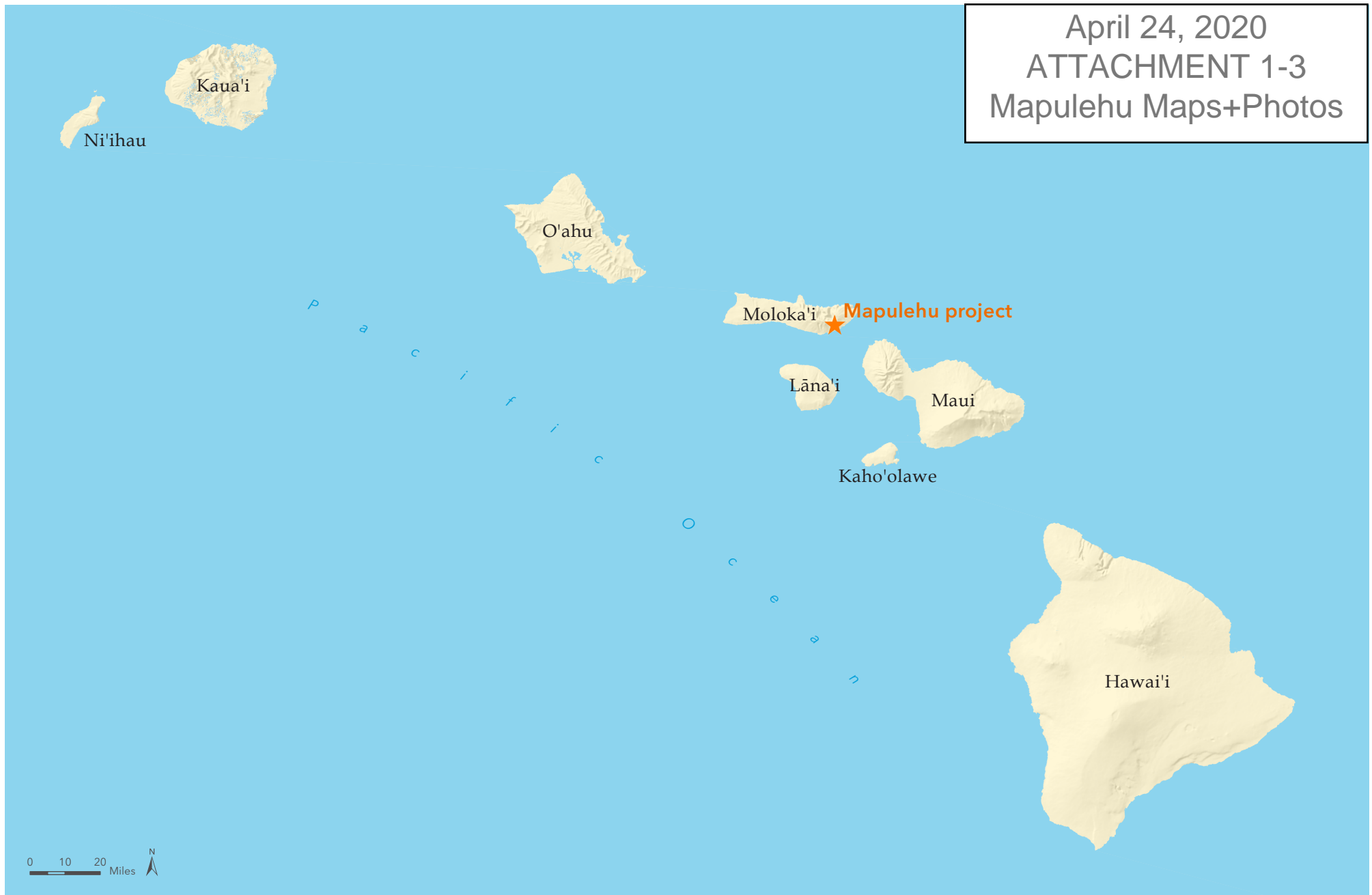
Pōhina Pali



Lava tube petroglyphs possibly showing familial relationships



April 24, 2020
ATTACHMENT 1-3
Mapulehu Maps+Photos

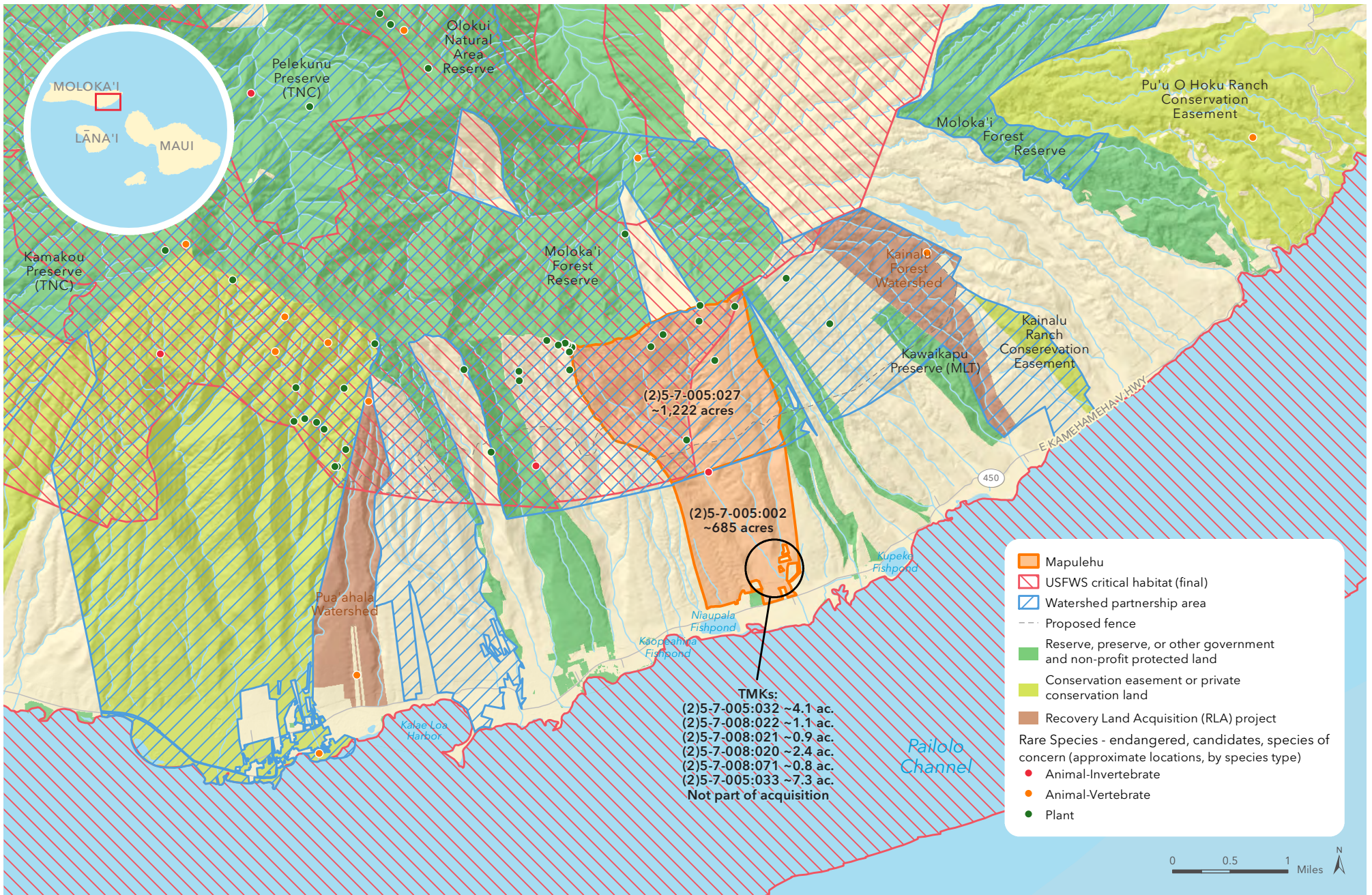


Mapulehu: Valley to Summit

ISLAND OF MOLOKA'I, HAWAII

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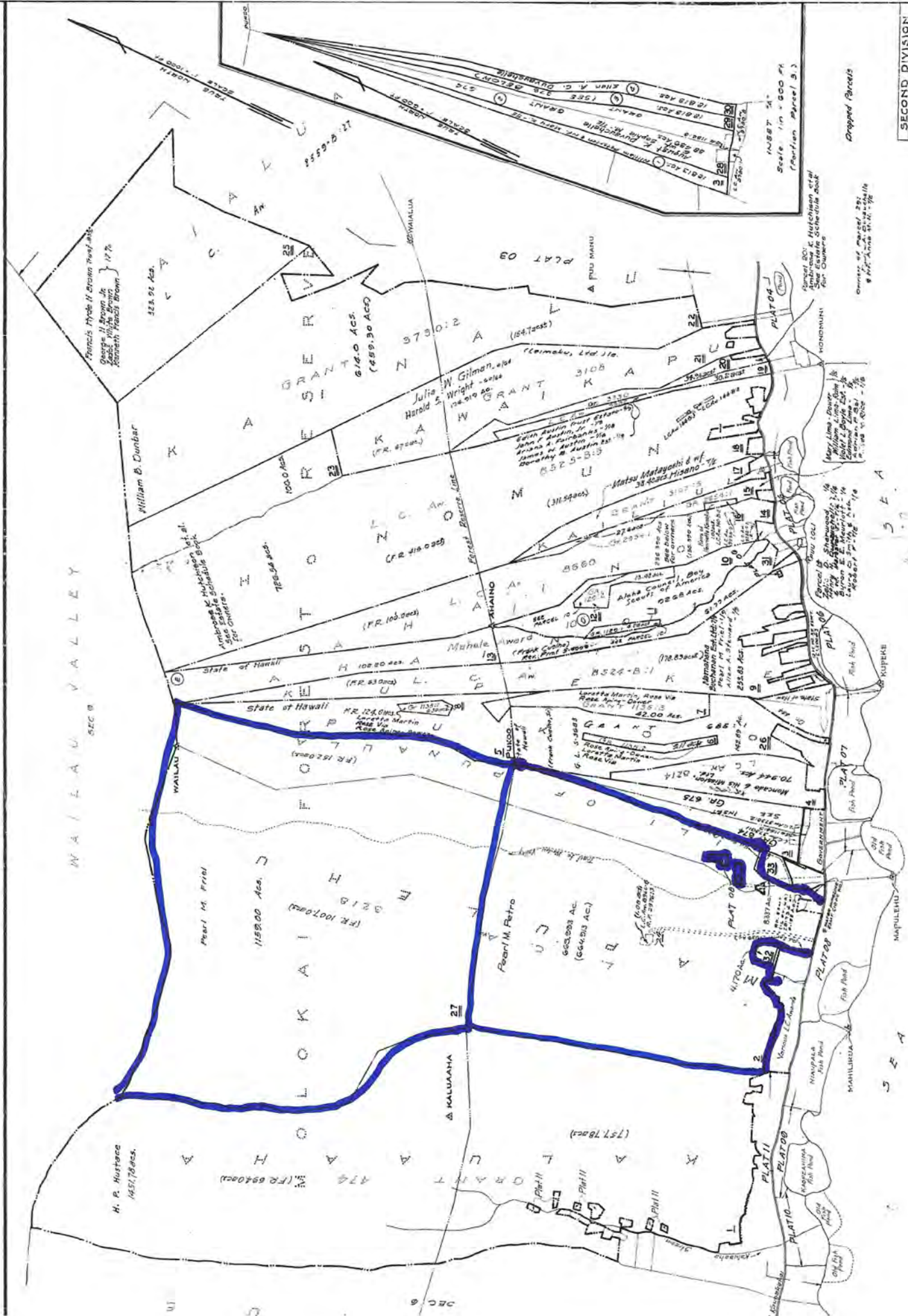


Mapulehu: Valley to Summit

ISLAND OF MOLOKA'I, HAWAII

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SECOND DIVISION	ZONE	SEC.	PLAT
5	7	05	
CONTAINING PARCELS			
Section 10, 1000'			
PRINTED			







LLCP FY20 - Maka'alae Lands - Hana, Maui

Ke Ao Hali'i (KAH- Save Hana Coast)

Hāna Maui

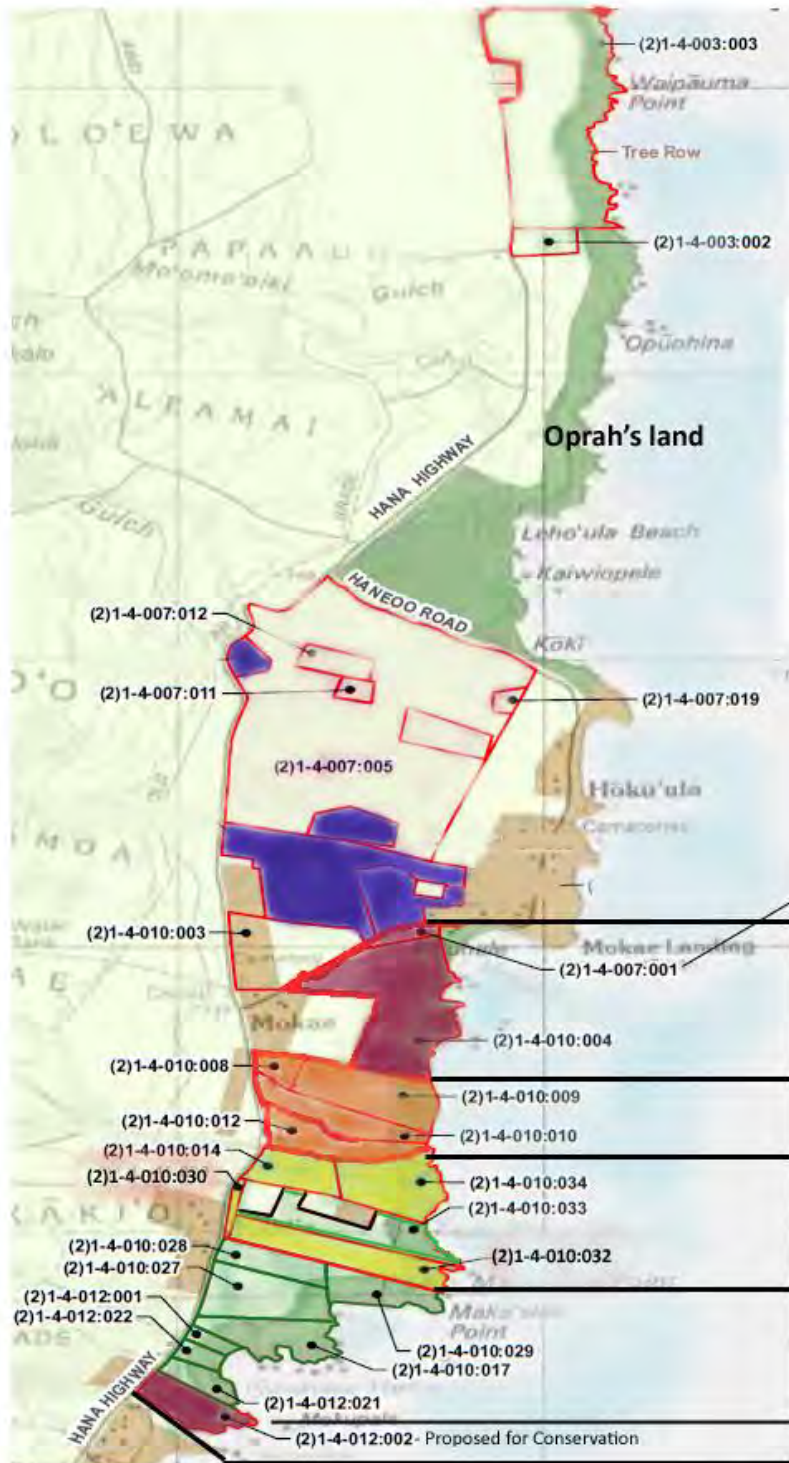
400 acres Coastal Pasture Lands Under Threat of Development

July 2019



Ke Ao Hali'i Save Hana Coast

April 24, 2020
ATTACHMENT 1-4
Makaalae Lands, Maps+Photos



LEGEND

- Parcels for sale
- Parcels with Conservation Easement
- Parcels sold to private party
- Parcels under KAH purchase agreement
- Agricultural
- Rural
- Conservation

lands donated by sell

Grant awarded FY2019
Legacy Land Conservation Program
Secured Maui OSF for
matching funds-FY20

Legacy Land Conservation Program
FY21 Grant Application
Proposed Maui OSF FY21-
matching funds

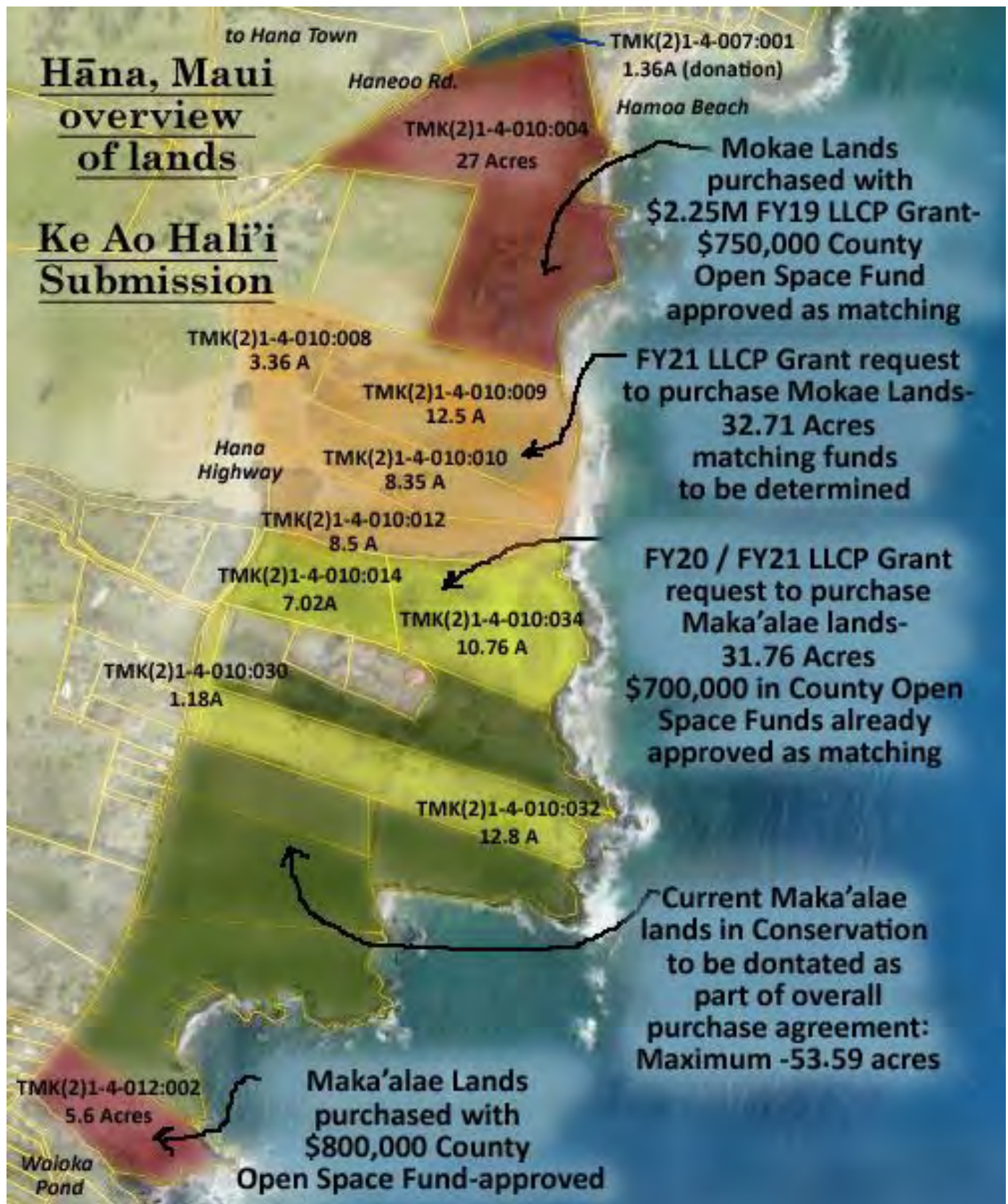
Legacy Land Conservation Program-
FY20 & FY21 Grant Application
Secured Maui Open Space Fund-
Matching Funds- FY20

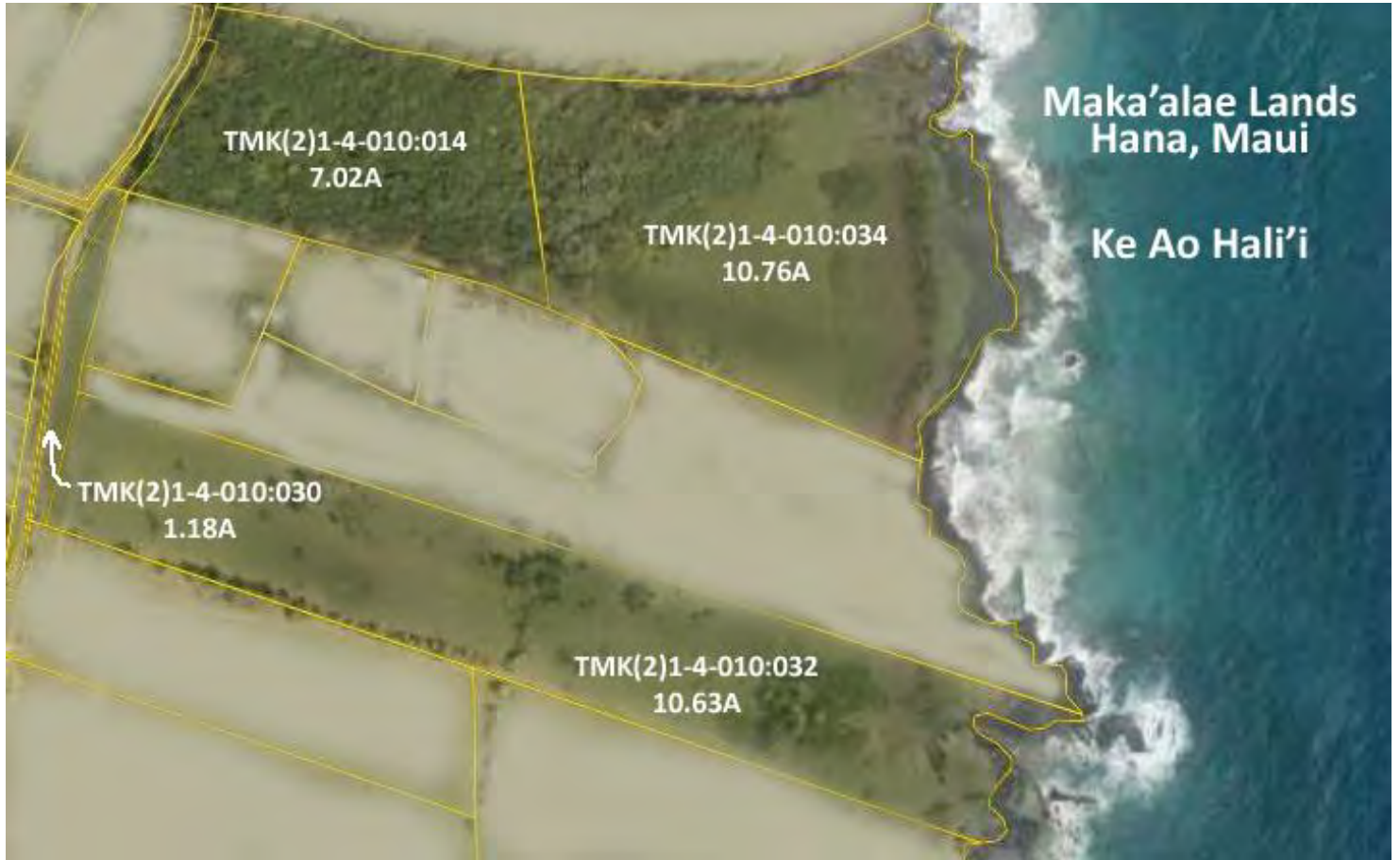
Conservation lands-
Seller agrees to donated

Secured Maui Open Space Fund- FY20

Hāna, Maui overview of lands

Ke Ao Hali'i Submission





Maka'ala'e Lands

Hana, Maui

Ke Ao Hali'i



Portuguese Oven

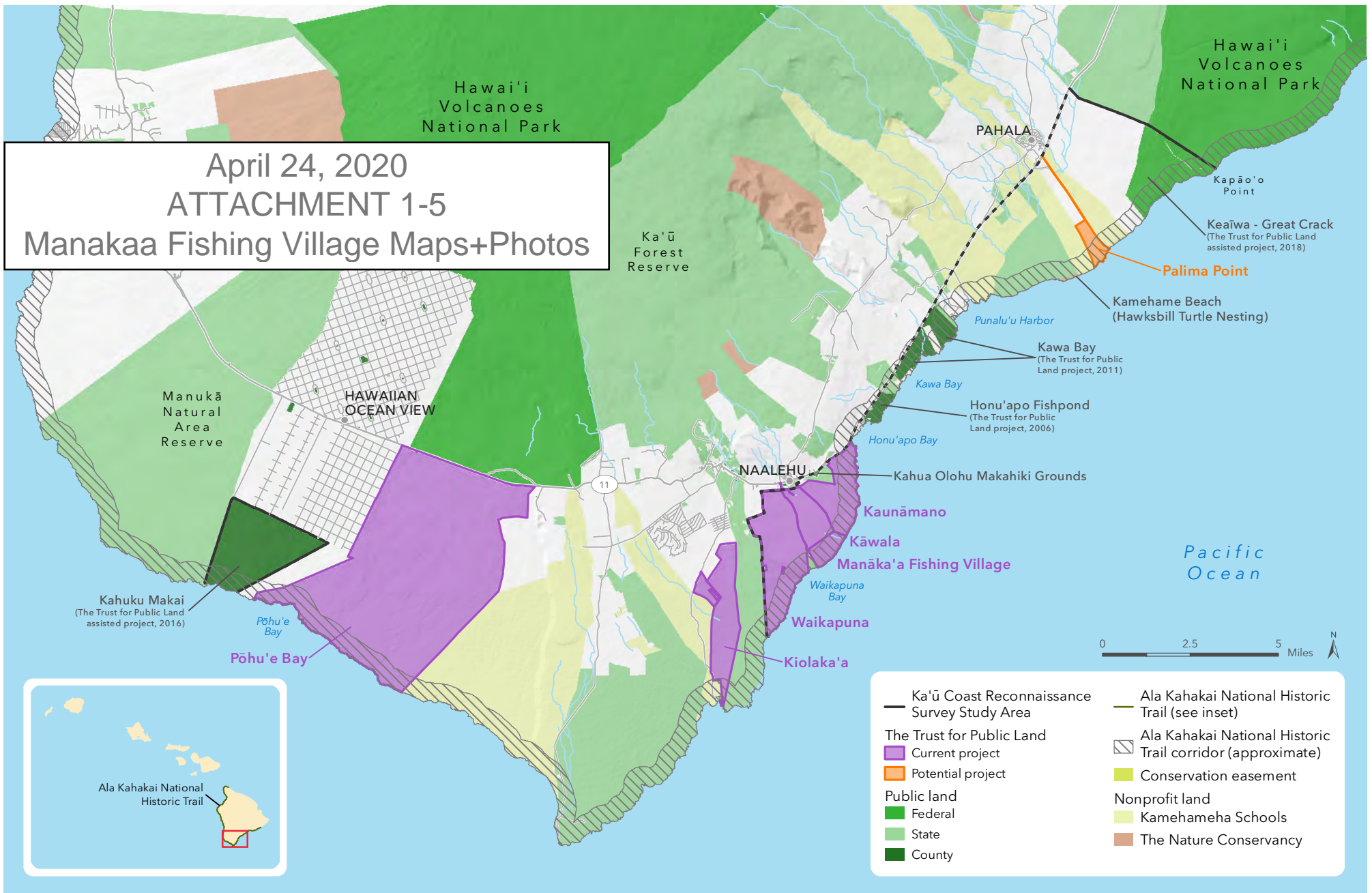




Carin anchor for sugar mill chimney



Sugar Mill Ruin - Chimney base



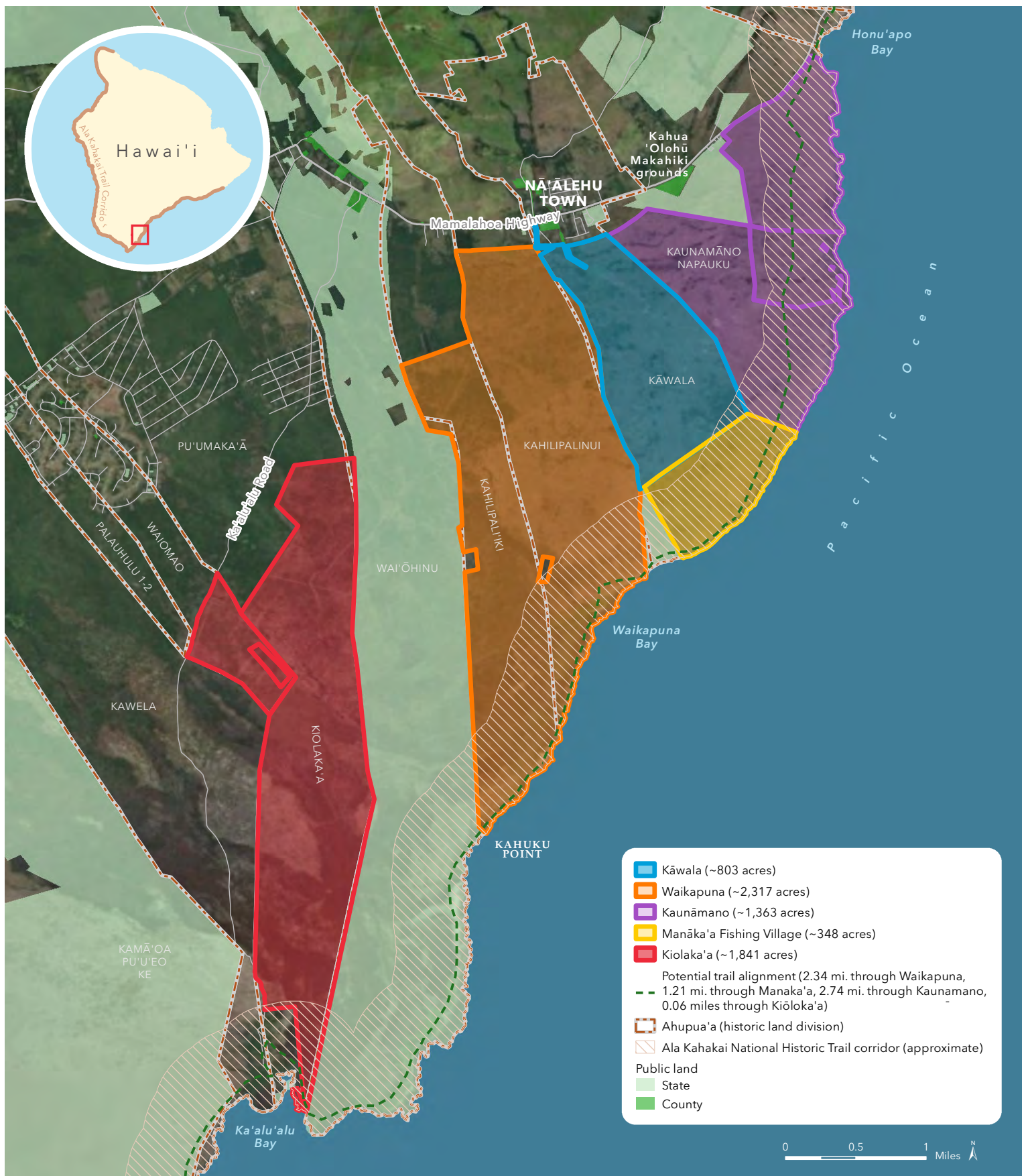
Ka'ū Coastline

KA'Ū COSTLINE, ISLAND OF HAWAI'I

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LAND



Protecting Ka'ū's Coast

WAIKAPUNA, KĀWALA, KAUNĀMANO, MANĀKA'A FISHING VILLAGE, AND KIOLAKA'A, HAWAII ISLAND

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PUBLIC
LAND

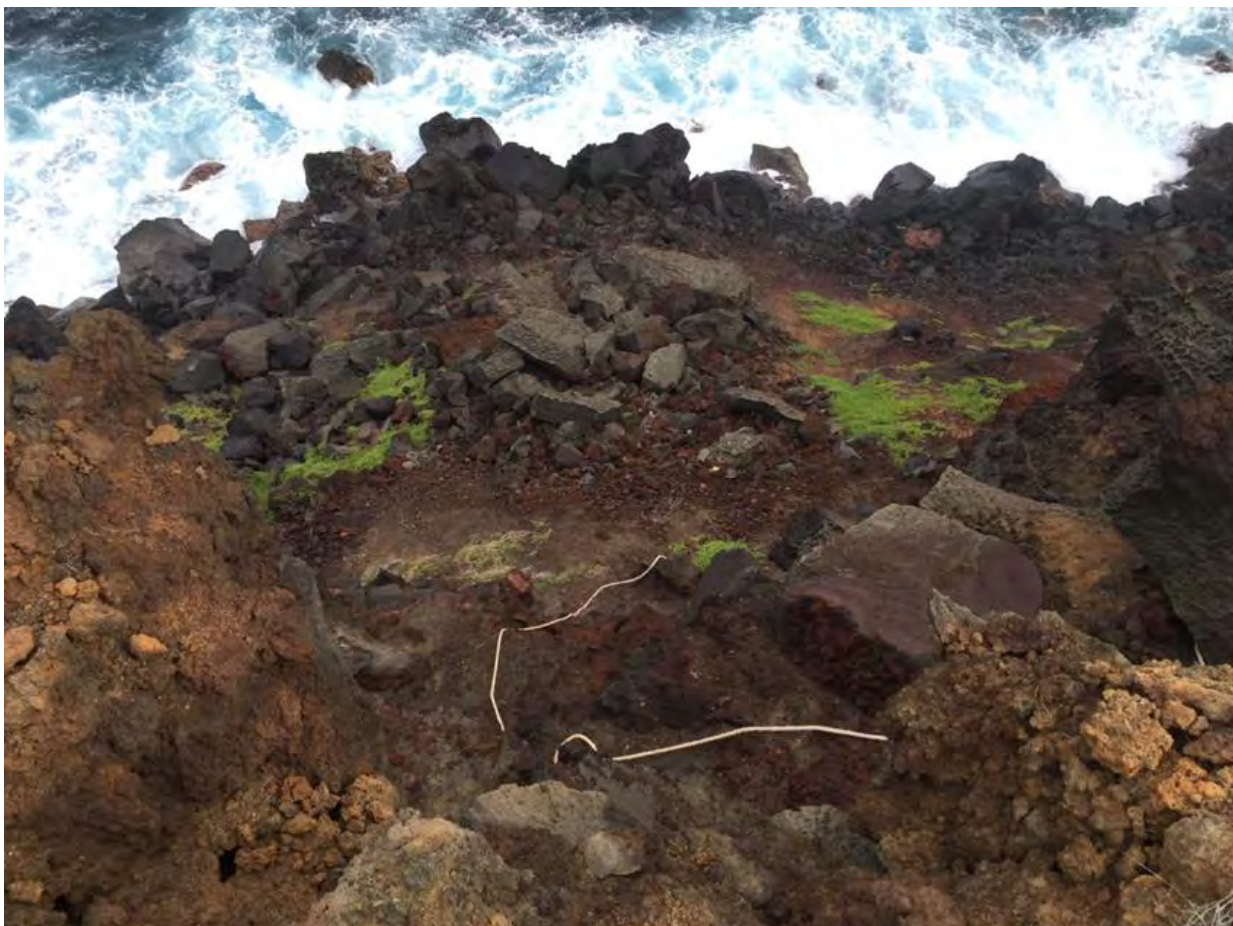
Maniania Pali



View northeast towards Kilauea



Ancient lawai'a trail to the shoreline



Historic house site



Fishing weight. Possible luhe'e for catching octopus.



Halulu Fishpond Access Maps+Photos



September 20, 2018.



Halulu Fishpond Access Photographs



On the Halulu Fishpond Access property with tall trees on the mauka side of the property, community path through the property, and Halulu Fishpond on and extending beyond the makai side of the property.



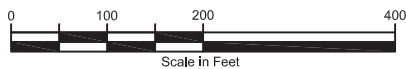
Looking at the Halulu Fishpond Access property from the makai side of Halulu Fishpond. Kids walking on the community access path through the property.



Halulu Fishpond Access property from Kuhio Highway. The parcel is a stark contrast from other makai lots along the highway, which are now mansions.



Image Source: Google Earth 2013



FORD & ASSOCIATES, INC.
ENVIRONMENTAL SCIENTISTS & ENGINEERS

Job Number: 18-1312

Created by: JRC

Date: 4/4/18

Reviewed By: TS

Subject Property Vicinity Map

Project: Two Waipa Kuleana Properties
(TMK No.: [4] 5-6-004: Parcels 010 and 017)
Waipa, Kauai, Hawaii





Client: The Trust For Public Land

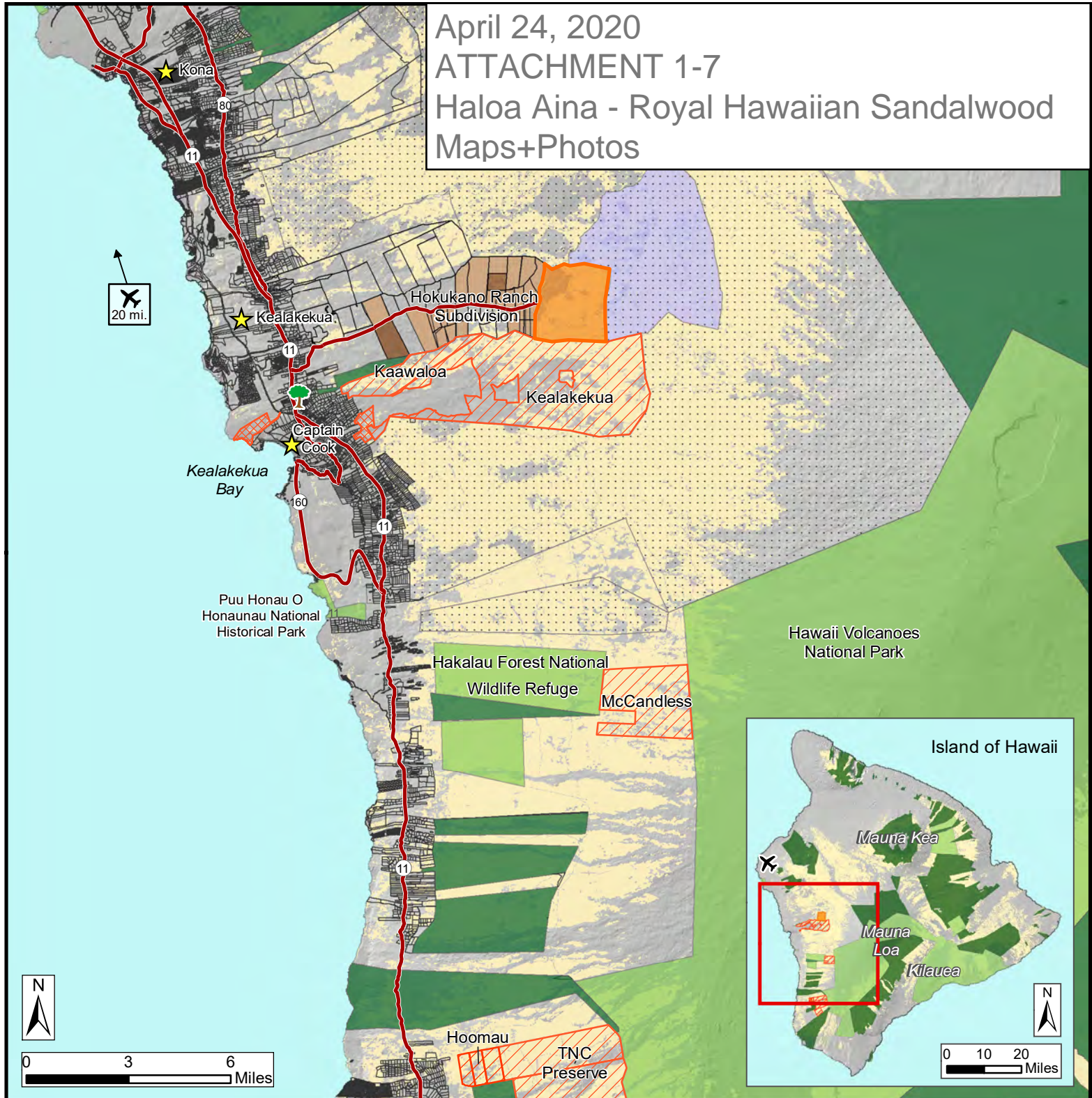
Figure

2

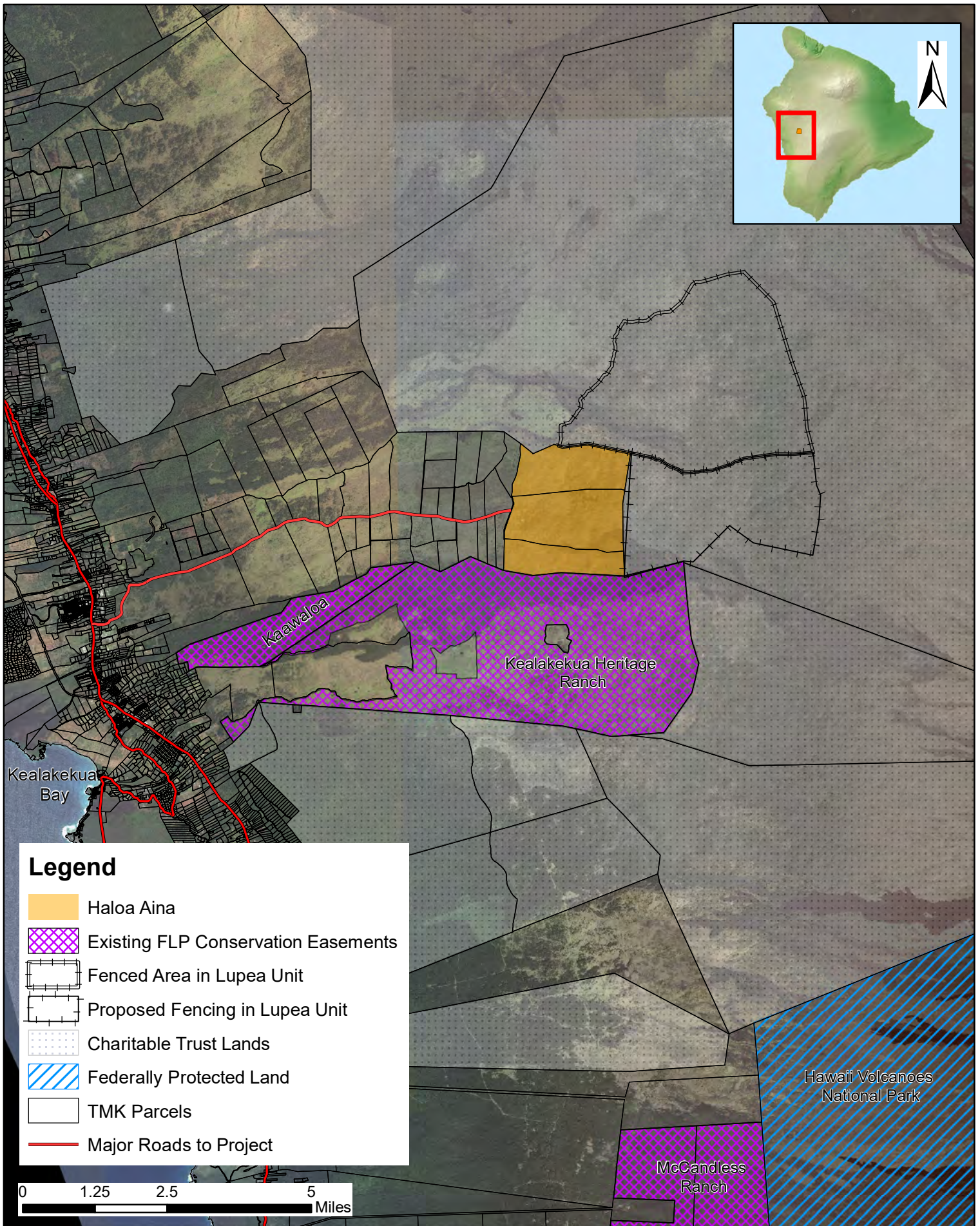
Haloa Aina Forest Legacy Project

Legend

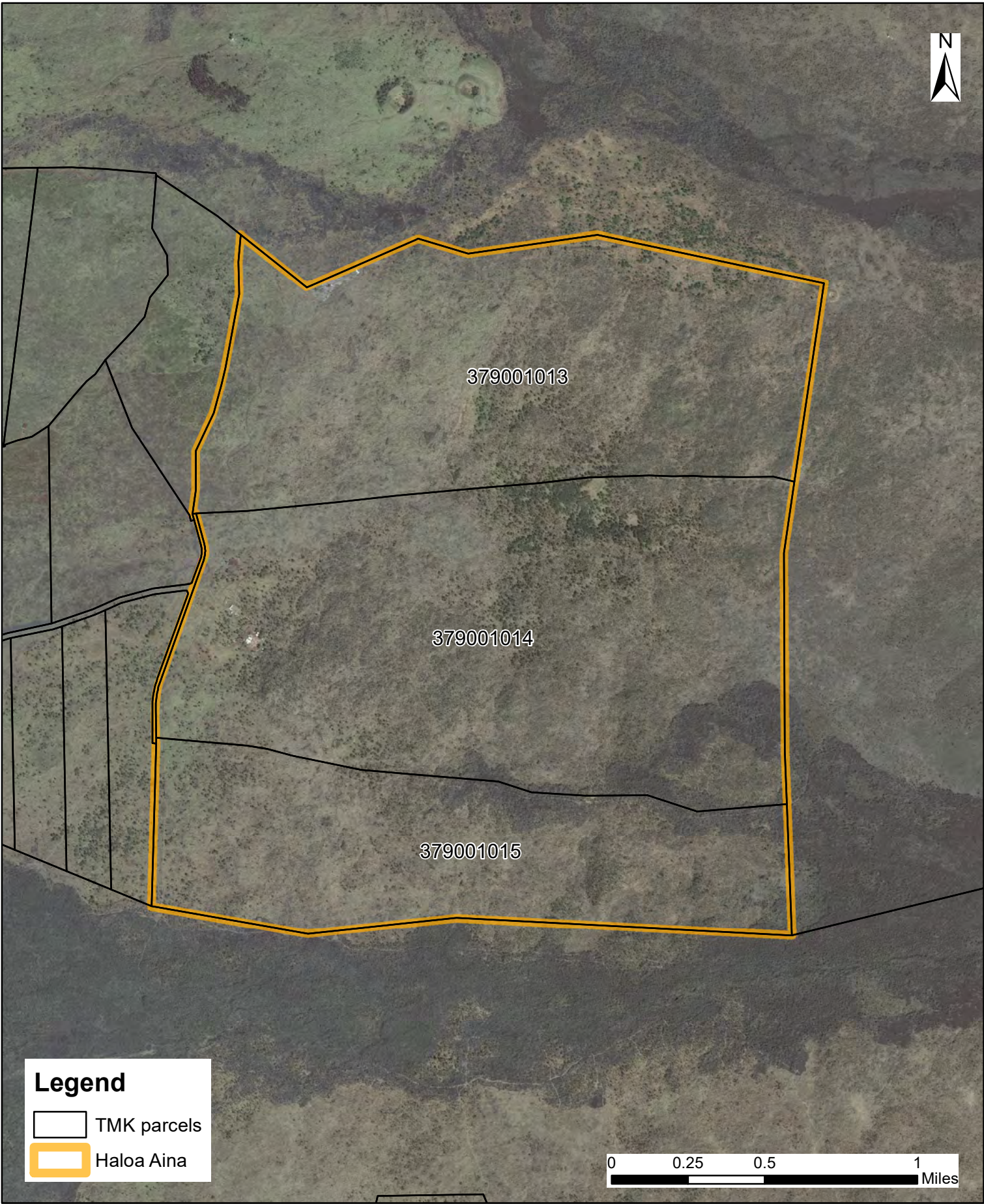
- | | | |
|--|--|--|
|  Haloa Aina FLP Project (2,780 acres) |  TMA Dry Forest Restoration Project |  Major Roads |
|  Existing FLP CEs |  KS Lands Managed for Forest Conservation |  Development/Housing Lots or Subdivisions |
|  State Reserves |  Hawaii Islands Land Trust CEs | Hokukano Ranch Subdivision |
|  Federally Protected Lands |  FL AON # 1 Priority Landscape (Native Forest in Ag-Zone) |  Remaining Properties for Sale |
|  Community Forest |  Cities and Towns |  Properties Sold in Last 5 Years |



Halao Aina - General Location Map



Haloa Aina - Parcel Map





Overview of dry montane forest landscape towards Mauna Loa



Sandalwood Oil



'iliahi seedlings



'iliahi trees on the property

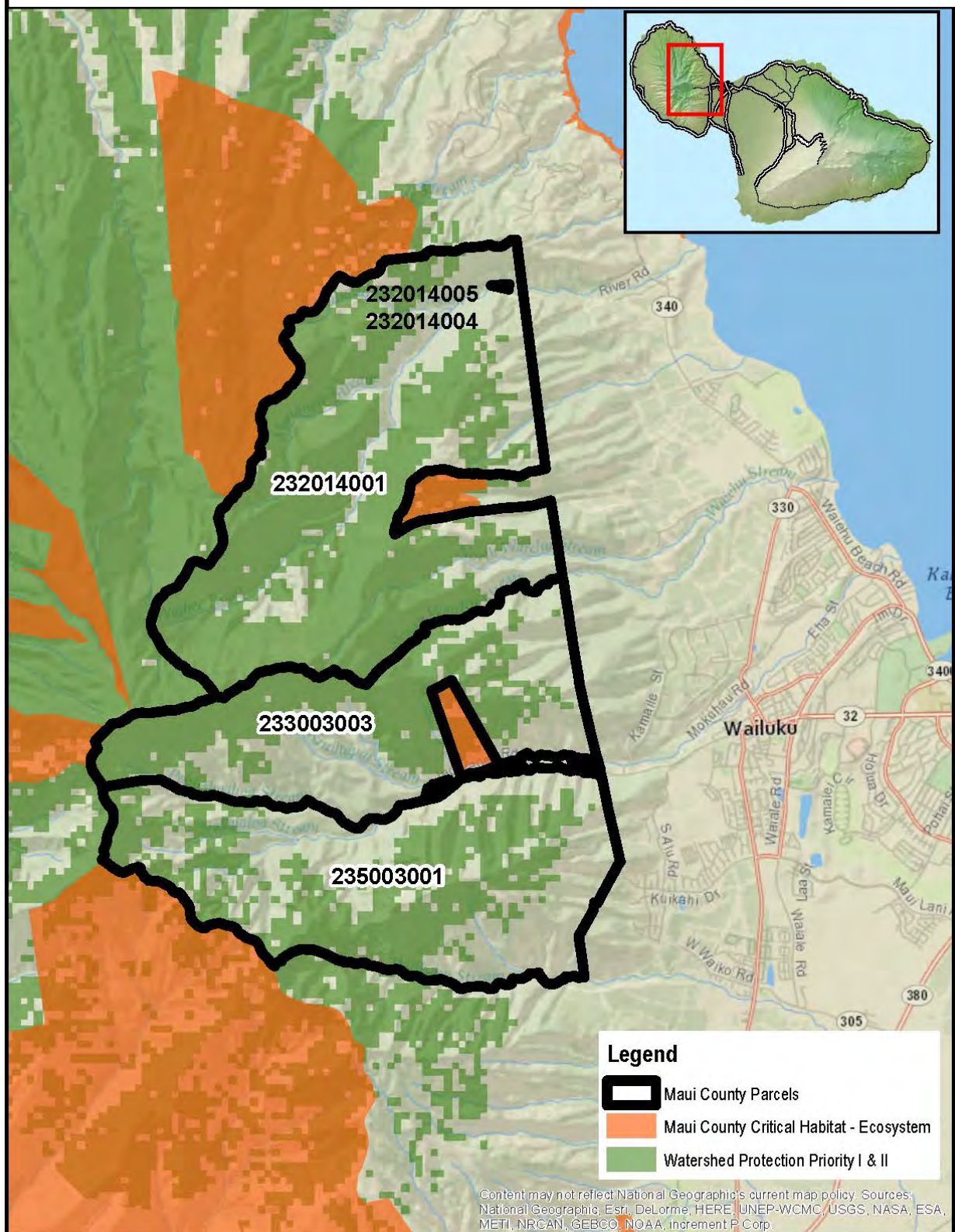


Koa grove on the property



'iliahi seeds

April 24, 2020
ATTACHMENT 1-8
Na Wai Eha Maps+Photos



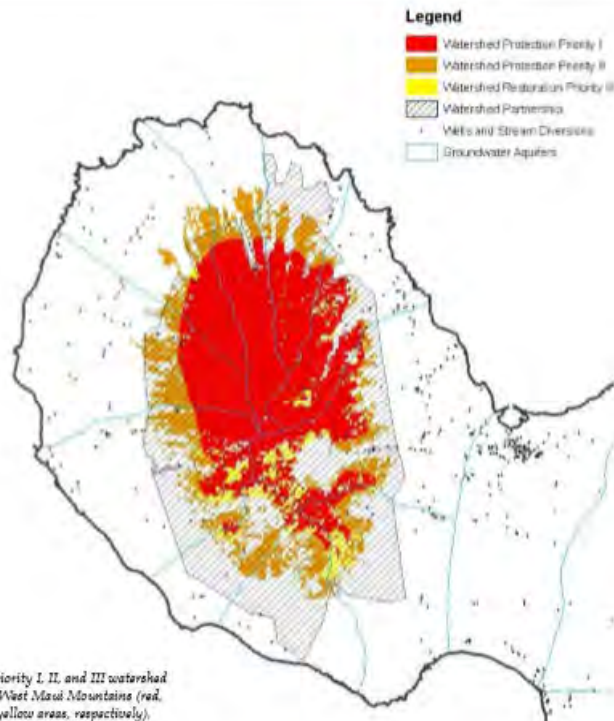


Figure 5. Priority I, II, and III watershed areas in the West Maui Mountains (red, orange and yellow areas, respectively), shown in relation to the WMMMP project area (crosshatched grey), as well as wells, stream diversions, and groundwater aquifers. The WMMMP lands almost fully encompass the Rain Follows the Forest priority watershed areas and provide fresh water for thousands of residents and businesses.

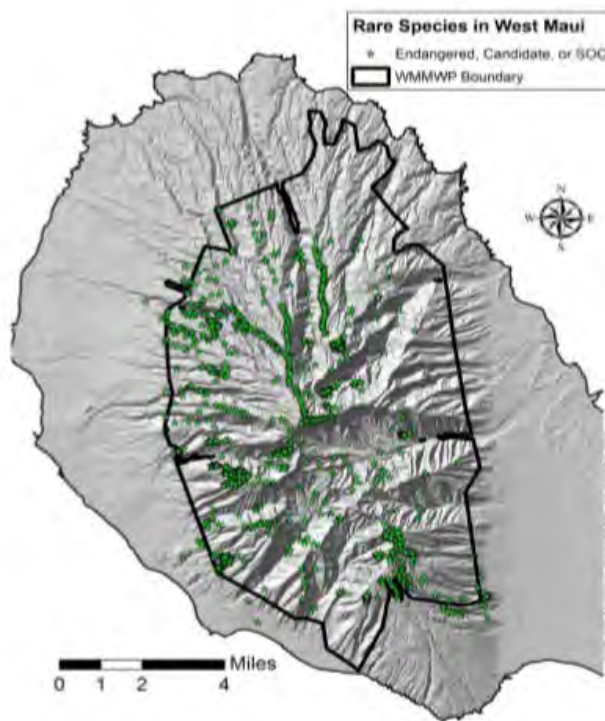


Figure 6. Map of endangered, candidate, and species of concern in the WMMMP project area. Although fences protect many species from feral ungulates, ongoing fencing projects and implementation of other invasive species controls are necessary to protect critical habitats.

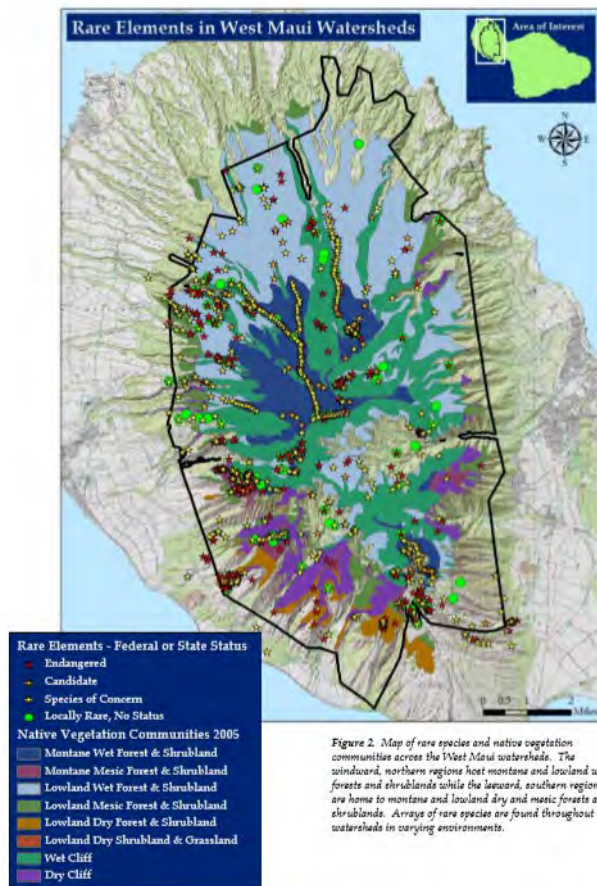


Figure 2. Map of rare species and native vegetation communities across the West Maui watersheds. The windward, northern regions host montane and lowland wet forests and shrublands while the leeward, southern regions are home to montane and lowland dry and mesic forests and shrublands. Arrays of rare species are found throughout the watersheds in varying environments.

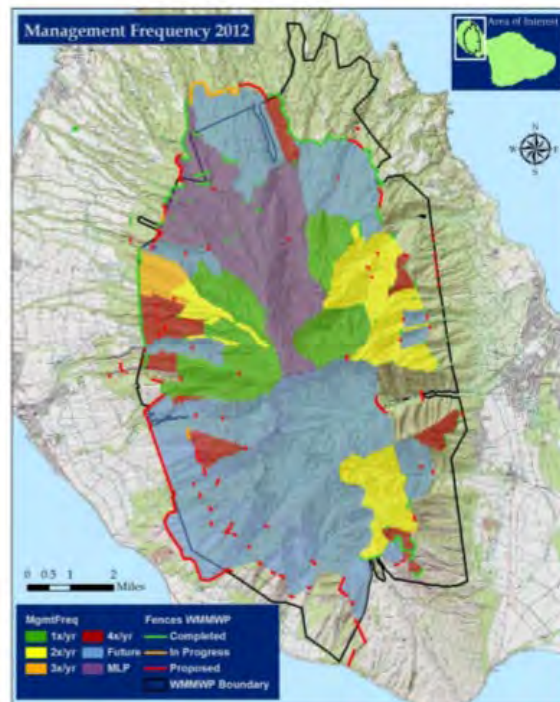


Figure 13. Map showing frequency of animal management and control activities across fenced regions of the WMMWP project area. Depending on the magnitude of ungulate infestations, managed areas are monitored and maintained between one time (green areas) and four times (red areas) per year. Areas in blue have yet to be protected behind strategic boundary fences that are either proposed (red lines) or in progress (orange lines). Active animal management in these areas will commence once the fences are completed. Animal control in the purple areas is managed separately by the Fu'u Kūhū Watershed Preserve team of MLOP.



Wall of Tears, Waihee Valley, Maui

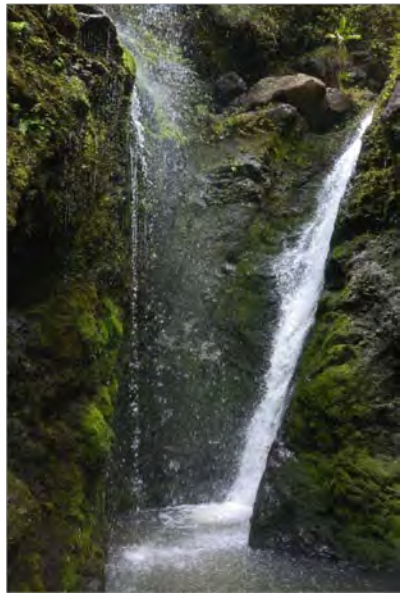
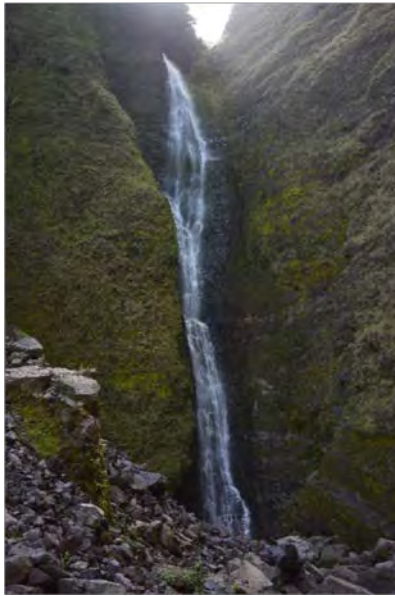


Waihee River, Waihee valley, Maui



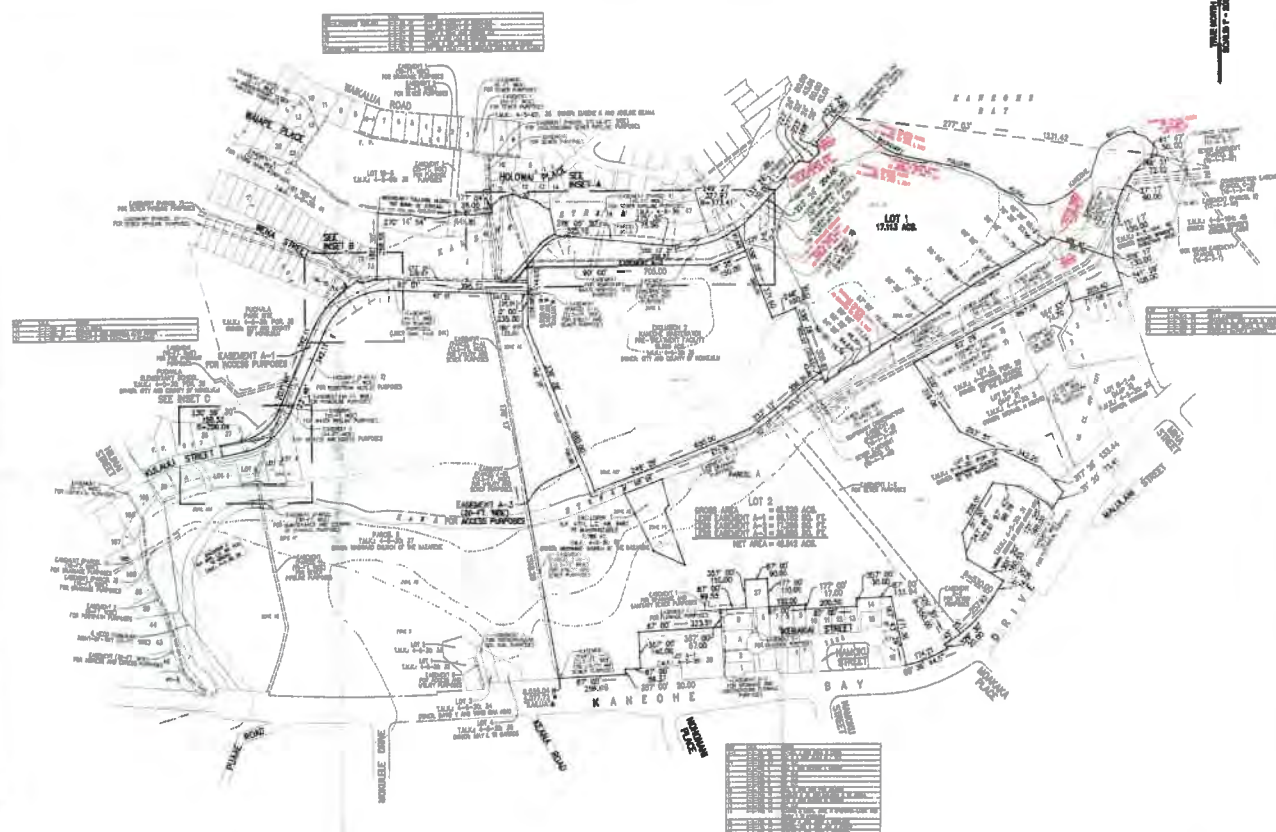
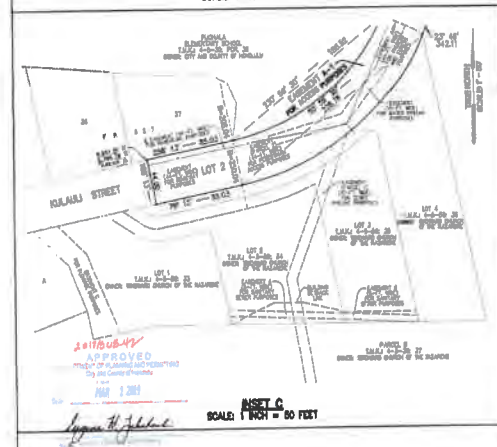
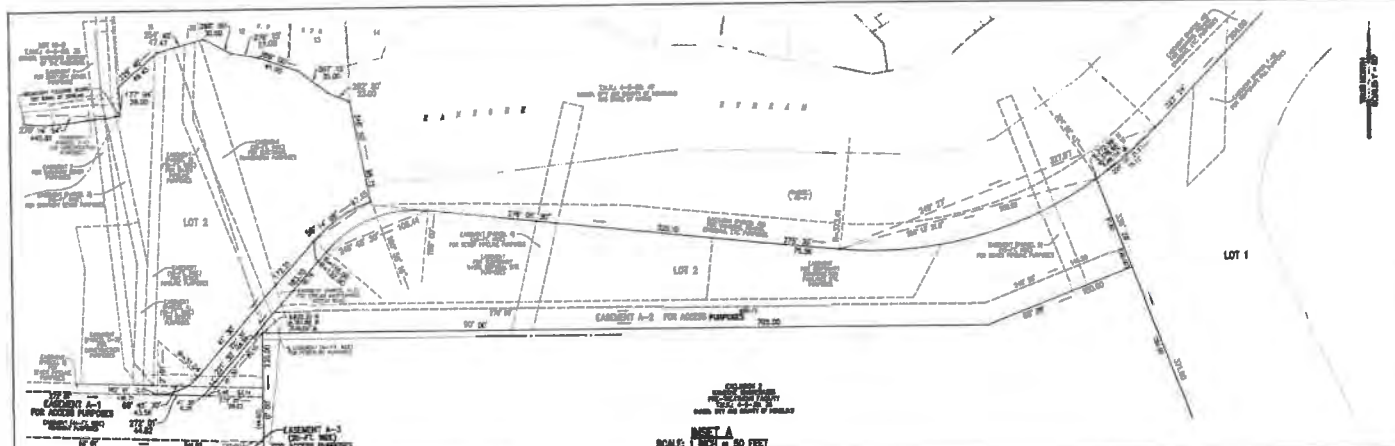
Iao Needle, Iao Valley, Maui







April 24, 2020
ATTACHMENT 1-9
Waikalua Loko Ia Maps+Photos



NOTES:
1. ADJACENT AND COORDINATES ARE REFERRED TO EPOCH/2000 DATUM NAVD83/2011
2. PROPERTY ADDRESS: 65-000 KANEHE BAY DRIVE, KANEHE, HAWAII 96744
3. OWNER: [REDACTED]
4. TOTAL AREA OF SUBDIVISION: 65.433 ACRES, LOT 1 = 15.113 ACRES, LOT 2 = 50.320 ACRES
5. LOT 1 IS A FISH POND LOT AND LOT 2 IS A HALF-ACRE LOT.
6. EASEMENTS: EASEMENTS A-1, A-2, AND A-3
7. EASEMENT A-1 FOR ACCESS PURPOSES AFFECTING LOT 2 AND IN FAVOR OF LOT 1 = 16.240 AC. F.S.
8. EASEMENT A-2 FOR ACCESS PURPOSES AFFECTING LOT 2 AND IN FAVOR OF LOT 1 = 13.880 AC. F.S.
9. EASEMENT A-3 FOR ACCESS PURPOSES AFFECTING LOT 2 AND IN FAVOR OF LOT 1 = 13.880 AC. F.S.
10. ACCESS FROM KANEHE STREET (PUBLIC ROAD) TO LOT 1 IS BY EASEMENT A-1 TO A-3, INCLUSIVE, FOR ACCESS PURPOSES

DATE: FEBRUARY 24, 2017; REV. APRIL 6, 2017; REV. JANUARY 17, 2018
TAX MAP KEY: (1) 4-3-30: 01

"WAKALUA-LOKO FISH POND"
SUBDIVISION OF PARCEL A
AS SHOWN ON DPP FILE NO. 97/SUB-4
WTO LOTS 1 AND 2
DESIGNATION OF EASEMENTS A-1 TO A-3, INCLUSIVE
AFFECTING LOT 2
AT KANEHE, KOOLAUPOKO, OAHU, HAWAII



THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION
DATE: [REDACTED]
[Signature]
DAVID J. JONES
PROFESSIONAL ENGINEER
STATE OF HAWAII
LICENSE NO. 10794

30" x 36" = 7.5 SQ. FT.

PH: 808.791.0730
26 Queen St., Ste. 306
Honolulu, HI 96813
www.hilt.org





HAWAIIAN
LAND

ph: 808.791.0730
126 Queen St., Ste. 306
Honolulu, HI 96813
www.hill.org







View of Property from current parking lot



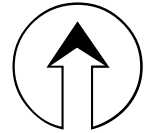
Wall currently blocking public access




Aerial view of parcel and parking lot

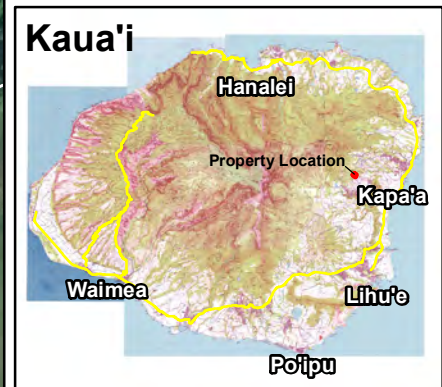
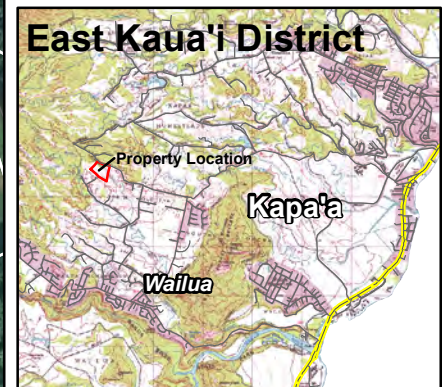


Map Showing
Tax Map Key (4) 4-4-002:039
6607 Olohena Road
Kapa'a, Kaua'i



Legend

- Roads (2015 CoK)
-  TMK (4) 4-4-4-002:039 (2019 CoK)
-  Tax Map Key (2019 CoK)
-  Satellite Imagery (2015 -2016 Digital Globe)



April 24, 2020
ATTACHMENT 1-11
Olohena Aina Center Maps +Photos

Map Showing Tax Map Key (4) 4-4-002:039
Kapa'a Kaua'i
2012 EagleView



29.
47.
a.
25.

Dropped pars: 2,3,4,10, 5, 8, 7,
9, 6, 10, 11, 5, 32, 43, 44, 53, 70, 59,
45, 55, 57, 68, 69, 70, 71, 56, 37,
78, 54, 46, 42, 34, 53, 66, 57, 35, 36

TAXATION MAPS BRANCH		
STATE OF HAWAII		
TAX MAP		
FOURTH DISTRICT		
ZONE	SEC.	PLAT
4	4	02
CONTAINING		PARCELS
SCALE: 1 in. = 400 ft.		

Property Overview

Overview of old cattle trail that runs through the property and sweeping views of the stunning landscape from above



Existing Structures

The two old plantation style cottages (pics 1, 3, 4) were built in the early 1900's, while the main house was built in the 1970's (pic 2). The disrepair may be too far from salvageable, but will be looked into further to assess if either of the early structures can be saved through preservation. A small barn-style shed also sits in the property's frontage (seen in the background of picture 1).



Native Ferns

Given that a few native fern species were able to outcompete the invasives on the property, there might be an area of the property that would be appropriate for re-establishing rarer fern populations as a part of conservation projects on the land.



Sphenomeris chinesis or palapala'a

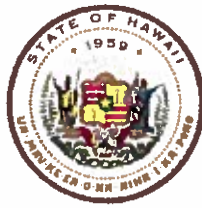


Dicranopteris linearis or Uluhe



Nephrolepis cordifolia or Kupukupu

Attachment 2



April 24, 2020
ATTACHMENT 2

The Senate
STATE CAPITOL
HONOLULU, HAWAII 96813

October 14, 2019

Ms. Suzanne D. Case
Chairperson
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, Hawaii 96813

RE: Projects for the Fiscal Year 2020 Legacy Land Conservation Program

Dear Chair Case:

I am in receipt of your letter dated September 16, 2019 regarding the Legacy Land Conservation Commission's recommendation for the funding of projects for the Fiscal Year 2020 Legacy Land Program.

This is to confirm that I have no concerns or objections at this time as it relates to the projects enumerated in the aforementioned letter.

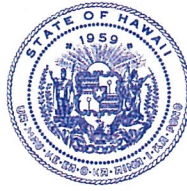
Thank you and should you have any questions with regard to the foregoing, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald D. Kouchi".

RONALD D. KOUCHI
Senate President
8th Senatorial District- Kauai and Niihau

Cc: Speaker Scott K. Saiki
Mr. David Penn, DLNR Program Specialist



April 24, 2020
ATTACHMENT 2

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL, ROOM 431
415 SOUTH BERETANIA STREET
HONOLULU, HAWAII 96813

October 14, 2019

Ms. Suzanne D. Case, Chairperson
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Chair Case:

Thank you for your letter dated September 16, 2019 in which you submitted for my review the recommendations from the Legacy Land Conservation Commission grants from the Land Conservation Fund to preserve features, functions, and uses of land having value as a resource to the State.

Upon reviewing, I currently have no concerns or objections to the recommendations as proposed in your attachment.

Sincerely,

Scott K. Saiki
Speaker of the House

Cc: Senate President Ronald D. Kouchi
Mr. David Penn, DLNR Program Specialist

Attachment 3

April 24, 2020
ATTACHMENT 3(a)
Agency Consultation Comments
Kaunamano

DAR# 5947:2

Comments

The coastal ecosystems, which include marine and anchialine habitats in the Kaunamano ahupua'a, are important natural resources that have been relatively undisturbed and have avoided impacts from urban development and other anthropogenic sources. In particular, a unique anchialine pool is located in Puhi Ula cave within Kaunamano, and hosts a healthy population of endemic 'ōpae 'ula, *Halocaridina rubra*, and another native shrimp, *Metabetaeus lohena*. These native shrimps are exclusively found in anchialine habitats, which are susceptible to development, human interactions, and invasive species. The uniqueness and sensitivity of Hawaiian anchialine ecosystems therefore warrant any actions that afford further protection. In particular, any steps taken to prevent or at least minimize coastal development, introductions of invasive species, or any other human interactions and disturbances would directly benefit the health of the anchialine habitats. Further, the coastal marine resources in Kaunamano provide prime grounds for subsistence fishing that are critical to the livelihood of the local community. Overall, acquiring these parcels of land with the purpose of continued and increased protection of the various resources within it will directly benefit these ecosystems, and help to preserve these natural ecosystems for future generations and the betterment of our island ecosystem as a whole.

April 24, 2020
ATTACHMENT 3(b)
Agency Consultation Comments
Manaka'a Fishing Village

DAR# 5947:1

Comments

The Manaka'a Fishing Village hosts an array of natural coastal resources and archaeological relics, artifacts and burial sites that have been relatively undisturbed and avoided impacts from urban development to date. Due to the unique natural, archaeological, historical and cultural resources and the relative remoteness of Manaka'a Fishing Village, this area warrants further protection from development and other anthropogenic disturbances. In particular, the relatively intact coastal marine resources of Manaka'a Fishing Village is critical to subsistence fishing and to the livelihood of the local community, which is becoming increasingly rare across the State of Hawaii. Overall, acquiring these parcels of land with the purpose of continued and increased protection of the various resources within it will benefit these natural ecosystems, namely the coastal marine resources, for current and future generations, and the betterment of our island ecosystem as a whole.

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

JUL 10 2019

Division of Forestry and Wildlife
1151 Punchbowl Street, Room 325
Honolulu, HI 96813

VIA EMAIL TO: leah.j.laramee@hawaii.gov

SUBJECT: FY20+FY21 Agency Consultation for Land Acquisition, Legacy Land
Conservation Program

Thank you for consulting with the Department about your Land Conservation Fund Grant Applications for "Waihee Valley Wall of Tears." The Department received the following comments from its divisions and offices:

Commission on Water Resource Management – Our records indicate that there is a well on parcel (2) 3-5-003: 001. The well (Well number 6-5132-001) is owned by the Hawaiian Commercial & Sugar Co. and was drilled in 1900. There are no records indicating usage during the year 2018. Tributaries to the Wailuku River are located in this parcel and the Wailuku River runs along the northern boundary of the parcel.

Our records indicate that there are three wells on parcel (2) 3-3-003: 003. Two wells (Well number 6-5333-001 and 002) are owned by the Wailuku Water Company, LLC, and were drilled in 1942. Well number 6-5333-002 has been abandoned and sealed. There are no records indicating usage during the year 2018 at Well number 6-5333-001. The third well (Well number 6-5332-001) is owned by the Wailuku Water Company, LLC, and was drilled in 1926. There are no records indicating usage during the year 2018. Tributaries to the Wailuku River are located in this parcel and the Wailuku River runs along the southern boundary of the parcel. There is one stream diversion on an unnamed tributary to Wailuku River registered by State Parks, for which status is unknown.

Our records indicate that there are two wells on parcel (2) 3-2-014: 001. The two wells (Well number 6-5434-001 and 002) are owned by the Hawaiian Commercial & Sugar Co. The two wells are named Waihee Tunnel 1 and 2 respectively. There are no records indicating usage during the year 2018. Tributaries in the headwaters of the Waihe'e River are located on this parcel, which also include upper tributaries of the Waiehu Stream. There are two active stream diversions on the main stem of the Waihe'e River owned by Wailuku Water Company, LLC.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

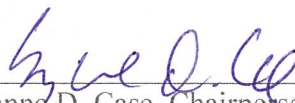
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIROOLAWI ISLAND RESERVE COMMISSION
LAND
STATE PARKS

April 24, 2020
ATTACHMENT 3(c)
Agency Consultation Comments
Na Wai 'Eha

Any proposed new stream diversions or wells would require permits and approvals from the Commission. The State Water Code and Administrative Rules require that the source owner/operator submit monthly water use reports to the Commission. Any existing wells and stream diversions that are no longer being used should be properly abandoned and sealed. Permits from the Commission would be required prior to any abandonment/sealing work.

Portions of the proposed acquisition area fall within the Nā Wai 'Ehā Surface Water Management Area and the 'Īao Groundwater Management Area. Any proposed new stream diversions or wells in the water management areas would additionally require water use permits from the Commission (except for individual domestic uses).

Sincerely,



Suzanne D. Case, Chairperson

das

April 24, 2020
ATTACHMENT 3(d)
Agency Consultation Comments
Keone'o'io Bay Coastal Preservation

DAR# 5947-6

Comments

The coastal lot in question is strategically located next to the Ahihi Kinau NAR and is next to the current Keoni'o'io Bay parking lot. Allowing DOFAW to purchase this lot will allow them to make necessary changes to the current parking lot and coastal access points. This would allow for the parking lot to be set back off of the coastline, and would allow for coastal landscaping and designated pathways to better guide visitors to the safest entry points along the coastline. In the longer term, control of this parcel of land will allow DOFAW to continue to strategically manage this critically important area in conjunction with the lands they already manage within the Ahihi Kinau NAR. We are very supportive of this proposed action and are committed to continuing to work with DOFAW in partnership on the management of the important marine resources in this area.



Attachments Table of Contents

Section 1: Letters of Support

Government Officials

• Congresswoman Tulsi Gabbard	2
• Kauaʻi County Mayor, Derek Kawakami	3
• Kauaʻi County Councilman, Mason Chock	4-5
• Kauaʻi County Councilman, Luke Evslin	6

Agriculture & Conservation Industry

• Go Farm Hawaiʻi (statewide)	7
• Hawaiʻi Farmers Union Foundation (statewide)	8-9
• Anahola Farmers Hui	10
• Farm at Hokualea	11-12
• Hale Puna	13
• Kuamoʻo	14
• Kauaʻi Animal Education Center	15-16
• Kilohana	17
• Kupu	18-19
• National Tropical Botanical Garden	20
• West Kauai Farms	21

General Community Support

• Hawaiʻi Appleseed Center for Law & Economic Justice (statewide)	22
• Hawaiʻi Farm to School Hui (statewide)	23
• Hawaiʻi Good Food Alliance (statewide)	24
• Community Coalition Kauaʻi	25
• Hawaiʻi Food Bank	26-27
• Kauaʻi Store	28
• Konohiki Restoration Project	29
• Kamehameha Schools	30-31
• Kauaʻi Community College	32
• Saenz Ohana Breakfast	33
• Supporting the Language of Kauai	34

Section 2: History & Accounts of the Property

Dr. Andrew Bushnell's Brief Research	35-36
Ashly Trask's Conservation Overview	37

Section 3: Agency Form 5 Responses

Dept. of Land and Natural Resources	38-39
Dept. of Agriculture	40-41

Section 4: Organizational History & Background

Mālama Kauaʻi History & Timeline	42-43
----------------------------------	-------

Section 5: Financial Plans

ʻĀINA Center Projected Financial Stack	44
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Sent via email on July 20, 2020

via email to legacyland@hawaii.gov



July 20, 2019

Suzanne D. Case, Chairperson
State of Hawaiʻi Department of Land and Natural Resources
c/o: DOFAW / Legacy Land

CC: David Penn, Program Specialist

Re: Mālama Kauaʻi's 2020 Legacy Land Conservation Program Application

Aloha Ms. Case and Mr. Penn,

Thank you for your timely response to our consultation request. The following are some responses to your agencies' comments and further information on our project:

Regarding water concerns, this particular area and property was chosen due to its lush rainfall and existing County water meter (with additional meters pre-approved). To our knowledge no known wells or water diversions exist on the property. We are actually excited to see if riparian zone rehabilitation and reforestation could bring back further stream flow in the area, but have no plans for diversions; we'd prefer to utilize catchment and delivery systems on the back farmable parcels, but will be consulting with USDA's Natural Resource Conservation Service on best strategies and options. If any of your agencies have suggested strategies or ideas, we welcome the collaboration opportunity to do what is best for the land and demonstrate unique off-grid irrigation models.

We assure you that we are committed to the preservation and restoration of the land in question and have no plans for "traditional" development involving roads or major new infrastructure. In fact, the highlight of this project for our staff and Board is the legacy we can leave for future budding agriculturalists, farmers, and conservationists to have a unique place to get their start in their careers and businesses by being good stewards of the land. In our eyes, the land is truly chief and we are stewards.

Two small plantation-era/style cottages, and one main house built in the 1970's, exist on the property already, but it is not yet fully evaluated if they can be saved or preserved in any way without deeper assessment. It is likely they may need to be torn down and permitted to rebuild in their footprints. Either way, the units will be utilized for dormitory or tiny-home style living quarters for the center's program participants and staff, a small office/business services space for farmer use, and possibly even a small commercially-approved kitchen space for FSMA-compliant farm product processing. This will allow for full-time stewards to reside on the property for both farming and conservation/restoration educational programming.

The types and design of these buildings will be subject to permitting and allowances, and thus we have started the pre-consulting process with our County's Planning Department, as well as requested support from USDA Ag Marketing Service's Facilities Design team to help us envision and design the best possible solutions for the already developed property frontage that will streamline the planning, permitting, and building phases to the extent possible. We welcome DLNR's participation in these activities as well, should any staff be interested.

On-property living arrangements will *not* be a tenant-landlord relationship, but rather a benefit of participants' educational program enrollment in either our Incubator (Farm Apprentices) or Accelerator (Beginning Farmers) program tracks. We will be setting a 5-year maximum for residency, as our goal is to accelerate farm businesses off of the property onto their own larger leases, or even into farm ownership, by helping them to build a business history that qualifies them for ag land loans.

The model itself has been in the planning phase for several years, with beginning farmers actively participating in its design, but our financials and design plans now need to be retrofit to this specific parcel. We feel this project will be an excellent opportunity to model de-risked farmer housing so that other landowners may be more open to seeing how this approach could work for them, opening up key bottlenecks in our current food system for increased agricultural production across the state.

With over a decade of experience in supporting our island's beginning farmers, we know they need this. After 2018's disastrous flooding events and assisting farmers in overcoming the related impacts on their farms islandwide, we believe it is critical to preserve higher-altitude lands - outside of FEMA flood zones - in agriculture that allows for community access. While this is not where Hawaiians farmed traditionally, it offers great promise for the future given the land's natural rainfall and elevation.

We truly believe that conservation and agriculture can, and should, work together hand-in-hand and welcome the opportunity to partner with your agency to ensure this project provides an exceptional example of this.

If it is appropriate, we would welcome the opportunity to meet with your team to discuss the project in further detail or answer any additional questions you may have. Please feel free to reach me at any time at megan@malamakauai.org or (808) 828-0685 x12.

Mahalo nui for your time and consideration,

Megan Fox
Executive Director

Attachments:

- 'ĀINA Center 1-Page Overview

Sent via email on July 20, 2020



July 20, 2019

Phyllis Shimabukuro-Geiser, Chairperson
State of Hawai'i Department of Agriculture
Office of the Chairperson
1428 South King Street
Honolulu, HI 96814

CC: Earl J. Yamamoto, Planner

Re: Mālama Kaua'i's 2020 Legacy Land Conservation Program Application

Aloha Ms. Shimabukuro-Geiser and Mr. Yamamoto,

Thank you for your timely response to our consultation request. The following are some responses to your comments:

Re: Hawaii Islands Land Trust Easement

Easement discussions are currently ongoing, with a site visit planned on August 2nd/3rd with HILT; I have enclosed a copy of their Willing Holder Letter for your review, which details their interest and process for partnership. HILT supports the goals of Mālama Kaua'i on the property – organic agriculture, agroforestry, and native reforestation, but a Stewardship Endowment must be completed, and Board-approved, before they can begin working on easement details. The goal of the easement is to protect the land from future development and dedicate the property into agricultural and conservation use in perpetuity.

After 2018's disastrous flooding events and assisting farmers in overcoming the related impacts on their farms islandwide, we believe it is critical to preserve higher-altitude lands - outside of FEMA flood zones - into agriculture that allows for community access. While this is not where Hawaiians farmed traditionally, it offers great promise for the future given the land's natural rainfall and elevation.

Re: Existing buildings and "residency-based" ag park model

Two small plantation-style cottages and one main house exist on the property, but it is not yet fully understood if they can be saved or preserved in any way without deeper assessment. It is likely they may need to be torn down and permitted to rebuild in their footprints. Either way, the units will be utilized for dormitory or tiny-home style living quarters for the center's program participants and staff, a small office/business services space for farmer use, and possibly even a small commercially-approved kitchen space for FSMA-compliant farm product processing.

The types and capacity of these buildings will be subject to permitting and allowances, and thus we have started the pre-consulting process with our County's Planning Department, as well as

requested support from USDA Ag Marketing Service's Facilities Design team to help us envision and design the best possible solutions for the already developed property frontage that will streamline the planning, permitting, and building phases to the extent possible.

On-property living arrangements will *not* be a tenant-landlord relationship, but rather a benefit of participants' educational program enrollment in either our Incubator (Apprentices) or Accelerator (Beginning Farmers) program tracks. We will be setting a 5-year maximum for residency, as our goal is to accelerate farm businesses off of the property onto their own larger leases, or even into farm ownership, by helping them to build a business history that qualifies them for ag land loans.

The model itself has been in the planning phase for a few years, with beginning farmers actively participating in its design. We feel this project will be an excellent opportunity to model de-risked farmer housing so that other landowners may be more open to seeing how this could work for them, opening up key bottlenecks in our current food system for increased production.

Re: Agricultural status of property

The property indeed lost its ag dedication in 2013, as the owners are aging and ready to move off the property into a condo once a sale is complete. Other interested buyers want to develop the property further and not utilize it for agricultural purposes. Prior to this, the property had been in cattle ranching since the early 1900's and possible light habitation/cultivation in pre-contact times. This land is one of the only parcels in the area that is still in its original size and footprint since first being awarded.

If it is appropriate, we would welcome the opportunity to meet with your team to discuss the project in further detail or answer any additional questions you may have. Please feel free to reach me at any time at megan@malamakauai.org or (808) 828-0685 x12.

Mahalo nui for your time and consideration,

Megan Fox
Executive Director

Attachments:

- Willing Easement Holder Letter
- 'ĀINA Center 1-Page Overview