

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA

Kūhiō Hale, 64-756 Mamalahoa Highway, Kamuela, Hawai‘i, 96743

Monday, May 20, 2019 at 10:00 a.m. to be continued, if necessary, on

Tuesday, May 21, 2019, at 8:30 a.m. (Executive Session) 9:00 a.m. (Regular Meeting)

Note: Commission Meeting Packets will be available at dhhl.hawaii.gov, by Friday, May 17, 2019.

I. ORDER OF BUSINESS

- A. Roll Call
- B. Approval of Agenda
- C. Approval of Minutes for June 2018
- D. Public Testimony on Agendized Items

II. ITEMS FOR DECISION MAKING

A. CONSENT AGENDA

Homestead Services Division

- D-2 Approval of Consent to Mortgage (see exhibit)
- D-3 Approval of Refinance of Loans (see exhibit)
- D-4 Approval of Streamline Refinance of Loans (see exhibit)
- D-5 Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- D-6 Approval of Homestead Application / Cancellations (see exhibit)
- D-7 Commission Designation of Successors to Application Rights – Public Notice 2016 & 2017 (see exhibit)
- D-8 Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- D-9 Approval of Assignment of Leasehold Interest (see exhibit)
- D-10 Approval of Amendment of Leasehold Interest (see exhibit)
- D-11 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- D-12 Cancellation of Leasehold Interest - **DAISY K.T. SIMEONA**, Residential Lease No. 12522, Lot No. UNDV203, Kapolei, Oahu
- D-13 Commission Designation of Successor – **JAMES D.H. WONG**, Residential Lease No. 11848, Lot No. UNDV305, Kapolei, Oahu
- D-14 Cancellation of Tenant-In-Common Leasehold Interest – **JOY K. PALAKIKO**, Residential Lease No. 4478, Lot No. 86, Waianae, Oahu
- D-15 Request to Surrender Lease – **CARMELA K. GOMEZ**, Agricultural Lot Lease No. 6139, Lot No. 158, Kalamaula, Molokai, Hawaii
- D-16 Approval of Subdivision and Transfer of a Portion of Lease and Amendment to Lease – **OSAIASI TUAKALAU, SESILILI TUAKALAU, CARRILYN K. MAIMA, JOHN M. TUAKALAU**, Residential Lease No. 2397, Lot No. 43A, Keaukaha, Hilo, Hawaii
- D-17 Cancellation of Tenant-In-Common Leasehold Interest – **NEWTON K. LESLIE**, Residential Lease No. 2943, Lot No. 206-A, Keaukaha, Hawaii
- D-18 Cancellation of Lease – **KELBY K. PUNG**, Agricultural Lease No. 7016, Lot No. 74, Makuu, Hawaii

B. REGULAR AGENDA

Homestead Services Division

- D-19 Request to Schedule Contested Case Hearing – **DENISE ROSEHILL-MAHI**,
Residential Lease No. 01891, Lot No. 63, Waiakea, Hawaii

Land Development Division

- E-1 Approval of Lease Award – Earl Kaina, Keaukaha Residence, Lease Number 12873,
Lot Number 131 A-2, Keaukaha, Hawaii
- E-2 Approval of Lease Award – Maude P.W.A. Tanaka, Kauluokaha'i Residence, Lease
Number 12857, Lot Number 117, Ewa Beach, Hawaii

Land Management Division

- F-1 Annual Renewal of Right of Entry Permits, East, Central and South Hawaii Island
- F-2 Annual Renewal of Right of Entry Permits, North & West Hawaii Island
- F-3 Approval to Extend and Amend Right of Entry Permit No. 683 to Kohala Watershed
Partnership for Fence Project, Phase II, Kawaihae, Hawai'i, TMK No. (3)61001003
(por.)
- F-4 Authorize Termination of General Lease No. 270, Takahashi LLC, Waiakea, South
Hilo, Island of Hawaii, TMK No. (3) 2-2-060:019
- F-5 Authorize Termination of General Lease No. 144, Balberde & Balberde, Waiakea,
South Hilo, Island of Hawaii, TMK No. (3) 2-2-060:049
- F-6 Authorize Consent to Assignment of Lease & Consent to Mortgage, General Lease No.
265, The Agency Inc., Waiakea, South Hilo, Island of Hawaii, TMK No. (3) 2-2-
060:026

III. EXECUTIVE SESSION (discussion to be held during lunch break)

The Commission anticipates convening in executive meeting pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on these matters.

1. Cattle Removal License Request For Proposals
2. Update on Honokaia Non-Potable Water System Settlement

IV. ITEMS FOR INFORMATION/DISCUSSION

A. GENERAL AGENDA

Requests to Address the Commission

- J-1 Terri Napeahi – Alaska Aerospace Rocket Launching

- J-2 Kauai Almeida - Panaewa Hawaiian Home Lands Community Association
- J-3 Maxine Kahaulelio – Puukapu Lease
- J-4 Robin Danner -Homestead Housing Authority Workforce Rental and Transitional Housing Initiative
- J-5 Jason A. Mattos Sr. – Relocation Request
- J-6 Kalaniakea Wilson – Beneficiary Trust Council
- J-7 Paula Kekahuna – Makuu Farmers Market
- J-8 Jordan Hollister – Kailapa Community Association
- J-9 Pat Kahawaiolaa – Keaukaha Community Association
- J-10 Carol Lopez – Kaua‘i Lease
- J-11 Claren Kealoha-Beaudet – Kipuka o ke Ola Proposal
- J-12 Randolph Pomai Freitas – MHC Board of Hawaiian Affairs and Initiatives Proposal
- J-13 Skippy Ioane – 99-Year Lease Kings Landing
- J-14 Vanessa Iopa – Panaewa Lease
- J-15 Leila Kealoha – Lease Transfer

B. WORKSHOPS

Office of the Chairman

- C-1 Hawaiian Home Lands Unexploded Ordnance (UXO) Update, former Waikoloa Maneuver Area (WMA)

Land Development Division

- E-3 For Information Only – West Hawaii Project Updates

Land Management Division

- F-7 For Information Only - Authorization for Issuance of Land Licenses to highest ranked applicants for the Aina Mauna Feral Cattle Removal Project, Humuula and Piihonua Sections, Island of Hawaii

C. REGULAR AGENDA

Office of the Chairman

- C-2 For Information Only —Report of Chapter 91, Hawai‘i Revised Statutes, Public Hearings for Administrative Rules Related to Planned Communities, Multi-Family Housing, and Rentals

Planning Office

- G-1 For Information Only - Water Policy Plan Implementation Program Report for FY 2019 and Draft Water Policy Plan Implementation Program for FY 2020
- G-2 For Information Only - West Hawai i Water Projects Update
- G-3 For Information Only - Pu ‘ukapu Water System Water Rates
- G-4 For Information Only - West Hawai‘i Regional Update

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DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA

Kūhiō Hale, 64-756 Mamalahoa Highway, Kamuela, Hawaii
Tuesday, May 21, 2019, at 8:30 a.m. (Executive Session) 9:00 a.m. (Regular Meeting)

I. ORDER OF BUSINESS

- A. Roll Call
- B. Public Testimony on Agendized Items

II. EXECUTIVE SESSION (discussion to be held from 8:30 a.m. – 9:00 a.m.)

The Commission anticipates convening in executive meeting pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on these matters.

- 1. Civil Nuisance Abatement on Hawaiian home lands

III. ITEMS FOR DECISION MAKING

A. REGULAR AGENDA

Land Management Division

- F-7 Authorization for Issuance of Land Licenses to highest ranked applicants for the Aina Mauna Feral Cattle Removal Project, Humuula and Piipihonua Sections, Island of Hawaii

IV. ITEMS FOR INFORMATION/DISCUSSION

A. REGULAR AGENDA

Homestead Services Division

- D-1 HSD Status Reports
 - A - Homestead Lease and Application Totals and Monthly Activity Reports
 - B – Delinquency Report
 - C – DHHL Guarantees for USDA-RD Mortgage Loans
 - D – DHHL Guarantees for FHA Construction Loans

B. WORKSHOPS

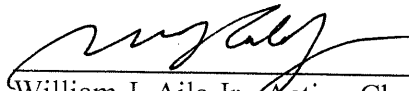
Planning Office

- G-5 Update on the DHHL Final Environmental Impact Statement (FEIS) for the Pūlehunui Regional Infrastructure Master Plan, Pūlehunui, Maui; TMK (2) 3-8-008, 035, 036 (Pūlehunui North) and (2) 3-8-008:034 (Pūlehunui South)

IV. ANNOUNCEMENTS AND ADJOURNMENT

- A. Next Regular Meeting – June 17 & 18, 2019, Kapolei, O‘ahu (No Community Meeting)
- B. Adjournment

Note: Contested Case Hearings begin at 1:00 p.m.



William J. Aila Jr., Acting Chairman
Hawaiian Homes Commission

COMMISSION MEMBERS

Randy K. Awo, Maui
Michael P. Kahikina, O‘ahu
Wren W. Wescoatt, O‘ahu
Dennis L. Neves, Kaua‘i

Zachary Z. Helm, Moloka‘i
David B. Ka‘apu, West Hawai‘i
Pauline N. Namu‘o, O‘ahu
East Hawai‘i, Vacant

Next community meeting is scheduled for Sunday, June 16, 2019 at Hana High School Cafeteria.

Special Accommodations (such as Sign Language Interpreter, large print, taped material) can be provided, if requested, at least five (5) working days before the scheduled meeting on the respective island by calling the
Information & Community Relations Office, on Oahu, (808) 620-9590.

ITEM D-2 EXHIBIT
APPROVAL OF CONSENT TO MORTGAGE

LESSEE	LEASE NO.	AREA
ABBEY, Dannelle	5966	Waiehu, Maui
ALVERIO, Joel K. K.	3805	Nanakuli, Oahu
AMINA, Edward	12868	Kaulukahai, Oahu
AURIO, Kacie	12113	Kaupea, Oahu
BROWN, Rosalynn K.	5129	Nanakuli, Oahu
COSTA, Geraldine L.	9085	Keaukaha, Hawaii
ENOKA, Jeffrey-Lee	12867	Kaulukahai, Oahu
FUJIMOTO, Ruth J.K.A	5927	Waiehu, Oahu
GAMBILL, Mahealani M. H.	7128	Kawaihae, Hawaii
GONSALVES, Angie	12854	Kaulukahai, Oahu
GRACE, Abraham	3132	Waimanalo, Oahu
KAHALIOUMI, Keenan K.	4263	Keaukaha, Hawaii
KAIawe, Jeffrey S.	9716	Maluohai, Oahu
KAIWI, Adam, Jr.	8187	Waimanalo, Oahu
KALIko, Tricie K. L. D.	2598	Nanakuli, Oahu
KALIko, William E.	2598	Nanakuli, Oahu
KAMAKEEAINA, Loyna L.	9709	Lualualei, Oahu
KEALOHA, Rodney K.	8574	Nanakuli, Oahu
KELIIOA, William K.	5621	Lualualei, Oahu
KIDO, Roland L. N.	4542	Nanakuli, Oahu
LEWIS, Gary D.	9811	Maluohai, Oahu
LIKE, Raelene	12381	Kaulukahai, Oahu
LOPES, Phoebe P.	8815	Waimanalo, Oahu
NAHINA, Solomon K.	11868	Kanehili, Oahu
NAONE, Moses K.	8590	Nanakuli, Oahu
NEEDHAM, Kimo W.	12279	Waiehu 4, Maui
PACHECO, Curstyn J. L.	9941	Waiehu 3, Maui
PASCUA, Colleen L. W. K.	11921	Kaupea, Oahu
RAMOS, Maui J.	11179	Panaewa, Hawaii
RAWLINS, Makaala	4004A	Panaewa, Hawaii
SAGIAO, Gail P.	4579	Waianae, Oahu
SCHOLTZ, Jon T. K.	1998	Waimanalo, Oahu
TANAKA, Maude	12857	Kaulukahai, Oahu
TIFFANY, Petricia K.	4718	Nanakuli, Oahu

ITEM D-3 EXHIBIT
APPROVAL OF REFINANCE OF LOANS

LESSEE	LEASE NO.	AREA
KEOHULOa, Nolan H.	9326	Kaniohale, Hawaii

ITEM D-4 EXHIBIT

APPROVAL OF STREAMLINE REFINANCE OF LOANS

LESSEE	LEASE NO.	AREA
LOUIS, Ivan K.	9426	Kaniohale, Hawaii

ITEM D-5 EXHIBIT

APPROVAL TO SCHEDULE LOAN DELINQUENCY CONTESTED CASE HEARINGS

LESSEE	LEASE NO.	AREA
PALI, Wesley K.	9923	Waiehu Kou III, Maui

ITEM D-6 EXHIBIT

HOMESTEAD APPLICATION TRANSFERS / CANCELLATIONS

APPLICANT	AREA
AU, Lesmond E.	Oahu IW Res to Hawaii IW Res
DELIMA, Charmaine L.	Oahu IW Res
HOOKE, Deirdree L.I.	Hawaii IW Res
HUGO, Jan K.	Hawaii IW Agr to Oahu IW Agr
KAAIAKAMANU, Clint P.	Oahu IW Res
KAMAKANA, Rex E.K.	Hawaii IW Res
KAUKA, Elizabeth K.	Maui IW Res to Oahu IW Res
KAUPU, Starlynn M.K.	Hawaii IW Agr to Kauai IW Agr
KAUPU, Starlynn M.K.	Hawaii IW Res to Kauai IW Res
KEKAWA, Nolen K., Jr.	Oahu IW Agr
LOBO, Trudy A.	Hawaii IW Agr to Oahu IW Agr
LOBO, Trudy A.	Hawaii IW Res to Oahu IW Res
LONO, Joel K.	Molokai IW Agr to Hawaii IW Agr
LONO, Joel K.	Molokai IW Res to Oahu IW Res
NAKATA, Tiare Lynn K.	Oahu IW Res
NAWELI, George K.	Molokai IW Res
OSTERMILLER, Reggie Ann K.	Maui IW Res
PAI, Evelyn U.	Oahu IW Res
PAIO, Moses J.K.K.	Hawaii IW Res
POAI, Avis K.	Oahu IW Res to Hawaii IW Res
PORTER, Salamasina T.	Oahu IW Res
RITTE, Tyler L.	Molokai IW Agr
RITTE, Tyler L.	Molokai IW Res
ROSA, Marshall K.	Molokai IW Agr
RUSSELL, Joanne K.H.O.	Hawaii IW Agr to Oahu IW Agr
STEVENS, Howard C.	Oahu IW Res to Hawaii IW Res
WILLING, Kendall	Hawaii IW Agr to Molokai IW Agr
WILLING, Kendall	Hawaii IW Res to Molokai IW Res

* IW = Islandwide

ITEM D-7 EXHIBIT

COMMISSION DESIGNATION OF SUCCESSORS - PUBLIC NOTICE 2016, 2017

APPLICANT	AREA
AKOI, Samuel A., IV	Maui IW Pas
DELIMA, Charmaine L.	Waimanalo Area / Oahu IW Res
KEKAWA, Nolen K., Jr.	Oahu IW Agr
PUU, Rodney H., Jr.	Oahu IW Res
RITTE, Tyler L.	Oahu IW Agr
RITTE, Tyler L.	Molokai IW Res

* IW = Islandwide

ITEM D-8 EXHIBIT

APPROVAL OF DESIGNATION OF SUCCESSORS TO LEASEHOLD INTEREST AND
DESIGNATION OF PERSONS TO RECEIVE THE NET PROCEEDS

LESSEE	LEASE NO.	AREA
ANDERSON, Rose A.	4885	Kuhio Village, Hawaii
GANDIA, Dellvyn L.	9998	Anahaola, Kauai
KANAHELE, Richard I.K.	5380	Kekaha, Kauai
KAULIA, Albert E.	12529	Lalamilo, Hawaii
KELII, Christmas K.	3801	Nanakuli, Oahu
KUHAULUA, Abraham	3090	Anahola, Kauai

ITEM D-9 EXHIBIT

APPROVAL OF ASSIGNMENT OF LEASEHOLD INTEREST

LESSEE	LEASE NO.	AREA
ADAMS, Jocelynn M.	3429	Nanakuli, Oahu
CHOW, Wesley K.	10218	Anahola, Kauai
DOWSETT, Mary Ann K.	4759	Waimea, Hawaii
ENOKA, James A.	12867	Kauluokahai, Oahu
HAUHIO, June K.	12852	Kauluokahai, Oahu
MOISA, Leonora K.	12855	Kauluokahai, Oahu
SATO, Hyenie E.	12870	Kauluokahai, Oahu
SILVA, Hannah E.	12113	Kaupea, Oahu
UAHINUI, Alexander E., Jr.	12850	Kauluokahai, Oahu
WONG, Wallis K.	4441	Waianae, Oahu
CASTRO, Haaheo F.	4441	Waianae, Oahu
KAMOKU, Mary Jane L.N.	7009	Makuu, Hawaii

ITEM D-10 EXHIBIT

APPROVAL OF AMENDMENT OF LEASEHOLD INTEREST

LESSEE	LEASE NO.	AREA
KELII, Christmas K.	3801	Nanakuli, Oahu
KILBEY, La Vaina N.A.	6054	Hoolehua, Molokai
KUHAULUA, Abraham	3090	Anahola, Kauai
WAIOLAMA, Henry	3118	Waimanalo, Oahu

ITEM D-11 EXHIBIT**APPROVAL TO ISSUE A NON-EXCLUSIVE LICENSE FOR ROOFTOP PHOTOVOLTAIC
SYSTEMS FOR CERTAIN LESSEES**

LESSEE	LEASE NO.	AREA
GASPAR, Puahauoliokalani	11806	Kanehili, Oahu
HANAWAHINE, Kahaleone	11574	Kanehili, Oahu
KAMALANI, Benjamin	8112	Waiakea, Hawaii
KANIAUPIO, Francis J.	11388	Kaupea, Oahu
MANDAC, Adeline W.L.	11883	Kanehili, Oahu
NAKEA-FRANCISCO, Corinna	12318	Kaniohale, Hawaii
NAEOLE-RAYMONDO, Vanna M.K.	9990	Waianae, Oahu

ITEM F-1 EXHIBIT**RIGHT OF ENTRY PERMITS, EAST, CENTRAL, AND SOUTH HAWAII ISLAND**

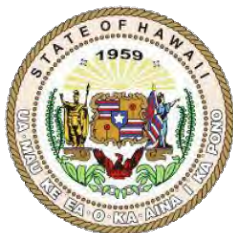
<u>ACRE</u>	<u>NO.</u>	<u>USE</u>	<u>PERMITEE</u>	<u>LOCATION</u>	<u>Date Started</u>
280.0	465	Pastoral	Gilbert Medeiros, Jr. *	Kamaoa-Puueo	2/9/1998
450.0	469	Pastoral	Daryl K. Kalua'u *	Kau	9/7/2000
750.0	471	Pastoral	Daleico Ranch	Kau	4/19/2001
1,500.0	473	Pastoral	Dean Kaniho *	Kamaoa-Puueo	7/15/2004
301.0	476	Pastoral	Charles & Jelena Clay	Honolulu	7/7/2005
2.0	477	Agriculture	Guy Kaniho *	Humuula	2/26/2007
300.0	478	Pastoral	April Awana-Mattos *	Honolulu	2/1/2010
2.210	481	Landscape	Ginger Patch	Waiakea	8/2/2010
1.0	482	Community	Keaukaha/Panaewa Farmers Assn. *	Panaewa	2/1/2011
0.02	597	Recreation	Hawaii Forest & Trails, Ltd.	Humuula	3/1/2003
5,000.0	610	Landscape	Native Hawaiian General Services *	Kamaoa-Puueo	6/1/2004

* Denotes Beneficiary

ITEM F-2 EXHIBIT**RIGHT OF ENTRY PERMITS, NORTH & WEST HAWAII ISLAND**

<u>ACRE</u>	<u>NO.</u>	<u>USE</u>	<u>PERMITEE</u>	<u>LOCATION</u>	<u>Date Started</u>
0.540	461	Commercial	Edward J. Laau/Naomi K. Peck *	Kawaihae	7/1/1989
0.670	462	Commercial	Kawaihae Spirits	Kawaihae	2/20/1990
50.0	464	Pastoral	Marian Kapuniai *	Puukapu	12/29/2012
105.73	466	Pastoral	Malama Solomon *	Waimea	1/1/2000
0.560	483	Commercial	Guy Startzman	Kawaihae	2/14/2011
1,420.0	484	Pastoral	Kahua Ranch	Kawaihae	2/1/2011
7,600.0	485	Pastoral	Palekoki Ranch, Inc.	Kawaihae	6/1/2011
381.0	599	Pastoral	Parker Ranch	Waimea	7/1/1977

* Denotes Beneficiary



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION · DEPARTMENT OF HAWAIIAN HOME LANDS

NOTICE

Hawaiian Homes Commission
Regular Meeting – Hawai`i Island
Monday, May 20, 2019 at *10:00 a.m.
Tuesday, May 21, 2019, *9:00 a.m.
Tuesday, May 21, 2019, Executive Session at *8:30 a.m.

Kūhiō Hale
64-756 Mamalahoa Highway
Kamuela, Hawai`i

Hawaiian Homes Commission Meeting agendas are available approximately one week in advance on the HHC Meetings page of our website: dhhl.hawaii.gov

*Meeting times are subject to change. Please check the DHHL website for an updated schedule.

Hawaiian Home Lands Meeting with the
Waimea Homestead Community
on Monday May 20, 2019
from 6:30 p.m. - 8:30 p.m.

Kūhiō Hale
64-756 Mamalahoa Highway
Kamuela, Hawai`i

AGENDA

6:30 - 7:00 p.m. DHHL Update
7:00 - 7:30 p.m. Homestead Community Update
7:30 - 8:30 p.m. Open House*
8:30 p.m. Adjournment

**During Open House, representatives from the DHHL divisions will be available for beneficiary questions. Community organizations will also be present.

To request accommodations for a sign language interpreter or accessible parking (must be requested five days prior to the meeting date), or for more information, please contact the DHHL Information and Community Relations Office on O`ahu at 808-620-9591.

C ITEMS

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20-21, 2019

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Niniau K. Simmons, NAHASDA Manager

SUBJECT: Hawaiian Home Lands Unexploded Ordnance (UXO) Update,
former Waikoloa Maneuver Area (WMA)

RECOMMENDED MOTION/ACTION: None; for information only.

DISCUSSION:

The former Waikoloa Maneuver Area (WMA) is comprised of approximately 100,000 acres on Hawaii Island.

The Department of Hawaiian Home Lands (DHHL) currently has the following Trust Lands in the former WMA:

- Kuhio Village, Puukapu
- Lalamilo Phase 1, Kawaihae
- Lalamilo Phase 2

In Exhibit A, Mr. Loren Zulick of the US Army Corps of Engineers (USACE) provides a review of status of Trust Lands in the WMA. In Exhibit B, the Hawaii Department of Health, in the capacity as UXO regulator, debuts its Areawide Environmental Hazard Management Plan (AEHMP) for the WMA. The history of WMA is provided in the AEHMP along with descriptions of US Department of Defense (DoD) clean-up efforts in recent times.

While the overall scanning/removal of UXO in the former WMA is expected to cost \$720,000,000 and take another 72 years to complete, the residual risk that remains has had an impact on the DHHL's ability to develop affordable housing; engage in capital improvement projects with costs associated with UXO construction support; and not being able to utilize federal funds from Title VIII of the Native American Housing Assistance and Self Determination Act (NAHASDA) and 184-A homeowner financing.

Lessees on affected Trust Lands are paying an additional amount for UXO construction support when conducting ground disturbing activities that exceed depth of detection or face the risk of catastrophic harm in the event UXO is accidentally discovered or detonated. The DHHL did seek state legislative appropriations in its budget since 2015 to assist lessees and the department with the additional costs of UXO construction support but the request was not funded.

At present, Lalamilo Phase II is the furthest along in the USACE cleanup process with a Decision Document issued in 2016 and Remedial Action currently underway. Lalamilo Phase I; identified lots in Kawaihae; Puukapu; and Kuhio Village are in active Remedial Investigations with the USACE responding to DOH comments on draft reports.

Compliance with the AEHMP will satisfy US Department of Housing and Urban Development (HUD) requirements for a DOH-issued Conditional No Further Action (CNFA) letter and once again allow the use of NAHASDA and 184-A in Puukapu and Kuhio Village. Federal Housing Administration (FHA) loans, including FHA 247, were not impacted by the UXO issue.

STATUS OF TRUST LANDS AFFECTED BY UXO ISLAND OF HAWAII

Prepared by Loren Zulick

May 2019

"The views, opinions and findings contained in this report are those of the author(s) and should not be construed as an official Department of the Army position, policy or decision, unless so designated by other official documentation."



**US Army Corps
of Engineers**



Topics

- FUDS Program / CERCLA Process
- Former Waikoloa Maneuver Area
 - ▶ Kawaihae, Lalamilo Phase 1
 - ▶ Puukapu/Kuhio Village
 - ▶ Lalamilo Phase 2
- Public Education: 3Rs of UXO Safety



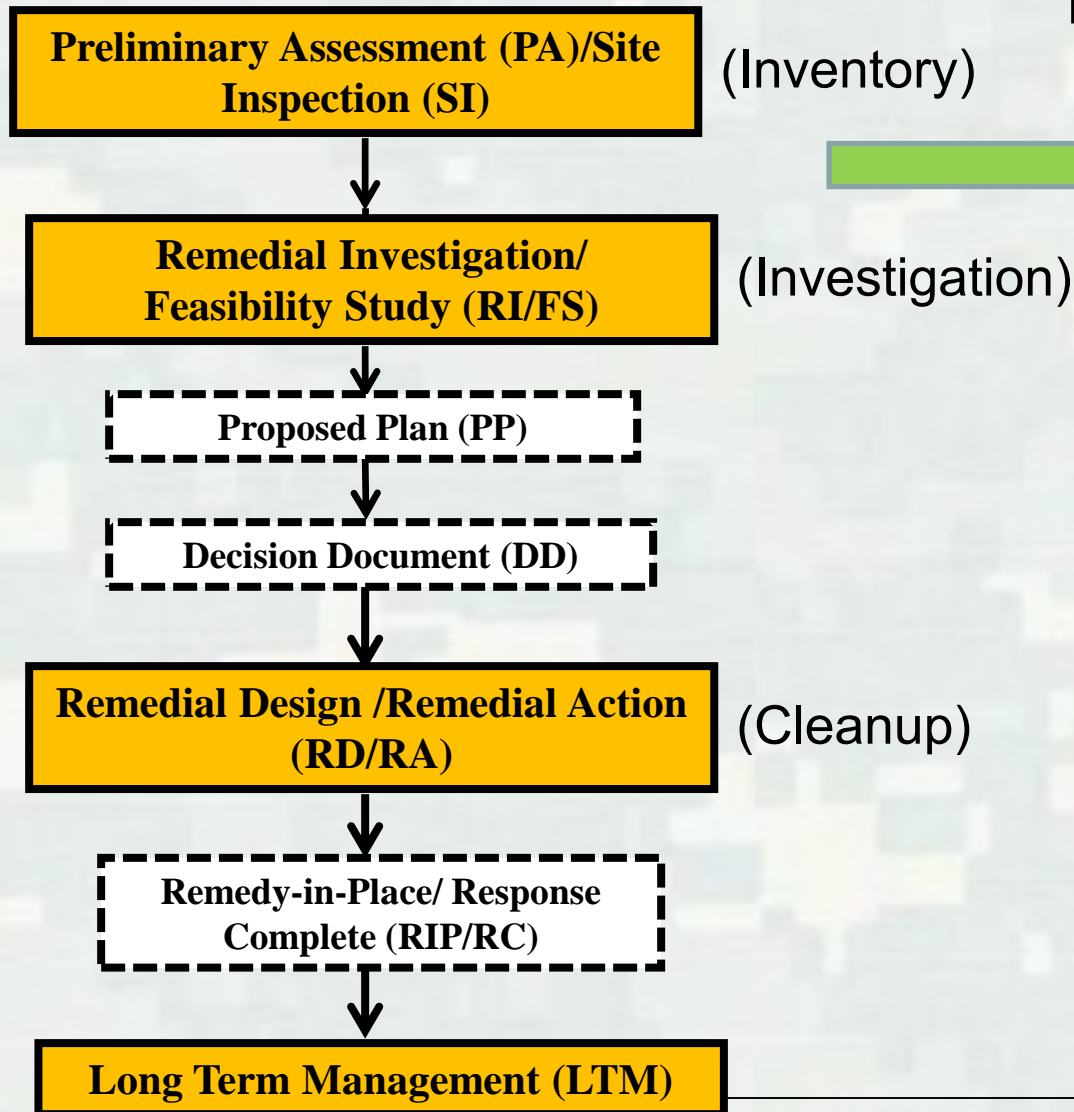
Formerly Used Defense Site

- The Department of Defense is committed to protecting human health and the environment and improving public safety by cleaning up environmental contamination at former military properties.
- Formerly Used Defense Sites (FUDS) Program
 - ▶ Established by Congress in the mid-1980s cleans up properties formerly used by the military services.
- The Army is the DoD Executive Agent for FUDS,
 - ▶ The U.S. Army Corps of Engineers is responsible for carrying out the program.

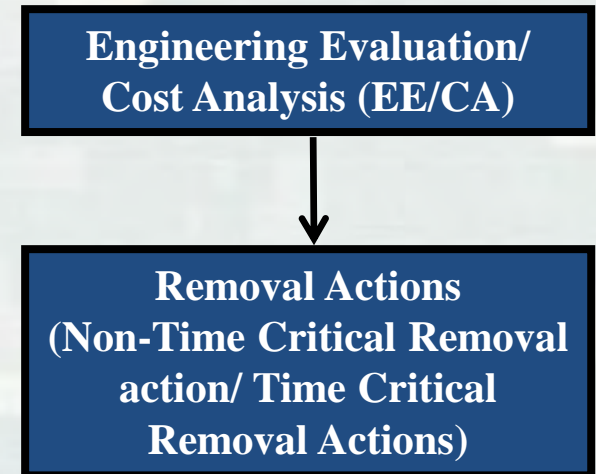


Comprehensive Environmental Response, Compensation & Liability Act

CERCLA Process



Removal Action Process



BUILDING STRONG®

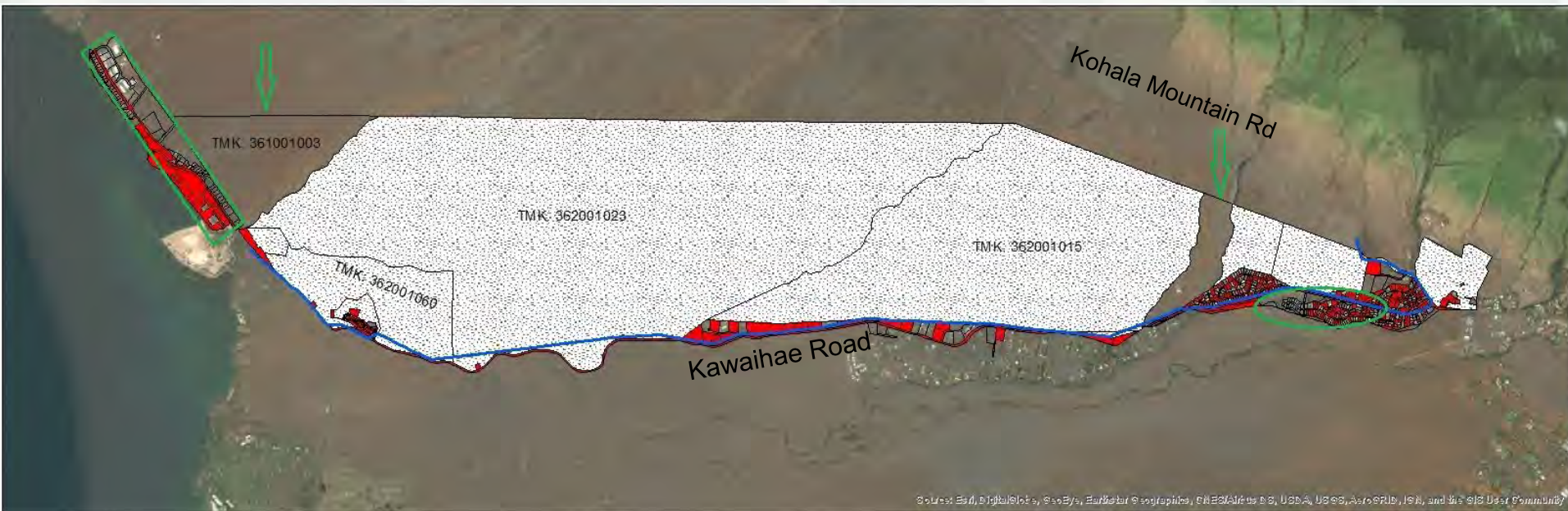


BUILDING STRONG®



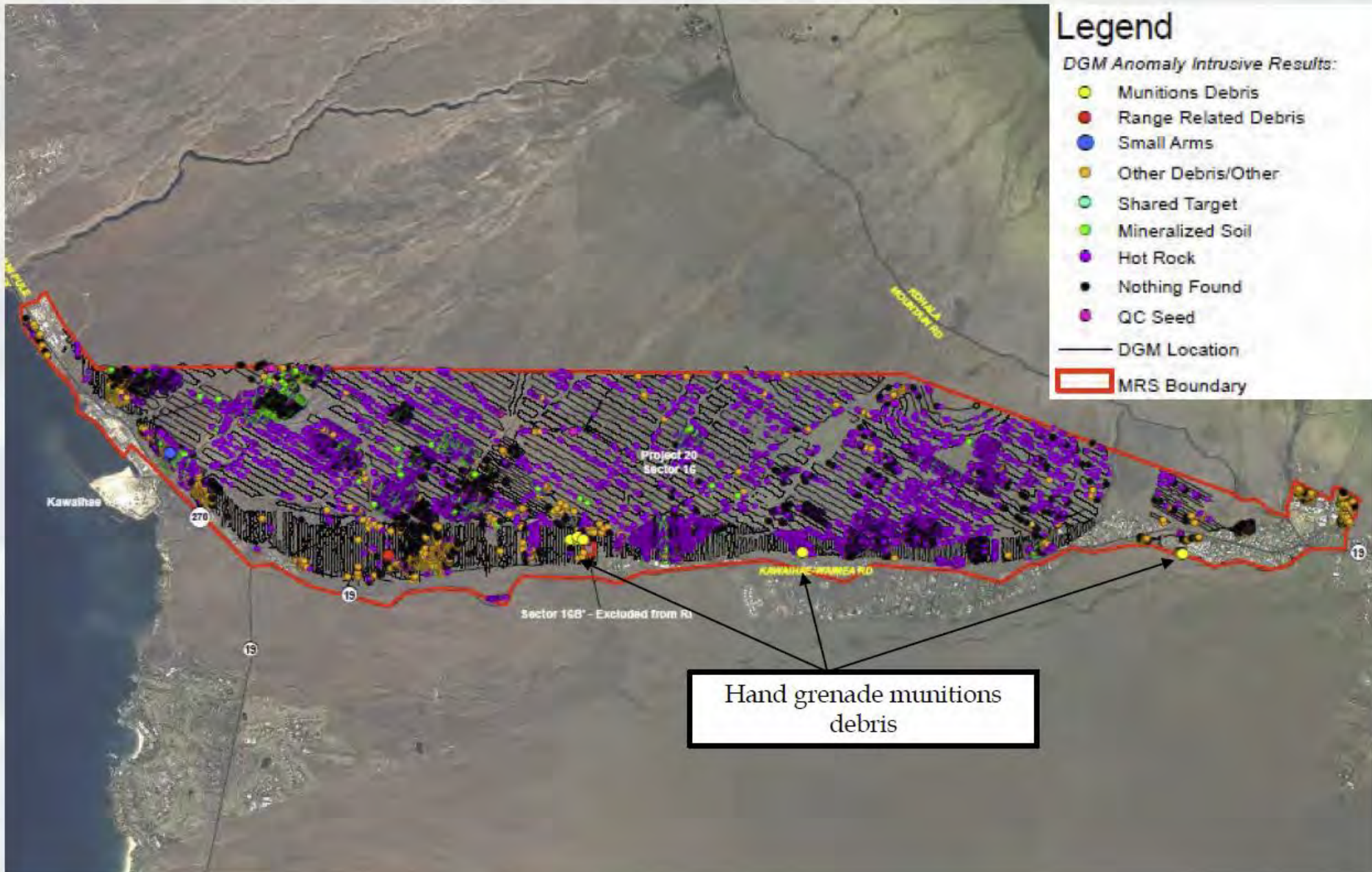
Kawaihae & Lalamilo Phase 1

DHHL Properties in Sector 16 With Active Remedial Investigations



BUILDING STRONG®

Kawaihae & Lalamilo Phase 1

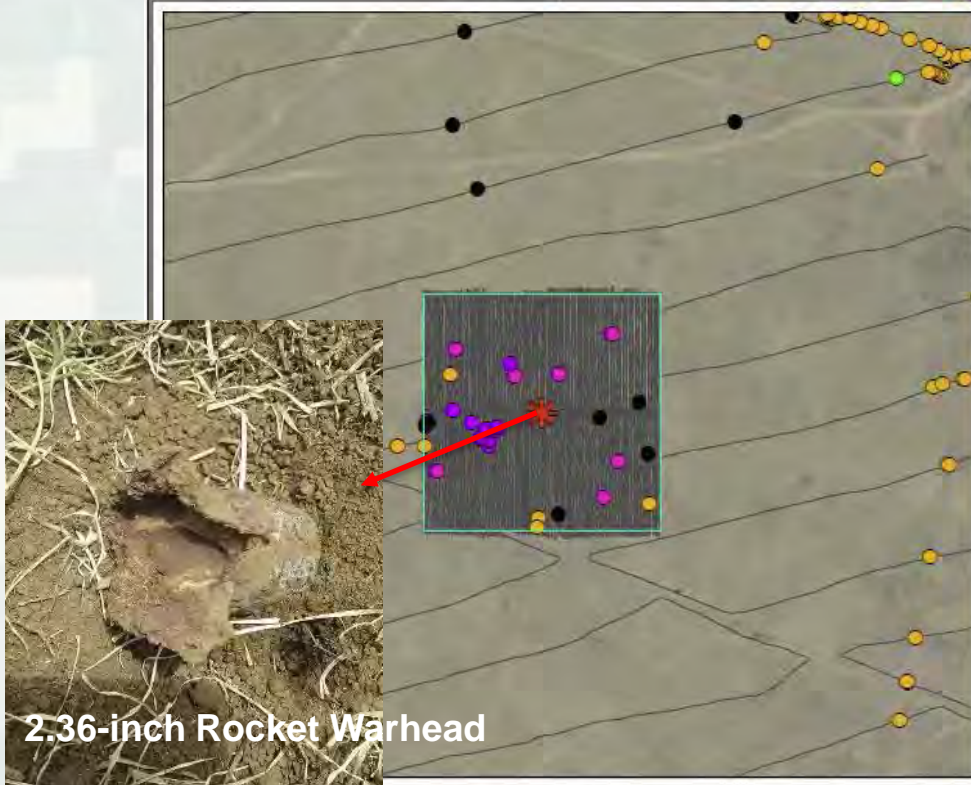
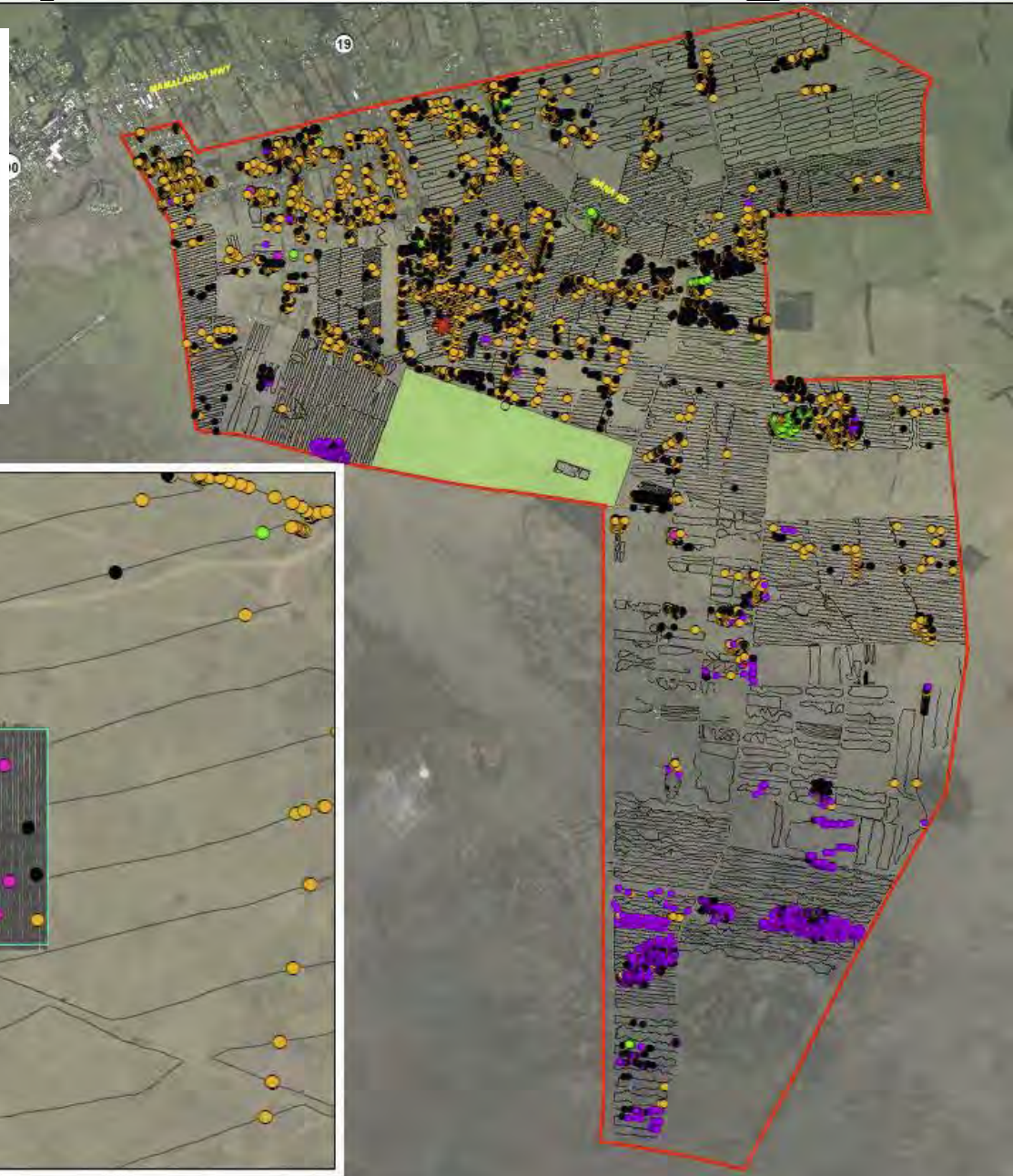


Puukapu / Kuhio Village

Legend

DGM Anomaly Intrusive Results:

-  MEC
-  Other Debris/Other
-  Mineralized Soil
-  Hot Rock
-  Nothing Found
-  QC Seed
-  DGM Location
-  MRS Boundary
-  Project 19 Sector 15 - Former Removal Action Area
-  DGM Grid 100%



2.36-inch Rocket Warhead

Way Forward

Kawaihae & Lalamilo Phase 1 (Sector 16) Puukapu / Kuhio Village (Sector 15)

- ▶ Remedial Investigation fieldwork complete
- ▶ Data analysis complete
- ▶ Remedial Investigation report written – responding to Regulator comments (Jun 2019)

summarize nature and extent of Munitions and Explosives of Concern

- ▶ Develop Feasibility Study (if necessary) Aug 2019

evaluate all remedial alternatives and identify a Preferred Remedy for each site

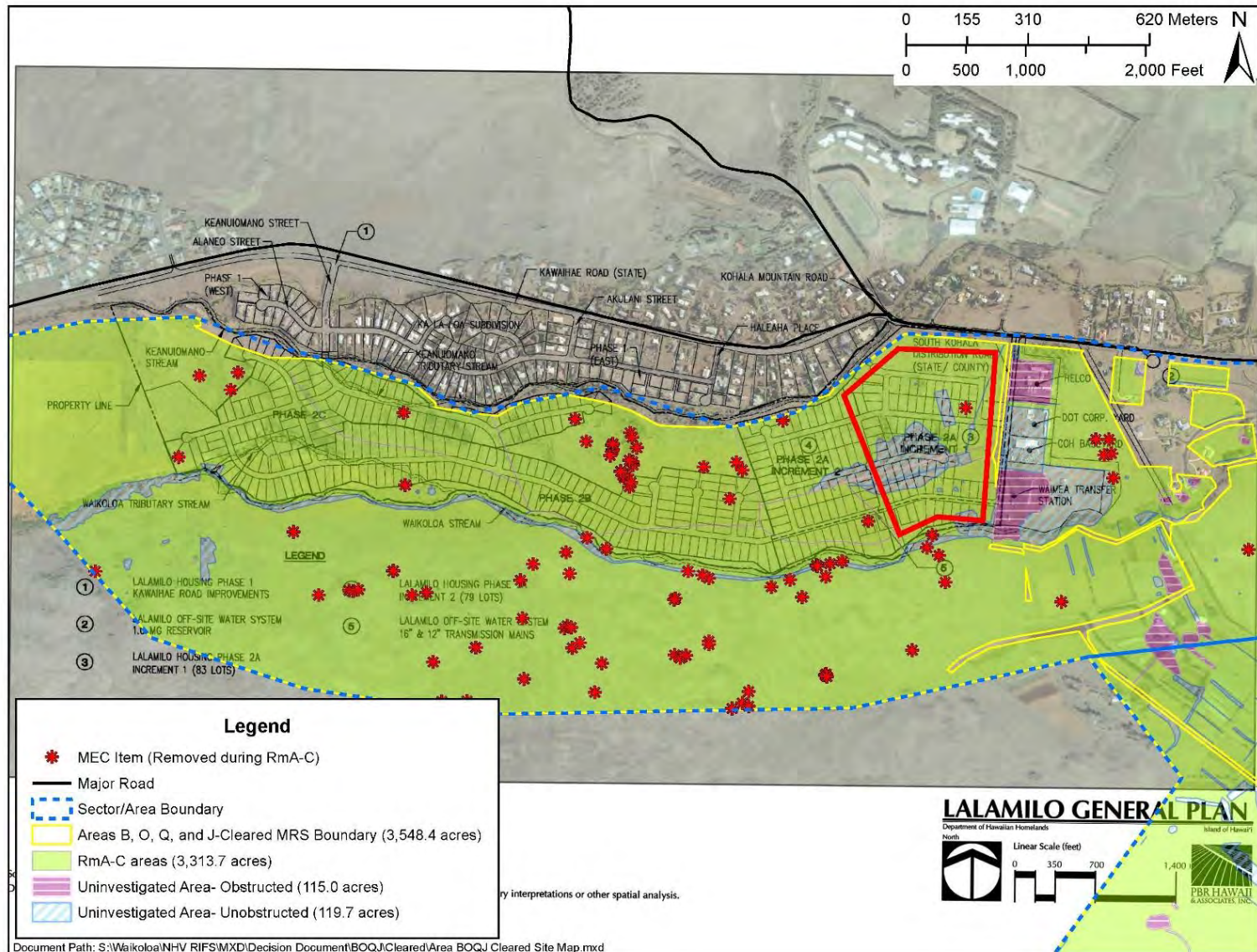
- ▶ Develop Proposed Plan for remediation (Nov 2019)

presents the Preferred Remedy for each site. This document will be released for a 30-day public review

- ▶ Decision Document (Mar 2020)



Lalamilo Phase 2



Lalamilo Phase 2

- Lalamilo Phase 2 (B,O,Q,J-Cleared)
 - ▶ Start Remedial Action (UXO clearance) fieldwork for Area B,O,Q,J-Cleared next month, June 2019
 - ▶ Prioritized work in Lalamilo Phase 2A, Increment 1 uninvestigated area, and will start fieldwork there
 - ▶ Looking to conduct Post Removal Verification and close out remainder of Lalamilo Phase 2, where previous removal action was conducted
 - ▶ Looking to write separate Remedial Action Report (RAR) for Lalamilo Phase 2 to expedite development progress



Practice the 3Rs of Unexploded Ordnance Safety:

- **RECOGNIZE** when you may have come across a munition and that munitions are dangerous
- **RETREAT** by carefully leaving the area - DO NOT touch, move, or disturb the item
- **REPORT** what you saw and where you saw it to local law enforcement – call 911.



US Army Corps
of Engineers.





STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

Areawide Environmental Hazard Management Plan for the Waikoloa Maneuver Area Island of Hawaii

Explosives Safety Guidance to Help Protect You from Munitions



Prepared by the Hawaii Department of Health
Hazard Evaluation and Emergency Response Office
March 2019

Disclaimer

The Areawide Environmental Hazard Management Plan (AEHMP) is intended for use as a guidance document. The guidance it contains cannot guarantee your safety from hazards associated with unexploded military ordnance (UXO). However, the information can help greatly to reduce the risk of injury should you encounter an object you suspect of being UXO. The Hawaii Department of Health (HDOH) has prepared this AEHMP to:

- Inform the public that unexploded military ordnance (UXO) are present in the former Waikoloa Maneuver Area (WMA) on the Island of Hawaii.
- Alert the public and property owners to hazards associated with UXO.
- Help identify UXO should you encounter suspicious objects.
- Recommend actions to take if suspected UXO are encountered.
- Recommend actions to take prior to starting construction work on property where UXO may be present.

Under no circumstances should an untrained person touch or disturb an object suspected of being UXO.

If you discover a possible UXO, it is very important that you immediately observe the “3Rs of Explosive Safety.”

- **Recognize** the potential danger.
- **Retreat** from the area.
- **Report** your findings to the police (911).

Observe the “3Rs” of
UXO Safety and Reporting:
Recognize...Retreat...Report!

- It is important to react responsibly in the presence of Unexploded Ordnance (UXO).
- If you encounter an object you suspect may be UXO:
 - STOP! Do not move closer.
(**Recognize the hazard**)
 - DO NOT touch, move or disturb the UXO.
 - Clearly mark the area around the UXO.
 - Complete the ‘UXO Report Form’ in the Appendix.
- Back away at least 100 feet from the UXO following the same path as your approach.
(**Retreat**)
- Call 911 to report the location of the UXO and forward the completed UXO Report Form to the *U.S. Army Corps of Engineers* and the *Hawaii Department of Health, Hazard Evaluation and Emergency Response Office (HEER Office)* at the addresses listed on the form. (**Report!**)

Prologue

The Hawaii Department of Health (HDOH) prepared this guidance document to reduce the risks associated with Unexploded Ordnance (UXO) and allow for safer and more cost-effective development in the former Waikoloa Maneuver Area (WMA).

The initial version of the guidance was presented at a November 30, 2016 conference entitled, "*Solving the UXO Conundrum*." The conference, held in Waikoloa, was well attended by property owners, resort owners/managers, munitions contractors, Federal, State and County officials, and the interested public. The conference program featured senior government officials along with interactive panels designed to answer questions and discuss issues.

The initial document was distributed for public comment from May 2016 through February 2017. The document was then revised based on the comments received.

It is very important to keep in mind the guidance offered in this Areawide Environmental Hazard Management Plan (AEHMP) is specifically designed to reduce risks related to UXO in the WMA. The guidance does not address other sources of contamination.

If historical property use indicates the possible presence of other hazardous substances, pollutants, or contaminants regulated under the Hawaii Environmental Response Law (HERL), or if other contaminants are discovered during a UXO investigation or in the course of redeveloping a property, those contaminants must be addressed separately as required by Hawaii Revised Statute (HRS), Chapter 128D.

IMPORTANT NOTICE

HDOH recommends following the guidance presented in this document for any development within the WMA, whether or not the Department of Defense has completed its clearance activities.

Interested parties should consider the guidance information in this document when planning soil-disturbing activities within the WMA. The information presented is designed to provide a fast and structured way to reduce risks of accidental injury related to UXO.

All developments, whether conducted under this AEHMP or a HDOH-approved SSEHMP, or not, will be at the landowner's own risk and HDOH will not be held liable for any damages or injuries that may occur in the WMA.

Use of this AEHMP and/or an associated SSEHMP is voluntary unless otherwise required under an agreement between the landowner and HDOH.

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Forms:

Form 1	UXO Report Form
Form 2	Soil Management Plan Reporting Form

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Figure 1:	Waikoloa Maneuver Area Location Map
Figure 2:	Land Use in the Waikoloa Maneuver Area

Appendices:

Appendix A	Useful References
Appendix B	Sample Outline of an Anomaly Avoidance Plan
Appendix C	History of Response Actions in the Waikoloa Maneuver Area
Appendix D	Sample Right of Entry Letter and Agreement
Appendix E	Geology and Hydrology
Appendix F	Site-Specific Environmental Hazard Management Plan Guidance
Appendix G	Assessing Risks from Munitions
Appendix H	Responsibilities for Federal, State, County Governments, and Land Owners
Appendix I	Photos of UXO, Munitions Debris, and Warning Sign
Appendix J	Tables from DDESB Technical Paper 18: Minimum Qualifications for Personnel Conducting Activities Related to Munitions and Explosives of Concerned

List of Acronyms

AEHMP	Areawide Environmental Hazard Management Plan
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
DDESB	Department of Defense Explosives Safety Board
DoD	U.S. Department of Defense
EHE	Environmental Hazard Evaluation
EHMP	Environmental Hazard Management Plan
EOD	Explosives Ordnance Disposal
FUDS	Formerly Used Defense Site(s)
HDOH	Hawaii Department of Health
HE	High Explosive
HEER Office	Hazard Evaluation and Emergency Response Office
HERL	Hawaii Environmental Response Law
HRS	Hawaii Revised Statute(s)
ICs	Institutional Controls
ROE	Right of Entry
SSEHMP	Site-Specific Environmental Hazard Management Plan
USACE	United States Army Corps of Engineers
UXO	Unexploded Ordnance

Executive Summary

The United States Marines used the Waikoloa Maneuver Area (WMA) from 1943 to 1946 for “live fire” training. Approximately 10% of the explosive ordnance failed to detonate, leaving a potential explosive hazard across at least 120,000 acres of land.

Since 1946, the Department of Defense (DoD) conducted several investigations and cleanup activities in various locations throughout the WMA. Today, the United States Army Corp of Engineers (USACE) and the U.S. Army Garrison-Hawaii continue to investigate and remove UXO from the WMA.

Completing this work in the entire WMA will cost approximately \$720,000,000. With the current annual budget of \$10,000,000, the cleanup process will take decades to complete. The USACE prioritizes its cleanup efforts based on areas that pose the greatest risk to local communities and those sites with the highest potential to contain UXO.

In addition to these fiscal constraints, there are technological limitations in the detection and removal of UXO. Even after a cleanup is completed, today’s investigation and cleanup process cannot guarantee that UXO are no longer present. Consequently, despite the government’s best efforts to remove all the UXO, a continuing level of ‘residual risk’ related to UXO will remain in the WMA.

What’s more, due to population growth and the high demand for housing and vacation resorts, significant development is expected in the WMA. Proposed development projects include: additions to existing dwellings, development of vacant lots, new large-scale subdivisions, retail/commercial facilities, and other tourism-related projects.

Recognizing the ‘residual risk’ posed by UXO, lenders may be reluctant to fund large and small development projects within the WMA. The guidance offered in this Areawide Environmental Hazard Management Plan (AEHMP) will help reduce the ‘residual risk’ of UXO by raising awareness, educating the public, and explaining how best to go about developing land in the WMA.

Section 1 Introduction

The U.S. Navy and Marines used the original 91,000 acre Waikoloa Maneuver Area (WMA) from 1943 to 1946 as a practice area for troop maneuvers and the live firing of artillery and other weapons. The U.S. Department of Defense (DoD) later expanded the area to include over 123,000 acres (Figure 1). DoD's efforts to define the full extent of the WMA continue.

Since an estimated 10% of the military munitions used during live-fire training may have failed to detonate, potential hazards from unexploded ordnance (UXO) and other munitions remain in the WMA. Several deaths and injuries caused by accidentally detonating UXO that have occurred in the WMA over the years since World War II confirm that serious risks from UXO are present.

Since the WMA was closed in 1946, DoD has undertaken five cleanup activities and continues to investigate and remove munitions to this day. **It is very important to understand that despite extensive efforts to detect and remove munitions, due to technological limitations it is still possible that munitions have gone undetected. As such, 'residual risk' related to munitions remains present in the WMA...even in areas previously cleared.** 'Residual risk' refers to the risk that unexploded munitions remain present **even in previously-cleared areas** due to limitations of current detection technology and the challenging topography and geology of the WMA.

The potential of encountering a munition increases significantly with the degree of development and excavation occurring within the WMA. To protect workers and the public during development activities, Section 8 of this AEHMP contains directions for using 'UXO Construction Support' during ground disturbing activities and procedures for properly managing soils.

Munitions are referred to by many names, including: UXO, duds, discarded military munitions, munitions debris, shells, rounds, or munitions and explosives of concern. Additionally, munitions may also be referred to by the type of weapons system in which they were used, such as artillery, shells, mortars, grenades, rockets, or tank rounds. **In this document, 'UXO' refers to all types of munitions that may pose a risk to human health or the environment, primarily because it is the term most familiar to the community.**

Section 2 Summary of HDOH Activity

The Hawaii Department of Health (HDOH) has been involved in remediation activities at the WMA since the mid-2000's. The Department's primary role in the WMA is to oversee work performed by the United States Army Corps of Engineers (USACE) and the U.S. Army Garrison and ensure that the work complies with the Hawaii Environmental Response Law (HERL), Chapter 128D, Hawaii Revised Statutes (HRS).

State law authorizes HDOH to respond whenever there is a release or a substantial threat of a release of any hazardous substance, pollutant or contaminant that may present a substantial danger to public health, welfare, or the environment. DoD provides funding to the HDOH Hazard Evaluation and Emergency Response (HEER) Office to oversee DoD remediation activities. The HEER Office also reviews DoD activities to make sure they comply with "all applicable or relevant and appropriate requirements," as required by State and Federal laws.

To assist in mitigating risks related to UXO, the HEER Office:

- Works with DoD Munitions Site Response Program personnel to:
 - 1.) Review and approve investigation planning documents, findings, and final reports;
 - 2.) Participate in Restoration Advisory Board meetings;
 - 3.) Assist with voluntary evacuations; and
 - 4.) Offer general guidance and support to help protect human health and the environment.
- Participates in USACE public awareness and educational outreach programs.
- Prepares and updates this Areawide Environmental Hazard Management Plan (AEHMP) to help property owners and contractors develop land within the WMA as safely as possible.
- Provides guidance for preparing Site-Specific Environmental Hazard Management Plans (SSEHMP) that developers of large-scale construction projects within the WMA must submit to the HEER Office.

Section 3 Background Information

3.1 Site History and Location

In December 1943, the U.S. Navy acquired approximately 91,000 acres in Waikoloa. The land was acquired through a licensing agreement with Richard Smart of Parker Ranch. At that time, the area was known as Camp Tarawa and it is now referred to as the WMA. Additional acreage was acquired between 1943 and 1945, and the WMA expanded to 123,000 acres. Portions were used as an artillery firing range on which live ammunition and other explosives were employed. The remaining area was devoted to troop maneuvers and the largest encampment on the Island of Hawaii.

In September 1946, the original 91,000 acres were transferred back to Parker Ranch. Most of the remaining acreage was transferred back at later dates. Some land remained in use until 1953. Approximately 13,500 acres, in the northeastern region of the former WMA, was leased to the U.S. Army through the 1990's. This area was identified as the Pu'u Pa'a Local Training Area until 1998. It is currently identified as the Pu'u Pa'a Munitions Response Area.

Since 1946, much of the land in the former WMA has been subdivided and redeveloped. After World War II, the town of Waimea expanded greatly, and the Waikoloa Village community was developed. Parker Ranch currently owns only a portion of the former ranchland. Numerous resorts have been developed along the coastline in areas that were former artillery targets and maneuver areas. While large portions of the former WMA remain agricultural or undeveloped, much of the land has changed ownership. Numerous subdivisions have been developed and portions of the properties have been subdivided for homestead lots.

Since 1945, at least three deaths, and several injuries, have been attributed to UXO from the former WMA. In 1945, a civilian highway worker was killed when a UXO exploded three miles south of Waimea.

In 1954, two Parker Ranch workers installing a fence were killed, and three others were injured when a mortar round exploded. This incident prompted additional cleanup efforts by DoD as described in Section 3.4. In 1983, two Schofield Barracks soldiers were injured by UXO on Parker Ranch land about four miles outside of Waimea.

The current boundaries of the WMA are shown in Figure 1. For the purposes of this AEHMP, the WMA boundary includes the WMA Formerly Used Defense Site (FUDS) Munitions Response Area managed by the USACE as well as the Pu'u Pa'a Munitions Response Area managed by the U.S. Army Garrison – Hawaii.

3.2 Geology and Hydrology

The land surface in the WMA is sloping and generally varies from smooth to rocky. It is marked by numerous cinder cones and cut by widely spaced erosion gullies. The WMA is surrounded by three of the five volcanoes found on the Island of Hawaii. There are no permanent watercourses in the WMA due to the low level of precipitation. Appendix E contains additional information on the geology and hydrology of the WMA.

3.3 Types of UXO and Their Hazards

DoD estimates approximately 10 percent of all munitions fail to detonate, resulting in a substantial number of unexploded ordnances. UXO are considered extremely dangerous because they are most likely fully armed and ready to explode.

The explosive hazard associated with UXO and the sensitivity of their armed fuzing does not decrease with time. As a result, even decades later, UXO still have the potential to detonate. In fact, some types of explosives become more sensitive over time. Moving, disturbing, or handling UXO may cause them to detonate. Depending on the type of ordnance, the potential blast radius from an accidental explosion may reach 450 feet from the UXO.

The primary hazard from UXO in the WMA is the risk of injury, death, and/or property damage caused by their accidental detonation. The hazard includes not only the initial blast and flying shrapnel, but the shock wave associated with the detonation, which can cause damage to internal organs, as well as building components. In general, UXO in the WMA are not considered hazardous unless they are disturbed. Based on soil and groundwater investigations conducted by USACE between 2009 and 2012, it does not appear that chemical constituents of UXO pose a risk to human health or the environment in the WMA.

Many different types of UXO are still present in the WMA. These dangerous and potentially “live” munitions fall into four broad categories: (a) large bombs, (b) artillery projectiles, (c) rocket warheads, and (d) other munitions. The fourth category is quite large and varied. At the time of impact, munitions may have broken into sections or partially detonated, leaving only part of the explosive payload behind. These partially detonated munitions are referred to as “UXO remnants.” It takes highly trained and experienced individuals to properly identify and assess UXO. As such, every suspicious metal object encountered in the WMA should be treated as if it is UXO.

DoD used all shapes, sizes, and types of munitions for weapons testing and troop training. The appearance of these munitions may change dramatically due to impact, deterioration, rust, dirt, mud, and vegetation.

In addition to intact munitions, munition components (e.g., fuzes and exposed explosives) may continue to pose a hazard. Also, the presence of apparently harmless debris, such as metal fragments, may indicate that UXO are present in the vicinity. Do not pick up or handle munitions debris. Remember, only well-trained specialists can accurately identify UXO and determine if they have the potential to detonate.

To protect yourself, please observe this most important safety guideline related to UXO and munitions debris:

"If You Did Not Drop It...Do Not Pick It Up!"

The following table lists the munitions most likely to be encountered in the WMA. The list is based on historical records, newspaper accounts, previous investigations and recovered UXO. Appendix I contains photos of various munitions used at the WMA.

Table 3-1
Types of UXO Found at the Waikoloa Maneuver Area

<ul style="list-style-type: none"> • 155mm High Explosive (HE) shells • 105mm HE shells • 81mm HE mortars • 75mm HE shells • 60mm HE shells • 60mm illumination rounds • 37mm anti-tank cannon • 4.2-inch mortar shell • 4.5-inch barrage rockets • 3.5-inch rockets • 2.75-inch rocket 	<ul style="list-style-type: none"> • 2.36-inch rockets • 50-caliber small arms • Rifle and hand grenades • MK II hand grenades • Practice land mines • Japanese hand grenades • Japanese Mortars • Japanese 25mm anti-aircraft/tank round • 47mm Japanese anti-tank projectile
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Note: Table 3-1 illustrates representative UXO located within the WMA.

3.4 Limitations of Technology

A variety of geophysical detection technologies (e.g., electromagnetic detectors or magnetometers) are being used to investigate UXO at the WMA. The technologies fall into two general categories referred to as analog and digital.

Analog equipment is generally smaller and more maneuverable, allowing the investigator to probe areas where the terrain is too rugged to use larger and more delicate equipment. However, analog equipment relies more heavily upon the technician's ability to analyze data in real time. When using analog equipment, it is also more difficult to create an accurate record that can be analyzed later.

Digital equipment is generally larger and more delicate. It is able to create a digitized record that can be analyzed later for anomalies. The digitized record also allows for better quality control and documentation. Unfortunately, the use of digital equipment is extremely limited in parts of the WMA due to the terrain and other logistical limitations. In some areas, the terrain is so dangerous that it is unsafe to use any type of detection equipment. In these areas, UXO investigations are limited to a visual assessment of the surface.

In addition to limits posed by the terrain, geology at the WMA affects the depths of detection for all types of geophysical detection equipment. The high iron content in the soil (see Appendix E) creates troubling background noise and false-positive signals. The depth of detection is the depth at which a buried metal item can be detected by the electromagnetic sensors on the

equipment. The higher the background noise, the shallower the depth of detection. The depth of detection also varies with the size and density of the object. In general, smaller UXO items, such as grenades, can only be detected to depths of about 10 to 12 inches, whereas larger 105 and 155 millimeter projectiles can be detected at depths up to 36 inches.

Technology available for detecting and removing munitions has improved significantly over the years. Nonetheless, investigations for munitions remains a tedious, painstaking, and costly process that will never be 100% effective. Also, because munitions may be present for a variety of reasons (e.g. live-fire training, lost or discarded during training or by veterans who incorrectly and dangerously kept munitions as souvenirs, or disposed of at sea) munitions may be encountered almost anywhere. As a result, there is always a ‘residual risk’ of encountering UXO.

To minimize hazards associated with the residual risk, ‘UXO Construction Support’ should be conducted during all development projects and other activities that involve excavation of soil within the WMA. This is true even in areas that have been previously cleared by USACE. Construction Support and proper soil management are described further in Section 8 of this AEHMP.

3.5 History of Response Actions in the Waikoloa Maneuver Area

Training activities in most of the WMA ended in 1946. However, limited training activities continued in the former Pu’u Pa’a Local Training Area through the 1990’s. This portion of the WMA is currently referred to as the Pu’u Pa’a Munitions Response Area and its cleanup is being managed separately by the U.S. Army Garrison - Hawaii. Cleanup in the rest of the WMA is currently being managed by the USACE under the DoD Environmental Response Program. Over the years since training activities ended, DoD has undertaken five separate cleanup programs in the WMA. These programs are described further in Appendix C.

The USACE and U.S. Army Garrison-Hawaii are conducting the current cleanup program with oversight from HDOH. All work is being done in accordance with the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). In total, the current DoD cleanup program has investigated and removed munitions from approximately 29,000 acres of the WMA’s estimated 123,000 acres (approximately 25%).

To increase awareness of dangers associated with UXO and help the public recognize munitions, USACE and HDOH conduct public outreach events and distribute useful information.

Section 4 USACE Cleanup Priorities in the Waikoloa Maneuver Area

Currently, USACE continues its work to find and remove UXO. USACE conduct its response actions using a method based on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) process which is overseen by HDOH. Congress allocates funds annually for the cleanup of formerly used defense sites (FUDS) nationwide. Estimates to complete work in the entire WMA are in the range of \$720 million dollars. With an annual budget in the range of \$10 million dollars per year, this project is expected to be ongoing for decades. Funding for the Pu'u Pa'a Munitions Response Site is separate from the FUDS program and is managed by the U.S. Army Garrison – Hawaii.

Each year, USACE creates a priority list for UXO cleanup based on the degree of estimated risk. Property owners can request that USACE adjust its priorities for a variety of reasons such as: community needs and benefits, changes in land use, and funding constraints. Appendix G contains more information about how USACE prioritizes its cleanup activities.

4.1 Right of Entry Considerations

The burden of cleaning up FUDS property rests with DoD. However, since DoD no longer owns or controls these properties, USACE must first obtain a signed "Right of Entry (ROE)" agreement from property owners before cleanup activities can begin. A sample ROE agreement is included in Appendix D. The ROE agreement allows USACE and its contractors to access and investigate the property.

Occasionally, a property owner is hesitant to sign an ROE based on one or more of the conditions or requirements it contains that the property owner finds unacceptable. Examples of troubling provisions include:

- UXO investigations and removal actions may require that work crews have full access to the property and leave equipment onsite for up to 12 months, and possibly longer in some cases.
- Cleanup work may require that property owners vacate the property for periods of time with little advanced notification.
- The legalistic language in the ROE can be difficult to understand, disconcerting and open to misinterpretation.

Questions landowners frequently asked about the ROE agreement include:

- Who is liable for damage to my property or home caused by USACE cleanup?
- Who is liable for damage to neighboring properties?
- What liability does a property owner have for USACE managed activities?

- How does the USACE handle discovery of cultural artifacts on the property? Will this information be made public? Will the landowner be required to allow cultural and environmental groups access under the ROE?
- If the property owner declines to sign an ROE, will the federal or state government pursue legal actions against the property owner?

It is quite reasonable for a property owner to request clarification regarding any concerns the property owner has prior to signing an ROE. Currently, the federal and state governments do not initiate legal action against property owners who refuse to grant an ROE. However, if evacuation of an adjacent property is required to safely remove UXO, the USACE may ask the adjacent property owner to evacuate their property. This may occur even if the adjacent property owner has not granted an ROE.

It is important that property owners know they may receive significant benefits by cooperating with a UXO investigation. USACE does not charge the property owner to conduct the UXO investigation or for the removal of suspected UXO and munitions debris from the property. Without an ROE from the property owner, USACE is prohibited from entering the property to perform this vital task which may significantly reduce the residual risk from UXO at the property.

If a property owner does not grant an ROE when requested, USACE will designate the parcel as an “Exception Area – No ROE.” In such a case, the property may be placed at the bottom of the priority list for any future cleanup, or the site may be closed without any future investigation and the parcel will remain an Exception Area in the final documentation.

Section 5 Present and Future Land Use in the Waikoloa Maneuver Area

Present land use across the WMA is quite diverse and consists of residential, commercial, industrial, institutional, resort, pastoral and agricultural areas. There are also significant areas, such as the former lava flows, that are not currently in use. Figure 2 shows the general land use in the WMA.

Property in Hawaii County is in high demand. Future land use will likely consist of expanding residential and commercial activities. Further resort development may occur along the coastline while residential and other forms of commercial expansion are expected in Waimea, Waikoloa Village, and elsewhere.

Varying levels of ‘residual risk’ will remain on individual properties in the WMA, even after DoD UXO removal activities are completed. As a result, lenders may be reluctant to fund property loans and developments in the area and may seek reassurance that safety measures will be in place during construction and use of the property. Following this AEHMP can significantly reduce risks from UXO associated with construction activities, which may improve financing options.

Section 6 Responsibilities of Government Agencies and Landowners

Everyone, including federal, state, and local governments, landowners and individuals, shares responsibility for understanding and mitigating risks associated with UXO. This section describes the general responsibilities of each group and how they interact with one another.

DoD: At the Federal level, DoD is responsible for investigating and removing UXO, as well as, addressing related contaminants in the WMA.

Army Corps of Engineers: DoD has delegated USACE responsibility for addressing UXO issues on Formerly Used Defense (FUDS) in the WMA.

U.S. Army Garrison – Hawaii: Manages investigation and cleanup of the Pu'u Pa'a Munitions Response Site. This work is separate from the work being done by USACE on the FUDS portion of the WMA.

HDOH/HEER Office: In general, HDOH ensures that remediation of hazardous substances, pollutants, or contaminants are done in accordance with the Hawaii Environmental Response Law (HERL). The HEER Office also oversees DoD's UXO remediation activities under a Cooperative Agreement with DoD.

Counties and Municipalities: At the local level, counties and municipalities act as the "first responders." Once notified, police officials contact DoD Explosive Ordnance Disposal (EOD) specialists and assure that the public keeps a safe distance.

WMA Property Owners: Landowners should inform all users of their property that UXO may be present and clearly communicate the "3Rs" safety message to them. USACE has pamphlets and signage available upon request. During any construction activities, property owners should adhere to this AEHMP and any Site-Specific Environmental Hazard Management Plan (SSEHMP) approved by HDOH. 'UXO Construction Support' should be provided, even on properties previously cleared by the DoD.

Residents and Visitors: Individuals who encounter munitions should observe the following "3Rs" of Explosive Safety:

- 1) **RECOGNIZE** a potential munition and be aware of its dangers;
- 2) **RETREAT** and do not approach, touch, move or disturb the object. Carefully leave the area along the same path they walked in on and warn others to do the same; and
- 3) **REPORT** the object by calling 911 and advising police of what you saw and where you saw it.

In addition to calling 911, the individual who discovered the UXO and the first responder should complete the **UXO Report Form** (see **Form 1** in Appendix). Once completed, they should send copies to both the HEER Office and USACE at the addresses are listed on the form.

See Appendix H for additional information on government agency and landowners' responsibilities.

Section 7 General Use of AEHMP's and SSEHMP's by HDOH

HDOH has successfully used Areawide Environmental Hazard Management Plan's (AEHMP) to help ensure the safe development of properties located within larger areas known to be contaminated by similar chemical contaminants.

An AEHMP describes known "contaminants of potential concern" in a particular area and provides general guidance for safely handling and managing soil and groundwater for all properties within the AEHMP boundary. The AEHMP is generally designed to be used for small-scale projects such as utility excavations, landscaping, and minor renovation activities. HDOH typically prepares the AEHMP which applies to multiple properties within a given area and usually provides only an overview of the contaminants that may be present and general guidance for safely managing them.

Some properties within the AEHMP boundary may also have individual plans to manage specific contaminants identified on those properties. These *Site-Specific Environmental Hazard Management Plans* (SSEHMP's) are generally prepared by an environmental consultant working for the property owner. SSEHMP's include specific details regarding known contaminant concentrations and how they affect the site. SSEHMP's must be reviewed and approved by HDOH.

While property owners may use an AEHMP for minor activities, HDOH may request that property owners prepare an SSEHMP when considering major development projects within the AEHMP boundary. For example, the AEHMP may be used for replacement of a broken sewer line, but an SSEHMP will likely be required if the owner is planning to construct a new shopping center.

Typically, an AEHMP or SSEHMP contains the following:

- 1) A Health and Safety Plan;
- 2) An Environmental Hazard Evaluation (EHE);
- 3) Precautionary measures to be followed during construction;
- 4) Soil management plan; and
- 5) Post-construction institutional controls (ICs); post-construction ICs are included when residual contamination is left on the property.

Institutional Controls may include:

- 1) Restrictions on certain activities at a site (e.g., "no digging");
- 2) Safety and training requirements for site users; and
- 3) Engineering controls to reduce exposure (e.g., soil caps, fencing, or signage).

If residual contamination is managed onsite, there will also be institutional controls that must be followed: 1) in the event that additional contamination is discovered, or 2) when further subsurface excavations are to occur at the site. At the end of a construction activity, it is often appropriate to update the SSEHMP and the AEHMP. All updates and revisions must be reviewed and approved by HDOH.

An important benefit of the AEHMP is that its component parts can be used for other development activities within the AEHMP area boundary. In this way, the AEHMP may save the time and expense of preparing separate documents (Health and Safety Plan, EHE, etc.). If an SSEHMP is

required for a project, then components of the AEHMP may often be inserted into the SSEHMP with little modification. Details on when an SSEHMP is required are found in Appendix F.

Section 8 Use of AEHMP's and SSEHMP's in the Waikoloa Maneuver Area

8.1 Introduction

The HEER Office has developed this AEHMP to enhance public safety by:

- 1) Alerting the public to the presence and risks related to UXO in the WMA;
- 2) Suggesting measures to reduce the risks should you encounter a potential UXO; and
- 3) Providing safety guidelines for developing land in the WMA.

More specifically, this AEHMP:

- **Provides useful information about the WMA** (Sections 3 and 5; Appendix E)
- **Discusses the nature and potential hazards associated with munitions** (Section 3 and Appendix G)
- **Provides information about current cleanup activities and regulatory oversight** (Sections 2, 4, and 6; Appendices C, G, and H)
- **Identifies safety measures people should take if they encounter potential UXO** (Section 6 and Section 8)
- **Discusses the process used to mitigate risks associated with munitions that may be present** (Section 8)
- **Identifies precautions parties should take when planning construction work in the WMA** (Section 8 and Appendix F)

HDOH recommends following the guidance presented in this document for any development within the WMA, regardless of whether DoD has completed its clearance activities. The safety information presented is designed to reduce the risk of injury should you encounter a potential UXO. Use of this AEHMP and/or an associated SSEHMP is voluntary unless otherwise required under an agreement between the landowner and HDOH.

In the WMA, the common contaminant across the area is UXO, with varying degrees of risk at different sites. The degree of risk depends on the types and quantities of munitions originally used and the level of cleanup activity conducted to date. Even in areas that have been completely cleared by the DoD, some 'residual risk' remains due to the technological limitations discussed in Section 4. Based on this information, the AEHMP approach described in Section 7 can easily be applied to the entire WMA, regardless of the extent of cleanup activities that have occurred in any specific area.

The basic assumption underlying the Environmental Hazard Evaluation discussed below is that all property within the WMA presents a potential UXO hazard. To mitigate this potential hazard, the landowner must communicate the possibility that UXO is present to all users of the land. It is particularly important to alert workers who may disturb or remove soil from the property (e.g., construction workers, landscapers, etc.). HDOH suggests landowners use this document to help them communicate the risks associated with UXO.

In addition, the subsections below describe:

- 1) Recommended actions to take if UXO is encountered;
- 2) Proper use of UXO Construction Support and soil management procedures to reduce risk associated with UXO when developing the property; and
- 3) The need to prepare an SSEHMP for large-scale development projects.

Section 8.2 Environmental Hazard Evaluation

A critical component of an Environmental Hazard Management Plan (AEHMP or SSEHMP) is an Environmental Hazard Evaluation (EHE), which describes the specific environmental hazards the plan is designed to address.

USACE has found that no specific chemical contaminants were used in the WMA. This was the conclusion of a 2004 Phase III Engineering Evaluation/Cost Analysis Report. In addition, between 2009 and 2012, USACE conducted multi-increment soil and groundwater sampling. No contaminants of concern were found that exceeded HDOH Tier 1 Environmental Action Levels (see Appendix C). USACE presented the sampling results to HDOH in 2013, which included chemical residues associated standard munition constituents, such as metals and explosives. Based on these investigations, this EHE also assumes that contamination from chemical warfare materials is not present in the WMA.

The primary risk associated with UXO in the WMA appears to be the potential injury, death, or property damage from accidental explosion. It is very difficult to assess the likelihood an individual will encounter a munition that may explode. It is likewise very difficult, if not impossible, for a regulatory agency to establish an objective standard by which to judge the acceptable risk of such a catastrophic, life-threatening event occurring. Furthermore, no matter what level of cleanup DoD or others perform, some 'residual risk' related to UXO will always remain.

Importantly, it is commonly accepted that UXO present in the WMA are not likely to explode if left undisturbed. HDOH believes only mishandling UXO or disturbing the ground pose an explosive hazard. While munitions debris does not generally pose a risk, explosive residues may be present. Such residues could ignite and cause a burn or similar injury. Munitions debris may also indicate a greater likelihood that UXO are present in the area.

UXO hazards increase significantly during subsurface construction activities such as installing footings, driveways, roads, fence posts, street lighting, and swimming pools. Handling excavated soil containing undetected UXO may also present a hazard. Soil containing UXO that is moved, can pose a risk to offsite receptors, as well.

In general, larger items of UXO present a hazard over a greater distance than smaller items. A 155 millimeter shell, for example, poses a hazard at a greater distance than a hand grenade. Of course, the risk of serious injury or death for a person in direct contact with either item of UXO is likely the same. Unlike chemical contamination that may cause illness or death after years of exposure, explosive hazards such as UXO can seriously injure or kill in an instant.

In those areas where DoD has completed its investigation and clearance, the risks associated with UXO will have undoubtedly been reduced significantly. Nonetheless, regardless of DoD's best efforts to detect and remove UXO, some level of 'residual risk' will always remain.

Section 8.3 Required Action If You Encounter a Munition

In the event a landowner, munitions contractor, construction contractor, or any other on-site visitor encounters a munition, they should immediately call the Waimea Police Department by dialing 911. Do not approach or attempt to pick up the item. **Remember to always observe the "3Rs" of Explosive Safety. The "3Rs" stand for:**

Recognize...Retreat...Report. Anyone who suspects they have encountered a UXO must:

- **RECOGNIZE** the munition and understand the potential dangers.
- **RETREAT** and do not approach, touch, move or disturb the item. Leave the area along the same path and warn others to do likewise.
- **REPORT** by calling 911 and advise the police of what you saw and where.

Remember, only trained personnel can accurately assess the dangers posed by suspected UXO. Under no circumstances should you approach, move, disturb or handle a suspected munition or munitions debris. Once you contact the police, they will contact the military authorities to request DoD support.

Section 8.4 Requirements for Reporting UXO

If a munition is discovered during site investigation, ground disturbing or intrusive activities or at any other time, in addition to calling Waimea Police Department, the **UXO Report Form (Form 1** in the Appendix) should be completed and mailed within seven (7) days to the:

State Agency

Hawaii Department of Health
Hazard Evaluation and Emergency
Response Office
2385 Waimano Home Road #100
Pearl City, Hawaii 96782

Federal Agency

U.S. Army Corps of Engineers
Pacific Division, Honolulu District
Building 230
Fort Shafter, Hawai'i 96858-5440

Section 8.5 Pre-construction Planning and UXO Construction Support

HDOH strongly recommends using 'UXO Construction Support' for all actions taken within the WMA that involve ground disturbing or intrusive activities. These activities include, but are not limited to: landscaping, renovation activities, new construction, installing fence posts, grubbing and grading, etc.

'UXO Construction Support' is an industry term that describes procedures for site screening and steps to avoid suspicious objects referred to as 'anomalies.' The support is conducted in consultation with a qualified munitions contractor. The use of UXO Construction Support is especially important on properties that have not yet been 'cleared' by the DoD. However, due to

the ‘residual risk’ of UXO, HDOH recommends UXO Construction Support for all ground disturbing activities.

HDOH recommends that the guidance in this AEHMP be followed during all construction activities in the WMA.

Following these guidelines for all ground disturbing activities will decrease the risk to workers, property users, and neighbors of an accidental UXO explosion. The process includes the following:

- a) Notify all workers that UXO may be present and that UXO are dangerous.
- b) Inform HDOH if you are planning a large-scale construction project.
- c) HDOH may require that you prepare and submit a Site-Specific Environmental Hazard Management Plan (SSEHMP) for approval prior to beginning any excavation or soil boring activities (see Appendix F and Section 8.6 below).
- d) Hire a qualified UXO Contractor to prepare an ‘Anomaly Avoidance Plan’ and conduct UXO Construction Support during all soil disturbing activities.
- e) Communicate the Anomaly Avoidance Plan and the Site Health and Safety Plan to all site workers.
- f) Both large and small scale developments should follow the Soil Management Plan guidelines described in Section 8.9 below to prevent the spread of potentially UXO-contaminated soil to other areas.
- g) Follow the “3Rs” of explosive safety and complete the attached **UXO Report Form** (Form 1) if UXO are encountered.
- h) Complete the attached **Soil Management Plan Reporting Form (Form 2)** in the Appendix) for all excavated soil. This form should be maintained by the property owner, except when requested by HDOH.
- i) Notify HDOH prior to, and at the completion of, any ground disturbing activities.

There are two methods currently used for detecting munitions: 1) a visual surface survey and 2) geophysical detection equipment to detect buried munitions. Both surveys should be performed by a UXO Contractor that has been certified by the Department of Defense Explosives Safety Board (DDESB) to perform such work (Appendix J).

The DDESB-certified UXO Contractor should also prepare an Anomaly Avoidance Plan. The Plan should be used to convey the potential UXO hazard to site workers as part of their general Health and Safety Training and during on-site tailgate safety meetings. Appendix B contains a sample outline for a typical Anomaly Avoidance Plan.

The property owner should provide the UXO Contractor with construction plans that clearly indicate areas where soil may be disturbed and the depths of all excavations (e.g. locations of

structure footings, driveways, swimming pools, subdivisions, utility corridors, grading and grubbing plans, laydown areas for construction equipment, etc.). For smaller projects, such as landscaping and fence-post installation, the property owner may just show the areas to the UXO Contractor and/or clearly mark the areas to be disturbed. The UXO Contractor must then screen all the surface areas where soil will be disturbed both visually and with a magnetometer.

The UXO Contractor should be on-site during all excavation activities. Where soil excavation or grading will penetrate greater than 12 inches below the ground surface, the soil should be removed in 12-inch layers and the UXO Contractor should perform additional scans after each layer. This process also applies when boring holes for posts or wells, and when collecting soil samples. The UXO Contractor should re-scan with a magnetometer at every 12 inches of depth until desired depth or bedrock is reached. If the excavation does not reach bedrock, the UXO Contractor should perform a final scan at the completion of the excavation to ensure that a clearance has been achieved to 12 inches below the final excavation. All soil excavated from the site should be managed in accordance with the Soil Management Plan described in Section 8.9.

If an anomaly is detected, the UXO Contractor should mark the location and instruct the property owner and workers not to dig in that location. The property owner and construction contractor(s) should perform construction activities only in areas that have been cleared by the UXO Contractor. This may require revisions to the construction plans.

If the construction plans cannot be altered to avoid the anomaly and the UXO Contractor determines the anomaly may be a UXO, the property owner or the contractor should call 911 to report the suspected UXO and complete the **UXO Report Form (Form 1)** in the Appendix. The DoD Explosives Ordnance Disposal (EOD) specialists who respond to the report will assess and dispose of the anomaly. **Under no circumstances, should the privately hired UXO Contractor attempt to remove or otherwise dispose of any UXO.**

Section 8.6 Using a Site-Specific Environmental Hazard Management Plan

When planning a large-scale development in the WMA, HDOH requests that property owners submit a Site-Specific Environmental Hazard Management Plan (SSEHMP) for prior approval. Examples of small- and large-scale development projects are described below. If you are unsure whether your project warrants an SSEHMP, please call the HDOH HEER Office at 808-586-4249 for clarification.

Small-Scale Projects

Small-scale developments are defined as single lot construction projects that include: building a single-family home or garage, home renovation, installing a swimming pool, animal shelter, driveway, fence post, mailboxes, lamp posts and minor alterations to structures that requires subsurface excavations.

Since lots may range up to 100 acres or more, for developments with footprints larger than 3,000 square feet, please contact the HDOH/HEER Office to determine if an SSEHMP is needed. HDOH may ask to review the construction plans to decide whether following the AEHMP alone is acceptable, or whether the landowner needs to submit an SSEHMP.

Large-Scale Projects

Large-scale projects are defined as subdivisions, schools, and shopping centers, etc., that may include roadways, utility corridors and major modifications to complex existing structures. All large-scale construction projects in the WMA should follow an SSEHMP reviewed and approved by the HDOH.

The SSEHMP provides considerably more detailed site-specific guidance than the AEHMP. Maps included in the SSEHMP provide more detail regarding the planned construction, including features such as roads, subsurface utilities, location of structures, depths of excavations and grading activities. The SSEHMP also includes a detailed soil management plan.

The SSEHMP should include the intended location of all subsurface construction activities. Typical projects might include: installing building footers with a two-foot deep excavation; installing subsurface utility lines, grading large areas for parking; and excavating 10-feet to construct a swimming pool. It should also locate storage ‘lay-down’ areas for vehicles, heavy equipment, and materials to be used during construction. The SSEHMP should direct the UXO Contractor to conduct UXO Construction Support and anomaly screening in all these areas.

Appendix F contains additional information on the preparation and use of an SSEHMP.

Section 8.7 Qualifications for Conducting UXO Activities

It is very important that landowners avoid disturbing munitions. Detecting and disposing of munitions requires special training. As a precaution, landowners should hire a UXO contractor to provide UXO Construction Support and prepare an Anomaly Avoidance Plan. The UXO contractor should be certified by the Department of Defense Explosives Safety Board (DDESB). Appendix J includes Tables from DDESB Technical Paper 18, which describe the minimum qualifications for a UXO Contractor. The complete paper (TP-18) may also be found at:

<https://www.denix.osd.mil/ddes/ddes-technical-papers/>

CAUTION

Disposing of UXO requires expertise beyond that needed to detect anomalies. A privately hired UXO Contractor should NEVER attempt to dispose of UXO.

If a potential UXO is identified, contact 911 immediately. The local police department will arrange for a DoD Explosives Ordnance Disposal Specialist to help.

Section 8.8 Subsurface Munitions Clearance Depths

The construction plan should provide for detecting munitions at least 12 inches deeper than the planned depth of excavation, or to bedrock. Although UXO in the WMA do not typically penetrate soil deeper than three feet, investigators have found larger shells as deep as five feet. In general, UXO have been encountered below three feet only in areas where the soil has been otherwise disturbed (e.g., fissures in the soil or landslide areas, etc.). Except for swimming pools and utility poles, subsurface activities in the WMA, are not expected to disturb soil below four feet.

Section 8.9 Soil Management Plan

A critical part of this AEHMP and an SSEHMP is the Soil Management Plan which details how soil is excavated, reused, or disposed of during construction activities. Excavated soil may contain UXO that were not detected during the surface and subsurface surveys. Therefore, each truckload of soil taken off site should be screened again by geophysical detection equipment and/or soil sieving with a 2-inch mesh sieve. If possible, to avoid unintentionally transporting UXO off-site, it is better to reuse all excavated soil on-site for landscaping purposes.

If soil removed from the site is contaminated with UXO, the landowner may be in violation of the Hawaii Solid Waste Pollution Law (HRS 342 H).

At a minimum, the Soil Management Plan should contain the following requirements:

- a) Excavate soil slowly by removing layers of 12 inches or less at a time (referred to as “lifts”). Similarly, soil boring cores should be removed every 12 inches to allow for screening by the UXO Contractor. This includes geotechnical borings used to assess soil conditions.
- b) Use geophysical detection equipment to scan before each 12-inch lift or soil core that is removed. After the final lift or core is removed, scan at least 12 inches below the final depth of the excavation or to bedrock, whichever occurs first.
- c) Stockpile and reuse excavated soil on-site to avoid transporting soil to another location that might contain UXO.
- d) When moving soil off-site, re-screen each truckload using geophysical detection equipment or a 2-inch soil sieve to ensure UXO are not transported off-site. This secondary survey of the soil stockpile should also be done in 12-inch lifts prior to loading for transport and disposal.
- e) If possible, soil removed from the site should only be used for landfill cover. Permission from the landfill operator is required prior to removing the soil for off-site disposal.
- f) If the soil is to be placed other than in a landfill, the off-site disposal location should be recorded on the attached **Soil Management Plan Reporting Form (Form 2** in the Appendix) and the landowner should request approval from the HDOH.
- g) Whenever possible, soil re-used on-site should be placed under foundations or roadways, or in other areas that minimize exposure.

- h) The **Soil Management Plan Reporting Form (Form 2)** in the Appendix), should be completed by the landowner or construction contractor and maintained by the landowner. The forms should be made available to HDOH upon request. If soil is transported to an off-site location other than a landfill, copies should be sent to USACE and HDOH at the addresses listed on the form.
- i) If UXO are encountered during soil excavation, follow the instructions in Section 8.3 and 8.4, and complete the **UXO Reporting Form (Form 1)** in the Appendix). The form should be completed by a UXO Contractor.

Section 9 Summary

1. 'Residual risk' from UXO is present throughout the WMA, even in areas that have been previously cleared by DoD.
2. Risk of death or injury from accidental explosion is the only hazard associated with UXO at the WMA. Chemical constituents from UXO have not been found to exceed acceptable regulatory levels. In addition, there is no documentation indicating that chemical warfare munitions were used in the WMA.
3. This AEHMP provides guidelines to owners and users of properties in the WMA to reduce the risk of exposure to UXO hazards. If you see a suspect UXO, follow the "3Rs of Explosives Safety" (*Recognize, Retreat, and Report!*) and call 911 immediately to report the location.
4. For all ground-disturbing activities in the WMA, landowners should use UXO Construction Support. The support should be provided only by a UXO Contractor that has been certified by the Department of Defense Explosives Safety Board (DDESB).
5. This AEHMP does not address sources of chemical contaminants other than UXO that may be found in the WMA. If a chemical release is detected or suspected, the property owner should contact the HEER Office to report it in compliance with the Hawaii Environmental Response Law (HERL) (HRS, Chapter 128D).
6. Use of this AEHMP and/or an associated SSEHMP is voluntary unless otherwise required under an agreement between the landowner and HDOH.
7. Following this AEHMP can provide a fast and economical way to minimize risks associated with UXO when developing both small- and large-scale projects in the WMA.

APPENDIX

Form 1: UXO Report Form

Please complete this form and submit copies to the following:

HEER Office
2385 Waimano Home Road #100
Pearl City, HI 96782
ATTN: SDAR - DSMOA

USACE, Pacific Division, Honolulu District
Building 230
Fort Shafter, HI 96858-5440
ATTN: FUDS - Waikoloa Maneuver Area

Initial / Final Report (<i>circle one</i>)		
1. Report Prepared By:		
Name:		Date:
Email Address:		Phone Number:
2. Location of Suspected Item:		
Address/ GPS:		
City:	State:	Zip Code:
Nearest Road/ Cross Street:		
Additional Comments:		
3. Specific Information: <i>Do Not Approach, Move, or Disturb Item.</i>		
<i>View item from a safe distance</i>		
Date of Discovery:		Approx. Time of Discovery:
Keeping your distance describe the item: (<i>size, shape, color, markings</i>):		

Form 1: UXO Report Form (page 2)

Description of Surrounding Area (*circle only one*):

Located on the Surface of the Soil / Partially Buried / Subsurface /
In the Water / Located in another Piece of Equipment

If other, please
specify:

Additional Comments:

4. Immediate Munitions Response Action Taken:

Evacuation of the Area: Yes / No

Marked Item Location: Yes / No

Photographed Item: (attached) Yes / No

GPS Location of Item (provided): Yes / No

Notified Waimea Police Department: Yes / No

Reported Suspect Item to:

Entity Responding:

Time and Date of Response:

Additional Information:

Form 1: UXO Report Form (page 3)

5. Regulatory Notification:

Date:		Time:
Name:		Agency:
Phone Number:		Purpose / Comments:
Date:		Time:
Name		Agency:
Phone Number:		Purpose / Comments:

Additional Information:

Form 2: Soil Management Plan Reporting Form

*To be Completed by Property Owner or Construction Contractor
When performing Subsurface Excavations in the WMA*

Please complete this form and submit copies to the following:

*HEER Office
2385 Waimano Home Road #100
Pearl City, HI 96782
ATTN: SDAR - DSMOA*

*USACE, Pacific Division, Honolulu District
Building 230
Fort Shafter, HI 96858-5440
ATTN: FUDS - Waikoloa Maneuver Area*

Owners Name: _____ Address: _____ _____ Date: _____ Telephone # _____ Signature: _____	Name Munitions Contractor Contractors: Telephone #:
	Name of Building Contractor if Other Than Self Telephone #
	Comments

Number and Depth of Each Excavation:

Total Volume of Soil Excavated:

Use of Soil:

Circle One

Reused on Site

Offsite/Landfill cover

Other Explain

Number of UXO Located:

Number of Munitions Debris Located

If Exported Offsite, Means of Screening:

Circle One:

Geophysical Detection Equipment

Sieving

Form 2: Soil Management Plan Reporting Form (page 2)

Implement this Plan by:

1. Making sure on-site workers are aware of the AEHMP and the potential hazards of subsurface excavation on the property associated with UXO.
2. Making sure a copy of the completed plan is present at the construction site.
3. Accessing additional guidance for completing this form in Section 8 of the AEHMP for the WMA.
4. Keeping a copy for your records and send a copy to the HEER Office and the USACE at the addresses listed above.
5. Attach a sketch of the location and depth of excavation.

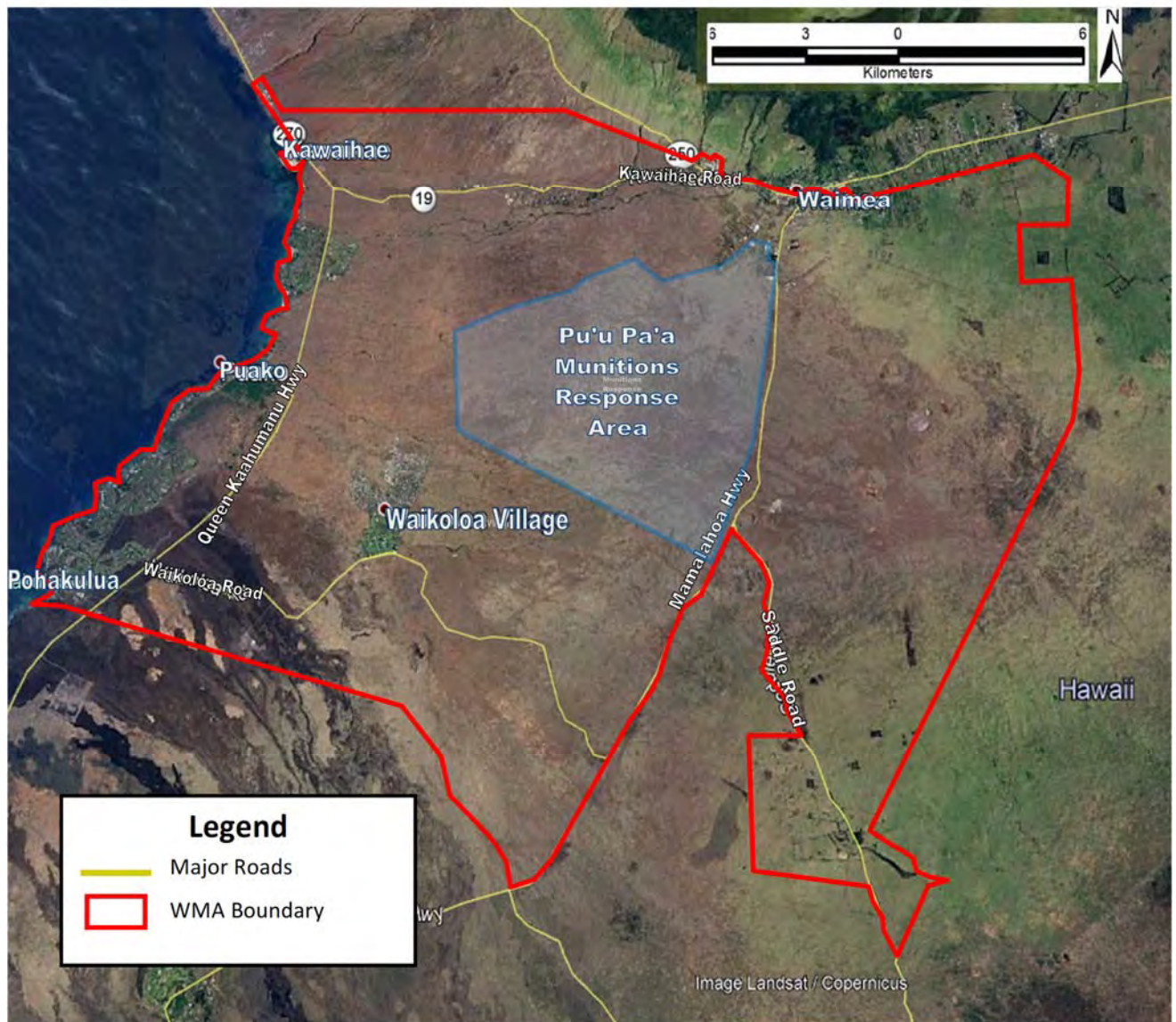


Figure 1:
Waikoloa Maneuver Area Location Map
(including WMA Formerly Used Defense Site and Pu'u Pa'a Munitions Response Area)
Hawaii County, Hawaii

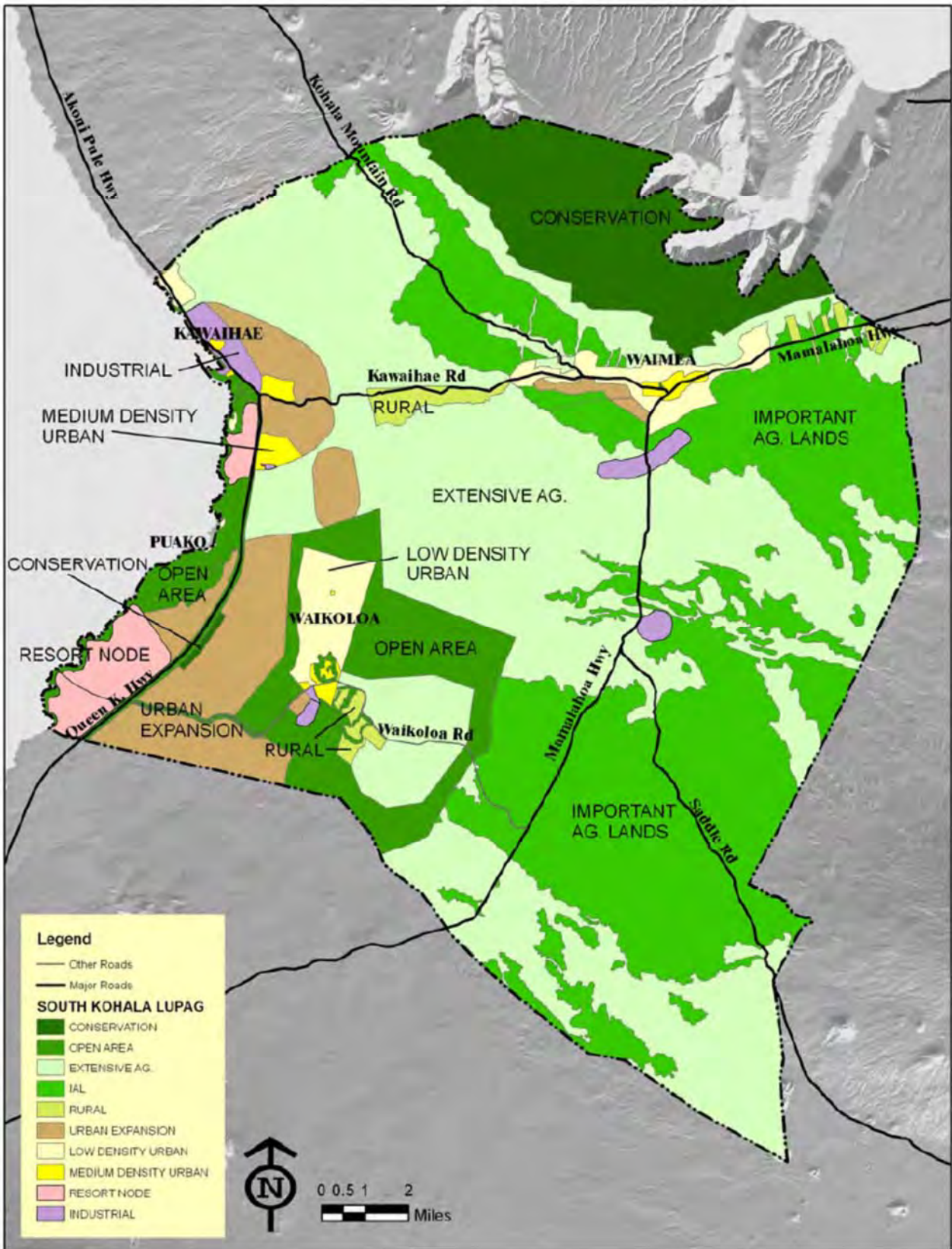


Figure 2:

Land Use in the Waikoloa Maneuver Area

Source: South Kohala Community Development Plan. FINAL. November 2008

<http://www.hcrc.info/community-planning/community-development-plans/>

Appendix A

Useful References

1. Department of the Army Pamphlet 385-64, “Ammunition and Explosive Safety Standards.”
2. Department of Defense Directive 6055.9, “DoD Explosives Safety Board (DDESB) and DoD Component Explosives Safety Responsibilities.”
3. Department of Defense Explosives Safety Board, Technical Paper 18, “Minimum Qualifications for Personnel Conducting Munitions and Explosives of Concerned-Related Activities,” September 1, 2015. http://64.78.11.86/uxofiles/enclosures/DDESB_TP_18_July2015.pdf
4. State of Hawaii Department of Health (HDOH), “Guidance for Soil Stockpile Characterization and Evaluation of Imported and Exported Fill Material,” October 2017. <http://www.hawaiidoh.org/references/HDOH%202017d.pdf>
5. HDOH, “Technical Guidance Manual” published by the HDOH Hazard Evaluation and Emergency Response (HEER) Office.
6. South Kohala Community Development Plan. FINAL. November, 2008
<http://www.hcrc.info/community-planning/community-development-plans>, Adopted: November 20, 2008. Prepared For: The County of Hawai’i, Prepared By: The South Kohala Community with the Assistance of: The County of Hawaii Planning Department and Townscape, Inc.
7. U.S. Army Corps of Engineers (USACE), Engineering Manual 385-1-97, Explosives Health and Safety Manual
8. USACE, “UXO Safety Former Waikoloa Maneuver Area” pamphlet,
<https://www.poh.usace.army.mil/Portals/10/docs/fuds/WMA%20UXO%20Safety4.pdf>
9. USACE “April 2013 Fact Sheet, Formerly Used Defense Site (FUDS), Waikoloa Maneuver Area, South Kohala, Hawaii,”
<https://www.poh.usace.army.mil/Portals/10/docs/factsheets/Fact%20Sheet%20-Waikoloa%20April%202013.pdf>
10. U.S. Army, “FY2016, Pohakuloa Training Area, Army Defense Environmental Restoration Installation Action Plan,” December 2016,
<https://www.aec.army.mil/application/files/8715/0007/9015/HI-PTA.pdf>

Appendix B

Sample Outline of an Anomaly Avoidance Plan

UNEXPLODED ORDNANCE AVOIDANCE PLAN

- 1.0 CHAPTER 1 – INTRODUCTION**
 - 1.1 Project Authorization**
 - 1.2 Purpose and Scope**
 - 1.3 Site Description and History**
 - Figure 1-1 Site Location Map**
- 2.0 CHAPTER 2 - TECHNICAL MANAGEMENT PLAN**
 - 2.1 General Procedures**
 - Personnel**
 - Areas to Be Inspected**
 - Inspection Procedures**
 - Procedures to be used in the event UXO is located**
 - 2.2 Project Execution**
 - 2.2.1 Phase I – Mobilization**
 - 2.2.2 Phase II - UXO Avoidance for Construction Support**
 - 2.2.3 Demobilization**
 - 2.2.4 OE Personnel and Qualifications**
 - 2.3 Public Affairs**
- 3.0 CHAPTER 3 - EXPLOSIVES MANAGEMENT PLAN**
- 4.0 CHAPTER 4 - EXPLOSIVES SITING PLAN**
- 5.0 CHAPTER 5 - GEOPHYSICAL PROVE-OUT PLAN AND REPORT**
- 6.0 CHAPTER 6 - GEOPHYSICAL INVESTIGATION PLAN**
- 7.0 CHAPTER 7 - LOCATION SURVEYS AND MAPPING PLAN**
- 8.0 CHAPTER 8 – WORK, DATA, AND COST MANAGEMENT PLAN**
- 9.0 CHAPTER 9 - PROPERTY MANAGEMENT PLAN**
- 10.0 CHAPTER 10 - QUALITY CONTROL PLAN**
- 11.0 CHAPTER 11 - ENVIRONMENTAL PROTECTION PLAN**
- 12.0 CHAPTER 12 - INVESTIGATION-DERIVED WASTE PLAN**
- 13.0 CHAPTER 13 - GEOGRAPHICAL INFORMATION SYSTEM (GIS) PLAN**
- 14.0 CHAPTER 14 - REFERENCES**

Appendix C

History of Response Actions in the Waikoloa Maneuver Area

Training activities in the Waikoloa Maneuver Area (WMA) ended in 1946. The Navy acquired the Waikoloa Maneuver Area (WMA) in 1943 through a licensing agreement to use as a military training camp and artillery range. The area served 50,000 troops from 1943 to 1945. However, limited training activities continued in the former Pu'u Pa'a Local Training Area portion of the WMA through the 1990s).

Two surface clean-up activities were conducted in 1946 and 1954. The 1946 clean-up was done after the departure of the military. The 1954 clean-up followed an accidental detonation of a dud fuse or shell killing two civilians and seriously injuring three others. Munitions and explosives continue to be discovered at the Former Waikoloa Maneuver Area. Investigation and clearance continue in areas planned for development and where risk assessments rate the areas as moderate to high.

To date over 100 different types of munitions have been found at the Former Waikoloa Maneuver Area to include mortars, projectiles, hand grenades, rockets, land mines and Japanese ordnances. Since activities at the WMA ended, DoD has undertaken five separate cleanup activities in the WMA. In total, to date, DoD has investigated and removed munitions from approximately 25% (29,000 acres) of the WMA's, currently estimated, 123,000-plus acres.

The current estimated cost to complete investigation, clean-up and long-term monitoring is \$723 million. In accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Remedial Investigation/ Feasibility Studies have started that will characterize and assess the nature and extent of the contamination at the WMA.

DoD conducted the first visual surface clearance prior to the 5th Marine Division's departure in 1946. The second surface clearance effort occurred in 1954 after an accidental UXO detonation killed two civilians and injured three others. The extent of these two clearance efforts is unclear, although records imply they covered approximately 91,000 acres. During these two clearances, technicians discovered numerous live munitions.

Following the two investigations in 1946 and 1954, and the establishment of the DoD's Defense Environmental Restoration Program in the 1980s, the WMA (except for the Pu'u Pa'a Local Training Area portion) was designated as a Formerly Used Defense Site (FUDS) to be managed by USACE. In the 1990s and early 2000s, the USACE performed several preliminary Engineering Evaluation/Cost Analysis site investigations, followed by a series of Time-Critical and Non-Time-Critical Removal Actions across the FUDS portion of the former WMA.

In 1997 and 2001 the third and fourth clearance for munitions was conducted in the WMA which included a Phase I and Phase II Evaluation/Cost Analysis. The clearance conducted resulting in the removal of numerous munitions and other non-hazardous debris. In 2004, a fifth clearance was conducted and a Phase III Evaluation/Cost Analysis on the outskirts of the WMA. The investigation discovered and removed several UXO and a variety of other debris.

Beginning in 2012, this evolved into the current cleanup activities. In 2012, the USACE changed the removal process to a process like that used to address hazardous substance releases under CERCLA, also known as the 'Superfund.'

This process, overseen by the HDOH, involves conducting an initial Remedial Investigation/ Feasibility Study on areas identified as potentially contaminated in the preliminary assessment. Alternatives are then presented to the various stakeholders (e.g., property owners, HDOH, and the public) and a Decision Document is prepared that may include additional Removal or Remedial Action.

Investigations in 2009 and 2012 included collecting soil and groundwater samples in representative areas of the WMA. Samples were analyzed for munitions constituents including metals and explosives and compared to HDOH Tier 1 Environmental Action Levels. No contaminants of potential concern were detected at concentrations exceeding the Environmental Action Levels. Based on these studies, USACE concluded that munitions constituents are not a concern at the WMA.

Because the cleanup process is expected to continue well into the future, USACE currently devotes a significant amount of time into conducting a community awareness outreach program. They visit elementary schools and community events across Hawaii county, particularly around Waikoloa and Waimea, to share the “3Rs of Explosives Safety” message. HDOH works together with USACE at these events because we recognize the importance of spreading this message out to the community in order to reduce the risk of exposure to UXO in the WMA.

The Pu’u Pa’a Munitions Response Area is managed separately by the U.S. Army Garrison – Hawaii. This is because the Pu’u Pa’a Local Training Area continued to be used by the Army and the Army National Guard through the 1990s before the property was returned to private ownership, which made the property ineligible for the FUDS program (FUDS properties must have been returned before October 1987). The U.S. Army Garrison – Hawaii also follows a CERCLA-like process at the Pu’u Pa’a Munitions Response Area portion of the former WMA and is currently preparing its Final Remedial Investigation/ Feasibility Study document for that site.

Appendix D

Sample Right of Entry Letter and Agreement

Dear Landowner:

The U.S. Army Corps of Engineers (Corps), under the Defense Environmental Restoration Program (DERP), has been assigned responsibility by the Department of Defense (DoD) to identify, investigate, and respond to environmental hazards that are a direct result of DoD activities at former military properties. Established by Congress in the mid-1980s, the Formerly Used Defense Sites (FUDS) Program cleans up properties formerly owned, leased, possessed, or used by the military services (Army, Navy, Air Force, or other Defense agencies). The Army is the DoD Executive Agent for FUDS and the Corps is responsible for carrying out the program.

The former Waikoloa Maneuver Area, South Kohala, Island of Hawaii, Hawaii, has been determined to be an eligible DERP FUDS site. We are required to inform you that your property may potentially have munitions and explosives of concerns and munitions debris that may be a hazard to the landowner, the public, and the environment. For your information, enclosed is a pamphlet on Questions and Answers on Property Surveys for Munitions and Explosives of Concern.

Also, enclosed are three Rights-of-Entry (ROE) which will allow the Corps and its contractor onto your property to perform surveys, demolish and/or remove identified MEC (Munitions and Explosives of Concern) items, and perform any other such work which may be necessary to safely get rid of said MEC. We are asking for a 12-month ROE. Our contractors are scheduled to in your area within the next couple of months to do the actual work. We apologize for the short suspense, but we are requesting your cooperation in signing two copies of the attached ROE and returning them to us in the enclosed self-addressed stamped envelope by _____. Once we receive your signed ROE, we will sign it and return to you a fully executed copy. Approximately 7-14 days prior to the actual work, our contractor will contact you by phone, email and/or letter explaining that they will be entering your property on a specific day(s) and provide you a window of time. Hand-held metal detectors will be used to sweep your property to locate surface and subsurface metallic objects. Each object discovered will be thoroughly inspected to determine what it is and if special handling is required. Road closures and traffic diversions may also be required depending upon the exact location and what types of MEC items are found on your property.

If you choose not to participate in this project and deny access, please notify us in writing. If access is denied, our regulations require us to indefinitely suspend our actions with your property. In addition, we are required to notify appropriate authorities such as the Environmental Protection Agency and State Environmental Regulatory Agency. This is a serious matter as there may be risks associated with the use of this property. Thus, we urge you to sign the ROE to allow us to conduct our work.

If you have any questions on the ROE document, please contact Ms. Zandra Smith at (808)835-4053 or by email at zandra.a.smith@usace.army.mil. If you have any questions on this Waikoloa project, please contact Mr. Loren Zulick, Project Manager, at (808)835-4005 or by email at Loren.A.Zulick@usace.army.mil.

Should you find any suspected MEC item, notify local law enforcement officials immediately. Please remember the 3Rs of Unexploded Ordnance Safety: **Recognize** that any suspicious objects found in the area should not be touched under any circumstances; **Retreat**, or carefully leave the area and; **Report** immediately what is found and its approximate location to the police, call 911.

Thank you in advance for your cooperation and support.

Sincerely,

US Army Corps Chief
Chief, Real Estate Branch

Enclosures

DEPARTMENT OF THE ARMY
RIGHT-OF-ENTRY FOR
MUNITIONS AND EXPLOSIVES OF CONCERN (MEC) REMOVAL

Formerly Used Defense Site (FUDS) Waikoloa Maneuver Area; TMK Number(s): _____

The undersigned, hereinafter called the “Owner”, in consideration for the mutual benefit of the work described below, hereby grants the UNITED STATES OF AMERICA, hereinafter called the “Government”, a right-of-entry upon the following terms and conditions.

1. The Owner hereby grants to the Government an irrevocable and assignable right to enter in, on, over, and across the land as depicted in Exhibit A, for a period not to exceed twelve (12) months, beginning with the date of the signing of this instrument, and terminating with the earlier of the expiration of the right-of-entry or the completion of the remediation by the representative of the United States in charge of the FUDS Waikoloa Maneuver Area Project, for use by the United States, its representatives, agents, and contractors, and assigns, as a work area for environmental investigation and removal; including the right to store, move, and remove equipment and supplies; erect and remove temporary structures on the land; investigate and collect samples; excavate and remove MEC, pollutants, hazardous substances, contaminated soils, containerized waste, and replace with uncontaminated soil; dispose of MEC (ordnance and explosives) by detonation; and perform any other such work which may be necessary and incident to the Government’s use for the investigation and removal of MEC, pollutants, hazardous substances, contaminated soils, and containerized waste on said lands, subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowner(s), their heirs, executors, administrators, successors and assigns, all such right, title, interest, and privilege as may be used and enjoyed without interfering with or abridging the rights and right-of-entry hereby acquired.

2. The Owner also grants the right to enter and exit over and across any other lands of the Owner as necessary to use the described lands for the purpose listed above.

3. All tools, equipment, and other property taken upon or placed upon the land by the Government will remain the property of the Government and shall be removed by the Government at any time within a reasonable period after the expiration of this right-of-entry.

4. Upon expiration or termination of this right-of-entry, the Government will ensure restoration of the ground contour, replace any pavement or other cover which was removed or damaged for this work, establish a groundcover of grass on areas not otherwise covered, and reconnect any operating utility lines that were required to be disconnected or otherwise disrupted.

DEPARTMENT OF THE ARMY
RIGHT-OF-ENTRY FOR
MUNITIONS AND EXPLOSIVES OF CONCERN (MEC) REMOVAL

Formerly Used Defense Site (FUDS) Waikoloa Maneuver Area; TMK Nos: _____

5. The land affected by this right-of-entry is located in the County of Hawaii, State of Hawaii and as depicted in Exhibit A.

WITNESS MY HAND AND SEAL this _____ of _____, 2012.

UNITED STATES OF AMERICA

By _____

Real Estate Contracting Officer
U.S. Army Corps of Engineers,
Honolulu District

Owner's Signature

Owner name (print)

Mailing Address

City, State, Zip Code

Phone number / Cell phone number

Email address

Appendix E

Geology and Hydrology

The current boundaries of the Waikoloa Maneuver Area (WMA) start in the south and extend from Anaehoomalu Bay along the Pacific shoreline to Kawaihai in the west and upland to the upper reaches of Waimea in the north. The northern boundary extends eastward to Waikii in the east, then back through the Waikoloa Village area to Anaehoomalu Bay.

The former maneuver area is characterized by a generally smooth to rocky, sloping land surface of consistent grade, marked by numerous cinder cones along the volcanic rift zones that are now covered with grassland vegetation and cut by widely spaced erosional gullies. The WMA is surrounded by three of the five volcanoes that comprise the Island of Hawaii. On the north are the Kohala Mountains, the oldest volcanic feature on the island; on the east is Mauna Kea; and on the southwest are the Hualalai Cone and Crater. Coastal land bounds the former maneuver area from the south onto the west.

Most of the former maneuver area lies within the Waimea Plains. The plains were formed by Mauna Kea lava flows that ponded against the older Kohala Mountains and are now covered with volcanic ash-type soils. The interior plains at Pohakuloa are covered with more recent lava flows from Mauna Loa that banked against Mauna Kea. The lava is predominantly basalt flows and scoria of the Hamakua Volcanics, a sequence of basaltic lavas, erupted between about 65,000 and 200,000 years ago, which was then followed by an eruption of Laupahoehoe Volcanics (which were cooler and had thicker flows) between 4,500 and 65,000 years ago. These lavas are intermingled with glacial deposits from the Pleistocene age (Macdonald, Abbott, and Peterson, 1983).

These rocks, like all Hawaiian basalts, are extremely iron rich (Wolfe and Morris, 1996). The composition of some basalt rocks exceeds 40 percent iron minerals. This high iron content can cause geophysical "false alarms" in the detection of subsurface ordnance. Not only will the geophysical equipment detect ferrous ordnance, it will also detect iron rich basalt cobbles, sub-crops, or changes in the iron composition from one lava flow to the next, depending on its iron content. Basalt, because of its iron rich composition, will oxidize and weather like that of oxidized ordnance. Consequently, there can be difficulty in visually discriminating ordnance from oxidized basalt lava flows.

Soil types within the project area are largely shallow, dry, and/or stony, and are subject to aeolian (wind-blown) conditions leaving a thin veneer of silt loam as a top soil. These soil conditions, along with the semiarid climate, lend itself to large expanses of grassland along with sparse stands of vegetation, including cactus and eucalyptus trees. According to the Natural Resources Conservation Service, the soils within the former maneuver area can be classified into one of three soil associations: the Kawaihae Association, the Puu Pa-Pakini-Waiaha Association, and the Waimea-Kikoni-Naalehu Association.

The Kawaihae Association consists of moderately deep, gently sloping to moderately steep, somewhat excessively drained soils that have medium textured subsoil that form in volcanic ash. These soils are found in the west one-third of the former maneuver area (the coastal plains) and extend inland from near sea level to approximately 1,500 feet above mean sea level. Kawaihae soils have a surface layer of dark reddish-brown and dusky-red silt loam. Bedrock is at a depth of approximately 10 to 40 inches below ground surface (U.S. Department of Agriculture, 1973).

Puu Pa-Pakini-Waiaha Association soils make up the central one-third of the former maneuver area and consist of shallow to deep, nearly level to steep, well drained to somewhat excessively drained soils that have a medium-textured subsoil or underlying material. These upland soils occur at elevations up to 4,000 feet above mean sea level and have a concentration of calcium carbonate that occurs as a soil layer or as coatings on rock fragments. Also formed of volcanic ash, these soils have a very dark brown, extremely stony, very fine sandy loam surface layer. Their subsoil is dark brown and dark yellowish-brown, very stony, very fine sandy loam, and can range from 20 to 55 inches below ground surface (U.S. Department of Agriculture, 1973).

The easternmost one-third of the former maneuver area is characterized by Waimea-Kikoni-Naalehu Association soils. These volcanic ash soils are very deep, nearly level to steep, well drained, and have a medium-textured to moderately fine-textured subsoil. The soils have a dark surface layer that is high in content of organic matter; they occur at elevations ranging from 750 feet to 6,000 feet above mean sea level (U.S. Department of Agriculture, 1973). Depending upon the location and amount of rainfall, the soil types within the former maneuver area are able to support pastureland and farming of various crops. The remaining areas support habitat for wildlife.

The WMA is in the West Mauna Kea Aquifer sector which includes the Waimea Aquifer system and the Northwest Mauna Loa Aquifer sector which includes the Anaehoomalu Aquifer System. Groundwater occurs as a freshwater lens, floating on denser saltwater within permeable lava flows near the coast. The fresh groundwater flows from the inland area west to the Pacific Ocean. Because the volcanic rocks are highly permeable, freshwater can readily discharge to the ocean and therefore groundwater levels are relatively low (less than 10 feet above sea level).

The WMA extends inland from near sea level to approximately 6,000 feet above mean sea level. Bedrock is at a depth approximately 10 to 40 inches below ground in most locations but deeper in the upper reaches of the maneuver area. The annual rainfall ranges from 20 to 50 inches, with most of the rainfall occurring October through April. In areas where volcanic flows have not recently occurred, the terrain is eroded by seasonal rivers and streams. In other areas, the terrain is undissected and quite barren, revealing a large area of exposed lava (U.S. Department of Agriculture, 1973).

There are no permanent watercourses in the WMA due to the low level of annual precipitation. Waikoloa Stream and other minor watercourses are seasonal, flowing only during the rainy season and subject to occasional flash floods. When flooding does occur, it may have the energy to move soil and rock, potentially exposing UXO that lie close to the surface. In the WMA, fresh groundwater tends to move from the mountainous areas of the island toward the coast. Given the presence of "cap rock" and the substantial depth to groundwater, a release of munitions constituents (e.g. explosive fill material) from munitions do not threaten to contaminate groundwater in the WMA.

Appendix F

Site-Specific Environmental Hazard Management Plan Guidance

Introduction

The use of Environmental Hazard Management Plans (EHMPs) has grown significantly in recent years due primarily to the increased complexity and the enormous costs associated with removing all contamination. At times, it is simply not feasible to remove all risk at a site with a feasible approach or realistic cost.

Risk assessment and risk management are the two key elements used to deal with the presence of munitions and help ensure safety. In the Waikoloa Maneuver Area (WMA), the common contaminant across the area is Unexploded Ordnance (UXO), with varying degrees of risk at different sites dependent on the types and quantity of munitions originally used at a site, and the level of cleanup activity conducted to date. Even in areas that have been completely cleared by the DoD, there is some ‘residual risk’ due to technological limitations.

The Areawide Environmental Hazard Management Plan (AEHMP) for the WMA was developed to educate the public about the ‘residual risk’ related to UXO within the WMA and to help minimize the risk when developing properties. The degree of guidance needed to address the ‘residual risk’ will depend upon the nature and size of the planned development project. The AEHMP guidance includes:

- 1) Educating workers about the ‘residual risk’ from UXO;
- 2) Using UXO Construction Support; and
- 3) Properly managing soil when conducting ‘small-scale’ development projects.

For small-scale projects, the AEHMP guidance alone may be sufficient. However, for ‘large-scale’ development projects, the Hawaii Department of Health (HDOH) recommends preparing an additional Site-Specific Environmental Hazard Management Plan (SSEHMP), which should be reviewed and approved by HDOH prior to initiating any ground disturbing activities. Small-scale developments are generally defined as single lot construction projects with footprints less than 3,000 square feet.

Large-scale developments include, but are not limited to:

- 1) Residential subdivisions;
- 2) Residential apartment buildings;
- 3) Schools;
- 4) Shopping centers;
- 5) New roads;
- 6) Alternative energy projects such as solar and wind farms;
- 7) Utilities corridors and roadways;
- 8) Commercial structures; and
- 9) Major modifications to complex existing structures.

If you are not sure whether your planned development is a large- or small-scale project, please contact the HEER Office, Site Discovery, Assessment, and Remediation Section at 808-586-4249.

Please Note the Following Regarding Site-Specific Contaminants:

The AEHMP prepared by the HDOH only addresses ‘residual risk’ associated with UXO at the Waikoloa Maneuver Area (WMA). Individual properties within the WMA may also contain other hazardous substances, pollutants or contaminants regulated by the State of Hawaii Environmental Response Law (HERL; Hawaii Revised Statutes [HRS] 128D).

If contaminants regulated under HERL are identified, their presence should be reported to HDOH Hazard Evaluation and Emergency Response (HEER) Office. In addition, an assessment should be made to determine whether remediation is required prior to development. If HDOH determines that the contaminants may be managed in place, the SSEHMP should address both the UXO ‘residual risk’ and any risks associated with the other contaminants.

Preparing Your Site-Specific Environmental Hazard Management Plan (SSEHMP)

The purpose of an SSEHMP is to further reduce risks large-scale development projects. HDOH accomplishes this by first requiring that risks be removed to the extent practicable through various remediation strategies. An SSEHMP specifies additional actions that parties must take under various circumstances to properly protect the public, the landowner, construction workers, and the environment from the ‘residual risks.’ The SSEHMP helps to further reduce risk by employing various ‘control measures’ designed to address the specific type of ‘residual risks’ present. Collectively, these additional control measures are referred to as ‘engineering controls (ECs)’ and ‘institutional controls (ICs).’

Use of this AEHMP and/or an associated SSEHMP is voluntary unless otherwise required under an agreement between the landowner and HDOH. Typically, HDOH approval of an SSEHMP is required prior to approval of large-scale development projects. While HDOH approval may not be required in some cases, preparation of an SSEHMP may still be advisable. Please contact the HEER Office to clarify the requirements.

A key component of the AEHMP and any SSEHMP to address ‘residual risk’ from UXO is utilizing UXO Construction Support. This requires the landowner to contract a Department of Defense Explosives Safety Board (DDESB) certified UXO Contractor to conduct the following activities:

- Prepare an Anomaly Avoidance Plan.
- Provide on-site training to workers prior to excavation activities.
- Screen all areas where soil disturbing activities will take place to 12-inches beyond the depth of excavation, or to bedrock.
- Be on-site during excavation activities to monitor for UXO hazards.
- Screen soil prior to off-site disposal in accordance with the Soil Management Plan.

The SSEHMP provides guidelines for worker safety and proper soil management like those presented in the AEHMP. The SSEHMP also includes more site-specific information such as:

- A description of the development and potential users of the site.

- A conceptual site model that conveys the ‘residual risk’ of UXO to all receptors (e.g., workers, visitors, residents, etc.) during the development.
- Detailed plans for mitigating ‘residual risk’ before and after construction. This could include: Health and Safety Plan, Anomaly Avoidance Plan, UXO Construction Support, hazard communication plan for site workers, and warning signage, etc.
- A detailed Soil Management Plan, including: guidelines for the stockpiling of soil on site, screening requirements for soil that will be taken off-site, and detailed instructions for the final disposition of excavated soil.
- If other chemicals of potential concern regulated by the HERL have been identified at the site, they should be addressed in the SSEHMP.
- Detailed maps of various features of the construction, including:
 - Location of roads, subsurface utilities, structures, etc.
 - Depths and locations of planned excavations
 - Depths and locations of planned soil borings
 - Locations of planned grading and grubbing activities
 - Locations of planned laydown areas
 - Location of soil stockpiles

Section 18.5.16 of the HDOH Technical Guidance Manual (TGM) provides a suggested format for the SSEHMP. The Technical Guidance Manual is available on-line at:

<http://www.hawaiidoh.org>. As described in Section 19.6 of the TGM, the SSEHMP, at a minimum, should include the following:

- A summary of the site background and history of contaminant releases. This should include a description of the ‘residual risk’ associated with UXO hazards, the UXO clearance previously conducted at the site, and other Chemicals of Potential Concern that have been identified at the site.
- Maps that clearly indicate the extent and magnitude of contamination remaining in soil, groundwater and/or soil gas.
- Identification and discussion of all potential environmental hazards.
- Requirements for long-term monitoring of contaminants in soil, groundwater, and/or soil gas.
- Discussion of engineering and/or institutional controls needed to eliminate exposure pathways for identified environmental hazards.
- Guidance on proper handling, reuse and disposal of contaminated soil and groundwater that is encountered during future site activities.
- Description of notifications to help protect construction workers.
- Use restrictions to protect occupants, residents, guests, and others.

- Measures for repair or replacement of engineering controls disturbed or breached during future site activities.
- Additional information required to adequately mitigate and manage remaining environmental concerns at the site.

Outline for a Site-Specific Environmental Hazard Management Plan	
1.0	Introduction and Purpose
2.0	Background
2.1	Summary of Site Background and History of Contaminant Releases
2.2	Chemicals of Potential Concern
2.3	Conceptual Site Model
3.0	Clear Map Descriptions of Extent and Magnitude of Remaining Contamination (to scale, with north arrow, and including footprints of any on-site buildings nearby contaminated areas)
4.0	Summary of Potential Environmental Hazards
5.0	Long-Term Monitoring Requirements
6.0	Engineering Controls Requirements
7.0	Institutional Controls Requirements
8.0	Implementation
9.0	Soil and Groundwater Management for Future Site Activities Affecting On-Site Contamination
9.1	Consultation with HEER Office
9.2	Pre-Excavation Evaluation of Soils and Groundwater
9.3	Soil Excavation and Handling
9.4	Soil Stockpiling/Storage
9.5	Soil Disposal
9.6	Groundwater Handling
9.7	Groundwater Disposal
10.0	Exposure Management
10.1	Awareness/Training for Contamination Managed On-Site
10.2	Construction Worker Notifications and Protections
10.3	Use Restrictions to Protect Site Workers, Guests
10.4	Emergency Response for Chemical Exposure
10.4.1	Eye and Skin Exposure to Chemicals
10.4.2	Internal Exposure to Chemicals
10.4.3	Inhalation Exposure to Chemicals
11.0	References

Along with the SSEHMP, where significant public review is anticipated, a brief Fact Sheet should be prepared that summarizes the SSEHMP in simple, non-technical terms. Additional guidance may be found in the HDOH publication *A Landowner's Guide to Environmental Hazard Management Plans (EHMP)* available at:

<http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/technical-guidance-and-fact-sheets>

At the completion of the development project, documentation should be submitted to HDOH showing that the AEHMP and/or SSEHMP requirements have been followed. Following the completion of the development, the landowner should continue to do the following:

- 1) Continue to comply with guidance in the AEHMP and SSEHMP;
- 2) Follow the AEHMP and HDOH-approved SSEHMP for any future development; and
- 3) Approve future DoD requests for a Right of Entry (ROE) to complete their investigation of the parcel.

Appendix G

Assessing Risks from Munitions

Risk assessment and risk management are the two key elements used to help minimize the risk related to UXO. **Risk assessment** refers to a process of identifying and evaluating the risks posed by the presence of munitions. It requires a thorough characterization and understanding of the risk factors at the site. **Risk management**, *on the other hand*, involves developing alternative actions to remove or reduce the identified risks. To do so, requires a careful evaluation of the alternative(s), a process to select the most appropriate alternative(s), and plan to successfully implementing the actions selected.

Below is a description of the general approach used by the Department of Defense (DoD) to "assess" the risks associated with munitions. Section 8 of the Waikoloa Maneuver Area Areawide Environmental Hazard Management Plan (AEHMP) presents the measures proposed by the State of Hawaii Department of Health to "manage" and mitigate those risks. The U.S. Army Corps of Engineers (USACE) conducts additional risk management activities, including educational outreach and Remedial Actions that are described in **Appendix C** of the AEHMP.

There are numerous risks associated with munitions. Assessing these risks involves a complex process. In 2001, the DoD established the Military Munitions Response Program (MMRP) to address sites known to, or suspected of, containing unexploded ordnance, discarded military munitions, or munitions constituents. When implementing the MMRP, DoD complies with federal and state environmental cleanup laws, such as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA; aka Superfund), and State "applicable or relevant and appropriate requirements" including those contained in the Hawaii Environmental Response Law (Chapter 128D, Hawaii Revised Standards).

To prioritize funding and cleanup of "Munitions Response Sites" DoD developed the Munitions Response Site Prioritization Protocol. This protocol consists of three separate modules that specify the process for evaluating the potential risks associated with: explosives; chemical warfare material; and other environmental contaminants. Applying the Munitions Response Site Prioritization Protocol helps DoD establish the "relative priority" for each Munitions Response Site. DoD uses the relative priority to help sequence its response actions. In addition to assessing the technical risk factors, DoD also evaluates other criteria such as economic impact, local redevelopment plans, and stakeholder concerns.

At the WMA, the 123,000-acre Formerly Used Defense Site (FUDS) portion has been divided in 23 separate Munitions Response Sites areas by USACE. These sites have been designated as "Area A" through "Area T" and "Sectors 15, 16, and 17". In addition to these 23 Munitions Response "Areas" and "Sectors," there are a few subdivisions that have been created, including "BOQJ-Cleared" and "BOQJ-Remnants" around Waimea town, and "Sector 17-A,B,C,E,F" and "Sector 17-D" along the coast between Kawaihae Harbor and Waikoloa Beach Resort. These Munitions Response Sites have been individually prioritized by USACE based on the factors below.

The Pu'u Pa'a Munitions Response Site portion of the WMA is currently being assessed by the U.S. Army Garrison – Hawaii who has the responsibility of managing this area. A draft Remedial Investigation /Feasibility Study for the entire 13,500-acre site is currently under review. The U.S. Army Garrison – Hawaii has not yet subdivided the Pu'u Pa'a Munitions Response Site.

USACE and U.S. Army Garrison – Hawaii assess potential risks posed at Munitions Response Sites by completing the following three hazard evaluation modules:

1. ***Explosive Hazard Evaluation (EHE) Module:***

Evaluates the relative risk and priority of sites where hazards from munitions and explosives of concern (MEC) are known or suspected to be present. A sample of the ***Explosive Hazard Evaluation Module*** from the Pu'u Pa'a munitions response site appears at the end of this appendix.

2. ***Chemical Warfare Material Hazard Evaluation (CHE) Module:***

Evaluates the relative risk and priority of sites where chemical warfare materiel (CWM) hazards are known or suspected to be present.
(Note: there is no documented use of CWM in the State of Hawaii).

3. ***Health Hazard Evaluation (HHE) Module:***

Evaluates the relative risk to human health and the environment where Munitions Constituents and other contaminants are known or suspected to be present.
(Note: this module assesses health hazards associated with munitions constituents, which, as discussed in **Appendix C** of the AEHMP, have not been identified in the WMA at concentrations above regulatory levels).

DoD determines the relative priority of a munitions response site using the results of these three hazard evaluation modules. As a matter of DoD policy, munitions response sites with higher relative risks are addressed before those with lower relative risks. However, DoD may also consider factors such as: environmental justice, economic development, and stakeholder concerns.

DoD believes strongly that involving stakeholders early and often promotes better understanding of the assessment and cleanup process. Receiving feedback directly from stakeholders is an effective way to identify and address their concerns about environmental and safety issues. Involving stakeholders raises awareness of the dangers and educates them as to how they can best protect themselves and the environment.

In 2008 the U.S. Environmental Protection Agency developed a tool to help site managers and regulators evaluate explosive safety hazards at munitions response sites. This “Munitions of Explosive Concern Hazard Assessment Methodology” is generally incorporated into the Remedial Investigation/Feasibility Study and used by the DoD.

To learn more about the Munitions Response Site Prioritization Protocol and the Munitions of Explosive Concern Hazard Assessment Methodology, please visit the following websites:

- 1) <http://www.denix.osd.mil/mmrp/mrspp/home/>
- 2) <https://www.epa.gov/fedfac/munitions-and-explosives-concern-hazard-assessment-mec-ha-methodology-technical-work-group>

Example

Munitions Response Site Prioritization Protocol for the Pu'u Pa'a Munitions Response Site

MUNITIONS RESPONSE SITE PRIORITIZATION PROTOCOL

Installation Name:	Pohakuloa Training Area	EHE Score:	A
Site Name:	Pu'u Pa'a MRS (PTA-003-R-01)	CHE Score:	No Known or Suspected CWM Hazard
Completed By:	Contractor	HHE Evaluation:	No Known or Suspected MC Hazard
Date Completed:	October 14, 2013	Overall Priority:	2

Background

The Munitions Response Site Prioritization Protocol reflects the statement in 10 U.S.C. § 2710(b)(2) that the priority assigned should be based on the overall conditions at each location, taking into consideration various factors relating to safety and environmental hazard potential. As required under 10 U.S.C. § 2710(b)(1), the priority assigned to each munitions response site will be included with the inventory information made publicly available. The requirement for an inventory of munitions response sites known or suspected of containing unexploded ordnance (UXO), discarded military munitions (DMM), or munitions constituents (MC) is found at 10 U.S.C. § 2710(a). The assigned priority will be updated annually to reflect new information that becomes available.

Description

The Munitions Response Site Prioritization Protocol evaluates the following potential explosive safety and environmental hazards:

- Explosive hazards posed by unexploded ordnance (UXO) and discarded military munitions (DMM)
- Hazards associated with the effects of chemical warfare materiel (CWM)
- The chronic health and environmental hazards posed by munitions constituents (MC) or other chemical constituents.

DoD recognizes the different hazards inherent to each class of materials. To address these differences, the Protocol has three hazard evaluation modules, each of which is specific to one type of hazard, specifically:

- Explosive hazards are evaluated using the Explosives Hazard Evaluation (EHE) module
- CWM-related hazards are evaluated using the Chemical Warfare Materiel Hazard Evaluation (CHE) module
- Health and environmental hazards posed by MC are evaluated using the Health Hazard Evaluation module.

DoD recognized that sufficient data to apply all three of the hazard evaluation modules may not be immediately available for some munitions response sites. In such cases where data are available for only one or two of the modules, the priority will be assigned based on the modules for which sufficient data are available. This initial priority may change when additional data are collected and all three modules are evaluated. Modules for which there are insufficient data will be assigned a status of "evaluation pending".

Upon completion of all necessary munitions responses at a munitions response site, the status "prioritization no longer required" will be assigned. The sequencing of munitions response sites for environmental restoration activities will be based primarily on the priority assigned using this Protocol, but may also reflect other relevant information, such as stakeholder concerns, economic issues, and program management considerations.

Appendix H

Responsibilities for Federal, State, County Governments, and Land Owners

All levels of government share the responsibility of alerting the public to the dangers of UXO and the importance of observing the “3Rs.”

In turn, the public must do its part by not approaching, disturbing, moving or handling a suspected munition and calling 911.

Observing the “3Rs” is the single most important thing people can do to protect themselves from the potential explosive hazards associated with UXO.

The federal government through the Department of Defense (DoD) has the lead role to investigate, remove and dispose of unexploded ordnance (UXO) in the Waikoloa Maneuver Area (WMA). The U.S. Army Corps of Engineers manages the Formerly Used Defense Site portion of the WMA for DoD. The U.S. Army Garrison – Hawaii manages work within the Pu’u Pa’a Munitions Response Area portion of the WMA. The State of Hawaii through the Hawaii Department of Health Hazard Evaluation and Emergency Response Office ensures that DoD actions are consistent with the Hawaii Environmental Response Law (HERL), Hawaii Revised Statutes (HRS) 128D.

Everyone, including federal, state, and local governments, landowners and individual, shares responsibility for understanding and taking actions to mitigate risks associated with munitions. This section describes the general responsibilities of each group and how they interact with one another.

Federal

First, at the Federal level, DoD is responsible for carrying out the Defense Environmental Restoration Program which promotes environmental restoration at facilities under the jurisdiction of DoD. The Army is the lead agent charged with meeting applicable environmental restoration requirements at Formerly Used Defense Sites (FUDS), regardless of which DoD component had jurisdiction of the property. More specifically, the U.S. Army Corps of Engineers (USACE) is responsible for FUDS and for coordinating with State government, local agencies and the public. USACE follows a detailed methodology based on the process described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). All areas of the WMA, except for the Pu’u Pa’a Munitions Response Area, are designated as FUDS. The U.S. Army Garrison – Hawaii is responsible for managing the Pu’u Pa’a Munitions Response Area portion of the WMA directly. The U.S. Army Garrison – Hawaii also uses a CERCLA-like process.

In addition to site cleanup activities, USACE is engaged in public education and outreach activities in the WMA. Since the cleanup process will likely require ongoing public awareness education, USACE initiated the “3Rs of UXO Safety” message: **Recognize, Retreat, Report**. For the past several years, USACE has been sharing this safety message at elementary and middle schools, community events, and public meetings throughout the WMA and other parts of Hawaii county.

State

Since the Hawaii Environmental Response Law (HERL), Hawaii Revised Statutes (HRS), Chapter 128D) authorizes the Hawaii Department of Health (HDOH) to respond whenever there is a release or a substantial threat of a release of any hazardous substance, pollutant or contaminant that may present a substantial danger to public health, welfare, or the environment. However, the HERL does not explicitly address the explosive hazard associated with UXO and the State has not developed an independent process for UXO investigations or removal activities. Therefore, HDOH defers to DoD as the lead agency responsible for UXO remediation.

However, HDOH maintains regulatory authority over DoD clean-up activities in the state through a DoD-State Memorandum of Agreement (DSMOA). DoD provides funds for this regulatory oversight through a cooperative agreement with the Hazard Evaluation and Emergency Response (HEER) Office. The HEER Office ensures that all work performed by DoD complies with the HERL and the Remedial Action Objectives defined in their work plan documents.

Under DSMOA, DoD uses a CERCLA-like process to conduct munitions response actions which requires DoD to meet each of Hawaii's "applicable or relevant and appropriate requirements." To do this, DoD submits its investigative reports, recommendations and decision documents to the Site Discovery, Assessment, and Remediation Section of the HEER Office for its comments and/or concurrence.

In addition, the HEER Office supports USACE in its outreach efforts at public schools and community events throughout the WMA and Hawaii county. The HEER Office also works with other stakeholders, such as the Department of Hawaiian Homelands, the Hawaii Public Housing Authority, the U.S. Department of Housing and Urban Development, and private landowners to address their concerns about the impact of UXO on development in the WMA. The HEER Office developed this AEHMP as part of its work with various stakeholders.

Local

At the local level, counties and municipalities share responsibility primarily as “first responders.” Police and fire officials are responsible for managing the local situation. Once notified, the police officials contact DoD Explosive Ordnance Disposal (EOD) specialists who are trained to assess potential dangers and dispose of munitions reported by the public. In the meantime, first responders assure the public keeps a safe distance and does not disturb munitions.

Landowners

At the landowner level, any construction activities in the WMA should adhere to this Areawide Environmental Hazard Management Plan (AEHMP) and, if recommended by HDOH, should also adhere to an HDOH-approved Site-Specific EHMP (SSEHMP). However, use of this AEHMP and/or an associated SSEHMP is voluntary unless otherwise required under an agreement between the landowner and HDOH.

At a minimum, landowners should provide ‘UXO Construction Support’ during any activities that involve disturbing or excavating soil. Construction Support and soil management guidelines are described in **Section 8** of the AEHMP. Even properties that have been previously cleared by USACE should be screened. Also, potentially contaminated soil should be screened before being moved from the site or to another area of the property. Construction Support should include preparation of an Anomaly Avoidance Plan and communication of the plan to all site workers.

Additionally, landowners should inform all users of their property, including guests, property managers, employees, and contractors, of the potential UXO hazard at the property. The landowner should clearly communicate the “3Rs” safety message to all users. The USACE has pamphlets and signage available to all property owners within the WMA upon request.

Individual

At the personal level, individuals who encounter munitions are strongly encouraged to observe the “3Rs” of Explosive Safety. The “3Rs” stand for: **Recognize...Retreat... *REPORT***.

Anyone who suspects they have encountered a UXO must:

- First **RECOGNIZE** when they may have encountered a munition and that munitions are dangerous.
- They must next **RETREAT**; do not approach, touch, move or disturb it, but carefully leave the area along the same path they walked in on, warning others to do the same.
- Finally, they must **REPORT**; **call 911** and advise the police of what you saw and where you saw it.

Additionally, the **UXO Report Form** (see **Form 1** in the Appendix) should be filled out by both the individual who discovered the UXO and the first responder, with copies sent to both the HEER Office and the USACE (addresses listed on form).

Appendix I

Photos of UXO, Munitions Debris, and Warning Signs



UXO Warning Sign at Hapuna Beach



4.5" Barrage Rocket



4.5-inch Barrage Rocket



60mm Mortars and Mortar Fuze



155mm Projectile





Fuze from a 75mm Projectile



MK II Hand Grenade Fragmentation





Munitions Debris

Appendix J

DDESB Technical Paper 18: Minimum Qualifications for Personnel Conducting Activities Related to Munitions and Explosives of Concern Tables

The following tables (4.1 to 4.3) describe the minimum qualifications for Unexploded Ordnance (UXO) Contractors to perform work in accordance with this Areawide Environmental Hazard Management Plan (AEHMP) for the former Waikoloa Maneuver Area (WMA), as described in the Department of Defense Explosive Safety Board (DDESB) Technical Paper 18 (TP-18). The complete most recent version of DDESB TP-18 may also be downloaded at:

<https://www.denix.osd.mil/ddes/ddes-technical-papers/>

Technical Paper 18

1 September 2016

DDESB

Minimum Qualifications for Personnel Conducting Munitions and Explosives of Concern-Related Activities



CLEARED
For Open Publication
Mar 09, 2018
2
Department of Defense
OFFICE OF PREPUBLICATION AND SECURITY REVIEW

Department of Defense Explosives Safety Board
Alexandria, Virginia

Table 4.1. Minimum Qualifications for UXOQP^{1, 2, 3, 4}

Position Description	Training Required	Minimum MEC-related Experience	Minimum MEC-Supervisory Experience	Minimum Total EOD/MEC Experience
SUXOS	Notes 5, 7, 8, 9, 10, and 11	2 years	1 year	10 years
	Notes 6, 7, 8, 9, 10, and 11	10 years	5 years	13 years
UXOSO	Notes 5, 7, 8, and 9	1 year	0.5 year	8 years
	Notes 6, 7, 8, and 9	8 years	2 years	10 years
UXOQCS	Notes 5, 7, 8, 10, and 11	1 year	0.5 year	8 years
	Notes 6, 7, 8, 10, and 11	8 years	2 years	10 years
Dive Qualified	Note 12	As indicated above for the position description.		

Notes:

1. By definition, UXO-TII and UXO-TIII are UXOQP (minimum qualifications for UXO-T are provided on Table 4.2.
2. Graduate of an Occupational Safety and Health Administration (OSHA)-compliant (29 CFR 1910.120) 40-hour HAZWOPER course.
3. Limited to performance of MEC-related activities as a UXOT or UXOQP or similar civilian government service (e.g., Ordnance and Explosives Safety Specialist (OESS)). Conduct of activities performed as an SP or SW are not considered MEC-related experience and are not counted toward the experiential requirements for UXOQP.
4. Limited to experience in UXO supervisory positions (i.e., UXO-TIII, UXOQCS, UXOSO, OESS).
5. Graduate of a military EOD School of the United States, Canada, Great Britain, Germany, or Australia. (See Paragraph 4.8) for EOD personnel who were terminated for gross negligence in the performance of assigned duties, a flagrant violation of EOD safety procedure or regulation or who are not discharged under honorable conditions will not be considered EOD qualified and will not be considered a military EOD School graduate. To obtain employment, such personnel must complete the training required for a UXO-TI.
6. Graduate of a UXO-TI Course (see Chapter 3), the EOD assistant's course or pass a comprehensive assessment.
7. Graduate of an OSHA-compliant (29 CFR 1910.120(e)(4)) 8-hour Management and Supervisor Training course, if supervising other personnel.
8. Possesses an understanding of applicable explosives safety criteria and experience in the various phases of a munitions response to MEC or the conduct of range clearance activities, as appropriate for the operations to be performed.
9. Must have completed a 10-hour OSHA Construction Safety and Health Training and earned a Department of Labor Construction Safety Course Completion Card.
10. UXOQCS must have either:
 - a. Successfully completed training as a quality professional (i.e., International Standards Organization 9001 internal auditor, American Society of Quality Certified quality auditor);
 - b. Possess a quality-professional certification by a recognized organization (e.g., U.S. Army the Corps of Engineers and Naval Facility Engineering Command Training Course Construction Quality Management for Contractors; or
 - c. Receive company- and project-specific QC training and work under the supervision of a certified quality professional.
11. UXOQCS must demonstrate an understanding of QC and QA practices associated with MEC-related activities and managing and processing MPPEH, including documentation of its explosives safety status.
12. Divers who are independently performing the duties of a UXOT or UXOQP must:
 - a. Meet this TP's criteria for the duties performed and the requirements of 29 CFR 1910, Subpart T.
 - b. Possess the dive-related certifications required for the tasks they are to perform or supervise. (Note: Certifications (dive or training) must be from an accredited school and meet the requirements contained in ANSI/ACDE Standard-01; be documented as valid by an ADC Commercial Diver Certification Card for the appropriate training level; and/or have documentation of successful completion of an appropriate level of training from an ACDE accredited school or have completed the underwater portion of NAVSCOLEOD (or foreign equivalent) training.)

Table 4.2. Minimum Qualifications for UXOT^{1, 2, 3}

Position Description	Training Required	Minimum MEC-related Experience	Minimum Total EOD/MEC Experience
UXO-TIII	Notes 4, 6, and 7	1 years	8 years
	Notes 5, 6, and 7	8 years	8 years
UXO-TII	Notes 4 and 7	0 years	1.5years
	Notes 5 and 7	3 years	3 years
UXO-TI	Notes 4 and 7	0 years	0 years
	Notes 5 and 7	0 years	0 years
Dive Qualified	Note 8	As indicated above for the position description.	
Notes: <div>1. By definition, UXO-TII and UXO-TIII are also UXOQP. 2. Graduate of an OSHA-compliant (29 CFR 1910.120) 40-hour HAZWOPER course. 3. Limited to performance of MEC-related activities as a UXOT or UXOQP or similar civilian government service (e.g., OESS). Conduct of activities performed as an SP or SW are not considered MEC-related experience and are not counted toward the experiential requirements for UXOQP. 4. Graduate of a military EOD School of the United States, Canada, Great Britain, Germany, or Australia. (See Paragraph 4.8. for EOD personnel who were terminated for gross negligence in the performance of assigned duties, a flagrant violation of EOD safety procedure or regulation or who are not discharged under honorable conditions will not be considered EOD qualified and will not be considered a military EOD School graduate. To obtain employment, such personnel must complete the training required for a UXO-TI. 5. Graduate of a UXO-TI Course (see Chapter 3), the EOD assistant’s course or pass a comprehensive assessment. 6. Graduate of an OSHA-compliant (29 CFR 1910.120(e)(4)) 8-hour Management and Supervisor Training course. 7. On-the-job training including, but not limited to familiarity with the process, procedures, and equipment (e.g., geophysical) used for conducting MEC-related activities. 8. Divers who are independently performing the duties of a UXOT or UXOQP must: a. Meet this TP’s criteria for the duties performed and the requirements of 29 CFR 1910, Subpart T. b. Possess the dive-related certifications required for the tasks they are to perform or supervise. (Note: Certifications (dive or training) must be from an accredited school and meet the requirements contained in ANSI/ACDE-01; be documented as valid by an ADC Commercial Diver Certification Card for the appropriate training level; and/or have documentation of successful completion of an appropriate level of training from an ACDE accredited school, or have completed the underwater portion of NAVSCOLEOD (or foreign equivalent) training.)</div>			

Table 4.3. Minimum Qualifications for SP and SW¹

Position Description	Training Required	Minimum MEC-related Experience ^{3, 4}
SP	Note 2	0 years
SW	Note 2	0 years
<p>Notes:</p> <ol style="list-style-type: none"> 1. Job- and site-specific training including, but not limited to, general and site specific safety (e.g., proper use of equipment and PPE, physical, biological, and chemical hazards); explosives safety training (e.g., recognition of military munitions, 3Rs 2. Personnel who are working at a hazardous waste site require successful completion of an OSHA-compliant (29 CFR 1910.120) HAZWOPER course. 3. Experience as an SP or SW is not required for UXO-TI certification. 4. Activities performed as an SP or SW are not counted toward the experiential requirements for a UXOT or UXOQP. 		

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20-21, 2019

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Hokulei Lindsey, Administrative Rules Officer
Office of the Chairman



SUBJECT: For Information Only - Report of Chapter 91, Hawaii Revised Statutes, Public Hearings for Administrative Rules Related to Planned Communities, Multi-Family Housing, and Rentals

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION:

Following the approval of the Hawaiian Homes Commission at its October 2018 regular meeting, and approval of the Governor, the Department of Hawaiian Home Lands held public hearings pursuant to chapter 91, Hawaii Revised Statutes, regarding proposed administrative rules related to planned communities, multi-family housing, and rental housing. Public notice was published statewide pursuant to section 91-3, HRS, on January 27, 2019 (Exhibit A) and, pursuant to section 10-5-22, HAR, copies were sent to the homestead associations with addresses on file (Exhibit B). Four public hearings were held as scheduled, each with an informational briefing immediately preceding the hearing. Locations for the hearings were chosen based upon the existence and prevalence of Hawaiian Home Lands planned communities in the area.

DATE	LOCATION	SIGN-IN	TESTIMONY	
			Oral	Written
February 27, 2019	Kapolei DHHL Hale Pono	5	1	1
March 6, 2019	Kona West Hawaii Civic Center	1	0	0

DATE	LOCATION	SIGN-IN	TESTIMONY	
			Oral	Written
March 11, 2019	Maui Paukukalo Community Center	16	4	0
March 13, 2019	Kauai King Kaumualii Elem.	3	0	0
OTHER TESTIMONY RECEIVED			Email	Mail
			2	1

Informational Briefings and Hearings

Each session was conducted in the same manner. Before each hearing an informational briefing was held during which staff used a powerpoint presentation to discuss the rulemaking process, the purpose of the proposal, and to highlight certain sections of the proposal, which staff believe to be of particular significance (Exhibit C). Binders containing the complete record and evolution of the current proposal was made available for review and reference. Time was allotted for questions. At each meeting, attendees arrived for the briefing and stayed thru the formal hearing. Once the briefing ended, the formal hearing was opened by the presiding officer (Exhibit D) and testimony, if any, was received.

Testimony

Multiple methods to submit written testimony were offered. Written options provide opportunity to testify for those unable to attend the hearing, those in attendance but unwilling to testify orally, or those who would prefer to submit in writing. The DHHL's post office box address was provided in the public notice to receive written testimony; a phone number and email address were also listed as available for additional information. At the informational briefing, three options were offered: the post office box address, an email address, and "green sheets" were provided for submitting written testimony at the hearing. In Kapolei and Kauai, several attendees indicated they would submit written testimony after the hearing. Having not received testimony from those individuals, staff sent an email to ensure nothing was missed. Of the five individuals contacted, one emailed testimony and another emailed to say that they decided not to testify; no other responses were received. In addition, the time period to submit written testimony was reopened because staff was informed the email address provided at the informational briefing did not work; notice of the

reopening was posted on the website (Exhibit E). No additional testimony was received.

Exhibit F is the testimony received and the staff responses to matters directly related to the proposal. During the hearings, staff took notes of oral testimony, which is reflected in Exhibit F, email or written testimony is reproduced verbatim.

RECOMMENDATION:

None. For information only.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS
TO TITLE 10, HAWAII ADMINISTRATIVE RULES

The Department of Hawaiian Home Lands (DHHL) will hold a public hearing on Oahu, Maui, Hawaii Island, and Kauai for Hawaii Administrative Rules (HAR) amendments. The proposed amendments to Title 10, HAR, DHHL, would adopt administrative rules related to the method of disposition, as well as the terms, conditions, covenants, and restrictions as to the use and occupancy of single family and multi-family units including rentals in a new HAR chapter 10-7 entitled, planned communities, multi-family complexes, and rental housing. The proposed rules create processes through which the Hawaiian Homes Commission and DHHL can develop, manage, and enforce provisions for planned communities, multi-family complexes, and rental housing developed on Hawaiian Home Lands. An informational briefing will be held immediately before the public hearing.

Date: Wednesday, February 27, 2019
Location: DHHL Main Office (Hale Pono), 91-5420 Kapolei Pkwy, Kapolei, HI 96707
Time: Informational briefing: 6:00 p.m. – 6:30 p.m.
Public hearing: 6:30 p.m. – 7:30 p.m.

Date: Wednesday, March 6, 2019
Location: West Hawaii Civic Center, 74-5044 Ane Keohokalole Hwy, Kailua-Kona, HI 96740
Time: Informational briefing: 6:00 p.m. – 6:30 p.m.
Public hearing: 6:30 p.m. – 7:30 p.m.

Date: Monday, March 11, 2019
Location: Paukukalo Community Center, 655 Kaumualii St, Wailuku, HI 96793
Time: Informational briefing: 6:00 p.m. – 6:30 p.m.
Public hearing: 6:30 p.m. – 7:30 p.m.

Date: Wednesday, March 13, 2019
Location: King Kaumualii Elementary School Cafeteria, 4380 Hanamaulu Rd, Lihue, HI 96766
Time: Informational briefing: 6:00 p.m. – 6:30 p.m.
Public hearing: 6:30 p.m. – 7:30 p.m.

All interested persons are urged to attend the public hearing to present relevant information and individual opinion for the DHHL to consider. Any person may file written comments or recommendations in support of or in opposition to the proposed rulemaking in person at the public hearing or by mail postmarked by March 20, 2019. Written testimony should be mailed to: ATTN: Administrative Rules, Department of Hawaiian Home Lands, P.O. Box 1879, Honolulu, HI 96805.

The Hawaiian Homes Commission shall take final action on this rulemaking at a future regularly scheduled commission meeting.

EXHIBIT A

The proposed rule amendments are currently available for review through March 20, 2019 between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday at the DHHL Main Office in Kapolei, Oahu (address listed above) and at any DHHL District Office: East Hawaii: 160 Baker Ave., Hilo, HI 96720; West Hawaii: 64-756 Mamalahoa Hwy, Kamuela, HI 96743; Maui: 655 Kaunualii St., Wailuku, HI 96793; Molokai: 600 Mauna Loa Hwy, Kaunakakai, HI 96748; Kauai: 3060 Eiwa St, Rm 203, Lihue, HI 96766. A copy of the proposed rule amendments will be mailed to any person who requests a copy in writing. The request must state the requestor's name and mailing address, and be delivered to the DHHL Main Office, P.O. Box 1879, Honolulu, HI 96805. For more information, email dhhl.rules@hawaiianhomelands.org or call (808) 620-9280. A copy of the proposed rule amendments is also available online: <http://dhhl.hawaii.gov/hhc/hawaii-administrative-rules/>.

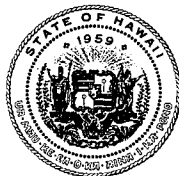
To request a sign language interpreter or disabled parking at the public hearing, please contact the DHHL Information and Community Relations Office on Oahu at 808-620-9590 at least seven days in advance of the public hearing.

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission
January 27, 2019

EXHIBIT A

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

January 24, 2019

Aloha Homestead Association Leaders,

The Department of Hawaiian Home Lands will be conducting public hearings for proposed amendments to its Administrative Rules regarding DCCRs, multi-family housing, rentals and kupuna housing. The public hearing process is required by state law. The notice for the hearing will be published in newspapers statewide and a copy is enclosed for your association. Also enclosed are two copies of the proposed rule amendments. Copies of the proposal are also available for reading at all Department offices and on DHHL's website. Hearings will be held according to the following schedule:

Date: Wednesday, February 27, 2019
Location: DHHL Main Office (Hale Pono), 91-5420 Kapolei Pkwy, Kapolei, HI 96707
Time: Informational briefing: 6:00 p.m. – 6:30 p.m.
Public hearing: 6:30 p.m. – 7:30 p.m.

Date: Wednesday, March 6, 2019
Location: West Hawaii Civic Center, 74-5044 Ane Keohokalole Hwy, Kailua-Kona, HI 96740
Time: Informational briefing: 6:00 p.m. – 6:30 p.m.
Public hearing: 6:30 p.m. – 7:30 p.m.

Date: Monday, March 11, 2019
Location: Paukukalo Community Center, 655 Kaumualii St, Wailuku, HI 96793
Time: Informational briefing: 6:00 p.m. – 6:30 p.m.
Public hearing: 6:30 p.m. – 7:30 p.m.

Date: Wednesday, March 13, 2019
Location: King Kaumualii Elementary School Cafeteria, 4380 Hanamaulu Rd, Lihue, HI 96766
Time: Informational briefing: 6:00 p.m. – 6:30 p.m.
Public hearing: 6:30 p.m. – 7:30 p.m.

If you cannot attend the hearing but you want to comment on the proposal, the Department is accepting written comments. Please be sure to submit (or postmark) your written comments to the Department no later than March 20, 2019.

EXHIBIT B

You may remember beneficiary consultation meetings last summer (May thru August 2018) about proposed rule amendments, which included DCCRs, multi-family, rentals, and kupuna housing. The upcoming public hearings are the next step for those proposed rules. The proposed rules create processes through which the Hawaiian Homes Commission and DHHL can develop, manage, and enforce provisions for planned communities (DCCRs), multi-family complexes, and rental housing developed on Hawaiian Home Lands. An informational briefing will be held immediately before the public hearing. The beneficiary consultation report for this proposal is also on the website. Your mana'o and participation is much appreciated.

If you have any questions, please contact Hokulei Lindsey at (808) 620-9280 or Hokulei.Lindsey@hawaii.gov.

Aloha,

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Enc.

EXHIBIT B



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Informational Meeting

Proposed Rules for Planned Communities, Multi-Family Complexes, and Rental Housing

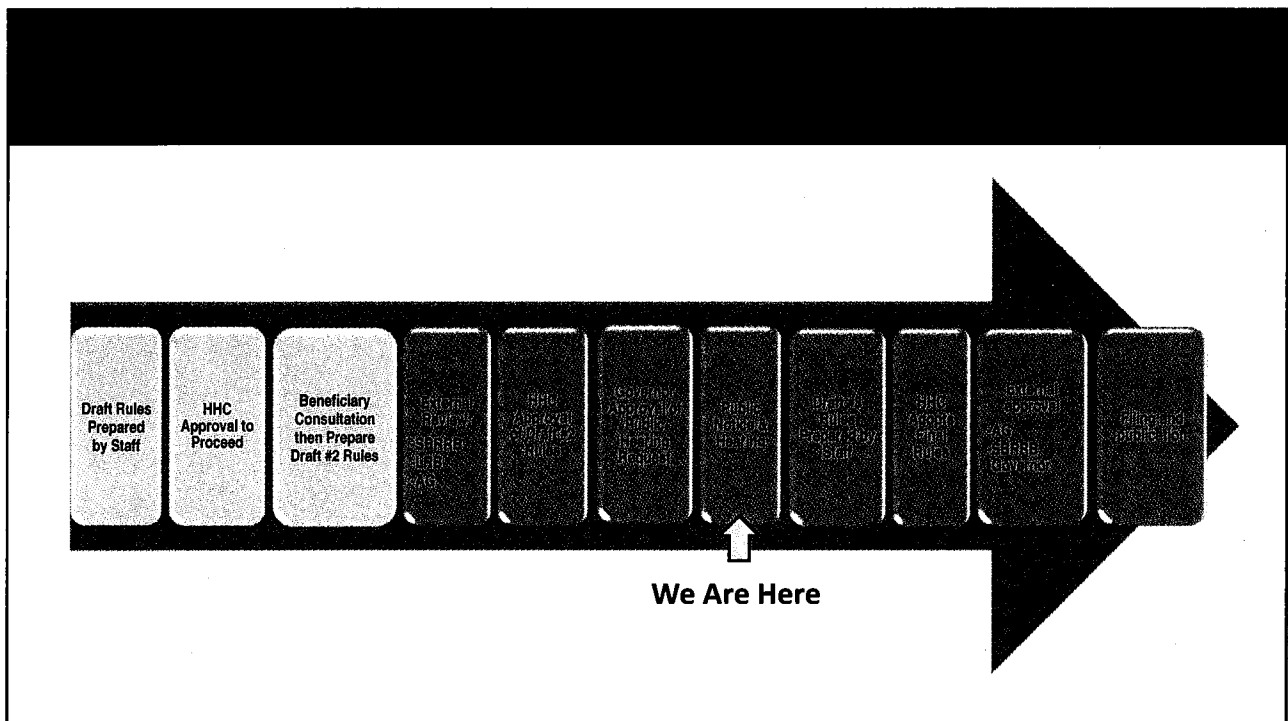
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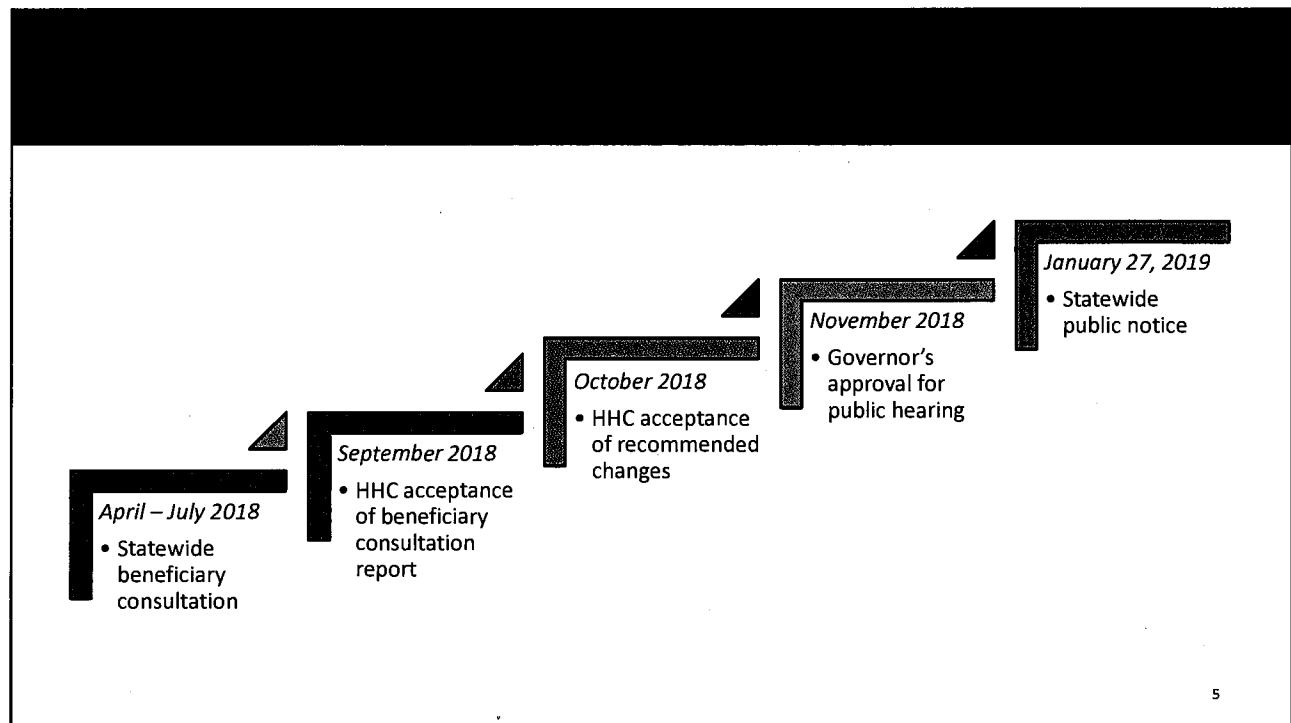
- Opening
- Presentation
 - Administrative Rules and Timeframes
 - Planned Communities
 - Multi-Family Complexes
 - Rental Housing
- Questions

2

- Provide information and answer questions about the proposed rules for Planned Communities, Multi-Family Complexes, and Rental Housing on Hawaiian Home Lands so there may be better understanding about the proposal before the public hearing.

3





- “The department is authorized to develop and construct single-family and multi-family units for housing native Hawaiians. The method of disposition, including rentals, as well as the terms, conditions, covenants, and restrictions as to the use and occupancy of such single-family and multi-family units shall be prescribed by [administrative] rules.”
- 6



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Planned Communities

7

Community *Development on going	Lessees on Lot	Lots (Projected)
Lalopua*	61	(1,340)
Lalamilo*	30	448
Leialii	104	(357)
Waiehu Kou 2	109	109
Waiehu Kou 3	114	114
Waiehu Kou 4	98	98
	29	45
Princess Kahanu Estates	271	271
Maluohar	222 (+1 in process)	226
Kaupea	326	326
Kanehili*	358	403
Kaupuni	19	19
Kumuhau-Kakaha	52	97
Kalawahine Streamside	92	92
Piilani Mai Ke Kai*	58 (+22 in process)	177

8

- Address the gaps left by the *Kalawahine* lawsuit.
- Consistency of interaction between DHHL and DCCR homesteads.
- Clear roles.
- Improve the DHHL-DCCR model.

9

- Meet requirements of HHCA 207.5.
 - §10-7-2 Method of disposition
 - Subchapter 2; The Declaration
 - Subchapter 3; The Association
 - Subchapter 4; Obligations of the Lessee
- Pre-existing DCCR associations must vote to “opt-in” to the administrative rules.
 - §10-7-2 Applicability of chapter

10

- Account for assessments from vacant lots.
 - §10-7-20 Vacant lots
- Account for assessments from unoccupied units.
 - §10-7-21 Unoccupied units
- Associations provide an annual budget to the department for record-keeping purposes.
 - §10-7-22 Budget

11

- Subchapter 4; Obligations of the Lessee
 - Understand planned community living
 - Pay assessments
 - Comply with member obligations
- Subchapter 5; Enforcement of Governing Documents

12

- Subchapter 3; The Association
 - Meetings and communication
 - Annual compliance
- Subchapter 5; Enforcement of Governing Documents
 - Enforce the CC&Rs

13

- Training and communication
 - §10-7-22 Budget
 - §10-7-26 Planned community education
- Fill units
 - §10-7-21 Unoccupied units
- Subchapter 5; Enforcement of Governing Documents
 - Contested case hearings

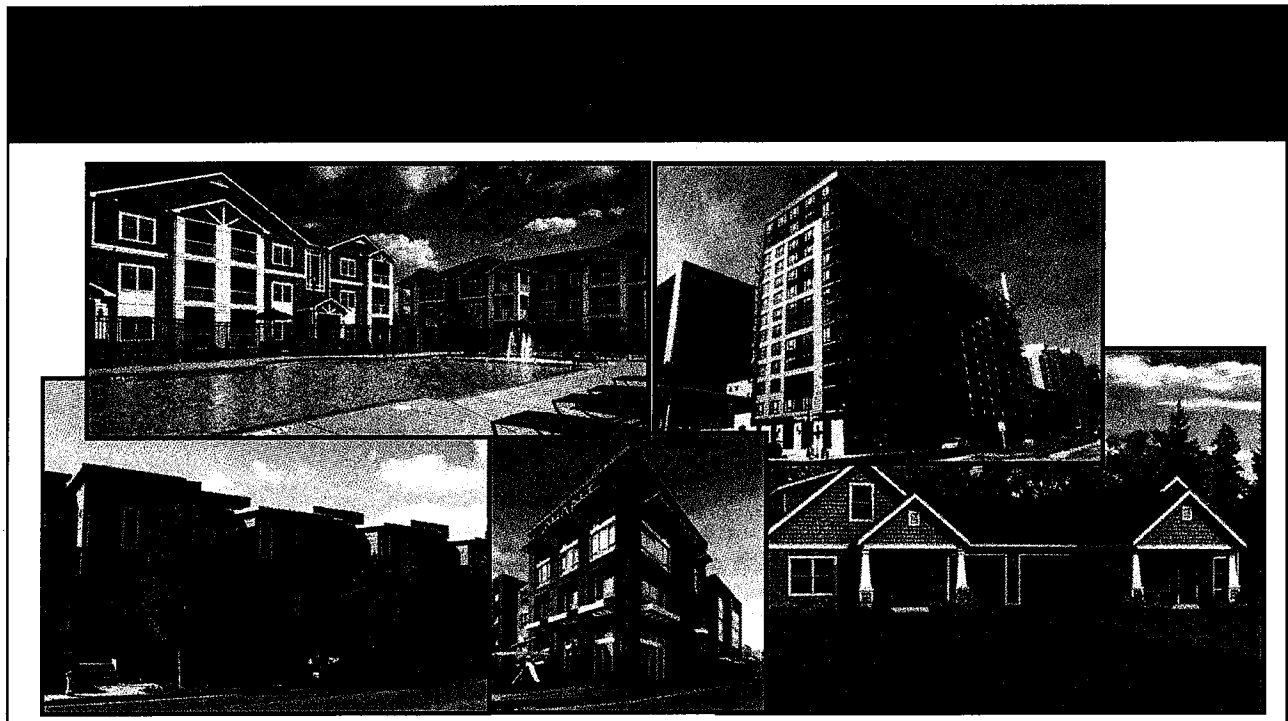
14



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Multi-Family Complexes

15



- §10-7-1 Definitions
 - “Multi-family complex”
- Subchapter 3; The Association
- Subchapter 4; Obligations of the Lessee
- Subchapter 5; Enforcement of Governing Documents

17



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Rental Housing

18

- §10-7-1 Definitions
 - “Property management company”
 - “Rental agreement”
 - “Rental housing development”
 - “Renter”
- Subchapter 6; Rental Housing

19

- Give testimony at a public hearing.
- Green sheets.
- Email: dhhl.rules@hawaiianhomelands.org
- Mail postmarked by Wednesday, March 20, 2019:
 - Department of Hawaiian Home Lands
 - DHHL Administrative Rules
 - P.O. Box 1879
 - Honolulu, HI 96805

20



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Mahalo

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN


**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

February 19, 2019

Pursuant to section 10-5-23, Hawaii Administrative Rules (HAR), I designate Hokulei Lindsey as the presiding officer in my absence over the public hearings for proposed amendments to Title 10, HAR, related to planned communities, multi-family complexes, and rental housing, held pursuant to Chapter 91, Hawaii Revised Statutes from 6:30 p.m. to 7:30 p.m. or adjournment, whichever is later, on the following dates and locations:

- February 27, 2019
Hale Pono, 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707
- March 6, 2019
West Hawaii Civic Center, 74-5044 Ane Keohokalole Hwy, Kailua-Kona, HI 96740
- March 11, 2019
Paukukalo Community Center, 655 Kaumualii St, Wailuku, HI 96793
- March 13, 2019
King Kaumualii Elementary School Cafeteria, 4380 Hanmaulu Rd, Lihue, HI 96766



Jobie M. K. Masagatani
Chairman, Hawaiian Homes Commission

EXHIBIT D


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Department of Hawaiian Home Lands Proposed Rule Changes
You are invited to attend a Beneficiary Consultation meeting in your community to discuss important proposed changes to DHHL's administrative rules.

Declaration of Conditions Multi-family, Rentals, and Exports Supplemental Dwelling Units

PUBLIC COMMENT - PLANNED COMMUNITY, MULTI-FAMILY COMPLEXES, AND RENTAL HOUSING
Read More

Applications & Wait List

Information for Lessees

Hawaiian Homes Commission

Beneficiary Consultations

Department of Hawaiian Home Lands and Hawaii Community College dedicate their 52nd Model Home
Posted on May 10, 2019

DEPARTMENT OF HAWAIIAN HOME LANDS AND HAWAII COMMUNITY COLLEGE DEDICATE THEIR 52ND MODEL HOME HILO, HAWAII - On Thursday May 9th, the Department of Hawaiian Home Lands and Hawaii Community College held a

ABOUT US

- HHC - Hawaiian Homes Commission
- DHHL - Department of Hawaiian Home Lands

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Department of Hawaiian Home Lands

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Home » Department of Hawaiian Home Lands, Public Information, Public Notice, Slider » PUBLIC COMMENT
» Planned Community, Multi-Family Complexes, and Rental Housing

PUBLIC COMMENT – PLANNED COMMUNITY, MULTI-FAMILY COMPLEXES, AND RENTAL HOUSING

Posted on May 8, 2019 in [Department of Hawaiian Home Lands, Public Information, Public Notice, Slider](#)

PUBLIC COMMENT – Planned Community, Multi-Family Complexes, and Rental Housing

DHHL is accepting comments regarding proposed administrative rules for Planned Communities, Multi-Family Complexes, and Rental Housing until Monday, May 13, 2019.
Email: dhhl.adminrules@hawaii.gov

For more information [CLICK HERE](#)

PAGES

- 2019 Hawaiian Homes Commission and Community Meeting Schedule
- Agriculture Homesteads
- Department of Hawaiian Home Lands Administrative Rules
- Department of Hawaiian Home Lands Oahu and Kaua'i offices closed August 23 & 24, 2018
- DHHL Administrative Rules
- DHHL Leadership Conference 2016 – Resources
- DHHL's Fight for Funding
- DISPOSITION OF HAWAIIAN HOME LANDS BY GENERAL LEASES FOR RENEWABLE ENERGY PROJECTS ON OAHU AND MAUI
- Fact Sheets

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<http://dhhl.hawaii.gov>

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Department of Hawaiian Home Lands (<http://dhhl.hawaii.gov>)

Home (<http://dhhl.hawaii.gov/>) » PO – Planning Office (<http://dhhl.hawaii.gov/po/>) » Beneficiary Consultations
(<http://dhhl.hawaii.gov/po/beneficiary-consultation/>) » DHHL Administrative Rules – DCCR's, Multi-Family, Rentals,
Kupuna Housing and Supplemental Dwelling Units

DHHL ADMINISTRATIVE RULES – DCCR'S, MULTI-FAMILY, RENTALS, KUPUNA HOUSING AND SUPPLEMENTAL DWELLING UNITS

The Department of Hawaiian Home Lands is proposing to add Administrative Rules for

- Declaration of Conditions, Covenants, and Restrictions Communities (DCCR);
- Multi-family, Rentals, and Kupuna Housing; and
- Supplemental Dwelling Units.

The proposals are intended to increase the housing options available to beneficiaries of the Hawaiian Homes Commission Act and to improve certainty in Department processes. This is the third round of rule changes proposed by this administration. Rulemaking could take up to two years to complete.

EXHIBIT E



HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION · DEPARTMENT OF HAWAIIAN HOME LANDS

Department of Hawaiian Home Lands Proposed Rule Changes

You're invited to attend a Beneficiary Consultation meeting in your community to discuss important proposed changes to DHHL's administrative rules:

Declaration of Conditions, Covenants, and Restrictions Communities (DCCR)	Multi-family, Rentals, and Kupuna Housing	Supplemental Dwelling Units
Proposes ways for the Department to enforce CCRs in existing DCCR communities and to standardize the relationship between the Department and DCCRs.	Proposes to expand residential lease offerings to include multi-family housing. Also proposes rental, rent with option to purchase, and kupuna housing programs.	Proposes a pilot program on Oahu and Hawaii for residential lessees on qualifying lots to build a supplemental dwelling unit.

Please visit (<http://dhhl.hawaii.gov/po/beneficiary-consultation/>) for the latest information or call DHHL Administrative Rules at (808) 620-9280. All meetings are subject to change.

Please click [here](#) for a downloadable (PDF) version of the flyer posted above.

BENEFICIARY CONSULTATIONS

1	Proposed Action or Issue for Discussion	Update the current set of Hawaii Administrative Rules governing the Department of Hawaiian Home Lands.
2	Notification	Meeting Agenda: <ul style="list-style-type: none"> • Meeting agenda (PDF version)
3	Meeting Schedule	<ul style="list-style-type: none"> • Molokai – Monday, April 30, 2018 DHHL Molokai Office – Kulana 'Oiwī Halau 600 Maunaloa Highway Kalamaula, Hawaii 96748 6 p.m. – 9 p.m. • Kauai – Monday, May 7, 2018 King Kaumualii Elementary School Cafeteria 4380 Hanamaulu Road Lihue, Hawaii 96766 6 p.m. – 9 p.m.

EXHIBIT E

- **Paukukalo, Maui – Monday, May 21, 2018**
Paukukalo Community Center
655 Kaumualii Street
Wailuku, Maui 96793
6 p.m. – 9 p.m.
- **Lahaina, Maui -Tuesday, June 5, 2018**
Lahaina Civic Center
1840 Honoapiilani Highway
Lahaina, Hawaii 96761
6 p.m. – 9 p.m.
- **Keaukaha, Hawai'i- Monday, June 25, 2018**
Keaukaha Elementary School Cafeteria
240 Desha Avenue
Hilo, Hawaii 96720
6 p.m. – 9 p.m.
- **West Hawaii, Kailua, Kona – Monday, July 9, 2018**
West Hawaii Civic Center
74-5044 Ane Keohokalole Highway
Kailua-Kona, Hawaii 96740
6 p.m. – 9 p.m.
- **Honolulu, O'ahu – Monday, July 23, 2018**
Robert Louis Stevenson Middle School
1202 Prospect Street
Honolulu, Hawaii 96822
6 p.m. – 9 p.m.
- **Kapolei, O'ahu – Monday, July 30, 2018**
DHHL Hale Pono'i
91-5420 Kapolei Parkway,
Kapolei, Hawaii 96707
6 p.m. – 9 p.m.

4	Presentation Materials	<p>Beneficiary Consultation Meetings:</p> <ul style="list-style-type: none"> • <u>Presentation DCCR.SDU v1 for posting</u>
5	Background Information	<p>DCCR Rules:</p> <ul style="list-style-type: none"> • <u>FAQ's DCCR Rules</u> • <u>Proposed Rules DCCRs, Multi Family, Rental, Kupuna Housing</u> <p>Multi Family, Rentals, Kupuna Housing Rules:</p> <ul style="list-style-type: none"> • <u>FAQ's Multi Family, Rental, Kupuna Housing Rules</u> • <u>Proposed Rules DCCRs, Multi Family, Rental, Kupuna Housing</u>

EXHIBIT E

Supplemental Dwelling Units:

- [FAQ's Supplemental Dwelling Units Rules](#)
- [Proposed Rules Supplemental Dwelling Units \(Full Text\)](#)

6 **Beneficiary Consultation**
Report: Meetings and
Transcribed Notes

[Oct 2018 Beneficiary Consultation Report](#)

7 **Review Period**

[Notice of Public Hearing for DCCR Multi Rentals](#)

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS
TO TITLE 10, HAWAII ADMINISTRATIVE RULES

The Department of Hawaiian Home Lands (DHHL) will hold a public hearing on Oahu, Maui, Hawaii Island, and Kauai for Hawaii Administrative Rules (HAR) amendments. The proposed amendments to Title 10, HAR, DHHL, would adopt administrative rules related to the method of disposition, as well as the terms, conditions, covenants, and restrictions as to the use and occupancy of single family and multi-family units including rentals in a new HAR chapter 10-7 entitled, planned communities, multi-family complexes, and rental housing. The proposed rules create processes through which the Hawaiian Homes Commission and DHHL can develop, manage, and enforce provisions for planned communities, multi-family complexes, and rental housing developed on Hawaiian Home Lands. An informational briefing will be held immediately before the public hearing.

Date: Wednesday, February 27, 2019

Location: DHHL Main Office (Hale Pono), 91-5420 Kapolei Pkwy, Kapolei, HI 96707

Time: Informational briefing: 6:00 p.m. – 6:30 p.m.

Public hearing: 6:30 p.m. – 7:30 p.m.

Date: Wednesday, March 6, 2019

Location: West Hawaii Civic Center, 74-5044 Ane Keohokalole Hwy, Kailua-Kona, HI 96740

Time: Informational briefing: 6:00 p.m. – 6:30 p.m.

Public hearing: 6:30 p.m. – 7:30 p.m.

Date: Monday, March 11, 2019

Location: Paukukalo Community Center, 655 Kaumualii St, Wailuku, HI 96793

Time: Informational briefing: 6:00 p.m. – 6:30 p.m.

Public hearing: 6:30 p.m. – 7:30 p.m.

EXHIBIT E

Date: Wednesday, March 13, 2019

Location: King Kaumualii Elementary School Cafeteria, 4380 Hanamaulu Rd, Lihue, HI 96766

Time: Informational briefing: 6:00 p.m. – 6:30 p.m.

Public hearing: 6:30 p.m. – 7:30 p.m.

All interested persons are urged to attend the public hearing to present relevant information and individual opinion for the DHHL to consider. Any person may file written comments or recommendations in support of or in opposition to the proposed rulemaking in person at the public hearing or by mail postmarked by March 20, 2019. Written testimony should be mailed to: ATTN: Administrative Rules, Department of Hawaiian Home Lands, P.O. Box 1879, Honolulu, HI 96805.

The Hawaiian Homes Commission shall take final action on this rulemaking at a future regularly scheduled commission meeting.

The proposed rule amendments are currently available for review through March 20, 2019

between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday at the DHHL Main Office in

Kapolei, Oahu (address listed above) and at any DHHL District Office:

East Hawaii: 160 Baker Ave.,

Hilo, HI 96720; West Hawaii: 64-756 Mamalahoa Hwy, Kamuela, HI

96743; Maui: 655 Kaumualii St.,

Wailuku, HI 96793; Molokai: 600 Mauna Loa Hwy, Kaunakakai, HI 96748;

Kauai: 3060 Eiwa St, Rm

203, Lihue, HI 96766. A copy of the proposed rule amendments will be

mailed to any person who

requests a copy in writing. The request must state the requestor's name and mailing address, and

be delivered to the DHHL Main Office, P.O. Box 1879, Honolulu, HI 96805. For more information,

email dhhl.rules@hawaiianhomelands.org or call (808) 620-9280. A copy of the proposed rule

amendments is also available online: <http://dhhl.hawaii.gov/hhc/hawaii-administrative-rules/>.

To request a sign language interpreter or disabled parking at the public hearing, please

contact the DHHL Information and Community Relations Office on Oahu at 808-620-9590 at least

seven days in advance of the public hearing.

Jobie M. K. Masagatani, Chairman

Hawaiian Homes Commission

January 27, 2019

EXHIBIT E

	Commission Vote/Governor Approval	
9	Final Version of Hawaii Administrative Rules Amendments 2017	TBD

CONTACT INFORMATION:

For more information, please contact:

- Hokulei Lindsey, DHHL Administrative Rules Officer, 808-620-9280
hokulei.lindsey@hawaii.gov

COMMENT ON ADMINISTRATIVE RULES:

Comment on Proposed New Administrative Rules

Name

Applicant or Lessee?

E-mail *

Comment or Message *

Submit

EXHIBIT E

Planned Communities, Multi-Family Complexes, and Rental Housing
Public Testimony 2019

TESTIFIER	COMMENT	MEETING	RESPONSE
Nalani Aipoalani-Tuaoi-To'oto'o (Oral)	I live on Nanakuli Hawaiian Homestead. I'm representing myself and my entire family. Getting land to them, taking care of our Kupunas. With, that being said, the monies generated from commercial properties should be used on them to pay for our Kupunas to be housed under the DHHL Properties that you folks have.	Kapolei	The proposed rules do not address loan, grant, or subsidy sources or opportunities. Those matters are addressed in other subchapters of the rules as well as the Hawaiian Home Commission Act.
Kailani Ross (Oral)	What newspaper was this published in [to advertise the public hearing]? On June 30, 1921, Prince Kuhio had an opportunity to testify in front of US Congress in support of the HHCA, he states "mister chairman helping the Hawaiian people who are dying out to get back to our land to rehabilitate themselves the Hawaiian people for the last 100 years have been dying off rapidly. This decline has been recognized by all — Kamahemeha I, II, III, IV, V have all recognized something be done. Not many lands left, the Hawaiians were formally farmers under new conditions they were driven out from their lands and came to the cities. They were poor and lived in tenements." (67 session congressional record). The Act was passed by Congress of US, on July 9 1921, signed into law by President Warren Harding. Mission states "Title 1A Purpose section 101 this section states the policy to enable native Hawaiians to return to their lands to support self determination in the administration of the Act . . . To establish a permanent land base for the benefit of native Hawaiians placing native Hawaiians on the lands. Purpose is to rehabilitate as farmers. Confining native Hawaiians into condos is not in the spirit of the Prince Kuhio nor back to Kamehameha III. He also provided the mahele which is not a contract with the konohikis and still stands today. Land not to be sold in perpetuity. Kanaka maoli to protect the kamaainas. We have the apology bill Public Law 150 apologizes for taking away the land states that US committed an act of war against her [Queen Liliuokalani] people. DHHL employees you are putting them in condos, tenements, Spirit of the law says return to Land. I	Paukukalo	Public notice was made statewide, published in the major newspapers, in accordance with 91-3, Hawaii Revised Statutes, and Hawaii Administrative Rules Title 10. The Hawaiian Homes Commission Act section 207.5 gives explicit authority to the department to develop multi-family housing and rentals. The proposed rules provide the framework to implement section 207.5, HHCA.

	oppose, strongly oppose, the proposition here today. This is a crime on top of a crime on top of a crime. This apology bill states [read from Apology Bill]. Those who work for Hawaiian Homes, there are lands for kanaka maoli, but they don't want to hear it. State of Hawaii vs Midkiff created a law that eminent domain — taking private lands for public purpose — Queen Liliuokalani and Lunalilo Trust — showed it can be done. Alexander & Baldwin said they owned the land. After overthrow of Liliuokalani they changed their lease to "own"		
Hinano Kaleleiki (Oral)	The land you stole, the land US stole. I worked for over 20 years, my job, these lands are the rights to the konohiki, right to the land and the water, this is not a privilege. We are outlaws. They have no permission, no right. The water, ocean is your right. If you listen to these guys you'll stay on the ground. I've been in the toughest parts of this world. The US government knows who owns the lands. 245 of us, only 2 of us left. The mahele was an inventory of the king's assets, by ledger, to his konohikis. Then he turned over his personal lands. First Supreme Court magistrate. Foreign invasion political unrest. It's privatized since then. Don't know where they got the permission from. I told you guys to cease and desist, almost 5 years. I'm there to go to court. The world is looking at you guys. You guys gonna eat it. Hawaiian homes you have nothing to say, you're thieves. This you guys final warning. It didn't say blood quantum. If a slave can come to these shores has the right, says nothing about blood quantum. We don't need another government. We didn't ask for it.	Paukukalo	None.
Germaine Balino (Oral)	Individual and lessee. Neither for nor against. What strikes me by fellow beneficiaries, and prior to others what was passed in history. My understanding is proposed rules have been part of Beneficiary Consultation, that Beneficiary Consultations have expressed the need for these proposed amendments. My concerns echo fellow beneficiaries here: make sure there is mandatory rules when DCCRs are created so lessees know, that there is a process/mechanism put in place	Paukukalo	Staff believes provisions are in place that would address concerns about lessee understanding of living in a development governed by covenants, conditions, and restrictions; as well as concerns that the covenants make sense for Hawaiian Home Lands and are not simply "boilerplate". Proposed section 10-7-4 Native Hawaiian Cultural Values requires that the governing documents take into account Hawaiian cultural values that are appropriate for the location, development, and the original lessees who would live in those

	<p>should any rules get passed, also a process in place that goes back to the beneficiaries (recourse). DCCR communities get caught in a catch 22, can't amend the DCCRs, they are stuck with DCCRs that were given to them without any beneficiary input.</p>		<p>homes. It also requires that the guidelines for the culturally appropriate provisions be developed by the department through beneficiary consultation. Those guidelines are to be included in the declaration. Staff believes this will help ease some of the cultural disconnect that some current DCCR lessees describe with the covenants and restrictions in their communities.</p> <p>The purpose of proposed section 10-7-26 Planned Community Education is to facilitate informed decision-making by homestead applicants. It creates a process with a mandatory orientation to explain the obligations of living in a planned community before award letters are mailed. Before leases are signed, the future lessees are required to attend a planned community education training that is tailored specifically to the development and its association rules. In addition, an orientation for lessees who receive the lease through transfer or succession is also required, ensuring that lessees who move into the community after the original award are informed about the CCRs.</p>
<p>Kekoa Enomoto (Oral)</p>	<p>I am here as chairman of the board Paupena Corp. but am speaking for myself. Planned communities inherently are not culturally appropriate, at least not on Maui. As proof, Waiehu Kou do not report nor pay assessments. Leialii cannot get a 40% quorum. Which brings us to the section, which Hokulei referenced. Self determination pre-supposed. But how are home lands planned and developed? Neither was there beneficiary input when lands are being considered to be used as Planned, Multi and rentals.</p>	<p>Paukukalo</p>	<p>In terms of the issues that are related to the current proposal, staff believes sections 10-7-4 and 10-7-26, previously discussed, address issues on a cultural level as well as providing information and training to lessees about the rights, responsibilities, and functioning of communities governed by CCRs.</p> <p>Promulgated in 2018, the department now has Planning System administrative rules, which ensure beneficiary consultation for the development of Island Plans, Area Plans, Regional Plans, and Special Area Plans.</p>
<p>Kailani Ross (Oral; additional time)</p>	<p>I'm a lessee at Leialii, homestead in Lahaina, residential. State for the record. I am opposed to DCCRs for Hawaiian Home lessees. DHHL should take care of common areas and those kinds of things. Associations tend to pit lessee against lessee cause DHHL is using the association as an enforcer. The Kalawahine lawsuit boiled down to "lessee did not have the opportunity to craft the DCCR for which they 're subjected to". Now DHHL is trying to do DCCRs in rules so they</p>	<p>Paukukalo</p>	<p>With regard to the issues within the scope of the proposal, staff believes cultural and informational issues will be addressed through sections 10-7-4 and 10-7-26. These two elements were not part of previous planned community developments.</p> <p>The holding in the Kalawahine case was that the department needs administrative rules to enforce DCCR documents under section 207.5 of the HHCA. As it relates to planned communities, the proposal is intended to address the gaps left by</p>

	<p>can get associations to enforce them so I'm against this. I'm asking DHHL to do the maintenance and set the lessees free. I have a letter to read part of, from the UN Office of the High Commissioner on Indigenous Rights. He introduces himself and says based on understand of A/69/284 to UN General Assembly, I recommend people of Hawaii be provided access to UN procedures and mechanisms in order to exercise their rights protected under international human rights law. Adjudication of land transactions of the Hawaiian islands likely international law, not the US. The State of Hawaii courts should not lend themselves to flagrant violations . . . And ends with, therefore State of Hawaii should not collude in wrongful taking of land, bearing in mind the right of property art. 17 universal declaration (adopted by leadership of Eleanor Roosevelt)The HHCA says that Hawaiians should be sovereign. DCCRs isn't self-determination; it doesn't meet the spirit of the act.In HHCA, Hawaiians should be self-determining, I believe DHHL wants to make these DCCRs so Hawaiians have self-determination. This is not self-determination.</p>		<p>the Kalawahine holding, thus enabling the department to assist homestead planned community associations.</p>
<p>Sharlette Poe (Written; green sheet)</p>	<p>Would like to see an educational component for kupuna rentals re: kupuna that may have an existing lease and are considering transferring, surrendering, or selling their lease to become a (renter) tenant in any of the kupuna housing projects and the full impact. --now have monthly rent (may not have had before) --Association fees, rules, assessments --Spouse eligibility for successorship if qualifying tenant passes first **Can provisions be considered for "remainder for life"? For next time rules are made: cannot get back on waitlist; former lessee.</p>	<p>Kapolei</p>	<p>When the department offered kupuna housing in Waimanalo, general information was provided occupancy, waitlist status, lessee status, and income eligibility, the specific house rules were also provided. The proposed rules themselves provide more process-related information than was available at the time of the Waimanalo project. At this time, staff believes the type of information suggested and, in particular, the impact of moving into kupuna housing as a rental can be better provided going forward because of this proposal.</p> <p>The HHCA does not contemplate successorship structured as a life estate.</p>
<p>Kanani Higbee (Email)</p>	<p>Aloha, My name is Kanani Higbee. I live in Lahaina, Maui. I am an applicant for Hawaiian Homes. My mother-Delta Lapota, Sister- Pua Olena Moli Lapota, and brother- Kainalu Higbee are on the list too. My grandpa, Ernest Enoka Pakaki died on the list without getting a</p>		<p>Multi-family housing and rental projects are authorized by the HHCA. These types of products expand the mix of housing options as well as increase the range of affordability the department may offer to beneficiaries on the waitlist. While some beneficiaries want a single family house, others want the ease, convenience, and/or</p>

home.
I am emailing in regards to the proposal about adding lists to the Hawaiian Homes to get applicants into rental, rent to own, and condos- multi family structures. I do not support this proposal. I would not be happy with Hawaiian Home funding going to this. I feel it is a misuse of funds. I am offended that DHHL would even consider this. For me, it's a slap in the face. My mother has been on the list since 1987. My brother, sister, and I have been on the list since 2006. Our children are about grown. There is no reason why we shouldn't be living on Hawaiian home land. And this proposal is junk.
I was told Lahaina Leiali'i would be built soon. The 2nd phase. The water has gotten approved which was the biggest hurdle. And it's fast tracked to be built. I don't like this idea of adding rentals, rent to own. I would like to have a residential lot and/ or agriculture lot. I don't think it's wise to add more lists when people have been waiting a long time for a residential and agriculture already.
Furthermore, I feel that DHHL was sneaky. I heard of this proposal and meeting in the newspaper only 1 day before the meeting was to take place! I didn't get notice by mail. Had I known with enough time, I would have not scheduled anything. But I had plans. To take a credit class to prepare for my Hawaiian home. Luckily my coworker was able to attend the meeting. She said only a few people made it! I feel this is what DHHL wanted. For us to not show up so they could pull a fast one on us.
Basically, I feel that rentals and rent to own and condos is not the way to go. Instead, how about offering actual credit classes. I've been asking for a credit class to get my finances in order and work on a down payment. But DHHL didn't offer one for Maui. So I had to get a class through Queen Liliuokalani Trust instead. I feel that it is wise to take credit classes to prepare to get a home loan. And DHHL should offer credit classes to applicants well in advance of them getting a home. Supposedly, DHHL offers

affordability of a multi-family unit; this was expressed by beneficiaries during the Beneficiary Consultation process conducted from April thru July 2017. The department should to be able to provide housing options to beneficiaries of different income levels as well as different lifestyle/housing priorities.

The proposal does not speak to any specific development. The proposal provides process to implement section 207.5, HHCA.

Planned Communities, Multi-Family Complexes, and Rental Housing
Public Testimony 2019

	<p>credit classes, but when I ask to take them, there are excuses DHHL comes up with like only Oahu has credit classes or we don't have any at this time.</p> <p>Please don't let this proposal pass. I know it will make it harder for me and my family to get our residential lot. We have been waiting and feel that we are so close and now DHHL wants to pull this. We are not interested in rent to own. We just want to get a regular home loan. Actually if DHHL truly wants to help Hawaiians, they can help by offering low interest loan programs. But if not, I know how to improve my credit so I will qualify for a lower interest rate.</p> <p>Thank you for taking the time to read this. I'm really hoping you don't add the rentals, rent to own, and multi family structures to DHHL.</p> <p>With Aloha, Kanani Higbee</p>		
Kanani Higbee (Email)	<p>Aloha,</p> <p>My name is Kanani Higbee. I am an applicant for Hawaiian Homes. The green paper that was given to people at the meeting at Paukukalo last week for us to provide testimony had the wrong email on it!!! The email said</p> <p>dhhl.rules@hawaiianhomelands.org.</p> <p>This is such a huge error. Basically, people are having a hard time giving testimony to what they want in regards to the rent, rent own, condo, etc.</p> <p>Please if you could notify everyone somehow or extend the date to give testimony.</p> <p>Thank you, Kanani Higbee</p>		<p>The Department established a new email, dhhl.adminrules@hawaii.gov and reopened the comment period. Staff reached out to those who attended the hearings and expressed an interest in submitting testimony but from whom none was received.</p> <p>Staff responded to this email notifying the sender that their testimony was received and of the new address and additional comment period.</p>
M. Kapuniai (Mail)	See attached letter dated March 20, 2019.		<p>10-7-1 Definitions. Staff believes the proposed definition of "Homestead" is too broad for the purpose of the proposed chapter. However, the comment does highlight an assumption that should be clarified. The proposal has been presented to beneficiaries and the public in the context of residential development because that is the intent of the proposed chapter. Staff believes the proposal should clearly reflect this intent and recommends "homestead" be replaced with "residential" or "applicant on a waitlist" as appropriate.</p>

			<p>10-7-11 Supplemental provisions of the declaration. This allows the declarant to adopt supplemental provisions to the declaration. By definition, supplement enhances or completes what is already there. As such, supplemental provisions would be those that add clarity or certainty as opposed to something new or different. Staff believes the proposed process is not warranted and may cause unnecessary delay.</p> <p>10-7-18 Membership. Staff believes the proposed added language is not necessary when 10-7-17 and 10-7-18 are read together.</p> <p>10-7-19 Voting. The declaration is the foundational document for a planned community, like the Constitution. It would be created and recorded by the declarant, most likely the department or project developer, before there is an association or lessees. The voting structure of Class A and Class B is how the declarant maintains a certain amount of control as the project is finished and/or units are filled. Once that process closes or time allotted sunsets, the declarant's controlling Class B membership either terminates, leaving full control of the association with lessees, or it converts to Class A membership with voting power equal to each lessee/member. This provision maintains standard certainty for the developer.</p> <p>10-7-26 Planned community education. This section provides only a general outline of what will happen in the awards process when a development is structured as a planned community. It does not detail the awards process and procedure. It requires information about planned communities be provided at the earliest possible time. It also requires an education training specific to the development before leases are signed. Staff believes, based on feedback during beneficiary consultation, that the provision as drafted is a significant improvement to past practice and is appropriate for administrative rules. Once a community is established, the department does not control amendments made to the declaration, nor does it control the by-laws or house rules. The association has full control</p>
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			<p>over those documents and the functioning of the association. As such, the association is the proper party to conduct orientation to transferees and successors. The section requires greater information from the department to the association on matters of transferees and successors.</p> <p>10-7-41 Rental housing offers. The process outlined in the proposal is based upon similar prior experience. The process, as outlined, provides as the first touch a simple inquiry that contains no commitment or risk, just a narrowing of the possible applicant pool—are you interested in renting in “fill in the blank location.” Once interested applicants are identified, specifics are provided. This process is logical, start general then work to greater specificity.</p> <p>10-7-42 Kupuna housing. “Immediately” is used to convey urgency and ensure use of the rental unit as well as progress towards transfer or surrender of a lease in a timely manner.</p> <p>10-7-43 Rental agreement controlling. Staff recommends no change to the proposed language because the rental agreement would be governed primarily by the landlord-tenant code and would be an agreement between the renter and management company.</p> <p>Regarding notice of the public hearings, notice was given as required by the Hawaii Revised Statutes. Beneficiaries are mailed directly about Beneficiary Consultation meetings because it is a process by the department for beneficiaries in particular. The public hearing process is a public process under the Hawaii Revised Statutes. The department provides equal notice to the public, including beneficiaries.</p>
Chloe Urabe (Email)	Aloha mai, I support the proposed administrative rules for planned communities, multi-family complexes, and rental housing. The proposed rules will create more housing options for the beneficiaries and will hopefully place more applicants on the waiting list in homes. The rules proposed are a good foundation for DHHL to work off of	Kapolei	

Planned Communities, Multi-Family Complexes, and Rental Housing
Public Testimony 2019

	and will allow DHHL to meet their duties to the beneficiaries under the Act. Thank you for allowing me to comment. Me ka ha'aha'a, Chloe Urabe		
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Date: 2/27/19

Location: Hale Pond

Topic: Proposed Rules

REC'D 2-27-2019
at 1:32pm
D. J. [Signature]

COMMENT SHEET

PUBLIC HEARING FOR PROPOSED ADMINISTRATIVE RULE AMENDMENTS

NAME: Shariette Poe

ADDRESS: 

COMMENTS:

Would like to see an educational component for Kupaia Rentals re: Kupaia that may have an existing lease and are considering transferring, surrounding or selling their lease to become a (rental) trust ^{entity} in the Kupaia trust project & the ~~state~~ full impact. →

EXHIBIT

F

- now have monthly rent
(may not have had before)

- Association fees rules, assessments

- expense eligibility for success or ship

if qualifying tenant passes first

* → and provisions re considered for "remains of life"?

⑧ when rules are made:

cannot get back on track on what was; former lease]

March 20, 2019

M Kapuniai


Department of Hawaiian Home Lands
DHHL Administrative Rules
P. O. Box 1879
Honolulu, HI 96805

RE: Comments to CORRECT proposed Admin Rules, Chapter 10-7, following Public Hearings for which NOTICE WAS NOT PROVIDED TO LESSEES AND APPLICANTS

10-7-1 Definitions.

Include a definition for "homestead" which is mentioned several times, but no definition for these rules:

"Homestead" includes beneficiary leases on residential, farm, or pastoral projects".

10-7-11 Supplemental provisions of the declaration.

The declarant is authorized . . . chapter; provided that any of the supplemental provision to be adopted shall 1) first be presented to association members through consultation process, 2) shall be approved by the Department and the Hawaiian Homes Commission, and 3) shall not conflict with . . . title.

10-7-18 Membership.

(2) Class B membership shall terminate **(and may convert to a class A membership) per 10-7-17 (c).**

10-7-19 Voting.

Class A membership **(and class B membership)** shall have voting powers as set by the association's By-laws (by the declarant in the declaration, provided . . . or unit than class A membership).

Class A membership shall have one vote. Class B membership (that held by the declarant) shall have no voting power.

Members of the Association will have to formalize the Membership and Voting Powers in their By-laws. The declarant shall not be a member nor have any voting power. The declarant facilitates for DHHL – that's all.

EXHIBIT F

10-7-26 Planned community education.

REWRITE IT !!! UTILIZING MY COMMENTS FORWARDED OCTOBER 14, 2019

I HAVE INCLUDED IT WITH THIS LETTER FOR YOUR REFERENCE.

- (a) and (b) *Review the process and present it clearly, leaving no room for question.*
- (c) *It should be up to the Association whether they should be responsible for DCCR orientation, before a lease document is executed.*

My opinion is still as I have suggested October 14th; the prospective lessee, transferee, or successor lessee shall first be thoroughly oriented by DHHL before lease documents are executed.

10-7-41 Rental housing offers.

REWRITE IT!!! UTILIZING THE COMMENTS I MADE OCTOBER 14TH.

(a) (1), (2), (3), (4)

- A. **DHHL SHALL INCLUDE THE "RENTAL PROGRAM PARAMETERS" WITH THEIR LETTER OF NOTIFICATION INVITING PARTICIPATION IN THE RENTAL PROGRAM, AT THE DESIGNATED SITE.**
- B. **DHHL SHALL HAVE CERTIFIED THE INVITEE'S APPLICATION STATUS PRIOR TO SENDING THE LETTER OF INVITATION TO PARTICIPATE IN THE PROGRAM, NOT AFTER HAVING GONE THROUGH THE PROCESS JUST TO FIND OUT THAT THE PERSON DOES NOT QUALIFY.**

EXCUSE ME! HOW UNACCOUNTABLE IS THAT????????? ON DHHL PART????

DELETE 10-7-41 (b) DHHL SHALL PROVIDE "RENTAL PROGRAM PARAMETERS WITH NOTICE OF INVITATION TO PARTICIPATE".

"EARTH CALLING DHHL PAID EMPLOYEES TO DO THE JOB CORRECTLY!"

**This request is not foreign - it is plain courtesy!
GET WITH IT OR RESIGN!!!**

EXHIBIT F

HHC Regular Meeting - October 15, 16, 2018

Kanani Kapuniai [REDACTED]

Sun, Oct 14, 2018 at 7:29 PM

To: "Masagatani, Jobie K" <Jobie.K.Masagatani@hawaii.gov>, "Aila Jr, William J" <william.j.ailajr@hawaii.gov>, "Lindsey, Hokulei" <hokulei.lindsey@hawaii.gov>, Kaleo Manuel <Kaleo.L.Manuel@hawaii.gov>, makaliu@aol.com, "Nanakuli B, Mike Kahikina" <mkahikina@gmail.com>, Wallace Ishibashi <Stonebridge@hawaii.rr.com>, Randy Awo <Randyawo@gmail.com>, Wren Wescoatt <wren.wescoatt@gmail.com>

C-4 Approval of Recommendations for Department of Hawaii Home Lands Proposed Amendments to Title 10, Hawaii Administration Rules for DCCRs; Multi-Family, Rentals, and Kupuna Housing; and to Proceed with Rulemaking under Hawaii Revised Statutes Chapter 91

I RECOMMEND DEFERRAL - THESE RULES ARE NOT READY FOR APPROVAL NOR FOR FURTHER RULEMAKING PROCESS!

10-7-1 Definitions

"Declaration" does not create a Hawaiian Home Lands Community.
" is an instrument which governs **REVIEW AND CORRECT**

10-7-10 Establishment of the declaration

(2) There is reference to 10-7-5 (b) - does not exist
REVIEW AND CORRECT

CORRECTED!

10-7-26 Planned Community Education

(a) To facilitate informed decision-making - - -

Staff revisit and state the process reflecting the following steps:

- Department invite/notify ----- applicants (new applicants to new project/ prospective new lessee to existing project/ transferees/successors) to review and participate in new offering
- Department enclose a set of DCCRs
- Department develop and conduct Mandatory Planned Community Orientation
- Department Conduct Lot Selection
- Department facilitate execution of lease and Acceptance of DCCRs

Up to this point, the relationship is, DHHL and the protective lessee or successor lessee.

The association's responsibility is to its members - the Association could then conduct periodic review of the rules, etc. NOT BEFORE!

REVISE THE WHOLE SECTION!!!

10-7-41 Rental housing offers

Staff interpretation of my recommended change is incorrect. The submission was very clear.

The purpose is to honor and solidify DHHL's relationship with the applicant, first; has nothing to do with the applicant/renter relationship.

The Department SHALL include the Rental Program Parameters up front, at

EXHIBIT F

10-7-42 Kupuna housing.

**Do something better than insisting that the Kupuna move in
"IMMEDIATELY"**

10-7-43 Rental agreement controlling.

The department shall review the property management company's final rental agreement draft **and shall present it to the Hawaiian Homes Commission for approval.**

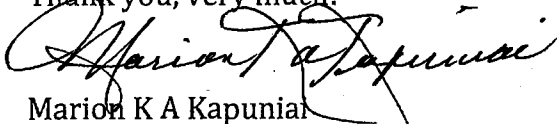
Please revisit the notification for "Public Hearing". Notice is mailed to all lessees and applicants to participate in Consultation Proceedings. Why not for this important step in the process to amend or adopt new HA Rules?

Advertising in a newspaper or on the website is unacceptable - *Lessees* and *Applicants* are to be individually contacted, at least by mail.

I, for one, will not die on the website, waiting to see if something appears which I should be responding to. It is the department's responsibility to directly contact us. Depending on, or rationalizing on, or deferring to, what the HRS states does not take precedence to contacting us, individually, for any business that the department and HHC conducts *on our behalf*.

Before the final draft is prepared, I need to discuss justification for not implementing my suggestions.

Thank you, very much!


Marion K A Kapuniai

✓Encl.

EXHIBIT F

the beginning of the process. This is common sense. The interested applicant will have tools for consideration, further questions, and finally commitment.

NO ONE SHOULD HAVE TO DECIDE ON PARTICIPATING IN A PROGRAM "HOPING" THAT SOMEDAY, AS SOON AS DHHL DEEMS PRACTICABLE!

WELL, EXCUSE ME!!!!!!

REVISE!!!!

10-7-42 Kupuna housing

I am disappointed that you did not amend this section with my suggestion - move in by six months as opposed to "immediately".

How impractical is that - can anyone of you just move in to someplace "immediately". **REVISE!!!**

10-7-43 Rental agreement controlling

The Department shall review the property management company's final rental agreement and SHALL SUBMIT A RECOMMENDATION FOR APPROVAL TO THE HHC. **REVISE!!!**

I thank you all, in advance for your undivided, and concerted effort in reviewing these statements and direction to staff to further review and propose better and accountable revisions to the proposed Administrative Rules.

La Maika'i M Kanani Kapuniai 936-0157

EXHIBIT F

DEPARTMENT OF HAWAIIAN HOME LANDS

Adoption of Chapter 10-7
Hawaii Administrative Rules

[]

SUMMARY

Chapter 10-7, Hawaii Administrative Rules,
entitled "Planned Communities, Multi-Family Complexes,
and Rental Housing", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 10

DEPARTMENT OF HAWAIIAN HOME LANDS

CHAPTER 10-7

PLANNED COMMUNITIES, MULTI-FAMILY COMPLEXES, AND
RENTAL HOUSING

Subchapter 1 General Provisions

- §10-7-1 Definitions
- §10-7-2 Applicability of chapter
- §10-7-3 Method of disposition
- §10-7-4 Native Hawaiian cultural values
- §10-7-5 Interpretation
- §§10-7-6 to 10-7-9 (Reserved)

Subchapter 2 The Declaration

- §10-7-10 Establishment of the declaration
- §10-7-11 Supplemental provisions of the declaration
- §§10-7-12 to 10-7-15 (Reserved)

Subchapter 3 The Association

- §10-7-16 Establishment of the association
- §10-7-17 Period of declarant control
- §10-7-18 Membership
- §10-7-19 Voting
- §10-7-20 Vacant lots
- §10-7-21 Unoccupied units
- §10-7-22 Budget

§10-7-1

§§10-7-23 to 10-7-25 (Reserved)

Subchapter 4 Obligations of the Lessee

§10-7-26 Planned community education
§10-7-27 Association membership
§10-7-28 Payment of assessments
§10-7-29 Alteration of the unit prohibited
§§10-7-30 to 10-7-34 (Reserved)

Subchapter 5 Enforcement of Governing Documents

§10-7-35 Compliance required
§10-7-36 Enforcement
§10-7-37 Civil action
§§10-7-38 to 10-7-40 (Reserved)

Subchapter 6 Rental Housing

§10-7-41 Rental housing offers
§10-7-42 Kupuna housing
§10-7-43 Rental agreement controlling
§10-7-44 Successorship
§10-7-45 Vacant units
§10-7-46 Conversion to lessee

SUBCHAPTER 1

GENERAL PROVISIONS

§10-7-1 Definitions. As used in this chapter and any k^ān^āwai or governing documents unless otherwise required by the context:

"Assessments" means funds collected by an association from association members to operate and manage the association, maintain property within the planned community or multi-family complex for the common use or benefit of association members, or provide services to association members.

"Association" means a nonprofit, incorporated, or unincorporated organization made up of all of the lessees within a Hawaiian home lands planned community or multi-family complex existing pursuant to covenants running with the land. In certain circumstances, the department may be part of the association.

"Board of directors" or "board" means the governing board or other body, regardless of name, designated in the governing documents to act on behalf of the association.

"Declarant" means the department or any person or entity to which the department has assigned any or all of the rights and obligations of the declarant set forth in the governing documents.

"Declaration" means any recorded instrument, however denominated, that creates a Hawaiian home lands planned community or multi-family complex, including any amendments to the instrument.

"Developer" means a person or entity who is contracted by the department to undertake development of a planned community or multi-family complex for, or in partnership with, the department.

"Governing documents" means the articles of incorporation or other document creating the association, the bylaws of the association, the declaration or similar organizational documents and any exhibits thereto, any rules related to use of common areas, architectural control, maintenance of units, restrictions on the use of units, or payment of money as regular assessment or otherwise in connection with the provisions, maintenance, or services for the benefit of some or all of the units, the owners, or occupants of the units or common areas, as well as any amendments made to the foregoing documents.

"Lot" means any plot of land designated as a lot upon any recorded subdivision map of the development property and upon which a dwelling unit could be or has been constructed in accordance with all relevant Hawaii law. Lot shall not include the common areas.

"Member" means the lessee of a lot under a homestead lease from the department, or anyone included in the definition of a member under the

governing documents.

"Multi-family complex" means a homestead or mixed use development on Hawaiian home lands that is subject to chapter 514A and 514B, HRS, as applicable, insofar as it does not conflict with this title and the act.

"Planned community" means a homestead or mixed use development on Hawaiian home lands that is subject to chapter 421J, HRS, insofar as it does not conflict with this title and the act.

"Property management company" means a person or entity that is contracted by the department or the developer to enter in to rental agreements with renters and undertake daily operations and management of a Hawaiian home lands rental housing development.

"Record" or "recorded" means to record in the bureau of conveyances in accordance with chapter 502, HRS, or to register in the land court in accordance with chapter 501, HRS, as appropriate.

"Rental agreement" means all written agreements, between a renter and the property management company or department, or both, which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit and premises, and may include an option to purchase.

"Rental housing development" means a Hawaiian home lands housing development, which may be comprised of single family lots or multi-family housing complex, or both, for which rental agreements govern the terms and conditions of use and occupancy of the units. A rental housing development shall be managed by a property management company.

"Renter" means a native Hawaiian who occupies a dwelling unit for dwelling purposes under a rental agreement as part of a Hawaiian home lands rental housing development.

"Unit" or "dwelling unit" means any portion of property, as improved, intended for use and occupancy as a residence within a planned community or multi-family complex. [Eff and comp]

(Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-2 Applicability of chapter. (a) This chapter shall apply to all planned community developments on Hawaiian home lands consisting of single-family lots or a multifamily complex, or both for which the declaration is recorded after the effective date of this chapter.

(b) This chapter may apply to an association for which the declaration was recorded before the effective date of this chapter if adopted by a majority vote of the association. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-3 Method of disposition. (a) The department may award homestead leases under the authority of this chapter.

(b) Any combination, or all of the department, the developer, and the property management company may enter into contracts of sale or rental agreements with native Hawaiians as verified by the department. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-4 Native Hawaiian cultural values. (a) The governing documents shall take in to account and embody native Hawaiian cultural values as appropriate for the location, development, and lessees.

(b) General parameters and guidelines shall be developed by the department through beneficiary consultation. The finalized document shall be approved by the commission and included in the declaration. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-5 Interpretation This chapter and any

governing documents subject hereto shall be implemented and interpreted within the spirit of the act, including to promote native Hawaiian values and sense of place in the best interest of the lessees, renters, and residents living in planned communities, multi-family complexes, or rental housing developments on Hawaiian home lands. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§§10-7-7 to 10-7-9 (Reserved)

SUBCHAPTER 2

THE DECLARATION

§10-7-10 Establishment of the declaration. (a) The declarant shall cause the declaration to be drafted according to the following:

- (1) The declaration shall be in conformity with all relevant Hawaii law; and
- (2) The declaration shall include the document developed under subsection 10-7-4(b) and accordingly take in to account and embody native Hawaiian cultural values as appropriate for the location and development.

(b) Upon approval of the declaration by the commission, the declarant shall record the declaration. The declaration shall be recorded prior to the execution of any lease or sales contract.

(c) The declaration shall inhere in the land and shall bind subsequent lessees. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-11 Supplemental provisions of the declaration. The declarant is authorized to adopt supplemental provisions in accordance with this chapter to implement and carry out the purposes of this chapter; provided that any of the supplemental provisions adopted shall not conflict with the act and this title. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§§10-7-13 to 10-7-15 (Reserved)

SUBCHAPTER 3

THE ASSOCIATION

§10-7-16 Establishment of the association. The declarant shall establish the association not later than the date upon which the first unit in the planned community or a multi-family complex is ready for occupancy. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-17 Period of declarant control. (a) As appropriate for the development and when provided in the declaration, the declarant may maintain a class B membership in the association for a fixed period while units are being awarded and first occupied. This period shall be known as the period of declarant control and shall terminate not later than the time at which all units or lots have been transferred to lessees.

(b) During the period of declarant control, the declarant may appoint and remove the members of the

board.

(c) Not later than four months before the termination of any period of declarant control, the members shall elect a board of directors as provided in the governing documents. The declarant and the department shall coordinate with the newly member-elected board to transition from declarant control in a transparent manner that ensures the member-elected board is equipped and prepared to govern the association. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-18 Membership. The association may be made up of lessees and the declarant, and divided in to two membership classes.

- (1) Lessees shall maintain a class A membership.
- (2) The declarant may maintain a class B membership for a fixed period. Class B membership shall terminate and may convert to a class A membership not later than the time at which the period of declarant control terminates. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-19 Voting. Class A membership and class B membership shall have voting powers as set by the declarant in the declaration, provided each class A member shall have one vote and, during the period of declarant control, class B membership shall have a greater number of votes per lot or unit than class A membership. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-20 Vacant lots. (a) Assessments rates

shall be set after the lots have been designed and plotted, number of lots in the development are finalized, and preliminary budget determined. Lots intended to be vacant due to engineering constraints or health and safety concerns shall not be included in calculating the pro-rata assessment amounts. If a lot becomes unsuitable for a residence, assessments shall be recalculated to exclude the unsuitable lot.

(b) Assessments due on vacant lots that are awarded as owner-builder or self-help are the responsibility of the lessee upon the signing of the lease. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-21 Unoccupied units. (a) The department shall use all due diligence to fill developed units that become unoccupied. The department shall not be responsible for assessments due on those units unless the assessments lost due to the number of empty units threatens the viability of the association.

(b) An association with unoccupied units shall report annually to the department regarding income and projected economic viability. If economic viability is threatened, the association may request payment of future assessments from the department until the empty units are filled. Such request is subject to approval by the commission. If approved, amounts due shall accrue from the date of receipt by the department, as indicated on the date and time stamp, of the request from the association. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-22 Budget. Each association shall adopt a budget and rate schedule, according to the governing documents, and submit the budget and rate schedule to the department between June 1 and June 30 of each year. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§§10-7-23 to 10-7-25 (Reserved)

SUBCHAPTER 4

OBLIGATIONS OF THE LESSEE

\$10-7-26 Planned community education. (a) To facilitate informed decision-making by homestead applicants, before award letters are mailed, the department shall notify the appropriate applicant field of a mandatory planned community orientation. This orientation shall provide an overview of rights, responsibilities, obligations, and benefits of planned community living, as well as possible consequences for non-compliance. If there is an existing association, that association shall participate in the orientation.

(b) Prior to signing a lease, the future lessee of a new planned community shall attend a planned community education training program approved by the department, which shall include training specific to the development regarding member and association obligations and rights, and community planning and governance.

(c) The association shall develop and conduct an orientation for lessees, transferees, and successors moving into an existing planned community. The department shall notify the association of lease transfers and successorships to facilitate the orientation process conducted by the association.

[Eff and comp] (Auth: HHC Act §222)
(Imp: HHC Act §207.5)

§10-7-27 Association membership. (a) Upon signing the lease, the lessee shall become a member of the association. By signing the lease, lessee also agrees to abide by the governing documents.

(b) Lessees shall ensure that members of their family who reside with the lessee, and guests and invitees of such lessee, observe and perform the provisions regarding use and occupancy set forth in the governing documents. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-28 Payment of assessments. The lessee shall pay assessments to the association in accordance with the governing documents. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-29 Alteration of the unit prohibited. The lessee shall not construct or alter any improvements on the property except in accordance with the governing documents and with written approval of the department under section 10-3-34. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§§10-7-30 to 10-7-34 (Reserved)

SUBCHAPTER 5

ENFORCEMENT OF GOVERNING DOCUMENTS

§10-7-35 Compliance required. The association, all lessees, and other persons lawfully in possession and control of any property interest shall comply with the bylaws, any rules lawfully adopted by the

association, and any covenant, condition, and restriction set forth in any recorded document to which they are subject. [Eff and comp
] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-36 Enforcement. (a) The declaration shall include a formal process for the association to enforce the governing documents, including collection of delinquent assessments and any lease violations.

(b) The association shall adopt a collection policy with formal procedures whereby the lessee shall have the opportunity to settle amounts owed the association, including but not limited to delinquent assessments, penalties, late fees, and associated costs, before private legal action to collect the debt is taken under the authority of the association and section 10-7-37.

(c) If collection of the debt is unsuccessful through private legal action under the authority of the association and section 10-7-37, the association may petition the commission for a contested case hearing for lease cancellation pursuant to this title. The decision and order of a contested case hearing may direct the department to assume the outstanding debt on the unit, including but not limited to delinquent assessments, penalties, late fees, and associated costs.

(d) The association shall adopt formal procedures for the enforcement of lease violations other than delinquent assessments whereby the lessee shall have at least 90 days to cure the violation. If the lessee fails to cure the violation within the time provided, the association may petition the commission for a contested case hearing for lease cancellation pursuant to this title. [Eff and comp
] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-37 Civil action. Any violation is grounds

for the association, any lessee, or lawful interest holder to commence a civil action for damages, injunctive relief, or both, and an award of court costs and reasonable attorney's fees in both types of action. The department shall not be party to any civil suit related to the violation of or noncompliance with the bylaws, any rules lawfully adopted by the association, or any covenant, condition, and restriction set forth in any recorded document. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§§10-7-38 to 10-7-40 (Reserved)

SUBCHAPTER 6

RENTAL HOUSING

§10-7-41 Rental housing offers. (a) If rental housing is available, the department and the property management company shall coordinate to offer the rental housing to native Hawaiians.

- (1) The department shall notify residential applicants on the respective area or island wide waiting lists of the rental housing opportunity.
- (2) The department shall provide the property management company with the list of native Hawaiians, who replied to the notice in paragraph (1), in rank order according to the appropriate waiting list.
- (3) The property management company shall identify qualified potential renters from the list based upon the rental program parameters and notify the department.
- (4) The department shall verify the

application status of those native Hawaiians identified by the property management company as qualified for the rental program. Upon verification, the department or the property management company, or both, shall make the rental housing offers.

(b) Project-specific parameters shall be provided to the applicant pool as soon as practicable.
[Eff and comp] (Auth: HHC Act §222)
(Imp: HHC Act §207.5)

§10-7-42 Kupuna housing. (a) A native Hawaiian, fifty-five years or older may be eligible for kupuna housing. If kupuna housing is available, the department shall notify native Hawaiians that would meet the age requirement for the kupuna housing development. The department and the property management company shall then proceed under section 10-7-41, as applicable.

(b) If a lessee accepts a kupuna housing offer, the lessee shall immediately occupy the kupuna housing unit and, within six months, either transfer or surrender his or her homestead lease. Upon accepting a kupuna housing offer, the lessee becomes a renter and a previous lessee under section 10-3-23.

(c) If the list compiled under subsection (a) has been exhausted and units are still available, the property management company may accept as renters native Hawaiians that are not homestead applicants, lessees, or previous lessees if the potential renter is:

- (1) Verified by the department as eligible for Hawaiian home lands under the act; and
- (2) Qualified for the kupuna housing development by the property management company.

(d) The renter's spouse may reside in the unit with the renter. An additional occupant, including an adopted minor or a legal caregiver, may also reside with the renter in the unit as allowed by applicable state or federal law. [Eff and comp]

(Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-43 Rental agreement controlling. The department shall review the property management company's final rental agreement. The rental agreement shall control the rights, responsibilities, and obligations, including eviction, between the renter and the property management company. The rental agreement shall comply with the Hawaii landlord and tenant code, chapter 521, HRS, and the Fair Housing Act insofar as they do not conflict with the act. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-44 Successorship. (a) If the renter is a homestead applicant, a successor under section 10-3-8 may succeed to the rental agreement; provided the successor meets the rental program requirements that apply to the specific unit. If the successor does not meet the rental program requirements or refuses the unit, the successor shall succeed to the application as provided in section 10-3-8.

(b) For kupuna housing, a spouse eligible to succeed under section 209 of the act and qualified for the kupuna housing unit may succeed to the kupuna housing rental agreement. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-45 Vacant units. To ensure units do not become vacant for unnecessarily long periods of time, the property management company shall request from the department, as appropriate, names of additional potential renters. Upon such request, the department and the property management company shall proceed under section 10-7-41. If parameters of the previous

offering have not changed, the department shall provide notice to the list of applicants in rank order from the application date of the last applicant previously contacted for the rental housing development. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

§10-7-46 Conversion to lessee. A renter who is a homestead applicant shall remain a homestead applicant during the rental period. The renter's homestead application and rank on any waiting list shall be maintained without regard to his or her status as a renter. The renter shall become a lessee upon signing a homestead lease. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §207.5)

DEPARTMENT OF HAWAIIAN HOME LANDS

Chapter 10-7, Hawaii Administrative Rules, on Summary Page dated [], following public hearings held on [], after public notice was given on [] in the Honolulu Star-Advertiser, The Maui News, West Hawaii Today, Hawaii Tribune-Herald, and The Garden Island; and in the Molokai Dispatch on [].

The adoption of chapter 10-7 shall take effect ten days after filing with the Office of the Lieutenant Governor.


JOBIE M. K. MASAGATANI, Chairman
Hawaiian Homes Commission

APPROVED:

DAVID Y. IGE, Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:



Deputy Attorney General


Filed

D ITEMS

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission
From: Dean T. Oshiro, Acting HSD Administrator 
SUBJECT: **Homestead Services Division Status Reports**

RECOMMENDED MOTION/ACTION

NONE

DISCUSSION

The following reports are for information only:

Exhibit A: Homestead Lease & Application Totals
and Monthly Activity Reports

Exhibit B: Delinquency Report

Exhibit C: DHHL Guarantees for USDA-RD Mortgage
Loans

Exhibit D: DHHL Guarantees for FHA Construction
Loans

May 20, 2019

SUBJECT: Homestead Lease and Application Totals and Monthly Activity Reports

LEASE ACTIVITY REPORT

Month through April 30, 2019

	As of 3/31/19	Add	Cancel	As of 4/30/19
Residential	8,372	5	0	8,377
Agricultural	1,096	0	0	1,096
Pastoral	410	0	0	410
Total	9,878	5	0	9,883

The number of Converted Undivided Interest Lessees represents an increase of 450 families moving into homes. Their Undivided Interest lease was converted to a regular homestead lease.

	As of 3/31/19	Converted	Rescinded/ Surrendered/ Cancelled	As of 4/30/19
Undivided	872	0	0	872

Balance as of 4/30/2019

Awarded	1,434
Relocated to UNDV	7
Rescinded	111
Surrendered	5
Cancelled	3
Converted	450
Balance to Convert	872

Lease Report For the Month Ending April 30, 2019

	RESIDENCE				AGRICULTURE				PASTURE				TOTAL LEASES			
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL
OAHU																
Hoolimalima	70	0	0	70	0	0	0	0	0	0	0	0	70	0	0	70
Kakaina	21	0	0	21	0	0	0	0	0	0	0	0	21	0	0	21
Kalawahine	91	0	0	91	0	0	0	0	0	0	0	0	91	0	0	91
Kanehili	359	0	0	359	0	0	0	0	0	0	0	0	359	0	0	359
Kapolei	235	0	0	235	0	0	0	0	0	0	0	0	235	0	0	235
Kauluokahai	19	2	0	21	0	0	0	0	0	0	0	0	19	2	0	21
Kaupea	325	0	0	325	0	0	0	0	0	0	0	0	325	0	0	325
Kaupuni	19	0	0	19	0	0	0	0	0	0	0	0	19	0	0	19
Kewalo	249	0	0	249	0	0	0	0	0	0	0	0	249	0	0	249
Kumuhau	52	0	0	52	0	0	0	0	0	0	0	0	52	0	0	52
Lualualei	149	0	0	149	31	0	0	31	0	0	0	0	180	0	0	180
Malu'ohai	156	0	0	156	0	0	0	0	0	0	0	0	156	0	0	156
Nanakuli	1,047	0	0	1,047	0	0	0	0	0	0	0	0	1,047	0	0	1,047
Papakolea	64	0	0	64	0	0	0	0	0	0	0	0	64	0	0	64
Princess Kahanu Estates	271	0	0	271	0	0	0	0	0	0	0	0	271	0	0	271
Waiahole	0	0	0	0	16	0	0	16	0	0	0	0	16	0	0	16
Waiānāe	419	0	0	419	11	0	0	11	0	0	0	0	430	0	0	430
Waimanalo	724	0	0	724	2	0	0	2	0	0	0	0	726	0	0	726
TOTAL	4,270	2	0	4,272	60	0	0	60	0	0	0	0	4,330	2	0	4,332
MAUI																
Hikina	30	1	0	31	0	0	0	0	0	0	0	0	30	1	0	31
Kahikinui	0	0	0	0	0	0	0	0	75	0	0	75	75	0	0	75
Keokea	0	0	0	0	65	0	0	65	0	0	0	0	65	0	0	65
Leaili	104	0	0	104	0	0	0	0	0	0	0	0	104	0	0	104
Paukukalo	180	0	0	180	0	0	0	0	0	0	0	0	180	0	0	180
Waiehu 1	39	0	0	39	0	0	0	0	0	0	0	0	39	0	0	39
Waiehu 2	109	0	0	109	0	0	0	0	0	0	0	0	109	0	0	109
Waiehu 3	114	0	0	114	0	0	0	0	0	0	0	0	114	0	0	114
Waiehu 4	97	0	0	97	0	0	0	0	0	0	0	0	97	0	0	97
Waiohuli	593	0	0	593	0	0	0	0	0	0	0	0	593	0	0	593
TOTAL	1,266	1	0	1,267	65	0	0	65	75	0	0	75	1,406	1	0	1,407
EAST HAWAII																
Discovery Harbour	2	0	0	2	0	0	0	0	0	0	0	0	2	0	0	2
Kamaea	0	0	0	0	0	0	0	0	25	0	0	25	25	0	0	25
Kaumana	42	0	0	42	0	0	0	0	0	0	0	0	42	0	0	42
Keaukaha	474	0	0	474	0	0	0	0	0	0	0	0	474	0	0	474
Kurtistown	3	0	0	3	0	0	0	0	0	0	0	0	3	0	0	3
Makuu	0	0	0	0	121	0	0	121	0	0	0	0	121	0	0	121
Panaewa	0	0	0	0	262	0	0	262	0	0	0	0	262	0	0	262
Piilohua	17	0	0	17	0	0	0	0	0	0	0	0	17	0	0	17
Puueo	0	0	0	0	12	0	0	12	0	0	0	0	12	0	0	12
University Heights	4	0	0	4	0	0	0	0	0	0	0	0	4	0	0	4
Waiākea	298	0	0	298	0	0	0	0	0	0	0	0	298	0	0	298
TOTAL	840	0	0	840	395	0	0	395	25	0	0	25	1,260	0	0	1,260
WEST HAWAII																
Honokala	0	0	0	0	0	0	0	0	24	0	0	24	24	0	0	24
Humuula	0	0	0	0	0	0	0	0	5	0	0	5	5	0	0	5
Kamoku	0	0	0	0	0	0	0	0	16	0	0	16	16	0	0	16
Kanilohe	224	0	0	224	0	0	0	0	0	0	0	0	224	0	0	224
Kawaihāe	188	2	0	190	0	0	0	0	1	0	0	1	189	0	0	189
Lālopa	284	0	0	284	0	0	0	0	0	0	0	0	284	0	0	284
Lālanilo	30	0	0	30	0	0	0	0	0	0	0	0	30	0	0	30
Nienie	0	0	0	0	0	0	0	0	21	0	0	21	21	0	0	21
Puukapu/Waimea/Kuhio VII	116	0	0	116	110	0	0	110	215	0	0	215	441	0	0	441
Puupulehu	33	0	0	33	0	0	0	0	0	0	0	0	33	0	0	33
TOTAL	875	2	0	877	110	0	0	110	282	0	0	282	1,267	2	0	1,267
KAUAI																
Anahola	534	0	0	534	46	0	0	46	0	0	0	0	580	0	0	580
Hanapepe	47	0	0	47	0	0	0	0	0	0	0	0	47	0	0	47
Kekaha	117	0	0	117	0	0	0	0	0	0	0	0	117	0	0	117
Puu Opae	0	0	0	0	0	0	0	0	1	0	0	1	1	0	0	1
TOTAL	698	0	0	698	46	0	0	46	1	0	0	1	745	0	0	745
MOLOKAI																
Hooilehua	156	0	0	156	346	0	0	346	21	0	0	21	523	0	0	523
Kalamaula	163	0	0	163	71	0	0	71	3	0	0	3	237	0	0	237
Kapaakea	47	0	0	47	0	0	0	0	3	0	0	3	50	0	0	50
Moomomi	0	0	0	0	3	0	0	3	0	0	0	0	3	0	0	3
O'ne Alii	28	0	0	28	0	0	0	0	0	0	0	0	28	0	0	28
TOTAL	394	0	0	394	420	0	0	420	27	0	0	27	841	0	0	841
LANAI																
Lanai	29	0	0	29	0	0	0	0	0	0	0	0	29	0	0	29
TOTAL	29	0	0	29	0	0	0	0	0	0	0	0	29	0	0	29
STATEWIDE TOTAL	8,372	5	0	8,377	1,096	0	0	1,096	410	0	0	410	9,878	5	0	9,883

AREA WAITING LIST

DISTRICT AREA	RESIDENCE				AGRICULTURE				PASTURE				TOTAL
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	
Oahu District	961	0	0	961	0	0	0	0	0	0	0	0	961
Mauit District	50	0	0	50	4	0	0	4	5	0	0	5	59
Hawaii District	130	0	0	130	28	0	0	28	46	0	0	46	204
Kauai District	51	0	0	51	3	0	0	3	28	0	0	28	82
Molokai District	20	0	0	20	18	0	0	18	1	0	0	1	39
TOTAL	1,212	0	0	1,212	53	0	0	53	80	0	0	80	1,345

ISLANDWIDE WAITING LIST

ISLAND	RESIDENCE				AGRICULTURE				PASTURE				TOTAL	
	Last Month		Add Cancel		Last Month		Add Cancel		Last Month		Add Cancel			
Oahu	9,744	19	6	9,757	3,712	6	0	3,718	0	0	0	0	0	13,475
Maui	3,797	3	2	3,798	4,663	3	1	4,665	611	1	1	1	611	9,074
Hawaii	5,731	12	4	5,739	7,200	13	2	7,211	1,869	1	2	2	1,868	14,818
Kauai	1,626	1	1	1,626	2,226	1	1	2,226	298	0	0	0	298	4,150
Molokai	803	1	0	804	1060	0	0	1060	201	0	0	0	201	2,065
Lanai	87	0	0	87	0	0	0	0	0	0	0	0	0	87
TOTAL	21,788	36	13	21,811	18,861	23	4	18,880	2,979	2	3	2,978		43,669

AREA AND ISLANDWIDE LISTS

	RES	AG	PAS	TOTAL	ADDITIONS	CANCELLATIONS
OAHU	10,718	3,718	0	14,436	New Applications 52	New Lease Awards 11
MAUI	3,848	4,669	616	9,133	Application Transfers 9	Application Transfers 9
HAWAII	5,869	7,239	1,914	15,022	Lease Rescissions 0	Succ'd and Cancel Own 0
KAUAI	1,877	2,229	326	4,232	App Reinstatements 0	Public Notice Cancel 0
MOLOKAI	824	1,078	202	2,104	HHC Adjustments 0	Voluntary Cancellations 0
LANAI	87	0	0	87	TOTAL 61	Lease Successorships 0
TOTAL	23,023	18,933	3,058	45,014		HHC Adjustments 0
						Dec'd No Successor 0
						Additional Acreage 0
						NHQ Unqualified 0
						TOTAL 20

HOMESTEAD AREA AND ISLANDWIDE APPLICATIONS WAITING LIST MONTHLY REPORT FOR THE MONTH ENDING

April 30, 2019

	RESIDENCE				AGRICULTURE				PASTURE			
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL
OAHU DISTRICT												
Nanakuli	170	0	0	170	0	0	0	0	0	0	0	0
Waianae	142	0	0	142	0	0	0	0	0	0	0	0
Luahalei	0	0	0	0	0	0	0	0	0	0	0	0
Papakolea/Kewalo	71	0	0	71	0	0	0	0	0	0	0	0
Waimanalo	578	0	0	578	0	0	0	0	0	0	0	0
Subtotal Area	961	0	0	961	0	0	0	0	0	0	0	0
Islandwide	9,744	19	6	9,757	3,712	6	0	3,718	0	0	0	0
TOTAL OAHU APPS	10,705	19	6	10,718	3,712	6	0	3,718	0	0	0	0
MAUI DISTRICT												
Paukukalo	50	0	0	50	0	0	0	0	0	0	0	0
Kula	0	0	0	0	4	0	0	4	5	0	0	5
Subtotal Area	50	0	0	50	4	0	0	4	5	0	0	5
Islandwide	3,797	3	2	3,798	4,663	3	1	4,665	611	1	1	611
TOTAL MAUI APPS	3,847	3	2	3,848	4,667	3	1	4,669	616	1	1	616
HAWAII DISTRICT												
Keaukaha/Waiakea	69	0	0	69	0	0	0	0	0	0	0	0
Panaewa	0	0	0	0	16	0	0	16	0	0	0	0
Humuula	0	0	0	0	0	0	0	0	0	0	0	0
Kawaihae	16	0	0	16	0	0	0	0	0	0	0	0
Waimea	45	0	0	45	12	0	0	12	46	0	0	46
Subtotal Area	130	0	0	130	28	0	0	28	46	0	0	46
Islandwide	5,731	12	4	5,739	7,200	13	2	7,211	1,869	1	2	1,868
TOTAL HAWAII APPS	5,861	12	4	5,869	7,228	13	2	7,239	1,915	1	2	1,914
KAUAI DISTRICT												
Anahola	43	0	0	43	3	0	0	3	21	0	0	21
Kekaha/Puu Opae	8	0	0	8	0	0	0	0	7	0	0	7
Subtotal Area	51	0	0	51	3	0	0	3	28	0	0	28
Islandwide	1,626	1	1	1,626	2,226	1	1	2,226	298	0	0	298
TOTAL KAUAI APPS	1,677	1	1	1,677	2,229	1	1	2,229	326	0	0	326
MOLOKAI DISTRICT												
Kalamaula	4	0	0	4	0	0	0	0	0	0	0	0
Hoolehua	8	0	0	8	18	0	0	18	1	0	0	1
Kapaakea	7	0	0	7	0	0	0	0	0	0	0	0
One Alii	1	0	0	1	0	0	0	0	0	0	0	0
Subtotal Area	20	0	0	20	18	0	0	18	1	0	0	1
Islandwide	803	1	0	804	1,060	0	0	1,060	201	0	0	201
TOTAL MOLOKAI APPS	823	1	0	824	1,078	0	0	1,078	202	0	0	202
LANAI DISTRICT												
Islandwide	87	0	0	87	0	0	0	0	0	0	0	0
TOTAL LANAI APPS	87	0	0	87	0	0	0	0	0	0	0	0
TOTAL AREA ONLY	1,212	0	0	1,212	53	0	0	53	80	0	0	80
TOTAL ISLANDWIDE	21,788	36	13	21,811	18,861	23	4	18,880	2,979	2	3	2,978
TOTAL STATEWIDE	23,000	36	13	23,023	18,914	23	4	18,933	3,059	2	3	3,058

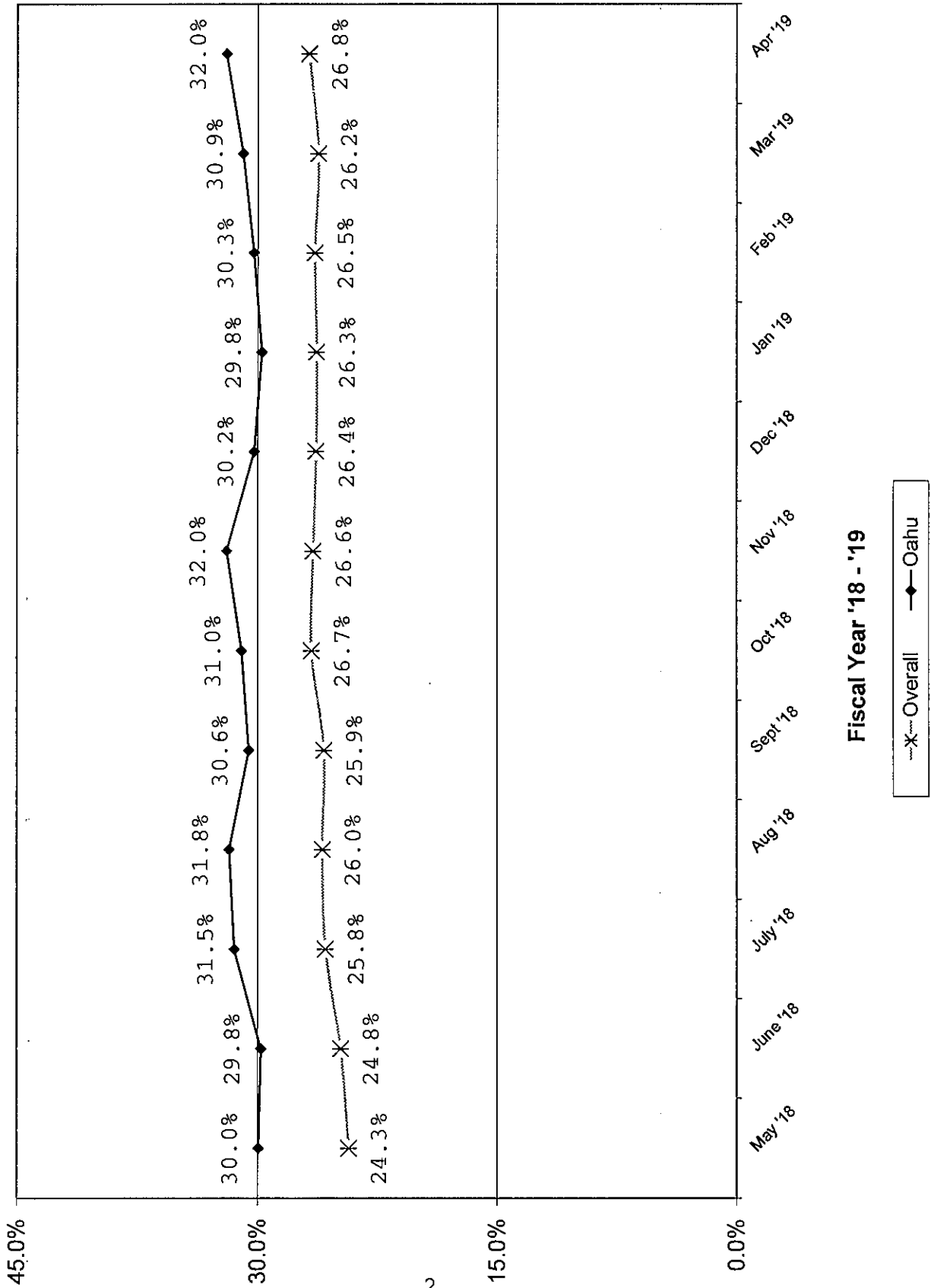
DELINQUENCY REPORT - STATEWIDE

May 20, 2019
(\$Thousands)

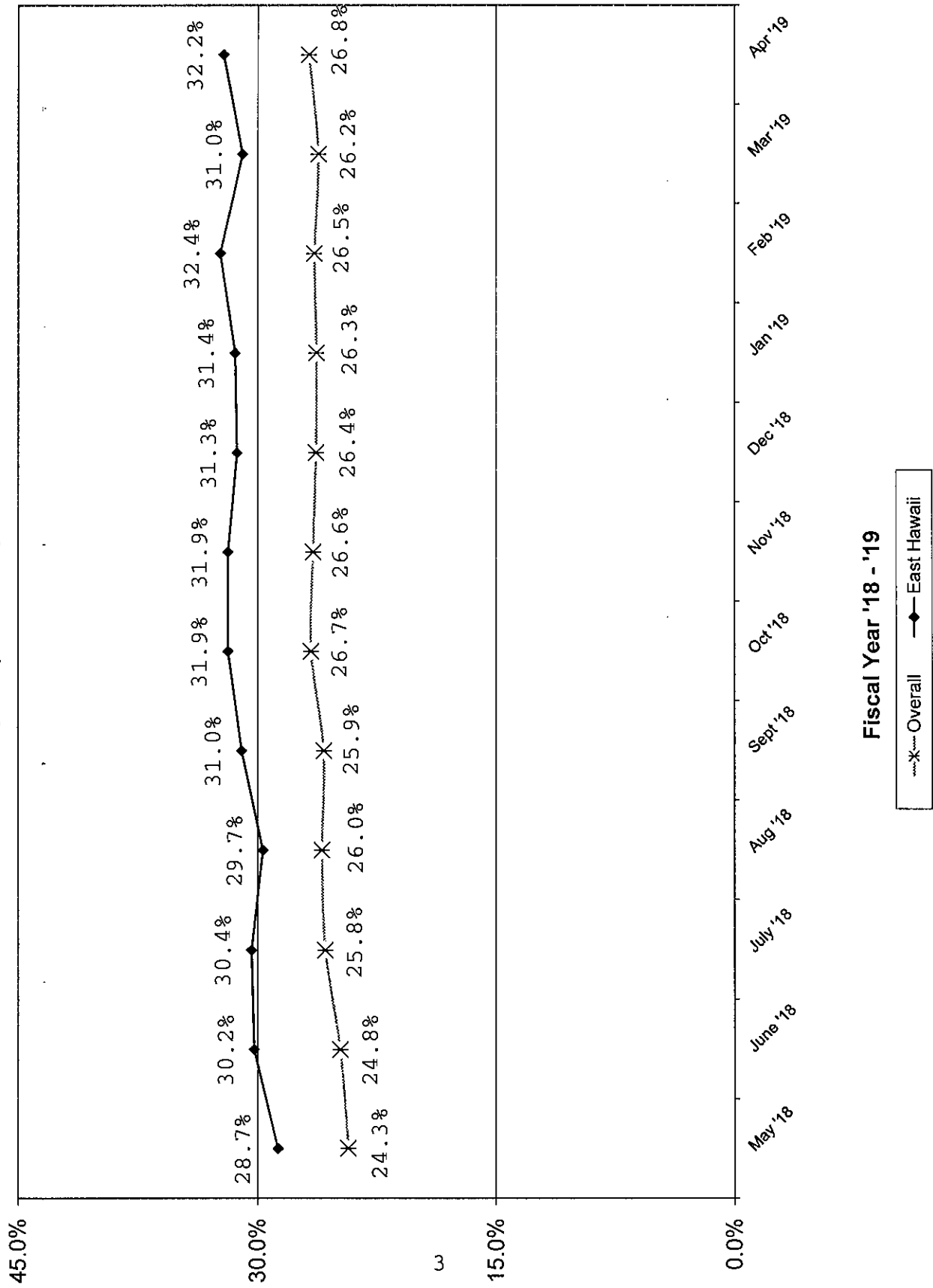
	Total Outstanding (000s)		Total Delinquency (000s)		R I S K										% of Totals 4/30/2019	
					30 Days (low) (000s)		60 Days (Medium) (000s)		90 Days (High) (000s)		180 Days (Severe) (000s)					
	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	Amt.	No.	\$
<u>DIRECT LOANS</u>																
OAHU	405	36,467	112	11,661	14	1,095	14	1,257	19	1,802	65	7,507	27.7%	32.0%		
EAST HAWAII	213	13,168	61	4,234	8	414	4	218	7	226	42	3,376	28.6%	32.2%		
WEST HAWAII	81	8,323	16	1,488	5	714	1	139	3	284	7	351	19.8%	17.9%		
MOLOKAI	87	6,748	20	634	0	0	3	108	4	80	13	446	23.0%	9.4%		
KAUAI	99	7,608	17	1,151	4	356	1	72	6	421	6	302	17.2%	15.1%		
MAUI	88	10,565	23	3,055	1	49	3	271	5	693	14	2,042	26.1%	28.9%		
TOTAL DIRECT	973	82,879	249	22,224	32	2,627	26	2,065	44	3,507	147	14,024	25.6%	26.8%		
	100.0%	100.0%	25.6%	26.8%	3.3%	3.2%	2.7%	2.5%	4.5%	4.2%	15.1%	16.9%				
Advances (including RPT)	227	8,543	227	8,543	0	0	0	0	227	8,543			100%	100%		
DHHL LOANS & Advances	1,200	91,422	476	30,767	32	2,627	26	2,065	271	12,050	147	14,024	39.7%	33.7%		
<u>LOAN GUARANTEES as of June 30, 2018</u>																
SBA	1	94	0	0	0	0	0	0	0	0			0.0%	0.0%		
USDA-RD	287	33,996	50	6,142	0	0	0	0	50	6,142			17.4%	18.1%		
Habitat for Humanity	56	2,309	31	1,296	0	0	0	0	31	1,296			55.4%	56.1%		
Maui County	5	74	0	0	0	0	0	0	0	0			0.0%	0.0%		
Nanakuli NHS	1	7	1	7	0	0	0	0	1	7			100.0%	100.0%		
City & County	16	301	14	290	0	0	0	0	14	290			87.5%	96.3%		
FHA Interim	8	1,260	0	0	0	0	0	0	0	0			0.0%	0.0%		
OHA	41	258	2	11	0	0	0	0	2	11			4.9%	4.3%		
TOTAL GUARANTEE	415	38,299	98	7,746	0	0	0	0	98	7,746			23.6%	20.2%		
PMI Loans	186	29,782	6	1,036	0	0	2	403	4	633			3.2%	3.5%		
HUD REASSIGNED for Recovery	152	18,702	129	17,152	1	14	0	0	5	319	123	16,820	84.9%	91.7%		
FHA Insured Loans	2,806	441,223	190	24,559	0	0	0	0	190	24,559			6.8%	5.6%		
TOTAL INS. LOANS	3,144	489,707	325	42,747	1	14	2	403	199	25,511	123	16,820	10.3%	8.7%		
OVERALL TOTALS(EXC Adv/RP)	4,532	610,885	672	72,717	33	2,641	28	2,468	341	36,764	270	30,844	14.8%	11.9%		
ADJUSTED TOTALS	4,759	619,428	899	81,260	33	2,641	28	2,468	568	45,306	270	30,844		13.1%		

Note: HUD 184A loan program has 459 loans, with a total outstanding principal balance of \$102,001,583.84 as of June 30, 2018. 16 loans, totalling \$3,917,537.94 are delinquent.

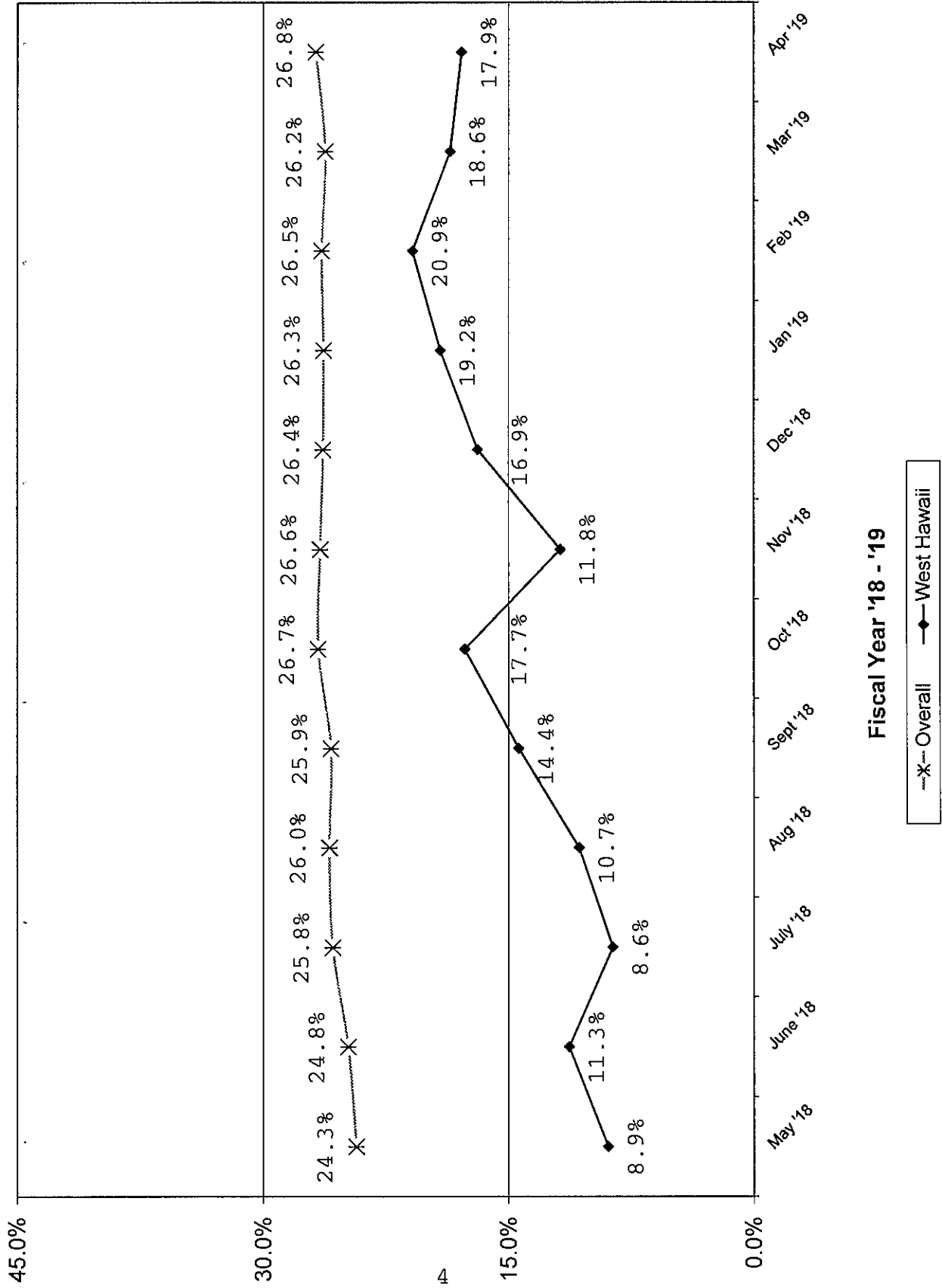
OAHU
Direct Loans
Delinquency Ratio Report



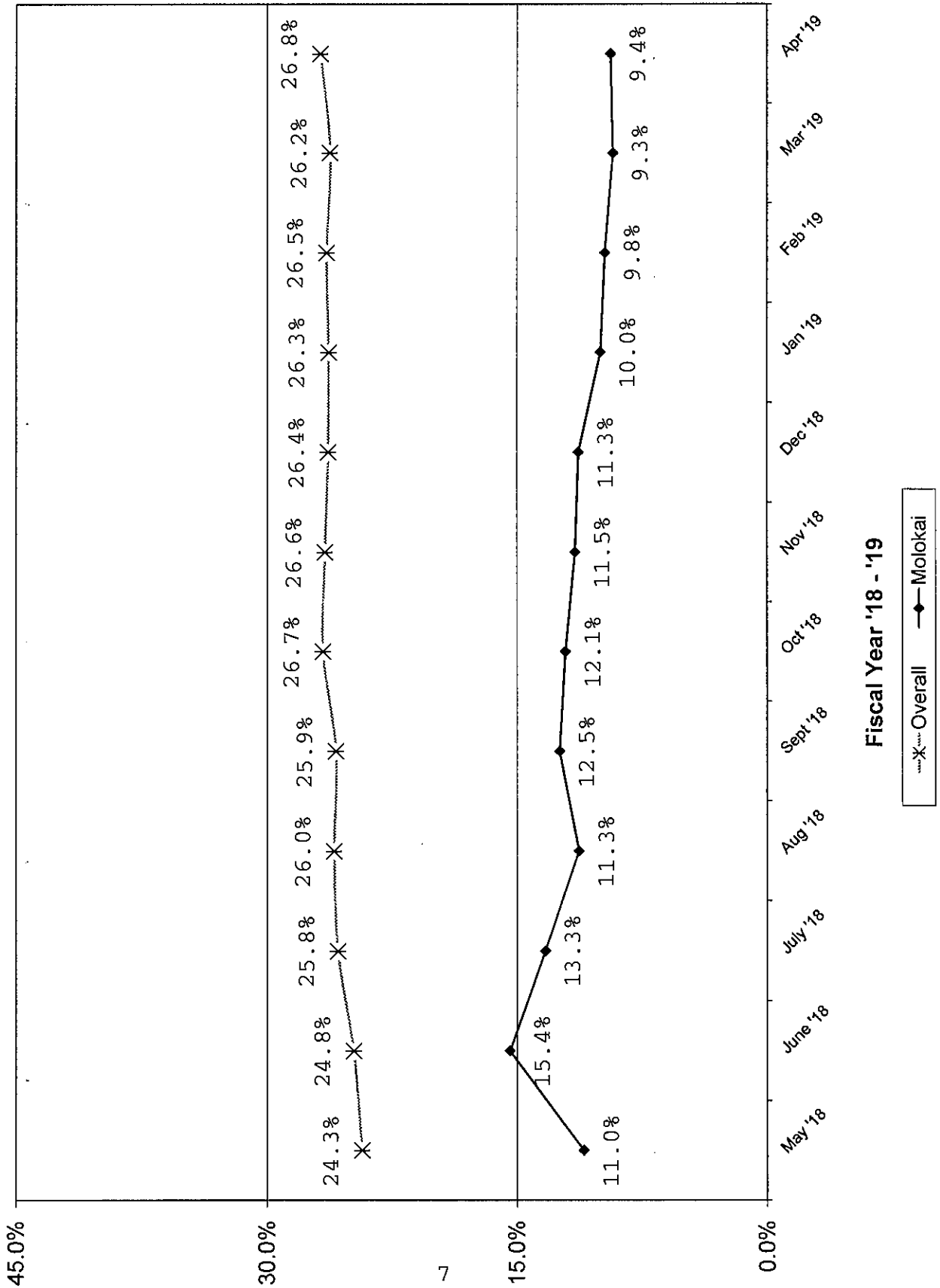
EAST HAWAII Direct Loans Delinquency Ratio Report



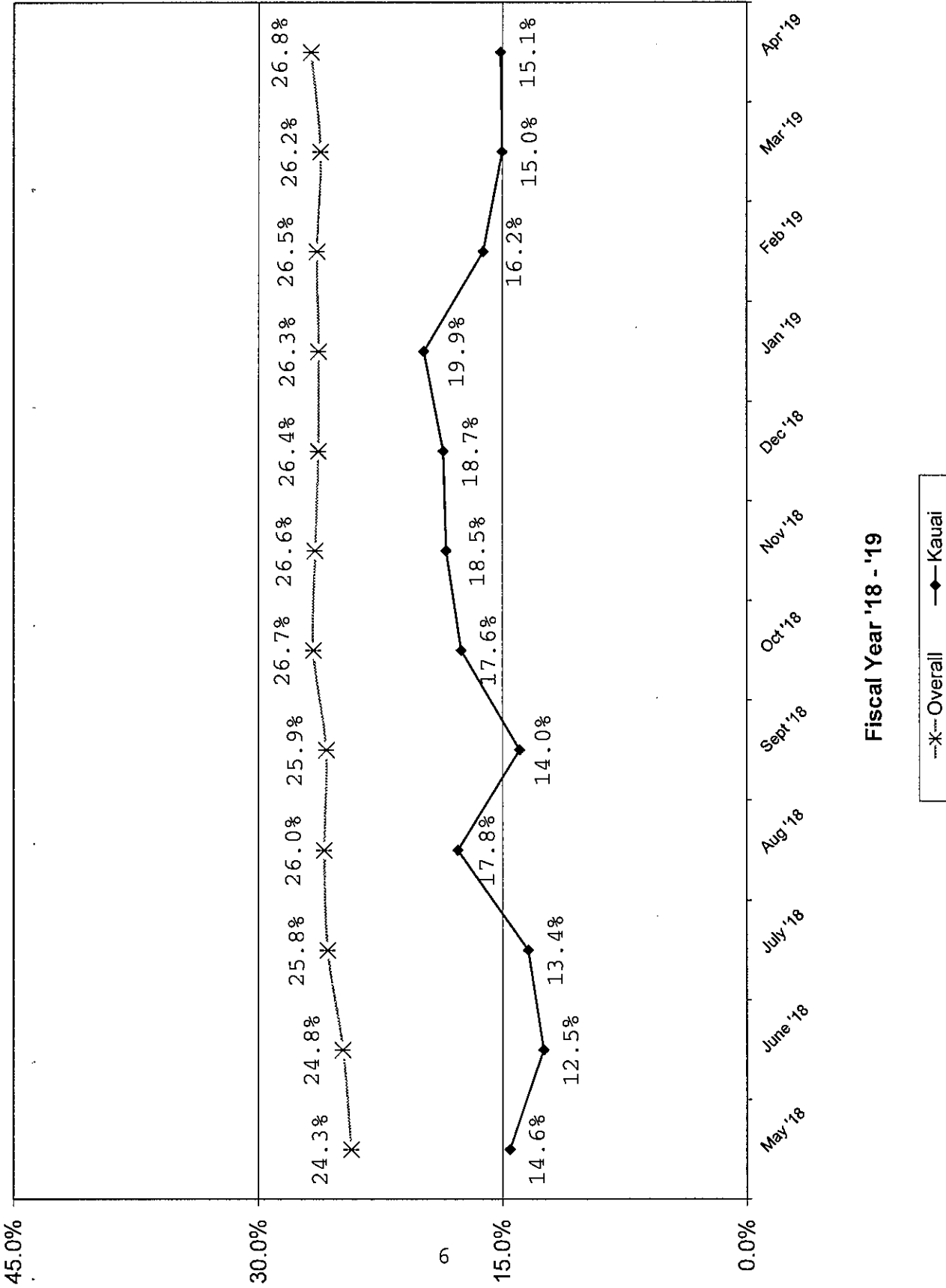
WEST HAWAII
Direct Loans
Delinquency Ratio Report



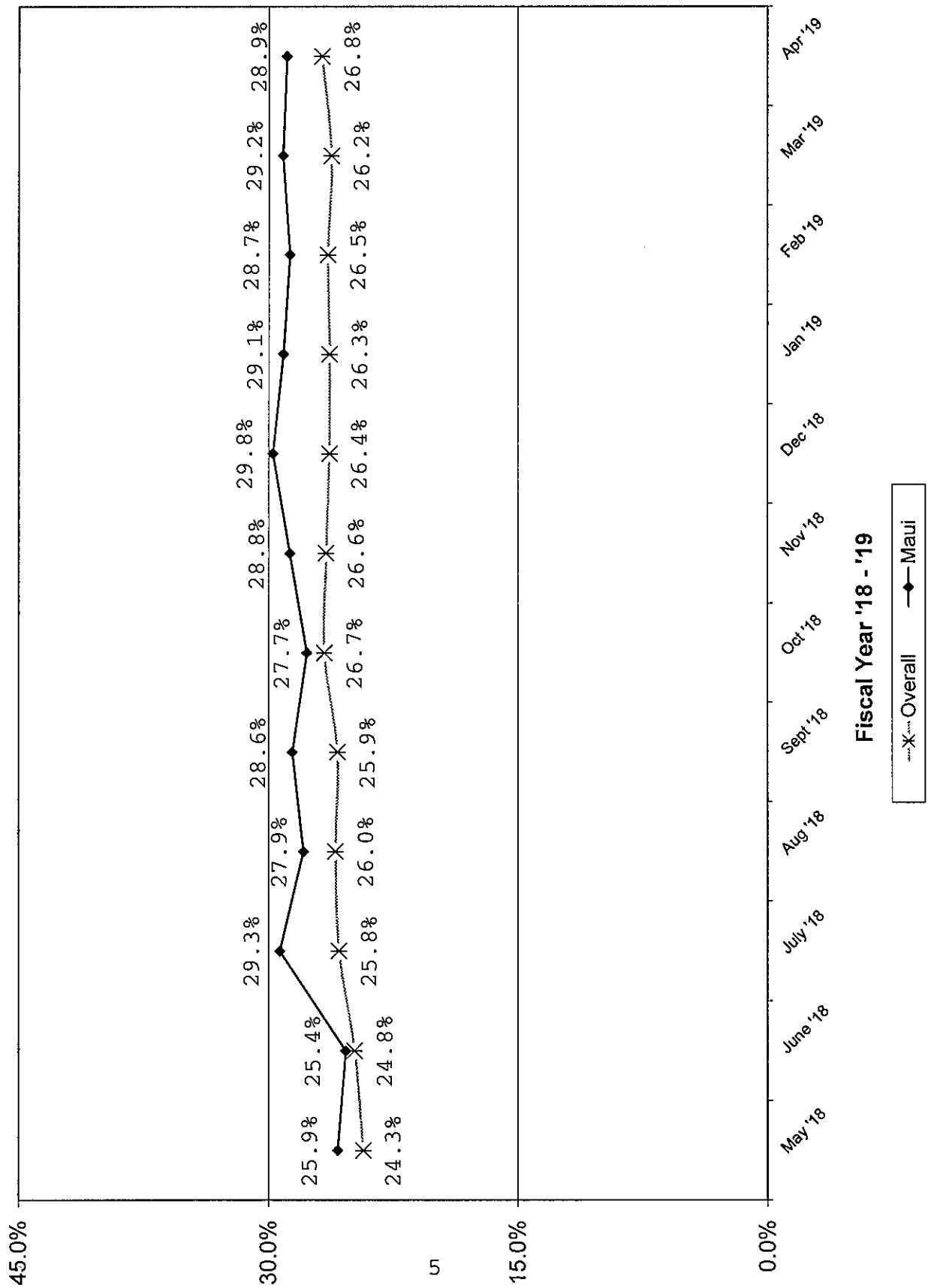
MOLOKAI
Direct Loans
Delinquency Ratio Report



KAUAI
Direct Loans
Delinquency Ratio Report



MAUI
Direct Loans
Delinquency Ratio Report



May 20, 2019

SUBJECT: **DHHL Guarantees for USDA-Rural Development Mortgage Loans**

DISCUSSION: The Department issued guarantees for the following
USDA Rural Development loans:

<u>LOT NO.</u>	<u>AREA</u>	<u>LESSEE</u>	<u>Loan Amount</u>	<u>Date Approved</u>
89-A	Keokea- Waiohuli	Tinao, Anuheha M.A.	\$243,500	3/7/19
48	Anahola	Kohatsu, Brian T.	\$356,500	3/14/19
5-A	Hoolehua	Iginoef, Elizabeth L.	\$176,468	4/24/19

	<u>No.</u>	<u>Balance</u>
FY Ending 6/30/18	3	\$ 682,166
Previous Months	4	\$ 995,072
This Month	<u>3</u>	<u>776,468</u>
FY '18-'19 to date	7	\$ 1,771,540

May 20, 2019

SUBJECT: **DHHL Guarantees for FHA Construction Loans**

DISCUSSION: The Department issues guarantees to FHA lenders during the construction period of a home, as FHA does not insure the loan until the home is completed. The loan term for these loans do not exceed fifteen (15) months from the date of loan signing. The following FHA Interim Construction loans were issued guarantees:

*Note: FHA loans are insured by the U.S. Department of Housing and Urban Development (HUD) and do not impact the State's guaranty ceiling.

<u>LEASE NO.</u>	<u>AREA</u>	<u>LESSEE</u>	<u>Loan Amount</u>	<u>Date Approved</u>
10422	Waiohuli	Kintaro, Maile K.K.	\$327,110	4/3/19
4004-A	Panaewa	Rawlins, Makaala J.	\$188,930	4/16/19
11786	Kapolei	Akiu, Renee H.	\$256,505	4/22/19

	<u>No.</u>	<u>Balance</u>
FY Ending 6/30/18	3	\$ 885,331
Previous Months	12	\$ 3,367,142
This Month	<u>3</u>	<u>772,545</u>
FY '18-'19 to date	15	\$ 4,139,687

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Dean Oshiro, Acting HSD Administrator
Homestead Services Division

SUBJECT: **Approval of Consent to Mortgage**

RECOMMENDED MOTION/ACTION

To approve the following consents to mortgages for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (HUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

DISCUSSION

<u>PROPERTY</u>	<u>LESSEE</u>	<u>LENDER</u>	<u>LOAN AMOUNT</u>
<u>OAHU</u>			
Nanakuli Lease No. 3805 TMK: 1-8-9-006:042	ALVERIO, Joel K. K. (Cash Out Refinance) FHA	Aries Loan Inc.	\$ 267,000
Waimanalo Lease No. 8815 TMK: 1-4-1-038:051	LOPES, Phoebe P. (Cash Out Refinance) FHA	Hightechlend ing Inc.	\$ 242,000
Kaupea Lease No. 12113 TMK: 1-9-1-140:016	AURIO, Kacie (Purchase) FHA	HomeStreet Bank	\$ 535,876
Maluohai Lease No. 9811 TMK: 1-9-1-120:028	LEWIS, Gary D. (Purchase) HUD 184A	HomeStreet Bank	\$ 425,110

OAHU

Lualualei Lease No. 5621 TMK: 1-8-6-023:064	KELIIKOA, William K. (Purchase)VA	Department of Veterans Affairs	\$ 330,000
Nanakuli Lease No. 4718 TMK: 1-8-9-010:070	TIFFANY, Petricia K. (Cash Out Refinance)FHA	Guild Mortgage Co.	\$ 182,000
Waianae Lease No. 4579 TMK: 1-8-5-030:025	SAGIAO, Gail P. (Cash Out Refinance)FHA	Hightechlend ing Inc.	\$ 352,000
Waimanalo Lease No. 3132 TMK: 1-4-1-021:029	GRACE, Abraham (Cash Out Refinance)FHA	Cardinal Financial	\$ 126,976
Kaupea Lease No. 11921 TMK: 1-9-1-139:139	PASCUA, Colleen L. W. K. (Purchase)HUD 184A	Bank of Hawaii	\$ 485,000
Nanakuli Lease No. 8590 TMK: 1-8-9-012:045	NAONE, Moses K. (Cash Out Refinance)FHA	Hightechlend ing Inc.	\$ 339,000
Lualualei Lease No. 9709 TMK: 1-8-6-023:016	KAMAKEEAINA, Loyna L. (Cash Out Refinance)HUD 184A	Bank of Hawaii	\$ 192,000
Waimanalo Lease No. 8187 TMK: 1-4-1-037:052	KAIWI, Adam, Jr. (Cash Out Refinance)FHA	Mann Mortgage LLC	\$ 156,000
Nanakuli Lease No. 2598 TMK: 1-8-9-004:120	KALIKO, Tricie K. L. D. & KALIKO, William E. (Cash Out Refinance)FHA	Cardinal Financial	\$ 140,649

ITEM NO. D-2

OAHU

Nanakuli Lease No. 4542 TMK: 1-8-9-010:006	KIDO, Roland L. N. (Cash Out Refinance) FHA	Bank of Hawaii	\$ 276,000
Kaulukahai Lease No. 12854 TMK: 1-9-1-017:161	GONSALVES, Angie (Purchase) FHA	HomeStreet Bank	\$ 404,571
Kanehili Lease No. 11868 TMK: 1-9-1-152:120	NAHINA, Solomon K. (Cash Out Refinance) FHA	Aries Loan Inc.	\$ 362,000
Nanakuli Lease No. 8574 TMK: 1-8-9-012:057	KEALOHA, Rodney K. (Cash Out Refinance) HUD 184A	HomeStreet Bank	\$ 164,430
Waimanalo Lease No. 1998 TMK: 1-4-1-016:070	SCHOLTZ, Jon T. K. (Purchase) HUD 184A	HomeStreet Bank	\$ 191,785
Kaulukahai Lease No. 12381 TMK: 1-9-1-017:088	LIKE, Raelene (Purchase) FHA	Bank of Hawaii	\$ 355,000
Kaulukahai Lease No. 12857 TMK: 1-9-1-017:161	TANAKA, Maude (Purchase) FHA	Bank of Hawaii	\$ 285,000
Kaulukahai Lease No. 12868 TMK: 1-9-1-017:161	AMINA, Edward (Purchase) HUD 184A	Bank of Hawaii	\$ 350,000
Kaulukahai Lease No. 12867 TMK: 1-9-1-017:161	ENOKA, Jeffrey-Lee (Purchase) HUD 184A	Bank of Hawaii	\$ 370,000

ITEM NO. D-2

OAHU

Waiehu Lease No. 5927 TMK: 2-3-2-021:024	FUJIMOTO, Ruth J.K.A (Cash Out Refinance)FHA	Cardinal Financial	\$ 134,940
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Nanakuli Lease No. 5129 TMK: 1-8-9-013:014	BROWN, Rosalynn K. (Cash Out Refinance)FHA	Hightechlend ing Inc.	\$ 106,000
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Maluohai Lease No. 9716 TMK: 1-9-1-119:004	KAIAWE, Jeffrey S. (Purchase)VA	Department of Veterans Affairs	\$ 500,200
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MAUI

Waiehu 4 Lease No. 12279 TMK: 2-3-2-025:005	NEEDHAM, Kimo W. (Cash Out Refinance)FHA	HomeStreet Bank	\$ 236,664
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Waiehu 3 Lease No. 9941 TMK: 2-3-2-024:088	PACHECO, Curstyn J. L. (Cash Out Refinance)FHA	Aries Loan Inc.	\$ 128,000
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Waiehu Lease No. 5966 TMK: 2-3-2-021:035	ABBEY, Dannelle (Cash Out Refinance)HUD 184A	HomeStreet Bank	\$ 131,000
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HAWAII

Panaewa Lease No. 4004A TMK: 3-2-1-025:219	RAWLINS, Makaala (1 Step Construction)FHA	HomeStreet Bank	\$ 188,930
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Kawaihae Lease No. 7128 TMK: 3-6-1-007:046	GAMBILL, Mahealani M. H. (Cash Out Refinance)FHA	Bank of Hawaii	\$ 171,270
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ITEM NO. D-2

HAWAII

Keaukaha
Lease No. 4263
TMK: 3-2-1-021:070

KAHALIOUMI,
Keenan K. (Cash Out
Refinance)FHA

Aries Loan \$ 240,000
Inc.

Panaewa
Lease No. 11179
TMK: 3-2-2-064:005

RAMOS,
Maui J. (Cash Out
Refinance)FHA

Siwell Inc., \$ 259,000
dba Capital
Mortgage
Services of
Texas

Keaukaha
Lease No. 9085
TMK: 3-2-1-022:019

COSTA,
Geraldine L. (Cash
Out Refinance)FHA

Aries Loan \$ 173,000
Inc.

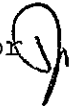
<u>RECAP</u>	<u>NO.</u>	<u>FHA</u> <u>AMOUNT</u>	<u>NO.</u>	<u>VA</u> <u>AMOUNT</u>	<u>NO.</u>	<u>USDA-RD</u> <u>AMOUNT</u>
FY Ending 6/30/18	298	\$ 77,704,372	13	\$4,914,100	12	\$3,929,543
Prior Months	227	\$ 66,368,630	10	\$4,123,495	15	\$5,222,927
This Month	<u>23</u>	<u>5,661,876</u>	<u>2</u>	<u>830,200</u>	<u>0</u>	<u>0</u>
Total FY '18-'19	250	\$ 72,030,506	12	\$4,953,695	15	\$5,222,927
HUD 184A						
FY Ending 6/30/18	82	\$23,579,214				
Prior Months	62	\$19,218,933				
This Month	<u>8</u>	<u>2,309,325</u>				
Total FY '18-'19	70	\$21,528,258				

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Dean Oshiro, Acting HSD Administrator 
Homestead Services Division

SUBJECT: **Approval of Refinance of Loans**

RECOMMENDED MOTION/ACTION

To approve the refinancing of loans from the Hawaiian Home General Loan Fund.

DISCUSSION

There are lessees who are seriously delinquent on their loans, but have been making consistent payments for twelve (12) months or more. These lessees have been trying to pay an additional amount above and beyond the required payment in an effort to reduce their delinquency amount. However, because the delinquency amount is large, it would take years for that amount to be paid in full.

HSD's recommendation for approval is based on actual payment history, at minimum, over the preceding twelve (12) months. If a lessee has demonstrated a conscientious effort to reduce the delinquency amount by making consistent monthly payments for twelve months, HSD will recommend that the lessee's loan balance be refinanced. Loan refinancing will provide a deserving lessee a new start in establishing a credit standing.

The following lessee(s) has met the aforementioned criteria and is recommended for loan refinancing:

<u>LESSEE</u>	<u>LEASE NO. & AREA</u>	<u>REFINANCING LOAN TERMS</u>
Keohuloa, Nolan H.	9326, Kaniohale	NTE \$13,700, @3% interest per annum, payment NTE \$71 monthly, repayable over 22 years.

Loan Purpose: Refinance of Contract of Loan no.
 17883. Original loan amount of \$17,551
 at 3% per annum, \$136 monthly payable
 over 13 years. A Contested Case
 Hearing was not held for this account.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Dean Oshiro, Acting HSD Administrator
Homestead Services Division

SUBJECT: **Approval of Streamline Refinance of Loans**

RECOMMENDED MOTION/ACTION

To approve the refinancing of loans from the Hawaiian Home General Loan Fund.

DISCUSSION

The following lessees have met the "Streamline/Interest rate reduction loan" criteria, which was approved by the Hawaiian Homes Commission at its August 19, 2013 meeting. This criteria includes twelve (12) consecutive monthly payments, borrower's current interest rate is higher than the current DHHL interest rate, current with their Homeowners Insurance, Real Property Tax, Lease Rent, county sewer/refuse fees, and does not have any advances made by DHHL on the borrowers behalf.

HSD's recommendation for approval is based on actual payment history, over the past twelve (12) months and the review of the above-mentioned criteria. Streamline/Interest Rate Loan refinancing will provide lessees a chance to simply reduce their interest rate and payments without DHHL having to credit and/or income qualify the borrower.

The following lessee(s) has met the aforementioned criteria and is recommended for Streamline/Interest rate reduction loan refinance program:

<u>LESSEE</u>	<u>LEASE NO. & AREA</u>	<u>REFINANCING LOAN TERMS</u>
Louis, Ivan K.	9426, Kaniohale	NTE \$152,000 @4.5% interest per annum, NTE \$845 monthly, repayable over 25 years.


Loan Purpose: Refinance Contract of Loan no. 17838.
Original loan amount of \$147,832 at 9%
per annum, \$1,190 monthly, repayable
over 30 years. A Contested Case
Hearing was held on March 25, 2014 for
this account.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Dean Oshiro, Acting HSD Administrator 
Homestead Services Division

SUBJECT: **Approval to Schedule Loan Delinquency Contested Case Hearings**

RECOMMENDED MOTION/ACTION

To authorize the scheduling of the following loan delinquency contested case hearings as shown below.

DISCUSSION

The department has been working to resolve the problem of loan delinquencies. The past due delinquent loan status with lessees continues to be a problem for the department; therefore, we recommend that contested case hearings be scheduled:

<u>Lessee</u>	<u>Lease</u> <u>No.</u>	<u>Area</u>	<u>Loan</u> <u>No.</u>	<u>Monthly</u> <u>Payment</u>	<u>Amount</u> <u>at 4/19</u>	<u>Balance</u> <u>At 4/19</u>
<u>Maui</u>						
Pali, Wesley K.	9923	WK - III	19267	\$TBD	\$45,314	\$45,314

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Dean T. Oshiro, Acting HSD Administrator
FROM: Ross K. Kapeliela, Application Officer
Homestead Services Division
SUBJECT: **Approval of Homestead Application Transfers/Cancellations**

RECOMMENDED MOTION/ACTION

To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described below:

DISCUSSION

1. Requests of Applicants to Transfer

OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

AU, Lesmond E.	06/13/2005	HAWAII	RES	12/18/2018
POAI, Avis K.	04/07/1998	HAWAII	RES	02/06/2019
STEVENS, Howard C.	08/02/2010	HAWAII	RES	02/04/2019

MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

KAUKA, Elizabeth K.	12/12/2007	OAHU	RES	12/28/2018
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HAWAII ISLANDWIDE AGRICULTURAL LEASE LIST

HUGO, Jan K.	04/03/1995	OAHU	AGR	01/08/2019
KAUPU, Starlynn M.K.	05/31/2006	KAUAI	AGR	02/06/2019
LOBO, Trudy A.	01/25/1988	OAHU	AGR	02/12/2019

RUSSELL, Joanne K.H.O.	06/23/1998	OAHU	AGR	01/08/2019
WILLING, Kendall	08/22/2012	MOLOKAI	AGR	04/26/2018

HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

KAUPU, Starlynn M.K.	05/31/2006	KAUAI	RES	02/06/2019
LOBO, Trudy A.	01/25/1988	OAHU	RES	02/12/2019
WILLING, Kendall	08/22/2012	MOLOKAI	RES	04/26/2018

MOLOKAI ISLANDWIDE AGRICULTURAL LEASE LIST

LONO, Joel K.	01/22/2013	HAWAII	AGR	01/15/2019
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MOLOKAI ISLANDWIDE RESIDENTIAL LEASE LIST

LONO, Joel K.	01/22/2013	OAHU	RES	01/15/2019
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2. Deceased Applicants

NONE FOR SUBMITTAL

3. Awards of Leases

OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

KAATAKAMANU, Clint P.	Assigned Residential Lease #12800, Lot 13764 in Maluohai, Oahu dated 04/22/2019. Remove application dated 01/30/2012.
NAKATA, Tiare Lynn K.	Assigned Residential Lease #6787, Lot 75 in Lualualei, Oahu dated 12/05/2017. Remove application dated 06/07/2016.

PAI, Evelyn U.

Assigned Residential Lease
#4471, Lot 117 in Waianae, Oahu
dated 04/17/2019. Remove
application dated 06/10/1993.

MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

OSTERMILLER, Reggie Ann K.

Assigned Residential Lease
#10231, Lot 18, in Hikina, Maui
dated 04/17/2019. Remove
application dated 04/19/1990.

HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

HOOKE, Deirdree L.I.

Assigned Residential Lease
#12823, Lot 116 in Kawaihae,
Hawaii dated 04/05/2019. Remove
application dated 02/07/2005.

KAMAKANA, Rex E.K.

Assigned Residential Lease
#3114, Lot 106 in Waimanalo,
Oahu dated 04/13/2012. Remove
application dated 02/02/2001.

PAIO, Moses J.K.K.

Assigned Residential Lease
#12824, Lot 127 in Kawaihae,
Hawaii dated 04/05/2019. Remove
application dated 10/15/2003.

MOLOKAI ISLANDWIDE AGRICULTURAL LEASE LIST

ROSA, Marshall K.

Assigned Agricultural Lease
#6127, Lot 131 in Kalamaula,
Molokai dated 07/10/2017.
Remove application dated
06/17/1986.

MOLOKAI ISLANDWIDE RESIDENTIAL LEASE LIST

NAWELI, George K.

Assigned Residential Lease
#7282, Lot 32 in Nanakuli, Oahu
dated 04/17/2019. Remove
application dated 08/19/1987.

4. Native Hawaiian Qualification

NONE FOR SUBMITTAL

5. Voluntary Cancellation

NONE FOR SUBMITTAL

6. Successorship

OAHU ISLANDWIDE AGRICULTURAL LEASE LIST

KEKAWA, Nolen K., Jr.	Succeeded to Oahu Islandwide Agricultural application of grandfather, James K. Kekawa dated 05/21/1986. Remove application dated 08/02/2017.
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OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

DELIMA, Charmaine L.	Succeeded to Waimanalo Area / Oahu Islandwide Residential application of mother, Charlene K. Naipo, dated 10/17/1962. Remove application dated 11/29/2000.
PORTER, Salamasina T.	Succeeded to Oahu Islandwide Residential application of mother, Jane K. Iereneo, dated 01/19/1993. Remove application dated 05/27/2010.

MOLOKAI ISLANDWIDE AGRICULTURAL LEASE LIST

RITTE, Tyler L.	Succeeded to Oahu Islandwide Agricultural application of father, Geroge G. Rin, dated 06/29/1987. Remove application dated 01/06/2014.
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MOLOKAI ISLANDWIDE RESIDENTIAL LEASE LIST

RITTE, Tyler L.

Succeeded to Molokai Islandwide Residential application of father, George G. Rin, dated 11/08/1982. Remove application dated 01/06/2014.

7. Additional Acreage

NONE FOR SUBMITTAL

8. HHC Adjustments

NONE FOR SUBMITTAL

Last Month's Transaction Total	20
Last Month's Cumulative FY 2018-2019 Transaction Total	264
Transfers from Island to Island	14
Deceased	0
Cancellations:	
Awards of Leases	9
NHQ	0
Voluntary Cancellations	0
Successorship	5
Additional Acreage	0
HHC Adjustments	0
This Month's Transaction Total	28
This Month's Cumulative FY 2018-2019 Transaction Total	292

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean T. Oshiro, Acting HSD Administrator

FROM: Ross K. Kapeliela, Applications Officer
Homestead Services Division

SUBJECT: **Commission Designation of Successors to Application Rights - Public Notice 2016, 2017**

RECOMMENDED MOTION/ACTION

To designate the following individuals as successors to the application rights of deceased applicants who have no qualified successors of record.

DISCUSSION

The following qualified applicants passed away on or after October 26, 1998, without naming qualified successors. Pursuant to 10-3-8(c) of the *Hawaii Administrative Rules*, a public notice listing the names of deceased applicants and calling for possible successors to their application rights was published in the Honolulu Star-Advertiser, The Maui News, Hawaii Tribune Herald, West Hawaii Today, and The Garden Island on the last two consecutive Sundays of November for the year the department received notification. Requests to succeed to the decedents' application rights were submitted within the required 180 days following the last date of publication. Prospective successors were the sole respondents and are deemed by the department to have met the requirements of successorship. HSD recommends approval of the following designees:

1. Deceased Applicant:	Marjorie-Ann M. Akoi
Date of death:	December 2, 2014
Successor to application rights	Samuel A. Akoi, IV
Relationship to decedent:	Son
Island:	Maui
Type:	Islandwide Pastoral
Date of Application:	October 31, 2005
Date of Public Notice:	November, 2017

2.Deceased Applicant:	James K. Kekawa
Date of death:	September 30, 2016
Successor to application rights	Nolen K.Kekawa, Jr.
Relationship to decedent:	Grandchild
Island:	Oahu
Type:	Islandwide Agricultural
Date of Application:	May 21, 1986
Date of Public Notice:	November, 2016
3.Deceased Applicant:	Charlene K. Naipo
Date of death:	November 3, 2014
Successor to application rights	Charmaine L. Delima
Relationship to decedent:	Daughter
Island:	Oahu
Type:	Waimanalo Area / IW Res
Date of Application:	October 17, 1962
Date of Public Notice:	November, 2017
4.Deceased Applicant:	Rodney H. Puu, Sr.
Date of death:	February 23, 2012
Successor to application rights	Rodney H. Puu, Jr.
Relationship to decedent:	Son
Island:	Oahu
Type:	Islandwide Residential
Date of Application:	June 7, 2000
Date of Public Notice:	November, 2017
5a.Deceased Applicant:	George G. Rin
Date of death:	July 28, 2015
Successor to application rights	Tyler L. Ritte
Relationship to decedent:	Son
Island:	Oahu
Type:	Islandwide Agricultural
Date of Application:	June 29, 1987
Date of Public Notice:	November, 2017
5b.Island:	Molokai
Type:	Islandwide Residential
Date of Application:	November 8, 1982
Date of Public Notice:	November, 2017

Previous Cumulative Total for Current FY	41
Current Month's Total	6
Fiscal Year Total: July 2018-June 2019	47

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Administrator
Homestead Services Division

FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division

SUBJECT: **Approval of Designation of Successors to Leasehold
Interest and Designation of Persons to Receive the Net
Proceeds**

RECOMMENDED MOTION/ACTION

To approve the designation of successor to the leasehold interest and person to receive the net proceeds, pursuant to Section 209, Hawaiian Homes Commission Act, 1920, as amended.

*See attached list of Lessee.

Leasehold Interest:

Approved for May 2019	6
Previous FY 2018 - 2019	<u>81</u>
FY 2018 - 2019 Total to Date	87
Approved for FY '17 - '18	87

Net Proceeds

Approved for May 2019	1
Previous FY 2018- 2019	<u>0</u>
FY 2018 - 2019 Total to Date	1
Approved for FY '17 - '18	1

**LIST OF LESSEES WHO DESIGNATED SUCCESSORS TO THEIR
LEASEHOLD INTEREST AND DESIGNEE TO RECEIVE NET PROCEEDS
FOR MONTH OF MAY 2019**

<u>Deceased Lessee</u>	<u>Designated Successor</u>
1. Rose A. Anderson Lot No.: 16-A Area: Kuhio Village, Hawaii Lease No. 4885	<u>PRIMARY:</u> Kaiulani Cindy Anderson- Kanoa, Daughter <u>ALTERNATE:</u> N/A <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A
2. Dellvyne L. Gandia Lot No.: 24 Area: Anahola, Kauai Lease No. 9998	<u>PRIMARY: Joint Tenants</u> Dellyn K. Gandia, Daughter Derek P. Gandia, Son Derelyne K. R. Gandia, Daughter <u>ALTERNATE:</u> *Carlos Hernandez, Jr., Brother *Omit due to lack of genealogy documents to determine eligibility to successorship. <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A
3. Richard I. K. Kanahale Lot No.: 68 Area: Kekaha, Kauai Lease No. 5380	<u>PRIMARY:</u> N/A <u>ALTERNATE:</u> N/A <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> Mary Beth Girod, Wife

4. Albert E. Kaulia
Lot No.: 7
Area: Lalamilo, Hawaii
Lease No. 12529

PRIMARY:
Alapaki E. K. Kaulia, Son

ALTERNATE:
N/A

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

5. Christmas K. Kelii
Lot No.: 139-B
Area: Nanakuli, Oahu
Lease No. 3801

PRIMARY: Joint Tenants
Heather Ah-Hoon, Daughter
Christine L. Kea, Daughter

ALTERNATE:
Owen Kelii, Son

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

6. Abraham Kuhaulua
Lot No.: 76
Area: Anahola, Kauai
Lease No. 3090

PRIMARY:
Earlet M. Lanning, Niece

ALTERNATE:
N/A

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Administrator
Homestead Services Division

FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division

SUBJECT: **Approval of Assignment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

To approve the assignment of the leasehold interest, pursuant to Section 208, Hawaiian Homes Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

DISCUSSION

Eleven (11) assignments of lease.

1. Lessee Name: Jocelynn M. Adams
Res. Lease No. 3429, Lot No. 47
Lease Date: 7/20/1962
Area: Nanakuli, Oahu
Property Sold & Amount: Yes, \$45,000.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Joycelynn N. McShane
Relationship: Sister
Loan Assumption: N/A
Applicant: Yes, Oahu IW Res., 11/02/1990

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase price.

2. Lessee Name: Wesley K. Chow
Res. Lease No. 10218, Lot No. 28
Lease Date: 4/15/2013
Area: Anahola, Kauai
Property Sold & Amount: Yes, \$500,000.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Melanie N. Thompson
Relationship: None
Loan Assumption: N/A
Applicant: Yes, Kauai IW Res., 10/21/2008

Reason for Transfer: "Want to apply for a new location."
Special Condition: Transferee to obtain funds to pay purchase price.

3. Lessee Name: Mary Ann K. Dowsett
Agr. Lease No. 4759, Lot No. 1
Lease Date: 7/8/1978
Area: Waimea, Hawaii
Property Sold & Amount: No, N/A
Improvements: 2 bedroom, 2 bath dwelling

Transferee Name: Pomaikalani Z. Dowsett
Relationship: Daughter
Loan Assumption: N/A
Applicant: No

Reason for Transfer: "Giving lease to relative."

4. Lessee Name: James A. Enoka
Res. Lease No. 12867, Lot No. 150
Lease Date: To be determined
Area: Kauluokahai, Oahu
Property Sold & Amount: Yes, \$380,000.00
Improvements: 4 bedroom, 3 bath dwelling

Transferee Name: Jeffery-Lee K. Enoka
Relationship: Son
Loan Assumption: N/A
Applicant: No

Reason for Transfer: "Giving lease to relative." Special Condition: Transferee to obtain funds to pay purchase price.

5. Lessee Name: June K. Hauhio
Res. Lease No. 12852, Lot No. 140
Lease Date: To be determined
Area: Kauluokahai, Oahu
Property Sold & Amount: Yes, \$381,400.00
Improvements: 5 bedroom, 3 bath dwelling

Transferee Name: Mason A. S. Aina
Relationship: Son
Loan Assumption: N/A
Applicant: No

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase
price.

6. Lessee Name: Leonora K. Moisa
Res. Lease No. 12855, Lot No. 143
Lease Date: To be determined
Area: Kauluokahai, Oahu
Property Sold & Amount: Yes, \$400,000.00
Improvements: 5 bedroom, 3 bath dwelling

Transferee Name: Melvin H. Moisa
Relationship: Son
Loan Assumption: N/A
Applicant: No

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase
price.

7. Lessee Name: Hyenie E. Sato
Res. Lease No. 12870, Lot No. 152
Lease Date: To be determined
Area: Kauluokahai, Oahu
Property Sold & Amount: Yes, \$370,000.00
Improvements: 5 bedroom, 3 bath dwelling

Transferee Name: Karllene P. K. S. Allen
Relationship: Granddaughter
Loan Assumption: N/A
Applicant: No

Reason for Transfer: Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase
price.

8. Lessee Name: Hannah E. Silva
Res. Lease No. 12113, Lot No. 16957
Lease Date: 11/16/2007
Area: Kaupea, Oahu
Property Sold & Amount: Yes, \$525,000.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Kacie K. Aurio
Relationship: None
Loan Assumption: N/A
Applicant: Yes, Oahu IW Res., 1/13/2009

Reason for Transfer: "Financial Reason." Special Condition:
Transferee to obtain funds to pay purchase price.

9. Lessee Name: Alexander E. Uahinui, Jr.
Res. Lease No. 12850, Lot No. 122
Lease Date: To be determined
Area: Kauluokahai, Oahu
Property Sold & Amount: Yes, \$400,000.00
Improvements: 5 bedroom, 3 bath dwelling

Transferee Name: Joseph K. Uahinui
Relationship: Brother
Loan Assumption: N/A
Applicant: Yes, Oahu IW Res., 1/20/2006

Reason for Transfer: "Giving lease to relative." Special
Condition: Transferee to obtain funds to pay purchase
price.

10. Lessee Name: Wallis K. Wong & Haaheo F. Castro
Res. Lease No. 4441, Lot No. 21
Lease Date: 10/7/1977
Area: Waianae, Oahu
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Haaheo F. Castro
Relationship: Sister
Loan Assumption: N/A
Applicant: No

Reason for Transfer: "Giving lease to relative."

11. Lessee Name: Mary Jane L. N. Kamoku
Agr. Lease No. 7009, Lot No. 65
Lease Date: 11/14/1997
Area: Makuu, Hawaii
Property Sold & Amount: No, N/A
Improvements: None

Transferee Name: Leila I. B. W. Kealoha
Relationship: None
Loan Assumption: N/A
Applicant: Yes, Molokai IW Pas., 11/16/1994

Reason for Transfer: "Giving lease away."

Assignments for the Month of May `19	11
Previous FY '18 - '19 balance	<u>234</u>
FY '18 - '19 total to date	245
Assignments for FY '17 - '18	271

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Dean Oshiro, Acting HSD Administrator
FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division
SUBJECT: **Approval of Amendment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

To approve the amendment of the leasehold interest listed below.

DISCUSSION

Four (4) amendments of lease.

1. Lessee: Christmas K. Kelii
Res. Lease No.: 3801
Lot No., Area, Island: 139-B, Nanakuli, Oahu
Amendment: To amend the lease title and Lessor's name, to incorporate the currently used terms, covenants, and conditions to the lease, and to extend the lease term to an aggregate term of 199 years.
2. Lessee: La Vaina N. A. Kilbey
Res. Lease No.: 6054
Lot No., Area, Island: 9, Hoolehua, Molokai
Amendment: To amend the property description and commencement date due to final subdivision.

3. Lessee: Abraham Kuhaulua
 Res. Lease No.: 3090
 Lot No., Area, Island: 76, Anahola, Kauai
 Amendment: To amend the lease title and
 Lessor's name, to incorporate the
 currently used terms, covenants,
 and conditions to the lease, and to
 update the property description.

4. Lessee: Henry Waiolama
 Res. Lease No.: 3118
 Lot No., Area, Island: 89, Waimanalo, Oahu
 Amendment: To amend the lease title and
 Lessor's name, to update the
 property description, to
 incorporate the currently used
 terms, covenants, and conditions to
 the lease, and to extend the lease
 term to an aggregate term of 199
 years.

Amendments for the Month of May '19	4
Previous FY '18 - '19 balance	<u>147</u>
FY '18 - '19 total to date	151
 Amendments for FY '17 - '18	 249

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting HSD Administrator

FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division

SUBJECT: **Approval to Issue a Non-Exclusive License for Rooftop
Photovoltaic Systems for Certain Lessees**

RECOMMENDED MOTION/ACTION

To approve the issuance of a non-exclusive license to allow the Permittee to provide adequate services related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective Lessees.

The non-exclusive license is necessary as the Lessee cannot issue his/her own licenses.

DISCUSSION

Seven (7) non-exclusive licenses.

1. Lessee: Puahauoliokalani Gaspar
Res. Lease No.: 11806
Lot No., Area, Island: 18611, Kanehili, Oahu
Permittee: RevoluSun Power LLC
2. Lessee: Kahaleone Hanawahine
Res. Lease No.: 11574
Lot No., Area, Island: 18554, Kanehili, Oahu
Permittee: RevoluSun Power LLC
3. Lessee: Benjamin Kamalani
Res. Lease No.: 8112
Lot No., Area, Island: 13, Waiakea, Hawaii
Permittee: Sunrun Installation Services Inc.

4. Lessee: Francis J. Kaniaupio
 Res. Lease No.: 11388
 Lot No., Area, Island: 17153, Kaupea, Oahu
 Permittee: Sunrun Installation Services Inc.
5. Lessee: Adeline W. L. Mandac
 Res. Lease No.: 11883
 Lot No., Area, Island: 18657, Kanehili, Oahu
 Permittee: Sunrun Installation Services Inc.
6. Lessee: Corinna Nakea-Francisco
 Res. Lease No.: 12318
 Lot No., Area, Island: 73, Kaniohale, Hawaii
 Permittee: Sunrun Installation Services Inc.
7. Lessee: Vanna M. K. Naeole-Raymondo
 Res. Lease No.: 9990
 Lot No., Area, Island: 112, Waianae, Oahu
 Permittee: RevoluSun Power LLC

Non-Exclusive License for March '19	7
Previous FY '18 - '19 balance	<u>73</u>
FY '18 - '19 total to date	80
Non-Exclusive License for FY '17 - '18	102

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

February 17, 2015

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Dean Oshiro, Acting HSD Administrator
Homestead Services Division

THRU: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division

SUBJECT: **Cancellation of Leasehold Interest**
Daisy K. T. Simeona
Lease No. 12522, Lot No. UNDV, Kapolei, Oahu

RECOMMENDED MOTION/ACTION

To approve the cancellation of Lease No. 12522, Lot No. Undivided, Kapolei, Oahu (Lease), pursuant to the Hawaiian Homes Commission Act of 1920, as amended, as there is no qualified successor to the Lease interest; and

DISCUSSION

Daisy K. T. Simeona (Decedent) was awarded the Lease commencing December 6, 2008. The Decedent designated her son, Lynnboy L. Simeona (Lynnboy), as the successor to the leasehold interest in the Lease, on December 6, 2008,.

Decedent passed away on July 31, 2010.

The Department made numerous attempts to locate and contact Lynnboy in order to process the successorship of the lease. Unfortunately, the Department was unsuccessful in locating Lynnboy, therefore, the successorship of the Lease could not be completed.

On August 21, 2017, the Hawaiian Homes Commission (Commission) approved the Department's request to schedule a contested case hearing to address the pending successorship of the Lease. The contested case hearing was conducted on May 17, 2018 before a hearings officer. The Commission rendered its Findings of Fact Conclusions of Law and Decision and Order,

dated August 16, 2018, cancelling Lynnboy's successorship interest in the Lease.

In compliance with the Administrative Rule 10-3-63, the department published legal ads in the Honolulu Star Advertiser, The Garden Island Newspaper, the Hawaii Tribune Herald, the West Hawaii Today, and The Maui News on December 2, 12, 16, and 26, 2018, to notify all interested, eligible and qualified heirs of Decedent, to submit their lease successorship claims.

The Department did not receive a successorship claim to the Lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended (Act), "the land subject to the lease shall resume its status as unleased Hawaiian home lands and the Department is authorized to lease to another qualified native Hawaiian as provided in this Act."

The Department is requesting the approval of its recommendation.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Dean Oshiro, Acting HSD Administrator

FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division

SUBJECT: Commission Designation of Successor - JAMES D. H. WONG, Residential Lease No. 11848, Lot No. UNDV305, Kapolei, Oahu

RECOMMENDED MOTION/ACTION

To approve the designation of Jason Kapono Donatiello (Jason), as successor to Residential Lease No. 11848, Lot No. UNDV305, Kapolei, Oahu (Lease), for the remaining term of the lease.

DISCUSSION

James D. H. Wong (Decedent), was awarded the Lease commencing on December 2, 2006.

On December 2, 2006, the Decedent designated his wife, Nada H. L. Wong (Nada), as the primary successor and his daughter, Jenifer N. K. Donatiello (Jenifer), as the alternate successor to the Lease.

On September 18, 2010, Nada passed away. However, the Department did not receive her death certificate until February 7, 2017.

On September 23, 2016, the Decedent passed away and the Department received the death certificate on February 3, 2017.

On June 28, 2018, Jenifer renounced her successorship rights to the Lease.

In compliance with the Administrative Rule 10-3-63, the department published legal ads in the Honolulu Star Advertiser, The Garden Island Newspaper, the Hawaii Tribune Herald, the West Hawaii Today, and The Maui News on December 2, 12, 16, and 26, 2018, to notify all interested, eligible and qualified heirs of Decedent, to submit their lease successorship claims.

The Department received a successorship claim from the Decedent's grandson, Jason, who has been determined to be at least 25% Hawaiian ancestry and is eligible for successorship to the Decedent's lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act, 1920, as amended (Act), when a lessee fails to designate a successor, the commission is authorized to terminate this lease or to continue the lease by designating (a) qualified successor(s). Section 209 states in part that the department may select from only the following qualified relatives of the decedent:

1. Husband or wife; or
2. If there is no husband or wife, then the children; or
3. If there is no husband, wife, or child, then the grandchildren; or
4. If there is no husband, wife, child, or grandchild, then brothers or sisters; or
5. If there is no husband, wife, child, grandchild, brother, or sister, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, widows or widowers of the brothers and sisters, or nieces and nephews.

The lease rent account reports a credit balance of \$85 and the real property tax are not being assess at this time.


The Department requests approval of its recommendation.

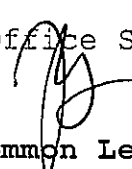
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Administrator
Homestead Services Division 

FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division 

SUBJECT: **Cancellation of Tenant-In-Common Leasehold Interest
JOY K. PALAKIKO, Residential Lease No. 4478,
Lot No. 86, Waianae, Oahu**

RECOMMENDED MOTION/ACTION

1. To approve the cancellation of the late Joy K. Palakiko (Decedent) tenant-in-common leasehold interest in Residential Lease No. 4478, Lot No. 86, Waianae, Oahu (Lease); and
2. To approve with the dispensing of awarding the Decedent's tenant-in-common leasehold interest in the lease; and
3. To approve Thia K. Palakiko (Thia), the surviving tenant-in-common lessee, as the tenant by severalty, for the remaining term of the Lease.

DISCUSSION

On August 6, 2004, the Decedent, by Assignment of Lease and Consent to Lease, received Department of Hawaiian Home Lands Residential Lot Lease No. 4478, Lot No. 86, Waianae, Oahu (Lease), as a tenant-in-common interest lessee with Thia K. Palakiko (Thia).

On May 22, 2018, the Decedent passed away without naming a successor to his tenant-in-common interest to the Lease.

In compliance with the Administrative Rules 10-3-63, the Department published legal ads in the Honolulu Star Advertiser, The Hawaii Tribune Herald, The West Hawaii Today, The Maui News, and The Garden Island newspapers on December 2, 12, 16, and 26,

2018 to notify all interested, eligible and qualified heirs of the Decedent, to submit their lease successorship claims.

The Department did not receive a successorship claim for the tenant-in-common interest.

Section 209(a) of the Hawaiian Homes Commission Act (Act) states "In the case of the death of a lessee leaving no designated successor or successors, husband, wife, children, grandchildren, or relative qualified to be a lessee of Hawaiian Home Lands, the land subject to the lease shall resume its status as unleased Hawaiian Home Lands and the Department is authorized to lease the land to a Native Hawaiian as provided in this Act."

Also, Section 209(d) of the Act states that "After the cancellation of a lease by the Department in accordance with sections 210 and 216 of this title, or the surrender of a lease by a lessee, the Department may transfer the lease or issue a new lease to any qualified Native Hawaiian regardless of whether that person is related in any way by blood or marriage to the previous lessee.

Although there were no qualified claimants to designate as successor to the Decedent's tenant-in-common leasehold interest, it would be unreasonable for the lease to "resume its status as unleased." Furthermore, it would be unreasonable to offer the Decedent's tenant-in-common interest to another Native Hawaiian from the application waitlist. It would be inappropriate that an unrelated beneficiary be awarded a one-half interest in the lease and be expected to reside in the home with the co-lessee.

Thia continues to hold a tenant-in-common interest in the lease. As no successorship claim to the Decedent's interest was received by the Department, it is recommended that Thia hold the lease as the tenant by severalty as any other recommendation could negatively impact Thia's right to use and enjoy the premises demised under the Lease.

There is an outstanding loan balance of approximately \$142,000.00. The Lease rent and Real Property Tax is paid current.

The Department requests approval of its recommendation.


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean T. Oshiro, Acting HSD Administrator

FROM: Darlene K. Fernandez, Homestead Lease Coordinator 
Homestead Services Division

SUBJECT: **Request to Surrender Lease - CARMELA K. GOMEZ**
Agricultural Lot Lease No. 6139, Lot No. 158,
Kalamaula, Molokai, Hawaii

RECOMMENDED MOTION/ACTION

1. To approve the surrender of Department of Hawaiian Home Lands Agricultural Lot Lease No. 6139, Lot No. 158, Kalaniana'ole Colony, 2nd Series, situate at Kalamaula, Molokai, Hawaii, consisting of approximately 2.000 acres, and further identified as Tax Map Key: (2) 5-2-008:048;

2. To authorize the Department to award Lot No. 158, Kalamaula, Molokai, Hawaii to another qualified applicant on the waitlist.

DISCUSSION

Agricultural Lot Lease No. 6139, Lot No. 158, Kalamaula, Molokai, Hawaii, and commenced on October 1, 1985, was awarded to Carmela K. Gomez.

On April 5, 2019, the Department received a Notice of Surrender of Lease from Carmela K. Gomez dated March 29, 2019. Her reasons for surrendering are she is unable to farm the land due to no infrastructure and her age, and she has waited too long and wasted years waiting for a pastoral lot on Oahu.

DHHL Molokai District Office confirmed Agricultural Lot No. 158 is vacant without any improvements or growing crops therefore an appraisal is not necessary. There will be no net proceeds. Lease rent is past due \$12.00 as of April 30, 2019.

The department requests approval of its recommended motion.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Homestead Services Division Administrator

FROM: Olinda L. Fisher, East Hawaii District Office
Homestead District Assistant Supervisor

SUBJECT: Approval of Subdivision Transfer of a Portion of Lease and Amendment - **OSAIASI TUAKALAU, SESILILI TUAKALAU, CARRILYN K. MAIMA, JOHN M. TUAKALAU**, Residential Lease No. 2397, Lot No. 43A, situate Keaukaha, Hilo, Hawaii

RECOMMENDED MOTION/ACTION

1. To authorize approval for the request of Osaiasi A. L. Tuakalau, Sesilili K. Tuakalau, Carrilyn K. Maima, and John M. Tuakalau to subdivide Department of Hawaiian Home Lands (DHHL) Residential Lease No. 2397, Lot No. 43A, Keaukaha, Hawaii, consisting of 42,131 square feet and identified as TMK: (3) 2-1-021:062, into two (2) lots. The subdivision is subject to the following conditions:
 - a. To approve the amendment of Lease No. 2397, to reflect the subdivision of Lot No. 43A into two (2) lots; to update the property description; and to amend the lease title and lessor's name; to incorporate the currently used terms, covenants, and conditions in the lease.
 - b. To approve the designation of Residential Lease No. 2397 demising the newly created lot.
 - c. To approve the transfer of the newly created lot, under Lease No. 2397-A to co-lessee John M. Tuakalau, to build a home for his family.

Osaiasi A. L. Tuakalau, Sasilili K. Tuakalau, and Carrilyn K. Maima will remain as joint tenants to the existing Lease and Lot. Upon completion of the transfer of the new lot, John will have one (1) year from the date of execution of the Lease to build and occupy the homestead.

- d. The above are subject to the completion of the survey work done by a licensed surveyor, including but not limited to the surveying and staking of boundary corners of the lots, submitting the required number of final subdivision maps to the County, preparing and submitting the legal description of the lots to the Department of Hawaiian Home Lands (Department), applying to the County for subdivision approval, obtaining the tax map keys for the Lots, and final subdivision approval by the County of Hawaii and recordation of the subdivision with the State of Hawaii Bureau of Conveyances.
- e. Lessees and transferee shall be subject to Hawaii Administrative Rule §10-3-38 Subdivision and transfer of a portion of residential lot lease. "The Department shall not be required to finance the construction of the house on the transferred portion. The Department shall not be required to pay for any costs incurred in the processing and obtaining of the subdivision."

DISCUSSION

On March 19, 2008, but effective from August 22, 2001, by way of Transfer Through Successorship and Amendment to Lease No. 2397, Keaukaha, Hawaii (Lease), was succeeded by Osaiasi A. L. Tuakalau (Osaiasi), Sasilili K. Tuakalau (Sasilili), Carrilyn K. Maima (Carrilyn), and John M. Tuakalau (John).

Osaiasi, Sasilili, Carrilyn, and John are requesting the approval to subdivide their lot into two (2) lots and to transfer the newly created lot to John.

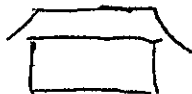
Once the lot is subdivided, Osaiasi, Sesilili, and Carrilyn will remain on the existing Lease and lot, and John will receive the newly created lot.

Attached is "Exhibit A" which illustrates the proposed plan to subdivide the lot into two (2) lots. The existing home is located on the front portion of Lot No. 43A, which is to be retained by Osaiasi, Sesilili, and Carrilyn.

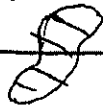
There is no outstanding loan attached to the lease. The lease rent to the Department and real property tax is paid current.

The Department recommends the approval of its recommendation.

KALANI ANAOLE AVE



- Dsaiasi A. Tuakalau
- Sesilili K. Tuakalau
- Carrilyn K. Tuakalau




- John M. Tuakalau

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Administrator
Homestead Services Division 

FROM: Olinda L. Fisher, East Hawaii District Office
Supervisor

SUBJECT: Cancellation of Tenant-In-Common Leasehold Interest -
NEWTON K. LESLIE, Residential Lease No. 2943, Lot No.
206-A, Keaukaha, Hawaii

RECOMMENDED MOTION/ACTION

1. To approve the cancellation of the late Newton K. Leslie's (Decedent) tenant-in-common leasehold interest in Residential Lease No. 2943, Lot No. 206-A, Keaukaha, Hawaii; and
2. To approve to dispense with the awarding of Decedent's tenant-in-common leasehold interest in the lease; and
3. To approve Yvonne L. Leslie (Yvonne), the surviving tenant-in-common lessee, as the tenant by severalty in Residential Lease No. 2943, Lot No. 206-A, Keaukaha, Hawaii, for the remaining term of the lease.

DISCUSSION

On July 07, 2003, Newton K. Leslie (Decedent), by way of Transfer Through Successorship and Amendment to Lease, received Department of Hawaiian Home Lands Residential Lot Lease No. 2943, Lot No. 206-A, Keaukaha, Hawaii (Lease), as a tenant-in-common interest lessee with Yvonne L. Leslie.

On June 27, 2011, the Decedent passed away without naming a successor to the Lease.

In compliance with the Administrative Rules 10-3-63, the Department published legal ads in the Honolulu Star Advertiser, The Hawaii Tribune Herald, The West Hawaii Today, The Maui News,

and The Garden Island newspapers on June 3, 13, 17, and 27, 2018, to notify all interested, eligible and qualified heirs of the Decedent, to submit their Lease successorship claims.

The Department did not receive any successorship claims for the tenant-in-common interest to the Lease.

Section 209(a) of the Hawaiian Homes Commission Act (Act) states "In the case of the death of a lessee leaving no designated successor or successors, husband, wife, children, grandchildren, or relative qualified to be a lessee of Hawaiian Home Lands, the land subject to the lease shall resume its status as unleased Hawaiian Home Lands and the Department is authorized to lease the land to a Native Hawaiian as provided in this Act."

Also, Section 209(d) of the Act states that "After the cancellation of a lease by the Department in accordance with sections 210 and 216 of this title, or the surrender of a lease by a lessee, the Department may transfer the lease or issue a new lease to any qualified Native Hawaiian regardless of whether that person is related in any way by blood or marriage to the previous lessee.

Although there were no qualified claimants to designate as successor to the Decedent's tenant-in-common leasehold interest, it would be unreasonable for the lease to "resume its status as unleased." Furthermore, it would be unreasonable to offer Newton's tenant-in-common interest to another Native Hawaiian from the application waitlist. It would be inappropriate that an unrelated beneficiary be awarded a one-half interest in the lease and be expected to reside in the home with the co-lessee.

Yvonne continues to hold a tenant-in-common interest in the lease. As no successorship claim to the Decedent's interest was received by the Department, it is recommended that Yvonne hold the lease as the tenant by severalty as any other recommendation could negatively impact Yvonne's right to use and enjoy the premises demised under the Lease.

There is no outstanding loan. The Lease rent is delinquent in the amount of \$10.00 and Real Property Tax is approximately delinquent in the amount of \$851.

The Department requests approval of its recommendation.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Dean Oshiro, Acting HSD Administrator
Homestead Services Division

THRU: Olinda L. Fisher, East Hawaii District Office
Supervisor

SUBJECT: **Cancellation of Lease - KELBY K. PUNG**
Agricultural Lease No. 7016, Lot No. 74, Makuu, Hawaii

RECOMMENDED MOTION/ACTION

To approve the cancellation of Lease No. 7016, Lot No. 74, Makuu, Hawaii, pursuant to the Hawaiian Homes Commission Act of 1920, as amended, as there is no qualified successor to the Lease interest.

DISCUSSION

On October 1, 1986, Kelby K. Pung (Decedent), was awarded Department of Hawaiian Home Lands Agricultural Lot Lease No. 7016, Lot No. 74, Makuu, Hawaii (Lease).

On October 18, 1986, the Decedent did not name a successor, but designated his wife Donna M. Pung as the receiver of net proceeds to the Lease.

On July 17, 2018, a death certificate was received by the Department that the Decedent had passed away on October 22, 2013.

In compliance with the Hawaii Administrative Rule 10-3-63, the Department published legal ads in the Honolulu Star Advertiser, The Garden Isle, the Hawaii Tribune Herald, the West Hawaii Today, and The Maui News on December 2, 12, 16, and 26, 2018, to notify all interested, eligible and qualified heirs of the Decedent, to submit their lease successorship claims.

On April 2, 2019, the period to claim closed. There were no claims received by the Department to succeed to the Lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended (Act), "the land subject to the lease shall resume its status as unleased Hawaiian home lands and the Department is authorized to lease to another qualified native Hawaiian as provided in the Act."

There is presently a 1 bedroom, 1 bath structure on the lot, which was built in 2007. An appraisal is pending to determine the valuation of the structure.

There are no outstanding debts attached to the Lease. The Lease rent and real property tax are current.

The Department request the approval of its recommendation.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Administrator
Homestead Services Division

FROM: Olinda L. Fisher, East Hawaii District Office
Supervisor

SUBJECT: **Request to Schedule Contested Case Hearing -
DENISE ROSEHILL-MAHI, Residential Lease No. 01891,
Lot No. 63, Waiakea, Hawaii**

RECOMMENDED MOTION/ACTION

To deny the request by Ms. Paula Anuheha Victorino (Paula) to schedule a Contested Case Hearing regarding Lease No. 01891, Lot No. 63, Waiakea, Hawaii.

DISCUSSION

This issue was previously addressed by the Hawaiian Homes Commission ("HHC") originally in November of 2013 and acted upon in May of 2014. It was also recently deferred by HHC on April 15, 2019.

The minutes of the HHC meetings dated November 18 and 19, 2013 (Exhibit A) reflect that the action item was presented to HHC, however action was deferred December 2013. It was not until May 19, 2014 that a submittal for action was once again submitted to the HHC (see Exhibit B). The action item was denied by the HHC. (see Exhibit C).

Paula has once again submitted a request to schedule a Contested Case Hearing.

The Department is again recommending denial of the request as the rightful lessee, Denise Rosehill-Mahi, on September 25, 2012 requested that she surrender her lease back to the Department. The HHC ratified her request on June 16, 2014.

ITEM NO: D-11

SUBJECT: Approval of Assignment of Leasehold Interest (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-12

SUBJECT: Approval of Amendment of Leasehold Interest (see exhibit)

MOTION/ACTION

Moved by Commissioner Kahikina, and seconded by Commissioner Hopkins. Motion carried unanimously.

ITEM NO: D-13

SUBJECT: Commission Designation of Successor – Amy K. Waipa, Lease No. 3978, Waimanalo, Oahu

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-14

SUBJECT: Request to Approve Third Party Agreement – Benjamin K. Lindsey, Lease No. 4762, Puukapu, Hawaii

MOTION/ACTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM NO: D-15

SUBJECT: Request to Schedule Contested Case Hearing – Denise Rosehill-Mahi, Lease No. 1891, Waiakea, Hawaii

RECOMMENDATION

Acting Administrator Dean Oshiro, Homestead Services Division, recommended denying a request for a contested case hearing by Robin Anuhea Victorino for the above-stated lease.

MOTION

Moved by Commissioner Hopkins, and seconded by Commissioner Kahikina.

DISCUSSION

East Hawaii Acting District Manager Louis Hao provided information on the events leading up to today's submittal. He conveyed that Robin (Anuhea) Victorino does not qualify as a 50% blood quantum, native Hawaiian. However, he spoke with Robin's mother, Anuhea Nahalea, explaining that the only way Robin would receive the lease would be for her (Nahalea) to surrender her lease, obtain the lease from Denise Mahi, then transfer to daughter Robin Victorino, who would then qualify as a 25% qualified successor. Since Anuhea Nahalea was not assured that her lease in Keaukaha would be returned to her, she decided against it. According to L. Hao, this is a long-standing issue which has not been rectified since 1984. At one point, Denise Mahi considered transferring the lease to Anuhea Victorino, however, it was never filed in court. Today, Denise Mahi is seeking to return the lease to the department with an opportunity to be compensated from the sale of the home.

Commissioner Hopkins noted that the decedent Damien Kuamoo filled out a request to transfer the lease to his sister Miriam, although it was never finalized. Robin Victorino maintained that there was a sale; however, the department cannot validate it. These types of money exchanges do not fall under the purview of the commission and should be designated a civil matter. He agreed with the department to deny the request. Commissioner Kahikina said he sees the inconsistencies as it relates to another similar situation on Oahu.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to adjourn to executive session to consult further with counsel on this matter. Motion carried unanimously.

ACTION

Motion carried unanimously.

RECESS 1:23 p.m.

EXECUTIVE SESSION

The Commission convened in executive meeting pursuant to Section 92-5 (a)(4) HRS, to consult with its legal counsel on questions and issues pertaining to the commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned item.

RECONVENE 1:51 p.m.

AMENDED MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to continue the regular meeting and to defer Item No. D-15 until December 2013. Motion carried unanimously.

F - LAND MANAGEMENT DIVISION

ITEM NO: F-1

SUBJECT: Approval to Issue License to Panaewa Hawaiian Home Lands Community Association, Panaewa, Hawaii

RECOMMENDATION

Income Property Branch Manager Kahana Albinio recommended approval to issuance of a 30-year license to Panaewa Hawaiian Home Lands Community Association (PHHLCA), in Panaewa, Hawaii. K. Albinio noted that License No. 365 was cancelled in September due to it being a co-licensee where one of the parties, Hoala, Inc., fell to the wayside and was no longer in operation. In establishing the Kamoleau Laulima Resource Community Center (Kamoleau) project, PHHLCA expressed a desire to re-acquire the license. The NAHASDA (Native American Housing Assistance and Self-Determination Act) team was able to assist in acquiring funds for this resource center and Kamoleau expressed a desire to continue the project and its partnership with the University of Hawaii Hilo.

MOTION

Moved by Commissioner Ishibashi and seconded by Commissioner Kahikina.

DISCUSSION

PHHLCA President, Bill Brown, expressed his thoughts and he is hopeful that this will prove to be a good relationship between PHHLCA and the department. He is pleased that the project will continue on the same, designated 12-acre parcel.

ACTION

Motion carried unanimously.

ITEM NO: F-2

SUBJECT: Status Update - Anahola Solar Project, Anahola, Kauai

MOTION/ACTION

STATE OF HAWAII
(
DEPARTMENT OF HAWAIIAN HOME LANDS

May 19, 2014

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean T. Oshiro, Acting HSD Administrator
Homestead Services Division

FROM: Louis Hao, Acting District Officer Supervisor
Department of Hawaiian Home Lands

SUBJECT: Request to Schedule Contested Case Hearing -
DENISE ROSEHILL-MAHI, Department of Hawaiian Home
Lands Residential Lot Lease No. 1891, Waiakea, Hawaii

RECOMMENDED MOTION/ACTION

Deny petitioner Robin Victorino's (Robin) request for a hearing to contest the successorship to State of Hawaii, Department of Hawaiian Home Lands Residential Lot Lease No. 1891 (Lease).

DISCUSSION

Brief Background:

Decedent Damien Kuamoo (Damien) acquired the leasehold interest under the Lease in July 1983.

Damien submitted a request to transfer his leasehold interest to his sister, and Robin's mother, Miriam Kuamoo (Miriam), in July 1984. There is no indication on the transfer request form that the transfer involved a sale. Department of Hawaiian Home Lands (DHHL) staff prepared the leasehold transfer document, but received no response from Damien to DHHL staff's May 1988 and February 1989 written requests to execute the transfer document. Damien passed away in August 1993 without signing the transfer document.

Damien's leasehold interest was transferred to Elizabeth Kuamoo (Elizabeth), his surviving spouse, pursuant to his October 1982 designation of successor. Elizabeth transferred her leasehold interest to her sister, and current lessee, Denise Rosehill-Mahi (Denise), in April 2000.

ITEM NO. D-14

ITEM NO. D-19
EXHIBIT B

The DHHL held contested case hearing proceedings against Denise in September 2007 because she was not occupying the homestead. Denise admitted she was not occupying the homestead and agreed to initiate court proceedings to remove the occupants from the home.

Robin's sister submitted an affidavit to the DHHL in 1998 and a request to address the HHC regarding the alleged purchase in 2008. The DHHL responded that the family must request a contested case hearing. There is no record of a request for contested case hearing in response to this correspondence.

Denise filed an ejectment complaint with the circuit court in April 2008. The DHHL was not a party to the action. Denise, Robin and the DHHL signed a mediation agreement in December 2009 in which Robin would pay Denise \$39,000 in monthly installments and execute a mortgage and note. In return, Denise would add Robin as a cotenant to the Lease. It does not appear that the agreement was filed with the court. The court action was dismissed in July 2013. As of the date of this submittal, Denise is the sole lessee under the Lease.

The Chairman, HHC, approved Denise's Notice of Surrender of Lease in September 2012, but the approval has not yet been ratified by the HHC. Denise cited her inability to occupy the homestead as the reason she was surrendering the Lease. The DHHL staff has not been able to move forward with the surrender as the home is currently occupied. To the best of the DHHL's information and belief, Robin is occupying the homestead.

Robin believes that the leasehold interest should have been transferred to Miriam in 1984. A copy of the request for a hearing is attached hereto as Exhibit A.

Department's Investigation and Findings:

A copy of the Department's report of investigation is attached hereto as Exhibit B.

Relevant Administrative Rules

Section 10-2-16(c)(3), Hawaii Administrative Rules (HAR), states, in pertinent part:

Subject to the provisions of section 10-2-17, the chairman may...(3) Accept surrenders of homestead leases; and

Section 10-2-17, HAR, states:

The chairman shall report to the commission for ratification of any actions taken as permitted under section 10-2-16(c).

Section 10-5-31, HAR, states, in pertinent part:

(a) Any person...may request a contested case hearing and shall have the right and full opportunity to assert a claim provided that the claim is based on a law or rule over which the commission has jurisdiction...(d) It is the policy of the commission not to initiate proceedings where the matters complained of involve a private controversy redressable in the courts and where the public interest is not involved, or where it is clear on the face of the complaint that there has been no violation of the law or any rule of the commission. (ellipses added)

Section 10-5-32(a), HAR, states:

(a) The commission shall hold a contested case hearing whenever it finds that: (1) Such a hearing is required by Chapter 91, HRS; (2) There is a reason to believe that a law or rule of the commission has been violated; (3) Such a hearing would be in the best interest of one or more of the beneficiaries of the act; and (4) A proceeding by the commission would be in the interest of the department. (emphasis added)

This item was originally submitted the Hawaiian Homes Commission at its' November 2013 meeting but was deferred for further documentation. At issue was whether Damien and Elizabeth were legally married at the time of Damien's death in August of 1993. The Department obtained a copy of Damien and Elizabeth's marriage certificate reflecting a date of marriage as May 9, 1988.

Department's Recommendation:

The Department once again respectfully recommends that this request be denied for a hearing because:

1. The allegations involve a private controversy redressable in the courts;
2. There has been no violation of a law or rule of the commission; and
3. It has been verified that Elizabeth Kuamoo was indeed wedded to Damien Kuamoo at the time of his death. As such, she was legally qualified to succeed to his lease as his spouse.

ITEM D-14 Request to Schedule Contested Case Hearing – Denise Rosehill-Mahi, Lease No. 1891, Waiakea, Hawai'i

RECOMMENDED MOTION/ACTION

Acting HSD Administrator Dean Oshiro recommended the following:

Motion to deny petitioner Robin Victorino's (Robin) request for a hearing to contest the successorship to State of Hawaii, Department of Hawaiian Home Lands Residential Lot Lease No. 1891 (Lease).

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Canto.

DISCUSSION

The Department once again respectfully recommends that this request be denied for a hearing because:

1. The allegations involve a private controversy redressable in the courts;
2. There has been no violation of a law or rule of the Commission; and
3. It has been verified that Elizabeth Kuamoo was indeed wedded to Damien Kuamoo at the time of his death. As such, she was legally qualified to succeed to his lease as his spouse.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Davis, to convene in executive session pursuant to HRS 92-5 (a) (4). Motion carried unanimously.

EXECUTIVE SESSION IN 1:25 p.m.

EXECUTIVE SESSION OUT 1:45 p.m.

After consulting with counsel, the Chairman called for a vote to deny petitioner Robin Victorino's request for a hearing to contest the Successorship to Residential Lot Lease No. 1891.


ACTION

Motion carried unanimously to deny petitioner Robin Victorino a request for a hearing on Residential Lot Lease No. 1891.

E ITEMS

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Stewart Matsunaga, Acting Land Development Administrator 
FROM: Jo-Anne Aiwohi, Housing Specialist
SUBJECT: Approval of Lease Award – Earl Kaina, Keaukaha Residence, Lease Number 12873, Lot Number 131 A-2, Keaukaha, Hawaii

RECOMMENDED MOTION/ACTION

Approve the award of Department of Hawaiian Home Lands Residence Lot Lease to the applicant listed below for ninety-nine (99) years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

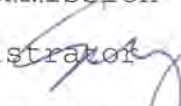
DISCUSSION

Hawaii Community College Home 2019, Keaukaha, Hilo, Hawaii

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
Earl Kaina	11/06/1985	131 A-2	(3) 2-1-021-112	12873

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Stewart T. Matsunaga, Acting LDD Administrator 
FROM: Carol Ann Takeuchi, Homestead Housing Specialist
SUBJECT: Approval of Lease Award - Maude P.W.A. Tanaka,
Ka'uluokaha'i Residence, Lease Number 12857, Lot
Number 117, Ewa Beach, Hawaii

RECOMMENDED MOTION/ACTION

Approve the awards of Department of Hawaiian Home Lands Residence Lot Lease to the applicant listed below for ninety-nine (99) years, subject to the purchase of the existing improvements on the lot by way of a loan or cash.

DISCUSSION

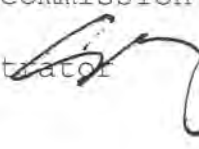
Ka'uluokaha'i Residential Subdivision, Ewa Beach, Hawaii

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO.</u>	<u>TAX MAP KEY- PRELIMINARY</u>	<u>LEASE NO.</u>
Maude P.W.A. Tanaka	02/01/1984	117	(1)9-1-017-161	12857

With the execution of the foregoing lease, 1 single family home award has been completed.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019


To: Chairman and Members, Hawaiian Homes Commission
From: Stewart Matsunaga, Acting LDD Administrator 
Subject: West Hawaii Project Updates

RECOMMENDED MOTION/ACTION:

For information only

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20, 2019

To: Chairman and Members, Hawaiian Homes Commission
From: Stewart Matsunaga, Acting LDD Administrator 
Subject: Executive Session

RECOMMENDED MOTION/ACTION:

Item No. 2 - Honokaia Pasture Waterline


Item No. 3 - Lalamilo Lot 1 Individual Wastewater System

F ITEMS

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20-21, 2019

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

Subject: Annual Renewal of Right of Entry Permits, East, Central and South Hawaii Island

RECOMMENDED MOTION/ACTION: That the Hawaiian Homes Commission (HHC) approve LMD's original Agenda Item No. F-1 (See Exhibit "A") which was deferred by the HHC at its regularly scheduled monthly meeting held on September 24-25, 2018.

DISCUSSION:

Since being deferred by the HHC at its regularly scheduled monthly meeting as noted above, LMD is respectively presenting this Agenda Item No. F-1 again for consideration.

Of note, ROE Permit No. 597, Hawaii Forest and Trails, Ltd. was cancelled. LMD is working with this Permittee on vacating the premises by end of March 2019, if not earlier.

AUTHORITY / LEGAL REFERENCE:

§171-55, Hawaii Revised Statutes, as amended, a "permit on a month-to-month basis may continue for a period not to exceed one year from the date of issuance; provided that the commission may allow the permit to continue on a month-to-month basis for additional one-year periods."


RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 24-25, 2018

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

Subject: Annual Renewal of Right of Entry Permits, East, Central and South Hawaii Island

RECOMMENDED MOTION/ACTION: That the Hawaiian Homes Commission (HHC) approves the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

- A) Renew all East, Central and South Hawaii Island Right of Entry Permits as listed on Exhibit "A" and identified by approximate location on the Hawaii Island Map Exhibit "A-1" that are in compliance and issued temporary approvals, as of October 1, 2018.
- B) The annual renewal period, shall be on a month-to-month basis, for up to twelve (12) months, but no longer than September 30, 2019 or at the next scheduled HHC meeting on East Hawaii island whichever occurs sooner.
- C) Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

DISCUSSION

This submittal represents annual renewals for all East, Central and South Hawaii Island ROE permit(s) only, which shall effectively expire on September 30, 2018. As a means of maintaining a process by which PERMITEE'S can be assured that their permits have been renewed, notification letters will be transmitted accordingly.

For information purposes Exhibit "A" references all Right of Entry Permits in East, Central and South Hawaii Island by order of commencement date, land use, then by acreage. While Right of Entry Permits generate additional revenue to the Trust, its primary purpose provides DHHL the ability to efficiently manage its lands through the issuance of these short-term dispositions which are typically not needed for longer-term dispositions (such as homesteading or general leases) over a 20-year time period or as dictated by DHHL's respective island plan. DHHL's total Hawaii Island land inventory covers approximately 127,000 acres¹ or 63% of DHHL's statewide

¹ DHHL Hawaii Island Plan – Final Report, PBR Hawaii, May 2002

EXHIBIT "A"
Item No. F-1

ITEM NO. F-1

inventory. The short-term disposition(s) within the Eastern, Central, and Southern portions cover approximately 8,586.0 acres or 7.0% of its inventory.

Right of Entry Permits help in having presence on DHHL lands thereby reducing costs for land management activity functions (i.e. signage, landscaping, fencing, removing trash and derelict vehicles, and prevents trespassing on unencumbered lands) that DHHL would bear if the lands were to sit vacant. Permittee's are required to assume responsibility for the land, post insurance, indemnify the department, and manage and maintain the land.

Until improvements to the Revocable Permit Program can be implemented, this process will be used for Annual Renewals of these month-to-month ROE Permit dispositions.

The table below reflects the revenue generated from ROE permits on Hawaii Island, which is almost 2.0% (\$54,857) of the ROE total revenues (\$2,803,945) that DHHL received statewide. The Eastern, Central, and Southern portions of Hawaii Island holds 11 of the 142 ROE permits Statewide. These permittees fall under a variety of land use purposes with the most being pastoral. Land Management Division (LMD) proposes an average increased rent of 4% to 1 of these 13 permittees whose land use is designated as recreation.

FY 2018		Total
Agriculture	\$264	1
Caretaker/Landscape	\$1,508	1
Commercial	\$0	-
Community	\$240	1
Industrial	\$0	-
Office	\$0	-
Pastoral	\$22,560	7
Preservation	\$0	-
Recreation	\$30,285	1
Research	\$0	-
Stabling	\$0	-
	\$54,857	11

FY 2019		Total
Agriculture	\$264	1
Caretaker/Landscape	\$1,508	1
Commercial	\$0	-
Community	\$240	1
Industrial	\$0	-
Office	\$0	-
Pastoral	\$22,560	9
Preservation	\$0	-
Recreation	\$31,496	1
Research	\$0	-
Stabling	\$0	-
	\$56,068	11

According to research done by Colliers International, (See Exhibit "B") "the Oahu Industrial vacancy rate rose to 1.97% its highest level in two years at year end 2017 ... average asking industrial base rents rose to their highest level in a decade at \$1.30 per square foot per month..." In light of this research, LMD is recommending a 4% increase in rental rates.

For FY 2019, renewals for the 11 Right of Entry Permits located in East, Central, and South Hawaii Island will total an annual rent revenue of \$56,068 as referenced in the table above. Rental fees for agricultural and pastoral use permits vary and are typically established at less than fair market rates (discounted) but not less than \$240/annum due to various site issues such as, insufficient/no infrastructure, no legal access, substandard lot size or irregular shape, etc.

AUTHORITY / LEGAL REFERENCE:

§171-55, Hawaii Revised Statutes, as amended, a “permit on a month-to-month basis may continue for a period not to exceed one year from the date of issuance; provided that the commission may allow the permit to continue on a month-to-month basis for additional one year periods.”

RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

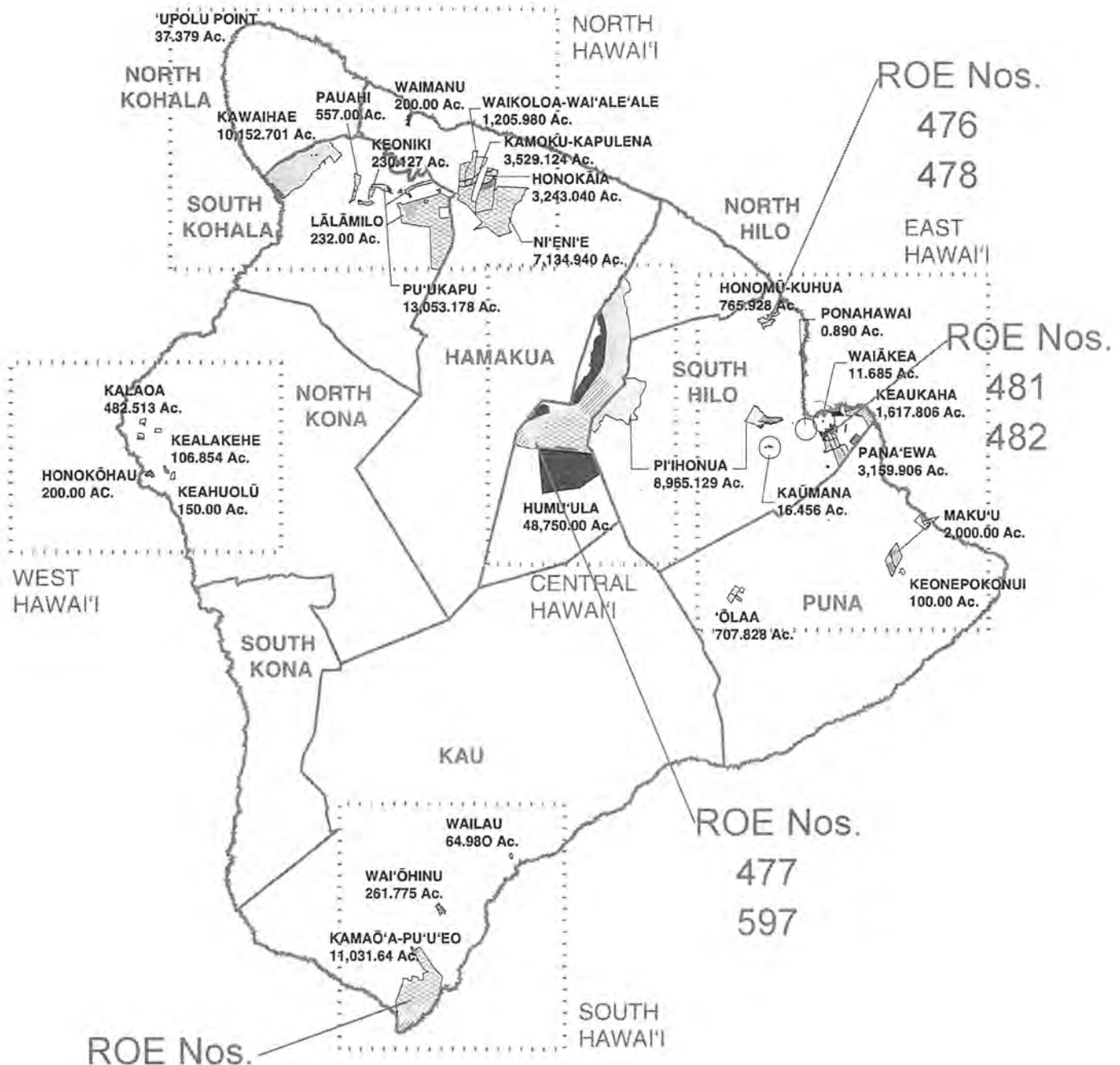


Figure 1
Locational Map
HAWAII LAND INVENTORY
DEPARTMENT OF HAWAIIAN HOME LANDS ISLAND OF HAWAII

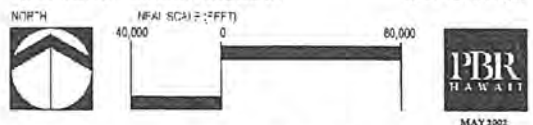


EXHIBIT "A-1"
ITEM NO. F-1

RIGHT OF ENTRY PERMITS NORTH & WEST HAWAII ISLAND

TYPE	ISLAND	ACRE	NO.	USE	PERMITTEE	LOCATION	TMK	Date Started	Current Fees, All Right of Entry Permits
ROE	HAWAII	280.000	465	Pastoral	Gilbert Medeiros, Jr.	Kamaoa-Puueo	(3) 9-3-001:002(P)	2/9/1998	\$504
ROE	HAWAII	450.000	469	Pastoral	Daryl K. Kalua'u	Kau	(3) 9-3-001:002(P)	9/7/2000	\$840
ROE	HAWAII	750.000	471	Pastoral	Daleico Ranch	Kau	(3) 9-3-001:002(P)	4/19/2001	\$1,536
ROE	HAWAII	1500.000	473	Pastoral	Dean Kaniho	Kamaoa-Puueo	(3) 9-3-001:002(P)	7/15/2004	\$2,100
ROE	HAWAII	301.000	476	Pastoral	Charles & Jelena Clay	Honomu	(3) 2-8-011:009	7/7/2005	\$5,796
ROE	HAWAII	2.000	477	Agricultural	Guy Kaniho	Humu'ula	(3) 3-8-001:007(P)	2/26/2007	\$264
ROE	HAWAII	300.000	478	Pastoral	April Awana-Mattos	Honomu	(3) 2-8-011:011 (p)	2/1/2010	\$5,220
ROE	HAWAII	2.210	481	Landscape	Ginger Patch Center	Waiakea	(3) 2-2-060:001	8/2/2010	\$1,508
ROE	HAWAII	1.000	482	Community	Keaukaha Panaewa Farmers Association	Panaewa	(3) 2-1-025:091 (p)	2/1/2011	\$240
ROE	HAWAII	0.000	597	Recreation	Hawaii Forest & Trail	Humuula	(3) 3-8-001:007(P)	3/1/2003	\$3.00/visitor
ROE	HAWAII	5000.000	610	Pastoral	Native Hawaiian General Services	Kamaoa-Puueo	(3) 9-3-001:002(P)	6/1/2004	\$6,300

Denotes Beneficiary

Exhibit "A"

Item No. F-1

INDUSTRIAL MARKET

Year-End 2017

Accelerating success

Market Summary

Mike Hamasu Director of Research | Hawaii

- Oahu's industrial market loss of 38,942 square feet of occupancy during the fourth quarter, as vacancy rates rose to 1.97%, its highest level in two years.
- This is the third consecutive quarterly increase to vacancy rates as more than 157,000 square feet of negative net absorption was recorded for the year.
- Positive gains in tourism expenditures for the first nine months of 2017 helped to boost wholesale revenues which rebounded strongly with an 18.4% jump over last September's sales revenues.
- Mirroring wholesale revenues, contracting sales also posted a healthy 3.14% gain over last year's September year-to-date levels.
- Direct weighted average asking industrial base rents rose to their highest level in a decade at \$1.30 per square foot per month, which reflects a gain of 7.4% over last year's average rent levels.
- While there are the beginnings of some speculative development that will start in 2018, it is unclear if these development efforts will be enough to create meaningful change to a market with a sub-2% vacancy rate.

Summary Statistics

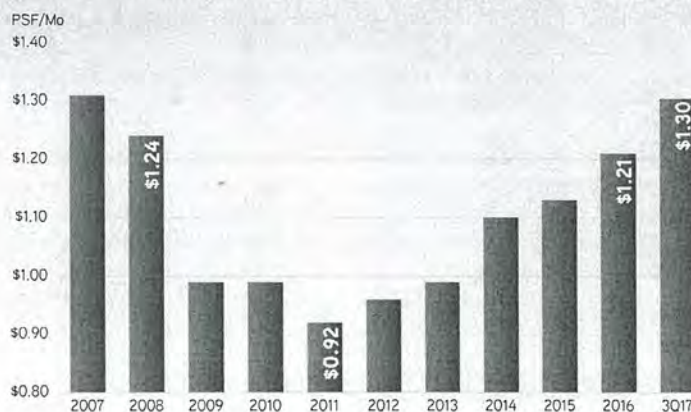
4Q 2017 Industrial Market

4Q2017 Net Absorption	-157,222 SF
Vacancy Rate	1.97%
Direct Weighted Average Asking Rent	\$1.30 PSF/Mo.
Average Operating Expense	\$0.37 PSF/Mo.

Market Indicators

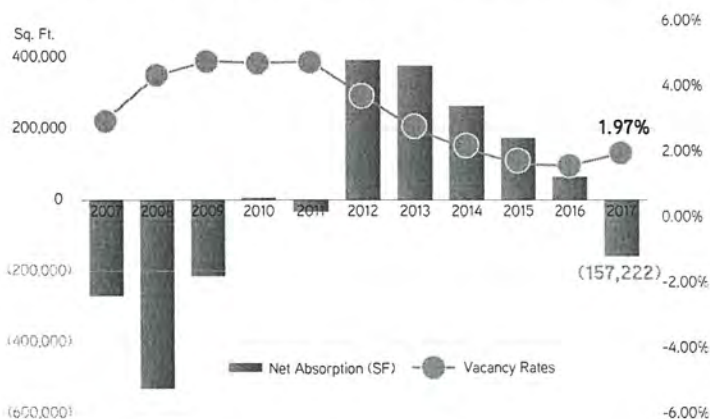
Relative to prior quarter	Year End 2017
VACANCY	↑
NET ABSORPTION	↓
CONSTRUCTION	↑
RENTAL RATE	↑

Oahu Industrial Direct Wtd. Avg. Asking NNN Rents



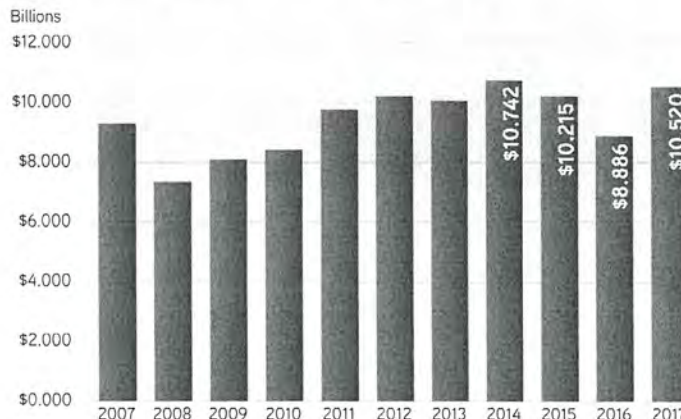
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Industrial Net Absorption vs. Vacancy Rate



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Wholesale Sales (September YTD)



Source: State Dept. of Taxation

EXHIBIT "B"
Item No. F-1

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20-21, 2019

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division *PA*

Subject: Annual Renewal of Right of Entry Permit(s), North & West Hawai'i Island

RECOMMENDED MOTION/ACTION: That the Hawaiian Homes Commission (HHC) approves the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries:

- A) Renew all North & West Hawaii Island Right of Entry Permit(s) as listed on Exhibit "A" and identified by approximate location on the North & West Hawai'i Island Map Exhibit "A-1" that are in compliance and issued temporary approvals, as of June 1, 2019.
- B) The annual renewal period, shall be on a month-to-month basis, for up to twelve (12) months, but no longer than May 30, 2020 or at the next scheduled HHC meeting in North or West Hawai'i island whichever occurs sooner.
- C) Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

DISCUSSION

This submittal represents annual renewals for all North & West Hawai'i Island ROE permit(s) only, which shall effectively expire on May 30, 2019. As a means of maintaining a process by which PERMITEE'S can be assured that their permits have been renewed, notification letters will be transmitted accordingly.

For information purposes Exhibit "A" references all Right of Entry Permits in North & West Hawai'i Island by order of commencement date, land use, then by acreage. While Right of Entry Permits generate additional revenue to the Trust, its primary purpose provides DHHL the ability to efficiently manage its lands through the issuance of these short-term dispositions which are typically not needed for longer-term dispositions (such as homesteading or general leases) over a 20-year time period or as dictated by DHHL's respective island plans. DHHL's total North & West Hawai'i Island land inventory covers approximately 40,282.0 acres¹ or 20% of DHHL's statewide inventory. The short-term disposition(s) cover approximately 9,508.0 acres or 24% of its inventory.

Right of Entry Permits help in having presence on DHHL lands thereby reducing costs for land management activity functions (i.e. signage, landscaping, fencing, removing trash and derelict vehicles,

¹ DHHL Hawaii Island Plan – Final Report, PBR Hawaii, May 2002

and prevents trespassing on unencumbered lands) that DHHL would bear if the lands were to sit vacant. Permittees are required to assume responsibility for the land, post insurance, indemnify the department, and manage and maintain the land.

Until improvements to the Revocable Permit Program can be implemented, this process will be used for Annual Renewals of these month-to-month ROE Permit dispositions.

The table below reflects the revenue generated from ROE permit(s) on North & West Hawaii Island, which is approximately 3.0% (\$77,611) of the ROE total revenues (\$2,967,511) that DHHL receives statewide. Hawaii Island holds 8 of the 145 ROE permits Statewide which are used for various purposes outside of industrial/commercial use.

FY 2019		Total	FY 2020		Total
Agriculture	\$0	-	Agriculture	\$0	-
Caretaker/Landscape	\$0	-	Caretaker/Landscape	\$0	-
Commercial	\$33,801	3	Commercial	\$33,801	3
Community	\$0	-	Community	\$0	-
Industrial	\$0	-	Industrial	\$0	-
Office	\$0	-	Office	\$0	-
Pastoral	\$44,010	5	Pastoral	\$44,010	5
Preservation	\$0	-	Preservation	\$0	-
Recreation	\$0	-	Recreation	\$3	-
Research	\$0	-	Research	\$0	-
Stabling	\$0	-	Stabling	\$0	-
	\$77,611	8		\$77,611	8

According to research done by Colliers International, (See Exhibit “B”) “the Oahu Industrial vacancy rate will likely remain near 2.0%... during the past year, the Oahu direct weighted average asking base rent declined from \$1.30 per square foot per month (“psf/mo”) to \$1.21 psf/mo. The 6.9% drop in asking base rents have been affectionately labeled “Bottom of the Barrel Syndrome” and reflects the prevalence of below-market, poor quality spaces that drive the average asking rent down.” In light of this research, LMD respectfully recommends maintaining its current rental rates without any increase.

For FY 2019, renewals for the 8 Right of Entry Permits located on North & West Hawaii Island total annual rent revenue of \$77,611 as referenced in the table above. Rental fees for agricultural and pastoral use permits vary and are typically established at less than fair market rates (discounted) but not less than \$240/annum due to various site issues such as, insufficient/no infrastructure, no legal access, substandard lot size or irregular shape, etc.

AUTHORITY / LEGAL REFERENCE:

§171-55, Hawaii Revised Statutes, as amended, a “permit on a month-to-month basis may continue for a period not to exceed one year from the date of issuance; provided that the commission may allow the permit to continue on a month-to-month basis for additional one year periods.”

RECOMMENDATION:

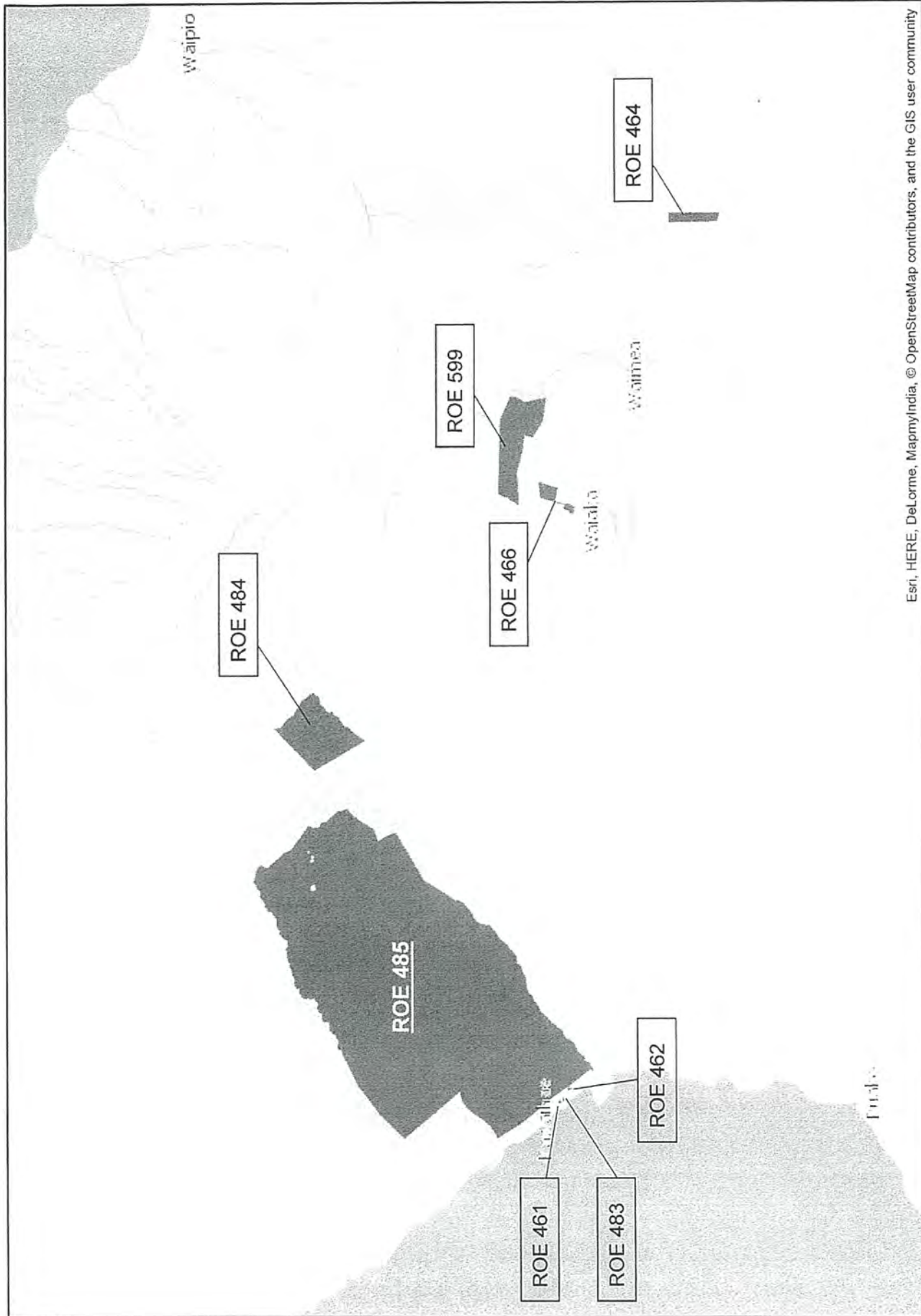
Land Management Division respectfully requests approval of the motion as stated.

RIGHT OF ENTRY PERMITS NORTH & WEST HAWAII ISLAND

TYPE	ISLAND	ACRE	NO.	USE	PERMITTEE/ADDRESS	LOCATION	TMK	Date Started	Current Fees, All Right of
ROE	HAWAII	0.540	461	Commercial	Edward J. and Naomi Laau, P. O. Box 4913, Kawaihae, Hawaii 96743	Kawaihae	(3) 6-1-003:018	7/1/1989	\$13,497
ROE	HAWAII	0.670	462	Commercial	Kawaihae Spirits, Inc., dba Touching the Earth, LLC, P. O. Box 537, Hawi, Hawaii 96719	Kawaihae	(3) 6-1-002:066 & 068 (p)	2/20/1990	\$12,918
ROE	HAWAII	50.000	464	Pastoral	Marian Kapuniai, P. O. Box 6753, Kamuela, Hawaii 96743	Puukupu	(3) 6-3-038:007 (p.)	12/29/2012	\$900
ROE	HAWAII	105.727	466	Pastoral	Malama Solomon, P. O. Box 519, Kamuela, Hawaii 96743	Waimea	(3) 6-5-001:010(P)	1/1/2000	\$1,260
ROE	HAWAII	0.560	483	Commercial	Guy Startzman, 81 Puako Beach Drive, Kamuela, Hawaii 96743	Kawaihae	(3) 6-1-003:003 (p)	2/14/2011	\$6,600
ROE	HAWAII	1420.000	484	Pastoral	Kahua Ranch, Ltd., P. O. Box 837, Kamuela, Hawaii 96743	Kawaihae	(3) 6-1-001:002 (p)	2/1/2011	\$6,000
ROE	HAWAII	7600.000	485	Pastoral	Palekoki Ranch, Inc., P. O. Box 126, Honokaa, Hawaii 96727	Kawaihae	(3) 6-1-001:003 (p)	6/1/2011	\$31,620
ROE	HAWAII	381.000	599	Pastoral	Parker Ranch, Inc., P. O. Box 6736, Kamuela, Hawaii 96743	Waimea	(3) 6-5-001:011 & 019	7/1/1977	\$4,230

Denotes Beneficiary

Exhibit "A"
Item No. F-2



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EXHIBIT "A-1"

Item No. F-2

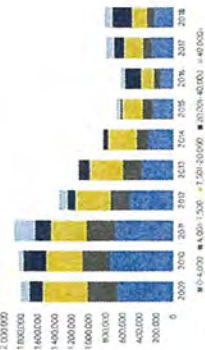


Market Summary

Mike Hamasu Director of Research | Hawaii

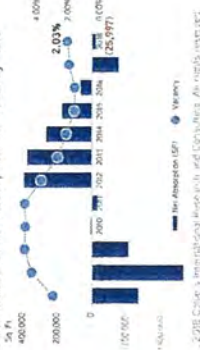
- At the end of 2018, the industrial market posted its second consecutive year of occupancy losses. Despite the disconcerting 225,000-square feet of occupancy lost during this 2-year period, the dynamics of Oahu's industrial market remain virtually unchanged.
- Oahu remained one of the tightest industrial markets in the country, even as vacancy rates rose above 2.0% for the first time in four years.
- During the past year, the number of small listings under 4,000 square feet declined from 124 to 99, a sizeable 20% drop. Although some industrial tenants have found homes, the meager supply of available space posed a challenge for businesses on the go.
- The economists at the state Department of Business & Economic Development and Tourism forecast that the construction sector should remain healthy. Additional large-scale projects planned for 2019 to 6, Hapag and Kona Ridge will help to replenish the construction pipeline.
- During the past year, the Oahu direct weighted average asking rate declined from \$1.30 per square foot per month ("psf/mo") to \$1.21 psf/mo. The 6.9% drop in asking base rents have been affectionately labeled "Bottom of the Barrel Syndrome" and reflects the prevalence of below-market, poor quality spaces that drive the average asking rent down.
- Fortunately, speculative development has begun, but the challenges leasing environment will continue to exist until development can satiate this demand. For 2019, Colliers forecasts that vacancy rates will likely remain near 2.0%.

Total Square Footage of Available Listings by Size Category



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Oahu Industrial Net Absorption vs. Vacancy Rate



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Oahu Industrial Direct Wtd. Avg. Asking NNN Rents



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4th Quarter 2018 Oahu Industrial Market Statistics

INDUSTRIAL MARKET - BY SUBMARKET AREA

MARKET	NO. OF BUILDINGS	INDUSTRIAL SPACE (SQ. FT.)	TENANCY	AVAIL. SPACE (SQ. FT.)	YTD NET ABSORPTION (SQ. FT.)	VACANCY RATE (%)	DIRECT WTD. AVG. ASKING NNN RENT (PSF/MO)
INDUSTRIAL	67	3,365,035	Free Simple	38,375	15,755	2.47%	\$1.29
Bakery	702	643,139	Free Simple	76,065	50,143	2.78%	\$1.05
Food Process	74	163,205	Leasehold	1,115	3,097	0.67%	\$1.40
Manufacturing	107	4,214,301	Leasehold	28,429	75,131	0.81%	\$1.20
Airport	125	4,661,531	Free Simple	29,520	21,121	0.94%	\$1.00
Total Honolulu	1,110	21,487,723		378,119	195,277	1.76%	\$1.10
CENTRAL OAHU	20	809,440	Leasehold	0	0	0.00%	\$1.25
Boulevard	84	2,715,261	Leasehold	15,172	21,758	0.56%	\$1.15
Pearl City/Map	45	1,051,500	Free Simple	4,312	7,731	2.66%	\$1.33
Pearl City Industrial Park***	32	762,262	Free Simple	0	2,200	2.20%	\$1.36
Century Business Park	37	1,718,759	Free Simple	16,770	10,635	0.65%	\$1.19
Makiki Industrial Park	10	6,400	Free Simple	0	2,023	0.31%	\$1.40
Makiki Industrial Park	135	2,723,540	Free Simple	21,231	15,800	0.36%	\$1.22
Total Central Oahu	301	10,993,114		102,095	52,439	0.55%	\$1.23
WEST OAHU	121	4,560,256	Free Simple	12,548	17,147	2.49%	\$1.26
Candle Industrial Park	53	1,561,058	Free Simple	14,359	13,781	16.40%	\$1.24
Kapolei Industrial Park	12	1,100,000	Free Simple	0	0	0.00%	\$1.24
Kapolei Industrial Park	15	99,480	Free Simple	0	0	0.00%	\$1.24
Kapolei Industrial Park	15	47,137	Free Simple	0	0	0.00%	\$1.24
Total West Oahu	194	6,696,731		26,507	13,781	4.18%	\$1.26
WINDWARD OAHU	61	3,171,381	Free Simple	39,902	26,117	6.91%	\$1.87
Kahala Industrial Park	4	1,100,000	Free Simple	0	0	0.00%	\$1.87
Kahala Industrial Park	33	1,114,457	Free Simple	54,111	13,731	4.83%	\$1.87
Total Windward	65	4,285,838		39,902	26,117	6.91%	\$1.87
OAHU TOTALS	2,578	46,452,545		42,716	107,623	2.03%	\$1.21

***The information is based on data as of 12/31/2018. The information is based on data as of 12/31/2018. The information is based on data as of 12/31/2018.

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TERMS AND DEFINITIONS

- INDUSTRIAL** - Industrial buildings are those buildings that are used for the storage, distribution, or processing of goods, materials, or products.
- INDUSTRIAL SPACE** - Industrial space is that space within a building that is used for the storage, distribution, or processing of goods, materials, or products.
- VACANCY RATE** - The ratio of vacant space to total space, expressed as a percentage.
- NET ABSORPTION** - The net change in occupied space over a given period of time, expressed as a percentage.
- INDUSTRIAL SERVICES** - Industrial services are those services that are provided to industrial tenants, such as warehousing, distribution, or processing.
- EXECUTIVE MANAGEMENT** - Executive management is the highest level of management within a company, responsible for the overall direction and strategy of the organization.
- CONSULTING & RESEARCH** - Consulting and research are services provided by Colliers International to its clients, including market analysis, valuation, and advisory services.

EXECUTIVE MANAGEMENT

Sarah Lee, Managing Director, Hawaii

Scott L. Mitchell, Director, Hawaii

Scott L. Mitchell, Director, Hawaii

Scott L. Mitchell, Director, Hawaii

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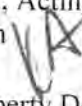
EXHIBIT "B"

Item No. F-2

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20-21, 2019

To: Chairman and Members, Hawaiian Homes Commission

Thru: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

From: Joseph Kualii Camara, Property Development Agent
Land Management Division

Subject: Approval to Extend and Amend Right of Entry Permit 683 to Kohala Watershed Partnership for Fence Project, Phase I and II, Kawaihae, Hawai'i, TMK No. (3)-6-1-001:003, :016

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) authorizes approval to Extend and Amend Right-of-Entry Permit No. 683 (ROE 683 – See Exhibit "A") issued to Kohala Watershed Partnership for Fence Project, Phase I and II, subject to the following conditions:

1. Extend the term for an additional one (1)-year period, effectively commencing as of March 12, 2019 and expiring as of March 11, 2020;
2. Allow for other permitted activities to include, planting of native Hawaiian forest species, assisting in the management and removal of feral goats, installation of sediment check dams and other erosion control efforts;
3. All other terms and conditions of ROE 683 shall continue and remain in full force and effect; and
4. The Hawaiian Homes Commission is authorized to set forth any additional terms and conditions which shall ensure and promote the purposes of the demised premises.

DISCUSSION:

The Kohala Watershed Partnership (KWP) was formed by Memorandum of Understanding in 2003 with the nine land-owning parties in the Kohala Mountain Watershed area encompassing a total area of more than 65,000 acres. DHHL was one of the nine land owners and DHHL currently participates as one of three members on the partnerships executive committee. DHHL's Kawaihae tract is within the Kohala Mountain Watershed area and consists about 10,000 acres. The mission of KWP is to address threats to Kohala Mountain watershed health while preserving its biological, cultural, and economic resources.

The KWP received a grant from the Dorrance Family Foundation to erect an ungulate-proof fence-line around the Kailapa Homestead area and DHHL lands in the Honokoa watershed to address the dramatic increase in the feral goat population on DHHL land in Kawaihae. Protection and rehabilitation of terrestrial resources within the Kailapa Community from ungulate damage will promote revegetation by native plants and decrease the amount of sediment discharged into the ocean, alleviating stress on fragile coral reef

ecosystems. The purpose of the fence contains the restoration unit to prevent the entry of ungulates. KWP is working to complete fence-line work surrounding the Kailapa Homestead and along the boundaries of the subject TMK (3) 6-1-001:003,;016 as depicted in attached map attached hereto as Exhibit "B." This fence project would prevent feral goats from coming on to homestead properties and from further degrading the Honokoa watershed.

The KWP presented an informational workshop at the February 2017 HHC meeting regarding this project. (Exhibit "C"). The combined Phase I and II of the project would consist of fence line approximately twelve (12) miles in length around the encompassing an area of over 8,000 acres.

According to its informational workshop info as presented the Phase II work includes the following objectives: 1) Constructing approximately 9 miles of ungulate proof fence to create a 7,800-acre Honokoa ecological restoration unit encompassing the Honokoa Watershed. The ecological restoration unit will protect terrestrial resources within the Honokoa Watershed from ungulate damage, will allow revegetation by native plants, and the resulting decrease in sediment discharge into the ocean will alleviate stress on fragile coral reef ecosystems. A fence will contain the restoration unity to prevent the entry of ungulates; 2) Removing ungulates from the unit; 3) Adopting lessons learned from Pelekane Bay and USGS research; 4) Installing sediment check dams in critical erosion areas to reduce coral reef sediment loading; 5) Working with lessees to develop Better Management Practices regarding cattle grazing, i.e., more paddock rotation, additional or movement of trough location...etc. (if applicable); 6) Monitoring effectiveness; 7) Fence checks and repairs to be completed by KWP; and 8) Planting of native plant species in areas cleared of ungulates

The Kailapa Community Association (KCA) has expressed support of this project to DHHL. (Exhibit "D")

WORK COMPLETED UNDER ROE 683

March 2018 to present:

Over 7 miles of woven wire mesh fence has been completed thus far under ROE 683. Estimated value of infrastructure to the trust to date including materials and labor is over \$550,000 at no cost to DHHL. The total approximate value of 12 miles of fence as proposed under this project, is over \$950,000. Other proposed improvements including over 2000 native plants, 20 sediment check dams, consultations and development of BMPs for DHHL and the Kailapa community represent over \$1,000,000 in value at no cost to DHHL through partnering with KWP to protect and enhance the Honokoa watershed.

The fence infrastructure installed by KWP is compatible with and beneficial to all possible future land uses for the subject property including residential development, pastoral use, general agriculture and native reforestation.

‘Ehu‘ehu i ka Pono – Kailapa Community Resiliency Plan (2019)

The recently completed Kailapa Community Resiliency Plan expresses KCA's vision through 6 fundamental cultural values to promote a thriving and resilient community and environment. KCA's value of malama aina is in alignment with KWP's actions under ROE 683, and KWP would be a valuable resource and partner to support and help implement KCA's vision of resiliency for the watershed and reef ecosystems of Honokoa and Kawaihae.

RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

RIGHT-OF-ENTRY NO. 683

This Right-of-Entry is dated this 17th day of APRIL, 2018, by and between the State of Hawaii, DEPARTMENT OF HAWAIIAN HOME LANDS, whose place of business is 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, and whose mailing address is P.O. Box 1879, Honolulu, Hawaii, 96805 hereinafter as "PERMITTOR," and KOHALA WATERSHED PARTNERSHIP whose address is P.O. Box 437462, Kamuela, Hawaii, 96743 hereinafter the "PERMITTEE."

PERMITTOR hereby grants to PERMITTEE a Right-of-Entry upon certain parcels of Department of Hawaiian Home Lands (DHHL) in Kawaihae, island of Hawaii, identified as portions of Tax Map Key (3)6-1-001:003 (hereinafter, "the Property"), in order to replace approximately 9 miles of fencing along the boundary of DHHL Parcel (3) 6-1-001:003 (hereinafter, "the Project"). The PERMITTEE under this Right-of-Entry may also store fencing materials for the Project on site. The Project is subject to the following general and special conditions:

1. TERM. The term for the Right-of-Entry shall be from March 12, 2018 to March 11, 2019. PERMITTEE shall have the right to extend this term for another sixty (60 days) if the PERMITTEE is unable to complete the Project by March 11, 2019. A request for an extension shall be submitted in writing to PERMITTOR no later than two weeks prior to March 11, 2019. This Right-of-Entry may be cancelled by PERMITTOR upon 30 days advance notice in writing to PERMITTEE at its sole discretion and for any reason whatsoever.
2. PERMITTED USE. This Right-of-Entry is solely for the purpose of allowing the PERMITTOR access to and through the Property as specified in the special conditions in order to replace approximately 9 miles of fencing along the boundary of DHHL Parcel (3)6-1-001:003. The PERMITTEE under this Right-of-Entry may also store fencing materials for this Project on site. No other uses shall be permitted without the express written approval of PERMITTOR. PERMITTEE'S use shall comply with all applicable governmental laws, regulations, rules, and permitting requirements, pertaining to such use.



3. FEE. The fee for the term of this Right-of-Entry shall be gratis. The Project will provide a valuable service to DHHL and have a positive impact on the Natural Resources of the DHHL Project area.
4. CONSTRUCTION AND MAINTENANCE. PERMITTEE shall not undertake the construction of any buildings or structures of any kind, other than the Project as described above, on the above-described premises. During the period of the Right-of-Entry, PERMITTEE shall keep the premises and all improvements thereon in a strictly clean and sanitary and orderly condition, and shall not make, permit nor suffer any waste, strip, spoil, nuisance, nor any unlawful, improper or offensive use of the premises. PERMITTEE shall comply with all rules, regulations, ordinances and/or laws of the State of Hawaii and any other municipal and/or Federal Government authority applicable to the premises and improvements.
5. RIGHT TO ENTER. PERMITTEE shall allow PERMITTOR, State of Hawaii, Department of Hawaiian Home Lands, the agents and representatives thereof, at all reasonable times, free access to the premises for the purpose of examining the same and/or determining whether the covenants herein are being fully observed and performed, or for the performance of any public or official duties. In the exercise of such rights, PERMITTOR and government officials shall not interfere unreasonably with PERMITTEE and PERMITTEE'S use of the Right-of-Entry premises.
6. BREACH. It is expressly agreed that this Right-of-Entry is upon the continuing condition that if PERMITTEE shall, 30 days after demand, fail to observe or substantially perform any of the covenants and the agreement herein contained and on its part to be observed or performed, and such failure of substantial compliance shall continue for 30 days after mailing of notice of such failure by Certified Mail to the last known address of PERMITTEE, or if PERMITTEE shall file any debt or proceedings, or take or have taken against it for good cause any proceeding of any kind or character whatsoever under any provisions of the Federal Bankruptcy Act seeking any readjustment, arrangement, postponement, composition or reduction of PERMITTOR'S debts, liabilities or obligations, or shall abandon said premises, then and in any such event PERMITTOR may at its option cancel this Right-of-Entry and thereupon take immediate possession of



said premises wherefrom without prejudice to any remedy or right of action which PERMITTOR may have.

7. NO TRANSFER, MORTGAGE, AND SUBLEASE. This Right-of-Entry shall be non-transferable, and PERMITTEE may not in any manner transfer to, mortgage, pledge, sublease, sublet, or otherwise hold or agree so to do, for the benefit of any other person or persons or organization of any kind, its interest in this Right-of-Entry, the premises and the improvements now or hereafter erected thereon.
8. EXPIRATION. Upon the completion of the Project, or upon the expiration of the Right-of-Entry, or upon termination of this Right-of-Entry as herein provided, PERMITTEE shall peaceably and quietly leave and surrender and deliver up to PERMITTOR possession of the premises. This includes the clean-up and removal of all property belonging to PERMITTEE.
9. TERMINATION/ABANDONMENT. Upon termination or abandonment of the specified purposes for which this Right-of-Entry is granted, all interests granted by this Right-of-entry and the improvement constructed by PERMITTEE on the premises shall revert to, and become the property of PERMITTOR. In the event operations cease for reasons beyond PERMITTEE'S control, such as fire or other casualty that renders the facilities unusable, PERMITTEE shall have a reasonable period of time in which to resume operations.
10. PREMISES. The term "premises", when it appears herein, includes and shall be deemed to include the lands described above and all improvements whenever and wherever erected or placed thereon.
11. INSURANCE. PERMITTEE shall, at its own expense effect, maintain and keep in force throughout the life of this Right of Entry, a comprehensive public liability insurance policy, with limits of not less \$1,000,000.00 for each occurrence, including property damage, personal injury and advertising injury; \$100,000 for fire damages to the premises for any one fire; \$100,000 for medical expenses for any one person, and an aggregate limit of \$2,000,000.00 per policy year. The specifications of these limits as contained herein shall not be construed in any way to be a limitation on the amount of liability of PERMITTEE for fees, interest, or other charges under this Right of Way.
11. PERMITTEE at its own expense shall maintain and keep in



force Workers Compensation Insurance to include Employer's Liability. Such coverage shall apply to all of its employees.

PERMITTEE at its own expense shall maintain and keep in force Automobile Insurance, covering all owned, non-owned and hired automobiles in the following amounts: Bodily Injury: \$1,000,000.00 per person and \$1,000,000.00 per occurrence; Property Damage: \$1,000,000.00 per accident; or combined single limit \$1,000,000.00.

PERMITTEE shall agree to provide certificates of insurance necessary to evidence compliance with the insurance provisions required under this Right of Entry. PERMITTEE shall keep such insurance in effect and the certificate(s) on deposit with the PERMITTOR during the entire term of this Right-of-Entry.

In addition:

a. Failure of PERMITTEE to provide and keep in force such insurance shall be regarded as material default under this Right-of-Entry. PERMITTOR shall be entitled to exercise all remedies provided in this Right-of-Entry or default of PERMITTEE.

b. The procuring of such required insurance policies shall not be construed to limit the PERMITTEE's indemnification under his Right-of-Entry.

c. PERMITTOR, DEPARTMENT OF HAWAIIAN HOME LANDS, is a self-insured State agency. PERMITTEE'S insurance shall be primary. Any insurance maintained by the PERMITTOR and/or the State of Hawaii shall apply in excess of, and shall not contribute with, insurance provided by PERMITTEE.

Such insurance policy shall (a) be issued by an insurance company or surety company authorized to do business in the State of Hawaii or approved in writing by the Chairman, Hawaiian Homes Commission; (b) name the State of Hawaii DEPARTMENT OF HAWAIIAN HOMELANDS, as an insured; (c) provide that the DEPARTMENT OF HAWAIIAN HOMELANDS shall be notified at least thirty (30) days prior to any termination, cancellation or material change in the insurance coverage; and (d) cover all injuries losses, or damages arising from, growing out of or caused by any acts or omissions of a PERMITTEE, its officers, agents,



employees, invitees or licensees in connection with PERMITEE'S use or occupancy of the Premises.

PERMITTEE shall insure during the term of this RIGHT-of-ENTRY the entire Premises, including all buildings new, existing and hereafter built or located on the Premises, improvement and grounds, and all roadways on or adjacent to the Premises in the control or use of the PERMITEE. The insurance shall cover loss or damage by fire and other hazards, casualties, and contingencies, including vandalism and malicious mischief. The insurance shall be for the full insurable value of such improvements.

PERMITTEE shall furnish to the PERMITTOR upon the execution of the Permit, certificates showing such insurance policy or policies to be in favor of PERMITTOR and to be in force, and shall furnish like certificates upon each renewal thereof. In the event of loss, damage, ore destruction,

PERMITTOR shall retain from the proceeds of the policies such amounts deemed necessary to cover the loss, damage or destruction of or to the improvements and the balance of such proceeds, if any, shall be delivered to the PERMITTE. The procuring of this policy shall not release or relieve PERMITEE of its responsibility under this Permit as set forth herein or limit the amount of its liability under his Right-of-Entry.

PERMITTEE shall provide proof of liability insurance for such activities prior to the effective date of this Right-of-Entry Permit shall be null and void.

12. INDEMNIFICATION. PERMITEE shall, indemnify and hold harmless the PERMITTOR from any and all claims and demands against PERMITTOR for any loss or damage or injury or death to persons or property that shall or may arise by reason of the use of the premises including roadways adjacent thereto occasioned by any act or omission of the PERMITTOR, its agents, servants, or employees acting within the scope of their employment, and from and against all damages, costs, counsel fees, expenses or liabilities incurred or resulting from any such claim or demand or any action or proceeding brought thereon.



SPECIAL CONDITIONS:

- A. PERMITTEE shall be permitted to access the Project via existing roads within the DHHL Project area as needed. Access to the Project area shall be via Kohala Mountain Road, Akoni Pule Highway, and through existing roads in the DHHL Kailapa Homestead Community. The Permittee can also access the Project area through adjacent properties with consent from the appropriate landowner(s). Access within the Project area will be through existing roads on parcel (3) 6-1-001:003. PERMITTEE shall coordinate with PERMITTOR to gain entrance at locked access points along PERMITTOR's roads as necessary.
- B. PERMITTEE shall inform PERMITTOR of construction progress and road access needs on at least a bi-monthly basis.
- C. All vehicles and equipment entering and leaving the Premises shall be inspected and thoroughly cleaned of all dirt, mud, debris, and vegetative matter by PERMITTEE to avoid introduction and distribution of noxious weeds.
- D. PERMITTEE shall follow the alignment of the existing fence line and place the replacement fence as close as possible to the existing fence line. The PERMITTEE shall be allowed to re-locate the existing fence line as needed due to topographic features such as ravines and rock outcrops, but said relocation distance shall not exceed ten (10) feet from the existing fence line at any location. Any portion of any road which falls within a fence line relocation area will be restored adjacent to the new fence line location to maintain access as currently provided.
- E. The Project shall be capable of limiting movement across the fence line by any existing feral ungulates currently found on the Property.
- F. All gates within the Project shall be to State standards and capable of preventing vehicular and ungulate access across the fenced boundary. Gate design and locations will be pre-approved by the PERMITTOR prior to installation.
- G. PERMITTEE shall ensure all roads needed to access the Project area and areas used for vehicle parking are mowed or otherwise cleared of dry grass prior to fence construction to limit the threat of fires from catalytic converters. All vehicle accessing the Project area shall be equipped with a fire



extinguisher, and all staff shall make every effort to prevent wildfires on Hawaiian Home Lands.

- H. PERMITTEE and staff of not more than twelve (12) participants (fence contractor(s) included) shall be permitted to go on Hawaiian home lands as identified above.
- I. PERMITTEE shall be permitted to store fence material for the Project on site. Security of fence material and any permittee property in the Project area will be the sole responsibility of the Permittee.
- J. PERMITTEE shall remove all equipment and litter brought onto the premises in conjunction with the Project within five (5) days from the completion of the Project, or the expiration of this Right-of-Entry, or if PERMITTOR decides to cancel this Right-of-Entry, five (5) days from the cancellation date.
- K. PERMITTEE shall be responsible for the security of the premises and all of PERMITTEE'S personal property stored thereon.
- L. PERMITTOR shall have the right to cancel this Right-of-Entry at its discretion. PERMITTEE shall immediately stop all activities upon receiving the thirty (30) day written notification from PERMITTOR that PERMITTOR intends to cancel this Right-of-Entry.
- M. PERMITTEE shall not cause or permit the escape, disposal, or release of any hazardous materials. PERMITTEE shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the premises any such materials except to use in the ordinary course of PERMITTEE'S business, and then only after written notice is given to the PERMITTOR of the identity of such materials and upon PERMITTOR'S consent, which consent may be withheld at the PERMITTOR'S sole and absolute discretion. If any lender or government agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by PERMITTEE, then PERMITTEE shall be responsible for the costs thereof. In addition, PERMITTEE shall execute affidavits, representations and the like from time to time at PERMITTOR'S request concerning PERMITTEE'S best knowledge and belief regarding the presence of hazardous materials on the premises placed or released by the PERMITTEE.



PERMITTEE agrees to be responsible for its officers, employees, and agents who bring any hazardous materials onto the Property, and for any claim arising out of or resulting from any use or release of hazardous materials on the premises occurring while PERMITTEE is in possession, or elsewhere if caused by PERMITTEE or persons acting under PERMITTEE. These covenants shall survive the expiration or earlier termination of this Right-of-Entry.

For the purpose of this Right-of-Entry, the term "hazardous material" as used herein shall include any substance, waste or material designated as hazardous or toxic or radioactive or other similar term by any present or future federal, state or local statutes, regulation, or ordinance, such as the Resource Conservation and Recovery Act, as amended, the comprehensive Environmental Response, compensation, and Liability Act, as amended, and the Federal Clean Water Act, as amended from time to time, and also including but not limited to petroleum, petroleum based substances, asbestos, polychlorinated-biphenyls ("PCB"), formaldehyde, and also including any substance designated by federal, state or local regulations, now or in the future, as presenting a risk to human health or the environment.

Prior to termination of the this Right-of-Entry, PERMITTEE may be required to conduct a Level One (1) Hazardous Waste Evaluation and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Hawaii State Department of Health and PERMITTOR.

- N. The Right-of Entry shall be subject to the review and approval of the Department of the Attorney General.
- O. Other terms and conditions deemed prudent by the Chairman of the Hawaiian Homes Commission.

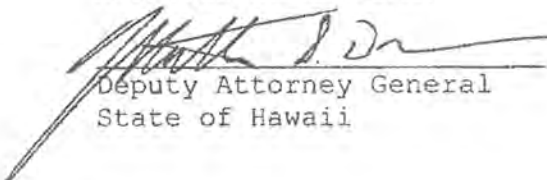


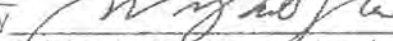
IN WITNESS WHEREOF, PERMITTOR and PERMITTEE have caused this Right-of-Entry permit to be executed by their duly authorized officers/individuals as of the day and year first above written.

APPROVED BY THE HHC
AT ITS MEETING HELD ON
November 20-21, 2017

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

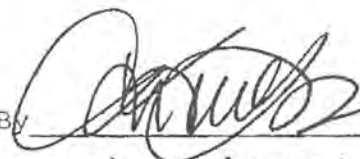
APPROVED AS TO FORM:


Deputy Attorney General
State of Hawaii

By 
Jobie M.K. Masagatani Chairman,
Hawaiian Homes Commission

PERMITTOR

KOHALA WATERSHED PARTNERSHIP

By 
Chey Ka'uhane Lopenui
Print Name
President & CEO,
The Kohala Center

PERMITTEE



STATE OF HAWAII

)

) SS.

COUNTY OF HAWAII

)

On this 17th day of April, 2018, before me appeared Cheryl Kainane Lupenui, to me personally known, who, being by me duly sworn or affirmed did say that he/she is the President and CEO and the person who executed the foregoing instrument and acknowledged to me that he/she executed the same freely and voluntarily for the use and purposes therein set forth.



Cortney Okumura

Print or Type Name Cortney Okumura

Notary Public, State of Hawaii

My Commission expires: 12/14/2020

Document Date:	<u>Not Dated</u>	# of Pages:	<u>10</u>
Notary Name:	<u>Cortney Okumura</u>		<u>3rd</u> Circuit
Doc. Description:	<u>Issuance of Right of Entry Permit No. 683, Kawaihae, Island of Hawaii</u>		
<u>Cortney Okumura</u> Notary Signature			
NOTARY CERTIFICATION			

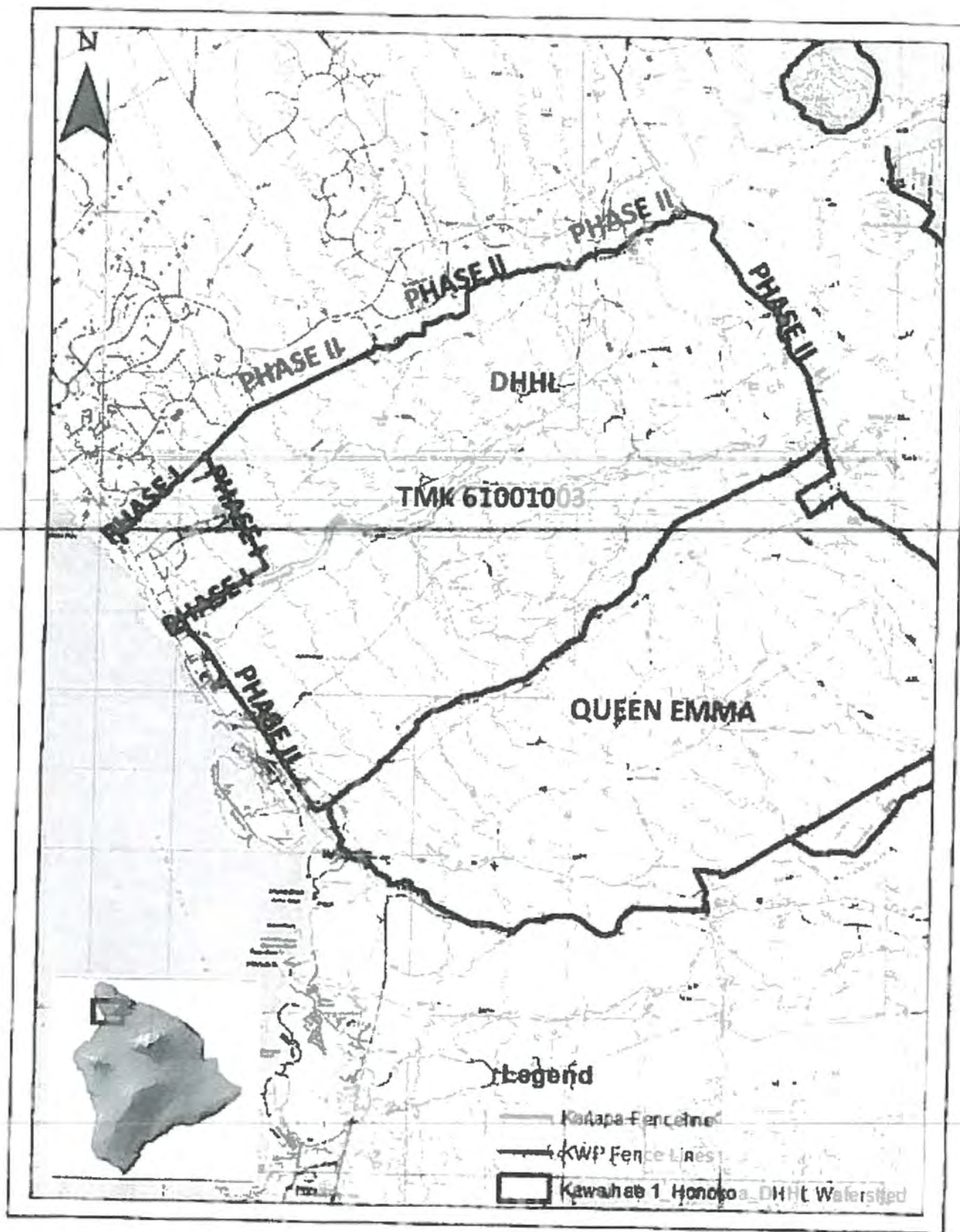


EXHIBIT "B"
Item No. F-3

Proposed Honokoa Watershed Restoration Project:

Phase I: Kailapa Community Ecological Restoration Unit
(funding secured)

Phase II: Honokoa Watershed Ecological Restoration Unit
(potential funding: NOAA grants due 3/23/17)

Project Coordinator

Cody Dwight, Kohala Watershed Partnership Program Coordinator, The Kohala Center –
cdwight@kohalacenter.org

Project Description

West Hawaii, which contains some of the world's most unique marine habitat, has been identified by NOAA as a Habitat Blueprint Focus Area due to the high threat of coral reef damage from erosion and sedimentation. The Honokoa (Kawaihae 1) Watershed is one of the Focus Area's most degraded watersheds due to overgrazing by feral ungulates. Continued erosion and sedimentation have created chronically impaired nearshore marine waters. Our primary goal is to improve coral reef health by reducing the threat of sedimentation from the Honokoa Watershed. The project is planned in two phases due to the availability of funding sources.

Phase I: Controlling erosion within the Honokoa Watershed's near shore coastal area—the 500-acre Kailapa Hawaiian Homes Community—to prevent land-based pollutants from damaging the coral reef.

Phase I's objectives include:

- 1) Constructing 3 miles of ungulate proof fence to create a 500-acre **Kailapa ecological restoration unit encompassing the Kailapa Community**. The ecological restoration unit will protect terrestrial resources within the Kailapa Community from ungulate damage, will allow revegetation by native plants, and the resulting decrease in sediment discharge into the ocean will alleviate stress on fragile coral reef ecosystems. Prior to enclosing the unit, TKC-KWP will drive out ungulates within the unit.
- 2) Creating a **1-acre ungulate trapping unit**, adjacent to the southeast corner of the restoration unit, to trap feral goats that live within Honokoa Gulch. The trapping unit will decrease the number of feral goats overgrazing lands mauka of the restoration unit, while providing a food source, land management/fire prevention resource, and/or revenue source for the community.
- 3) Supporting an ongoing **Kailapa Community Restoration Project** by training the community on: (1) building and operating ungulate traps, (2) conducting goat drives to trap goats, (3) working with mobile slaughter units to process trapped goats, (4) accessing markets for live goats, (5) utilizing goats to mitigate fire risk along the perimeter fence through targeted grazing, (6) revegetating the land with native plants, and (7) creating water catchment and irrigation systems to support revegetation.

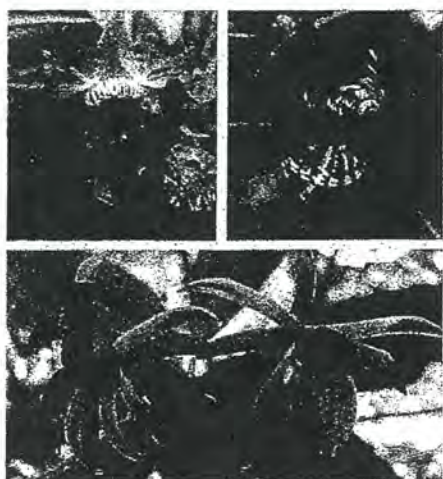
Phase II: Controlling erosion within the larger Honokoa Watershed to prevent land-based pollutants from damaging the coral reef.

Phase II includes the following objectives:

- 1) Constructing approximately 9 miles of ungulate proof fence to create a 7,800-acre **Honokoa ecological restoration unit encompassing the Honokoa Watershed**. The ecological restoration unit will protect terrestrial resources within the Honokoa Watershed from ungulate damage, will allow revegetation by native plants, and the resulting decrease in sediment discharge into the ocean will alleviate stress on fragile coral reef ecosystems. A fence will contain the restoration unit to prevent the entry of ungulates.
- 2) **Removing ungulates** from the unit.
- 3) **Adopting lessons learned** from Pelekane Bay and USGS research.
- 4) Installing **sediment check dams** in critical erosion areas to reduce coral reef sediment loading.
- 5) Working with lessees to develop **Better Management Practices** regarding cattle grazing, *i.e.*, more paddock rotation, additional or movement of trough location...etc. (if applicable).
- 6) **Monitoring effectiveness**.
- 7) **Fence checks and repairs** to be completed by KWP.

Project Partners

- Landowners/Lessees
 - Department of Hawaiian Home Lands
 - Honokoa (Kailapa) Community Association
- Project Manager
 - The Kohala Center - Kohala Watershed Partnership Program
- Funders
 - Dorrance Family Foundation
 - NOAA (if funding is secured)



Kohala Mountain:

Like No Other Place on Earth!

According to the United Nations Environment Programme (UNEP), montane cloud forests like those found on the summit of Kohala are globally rare and contain a disproportionately large number of the world's rare and endemic species. The native species of Kohala are unique: 90% of the plants and animals in Kohala's forests are found nowhere else on Earth. By protecting the last remaining forests where these species live, we help to ensure their long-term survival.

A range of environments in a relatively small area also sets Kohala apart from other tropical environments. In the 11 miles from Kawaihae at sea level to the summit of Kaumu o Kaleiho'ohie at 5,400 feet elevation, the annual rainfall ranges from 4 inches to more than 150 inches! This spectrum of habitats creates a diversity of species from dry forest trees to mosses, ferns, and flowering shrubs of the cloud forest.



Join Us!

Our dedicated volunteers support watershed protection by controlling invasive weeds, building conservation fences, collecting native seeds, and planting native species. We work twice a month on Saturday mornings followed by a hike in the forest in the afternoon. Bring a friend or the 'ohana and do your part to mālama the forested watershed of Kohala Mountain!

Check out our website for more information and to add your name to our volunteer email list.



P.O. Box 437462, Kamuela, HI 96743
808-887-6411
kohalacenter.org

The Kohala Center is an equal opportunity employer, provider, and lender.

THE KOHALA CENTER

Kohala Watershed Partnership

KWP
Kohala Watershed
PARTNERSHIP

Working to
protect and sustain the
forests, water, and people
of Kohala Mountain



Fences in the Forest?

It may seem counterintuitive to put a man-made structure within a wild habitat in order to protect it. However, there are examples from Kohala and across Hawai'i that demonstrate the effectiveness of fences in protecting native forest. In the top photo, the differences in just four years between the pig-free fenced area (on the right side of the photo) and the unfenced area (on the left side) are dramatic (Kilohana Stream, Kohala). Once pigs are removed from a fenced area, the native vegetation will often recover, and the spread of pest plants like banana poka (seen growing out of pig droppings in the bottom photo) will be slowed down.

The forest is a sponge, soaking up the rain

Protecting the Source of Water

The Kohala Center's Kohala Watershed Partnership (KWP) program represents a voluntary coalition of private land owners and State land managers to work across property boundaries to manage the forested watershed of Kohala Mountain and protect it from threats. The Partnership has written a 20-year management plan that defines these threats and prescribes actions to address them.

Invasive alien plants, with the help of people and feral animals, are the greatest threat to the watershed. Plants like kahili ginger and strawberry guava change the forest by completely displacing native species and altering the movement of water and sediments. Native Hawaiian rainforests have a thick layer of ferns and mosses on the forest floor, which act like sponges to effectively absorb rainwater and slowly allow it to infiltrate into underground aquifers. When this understory vegetation is uprooted by feral pigs or overrun by exotic plants, the forest loses its ability to hold water, resulting in a severe loss of topsoil that runs off into streams and eventually into the ocean.

Watershed Management

The Partnership's small but mighty field crew is funded solely by grants and local donors. Our management strategy includes fencing about 15% of the total land area of the mauka watershed to keep out feral animals in order to protect habitat for native flora and fauna. Traditional uses of the watershed, including gathering of native plants, is enhanced by protecting native forests; hunting is employed to reduce and contain feral animal populations. Invasive weed control occurs across the watershed, but is concentrated primarily within fenced areas.



KWP Land-owning Partners	Land Area
Laupahoehoe Nui I.L.C.	2,100 acres
Ponoholo Ranch	2,200 acres
Queen Emma Land Co.	2,300 acres
Kahua Ranch	2,400 acres
Hawai'i State Dept. of Hawaiian Home Lands	3,000 acres
Kohala Preserve Conservation Trust	4,100 acres
Parker Ranch	4,400 acres
Kamehameha Schools	9,000 acres
Hawai'i State Dept. of Land & Natural Resources	34,900 acres



March 9, 2017

Aloha Commissioners,

The Honokoa Community of Kawaihae DBA Kailapa Community Association (KCA) is in full support of the Kohala Watershed Partnership (KWP) fencing project and approval of the Right of Entry (ROE) for that purpose.

The proposed ungulate proof fencing will eliminate damage from the feral goats in our community as well as provide an avenue to create a firebreak on both sides of the fence adding the benefit of fire protection from the ma uka and north side of the community boundaries. Since Honokoa gulch is on the south side of our community and Akoni pule Hwy is on the ma kai side we would have firebreaks around the entire property protecting lives and property from wild fires. This would enhance the safety of our community as we work towards building a stronger, safer place thrive and care for our 'aina.

We strongly urge you to approve the ROE and fencing project as proposed by Cody Dwight from the KWP.

Mahalo Nui for your consideration to approve this request

Me ke ha'aha'a,

Diane "Maka'ala" Kanealii
Executive Director


EXHIBIT "D"


Item No. F-3

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20 & 21, 2019

To: Chairman and Members, Hawaiian Homes Commission

Through: Kahana Albinio, Acting Administrator
Land Management Division 

From: Mark K. Yim, Land Agent
Land Management Division 

Subject: Authorize Termination of General Lease No. 270, Takahashi LLC, Waiakea, South Hilo, Island of Hawaii, TMK No. (3) 2-2-060:019

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission grant its approval to the following:

1. Termination of General Lease No. 270 Takahashi LLC a Hawaii Limited Liability Corporation, for the 0.5715-acre parcel of Hawaiian Home Lands located in Kaei Hana I, Industrial Subdivision situated in Hilo, further identified by Tax Map Key No. (3)2-2-060:019 for:
 - a. Failure to pay ground lease rent in the amount of \$72,363.34 for the period through 4/30/2019;
 - b. Failure to construct the required building improvements within the prescribed time period;
 - c. Failure to pay County Real Property Taxes, together with penalty and interest, in the amount of \$50,711.25 for the period through 4/30/2019.
2. Authorization for the Department of the Attorney General to initiate legal proceedings against the Lessee if necessary, to enforce the termination and forfeiture of General Lease No. 270 and the collection of delinquent rent and other obligations.
3. Authorization for the Chairman to initiate the re-disposition of this industrial parcel which shall include, not be limited to the standard disposition procedure as follows:

- a. Setting of all appropriate terms and conditions, to be approved by the Chairman, Hawaiian Homes Commission, in accordance with the requirements of Chapter 171, Hawaii revised Statutes, as amended, or Section 220.5 Hawaiian Homes Commission Act of 1920, as amended;
- b. Expend budgeted funds to conduct an appraisal report on the subject parcel which is designated for non-residential limited industrial development; and
- c. To retain outside legal counsel, if necessary, in the lease negotiation of the final terms and conditions of the lease agreement.

DISCUSSION/HISTORY

General Lease No. 270 was originally awarded to TAKAHASHI LLC, as Lessee, for a fifty-five (55) year term commencing on August 1, 2005.

The following are pertinent information on GL No. 270:

General Lessee:	TAKAHASHI LLC., a Hawaii Limited Liability Corporation
Location:	124 Makaala Street, Kaei Hana I, Industrial Subdivision, South Hilo, Island of Hawaii
Tax Map Key No.:	(3)2-2-060:019, Lot No.63 (See Exhibit "A")
Land Area:	0.5715 Acres (24,896 sq. Ft.)
Term:	55 years; 08/01/2005 - 07/31/2060
Annual Rental:	\$14,500.00 per annum
Rental Re-opening:	08/01/2015 - Per the terms of General Lease No. 270, \$16,700.00 per annum
Character of Use:	Light Industrial
Site Improvements:	NONE
Mortgagee:	NONE

Since acquiring the Lease, Takahashi LLC has failed to make base monthly lease rental payments and real property tax payments in accordance with the terms and conditions of GL 270. DHHL attempts to contact the Lessee since 2017 have been unsuccessful with no response from the Lessee, and all mail notices have been returned to the department unopened including the 59-day Notice of Default (See Exhibit "B"). As of April 30, 2019, the account reflects an outstanding default balance of \$72,363.34.

Additionally, pursuant to the terms and conditions of GL 270, Lessee has failed to make any improvements to the leased parcel and obtain the appropriate building plans as required. As of April 30, 2019, the County of Hawaii Real Property Tax Office reflects a deficient balance for real property tax of \$50,711.25.

The department has been unable to locate the Lessee or get a working phone number or address. Given its history of non-compliance with the material terms, covenants, and conditions since the issuance of GL 270, LMD recommends the Commission exercise its authority.

RECOMMENDATION

Land Management Division requests approval of the motion as stated.

EXHIBIT "A"

LEGAL DESCRIPTION OF PREMISES



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. H.H. HAWAII FILE
FOLDER L

February 10, 1976

KAEI HANA-I SUBDIVISION
(Industrial Area)

LOT 63

Waiakea, South Hilo, Island of Hawaii, Hawaii

Being a portion of the Hawaiian Home Land of Panaewa, Tract 1.

Beginning at the southeast corner of this parcel of land, the northeast corner of Lot 64 of Kaei Hana-I Subdivision (Industrial Area), and on the west side of Makaala Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 5955.88 feet South and 9911.00 feet East, as shown on Government Survey Registered Map Plat 3.3 H.H., thence running by azimuths measured clockwise from True South:-

1. 90° 00' 248.69 feet along Lot 64 of Kaei Hana-I Subdivision (Industrial Area);
2. 148° 10' 105.93 feet along Grant 9924 to Yoshito Ito;
3. 270° 00' 304.56 feet along Lot 62 of Kaei Hana-I Subdivision (Industrial Area);
4. 360° 00' 90.00 feet along the west side of Makaala Street to the point of beginning and containing an AREA OF 24,896 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Ichiro Sakamoto
Ichiro Sakamoto
Land Surveyor

ot

Compiled from Gov't.
Survey Records.

EXHIBIT "A"

TRUE NORTH
Scale: 1 in. = 100 ft.

54

55

56

57
25,200 SQ. FT.

58
25,200 SQ. FT.

59
25,200 SQ. FT.

60
25,200 SQ. FT.

61
25,200 SQ. FT.

62
26,450 SQ. FT.

63
24,896 SQ. FT.

64
22,533 SQ. FT.

65

42

43

44

45

46

47

48

49

50

51

STREET

MAKAALA

ROAD

OHEA

HOMESTEADS

BLOCK 301

BLOCK 401

Grant 9924

to Mrs. Mary Keili

to Yeshito Ito

Lot 13

Lot 11

Lot 12

Lot 14

Lot 15

Lot 16

Lot 17

Lot 18

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Lot 317

Lot 318

Lot 319

Lot 320

Lot 321

Lot 322

Lot 323

Lot 324

Lot 325

Lot 326

Lot 327

Lot 328

EXHIBIT "A"

LOTS 57 to 64, inclusive

Waiakea, South Hilo, Island of Hawaii, Hawaii

Scale: 1 inch = 100 feet

Note: Coordinates referred to "HALAI" Δ

JOB H-7715
C. BK 2-R.I./98

TAX MAP 2-2-60

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P O BOX 1879
HONOLULU, HAWAII 96805

November 28, 2018

bc: LMD Reading
LMD File: GL270
LMD Staff: MY

CERTIFIED MAIL
7012 3460 0001 6659 3081
RETURN RECEIPT REQUESTED

Ms. Keri N.T. Takahashi
Manager
Takahashi, LLC
410 Kehaunani Street
Hilo, Hawaii 96720

Dear Ms. Takahashi:

NOTICE OF DEFAULT

Subject: General Lease No. 270, Hilo, Hawaii
Tax Map Key No. (3) 2-2-060:019

NOTICE IS HEREBY GIVEN, pursuant to Section 171-20, Hawaii Revised Statutes, as amended, and the provisions of General Lease No. 270, that you are in default of your general lease for the following:

1. Failure to pay monthly lease rent due, including December 2018, in the total amount of \$65,404.99. A copy of the current invoice is enclosed for your information.
2. Failure to make the required improvements to the leased premises as proposed in your last written correspondence of December 15, 2008 (copy enclosed). To date, the premises remained unimproved.

DEMAND IS HEREBY MADE that you remedy this default within fifty-nine (59) days from the date of receipt of this notice. If you fail to remedy this default, the Hawaiian Homes Commission may order the termination of your lease and exercise such rights as the commission has under the law or your lease.

Also, the department must retain a Certified Public Accountant to prepare a cash flow statement if this default is not cured within thirty (30) days. This cash flow statement complies with the covenants of the Department of Hawaiian Home Lands General Bond Resolution. All costs and expenses incurred as a result of this action will be borne by you, even if this default is cured within the fifty-nine day time period.

EXHIBIT "B"

Ms. Keri N.T. Takahashi, Member
Takahashi, LLC
November 28, 2018
Page 2

The lease has been in effect since August 2005, and pursuant to the general lease agreement specifically, Article IV, Section 7(a), Page 7 titled Improvements, it states in part that "...Lessee will implement a scheduled program of development. Plans for the scheduled development project will be submitted to lessor for approval within six (6) months from the commencement date of the lease. Lessee will have thirty-six (36) months from the commencement date of the lease to complete the development project."

It is the Department of Hawaiian Home Lands intent to monitor all improvement plans on its property and ensure that all Lessees are in compliance with the terms and conditions of their respective general lease agreement. Failure to comply will result in the immediate termination of this general lease for breach of contract.

Should you have any questions, please call Mark Yim, Land Agent of our Land Management Division at (808) 620-9453 or email at mark.k.yim@hawaii.gov.

Aloha,



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Enc.

EXHIBIT "B"



DEPARTMENT OF HAWAIIAN HOME LANDS

TAKAHASHI, LLC
P.O BOX 7458
HILO, HI 96720

Billing Number
53272

Customer Number	Location
GL0270ha	1041
Bill From	Bill To
12-Oct-2018	12-Nov-2018
Due Date	Amount Due
01-Dec-2018	65,404.99
Currency	
USD	

Previous Balance	Payments Received	Adjustments	Credits	Current Charges	Amount Due
64,013.32	0.00	0.00	0.00	1,391.67	65,404.99

Trans Number	Trans Date	Type	Description	Amount
97050	12-Nov-2018	INVOICE	DECEMBER 2018 CHARGE	1,391.67

1-30 Days Past Due	Balance over 30 days	Balance over 60 days	Balance over 90 days	Balance over 180 days
1,391.67	1,391.67	1,391.67	4,175.01	8,350.02

Please detach the bottom portion and return it with your payment.

Note: A \$25.00 fee will be charged for returned checks.

Please write the "Customer Number" on the check when you submit the payment. If you have any questions or concerns, you may contact the Land Management Division at 620-9456. Thank you.

Remit To	Customer
DHHL	GL0270ha
PO BOX 1721	TAKAHASHI, LLC
HONOLULU HI 96806	P.O BOX 7458
	HILO, HI 96720

Billing Number	
53272	
Due Date	Amount Due
01-Dec-2018	65,404.99

Please make check payable to "Department of Hawaiian Home Lands" and issue separate checks to pay any loan accounts with DHHL to ensure proper credit to your accounts.

Reminder: Please update your insurance and remit current Certificate of Liability Insurance, naming the Department of Hawaiian Home Lands as an additional insured. Mahalo!

Amount Enclosed: \$ _____ Check Number: _____ Check Date: _____


EXHIBIT "B"


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20 & 21, 2019

To: Chairman and Members, Hawaiian Homes Commission

Through: Kahana Albinio, Acting Administrator
Land Management Division 

From: Mark K. Yim, Land Agent
Land Management Division 

Subject: Authorize Termination of General Lease No. 144, Lawrence J. Balberde, Kaei Hana I, Industrial Subdivision, South Hilo, Island of Hawaii

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission grant its approval to the following:

1. Termination of General Lease No. 144, Lawrence J. Balberde, for the 0.6198-acre parcel of Hawaiian Home Lands located in Kaei Hana I, Industrial Subdivision situated in Hilo, further identified by Tax Map Key No. (3)2-2-060:049 for:
 - a. Failure to pay ground lease rent in the amount of \$242,240.00 for the period through 4/30/2019;
 - b. Entering into an illegal third-party sublease with Connect Point Church, currently occupying the property;
 - c. Failure to pay County Real Property Taxes, together with penalty and interest, in the amount of \$470,531.82 for the period through 5/31/2019.
2. Authorization for the Department of the Attorney General to initiate legal proceedings against the Lessee if necessary, to enforce the termination and forfeiture of General Lease No. 144 and the collection of delinquent rent and other obligations.
3. Authorization for the Chairman to initiate the re-disposition of this industrial parcel which shall include, not be limited to the standard disposition procedure as follows:

- a. Setting of all appropriate terms and conditions, to be approved by the Chairman, Hawaiian Homes Commission, in accordance with the requirements of Chapter 171, Hawaii revised Statutes, as amended, or Section 220.5 Hawaiian Homes Commission Act of 1920, as amended;
- b. Expend budgeted funds to conduct an appraisal report on the subject parcel which is designated for non-residential limited industrial development; and
- c. To retain outside legal counsel, if necessary, in the lease negotiation of the final terms and conditions of the lease agreement.

DISCUSSION/HISTORY

General Lease No. 144 was originally awarded to Impex Hawaii, Inc., a Hawaii Corporation, as Lessee, for a fifty-five (55) year term commencing on June 15, 1969, which lease was assigned to Lawrence J. Balberde, a Hawaii Partnership Association, on January 16, 1981 and approved by the Hawaiian Homes Commission on April 30, 1981.

The following are pertinent information on GL No. 144:

General Lessee:	Lawrence J. Balberde
Location:	168 Holomua Street, Kaei Hana I, Industrial Subdivision, South Hilo, Island of Hawaii
Tax Map Key No.:	(3)2-2-060:049, (See Exhibit "A")
Land Area:	0.6198 Acres (27,000 sq. Ft.)
Term:	55 years; 06/15/1969 - 06/14/2024
Annual Rental:	\$20,520.00 per year to 6/15/2009
Rental Re-opening:	\$27,000.00 per annum 06/16/2009 to end of Lease term
Character of Use:	Light Industrial
Site Improvements:	12,000 Square foot metal Warehouse and 1,080 square foot enclosed office space, remaining area is a paved parking lot
Mortgagee:	NONE

DISCUSSION:

Background

On March 5, 2018, DHHL sent a "Notice of Default" letter to Mr. Balberde advising him of an outstanding back rent loan balance of \$239,990.00. This balance had been unpaid since the Lease was subjected to a step-up increase of monthly rent in 2009. The Lessee did not respond.

On April 9, 2018, second "Notice of Default" was sent via certified mail to the Lessee, demanding payment within 60 days of receipt of the Notice. The Lessee, again, did not respond.

On August 14, 2018, a "Final Notice of Delinquency" was sent via certified mail to the Lessee, demanding payment within 5 days of receipt of the Notice (See Exhibit "B").

On September 6, 2018, the Lessee responded via phone call to DHHL. He claimed to not have received any prior notice of the delinquency, however, he was informed that at least two letters sent certified mail were signed for by a person at his residence. He requested a work out plan but was informed that the deadlines for responding had long since expired, and a work out plan was not possible (See Exhibit "C").

On January 15, 2019, a Lease Termination letter was sent via certified mail to Mr. Balberde. There was no action taken by the Lessee. Given the history of lessee's failures and non-compliance with the material terms, covenants and conditions of GL 144, LMD recommends that the Commission exercise its authority to terminate GL No. 144 effective upon approval.

RECOMMENDATION

Land Management Division requests approval of the motion as stated.

LOT 32

Being Lot 32 of Kaei Hana I Subdivision (Industrial Area)
Same being a portion of Hawaiian Home Lands of Panaewa, Tract I
At Waiakea, South Hilo, Hawaii

Beginning at the Northwest corner of this parcel of land, being also the Southwest corner of Lot 33 of Kaei Hana I Subdivision (Industrial Area), the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 5,625.88 feet South and 10,196.00 feet East and thence running by azimuths measured clockwise from True South:

1. 270° 00' 225.00 feet along the South side of Lot 33 of Kaei Hana I Subdivision (Industrial Area);
2. 360° 00' 120.00 feet along the West side of Holomua Street;
3. 90° 00' 225.00 feet along the North side of Lot 31 of Kaei Hana I Subdivision (Industrial Area);
4. 180° 00' 120.00 feet along the East side of Lot 47 of Kaei Hana I Subdivision (Industrial Area) to the point of beginning and containing a Gross area of 27,000 Square Feet and a Net area of 20,164 Square Feet, after excepting and reserving therefrom the following described strip of land, being an Easement for future roadway extension:

Beginning at the Northwest corner of this strip of land, being also the beginning of Course 1 of the above described parcel of land and thence running by azimuths measured clockwise from True South:

1. 270° 00' 225.00 feet along the South side of Lot 33 of Kaei Hana I Subdivision (Industrial Area);

2. 360° 00' 50.00 feet along the West side of Holomua Street; Thence on a curve to the left, with a radius of 20.00 feet, the chord azimuth and distance being:
3. 135° 00' 28.28 feet;
4. 90° 00' 205.00 feet;
5. 180° 00' 30.00 feet along the East side of Lot 47 of Kaei Hana I Subdivision (Industrial Area) to the point of beginning and containing an area of 6,836 Square Feet.



Arthur Y. Akinaka
Arthur Y. Akinaka, Registered Professional
Surveyor, Cert. No. 244



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

C.S.F. No. H.H. HAWAII FILE
FOLDER L

HONOLULU

June 18, 1985

KAEI HANA - I SUBDIVISION

(INDUSTRIAL AREA)

LOT 89

Waiakea, South Hilo, Island of Hawaii, Hawaii

Being a portion of the Hawaiian Home Land of Panaewa, Tract 1.

Beginning at a nail in concrete at the northeast corner of this parcel of land, at the southeast corner of Lot 92 of Kaei Hana - I Subdivision (Industrial Area) and on the west side of Holomua Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 5625.88 feet South and 10,421.00 feet East, thence running by azimuths measured clockwise from True South:-

1. 360° 00' 120.00 feet along the west side of Holomua Street to a nail in concrete;
2. 90° 00' 225.00 feet along Lot 31 of Kaei Hana - I Subdivision (Industrial Area) to a 1/2-inch pipe (found);
3. 180° 00' 120.00 feet along Lot 90 of Kaei Hana - I Subdivision (Industrial Area) to a 1/2-inch pipe (found);
4. 270° 00' 225.00 feet along Lot 92 of Kaei Hana - I (Industrial Area) to the point of beginning and containing an AREA OF 27,000 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

Compiled from map & desc. furn.
by Arthur Y Akinaka, Ltd. and
Govt. Survey Records.

By:

Melvin M. Masuda
Melvin M. Masuda
Land Surveyor

CV

EXHIBIT 'A'



KAEI HANA - I SUBDIVISION
(INDUSTRIAL AREA)
LOTS 89, 90, 91 AND 92
Waiakea, South Hilo, Island of Hawaii, Hawaii
Scale: 1 inch = 100 feet

JOB H-54(89)
C. BK

EXHIBIT "A"

TAX MAP 2-2-60

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

H.H. HAWAII FILE
FOLDER L

M.M.M. June 18, 1985

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

DOUGLAS S. CHIN
LT. GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATAN
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

August 14, 2018

bc: LMD Reading
LMD File: GL 144
LMD Staff: MY

CERTIFIED MAIL
7013 2630 0002 3664 3288
RETURN RECEIPT REQUESTED

Mr. Lawrence J Balberde
c/o Association of Balberde and Balberde
485 Haihai Street
Hilo, HI 96720

Dear Mr. Balberde,

FINAL NOTICE OF DELINQUENCY

Subject: **Department of Hawaiian Home Lands (DHHL) General Lease No. 144 – 168
Holomua Street, TMK: (3)-2-2-060:049, Hilo Industrial District, Hawaii Island**

NOTICE IS HEREBY GIVEN, pursuant to Section 171-20, Hawaii Revised Statutes, and the provisions of your Lease, in that you have not paid your back-rent outstanding balance due in the amount of **\$239,990.00**. You were first notified of this delinquency in a letter dated December 11, 2011 from then Administrator, Linda Chinn. You received a **SECOND NOTICE** via certified mail on April 17, 2018. A copy of that letter and USPS receipt are enclosed.

DEMAND IS HEREBY MADE that you remedy this default within five (5) days from the date of receipt of this notice. If you fail to remedy this default, the Hawaiian Homes Commission may order the termination of your lease and exercise such other rights as the Commission may have under the law and your Lease.

The DHHL requests your immediate attention to this matter to avoid the possible termination of your subject Lease. If the above-mentioned default has been cured prior to your receipt of this notice, kindly disregard it.

Please contact Mark Yim, Land Agent, at 808.620.9453 or email mark.k.yim@hawaii.gov with any questions.

Aloha,

Peter "Kahana" Albinio, Jr.
Acting Administrator
Land Management Division

Enc.

EXHIBIT "B"

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

DOUGLAS S. CHINN
LT GOVERNOR
STATE OF HAWAII



JOEIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. ATILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1870
HONOLULU, HAWAII 96805

April 9, 2018

bc: LMD Reading
LMD File: GL 144
LMD Staff: MY

CERTIFIED MAIL
7013 2630 0002 3664 3172
RETURN RECEIPT REQUESTED

Mr. Lawrence J. Balberde
c/o Association of Balberde and Balberde
485 Haihai Street
Hilo, HI 96720

Dear Mr. Balberde,

Subject: **Notice of Default for General Lease No. 144, Department of Hawaiian Home Lands (DHHL), 168 Holomua Street, TMK: (3)-2-2-060:049, Hilo Industrial District, Hawaii island**

This letter is written to inform you that you are in default of your back-rent payment due to DHHL since **2009**. Though you are current in your monthly payments to DHHL, you still have not paid your outstanding balance due in the amount of **\$239,990.00**.

You were first notified of this delinquency in a letter dated December 19, 2011 from then Administrator, Linda Chinn. A copy of this letter is enclosed for your reference.

DHHL requests your immediate attention to this matter to avoid possible termination of your subject Lease.

Please contact Mark Yim, Land Agent, at 808.620.9453 or email mark.k.yim@hawaii.gov with any questions.

Aloha,

A handwritten signature in black ink, appearing to read "Peter Albinio".

Peter "Kahana" Albinio, Jr.
Acting Administrator
Land Management Division

enc.

EXHIBIT "B"

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MR. LAWRENCE J. BALBERDE
40 ASS. OF BALBERDE &
BALBERDE

485 HAITHAI ST.
HILLO, HI 90720



9590 9403 0908 5223 5854 26

2. Article Number (Transfer from service label)

7013 2630 0002 3664 3172

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *Varian Balberde*

☐ Agent
☐ Address

B. Received by (Printed Name)

Vivian Balberde

C. Date of Delivery

8/17/14

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

BACK RENT PAYMENT

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☐ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Mail Restricted Delivery (00)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

LMD-MY-C9L 144

Domestic Return Receipt

EXHIBIT "B"

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

DOUGLAS S. CHIN
1ST DEPUTY GOVERNOR
STATE OF HAWAII



JOE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

September 18, 2018

CERTIFIED MAIL
7013 2630 0002 3664 3295
RETURN RECEIPT REQUESTED

Mr. Lawrence J Balberde
c/o Association of Balberde and Balberde
485 Haihai Street
Hilo, HI 96720

Dear Mr. Balberde,

Subject: **General Lease No. 144, Association of Balberde and Balberde, 168 Holomua Street, TMK: (3)-2-2-060:049, Waiakea, South Hilo, Hawaii Island**

This letter shall serve to memorialize the telephone conversation you had with DHHL Land Agent Mark Yim on September 6, 2018 at 9:03am. A recap of that phone conversation is contained below.

First, you stated that you received the 5-day delinquency cure letter and wanted to know if you could work out a repayment plan. You claimed that you did not receive any notice prior to this. Mr. Yim told you that at least two (2) previous notices were sent USPS certified mail in April and May of this year and received by you, a copy of ALL these previous notices are again enclosed. As the deadlines for response and curing the delinquency had long passed, a work out plan was no longer possible.

You stated that you are of advanced aged and debilitating health, and wanted to sell the property to someone else, perhaps the people who are renting it now. You were told that a Lease can only be transferred when it is in good standing. This Lease is in default, and a transfer is, therefore, not possible.

You were asked who you were subleasing the property to, and why did you not inform DHHL of the sublease as required by your Lease Agreement with the State. You stated, Linda Chinn said it was okay, and a verbal agreement was enough. You were told that ALL sublease agreements MUST go through DHHL first and be approved prior to commencing.

Mr. Yim stated that you still owed the back rent of \$239,990.00 since 2011, and Hawaii County property taxes of over \$434,878.02 that had not been paid for over 20 years. You claimed the taxes were supposed to be paid by **Church**, and the problems started when the young pastor took over. You were told Lessees of Record are responsible for Property Taxes. When asked who was subleasing your property, you said, **Connect Point Church**. When asked how much rent you were charging, you said \$7280.00.

EXHIBIT "C"

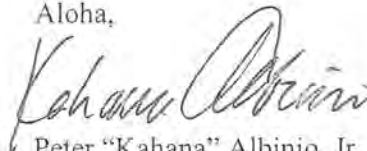
When Mr. Yim asked why your back rent was unpaid, you responded that you were using the funds to help other homeless people, churches, and community projects. You were told that your debts to DHHL MUST be paid, regardless of your situation. You entered an illegal sublease without the knowledge or consent of the DHHL. You again claimed that Linda Chinn said it was okay. DHHL has no documentation in your file to support that assertion. Further, you were told that DHHL does not do verbal agreements on any level, because it is illegal.

You then asked if this action was politically motivated and would he have to call someone in office to clear this up. Mr. Yim told you that he is a civil service employee, and your case has **nothing** to do with politics, but everything to do with delinquent payments. Your case is one of several that he has been tasked to deal with and settle for DHHL.

You were again reminded that you are in severe violation of your General Lease on several points. The **only remedy now was to cure your indebtedness in its entirety** before the Department and the Hawaiian Homes Commission acts to cancel your Lease. Mr. Yim stated that you may be receiving a notice from the DHHL, or possibly a letter delivered by DHHL Enforcement Division or Sheriff's Deputies. Call ended.

Please contact Mark Yim, Land Agent, at 808.620.9453 with any questions.

Aloha,

A handwritten signature in black ink, appearing to read "Kahana Albinio".

Peter "Kahana" Albinio, Jr.
Acting Administrator
Land Management Division


Enc.


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20 & 21, 2019

To: Chairman and Members, Hawaiian Homes Commission

Through: Kahana Albinio, Acting Administrator
Land Management Division 

From: Mark K. Yim, Land Agent
Land Management Division 

Subject: Authorize Consent to Assignment of Lease and Consent to Mortgage for General Lease No. 265, The Agency, Inc., A Hawaii Corporation, Kaei Hana I, Industrial Subdivision, South Hilo, Island of Hawaii

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission grant its consent to the following:

A. Assignment of General Lease No. 265 from The Agency, Inc., a Hawaii Corporation, as General Lessee/Assignor, to Crescent City Properties, Inc. LLC, a Hawaii Corporation, as Assignee, subject to the following conditions:

1. The standard terms of the Department of Hawaiian Homes Lands' Consent to Assignment of Lease;
2. The review and approval of the Consent document by the Department of the Attorney General;
3. Assignee to provide its written acknowledgment and acceptance of the department's sublease rent participation policy, which was adopted by the HHC on April 24, 1987;
4. Assignee to furnish a Certificate of Insurance which verifies the issuance of a General Comprehensive Public Liability Insurance Policy in an amount acceptable to the Department and naming it as an additional insured;
5. Assignee to furnish a Certificate of Insurance which verifies the issuance of a Multi-peril Insurance Policy, that includes coverage against loss or damage by fire, in an amount equal to the maximum insurable value of all buildings and improvements on

the demised premises and naming the Department as an additional insured;

6. Assignee to furnish a lease performance bond in an amount equal to two times the annual lease rent or substitute a security deposit in an amount equal to three months rent in lieu of a lease performance bond;
7. Assignee to accept the addition of a new provision, titled **"Interest, costs and fees"** to the lease document stipulating the interest rate on any and all unpaid or delinquent rentals shall be at one percent (1%) per month, plus a service charge of FIFTY AND NO/100 DOLLARS (\$50.00) per month for each month of delinquency. Also, in case of any default by LESSEE in the performance of the terms, covenants and conditions herein contained, LESSEE shall pay to LESSOR any and all costs incurred in connection with the default, including reasonable attorneys' fees. In the event that any indebtedness arising hereunder is placed in the hands of a collector or an attorney for collection, or suit is instituted for collection, LESSEE shall pay, in addition to the indebtedness, reasonable collector's and/or attorneys' fees, together with all costs;
8. All other terms and conditions of General Lease No. 265 shall continue and remain in full force and effect;
9. The Chairman of the Hawaiian Homes Commission is authorized to set forth any additional terms and conditions which shall ensure and promote the purposes of the demised premises; and
10. This action is subject to ratification by the Hawaiian Homes Commission.

B. Consent to the Mortgage loan to be executed by and between Crescent City Properties, Inc. and Bank of Hawaii, subject to the following conditions:

1. The standard terms of the Consent to Mortgage;
2. The review and approval of the Lessor's Consent to Mortgage of Lease document by the Department of the Attorney General;
3. Provision of Section 171-21, Hawaii Revised Statutes (HRS) as amended, relating to the rights of a holder of security interest; and
4. The Chairman of the Hawaiian Homes Commission is authorized to review and approve the final terms and conditions of the mortgage loan agreement and issue the Consent to Mortgage.

DISCUSSION

General Lease No. 265 was originally awarded to Ivan S. Mochida, as Lessee, for a fifty-five (55) year term commencing on January 31, 2005. It was then assigned to The Agency, Inc. effective May 11, 2005 as noted in the Assignment of Lease, Consent, and Release recorded in the State of Hawaii Bureau of Conveyances as Document No. 2006-187513.

The following are pertinent information on GL No. 265:

General Lessee:	The Agency, Inc., a Hawaii Corporation
Location:	124 Makaala Street, Kaei Hana I, Industrial Subdivision, South Hilo, Island of Hawaii
Tax Map Key No.:	(3)2-2-060:026, Lot No.56 (See Exhibit "A")
Land Area:	0.5785 Acres (25,200 sq. Ft.)
Term:	55 years; 02/01/2005 - 01/31/2060
Annual Rental:	\$14,100.00 per annum
Rental Re-opening:	02/01/2015 - Per the terms of General Lease No. 265, specifically Section "C", page 2.
Character of Use:	Light Industrial
Site Improvements:	Free standing, masonry building, containing approximately 4,600 square feet. Remaining open area is completely asphalt-paved with parking lot and driveway.
Mortgagee:	Crescent City Properties, Inc.

Consent to Assignment of Lease

Mr. Ivan Mochida (The Agency, Inc.), had informed the department through his letter of April 1, 2019, of his desire and intent to assign the general lease interest demising the property identified as TMK: (3) 2-2-060:026 General Lease No. 265, to Crescent City Properties, Inc., a Hawaii Corporation (See Exhibit "B").

Yamanaka Enterprises Inc., brokers for The Agency, Inc., submitted a fully executed Real Property Purchase and Sales Agreement (PSA) document, dated December 14, 2018, which reflects a purchase price of \$725,000 for the property improvements.

An initial earnest money deposit of \$10,000.00 has been made and an additional \$62,500.00 will be paid into escrow on or before closing by Crescent City Properties, Inc.

Authorization

Paragraph 14, page 3 of General Lease No. 265, titled Assignment, etc., states in part: "That the Lessee shall not transfer, assign or permit any other person to occupy or use the said premises or any portion thereof, or transfer or assign this lease or any interest therein, either voluntarily or by operation of law, except by way of devise, bequest or intestate succession, any transfer or assignment so made shall be null and void; provided, that with the prior written approval of the Lessor the assignment and transfer of this lease or unit thereof may be made if (1) in the case of commercial, industrial, hotel, resort, apartment, and other business uses, the Lessee was required to put in substantial building improvements. . ."

Consent to Mortgage

Bank of Hawaii Commercial Loan Branch has extended a loan commitment to Crescent City Properties, Inc., of 124 Makaala Street, Hilo, Hawaii 96720 under a fully executed but undated Promissory Note and Purchase Money Mortgage agreement in the amount of up to ONE MILLION ONE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$1,180,000) (the "Principle Amount") plus an interest rate yet to be determined per year.

The Purchase Money Mortgage agreement is for a TEN (10) year term at a level monthly rate to be determined only after approval of Lease Assignment Agreement and Consent to Mortgage by the Department.

Authorization

Section 171-22, Hawaii Revised Statutes, as amended, titled Consent to Mortgage, states in part that ". . .consent of the State is required as a condition precedent to the mortgage of, or the creation of a security interest in public land, the chairperson of the board may, upon due application, grant the consent. . ."

RECOMMENDATION

Land Management Division requests approval of the motion as stated.



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

C.S.F. No. H.H. HAWAII FILE
FOLDER L

HONOLULU

May 8, 1986

KAEI HANA - I SUBDIVISION
(Industrial Area)

LOT 56

Waiakea, South Hilo, Island of Hawaii, Hawaii

Being a portion of the Hawaiian Home Land of Panaewa, Tract 1.

Beginning at the northeast corner of this parcel of land, at the southeast corner of Hilo Baseyard and Office Site, Governor's Executive Order 2362 and on the west side of Makaala Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 5235.88 feet South and 9911.00 feet East, thence running by azimuths measured clockwise from True South:-

1. 360° 00' 90.00 feet along the west side of Makaala Street;
2. 90° 00' 280.00 feet along Lot 57 of Kaei Hana - I Subdivision, (Industrial Area);
3. 180° 00' 90.00 feet along Hawaii Technical School, Governor's Executive Order 2398;
4. 270° 00' 280.00 feet along Hilo Baseyard and Office Site, Governor's Executive Order 2362 to the point of beginning and containing an AREA OF 25,200 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Raymond S. Nakamura
Raymond S. Nakamura
Land Surveyor

EXHIBIT "A"

TRUE NORTH
Scale: 1 inch = 50 feet

MAKAALA

STREET

5235.88 S.
9911.00 E.
"HALAI" Δ

360°00' → 90.00

280.00

280.00

56

25,200 SQ. FT.

270°00'

90°00'

KAEI
Hawaiian

180°00' → 90.00

SUBDIVISION
Panaewa,

58

HANA - I Area
(Industrial
Home Tract 1 ST

HILO BASEYARD AND OFFICE SITE
Governor's Executive Order 2362
(CSF 15081)

HAWAII TECHNICAL SCHOOL
Governor's Executive Order 2398
(CSF 15082)

KAEI HANA - I SUBDIVISION
(Industrial Area)
LOT 56

Waiakea, South, Hilo, Island of Hawaii, Hawaii
Scale: 1 inch = 50 feet

EXHIBIT "A"

JOB H-153 (BG)
C. BK

TAX MAP: 2-2-60:26

SURVEY DIVISION

The Agency, Inc.
77 Kukila Street
Hilo, Hawai'i 96720

Crescent City Properties, Inc
55 Holomua Street
Hilo, Hawai'i 96720

RECEIVED
LAND MANAGEMENT
DIVISION
2019 APR -4 AM 10:07

April 1, 2019

Ms. Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission
P.O. Box 1879
Honolulu, Hawai'i 96805
ATTN: Land Management Division

Re: Request for Consent to Assignment and Mortgage of General Lease No. 265
Lessee: The Agency, Inc.
Proposed Assignee: Crescent City Properties, Inc.
Tax Map Key No. (3) 2-2-060:026, 124 Makaala Street, Kaei Hana I
Subdivision, South Hilo, Island of Hawai'i

Dear Ms. Masagatani:

The Agency, Inc. ("**The Agency**") leases the property located at 124 Makaala Street, Hilo, Hawai'i 96720-5109, designated as Tax Map Key No. (3) 2-2-060-026 ("**Property**"), from the Department of Hawaiian Homelands ("**DHHL**") pursuant to that certain General Lease No. 265 dated January 31, 2005 ("**Lease**").

With this letter, The Agency and Crescent City Properties, Inc. ("**Crescent City**") request that DHHL consent to the assignment of the Lease by The Agency to Crescent City.

Background of Assignee

Crescent City is the current Lessee of the property located at 55 Holomua Street, Hilo Hawai'i, designated as Tax Map Key No. (3) 2-2-049-006 ("**Hilo Fish Property**"), from the State of Hawai'i Board of Land and Natural Resources, which is located about a block away from the Property. See map attached as **Exhibit A**.

The Hilo Fish Property is the current headquarters of Crescent City and its affiliate Hilo Fish Company, Inc. ("**Hilo Fish**") as well as their parent company, C.M.U. & Associates, Inc. ("**CMU**"), and certain other CMU subsidiaries and CMU majority-owned limited liability companies. In this letter, CMU, Crescent City and Hilo Fish are collectively referred to as the "**Companies**".

The Companies engage principally in the distribution, processing and marketing of fresh and frozen seafood products, primarily to food service and retail customers in the United States.

The Companies' two largest customer markets are the State of Hawai'i and the Northeastern United States.

Crescent City first started doing business in Hilo in 1989. Charles M. Umamoto ("Charlie") is the CEO and Director of Crescent City. His son, Kerry A. Umamoto, is the President, Treasurer and Secretary of Crescent City, while Charlie's wife, Barbara Umamoto, is its Vice-President. Despite their huge successes, the Companies are still a family business. Charlie was born and raised in a small plantation town outside of Honokaa called Paahau on the Big Island. After being drafted to the Army and serving in the Vietnam War, Charlie returned to Hawai'i to get his bachelor's degree in education from UH Manoa. After college, Charlie worked for other local food and fish retailers and gained the necessary experience to start his own business. The Companies have grown significantly since their humble origins, and are now working toward becoming global distributors of fresh and frozen seafood products.

Background of Property and Purchase Price

When The Agency began leasing the Property, it was undeveloped and overgrown with weeds. The Agency substantially improved the property by constructing a steel-framed, air-conditioned, 4,600 square-foot building with masonry walls, along with an asphalt-parking lot, on the premises. The building was completed in 2006.

In all, the improvements and trade fixtures that The Agency added to the Property cost \$1,399,153. The depreciated cost of the improvements and trade fixtures to be transferred to Crescent City is \$881,110, which is significantly higher than the \$725,000 purchase price to be paid by Crescent City for the assignment of the Lease. A copy of the Commercial Real Property Purchase and Sale Agreement and all amendments are separately attached and submitted under seal for confidentiality purposes. The parties respectfully request that this document be returned to them so as not to remain in the public records.

As such, pursuant to Section 9(c) of the Lease and Hawai'i Revised Statutes Section 141-36(a)(5), Crescent City and The Agency request that DHHL not condition its consent on payment of a premium fee to DHHL. A fully executed Assignment and Assumption of Lease (which is conditioned on DHHL's consent) is attached as **Exhibit B**.

Crescent City's net worth and financials are significantly stronger than The Agency's. Crescent City's leasing the Property would therefore give DHHL more security that the lease obligations will continue to be met than if The Agency remained as the lessee of the Property. Crescent City and The Agency therefore request that, upon Crescent City's assumption of the Lease, DHHL release The Agency from further obligations under the Lease pursuant to the Consent to Assignment of Lease and Release of Assignor attached as **Exhibit C**.

Assignee's Proposed Use of Property

As noted above, in the last twenty-five years, the Companies have expanded their distribution greatly, and have outgrown the Hilo Fish Property. By purchasing the improvements on the Property and assuming the Lease, the Companies may relocate some warehousing and

accessory office space to the Property,¹ which will enable them to expand their distribution and processing on the Hilo Fish Property.

The Property will be used by the Companies for limited industrial purposes, namely warehousing of incidental materials and equipment and serving as the official headquarters for the Companies.

Crescent City intends to construct approximately \$250,000 in renovations at the Property because it will not be operating a restaurant and bar, as did The Agency. The improvements will include moving walls, removing the kitchen area and stage, and constructing warehouse/storage areas, amongst other improvements.

Consent to Mortgage

To finance the purchase of the Lease from The Agency, Inc., Crescent City will be obtaining a loan from Bank of Hawaii in the amount of \$1,180,000, secured by a mortgage on the Lease, to cover a portion of the purchase price and improvements to the Property. For this reason, Crescent City also requests that DHHL consent to the Bank of Hawaii mortgage on the leasehold interest in the Property. Attached as **Exhibit D** is a form of the Consent to Mortgage. A copy of the prequalification letter for the loan is also separately attached and submitted under seal for confidentiality purposes. Crescent City respectfully requests that this document be returned to it so as not to remain in the public records.

Presently, The Agency's interest in the Lease is encumbered by a Hawaii National Bank mortgage in the original amount of \$616,000, which DHHL consented to with a Lessor's Consent to Mortgage of Lease and Estoppel Certificate dated December 4, 2006, recorded as Document No. 2006-224659. The Lease is also encumbered by a HEDCO - U.S. Small Business Administration loan in the original amount of \$382,000, which DHHL consented to with a Lessor's Consent to Mortgage of Lease and Estoppel Certificate dated January 24, 2007, recorded as Document No. 2007-024895. Both mortgages as well as the corresponding Assignments of Leases and Rents and Financing Statements will be released upon the closing of Crescent City's purchase of the Property and replaced with the mortgage to Bank of Hawaii securing the loan to Crescent City.

Supporting Documentation

Attached are the following documents:

Exhibit A: Map of Hilo Fish Property

Exhibit B: Assignment and Assumption of Lease (fully executed)

¹ Permitted uses of the Property under the Lease are confined to Limited Industrial. Per Hawai'i County Code Section 25-5-142, the Limited Industrial area may be used for, amongst other uses, food manufacturing and processing facilities; manufacturing, processing and packaging establishments, light; warehousing, which does not include retail sales or discount houses or establishments open to the general public or defined members; wholesaling and distribution, including the storage of incidental materials and equipment, except for highly flammable or explosive products; and buildings and uses normally considered directly accessory to the uses permitted in the Limited Industrial district.

- Exhibit C:** Consent to Assignment of Lease and Release of Assignor
- Exhibit D:** Letter from Bank of Hawaii attesting to the creditworthiness of Crescent City
- Exhibit E:** Articles of Incorporation of Crescent City Properties, Inc.
- Exhibit F:** Bylaws of Crescent City Properties, Inc.
- Exhibit G:** DCCA Annual Corporate Filing for Crescent City Properties, Inc.
- Exhibit H:** Crescent City Properties, Inc. Unanimous Written Consent of the Board of Directors
- Exhibit I:** State of Hawai'i Tax Clearance Certificate for Crescent City
- Exhibit J:** State of Hawai'i Tax Clearance Certificate for The Agency
- Exhibit K:** County of Hawai'i Real Property Tax Clearance for the Property
- Exhibit L:** Certificate of Good Standing for Crescent City Properties, Inc.
- Exhibit M:** Preliminary Report covering the Property from Title Guaranty
- Exhibit N:** Letter from DLNR stating that Crescent City is current on its lease payments at its present location at 55 Holomua Street

Neither Dun & Bradstreet nor Chilton Credit Reporting have a credit report available for Crescent City.

Upon request, Crescent City is willing to provide the following to DHHL, under seal and subject to confidentiality:

- Consolidated Financial Statements and Supplemental Schedules for C.M.U. & Associates, Inc. and Subsidiaries (June 30, 2018 and 2017) together with Independent Accountant's Review Report;
- Consolidated Financial Statements and Supplemental Schedules for C.M.U. & Associates, Inc. and Subsidiaries (June 20, 2017 and 2016) together with Independent Accountant's Review Report;
- Consolidated Financial Statements and Supplemental Schedules for C.M.U. & Associates, Inc. and Subsidiaries (June 30, 2016 and 2015) together with Independent Accountant's Review Report;
- C.M.U & Associates, Inc. Consolidated Balance Sheet (as of December 31, 2018);

- 2015 Tax Return for C.M.U. & Associates, Inc. & Subsidiaries for the fiscal year ending June 30, 2016;
- 2016 Tax Return for C.M.U. & Associates, Inc. & Subsidiaries for the fiscal year ending June 30, 2017;
- 2017 Tax Return for C.M.U. & Associates, Inc. & Subsidiaries for the fiscal year ending June 30, 2018 (most-recent tax returns available); and
- Commercial Real Property Purchase and Sale Agreement with an Acceptance Date of December 14, 2018 between Crescent City and The Agency.

Crescent City: (1) has reviewed and understands the Lease; (2) is aware of its responsibilities should it become a lessee of DHHL; (3) is aware of and acknowledges DHHL's Revised Sublease Rent Participation Policy; and (4) has been informed that the Property may be used solely for the purpose stipulated in the Lease.

The Agency is qualified to assign Lease in accordance with Section 9 (Assignments) of the Lease.

Also enclosed with this letter is a check for \$75.00 made to DHHL for processing fees.

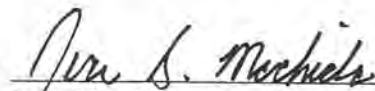
The parties request that DHHL direct any questions and other correspondence regarding the foregoing to The Agency's legal counsel at:

Bart W. Howk, Esq.
 Torkildson Katz Hetherington Harris & Knorek
 700 Bishop Street, 15th Floor
 Honolulu, Hawai'i 96813
 Phone: 808-523-6000
 Email: bwh@torkildson.com

Please let us know if you require further information to process this request.


The Agency, Inc.

By:


 Ivan Mochida, President

Crescent City Properties, Inc.

By:


 Charles M. Umamoto, CEO and Director

cc: Kahana Albinio (via U.S. mail and email)

Exhibit A
Map of Hilo Fish Property

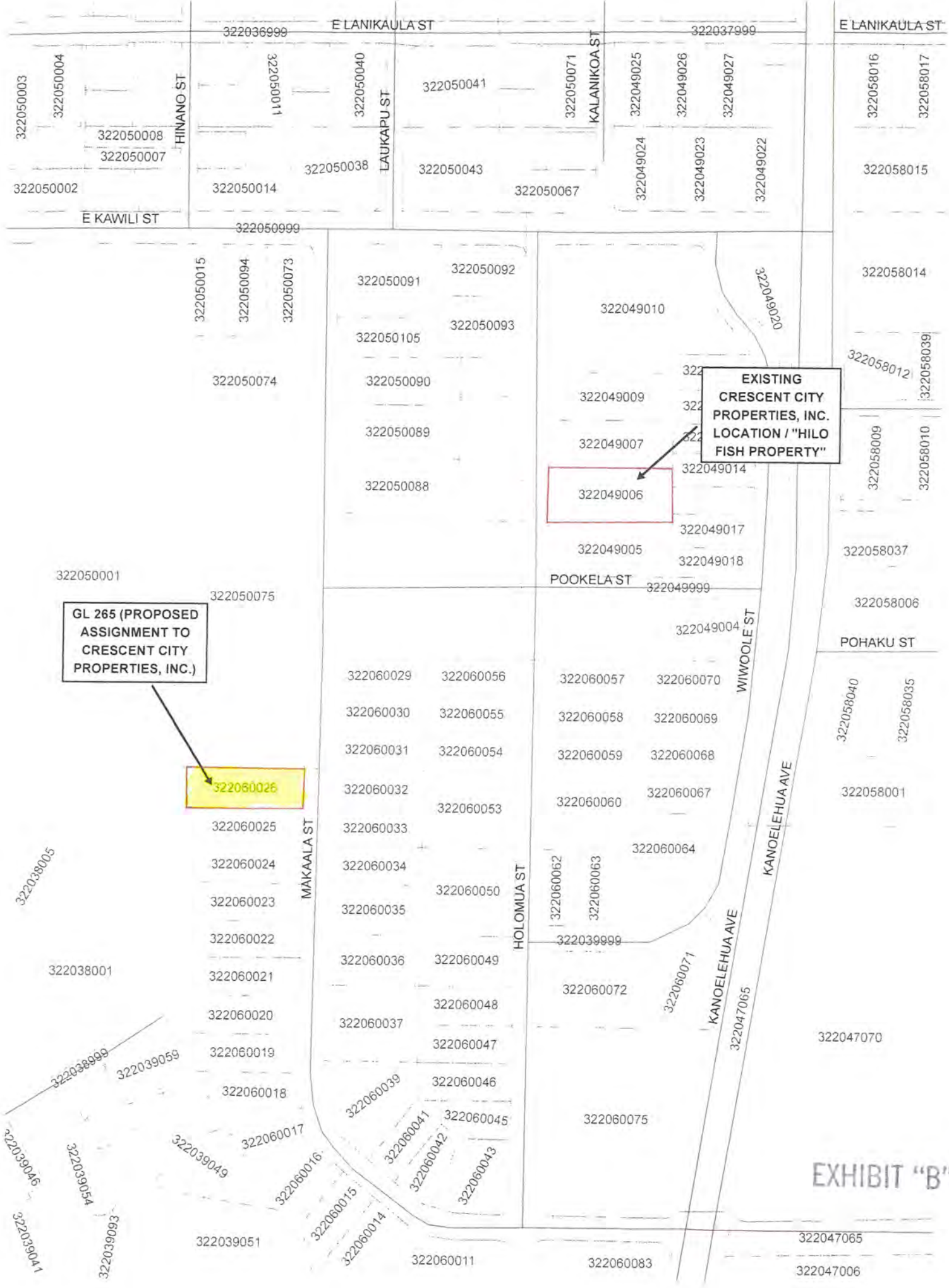


EXHIBIT "B"

Exhibit B
Assignment and Assumption
of Lease

LAND COURT

REGULAR SYSTEM

Return By Mail ☐ Pick-Up ☐ To:

CRESCENT CITY PROPERTIES, INC.
55 Holomua Street
Hilo, Hawaii 96720

TOTAL NUMBER OF PAGES: _____

TITLE OF DOCUMENT:

ASSIGNMENT AND ASSUMPTION OF LEASE

PARTIES TO DOCUMENT:

ASSIGNOR: **THE AGENCY, INC.**, a Hawaii corporation, whose mailing address is 77
Kukila Street, Hilo, Hawaii 96720

ASSIGNEE: **CRESCENT CITY PROPERTIES, INC.**, a Hawaii corporation, whose
mailing address is **55 Holomua Street, Hilo, Hawaii 96720**

TAX MAP KEY (3) 2-2-060:026

ASSIGNMENT AND ASSUMPTION OF LEASE

This Assignment and Assumption of Lease and License (this "**Assignment**") is made as of _____ 2019 (the "**Effective Date**"), by and between **THE AGENCY, INC.**, a Hawaii corporation, whose mailing address is **77 Kukila Street, Hilo, Hawaii 96720**, hereinafter called the "**Assignor**", and **CRESCENT CITY PROPERTIES, INC.**, a Hawaii corporation, whose mailing address is **55 Holomua Street, Hilo, Hawaii 96720**, hereinafter called the "**Assignee**".

RECITALS

A. Assignor is the Lessee under that certain State of Hawaii Department of Hawaiian Homelands General Lease No. 265 dated January 31, 2005, a short form of which was recorded in the Bureau of Conveyances of the State of Hawai'i, as Document No. 2005-028779, by and between the STATE OF HAWAI'I, by its Department of Hawaiian Home Lands, as "**Lessor**", and IVAN S. MOCHIDA, as Lessee, which was assigned to THE AGENCY, INC., a Hawai'i corporation, (hereinafter "**Lessee**") effective as of May 11, 2005 as noted in the Assignment of Lease, Consent and Release recorded in the Bureau of Conveyances of the State of Hawai'i, as Document No. 2006-187513 (collectively the "**Lease**") of the premises located at 124 Makaala Street, Hilo, Hawai'i 96720, and bearing TMK No.: (3) 2-2-060:026 (the "**Premises**").

B. Assignor and Assignee have entered into that certain Commercial Real Property Purchase and Sale Agreement dated December 14, 2018, and Assignee has agreed to assume and Assignor has agreed to assign all of Assignor's right, title, and interest to the Lease and the Premises, on the terms and conditions contained therein and herein, subject to the consent and approval of the Lessor.

WITNESSETH:

That the Assignor, subject to the Lessor's written consent and performance of all the requirements for closing set forth in that certain Commercial Real Property Purchase and Sale Agreement with an Acceptance Date of December 14, 2018 (as amended, "**PSA**") between

Assignor and Assignee (including but not limited to payment of the purchase price), for and in consideration of the sum of the purchase price set forth in the PSA, and of the covenants and agreements of the Assignee hereinafter contained and on the part of the Assignee to be faithfully kept and performed, does hereby sell, assign, transfer, set over and deliver unto the Assignee all of the Assignor's right, title, interest, and obligations as Lessee in the leasehold estate and interest created by the Lease in the Premises, and Assignee accepts and assumes the same.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges and appurtenances thereunto belonging or appertaining or held and enjoyed in connection therewith unto the Assignee, as tenant in severalty, for and during the full unexpired term of the Lease.

SUBJECT, HOWEVER, to the payment of the rents reserved by the Lease and subject also to the observance and performance by the Assignee of all of the covenants and conditions contained in the Lease, which, according to the terms and provisions thereof, are or ought to be observed and performed by the Tenant therein named.

AND the Assignor, in consideration of the premises, does hereby represent and warrant to Assignee that, to the actual (not constructive or implied) knowledge of Ivan S. Mochida: (1) the Assignor is the lawful owner of said leasehold estate and interest created under the Lease; (2) the Lease is in full force and effect and not in default; (3) the leasehold estate and interest are free and clear of and from all encumbrances except those of record; and (4) the Assignor has good right to sell and assign said leasehold estate and interest.

AND the Assignor, in consideration of the premises, does hereby covenant and agree that the Assignor will WARRANT AND DEFEND the title to said leasehold estate and interest created by the Lease unto the Assignee against the lawful claims and demands of all persons claiming by, through, or under the Assignor; and that the Assignor will indemnify, defend and hold Assignee harmless from any liability under the Lease accruing prior to the date of this Assignment.

AND the Assignee hereby acknowledges, verifies and confirms that the Assignee has reviewed and fully understands all the material terms, covenants and conditions of the Lease and in consideration of this assignment, does hereby promise, covenant and agree to and with the Assignor, and to and with the Lessor under the Lease, in consideration of the consent of the Landlord to the foregoing assignment, that the Assignee will pay the rents thereby reserved that have accrued from and after the date of this Assignment as and when the same become due and payable pursuant to the provisions of the Lease and will also faithfully observe and perform all of the covenants and conditions contained in the Lease that have accrued from and after the date of this Assignment which are or ought to be observed and performed by the Lessee therein named.

IT IS MUTUALLY AGREED that the terms "Assignor", "Assignee", "Lessor" and "Lessee" as and when used hereinabove or herein below shall mean and include the masculine or feminine, the singular or plural number, individuals, associations, trustees, corporations, partnerships or limited liability companies, and each of their respective successors in trust, successors in interest, heirs, personal representatives, executors, administrators and permitted assigns, according to the context thereof, and that if these presents shall be signed by two or more assignors or by two or more assignees, all covenants of such parties shall be and for all purposes are deemed to be joint and several.

The parties hereto agree that this instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same instrument, binding all of the parties hereto, notwithstanding all of the parties are not signatory to the original of the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the day and year first above written.

THE AGENCY, INC.

By: Ivan S. Mochida
Name: Ivan S. Mochida
Title: President

Assignor

CRESCENT CITY PROPERTIES, INC.

By: Charles M. Umemoto
Name: Charles M. Umemoto
Title: CEO

Assignee

STATE OF HAWAII
COUNTY OF HAWAII

)
) ss.
)

On this 29 day of March, 2019, before me personally appeared Iwans. Mochida, to me known (or proved to me on the basis of satisfactory evidence) who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Stephanie H. Lee
Name: Stephanie H. Lee
Notary Public
State of Hawaii

My commission expires: 10/14/22

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Assignment and Assumption of Lease

Document Date: March 29, 2019

No. of Pages: 4

Jurisdiction (in which notarial act is performed):

County + State of Hawaii

Stephanie Lee 3/29/19
Signature of Notary Date of Notarization and
Certification Statement

Stephanie H. Lee
Printed Name of Notary



STATE OF HAWAII
COUNTY OF HAWAII

)
) ss.
)

On this 29 day of March, 2019, before me personally appeared Charles M Umamoto, to me known (or proved to me on the basis of satisfactory evidence) who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Steph M. Lee
Name: Stephanie H. Lee
Notary Public
State of Hawaii

My commission expires: 10/14/22

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: <u>Assignment and Assumption of Lease</u>	
Document Date: <u>March 29, 2019</u>	
No. of Pages: <u>4</u>	
Jurisdiction (in which notarial act is performed): <u>County + State of Hawaii</u>	
Signature of Notary <u>Steph M. Lee</u>	Date of Notarization and Certification Statement <u>3/29/19</u>
Printed Name of Notary <u>Stephanie H. Lee</u>	



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20-21, 2019 Item F-7

To: Chairman and Members, Hawaiian Homes Commission

Thru: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division *KA*

From: Joseph Kualii Camara, Property Development Agent
Land Management Division

Subject: Authorization for Issuance of Land Licenses to Highest Ranked Applicants for the Aina Mauna Feral Cattle Removal Project, Humuula and Piihonua Sections, Island of Hawaii

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) authorize the issuance of two Land Licenses to highest ranked applicants via DHHL's publicized solicitation process for the sole purpose of its Feral Cattle Removal Project on DHHL Aina Mauna Lands. Two (2) separate Licenses are recommended for two (2) Licenses areas, Piihonua Section and Humuula Section which are further described and defined below. The land licenses would continue to provide DHHL the necessary means to address the GOALS AND PRORITY ACTIONS consistent with its Aina Mauna Legacy Program Plan.

Approval and issuance of the two (2) Licenses shall be subject to the following conditions:

1. Authorize the issuance of separate Land Licenses to respective highest ranked applicants as evaluated via DHHL's publicized solicitation process covering the subject area, which are by this reference incorporated herein and further subject to the following:
 - A. Non-exclusive Land License for the Removal of Feral Cattle and related activities
 - B. Standard Terms and Conditions for DHHL Non-Exclusive Land License
 - C. Additional Terms and conditions incorporating contents of Land License Application Request for Proposals
 - D. Terms and conditions as offered by applicants in submitted proposals
 - E. Such other terms and conditions as may be prescribed by the Hawaiian Homes Commission to best serve the interests of the Hawaiian Home Lands Trust;
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR this project will have minimal or no significant negative impact on the environment. The project will have significant positive impacts to the environment. Actions regarding ungulate control and road maintenance and construction were considered and addressed in the 2012 Environmental

Assessment for the Aina Mauna Legacy Program which was approved by the Hawaiian Homestead Commission and accepted by the Office of Environmental Quality Control with a finding of no significant impact.

LOCATIONS

Humuula Section License Area: Hawaiian Home Lands situated in Humuula, Island of Hawaii, portions of Tax Map Keys: (3)3-8-001:007; :002. Areas mauka of Keanakolu/Mana Road between Puu Oo cattle guard north to Hopuwai corral as identified in attached map, Exhibit "A", approximately 12,835 acres

Piihonua Section License Area: Hawaiian Home Lands situated in Humuula and Upper Piihonua, Island of Hawaii, portions of Tax Map Keys: (3) 3-8-001:007; :002 and (3) 3-26-018:002. Areas Makai of Keanakolu Road from Puu Oo cattle guard, north to Koa buffer as identified in attached map, Exhibit "A", approximately 7170 acres.

PLANNING AREA:

Humuula, Piihonua Mauka, Aina Mauna Lands

LAND USE DESIGNATION:

DHHL TMKs (3)3-8-001:002, (Humuula) and (3)3-26-018:002 (Upper Piihonua) are zoned agricultural. DHHL TMK (3)3-8-001:007 (Humuula) is zoned agricultural and conservation.

Under the Aina Mauna Legacy Program The planned land use for the license areas are Native mamane forest restoration, Native koa and ohia forest restoration, Sustainable koa forestry and Gorse Control/Future Homestead Opportunity. The presence of Feral Cattle has a negative effect and impede implementation of all these land uses.

CURRENT STATUS:

DHHL, former pasture lease TMKs (3)3-8-001: 002, :007, (3)3-26-018:002

CHARACTER OF USE:

Former cattle lease. Planned future use under the Aina Mauna Legacy Program is Future Homesteading Opportunities, Sustainable Koa Forestry, Native Forest Restoration, Timber/Gorse Control

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Triggers:

Use of State Lands

2012 Aina Mauna Legacy Plan Environmental Assessment:

On January 23, 2012, the Final Environmental Assessment for the Aina Mauna Legacy Program was unanimously approved by the Hawaiian Homestead Commission and filed on February 8, 2012 with the State of Hawaii Office of Environmental Quality Control with a Finding of no Significant Impact. Actions equivalent to the proposed action and their impacts have been considered in the EA on page 50.

“Feral Animal Control

Feral animals (hoofed mammals such as cattle, sheep, goats, as well as dogs and cats etc.) can be vectors for the spread of invasive species (including gorse) and can have a negative influence on native forest restoration. (Feral animal control does not cover pigs, as they are covered under a separate action 2.2.9.)

Control and/or removal of these animals will be done across the entire property. Implementing feral animal control (primarily sheep, cattle, goats, dogs, cats etc.) and allowing management of pigs (so long as the resources are adequately protected) will provide food for beneficiaries, reduce the impacts to the forest resources and may generate revenue for the Trust from the sale of feral ungulates or permits to hunt them.

Feral animals introduced to Hawaii can be detrimental to Hawaii's native ecosystems via the damage they inflict on both vegetation structure and composition. Feral animals can impact native plants and ground cover, facilitating sediment run-off. The soil disturbance caused by feral animals facilitates the introduction and expansion of invasive plants and creates breeding grounds for mosquitoes that transmit avian disease to native forest birds.

There are four main components in successful feral animal control programs, including:

- 1) Removal of populations from designated areas;*
- 2) Establishment of barriers to continue isolation of populations from designated sites;*
- 3) Barrier inspection and maintenance; and*
- 4) Vigilance in monitoring feral animal populations*

A feral animal control program could be initiated with designated animals being removed by either beneficiaries or professional contractors. The feral animal control program does not prohibit the opportunity for future homesteaders to raise their own livestock.”

The direct, cumulative, and potential impacts of the action described have been considered pursuant to Chapter 343, Hawaii Revised Statutes and Chapter 11-200, Hawaii Administrative Rules. The action as proposed has been determined to have minimal or no significant impact on the environment. The Planning Office has reviewed the proposed action and determines it is in accordance with the 2012 Aina Mauna Legacy Program Final Environmental Assessment.

CONSISTENCY WITH DHHL PLANS, POLICIES AND PROGRAMS

Aina Mauna Legacy Program (2009)

The recommended disposition is consistent with the following Aina Mauna Legacy Plan goals and priority actions:

Land and Resource Management

Goals:

- **Restoration and enhancement of DHHL trust resources**

- Removing feral cattle from the 20,000-acre project area will enable restoration and enhancement efforts including:
 - Koa, mamane, ohia and sandalwood restoration and enhancement
 - Safe access to project area
 - Sustainable koa forestry
 - Timber forestry with multiple profitable species
- **Conserve natural and cultural resources and endangered species**
 - Remove feral cattle from sensitive native ecosystems including Palila Critical Habitat
 - Conserve the remaining intact high value koa, ohia and mamane forests on DHHL Lands.
 - Allow restoration of habitat for native endangered species including iiwi, akiapolaau, akepa, opeapea, alawi, io and nene which are currently found on the Aina Mauna Lands.
- **Address reforestation and restoration of the ecosystem**
 - By removing feral cattle, by far the most damaging ungulate present on the Aina Mauna Lands, natural regeneration and active reforestation and restoration of native ecosystems will be possible.

Immediate Actions:

- **Initiate un-managed ungulate control over entire property**
 - Cattle have the greatest impact of ungulates present on the Aina Mauna Lands. Feral (un management) cattle removal will allow for natural forest regeneration and manual reforestation efforts.
- **Investigate and implement additional areas for sustainable koa forestry opportunities**
 - Over 3,000 acres of the project area are planned for sustainable koa forestry. Sustainable koa forestry is not feasible with feral cattle present in these areas
 - Sustainable koa forestry can be expanded into other parts of the project area that are free of feral cattle.
- **Initiate a set aside for portions of the property for restoration and enhancement purposes.**
 - Removal and exclusion of cattle from identified set aside areas through proposed cattle license areas will allow for restoration and enhancement of natural resources.

DISCUSSION:

DHHL LMD issued two (2) publicized solicitations (available on DHHL website, LMD page, posted 10/10/2018) seeking applications for land licenses to be issued to the most qualified applicant(s) to remove Feral Cattle on the Aina Mauna Lands of Humuula and Upper Piihonua. Feral cattle degrade native forests causing loss of habitat, economic timber potential and watershed function. Feral Cattle inhibit the natural regeneration of native forests and prevent reforestation efforts across both License areas covering over 20,000 acres. Feral cattle are dangerous and limit safe access to the Aina Mauna lands and cause damage to roadways, fence lines, and other infrastructure. For these reasons, Ungulate removal (of which cattle are by far the most detrimental) is a priority immediate action of the Aina Mauna Legacy Program, the management plan for the Aina Mauna Lands.

Feral Cattle are however seen as a valuable resource to many Beneficiaries and Hawaii Island residents. Feral cattle have been hunted and captured on Mauna Kea as far back as the early 1800's and have provided valuable meat and other resources. However, when looking objectively at the true cost of feral cattle and how their presence limits other land uses, removing them from the project area will allow for koa restoration and timber forestry which are more valuable both economically, and ecologically and allows for safer access to the Aina Mauna Lands.

The evaluation criteria (See Exhibit “B”) of the applications for Feral Cattle Removal Licenses aim to solicit highly qualified and capable applicants who can provide the greatest benefit to DHHL Trust and Beneficiaries.

An evaluation committee of five (5) members was formed and approved by the Deputy of the Chairman on behalf of the Chairman on November 27, 2018. The committee was comprised of three (3) DHHL staff, with sufficient education, training, experience and credentials required to identify and select a Licensee to provide the needed services. Additionally, due to the specialized nature of this proposal, one (1) DLNR-DOFAW staff, and one (1) DOA staff with subject matter expertise was also added as members to this committee.

SOLICITATION TIMELINE:

- October 10, 2018, Solicitations for Feral Cattle Removal License released
 - Solicitations posted on DHHL website
 - Statewide notification via County Newspapers
- October 24, 2018, Site visit with interested applicants
- November 2, 2018 Applicants questions deadline
 - Included questions from site visit as well as questions submitted in writing
- November 16, 2018, DHHL’s deadline to respond to questions
 - Via 2 addendums on DHHL website posted on November 5, 15, 2018.
- December 3, 2018, deadline for submittal of applications
 - 3 acceptable applications for each solicitation were received by the application deadline.
- December 4, 2018 applications distributed to evaluation committee for review and scoring
- December 13, 2018 Evaluation Committee conference to discuss evaluations, share expertise and finalize scoring.
- December 20, 2018, after collection of evaluation committee score sheets and discussion among evaluators, recommendations for License selections made in writing to DHHL chair.
- December 28, 2018, DHHL chair approval of recommended Licensees for both Humuula and Piihonua Sections.
- January 28 – 29, 2019 LMD submittal item F-3 HHC, deferred decision on issuance of feral cattle removal licenses until next Hawaii Island HHC meeting. HHC authorized negotiations with highest ranked applicants of each Cattle Removal License solicitation to draft cattle removal licenses.
- May 1, 2019 Informational briefing to legislators regarding the evaluation process for feral cattle removal license applicants
- May 20-21, 2019 LMD submittal to HHC for issuance of two (2) cattle removal licenses

BENEFITS TO THE HAWAIIAN HOMES TRUST:

Finding Qualified Feral Cattle Removal Licensees will:

- Remove Feral Cattle from the Aina Mauna Lands, allowing for natural forest regeneration and manual reforestation efforts to take place across the 20,000-acre project area, increasing the Aina Mauna trust lands economic, habitat and watershed value.

- Improve the health and well-being of the Aina Mauna Lands, making them more resilient and resistant to invasive species like gorse and to pathogens like *Ceratocystis lukuohia*.
- Provide a valuable service to DHHL. The estimated cost of live removal of feral cattle is \$115.00 a head.
- A significant amount of trapped feral cattle will be distributed to Hawaii Island DHHL beneficiaries, providing a valuable meat resource to beneficiaries throughout the term of feral cattle removal license(s)
- Feral cattle not distributed to beneficiaries will be purchased from DHHL, providing an income source.
- The risk of wild cattle will be reduced and the Aina Mauna lands will become more accessible.
- Damage to roads fence-lines and other infrastructure will be reduced
- Removal of feral cattle will allow other planned land uses under the Aina Mauna Legacy Program to be implemented without damage and risk from feral cattle.

BACKGROUND

Based on experiences from cattle removal efforts on the Aina Mauna Lands, DHHL has refined the current Cattle Removal License Applications to incorporate the following strategies to meet its goal of feral cattle removal from the Aina Mauna Lands is 3-5 years and increase benefits to beneficiaries.

Strategies for Land License:

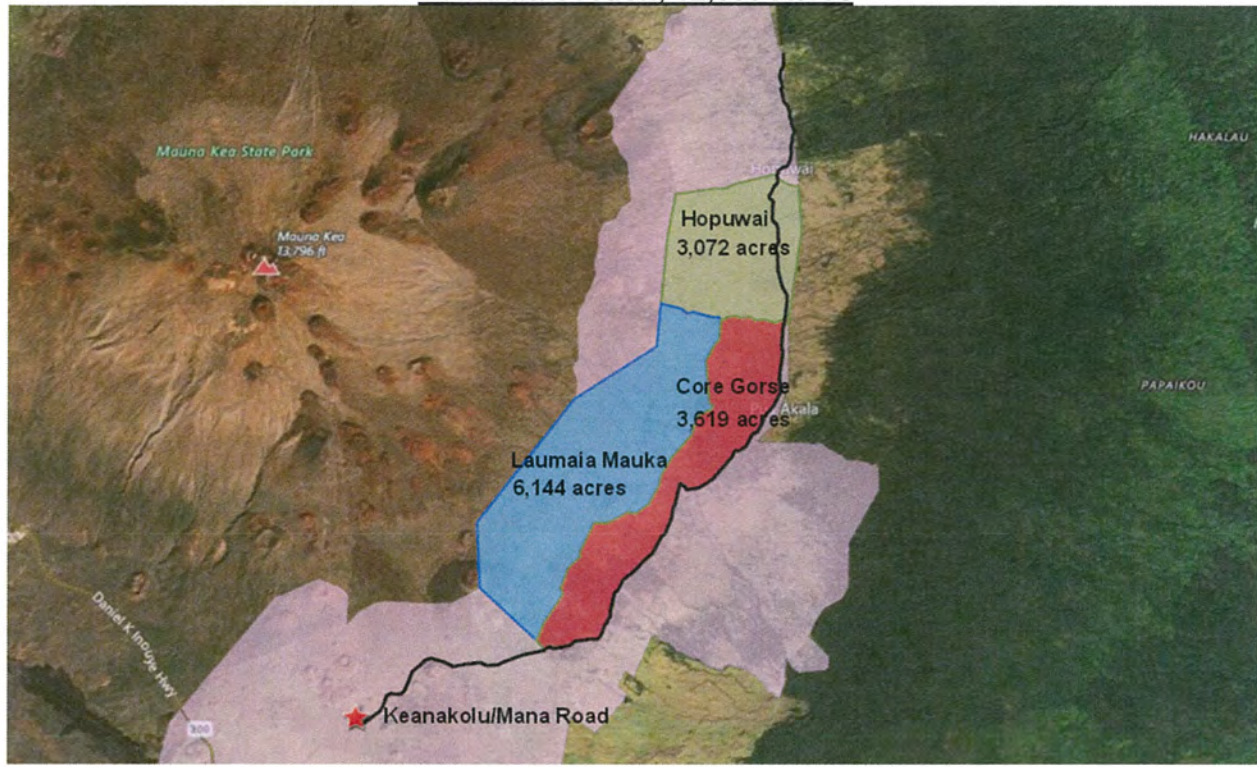
- Issuance of two (2) Licenses to increase removal efforts
 - Increased removal efforts
 - Different Licensees and approaches to cattle removal.
 - Access to different cattle markets
 - Increased resource distribution to beneficiaries
- Feral Cattle Survey done in June – July 2018
 - First systematic feral cattle population data, providing a clear target for successful cattle removal
 - Piihonua – 1,275 cattle remaining
 - Humuula – 450 cattle remaining
- Based on estimated population growth of 34% for 3-year success
 - Piihonua – average of 740 cattle must be removed per year
 - Humuula – average of 260 cattle must be removed per year
 - Rate of removal to be explicit in Licenses
- Increase boundary and strategic fences
 - 5 miles of DLNR fence has been completed in 2017, blocking cattle from moving back and forth to Hilo Forest Reserve where they are untrappable.
 - Strategic fences to protect the largest acreage with minimal infrastructure costs
 - Fences prevent re-populating of areas cleared of feral cattle
- Increase cattle distribution to beneficiaries by making the amount and method of cattle distribution a criterion of the License applications.

RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated

EXHIBIT A – LICENSE AREA MAPS

Humuula Section, 12,835 Acres



Piihonua Section, 7170 Acres

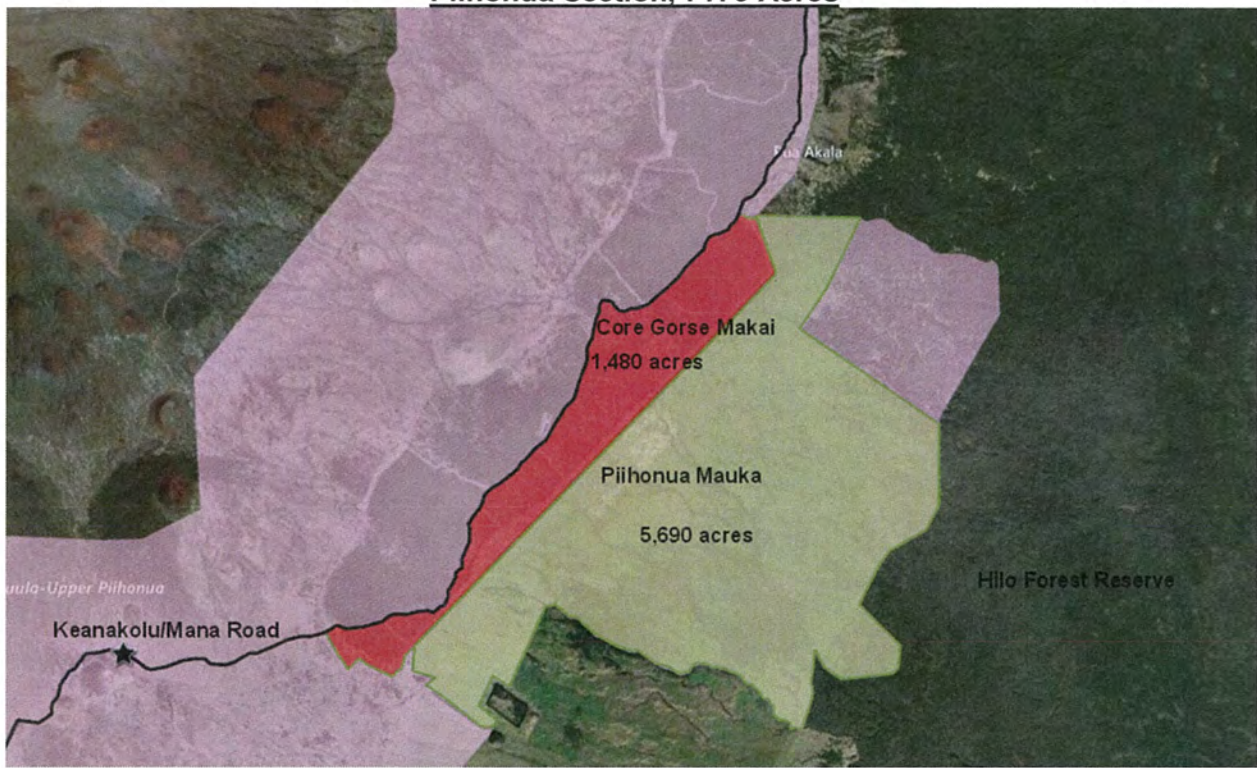


EXHIBIT B – EVALUATION CRITERIA

Evaluation criteria listed below will be used by the evaluation committee to review the responses to this solicitation for feral cattle removal license. The Applicant's submittal must satisfactorily meet the requirements identified under the headings for project management plan, DHHL beneficiary benefits, experience and capabilities and DHHL project revenue.

The total number of points used to score this license is 100.

EVALUATION CRITERIA		Possible Points
Project Management Plan		30
<ul style="list-style-type: none"> • Amount of Cattle removed • Trapping Methods • Cattle Distribution to DHHL Beneficiaries • Trapping Infrastructure • Tools and Equipment • Best Management Practices • Cattle Removal Timeline • Cost of removal • Hawaii Cattle Industry 		
DHHL Beneficiary Benefits		30
<ul style="list-style-type: none"> • Percentage of removed cattle that will be made available for DHHL Lessees and waitlist beneficiaries. • Type of cattle resources that will be made available for beneficiaries including live animals and any other cattle products that the applicant is capable of providing to beneficiaries in a safe and sanitary manner. • Resources available for transport, storage and distribution to beneficiaries. Plan for equitable distribution of cattle among Hawaii island beneficiary communities. • Other beneficiary benefits for consideration including but not limited to whether applicant or any project personnel are DHHL beneficiaries. • DHHL Beneficiaries are defined as: All Native Hawaiians (50% or more Hawaiian) and their successors. This includes: Existing lessees (residential, agricultural, and pastoral); Applicants on the Waitlist; and Native Hawaiians who have not applied for a homestead award. 		

Experience & Capabilities	30
<ul style="list-style-type: none"> • Must be a registered State of Hawaii business with service capacity in the district of Hilo on the Island of Hawaii. • A list of key personnel and associated resumes of those who will assist DHHL in this project. • Must have 4 years minimum experience in capture and management of feral or dangerous cattle. • The number of years Applicant has been in business and the number of years applicant has performed work similar to services specified by this solicitation. • A list of sample projects or similar services Applicant has provided to clients with specific emphasis on describing previous experience with: (1) feral cattle management (2) marketing and otherwise disposing of cattle on Hawaii Island • A complete, relevant, and current list of cattle operations applicant is involved in. • A list of at least two (2) references from the Applicant's client listing that may be contacted by the State as to the Applicant's past and current job performance. Applicant shall provide names, titles, organizations, telephone numbers, email and postal addresses. • A summary listing of judgments or pending lawsuits or actions against; adverse license actions, including termination(s), suspension, imposition of penalties, or other actions relating to failure to perform or deficiencies in fulfilling contractual obligations against your firm. If none, so state. 	
DHHL Project Revenue	10
<ul style="list-style-type: none"> • Price applicant proposes to pay DHHL for each marketable animal removed from the project area • Cattle distributed to DHHL Beneficiaries will not be charged to Licensee • $[(\text{Applicant's Proposed Price} \div \text{Highest Price Proposal}) \times 10 \text{ points (maximum)}] = \text{Points}$ 	

G ITEMS

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

May 20 - 21, 2019

To: Chairman and Members, Hawaiian Homes Commission
Thru: Andrew H. Choy, Acting Planning Program Manager *AC*
From: Halealoha Ayau, Water Resource Management Specialist
Subject: For Information Only - Water Policy Plan
Implementation Program Report for FY 2019 and Draft
Water Policy Plan Implementation Program for FY 2020

RECOMMENDED MOTION/ACTION

For Information Only

DISCUSSION

This submittal provides (1) a report on progress made towards the Commission's water policy goals under the FY 2019 Water Policy Plan ("WPP") Implementation Program ("IP"), and (2) a Proposed WPP-IP for FY 2020.

I. Purpose

The HHC Water Policy Plan was passed as the first comprehensive water policy for the HHC in 2014. It specifies that the Chairman shall seek approval of the HHC for a proposed IP annually in conjunction with the Department's budget request. In addition, the Chairman shall annually report on progress on execution of the previously approved IP.

II. Background.

At its July 22, 2014 meeting, the Commission adopted its Water Policy Plan ("WPP"). The WPP was developed over three years through extensive consultation with beneficiaries. The purpose of the WPP is to provide strategic, proactive, comprehensive, and consistent guidance to the Commission, Department of Hawaiian Home Lands ("Department"), and beneficiaries on water related issues, actions, and decisions.

The Planning Office ("PO") is the lead division for the WPP-IP. However, as responsibilities for water are currently held throughout the department, implementation requires coordination across the agency.

Because of the timing of the approval of the WPP, the FY 2016 WPP IP was the first submitted prior to the beginning of the fiscal year and the first evaluated on a full year basis. This will be the fourth full year of evaluation and the fifth WPP IP submitted for consideration of the HHC.

III. Summary of Performance on the FY 2019 WPP-IP

Application of the FY 2019 WPP IP, as in previous years, has focused on advocacy and communication / education. The years of investment in advocacy have also begun to realize objectives.

The most significant highlights were as follows:

- 1) On September 18, 2018, the Commission on Water Resources Management (CWRM) approved ground water reservations for DHHL in non-designated water management areas on the islands of Kaua'i, Lāna'i, Maui, and Hawai'i.
- 2) Along with the William S. Richardson School of Law's Ka Huli Ao / Center for Excellence in Native Hawaiian Law, continued Water Rights training for beneficiaries on Kaua'i, Maui, and Lāna'i and Hawai'i.
- 3) On December 10, 2018, the Hawai'i Supreme Court upheld the CWRM decision DHHL advocated for, which concluded Moloka'i Ranch and its subsidiaries had abandoned their original Water Use Permit Application and those proceedings were properly dismissed.
- 4) Working with DHHL and Maui County, the US Geological Survey has nearly completed its groundwater model for Molokai which shall serve as a basis for further water development for homesteads on that island.

It bears noting that the former acting Planning Program manager for DHHL in January 2019 was appointed to be the Deputy Director for the CWRM, their lead staff member. While this has impacted some progress on WPP IP, it is also a sign of the accomplishments of DHHL's water efforts and staff. It is also worth recognizing that the operation and maintenance contract

for the Pu'ukapu system was awarded to Waimea Nui CDC in October 2018 representing the first time a homestead association was delegated the responsibility for operating a DHHL water system.

As in past years, developments in ongoing water disputes had critical implications for the Department's interests in water. Conflicts regarding groundwater on Moloka'i and surface water from East Maui, Wailua, Kaua'i, and Ka'u necessarily required focused staff and consultant efforts to ensure the rights of the beneficiaries, Hawaiian Homes Commission, and the DHHL were protected and enhanced.

Due to the necessary redirection of efforts, some goals remain to be fully implemented. Some of these have been included in the proposed FY 2020 WPP IP, while others are recommended to be removed. A summary of FY 2019 WPP IP performance is provided in Exhibit A.

IV. Proposed FY 2019 WPP-IP.

The proposed WPP-IP FY2019 budget is \$700,000. The following describes general areas of expenditures under subparts of WPP-IP FY 2018 goals, which are detailed as Exhibit B.

Goal 1.b.	\$100,000 Continue to train beneficiaries regarding DHHL water rights
Goal 2.a.	\$100,000 NHRF Audit Strategy Implementation
Goal 2.b.	\$200,000 Water Policy Plan Implementation (continue exploration of enforcement mechanisms for water reservations and continue to monitor and comment on BLNR and CWRM actions; comment on water rights-related legislative and other agency rulemaking);
Goal 2.f.	\$150,000 Water Rights Experts / Studies (including expert witnesses as may be needed for administrative proceedings)

Goal 5.c. \$150,000 Molokai Irrigation System Cost of Service Study to analyze the financial health of the MIS, as part of the broader assessment of whether it would be prudent to take ownership of the system

Total: **\$700,000**

Other foci in FY 2020 will be on a) pursuing mechanisms to transform water reservations into "wet water" and b) continuing to work with the Department of Land and Natural Resources (DLNR) to transform water revocable permits into long term leases.

RECOMMENDED MOTION/ACTION

None; for information only.

Exhibit A. Summary of Performance on the FY 2019 WPP-IP

Application of the FY 2019 WPP IP, as in previous years, has focused on advocacy and communication / education. The years of investment in advocacy have also begun to realize objectives.

The most significant highlights were as follows:

- 1) On September 18, 2018, the Commission on Water Resources Management (CWRM) approved ground water reservations for DHHL in non-designated water management areas on the islands of Kaua'i, Lana'i, Maui, and Hawai'i.
- 2) Along with the William S. Richardson School of Law's Ka Huli Ao / Center for Excellence in Native Hawaiian Law, continued Water Rights training for beneficiaries on Kaua'i, Maui, and Lana'i and Hawai'i.
- 3) On December 10, 2018, the Hawai'i Supreme Court upheld the CWRM decision DHHL advocated for, which concluded Moloka'i Ranch and its subsidiaries had abandoned their original Water Use Permit Application and those proceedings were properly dismissed.
- 4) Working with DHHL and Maui County, the US Geological Survey has nearly completed its groundwater model for Molokai which shall serve as a basis for further water development for homesteads on that island.

It bears noting that the former acting Planning Program manager for DHHL in January 2019 was appointed to be the Deputy Director for the CWRM, their lead staff member. While this has impacted some progress on WPP IP, it is also a sign of the accomplishments of DHHL's water efforts and staff.

As in past years, developments in ongoing water disputes had critical implications for the Department's interests in water. Conflicts regarding groundwater on Moloka'i and surface water from East Maui, Wailua, Kaua'i, and Ka'u necessarily required focused staff and consultant

efforts to ensure the rights of the beneficiaries, Hawaiian Homes Commission, and the DHHL were protected and enhanced.

Due to the necessary redirection of efforts towards advocacy, efforts on other goals remain to be fully implemented. Some of these have been included in the proposed FY 2020 WPP IP, while others are recommended to be removed. A summary of FY 2019 WPP IP performance is provided below.

Table I. Summary of FY 2019 WPP IP Performance

Red shading and plain text indicates implementation action goal was not met; yellow shading and *italicized text* indicates some progress was made; green shading and bold-faced text indicates the action goal was met.

Goal 1. Affirmatively communicate with beneficiaries regarding water decisions, performance, and water rights on a regional and annual basis.

#	Implementation Action(s)	Performance	Next Steps
1.a.	Annually and regionally present on DHHL water projects and issues in conjunction with HHC meetings.	Objective met	Proposed to be continued
1. b.	Continued implementation of ten targeted trainings on water rights for beneficiaries over two years in collaboration with the William S. Richardson School of Law's Ka Huli Ao program and others as available and appropriate. ¹	Objective met	Proposed to be continued

1

Date	Location	Attendance
April 14, 2018	Kalama'ula, Moloka'i	42
June 2, 2018	Lahaina, Maui	19
June 16, 2018	Ha'ikū, Maui	34
August 15, 2018	Anahola, Kaua'i	20
August 16, 2018	Kekaha, Kaua'i	41
December 1, 2018	Lāna'i City, Lāna'i	15
December 15, 2018	Wai'anae, O'ahu	22
May 11, 2018	Kona, Hawai'i	1

Goal 2. Aggressively, proactively, consistently and comprehensively advocate for the kuleana of the beneficiaries, the DHHL, and the HHC to water before all relevant agencies and entities.

#	Implementation Action(s)	Performance	Next Steps
2.a.	Begin to implement plan for advocating for funds due to the Native Hawaiian NHRF based on a final report due in June 2018.	Objective partially met; due to delay in final report some work accomplished related to water leases.	Proposed for implementation in FY 2020
2.b.	Secure water reservations pursuant to Hawai'i Revised Statutes, Chapter 174C & Section 171-58 Coordinate with CWRM staff on use of the State Water Projects Plan as a basis of minimum reservations across the islands. Continue exploration of enforcement mechanisms for reservations. On a case by case basis assert reservation needs in conjunction with water licensing under HRS 171-58	Objective partially met; groundwater reservations in non-designated areas secured. Work needed for surface water and additional in designated areas.	Proposed to be continued
2.c.	Continue efforts to ensure regulatory compliance i. Continue regular comments on water use permit applications (WUPAs), BLNR and CWRM actions, and other agency actions (Agriculture, Agribusiness Development Corporation, County Departments/ Boards of Water Supply and Planning Departments, and on Environmental Assessments / Environmental Impact Statements (EA/ EIS) that could affect DHHL water rights; ii. Continue to coordinate with OHA compliance staff on identification and tracking of compliance actions;	Objective met	Proposed to be continued

#	Implementation Action(s)	Performance	Next Steps
	<p>ii. Develop a method for utilizing WAI information in comment letters and tracking comment letters in a WAI database.</p> <p>iv. Review the WPP and identify elements to be incorporated into rulemaking procedures under HR. §91-3.</p>		
2. d.	<p>Water Planning</p> <p>Participate in and comment on all updates to the Hawai'i Water Plan and County Plans that will affect DHHL and beneficiary water uses and rights</p> <p>Coordinate DHHL agricultural water systems development planning with State and county community development and agricultural water plans.</p> <p>Coordinate with DHHL staff working on subsistence agricultural plans to ascertain agricultural water needs.</p>	Objective met	Proposed to be continued
2. e.	<p>Comment on water rights-related legislative and other agency rulemaking actions as necessary and directed.</p>	Objective met	Proposed to be continued
2. f.	<p>Work with authorized outside counsel as applicable to assert DHHL water rights through legal mechanisms; Use of expert witnesses if attempts to mediate ongoing disputes are unsuccessful in administrative proceedings</p>	Objective met	Proposed to be continued

Goal 3. Develop and manage a Water Assets Inventory (WAI).

#	Implementation Action(s)	Performance	Next Steps
3. a.	Continued integration of data into the WAI	Objective met	Proposed to be continued
3. b.	<p>Identify traditional, place-based knowledge of water resources relevant to DHHL interests to develop a Cultural Water Assets Inventory</p> <p>i. Integrate, as appropriate, into template for comments on water actions and submittals to HHC.</p>	<p>Objective partially met; work to develop Cultural Water Assets Inventory is nearly complete and the work to integrate into template for comments on water actions and submittals will follow.</p>	Proposed to be continued

Goal 4. Support watershed protection and restoration on DHHL lands and source areas for DHHL water.

#	Implementation Action(s)	Performance	Next Steps
4. a.	Implement revisions to 'Aina Mauna program	Objective met: LMD is pursuing watershed management in partnership with Mauna Kea Alliance as part of the 'Aina Mauna Program. LMD also engaging in watershed management through partnerships in Kawaihae and Kahikinui. Planning (Andrew) provided support with the Kailapa community.	Not included in WPP - IP / Planning budget

Additional WPP Related activities not covered by a particular IP goal
<ul style="list-style-type: none"> • Participated as directed by BLNR in a “facilitated conversation” regarding the revocable permits for the Wai’ale’ale / “Blue Hole” diversion, Kaua’i • Continued work on drafting Water Credit Management Procedures • Participation in Molokai Water Working Group

Additional Information

In addition to the information presented above and in the main HHC submittal, regional updates on Water Issues and Projects have been provided throughout the year to the HHC.

PROPOSED WPP IMPLEMENTATION PROGRAM AND BUDGET FOR FY 2020

The proposed WPP-IP FY2019 budget is \$700,000. The following describes general areas of expenditures under subparts of WPP-IP FY 2018 goals, which are detailed as Exhibit B.

- | | | |
|-----------|-----------|---|
| Goal 1.b. | \$100,000 | Continue to train beneficiaries regarding DHHL water rights |
| Goal 2.a. | \$100,000 | NHRF Audit Strategy Implementation |
| Goal 2.b. | \$200,000 | Water Policy Plan Implementation (continue exploration of enforcement mechanisms for water reservations and continue to monitor and comment on BLNR and CWRM actions; comment on water rights-related legislative and other agency rulemaking); |
| Goal 2.f. | \$150,000 | Water Rights Experts / Studies (including expert witnesses as may be needed for administrative proceedings) |
| Goal 5.c. | \$150,000 | Molokai Irrigation System Cost of Service Study to analyze the financial health of the MIS, as part of the broader assessment of whether it would be prudent to take ownership of the system |

Total: ☐ **\$700,000**

Estimates of staff and consultant time are included below. Except where noted, the target date for completion is June 30, 2020. The Planning Office ("PO") is the lead Department of Hawaiian Home Lands ("DHHL") division for the WPP-IP. Resources for certain implementation actions are not specified when they are conducted by other divisions or included in other portions of the PO budget.

Total staff time estimated: 1,385 hours

Total consultant time estimated: 2,860 hours

PROPOSED WPP IMPLEMENTATION PROGRAM AND BUDGET FOR FY 2020

Goal 1. Affirmatively communicate with beneficiaries regarding water decisions, performance, and water rights on a regional and annual basis.

#	Implementation Action(s)	Cost / resource estimate	Estimated expenses
1. a.	Annually and regionally present on DHHL water projects and issues in conjunction with HHC meetings.	Staff time: 80 hr. Consultant time: 80 hr.	Within PO budget and consultant contracts
1. b.	Develop and execute ten targeted trainings on water rights for beneficiaries over two years in collaboration with the William S. Richardson School of Law's Ka Huli Ao program and others as available and appropriate.	Staff time: 200 hr. Consultant time: 200 hr.	\$100,000 contract in budget request
	Subtotal	Staff: 280 Consultant: 280	\$100,000

PROPOSED WPP IMPLEMENTATION PROGRAM AND BUDGET FOR FY 2020

Goal 2. Aggressively, proactively, consistently and comprehensively advocate for the kuleana of the beneficiaries, the DHHL, and the HHC to water before all relevant agencies and entities.

#	Implementation Action(s)	Cost / resource estimate	Estimated expenses
2. a.	Begin to implement plan for advocating for funds due to the Native Hawaiian NHRF based on a final report due in September 2019.	Goal 2.a. Staff time: 100 hr. Goal 2.a. Consultant time: Approximately 800 hours	\$100,000 contract in budget request
2. b.	Secure water reservations pursuant to Hawai'i Revised Statutes, Chapter 174C & Section 171-58 i. Seek water reservations in surface water across the islands. ii. Seek additional water reservations in groundwater management areas as appropriate. ii. Continue exploration of enforcement mechanisms for reservations. iv. On a case by case basis assert reservation needs in conjunction with water licensing under HRS 171-58	Goal 2.b. Staff time: 200 hr. Goal 2.b. Consultant time: 400 hr.	\$200,000 contract in budget request for 18 months of work.
2. c.	Continue efforts to ensure regulatory compliance i. Continue regular comments on water use permit applications (WUPAs), BLNR and CWRM actions, and other agency actions (Agriculture, Agribusiness Development Corporation, County Departments/ Boards of Water Supply and Planning Departments, and on Environmental Assessments / Environmental Impact Statements (EA/ EIS) that could affect DHHL water rights;	Goal 2.c. Staff time: 100 hr. Goal 2.c. Consultant time: 100 hr.	Addressed in 2. b. above.

PROPOSED WPP IMPLEMENTATION PROGRAM AND BUDGET FOR FY 2020

#	Implementation Action(s)	Cost / resource estimate	Estimated expenses
	<ul style="list-style-type: none"> ii. Continue to coordinate with OHA compliance staff on identification and tracking of compliance actions; ii. Develop a method for utilizing WAI information in comment letters and tracking comment letters in a WAI database. iv. Review the WPP and identify elements to be incorporated into rulemaking procedures under HR. §91-3. 		
2. d.	<p>Water Planning</p> <ul style="list-style-type: none"> i. Participate in and comment on all updates to the Hawai'i Water Plan and County Plans that will affect DHHL and beneficiary water uses and rights ii. Coordinate DHHL agricultural water systems development planning with State and county community development and agricultural water plans. ii. Coordinate with DHHL staff working on subsistence agricultural plans to ascertain agricultural water needs. 	<p>Goal 2.d. Staff time: 35 hr.</p> <p>Goal 2.d. Consultant time: 60 hr.</p>	<p>Addressed in 2. b. above.</p>
2. e.	<p>Comment on water rights-related legislative and other agency rulemaking actions as necessary and directed.</p>	<p>Goal 2.f. Staff time: 20 hr.</p> <p>Goal 2.f. Consultant time: 40 hr.</p>	<p>Within PO budget and consultant contracts</p>
2. f.	<p>Work with authorized outside counsel as applicable to assert DHHL water rights through legal mechanisms; Use of expert witnesses if attempts to</p>	<p>Dependent on litigation</p>	<p>\$150,000 contract in budget request</p>

PROPOSED WPP IMPLEMENTATION PROGRAM AND BUDGET FOR FY 2020

#	Implementation Action(s)	Cost / resource estimate	Estimated expenses
	mediate ongoing disputes are unsuccessful in administrative proceedings		
	Subtotal	Staff: 455 Consultant: 1,400	\$450,000

PROPOSED WPP IMPLEMENTATION PROGRAM AND BUDGET FOR FY 2020

Goal 3. Develop and manage a Water Assets Inventory (WAI).

#	Implementation Action(s)	Cost / resource estimate	Estimated expenses
3. a.	Continued integration of data into the WAI	Goal 3.c. Staff time: 50 hr. Goal 3.c. Consultant time: 40 hr.	Within PO budget and consultant contracts
3. b.	Identify traditional, place-based knowledge of water resources relevant to DHHL interests to develop a Cultural Water Assets Inventory i. Integrate, as appropriate, into template for comments on water actions and submittals to HHC.	Goal 3.c. Staff time: 200 hr. Goal 3.c. Consultant time: 500 hr.	From Contract issued in FY 2018. Supplemental Contract to extend for 6 months at no cost went into effect March 1, 2019.
	Subtotal	Staff: 250 Consultant: 540	Obligated funds

PROPOSED WPP IMPLEMENTATION PROGRAM AND BUDGET FOR FY 2020

Goal 4. Support watershed protection and restoration on DHHL lands and source areas for DHHL water.

#	Implementation Action(s)	Cost / resource estimate	Estimated expenses
4. a.	Implement revisions to `Āina Mauna program	Covered in LMD budget	Not included in WPP - IP / Planning budget

PROPOSED WPP IMPLEMENTATION PROGRAM AND BUDGET FOR FY 2020

5. Other WPP Goals: Implementation of additional WPP goals based on the availability of resources

#	Implementation Action(s)	Cost / resource estimate	Estimated Expenses
5. a.	Staff and organize the DHHL consistent with importance of water to the trust. i. Train and update them on issues addressed DHHL water team and positions taken on those issues.	Staff time and existing authorization for position	Within PO budget
5. b.	Continue to pursue development of agricultural water systems i. Continue efforts regarding agricultural water systems at Anahola and Waimea, Kaua'i, and for other areas	5.c. Staff time: 160 hr. 5.c. Consultant time: 300 hr.	Within PO budget
5. c.	Analyze the financial health of the MIS, as part of the broader assessment of whether it would be prudent to take ownership of the system.	5.d. Staff time: 160 hr. 5.d. Consultant time: 300 hr.	\$150,000 contract in budget request
5. d.	Advocate before the county Boards of Water Supply and other county agencies concerning decision-making affecting water	5.d. Staff time: 80 hr. 5.d. Consultant time: 40 hr.	Within PO budget and consultant contracts
	Subtotal	Staff: 400 Consultant: 640	\$150,000

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20 - 21, 2019

To: Chairman and Members, Hawaiian Homes Commission

From: E. Halealoha Ayau, Water Resource Management
Specialist

Subject: West Hawai'i Water Projects Update

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

This submittal provides an update on Department of Hawaiian Home Lands (DHHL) related water projects and issues in West Hawai'i. It provides background information on planned water needs in four planning regions on Hawai'i island and ongoing efforts to address those needs: (1) Humu'ula-Pi'ihonua; (2) Waimea Nui; (3) Kawaihae; and (4) Kealakehe-La'i 'Ōpua.

Since the May 2018 update to the HHC on these matters, the most significant developments have been (a) the reservation of ground water for DHHL in the aquifer system areas of Hawi, Māhukona and Honoka'a by the Commission on Water Resource Management (CWRM) and (b) exploring options for water source for Kealakehe-La'i 'Ōpua from the Ota Well and private landowners in North Kona. Other steps to develop and manage water in these areas have been undertaken by homestead organizations.

The existing DHHL water reservations for Hawai'i Island lack the enforcement mechanisms under the state Water Code (HRS Ch. 174C) that exist in Water Management Areas. DHHL shall continue to work cooperatively with CWRM to seek enforceable reservations to turn "paper water" in to "wet water" to be utilized on Department lands.

I. Introduction

The Department updated the estimates of its planned water needs for its tracts as part of adoption of the State Water Projects Plan (SWPP) Update in May 2017. The numbers in the SWPP Update, repeated here, are estimates based on land use designations; projected water use amounts remain approximations that will be further refined as proposed land uses are realized. However, they indicate where needs exist and the general potential volumes of those needs. Values for all DHHL lands on the island are identified in Table 1.A.

Overall water demand projections in Table 1.A. are an aggregate of demands calculated for each of the tracts on the island. More specific information for the basis of each calculation, and the water issues related from those needs, are provided in the discussion below.

TABLE 1.A. Hawai'i Water Demand Projections (high)¹ in million gallons per day (mgd)

	Year 2016	Year 2021	Year 2026	Year 2031
Potable	2.617	4.164	5.209	10.174
Nonpotable	1.367	5.266	5.266	39.221
Total	3.984	9.430	10.475	49.395

Source: SWPP Update (2016).

II. Planned Water Needs by Planning Region

1) Humu'ula - Pi'ihonua (39,553 acres)

Humu'ula is a 32,475-acre parcel located on the southeastern slopes of Mauna Kea. Parker Ranch and Nobriga Enterprises lease the area for cattle grazing, and it is surrounded by forest reserves (Hawai'i Island Plan at 27, May 2002). Pi'ihonua is a 7,078-acre parcel adjacent to the Humu'ula parcel. Mauna Kea Watershed Alliance has a 10-year license that started in July 2016 for 1,100 acres to assist DHHL to implement its 'Āina Mauna Legacy Program by restoring the native 'ohia and koa forest. These tracts lie within the East Mauna Kea Aquifer System Area (ASA). The 'Āina Mauna Legacy Program Plan adopted

¹ High, medium, and low demand scenarios were developed for each tract in the SWPP Update (2016).

by the Hawaiian Homes Commission (HHC) in 2009 further defines and guides land management goals and activities in this region to conserve its legacy for future generations while also serving as an economic resource.

TABLE 2.A: HUMU'ULA-PI'IHONUA LAND USE DESIGNATIONS

LAND USE DESIGNATION	TOTAL ACRES
General Agriculture	16,660
Pastoral Homesteads	8,440
Special District	4,865
Conservation District	21,000
Commercial	50
Total	39,553

Source: Hawai'i Island Plan at 39 (May 2002).

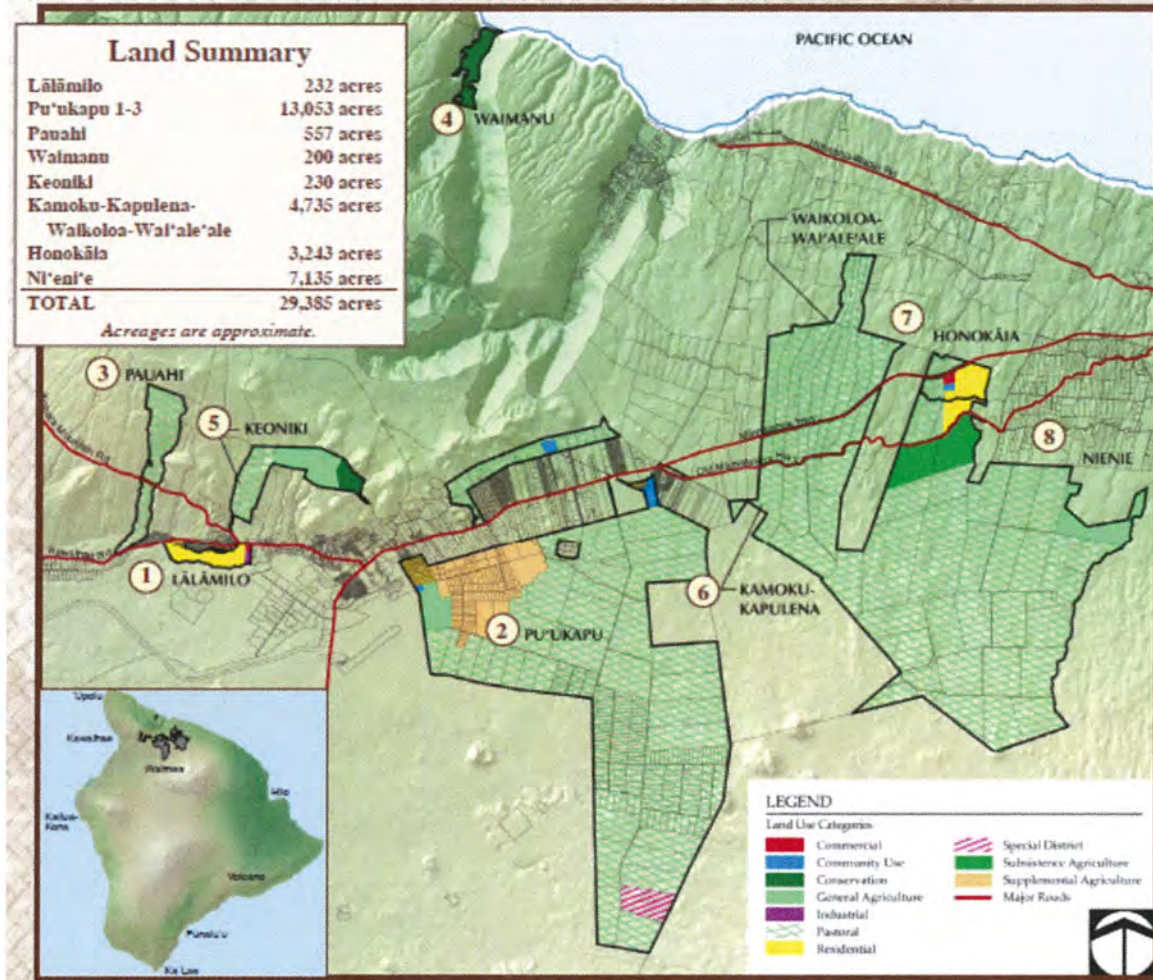
No public or private water systems extend to this area, although ongoing research into aquifers in this area may identify potential groundwater source development opportunities. SWPP Update at 4-35. Dr. Don Thomas with the University of Hawai'i at Hilo conducted preliminary hydrogeology studies on DHHL lands and has determined that there is high-level perched water in the region, but the amount and long-term reliability of that resource is unknown. Parker Ranch operates a stream diversion within the tract with a declared use of 7.320 mgd. The perennial Wailuku River and its tributaries also traverse the tract. Current and future potable water needs for planned uses of these tracts (0.2496-0.300 mgd) may be met through rainwater catchment.² Nonpotable water needs may be met through ambient rainfall irrigation (3.400 mgd) and diverted stream water (0.972 mgd). (SWPP Update 4-35).

2) Waimea Nui (29,385 ac).

Waimea Nui includes the following tracts: Waimanu, 'Upolu, Kamoku-Kapulena-Waikoloa-Wai'ale'ale, Ni'eni'e, Lālāmilo, Pauahi, Keoniki, Pu'ukapu 1, 2, 3, and Honokāia. Waimea Nui Regional Plan at 13-14, 24 (January 2012). Homesteaders in the Waimea Nui region identified the need to exercise Native Hawaiian water rights as their first priority water issue. Waimea Nui Regional Plan at 31.

² The Hawai'i County Water Use Development Plan 2010 Update (Hawai'i WUDP) recorded a proposed demand of 0.16 mgd. *Id.* at 802-24.

FIGURE 1. Overview of Waimea Nui tracts.



Source: Waimea Nui Regional Plan at 13 (2012).

i. Waimanu

The entire 200-acre tract lies within the Kohala ASA and has been designated for conservation uses. The area has been proposed for joint State and Federal management in the Natural Area Reserves System. Waimea Nui Regional Plan at 14. Currently no actions regarding water supply resources or infrastructure are recommended. Hawai'i Water Use Development Plan Update at 801-34 (2010) (Hawai'i WUDP).

ii. 'Upolu

'Upolu Point consists in 37 acres proposed for community use and lies in the Kohala ASA. SWPP Update at 4-32 & 4-33; Hawai'i WUDP Update at 801-34. It is currently serviced by a 1.5-inch waterline connecting to the Hawai'i County Department of Water Supply's (HDWS) 6-inch Hawi-

Kokoiki water line. *Id.* The 1.5-inch waterline may need to be replaced with a larger one to meet long term potable water demand of 0.148 mgd. *Id.* On September 18, 2018, the CWRM approved a groundwater reservation for DHHL of 0.148 mgd in the Hawi Aquifer to meet this long-term demand.

iii. Kamoku-Kapulena-Waikoloa-Wai'ale'ale & Ni'eni'e

Kamoku-Kapulena is a 3,529-acre tract. The Waikoloa-Wai'ale'ale tract (1,206 acres) lies adjacent to Kamoku-Kapulena tract. Twelve pastoral leases have been awarded for the Kamoku tract. Waimea Nui Regional Plan at 14. Eleven pastoral leases have been awarded for Ni'eni'e and another 600 acres were set aside for the Hāmākua Forest Preserve in 1928. *Id.* All these tracts lie within the East Mauna Kea ASA, have been designated for pastoral agricultural use, and DHHL has not proposed any additional water demands for these tracts. Hawai'i WUDP at 802-24.

iv. Lālāmilo & Pauahi & Keoniki

Lālāmilo is a priority tract with at least 30 residential lessees and 442 residential lots planned. Pauahi consists in 557 acres all which have been designated for pastoral uses. Waimea Nui Regional Plan at 13-14. Keoniki consists in 230 acres, which have been designated for pastoral, general agricultural, and conservation uses. *Id.* All three tracts lie within the Kohala ASA and the HDWS Kawaihae-Lālāmilo-Puako water system. Hawai'i WUDP at 801-34.

TABLE 2.B: LĀLĀMILO LAND USE DESIGNATIONS

LAND USE DESIGNATION	TOTAL ACRES
Residential (422 lots)	214
Community Use (3 lots)	19
Industrial	38
Commercial	4
Total	275

Source: Hawai'i Island Plan at 30 (May 2002).

Future water demands associated with the Lālāmilo-Keoniki tracts are 0.214 mgd (potable) and 0.229 mgd (nonpotable). SWPP Update at 4-30. The Department has an agreement with HDWS dated June 5, 2013, under which HDWS will provide 441 units plus a 300-unit entitlement from DLNR for contribution to well development based on average daily demand of 400 gpd per unit (total 0.296 mgd). SWPP Update at 4-30.

v. Honokāia.

The Honokāia tract consists of 3,243 acres proposed primarily for agricultural and pastoral use and lies within the East Mauna Kea ASA. Hawai'i WUDP at 802-24. Projected potable water needs to 2031 estimate 0.396 mgd in potable water needs. SWPP Update at 4-31. On September 18, 2018, CWRM approved a groundwater reservation for DHHL of 0.396 mgd in the Honoka'a Aquifer to meet the DHHL's long-term demand for Honokāia. Waimea Nui homesteaders identified as their second water priority the evaluation and assessment of HDWS systems in Honokāia and Ni'eni'e. Waimea Nui Regional Plan at 31. Department plans to meet potable water need overage by drawing on the HDWS Haina water system. SWPP Update at 4-29. Also, the Department met with Honokāia lessees to finalize the design of a supplemental stock water system as part of a legal settlement agreement (for a project status, see LDD's May 2019 HHC Agenda Item E-3, "Honokāia Non-Potable Water System Construction Contract Award and Budget Authorization)."

TABLE 2.C: HONOKĀIA LAND USE DESIGNATIONS

LAND USE DESIGNATION	TOTAL ACRES
Pastoral homestead	2,336
Subsistence agriculture	538
General agriculture	93
Residential, community, conservation, commercial	276
Total	3,243

Source: Waimea Nui Regional Plan (2012).

vi. Pu'ukapu.

Two of the three Pu'ukapu tracts lie within the Kohala ASA. Pu'ukapu 2 (493 acres) and Pu'ukapu 3 (476 acres) are north of Māmalahoa Highway. Hawai'i WUDP at 801-34. Pu'ukapu 1 (10,979 acres) lies below Māmalahoa Highway. Pu'ukapu 2 and 3 tracts are inaccessible for any type of development. Waimea Nui Regional Plan at 13. Pu'ukapu 1 is primarily designated for pastoral use; there were 454 Pu'ukapu lessees in 2011. *Id.* Long term water demands to 2031 are 0.610 mgd (potable). SWPP Update at 4-31. Long term nonpotable needs (0.8114 mgd) will be delivered through the Hawai'i State Department of Agriculture (DOA) Waimea Irrigation System. *Id.*

All Pu'ukapu tracts lie within the HDWS Waimea water system. SWPP Update at 4-32. Under the Waimea Well Agreement, HDWS allocates 198 units of water at 400 gpd per unit to the Department. SWPP Update at 4-32. In 2002, the Pu'ukapu Pasture Lot Water Strategy, prepared by Engineering Surveyors Hawai'i, Inc, concluded a non-DWS or "hybrid" system would be most feasible to develop due to cost factors. The Pu'ukapu hybrid system was designed to have a production capacity of 0.120 mgd of water, which will service the lower part of the Pu'ukapu tract consisting in potable water delivery for domestic and stock watering use for 184 ranch lots.³ SWPP Update at 2-16. In addition, the operation and maintenance contract for the Pu'ukapu system was awarded to Waimea Nui CDC in October 2018 representing the first time a homestead association was delegated the responsibility of operating a DHHL water system.

Waimea Nui homesteaders identified as a priority water issue a determination as to whether DOA reservoirs lie on Department lands and if homesteaders can access these waters. Waimea Nui Regional Plan at 31. The Department leases lands upon which DOA maintains its 60 MG Pu'ukapu Reservoir (HI00042), constructed in 1957 at TMK No. (3) 6-4-002:125.⁴ DOA's Waimea Irrigation System (WIS) runs through the top portion of Pu'ukapu 1. SWPP Update at 4-30. Water sources for DOA's WIS include diverted flows from five streams, which are channeled into a series of open ditches and tunnels comprising the Upper Hamakua Ditch. *Id.* These flows supply the concrete-lined 60 MG Waimea Reservoir also called the Pu'ukapu Reservoir), with excess flowing to the 100 MG Pu'u Pulehu reservoir. *Id.* The 2004 Agricultural Water Use Development Plan (AWUDP) adopted recommendations from a 1997 Waimea-Pa'auilo Watershed Plan and Environmental Impact Statement, which identified future cropland areas to be irrigated by the WIS, including Pu'ukapu 1. *Id.* The 2016 legislature allocated funding to conduct planning and engineering studies to look at additional storage and system improvements to the WIS. Whether the WIS will be able to

³ FEA-FONSI for the Pu'ukapu Hybrid Water System, prepared for the Dep't of Hawaiian Home Lands at 1 (March 23, 2010).

⁴ Dep't of Agriculture, State of Hawai'i, "Application for a DLNR Dam Safety Construction/ Alteration Permit No. 53 - Waimea 60 MG Reservoir (HA-0042) Dam Safety Improvement, Waimea, Hawai'i," at 1 (Sep. 14, 2012) available at: <http://hawaii.gov/dlnr/chair/meeting/submittals/120914/L-ENG-Submittals-L2.pdf>.

supply Pu'ukapu tract nonpotable needs depends on determinations in the forthcoming AWUDP and the aforementioned study.

3) Kawaihae.

The Kawaihae tract consists in 10,153 acres on the dry western side of Hawai'i.

TABLE 3.A: KAWAIHAE LAND USE DESIGNATIONS

LAND USE DESIGNATION	TOTAL ACRES
General agriculture	7,502
Residential	2,223
Community Use	72
Industrial/ Commercial	356
Total	10,153

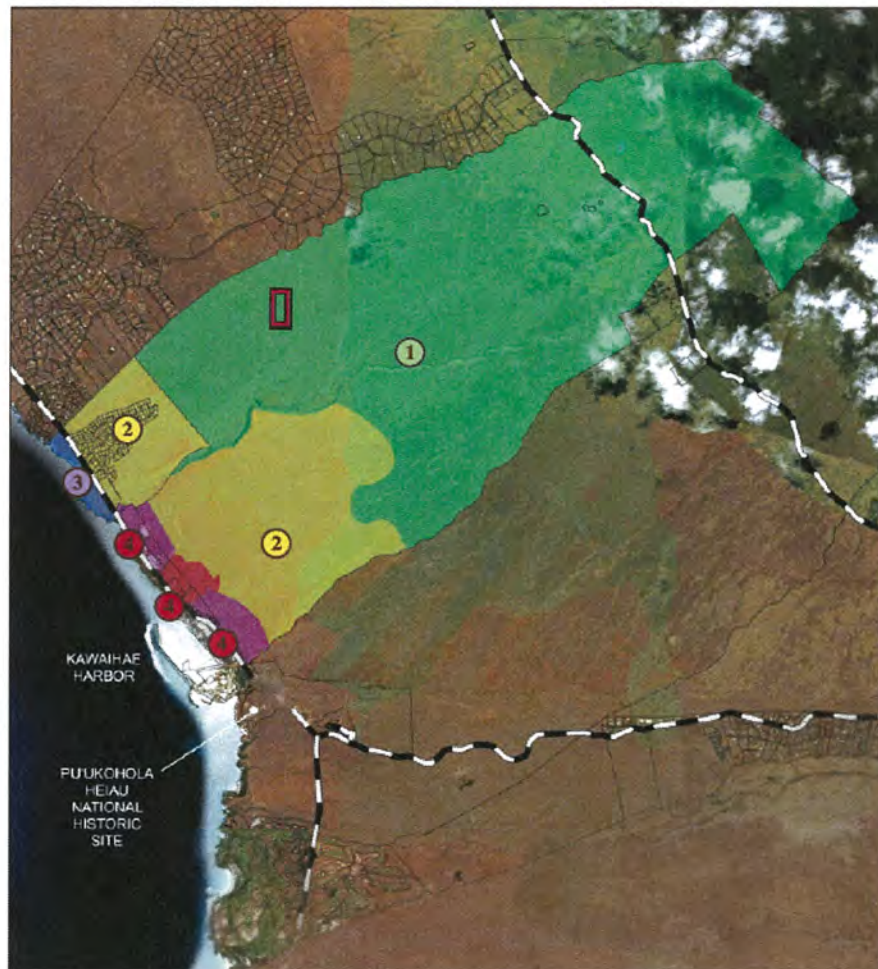
Source: Kawaihae Regional Plan 2010.

Long term plans for the Kawaihae tract require potable water for 1,185 acres, with the other 7,046 acres put to agricultural uses requiring nonpotable water. Phase I of the development consists in 199 lots (180 acres) developed for residential use, with 1 acre for community use. Phase II will consist in commercial development (10 years). Phase III will 1,648 residential lots (649 acres), commercial, and industrial uses (20 years). Future water needs are projected to be 2.1768 mgd (potable) and 35.93 mgd (non-potable). SWPP Update at 4-31. On September 18, 2018, CWRM approved a groundwater reservation for DHHL for 3.014 mgd from the Māhukona Aquifer to meet the DHHL's demand for Kawaihae (2.1768 mgd), Lālāmilo and Pauahi (0.2140 mgd), Keoniki (0.0152) and Pu'ukapu (0.6099). The ability to utilize this allocation in this dry area is challenging and may be additionally affected by a proposed redrawing of aquifer boundaries that CWRM is considering in its 2018 review draft of the Water Resources Protection Plan. Homesteaders in the Kawaihae planning region identified resolution of water resource and delivery issues as a priority. These homesteaders pay some of the highest water rates in the State, despite the Department subsidizing a portion of their water bills. Kawaihae Regional Plan at 29 (Sept 2010).

The Kawaihae Harbor Project is within the HDWS Kawaihae-Lālāmilo-Puako water system and the 90-acre Kaei Hana II industrial subdivision at the makai portion of the tract currently receives these waters. Hawai'i WUDP Update

at 801-34. Wells in this area have a pumping capacity of between 700 to 1,250 gallons per minute. Kawaihae Regional Plan at 19. The HDWS Lālāmilo water system could provide potable water for some of the Kawaihae tract future needs, however delivery of HDWS water would require significant infrastructure, including storage, transmission, and booster pumping stations. SWPP Update at 4-30.

FIGURE 2. Overview of the Kawaihae tract.



Source: Kawaihae Regional 2010

(Green = general agriculture; yellow = residential; purple = community use; red = industrial/ commercial).

In 2015, R.M. Towill Corp. prepared a study of potable water development options for the Kawaihae tract for the Department. Department of Hawaiian Home Lands Kawaihae Water Assessment Study, DHHL Job No.: PS-13-LDD-008 (Jun. 2015) ("Towill study"). Existing water infrastructure in Kawaihae consists in: (i) the Kawaihae Tank #5: located south of boat harbor; (ii) two homestead residential lot water storage tanks (approximately 0.1 MG each); and (iii)

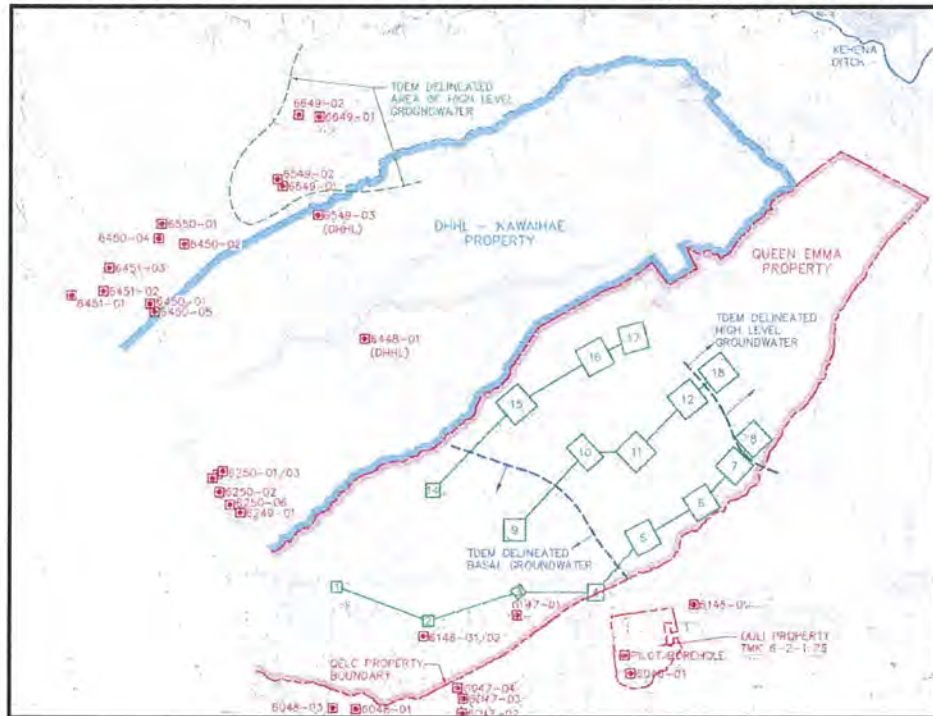
ongoing construction of a 1.0 MG tank in industrial and commercial areas. The Kawaihae tract is supplied by the Department's Kawaihae water system (Public Water System No. 164), which has a system capacity of 0.125 mgd and maximum daily demand of 0.081 mgd. SWPP Update at 2-14.

Currently, the Department has an agreement with Kohala Ranch Water Co. ("Kohala Ranch") to supply water to its Kawaihae system. The agreement provides for a "temporary potable water commitment of 177,600 gpd for use by DHHL to provide domestic water to 196 lots designated Kawaihae Residence Lots, Unit 1." See Towill Study, Appx. "C" (*In the Matter of Kohala Ranch Water Co.*, Hawai'i Public Utilities Comm'n Dkt. No. 96-0388 (Decision & Order No. 15331, Jan. 23, 1997) ("Kohala Ranch agreement"). The agreement with Kohala Ranch can be terminated with two years notice by either party, although Kohala Ranch "agree[d] not to issue a notice of termination until [Kohala Ranch's] consumption reaches 1.5 mgd." *Id.* at 78. The Kohala Ranch agreement further provided that if the Department was unable to obtain an alternate source of potable water within the two-year termination period, the Department would provide Kohala Ranch with potable water from the Kawaihae Exploratory Well A (Well No. 6448-01) in an amount equal to the amount used by the Kawaihae Residence Lots. *Id.* The Kawaihae Exploratory Well A, however, was later determined to be unable to produce potable water. Towill Study at Appx. "A" (Tom Nance Water Resource Engineering, "Assessment of Water Supply Alternatives for DHHL's Kawaihae Property" (revised Feb. 2014)). Development of a new water source takes approximately three years. Towill Study at 1. Kohala Ranch has indicated a ten-year time frame for termination of the Department's continuing use. This source of water is very expensive and restricts homesteaders to potable, non-irrigation uses of this water. Violations of these restrictions risk cancellation of the agreement. Current usage averages 70,000-75,000 gpd. Towill Study at 2.

Projected potable water demands could be met through either development of new well sources through partnership with DWS or acquiring a portion of 'Oūli-1 well production (Well No. 6046-01), which has an estimated 1.1 mgd yield. Hawai'i WUDP Update at 801-34; Kawaihae Regional Plan at 19. Discussions initiated in 2006 with the well owner, Bridge 'Āina Le'a, LLC and HDWS failed to materialize into an agreement. Kawaihae Regional Plan at 19. Developing a

new source near the 'Oūli field was considered but would require extensive installation and transmission costs. Towill Study at 8.

FIGURE 3. Well locations in Kawaihae area



Source: Towill Study, Appx. "A"

The Department has also investigated the feasibility of drilling its own well. Of two exploratory wells already drilled, only one indicated potential production of potable water (Well No. 6549-03). SWPP Update at 4-29. Well No. 6549-03 is located near to the existing Kailapa subdivision and future Department developments and would potentially provide for water needs for Phase II future water demands. Development of the well and water system would cost less than developing source offsite and installing transmission mains to future development. Towill Study at 9. The Towill Study concluded one well was capable of producing nonpotable water, which could be used for potable water if desalinated. The Study, however, was inconclusive as to whether long term use of the well for potable water could be supported.

Another solution proposed by the Department would be to share water resources with Kohala Ranch. Some consumers are using Kohala Ranch's potable water for nonpotable uses, such as irrigation. The Department has proposed to provide

nonpotable water for Kohala Ranch consumers in exchange for continued use of Kohala Ranch's potable water resources. However, Kohala Ranch has not indicated any interest in such an exchange.

In addition, beneficiaries in the area are interested in further exploration of use of water from the HDWS Lālāmilo water system, as the HDWS is planning to increase pumping from wells in that area, making more source available. Community members have initiated discussions with the HDWS on these matters.

Further, individual homesteaders are interested in developing their own wells for use on their lot. The well development process includes the lessee (well operator), a certified well driller, the Department as the landowner, and the Commission on Water Resource Management. The first well construction/pump installation permit application by a homesteader under the new draft DHHL procedures was submitted by a Kailapa lessee in 2018.

Finally, in its Community Resilience Plan (Jan 2019), the Kailapa Association has taken the initiative to identify options for an affordable potable water system and nonpotable source by exploring the Kehena Ditch. Their Plan suggests the Department take the lead to petition CWRM for a surface water reservation in Kehena, which DHHL may consider once the capacity of the ditch and its source waters is established as part of efforts to identify sustainable, affordable water sources for this community.

4) Kealakehe, Keahuolū, Honokōhau, and Kalaoa.

The Kealakehe-La'i 'Ōpua planning region consists in: (1) Kealakehe - Keahuolū where the Department's portion (722 acres) of the over 1,000-acre master planned Villages of La'i 'Ōpua community is situated; (2) Kalaoa (483 acres), consisting in four non-contiguous parcels; and (3) Honokōhau (200 acres) in the makai portion, reserved for commercial uses. Hawai'i Island Plan, at 25-26 (2002); Kealakehe-La'i 'Ōpua Regional Plan, at 11 (Nov. 18, 2009). Homesteaders in the Kealakehe- La'i 'Ōpua planning region identified North Kona water quality and availability for developments as an issue and priority. West Hawai'i Island Plan Update, at 28 (Jan. 2009).

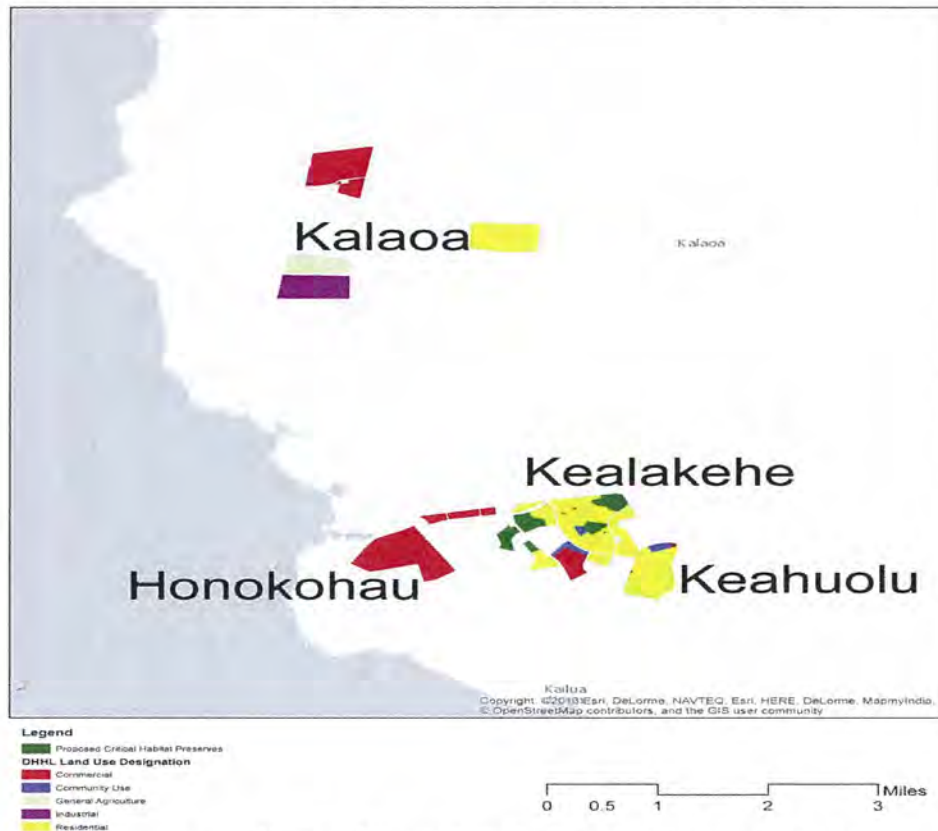
This planning region made up of approximately 1,500 acres is within the Keauhou ASA, which was the subject of a petition for designation as a groundwater management area (WMA) before the Water Commission. CWRM rejected the WMA petition on February 14, 2017, and instead placed eight conditions on future water development in the area. On August 17, 2015, CWRM approved a reservation request by the Hawaiian Homes Commission for water resource rights under Hawai'i Revised Statutes § 174C-101(a) in the Keauhou ASA in the amount requested, 3.398 mgd.

TABLE 4.A: WEST HAWAI'I LAND USE DESIGNATIONS

LAND USE DESIGNATION	TOTAL ACRES
Residential	600
Community Use	30
General Agriculture	100
Commercial	667
Industrial	100
Total	1,497

Source: HIP 2002 & WHIP 2009

Figure 4: Overview of West Hawai'i Region



Source: West Hawai'i Island Plan Update

The Department holds 392 water credits (based on 400 gpd/unit), which were received in connection with acquisition of its lands in the Keauhou ASA.⁵ A balance of 221 credits remains and will be applied to La'i 'Ōpua Village 4. Although 3.398 mgd of water resources have been secured through the CWRM water reservation, source development, storage, and transmission are required for the full build-out of the Villages of La'i 'Ōpua. Kealakehe-La'i 'Ōpua Regional Plan, at 29. Following the rejection of the Keauhou ASA designation petition, how the reservation is transformed into "wet water" remains unclear.

In 2018 DHHL contracted an engineering firm to determine feasibility, plan, and design two (2) potential water sources in the North Kona Region located on private lands. If successful, these wells will assist the Department in meeting some of the water needs of its North Kona land holdings, which is described below in further detail. These updates are also addressed in Planning Office Item G-4 West Hawai'i Regional Update.

In December 2018, the Department commented on a Well Construction / Pump Installation Permit Application for Ota Well (Well No. 8-3557-006), which is in the Keauhou Aquifer System Area (KASA). DHHL formally requested CWRM to place conditions on the permit to accommodate the Department's reservation of water in the KASA which are protected public trust uses of water. The well is funded by and will be operated for the benefit of two State entities and will primarily provide significant water for commercial and industrial(nonpublic trust uses). The department advocated that the permit should be conditioned on the applicant providing a small percentage of the proposed yield to DHHL in the form of County water credits following successful dedication of the well to the County. The Department seeks to work cooperatively with CWRM to implement its water reservations.

i) Kealakehe- Keahuolū

Long term water needs for Kealakehe and Keahuolū consist in 0.9098 mgd of potable water, which may be supplied through improved HDWS infrastructure. SWPP Update at 4-37 and 4-38.

⁵ See Hawaiian Homes Commission Meeting, Submittal for Item No. G-1: "Authorize the Chairman to Request and Pursue a Water Reservation in Keauhou, Kona, Hawaii," at 4-6 (Nov. 17-18, 2014) ("Keauhou Reservation Submittal").

The HDWS 20-Year Water Master Plan (2005) recommended several CIP projects within the system including transmission waterlines. Since the finalization of the 20-Year Water Master Plan, DHHL added over 600 acres of land inventory and total water demands from West Hawai'i tracts are significant. *Id.*

The state Commission on Water Resource Management has recently been successful at isolating a fresh water source that underlies salt water in certain areas of North Kona, at the Keōpū Well sites. While the long-term sustainable production from this site is unknown, it could be a possible source of water. The County of Hawai'i is pursuing further exploration of this source of water.

TABLE 4.B: DEPARTMENT'S KEAUAHOU ASA WATER DEMANDS

AREA	LAND USE DESIGNATION	ACRES	WATER SYSTEM STANDARDS	EXISTING/ PLANNED UNITS OR ACRES	TOTAL WATER DEMAND (MGD)
Kalaoa	Commercial	384	3,000 gpd/acre	384 acres	1.152
Kalaoa	Industrial	100	4,000 gpd/acre	100 acres	0.400
Kalaoa**	General Ag	100	3,400 gpd/acre	100 acres	0.340
Kalaoa	Residential	130	400 gpd/unit	283 units	0.113
Honokōhau	Commercial	200	3,000 gpd/acre	200 acres	0.600
Kealakehe 1	Residential	50	400 gpd/unit	260 units	0.104
Kealakehe 2	Residential	50	400 gpd/unit	256 units	0.102
Kealakehe 3*	Residential	50	400 gpd/unit	225 units	0.090
Kealakehe 4*	Residential	55	400 gpd/unit	220 units	0.088
Kealakehe 5*	Residential	23	400 gpd/unit	116 units	0.046
Kealakehe 6*	Community Use	26	4,000 gpd/acre	26 acres	0.104
Kealakehe 6	Commercial	26	3,000 gpd/acre	26 acres	0.078
Kealakehe 7	Residential	11	400 gpd/unit	61 units	0.024
Kealakehe 8	Commercial	34	3,000 gpd/acre	34 acres	0.102
Kealakehe 11	Residential	24	400 gpd/unit	126 units	0.050
Kealakehe*	Preserves	97	-	97 acres	0.002
Keahuolū	Residential	140	400 gpd/unit	732 units	0.293
Keahuolū	Community Use	10	4,000 gpd/acre	10 acres	0.040
Total		1,510		2,279 units 977 acres	3.728

Source: Keauhou Reservation Submittal at 5 (2014).

*Areas with existing water allocations or construction.

**Non-potable water demand.

The Department's Villages of La'i 'Ōpua Water Master Plan (approved by HDWS on October 26, 2006) (La'i 'Ōpua Master Plan) identified potential sources of water and required water distribution system improvements to serve the Villages of La'i 'Ōpua located in Kealakehe and Keahuolū. The La'i 'Ōpua Master Plan recognized four wells as potential sources for potable water: Kealakehe Well (State Well No. 4057-04), North Keopū Well (site only), North Keopū Well (State Well No. 3957-02), and Keopū Well (State Well No. 3957-05). The wells are all owned by HDWS, except the State-owned Keopū Well.⁶ The La'i 'Ōpua Master Plan included service to a portion of the State of Hawai'i Housing Finance and Development Corporation's (HHFDC) former Keahuolū project. Since 2006, Forest City Hawai'i Kona, LLC and HHFDC partnered to develop Kamakana Villages, which was originally called the Keahuolū project. Forest City plans to develop Keopū Well No. 4, which would produce 1.5 mgd for the Kamakana project with a surplus, then dedicate the well to HDWS. FEA-FONSI Keopū Well #4 Pump and Transmission Lines Project, prepared for Forest City Hawai'i Kona, LLC, at 1-1 (Jun. 2015) (Keopū well FEA). The Department proposed access to available water sources, such as Keopū well excess capacity pumpage, during the environmental assessment preparation process for the Keopū Well by comment letter dated February 12, 2015 ("[t]his remaining allocation of water credits or source could and should be available to provide water for public purposes, including the Public Trust water uses of the [Department]."). Access to Keopū well surplus would be one way of implementing a portion of the existing Keauhou water reservation. The Department is interested in partnerships to develop additional water source in the region, but those opportunities are still being investigated.

ii) Kalaoa

The Kalaoa tract consists in four discontinuous parcels that border the University of Hawai'i Palamanui campus. Long term water needs consist in 0.9032 mgd of potable water, which may be supplied through existing HDWS infrastructure. SWPP Update at 4-37 and 4-38.

⁶ Draft Environmental Assessment for Keopu Well, Reservoir, and Water Transmission Lines Hienaloli 1-6, North Kona, Hawai'i, prepared for Hawai'i Housing Finance & Development Corp., State of Hawai'i, at 7 (Sep. 2009) ("Keopu Well DEA"). http://oeqc.doh.hawaii.gov/Shared%20Documents/EA_and_EIS_Online_Library/Hawaii/2000s/2009-10-08-HA-DEA-Keopu-Well-Reservoir.pdf

iii) Honokōhau

The Honokōhau tract is designated entirely for commercial use. Long term water needs consist in 0.600 mgd of potable water, which may be supplied through existing HDWS infrastructure. SWPP Update at 4-37 and 4-38.

5) Water Rights Trainings

Ka Huli Ao Center for Excellence in Native Hawaiian Law continues to conduct I Mana I Ka Wai - DHHL Water Law and Advocacy Trainings with DHHL staff to teach DHHL beneficiaries about their water rights and responsibilities and how to bring these rights to life on the ground. For West Hawai'i, a water rights training was held on May 11, 2019 at the West Hawai'i Civic Center. Topics included an introduction to Hawaii's legal framework with a focus on the rights of DHHL beneficiaries, DHHL's Water Policy Plan, discussion on the Ota Well, and the Department efforts to turn water reservations into actual wet water. A second training was held on May 18, 2019 at the Waimea State Office Building that included the introduction to Hawaii's legal framework with a focus on the rights of DHHL beneficiaries, DHHL's Water Policy Plan and surface water management area designation.

RECOMMENDATION

None; for information only.

State of Hawaii

Department of Hawaiian Home Lands

May 20 - 21, 2019

To: Chair and Members, Hawaiian Homes Commission
Through: Andrew H. Choy, Acting Planning Program Manager *A*
From: Gigi O. Cairel, Grants Specialist *G. Cairel*
Subject: Pu'ukapu Water System Water Rates

RECOMMENDED MOTION/ACTION

For information only - No action required.

BACKGROUND AND PURPOSE

The purpose of this informational submittal is to provide the Hawaiian Homes Commission (HHC) with an update from the May 2018 presentation on the Pu'ukapu Water System water rates.

The Pu'ukapu Water System

The Pu'ukapu Water System consists of a series of tanks and pipes that distribute non-potable water throughout the Pu'ukapu homestead pastoral lots. The Department of Hawaiian Home Lands (DHHL) owns and manages the Pu'ukapu Water System on Hawai'i island. Daily operations is contracted out to the Waimea Nui Community Development Corporation, a beneficiary organization. The system was constructed to serve all 184 pastoral lots and became operational in March 2014. Currently, there are 44 lots out of the 184 connected to this water system. This system serves only beneficiaries. There are no community facilities nor businesses connected to this system. System components consist of three storage tanks, four fire fighting tank reservoirs, two booster pumps and 71,300 linear feet of distribution lines. In the water industry, this system is considered an extremely small water system. In comparison, DHHL's largest water system, located on Molokai, is approximately 600 connections. This too is considered a very small system. To provide Pu'ukapu lessees with access to potable water, DHHL installed a spigot at the County of Hawaii water source. The spigot was supplied with water in September 2017.

As the owner of water systems, DHHL is responsible for providing safe, clean water and protecting community health and safety, while maintaining compliance with federal and state laws. Water for the DHHL Pu'ukapu Water System comes from the County of Hawai'i. This source water is excellent and water quality testing meets all water quality standards. Though the source water from the County meets Department of Health (DOH) drinking water standards, once the water enters the DHHL Pu'ukapu Water System, the water is no longer considered potable water, primarily because the DHHL Pu'ukapu Water System was (1) not constructed to meet DOH drinking water standards and (2) water treatment, sampling and testing are not required. Thus, prior to connecting to the water system, lessees must acknowledge that water is not to be used for human consumption (drinking, cooking, bathing, etc.).

Cost of Water Delivery Service

The "true costs" of providing water to a community are defined as all expense line items for (1) day-to-day operations; (2) management and administration of the water system; and (3) balance sheet obligations such as debt service and reserve account funding for emergencies, operating and capital improvement. To remain sustainable, best practice is to recover the true costs through their rate revenue. However, if a utility has a consistent and reliable source of revenue from other sources (such as DHHL Trust Funds), subsidizing the rates may be an alternative. Most small water systems do not have this option.

As with any government-owned water system, a major challenge is balancing water service adequacy and dependability with costs and customer rate affordability. DHHL's water systems need continued investment to keep them operational. DHHL is not alone. Water utilities across the country are facing the same challenge. The costs of providing water service have grown steeply - purchase of water from the County, labor, materials, fuel and electricity. For example, for the Pu'ukapu Water System, the County raised meter service charges and water use rates since 2014 (when DHHL first established the water rate for the Pu'ukapu Water System), these increases in costs were not passed on to DHHL beneficiaries.

A Cost of Service (COS) Analysis was completed in June 2017 and presented to the HHC. For the Pu'ukapu Water System, the system operated at a loss of close to \$161,000 in Fiscal Year 2016. If DHHL budgeted for reserves - emergency, operating, capital improvement - the shortfall increases to \$315,262. Non-payment of water bills amounted to \$15,600 (or 10% of the \$161,000 shortfall). The magnitude of losses is indicative of a deficiency in the current water rate and, to some extent, indicative of system managerial and operational inefficiencies.

The losses of the Pu'ukapu Water System are paid out of Trust Funds. This revenue shortfall continues to increase as operational costs increase, purchase of the source water from the County increases, infrastructure needs to be repaired or replaced, and non-payment of water bills increases. Note that the Pu'ukapu Water System is DHHL's newest system (5 years old) and is experiencing major repairs such as complete replacement of the storage tank liners. Costs for this major repair was paid from Trust Funds and was not anticipated when the water rate was first established in 2014. DHHL must look for ways to reduce Trust subsidization and operate the water system in a financially sufficient manner.

DHHL lessons learned from the COS include:

- Gathering water system expense data was extremely challenging for all the DHHL water systems.
- The COS may not have captured all of the "true costs".
- Because the contract cost for operations is high (60% of overall costs), DHHL to separate out costs for routine operations, repairs, and one-time costs for meter and backflow prevention device installations.
- Need to address non-payment of water bills.
- Increase dedicated staff for management oversight and day-to-day operations of the DHHL water systems.
- Increase staff training and management oversight on accurate coding of water system expenses and revenue.
- Centralize internal management and oversight of the Pu'ukapu Water System with DHHL's other three water systems to achieve management and operational efficiencies and consistency.

Water System Rates and Fees

For most small water systems, the main source of revenue, and often times the only source, is derived from Water Rates and Fees. Water rate studies, typically, identify the total revenue required by a utility to conduct its day-to-day operations, while anticipating future operating and capital needs, such as an emergency replacement of a pump. After determining revenue needs, a rate structure is developed to divide the cost of water delivery among the users. There are numerous ways that rates can be structured - each with their own advantages and disadvantages. The following are the most common:

- **Uniform Flat Rate**
Customers pay the same amount regardless of the quantity of water used. While this type of rate is easier to administer, it does not reward low water usage and can promote high consumption which then may cost the utility more to provide

the water. This is the current rate structure used by the DHHL Pu'ukapu Water System.

- **Single or Uniform Block Rate**
Customers are charged a constant price per volume regardless of the amount of water delivered. The cost per block of water is often added to a minimum charge for having service available. This rate tends to be more equitable to customers as the cost to a customer is in direct proportion to the amount delivered.
- **Increasing Block Rate**
A schedule of rates applicable to blocks of increasing delivery in the delivery in each succeeding block is charged at a higher unit rate than the previous blocks. Each successive block rate may be applicable to a greater volume of water delivery than the preceding blocks. This rate is designed to promote water use efficiency, as the price of water increases as the amount delivered increases. The DHHL Hoolehua, Anahola Farm Lots and Kawaihae Water Systems use this rate structure.
- **Decreasing Block Rate**
A schedule of rates applicable to blocks of increasing delivery in which each succeeding block is charged at a lower unit rate than in previous blocks. Each successive block rate is applicable to a greater volume of water delivery than the preceding block(s). This rate structure is designed to promote economic development. The DHHL Hoolehua and Anahola Farm Lots make this rate structure available to agriculture beneficiaries.

Rate structures are also based on the goals of the water utility – break even, keep rates affordable to customers, promote economic development, promote water conservation, etc. Some times, such goals can and do conflict. In this situation, we look to the policy makers to prioritize the goals.

DISCUSSION

Established in 2014, the current Flat Rate for the Pu'ukapu water system is \$122.41 per month, per connection. There are currently 44 meters connected to the system. As we learned from the Interim Water Rate Study (2018), revenue from this rate falls short in covering the true costs to manage and operate this system.

Findings and recommendations from the Interim Water Rate Study:

- Gathering water source data and water usage data was extremely challenging for all the DHHL water systems.

- All DHHL water systems are operating at a deficit totaling \$900,000 annually. Pu'ukapu is operating at a loss of \$161,000 (FYE 2016) (or \$315,000 if reserves were funded).
- The current DHHL accounting system is not structured in a manner that allows capturing of costs by each individual water system. Thus, the amount each water system is supported by other funds is unclear.
- Management and operations of the DHHL water systems is highly de-centralized and severely under-staffed. Addressing staffing levels is an important step as this can increase costs further or reduce them; build internal capacity and expertise; and increase operational efficiencies.
- When more reliable financial statements (based on Enterprise Accounting) are consistently generated, it is recommended that DHHL compare the projected costs used in the Rate Study to calculate rates to actual costs tracked.
- Develop long-term plan and have written policies to fund reserve accounts.
- Conduct annual reviews of accounts receivable's aging reports to verify the amounts that are deemed uncollectible. This should be done every year as part of the budgeting process.
- Educate water customers regarding the costs of service and the need for rate increases. Often, when customers understand this, resistance to rate increases lessens.
- Develop and enforce stringent collections and water service shut-off policies to keep delinquent accounts at a minimum.

In 2018, the Study made a recommendation to increase the Pu'ukapu Water System Flat Rate by 22.5% in Year 1, then increase it annually by 8% to prevent the shortfall from growing. This projected to reduce the shortfall by \$11,000 annually - from \$161,000 to \$150,000. In further review of the Study's recommendation and in consultation with beneficiaries, HHC approved in May 2018 (See Exhibit A) (1) to continue to use the current monthly Flat Rate of \$122.41 and (2) evaluate this rate and make recommendations for any rate adjustments by July 1, 2020. Reasons were as follows:

- The projected reduction (\$11,000) achieved by the Study's recommended rate option is not significant enough to warrant a rate increase at this time.
- Further research is needed on the water system costs, particularly the contracted operator expenses.
- More reliable data is needed on water usage including County master meter readings and individual lot meter readings.

Another important factor to consider is whether to continue to use the Flat Rate structure or use a rate structure based on individual customer water usage. For most water utilities, the Flat Rate structure is generally not a best practice. While it is the easiest rate structure to administer, it does not promote water conservation. In the case of the DHHL Pu'ukapu Water System, water conservation is extremely important because the water credits agreement between DHHL and County of Hawaii limits water usage to a maximum of 600 gallons per day per homestead lot.

Findings thus far

- When the current Flat Rate of \$122.41 per month was established in 2014, several expense items were not accounted for. These include:
 - Annual increases to the County meter stand-by charges (4" and 5/8" meters), usage rates (Agriculture and General Use Rates), and electric power rates
 - Repairs
 - Water system administration (DHHL staff time, postage, office supplies, staff training)
 - Portion of the costs to prepare the water system studies including Cost of Service Analysis, Water Rate Study, Water loss audits
 - Budgeting for reserve funds - emergencies, operating, capital improvement, debt service (on this latter, DHHL currently has no debt service on any of its water systems)
 - Note that some components of the current Flat Rate were based on 184 lots and others based on 40 lots. When setting water rates for a brand new system and it is anticipated that lessees may not move in or use their pastoral lot all at once, best practice is to project the number of users over time and adjust the rate accordingly. This also means that DHHL may need to (and has) cover water system costs for those lessees who have yet to move in or use their pastoral lot.
- In October 2018, a new contractor- Waimea Nui Community Development Corporation (WNCDC), a beneficiary organization - for water system operations was hired. WNCDC has achieved a significant reduction in costs to operate and maintain the Pu'ukapu Water System by 40% - from \$120,000 annually to \$45,000. WNCDC also has been diligently identifying operational issues and improving system operations to help make the water system operate more efficiently.
- With WNCDC as the new operations contractor, WNCDC is expected to provide more reliable water source data at the County master meters and individual customer usage data for

Fiscal Years 2019 and 2020. This data is critical for a sound analysis of un-accounted for water (leaks), water service delivery costs and to establish new rates.

- DHHL is procuring professional services consultants to assist with the Cost of Service Analysis and Water Rate Study. DHHL will carryover the budget line item for this task into Fiscal Year 2020.

Policy questions to consider when developing new rate options for the Pu'ukapu Water System:

- Continue to use the Uniform Flat Rate Structure? Or, consider a rate structure based on individual water usage?
- Should all 184 lessees be charged a minimum water fee based on Fixed Costs?
- Should DHHL staff time and administrative costs be recovered through the Water Rate?
- How to address funding reserve accounts - via Rate? Trust?
- Assist fixed- and low-income beneficiaries?

Implementation Actions for All DHHL Water Systems

To support overall water system management, financial sustainability and proper operations to protect public health and safety, a comprehensive approach is required. Staff recommends the following five implementing actions - Central Water Branch, Enterprise Accounting, Customer Education water bill delinquencies, and enforcement.

1. Establish Central Water Branch

It is recommended to organize a Central Water work group with dedicated staff that possess the necessary technical, managerial and financial expertise. This was discussed at the "Water System 101 Training" at the HHC June 2017 meeting and was the top recommendation in the "Effective Utility Management" paper, October 2017.

As an interim step, DHHL may consider a cross-divisional team that regularly meets to oversee the technical, managerial and financial aspects of all four DHHL water systems.

2. Implement Enterprise Accounting

Accurate and timely financial reports are needed for DHHL management to make better decisions and for long-term financial health and planning for the DHHL water systems.

It is critical that DHHL implement the Enterprise Accounting policy adopted by the HHC in 2012.

- a. First step is to establish water system budgets at the start of each fiscal year.
 - b. Quarterly, track budget-to-actual. Adjust budget as needed.
 - c. Invest in technology - utility billing software, water usage data collection.
 - d. Per Administrative Rules (pending), regularly conduct the COS and Rate Studies and adjust rates accordingly.
 - e. Investigate the integrity of data - both internal and from contracted water system operators (ie, water usage data, contract fees for routine operations, repairs, and installation of meters and backflow prevention devices).
3. Continue water customer outreach and education
Best management practice in the water industry is to educate customers regarding the costs to reliably provide water and the need for rate increases. Many people believe water should be free and do not understand the cost of delivering water dependably. Often, when customers understand this, resistance to a rate increase lessens. Customer education is a proactive effort to minimize "rate shock."
4. *Address beneficiary non-payment of water bills*
DHHL to conduct annual reviews of accounts receivables aging reports to verify the amounts that are deemed uncollectible. This should be done every year as part of the DHHL budgeting process. The older the account is, the less likely it will be collected. DHHL to consider including in the annual water budget a cost for uncollectible accounts.

At the same time, DHHL to continue assisting lessees with payment workout plans. When the Water Administrative Rules are approved, DHHL will have the legal authority to better manage payment delinquencies including accepting non-cash payment, imposing late payment penalties, and shutting off water services as a last resort.

5. *Enforcement*

To protect public health and safety, DHHL to develop a program to conduct property inspections to ensure non-potable water from the Pu'ukapu Water System is being used properly and in compliance with the Lease Addendum. When the Water Administrative Rules are approved, DHHL will have the legal authority and procedures to enter lessee property to enforce the Lease Addendum in regards to proper use of non-potable water from the DHHL Pu'ukapu Water System.

DHHL also to implement stringent collections and water shut-off procedures to keep delinquent accounts at a minimum. No rate schedule adopted will succeed if customers do not pay their bills and enforcement provisions in the (pending) Water Administrative Rules are not followed.

AUTHORITY

- HHCA of 1920, as amended, Section 221f. "Water systems under the exclusive control of the department shall remain under its exclusive control."
- DHHL Hawaii Administrative Rules, Section 10-3-76(i). "Water from department systems shall be sold at rates established by the commission. The department shall establish the frequency of billing and may determine a minimum monthly charge."
- Public Utilities, Hawaii Revised Statutes Chapter 269, Section 31(a), regarding setting water rates. "This chapter shall not apply to . . . public utilities owned and operated by the State, or any county, or other political subdivision."
- Water Policy Plan, HHC approved July 2014
 - o Mission: Understand our trust water assets and manage water systems.
 - o Priority Policies: Develop, manage and steward water in a manner that balances cost, efficiency measures, and Public Trust uses; and educate beneficiaries, DHHL, HHC and other stakeholders continually on our water kuleana.
 - o Goals: Secure revenue and reduce operation costs to break even; and increase security and reliability for DHHL beneficiaries and water system users.
- Water System Enterprise Accounting Policy, HHC adopted 2012
DHHL will budget for the Water System utilizing an enterprise account accounting structure.

RECOMMENDATION

For information only. No action required.

Item G-3 Pu'ukapu Water System Water Rates

Exhibit A

State of Hawaii

Department of Hawaiian Home Lands

May 14 - 15, 2018

To: Chair and Members, Hawaiian Homes Commission
Through: M. Kaleo Manuel, Acting Planning Program Manager
From: Gigi O. Cairel, Grants Specialist *McAul*
E. Halealoha Ayau, Water Resources Specialist
Subject: Approval to Extend Current Water Rates and Fees
for the DHHL Pu'ukapu Water System

RECOMMENDED MOTION/ACTION

- 1) That the Hawaiian Homes Commission (HHC) approve to extend the current water rates and fees for the Department of Hawaiian Home Lands (DHHL) Pu'ukapu Water System, and
- 2) That the HHC direct DHHL to evaluate the current rates no later than July 1, 2020, and make recommendations for any rate adjustments to the HHC.

BACKGROUND AND PURPOSE

DHHL owns and operates the Pu'ukapu Water System on Hawai'i island. The homestead area served is the Pu'ukapu pastoral lots. There are no community facilities nor businesses served by this system. It is DHHL's only system not regulated by the Department of Health (DOH) and is operated as a non-potable water system. DHHL installed a spigot at the beginning of the system to provide limited potable water. Of the four water systems that DHHL owns statewide, the Pu'ukapu Water System is the smallest in size (serving 43 beneficiaries) and the newest system (4 years old). The system was constructed to serve all 184 pastoral lots. System components consist of three storage tanks, four fire fighting tank reservoirs, two booster pumps and 71,300 linear feet of distribution lines.

As the owner of water systems, HHC and DHHL are responsible for providing safe, clean water and protecting community health and safety, while maintaining compliance with federal and state laws. Water for the DHHL Pu'ukapu Water System comes from the County of Hawai'i. The source water is excellent and water quality testing meets all water quality standards. The Pu'ukapu Water System operations is contracted out to a private company.

Because this is not a regulated water system, a DOH certified licensed operator is not required.

As with any government-owned water system, a major challenge is balancing water service adequacy and dependability with costs and customer rate affordability. DHHL's systems need continued investment to keep them operational. DHHL is not alone. Water utilities across the country are facing the same challenge. Over the past year, DHHL studied our systems needs and worked to understand the costs of providing water service. Every component critical to delivering water, storage and distribution was closely analyzed and planned to ensure sustainability and viability for future generations. The results tell us that we must raise rates to continue providing dependable water supply to beneficiaries served by the DHHL systems. To keep rates affordable to beneficiaries, we must seek other funds, including Trust funds. At the same time, the costs of providing water service have grown steeply - purchase of water from the County, labor, materials, fuel and electricity. For example, for the Pu'ukapu Water System, the County raised meter service charges and water use rates since 2014, when DHHL first established the Pu'ukapu flat rate of \$122.41.

Interim Cost of [Water Delivery] Service Analysis

The HHC approved Water Policy Plan, Policy #3, goal #17 states,

"Secure revenue and reduce operation costs so DHHL water systems break even financially over time."

As a first step in fulfilling this goal and to mitigate unsustainable financial losses from delivering water to beneficiaries, DHHL sought technical assistance from the Rural Community Assistance Corporation (RCAC), a federal 501(c)(3) nonprofit with over 40 years experience with small, rural community water/wastewater utilities in the western region of the U.S. RCAC conducted an interim Cost of [Water Delivery] Service (COS) analysis on all four DHHL-owned water systems. The COS was completed in June 2017 for DHHL Fiscal Years 2015 and 2016. The COS analysis was based on after-the-fact reviews of DHHL expenses, all of which was not coded within the DHHL accounting system to the Pu'ukapu water system enterprise. The COS was presented at an informational workshop held at the June 2017 HHC regularly scheduled meeting. Also, information from the COS relative to the Pu'ukapu water system was shared at an informational meeting with Pu'ukapu beneficiaries in November 2017. The COS was intended to serve as the base to evaluate the current DHHL water rate schedules and make recommendations for provisional rates.

Since completion of the COS analysis, DHHL lessons learned include:

- Gathering water system expense data was extremely challenging, given DHHL's current budgeting and accounting systems.
- The COS may not have captured all of the "true costs" of each system.
- Because the contract cost for operations is high (60% of overall costs), DHHL to separate out costs for routine operations, repairs, and one-time costs for meter and backflow prevention device installations.
- Need to address non-payment of water bills.
- Increase dedicated staff to manage and operate the DHHL water systems.
- Increase staff training and management oversight on accurate coding of water system expenses and revenue.
- Centralize internal management and oversight of the Pu'ukapu Water System with DHHL's other three water systems to achieve management and operational efficiencies and consistency.

The COS gave us a good start in understanding the financial needs of the Pu'ukapu Water System. With the COS completed, the next step was to conduct an interim water rate study to help DHHL move toward sustainably managing its water systems.

Typically, water rate studies identify the total revenue required by a utility to conduct its normal day-to-day operations, while anticipating future operating and capital needs, such as an emergency replacement of a pump. After determining revenue needs, a rate schedule is developed to divide the costs of delivering water among users. There are numerous ways that rates can be structured. DHHL uses 3 types as follows.

- Uniform Flat rates - all users pay the same amount regardless of the quantity of water used. This is the rate structure used for the DHHL Pu'ukapu Water System.
- Increasing block rates - a schedule of rates where each succeeding block (e.g., 1 - 10,000 gallons; 10,001 - 25,000; over 25,000 gallons) is charged at a higher rate than the previous blocks. This is the rate structure used by the DHHL Kawaihae, Ho'olehua (Moloka'i), and Anahola (Kauai) water systems.
- Decreasing block rates - a schedule of rates where each succeeding block (e.g., 1 - 10,000 gallons; 10,001 - 30,000, over 30,000 gallons) is charged at a lesser rate than the previous blocks. Typically, this rate structure is used to encourage local economic development. DHHL uses

this structure for DHHL agriculture beneficiaries to encourage farming on Moloka'i and in Anahola (Kauai).

Water systems typically adopt policies or criteria to guide structuring rates such as encouraging water conservation, ensuring affordability for residents, encouraging economic development, etc.

DISCUSSION

For most small water systems, the main source of revenue, and often times the only source, is derived from Water Rate schedules. Generally, water rates fund daily operations, routine maintenance, repairs, electricity, and four types of reserves - operating, emergency, capital and debt service. On this latter, DHHL is fortunate to not have any debt service on any of DHHL's water systems. The current DHHL water rate schedule for the Pu'ukapu water system expires on June 30, 2018. See Exhibit A.

From Table 1 below, the Pu'ukapu Water System operated at a loss of close to \$161,000 in Fiscal Year 2016. Taking into account Reserves, the shortfall increases to \$315,265 (Table 2). Non-payment of water bills amounted to \$15,600 (or 10% of the \$161,000 shortfall). The magnitude of these losses is indicative of a deficiency in the current water rates and, to some extent, indicative of system managerial and operational inefficiencies. The losses of the Pu'ukapu water system are paid out of Trust funds. This revenue shortfall continues to increase as operational costs increase, purchase of water from the County increases, infrastructure needs to be repaired or replaced, and non-payment of water bills increases. DHHL must look for ways to reduce subsidization and operate the water system in a financially sufficient manner.

Table 1
DHHL Pu'ukapu Water System
FY 2016 - Revenue and Expenses
without Reserves

	BILLED Amount	COLLECTED Amount	Difference
Total Revenue	\$52,547	\$36,918	\$15,629
Total Expenses to operate the system	\$213,439	\$213,439	-0-
Shortfall	<\$160,892>	<\$176,521>	\$15,269

Table 2
DHHL Pu'ukapu Water System
FY 2016 - Revenue and Expenses
with Reserves

	BILLED Amount	COLLECTED Amount	Difference
Total Revenue	\$52,547	\$36,918	\$15,629
Total Expenses to operate the system	\$213,439	\$213,439	-0-
Reserve funds	\$315,265	\$315,265	-0-
TOTAL	\$528,704	\$528,265	-0-
Shortfall	<\$476,157>	<\$491,347>	\$15,190

As stated earlier, the Pu'ukapu Water System serves an average of 43 connections - all are beneficiaries. By industry standards, this system is considered very small, so DHHL is not able to achieve economies of scale such as the County water departments. Additionally, our current rate schedule is very low and has not kept up with rising costs, so revenue generated from the rate schedule does not produce enough to recover operating costs.

To financially break even, DHHL must look at decreasing expenses and finding new ways to increase revenue. Here are current approaches.

Table 3
Current Approaches to Balance Water Budget

Decrease expenses	Increase revenues
<ul style="list-style-type: none"> • Evaluate contract for operations • Seek cost efficiencies in the water system budget • Leak detection • Investigate un-accounted for water • Increase routine maintenance 	<ul style="list-style-type: none"> • Address non-payment of water bills • Increase water rates • Add more users • Explore other sources for CIP funding

For DHHL, the following five criteria were used for the interim Rate Study.

1. Aligned with the mandates of the Hawaiian Homes Commission Act of 1920 (HHCA) and the HHC Water Policy Plan.
2. DHHL is first and foremost a Public Trust for HHCA beneficiaries. Trust resources can be made available only to beneficiaries.

3. Beneficiary affordability - Industry standard is that rates are considered affordable at 1.5% and not more than 3% of the US Census median household income.
4. Equitability - rates are considered fair and equitable when each customer class pays its proportional share of the cost to provide for the delivery of clean, safe water.
5. Financial sustainability or "break even", per Water Policy Plan Goal #17.

Interim Water Rate Study - Findings and Recommendations

Major findings:

- Though DHHL's rate schedules are complex, they are highly equitable.
- Each DHHL water system serves diverse and unique communities with varying operating costs and numbers of connections. Thus, rate options were calculated separately and are unique to a particular system. Because of the uniqueness of each system, comparing rates among DHHL's four systems is generally not useful. Nor is it useful to compare DHHL's rate schedules to the County water departments or any other water utility. The Counties are able to achieve economies of scale, due to their large population base and wide range of customer classes (residential (single- & multi-family), agriculture, community facilities, commercial/industrial).
- All DHHL water systems are operating at a deficit totaling \$900,000 annually.
- The current DHHL accounting system is not structured in a manner that allows capturing of costs by each individual water system. Thus, the amount each water system is supported by other funds is unclear.
- Management and operations of the DHHL water systems is highly de-centralized and severely under-staffed. Addressing staffing levels is an important step as this can increase costs further or reduce them; build internal capacity and expertise; and increase operational efficiencies.

Overall Recommendations from the interim Rate Study are as follows. DHHL is agreeable to these recommendations.

- Add 3% annual increase for inflation, regardless of which rate option DHHL implements.
- Implement rates in the range of 1.5% to 3.0% of US Census median household income. DHHL to consider conducting its own income surveys, if US Census data is not accurate in homestead areas.
- When more reliable financial statements (based on Enterprise Accounting) are consistently generated, it is recommended that DHHL compare the projected costs used in the Rate Study to calculate rates to actual costs tracked.

- Develop long-term plan and have written policies to fund reserve accounts.
- Conduct annual reviews of accounts receivable's aging reports to verify the amounts that are deemed uncollectible. This should be done every year as part of the budgeting process.
- Educate water customers regarding the costs of service and the need for rate increases. Often, when customers understand this, resistance to rate increases lessens.
- Develop and enforce stringent collections and water service shut-off policies to keep delinquent accounts at a minimum.

The preferred rate option in the Study

The preferred rate option in the Study is to partially recover operational costs and does not fund reserves from rates. This option projects the shortfall at \$150,000 annually. To achieve this, the rate increase in Year 1 is a 22.5% increase to the current flat fee. Then, increase the rate by 8% annually to prevent the shortfall from growing. These increases are under the maximum 3% affordability index, based on US Census median household income data. It is projected that revenue generated from these increases will reduce the shortfall from the current \$161,000 to \$150,000 (or \$11,000).

The table below is a comparison of current rates and new rates at Years 1, 5 and 10 for the Pu'ukapu beneficiaries on the Pu'ukapu water system.

Table 4
Monthly Water Bill Projections

User type	Current Flat Rate	Year 1	Year 5	Year 10
Pastoral	\$122.41	\$149.95	\$204.01	\$299.76

In further review of this recommended rate option and in consultation with beneficiaries, DHHL recommends extending the current flat rate fee of \$122.41 and the fee for installation of meter and backflow prevention device. The projected reduction (\$11,000) achieved by the preferred rate option in the study is not significant enough to warrant a rate increase at this time. The flat rate structure for any utility is generally not a best practice as it does not promote water conservation. And, given the water credits agreement with the County limiting water use to 600 gallons per day per homestead lot, water conservation is a priority for the Pu'ukapu water system. Lastly, comments from the Beneficiary Consultation was overwhelmingly not supportive of a rate increase at this time, until further research is done on

the water system costs, particularly the contracted operator expenses.

IMPLEMENTATION

To support this action to extend the current flat rate for the Pu'ukapu Water System, a comprehensive approach is required. Staff recommends the following five implementing actions - Central Water Branch, Enterprise Accounting, Customer Education, water bill delinquencies, and enforcement.

1. *Establish Central Water Utility Branch*

It is recommended to organize a Central Water Utility work group with dedicated staff that possess technical, managerial, and financial expertise. This was discussed at the Water System 101 Training at the HHC June 2017 meeting and was the top recommendation in the Effective Utility Management paper, October 2017.

As an interim step, DHHL may consider a cross-divisional team that regularly meets to oversee the technical, managerial and financial aspects of all four DHHL water systems.

2. *Implement Enterprise Accounting*

Accurate and timely financial reports are needed for DHHL management to make better decisions and for long-term financial planning for all of our water systems.

It is critical that DHHL implement the Enterprise Accounting policy adopted by the HHC in 2012.

- a. First step is to establish water system budgets at the start of each fiscal year.
- b. Quarterly, track budget-to-actual. Adjust budget as needed.
- c. Invest in technology - billing software, water usage data collection.
- d. Per Rules, regularly conduct COS and Rate Studies and adjust rates accordingly.
- e. Investigate integrity of data - both internal and from contracted water system operators (ie, water usage data, contract fees for routine operations, repairs, and installation of meters and backflow prevention device).

3. *Continue Water customer outreach and education*

Best management practice in the water industry is to educate customers regarding the costs to reliably provide water and the need for rate increases. Many people believe water should be free and do not understand the cost of delivering water dependably. Often, when customers understand this, resistance

to a rate increase lessens. Customer education is a proactive effort to minimize "rate shock".

4. *Address beneficiary non-payment of water bills*

DHHL to conduct annual reviews of accounts receivables aging reports to verify the amounts that are deemed uncollectible. This should be done every year as part of the DHHL budgeting process. The older the account is, the less likely it will be collected. DHHL to consider including the annual water budget a cost for uncollectible accounts.

At the same time, DHHL to continue assisting lessees with payment workout plans. When the Water Administrative Rules are approved (estimated by January 2019), DHHL will have the legal authority to better manage delinquencies including accepting non-cash payment, imposing late payment penalties and shutting off water service as a last resort.

5. *Enforcement*

To protect public health and safety, DHHL to develop a program to conduct property inspections to ensure non-potable water from the Pu'ukapu system is being used properly and in compliance with the Lease Addendum (see Exhibit B). When the Water Administrative Rules are approved (estimated by January 2019), DHHL will have the legal authority and procedures to enter lessee property to enforce the Lease Addendum in regards to proper use of non-potable water from the DHHL Pu'ukapu water system.

DHHL also to implement stringent collections and water shut-off procedures to keep delinquent accounts at a minimum. No rate schedule adopted will succeed if customers do not pay their bills and enforcement provisions in the (pending) Water Administrative Rules are not followed.

AUTHORITY

- HHCA of 1920, as amended, Section 221f. "Water systems under the exclusive control of the department shall remain under its exclusive control."
- DHHL Hawaii Administrative Rules, Section 10-3-76(i). "Water from department systems shall be sold at rates established by the commission. The department shall establish the frequency of billing and may determine a minimum monthly charge."
- Public Utilities, Hawaii Revised Statutes Chapter 269, Section 31(a), regarding setting water rates. "This chapter shall not apply to . . . public utilities owned and operated by the State, or any county, or other political subdivision."

- Water Policy Plan, HHC approved July 2014 (Exhibit C)
 - o Mission: Understand our trust water assets and manage water systems.
 - o Priority Policies: Develop, manage and steward water in a manner that balances cost, efficiency measures, and Public Trust uses; and educate beneficiaries, DHHL, HHC and other stakeholders continually on our water kuleana.
 - o Goals: Secure revenue and reduce operation costs to break even; and increase security and reliability for DHHL beneficiaries and water system users.
- Water System Enterprise Accounting Policy, HHC adopted 2012 (Exhibit D). DHHL will budget for the Water System utilizing an enterprise account accounting structure.

RECOMMENDATION

Staff respectfully requests approval of the recommended motion as stated above.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 23-24, 2016

To: Chairman and Members, Hawaiian Homes Commission

From: Kaleo Manuel, Acting Planning Program Manager
Norman Sakamoto, Administrator Land Development Division

Subject: Extension of Interim Pu'ukapu Hybrid Water System Equipment and Installation Fees and Water Rates, Pu'ukapu, Waimea Nui, Hawai'i

RECOMMENDED MOTION/ACTION

The Hawaiian Homes Commission (HHC) extends the interim water Fees and Rates for all consumers on the Department of Hawaiian Home Lands' (DHHL) Pu'ukapu Hybrid Water System until June 30, 2018, pending preparation of a water rates assessment to be presented to the HHC for action.

DISCUSSION

I. Introduction

The HHC approved the establishment of Equipment and Installation Fees and Interim Water Rate for users of the Pu'ukapu Hybrid Water System on May 19, 2014, to be charged to lessees of the Pu'ukapu Pastoral Lots for a period of one year. No further action has been taken by the HHC on this matter so it is necessary for the HHC to retroactively authorize the extension of the interim fees and rates.

The HHC on April 19, 2016, while meeting on Moloka'i, approved a similar extension for water rates to the one proposed here on the Anahola, Kaua'i and Molokai DHHL water systems. While the Water Rate Assessment (WRA) referenced in the proposed action will be conducted for all four DHHL water systems (the three mentioned here and the Kawaihae water system), the history and methodology of rate setting for the Pu'ukapu Hybrid Water System differs from those

for the Pu'ukapu Hybrid Water System differs from those other systems. Additionally, taking action at this May 23 - 24, 2016 HHC meetings in Kona allows the interim fee and rate extension to be discussed at the meeting of the year closest to the area affected.

HHC action regarding water rates for the Kawaihae system is not required, as the previous HHC action on rates for this system explicitly tracked water rates for the Hawai'i County Department of Water Supply.

This discussion provides a background on key issues and efforts that led to the adoption of current Fees and Rates for the Pu'ukapu Hybrid Water System, background information on the WRA process, and a review of the legal authorities held by the HHC to set water rates.

II. Background

On May 19, 2014 the HHC received submittal E-4 that provided a long background of the history of awarding of lots in the Pu'ukapu tract, the development of the Hybrid Water System, and the rationale for setting interim fees and rates. That submittal is attached here as Exhibit A. Relevant points to this proposed action include:

- a. Staff conducted community meetings in Waimea on September 19, 2013 and December 12, 2013 to provide opportunity for public comment on the proposed water Fees and Rates.
- b. On March 18, 2014 a workshop was presented to the HHC on the proposed Fees and Rates.
- c. On May 19, 2014 the HHC approved Equipment and Installation Fees and an interim water rate for users of the Pu'ukapu Hybrid Water System on May 19, 2014, with authority for the rates to last one year.
- d. The Fees and Rates set on May 19, 2014 were as follows:
 - i. Fees for Equipment and Installation, a one-time charge of \$789.00.
 - ii. A flat water rate for all connections of \$122.41 per month.

- e. Subsequent to staffing changes within the Division that had led the previous water rate setting effort, further action has not been taken on the water rates.

The current effort to conduct the WRA is timely, as it will provide a consistent basis for setting rates on all four DHHL water systems. The WRA process is discussed below, in a manner similar to how it was discussed for the approval of rates in April 2016 for the Anahola and Molokai DHHL water systems.

III. Purpose & Need for the WRA

Currently, WRA preparation remains in planning stages. Since April 21, 2014, DHHL staff attended monthly meetings to assemble information needed to conduct the WRA. Through these meetings, DHHL has identified a scope of work and are currently finalizing a contract to provide the professional services.

DHHL owned and operated water systems should break even financially, but currently do not. Reaching a financial break-even point for water systems, while increasing investments in necessary infrastructure maintenance and replacement, faces multiple challenges. First, operation costs should be reduced through increasing management efficiency and the development and use of less-expensive alternate energy sources, particularly on the island of Molokai; electricity costs are currently a major component of system operation. Second, DHHL has and should continue to seek state subsidy of costs of operations as we believe is justified under the Nelson decision. Third, there are significant numbers of delinquent accounts on the water systems that need to be collected or otherwise addressed. Fourth and finally, existing water rates are considerably below county rates (except for Kawaihae, which tracks County rates). In all four cases, the rates do not accurately account for true system operational costs or for needed investments in the system. Water rates must likely be increased as part of the overall effort to have systems break even financially.

Currently, DHHL water system operations incur an operating loss conservatively estimated to be over \$1,000,000 annually for around 1,000 customers. Stated another way, the HHC and DHHL currently subsidize these

1,000 users (primarily, but not exclusively homesteaders) by approximately \$1,000 per year. This continuing operating loss combined with the existing rate structure and enforcement also raises a number of equity issues.

- Generally, an ongoing subsidy of homesteaders represents a preference to assist current beneficiaries over future beneficiaries; money used to subsidize existing homesteaders is not being spent on developing new homesteads.
- Because these systems only serve some existing homesteaders, it also represents a preference for some homesteaders over others. Homesteaders living on the same island, sometimes in the same communities or even across the street from each other, are being charged significantly different rates for water based on being County or DHHL customers. Some homesteaders on county systems struggle to pay their water bills, yet receive no subsidy from the Department.
- A lack of enforcement against DHHL water customers who fail to pay their bills also exists. This unfairly subsidizes those who do not pay their bills by both the Department and those who do pay. Additionally, homesteaders who do not pay their bills but are served by the county do not have the option of not paying their bills; failure to pay results in their water being shut off.

To address the issue of rates in a systematic and equitable manner, HHC directed and delegated to the Chairman responsibility for preparing a comprehensive WRA for all of its water systems. The WRA will assess various future water rates as well as water system operation options and scenarios, including scenarios that address the different challenges addressed above. Upon further examination of the numerous factors (personnel time, various costs, changing expenses) contributing to a water rate, DHHL staff determined that preparation of the WRA would require further research into methodologies, information-gathering, and engagement of a contractor.

Utilizing findings from the WRA to propose new rates is a sound basis for exercising the HHC's authorities to set water rates, discussed next.

IV. Legal Authorities to Set Water Rates

Sections 220, 220.5, and 221 of the Hawaiian Homes Commission Act provide extensive authority to the HHC and DHHL to own, operate, and manage water systems, to set rates, and to derive revenue from the delivery of water to both homesteaders and non-homesteaders. How rates are set is specifically addressed in Section 10-3-76(i) of the Hawaii Administrative Rules that states;

"Water from department systems shall be sold at rates established by the commission. The department shall establish the frequency of billing and may determine a minimum monthly charge."

Generally, water utilities must charge rates that allow for a financial break-even point while addressing all needed costs to maintain and operate the system. This is described in an Attorney General's Opinion dated August 22, 1994, states that:

"Every water system has operation and maintenance expenses as well as infrastructure capital requirements...Those costs are not for the water per se but for the delivery system, namely, for the "furnishing of water and for water service" (emphasis in original) as authorized in HRS §54-24. Customarily, those costs are prorated to consumers based on the amount of water used on some per unit basis. In the case of capital expenses, these may be paid in advance by the relevant legislative body or obtained through the issuance of bonds which are then repaid by collecting fees for water service on some unit basis. This is simply a means of amortizing the debt incurred in building the system."

V. Conclusion

Operation and management of DHHL owned water systems have been a challenge, both in high operation and management costs and insufficient derived revenue. Primarily because of rising energy costs, coupled with deferred system and infrastructure maintenance and replacement, the water systems operate with extreme costs to DHHL. The low revenues received, long standing

subsidies, high payment delinquencies, pending expenditures for system improvements, and lack of enforcement results in minimal revenue generation to DHHL. These challenges have led to DHHL operating its water systems at a deficit. The WRA will comprehensively address these issues. Other efforts, such as improvements to system efficiencies and upgrades are currently being analyzed and (in the case of Molokai and Anahola) pursued.

RECOMMENDATION

Based on the foregoing, staff recommends HHC take action as recommended.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 19, 2014

To: Chairman and Members, Hawaiian Homes Commission

From: Sandra Pfund, Administrator *Sandra Pfund*
Land Development Division

Subject: Puukapu Hybrid Water System, Waimea, Hawaii,
Establishment of Equipment and Installation Fees
And Interim Water Rate for One Year

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission approve the establishment of Equipment and Installation Fees and Interim Water Rate to be charged to lessees of the Puukapu Pastoral Lots for a period of one year from the effective date of this action.

FACTS

1. In 1983 a Federal-State Task Force on the Hawaiian Homes Commission Act issued a report which concluded that the award of homestead leases should be accelerated even though site improvements were not provided ("Acceleration Program").
2. In 1990, DHHL prepared a "paper subdivision" of approximately 4,600 acres at Puukapu into 184 lots and awarded homesteads:
 - 97 leases @ 10 acres
 - 54 leases @ 15 acres
 - 17 leases @ 20 acres
 - 8 leases @ 100 acres
 - 8 leases @ 200 acres
3. Actual use and occupancy of the lots was conditioned upon the availability of adequate access roads and water, estimated at that time to take about 5 years to develop.

ITEM NO. E-4

WHC ITEM G-4 EXHIBIT A *A*

4. In 1992, the County of Hawaii required a water master plan detailing the type of water service that would be developed. Over the ensuing years, the Department completed a water master plan, negotiated with the County of Hawaii Department of Water Supply (DWS) for the cost of water allocation credits and assessed various options for the provision of water to the area.
5. In May 2002, a study entitled, "DHHL Puukapu Water Strategy Report", by Engineers Survey Hawaii, Inc., recommended that a DWS standard system was not feasible due to the extremely high cost and length of time for completion of such a system. In the alternative, a non standard system was recommended for development.
6. In March 2014, construction of non-potable water system consisting of storage and fire fighting tank reservoirs, booster pumps and transmission mains within the gravel road system was completed.
7. Water system costs to date:

Construction	\$3,261,700
Facilities Charge to DWS	\$ 849,420
(184 lots & 14 livestock credits)	\$4,111,120

DISCUSSION

1. The Puukapu Hybrid non-potable water system is ready to be placed online for service, subject to establishment of equipment and installation fees, a water rate and execution by each homesteader of an Internal Elevation Agreement and Lease Addendum.
2. Staff conducted community meetings in Waimea on September 19, 2013 and December 12, 2013 to provide opportunities for public comment on the proposed water rate.
3. On March 18, 2014, a workshop was presented to the Hawaiian Homes Commission and it was proposed that the Hawaiian Homes Commission establish an Interim Water Rate for a period of one year in which time the operation and maintenance of the system would be tested, water usage by homesteaders monitored and a review of the water rate structure conducted at the conclusion of one year.

ITEM NO. E-4

HHC ITEM G-4 EXHIBIT

EXHIBIT A

4. Hawaiian Homes Commission authority to set water rates and fees:

- a. Sections 220, 220.5, and 221 of the Hawaiian Homes Commission Act provide extensive authority to the HHC and DHHL to own, operate, and manage water systems, to set rates, and to derive revenue from the delivery of water to both homesteads and non-homesteaders. How rates are set is specifically addressed in Section 10-3-76(i) of the Hawaii Administrative Rules that states:

"Water from department systems shall be sold at rates established by the commission. The department shall establish the frequency of billing and may determine a minimum monthly charge."

- b. Generally, water utilities must charge rates that allow for a financial break even point while addressing all needed costs to maintain and operate the system. This is described in an Attorney General's Opinion dated August 22, 1994, which states that:

"Every water system has operation and maintenance expenses as well as infrastructure capital requirements...Those costs are not for the water per se but for the delivery system, namely, for the "furnishing of water and for water service" (emphasis in original) as authorized in HRS §54-24. Customarily, those costs are prorated to consumers based on the amount of water used on some per unit basis. In the case of capital expenses, these may be paid in advance by the relevant legislative body or obtained through the issuance of bonds which are then repaid by collecting fees for water service on some unit basis. This is simply a means of amortizing the debt incurred in building the system."

5. The recommended Interim Water Rate is as follows:

COST COMPONENT	RATE PER MONTH
• Standby Charge: 4-Inch Master Meter \$255.00 per month. $\$255.00/184 \text{ lots} = \1.39 per lot	\$ 1.39
• Flat Rate Water Charge	\$ 18.00
• Electricity Charge (\$1,692/40 users)	\$ 42.30
• Operations and Maintenance (10,761/184 users)	\$ 58.48
• Potable Water via Spigot (600 gpd/40 users)	\$ 2.24
TOTAL	\$122.41

6. In addition to the monthly water rate, each homesteader will be required to pay the following one-time equipment and installation costs:

EQUIPMENT/INSTALLATION	COST
5/8" Meter	\$114.00
Backflow Preventer	\$675.00
TOTAL	\$789.00

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission approve the establishment of Equipment and Installation Fees and Interim Water Rate to be charged to lessees of the Puukapu Pastoral Lots for a period of one year from the effective date of this action.

DEPARTMENT OF HAWAIIAN HOME LANDS

PU'UKAPU HYBRID WATER SYSTEM APPLICATION FOR WATER METER AND BACKFLOW PREVENTER

LESSEE'S NAME: _____

BILLING ADDRESS: _____

CURRENT PHONE NUMBER(S): _____

LEASE#: _____ LOT#: _____

TMK: _____

PLUMBING CONTRACTOR: _____

GENERAL CONTRACTOR: _____

BUILDING PERMIT#: _____

INSTALLATION COST: _____

MAKE CHECK PAYABLE TO: DEPARTMENT OF HAWAIIAN HOME LANDS

MAIL OR DELIVER TO: DEPARTMENT OF HAWAIIAN HOME LANDS
PO BOX 125
KAMUELA, HI 96743

PHONE: 887-6053

THE UNDERSIGNED ACKNOWLEDGES THAT THE WATER IS NON-POTABLE AND UNSAFE FOR HUMAN CONSUMPTION. DRINKING OR OTHERWISE INGESTING THE WATER CAN LEAD TO SERIOUS ILLNESS AND DEATH.

LESSEE'S SIGNATURE: _____ DATE: _____

DHHL APPROVAL: _____

The undersigned applicant hereby applies to the Department of Hawaiian Home Lands for water service at the above location. Pending approval, and in consideration of commencement of such service, the undersigned agrees to pay all charges incurred upon such location for such service and to abide by all rules, regulations, ordinances, codes, provisions, and policies prescribed by the Department of Hawaiian Home Lands, relating to water rates. The undersigned understands that they will be billed by the Department of Hawaiian Home Lands for water service

***PLEASE BE AWARE THAT YOU WILL BE ACCESSED THE MONTHLY SERVICE CHARGE WHETHER OR NOT YOU USE WATER.

INITIAL

EXHIBIT

B

LEASE ADDENDUM
INTERNAL ELEVATION AGREEMENT

Puukapu Pastoral Lots Subdivision
Non-Potable Water, Low Water Pressure and Limited Water Supply

Lessor State of Hawaii, by its Department of Hawaiian Home Lands ("Lessor" and/or "DHHL") has developed that certain water system known as the Puukapu Hybrid Water System to service lots in the Puukapu Pastoral Lots Subdivision. In consideration of and as a condition to Lessee's use of the System, Lessee agrees as follows:

1. Low Water Pressure/ Non-Potable Water. Lessee acknowledges that the water pressure from the Puukapu Hybrid Water System may not be adequate to serve the entire subdivision. Lessee understands and agrees that real property that is the subject of this agreement may be situated at such an elevation that it cannot be assured of a dependable supply of water from Lessor, or of adequate water service from Lessor's Puukapu Hybrid Water System. Lots at higher elevations may be more affected by low water pressure, below the County of Hawaii 40 psi water pressure standard. Lessee is advised not to build their residence above the 3,500-foot elevation. Lessee agrees to accept the available water pressure from the Puukapu Hybrid Water System.

Lessee accepts such water service and such water pressure as Lessor is able to provide from its Puukapu Hybrid Water System. If Lessee requires more pressure, they will be responsible for installing facilities (booster pumps, etc.) required to meet their needs, however, the Puukapu Subdivision currently does not have the electrical power available to support additional facilities. Lessor shall have no obligation to provide additional power or to develop additional facilities, or to provide potable water to Lessee.

Lessee further acknowledges that the water is non-potable and is not suitable for human consumption.

2. Limited Water Volume. Lessee acknowledges the Puukapu Hybrid Water System will provide a limited volume of water to each lot. Maximum daily water usage to each lot is 600 gallons per day (GPD). Lessee agrees not to exceed the maximum volume of 600 GPD, or any other maximum volume as may be determined by Lessor.
3. Water and Meter Payments. Lessee acknowledges that rates charged for water usage will be established by the Hawaiian Homes Commission. Lessee will be required to pay for water usage rates on a monthly basis. Lessee further acknowledges that Lessee will be required to pay for an individual meter to their lot.
4. Water Meter and Signage. Lessor will issue the individual water meters and signage to Lessees. Lessees will be required to sign a separate agreement for the individual water meter and signage at the time of issuance. Signage will indicate that water is non-potable and is not suitable for human consumption.
5. Elevation Agreement between the Department of Water Supply of the County of Hawaii (DWS) and DHHL. Lessee acknowledges and agrees to be bound by the

stipulations and provisions contained in the attached Elevation Agreement between DWS and DHHL, effective on April 10, 2012.

6. Release and Indemnity. Lessee releases and holds Lessor, DWS, their respective officers, agents and employees harmless from and free of all claims and liabilities resulting from, caused by, or arising out of any harm or damages connected with the non-potability, inadequate water service, pressure, or delivery flow rate or volume to and/or from the Puukapu Hybrid Water System, Lessee's use of the system, or any maintenance, repair, or other work that may be performed on the system by Lessor or its contractors.
7. Other Conditions. Nothing contained herein shall limit or impair Lessor's authority to transfer, dedicate, license, or dispose of the Puukapu Hybrid Water System, or to make any other decisions whatsoever regarding the system's operation, maintenance, or repair. Lessee further agrees to abide by any other terms and conditions as may be established by Lessor pertaining to the use of the system, including usage fees and other charges.

Acknowledged and Agreed:

Signature

Print Name

Date

Lessee

**DEPARTMENT OF HAWAIIAN HOME LANDS
PU'UKAPU HYBRID WATER SYSTEM**

1. Lessee understands that the Pu'ukapu Hybrid Water system is a NON-POTABLE system for livestock use only. Water is not safe for human consumption. Drinking or otherwise consuming the water can lead to serious illness and/or death.
2. Lessee shall clearly label all lines, fixtures, and containers regularly transmitting or storing the water with the following warning: "WARNING: WATER NOT FIT FOR HUMAN CONSUMPTION. DO NOT DRINK. SERIOUS ILLNESS OR DEATH MAY RESULT."
3. Lessee shall not transmit the water to any fixtures inside or attached to any dwelling, including but not limited to hose bibs, faucets, showers, and water closets.
4. Lessee agrees to complete a Pu'ukapu Hybrid Water System Meter and Backflow Preventer Application. Only valid lessees of record are eligible applicants.
5. Lessee agrees to complete the Pu'ukapu Hybrid Water System Elevation Agreement as a condition of service.
6. Lessee agrees to pay the installation costs related to the water meter (\$115.00) and backflow preventer (\$674.00) as a condition of service.
7. For those who require a payment plan to comply with #3 the department will accept the following incremental payment option:

First incremental payment equal to 30% down (\$236.70) with six (6) additional monthly payments of \$92.05.

LESSEE UNDERSTANDS THAT IF THE PAYMENT OPTION IS SELECTED AND PAYMENT IS MISSED THAT THE TOTAL AMOUNT REMAINING IS DUE TO CONTINUE SERVICE.

8. Lessee agrees to pay a flat rate of \$122.41 per month. Upon installation the first month's usage or the first month's usage plus additional days to the first (1st) day of the following month shall be at no charge. The lessee is hereby notified that the Hawaiian Homes Commission approved the interim water rates for a period of one year beginning May 19, 2014. After the one year anniversary DHHL will report to the commission on its findings to determine if the flat rate should be continued at its present amount, increased or decreased.
9. The first full month after the grace period will be assessed at \$122.41. Lessee is responsible for payment on or before the first (1st) day of the next month. The department will not send out invoices and it's the lessee's responsibility to make payment on their own.
10. Late payment is any payment made after the first (1st) day of the following month unless the first day is a holiday or weekend.
11. Service may be terminated if payment of monthly bill is more than sixty (60) days in arrears. Service will be started after payment in full is received. The lessee will be responsible for a deposit equal to the amount in arrears as a condition of service.
12. Lessee understands that the monthly allotment of water is 600 gallons per day (gpd) on average. If average daily usage is in excess of 600 gpd for more than two (2) consecutive months customer will be notified in writing. Should excessive usage continue for a third (3rd) consecutive month service will be terminated. Service will be reinstated only after lessee agrees to pay the flat rate monthly fee for the period in excess.

DEPARTMENT OF HAWAIIAN HOME LANDS
PU'UKAPU HYBRID WATER SYSTEM

13. DHHL and their operator are responsible for the maintenance and repair of both the water meter and backflow preventer. Service responsibility ends at the backflow preventer. Lessee is responsible for their own transmission lines.
14. Lessee agrees to notify DHHL and/or operator in the event that a leak is found on the lessee's property. DHHL will make an adjustment to the water bill after three billing cycles. Adjustments will be made only once every two years.
15. Should lessee damage or destroy the water meter and/or backflow preventer the lessee is responsible for the replacement costs.
16. Should lessee be found illegally tapping into water system they will forfeit their water service and be subject to prosecution.
17. Lessee and their assigns agree to abide by all conditions of their Homestead Lease, Administrative Rules and applicable County, State and federal laws pertaining to their homestead including Lease Addendums.
18. Service will not be provided to homesteads in violation of any of the terms listed in 16 above.

HHC 08/20/12 – Adopted Management & Accounting Guidelines for DHHL Water Systems

- The department is able to create separate enterprise accounts for all water system revenue producing activities in the Operating portion of the Hawaiian Home Operating Fund. The separate ledger accounts will be referred to collectively as the Hawaiian Home Lands (HHL) enterprise account.
- In basic terms, this method of accounting will effectively isolate the water system budget from the department's larger budget. An enterprise account establishes a separate accounting and financial reporting mechanism for services for which a fee is charged in exchange for goods or services. The Administrative Services Office has indicated that the enterprise account, as an alternative method of accounting, can be prepared using existing accounting records.
- DHHL will budget for the Water System utilizing an enterprise account accounting structure that is subsidized by the Department's other funds. However, the Commission may authorize the Department's budget officer to transfer moneys from other funds into the Water System Enterprise account to address emergency conditions or public health and safety considerations.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION WORKSHOP/AGENDA
August 20, 2012, 10:00 a.m., Hale Kūpuna O Lana'i, 1144 Hima Avenue
Lana'i City, Hawai'i

ORDER OF BUSINESS

Roll Call
Approval of Agenda
Approval of Minutes of June 18-19, 2012 & July 23-24, 2012

A - WORKSHOP PRESENTATIONS

- A-1 Lana'i Regional Plan
- A-2 Aina Mauna Legacy Program Status Update

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS (for Monday agenda items)

C - OFFICE OF THE CHAIRMAN

- C-1 Approval of Management and Accounting Guidelines for the Water Systems Owned and Operated by the Department of Hawaiian Home Lands to Submit With USDA-RD Application
- C-2 NAHASDA - 2012 Annual Performance Report

D - HOMESTEAD SERVICES DIVISION

- D-1 HSD Status Reports
 - Exhibits:
 - A - Homestead Lease and Application Totals and Monthly Activity Reports
 - B - Delinquency Report
 - C - DHHL Guarantees for USDA-RD Mortgage Loans
 - D - DHHL Guarantees for FHA Construction Loans
 - E - DHHL Guarantees for Habitat for Humanity Loans
- D-2 Approval of Various Lease Awards
- D-3 Rescission of Homestead Lease Award and Reinstatement of Application - East Kapolei II B&C, Undivided Interest
- D-4 Ratification of Loan Approvals
- D-5 Approval of Consent to Mortgage
- D-6 Schedule of Loan Delinquency Contested Case Hearings

- D-7 Homestead Application Transfers / Cancellations
- D-8 Commission Designation of Successors to Application Rights - Public Notice 2011
- D-9 Reinstatement of Deferred Applications
- D-10 Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds
- D-11 Approval of Assignment of Leasehold Interest
- D-12 Approval of Amendment of Leasehold Interest
- D-13 Cancellation of Lease - **Mary Lou De Aguiar**
- D-14 Designation of Successor - **Adeline K. Spencer**
- D-15 Request to Schedule Contested Case Hearing - Lease Violation
- D-16 Approval of Amendment of Leasehold Interest - **Lenora U. Vierra**, Lease No. 7634, Waiohuli
- D-17 Approval of Assignment of Leasehold Interest - **Janie L.K. Akiona**, Lease No. 7474, Waiohuli; **Elizabeth H.K. Kahae-Luulua**, Lease No. 9507, Waichu Kou 2; **Martin Kahae**, Lease No. 5005, Ho'olehua

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
(continuation)

HAWAIIAN HOMES COMMISSION WORKSHOP/AGENDA
August 21, 9:30 a.m., Lana'i Youth Center, 717 Fraser Avenue
Lana'i City, Hawai'i

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS (for Tuesday agenda items)

E - LAND MANAGEMENT DIVISION

- E-1 Finding of No Significant Impact (FONSI), General Lease No. 294, Kalaeloa Home Lands Solar, Kalaeloa, O'ahu
- E-2 Notices of Default and Revocations, Statewide
- E-3 For Information Only - Overview of Trust Land Request Review Process
- E-4 Authorization to Issue License to Waimea Hawaiian Homestead Association and Homestead Community Development Corporation, Waimea, Hawai'i
- E-5 Authorization to Initiate Direct Negotiation with Green Energy Hawaii for Alternative Energy Project, Anahola, Kaua'i
- E-6 For Information Only - Land Request for Land Formerly Known as "Camp Faith", Anahola, Kaua'i

J - GENERAL AGENDA

- J-1 Request to Address Commission - Hawaiian Community Assets
- J-2 Request to Address Commission - Homestead Community Development Corp.
- J-3 Request to Address Commission - Update Sandwich Isles Communications

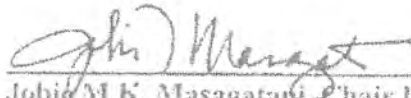
EXECUTIVE SESSION

The Commission anticipates convening in executive meeting Pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities on this matter.

1. Honokaia 'Ohang et al. v DHH, et al., Civil No. 09-101615-07
2. Duties and Responsibilities of Commissioners
3. Claim for Replacement of Sentic System, Leonard Low-Lalamilo, Waimea, HI

ANNOUNCEMENTS AND ADJOURNMENT

1. Next Meeting Tuesday, September 18, 2012, Naalehu, Hawaii
2. Other Announcements
3. Adjournment



Jobie M.K. Masagatani, Chair Designate
Hawaiian Homes Commission

COMMISSION MEMBERS

Imaikalani P. Aiu, Kaua'i
Perry O. Artates, Maui
Leimana DaMate, West Hawai'i
Gene Ross K. Davis, Moloka'i

J. Kama Hopkins, O'ahu
Michael P. Kahikina, O'ahu
Ian B. Lee Loy, East Hawai'i
Renwick V.I. Tassill, O'ahu

Next community meeting to be held on Monday, September 17, 2012 at
Pahala Community Center, Pahala, Hawai'i at 6:00 p.m.

Special Accommodations (such as Sign Language Interpreter, large print, taped materials) can be provided, if requested at least five (5) working days before the scheduled meeting on the respective island by calling (808) 620-9590.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

August 20, 2012

To: Chairman and Members, Hawaiian Homes Commission

From: Dreana Kalili, Policy and Program Analyst *JK*
Ray Enos, Land Issues Officer *RE*

Subject: Management and Accounting Guidelines for the Water
Systems Owned and Operated by the Department of
Hawaiian Home Lands to Submit with USDA-RUS
Applications.

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission adopt these management and accounting guidelines for water systems owned and operated by the department.

DISCUSSION

Within Hawaii, water is free, however, there is a cost to pump, store, treat, and transport the water to homes, businesses, and public facilities like schools. On Hawaiian Home Lands, water systems have been and continue to be constructed by the department, and then are either leased to the applicable County water department, or are operated and maintained by the department. Water users of the system pay a fraction of the cost to operate the system and the operating costs of the water systems owned and operated by the department are heavily supplemented by trust funds.

Since 2008, the department has partnered with Na Kupaa O Kuhio to apply for and receive grant and low-interest loan assistance from the U.S. Department of Agriculture Rural Utilities Service (USDA RUS) to develop water systems for homesteaders. The department is eligible to directly apply for USDA-RUS assistance. However, under the department's current accounting structure, the water system expenses and receipts are imbedded in the overall department budget process and as such, the department is not able to demonstrate financial sustainability throughout the life of the improvements and meet the USDA-RUS grant determination criteria.

Section 213(e) of the Hawaiian Homes Commission Act, as amended,

Item No. C-1

EXHIBIT C

authorizes the Operating portion of the Hawaiian Home Operating Fund to be used for the construction, operation and maintenance of revenue-producing activities that are intended to serve principally occupants on Hawaiian home lands (such as the Molokai Water System, and the Anahola Farm Lots Water System, on the island of Kauai, and the Kawaihae Water System on the island of Hawaii).

The department is able to create separate enterprise accounts for all water system revenue producing activities in the Operating portion of the Hawaiian Home Operating Fund. The separate ledger accounts will be referred to collectively as the Hawaiian Home Lands (HHL) enterprise account.

In basic terms, this method of accounting will effectively isolate the water system budget from the department's larger budget. An enterprise account establishes a separate accounting and financial reporting mechanism for services for which a fee is charged in exchange for goods or services. The Administrative Services Office has indicated that the enterprise account, as an alternative method of accounting, can be prepared using existing accounting records.

The specific management and accounting guidelines for the water systems owned and operated by the DHHL are found attached in Exhibit A.

USDA RUS Grant Criteria

The purpose of USDA-RUS Water and Environment Program is to provide loan and grant funds for water and waste projects serving the most financially needy communities. Financial assistance from the program should result in reasonable user costs for rural residents, rural businesses, and other rural users. The excerpts of the grant criteria are found in Exhibit B and are designed to ensure this program purpose is met.

As a grant and loan applicant, DHHL must meet these criteria and demonstrate the following:

- 1) That grants it receives will not result in an Equivalent Dwelling Unit (EDU) costs below similar system user cost. The EDU means the level of service provided to a typical rural residential dwelling;
- 2) That the debt service portion of the average annual EDU cost, for users in the applicant's service area, exceeds the following percentages of median household income by 0.5% when the median household income of the service area is equal to or below 80% of the statewide nonmetropolitan median income (in other words, if the median income for

the service area is \$48,000, a water system is eligible for a grant if the debt service portion to individual system users is more than \$240 over one year);

- 3) That its annual cost for delivery of service is subsidized; and
- 4) That water system user charges are reasonable, or the planned revenue should be sufficient to provide for all debt service, debt reserve, operation and maintenance, and, if appropriate, additional revenue for facility replacement of short-lived assets without building a substantial surplus.

The staff recommendation is to adopt the "Management and Accounting Guidelines for the Water Systems Owned and Operated by the Department of Hawaiian Home Lands" to align DHHL's operating and accounting processes related to these water systems with the USDA-RUS program criteria and goals.

It is critical that DHHL demonstrate these criteria are met so it can qualify for the maximum grant award allowed per project. These grant funds are needed to increase the operating efficiency of its water systems to decrease trust subsidies, and maximum grant awards means less funds expended from the trust.

MANAGEMENT AND ACCOUNTING GUIDELINES FOR THE WATER SYSTEMS OWNED
AND OPERATED BY THE DEPARTMENT OF HAWAIIAN HOME LANDS

August 2012

- 1) The Water System will carry out the Department's goals, objectives and policies through a service delivery system financed through the utility's operating and capital budgets. The relationship between the operating and capital budgets will be explicitly recognized and incorporated into the budget process in a manner consistent with sound accounting and management practices. Funding for these budgets shall be adequate to provide operating services and maintenance or enhancement of fixed assets needed to support the demand for the water utility. The Commission will establish all user charges fees at a level related to the full costs (operating, direct, indirect and capital) of providing the service. Supplemental funding for the Water System enterprise account may be made by the Commission in order to avoid rate shock to the users. The Commission will review fees/charges at least every four years. As the need arises the Commission may adjust the rates by resolution. The Department will maintain records to document compliance with the user charge requirements, including records of the review, and such records will be available to the users.
- 2) The Water System user charge shall consist of a base rate and a consumption charge which combined shall be considered the water utility user charge. The Department Budget Officer shall establish an account or accounts within the Department's budget for the Water System utility charges. Moneys received as a result of the Water System utility user charge shall be allocated to the Water System Enterprise Account in the amounts established in the water utility charge resolution of the Commission. Except as otherwise provided or allowed by state law, the utility account or accounts shall be used solely for the purposes of the utility.
- 3) It is recognized that in order for the Water System to be a sustainable, self-supporting enterprise, there would need to be a substantial rate increase to users which would result in rate shock and have undesirable consequences. It is recognized that the utility rate for the Water System will need to be reviewed and re-authorized by the Commission. The Water System

enterprise account may continue to be subsidized by the Department as to avoid rate shock and the Commission may consider financial self-sufficiency and sustainability along with its other goals and objectives when establishing the Water System rates in the future.

4. DHHL will budget for the Water System utilizing an enterprise account accounting structure that is subsidized by the Department's other funds. However, the Commission may authorize the Department's budget officer to transfer moneys from other funds into the Water System Enterprise account to address emergency conditions or public health and safety considerations.

U.S. DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE
WATER AND WASTE LOANS AND GRANT CRITERIA
(Excerpts from the Code of Federal Regulations, Title 7, Part 1780)

§ 1780.1 General. (Excerpts)

(c) RUS debt instruments will require an agreement that if at any time it shall appear to the Government that the borrower is able to refinance the amount of the indebtedness to the Government then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such actions as may be required in connection with such loan.

(j) Water and waste applicants must demonstrate that they possess the financial, technical, and managerial capability necessary to consistently comply with pertinent Federal and State laws and requirements. In developing water and waste systems, applicants must consider alternatives of ownership, system design, and the sharing of services.

§ 1780.3 Definitions and grammatical rules of construction. (Excerpts)

Equivalent Dwelling Unit (EDU) means the level of service provided to a typical rural residential dwelling.

Rural and rural areas means any area not in a city or town with a population in excess of 10,000 inhabitants, according to the latest decennial census of the United States.

Rural Development means the mission area of the Under Secretary for Rural Development. Rural Development State and local offices will administer this water and waste program on behalf of the Rural Utilities Service.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture established pursuant to section 232 of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354, 108 Stat. 3178), successor to the Farmer's Home Administration and the Rural Development Administration with respect to certain water and waste disposal loan and grant programs.

Service area means the area reasonably expected to be served by the project.

Similar system cost means the average annual EDU user cost of a system within a community having similar economic conditions and being served by the same type of established system. Similar system cost shall include all charges, taxes, and assessments attributable to the system including debt service, reserves and operation and maintenance costs.

§ 1780.7 Eligibility.

Facilities financed by water and waste disposal loans or grants must serve rural areas

(a) Eligible applicant. An applicant must be:

(1) A public body, such as a municipality, county, district, authority, or other political subdivision of a state, territory or commonwealth;

(2) An organization operated on a not-for-profit basis, such as an association, cooperative, or private corporation. The organization must be an association controlled by a local public body or bodies, or have a broadly based ownership by or membership of people of the local community, or

(3) Indian tribes on Federal and State reservations and other Federally recognized Indian tribes.

(b) Eligible facilities. Facilities financed by RUS may be located in non-rural areas. However, loan and grant funds may be used to finance only that portion of the facility serving rural areas, regardless of facility location.

(c) Eligible projects. (1) Projects must serve a rural area which, if such project is completed, is not likely to decline in population below that for which the project was designed.

(2) Projects must be designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area to the extent practicable.

(3) Projects must be necessary for orderly community development and consistent with a current comprehensive community water, waste disposal, or other current development plan for the rural area.

(d) Credit elsewhere. Applicants must certify in writing and the Agency shall determine and document that the applicant is unable to finance the proposed project from their own resources or through commercial credit at reasonable rates and terms.

(e) Legal authority and responsibility. Each applicant must have or will obtain the legal authority necessary for owning, constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan. The applicant shall be responsible for operating, maintaining, and managing the facility, and providing for its continued availability and use at reasonable user rates and charges. This responsibility shall be exercised by the applicant even though the facility may be operated, maintained, or managed by a third party under contract or management agreement. Guidance for preparing a management agreement is available from the Agency. Such contracts, management agreements, or leases must not contain options or other provisions for transfer of ownership.

(f) Economic feasibility. All projects financed under the provisions of this section must be based on taxes, assessments, income, fees, or other satisfactory sources of revenues in an amount sufficient to provide for facility operation and maintenance, reasonable reserves, and debt payment. If the primary use of the facility is by business and the success or failure of the facility is dependent on the business, then the economic viability of that business must be assessed.

(g) Federal Debt Collection Act of 1990 (28 U.S.C. 3001 et seq.). An outstanding judgment obtained by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive a loan or grant until the judgment is paid in full or otherwise satisfied.

[62 FR 33473, June 19, 1997, as amended at 64 FR 29946, June 4, 1999]

§ 1780.9 Eligible loan and grant purposes.

Loan and grant funds may be used only for the following purposes:

(a) To construct, enlarge, extend, or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities.

(b) To construct or relocate public buildings, roads, bridges, fences, or utilities, and to make other public improvements necessary for the successful operation or protection of facilities authorized in paragraph (a) of this section.

(c) To relocate private buildings, roads, bridges, fences, or utilities, and other private improvements necessary for the successful operation or protection of facilities authorized in paragraph (a) of this section.

(d) For payment of other utility connection charges as provided in service contracts between utility systems.

(e) When a necessary part of the project relates to those facilities authorized by paragraphs (a), (b), (c) or (d) of this section the following may be considered:

(1) Loan or grant funds may be used for:

(i) Reasonable fees and costs such as: legal, engineering, administrative services, fiscal advisory, recording, environmental analyses and surveys, possible salvage or other mitigation measures, planning, establishing or acquiring rights;

(ii) Costs of acquiring interest in land; rights, such as water rights, leases, permits, rights-of-way; and other evidence of land or water control or protection necessary for development of the facility;

(iii) Purchasing or renting equipment necessary to install, operate, maintain, extend, or protect facilities;

(iv) Cost of additional applicant labor and other expenses necessary to install and extend service; and

(v) In unusual cases, the cost for connecting the user to the main service line.

(2) Only loan funds may be used for:

(i) Interest incurred during construction in conjunction with multiple advances or interest on interim financing;

(ii) Initial operating expenses, including interest, for a period ordinarily not exceeding one year when the applicant is unable to pay such expenses;

(iii) The purchase of existing facilities when it is necessary either to improve service or prevent the loss of service;

(iv) Refinancing debts incurred by, or on behalf of, an applicant when all of the following conditions exist:

(A) The debts being refinanced are a secondary part of the total loan;

(B) The debts were incurred for the facility or service being financed or any part thereof; and

(C) Arrangements cannot be made with the creditors to extend or modify the terms of the debts so that a sound basis will exist for making a loan; and

(v) Prepayment of costs for which RUS grant funds were obligated.

(3) Grant funds may be used to restore loan funds used to prepay grant obligated costs.

(f) Construction incurred before loan or grant approval.

(1) Funds may be used to pay obligations for eligible project costs incurred before loan or grant approval if such requests are made in writing by the applicant and the Agency determines that:

(i) Compelling reasons exist for incurring obligations before loan or grant approval;

(ii) The obligations will be incurred for authorized loan or grant purposes; and

(iii) The Agency's authorization to pay such obligations is on the condition that it is not committed to make the loan or grant; it assumes no responsibility for any obligations incurred by the applicant; and the applicant must subsequently meet all loan or grant approval requirements, including environmental and contracting requirements.

(2) If construction is started with Agency approval, post-approval in accordance with this section may be considered, provided the construction meets applicable requirements including those regarding approval and environmental matters.

(g) Water or sewer service may be provided through individual installations or small clusters of users within an applicant's service area. The approval official should consider items such as: quantity and quality of the individual installations that may be developed, cost effectiveness of the individual facility compared with the initial and long term user cost on a central system; health and pollution problems attributable to individual facilities; operational or management problems peculiar to individual installations; and permit and regulatory agency requirements.

(1) Applicants providing service through individual facilities must meet the eligibility requirements in §1780.7.

(2) The Agency must approve the form of agreement between the applicant and individual users for the installation, operation, maintenance and payment for individual facilities.

(3) If taxes or assessments are not pledged as security, applicants providing service through individual facilities must obtain security necessary to assure collection of any sum the individual user is obligated to pay the applicant.

(4) Notes representing indebtedness owed the applicant by a user for an individual facility will be scheduled for payment over a period not to exceed the useful life of the individual facility or the RUS loan, whichever is shorter. The interest rate will not exceed the interest rate charged the applicant on the RUS indebtedness.

(5) Applicants providing service through individual or cluster facilities must obtain:

(i) Easements for the installation and ingress to and egress from the facility if determined necessary by RUS; and

(ii) An adequate method for denying service in the event of nonpayment of user fees.

§ 1780.10 Limitations.

(a) Loan and grant funds may not be used to finance:

(1) Facilities which are not modest in size, design, and cost;

(2) Loan or grant finder's fees;

(3) The construction of any new combined storm and sanitary sewer facilities;

(4) Any portion of the cost of a facility which does not serve a rural area;

(5) That portion of project costs normally provided by a business or industrial user, such as wastewater pretreatment, etc.;

(6) Rental for the use of equipment or machinery owned by the applicant;

(7) For other purposes not directly related to operating and maintenance of the facility being installed or improved; and

(8) A judgment which would disqualify an applicant for a loan or grant as provided for in §1780.7(g).

(b) Grant funds may not be used to:

(1) Reduce EDU costs to a level less than similar system cost;

EXHIBIT B

Item No. C-1

EXHIBIT C

(2) Pay any costs of a project when the median household income of the service area is more than 100 percent of the nonmetropolitan median household income of the State;

(3) Pay project costs when other loan funding for the project is not at reasonable rates and terms; and

(4) Pay project costs when other funding is a guaranteed loan obtained in accordance with 7 CFR part 1779 of this title.

(c) Grants may not be made in excess of the following percentages of the RUS eligible project development costs. Facilities previously installed will not be considered in determining the development costs.

(1) 75 percent when the median household income of the service area is below the higher of the poverty line or 80% of the state nonmetropolitan median income and the project is necessary to alleviate a health or sanitary problem.

(2) 45 percent when the median household income of the service area exceeds the 80 percent requirements described in paragraph (c)(1) of this section but is not more than 100 percent of the statewide nonmetropolitan median household income.

(3) Applicants are advised that the percentages contained in paragraphs (c)(1) and (c)(2) of this section are maximum amounts and may be further limited due to availability of funds or the grant determination procedures contained in §1780.35 (b).

[62 FR 33478, June 19, 1997, as amended at 64 FR 29946, June 4, 1999; 66 FR 23151, May 8, 2001]

HAWAIIAN HOMES COMMISSION WATER POLICY PLAN

July 22, 2014

Vision

Our vision is that there will be adequate amounts of water and supporting infrastructure so that homestead lands will always be usable and accessible, to enable us to return to our lands to fully support our self-sufficiency and self-determination in the administration of the Hawaiian Homes Commission Act (HHCA), and the preservation of our values, traditions, and culture.

Mission

In a manner consistent with our values, the Hawaiian Homes Commission (HHC) and Department of Hawaiian Home Lands (DHHL) shall strive to ensure the availability of adequate, quality water by working cooperatively to:

- Understand our trust water assets;
- Plan for our water needs;
- Aggressively understand, exercise and assert our kuleana as stewards of water;
- Develop and protect water sources; and
- Manage water systems.

Values

1. **Waiwai:** Mōhala i ka wai ka maka o ka pua. Unfolded by the water are the faces of the flowers. The availability of water to our lands and people is integral to the trust and our mission.
2. **Waihona:** Ua lehulehu a manomano ka 'ikena a ka Hawai'i. Great and numerous is the knowledge of the Hawaiians. Honoring and documenting our knowledge about water is essential to managing it.
3. **Mālama:** He ali'i ka 'āina; he kauwā ke kanaka. The land is a chief; man is its servant. We consider water to be part of our genealogy and so we manage it in a manner that cares for its long-term sustainability for all things, as we also use it productively for our mission.
4. **Laulima:** E lauhoe mai nā wa'a; i ke kā, i ka hoe; i ka hoe, i ke kā; pae aku i ka 'āina. Everybody paddle the canoes together; bail and paddle, paddle and bail, and the shore is reached. We are one people who now share Hawai'i with others. DHHL is only one of many Hawaiian serving institutions. We will assert our rights while considering our larger lāhui 'ōiwi and the larger world in which we live.

Policies

The HHC and the DHHL are seeking to be proactive in our management of water. Our Priority Policies are to:

1. Expressly determine and plan for future water needs and actively participate in broader water management, use and protection efforts in Hawai'i in order to secure water.
2. Aggressively exercise, reclaim, and protect Hawaiian home land water kuleana.
3. Develop, manage, and steward water in a manner that balances cost, efficiency measures, and Public Trust uses in the short and long term.
4. Affirmatively communicate our decisions, our reasoning, and our performance in managing, stewarding, and using water before and after making major water decisions.

Additionally, the HHC and the DHHL should consider in their work the following statements:

5. Educate beneficiaries, the DHHL, HHC, and other stakeholders continually on our water kuleana.
6. Foster self-sufficiency of beneficiaries by promoting the adequate supply of water for homesteading when developing or managing water.
7. Foster the self-determination of beneficiaries by seeking ways for beneficiaries to participate in the management of water by delegating authority related to water subject to the discretion of the HHC as described in the HHCA.
8. Make water decisions that incorporate traditional and place-based knowledge of our people and are clear and methodical in their reasoning.
9. Make efforts to understand, maintain, and improve the quality of water as it moves into and through our lands and is used by beneficiaries.
10. Affirmatively consider the development and use of alternative sources of water and efficiency measures in water decision-making.
11. Ensure that water decisions are consistent with other Departmental policies, programs, and plans including but not limited to the Energy Policy and Agricultural Program.
12. Explicitly consider water availability and the costs to provide adequate water when developing new homestead areas, designating land uses, issuing land dispositions, or exchanging properties.

Goals

To make progress on achieving our Mission and complying with our Policies, the Priority Goals of the HHC and the DHHL are to:

1. Affirmatively communicate with beneficiaries regarding water decisions, performance, and water rights on a regional and annual basis.
2. Aggressively, proactively, consistently and comprehensively advocate for the kuleana of the beneficiaries, the DHHL, and the HHC to water before all relevant agencies and entities.
3. Develop and manage a Water Assets Inventory (WAI).
4. Support watershed protection and restoration on DHHL lands and source areas for DHHL water.

Additional goals that DHHL and the HHC shall seek to achieve, based on the availability of resources, organized by Mission activities, are:

Part I. Understand our trust water assets

1. Revise the DHHL submittal template to the HHC for water related decisions.
2. Revise budgets to show the total costs of a) water system management b) all spending on water issues.
3. Staff and organize the DHHL consistent with importance of water to the trust.

Part II. Plan for our water needs

4. Determine current and foreseeable future needs based upon periodic reviews of water availability projections that incorporate climate change, projected beneficiary demand, alternative sources and efficiency measures.
5. Design homesteads and manage lands to create and enhance water availability, optimizing costs, use of alternative sources and efficiency measures.

Part III. Aggressively understand, exercise and assert our water rights

6. Secure adequate and enforceable reservations of water for current and foreseeable future needs for all of its lands across the islands.
7. Partner with trust beneficiaries in water advocacy efforts.
8. Engage in updates to all Hawai'i Water Plan elements to ensure DHHL water needs and rights are addressed.
9. Advocate that all Water Use Permit Applications properly address the water rights of DHHL and other Hawaiian water rights.
10. Advocate that County Boards of Water Supply and other County agencies that affect water have the spirit of the HHCA faithfully carried out to protect DHHL

water uses as a Public Trust use of water and manage rates so they are affordable by beneficiaries.

11. Ensure that all legal provisions for the licensing of state water are followed.

Part IV. Develop and protect water sources

12. Carefully weigh alternatives regarding the dedication or DHHL management of new water systems.
13. Methodically and consistently manage and allocate water credits.
14. Support the drilling of wells by beneficiaries for their own use on lots where appropriate.
15. Partner with Department of Health and others on water quality education and outreach.
16. Continue to pursue development of agricultural water systems.

Part V. Manage water systems

17. Secure revenue and reduce operation costs so DHHL water systems break even financially over the long term.
18. Increase security and reliability for DHHL water users.
19. Pursue resolution by the Department of Agriculture of prior audit findings in the management of the Moloka'i Irrigation System and full repair of the System

Delegation of Authorities, Reporting, and Consultation

1. Delegation
 - a. The HHC delegates authority to the Chairperson to prepare an Implementation Program for this Water Policy Plan, which shall be subject to the approval by HHC. The Program shall identify tasks to implement each goal, and shall specify tasks that apply statewide as well as tasks that apply to different islands or regions under each goal.
2. Reporting
 - a. The Chairperson shall submit the proposed Implementation Program to the HHC annually in conjunction with the Department's budget request.
 - b. The Chairperson shall annually report on progress on execution of the approved Implementation Program and overall progress towards achieving the goals of and maintaining compliance with the Water Policy Plan.
3. Consultation
 - a. The Chairperson shall consult with the HHC on any major water issues not contained in the Implementation Program.

Legal Authorities

1. Hawai'i State Constitution
2. Hawaiian Homes Commission Act of 1921, as amended
3. Hawai'i State Water Code, HRS 174C
4. In the Matter of Water Use Permit Applications (Waiāhole I case)
5. Wai'ola o Moloka'i
6. Kauai Springs, Inc. v. Planning Commission of the County of Kauai

Related Plans and Policies

1. DHHL General Plan
2. DHHL Energy Policy
3. Hawaiian Homes Commission Beneficiary Consultation Policy

References

1. 1983. Pūku'i, Mary Kawena. 'Ōlelo No'eau: Hawaiian Proverbs & Poetical Sayings. Honolulu: Bernice Pauahi Bishop Museum.
2. Ala i hea ka wai a Kāne? (Traditional chant, "Where is the water of Kāne?")

Definitions

Alternative sources: Alternative sources include but are not limited to the water developed through reuse and recycling technologies and best practices, capture of flood waters, desalinated waters, and other sources as may be appropriate for proposed uses.

Hawai'i Water Plan: The Hawai'i Water Plan and its parts, as detailed in Part III of the Hawai'i State Water Code (HRS 174C), is the state's "program of comprehensive water resources planning to address the problems of supply and conservation of water" (HRS 174C-2(b)).

Efficiency Measures: Efficiency measures include optimal design and development, alternative energy utilization, changing in behavioral practices and technologies that support onsite distributed wastewater systems.

Kuleana: Kuleana encompasses both rights and responsibilities. DHHL's water kuleana includes its responsibilities under its mission and the legal rights to water enshrined in the HHCA and state Constitutional and statutory provisions. Kuleana exists within the genealogical and spiritual relationship between water and the lāhui 'ōiwi.

Public Trust: As delineated in the Hawai'i Supreme Court Waiāhole I and Wai'ola O Moloka'i cases, public trust uses of water include domestic uses, traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and reservations of water for the DHHL.

Water: In this policy, water includes mists, fog, rain, and other precipitation; water as it flows above or below ground, and into the ocean; water used for homesteading; alternative sources including waste, brackish, and salt water; water used in the exercise of traditional and customary practices; infrastructure used to produce, store and transmit water; and water we use as well as water to which we have rights.

Water Assets Inventory (WAI): A comprehensive geographically referenced database of the water assets of the DHHL, including traditional knowledge related to water, DHHL owned water infrastructure, current and future water demand, water agreements, water credits, and potential water sources.

Approval Date

Policy approved by the Hawaiian Homes Commission on July 22, 2014.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 14-15, 2019

To: Chairman and Members, Hawaiian Homes Commission

From: Andrew H. Choy, Acting Planning Program Manager *Ac*

Subject: Update on West Hawaii Regional Plans

Recommended Action

For information only. No action required.

Background

Per the directive of the Chairman, Planning Office will be providing the Hawaiian Homes Commission (HHC) with updates of the respective DHHL geographic region in which the HHC conducts its monthly community meeting. The purpose of the monthly update is to provide the HHC with information related to prior policies and/or plans specific to that previously adopted by the HHC specific to that particular geographic region.

A status report of DHHL's progress in implementing these policies/plans is also included for the HHC's consideration. For May 2019, Planning Office will be providing an update to the HHC for West Hawaii.

Discussion

EXISTING PLANS & IMPLEMENTATION STATUS

Hawaii Island Plan Policies Related to West Hawaii.

The purpose of each DHHL Island Plan is to (1) assign land use designations for land holdings on each island, (2) establish land use goals and objectives of the General Plan specific to each island, and (3) identify island-wide needs, opportunities, and priorities. The Hawaii Island Plan was adopted by the HHC in 2002. The 2002 Hawaii Island Plan delineated five planning regions on Hawaii

Island, North, East, South, West, and Central. (see maps, Exhibit A). For the purposes of this informational submittal, Planning Office will be focusing on the lands in the North and West regions.

Subsequently, an update of the island plan was adopted by the HHC in 2009 for DHHL lands in West Hawaii as approximately 600 acres were added to the DHHL land inventory in the Kealakehe and Kalaoa Tracts (see map, Exhibit B). The 2002 Hawaii Island Plan and subsequent 2009 West Hawaii Update identifies the following land use designations and acreage amounts.

Land Use Designation	Acres	Percent of Total
Residential	1,608	4.1%
Subsistence Agriculture	540	1.3%
Supplemental Agriculture	1,113	2.9%
Pastoral	24,101	62.4%
Community Use	258*	0.6%
General Agriculture	10,747*	27.8%
Commercial	230	0.5%
Industrial	384	0.9%
Conservation	391	1%
Special District	266	0.6%
TOTAL	38,638	100%

* Does not reflect the Land Use Designation amendment of 161 acres from General Agriculture to Community Use discussed below.

Hawaii Island Plan Implementation Status

Since the West Hawaii Island Plan was updated in 2009, there was one additional land use designation amendment made to the Island Plan for TMK (3)-6-4-038:011 (por.), in Waimea. The land use designation was amended from "General Agriculture" to "Community Use". The island plan land use amendment was approved by the HHC in May of 2015.

Kealakehe-La'i'Ōpua Regional Plan

The *Kealakehe- La'i'Ōpua* Regional Plan was adopted by the HHC in December, 2009. Outreach with beneficiaries in the region through the planning process identified the following priority projects:

- (1) North Kona Water Source Development and Storage
- (2) Continued Support of *La'i'Ōpua* 2020 Community Sustainable Projects
- (3) Renewable Energy Initiative
- (4) Kona Regional Park
- (5) Burial Treatment Plan for Inadvertent Discovery of Iwi Kupuna

DHHL is currently updating the 2009 *Kealakehe-La'i'Ōpua* Regional Plan. The update process began in January 2019. Two beneficiary consultation meetings were held to date this year. At these meetings, a vision for the future of the region was developed based on beneficiary input. Beneficiaries also had a discussion on new potential priority projects. Next-steps for the regional plan update process include having a third beneficiary consultation meeting in July to review a draft plan and collect beneficiary feedback on the draft plan. DHHL will revise the draft plan based on that feedback. DHHL hopes to seek HHC approval on the plan update at the October 2019 HHC meeting in Hilo.

Kawaihae Regional Plan

The Kawaihae Regional Plan was adopted by the HHC in September, 2010. Outreach with beneficiaries in the region through the planning process identified the following priority projects:

- (1) Kailapa Resource Center
- (2) Kawaihae Water and Energy Research and Development
- (3) Kawaihae Bypass Highway
- (4) Improve the Marine Water at Pelekane Bay
- (5) Management and Maintenance of Kawaihae Reinternment Site

Waimea Nui Regional Plan

The Waimea Nui Regional Plan was adopted by the HHC in January, 2012. Outreach with beneficiaries in the region through the planning process identified the following priority projects:

- (1) Waimea Hawaiian Homestead Community Complex - Planning
- (2) Evaluate and Revise Agriculture/Pastoral Program Waimea Nui
- (3) Support/Plan Development of Affordable Homestead Alternatives in Waimea Nui
- (4) Assess the Implications of Eliminating Requirement to Pay Property Taxes
- (5) Assess the Implications of a Non-Standard Building Code

Implementation Status of West Hawaii Regional Plans

The following tables identify the "project champions" of each regional plan priority project as well as summarizes the status of each regional plan priority project.

Table 2: LAIOPUA REGIONAL PLAN PRIORITY PROJECT	PROJECT CHAMPION	STATUS
North Kona Water Source Development and Storage	DHHL	In-Progress. The HHC allocated \$1M in trust funds for water development in North Kona in FY 2018. DHHL is utilizing those funds to prepare two EA reports and two preliminary reports for two potential well sites in North Kona (1) Gianulias property and (2) KS well site. DHHL also hopes to develop water credit agreements with the respective landowners and the County DWS during the EA proces.
Continued Support of Laiopua 2020 Community Sustainable Projects	L2020	In Progress. L2020 completed the construction of its Medical Center in 2015. The vertical construction of its community center is in progress. Build-out of other portions of its master plan for the community parcel as well as its commercial parcel are pending on additional water credits and additional funding becoming available.
Renewable Energy Initiative	DHHL	In-Progress. DHHL is participating in the HECO RFP process and solicited DHHL Kalaoa lands for potential development. However, HECO did not select DHHL Kalaoa lands during this process. DHHL hopes to re-solicit its Kalaoa lands in future HECO solicitation processes.
Kona Regional Park	County of Hawaii and surrounding community	In-Progress. Various community partners have been leading discussions and planning for the park development.

Treatment Plan for Inadvertent Discovery of Iwi Kupuna	DHHL	Not Started. The priority project called for the development of a burial treatment plan for inadvertent burials discovered in Laiopua.
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Table 3: KAWAIHAE REGIONAL PLAN PRIORITY PROJECT	PROJECT CHAMPION	STATUS
Kailapa Resource Center	Kailapa Community Association	In-Progress. The HHC approved a FONSI for KCA's FEA in February 2016 for KCA's plans on the 14-acre parcel. KCA has almost completed the construction of its pavilion. It has finished construction of a playground area.
Kawaihae Water and Energy Research and Development	DHHL	In-Progress. DHHL completed a Kawaihae Water Assessment Study in June 2015. The assessment identified potential options for water development in the Kawaihae region. Implementation of study recommendations has not begun.
Kawaihae Bypass Highway	DOT	DOT reports that it has postponed its planning and feasibility study of the project due to the lack of construction funding in the foreseeable future.
Improve the Marine Water at Pelekane Bay	DHHL / Community Associations / Kohala Mountain Watershed Partnership	In-Progress. The Kohala Mountain Watershed Partnership received ROEs to install ungulate fences on DHHL property to mitigate impacts from feral ungulates. Fence installation is in progress. The Kailapa Community Association has also completed its Resilient Hawaiian Community Plan that looks at improved stewardship of the mauka portion of the ahupua'a in which the association would like to champion implementation.
Management and Maintenance of Kawaihae Reinternment Site		Not started.

Table 4: WAIMEA NUI REGIONAL PLAN PRIORITY PROJECT	PROJECT CHAMPION	STATUS
Waimea Hawaiian Homestead Community Complex -- Planning	Waimea Hawaiian Homestead Association (WHHA)	In-Progress. HHC approved FONSI of WHHA final EA in and approved 65-Year general lease to WHHA in 2015. DOA has completed construction of the internal road network. WHHA is soliciting other funding sources for future development phases.
Evaluate and Revise Agriculture/Pastoral Program Waimea Nui	DHHL / WHHA	In-Progress. DHHL awarded a \$100k agriculture peer-to-peer technical assistance grant to WHHA to promote more farming on Waimea homestead areas.
Support/Plan Development of Affordable Homestead Alternatives in Waimea Nui	DHHL	In-Progress. State-wide, DHHL has been contemplating alternative affordable homestead options for its beneficiaries. This could result in alternatives applicable to Waimea Nui.
Assess the Implications of Eliminating Requirement to Pay Property Taxes	DHHL	Not Started.
Assess the Implications of a Non-Standard Building Code	DHHL	In-Progress. DHHL is currently assessing process and legal requirements for implementing an alternative building code.


Recommendation


For information only. No action required.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 20-21, 2019

To: Chairman and Members, Hawaiian Homes Commission

Thru: Andrew H. Choy Acting Planning Program Manager 

From: Malia M. Cox, Planner 

Subject: Update on the proposed DHHL Final Environmental Impact Statement (Final EIS) for the Pūlehunui Regional Infrastructure Master Plan, Pūlehunui, Maui; TMK (2) 3-8-008, 035, 036 (Pūlehunui North) and (2) 3-8-008:034 (Pūlehunui South) (For information only)

Recommended Actions

NONE: For Information Only

Discussion

The purpose of this informational briefing is to update the Hawaiian Homes Commission (HHC) on the status of the Pūlehunui Regional Infrastructure Master Plan.

Informational briefings about this project have been presented to the HHC twice previously:

- November 21, 2017, an Environmental Impact Statement Preparation Notice (EISPN)
- October 16, 2018, a Draft EIS

The focus of this briefing is to review the Pūlehunui Master Plan and discuss the draft Final EIS (See Exhibit A) and project schedule.

This briefing will provide the HHC an opportunity to review and comment on the proposed draft Final EIS prior to the special HHC meeting scheduled for May 30, 2019. Based on HHC comments, the draft Final EIS will be finalized and

presented to HHC, May 30, 2019, for recommendation of transmission to the Governor of the State of Hawai'i.

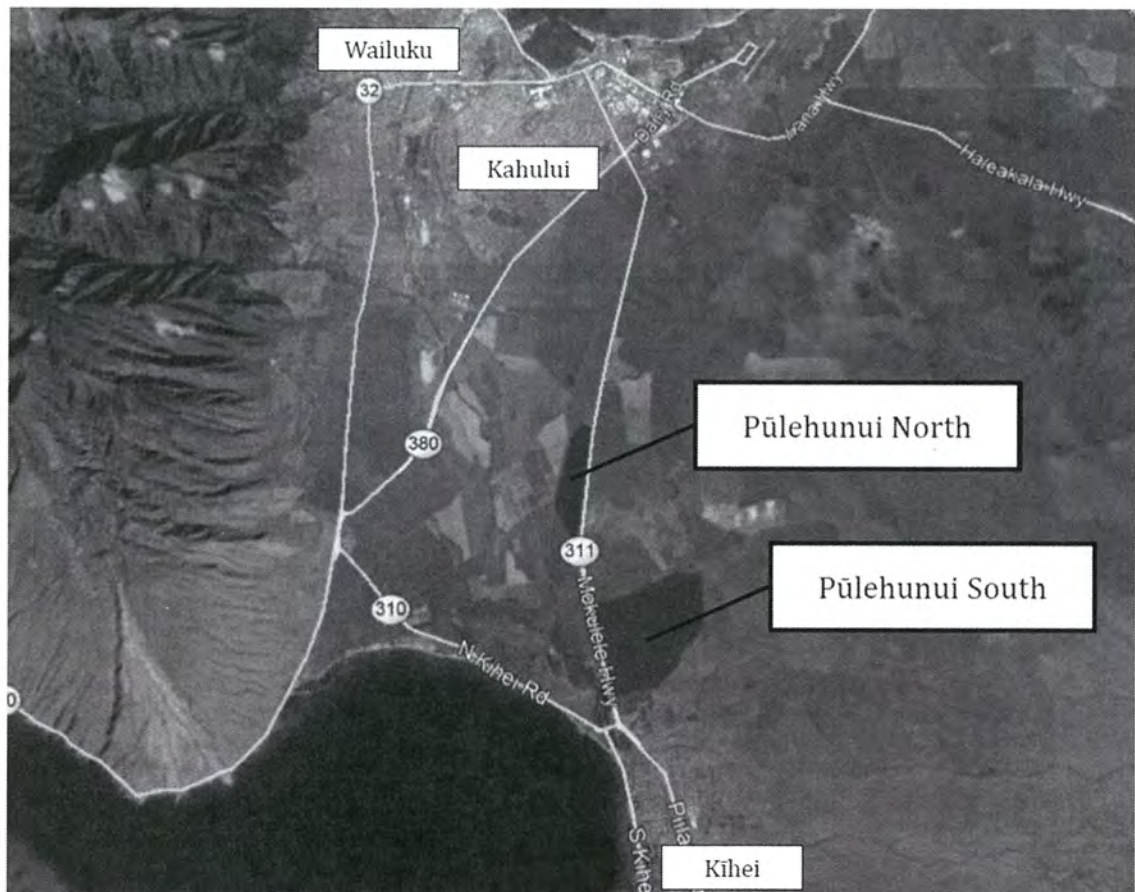
Review of Master Planning Process

Background

The DHHL owns two tracts of land in Pūlehunui totaling 830 acres. These lands were designated for commercial, light industrial and agriculture uses in the 2004 Maui island Plan as described below:

Pūlehunui North-184 acres- commercial and light industrial

Pūlehunui South-100 acres- light industrial use
546 acres- agricultural use



Although Pūlehunui North was designated for industrial and commercial uses, Notices of Proposed Disposition were unsuccessful due in part to a lack of up-front environmental approvals.

To move the development of Pūlehunui forward, DHHL along with three other regional State agency stakeholders, (Department of Land and Natural Resources {DLNR}, Department of Accounting and General Services {DAGS}, and the Department of Public Safety {PSD}), agreed to work collaboratively. This effort resulted in a 2014, Memorandum of Understanding (MOU) charging this group to work synergistically on joint infrastructure financing, planning and development providing significant economic benefits to Maui.

DHHL's joint efforts with these regional State agency stakeholders resulted in the following legislative appropriations to DHHL:

- \$4 Million Dollars- Development of Regional Infrastructure Plan and EIS
- \$17.5 Million Dollars- Design and Construction of Wastewater Infrastructure

The proposed regional planning effort will facilitate development in Pūlehunui that is financially and environmentally efficient, maximizes the use of State funds while minimizing unavoidable environmental impacts.

The Pūlehunui Regional Infrastructure Master Plan proposed action is anticipated to have a substantial positive impact on DHHL, its beneficiaries, the County of Maui and the State of Hawai'i. The project is expected to result in the following positive outcomes:

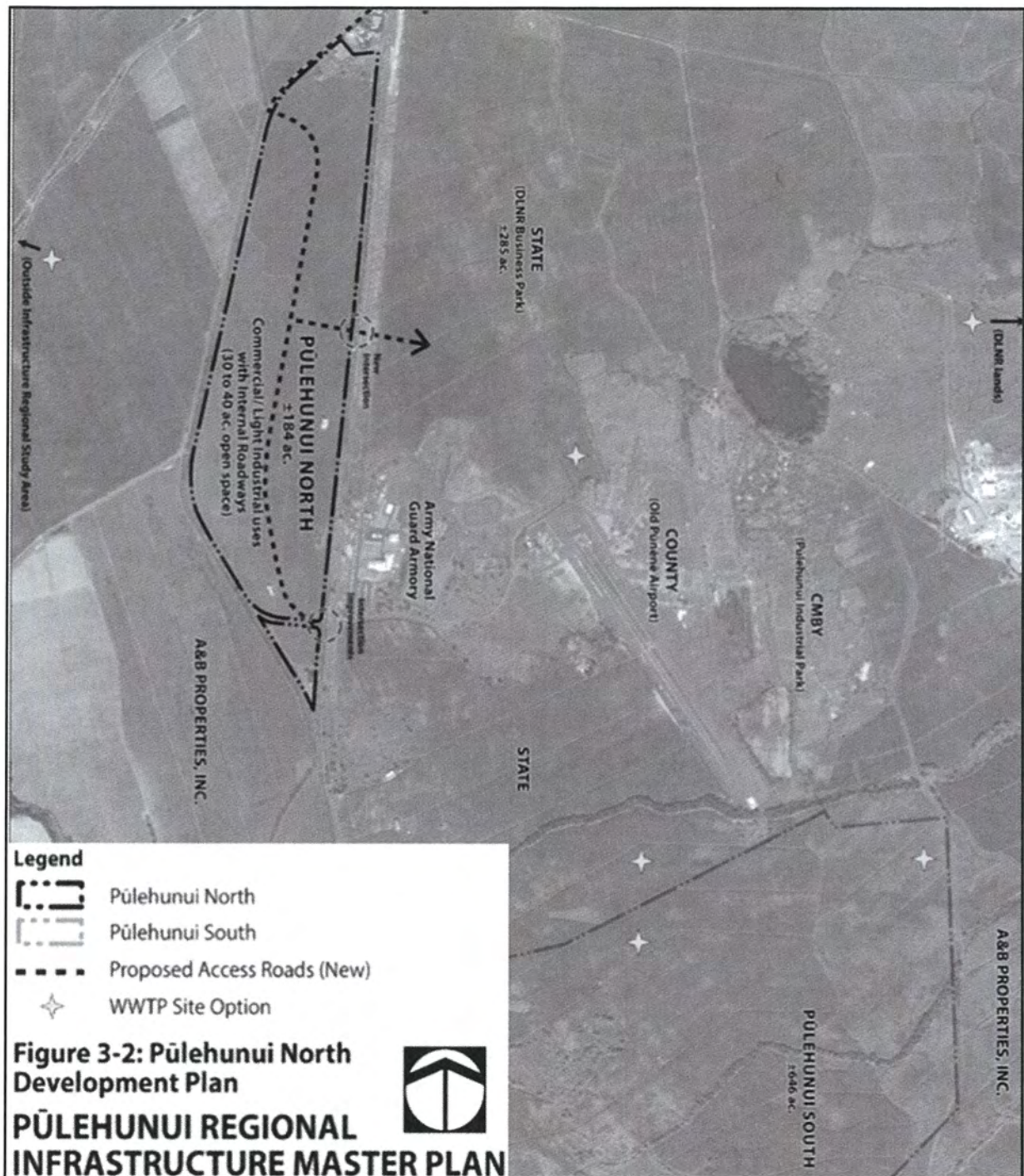
- Provide income-generating uses that support DHHL projects, programs, and beneficiaries
- Provide farming/gardening, and homesteading opportunities for DHHL beneficiaries.
- Provide community facilities (educational/meeting facility) to meet DHHL beneficiaries' needs
- Generate new jobs
 - o Temporary Development Related Jobs:
320-390 on Maui
170 -210 elsewhere in State
 - o Long-term Net New Jobs:
3,600 on Maui
700 elsewhere in State
- Generate Revenue
 - o County- Net revenues projected at approximately \$2.3 million per year at buildout
 - o State- The Proposed Action is expected to generate some \$1.03 billion in development expenditures in the State, or about \$49.0 million to \$59.8 million per year over the anticipated 19-year development period. Net revenues are projected at approximately \$9 million per year at completion of initial buildout.

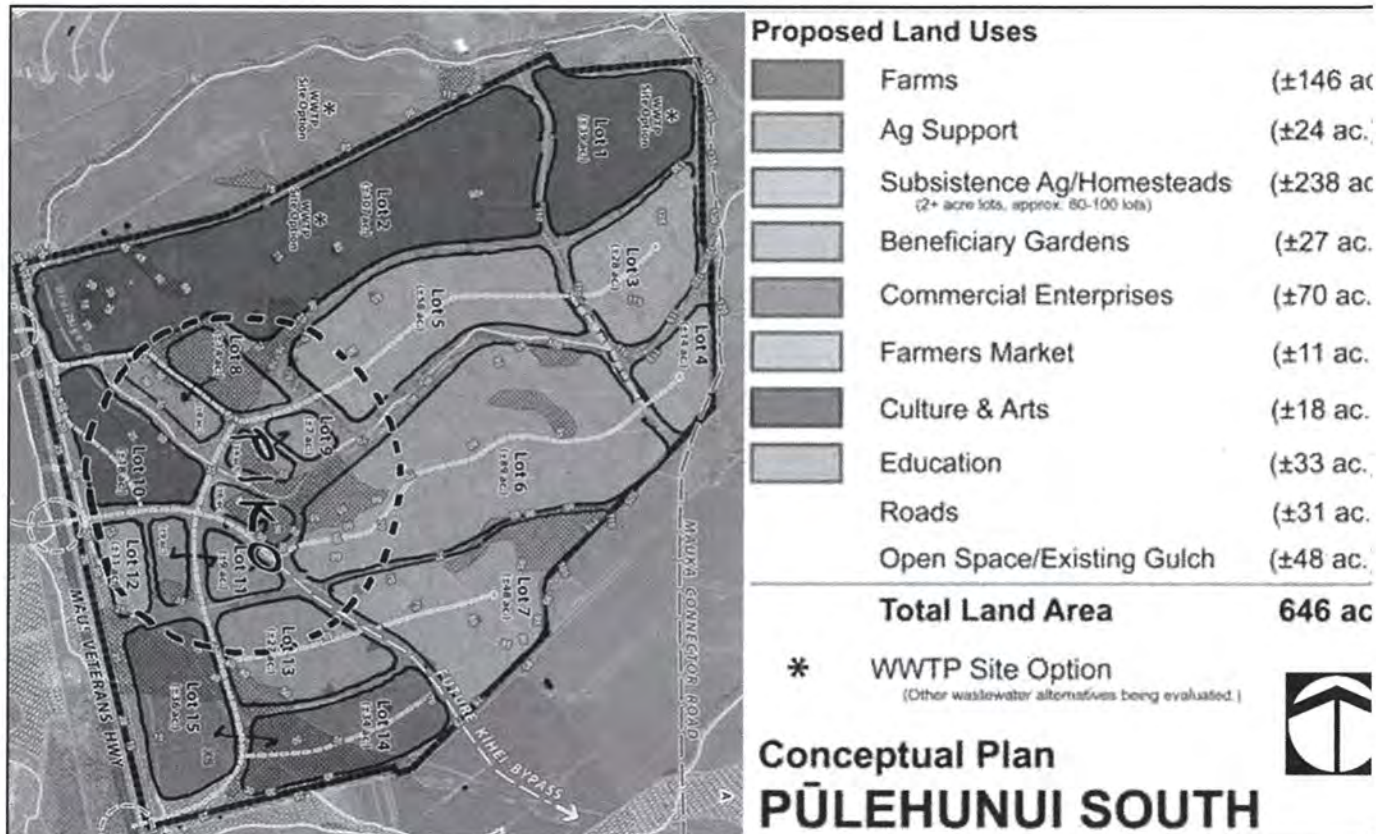
Master Planning Efforts

Pursuant to DHHL's mission, this project also supports refining land uses in Pūlehunui through the beneficiary consultation process. This ensures conformance with the DHHL's Maui Island Plan. Based on consultation efforts, DHHL beneficiaries indirectly/directly profit from consultation activities through land improvement, homesteading opportunities, and opportunities to pursue revenue generating through various lease/license instruments in Pūlehunui. DHHL has engaged in beneficiary consultation activities since November 2017. Beneficiary outreach efforts undertaken to date include:

- November 21, 2017: HHC Meeting/Workshop
- December 23, 2017: Publication of the EIS Preparation Notice
- January 18, 2018: EIS Public Scoping Meeting
- April 1-31, 2018: Beneficiary Online Agriculture Survey
- April 21 & 28, 2018: Beneficiary Planning Charrettes
- September 5, 2018: Beneficiary Report Back Meeting
- October 16, 2018: HHC Meeting/Workshop
- December 8, 2018: Publication of the Draft EIS

DHHL developed the following master plan for Pūlehunui North and South informed by beneficiary input.





Final Environmental Impact Statement

Differences Between Environmental Assessment Process and Environmental Impact Statement Process

This master planning project is different from most brought before the HHC. Typically, the master planning projects brought before the HHC have either no significant impacts or the impacts are mitigatable. For these "typical projects," the HHC approves the EA and issues a finding of no significant impact (FONSI).

The Pūlehunui Regional Infrastructure Master Plan process is different because DHHL determined that the magnitude of the actions would likely have a significant effect on the environment up front. According to Section 11-200-12 of the Hawaii Administrative Rules (HAR) if a project is anticipated to have an impact on at least one of 13 significance criteria,

an Environmental Impact Statement is required. These 13 significance criteria were presented to HHC during the previous informational briefings in 2017 and 2018. The project was evaluated by DHHL, and determined to likely have an impact on the following four significance criteria listed below.

- Substantially affects the economic welfare, social welfare, and cultural practices of the community or State,
- Involves secondary impacts, such as population changes or effects on public facilities,
- Is individually limited but cumulatively has a considerable effect upon the environment or involves a commitment for larger actions
 - o Cumulative impacts to landscape and view plans
 - o Positive cumulative economic impacts
 - o Temporary cumulative impacts related to construction
(air quality, stormwater runoff, noise, and traffic)
- Requires substantial energy consumption.
 - o Will require additional energy consumption related to buildout and ongoing operations

Because this project was found to have an impact on four significance criteria, the level of review moved from the typical Environmental Assessment/FONSI route to the higher review level of review needed for an Environmental Impact Statement. In addition to changing the type of documentation, this higher level of review also changes the approval/acceptance process.

The task of accepting the Final EIS falls upon the Governor rather than HHC.

The HHC and the Office of Environmental Quality Control (OEQC) must complete the following before the Governor's office will accept the Final EIS:

- HHC Tasks:
 - a. Determine the acceptability of the Final EIS

- b. Approve the transmission of the Final EIS to the Governor's Office for acceptance.
- OEQC Tasks:
 - a. Review the Final EIS to determine if it is:
 - complete in form,
 - an information instrument that fulfills the definition of EIS
 - able to adequately disclose and describe all identifiable environmental impacts, and
 - able to satisfactorily respond to review comments.
 - b. Provide the Governor with a recommendation of the acceptability of the Final EIS.

Once the Governor receives the Final EIS from the DHHL, and an acceptance recommendation from OEQC, he can review and accept the Final EIS based on his schedule. There is no limit of time for the governor to review and accept the Final EIS.

Mitigation Measures

Whenever possible, mitigation measures were proposed to minimize this project's impacts. The comments received, and consultation conducted during the Draft EIS comment period did not result in substantial mitigation changes. A summary of the final list of proposed mitigation measures is shown in Table G5-1. Comments received during open comment periods as well as written responses are included in Appendix B of the draft Final EIS (See Exhibit 2).

*Table G5-1 Pūlehunui Regional Infrastructure Master Plan
Impact Mitigation Measures*

Impact	Proposed Mitigation Measures to Avoid, Rectify, or Reduce Impact
Climate	<ul style="list-style-type: none"> • Localized heat island effect mitigated with landscaping and landscape buffers in non-agricultural areas
Geology & Topography	<ul style="list-style-type: none"> • Design will respect existing topography and minimize extensive cut and fill. • Low-Impact Development Strategies will be considered • Interagency coordination on grading is proposed
Noise/Visual Impacts	<ul style="list-style-type: none"> • Noise/visual buffer areas on both sides of the highway • Buffer zone design may include grade-separated bike paths and stormwater management features.

Impact	Proposed Mitigation Measures to Avoid, Rectify, or Reduce Impact
	<ul style="list-style-type: none"> • Setbacks will be established for hotel, commercial and light industrial uses is constructed • Sound attenuating walls and/or berms will be considered for both indoor and outdoor spaces. • DHHL will consider re-locating sensitive uses within the property as needed. • HUD compliant noise study will be conducted
Soils	<ul style="list-style-type: none"> • Windbreaks and crop rotation will be used to reduce fallow land and exposed soils • Best Management Practices are proposed for construction activities
Natural Hazards	<ul style="list-style-type: none"> • No structures will be built in the area of Pūlehunui South in flood zone AE
Biological Resources	<ul style="list-style-type: none"> • No site clearing will occur between June 1 and September 15 to avoid 'ōpe'ape'a. • Examination of tree tobacco plants will occur during November through April • DHHL will advise against outdoor nighttime construction between September 15 and December 15 • Consult DLNR for any disturbance of woody vegetation taller than 15 feet • Barbed wire will not be used for fencing • USFWS guidance will be sought/followed prior to site clearing • Nēnē transiting through area will not be bothered or harassed • Appropriate lighting/shielding will be used to mitigate impact to seabirds • Proper site drainage will avoid attracting wildlife to the property, to mitigate aircraft strike risk and avoid predation by invasive species • DHHL will take appropriate measures to ensure the proper mitigation of the potential wildlife hazard and follow FAA Advisory Circular 150/5200-33B guidance • Specifications will be included with information for developers regarding design and landscaping that does not attract wildlife • Embrace the use of native plantings
Water Resources	<ul style="list-style-type: none"> • Develop drainage plan to mitigate existing insufficient capacity. Onsite runoff will be reduced by 96% compared to existing conditions. • Best Management Practices are proposed for construction activities • Native plants will be used as a method for water conservation

Impact	Proposed Mitigation Measures to Avoid, Rectify, or Reduce Impact
	<ul style="list-style-type: none"> • Building and landscape design should reduce overall water demand • Use water quality (potable/nonpotable) appropriate for projected need • Consider potential alternative water sources such as rainwater catchment and opportunities to increase overall system efficiency • Site users will be encouraged to use conservation measures in indoor and outdoor environments
Archaeological and Historic Resources	<ul style="list-style-type: none"> • Continue consultation with SHPD. • DHHL and future developers will follow recommended strategies to mitigate impacts
Cultural Resources	<ul style="list-style-type: none"> • DHHL will employ mitigations proposed in CIA (See Exhibit 2, Pūlehuui Final Environmental Impact Statement Appendix M) to honor traditional landscape and protect cultural resources • The revised CIA recommended embracing the use of native plantings • The revised CIA recommended that lot design consider traditional trail systems.
Traffic	<ul style="list-style-type: none"> • Traffic signal timing plans will be optimized • DHHL will coordinate with DOT on its fair share of improvements. • DHHL and DLNR will coordinate with DOT on Statewide Transportation Improvement Program regarding Maui Veterans Highway capacity • DHHL will coordinate with DLNR regarding proposed new intersection • Consider connections to existing and future public and multimodal transportation networks.
Man-made hazards	<ul style="list-style-type: none"> • DHHL will coordinate with the DOH and USACE regarding former NAS Pu'unēnē and adhere to applicable technical guidance. • DHHL will consult the DOH regarding any anticipated residential or other sensitive uses of the DHHL Project Areas
Solid Waste	<ul style="list-style-type: none"> • DHHL will work with contractors to minimize the amount of solid waste generated during the construction • Implement strategies from the County of Maui Integrated Solid Waste Management Plan (2009) for recycling options
Agriculture	<ul style="list-style-type: none"> • Windbreaks and crop rotation will be used to reduce fallow land and exposed soils • Temporary best management practices will be implemented to minimize soil loss and erosion hazards during construction
Construction	<ul style="list-style-type: none"> • Coordinate with State and County traffic control

Impact	Proposed Mitigation Measures to Avoid, Rectify, or Reduce Impact
	<p>operations</p> <ul style="list-style-type: none"> • Coordinate amongst the agencies party to the MOU to mitigate cumulative impacts related to construction shortages should multiple projects be under construction at the same time. • Use best management practices
Public Service	<ul style="list-style-type: none"> • DHHL will coordinate with Federal, State, and County agencies • DHHL will consult and comply with DOE school impact fees requirements and other potential impacts to educational resources • Proper site drainage will avoid attracting wildlife to the property, to ensure aircraft safety • Should unforeseen impacts arise from aircraft activities on site users which are not mitigated by the strategies described in this EIS, DHHL will consider additional measures
Energy Use	<ul style="list-style-type: none"> • Consider use of alternative and renewable energy source. • Engage in energy saving strategies • Consider connections to existing and future public and multimodal transportation networks to reduce vehicular energy consumption • Develop new electrical substation

Unavoidable Adverse Environmental Effects

During the assessment of the Pūlehunui Regional Infrastructure Master Plan, the environmental effects identified in Table G5-2 were found to be unavoidable and cannot be completely mitigated.

Table G5-2 Probable Adverse Environmental Effects that are Unavoidable in Pūlehunui Regional Infrastructure Master Plan

Impact	Unavoidable Environmental Effect
Land & Visual Character	The visual character will permanently change from vacant to commercial industrial, and agricultural uses.
Traffic	The project will generate an increase in vehicle trips that will add to already projected increase to traffic on Maui Veterans Highway from Kuihelani Highway in Kahului to Pi'ilani Highway in Kihei
Water	The project will increase potable and non-potable water consumption over the existing vacant, fallow, non-irrigated land.
Solid Waste	The project will increase solid waste generation over the existing land use.
Public Services	Increased demand for public services (police, fire, public schools)
Energy	The project will significantly increase energy consumption

Alternatives Considered

DHHL considered four types of alternatives to the project as proposed. The alternatives stayed the same between the Draft and Final EIS except as noted in Table G5-3:

Table G5-3 Alternatives to the Pūlehunui Regional Infrastructure Master Plan

Alternative	Summary of Alternative(s) as described in the Draft EIS	Change between Draft EIS and draft Final EIS
No Action	Each agency would need to develop separately and DHHL lands would remain vacant	No Change
Alternatives Requiring Actions of a	Convert proposed "Homestead Agriculture" to non-"Homestead"	No Change

Alternative	Summary of Alternative(s) as described in the Draft EIS	Change between Draft EIS and draft Final EIS
Significantly Different Nature	agricultural use in Pūlehunui South	
	Lease out all non-commercial/industrial areas of Pūlehunui South to one or a few, larger, experienced farmers in Pūlehunui South	No Change
Alternatives Related infrastructure design and details	Water- four alternatives were considered. Development of water system owned and operated by DWS is the preferred alternative	No Change
	Wastewater- four alternatives were considered. The preferred alternative would connect and coordinate on the County's newly proposed Central Maui wastewater facility	YES Change summarized below in <i>Change to Preferred Wastewater Alternative</i>
Postponing Action Pending Further Study	DHHL would continue to study options resulting in a temporary underutilization of DHHL lands	No Change

Revisions of Draft EIS to draft Final EIS

Since the submission of the Draft EIS to HHC in October 2018, DHHL received 16 comments from 13 agencies and 1 individual. Responses to these comments are included in

Appendix B-2 of the draft Final EIS. The following actions were taken as a result of the comments:

- The Traffic Study was revised (see Exhibit 2, draft Final EIS-Appendix H)
- The Cultural Impact Assessment was revised (see Exhibit 2, draft Final EIS-Appendix M)
- Contract for an additional investigation of hazards created from former military and agriculture uses. The purpose of the additional investigation is to further delineate contamination that has already been described in the draft Final EIS. Completion of this investigation is not needed for the Final EIS to be accepted by the Governor.

The remainder of the changes made as a result of these 16 comments (from 13 agencies and 1 individual) were to improve clarity and provide great detail in the draft Final EIS. They did not substantively change the content of the draft Final EIS from what was presented in the Draft EIS.

Continued Exploration of Regional Infrastructure Alternatives

The stakeholders and their technical experts continued to explore the four major infrastructure components of the Pūlehunui Regional Infrastructure Master Plan since the project was last presented to the HHC in October 2018. The following changes were made to the draft Final EIS as a result of this continued evaluation.

Table G5-4 Exploration of Regional Infrastructure Alternatives

Infrastructure	Alternative Selected as of May 2019	Change since Presentation of Project to HHC in October 2018
Traffic	Fair Share Contributions	None
Water Alternative	Preferred Alternative 1A	None
Drainage	Site based Stormwater management	None
Wastewater	Preferred Alternative 2A-1	Yes

Change to Preferred Wastewater Alternative

The preferred alternative for wastewater described in the Draft EIS was rejected in favor of Alternative 2A-1. This revision was made to the draft Final EIS, *Possible Regional Infrastructure Improvements*, section §3.3.3 changing the preferred from Alternative 4 to alternative 2A-1 (See Exhibit 2).

Alternative 2A-1 was determined to have the following advantages:

- a. Design can accommodate substantial interim regional demand and is appropriately sized for temporary use.
- b. Construction could be completed in advance of regional demand with a target date of 2023 if construction commences in fall 2020.
- c. Design can maximize use of currently available funding.
- d. R-1 effluent water produced by WWRF can be utilized for irrigation in this alternative reducing irrigation demand
- e. Alternative 2A-1 treatment facility may be expanded, relocated, and/or repurposed in the future, at which point impacts would be more similar to those under Alternative 2A, 2C, or 4. Therefore, a range of future impacts for this alternative are already addressed in this EIS.

Project Schedule

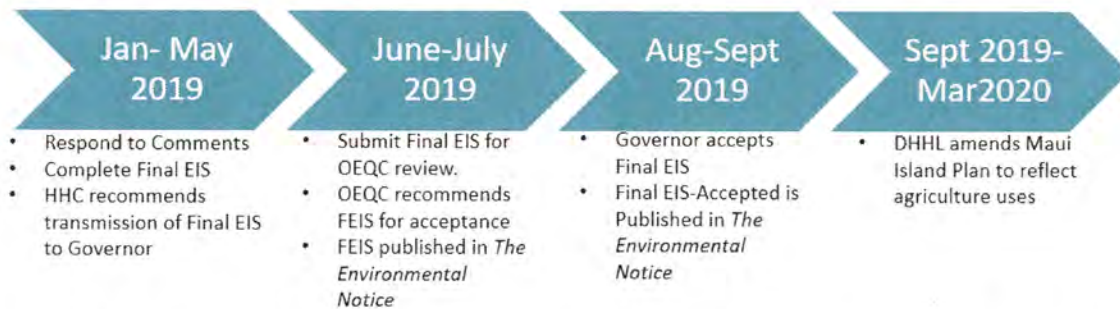
DHHL, their three State Agency Stakeholder partners, the State legislature, the Governor's office, and DHHL beneficiaries have been working diligently to move this project forward since November 2017. As a group we are nearing the finish line for the planning process.

The next steps for the HHC is on May 30, 2019. If there are no major changes resulting in a delay, DHHL will request HHC act to recommend the transmission of the Final EIS to the Governor for acceptance.

DHHL anticipates the planning phase of this project will be completed in September 2019 with the acceptance of the Final EIS by the Governor.

Planning Schedule Milestones

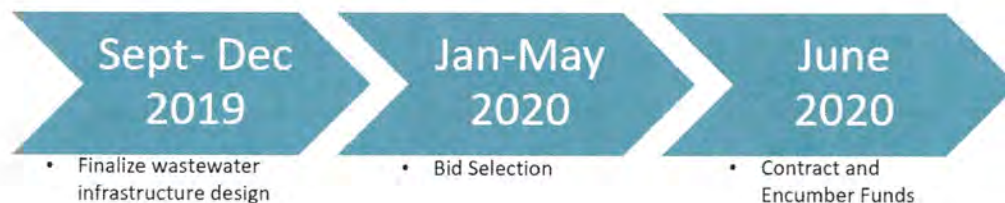
Pūlehunui Regional Infrastructure Master Plan (EIS)



Once the Final EIS is accepted by the Governor, this project will move into the development phase. Following is the anticipated schedule for development:

Development Schedule Milestones

Pūlehunui Regional Wastewater Infrastructure Development



Item G-5

EXHIBIT A

PULEHUNUI REGIONAL INFRASTRUCTURE MASTER PLAN
ENVIRONMENTAL IMPACT STATEMENT

[https://dhlh.hawaii.gov/2018/09/12/pulehunui-regional-
infrastructure-master-plan/](https://dhlh.hawaii.gov/2018/09/12/pulehunui-regional-infrastructure-master-plan/)

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 20-21, 2017

To: Jobie M. K. Masagatani, Chairman and Members,
Hawaiian Homes Commission

From: Kaleo Manuel, Acting Planning Program Manager
Kaleo Manuel

Subject: For Information Only: Environmental Impact
Statement Preparation Notice for Pūlehunui
Regional Infrastructure Master Plan, Pūlehunui,
Kula Moku, Maui, TMKs (2)3-8-008:008, 034, 035,
and 036

Recommended Action

None; For information only.

Discussion

PURPOSE

The purpose of this informational briefing is to update the Hawaiian Homes Commission (HHC) on the role of the Department of Hawaiian Home Lands (DHHL) as the lead State agency, responsible for the preparation of a regional infrastructure master plan and Environmental Impact Statement (EIS) on behalf of four State agencies (DLNR, DPS, DAGS, DHHL) that have plans to develop State lands in Pūlehunui.

This briefing will also provide the HHC opportunity to comment on the Draft Environmental Impact Statement Preparation Notice (EISPN) (Exhibit A) that we plan to publish in December in the Office of Environmental Quality Control's (OEQC) Environmental Notice Bulletin pursuant to Hawaii Revised Statutes (HRS) Chapter 343 requirements.

BACKGROUND

DHHL's lands in Pūlehunui consist of Tax Map Key parcels (2)3-8-008:008, 035, and 036 (Pūlehunui North, 184

acres) and (2)3-8-008:034 (Pūlehunui South, 646 acres). Parcel 36 and Pūlehunui South were deeded to DHHL in 2002. Parcels 8 and 35 were deeded to DHHL in 2011. The property was most recently used for sugar cultivation, but is currently unoccupied and generally unimproved.

Development of Pūlehunui North has long been a goal for DHHL to achieve revenue generating industrial and commercial uses under general lease(s). The Maui Island Plan, (DHHL, 2004) designates Parcel 36 for Industrial use. The adjacent Parcels 8 and 35 were acquired subsequent to the Maui Island Plan, and the Maui Island Plan was amended to designate Commercial and Industrial uses on those parcels. A Notice of Proposed Disposition was issued for the development of Pūlehunui North in 2007, and again in 2012. In both instances, the process ultimately did not result in a successful lease negotiation, due to financial conditions and/or a lack of up-front environmental approvals.

The Maui Island Plan designates Pūlehunui South primarily for General Agriculture, with a portion reserved for Industrial use.

The regional planning effort will be carried out in a manner consistent with the 2014 Memorandum of Understanding (MOU) between DHHL, the Department of Land and Natural Resources (DLNR), the Department of Public Safety (PSD), and the Department of Accounting and General Services (DAGS), wherein these parties agreed to "make their best efforts to work in a collaborative manner". The MOU was intended to allow the aforementioned agencies (Parties) to benefit from economies of scale, joint infrastructure financing, planning and development, and provide significant economic benefits to the Maui community. As part of the planning effort between the Parties, a number of technical studies were conducted for State lands. In 2014, \$4M of Capital Improvement Funds were awarded to DHHL for infrastructure planning and design pursuant to the MOU (Act 122, Session Laws of Hawai'i 2014).

Need for the Project

The primary project purpose is to undertake a regional infrastructure master planning effort on behalf of the Parties to the 2014 MOU, to efficiently facilitate the

development of State and DHHL lands. From a Departmental standpoint, the regional infrastructure master plan is anticipated to provide direct and indirect benefits to DHHL Beneficiaries and programs, in the form of improved lands and opportunities to pursue revenue generating general leases for the 184 acres, in line with the Department mission. A secondary purpose is to further define the programmatic land uses anticipated on DHHL's lands in Pūlehunui through the Beneficiary Consultation process and technical studies, and in conformance with the Maui Island Plan.

Need for Environmental Review

The project is an agency action funded by Capital Improvement Funds earmarked for interagency infrastructure planning. The use of State land and State funds are triggers for the preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) pursuant to Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules (HAR). DHHL has determined that an EIS (rather than an EA) is the prudent approach based on a review of the significance criteria set forth under Section 11-200-12, HAR. Based on prior development experience, it is anticipated that the Pūlehunui Regional Infrastructure Master Plan may have significant effect on the environment due to one or more of the significance criteria found in the HAR (and listed in the EISPN). DHHL is the Proposing Agency with the Governor issuing final acceptance of the EIS.

PROJECT DESCRIPTION

Pursuant to the 2014 MOU DHHL will undertake a regional infrastructure planning effort on behalf of four State agency stakeholders. The proposed project will involve a coordinated regional infrastructure alternatives analysis for water, wastewater, and key roadways. On DHHL lands specifically, land use programs are anticipated to involve commercial, light industrial, and agriculture-supporting uses, and agricultural use by DHHL Beneficiaries. A portion of Pūlehunui South may accommodate supporting regional infrastructure, pending consultation and appropriate technical studies. DHHL is underway with the preliminary engineering to analyze regional alternative approaches to water and wastewater infrastructure, in

tandem with any related refinements to its land use programs. These processes will be informed by the completion of additional technical studies, continued coordination with MOU Parties, and consultation with the Beneficiary Community. A Draft EIS will follow to address the impacts of regional infrastructure alternatives. Comments received during the DEIS public comment period will be considered in the selection of infrastructure alternatives and refinement of DHHL's land use programs.

ENVIRONMENTAL IMPACT ASSESSMENT PREPARATION NOTICE
(SUMMARY)

Section 343-5(e), HRS (enacted by Act 172 (2012)) allows an applicant to prepare an EIS rather than an EA if the accepting authority determines, through its judgment and experience, that an EIS is likely to be required. The preparation of such an EIS begins with the preparation of an EISPN. The EISPN (Exhibit A) has been prepared under these assumptions. The EISPN is a straightforward document that identifies the project generally and announces to agencies and the public that an EIS will be prepared.

The EISPN for Pūlehunui Regional Infrastructure Master Plan will be published by the OEQC in the bi-monthly "Environmental Notice" with 30 days allowed for public comment. Notification of the EISPN will also be mailed to agencies and community organizations, and their comments solicited. Beneficiary leadership has been informed about the EISPN and Beneficiary Consultation will continue throughout the EIS process.

NEXT STEPS

- Publish EISPN - Winter 2017
- Beneficiary Meetings to refine DHHL's land use programs, finalize technical studies and conceptual plans and incorporate into EIS- January-April 2018
- Draft EIS will be prepared to evaluate alternatives in light of project goals and potential impacts.
- Draft EIS will be shared with the Commission prior to publication in the OEQC Environmental Notice - May-July 2018
- Comments to the Draft EIS will be accepted during a statutory 45-day comment period.

- EIS will be amended or augmented as necessary in response to comments. A preferred alternative will be identified. Final EIS will be prepared.
- Final EIS will be shared with the Commission prior to submittal to the Governor for acceptance - August-November 2018
- Once EIS process is completed, the project will move into the design phase, which is already contracted, and will focus on sewer and wastewater infrastructure because DHHL has a CIP appropriation of \$17.5 million from the legislature for wastewater and sewer improvements.

Recommended Action

None; For information only

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 15-16, 2018

To: Chairman and Members, Hawaiian Homes Commission
Thru: M. Kaleo Manuel, Acting Planning Program Manager
From: Bryan Esmeralda, AICP, Planner
Subject: Update on Pūlehunui Master Plan and Environmental
Impact Statement for Regional Infrastructure Master
Plan; Pūlehunui, Maui; TMK (2) 3-8-008:008, 035, 036
(Pūlehunui North) and (2) 3-8-008:034 (Pūlehunui South)

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

The purpose of this submittal is to provide the Hawaiian Homes Commission (HHC) with an update on the status of the Pūlehunui Master Plan and Environmental Impact Statement for Regional Infrastructure Master Plan.

BACKGROUND

The Department of Hawaiian Home Lands (DHHL) is leading an effort to develop a regional infrastructure master plan to serve certain State lands located along Maui Veterans Highway (formerly Mokulele Highway) in Central Maui. The regional infrastructure master planning effort is on behalf of four (4) State agency stakeholders: DHHL, Department of Land and Natural Resources (DLNR), Department of Accounting and General Services (DAGS), and the Department of Public Safety (PSD), and will serve the respective proposed developments of these agencies. The proposed regional planning effort will facilitate development in Pūlehunui in a manner that is financially and environmentally efficient, maximizing the use of State funds while minimizing environmental impacts to the extent practicable.

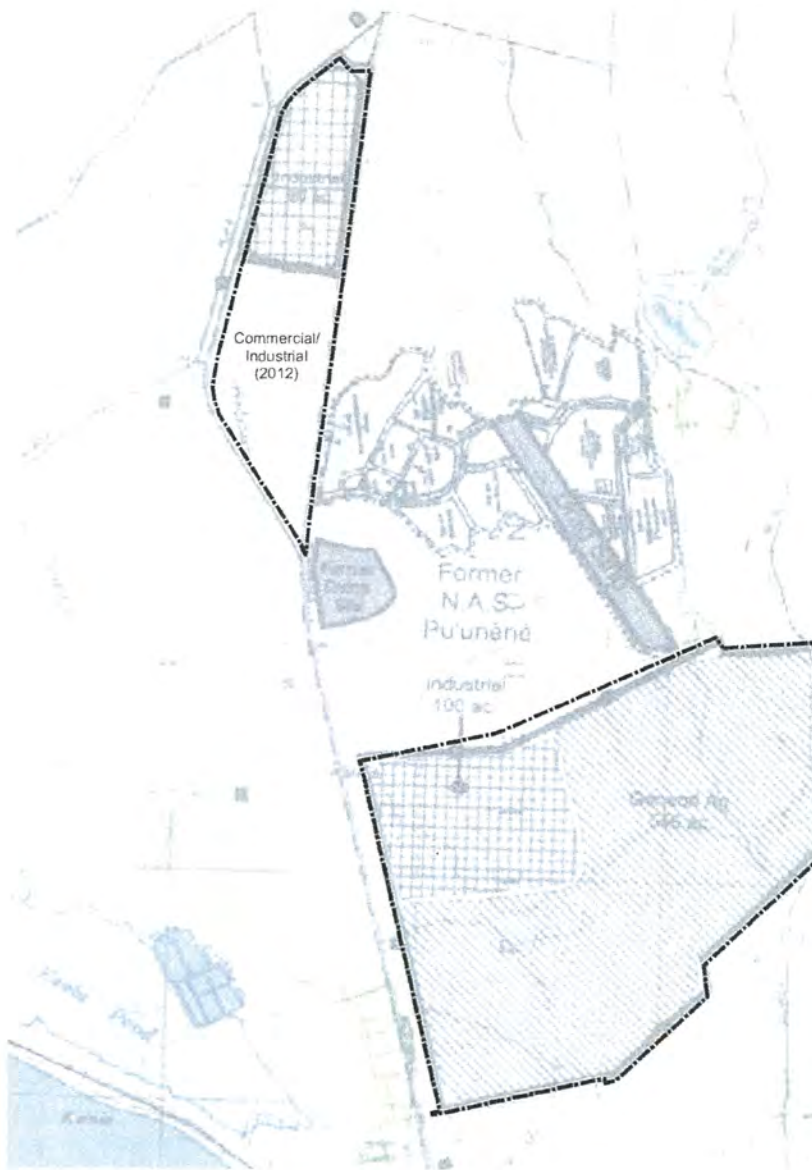
EXHIBIT "C"

The DHHL owns two tracts of land at Pūlehunui: Pūlehunui North (184 acres designated for commercial and light industrial uses by the 2004 Maui Island Plan (MIP)), and Pūlehunui South (646 acres, of which approximately 100 acres were designated for light industrial use and 546 acres for agricultural use by the MIP). See **Figure 1** and **Figure 2**.

Figure 1. Property Location Map



Figure 2. Maui Island Plan



PLANNING APPROACH

The four State agencies' respective projects are as follows:

- DHHL Commercial/Industrial/Agriculture Developments: 830 acres
- DLNR Industrial and Business park: 280 acres
- DAGS/PSD Maui Regional Public Safety Complex: 40-45 acres

Each of these projects require the provision of basic infrastructure (water, wastewater, key roadway improvements). DHHL anticipates that regional infrastructure improvements may be beneficial to serve lands owned by the agencies and those agencies' respective proposed developments in the Pūlehunui area. The regional planning effort is being carried out in a manner consistent with a 2014 Memorandum of Understanding (MOU) between DHHL, DLNR, DAPS, and PSD, wherein these parties agreed to "make their best efforts to work in a collaborative manner." The MOU was intended to allow the aforementioned agencies to benefit from economies of scale, joint infrastructure financing, planning and development, and provide significant economic benefits to the Maui community.

Because DHHL is the lead agency of the regional infrastructure and EIS process, the State of Hawai'i legislature appropriated to DHHL \$4 million to prepare a regional infrastructure master plan and Environmental Impact Statement (EIS) for these developments and an additional \$17.5 for design and construction of wastewater infrastructure. Benefits to DHHL being the lead agency include the provision of infrastructure to support development on DHHL lands in Pūlehunui and the ability to utilize State funds to construct infrastructure.

MASTER PLANNING EFFORT FOR DHHL LANDS AT PŪLEHUNUI

Pursuant to DHHL's mission, the secondary, supporting purpose of the project is to further define the programmatic land uses anticipated on DHHL's lands in Pūlehunui through the Beneficiary Consultation process. This ensures conformance with the MIP to provide direct and indirect benefits to DHHL Beneficiaries and programs in the form of improved lands, homesteading opportunities, and opportunities to pursue revenue generating general leases at Pūlehunui North. Outreach efforts undertaken to date include:

- Publication of the EIS Preparation Notice: December 23, 2017
- EIS Public Scoping Meeting: January 18, 2018
- Beneficiary Online Agriculture Survey: April 2018
- Beneficiary Planning Charrettes: April 21 & 28, 2018
- Beneficiary Report Back Meeting: September 5, 2018

DHHL Beneficiary consultation regarding land use opportunities at Pūlehunui was conducted through the aforementioned EIS Scoping Meeting, which was also open to the public; an online agriculture survey for those on the Maui agriculture wait list; two (2) Beneficiary Planning Charrettes,

also for those on the Maui agriculture wait list, which were largely focused on land use alternatives for Pūlehunui South; and a report back meeting where the Pūlehunui South Conceptual Plan was presented and received with support. Staff's reason for inviting primarily those on the Maui agriculture wait list was because those Beneficiaries would benefit from development at Pūlehunui first as agriculture is the focus for this area.

The online agriculture survey provided Beneficiaries the opportunity to share their mana'o and vision for the Pūlehunui region and to express interest in agricultural and supporting land uses at Pūlehunui South. The first workshop on April 21 followed the survey and provided an orientation of the regional infrastructure study area, region, and the planning process. DHHL solicited further details regarding Beneficiaries' vision for Pūlehunui through comment cards, group discussions, presentations, and maps. At the April 28 workshop, Beneficiaries had the opportunity to respond to three alternative concept plans for Pūlehunui South which had been drafted in response to the first workshop. A final concept plan was drafted in response to feedback received at the April 28 workshop and was shared with Beneficiaries on September 5, 2018, where it was received with majority support. See **Figure 3**.

Figure 3. Conceptual Master Plan for Pūlehunui South



Overall, Beneficiary feedback indicated that the preferred land use program at Pūlehunui South should include a much higher diversity of uses than those provided for under the existing MIP designation which only includes General Agriculture and Industrial uses. In addition to the existing designations, Beneficiaries expressed a strong preference for agricultural homesteads, agricultural support, and community uses such as cultural education and central community gathering space. The land uses preferred by Beneficiaries at Pūlehunui South correspond to DHHL land use designations of Subsistence Agriculture, Community Use, Supplemental Agriculture, and Commercial Use. Following the completion of the EIS process, an amendment of the MIP will be coordinated to accommodate the proposed agricultural homesteads and other new uses at Pūlehunui South per Section 10-4-54, HAR, DHHL's Administrative Rules..

It is noted that planned uses at Pūlehunui North remain unchanged and are still envisioned as commercial and light industrial uses for revenue generation purposes for DHHL. However, there was discussion at the September 5, 2018 Beneficiary report back meeting that the uses on Pūlehunui North be connected to the agriculture uses on Pūlehunui South if feasible. This can be achieved through the development of additional agricultural process facilities, commercial enterprises, etc.

The purpose of conducting a deep dive into the planned uses on DHHL's lands at Pūlehunui was to get a better idea of what the infrastructural needs would be for the Pūlehunui region. Land use programs on DHHL's lands will inform the regional infrastructure analysis which will also incorporate by reference other known project information provided by DLNR, DAGS, and PSD for their respective proposed developments.

ENVIRONMENTAL IMPACT STATEMENT

Applicability, Significance Criteria, and Mitigation Measures

Preparation of an EIS is being undertaken to address requirements of Chapter 343, Hawai'i Revised Statutes (HRS) and Title 11, Department of Health, Chapter 200, Environmental Impact Statement Rules, Hawai'i Administrative Rules (HAR). Section 343-5, HRS established nine "triggers" that require either an Environmental Assessment (EA) or an EIS. The project is an Agency Action funded by Capital Improvement Funds earmarked for interagency infrastructure planning on State-owned lands; the use of State or County lands or funds is an action that "triggers" the preparation of an EA or EIS.

Section 343-5 (e), HRS (enacted by Act 172 (2012)) allows a Proposing Agency to prepare an EIS rather than an EA if the Accepting Authority determines, through its judgment and experience, that an EIS is likely to be required. Under the provisions of §343-5 (b), HRS, and due to the scope of the project, DHHL has determined, through its judgment and experience, that an EIS is likely to be required for the Pūlehunui Regional Infrastructure Master Plan based on a review of the 13 significance criteria set forth under Section 11-200-12(b), HAR and listed below. Criteria under which the proposed project may be considered to have an impact are bolded.

1. Involves in an irrevocable commitment to loss or destruction of any natural or cultural resource;
2. Curtails the range of beneficial uses of the environment;
3. Conflicts with the state's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS, and any revisions thereof and amendments there to, court decisions, or executive orders;
4. **Substantially affects the economic welfare, social welfare, and cultural practices of the community or State;**
5. Substantially affects public health;
6. **Involves secondary impacts, such as population changes or effects on public facilities;**
 - Indirect socio-economic impacts
 - Indirect impacts to public facilities and services
7. Involves a substantial degradation of environmental quality;
8. **Is individually limited but cumulatively has a considerable effect upon the environment or involves a commitment for larger actions;**
 - Cumulative impacts to landscape and view plans
 - Positive cumulative economic impacts
 - Temporary cumulative impacts related to construction (air quality, stormwater runoff, noise, and traffic)
9. Substantially affects a rare, threatened, or endangered species, or its habitat;
10. Detrimentially affect air or water quality or ambient noise levels;
11. Affects or be likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water or coastal waters;
12. Substantially affects scenic vistas and view planes identified in county or state plans or studies; and
13. **Requires substantial energy consumption.**
 - Will require additional energy consumption related to buildout and ongoing operations

As part of an EIS, Proposing Agencies are required to provide measures to mitigate any foreseen impacts. A summary of the proposed mitigation measures related to the aforementioned impacts are included as **Exhibit A**.

Alternatives Considered

The alternatives considered in the Draft EIS include: "No Action"; "Alternatives Requiring Actions of a Significantly Different Nature", "Alternatives Related to Different Designs or Details of the Proposed Action", and "Postponing Action Pending Further Study".

Under the No Action alternative, there would be at least two possible outcomes; firstly, regional infrastructure master planning would not occur. Each State agency (DLNR, DAGS/PSD, DHHL) would need to develop individual potable water, wastewater and traffic improvements. Since individual infrastructure improvements may be more expensive than regional improvements, this could result in an inefficient use of government revenue. Secondly, DHHL's lands may not be developed as quickly and the property would remain as vacant lands, underutilized in terms of meeting DHHL Beneficiaries' need for diversified agricultural opportunities and income generation.

There are at least two possible alternatives to the Proposed Action for Pūlehunui South that are of a significantly different nature, which would provide similar benefits, with different environmental impacts; firstly, converting the areas for "Homestead Agriculture" to "non-Homestead" agricultural use (which would result in no residences within Pūlehunui South), and secondly, leasing out all non-commercial/industrial areas of Pūlehunui South to one or a few, larger, experienced farmers.

Under the Alternatives Related to Different Designs or Details of the Proposed Action scenarios, different alternatives related to the provision of water, wastewater, and roadway systems would be assessed for implementation. Each combination results in different costs and impacts. A summary of the infrastructure alternatives being assessed as part of the EIS is provided in **Exhibit B**.

Further study of any proposed development on the DHHL lands would delay the DHHL's response to the wishes of the Beneficiary community. Regionally, postponing action pending further study would only be delaying what has long been proposed. Similar to the No Action alternative, if the Proposed Action is postponed, there would be at least two possible temporary outcomes; firstly, regional infrastructure master planning would be

delayed, and each State agency would need to develop individual improvements. Secondly, development of DHHL's lands would be delayed and those properties would remain vacant and underutilized.

PROJECT SCHEDULE

Environmental Impact Statement

Immediate next steps for the EIS process include publishing the Draft EIS with the Office of Environmental Quality Control (OEQC) on November 8, 2018.

Following the required 45-day comment period, the Draft EIS will be revised with updated studies and in response to any comments received. A pre-Final EIS will be presented to the HHC for acceptance and concurrence on staff's recommended actions.

The Final EIS will again be published by OEQC and followed by a 45-day challenge period for anyone who wishes to contest the EIS. If no challenge is filed, the Final EIS will be transmitted to the Governor for acceptance. Following acceptance, the EIS process will be complete. See **Exhibit C** for an anticipated schedule of project milestones.

Maui Island Plan Amendment

The land uses preferred by Beneficiaries at Pūlehunui South, as presented in the Conceptual Plan, will require an amendment to the MIP. The proposed uses correspond to DHHL land use designations of Subsistence Agriculture, Community Use, Supplemental Agriculture, and Commercial Use. Following the completion of the EIS process, an amendment of the MIP will be pursued to accommodate the proposed agricultural homesteads and other new uses at Pūlehunui South.

According to DHHL's Planning System Rules, the MIP is a Tier 2 plan with an 8-year planning timeframe. Section 10-4-54, HAR, DHHL's Administrative Rules, states that between comprehensive updates, Tier 2 plans may be amended upon Beneficiary Consultation appropriate to the plan as set forth in Section 10-4-60, Beneficiary Consultation. Section 10-4-60 states that the requirement for place-based consultation shall be applied to the preparation and amendment of island plans. In this regard, the Beneficiary Planning Charrettes held in April 2018 satisfy the Beneficiary Consultation requirement as it relates to the planned amendment of the MIP. The proposed MIP amendment will be brought before the HHC at a later date for consideration.

RECOMMENDED ACTION

None; for information only.

LIST OF EXHIBITS

Exhibit A.Mitigation Measures Summary

Exhibit B.Infrastructure Alternatives Summary

Exhibit C.Project Milestones Schedule

J ITEMS

J-1

Burrows-Nuuanu, Leatrice W

Subject: FW: Alaska Aerospace Rocket Launching Proposal for Hilo,, Hawaii

Aloha Leatrice,

I had forwarded this email to Jobie and contacted Wallace Ishibashi as well. He mentioned that it would be best to send you this request to be on the agenda next meeting on Moku O Keawe. He said the next meeting on our Moku is in May in Waimea. May I ask to be on that agenda? I would like to request this concern to be an agenda item.

Mahalo,
Terri L. Napeahi
808-315-9996

From: Terri Napeahi <tnapeahi@yahoo.com>

Sent: Sunday, February 10, 2019 12:42

To: jobie.masagatani@hawaii.gov

Cc: William Aila; Alan Murakami; Harry Kim; Sue Lee Loy; Chris Toshiro Todd; Richard Onishi; Sen. Kaiali'i Kahele

Subject: Alaska Aerospace Rocket Launching Proposal for Hilo,, Hawaii

Aloha Department of Hawaiian Homes Lands Chair Jobie Masagutani,

Please open the attachment below to read the letter of request to be on the agenda of the DHHL commission on Hawaii Island, Hilo.

Attached are also articles of the reaction to this proposed action.

Mahalo,
Terri L. Napeahi

Burrows-Nuuanu, Leatrice W

From: Antoinette Almeida <kumukaulani@gmail.com>
Sent: Monday, May 13, 2019 4:10 PM
To: Burrows-Nuuanu, Leatrice W
Subject: Information for DHHLC Commission meeting May 20,2019

To: DHHL Acting Chairman and all the Commissioners

From: Kaulani Almeida, newly elected President of the Panaewa Hawaiian Home Lands Community Association (PHHCA)

Re: Removing Panaewa Community Alliance (PCA) from DHHL MOA January 2015, action that changed the second recipient title from "Panaewa Hawaii Home Lands Community Association to PCA " and remove them from license 245 as licensors of Kamoleao land.

Aloha Kakou, my name is Kaulani Almeida and I am the newly elected President of the Panaewa Hawaiian Home Lands Community Association (PHHLCA). Since becoming the President I have read past Minutes of PHHLCA and PCA from 2012-current and found many times that it isn't what is written inside these documents but rather the important information that are missing. Decision making was made by the Board of Directors without information meetings to the General Membership. Basically keeping the overall membership ignorant to decisions that were theirs to make not a small hui of individuals, calling themselves the Board.

The Officers and Board Members who created PCA were the same Officers of PHHLCA during 2013-2015 DHHL MOA actions. THIS IS DEFINITELY A CONFLICT OF INTEREST. As PHHLCA Board they signed the DHHL MOA removing PHHLCA's name as "secondary recipient to PCA to act as their financial authority. Why didn't the DHHL staff request an MOA between the Panaewa Community and PCA that was signed in front of the Panaewa members that gave the Board authority to sign the DHHL MOA.

THE PROBLEM before signing the DHHL MOA was that the past PHHLCA Board gave away their authority to PCA WITHOUT any document or MOA or anything legally binding and establishing that relationship as acting agents including and notwithstanding a clause for termination of contract should PCA not follow PHHLCA directions. Why would Board members of PHHLCA organization at that time, do that?

Since December 2018, according to the Bylaws William was to serve three (3) years or until successor is elected. He did not step off as President and under his supervision XVP Milton Kalai, XSec Lillian Kaeha and XTreasurer Elizabeth Kaeha also has chosen not to step down. Remember, these aforementioned persons have control over PCA Board 2018 P Reyn Kahapea, XVP Milton, XSec Lillian and XTreas Elizabeth, William Brown Board member and others. Since December 2018, William Brown's illegal group received and continues to receive monies onto themselves through PCA.

On January 2, 2019, I emailed Land Management to make them aware of these illegal transactions and that PHHLCA was acting to halt all funds until more investigation was done. In November 2018 DHHL administered \$60 K to PCA for 2013 and 2019, our community did not know of this transaction until January 2019 Treasurer's report. Why did William hold this info from PHHLCA membership at the General meeting for elections?

I know my coming here is on an item for none action, however I need your immediate staff action to; a) remove PCA from MOA as second recipient and License 245, 1995 as co licensors of 12 acre property known as Kamoleao, so they longer represent PHHLCA cease all monies to PCA and ask for an audit of all funds from December 18, 2018 to present evidence that you can see the Conflict of interest going on between PCA and PHHLCA. William Brown folks are controlling WCI funds unto themselves as illegal PHHLCA Board members.

Burrows-Nuuanu, Leatrice W

From: marymaxine Kahaulelio <mmkahaulelio@yahoo.com>
Sent: Wednesday, April 10, 2019 12:38 PM
To: Burrows-Nuuanu, Leatrice W
Subject: HHC Contact: To Commission Chair Masagatani

To:
HHC Secretary

First Name: marymaxine
Last Name: Kahaulelio

Phone:
18088850626

Email:
mmkahaulelio@yahoo.com

Subject:
To Commission Chair Masagatani

Message:

Aloha Commission Secretary Leah Burrows-Nu'uanu I would like to address the HHC meeting, Community meeting that will be held in Waimea @ Kuhio Hale on May 20, 2019 Monday or if my placement on the agenda puts me on May 21, 2019 Tuesday. I would like to present my testimony to the DHHL Commissioners, concerning the 5 Acr. Lot 45 parcel in Pu'ukapu Waimea to be humbly given to MaryMaxine Kahauleio in this the year of our Lord of 2019. I have waited for their decisions making for a very long time.

Mahalo Nui Loa
Maxine Kahaulelio
Puukapu Waimea

Akismet Spam Check: passed

Sent from (ip address): 172.68.46.28 (172.68.46.28)

Date/Time: April 10, 2019 12:37 pm

Coming from (referer): <http://dhhl.hawaii.gov/hhc/> Using (user agent): Mozilla/5.0 (Windows NT 10.0; Win64; x64; rv:66.0)

Gecko/20100101 Firefox/66.0

Burrows-Nuuanu, Leatrice W

From: Robin Danner <robin@hawaiianhomesteads.org>
Sent: Wednesday, April 03, 2019 2:51 PM
To: Burrows-Nuuanu, Leatrice W
Subject: May Commission Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

Hi there Leatrice!

I'd like to be on the May Commission meeting, on the topic of our SCHHA and Homestead Housing Authority Workforce Rental & Transitional Housing initiative. WRTH.

Thanks so much! See you next month!

Robin Puanani Danner
SCHHA Chairman & Homestead Housing Authority CEO

J-6

Burrows-Nuuanu, Leatrice W

From: Kalaniakea Wilson <kupaiwialoha@gmail.com>
Sent: Friday, April 19, 2019 6:52 AM
To: Brown, Michelle W; Burrows-Nuuanu, Leatrice W
Subject: Beneficiary Trust Council

Follow Up Flag: Follow up
Flag Status: Flagged

Aloha e Michelle,

The Beneficiary Trust Council would like to be on the J agenda to provide updates about the Aina Mauna solution for the upcoming Waimea DHHL meeting at Kuhio Hale in Waimea on May 20, 2019.

Would I be able to show a powerpoint?

Mahalo,

Kalaniakea
808 699-8402

Po Box 5662
Hilo, Hi. 96720



Maku'u Farmers Association
 15-2131 Keaau Pahoa Highway
 Pahoa, HI 96778
 Phone: (808) 896-5537
 E-mail: makuufarmersassociation@gmail.com

"THE SECRET OF SUCCESS IS THE CONSTANCY OF PURPOSE"

Mission: To promote and perpetuate Native Hawaiian values and traditions, to provide educational and employment opportunities while also developing small businesses. To become self-sufficient as established by the Hawaiian Homes Commission Act of 1920

April 22, 2019

Attention: Department of Hawaiian Homes Land Chair and Commissioners

Subject: Request to be placed on the May 20, 2019 Commissioners meeting Agenda in Waimea, Hawai'i for two things.

1. Seeking a decision for immediate sandwich Isle services in Maku'u Hawaiian Homestead Association or a decision to Cancel Sandwichisle contract.
2. Reporting Peer-to-peer grant project progress.

For Agenda item #1 we would like to request and appreciate that a answer be pa'a for Maku'u. Long story short Maku'u "is not" a is told that Maku'u "will not" receive Sandwich Isle services. We are aware that our equiptment were in Hilo office ready for service hook up in Maku'u and then they closed down and went bankrupt. If Hawaiian Homes has a contract with Sandwich Isle they should be required to provided the contracted services to Maku'u and all other Homsteads. If not we request to cancel the Sandwich Isle services so we will have the freedom to seek other services. Maku'u is at a point where we are outdated due to NO INTERNET services.

We believe 95% of Maku'u problems can be solved with immediate services to provide associaiton members with: security (security cameras), phone services in all areas, boost Market operations, increase keiki with the newest technology, to provide tech classes and operation the Maku'u Farmers Association effectively.

Agenda item #2 we would like to share a video pieace of the progress of the peer-to-peer grant from DHHL and the exciting progress that we have created.

Burrows-Nuuanu, Leatrice W

From: Jordan Hollister <hollisterjordan@gmail.com>
Sent: Wednesday, April 24, 2019 3:12 PM
To: Burrows-Nuuanu, Leatrice W
Subject: May 20 Commission meeting agenda

Aloha Leah,

My name is Jordan Hollister with the Kailapa Community Association. I was hoping to get on to the Agenda for May's Commission meeting concerning our community's application for lot #485, and a discussion about the KCA Resiliency Plan that was presented to them last month. Please let me know what I must do to get onto the agenda.

Mahalo,
Jordan Hollister

J-4



PO BOX 5146 HILO, HI 96720

Email: kcaiprez@gmail.com

Phone: (808) 937-8217

William Aila, Deputy Director, DHHL
91-5420 Kapolei Parkway
Kapolei, HI 96707

Aloha Deputy Aila and members of the Hawaiian Homes Commission,

I am Patrick L. Kahawaiolaa a native Hawaiian as defined pursuant to the HHCA, 1920 (*Chap. 42. 42 Stat. 108*) as amended July 9, 1921. Some of the concerns we need to address with our **"new"** Deputy, several new commissioners, however we in East Hawaii "lost" our representative on the Commission as the time of Wallace Ishibashi has *"expired"*. I'll try to bring to light some of the issues as followed:

The ongoing concerns with the RFP to remove pipi on trust lands of Humuula;

The use by *non-natives* of our trust lands for income; the lack of Staff for the East Hawaii office;

The lack of an enforcement officer for Aina Mauna;

RFP for Gorse eradication by a *non native*;
Illegal hunting still occurring on Mauna;

the circumventing of the legislative process to now have Deputy Director *'ELEVATED'* to **"interim Chairman"**, appoint term limited Mayor of Kauai Bernard Carvalho to Deputy Director and bring outgoing Chair Jobie Masagatani on as third in command in the Chairman's office;

Creating a call center inside the DHHL to answer the phones WHY? who pays for this new function and what monies to be used to pay these new employees? Trust funds? Lease rental monies? Legislative budget request? CIP?

The Annual Report was a big issue with the homesteads Associations or lack of we have now been told we can get *"ancient"* reports in 2019 we can get the 2017 issue. NAHASDA still lurks in the background; Airport Noise; Above ground fuel storage tanks; Sewer pumping station are still present and would be great to resolved some of those issues before we die like those on the wait list.

I can be reached at 937-8217

Patrick L. Kahawaiolaa

Burrows-Nuuanu, Leatrice W

Subject: FW: Waimea Commission Meeting ~ Kauai

Aloha Leah,

Thank you for your prompt response. Our problem has been addressed with staff, but we haven't been able to come to a resolution. I was hoping the Commission might be able to help. I would like to go ahead and address the Commission on the 20th if at all possible. It is not a policy related issue. I have prepared information regarding the matter at hand. Erna is very aware of our situation, as is Mona. I am fully out of my element as well but trying desperately to help my clients navigate the challenges they are faced with. Here is a breakdown of the situation for the Chair:

Leasee: Flynn Hikape Wood

Property Address: 4606 Kamalomalo'o Place, Anahola Hawaii

Issue: Property was leased without legal access in place. It is believed that the father Flynn Wood (who has since passed) thought a gentlemen's agreement with the person whom he believed to be the next door Lease Holder (Duarte Family) would suffice in using the natural flow of the land to access his house, as there is a natural, safe slope that goes to the house, but it crosses across the adjoining parcel at the bottom. The Duartes next door even signed an agreement to allow access, (even though it is not legal for them to do so, my only point being that they never had any issue sharing the driveway entrance with the Woods family) If I understood this correctly Erna also mentioned that the lot next to the Woods is a spillway and the way to access the lower lots and would not be assigned to anyone. We are asking that DHHL would reconsider its decision in January to not allow an easement. The Woods do not have the financial wherewithal to cut a driveway into the 20' berm in front of the house in order to make the access legal - *the banks will not loan on a property without proper legal access*. We have worked over a year on this and have not been able to figure out how to remedy this situation with resources at hand.

We are humbly asking that you please consider this request.

- Client needs to sell his inherited home and has not been able to because of issues with the Driveway.
- House is accessed currently using a driveway that follows the natural flow of the land. *see attached files
- It will be at great cost to cut into the 20' Berm and create a driveway. One local respected Contractor even wrote a letter stating he did not recommend doing so. *See attached.
- We have a current buyer that is willing to do the driveway after he takes possession, but he will not be able to procure a loan without legal access. So we are stuck.
- We are asking that you would reconsider granting the easement so that my clients can all move forward. *See letter regarding easement attached.

Any suggestions to remedy the situation would be welcome. The Buyer was planning on attending the meeting on the 20th as well. We are hoping to work with you to find a viable solution.

Thank you so very much for your time and consideration in this matter. It is appreciated.

J-11

Burrows-Nuuanu, Leatrice W

Subject: FW: Waimea Agenda Item

I would like to request ***Kipuka o ke Ola*** be put on the agenda during your Hawaiian Homestead visit to the Big Island on May 24th. We have a proposal that we would like for the commissioners to take into consideration. Please let me know if you need additional information from me prior to the meeting.

I appreciate your kokua with this matter. Should have questions or concerns please contact me at (808)885-5900.

Mahalo Nui,
Dr. Claren Kealoha-Beaudet
Executive Director - Clinical Psychologist
Kipuka o ke Ola - Native Hawaiian Health Clinic

Leah Burrows-Nuuanu
Hawaiian Homes Commission
Department of Hawaiian Home Lands
91-5420 Kapolei Parkway
Kapolei, HI 96707
Phone: 808 620 9504/ Fax: 808 620 9529
Email: Leatrice.W.Burrows-Nuuanu@hawaii.gov

April 30, 2019

Re: Scheduling Request – May DHHL Meeting

Dear Ms. Burrows-Nuuanu:

The MHC Board of Hawaiian Affairs & Initiatives (MCHB) requests a time on the DHHL agenda at the May 2019 meeting in Waimea, HI, to present its action plan for removal or harvesting Scrub Gorse from Aina Mauna.

MHCB has a comprehensive plan that not only removes shrub gorse from the mountain, but also converts gorse into a useful form – bio-char that will provide needed soil amendment to improve the agricultural and horticultural productivity of farms, other commercial properties, and residences on the Big Island.

The MHCB gorse harvesting methods requires **no herbicides**. Application of herbicides represents an environmental threat to drinking water, animals, flowers and fauna, and other insects and biological life.

MHCB has confirmed with Oregon State University soil lab two methods to handle gorse safely so it can be removed from the mountain without danger of spreading the invasive species.

The cost of gorse removal is significant to DHHL. DHHL has worked diligently over a lengthy period of years to remove gorse without re-taking control of its land from the gorse infestation. The MHCB gorse harvesting method will save DHHL money for removal, make land immediately available for other uses such as grazing, or any other revenue generating or nature preservation purpose, and allow DHHL to gain control over the gorse infestation.

MHCB proposes a demonstration project at no cost to DHHL for the purpose of showing the advantages and minimal impact of the gorse harvesting method versus crush & spray, helicopter spray, etc. MHCB will need a right-of-entry to demonstrate the gorse harvesting method on a piece of property whose size and location we can mutually agree on.

Please schedule MHCB for a thirty (30) minute presentation at the May DHHL meeting and contact me with details (day, time, etc.) at your earliest convenience (MHCB will accept whatever time DHHL can extend at the May meeting).

Mahalo for your assistance!

Sincerely,

A handwritten signature in black ink, appearing to read 'Randolph Pomai Freitas', with a stylized flourish at the end.

Randolph Pomai Freitas, President

MHC Board of Hawaiian Affairs & Initiatives

pf@millcarbon.com

808-769-9566

J-12

Aloha kakou,

This is Skippy Gome.

I am seeking audience
with the Hawaiian Homes
Commissioners when they venture
to the Nohu Pele. The
subject will be:

2019 MAY -2 PM 2:39

HAWAIIAN
DISTRICT OFFICE
ALUAS

1.) 99 yr lease for
King's Landing residents

2.) Creation of an office
of creativity

Ph. 808/987-2479 Mahalo

Kelii W Gome Jr.

J-14 5-2-19

Aloha Leah

I Vanessa Iopa request to address the commission at the next meeting in may 20, 21 2019 in Waimea.

I would like to discuss my brother Milton Iopa who was a Leases in panaewa Hilo.

I am addressing DHHL public notice

I appreciate a reply

Mahalo

Vanessa Lei Ilima Iopa

P.O. Box 5891

Hilo, HI 96720

#808-825-0437

HAWAII
DISTRICT OFFICE

2019 MAY -2 AM 11:27

J-15

Burrows-Nuuanu, Leatrice W

Subject: FW: May Agenda

-----Original Message-----

From: Leila Kealoha <kealohaainallc@gmail.com>

Sent: Wednesday, May 06, 2019 12:15 PM

To: Burrows-Nuuanu, Leatrice W <leatrice.w.burrows-nuuanu@hawaii.gov>

Cc: louise.k.yeehot@hawaii.gov

Subject: May Agenda

Aloha

This is Leila Kealoha. I am asking if I can get put on the agenda for the May 20 meeting in Waimea. I would like to address a lease transfer that I am waiting for in the Maku'u Homestead's. The lease is being transferred from Aunt Mary Jane Kamoku to myself. I greatly appreciate it and I'm wondering what time I would be able to testify. Mahalo nui loa. Again my number is 937-7992.

Me ke aloha pumehana

Leila Kealoha