

STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA

91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i
Monday, October 19, 2020 at 9:30 a.m. to be continued, if necessary, on
Tuesday, October 20, 2020, at 9:30 a.m.
Livestream available at www.dhhl.hawaii.gov/live

Note: Commission Meeting Packets will be available at dhhl.hawaii.gov, by Thursday, October 15, 2020.

I. ORDER OF BUSINESS

- A. Roll Call
- B. Approval of Agenda
- C. Approval of Minutes for September 21-22, 2020 HHC Meeting
- D. Public Testimony on Agendized Items –Via weblink only; see information below

II. ITEMS FOR DECISION MAKING

A. CONSENT AGENDA

Homestead Services Division

- D-2 Approval of Consent to Mortgage (see exhibit)
- D-3 Approval of Streamline Refinance of Loans (see exhibit)
- D-4 Approval of Homestead Application Transfers / Cancellations (see exhibit)
- D-5 Commission Designation of Successors to Application Rights – Public Notice 2016, 2017, 2018, 2019 (see exhibit)
- D-6 Reinstatement of Deferred Application – **JOY N. ROBLES & ERNEST B. KANOA**
- D-7 Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- D-8 Approval of Assignment of Leasehold Interest (see exhibit)
- D-9 Approval of Amendment of Leasehold Interest (see exhibit)
- D-10 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- D-11 Commission Designation of Successor – **FRANCIS K. KAUHOLA**, Residential Lease No. 8797, Lot No. 33, Waimanalo, Oahu
- D-12 Request to Surrender Lease, **KIVA O. CONTRERAS**, Agricultural Lease No. 7015, Lot No. 73, Makuu, Hawaii
- D-13 Approval of Designation of Successorship to Leasehold Interest for **BLOSSOM E. BURDETT**, Residential Lease No. 1230, Lot No. 7, Hikina, Maui
- D-14 Approval of Designation of Successorship to Leasehold Interest for **DAPHNE ORPHA SING**, Residential Lease No. 4148, Lot No. 18, Paukukalo, Maui
- D-15 Commission Designation of Successor – **TOMI LOU MAMUAD**, Agricultural Lease No. 199, Lot No. 144, Hoolehua, Molokai

B. REGULAR AGENDA

Office of the Chairman

- C-1 Approval of Lease Awards Kauluokahai Subdivision Kapolei (see exhibit)
- C-2 Approval of Native Hawaiian Qualification Process

Land Development Division

- E-1 Approval of Finding of No Significant Impact for Pu'unani Homestead Subdivision, Wailuku, Maui, Final Environmental Assessment

Land Management Division

- F-1 Approval to Annual Renewal of Right-of-Entry Permits, East, Central, & South Hawai'i Island
- F-2 Approval to Rescind December 17-18, 2018, Hawaiian Homes Commission Action on LMD Agenda Item No. F-4, Approval of Application & Review Process for New Revocable Permit Pilot Program, and Approve Revised Approval of Application & Review Process for New Revocable Permit Pilot Program

III. ITEMS FOR INFORMATION/DISCUSSION

A. GENERAL AGENDA

Requests to Address the Commission – In writing via weblink only; see information below

- J-1 Bambi Lau & Pua Kalima – Honokoa and Kailapa Homesteads
- J-2 Jojo Tanimoto – Issues in Kawaihae
- J-3 John McBride – Kalaupapa License
- J-4 Donna Sterling – Kahikinui Hawaiian Homestead Association
- J-5 Kekoa Enomoto – Maui/Lana'i Moku-puni Council
- J-6 Scott Reis-Moniz – Kapili Like Resource Center
- J-7 Sue Lee Loy – Unlawful conduct in homestead communities
- J-8 Pomai Freitas – Hui Ho'olako for Hawaiian Initiatives

B. WORKSHOPS

Homestead Services Division

- D-16 For Information Only - Conversion of Waiahole, Oahu Agricultural Leases to Residential Leases

Land Development Division

- E-2 For Information Only – Progress of Draft Environmental Assessment, Honokowai Water System, Lahaina, Maui
- E-3 For Information Only – Maui Development Projects Status Updates

Land Management Division

- F-3 For Information Only – Rent Relief Request Status General Lessees, Licensees, and Permittees – Statewide
- F-4 For Information Only – ROE 294, Malama Aina Hana Ka Aina (MAHA, Inc.)

Planning Office

- G-1 For Information Only – U.S. Geological Survey Presentation on Scientific Investigation Report 2019-5150 Numerical Simulation of Groundwater Availability in Central Moloka'i
- G-2 For Information Only – Submittal of the DHHL Water Use Permit Application to the State Commission on Water Resource Management in the Kualapu'u Aquifer System Area, Island of Moloka'i
- G-3 For Information Only – DHHL Beneficiary Consultation Meeting re: the Waioli Kalo Farmers' Board of Land and Natural Resources Water License Request under HRS 171-58, Halele'a, Kaua'i

Administrative Services Office

- H-1 For Information Only – DHHL Biennium Budget Requests for FB 2021-2023 (Sufficient Sums Budget) (relative to H-1)

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

91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i
Tuesday, October 20, 2020, at 9:30 a.m.

I. ORDER OF BUSINESS

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

II. ITEMS FOR DECISION MAKING

Planning Office

- G-4 Declare a Finding of No Significant Impact for the DHHL Hanapēpē Homestead Community Master Plan Final EA, Hanapēpē, Waimea District, Kaua'i Island, TMK's (4) 1-8-007:003, 018, 021 and (4) 1-8-008:035, 081, 086, and 087
- G-5 Amend the Kaua'i Island Plan to apply Subsistence Agriculture, Residential Homestead, Community Use, Commercial, Special District and Conservation Land Use Designations to Hanapēpē, Kaua'i, TMK's (4) 1-8-007:003, 018 and 021

Administrative Services Office

- H-1 DHHL Biennium Budget Requests for FB 2021-2023 (Sufficient Sums Budget)

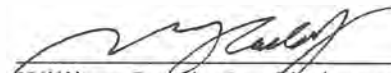
III. ITEMS FOR INFORMATION/DISCUSSION

Office of the Chairman

- C-3 For Information Only – Administrative Rules for Supplemental Dwelling Units Background Information

IV. ANNOUNCEMENTS AND ADJOURNMENT

- A. Next Meeting –November 16 & 17, 2020, TBA
- B. Adjournment



William J. Aila Jr., Chairman
Hawaiian Homes Commission

COMMISSION MEMBERS

Randy K. Awo, Maui
Patricia L. Teruya, O'ahu
Pauline N. Namu'o, O'ahu
Michael L. Kaleikini, East Hawai'i

Zachary Z. Helm, Moloka'i
David B. Ka'apu, West Hawai'i
Dennis L. Neves, Kaua'i
Russell K. Ka'upu, O'ahu

Public testimony can be submitted in writing via the Department of Hawaiian Home Lands website at www.dhhl.hawaii.gov/hhc/hhc-contact

Livestream available at www.dhhl.hawaii.gov/live

Pursuant to the Governor's Thirteenth Proclamation Related to the COVID-19 Emergency, Hawai'i Revised Statutes Chapter 92 regarding public agency meetings and records is currently suspended through till October 31, 2020 to the extent necessary to enable boards to conduct business without holding meetings open to the public and to allow state agencies the ability to effectively and efficiently provide emergency relief and engage in emergency management functions.

ITEM C-1 EXHIBIT

APPROVAL OF LEASE AWARDS KAULUOKAHAI SUBDIVISION, KAPOLEI

NAME	APPL DATE	LOT NO	TAX MAP KEY	LEASE NO
Russell V.I. Bell	12/02/1983	49	(1) 9-1-017-110	12922

ITEM D-2 EXHIBIT

APPROVAL OF CONSENT TO MORTGAGE

LESSEE	LEASE NO.	AREA
AH NEE, Lenora	4575	Waianae, Oahu
AHANA, Peter	9523	Waiehu 2, Maui
AKIONA, Jamie Lee K.	9507	Waiehu 2, Maui
AKO-PALL, Kyrtsie L.	12572	Kanehili, Oahu
ANGUAY, Kaleo	5339	Waianae, Oahu
AUWELoa, William H.	5958	Waiehu, Maui
BORGES, Dylan	6220	Panaewa, Hawaii
CARVALHO, Destry K.	8840	Anahola, Kauai
CHARTRAND, Chandler P.	8947	Waiakea, Hawaii
COLLO, Brianna K.	9542	Waiehu 2, Maui
DANE, Roslyn L.	2521	Waimanalo, Oahu
DESHA, Ainau G.	6221	Panaewa, Hawaii
FABRAO, Dawn K.	9820	Maluohai, Oahu
FELISE, Cherish	12905	Kanehili, Oahu
GLOVER, Robert W.	8621	Nanakuli, Oahu
HOOPAI, Jason K.	2762	Kewalo, Oahu
JABER, Lance P.	12197	Waiehu 4, Maui
JABER, Lori K.	12197	Waiehu 4, Maui
KAHAE, Lisa K. K.	7474	Waiohuli, Maui
KALILIKANE, Samuel, Sr.	11819	Kanehili, Oahu
KAMA, Justin K.	11531	Leialii, Maui
KANUI, Edwin	9104	Waiakea, Hawaii
KAWAIAEA, Albert	1923	Nanakuli, Oahu
KUPIHEA, Nathan K.	6449	Anahola, Kauai
LENCHANKO, Nicholas H.	11906	Kaupea, Oahu
MONTEZ, Maury Blu	9774	Maluohai, Oahu
MONTEZ, Uluwehi	9774	Maluohai, Oahu
NAHALEA, Quincy A., Jr.	8357	Princess Kahanu Estates, Oahu
NAHINA, Douglas M.	2529	Waimanalo, Oahu
NALAIELUA, Patricia Ann P.	11371	Kaupea, Oahu
PENNINGTON, Edwina	11597	Kanehili, Oahu
PETERS, Angus K.	7633	Waiohuli, Maui
ROBINSON, Roseannamary L. K.	8916	University Heights, Hawaii
SHIMOSE, Shaun	11857	Kanehili, Oahu
SNIFFEN, Frederick J., Jr.	8243	Paukukalo, Maui
TABISOLA, Jose B., Jr.	12256	Waiehu 4, Maui
THURSTON, Paul J.	12098	Kaupea, Oahu
VALLE, Roland K.	3475	Paukukalo, Maui

ITEM D-3 EXHIBIT

APPROVAL OF STREAMLINE REFINANCE OF LOANS

LESSEE	LEASE NO.	AREA
HANOHANO, Evette	4516	Nanakuli, Oahu

ITEM D-4 EXHIBIT

HOMESTEAD APPLICATION TRANSFERS / CANCELLATIONS

APPLICANT	AREA
AH SUI, Kezia H.	Oahu IW Res
AHUNA, Reynette N.	Oahu IW Agr to Kauai IW Agr
BROWN, Kathy Rose K.	Oahu IW Res to Hawaii IW Res
HUIHUI, Eliot K.	Oahu IW Res
HURLBUT, Yvonne L.	Oahu IW Res
KAPUAALA, Vernest M.K.	Oahu IW Res
KIM-LUNING, Adam K.	Oahu IW Res
LOPES, Charles K., III	Oahu IW Res
LOPEZ, Roy Ipo	Maui IW Res
MAHONEY, John J., III	Maui IW Agr
MATAPUA, Brian	Oahu IW Res
NAKOA, Francis K.	Maui IW Res
SANDERS, Jocelyn	Oahu IW Res
SHOOK, Reef K.	Maui IW Agr to Hawaii IW Agr
SHOOK, Reef K.	Maui IW Res to Hawaii IW Res
SMITH, Debbie L.K.A.	Oahu IW Res

ITEM D-5 EXHIBIT

COMMISSION DESIGNATION OF SUCCESSORS – PUBLIC NOTICE 2016, 2017, 2018, 2019

APPLICANT	AREA
AH SUI, Kezia H.	Oahu IW Res
CHIP, Pamela-Jean K.A.	Hawaii IW Agr
ENRIQUEZ, Simeon Jr.	Panaewa Area / Hawaii IW Agr
HURLBUT, Yvonne L.	Nanakuli Area / Oahu IW Res
JAENTSCH, Phillip L.	Hawaii IW Agr
KAHUNANUI, Ehukaiikaika S.K.	Oahu IW Res
KALAUKOA, Samuel I.	Oahu IW Res
KANAHELE, Charity K.	Kauai IW Agr
KAPUAALA, Vernest M.K.	Oahu IW Res
LOPES, Charles K., III	Waimanalo Area / Oahu IW Res
MATAPUA, Brian	Oahu IW Res
NAKOA, Francis K.	Oahu IW Res
PURDY, Jobi U.	Oahu IW Res
PURDY, Jobi U.	Maui IW Agr
TECTOR, Mapuana S.	Hawaii IW Pas

ITEM D-7 EXHIBIT

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

LESSEE	LEASE NO.	AREA
AKI, Archie A., Jr.	8740	Keaukaha, Hawaii
CHOW, Luana P.	7105	Kawaihae, Hawaii
DREES, Leilani M.	8469	PKE, Oahu
MERSBERG, Norman W.	5152	Nanakuli, Oahu

ITEM D-8 EXHIBIT

APPROVAL OF ASSIGNMENT OF LEASEHOLD INTEREST

LESSEE	LEASE NO.	AREA
AKAU, Nathan C.	2762	Kewalo, Oahu
AKAU, Marleen L.	2762	Kewalo, Oahu
BUSH, Carolyn P.	4848	Hoolehua, Molokai
BUSH, Carolyn P.	4820	Hoolehua, Molokai
DELA CRUZ, Peter K., Jr.	634	Papakolea, Oahu
KAMEALOHA, Verna K.	5535	Lualualei, Oahu
MARK-LEWIS, Keliimana	344	Nanakuli, Oahu
RINCON, Alohalani	344	Nanakuli, Oahu
MARK-LEWIS, Imua	344	Nanakuli, Oahu
MCKEAGUE, Darryl A. N.	10013	Keaukaha, Hawaii
MITCHELL, Patrick J., Jr.	1792	Nanakuli, Oahu
RESENTES, Joann M.	476	Nanakuli, Oahu
MEDEIROS, Rhoda V. L.	10753	Laiopua, Hawaii
PELFREY, Rex R. K.	8029	Puukapu, Hawaii

ITEM D-9 EXHIBIT

APPROVAL OF AMENDMENT OF LEASEHOLD INTEREST

LESSEE	LEASE NO.	AREA
AKAU, Nathan C.	2762	Kewalo, Oahu
AKAU, Marleen L.	2762	Kewalo, Oahu
BUSH, Carolyn P.	4848	Hoolehua, Molokai
BUSH, Carolyn P.	4820	Hoolehua, Molokai
CHOW, Luana P.	7105	Kawaihae, Hawaii
DELA CRUZ, Peter K., Jr.	634	Papakolea, Oahu
GUZMAN, Francine K.	3131	Nanakuli, Oahu
KALAU LI, Keni L.	11657	Kapolei, Oahu
RESENTES, Joann M.	476	Nanakuli, Oahu
TOLENTINO, Rally	5403	Kuhio Village, Hawaii

ITEM D-10 EXHIBIT

APPROVAL TO ISSUE A NON-EXCLUSIVE LICENSE FOR ROOFTOP PHOTOVOLTAIC
SYSTEMS FOR CERTAIN LESSEES

LESSEE	LEASE NO.	AREA
AHUNA, Reydan P.	2032	Kewalo, Oahu
GUZMAN, Francine K.	3131	Nanakuli, Oahu
IMANIL, Saunya Dee K.	12749	Maluohai2, Oahu
KAAIHUE, Jonathan W. K.	8879	Hanapepe, Kauai
KAHAKUI, Andie P.	9724	Maluohai, Oahu
KAIMIKAUA, James K.	2216	Kewalo, Oahu
KAPANUI, Betty Lou M.	3524	Kewalo, Oahu
WONG, Jammie K. K.	9802	Maluohai, Oahu

ITEM F-1 EXHIBIT

RIGHT OF ENTRY PERMITS, KAUA'I ISLAND

NO.	ACRE	USE	PERMITTEE	AREA	Date Started
465	280.0	Pastoral	Gilbert Medeiros, Jr.	Kamaoa-Pu'ueo	2/9/1998
469	504.0	Pastoral	Daryl K. Kalua'u	Kamaoa-Pu'ueo	9/7/2000
473	2,250.0	Pastoral	Dean Kaniho	Kamaoa-Pu'ueo	7/15/2004
477	2.0	Agricultural	Guy Kaniho	Humu'ula	2/26/2007
478	300.0	Pastoral	April Wana-Mattos	Honomu	2/1/2010
481	2.21	Landscape	Ginger Patch Center	Waiakea	8/2/2010
482	1.0	Community	Keaukaha Panaewa Farmers Association	Panaewa	2/1/2011
610	5000.0	Pastoral	Native Hawaiian General Services	Kamaoa-Pu'ueo	6/4/2004

*Denotes Beneficiary


**HAWAIIAN HOMES COMMISSION
OCTOBER 19 & 20, 2020
TELECONFERENCE
9:30 A.M.**

**C – ITEMS
OFFICE OF THE CHAIRMAN**

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Paula Aila, Acting Administrator, 
Contact & Awards Division

FROM: Michelle Hitzeman, HALE Manager

SUBJECT: Approval of Lease Award

RECOMMENDED MOTION/ACTION

Approve the awards of Department of Hawaiian Home Lands Residence Lot Leases to the applicants 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

Kauluokahai Residential Subdivision, Kapolei, Hawaii

<u>NAME</u>	<u>APPL DATE</u>	<u>LOT NO</u>	<u>TAX MAP KEY</u>	<u>LEASE NO</u>
Russell V.I. Bell	12/02/1983	49	(1)-9-1-017:110	12922


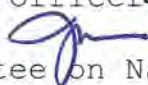
With the execution of the foregoing lease, one (1) single family home award has been completed.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Hokulei Lindsey, Administrative Rules Officer 
Jobie Masagatani, Executive Assistant 
Staff to the HHC Investigative Committee on Native
Hawaiian Qualification Process

SUBJECT: Adoption of the recommendations of the Investigative
Committee on Native Hawaiian Qualification Process

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission recall the acceptance of the Native Hawaiian Qualification determination as a function requiring the exercise of judgment or discretion and adopt the Investigative Committee's recommended process to review Native Hawaiian Qualifications for final acceptance.

DISCUSSION:

At the March 2019 regular meeting of the Hawaiian Homes Commission (HHC), the Chairman appointed an investigative committee pursuant to Hawaii Revised Statutes section 92-2.5 and Hawaii Administrative Rules section 10-2-16(b)(1), to review and, if appropriate, recommend changes to HHC policy guiding the strategies used to determine native Hawaiian Qualification (NHQ) under the Hawaiian Homes Commission Act (HHCA or Act). The committee members were Commissioners David Kaapu, Randy Awo, Pauline Namuo, and the Chairman.

Since its appointment, the Committee met six times; three times with Homestead Services Division staff members and four times to deliberate (the final meeting was split into two parts, the first part was with HSD staff followed immediately by committee deliberation). And the committee made two reports to the Commission, one at the regular meeting in August (Exhibit A) and the second at the regular September meeting (Exhibit B), each contained the recommendations the committee now asks the Commission to adopt. See Exhibit A and Exhibit B.

The committee believes its overall recommendation to recall from the Department its authority for making final NHQ determinations and to vest that authority in the Commission will increase certainty for beneficiaries and provide support to department staff responsible for NHQ verification. The three categories of cases for HHC review and final acceptance will help organize cases for Commission review. The additional check by a committee of staff with expertise in the NHQ methodology will ensure that a file with uncertain or missing documentation is complete for Commission review.

RECOMMENDATION:

The committee recommends that HHC recall, pursuant to § 10-2-16(a), HAR, the acceptance of the NHQ determination as a function requiring the exercise of judgment or discretion.

The committee recommends the following process to implement the Commission's review and acceptance of NHQ determinations:

- Three categories be used to review NHQ for acceptance:
 1. Qualified through kumu 'ohana and accepted by consent of the HHC;
 2. Unqualified based upon uncertain and/or exhausted documentation to be reviewed and acted upon by the HHC with detailed analysis and recommendation from the Department; and
 3. Unqualified because impacted by subsequent information to be addressed by the HHC through a contested case brought by the Department.

- A Department process whereby comprised of staff with expertise in the NHQ methodology reviews the findings of the case worker to ensure:
 1. The case file is complete and the documentation is uncertain and/or exhausted; and
 2. A clear NHQ determination cannot be made (whether qualified or not-qualified); and
 3. There is sufficient evidence to conclude that a reasonable informed assumption can be made regarding missing or uncertain documentation that could result in the individual meeting the blood quantum requirement.
 4. Once the staff committee determines the file is complete and the findings supported, the case would be presented to the Commission. This would be the process for applications and lease transfers requiring

leases and certain lease transfers, which require a 25% minimum.

- The Commission delegate to the Chairman authority to certify a finding by staff of "no NHQ minimum."

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

AUGUST 18, 2020

TO: Members, Hawaiian Homes Commission

FROM: Hokulei Lindsey, Administrative Rules Officer
Jobie Masagatani, Executive Assistant
Staff to the HHC Investigative Committee on Native
Hawaiian Qualification Process

SUBJECT: Report from the Investigative Committee on Native
Hawaiian Qualification Process

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION:

At the March 2019 regular meeting of the Hawaiian Homes Commission (HHC), the Chairman appointed an investigative committee pursuant to Hawaii Revised Statutes section 92-2.5 and Hawaii Administrative Rules section 10-2-16(b)(1), to review and, if appropriate, recommend changes to HHC policy guiding the strategies used to determine native Hawaiian Qualification (NHQ) under the Hawaiian Homes Commission Act (HHCA or Act). The committee members were Commissioners David Kaapu, Randy Awo, Pauline Namuo, and the Chairman.

The committee met five times. On August 2, 2019 and on January 9, 2020, the committee met with Homestead Services Division (HSD) staff that implement the NHQ process; first for information and then for follow up and feedback on initial thoughts for a proposal. On December 17, 2019, January 13, 2020, and on August 6, 2020 the committee met to deliberate.

The HHCA section 201 defines native Hawaiian as "any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778." Section 207 of the Act authorizes the Department of Hawaiian Home Lands (DHHL or Department) to lease to native Hawaiians agriculture lands, pastoral lands, or lots for residence. In section 208, the Act requires the original lessee to be a native

Hawaiian of not less than eighteen years old. The Act, however, does not provide guidance about how to determine who is native Hawaiian and therefore eligible for a lease under the HHCA. By administrative rule, the Commission delegates administrative functions to the Chairman, reserving for itself "duties requiring the exercise of judgement or discretion." (Hawaii Administrative Rules § 10-2-16(a)). The determination and acceptance of NHQ has been interpreted as among those delegated administrative functions.

To accomplish this function, the Department has developed a kumu 'ohana methodology using birth certificates and other supporting documents to determine a native Hawaiian blood quantum for the purposes of NHQ. Genealogical research of this kind has its particular complexities. Some of the documentation required is historic and hard to find, read, or both while some historic records have been damaged or destroyed by fire or natural disaster. Over time and as a result of changes in societal norms, people sometimes self-report their information differently. Vital records (i.e. birth, marriage, and death certificates) as well as the type of information collected for vital records also vary over time. While any of these factors alone can render documentation for a bloodline difficult to compile or interpret; some genealogies encounter all or a combination of these factors. Such circumstances can result in uncertain or exhausted documentation, leaving potential beneficiaries in a limbo-like situation and Department staff in the difficult situation of having to exercise a degree of judgement and discretion that the committee believes is beyond administrative function.

With these factors of uncertainty, one may easily imagine a new applicant trying to gather documentation while encountering some of these potential obstacles, and perhaps even failing despite long-held oral family histories that indicate the individual is a native Hawaiian. However, given the nature of family trees and their interconnectedness, it is also possible that these factors can impact someone or an entire bloodline after an application has been accepted and a lease awarded if new documentation is discovered that may cast doubt on earlier conclusions. For example, if a new applicant shares a common ancestor with an existing lessee, newly discovered information provided by the applicant that was previously unknown could negatively impact that existing lessee's previously documented blood quantum. Such subsequent information can cause upheaval for a family or several families if siblings are involved. Because the documentation used to verify blood quantum is

imperfect and the decision surrounding NHQ can potentially have a profound impact, the exercise of judgment and discretion is required that the Committee believes extends beyond an administrative function.

Verification of NHQ stands as the gatekeeper and it is what sets Hawaiian Home Lands apart in its purpose; the rehabilitation of the "native Hawaiian," as defined in the HHCA. The benefits available to those meeting the required blood quantum are increasingly valuable and important as Hawai'i's available land area becomes both scarce and more expensive. In light of the possibilities and potential consequences, the committee recommends the HHC take a more active role in the NHQ process recalling from the Department the final determination and acceptance of NHQ as a duty requiring the exercise of judgement or discretion.

The committee was able to discern three categories of NHQ cases:

1. Qualified through the Department's kumu 'ohana methodology;
2. Unqualified based upon uncertain and/or exhausted documentation; and
3. Unqualified because impacted by subsequent information.

Using this as a guide, the committee recommends a policy whereby each of the three categories would come before the HHC for review and action:

1. The most common cases would be in the "qualified" category, comprised of applicants, transferees, and successors determined qualified by the Department upon completion of the kumu 'ohana. As envisioned, those cases would come before the HHC as part of the consent agenda;
2. Complex cases where the applicant, transferee, or successor is categorized as "unqualified based upon uncertain/exhausted documentation" would come before the HHC in a submittal for review and action. The submittal include a detailed analysis and recommendation prepared by the Department to inform the Commission's deliberation. Not every unqualified case would fall into this category. Existing available documentation should indicate a strong probability of qualification to be considered by the HHC. The intent is that only those cases incapable of administrative determination and requiring the exercise of judgment or discretion would come before the HHC in this category. The submittal and

deliberation would be held in executive session pursuant to Haw. Rev. Stat. §92J-1(b); and

3. Cases where a previously qualified individual becomes "unqualified because impacted by subsequent information" such that the available documentation appears to no longer demonstrate the NHQ minimum would be brought before the Commission by the Department as a contested case.

Through its review, the committee finds the responsibility and weight of the decisions required by NHQ are the burden of the Commission and beyond administrative function. The committee also believes that Commission action for each category is an important assurance for beneficiaries that there is a process available to them through the Department's governing body. By the recommended policy, the Commission can offer a greater degree of certainty to its beneficiaries as well as relieve staff of unintended burdens related to NHQ. Those significantly impacted by the NHQ process and potentially life altering questions involving NHQ can be addressed by the Commission, after weighing all pertinent facts and evidence.

The committee very much appreciates the care and diligence Department staff employ in the NHQ verification process. The staff rightfully take this function seriously and are protective of its integrity. The gravity of the NHQ determination together with the value of the benefit is why the committee recommends that the HHC take a more active role. While the Commission should have the burden of the "final say" in difficult cases, it is the diligence and expertise of the Department in fact finding and analysis that provides the foundation.

RECOMMENDATION:

The committee recommends the HHC recall, pursuant to § 10-2-16(a), HAR, the final acceptance of the NHQ determination as a function requiring the exercise of judgment or discretion. The committee further recommends the HHC use three categories to review NHQ for final acceptance:

1. Qualified through kumu 'ohana and accepted by consent of the HHC;
2. Unqualified based upon uncertain and/or exhausted documentation to be reviewed and acted upon by the HHC with detailed analysis and recommendation from the Department; and

3. Unqualified because impacted by subsequent information to be addressed by the HHC through a contested case brought by the Department.

The Committee intends to continue meeting in order to identify and recommend criteria to help implement the above recommendations.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 21-22, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Hokulei Lindsey, Administrative Rules Officer
Jobie Masagatani, Executive Assistant
Staff to the HHC Investigative Committee on Native
Hawaiian Qualification Process

SUBJECT: For Information Only - Report of the Investigative
Committee on Native Hawaiian Qualification Process

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION:

At the August regular meeting of the Hawaiian Homes Commission, the Investigative Committee on the Native Hawaiian Qualification Process presented its first report to the full Commission. In that report, the committee, comprised of Commissioners David Kaapu, Randy Awo, Pauline Namuo, and the Chairman, made the following recommendations:

"[That] the HHC recall, pursuant to § 10-2-16(a), HAR, the final acceptance of the NHQ determination as a function requiring the exercise of judgment or discretion. The committee further recommends the HHC use three categories to review NHQ for final acceptance:

1. Qualified through kumu 'ohana and accepted by consent of the HHC;
2. Unqualified based upon uncertain and/or exhausted documentation to be reviewed and acted upon by the HHC with detailed analysis and recommendation from the Department; and
3. Unqualified because impacted by subsequent information to be addressed by the HHC through a contested case brought by the Department."

The committee further reported that it intended to meet to identify and recommend criteria to help implement its recommendations.

On September 17, 2020, the committee met with Homestead Services Division staff primarily responsible for compiling and evaluating the Native Hawaiian Qualification (NHQ) required under the Hawaiian Homes Commission Act. Immediately following the discussion with staff, the committee met to deliberate. Identifying criteria for the second category, *unqualified based upon uncertain and/or exhausted documentation to be reviewed and acted upon by the HHC with detailed analysis and recommendation from the Department*, was the committee's primary focus in this meeting.

The committee reported last month that it did not believe every unqualified case should be brought before the commission. For example, cases that should not come before the commission include:

1. instances in which the documentation is "complete" and the individual does not meet the blood quantum requirement; and
2. instances when documentation may be exhausted or uncertain but (a) the missing documentation, if found, will have no impact on the conclusion that the individual is not-qualified; or (b) there is no reasonable informed assumption that can be made regarding uncertain or missing documentation that could result in a determination that the individual is qualified.

Staff proposed and this committee recommends that a departmental process be developed whereby a committee comprised of staff with expertise in the NHQ methodology would review the findings of the case worker to ensure:

1. the case file is complete and the documentation is uncertain and/or exhausted; and
2. a clear NHQ determination cannot be made (whether qualified or not-qualified); and
3. there is sufficient evidence to conclude that a reasonable informed assumption can be made regarding missing or uncertain documentation that could result in the individual meeting the blood quantum requirement.

Once the file is determined to be appropriate, the case would be presented for the Commission's consideration under the

regular agenda, likely in executive session. This process would apply to applications as well as lease transfers and successors to a lease; for lease transfers (to certain eligible family members) and for successors to a lease, the minimum required blood quantum is 25 per cent.

The overall recommendation involves acceptance by the Commission of people meeting the minimum NHQ. In the converse situation, where NHQ is determined not to meet the minimum threshold, the committee recommends those findings made by staff be certified or accepted by the Chairman on behalf of the Commission.

The committee anticipates the following timeline:

- October 2020 HHC meeting: present full recommendations to the Commission for decision;

If the Commission adopts the committee's recommendations:

- November 2020 HHC meeting: consideration of cases begin;
- April 2021: evaluation of the process and recommendations if adjustments to the process are needed.

RECOMMENDATION:


In addition to the recommendations contained in this committee's report at the August 2020 regular meeting of the HHC, this committee recommends:

- A Department process where a committee of staff with expertise in the NHQ methodology reviews the file and findings of a case with uncertain/exhausted documentation and no clear NHQ determination. Following this committee review cases recommended by the committee would be presented to the Commission. This would be the process for applications requiring a 50% minimum blood quantum and for lease transfers to certain eligible family members and successors to leases, which require a 25% minimum.
- The Commission delegate to the Chairman authority to certify a finding by staff of "no NHQ minimum."

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 19-20, 2020

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Hokulei Lindsey, Administrative Rules Officer 
SUBJECT: For Information Only - Administrative Rules for Supplemental Dwelling Units Background Information

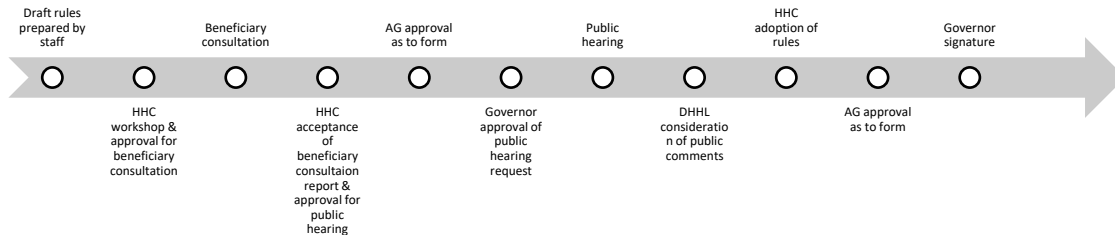
RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION:

At the September 2020 regular meeting of the Hawaiian Homes Commission (HHC), staff presented a workshop, Item C-6 (see Exhibit A), to update the HHC on the status of administrative rules for supplemental dwelling units (SDU) on Hawaiian home lands. This month's informational submittal provides greater detail of the process already completed as well as the next steps necessary to adopt rules for SDUs on Hawaiian home lands.

The Department of Hawaiian Home Lands (DHHL) rulemaking process requires beneficiary consultation before the formal rulemaking process, governed by chapter 91, Hawaii Revised Statutes, is undertaken. The DHHL follows a rulemaking process adopted by the HHC in 2015 and attached as Exhibit B, a consolidated version is provided below:



The draft rules for SDUs followed the process until it stalled after the HHC approved moving forward to public hearing.

Exhibit C is the submittal that requested HHC approval to proceed with public hearings. It provided the analysis of

transcribed comments from beneficiary consultation. Exhibit C also identified proposed changes to the original draft as a result of the consultation process.

As reported during discussion of Item C-6 last month, after the HHC approved the draft rules for public hearing, staff became aware that zoning and permitting issues with the counties may be more problematic than staff believed for beneficiaries seeking SDU approval from their counties. Discussions with each county about approving and permitting SDUs for lessees with residential leases revealed more specifically the application processes lessees would be required to follow with their counties.

	Pre-Check/Pre-Clearance	Zoning	Water & Wastewater	Roads & Engineering	Fire	Building Permit
Kauai County	Yes; no charge	Waive in pre-clearance	Pre-clearance	Pre-clearance	Pre-clearance	After pre-clearance
City & County Honolulu	Yes; no charge	Pre-check	Pre-check	Pre-check	Part of building permit	After pre-check
Maui County	No	Will not review	Public facilities clearance	Public facilities clearance	Public facilities clearance	After public facilities clearance
Hawaii County	No; need plan to scale & floor plan at time of application	Review per MOU	Application routed	Application routed	Application routed	After application approved

Overall, however, the lessee would first apply with the DHHL, then apply with the county, and finally return to the DHHL for approval before construction can begin. While there are hurdles in the county permitting processes, staff anticipates the most difficult for beneficiaries to clear likely will be zoning on Oahu and, on all islands, cesspool replacement.

The full text of the proposed rules is attached as Exhibit D. In summary, the rules structure the SDU program as follows:

§10-3-40.03 Pilot Program. The program would commence as a five-year pilot program on all islands. There is a mandatory evaluation for the program after three years. If found to be

successful, the department can expand the program by the end of year five or the program will terminate.

§10-3-40.04 SDU application and review. The lessee would apply to the DHHL for an SDU and the application would be reviewed by the department. Once cleared, the lessee would apply to the county for an additional dwelling unit or ohana unit, depending on the county. Commission approval would be necessary before construction can begin. The language of the rule allows the commission to provide differently from county requirements. Following staff discussions with the counties, the language in subsections (a) and (b) were modified to more accurately reflect the flow of the approval process. New text is underlined; old text is crossed out.



§10-3-40.05 Lot requirements. DHHL review of the lot ensures a supplemental dwelling is compatible with the specific lot, the Island Plan, and the Area Plan. Although also requiring the lot meet county regulations for additional dwellings, the language ensures the department has final control over land use decisions by providing that the department may waive certain county requirements based upon the area or site itself. Subsection (a)(5) was modified after discussion with the counties include language that provisions of a Memorandum of Agreement with the county would take precedence to case-by-case waivers. This modification is shown in underlined text.

§10-3-40.06 Lessee obligations, generally. The lessee must be in good standing at all times.

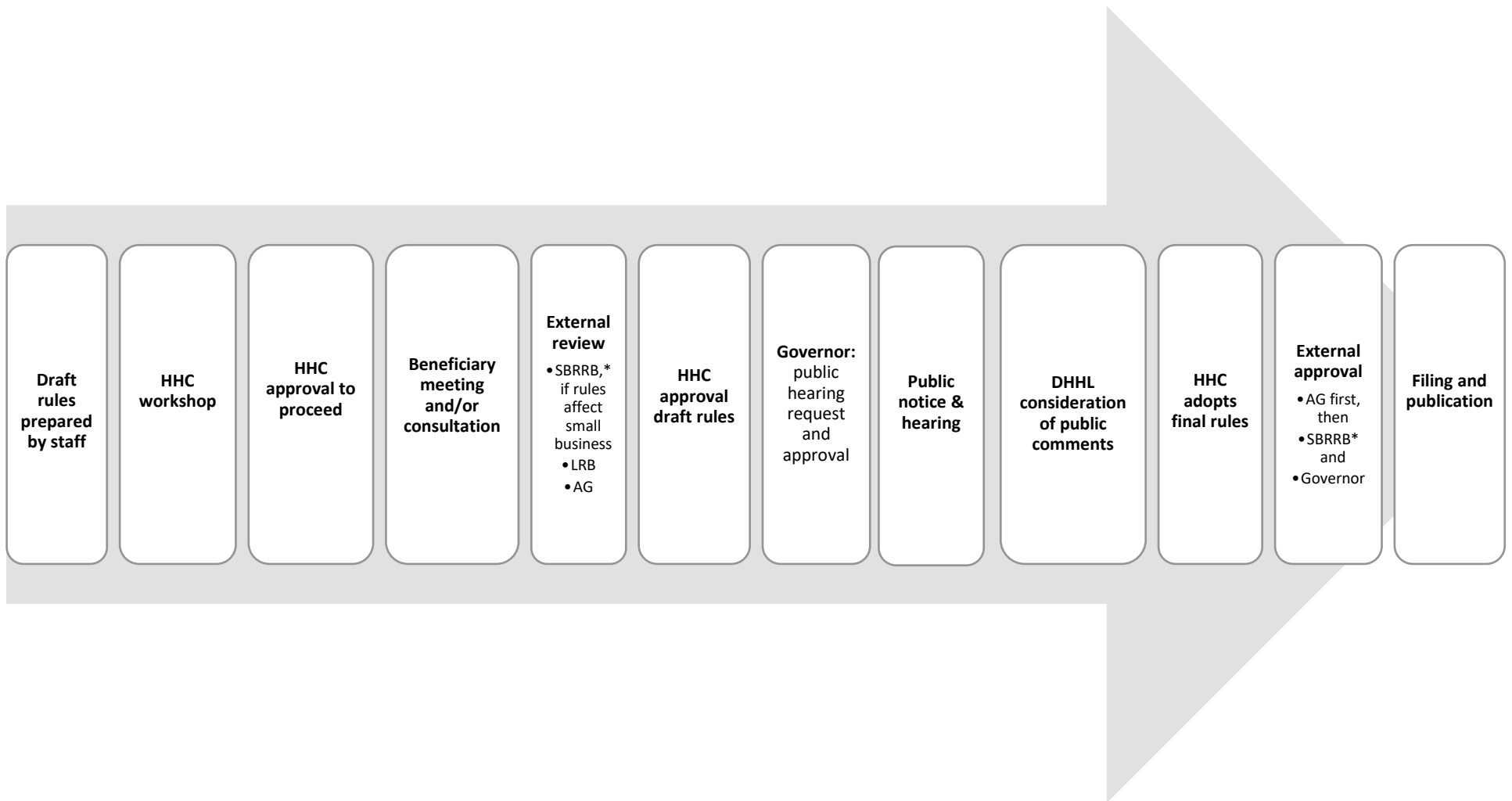
§10-3-40.07 Supplemental dwelling units. The SDU can be categorized as an "ohana SDU" or a "rental SDU." For ohana use, the occupant must be a qualified relative of the lessee under HHCA section 209. For rental use, the HHCA section 208 requires the renter be native Hawaiian. The Department would need to verify the status of the occupant or the renter. Ohana use is intended to help lessee families who live in crowded conditions such that different generations could reside in different units but still contribute to the household as a single unit. Rental use, however, is intended as an income producing option for lessees and as providing additional housing options for native Hawaiian families.

RECOMMENDATION:

None. For information only.

 <p>HAWAIIAN HOME LANDS <small>DEPARTMENT OF HAWAIIAN HOME LANDS - UNIVERSITY OF HAWAII SYSTEM</small></p> <p>C-6</p> <p>For Information Only: Update on Administrative Rules for Supplemental Dwelling Units</p> <p>September 21-22, 2020</p> <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>	<p>Roadmap</p> <ul style="list-style-type: none"> • Background • Key Provisions • Known Challenges • Current Status <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>
<p>Background</p> <ul style="list-style-type: none"> • What is an "SDU"? <ul style="list-style-type: none"> • Supplemental Dwelling Unit • Smaller than the primary dwelling, separate entry, its own kitchen, bedroom, and bathroom • Includes "ohana dwelling unit" in Hawaii County and "additional dwelling unit" in Maui and Kauai Counties and the City and County of Honolulu <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>	<p>Background</p> <ul style="list-style-type: none"> • Why on Hawaiian Home Lands? <ul style="list-style-type: none"> • Crowding • Multi-generational households • Parity with the counties <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>
<p>Key Provisions & Challenges</p> <ul style="list-style-type: none"> • Pilot program <ul style="list-style-type: none"> • 5 years, review after 3 years; option to continue if found to be successful • All islands • Residential lots only <ul style="list-style-type: none"> • Agriculture and Pastoral lots have options to increase number of dwellings • Beneficiary consultation feedback indicated a desire for all lot types to be eligible but staff recommendation was to limit to residential lots <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>	<p>Key Provisions & Challenges</p> <ul style="list-style-type: none"> • Comply with County approval, permitting, and building code requirements <ul style="list-style-type: none"> • Infrastructure capacity and occupant as well as public safety • Each county has its own terminology and its own process for approval and permitting <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>
<p>Key Provisions & Challenges</p> <ul style="list-style-type: none"> • Waiver by the Commission and DHHL <ul style="list-style-type: none"> • Lots in older developments in particular may not receive county approval • Commission may waive certain county requirements • If there is a denial by the county, DHHL may approve the SDU if the denial is based on lot conditions <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>	<p>Key Provisions & Challenges</p> <ul style="list-style-type: none"> • Allowed uses <ul style="list-style-type: none"> • Ohana occupancy; non-rental • Rental occupancy; tenant must be native Hawaiian as defined by the HHCA • No short term rentals <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>
<p>Current Status</p> <ul style="list-style-type: none"> • Preparing to submit request to Governor for approval for public hearing <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>	<p>Mahalo</p>  <p>DEPARTMENT OF HAWAIIAN HOME LANDS</p> <p>www.dhhl.hawaii.gov</p> <p><small>DEPARTMENT OF HAWAIIAN HOME LANDS - OFFICE OF THE CHAIR</small></p>

TITLE 10, HAWAII ADMINISTRATIVE RULES
DEVELOPMENT, REVIEW, AND AMENDMENT PROCESS




*Small Business Regulatory Review Board

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

January 28, 2019

TO: Chairman and Members, Hawaiian Homes Commission

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

SUBJECT: Approval of Recommendations for Department of Hawaiian Home Lands Proposed Amendments to Title 10, Hawaii Administrative Rules for Supplemental Dwelling Units; and to Proceed with Rulemaking under Hawaii Revised Statutes Chapter 91

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission approve recommended changes for proposed administrative rules for Supplemental Dwelling Units; and to proceed with rulemaking under Hawaii Revised Statutes Chapter 91.

DISCUSSION:

In accordance with the Administrative Rules Development, Review, and Amendment Process adopted by the Hawaiian Homes Commission in July 2015, the Department of Hawaiian Home Lands conducts Beneficiary Consultation before initiating rulemaking under Ch.91, HRS.

The HHC approved the DHHL's request to proceed with beneficiary consultation regarding proposed administrative rules amendments for DCCRs; and Multi-Family, Rentals, and Kupuna Housing; and Supplemental Dwelling Units at its December 2017 meeting. From April 30, 2018 to July 30, 2018, the DHHL conducted statewide beneficiary consultation meetings to discuss with and get feedback from beneficiaries about the proposed rule amendments. The amended Beneficiary Consultation Report was presented as Item No. C-2, "Acceptance of Amended Beneficiary Consultation Report on Department of Hawaiian Home Lands Proposed Amendments to Title 10, Hawaii Administrative Rules for DCCRs; Multi-Family, Rentals, and Kupuna Housing; and Supplemental Dwelling Units" at the October 2018 regular meeting.

Based upon comments received through the beneficiary consultation process, subsequent evaluation, and feedback from the Commission (see Exhibit A), staff recommends the following changes to the draft rules related to Supplemental Dwelling Units. The draft rules, inclusive of the changes listed below are attached as Exhibit B; proposed changes are underlined in the rule text.

- **§10-3-40.02:** Broaden definition of "supplemental dwelling unit" to include attached or detached units and county terminology to reduce potential ambiguity.
- **§10-3-40.05:** Include all islands in pilot program
- **§10-3-40.05(2) and §10-3-40.07:** Remove references to floor area and lot size

Analysis of Transcribed Meeting Notes

The chart below summarizes the transcribed meeting notes into patterns or themes and provides a staff response. It also identifies specific suggestions from beneficiary comments that resulted in a recommendation to change the draft proposals.

Question	Draft Provision	Comments/Themes	Response
Do you support supplemental dwelling units on HHL? Why?	General	Comments indicated widespread support for SDUs to keep families together whether it be for kupuna to age in place or for adult children to have a home and keep costs down. There was concern about the cost to build including permits and utility connections, water in particular. There was also concern about parking. And questions regarding SDUs on lots in planned communities.	Section 10-3-40.07 of the proposal includes an option to dedicate the SDU for ohana use as well as an option for long term rental to a native Hawaiian. The proposal generally requires lessees comply with the requirements of the respective counties, which typically requires additional parking be provided; 10-3-40.05 and 10-3-40.07. Whether SDUs can be built in planned communities will depend on county regulation regarding lot size as well as the DCCRs that govern a particular community.

<p>When should SDUs be allowed? What criteria should DHHL use to make that determination?</p>	<p>10-3-40.05 Lot requirements; 10-3-40.06 Lessee obligations, generally; 10-3-40.10 Existing structures, non-compliance</p>	<p>There was a general mix of comments many suggesting/supporting reliance on county criteria while other comments urged DHHL should develop its own code.</p>	<p>At present, relying on the counties for criteria and building code is the practical and readily available option for quick implementation. <u>Staff recommends</u> removing lot size and floor area references from 10-3-40.05 and 10-3-40.07 and instead refer to county requirements.</p>
<p>The proposal is a pilot project for residential lots on Oahu and Hawaii Island. What do you think about that?</p>	<p>10-3-40.03 Pilot program</p>	<p>Comments supported initiating SDU program with a pilot program and review as proposed. However, attendees consistently suggested their island should be included. Another consistent comment was that agriculture and pastoral lots should be included and the program should not be limited to residential lots.</p>	<p>Although originally included for administrative and workload management, based on beneficiary comments and Commission feedback, <u>staff recommends</u> the proposal include all islands in the pilot project. However, staff recommends the pilot program remain limited to residential lots. Agriculture lots can be subdivided and supplemental dwellings can be build on subsistence agriculture lots under existing section 10-3-26.</p>
<p>Who can live in an SDU on HHL?</p>	<p>10-3-40.07(b) Supplemental dwelling units; 10-3-40.08 Landlord-tenant code compliance; 10-3-40.09 Fair housing act compliance</p>	<p>Comments had strong support for ohana living in the SDU and general support for renting only to “native Hawaiian” as defined by the Act. However, a fair amount of comments would define ohana to include more relations than is included in the HHCA.</p>	<p>The HHCA sections 208 and 209 provide lists of relatives who qualify for transfer and a list that qualifies for successorship. HHCA section 209 provides that with the approval of the department a lessee may rent living space to a native Hawaiian or native Hawaiians.</p>

			Section 10-3-40.02 defines "ohana occupant" as a qualified relative under HHCA section 209(a).
Size of an SDU has an impact on the value of the structure. Should DHHL limit the size of the SDU based on an appraisal cap to limit liability for the trust and keep units on HHL affordable?	10-3-40.05 Lot requirements; 10-3-40.07(a) Supplemental dwelling units	Comments generally wanted to keep housing on the homelands affordable as possible. While some were willing to support an appraisal cap, others thought the ability to make a return on their investment/improvements if they chose to sell those improvements should not be limited. Suggestions tended toward what can the department do in terms of loans and subsidies to keep costs down.	The question was included as a means of looking ahead to discuss what solutions may be viable options to maintain affordability on the homelands, especially since an SDU will add potentially significant amount to the appraised value.

RECOMMENDATION:

Staff requests approval of the motion as recommended above.



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Supplemental Dwelling Units on Hawaiian Home Lands

Item C-2_Workshop_Nov 2018

Program Options

- Subsistence agriculture allows more than one dwelling.
- Option: limited expansion
 - Add agriculture and pastoral only; or
 - Add residential only
- Option: global expansion
 - All lot types may be eligible
- Option: pilot program
 - Open to all or certain lot types on one island for a set period of time

Item C-2_Workshop_Nov 2018

Proposed Solution

- Pilot Program
 - Oahu and Hawaii Island
 - Residential lots
 - 5 years; evaluation after 3 years

- Beneficiary Consultation
 - Comments suggest expanding to all islands *and* all lot types

Item C-2_Workshop_Nov 2018

3

Post Consultation

- Staff Recommends:
- Pilot Program as proposed
 - Oahu and Hawaii Island
 - Residential lots
 - 5 years; evaluation after 3 years

Item C-2_Workshop_Nov 2018

4

Why a Pilot Program?

- Complexity
 - Department: coordinate with counties; LDD review; Planning review; HSD lease amendments and NHQ; Enforcement
 - Lessees: financing; county permits; upgrades

Item C-2_Workshop_Nov 2018

Why Oahu?

- MOU with Hawaii County Planning
- MOU in process with City and County of Honolulu
- Demand is greatest on Oahu

Item C-2_Workshop_Nov 2018

Why Resident

- Agriculture and Pastoral lots are for farming and ranching uses
- Agriculture and Pastoral lessees in compliance can apply for workers' quarters
- Agriculture and Pastoral lessees can subdivide

Item C-2_Workshop_Nov 2018

Why 5 Years, Evaluate

- Staff believes this is a realistic timeframe for a fair number of lessees to complete the process from SDU application to completed construction.
- Evaluation after 3 years forces the Department to analyze the process and make critical decisions on program improvement and viability.

Item C-2_Workshop_Nov 2018

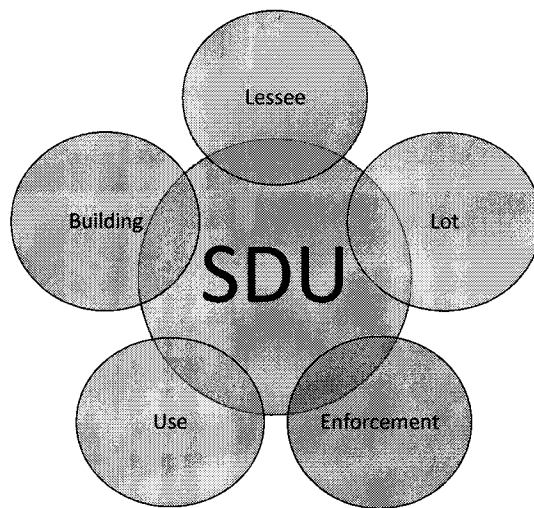
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Participation Requirements

- Lot**
 - SDU compatible with Island and Area plans
 - Not prohibited by DCCR
 - No existing supplemental dwelling*
 - Meet county requirements
- Lessee**
 - Good standing
 - Reside in main house or SDU

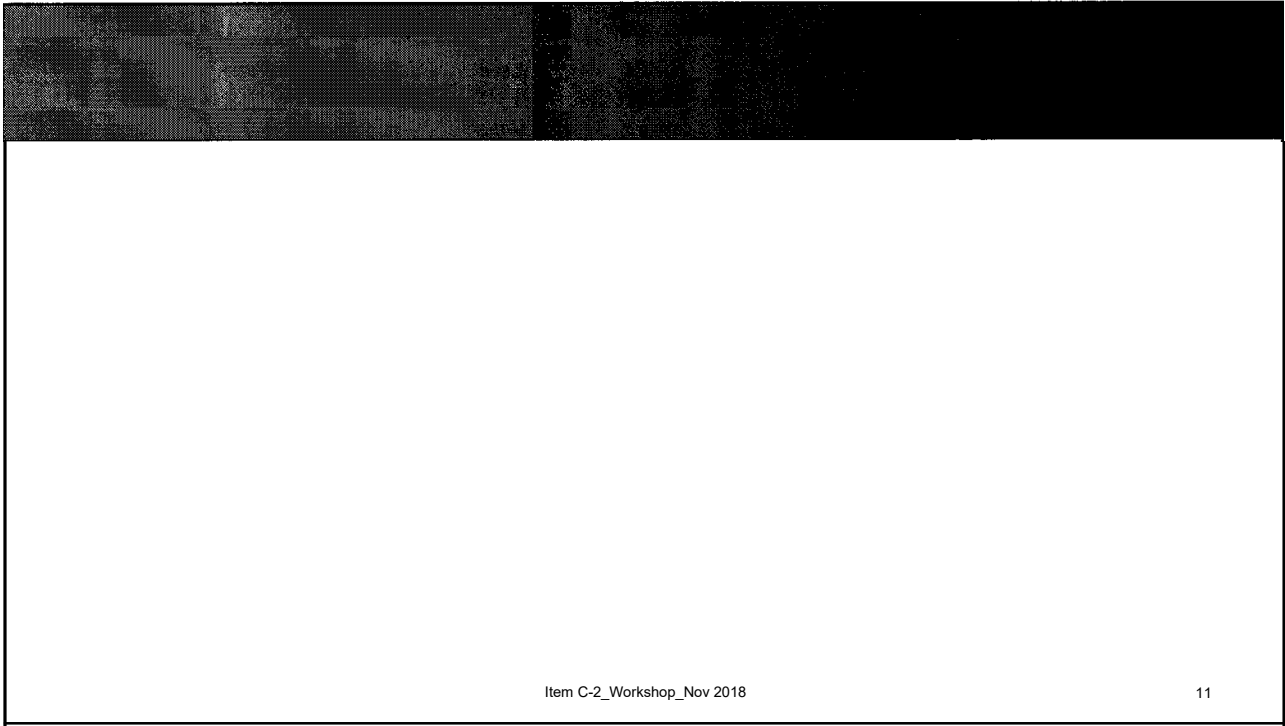
Item C-2_Workshop_Nov 2018

Program Components



Item C-2_Workshop_Nov 2018

10



Item C-2_Workshop_Nov 2018

11

TITLE 10

DEPARTMENT OF HAWAIIAN HOME LANDS

CHAPTER 3

NATIVE HAWAIIAN REHABILITATION PROGRAM

SUBCHAPTER 3.1

SUPPLEMENTAL DWELLING UNIT

§10-3-40.01 Purpose. The purpose of this subchapter is to provide residential lessees who qualify with the option to build a supplementary dwelling unit that could help ease certain housing issues facing native Hawaiian families like need, overcrowding, and financial strain. [Eff and comp (Auth: HHC Act §222) (Imp: HHC Act §208)]

§10-3-40.02 Definitions. As used in this subchapter, unless context clearly provides otherwise, "Dwelling unit renter" means the native Hawaiian who rents, from the lessee, either the primary dwelling unit or SDU individually, or with the native Hawaiian's immediate family, maintaining a common household to the exclusion of others.

"Good-standing" means the status of a lessee who is in compliance with all obligations contained in the residential homestead lease, the act, and this title.

"Ohana occupant" means the qualified relative under section 209(a) of the act who resides in either the primary dwelling or the ohana SDU individually or with the ohana occupant's immediate family.

"Supplemental dwelling unit (SDU)" means a dwelling unit that is supplementary to the primary dwelling, is attached or detached, is smaller in size, has a separate entry, and includes its own kitchen, bedroom, and bathroom facilities. SDU includes "ohana dwelling unit" in Hawaii county and "additional dwelling unit" in the city and county of Honolulu, Maui county, and Kauai county. [Eff and comp (Auth: HHC Act §222) (Imp: HHC Act §208)]

§10-3-40.03 Pilot program. Upon promulgation of this subchapter, the SDU program shall commence as a five-year pilot program ~~on the islands of Oahu and Hawaii.~~ The program shall be evaluated after three years. If deemed successful, the department may continue the program and expand to other islands, or the program shall terminate at the end of the five-year pilot period. Any SDU completed under the pilot program shall remain subject to this subchapter and any lease amendments made in furtherance of the program, even though the SDU program is discontinued ~~or not expanded to other islands or both.~~ [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.04 SDU application and review. (a) The lessee shall complete the application and return it to the department. Within 30 days, the department shall review the application for completeness and notify the lessee whether the application is complete or incomplete. If an application is deemed incomplete, it will be returned to the lessee with further instruction about how to revise. If the

lessee fails to revise the application in accordance with the instructions provided and return the application to the department within 30 days, the application shall be cancelled.

(b) All applications require written approval from the commission before construction may commence. Such approval shall be considered only after a completed application has been submitted to the department, including a plan as to design, material, probable value of the SOU structure and related improvements, and any other information required by the department. The SOU structure and related improvements shall be permitted by and meet all building codes or other ordinances and regulations of the respective counties, except as otherwise provided by the commission. The department may take up to 60 days to render a decision on a completed application and notify the lessee of placement on the commission agenda or of the reasons for denying the application.

(c) The department shall not be required to finance construction of the SOU nor shall the department be liable for any cost or expense incurred in the processing and obtaining of the necessary county permits and approvals.

(d) The lessee shall complete construction of the SOU within one year after receiving notice that commission approval has been granted. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.05 Lot requirements. A residential lot may qualify for the SOU program if it meets the following requirements:

- (1) Constructing an SOU on the lot is compatible with the island plan and the area plan;
- ~~(2) The lot is at least 3,500 SF;~~
- (32) The lot is not landlocked;
- (43) The lot does not have more than one dwelling

unit, attached or detached, already existing on the property;

- (54) Private covenants, conditions, and restrictions do not prohibit such; and
- (65) Respective county requirements for an additional dwelling unit. The department may, with/the approval of the chairman, authorize a waiver of certain county regulatory requirements based upon specific area conditions, unique site characteristics, or other constraints related to the lot. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.06 Lessee obligations, generally. (a)

To participate in the SOU program, the lessee shall be in good-standing at all times.

(b) The lessee shall reside in either the primary dwelling or in the SOU. If the lessee moves into the SOU, the lessee shall provide the department with an updated mailing address in accordance with section 10-3-10(a).

(c) Failure of the lessee to maintain good-standing shall be cause for lease cancellation pursuant to section 10-3-28. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.07 Supplemental dwelling units. (a)

Any SOU shall fall within the following ~~floor~~respective county's area maximums: ~~400 square feet (for lots with an area of 3,500 to 4,999 square feet) and 800 square feet (for lots with an area of 5,000 square feet or more).~~

(b) A lessee may apply to the department for one of the following programs at the time of application:

- (1) Ohana SOU is specifically for non-

rental, ohana use purposes. The ohana occupant shall establish the required biological relationship to the lessee to the satisfaction of the department before taking occupancy. The department may allow the ohana occupant to contribute toward household expenses such as utilities and mortgage payments, if applicable, but rent shall not be charged.

- (2) Rental SDU is specifically for rental purposes, to supplement income for the lessee and potentially help to provide housing for native Hawaiians. The dwelling unit renter shall be qualified under the act by the department but is not required to establish a qualified relationship to the lessee. The department shall prioritize applications from lessees with a verifiable potential tenant currently on a waitlist.
- (A) The minimum rental period agreement on the unit shall be six months;
 - (B) The lessee shall provide a standard lease agreement to the tenant; and
 - (C) Each agreement shall carry a rider written by the department and signed by the lessee and dwelling unit renter that provides the general obligations of the department, waiver of liability, and guarantees made by the lessee.

(c) The lessee shall submit a request to the department if the lessee wants to change the program use of the unit. The department shall provide a response to the lessee within 30 days of receipt of the request. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.08 Landlord-tenant code compliance.

The residential landlord and tenant code, HRS ch. 521, is applicable only so far as it does not conflict with the act, this title, and the lease itself. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.09 Fair housing act compliance.

Lessee must remain in compliance with the section 804 of the fair housing act, 42 U.S.C. §3604 insofar as it does not conflict with the act, this title, and the lease. [Eff and comp
] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.10 Existing structures, non-compliance. If one or more structures that have not been approved by the department or are unpermitted, or both, exist on the lot, the lessee may be allowed to come into compliance through the SOU process. However, if the existing structure or structures are unsafe for human habitation, the lessee may be required to bring the structure into compliance with county building codes, including demolition of the structure at the lessee's expense. [Eff and comp
] (Auth: HHC Act §222) (Imp: HHC Act §208)

TITLE 10

DEPARTMENT OF HAWAIIAN HOME LANDS

CHAPTER 3

NATIVE HAWAIIAN REHABILITATION PROGRAM

SUBCHAPTER 3.1

SUPPLEMENTAL DWELLING UNIT

§10-3-40.01 Purpose. The purpose of this subchapter is to provide residential lessees who qualify with the option to build a supplementary dwelling unit that could help ease certain housing issues facing native Hawaiian families like need, overcrowding, and financial strain. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.02 Definitions. As used in this subchapter, unless context clearly provides otherwise, "Dwelling unit renter" means the native Hawaiian who rents, from the lessee, either the primary dwelling unit or SDU individually, or with the native Hawaiian's immediate family, maintaining a common household to the exclusion of others.

"Good-standing" means the status of a lessee who is in compliance with all obligations contained in the residential homestead lease, the act, and this title.

"Ohana occupant" means the qualified relative under section 209(a) of the act who resides in either

the primary dwelling or the ohana SDU individually or with the ohana occupant's immediate family.

"Supplemental dwelling unit (SDU)" means a dwelling unit that is supplementary to the primary dwelling, is attached or detached, is smaller in size, has a separate entry, and includes its own kitchen, bedroom, and bathroom facilities. SDU includes "ohana dwelling unit" in Hawaii county and "additional dwelling unit" in the city and county of Honolulu, Maui county, and Kauai county. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.03 Pilot program. Upon promulgation of this subchapter, the SDU program shall commence as a five-year pilot program. The program shall be evaluated after three years. If deemed successful, the department may continue the program, or the program shall terminate at the end of the five-year pilot period. Any SDU completed under the pilot program shall remain subject to this subchapter and any lease amendments made in furtherance of the program, even though the SDU program is discontinued. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.04 SDU application and review. (a) ~~The lessee shall complete the application and return it to the department. Within 30 days, the department shall review the application for completeness and notify the lessee whether the application is complete or incomplete. If an application is deemed incomplete, it will be returned to the lessee with further instruction about how to revise. If the lessee fails to revise the application in accordance with the instructions provided and return the application to the department within 30 days, the application shall be cancelled.~~The lessee shall

complete the department's SDU application. Within 30 days, the department shall notify the lessee to proceed with the county application or if lease compliance matters must first be addressed. If the lessee fails within 30 days to address the lease compliance matters with the department, the application shall be cancelled.

~~(b) All applications require written approval from the commission before construction may commence. Such approval shall be considered only after a completed application has been submitted to the department, including a plan as to design, material, probable value of the SDU structure and related improvements, and any other information required by the department. The SDU structure and related improvements shall be permitted by and meet all building codes or other ordinances and regulations of the respective counties, except as otherwise provided by the commission. The department may take up to 60 days to render a decision on a completed application and notify the lessee of placement on the commission agenda or of the reasons for denying the application. The SDU structure and related improvements shall be permitted by and meet all building codes or other ordinances and regulations of the respective counties, except as otherwise provided by the commission. Commission approval is required before construction may begin. The department shall notify the lessee of placement on the commission agenda.~~

(c) The department shall not be required to finance construction of the SDU nor shall the department be liable for any cost or expense incurred in the processing and obtaining of the necessary county permits and approvals.

(d) The lessee shall complete construction of the SDU within one year after receiving notice that commission approval has been granted. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.05 Lot requirements. A residential lot may qualify for the SDU program if it meets the following requirements:

- (1) Constructing an SDU on the lot is compatible with the island plan and the area plan;
- (2) The lot is not landlocked;
- (3) The lot does not have more than one dwelling unit, attached or detached, already existing on the property;
- (4) Private covenants, conditions, and restrictions do not prohibit SDUs; and
- (5) Respective county requirements for an additional dwelling unit. Unless otherwise provided in a Memorandum of Agreement with the county, the department may, with the approval of the chairman, authorize a case-by-case waiver of certain county regulatory requirements based upon specific area conditions, unique site characteristics, or other constraints related to the lot. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.06 Lessee obligations, generally. (a) To participate in the SDU program, the lessee shall be in good-standing at all times.

(b) The lessee shall reside in either the primary dwelling or in the SDU. If the lessee moves into the SDU, the lessee shall provide the department with an updated mailing address in accordance with section 10-3-10(a).

(c) Failure of the lessee to maintain good-standing shall be cause for lease cancellation pursuant to section 10-3-28. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.07 Supplemental dwelling units. (a)

Any SDU shall fall within the respective county's area maximums.

(b) A lessee may apply to the department for one of the following programs at the time of application:

(1) Ohana SDU is specifically for non-rental, ohana use purposes. The ohana occupant shall establish the required biological relationship to the lessee to the satisfaction of the department before taking occupancy. The department may allow the ohana occupant to contribute toward household expenses such as utilities and mortgage payments, if applicable, but rent shall not be charged.

(2) Rental SDU is specifically for rental purposes, to supplement income for the lessee and potentially help to provide housing for native Hawaiians. The dwelling unit renter shall be qualified under the act by the department but is not required to establish a qualified relationship to the lessee. The department shall prioritize applications from lessees with a verifiable potential tenant currently on a waitlist.

- (A) The minimum rental period agreement on the unit shall be six months;
- (B) The lessee shall provide a standard lease agreement to the tenant; and
- (C) Each agreement shall carry a rider written by the department and signed by the lessee and dwelling unit renter that provides the general obligations of the department, waiver of liability, and guarantees made by the lessee.

(c) The lessee shall submit a request to the department if the lessee wants to change the program use of the unit. The department shall provide a response to the lessee within 30 days of receipt of

the request. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.08 Landlord-tenant code compliance.

The residential landlord and tenant code, HRS ch. 521, is applicable only so far as it does not conflict with the act, this title, and the lease itself. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.09 Fair housing act compliance.

Lessee must remain in compliance with the section 804 of the fair housing act, 42 U.S.C. §3604 insofar as it does not conflict with the act, this title, and the lease. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

§10-3-40.10 Existing structures, non-compliance.

If one or more structures that have not been approved by the department or are unpermitted, or both, exist on the lot, the lessee may be allowed to come into compliance through the SDU process. However, if the existing structure or structures are unsafe for human habitation, the lessee may be required to bring the structure into compliance with county building codes, including demolition of the structure at the lessee's expense. [Eff and comp] (Auth: HHC Act §222) (Imp: HHC Act §208)

**HAWAIIAN HOMES COMMISSION
OCTOBER 19 & 20, 2020
TELECONFERENCE
9:30 A.M.**


D – ITEMS

HOMESTEAD SERVICES DIVISION

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission
From: Juan Garcia, 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

October 19, 2020

SUBJECT: Homestead Lease and Application Totals and Monthly Activity Reports

LEASE ACTIVITY REPORT

Month through September 30, 2020

	As of 8/31/20	Add	Cancel	As of 9/30/20
Residential	8,441	9	7	8,443
Agricultural	1,095	0	0	1,095
Pastoral	410	0	0	410
Total	9,946	9	7	9,948

The number of Converted Undivided Interest Lessees represents an increase of 523 families moving into homes. Their Undivided Interest lease was converted to a regular homestead lease.

	As of 8/30/20	Converted	Rescinded/ Surrendered/ Cancelled	As of 9/30/20
Undivided	804	6	0	798

Balance as of 9/31/2020

Awarded	1,434
Relocated to UNDV	7
Rescinded	111
Surrendered	5
Cancelled	4
Converted	<u>523</u>
Balance to Convert	798

Lease Report For the Month Ending September 30, 2020

	----- 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																
Kakaia	24	0	0	24	0	0	0	0	0	0	0	0	24	0	0	24
Kalawahina	90	0	0	90	0	0	0	0	0	0	0	0	90	0	0	90
Kanehili	380	6	0	386	0	0	0	0	0	0	0	0	380	6	0	386
Kapolei	193	0	6	187	0	0	0	0	0	0	0	0	193	0	6	187
Kauluokahal	100	0	0	100	0	0	0	0	0	0	0	0	100	0	0	100
Kaupea	326	0	0	326	0	0	0	0	0	0	0	0	326	0	0	326
Kaupuni	19	0	0	19	0	0	0	0	0	0	0	0	19	0	0	19
Kewalo	248	1	0	249	0	0	0	0	0	0	0	0	248	1	0	249
Kumuhau	52	0	0	52	0	0	0	0	0	0	0	0	52	0	0	52
Lualualei	148	0	0	148	31	0	0	31	0	0	0	0	179	0	0	179
Malu'ohai	226	0	0	226	0	0	0	0	0	0	0	0	226	0	0	226
Nanakuli	1,045	0	0	1,045	0	0	0	0	0	0	0	0	1,045	0	0	1,045
Papakoloa	65	0	1	64	0	0	0	0	0	0	0	0	65	0	1	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
Waianae	421	0	0	421	11	0	0	11	0	0	0	0	432	0	0	432
Waimanalo	721	0	0	721	2	0	0	2	0	0	0	0	723	0	0	723
TOTAL	4,329	7	7	4,329	60	0	0	60	0	0	0	0	4,389	7	7	4,389
MAUI																
Hikina	31	0	0	31	0	0	0	0	0	0	0	0	31	0	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
Lealii	104	0	0	104	0	0	0	0	0	0	0	0	104	0	0	104
Pauku'alo	179	0	0	179	0	0	0	0	0	0	0	0	179	0	0	179
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	0	0	1,266	65	0	0	65	75	0	0	75	1,406	0	0	1,406
EAST HAWAII																
Discovery Harbour	2	0	0	2	0	0	0	0	0	0	0	0	2	0	0	2
Kamaoa	0	0	0	0	0	0	0	0	25	0	0	25	25	0	0	25
Kaamana	42	0	0	42	0	0	0	0	0	0	0	0	42	0	0	42
Keaukaha	472	1	0	473	0	0	0	0	0	0	0	0	472	1	0	473
Kurtistown	3	0	0	3	0	0	0	0	0	0	0	0	3	0	0	3
Makuu	0	0	0	0	122	0	0	122	0	0	0	0	122	0	0	122
Panaewa	0	0	0	0	262	0	0	262	0	0	0	0	262	0	0	262
Piihonua	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
Waialea	299	0	0	299	0	0	0	0	0	0	0	0	299	0	0	299
TOTAL	839	1	0	840	396	0	0	396	25	0	0	25	1,260	1	0	1,261
WEST HAWAII																
Honokaia	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
Kanihale	224	0	0	224	0	0	0	0	0	0	0	0	224	0	0	224
Kawaihae	191	0	0	191	0	0	0	0	1	0	0	1	192	0	0	192
Laiopua	284	0	0	284	0	0	0	0	0	0	0	0	284	0	0	284
Lalamilo	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	878	0	0	878	110	0	0	110	282	0	0	282	1,270	0	0	1,270
KAUAI																
Anahola	532	0	0	532	46	0	0	46	0	0	0	0	578	0	0	578
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	696	0	0	696	46	0	0	46	1	0	0	1	743	0	0	743
MOLOKAI																
Hoolehua	154	0	0	154	344	0	0	344	21	0	0	21	519	0	0	519
Kalamaula	165	0	0	165	71	0	0	71	3	0	0	3	239	0	0	239
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	27	0	0	27	0	0	0	0	0	0	0	0	27	0	0	27
TOTAL	393	0	0	393	418	0	0	418	27	0	0	27	838	0	0	838
LANAI																
Lanai	40	1	0	41	0	0	0	0	0	0	0	0	40	1	0	41
TOTAL	40	1	0	41	0	0	0	0	0	0	0	0	40	1	0	41
STATEWIDE TOTAL	8,441	9	7	8,443	1,095	0	0	1,095	410	0	0	410	9,946	9	7	9,948

HOMESTEAD AREA AND ISLANDWIDE APPLICATIONS WAITING LIST MONTHLY REPORT FOR THE MONTH ENDING
September 30, 2020

AREA WAITING LIST

DISTRICT AREA	RESIDENCE			AGRICULTURE			PASTURE			TOTAL
	Last Month	Add	Cancel	Last Month	Add	Cancel	Last Month	Add	Cancel	
Oahu District	951	0	4	0	0	0	0	0	0	947
Maui District	50	0	0	4	0	0	5	0	0	59
Hawaii District	130	0	0	28	0	0	46	0	0	204
Kauai District	51	0	0	3	0	0	28	0	0	82
Molokai District	20	0	0	18	0	0	1	0	0	39
TOTAL	1,202	0	4	53	0	0	80	0	0	1,331

ISLANDWIDE WAITING LIST

ISLAND	RESIDENCE			AGRICULTURE			PASTURE			TOTAL
	Last Month	Add	Cancel	Last Month	Add	Cancel	Last Month	Add	Cancel	
Oahu	9,920	10	7	3,813	0	0	616	0	0	13,736
Maui	3,809	0	3	4,664	0	1	0	0	0	9,085
Hawaii	5,777	3	4	7,249	3	1	1,882	2	0	14,911
Kauai	1,647	4	3	2,236	2	1	299	0	0	4,184
Molokai	817	1	0	1,077	0	0	204	0	0	2,099
Lanai	76	1	2	0	0	0	0	0	0	75
TOTAL	22,046	19	19	19,039	5	3	3,001	2	0	44,090

AREA AND ISLANDWIDE LISTS

AREA AND ISLANDWIDE LISTS	RES			AG			PAS			TOTAL			ADDITIONS			CANCELLATIONS														
	Last Month	Add	Cancel	Last Month	Add	Cancel	Last Month	Add	Cancel	Last Month	Add	Cancel	New Applications	Application Transfers	Lease Rescissions	App Reinstatements	HHC Adjustments	TOTAL	New Lease Awards	Application Transfers	Succ'd and Cancel Own	Public Notice Cancel	Voluntary Cancellations	Lease Successorships	HHC Adjustments	Dec'd No Successor	Additional Acreage	NHQ Unqualified	TOTAL	
OAHU	10,870	3,813	4,667	0	0	0	3,813	0	0	3,813	0	0	20	6	0	0	0	18	6	0	0	0	0	0	0	0	0	0	6	
MAUI	3,856	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
HAWAII	5,906	7,279	2,240	1,930	3	1	7,251	3	1	7,251	3	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
KAUAI	1,699	4	3	327	2	1	2,237	2	1	2,237	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MOLOKAI	838	1,095	1,095	205	0	0	1,077	0	0	1,077	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
LANAI	75	0	2	0	0	0	75	0	0	75	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	23,244	19,094	3,083	19,039	5	3	19,041	5	3	19,041	5	3	3,001	2	0	0	0	0	26	2	0	0	0	0	0	2	0	0	0	26

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

September 30, 2020

	RESIDENCE			AGRICULTURE			PASTURE			TOTAL
	Last Month	Add	Cancel	Last Month	Add	Cancel	Last Month	Add	Cancel	
OAHU DISTRICT										
Nanakuli	167	0	1	0	0	0	0	0	0	166
Waianae	142	0	0	0	0	0	0	0	0	142
Luualaei	0	0	0	0	0	0	0	0	0	0
Papaikouia/Kewalo	70	0	0	0	0	0	0	0	0	70
Waimanalo	572	0	3	0	0	0	0	0	0	569
Subtotal Area	951	0	4	0	0	0	0	0	0	947
Islandwide	9,920	10	7	3,813	0	0	0	0	0	13,736
TOTAL OAHU APPS	10,871	10	11	3,813	0	0	0	0	0	14,683
MAUI DISTRICT										
Paukukalo	50	0	0	0	0	0	0	0	0	50
Kula	0	0	0	4	0	0	5	0	0	9
Subtotal Area	50	0	0	4	0	0	5	0	0	59
Islandwide	3,809	0	3	4,664	0	1	616	0	0	9,085
TOTAL MAUI APPS	3,859	0	3	4,668	0	1	621	0	0	9,144
HAWAII DISTRICT										
Keaukaha/Waialea	69	0	0	0	0	0	0	0	0	69
Panaewa	0	0	0	16	0	0	0	0	0	16
Humuula	0	0	0	0	0	0	0	0	0	0
Kawaihae	16	0	0	0	0	0	0	0	0	16
Waimea	45	0	0	12	0	0	46	0	0	103
Subtotal Area	130	0	0	28	0	0	46	0	0	204
Islandwide	5,777	3	4	7,249	3	1	1,882	2	0	14,911
TOTAL HAWAII APPS	5,907	3	4	7,277	3	1	1,928	2	0	15,115
KAUAI DISTRICT										
Anahola	43	0	0	3	0	0	21	0	0	67
Kekaha/Puu Opae	8	0	0	0	0	0	7	0	0	15
Subtotal Area	51	0	0	3	0	0	28	0	0	82
Islandwide	1,647	4	3	2,236	2	1	299	0	0	4,184
TOTAL KAUAI APPS	1,698	4	3	2,239	2	1	327	0	0	4,266
MOLOKAI DISTRICT										
Kalamaula	4	0	0	0	0	0	0	0	0	4
Hoolehua	8	0	0	18	0	0	1	0	0	27
Kapaakea	7	0	0	0	0	0	0	0	0	7
One Aii	1	0	0	0	0	0	0	0	0	1
Subtotal Area	20	0	0	18	0	0	1	0	0	39
Islandwide	817	1	0	1,077	0	0	204	0	0	2,099
TOTAL MOLOKAI APPS	837	1	0	1,095	0	0	205	0	0	2,138
LANAI DISTRICT										
Islandwide	76	1	2	0	0	0	0	0	0	75
TOTAL LANAI APPS	76	1	2	0	0	0	0	0	0	75
TOTAL AREA ONLY	1,202	0	4	53	0	0	80	0	0	1,331
TOTAL ISLANDWIDE	22,046	19	23	19,039	5	3	3,001	2	0	44,090
TOTAL STATEWIDE	23,248	19	23	19,092	5	3	3,081	2	0	45,421

DELINQUENCY REPORT - STATEWIDE

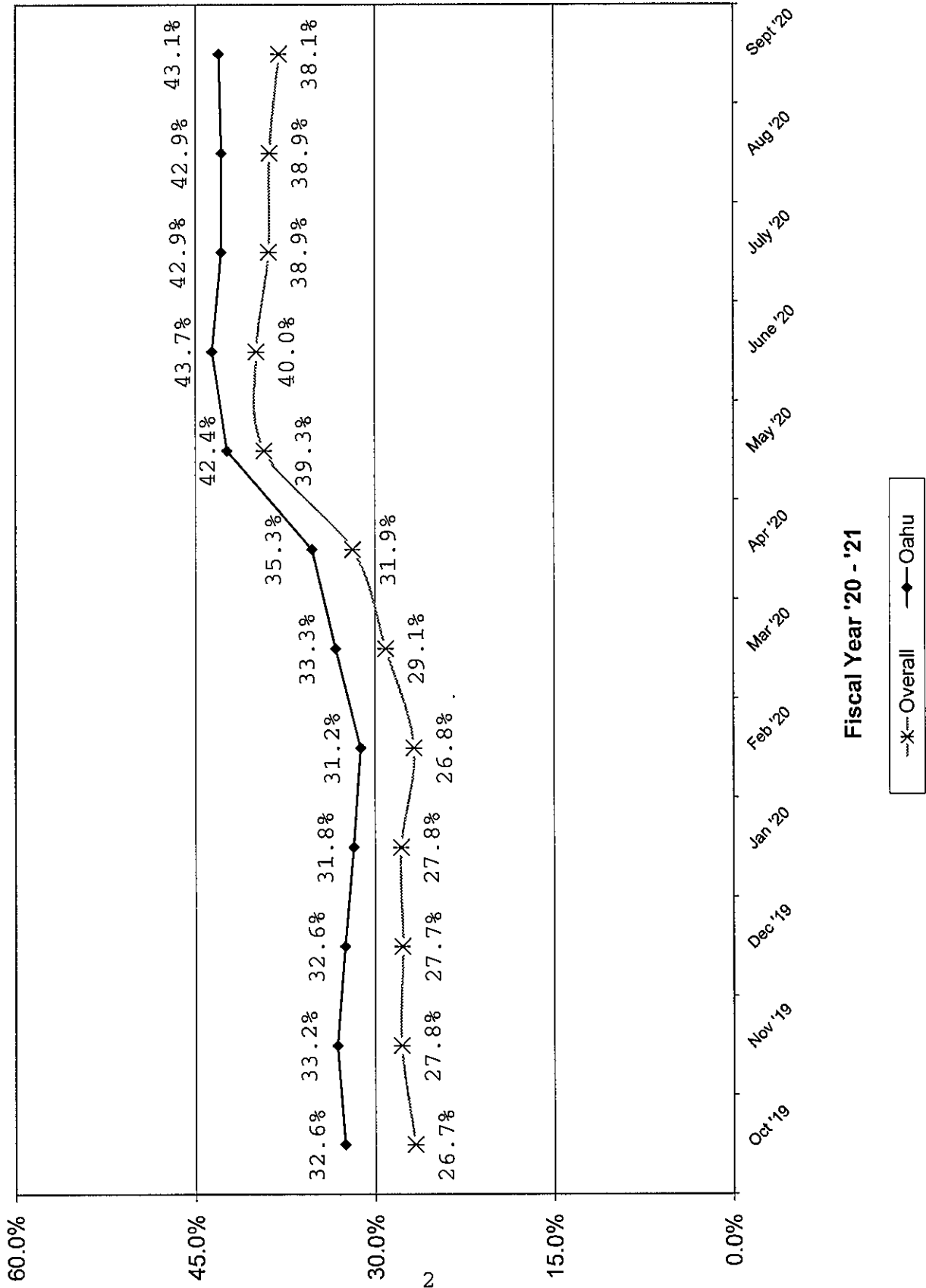
October 19, 2020

(\$Thousands)

DIRECT LOANS	R I S K												% of Totals 9/30/2020	
	Total Outstanding		Total Delinquency		30 Days (low)		60 Days (Medium)		90 Days (High)		180 Days (Severe)			
	No.	(000s) Amt.	No.	(000s) Amt.	No.	(000s) Amt.	No.	(000s) Amt.	No.	(000s) Amt.	No.	(000s) Amt.		
OAHU	394	36,977	161	15,936	18	1,235	5	253	66	6,605	72	7,843	40.9%	\$ 43.1%
EAST HAWAII	212	12,838	88	5,869	5	228	5	232	37	1,998	41	3,411	41.5%	45.7%
WEST HAWAII	86	8,721	15	1,410	1	95	1	13	8	931	5	371	17.4%	16.2%
MOLOKAI	85	6,865	21	987	1	13	1	153	8	328	11	494	24.7%	14.4%
KAUAI	97	7,554	30	2,189	6	433	2	231	17	1,172	5	353	30.9%	29.0%
MAUI	94	12,368	46	6,088	5	346	1	113	27	3,546	13	2,083	48.9%	49.2%
TOTAL DIRECT	968	85,323	361	32,479	36	2,349	15	996	163	14,579	147	14,556	37.3%	38.1%
	100.0%	100.0%	37.3%	38.1%	3.7%	2.8%	1.5%	1.2%	16.8%	17.1%	15.2%	17.1%		
Advances (including RPT)	241	8,018	241	8,018	0	0	0	0	241	8,018	0	0	100%	100%
DHHL LOANS & Advances	1,209	93,342	602	40,498	36	2,349	15	996	404	22,597	147	14,556	49.8%	43.4%
LOAN GUARANTEES as of June 30, 2019														
SBA	1	88	0	0	0	0	0	0	0	0	0	0	0.0%	0.0%
USDA-RD	297	35,079	53	6,039	0	0	0	0	53	6,039	0	0	17.8%	17.2%
Habitat for Humanity	56	2,142	22	896	0	0	0	0	22	896	0	0	39.3%	41.8%
Maui County	5	74	0	0	0	0	0	0	0	0	0	0	0.0%	0.0%
Nanakuli NHS	1	7	1	7	0	0	0	0	1	7	0	0	100.0%	100.0%
City & County	14	274	12	258	0	0	0	0	12	258	0	0	85.7%	94.2%
FHA Interim	11	1,445	0	0	0	0	0	0	0	0	0	0	0.0%	0.0%
OHA	21	87	1	6	0	0	0	0	1	6	0	0	4.8%	6.9%
TOTAL GUARANTEE	406	39,196	89	7,206	0	0	0	0	89	7,206	0	0	21.9%	18.4%
PMI Loans	167	25,132	6	1,198	3	549	1	233	2	416	0	0	3.6%	4.8%
HUD REASSIGNED for Recovery	157	18,977	136	17,594	3	222	2	134	6	450	125	16,788	86.6%	92.7%
FHA Insured Loans	2,822	462,263	352	59,557	0	0	0	0	352	59,557	0	0	12.5%	12.9%
TOTAL INS. LOANS	3,146	506,372	494	78,349	6	771	3	367	360	60,423	125	16,788	15.7%	15.5%
OVERALL TOTALS(EXC ADV/RPT's)	4,520	630,891	944	118,034	42	3,120	18	1,362	612	82,208	272	31,344	20.9%	18.7%
ADJUSTED TOTALS	4,761	638,910	1,185	126,052	42	3,120	18	1,362	853	90,226	272	31,344	19.7%	19.7%

Note: HUD 184A loan program has 531 loans, with a total outstanding principal balance of \$116,367,560 as of June 30, 2020. 23 loans, totalling \$5,381,378.94 are delinquent.

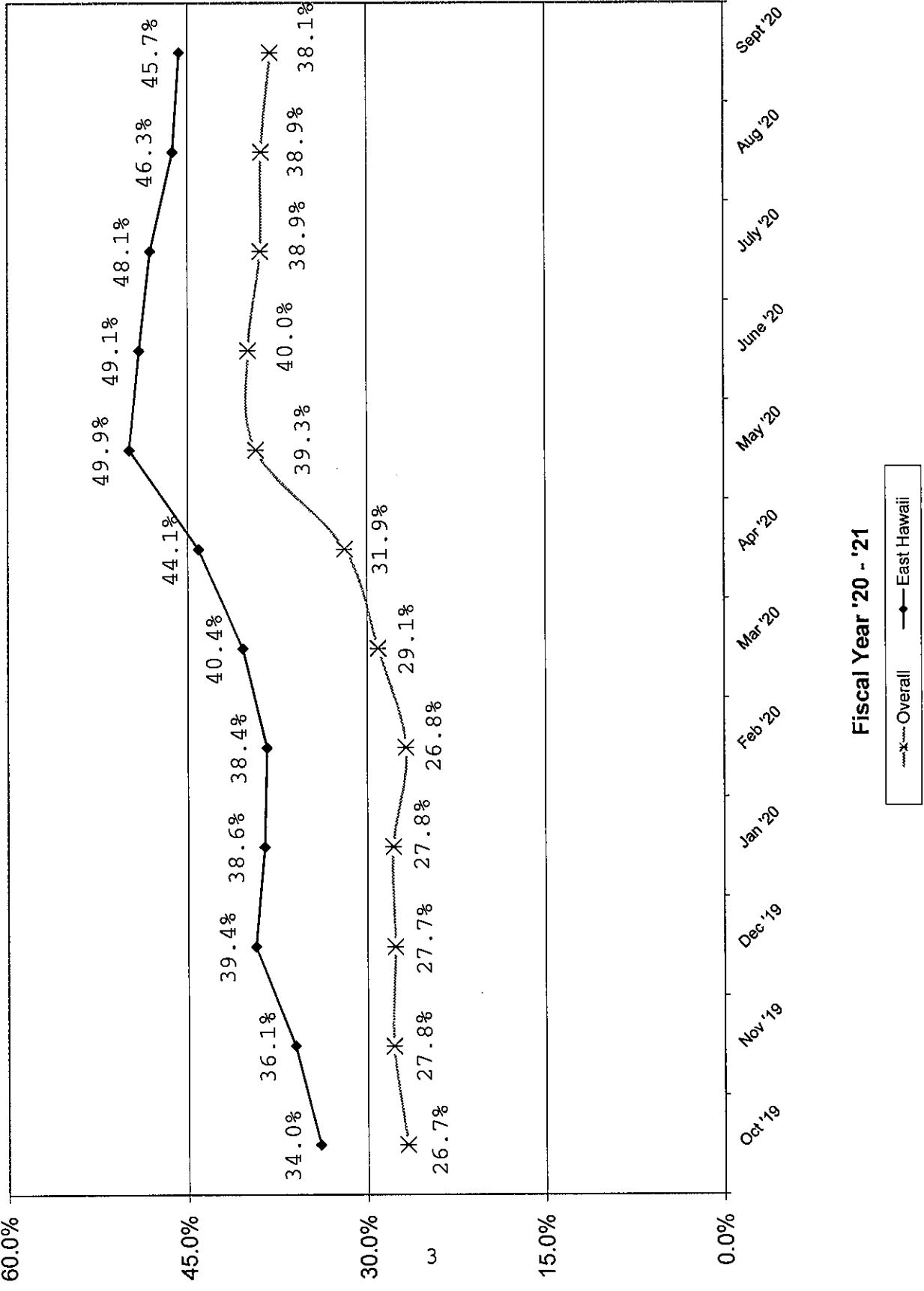
OAHU
Direct Loans
Delinquency Ratio Report



Fiscal Year '20 - '21

—x— Overall —◆— Oahu

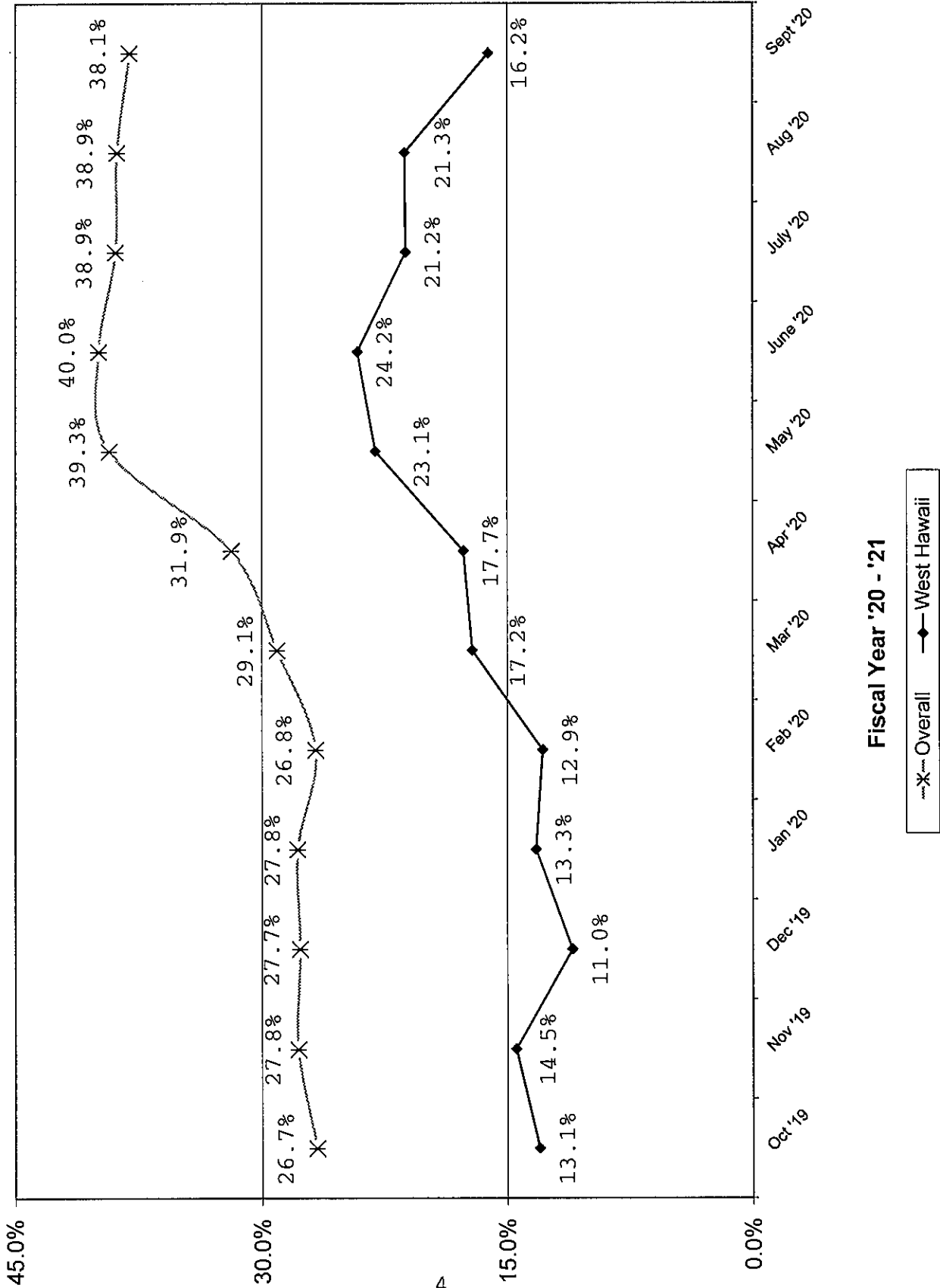
**EAST HAWAII
Direct Loans
Delinquency Ratio Report**



Fiscal Year '20 - '21

---x--- Overall —◆— East Hawaii

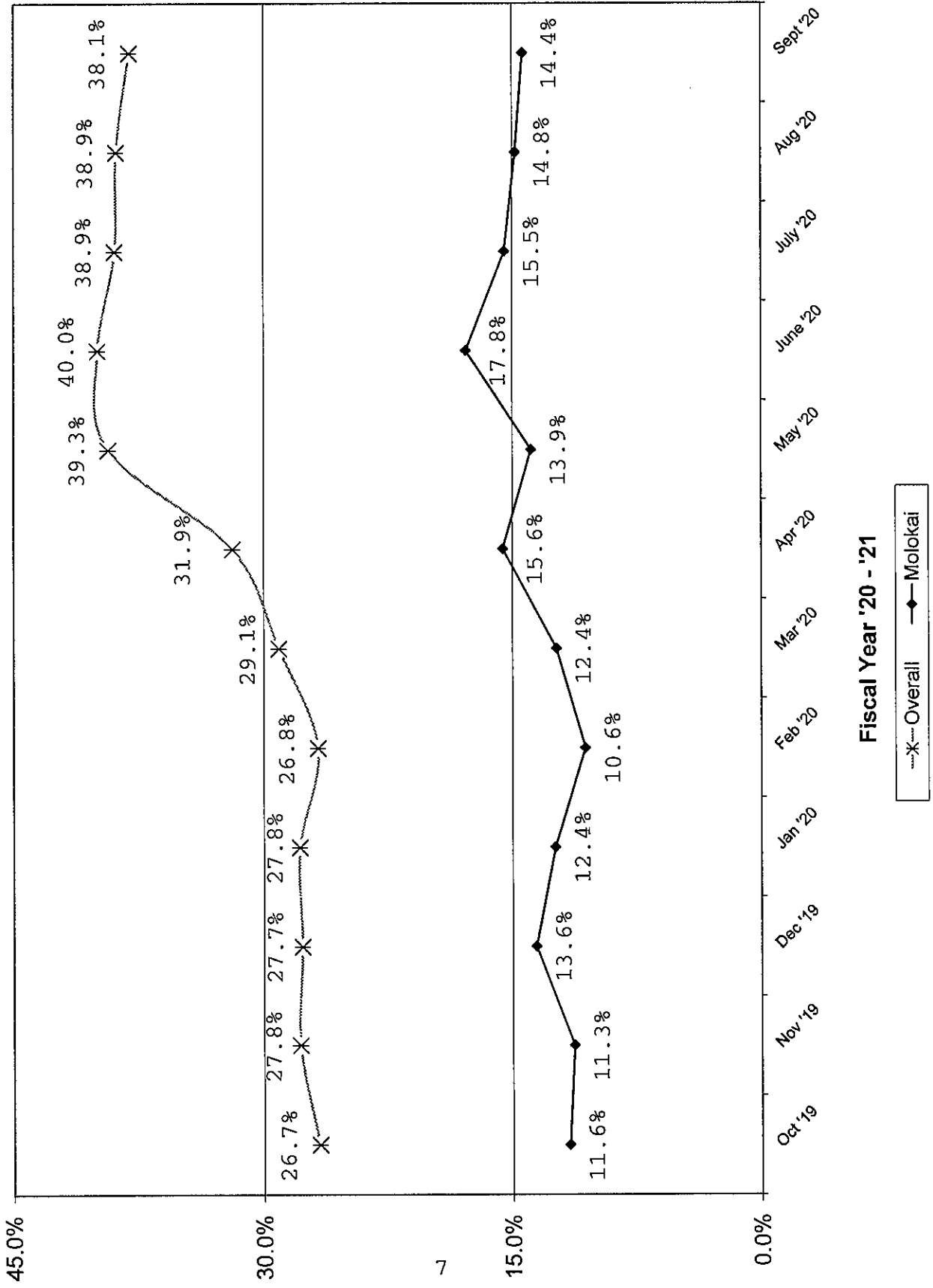
**WEST HAWAII
Direct Loans
Delinquency Ratio Report**



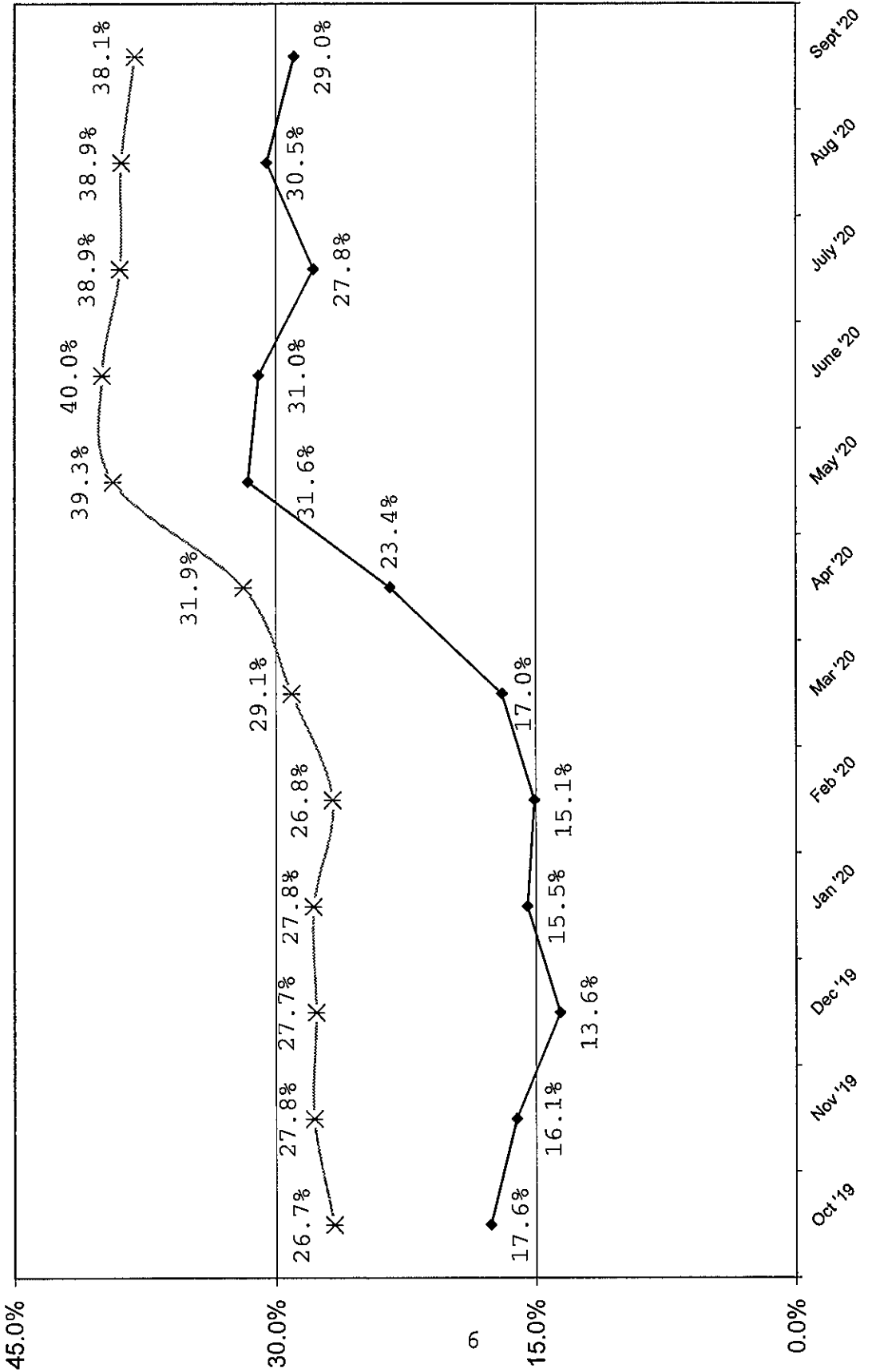
Fiscal Year '20 - '21

---*--- Overall —◆— West Hawaii

**MOLOKAI
Direct Loans
Delinquency Ratio Report**



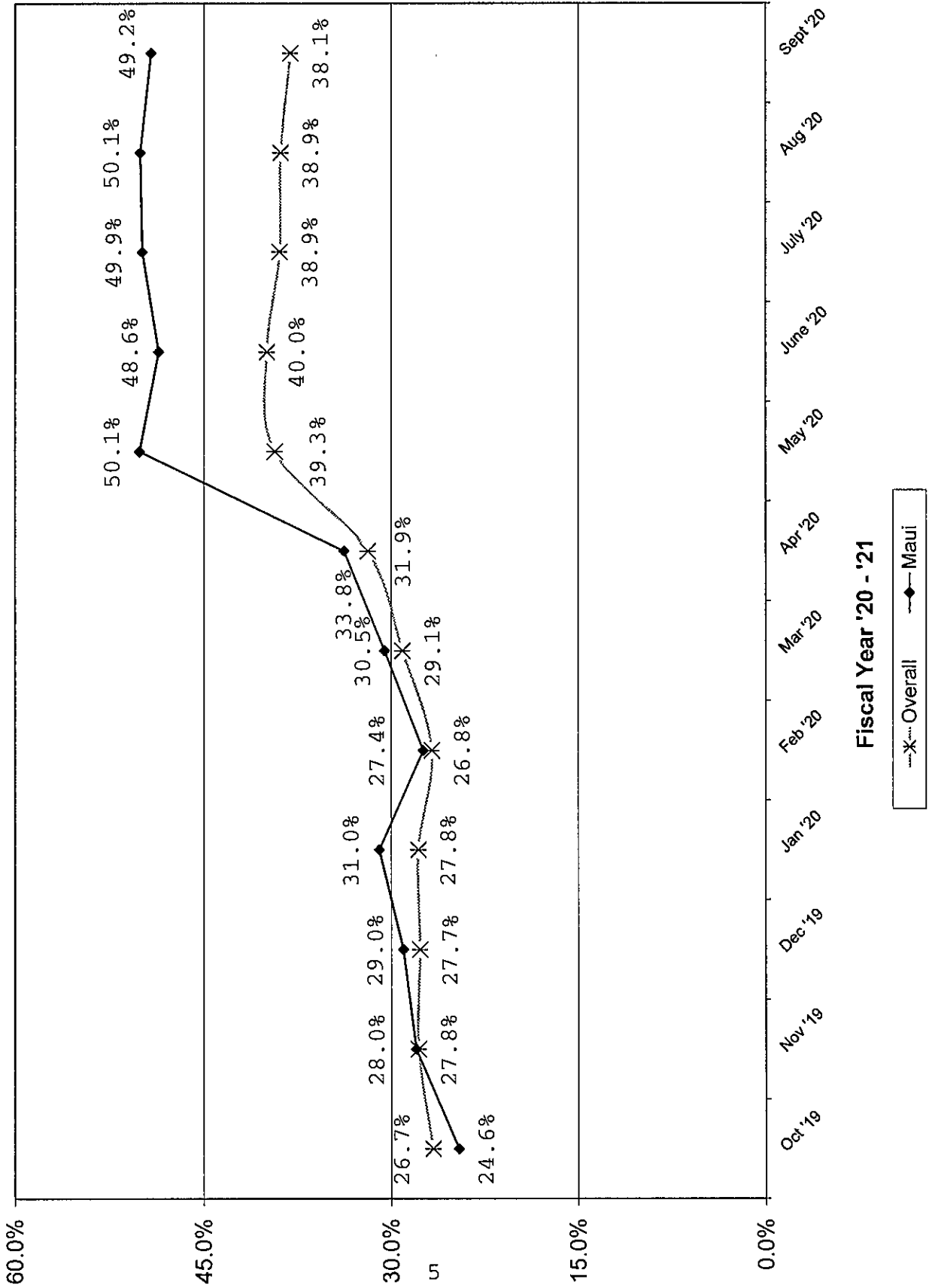
KAUAI
Direct Loans
Delinquency Ratio Report



Fiscal Year '20 - '21



MAUI
Direct Loans
Delinquency Ratio Report



Fiscal Year '20 - '21

x Overall ♦ Maui

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Juan Garcia, HSD Administrator
Homestead Services Division
FROM: Dean Oshiro, Loan Services Manager
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>			
Princess Kahanu Estates Lease No. 8357 TMK: 1-8-7-042:066	NAHALEA, Quincy A., Jr. (FHA)Streamline Refi	HighTechLen- ding Inc.	\$ 298,000
Nanakuli Lease No. 1923 TMK: 1-8-9-004:048	KAWAIAEA, Albert (FHA)Cash Out Refi	Bank of Hawaii	\$ 217,600
Kewalo Lease No. 2762 TMK: 1-2-5-021:044	HOOPAI, Jason K. (FHA)Purchase	Mid America Mortgage Inc.	\$ 721,050

OAHU

Waianae Lease No. 5339 TMK: 1-8-5-033:050	ANGUAY, Kaleo (FHA)Cash Out Refi	Guild Mortgage Co.	\$ 261,000
Kaupea Lease No. 11371 TMK: 1-9-1-139:083	NALAIELUA, Patricia Ann P. (FHA)Cash Out Refi	Guild Mortgage Co.	\$ 365,000
Kanehili Lease No. 11597 TMK: 1-9-1-153:011	PENNINGTON, Edwina (FHA)Purchase	Guild Mortgage Co.	\$ 386,115
Kanehili Lease No. 11819 TMK: 1-9-1-152:047	KALILIKANE, Samuel, Sr. (FHA)Rate & Term Refi	Mid America Mortgage Inc.	\$ 184,000
Maluohai Lease No. 9820 TMK: 1-9-1-119:047	FABRAO, Dawn K. (FHA)Streamline Refi	Mid America Mortgage Inc.	\$ 241,000
Kaupea Lease No. 11906 TMK: 1-9-1-139:148	LENCHANKO, Nicholas H. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 342,000
Kaupea Lease No. 12098 TMK: 1-9-1-140:086	THURSTON, Paul J. (FHA)Streamline Refi	Mid America Mortgage Inc.	\$ 292,000
Kanehili Lease No. 12572 TMK: 1-9-1-153:126	AKO-PALL, Kyrtsie L. (FHA)Purchase	Freedom Mortgage Corp.	\$ 453,000

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OAHU

Waimanalo Lease No. 2521 TMK: 1-4-1-020:014	DANE, Roslyn L. (FHA)Streamline Refi	Mid America Mortgage Inc.	\$ 358,000
Maluohai Lease No. 9774 TMK: 1-9-1-119:033	MONTEZ, Maury Blu &, MONTEZ, Uluwehi (VA)Rate & Term Refi	Department of Veterans Affairs	\$ 246,000
Nanakuli Lease No. 8621 TMK: 1-8-9-017:052	GLOVER, Robert W. (VA)Rate & Term Refi	Department of Veterans Affairs	\$ 387,000
Kanehili Lease No. 12905 TMK: 1-9-1-153:002	FELISE, Cherish (FHA)Purchase	Bank of Hawaii	\$ 400,000
Kanehili Lease No. 11857 TMK: 1-9-1-152:111	SHIMOSE, Shaun (HUD 184A) Purchase	HomeStreet Bank	\$ 525,446
Waimanalo Lease No. 2529 TMK: 1-4-1-020:016	NAHINA, Douglas M. (HUD 184A) Cash Out Refi	HomeStreet Bank	\$ 235,000
Waianae Lease No. 4575 TMK: 1-8-5-030:041	AH NEE, Lenora (FHA)Cash Out Refi	HomeStreet Bank	\$ 225,000
Waiehu 4 Lease No. 12197 TMK: 2-3-2-025:038	JABER, Lori K. &, JABER, Lance P. (FHA)Cash Out Refi	HomeStreet Bank	\$ 249,880

ITEM NO. D-2

MAUI

Paukukalo Lease No. 3475 TMK: 2-3-3-005:008	VALLE, Roland K. (FHA)Cash Out Refi	Homebridge Financial Services, Inc.	\$ 197,739
Waiehu 2 Lease No. 9507 TMK: 2-3-2-023:013	AKIONA, Jamie Lee K. (FHA)Cash Out Refi	Bank of Hawaii	\$ 338,008
Waiohuli Lease No. 7474 TMK: 2-2-2-027:022	KAHAE, Lisa K. K. (FHA)Cash Out Refi	Homebridge Financial Services, Inc.	\$ 311,400
Waiehu 4 Lease No. 12256 TMK: 2-3-2-026:016	TABISOLA, Jose B., Jr. (FHA)Cash Out Refi	Mid America Mortgage Inc.	\$ 333,000
Waiohuli Lease No. 7633 TMK: 2-2-2-027:055	PETERS, Angus K. (FHA)Streamline Refi	Mid America Mortgage Inc.	\$ 715,000
Leialii Lease No. 11531 TMK: 2-4-5-036:091	KAMA, Justin K. (FHA)Purchase	loanDepot.c- om, LLC	\$ 346,929
Waiehu Lease No. 5958 TMK: 2-3-2-021:022	AUWELOA, William H. (FHA)Cash Out Refi	HomeStreet Bank	\$ 105,000
Waiehu 2 Lease No. 9523 TMK: 2-3-2-023:029	AHANA, Peter (HUD 184A)Cash Out Refi	Homebridge Financial Services, Inc.	\$ 313,100

ITEM NO. D-2

MAUI

Waiehu 2 Lease No. 9542 TMK: 2-3-2-023:049	COLLO, Brianna K. (FHA)203k Rehab	Homebridge Financial Services, Inc.	\$ 415,200
Paukukalo Lease No. 8243 TMK: 2-3-3-006:097	SNIFFEN, Frederick J., Jr. (FHA)Cash Out Refi	HomeStreet Bank	\$ 200,000

KAUAI

Anahola Lease No. 8840 TMK: 4-4-8-020:053	CARVALHO, Destry K. (FHA)Cash Out Refi	Bank of Hawaii	\$ 217,600
Anahola Lease No. 6449 TMK: 4-4-8-020:003	KUPIHEA, Nathan K. (FHA)Cash Out Refi	HomeStreet Bank	\$ 133,120

HAWAII

University Heights Lease No. 8916 TMK: 3-2-4-024:151	ROBINSON, Roseannamary L. K. (FHA)Cash Out Refi	HomeStreet Bank	\$ 200,880
Waiakea Lease No. 9104 TMK: 3-2-2-063:066	KANUI, Edwin (FHA)Streamline Refi	Mid America Mortgage Inc.	\$ 224,000
Waiakea Lease No. 8947 TMK: 3-2-2-063:019	CHARTRAND, Chandler P. (FHA)Cash Out Refi	HomeStreet Bank	\$ 180,000
Panaewa Lease No. 6221 TMK: 3-2-1-025:070	DESHA, Ainahau G. (VA)Rate & Term Refi	Department of Veterans Affairs	\$ 132,000

ITEM NO. D-2


<u>RECAP</u>		<u>FHA</u> <u>AMOUNT</u>		<u>VA</u> <u>AMOUNT</u>
	<u>NO.</u>		<u>NO.</u>	
FY Ending 6/30/20	295	\$ 94,516,967	18	\$ 7,261,256
Prior Months	152	\$ 51,894,005	4	\$ 1,728,000
This Month	30	9,071,521	3	765,000
Total FY '20-'21	<u>182</u>	<u>\$ 60,965,526</u>	<u>7</u>	<u>\$ 2,493,000</u>
		<u>HUD 184A</u> <u>AMOUNT</u>		<u>USDA-RD</u> <u>AMOUNT</u>
FY Ending 6/30/20	61	\$ 18,080,394	12	\$ 3,322,000
Prior Months	11	\$ 3,543,360	3	\$ 1,375,000
This Month	3	1,073,546	0	0
Total FY '20-'21	<u>14</u>	<u>\$ 4,616,906</u>	<u>3</u>	<u>\$ 1,375,000</u>


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Juan Garcia, HSD Administrator 
Homestead Services Division

FROM: Dean Oshiro, Loan Services Branch Manager 

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>
Hanohano, Evette	4516, Nanakuli	NTE \$177,000 @4.5% interest per annum, NTE \$900 monthly, repayable over 30 years.

Loan Purpose: Refinance Contract of Loan No. 18019.
Original loan amount of \$172,308 at 6%
per annum, \$1,033 monthly, repayable
over 30 years. A Contested Case
Hearing was held on February 14, 2011
for this account.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Juan Garcia, HSD Administrator 
FROM: Nicole F. Bell, Specialist V 
Application Branch, 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 AGRICULTURAL LEASE LIST

AHUNA, Reynette N.	04/06/2017	KAUAI	AGR	09/17/2020
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OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

BROWN, Kathy Rose K.	08/31/1995	HAWAII	RES	09/16/2020
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MAUI ISLANDWIDE AGRICULTURAL LEASE LIST

SHOOK, Reef K.	06/10/2015	HAWAII	AGR	08/27/2020
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MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

SHOOK, Reef K.	06/10/2015	HAWAII	RES	08/27/2020
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2. Deceased Applicants

NONE FOR SUBMITTAL

3. Awards of Leases

OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

KIM-LUNING, Adam K. Assigned Residential Lease
#10294, Lot 215 in Waiohuli,
Maui dated 06/09/2020. Remove
application dated 02/20/2003.

SMITH, Debbie L.K.A. Assigned Residential Lease
#4328, Lot 65 in Anahola, Kauai
dated 08/07/2020. Remove
application dated 02/22/2006.

MAUI ISLANDWIDE AGRICULTURAL LEASE LIST

MAHONEY, John J. III Assigned Agricultural Lease
#7424, Lot 56 in Keokea, Maui
dated 08/27/2019. Remove
application dated 05/13/1986.

MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

LOPEZ, Roy Ipo Assigned Residential Lease
#12216, Lot 36 in Waiehu Kou 4,
Maui dated 04/09/2008. Remove
application dated 12/26/2006.

4. Native Hawaiian Qualification

NONE FOR SUBMITTAL

5. Voluntary Cancellation

NONE FOR SUBMITTAL

6. Successorship

OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

AH SUI, Kezia H. Succeeded to Oahu Islandwide Residential application of Grandmother, Gertrude K.M. Fisher, dated 01/15/1985. Remove application dated 01/18/2011.

HUIHUI, Eliot K. Succeeded to Oahu Islandwide Residential application of father, Henry A.S. Huihui, dated 09/19/1985. Remove application dated 01/13/2010.

HURLBUT, Yvonne L. Succeeded to Nanakuli Area /Oahu Islandwide Residential application of father, Frederick Welch Jr., dated 09/24/1976. Remove application dated 10/02/2019.

KAPUAALA, Vernest M.K. Succeeded to Oahu Islandwide Residential application of sibling, Ernest Kapuaala, dated 01/23/1980. Remove application dated 06/22/2020.

LOPES, Charles K., III Succeeded to Waimanalo Area / Oahu Islandwide Residential application of Grandfather, Charles K. Lopes, dated 01/17/1963. Remove application dated 10/08/2015.

MATAPUA, Brian Succeeded to Oahu Islandwide Residential application of mother, Charlotte Matapua, dated 07/10/1985. Remove application dated 07/15/2013.

SANDERS, Jocelyn Succeeded to Oahu Islandwide Residential application of mother, Jane Ellen K. Sanders, dated 06/21/1985. Remove application dated 09/19/2013.

MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

NAKOA, Francis K.

Succeeded to Oahu Islandwide Residential application of Sibling, Ned Nakoia Jr., dated 10/27/1978. Remove application dated 07/22/2010.

7. Additional Acreage

NONE FOR SUBMITTAL

8. HHC Adjustments



NONE FOR SUBMITTAL

Last Month's Transaction Total	26
Last Month's Cumulative FY 2020-2021 Transaction Total	93
Transfers from Island to Island	4
Deceased	0
Cancellations:	
Awards of Leases	4
NHQ	0
Voluntary Cancellations	0
Successorship	8
Additional Acreage	0
HHC Adjustments	0
This Month's Transaction Total	16
This Month's Cumulative FY 2020-2021 Transaction Total	109

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Juan Garcia, HSD Administrator 
FROM: Nicole F. Bell, Specialist V 
Application Branch, Homestead Services Division
SUBJECT: **Commission Designation of Successors to Application Rights - Public Notice 2016, 2017, 2018, 2019**

RECOMMENDED MOTION/ACTION

To designate the following individuals as successors to the application rights of deceased applicants who did not name a qualified successor.

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:	Fredrick Welch, Jr.
Date of death:	August 15, 2019
Successor to app rights:	Yvonne L. Hurlbut
Relationship to decedent:	Child
Island:	Nanakuli Area / Oahu
Type:	Islandwide Residential
Date of Application:	September 24, 1976
Date of Public Notice:	November, 2019

2. Deceased Applicant: Charles K. Lopes
Date of death: July 20, 2003
Successor to app rights: Charles K. Lopes, III
Relationship to decedent: Grandchild
Island: Waimanalo Area /Oahu
Type: Islandwide Residential
Date of Application: January 17, 1963
Date of Public Notice: November, 2017

3. Deceased Applicant: Gertrude K.M. Fisher
Date of death: November 12, 2016
Successor to app rights: Kezia H. Ah Sui
Relationship to decedent: Grandchild
Island: Oahu
Type: Islandwide Residential
Date of Application: January 15, 1985
Date of Public Notice: November, 2019

4. Deceased Applicant: Clayton K. Kahunanui
Date of death: February 8, 2019
Successor to app rights: Ehukaiikaika
S.K. Kahunanui
Relationship to decedent: Child
Island: Oahu
Type: Islandwide Residential
Date of Application: December 24, 1984
Date of Public Notice: November, 2019

5. Deceased Applicant: Bernadette Kalaukoa
Date of death: February 28, 2013
Successor to app rights: Samuel I. Kalaukoa
Relationship to decedent: Child
Island: Oahu
Type: Islandwide Residential
Date of Application: February 1, 1978
Date of Public Notice: November, 2018

6. Deceased Applicant: Ernest Kapuaala Jr.
Date of death: November 23, 2018
Successor to app rights: Vernest M.K. Kapuaala
Relationship to decedent: Sibling
Island: Oahu
Type: Islandwide Residential
Date of Application: January 23, 1980
Date of Public Notice: November, 2019

7. Deceased Applicant:	Charlotte Matapua
Date of death:	November 25, 2016
Successor to app rights:	Brian Matapua
Relationship to decedent:	Child
Island:	Oahu
Type:	Islandwide Residential
Date of Application:	July 10, 1985
Date of Public Notice:	November, 2019
8. Deceased Applicant:	Ned Nakoa, Jr.
Date of death:	May 18, 2008
Successor to app rights:	Francis K. Nakoa
Relationship to decedent:	Sibling
Island:	Oahu
Type:	Islandwide Residential
Date of Application:	October 27, 1978
Date of Public Notice:	November, 2016
9a. Deceased Applicant:	Annie A. Purdy
Date of death:	March 11, 2009
Successor to app rights:	Jobi U. Purdy
Relationship to decedent:	Child
Island:	Oahu
Type:	Islandwide Residential
Date of Application:	September 20, 1985
Date of Public Notice:	November, 2019
9b. Island:	Maui
Type:	Islandwide Agricultural
Date of Application:	September 20, 1985
Date of Public Notice:	November, 2019
10. Deceased Applicant:	Jennie L.K. Anderson
Date of death:	January 14, 2018
Successor to app rights:	Pamela-Jean K.A. Chip
Relationship to decedent:	Child
Island:	Hawaii
Type:	Islandwide Agricultural
Date of Application:	July 3, 1986
Date of Public Notice:	November, 2018

11. Deceased Applicant: Mabel K. Jaentsch
 Date of death: March 30, 2018
 Successor to app rights: Phillip L. Jaentsch
 Relationship to decedent: Child
 Island: Hawaii
 Type: Islandwide Agricultural
 Date of Application: May 10, 1984
 Date of Public Notice: November, 2018

12. Deceased Applicant: James W. Kelii
 Date of death: February 12, 2018
 Successor to app rights: Mapuana S. Tector
 Relationship to decedent: Sibling
 Island: Hawaii
 Type: Islandwide Pastoral
 Date of Application: April 7, 1987
 Date of Public Notice: November, 2018

13. Deceased Applicant: Simeon Enriquez
 Date of death: March 25, 2008
 Successor to app rights: Simeon Enriquez, Jr.
 Relationship to decedent: Child
 Island: Panaewa Area / Hawaii
 Type: Islandwide Agricultural
 Date of Application: October 7, 1970
 Date of Public Notice: November, 2018



14. Deceased Applicant: Keoki K.K. Keamoai
 Date of death: December 25, 2016
 Successor to app rights: Charity K. Kanahale
 Relationship to decedent: Child
 Island: Kauai
 Type: Islandwide Agricultural
 Date of Application: October 1, 1990
 Date of Public Notice: November, 2018

Previous Cumulative Total for Current FY	0
Current Month's Total	15
Fiscal Year Total: July 2020-June 2021	15

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Juan Garcia, HSD Administrator 
FROM: Nicole F. Bell, Specialist V 
Application Branch, Homestead Services Division
SUBJECT: **Reinstatement of Deferred Application -
JOY N. ROBLES & ERNEST B. KANOA**

RECOMMENDED MOTION/ACTION

To reinstate an application that was deferred due to the applicant not responding to two successive contacts as required by the department's administrative rules.

DISCUSSION

Section 10-3-10(b) of the *Hawaii Administrative Rules* states in part that "Whenever an applicant does not respond to any two successive requests from the department for updated information, the department shall place such applicant on a deferred status until such time as updated information is received."

The following applicants were deferred and has since contacted the department with updated information:

WAIMANALO AREA AND OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

<u>APPLICANT</u>	<u>APPLICATION DATE</u>	<u>HHC ACTION TO DEFER</u>	<u>CONTACT DATE WITH DEPARTMENT</u>
KANOA, Ernest B.	07/02/1968	01/30/1987	05/21/2012
ROBLES, Joy N.	05/03/1974	08/27/1991	09/17/2020

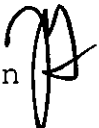
Previous Cumulative Total for Current FY	0
Current Month's Total	2
Fiscal Year Total: July 2020-June 2021	2

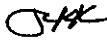
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator, Homestead Services Division 

FROM: Ross K. Kapeliela, Acting ODO 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:

Ratified for October 2020	4
Previous FY 2020 - 2021	<u>19</u>
FY 2020 - 2021 Total to Date	23

Ratified for FY '19 - '20	72
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Net Proceeds

Ratified for October 2020	0
Previous FY 2020- 2021	<u>0</u>
FY 2020 - 2021 Total to Date	0

Ratified for FY '19 - '20	0
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**LIST OF LESSEES WHO DESIGNATED SUCCESSORS TO THEIR
LEASEHOLD INTEREST
FOR MONTH OF OCTOBER 2020**

<u>Deceased Lessee</u>	<u>Designated Successor</u>
1. Archie A. Aki, Jr. Lot No.: 173-B Area: Keaukaha, Hawaii Lease No. 8740	<u>PRIMARY:</u> Neal Aki, Son <u>ALTERNATE:</u> N/A <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A
2. Luana P. Chow Lot No.: 51 Area: Kawaihae, Hawaii Lease No. 7105	<u>PRIMARY: Tenants in Common</u> *Henry K. K. S. Chow, Husband *Omit due to death on August 15, 2015 Catherine K. K. L. Chow, Daughter <u>ALTERNATE:</u> *Dondale M. K. Hoover, Son *Omit due to lack of genealogy documents to determine eligibility to successorship. <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A

3. Leilani M. Drees
Lot No.: 178
Area: PKE, Oahu
Lease No. 8469

PRIMARY:
Joeann L. Cunningham,
Daughter

ALTERNATE:
N/A

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

4. Norman W. Mersberg
Lot No.: 1
Area: Nanakuli, Oahu
Lease No. 5152

PRIMARY:
Patricia K. Mersberg, Wife

ALTERNATE: Joint Tenants
*Kualilehiwa M. Mersberg,
Daughter,
*Kaulana H. Mersberg, Son
*Liulamekahilina H.
Mersberg, Daughter
*Kuumauehahewelinapauolemeoe
C. M. Mersberg, Daughter
*Omit due to lack of
genealogy documents to
determine eligibility to
successorship

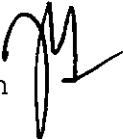
DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

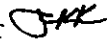
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator 
Homestead Services Division

FROM: Ross K. Kapeliela, Acting ODO 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: Nathan C. Akau & Marleen L. Akau
Res. Lease No. 2762, Lot No. 210
Lease Date: 5/14/1953
Area: Kewalo, Oahu
Property Sold & Amount: Yes, \$850,000.00
Improvements: 6 bedroom, 5 bath dwelling

Transferee Name: Jason K. Hoopai
Relationship: None
Loan Assumption: No
Applicant: Yes, Maui IW Res., 4/15/2004

Reason for Transfer: "Moving off island and medical reasons." Special Condition: Transferee to obtain funds to pay purchase price.

2. Lessee Name: Carolyn P. Bush
Res. Lease No. 4848, Lot No. 118-K
Lease Date: 7/22/1978
Area: Hoolehua, Molokai
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 1 bath dwelling

Transferee Name: Rose P. McComas
Relationship: Daughter
Loan Assumption: No
Applicant: Yes, Maui IW Res., 11/8/2006

Reason for Transfer: "Giving lease to relative."

3. Lessee Name: Carolyn P. Bush
Agr. Lease No. 4820, Lot No. 118-J
Lease Date: 7/22/1978
Area: Hoolehua, Molokai
Property Sold & Amount: No, N/A
Improvements: None

Transferee Name: Rose P. McComas
Relationship: Daughter
Loan Assumption: No
Applicant: Yes, Molokai IW Agr., 1/30/2006

Reason for Transfer: "Giving lease to relative."

4. Lessee Name: Peter K. Dela Cruz, Jr.
Res. Lease No. 634, Lot No. 36
Lease Date: 9/24/1937
Area: Papakolea, Oahu
Property Sold & Amount: No, N/A
Improvements: 5 bedroom, 2-1/2 bath dwelling

Transferee Name: Andrea P. Simpliciano
Relationship: Daughter
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

5. Lessee Name: Verna K. Kamealoha
Res. Lease No. 5535, Lot No. 140
Lease Date: 6/3/1985
Area: Lualualei, Oahu
Property Sold & Amount: Yes, \$380,000.00
Improvements: 4 bedroom, 2-1/2 bath dwelling

Transferee Name: Davina M. Beltran
Relationship: None
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 1/21/2020

Reason for Transfer: "Moving off island." Special
Condition: Transferee to obtain funds to pay purchase
price.

6. Lessee Name: Keliimana Mark-Lewis, Alohalani Rincon & Imua
Mark-Lewis
Res. Lease No. 344, Lot No. 175-A
Lease Date: 5/13/1930
Area: Nanakuli, Oahu
Property Sold & Amount: Yes, \$275,000.00
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Sirrena K. Galindo-Kanani Goodhue
Relationship: None
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 2/2/2004

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

7. Lessee Name: Darryl A. N. McKeague
Res. Lease No. 10013, Lot No. 301
Lease Date: 7/1/2004
Area: Keaukaha, Hawaii
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 2-1/2 bath dwelling

Transferee Name: Malama McKeague
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

8. Lessee Name: Patrick J. Mitchell, Jr.
Res. Lease No. 1792, Lot No. 202
Lease Date: 1/27/1947
Area: Nanakuli, Oahu
Property Sold & Amount: No, N/A
Improvements: 2 bedroom, 1 bath dwelling

Transferee Name: Rylen K. Pang
Relationship: Niece
Loan Assumption: No
Applicant: Yes, Oahu IW Res., 5/15/2018

Reason for Transfer: "Giving lease to relative."

9. Lessee Name: Joann M. Resentes
Res. Lease No. 476, Lot No. 29
Lease Date: 11/25/1930
Area: Nanakuli, Oahu
Property Sold & Amount: No, N/A
Improvements: 3 bedroom, 2 bath dwelling

Transferee Name: Brandon J. I. Resentes
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

10. Lessee Name: Rhoda V. L. Medeiros
Res. Lease No. 10753, Lot No. UNDV127
Lease Date: 12/3/2005
Area: Laiopua, Hawaii
Property Sold & Amount: No, N/A
Improvements: None

Transferee Name: Dayna H. Teriipaia
Relationship: Daughter
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

11. Lessee Name: Rex R. K. Pelfrey
Pas. Lease No. 8029, Lot No. 54
Lease Date: 2/1/1991
Area: Puukapu, Hawaii
Property Sold & Amount: No, N/A
Improvements: Perimeter fenced

Transferee Name: Kirk K. Pelfrey
Relationship: Son
Loan Assumption: No
Applicant: No

Reason for Transfer: "Giving lease to relative."

Assignments for the Month of October '20	11
Previous FY '20 - '21 balance	<u>59</u>
FY '20 - '21 total to date	70
Assignments for FY '19 - '20	176

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator
Homestead Services Division

FROM: Ross K. Kapeliela, Acting ODO 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

Nine (9) amendments of lease.

1. Lessee: Nathan C. Akau & Marleen L. Akau
Res. Lease No.: 2762
Lot No., Area, Island: 210, Kewalo, Oahu
Amendment: To amend the lease title and Lessor's name, to incorporate the currently used terms, covenants and conditions in the lease, and to extend the lease term to an aggregate term of 199 years.

2. Lessee: Carolyn P. Bush
Res. Lease No.: 4848
Lot No., Area, Island: 118K, Hoolehua, Molokai
Amendment: To update the property description.

3. Lessee: Carolyn P. Bush
Agr. Lease No.: 4820
Lot No., Area, Island: 118J, Hoolehua, Molokai
Amendment: To update the property description.
4. Lessee: Luana P. Chow
Res. Lease No.: 7105
Lot No., Area, Island: 51, Kawaihae, Hawaii
Amendment: To amend the commencement date, lot number, and property description due to final subdivision approval.
5. Lessee: Peter K. Dela Cruz, Jr.
Res. Lease No.: 634
Lot No., Area, Island: 36, Papakolea, Oahu
Amendment: To amend the lease title and Lessor's name, to incorporate the currently used term, covenants, and conditions in the lease and to extend the lease term to an aggregate term of 199 years.
6. Lessee: Francine K. Guzman
Res. Lease No.: 3131
Lot No., Area, Island: 183-B-1, Nanakuli, Oahu
Amendment: To amend the lease to extend the lease term to an aggregate term of 199 years.
7. Lessee: Keni L. Kalauli
Res. Lease No.: 11657
Lot No., Area, Island: UNDV114, Kapolei, Oahu
Amendment: To amend the commencement date, lot number, and property description due to final subdivision approval.

8. Lessee: Joann M. Resentes
 Res. Lease No.: 476
 Lot No., Area, Island: 29, 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.
9. Lessee: Rally Tolentino
 Res. Lease No.: 5403
 Lot No., Area, Island: 86A, Kuhio Village, Hawaii
 Amendment: To amend the tenancy to severalty due to the death of joint tenant lessee.'


Amendments for the Month of October '20	9
Previous FY '20 - '21 balance	<u>33</u>
FY '20 - '21 total to date	42
Amendments for FY '19 - '20	138


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, Administrator 
Homestead Services Division

FROM: Ross K. Kapeliela, Acting ODO 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

Eight (8) non-exclusive licenses.

1. Lessee: Reydan P. Ahuna
Res. Lease No.: 2032
Lot No., Area, Island: 163, Kewalo, Oahu
Permittee: SunRun, Inc.

2. Lessee: Francine K. Guzman
Res. Lease No.: 3131
Lot No., Area, Island: 183B-1, Nanakuli, Oahu
Permittee: Vivint Solar, Inc.

- 3. Lessee: Saunya Dee K. Imanil
 Res. Lease No.: 12749
 Lot No., Area, Island: 13742, Maluohai2, Oahu
 Permittee: Malama Solar, LLC

- 4. Lessee: Jonathan W. K. Kaaihue
 Res. Lease No.: 8879
 Lot No., Area, Island: 38, Hanapepe, Kauai
 Permittee: STI Solar

- 5. Lessee: Andie P. Kahakui
 Res. Lease No.: 9724
 Lot No., Area, Island: 13663, Maluohai, Oahu
 Permittee: Malama Solar, LLC

- 6. Lessee: James K. Kaimikaua
 Res. Lease No.: 2216
 Lot No., Area, Island: 94, Kewalo, Oahu
 Permittee: SunRun, Inc.

- 7. Lessee: Betty Lou M. Kapanui
 Res. Lease No.: 3524
 Lot No., Area, Island: 176, Kewalo, Oahu
 Permittee: Sunnova Energy Corp.

- 8. Lessee: Jammie K. K. Wong
 Res. Lease No.: 9802
 Lot No., Area, Island: 13823, Maluohai, Oahu
 Permittee: Malama Solar, LLC


Non-Exclusive License for October '20	8
Previous FY '20 - '21 balance	<u>18</u>
FY '20 - '21 total to date	26
 Non-Exclusive License for FY '19 - '20	 53


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Juan Garcia, Homestead Services Division Administrator 

THRU: Ross Kapeliela, Acting Oahu District Office 
Supervisor, Homestead Services Division

SUBJECT: **Commission Designation of Successor**
FRANCIS K. KAUHOLA, Residential Lease No. 8797,
Lot No. 33, Waimanalo, Oahu

RECOMMENDED MOTION/ACTION

1. To approve the selection of Angela Leilani Kauhola (Angela) to succeed to the interest of Francis K. Kauhola, in Residential Lease No. 8797, Lot No. 33, Waimanalo, Oahu (Lease) for the remaining term of the Lease;
2. To stipulate that Angela's right and interest in the Lease does not vest until Angela has signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Angela does not sign all such documents on or before **December 31, 2020** (the Deadline) that the Commission's selection of Leiana as a successor is automatically revoked;
3. To authorize the Department to extend the Deadline up to 30 days for good cause; and
4. To declare that if Angela's selection as a successor is revoked; then under Section 209 (a) of the Hawaiian Homes Commission Act, as amended, "the lease shall resume its status as unleased Hawaiian home lands the department is authorized to lease the land to a native Hawaiian as provided by the Act."

DISCUSSION

On December 1, 1997, Francis K. Kauhola (Decedent) was awarded Department of Hawaiian Home Lands Residential Lease No. 8797, Lot No. 33, situate in Waimanalo, Oahu, Hawaii (Lease).

On May 15, 2019, the Decedent passed away without naming a successor to the Lease.

In compliance with the Administrative Rule 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 1, 8, 15, and 22, 2019, to notify all interested, eligible and qualified heirs of the Decedent, to submit their successorship claim to the Lease.

The Department received a successorship claim from the Decedent's daughter, Angela. Her Native Hawaiian Quantum has been determined to be at least 50%, making her eligible as a successor to the Lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 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 successor. 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 the 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.


Improvements to the homestead lot consist of a 4 bedroom and 2-1/2 bath, single family dwelling.

There is an outstanding mortgage loan with a balance of \$ 135,219. The Lease rent and the real property tax is current.

The Department requests approval of its recommendation.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Juan Garcia, HSD Administrator 
FROM: Olinda L. Fisher, East Hawaii District Office
Supervisor, Homestead Services Division
SUBJECT: **Request to Surrender Lease**
Kiva O. Contreras, Agricultural Lease No. 7015
Lot No. 73, Makuu, Hawaii

RECOMMENDED MOTION/ACTION

1. To approve the surrender of Kiva O. Contreras (Kiva) leasehold interest, in Department of Hawaiian Home Lands (Department) Agricultural Lot Lease No. 7015, Lot No. 73, Makuu, Hawaii, consisting of approximately 5 acres, and further identified as Tax Map Key: (3) 1-5-121:025, subject to Kiva's consent to waive her right to any net proceeds.

2. To authorize the Department to award Lot No. 73, Makuu, Hawaii, to another qualified applicant on the waitlist.

DISCUSSION

Kiva acquired her respective tenant interest in the lease by way of an Assignment of Lease & Consent & Amendment of Lease, dated August 30, 2018.

On July 17, 2020, the Department received a Notice of Surrender of Lease from Kiva via Hawaiian Home Lands Enforcement Officer, David Hoke (see Exhibit A). Her statement for surrendering her interest in the lease was that she no longer needed it, and that she wished to waive her right to any net proceeds.

The Department has agreed not to assess Kiva for any costs associated with the cleaning of the lot. Agricultural Lot No. 73 is a vacant lot without any improvements or growing crops therefore an appraisal is not necessary. There will be no net

proceeds.

The real property taxes are past due in the amount of \$114.40 and the lease rent to the Department is past due in the amount of \$2.00.

The Department requests approval of its recommendation.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. ADA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION
TYLER I. GOMES,
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
P.O. BOX 1879
HONOLULU, HAWAII 96805

NOTICE OF SURRENDER OF LEASE

I, Kiva O. Contreras, hereby freely and voluntarily submit my notice of surrender of my interest in and to Department of Hawaiian Home Lands Agricultural/Pastoral/Residential (Circle one) Lot Lease No. 7015, demising Lot No. 73, situate at Makua, on the island of Hawaii, Hawaii ("Lease") for the following reason(s) (must be completed):

No longer use needed.

I understand that the surrender of my interest in and to the Lease is not effective until:

1. The surrender is accepted by the Chairman of the Hawaiian Homes Commission ("Commission");
2. The surrender is ratified by the Hawaiian Homes Commission; and
3. A Surrender of Lease Interest document is executed by the Department of Hawaiian Home Lands ("Department") and me.

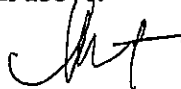
Until the Surrender of Lease Interest document is executed, I remain responsible and liable for the following:

1. The premises demised under the Lease;
2. Payment of real property taxes on the premises demised under the Lease;
3. Payment of all taxes, assessments and charges of any kind arising out of the improvements on the premises demised under the Lease;
4. Maintaining homeowners' and hurricane insurance policies on any and all structures located on the premises demised under the Lease.

I further understand that, once the Commission ratifies my surrender of my interest in and to the Lease, the Department will appraise the value of all the improvements and growing crops or improvements and aqua-cultural stock, as the case may be, and will pay me the value thereof,

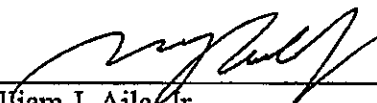
less any indebtedness to the Department, or for outstanding taxes, or for any other indebtedness the payment of which has been assured by the Department, owed by me. The net proceeds to the Lease, if any, will be paid to me after approval by the Commission.

I further understand that, if I desire to rescind this Notice of Surrender, any such rescission will be permitted at the sole discretion of the Commission. If the Commission allows me to rescind this Notice of Surrender, I shall be responsible to repay the Department, upon demand, all costs incurred with the processing of my surrender, including, but not limited to, the full cost of the appraisal of the improvements as set forth above.



Lessee Signature
Lease No. 7015 Lot No. 73
Date: July 17, 2020

Surrender Accepted / Rejected



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

Date: 8/27/20

Ratified by the Hawaiian Homes Commission
on _____

This page should accompany the Notice of Surrender of Lease by DHHL provided to me.

I, Kiva O. Contreras have hereby agreed to surrender my agricultural Lot.73 in Maku'u, on the Island of Hawaii back to the Department of Hawaiian Home Lands under the assurance by David Hoke Enforcement Officer, on behalf of Chairman Aila that I will not be charged for any costs associated with the clean out of the Lot.

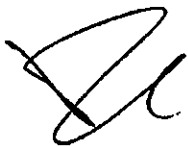
I also have assurance that the Department of Hawaiian Home Lands will work exclusively with the Department of Health to address all violations and fees acquired/ associated with Lot 73. I again will not be held responsible financially for any costs that may have or will accrue due to the clean out of the lot.

I appreciate the cooperation of both David Hoke and Chairman Aila to address and resolve this matter.



July 17, 2020

Kiva O. Contreras
Lessee



Received 7/17/20
1311 hours

David Hoke
DHHL Enforcement Officer on behalf of Chairman Aila

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Juan Garcia, Administrator
Homestead Services Division



FROM: Toni Eaton, Maui District Supervisor
Homestead Services Division

SUBJECT: **Commission Designation of Successor
BLOSSOM E. BURDETT, Residential Lease No. 12308,
Lot No. 7, Hikina, Maui**

RECOMMENDED MOTION/ACTION

1. To approve the selection of Linda Lokelani Phillips (Linda) to succeed to the interest of Blossom E. Burdett, in Residential Lease No. 12308, Lot No. 7, Hikina, Maui (Lease) for the remaining term of the Lease;

2. To stipulate that Linda's right and interest in the Lease does not vest until Linda has signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Linda does not sign all such documents on or before **December 31, 2020** (the Deadline) that the Commission's selection of Linda as a successor is automatically revoked;

3. To authorize the Department to extend the Deadline up to 30 days for good cause; and

4. To declare that if Linda's selection as a successor is revoked; then under Section 209 (a) of the Hawaiian Homes Commission Act, as amended, "the lease shall resume its status as unleased Hawaiian home lands the department is authorized to lease the land to a native Hawaiian as provided by the Act."

DISCUSSION

Blossom E. Burdett (Decedent) was awarded the Lease commencing on December 10, 2012.

On March 18, 2019, the Decedent passed away without naming a successor to her lease.

In compliance with the Administrative Rule 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 1, 8, 15, 22 and 29, 2019, to notify all interested, eligible and qualified heirs of the Decedent, to submit their successorship claim to the Lease.

The Department received a successorship claim from the Decedent's daughter, Linda Lokelani Phillips (Linda), who has been determined to be at least 50% Hawaiian ancestry and eligible for successorship to the Lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 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 successor. 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 the 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.

Improvements to the homestead lot consist of a 3 bedroom and 2 bath, single family dwelling, which was constructed in 2013.

There is an outstanding mortgage loan with HomeStreet Bank dated November 29, 2012 with an original loan amount of

\$207,305.00. Linda is aware of the outstanding loan and have agreed to accept the loan obligation should she be designated as successor.

The lease rent account reports a credit balance of \$90.00 and the real property tax is current.


The Department requests approval of its recommendation.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Juan Garcia, Administrator 
Homestead Services Division

FROM: Toni Eaton, Maui District Supervisor
Homestead Services Division

SUBJECT: **Commission Designation of Successor**
DAPHNE ORPHA SING, Residential Lease No. 4148,
Lot No. 18, Paukukalo, Maui

RECOMMENDED MOTION/ACTION

1. To approve the selection of Leianaikaroselaniomaui Sing-Kahalehau (Leiana) to succeed to the interest of Daphne Orpha Sing, in Residential Lease No. 4148, Lot No. 18, Paukukalo, Maui (Lease) for the remaining term of the Lease;

2. To stipulate that Leiana's right and interest in the Lease does not vest until Leiana has signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Leiana does not sign all such documents on or before **December 31, 2020** (the Deadline) that the Commission's selection of Leiana as a successor is automatically revoked;

3. To authorize the Department to extend the Deadline up to 30 days for good cause; and

4. To declare that if Leiana's selection as a successor is revoked; then under Section 209 (a) of the Hawaiian Homes Commission Act, as amended, "the lease shall resume its status as unleased Hawaiian home lands the department is authorized to lease the land to a native Hawaiian as provided by the Act."

DISCUSSION

Daphne Orpha Sing (Decedent) succeeded to the lease by way of Transfer Through Successorship and Amendment to Lease made on August 21, 2013.

On February 7, 2019, the Decedent passed away without naming a successor to her lease.

In compliance with the Administrative Rule 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 1, 8, 15, 22 and 29, 2019, to notify all interested, eligible and qualified heirs of the Decedent, to submit their successorship claim to the Lease.

The Department received a successorship claim from the Decedent's daughter, Leianaikaroselaniomaui Sing-Kahalehau (Leiana), who has been determined to be at least 31% Hawaiian ancestry and eligible for successorship to the Lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 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 successor. 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 the 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.

Improvements to the homestead lot consist of a 4 bedroom and 2 bath, single family dwelling, which was constructed in 1974.

There is no outstanding loan and the lease rent account reports a credit balance of \$4.00. The real property tax is in arrears in the amount of approximately \$615.00. Leiana agrees to pay the balance in full should the Hawaiian Homes Commission approve her as the successor to the Lease.


The Department requests approval of its recommendation.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THRU: Juan Garcia, Administrator 
Homestead Services Division

FROM: Mona Kapaku, Homestead District Operations Manager
Homestead Services Division

SUBJECT: **Commission Designation of Successor - TOMI LOU MAMUAD,
Agriculture Lease No. 199, Lot No. 144, Hoolehua,
Molokai**

RECOMMENDED MOTION/ACTION

1. To approve the selection of Catalino Paul Mamuad (Catalino), to succeed to the interest of Tomi Lou Mamuad in Agriculture Lease No. 199, Lot No. 144, Hoolehua, Molokai (Lease) for the remaining term of the Lease;

2. To stipulate that Catalino's right and interest in the Lease does not vest until Catalino has signed that: (i) Transfer Through Successorship of Lease; (ii) Lease Addendum; and such necessary and appropriate instruments; and that if Catalino does not sign all such documents on or before **December 31, 2020** (the Deadline) that the Commission's selection of Catalino as a successor is automatically revoked;

3. To authorize the Department to extend the Deadline up to 30 days for good cause; and

4. To declare that if Catalino's selection as a successor is revoked; then under Section 209 (a) of the Hawaiian Homes Commission Act, as amended, "the lease shall resume its status as unleased Hawaiian home lands the department is authorized to lease the land to a native Hawaiian as provided by the Act."

DISCUSSION

Tomi Lou Mamuad (Decedent) was awarded the Lease commencing on June 17, 1929.

On November 12, 2018, the Decedent passed away without naming a successor to her lease.

In compliance with the Administrative Rule 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 1, 8, 15, 22 and 29, 2019, to notify all interested, eligible and qualified heirs of the Decedent, to submit their successorship claim to the Lease.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 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 successor. 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 the 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.

Improvements to the homestead lot consist of a 3 bedroom and 1-1/2 bath, single family dwelling, which was constructed in 1985.

There is no outstanding mortgage

The lease rent and the real property tax is current.

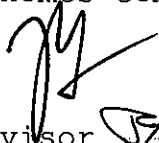
The Department requests approval of its recommendation.


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19, 2020

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Juan Garcia, HSD Administrator 

FROM: Ross K. Kapeliela, Acting Supervisor 
Oahu District Office, Homestead Services Division

SUBJECT: Conversion of Waiahole, Oahu Agricultural Leases to
Residential Leases - FOR INFORMATION ONLY

RECOMMENDED MOTION / ACTION

For information only. No action required.

DISCUSSION

I. The Paheehee Ridge agricultural lots in Lualualei, Oahu were unimproved lots awarded as part of the acceleration program of the department in the mid-1980s. The department later determined that the development of these lots into farmable lots was difficult and costly.

Upon the department's recommendation, at its regular meeting held on April 23, 1996, the Hawaiian Homes Commission allowed the relocation of Paheehee Ridge agricultural lessees to other farmable lots as they became available.

By transfer agreement dated October 9, 1998, between the DHHL and the Housing and Community Development Corporation of Hawaii (HCDCH), the department received twenty (20) lots in Waiahole, Oahu in partial satisfaction of 16,518 acres of land owed to it by the State of Hawaii. (The 16,518-acre compensation package was provided via a separate 1994 Board of Land and Natural Resources administrative initiative apart from Act 14 in 1995 which settled past DHHL land claims against the State of Hawaii and provided the department with \$600 million in \$30 million yearly installments.)

As a result of the Commission's 1996 action allowing relocation, original lessees of the Paheehee Ridge agricultural lots were offered relocation to available Waiahole lots received through the HCDCH land transfer.

The 1998 transfer agreement between DHHL and HCDCH specifies that construction and use of the transferred lots are subject to the Declaration of Conditions, Covenants and Restrictions (DCCRs) of the *Waiahole Valley Agricultural Park and Residential Lots Subdivision and Homestead Road Lots* dated September 28, 1995, and any other similar or associated governance documents adopted by HCDCH.

Exhibit 2 ("Summary of Lots"), pages 2 through 4 of the *First Supplemental Declaration of Restrictive Covenants for Waiahole Valley Agricultural Park and Residential Lots Subdivision and Homestead Road Lands* (recorded at the State Bureau of Conveyances on January 30, 1996) provides use designations of either "residential" or "agricultural" for each lot in the area. [SEE: Item D-16, Exhibit A]

Of the twenty (20) total lots conveyed to the DHHL, seventeen (17) were designated "residential" and three (3) were designated "agricultural."

Of the seventeen (17) residential lots conveyed to the department, thirteen (13) are listed below for the proposed conversion of agricultural leases to residential leases:

- 1) DHHL Waiahole Lot 23 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 25)
 - a) Agricultural Lease No. 6644
 - b) Lessee: Kimberly Balauro
 - c) TMK: (1) 4-8-009-019-0000
 - d) Lot Area: 7,501 ft² / 0.1722 ac
 - e) House on lot (per County RPT Office)
 - f) Original Paheehee Ridge Agricultural Lessee

- 2) DHHL Waiahole Lot 24 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 7)
 - a) Agricultural Lease No. 6662
 - b) Lessee: Patrick M. Cullen
 - c) TMK: (1) 4-8-009-020-0000
 - d) Lot Area: 7,500 ft² / 0.1720 ac
 - e) No house on lot (per County RPT Office)

- 3) DHHL Waiahole Lot 28 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 11)
 - a) Agricultural Lease No. 6646
 - b) Lessee: Chris S. Farley (Kauai IW Res App 05-22-1987)
 - c) TMK: (1) 4-8-009-024-0000
 - d) Lot Area: 7,500 ft² / 0.1720 ac
 - e) House on lot (per County RPT Office)

- 4) DHHL Waiahole Lot 29 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 12)
 - a) Agricultural Lease No. 6645
 - b) Lessee: Michael W. Farley (Kauai IW Res App 06-13-1985)
 - c) TMK: (1) 4-8-009-025-0000
 - d) Lot Area: 7,500 ft² / 0.1720 ac
 - e) House on lot (per County RPT Office)
 - f) Original Paheehee Ridge Agricultural Lessee

- 5) DHHL Waiahole Lot 67 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 67)
 - a) Agricultural Lease No. 6656
 - b) Lessees: Rhonda M. K. Akima Mayo & Gregory J. Mayo
 - c) TMK: (1) 4-8-011-024-0000
 - d) Lot Area: 7,937 ft² / 0.1822 ac
 - e) House on lot (per County RPT Office)

- 6) DHHL Waiahole Lot 69 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 53)
 - a) Agricultural Lease No. 6625
 - b) Lessee: Charles M. Kaaiai (Oahu IW Res App 08-06-1985)
 - c) TMK: (1) 4-8-011-026-0000
 - d) Lot Area: 10,513 ft² / 0.2413 ac
 - e) No house on lot (per County RPT Office)
 - f) Original Paheehee Ridge Agricultural Lessee

- 7) DHHL Waiahole Lot 88 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 75)
 - a) Agricultural Lease No. 6629
 - b) Lessee: Charlie M. Pedrina
 - c) TMK: (1) 4-8-011-032-0000
 - d) Lot Area: 9,314 ft² / 0.2140 ac
 - e) No house on lot (per County RPT Office)

- 8) DHHL Waiahole Lot 89 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 76)
 - a) Agricultural Lease No. 6624
 - b) Lessee: Joel T. Pedrina
 - c) TMK: (1) 4-8-011-033-0000
 - d) Lot Area: 9,610 ft² / 0.2206 ac
 - e) No house on lot (per County RPT Office)

- 9) DHHL Waiahole Lot 91 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 78)
 - a) Agricultural Lease No. 6623
 - b) Lessee: Teri K. Montgomery
 - c) TMK: (1) 4-8-011-035-0000
 - d) Lot Area: 12,447 ft² / 0.2857 ac
 - e) No house on lot (per County RPT Office)

- 10) DHHL Waiahole Lot 93 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 80)
 - a) Agricultural Lease No. 6666
 - b) Lessee: Ty T. K. Ah Nee
 - c) TMK: (1) 4-8-011-037-0000
 - d) Lot Area: 8,450 ft² / 0.1940 ac
 - e) House on lot (per County RPT Office)

- 11) DHHL Waiahole Lot 94 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 81)
 - a) Agricultural Lease No. 6617
 - b) Lessee: Sherwood K. Kaopua (Oahu IW Res App 02-18-1981)
 - c) TMK: (1) 4-8-011-038-0000
 - d) Lot Area: 9,100 ft² / 0.2090 ac
 - e) No house on lot (per County RPT Office)
 - f) Original Paheehee Ridge Agricultural Lessee

- 12) DHHL Waiahole Lot 100 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 87)
 - a) Agricultural Lease No. 6619
 - b) Lessee: Virginia L. Apana (Oahu IW Res App 07-25-2007)
 - c) TMK: (1) 4-8-011-044-0000
 - d) Lot Area: 7,775 ft² / 0.1785 ac
 - e) House on lot (per County RPT Office)

- 13) DHHL Waiahole Lot 101 (Residential Lot per Waiahole DCCRs)
(Honolulu Real Property Tax Lot 88)
 - a) Agricultural Lease No. 6650
 - b) Lessee: Elissa K. Ford (Oahu IW Res App 09-13-1995)
 - c) TMK: (1) 4-8-011-045-0000
 - d) Lot Area: 7,724 ft² / 0.1773 ac
 - e) No house on lot (per County RPT Office)

The department's relocation of former Lualualei Paheehee Ridge agricultural lot lessees to Waiahole lots designated "residential" is inconsistent with the Waiahole DCCRs. The lessees, in effect, hold agricultural leases while occupying residential lots. Conversion of the agricultural leases in question to residential leases will, in effect, solve this inconsistency; however, there are a number of other factors to consider.

II. Related Matters to Consider

The department should consult affected lessees before proceeding with any proposed conversions of the leases because:

A. Some affected lessees hold active residential applications.

Among the present lessees of the thirteen (13) agricultural leases potentially slated for conversion, six (6) hold residential applications:

- 1) Waiahole Lot 28
Chris S. Farley
Kauai IW Res App 05-22-1987;
- 2) Waiahole Lot 29
Michael W. Farley
Kauai IW Res App 06-13-1985;
- 3) Waiahole Lot 69
Charles M. Kaaiiai
Oahu IW Res App 08-06-1985;
- 4) Waiahole Lot 94
Sherwood K. Kaopua
Oahu IW Res App 02-18-1981;
- 5) Waiahole Lot 100
Virginia L. Apana
Oahu IW Res App 07-25-2007;
- 6) Waiahole Lot 101
Elissa K. Ford
Oahu IW Res App 09-13-1995.

Following the conversion of the agricultural leases to residential leases, does the department cancel these

applications as it normally would following the award of a residential lease?

B. There is a residential lease requirement to build and occupy.

According to records of the Real Property Tax Office, seven (7) of the thirteen (13) lots that would potentially be included in the conversion, currently have no houses on them. If true:

- 1) Will lessees of newly converted Waiahole vacant residential lots be required to construct and occupy their houses within one (or two) year's time?
- 2) How many lessees of newly converted vacant lots are financially prepared to build a residence on short notice?

C. Will the agricultural lease applications of original Paheehee Ridge lessees be reinstated?

Original Paheehee Ridge Agricultural Lot lessees received lots based upon agricultural applications which they themselves submitted as a matter of personal preference. Upon conversion, original Paheehee Ridge agricultural lessees [four (4) total - Balauro, Farley, M., Kaaiai, Kaopua] will hold residential leases in contrast to their original preference for agricultural leases.

- 1) After conversion, are these former agricultural lessees entitled to have their original agricultural applications reinstated—particularly in light of the fact that they may not have had substantive agricultural use of their residential-sized lots? (This after having been relocated from unusable agricultural lots in Lualualei.)
- 2) Is there legal exposure with original lessees having had a reasonable expectation that they would eventually receive viable agricultural lots based upon their agricultural lease applications?

D. The department needs to amend the Oahu Island Plan.

The Waiahole conversion from agricultural to residential use would require amending the department's Oahu Island Plan, which, in turn, would require beneficiary consultation.

E. The department is currently waiting for a reply from ONAP.

The department is currently consulting the Office of Native American Programs (ONAP) under the U.S. Department of Housing and Urban Development regarding the availability of the 184A loan program for beneficiaries who hold agricultural and pastoral leases. If ONAP ultimately allows agricultural and pastoral lessees access to the loan program, is the proposed lease conversion still pressing or even desired?

Exhibit 2

Item No. D-16,
Exhibit A taken from:

First Supplemental Declaration
of Restrictive Covenants for
Waiahole Valley Agricultural
Park and Residential Lots
Subdivision and Homestead Road
Lands

WAIHOLE VALLEY AGRICULTURAL PARK AND RESIDENTIAL LOTS SUBDIVISION

SUMMARY OF LOTS

Lot No.	Gross Area	File Plan		Land Court			Type of Lot
		Lot No.	Area	Lot No.	Area	L.C. App.	
1	45.275 Ac	1	7.773 Ac				Agricultural
				9	22.736 Ac	72	
				13	14.766 Ac	70	
2	1.000 Ac			8	29,841 sf	72	Residential
				9	13,720 sf	70	
3	1.000 Ac			10	1.000 Ac	70	Residential
4	4.806 Ac			11	4.806 Ac	70	Agricultural
5	1.000 Ac			12	1.000 Ac	70	Residential
6	4.032 Ac	2	1.924 Ac				Agricultural
				20	2.108 Ac	69	
7	1.000 Ac	3	12,611 sf				Residential
				10	30,951 sf	69	
8	1.000 Ac			11	1.000 Ac	69	Residential
9	1.000 Ac			12	1.000 Ac	69	Residential
10	2.953 Ac			13	2.953 Ac	69	Agricultural
11	4.564 Ac	102	4.564 Ac				Agricultural
12	18,424 sf	103	18,424 sf				Residential
13	32,585 sf	101	32,548 sf				Residential
				15	37 sf	69	
14	15,034 sf	99	15,034 sf				Residential
15	7,864 sf	97	7,162 sf				Residential
				16	702 sf	69	
16	9,963 sf	96	636 sf				Residential
				98	357 sf		
				100	321 sf		
				14	8,649 sf	69	
17	1.438 Ac	95	159 sf				Residential
				17	1.434 Ac	69	
18	22,283 sf			18	22,283 sf	69	Residential
19	23,434 sf			19	23,434 sf	69	Residential
20	33,689 sf	4	3,288 sf				Residential
				140	68 sf		
						22	



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01/22/96

Transferred to DHHL, Presently Has Lessee
 Transferred to DHHL, Presently Has No Lessee

ITEM NO. D-16
EXHIBIT A

Lot No.	Gross Area	File Plan		Land Court			Type of Lot
		Lot No.	Area	Lot No.	Area	L.C. App.	
21	12,514 sf	141	9,211 sf				Residential
				23	277 sf	69	
				24	3,026 sf	69	
22	18,775 sf	5	3,592 sf				Residential
				142	344 sf		
				26	14,839 sf	69	
Balauro	23	7,501 sf	6	6,876 sf			Residential
				25	625 sf	69	
Cullen	24	7,500 sf	7	7,500 sf			Residential
	25	1.003 Ac	8	43,646 sf			Residential
				21	41 sf	69	
	26	7,573 sf	9	7,573 sf			Residential
	27	7,500 sf	10	7,500 sf			Residential
Farley C.	28	7,500 sf	11	7,500 sf			Residential
Farley M.	29	7,500 sf	12	7,500 sf			Residential
	30	7,500 sf	13	7,500 sf			Residential
	31	31,094 sf	14	31,094 sf			Residential
	32	3.407 Ac	15	2.85 Ac			Agricultural
				14	0.557 Ac	70	
	33	12.796 Ac	16	11,274 sf			Agricultural
				10	19,681 sf	72	
				15	12.085 Ac	70	
	34	22,629 sf	17	22,629 sf			Residential
	35	9,471 sf	18	9,471 sf			Residential
	36	9,037 sf	19	9,037 sf			Residential
	37	12,697 sf	20	12,697 sf			Residential
	38	7,800 sf	21	7,800 sf			Residential
	39	8,575 sf	22	8,575 sf			Residential
	40	15.650 Ac	23	6.603 Ac			Agricultural
				11	9.047 Ac	72	
	41	47.504 Ac	24	32,413 sf			Agricultural
			29	3,990 sf			
			30	9,600 sf			
				12	46.448 Ac	72	
	42	1.000 Ac	25	9,554 sf			Residential
				13	34,006 sf	72	
	43	5.916 Ac	26	39 sf			Agricultural
			27	2,622 sf			
				15	5.855 Ac	72	

Lot No.	Gross Area	File Plan		Land Court			Type of Lot
		Lot No.	Area	Lot No.	Area	L.C. App.	
44	43,559 sf	145	6,726 sf				Residential
				18	36,833 sf	72	
45	1.010 Ac	146	13,382 sf				Residential
				19	30,635 sf	72	
46	1.162 Ac	28	1,445 sf				Residential
				20	49,160 sf	72	
47	43,561 sf	31	17,914 sf				Residential
				22	25,647 sf	72	
48	3.780 Ac	32	3.780 Ac				Existing
49	4.193 Ac	33	4.193 Ac				Existing
50	5.544 Ac	34	5.544 Ac				Reservoir
51	0.840 Ac	35	0.840 Ac				Road
52	80.296 Ac	36	80.296 Ac				Open Space
53	5.558 Ac	37	5.558 Ac				Agricultural
54	6.476 Ac	38	6.476 Ac				Agricultural
55	2.000 Ac	39	2.000 Ac				Agricultural
56	14.977 Ac	40	14.977 Ac				Agricultural
57	12.962 Ac	41	12.962 Ac				Agricultural
58	2.383 Ac	42	2.380 Ac				Agricultural
				17	137 sf	72	
59	2,384 sf	43	2,384 sf				Pump Station
60	9.870 Ac	44	9.870 Ac				Agricultural
61	6.211 Ac	45	6.211 Ac				Agricultural
62	20,633 sf	46	20,633 sf				Residential
63	12,619 sf	47	12,619 sf				Residential
64	16,651 sf	48	16,651 sf				Residential
65	26,879 sf	49	26,879 sf				Residential
66	8,010 sf	50	8,010 sf				Residential
Akima-Mayo	67	7,937 sf	51	7,937 sf			Residential
	68	11,514 sf	52	11,514 sf			Residential
Kaalai	69	10,513 sf	53	10,513 sf			Residential
	70	22,157 sf	54	22,157 sf			Residential
	71	9,263 sf	55	9,263 sf			Residential
	72	11,788 sf	56	11,788 sf			Residential
	73	12,158 sf	57	12,158 sf			Residential
	74	1.562 Ac	58	1.562 Ac			Agricultural
	75	5.731 Ac	59	5.731 Ac			Agricultural
	76	14.214 Ac	61	14.214 Ac			Agricultural
	77	3.561 Ac	62	3.561 Ac			Reservoir

Lot No.	Gross	File Plan		Land Court		L.C. App.	Type of
	Area	Lot No.	Area	Lot No.	Area		Lot
78	28.311 Ac	63	28.311 Ac				Agricultural
79	51.546 Ac	64	51.546 Ac				Open Space
80	3.800 Ac	65	3.800 Ac				Agricultural
81	8.928 Ac	66	8.928 Ac				Agricultural
82	5.867 Ac	67	5.867 Ac				Agricultural
83	5.850 Ac	69	5.850 Ac				Open Space
84	3.977 Ac	70	3.977 Ac				Agricultural
85	3.779 Ac	71	3.779 Ac				Agricultural
86	10.465 Ac	73	10.465 Ac				Agricultural
87	19,603 sf	74	19,603 sf				Residential
→ Pedrina C.	88 9,314 sf	75	9,314 sf				Residential
→ Pedrina J.	89 9,610 sf	76	9,610 sf				Residential
	90 24,013 sf	77	24,013 sf				Residential
→ Montgomery	91 12,447 sf	78	12,447 sf				Residential
	92 29,838 sf	79	29,838 sf				Residential
→ Ah Nee	93 8,450 sf	80	8,450 sf				Residential
→ Kaopua	94 9,100 sf	81	9,100 sf				Residential
	95 9,100 sf	82	9,100 sf				Residential
	96 8,450 sf	83	8,450 sf				Residential
	97 11,050 sf	84	11,050 sf				Residential
	98 5.123 Ac	85	4.892 Ac				Agricultural
				29	10,071 sf	69	
	99 11,700 sf	86	11,700 sf				Residential
→ Apana	100 7,775 sf	87	7,775 sf				Residential
→ Ford	101 7,724 sf	88	7,724 sf				Residential
	102 8,137 sf	89	6,652 sf				Residential
				27	1,485 sf	69	
103	10,033 sf	90	6 sf				Residential
				28	10,027 sf	69	
104	43,077 sf	144	7,367 sf				Residential
		91	14,749 sf				
				31	20,961 sf	69	
105	13,274 sf	92	12,914 sf				Residential
				32	360 sf	69	
106	10,974 sf	93	10,974 sf				Residential
107	12,959 sf	94	12,959 sf				Residential
108	2.860 Ac	106	2.860 Ac				Stream
109	18,686 sf	104	18,686 sf				Commercial



Lot No.	Gross Area	File Plan		Land Court			Type of Lot
		Lot No.	Area	Lot No.	Area	L.C. App.	
110	12,280 sf	105	12,280 sf				Commercial
111	12.483 Ac	107	12.483 Ac				Agricultural
112	1.000 Ac	108	1.000 Ac				Residential
113	1.000 Ac	109	1.000 Ac				Residential
114	1.000 Ac	110	1.000 Ac				Residential
115	3.153 Ac	111	3.153 Ac				Agricultural
116	1.000 Ac	112	1.000 Ac				Residential
117	2.390 Ac	113	2.390 Ac				Agricultural
118	1.000 Ac	114	1.000 Ac				Residential
119	1.000 Ac	115	1.000 Ac				Residential
120	2.773 Ac	116	2.773 Ac				Agricultural
121	2.749 Ac	117	2.749 Ac				Agricultural
122	1.000 Ac	118	1.000 Ac				Residential
123	1.000 Ac	119	1.000 Ac				Residential
124	3.367 Ac	120	3.367 Ac				Agricultural
125	3.097 Ac	121	3.027 Ac				Agricultural
				30	3,070 sf	69	
126	2.636 Ac	122	2.636 Ac				Agricultural
127	16.110 Ac	72	16.110 Ac				Agricultural
128	3.500 Ac	123	3.500 Ac				Agricultural
129	2.001 Ac	124	2.001 Ac				Agricultural
130	2.002 Ac	125	2.002 Ac				Agricultural
131	2.004 Ac	126	2.004 Ac				Agricultural
132	1.000 Ac	127	1.000 Ac				Residential
133	3.927 Ac	128	3.927 Ac				Agricultural
134	2.543 Ac	129	2.543 Ac				Agricultural
135	6.421 Ac	130	6.421 Ac				Agricultural
136	1.000 Ac	131	1.000 Ac				Residential
137	27.723 Ac	133	27.723 Ac				Open Space
138	2.961 Ac	132	2.961 Ac				Agricultural
139	1.831 Ac	134	1.831 Ac				Road

**HAWAIIAN HOMES COMMISSION
OCTOBER 19 & 20, 2020
TELECONFERENCE
9:30 A.M.**


E – ITEMS

LAND DEVELOPMENT DIVISION

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Stewart T. Matsunaga, Acting Administrator
Land Development Division 

Subject: Final Environmental Assessment and Finding of No Significant Impact
Determination for the Pu'unani Homestead Subdivision
Waikapū, District of Wailuku, Maui Island
TMK (2)3-5-002:002 (por.) and (2)3-5-001:064 (por.)

RECOMMENDED ACTION

That the Hawaiian Homes Commission (HHC) approve a Finding of No Significant Impact (FONSI) determination based on the Final Environmental Assessment (EA) for the Pu'unani Homestead Subdivision in Waikapū, District of Wailuku, Maui Island, TMK (2)3-5-002:002 (por.) and (2)3-5-001:064 (por.).

DISCUSSION

In October 2018, DHHL posted a Request for Proposals No. RFP-19-HHL- 004 seeking development projects on Maui for homestead housing and awards. DHHL conducted the proposal review and selection of developer, Dowling Co. and the acquisition of Pu'unani Homestead Subdivision was accepted by Chairman then ratified by the Hawaiian Homes Commission in June 2019.

The Maui Island Plan 2014 recommends acquiring land in Central Maui. Acquisition of the Pu'unani Homestead Subdivision was based on an agreement to transfer 300 current and future Affordable Housing Credits to developer. In June 2019, the Department of Hawaiian Home Lands (DHHL) acquired an approximately 48-acre parcel of land in Waikapū, Maui identified by TMK (2) 3-5-002:002 (por.). The property, located mauka of Honoapi'ilani Highway and amidst developed single-family residential neighborhoods, was identified as a site to develop a residential neighborhood for DHHL's Maui island beneficiaries.

In November 2019, DHHL executed an Amended and Restated Development Agreement which provided the first \$1.5 million to initiate the Chapter 343 Environmental Assessment process. DHHL will be responsible to provide the site design and infrastructure costs, while the developer will be responsible to fund the interim house construction costs.

The purpose of the Pu'unani Homestead Subdivision project ("the project") is to award residential lots to Waiohuli Undivided Interest beneficiaries if desired, with any remaining lots to be offered to the Maui Island Residential Waitlist. In 2010, the Hawaiian Homes Commission

approved a relocation option to Waiohuli Undivided Interest lessees to relocate to other available residential offerings. The Pu‘unani Homestead offering for turnkey and vacant lots will be made first to Waiohuli Undivided Interest lessees in their original selection order. Should turnkey lots or vacant lots be available after the offer and qualifications, then the Maui Islandwide Residential list will be offered in rank order for remaining lots. Beneficiary demand for homesteading opportunities continues to be high. The Waiohuli Undivided Interest List stands at approximately 272 applicants, while the Maui Residential Waitlist stands at approximately 3,819 applicants awaiting a residential homestead lease on Maui.

Based on a 2003 beneficiary survey conducted as part of the Maui Island Plan formulation process, and a 2014 “Central Maui” beneficiary study conducted for DHHL, Central Maui was identified as the preferred residential homestead area. More than two-thirds (68%) of residential applicants identified a turn-key house as their first choice in property type preference and nine percent (9%) of applicants identified a vacant improved lot, which were the two (2) highest housing preferences. Eighty-four percent (84%) of applicants desired three (3) or more bedrooms. While there may be shifts in beneficiary housing preferences, the proposed project provides both turnkey and vacant lot opportunities. Future subdivision development in Waiohuli and Leiali‘i will provide additional vacant lot opportunities.

Project Description

The project will be comprised of a maximum of 161 residential lots (137 turn-key single-family homes and 24 vacant improved single-family lots). Each of the 161 lots will be approximately 7,500 square feet in area with a minimum lot size of 6,000 square feet. The turn-key homes component of the project will feature six (6) different model types that will provide 3 or 4 bedrooms and 2 to 3 baths and will range in living area from approximately 1,088 square feet (sq. ft.) to 1,674 sq. ft. (subject to change), while the vacant lots will be owner-built.

Related improvements to be developed with the project include internal roadways, curb, gutter and sidewalks, a drainage detention basin, grading, water, sewer, drainage, utility connections, walls, fences, landscaping improvements, as well as roadway frontage improvements along Honoapi‘ilani Highway. Roadway improvements on Honoapi‘ilani Highway include a road widening lot up to 25 feet wide for the provision of turning lanes, a median refuge lane, and maintaining an existing bike route, as well as for site distance requirements. In addition, a landscaped lot between the Honoapi‘ilani Highway right-of-way and the houselots will be provided along the sloped frontage of the subdivision. Also, an offsite sewerline to provide service to the proposed project will cross Honoapi‘ilani Highway from the northeast corner of the site and run along a portion of TMK No. (2)3-5-001:064 to a connection point on Wai‘ale Road.

The proposed subdivision will be accessed via two (2) entrances from Honoapi‘ilani Highway. One (1) will be a full-movement “T” intersection, while the other will be a right-turn in and right-turn out only access point located approximately 1,500 feet to the north. A median refuge lane at the Honoapi‘ilani Highway/south project access is proposed to allow eastbound left-turn vehicles to turn onto Honoapi‘ilani Highway with a two-stage approach. Streetlights will also be added at both subdivision entrances.

Further, there are a total of 34 monkeypod trees that were designated as “exceptional trees” by the County of Maui in December 2018 and which front the property along Honoapi‘ilani Highway. The DHHL proposes the removal of these 34 trees due to their poor condition and to provide safe access to the proposed subdivision, and the minimum 1:1 replacement of these existing 34 trees with new healthy trees as part of the proposed project. It is noted that at its meeting of August 18, 2020, the Maui County Council adopted the ordinance amending the Maui County Code to delist the 34 monkeypod trees as exceptional trees on second and final reading and Ordinance 5109 (Bill 79) was approved by the Mayor and became effective on August 20, 2020.

Figure 1 depicts the preliminary site plan for the proposed subdivision. A more detailed description of the project and its potential impact to the surrounding environment and proposed mitigation measures can be found in the Final EA.

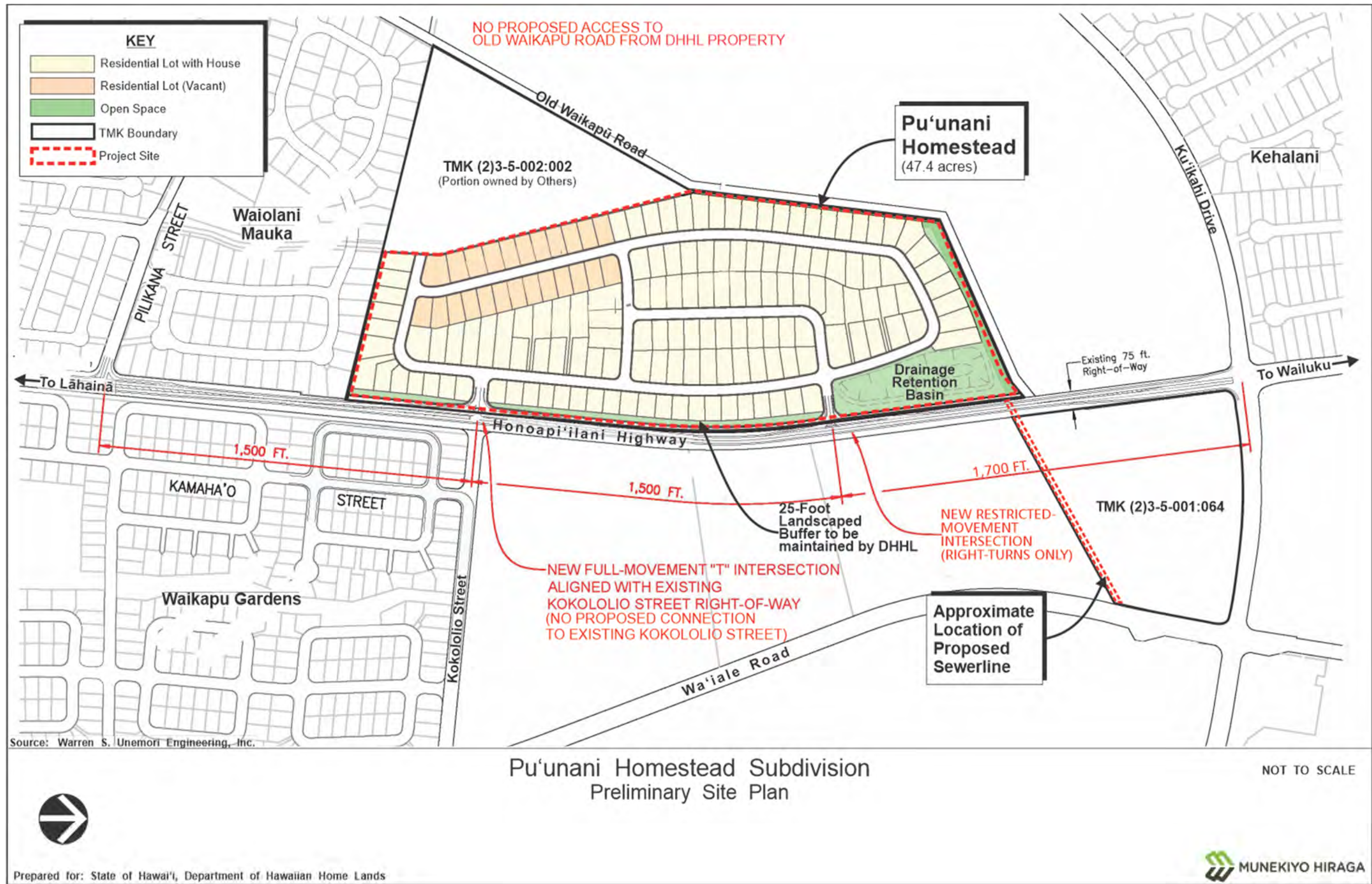


Figure 1 – Preliminary Site Plan

FINAL ENVIRONMENTAL ASSESSMENT SUMMARY

The project is proposed on DHHL lands and it will involve the use of state funds, both of which trigger Chapter 343, Hawai'i Revised Statutes (HRS) environmental review requirements. As such, a Final EA has been prepared to assess the technical characteristics and potential environmental impacts of the proposed project, as well as advance findings and mitigative measures relative to the project.

The following sections highlight key environmental impact considerations from the Draft EA analysis:

- **Historic and Cultural Resources**

A previous Archaeological Inventory Survey (AIS) was conducted in 2005 for two (2) parcels totaling 215.8 acres, which included the subdivision site. The State Historic Preservation Division (SHPD) accepted the AIS by letter dated November 18, 2005. During the field inspection, seven (7) historical sites related to the former use of the area for sugar cane cultivation were identified. The sites were determined significant under Criterion "D" as having the potential to yield information important to understanding the history of the region and were determined to be adequately documented by SHPD. In their acceptance letter, SHPD concluded that no further archaeological mitigation is necessary. In addition, an Archaeological Assessment (AA) was conducted for the Wailuku Apartment Rental Housing Project on TMK (2)3-5-001:064, the property on which the proposed sewerline will traverse. The AA recommended that archaeological monitoring be completed for this property. The SHPD concurred with this determination.

A Chapter 6E, HRS submittal form was submitted to SHPD in 2019 for the proposed project to determine if any further review is required. Via letter dated March 27, 2020, the DHHL requested SHPD's concurrence on the findings of the AIS and AA. The SHPD provided its concurrence by return signature on the letter.

Although the SHPD has concurred that no further work is necessary in accordance with the findings of the previously accepted AIS, the DHHL has elected to conduct archaeological monitoring on TMK (2)3-5-002:002. An archaeological monitoring plan (AMP) will be prepared and the contractor, once selected, will be required to follow the provisions of the AMP. DHHL will also coordinate with the developers of the Wailuku Apartment Rental Housing Project to ensure that monitoring is also completed in relation to the proposed sewerline installation.

In addition, a CIA was conducted which addressed issues relating to the protection of Native Hawaiian rights and practices. The CIA noted that based on historical research and responses received during the consultation process, it is reasonable to conclude that there is evidence of cultural practices related to Hawaiian rights related to agricultural pursuits, access to resources (i.e., water), and possibly other customary activities presently occurring in the vicinity of the proposed project area, but not specifically within the proposed project area. As such, ground altering activities associated with the proposed Pu'unani Homestead

Subdivision project has the potential to impact currently conducted, traditional native Hawaiian activities. In addition, the consultation process identified a unique cultural property, the grinding stone known as Pōhāko‘i, which may be in close proximity to the northwestern boundary of the proposed subdivision, however, the CIA noted that the exact location of Pōhāko‘i is unknown and it is not known if Pōhāko‘i remains in situ or if it has been previously relocated. The CIA also noted that given the project’s location in proximity to sand dunes, there is a potential for human burials to be present. As such, the CIA recommended that an archaeological field inspection be conducted by a qualified archaeologist prior to the commencement of any construction related ground altering activities in an effort to locate Pōhāko‘i, and that archaeological monitoring be undertaken during all construction-related ground-altering activities.

An archaeological field inspection was conducted in August 2020, consisting of a pedestrian walk-through of the site to determine if Pōhāko‘i was present at the site of the proposed subdivision. No discoveries were made as Pōhāko‘i may have been previously relocated, given the extensive agricultural clearing and landscape modifications that previously occurred in the area. Nonetheless, future efforts to locate this important stone will occur during the archaeological monitoring of the project area during future ground altering activities.

- Infrastructure

- Water

The project site is located within the Maui County Department of Water Supply’s (DWS) Central Maui water system. Water for the project will be supplied from the DWS’ existing distribution system in Waikapū. Average daily water consumption by the maximum 161 single-family homes that will comprise the proposed subdivision is projected to be approximately 96,600 gallons per day (gpd). Irrigation demand for DHHL-maintained landscaped areas is estimated at 2,890 gpd. Total potable water demand for the project is projected to be 99,490 gpd.

No water source improvements are proposed with the project. An 8-inch water main is proposed to be extended into the subdivision from the DWS’ existing 12-inch distribution main along Old Waikapū Road. A network of 8-inch distribution mains will be installed within the subdivision and outfitted with service laterals and fire hydrants for water service and fire protection to each of the individual houselots in accordance with DWS standards. The storage capacity needed for the project pursuant to DWS standards is 149,235 gallons. DHHL is currently working with the DWS to determine the payment of fees or storage capacity improvements that will be needed to address the storage requirements for the project.

- Wastewater

The Waikapū area is served by the County of Maui’s sewer system, which collects wastewater and conveys it to the Kahului Wastewater Reclamation Facility

(KWWRF) for treatment and disposal. The subdivision is expected to generate 56,350 gallons of wastewater per day.

A branching network of new gravity sewer pipes will be installed within the internal streets of the project to collect wastewater from the houselots and convey it toward the low end of the subdivision near the northeast corner along Honoapi‘ilani Highway. A new 8-inch diameter, 1,700 foot long gravity sewer main will convey the subdivision’s wastewater northward along Honoapi‘ilani Highway from there, then eastward under the roadway to a connection point at Wai‘ale Road where the County’s sewer system has sufficient capacity to accept the wastewater generated by the project.

- Drainage

Surface runoff generated by the undeveloped project site sheet flows eastward toward Honoapi‘ilani Highway, where it concentrates along the road shoulder and flows northward along the highway into an existing drainageway (gully). The runoff then passes through a drainage culvert under Honoapi‘ilani Highway on its way to the Wai‘ale irrigation reservoir where it is impounded. The 10-year, 1-hour peak flow rate generated by the project site in its current, undeveloped state is estimated to be 41 cubic feet per second (cfs). The proposed subdivision is expected to produce a peak runoff volume of 109 cfs from a 10-year, 1-hour storm once it has been fully developed. This represents a potential net increase of approximately 68 cfs.

Surface runoff generated by the roads and homes within the subdivision will be directed to drain inlets located along the internal streets. The collected runoff will then be conveyed by underground drainage pipes to a storm water detention basin located at the northeast corner of the subdivision, which in turn, will discharge into the existing drainageway (gully) on the north side of the project site. This detention basin, whose capacity will be at least 4.2 acre-feet, will fully mitigate the expected increase in peak flow by limiting the downstream release of storm water to a flow rate which does not exceed pre-development levels in compliance with Maui County storm drainage standards. In addition, a “detention based” treatment approach will be employed to mitigate storm water-related water pollution associated with the developed site. This will involve providing additional storage volume in the detention basin to facilitate sediment removal in addition to peak flow mitigation.

- Traffic

A Traffic Impact Analysis Report (TIAR) was prepared for the proposed project in January 2020, and updated in August 2020, to evaluate potential traffic impacts resulting from the proposed project. The TIAR included a Level of Service (LOS) analysis for various intersections surrounding the project area to describe the conditions of traffic flow at intersections, with values ranging from free-flow conditions (LOS A) to congested conditions (LOS F). Based on traffic count data

gathered, the TIAR states that the morning peak traffic hour is between 7:00 a.m. and 8:00 a.m., while the evening peak hour is between 4:00 p.m. and 5:00 p.m. A number of the study intersections were observed to have notable existing traffic issues during the peak hours of traffic.

The TIAR utilized year 2024 as the anticipated build-out completion base year for the project. Projections for this year were based upon traffic counts, the Maui Regional Travel Demand Model growth for forecast years of 2024 and 2035, and projected traffic attributed to known planned nearby developments. The TIAR also took into account planned roadway projects anticipated to be completed by the build-out year.

The project is anticipated to generate 119 total vehicular trips during the morning peak hour and 161 total vehicular trips during the evening peak hour. The TIAR noted that upon completion of the project, all study intersections are forecasted to operate at LOS similar to base year 2024 conditions. While a traffic signal is not warranted by the project, the TIAR noted that a median refuge lane may help reduce eastbound left-turn vehicle delays by allowing vehicles to turn onto Honoapiʻilani Highway with a two-stage approach; first into the refuge lane, then merging onto Honoapiʻilani Highway. This median refuge lane is planned to be provided.

- Electric, Telephone, Cable

There are existing overhead electrical, telephone, and cable transmission lines provided by Hawaiian Electric Company, Hawaiian Telcom, and Spectrum Cable, respectively, along Honoapiʻilani Highway adjacent to the project site.

Hawaiian Electric, Hawaiian Telcom, and Spectrum Cable will be able to provide electrical, telephone, and cable television services, respectively, for the proposed project from the existing facilities along Honoapiʻilani Highway. Within the project, overhead utility lines will provide electrical, telephone, and cable television services.

Mitigation Measures Identified in the Final EA

- Road widening along Honoapiʻilani Highway for the provision of turning lanes, a median refuge lane, maintaining an existing bike route, and for site distance requirements
- Removal and replacement of existing Monkeypod trees for applicable federal policies related to roadway safety and efficiency
- Best Management Practices (BMPs) will be implemented to mitigate potential impacts of soil erosion and fugitive dust during construction
- BMPs will also be employed to mitigate against construction related noise impacts
- Shielding of outdoor light fixtures to prevent harm and disorientation of seabirds
- Avoidance of removing or trimming woody plants greater than 15 feet tall during the Hawaiian hoary bat birthing and pup-rearing season

- Stopping work in the vicinity of nēnē and ae‘o should one be present on the site, and resuming work only when it has vacated the site of its own accord
- Survey of the area for the Blackburn’s sphinx moth and its larval host plants
- Archaeological monitoring during all ground disturbance activities and conducting an archaeological field inspection for Pōhāko‘i prior to initiating ground disturbance activities
- Landscape lot along the project’s frontage on Honoapi‘ilani Highway to provide an open space buffer from the right-of-way to the houselots
- School impacts fees paid to the Department of Education
- Construction of an onsite drainage detention basin to detain the expected increase in peak stormwater flows to a rate which does not exceed pre-development levels in compliance with Maui County stormwater drainage standards and to mitigate stormwater-related potential water pollution

Substantive Comments/Responses

Various agencies at the State and County levels, as well as community organizations and individuals were provided the opportunity to review and provide comments on the Draft EA following its publication in the Office of Environmental Quality Control’s (OEQC) Environmental Notice bulletin on May 23, 2020. Many of the comments received during the comment period were non-substantive in nature. A summary of the more substantive comments received is provided in **Table 1** below, some of which prompted revisions to be made in the Final EA. Comment letters received during the Draft EA review period and responses to each are included as Chapter X of the Final EA.

Table 1. Summary of Substantive Draft EA Comments and Responses

Comment Topic	Comment Summary	Response Summary
Open Space/Views	<ul style="list-style-type: none"> - County of Maui Island Plan-required buffers along Honoapi‘ilani Highway should be incorporated. - Preserve separation between Wailuku and Waikapū. - Mauka views should be preserved. 	<ul style="list-style-type: none"> - Although the County Maui Island Plan calls for a 200-foot buffer along the Honoapi‘ilani Highway right-of-way and a 500-foot buffer along the Waiolani Mauka Subdivision (required as part of a former planned Pu‘unani development project, by others), a buffer of this size would result in a loss of over 68 homes or over 42 percent of the developable homestead lots for DHHL beneficiaries, and as such, is not considered feasible. In addition, the sloped frontage along Honoapi‘ilani Highway is proposed to be maintained by DHHL as a landscaped lot to set back the houses and provide a green buffer and open space relief between the right-of-way and the houselots. Further noted that there will still remain a swath of open, undeveloped land between the project’s northern boundary and Ku‘ikahi Drive, providing separation between Wailuku and Waikapū. - The proposed turn-key homes will be similar in scale and size to existing residential developments nearby and will be set back from the Highway with the landscape lot.
EA vs. EIS	<ul style="list-style-type: none"> - The project results in many impacts and as such, an Environmental Impact Statement (EIS) should be prepared. 	<ul style="list-style-type: none"> - The project’s technical characteristics and related impact considerations and proposed mitigation measures were thoroughly evaluated by the DHHL and the HHC in accordance with HAR, Section 11-200.1-13, “Significance Criteria”, and that the analysis contained in the Draft EA was supported through in-depth technical studies that were prepared by qualified professionals, and which were then reviewed by Federal, State, and County agencies having jurisdiction and expertise in their respective fields of authority. Where mitigation measures are required due to potential impacts attributed to the project, DHHL will implement those applicable measures to reduce potential adverse impacts. In light of the foregoing, the need for a full EIS was not deemed warranted.
Archaeological and Cultural Resources	<ul style="list-style-type: none"> - A new AIS should be completed. - Site is likely to yield historic and cultural sites (e.g., Pōhāko‘i, legendary grinding stone). - Additional CIA interviews should be conducted. 	<ul style="list-style-type: none"> - DHHL will undertake archaeological monitoring at the site of the proposed subdivision. Also, as recommended by the CIA, an archaeological field inspection was completed in August 2020 in an effort to locate Pōhāko‘i. No discoveries were made. Future location efforts will be made during archaeological monitoring. - Additional CIA interviews were conducted and included in an updated CIA, which is included in the Final EA.
Alternatives Analysis	<ul style="list-style-type: none"> - Alternative Lot Configurations alternative analysis is lacking. 	<ul style="list-style-type: none"> - Alternatives analysis updated to expand on process for considering alternative lot options including varying lot sizes and mixes of turn-key and owner-build lots. The current subdivision layout represents the most feasible mix of lot

Comment Topic	Comment Summary	Response Summary
	<ul style="list-style-type: none"> - Deferred Alternative analysis is lacking. 	<p>sizes and turn-key and owner-build lots, accommodates the DHHL beneficiary preferences, and is consistent with the adjacent residential subdivisions within the developed area of Waikapū. Also, the location of the two (2) subdivision entrances was vetted by the State Department of Transportation and provides for safe ingress and egress points given the topography of the land, locations of horizontal and vertical sight distance constraints in the roadway, and locations of other intersections along this stretch of roadway.</p> <ul style="list-style-type: none"> - Analysis also updated to highlight the fact that the project, if pursued at a later date, would result in economic impacts to the DHHL. Unforeseen circumstances that may occur should the project be delayed may result in increased construction costs and a longer waiting time for those on the Residential Waiting Lists.
Parks	<ul style="list-style-type: none"> - A park should be incorporated into the subdivision's design. 	<ul style="list-style-type: none"> - An analysis was undertaken to determine if a park could be accommodated within the proposed subdivision. However, the inclusion of a park would result in the loss of developable homestead lots available for DHHL beneficiaries, and is therefore not feasible.
Old Waikapū Road	<ul style="list-style-type: none"> - Do not use Old Waikapū Road to provide access to the proposed subdivision. 	<ul style="list-style-type: none"> - There is no plan to utilize Old Waikapū Road to provide access to the proposed Pu'unani Homestead Subdivision.
Traffic	<ul style="list-style-type: none"> - TIAR analysis is lacking and underestimates impact on traffic, particularly due to increase in school traffic. 	<ul style="list-style-type: none"> - Although there will be an increase in vehicular trips generated by the proposed project, the DHHL will be installing the proper deceleration lanes and turn lanes so vehicles turning into the subdivision will not adversely impact the flow of traffic heading north and south on Honoapi'ilani Highway at its main project access. - Analysis in TIAR was revised to incorporate additional information on discussion of existing traffic conditions and attributable regional traffic issues.

Outreach

The project planning process has included a number of opportunities for public awareness, education, and participation through the EA process. In addition to the statutorily required comment periods on the EA, opportunities for public input were also afforded through the following meetings outlined in **Table 2** below.

Table 2. Summary of Outreach

Meeting Date	Organization	Meeting Premise
December 9, 2019	Waikapū Community Association	Project briefing and accept feedback to be considered in preparation of Draft EA.
February 10, 2020	DHHL Maui Beneficiary Leaders	Project briefing and accept feedback to be considered in preparation of Draft EA.
February 12, 2020	Maui County Arborist Committee	Request de-listing of 34 monkeypod trees fronting project site from County Exceptional Trees list.
February 18, 2020	Hawaiian Homes Commission	Project briefing and accept feedback to be considered in preparation of Draft EA.
July 8, 2020	DHHL Maui Beneficiary Leaders	Provide updates on project and EA process and accept feedback to be considered in preparation of Final EA.
July 9, 2020	Maui County Council, Healthy Families and Communities Committee	Request de-listing of 34 monkeypod trees fronting project site from County Exceptional Trees list.
July 13, 2020	Waikapū Community Association	Provide updates on project and EA process and accept feedback to be considered in preparation of Final EA.
July 21, 2020	Kehalani Community Association, Board of Directors	Project briefing and accept feedback to be considered in preparation of Final EA.
July 24, 2020	Maui County Council	First reading of Ordinance to de-list monkeypod trees fronting site from County Exceptional Trees list.
July 24, 2020	Wailuku Apartment Rental Housing Project	Project briefing and accept feedback to be considered in preparation of Final EA.
August 18, 2020	Maui County Council	Adoption of Ordinance de-listing monkeypod trees from County Exceptional Trees list.

DHHL Planning System Consistency

The DHHL Maui Island Plan (MIP) was adopted in 2004 and serves as a comprehensive resource for planning and managing the Maui Island lands and establishes land use designations to encourage orderly social, physical, and economic development. Because the lands on which the proposed project will be developed were recently acquired by the DHHL, they are not yet designated by the MIP for a specific use.

However, the proposed project does meet the following goals and objectives of the DHHL General Plan:

Land Use Planning

Goals

- Utilize Hawaiian Home Land for uses most appropriate to meet the needs and desires of the beneficiary population.
- Encourage a balanced pattern of growth into urban and rural growth centers.
- Develop livable, sustainable communities that provide space for or access to the amenities that serve the daily needs of its residents.

Objectives

- Direct urban growth to priority development areas based on infrastructure availability, feasible site conditions, beneficiary preferences, and job opportunities.
- Consider opportunities to acquire or exchange lands best suited for purposes of the Hawaiian Homes Commission Act.

Residential Uses

Goals

- Substantially increase the number of residential homesteads awarded each year.
- Provide a mix of housing opportunities that reflect the needs and desires of native Hawaiian beneficiaries.
- Provide residential homesteads, financing, and other housing opportunities, especially to those most in need.

Objectives

- Provide a variety of residential types to meet the needs of beneficiaries in terms of construction procedures (owner-builder, turnkey, and self-help), types of housing units (single-family, multi-family, kupuna housing, rental etc.) and financing.
- Ensure the availability of housing with a range of types and affordability to accommodate persons and families of all income levels and in locations that are convenient to employment and quality public and private facilities.

FINDING OF NO SIGNIFICANT IMPACT

Based upon the analysis completed in the Final EA, Staff recommends that the Commission accept the finding of no significant impact (FONSI) for the Pu'unani Homestead Subdivision. This determination is based upon the 13 criteria of significance that approving agencies must consider as specified in HAR, Section 11-200.1-13. An analysis of the 13 criteria of significance is presented below:

1. Irrevocably commit a natural, cultural, or historic resource.

There are no known rare, threatened, or endangered species of flora, fauna, avifauna, or important habitats located within the project site. As mentioned previously, an AIS and an AA were completed for the two (2) affected project parcels and no burial features or human remains were identified. As such, the AIS did not recommend any further archaeological mitigation. The AIS was submitted to and accepted by the SHPD. The AA, which was prepared for the Wailuku Apartment Rental Housing Project and also accepted by the SHPD, recommended archaeological monitoring be conducted for all ground altering activities. The DHHL will coordinate with the developer of the Wailuku Apartment Rental Housing Project to ensure that archaeological monitoring of the site of the proposed sewerline construction will be conducted in accordance with the SHPD-accepted archaeological monitoring plan. In addition, the project archaeologist previously submitted a Section 6E, HRS form to the SHPD to reconfirm SHPD's acceptance of the previous AIS and that no further action is necessary on the proposed subdivision site. It is further noted that the DHHL, by letter dated March 27, 2020, requested the SHPD's reconfirmation of the previous determinations made on the AIS and AA, and that no further work was required for Parcel 2, and monitoring would be required for the limited work within Parcel 64. The SHPD provided their concurrence via return signature on the March 27, 2020 letter. In addition, although the SHPD has concurred that no further work is necessary in accordance with the findings of the previously accepted AIS, the DHHL has elected to conduct archaeological monitoring during all ground disturbance activities at the site of the proposed subdivision. As such, an AMP will be prepared and the contractor, once, selected, will be required to follow the provisions of the AMP. Should inadvertent archaeological features, cultural artifacts, or human burials be located during construction activities, work in the immediate area of the find shall be promptly halted and the find protected from further disturbance. The SHPD will be immediately contacted to determine the significance of the find and establish appropriate mitigative measures, as necessary. As mentioned previously, an archaeological field inspection was conducted in August 2020. No discoveries were made as Pōhāko'i may have been relocated given the extensive agricultural clearing and landscape modifications that previously occurred in the area. Nonetheless, future efforts to locate this important stone will occur during the archaeological monitoring of the project area during future ground-altering construction activities.

With the mitigation measures presented herein, the proposed project will not involve an irrevocable commitment to loss or destruction of any natural, cultural, or historic resources.

2. Curtail the range of beneficial uses of the environment.

The proposed action will be implemented adjacent to existing residential developments of a similar nature, and the commitment of land resources for the proposed action will not curtail the range of beneficial uses of the environment. The project site, although designated for agricultural use, and is designated as “Prime” agricultural lands by the Agricultural Lands of Importance to the State of Hawai‘i (ALISH), has not been in agricultural production for some time. On the island of Maui, approximately 70,714 acres of the total land area of the island are within the ALISH “Prime” Designation, this represents approximately 15 percent of the island. As such, the use of 47.4 acres or 0.07 percent of the “Prime” designated 70,714 acres on Maui for much needed residential housing in an existing urbanized area with other similar residential subdivisions is not considered a substantial adverse impact in the context of the overall Prime designated lands on Maui. The proposed use of the site for development of a new subdivision is compatible with surrounding residential uses.

3. Conflict with the State’s environmental policies or long-term environmental goals established by law.

The proposed action does not conflict with the policies and guidelines of Chapter 343, HRS. An EA has been carried out to ensure the proposed project will not have significant adverse impacts on the environmental resources. While this project may cause impacts, based on the analysis conducted in this EA, the impacts are not anticipated to be significant. Where mitigation measures are required due to potential impacts attributed to the project, DHHL will implement those applicable measures to further reduce adverse impacts.

4. Have a substantial adverse effect on the economic welfare, social welfare, or cultural practices of the community and State.

The proposed action will have a beneficial effect on the local economy during the short and long term. Positive economic and social impacts are anticipated as a result of the project including construction-related jobs, real property assessment revenues, and contribution of water, wastewater, and educational assessment fees. In addition, a CIA was prepared for the Proposed Pu‘unani Homestead Subdivision project and noted that based on historical research and consultation, there is evidence of cultural practices for Hawaiian rights for agricultural pursuits, access to resources, and other customary activities presently occurring in the vicinity of the proposed project, but not specifically within the proposed project area. In addition, a legendary grinding stone (Pōhāko‘i) is believed to be located in the vicinity of the site of the proposed subdivision. As such, the CIA provided a recommendation that an archaeological field inspection be conducted by a qualified archaeologist prior to the commencement of any construction related ground altering activities in an effort to locate Pōhāko‘i. As previously discussed, an archaeological field inspection was undertaken in August 2020, and yielded no discoveries. Furthermore, archaeological monitoring will be undertaken for all ground disturbance activities.

5. Have a substantial adverse effect on public health.

Although the proposed subdivision site is former agricultural lands, a Phase I Environmental Site Assessment conducted did not reveal any recognized environmental conditions. In addition, the project is not anticipated to result in long-term air or noise impacts. Furthermore, the proposed action is not anticipated to create significant direct or indirect foreseeable greenhouse gas (GHG) emissions, and does not fall within the threshold of mandatory GHG reporting. As such, no adverse impact to public health or welfare is anticipated as a result of the proposed action.

6. Involve adverse secondary impacts, such as population changes or effect on public facilities.

The proposed project will provide needed additional residential lots in Waikapū, Central Maui for DHHL beneficiaries. While some residents of this new community may come from off island, most are expected to relocate from other areas on Maui. As such, the project is not anticipated to involve substantial secondary impacts due to population change. Secondary impacts on public facilities are not anticipated.

The DHHL will provide the necessary onsite and offsite infrastructure to support the proposed project. No substantial changes or effects on public facilities are expected with project implementation.

While DHHL does not have to follow State or County land use plans and regulations, it is noted that this development is in line with County long-range development and population growth projections.

7. Involve a substantial degradation of environmental quality.

No substantial degradation of environmental quality resulting from the action is anticipated. BMPs and appropriate erosion control measures will be utilized during the construction period. Drainage system improvements will be constructed in accordance with applicable regulatory design standards to ensure that surface runoff will not have an adverse effect on adjacent or downstream properties.

Any potential short-term impacts to air and noise quality during the construction phase of the project, will be mitigated through employing BMPs. In the long term, the project will not adversely impact air quality and ambient noise

8. Be individually limited but cumulatively have substantial adverse effect upon the environment or involves a commitment for larger actions.

The proposed action is limited to the development of the proposed residential subdivision and sewerline improvement. The project is not a phase or increment of a larger total undertaking; a necessary precedent for a larger project; a commitment to some larger project; or one (1) of a series of individual actions planned by the DHHL within the area in the reasonably foreseeable future. The proposed project will stand on its own and is not

reliant upon or a trigger for any other development. The cumulative impacts of the proposed project, together with other reasonably foreseeable actions, will include increased population and infrastructural demands, but this will not have a considerable effect on the environment. The DHHL will provide the necessary infrastructure to serve the proposed project. Drainage, wastewater, water, and roadway improvements will be designed to meet applicable local, State, and Federal regulations. The engineering and traffic reports prepared for the proposed project have assessed potential impacts and designed infrastructure systems in the context of future planned regional growth. Given the foregoing, the proposed project is not anticipated to cumulatively have considerable effect upon the environment, nor does it involve a commitment for larger actions.

9. Have a substantial adverse effect on a rare, threatened, or endangered species, or its habitat.

A Flora and Fauna Survey report was prepared to ensure that any sensitive terrestrial flora/fauna biological resources within the project site would be identified and provided adequate protection. No rare, threatened, or endangered species of flora, fauna, avifauna, or important habitats were identified on the affected properties. The project site is located adjacent to existing residential developments of a similar nature. The project is not anticipated to substantially affect rare, threatened, or endangered species, or its habitat.

10. Have a substantial adverse effect on air or water quality or ambient noise levels.

Construction activities will result in short-term air quality and noise impacts. BMPs, including erosion control and dust control measures (such as regular watering and sprinkling and installation of dust screens and timely revegetation of graded areas), will be implemented to minimize wind-blown emissions. In the short term, noise impacts will occur primarily from construction equipment. Equipment mufflers or other noise attenuating equipment, as well as proper vehicle maintenance and limiting construction to daylight hours, will be used during construction activities. Construction noise impacts will be mitigated through compliance with the provisions of the State of Hawai‘i, Department of Health (DOH) Administrative Rules Title 11, Chapter 46, “Community Noise Control.” These rules require a noise permit if the noise levels from construction activities are expected to exceed the allowable levels set forth in Chapter 46. In the long term, the proposed new subdivision is not anticipated to significantly impact ambient noise levels.

As such, with implementation of foregoing mitigation measures, the proposed project is not anticipated to detrimentally affect air or water quality or ambient noise levels.

11. Have a substantial adverse effect on or be likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, sea level rise exposure area, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters.

The project site is situated inland and is not anticipated to have any adverse impact upon coastal waters or resources, beaches, estuaries, or other fresh water bodies.

According to the Federal Emergency Management Agency's Flood Insurance Rate Maps currently in effect, the project site falls within Zone X (unshaded), an area of minimal flooding. The project site is located outside of the tsunami inundation zone. In addition, the project site is located outside of the 3.2-foot projected sea level rise exposure area.

Drainage improvements will be designed to mitigate runoff in accordance with County drainage and stormwater quality rules and regulations. During construction, recommended BMPs will be implemented for erosion and sedimentation control to minimize potential impacts to water quality.

12. Have a substantial adverse effect on scenic vistas and view planes, day or night, identified in county or state plans or studies.

The proposed project has been designed to complement and enhance existing development in Waikapū. Careful consideration has been given during the planning process to formulate a site plan that is both sensitive and appropriate to Waikapū. In particular, the project provides open space relief and landscaping in the form of a landscaped lot along the project's frontage along Honoapi'ilani Highway and building forms to complement existing developed residential properties and the surrounding environment.

13. Require substantial energy consumption or emit substantial greenhouse gasses.

The proposed action will involve the short-term commitment of fuel for equipment, vehicles, and machinery during construction activities. However, this use is not anticipated to result in a substantial consumption of energy resources or substantial emission of greenhouse gasses. In the long term, the project will create an additional demand for electricity. However, this demand will not be substantially or excessively more than the energy consumed by similar developments throughout the region.

NEXT STEPS FOR OVERALL PROJECT IMPLEMENTATION

Should the HHC accept the recommended action and determination, the following actions will need to be implemented:

- HHC FONSI determination for the Final EA submitted to OEQC for publication in the Environmental Notice bulletin
- Continue coordination with the DHHL beneficiaries
- Continue coordination with various State and County agencies
- Secure sufficient budget appropriation from State Legislature
- Complete engineering design and site construction of Project and obtain subdivision approval and lot TMKs from the County of Maui
- Start house construction and initiate Homestead vacant lot award and turnkey award offerings


RECOMMENDATION

DHHL staff respectfully requests approval of a FONSI determination based on the Final EA presented herein, as recommended.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Stewart T. Matsunaga, Acting Administrator
Land Development Division 

Subject: Progress Report on Honokowai Water System Improvements, Lahaina, Maui

RECOMMENDED ACTION

None; for information only.

DISCUSSION

The purpose of this submittal is to provide the Hawaiian Homes Commission (HHC) with a Progress Report on the Honokōwai Water System Improvements Project in Lahaina, Maui, prior to preparation of a Draft Environmental Assessment.

Pursuant to Act 62, Session Laws of Hawai‘i 2009, the Hawai‘i State Legislature appropriated funding for the construction of an exploratory well that would support Department of Hawaiian Home Lands (DHHL) and other State affordable housing projects in West Maui. The location of the potable well was changed from a Honokōwai site on Hawaiian Home Lands to State-owned lands south of Honokōwai Gulch due to potential pesticide intrusion from former pineapple cultivation into the groundwater aquifer.

In 2010, DHHL planned, designed, drilled and cased an exploratory well (State Well No. 5639-04) on a portion of TMK (2)4-4-004:002 owned by the State of Hawai‘i. DHHL funded the design and hydrogeological work for the well with Hawaiian Home Lands Trust funds in the amount of approximately \$200,000.00. The State Legislature funded the construction of the 900+ feet deep well in the amount of approximately \$750,000.

The exploratory well, once made operational, will have an estimated yield of 1.0 Million Gallons per Day (MGD). As part of DHHL’s proposed water system improvements project, DHHL proposes to install a pump within the well, construct a single-story control building to house electrical components and a sodium hypochlorite disinfection system, fencing, a Hawaiian Electric Company Transformer and a standby generator at the well site. Additionally, water transmission lines crossing Honokowai Gulch and a new 100,000-gallon head breaker tank to accept the DHHL well water are proposed to be constructed and conveyed to the County of Maui, Department of Water Supply’s (DWS) existing Mahinahina Surface Water System.

To provide potable water to DHHL’s Villages of Leialii 1B homestead development of 250 homes, a new reservoir and transmission lines is planned for construction in the Wahikuli area south of Honokōwai. See **Exhibit A.1, A.2, and A.3** for a general site plan and conceptual

plans of the proposed water system improvements in the Honokowai area and Leiali'i-Wahikuli area, respectively.

The water produced from DHHL's exploratory well is proposed to be conveyed through DHHL constructed transmission lines to DWS' Mahinahina Surface Water Treatment System transmission and storage tank to an existing Wahikuli storage tank, then to new transmission lines and new storage tank mauka of planned residential development at Leiali'i Phase I-B. The 104 residential lots in Leiali'i 1-A are currently serviced by the existing DWS water system and will not be impacted by DHHL's proposed Honokowai water improvements.

A Draft Environmental Assessment is currently being prepared for DHHL's proposed water system improvements and operation of the well. The DEA currently being prepared will include an alternative for connection to a new mixing tank proposed by DWS. The DHHL would contribute its prorated share of the cost of the new 500,000-gallon mixing tank to be constructed by DWS which would accept water from DHHL's well in addition to new wells being drilled in West Maui by the DWS.

It is worth noting here that pursuant to an unprecedented intergovernmental agreement executed in 2019, DHHL negotiated a water allocation of 200,000 GPD from DWS in exchange for land use licenses for approximately 22.6 acres of the DHHL's Honokōwai tract for the existing Mahinahina Surface Water Treatment Plant (SWTP), existing water system infrastructure, and future planned improvements, as well as for access, utility, and grading easements. A 200,000 GPD water allocation is equivalent to 333 homes. The proposed DHHL Honokowai Water System improvements will supplement this 200,000 GPD water allocation, subject to negotiations with DWS.

STATUS OF WATER SYSTEM IMPROVEMENTS DESIGN/TECHNICAL STUDIES

A Draft EA is currently being prepared to assess the technical characteristics of the proposed project, any potential environmental and/or socio-economic impacts which may result from the proposed project, as well as any proposed measures to mitigate potential impacts. The Draft EA will include a number of technical studies currently being prepared which will largely inform the analysis. A list of studies, their current status, and their preparers is provided in **Table 1** below.

Table 1. List of Draft EA Studies, Status, and Preparers

STUDY	STATUS	PREPARER
Engineering Survey/Topographic Work	Partially Complete; Need to Complete Survey of Honokōwai Gulch	Austin, Tsutsumi, & Associates (ATA)
Preliminary Engineering and Drainage Report (PEDR)	In Process	ATA

Archaeological Inventory Survey	Partially Complete; Need to Complete Survey of Honokōwai Gulch	Archaeological Services Hawai‘i/ Atlas Archaeology
Cultural Impact Assessment Interviews	Complete	Munekiyo Hiraga
Flora/Fauna Survey	Partially Complete; Need to Complete Survey of Honokōwai Gulch	Robert Hobdy
Ordinary High Watermark Delineation of Honokōwai Gulch	Need to Complete Survey of Honokōwai Gulch	AECOS

In terms of water system design, ATA has been working closely with the DWS to explore alternative tank sites and sizes as well as various pump alternatives for DHHL’s well. Once final components have been decided upon, ATA will finalize their PEDR which will evaluate the overall water system improvements proposed to be constructed as part of the project.

Currently, the proposed alignment is being surveyed by the various consultants. Survey work was delayed for much of 2020 due to the amount of coordination needed to obtain rights-of-entry from the Kaanapali Land Management Corp., who owns a majority of the lands within Honokōwai Gulch. Survey work is ongoing.

STATUS OF DRAFT EA/PROJECT SCHEDULE

Once all technical studies have been completed, the Draft EA will be completed and prepared for submittal to the Hawaiian Homes Commission for review and publication by the Office of Environmental Quality Control (OEQC). The target date for publication is late Summer 2021, subject to the completion of studies.

CONSTRUCTION FUNDING OF WATER SYSTEM IMPROVEMENTS

On March 31, 2017, DHHL entered into a Memorandum of Understanding, Dwelling Unit Revolving Fund Funding for Honokōwai Well, Villages of Leiali‘i with Hawai‘i Housing Finance Development Corporation (HHFDC). See **Exhibit B**. This agreement provides the first \$10 million towards the construction of improvements to be articulated in the EA. In return for the construction funding, DHHL and HHFDC shall split 50-50 the available capacity of the well, after negotiating the DWS portion for well maintenance and reserves. Most recent estimates of costs to fully construct the proposed improvements is \$14-\$15 million.

In addition, DHHL is coordinating with the HHFDC on a determination that the construction of a portion of the proposed Wahikuli improvements can proceed ahead of the DEA as these improvements were contemplated as part of the HHFDC’s 2012 Final Environmental

Impact Statement for its Villages of Leiali‘i Master Plan project, with no changes to the physical environment. DHHL will ensure that archaeological, flora and fauna studies are conducted and documented. If it is then determined that the DHHL can proceed with construction of improvements in the Wahikuli area, a determination letter will be prepared for Governor’s approval for publication in the OEQC Environmental Notice.

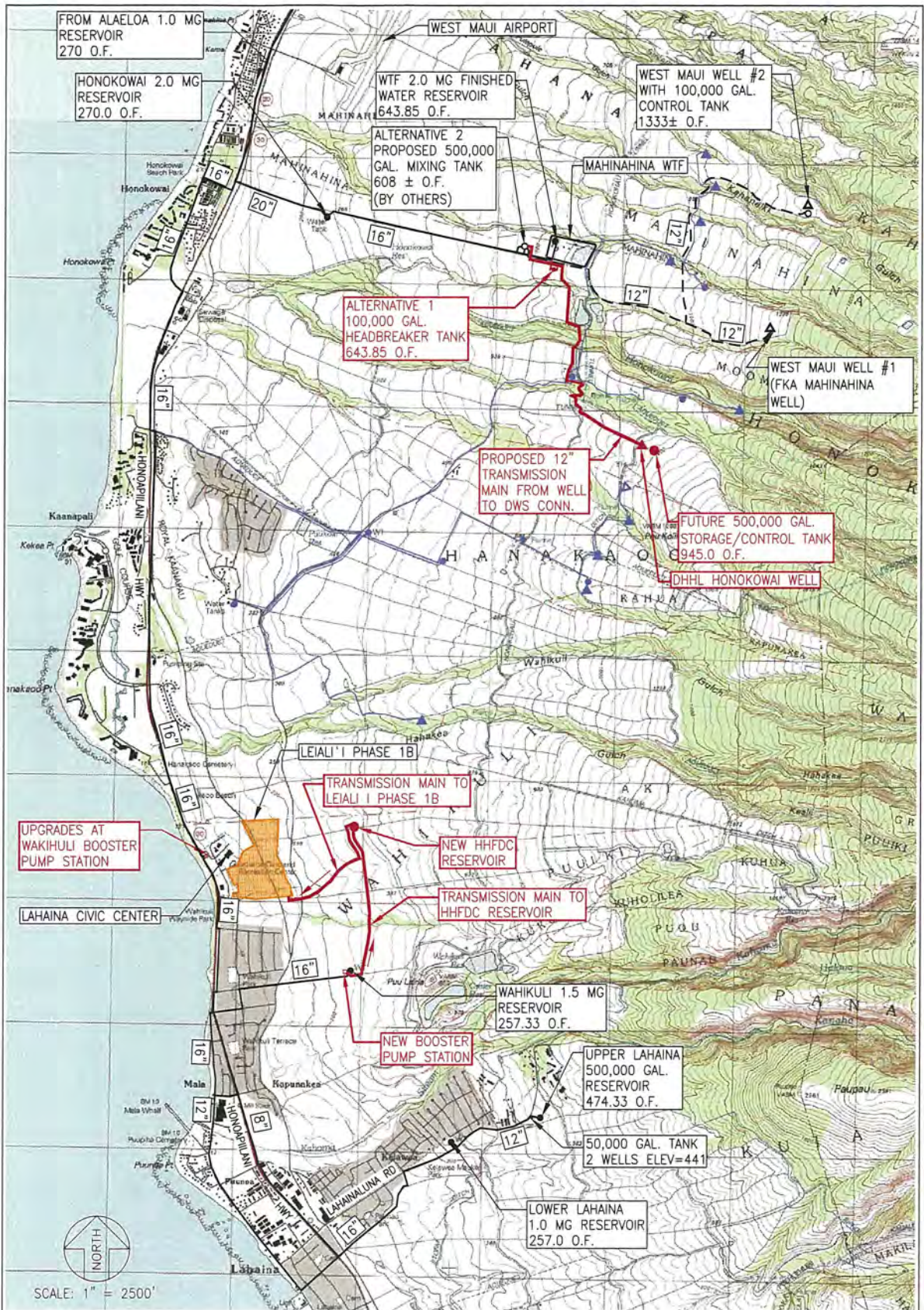
RECOMMENDED ACTION

None; for information only.

LIST OF EXHIBITS

- Exhibit A.1 Conceptual Plans Honokowai to Leiali‘i
- Exhibit A.2 Conceptual Plans DHHL Exploratory Well to DWS Mahinahina Water Treatment System
- Exhibit A.3 Conceptual Plans Wahikuli existing water storage tank and new DHHL water storage tank

- Exhibit B. Memorandum of Understanding, Dwelling Unit Revolving Fund Funding for Honokōwai Well, Villages of Leiali‘i with Hawai‘i Housing Finance Development Corporation



- LEGEND**
- ▲ DHHL WELL
 - ▲ DWS WELL
 - ▲ PROPOSED DWS WELL
 - ▲ HWS WELL
 - DHHL TANK/RESERVOIR
 - DWS TANK/RESERVOIR
 - PROPOSED DWS TANK/RESERVOIR
 - HWS TANK/RESERVOIR
 - DHHL WATERLINE
 - DWS WATERLINE
 - - - PROPOSED DWS WATERLINE
 - HWS WATERLINE

LEIALI'I PHASE 1B

SCALE: 1" = 2500'

1" INCHES AT FULL SIZE
(If NED 7-inches Scale According)

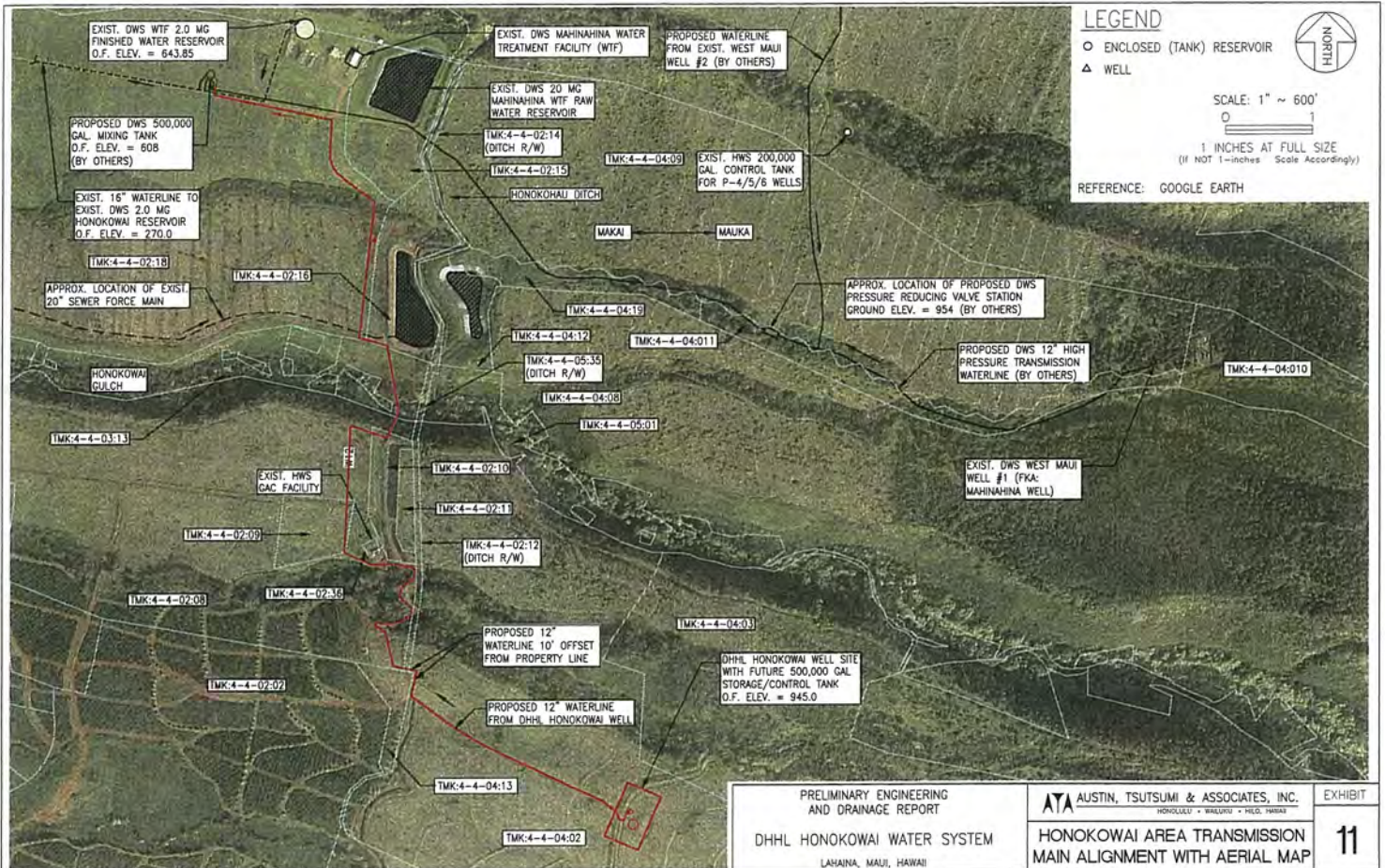
PRELIMINARY ENGINEERING
AND DRAINAGE REPORT

DHHL HONOKOWAI WATER SYSTEM

LAHAINA, MAUI, HAWAII

ATA AUSTIN, TSUTSUMI & ASSOCIATES, INC.
HONOLULU • WAILUKU • HILO, HAWAII

GENERAL SITE PLAN **EXHIBIT 2**



PRELIMINARY ENGINEERING AND DRAINAGE REPORT
 DHHL HONOKOWAI WATER SYSTEM
 LAHAINA, MAUI, HAWAII

ATA AUSTIN, TSUTSUMI & ASSOCIATES, INC.
 HONOLULU • WAILUKU • HILO, HAWAII
HONOKOWAI AREA TRANSMISSION MAIN ALIGNMENT WITH AERIAL MAP

EXHIBIT
11

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LEGEND

- LEIALII PHASE 1B - AREA BELOW ELEVATION 130
- LEIALII PHASE 1B - AREA ABOVE ELEVATION 130



REFERENCE: GOOGLE EARTH
 1 INCHES AT FULL SIZE
 (IN NOT 1-INCHES Scale Accordingly)

PRELIMINARY ENGINEERING
 AND DRAINAGE REPORT
 DHHL HONOKOWAI WATER SYSTEM
 LAHAINA, MAUI, HAWAII

ATA AUSTIN, TSUTSUMI & ASSOCIATES, INC.
HONOLULU • HAWAII • PLEASANT HARBOR
**HHFC PROPOSED RESERVOIR
 AND TRANSMISSION MAINS**

EXHIBIT
21

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MEMORANDUM OF UNDERSTANDING
DWELLING UNIT REVOLVING FUND FUNDING FOR HONOKOWAI WELL
VILLAGES OF LEIALI'I

THIS MEMORANDUM OF UNDERSTANDING, dated as of
MARCH 31, 2017 _____ ("MOU"), made by and between the HAWAII
HOUSING FINANCE AND DEVELOPMENT CORPORATION, a public body and a body
corporate and politic of the State of Hawaii ("HHFDC"), doing business at 677 Queen
Street, Suite 300, Honolulu, Hawaii, 96813, and the DEPARTMENT OF HAWAIIAN
HOME LANDS, State of Hawaii ("DHHL"), whose principal place of business is 91-5420
Kapolei Parkway, Kapolei, Hawaii 96707 and post office address is P. O. Box 1879,
Honolulu, Hawaii 96805.

WITNESSETH:

WHEREAS, HHFDC is the master developer of the Villages of Leialii project in
Lahaina, Maui, Hawaii, Tax Map Key Nos. (2) 4-5-021: 003, 004 (portion of), 005
(portion of), 013, 018, 019, 020, 021, 022 (portion of), 023 (portion of); (2) 4-5-028: 070
and 081; (2) 4-5-036: 001 to 112 ("Leialii").

WHEREAS, Villages 1A and 1B at Leialii were sold to DHHL by the Transfer
Agreement dated December 30, 2004, as amended.

WHEREAS, DHHL completed the construction of 104 homes at Village 1A and
DHHL is working on the development of 250 homes at Village 1B.

WHEREAS, DHHL has drilled and tested an exploratory potable water well on
State land in Honokowai, Maui, Hawaii, Honokowai Well (State Well No. 5639-04) at
Tax Map Key No. (2) 4-4-004: 002 (por.) ("Honokowai Well") at a design and
construction cost of approximately \$1,000,000.

WHEREAS, test results indicate that Honokowai Well has a capacity of 1 MGD,
which is preliminarily estimated will serve approximately 560 units whether the well is
dedicated to the County of Maui Department of Water Supply ("DWS") or a private water
company.

WHEREAS, DHHL is currently working on an environmental assessment
pursuant to Chapter 343, Hawaii Revised Statutes ("HRS"), for the Honokowai Well
Improvements ("EA") and the designs for source, storage and transmission
improvements ("Honokowai Well Improvements"), at a cost of approximately
\$1,000,000 to utilize the well as a potable water source for its Village 1B project at
Leialii.

WHEREAS, DHHL reviewed several alternative transmission waterline
alignments and additives as described in its Draft Water Master Plan for DHHL

Honokowai Water System, by Austin, Tsutsumi & Associates, Inc., dated March 15 and April 10, 2013, ranging in cost from \$4.8 million to \$14.2 million ("Honokowai Water Master Plan").

WHEREAS, new well sources, in addition to the Honokowai Well, storage and transmission improvements are needed for development at Leiali'i and HHFDC would like to develop affordable rentals at Leiali'i.

WHEREAS, the HHFDC Board of Directors approved entry into a MOU with DHHL for potable water infrastructure at Leiali'i on December 8, 2016.

WHEREAS, the Hawaiian Homes Commission authorized the Chairman to enter into a MOU with HHFDC to provide funding for potable water infrastructure at Leiali'i on December 20, 2016.

NOW, THEREFORE, the Parties hereby agree as follows:

- I. Honokowai Well Improvements. Of the alternatives and additives described in the Honokowai Water Master Plan, Alternative 2, Additive 2, appears to be the alternative that HHFDC and DHHL will focus on with an estimated cost of \$8.5 million. This option includes outfitting the well, a control building and a 50,000-gallon control reservoir at the well site, and a 12-inch ductile iron transmission line extending approximately 8,000 lineal feet from the well site, north across Honokowai Gulch over State land as well as privately owned properties of Maui Land and Pineapple Company and Kaanapali Land Management Corp., to a connection at a storage tank near the County of Maui's existing Mahinahina Water Treatment Facility. This option also includes reactivation of the Waiohuli Booster Pump Station near the entrance to Leiali'i Parkway, and a 12-inch transmission line 5,400 feet up to a new 250,000-gallon reservoir at elevation 320' at Leiali'i above the Wahikuli Reservoir. The estimated cost of this option from the Honokowai Water Master Plan is attached hereto as Exhibit A. This option is subject to change, as may be mutually agreed upon by DHHL and HHFDC.
- II. Use of DURF Funds. HHFDC agrees to finance the first \$10 million of the Honokowai Well Improvements from its Dwelling Unit Revolving Fund ("DURF Funds") for which HHFDC shall be entitled to half of the available capacity of the Honokowai Well. DHHL shall be entitled to the remaining half of the available capacity of the Honokowai Well.
- III. DWS or Private Operator. At this time, HHFDC and DHHL contemplate a dedication of the Honokowai Well and Honokowai Well Improvements to DWS, unless otherwise mutually agreed to by HHFDC and DHHL.
- IV. Division of Labor. Either Party may undertake components of the Honokowai Well Improvements as both Parties mutually agree. Each Party shall be

responsible for procurement and administration of any contract it enters into to accomplish the component of work such Party undertakes.

- V. Budget. An initial DURF budget of the Honokowai Well Improvements is attached hereto as Exhibit B ("DURF Budget").
- VI. Administration of DURF Fund. The DURF funds shall be administered by HHFDC as follows, unless otherwise approved by HHFDC:
- A. The DURF Fund may be used for any project related expense, as approved by HHFDC;
 - B. Except for payment for the EA, there shall be no expenditure from the DURF Fund prior to the completion of the EA;
 - C. All contracts, commitments or change orders to be paid from the DURF Fund shall be approved by HHFDC and DHHL prior to execution;
 - D. Withdrawals from the DURF Fund shall be made by submittal of a written request to HHFDC (no more than once a month), accompanied by the worksheets and information supporting the withdrawal, in the forms attached hereto as Exhibit C;
 - E. Withdrawals by DHHL may be requested for the entire contract amount by submittal to HHFDC of a copy of the executed contract procured in compliance with HRS Chapter 103D;
 - F. Checks for withdrawals by DHHL shall be made payable to DHHL, for payment to its vendors;
 - G. Copies of withdrawals from the DURF Fund by HHFDC for project related expenses shall be provided to DHHL at the time of such withdrawal;
 - H. All contracts shall name DHHL, HHFDC and the State of Hawaii as additional indemnitees and additional insured parties;
 - I. All construction contracts shall be accompanied with a 100% payment and performance bond and labor and materials bond naming DHHL, HHFDC and the State of Hawaii as additional obligees under the surety bond;
- VII. Compliance with All Laws. Each Party shall comply with all Federal, State, and County laws, ordinances, codes, rules, and regulations as the same may be amended from time to time, that in any way affect such Party's performance under this MOU.
- VIII. Amendments, Waiver. This MOU can only be changed by an instrument in writing signed by HHFDC and DHHL. The terms of this MOU may not be waived, modified, or in any way changed by implication, through conduct, correspondence, or otherwise, unless such waiver, modification, or change shall be specifically agreed to in writing by HHFDC and DHHL. Any waiver in whole or in part to any of the terms and conditions hereunder, shall be specific and not general. Each waiver shall only apply to specific conditions and circumstances.

- IX. Binding Effect of Agreement. This MOU shall be binding upon and inure to the benefit of HHFDC and DHHL, and their respective successors and assigns.
- X. Gender and Number. The use of any pronoun in reference to HHFDC and DHHL shall be construed to mean the singular or plural, the masculine, feminine or neuter, as the instrument and context may require.
- XI. No Party Deemed Drafter. The parties agree that neither HHFDC nor DHHL shall be deemed to be the drafter of this MOU and in the event this MOU is ever construed by a court of law, such court shall not construe this MOU or any provision hereof against any party as the drafter of this MOU.
- XII. Counterparts. This MOU may be executed in any number of counterparts. Each such counterpart hereof shall be deemed to be an original instrument but all such counterparts together shall constitute but one MOU.
- XIII. Invalidity of Provision. If any provision of this MOU as applied to any party or to any circumstances shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way effect any other provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this MOU as a whole.
- XIV. Approvals Required.
- A. HHFDC's proposed use of DURF Funds shall be subject to approval by the HHFDC Board of Directors, availability of DURF Funds, and approval of release of funds by the Governor.
 - B. Funding of the DURF Funds shall be subject to completion of the Final Environmental Assessment for the Honokowai Well Improvements and compliance with HRS Chapter 343.
 - C. DHHL shall obtain written consent of this MOU from the Office of Hawaiian Affairs (OHA), if required.
 - D. If Governor's approval of this MOU is required, DHHL shall be responsible for obtaining the written approval of the Governor.
- XV. Clause or Provision Contrary to Hawaiian Homes Commission Act. In the event any clause or provision in this MOU is found to be contrary to the Hawaiian Homes Commission Act, 1920, as amended and or any clause or provision is such where it may put the Hawaiian Homes Commission in such a position where it would violate its Fiduciary responsibility to its native Hawaiian beneficiaries, such clause or provision shall be removed from the MOU without canceling or altering the intent of the MOU.

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IN WITNESS WHEREOF, the undersigned have executed these presents as of the day and year first written above.

Approved as to Form:


Hawaii Housing Finance and Development Corporation

Deputy Attorney General
Representing HHFDC

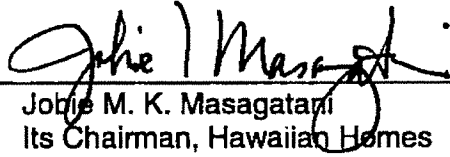
By _____
Craig K. Hirai
Its Executive Director

Approved as to Form:

Department of Hawaiian Home Lands



Deputy Attorney General
Representing DHHL

By 

Jobie M. K. Masagatani
Its Chairman, Hawaiian Homes Commission

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HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION · DEPARTMENT OF HAWAIIAN HOME LANDS

MAUI COUNTY

LOT DEVELOPMENT PROJECTS

HAWAIIAN HOMES COMMISSION

ITEM E-3

October 20, 2020

LOT DEVELOPMENT PROCESS

PHASES TO HOMESTEAD LOT DEVELOPMENT

1. SUBDIVISION PLANNING

- a. Development, Phasing, Budget Plans
- b. Environmental Compliance (EA/EIS/ERR)

2. ENGINEERING DESIGN

- a. Plans, specifications, Subdivision application
- b. Federal, State and County review

3. CONSTRUCTION

- a. Offsite Construction
- b. Onsite Construction

4. POST-CONSTRUCTION

- a. Subdivision approval, licensing, TMKs, File Plan

5. HOMESTEAD OFFERING



LOT DEVELOPMENT

OFFSITE AND ONSITE DEVELOPMENT

Offsite costs

- Major highway improvements
- Potable Water system improvements
- Sewer system improvements
- Regional drainage improvements

Onsite costs within subdivision

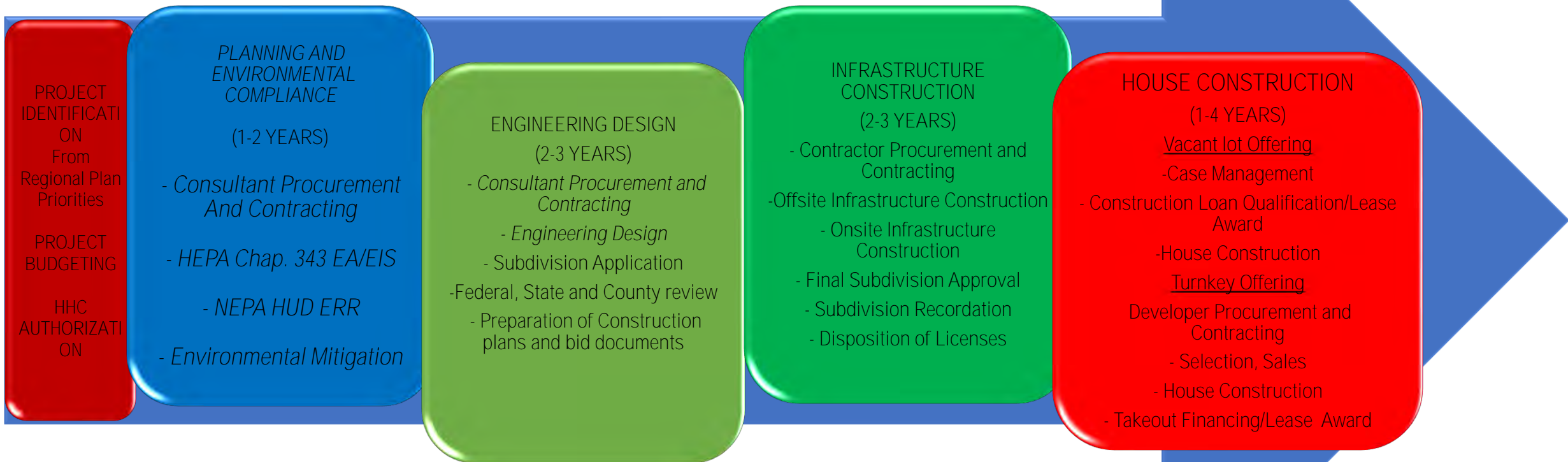
- Roadways
- Waterlines
- Sewerlines
- Storm drain lines
- Electrical and Telecommunications
- Lot Grading
- Archaeological and Environmental remediation



DHHL DEVELOPMENT PROCESS

Generalized 6-8 year process:

Unimproved Land to House Construction*



Assumes that all stages have funding authorization and procurement approvals.



DEVELOPMENT PLAN –FY 2020

PROJECT	LOTS PLANNED	CURRENT PHASE	FUNDING	STATUS
Maui Scattered Lots	14	Design/ Construction	Leg FY19: \$200,000 Trust FY20: \$325,000	Lot assessment in process. Number of lots subject to change. Lots subject to consolidation and resubdivision. Drainage and slope mitigation in process in Waiehu Kou 4 and Paukukalo Unit 3. Submit lot information to CAD.
TOTAL	14			

Lot Assessment & Preparation for Award

(Kula Residence Lots)

Lot 45



Lot 85



Lot 112



Lot 206



Lot 209



Lot 213



Lot 235



Lot 121



Lot 122



Preparation for Award

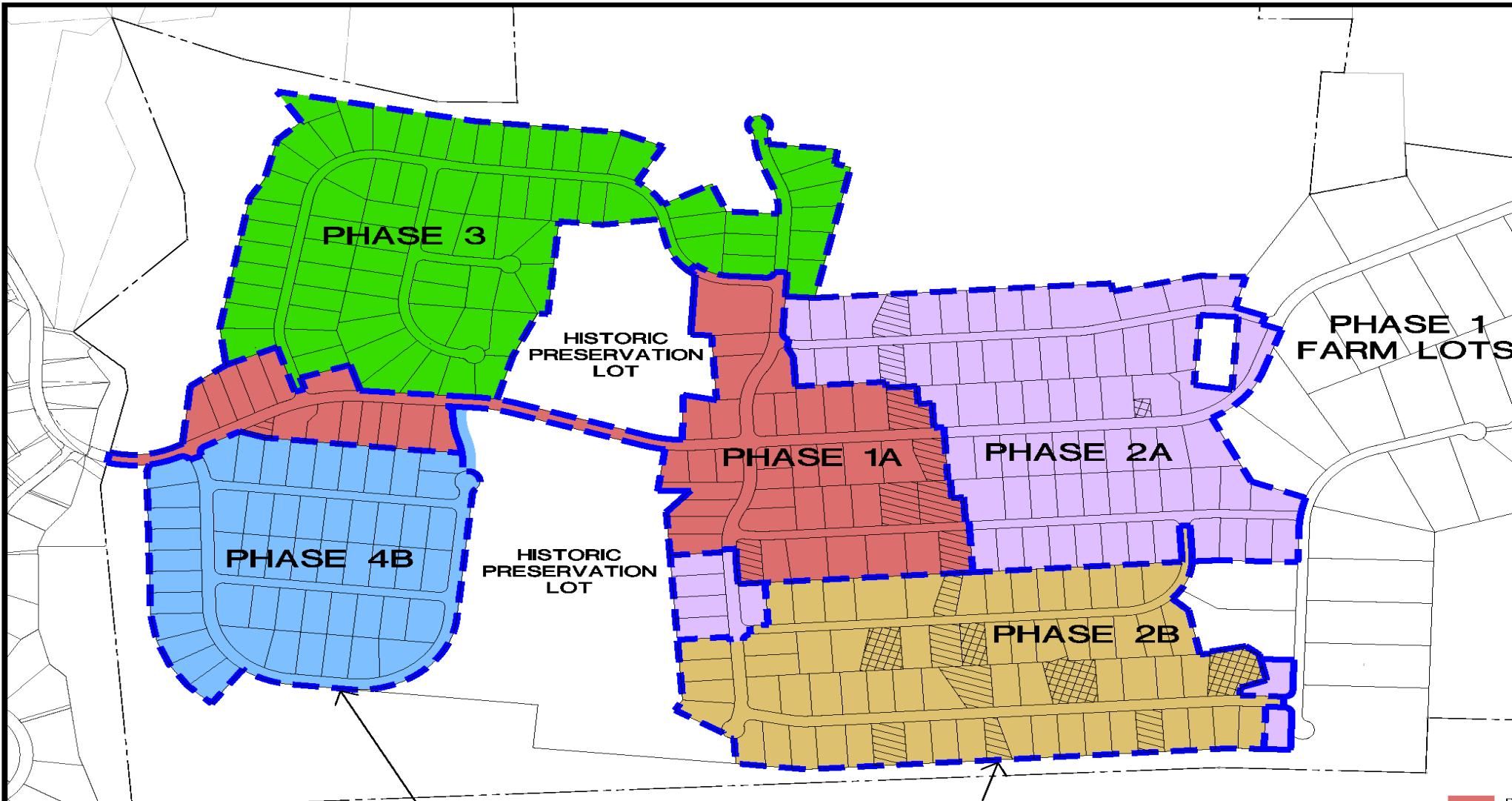
(Hikina Residence Lots)



DEVELOPMENT PLAN – FY 2021

PROJECT	LOTS PLANNED	CURRENT PHASE	FUNDING	STATUS
Keokea Waiohuli Ph 2-A	76	Construction	Leg FY19: \$1,500,000 (D) Leg FY19: \$5,000,000(C) Leg FY20: \$8,000,000 (C)	IFB let in early 2020. Construction contract with Mira Construction in certification process. NTP Jan. 1, 2021.
TOTAL	76			










WAIOHULI UNDIVIDED INTEREST AWARDS

KEOKEA-WAIOHULI SUBDIVISION

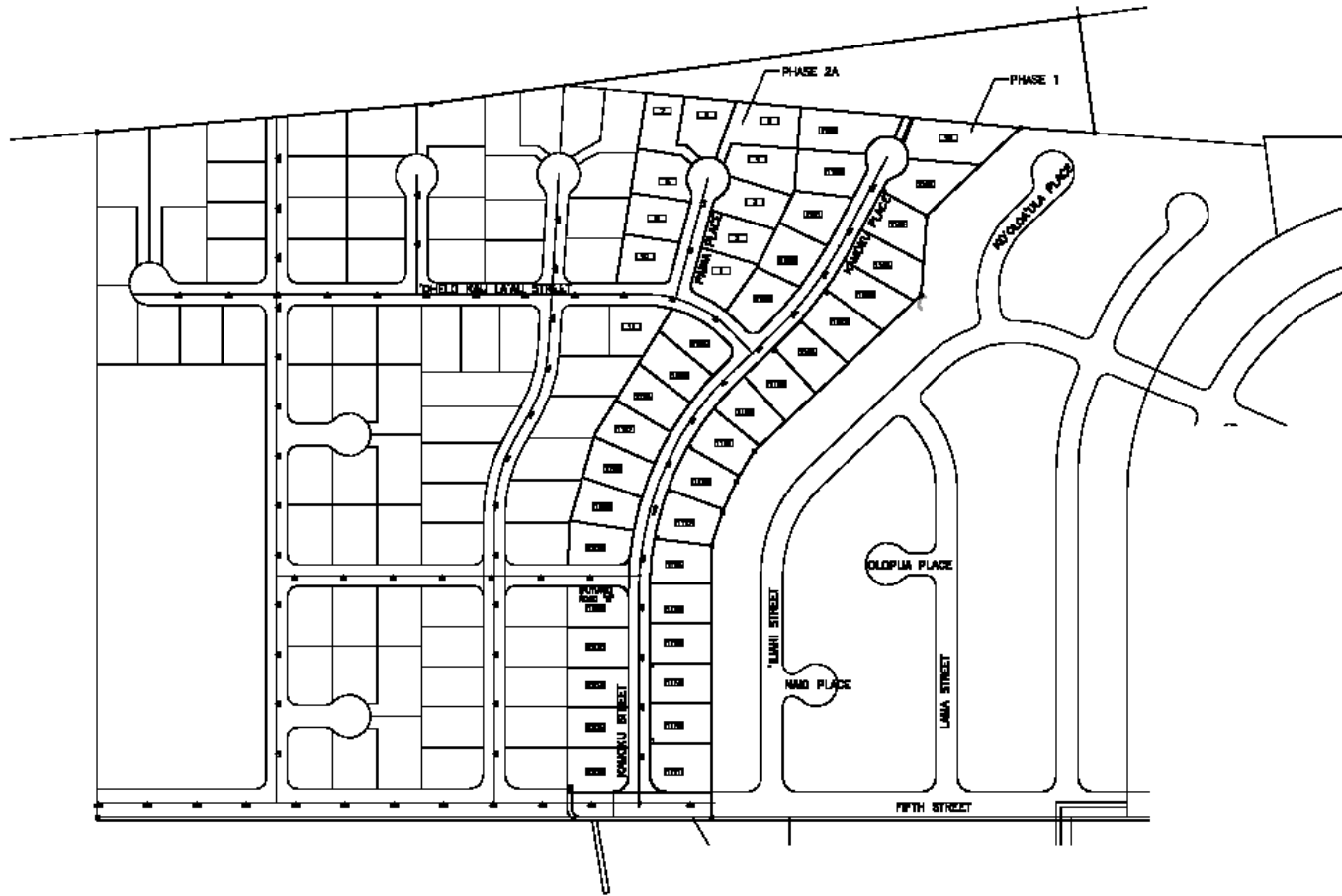
LEGEND

	PHASE 1A:	46	RESIDENTIAL LOTS
	PHASE 2A:	76	RESIDENTIAL LOTS
	PHASE 2B:	61	RESIDENTIAL LOTS
	PHASE 3:	76	RESIDENTIAL LOTS
	PHASE 4B:	53	RESIDENTIAL LOTS
	TOTAL:	312	RESIDENTIAL LOTS

DEVELOPMENT PLAN – FY 2022

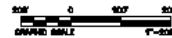
PROJECT	LOTS PLANNED	CURRENT PHASE	FUNDING	STATUS
Lanai Residence Lots, Phase 2	TBD	Planning	\$300,000	Budget request for Chap. 343 Environmental Assessment
Keokea Waiohuli Ph 2-B	61	Design	Leg FY18: \$1,000,000(D) Leg FY19: \$400,000 (D) Requires \$15,000,000 (C)	Design contract certified. IFB for Phase 2-B planned for early 2021.
Honokowai Subs Ag Ph 1 and Residential lots	TBD	Planning	Trust Funds: \$500,000	Masterplan EA for Honokowai in process. Encompasses both agriculture and residential homesteads and community uses. Conceptual plans for homesteading subject to the completion of the FEA.
Hoolehua- Pala' au Scattered Lots	21	Plng/Design	Leg FY18: \$1,500,000	Leg funding re-authorized. Project scoping in process. Identify other Hoolehua lots requiring infrastructure.
Naiwa Ag Subdivision	58	Plng/Design	Leg FY19: \$1,500,000	Leg funding re-authorized. EA studies planned. Pre-consultation process before end of 2020.

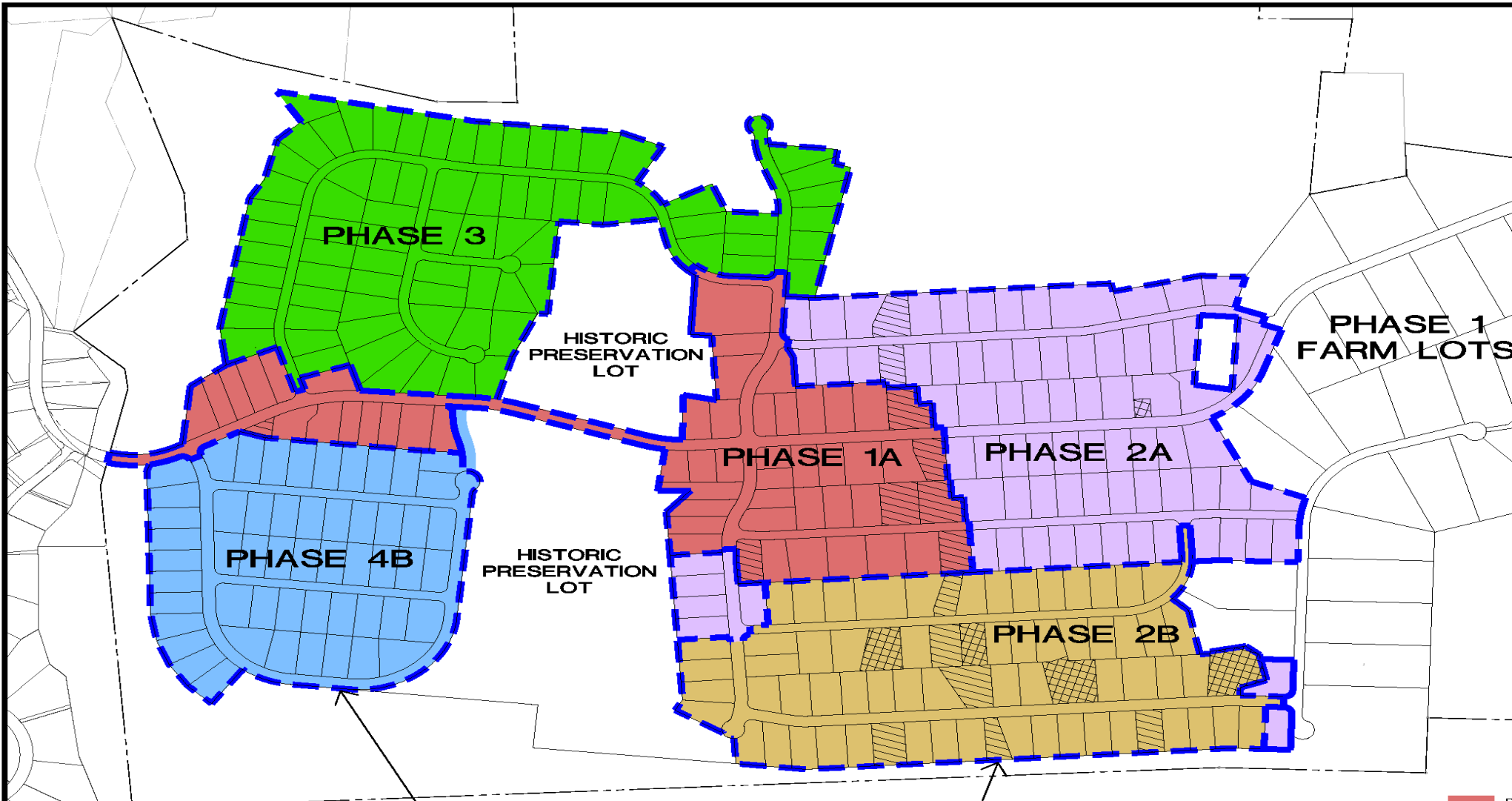
Proposed Lanai Residence Lots Masterplan



LANAI RESIDENCE LOTS MASTER PLAN

SCALE: 1" = 50'










WAIOHULI UNDIVIDED INTEREST AWARDS

KEOKEA-WAIOHULI SUBDIVISION

LEGEND

	PHASE 1A:	46	RESIDENTIAL LOTS
	PHASE 2A:	76	RESIDENTIAL LOTS
	PHASE 2B:	61	RESIDENTIAL LOTS
	PHASE 3:	76	RESIDENTIAL LOTS
	PHASE 4B:	53	RESIDENTIAL LOTS
	TOTAL:	312	RESIDENTIAL LOTS

Hoolehua Scattered Lots Site Improvements

SCOPE OF WORK

- Create 21 new lots from existing vacant agricultural lots
- Potential Infrastructure Improvements
 - Access
 - Potable water (subject to DHHL water reservations)
 - Irrigation water
 - Electrical service

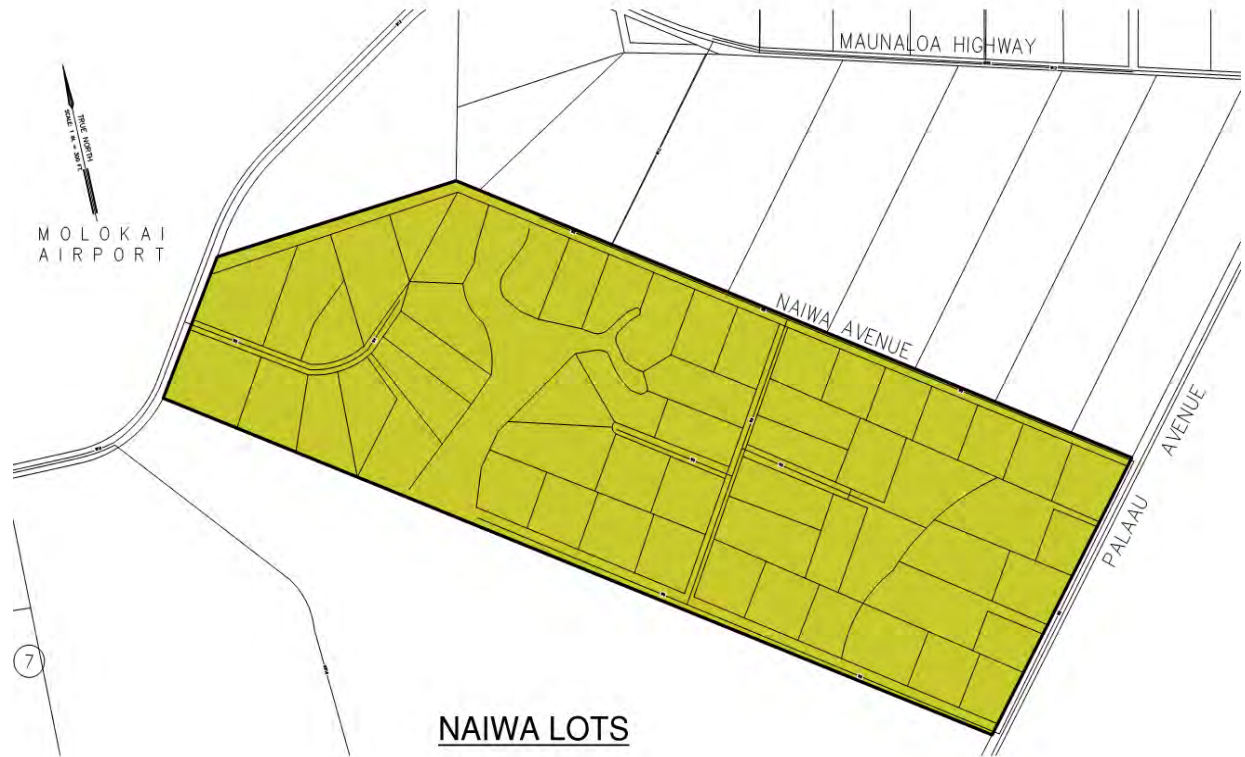


HO'OLEHUA VACANT LOTS

Naiwa Subdivision Site Improvements

SCOPE OF WORK

- 58 lot subdivision
- Planned Infrastructure Improvements
 - Roadways
 - Irrigation water
 - Potable water (subject to DHHL water reservations)
 - Electrical service

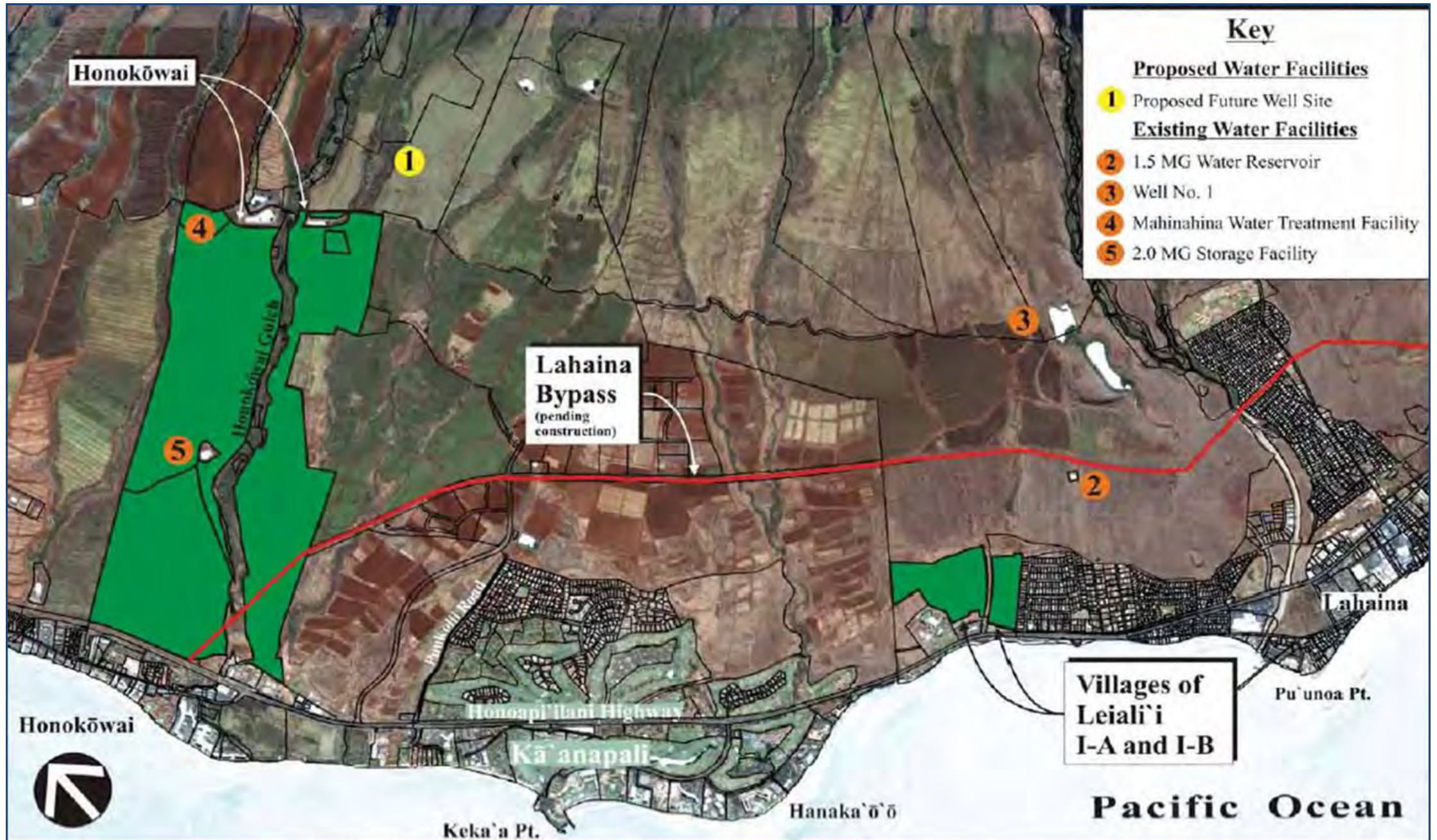


***Subject to additional funding**

DEVELOPMENT PLAN – FY 2023

PROJECT	LOTS PLANNED	CURRENT PHASE	FUNDING	STATUS
Leialii – Ph 1B-1	75		<p>Leg FY19: \$1,400,000 Trust Funds: \$1,200,000 \$8 Million needed for onsite lot construction.</p> <p>Leg FY20 \$9 Million appropriated for highway and access improvements. \$10M HHFDC DURF funding agreement for water improvements</p>	<p>Leg appropriations for designs for highway and parkway improvements at Lahaina Civic Center. Offsite water improvements funded by HHFDC DURF.</p> <p>Honokowai Water System Draft EA in Summer 2021; improvements to Leiali'i water transmission and storage. Re-secure wastewater credits.</p>
Honokowai Subs Ag Ph 2	TBD	Planning	Funding to be determined; subject roadway and infrastructure stds.	Subject to Masterplan EA for Honokowai.
Pu'unani Homestead	161	Acquisition, Planning and Design	Development package: \$23,350,000	Acquisition via Affordable Housing Credits. Request FONSI-FEA October HHC. Supplemental Contract for Design Phase, following FEA approval.

HONOKOWAI WATER DEVELOPMENT



PU'UNANI HOMESTEAD SUBDIVISION

TMK: (2) 3-5-002-002 Wailuku, Maui

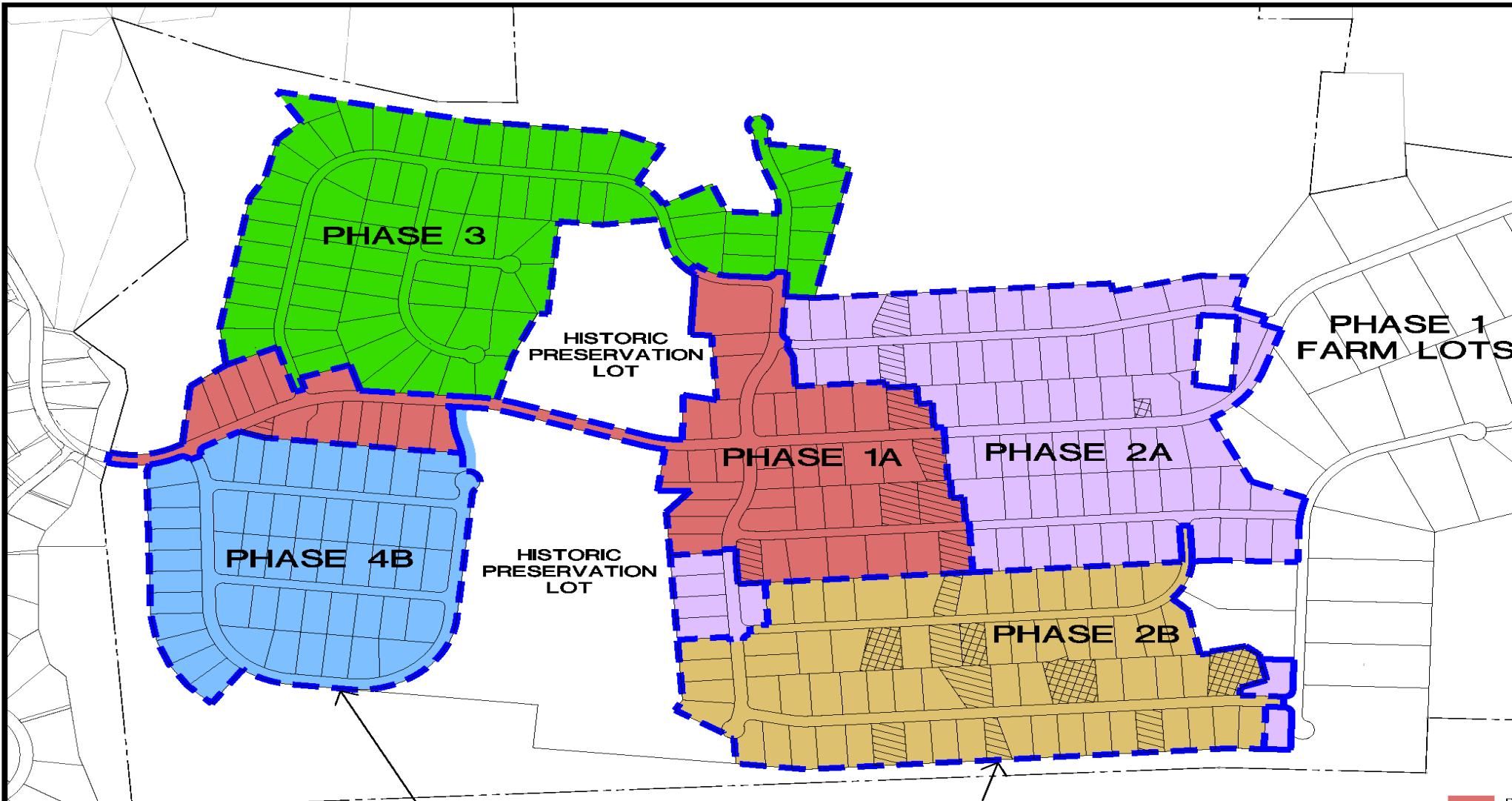
137 Turnkey Lots
24 Vacant Lots



DEVELOPMENT PLAN – YEAR 5 (FY 2024)

PROJECT	LOTS PLANNED	PHASE	FUNDING	STATUS
Keokea Waiohuli Ph 3	73	Design	Estimated: \$2,000,000 (D) \$22,000,000 (C)	Requires drainage study. Designs and construction subject to funding.
Leialii – Ph 1 B-2	125		Estimated: \$3,000,000 (D) \$20,000,000 (C)	Complete water system improvements funded by HHFDC DURF. Requires higher elevation storage tank and booster pump improvements.
TOTAL	273			










WAIOHULI UNDIVIDED INTEREST AWARDS

KEOKEA-WAIOHULI SUBDIVISION

LEGEND

	PHASE 1A:	46	RESIDENTIAL LOTS
	PHASE 2A:	76	RESIDENTIAL LOTS
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	PHASE 4B:	53	RESIDENTIAL LOTS
	TOTAL:	312	RESIDENTIAL LOTS

LOT DEVELOPMENT

Impediments to Development

- FUNDING FOR OFFSITE AND ONSITE IMPROVEMENTS
- POTABLE AND NON-POTABLE WATER
- WASTEWATER CREDITS AND IMPROVEMENTS
- ENVIRONMENTAL COMPLIANCE; HEPA AND NEPA
- REGULATORY PROCESSING
- RISING LABOR AND MATERIAL COSTS
- DEVELOPMENT IN REMOTE AREAS RESULTS IN HIGHER BIDS
- REDEVELOPMENT OF AGED INFRASTRUCTURE AND SUBDIVISIONS



Opportunities for Development

- DHHL-DWS Honokowai Water Agreement for 200,000 Gallons per Day.
- Development of DHHL Honokowai Well to provide potable water for 300 additional lots, subject to negotiation.
- \$10M HHFDC DURF funding for Honokowai Well, Transmission and Storage for Villages of Leialii 1B; 250 lots.
- Acquisition of Pu'unani Homestead Subdivision; FONSI and Final EA.
- \$17.5 M Legislative funding for Pulehunui Regional Wastewater Infrastructure. Connect to proposed Central Maui Wastewater Treatment facility, rather than State/DHHL operating and maintaining private wastewater treatment.
- Water Use Permit Application for Kualapuu Aquifer to lift moratorium on new potable meters.



**HAWAIIAN HOMES COMMISSION
OCTOBER 19 & 20, 2020
TELECONFERENCE
9:30 A.M.**


F – ITEMS

LAND MANAGEMENT DIVISION

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

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 November 1, 2020.
- B) The annual renewal period, shall be on a month-to-month basis, for up to twelve (12) months, but no longer than October 31, 2021 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 October 31, 2020. 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 inventory. The short-term disposition(s) within the Eastern, Central, and Southern portions cover approximately 8,340.0 acres or approximately 6.50% 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

¹ DHHL Hawaii Island Plan – Final Report, PBR Hawaii, May 2002

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 1.0% (\$18,134) of the ROE total revenues (\$2,575,985) that DHHL received statewide. The Eastern, Central, and Southern portions of Hawaii Island holds 8 of the 142 ROE permits Statewide. These permittees fall under a variety of land use purposes with the most being pastoral.

FY 2020		Total	FY 2021		Total
Agriculture	\$264	1	Agriculture	\$264	1
Caretaker/Landscape	\$1,508	1	Caretaker/Landscape	\$1,508	1
Commercial	\$0	-	Commercial	\$0	-
Community	\$240	1	Community	\$240	1
Industrial	\$0	-	Industrial	\$0	-
Office	\$0	-	Office	\$0	-
Pastoral	\$14,964	5	Pastoral	\$18,134	5
Preservation	\$0	-	Preservation	\$0	-
Recreation	\$0	-	Recreation	\$0	-
Research	\$0	-	Research	\$0	-
Stabling	\$0	-	Stabling	\$0	-
	\$16,976	8		\$18,134	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 stabilized at \$1.21 per square foot per month (“psf/mo”). In light of this research, and the current COVID-19 global pandemic, LMD respectfully recommends maintaining its current rental rates without any increase.

For FY 2021, renewals for the 8 Right of Entry Permits located in East, Central, and South Hawaii Island will total an annual rent revenue of \$18,134 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 - EAST, CENTRAL, & SOUTH HAWAII ISLAND, as of October 2020

NO.	ACRE	USE	NO.	USE	PERMITTEE	LOCATION	TMK	Date Started	Current Annual Rent	Proposed Annual Rent	Comments: rent amount and reasons - (site issues - size or irregular shape, etc. why no long-term disposition)
											Denotes Delinquent
465	280.00	Pastoral	465	Pastoral	Gilbert Medeiros, Jr.	Kamaoa-Puueo	(3) 9-3-001:002(P)	2/9/1998	\$504	-	Insufficient/no infrastructure, no legal access, substandard lot
469	504.00	Pastoral	469	Pastoral	Daryl K. Kalua' u	Kau	(3) 9-3-001:002(P)	9/7/2000	\$942	-	Rent is current; portion of a larger parcel that is designated for General Ag use. Insufficient infrastructure, irregular shape.
473	2250.00	Pastoral	473	Pastoral	Dean Kanoho	Kamaoa-Puueo	(3) 9-3-001:002(P)	7/15/2004	\$3,156	-	Rent is current; portion of a larger parcel that is designated for General Ag use. Insufficient infrastructure, irregular shape.
477	2.00	Agricultural	477	Agricultural	Guy Kanoho	Hunu'uia	(3) 3-8-001:007(P)	2/26/2007	\$264	-	Rent is current; portion of a larger parcel that is designated for General Ag use.
478	300.00	Pastoral	478	Pastoral	April Awana-Mattos	Hononuu	(3) 2-8-011:011 (P)	2/1/2010	\$5,220	-	Rent is current; portion of a larger parcel that is designated for General Ag use.
481	2.21	Landscape	481	Landscape	Ginger Patch Center	Waiakea	(3) 2-2-060:001	8/2/2010	\$1,508	-	Rent is current; portion of a larger parcel that is designated for Industrial use. Insufficient infrastructure, irregular shape.
482	1.00	Community	482	Community	Keaukaha Panaewa Farmers Association	Panaewa	(3) 2-1-025:091 (P)	2/1/2011	\$240	-	Rent is current; portion of a larger parcel that is designated for Commercial use. Insufficient infrastructure, irregular shape.
610	5000.00	Pastoral	610	Pastoral	Native Hawaiian General Services	Kamaoa-Puueo	(3) 9-3-001:002(P)	6/1/2004	\$6,300	-	Rent is current; portion of a larger parcel that is designated for General Ag use. Insufficient infrastructure, irregular shape.

EXHIBIT "A"
Item No. F-1

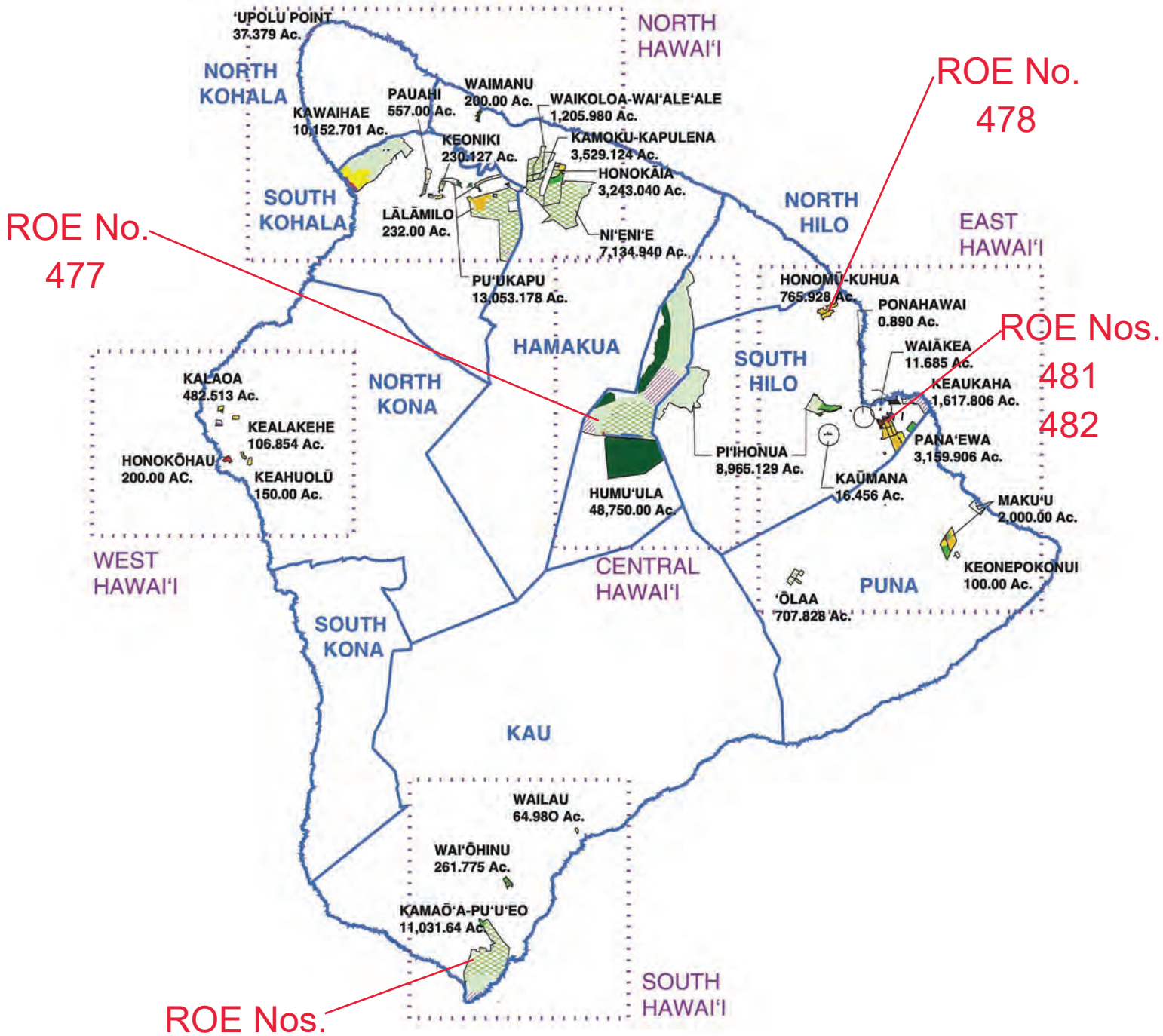


Figure 1
Locational Map

HAWAII LAND INVENTORY

DEPARTMENT OF HAWAIIAN HOME LANDS ISLAND OF HAWAII



Exhibit "A-1"
Item No. F-1



Oahu | Hawaii Research & Forecast Report INDUSTRIAL MARKET Fourth Quarter 2019



Market Summary

Mike Hamasu, Director of Research | Hawaii

> The Oahu industrial market is essentially fully occupied. Of the remaining available spaces, many are functionally obsolete and have been on the market for years. These longstanding vacant spaces comprise the 1.5% baseline vacancy that is likely to remain empty, no matter the conditions of the economy.

> For the 2019 fiscal year, State of Hawaii Harbors Division reported a decline of 1 million cargo short tons processed through the Honolulu Harbor. This 90.4% drop in cargo tonnage represents a slowdown in activity among the island's distributors and in turn affected the wholesale/distribution sector employment. Since last October, this sector posted a loss of 1,100 jobs.

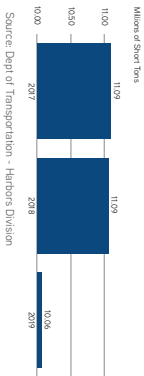
> The October 2019 year-to-date construction permit volume dipped by 12.3% from last year. This is a reduction of \$230 million in permit spending. Both residential and commercial construction projects reported sizeable declines in permit spending of -39.75% and -49.79% respectively, possible indicating fewer planned construction projects for 2020.

> As one of only a few locations left on Oahu with available parcels for sale and with industrial zoned land priced under \$45 per square foot, West Oahu industrial parks recorded an estimated 128 acres of land sold for 2019, more than double the 2018 total acreage sold.

> Between 2011 and 2017, the direct weighted average asking NNN rent for Oahu industrial properties increased at an alarming rate of 6.8%. Subsequently, rental rates fell and stabilized at \$1.21 per square foot per month for the past two years.

> Colliers is anticipating healthy leasing activity for new speculative and owner-user development activity. Year-end 2020 net absorption is projected to hit a decade record high as vacancy rates increase to 2.5%.

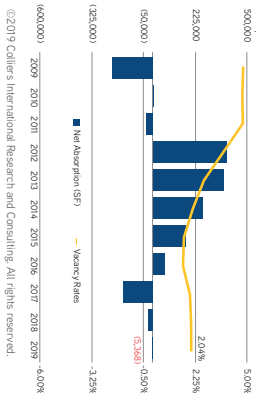
Honolulu Harbor Cargo Tonnage (Fiscal Year-end July)



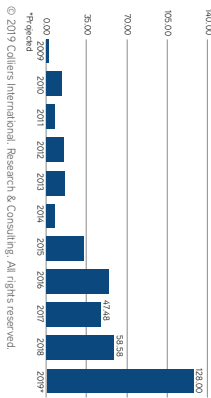
Source: Dept of Transportation - Harbors Division

Market Indicators	Summary Statistics
Absorption	4Q YTD 2019 Net Absorption (5,368) SF
Vacancy Rate	2.04%
Dr. Wtd Avg Asking Rent	\$1.21 PSF/Mo.
Avg Operating Exp	\$0.41 PSF/Mo.
Rental Rates	
Construction	

Oahu Industrial Net Absorption vs. Vacancy Rate



West Oahu Industrial Land Sales



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FOURTH QUARTER 2019 Oahu Industrial Market Statistics

INDUSTRIAL MARKET - BY SUBMARKET AREA	NO. OF BUILDINGS	BUILDING AREA (SF)	TENURE*	AVAILABLE SPACE (SF)	4Q2019 NET ABSORPTION (SF)	YTD NET ABSORPTION (SF)	VACANCY RATE (NNN) (PSF/MO)**	DIRECT WTD AVG. EXP. (PSF/MO)**	WGT. NET OP. EXP. (PSF/MO)
HONOLULU									
Ilweli	96	2,367,235	Fee Simple	45,756	25,406	12,449	1.93%	\$1.36	\$0.61
Kalihi	709	9,712,283	Fee Simple	362,150	12,148	(80,185)	3.52%	\$1.08	\$0.42
Sanford	74	669,005	Leashold	4,000	(3,063)	(4,000)	0.05%	\$1.45	\$0.20
Mānoa	107	4,214,301	Leashold	0	4,160	28,629	0.05%	\$1.25	\$0.20
Aiea	125	4,649,922	Fee Simple	40,642	(6,663)	(11,142)	0.89%	\$1.35	\$0.29
Total Honolulu	1,113	21,991,457		432,568	30,185	(54,449)	2.00%	\$1.14	\$0.44
CENTRAL OAHU									
Boulevard	20	886,460	Leashold	21,794	0	(21,794)	2.70%	\$1.40	\$0.25
Halema	84	2,719,361	Leashold	35,982	6,171	(20,810)	1.28%	\$1.32	\$0.43
Peart City/Aiea	45	1,640,582	Fee Simple	20,250	19,263	22,962	1.28%	\$1.48	\$0.29
Peart City Industrial Park***	32	762,292	Fee Simple	0	7,180	16,770	0.00%	\$1.31	\$0.25
Genry Business Park	67	1,778,759	Fee Simple	17,550	(11,265)	(17,550)	0.99%	\$1.36	\$0.25
Mililani	37	463,120	Fee Simple	16,249	(15,249)	(9,579)	3.57%	\$1.35	\$0.25
Waipahu	128	2,722,540	Fee Simple	90,750	(65,029)	(69,469)	3.33%	\$1.12	\$0.28
Total Central Oahu	381	10,893,314		202,575	(59,929)	(99,570)	1.86%	\$1.26	\$0.38
WEST OAHU									
Campbell Industrial Park	121	4,960,236	Fee Simple	3,935	63,472	63,472	1.20%	\$1.23	\$0.27
Kapolei Business Park	53	1,574,865	Fee Simple	84,959	44,756	78,600	5.39%	\$1.40	\$0.48
Malakole Industrial Park	3	197,000	Fee Simple	0	0	0	0.00%	\$1.23	\$0.27
Keahi Industrial Park	12	90,680	Fee Simple	0	0	0	0.00%	\$1.10	\$0.40
Kalaheo Industrial	5	47,137	Fee Simple	0	0	0	0.00%	\$1.23	\$0.27
Total West Oahu	194	6,889,978		144,435	48,691	142,072	2.10%	\$1.33	\$0.35
WINDWARD OAHU									
Kapa Industrial****	62	593,128	Fee Simple	35,108	0	4,794	5.92%	\$1.40	\$0.30
Kapone	42	613,016	Fee Simple	12,436	10,004	1,795	2.04%	\$1.00	\$0.53
Total Windward	104	1,206,144		47,544	10,004	6,589	3.95%	\$1.29	\$0.38
OAHU TOTALS	1,792	40,586,753		827,122	36,951	(4,889)	2.04%	\$1.21	\$0.41

* Assessed tenure associated with industrial parks with 75% of zones of land under ground lease.
 ** Weighted average rents are calculated on 1-1 and 1-2 zoned properties. All zoned properties, which can be used for retail have been excluded from this rent calculation.
 *** Peart City Industrial Park is a submarket associated with Peart City/Aiea trade area
 **** 2019 4Q gross rent per sq. ft. reported by Research & Consulting. All rights reserved.
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TERMS AND DEFINITIONS

- > **MANEYER** - Industrial buildings greater than 2500 square feet located on the island of Oahu, inclusive of owner user and single tenant buildings.
- > **TOTAL SQUARE FEET** - All available industrial space exclusive of common areas, yard space and free spaces.
- > **VACANT SPACE** - Industrial space that is not occupied by a tenant. This includes available space that is unoccupied.
- > **VACANCY RATE** - The ratio of vacant industrial space divided by the total industrial inventory square footage.
- > **NET ABSORPTION** - The net change in occupied space over a period of time. Year-to-date net absorption is the difference in occupied space between the end of the previous year and the current quarter.
- > **DIRECT WEIGHTED AVERAGE ASKING RENT (NNN)** - The ratio of aggregate landlord asking rents divided by the total available space within a specific geography.
- > **AVERAGE OPERATING NET EXPENSE** - The average rate of tenant expenses such as building utilities, management fees, building maintenance, real property taxes and insurance within a specific geography.
- > **NNN RENTS** - Rents exclusive of building operating expenses.

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Exhibit "B" Item No. F-1

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

Subject: Approval of Revised Application & Review Process for New Revocable Permit Pilot Program

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission rescind its approval of LMD's December 17-18, 2018, Agenda Item No. F-4, titled, Approval of Application & Review Process for New Revocable Permit Pilot Program (see attached Exhibit "A") and RE-APPROVE LMD's Revised Application & Review Process for New Revocable Permit Pilot Program as described below:

The New Revocable Permit Program

The basic program will include the following steps:

1) PARCEL LIST

- a) Identification of non-homestead parcel(s) that is/are suitable for disposition on a month-to-month basis.
- b) Establish the proper method of determining appropriate rent(s) for the identified parcel(s), by considering the following methods:
 - Prudent in-house analysis of the fair market rent through either
 - Market Comparison Analysis
 - Rate of Return
 - Independent Fair Market Summary Appraisal
 - Due to nature of short-term disposition and other limiting factors (access, infrastructure, inability to obtain financing, etc.) a 50% discount would be applied to the base land rate as determined.

2) APPLICATION

- a) New Permitting System, not founded on a "first come, first served" basis, for lands envisioned to be developed within a 20-year timeframe.
 - Implement transparent solicitation process for disposition that is available to native Hawaiians and the public at large.
 - Provide parcel details as follows: TMK; Location; Land Area; Proposed permitted use; Rent; Terms, etc.

3) SCORING CRITERIA – Criterion Guide Attached as Exhibit (B)

a) Establish proof of the necessary experience and ability to be able to maintain proposed use: To meet this criterion applicant must demonstrate each of the following: **(50 Points Total)**

- **(20 Points)** - Proof of work in such capacity that will demonstrate knowledge and/or experience in the specific field/area of the use as proposed in the State of Hawaii for not less than two of the last five years. This is best established by submittal of a business/personal resume and/or tax returns for years as determined by DHHL. and. If only tax returns or business/personal resume is submitted applicant would receive Points to be awarded as follows: 1 yr of tax returns = 5 points; 2 yrs. of tax returns = 10 points; Updated resume for the business/individual = 10 points.
- **(10 Points)** - Proof of current Certificate of Good Standing issued by the State of Hawaii Department of Commerce and Consumer Affairs. This is best established by providing a current Certificate of Good Standing copy as issued by the State of Hawaii, DCCA.
- **(10 Points)** - Proof of history as excellent tenant on State and/or other private owned lands; no termination or enforcement action against applicant within the last 5 years. This is best established by submittal of professional references. Two (2) references = 4 points; Three (3) references = 6 points; Four (4) references = 8 points; Five (5) references = 10 points.
- **(10 Points)** - Proof of written understanding and acknowledgement that proposed use is exempt from preparing an Environmental Assessment under HRS Chapter 343, per DHHL's June 30, 2015 exemption list as approved by the Environmental Council which shall demonstrate knowledge and/or personal experience in dealing with federal, state, and county regulations and other agencies governing such use. Points awarded as follows: applicant submits acknowledgement form that the business/individual understands and is aware of the State HRS Chapter 343 and the DHHL Environmental Exemption list = 5 points; Applicant Provides written statement on personal experience in dealing with government entities governing such use = 5 points

b) Upset minimum Rent (\$) Proposal. To meet this criterion applicant must demonstrate each of the following: **(50 Points Total)**

- **(10 Points)** – Proposed upset rent
- **(10 Points)** – Proof of financial capability to pay rent that is consistent, and on-time based on proposed upset minimum rent. Proof of means to deposit with DHHL an amount equal to two (2) times the proposed monthly rental as a security deposit including the first month's rent payable on or before the first day of the month the permit is to be executed. Points to be awarded as follows: Tax Return info to be reviewed; maximum of 5 points to be awarded based on tax

return(s) submitted – 5 points for 2 yrs of tax return filing submitted; 3 points for 1 yr of tax return filing submitted. Security Deposit amount – 5 points if Cashiers Check is submitted; 3 points if personal check is submitted

- **(10 Points)** – Proof of procuring, and maintaining, at its own cost and expense, in full force and effect throughout the term of the permit, general liability insurance with an insurance company authorized to do business in the State of Hawaii in an amount of not less than \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate and name the State of Hawaii, Department of Hawaiian Home Lands as additional insured. Points to be awarded as follows: Copy of any current Certificate of Insurance for existing business/location if any = 5 points; Letter from Insurance Company that states they will issue insurance coverage to entity when required = 5 points.
- **(20 Points)** – Proof of work experience that demonstrates in writing how applicant's proposal would benefit native Hawaiians, directly and indirectly. Points to be awarded as follows: Support letter(s) from Native Hawaiian Organizations (OHA, Civic Clubs, etc) – 5 points for two support letters; 10 points for 3 or more support letters; Current Hawaiian Homestead Lessee(s) and/or Waitlist(s) employed by business (DHHL to verify list of names if provided; if verified) 5 points for 1-5 employees; 10 points for 6 or more employees

4) Award

- a) Process ensures more consistent decisions
 - Applicant with highest combined score (100pts max) would be awarded the Revocable Permit disposition
 - In the event of a tie, the award will be determined by a drawing of those Applicants with highest combined scores.

5) Renewal

- a) Re-application keeps tenants accountable

DISCUSSION

The Hawaiian Homes Commission had in the past issued position statements on the issuance of Revocable Permits, based on the statutory authorities granted. The following statements are still valid and prudent and are recommended to be incorporated into the new program.

- 1) All available Hawaiian home lands that are not immediately required for native Hawaiian homesteading, general leasing, and/or other purposes for long-term durations shall be available to the general public for month-to-month tenancy through the issuance of revocable permits;

- 2) Supplements DHHL's annual revenue from available lands through good land management practices conducted on lands utilized by way of revocable permits;
- 3) Reduce the acreage of available lands utilized under revocable permits; and
- 4) Authorize the Chairman to amend and terminate Revocable Permits (HHC to approve new RP issuance)

Once approval is granted for the Proposed Revocable Permit Program by the Hawaiian Homes Commission, LMD will collaborate with the Planning Office to coordinate and conduct informational meetings statewide to inform beneficiaries and tenants of DHHL on this new program.

AUTHORITY

Authority to Issue Revocable Permits

- Hawaiian Homes Commission Act, 1920, as amended, Section 204(2)
- Hawaii Revised Statutes, Chapter 171, Section 171-55, Permits, as amended
- Hawaii Administrative Rules, Title 10, Department of Hawaiian Home Lands, Chapter 4, Management of Hawaiian Home Lands, Subchapter 1, Land Management, Section 10-4-1 Lease of Lands.

RECOMMENDATION

Land Management Division respectfully recommends approval of the motions as stated for the following reasons:

- Provide greater transparency and fairness to the DHHL's beneficiaries and the general public;
- Improve efforts to ensure the safe, appropriate, and approved use of Hawaiian home lands; and
- Strengthen DHHL's ability to carry its mission in service to its native Hawaiian beneficiaries.

EXHIBIT "A"
ITEM NO. F-2

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

December 17-18, 2018

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division *PA*

Subject: Approval of Application & Review Process for New Revocable Permit Pilot Program

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission grants its approval to the Application & Review Process for New Revocable Permit Program as shown on Exhibit "A."

DISCUSSION

Authority to Issue Revocable Permits

- Hawaiian Homes Commission Act, 1920, as amended, Section 204(2)
- Hawaii Revised Statutes, Chapter 171, Section 171-55, Permits, as amended
- Hawaii Administrative Rules, Title 10, Department of Hawaiian Home Lands, Chapter 4, Management of Hawaiian Home Lands, Subchapter 1, Land Management, Section 10-4-1 Lease of Lands.

The New Revocable Permit Program

The Hawaiian Homes Commission had in the past issued position statements on the issuance of Revocable Permits, based on the statutory authorities granted. The following statements are still valid and prudent and are recommended to be incorporated into the new program.

- 1) All available Hawaiian home lands that are not immediately required for native Hawaiian homesteading, general leasing, and/or other purposes for long-term durations shall be available to the general public for month-to-month tenancy through the issuance of revocable permits;

- 2) Supplements DHHL's annual revenue from available lands through good land management practices conducted on lands utilized by way of revocable permits;
- 3) Reduce the acreage of available lands utilized under revocable permits; and
- 4) Authorize the Chairman to amend and terminate Revocable Permits (HHC to approve new RP issuance)

The basic program will include the following steps:

1) PARCEL LIST

- a) Identification of non-homestead parcel(s) that are suitable for disposition on a month-to-month basis.
- b) Establish the proper method of determining appropriate rent(s) for the identified parcel(s), by considering the following methods:
 - Prudent in-house analysis of the fair market rent through either
 - Market Comparison Analysis
 - Rate of Return
 - Independent Fair Market Summary Appraisal
 - Due to nature of short-term disposition and other limiting factors (access, infrastructure, inability to obtain financing, etc.) a 50% discount would be applied to the base land rate as determined.

2) APPLICATION

- a) New Permitting System, not founded on a "first come, first served" basis, for lands envisioned to be developed within a 20-year timeframe.
 - Implement a competitive process for disposition that is available to native Hawaiians and the public at large.
 - Provide parcel details as follows: TMK; Location; Land Area; Proposed permitted use; Rent; Terms, etc.

3) SCORING CRITERIA

- a) Establish proof of the necessary experience and ability to be able to maintain proposed use: To meet this criterion applicant must demonstrate each of the following: **(50 Points Total)**
 - **(20 Points)** - Proof of work in such capacity that will demonstrate knowledge and/or experience in the specific field/area of the use as proposed in the State of

Hawaii for not less than two of the last five years. This is best established by submittal of a resume and/or tax return.

- **(10 Points)** - Proof of current Certificate of Good Standing issued by the State of Hawaii Department of Commerce and Consumer Affairs. This is best established by providing a current Certificate of Good Standing copy as issued by the State of Hawaii, DCCA.
 - **(10 Points)** - Proof of history as excellent tenant on State and/or other private owned lands; no termination or enforcement action against applicant within the last 5 years. This is best established by submittal of at least three (3) professional references.
 - **(10 Points)** - Proof of written understanding and acknowledgement that proposed use is exempt from preparing and Environmental Assessment under HRS Chapter 343, per DHHL's June 30, 2015 exemption list as approved by the Environmental Council which shall demonstrate knowledge and/or personal experience in dealing with federal, state, and county regulations and other agencies governing such use.
- b) Upset minimum Rent (\$) Proposal. To meet this criterion applicant must demonstrate each of the following: **(50 Points Total)**
- **(15 Points)** - Proof of financial capability to pay rent in a manner that is consistent, and on-time based on its proposed upset minimum rent. If two or more proposals exceed the proposed minimum upset rent, the proposal that provides the highest monetary offer shall receive the maximum point total.
 - **(10 Points)** - Proof of means to deposit with DHHL an amount equal to two (2) times the proposed monthly rental as a security deposit including the first month's rent payable on or before the first day of the month the permit is to be executed.
 - **(10 Points)** – Proof of procuring, and maintaining, at its own cost and expense, in full force and effect throughout the term of the permit, general liability insurance with an insurance company authorized to do business in the State of Hawaii in an amount of not less than \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate and name the State of Hawaii, Department of Hawaiian Home Lands as additional insured.
 - **(15 Points)** – Proof of work experience that demonstrates in writing how applicant's proposal would benefit native Hawaiians, directly and indirectly.

4) Award

- a) Process ensures more consistent decisions

- Applicant with highest combined score (100pts max) would be awarded the Revocable Permit disposition

5) Renewal

- a) Re-application keeps tenants accountable

Once approval is granted for the Proposed Revocable Permit Program by the Hawaiian Homes Commission, LMD will collaborate with the Planning Office to coordinate and conduct informational meetings statewide to inform beneficiaries and tenants of DHHL on this new program.

RECOMMENDATION

Land Management Division respectfully recommends approval of the motions as stated for the following reasons:

- Provide greater transparency and fairness to the DHHL's beneficiaries and the general public;
- Improve efforts to ensure the safe, appropriate, and approved use of Hawaiian home lands; and
- Strengthen DHHL's ability to carry its mission in service to its native Hawaiian beneficiaries.



Department of Hawaiian Home Lands

Land Management Division

Application & Review Process for New Revocable Permit Pilot Program

December 17-18, 2018

Revocable Permit Pilot Program

PURPOSE:

- Revocable Permit allows for 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
- Supplements DHHL's annual revenue from available lands
- Reduces the acreage of available lands utilized under revocable permits
- Revocable Permits are short-term (30-day month-to-month, annually renewable), which can be cancelled by DHHL at its sole discretion and for any reason whatsoever, at any time during the twelve month period, upon thirty (30) days advance notice in writing to tenant.

Exhibit "A"
Item No. F-4

Application & Review Process Highlights



Process Highlights

Application

Clear Process, Open to All Beneficiaries

Parcel List

1. Identify non-homestead parcel(s) that are suitable for disposition on a month-to-month basis.
2. Establish proper method of determining appropriate rent(s)

Application

1. Implement a competitive process for disposition that is available to native Hawaiians and the public at large.
2. Provide parcel details as follows: TMK, Location, Land Area, Proposed permitted use, rent, terms, etc.

Scoring Criteria

1. Establish proof of the necessary experience and ability to be able to maintain proposed use.
2. Upset minimum Rent (\$) Proposal

Process Highlights

Review

Methodology that Reflects Commission Priorities

Criteria

Criteria to score applications that reflect priorities

Scoring

Review each application and score on criteria

Selection

Select the application with the highest score

Process Highlights

Review of Criteria/Scoring

Establish proof of the necessary experience and ability to be able to maintain proposed use: To meet criterion applicant must demonstrate each of the following: **(50 Points Total)**

- **(20 Points)** – Proof of work in such capacity that will demonstrate knowledge and/or experience in the specific field/area of the use as proposed in the State of Hawaii for not less than two of the last five years.
- **(10 points)** – Proof of current Certificate of Good Standing issued by the State of Hawaii, DCCA.
- **(10 Points)** – Proof of history as excellent tenant on State an/or other private owned lands; no termination or enforcement action against applicant with the last 5 years.
- **(10 Points)** – Proof of written understanding and acknowledgement that proposed use is exempt from preparing an Environmental Assessment under HRS Chapter 343, per DHHL's June 30, 2015 exemption list as approved by the Environmental Council which shall demonstrate knowledge and/or personal experience in dealing with federal, state, and county regulations and other agencies governing such use.

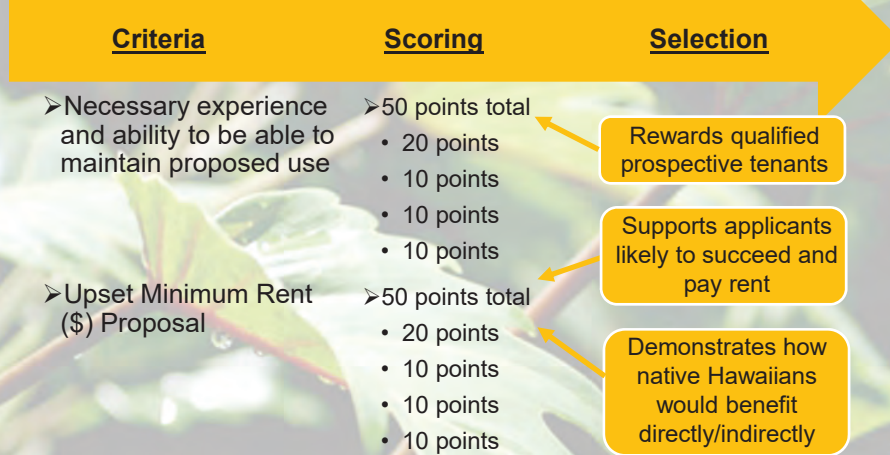
Upset Minimum Rent (\$) Proposal **(50 Points Total)**

- **(15 Points)** – Proof of financial capability to pay rent consistently, and on-time based on proposed upset rent.
- **(10 points)** – Proof of means to deposit with DHHL an amount equal to two (2) times the proposed monthly rental as a security deposit including the first month's rent payable on or before the first day of the month the permit is executed.
- **(10 Points)** – Proof of procuring, and maintaining at its own cost and expense, and keeping in full force and effect through out the term of the permit a general liability insurance policy as required by DHHL.
- **(15 Points)** – Proof of work experience that demonstrates in writing how proposal would benefit native Hawaiians, directly and indirectly.

Process Highlights

Review

Methodology that Reflects Commission Priorities



Process Highlights

Award

Approved Process Ensures More Consistent Decisions



Process Highlights

Renewal

Re-application Keeps Tenants Accountable

Notification

Notify awardees – and unsuccessful renewals

Commission

Recommend selected renewals for HHC approval

Execution

Update and execute Revocable Permit extensions; update list with renewal date



Department of Hawaiian Home Lands

Discussion...

- Then the Department waits for the HECO RFP. Entry into a right of entry due diligence period and HECO will do studies and EAs (in anticipation of a HECO RFP)

Chair Masagatani stated she would be deferring Item F-3 so staff can provide an attachment that outlines the process that occurs by steps, so the points are clear that beneficiary engagement is intended to happen, where Commission decision will happen and clarify the intention. The recommended motion needs to include “that will result in the conclusion of a right of entry.” All that is being sought is the authority to go out for the solicitation. The last is the criteria by which the proposals are going to be vetted. Commissioners have express specific desires about either parcel being excluded or included, at least on this first solicitation. That’s a lot of work between now and this afternoon.

Note: **The Commission anticipates convening in an executive meeting pursuant to Section 92-5(a), HRS, to discuss portions of Item F-3.**

RECESS 10:35 a.m.

RECONVENED 10:45 a.m.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

HOMESTEAD SERVICES DIVISION

ITEM D-2 For Information Only – Notification Process to Declaration of Conditions, Covenants, and Restrictions (DCCR) Homestead Associations for Lease Transfers and Successorships

RECOMMENDED MOTION/ACTION

None. For information only. Acting Homestead Services Division Administrator Dean Oshiro and O`ahu District Office Supervisor Juan Garcia presented the following:

DISCUSSION

Homestead Services Division has six district offices that service over 9,000 residential, agricultural, and pastoral homestead leases. Between June 2017 and June 2018 there were 417 transfers and 373 transfers through successorship. Every lease has the potential to be either assigned through a sale of transfer, or a successorship. Islands with DCCRs are O`ahu, Maui, West Hawai`i, and Kaua`i. There are others but not organized to the extent of collection of dues.

LAND MANAGEMENT DIVISION

ITEM F-4 Workshop on Application & Review Process for Revocable Permit Pilot Program

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Legislative Analyst Lehua Kinilau-Cano presented the workshop on the application and review process for the revocable permit pilot program.

DISCUSSION

K. Albinio stated there are four purposes for the revocable permit pilot program.

- Presence on the land
- Supplements DHHL’s annual revenue from available lands

- Reduces the acreage of available lands utilized under revocable permits. When there are huge portions of land, a portion of that parcel is used, reducing the acreage.
- Revocable permits are 30-days month-to-month, which can be canceled anytime by the Department, at its discretion for any reason.

K. Albinio wants to ensure that the application process is clear and that it's open to beneficiaries and the public at large. So, parcels suitable for a month-to-month disposition will be identified, find a method to determine appropriate rent. The application will provide parcel details. The scoring will look at the experience and if the beneficiary will be able to maintain the use of the parcel. Then it goes to the Commission for review, taking into consideration the criteria that reflect the priorities of the Commission, score according to the criteria, and select based on the highest score.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-4 Approval of Application & Review Process for Revocable Permit Pilot Program

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio and Legislative Analyst Lehua Kinilau-Cano presented the following:

Motion that the Hawaiian Homes Commission grant its approval to the application and review process for the new revocable permit pilot program for commercial, industrial use.

MOTION/ ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Awo, to approve the motion as stated in the submittal. Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-5 Bo Kahui – La‘i‘Ōpua 2020

B. Kahui restated the need for support on delinquent association dues and noted the total amount of the dues for each lessee. He again requested the Department to submit a memo to the lessees of the first two pages to encourage collection. He reiterated the need for a Kona Office. La‘i‘Ōpua 2020 will be going to the Legislature for \$2 million for the North Kona exploratory water well.

ITEM J-3 Princeslehuanani Kamaewakainakaleomomona – Maui Waitlist

P. Kamaewahainakaleomomona stated, she is giving the Commission the time to tell her what the best step for her is to take to get on her land.

New Revocable Permit Program

Scoring Criteria

Parcel Details:

APPLICANT'S NAME: _____
 Date Application Received: _____

TMK No. _____
 Land Area: _____
 Location: _____
 Upset Rent: _____


A. Establishing Proof of Necessary Experience and Ability	Max Points	SCORE	Guideline to Scoring
1. Proof of work in such capacity that will demonstrate knowledge and/or experience in the specific field/area of the use as proposed in the State of Hawaii for not less than two of the last five years. This is best established by submittal of a resume and/or current tax returns for year(s) as determined by DHHL	20		* Submit current tax return filing for the business or individual 1 yr = 5 points 2 yrs = 10 points * Updated resume for the business or individual = 10 points
2. Proof of current Certificate of Good Standing issued by the State of Hawaii Department of Commerce & Consumer Affairs. This is best established by providing a current Certificate of Good Standing copy as issued by the State of Hawaii, DCCA	10		
3. Proof of history as excellent tenant on state and/or other private owned lands; no termination or enforcement action against applicant within the last five years. This is best established by submittal of at least five (5) professional references to receive the maximum points	10		* Two references = 4 points Three references = 6 points Four references = 8 points Five references = 10 points
4. Proof of written understanding & acknowledgement that proposed use is exempt from preparing an Environmental Assessment under HRS Chapter 343, per DHHL's June 30, 2015 exemption list as approved by the Environmental Council which shall demonstrate knowledge and/or personal experience in dealing with federal, state, and county regulations and other agencies governing such use	10		* Submit signed acknowledgement form that the business entity or individual understands and is aware of the State HRS Chapter 343 and the DHHL Environmental exemption list = 5 points * Provide written statement on personal experience in dealing with government entities governing such use = 5 points
Total Score for A			
B. Establishing Proof of Financial Capability.			
1. Proposed upset minimum rent	10		* Applicant(s) bid meets proposed upset minimum rent
2. Proof of financial capability to pay rent in a manner that is consistent, and on-time based on proposed upset minimum rent Proof of means to deposit with DHHL an amount equal to two (2) times the proposed monthly rent as a security deposit including the first month's rent payable on or before the first day of the month the permit is to be executed ;	10		* Tax Return info to be reviewed; maximum of 5 points to be awarded based on tax return filing submitted = 5 points for 2 yrs of tax filing submitted = 3 points for 1 yr of tax filing submitted * Security Deposit amount equal to two (2) times the upset bid monthly rent; maximum 5 points to be awarded based on security deposit submitted = 5 points if Cashier's Check is submitted = 3 points personal check is submitted
3. Proof of procuring, and maintaining, at its own cost and expense, in full force and effect throughout the term of the permit, general liability insurance with an insurance company authorized to do business in the State of Hawaii in an amount of not less than \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate and name the State of Hawaii, Department of Hawaiian Home Lands as additional insured	10		* Copy of any current Certificate of Insurance coverage for existing business/location = 5 points * Letter from Insurance Company that states they will issue insurance coverage to entity when required = 5 points
4. Proof of work experience that demonstrates in writing how applicant's proposal would benefit native Hawaiians, directly and/or indirectly	20		* maximum 20 points Support letters from Native Hawaiian Organizations (OHA, Civic Clubs, etc) = 5 points for two support letters = 10 points for three or more support letters *Current Hawaiian Homestead Lessee(s) and/or Waitlister(s) currently employed by business (DHHL to verify list of names if provided; if verified) = 5 points for 1-5 employees = 10 points for 6 or more employees
Total Score for B			

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Kahana Albinio, Acting Administrator
Land Management Division 

Subject: FOR INFORMATION ONLY – Rent Relief Status – RE: General Leases,
Licenses, and Permittees, Statewide

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

The HHC in April approved LMD's proposed rent relief requests submitted by various Lessees, Licensees, and Permittees - Statewide as a result of the COVID-19 Pandemic and emergency proclamations implemented by the Governor and various mayors to halt the spread of the coronavirus as presented under Agenda Item No. F-1. Rent relief requests was deferred for a period of six months, effective April 2020 – September 2020, inclusive with terms and conditions of repayment plan if request was granted and authorized by the Chairman of the Hawaiian Homes Commission as delegated by the HHC.

Following HHC approval in April, and as of the closing the application date Friday, May 29, 2020, LMD received 16 requests of which 5 of 7 eligible applicants were granted approval, and 9 in-eligible applicants were transferred over to the AUW 211 program for assistance. The information is as follows:

Applicant	App Date	GL/LI/ROE	No.(s)	Chair Approval
Gohier, Leslie	4/22/20	-	-	-
DCI Paradise LLC	4/22/20	GL	S- 3831,3840, 4647	5/5/20
Kaainoa, Edward	4/23/20	-	-	-
Taber, Theresa Keohunani	4/27/20	-	-	-
A & A Hawaii, Inc.	4/27/20	GL	140	5/1/2020
Kapolei Hawaii Property Company	4/29/20	GL	276	5/4/2020
Millennium Carbon LLC	5/2/20	GL	275	-
Kalamalama, Abraham	5/5/20	-	-	-

October 2020

Pahia/Faimealelei, Adriana	5/11/20	-	-	-
Hoopai, Cheryl	5/13/20	-	-	-
Ka Hale Pomaika'i	5/13/20	LI	667	5/14/2020
Fernandez, LeeJay	5/15/20	-	-	-
Lee, Cornelia	5/20/20	-	-	-
Ducheneau, Carla	5/24/20	-	-	-
Jeremiah Trucking Co.	5/28/20	ROE	631,636	-
RCK Partners Limited Partnership	5/29/20	GL	S-4643	6/5/2020


CURRENT STATUS:

Current monthly rent is due and payable beginning October 2020, and deferred payment plan to commence as of April 2021.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

To: Chairman and Members, Hawaiian Homes Commission

From: Kahana Albinio, Acting Administrator
Land Management Division 

Subject: FOR INFORMATION ONLY. ROE 294, Malama Ka Aina Hana Ka Aina, Inc. (MAHA), Kings Landing, Keaukaha, Island of Hawaii, TMK No. (3) 2-1-013:001(por.)

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

The purpose of this informational briefing is to provide the Hawaiian Homes Commission ("HHC") with background regarding Malama Aina Hana Ka Aina, Inc., Waimea, Island of Hawaii.

The following is a chronology of the significant events to date:

April 17, 2001	ROE No. 294 fully executed between DHHL and MAHA. (See Exhibit "A")
February 29, 2000,	HHC approves issuance of Right of Entry Permit to MAHA for purpose of an "alternative lifestyle settlement." (See Exhibit "B") Per the approval as granted by the HHC department review of the settlement with King's Landing residents at the time indicated situations that have arisen which were not anticipated when the original permit was issued. Therefore, it was recommended that a new right-of-entry permit be granted to MAHA, with conditions of the original permit supplemented by additional provisions. The newly identified problems, and solutions recommended to be addressed by amended conditions, were as follows: 1.) Ambiguous management authority; 2.) Admission of new settlers; and 3.) Individual and community standards

- February, 1987 Palapala Ink published Planning Document - Subsistence Homesteads – A Community Management Plan for DHHL – Keaukaha Tract II – Malama Ka ‘Aina Hana Ka ‘Aina Information and presentations developed through a series of workshops and community surveys. DHHL Planning Office staff were also consulted during various phases of the research. The community management plan ideas, strategies, and inspiration come from the native Hawaiian community living at Keaukaha tract II (“King’s Landing”).
- September 24, 1986 ROE No. 76 fully executed between DHHL and MAHA for members of this entity to utilize and occupy portion of King’s Landing for “alternative lifestyle settlement” purposes.. (See Exhibit “C”.)
- September 27, 1984 HHC approves issuance of Right of Entry Permit to MAHA for purpose of an “alternative lifestyle settlement.” Unable to find action for reference.

CURRENT STATUS:

EHDO/LMD is awaiting updated information from MAHA of its board, and membership, as well as locations of where membership families reside in the area.

EXHIBIT "A"
ITEM NO. F-4

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

RIGHT-OF-ENTRY NO. 590

THIS AGREEMENT, made and entered into as of this _____ day
17th
of _____, 2001, by and between the DEPARTMENT OF HAWAIIAN
HOME LANDS, STATE OF HAWAII, hereinafter referred to as
"GRANTOR", and MALAMA KA'AINA HANA KA'AINA, INC., a Hawaii non-
profit corporation, whose permanent mailing address is P.O. Box
5174, Hilo, Hawaii 96720, hereinafter referred to as "GRANTEE".

WITNESSETH THAT:

WHEREAS, GRANTOR has under its jurisdiction control over
lands identified as Keaukaha Tract II, Tax Map Key No. 2-1-
13:01, at Keaukaha, District of South Hilo, Island of Hawaii, as
shown in Exhibit "A", hereinafter referred to as "King's
Landing"; and

WHEREAS, in furtherance of the purposes of the Hawaiian
Homes Commission Act, as amended, ("HHCA") GRANTOR intends to
develop a management plan for King's Landing; and

WHEREAS, members of GRANTEE have been utilizing and
occupying portions of King's Landing for more than fifteen
years; and

WHEREAS, GRANTOR was and is desirous of permitting members
of GRANTEE continued lawful use and occupancy of King's Landing
until completion of a management plan and acceptance of the plan
by the Hawaiian Homes Commission, or such other time as the
Commission may determine; and

WHEREAS, GRANTOR issued Right-of-Entry Permit No. 76,
effective September 24, 1986, authorizing members of the GRANTEE
to utilize a portion of King's Landing under certain conditions;
and

WHEREAS, situations have arisen in administration of the
right-of-entry permit which were not anticipated when the permit
was issued, sufficient to justify substantial change in permit
conditions; and

WHEREAS, at its meeting of February 29, 2000, the Hawaiian
Homes Commission authorized the Chairman to issue a new right-
of-entry permit for King's Landing; and

WHEREAS, members of GRANTEE are qualified applicants on the
GRANTOR'S waiting list for homestead awards.

NOW, THEREFORE, in consideration of the above, GRANTOR
hereby grants to GRANTEE a right-of-entry authorizing members of
GRANTEE to enter upon Hawaiian home lands at King's Landing to
occupy and utilize said lands, subject to the following terms
and conditions:

1. Rights of GRANTEE. Such rights as are conferred by this agreement are provided to the GRANTEE as an organization.
2. Term. This right-of-entry shall remain in effect until the Hawaiian Homes Commission in its discretion determines that lands under this right-of-entry may be better utilized for the purposes of the Hawaiian Homes Commission Act of 1920, as amended.
3. Occupation. Each member of GRANTEE occupying the premises under the terms of this right-of-entry shall reside within the "area" designated by GRANTEE for the member and his/her family. Each member, including his or her family, shall occupy not more than a single area. If two members marry, they shall select which area they will retain, and the other area shall return to the control of GRANTEE. GRANTEE will be responsible for maintaining a current list of members and their respective areas, and will provide an updated list of members to GRANTOR.
4. Maximum Area. The area to be utilized by each member shall not exceed three acres within King's Landing.
5. Land Rental. GRANTEE shall pay to GRANTOR a rental of ONE and NO/100 DOLLARS (\$1.00) for the term of this right-of-entry, payable on demand.
6. Insurance; Indemnification. GRANTEE shall, for itself and its members occupying their respective designated areas under this right-of-entry, procure and keep in force during the term of the right-of-entry at its expense, general comprehensive public liability insurance of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) and coverage of at least FIFTY THOUSAND DOLLARS (\$50,000) against the claims of third persons for property loss or damage. The insurance shall be obtained from an insurance or surety company authorized to do business in the State of Hawaii and shall identify GRANTOR as an additional insured. GRANTEE will indemnify, defend and hold GRANTOR harmless from any claim or demand for loss, liability or damage, including claims for property damage, personal injury or death, arising out of any action or inaction on the premises covered by this right-of-entry.
7. Sanitation. GRANTEE shall ensure that each member maintains their respective area and improvements thereon in a clean and safe condition such that public and community health and safety would not be endangered. The officers of GRANTEE shall conduct inspections of the premises and improvements of their members occupying their respective designated areas under the terms of this right-of-entry. GRANTEE shall give its members fifteen (15) days' notice to correct any unsanitary or hazardous conditions found on the premises. If the condition poses an imminent threat to the

health and safety of the Grantee, its members or the general public, as determined at the sole discretion of the GRANTOR, the GRANTEE agrees to cooperate with GRANTOR to immediately take corrective action.

8. Utilities. GRANTEE and its members agree that GRANTOR shall not be responsible for providing any water, electricity, or any other utility services.

9. Taxes. GRANTEE agrees to pay any applicable taxes and assessments.

10. Maintenance of Historical and Cultural Sites. GRANTEE shall be responsible for the maintenance and preservation of historical and cultural sites contained within the area covered under this right-of-entry.

11. Inspection by GRANTOR. An authorized agent or employee of GRANTOR may enter and inspect the area covered by this right-of-entry at any reasonable hour for purposes of health, safety and compliance with this agreement. Inspection shall not include private dwellings and property, unless an imminent threat to health and safety is determined at the sole discretion of GRANTOR. GRANTEE shall otherwise provide written notice to GRANTOR prior to inspection of private dwellings and property.

12. Termination / Revocation by GRANTEE. This right-of-entry may be terminated by GRANTEE or GRANTOR without cause upon

thirty (30) days' written notice. GRANTEE's failure to comply with paragraphs 7, 19 and 24, herein, is cause for termination upon five (5) days' written notice. GRANTEE may seek review of GRANTOR'S determination to terminate this Right-of-Entry before the Hawaiian Homes Commission.

13. Removal of Improvements and Personal Property. All improvements erected or placed on the premises by GRANTEE or any member shall be and remain the personal property of GRANTEE or its respective member. Upon expiration, termination or revocation of this right-of-entry, GRANTOR shall have the right to require GRANTEE to remove any and all improvements, personal property, and appurtenances on the land at GRANTEE'S sole expense. If GRANTEE fails to complete such removal within thirty (30) days or such additional period as GRANTOR may for good cause and in its sole discretion allow from the date notice is given by GRANTOR. GRANTOR shall have the right to remove any and all improvements, and other personal property, and appurtenances on the land and to charge any cost arising out of the removal to GRANTEE. In the event GRANTEE terminates the right of a member to occupy a designated area pursuant to this right-of-entry, GRANTEE shall be responsible for removal of improvements, personal property, and appurtenances not removed by the member.

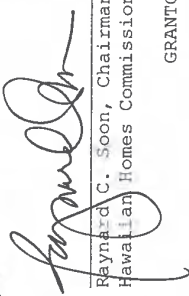
14. Occupancy by Unauthorized Parties. GRANTOR shall be responsible for removal of unauthorized parties and pursue their legal remedies in accordance with all county, state and federal laws.
15. Liquidated Damages. If GRANTEE or any member does not vacate the premises upon the expiration, termination or revocation of this right-of-entry, GRANTEE shall pay GRANTOR liquidated damages at the rate of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) for each day GRANTEE or any of its members remain on the premises beyond the effective date of expiration or termination.
16. Court Costs. As native Hawaiian beneficiaries, the members of GRANTEE reserve the right to protect their rights in a court of law. If any court action arises, GRANTEE and its members agree to pay their own court costs and attorney's fees.
17. Nontransferability of Interest. No member may transfer, assign, sublet, or in any way convey a right to occupy a designated area, in whole or in part, to any person; any such action may be made only by GRANTEE.
18. Duty of GRANTEE to Provide Current Organizational Records. GRANTEE shall be required to maintain and provide to GRANTOR all necessary records, including but not limited to Articles of Incorporation, evidence of non-profit corporate

- status, list of members and designated areas, list of officers, Code and By-Laws.
19. Responsibility for Common or Undesignated Areas. GRANTEE shall be responsible for maintenance of lands within the right-of-entry area which are not designated for the use of specific members. Failure to maintain health and safety standards in such areas, along with failure to take prompt corrective action when so advised by the Department, shall be grounds for immediate termination.
20. Change of Condition or Circumstances; Notice. Each party to this Agreement agrees to inform the other of any substantial change in the status of a party or the condition or circumstances in the area.
21. Management Plan. GRANTEE's representatives shall participate in the development of the management plan for the King's Landing area which participation shall include but not be limited to membership on the advisory committee as part of management plan development.
21. Eligibility for Membership. Members of the GRANTEE eligible to reside in designated areas shall meet the following criteria:

- Be at least 21 years of age;
 - Be a native Hawaiian, as defined in the Hawaiian Homes Commission Act, and be certified by the Department as having the necessary blood quantum;
 - Have an application for a residential, aquacultural or agricultural lease on file with the Department, and have been placed on an applicable waiting list for the island of Hawaii;
 - Not have an existing residential or agricultural lease with the Department;
 - Be a member in good standing of GRANTEE.
23. Full-Time Residency. All members residing in designated areas shall make same their principal residence.
24. Access. GRANTEE and its members shall not interfere with access along or to the shoreline or ocean at or abutting King's Landing, so as to diminish rights of or customary access to the shoreline. GRANTEE and its members shall have for ingress, egress access across roads and throughout King's Landing. GRANTOR reserves the right to permit access across such roads for its own purposes, for exercise of governmental functions and to those with a demonstrated legal right of access.

25. Execution of Right-of-Entry. GRANTEE, by its duly appointed or elected officers, shall execute the right-of-entry on behalf of GRANTEE and its members.


State of Hawaii
 Department of Hawaiian Home Lands

By 
 Raymond C. Soon, Chairman
 Hawaiian Homes Commission
 GRANTOR

APPROVED AS TO FORM:

 Deputy Attorney General

Malama Ka'Aina Hana Ka'Aina, Inc.
 A Hawaii incorporated association

By 
 GRANTEE

KEAUKAHA TRACT II
KING'S LANDING
 nd Maintenance Branch
 TRACT II

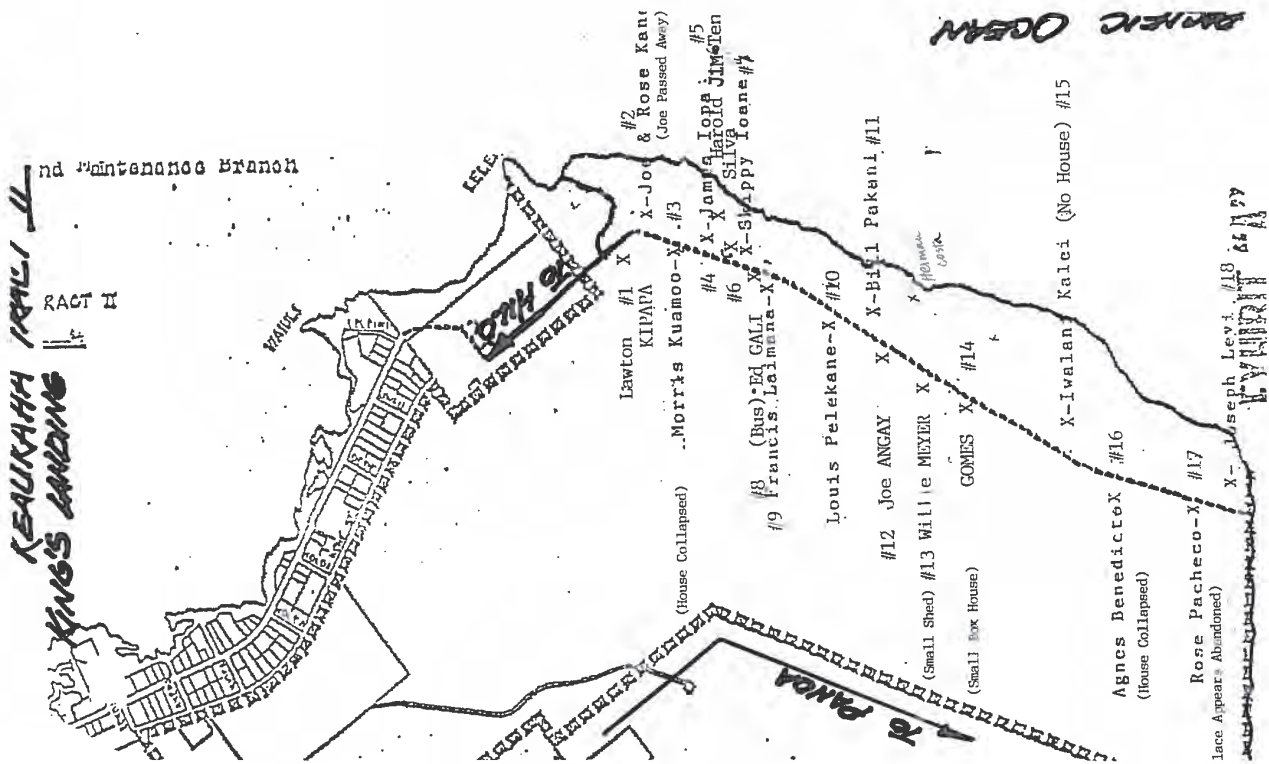
MALAMA KA'AINA HANA KA'AINA, INC.
BY LAWS

Article I - Establishment

- A. The location of the principal office of this corporation shall be at King's Landing, Keaukaha Tract II.
- B. The board of directors may designate other locations as required or necessary to conduct the corporation's business or further the purposes of the organization.

Article II - Purposes of the Organization

- A. This corporation is being formed as a 501(c)(3) tax-exempt organization for purposes specified in section 501(c)(3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future tax code.
- B. Malama Ka'Aina Hana Ka'Aina, Inc.'s intent is to specifically operate as a nonprofit organization for the benefit of the public. Malama Ka'Aina Hana Ka'Aina, Inc. (hereafter, "MAHA") is authorized to undertake any activities which are necessary to achieve its objectives. Its mission is limited to religious, charitable, educational, and cultural purposes. The objectives of the organization are:
 1. To preserve and protect the cultural, historical, and archaeological heritage of the area designated by TMK 2-1-13:01, otherwise known as Keaukaha Tract II (hereafter, "King's Landing").
 2. To help maintain the proper ecological balance of marine life on the shoreline and in the surrounding waters off King's Landing.
 3. To operate as a democratically-controlled entity that exercises governance powers over the conduct of human activity within King's Landing, subject only to the terms of whatever license, permit or lease that may be issued to MAHA by the Hawaiian Homes Commission;
 4. To educate and increase the knowledge of Native Hawaiians and their families in the art of alternative subsistence living.



5. To create a cultural school in the King's Landing area to teach the children of Hawaii cultural aspects of ancient Hawaiian living, which shall include, but not be limited to, the following:
 - a. Heiau building
 - b. Fishing
 - c. Farming
 - d. Lauhala weaving
 - e. Hula
 - f. Hawaiian language
 - g. Medicinal plants
6. To facilitate and support research into the history and significance of the cultural aspects of the area.
7. To assist the full-time residents of King's Landing in obtaining long term leases for the purposes of living and farming on the King's Landing TMK area.

Article III - Membership

- A. *Eligibility:* Any person meeting the following criteria shall be eligible for membership:
 1. Members. Any full time resident of King's Landing is eligible for membership in the corporation. A full time resident is defined as a person who:
 - i. Is at least 21 years old.
 - ii. Is a native Hawaiian (as confirmed by acceptance of the applicant's application by the DHHL), as that term is defined under the Hawaiian Homes Commission Act and Section 4 of the Hawai'i Admission Act.
 - iii. Has applied to and qualified for a lease from the Department of Hawaiian Home Lands and who is currently on the Hawaiian Homes waiting list.
 - iv. Resides in the King's Landing area. A person resides in the King's Landing area if the person currently lives in a home at King's Landing full time; and spends at least ten percent of his or her time each week at home at King's Landing engaged in promoting one of the purposes of MAHA outlined above, unless the person is away for business, vacation, or medical purposes.
2. Associate Members. Any spouse, child or dependent of persons qualifying under paragraph A, who resides full time in the King's Landing area.

3. To be qualified as a member or associate member above, a majority of the members of the organization must vote to approve any membership in the organization.

B. *Effect of MAHA membership:* All members of MAHA must be qualified as members, remain duly eligible members of MAHA, and abide by any rules established by MAHA pursuant to these bylaws in order to be covered under any permit, license or lease that may be issued by the Hawaiian Homes Commission to MAHA for the use and occupancy of King's Landing. No other party may claim any right to reside at King's Landing without qualifying for membership and being a member of MAHA recognized by the Board. By maintaining membership in MAHA, each member agrees to participate in the activities of MAHA in order to allow the corporation to effectively govern the use of areas within King's Landing under the terms of any license, permit or lease that the Hawaiian Homes Commission may grant to MAHA.

C. *Process for Member Acceptance:* To be designated a qualified member of the organization, full time residents must apply to and be accepted by the Board of Directors. The Board shall base its acceptance of the applicant on, at a minimum, the applicant:

- a) Agreeing in writing to abide by the bylaws and rules of MAHA.
- b) Agreeing to participate in the future preparation, amendment and adoption by the Hawaiian Homes Commission of a management plan as a basis for future land use in the area.

From time to time, the Board may adopt and prescribe additional criteria in accordance with the provisions and procedures contained in Article XII.

D. *Probationary Period of Membership:* Upon the acceptance by the Board of any prospective member of the corporation, that person shall be placed on probation, during which time they must meet certain minimum performance requirements to build a safe and habitable residence on their section of King's Landing designated by the Board, including, but not limited to:

- a) Within 2 months, the member must construct an outhouse at least 10 feet from any residence in accordance with prevailing Department of Health standards;
- b) Within 12 months of Board acceptance for probationary membership, the probationary member must complete the flooring of the structure.

Upon satisfactory performance of the conditions above, the Board may act to grant the probationary member regular membership status, subject to the person's continued compliance with the Code of Conduct.

E. **Assessment:** All probationary and regular members shall pay a one-time membership fee of \$10.00 and monthly dues of \$5.00 to MAHA for the expenses of the corporation. The Board may amend this schedule of fees from time to time as required to meet expenses of the corporation.

F. **Code of Conduct:** All members, probationary and regular, are subject to a code of conduct that may be established and revised by the Board. At a minimum, the Code shall: 1) prohibit any criminal activity by any member, 2) establish any requirements for notice to the offending member, and the process for investigating and reviewing allegations of violations, and 3) prescribe sanctions for any violation, which shall include fines, warnings, reprimands, suspension or permanent removal or expulsion from the King's Landing area by DHHH, in accordance with the provisions of the Code. The Board shall adopt the Code prior to granting any membership status to any applicant. Prior to the imposition of sanctions, the member shall be entitled to reasonable prior notice of the violation and an opportunity to be heard before the Board of Directors. Any final decision on reported violations shall be based on the determinations of the Board and a formal report to the Department of Hawaiian Home Lands.

G. **Membership Register and Map:** The secretary of the Board shall maintain a register of all acceptances of probationary and regular memberships, as well as any terminations of memberships. The register shall specify the name of each qualified and terminated member, and designate the location of each such member's current residence on an appropriate map designating the locations of each residence at King's Landing. The secretary shall retain this membership register at the organization's principal office and shall periodically update and provide a copy to the Department of Hawaiian Home Lands.

H. **Nature of Membership Rights:** The rights of full time members in this organization shall be continuous and non-transferable. These rights shall cease upon the termination of the person's membership or upon his or her death. Any person seeking to succeed to the residence of a deceased or terminated member must qualify as a member in the same manner as provided in these bylaws.

I. **Member Obligations Upon Termination of Membership:** Any member may resign from the organization by delivering a written resignation to the President or Secretary. His or her membership dues will not be refunded. Once a person has resigned or been terminated as a member of the corporation, he or she must remove all of his or her personal possessions from the location at which he or she resided at King's Landing and leave the area free of any debris, personal articles, garbage or waste. Unless otherwise directed by the Board, the same person must dismantle any structure used as a residence or any other improvements to the property for which he or she is responsible. If the board does elect to allow the former member's residence to remain in place, the member shall not have any right to seek reimbursement for the cost of improvements.

Article IV - Membership Meetings

A. **Place of Membership Meetings:** All meetings of the membership shall be held at a location in King's Landing designated by the Board.

B. **Date of Meetings:** A meeting of the members of the organization shall be held during the first four months following the close of each fiscal year from January 1 through December 31 at such time and place as may be determined by the Board of Directors. At such annual meetings, plans for the ensuing year shall be discussed and other business pertaining to the organization shall be acted upon.

C. **Special Meetings:** Special meetings of the members may be called at any time by the Board of Directors or the President upon request of twenty percent of membership.

D. **Notice:** A written notice of any regular membership meeting shall be given. The notice shall be posted or hand delivered not less than five (5) days before the meeting. The notice shall state the date, time, and place of the meeting. If the meeting is being held for election purposes, notice should contain the names of all nominees/candidates. Notices for special meetings shall be the most reasonable means of notifying members by the most effective means available.

E. **Quorum:** The quorum at the annual and the special meetings shall consist of not less than five (5) members.

F. **Decisions of the Membership:** A majority of full time resident members attending the meeting called shall decide by vote any question brought before such a meeting, unless otherwise required by law or by these by-laws.

G. **Vote:** All members have one vote. There shall be no proxy.

H. **Procedure:** Robert's Rules of Order shall be used for conducting the corporation's meetings, where there is any dispute as to the applicable procedure to use.

Article V - Board of Directors

A. **Composition:** There shall be a Board of Directors consisting of not less than five (5) members and not more than eleven (11). At any given time, the membership of the board shall consist of an odd number of directors and officers. All Directors shall serve for no compensation. The initial officers of the corporation shall serve as the initial Board of Directors. Within 180 days of the initial meeting of the board, its members may fill up to the nine (9) vacancies on the board by majority vote.

B. **Qualifications:** To qualify for the Board of Directors, a person must be a full-time resident of King's Landing as defined below, and have lived in his or her dwelling for at least two (2) years.

C. Power to Act: Subject to the limitations and requirements of the State of Hawai'i, all activities of the corporation will be conducted, and all powers of the corporation shall be exercised, by and under the direction of the Board of Directors. The Board of Directors shall conduct the business of the organization and, whenever there is conflict, shall accede to the wishes of the membership as determined at the annual and special meetings. Any decision made by the majority of the directors present at a meeting duly held will qualify as an act of the Board of Directors, unless prohibited by the Articles of Incorporation, or federal or state laws.

D. Term of Office: Each director shall be elected by the membership at the annual meeting and shall serve a term of four (4) years. There shall be no limit in the number of terms that a member may serve as Director.

E. Parameters of Meetings: The primary location of Board Meetings shall be designated by the Board. The Board shall determine the frequency of meetings. All meetings shall be open to members of the Association. The Board shall establish a schedule for regular meetings, which shall be a designated time and date, at a designated place. The Secretary of the Board shall provide written notice to all members of the schedule for regular board meetings.

F. Special Meetings: The President may call a special meeting in cases of emergency or other exigent circumstances, provided that he/she provides notice reasonably calculated to inform, and give reasonable opportunity to attend to, all members of the Board.

G. Quorum: The quorum for any meeting of the Board shall be a majority of the sitting members of the Board.

H. Removal and Vacancies: A Director may resign from office providing written notice is given to the Secretary. A member of the Board of Directors may be removed from office by a two-thirds vote of the members in attendance but not less than a quorum for just cause, where a quorum is possible. Board members in question may not vote. The remaining members of the board may replace any director who has resigned or been removed by a majority of the remaining votes. Appointed board members shall serve out the terms of those they have replaced.

I. Liability: The Directors of the corporation shall not be personally liable for the debts, liabilities, and other obligations of the corporation, unless they have violated their fiduciary duties to the corporation. The Officers and Directors of the corporation are indemnified to the fullest extent of the laws of the State of Hawai'i.

J. Corporate obligations. The Board is authorized to obtain liability insurance, or enter into applicable contracts, as may be required from time to time in order to fulfill its purposes.

Article VI - Officers of the Corporation

A. Composition: The Board of Directors shall select from amongst them the officers of the corporation. There shall be at least four (4) officers: President, Vice-President, Secretary, and Treasurer. Each officer shall serve a term of two (2) years or coincide with his or her term as a Board member. There is no limit on the number of terms an officer may serve. An officer is automatically a member of the Board of Directors.

B. Qualifications: All officers shall be Native Hawaiians.

C. President: The President shall:

1. be the principal officer of the organization;
2. oversee the business affairs of the organization;
3. preside over all business meetings of the members and the board
4. sign all contracts and other instruments authorized to be executed, unless the signing and execution are specifically delegated by these bylaws or by the Board of Directors or are required by law to be performed by some other officer or agent of the organization.
5. perform such other duties as are incident to the office or required by the Board of Directors.
6. The President may appoint committees or delegate duties as may be required by the Board or as required to effectively implement the programs and decisions of the Board.

G. Vice-President: The Vice-President shall assist the President and shall be an *ex-officio* member of all committees. In the absence of the President, the Vice-President shall assume the powers and duties of the President. In case of a vacancy in the office of the President, the Vice-President shall automatically become President and serve out the unexpired term of the predecessor in office.

H. Secretary: The Secretary shall keep the minutes of all meetings of all members and the Board of Directors. The Secretary shall:

1. see that all notices of meetings of members and the Board of Directors are given as required by these bylaws;
2. ensure proper maintenance of organizational records;
3. keep an official membership roll with names of all members;
4. sign with the President all contracts and other instruments authorized to be executed, unless the signing and execution are expressly delegated by these bylaws or the Board of Directors, or are required by law to be performed by some other officer or agent of the organization.
5. such other duties as incident to the office or are required by the President.

1. Treasurer: The Treasurer shall:

1. receive all money and funds paid to the organization;
2. have charge and custody of and be responsible for all funds and securities of the organization;
3. ensure proper keeping and maintenance of the organization's books and accounts;
4. assure that all money and funds of the organization are deposited to the credit of the organization in such banks or other depositories as shall be designated by the Board of Directors;
5. make certain that all payments and disbursements of the organization's funds are for organization purposes as directed by the Board of Directors;
6. see that all expenditures are duly authorized and are evidenced by proper receipts and vouchers;
7. make to members at the close of the fiscal year and at such other times as directed by the Board such reports and financial statements regarding the finances of the organization as may be directed by the President or the Board of Directors; and
8. in general perform all other duties incident to the office of Treasurer and as may be assigned by the President.

J. Corporate Records: The organization's books and accounts shall be open for inspection by any member of the organization and shall be audited from time to time as required by law or directed by the Board of Directors.

K. Subordinate Officers: The Board of Directors may from time to time employ such subordinate officers and employees as the affairs of the organization may require at such salaries and on such terms and conditions as may be determined by the Board of Directors.

Article VII - Removal from Office

A. Removal: Any officer or director may be removed from office upon the vote of the majority of the Board, after due notice and opportunity to be heard is provided to the affected individual.

B. Failure to Attend Board Meetings: In the event that a board member fails to attend more than 2 consecutive meetings, or more than one-half of the meetings of the Board in any calendar year, the other members of the Board may act to reprimand, suspend, remove, or take any other appropriate action against the offending director after prior written notice at least seventy-two hours prior to the meeting at which action is taken. The Board shall provide written notice to the director affected of any action taken pursuant to this part.

C. Succession: In the event of vacancies due to death, resignation, disqualification, or removal, the Board may immediately replace the individual from amongst those residing at King's Landing and who are members of the Corporation.

Article VIII - Committees

A. Executive Committee: The President shall establish an executive committee to advise him or her on the daily business for the corporation. The executive committee shall consist of the officers of the Board. The committee shall assist the President in establishing agendas for meetings, informing him of critical issues that need action by the Board or its officers, and advising him or her of important concerns of the Corporation that might not be addressable by the full Board by the next special or regular meeting.

B. Standing Committees: The Board may authorize the President to establish such other committees that may be necessary to effectively execute the policies of the Board. The number and membership of each committee shall be determined by the President. The committees may include, but not be limited to, the following:

- Rules Committee: This committee shall draft the criteria for membership and the Code of Conduct. The committee shall recommend, for Board adoption, any additional criteria and parameters for membership in the corporation membership in addition to those specified in Article III(A) and the Code of Conduct for residing at King's Landing as provided for under Article II(F), by which each member of the Corporation shall abide. Periodically, the committee may recommend amendments to these rules and the Code of Conduct for the Board to adopt.

- Membership Committee: This committee shall advise the board on membership issues, screen applicants for membership, and make recommendations to the Board on whether members have violated any rules of the Corporation while living at King's Landing. The committee shall advise the Board on actions that should be taken by the Board to accept or disqualify members. The committee shall preliminarily review all complaints against any member and investigate whether violations of Corporation rules have occurred. The committee shall also review and recommend any proposed sanctions, including fines, reprimand, suspension or expulsion of members, to the Board for the violation of any established rule.

Article IX - Actions on Behalf of the Corporation

A. From time to time, the President may enter into and/or execute contracts on behalf of or in the name of the corporation, as authorized by the board at a duly convened meeting, and the corporation shall be bound by such action.

- B. All checks, drafts or other orders of payment of money, notes, or other evidences of indebtedness issued in the name of the organization shall be signed by the President and Treasurer. The Board of Directors may expressly delegate authority to sign such instruments and other organization documents to some other officer or agent(s) of the organization. The delegation of authority to sign may be general or confined to specific instances.
- C. All corporate funds may be deposited into accounts as directed by the Board of Directors.
- D. The Board of Directors may, on behalf of the corporation, accept any gifts, bequests, or other monetary devices as may be used for the nonprofit purposes of the corporation.
- Article X - Corporate Records**
- A. The Secretary shall maintain all corporate records, including minutes, financial reports, correspondence, and other related documentation.
- B. There shall be no corporate seal.
- C. Any director or member of the Corporation may inspect any corporate record.
- D. Any qualified person seeking copies of any corporate record shall pay the reasonable cost of copying.
- E. The Secretary shall be responsible for the filing of annual report required by law.

Article XI - Financial and Legal Restrictions

- A. The corporation shall comply with all appropriate federal and state laws governing 501(c)(3) nonprofit organizations, and shall refrain from campaigning, or supporting specific candidates for public office. Nothing in these bylaws shall be construed to prevent any individual member of the corporation from engaging in such activities on an individual basis.
- B. The corporation's 501(c)(3) prohibits private benefit to individuals associated with the organization. Accordingly, the members, including directors of the Board, and the officers, shall refrain from obtaining any personal financial benefit from the expenditures and actions of the board. This prohibition shall not prevent members from accepting reimbursement for travel, administrative, and incidental expenses incurred on behalf of the Corporation in connection with actions authorized or ratified by the Board. Any compensation made to other individuals must be for specific services rendered for the benefit of the Corporation, or to promote the tax-exempt activities of the group.

- C. Under the restrictions related to Organizational Finances, pursuant to IRC § 509(a):

1. The corporation shall distribute its income of the specified time period in a timely manner so as to avoid imposition of any taxes under Section 4942 of the IRC
2. Pursuant to IRC § 4941(d), the Corporation officers, directors and members shall not engage in any self-dealing
3. Pursuant to IRC § 4943, the Corporation shall not retain any excess business holdings
4. The Corporation shall not make any investments that would subject it to taxation under IRC § 4944
5. The Corporation shall not make any taxable expenditures that would fall under the requirements of IRC § 4945(d).

Article XII - Amendment of Bylaws

Members of the corporation have the power to adopt, amend or repeal these Bylaws as allowed by law, and new Bylaws may be adopted with the approval of the Board of Directors.

Article XIII - Conflicts

- A. If the provisions of the Bylaws are in any way conflicting with the corporation's Articles of Incorporation, the Articles of Incorporation take precedence.
- B. If any portion of the Bylaws is found to be invalid or unenforceable, for whatever reason, the remainder of the Bylaws shall still be effective.
- C. Any references in the Bylaws to the Articles of Incorporation shall relate to the Articles of Incorporation of Malama Ka 'Aina Hana Ka 'Aina, Inc. executed on October 27, 1999 and filed with the State of Hawai'i Department of Commerce and Consumer Affairs.
- D. All references to sections of the Internal Revenue Code refer to the Internal Revenue Code of 1986 as amended, or to corresponding amendments to the IRS tax code.

Ratified by the Board: _____
(date) MAHA Secretary

Revised by the Board: _____
(date) MAHA Secretary

CODE OF MALAMA KA'AINA HANA KA'AINA
King's Landing
Keaukaha Tract II

Preamble:

The Hawaiian Homes Commission has granted Malama Ka Aina Hana Ka Aina (hereafter, "MAHA") a right of entry permit for the use and occupancy of the area known as King's Landing, Keaukaha Tract II. Under this disposition of trust land to MAHA, the Commission desires to delegate to MAHA the primary power to regulate and manage all oversight and monitoring functions necessary to maintain peace and harmony amongst the residents of King's Landing who are members in good standing of MAHA.

Furthermore, the Commission has executed this disposition in order to allow MAHA to assume primary responsibility for determining the standards of acceptable conduct of residents. The HHC intends to defer and delegate all daily management responsibility over King's Landing to MAHA under the terms and conditions established under the right-of-entry granted to MAHA. In order to establish clear standards for conduct by members of MAHA, and the basis for enforcement action by the Commission, pursuant to a duly authorized action of its Board of Directors, MAHA adopts and ratifies this Code to govern the actions of MAHA members who are residents at King's Landing and the standards for occupying portions of the area.

I. CODE OF CONDUCT

A. *Criminal Conduct.* All MAHA members shall not engage in criminal conduct at King's Landing. If the conduct threatens or involves physical harm or imminent danger to the safety of any member or associate member of MAHA, including, but not limited to:

- Physical assault
- Terroristic threatening
- Use or discharge of firearms
- Storage of toxic chemicals, metals, or waste

then the MAHA board may authorize and take immediate action necessary to preserve peace and harmony within King's Landing, including expulsion, suspension, or an appropriate restriction on conduct, without basing its action on a criminal conviction or arrest.

If the conduct involves conduct of a less dangerous or threatening nature, including but not limited to:

- Theft
- Trafficking in or storing stolen property

with the standards enumerated in this code and other applicable provisions of the bylaws of MAHA.

- C. Performance Standards.
 1. All members must first install an acceptable dry hole toilet at the commencement of construction of any dwelling within King's Landing.
 2. All members must, within one year from the date of commencement of construction, demonstrate satisfactory progress in constructing a habitable dwelling. The evidence of satisfactory performance shall be the completion of flooring of the dwelling.
 3. All members may be subjected to an inspection of their residence by the Membership Committee of the Board of Directors, or its delegated inspector, upon reasonable notice. Unless unusual circumstances demand shorter notice, the Membership Committee, or its inspector, may enter any residence to inspect the property for compliance under this code upon 24 hours written notice. Unusual circumstances may include the necessity to preserve the life or health of a resident, to prevent the commission of a crime, or to prevent destruction of property.

III. AGREEMENT WITH MAHA

All members of MAHA shall sign a written agreement indicating their intent to be bound by the terms and conditions established under this Code and any applicable bylaws established by the Board. This agreement shall specify that the current or prospective resident at King's Landing shall agree to vacate his or her residence if it is determined by the Board of Directors of MAHA that the individual has violated the standards imposed by this Code.

IV. DETERMINATIONS OF VIOLATIONS

- A. *Report.* Any member of MAHA may report a violation of either the Code of Conduct or the Kanaka Code to the board of the directors of MAHA.
 1. Upon receipt of a complaint or report of violation, the board shall give reasonable notice to the alleged violator.
 2. The board shall give the alleged violator an opportunity to respond to the complaint before determining whether a violation exists, unless it is impractical to do so or the alleged violator cannot be found.
 3. Once the board has determined that a violation has occurred, it shall give the violator the opportunity to correct the violation within a time frame matching the degree of severity of the violation and its impact on MAHA members. In order to dissuade members from violating any of the rules or codes of MAHA, the board may impose the following sanctions on the violator:

- Gambling

then the board may only take remedial action to match the severity of the impact on any MAHA member or associate member, short of expulsion or suspension of the accused party, unless and until the accused party is convicted of the offense.

- B. Other Standards of Conduct.
 1. No member shall discharge firearms for hunting or other proper use except at the times and in the areas established by MAHA, as publicly posted on the community bulletin board.
 2. No member shall allow pets or other domesticated animals to damage the property of any other member. Any member suffering damage from the actions of a pet or animal of another member shall report violations to any officer of MAHA. After three reported incidents to the MAHA board, any member whose property has been damaged by another member's pet or animal and who removes the pet or animal by notifying the Humane Society shall not be liable to disciplinary action under this code.
 3. No member of MAHA may vacate his residence for more than 1 week at a time nor for more than a total of 30 days in any given calendar year, without the express written consent of the MAHA Board of Directors.
 4. No person may occupy any portion of King's Landing under the terms of the right-of-entry permit issued to MAHA unless he or she is a probationary or regular member of MAHA in good standing, under the terms and conditions specified in this Code and the bylaws of MAHA.
 5. No member or associate member of MAHA shall encourage or allow the occupation of any part of King's Landing by any other party not a member of MAHA. Furthermore, any member or associate member of MAHA shall report any such unauthorized occupation on any part of the area of King's Landing for which he or she is responsible.

II. KANAKA CODE

- A. *Purpose.* This code specifies the standards of habitability and performance by MAHA members in completing construction on the principal dwelling at King's Landing.
- B. *Probationary Membership.* Before any person is granted regular membership in MAHA, he or she shall be a probationary member, as governed by the bylaws of MAHA, until MAHA determines that there has been satisfactory compliance

- a. assess a fine for the violation not to exceed the reasonable costs of the violation, in cases of minor to moderate impact on other MAHA members;
- b. place the violator on probation, which enables the board to withhold any of the privileges of membership, in cases where the violation has a moderate to severe impact on MAHA members;
- c. suspend the violator from MAHA membership, which enables the board to temporarily suspend a member from all benefits and privileges of being a MAHA member, where the board believes the violation has a serious impact on MAHA members, or where there has been a past pattern of violations of rules having moderate to serious impacts on other MAHA members;
- d. expel the violator, thereby terminating the violator from any future membership and participation in MAHA, in cases of extremely severe health and safety impacts on MAHA members, or where there has been serious, flagrant or chronic disregard for the rights and privileges of other MAHA members that require permanent exclusion of the violator from King's Landing.

B. *Final Decision.* The decisions of the board on matters of member discipline shall be final upon the service of a letter signed by the president or his delegated representative upon the violator.

V. PENALTIES AND SANCTIONS

Any violation of the provisions above may be grounds for appropriate penalties and sanctions against a regular or probationary member, as determined by the Board of Directors of MAHA. These penalties and sanctions may include suspension from membership, fines, or expulsion from King's Landing, as determined by the Board of Directors upon the notice and opportunity to be heard provided for in the bylaws of MAHA.

VI. AMENDMENTS

The Board of Directors may, from time to time, amend any part of this Code, in the same manner as that prescribed for amending the bylaws of MAHA.

Ratified by the Board: _____
 _____ (date) Secretary

Revised by the Board: _____
 _____ (date) Secretary

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
Business Registration Division
1010 Richards Street
Mailing Address: P.O. Box 40, Honolulu, Hawaii 96810

ARTICLES OF INCORPORATION
(Sections 1159-34, Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, desiring to form a nonprofit corporation under the laws of the State of Hawaii, certify as follows:

The name of the corporation shall be:

MALEMA KA'AIIWA HONOA KA'AIIWA INC.

II

The mailing address (must be a street address including number, street, city, state, and zip code) of the initial or principal office of the corporation is:

15-2712 NEHU STREET PAHOA HAWAII 96718

III

The period of its duration is perpetual.

IV

Section 1. The purpose(s) for which the corporation is organized is:

SEE ATTACHED SHEET

and the transaction of any or all lawful activities for which nonprofit corporations may be incorporated under Chapter 415B, Hawaii Revised Statutes.

Section 2. And in furtherance of said purposes, the corporation shall have all powers, rights, privileges and immunities, and shall be subject to all of the liabilities conferred or imposed by law upon corporations of this nature, and shall be subject and have all the benefits of all general laws with respect to nonprofit corporations.

V

The number of directors shall not be less than three (3). The number of directors constituting the initial Board of Directors is Four (4). The names and residence addresses of the initial directors are as follows:

Name	Residence Address
1. <u>Joseph Awgay</u>	<u>P.O. Box 1563 Pahoa Hi 96718</u>
2. <u>LAWTON KIPAPA</u>	<u>179 KRAUSS AVE. HILO, HI 9672</u>
3. <u>William Meyers</u>	<u>P.O. Box 491 Papaikou, Hi 96781</u>
4. <u>KELII TORNIE</u>	<u>P.O. Box 5174 Hilo, Hi 96720</u>

VI

The officers of the corporation shall consist of a president, a vice-president, a secretary and a treasurer. The names and residence addresses of the initial officers are as follows:

Office Title	Name	Residence Address
President	<u>Francis Laimana Jr</u>	<u>P.O. Box 4174 Hilo, Hi 96720</u>
Vice-President	<u>James E.K. Iopa Sr.</u>	<u>P.O. Box 5582 Hilo, Hi 9672</u>
Secretary	<u>Audrey Pakani</u>	<u>2417 Kalamianale St 96720</u>
Treasurer	<u>ROBERTA A. VEA</u>	<u>P.O. Box 5754 Hilo, Hi 9672</u>

The mission of Malama Ka 'Aina Hana Ka 'Aina Inc. is exclusively for RELIGIOUS, CHARITABLE, EDUCATIONAL, and CULTURAL purposes. The goals of the organizations are:

- 1) To preserve and protect the cultural, historic, archaeological heritage and life of the Kings Landing TMK area.
- 2) To help maintain the proper ecological balance of marine life on the shoreline and in the surrounding waters off of Kings Landing.
- 3) To educate and increase the knowledge of Native Hawaiians and their families in the art of alternative subsistence mode of living.
- 4) To assist at least one qualified Native Hawaiian family per year to move into the Kings Landing area and to live in the alternative subsistence mode of living.
- 5) To create a cultural school in the Kings Landing area and to teach the children who reside in the Kings Landing area cultural aspects of ancient Hawaiian living which shall include but not limited to one or more of the following:
 - a) Halau building
 - b) Fishing
 - c) Farming
 - d) Lauhala weaving
 - e) Hula
 - f) Hawaiian language
 - g) Hawaiian medicinal plants ; etc.
- 6) To conduct research into the location and significance of all cultural aspects of the Kings Landing TMK area.
- 7) To assist the full time residents of Kings Landing in obtaining long term leases for the purpose of living and farming on the Kings Landing TMK area

VII
(Complete only if applicable)

The corporation does not have an officer or director who is a resident of Hawaii. The corporation shall have and continuously maintain in the State of Hawaii a registered office and a registered agent.

a. The name of the corporation's registered agent in the State of Hawaii is:

N/A

b. The street address of the corporation's registered office in the State of Hawaii is:

N/A

VIII

- The corporation has members.
 The corporation has no members.

IX

The corporation is nonprofit in nature and shall not authorize or issue shares of stock. No dividends shall be paid and no part of the income or profit of the corporation shall be distributed to its members, directors, or officers, except for services actually rendered to the corporation, and except upon liquidation of its property in case of corporate dissolution.

We certify under the penalties of Section 415B-156, Hawaii Revised Statutes, that we have read the above statements and that the same are true and correct.

Signed this 27 day of October, 1999

Francis K Laimana Jr
(Type/print Name of Incorporator)

James E K Eopa Sr
(Type/print Name of Incorporator)

Shaulia K Laimana Jr
(Signature of Incorporator)

James E K Eopa Sr
(Signature of Incorporator)

BY-LAWS
OF

MALAMA KA 'AINA HANA KA 'AINA, INC.

I. NAME

This organization shall be known as Malama Ka 'Aina Hana Ka 'Aina, Inc.

II. OFFICE

The location of the principal office of this organization shall be Kings Landing, Hilo Hawaii, State of Hawaii. It may have other or branch offices in such places within the State of Hawaii or elsewhere as requisite or necessary for transacting the affairs or in furthering the purposes of the organization.

III. PURPOSES

The mission of Malama Ka 'Aina Hana Ka 'Aina, Inc. is exclusively for Religious, Charitable, Educational, and Cultural purposes. The objectives of the organization are:

1. To preserve and protect the cultural, historic, archaeological heritage and life of the Kings Landing IMK AREA 2-1-13-1 Keaukaha Tract II.
2. To help maintain the proper ecological balance of marine life on the shoreline and in the surrounding waters off Kings Landing.
3. To educate and increase the knowledge of the Native Hawaiians and their families in the art of alternative subsistence living in the Kings Landing area.
4. To assist at least one qualified Native Hawaiian family per year to move into the Kings Landing area and to live in the alternative subsistence mode of living.
5. To create a cultural school in the Kings Landing area to teach the children of Hawaii cultural aspects of ancient Hawaiian living, which shall include but not be limited to one or more of the following:
 - a. Halau building
 - b. Fishing
 - c. Farming
 - d. Lauhala weaving
 - e. Hula
 - f. Hawaiian Language
 - g. Medicinal plants

6. To conduct research into the location and significance of all cultural aspects of the area.
7. To assist the full time residents of Kings Landing in obtaining long term leases for the purpose of living and farming on the area of Kings Landing.
ALL RESIDENTS HAVE TO BE MEMBERS

IV. MEMBERSHIP

1. Any full time resident of Kings Landing. A full time resident of Kings Landing is defined as follows:

1. A person who is qualified under the rules of Hawaiian Homes to obtain a lease from Hawaiian Homes and who is currently on the Hawaiian Homes waiting list.
 2. A person who resides in the Kings Landing area, and who lives in that home full time.
 3. A person who spends at least ten percent of his or her time each week at the home in Kings Landing in the practice of Malama Ka 'Aina Hana Ka 'Aina, unless the person is away on business, vacation, or medical purposes.
- B. Any spouse or heir of persons qualifying under paragraph A, section 1, who resides full time in the Kings Landing area.
- C. Any person who has proven his or her desire to assist the residents of Kings Landing and is voted into membership by a majority of the members of the organization.

2. MEMBERSHIP: A one time membership fee of \$10 and monthly dues of \$5 will be applied to become eligible as a member of this organization.

3. RIGHTS OF MEMBERS: The right of a full time resident member to vote and all his or her rights in the organization shall be continuous and shall not be transferable. These rights shall cease on the termination of the person's membership or upon his or her death.

4. RESIGNATION: Any member may resign from the organization by delivering a written resignation to the President or Secretary. His or her membership dues will NOT be refunded. *DOES THE BOARD PAY TO RESUME IN KING'S LANDING?*

V. MEMBERSHIP MEETING

1. ANNUAL MEETINGS: A meeting of the members of the organization shall be

2. **SPECIAL MEETINGS:** Special meetings of the members may be called at any time by the Board of Directors or the President upon request of ten percent of membership.
3. **NOTICES OF MEETINGS:** A written notice of the membership meeting shall be given. The notice shall state the date, time, and place of the meeting. The notice shall be posted or hand delivered not less than five (5) days before the meeting.
4. **QUORUM:** The quorum at the annual and the special meetings shall consist of not less than five (5) members.
5. **VOTING:** A quorum of full time resident members shall decide by vote any question brought before such a meeting, unless otherwise required by law or by these by-laws. There shall be no proxy.
6. **RIGHTS AND PRIVILEGES OF MEMBERS:** The rights and privileges of members shall be as stated in the by-laws and rules and regulations.
7. **COMMITTEES:** The Board of Directors may from time to time form committees as it deems necessary.

VI. BOARD OF DIRECTORS

1. **MEMBERSHIP:** There shall be a Board of Directors of not less than three (3) members and not more than fifteen (15) members.
2. **QUALIFICATIONS:** To qualify for the Board of Directors, a person must be a full time resident of Kings Landing as defined in Article IV, Section 1-A, and have lived in his or her dwelling for at least two (2) years.
3. **TERMS OF OFFICE:** Each director shall be elected by the membership at the annual meeting and shall serve a term of two (2) years. There shall be no limit in the number of terms that a member may serve as Director.
4. **VACANCIES:** The Board of Directors shall fill five (5) vacancies on the board by majority vote. Appointed board members shall serve out the terms of those they have replaced.
5. **RESIGNATION:** A Director may resign from office providing written notice is given to the Secretary.
6. **REMOVAL:** A member of the Board of Directors may be removed from office by a two-thirds vote of the members in attendance but not less than a quorum for just cause. Board members in question may not vote.

7. **POWERS:** The Board of Directors shall conduct the business of the organization and shall accede to the wishes of the membership as determined at the annual and special meetings.
8. **OFFICERS:** There shall be at least four (4) officers: President, Vice President, Secretary, and Treasurer. All officers shall be Native Hawaiians elected by members at the annual meeting and shall serve a term of two (2) years. There is no limit on the number of terms an officer may serve. An officer is automatically a member of the Board of Directors.
9. **DUTIES OF OFFICERS:** The duties of the officers shall be those normally assigned to that particular office and shall include others that are prescribed by the membership.
 - A. **PRESIDENT:** The President shall be the principal officer of the organization. In general, the President shall oversee the business and affairs of the organization. The President shall be an official member of all committees and shall preside over all business meetings of the members and the board. The President shall sign all contracts and other instruments authorized to be executed, unless the signing and execution are expressly delegated by these by-laws or by the Board of Directors or are required by law to be performed by some other officer or agent of the organization. The President shall perform such other duties as are incident to the office or required by the Board of Directors.
 - B. **VICE PRESIDENT:** The Vice President shall assist the President and shall be an ex-officer member of all committees. In the absence of the President, the Vice President shall assume the powers and duties of the President. In case of a vacancy in the office of President, the Vice President shall automatically become President and serve out the unexpired term of the predecessor in office.
 - C. **SECRETARY:** The Secretary shall keep minutes of all meetings of the members and the Board of Directors. The Secretary shall see that all notices of meetings of members and Board of Directors are given as required by these by-laws; shall ensure proper maintenance of organization records; shall keep an official membership roll with names of all members; shall sign with the President all contracts and other instruments authorized to be executed, unless the signing and execution are expressly delegated by these by-laws or the Board of Directors, or are required by law to be performed by some other officer or agent of the organization. The Secretary shall perform such other duties as are incident to the office or are required by the President.
 - D. **TREASURER:** The Treasurer shall have charges and custody of and be responsible for all funds and securities of the organization; shall ensure

proper keeping and maintenance of the organization's books and accounts; shall assure that all money and funds of the organization are deposited to the credit of the organization in such banks or other depositories as shall be designated by the Board of Directors; shall make certain that all payments and disbursements of the organization's funds are for organization purposes as directed by the membership of the Board of Directors; shall see that all expenditures are duly authorized and are evidenced by proper receipts and vouchers; shall receive all money and funds paid to the organization; shall make to members at the close of the fiscal year and at such other times as directed by the Board such reports and financial statements regarding the finances of the organization as may be directed by the President or the Board of Directors; and in general shall perform all other duties incident to the office of Treasurer and as may be assigned by the President. The organization's books and accounts shall be open for inspection by any member of the organization and shall be audited from time to time as required by law or directed by the Board of Directors.

E. SUBORDINATE OFFICERS: The Board of Directors may from time to time employ such subordinate officers and employees as the affairs of the organization may require at such salaries and on such terms and conditions as may be determined by the Board of Directors.

VII. EXECUTION OF INSTRUMENTS

All checks, drafts or other orders of payment of money, notes, or other evidences of indebtedness issued in the name of the organization shall be signed by the President and Treasurer. The Board of Directors may expressly delegate authority to sign such instruments and other organization documents to some other officer or agent(s) of the organization. The delegation of authority to sign may be general or confined to specific instances.

VIII. FISCAL YEAR

The fiscal year of the organization shall be from January 1 through December 31 of each year unless otherwise determined by the Board of Directors.

IX. AMENDMENTS

Amendments to these by-laws shall be submitted by members to the Board of Directors. Amendments shall be in writing and must be submitted at least

thirty (30) days prior to an annual membership meeting or a special meeting called for that purpose. All amendments shall require a three-fourths vote of members present at a special membership meeting.

X. NON-PROFIT

The organization is not organized for profit and it shall not issue any stock. No part of the organization's assets, income or earnings shall inure to the benefit or be distributed to any of its members, directors, or officers, except that the organization may pay reasonable compensation for services actually rendered to the organization for its projects or programs. No substantial part of the activities of the organization shall be propaganda or otherwise attempting to influence legislation. The organization shall not participate in or intervene in any political campaign or on behalf of any candidate for public office. Notwithstanding any other provision of these by-laws, the organization shall not carry on any activities not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954 or corresponding provisions of any future Internal Revenue law, or by any organization contributions which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 or the corresponding provisions of any future United States Internal Revenue Law.

XI. LIABILITY

PERSONAL LIABILITY: No member of the Board shall be held personally liable for any debts of the organization.

XII. DISSOLUTION

When the organization fails to fulfill its stated purposes, the Board of Directors may declare dissolution of the organization at a membership meeting. Members present shall vote. A three-fourths vote shall be required to dissolve the organization. Six months after a vote of dissolution and payment of all known obligations, the Board of Directors shall donate the remaining funds and assets to other non-profit organizations tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

1 Name of applicant (legal name) (see instructions) **MIA MANIA KAIANA HANA KA'AIANA INC.**
 2 Trade name of business (if different from name on line 1) _____
 3 Execution, trustees, cert. of name _____
 4a Mailing address (street address) (room, apt., or suite no.) **15-2712 NEW ST.**
 4b City, state, and ZIP code **PERU HI 96778**
 4c County and state where principal business is located **HILE HAWAII 96720**
 5a Business address (street address) (room, apt., or suite no.) **KINGS LANDING**
 5b City, state, and ZIP code **HILE HAWAII 96720**
 Please type or print clearly

7 Name of principal officer, general partner, grantor, owner, or trustee—SSN or TIN may be required (see instructions) **Francis K. Laimana Jr. - 516-76-9965**
 8a Type of entity (Check only one box.) (see instructions)
 Caution: If applicant is a limited liability company, see the instructions for line 8c.
 Sole proprietor (SSN) _____
 Partnership _____
 REMIC _____
 State/local government _____
 Church or church-controlled organization _____
 Other nonprofit organization (specify) **STAVEC, INC.** (enter GEN if applicable) _____
 Other (specify) _____
 Estate (SSN of decedent) _____
 Plan administrator (SSN) _____
 Other corporation (specify) _____
 Trust _____
 Federal government/military _____
 Foreign country _____
 8b If a corporation, name the state or foreign country. State _____

9 Reason for applying (Check only one box.) (see instructions)
 Started new business (specify type) _____
 Bankrupt (specify purpose) _____
 Changed type of organization (specify new type) _____
 Purchased going business _____
 Created a trust (specify type) _____
 Hired employees (Check the box and see line 12)
 Created a pension plan (specify type) _____
 Other (specify) _____
 10 Date business started or acquired (month, day, year) (see instructions) **October 13, 1999**
 11 Closing month of accounting year (see instructions) **December 31, 1999**
 12 First date wages or annuities were paid or will be paid (month, day, year). Note: If applicant is a withholding agent, enter date income will first be paid to nonresident alien. (month, day, year) **N/A**
 13 Highest number of employees expected in the next 12 months. Note: If the applicant does not expect to have any employees during the period, enter 0. (see instructions) **0**
 14 Principal activity (see instructions) **Religious, charitable, cultural, education**
 Yes No
 15 Is the principal business activity manufacturing? Yes No
 16 To whom are most of the products or services sold? Please check one box.
 Public (retail) _____
 Business wholesale _____
 N/A No
 for this or any other business?

Post-it Fax Note **7671** Date **1-6-00** # of pages **11**
 To **Mike Mailey** From **Francis Laimana**
 Co./Dept. _____
 Phone # _____
 Fax # _____
 Business telephone number (include area code) _____
 Fax telephone number (include area code) _____
 Previous EIN _____
 Reason for applying _____

Name and title (Please type or print clearly) **Francis K. Laimana Jr. (President)**
 Signature **Francis K. Laimana Jr.** Date **Jan 18, 1999**
 Please leave blank _____
 Title _____
 Reason for applying _____
 Form **SS-4** (Rev. 2-98)
 Cat. No. 100579

EXHIBIT "B"
ITEM NO. F-4

ITEM NO: D-2
SUBJECT: Issuance of License Agreement, Pacific American Foundation,
Ualapue, Molokai

February 29, 2000

MOTION/ACTION

Moved by R. Freitas, seconded by H. Kalua. Motion carried unanimously.

ITEM NO: D-3
SUBJECT: Issuance of General Lease, Molokai Church of the Nazarene,
Kalamaula, Molokai

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Mike McElroy, Administrator
Land Management Division

SUBJECT: Right-of-Entry Permit to Malama Ka Aina Hana Ka Aina,
Inc., King's Landing, Keaukaha, Hawaii

THIS AGENDA ITEM WAS WITHDRAWN

RECOMMENDED MOTION/ACTION

ITEM NO: D-4
SUBJECT: Right-of-Entry Permit to Malama Ka Aina Hana Ka Aina, Inc.,
King's Landing, Keaukaha, Hawaii

That the Hawaiian Homes Commission (HHC) authorize the
Chairman to issue a new right-of-entry permit to Malama Ka Aina
Hana Ka Aina, Inc. for Hawaiian home lands located at King's
Landing, Keaukaha, Hawaii, as shown on Exhibit "A", further
identified as Tax Map Key No. (3) 2-1-13:01, for use as an
alternative lifestyle settlement.

MOTION

Moved by H. Kalua, seconded by R. Freitas.

DISCUSSION

Commissioner Holt suggested that the agreement should address the current
problems at King's Landing. She asked Mr. Murakami and NHLC to review the
current problems and provide the greatest leverage possible to the current
families living there. The Commission does not want to be involved in
enforcement. Mr. McElroy noted that the intent is to establish self-
governance. Mr. Murakami added that they want to fashion something that will
not be rigid or complicated and will keep the harmony and spirit of what this
ROE is all about.

DISCUSSION

Prior Commission Action

On July 27, 1984, the HHC authorized the Chairman to issue a
right-of-entry permit for use of Hawaiian home lands identified
as "Keaukaha Tract II" and known as "King's Landing" at Keaukaha,
Hawaii. Right-of-entry No. 76 (Exhibit "B") was issued on
September 24, 1986, subject to a number of conditions, principal
of which are the following:

ACTION

Motion carried unanimously.

Use of the land is granted to Malama Ka Aina Hana Ka
Aina, Inc. ("MAHA") until a management plan for
Keaukaha Tract II is completed and accepted.

ITEM NO: D-5
SUBJECT: Village 4, Villages of Lalopua Acquisition, Keaukaha, Hawaii

MOTION/ACTION

Moved by H. Cho, seconded by H. Kalua. Motion carried unanimously.

Persons permitted to reside on the land must be
qualified native Hawaiians residing on the premises as
of July 27, 1984, and either on the applicable waiting
list as of the prior date, or in process of applying
for an award and whose application is completed by
November 30, 1984.

Background

Right-of-Entry No. 76 was issued to address the unauthorized residence on Hawaiian home lands of about 25 beneficiary families at King's Landing. The RHC action was based on the theory that, since the Department had no immediate plans to use the property for purposes authorized by the HICA, this particular area could be used by beneficiaries seeking to establish and live in an alternative lifestyle settlement.

The King's Landing settlement has become a functioning community. As of November, 1999, approximately nine homes were occupied on the property, and all appeared to be in compliance with the environmental standards specified in the permit. MAHA has proven to be an effective coordinating entity for the residents, and operates a community building.

Departmental review of the settlement and discussion with King's Landing residents indicates situations have arisen which were not anticipated when the original permit was issued. Therefore, it is recommended that a new right-of-entry be granted to MAHA, with conditions of the original permit supplemented by additional provisions. The newly identified problems, and solutions recommended to be addressed by amended conditions, are as follows:

1. Ambiguous management authority
Right-of-Entry No. 76 is entered into with MAHA; thus, MAHA is responsible for conformity with permit conditions. However, a number of permit provisions specifically relate to individual "members", or families residing in King's Landing. This can lead to some ambiguity in management: in the event of a violation, who is responsible: MAHA or the offending member?
A clearer line of authority can be drawn if MAHA's powers and responsibilities are expanded and clarified. This will support a greater degree of self-governance by King's Landing settlers through MAHA.

2. Admission of new settlers

Right-of-Entry No. 76 authorized residents by qualified native Hawaiians on the waiting list who had resided on the property as of July 27, 1984. This definition limits eligibility to the 25 original families. With the passage of 16 years' time, many of the original settlers have moved out; our November 1999 field inspection showed that seven of

the originally authorized families were still on the property.

Staff believes that, for the reasons cited in the original permit, procedures should be established to allow new settlers to replace those who desire to relocate from King's Landing. MAHA is preparing new By-Laws, a draft of which is attached as Exhibit C. Article III of the draft by-laws would establish a process for membership. Admission qualifications would include:

- Presence on a Hawaii Island waiting list
- Verification of native Hawaiian blood quantum
- Application to and acceptance by MAHA
- Completion of probationary membership

Under the permit conditions, residence would be limited to 25 families, the same number as authorized under the Right-of-Entry No. 76.

3. Individual and community standards

Homesteaders are governed by standards enunciated in the Hawaiian home land lease. King's Landing settlers are not lessees; thus, standards need to be established by other means.

MAHA has prepared a draft "Code of Malama Ka Alua Hana Ka Alua", attached as Exhibit D. This would establish both a code of conduct binding upon members and standards of construction habitability and performance. These standards would be incorporated in the new right-of-entry, and under its' by-laws MAHA would be empowered to discipline violators.

RECOMMENDATION

Land Management Division requests approval of the recommended motion as stated.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

RIGHT-OF-ENTRY NO. 76

THIS AGREEMENT, made and entered into as of this 24th day of September, 1986, by and between the DEPARTMENT OF HAWAIIAN HOME LANDS, STATE OF HAWAII, hereinafter referred to as "GRANTOR," and MALAMA KA AINA HANA KA AINA, INC., an incorporated association, whose permanent mailing address is P. O. Box 5174, Hilo, Hawaii, 96720, hereinafter referred to as "GRANTEE."

WITNESSETH THAT:

WHEREAS, GRANTOR owns and has sole jurisdiction over lands identified as Keaukaha Tract II, Tax Map Key 2-1-13-01, on the island of Hawaii; hereinafter referred to as "King's Landing;"

WHEREAS, GRANTOR has established as two of its principal goals: (1) the restoration of trust assets; and, (2) the acceleration of distribution of Hawaiian home lands for homesteading purposes;

WHEREAS, GRANTOR will be developing a management plan for the King's Landing area in order to attain its goal of accelerating the distribution of Hawaiian home lands for homesteading purposes;

WHEREAS, members of GRANTEE are presently utilizing and occupying portion of King's Landing; and

WHEREAS, GRANTOR is desirous of lawfully permitting members of GRANTEE continued use and occupancy by way of this right-of-entry until completion of the management plan and acceptance thereof by the Hawaiian Homes Commission or such other time as the Commission may determine;

KEAUKAHA TRACT II
SCALE

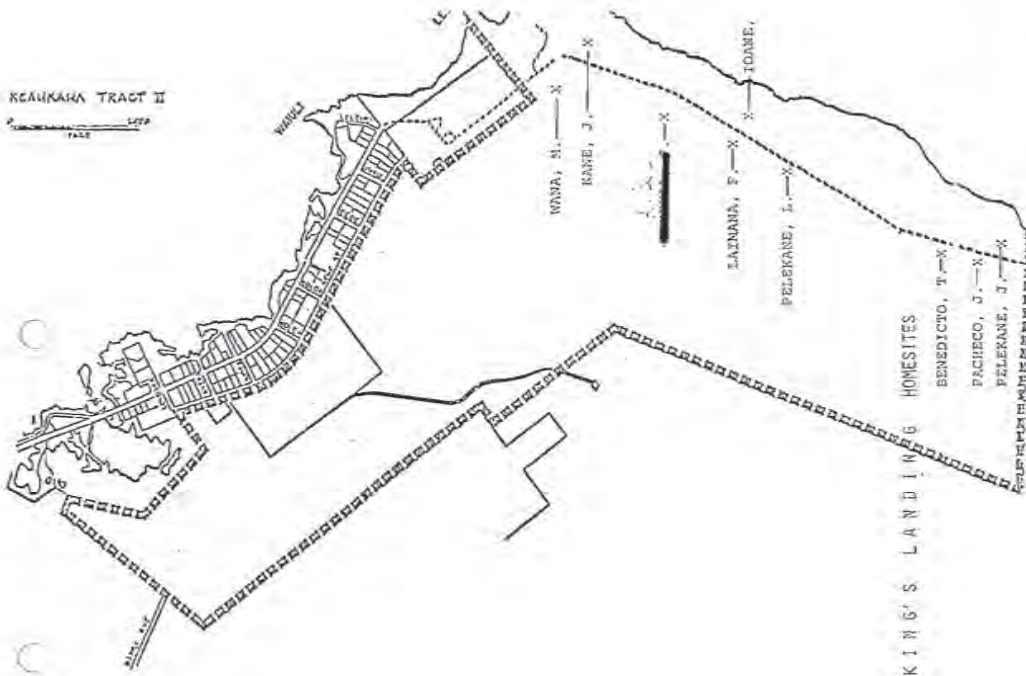


EXHIBIT "A"

TYPE NO. D-4

EXHIBIT "B"
TYPE NO. D-4

WHEREAS, at its meeting of July 27, 1984, the Hawaiian Homes Commission authorized GRANTOR to issue rights-of-entry to qualified applicants on GRANTOR's waiting list for homestead awards if the applicants were residing at King's Landing on July 27, 1984; and,

WHEREAS, members of GRANTEE are qualified applicants on the GRANTOR's waiting list for homestead awards and were residing at King's Landing on July 27, 1984.

NOW THEREFORE, in consideration of the above premises, GRANTOR hereby grants to GRANTEE a right-of-entry authorizing members of GRANTEE to enter upon Hawaiian home lands at King's Landing to occupy and utilize those areas designated in Exhibit "A," which is attached hereto and made a part of this Agreement, subject to the following terms and conditions:

1. Term. This right-of-entry shall remain in effect until the management plan for King's Landing is completed and accepted by the Hawaiian Homes Commission and continued occupancy of said premises will interfere with the implementation of the management plan.

2. Occupation. Each member of GRANTEE occupying the premises under this right-of-entry shall be required to reside within the member's area as shown in Exhibit "A," for the term of this agreement.

3. Area of Right-of-Entry. The area to be utilized by each member under this right-of-entry shall not exceed three acres and shall be within the area designated in Exhibit "A."

4. Land Rental. GRANTEE shall pay to GRANTOR a rental of ONE AND NO/100 DOLLARS (\$1.00) for the term of this right-of-entry, payable upon demand.

5. Insurance. GRANTEE shall, for itself and its members occupying their respective designated areas in the King's Landing area under this right-of-entry, at its expense, procure and keep in force during the term of this right-of-entry, general comprehensive public liability insurance of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) and coverage of at least FIFTY THOUSAND DOLLARS (\$50,000) against the claims of third persons for property loss or damages. The insurance shall be obtained from an insurance company or surety company authorized to do business in the State of Hawaii. The insurance policy or policies shall name GRANTOR as an additional insured. GRANTEE shall, within thirty (30) days from the date of execution of this right-of-entry, deliver to GRANTOR'S District Project Manager at the Project Office in Keaukaha, Hawaii, a copy of the insurance policy or policies, or, in lieu thereof, a certificate or certificates issued by the insurance company or surety company showing the insurance coverage, the amount of coverage and names of the insured.

6. Sanitation. GRANTEE shall ensure that each member maintains the respective areas as shown in Exhibit "A," and improvements thereon in a clean and safe condition such that public and community health and safety would not be endangered. The officers of GRANTEE shall conduct inspections of the premises and improvements of their members occupying their respective designated areas under the terms of this right-of-entry. GRANTEE shall give its members fifteen (15) days' notice to correct any unsanitary or hazardous conditions found on the premises.

7. Utilities. GRANTEE and its members agree that GRANTOR shall not be responsible for providing any water, electricity, or any other utility services.

9. Taxes. GRANTEE agrees to pay all taxes and assessments, if any.

9. Maintenance of historical and cultural sites. GRANTEE shall be responsible for the maintenance and preservation of historical and cultural sites contained within the area covered under this right-of-entry.

10. Inspection by GRANTOR. It is expressly understood and agreed that GRANTOR, or any agent or employee of GRANTOR, may enter and inspect the area covered by this right-of-entry at any reasonable hour with seven days prior written notice except as may be otherwise necessitated by health and/or safety consideration.

11. Termination/Revocation. This right-of-entry may be terminated by GRANTEE without cause upon thirty (30) days' written notice to GRANTOR. GRANTEE shall terminate the right of any member to occupy their designated area under this right-of-entry upon giving thirty (30) days' written notice for the following reasons:

- a. That member is found to be not residing on the member's designated area; or
- b. The member's designated area is found to have unsanitary or hazardous conditions which have not been corrected after fifteen (15) days' notice from GRANTEE.

Otherwise this right-of-entry will terminate as provided in paragraph 1.

12. Removal of Improvements and Personal Property. All improvements erected or placed on the premises by GRANTEE or any GRANTEE's member shall be and remain the personal property of GRANTEE or its respective member. Upon expiration, termination, or revocation of this right-of-entry, GRANTOR

shall have the right to require GRANTEE to remove any and all improvements, personal property, and appurtenances on the land and the cost of such removal shall be borne by GRANTEE. If GRANTEE fails to effectuate such removal within thirty (30) days of such additional period as GRANTOR may for good cause allow from the date notice given by GRANTOR, GRANTOR shall have the right to remove any and all improvements, and other personal property, and appurtenances on the land and to charge the cost of removal to GRANTEE. In the event GRANTEE, pursuant to paragraph 6, terminates the right of a member to occupy the member's designated area under the terms of this right-of-entry, each member shall remove within thirty (30) days from date of termination of such additional period as may be allowed, said member's improvements and other personal property.

13. Liquidated Damages. If GRANTEE or any GRANTEE's member does not vacate the premises upon the expiration, termination or revocation of this right-of-entry, GRANTEE shall pay GRANTOR liquidated damages at the rate of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) for each day GRANTEE or any of its members remain on the premises beyond the date of revocation, expiration, or termination.

14. Court Costs. As native Hawaiian beneficiary, the members of GRANTEE reserve the right to protect their rights in a court of law. If any court action arises, GRANTEE and its members agree to pay their own court costs and attorney's fees.

15. Nontransferability of Interest. Neither GRANTEE nor any GRANTEE's member under this right-of-entry shall have the right, in whole or in part, to transfer, assign, sublet or

In any way, convey any interest in his or her designated area. Any such transfer or assignment shall be void and constitute grounds for termination by GRANTOR.

16. Organizational Status of Grantee and its members. GRANTEE agrees to submit to GRANTOR a copy of its Articles of Incorporation as a non-profit association, a copy of its association by-laws, and a list of its members participating under this right-of-entry.

17. Change of condition or circumstances; notice. Each party to this Agreement agrees to inform the other in the event there is any substantial change in the status of a party or the condition or circumstances in the area.

18. This Agreement shall not apply to those members of GRANTEE who were not qualified applicants on GRANTOR's waiting list for residential homesteads as of July 27, 1984, and were not residing at King's Landing on that date.

19. Other Conditions. It is expressly understood and agreed that:

- a. Members of GRANTEE shall not interfere with access along or over roads and fishing trails at King's Landing, or along or over the shoreline and ocean abutting King's Landing.
- b. GRANTEE's representatives shall participate in the development of the management plan for the King's Landing area which participation shall include but not be limited to membership on the advisory committee as part of the management plan development. Such management plan to include but not be limited to considering prototype alternative lifestyle settlements.

e. GRANTEE, by its duly appointed or elected officers, shall execute the right-of-entry on behalf of GRANTEE and its members.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

DEPARTMENT OF HAWAIIAN HOME LANDS
STATE OF HAWAII

By Georgiana V. Padrey
GEORGIANA V. PADREY, CHAIRMAN
HAWAIIAN HOMES COMMISSION

GRANTOR

APPROVED AS TO FORM:

Deputy Attorney General
STATE OF HAWAII

PALAMA KA AINA HANA KA AHA, INC.
A Hawaii Incorporated Association

By Willie T. Ioane
WILLIE T. IOANE,
its President

By James P. Lehman
JAMES P. LEHMAN,
its Vice-President

By Agnes Benedicto
AGNES BENEDETTO,
its Treasurer

By Carol E. Ioane
CAROL E. IOANE,
its Secretary

STATE OF HAWAII

1985

City of Honolulu

On this 12th day of August, 1985,
before me appeared KELLI W. IOANE, JAMES PELLEKANE, AGNES BENEDICTO,
AND CAROL R. IOANE, to me personally known, who, being by me duly
sworn or affirmed, did say that they are the President,
Vice-President, Treasurer, and Secretary, respectively, of IOANIS
KA AINA HANA KA AINA, INC., an incorporated association, and
that the instrument was signed in behalf of the association by
authority of its Board of Directors or Trustees, and KELLI W.
IOANE, JAMES PELLEKANE, AGNES BENEDICTO, and CAROL R. IOANE
acknowledged the instrument to be the free act and deed of the
association and that the association has no corporate seal.

Notary Public
NOTARY PUBLIC, STATE OF HAWAII

My Commission expires: 12-31-88

STATE OF HAWAII)
CITY & COUNTY OF HONOLULU)

On this 21st day of September, 1986,
before me personally appeared Georgiana K. Bedeken, to me
personally known, who, being by me duly sworn, did say that she
is the Chairman of the Hawaiian Homes Commission and the person
described in and who executed the foregoing instrument and
acknowledged to me that she executed the same freely and
voluntarily for the use and purposes therein set forth.

Notary Public
NOTARY PUBLIC, State of Hawaii

My commission expires: 9/1/88

DRAFT
(Feb. 16, 2000)

**BYLAWS OF
MALAMA KA 'A'INA HANA KA 'A'INA, INC.**

Article I - Establishment

- A. The location of the principle office of this corporation shall be at King's Landing, Kenukaha Tract II.
- B. The board of directors may designate other locations as required or necessary to conduct the corporation's business or further the purposes of the organization.

Article II - Purposes of the Organization

- A. This corporation is being formed as a 501(c)(3) tax-exempt organization for purposes specified in section 501(c)(3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future tax code.
- B. Malama Ka 'A'ina Hana Ka 'A'ina, Inc. is intent is to specifically operate as a nonprofit organization for the benefit of the public. Malama Ka 'A'ina Hana Ka 'A'ina, Inc. (hereafter, "MAHA") is authorized to undertake any activities which are necessary to achieve its objectives. Its mission is limited to exclusively religious, charitable, educational, and cultural purposes. The objectives of the organization are:
 1. To preserve and protect the cultural, historical, and archeological heritage of the area designated by TMK 2-1-13-1, otherwise known as Kenukaha Tract II (hereafter, "Kings Landing").
 2. To help maintain the proper ecological balance of marine life on the shoreline and in the surrounding waters off King's Landing.
 3. To serve as a democratically-controlled governing entity for the families living at King's Landing.
 4. To educate and increase the knowledge of the Native Hawaiians and their families in the art of alternative subsistence living.
 5. To create a cultural school in the King's Landing area to teach the children of Hawaii cultural aspects of ancient Hawaiian living, which shall include, but not be limited to, the following:
 - a. Heiau building
 - b. Fishing
 - c. Farming
 - d. Laubata weaving
 - e. Hula
 - f. Hawaiian language

- 6. Medicinal plants
- 7. To facilitate and support research into the history and significance of the cultural aspects of the area.
- 8. To assist the full-time residents of Kings Landing in obtaining long term leases for the purposes of living and farming on the Kings Landing TMK area.
- 9. To operate as a democratically-controlled entity that exercises governance powers over the conduct of human activity within King's Landing, subject only to the terms of whatever license, permit or lease that may be issued to MAHA by the Hawaiian Homes Commission.

Article III - Membership

- A. **Eligibility:** Any person meeting the following criteria shall be eligible for membership:
 1. Any full time resident of Kings Landing is eligible for membership in the corporation. A full time resident is defined as a person who:
 - i. Is at least 21 years old
 - ii. Is a native Hawaiian (as confirmed by acceptance of the applicant's application by the DHHL).
 - iii. Has applied to and qualified for a lease from Hawaiian Homes and who is currently on the Hawaiian Homes waiting list.
 - iv. Resides in the Kings Landing area. A person resides in the Kings Landing area if the person currently lives in a home at Kings Landing full time.
 - v. Spends at least ten percent of his or her time each week at the home in Kings Landing engaged in promoting one of the purposes of MAHA outlined above, unless the person is away on business, vacation, or medical purposes.
 2. Any spouse, dependent or heir of persons qualifying under paragraph A, who resides full time in the Kings Landing area.
 3. Any person qualified above, who has proven his or her desire to assist the residents of Kings Landing and is voted into membership by a majority of the members of the organization.
- B. **Effect of MAHA membership:** All members of MAHA must be accepted as members, remain duly eligible members of MAHA, and abide by any rules established by MAHA pursuant to these bylaws in order to be covered under any permit, license or lease that may be issued by the Hawaiian Homes Commission to MAHA for the use and occupation of King's Landing. No other party may claim any right to reside at King's Landing without qualifying for membership and being a member of MAHA recognized by the Board. By maintaining membership in MAHA, each member agrees to participate in the activities of MAHA in order to allow the corporation to effectively govern the use of areas within King's Landing under the terms of any license, permit or lease that the Hawaiian Homes Commission may grant to MAHA.

EXHIBIT "C"
ITEM NO. D-4

C. Process for Member Acceptance: To be designated a qualified member of the organization, full time residents must apply to and be accepted by the Board of Directors. The Board shall base its selection criteria on, at a minimum, the applicant:

- a) Agreeing in writing to abide by the bylaws and rules of MAHA.
- b) Participating in the preparation, amendment and adoption by the Hawaiian Homes Commission of a management plan as a basis for future land use in the area.

From time to time, the Board may adopt and prescribe additional criteria in accordance with the provisions and procedures contained in Article ____.

D. Probationary Period of Membership: Upon the acceptance by the Board of any prospective member of the corporation, that person shall be placed on probation, during which time they must meet certain minimum performance requirements to build a safe and habitable residence on their section of King's Landing designated by the Board, including, but not limited to:

- a) Within 12 months of Board acceptance for probationary membership, the probationary member must complete the frame, flooring and roof of the structure; and
- b) Within 18 months of applying for membership, the probationary member must complete the residence structure so that it is inhabitable occupied full time by the probationary member.

Upon satisfactory performance of the conditions above, the Board may act to grant the probationary member regular membership status, subject to the person's continued compliance with the Code of Conduct.

E. Assessment: All probationary and regular members shall pay a one-time membership fee of \$10.00 and monthly dues of \$5.00 to MAHA for the expenses of the corporation. The Board may amend this schedule of fees from time to time as required to meet expenses of the corporation.

F. Code of Conduct: All members, probationary and regular, are subject to a code of conduct. At a minimum, the Code shall prohibit any criminal activity by any member, establish any requirements for notice to the offending member, the process for investigating and reviewing allegations of violations, and prescribe sanctions for any violation, which shall include fines, warnings, reprimands, suspension or permanent removal or expulsion from the King's Landing area by DHHH, in accordance with the provisions of Article ____.

The Board shall adopt the Code prior to granting any membership status to any applicant. Prior to the imposition of sanctions, the member shall be entitled to reasonable prior notice of the violation and an opportunity to be heard before the Board of Directors. Any final decision on reported violations shall be based on the determinations of the Board and a formal report to the Department of Hawaiian Home Lands.

G. Membership Register and Map: The secretary of the Board shall maintain a register of all acceptances of probationary and regular memberships, as well as any terminations of memberships. The register shall specify the name of each qualified and terminated member, and designate the location of each such member's current residence on an appropriate map designating the locations of each residence at King's Landing. The secretary shall retain this membership register at the organization's principle office and shall be periodically update and provide a copy to the Department of Hawaiian HomeLands.

H. Nature of Membership Rights: The rights of full time members in this organization shall be continuous and non-transferable. These rights shall cease upon the termination of the person's membership or, upon his or her death. Any person seeking to succeed to the residence of a deceased or terminated member must qualify as a member in the same manner as provided in these bylaws.

I. Member Obligations Upon Termination of Membership: Any member may resign from the organization by delivering a written resignation to the President or Secretary. His or her membership dues will not be refunded. Once a person has resigned or been terminated as a member of the corporation, he or she must remove all of his or her personal possessions from the location at which he or she resided at King's Landing and leave the area free of any debris, personal articles, garbage or waste. Unless otherwise directed by the Board, the same person must dismantle any structure used as a residence or any other improvements to the property for which he or she is responsible. If the board does elect to allow the former member's residence to remain in place, the member shall not have any right to seek reimbursement for the cost of improvements.

Article IV - Membership Meetings

A. Place of Membership Meetings: All meetings of the membership shall be held at a location in King's Landing designated by the Board.

B. Date of Meetings: A meeting of the members of the organization shall be held during the first four months following the close of each fiscal year from January 1 through December 31 at such time and place as may be determined by the Board of Directors. At such annual meetings, plans for the ensuing year shall be discussed and other business pertaining to the organization shall be acted upon.

C. Special Meetings: Special meetings of the members may be called at any time by the Board of Directors or the President upon request of twenty percent of membership.

D. Notice: A written notice of any regular membership meeting shall be given. The notice shall be posted or hand delivered not less than five (5) days before the meeting. The notice shall state the date, time, and place of the meeting. If the meeting is being held for election purposes, notice should contain the names of all

nominees/candidates. Notices for special meetings shall be the most reasonable means of notifying members by the most effective means available.

- E. Quorum: The quorum at the annual and the special meetings shall consist of not less than five (5) members.
- F. Decisions of the Membership: A majority of full time resident members attending the meeting called shall decide by vote any question brought before such a meeting, unless otherwise required by law or by these by-laws.
- G. Vote: All members have one vote. There shall be no proxy.
- H. Procedure: Robert's Rules of Order shall be used for conducting the corporation's meetings, where there is any dispute as to the applicable procedure to use.

Article V - Board of Directors

- A. Composition: There shall be a Board of Directors consisting of not less than five (5) members and not more than eleven (11). At any given time, the membership of the board shall consist of an odd number of directors and officers. All Directors shall serve for no compensation. The initial officers of the corporation shall serve as the initial Board of Directors. Within 180 days of the initial meeting of the board, its members may fill up to the nine (9) vacancies on the board by majority vote.
- B. Qualifications: To qualify for the Board of Directors, a person must be a full-time resident of Kings Landing as defined below, and have lived in his or her dwelling for at least two (2) years.
- C. Power to Act: Subject to the limitations and requirements of the State of Hawaii, all activities of the corporation will be conducted, and all powers of the corporation shall be exercised, by and under the direction of the Board of Directors. The Board of Directors shall conduct the business of the organization and, whenever there is conflict, shall accede to the wishes of the membership as determined at the annual and special meetings. Any decision made by the made by the majority of the directors present at a meeting duly held will qualify as an act of the Board of Directors, unless prohibited by the Articles of Incorporation, or federal or state laws.
- D. Term of Office: Each director shall be elected by the membership at the annual meeting and shall serve a term of four (4) years. There shall be no limit in the number of terms that a member may serve as Director.

E. Parameters of Meetings: The primary location of Board Meetings shall be designated by the Board. The Board shall determine the frequency of meetings. All meetings shall be open to members of the Association. The Board shall establish a schedule for regular meetings, which shall be a designated time and date, at a

designated place. The Secretary of the Board shall provide written notice to all members of the schedule for regular board meetings.

- F. Special Meetings: The President may call a special meeting in cases of emergency or other exigent circumstances, provided that he/she provides notice reasonably calculated to inform, and give reasonable opportunity to attend to, all members of the Board.
- G. Quorum: The quorum for any meeting of the Board shall be a majority of the sitting members of the Board.
- H. Removal and Vacancies: A Director may resign from office providing written notice is given to the Secretary. A member of the Board of Directors may be removed from office by a two-thirds vote of the members in attendance but not less than a quorum for just cause, where a quorum is possible. Board members in question may not vote. The remaining members of the board may replace any director who has resigned or been removed by a majority of the remaining votes. Appointed board members shall serve out the terms of those they have replaced.
- I. Liability: The Directors of the corporation shall not be personally liable for the debts, liabilities, and other obligations of the corporation, unless they have violated their fiduciary duties to the corporation. The Officers and Directors of the corporation are indemnified to the fullest extent of the laws of the State of Hawaii.
- J. Corporate obligations. The Board is authorized to obtain liability insurance, or enter into applicable contracts, as may be required from time to time in order to fulfill its purposes.

Article VI - Officers of the Corporation

- A. Composition: The Board of Directors shall select from amongst them the officers of the corporation. There shall be at least four (4) officers: President, Vice-President, Secretary, and Treasurer. Each officer shall serve a term of two (2) years or coincide with his or her term as a Board member. There is no limit on the number of terms an officer may serve. An officer is automatically a member of the Board of Directors.
- B. Qualifications: All officers shall be Native Hawaiians.
- C. President: The President shall:
 - 1. be the principal officer of the organization;
 - 2. oversee the business affairs of the organization.
 - 3. preside over all business meetings of the members and the board
 - 4. sign all contracts and other instruments authorized to be executed, unless the signing and execution are specifically delegated by these bylaws or by

8. in general perform all other duties incident to the office of Treasurer and as may be assigned by the President.

J. Corporate Records: The organization's books and accounts shall be open for inspection by any member of the organization and shall be audited from time to time as required by law or directed by the Board of Directors.

K. Subordinate Officers: The Board of Directors may from time to time employ such subordinate officers and employees as the affairs of the organization may require at such salaries and on such terms and conditions as may be determined by the Board of Directors.

Article VII - Removal from Office

A. Removal: Any officer or director may be removed from office upon the vote of the majority of the board, after due notice and opportunity to be heard is provided to the affected individual.

B. Failure to Attend Board Meetings: In the event that a board member fails to attend more than 2 consecutive meetings, or more than one-half of the meetings of the Board in any calendar year, the other members of the Board may act to reprimand, suspend, remove, or take any other appropriate action against the offending director after prior written notice at least seventy-two hours prior to the meeting at which action is taken. The Board shall provide written notice to the director affected of any action taken pursuant to this part.

C. Succession: In the event of vacancies due to death, resignation, disqualification, or removal, the Board may immediately replace the individual from amongst those residing at King's Landing and who are members of the Corporation.

Article VIII - Committees

A. Executive Committee: The President shall establish an executive committee to advise him or her on the daily business for the corporation. The executive committee shall consist of the officers of the Board. The committee shall assist the President in establishing agendas for meetings, informing him of critical issues that need action by the Board or its officers, and advising him or her of important concerns of the Corporation that might not be addressable by the full Board by the next special or regular meeting.

B. Standing Committees: The Board may authorize the President to establish such other committees that may be necessary to effectively execute the policies of the Board. The number and membership of each committee shall be determined by the President. The committees may include, but not be limited to, the following:

the Board of Directors or are required by law to be performed by some other officer or agent of the organization.

5. perform such other duties as are incident to the office or required by the Board of Directors.

6. The President may appoint committees or delegate duties as may be required by the Board or as required to effectively implement the programs and decisions of the Board.

G. Vice-President: The Vice-President shall assist the President and shall be an ex-officer member of all committees. In the absence of the President, the Vice-President shall assume the powers and duties of the President. In case of a vacancy in the office of the President, the Vice-President shall automatically become President and serve out the unexpired term of the predecessor in office.

H. Secretary: The Secretary shall keep the minutes of all meetings of all members and the Board of Directors. The Secretary shall:

- 1. see that all notices of meetings of members and the Board of Directors are given as required by these bylaws;
- 2. ensure proper maintenance of organizational records;
- 3. keep an official membership roll with names of all members;
- 4. sign with the President all contracts and other instruments authorized to be executed, unless the signing and execution are expressly delegated by these bylaws or the Board of Directors, or are required by law to be performed by some other officer or agent of the organization.
- 5. such other duties as incident to the office or are required by the President.

I. Treasurer: The Treasurer shall:

- 1. receive all money and funds paid to the organization;
- 2. have charges and custody of and be responsible for all funds and securities of the organization;
- 3. ensure proper keeping and maintenance of the organization's books and accounts;
- 4. assure that all money and funds of the organization are deposited to the credit of the organization in such banks or other depositories as shall be designated by the Board of Directors;
- 5. make certain that all payments and disbursements of the organization's funds are for organization purposes as directed by the Board of Directors;
- 6. see that all expenditures are duly authorized and are evidenced by proper receipts and vouchers;
- 7. make to members at the close of the fiscal year and at such other times as directed by the Board such reports and financial statements regarding the finances of the organization as may be directed by the President or the Board of Directors; and

- **Rules Committee:** This committee shall draft the criteria for membership and the Code of Conduct. The committee shall recommend, for Board adoption, any additional criteria and parameters for membership in the corporation membership in addition to those specified in Article III(A) and the Code of Conduct for residing at King's Landing as provided for under Article III(F), by which each member of the Corporation shall abide. Periodically, the committee may recommend amendments to these rules and the Code of Conduct for the Board to adopt.
- **Membership Committee:** This committee shall advise the board on membership issues, screen applicants for membership, and make recommendations to the Board on whether members have violated any rules of the Corporation while living at King's Landing. The committee shall advise the Board on actions that should be taken by the Board to accept or disqualify members. The committee shall preliminarily review all complaints against any member and investigate whether violations of Corporation rules have occurred. The committee shall also review and recommend any proposed sanctions, including fines, reprimand, suspension or expulsion of members, to the Board for the violation of any established rule.

Article IX - Actions on Behalf of the Corporation

- A. From time to time, the President may enter into and/or execute contracts on behalf of or in the name of the corporation, as authorized by the board at a duly convened meeting, and the corporation shall be bound by such action.
- B. All checks, drafts or other orders of payment of money, notes, or other evidences of indebtedness issued in the name of the organization shall be signed by the President and Treasurer. The Board of Directors may expressly delegate authority to sign such instruments and other organization documents to some other officer or agent(s) of the organization. The delegation of authority to sign may be general or confined to specific instances.
- C. All corporate funds may be deposited into accounts as directed by the Board of Directors.
- D. The Board of Directors may, on behalf of the corporation, accept any gifts, bequests, or other monetary devices as may be used for the nonprofit purposes of the corporation.

Article X - Corporate Records

- A. The Secretary shall maintain all corporate records, including minutes, financial reports, correspondence, and other related documentation.
- B. There shall be no corporate seal.

- C. Any director or member of the Corporation may inspect any corporate record.
- D. Any qualified person seeking copies of any corporate record shall pay the reasonable cost of copying.
- E. The Secretary shall be responsible for the filing of annual report required by law.

Article VIII - Financial and Legal Restrictions

- A. The corporation shall comply with all appropriate federal and state laws governing 501(c)(3) nonprofit organizations, and shall refrain from campaigning, or supporting specific candidates for public office. Nothing in these bylaws shall be construed to prevent any individual member of the corporation from engaging in such activities on an individual basis.
- B. The corporation's 501(c)(3) prohibits private benefit to individuals associated with the organization. Accordingly, the members, including directors of the Board, and the officers, shall refrain from obtaining any personal financial benefit from the expenditures and actions of the board. This prohibition shall not prevent members from accepting reimbursement for travel, administrative, and incidental expenses incurred on behalf of the Corporation in connection with actions authorized or ratified by the Board. Any compensation made to other individuals must be for specific services rendered for the benefit of the Corporation, or to promote the tax-exempt activities of the group.
- C. Under the restrictions related to Organizational Finances, pursuant to IRC § 509(d):
 1. the corporation shall distribute its income of the specified time period in a timely manner so as to avoid imposition of any taxes under Section 4942 of the IRC
 2. Pursuant to IRC § 4941(d), the Corporation officers, directors and members shall not engage in any self-denialing
 3. Pursuant to IRC § 4943, the Corporation shall not retain any excess business holdings
 4. The Corporation shall not make any investments that would subject it to taxation under IRC § 4944
 5. The Corporation shall not make any taxable expenditures that would fall under the requirements of IRC § 4945(d).

Article IX - Amendment of Bylaws

Members of the corporation have the power to adopt, amend or repeal these Bylaws as allowed by law, and new Bylaws may be adopted with the approval of the Board of Directors.

DRAFT

February 17, 2000

CODE OF MALAMA KA AINA HANA KA AINA

King's Landing
Keaukaha Tract II

Preamble:

The Hawaiian Homes Commission has granted Malama Ka Aina, Hana Ka Aina (hereafter, "MAHA") a right of entry permit from for the use and occupancy of the area known as King's Landing, Keaukaha Tract II. Under this disposition of trust land to MAHA, the Commission desires to delegate to MAHA the exclusive power to regulate and manage all oversight and monitoring functions necessary to maintain peace and harmony amongst the residents of King's Landing who are members in good standing of MAHA.

Furthermore, the Commission has executed this disposition in order to allow MAHA to assume exclusive responsibility for determining the standards of acceptable conduct of residents and the basis for enforcement action by the Commission. The HHC intends to defer and delegate all daily management responsibility over King's Landing to MAHA under the terms and conditions established under the revocable permit no. [redacted]. In order to establish clear standards for conduct by members of MAHA, and the basis for any enforcement action by the Commission, pursuant to a duly authorized action of its Board of Directors, MAHA adopts and ratifies this Code to govern the actions of MAHA members who are residents at King's Landing and the standards for occupying portions of the area.

CODE OF CONDUCT:

CRIMINAL CONDUCT: All MAHA members shall not engage criminal conduct at King's Landing, including, but not limited to:

- Physical assault
- Terroristic threatening
- Unauthorized discharge of firearms
- Theft
- Trafficking in or storing stolen property

OTHER STANDARDS OF CONDUCT:

1. No member shall discharge firearms for hunting or other proper use except at the times and in the areas established by MAHA, as publicly posted on the community bulletin board.
2. No member shall allow pets or other domesticated animals to damage the property of any other member. Any member suffering damage from the

Article X - Conflicts

- A. If the provisions of the Bylaws are in any way conflicting with the corporation's Articles of Incorporation, the Article of Incorporation take precedence.
- B. If any portion of the Bylaws is found to be invalid or unenforceable, for whatever reason, the remainder of the Bylaws shall still be effective.
- C. Any references in the Bylaws to the Articles of Incorporation shall relate to the Articles of Incorporation of Malama Ka Aina Hana Ka Aina, Inc. executed on October 27, 1999 and filed with the State of Hawaii Department of Commerce and Consumer Affairs.
- D. All references to sections of the Internal Revenue Code refer to the Internal Revenue Code of 1986 as amended, or to corresponding amendments to the IRS tax code.

or her residence if it is determined by the Board of Directors of MAHA that the individual has violated the standards imposed by this Code.

PENALTIES AND SANCTIONS:

Any violation of the provisions above may be grounds for appropriate penalties and sanctions against a regular or probationary member, as determined by the Board of Directors of MAHA. These penalties and sanctions may include suspension from membership, fines, or expulsion from King's Landing, as determined by the Board of Directors upon the notice and opportunity to be heard provided for in the bylaws of MAHA.

AMENDMENTS

The Board of Directors may, from time to time, amend any part of this Code, in the same manner as that prescribed for amending the bylaws of MAHA.

actions of a pet or animal of another member shall report violations to any officer of MAHA. After three reported incidents, any member whose property has been damaged by another member's pet or animal shall have the right to remove, shoot or otherwise eliminate the pet or animal.

- 3. No member of MAHA may vacate his residence for more than 1 week at a time nor for more than a total of 30 days in any given calendar year, without the express written consent of the MAHA Board of Directors.
- 4. No person may occupy any portion of King's Landing under the terms of revocable permit no. ___ unless he or she is a probationary or regular member of MAHA, under the terms and conditions specified in this Code and the bylaws of MAHA.

KANAKA CODE:

Purposes: This code specifies the standards of habitability and performance by MAHA members in completing construction on the principal dwelling at King's Landing. *Probationary Membership:* Before any person is granted regular membership in MAHA, he or she shall be a probationary member, as governed by the bylaws of MAHA, until MAHA determines that there has been satisfactory compliance with the standards enumerated in this code, the Code of Conduct, and other applicable provisions of the bylaws of MAHA.

Performance Standards:

- 1. All members must first install an acceptable dry hole toilet at the commencement of construction of any dwelling within King's Landing.
- 2. All members must, within one year from the date of commencement of construction, demonstrate satisfactory progress in constructing a habitable dwelling. The evidence of satisfactory performance shall be the completion of flooring of the dwelling.
- 3. All members may be subjected to an inspection of their residence by the Membership Committee of the Board of Directors, or its delegated inspector, upon reasonable notice. Unless unusual circumstances demand shorter notice, the Membership Committee, or its inspector, may enter any residence to inspect the property for compliance under this code upon 72 hours written notice. Unusual circumstances may include the necessity to preserve the life or health of a resident, to prevent the commission of a crime, or to prevent destruction of property.

AGREEMENT WITH MAHA:

All members of MAHA shall sign a written agreement indicating their intent to be bound to the terms and conditions established under this Code. This agreement shall specify that the current or prospective resident at King's Landing shall agree to vacate his

EXHIBIT "C"
ITEM NO. F-4



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

RIGHT-OF-ENTRY NO. 76

THIS AGREEMENT, made and entered into as of this 24th
day of September, 1986 by and between the DEPART-

MENT OF HAWAIIAN HOME LANDS, STATE OF HAWAII, hereinafter
referred to as "GRANTOR," and MALAMA KA AINA HANA KA AINA, INC.,
an incorporated association, whose permanent mailing address is
P. O. Box 5174, Hilo, Hawaii, 96720, hereinafter referred to
as "GRANTEE."

WITNESSETH THAT:

WHEREAS, GRANTOR owns and has sole jurisdiction over
lands identified as Keaukaha Tract II, Tax Map Key 2-1-13:01,
on the Island of Hawaii; hereinafter referred to as "King's
Landing;"

WHEREAS, GRANTOR has established as two of its principal
goals: (1) the restoration of trust assets; and, (2) the
acceleration of distribution of Hawaiian home lands for
homesteading purposes;

WHEREAS, GRANTOR will be developing a management plan for
the King's Landing area in order to attain its goal of
accelerating the distribution of Hawaiian home lands for
homesteading purposes;

WHEREAS, members of GRANTEE are presently utilizing and
occupying portion of King's Landing; and

WHEREAS, GRANTOR is desirous of lawfully permitting
members of GRANTEE continued use and occupancy by way of this
right-of-entry until completion of the management plan and
acceptance thereof by the Hawaiian Home Commission or such
other time as the Commission may determine;

WHEREAS, at its meeting of July 27, 1984, the Hawaiian
Home Commission authorized GRANTOR to issue rights-of-entry to
qualified applicants on GRANTOR's waiting list for homestead
awards if the applicants were residing at King's Landing on
July 27, 1984; and,

WHEREAS, members of GRANTEE are qualified applicants on
the GRANTOR's waiting list for homestead awards and were
residing at King's Landing on July 27, 1984.

NOW THEREFORE, in consideration of the above premises,
GRANTOR hereby grants to GRANTEE a right-of-entry authorizing
members of GRANTEE to enter upon Hawaiian home lands at King's
Landing to occupy and utilize those areas designated in Exhibit
"A," which is attached hereto and made a part of this
Agreement, subject to the following terms and conditions:

1. Term. This right-of-entry shall remain in effect
until the management plan for King's Landing is completed and
accepted by the Hawaiian Home Commission and continued
occupancy of said premises will interfere with the
implementation of the management plan.
2. Occupation. Each member of GRANTEE occupying the
premises under this right-of-entry shall be required to reside
within the member's area as shown in Exhibit "A," for the term
of this agreement.
3. Area of Right-of-Entry. The area to be utilized by
each member under this right-of-entry shall not exceed three
acres and shall be within the area designated in Exhibit "A."
4. Land Rental. GRANTEE shall pay to GRANTOR a rental
of ONE AND NO/100 DOLLARS (\$1.00) for the term of this
right-of-entry, payable upon demand.

8. Taxes. GRANTEE agrees to pay all taxes and assessments, if any.

9. Maintenance of historical and cultural sites. GRANTEE shall be responsible for the maintenance and preservation of historical and cultural sites contained within the area covered under this right-of-entry.

10. Inspection by GRANTOR. It is expressly understood and agreed that GRANTOR, or any agent or employee of GRANTOR, may enter and inspect the area covered by this right-of-entry at any reasonable hour with seven days prior written notice except as may be otherwise necessitated by health and/or safety consideration.

11. Termination/Revocation. This right-of-entry may be terminated by GRANTEE without cause upon thirty (30) days' written notice to GRANTOR. GRANTEE shall terminate the right of any member to occupy their designated area under this right-of-entry upon giving thirty (30) days' written notice for the following reasons:

- a. That member is found to be not residing on the member's designated area; or
- b. The member's designated area is found to have unsanitary or hazardous conditions which have not been corrected after fifteen (15) days' notice from GRANTEE.

Otherwise this right-of-entry will terminate as provided in paragraph 1.

12. Removal of Improvements and Personal Property. All improvements erected or placed on the premises by GRANTEE or any GRANTEE's member shall be and remain the personal property of GRANTEE or its respective member. Upon expiration, termination, or revocation of this right-of-entry, GRANTOR

5. Insurance. GRANTEE shall, for itself and its members occupying their respective designated areas in the King's Landing area under this right-of-entry, at its expense, procure and keep in force during the term of this right-of-entry, general comprehensive public liability insurance of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) and coverage of at least FIFTY THOUSAND DOLLARS (\$50,000) against the claims of third persons for property loss or damages. The insurance shall be obtained from an insurance company or surety company authorized to do business in the State of Hawaii. The insurance policy or policies shall name GRANTOR as an additional insured. GRANTEE shall, within thirty (30) days from the date of execution of this right-of-entry, deliver to GRANTOR'S District Project Manager at the Project Office in Keolu, Hawaii, a copy of the insurance policy or policies, or, in lieu thereof, a certificate or certificates issued by the insurance company or surety company showing the insurance coverage, the amount of coverage and names of the insured.

6. Sanitation. GRANTEE shall ensure that each member maintains the respective areas as shown in Exhibit "A," and improvements thereon in a clean and safe condition such that public and community health and safety would not be endangered. The officers of GRANTEE shall conduct inspections of the premises and improvements of their members occupying their respective designated areas under the terms of this right-of-entry. GRANTEE shall give its members fifteen (15) days' notice to correct any unsanitary or hazardous conditions found on the premises.

7. Utilities. GRANTEE and its members agree that GRANTOR shall not be responsible for providing any water, electricity, or any other utility services.

shall have the right to require GRANTEE to remove any and all improvements, personal property, and appurtenances on the land and the cost of such removal shall be borne by GRANTEE. If GRANTEE fails to effectuate such removal within thirty (30) days or such additional period as GRANTOR may for good cause allow from the date notice given by GRANTOR, GRANTOR shall have the right to remove any and all improvements, and other personal property, and appurtenances on the land and to charge the cost of removal to GRANTEE. In the event GRANTEE, pursuant to paragraph 6, terminates the right of a member to occupy the member's designated area under the terms of this right-of-entry, each member shall remove within thirty (30) days from date of termination or such additional period as may be allowed, said member's improvements and other personal property.

13. Liquidated Damages. If GRANTEE or any GRANTEE's member does not vacate the premises upon the expiration, termination or revocation of this right-of-entry, GRANTEE shall pay GRANTOR liquidated damages at the rate of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) for each day GRANTEE or any of its members remain on the premises beyond the date of revocation, expiration, or termination.

14. Court Costs. As native Hawaiian beneficiary, the members of GRANTEE reserve the right to protect their rights in a court of law. If any court action arises, GRANTEE and its members agree to pay their own court costs and attorney's fees.

15. Nontransferability of interest. Neither GRANTEE nor any GRANTEE's member under this right-of-entry shall have the right, in whole or in part, to transfer, assign, sublet or

in any way, convey any interest in his or her designated area. Any such transfer or assignment shall be void and constitute grounds for termination by GRANTOR.

16. Organizational status of Grantee and its members. GRANTEE agrees to submit to GRANTOR a copy of its Articles of Incorporation as a non-profit association, a copy of its association by-laws, and a list of its members participating under this right-of-entry.

17. Change of condition or circumstances; notice. Each party to this Agreement agrees to inform the other in the event there is any substantial change in the status of a party or the condition or circumstances in the area.

18. This Agreement shall not apply to those members of GRANTEE who were not qualified applicants on GRANTOR's waiting list for residential homesteads as of July 27, 1984, and were not residing at King's Landing on that date.

19. Other Conditions. It is expressly understood and agreed that:

- a. Members of GRANTEE shall not interfere with access along or over roads and fishing trails at King's Landing, or along or over the shoreline and ocean abutting King's Landing.
- b. GRANTEE's representatives shall participate in the development of the management plan for the King's Landing area which participation shall include but not be limited to membership on the advisory committee as part of the management plan development. Such management plan to include but not be limited to considering prototype alternative lifestyle settlements.

STATE OF HAWAII)
County of Hawaii) :SS

On this 1st day of September, 1965,
before me appeared KELII W. IOANE, JAMES PELEKANE, AGNES BENEDICTO,
AND CAROL R. IOANE, to me personally known, who, being by me duly
sworn or affirmed, did say that they are the President,
Vice-President, Treasurer, and Secretary, respectively, of MALAMA
KA AINA HANA KA AINA, INC., an incorporated association, and
that the instrument was signed in behalf of the association by
authority of its Board of Directors or Trustees, and KELII W.
IOANE, JAMES PELEKANE, AGNES BENEDICTO, and CAROL R. IOANE
acknowledged the instrument to be the free act and deed of the
association and that the association has no corporate seal.

Shelly C. Cade
NOTARY PUBLIC, STATE OF HAWAII
My Commission expires: 3/24/67

c. GRANTEE, by its duly appointed or elected
officers, shall execute the right-of-entry on
behalf of GRANTEE and its members.

IN WITNESS WHEREOF, the parties have executed this
Agreement as of the day and year first above written.

DEPARTMENT OF HAWAIIAN HOME LANDS
STATE OF HAWAII
By Georgiana K. Faden
GEORGIANA K. FADEN, CHAIRMAN
HAWAIIAN HOMES COMMISSION

GRANTOR

APPROVED AS TO FORM:

Deputy Attorney General
STATE OF HAWAII

MALAMA KA AINA HANA KA AINA, INC.
A Hawaii incorporated association

By Kelii W. Ioane
KELII W. IOANE,
its President

By James Pelekane
JAMES PELEKANE,
its Vice-President

By Agnes Benedicto
AGNES BENEDICTO,
its Treasurer

By Carol R. Ioane
CAROL R. IOANE,
its Secretary

STATE OF HAWAII)
) ss
CITY & COUNTY OF HONOLULU)

On this 24th day of September, 1986,

before me personally appeared Georgiana K. Fedeken, to me personally known, who, being by me duly sworn, did say that she is the Chairman of the Hawaiian Homes Commission and the person described in and who executed the foregoing instrument and acknowledged to me that she executed the same freely and voluntarily for the use and purposes therein set forth.


Notary Public, State of Hawaii
My commission expires: 9/1/88

**HAWAIIAN HOMES COMMISSION
OCTOBER 19 & 20, 2020
TELECONFERENCE
9:30 A.M.**

**G – ITEMS
PLANNING OFFICE**

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

To: Chairman and Members, Hawaiian Homes Commission
From: Andrew Choy, Acting Planning Program Manager *AK*
Subject: For Information Only - U.S. Geological Survey
Presentation on Scientific Investigation Report
2019-5150 Numerical Simulation of Groundwater
Availability in Central Moloka`i

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

On January 30, 2020, the U.S. Geological Survey published Scientific Investigation Report 2019-5150 Numerical Simulation of Groundwater Availability in Central Moloka`i (Exhibit A). This was the culmination of an effort lasting more than a decade where the Department of Hawaiian Home Lands (DHHL) has supported a better understanding of the groundwater resources of central Moloka`i.

The publication of this report has been instrumental in our completion of the DHHL Water Use Permit Application (WUPA) to the Commission on Water Resource Management (CWRM) for the use of .595 million gallons per day (mgd) from the Kualapu`u Aquifer on Moloka`i, which is the subject of item G-2 on this agenda.

This brief submittal will review

- I. Background and history of the study – why was it commissioned
- II. The Study's Implications for its current WUPA and future DHHL water use

I. Background and history of the study – why was it commissioned

Many of the most crucial economic decisions facing the island of Moloka`i will depend on having sufficient water for the needs of homesteaders and the exercise of traditional and customary practices, before there can be any consideration of using water for other economic or community uses.

In 2008, in the wake of the 2004 decision in the Waiola o Molokai case and the 2007 decision on the Kukui Molokai case, key stakeholders recognized that much of the underlying scientific information on water gathered on the island was from consultants hired solely by development interests. To help address that issue, the DHHL, the Office of Hawaiian Affairs and Maui County engaged the US Geological Survey. Their work is respected and they have undertaken other research critical to Hawaiian interests (including a statewide study of the water demand of kalo and a similar three-dimensional model study of water in Nā Wai `Ehā, Maui).

Among the desired outcomes of this study was clarity as to how the County, Molokai Ranch, and DHHL wells may affect each other and alter coastal discharge under various pumping and climate scenarios.

One persistent request from CWRM staff previously had been that additional water allocations to DHHL should be incumbent on DHHL alone developing new sources away from the County and Ranch wells. For example, in January 1998 the CWRM staff shared a draft recommendation that DHHL's request to increase its pumping from our two wells by 0.394 million gallons a day be denied without prejudice because:

"While the needs of Hawaiian Home Lands are a priority, and the reservation from this aquifer has already been set aside, the magnitude of the proposed withdrawals from this location would probably cause local deterioration of potability. The Commission is required to protect water quality, and to limit "rates, times, spatial patterns, or depths of withdrawals " that may "endanger the stability or optimum development of the ground-water body due to up-coning or

encroachment of salt water" (HAR §13-171-7). In summary, water is available from the Kualapu'u Aquifer, but only if the pump age can be more widely spread to new wells."

This recommendation has at times persisted, even as the CWRM staff have granted (and later overturned) allocation of over one million gallons per day to the ranch from their nearby well 17.

II. The Study's Implications for its current WUPA and future DHHL water use

As detailed more in item G-2 and the WUPA itself, the results of this study allowed DHHL to:

- Confirm that the amount we are seeking to pump will not cause chlorides to rise in its well if the CWRM appropriately permits the pumping of other parties;
- Identify the areas of the coast most likely to experienced decreased fresh water flow due to its increase proposed pumping; and
- Conduct research, including interviews with beneficiaries who practice traditional and customary rights in some of the affected areas, on the potential impact of reduced flows and ways to mitigate it in association with related impacts.

The implications from the study for DHHL's future water use are more complex, if the current WUPA is granted in full. Some implications are:

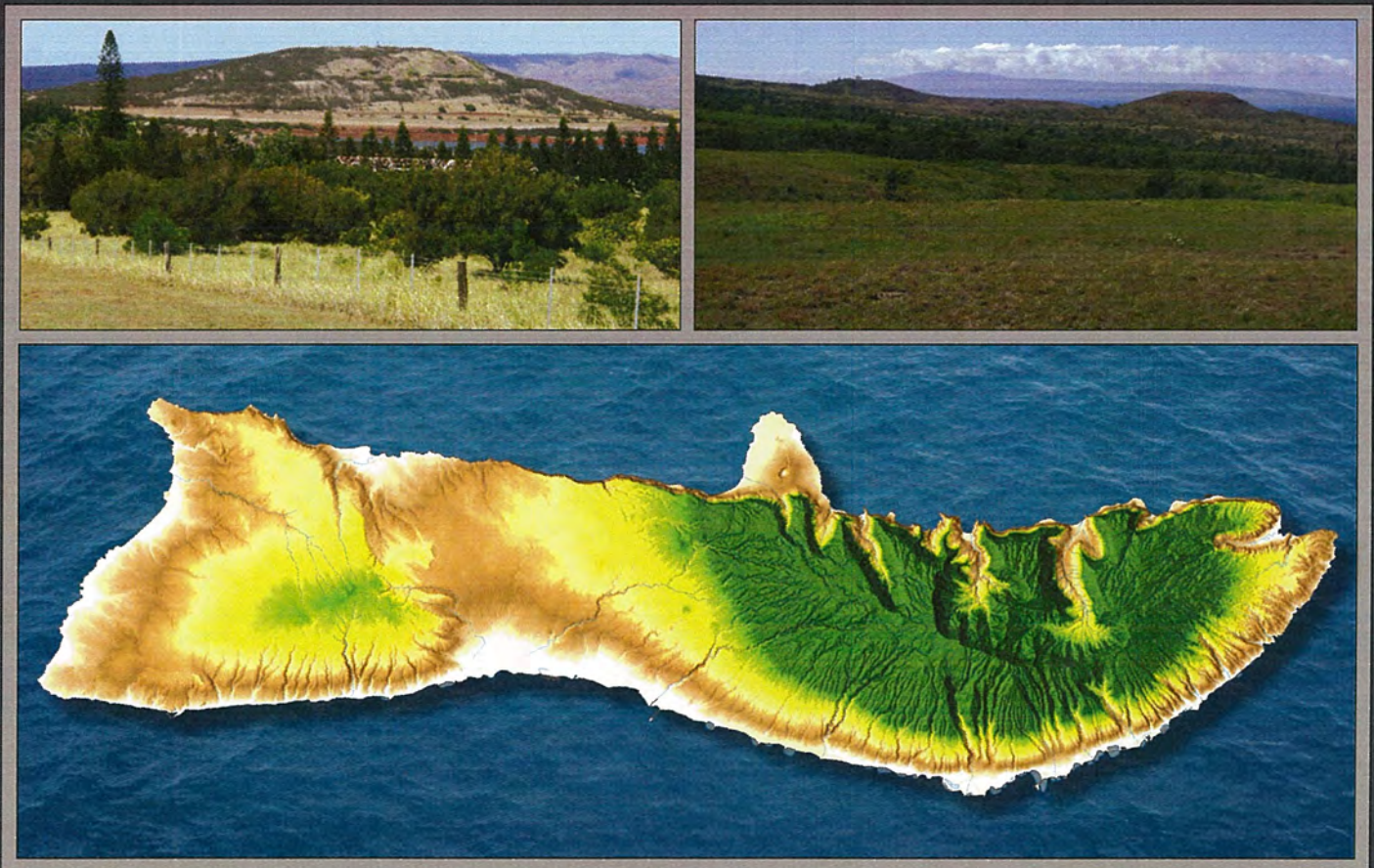
- Future increases in water delivery from our system on Molokai would require the development of new wells at sufficient distance from our existing wells, likely towards the northeast, to appropriately distribute pumping from within the aquifer.
- Rigorous advocacy, consistent with the HHC Water Policy Plan, will be necessary to prevent negative impacts from other withdrawals on our wells and on traditional and customary practices of our beneficiaries along the south shore of the island.

RECOMMENDATION

None; for information only.

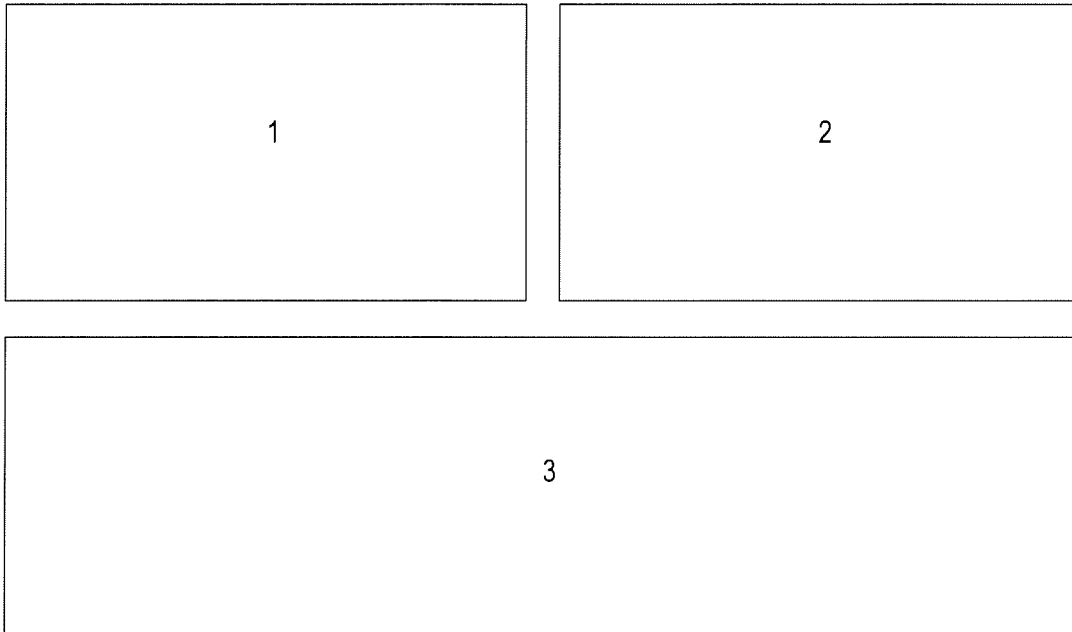
Prepared in cooperation with the State of Hawai'i Department of Hawaiian Home Lands, State of Hawai'i Office of Hawaiian Affairs, and County of Maui Department of Water Supply

Numerical Simulation of Groundwater Availability in Central Moloka'i, Hawai'i



Scientific Investigations Report 2019–5150

ITEM G-1 EXHIBIT A



Cover images:

- (1) Photograph of the volcanic vent Kualapu'u in the Kualapu'u area, Moloka'i, Hawai'i, with the eroded remnants of West Moloka'i volcano in the background.
- (2) Photograph of the volcanic vents Kākahale and Pu'u Luahine in the Kualapu'u area, Moloka'i, Hawai'i, with the island of Lāna'i in the background.
- (3) Generalized map of island of Moloka'i, Hawai'i.

Numerical Simulation of Groundwater Availability in Central Molokaʻi, Hawaiʻi

By Delwyn S. Oki, John A. Engott, and Kolja Rotzoll

Prepared in cooperation with the State of Hawaiʻi Department of Hawaiian Home Lands, State of Hawaiʻi Office of Hawaiian Affairs, and County of Maui Department of Water Supply

Scientific Investigations Report 2019–5150

U.S. Department of the Interior
U.S. Geological Survey

U.S. Department of the Interior
DAVID BERNHARDT, Secretary

U.S. Geological Survey
James F. Reilly II, Director

U.S. Geological Survey, Reston, Virginia: 2020

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Suggested citation:

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The State of Hawai'i Department of Hawaiian Home Lands, State of Hawai'i Division of Forestry and Wildlife, Kamehameha Schools, Kawela Plantation, Maui Electric Company, Limited, and Pauline and Skip Castanera provided access to wells that were monitored for this study. Monthly pumpage data were provided by the State of Hawai'i Commission on Water Resource Management. Additional detailed pumpage data for the period August to September 2009 were supplied by the State of Hawai'i Department of Hawaiian Home Lands, County of Maui Department of Water Supply, and Moloka'i Properties Limited (Moloka'i Ranch). Ed Carlson, National Geodetic Survey, led a surveying effort, using global positioning system methods, to determine altitudes of reference marks near monitor wells. Jeff A. Perreault, Adam G. Johnson, Todd K. Presley, Sarah N. Rosa, Craig A. Senter, and Maoya Bassiouni from the U.S. Geological Survey assisted with activities related to this study.

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Conversion Factors

U.S. customary units to International System of Units

Multiply	By	To obtain
Length		
inch (in.)	25.4	millimeter (mm)
foot (ft)	0.3048	meter (m)
mile (mi)	1.609	kilometer (km)
Area		
acre	4,047	square meter (m ²)
square foot (ft ²)	0.09290	square meter (m ²)
square mile (mi ²)	2.590	square kilometer (km ²)
Volume		
gallon (gal)	3.785	liter (L)
gallon (gal)	0.003785	cubic meter (m ³)
million gallons (Mgal)	3,785	cubic meter (m ³)
cubic foot (ft ³)	0.02832	cubic meter (m ³)
Flow rate		
foot per second (ft/s)	0.3048	meter per second (m/s)
foot per day (ft/d)	0.3048	meter per day (m/d)
cubic foot per second (ft ³ /s)	0.02832	cubic meter per second (m ³ /s)
gallon per day (gal/d)	0.003785	cubic meter per day (m ³ /d)
million gallons per day (Mgal/d)	0.04381	cubic meter per second (m ³ /s)
inch per year (in/yr)	25.4	millimeter per year (mm/yr)
Mass		
pound, avoirdupois (lb)	0.4536	kilogram (kg)
Pressure		
atmosphere, standard (atm)	101.3	kilopascal (kPa)
bar	100	kilopascal (kPa)
pound per square foot (lb/ft ²)	0.04788	kilopascal (kPa)
pound per square inch (lb/in ²)	6.895	kilopascal (kPa)
Density		
pound per cubic foot (lb/ft ³)	16.02	kilogram per cubic meter (kg/m ³)
Hydraulic conductivity		
foot per day (ft/d)	0.3048	meter per day (m/d)
Hydraulic gradient		
foot per mile (ft/mi)	0.1894	meter per kilometer (m/km)

Temperature in degrees Celsius (°C) may be converted to degrees Fahrenheit (°F) as °F = (1.8 × °C) + 32.
 Temperature in degrees Fahrenheit (°F) may be converted to degrees Celsius (°C) as °C = (°F – 32) / 1.8.

Datum

Vertical coordinate information is referenced to local mean sea level.

Horizontal coordinate information is referenced to the North American Datum of 1983 (NAD 83)].

Altitude, as used in this report, refers to distance above the vertical datum.

Supplemental Information

Specific conductance is given in microsiemens per centimeter at 25 degrees Celsius ($\mu\text{S}/\text{cm}$ at 25 °C).

Concentrations of chemical constituents in water are given in either milligrams per liter (mg/L) or micrograms per liter ($\mu\text{g}/\text{L}$).

Abbreviations

CWRM	State of Hawai'i Commission on Water Resource Management
DHHL	Department of Hawaiian Home Lands
EPA	U.S. Environmental Protection Agency
MDWS	County of Maui Department of Water Supply
MIS	Moloka'i Irrigation System
OHA	Office of Hawaiian Affairs
SUTRA	saturated-unsaturated transport groundwater model computer code
USGS	U.S. Geological Survey
WRPP	Water Resource Protection Plan (the 1990 version is referred to as the Water Resources Protection Plan)

Numerical Simulation of Groundwater Availability in Central Moloka‘i, Hawai‘i

By Delwyn S. Oki, John A. Engott, Kolja Rotzoll

Abstract

Since the 1990s, increased chloride concentrations of water pumped from wells (much of which is used for drinking water) and the effects of withdrawals on groundwater-dependent ecosystems have led to concerns over groundwater availability on the island of Moloka‘i, Hawai‘i. An improved understanding of the hydrologic effects of proposed groundwater withdrawals is needed to ensure effective management of the groundwater resources of Moloka‘i, plan for possible growth, and accommodate cultural, social, and economic concerns.

To address the information needs of managers and community stakeholders on Moloka‘i, the U.S. Geological Survey developed a numerical groundwater model capable of simulating salinity change and reduction in groundwater discharge in coastal areas of central and southern Moloka‘i. Estimates of groundwater recharge needed as input to the numerical groundwater model were made using a daily water budget for each decade during 1940–2012 (the period 2000–12 spanned 13 years) and the most current available data, including the distributions of monthly rainfall and potential evapotranspiration. Total island recharge during the decadal periods ranged from a low of about 189 Mgal/d during the 1970s to a high of 278 Mgal/d during the 1960s. These recharge estimates were used to develop an island-wide numerical groundwater model with simplifying assumptions (sharp interface between freshwater and saltwater; two-dimensional flow). The island-wide model provided estimates of groundwater inflows to the main area of interest simulated with a three-dimensional numerical groundwater model.

Simulated withdrawal scenarios were selected in consultation with water managers and stakeholders and consisted of: (1) a baseline scenario using average recharge (1978–2007 rainfall and 2010 land cover) and average 2016–17 withdrawals; (2) a scenario using average recharge and withdrawals from existing wells at pending (as of January 2019) water-use permit rates; (3) six scenarios using average recharge and selected withdrawals from existing and proposed wells; and (4) a scenario using reduced recharge and selected withdrawals from existing and proposed wells. Results of the simulated withdrawal scenarios indicate that wells may be capable of producing groundwater with chloride concentrations below 250 mg/L at withdrawal rates exceeding average 2016–17 rates. However, the quality of water

withdrawn from production wells is dependent on the rate and distribution of the withdrawals. For all nonbaseline scenarios, simulated groundwater discharge to the nearshore environment is reduced relative to the baseline scenario. Areas of discharge reduction may correspond to areas used for cultural or subsistence purposes.

The three-dimensional numerical groundwater model developed for this study utilizes the latest available hydrologic and geologic information and is a useful tool for understanding the hydrologic effects of additional groundwater withdrawals in central Moloka‘i. The model has several limitations, including its nonuniqueness and inability to account for local-scale heterogeneities.

Introduction

Groundwater demand on the island of Moloka‘i, Hawai‘i (fig. 1), has increased since the 1970s. Known island-wide groundwater withdrawals averaged about 0.4 million gallons per day (Mgal/d) during 1970, peaked at greater than 5.7 Mgal/d during 2002 and 2003, and averaged between about 3 and 5 Mgal/d from 2004 to 2017. Federal, State, and County agencies and private entities on Moloka‘i withdraw groundwater, which is primarily used as drinking water. The increase in groundwater demand is partly related to the 40 percent increase in resident population on Moloka‘i from 1970 (resident population 5,261) to 2010 (resident population 7,345) (State of Hawai‘i, 2011). In 1992, the State of Hawai‘i Commission on Water Resource Management (CWRM) designated the entire island of Moloka‘i as a Water Management Area for groundwater. With this designation, any increase in groundwater withdrawal on Moloka‘i requires a water-use permit issued by CWRM. CWRM may deny an application for a water-use permit if the applicant does not establish that the proposed use of water (1) can be accommodated with the available water source; (2) is a reasonable-beneficial use; (3) will not interfere with any existing legal use of water; (4) is consistent with the public interest; (5) is consistent with state and county general plans and land-use designations; (6) is consistent with county land-use plans and policies; and (7) will not interfere with the rights of the Department of Hawaiian Home Lands as provided in the Hawaiian Homes Commission Act (Hawai‘i Revised Statutes, Chapter 174C, State Water Code, Section 174C-49).

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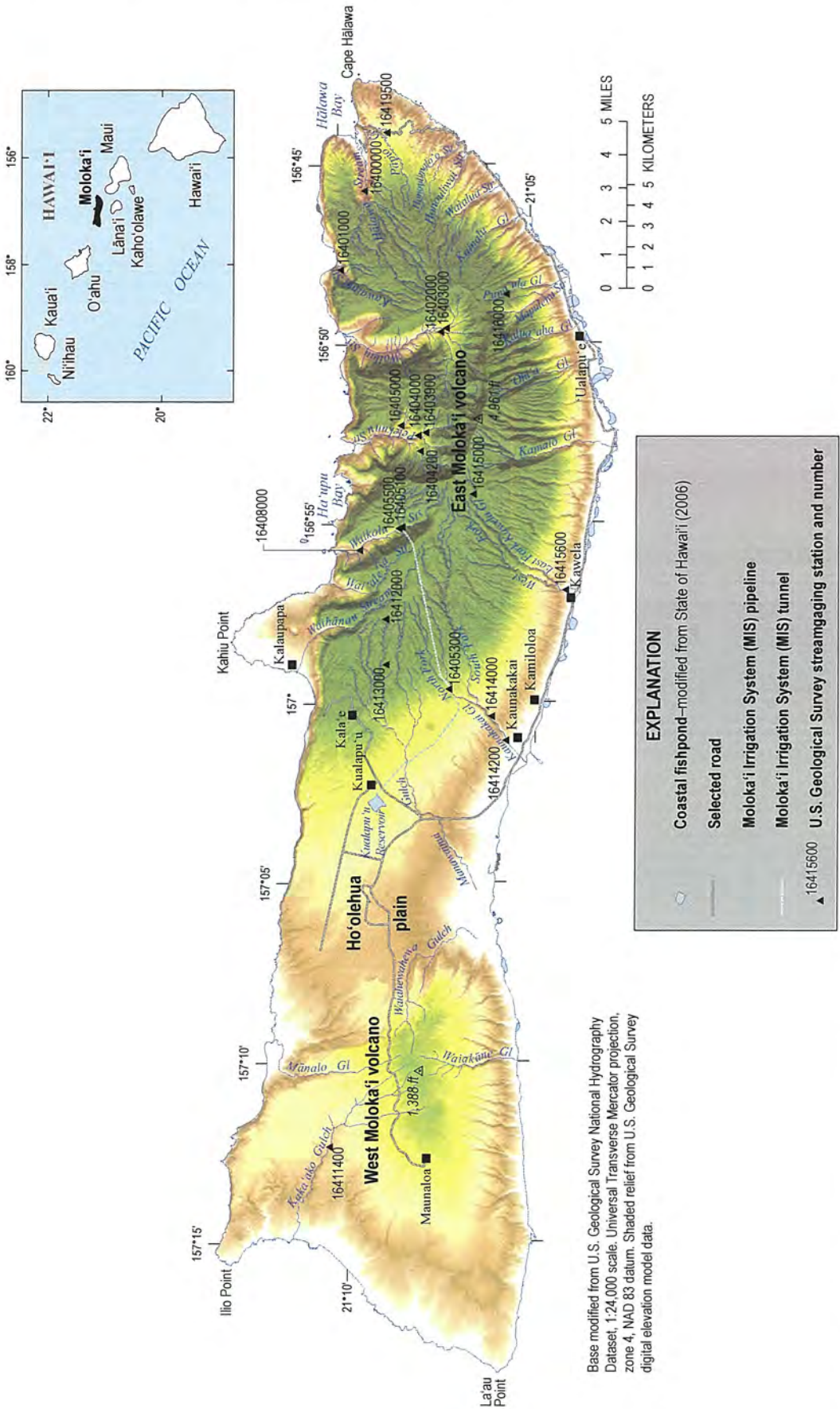


Figure 1. Map of Moloka'i, Hawai'i showing selected geographic features and Moloka'i Irrigation System (MIS) Tunnel.

For management purposes, CWRM has divided the island of Moloka'i into 16 management areas called aquifer systems (fig. 2). The aquifer-system boundaries do not necessarily coincide with known hydrogeologic barriers to groundwater flow. Nearly all of the CWRM aquifer-system boundaries on Moloka'i are along topographic divides, which may not be related to subsurface hydrogeologic conditions (Mink and Lau, 1992). Thus, groundwater may cross aquifer-system boundaries, and withdrawals from one aquifer system may affect conditions in nearby aquifer systems. The Kualapu'u aquifer system in central Moloka'i is one of the most important aquifer systems on the island and reported withdrawals from this aquifer system averaged about 1.5 Mgal/d during 2016–17. In addition, the State of Hawai'i Department of Hawaiian Home Lands (DHHL) has an existing (as of 2019) groundwater reservation of 2.905 Mgal/d from the Kualapu'u aquifer system. The CWRM-estimated sustainable yield of the Kualapu'u aquifer system is 5 Mgal/d (State of Hawai'i, 2008). Decisions related to future infrastructure development and alternate sources of freshwater will depend on the long-term sustainability of the groundwater resources in the Kualapu'u aquifer system, as well as other aquifer systems on Moloka'i. The current estimates of sustainable yield used by CWRM are based on an analytical equation that does not account for aquifer heterogeneities and the spatial distribution of withdrawals (Oki and Meyer, 2001). These limitations can be addressed with numerical groundwater models.

In a freshwater-lens system, increased groundwater withdrawals will, in the long term, result in a decline in water levels, a rise in the transition zone between freshwater and saltwater, and a reduction of natural groundwater discharge to streams or the ocean. The extents to which water levels decline, the transition zone rises, and natural discharge reduces are dependent on factors including the distribution and rates of withdrawals and the hydraulic characteristics of the aquifer system. In some cases, withdrawal from a well may induce brackish water to enter the well if the withdrawal rate is too high or the well is too deep.

Since the 1990s, the chloride concentrations of water pumped from some wells on Moloka'i have increased (Oki, 2006), leading to concern over the long-term sustainability of withdrawals from wells on Moloka'i. To ensure effective management of the groundwater resources of Moloka'i and to plan for possible growth on the island, an improved understanding of the hydrologic effects of proposed groundwater withdrawals is needed. An accurate understanding of how much fresh groundwater in the Kualapu'u aquifer system can be developed for future needs is critically important from economic, cultural, and resource standpoints.

A growing concern related to groundwater development in Hawai'i is the effect of withdrawals on groundwater-dependent ecosystems. This concern was raised during a contested-case hearing related to proposed withdrawal from the Kamiloloa aquifer system of south-central Moloka'i (State of Hawai'i, 1998) and, more recently, this concern has been raised in relation to potential future groundwater development in the western part of the island of Hawai'i (National Park Service, 2013). Along the

southern coast of Moloka'i, numerous ancient Hawaiian coastal fishponds (fig. 1) (Farber, 1997) were once used for aquaculture, and some of these cultural sites have been restored in recent years. References to fishpond construction on Moloka'i date back to the 16th century, and the most recently constructed fishpond on the island was built about 1829 (Farber, 1997). Discharge of fresh or brackish groundwater to these fishponds may be a factor controlling productivity by providing nutrients for algae on which the fish feed (Farber, 1997). Stearns and Macdonald (1947, p. 56) suggested that fishponds along the southern shore of Moloka'i indicate the presence of coastal springs, some of which discharge more than 0.5 Mgal/d. In addition to the fishponds, numerous nearshore subsistence sites were identified by the Governor's Moloka'i Subsistence Task Force as important for ocean gathering, fishing, or future protection (Matsuoka and others, 1994). For example, residents of Moloka'i gather edible limu (marine algae) in productive nearshore areas. Because limu productivity may be dependent on groundwater discharge (State of Hawai'i, 1998), increased groundwater withdrawals have the potential to affect subsistence gathering activities.

An existing USGS numerical groundwater-flow model of Moloka'i (Oki, 1997, 2006, 2007) was used to develop updated numerical models to address information needs related to: (1) quantifying the effects of pumping existing or proposed wells on salinity of groundwater and discharge of groundwater near the coast, (2) identifying areas for new groundwater development in central Moloka'i, (3) distributing pumping to increase the overall amount of fresh groundwater developed in the Kualapu'u area, and (4) estimating the long-term effects of potential reductions in groundwater recharge on groundwater availability.

Purpose and Scope

The purpose of this report is to describe an evaluation of groundwater availability in central Moloka'i, Hawai'i, for selected withdrawal scenarios. Groundwater levels and salinity in central Moloka'i were estimated with a three-dimensional numerical groundwater model capable of simulating density-dependent flow and salinity transport. Estimates of groundwater recharge from the soil zone, needed as input to the numerical groundwater model, were made using a daily water budget of each decade during 1940–2012 (the period 2000–12 spanned 13 years) and the most current available data, including the distributions of monthly rainfall and potential evapotranspiration (Frazier and others, 2016; Giambelluca and others, 2013; 2014). A two-dimensional, sharp-interface groundwater-flow model covering the entire island was used to estimate subsurface inflows at the boundaries of the central Moloka'i groundwater model. Aquifer hydraulic properties for the numerical groundwater model were estimated using available water-level and salinity information. Simulated withdrawal scenarios were selected in consultation with water managers and stakeholders and consisted of: (1) a baseline scenario using average recharge (1978–2007 rainfall and 2010 land cover) and average 2016–17 withdrawals; (2) a scenario using average recharge and withdrawals from existing wells at pending (as of

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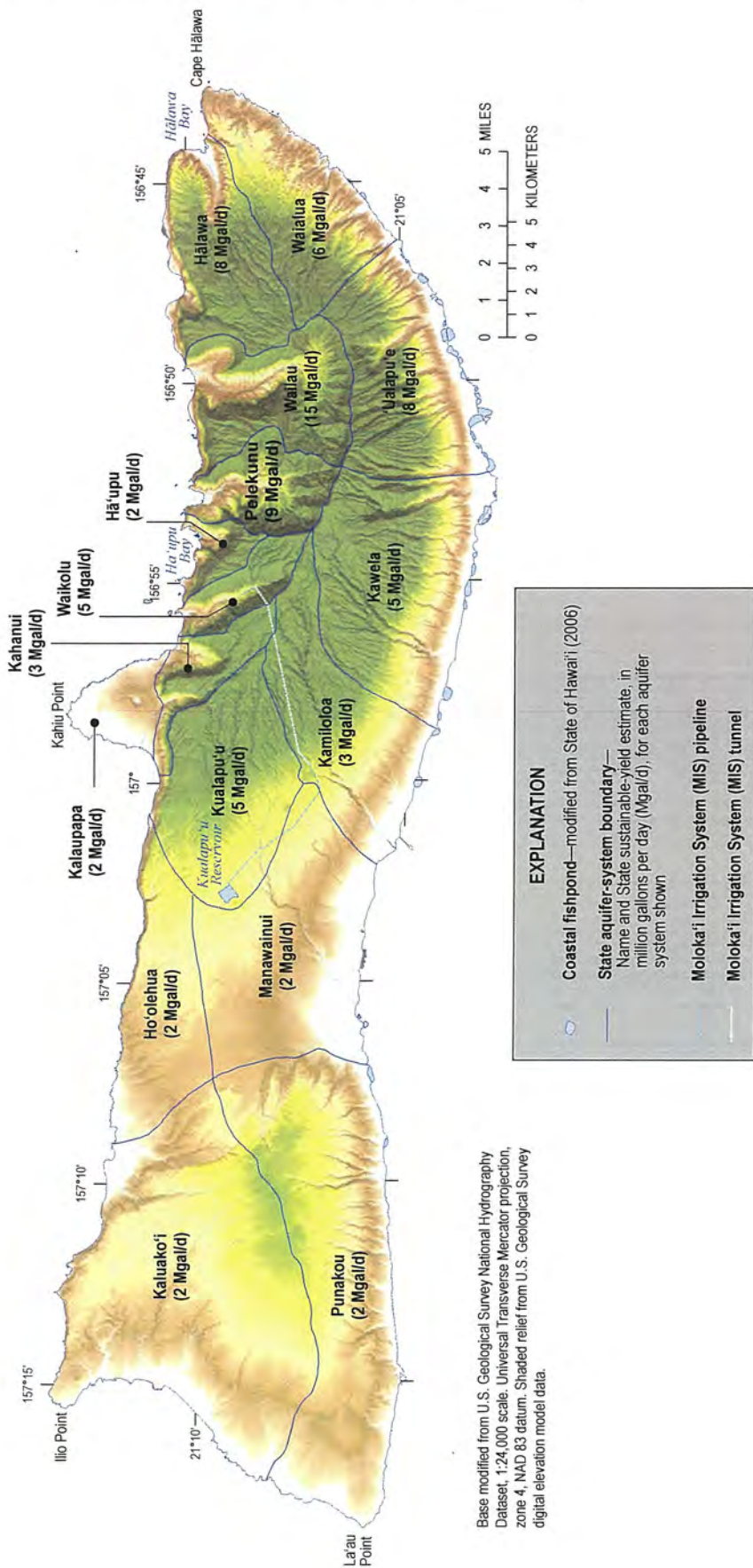


Figure 2. Map of Moloka'i, Hawai'i aquifer systems delineated by the Hawai'i Commission on Water Resource Management.

January 2019) water-use permit rates; (3) six scenarios using average recharge and selected withdrawals from existing and proposed new wells; and (4) a scenario using reduced recharge and selected withdrawals from existing and proposed new wells.

Description of Study Area

The island of Moloka'i, the fifth largest of the Hawaiian Islands, occupies an area of 260 square miles (mi²; Juvik and Juvik, 1998) between lat 21°00'–21°15' N. and long 157°20'–156°40' W. (fig. 1). The island primarily consists of two shield volcanoes (Stearns and Macdonald, 1947): the older West Moloka'i volcano, which rises to an altitude of 1,388 ft, and the younger East Moloka'i volcano, which rises to an altitude of 4,961 ft. The town of Kualapu'u lies on the eastern margin of the Ho'olehua plain, a relatively flat area of land in the central saddle area of the island. The main study area is the Kualapu'u aquifer system in central Moloka'i, although groundwater models developed for this study include other areas.

Climate

The climate on Moloka'i is characterized by mild temperatures, cool and persistent trade winds, a rainy winter season from October through April, and a dry summer season from May through September (Blumenstock and Price, 1967; Sanderson, 1993). The climate is controlled primarily by topography and the position of the North Pacific anticyclone, a large-scale clockwise circulation of winds around an area of high atmospheric pressure north of the Hawaiian Islands, and other migratory weather systems relative to the island. During the dry season, the stability of the North Pacific anticyclone produces persistent northeasterly winds known locally as trade winds. Summer trade winds blow 80 to 95 percent of the time. During the rainy season, frequent passage of migratory high-pressure systems by the Hawaiian Islands results in less persistent trade winds. Winter trade winds blow 50 to 80 percent of the time. Southerly winds associated with low-pressure systems can bring heavy rains to the island. The dry coastal areas receive much of their rainfall as a result of these low-pressure systems.

Rainfall

The windward (northeastern) part of Moloka'i is the wettest part of the island, a trait controlled by the orographic lifting of moisture-laden northeasterly trade winds along the windward slope of East Moloka'i volcano. The moisture-laden air mass cools as it rises up the slopes of the volcano, resulting in condensation, cloud formation, and high rainfall near the crest of the mountains. West Moloka'i volcano is considerably drier because it does not extend upward into the cloud-forming zone at higher altitudes.

Annual rainfall averaged over the entire island of Moloka'i during 1920–2012 ranged from 24 to 77 in. and averaged about 48 in. (Frazier and others, 2016). Rainfall on Moloka'i is characterized by maxima at high altitudes and steep spatial gradients (fig. 3). Mean annual rainfall during 1978–2007 was greatest over the eastern part of East Moloka'i volcano, where it exceeded 160 in. (Giambelluca and others, 2013). Over most of West Moloka'i volcano, mean annual rainfall during 1978–2007 was less than about 25 in., and along the coastal areas of the southern and western parts of the island, mean annual rainfall was less than 15 in.

Geology

The overall geology of Moloka'i has been described by numerous investigators (for example, Lindgren, 1903; Stearns and Macdonald, 1947; Beeson, 1976; Macdonald and others, 1983; Stearns, 1985; Sherrod and others, 2007). The reader is referred to these sources for a more detailed description than the brief description provided here.

Moloka'i was built mainly during the shield stage of volcanic activity, when more than 95 percent of West and East Moloka'i volcanoes were formed by lava flows that originated from rift zones as well as the central caldera area of East Moloka'i volcano. Intrusive dikes formed by rising magma that penetrated the rift zones and caldera area. The postshield stage is recognized by a change in lava chemistry and characteristics. Postshield-stage volcanic rocks on Moloka'i consist of alkalic basalt, hawaiite, mugearite, and trachyte. On East Moloka'i volcano, lava from the post-shield stage seems to have erupted from both within and outside the main rift zones and forms a veneer atop the shield-stage basalt. Following a period of volcanic quiescence, lava issued from a vent during the rejuvenated stage of volcanic activity and formed Kalaupapa Peninsula, the peninsular landmass containing the town of Kalaupapa. Langenheim and Clague (1987) described the stratigraphic framework of volcanic rocks on Moloka'i. Collectively, the volcanic rocks of West Moloka'i volcano are known as the West Moloka'i Volcanics, and the exposed rocks of East Moloka'i volcano are named the East Moloka'i Volcanics and the Kalaupapa Volcanics (Langenheim and Clague, 1987; Sherrod and others, 2007) (fig. 4). Erosion has modified the topography of the volcanoes, particularly in the wetter parts of East Moloka'i volcano where erosion has exposed dikes in valleys.

Volcanic Rocks

The volcanic rocks of Moloka'i can be divided into two main types on the basis of their mode of emplacement: (1) extrusive lava flows, and (2) intrusive dikes, sills, stocks, and plugs. In general, lava flows that erupt from rift zones are less than 10 feet (ft) thick and composed either of pāhoehoe, which is characterized by smooth or ropy surfaces, or 'a'ā, which contains a massive central core sandwiched between rubbly

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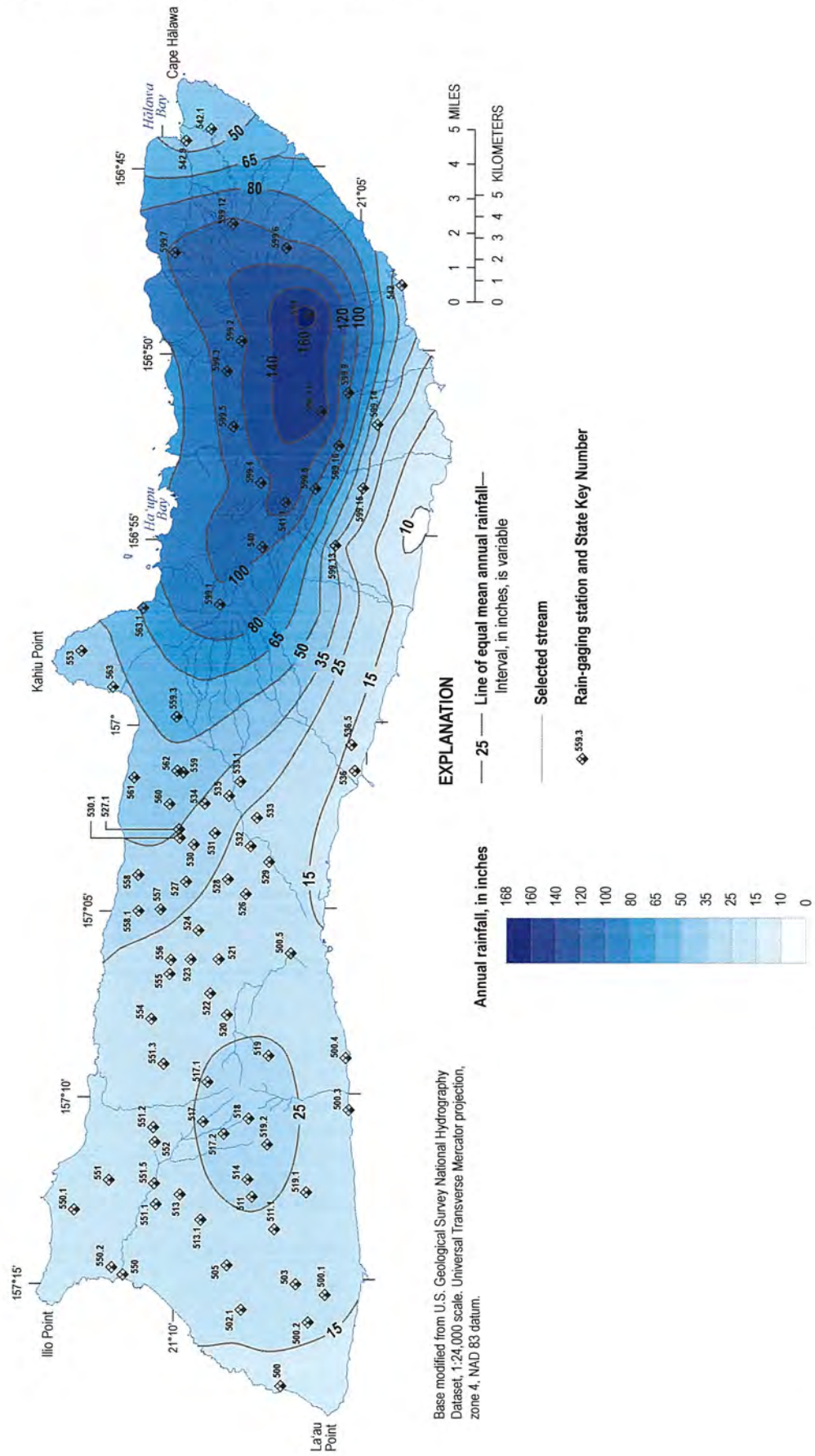


Figure 3. Map of Moloka'i, Hawai'i showing mean annual rainfall distribution during 1978–2007 (modified from Giambelluca and others, 2013).

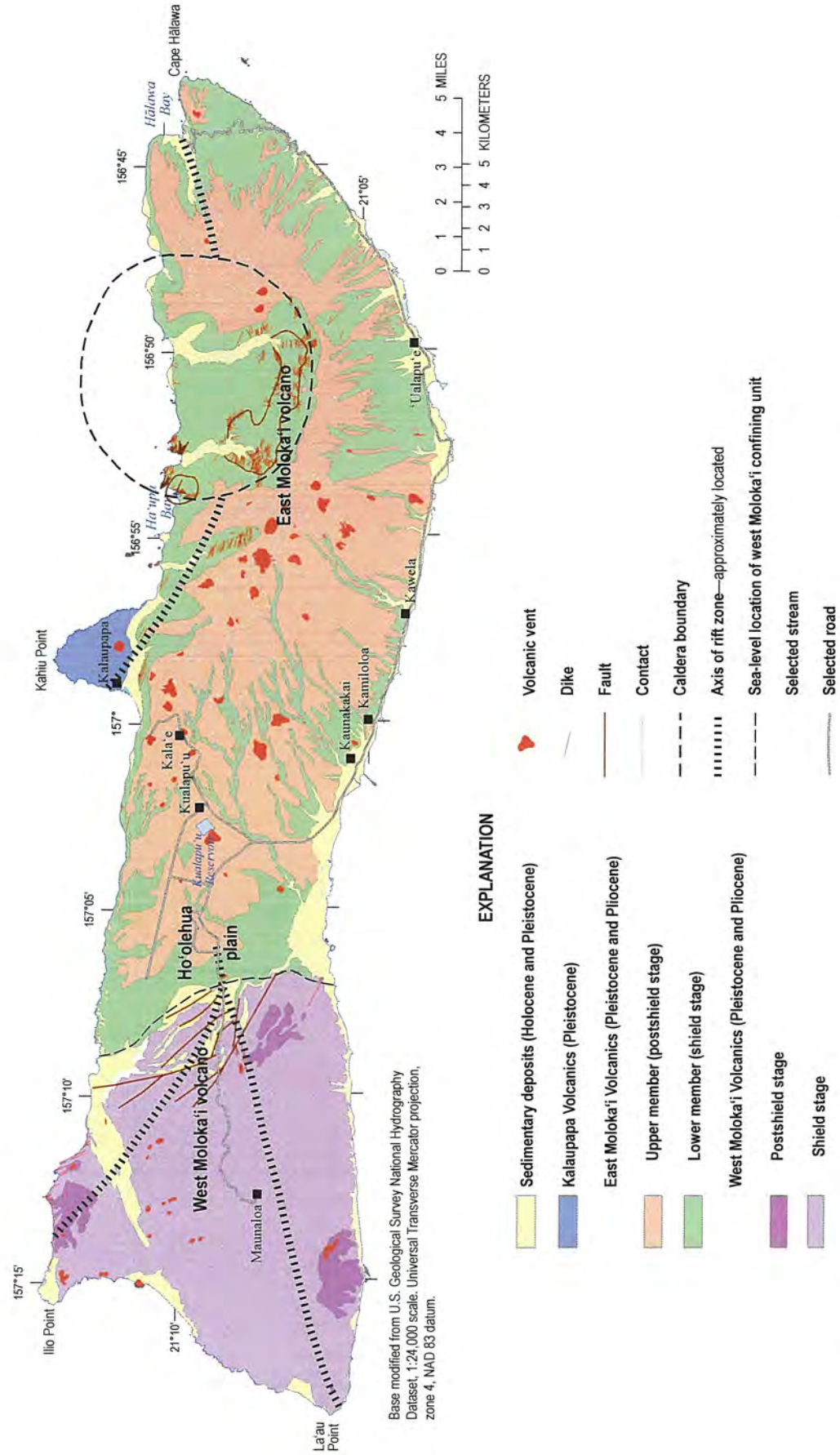


Figure 4. Map of Molokai, Hawaii, showing generalized surface geology and geologic features (modified from Sherrard and others, 2007 and Langenheim and Clague, 1987).

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clinker layers (Wentworth and Macdonald, 1953). 'A'ā flows are typically more abundant at greater distances from eruptive sources (Lockwood and Lipman, 1987).

Dikes are thin, near-vertical sheets of dense intrusive volcanic rock that formed when rising magma cut through existing rock and cooled beneath the land surface. Dikes are an important hydrologic control on groundwater because they have low permeability and tend to impede flow of groundwater, causing groundwater levels to build up behind them. Dikes are commonly exposed by erosion within the central and marginal parts of rift zones of older volcanoes (see Takasaki and Mink, 1985), including West and East Moloka'i volcanoes. In the central part of a rift zone, dikes can number as many as 1,000 per mile of horizontal distance and compose 10 percent or more of the total rock volume (Takasaki and Mink, 1985). The central part of the rift zone, where dikes compose 10 percent or more of the total rock volume, commonly is referred to as a dike complex. The number of dikes decreases toward the outer edges of a rift zone within the marginal dike zone, where dikes generally compose less than 5 percent of the total rock volume (Takasaki and Mink, 1985). Wentworth and Macdonald (1953) estimated that 200 dikes are needed to vertically build 1,000 ft of a shield volcano.

West Moloka'i Volcano

The primary rift zones of West Moloka'i volcano trend approximately northwest and southwest (fig. 4) in the same direction as broad ridges that extend from near the summit of the volcano. A positive gravity anomaly that extends from near the summit region of West Moloka'i volcano through Lā'au Point at the southwest tip of the island (Moore and Krivoy, 1965; Flinders and others, 2013) indicates the presence of dense intrusive dikes associated with the southwestern rift zone. A few southeast-trending dikes exposed near the southern coast may be evidence of a third rift zone associated with West Moloka'i volcano. No surface evidence of a summit caldera has been observed on West Moloka'i volcano (Beeson, 1976; Langenheim and Clague, 1987). Numerous fault scarps, 100 to 500 ft high, are exposed on the northeastern part of the volcano (Stearns and Macdonald, 1947). The exposed rocks of West Moloka'i volcano are shield-stage tholeiitic basalt and postshield-stage hawaiite and alkalic basalt.

East Moloka'i Volcano

The primary rift zones of East Moloka'i volcano trend northwest and east from a central caldera complex (fig. 4). Macdonald (1956) suggested a possible southern rift zone emanating from the caldera. Furthermore, Malahoff and Woollard (1966) interpreted results from a magnetic survey as indicating a possible southwestern rift zone emanating from the caldera complex. The northwestern and eastern rift zones are marked by numerous nearly vertical to vertical intrusive dikes (Stearns and Macdonald, 1947). The caldera complex of East Moloka'i volcano is exposed in Pelekunu and Wailau Stream valleys (figs. 1 and 4), and is composed of stocks, plugs, crater fills, ponded lavas,

and talus and fault breccias cut by dike swarms (Langenheim and Clague, 1987; Stearns and Macdonald, 1947).

Stearns and Macdonald (1947) mapped numerous vent features, including cinder and spatter cones, along the western and southern flanks of East Moloka'i volcano (fig. 4). Many of these features do not seem to lie along the trends of the two primary rift zones of the volcano, possibly indicating the presence of (1) a marginal dike zone or (2) more than two primary rift zones. Presence of dikes in these areas is consistent with positive gravity anomalies mapped by Flinders and others (2013).

The East Moloka'i Volcanics is divided into two informal members: a lower member consisting of shield-stage tholeiitic, olivine-tholeiitic, and picritic-tholeiitic basalts and postshield-stage alkalic basalt; and an upper member consisting of postshield-stage mugearite and lesser amounts of hawaiite and trachyte (Langenheim and Clague, 1987). The upper member forms a relatively thin (approximately 50–500 ft thick) veneer over the lower member (Stearns and Macdonald, 1947); the upper member may obscure vent features associated with the lower member. The Kalaupapa Volcanics consists of the rejuvenated-stage alkalic basalt and basanite that form Kalaupapa Peninsula (Clague and others, 1982; Langenheim and Clague, 1987).

Estimated ages of the rocks of West and East Moloka'i volcanoes (McDougall, 1964; Naughton and others, 1980; Langenheim and Clague, 1987) indicate that the volcanoes may have formed almost contemporaneously. Stearns and Macdonald (1947) noted, however, that an erosional unconformity, which dips about 10° E., is exposed at an altitude of 250 ft in the eastern bank of Waiahewahewa Gulch (fig. 1). The West Moloka'i Volcanics form the base of the observed outcrop and is overlain by 3 ft of soil and 6 ft of spheroidally weathered basalt, which separate the West Moloka'i Volcanics from the East Moloka'i Volcanics at this site. This sequence indicates that the West Moloka'i Volcanics is older than the East Moloka'i Volcanics at the site of the exposed unconformity.

Coastal Deposits

Off the northern coast of Moloka'i, a thin veneer of recent sediment derived from wave erosion covers the insular shelf (Mathewson, 1970). A coral reef extends from the southern coast of the island to about 1 mile (mi) offshore, and limestone also has been described in geologic logs from wells near the southern coast (Lindgren, 1903; Lum, 2003). In addition, along the southern shore of East Moloka'i volcano and the Ho'olehua plain, an apron of alluvium has formed by deposition of eroded soil. Geophysical and geological information is limited on the thickness of the sedimentary deposits overlying the volcanic rocks in nearshore and offshore areas. The thickness can be determined if the depth of the base of the sedimentary deposits is known or estimated. Off the southern coast of Moloka'i, the base of the sedimentary deposits can be estimated by extrapolating the assumed uneroded slope of shield-building lavas offshore (fig. 5). The thickness of the sedimentary deposits can then be determined from the difference in altitudes of the ocean

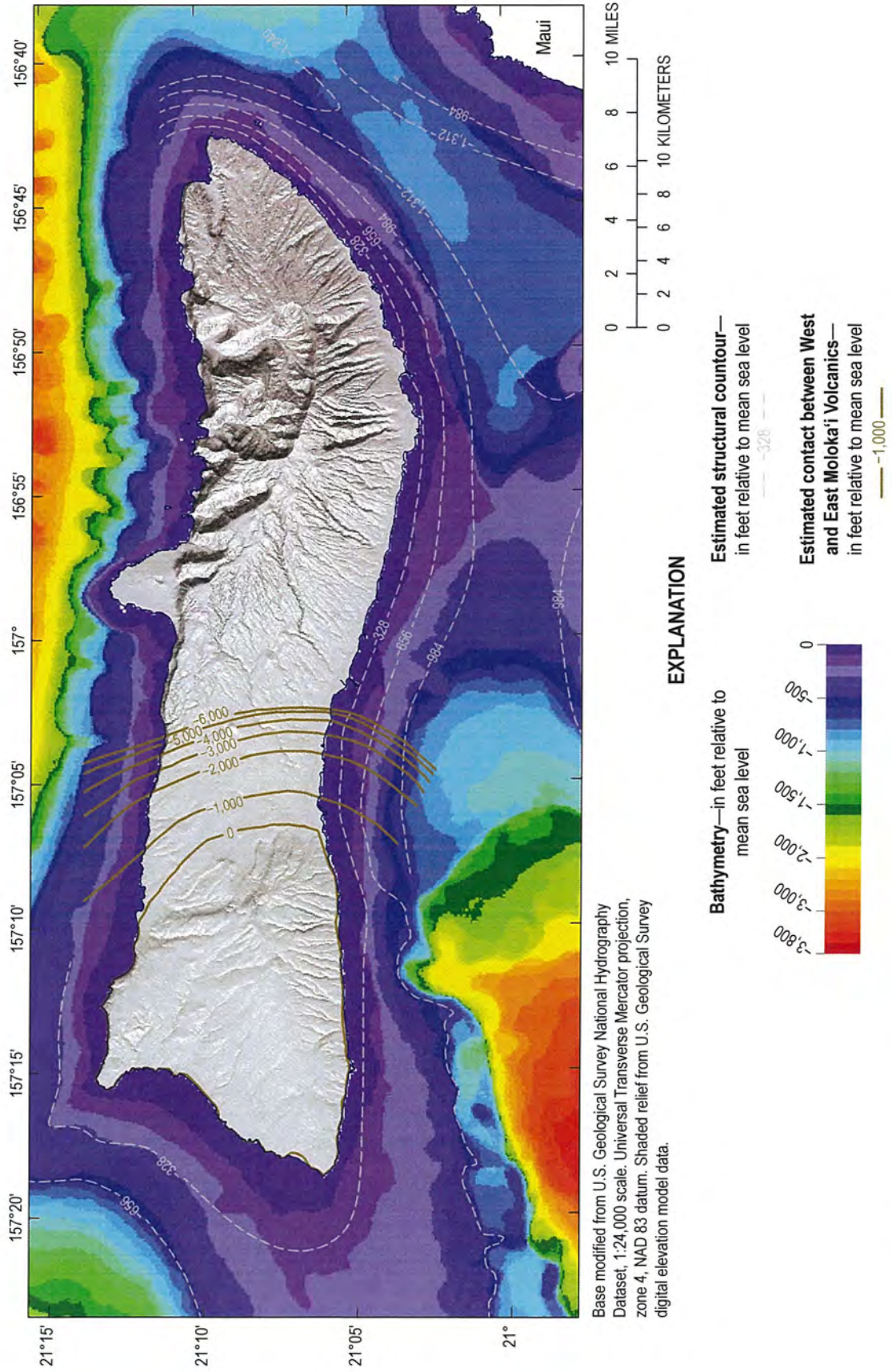


Figure 5. Map of Molokai, Hawaii showing generalized bathymetry and estimated structural contours representing the base of offshore sedimentary deposits.

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bottom and estimated base of sedimentary deposits. Off the northeastern coast, large submarine landslides have modified the original shape of the East Moloka'i volcano, which makes estimation of the sediment thickness off the northeastern coast highly uncertain using the above method.

Hydraulic Conductivity of the Rocks

Hydraulic conductivity and permeability are quantitative measures of the capacity of a rock to transmit water. The term "permeability" is also commonly used to indicate the ease of fluid movement through a porous rock in a qualitative sense (see Domenico and Schwartz, 1990). The permeability of volcanic rocks varies with a number of factors, including the presence of clinker zones, voids, fractures, and lava tubes, extent of weathering, and the mode of emplacement.

Lava Flows

In a layered sequence of subaerial, shield-stage lava flows of a Hawaiian volcano, in which dike intrusions are absent, the overall permeability generally is high (Stearns and Macdonald, 1947). The main features of lava flows contributing to the high permeability are (1) clinker zones associated with 'a'a flows, (2) voids along the contacts between flows, (3) cooling joints normal to flow surfaces, and (4) lava tubes associated with pāhoehoe flows. On the basis of a numerical-model analysis, Oki (1997) estimated the horizontal hydraulic conductivity of the dike-free, shield-stage lava flows of Moloka'i at 1,000 feet per day (ft/d).

Dikes

Although most dikes are less than 10 ft thick, they are hydrologically important because of their low permeability and can extend vertically and laterally for thousands of feet. Within a dike complex, dikes intersect at various angles and compartmentalize the more permeable intruded rock, resulting in impoundment of groundwater to high altitudes. Because dikes lower overall rock porosity and permeability, the average hydraulic conductivity of a dike complex decreases as the number of dike intrusions increases. Although the geometry and local-scale hydrologic effects of the unexposed dikes that fed the scattered vents of East Moloka'i volcano near Kualapu'u are unknown, these dikes intrude the aquifer and probably lower the overall permeability of the aquifer.

On the basis of a numerical-model analysis, Oki (1997) estimated the overall hydraulic conductivity of the dike complexes of West and East Moloka'i volcanoes at 2 and 0.02 ft/d, respectively, and the bulk horizontal hydraulic conductivity of the marginal dike zone near Kualapu'u at 100 ft/d. The marginal dike zone of East Moloka'i volcano is assumed to occur in the area of vent features in the central part of the island (see Oki, 1997).

Weathering

Weathering generally reduces the permeability of volcanic rocks. The zone of weathered West Moloka'i Volcanics and soil beneath the East Moloka'i Volcanics likely impedes groundwater flow between East and West Moloka'i volcanoes. In this report, this weathered zone separating the West Moloka'i Volcanics from the overlying East Moloka'i Volcanics is referred to as the West Moloka'i confining unit. No data are available to determine whether this unit is truly an effective barrier to groundwater flow; however, Oki (1997) estimated the hydraulic conductivity of the West Moloka'i confining unit (1 ft/d) on the basis of information from weathered volcanic rocks and a similar geohydrologic barrier on O'ahu (Oki, 1998).

Coastal Deposits

Coastal deposits and underlying weathered volcanic rocks impede the seaward discharge of freshwater near the southern part of the island. The permeability of the interbedded coastal deposits may vary widely, from low-permeability compacted alluvium to cavernous limestone deposits. Oki (1997) estimated the overall vertical hydraulic conductivity of the coastal deposits in the southern part of the island at 0.5 to 5 ft/d.

Regional Groundwater-Flow System

Precipitation (rainfall and fog interception) is the source of all freshwater on Moloka'i. The precipitation either (1) runs off, (2) evaporates or is transpired by vegetation, (3) recharges the groundwater system, or (4) is stored in the soil and underlying unsaturated rocks. Groundwater levels are highest in the mountainous interior of the island, particularly in the northeast, and lowest near the coast. Thus, groundwater flows from the mountainous interior areas to coastal discharge areas. Groundwater originating from the eastern part of the island also flows toward the central Ho'olehua plain, where it then flows to either the northern or southern coast.

Groundwater that is not withdrawn from wells and tunnels discharges naturally from the aquifer to onshore springs and seeps in deeply incised valleys and to subaerial and submarine coastal springs and seeps. In the northeastern part of the island, springs form where erosion has cut through dike compartments and lowered the land surface such that the water table intersects the land surface. Groundwater discharge at these springs contributes to the base flow of streams.

Recharge

Groundwater is recharged by direct infiltration of rainfall over much of the island. Over West Moloka'i volcano and the Ho'olehua plain; however, groundwater-recharge rates are low because of low rainfall and high evaporation rates. The area of

greatest recharge is near the topographic peak of East Molokaʻi volcano, where rainfall is greatest. Recharge from rainfall may be supplemented locally by other sources of water, including cloud-water interception by vegetation in high-altitude areas, irrigation water, leakage from surface reservoirs and water-transmission pipes, or discharge of wastewater.

Groundwater recharge of Molokaʻi was estimated for this study using a daily water budget (appendix 1), which generally is expected to provide more accurate recharge estimates relative to annual and monthly water budgets. Details of the water-budget computation and maps showing land cover and the distribution of recharge over the island are provided in appendix 1. For 1978–2007 rainfall and 2010 land-cover conditions, island-wide recharge estimated for this study was about 227 Mgal/d. During the seven decadal periods from 1940–2012 (the last decadal period 2000–12 covered 13 years), recharge estimated for this study ranged from about 189 to 278 Mgal/d.

Discharge to Streams

Streams on Molokaʻi have steeper gradients in the mountainous, high-rainfall areas and flatter gradients near the coast. Streams in the windward, northeastern valleys are perennial through most of their lengths because they receive groundwater discharge from the dike-impounded groundwater body. In contrast, no perennial streams exist in the western part of the island or the central Hoʻolehua plain. Most of the streams that drain to the southern coast of East Molokaʻi volcano are perennial only in their upper reaches where rainfall is persistent or where water drains from marshes or springs. These streams generally are perennial only where they flow over lavas of the upper member of the East Molokaʻi Volcanics. Where streams flow over more permeable lavas of the lower member, surface water may be lost to infiltration (Stearns and Macdonald, 1947, p. 47).

Groundwater Levels

Measured water levels are available primarily in wells along the southern coast and in the central Hoʻolehua plain. In the vicinity of Kualapuʻu, Hawaiʻi, water levels are about 8 to 10 ft above sea level; near the southern shore, water levels are 1 to 3 ft above sea level between Pālāʻau and Kawela, Hawaiʻi and 2 to 5 ft above sea level between about Kamalō and Pūkoʻo, Hawaiʻi (fig. 6). Within the dike-intruded areas of east Molokaʻi, water levels may be tens to hundreds of feet above sea level. At the northern margin of the dike complex, near Kalaupapa Peninsula, the water level in well 1058–01 (fig. 7) was reported to be 9 ft above sea level, which represents an approximate upper limit of the water-table altitude in the Kalaupapa Volcanics. Results from an electrical-resistivity survey indicated that the freshwater lens in the Kalaupapa Volcanics is thin, probably less than a few tens of feet thick (Kauahikaua, 1983; Takasaki, 1986).

In the West Molokaʻi Volcanics, Stearns and Macdonald (1947, p. 61) reported the water level in well 1011–01 to be

5.6 ft above sea level in 1946. MacCarthy (1941) used electrical-resistivity measurements to determine the depth to saltwater, then applied the Ghyben-Herzberg relation to estimate the altitude of the water table in the western part of the island (fig. 6). For hydrostatic conditions and specific-gravity values of 1.000 and 1.025 for freshwater and saltwater, respectively, the Ghyben-Herzberg relation can be used to estimate the thickness of freshwater floating on saltwater and predicts that every foot of freshwater above sea level must be balanced by 40 ft of freshwater below sea level. MacCarthy estimated that the water-table altitude in the western part of the island ranges from about 1 to 14 ft above sea level. The water-level estimates made from resistivity measurements are only approximate because use of the Ghyben-Herzberg relation to predict water levels from estimated depths to saltwater (1) ignores the freshwater-saltwater transition zone and (2) does not account for dynamic conditions in the aquifer where vertical flow is present. Furthermore, unquantified errors are probably associated with the resistivity measurements and the geophysical models used to represent actual subsurface conditions.

Groundwater Occurrence

Groundwater on Molokaʻi is unconfined in inland areas. Along the southern coast, groundwater may be confined by sedimentary deposits that impede the seaward discharge of fresh groundwater. Similar coastal sedimentary deposits form confining units on other Hawaiian islands (see for example, Izuka and others, 2018). Fresh groundwater on Molokaʻi occurs in two main forms: (1) as a lens-shaped body of freshwater, called a freshwater lens, floating on denser, underlying saltwater within permeable dike-free volcanic rocks; and (2) as dike-impounded water that is underlain by saltwater (underlying saltwater is primarily observed in areas where water levels are low). The depth at which freshwater and saltwater exist in the dike-impounded groundwater system where water levels are hundreds of feet above sea level is not known. A measured seismic-velocity discontinuity near an altitude of about –6,000 ft in southwestern Oʻahu, Hawaiʻi may coincide with a reduction in porosity and permeability of the volcanic rocks (Furumoto and others, 1970). Kauahikaua (1993) also indicated that a reduction in porosity on the island of Hawaiʻi may occur near an altitude of –6,000 ft. Although the base of the aquifer on Molokaʻi is uncertain, it may extend to an altitude near –6,000 ft. Stearns and Macdonald (1947) also suggested that perched water (groundwater at higher levels than the main groundwater body and separated from the main groundwater body by an unsaturated zone) exists on Molokaʻi, although this form of groundwater is much less voluminous than groundwater in freshwater-lens and dike-impounded systems.

Freshwater-Lens System

Within the dike-free volcanic rocks of Molokaʻi, measured groundwater levels generally are less than 7 ft above mean sea level. The freshwater-lens systems within dike-free volcanic

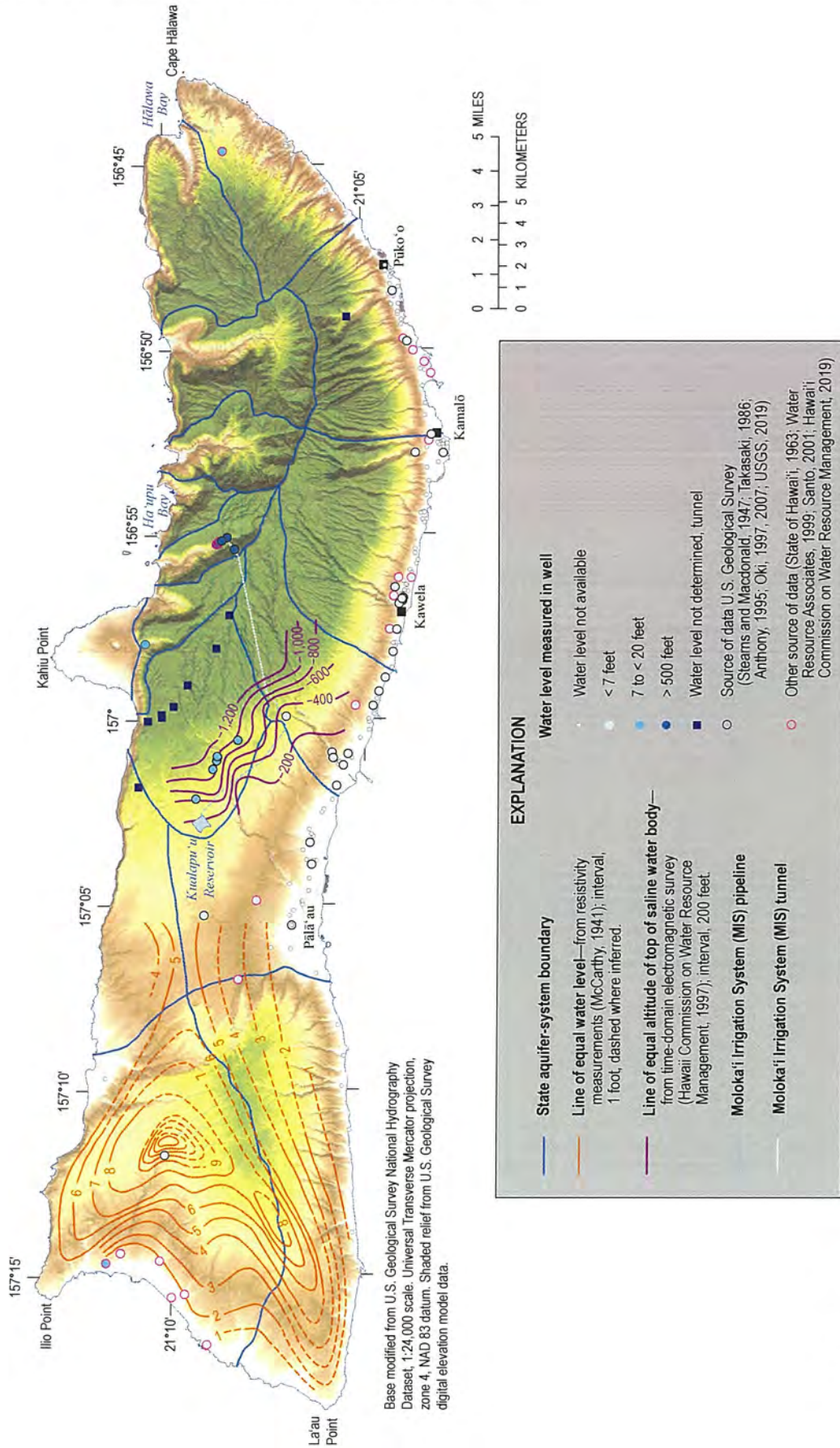


Figure 6. Map of Moloka'i, Hawai'i showing groundwater levels from wells and resistivity measurements.

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rocks consist of a lens-shaped body of freshwater overlying a zone of brackish water (transition zone), which in turn overlies saltwater originating from the ocean. Fresh groundwater is derived mainly from recharge of rainfall and also from recharge associated with irrigation water, leakage from surface reservoirs and water-transmission pipes, or discharge of wastewater. The zone of brackish water is formed by the mixing of seaward flowing freshwater with underlying saltwater. A saltwater-circulation system exists beneath the freshwater lens. Saltwater enters the aquifer from the ocean and flows landward. The saltwater then rises and becomes entrained with the seaward flowing freshwater, forming the brackish-water transition zone.

Dike-Impounded Groundwater System

Within the dike complex of East Moloka'i volcano, fresh groundwater is impounded to high levels in the volcanic rocks between low-permeability dikes. In the valleys of the northeastern part of the island, the presence of springs indicates that groundwater in the dike complex is probably impounded to altitudes higher than 2,000 ft above sea level (Stearns and Macdonald, 1947, p. 75). Because of low recharge rates in the western part of the island, water levels in the dike complex of West Moloka'i volcano are probably less than about 15 ft above sea level (fig. 6; MacCarthy, 1941). The abundance of dikes in a rift zone increases with depth, reducing the overall permeability of the dike complex with depth. No data exist that indicate the depth to which rocks are saturated with freshwater in the dike complex where water levels are high. In the marginal dike zone, where dike intrusions are few and water levels are lower than those in the dike complex, freshwater floats on saltwater.

Freshwater Thickness

Salinity profiles from deep open boreholes (deep monitor wells) commonly are used in Hawai'i to estimate the thicknesses of the freshwater lens and freshwater-saltwater transition zone. The USGS drilled deep monitor well 0800-01 from a ground-surface altitude of about 982 ft to an altitude of about -603 ft in the Kualapu'u area (fig. 7) (Oki and Bauer, 2001), and have collected salinity profiles from this well since 2001. Although the Kualapu'u deep monitor well is likely located in an area where unexposed dikes exist, salinity profiles collected from this well indicate the presence of a zone of freshwater underlain by a brackish-water transition zone and deeper saltwater. Measured salinity profiles indicate a freshwater zone, about 260 to 280 ft thick, defined by a fluid specific conductance less than 1,000 microsiemens per centimeter ($\mu\text{S}/\text{cm}$). The thickness of this freshwater zone may vary over time because of changes in recharge or withdrawal rates. The upper part of the freshwater-saltwater transition zone, as indicated by fluid specific conductance between 1,000 and 23,000 $\mu\text{S}/\text{cm}$, generally is about 150 ft thick (fig. 8). The highest fluid specific conductance measured in the well is about 46,000 $\mu\text{S}/\text{cm}$, which is assumed to represent the specific conductance of saltwater in the area.

Since 2001, measured water levels in well 0800-01 have ranged from about 8 to 10 ft above mean sea level. Using the Ghyben-Herzberg relation, the bottom of the freshwater is expected to be near an altitude of -320 to -400 ft. The depth in the transition zone where salinity is about half that of saltwater is commonly consistent with the base of freshwater predicted by the Ghyben-Herzberg relation in deep monitor wells in Hawai'i. However, for well 0800-01, the measured depth in the transition zone where salinity is about half that of saltwater is deeper than the base of the freshwater predicted by the Ghyben-Herzberg relation.

Salinity profiles from deep open boreholes, such as well 0800-01 (fig. 8), may be affected by flow in the borehole (Paillet and others, 2002; Rotzoll, 2012) caused by both natural and withdrawal-induced vertical-head differences in the aquifer. In areas where the head (the height above a specified datum at which the water rises in a piezometer that is open at a particular depth) decreases with depth, downward borehole flow may occur, leading to an overestimate of the aquifer freshwater thickness based on the recorded salinity profile.

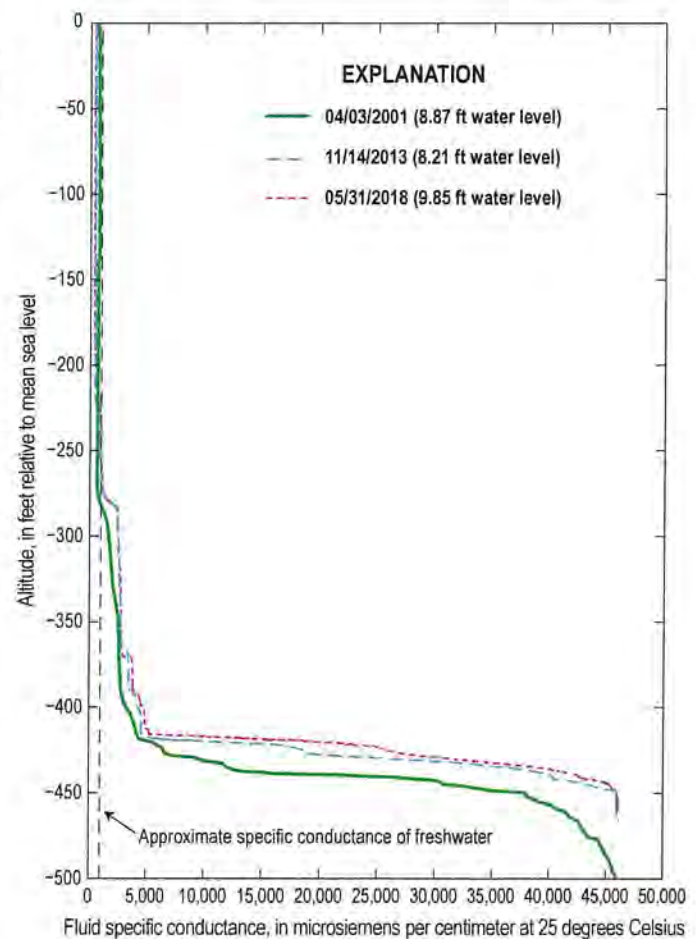


Figure 8. Line graph showing selected fluid specific-conductance profiles from the Kualapu'u deep monitor well 0800-01, Moloka'i, Hawai'i.

The head may increase with depth in the aquifer near partially penetrating pumped wells or coastal discharge areas, and an increase in head in the aquifer with depth may lead to upward flow within an open borehole. Upward borehole flow may cause saltwater to flow upward in the borehole, leading to an underestimate of the aquifer freshwater thickness based on the recorded salinity profile.

Chloride Concentration of Pumped Water

Chloride concentration is commonly used as an indicator of salinity, which may increase as a result of saltwater intrusion into a fresh groundwater body. The U.S. Environmental Protection Agency (EPA) secondary standard for chloride concentration in drinking water is 250 milligrams per liter (mg/L). Water with a chloride concentration above 250 mg/L may have a salty taste. The chloride concentration of water pumped from wells in the Kualapu'u area generally has been less than 200 mg/L except in well 0902-01 (also known as Well 15) (fig. 9). During 1950-63, the chloride concentration of water pumped from well 0902-01 ranged from 252 to 430 mg/L (Oki, 1997). For comparison, the chloride concentration of rainfall is typically less than 10 to 20 mg/L (Swain, 1973), and that of ocean water is about 19,500 mg/L (Wentworth, 1939). Since 1980, chloride concentrations of water pumped from well 0901-01 (well 17) generally have been less than 100 mg/L, and chloride concentrations of water pumped from wells 0801-01 (Kauluwai 1), 0801-02 (Kauluwai 2), and 0801-03 (Kualapu'u Mauka) generally have ranged from 50 to 200 mg/L (fig. 9).

Before the early 1980s, chloride concentrations of water pumped from the Kawela shaft (well 0457-01, fig. 7) were less than 100 mg/L (fig. 9). During 1980-2001, chloride concentrations of water pumped from Kawela shaft remained less than 200 mg/L, but during 2002-05, chloride concentrations commonly exceeded 200 mg/L and at times exceeded 300 mg/L. With reduced withdrawals from Kawela Shaft during 2008-2015, chloride concentrations of pumped water generally have been less than 100 mg/L.

Before 2002, chloride concentrations of water pumped from the 'Ualapu'e shaft (well 0449-01, fig. 7) generally were less than 70 mg/L (fig. 9); during 2003-06, however, chloride concentrations generally were more than 70 mg/L, reaching a maximum of 100 mg/L during 2004. During 2007-15, chloride concentrations of water pumped from the 'Ualapu'e shaft have remained less than 100 mg/L.

Groundwater Withdrawals

Most of the groundwater withdrawn on Moloka'i is from the Kualapu'u area, the southeastern coastal area, and the dike complex in the northeastern part of the island. Annual withdrawal from wells (excluding discharge from tunnels) on Moloka'i has increased since the 1940s and peaked in 2002 and 2003 when withdrawal exceeded 5.7 Mgal/d. From 2004 to 2017, annual withdrawal was between about 3 and 5 Mgal/d (fig. 10).

Five production wells (0801-01, 0801-02, 0801-03, 0901-01, and 0902-01, fig. 7) have been drilled in the Kualapu'u aquifer system for either irrigation or domestic use. Wells 0901-01 and 0902-01, drilled in 1950 and 1946, respectively, originally were used to irrigate pineapple fields in the Ho'olehua plain area. Well 0902-01 was abandoned in 1964 when surface water from the Moloka'i Irrigation System (MIS) tunnel (fig. 1) became available. Since 1976, water from well 0901-01 has been used for domestic and irrigation purposes, mainly in the western part of the island. Kualapu'u wells 0801-01 (Kauluwai 1) and 0801-02 (Kauluwai 2) (fig. 7) were completed in 1949 and 1979, respectively, and well 0801-03 (Kualapu'u Mauka) was drilled in 1987. Annual withdrawal from the five production wells in the Kualapu'u aquifer system increased from the 1940s to the 1990s, reaching a peak of about 2.7 Mgal/d during 1994 (fig. 10). From 1995 to 2008, annual withdrawal from the five production wells in the Kualapu'u aquifer system ranged from 1.8 to 2.6 Mgal/d, and from 2009 to 2017, annual withdrawal was less than about 1.9 Mgal/d.

Near the southern coast, groundwater withdrawals for domestic or public-supply uses are primarily from the Kawela and 'Ualapu'e aquifer systems. In the Kawela aquifer system, annual withdrawals prior to 1992 and after 2002 were less than 0.5 Mgal/d. During 1992-2002, annual withdrawals from the Kawela aquifer system exceeded 0.5 Mgal/d, peaking in 1998 at about 0.75 Mgal/d. In the 'Ualapu'e aquifer system, annual withdrawals have remained below 0.5 Mgal/d, although withdrawals generally have increased over time (fig. 10). Total unreported withdrawals from drilled wells and numerous shallow dug wells along the southern coast are probably small.

Six production wells, three drilled in 1961 (0855-01, 0855-02, 0855-03) and three drilled in 1988 (0855-04, 0855-05, 0855-06) (fig. 7), withdraw water from the dike complex in the northeastern part of the island. Information on withdrawal from the six wells generally is incomplete from 1961 to 1987. During 1988-2015, reported total withdrawal from these wells averaged about 1 Mgal/d. Water from these wells enters the MIS, which includes the MIS tunnel that captures (gains) additional groundwater (Hirashima, 1963). The direct capture of groundwater from the MIS tunnel plus the discharge from well 0855-01, which was drilled in the MIS tunnel, can be estimated from the difference between discharge measured at USGS gaging station 16405300 (downstream) and discharge at gaging station 16405100 (upstream). Water flowing past the downstream gaging station 16405300 includes some or all of the direct capture of groundwater from the MIS tunnel, the discharge from well 0855-01, and the water flowing past the upstream gaging station 16405100. During 1966-2002, the combined gain in groundwater (from the tunnel and well 0855-01) between the upstream and downstream gaging stations averaged about 1.7 Mgal/d. The combined discharge of the MIS tunnel and well 0855-01 was determined from existing records or estimated as an average during a selected period when data were unavailable.

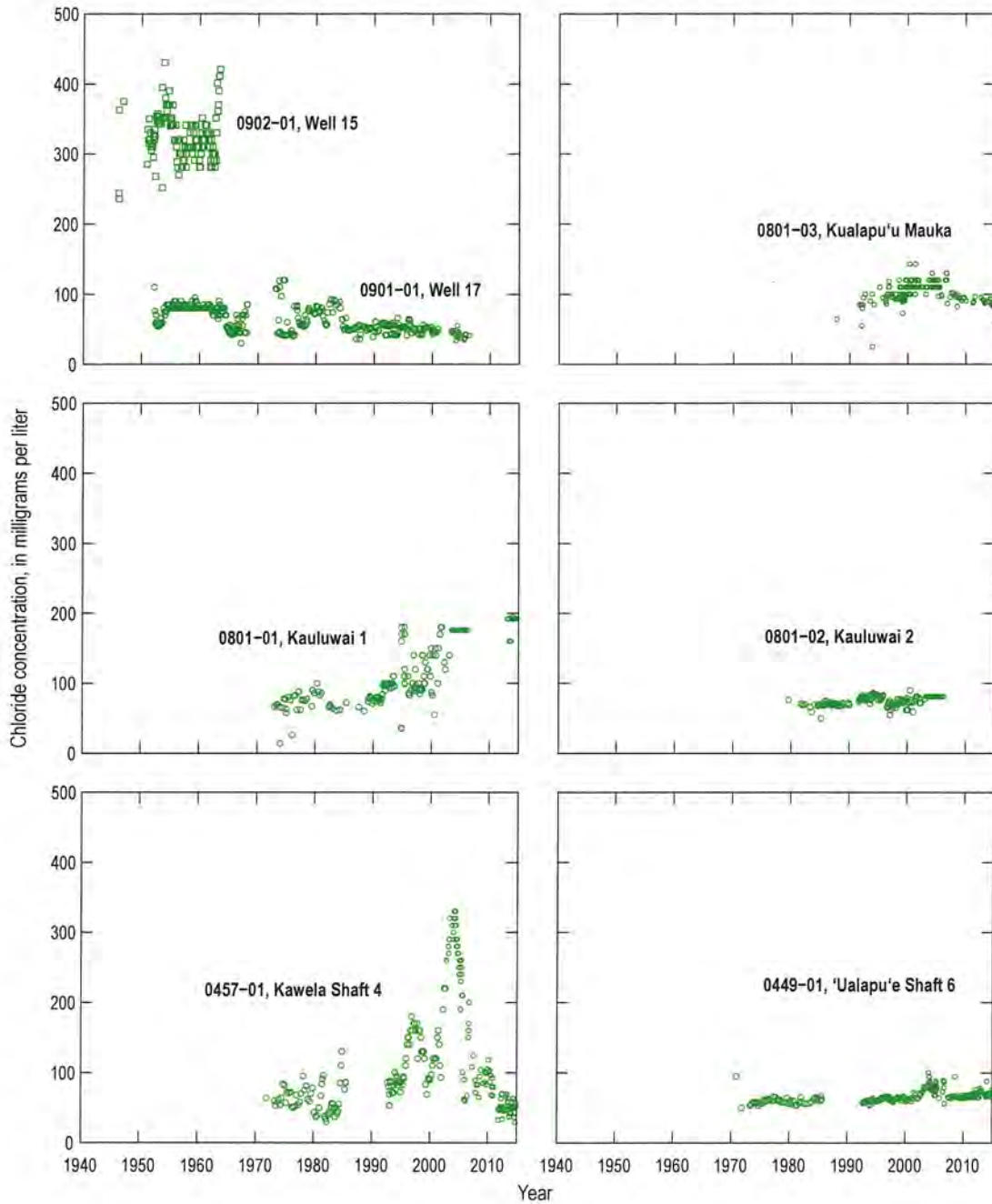


Figure 9. Multiple time-series graphs showing chloride concentration of pumped water from selected wells, Moloka'i, Hawai'i. Data are from U.S. Geological Survey National Water Information System database, Anthony (1995), and unpublished data from Maui Department of Water Supply and Hawai'i Commission on Water Resource Management.

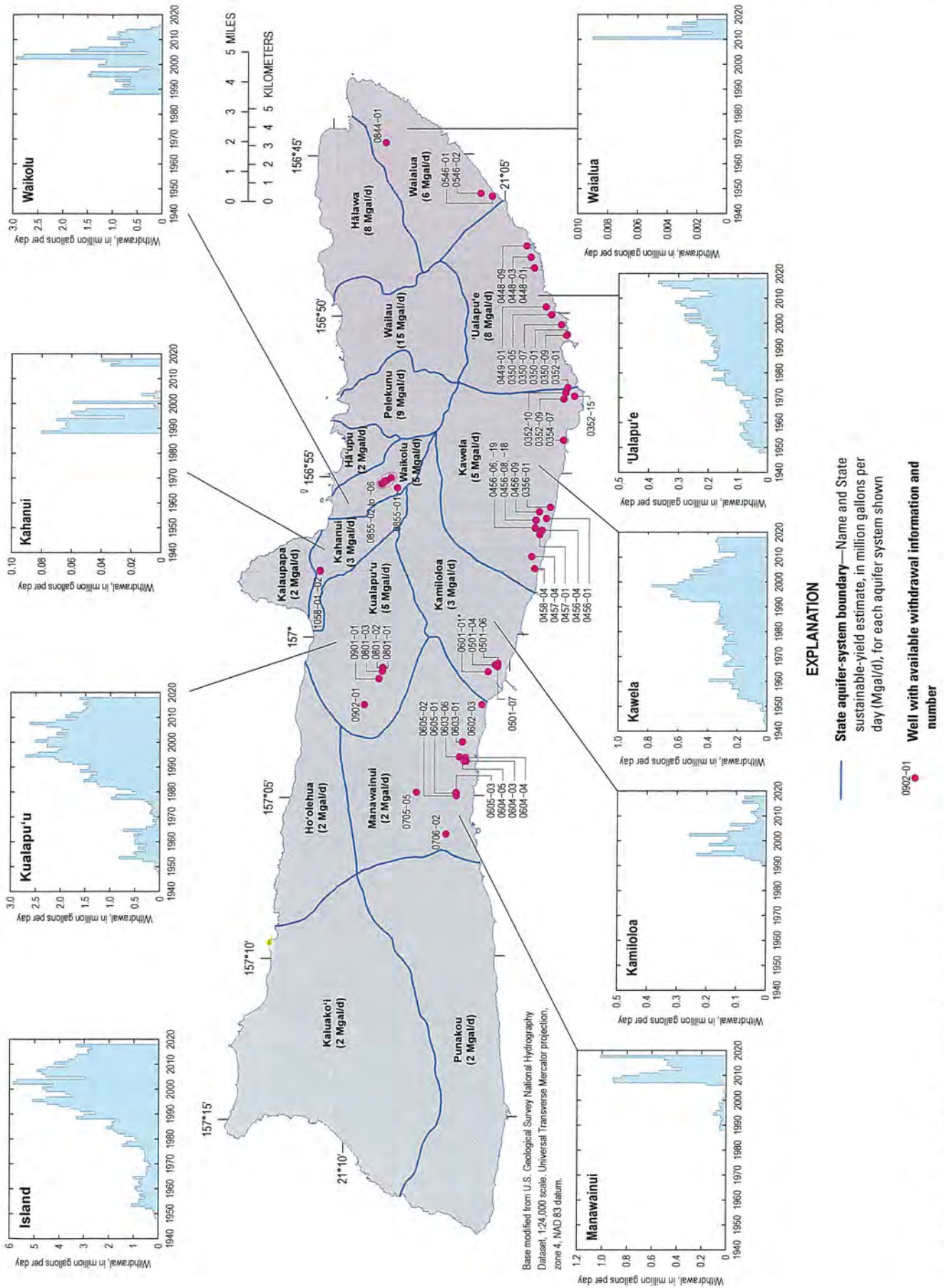


Figure 10. Map of Molokai, Hawaii showing annual reported pumpage by aquifer system.

Island-Wide Two-Dimensional Numerical Groundwater-Flow Model

An island-wide, two-dimensional, sharp-interface numerical groundwater-flow model was developed to estimate groundwater inflows to the main area of interest in central Molokaʻi. These inflow estimates are needed for the three-dimensional flow and salinity-transport model of central Molokaʻi. The island-wide model was developed using the computer code SHARP that simulates groundwater flow in both the freshwater and saltwater zones (Essaid, 1990). However, SHARP does not represent the mixing of freshwater and saltwater and the formation of a brackish-water transition zone. Rather, SHARP assumes that freshwater and saltwater are separated by a sharp interface with no mixing of the two fluids. This assumption generalizes the groundwater-flow system but maintains an accurate accounting of total freshwater flow.

The island-wide groundwater-flow model was developed using temporally varying recharge and withdrawal conditions during 1940–2012. The model accounts for spatially varying hydraulic properties of the geologic materials, recharge, and discharge. The hydraulic properties of the rocks were estimated from available data and were modified by varying them in the model to obtain reasonable agreement between model-calculated and observed water levels and stream base flows. Model development also was guided by available geophysical surveys that estimated the depth to the transition zone between freshwater and saltwater (see for example, MacCarthy, 1941; State of Hawaiʻi, 1997).

Model Grid

The finite-difference model grid used in this study consists of 166 rows and 446 columns of square cells, each 492 ft on a side. The grid is oriented with its short side in a north-south direction. The geographic origin of the grid is on the southwest corner at long 157°20′07″ W., lat 21°01′36″ N. based on the North American Datum of 1983 (fig. 11). The grid covers the entire island of Molokaʻi and extends offshore at least a mile to include the entire zone where fresh groundwater is expected to discharge to the ocean.

Representation of the System

For modeling purposes, the island of Molokaʻi was divided into 23 horizontal-hydraulic-conductivity zones, some of which were assigned the same hydraulic properties in the model (fig. 11). Because the CWRM aquifer-system boundaries do not necessarily represent subsurface hydrogeologic features, the zones generally were not aligned with the aquifer-system boundaries. One zone each was used to represent the dike-free West Molokaʻi Volcanics, the dike-intruded West Molokaʻi Volcanics, the West Molokaʻi confining unit, the Kalaupapa Volcanics, a presumed west-trending minor rift zone of East

Molokaʻi volcano, and a presumed south-trending minor rift zone of East Molokaʻi volcano; five zones were used to represent the dike complex and main rift zones of East Molokaʻi volcano in the northeastern part of the island, including a small zone near Waikolu, Hawaiʻi that primarily served to allow simulation of appropriate water levels near the MIS tunnel; eight zones were used to represent the marginal dike zone of East Molokaʻi volcano in the central part of the island, including four zones representing groundwater barriers (dikes) and four zones representing marginal dike-zone compartments between groundwater barriers; and four zones—one of which represents a narrow zone between adjacent, larger hydraulic-conductivity zones, and was assigned the average hydraulic-conductivity value of the adjacent zones—were used to represent the mostly dike-free East Molokaʻi Volcanics. The West Molokaʻi confining-unit zone represents the zone, formed by weathered volcanic rocks and soil, separating West and East Molokaʻi Volcanics. The West Molokaʻi confining unit is represented in the two-dimensional model as a barrier to horizontal flow with a zone of reduced hydraulic conductivity. The dike complex of East Molokaʻi volcano in the northeastern part of the island was divided into five zones to enable representation of water levels needed to simulate groundwater discharge to streams and the MIS tunnel. The marginal dike zone of East Molokaʻi volcano in the central part of the island was divided into eight zones to enable representation of water levels and to create a compartmentalized groundwater system consistent with the presence of dikes. The mostly dike-free East Molokaʻi Volcanics was divided into four zones to enable representation of the spatial distribution of water levels.

Boundary Conditions

SHARP supports three types of boundary conditions: (1) specified head, (2) specified flow, including no flow, and (3) head-dependent discharge. Specified-head boundary conditions were not used for this study. The perimeter rows and columns of the grid are no-flow boundaries. The base of the model was a no-flow boundary and assigned an altitude of –5,906 ft (–1,800 m), relative to mean sea level, to coincide with an assumed aquifer bottom near an altitude of –6,000 ft (Furumoto and others, 1970; Kauhikaua, 1993).

Freshwater discharge near coastal areas and to streams in northeastern Molokaʻi valleys was modeled using a head-dependent discharge boundary condition, where the aquifer is presumed to be overlain by sedimentary deposits that form a confining unit that impedes discharge from the aquifer. The head-dependent discharge boundary condition requires specification of (1) the head overlying the confining unit and (2) the confining-unit leakance. The confining-unit leakance is a lumped parameter defined as the quotient of the confining-unit vertical hydraulic conductivity and the confining-unit thickness.

For coastal-discharge boundaries, the head above the confining unit at offshore boundaries was set equal to the freshwater equivalent head of the saltwater column overlying the

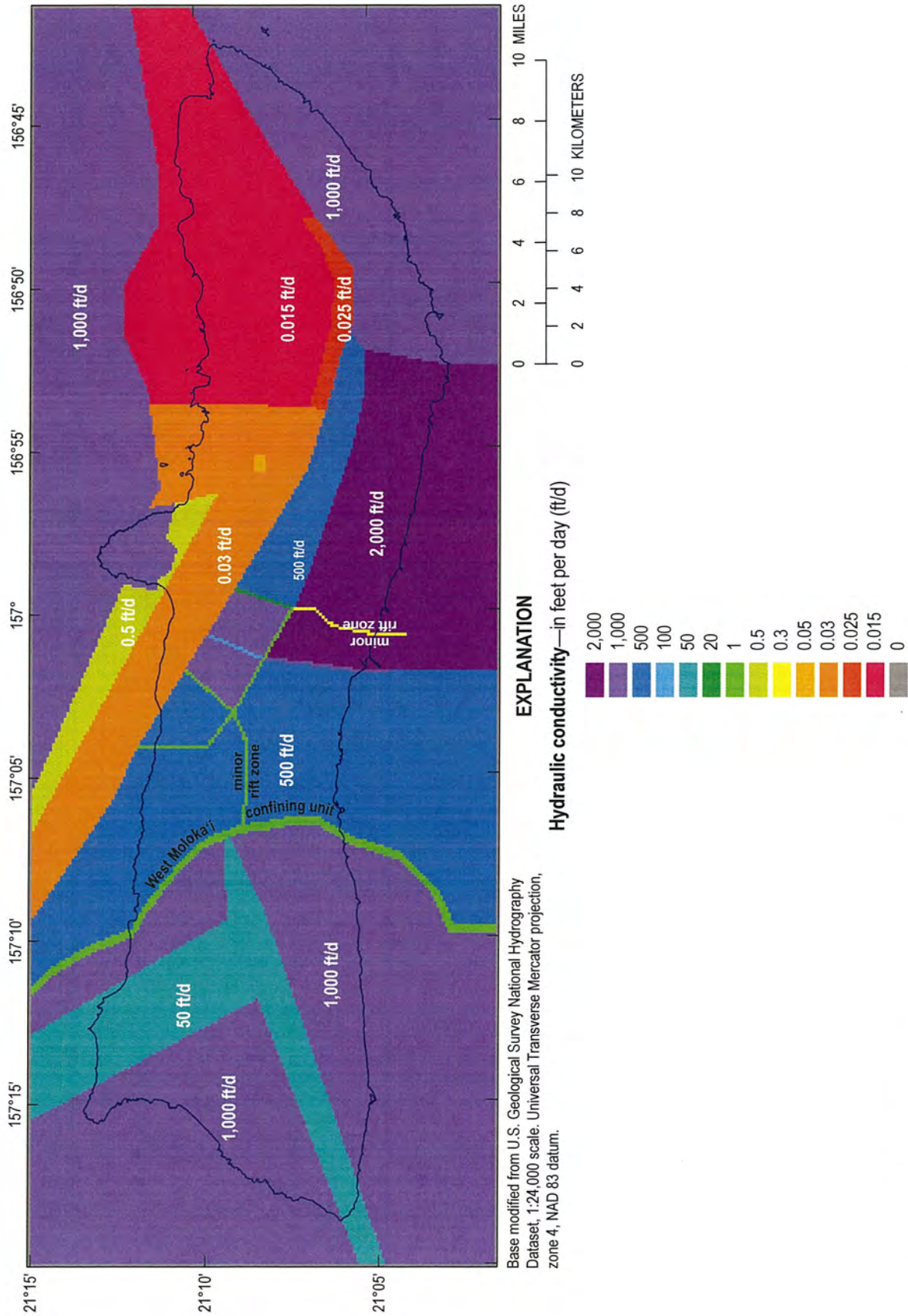


Figure 11. Map of Molokai, Hawaii showing horizontal hydraulic-conductivity zones used in the island-wide, sharp-interface groundwater model.

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ocean floor. In some coastal areas of southern Moloka'i, onshore sediments may form a confining unit and for these areas, the head above the confining unit was assigned a value of 0 ft. For streams in northeastern Moloka'i, the head above the confining unit was set equal to the stream-bed altitude.

For coastal discharge cells of southern Moloka'i, the confining-unit thickness was assigned values equal to the estimated thickness of sediments overlying the aquifer. The thickness of sediments was estimated in southern Moloka'i by projecting the slope of the shield-stage volcanic rocks offshore and determining the altitude difference between the existing bathymetry (National Oceanic and Atmospheric Administration, 2010) and projected surface of the shield-building volcanic rocks (fig. 5). Estimated thickness of sediments ranged from several feet to over 1,000 ft near the eastern coast of the island. No attempt was made to estimate separate values for the confining-unit vertical hydraulic conductivity and thickness of northern Moloka'i coastal discharge cells, because of a lack of information to define these values separately; instead, the lumped parameter leakance was estimated by trial and error. For stream cells in northeastern Moloka'i, a unit thickness (1 ft) was assumed for the estimation of leakance values.

Recharge

For this study, a daily water budget was used to estimate average groundwater recharge during the six decadal periods from 1940 to 1999 (1940–49, 1950–59, 1960–69, 1970–79, 1980–89, 1990–99), and the 13-year period 2000–12 (appendix 1). Recharge is greatest near the mountainous parts of eastern Moloka'i, exceeding 100 inches per year (in/yr), and least in western Moloka'i and coastal areas of central and southern Moloka'i. For areas receiving irrigation or where pineapple (a xerophytic plant) was cultivated, recharge may be slightly higher than in adjacent nonagricultural areas.

Recharge for each model cell was based on the area-weighted average recharge from the irregularly shaped water-budget-model subareas (appendix 1) within each model cell. Recharge used in the groundwater model may differ slightly from that estimated by the water budget because of discretization near the coast that causes some onshore areas to be assigned to offshore cells.

Withdrawals

Information on groundwater withdrawals was obtained from CWRM, the County of Maui Department of Water Supply (MDWS), and previously published studies (Oki, 1997, 2006). Island-wide groundwater withdrawals have generally been less than a few percent of island-wide recharge. Locally (within some aquifer systems), however, groundwater withdrawals are a larger

percentage of recharge. In the Kualapu'u aquifer system, for example, groundwater withdrawals during 2016–17 were about 12 percent of average recharge (based on 1978–2007 rainfall and 2010 land-cover conditions). For model cells containing multiple wells, the withdrawals from wells within the cell were summed.

Injection Wells

Recharge to the aquifer from two wastewater injection-well facilities near Kaunakakai, Hawai'i (fig. 7) averaged about 0.2 Mgal/d during 2004–12 using data provided by the County of Maui. However, this recharge was excluded from the island-wide model because the inclusion of the coastal injection-well recharge would not substantively affect the estimated groundwater inflows to the main area of interest in central Moloka'i, which ultimately is the main output needed from the island-wide model. The injection wells were included in the three-dimensional model of central Moloka'i (described below) capable of simulating variable salinity.

Groundwater Discharge to Streams (Base Flow)

Groundwater discharges to and sustains perennial base flows of streams in the valleys of northeastern Moloka'i. As part of the water-budget computation, measured discharge at streamgaging stations was separated into runoff and base-flow components (appendix 1). Estimated base flows in northeastern Moloka'i streams ranged from about 0.5 to more than 10 Mgal/d and were used to estimate aquifer hydraulic properties for the model.

Water Properties

In the model, the specific gravities of freshwater and saltwater were assigned values of 1.0 and 1.025, respectively. Hydraulic conductivity is dependent on fluid viscosity, which is a function of temperature and, to a lesser extent, pressure and salinity. Freshwater and saltwater dynamic viscosities at 20 °C are 2.09×10^{-5} pound force second per square foot (lb·s/ft²) (Freeze and Cherry, 1979) and 2.24×10^{-5} lb·s/ft² (Weast and others, 1989), respectively. The specific-gravity and viscosity values were assumed to remain constant for all simulations with SHARP.

Estimation of Hydraulic Properties

Hydraulic conductivity and effective porosity values were estimated by trial and error. A steady-state simulation using average recharge during the 1940s and zero withdrawals was

used to generate initial conditions for the 1940–2012 transient simulation. A 1-day time step was used for the final steady-state and transient simulations. Freshwater and saltwater specific-storage values assigned in the model were 7.6×10^{-6} per foot (1/ft) and 7.8×10^{-6} (1/ft), respectively, and the effective porosity was assigned a value of 0.05.

The estimated hydraulic-conductivity values generally are consistent with previous estimates and with the conceptual model of higher values for the dike-free volcanic rocks and lower values for the dike-intruded areas. For the mostly dike-free volcanic rocks, estimated hydraulic-conductivity values were 500, 1,000 or 2,000 ft/d; for the marginal dike-zone compartments between groundwater barriers (zones with dikes), hydraulic-conductivity values were 500 or 1,000 ft/d; for the dike complex, hydraulic conductivity values were less than 1 ft/d for East Moloka'i volcano and 50 ft/d for West Moloka'i volcano; and for the zones representing groundwater barriers to flow (dikes or erosional surfaces), estimated hydraulic-conductivity values were between 0.3 and 100 ft/d (fig. 11). The hydraulic-conductivity values assigned for the mainly dike-free volcanic rocks on Moloka'i are within the range of values previously estimated for O'ahu and Maui (see for example, Izuka and others, 2018)

Discharge from head-dependent discharge cells is controlled by the thickness of the confining unit and the hydraulic conductivity of the confining unit. The ratio of confining-unit hydraulic conductivity to confining-unit thickness forms the lumped parameter leakance. Leakance values were estimated from (1) the individual values of confining-unit hydraulic conductivity and confining-unit thickness in southern Moloka'i and (2) as a lumped parameter by assuming a unit thickness (1 ft) in northern Moloka'i. Confining-unit vertical hydraulic conductivity values assigned in the model ranged from 0.01 ft/d for stream cells in northeastern Moloka'i to 20 ft/d for the confining unit in the southeastern part of the island (fig. 12).

Simulation Results

The spatial distribution of simulated water levels is in general agreement with the conceptual model of high water levels in the dike complex of northeastern Moloka'i and lower water levels in western and southern Moloka'i (fig. 13). In areas with steep topography, the simulated water level may exceed the altitude of the top of the cell, which is attributed to (1) using an average land-surface altitude to define the top of the cell (in some areas of the model, a cell may cover a range of land-surface altitudes of several hundred feet), and (2) possibly not representing springs that may exist in areas of steep topography. Simulated transient water levels also are in reasonable agreement with observed water levels (fig. 14). In general, simulated transient water levels are within about a foot of available observed water levels.

The simulated average base flows of streams in northeastern Moloka'i are in general agreement with the estimated concurrent base flows from streamgaging stations (fig. 15). On an annual basis, the model may not accurately represent the base flows, which is mainly attributed to the decadal representation of recharge in the model. That is, year-to-year variability in rainfall and recharge were not represented in the groundwater model because the timing of rainfall relative to recharge at the water table is poorly known. Instead, recharge variability was represented at the decadal scale, which represents a smoothing of the year-to-year variability in recharge.

The estimated boundary flows from the dike-complex area of northeastern Moloka'i to central and southern Moloka'i were determined for selected boundary zones of a three-dimensional numerical groundwater model (see next section) (fig. 16; table 1). The magnitude of the boundary flows reflects the distribution of groundwater flow but also is affected by the length of the boundary. Relative boundary inflows are greatest in the central zones (zones 5–7), where inflows range from about 2.5 to 3.3 Mgal/d per mile, and least in western zones (zones 1–3), where inflows range from about 0.03 to 0.2 Mgal/d per mile.

Table 1. Recharge input to the top and boundary-inflow zones of the three-dimensional model mesh, Moloka'i, Hawaii'i.

Period	Recharge for top of model, in million gallons per day	Recharge for indicated boundary inflow zone (see fig. 16), in million gallons per day									Total, in million gallons per day
		1	2	3	4	5	6	7	8	1–8	
1940–49	47.4	0.05	0.03	0.1	0.9	17.4	7.9	5.8	14.1	46.3	93.8
1950–59	55.4	0.05	0.05	0.1	1.0	17.2	8.0	6.0	14.2	46.6	102.0
1960–69	69.3	0.07	0.07	0.1	1.1	17.6	8.6	6.6	15.0	49.1	118.4
1970–79	43.7	0.08	0.06	0.1	1.1	17.0	8.5	6.4	14.5	47.8	91.5
1980–89	57.8	0.08	0.06	0.1	1.1	17.1	8.4	6.3	14.7	47.8	105.6
1990–99	50.6	0.07	0.06	0.1	1.1	17.4	8.6	6.6	15.0	49.0	99.5
2000–12	48.0	0.06	0.05	0.1	1.0	16.7	8.7	6.6	14.8	48.1	96.1
1978–2007	55.2	0.06	0.05	0.1	1.1	17.2	8.1	6.5	14.9	48.1	103.4

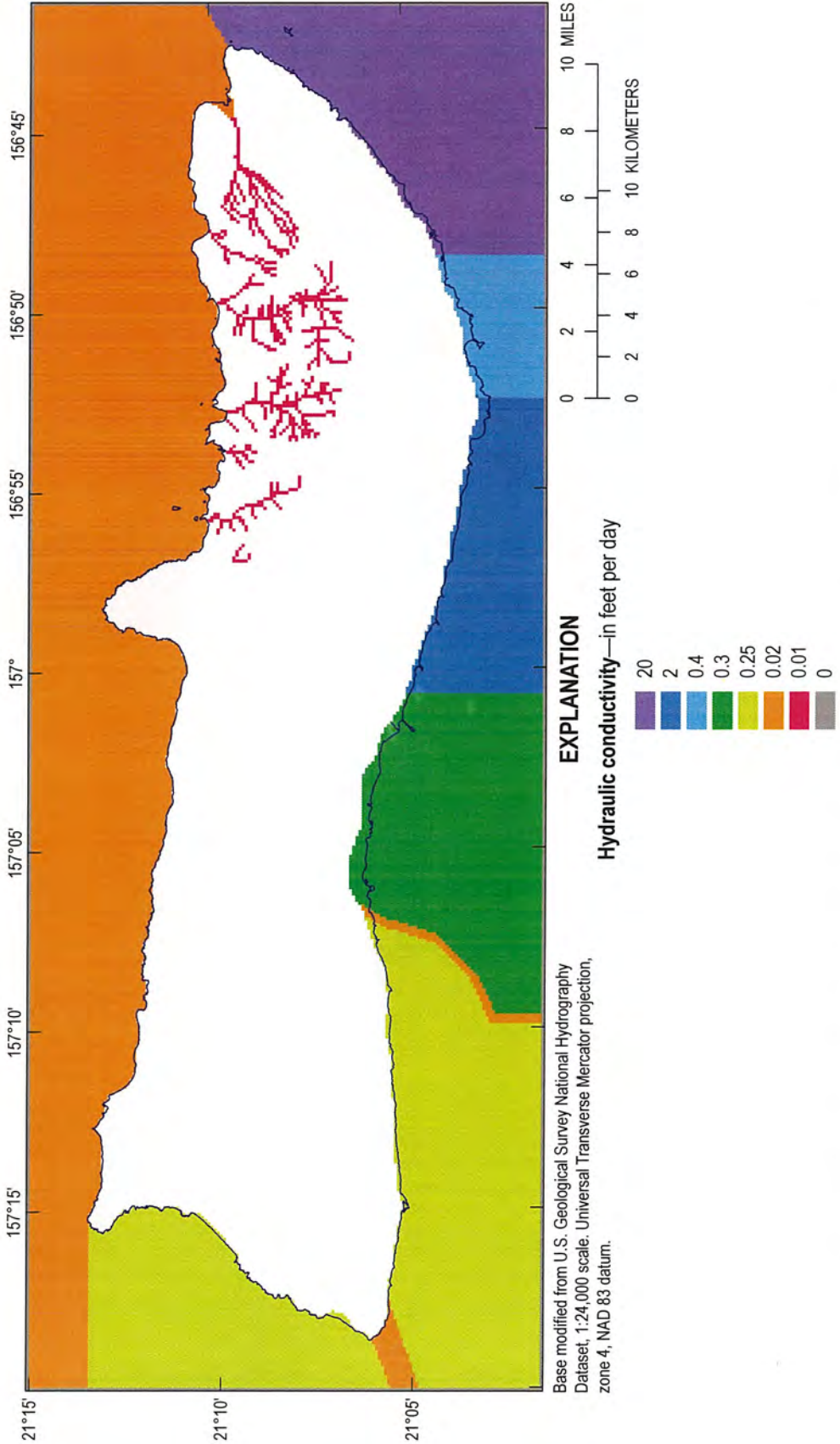


Figure 12. Map of Moloka'i, Hawai'i showing vertical-hydraulic-conductivity zones used in the island-wide, sharp-interface groundwater model.

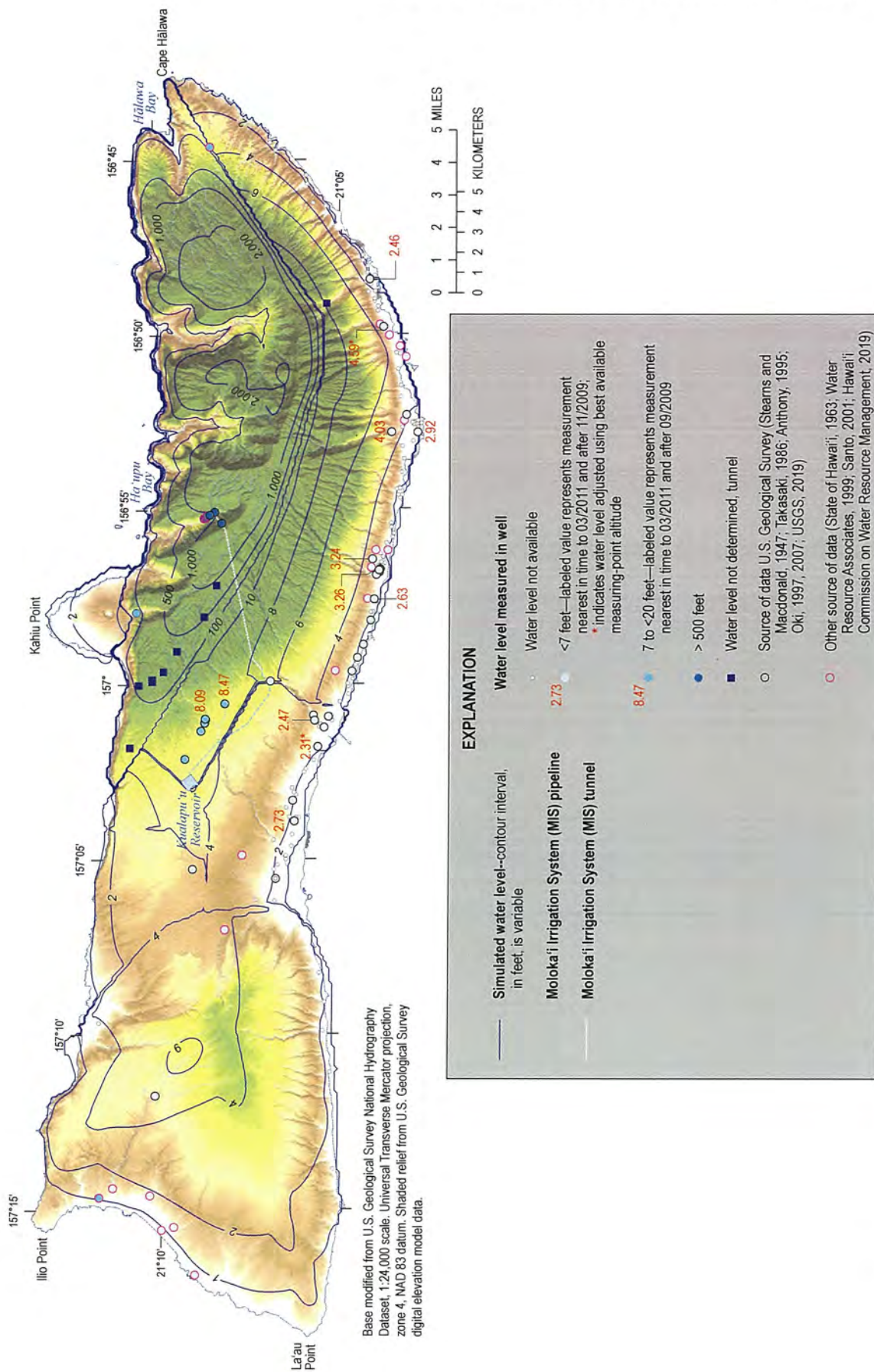


Figure 13. Map of Molokai, Hawaii showing groundwater levels under 2011 conditions simulated with the two-dimensional, island-wide numerical groundwater model.

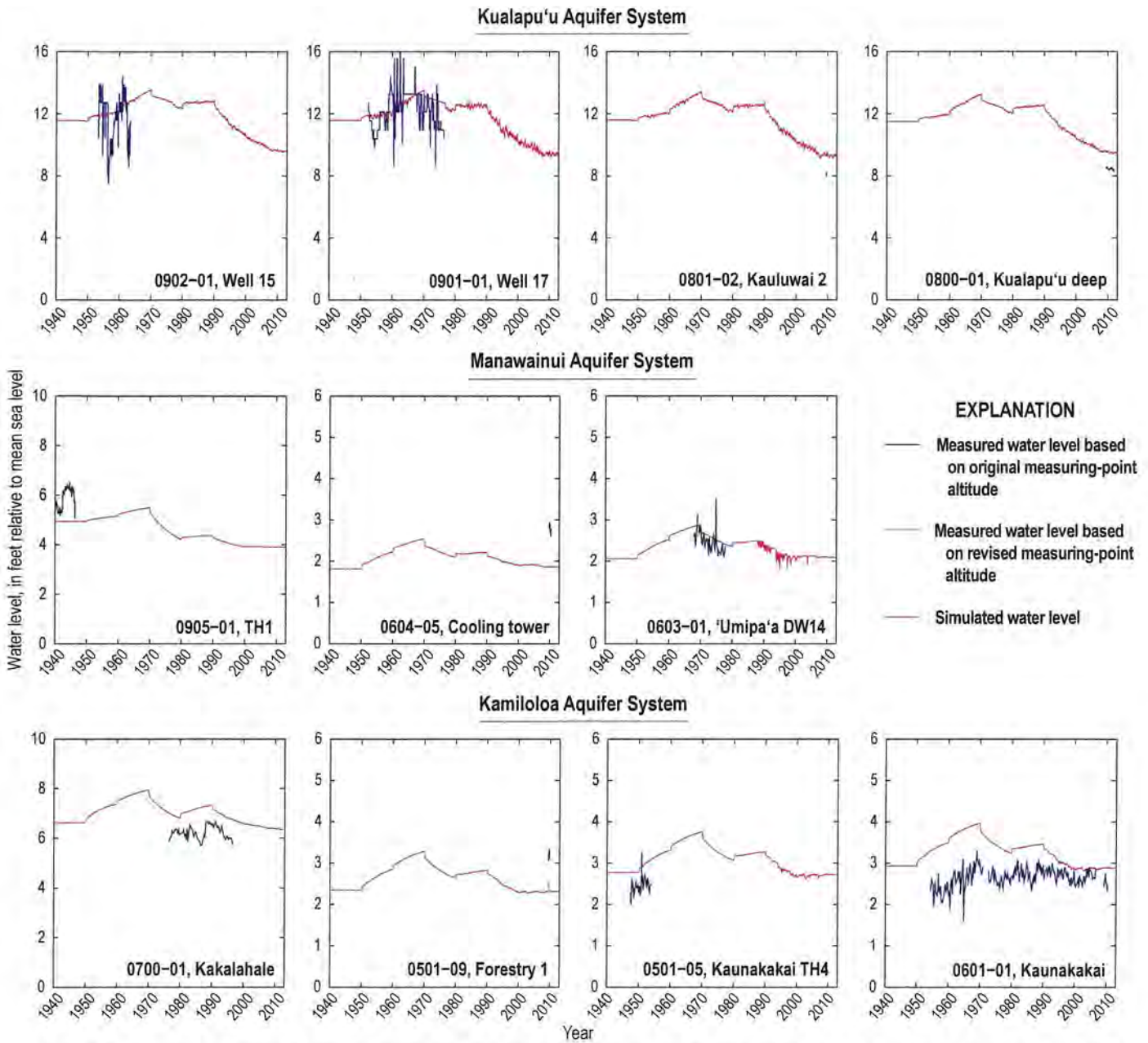


Figure 14. Multiple line graphs showing measured and simulated water levels at selected wells during 1940–2012, Moloka'i, Hawai'i. Explanation of water level based on revised measuring-point altitude is discussed on p. 33.

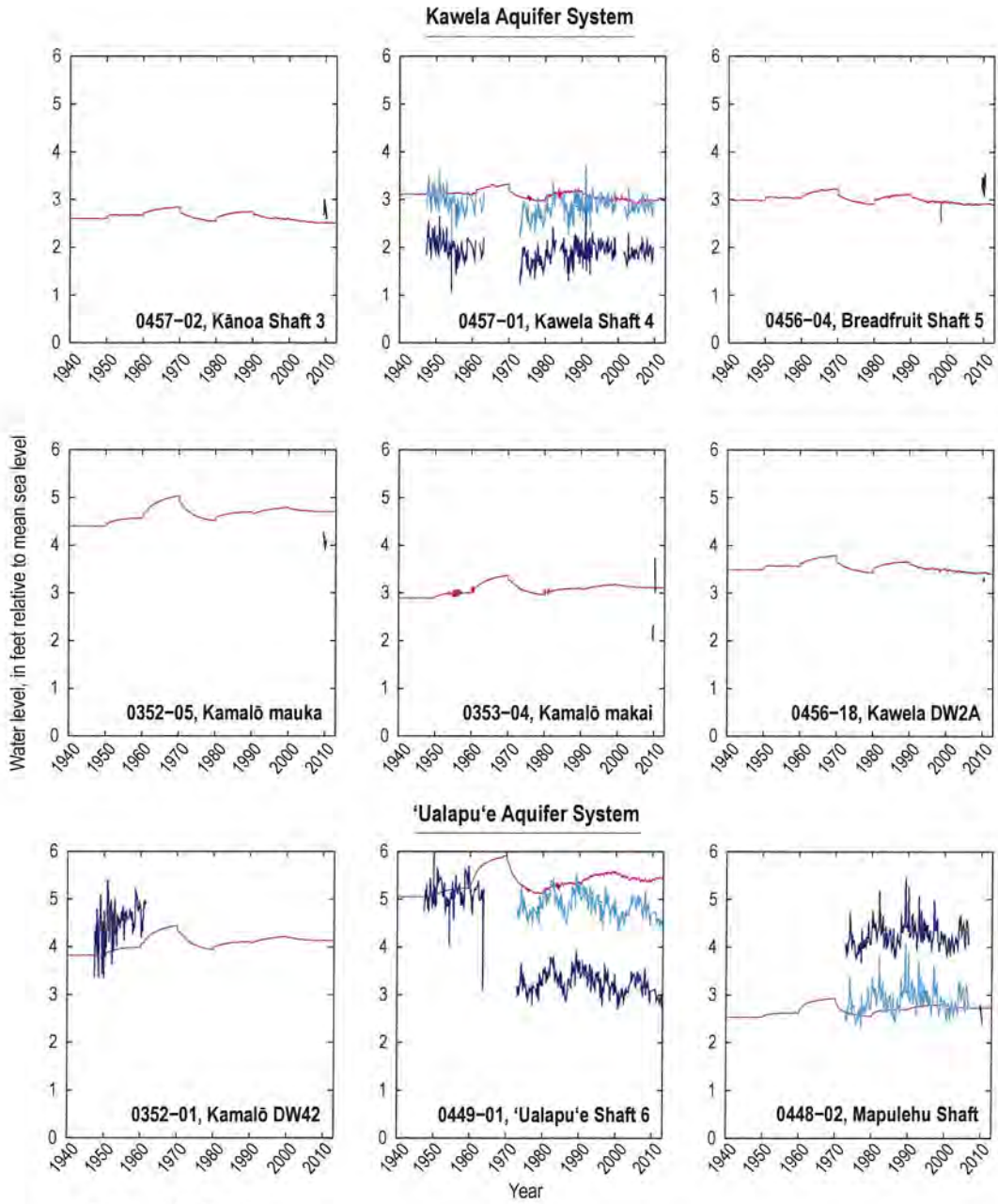
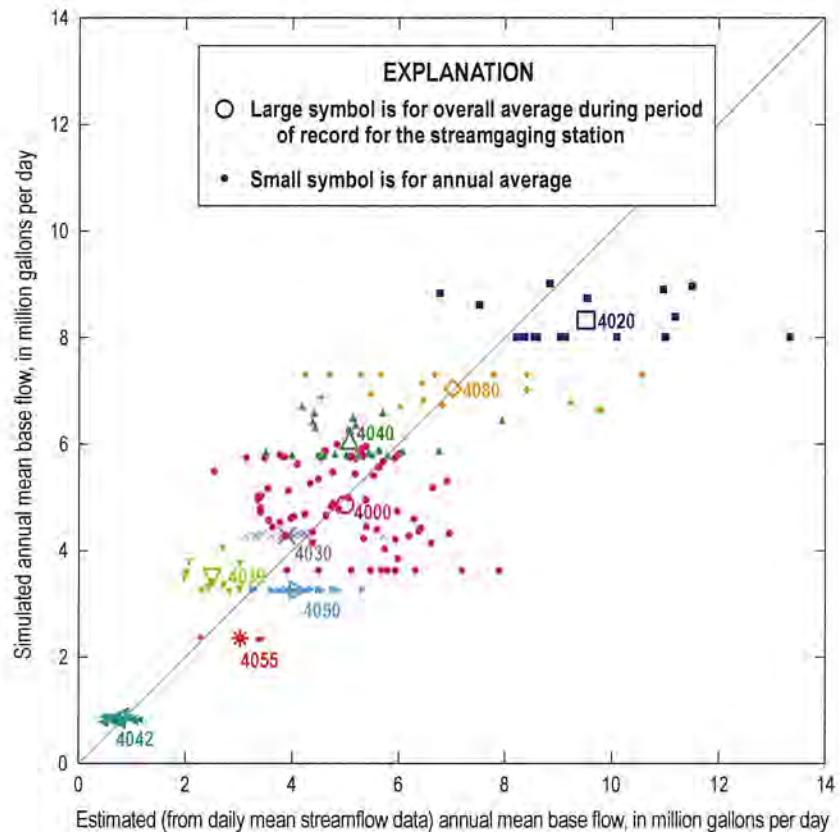


Figure 14.—Continued

Figure 15. Scatterplot of estimated (from daily mean streamflow data) and simulated base flow during 1940–2012, Moloka'i, Hawai'i. Numbers represent the U.S. Geological Survey streamgaging station abbreviated number (full number is preceded by "16" and ends in "00"). For each streamgaging station, the same color is used for the label and symbols.



Three-Dimensional Numerical Groundwater-Flow and Salinity Model

A three-dimensional numerical groundwater-flow and salinity-transport model was developed for part of the East Moloka'i volcano in central and southern Moloka'i using information from the two-dimensional island-wide groundwater-flow model. The three-dimensional model was developed using the saturated-unsaturated transport computer code (SUTRA; Voss and Provost, 2010), which simulates density-dependent groundwater-flow and salinity transport. For this study, SUTRA was used to represent the mixing of freshwater and saltwater and the formation of a brackish-water transition zone.

The three-dimensional groundwater-flow and salinity-transport model of central Moloka'i was developed using temporally varying recharge and withdrawal conditions during 1940–2012. The model accounts for spatially varying hydraulic properties of the rocks, recharge, and discharge. The hydraulic properties of the rocks were estimated from available data and were modified by varying them in the model to obtain reasonable agreement between model-calculated and observed water levels and salinities of pumped water. Model development also was guided generally by available geophysical surveys that estimated

the depth to the middle of the transition zone between freshwater and saltwater (see for example, MacCarthy, 1941; State of Hawai'i, 1997).

Model Mesh

The finite-element model mesh used in this study consists of 520,821 nodes and 495,388 variably sized elements (fig. 16). In the vertical direction, the mesh has 64 elements (layers) where the top of the model is not truncated by the ocean or the bottom of the model is not truncated by West Moloka'i Volcanics. The mesh has as few as 17 elements in the vertical direction near the eastern, offshore boundary where the ocean truncates the top of the model. The mesh covers the dike-free and marginal dike zone of East Moloka'i volcano and excludes the dike-complex area. The southern extent of the dike-complex area of East Moloka'i volcano forms the northern boundary of the model domain. Groundwater inflow from the dike complex is included and estimated from the island-wide model. The western boundary of the model is the confining unit at the presumed contact between West and East Moloka'i volcanoes. The mesh extends offshore to include the entire zone where fresh groundwater is expected to discharge to the ocean.

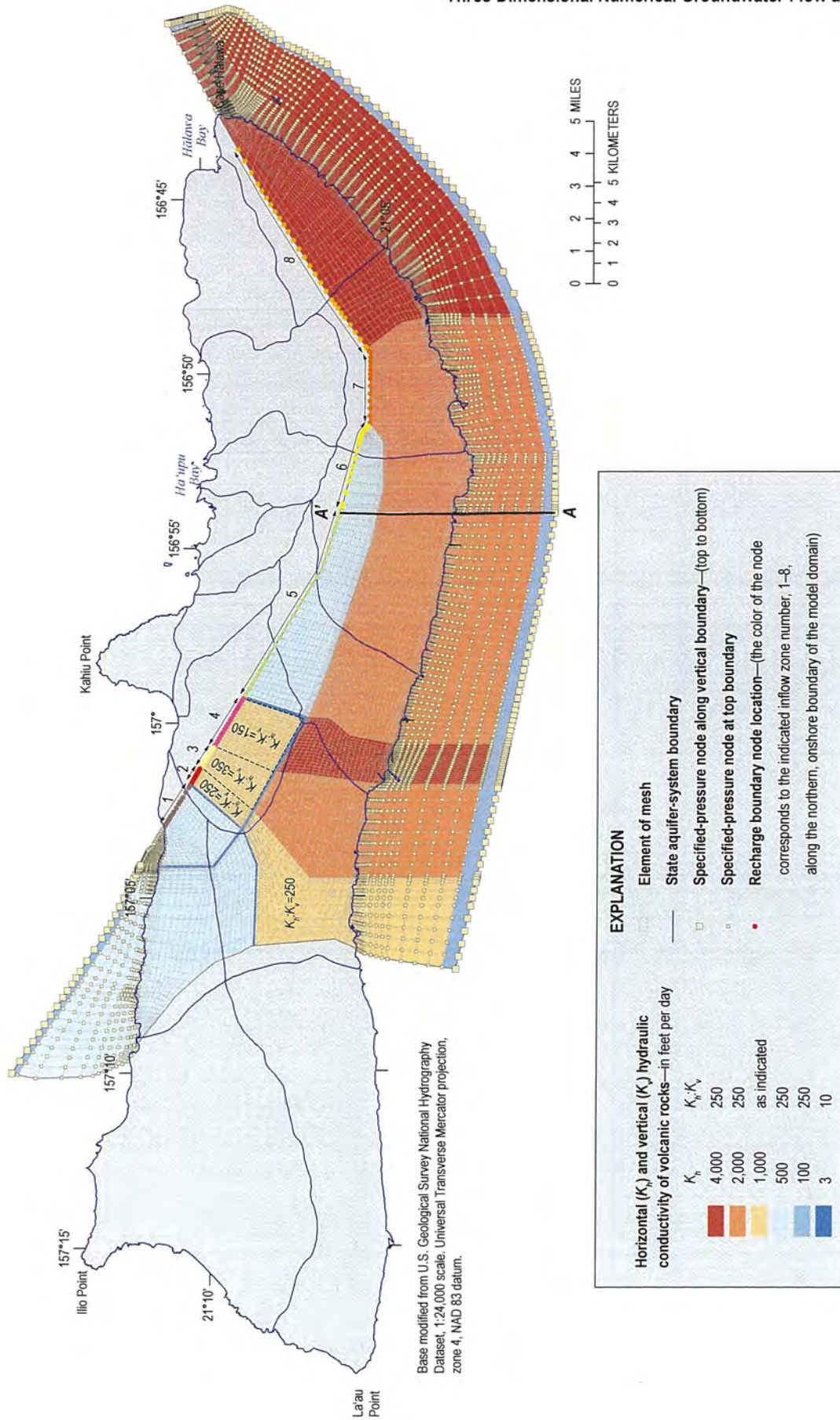


Figure 16. Hydraulic-conductivity zones for the volcanic rocks and boundary-condition nodes in the three-dimensional numerical groundwater model, Molokai, Hawaii.

The top of the model domain in onshore areas ranged between altitudes of 6.56 ft near the coast to 19.7 ft in inland areas and was truncated to include the water table without also including the entire unsaturated zone to the land surface. That is, the top of the model domain in onshore areas was set high enough to simulate unconfined, water-table conditions, but did not extend to the ground surface in most areas to avoid the need to simulate the entire unsaturated zone. Offshore, the top of the model was defined by the ocean floor. The bottom of the model domain was assumed to be a no-flow boundary defined by either the estimated contact between West and East Moloka'i volcanoes (fig. 5) near the western part of the model domain or an assumed aquifer bottom (Souza and Voss, 1987) and seismic-velocity discontinuity (Furumoto and others, 1970; Kauahikaua, 1993) at 5,906 ft below mean sea level. The bottom boundary near the model's western margin was assumed to deepen from west to east, defined by the estimated dip of the contact between West and East Moloka'i volcanoes (fig. 5). To avoid simulating an aquifer of near zero thickness, the bottom boundary was assigned an altitude of -500 ft where the estimated contact between West and East Moloka'i volcanoes was above that altitude. The depth of the bottom boundary increased in an eastward direction to an altitude of -5,906 ft (fig. 5).

Node spacing is variable in both the vertical and horizontal directions, and spacing is finest in the upper part of the aquifer and near areas of groundwater discharge or potential barriers to groundwater flow. The vertical spacing between nodes ranged from 1.64 ft in onshore areas above sea level to 924 ft near the bottom of the mesh where only saltwater is simulated (fig. 17).

Representation of the System

For modeling purposes, the model domain was divided into hydraulic-conductivity zones representing the volcanic rocks (fig. 16) and hydraulic-conductivity zones representing the coastal sediments overlying the volcanic rocks (fig. 18). Hydraulic conductivity is related to permeability, which is the parameter used by SUTRA, according to the following equation:

$$K = k\rho g/\mu \quad (1)$$

where

- K is hydraulic conductivity in units of length per unit time [LT^{-1}],
- k is permeability in units of area [L^2],
- ρ is fluid density in units of mass per unit length cubed [ML^{-3}],
- g is gravitational acceleration in units of length per unit time squared [LT^{-2}], and
- μ is fluid dynamic viscosity in units of mass per unit length per unit time [$ML^{-1}T^{-1}$], or force-time per unit area.

Because the CWRM aquifer-system boundaries do not necessarily represent subsurface hydrogeologic features, the zones generally were not aligned with the aquifer-system boundaries. The marginal dike zone of East Moloka'i volcano in

the central part of the island was divided into six zones to enable representation of water levels and to create a compartmentalized groundwater system consistent with the presence of dikes. The mostly dike-free East Moloka'i Volcanics was divided into six zones to enable representation of the spatial distribution of water levels. A west-trending minor rift zone of East Moloka'i volcano extends toward the western boundary of the model. Zones were created along the northern and southern offshore boundaries to simulate resistance to inflow and outflow of ocean water into the modeled domain.

Boundary Conditions

The lateral extent of the model domain is defined by boundaries that are either no-flow, recharge, or specified-pressure boundaries. The western boundary is formed by the eroded contact between West and East Moloka'i volcanoes and is treated as a no-flow boundary in the model. The northern boundary is formed by the southern extent of the East Moloka'i volcano dike complex and is a no-flow boundary offshore and a recharge or no-flow boundary onshore. Recharge from the East Moloka'i volcano dike complex is allowed to enter the onshore northern boundary between altitudes of -3.3 to -82 ft in the northwestern and southeastern parts (inflow zones 1 and 8 in fig. 16); between altitudes of -3.3 to -262 ft within the marginal dike zone area (inflow zones 2-6); and between altitudes of -3.3 to -164 ft for inflow zone 7 (fig. 16). Recharge rates along the onshore northern boundary were determined from the island-wide model and the depths were selected to allow recharge to occur mainly within the freshwater part of the groundwater body. The onshore northern boundary, below where recharge is allowed to occur, is treated as a no-flow boundary. The no-flow assumption is reasonable given that changing conditions within the modeled area are not expected to substantively affect hydrologic conditions within the low-permeability dike complex (see for example, Oki, 2006). The offshore, vertical boundaries of the model domain in both northern and southern Moloka'i are represented with a specified-pressure (hydrostatic ocean-water) boundary condition, except where the boundary is defined by the East Moloka'i volcano dike complex and assumed to be a no-flow boundary. At the offshore, vertical specified-pressure boundaries of the model, pressure at each node is equal to the pressure of a column of ocean water extending from the node to sea level. Water may either enter or exit the flow system across the vertical specified-pressure boundaries of the model. Water entering at the vertical specified-pressure boundaries has salinity equal to that of ocean water, and water exiting at the boundary has salinity equal to that in the adjacent aquifer.

The top of the offshore model domain is defined by the ocean-bottom bathymetry (fig. 5) (National Oceanic and Atmospheric Administration, 2010) and is a specified-pressure (hydrostatic ocean-water) boundary condition. Ocean water may enter the model domain at the top boundary in offshore areas or water from the aquifer may exit at the top boundary in offshore areas. The top of the onshore model domain is assumed to be at an altitude of 6.56 to 19.7 ft to account for

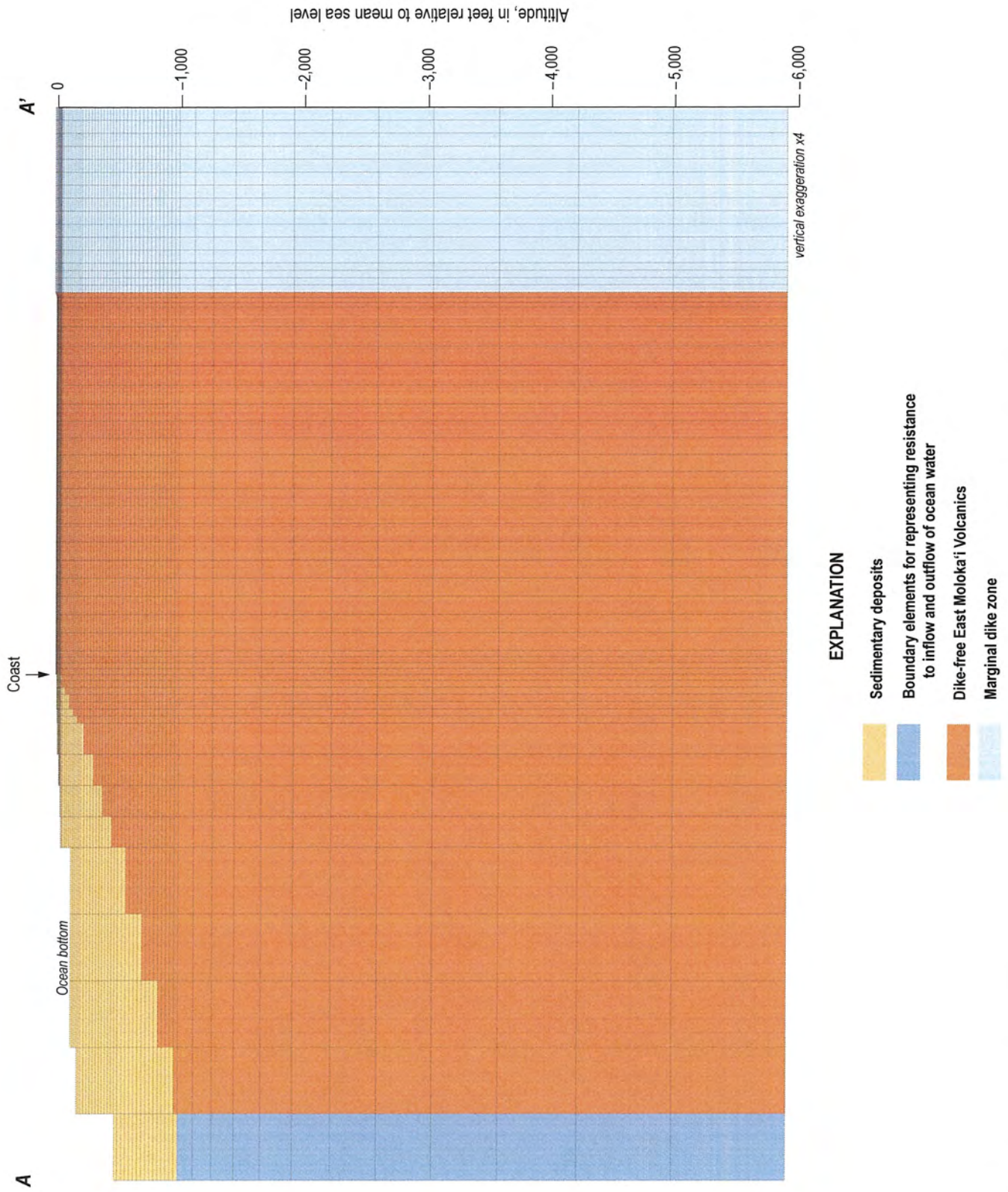


Figure 17. Vertical cross section of Molokai, Hawaii, model mesh through section A-A'. See figure 16 for location of section.

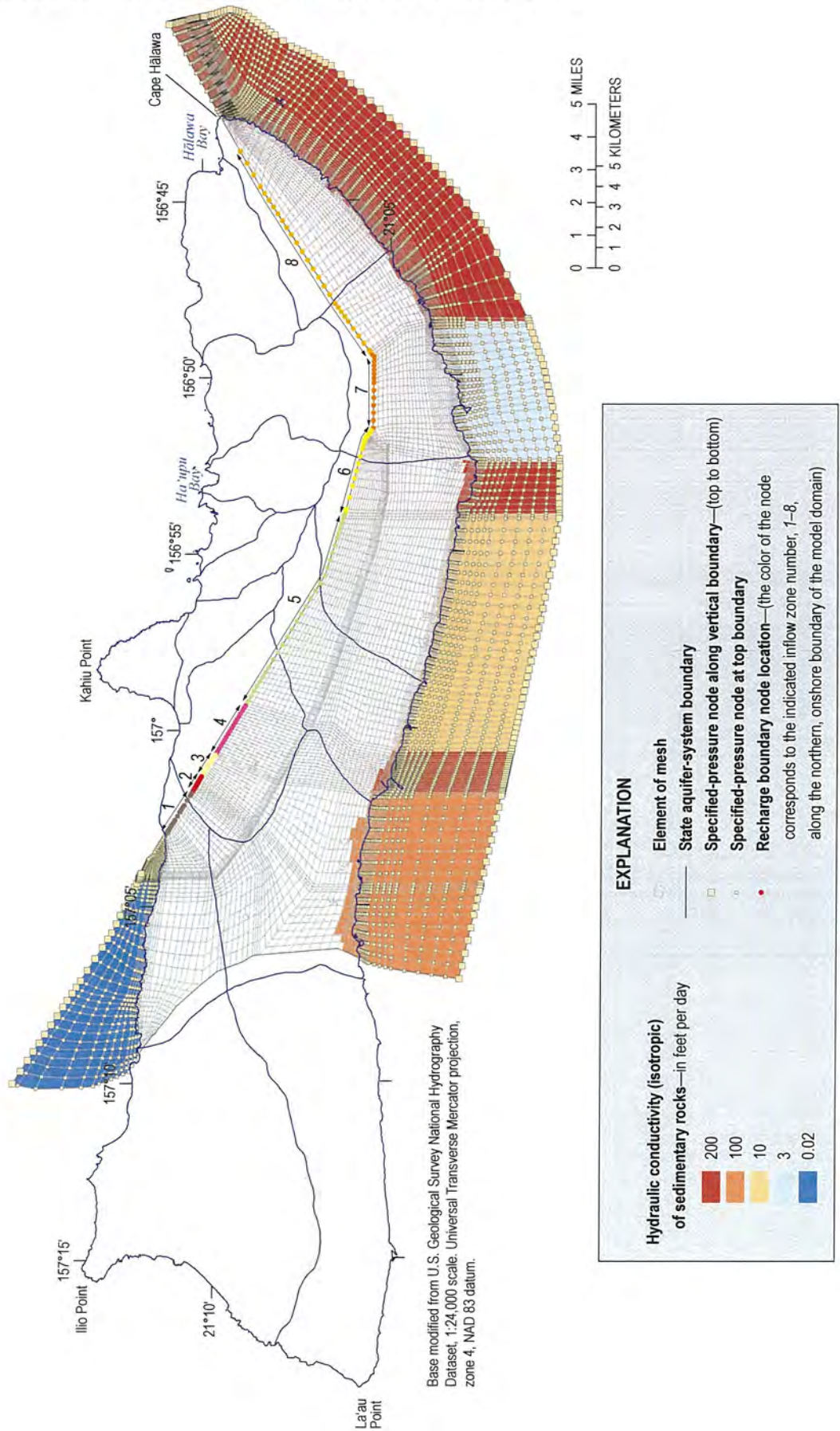


Figure 18. Map of Moloka'i, Hawai'i hydraulic-conductivity zones for the sedimentary rocks and boundary-condition nodes in the three-dimensional numerical groundwater model.

the water table. A simplified representation of the hydraulic characteristics of the unsaturated rocks was used in SUTRA to simulate the location of the water-table boundary.

Recharge

For this study, recharge to the onshore, top boundary of the model was estimated from a daily water budget of the six decadal periods from 1940 to 1999 (1940–49, 1950–59, 1960–69, 1970–79, 1980–89, 1990–99), and the 13-year period 2000–12 (appendix 1). Recharge assigned to each onshore node at the top of the model domain was based on the area-weighted average recharge from the irregularly shaped water-budget-model subareas within a Thiessen polygon surrounding the node. Recharge at the top of the model domain for the seven decadal periods ranged from about 44 to 69 Mgal/d (table 1). Recharge used in the groundwater model may differ slightly from that estimated by the water budget because of discretization near the coast that causes some onshore areas to be assigned to offshore cells. The recharge water at the top of the model domain was assumed to have a salinity 0.1 percent that of ocean water, except near the western part of the modeled area (west of Kaunakakai) where the recharge was assumed to have a salinity 0.2 percent that of ocean water to account for increased evapotranspiration. A salinity value 0.1 percent that of ocean water corresponds to a chloride concentration of about 20 mg/L (assuming ocean water has a chloride concentration of about 19,500 mg/L), which generally is consistent with lowest chloride concentrations in groundwater from wells on Molokaʻi (U.S. Geological Survey, 2019).

Recharge from the inflow of groundwater from the East Molokaʻi volcano dike complex was estimated from the island-wide model described above. For the six decadal periods from 1940 to 1999 (1940–49, 1950–59, 1960–69, 1970–79, 1980–89, 1990–99), and the 13-year period 2000–12 average total groundwater inflow from the East Molokaʻi volcano dike complex ranged from about 46.3 to 49.1 Mgal/d (table 1). The inflow from the inland boundary was assumed to have a salinity 0.05 percent that of ocean water. This salinity value corresponds to a chloride concentration of about 10 mg/L that is consistent with values for rainfall in Hawaiʻi (Swain, 1973).

Withdrawals

Information on groundwater withdrawals was obtained from CWRM, the County of Maui Department of Water Supply (MDWS), and previously published studies (Oki, 1997, 2006). The open or screened interval of each pumped well was represented in the model using one or more nodes within a vertical column of nodes in the mesh (table 2). Except for two wells in the Kualapuʻu area, withdrawals were uniformly distributed with depth. For the two exceptions (wells 0801–01 and 0801–02), withdrawals were assumed to be distributed nonuniformly based on information from well 0801–01 indicating improved production when the well was deepened from an altitude of about –51 ft to –91 ft. In the

model, 90 percent of the withdrawals from wells 0801–01 and 0801–02 were distributed to the bottom node of the vertical column of nodes representing each well, and the remaining 10 percent of the withdrawals were assigned to the other nodes representing each well. This nonuniform distribution was estimated during model calibration to match the salinity of pumped water from these wells. Simulated chloride concentrations from withdrawal wells represented by multiple nodes in the model were determined by weighting the salinity by the withdrawal at each node, which produces the overall withdrawal-weighted average.

Injection Wells

Total recharge to the aquifer from two wastewater injection-well facilities near Kaunakakai (fig. 7) was included in the model and averaged about 0.2 Mgal/d during 2004–12 based on data provided by the County of Maui (at the time of publication, the data had not been published by the County of Maui). During 2015, combined recharge from the two facilities averaged 0.29 Mgal/d. The injected wastewater was assumed to have a salinity of 1 percent that of ocean water, generally corresponding to the higher salinity values of pumped groundwater (fig. 9).

Water and Gravity Properties

For all model simulations, water was assigned a single fluid-compressibility value of 2.14×10^{-8} square feet per pound (ft^2/lb ; $4.47 \times 10^{-10} \text{ Pa}^{-1}$) and a dynamic-viscosity value of 2.1×10^{-5} slug/(ft·s) [$0.001 \text{ kg}/(\text{m} \cdot \text{s})$]. Viscosity is a property of a fluid that measures its resistance to deformation (flow). Dynamic viscosity is the ratio of shear stress (shear force per unit area) to velocity gradient.

Solute concentrations in the model are expressed as a mass fraction: mass of total dissolved solids (TDS) per unit mass of fluid. Pure freshwater was assigned a TDS concentration of zero and 100 percent saltwater was assigned a TDS concentration of 0.0357 kilograms per kilograms (kg/kg). For this study, the simulated chloride concentration of water was estimated from the TDS concentration using the following equation:

$$Cl = \text{TDS} \times 19,500 / 0.0357 \quad (2)$$

where

Cl is chloride concentration, in mg/L, and
TDS is simulated total dissolved solids concentration, in kg/kg.

The density of water was assumed to increase linearly with salinity from 62.32 pounds per cubic foot (lb/ft^3 ; 998.23 kilograms per cubic meter [kg/m^3]) for freshwater to 63.96 lb/ft^3 (1,024.51 kg/m^3) for saltwater. The saltwater specific gravity used for this study is consistent with the value of 1.026 from Wentworth (1939).

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Table 2. Values of top and bottom altitudes of open well interval used in the three-dimensional numerical groundwater model, Moloka'i, Hawai'i.

[--, no reliable data available]

Well no.	Top altitude, in meters ¹	Bottom altitude, in meters ²	Altitude, in feet ³	Bottom of solid casing depth, in feet	Bottom of open hole depth, in feet
0350-01	-31.1	-66.1	3.01	105	220
0350-05	0.0	-2.0	56	56	62.5
0350-07	-0.5	-3.5	<u>22.5</u>	24	34
0350-09	-66.1	-102.7	<u>8</u>	225	345
0352-01	<u>0.0</u>	<u>-1.0</u>	43.23	--	40
0352-09	-3.7	-6.1	<u>83</u>	95	103
0352-10	0.0	-9.8	42	42	74
0352-15	<u>0.0</u>	<u>-1.0</u>	--	--	15
0354-07	0.0	-2.1	24	24	31
0356-01	<u>0.0</u>	<u>-1.0</u>	20	--	19
0448-01	<u>0.0</u>	<u>-1.0</u>	--	--	12
0448-03	<u>0.0</u>	<u>-1.0</u>	30	--	32
0448-09	<u>0.0</u>	<u>-1.0</u>	--	--	--
0449-01	<u>0.0</u>	<u>-1.0</u>	42	41.5	41.5
0456-01	<u>0.0</u>	<u>-1.0</u>	14	--	15
0456-04	<u>0.0</u>	-2.7	25	--	34
0456-06	0.0	-3.0	223	223	233
0456-08	<u>0.0</u>	-3.0	225.24	225	235
0456-09	<u>0.0</u>	-2.9	234.56	234	244
0456-18	<u>0.0</u>	-2.3	225.59	223	233
0456-19	<u>0.0</u>	-2.6	224.33	220	233
0457-01	<u>0.0</u>	<u>-1.0</u>	38	--	39
0457-04	<u>0.0</u>	-2.7	235	234	244
0458-04	<u>0.0</u>	-2.3	39.56	37	47
0501-04	<u>0.0</u>	<u>-1.0</u>	28	--	28
0501-06	<u>0.0</u>	-1.8	15	13	21
0501-07	<u>0.0</u>	-8.8	31	--	60
0501-98	-29.0	-59.4	10	105	205
0501-99	<u>0.0</u>	<u>-1.0</u>	28	--	27.3
0546-01	<u>0.0</u>	<u>-1.0</u>	20	--	20
0546-02	-0.6	-14.6	386	388	434
0601-01*	<u>0.0</u>	-2.1	52	32	59
0602-03	<u>0.0</u>	-2.1	3	--	10
0603-01	<u>0.0</u>	<u>-1.0</u>	15	16	17
0603-06	<u>0.0</u>	<u>-1.0</u>	84	78	--
0604-03	<u>0.0</u>	-1.0	16	--	19
0604-04	<u>0.0</u>	-2.7	36	28	45
0604-05	<u>0.0</u>	-1.2	34	--	38
0605-01	<u>0.0</u>	-31.6	<u>16</u>	--	120
0605-02	<u>0.0</u>	-56.0	<u>16</u>	--	200
0605-03	<u>0.0</u>	<u>-1.0</u>	--	--	--
0705-05	<u>0.0</u>	-8.2	254	251	281
0706-02	<u>0.0</u>	<u>-1.0</u>	23	--	25
0801-01	-0.9	-27.1	1006	1009	1095
0801-02	-8.2	-26.5	1013	1040	1100
0801-03	<u>0.0</u>	-29.3	1040	1027	1136
0901-01	<u>0.0</u>	-25.2	981.3	870	1064
0902-01	<u>0.0</u>	-23.9	884.5	883	963

¹Underlined values indicate estimate or reassignment to zero if top altitude is above sea level.²Underlined values indicate estimate or reassignment to -1.0 m if bottom altitude is above an altitude of -1.0 m.³Underlined values indicate estimate based on topographic map or reported depth to water and assumed water level.

In the model, molecular diffusion of a solute is driven by concentration gradients in the fluid and may take place in the absence of groundwater flow. Molecular diffusion of a solute in a fluid is characterized by the molecular diffusivity. In the model, molecular diffusivity was assigned a value of 1.1×10^{-8} square feet per second (ft²/s; 1.0×10^{-9} square meters per second [m²/s]). In the model, acceleration due to gravity was assigned a value of 32.1 ft/s² (9.79 m/s²).

Unsaturated Zone

For this study, the unsaturated zone characteristics were represented using simple linear relations between water saturation and pressure and between water saturation and relative permeability. Voss (1999) indicates that the details of the unsaturated zone are not important for tracking the water table and can be simplified using linear relations to reduce computational effort needed for the variable-density simulation. The simplified saturation-pressure relation is of the form:

$$S = 1 + (P - P_{entry}) \times (1 - S_{res}) / (P_{entry} - P_{min}) \quad (3)$$

where

S	is saturation constrained to the range from S_{res} to 1 (volume fraction, unitless),
P	is pressure in units of force per unit area [ML ⁻¹ T ⁻²],
P_{entry}	is entry pressure above which $S = 1$, assigned a value of zero [ML ⁻¹ T ⁻²],
P_{min}	is minimum pressure below which $S = S_{res}$, assigned a value of $-1,021$ lb/ft ² ($-48,863$ Pa) [ML ⁻¹ T ⁻²], and
S_{res}	is residual saturation, assigned a value of 0.01.

The simplified saturation-permeability relation is of the form:

$$k_{rel} = (S - 0.01) / 0.99 \quad (4)$$

where

k_{rel}	is relative permeability (a multiplier for permeability), constrained to the range from 0 to 1 (unitless).
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Initial Conditions and Time Step

A steady-state simulation using recharge values from the 1940s and zero withdrawals was used to generate initial conditions for the 1940–2012 transient simulation. A 0.5-day time step was used for the transient simulation.

Estimation of Hydraulic Properties

Hydraulic conductivity and effective porosity values were estimated by trial and error. Rock-matrix compressibility was

assigned a value of 1.2×10^{-7} ft²/lb (2.5×10^{-9} Pa⁻¹), and the effective porosity was assigned a value of 0.05.

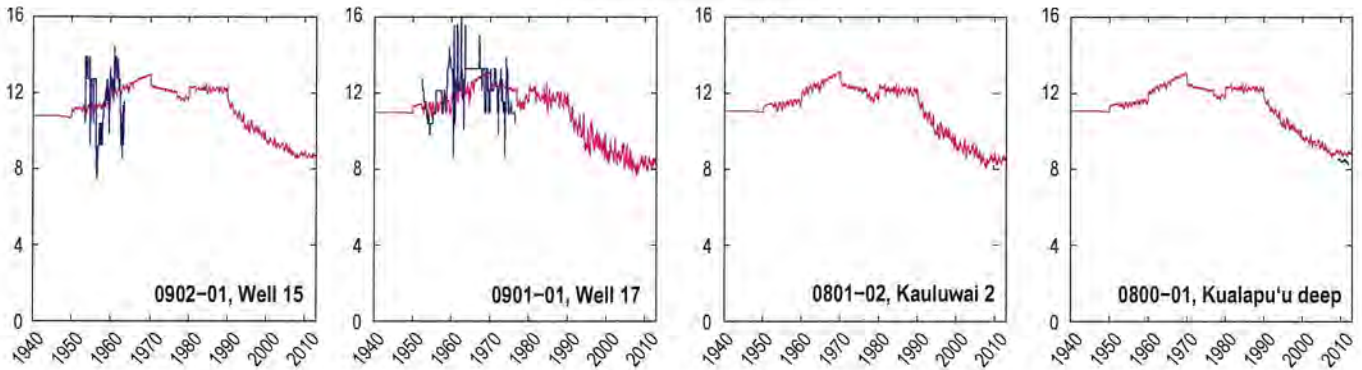
The estimated hydraulic-conductivity values generally are consistent with previous estimates and are consistent with the conceptual model of higher values for the dike-free volcanic rocks and lower values for the dike-intruded areas. Estimated horizontal hydraulic-conductivity values were 500, 1,000 or 2,000 ft/d for the mainly dike-free volcanic rocks; 500 or 1,000 ft/d for the marginal dike-zone compartments between groundwater barriers; 3 ft/d for the zones representing groundwater barriers to flow (dikes or other features); and between 0.02 and 200 ft/d for coastal sedimentary deposits overlying volcanic rocks (figs. 16, 18). Horizontal anisotropy was not represented in the model. Vertical anisotropy (ratio of horizontal-to-vertical hydraulic conductivity) was 250:1 for the mainly dike-free volcanic rocks; 150:1, 250:1, or 350:1 for marginal dike-zone compartments between groundwater barriers; 10:1 for the zones representing groundwater barriers to flow (dikes or other features); and 1:1 for sedimentary deposits.

For regional solute-transport simulation, SUTRA requires specification of three longitudinal dispersivity values and three transverse dispersivity values. Above an altitude of $-1,312$ ft, longitudinal dispersivity values used in the model were 250 ft, 250 ft, and 5 ft in directions of maximum (horizontal longitudinal) hydraulic conductivity, middle (horizontal transverse) hydraulic conductivity, and minimum (vertical) hydraulic conductivity, respectively. Above an altitude of $-1,312$ ft, transverse dispersivity values used in the model were 0.16 ft in all three directions (maximum hydraulic conductivity, middle hydraulic conductivity, and minimum hydraulic conductivity). Below an altitude of $-1,312$ ft, which is entirely within the saltwater zone represented in the model, longitudinal dispersivity values were multiplied by a factor of 2 and transverse dispersivity values were multiplied by a factor of 20 to enhance numerical stability without otherwise affecting the results.

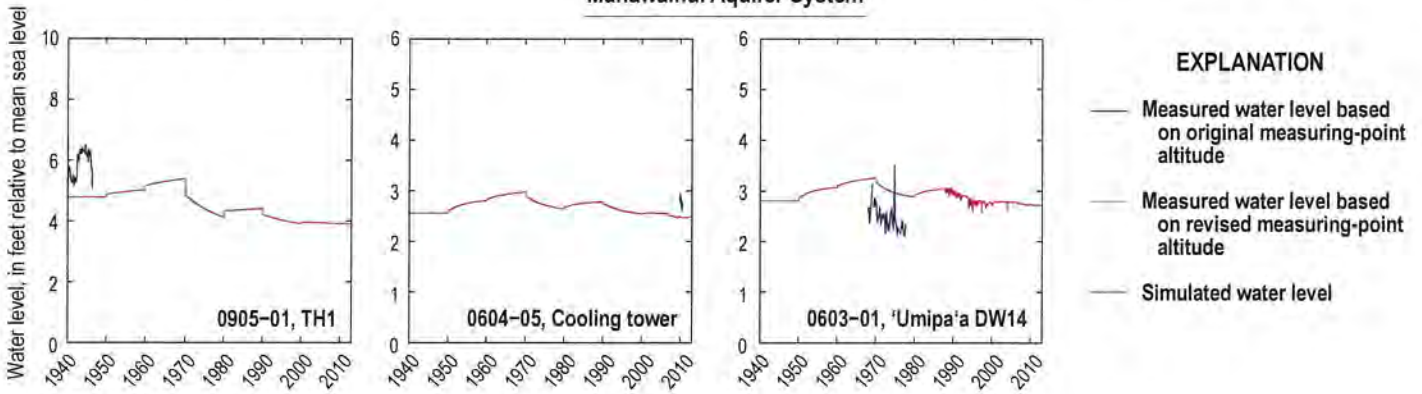
Simulation Results

Simulated transient water levels are in reasonable agreement with observed water levels (fig. 19). At a few sites, available water levels (U.S. Geological Survey, 2019) are uncertain because of uncertainty in the reference, measuring-point altitude used at the site. For example, water levels measured at well 0449–01 appear to shift downward by about 2 ft starting in the 1970s until mid-2014. However, updated (2014) surveying indicates that this downward shift may have been related to an inaccurate starting, reference-mark altitude used for a 1973 survey. Additional surveying in 2015 indicates that water levels at well 0501–09 may be high by about 0.8 ft and water levels at well 0457–01 may be low by about 1 ft. Although these survey results reflect the best available information, determining the accuracy of the earlier surveys may not be possible given potential site changes over time and unretrievable starting reference marks used for the early surveys.

Kualapu'u Aquifer System



Manawainui Aquifer System



Kamiloloa Aquifer System

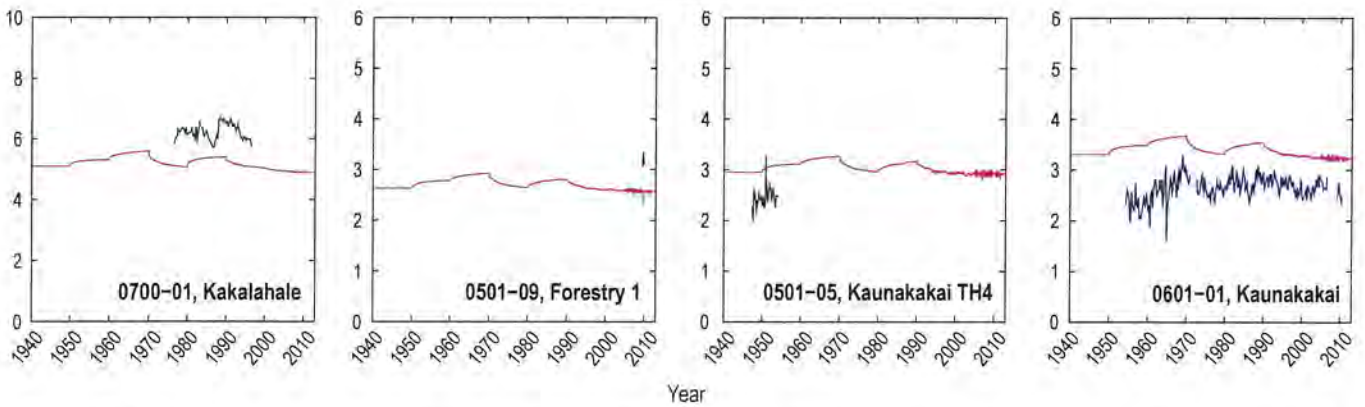


Figure 19. Multiple line graphs showing measured and simulated (from three-dimensional numerical groundwater model) water levels at selected wells during 1940–2012, Moloka'i, Hawai'i.

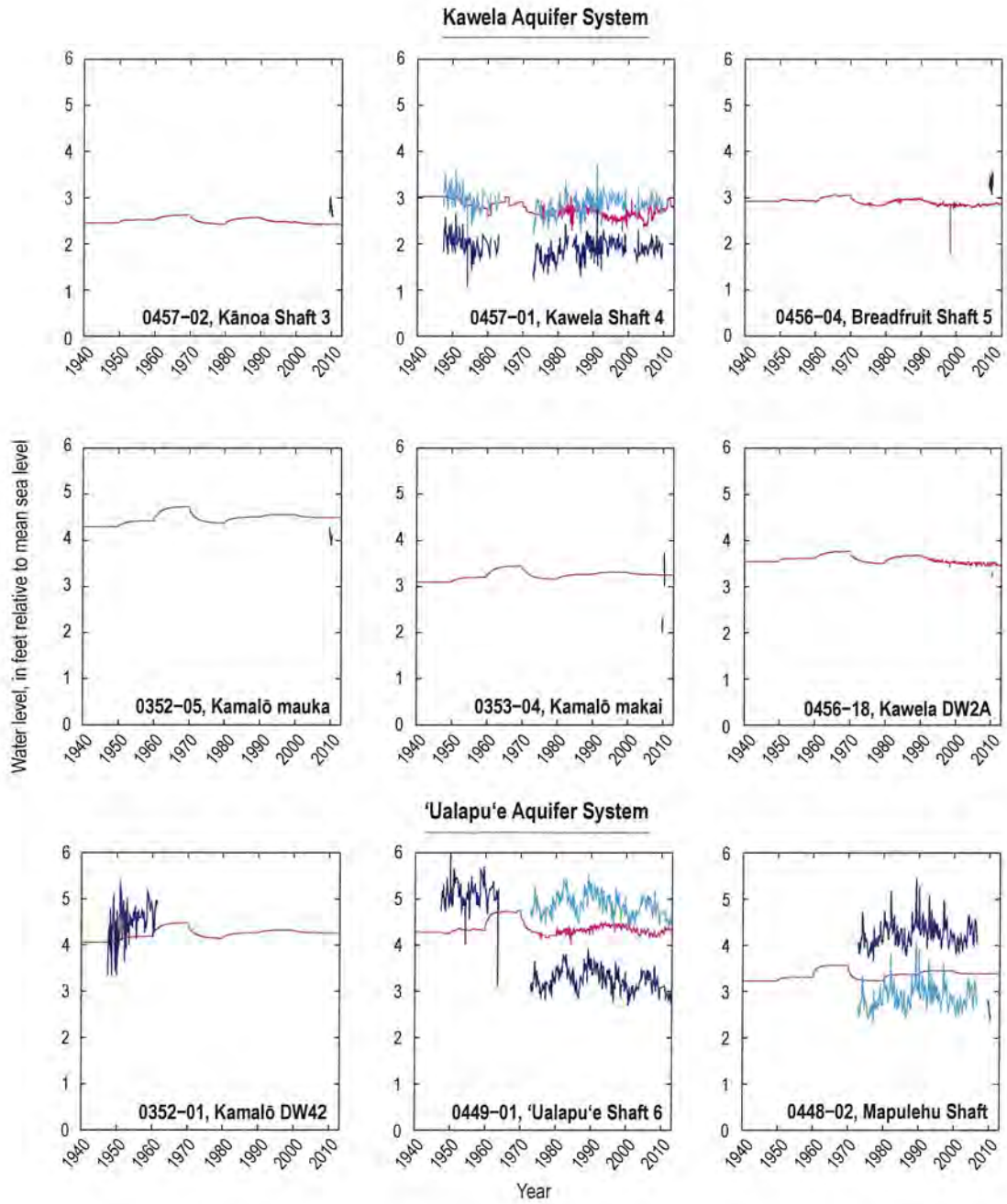


Figure 19.—Continued

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Simulated chloride concentrations of water withdrawn by wells are in general agreement with observed chloride concentrations, with the exception of chloride concentrations from well 0902-01, which has unexpectedly high observed concentrations (fig. 20). Because of large uncertainties in local-scale aquifer heterogeneity that can affect the quality of water withdrawn by a well, the model cannot be expected to produce an exact match between simulated and observed chloride concentrations. However, the model does appear to generally capture the overall quality of water withdrawn by wells in the Kualapu'u area.

Deep monitoring well 0800-01 in the Kualapu'u area is open to the aquifer from the water table to the bottom of the well (Oki and Bauer, 2001). Vertical salinity profiles are collected from this well by trolling a logging tool down the well. The logging tool records fluid specific conductance with depth during its descent. For this study, chloride concentrations were

estimated from the fluid specific-conductance values using the following equation:

$$Cl = SC \times 19,500 / 46,000 \quad (5)$$

where

- Cl* is chloride concentration, in milligrams per liter (mg/L), and
- SC* is measured fluid specific conductance, in microsiemens per centimeter (μS/cm).

The simulated and measured salinity profiles, in terms of estimated chloride-concentration (fig. 21), indicate that the model underestimates the thickness of freshwater near well 0800-01. This underestimation of freshwater thickness may reflect model inaccuracy or possibly intraborehole flow that can occur in wells of this type with long open or screened intervals (see for example, Rotzoll, 2012). The simulated

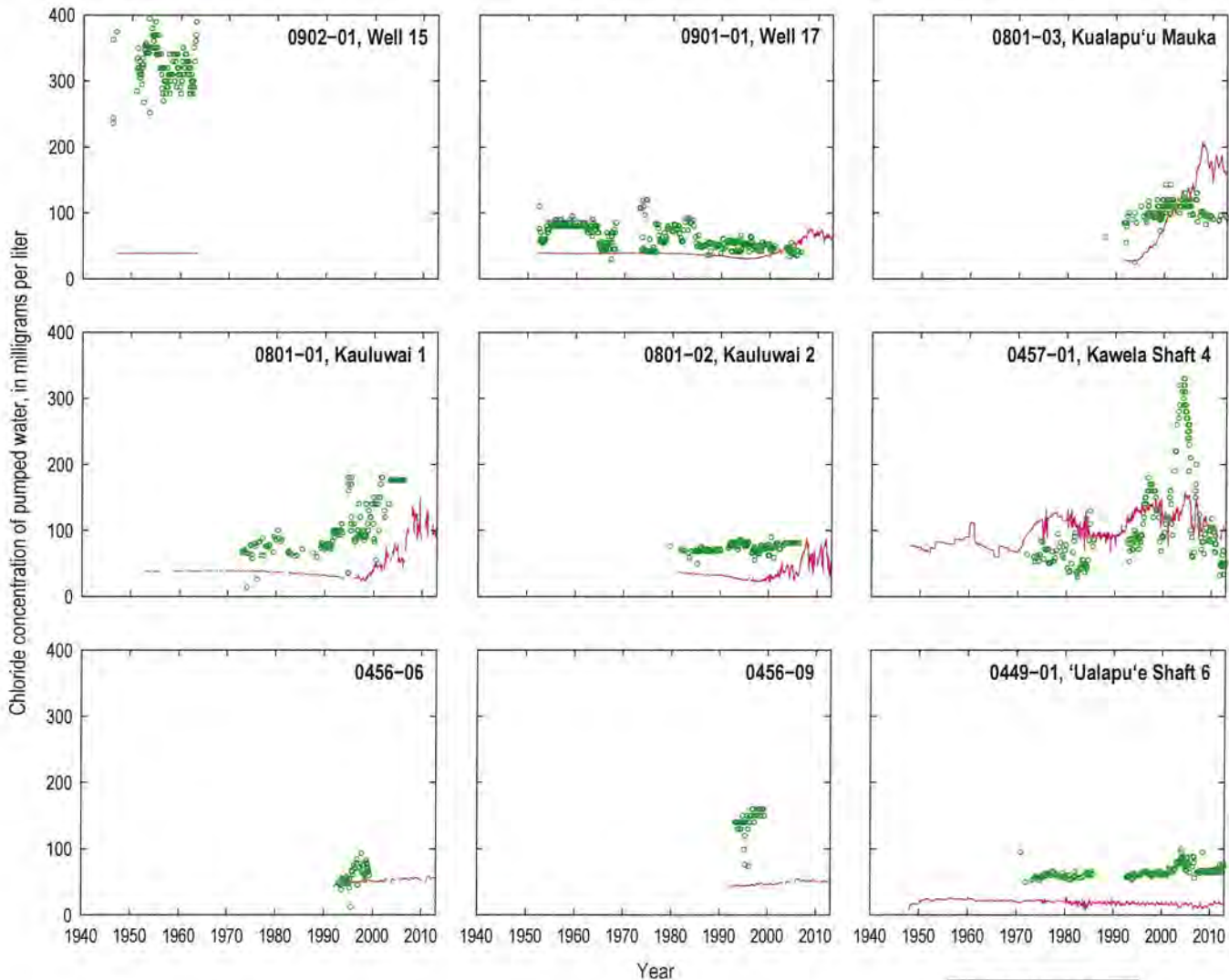


Figure 20. Multiple time-series graphs showing measured and simulated chloride concentration of pumped water from selected wells during 1940-2012, Moloka'i, Hawai'i.

EXPLANATION	
—	Simulated
□	Measured

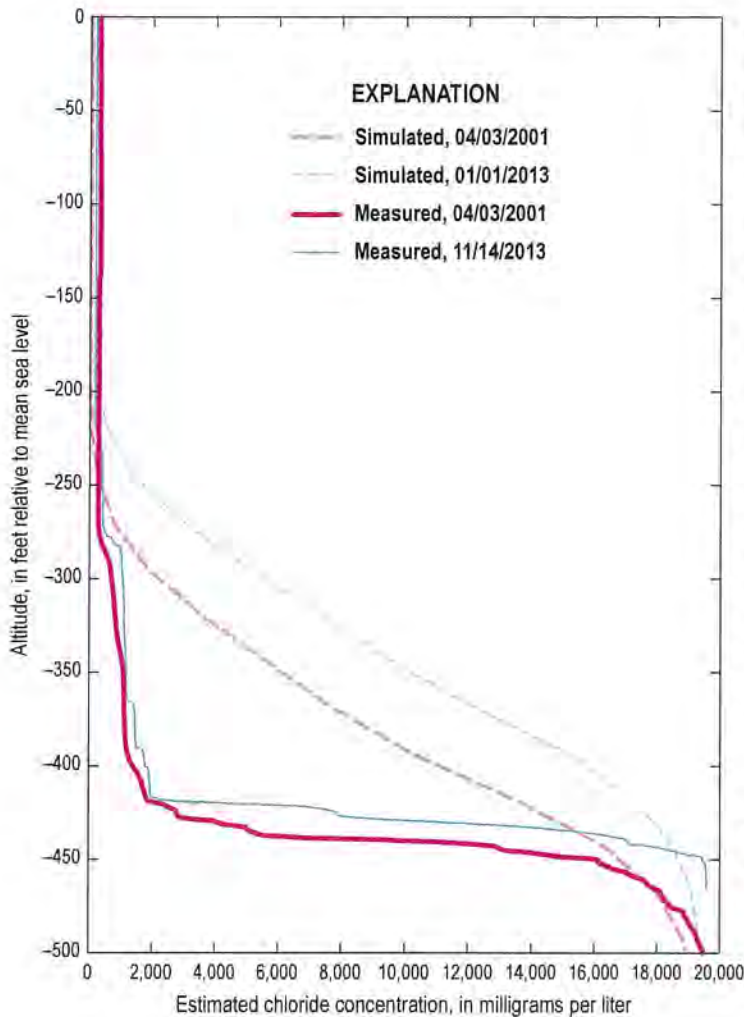


Figure 21. Simulated and measured salinity profiles from selected times in terms of estimated chloride concentration, Kualapu'u deep monitor well 0800-01, Moloka'i, Hawai'i.

freshwater thickness near well 0800-01 potentially can be increased by reducing the hydraulic conductivity in the model below an altitude of about -150 ft near well 0800-01. In both simulated dates, the model tends to be conservative from the standpoint of freshwater thickness near well 0800-01.

Simulation of Selected Withdrawal Scenarios

The hydrologic effects of withdrawals on the quality of water withdrawn by wells and coastal discharge of groundwater were simulated with the three-dimensional numerical groundwater-flow and salinity-transport model. The following simulated withdrawal scenarios were selected in consultation with water managers and stakeholders: (1) a baseline scenario using average

recharge (1978–2007 rainfall and 2010 land cover) and average 2016–17 withdrawals; (2) a scenario using average recharge and withdrawals from existing wells at pending (as of January 2019) water-use permit rates; (3) six scenarios using average recharge and selected withdrawals from existing and proposed new wells; and (4) a scenario using reduced recharge and selected withdrawals from existing and proposed new wells. Selected withdrawal scenarios of interest (table 3) were developed in collaboration with representatives from MDWS, DHHL, Office of Hawaiian Affairs, and CWRM. All simulations were run for a sufficient time to reach steady-state conditions.

For each scenario, the estimated chloride concentration (derived from the simulated total dissolved solids concentration; see equation 2 above) of groundwater withdrawn by each well in the Kualapu'u aquifer system was generalized into one of three categories: (1) less than 100 mg/L; (2) greater than or equal to 100 mg/L and less than or equal to 200 mg/L; and (3) greater than 200 mg/L (or possibly greater than 250 mg/L in some cases). Although the EPA secondary standard for chloride concentration in drinking water is 250 mg/L, maintaining the chloride concentration of produced water less than 200 mg/L helps provide a buffer to avoid concentrations greater than 250 mg/L.

Coastal groundwater discharge from model nodes was summed into 1,640 by 1,640 ft (500 by 500 m) cells to provide a generalized representation of discharge conditions. For this study, the freshwater component of coastal groundwater discharge was used to evaluate changes in discharge associated with each scenario relative to a baseline scenario. The freshwater discharge was computed from a salinity mass balance, assuming freshwater has zero salinity. For example, if the salinity of the groundwater discharge is 25 percent that of ocean water, then the discharge represents a mixture of 25 percent ocean water and 75 percent freshwater. Thus, if the discharge from a cell is 1 Mgal/d and the salinity of the discharge is 25 percent that of ocean water, then the saltwater component of the discharge is estimated to be 0.25 Mgal/d and the freshwater component of the discharge was estimated to be 0.75 Mgal/d. Although the groundwater model can be used to quantify the reduction in fresh groundwater discharge associated with increased withdrawals, the model cannot ascertain whether the reductions are ecologically, culturally, societally, or economically acceptable or not. Whether or not a reduction in fresh groundwater discharge is acceptable may be dependent on factors including the sensitivity of nearshore ecosystems to salinity change and the importance of the area from cultural or subsistence perspectives.

Scenario 1—Baseline

A baseline scenario was developed to provide a basis for evaluating existing withdrawals in the Kualapu'u aquifer system, in terms of salinity from production wells, and estimating change in coastal groundwater discharge associated with each withdrawal scenario. The baseline scenario used average recharge conditions,

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Table 3. Withdrawal rates used in the modeled scenarios, Kualapu'u, Moloka'i.

[Green values indicate simulated chloride concentration of pumped water is less than 100 mg/L; orange, italicized values indicate simulated chloride concentration of pumped water is between 100 and 200 mg/L; bold purple, underlined values indicate simulated chloride concentration is greater than 200 mg/L; *, simulated chloride concentration of pumped water exceeds 250 mg/L; mg/L, milligrams per liter; Mgal/d, million gallons per day; --, no withdrawal simulated]

Scenario	Withdrawal rate, in Mgal/d								Total	Recharge, in Mgal/d
	Kauluwai 1, 0801-01	Kauluwai 2, 0801-02	Kualapu'u Mauka, 0801-03	Well 17, 0901-01	Proposed Well A	Proposed Well B	Proposed Well C	Proposed Well D		
1. Baseline with 2016–17 average withdrawals	0.0897	0.3556	0.5634	0.5128	--	--	--	--	1.5215	103.4
2. Pending water-use permit rates in the Kualapu'u aquifer system	--	0.6370	0.9000 ¹	1.1440	--	--	--	--	2.6810	103.4
3. Increased rate for well 0801-03; domestic-need rate for well 0901-01; add Proposed Well B	--	0.5950	0.9500	0.1380	--	0.7926	--	--	2.4756	103.4
4. Increased rate for well 0801-03; pending water-use permit rate for well 0901-01; add Proposed Well B	--	<u>0.5950*</u>	<u>0.9500*</u> ¹	1.1440	--	0.7926	--	--	3.4816	103.4
5. Proposed Well A replaces well 0801-03; domestic-need rate for well 0901-01; add Proposed Well B	--	0.5950	--	0.1380	0.9500	0.7926	--	--	2.4756	103.4
6. Proposed Well A replaces well 0801-03; pending water-use permit rate for well 0901-01; add Proposed Well B	--	<u>0.5950</u>	--	<u>1.1440*</u>	0.9500	0.7926	--	--	3.4816	103.4
7. Proposed Well B replaces well 0801-03; pending water-use permit rate for well 0901-01; add Proposed Well A	--	<u>0.5950</u>	--	<u>1.1440</u>	0.7926	0.9500	--	--	3.4816	103.4
8. Proposed Well B replaces well 0801-03; pending water-use permit rate for well 0901-01; add Proposed Wells C and D	--	<u>0.5950*</u>	--	1.1440	--	0.9500	<u>0.7926¹</u>	1.0000	4.4816	103.4
9. Same as scenario 6 but reduce recharge by 15 percent	--	<u>0.5950*</u>	--	<u>1.1440*</u>	<u>0.9500*</u>	<u>0.7926*</u>	--	--	3.4816	87.9

¹Negative chloride concentration in the freshwater zone simulated at one to three of the 16 nodes representing the well was assigned a value of 195 mg/L.

estimated using 1978–2007 rainfall and 2014 land-cover conditions, and average withdrawals during 2016–17. Recharge values from the baseline scenario were about 48 Mgal/d from the inland boundary and 55 Mgal/d from the top, onshore boundary within the modeled area. Total simulated withdrawal represented in the model from wells in the Kualapu‘u aquifer system was 1.5215 Mgal/d (0.0897 Mgal/d from well 0801–01; 0.3556 Mgal/d from well 0801–02; 0.5634 Mgal/d from well 0801–03; and 0.5128 Mgal/d from well 0901–01). An average injection rate of 0.3 Mgal/d was assumed for the injection-well facilities near Kaunakakai for this baseline scenario and all other scenarios.

For the baseline scenario, the estimated chloride concentrations of groundwater withdrawn from wells in the Kualapu‘u aquifer system are less than 100 mg/L (fig. 22). Model results from the Kualapu‘u aquifer system indicate that withdrawals under the baseline condition will produce water with chloride concentrations below the EPA secondary standard for drinking water, although the model likely does not represent the exact salinity of withdrawn water from an individual well for several reasons (see Limitations section below).

Simulated freshwater coastal discharge varies spatially and ranges from less than 10,000 gallons per day to more than 2 Mgal/d within the 1,640 by 1,640 ft cells (fig. 22). Rates of freshwater coastal discharge generally are low in the drier western part of the modeled area, where groundwater recharge rates are low. Within the modeled area, most of the fresh groundwater discharges to the southern coast rather than the northern coast, which is related to the longer southern coastline and the relation between areas of recharge and discharge. Although the simulated distribution of fresh groundwater discharge may not accurately represent local conditions, simulated fresh groundwater discharge occurs in and near areas of coastal fishponds and subsistence sites (Matsuoka and others, 1994) (fig. 22).

Scenario 2—Pending (January 2019) Water-Use Permit Rates in Kualapu‘u Aquifer System

Scenario 2 includes the same recharge and withdrawals as the baseline scenario, except simulated withdrawals from wells in the Kualapu‘u aquifer system were changed to the CWRM pending water-use permit rates (as of January 2019), which correspond to a total withdrawal of 2.6810 Mgal/d in the Kualapu‘u aquifer system (0.6370 Mgal/d from well 0801–02; 0.9000 Mgal/d from well 0801–03; and 1.1440 Mgal/d from well 0901–01). In the model, permitted withdrawals from wells 0801–01 and 0801–02 were combined and simulated at well 0801–02, which is consistent with the typical operation of these wells (with well 0801–02 serving as the primary source).

For scenario 2, the estimated chloride concentrations of groundwater withdrawn from wells 0801–02 and 0901–01 are less than 100 mg/L, whereas the estimated chloride concentration of groundwater withdrawn from well 0801–03 is in the 100 to 200 mg/L category (fig. 23). The simulated chloride concentrations from production wells indicate that withdrawals from the Kualapu‘u aquifer system for scenario 2 remain below the EPA secondary standard.

Increased withdrawals in scenario 2 relative to the baseline scenario cause a reduction of freshwater discharge to the nearshore area (fig. 23). In general, the simulated reductions in freshwater discharge are greatest in areas nearest the Kualapu‘u aquifer system, although the effects are widespread. The discharge reductions are more widespread along the southern coast relative to the northern coast, partly because the simulated discharge to the northern coast is limited, which is the case in all scenarios. The greatest simulated reduction in fresh groundwater discharge from a 1,640 by 1,640 ft cell occurs northwest of the Kualapu‘u aquifer system and was 0.080 Mgal/d, representing 13 percent of the baseline discharge from that cell. The greatest simulated relative reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell was 25 percent, corresponding to a reduction of 0.012 Mgal/d (fig. 23).

Scenario 3—Increased Rate for Well 0801–03; Domestic-Need Rate for Well 0901–01; Additional Withdrawal from Proposed Well B

Scenario 3 includes the same recharge and withdrawals as the baseline scenario, except simulated withdrawals from wells in the Kualapu‘u aquifer system totaled 2.4756 Mgal/d (0.5950 Mgal/d from well 0801–02; 0.9500 Mgal/d from well 0801–03; 0.1380 Mgal/d from well 0901–01; and 0.7926 Mgal/d from proposed well B). For scenario 3, combined withdrawals from wells 0801–01 and 0801–02 were increased to 0.5950 Mgal/d relative to the 2016–17 rate (0.4453 Mgal/d) in the baseline scenario. As in scenario 2, the withdrawals from wells 0801–01 and 0801–02 were combined and simulated at well 0801–02, consistent with the typical operation of these wells. For scenario 3, withdrawal from well 0801–03 was increased to 0.9500 Mgal/d relative to the 2016–17 rate (0.5634 Mgal/d) in the baseline scenario to account for projected demand, and withdrawal from well 0901–01 was reduced to 0.1380 Mgal/d relative to the average 2016–17 rate (0.5128 Mgal/d) in the baseline scenario. The reduced rate is intended to represent the withdrawal from well 0901–01 used to meet mainly domestic needs only. Also included in scenario 3 is additional withdrawal of 0.7926 Mgal/d from proposed well B to account for projected demand.

For scenario 3, the estimated chloride concentrations of groundwater withdrawn from wells 0801–02, 0801–03, 0901–01, and proposed well B are less than 100 mg/L (fig. 24). The simulated chloride concentrations from production wells indicate that withdrawals from the Kualapu‘u aquifer system for scenario 3 remain below the EPA secondary standard.

Increased withdrawals in scenario 3 relative to the baseline scenario cause a reduction of freshwater discharge to the nearshore area (fig. 24). The pattern of freshwater discharge reduction for scenario 3 (and all other scenarios) is similar to that of scenario 2, with widespread reductions but greatest reductions in areas nearest the Kualapu‘u aquifer system. The greatest simulated reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell occurs northwest of the Kualapu‘u aquifer system and was 0.063 Mgal/d, representing 10 percent of the baseline discharge from that cell. The greatest

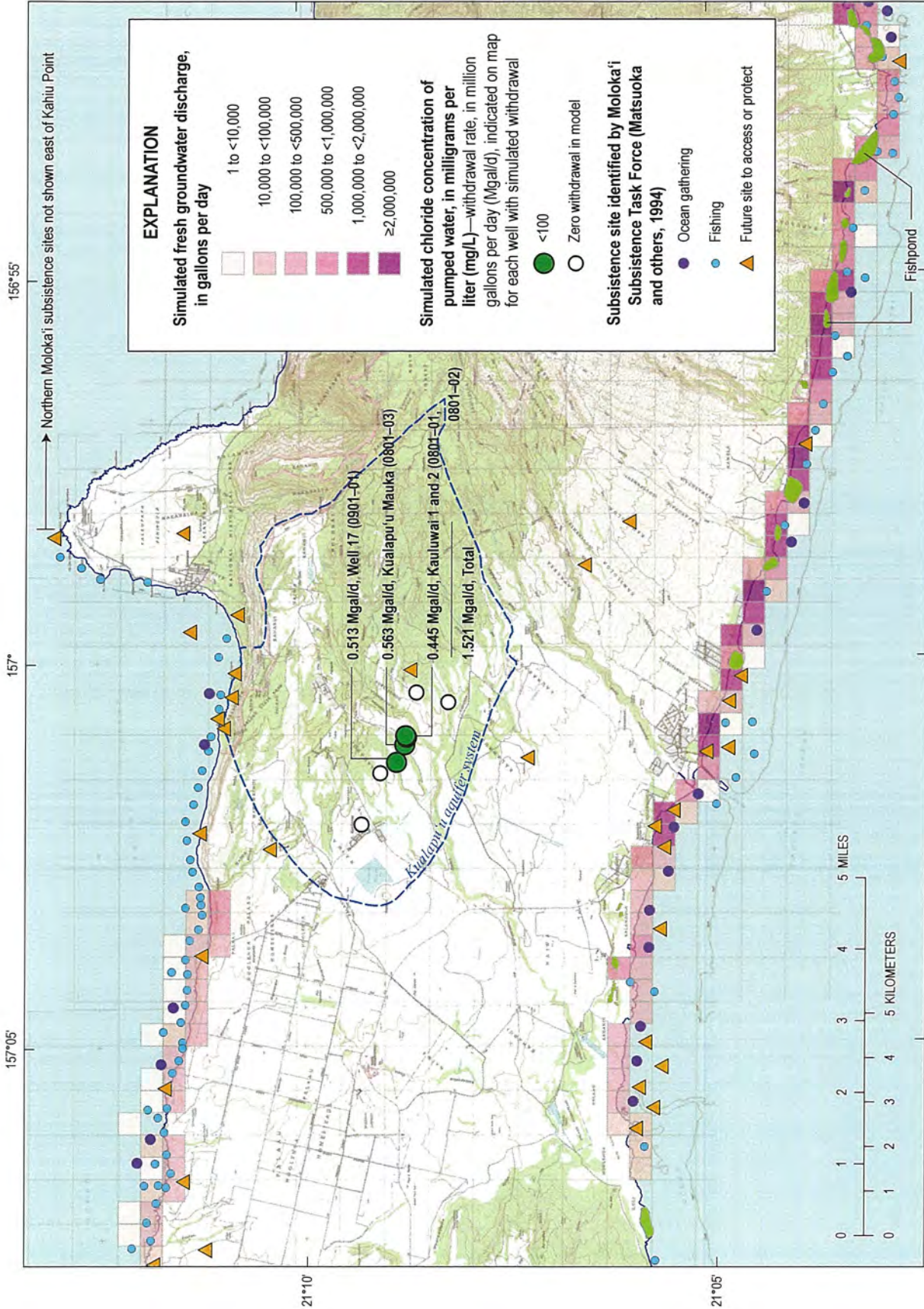


Figure 22. Map of the Kualapu'u aquifer system on Moloka'i, Hawai'i showing scenario 1 (baseline condition) withdrawal rates from wells and fresh groundwater discharge.

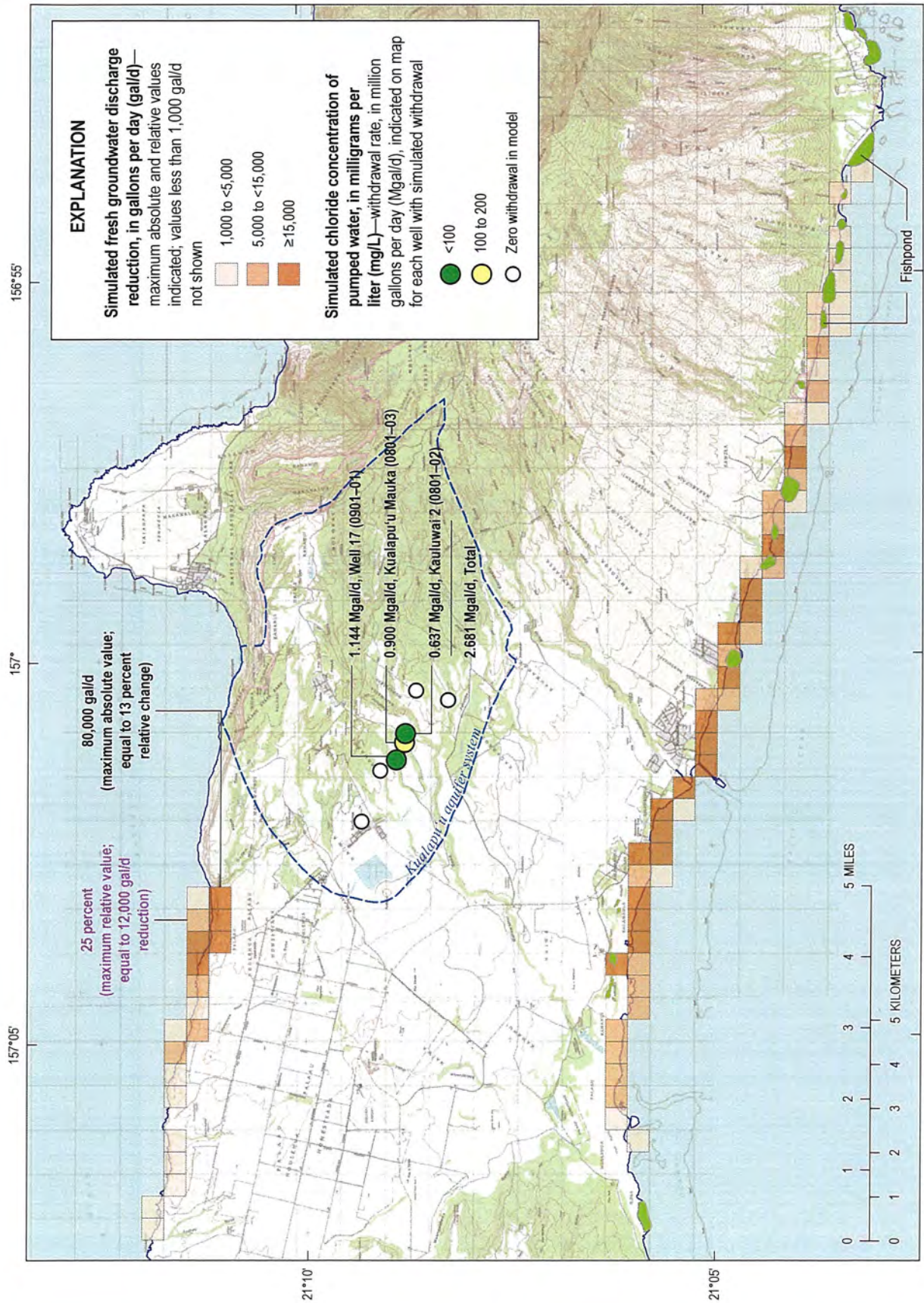


Figure 23. Map of the Kualapu'u aquifer system on Molokai, Hawaii showing scenario 2 withdrawal rates from wells and fresh groundwater-discharge reduction (relative to scenario 1).

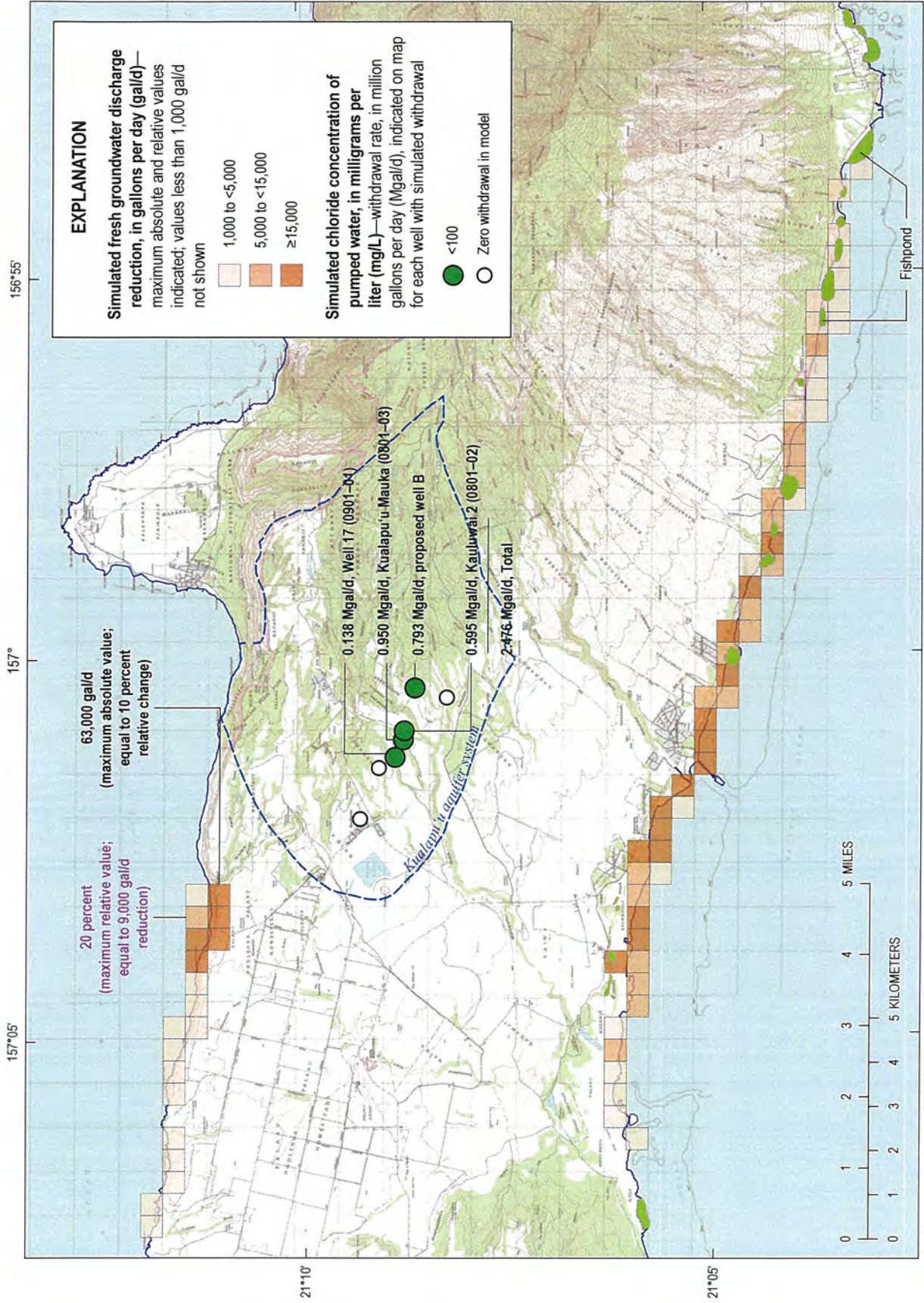


Figure 24. Map of the Kualapu'u aquifer system on Moloka'i, Hawai'i showing scenario 3 withdrawal rates from wells and fresh groundwater-discharge reduction (relative to scenario 1).

simulated relative reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell was 20 percent, corresponding to a reduction of 0.009 Mgal/d (fig. 24).

Scenario 4—Increased Rate for Well 0801–03; Pending Water-Use Permit Rate for Well 0901–01; Additional Withdrawal from Proposed Well B

Recharge and withdrawals in scenario 4 are identical to those in scenario 3, except the withdrawal from well 0901–01 was increased from 0.1380 to 1.1440 Mgal/d, consistent with the pending water-use permit rate. For scenario 4, total withdrawal from wells in the Kualapu‘u aquifer system is 3.4816 Mgal/d.

For scenario 4, the estimated chloride concentration of groundwater withdrawn from proposed well B is less than 100 mg/L, the estimated chloride concentration of groundwater withdrawn from well 0901–01 is between 100 and 200 mg/L, and the estimated chloride concentrations of groundwater withdrawn from wells 0801–02 and 0801–03 exceed the EPA secondary standard of 250 mg/L (fig. 25). Blending water from wells 0801–02 and 0801–03 with water produced from other wells could be considered as an option to supply water with chloride concentration less than 250 mg/L.

Increased withdrawals in scenario 4 relative to the baseline scenario cause a reduction of freshwater discharge to the nearshore area (fig. 25). The greatest simulated reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell occurs northwest of the Kualapu‘u aquifer system and was 0.133 Mgal/d, representing 21 percent of the baseline discharge from that cell. The greatest simulated relative reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell was 39 percent, corresponding to a reduction of 0.019 Mgal/d (fig. 25).

Scenario 5—Proposed Well A Replaces Well 0801–03; Domestic-Need Rate for Well 0901–01; Additional Withdrawal from Proposed Well B

Recharge and withdrawals in scenario 5 are identical to those in scenario 3, except the withdrawal of 0.9500 Mgal/d from well 0801–03 was transferred to proposed well A. This scenario is intended to reflect a possible new well site, with well 0801–03 being retained for standby purposes. For scenario 5, total withdrawal from wells in the Kualapu‘u aquifer system is 2.4756 Mgal/d, identical to the total withdrawal in scenario 3 and greater than the total withdrawal in the baseline scenario (1.5215 Mgal/d).

For scenario 5, the estimated chloride concentrations of groundwater withdrawn from wells 0801–02, 0901–01, and proposed wells A and B are less than 100 mg/L (fig. 26). Spreading out withdrawals from the Kualapu‘u aquifer system in scenario 5, relative to scenario 3, causes an overall improvement in the simulated quality of water withdrawn from production wells in the Kualapu‘u aquifer system.

Increased withdrawals in scenario 5 relative to the baseline scenario cause a reduction of freshwater discharge to the nearshore area (fig. 26). The greatest simulated reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell occurs northwest of the Kualapu‘u aquifer system and was 0.065 Mgal/d, representing 10 percent of the baseline discharge from that cell. The greatest simulated relative reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell was 20 percent, corresponding to a reduction of 0.010 Mgal/d (fig. 26).

Scenario 6—Proposed Well A Replaces Well 0801–03; Pending Water-Use Permit Rate for Well 0901–01; Additional Withdrawal from Proposed Well B

Recharge and withdrawals in scenario 6 are similar to those in scenario 4, except the withdrawal of 0.9500 Mgal/d from well 0801–03 was transferred to proposed well A. For scenario 6, the total withdrawal from wells in the Kualapu‘u aquifer system is 3.4816 Mgal/d, identical to the total withdrawal in scenario 4.

For scenario 6, the estimated chloride concentration of groundwater withdrawn from proposed well B is less than 100 mg/L, the estimated chloride concentration of groundwater withdrawn from proposed well A is between 100 and 200 mg/L, the estimated chloride concentration of groundwater withdrawn from well 0801–02 exceeds 200 mg/L, and the estimated chloride concentration of groundwater withdrawn from well 0901–01 exceeds 250 mg/L (but is less than 275 mg/L) (fig. 27). Thus, spreading out withdrawals from the Kualapu‘u aquifer system in scenario 6, relative to scenario 4, results in improved water quality from using proposed well A instead of well 0801–03, but also causes an increase in chloride concentration of groundwater withdrawn from well 0901–01.

Increased withdrawals in scenario 6 relative to the baseline scenario cause a reduction of freshwater discharge to the nearshore area (fig. 27). The greatest simulated reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell occurs northwest of the Kualapu‘u aquifer system and was 0.136 Mgal/d, representing 22 percent of the baseline discharge from that cell. The greatest simulated relative reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell was 40 percent, corresponding to a reduction of 0.019 Mgal/d (fig. 27).

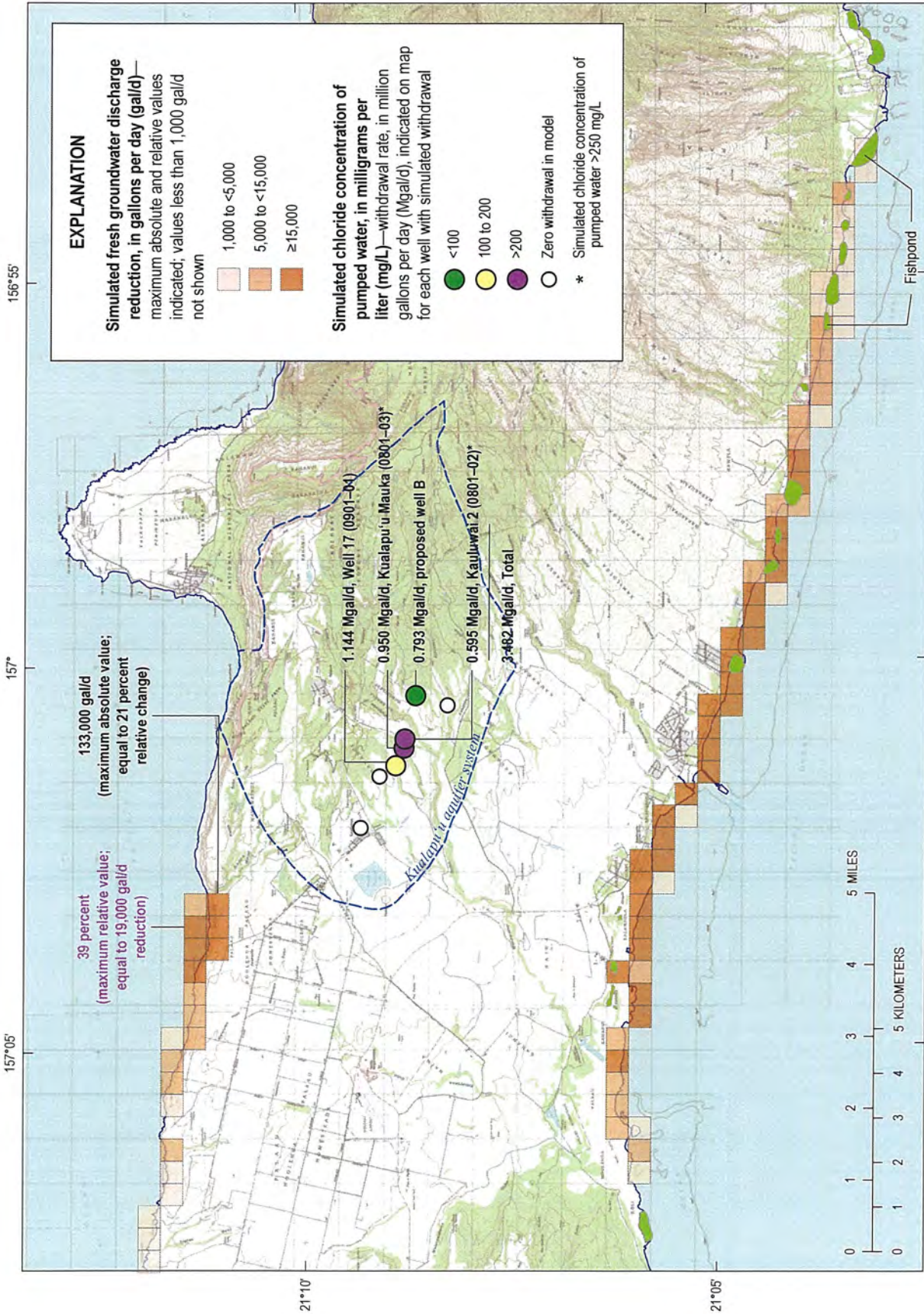


Figure 25. Map of the Kualapu'u aquifer system on Moloka'i, Hawai'i showing scenario 4 withdrawal rates from wells and fresh groundwater-discharge reduction (relative to scenario 1).

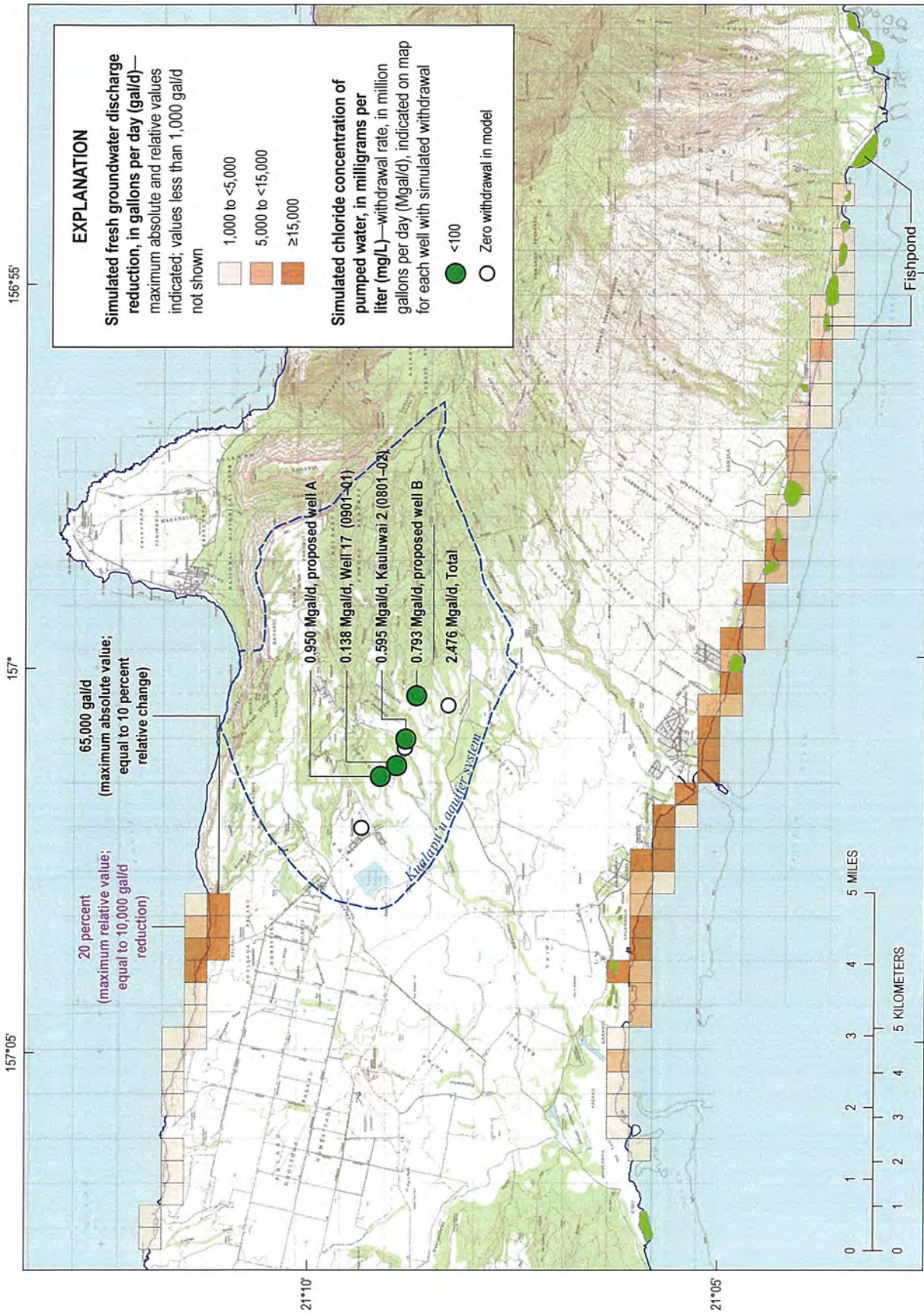


Figure 26. Map of the Kualapu'u aquifer system on Molokai, Hawaii showing scenario 5 withdrawal rates from wells and fresh groundwater-discharge reduction (relative to scenario 1).

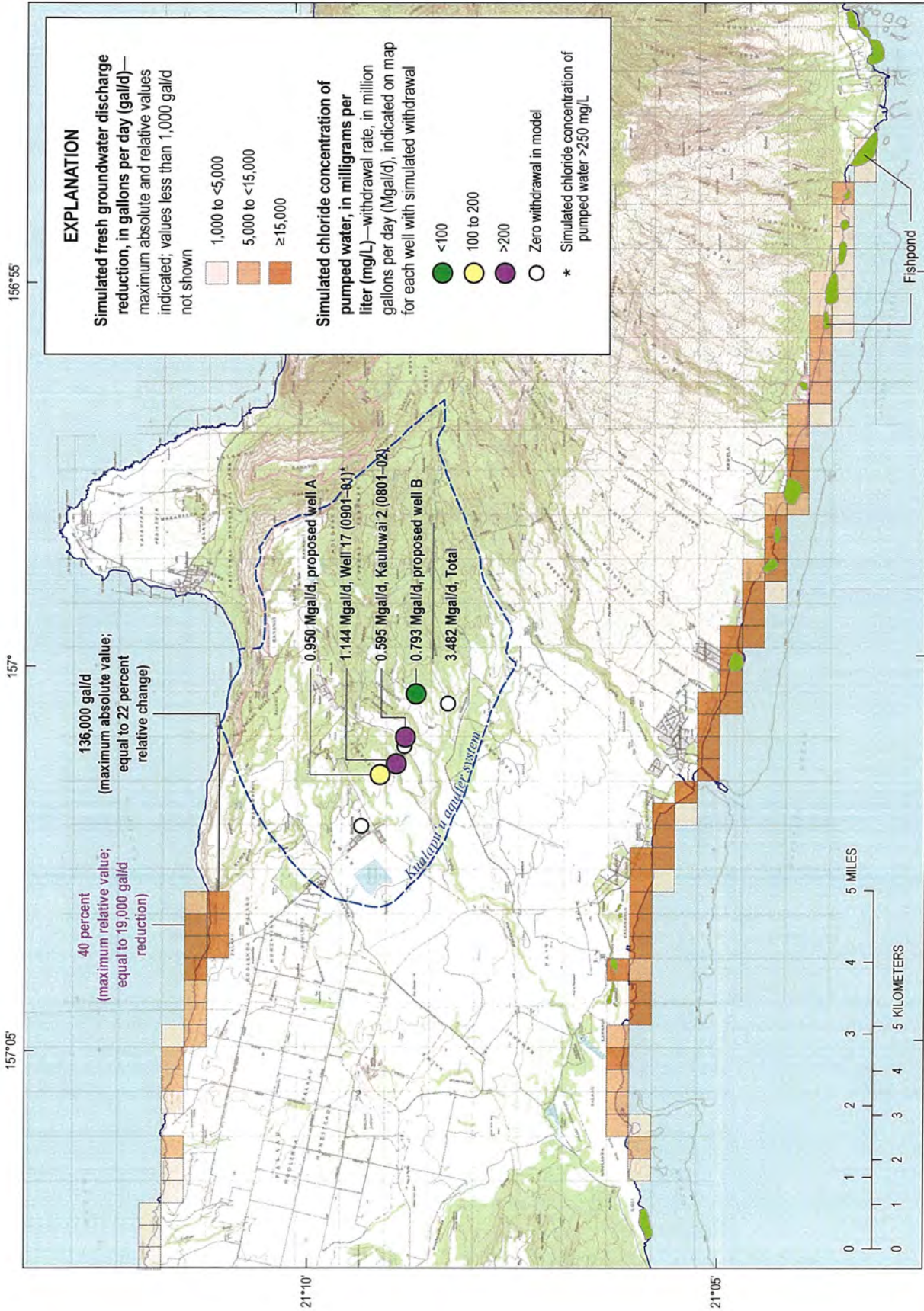


Figure 27. Map of the Kualapu'u aquifer system on Moloka'i, Hawai'i showing scenario 6 withdrawal rates from wells and fresh groundwater-discharge reduction (relative to scenario 1).

Scenario 7— Proposed Well B Replaces Well 0801–03; Pending Water-Use Permit Rate for Well 0901–01; Additional Withdrawal from Proposed Well A

Recharge and withdrawals in scenario 7 are similar to those in scenario 6, except the withdrawal rates from proposed wells A and B are switched. For scenarios 6 and 7, total withdrawal from wells in the Kualapu‘u aquifer system is 3.4816 Mgal/d.

For scenario 7, the estimated chloride concentration of groundwater withdrawn from proposed well B is less than 100 mg/L, the estimated chloride concentration of groundwater withdrawn from proposed well A is between 100 and 200 mg/L, and the estimated chloride concentrations of groundwater withdrawn from wells 0801–02 and 0901–01 exceed 200 mg/L (less than 250 mg/L) (fig. 28). Thus, reducing the withdrawal from proposed well A in scenario 7, relative to scenario 6, results in a slight improvement in the simulated quality of water withdrawn from nearby well 0901–01.

Increased withdrawals in scenario 7 relative to the baseline scenario cause a reduction of freshwater discharge to the nearshore area (fig. 28). The greatest simulated reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell occurs northwest of the Kualapu‘u aquifer system and was 0.135 Mgal/d, representing 22 percent of the baseline discharge from that cell. The greatest simulated relative reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell was 40 percent, corresponding to a reduction of 0.019 Mgal/d (fig. 28).

Scenario 8— Proposed Well B Replaces Well 0801–03; Pending Water-Use Permit Rate for Well 0901–01; Additional Withdrawal from Proposed Wells C and D

Recharge and withdrawals in scenario 8 are similar to those in scenario 7, except the withdrawal from proposed well A (0.7926 Mgal/d) was transferred farther east to proposed wells C and D and increased by 1 Mgal/d to 1.7926 Mgal/d. In scenario 8, total withdrawal from wells in the Kualapu‘u aquifer system is 4.4816 Mgal/d.

For scenario 8, the estimated chloride concentration of groundwater withdrawn from proposed well D is less than 100 mg/L, the estimated chloride concentrations of groundwater withdrawn from wells 0901–01 and proposed well B are between 100 and 200 mg/L, the estimated chloride concentration of groundwater withdrawn from proposed well C exceeds 200 mg/L, and the estimated chloride concentration of groundwater withdrawn from well 0801–02 exceeds 250 mg/L (less than 275 mg/L) (fig. 29). Simulation results from scenario 8 indicate that the chloride concentrations from production wells in the Kualapu‘u aquifer system mostly remain below the EPA secondary standard. However, hydrogeologic conditions in the eastern part of the Kualapu‘u aquifer system are uncertain because of a lack of drilled wells in the area.

Increased withdrawals in scenario 8 relative to the baseline scenario cause a reduction of freshwater discharge to the nearshore area (fig. 29). The greatest simulated reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell occurs directly south of the Kualapu‘u aquifer system and was 0.211 Mgal/d, representing 10 percent of the baseline discharge from that cell. The greatest simulated relative reduction in fresh groundwater discharge from any 1,640 by 1,640 ft cell was 40 percent, corresponding to a reduction of 0.019 Mgal/d (fig. 29).

Scenario 9—Reduced Recharge; Proposed Well A Replaces Well 0801–03; Pending Water-Use Permit Rate for Well 0901–01; Additional Withdrawal from Proposed Well B

In scenario 9, recharge was everywhere reduced by 15 percent relative to the recharge in the other scenarios, and simulated withdrawals in scenario 9 are identical to those in scenario 6. The reduced recharge is a simplified scenario that generally is consistent with end-of-century drying projected for Moloka‘i (Elison Timm and others, 2015).

For scenario 9, the estimated chloride concentrations of groundwater withdrawn from wells 0801–02, 0901–01, proposed well A, and proposed well B are greater than 250 mg/L. Thus, model results indicate that a reduction in recharge can have a substantial negative effect on the simulated quality of water withdrawn from production wells in the Kualapu‘u aquifer system. Relative to scenario 6, the reduction in fresh groundwater discharge in scenario 9 is equal to the 15 percent reduction in freshwater recharge simulated in scenario 9.

Implications of Scenarios

Results of the simulated withdrawal scenarios indicate that increased withdrawals, relative to 2016–17 rates, may produce groundwater with chloride concentrations below the EPA secondary standard of 250 mg/L. However, the quality of water withdrawn from production wells is dependent on the rate and distribution of the withdrawals. High rates of withdrawal from closely spaced wells tend to enhance the potential for increased salinity of the water withdrawn from production wells in the Kualapu‘u aquifer system. Spreading out withdrawals may help to produce water of acceptable quality. However, hydrogeologic conditions and groundwater quality in parts of the Kualapu‘u aquifer system (primarily in the eastern part) are uncertain because of the lack of drilled wells and, thus, model results also contain unquantified uncertainty. Model results also indicate that the rate of groundwater recharge may be a controlling factor for the quality of water withdrawn from production wells in the Kualapu‘u aquifer system. A reduction in groundwater recharge in the future (all other factors remaining equal) would tend to cause increased salinity of water withdrawn from production wells.

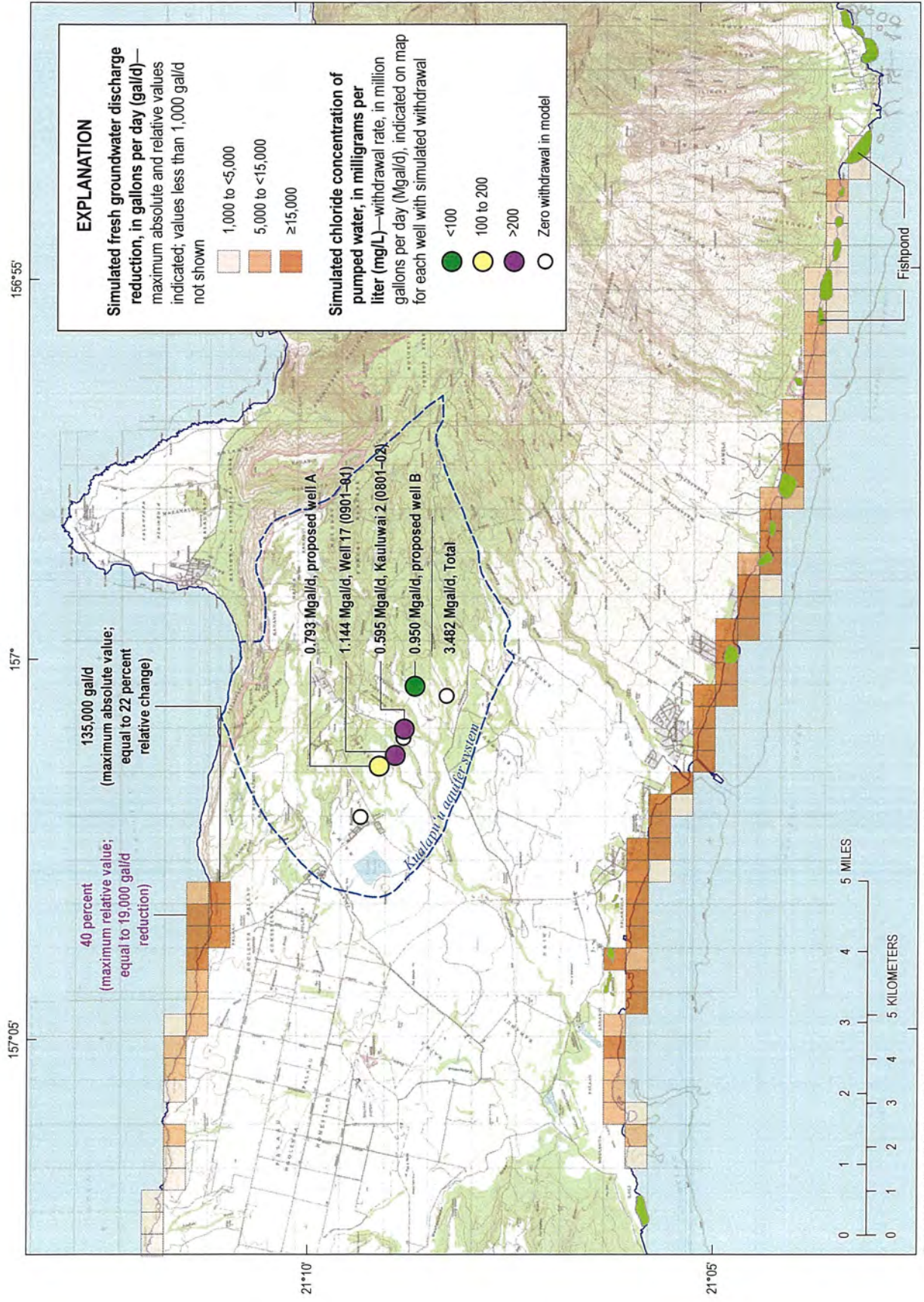


Figure 28. Map of the Kualapu'u aquifer system on Moloka'i, Hawai'i showing scenario 7 withdrawal rates from wells and fresh groundwater-discharge reduction (relative to scenario 1).

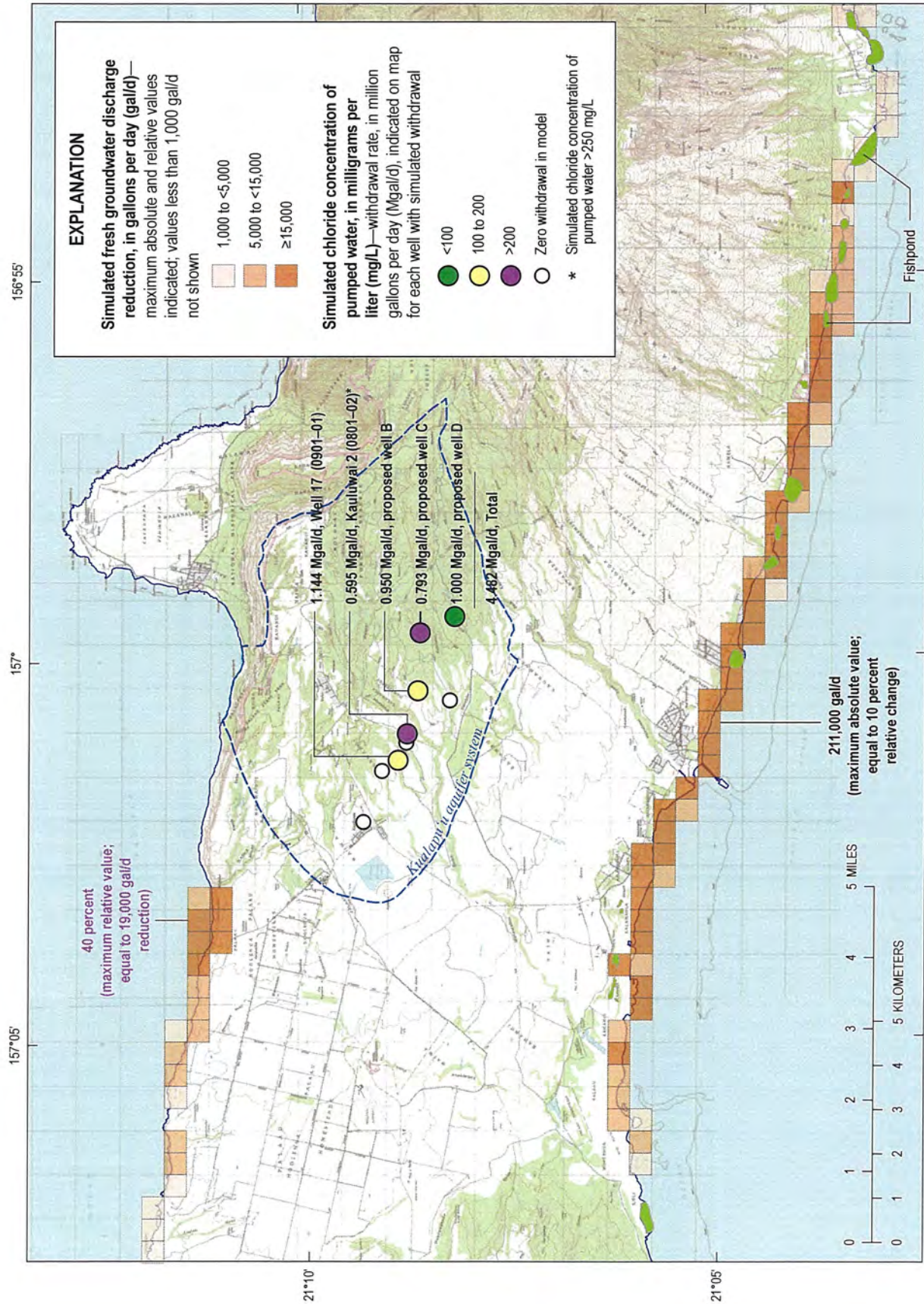


Figure 29. Map of the Kualapu'u aquifer system on Molokai, Hawaii showing scenario 8 withdrawal rates from wells and fresh groundwater-discharge reduction (relative to scenario 1).

Limitations

The numerical groundwater models developed for this study have several limitations, including their nonuniqueness and inability to account for local-scale heterogeneities. Different distributions of hydraulic properties and recharge may result in comparable model results, although recharge estimates were based on the best available information. Data from a limited number of wells are available to constrain the model. For example, no wells are available in the eastern part of the Kualapuʻu aquifer system to understand hydrogeologic conditions and groundwater quality there. The numerical models developed for this study also simulate conditions on a regional scale and may not accurately predict either the water level at an individual well or the salinity of water withdrawn from that well. Salinity of water pumped from a well may be controlled by local heterogeneities in the aquifer that are not represented in the model. Also, the level of model discretization affects the numerical accuracy with which transport mechanisms are simulated. The model has several other limitations for predictive purposes because of the various assumptions used and possible uncertainties in input data. These limitations are discussed below.

Differences between measured and simulated water levels are greater in some areas than others, which may reflect uncertainties in recharge or withdrawal, boundary conditions, assigned parameter values in the model, or representations of the different hydrogeological features in the model. Recharge estimates in Hawaiʻi generally are based on water-budget computations that could be improved with a better understanding of the spatial distributions of rainfall, evapotranspiration, runoff, and land-cover characteristics. Additional climate stations and continuous-record streamgaging stations on Molokaʻi would lead to improved recharge estimates. Other studies that could enhance understanding of recharge include (1) quantifying rates of evapotranspiration of native and nonnative forest species, (2) directly measuring recharge using field lysimeters, (3) measuring changes in soil moisture below the plant root zone, (4) quantifying increases in the chloride concentration of infiltrating water caused by evapotranspiration, (5) measuring groundwater discharge with offshore seepage meters, and (6) developing an integrated surface-water/groundwater model. Improved recharge estimates in the study area will lead to improved estimates for parameter values in the numerical groundwater model and greater confidence in model results.

Withdrawals represented in the model were based on available information. Unreported withdrawals and uncertainties in reported withdrawals that cannot be quantified also affect the accuracy of model results.

For this study, no-flow boundaries were assigned in the west, which precludes movement of groundwater across this boundary. Although some flow likely takes place across this boundary, the amount simulated with the island-wide model was small (less than 0.0005 Mgal/d).

Heterogeneity in the groundwater system likely exists but is currently poorly understood. Values assigned to model hydraulic parameters generally were based on existing estimates and controlled by observed hydrogeologic conditions. However, some of these parameter values may be poorly known. Simulated water levels are typically controlled by the hydraulic-conductivity values assigned in the model. Simulated salinity can be controlled by various hydraulic parameters. A sensitivity analysis of selected hydraulic parameters is included in appendix 2. Results of the sensitivity analysis indicate that the simulated chloride concentration of pumped water in the Kualapuʻu area is sensitive to the effective porosity, dispersivity, and vertical anisotropy of the aquifer.

Additional wells or geophysical studies in areas with limited information would improve the understanding of hydrogeologic conditions, presence and geometry of barriers to flow, thickness of coastal sedimentary deposits, and distribution of hydraulic characteristics. Controlled aquifer tests that monitor withdrawal and water-level conditions throughout the aquifer can improve estimates of the distribution of hydraulic characteristics in the study area. Accurate water-level and withdrawal data can be used for calibration of numerical groundwater models, particularly during periods when recharge does not vary.

Confidence in model results can be improved by addressing the limitations described in this section. In particular, improved estimates of recharge and the distribution of model parameters will lead to an increase of model reliability.

Summary

Since the 1990s, the chloride concentrations of water pumped from some wells on Molokaʻi have increased, which has led to concern over groundwater availability. A growing concern related to groundwater development on Molokaʻi is the effect of withdrawals on groundwater-dependent ecosystems. To ensure effective management of the groundwater resources of Molokaʻi and to plan for possible growth on the island, an improved understanding of the hydrologic effects of proposed groundwater withdrawals is needed. An accurate understanding of how much fresh groundwater in the Kualapuʻu aquifer system can be developed for future needs is critically important, from economic, cultural, and resource standpoints.

To address the information needs of managers and community stakeholders on Molokaʻi, the U.S. Geological Survey developed a numerical groundwater model capable of simulating salinity change and reduction in groundwater discharge in coastal areas of central and southern Molokaʻi. Estimates of groundwater recharge from the soil root zone, needed as input to the numerical groundwater model, were made using a daily water budget for each decade during 1940–2012 (the period 2000–12 spanned 13 years) and the most current available data, including the distributions of monthly rainfall and potential evapotranspiration. Total island

recharge during the decadal periods ranged from a low of about 189 Mgal/d during the 1970s to a high of 278 Mgal/d during the 1960s. These recharge estimates were used to develop an island-wide numerical groundwater model with simplifying assumptions (sharp interface between freshwater and saltwater; two-dimensional flow). The island-wide model provided estimates of groundwater inflows that were used for the main area of interest simulated with a three-dimensional numerical groundwater model.

Aquifer hydraulic properties for the three-dimensional numerical groundwater model were estimated using available water-level and salinity information. Simulated withdrawal scenarios were selected in consultation with water managers and stakeholders and consisted of: (1) a baseline scenario using average recharge (1978–2007 rainfall and 2010 land cover) and average 2016–17 withdrawals; (2) a scenario using average recharge and withdrawals from existing wells at pending (as of January 2019) water-use permit rates; (3) six scenarios using average recharge and selected withdrawals from existing and proposed new wells; and (4) a scenario using reduced recharge and selected withdrawals from existing and proposed new wells.

Results of the simulated withdrawal scenarios indicate that increased withdrawals, relative to 2016–17 rates, may produce groundwater with chloride concentrations below 250 mg/L. However, the quality of water withdrawn from production wells is dependent on the rate and distribution of the withdrawals. For all nonbaseline scenarios, simulated groundwater discharge to the nearshore environment is reduced relative to the baseline scenario. Areas of discharge reduction may correspond to areas used for cultural or subsistence purposes. Although the numerical groundwater model is capable of quantifying the rate of groundwater-discharge reduction associated with each withdrawal scenario, the model cannot determine whether the reduction is acceptable or not. Such a determination is dependent on evaluating the cultural, social, and economic benefits and costs associated with increased groundwater withdrawals.

Model results indicate that the rate of groundwater recharge may be a controlling factor for the quality of water withdrawn from production wells in the Kualapu'u aquifer system. A reduction in groundwater recharge in the future (all other factors remaining equal) would tend to cause increased salinity of water withdrawn from production wells.

The three-dimensional numerical groundwater model developed for this study has several limitations, including its nonuniqueness and inability to account for local-scale heterogeneities. Data from a limited number of wells are available to constrain the model. For example, no wells are available in the eastern part of the Kualapu'u aquifer system to understand hydrogeologic conditions and groundwater quality there. The numerical model developed for this study may not accurately predict the salinity of water withdrawn from a production well because salinity of water pumped from a well may be controlled by local heterogeneities in the aquifer that are not represented in the model. The model has several

other limitations for predictive purposes because of the various assumptions used and possible uncertainties in input data. Nevertheless, the three-dimensional numerical groundwater model developed for this study utilizes the latest available hydrologic and geologic information, and it is considered a useful tool for understanding the hydrologic effects of additional groundwater withdrawals.

References Cited

- Anthony, S.S., 1995, Evaluation of ground-water resources from available data, 1992, East Molokai Volcano, Hawaii: U.S. Geological Survey Water-Resources Investigations Report 95–4180, 32 p., accessed June 10, 2019, at <https://doi.org/10.3133/wri954180>.
- Beeson, M.H., 1976, Petrology, mineralogy, and geochemistry of the East Molokai Volcanic Series, Hawaii: U.S. Geological Survey Professional Paper 961, 53 p., accessed November 15, 2018, at <https://doi.org/10.3133/pp961>.
- Blumenstock, D.L., and Price, S., 1967, Climate of Hawaii in *Climates of the States*, no. 60–51, *Climatography of the United States*: Washington, D.C., U.S. Department of Commerce, 27 p.
- Domenico, P.A., and Schwartz, F.W., 1990, *Physical and chemical hydrogeology*: New York, John Wiley, 824 p.
- Elison Timm, O., Giambelluca, T.W., and Diaz, H.F., 2015, Statistical downscaling of rainfall changes in Hawai'i based on the CMIP5 global model projections: *Journal of Geophysical Research: Atmospheres*, v. 120, p. 92–112, accessed November 15, 2018, at <https://doi.org/10.1002/2014JD022059>.
- Essaid, H.I., 1990, The computer model SHARP, a quasi-three-dimensional finite-difference model to simulate freshwater and saltwater flow in layered coastal aquifer systems: U.S. Geological Survey Water-Resources Investigations Report 90–4130, 181 p., accessed November 15, 2018, at <https://doi.org/10.3133/wri904130>.
- Farber, J.M., 1997, Ancient Hawaiian fishponds, can restoration succeed on Moloka'i: Encinitas, California, Neptune House, 99 p.
- Flinders, A.F., Ito, G., Garcia, M.O., Sinton, J.M., Kauahikaua, J., and Taylor, B., 2013, Intrusive dike complexes, cumulate cores, and the extrusive growth of Hawaiian volcanoes: *Geophysical Research Letters*, v. 40, p. 3367–3373, <https://doi.org/10.1002/grl.50633>.
- Frazier, A.G., Giambelluca, T.W., Diaz, H.F., and Needham, H.L., 2016, Comparison of geostatistical approaches to spatially interpolate month-year rainfall for the Hawaiian Islands: *International Journal of Climatology*, v. 36, no. 3, p. 1459–1470, <https://doi.org/10.1002/joc.4437>.

- Freeze, R.A., and Cherry, J.A., 1979, *Groundwater*: Englewood Cliffs, N.J., Prentice-Hall, Inc., 604 p.
- Furumoto, A.S., Campbell, J.F., and Hussong, D.M., 1970, Seismic studies of subsurface structure in the Ewa coastal plain, Oahu, Hawaii: *Pacific Science*, v. 24, no. 4, p. 529–542, accessed August 29, 2019, at <https://hdl.handle.net/10125/6267>.
- Giambelluca, T.W., Chen, Q., Frazier, A.G., Price, J.P., Chen, Y.-L., Chu, P.-S., Eischeid, J.K., and Delparte, D.M., 2013, Online rainfall atlas of Hawai'i: *Bulletin of the American Meteorological Society*, v. 94, p. 313–316, <https://doi.org/10.1175/BAMS-D-11-00228.1>.
- Hawai'i Groundwater and Geothermal Resources Center, 2019, Hawai'i State water wells: digital well files of the Hawai'i Commission on Water Resource Management, accessed June 10, 2019, at <https://www.higp.hawaii.edu/hggrc/projects/hawaii-state-waterwells/>.
- Hirashima, G.T., 1963, Aspects of ground-water storage and depletion along the Molokai Irrigation Tunnel, Molokai, Hawaii: State of Hawai'i, Department of Land and Natural Resources, Circular C20, 21 p.
- Izuka, S.K., Engott, J.A., Rotzoll, K., Bassiouni, M., Johnson, A.G., Miller, L.D., and Mair, A., 2018, Volcanic aquifers of Hawai'i—hydrogeology, water budgets, and conceptual models (ver. 2.0, March 21018): U.S. Geological Survey Scientific Investigations Report 2015–5164, 158 p., accessed November 15, 2018, at <https://doi.org/10.3133/sir20155164>.
- Juvik, S.O., and Juvik, J.O., 1998, *Atlas of Hawai'i* (3d ed.): Honolulu, University of Hawaii Press, 333 p.
- Kauahikaua, J. 1983, Estimation of fresh water abundances by electrical resistivity sounding on the Kalapapa Peninsula, island of Moloka'i, Hawai'i: U.S. Geological Survey Open-File Report 83–65, variously paged, accessed August 29, 2019, at <https://doi.org/10.3133/ofr8365>.
- Kauahikaua, J., 1993, Geophysical characteristics of the hydrothermal systems of Kilauea Volcano, Hawai'i: *Geothermics*, v. 22, no. 4, p. 271–299, accessed August 29, 2019, at [https://doi.org/10.1016/0375-6505\(93\)90004-7](https://doi.org/10.1016/0375-6505(93)90004-7).
- Langenheim, V.A.M., and Clague, D.A., 1987, The Hawaiian-Emperor volcanic chain, part II, stratigraphic framework of volcanic rocks of the Hawaiian Islands, chap. 1 of Decker, R.W., Wright, T.L., and Stauffer, P.H., eds., *Volcanism in Hawaii*: U.S. Geological Survey Professional Paper 1350, v. 1, p. 55–84, accessed November 15, 2018, at <https://doi.org/10.3133/pp1350>.
- Lindgren, W., 1903, The water resources of Molokai, Hawaiian Islands: U.S. Geological Survey Water-Supply and Irrigation Paper 77, 62 p., accessed November 15, 2018, at <https://doi.org/10.3133/wsp77>.
- Lockwood, J.P., and Lipman, P.W., 1987, Holocene eruptive history of Mauna Loa Volcano, chap. 18 of Decker, R.W., Wright, T.L., and Stauffer, P.H., eds., *Volcanism in Hawaii*: U.S. Geological Survey Professional Paper 1350, v. 1, p. 509–535, accessed November 15, 2018, at <https://doi.org/10.3133/pp1350>.
- Lum, D.A., 2003, Geologic log of drill cuttings, Oceanic Institute salt water well, Keawanui/Kaamoloa, Molokai: Hawai'i Commission on Water Resource Management file for well 4-0350-009, accessed November 15, 2018, at <https://www.higp.hawaii.edu/csav/WaterWells/Molokai/4-0350-009/4-0350-009.pdf>.
- MacCarthy, G.R., 1941, Geophysical studies on the island of Molokai, Territory of Hawaii: U.S. Department of the Interior Press Release 160579, October 3, 1941, 2 p.
- Macdonald, G.A., 1956, The structure of Hawaiian volcanoes: *Verhandelingen Van Het Koninklijk Nederlandsh Geologisch Mijnbouwkundig Genootschap*, v. 16, p. 1–22.
- Macdonald, G.A., Abbott, A.T., and Peterson, F.L., 1983, *Volcanoes in the sea; the geology of Hawaii* (2d ed.): Honolulu, University of Hawai'i Press, 517 p.
- Malahoff, A., and Woollard, G.P., 1966, Magnetic surveys over the Hawaiian Islands and their geologic implications: *Pacific Science*, v. 20, no. 3, p. 265–311.
- Mathewson, C.C., 1970, Submarine canyons and the shelf along the north coast of Molokai Island, Hawaiian Ridge: *Pacific Science*, v. 24, no. 2, p. 235–244.
- Matsuoka, J., McGregor, D., Minerbi, L., and Akutagawa, M., eds., 1994, Governor's Moloka'i Subsistence Task Force: Final Report, Honolulu, Hawai'i, June 1994, 225 p.
- McDougall, I., 1964, Potassium-argon ages from lavas of the Hawaiian Islands: *Geological Society of America Bulletin*, v. 75, no. 2, p. 107–128.
- Mink, J.F., and Lau, L.S., 1992, Aquifer identification and classification for Moloka'i—Groundwater protection strategy for Hawai'i: University of Hawai'i Water Resources Research Center Technical Report no. 187, 31 p., accessed November 15, 2018, at <http://hdl.handle.net/10125/1968>.
- Moore, J.G., and Krivoy, H.L., 1965, A reconnaissance gravity survey of the Island of Molokai, Hawaii: *Pacific Science*, v. 19, no. 3, p. 343–345.
- National Oceanic and Atmospheric Administration, 2010, National Geophysical Data Center GEODAS on-line design-a-grid system, digital data, accessed May 26, 2010, at http://www.ngdc.noaa.gov/mgg/gdas/gd_designagrid.html.

- National Park Service, 2013, Petition to designate the Keauhou aquifer system a Water Management Area: Petition for Water Management Area action submitted to the Hawai'i Commission on Water Resource Management, 63 p., accessed June 11, 2019, at <https://dlnr.hawaii.gov/cwrm/groundwater/activities/keauhou/>.
- Naughton, J.J., Macdonald, G.A., and Greenberg, V.A., 1980, Some additional potassium-argon ages of Hawaiian rocks; the Maui Volcanic Complex of Molokai, Maui, Lanai and Kahoolawe: *Journal of Volcanology and Geothermal Research*, v. 7, no. 3–4, p. 339–355.
- Oki, D.S., 1997, Geohydrology and numerical simulation of the ground-water flow system of Molokai, Hawaii: U.S. Geological Survey Water-Resources Investigations Report 97–4176, 62 p., accessed November 15, 2018, at <https://doi.org/10.3133/wri974176>.
- Oki, D.S., 2006, Numerical simulation of the hydrologic effects of redistributed and additional ground-water withdrawal, Island of Molokai, Hawaii: U.S. Geological Survey Scientific Investigations Report 2006–5177, 49 p., accessed November 15, 2018, at <https://doi.org/10.3133/sir20065177>.
- Oki, D.S., 2007, Effects of ground-water withdrawal on Kaunakakai Stream environmental restoration plan, Molokai, Hawaii: U.S. Geological Survey Scientific Investigations Report 2007–5128, 25 p., accessed November 15, 2018, at <https://pubs.usgs.gov/sir/2007/5128/>.
- Oki, D.S., and Bauer, G.R., 2001, Drilling, construction, water-level, and water-quality information for the Kualapuu deep monitor well 4–0800–01, Molokai, Hawaii: U.S. Geological Survey Open-File Report 01–350, 19 p., accessed November 15, 2018, at <https://doi.org/10.3133/ofr2001350>.
- Oki, D.S., and Meyer, W., 2001, Analytical versus numerical estimates of water-level declines caused by pumping, and a case study of the Iao aquifer, Maui, Hawaii: U.S. Geological Survey Water-Resources Investigations Report 00–4244, 31 p., accessed November 15, 2018, <https://doi.org/10.3133/wri20004244>.
- Paillet, F.L., Williams, J.H., Oki, D.S., and Knutson, K.D., 2002, Comparison of formation and fluid-column logs in a heterogeneous basalt aquifer: *Ground Water*, v. 40, no. 6, p. 577–585.
- Rotzoll, K., 2012, Numerical simulation of flow in deep open boreholes in a coastal freshwater lens, Pearl Harbor Aquifer, O'ahu, Hawaii: U.S. Geological Survey Scientific Investigations Report 2012–5009, 39 p., accessed November 15, 2018, at <https://doi.org/10.3133/sir20125009>.
- Sanderson, M., ed., 1993, Prevailing trade winds; weather and climate in Hawai'i: Honolulu, University of Hawai'i Press, 126 p.
- Santo, L.T., 2001, Assessment and improvement recommendations for the Molokai Irrigation System: Hawaii Agriculture Research Center, Aiea, Hawaii, 49 p. plus appendixes, accessed June 10, 2019, at <https://hdoa.hawaii.gov/wp-content/uploads/2013/07/ADCannual2001.pdf>.
- Sherrod, D.R., Sinton, J.M., Watkins, S.E., and Brunt, K.M., 2007, Geologic map of the State of Hawaii: U.S. Geological Survey Open-File Report 2007–1089, 83 p., 8 plates, scales 1:100,000 and 1:250,000, with GIS database, accessed November 15, 2018, at <https://doi.org/10.3133/ofr20071089>.
- Souza, W.R., and Voss, C.I., 1987, Analysis of an anisotropic coastal aquifer system using variable-density flow and solute transport simulation: *Journal of Hydrology*, v. 92, p. 17–41, accessed August 29, 2019, at [https://doi.org/10.1016/0022-1694\(87\)90087-4](https://doi.org/10.1016/0022-1694(87)90087-4).
- State of Hawai'i, 1963, Summary of drilling log and pumping test for Kamiloloa Well 19, Kamiloloa, Molokai: Department of Land and Natural Resources, Division of Water and Land Development Circular C22, 9 p. plus plate.
- State of Hawai'i, 1997, Commission on Water Resource Management contested case hearing on water use, well construction and pump installation permit applications filed by Wai'ola O Molokai, Inc. and Molokai Ranch, Limited, case CCH–MO96–1: Wai'ola O Molokai, Inc. and Molokai Ranch Ltd.'s brief in support of water use permit application CCH–MO96–1, exhibit A–18, 1 p.
- State of Hawai'i, 1998, Commission on Water Resource Management contested case hearing on water use, well construction, and pump installation permit applications filed by Waiola O Molokai and Molokai Ranch, Limited, case CCH–MO96–1: Findings of Fact, Conclusions of Law, and Decision and Order, 73 p.
- State of Hawai'i, 2006, Hawaii statewide GIS program: State of Hawaii Office of Planning, accessed April 5, 2006 at <http://www.hawaii.gov/dbedt/gis/fishponds.htm>.
- State of Hawai'i, 2008, Water resource protection plan, June 2008: State of Hawai'i, Commission on Water Resource Management, variously paginated, accessed November 15, 2018, at <http://dlnr.hawaii.gov/cwrm/planning/hiwaterplan/wrpp/wrpp2008/>.
- State of Hawai'i, 2011, Island population and housing units, State of Hawaii: 2010: State of Hawai'i, Department of Business, Economic Development, and Tourism, Hawai'i State Data Center Report 2010–3, 24 p., accessed December 16, 2019, at https://files.hawaii.gov/dbedt/census/Census_2010/PL94-171/Island_Report_Final.pdf.
- Stearns, H.T., 1985, *Geology of the State of Hawaii* (2d ed.): Palo Alto, Pacific Books Publishers, 335 p.

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- Stearns, H.T., and Macdonald, G.A., 1947, Geology and ground-water resources of the island of Molokai, Hawaii: Hawaii Division of Hydrography Bulletin 11, 113 p., accessed November 15, 2018, at <https://pubs.er.usgs.gov/publication/70161790>.
- Swain, L.A., 1973, Chemical quality of ground water in Hawaii: State of Hawai'i, Department of Land and Natural Resources, Report R48, 54 p.
- Takasaki, K.J., 1986, Results of exploratory drilling for water in Waihanau Valley, Molokai, Hawaii: U.S. Geological Survey Water-Resources Investigations Report 85-4332, 26 p., accessed November 15, 2018, at <https://doi.org/10.3133/wri854332>.
- Takasaki, K.J., and Mink, J.F., 1985, Evaluation of major dike-impounded ground-water reservoirs, island of Oahu: U.S. Geological Survey Water-Supply Paper 2217, 77 p., accessed November 15, 2018, at <https://doi.org/10.3133/wsp2217>.
- U.S. Geological Survey, 2019, National Water Information System data available on the World Wide Web (USGS Water Data for the Nation), accessed June 10, 2019, at <https://nwis.waterdata.usgs.gov/hi/nwis/gw>.
- Voss, C.I., 1999, USGS SUTRA code—history, practical use, and application in Hawaii, chap. 9 of Bear, J., Cheng, A.H.-D., Sorek, S., Ouazar, D., and Herrera, I., eds., Seawater intrusion in coastal aquifers—concepts, methods, and practices: Dordrecht, Kluwer Academic Publishers, p. 249–313.
- Voss, C. I., and Provost, A.M., 2010, SUTRA, A model for saturated-unsaturated variable-density ground-water flow with solute or energy transport: U.S. Geological Survey Water-Resources Investigations Report 02-4231, version of September 22, 2010, 291 p., accessed November 15, 2018, <https://doi.org/10.3133/wri024231>.
- Water Resource Associates, 1999, Waikolu Stream biological and hydrological monitoring study, Molokai, Hawaii: Hawaii Department of Agriculture, 42 p., plus figures and appendixes.
- Weast, R.C., Lide, D.R., Astle, M.J., and Beyer, W.H., eds., 1989, CRC handbook of chemistry and physics (70th ed.): Boca Raton, Fla., CRC Press, variously paged.
- Wentworth, C.K., 1939, The specific gravity of sea water and the Ghyben-Herzberg ratio at Honolulu: University of Hawaii Bulletin, v. 18, no. 8, 24 p.
- Wentworth, C.K., and Macdonald, G.A., 1953, Structures and forms of basaltic rocks in Hawaii: U.S. Geological Survey Bulletin 994, 98 p., accessed November 15, 2018, at <https://doi.org/10.3133/b994>.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

To: Chairman and Members, Hawaiian Homes Commission
From: Andrew Choy, Acting Planning Program Manager *AC*
Subject: For Information Only - Submittal of the DHHL
Water Use Permit Application to the State
Commission on Water Resource Management in the
Kualapu'u Aquifer System Area, Island of Moloka'i

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

The Department of Hawaiian Home Lands (DHHL or Department) has submitted a Water Use Permit Application (WUPA) to the Commission on Water Resource Management (CWRM) for the use of 0.595 million gallons per day (mgd) from the Kualapu'u Aquifer on Molokai. This submittal reviews the following topics:

- I. The DHHL WUPA & the Amount of Water Requested;
and
- II. Possible next actions by CWRM.

I.. The DHHL WUPA & the Amount of Water Requested

The Department currently holds a WUPA for water pumped from the Kauluwai 1 and 2 wells in the Kualapu'u Aquifer in the amount of .367 mgd. In July 1993, one year after the designation of the Aquifer as a Water Management Area (WMA), the Department submitted a WUPA for .5 mgd; the WUPA was granted in part and denied in part.

The Department subsequently submitted a WUPA to increase its permitted amount of pumping, because even at the time of designation its existing uses of water were greater than what CWRM permitted. Most recently in 1996

the Department submitted a WUPA for 0.637 mgd; after Molokai Ranch (MR) requested a contested case on that permit, later withdrawn, the CWRM has never acted on the DHHL request. More recently as explained further below, the delay in acting on the previous WUPA has been at the Department's request.

We have now submitted a new WUPA to the CWRM. The new WUPA seeks to increase our permitted pumping from 0.367 mgd to 0.595 mgd, for both Public Trust and non-Public Trust, reasonable beneficial uses on Molokai. Our application is comprised of this letter, the application form, four attachments and four exhibits. If granted, expressed as a percentage of Sustainable Yield (SY), DHHL is seeking to increase its current allowed rate of using 7.34% by 4.56% to 11.9% of the SY in Kualapu'u.

The proposed amount of the pending WUPA will only partially provide for DHHL's anticipated 20-year water demands (see Table 1.A., below).

TABLE 1.A: Moloka'i Water Demand Projections (mgd¹)

	2016	2021	2026	2031
Potable	0.259	0.662	1.061	1.061
Nonpotable	4.721	5.360	6.091	34.985
Total	4.980	6.022	7.153	36.046

These numbers are an aggregate of demands calculated for each of the tracts on the island.

The reason for the amount requested is simple: it is the amount of water it can reliably pump and deliver from its existing two wells. Future increases in water delivery from our system on Molokai would require the development of new wells at sufficient distance from our existing wells, likely towards the northeast, to appropriately distribute pumping from within the aquifer.

While this permit will not allow for all of our long-term needs, it will be a significant step forward in providing for current and near-term needs in the area. This would allow us to deliver water for 171 new, committed service connections for Kalama`ula mauka, Nā`iwa, and Ho`olehua, and up to 210 service connections for lots that

¹ State Water Projects Plan

can be created through subdivision, out of the maximum 544 homesteads that could be created through subdivision under the 2005 Molokai Island Plan.

The WUPA cover letter, form, attachments and exhibits are attached to this submittal (Exhibit A).

II. Possible next actions by CWRM

As evidenced by the near three decades of dispute over ground water in this area, the number of potential outcomes is large and length of time to achieve these are rough estimates at best. However, the Department believes it has submitted a WUPA of high quality that can repel or survive any legal challenge.

The next immediate steps by CWRM include:

- Accepting our application as complete (which after a pre-review, staff have indicated they will do);
- Publication for two weeks in a newspaper having general circulation within the affected area, and notification to potentially affected parties;
- Setting of a comment deadline and an objection deadline;
- If an objection is filed, holding a public hearing;
- If a contested case hearing is requested, proceeding with those procedures or potentially admitting parties and ordering them into mediation; or
- If no objection and/or contested case hearing is requested, the commission may proceed to approve or reject the permit application.

DHHL intends to inform its Molokai beneficiaries of the pending action by CWRM and request their support, and take other actions as necessary to help secure the water permit requested.

RECOMMENDATION

None; for information only.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY DIRECTOR
HAWAIIAN HOMES COMMISSION

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P O BOX 1879
HONOLULU, HAWAII 96805

October 12, 2020

Ms. Suzanne Case, Chairperson
Mr. M. Kaleo Manuel, Deputy Director
Commission on Water Resource Management
P.O. Box 621
Honolulu, HI 96809

Subject: Ground Water Use Permit Application - New (GWUPA-New) for
Kauluwai Wells 1 & 2, Kualapu'u, Molokai

Dear Ms. Case and Mr. Manuel,

The Department of Hawaiian Home Lands (DHHL) here submits a GWUPA-New, for Kauluwai wells 1 & 2, Kualapu'u Molokai, seeking to increase our permitted pumping from .367 mgd to .595 mgd, for both Public Trust and non-Public Trust, reasonable beneficial uses on Molokai. Our application is comprised of this letter, the application form, four attachments and four exhibits. If granted, expressed as a percentage of Sustainable Yield (SY), DHHL is seeking to increase its current allowed rate of using 7.34% by 4.56% to 11.9% of the SY in Kualapu'u.

As you know, beneficiaries have been waiting nearly three decades for DHHL to be able to provide additional homesteading opportunities on the island. Our requests to increase our pumping, even as Molokai Ranch has been permitted to continue to pump without a permit, have to this date been unsuccessful. The challenges to our securing an increased allocation have been many, beyond even the Molokai Ranch's previous request for a contested case against us, later withdrawn. This has directly and negatively affected our ability to increase homesteading on the island.

Because our agencies share a commitment to protecting the water resources of Molokai and their Public Trust uses, we would like to highlight that for over two decades, DHHL has taken the following actions to better understand these resources:

- DHHL & the United States Geological Survey (USGS) funded the Molokai water budget study to establish baseline information on the Kualapu'u and surrounding Aquifers

ITEM G-2 EXHIBIT A

- DHHL & USGS funded the original Kualapu'u Aquifer computer model to estimate the hydrologic impacts of groundwater withdrawals under different pumping level and location scenarios
- DHHL, USGS and Maui County funded construction of the Kualapu'u Monitoring Well to provide information on water levels and salinity variations with depth in the aquifer
- County of Maui, DHHL, the Office of Hawaiian Affairs, and USGS funded a more complex three-year \$900,000 study to provide updated groundwater recharge estimates and quantify hydrologic impacts of groundwater. This study has now been published and is available to CWRM to inform allocation decisions.

Please also note that Molokai Ranch and CWRM were invited to provide funding for these studies, but declined.

We have appreciated your staff's recent willingness to review a draft form of this application and their commitment that it would be accepted as complete. We ask that this application be accepted as complete and noticed as soon as possible. We also seek that rather than consider this application in conjunction with others, which may subject our beneficiaries to further delay, you consider this application before considering any other additional uses in the aquifer.

We thank you for your consideration of these requests.

C. Hawaiian Homes Commission



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

APPLICATION FOR GROUND WATER USE PERMIT FOR
PROPOSED NEW USE IN A DESIGNATED GROUND WATER
MANAGEMENT AREA

FORM GWUPA-N

Application for New Use
 Application to Modify WUP No. 267

For Official Use Only:

For detailed instructions on filling out this application form completely, refer to the attached instructions. Incomplete applications will not be accepted for processing.

The following must be attached before this application is accepted as complete:

- Portion of 7.5-Minute Series USGS topographic map (scale 1:24,000) with source location labeled and include the name of the quad map.
- Property tax map, showing source location referenced to established property boundaries.
- Photograph(s) of the source(s) and location(s) of proposed end use(s), if applicable. **SEE ATTACHMENT A**

APPLICANT INFORMATION

Note 1: In accordance with HRS § 174C-51(1), the landowner shall be the joint applicant in the event the applicant is a lessee, licensee, developer or any person with a terminable interest or estate in the land that is the water source of the permitted water.

1. APPLICANT'S INFORMATION			2. SOURCE LANDOWNER'S INFORMATION		
Name/Company William J. Ailā, Jr. Chairman Department of Hawaiian Home Lands		Contact Person Andrew Choy, Acting Planning Program Manager	Name/Company Same		Contact Person Same
Mailing Address P.O. Box 1879 Honolulu, Hawai'i 96805			Mailing Address Same		
Phone (808) 620-9500	Fax (808) 620-9559	E-mail andrew.h.choy@hawaii.gov	Phone Same	Fax Same	E-mail Same

SOURCE INFORMATION

3. ISLAND Molokai	4. GROUND WATER MANAGEMENT AREA Kualapu'u	4A. SUSTAINABLE YIELD FOR ITEM 4 5* MGD SEE ATTACHMENT B
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5. SOURCE INFORMATION
 Attach additional sheets, if necessary.

Well Number (if known)	Well Name	Existing or Proposed?	TMK	Flowmeter installed?
4-0801-001	Kauluwai 1	Existing	5 - 2 - 10 : 07 zone sector plat parcel	X Yes, date installed 10 / 12 / 1995 <input type="checkbox"/> No
4-0801-002	Kauluwai 2	Existing	5 - 2 - 10 : 07 zone sector plat parcel	X Yes, date installed 10 / 12 / 1995 <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No

PROPOSED USE INFORMATION §§174C-51(4), (5), (8), HRS

6. TOTAL QUANTITY OF WATER REQUESTED: In the space below, enter total from Box M in Item 11 (Table 1) of this application.
 595,000 gallons per day, averaged over 1 year **SEE ATTACHMENT B**

7. PROPOSED USE(S): Agriculture Domestic Industrial **SEE ATTACHMENT B**
 Check all that apply. Irrigation Military Municipal

8. LOCATION OF PROPOSED WATER USE(S): Show the location of the proposed use on the same USGS and TMK maps as the proposed source location. Otherwise, attach similar maps. See Item 11 (Table 1, column B) of this application. **SEE ATTACHMENT A**

Note 2: Signing below indicates that the signatories understand and affirm that the information provided on this application is accurate and true to the best of their knowledge. Further, the signatories understand that: (1) if necessary, further information may be required before the application is considered complete; (2) if a water use permit is granted by the Commission, this permit is subject to any existing legal uses, changes in sustainable yields and instream flow standards, reserved uses as defined by the Commission, and Hawaiian Home Lands' future uses; and (3) the applicant is responsible for paying the public notice fees associated with this application. Additionally, as stated in Note 1, above, HRS § 174C-51(1) the landowner shall be the joint applicant in the event the applicant is a lessee, licensee, developer or any person with a terminable interest or estate in the land that is the water source of the permitted water.

9. APPLICANT Signature William J. Ailā Jr. Print Name 10/12/20 Date	10. SOURCE LANDOWNER/JOINT APPLICANT (if applicable) Signature William J. Ailā Jr. Print Name 10/12/20 Date
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PROPOSED NEW USE OR MODIFIED USE INFORMATION

11. TABLE 1: LAND USE CONSISTENCY / EFFICIENCY OF USE (Attach additional copies, if necessary) (SEE ATTACHMENT B)

A		B		C	D	E	F		G		H	I	J
PURPOSE / WATER USE CATEGORY (See the instructions for water use category descriptions.)		TAKE FOR PROPOSED LOCATION OF USE ATTACH THE FOLLOWING: • Property tax map, showing proposed location of use referenced to established property boundaries. • Photograph of the area of proposed use.		STATE LAND USE DISTRICT	CDUP REQUIRED? Check the appropriate box, and write in the date approved, if applicable.	COUNTY ZONING CODE	SMAP REQUIRED? Check the appropriate box, and write in the date approved, if applicable.	UNITS OR NET ACREAGE	QUANTITY OF USE (GPD)	QUANTITY OF USE (GPD)	JUSTIFICATION FOR QUANTITY OF WATER REQUESTED (If applicable, attach additional sheets showing how the quantity was calculated). For irrigation uses, fill in table 2.		
USES THAT REQUIRE POTABLE (DRINKING) WATER													
	zone	sector	plat	parcel	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No							
	zone	sector	plat	parcel	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No							
	zone	sector	plat	parcel	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No							
	zone	sector	plat	parcel	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No							
USES THAT DO NOT REQUIRE POTABLE WATER													
	zone	sector	plat	parcel	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No							
	zone	sector	plat	parcel	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No							
	zone	sector	plat	parcel	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No	<input type="checkbox"/> Yes, date approved / <input type="checkbox"/> Yes, not acquired / <input type="checkbox"/> No							
TOTAL POTABLE USE										K		GPD	
TOTAL NON-POTABLE USE										L		GPD	
TOTAL QUANTITY OF WATER REQUESTED (sum of total potable use and total non-potable use) =										M		GPD	

Please explain if there are any limitations (e.g., legal, contractual) on the proposed water use(s) described in Table 1. Ref. HRS § 174C-5(15).

OTHER PERTINENT INFORMATION

13. TABLE 3: ALTERNATIVES ANALYSIS (SEE ATTACHMENT B)

	A. Analysis of <i>potable</i> alternatives Attach additional sheets if necessary.	B. Analysis of <i>non-potable</i> alternatives Attach additional sheets if necessary.
Municipal sources		
Wastewater reuse		
Ditch system		
Desalinization		
Surface water		
Conservation Measures		
Other (specify)		

14. PUBLIC INTEREST

§174C-2(C). HRS states: *The state water code shall be liberally interpreted to [a] obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, [b] adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.*

Explain how the proposed new use(s) in your application are consistent with items [a] and [b] above.

(SEE ATTACHMENTS B AND C)

15. INTERFERENCE WITH THE RIGHTS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS

Explain how the proposed new use(s) of water will not interfere with the rights of the Department of Hawaiian Home Lands, as provided in section 221 of the Hawaiian Homes Commission Act.

(SEE ATTACHMENT B)

16. INTERFERENCE WITH ANY EXISTING LEGAL USES

Explain how the proposed new use(s) of water will not interfere with any other existing legal use(s) of water.

(SEE ATTACHMENTS B AND C)

17. PUBLIC WATER SYSTEM INFORMATION

Check the appropriate box or boxes. **Sources serve PWS 230, a DHHL owned, non-PUC-Regulated System**

- PUC-Regulated Private System / Non-PUC-Regulated Private System / Not a Public Water System
- Intended dedication to Honolulu Board of Water Supply or to County of Maui, Department of Water Supply.

18. CHAPTER 343

- An Environmental Assessment was completed, and
- An Environmental Impact Statement was required and has been accepted (attach letter of acceptance). Publication date in The Environmental Notice:

A Finding of No Significant Impact has been determined (attach letter). Publication date in The Environmental Notice: June 8, 2016 (SEE ATTACHMENT D)

This project proposes:

- Use of state or county lands, or use of state or county funds
- Use within a state conservation district
- Use within a shoreline setback area
- Use within a national or Hawaii registered historic site
- Use within the Waikiki Special District
- The construction, expansion or modification of helicopter facility
- A wastewater treatment unit
- Waste-to-energy facility
- Landfill
- Oil refinery
- Power-generating facility
- None of the above 11 items

INSTRUCTIONS FOR FILLING OUT APPLICATION FOR GROUND WATER USE PERMIT FOR A PROPOSED NEW USE OR TO MODIFY A GROUND WATER USE PERMIT

This application form is to be used for proposed new uses, including modifications of existing ground water use permits. **If you are applying for an existing ground water use, which are uses prior to the effective date of designation, do not use this form.** Instead, use the *Application for Ground Water Use Permit for Existing Use* (Form GWUPA-E) for existing uses.

Most questions can be addressed by visiting our website at <http://www.hawaii.gov/dnr/cwrm> or by contacting the Regulation Branch at 587-0225 or by e-mail at dnr.cwrm@hawaii.gov. If you need further assistance, call the Regulation Branch. The current application forms are available at: http://www.hawaii.gov/dnr/cwrm/resources_permits.htm.

REQUIREMENTS FOR A COMPLETE APPLICATION

- a. Fill in the most recent application form. A current form can be obtained by going to our website or contacting us by phone or e-mail.
- b. Print in ink or type the information on the application.
- c. The application form has a total of 16 items on 4 pages. Items 11, 12, and 13 are tables, with multiple line items. Fill in the required information for every item in the application form as it relates to your proposed new use or permit modification.
- d. Enclose a check for the non-refundable filing fee of \$25 payable to: Department of Land and Natural Resources. (Government agencies are not required to pay the filing fee.)
- e. Please be aware that the applicant is responsible for paying the cost of publishing any required public notices associated with this application. The cost for public notices is currently approximately \$400.00. Commission staff will provide instructions later in the permit process regarding payment of these costs.
- f. Mark the proposed source and end use location(s) on the appropriate USGS quad map (scale 1:24,000) and property tax map, and attach these maps to the application.
- g. Attach photos showing the existing or proposed source(s), meter(s) (if applicable), and end use area(s).
- h. Both the applicant and the landowner where the source is located ("source landowner") must sign the application form in ink.
- i. Submit the original application, **15 copies** of the application form and all attachments (maps, photos, and other attachments), and the filing fee to the Commission on Water Resource Management, P.O. Box 621, Honolulu, HI 96809.

Further, the applicant must address §174C-49(a) of the State Water Code, which states that:

To obtain a permit pursuant to this part, the applicant shall establish that the proposed use of water:

- (1) *Can be accommodated with the available water source;*
- (2) *Is a reasonable-beneficial use¹ as defined in section 174C-3;*
- (3) *Will not interfere with any existing legal use of water;*
- (4) *Is consistent with the public interest²;*
- (5) *Is consistent with state and county general plans and land use designations;*
- (6) *Is consistent with county land use plans and policies; and*
- (7) *Will not interfere with the rights of the department of Hawaiian home lands as provided in section 221 of the Hawaiian Homes Commission Act.*

¹ According to §174C-3, HRS, "Reasonable-beneficial use" means the use of water in such a quantity as is necessary for economic and efficient utilization for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and the public interest.

² Public interest is described in §174C-2(c), HRS, which states: *[t]he state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.*

NOTE: Filling in the application completely will address §174C-49(a), HRS.

LINE-BY-LINE INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM

APPLICANT INFORMATION

In accordance with the Hawaii Water Code, both the applicant and the person who owns the property where the water source is located are required to apply for a water use permit. §174C-51(1)(B), HRS, states, *In the event a lessee, licensee, developer, or any other person with a terminable interest or estate in the land, which is the water source of the permitted water, applies for a water permit, the landowner shall also be stated as a joint applicant for the water permit.*

1. **APPLICANT INFORMATION** Fill in the information for the applicant. This should be the person who will be responsible for all conditions of the water use permit.
2. **SOURCE LANDOWNER INFORMATION** Fill in the information for the landowner of the property where the proposed ground water source (e.g., well, modified spring, tunnel, shaft, etc.) is located.

SOURCE INFORMATION

3. **ISLAND** Check the appropriate box, noting the island where the source is located.
4. **GROUND WATER MANAGEMENT AREA** The name of the aquifer system area where the source is located.
- 4A. **SUSTAINABLE YIELD** The sustainable yield for the aquifer system area.
5. **SOURCE INFORMATION**
 - **WELL NUMBER** If the source already has a state-assigned well number, write the state well number here.
 - **WELL NAME** If the proposed source already has a name, write the name here. Otherwise, give it a short name that will differentiate it from other wells.
 - **SOURCE TMK** Fill in the current Tax Map Key number of the parcel where the source is located.
 - **FLOWMETER INFORMATION** Check either "Yes" or "No." If you answer "Yes," write in the date the flowmeter was installed month/day/year in the space provided. (The definition of a working flowmeter is a water meter with a totalizer that gives the total quantity of water used from a source.)

PROPOSED USE INFORMATION

(Ref. §§ 174C-51(4), (5), (6), HRS)

6. **TOTAL QUANTITY OF WATER REQUESTED** Enter the amount of water requested as gallons per day (GPD) averaged over one year. Fill out Table 1 and enter the amount in Box 14, "Total Use Requested."

7. **PROPOSED USE(S)** Check all the boxes that apply for the proposed use. Refer to the instructions for Table 1: Land Use Consistency/Efficiency of Use, Item 1: Purpose/Water Use Category below to determine which water use category to use.
8. **LOCATION OF PROPOSED WATER USE(S)** Show the location of the proposed use on the same USGS and TMK maps as the proposed source location. Otherwise, attach similar maps and show the location of the proposed use.

APPLICANT SIGNATURES REQUIRED

9. **APPLICANT** The Applicant must sign and date the application. Please print or type the Applicant's name in the space provided.
10. **SOURCE LANDOWNER** The Source Landowner must also sign and date the application. Please print or type the Source Landowner's name in the space provided.

PROPOSED NEW USE OR MODIFIED USE INFORMATION

11. **Table 1: LAND USE CONSISTENCY / EFFICIENCY OF USE** Provide information on all of the proposed uses you are applying for or seeking to modify. In the space provided below the table or on a separate sheet, explain whether there are any limitations [e.g., a contract or other legal agreement(s)] on your proposed water use(s), as required by §174C-51(5), HRS.
 - A. **PURPOSE / WATER USE CATEGORY** For each purpose of use, choose one of the categories listed in the table below and enter the appropriate code in the space provided (e.g., AGRAQ, IRRGC, etc.)

x AGRAQ Aquatic Plants & Animals AGRCP Crops & Processing AGRLI Livestock & Processing, and Pasture AGRON Ornamental & Nursery Plants AGROTH Other	DOMESTIC DOM Single & Multi Low-Rise & High-Rise Household DOMN Domestic (Non-residential) DOMNCB Commercial Businesses DOMNRI Religious Institutions DOMNHOS Hospitals DOMNHOT Hotels DOMNOB Office buildings DOMNOTH Domestic Non-Residential - Other DOMNSC Schools
IRRIGATION IRRGC Golf Course IRRHM Habitat Maintenance IRRHOT Hotel IRRLA Landscape/Water Features IRROTH Other IRRPA Parks IRRSC Schools	INDUSTRIAL INDEL Geothermal, Thermolectric Cooling, Power Development INDFP Fire Protection INDMI Mining, Dust Control INDOTH Industrial - Other
MILITARY MIL Military	MUNICIPAL MUNCO County MUNPR Privately-owned but defined as public water system by DOH State

- B. **USE TMK** Enter the tax map key (TMK) number for the parcel of land over which the use is applied. There should only be one parcel for each line. Also, attach:
 - (1) A TMK map (or maps) showing each of the lots listed and the boundaries of the end use area(s); and
 - (2) A photograph of the area of use.
- C. **STATE LAND USE DISTRICT** Write in the name of the current land use district. To find the Land Use District, contact the Land Use Commission at (808) 587-3822.
- D. **CDUP REQUIRED?** Check the appropriate box. If a Conservation District Use Permit (CDUP) is required and you have a CDUP applicable to this project, check "Yes" and write in the date approved in the space provided (month/day/year). If your parcel is in a conservation district, as indicated in Column C of this table, contact the Office of Conservation and Coastal Lands at (808) 587-0328 to find out if a CDUP is required.
- E. **COUNTY ZONING CODE** To find out the County Zoning Code for Oahu, contact the City and County of Honolulu at 768-8041. For Maui County, contact at 270-7253.
- F. **SMAP REQUIRED?** Check the appropriate box. If a Special Management Area Permit (SMAP) is required, and you have an SMAP applicable to this project, check "Yes" and write in the date approved in the space provided (month/day/year). To find out if your parcel is in a Special Management Area and requires an SMAP, for Oahu call the City and County of Honolulu at 768-8014 or for Maui County call the Planning Department at 270-8205.
- G. **UNITS or NET ACREAGE** This is the total number of units or the net number of acres as a basis for calculating your requested allocation. "Unit" can mean a dwelling unit, number of people, or number of animals. Some examples of units or acreages to enter in this column would be 400 dwelling units, 500 people, or 3.74 acres.
- H. **GPD/UNIT or GPD/ACRE** (GPD = gallons per day) Enter the gallons per day per unit (GPD/unit) or gallons per day per acre (GPD/acre) for each water use category listed in Column A.
- I. **QUANTITY OF USE** Enter the proposed quantity of water use in gallons per day (GPD). Justification (see Column J) for the quantity(ies) requested may depend on the information provided in columns G and H of this table.
- J. **JUSTIFICATION FOR QUANTITY OF WATER REQUESTED** Explain how you are justifying the quantity of water requested for each use, in Column I of this table. Attach additional sheets, if necessary, showing how the proposed quantity was calculated. For all proposed irrigation uses, you are required to also complete Item 12 (Table 2) of the application.
- K. **TOTAL POTABLE USE** Add the quantities listed in the Column I for proposed potable water use(s). Enter the total quantity in gallons per day (GPD) in Box K.
- L. **TOTAL NON-POTABLE USE** Add the quantities listed in Column I for proposed uses that do not require potable water. Enter the total quantity of proposed non-potable water use in gallons per day (GPD) in Box L.
- M. **TOTAL QUANTITY OF WATER REQUESTED** Add the totals in Box K and Box L, and enter the sum in Box M. The quantity in Box M should be the same as the amount entered under Item 6 on the page 1 of the application.

12. TABLE 2: IRRIGATION INFORMATION

On Table 2, provide the information requested for all the crops you are proposing to grow, including landscapes and golf course turf and plants. Enter only one crop and one parcel number (TMK) per line. For multiple crops, list each one as a separate line item. All proposed or modified irrigation uses you are applying for must be listed. Attach additional copies of Table 2, if necessary.

- A. **TMK FOR PROPOSED LOCATION OF USE** Enter the parcel number where the crop will be grown. Also, attach a property tax map with an outline around the area(s) of proposed use(s) and a photograph of each area of proposed use.
- B. **CROP** Enter the crop type
- C. **TOTAL ACREAGE** Enter the total acreage of the parcel listed.
- D. **NET IRRIGATED ACREAGE** Enter the acreage that the specific crop will be grown.
- E. **BEGIN GROWTH PERIOD (MONTH)** This is the month of the start of the growth cycle.
- F. **END GROWTH PERIOD (MONTH)** This is the month of the end of the growth cycle.
- G. **IRRIGATION SYSTEM** Enter one of the following:
 - TRICKLE, DRIP
 - TRICKLE, SPRAY
 - MULTIPLE SPRINKLERS
 - SPRINKLER, CONTAINER NURSERY
 - SPRINKLER, LARGE GUNS
 - SEEPAGE, SUBIRRIGATION
 - CROWN FLOOD
 - FLOOD (TARO)
 - OTHER – Please describe in the space provided for comments (Column I and/or below the table).
- H. **IRRIGATION PRACTICE** Enter one of the following:
 - IRRIGATE TO FIELD CAPACITY
 - APPLY A FIXED DEPTH PER IRRIGATION
 - DEFICIT IRRIGATION
 - OTHER – Please describe in the space provided for comments (Column I and/or below the table).

13. TABLE 3: ALTERNATIVES ANALYSIS

You should address every alternative and explain why each alternative is or is not available for your proposed potable and non-potable water needs. Other alternatives (last row of Table 3), may include stormwater reclamation, rainwater catchment, or other alternatives not already listed above.

Surface water is defined in §174C-3, HRS as: *both contained surface water—that is, water upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, reservoirs, and coastal waters subject to state jurisdiction—and diffused surface water—that is, water occurring upon the surface of the ground other than in contained waterbodies. Water from natural springs is surface water when it exits from the spring onto the earth's surface.*

For **Conservation Measures**, please describe any conservation measures that will be used to ensure that your water use is or will be efficient. Conservation measures may include, but are not limited to, water reuse or recycling systems, monitoring the water distribution system for pressure drops that are indicative of leaks or line breaks, or use of drought-tolerant and xeriscape landscape plants.

14. PUBLIC INTEREST

Explain in the space provided or on a separate sheet why the proposed new use(s) on your application are consistent with the public interest.

15. INTERFERENCE WITH THE RIGHTS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS

Explain in the space provided or on a separate sheet how the proposed new use(s) of water will not interfere with the rights of the Department of Hawaiian Home Lands, as provided in section 221 of the Hawaiian Homes Commission Act. To inquire about potential interference, you may contact the Department of Hawaiian Home Lands main line at 620-9500, or the DHHL Planning Office at 620-9480. You may also visit their website at dhhl.hawaii.gov, where you can review DHHL's Island Plans, Regional Plans, and their Water Policy Plan.

The State Water Code in §174C-101(a), HRS [Native Hawaiian water rights], states: *Provisions of this chapter shall not be construed to amend or modify rights or entitlements to water as provided for by the Hawaiian Homes Commission Act, 1920, as amended, and by chapters 167 and 168, relating to the Molokai irrigation system. Decisions of the commission on water resource management relating to the planning for, regulation, management, and conservation of water resources in the State shall, to the extent applicable and consistent with other legal requirements and authority, incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands as set forth in section 221 of the Hawaiian Homes Commission Act.*

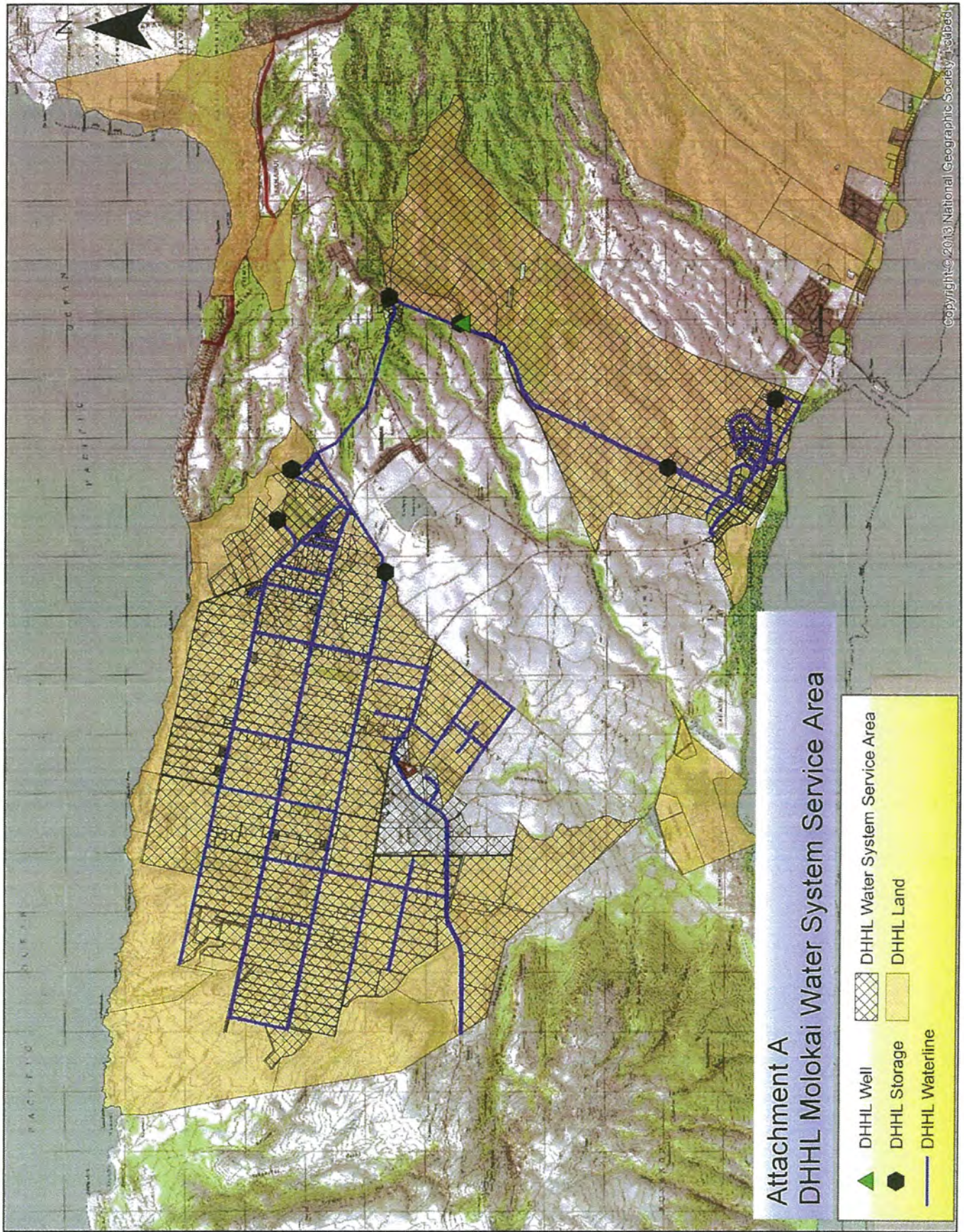
16. INTERFERENCE WITH ANY EXISTING LEGAL USES

Explain in the space provided or on a separate sheet how the proposed new use(s) of water will not interfere with any other existing legal use(s) of water.

17. PUBLIC WATER SYSTEM INFORMATION

Check the appropriate box or boxes relating to your existing or proposed new water system.

18. CHAPTER 343 If an Environmental Assessment was completed, fill in the dates of publication and acceptance. For additional information about the proposed uses checkboxes, refer to http://luc.state.hi.us/docs/hrs_343.pdf



Attachment A
DHHL Molokai Water System Service Area

	DHHL Well		DHHL Water System Service Area
	DHHL Storage		DHHL Land
	DHHL Waterline		

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Attachment B.
Attachment to Water Use Permit Application (WUPA) to modify WUP 267
Draft September 17, 2020

4. A. SUSTAINABLE YIELD FOR ITEM 4

The current Sustainable Yield (SY) for the Kualapu`u Aquifer System Area is currently 5.0 million gallons per day (mgd), set when the Commission on Water Resource Management (CWRM) adopted the Water Resources Protection Plan 2019 Update (WRPP) on July 16, 2019. That document left the Kualapu`u Aquifer System Area SY at the same amount as in the 2008 WRPP. This was explained by CWRM in part by footnote 17 to Table F-10 of Appendix F of the 2019 Update:

The Previously Adopted SY (2007) for the Kualapuu Aquifer System Area dates to a 1996 recalculation of sustainable yield based on a revised recharge number and modified RAM calculation (see comment 5 above). Based on (1) current ground water demands within the system, (2) the fact that the 5 MGD falls within the predicted range of sustainable yields for the aquifer system, (3) the presence of a deep monitor well within the system that will allow for long-term monitoring of the transition zone, and (4) the existence of ground water models for the system, CWRM elected to maintain the sustainable yield at 5 MGD.

In a previous Public Hearing Draft Submittal dates January 28, 1998 for the DHHL September 13, 1996 WUPA for these same sources, CWRM staff noted:

This is the maximum average rate that ground water can be withdrawn from the aquifer system without impairing the utility or quality of the aquifer system as a whole. However, this is water availability on a regional aquifer-wide scale as opposed to a localized well infrastructure scale.

The current SY of 5.0 mgd was chosen by CWRM staff and adopted by that Commission itself as a number at the bottom of a range of 5-8 mgd which is noted as being the SY Range 2019 in the Table F-10 of Appendix F of the 2019 Update. According to footnote 3 of that table and the 2019 SY Range column, "The bounds of the sustainable yield range were set based on the minimum and maximum estimates resulting from the comparison between the green columns: corrected RAM 2008, RAM + Updated best available Information, and RAM 2 + Updated best available Information."

The upper limit of 8 mgd appears in Tale F-10 in the column labeled "RAM + Updated Information", which itself has a footnote 2. Footnote 2 states that the numbers are "RAM or RAM 2 methodology using updated best information available for recharge estimates. In cases where multiple valid studies were published ranges of SY are shown."

We also note that the reference in Table F-10 for Molokai is a United States Geological Survey (USGS) publication from 1997 (Shade, P.J., 1997, Water budget for the Island of Molokai, Hawai'i: U.S. Geologic Survey Water-Resources Investigations Report 97-4155, 20pp.). That study estimated a recharge rate of 11 mgd, which would result in a calculated SY of 4.8125 mgd using the Robust Analytical Model (RAM) equation.

The basis for an upper limit of 8 in the range of SY for Kualapu`u is based on the lesser known 2008 Department of Health Source Water Assessment Program (SWAP) study using a recharge of 14 mgd. This results in a SY of 7.6, and CWRM chooses to round SY to nearest whole number, or 8 mgd.

6. TOTAL QUANTITY OF WATER REQUESTED. DHHL is requesting 0.595 million gallons per day (mgd), the amount of water it can reliably pump and deliver from its two wells. This accounts for a portion *but not all* of our near-term needs, as described further below. As of June 30, 2020, there are 2,089 qualified beneficiaries on the Molokai waiting lists (816 for residential, 1,069 for agricultural, and 204 for pastoral lots). Expressed as a percentage of SY, DHHL is seeking to increase its current allowed rate of using 7.34% by 4.56% to 11.9% (see 4, above).

7. PROPOSED USE(S) As they fall into the GWUPA-N (January 28, 2016) form "use" categories, DHHL proposed uses could be characterized as Agriculture, Domestic, Industrial, and Municipal, or alternately, simply Municipal (as the wells are the source for Public Water System (PWS) 230. **Here, DHHL is seeking to have this well permitted as a municipal well, but with the amount allocated for municipal use based on the additional information provided in this application.**

DHHL also makes the following observations for the record:

- The categories military, agriculture and industrial given in the instructions of FORM GWUPA-N (January 28, 2016) (page 6) are not defined by the state Water Code (HRS 174C-3).
- The category "municipal" is defined in the application identically to its definition in the code and in rule (e.g. HAR 13-171-2). However, municipal is not a category of use, as municipal systems can deliver water for multiple uses.
- The category "domestic" is defined in the application identically to its definition in the code and in rule (e.g. HAR 13-171-2). However, the subcategories offered in the form may contradict these definitions. For example, water used in office buildings does not clearly fall within the definition of domestic which "means any use of water for individual personal needs *and* for *household* purposes such as drinking, bathing, heating, cooking, noncommercial gardening, and sanitation" (emphasis added).

We note the use categories may provide CWRM some basis to determine whether actual use rates or proposed duties are efficient and comparable to other uses. However, it does not

provide a basis for determination if the proposed uses fall within protected Public Trust use categories of water. DHHL notes here for the record there should not be conflation of the domestic category on the form with the protected Public Trust domestic uses as identified by Hawai'i courts (see Kaua'i Springs, 130 Haw. 407, 312 P.3d 283), as CWRM considers this and other applications for water.

DHHL also notes here for the record that DHHL reservations and uses are Public Trust uses of water. CWRM must recognize that in the Wai'ola case - which is the basis of key Hawai'i Supreme Court findings regarding DHHL reservation – the only issue presented to the Court was whether or not DHHL water *reservations* might have been harmed by the CWRM decision, which is why the court referred only to reservations.

However, the Water Code itself recognizes the Public Trust purpose of DHHL reservations *and uses*. For instance, all Water Use Permits issued in Water Management Areas – such as this one – are subject to the rights of DHHL (HRS 174C-49(a)(7)). Also, HRS 174C-101(a) protects reservations of water “for current and foreseeable development *and use*” (emphasis added) of water by DHHL, consistent with Section 221 of the HHCA. Thus, *current and foreseeable uses* are part of the reservation, and it is clear that DHHL uses, not only reservations are also a protected Public Trust purpose.

This is important because if CWRM staff only acknowledges that reservations for DHHL are Public Trust uses, the implication is that once water is delivered, protection for DHHL water use would evaporate and be equivalent to private commercial uses of water. Absent such a recognition, it would be as if the CWRM immediately passed new Interim Instream Flow Standards for all streams but did nothing to implement them once passed, including failing to stop new actual diversions. **The actual uses of water by DHHL and its beneficiaries are required to have the full protections of being a Public Trust use of water.**

Item 11 (Table 1). Item 11 of the WUPA asks for data regarding the proposed new or modified uses sought by the applicant. It seeks information allowing the CWRM and its staff to assess two broad areas of concern:

- The consistency of any proposed land uses requiring water with existing State Land Use District classifications, County Zoning, and Coastal Zone Management Act requirements (e.g. Special Management Area Permits); and
- The efficiency of the proposed uses and justification for the quantity sought.

This section of the attachment to our WUPA consequently describes:

- **Previously permitted uses under WUP 267;**
- **Proposed modified uses, including the proportion of non-potable uses and Public Trust uses;**

- **The consistency of uses with applicable regulations; and**
- **The efficiency of the current and future uses for which water is sought.**

Each of these four points is addressed in turn immediately, below.

Previously permitted uses under WUP 267

The current WUP held by DHHL (WUP 267), which we seek to modify here, was approved by CWRM on September 15, 1993. It was based on an application submitted dated July 2, 1993. According to the WUP 267 itself, transmitted to DHHL by letter dated March 19, 1996, the permitted amount was for "0.367 mgd (based on 358 domestic service connections and agriculture use)". The application itself had requested .5 mgd for "350 individual customers including Molokai Airport."

The staff submittal which the CWRM considered when granting WUP 267 noted the following:¹

According to a summary of DHHL's existing and foreseeable future water needs provided in a July 2, 1993 letter to the Commission (see Attachment C), existing withdrawals from DHHL Wells 1 & 2 for municipal use and for domestic consumption via 358 service connections are estimated at about 250,000 gpd.² However, the reports of actual monthly water usage submitted by the applicant indicate that the 12-month moving average withdrawal from the two sources is about 367,000 gpd.

In contrast, in Attachment C to that staff submittal, DHHL notes that "It currently has 306 homestead customers and 52 non-homestead customers, including the airport and high school." This does add up to 358 service connections, but not "358 domestic service connections," which imply household uses and demands (see also Item 7 response regarding the definitions of domestic uses).

In addition, the letter included as Attachment C to the staff submittal goes on to note "This same system serves the Moloka'i Airport, Moloka'i Intermediate and High School, Moloka'i Electric, the county fire department, and industrial needs, which currently consume an average 35,000 g[p]d."

The September 15, 1993 staff submittal indicated that there was a use of 35,000 gpd for 52 non-homestead customers (an average meter use of approximately 675 gpd). The DHHL has not been able to locate records for actual usage data from that time period. The 35,000 gpd amount seems a significant underestimation, as the 61 commercial meters now on the system

¹ "Applications for Water Use Permits. Kualapuu Ground Water Management Area, Molokai" Staff submittal for agenda item 9, Commission on Water Resource Management meeting of September 5, 1993, on file with CWRM.
² Gallons per day

used an average of approximately 146,000 gpd in 2019. DHHL believes it is likely that the commercial uses were higher in 1992 and the agricultural uses lower than indicated in the staff submittal. In addition, the 1993 staff submittal did not indicate if any of the agricultural uses were homestead uses, as opposed to commercial agricultural uses.

Based on the forgoing and in the absence of other records to the contrary, it appears the CWRM voted on September 15, 1993, to grant the following water uses summarized in Table DHHL-1, below.

Table DHHL-1. Water allocations, WUP 267³

Existing uses	Proposed Duty	Estimated demand (1992) (gpd)
306 homestead service connections	600 gpd/unit	183,600 ⁴
52 non-homestead customers	-	35,000 ⁵
Agricultural use	-	148,400 ⁶
TOTAL PERMITTED AMOUNT		367,000

Proposed Modified Uses

At a high level, DHHL seeks here to modify WUPA 267 to authorize the pumping of .595 mgd primarily for existing customers, and to add new homesteads as well (the latter being a Public Trust use of water). More specifically DHHL seeks water:

1. ***For 539 currently existing residential homestead service connections*** (a Public Trust use of water);
2. ***For 26 currently existing homestead agricultural service connections*** (a Public Trust use of water);

³ According to the CWRM minutes a representative of the Department of Hawaiian Home Lands "stated that the existing amount is acceptable but they would eventually have to come back to the Commission to request additional irrigation and potable water for future developments."

⁴ The staff submittal for September 15, 1993 noted "It currently has 306 homestead customers and 52 non-homestead customers, including the airport and high school."

⁵ Attachment C to the staff submittal of September 15, 1993 stated "This same system serves the Moloka`i Airport, Moloka`i Intermediate and High School, Moloka`i Electric, the county fire department, and industrial needs, which currently consume an average 35,000 g[p]d."

⁶ Calculated by the remainder after water for other customers is subtracted from the total allocation.

3. ***For the existing use by the County of Maui, which in turn delivers it to currently existing domestic and possibly other customers*** at Kala`e in the amount of 22,000 gpd on average;⁷
4. ***For five (5) currently existing commercial agricultural meters*** (a private, commercial use of water); and
5. ***For currently existing various non-homestead uses of water*** including the Moloka`i Airport, Moloka`i Intermediate and High School, Moloka`i Electric, the county fire department, churches, civic organizations, small businesses, DHHL and other state facilities etc. (which are beneficial “commercial” use of water under Hawai`i water law).
6. ***For at least 171 new homestead residential service connections for lots*** at Ho`olehua (13), Nā`iwa (58), and Kalama`ula Mauka (100) (a Public Trust use of water);
7. ***For new homestead residential service connections meters to be made available for subdivided homestead lots*** (a Public Trust use of water).

To determine the amount of existing water use and its relationship to CWRM WUPA use categories, DHHL identified the relationship between existing customer categories in the DHHL utility billing system and the WUPA categories. This is presented in table DHHL-2.

⁷ Because DHHL does not have full information on the nature of Maui County’s customers or their usage rates, we do not assert here that the uses are a Public Trust use of water. We are not however asserting their uses are a private, commercial use of water and would welcome comment from Maui County on this matter.

Table DHHL-2. Crosswalk between PWS 230 Account Structure & WUPA Use Categories

DHHL Billing Usage Code (Utility Star)	DHHL Usage Category	Meter size (in inches)	2019 # of meters	Purpose / water use category (CWRM WUPA) ⁸
R301	Residential	5/8	530	DOM
R302	Residential	2	0	DOM
R303	Residential	1	9	DOM
WAG1M	Homestead Ag	5/8	22	AGRICULTURE
WAG2M	Homestead Ag	¾	0	AGRICULTURE
WAG3M	Homestead Ag	1	4	AGRICULTURE
CAG3	Commercial Ag	1	5	AGRICULTURE
W310	Commercial	5/8	29	COMM ⁹
W312	Commercial	1	3	COMM ¹⁰
W313	Commercial	1 ½	4	COMM ¹¹
W314	Commercial	2	11	COMM ¹²
W315	Commercial	3	1	COMM ¹³
W316	Commercial	4	2	COMM ¹⁴
W318	Commercial	8	1	COMM ¹⁵
W319	Commercial	Low flow	2	COMM ¹⁶
W320	Fire Rate		1	INDFP (Airport)
W365	N/a		8	DHHL

Based on the analysis in Table DHHL-2 and the information from our 2019 uses as reported in our billing software for customers, DHHL identified the following existing and future water needs.

⁸ All DHHL Uses are also MUNST – Municipal, State; however, that “Usage Code” is a manner of delivery rather than a use.

⁹ Veteran’s Cemetery, State Agencies, Churches, Credit Union, Post Office, FAA, Hikiola Coop, Maui Electric Company, Sandwich Isles Communications, University of Hawai’i, Molokai Humane Society, Molokai Homestead Livestock Association., Kalaniana’ole Hall

¹⁰ Akea Farms, Church, US Department of Agriculture Plant Material Center

¹¹ Ho’olehua Fire Station, Molokai Baptist Church, Department of Education (Athletic Field)

¹² Airport, Kulana ‘Oiwī, Church, Kualapu’u Charter School, Island Utility Services (Molokai Ranch)

¹³ R.W. Meyer Ltd.

¹⁴ Department of Education, Molokai Slaughterhouse

¹⁵ County of Maui, Water Supply

¹⁶ R.W. Meyer Ltd., Department of Education

Table DHHL-3. Requested Water Allocations, 2020 WUPA

Proposed uses	Quantity	Water System Standard (WSS)	Demand based on WSS	2019 average gpd (rounded) ¹⁷	2020 requested amount
Homestead residential service connections	539	600 gpd/unit	329,400	249,000	249,000
Homestead agricultural service connections	26 meters serving approximately 315.5 acres	5000 gad ¹⁸	1,577,500	39,186	40,000
2 commercial agricultural (farming) service connections	2 meters serving 30 acres	5000 gad	150,000	12,243	12,400
3 commercial agricultural (livestock) service connections	3 meters serving 2,506 acres	n/a			
New, committed service connections (Kalama`ula mauka, Nā`iwa, Ho`olehua)	171	600 gpd/unit	102,600	-	102,600
Maui County delivered water	1 meter		21,000	21,000	21,000
Other commercial connections	61 meters	various	-	146,000	146,000
Sub-dividable homestead lots	40 ¹⁹	600 gpd/unit	24,000	-	24,000
TOTALS			2,028,700	524,429	595,000

Depending on how CWRM chooses to authorize the permit that responds to this WUPA, there are two alternate ways to characterize our proposed request:

1. DHHL seeks an additional 228,000 gpd beyond its permitted 367,000 gpd for additional homestead lots, which includes 171 new, committed service connections for Kalama`ula mauka, Nā`iwa, and Ho`olehua and up to 210 service connections for

¹⁷ Based on data from the DHHL Utility Star system

¹⁸ Gallons per acre per day

¹⁹ Molokai Island Plan (https://dhhl.hawaii.gov/wp-content/uploads/2012/05/Island_Plan_Molokai_2005.pdf), which is still in effect, authorized the subdivision of specific lands in Ho`olehua that could potentially yield 544 agriculture homesteads (p. ES-3).

- lots that can be created through subdivision, out of the maximum 544 homesteads that could be created through subdivision under the 2005 Molokai Island Plan; or
2. DHHL seeks an allocation of 436,600 gpd for recognized Public Trust uses of water, and an additional 158,400 gpd for non-Public Trust, reasonable beneficial uses of water.

The agricultural uses of water (Homestead service agricultural connections and the five commercial agricultural service connections) require only non-potable water, for a total of 52,400 gad. The remaining uses require potable water.

Finally, we note that it has been the practice of the three major water providers in central Molokai (Maui DWS, the relevant subsidiaries of Molokai Ranch, and DHHL) to provide water to each other when one water system has become inoperable due to pump failure or other reasons. To the extent that such emergency provision of water must be authorized by CWRM, DHHL seeks such authorization in this WUPA.

Land Use Consistency for Modified Proposed Uses

To the extent the WUPA form seeks information to determine if existing and proposed uses are consistent with land use controls, we note that the HHCA holds jurisdiction for determining the uses of its lands under its control, and does so under its own planning system. Hence, the requested information under columns C, D, E, and F are not applicable to DHHL. The inapplicability of State Land Use Commission and County zoning to DHHL lands has been addressed in Attorney General's Opinions, most recently on November 13, 2019. While based on numerous provisions of the HHCA and legislative history, two provisions are particularly relevant.

Section 204 of the Hawaiian Homes Commission Act of 1920 provides:

"...all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this title..."

Section 206 provides:

"The powers and duties of the governor and the board of land and natural resources, in respect to lands of the State, shall not extend to lands having the status of Hawaiian home lands, except as specifically provided in this title."

Based on these provisions and other law, the request for information under columns C, D, E, and F are not applicable to DHHL.

12. TABLE 2: IRRIGATION INFORMATION

While DHHL is the title holder of almost all of the land to which irrigation water is provided, it is not the operator or lessee and has no control of the crops or livestock choices made by lessees. **We note that Table DHHL-3 above shows that the actual 2019 irrigation use is minimal, and below what County Water System Standards would allow.**

13. TABLE 3: ALTERNATIVES ANALYSIS

DHHL's responses to this item are as follows, which support that DHHL's request in this WUPA cannot be practicably served by alternative sources at this time.

Municipal sources, for potable and non-potable use: There are two other "municipal" sources of water in close proximity to the two DHHL wells, owned by the County and Molokai Ranch and its subsidiaries. They are not meaningfully "alternate" sources when looking at the sustainability of the Kualapu`u Aquifer due to their proximity to each other.

Wastewater reuse for potable and non-potable use. The only major, non distributed source of wastewater in any proximity to the DHHL lands is the Kaunakakai Wastewater Reclamation Facility. It is owned by the County of Maui and was constructed in 1969 with a design capacity of 0.086 mgd. In 1984, the WWRf's design capacity was increased to 0.3 mgd. The WWRf provides secondary treatment of sewage and features rotating biological contractors, secondary clarifier, effluent filters, and chlorinators. Currently 0.289 mgd or 96% of the WWRf's design capacity of 0.3 mgd has been allocated. Reclaimed water from the Kaunakakai WWRf is used for irrigation purposes with the excess disposed of by injection wells.²⁰

There is no infrastructure DHHL is aware of to treat this effluent for potable use or to transport it for nonpotable use to areas where it could be a practicable alternative to current sources.

Ditch System and Surface Water Alternatives, for potable and non-potable use. The Molokai Irrigation System (MIS), owned and controlled by the state Department of Agriculture, is a theoretically available alternate source of water for non-potable uses in the DHHL service area. The MIS currently provides water to some homesteaders but not all who desire service. As it pertains to this application, 52,000 gpd of water is used for irrigation purposes. Not all of the areas that are currently serviced by this system can be serviced by the MIS, however.

Desalinization, for potable and non-potable use. Desalinization is not a practicable alternative due to energy costs on Molokai, the volume of water required, uncertain effects of disposal of

²⁰ <https://www.mauicounty.gov/DocumentCenter/View/83252/Maui-Infrastructure-Assessment-Update-condensed?bidId=>

residual brine, and unavailable capital. Requiring DHHL to develop a costly source of water to serve its Public Trust uses while CWRM continues to allow Molokai Ranch to serve non-Public Trust uses of water with less expensive groundwater (and without a valid permit) would be inconsistent with CWRM constitutional and statutory duties and case law.

Conservation Measures, for potable and non-potable use. DHHL's 2019 Performance audit of PW 230, our Non-revenue water as a percentage of volume of water supplied was 9%. Planned improvements to the Ho'olehua Water System will increase water conservation by reducing existing leakage and loss across the system (reduction of "non-revenue water"). These planned improvements were addressed in detail in a Final Environmental Assessment published in the Environmental Notice on June 8, 2016.²¹

14. PUBLIC INTEREST

As explained above, DHHL seeks an allocation of 436,600 gad for recognized Public Trust uses of water, and an additional 158,400 gad for non-Public Trust, beneficial uses of water. It further seeks CWRM to consider that CWRM's own documents and other peer reviewed scientific information suggests that the full SY should not be allocated in order to provide for "the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest."

DHHL further notes for the record that the analysis required by the CWRM to determine whether a permit should be granted, granted in part, or denied, must go well beyond the excerpt of the purpose section of the Code contained in this question. Extensive case law has explained the duties of CWRM and how this broad language must be implemented. Below we detail one key consideration, how any proposed use may impact traditional and customary practices.

Traditional and customary practices *Legal background that guided DHHL research*

DHHL conducted research in order to determine how its increased uses may impact traditional and customary practices. **Before we summarize our research detailed in Attachment C and its exhibits, we explain here how we determined our research purposes based on existing legal requirements.**

²¹ http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2016-06-08-MO-FEA-Hoolehua-Water-System.pdf#search=Hoolehua

Section §174C-49(a) of the State Water Code stipulates that to obtain a WUPA an applicant shall establish that the proposed use of water will not “interfere with any existing legal use of water” and “is consistent with the public interest.”

Earlier in the Code, the public interest is defined **in part** as follows (HRS §174C-2(c)):

The state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.

This broad purpose language in conjunction with other Code provisions has been subject to further interpretation by appellate Hawai`i courts. Two critical cases specifically dealing with groundwater withdrawal on Molokai (Waiola o Molokai, 103 Hawai`i 401, 83 P.3d 664 (2004) and Kukui Molokai, 116 Hawai`i 481, 174 P.3d 320 (2007)) helped develop this case law. Among other matters these cases clarified what the protected Public Trust uses of water were in Hawai`i, and that non-Public Trust users of water held a burden to show that their proposed uses did not harm Public Trust uses.

Building on those and other cases, clear guidance to agencies on how to evaluate requests was provided in the Kaua`i Springs case (130 Haw. 407, 312 P.3d 283). The Hawai`i Supreme Court stated (notes and citations omitted):

To assist agencies in the application of the public trust doctrine, we distill from our prior cases the following principles:

- a. The agency’s duty and authority is to maintain the purity and flow of our waters for future generations and to assure that the waters of our land are put to reasonable and beneficial use.
- b. The agency must determine whether the proposed use is consistent with the trust purposes:
 - i. the maintenance of waters in their natural state;
 - ii. the protection of domestic water use;
 - iii. the protection of water in the exercise of Native Hawaiian and traditional and customary rights; and
 - iv. the reservation of water enumerated by the State Water Code.

- c. The agency is to apply a presumption in favor of public use, access, enjoyment, and resource protection.
- d. The agency should evaluate each proposal for use on a case-by-case basis, recognizing that there can be no vested rights in the use of public water.
- e. If the requested use is private or commercial, the agency should apply a high level of scrutiny.
- f. The agency should evaluate the proposed use under a “reasonable and beneficial use” standard, which requires examination of the proposed use in relation to other public and private uses.

Applicants have the burden to justify the proposed water use in light of the trust purposes.

- a. Permit applicants must demonstrate their actual needs and the propriety of draining water from public streams to satisfy those needs.
- b. The applicant must demonstrate the absence of a practicable alternative water source.
- c. If there is a reasonable allegation of harm to public trust purposes, then the applicant must demonstrate that there is no harm in fact or that the requested use is nevertheless reasonable and beneficial.
- d. If the impact is found to be reasonable and beneficial, the applicant must implement reasonable measures to mitigate the cumulative impact of existing and proposed diversions on trust purposes, if the proposed use is to be approved.

Thus, following the principles in Kaua`i Springs, applicants for a permit from CWRM must:

- **Determine the degree to which the proposed uses are either:**
 - **consistent with trust purposes, or**
 - **private commercial uses**
- **If any proposed uses are inconsistent with trust purposes, determine for the proposed uses:**
 - **If they are reasonable and beneficial;**
 - **What their actual needs are;**
 - **If there is absence of practicable alternatives; and**
 - **If there is a reasonable allegation of harm to public trust purposes.**
- **If any proposed uses are inconsistent with trust purposes and they are reasonable and beneficial, the applicant must implement reasonable measures to mitigate the cumulative impact of existing and proposed diversions on trust purposes, if the proposed use is to be approved.**

The courts have not established any priority among the four Public Trust uses of water. However, it is notable that two are in situ, non-consumptive uses (waters in their natural state and water used in the exercise of Native Hawaiian and traditional and customary rights).

To further guide how applicants requesting consumptive uses of water should evaluate such impacts, the Hawai'i Supreme Court's guidance in *Ka Pa`akai o Ka `Āina* (94 Hawai'i 31, 7 P.3d. 1068 (2000)) is applicable, which was an appeal of a decision by the state Land Use Commission (LUC). There the court noted:

We therefore provide this analytical framework in an effort to effectuate the State's obligation to protect native Hawaiian customary and traditional practices while reasonably accommodating competing private interests: In order to fulfill its duty to preserve and protect customary and traditional native Hawaiian rights to the extent feasible, the LUC, in its review of a petition for reclassification of district boundaries, must -- at a minimum -- make specific findings and conclusions as to the following:

- (1) the identity and scope of "valued cultural, historical, or natural resources" in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
- (2) the extent to which those resources -- including traditional and customary native Hawaiian rights -- will be affected or impaired by the proposed action; and
- (3) the feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian rights if they are found to exist. "

The guidance to the LUC there is applicable to and binding against other agencies, including DHHL and CWRM.

Based on this legal background, the research undertaken by DHHL was designed to fulfill the following purposes:

1. **Review the peer reviewed 2020 USGS study of Molokai groundwater that identified the coastal areas that may experience reduced groundwater flow as result of increased DHHL pumping; and**
2. **Within that area, determine:**
 - a. **The identity and scope of any valued cultural, historical, or natural, groundwater dependent resources;**
 - b. **The extent to which traditional and customary native Hawaiian rights have been, are, or are planned to be exercised in relation to those resources;**
 - c. **The extent to which there may be a reasonable allegation of harm by practitioners to those resources and practices, resulting from the proposed pumping; and**

3. **If the proposed DHHL uses are determined by the CWRM to be either consistent with Public Trust purposes and/or reasonable and beneficial, help identify reasonable measures to mitigate the cumulative impact of existing and proposed pumping on those groundwater dependent resources and practices.**

Traditional and customary practices research summary

The research conducted is summarized in the attached memorandum, "Investigation of Cultural Impacts for the Molokai Water Use Permit Application", which itself has four exhibits. Trusted interviewers discussed traditional and customary resources and practices with selected practitioners in the Kalama`ula area.

Long term, multi-generational Kalama`ula homesteaders are aware without prompting of the importance of mauka-makai freshwater flows to the health of their nearshore environment, and this information comes from generational experience. While the practice of subsistence fishing and harvesting of limu and shellfish is slowly diminishing, it still plays an important role in the society, culture and identity of homesteaders in Kalama`ula, and there is a desire to see it revived and perpetuated. Proper care and protection of these resources is important to the homesteaders interviewed, and to their `ohana.

As the community gradually loses its cherished kupuna, like Aunty Kauila Reyes, there is concern that the values and traditional practices and ecological knowledge that sustained Kalama`ula for generations may not be perpetuated.

Just as is the case with scientists studying groundwater dependent ecosystems elsewhere in the world, homesteaders knew that ongoing groundwater flow was critical to the perpetuation of these valued resources, but they also knew that other physical, biological, and social impacts were also affecting them. From the interview with Penny Martin:

Native mullet – need freshwater seeps. Used to be way more fresh water. She has come to understand that kiawe trees and mangrove both use up lots of fresh water. She thinks there are less ōpae (shrimp) because there is less fresh water. She thinks there are less `āholehole (Hawaiian flagtail) for the same reason.

The known experience of this complexity did not lead interviewees to merely conclude the issues should simply be studied more, however. Rather, interviewees sought to take other actions to address the impacts of these withdrawals, by directly managing other harmful impacts on these areas. Again, Ms. Martin:

She recommends removing the mangrove (shrub/small tree that grows in coastal saline or brackish water) and kiawe (*Prosopis pallida*) to counteract less fresh water reaching the shoreline.

Cattle up mauka – deer – eating the vegetation. [Soil is] running off. She said we must consider how to control erosion before removing the mangrove, which was planted to control erosion. Mangrove helps control silt run off but it takes/uses so much fresh water. She said the key to erosion control is managing mauka rain runoff and therefore proper management of the watershed.

Based on this research, DHHL believes that if this WUPA is issued for the requested amount, permit conditions should include that DHHL shall

- **Work to implement community-led efforts to replace invasive species with native species to try to improve the health of the coastal ecosystem;**
- **Supported and encourage efforts to reduce erosion and restore native vegetation in Kalama'ula's mauka areas; and**
- **Make available certain Community Use designated areas as outdoor classrooms for schoolchildren, particularly for the perpetuation of traditional and customary groundwater dependent practices and resource management.**

These conditions would be consistent with policies in DHHL's Water Policy Plan (<http://dhhl.hawaii.gov/wp-content/uploads/2013/09/HHC-Water-Policy-Plan-140722.pdf>) which stipulates that DHHL shall "Develop, manage, and steward water in a manner that balances cost, efficiency measures, and Public Trust uses in the short and long term."

in coordination with the traditional ecological knowledge, ingenuity, resourcefulness and cultural grounding of the Kalama'ula homestead community, would serve as a shining example of collaborative natural and cultural resource management and education that could serve to mitigate potential impacts to nearshore resources and protect our most precious island resource, our wai.

15. INTERFERENCE WITH THE RIGHTS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS

The proposed uses of water will be by the Department of Hawaiian Home Lands, the applicant here. As described above, there are "private, commercial uses" of water that are non-Section 221 uses on the DHHL system, such as water used by the Molokai Airport and Molokai High School. To the degree that such uses can be said to interfere with Section 221 uses, DHHL believes they are reasonable and beneficial, and the granting of this permit will allow other new Section 221 uses to begin.

DHHL intends that some of the permitted water, if this WUPA is granted, drawn against the reservation it holds for water from this aquifer. This is detailed immediately below.

DHHL's reserved and permitted water in Kualapu'u

DHHL holds both an existing permit for water as well as a reservation made by rule. The latter is codified in HAR §13-171-63 which states:

Department of Hawaiian home lands reservation for Kualapuu, Molokai. The commission hereby reserves 2.905 million gallons per day of ground water from state lands in the Kualapuu aquifer system for use on Hawaiian home lands on Molokai. This amount shall be in excess of the existing uses of water on Hawaiian home lands as of the effective date of this rule. [Eff. June 10, 1995]

Determination of the "existing uses of water on Hawaiian home lands as of the effective date of this rule" is challenging, however. Some considerations are:

- DHHL has its average daily pumping rate for June 1995;
- It delivers water to lands that are not "Hawaiian home lands" (e.g. the airport and Molokai High School);
- DHHL has not located delivery records for that date;
- The existing use permit (WUP 267) (approved September 15, 1992) is for .367 mgd;
- WUP 267 specified it is for "0.367 mgd (based on 358 domestic service connections and agriculture use)";

Based on the above it appears that DHHL's rights to water in the aquifer – its permitted amount and its reservation amount – are at a minimum of 2.905 mgd + .367 mgd.

Also based on the above DHHL is here requesting additional water requested beyond our currently permitted amount (0.595 - 0.367 mgd, or 0.228 mgd). As detailed above, currently DHHL delivers a one-year average (based on 2019 numbers) of 158,400 gad of water not used on DHHL lands or water used on DHHL lands for non HHCA 221 purposes. Thus, consistent with the reservation cited above which is solely for water on Hawaiian home lands, we currently are permitted 367,000 gpd "for use on Hawaiian home lands"; our current permit seeks 436,600 gpd "for use on Hawaiian home lands," and therefore the difference (436,600 – 367,000) or **69,600 gpd would be understood by DHHL to be a draw from our reservation for the use of water "on Hawaiian Home Lands"**.

16. INTERFERENCE WITH ANY EXISTING LEGAL USES

Currently, the only major existing permit holder with existing legal uses is the County. The USGS model referenced earlier indicates that the uses DHHL seeks here along with the current and anticipated requests of the County will not cause chlorides to exceed EPA secondary standards.

The other "existing legal uses" are the uses of water in the exercise of traditional and customary practices described in response 14, above and Attachment C and its exhibits.

Molokai Ranch does not have an existing legal use of water from Well 17. As the Hawai'i Supreme Court noted in Kukui on this exact subject, referring to the Ranch's subsidiary Kukui Molokai Inc or KMI: "In light of the foregoing, DHHL is correct that the Commission erred by considering KMI's untimely request for existing uses. Therefore, we vacate the Commission's Decision and Order to the extent that it grants KMI a permit for existing uses. If, on remand, KMI wishes to "revive" these expired uses, it must apply for a permit under HRS § 174C-51 as the uses are now presumed abandoned. See HRS § 174C-50(c)." Kukui Molokai, 116 Hawai'i 481, 174 P.3d 320 (2007).

MEMORANDUM

TO: Andrew Choy, Acting Planning Program Manager
FROM: Nancy McPherson, Planner
REVIEWED: Jonathan Likeke Scheuer, Ph.D., Water Policy Consultant
SUBJECT: Investigation of Cultural Impacts for the Molokai Water Use Permit Application
DATE: September 15, 2020

Introduction and Purpose the Research

The Department of Hawaiian Home Lands (DHHL) undertook research in support of its Water Use Permit Application (WUPA) that will request a small increase in the volume of water pumped from the Kualapu'u Aquifer on Molokai, Hawai'i. If granted in full, the WUPA would raise DHHL's overall pumping allocation from about 7% to just under 12% of the "Sustainable Yield" of the aquifer as that is determined by the Commission on Water Resource Management (CWRM). However, for CWRM to grant any WUPA request – no matter how small an increase – applicants must affirmatively demonstrate their uses are both in the public interest and will not interfere with existing legal uses of water.

Due to the hydrological connection between pumping of the Kualapu'u aquifer and outflow of fresh water along the southern shoreline of Molokai at Kalama'ula, as evidenced by the results of the USGS Water Model for the Kualapu'u Aquifer¹, DHHL staff and consultants felt it would be highly desirable to prepare this research designed to evaluate potential impacts to native Hawaiian users of the shoreline that could be reasonably alleged to occur due to increased pumping of the aquifer. Molokai is known for the relatively high percentage of people who practice subsistence hunting, fishing and gathering to provide healthy food for their families as well as to supply resources for cultural practices, such as pā'ina for a baby's first birthday.

More specifically, to help meet these two permit application requirements, our research purposes were to:

1. Review the peer reviewed 2020 USGS study of Molokai groundwater that identified the coastal area that may experience reduced groundwater flow as result of increased DHHL and other pumping; and
2. Within that coastal area, determine:
 - a. The identity and scope of any valued cultural, historical, or natural, groundwater dependent resources;

¹ Oki, D.S., Engott, J.A., and Rotzoll, K., 2020, Numerical simulation of groundwater availability in central Moloka'i, Hawai'i: U.S. Geological Survey Scientific Investigations Report 2019–5150, 95 p., <https://doi.org/10.3133/sir20195150>.

- b. The extent to which traditional and customary native Hawaiian rights have been, are, or are planned to be exercised in relation to those resources;
 - c. The extent to which there may be a reasonable allegation of harm by practitioners to those resources and practices, resulting from the proposed pumping; and
3. If the proposed DHHL uses are determined by the CWRM to be either consistent with Public Trust purposes and/or reasonable and beneficial, help identify reasonable measures to mitigate the cumulative impact of existing and proposed pumping on those groundwater dependent resources and practices.

These research purposes were determined by a review of relevant legal guidance including case law. That legal analysis is contained in the other attachments to the WUPA DHHL is submitting.

Methodology – interviewers selected

E. Halealoha Ayau and Nancy M. McPherson conducted the research. After reviewing the USGS study, including discussions of its findings with the authors, Ayau and McPherson conducted interviews with lifelong Kalama'ula homesteaders who, either in the past or currently, used the resources of the Kalama'ula shoreline area for traditional cultural and subsistence purposes. DHHL believed it was necessary the research be conducted by interviewers with long established relationships and high levels of trust with the interviewees. Discussions seeking to identify the and scope of valued cultural, historical, or natural resources mean that interviewees are being asked to share highly valuable and closely held generational knowledge, and it is not realistic to expect that such information would be casually shared with outside interests. **See also Exhibit 'A', Statement of Qualifications.**

Methodology – interviewees selected

The USGS study previously mentioned notes that decreased coastal flow due to increased pumping of wells in Kualapu'u will affect both the northern and southern coasts of the island. The northern coastal areas affected under all scenarios other than the baseline are nearly all small strips of coastline at the base of high sea cliffs. While used for the exercise of traditional and customary practices, the impacts of pumping are more extensive on the southern coast and coincides with known areas of subsistence activity, including fishponds. This information, along with the skills and relationships of the interviewers, led to the decision to have interviews focused on individuals from the Kalama'ula area on the south shore of Molokai. For proposed pumping scenarios where pumping is significantly increased, especially for non-Public Trust uses of water, a much broader set of interviewees from a larger stretch of the south coast of Molokai would be necessary.

Interview subjects were chosen based on a number of criteria, such as length of time living in Kalama'ula, proximity of residence to the shoreline, knowledge of traditional and customary

practices such as subsistence harvesting of ocean resources and use of shoreline plants, and peer recommendations received from other Kalama'ula homesteaders. **See also Exhibit 'B', Ahupua'a Map, and Exhibit 'C', Area of Study.**

Methodology – interview questions and structure

For several of the interviews, the interviewers were joined by two shoreline consultants from the firm Planning Consultants Hawai'i LLC, who had been contracted by DHHL to work on another project, a shoreline erosion management plan for homestead communities along the southern shoreline of Molokai. The shoreline interviewers asked additional questions about ecological conditions, shoreline erosion and other changes to the shoreline area that had been noticed over the informants' lifetimes, and other traditional ecological knowledge. There was a prepared list of questions that was loosely used, although informants often followed a train of thoughts and memories that responded to multiple questions in varying sequences.

See Exhibit 'D', Interview Questions.

Seven Kalama'ula homesteaders were interviewed over four days, November 20-22, 2019 and February 10, 2020. The average length of interview was 90 minutes. Each interviewer took notes, and the notes were merged once transcribed. Often, after receiving a response to a question, interviewers asked follow-up questions for clarification, being careful not to ask leading questions that might influence the results. Once the notes were transcribed and merged, the draft transcription of their interview was emailed to informants for their review, correction and final approval. Transcribed interviews have been retained by DHHL.

Informants were initially asked about their and their 'ohana's connection to the Kalama'ula shoreline, which provided information about historic uses of the shoreline, the way of life in Kalama'ula in the early days, and similar information. Informants shared about having various kinds of knowledge taught to them by their grandparents and parents, particularly about the significance of the springs in the area and the sacredness of the Kapuāiwa Coconut Grove. They also talked about how they and their 'ohana practiced subsistence from the sea, caught various kinds of crab, fish and 'ōpae, gathered various kinds of limu, how abundant the resources were (particularly limu 'ele'ele because of the presence of fresh water), and how resources were shared with those homestead families who couldn't access the resources themselves. Types and traditional uses of plants along the shoreline were discussed. The informants talked about how self-sufficient the homesteaders were, how the 'ohana lived off of their ahupua'a (land and sea), and how everyone practiced mālama, kuleana and aloha 'āina, from the youngest keiki to the kūpuna.

The informants also provided important information about the amount and makai direction of flow of fresh water underneath the area, particularly under Kapuāiwa Coconut Grove, the history of uses and conditions of the various springs, and various mo'olelo and stories about the mo'o wahine that protects the springs. Out of respect, no one walked through the grove – they

either walked along the highway or walked along the shoreline. It was known that all the springs were connected, from 'Olo'olo on down. The most makai spring was always open to the ocean. Homesteaders reported that there were always large volumes of fresh water flowing mauka to makai, and that there were legendary instances of items being dropped into pools up mauka that were later found in the springs by the shoreline, so informants were very aware of the underground links between mauka sources of water and the makai springs, as well as the substantial amounts of water moving underground. One recent event that was shared was an instance where a waterline on the mauka side of the highway was being repaired, and a water pump was dramatically sucked underground by the strength of the flow of water toward the shoreline. The pump was never located.

Findings

Using the shoreline for subsistence was a way of life for most Kalama'ula 'ohana, but has become less so over time partially because the younger generation isn't practicing subsistence as actively and it's easier for homesteaders to go to the store to buy crab and ogo, for example. In addition, the invasion of mangrove and kiawe has made using the shoreline more difficult for Kalama'ula homesteaders over the generations, as it was reported that 50 years ago one could walk along the shoreline from Kalama'ula to the Wharf on a sandy beach. There was a sense from some informants that the mangrove and kiawe might be "sucking up" fresh water and depriving the shoreline ecosystems of fresh water sources that support limu, 'ōpae, crab and fish larvae that use nearshore areas as a nursery. It was reported that both in the springs and in the nearshore waters, the 'ōpae are nowhere near as abundant as they used to be when the informants were children. Others said that there are still 'ōpae, but it's not as easy to find them as it used to be.

Another impact that was reported was sedimentation caused by soil washing down from up mauka, due to soil erosion, that was smothering the reef, creating anaerobic conditions, and possibly obstructing offshore springs. Accelerated shoreline erosion may also be releasing increasing amounts of sediment into the nearshore waters. One informant reported that in his recollection, the shoreline areas were better maintained and cared for by the people in the past. In addition, several informants expressed the opinion that when the wharf road was made solid more than 50 years ago, the area west of the wharf started losing sand and became muddier. One informant said that the shoreline along Kapuāiwa Grove used to be muddy before, and now is hard.

An issue that was commonly reported is that the resources may be diminishing over time because of overharvesting and improper harvesting. Informants reported that non-homesteaders have been fishing and crabbing extensively on the Kalama'ula shallows, and collecting limu, in ways that are not the ways that the informants were taught to harvest, e.g. traditional practices such as using scissors to harvest and never pulling the roots of the limu off of the substrate, which ensured the long term sustainability and momona (abundance) of the

resource. In addition, the homesteaders never took more than they could eat, and if there was surplus, it was shared, first with the kūpuna who couldn't go out and harvest for themselves anymore. Another sentiment was that the native limu may be being outcompeted by the invasive gorilla ogo, which has been proliferating along the shoreline and taking all the nutrients. It was also reported that the most prolific limu in Kalama'ula was limu 'ele'ele, and that other types, such as manauea, were more easily found in Kamiloloa to the east.

Concern over recreational use of Kapuāiwa Grove and pollution of the springs was expressed. Young people have been going into the grove and partying, and it was felt that this was disrespectful and potentially harmful to the resources. Prior to World War II there was a caretaker's house on stilts out over the water, and a couple lived there (Burke) and watched over the Grove, so there was less pilikia and trespassing. People also respected the Grove as kapu and didn't go inside, which might have served to protect the springs. The homesteaders of Kalama'ula always used the shoreline for family gatherings and parties, but it seems there may have been more supervision of activities in the Grove and more enforcement in the past.

Most of the interviewees recommended removal of invasive species such as mangrove, kiawe, banyan, naupaka and false akulikuli (badis maritima, pickleweed) and replacing them with native shoreline and salt-tolerant species such as 'aki'aki grass, pōhinahina (beach vitex), hinahina (native gray heliotrope), 'Ilima, pōhuehue (beach morning glory), native akulikuli, naio (*Myoporum sandwicense*), milo, kou, hau, hala and native (not false) kamani. There were cultural, practical and medicinal uses for most of these plants, and even the weed uhaloa was useful as medicine.

The shoreline served as the community's icebox – that's where their food came from. Because of its history and cultural significance, two informants felt strongly that the Grove has an important role to play in educating the schoolchildren and the community. One informant suggested that a good community project would be to start measuring the amount of freshwater flow coming through the springs, along with salinity, to collect the data. There is a fear that the cultural and subsistence knowledge isn't being passed on.

Conclusion

Long term, multi-generational Kalama'ula homesteaders are aware without prompting of the importance of mauka-makai freshwater flows to the health of their nearshore environment, and this information comes from generational experience. While the practice of subsistence fishing and harvesting of limu and shellfish is slowly diminishing, it still plays an important role in the society, culture and identity of homesteaders in Kalama'ula, and there is a desire to see it revived and perpetuated. Proper care and protection of these resources is important to the homesteaders interviewed, and to their 'ohana.

As the community gradually loses its cherished kūpuna, like Aunty Kauila Reyes, there is concern that the values and traditional practices and ecological knowledge that sustained Kalama'ula for generations may not be perpetuated.

Just as is the case with scientists studying groundwater dependent ecosystems elsewhere in the world, homesteaders knew that ongoing groundwater flow was critical to the perpetuation of these valued resources, but they also knew that other physical, biological, and social impacts were affecting these precious things. From the interview with Penny Martin:

Native mullet – need freshwater seeps. Used to be way more fresh water. She has come to understand that kiawe trees and mangrove both use up lots of fresh water. She thinks there are less 'ōpae (shrimp) because there is less fresh water. She thinks there are less 'āholehole (Hawaiian flagtail) for the same reason.

The known experience of this complexity did not lead interviewees to merely throw up their hands and conclude the issues should simply be studied more, however. Rather, interviewees sought to take other actions to address the impacts of these withdrawals, by directly managing other harmful impacts on these areas. Again, Ms. Martin:

She recommends removing the mangrove (*Rhizophora mangle*, a shrub/small tree that grows in coastal saline or brackish water) and kiawe (*Prosopis pallida*) to counteract less fresh water reaching the shoreline.

Cattle up mauka – deer – eating the vegetation. [Soil is] running off. She said we must consider how to control erosion before removing the mangrove, which was planted to control erosion. Mangrove helps control silt run off but it takes/uses so much fresh water. She said the key to erosion control is managing mauka rain runoff and therefore proper management of the watershed.

Should the WUPA request be approved, programmatic implementation of the applicable values, policies and goals in DHHL's Water Policy Plan, in coordination with the traditional ecological knowledge, ingenuity, resourcefulness and cultural grounding of the Kalama'ula homestead community, would serve as a shining example of collaborative natural and cultural resource management and education that could serve to mitigate potential impacts to nearshore resources and protect our most precious island resource, our wai.

Community-led efforts to replace invasive species with native species to try to improve the health of the coastal ecosystem should be supported by DHHL, as should efforts to use certain Community Use areas as outdoor classrooms for schoolchildren. Efforts to reduce erosion and restore native vegetation in Kalama'ula's mauka areas should be supported and encouraged.

Edward Halealoha Ayau

- Raised on Molokai in the Ho'olehua homestead; grounded in traditional cultural knowledge, mo'olelo and 'ōlelo no'eau, by, among others, his tutu wahine, Kahu Harriet Ahiona Ayau Ne, a highly regarded kumu hula, educator, historian and Pa'a Mo'olelo Nō Molokai Nui a Hina (keeper of Molokai history)
- Trained since early adulthood by Kumu Edward Lavon Huihui Kanahale and Dr. Pualani Kanaka'ole Kanahale in cultural protocols of caring for iwi kūpuna (ancestral bones) and moepū (funerary possessions)
- Successfully repatriated over 6,000 sets of iwi kūpuna and moepū, nationally and internationally, over the past thirty years, in 120 cases
- Bachelor of Science in Business Management with a Minor in Cultural Anthropology; Juris Doctor degree in American Indian Law from University of Colorado School of Law; graduate of Kamehameha Schools
- Director, DLNR-SHPD Burial Sites Program for six years; drafted & promulgated first administrative rules for that program
- Consultant for Bishop Museum, Kamehameha Schools and Office of Hawaiian Affairs in his capacity as a cultural practitioner, researcher, and repatriation expert
- Assisted multiple Native Hawaiian-oriented nonprofits in achieving IRS §501(c)3 tax-exempt status, successfully applied for grants focusing on Hawaiian community capacity building, organizing and improvement including cultural and language practice; a project of double-hulled canoe voyaging with traditional navigation, and legal rights advocacy
- DHHL Acting Molokai District Supervisor from 2011 – 2016; provided services to Hawaiian homestead lessees, supervised operation of the Molokai Public Water System (700 customers) and was responsible for effective management of all DHHL trust resources on Molokai.

Nancy Muir McPherson

- Born in Northern California and raised on O'ahu from the age of ten; grounded in Lakota cultural traditions and language in childhood by her Unci (grandmother); descended from a maternal line of tribal members of the Standing Rock Sioux Tribe (Hunkpapha Lakota), Chief Gall's band; great-grandmother was a tribal historian
- Spent a summer at the Bishop Museum as a student intern assisting the Anthropology Department with the 1973 Statewide Inventory of Historic Resources
- Bachelor of Arts degree in Urban and Regional Planning and Economics; completed all coursework required for the Masters in Urban and Regional Planning at UH-DURP; has practiced as a professional planner in California and Hawai'i for 25 years
- Worked as a research assistant to Professor Luciano Minerbi at UH-DURP for two years studying coastal cultural and natural resources, mo'olelo and historic documentation of North Kohala for a research project funded by OHA. Conducted multiple interviews with Native Hawaiian informants from North Kohala.
- First County of Maui planner to be posted full time on Molokai; spent 6 years living in and providing planning services for the Molokai community; assisted the community in conducting a participatory mapping, oral history and GIS project of known cultural sites in Mana'e, Molokai

EXHIBIT 'A'

ITEM G-2 EXHIBIT A



Exhibit B
Ahupua'a Boundary Map

DHHL Land
 Ahupua'a Boundary

Source: USGS, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, AeroGRID, IGN, iSat, GeoEye, and the 311 User Community

Kalama'ula - Area of Study

Molokai WUPA - Cultural Impact Assessment



1 mi

Google Earth

© 2020 Google

ITEM G-2 EXHIBIT A

KALAMA'ULA HOMESTEADER INTERVIEWS
INTERVIEW QUESTIONS

Interviewee: _____ Date: _____

Interviewee affiliation: _____ Interview Location: _____

Interviewee residence address/homestead lot: _____

Type of stakeholder _____ Interviewer: _____

1. What is your and your 'ohana's relationship to this place?
 - a. Do you have 'ike you'd like to share of the area's history, mo'olelo or place names?
 - b. Why is the Kalama'ula area, particularly the coastline, important to you?
 - c. How do you use the shoreline, and when?
2. Based on your knowledge, what are the primary activities occurring along the shoreline? How many people? What time of day? Where are the users from?
3. Are you aware of any existing user conflicts along the shoreline?
4. Do you have a special use for any of the plants that grow along the shore?
5. Are most of the plants native or non-native?
6. How has the vegetation along the shore changed over time (for instance, trees instead of shrubs, or shrubs instead of grasses, or no vegetation at all)?
7. What changes have you observed along the entire coastline fronting the homestead area you reside in?

- a. Have the changes been slow and over time or dramatic?
 - b. What was the event or cause of the changes?
8. In your opinion, what are the three most important challenges or threats to the Kalama'ula shoreline at this time?

SHORELINE EROSION-SPECIFIC QUESTIONS

9. What time(s) of year are the waves destructive or erosive?
10. In what season have you observed loss of the shoreline? Do you feel that erosion is seasonal?
11. Was the erosion gradual over time, or fast such as after a destructive event?
12. Does the shoreline regularly change in width in any particular place?
13. Have you seen areas where the composition of the shore has changed? For instance, from sand to silt, or silt to pebbles, or sand to rocky?
14. What are the three most important challenges or threats that should be addressed by a shoreline erosion management plan?
15. Are there any specific actions (improvements and/or management activities) that you would like to see to prevent or mitigate shoreline erosion?
16. What actions do you not want to see taken?
17. Are there other people/organizations you think we should reach out to?
18. What other information could you share, based on your experience, that could be useful to DHHL and the people living in the Kalama'ula homestead area?

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

MIAN S. TSUTSUMI
L.L. GOVERNOR
STATE OF HAWAII



FILE COPY

JOE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

WILLIAM J. AILA, JR.
MEMBER OF THE PROGRAM

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

U. S. BOX 1829
HONOLULU 11, HAWAII 96829

May 20, 2016

Mr. Scott Glenn, Director
Office of Environmental Quality Control
State of Hawai'i - Department of Health
235 South Beretania Street, Room 702
Honolulu, Hawai'i 96813

Dear Mr. Glenn:

The Department of Hawaiian Home Lands (DHHL) hereby transmits the Final Environmental Assessment and Finding of No Significant Impact (FEA-FONSI) for the Ho'olehua Water System PWS 230 Improvements situated in portions of various TMK parcels, in the Kalama'ula and Ho'olehua Hawaiian Homestead Communities on the island of Moloka'i, for publication in the next available edition of the Environmental Notice.

The FEA-FONSI includes copies of comments and responses received during the 30-day public comment period on the draft environmental assessment and anticipated finding of no significant impact (DEA-AFNSI).

Enclosed is a completed OEQC Publication Form as a Word file, a hard copy of the FEA-FONSI, and a searchable Adobe Acrobat PDF file of the same. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

Should there be any questions, please contact Jeffrey Fujimoto, Project Manager, Land Development Division, at (808) 620-9270.

Sincerely,

Joe M.K. Masagatani, Chairman
Hawaiian Homes Commission

Enclosures:

- OEQC Publication Form (MS Word file on CD)
- FEA-FONSI (Adobe Acrobat PDF file on CD)
- FEA-FONSI (1 hard copy)

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STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

October 19-20, 2020

To: Chairman and Members, Hawaiian Homes Commission
From: Andrew Choy, Acting Planning Program Manager *AC*
Subject: For Information Only - DHHL Beneficiary
Consultation Meeting re: the Wai'oli Kalo
Farmers' Board of Land and Natural Resources
Water License Request under HRS 171-58, Halele'a,
Kaua'i

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

The discussion that follows addresses:

- I. DHHL and beneficiaries' interests in potential state water leases; and
- II. Wai'oli Kalo Farmers' need for a water lease;
- III. DHHL's intention to hold beneficiary consultation on this matter

- I. DHHL and beneficiaries' interests in potential state water leases; and

The Department of Hawaiian Home Lands (DHHL or Department) has been working with the Department of Land and Natural Resources (DLNR) for the past few years on a number of efforts where DLNR is attempting to issue water licenses or leases under HRS 171-58. Notable efforts include:

- The request by the Hawaiian Electric Light Company (HELCO) to secure a long-term lease for a hydroelectric project on the Wailuku River, Hilo;
- East Maui Irrigation / Mahi Pono's attempt to secure a long-term lease of water from East Maui; and

- Kaua'i Island Utilities Cooperative's request to secure a long-term lease for a hydroelectric project on the North Fork of the Wailua River, Kaua'i

DHHL has three distinct interests in all these potential leases:

DHHL Beneficiary water rights related to state water leases

HRS section 171-58 (g) requires that "The department of land and natural resources shall notify the department of Hawaiian home lands of its intent to execute any new lease, or to renew any existing lease of water rights. After consultation with affected beneficiaries, these departments shall jointly develop a reservation of water rights sufficient to support current and future homestead needs. Any lease of water rights or renewal shall be subject to the rights of the department of Hawaiian home lands as provided by section 221 of the Hawaiian Homes Commission Act."

In order to determine a proper amount of a water request, DHHL first holds a formal consultation process with its beneficiaries prior to requesting the reservation from CWRM and the inclusion of any related lease provisions from the Board of Land and Natural Resources (BLNR).

DHHL Beneficiary traditional and customary rights related to state water leases

In addition to the rights to seek reservations to state water leases, DHHL beneficiaries may conduct traditional and customary practices associated with the waters that entities may seek to lease from the state.

DHHL rights to revenue associated with state water leases

Finally, DHHL is entitled by Constitutional provision to 30% of the revenue generated by state water leases (Hawai'i Constitution Article XII Section I). Funds from this source are devoted exclusively to the Native Hawaiian Rehabilitation Fund, which supports projects on DHHL lands and for beneficiaries. Awarded as both grants in support of regional priority projects, they fund agricultural training and other related projects (such as training on farm lot preparation, commercial farm development, and related matters) across Hawai'i.

II. Wai'oli Kalo Farmers' need for a water lease

Traditional kalo farmers in Wai'oli, Halele`a, Kaua'i have been continuously farming kalo in that area from time immemorial. Recently, as a result of recovery efforts from the record-breaking floods of 2018, the state determined that their shared māno (intake) was located conservation land, and its rebuilding necessitated both a Conservation District Use Permit and a Water Lease.

For a couple of years, these farmers have been assisted by Professor Kapua Sproat and her students to secure these agreements. Professor Sproat is the director of Ka Huli Ao Center for Excellence in Native Hawaiian Law at the William S. Richardson School of Law at the University of Hawai'i at Mānoa. She is also the Director of the Environmental Law Clinic.

Professor Sproat's students have prepared a detailed summary of their client's predicament, which is included here as Attachment A.

III. DHHL's intention to hold beneficiary consultation on this matter

Consistent with the procedures we have followed on other water leases as described in Part I of this submittal, staff and consultants intend to work with Professor Sproat and her students and client to hold a (virtual) Beneficiary Consultation meeting on November 10, 2020 from 6:00 - 7:30 pm.

For a number of reasons, this Beneficiary Consultation will differ slightly from other water lease related consultations, beyond it being virtual. Due to the great distance and elevation difference between Wai'oli and the DHHL lands nearest at Moloa`a and Anahola, staff will recommend that no water reservation request will be made in association with this lease. Due to other circumstances, including that this lease is for a traditional and customary practice and water is being used in an "instream" manner, staff will recommend that no lease payment will be made in association with this lease.

In lieu of lease payment, staff recommends that a special condition be inserted into the DLNR water lease that would require the water lessee to provide educational

opportunities and/or programs for DHHL beneficiaries related to the traditional and customary practice for which the water is being used. As noted previously, monies in the Native Hawaiian Rehabilitation Fund support projects on DHHL lands for beneficiaries. The provision of educational opportunities by the water lessee for DHHL beneficiaries as an alternative to lease rent would be consistent with the purpose of the Native Hawaiian Rehabilitation Fund.

RECOMMENDATION

None; for information only.

Attachment A to Item G-3. DHHL Beneficiary Consultation Meeting
re: the Waioli Kalo Farmers' Board of Land and Natural Resources
Water License Request under HRS 171-58, Halele`a, Kaua`i

“O ke kino ame na huaolelo e nalohia aku ana; aka o na hana kaulana e mau loa aku no ia. Pili paha keia olelo no ka poe i like me ke Alii Kuhio Kalaniana`ole i moe ame kana mau hana.”¹ *The body and the words of the man shall cease together; however, the glorious tasks that he hath done will live on forever. Perhaps this is a reference to people like Prince Kūhiō Kalaniana`ole who has passed but whose great work lives on.*² This passage was published on March 10, 1922, in the Hawaiian newspaper “Ka Nupepa Kuokoa,” just weeks after Kūhiō’s passing in January of that same year.³

As you well know, the Hawaiian Homes Commission Act is explicit: “The Congress of the United States and the State of Hawaii declare that the policy of this Act is to enable native Hawaiians to return to their lands in order to fully support self-sufficiency for native Hawaiians and the self-determination of native Hawaiians in the administration of this Act, and the preservation of the values, traditions, and culture of native Hawaiians.”⁴

Situated between Lumaha`i and Hanalei, is a lovely little valley that is broad and short: Wai`oli (joyous waters), the legendary “Birthplace of Rainbows.”⁵ The Wai`oli Valley Taro Hui (“Hui”) is a nonprofit comprised of small family farmers who formally organized after the devastating floods of 2018, which completely altered the course of Wai`oli Stream and caused severe damage to their mānowai, po`owai, and `auwai.⁶ They represent multiple generations of kalo farmers on the North Shore of Kaua`i, with some Hui members stewarding the same `āina that their ancestors did for a century or more.⁷

The Hui is a 501(c)(3) Hawai`i nonprofit dedicated to supporting and enhancing the mauka to makai biocultural resources in Wai`oli Stream and its watershed. The Hui aims to protect the natural and cultural resources that enable Native Hawaiian traditional and customary practices, maintain habitat for endangered waterbirds, and engage the greater Kaua`i community through educational outreach programs and initiatives focused on kalo farming and community-based stewardship of water resources. Today, the Hui consists of twelve (12) farms and fifteen (15) kalo farmers in Wai`oli, whose `ohana have been living and working in that valley for many generations. These family-run small scale lo`i kalo farms range from half (1/2) an acre to about eight (8).⁸

Wai`oli’s traditional lo`i kalo system has supported and enabled the traditional and customary Native Hawaiian practice of cultivating wetland kalo since time immemorial. In fact, the Commission on Water

¹ KA NUPEPA KUOKOA (Mar. 10, 1922), <http://nupepa.org/gsd12.5/cgi-bin/nupepa?e=d-0nupepa--00-0-0--010---4-----prev---0-11--1en-Zz-1---20-about---0003-1-0000utfZz-8-00&a=d&c=nupepa&cl=CL2.78&d=HASHea6935e89d925a23ecf750.7>.

² See *id.*

³ *Id.*

⁴ Hawaiian Homes Commission Act of 1921, Pub. L. No. 34, 42 Stat. 101 (1921).

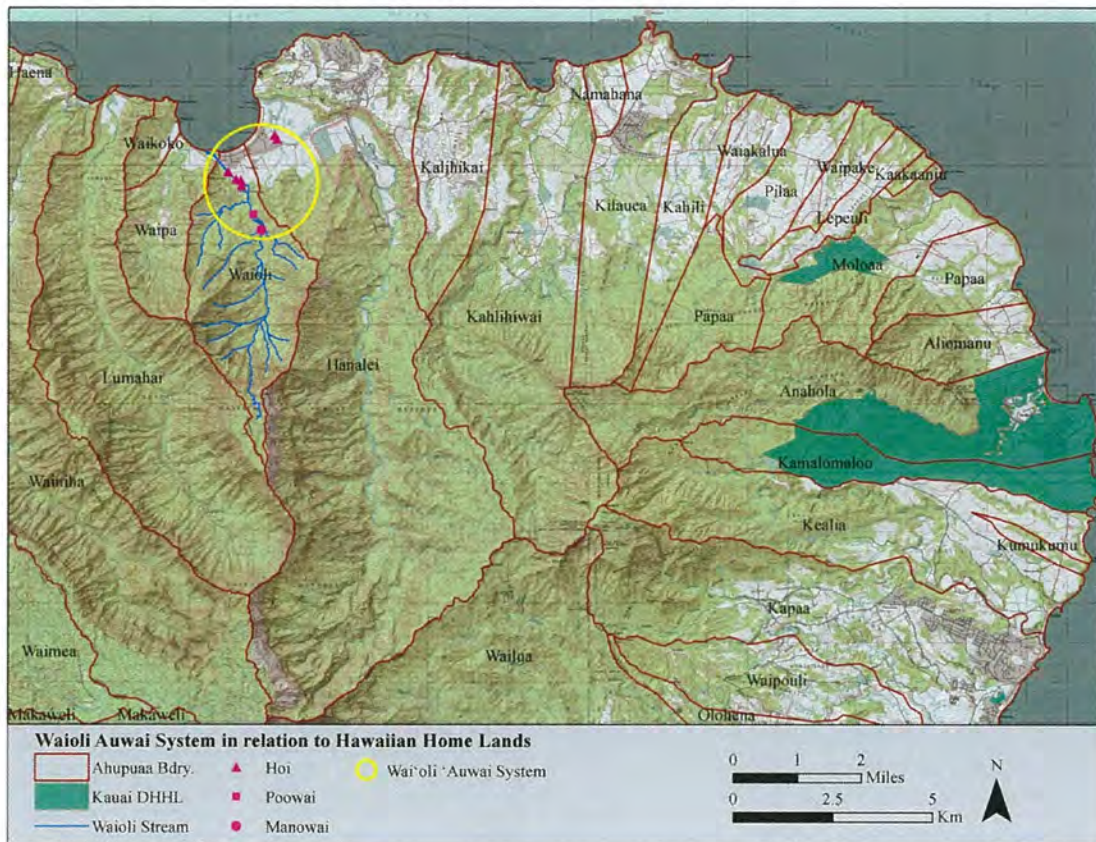
⁵ E.S. Craighill Handy, Elizabeth Green Handy & Mary Kawena Pukui, NATIVE PLANTERS IN OLD HAWAII: THEIR LIFE, LORE, AND ENVIRONMENT 220 (1972).

⁶ Wai`oli Valley Taro Hui, Facebook https://www.facebook.com/pg/waiolivalleytarohui/about/?ref=page_internal (last visited Oct. 7, 2020).

⁷ See *id.*

⁸ See Draft Environmental Assessment- Wai`oli Valley Long-Term Water Lease for Traditional Kalo Farming and Use.

Resource Management's 1990 Hawai'i Stream Assessment identified Wai'oli Stream as one of only six throughout Hawai'i that historically supported more than 50 acres of kalo.⁹



Poi made from Wai'oli kalo feeds not only the North Shore community, but also provides for 'ohana and kūpuna across Kaua'i at very nominal costs -- such as the Waipā poi supplied to kūpuna, including Anahola Homesteaders. The Hui is a stellar example of our ancestor's ingenuity in wetland kalo cultivation, which continues to live on through the farmers' work centuries later, in a society and legal system much different from that of our kūpuna.

In addition to the everyday challenges of kalo farming, even more kuleana was created when recovery efforts from the 2018 floods determined that the Hui's māno was on state conservation land. This imposed a host of permitting and other requirements -- including a long-term water lease -- which brings the Hui before this Commission. The fact that the mānowai for Wai'oli Stream resides on conservation land now requires the farmers to take on a myriad of permitting processes to legally access both their po'owai and mānowai, and ensure sufficient water flow to feed their lo'i and likewise monitor the health of the related stream ecosystem -- even though their system was documented as having been in place before the arrival of Westerners in Hawai'i.¹⁰ On February 28, 2020, Hawai'i's Board of Land and

⁹ HAWAII COOPERATIVE PARK SERVICE UNIT, HAWAII STREAM ASSESSMENT: A PRELIMINARY APPRAISAL OF HAWAII'S STREAM RESOURCES, 214 (1990).

¹⁰ OFFICE OF HAWAIIAN AFFAIRS, Administrative Testimony: Grant Of Term, Non-exclusive Easement To Wai'oli Valley Taro Hui, Inc. For Surface Water Diversion And Irrigation System Purposes, Wai'oli, Hanalei, Kaua'i, (2019).

Natural Resources (“BLNR”) unanimously voted to award the Hui a one-year Revocable Permit to continue their water use from Wai’oli Stream, and a perpetual easement for their lo’i kalo irrigation system (māno, po’owai, and ‘auwai). In an extended effort to protect and perpetuate this ‘Ōiwi cultural practice, the Hui anticipates submitting its request for a long-term water lease after completing the Hawai’i Revised Statutes chapter 343 environmental review process, consulting with you, the Department of Hawaiian Home Lands, and BLNR’s Office of Conservation and Coastal Lands, submitting a Watershed Plan to BLNR, and working with the Commission on Water Resource Management to establish numeric interim instream flow standards.¹¹ This long-term lease will provide the legal approval for the continued diversion of water from Wai’oli Stream through the traditional lo’i kalo irrigation system, ensuring the farmers have more reliable access to the water resources intrinsically tied to Indigenous cultivation practices that have been documented as a part of the history and environment of this area since time immemorial.¹²

As you also know, DHHL is entitled to “thirty percent of the state receipts, derived from . . . water licenses[.]” which shall be used “for the rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities, which shall include the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.”¹³ In this instance, given the unique circumstances of this traditional use that has continued since time immemorial, and the purpose of rehabilitating and improving the general welfare and conditions of our lāhui, the Hui hopes to seek a long-term water lease at a nominal or gratis rate. It is also happy to partner with DHHL beneficiaries to offer educational and other rehabilitative opportunities at the Wai’oli lo’i kalo. Doing so would help to improve the general welfare and conditions of native Hawaiians on homestead land and in Wai’oli. Importantly, of the fifteen Wai’oli farmers, two are current Hawaiian homesteaders in Anahola, one is a beneficiary, and one is a designee for an Anahola homestead. The pilina or relationships amongst not only the individual Hui farmers but also the greater Kaua’i Hawaiian Home Lands community transcends ahupua’a and binds us to one another just like the wai used to make the pounded taro “wali,” or smooth, while making poi.

During this past summer, continual work on behalf of the farmers coupled with necessary repairs to the Hui’s mānowai by Kaua’i County, has helped to begin the rehabilitation process in earnest for this lo’i kalo system as well as the many natural and human communities that rely upon it (from native waterbirds, to the farmers, and folks on the Waipā poi list). According to one Hui member, “farming kalo is much more than a job, it is our way of life and how we connect to our ancestors. It is an important cultural practice that we want to pass down to our children and the generations to come.” These small family farmers are taking on the large task of perpetuating some of the work that Prince Jonah Kūhiō Kalaniana’ole envisioned as the rehabilitation of his people. Their contributions to our local community goes far beyond Wai’oli and Kaua’i, but reaches the larger lāhui as it fulfills the objectives and goals paved by the great work of our beloved “Ali’i Maka’āinana.”

¹¹ See Draft Environmental Assessment- Wai’oli Valley Long-Term Water Lease for Traditional Kalo Farming and Use.

¹² See *id.*

¹³ Hawaiian Homes Commission Act of 1921, Pub. L. No. 34, 42 Stat. 213(i) (1921).

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 20, 2020

To: Chairman and Members, Hawaiian Homes Commission
Thru: Andrew H. Choy, Acting Planning Program Manager *AC*
From: Nancy McPherson, Planner *nmm*
Subject: Declare a Finding of No Significant Impact for the DHHL Hanapēpē Homestead Community Master Plan, Hanapēpē, Waimea District, Kaua'i Island, TMK's (4) 1-8-007:003, 018, 021 and (4) 1-8-008:035, 081, 086, and 087

RECOMMENDED ACTION

That the Hawaiian Homes Commission (HHC) issue a Finding of No Significant Impact (FONSI) declaration based on the Final Environmental Assessment (FEA) for the DHHL Hanapēpē Homestead Community, Hanapēpē, District of Waimea, Kaua'i Island, TMKs (4) 1-8-007:003, 021, 018 and (4) 1-8-008:035, 081, 086, and 087

Discussion

The Hanapēpē Homestead Community ("Project") was identified in DHHL's Kaua'i Island Plan (2004) as one of three priority areas for new residential and agricultural homestead development. Hanapēpē is envisioned to be DHHL's largest residential and agricultural community on the west side of Kaua'i. The DHHL is proposing the Hanapēpē Homestead Community to offer up to 449 new Residential homestead lots on 126 acres and up to 111 new Subsistence Agricultural homestead lots on 157 acres, based on waitlist preference and estimated development cost. Other complementary land uses are proposed, including 13 acres for Commercial use; 26 acres for Community Use; 33 acres for Special District; and 8 acres in Conservation.

Senate President Ron Kouchi and the 2018 State Legislature allocated \$1 million to DHHL specifically for planning of the Hanapēpē homestead community and engineering design work for the next phase of development, which will consist of up to 75 Residential homestead lots identified as the next phase ("Phase 2") of development for DHHL's Hanapēpē lands and expansion of the existing homestead lots along Moi Road from approximately 5,000 SF to 7,500 SF. Full build-out (Phase 3) is anticipated to include additional residential homesteads, development of Subsistence Agriculture homestead lots ranging in size from less than 1 acre up to 3 acres, development of Commercial and Community Use areas, and infrastructure improvements to serve the homestead community.

At the time of the beneficiary survey done for the project, there were 2,225 applicants on the Agricultural waitlist and 1,625 applications

on the Residential waitlist for Kaua'i Island. Based on survey responses from 333 waitlist beneficiaries, 37% of respondents are on both Residential and Agricultural Waitlists with 59% of all respondents indicating they would be "very likely" to accept an award in Hanapēpē.

DHHL's Hanapēpē lands consist of the undeveloped TMKs (4) 1-8-007:003, 021, and 018, as well as the existing 47-lot Phase 1 residential subdivision, collectively hereinafter described as the "Mauka site"; and TMKs (4) 1-8-008:035, 081, 086, and 087, collectively hereinafter described as the "Makai site." The Mauka site is 357 acres in area, exclusive of the existing Phase 1 residential subdivision; and the Makai site is 6 acres.

The 357-acre Mauka site includes some of the most fertile agricultural lands within DHHL's holdings, and its location near Hanapēpē town and within commuting distance of regional job centers make it an attractive location for homestead development. The entire Mauka site was formerly used for the commercial cultivation of sugarcane for more than 70 years and, reportedly, pineapple prior to the 1950's. The Parcel was leased and managed by the Gay and Robinson Sugar Plantation for the cultivation of sugarcane until approximately 2014. Until a few years ago, the land was managed by the Hawai'i Department of Land and Natural Resources (DLNR) for DHHL, and licensed to Gay and Robinson for sugar cane cultivation. There are no building permits or other improvements listed for the Mauka site. The site is currently vacant, undeveloped and overgrown with wild cane and brush.

The 6-acre Makai site consists of four TMK parcels, all owned by DHHL. Each of the four parcels has existing business operations/tenants as follows:

- Parcel 035 - Habitat for Humanity carpentry shop and secondhand store. Parcel 035 also contains a parking and equipment storage yard in use by another business.
- Parcel 081 - Parking/storage area for Wally Rita Trucking.
- Parcel 086 - School bus parking lot operated by Akita Enterprises.
- Parcel 087 - Truck repair service shop, operated by R. W. Palama and Sons Trucking.

Aerial photos indicate that warehouse-type buildings have existed on the site since the early 1950's. Prior to that, the site appears to have been undeveloped.

The project is proposed on DHHL lands and it involves the use of state funds, which triggered the preparation of an environmental assessment (EA) as prescribed by Hawai'i Revised Statutes, Chapter 343. See Exhibit A, "Hanapēpē Homestead Community Final Environmental Assessment."

Preparation of the EA included the following technical studies:

- A Cultural Impact Assessment and Phase I Environmental Site Assessment involving interviews and consultation with Hanapēpē residents, kupuna, landowners, and businesses.
- Consultations with adjacent landowner and former lessee of the site Gay & Robinson to gather information on the site history and discuss the relationship of the homestead community to adjacent agricultural lands and facilities.
- A Land Suitability Study to determine developable portions of the site based on topographical and environmental factors.
- Consultations with relevant State and County agencies to address the relationship of the homestead community to existing plans, policies, and infrastructure.
- An Infrastructure Assessment and development of Preliminary Engineering Reports to determine options for providing infrastructure to the site, including roadways, water, sewer, drainage, and electrical service.

Beneficiary input was obtained through a beneficiary survey to obtain current information on demand for homestead types in the Hanapēpē area, and to identify desired types of development, including communal use areas and facilities. DHHL conducted a series of beneficiary outreach and consultation meetings from December of 2018 to September 2020 including a small group meeting with existing Hanapēpē lessees as well as several meetings with DHHL Kaua'i waitlist beneficiaries. Presentations were conducted in both English and 'Ōlelo Ni'ihau. A listing of these meetings is as follows:

- December 13, 2018 -- Meeting with existing Hanapēpē lessees.
- July 24, 2019 -- Beneficiary Consultation Meeting #1 with Kaua'i Island Waitlist beneficiaries and Hanapēpē Phase I Lessees.
- December 5, 2019 -- Beneficiary Consultation Meeting #2 with Kaua'i Island Waitlist beneficiaries and Hanapēpē Phase I Lessees.
- September 3, 2020 - Beneficiary Consultation Meeting #3 with Kaua'i Island Waitlist beneficiaries and Hanapēpē Phase I Lessees.

In addition, two community meetings were held to obtain input from the greater Hanapēpē community on the Draft EA:

- October 26, 2019 - Community Meeting #1 to announce the project and obtain input on topics to address in the Draft EA.
- July 9, 2020 - Community Meeting #2 to obtain input on the Draft EA (meeting coincided with the Draft EA publication by OEQC).

Meeting notes from these outreach efforts documenting beneficiary feedback can be found on the project website:

<https://dhhl.hawaii.gov/po/kauai/hanapepe-homestead-project/>

Based on feedback from these meetings, the Preferred Land Use Plan consists of the following land uses:

Table 1 - Summary of Proposed Land Uses	
<p>Subsistence Agriculture (111 lots)</p> <ul style="list-style-type: none"> • Lots no larger than three acres in size. (43%) • Lessees are required to actively cultivate subsistence agriculture OR reside and cultivate subsistence agriculture on their lot. • Crops are expected to provide food to for home consumption or small-scale commercial production. 	157 acres
<p>Residential (449 lots)</p> <ul style="list-style-type: none"> • Lots no larger than one acre in size. (35%) Residential subdivisions are built to County standards in areas close to existing infrastructure and in conjunction with community use areas. Phase 2 (next increment) includes up to 75 lots. 	126 acres
<p>Commercial</p> <ul style="list-style-type: none"> • Commercial areas that could include retail, office, public space, public services and health care services. (4%) 	13 acres
<p>Community Use</p> <ul style="list-style-type: none"> • To provide a common area for community-building. Possible uses include parks and recreation, cultural activities, community-based economic development, utilities, other facilities and amenities. (7%) 	26 acres
<p>Special District</p> <ul style="list-style-type: none"> • Areas with topographical constraints requiring special attention because of unusual opportunities and/or constraints. Possible uses include cultural uses, agricultural uses, open space or stormwater management. (9%) 	33 acres
<p>Conservation</p> <ul style="list-style-type: none"> • Areas that include steep slopes (>20% slopes) Possible uses include preservation and open space. (2%) 	8 acres
TOTAL	363 acres

Figure 1, "Preferred Land Use Plan," depicts the spatial layout of the proposed land uses. In summary, these proposed land uses are not anticipated to have a significant impact on the surrounding environment. However, a lack of action ("No Action Alternative") will lead to a residential and agricultural waitlist that continues to grow.

The Preferred Land Use Plan concentrates residential land use areas east of Kukamahu Gulch. Subsistence Agriculture areas are concentrated to the west of the gulch. Commercial and Community Use Areas are concentrated in the southern portion of the Mauka Site, and the Makai Site remains in Commercial use. A future mauka extension of Lele Road as an alternate access to Moi Road and gateway to the community is included. The gulch areas will be designated as Conservation and Special District to indicate their intended uses as open space or limited use areas.

Concentrating Residential development to the east of the gulch is consistent with smart growth principles, which calls for focusing development in and adjacent to existing neighborhoods and town centers. It is also compatible with form-based code, which the County plans to adopt through its the West Kaua'i Community Plan update. The gulch crossing the parcel provides a natural division to separate denser residential development from larger lot Subsistence Agriculture homesteads. The gulch areas would transition into preservation and special district. In addition, maintaining the western side of the parcel in Subsistence Agriculture will help to preserve view planes and green space to the southwest, which is consistent with desires expressed by existing Lessees.

The southeast portion of the Mauka Site is located within walking distance of Hanapēpē Town and is designated as Neighborhood General in the Kaua'i General Plan. This designation is considered appropriate for medium-density mixed-use commercial and residential development. Adding a new Commercial area at this location where a new road and gateway is envisioned is consistent with the County's policy of encouraging mixed use in the core of Hanapēpē town.

This land use plan preserves Commercial and Community Use areas along the highway on the southwestern side of the Makai site with the intent of providing a destination for the West Side community that may include a park, ball fields, and community center, as well as agriculture-supportive uses such as a farmers market, community garden, and shared equipment/facilities.

From an infrastructure standpoint, concentrating residential development on the east side of the gulch is advantageous, as sewer and water lines can be extended from existing facilities.

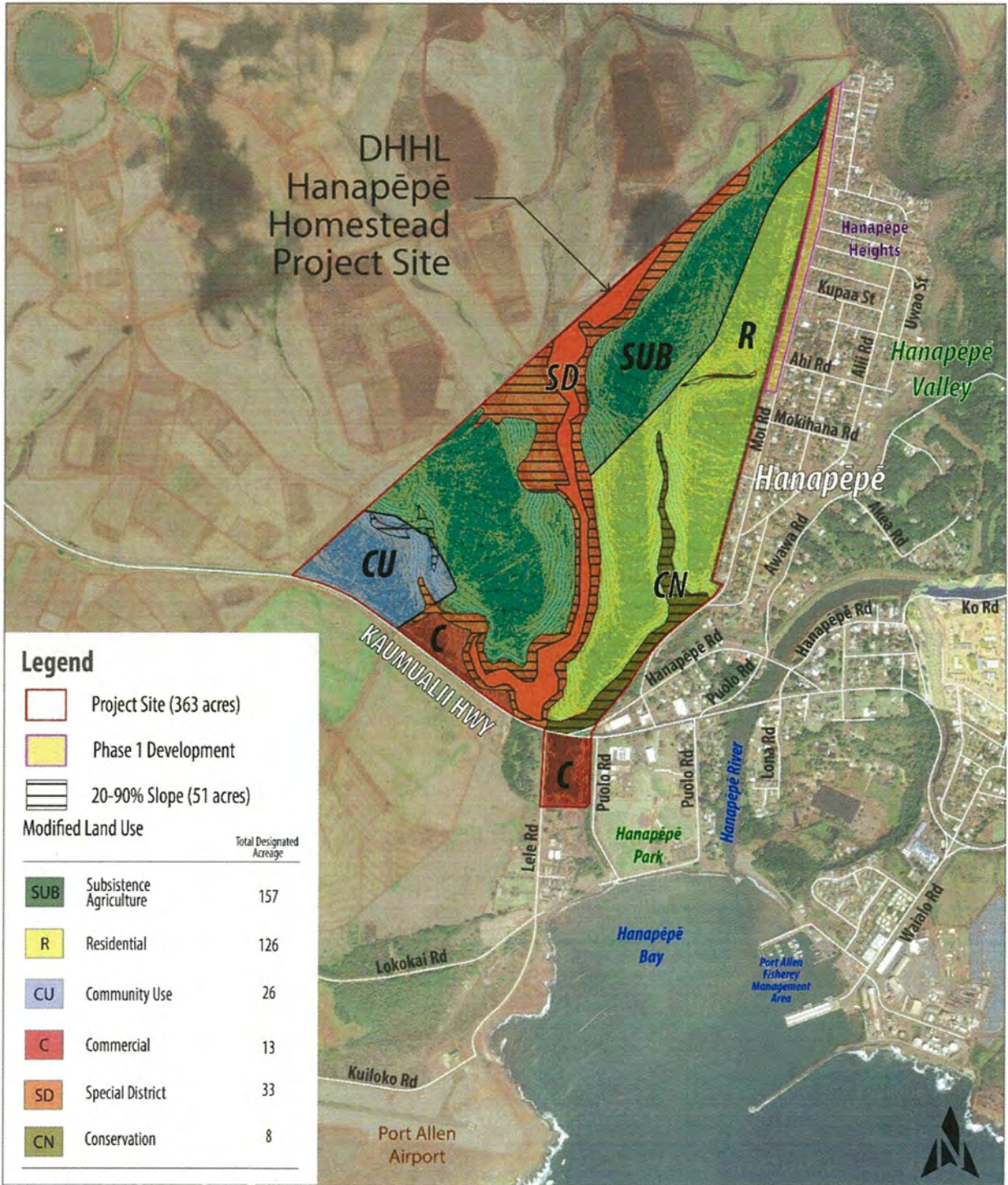


Figure 1 Preferred Land Use Plan

Infrastructure will provide for the health and safety of residents and visitors, as described in Table 2, below:

Table 2 - Proposed Infrastructure

Roads and Access

- A traffic impact study was prepared for this project to identify the short- and long-term impacts of build out. The report is appended to the Final EA.
- In the short-term scenario Phase 2), Moi Road would continue to serve as the only ingress/egress to the project site.
- In the long term (Phase 3), two additional access points are proposed including a round-a-bout intersection at Kaumuali'i Highway and Lele Road (supported by County, pending HDOT approval) and new access off Kaumuali'i Highway near the southwest corner of the Mauka site (pending HDOT approval). Full build out (Phase 3) may require additional regional roadway network improvements to include a two-way left turn lane between Lele Road and Puolo Road, removal of the Hanapēpē Road and Kaumuali'i Road intersection, and a new round-a-bout at Kona Road and Kaumuali'i Highway. DHHL may be responsible to provide fair share mitigation of regional impacts and per HDOT recommendations, a 60-foot design setback is needed from Kaumuali'i Highway to accommodate future roadways improvements.
- It is likely that at least one gulch crossing will be required for full buildout of the Mauka site, and that will require further study to determine the best and most feasible location.
- Following the County of Kaua'i Complete Streets standards for residential uses, roads would have a right of way of 48 feet with 20-26 foot travel ways. Dedicable to the County.
- Street lighting will be designed to Kaua'i County street light standards and underground lighting circuits will be provided for new roadways within the development. Pole mounted luminaires and underground lighting circuits can be provided along bike and pedestrian paths within the development.

Grading and Runoff, Drainage, and Erosion Control

- A drainage master plan was prepared to determine the preliminary locations and sizes of the various storm water management facilities to ensure minimal impacts on the downstream receiving waters. The report is appended to the Final EA.
- The upstream watershed consists of approximately 1,600 acres of agricultural lands and 84 acres of single-family residential lands. There are two major discharge points where runoff exits the site, including the Kukamahu Gulch and on Moi Road, near Kane Road.
- Eleven storm water detention basins have been proposed at various locations on the development site, including ten (10) within the Mauka site and one (1) on the Makai site. An existing drainage channel easement behind the current homestead lots along Moi Road

will be eliminated and incorporated into the drainage master plan.

- Low Impact Development strategies can be incorporated to further reduce the environmental impact and provide additional water quality improvement opportunities.

Water Supply

- A water master plan was prepared to assess the existing County water system capacity and propose infrastructure improvements to support the Project. The report is appended to the Final EA.
- The analysis suggest that there is adequate capacity within the existing County Department of Water (DOW) wells and storage system to accommodate Phase 2 and possibly full buildout. A new well, storage and transmission system has been analyzed for the event that full build out cannot be accommodated by the County's system.
- DHHL is considering the feasibility of connecting to the existing Gay & Robinson irrigation water system on the neighboring parcel as an alternative source of irrigation water to serve the homestead community.

Wastewater Disposal

- An analysis of wastewater system requirements for the County Department of Public Works (DPW), Division of Wastewater Management (DWWM) was prepared, and the wastewater master plan report is appended to the Final EA.
- Results indicate that there is enough capacity at the 'Ele'ele Wastewater Treatment Plan for the proposed Phase 2 residential subdivision. However, DWWM will need to determine if the existing sewer pumping station has adequate pump capacity based on the Phase 2 design flows provided to DWWM.
- Assuming that DWWM will not allow additional sewer flows from the Project full build-out due to pump capacity constraints, a new private WWTP will be required in the future, along with new sewer lift stations and larger capacity pump stations to convey the collected flows into the WWTP.

Solid Waste

- Solid waste disposal will be provided through the County DPW, Division of Solid Waste automated refuse collection system for residential lots. Solid waste disposal for subsistence agricultural lots and commercial lots will be the responsibility of the lessee.

Electrical Power

- The electrical preliminary engineering report is appended to the Final EA.
- Electrical power will be provided by Kaua'i Island Utility Cooperative (KIUC) via the existing overhead electrical distribution system running along Moi Road.

- Preliminary discussions with Kaua'i Island Utility Cooperative (KIUC) indicate there is existing capacity to support the Project.
- New KIUC underground infrastructure is anticipated and will likely follow the alignment of the new roadways within road right-of-way.

Communications

- Telephone and related telecommunications services for DHHL properties are provided to customers in the area by Sandwich Isles Communications (SIC). New underground telecommunication infrastructure will be extended from the existing overhead utility poles along Kaumuali'i Highway and Moi Road and existing underground system along Moi Road.
- CATV services for DHHL properties are provided to customers in the area by Hawaiian Telcom. New underground CATV infrastructure will be extended from the existing overhead utility distribution system along Kaumuali'i Highway and Moi Road.

In April 2020, DHHL staff presented the Hanapēpē Homestead Community draft environmental assessment (DEA) to the Hawaiian Homes Commission (HHC) (the DEA can be downloaded here: http://oeqc2.doh.hawaii.gov/Doc_Library/2020-07-08-KA-DEA-DHHL-Hanapepe-Homestead-Community.pdf). The DEA assessed the potential environmental impact to the surrounding environment and identified mitigation measures. In summary, the DEA found that the proposed implementation of the Hanapēpē Homestead Community Master Plan will have minimal impact to the surrounding area.

Based upon the analysis completed in the DEA, staff anticipated a finding of no significant impact (AFONSI) for the implementation of the Hanapēpē Homestead Community. Per Hawaii Administrative Rules (HAR) 11-200-11, the DEA and AFONSI are required to be published in the state Office of Environmental Quality Control "Environmental Notice" bulletin for a 30-day public review and comment period. The public comment period was from July 8, 2020 to August 8, 2020.

FINAL ENVIRONMENTAL ASSESSMENT (FEA) (SUMMARY)

Public Comments Received on the DEA

Various government agencies at the state and county level commented on the DEA. The comments received during the DEA 30-day comment period did not warrant significant changes to the Preferred Land Use Plan. A summary of the substantive comments identified by other agencies during the public comment period and how those comments were addressed in the FEA are in the following table. A complete record of comments received and responses are appended to the FEA.

Summary of Public Comments Received on the DEA

Agency	Comment/Summary	Response to Comment
State Agencies		
Department of Accounting and General Services (DAGS)	The project does not impact any of the Department of Accounting and General Services' projects or existing facilities.	We note that the proposed project does not impact any of the Department of Accounting and General Services' projects or existing facilities.
DLNR- Commission on Water Resource Management (CWRM)	<p><u>Recommends:</u></p> <ol style="list-style-type: none"> 1. Coordination with the county to incorporate this project into the county's Water Use and Development Plan. 2. Coordination with the Engineering Division of the State Department of Land and Natural Resources to incorporate this project into the State Water Projects Plan. 3. Use of water efficient fixtures and water efficient practices. 4. Use of best management practices (BMP) for stormwater management. 5. Use of alternative water sources, wherever practicable. 6. Participating in the Hawaii Green Business Program. 7. Adopting landscape irrigation conservation best management practices endorsed by the Landscape Industry Council of Hawaii. 8. Securing appropriate permits from DOH for construction activities. 9. Review of the State Water Projects Plan (SWPP) in the Final EA. 	<p>The Final EA includes a review of the project against the State Water Projects Plan Update dated 2017.</p> <p>A water master plan was completed for the project which provided updated demands and calculations. The water master plan will be coordinated with DLNR and the County for inclusion into their respective water plans.</p> <p>Additional recommendations have been included in the Final EA.</p>
DLNR - Division of Forestry and Wildlife	<p><u>Recommends:</u></p> <ol style="list-style-type: none"> 1. Use of downward facing and fully shielded lights to prevent impacts to sea birds, and that nighttime work that require outdoor lighting be avoided during seabird fledging season. 	Minimization measures proposed will be incorporated into the project Final EA and design plans as applicable.

Agency	Comment/Summary	Response to Comment
	<p>2. Avoiding site clearing during Hawaiian Hoary Bat birthing and pup rearing season, and that, if this can't be avoided, woody plants greater than 15 feet not be disturbed without consulting with DOFAW.</p> <p>3. That if there are State-listed waterbirds that could potentially inhabit the Project Area during construction, all activities shall cease until the birds leave the area.</p> <p>4. Taking action to minimize mammalian predator presence that may impact vulnerable birds.</p> <p>5. Minimizing movement of plant or soil material between worksites and consulting with the Kaua'i Invasive Species Committee to prevent the spread of the Rapid 'Ōhi'a Death.</p> <p>6. Using native plant species for landscaping that are appropriate for the area.</p>	
DOH - Clean Air Branch	<p>If your proposed project:</p> <p>1. <u>Requires an Air Pollution Control Permit</u> - Obtain an air pollution control permit from the Clean Air Branch and comply with all applicable conditions and requirements.</p> <p>2. <u>Includes construction or demolition activities that involve asbestos</u> - Contact the Asbestos Abatement Office in the Indoor and Radiological Health Branch.</p> <p>3. <u>Has the potential to generate fugitive dust</u> - You must control the</p>	<p>The project will not require an air pollution control permit, nor does it include construction or demolition activities that involve asbestos. FEA lists proposed mitigation measures to for impacts on the surrounding areas, which include Best Management Practices for construction activities.</p>

Agency	Comment/Summary	Response to Comment
	<p>generation of all airborne, visible fugitive dust, and recommends that a dust control management plan and measures be developed during construction activities.</p> <p>4. <u>Involves multiple land uses</u> - Recommends that buffer zones be established, wherever possible, to alleviate potential nuisance complaints.</p>	
DLNR - Engineering Division	<p>State projects are required to comply with 44CFR regulations as stipulated in Section 60.12. Be advised that 44CFR reflects the minimum standards as set forth by the NFIP. Local community flood ordinances may stipulate higher standards that can be more restrictive and would take precedence over the minimum NFIP standards. The owner of the project property and/or their representative is responsible to research the Flood Hazard Zone designation for the project.</p> <p>The applicant should include water demands and infrastructure required to meet project needs.</p> <p>The applicant is required to provide water demands and calculations to the Engineering Division so it can be included in the State Water Projects Plan Update projections.</p>	<p>Noted and water demand calculations have been included in the Draft EA and Final EA.</p> <p>The Project site is located in Flood Zone X which is outside of Flood Hazard Zone designations.</p>
Department of Transportation (HDOT)	<p><u>Airports</u></p> <p>1. The project area is approximately 0.66 miles from Port Allen Airport (PAK). All projects within</p>	<p>Noted and a discussion of potential FAA permits and impacts are included in the Final EA.</p>

Agency	Comment/Summary	Response to Comment
	<p>5 miles from Hawaii State airports are advised to read the Technical Assistance Memorandum (TAM) for guidance with development and activities that may require further review and permits.</p> <p>2. Federal Aviation Administration (FAA) regulation requires the submittal of FAA Form 7 460-1 Notice of Proposed Construction or alteration pursuant to the Code of Federal Regulations, Title 14, Part 77.9, if the construction or alteration is within 20,000 feet of a public use airport. Construction equipment and staging area heights, including heights of temporary construction cranes need to be included in the submittal.</p> <p>3. HDOT-A recommends that the design of the homestead landscaping does not create a wildlife attractant. If the project results in a wildlife attractant, DHHL shall immediately mitigate the impacts upon notification by the HOOT-A and/or FAA.</p> <p>4. The applicant should be aware of the proximity of the airport and potential single event noise from aircraft operations.</p> <p>5. Due to the proximity of the airport, there is a potential for fumes, smoke, vibrations, odors, etc., that may result from aircraft flight operations over existing uses and the proposed future developments of the DHHL Hanapepe Homestead Community.</p>	<p>FAA Form 7 460-1 Notice of Proposed Construction or alteration and possible Glint and Glare Analysis approvals have been added to the list of permits/approvals in the Final EA.</p>

Agency	Comment/Summary	Response to Comment
	<p>6. If DHHL decides to install PV solar panels in the future, a glint and glare analysis must be submitted for FAA review. HDOT-A also recommends use of the highest rated non-glare solar panels in order to mitigate potential hazard to the greatest degree possible.</p>	
<p>Department of Transportation (HDOT)</p>	<p>Highways Requested an update of the Draft EA TIAR to include:</p> <ol style="list-style-type: none"> 1. Review of study intersections and more detailed explanation on why certain intersections were excluded. 2. Addition of 2nd 'Ele'ele residential and commercial development proposed. 3. Recommendation of a 60-foot design setback from Kaumuali'i Highway to accommodate future roadways improvements. 4. Additional clarification for new access driveways on Kaumuali'i Hwy. 	<p>Acknowledged and incorporated recommended revisions.</p>
<p>County Agencies</p>		
<p>Planning Department</p>	<p>The Planning Department appreciates the DEA's assessment of consistency with the General Plan, Special Management Area, and Comprehensive Zoning Ordinance.</p> <p>The Hanapepe Homestead Community Project Plan is consistent with the policies, goals, and objectives set forth in the current draft of the West Kauai Community Plan. The Planning Department is working with the County Council to amend the draft</p>	<p>Acknowledged and Mahalo for the support. Coordination with the Planning department is ongoing and will include getting the project land uses into the community plan.</p>

Agency	Comment/Summary	Response to Comment
	Hanapepe Town Plan Map to better align with the preferred land use plan in the DEA.	
Councilmember Felicia Cowden -Council Services Division	<p>I am writing in my capacity as an individual member of the Kaua'i County Council to express my support for the subject-referenced environmental assessment.</p> <p>This DHHL development is deeply needed—particularly on the immediate edge of Moi Road—and the housing that this plan would create would support Kaua'i's intensive housing needs. For your reference, I have also expressed my support for amendment of the County's in-progress West Kaua'i Community Plan (WKCP) to ensure the WKCP makes appropriate reference to DHHL's Hanapēpē Homestead.</p>	Acknowledged and Mahalo for the support.
Community Organizations		
Moku o Manakalanipo	<p><u>P.10 Sec 1.3.3 Commercial and Community Use Areas</u> Very important to have spaces for cultural activities and community-based economic development. This includes spaces like a commercial kitchen, cultural spaces for family gatherings, community workshops, community meetings.</p> <p>All plants in these spaces should be plants that can be gathered and used as food or for lei making for the community.</p> <p><u>P.20 Sec 2.2 Geology Topography and Soils</u> Creative ways to mitigate flooding from the gulches and mauka areas should be</p>	Acknowledged and included these comments into the Final EA. Further remediation studies will be conducted for the makai parcel at the appropriate time. An AIS was recommended and will be conducted prior to construction.

Agency	Comment/Summary	Response to Comment
	<p>prioritized to mitigate any possible flooding to the makai areas that could potentially impact any and all cultural resources that are very vulnerable.</p> <p>Very concerning to read that there is evidence of REC's at the site. We strongly support that further study and remediation efforts be required currently and especially with future change in use or tenants.</p> <p><u>P. 29 Sec. 2.7</u> Hanapēpē Ahupua'a was initially part of Kona Moku, then Waimea- No citation for the Waimea part of this statement. We are a part of the Kona Moku and not the Waimea moku.</p> <p><u>P. 30 Sec. 2.7 Re:</u> <u>Potential impacts and mitigation measures</u> We support an AIS for any future development especially regarding the sink holes and caves that may contain cultural materials/heritage. This was seen in many areas in the ahupua'a and is very likely to be seen in the project area too.</p> <p><u>P. 31 Sec 2.8 Cultural Resources</u> Leina a ka 'uhane instead of leina 'o ka 'uhane - This is how many of the kupuna refer to the leina of the area.</p> <p><u>P. 80 Sec 5.2.1:</u> <u>Irrevocably commits a natural, cultural or historic resource</u> We fully support the last paragraph on this page</p>	

Agency	Comment/Summary	Response to Comment
	regarding minimizing any and ALL potential impacts to the Hanapēpē salt ponds. We are already seeing the degradation of the area and the disappearing of the practice for this generation. If we don't do EVERYTHING we can to protect this vulnerable resource it will not be here for the next 7 generations.	

Finding of No Significant Impact

Based upon the analysis completed in the FEA, staff recommends a Finding of No Significant Impact (FONSI) for the Hanapēpē Homestead Community. This determination is based upon the 13 criteria of significance that approving agencies must consider as specified in HAR 11-200-12. An analysis of the 13 criteria of significance is presented below:

1. Involve an irrevocable loss or destruction of any natural or cultural resources.

The proposed Project is not expected to adversely impact natural or cultural resources in Hanapēpē. Technical studies have been conducted to assess the potential impact of the proposed Project on fauna and flora, as well as cultural and archaeological resources on DHHL's Hanapēpē lands and downstream lands.

Studies have found that the prime agricultural portions of the Mauka site property were previously under long-term, intensive sugar cultivation and have since been used for farming and pasture, limiting the expectation of finding pre-Contact archaeological or cultural features, or significant native habitats. The primary constraints to development the Mauka site are related to the topography of several gulches of varying widths and steepness cross the site. In general, the slopes and soils in these areas are less suited to development, and are more likely to include sensitive resources such as flora, fauna, and cultural resources. Accordingly, the Land Use Plan designates the majority of the gulch areas and portions of the site with greater than 20% slope as Conservation land or Special District.

Minimizing any potential impacts to the makai salt ponds is critically important for protection of cultural practices in Hanapēpē. Reports of periodic flooding through the gulches and across the highway require careful attention to drainage system

design and runoff retention. The Project will meet or exceed County drainage requirements by completing a Drainage Master Plan in accordance with current Federal, State and County regulations. Eleven storm water detention basins have been proposed at various locations on the development site, including ten (10) within the Mauka site and one (1) on the Makai site. In addition, Low Impact Development strategies will be considered to further reduce the environmental impact of runoff and to provide additional water quality improvement opportunities.

Any subsequent unforeseen negative impacts may be mitigated through management protocols developed with the lessees; continued coordination with the State Historic Preservation Division; and designation of streams, gulches, and biologically promising areas as Conservation or Special District.

2. Curtail the range of beneficial uses of the environment.

The proposed Project is not expected to curtail the range of beneficial use of the environment by placing native Hawaiians on the land and by designating streams, gulches, and areas with the potential for native habitat restoration as Conservation or Special District.

Given the presence of high-quality agricultural lands on the Mauka site, the site is well suited for agricultural use and the location of Subsistence Agriculture lots provides a land buffer between Gay & Robinson's neighboring agricultural lands and residences. Proposed residential uses are located to take advantage of natural buffers and trade winds, and proximity to existing infrastructure facilities along Moi Road.

Results of environmental studies and research suggest that the Makai site should remain in industrial and/or commercial use. Of concern is the existence of soils that are prone to ponding and flooding, as well as the presence of Recognized Environmental Concerns on the site as identified in the Phase 1 Environmental Site Assessment. These warrant further study and will likely require additional drainage mitigation measures with any changes in use.

3. Conflict with the state's long-term environmental policies or goals and guidelines as expressed in Chapter 344 HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders.

This proposed project does not conflict with the state's long-term environmental policies or goals and guidelines. Potential adverse impacts are associated with short-term construction activities that will be mitigated through compliance with regulatory guidelines and use of best management practices. In the short term, the project provides up to 75 additional residential

lots for beneficiary lessees. In the long term, the Project provides up to 374 additional residential lots, 111 subsistence agricultural and community and economic opportunities for native Hawaiians to improve their quality of life.

4. Substantially affects the economic or social welfare of the community or state.

The proposed project will be beneficial to the economy and social welfare of the state by providing opportunities for native Hawaiian beneficiaries to obtain homestead leases at \$1.00/year for 99 years, and to receive other programmatic supports that increase crop production and build capacity for homesteaders to engage in subsistence agricultural activities and to possibly reside on the lot. The lessees provide an additional customer base for the existing commercial businesses within Hanapēpē Town.

Current lessees and beneficiaries have identified a number of potential commercial uses that would contribute positively to the economic and social welfare of the surrounding community. These new commercial uses on the Project site would likely result in additional jobs and services offered to the Hanapēpē community.

5. Substantially affects public health.

The proposed project will have short-term construction-related impacts on noise and air quality, but they will be mitigated by compliance with Department of Health regulations. Potential long-term impacts on public health will be mitigated through wastewater disposal accommodated by connection to the 'Ele'ele WWTP or thru individual wastewater disposal systems that are approved by the DOH; surface water runoff managed by a Drainage Master Plan, and streams and gulches protected as Conservation or Special District-designated areas.

6. Involves substantial secondary impacts, such as population changes or effects on public facilities.

The Project will increase the population of Hanapēpē through new permanent residences in the short term of up to 75 residential lots and in the long term with the addition of up to 449 residential lots and 111 subsistence agriculture lots. Based on the experience of previous DHHL agricultural homesteads, only 50% of the subsistence agricultural lots are expected to result in residences. However, all of the lessees, regardless of whether or not they ultimately reside in Hanapēpē, will be required to pay property taxes on their lot, which will contribute toward public facilities and services.

In the short term, public utility services are anticipated to be able to accommodate the Phase 2 residential subdivision for

potable water and irrigation, wastewater connection, solid waste pick up, electricity and communications.

In the long-term, should public utilities not be available due to capacity issues, additional options will be necessary which are being considered as part of the environmental assessment. The water master plan that was prepared to assess the existing water supply capacity and propose infrastructure improvements includes the possibility of a new well, storage tank and distribution system should the existing County system prove unable to accommodate the development. A new private WWTP on site was also conceptually developed for consideration. DHHL will mitigate the potential impacts to public utilities and services by working with the County water and wastewater system to ensure the Project can be accommodated appropriately through County or DHHL-owned systems.

There is only one public road to enter and exit the Project site and Hanapēpē Heights community at this time, which is Moi Road. Access road stubouts exist along Moi Road across from Ali'i Road, Ahi Road, and Eleu Road to provide future connection in DHHL's Hanapēpē lands. Moi Road is the collector for entire residential community. Lessees and residents have expressed a desire for alternate access, and the traffic analysis for the project indicates a second access will be needed to mitigate traffic. The Land Use Plan identifies a proposed location for the second access road, which is anticipated to be developed as part of the long-term site build out.

7. Involves a substantial degradation of environmental quality.

Construction activities will cause some impacts to air quality, noise, and traffic in the area of the project, but these are temporary in nature and will be mitigated by best management practices in accordance with State and County permit regulations. Potential impacts to surface water and drainage will be mitigated by a drainage master plan that is being developed to minimize erosion and manage runoff. Furthermore, roughly 10 percent of the project site will be dedicated to Conservation and Special District uses in order to protect natural drainageways.

8. Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.

The proposed Project is not expected to have a significant negative cumulative effect upon the environment. DHHL does not have any other Projects in the vicinity and this Project does not commit DHHL or others to additional actions. The preferred land use plan is consistent with the policies, goals, and objectives set forth in the current draft of the West Kauai Community Plan and the County General Plan.

9. Substantially affects a rare, threatened or endangered species, or habitat.

There are no known threatened or endangered species or associated habitats on or near the property. The areas most likely to contain any sensitive habitat, such as the gulches and steep slopes, are proposed for Conservation or Special District. Additionally, best practices will be carried out to protect against potential impacts to the Hawaiian hoary bat, Hawaiian hawk, and seabirds that may fly over the property. The Project will include measures to avoid or minimize potential impacts, such as limiting the quantity of, and shielding street lights, community park lighting, and external lights on buildings. Nighttime work that requires outdoor lighting would need to be avoided during the seabird fledging season from September 15 through December 15. No trees greater than 15 feet tall should be trimmed or removed during the bat pupping season from June 1 to September 15. If any of the waterbird species are present during construction, then all activities within 100 feet should cease and the bird(s) should not be approached.

10. Detrimentially affects air or water quality or ambient noise levels.

Construction activities will cause some impacts to air quality, noise, and surface water in the area of the project, but these are temporary in nature, will follow appropriate regulations, and will be mitigated by best management practices in accordance with State Department of Health and County of Kaua'i construction permit conditions.

Potential long-term impacts to surface water quality will be mitigated by a drainage master plan that is being developed to minimize erosion and manage runoff. After construction, the Project is not expected to have a detrimental impact on air quality or noise levels. There may be a slight increase in impervious surfaces due to the construction of roads, houses, and community facilities, but any additional runoff will be contained on-site through drainage features identified during the development of a master drainage plan. This master drainage plan will identify features and practices to minimize erosion.

11. Affects or is likely to suffer damage by being located in an environmentally sensitive area such as flood plain, tsunami zone, beach, or erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal water.

The Mauka site is not located in an environmentally sensitive area. It is located outside of the flood plain, tsunami zone, beach area, geologically hazardous land, estuary, and 3.2-foot Sea Level Rise Exposure Area (SLR-XA) from the Hawai'i Sea Level Rise Vulnerability and Adaptation Report. It should be noted that for

the islands of Lānaʻi, Molokaʻi, and Hawaiʻi, the SLR-XA represents only the passive flooding hazard due to the lack of historical data needed to model the other two hazards.

The Makai Site is designated as an area of minimal flood hazard, Flood Zone X, on the Federal Emergency Management Agency Flood Insurance Rate Maps. Zone X is determined to be outside the 500-year flood zone, with minimal risk of flooding. The Pacific Disaster Center has identified the Makai site as being within the Tsunami Evacuation Zone. The Makai Site is located immediately adjacent to but outside of the 3.2-foot Sea Level Rise Exposure Area SLR-XA.

The State Department of Land and Natural Resources Division of Forestry and Wildlife identified the Mauka site as in the "N/A" zone for risk to wildfire hazards. However, due to drier weather, hotter temperatures and stoppage of agricultural uses on the Project site, the risk of wildfire is high and development of the site would help to mitigate the risk of wildfire substantially.

12. Substantially affects scenic vistas and view-planes identified in county or state plans or studies.

The Project site is not located in an area that has been identified as a scenic view plane or area of natural beauty by the County or State and it contains no significant geographical points, such as puʻu. The proposed Project will have not result in significant impacts to scenic vistas and view planes. The Project will alter the existing views of agricultural lands as they are converted to homesteads, but the subsistence agriculture land use will be consistent with previous and current agricultural land uses. The new residential lots will be located adjacent to the existing homes and subdivision.

13. Require substantial energy consumption.

The new agricultural activities, commercial and community use areas, and homes will increase energy consumption but are not anticipated to require substantial energy requirements when compared with other similar projects.

Mitigation Measures Identified in the FEA

- Concentration of residential uses to the east of Kukamahu Gulch to reduce infrastructure connection distances and increase buffers between existing agricultural areas and proposed residential uses.
- Designation of the gulch areas and portions of the site with greater than 20% slope as Conservation or Special District to mitigate impacts to topography, soils, and potentially sensitive resources.
- BMPs will be implemented pursuant to the required Grading Permit to mitigate potential impacts of soil erosion and fugitive dust

during construction.

- Any future residential or commercial development of former agricultural lands will require environmental sampling and analysis of the soil to assess the presence and concentrations of various agrichemicals, their constituents and byproducts.
- Any future change in use or tenants at the Makai site should involve further study and remediation efforts as are determined necessary.
- Development of future phases will involve consultation with the U.S. Army Corps' of Engineers Regulatory Program to determine if a Department of Army permit is required (file number POH-2019-00231).
- Consequently, design of the homestead landscaping should not, nor is expected to create a wildlife attractant.
- If DHHL decides to install PV solar panels in the future, a glint and glare analysis must be submitted for Federal Aviation Administration review.
- Eleven (11) stormwater detention basins have been proposed at various locations on the development site, including ten (10) within the Mauka Site and one (1) on the Makai Site. In addition, Low Impact Development strategies can be incorporated to further reduce the environmental impact and provide additional water quality improvement opportunities.
- Construction noise impacts will be mitigated by best management practices in accordance with State Department of Health and County of Kaua'i construction permit conditions.
- A dust control plan for the period of construction will be prepared and implemented.
- Additional biological survey will be undertaken before major vegetation disturbance of the site occurs.
- Design will incorporate measures to avoid or minimize potential impacts on the endangered Hawaiian petrel, threatened Newell's shearwater, and wedge-tailed shearwater, such as limiting the quantity of, and shielding street lights, community park lighting, and external lights on buildings.
- Trees greater than 15 feet will not be disturbed during the hoary bat pupping season (June 1 thru September 15).
- Appropriate firebreaks will be provided and maintained between developed and open areas.
- Conduct an Archaeological Inventory Survey in consultation with SHPD prior to future development.
- Educate homesteaders about cultural resources and creating cultural connections with the Hanapēpē salt makers and other local cultural practitioners.
- Future Commercial and Community Use development will occur adjacent to Kaumuali'i Highway at the lowest elevations in the Mauka Site, thereby resulting in less impacts to mauka to makai viewplanes in the area.

- Where appropriate for design, adequate setbacks and screening landscaping will be considered to mitigate possible visual impacts along Kaumuali'i Highway.
- The following changes in geometric configurations or change in control-type at the intersection are recommended as traffic mitigation measures in the traffic report for the EA:
 - Roundabout at Lele Road and Kaumuali'i Highway
 - Alteration of Hanapēpē Road and Kaumuali'i Highway to remove the north leg at the intersection of Hanapēpē Road and Kaumuali'i Road.
 - Consolidation of intersections (Puolo Road and Kaumuali'i Highway)
 - Dedicated turn lane at Kona Road and Kaumuali'i Highway
 - Stop signage at Hanapēpē Road and Moi Road
 - Dedicated turn lane for Sixth Access Road and Kaumuali'i Highway
 - Include dedicated space for bicycles and pedestrians as a part of new roadway build-out
- Wastewater systems will be planned in accordance with HAR 11-62.

NEXT STEPS FOR OVERALL PROJECT IMPLEMENTATION

In addition to the completion of the FEA and HHC declaration of FONSI for the project in accordance with Hawaii Revised Statutes Chapter 343 and HAR 11-200, the following actions will need to be implemented:

- Update DHHL Kaua'i Island Plan with updated Land Use Plan for the Hanapēpē Homestead Community.
- Complete Phase 2 Residential Subdivision design and subdivision application to County.
- In conjunction with Phase 2 Residential Subdivision, increase the lot size of existing Phase 1 residential homestead lots from 5,000 square feet to 7,500 square feet.
- Coordinate with various State and County agencies:
 - State Department of Transportation - traffic mitigation and access points to the Project site.
 - State Historic Preservation Division - ensure compliance with historic preservation laws.
 - State Department of Health - wastewater disposal compliance.
 - County of Kaua'i Department of Water for municipal water connection and permit.
 - County of Kaua'i Department of Public Works, Division of Wastewater Management for sewer connection and permit.
- Long Term Next Steps
 - Coordinate with Gay and Robinson regarding potential to acquire irrigation water from private source.
 - Coordinate future Project development phases with County agencies for municipal water and sewer connections.
 - Subdivision design and applications to the County.

- o Coordinate with HDOT for additional vehicular access off of Kaumuali'i Highway.
- o Continued involvement and consultation with Hanapēpē lessees and beneficiaries on waitlist for identification and implementation of community uses, special district uses and commercial areas.

Sufficient budget will need to be allocated by the HHC and DHHL to implement the Project. Furthermore, a willingness on the part of current and future decision-makers to follow through with various aspects of the Hanapēpē Homestead Community Master Plan will be needed to ensure successful implementation.

Recommendation

DHHL staff respectfully requests approval as recommended.



Hanapēpē Homestead Community Final Environmental Assessment

Prepared for: Department of Hawaiian Home Lands
Prepared by: SSFM International

ITEM NO. G-4

EXHIBIT A



October 2020

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 20, 2020

To: Chairman and Members, Hawaiian Homes Commission
Through: Andrew H. Choy, Acting Planning Program Manager *AC*
From: Nancy M. McPherson, Planner *NMM*
Subject: Amend the Kaua'i Island Plan to apply Subsistence Agriculture, Residential Homestead, Community Use, Commercial, Special District and Conservation Land Use Designations to Hanapēpē, Kaua'i, TMK's (4) 1-8-007:003, 018 and 021

RECOMMENDED ACTIONS

That the Hawaiian Homes Commission (HHC) approve an amendment to the *Kaua'i Island Plan* (KIP) (2004) to apply and adjust Subsistence Agriculture, Residential Homestead, Community Use, Commercial, Special District and Conservation Land Use Designations to the Land Use Plan for the mauka lands in Hanapēpē, Kaua'i, TMK's (4) 1-8-007:003, 018 and 021.

DISCUSSION

The land use designations for Hanapēpē's undeveloped mauka lands, approximately 359 acres as mapped in the KIP, require revision in order to accurately reflect the most recent planning efforts for this tract. This approval would amend land use designations (LUD's) from the existing Subsistence Agriculture, Residential, Commercial and Community Use LUD's to reconfigured Subsistence Agriculture, Residential, and Community Use areas, and new Special District and Conservation LUD's as reflected in the Hanapēpē Homestead Master Plan and the Preferred Alternative in the Environmental Assessment.

The land use designations for the Makai Site, consisting of four TMK's totaling 6 acres in Commercial, or for the existing Phase I Residential homestead area along Moi Road, are unchanged and do not need amending, therefore they are being omitted from this request for KIP land use amendment.

The HHC has been briefed on the Master Plan for Hanapēpē, Kauaʻi on one previous occasion:

- March 21, 2020, Hanapēpē Homestead Development Plan Draft Environmental Assessment (For HHC information)

In addition, the Commissioner representing Kauaʻi attended all of the community meetings starting in July of 2019.

Kauaʻi Island Plan (adopted 2004)

The Island Plans (Tier 2 of the Planning System) are developed with a long-term perspective and are intended to accomplish the following:

- Implement General Plan goals and objectives
- Establish land use designations to encourage orderly social, physical, and economic development.
- Identify priority areas for homestead development.

DHHL lands on Kauaʻi are located in seven regions: Waimea, Kekaha, Hanapēpē, Wailua, Kapaʻa, Anahola/Kamalomaloʻo, and Moloaʻa. The area of proposed revision to the land use designation is located within Hanapēpē, on the mauka side of Kaumualiʻi Highway. As described in the Kauaʻi Island Plan, Hanapēpē is envisioned to be DHHLʻs largest residential and agricultural community on Kauaʻiʻs west side with commercial and community use amenities. The KIP currently states that the Hanapēpē tract was designated as the second priority area for homestead development on Kauaʻi, after Wailua.

Hanapēpē is a desirable residential location because the gently sloping topography and existing sewage treatment plant in the area reduces development and infrastructure costs, and because it is near the employment centers of the Pacific Missile Range Facility (PMRF) and Poʻipū. In 2018, the Hawaii State Legislature allocated funding for master planning and engineering design work for new homesteads on Kauaʻi, specifically for the Hanapēpē tract. The availability of funding, among other factors, reprioritized homestead development to the west side of Kauaʻi.

Homestead Community Master Plan for Hanapēpē

Subsequently, a Homestead Community Master Plan process was initiated for the Hanapēpē area, the details of which are discussed in HHC agenda Item G-4. The Homestead Community Master Plan was designed to provide opportunities for beneficiaries to

settle in a mixed-use, master-planned community that incorporates agricultural opportunities, a commercial center, and a multi-purpose community use area.

DHHL engaged in a robust review of existing conditions and potential impacts on environmental, cultural, and socio-economic factors from the proposed Homestead Community Master Plan for DHHL's 363 acres in Hanapēpē as part of the State of Hawai'i's environmental review process. DHHL beneficiaries had multiple opportunities for input during the development of the Master Plan and Environmental Assessment. See Item No. G-4 for more information on the community outreach process.

Land use changes were recommended during the beneficiary consultation, environmental review and planning process for Hanapēpē Homestead. As a result, a revision of the existing land use designations identified in the Kaua'i Island Plan is required. In addition, a discrepancy of two acres between the total acreage for the Mauka Site as stated in the KIP and the total acreage as determined by analysis done for the Master Plan and EA was noted. LUD acreages are estimates of actual acreages only, hence the slight discrepancy of total acres.

Recommended Land Use Amendments to Kaua'i Island Plan

DHHL is recommending amending the Kaua'i Island Plan land use designations for approximately 357 acres of land in Hanapēpē, to align with proposed lands uses developed during the Homestead Community Master Plan process. The land use designation revision will allow DHHL to pursue the development of 75 residential homestead lots in Phase II, and future plans for additional residential, subsistence agricultural, commercial and community use areas in order to implement the following DHHL General Plan goals and objectives:

Goals:

- Utilize Hawaiian Home Lands for uses most appropriate to meet the needs and desires of the beneficiary population.
- Encourage a balanced pattern of contiguous growth into urban and rural growth centers.
- Develop livable, sustainable communities that provide space for or access to the amenities that serve the daily needs of its residents.

Objectives:

- Provide space for and designate a mixture of appropriate land uses, economic opportunities and community services in a native Hawaiian-friendly environment.
- Direct urban growth to priority development areas based on infrastructure availability, feasible site conditions, beneficiary preferences and job opportunities.

The proposed land use designation changes to the KIP are described in *Table 1, Proposed land use designations for Hanapēpē* and *Figure 1, Comparison of Existing and Proposed Land Use Designations*, below.

Table 1: Proposed land use designations for Hanapēpē

Land Use Designation	Kaua 'i Island Plan (2004) (Acres)	Proposed Kaua 'i Island Plan Amendment (Acres)
Subsistence Agriculture	158	157
Residential Homestead	168	126
Community Use	22	26
Commercial	17	13
Special District	0	33
Conservation	0	8
Total	365*	363*

*Land Use Designation acreages in the KIP and the Hanapēpē Homestead Community Master Plan are estimates of actual acreages only, hence the slight discrepancy of total acres in each column.

Figure 1 Comparison of Existing and Proposed Land Use Designations

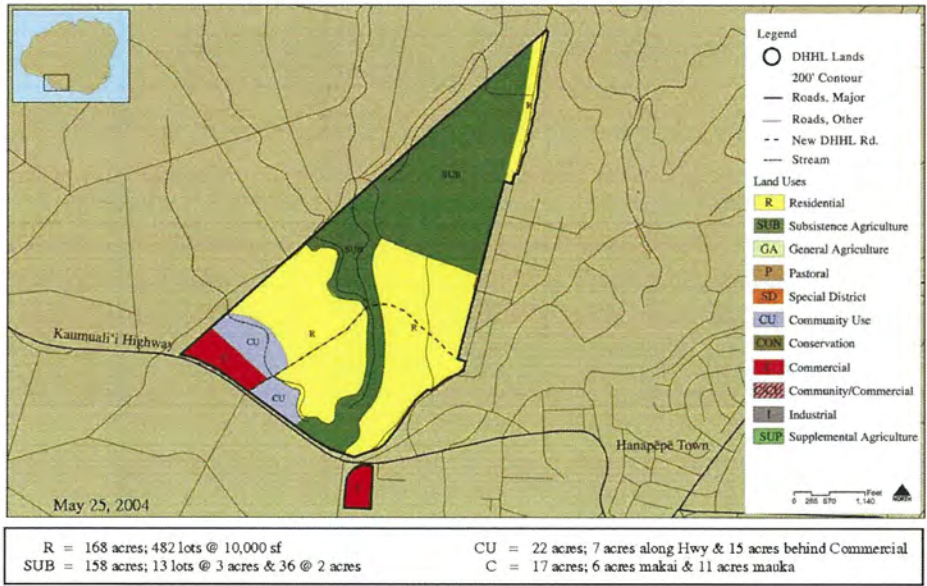
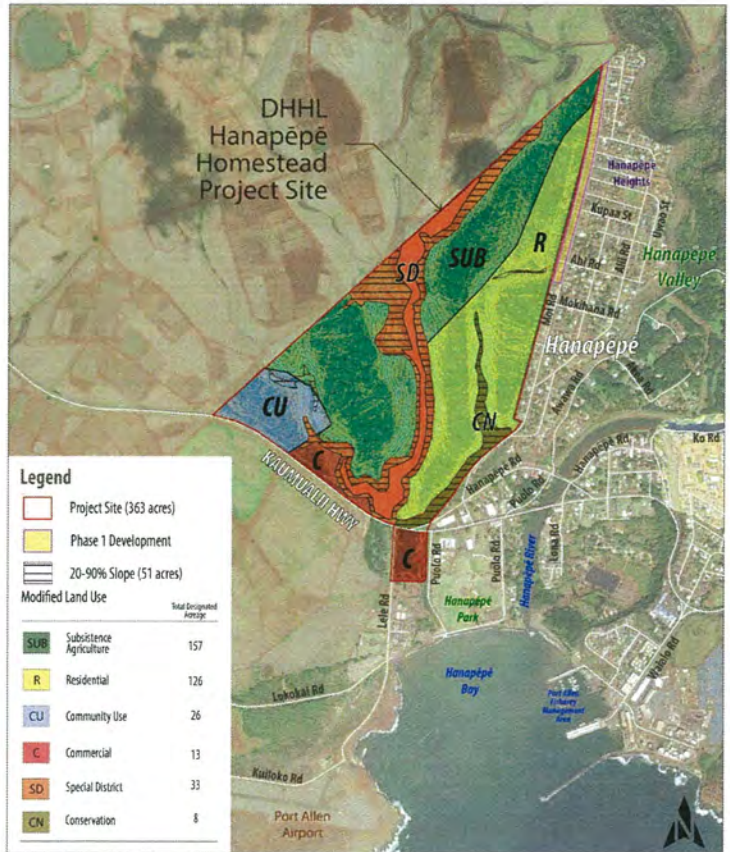


Figure 3: PREFERRED LAND USE PLAN



Interim amendments to DHHL Island Plan Land Use Designations must be approved by the HHC as the HHC has exclusive land use authority over Hawaiian Home Lands per the Hawaiian Homes Commission Act, as amended. Per DHHL's Administrative Rules, §10-4-54:

"Between comprehensive updates, tier 1 and tier 2 plans may be amended upon beneficiary consultation appropriate to the plan as set forth in section 10-4-60, and a majority vote by the commission."

Beneficiary consultation efforts undertaken include:

- December 33, 2018 -- Meeting with Lessees.
- July 24, 2019 -- Beneficiary Consultation Meeting #1 with Kaua'i Island Residential and Agricultural Waitlist beneficiaries, and Hanapēpē Phase I Lessees.
- October 26, 2019 - Community Meeting #1, open to the greater West Kaua'i community (for EA purposes).
- December 5, 2019 -- Beneficiary Consultation Meeting #2 with Kaua'i Island Residential and Agricultural Waitlist beneficiaries, and Hanapēpē Phase I Lessees.
- July 8, 2020 -- Community Meeting #2, open to the greater West Kaua'i community (for EA purposes).
- September 3, 2020 - Beneficiary Consultation Meeting #3 with Kaua'i Island Residential and Agricultural Waitlist beneficiaries, and Hanapēpē Phase I Lessees.

Meeting summaries from the beneficiary consultation and community outreach meetings can be found in Item No. G-4, Appendix J of Exhibit A. In summary, the proposed land uses were reviewed and adjusted by beneficiaries during the initial Hanapēpē Homestead Master Plan meetings and validated by beneficiaries at the last consultation meeting in July of 2020.

Recommendation

DHHL staff respectfully requests approval as recommended.


**HAWAIIAN HOMES COMMISSION
OCTOBER 19 & 20, 2020
TELECONFERENCE
9:30 A.M.**

**H – ITEMS
ADMINISTRATIVE SERVICES OFFICE**

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

October 20, 2020

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Rodney K. M. Lau, Administrative Services Officer
SUBJECT: Approval of DHHL Biennium Budget Requests for Fiscal
Biennium 2021-2023 (Sufficient Sums Budget)



RECOMMENDED MOTION/ACTION

1. That the Commission approve the FB 2021-2023 Operating and Capital Improvement Program (CIP) budget request (Sufficient Sums Budget) presented below to the Governor for consideration in the Administration's Executive Budget requests to the 2021 Legislature.
2. That the Commission approve the FB 2021-2023 Operating and Capital Improvement Program (CIP) budget request (Sufficient Sums Budget) be presented to the 2021 Legislature.
3. That the Commission authorize the Chairman to adjust the Operating and CIP budget request to make technical adjustments due to minor errors before it is incorporated into the Administration's Executive Budget.

DISCUSSION

For your information is a chronology of DHHL's biennium budget request for FB 2021-2023.

Article XII, Section 1 of the State Constitution states "The legislature shall make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands..."

On October 19, 2007, several beneficiaries filed a lawsuit against the State and the Hawaiian Homes Commission claiming that the State violated its constitutional duty to sufficiently fund the Department of Hawaiian Home Lands.

On March 9, 2012, the Supreme Court in Nelson I affirmed the Intermediate Court of Appeals judgment in part that the courts can determine what constitutes "sufficient sums" for the DHHL's administrative and operating expenses to carry out the purposes of the Hawaiian Homes Commissions Act, 1920, as amended.

The Supreme Court also determined that "sufficient sums" for (1) development of lots, (2) loans, and (3) rehabilitation projects are political in nature and could not be judicially determined.

Based on instructions from the Supreme Court in Nelson I, a non-jury trial was held on Plaintiff's claims that the State of Hawaii violated its constitutional duty to provide sufficient sums to the DHHL for its administrative and operating budget (Count 1) and the DHHL, the Hawaiian Homes Commission and its commissioners breached their trust duties by failing to seek from the legislature all the funding to which the department is constitutionally entitled (Count 2).

In November 2015, the Circuit Court ordered the term "sufficient" would change over the years, but that for fiscal year 2015-16, the administrative and operating budget of DHHL was \$28 million. The Circuit Court further determined that judgment on counts 1 and 2 would be entered in favor of Plaintiffs and against the State Defendants (as to Count 1) and the DHHL defendants (as to Count 2).

State Defendants appealed the ruling. In Nelson v. Hawaiian Homes Commission (February 2018) ("Nelson II", the Supreme Court vacated all Circuit Court's orders and remanded to the Circuit Court. On remand, the Supreme Court gave explicit instructions to the Circuit Court to only "determine whether the State Defendants have provided 'sufficient sums' for DHHL's administrative and operating budget using the only judicially discoverable and manageable standard identified in Nelson I, the 1978 baseline of \$1.3 to \$1.6 million, adjusted for inflation." Thus, this Court does not make findings in regard to Counts 1 and 2 of the Complaint and those issues are left undecided. This Court only makes findings and conclusions which would

assist the Court in defining the term "inflation" as used by the Supreme Court in Nelson II.

In September 2020, a non-jury trial was held on the singular issue remanded in Nelson II.

Based on the Article XII, Section I, the Hawaiian Homes Commission, the head of the Department of Hawaiian Home Lands, has a fiduciary responsibility to ask for amounts the Commission considers "sufficient sums" for the Department's administrative and operating expenses.

The Hawaiian Homes Commission request is formulated in two parts:

- a) Administrative and Operation costs relating to the Supreme Court ruling regarding purpose no. 4 of Article XII, Section I. This part also includes existing infrastructure projects with a long-standing history of operational, maintenance, and repair issues that have become capital improvement issues.
- b) Costs aligned with purposes numbers 1, 2 and 3, of Article XII, Section I, of the Hawaii State Constitution relating to: ...(1) development of home, agriculture, farm and ranch lots"; (2) home, agriculture, aquaculture, farm and ranch loans; and (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved..." which the Supreme Court ruled as political in nature and could not be judicially determined.

DHHL Biennium Budget Requests - Fiscal Years 2022 and 2023

Administrative and Operating Costs: Purpose 4 of Article XII, Section I

The proposed biennium budget request for administrative and operating costs total \$211,781,876 and \$86,346,876 for fiscal years 2022 and 2023, respectively (Attachment A).

In light of the COVID 19 pandemic, the "sufficient sums" request for fiscal biennium 2021-2023 were adjusted.

"Personal Services" category costs were based on 206 (FTE) positions as authorized for Fiscal Year 2021, pursuant to Act 9, SLH 2020. 60 positions were reduced from the 266 positions as

previously requested in the FB 2019 - 2021 sufficient sums request to the Legislature. The reduction of the 60 positions does not preclude the department from requesting the 266 positions when the economy recovers. Fringe benefit costs are absorbed by a separate Department of Budget and Finance general fund appropriation. The annual personnel costs request represents an aggregate of the annual base salaries.

In the proposed FB 2021-2023 request, the DHHL's fiscal year 2021 budget for the "Other Current Expenses" category was used as a base line and adjusted to exclude costs related to development of homestead lots, loans, and rehabilitation projects. Consequently, the base budget was adjusted for debt service costs, loans, grants in aid and grants. The annual "Other Current Expenses" category totaled \$17,780,378. Attachment A-1 provides the "Other Current Expenses" category approved by the Commission relating to the Administrative and Operating Costs, with adjustments, to determine the "sufficient sums" amount.

Ongoing repairs and maintenance for infrastructure on Hawaiian home lands totaled \$5,823,000 and \$4,323,000 for fiscal years 2022 and 2023 respectively and is requested as a separate general fund "Repair and Maintenance" request in the "Other Current Expenses" category (See Attachment B-2).

DHHL's initial CIP general obligation bond request relating to repair and maintenance of infrastructure on Hawaiian home lands is made as a lump sum request under the title of "Hawaiian Home Lands Development, Statewide" totaling \$175,935,000 and \$52,000,000 for fiscal years 2022 and 2023, respectively (See Attachment B-1). The infrastructure projects have a long-standing history of operational, maintenance and repair issues that have become capital improvement issues.

Attachments "A" provides a summary recap of the discussion.

Hawaiian Homes Commission Budget Request: Purpose no. 4 - State Constitution, Article XII, Section 1			
	FY 2022	FY 2023	
	(206.00)	(206.00)	
Administrative and Operating Budget Request	\$30,023,876	\$30,023,876	(A)
Operating Budget: Repairs and Maintenance of Infrastructure	\$5,823,000	\$4,323,000	(A)
CIP Budget: Repairs and Maintenance of Infrastructure	\$175,935,000	\$52,000,000	(C)
Total HHC Administrative and Operating Budget Request	\$211,781,876	\$86,346,876	

Means of Financing: (A)= General Fund; (C) = General Obligation Bond

Hawaii State Constitution: Purposes 1, 2, 3 of Article XII,
Section I; Lot Development, Loans and Rehabilitation
Projects

The proposed biennium budget request for Purposes 1, 2, 3 of Article XII, Section I (Lot Development, Loans and Rehabilitation Projects) total \$254,868,100 and \$175,419,100 for FY 2022 and 2023, respectively. Details of the request are shown in Attachments "B-1" (Lot Development), "D" (Loans), and "C" (Rehabilitation Projects).

Hawaiian Homes Commission Budget Request: Purposes no. 1, 2, 3, State Constitution, Article XII, Section 1

	FY 2022	FY 2023	
Purpose 1: Lot Development	\$114,725,000	\$31,225,000	(C)
Purpose 2: Loans	\$73,100,000	\$73,100,000	(C)
Purpose 3: Rehabilitation Projects	\$52,524,000	\$56,440,000	(C)
Rehabilitation Projects	\$14,519,100	\$14,654,100	(A)
Total	\$254,868,100	\$175,419,100	

Means of Financing: (A) = General Fund; (C)=General Obligation Bond

In August 2018, DHHL participated in a Puwalu discussion in Maui that brought native Hawaiian beneficiary leaders state-wide together regarding priorities in their communities and programmatic needs. These needs provided by the beneficiaries were identified and sorted according to the purposes provided by Article XII, Section 1 of the State Constitution and included in the FB 2022-2023 request. These projects are identified in Attachment "C".

Separate from the "sufficient sums" request, that is also included in Attachment "C", are grants-in-aid (GIA) projects that were brought up in the Puwalu discussion. DHHL will provide information to the Administration and the Legislature on GIA projects that may be coming forward. The GIA requesters will still need to go through the normal GIA process to secure funding.

While a Puwalu discussion was not held in 2020 because of COVID-19, the projects identified as part of the prior Puwalu in 2018 continue to be a priority in communities statewide. In addition, DHHL updates regional plans documenting current conditions and trends as well as analyzing state and county plans to identify a prioritized list of projects important to the community. Since the Puwalu in August 2018, the following

regional plans have been updated or are in process: Waianae & Lualualei Regional Plan (December 2018), Molokai Regional Plan (2019), Kealakehe - Lai Opuā Regional Plan (May 2020), and Papakōlea Regional Plan Update (2020).

CIP Budget: HHC Federal Fund Request

Included in the "sufficient sums" request is funding for four (4) (FTE) positions and two (2) temporary positions funded by the Native American Housing Assistance and Self Determination Act (NAHASDA) program.

Separate from the "sufficient sums" request is a request for authorization to expend \$23 million annually in Federal funds for fiscal years 2022 and 2023 as provided by the U.S. Department of Housing and Urban Development (HUD) under the NAHASDA program. In the 2021 Legislature, DHHL is requesting that a revolving loan fund be established to use a portion of the NAHASDA funds for direct loan financing.

The Commission's approval of the above recommended motion is respectfully requested.

Department of Hawaiian Home Lands
 Purpose 4: Administrative and Operating Costs
 FY 2022 and FY 2023
 Budget Request Summary

		FY 2022 Budget Request to HHC	MOF	FY 2023 Budget Request to HHC	MOF
State Constitution, Article XII, Section 1, Purpose 4: Administrative and Operating Costs					
	Personnel Costs	\$12,243,498	A	\$12,243,498	A
	Other Current Expenditures	\$17,780,378	A	\$17,780,378	A
	Subtotal Administrative and Operating Costs	\$30,023,876		\$30,023,876	
	Repair and Maintenance of Infrastructure	\$5,823,000	A	\$4,323,000	A
	Repair and Maintenance of Infrastructure	\$175,935,000	C	\$52,000,000	C
	Subtotal R&M of Infrastructure	\$181,758,000		\$56,323,000	
	Total Administrative and Operating Costs	\$211,781,876		\$86,346,876	

Means of Financing:					
A =	General Fund	\$35,846,876	A	\$34,346,876	A
C =	General Obligation Bonds	\$175,935,000	C	\$52,000,000	C
	Total	<u>\$211,781,876</u>		<u>\$86,346,876</u>	

Purpose 4: "Other Current Expenses" Category
Executive Budget for FY 2021 as Approved by the HHC on June 16, 2020

		Administration and Operating Costs						TOTAL
Object		General	Administration	Operating Fund		Operating Fund (Non App)		Other Current
Code		Fund	Account	Operating Portion	Development Portion	Operating Portion	Development Portion	Expenditures
2900	Other Personal Services	704,000	225,000	0	0	0	0	929,000
3010	Operating Supplies - Gas & Oil Supplies	68,800	10,000	18,000	0	0	0	96,800
3020	Operating Supplies - Fuel & Oil Other	2,950	3,000	26,500	0	0	0	32,450
3030	Operating Supplies - Janitorial	24,380	0	6,548	0	0	0	30,928
3090	Operating Supplies - Others	24,500	2,350	17,284	0	0	0	44,134
3100	Maintenance Materials Supplies & Parts	11,800	0	100,000	0	0	0	111,800
3200	Office Supplies	127,150	0	800	0	0	0	127,950
3400	Other Supplies	21,866	0	1,500	0	0	0	23,366
3500	Dues and Subscriptions	15,762	2,000	300	0	0	0	18,062
3600	Freight and Delivery Charges	3,770	600	4,000	0	0	0	8,370
3700	Postage	181,990	0	4,550	0	0	0	186,540
3800	Telephone	130,210	0	600	0	0	0	130,810
3900	Printing and Binding	72,950	0	0	0	0	0	72,950
4000	Advertising	78,700	0	500	0	0	0	79,200
4100	Car Mileage	22,750	0	0	0	0	0	22,750
4200	Transportation, Intrastate	337,900	0	7,000	0	0	0	344,900
4300	Subsistence Allowance, Intra-State	187,970	0	4,000	0	0	0	191,970
4400	Transportation, Out of State	24,250	0	0	0	0	0	24,250
4500	Subsistence Allowance, Out of State	25,000	1,000	0	0	0	0	26,000
4600	Hire of Passenger Cars	59,075	0	3,000	0	0	0	62,075
5000	Electricity	402,000	665,000	510,200	0	0	0	1,577,200
5200	Water	113,700	267,000	229,800	0	0	0	610,500
5500	Rental of Land and Bldg.	12,800	0	0	0	0	0	12,800
5810	Repairs- Data Processing	14,000	0	0	0	0	0	14,000
5815	Maintenance - Data Processing	130,000	0	0	0	0	0	130,000
5820	Repairs- Equipment, Building, etc.	57,410	2,000	25,500	0	0	0	84,910
5825	Maintenance- Equipment, Building, etc.	389,100	45,550	73,972	0	0	0	508,622
5830	Repairs- Motor Vehicles	41,000	3,000	10,000	0	0	0	54,000
5835	Maintenance- Motor Vehicles	30,250	5,000	5,000	0	0	0	40,250
5840	Maintenance-Unencumbered Lands & Oth	609,625	200,000	0	0	0	0	809,625
5895	Maintenance-Other Miscellaneous	79,934	600,000	5,000	0	0	0	684,934
5900	Insurance	75,000	0	0	0	0	0	75,000
7110	Services Fee Basis	782,400	2,345,900	2,412,600	125,000	2,403,437	0	8,069,337
7230	Training Costs	115,500	32,000	7,000	0	0	0	154,500
7290	Other Current Expenditures	13,056	20,809	15,880	0	0	0	49,745
Total - Current Expenditure & Equipment		6,811,698	4,824,709	3,515,534	225,000	2,403,437	0	17,780,378
Means of Financing: General Fund								

Department of Hawaiian Home Lands
 Purpose 1: Lot Development
 Purpose 4: Administrative and Operating Costs
 FB 2021 - 2023 Budget Request

	AREA or SUBDIVISION	PROJECT COMPONENTS	Lots	PHASE (PLANNING, DESIGN, CONSTRUCTION, HOUSING)	FY 2022	FY 2023
PURPOSE 1: Lot Development						
HAWAII						
1	Laiohua	Laiohua Utility and Infrastructure Changes		Design & Construction	500,000	-
2	Ka'u	Agricultural Lots (Pu'ueo)		Design & Construction	-	1,000,000
3	Honomu	Honomu Subsistence Ag Lot, Phase 2	40	Planning & Design	1,000,000	-
4	Keaukaha	Scattered Lots			5,000,000	-
5	Lalamilo	Lalamilo Phase 2A, Increment 2	80	Construction	1,500,000	-
6	Island-wide	UXO Mitigation and Construction Support			1,000,000	-
7	Hilo	Panaewa Lot 184	6	Design & Construction	1,000,000	-
8	Laiohua	Laiohua Village 1	260	Design	3,500,000	-
9	Hilo	Hilo Community College Model Home			225,000	225,000
KAUAI						
10	Anahola	Anahola Residence Lots, Units G & G-1	30	Re-design	750,000	
11	Anahola	Piilani Mai Ke Kai Phase 3	40	Design	500,000	
12	Moloaa	Moloaa Farm Lots	47	Planning & Design		1,000,000
13	Hanapepe	Hanapepe Residential Subdivision Phase 2	75	Construction		7,500,000
14	Wailua	Wastewater Treatment Facility		Planning and Design		3,000,000
15	Wailua	Wailua Residential Lots Masterplan			1,000,000	
16	Wailua	Wailua Second Well exploration			1,000,000	
LANAI						
17	Lanai	Phase 2 Off-site Development (40 Lots)		Planning and Design	3,000,000	
18	Lanai Residence Lots	Phase 2 On-site Development (40 Lots)	40	Design		2,000,000
MAUI						
19	Honokowai	Water System Improvements, offsite storage		Construction	-	4,000,000
20	Pulehunui	Pulehunui Regional Infrastructure Masterplan		Acquisition and Design	3,000,000	-
21	Villages of Leialii Ph1B	Residential Subdivision Increment 1	75	Construction	8,000,000	-
22	Waikapu	Pu'unani Homestead	161	Design and Construction	6,000,000	-
23	Keokea-Waiohuli	Phase 3 Site Improvements	75	Design	1,500,000	-
24	Honokowai	Honokowai Residential and Subsistence Agr	80	Design	3,000,000	-
25	Pulehunui	Subsistence Ag Homesteads and Commercial/Industrial Development	80	Source Development/ Exploratory Well	5,000,000	-
26	Keokea-Waiohuli	Keokea-Waiohuli, Phase 2B Site Improvements	75		-	12,500,000
27	Keokea-Waiohuli	Archaeological Preservation		Construction	1,000,000	
28	Keokea	Keokea Farm Lots Drainage System Improvements		Design/Construction	2,000,000	

Department of Hawaiian Home Lands
 Purpose 1: Lot Development
 Purpose 4: Administrative and Operating Costs
 FB 2021 - 2023 Budget Request

	AREA or SUBDIVISION	PROJECT COMPONENTS	Lots	PHASE (PLANNING, DESIGN, CONSTRUCTION, HOUSING)	FY 2022	FY 2023
29	Kahikinui	Kahikinui Roadways		Design/Construction	1,000,000	
MOLOKAI						
30	Hoolehua	Naiwa Agriculture Lots Site Improvements	58	Design/ Construction/ CM	9,500,000	
31	Hoolehua	Pasture Lot Development	30	Design & Construction	1,000,000	
32	Hoolehua	Scattered Agriculture Lots Site Improvements	8	Design/ Construction/ CM	3,500,000	
33	Kalamaula	Farm Lots Site Improvements	40	Design & Construction	1,000,000	
OAHU						
34	East Kapolei	East Kapolei Transit Oriented Development (Incr			2,000,000	-
35	Nanakuli	Voice of America, Ph I Infrastructure	253	Design & Construction	10,000,000	-
36	Waimanalo	Agricultural Lots	30	Design	750,000	-
37	East Kapolei	Residential Subdivision Incr II-E	158	Plan, Design	1,500,000	-
STATEWIDE						
38	Statewide	Statewide Lot Development			25,000,000	
39	Statewide	Land and/or Building Purchase		Acquisition	10,000,000	
Total			1741		114,725,000	31,225,000

PURPOSE 4: Administrative and Operating Costs - Repair and Maintenance of Infrastructure

	HAWAII					
40	Lalamilo	Lalamilo Septic System Improvements		Design & Construction	1,000,000	
41	Kau	Kau Water System		Design & Construction	5,000,000	
42	Lalamilo	Lalamilo Phase 1 Kawaihae Road Improvements		Design & Construction	100,000	
43	Kawaihae	Water: Production, Storage & Transmission		Planning & Design	750,000	
44	Kaumana	Kaumana Subdivision Lot Rehabilitation			500,000	
45	Puukapu	Puukapu Roadway Improvements			2,000,000	
46	Puukapu	Puukapu Non-Potable Water System		Design & Construction	1,000,000	
47	Kawaihae	Existing Potable Water System		Design & Construction	500,000	
KAUAI						
48	Anahola	Water tank, site improvements		Design & Construction	2,000,000	
49	Anahola	Anahola Dam & Reservoir Improvements		Construction	3,000,000	

Department of Hawaiian Home Lands
 Purpose 1: Lot Development
 Purpose 4: Administrative and Operating Costs
 FB 2021 - 2023 Budget Request

	AREA or SUBDIVISION	PROJECT COMPONENTS	Lots	PHASE (PLANNING, DESIGN, CONSTRUCTION, HOUSING)	FY 2022	FY 2023
	MAUI					
50	Keokea-	Archaeological Preservation		Construction	1,000,000	
51	Keokea	Keokea Farm Lots Drainage System		Design/Construction	2,000,000	
52	Kahikinui	Kahikinui Roadways		Design/Construction	1,000,000	
	MOLOKAI					
53	Molokai	Hoolehua Water System Improvements		Design & Construction	8,000,000	
54	Hoolehua	Kanakaloloa Cemetery Improvements		Construction	1,500,000	
55	Kalamaula	Water & Drainage System Improvements		Design	1,000,000	
56	Kalamaula &	Sea Level Rise Planning		Planning & Environmental	250,000	
	OAHU					
57	Islandwide	Oahu Sewer Improvements		Construction Management	600,000	
58	Nanakuli	Princess Kahanu Estates Sewer Improvements		Construction	13,200,000	
59	Nanakuli	Princess Kahanu Estates Concrete Drainage Channel Improvements			600,000	
60	Waianae	Waianae Sewer Improvements		Construction	3,300,000	
61	Nanakuli	Nanakuli Sewer Improvements		Construction	45,000,000	
62	Islandwide	Cesspool Assessments (Waianae, Nanakuli & Waimanalo)		Design	1,000,000	
63	Waimanalo	Waimanalo Sewer Improvements		Construction	30,000,000	
64	Waimanalo	Waimanalo Bell Street Drainage Improvements		Design & Construction	1,000,000	7,000,000
65	Waimanalo	Waimanalo Dirt Drainage Channel		Design & Construction	3,000,000	
66	Nanakuli	Nanakuli Concrete Spall and Fencing, Phase 2		Design & Construction	2,000,000	
67	Nanakuli	Princess Kahanu Estates Concrete Spall and Fencing		Design & Construction	1,500,000	
68	Islandwide	Sewerline remediation: Waianae, Nanakuli, Waimanalo, Kapolei, etc.		Design and Construction	4,000,000	4,000,000
69	Papakolea	Sewer Improvements- CM Services		Construction Management	1,000,000	
70	Papakolea	Papakolea Sewer Improvements Phase 2		Construction	10,000,000	
71	Papakolea	Papakolea Slope Stabilization-Kapahu Street		Construction		10,000,000
72	Papakolea	Papakolea Retaining Wall Stabilization		Construction		10,000,000
73	Papakolea	2136 Kapahu Street Rockfall Evaluation Study and Mitigation Design		Planning/Design	3,500,000	
74	Papakolea	Hillside Maintenance			250,000	
75	Papakolea	Detention Basin Restoration / Repair			780,000	
76	Waimanalo	Kumuhau Detention Basin Restoration / Repair			235,000	
77	Islandwide	Oahu: Operation, Maintenance, Repair		Design & Construction	3,000,000	
78	Nanakuli	Nanakuli Cemetery Restoration / Repairs			370,000	

Department of Hawaiian Home Lands
 Purpose 1: Lot Development
 Purpose 4: Administrative and Operating Costs
 FB 2021 - 2023 Budget Request

	AREA or SUBDIVISION	PROJECT COMPONENTS	Lots	PHASE (PLANNING, DESIGN, CONSTRUCTION, HOUSING)	FY 2022	FY 2023
	STATEWIDE					
79	Statewide	Statewide Lot Rehabilitation		Design & Construction	2,000,000	2,000,000
80	Statewide	Environmental Mitigation and Remediation on		Plan, Design Construct	2,000,000	2,000,000
81	Statewide	R & Maintenance of Utilities in Existing		Plan, Design Construct	2,000,000	2,000,000
82	Statewide	Statewide Vacant Lot Rehabilitation		Design & Construction	3,000,000	3,000,000
83	Statewide	Statewide Fence Improvements		Design & Construction	2,000,000	2,000,000
84	Statewide	R&M Sewer/ Wastewater Infrastructure			5,000,000	5,000,000
85	Statewide	R&M Existing Infrastructure			5,000,000	5,000,000
		Total			175,935,000	52,000,000

Means of Financing: General Obligation Bonds

Department of Hawaiian Home Lands
 Purpose 4: Administrative and Operating Costs
 Repair and Maintenance of Infrastructure on Hawaiian Home Lands
 FB 2021 - 2023 Budget Request

ISLAND	AREA or SUBDIVISION	MAINTENANCE COMPONENTS- PURPOSE	FY 2020	FY 2021
Hawaii	Kawaihae	Water System Operation and Maintenance	120,000	120,000
Hawaii	Laiopua Villages	Brush Clearing and Fire Breaks	50,000	50,000
Hawaii	Puukapu	Water System Operation and Maintenance	255,000	255,000
Kauai	Anahola	Water System Operation, Maint, Emerg Call	75,000	75,000
Kauai	Hanapepe	Fencing/Gate Install/ Repair	400,000	
Kauai	Piilani MKK and Anahola	Maintenance	75,000	75,000
Lanai	Lanai City	Maintenance	75,000	75,000
Maui	Kula	Maintenance	200,000	200,000
Maui	Leialii	Leialii Parkway Maintenance	85,000	85,000
Maui	Waiehu Kou	Detention Basins and Ditches	125,000	125,000
Maui	Waiehu Kou	Sewage Pump Station	80,000	80,000
Maui	Islandwide	Fencing/Gate Install/ Repair	1,000,000	
Lanai	Lanai	Ground Maintenance	100,000	
Oahu	East Kapolei II	Detention Basins (2)	30,000	30,000
Oahu	Kapolei	Maluohai, Kaupea, Kanehili Maintenance	75,000	75,000
Oahu	Nanakuli	Princess Kahanu Road Repairs	30,000	30,000
Oahu	Oahu	Sewage Spill Response and Repair	150,000	150,000
Oahu	Oahu	Street Light Replacement	375,000	375,000
Oahu	Oahu	Scattered Location Repair and Maintenance	1,200,000	1,200,000
State	Statewide	Tree Maintenance/Control	500,000	500,000
Oahu	Waimanalo	Drainage Channel and Tree Trimming	38,000	38,000
Oahu	Waimanalo	Detention Basin	30,000	30,000
State	Statewide	Ground Maintenance	500,000	500,000
State	Statewide	Sign Replacement	255,000	255,000
		Total	\$5,823,000	\$4,323,000

Means of Financing: General Fund

Department of Hawaiian Home Lands
 Purpose 3: Rehabilitation Projects
 FB 2021-2023 Sufficient Sums Budget Request

ISLAND	AREA	PROJECT COMPONENTS	PHASE	FY 2022			FY 2023			
				DHHL	GIA		DHHL	GIA		
				OPERATING	CIP		OPERATING	CIP		
Kauai		Study drug rehab facilities within the community								
Kauai		Educational programs					100,000			
Kauai		Bring assn's together to collaborate (\$100,000)*								
Kauai	Hanapepe	Ag land			250,000					
Lanai		Award remaining 16 residential homestead lots			100,000					
Lanai		Establish homestead community association		50,000						
Lanai		Interim Use of Undeveloped Land					50,000			
Lanai		Acquire additional lands for ag and pastoral homesteads							5,000,000	
Lanai		Community Beautification: clean-up debris and abandoned vehicles		200,000				200,000		
Maui	All Homesteads	Lot Development & Road Repair	Equipment	250,000		2,500,000		400,000		
Maui	All Homesteads	Maui Homeowner Financial Education						250,000		
Maui	Keokea	Farmers Marketplace & Community Center	Planning and EA			550,000			550,000	600,000
Maui	Keokea	Water sourced infrastructure for potable and nonpotable water	Planning, EA & Construction			4,750,000			4,750,000	
Maui	Keokea-Waiohuli	Community Based Planning for Cultural Preserves	Survey, Research, Planning & Dev							
Maui	Keokea-Waiohuli	Safety Awareness Program		200,000				200,000		
Maui	Keokea-Waiohuli	Speed humps on Ahulua St.				100,000				
Maui	Waiohuli UI	Acquire Lands for Community Development				150,000			500,000	
Maui	Paukukalo	Armory Site Development	Planning, Design and EA			150,000			500,000	
Maui	Paukukalo	Pihana Heiau Restoration	Planning and EA						100,000	
Maui	Paukukalo	Park Beautification and Upgrades	Playground equipment, courts			500,000				
Maui	Waiehu Kou	Community Center & Bus Stop								
Maui	Waiehu Kou	Landscaping Maintenance Contract		150,000				150,000		
Maui	Waiehu Kou	Community Garden - Water Development								
Maui	Waiehu Kou	Drainage Basins - siltation clean up (\$3,500,000)				30,000			1,500,000	
Maui	Kahikinui	Community Center/Pavilion				1,000,000				
Maui	Kahikinui	Community Economic Center and Hale Pili	Planning & EA	250,000						
Maui	Kahikinui	Road Construction and Repair				5,000,000			5,000,000	
Maui	Kahikinui	Road Development and Repair	Equipment			400,000		100,000		

Department of Hawaiian Home Lands
 Purpose 3: Rehabilitation Projects
 FB 2021-2023 Sufficient Sums Budget Request

ISLAND	AREA	PROJECT COMPONENTS	PHASE	FY 2022			FY 2023						
				DHHL	OPERATING	CIP	DHHL	OPERATING	CIP				
Maui	Kahikinui	Fog Catchment System: Phase 2	Distribution System			750,000							
Maui	Kahikinui	Water Storage (water tanks)				150,000							
Maui	Kahikinui	Community Pasture Paddocks/Fencing	Design & Construction	250,000			250,000						
Maui	Kahikinui	Stewardship Economy				250,000				500,000			
Maui	Kahikinui	Ungulate Removal and Reforestation		60,000			60,000						
Maui	Leialii	Neighborhood Park	Planning & Design			100,000				500,000			
Maui	Honokowai	Community Subsistence Ag Program Development	Education, Training, Ag program	50,000									
Maui	Honokowai	Ag Education and Training	Facility and Program Dev			50,000							
Maui	Honokowai	R-1 Water for Ag Irrigation	Research, Planning and Dev			1,500,000							
Maui	Pulehunui	Community-Based Economic Dev				15,000,000							
Molokai	Molokai	Transition Cespools to Septic Systems				1,500,000							
Molokai	Malama Park	Land Use Designation & Master Plan				500,000							
Molokai	Kiowea Park	Complete Pavilion Project								750,000			
Molokai	Molokai	Deer management plan	Planning			500,000							200,000
Molokai	Molokai	Cross fencing/deer fencing										100,000	
Molokai	Molokai	Playground and youth center										80,000	
Molokai	Molokai	Tiny homes										150,000	
Molokai	Kalamaula Mauka	Passive Park	Planning									150,000	
Molokai	Kapaakea	Temporary residence shelter										125,000	
Molokai	Molokai	Renovate Ahupuaa o Molokai Hale										250,000	
Molokai	Molokai	Remodel/renovate kupuna hsg in flood zone										300,000	
Molokai	Molokai	Transitional home										80,000	
Oahu	Papakolea	Address Abandoned Homes		150,000									
Oahu	Papakolea	Kupuna Supportive Living Ctr Feasibility Study				250,000							
Oahu	Papakolea	Operate Kupuna Community Care Network								400,000			400,000
Oahu	Papakolea	Puowaina EA				250,000							
Oahu	Papakolea	Basketball Complex Improvements								5,000,000			
Oahu	Papakolea	Education/Health Programs								850,000			850,000
Oahu	Nanakuli	Ocean safety & Cultural education	Planning			250,000							
Oahu	Princess Kahanu	Traffic calming				60,000							

Department of Hawaiian Home Lands
 Purpose 3: Rehabilitation Projects
 FB 2021-2023 Sufficient Sums Budget Request

ISLAND	AREA	PROJECT COMPONENTS	PHASE	FY 2022			FY 2023			
				OPERATING	CIP	GIA	OPERATING	CIP	GIA	
Oahu	Princess Kahanu	Community center expansion	Land acquisition							
Oahu	Waianae Valley	Courbarium with large area for cultural uses	Plng and Dsgn		300,000					1,500,000
Oahu	Waianae Valley	Kaupuni Park Development								3,500,000
Oahu	Kapolei	Kapolei Heritage Center Phase II				2,500,000				
Oahu	Kanehili	Park Development			300,000					
Oahu	Kaupea	Perimeter wall at Kamaaha/Kapolei Pkwy (\$500,000)								
Oahu	Kapolei	Safety/Drug coalition with NSW		50,000						
Oahu	Kapolei	NSW equipment		5,000						
Oahu	Kapolei	Maintenance/Repair for dedication of roads (\$125,000)								
Oahu	Kapolei	Place of worship & place of rest/cemetery			1,500,000			250,000		
Oahu	Waimanalo	Emergency Evacuation and Street Extension						13,500,000		
Oahu	Waimanalo	Land Based Aquaculture Facilities	Planning				50,000			
			Puwalu: Subtotal	\$1,775,000	\$52,524,000	\$24,900,000	\$1,960,000	\$56,440,000	\$14,150,000	\$14,150,000
		Homeowner Affordability Initiative		5,000,000			5,000,000			
		Lease Cancellation Prevention/Financial Literacy		5,000,000			5,000,000			
		Native Hawaiian Development Program Plan		2,744,100			2,744,100			
		Total		\$14,519,100	\$52,524,000	\$24,900,000	\$14,704,100	\$56,440,000	\$14,150,000	\$14,150,000
		Means of Financing:		(A)	(C)		(A)	(C)		
		(A) General Funds								
		(C) General Obligation Bonds								
		* Projects are funded in other budgets								

Department of Hawaiian Home Lands
 Purpose 2: Loans
 FB 2021- 2023 Budget Request

Purpose	FY 2022	FY 2023
Mortgage Capitalization for Gap Group and Low to Moderate Income Families	37,500,000	37,500,000
Interim Financing (for Turnkey)	32,400,000	32,400,000
Debt Service - Revenue Bonds	3,200,000	3,200,000
Total	\$73,100,000	\$73,100,000

**HAWAIIAN HOMES COMMISSION
OCTOBER 19 & 20, 2020
TELECONFERENCE
9:30 A.M.**

**J – ITEMS
REQUESTS TO ADDRESS THE
COMMISSION**

Hawaiian Homes Commission Meeting

October 19 & 20, 2020

J AGENDA TESTIMONY

- 1. Bambi Lau – Kawaihae Issues**
- 2. Jojo Tanimoto – Kawaihae**
- 3. John McBride – Kalaupapa License**
- 4. Donna Sterling – Kahikinui Hawaiian
Homestead Association**
- 5. Kekoa Enomoto – Maui/Lanai Mokupuni
Council**
- 6. Scott Reis Moniz – Kapili Like Inc**
- 7. Sue Lee Loy – Auwae Road**
- 8. Pomai Freitas – Hui Hoolako**

Aloha Commissioners,

We represent the residents of the Kawaihae/Kailapa/Honokoa Hawaiian Homestead on the Island of Hawaii and thank you for allowing us the time and space to bring our concerns to your attention.

We are blessed and thankful for the location of our oceanside homes and enjoy the year-round sunny weather. The only negative experiences that we encounter while living at our location is the manner of which Kohala Coast Concrete & Precast LLC operates their business on Lot 205 & Lot 206. In the past 10+ years the Kohala Coast Concrete & Precast LLC (which is located across the street from the homes on Honokoa Street) have allowed their cement waste to flow into the storm drain and have not controlled their cement dust which affects all of the homes located below their lots. On many occasions, the wind has blown the cement dust into the air and into our yards and homes.

We recognize that ingredients in cement have been found to be toxic to marine life and humans. These ingredients include lime-which is toxic to marine life and silica which is a substance found in cement dust that causes lung disease and lung cancer. That knowledge gives us great fear. The photos included show how close the company is to our homes and also include a photo of cement in the storm drain.

We feel that the Department of Hawaiian Homes Land should be responsible for holding Kohala Coast Concrete & Precast liable for controlling their emissions and also should have had an Environmental Impact Assessment done, knowing the type of business that they run.

We would like to request that an Environmental Impact Statement be provided to the homeowners and businesses in the surrounding area to show proof that the emissions from the businesses activity is not harmful to the people living and working within the vicinity. If the EIS shows that there is impact on the air quality and water quality then we would like to request that some kind of action be taken against the Kohala Coast Concrete Company.

Mahalo for your attention in this matter. We look forward to a peaceful resolution and look forward to your response in this matter.

Bambi Lau
One behalf of the Homeowners of Kawaihae/Kailapa/Honokoa Hawaiian Homestead
808-345-9285
Bamzlauwae@gmail.com



Click to add text





Ms. Jojo Tanimoto
P.O. Box 44337
Kawaihae, Hawaii 96743
Email: Guavaland622@gmail.com

J2

October 19, 2020

Hawaiian Homes Commission
91-5420 Kapolei Parkway
Kapolei, Hawaii 96707

Aloha All

Re: Issues in Kawaihae

Thank you for the opportunity to testify on projects happening to us in Kawaihae. We hope the Commissioners and the Department of Hawaiian Homelands will advocate for our issues.

I would like to bring up 3 issues:

1. A conflict with trespassing on the cemented road to the mauka Water Tank.
This is our potable water resource for the residents up here. Those of us who live up there, would like the trespassers to stop accessing this roadway. Over the years, this complaint has fallen on deaf ears. We have suggested installing a gate at Kalo'olo'o Road; with fencing to the road guardrail at the end of the street; to deter anymore trespassing.

A) This has been an on-going problem with no end. In recent years, we understand that the Kailapa Community Association worked toward fencing Feral animals. I come home for lunch one day and find a helicopter flying around the pu'u next door. So I called the FAA to report this action; along with the noise and the vibration shaking my home. The District Waimea Office didn't know anything. My complaint was information to them. Not too long after that, there's a large fire. Took from early morning, and into the night to fight this fire

B) As usual, there are trucks, ATV's, "Mules (4 wheel version of golf cart)"-parking on the cement road and off, blocking the fire trucks. So they used helicopters, again.

The last two fire incidents this year was behind my home (behind the water tank too), in the Kai Opae Gulch (my boundary line). The fire trucks used my driveway to access these fires because the water tank road was blocked with on-lookers.

C). I have reported youngsters riding their parents' ATVs on this steep, narrow road. It is dangerous, no supervision, at night as well. Also, we see trucks with trailers carrying loose dogs, weed poison, guns, etc. We don't think it safe for our families and pets.

We are happy we can report, last week DHHL is working on a bid process to provide a gate. During that process, we would like clarity.

- a) if the proposal is at Kalo'olo'o Road or up a ways to the cement posts that have been there, doing nothing.

- b) I am not sure if it includes fencing to the end of the Kalo'olo'o road.
 - c) I am not sure if it includes removing the gate above the water tank, which is a recent installation since the feral animal project, **This gate needs to move elsewhere**. There are a few locks to this gate; which indicate people intend to access this road anyway.
2. The second issue has to do with the Kawaihae Regional Plan-2010. In researching other matters about Kawaihae homelands, I found that 7,600 acres of land is leased, or right of entry, or something is happening. This land is proposed for renewable energy. My question is: What about the By Pass road that was planned on the first Regional Plan? We need help getting out of the tsunami zone here. What happens now? Who has this lease the County Property Tax Office says Kahua Ranch), and can we get the By Pass Road alignment, at least.

In recent years, the Kawaihae Harbor road had to be closed because of flooding. All the traffic from Kohala to Kawaihae had to be re-routed back toward Kohala; perhaps 40 miles and 40 minutes to work (time and gas at \$3.99 a gal.). If there's an accident, we get deterred. If it rains, we get deterred. Now the land is not available? The State DOT already spent for survey, the Army already removed unexploded ordinance because of SDOT.

3. Lastly, the Kawaihae Cement Co. issues. The Hawaiian Homes Commission ACT, 1920, as amended is ***...for the betterment of conditions for the native Hawaiians...***
- a) This Company is required to possess a National Pollution Environment Discharge Permit (NPDES). I echo the homesteader's concerns and hope DHHL will make sure that all of their Pollution, stay within their boundaries-no more Whoops, it leaked. The sooner the better.
 - b) It seems DHHL decided to continue a sub-lease without a Lessee. (I have not found minutes where the Commission was aware or voted to continue a Sub-Lease; which seems very awkward). It happens that the NPDES issues begin on this lot.

I did not see any Beneficiary Consultation for this Sub-Lease action. We have made complaints since I moved here 30 years ago. The beneficiaries should have had a chance to have their complaints considered; instead of opposing. The original lease for the Industrial use on Commercial zone; was there before the subdivision. but, the subdivision was there before the decision to continue the Sub-Lease.

My complaint has to do with the cement dust that flies across Akoni Pule Highway; onto the traffic and those homes across the street. Kawaihae is known for the strong Mumuku winds in the winter season. So, now is Mumuku windy season. (My neighbor's roof flew across the street when they were building). This company used cement blocks to block the dust. stacked 5 high. Currently, there are no blocks or one-tier of blocks. Can this Commission and DHHL use their authority and fix this problem? It is a known phenomena; and steps need to be taken to prevent this from happening.

Mahalo for this opportunity.

Sincerely,

Jojo Tanimoto
Kawaihae mauka Lessee

J3

**JOHN K. MCBRIDE
SAINTS DAMIEN AND MARIANNE COPE MOLOKAI TOURS LLC
199 KUALUA PLACE
HILO, HAWAII 96720
808-895-1673**

October 12, 2020

Chair William Aila, Jr.
Commission Members
Dept. of Hawaiian Homes

via email: leatrice.w.burrows-nuuanu@hawaii.gov

**RE: KALAUPAPA LICENSE, GENERAL LEASE AND RIGHT OF ENTRY
REQUEST**

Chair Aila and Commission Members:

This letter is to submit my request to the commission for either a license or general lease and right of entry to operate my tour company under the provision set by the National Park and the Dept. of Hawaiian Homes at Kalaupapa, Hawaii.

I have operated a tour company in Kalaupapa under the name of Saints Damien and Marianne Cope Molokai Tours LLC for the past two years. Under my current permit I am required by the National Park to partner with a patient in order to operate in the park.

After researching the matter, I have discovered under the Dept. of Hawaiian Homes Act and being that the land in Kalaupapa is leased to the National Park, that native Hawaiian beneficiaries have certain rights available to them to conduct business in the National Park.

Under Public Law 96-565, a copy of which is attached, it states:

"Sec. 106. The following provisions are made with respect to the special needs of leprosy patients residing in the Kalaupapa settlement—

...

*(3) Notwithstanding any other provision of law the Secretary shall provide patients a first right of refusal to provide revenue-producing visitor services, including such services as providing food, accommodations, transportation, tours, and guides.”
(Underscoring added)*

“Sec. 107. The following provisions are made with respect to additional needs of the leprosy patients and Native Hawaiians for employment and training. (The term ‘Native Hawaiian’ as used in this title, means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.)--

*(1) Notwithstanding any other provision of law, the Secretary shall give first preference to qualified patients and Native Hawaiians in making appointments to positions established for the administration of the park, and the appointment of patients and native Hawaiians shall be without regard to any provision of the Federal civil service laws giving an employment preference to any other class of applicant and without regard to any numerical limitation on personnel otherwise applicable.”
(Underscoring added)*

Also, under the Kalaupapa NHP - NPS General Management Plan communication between the Kalaupapa National Historical Park and the Dept. of Hawaiian Homes dated September 27, 2001, Letter 1, July 15, 2015, Letter 2, March 7, 2009, Letter 3, has had information about beneficiaries having opportunities for native Hawaiians to generate income on DHHL lands and states it's a priority for DHHL (Letter 3, Topic 5, Page 4, paragraph 11, Native Hawaiians and commercial services), a copy of which is attached, states as follows:

“11. Native Hawaiians and commercial services: Providing opportunities for native Hawaiians to generate income on DHHL lands is a priority for DHHL. NPS states that ‘Concessions and other opportunities are governed by applicable federal laws. In its lease with the NPS, DHHL has reserved the authority to give native Hawaiians a ‘second right of refusal’ to provide revenue-producing visitor services for the areas of the park covered by the lease. The NPS would work with DHHL to agree on a process to select a concessioner that meets NPS and DHHL requirements for DHHL lands.’ Please describe how a cooperative agreement between DHHL and NPS would be the best vehicle for ensuring that issuance of contracts for concessions and other services is conducted in compliance with General Lease No. 231, Article 2, Condition No. 11.”

Given the above information, I am seeking to submit my application to the Commission to obtain a mercantile license/general lease and right of entry to provide tours in Kalaupapa. Please let me know if there is an application form that needs to be submitted or the process I need to take to submit my application.

A response from your office as soon as possible would be greatly appreciated. 1

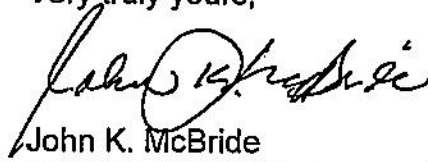
Page 3

am looking to move forward on this matter by November 1, 2020. If a staff member can be assigned to this matter, please let me know the name and contact information of that person so that I can work with them directly.

If you have any questions or if further information is needed, please let me know.

Mahalo for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "John K. McBride". The signature is fluid and cursive, with a large loop for the letter 'M'.

John K. McBride

Saints Damien and Marianne Cope Molokai Tours LLC

Public Law 96-565
96th Congress

An Act

To establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes.

Dec. 22, 1980

[H.R. 7217]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. In order to provide for the preservation of the unique nationally and internationally significant cultural, historic, educational, and scenic resources of the Kalaupapa settlement on the island of Molokai in the State of Hawaii, there is hereby established the Kalaupapa National Historical Park (hereinafter referred to as the "park").

Kalaupapa
National
Historical Park,
Hawaii.
Establishment.
16 USC 410jj.

SEC. 102. The Congress declares the following to constitute the principal purposes of the park:

Purposes.
16 USC 410jj-1.

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations;

(2) to provide a well-maintained community in which the Kalaupapa leprosy patients are guaranteed that they may remain at Kalaupapa as long as they wish; to protect the current lifestyle of these patients and their individual privacy; to research, preserve, and maintain the present character of the community; to research, preserve, and maintain important historic structures, traditional Hawaiian sites, cultural values, and natural features; and to provide for limited visitation by the general public; and

(3) to provide that the preservation and interpretation of the settlement be managed and performed by patients and Native Hawaiians to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

SEC. 103. The boundaries of the park shall include the lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Kalaupapa National Historical Park", numbered P07-80024, and dated May 1980, which shall be on file and available for public inspection in the local and Washington, District of Columbia offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary of the park by publication of a revised boundary map or other description to that effect in the Federal Register.

Boundaries;
public
inspection.
16 USC 410jj-2.

SEC. 104. (a) Within the boundary of the park, the Secretary is authorized to acquire those lands owned by the State of Hawaii or any political subdivision thereof only by donation or exchange, and only with the consent of the owner. Any such exchange shall be accomplished in accordance with the provisions of sections 5 (b) and (c) of the Act approved July 15, 1968 (82 Stat. 354). Any property conveyed to the State or a political subdivision thereof in exchange for property within the park which is held in trust for the benefit of Native

Land
acquisition.
16 USC 410jj-3.

16 USC 460i-2z.

48 USC 691.

48 USC 697.

48 USC 698.

Hawaiians, as defined in the Hawaiian Homes Commission Act of 1920 shall, as a matter of Federal law, be held by the grantee subject to an equitable estate of the same class and degree as encumbers the property within the preserve; and "available lands" defined in section 203 of the Hawaiian Homes Commission Act may be exchanged in accordance with section 204 of said Act. The vesting of title in the United States to property within the park shall operate to extinguish any such equitable estate with respect to property acquired by exchange within the park.

(b) The Secretary is authorized to acquire privately-owned lands within the boundary of the park by donation, purchase with donated or appropriated funds, or exchange.

(c) The Secretary is authorized to acquire by any of the foregoing methods except condemnation, lands, waters, and interests therein outside the boundary of the park and outside the boundaries of any other unit of the National Park System but within the State of Hawaii, and to convey the same to the Department of Hawaiian Home Lands in exchange for lands, waters, and interests therein within the park owned by that Department. Any such exchange shall be accomplished in accordance with the provisions defined in subsection (a) of this section.

Administration.
16 USC 410j-4.
43 USC 1457, 16
USC 1, 2, 3, 4, 22,
48.
16 USC 461-467.

SEC. 105. (a) The Secretary shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), the Act of August 21, 1935 (49 Stat. 666), and the provisions of this Act.

Cooperative
agreements.

(b)(1) With the approval of the owner thereof, the Secretary may undertake critical or emergency stabilization of utilities and historic structures, develop and occupy temporary office space, and conduct interim interpretive and visitor services on non-Federal property within the park.

(2) The Secretary shall seek and may enter into cooperative agreements with the owner or owners of property within the park pursuant to which the Secretary may preserve, protect, maintain, construct, reconstruct, develop, improve, and interpret sites, facilities, and resources of historic, natural, architectural, and cultural significance. Such agreements shall be of not less than twenty years duration, may be extended and amended by mutual agreement, and shall include, without limitation, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement. Each such agreement shall also provide that the owner shall be liable to the United States in an amount equal to the fair market value of any capital improvements made to or placed upon the property in the event the agreement is terminated prior to its natural expiration, or any extension thereof, by the owner, such value to be determined as of the date of such termination, or, at the election of the Secretary, that the Secretary be permitted to remove such capital improvements within a reasonable time of such termination. Upon the expiration of such agreement, the improvements thereon shall become the property of the owner, unless the United States desires to remove such capital improvements and restore the property to its natural state within a reasonable time for such expiration.

(3) Except for emergency, temporary, and interim activities as authorized in paragraph (1) of this subsection, no funds appropriated pursuant to this Act shall be expended on non-Federal property unless such expenditure is pursuant to a cooperative agreement with the owner.

(4) The Secretary may stabilize and rehabilitate structures and other properties used for religious or sectarian purposes only if such properties constitute a substantial and integral part of the historical fabric of the Kalaupapa settlement, and only to the extent necessary and appropriate to interpret adequately the nationally significant historical features and events of the settlement for the benefit of the public.

Religious structures.

SEC. 106. The following provisions are made with respect to the special needs of the leprosy patients residing in the Kalaupapa settlement—

Leprosy patients. 16 USC 410jj-5.

(1) So long as the patients may direct, the Secretary shall not permit public visitation to the settlement in excess of one hundred persons in any one day.

} 100 people

(2) Health care for the patients shall continue to be provided by the State of Hawaii, with assistance from Federal programs other than those authorized herein.

(3) Notwithstanding any other provision of law, the Secretary shall provide patients a first right of refusal to provide revenue-producing visitor services, including such services as providing food, accommodations, transportation, tours, and guides.

→ TB 1/3

(4) Patients shall continue to have the right to take and utilize fish and wildlife resources without regard to Federal fish and game laws and regulations.

(5) Patients shall continue to have the right to take and utilize plant and other natural resources for traditional purposes in accordance with applicable State and Federal laws.

SEC. 107. The following provisions are made with respect to additional needs of the leprosy patients and Native Hawaiians for employment and training. (The term "Native Hawaiian" as used in this title, means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.)—

Employment and training. 16 USC 410jj-6. "Native Hawaiian."

(1) Notwithstanding any other provision of law, the Secretary shall give first preference to qualified patients and Native Hawaiians in making appointments to positions established for the administration of the park, and the appointment of patients and Native Hawaiians shall be without regard to any provision of the Federal civil service laws giving an employment preference to any other class of applicant and without regard to any numerical limitation on personnel otherwise applicable.

(2) The Secretary shall provide training opportunities for patients and Native Hawaiians to develop skills necessary to qualify for the provision of visitor services and for appointment to positions referred to in paragraph (1).

SEC. 108. (a) There is hereby established the Kalaupapa National Historical Park Advisory Commission (hereinafter referred to as the "Commission"), which shall consist of eleven members each appointed by the Secretary for a term of five years as follows:

Kalaupapa National Historical Park Advisory Commission. Establishment. Membership. 16 USC 410jj-7.

} Commission

(1) seven members who shall be present or former patients, elected by the patient community; and

(2) four members appointed from recommendations submitted by the Governor of Hawaii, at least one of whom shall be a Native Hawaiian.

(b) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

Chairman. Vacancies.

(c) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably

Compensation. Expenses.

incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairman.

(d) The Secretary shall consult with and seek the advice of the Commission with respect to the development and operation of the park including training programs. The Commission shall, in addition, advise the Secretary concerning public visitation to the park, and such advice with respect to numbers of visitors shall be binding upon the Secretary if the Commission certifies to him that such advice is based on a referendum, held under the auspices of the Commission, of all patients on the official Kalaupapa Registry.

Expiration.

(e) The Commission shall expire twenty-five years from the date of enactment of this Act.

Reevaluation.
16 USC 410jj-8.

SEC. 109. At such time when there is no longer a resident patient community at Kalaupapa, the Secretary shall reevaluate the policies governing the management, administration, and public use of the park in order to identify any changes deemed to be appropriate.

Appropriation
authorization.
16 USC 410jj-9.

SEC. 110. Effective October 1, 1981, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title but not to exceed \$2,500,000 for acquisition of lands and interests in lands and \$1,000,000 for development.

TITLE II

Historic sailing
ship, financial
assistance.
49 Stat. 666, 16
USC 462.

SEC. 201. In furtherance of the purposes of subsection 2(e) of the Act of August 21, 1935 (49 Stat. 6666), the Secretary of the Interior is authorized to provide financial assistance for the operation, maintenance and protection of the historic sailing ship Falls of Clyde, located in Honolulu Harbor, Hawaii. Such authorization shall terminate at such time as the Falls of Clyde is no longer located in the State of Hawaii.

SEC. 202. Authority to enter into contracts or cooperative agreements, to incur obligations or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE III

Native
Hawaiians Study
Commission Act.
42 USC 2991a
note.

SEC. 301. This title may be cited as the "Native Hawaiians Study Commission Act".

NATIVE HAWAIIANS STUDY COMMISSION

Establishment.
42 USC 2991a
note.

SEC. 302. There is hereby established the Native Hawaiians Study Commission (hereinafter in this title referred to as the "Commission").

Membership.

(b) The Commission shall be composed of nine members appointed by the President. Not more than three of such members shall be residents of the State of Hawaii.

Chairman.

(c) The Chairman and Vice Chairman of the Commission shall be designated by the President at the time of appointment.

Vacancies.

(d) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner in which the original appointments were made.

(e) The President shall call the first meeting of the Commission not more than ninety days after the date of the enactment of this title.

(f) Five members of the Commission shall constitute a quorum, but a smaller number specified by the Commission may conduct hearings.

(g) Each member of the Commission shall receive \$100 for each day such member is engaged in performing the duties of the Commission, except that members of the Commission who are fulltime officers or employees of the United States shall receive no additional pay on account of their service on the Commission other than official travel expenses.

Pay.

(h) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission (including members who are fulltime officers or employees of the United States) shall be allowed travel expenses, including per diem, in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

Travel expenses.

(i) Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of pay in effect from time to time for grade GS-18 of the General Schedule under section 5332 of such title; and

Staff.

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed \$100 a day for individuals.

5 USC 5101,
5331.5 USC 5332.
Temporary and
intermittent
services.

(j) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(k) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

DUTIES OF THE COMMISSION

SEC. 303. (a) The Commission shall conduct a study of the culture, needs and concerns of the Native Hawaiians.

Study.
42 USC 2991a
note.

(b) The Commission shall conduct such hearings as it considers appropriate and shall provide notice of such hearings to the public, including information concerning the date, location and topic of each hearing. The Commission shall take such other actions as it considers necessary to obtain full public participation in the study undertaken by the Commission.

Hearings; public
notice.

(c) Within one year after the date of its first meeting, the Commission shall publish a draft report of the findings of the study and shall distribute copies of the draft report to appropriate Federal and State agencies, to Native Hawaiian organizations, and upon request, to members of the public. The Commission shall solicit written comments from the organizations and individuals to whom copies of the draft report are distributed.

Draft report.

(d) After taking into consideration any comments submitted to the Commission, the Commission shall issue a final report of the results of its study within nine months after the publication of its draft report. The Commission shall submit copies of the final report and

Comments.

Final report.

Submittal to
President and
congressional
committees.

copies of all written comments on the draft submitted to the Commission under paragraph (c) to the President and to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(e) The Commission shall make recommendations to the Congress based on its findings and conclusions under subsection (a) of this section.

TERMINATION OF THE COMMISSION

42 USC 2991a
note.

SEC. 304. Except as provided in subsection (b) of section 307, upon the expiration of the sixty-day period following the submission of the report required by section 303, the Commission shall cease to exist.

DEFINITIONS

42 USC 2991a
note.

SEC. 305. For the purposes of this title, the term "Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.

SAVINGS CLAUSES

42 USC 2991a
note.

SEC. 306. No provision of this title shall be construed as--

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Native Hawaiians to sue the United States or any of its offices; or

(2) constituting a precedent for reopening, renegotiating, or legislating any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

AUTHORIZATION

42 USC 2991a
note.

SEC. 307. (a) There are hereby authorized to be appropriated for fiscal years 1982 and 1983 such sums as are necessary to carry out the provisions of this title. Until October 1, 1981, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the authorization provided herein.

(b) The Secretary of the Treasury shall reserve a reasonable portion of the funds appropriated pursuant to subsection (a) of this section for the purpose of providing payment for the transportation, subsistence, and reasonable expenses of the members of the Commission in testifying before the Congress with respect to their duties and activities while serving on the Commission or to such matters as may involve the findings of the study of the Commission after the expiration of the Commission pursuant to section 804.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1019 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-1027 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
 May 19, considered and passed House.
 Dec. 4, considered and passed Senate, amended.
 Dec. 5, House concurred in Senate amendments.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

March 7, 2019

Superintendent, attn: GMP
Kalaupapa National Historical Park
7 Puahi Street
Kalaupapa, HI 96742

Aloha Superintendent:

Subject: Department of Hawaiian Home Lands Comments on the Kalaupapa National Historical Park Draft General Management Plan and Environmental Assessment

Mahalo for the opportunity to provide comments on the Draft General Management Plan (DGMP) and Environmental Assessment (EA) published in November 2018. The Department of Hawaiian Home Lands (DHHL) has been actively participating in the National Park Service's (NPS) General Management Plan (GMP) planning process for the Kalaupapa National Historic Park since the initiation of the scoping phase in 2009, which included several formal rounds of DHHL beneficiary consultation and briefings to the Hawaiian Homes Commission (HHC). Comment letters were submitted to NPS in September of 2011 on the Proposed Alternatives and in July of 2015 on the DGMP and EIS.

Prior to that, DHHL had conducted its own comprehensive planning process for all of its lands on the island of Molokai, including Kalaupapa, which resulted in acceptance of the DHHL Molokai Island Plan by the Hawaiian Homes Commission in 2005. In-depth consultation with DHHL beneficiaries was conducted as part of that planning process, and a site visit to Kalaupapa by DHHL staff was made in 2004 to meet with the Patient Advisory Council and NPS. Several themes emerged, primarily focused on ways beneficiaries could better reconnect with the 'āina of Kalaupapa, particularly with important cultural and natural resource sites, as well as honoring the legacy of what happened there, including the dislocation of native Hawaiians in order to create the Hansen's Disease settlement.

Now that the Draft GMP has been reformulated and the GMP issued as an EA instead of an EIS, DHHL recognizes that substantive adjustments to the GMP were made in response to beneficiary and Molokai residents' comments, such as removing the Boundary Proposal that included Pelekunu and Pu'u o Hoku Ranch. However, DHHL is somewhat dismayed that after so many years of dedicated participation by this agency as well as the beneficiaries, and the gradual building of a good faith relationship with NPS, no consultation with DHHL was conducted prior to such a

major shift in approach. In addition, the document was initially issued with only a thirty-day comment period which fell during the Thanksgiving and Christmas holiday season, when our beneficiaries take time to reconnect with their 'ohana. In response to multiple requests, the comment period was extended to February 1, 2019. However, the opportunity to comment was further complicated by the partial shutdown of the federal government, which caused confusion and disruption on many levels until the news was received that the comment period would be extended once again, to March 7, 2019.

This problematic situation made it difficult for DHHL to adequately analyze the implications of the changes to the document, schedule and conduct additional beneficiary outreach on the reformulated GMP, or brief the HHC, which leads us to our initial comments:

Time Extension

1. DHHL requests that the comment period be extended for an additional 90 days to afford the agency enough time to schedule and conduct beneficiary outreach on Molokai and brief the HHC, as well as to provide support for similar requests by beneficiaries and organizations supportive of beneficiaries, such as Ka 'Ohana o Kalaupapa. If this request is granted, this comment letter will be supplemented by additional comments that will reflect input gathered from beneficiaries as well as the HHC.
2. In addition to the above reason, DHHL requests that the comment period be extended for an additional 90 days to conduct a second Section 106 Consultation meeting. DHHL and many others were unable to participate in the conference call that was held on Nov. 20, 2018, and DHHL received comments that there was not enough time to adequately review the GMP prior to the conference call.
3. DHHL supports similar requests made by others, such as Ka 'Ohana o Kalaupapa and the Maui County Cultural Resources Commission.

The following are comments based on analysis and input DHHL has been able to perform and gather to date:

Actions Common to Both Alternatives

4. Kalaupapa Settlement: At the bottom of Page 8, there is no discussion of the need to negotiate sub-leases with the religious institutions – does NPS consider the need for sub-leases to be only a matter between DHHL and the religious institutions?

Alternative 2: NPS Preferred Alternative (A-2)

5. Overall comment: DHHL supports NPS' efforts to respond to comments by proposing augmentation of engagement with N(n)ative Hawaiian individuals and organizations regarding partnerships, stewardship programs, and culturally-based education. There may

be overlap with the desires of DHHL beneficiaries to participate more fully in activities in Kalaupapa, therefore those efforts need not be mutually exclusive.

6. Management of Specific Areas within Kalaupapa NHP – Kalaupapa Settlement: The GMP should provide a more thorough description of what would be included in the “building use and infrastructure plan.” An outline of what would be included in such a plan could be attached as an appendix, or a reference to a specific NPS Bulletin provided.
7. Management Structures, Partnerships and Agreements – Department of Hawaiian Home Lands Partnership: DHHL concurs that developing additional agreements between DHHL and NPS to manage access, use, facilities and lands to better meet the needs and desires of our beneficiaries while supporting the overall mission of the NPS for the Kalaupapa NHP will be an important step in implementing both the NPS GMP and DHHL’s Molokai Island Plan upon the departure of the State Department of Health. DHHL also concurs that the NPS does not have the authority to regulate homesteading, as that is the purview of the Hawaiian Homes Commission per the Hawaiian Homes Commission Act of 1920, as amended, which was passed by Congress and signed into law by President Warren G. Harding on July 9, 1921 (chapter 42, 42 Stat. 108).
8. Management Structures, Partnerships and Agreements – Kalaupapa NHP Advisory Group: DHHL supports the formation of a community-based advisory group, to include Molokai native Hawaiians, in order to provide guidance for the park during and after the transition of the State Department of Health out of Kalaupapa.
9. Natural Resources, Wild and Scenic River: Due to its value to DHHL beneficiaries as an opportunity to restore traditional kalo cultivation, any studies done in support of a Wild and Scenic River designation for Waikolu Stream must include a thorough analysis of potential impacts to future kalo lo’i restoration and other exercises of rights of traditional and customary access and use by Native Hawaiians.

Responses to substantive comments in Appendix G

Topic 5: Native Hawaiians

10. *Native Hawaiians as traditionally associated peoples, Native Hawaiian traditional and customary (T&C) practices and access rights, Native Hawaiian access and use, and Hawaiian stewardship*: The NPS responses to comments on these topics center on the complexities of federal law, state law and the terms of the general lease with DHHL as regards respecting the rights of N(n)ative Hawaiians (see Comment 5 above). DHHL acknowledges that effective implementation of programs and other mechanisms to facilitate access and stewardship will require a collaborative relationship and most likely a Cooperative Agreement between both agencies. DHHL has, at a minimum, a moral obligation to support the healing and reconnection process that is so evidently needed. DHHL sees the desire of its beneficiaries to at some point in time have the ability to more

consistently access the peninsula and participate more fully in NHP activities as an opportunity that will have a positive impact on the NPS' ability to carry out its mission. Collaborative and symbiotic arrangements between indigenous peoples and the NPS exist, such as the Kipahulu 'Ohana in Haleakala NP and the Oglala Lakota of Pine Ridge Reservation in the Badlands NP in South Dakota. Such arrangements could be used as templates for Native Hawaiians and NPS in the Kalaupapa NHP.

11. *Native Hawaiians and commercial services:* Providing opportunities for native Hawaiians to generate income on DHHL lands is a priority for DHHL. NPS states that "Concessions and other opportunities are governed by applicable federal laws. In its lease with the NPS, DHHL has reserved the authority to give native Hawaiians a 'second right of refusal' to provide revenue-producing visitor services for the areas of the park covered by the lease. The NPS would work with DHHL to agree on a process to select a concessioner that meets NPS and DHHL requirements for DHHL lands." Please describe how a cooperative agreement between DHHL and NPS would be the best vehicle for ensuring that issuance of contracts for concessions and other services is conducted in compliance with General Lease No. 231, Article 2, Condition No. 11.
12. *Native Hawaiian staffing, hiring preference and training:* DHHL commends NPS for its efforts to date to recruit, train and retain native Hawaiians for NPS positions at Kalaupapa NHP. DHHL appreciates the language added to Alternative 2 formalizing a training program that would prepare native Hawaiians to more effectively compete for NHP positions at Kalaupapa NHP.

Decision to Change the NEPA Level of Review from an EIS to an EA.

13. DHHL understands that additional details and more specificity will be provided by Program Management Plans, Strategic Plans, and Implementation Plans that will follow the GMP, and that additional environmental analysis of alternatives and public involvement will be conducted during preparation of these plans. However, in NPS Management Policies (2006), Chapter 2, Section 2.3.1 General Management Planning, it states that "The approved plan will create a realistic vision for the future, setting a direction for the park that takes into consideration the environmental and financial impact of proposed facilities and programs and ensures that the final plan is achievable and sustainable." In the previous GMP/EIS version, there was enough detail to be better able to assess the environmental and financial impact of proposed facilities and programs as well as whether the final plan is achievable and sustainable. NPS needs to expand the discussion of the rationale for the change.

Satisfying NEPA Requirements/Providing Sufficient Information to Support a FONSI

14. NPS Management Policies (2006), Chapter 2, Section 2.3.1.7 Environmental Analysis states that "In most cases, an environmental impact statement (EIS) will be prepared for

general management plans. In a few cases, the regional director, in consultation with the NPS Environmental Quality Division, through the Associate Director for Natural Resource Stewardship and Science, may approve an exception to this general rule if:

- Completion of scoping demonstrates that there is no public controversy concerning potential environmental effects, and
- the initial analysis of alternatives clearly indicates there is no potential for significant impact by any alternative

There has been public controversy, primarily reflected in comments from Native Hawaiians, concerning potential cultural impacts and impacts to historic resources from both the Preferred Alternative (A-2) and the "No Action" alternative (A-1). Because the exact mechanisms for DHHL and NPS working together to facilitate access for traditional and customary use and other culturally-related uses have not yet been determined, it is difficult at this juncture to assess whether significant impacts can be avoided by implementation of Alternative 2, therefore in this agency's opinion an EIS is still warranted.

It is also conceivable that the "no action" alternative could result in the potential for significant impacts to historic resources, given that perpetuation of the current accumulation of repair backlogs and deferred maintenance and restoration work that is not keeping pace with the effects of weather and salt spray, will, over time, result in permanent damage to and loss of valuable historic properties. However, because no figures were included in the GMP/EA on current and forecasted operating costs for either alternative, it's impossible to properly evaluate the potential for significant impacts.

The costs could have been estimated based on several scenarios for Alternative 2, such as a scenario where DHHL takes over the management and maintenance of ten percent of the structures, another scenario where nonprofits "adopt a structure" and maintain a certain percentage of the buildings, etc. If the reason for the lack of specificity is due to the level of uncertainty regarding complexities related to the long-term use and management of the historic buildings by the NPS, Department of Hawaiian Home Lands, and other partners (as stated by NPS), then wouldn't the solution be to take more time to allow the transition planning process to progress to the point where cost estimates could be included in an EA or EIS for the GMP?

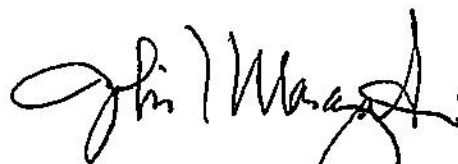
As drafted, the GMP offers no reassurance that there will be enough money budgeted to support restoration and maintenance of the improvements in the Settlement for the long term, which could potentially have a very direct impact on the Hawaiian Homelands Trust. Without the required level of specificity, this agency is hard pressed to understand how a FONSI can be supported for the GMP/EA.

Superintendent, Kalaupapa NHP
March 7, 2019
Page 6

We thank you for the opportunity to provide comments and hope that our input will be useful in improving the final product and producing the best General Management Plan possible for the Kalaupapa NHP, which so many of us, clearly, care very deeply about.

If there are any questions, please contact Nancy McPherson of our Planning Office at (808) 620-9519 or by email at Nancy.M.McPherson@hawaii.gov.

Aloha,

A handwritten signature in black ink, appearing to read "Jobie M.K. Masagatani". The signature is fluid and cursive, with a large initial "J" and "M".

Jobie M.K. Masagatani, Chairman
Hawaiian Homes Commission

Kahikinui Hawaiian Homestead Association
P. O. Box 700
Makawao, HI 96768
dhelekunihi@yahoo.com
Cell 808-446-4171

October 12, 2020

Kealoha Nui DHHL Commisioners:

I am giving testimony today as President and on behalf of the Beneficiaries, Waitlist and lessees of Kahikinui, Hawaiian Homestead Association on Maui. Listed below are issues both active and very important to our beneficiaries. It is our intention to continue to keep commissioners advised and updated on issues as they either get resolved or not.

1. After researching our records, there are 22 vacant lots which were not awarded in 1999. As of 10/12/2020 we counted 35 lots with structures on their lots, 13- 24/7 lessees, and approximately 28 vacant lots not awarded. We again are recommending that the process to award the vacant lots begin. KHHA has formed a Kahikinui Kokua Habitat Coalition to reach out to those lessees with awards and have not built on their lots. We have prepared a template for the homesteaders to tyo complete and send to DHHL Mr Jan Garcia, Administrator Homestead Services Divison letters of Intent to build and a DHHL APPROVAL REQUEST FORM FOR IMPROVEMENTS lessees will complete and send to DHHL.

In our reach out to lessees conversation we are asking them either to commit to build, occupy by next year December 2021 or Transfer to 50% and commit to assist KHHA in engaging in this lifestyle. KHHA have partners ready to assist with the manpower, Morman Church members, Kahikinui Game and Land Management Ohana, Warren Aganos Construction Company, and other lessees here at Kahikinui. Our purpose is to help lessees keep their lots.

DHHL: Action needs to be taken ASAP unless DHHL has started this process and we safe not been advised. Dhhl does not move forward toward contested case hearings. There is a plan being implemented with results and shows great promise in assisting our lessees keeping what is their right to keep as stated in the Hawaiian Homestead Commission Act.

2. A month has gone by with no defined answer; Place our Kahikinui Hawaiian Homestead Assn. on DHHL website bottom where other associations are listed. Why were we sent to contact Shelly ihn Land Managment and Julie in Planning only to be told by Julie sorry Donna for late response to you and here is the person I'll forward your request to. Hope this is not a stall tactic by Staff what shall we do with a second Kahikinui Homestead Association. **Action: move this along any documents upon request we have available**

3. Just a follow up to the letter written by a lessee Hannah Domingo loty #91 regarding their property being used as a main thoroughfare road. Please put this as an **action item** to resolve with the Domingos. KHHA did assist this family by forwarding pertinent information to the

appropriate Goodfellows Staff in Kihei, Maui. Mr. Aila, Mr. Awo and staff were copied in the email.

See you all next month
Action and communication back to us is appreciated

Sincerely,

Donna Sterling
President
Kahikinui Hawaiian Homestead Association

May I RSVP to advocate on behalf of the Maui/Lana`i Mokupuni Council, on the J Agenda at the 10/20/20 Hawaiian Homes Commission meeting? I w/advocate on one or more of the following topics:

- Request that DHHL award 22 kuleana lots at Kahikinui ASAP.
- Acknowledge officials indicated 9/11/20 that DHHL w/award Honokowai (Lahaina, Maui) ag lots in 2023.
- 10/2/20 DHHL Planning Office meeting w/Pa`upena CDC/SHPD re: Waiohuli/Keokea archaeology-related due diligence.
- 10/3/20 SCHHA/HCDC two-hour Zoom session re: **Waiohuli undivided-interest** home-construction/mortgage pre-qualification education, tips and contacts.
- 10/17/20 Planned hike onto **Pu`unani subdivision** site; temporary-ROE request made 9/30/20, per email below.
- 10/30/20 Maui Mokupuni Council spearheads startup of building 10x10 homes at Kahikinui.
- 12/2/20 Maui Centennial Puwalu programming.

Mahalo a nui wale no,

-`Anake Kekoa

Scotty Reis Moniz
Director - Kapili Like, Inc
October 12, 2020



J6

Written Testimony

October 2020 Hawaiian Homes Commission Meeting J Agenda

I am submitting Testimony on Behalf of Kapili Like, Inc a Non-Profit 501c3 Organization that specializes in workforce development, Trades, Certification and Academies focused on Film and TV Training and Hawaiian Culture Education. KL, INC has been working in Trades and Certification since 2017. Our Staff had started off with Waimanalo Youth Build and had recently teamed with CNHA in 2019 to help get their Trades Academy up and running.

During 2020 and these Covid Times, Kapili Like, Inc has focused on our Kanaka in need. We had conducted a Wa'a Training Program in Waimanalo with the Hui Mahia'ai Aina Residents. Formerly Houseless Hawaiians who are temporarily housed on DLNR Land managed by Blanche McMillan and her organization. Kapili Like and Youth Build was able to provide Micro Homes for their Kauhale and added a wa'a program for the residents to focus on a Hawaiian Sense of Place, Dignity and Pride through Culture. Currently we are seeking funds to employ these residents to do more canoe maintenance and learn way finding traditions.

Kapili Like, Inc Seeks to meet with he HHC to discuss Non-Profit Land Use to build in 2 areas in Waiamanlo. TMK's To Be Determined.

The first project would be near the Kupuna Housing where we seek to build a Resource Center that would house an Arts and Crafts Center for Hawaiian Artisans, Keiki and Kupuna education and Hula and Music recording. It would also have a Commercial Kitchen to host a cafe for Hawaiian Homes Beneficiaries to have a light lunch and snack while frequenting the center. It can be place for Native Hawaiian Culinary Students can work and learn and prepare Ai' Pono.

Most of all it can be a resource center for the Hawaiian Homes Beneficiaries can Meet and Utilize the Neighborhood Resources.

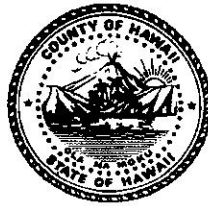
The second land area is further back in the Waimanalo Area. TMK to Be Determined. This are is a larger facility to be used a a CERT and FEMA response and Training Area An Area to Train and Certify Beneficiaries and Kanaka in Trades, Film and TV and Hawaiian Culture to include Agriculture resource. Kapili Like, Inc Seeks to provide training and resources on Multiple levels.

Kapili Like, Seeks time to meet at the next Hawaiian Homes Commission Meeting to Discuss further and present Tentative Plans for Non Profit Hawaiian Homes Lands.

Submitted by
Scotty Reis Moniz

Scotty Reis Moniz
Director
Kapili Like, Inc
kapililikeinc@gmail.com

From the office of -
Council Member
District 3



Office: (808) 961-8396
Fax: (808) 961-8912
Email: sue.leeloy@hawaiicounty.gov

J7

SUSAN L.K. LEE LOY

25 Aupuni Street, Hilo, Hawai'i 96720

October 12, 2020

William J. Ailā Jr., Chair; and
Members of the Hawaiian Homes Commission

Aloha Chairman Ailā and Commissioners:

Thank you for the opportunity to provide you this letter. While this letter highlights a concern in the homestead community of Pana'ewa on Hawai'i Island, I have heard similar concerns raised in all the homestead communities on the Big Island and trust homestead communities across our State are struggling with similar issues.

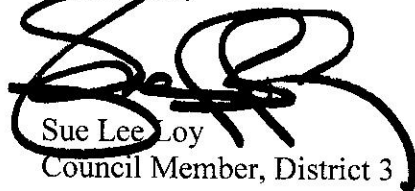
Attached, please find an email generated from a beneficiary regarding issues regarding a habitual pattern of unlawful conduct, abusive and alarming behavior, illicit substance use, terroristic threatening and building code violations. The beneficiaries of the Hawaiian Homes trust need swift and corrective action.

The Department recently announced law enforcement actions resulting from agreements with the County of Hawai'i to remove intentionally abandoned vehicles and tires from homestead land in the Maku'u subdivision in Puna. This is an example of the beneficial partnership that can result when the County, the State, and the community come together to force positive change.

If this Commission requires legislative action for the authority to correct unlawful behaviors of a lessee, the approaching legislative session is a place for us to explore corrective action. I look forward to working with the Department to assist with a request to the Legislature to address unlawful activity in our homestead communities.

Again, I thank you for the opportunity to share my concerns with you.

Aloha Biha,



Sue Lee Loy
Council Member, District 3

Fwd: TROUBLE ON AUWAE ROAD AGAIN - PLEASE STAY ON ALERT - MOALA's 1721 Auwae Rd. .

Pat Kahawaiolaa [REDACTED]

Tue 9/29/2020 11:14 AM

To: Pros Atty - Hilo [REDACTED] Derr, William <William.Derr@hawaiicounty.gov>; Mike Kaleikini <mkaleikini@ormat.com>; William J. Aila <william.j.ailajr@hawaii.gov>;

Cc: Lee Loy, Sue <Sue.LeeLoy@hawaiicounty.gov>; Fisher, Olinda L. <olinda.l.fisher@hawaii.gov>; Kahana Albinio <Peter.K.Albinio.Jr@hawaii.gov>; ick1967@gmail.com <ick1967@gmail.com>; Maile Luuwai <maile@luuwailaw.com>; Elizabeth Masaoka <lizmasaoka@yahoo.com>;

Aloha no e Mr. Roth,

I am Patrick L. Kahawaiolaa a native Hawaiian as defined pursuant to the Hawaiian Homes Commission Act, 1920 as amended July 9, 1921 42 chapter 43 stat. 108, 67th congress and a resident of the aihooopulapula ma Panaewa, residing on 1260 Elama Road, one block from the troubled site on 1721 Auwae in which another native Hawaiian as defined is being verbally threaten, family young daughters, husband likewise by the neighbors two sons Tevita and Sione Moala. even after repeated calls to the authorities, their time sending officers to come a quell the situation which appears to just be among neighbors however the instigators appears by all account to be these young men, who have problems dealing with authority figures and continually believe they have a right to harass and threaten by their actions within the community like walking on a roadway and entering the properties of the na kupuna with switchblade knives, cane knives and or machetes. My question..."what do we do for guidance dealing with these BIG young men who appear could break anyone in half just by there size..." I do not know how your office might help stop this problem in our Hawaiian community..

I am only asking now HOW do we correct this? Trust me it will BLOW UP to and ugly mess because other na kupuna have had run ins with one or both of these young men that have not be reported but their friends and families it told will step in and create HAWAIIAN JUSTICE and trust me its ugly and people on both sides will get hurt and the enjoyment within a community will forever be fractured. I hope you may be able to offer guidance and/or solutions from obviously disturbed young men where even their parents cannot control their actions.

I can be reached at (808) 937-8217

'Owau Unco Pat Kahawaiolaa

----- Forwarded message -----

From: **leilani kerr** [REDACTED]

Date: Mon, Sep 28, 2020 at 10:27 PM

Subject: Re: TROUBLE ON AUWAE ROAD AGAIN - PLEASE STAY ON ALERT - MOALA's 1721 Auwae Rd. .

To: lizmasaoka [REDACTED]

Cc: Michael Kaleikini [REDACTED], Maile Luuwai [REDACTED], Raymond Silva [REDACTED], William Derr [REDACTED], Officer MIKE [REDACTED], Lewis, Matthew [REDACTED], Aila William <[REDACTED]>, Fisher [REDACTED], Pua Lorilynn/kale'a/kailani [REDACTED], U'ilani Naipo <[REDACTED]>, Toilolo Edwin/Makalika And Railroad [REDACTED], Yogi Glen and Taryn <[REDACTED]>, Wilson/kealoha ellama St [REDACTED], Destiny Pakani [REDACTED], Pea Puanani/walea [REDACTED], Hocson Nira <[REDACTED]>, Lacey Akau [REDACTED], Midel Hulali Icarl [REDACTED], Aiona Dawn <[REDACTED]>, Kamoku Pomai KRISTI [REDACTED], Robert Yamada [REDACTED], Azevedo Puna [REDACTED], Pakani Gab [REDACTED], S [REDACTED], Yogi,Gayle/1 [REDACTED], La Verne Lucero <[REDACTED]>, Patrick Kahawaiolaa [REDACTED], Jodie Takeya [REDACTED], Bridget DESHA [REDACTED], Bob Douglas [REDACTED], Loyell Josephine Duersken [REDACTED], Lee Tyra Tyson Tayani Taylia Lee [REDACTED], Amanda Slavey [REDACTED], Pua Peter Kailani 6 Kale'a 5 <[REDACTED]>, Beck Rochelle [REDACTED], Lisa Simmons [REDACTED], Kihei Ahuna <[REDACTED]>, Malani Cynthia Leihua Malani <[REDACTED]>, Aiona Kea <[REDACTED]>

Mahalo, Mike.

From: Maile Luuwai <[REDACTED]>
Sent: Monday, September 28, 2020 4:37 AM
To: leilani kerr <[REDACTED]>
Cc: Raymond Silva <[REDACTED]>; lizmasaoka <[REDACTED]>; William Derr <[REDACTED]>; Officer MIKE <[REDACTED]>; Lewis, Matthew <[REDACTED]>; Aila William <[REDACTED]>; Fisher <[REDACTED]>
Michael Kaleikini <[REDACTED]>; Pua Lonlynn/kale'a/kailani <[REDACTED]>; U'ilani Naipo <[REDACTED]>; Iolo Edwin/Makalika And Railroad <[REDACTED]>; Yogi Glen and Taryn <[REDACTED]>; Wilson/kealoha ellama S <[REDACTED]>;
Destiny Pakani <[REDACTED]>; Pea Puanani/walea <[REDACTED]>; Hocson Nira <[REDACTED]>; Macey Akau <[REDACTED]>; Midel Hulali Icarl <[REDACTED]>; Aiona Dawn <[REDACTED]>; Kamoku Pomai KRISTI <[REDACTED]>; Robert Yamada <[REDACTED]>;
Azevedo Puna <[REDACTED]>; Pakani Gab <[REDACTED]>; Yogi, Gayle/T <[REDACTED]>;
a Verne Lucerd <[REDACTED]>; Patrick Kahawaiolaa <[REDACTED]>;
Jodie Takeya <[REDACTED]>; Bridget DESHA <[REDACTED]>; Bob Douglas <[REDACTED]>;
Lovell Josephine Duersken <[REDACTED]>; Lee Tyra Tyson Tayani Taylia Lee <[REDACTED]>;
Amanda Slavey <[REDACTED]>; Peter Kailani 6 Kale'a 5 <[REDACTED]>;
eck Rochelle <[REDACTED]>; Lisa Simmons <[REDACTED]>;
Kihei Ahuna <[REDACTED]>; Malani Cynthia Leihua Malani <[REDACTED]>;
na Kea <[REDACTED]>; Bob n Bert Searle <[REDACTED]>; Sue Lee Loy <[REDACTED]>

Subject: Re: TROUBLE ON AUWAE ROAD AGAIN - PLEASE STAY ON ALERT - MOALA's 1721 Auwae Rd. .

CAUTION: External Sender, Do not click on links or open attachments unless you recognize the sender.

Aloha Leilani,

It is horrifying that these individuals can continue to harass, threaten and intimidate your 'ohana and other families in our community with no support from those who are supposed to protect our community. We need something done now!!!

I used to administer a program for violent men. All had TROs and were subject to immediate arrest for violation of their TROs. Tevita must be on some type of probationary status given the significance of his assault in 2011. I remember when that happened. The victim was beaten so bad, he was medivaced to Queens Hospital on O'ahu.

It is illegal to threaten people especially if they have TROs on you.

I will contact the Mayor's Office to see if he can get HPD to do their job.

Take care,

Maile

On Fri, Sep 25, 2020 at 10:28 PM leilani kerr [REDACTED] wrote:

Aloha Neighborhood Watch,

MAHALO NUI for staying alert and for responding to the emails to let us know what is happening on your sides of the fence. I have learned that Tevita and Sione Moala have been harrassing multiple families in our neighborhood on Auwae Road., not just us. Thank you for making your voices heard.

UPDATE: The police were called AGAIN to my house last night due to Tevita's harrassment towards my kids. No arrests were made, but a report was filed and warning given (I have an active TRO against Tevita). The Akau's came over to give a witness statement to the police and show neighborhood support - MAHALO! Tevita was seen earlier yesterday evening, by Mrs. Akau, walking along Auwae Road, fronting the Akau property, swinging a cane knife back and forth. Liz Masaoka (our fearless leader/prayer warrior) also came to my house last night give support on our behalf to the police.

HPD advised that we videotape any inappropriate behavior to strengthen our case. I am keeping this email paper trail as evidence to take to court with me next week wednesday when we appear in court where the judge will decide on the terms/length of Tevita's TRO. I will keep all of you posted on that.

Today I met my neighbors that live on the other side of the Moala's and they have been harrassed worse than my family and I have been. IT IS SCARY! to the point that we are all now carrying devices and items to protect ourselves from potential harm from these two. Neighbors are afraid to leave their gates open, their doors unlocked, and their windows open at night. I decided to leave my outdoor houselights on all night (every night) at this point, after noticing that Tevita likes to do a lot of his "roaming" in the dark. So if you drive by my house and see it lit up, that's why.....

We are all spending time and money to take measures to protect our families against this danger and we need the law and DHHL's help in making our neighborhood a safe place for our families, especially our keiki.

Our families in the immediate area around the Moala property all thought they were alone in their ordeal. We quickly found out that we have ALL been affected by them. We need to stand together and continue watching out for each other. I know now that you are, and I thank all of you for that.

I will continue to make our voices heard and communicate with DHHL on a daily basis until our neighborhood is safe and protected from these dangerous men.

Bob n Bert Searle [REDACTED], Sue Lee Loy [REDACTED], [REDACTED]
[REDACTED]

Mahalo Lisa (Simmons) for your email. I have a TRO in place against Tevita, but Judge KIMBERLY TANIYAMA denied my request for a TRO against Tevitas brother Sione (after Sione harassed my daughter several times, waved his machete at her, and was witnessed by myself and other neighbors walking Auwae road twirling his (switchblade appearing) knife, cane knife, and machete. He was arrested, spent the night in jail, and released the next day - back at home, harassing us and the neighbors some more).

UNBELIEVABLE! I've never been involved with the law, but am quickly learning how much protection criminals seem to have in our state. UNBELIEVABLE.

MAHALO NUI, neighborhood watch, and mahalo Mr. Kaleikini for getting involved and taking action 🙏

Never take life or people for granted. Look for the blessings, they are EVERYWHERE!

On Sep 28, 2020, at 10:53 AM, lizmasaoka [REDACTED] wrote:

Mahalo Mike.

Incase some on this email do not know you,
Michael Kaleikini is our East Hawaii DHHL Commissioner.

Liz

Sent via the Samsung Galaxy A10e, an AT&T 4G LTE smartphone

----- Original message -----

From: Michael Kaleikini [REDACTED] <[REDACTED]@[REDACTED]>
Date: 9/28/20 10:43 AM (GMT-10:00)
To: Maile Luuwai [REDACTED], leilani kerr [REDACTED] "Cc: lizmasaoka" [REDACTED]
Cc: Raymond Silva [REDACTED], William Derr [REDACTED] Officer MIKE
[REDACTED] "Lewis, Matthew" [REDACTED] Aila William
[REDACTED] Fisher [REDACTED] Pua Lorilynn/kale'a/kailani [REDACTED]
U'ilani Naipo [REDACTED], Toilolo Edwin/Makalika And Railroa [REDACTED] Yogi Glen and
Taryn [REDACTED], Wilson/kealoha ellama St [REDACTED]
Destiny Pakani [REDACTED], Pea Puanani/walea [REDACTED] Hocson Nira
[REDACTED] Lacey Akau [REDACTED] Midel Hulali Icarl [REDACTED], Aiona Dawn
[REDACTED], Kamoku Pomai KRISTI [REDACTED] Robert Yamada [REDACTED]
Azevedo Puna [REDACTED], Pakani Gab [REDACTED] "Yogi,Gayle/1"
[REDACTED], La Verne Lucero [REDACTED] Patrick Kahawaiolaa [REDACTED]
Jodie Takeya [REDACTED], Bridget DESHA [REDACTED] Bob Douglas [REDACTED]
Lovell Josephine Duersken [REDACTED] Lee Tyra Tyson Tayani Taylia Lee
[REDACTED] Amanda Slavey [REDACTED] Pua Peter Kailani 6 Kale'a 5
[REDACTED], Beck Rochelle [REDACTED] Lisa Simmons
[REDACTED] Kihei Ahuna [REDACTED] Malani Cynthia Leihua Malani [REDACTED]
[REDACTED] Bob n Bert Searle [REDACTED] Sue Lee Loy [REDACTED]

Subject: RE: TROUBLE ON AUWAE ROAD AGAIN - PLEASE STAY ON ALERT - MOALA's 1721 Auwae Rd. .

Aloha kakou,

FYI, I reached out to HPD and provided copies of several emails. Please remain vigilant and safe. When I hear back from HPD I will share their feedback.

IF you are reading this and have had any kind of encounter with the Moala men, I am asking that you reply to this email and share your experience. All these episodes are evidence of the seriousness of the situation and I am printing all of this up to take to court with me next week wednesday.

Thank you again, for staying involved, sharing your mana'o, sharing your experiences, staying vigilant, and praying!!

Aloha, a hui hou, me ka ha'a ha'a,

Leilani Kerr.

On Wed, Sep 23, 2020 at 9:11 PM leilani kerr [REDACTED] wrote:

Aloha Pana'ewa Neighborhood watch,

I am writing to ask for your help. Yet, again, I had another incident with my neighbor at 1721 Auwae Road. This time it was Tevita's brother, Sione.

Quick update first - TRO against Tevita was granted and our court date is next week Wednesday, 9/30.

I'll give you a quick timeline of this week in order to describe an accurate picture:

Monday, 9/21/2020 @ 0530am - I leave my house to go to the gym to exercise while it is still dark. SIONE is sitting about 30 feet from my front gate watching me as I get out of my car to manually open my gate, get back in my car and leave to go to the gym (heart racing, pepper spray in hand)

Tuesday, 9/22/2020 @ 1:57pm. - my daughter calls me from home (she's alone), stating that Sione was leaning over our fence (his upper body in our property) with his rake, trying to "catch" our rottweiler dog. My daughter asked him to stop and he stuck his finger at her and yelled curse words at her. I would guess Sione is at least 6 feet tall and at least 220 pounds. She calls me AGAIN at 4:47pm as I'm driving home from work to tell me Sione is on his porch (which faces our garage) and is waving a machete at her. I call the cops to request assistance. I arrive home shortly thereafter and, while waiting for the cops, call Sione's mother to our fenceline to talk to her AGAIN, in person, about her 2 son's behaviors. She states there's nothing she can do about it. While this is happening, there are at least 4 children walking around their house and yard, another adult male, and Tevita and Sione's adult sister, Dianna Jr., all out in the yard, while I'm on the phone with the hilo police station. Cops arrive and are able to arrest Sione because he has an active bench warrant.

Wednesday, 9/23/2020 @ 0635am - Tevita is pacing up and down Auwae Rd. in front of my property. As I reach my gate in my car to leave for work, he "hangs out" in front of his mailbox, mumbling at me and making gestures at me (I recorded it on my phone). I file a TRO against Sione at 1:10pm. I find out, at around 1:45, that Sione was released by the judge WITHOUT HAVING TO POST BAIL.

4:45pm - my daughter and I arrive home. Tevita, Sione, and now another large male are all hanging out on their porch, facing our property making intimidating facial gestures to us.

My daughter and I DO NOT FEEL SAFE on our own property and am asking for our neighborhood to stay on high alert. Sione was walking on Auwae Road in front of our property 2 weeks ago with an open knife (looked like a switchblade type knife) twirling it in his right hand. I was in my yard tending to my plants while he was doing this.

We are to the point of contemplating having to move out of our own house for our own safety. We don't cause any trouble, we go to work, come home, mind our own business, and now my time and resources are consumed with having to protect myself and my daughter from bad neighbors.

I NEED HELP, but "nothing illegal" has happened, according to the state, HPD, and DHHL, so I have no protection and "nothing" to base my fears on.

I wonder.....whatever happened to the man that Tevita beat unconscious with a sledgehammer in 2011????????? Tevita's roaming around free as a bird. It's not a matter of "IF", it's a matter of "WHEN" he or his brother's will strike again. Tevita was let go on a plea of "insanity" and his mother admittedly states "I can't control him".

I am asking for my neighbors to PLEASE stay on alert and report ANYTHING you see from these men. The more reports that are filed with HPD, then MAYBE, something will get done.

Mahalo nui for taking the time to read this. I appreciate my pono neighbors.

A hui hou ~ Leilani

J8 Deferred