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**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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CHAIRPERSON  
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COMMISSION ON WATER RESOURCE MANAGEMENT

**LAURA H.E. KAAKUA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA**

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD. STE 555  
KAPOLEI, HAWAII 96707

**MINUTES  
MAUI / LĀNA'I ISLANDS BURIAL COUNCIL MEETING**

**DATE:** Wednesday, January 18, 2023  
**TIME:** 9:00 AM  
**PLACE:** Department of Land and Natural Resources Maui  
District Office Complex, Conference Room, 130  
Mahalani Street Wailuku, Maui, HI 96793

**I. CALL TO ORDER/PULE – Vice Chair Scott Fisher call meeting to order at 9:05AM**

**II. ROLL CALL –**

- Vice Chair Scott Fisher present
- Councilmember Everett Dowling present
- Councilmember Michele Hoopii present
- Councilmember Iris Pe'elua present
- Councilmember Vernon Kalanikau present
- Vice Chair Fisher mentioned new councilmember, Diane Preza, representing Lāna'i. Unfortunately, councilmember Preza is not logged on (zoom) yet. Will introduce once she is signed on.
- Vice Chair Scott Fisher made an announcement that former Chair Kyle Nakanelua has stepped down from the burial council for personal reasons. Vice Chair Fisher stated that Mr. Nakanelua had enjoyed his time on the burial council. Wish council well.

**SHPD: Kealana Phillips, Burial Sites Specialist  
Hinano Rodrigues, Historic and Cultural (H&C) Branch Chief.**

**COMMUNITY: Hanoa Puaa-Freitas  
Para Upchurch  
Andree Conley-Kapoi  
Foster Ampong  
Maka Puaa  
Sandra Kealoha-Apolo  
Lawaiana Maliikapu**

**Miki‘ala Puaa-Freitas**

**III. BUSINESS**

**A. ELECTION OF NEW CHAIR –**

- Councilmember Everett Dowling move to make a motion to elect new chair of the MLIBC.
- Motion is seconded by councilmember Iris Pe‘elua.
- All aye; no nay.
- Councilmember Dowling nominate Scott Fisher to be the new MLIBC chair. Vice Chair Fisher accept nomination.
- Motion on the floor by Councilmember Dowling.
- Councilmember Pe‘elua second nomination.
- Open for public testimony.
- Community member Miki‘ala Puaa-Freitas issuer her support to vote Vice Chair Fisher as the new MLIBC chair. NO other public testimony.
- Vote: all aye; no nay.
- Motion passes at 9:10AM. Vice Chair Scott Fisher has been elected the new Chair of the MLIBC.
- Newly elected Chair Fisher address council, audience: 13<sup>th</sup> year on the MLIBC. One of the most fulfilling thing. Privileged to serve Hawai‘i. Not always easy. Difficult. It is service. Ups and downs, bumps in the road.
- As chair, rely on members of burial council, especially vice chair to develop agenda.

**B. ELECTION OF NEW VICE CHAIR**

- Newly elected Chair Fisher move to make a motion to elect new Vice Chair of the MLIBC.
- Motion is seconded by Councilmember Dowling.
- all aye; no nay.
- Councilmember Hoopii nominate Vernon Kalanikau to be the new MLIBC Vice chair. Councilmember Kalanikau accept nomination.
- Motion on the floor by Chair Fisher. Councilmember Dowling second nomination. Open for public testimony.
- No public testimony; closed.
- all aye; no nay.
- Motion passes at 9:12AM. Councilmember Kalanikau has been elected the new Vice Chair of the MLIBC.
- Chair Fisher address council, audience. Serving iwi kupuna primary task. Everyone who attend meeting treating fairly, respectfully. Given time to express themselves. Ground rules: 5 minutes for testimony for cultural / lineal descendants. 3 minutes for the general public, excluding those presenting on the topic. Stick with that.

**IV. UPDATE**

- A. Identification of Areas of Highest Coastal Erosion and Exposure of Iwi Kūpuna.**

**Information/Discussion/Recommendation:** Discussion on the above item.

Identify local groups that the MLIBC can work with to mālama iwi kūpuna when iwi is exposed in areas of highest coastal erosion. Compile a list of recognized cultural descendants for each of these areas.

- Council discusses amongst themselves.
- In response to concerns raised during this past storm. Number of areas exposed iwi kupuna stated Chair Fisher. Known about areas for some time. In order to mālama the iwi as quick as possible, reasonable, what can be done, who can we call to make sure iwi not exposed for long period of time.
- Areas of high exposure. Kaulahao, Kuau Bay (Tavares) stated Chair Fisher. Instances of Visitors handling iwi. Want to make sure council knows who to reach out to. Chair Fisher stated familiar with area because HILT has easement there.
- Councilmember Hoopii wanted clarity on who will spearhead this effort. If inadvertent, SHPD kuleana.
- Iwi kupuna exposed, MPD involved to rule out crime scene (50+ years old) stated Chair Fisher.
- H&C Branch Chief Rodrigues confirm PD rule out forensic value (homicide, or missing persons). Unfortunately, PD not qualified. Reality always ask SHDP, archaeologist. Always call police. Original jurisdiction. Once look at it, no forensic value. Give to SHPD. SHPD is notified by PD, County Arch Janet Six and/or the DLNR Police (DOCARE).
- How long process? PD respond immediately? Asked councilmember Dowling. It depends, case by case, areas previously known to have historic burials. PD may take a little while to respond. Although always respond. Produce police report. Police has been much more responsive recently. May be delay in response, time of day, day of week. Whose responsible for taking care of iwi during delay asked councilmember Dowling.
- Chair Fisher stated that what he is trying to accomplish is figuring out what individual, groups can be called to care for the iwi in that period of delay from discovery to SHPD responding.
- Burial working group, spearheading by Former Council Chair Kyle Nakanelua, to reinter all iwi curated at SHPD, did identify individuals/groups within each moku on the island to assist. Perhaps can start with that, mentioned the council.
- SHPD Burial Specialist Phillips explained the inadvertent discovery process.
- Burial Specialist Phillips stated that there's areas through the entire island and state for that matter where iwi kupuna is being discovered because of climate change, coastal erosion. The coastlines of Waiehu, H-Poko, Hāmoa, Honua'ula, Puamana to name a few. H-Poko is probably the most problematic, busiest, high exposure, discover area on island. Not unusual to get a call everyday about iwi exposed. In a perfect world, SHPD staff respond immediately. Unfortunately, not the case. When SHPD notified, first thing we do is notify the district, or moku rep on the council. As mentioned previously, the burial working group is and should be a good resource to assist in this process. At times if we are unable to conduct a site visit, we've asked the informant to do their best to cover iwi, place a temporary surface marker on the spot. Case by case, district by district as to who is involved and how they want to proceed with it's care.
- Identify groups. Ex Malama Kaulahao. What is their process and produces?
- Hāna, another group called Ke Ao Hali'i stated Chair Fisher. Active in protecting land and cultural resources on land. Who for H-Poko, Aha Moku asked Chair Fisher. Burial Specialist Phillips responded descendants of the area. People identified, involved with Mr. Nakanelua burial working group.

- Councilmember Hoopii asked the possibility of creating separate group, committee to take the lead in investigating this issue. Branch Chief Rodrigues responded that it's possible to set up a permitted interaction group (PIG) made up of not more than two members of the council. Group would be responsible for taking the lead on this kuleana and reporting back.
- How process of PIG start to occur asked Chair Fisher. Branch Chief Rodrigues stated would have to agenda on next agenda (will need to work on agenda). Something along the lines of creating investigative committee to investigate shoreline erosion. Admin stuff for inadvertent will still go through SHPD, regardless of a creation of PIG stated Branch Chief Rodrigues.
- Vice Chair Kalanikau wanted clarification of PIG process.
- Branch Chief Rodrigues stated SHPD will still have jurisdiction. PIG working group, if created will meet, investigate, assess, evaluate situation. Ultimately provide comments, feedback to SHPD to help with solution, disposition, determination when applicable.
- Chair Fisher stated a goal of his is to tackle one major problem at each MLIBC meeting. Lots of problems. Come together collectively to solve.
- Councilmember Dowling asked about standard practice and procedures when handling iwi kupuna by the groups. Councilmember Pe'elua mentioned that specific practices and procedures differ from moku to moku.
- 3 issues: id area, id groups and what policy and produces (moku by moku). Changing on practices. I.e., sea burial. 20 years of unheard of.
- Branch Chief Rodrigues clarify Statues and Administrative Rules. Pattern. Way laws written, tried to the greatest extent include all, but not be inefficient. Example, 5 burial councils. 4 council have max 9 seats, 5<sup>th</sup> max 5 seats. 41 opinions. Everyone speaks for their own territory.
- Things are changing because situation is changing in reference to sea burials.
- Open for public testimony:
- Maka Puaa address the council. When iwi exposed, perhaps caution tape. Mark off so nobody bothers, similar to monk seals, turtles, etc.
- Chair Fisher explained sometimes best not to draw attention. Mark with caution tape, fencing, encourage people to be niele.
- People want to do the right thing. Not sure what to do. Discussion amongst councilmember Dowling, Chair Fisher. Perhaps education, signage as to proper procedure when iwi discovered. Downside attract people. But clarification for those that want to help.
- According to the law, iwi is Not to be moved without permission of burial council, department. However, there is the rules and there is reality. What was presented, discussed is the real situation. If people pick up iwi, move it further inland on beach and rebury. SHPD ok. Doing the right thing according to Branch Chief Rodrigues.
- Sandra Kealoha-Apolo address council. Recommends that the department, council perhaps look to individuals that work in maintenance and care of cemeteries for help. If not enough staffing by SHPD, a lot of discoveries occurring. Should seek help from those with previously experience handling, caring for bones.
- A lot of good people, with good heart that treat iwi with respect. Animal, human. Bones are bones. Part of creation acknowledged Vice Chair Kalanikau.
- Foster Among address council. Mr. Among referenced that chapter 13-300-35 already in place for individuals that want to be recognized as cultural/lineal descendants. In this discussion, where does that put those that are recognized asked Mr. Among. Chair Fisher stated that the recognized cultural/lineal descendants

have higher priority in the hagiarchy to mālama iwi then that of the general community.

- Close Public Testimony. NO further discussion. Move to next agenda item.

**B. Inadvertent Discovery of Human Skeletal Remains at Kapuna Seaside Subdivision-Waihe'e, Near Lot 7, Ahupua'a of Waihe'e, Moku of Wailuku/Pū'ali Komohana, Island of Maui, TMK(s): 3-2-002:001 and (2) 3-2-002:0473.**

**Information/Discussion/Recommendation:** Discussion and consultation with the recognized cultural descendants regarding the disposition of the iwi kupuna.

- **Contracted Archaeologist Andree Conley-Kapoi of Archaeological & Ethnographic Consultants Hawai'i, LLC. Address council.**
- **Ms. Conley-Kapoi provided handout to the council. Handout attached to the meeting minutes.**
- **Councilmember Diane Preza, representing Lāna'i, joined MLIBC the meeting at 10AM.**
- **Councilmember Preza address the council.**
- **Ms. Conley-Kapoi continue addressing council.**
- **History & Culture Branch Chief Hinano Rodrigues excused himself from meeting at 10:25AM.**
- **Chair Fisher open the item up for public testimony.**
- **Hanoa Puaa-Freitas address the council.**
- **Mr. Puaa-Freitas stated first time to burial council. Just wants to understand process. Listening to meeting thus far has cleared up a lot of questions. Mr. Puaa-Freitas stated that he's from area. Lives near where site was found. Would like to keep bones in the area. Will continue to work with Andree. In the process of completing the descendency application form. In agreement with Option 1 – Relocated iwi to an area in the immediate vicinity.**
- **Lawaina Maliikapu address the council.**
- **Ms. Maliikapu is a recognized cultural descendant to the iwi kupuna in question. Grew up on land. Don't remember iwi being there. Came from somewhere. Should have a repository for this iwi and if anymore are discovered. In agreement with Option 1 – Relocated iwi to an area in the immediate vicinity.**
- **Miki'ala Puaa-Freitas address council. Ms. Puaa-Freitas is a recognized cultural descendant.**
- **Ms. Puaa-Freitas stated that in previous e-mails that she was being excluded in the consultation process. According to the newly presented info, Ms. Puaa-Freitas is being included. Miscommunication possible; misinterpretation. Ms. Puaa-Freitas stated that she does along with her 'ohana to be included in the process. In agreement with Option 1 – Relocated iwi to an area in the immediate vicinity.**
- **Foster Ampong address council. Mr. Ampong is a recognized cultural descendant.**
- **Mr. Ampong stated quite a bit of misunderstanding. Mr. Ampong acknowledge that he did write a letter re: his consultation with the landowner. In May (2022), several testifiers went before council weaponized council to personally attack descendency. Met with Andree to meet re: reinternment of iwi kupuna. Explained what previously took place. Misrepresents facts about genealogy. Explained to Andree want to meet**

with landowner to discuss reinterment. Mr. Ampong explained to Andree that he did not want his comments, consultation included with other's who he named in the letter that had previously attacked him. Not sure the exclusion Miki'ala referring too. Letter shared with Andree, council and SHPD. Assuming letter was shared with Miki'ala. Misunderstanding. The intention of letter was for Mr. Ampong and Ms. Maliikapu comments to represent the two of them separately. Not to exclude others from participating. Disappointed in Andree. In agreement with Option 1 – Relocated iwi to an area in the immediate vicinity. Differ to Lawaina. Lawaina grew up there. Have a relationship.

- Mr. Ampong stated wants to be treated fairly. Chair Fisher stated that that is his goal as well.
- Sandra Kealoha-Apolo address council.
- Descendant to the area. Family to the recognized descendants. New to the process. Learning. Family that got evicted. Know Miki'ala. Know Foster. Nothing against anyone. Need to forgive. In agreement with Option 1 – Relocated iwi to an area in the immediate vicinity.
- Close Public Testimony.
- Council Chair Fisher allow Contracted Arch Conley-Kapoi to respond to Mr. Ampong testimony. Focus on iwi kupuna stated Chair Fisher. Ms. Conley-Kapoi stated upon receipt of Mr. Ampong letter, reached out to Chair Fisher. Ms. Conley-Kapoi stated she acknowledged those that have been formally recognized by council. But wanted to keep the consultation process inclusive. While encouraging those that weren't recognized to still go through the official process.
- Chair Fisher mentioned ho'oponopono. Miscommunication. Need to figure out. Hurt feelings in past that may have affected how communication evolved. Situation that needs to deal with now. Focus is the iwi kupuna.
- Chair Fisher allow Mr. Ampong to respond. Acknowledge starting to clear up the misunderstanding. Need to get to root of problem. Understand it; fix it. Mr. Ampong go over chronology. Didn't imply those that were previously recognized by council have no legal standing. Andree admitted to sharing letter with Miki'ala. Mr. Ampong wished that if there was confusion with the letter, that she would have approached Mr. Ampong directly. Mr. Ampong stated that while this is occurring, Miki'ala speaking with someone from SHPD. Missing pieces in the whole picture. Need any clarification, please reach out directly. If recognized for one iwi in ahupua'a, perhaps streamline a process where recognized individual can be automatically recognized without having to go through the formal process. Question proposed by Chair Fisher.
- Hierarchy re: consultation. Lineal/Cultural, community. Lineal and cultural descendancy is straight forward. When seeking out comments from the general community. Perhaps priority can be given to those from area, from island, etc. before general community. Councilmember Hoopii address council to clarify Mr. Ampong letter.
- Miki'ala Puaa-Freitas address council. Ms. Puaa-Freitas reached out to SHPD to confirm cultural recognition.
- Vice Chair Kalanikau provide clarity to the situation. Focus need to be on iwi kupuna.
- Lawaina Maliikapu address council to address, provide clarity on issue. Her involvement

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- **Chair Fisher reminded council, members of audience focus are on the iwi kupuna.**
  - **Close public testimony. Move on to final agenda item.**

**V. INADVERTENT DISCOVERY OF HUMAN SKELETAL REMAINS**

**A. Inadvertent Discovery of Human Skeletal Remains Reported to the Maui Office of the State Historic Preservation Division on December 29, 2022, Ahupua'a of Waiehu, Moku of Wailuku, Island of Maui, TMK: (2) 3-2-013:006.**

**Information/Discussion/Recommendation:** Discussion on the above find.

- **Informant Para Upchurch address the council.**
- **Ms. Upchurch explained how the iwi (skull) was discovered. Ms. Upchurch stated that she did rebury the iwi inland at a depth of 2'. Iwi is protected.**
- **Councilmember Hoopii, who represents Wailuku, stated her desire for a site visit. Or at the very least SHPD to follow up. Burial Specialist Phillips acknowledged request. Will follow up with the informant to ensure that the iwi kupuna is safe from further discovery, desecration.**

**VI. Announcements – Meeting Adjourned at 11:25AM**







# Kapuna Seaside Subdivision & New Waterline Project

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Waihe`e Ahupua`a, Moku of Pū`ali Komohana (Wailuku),  
Island of Maui

TMK: (2) 3-2-002:039, 041, 042, 048, 052, 057, 058, 059  
[Formerly TMK: (2) 3-2-002:001]

Maui Lāna`i Islands Burial Council Meeting  
January 18, 2023

Landowner: Kapuna`Ohana, LLC  
May Sin, Project Manager

CONTACT INFORMATION FOR THE ARCHAEOLOGIST

**ARCHAEOLOGICAL &  
ETHNOGRAPHIC  
CONSULTANTS HAWAII, LLC**

Andrée-Michelle Conley-Kapoi, MA

Principal Investigator

(808) 573-5850 (cell)

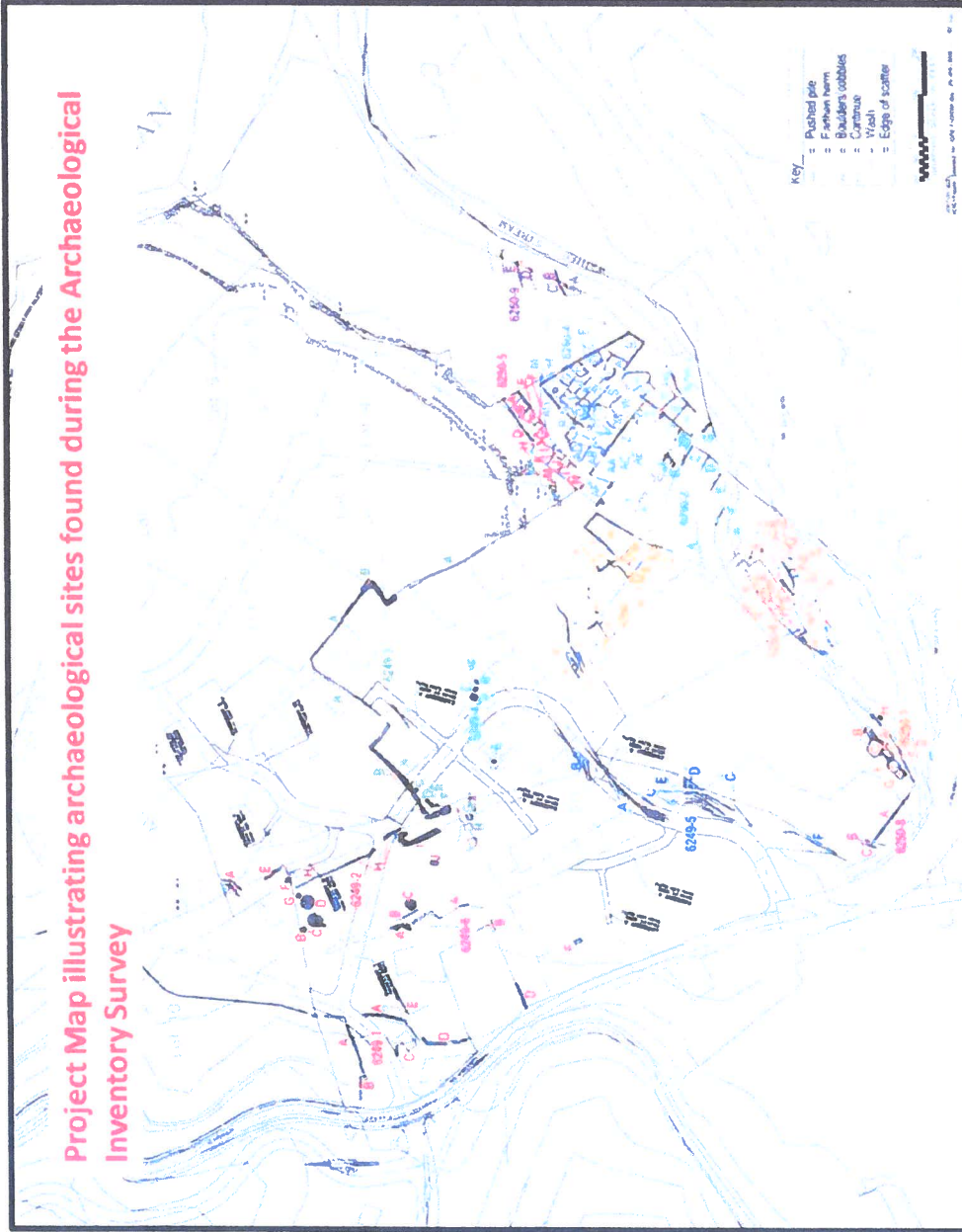
[andree@archaeoethno.com](mailto:andree@archaeoethno.com)

## Brief Overview of the Project

- **2007** Archaeological Inventory Survey (AIS) submitted and prepared by Xamanek Researches, LLC (33.093 acres, two large site complexes SIHP# 50-50-04-6249 & -6250 with 170 features recorded) (including one probable burial located at SIHP# 50-50-04-6249-6, Feature-J).
- **2008** Archaeological Monitoring Plan (AMP) prepared by Xamanek Researches, LLC
- **2013** Kapuna Ohana, LLC purchased the property from Dwayne Betsill
- **2019** In April, an Archaeological Preservation Plan (APP) was submitted by Atlas Archaeology and later withdrawn by Atlas Archaeology.
- **2019** In May, another revised version of the APP was submitted by Archaeological Services Hawaii (ASH) and SHPD provided comments and a revised copy was never resubmitted.
- **2020** SMA application and the Waterline Project application were submitted to SHPD.
- **2022** In January, *iwi kūpuna* fragments in a previously disturbed context were encountered while excavating the waterline for the Kupuna Seaside Subdivision.
- **2022/23** In December 2022 and January 2023, Archaeological & Ethnographic Consultants Hawaii, LLC contacted and consulted with the cultural descendants in reference to the previously disturbed *iwi kūpuna* that was encountered during the archaeological monitoring of the waterline.



# Project Map illustrating archaeological sites found during the Archaeological Inventory Survey



A planview map illustrating the completed sections of the waterline in red and the uncompleted sections in blue.



- During the Archaeological Monitoring of the waterline, *iwi kūpuna* was encountered in previously disturbed soil. The excavation of the waterline stopped and controlled excavation occurred by an archaeologist from Archaeological Services Hawai'i. After that, all work was put on hold until the cultural descendants were consulted to decide if these fragments should stay in place or be relocated to a protected area in the immediate vicinity.

## **CONSULTATION PROCESS**

- In December 2022 and January 2023, the recognized Cultural Descendants were contacted by Andree Conley-Kapoi from Archaeological & Ethnographic Consultants Hawai'i, LLC, and consulted with them during three separate in-person meetings.

**MLIBC  
RECOGNIZED  
CULTURAL  
DESCENDANTS**

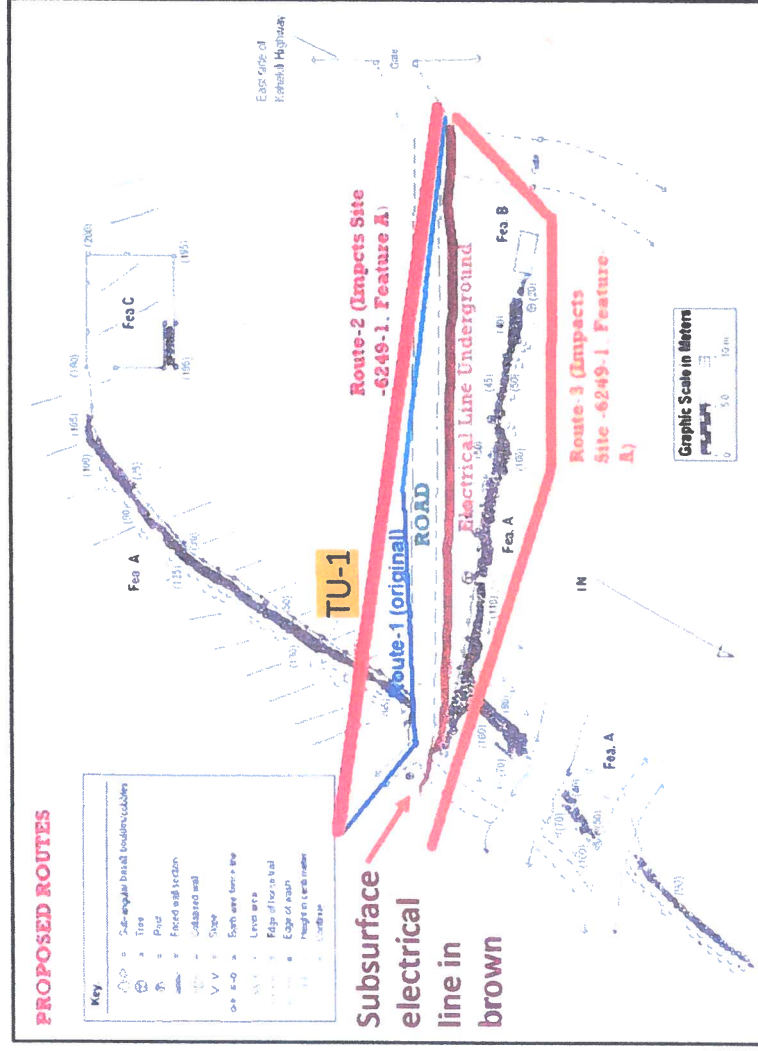
- Ursula Pua`a Freitas (1/12/23)
- Miki`ala Pua`a Freitas (12/22 & 1/12/23)
- Lawaina Malikapu (12/28/22 & 12/30/22)
- Foster Ampong (12/30/22)

\*\*\* (dates of in-person consultation meetings)



# Proposed Routes

- **Route 1**, proposes to stay on current path
- **Route-2**, is located to the southeast of Route-1 and will cause structural damage and disturb potential cultural deposit associated with Site -6249-1, Feature A
- **Route-3**, is located to the northwest of Route-1 and will cause structural to Site -6249-1, Feature A
- **Route-4** is not an option because the Water Department denied putting a 45-degree bend in the pipe and bringing in 2' of import fill to cover it.

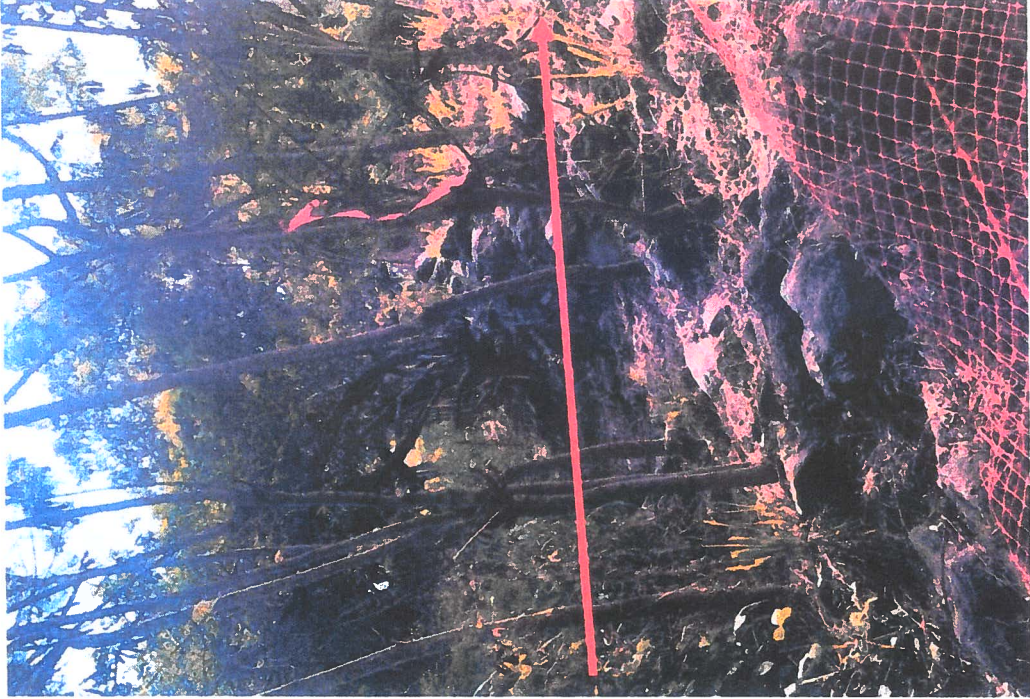




OPTION #1:

- \*\*Route-1- continuing with the original path for 150 feet)
- Reenter the *iwi kūpuna* fragments to an area in the immediate vicinity.
- Prepare a Burial Treatment Plan will be prepared in consultation with the Cultural Descendants and submitted to the SHPD.





## OPTION #2

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- Relocate the waterline to the southeast of the current trench.
- This will cause structural damage and disturb the cultural deposit associated with Site -6249-1, Feature A.





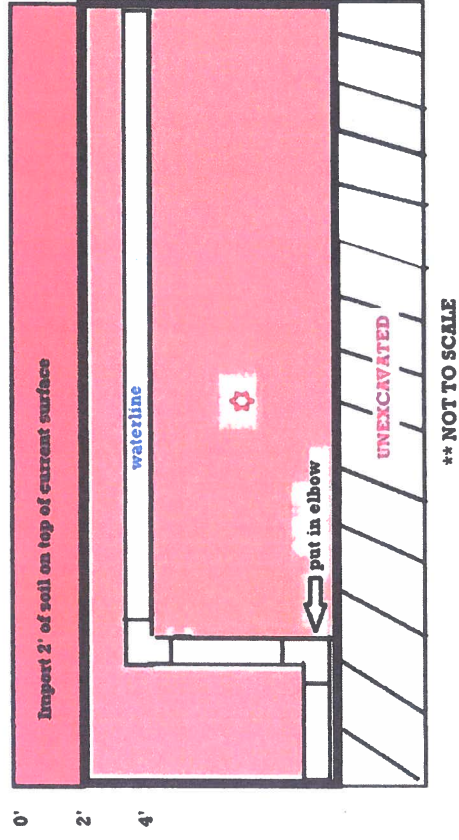
## OPTION #3

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- Relocate the waterline to the northwest of the current waterline trench.
- This will cause structural damage to Site -6249-1, Feature A.

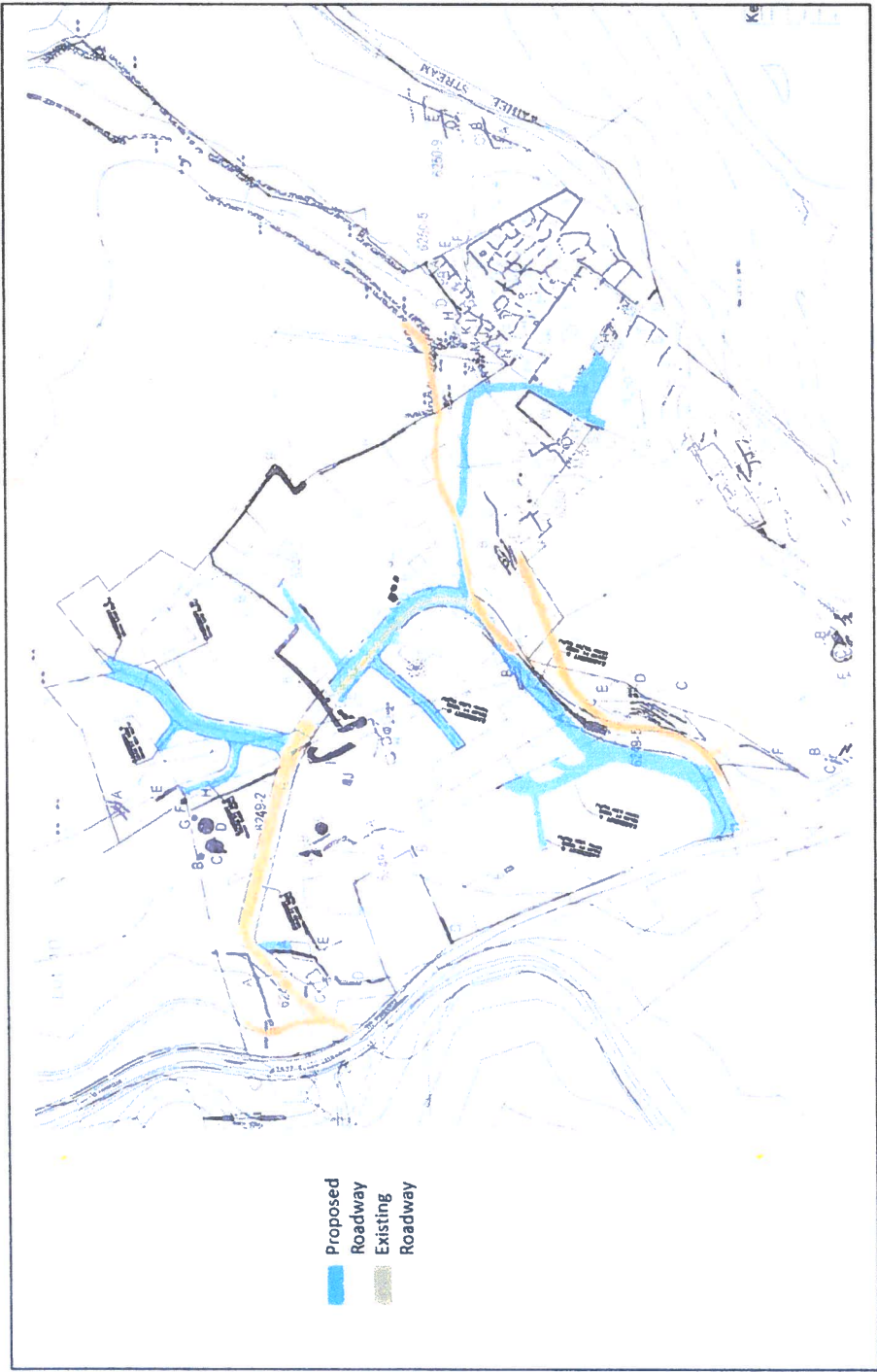
## OPTION #4

- This option is not a possibility because the Department of Water would not agree to this when presented during a meeting.
- This option was going to put a 45-degree elbow in the pipe and run the remainder of the line at two feet below the surface in the sterile soil and import 2' of soil to cover the roadbed and pipe.



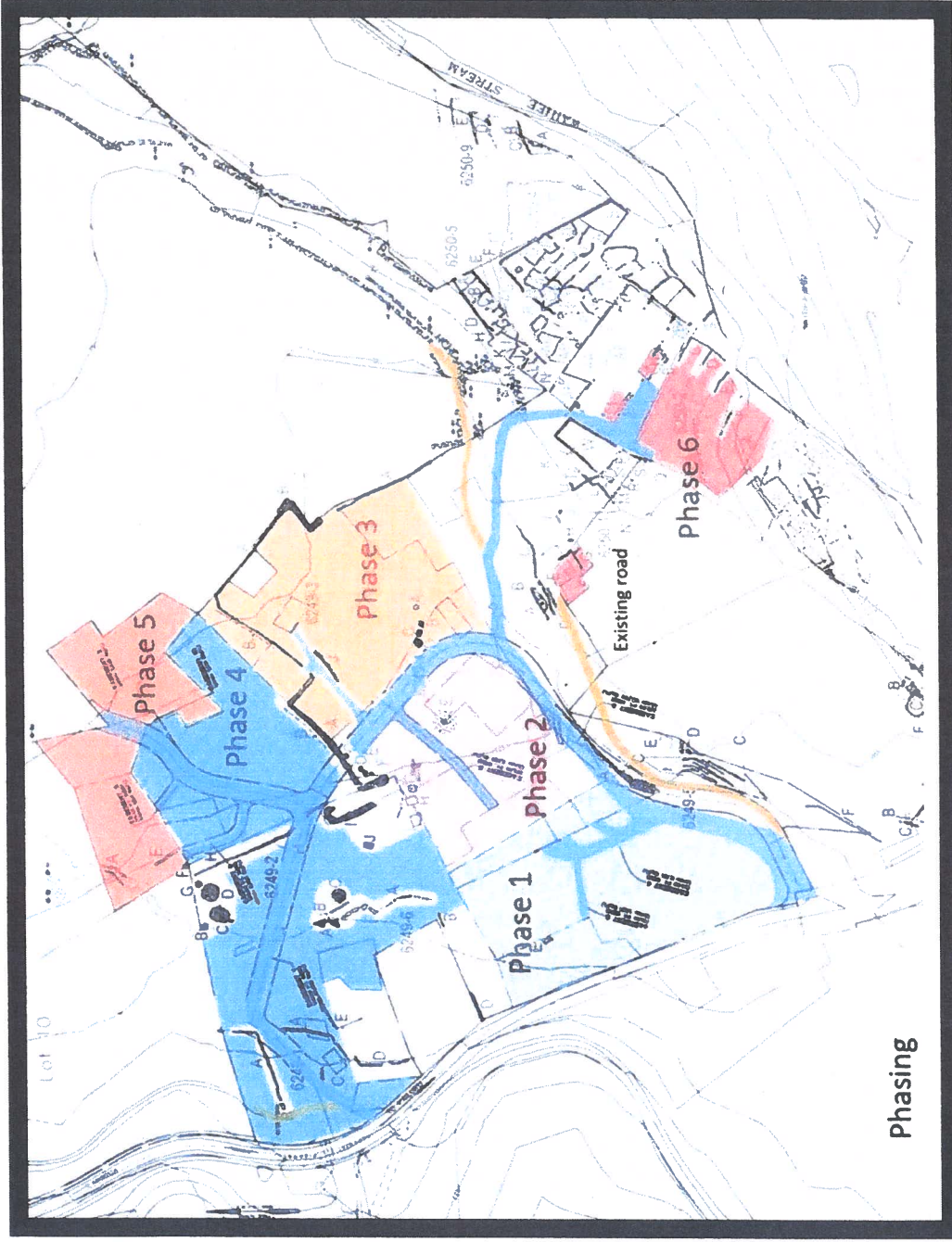
During the consultation process with the cultural descendants, everyone agreed to Option #1. Our goal was to try to move forward in a manner that had the least amount of impact on the surrounding historic properties and subsurface cultural deposits and relocated the *iwi kūpuna* fragments to an area where they will be better protected.

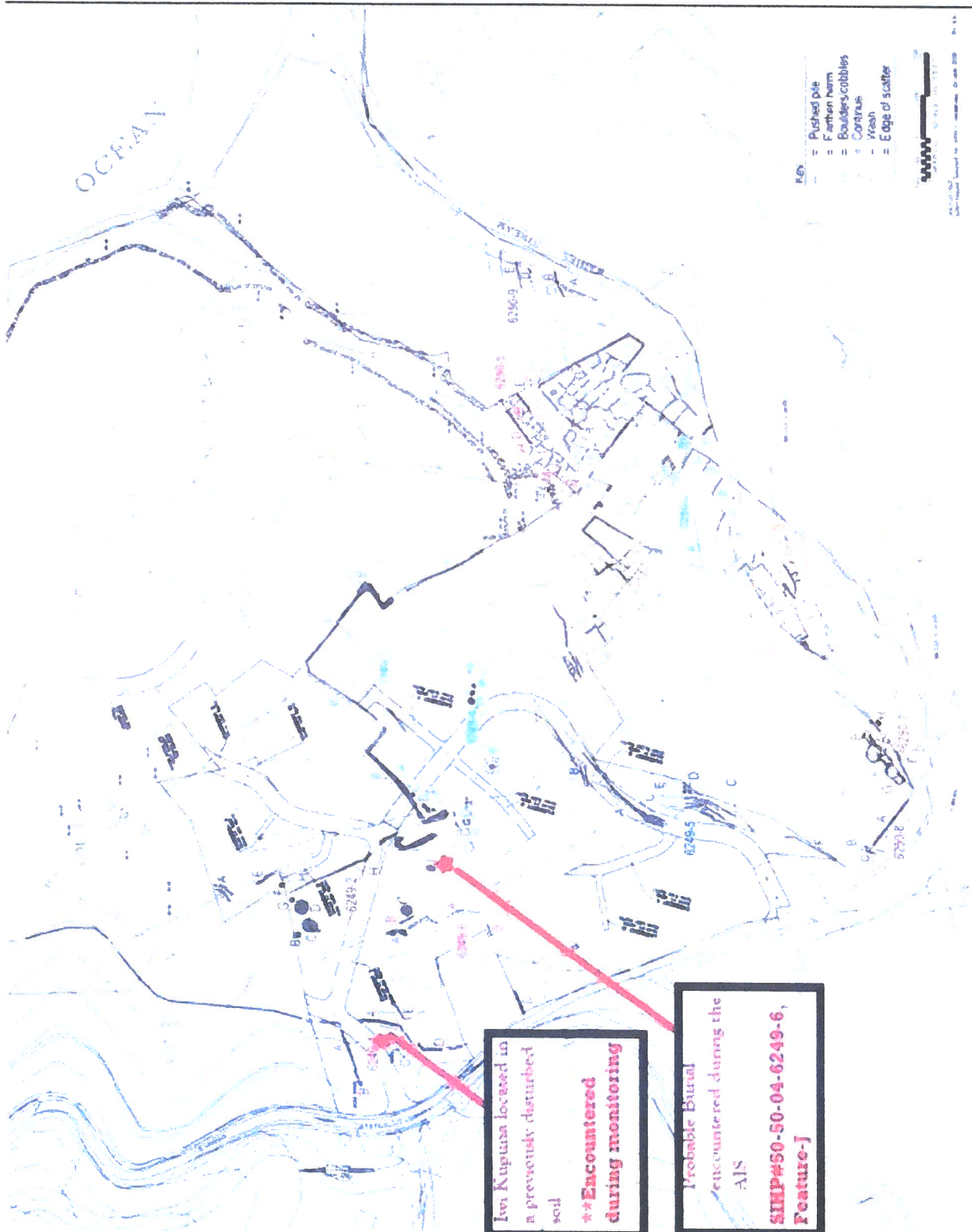
Proposed subdivision map which illustrates the existing roads in green and the proposed roads in blue.





- The proposed subdivision will be carried out in phases.
- The electrical will be above ground and septic systems have been proposed.





- Key:
- = Pushed pile
  - = Earthen hearth
  - = Boulders/cobbles
  - = Cornhusk
  - = Wash
  - = Edge of scatter



Scale: 1:5000  
 Date: 10/15/2010  
 Author: [illegible]

Iwi Kupuna located in a previously disturbed soil  
**\*\*Encountered during monitoring**

Probable Burial encountered during the AIS  
**SINP#50-50-04-6249-6, Feature-J**