

REPORT TO THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2015

RELATING TO THE LAND CONSERVATION FUND  
AND  
THE LEGACY LAND CONSERVATION PROGRAM



Prepared by

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

In response to Section 173A-5, Hawaii Revised Statutes

Honolulu, Hawaii

October 2014

RELATING TO THE LAND CONSERVATION FUND  
AND  
THE LEGACY LAND CONSERVATION PROGRAM

**PURPOSE**

Act 156, Session Laws of Hawaii (SLH) 2005, amended Section 173A-5, Hawaii Revised Statutes (HRS) by authorizing the transfer of 10% of all taxes imposed and collected under Section 247-1, HRS, to be credited to the Land Conservation Fund (LCF) and used to acquire lands having value as a resource to the State. Act 254, SLH 2006, further amended Chapter 173A, HRS, by establishing a nine-member Legacy Land Conservation Commission (Commission) to advise the Department of Land and Natural Resources (Department) and Board of Land and Natural Resources (Board) regarding requests for grants from the LCF and proposals to use LCF for acquisitions of interests in land, and to recommend to the Board the acquisitions of interests or rights in certain lands having value as a resource to the State.

Act 254, SLH 2006, also mandated that the Department prepare and periodically revise a plan for the acquisition of land having value as a resource to the State. Pursuant to Section 173A(5)(j), HRS, this annual report includes:

- A summary of all interest or rights in land acquired during the preceding fiscal year;
- A summary of what value each newly acquired land has as a resource to the State;
- Proposals for future land acquisitions, including a summary of the resource value that the land may possess;
- A financial report for the preceding fiscal year; and
- Objectives and budget projections for the following fiscal year.

**INTERESTS OR RIGHTS IN LAND ACQUIRED DURING THE PRECEDING FISCAL YEAR**

For the Fiscal Year (FY) 2014 application cycle, the Legacy Land Conservation Program (LLCP) advertised approximately \$4.5 million in project funding from the LCF for the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations, county agencies, and state agencies applied for funding for seven separate resource land acquisition projects for the September 16, 2013, application deadline.

After conducting site visits and public decision-making meetings, the Commission recommended four prioritized applicants for funding a total of approximately \$4,600,000 million. In January 2014, the Department sought the consultation of Senate President Donna Mercado Kim and Speaker of the House of Representatives Joseph Souki regarding the Commission's recommendations, pursuant to Chapter 173A, HRS. The

legislators responded in writing, offering no objections or comments regarding the recommendations of the Commission.

On March 28, 2014, based on the recommendations of the Commission and the consultation with members of Legislature, the Board approved the recommended projects for grant funding, subject to certain terms and conditions. The Department requested approval from the Governor for release of funds for the projects; the Governor approved the grants on April 24, 2014.

The Governor approved the release of \$4,600,000 in funding for the following projects:

1. Kuamo‘o; Trust for Public Land (TPL) & Mohala Hou Foundation, at \$3,000,000 for purchase of 47 acres in Kona, Island of Hawai‘i, for the protection of coastal lands and cultural and historic resources.
2. Hakipu‘u Lo‘i Kalo; TPL & Ka Huli O Haloa, at \$350,000 for the acquisition of 1.5 acres of coastal lands in Ko‘olaupoko, Island of Oahu, for the protection of agricultural, cultural and historic resources.
3. Ho‘oulu Ola; TPL & Kokua Kalihi Valley Comprehensive Family Services, at \$900,000 for the acquisition of 11.44 acres in Honolulu, Island of Oahu, for the protection of natural lands, open space, and agricultural production.
4. Helemano; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$350,000 for the acquisition and protection 1,613 acres of forested watershed and recreational lands in Waialua, Island of Oahu.

The approved grants are being administered according to program requirements and are being brought to closure by the parties. Nonprofit and county grant recipients have two years from the date of their respective grant agreements to bring projects to closure. Pursuant to Chapter 173A, HRS, deed restrictions are placed on each property, and the Board must approve any transfer of lands away from the original awardee. Upon the sale of a property, an amount of the net proceeds proportionate to the original award must be returned to the LCF.

#### **VALUE THAT EACH NEWLY ACQUIRED LAND HAS AS A RESOURCE TO THE STATE**

Chapter 173A, HRS, instructs the Department and Commission to use Legacy Land funds to protect land having value as a resource to the State. The definition of “land having value as a resource to the State,” under Section 173A-2, HRS, includes land having natural, environmental, recreational, scenic, cultural, agricultural production, or historic value, and may also include park and trail systems that provide access to any such land. The Commission reviews projects for resource lands and selects lands listed as “priority” under Section 173A-2.6, HRS. The resource values which make each project a priority under Section 173A-2.6, HRS, are explained below.

## **Kuamo‘o**

Trust for Public Land (TPL) & Mohala Hou Foundation applied for \$3,000,000 for purchase of 47 acres in Kona, Island of Hawai‘i, for the protection of coastal lands and cultural and historic resources.

Mohala Hou Foundation will seek the matching funds to cover the remaining 26 percent of project costs from the Hawai‘i County open space fund, Office of Hawaiian Affairs, private foundations and individuals. Funding from the County of Hawaii may include the incorporation of a county-held conservation easement.



Under Section 173A-2.6, HRS, LLCP is mandated to prioritize lands having exceptional value due to the presence of unique and valuable cultural or archaeological resources; as well as lands containing cultural or archaeological sites or resources that are in danger of theft or destruction.



The property is the site of a significant transition in Hawaiian history, the Battle of Kuamo'o, fought in December 1819 (also known as "Kaua `ai noa" or the battle of free eating) regarding the traditional kapu system. Kekuaokalani, nephew of Kamehameha I, and his wife, Chiefess Manono, are said to be buried on the property along with many of their warriors. The property includes burial mounds and sites (platforms, lava tubes), two previously documented heiau,

undocumented heiau or shrines, habitation and farming areas, and well-preserved portions of the Ala Kahakai National Historic Trail, which provides scenic views of the Kona coast and unique coastal features such as sea arches.

The Mohala Hou Foundation or its successor organization intends to provide pedestrian public access to the coastal trails, including the Ala Kahakai National Historic Trail. It will develop a management plan to provide direction in conserving the historical and cultural sites, providing respectful contextual and educational opportunities regarding the historic Battle of Kuamo`o, restoring native plants and productive agriculture, and providing the public, students, and Native Hawaiians with meaningful interaction and education regarding the sites and this period of Hawaiian history.

Mohala Hou intends to transfer the land to a new organization that is oriented towards ownership, management, and restoration of Kuamo‘o. At the time of authorship of this

report, the Department has instructed Mohala Hou to seek Board approval of this transfer when the mission and Section 501(c)(3) status of this new organization is confirmed.

Mohala Hou Foundation is a local nonprofit organization, tax-exempt under Section 501(c)(3) of the Internal Revenue Code (IRC). Mohala Hou Foundation's mission is: to promote public understanding and involvement in Hawaiian culture including music, dance, language, material crafts and history; to sponsor public performances, workshops, classes, retreats and other educational activities focused on Hawaiian culture; to provide scholarships for haumāna (students), kumu (teachers), and kūpuna (Hawaiian elders) to attend performances, workshops, classes, retreats and other educational activities in Hawaiian culture; and to directly engage in other activities related to education the public about Hawaiian music, dance, and culture.

### **Hakipu'u Lo'i Kalo**

TPL & Ka Huli O Haloa applied for \$350,000 for the acquisition of 1.5 acres of coastal lands in Ko'olaupoko, Island of Oahu, for the protection of agricultural, cultural and historic resources. Ka Huli O Haloa will seek matching funding for 66% of project costs mainly from the City and County of Honolulu's Clean Water Natural Lands Program, which regularly requires a conservation easement as a condition of the receipt of funds.



Under Section 173A-2.6, HRS, LLC is mandated to prioritize lands having exceptional value due to the presence of unique and valuable cultural or archaeological resources; as well as lands that are unique and productive agricultural lands.

Acquisition will preserve rare coastal, cultural, and agricultural resources, including the coastal end of the Hakipu'u ahupua'a, the brackish Hakipu'u estuary in Kane'ohe Bay, productive agricultural lands in traditional lo'i kalo cultivation, and native wildlife inhabiting the property. The lo'i on the property are some of the only remaining lo'i kalo in Hakipu'u.

Ka Huli O Haloa seeks to protect the lo'i kalo as an important cultural resource that helps establish the foundation for the 'aina-based Hawaiian value system. Ka Huli O Haloa will preserve the lo'i kalo ecosystem so that it may continue to provide the staple food of the traditional Hawaiian diet, support fertile habitat for native wildlife, and serve its many watershed functions. Ka Huli O Haloa will manage the property as a peaceful refuge for Hakipu'u residents and visitors and to provide an outdoor learning environment for Hakipu'u Learning Center, other Hawaiian charter schools, and public and private schools without access to such resources. The property's bio-cultural resources will support Hawaiian cultural practices including kalo farming, fishing, and wa'a (canoe) making, navigation and sailing.

Ka Huli O Haloa is a local nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC). Ka Huli O Haloa's mission is "to provide support and assistance to community-based educational initiatives and community charter school(s) to improve educational options and to perpetuate and preserve the arts, culture, history and traditions of Hawaii through education."



### **Ho'oulu Ola**

TPL & Kokua Kalihi Valley Comprehensive Family Services (KKV), applied for \$900,000 for the acquisition of 11.44 acres in Honolulu, Island of Oahu, for the protection of natural lands, open space, and agricultural production. KKV will seek matching funds to cover the remaining 51% of project costs from private sources and the City and County of Honolulu's Clean Water and Natural Lands Program, which regularly requires a county-held conservation easement as a condition of the receipt of funds.

Under Section 173A-2.6, HRS, LLCP is mandated to prioritize lands that are in imminent danger of being modified, changed, or used in a manner to diminish its value and also lands that are unique and productive agricultural lands.

The Ho'oulu Ola property is surrounded by Likelike Highway to the South, State forest to the North, and Board of Water Supply property to the East and West. The State's 100-acre Kalihi Valley Nature Preserve is across the highway, and is currently leased to KKV to be managed as Ho'oulu 'Aina, a site that facilitates connections between the land and the surrounding community. The neighboring lands owned by Board of Water Supply and the State are watershed lands and property is mostly with nonnative invasive plants and pines that includes old growth koa, hala and 'ohia trees.

KKV seeks to transform the site into a safe and healthy place for Kalihi Valley residents and the public, and manage in a similar way to the Ho'oulu 'Aina site. The property is accessed by trespassing hunters and dirt bikers, and has a reputation within the community as a site for criminal activities. KKV would work with the hunters to manage the feral pig population and would eliminate dirt bike access in order to create safe and healthy public access, open space for public enjoyment, and public outdoor recreational and educational opportunities where none previously existed.



KKV will engage the community in restoration of mauka areas to a native landscape using the seeds of the protected makua (parent) trees on the property, grow food crops and la'au lapa'au (medicinal plants), and adopt traditional Hawaiian cultural practices. Kalihi residents will have a place to find local healthy produce and to make and sell



value-added forest products. KKV plans to provide the community with participation in and benefit from the building of ahu (altar), traditional Hawaiian hale (house), and Hale Ola (House of Life), which will support practices such as ho'oponopono (traditional Hawaiian method of family problem solving), and provide a positive space for family activities.

KKV is a local nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC). KKV's mission is: "Together we work toward healing and reconciliation and the alleviation of suffering in Kalihi Valley by serving communities, families, and individuals through strong relations that honors culture and fosters health and harmony."

### **Helemano**

The Department's Division of Forestry and Wildlife (DOFAW), applied for \$1,067,500 in funding (of which \$350,000 was available for award) for the acquisition and protection 1,613 acres of forested watershed and recreational lands in Waialua, Island of Oahu. DOFAW is seeking matching funds for 90% or more of the project costs from the Forest Legacy Program the Army Compatible Use Buffer Program and the City and County of Honolulu Clean Water Natural Lands Program.

Under Section 173A-2.6, HRS, LLCP is mandated to prioritize the protection of lands that are in imminent danger of being modified, changed, or used in a manner to diminish their value.

The Helemano parcel surrounds the Helemano Military Reservation and is located downslope of the Poamoho Section of the Ewa Forest Reserve near the town of Wahiawa. It contains a critical access route to two DOFAW-managed areas: the Ewa Forest Reserve and soon to



be created Poamoho Natural Area Reserve (NAR). DOFAW and members of the public currently have limited access to these public lands via an agreement with the current owner; however, this agreement is likely to be terminated upon sale of the property to an

owner other than DOFAW. The Poamoho hiking trail and hunting area are popular recreational opportunities in Central O`ahu and on North Shore, with as many as 55 hikers and hunters in one weekend. Currently, the trail is only open on weekends and holidays, and access is limited to 20 individuals per permitted day.

Acquisition of this parcel will allow DOFAW to secure public and management access to the Forest Reserve and NAR, and will provide much-needed base yard and office space



for DOFAW programs and other stakeholders, including the Oahu Watershed Partnerships. DOFAW plans to explore options for agroforestry, off road vehicle use, mountain bike use, and public hunting areas. DOFAW will also use the access to the mauka Forest Reserve and NAR to manage listed species and

implement the management goals of the Watershed Initiative, Forest Reserve and NAR programs.

**PROPOSALS FOR FUTURE LAND ACQUISITIONS, INCLUDING A SUMMARY OF THE RESOURCE VALUE TO THE STATE**

Applications for the current 2014-2015 (FY15) LLCP grant process were due September 15, 2014. LLCP staff reviewed applications for completeness and, pursuant to Section 173A-2.5, HRS, has delivered them to the Commission for consideration. A list of all FY15 proposals for future land acquisitions is available per request to the LLCP at (808) 586-0921, or [molly.e.schmidt@hawaii.gov](mailto:molly.e.schmidt@hawaii.gov). Basic information on proposed projects is also available at <http://dlnr.hawaii.gov/ecosystems/llcp/projects/>. The Commission is scheduled to provide project recommendations in December, 2014. A list of Commission-recommended project proposals will be available at that time.

**FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR**

**Status of LCF for FY14:**

Beginning cash balance of LCF on July 1, 2013	\$12,132,813
Revenue to LCF in FY14	\$ 7,515,186
Previously authorized transfers in FY14	\$ 20,000
Expenditures during FY14	\$ 830,324
Outstanding previous year encumbrances	\$ 5,269,507
<u>FY14 outstanding encumbrances at year end</u>	<u>\$ 4,251,490</u>
Cash balance minus outstanding encumbrances	\$ 6,757,839

For FY14, revenues totaled \$7,515,186. Expenditures and encumbrances totaled \$5,081,814; this amount fell within the authorized spending cap of \$5,100,000. An amount of \$4,600,000 was encumbered or expended as awards to counties and nonprofit land conservation organizations for the acquisition of interest or rights in lands having



value as resource to the State. Pursuant to Act 55, SLH 2011, an amount of \$20,000 was transferred from the LCF. An amount of \$139,664 was expended on salaries and administrative costs; an amount of \$340,660 was levied for special fund assessments (central service fees).

**Grant awards**

Mohala Hou Foundation	\$3,000,000
Ka Huli O Haloa	\$ 350,000
Kokua Kalihi Valley Comprehensive Family Services	\$ 900,000
<u>DLNR, Division of Forestry and Wildlife</u>	<u>\$ 350,000</u>
Total grant expenditures and encumbrances	\$4,600,000

**Salary costs**

Salaries, full year at 2.0 FTE	\$ 130,327
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**Administrative expenses**

Commission training and travel	\$ 3,385
Fees, notices, services, equipment, and staff travel	\$ 7,442

**Special Fund Assessment**

B&F Central Service Fees	\$ 340,660
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**Total expended/encumbered \$ 5,081,814**

The Department may use up to five percent of the revenue of LCF from the previous year to administer the Program to cover costs such as travel, training, and materials and supplies. FY13 revenue totaled \$5,469,816, allowing administrative costs of up to \$273,290 during FY14. Administrative expenses and encumbrances in FY14 totaled \$9,337. The administrative budget funded travel costs related to the Commission, which met four times during the fiscal year to accomplish its duties, as well as dues, services, publications, and staff travel. The Legislature, through the administrative budget (Act 1900, SLH 2006), created two civil service positions to staff the LLC. These salary costs totaled \$130,327 in FY14. The fund was also assessed the statutorily required central service fees of 5% on revenue and 2% on expenditures which totaled \$340,660 for FY14.

**OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR**

The Department, through LLC, plans to accomplish five main objectives in FY15.

**Objectives**

The Department’s primary objectives for LLC in FY15 are: (1) To bring prior-year State acquisitions to closure and to provide support to prior-year nonprofit and county grant recipients; (2) To effectively coordinate the award of FY15 grant funds towards the acquisition of lands having high value as a resource to the State; (3) To improve the operation of the program with regard to recent legislative changes to the LLC; (4) To

resolve complications arising from past legislative changes to the LLCP; and (5) To continue with planning activities that support the acquisition and protection of lands having value as a resource to the State.

1. Currently, the Department is working with State recipients of FY09, FY10, FY12, FY13, and FY14 awards to bring acquisitions to closure and is providing support to FY10, FY11, FY12, FY13, and FY14 nonprofit and county grant to ensure the proper disbursement of grant funds. Eight State acquisitions are currently undergoing due diligence and are expected to close within the next two years. Nine nonprofit and county grant awardees are in the process of meeting LLCP requirements in order to receive grant funds and acquire the respective properties.
2. Staff is currently assisting the Commission with its review of FY15 applications. After the Commission produces recommendations, the Department will seek the consultation of the Senate President and Speaker of the House of Representatives; and will then submit the Commission's recommendations and any additional consultation comments to the Board for approval. Upon approval of the Governor, grant funds awarded by the Board will be encumbered.
3. The Department has implemented a consultation process between LLCP applicants and three State agencies as established by Act 284, SLH 2012, and will continue to receive comments on how to improve the integration of this process into the LLCP approval process.
4. The Department will continue the implementation of Act 139, SLH 2008, by providing an administrative framework for the award of up to 5% of the previous years revenues for the management and operation of lands acquired under the LLCP. The Department has worked with the Commission, the State Procurement Office, and the Office of Information Practices regarding proper implementation of procurement and Sunshine laws, and is currently conducting an analysis to determine if an adequate level of administrative capacity exists prior to implementation of the new grant process. The Department will conduct a final consultation with the State Procurement Office prior to implementing.
5. Pursuant to Section 173A-3, HRS, the Department is in the process of conducting planning activities that support the coordination of conservation land acquisitions in the State and guide the Board in the acquisition of land having value as a resource to the State. Subsequent to consultation with the Legacy Land Conservation Commission, which decided not to participate due to a possible conflict of interest, the Department began research and gathered information on land acquisition planning, partnerships, and conservation tools. In FY15 the Department will present the draft plan to the Senate President and Speaker of the House of Representatives for review.

### **Budget Projections**

The Board may award approximately \$4.5 million in grant funding to county agencies, state agencies, and nonprofit land conservation organizations, subject to the availability of funds. Funding will continue to be used to administer the program (less than or equal to 5% previous year's revenues) to fund Commission travel, staff training, and operational costs such as supplies and materials. The LCF will also continue to support salaries for two civil service positions, one in the Department's Land Division and one in DOFAW, and the Department of Budget and Finance's central services fee.

### **CONCLUSION**

LLCP provided \$4,600,000 in grant funding for the acquisition of interests in four properties, which will result in the protection approximately 1,673 acres of land and threatened or unique natural, cultural, recreational, and agricultural resources. The commitment of these funds will help secure approximately \$11.7 million in matching federal, county, and private funds for these acquisitions; resulting in about \$17 million in land and acquisition costs secured for \$4.6 million in State funds spent. The Program offers great promise for the future, and is positioned to take advantage of federal land acquisition funds. The State LLCP should be supported and continued.

For detailed information on LLCP (<http://www.hawaii.gov/dlnr/dofaw/llcp/>), please contact LLCP, Department of Land and Natural Resources, Division of Forestry and Wildlife, 1151 Punchbowl Street, Room 224, Honolulu, HI, 96813, by telephone, at (808) 586-0921, or by email, at [molly.e.schmidt@hawaii.gov](mailto:molly.e.schmidt@hawaii.gov).