

**REPORT TO THE TWENTY-NINTH LEGISLATURE
STATE OF HAWAII
2018 REGULAR SESSION**

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



Prepared by

**THE STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE**

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

Honolulu, Hawaii
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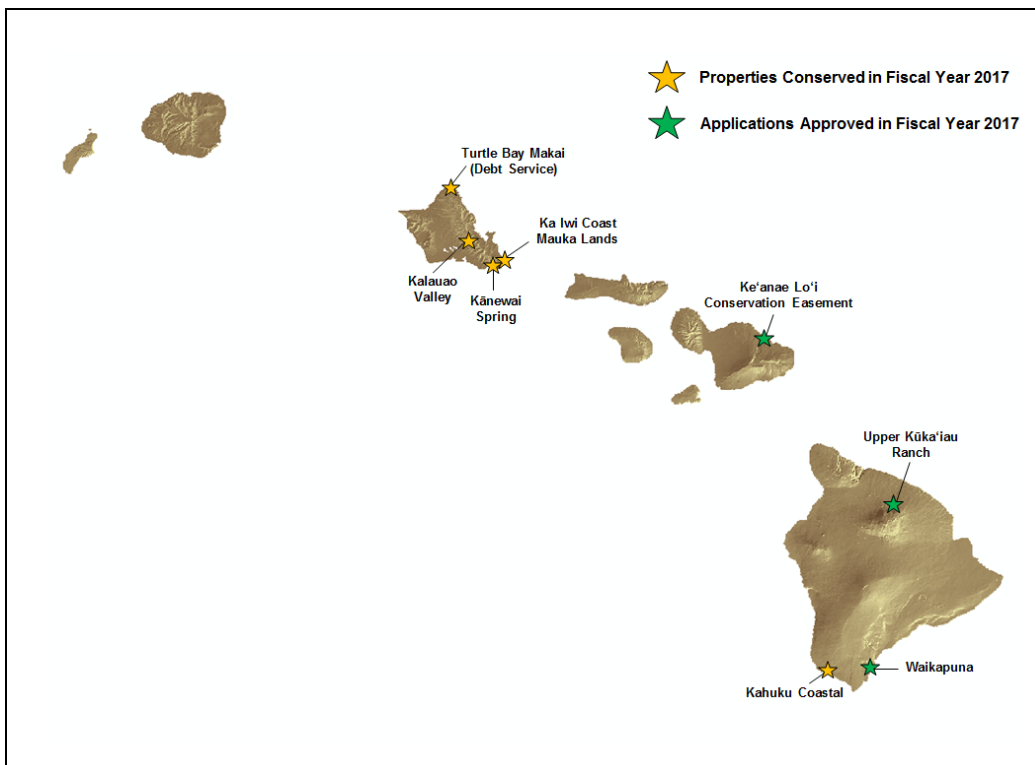
RELATING TO THE LAND CONSERVATION FUND
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PURPOSE

The Legislature established the Land Conservation Fund in 2005 to provide permanent adequate funding for land conservation by dedicating proceeds from the real estate conveyance tax to the Fund. *See* 2005 Hawai'i Session Laws Act 156, Section 1 at 387. Recognizing that despite "the value of Hawaii's natural resources to its economy, culture, and quality of life . . . an alarmingly small amount of money is invested each year to protect our natural capital base," the Legislature also found that:

- The preservation, protection, and enhancement of the State's land, coastal areas, and natural resources are of central importance for current and future residents and for the state economy.
- Article XI, Section 1 of the Constitution of the State of Hawaii sets forth the State's duty to conserve and protect Hawaii's natural beauty.
- Adequate funding to conserve land for watershed protection, coastal preservation, flood prevention, parks, habitat protection, cultural preservation, agricultural production, and open space and scenic resources is necessary to ensure protection of these lands and resources for future generations.

Id.



The Department of Land and Natural Resources (Department) administers and manages the Land Conservation Fund (LCF) in accordance with:

- Chapter 173A, Hawai‘i Revised Statutes (HRS), Acquisition of Resource Value Land;
- Chapter 13-140, Hawai‘i Administrative Rules (HAR), Legacy Land Conservation Program Rules; and
- other state and federal governing authorities, particularly:
 - Chapter 171, HRS (Public Lands, Management and Disposition of);
 - Chapter 198, HRS (Conservation Easements);
 - rules of a partnering federal land conservation program that would govern a transfer of a permanent conservation easement, *see* Section 173A-9, HRS.

Subsection 173A-5(h), HRS, provides that the LCF shall be used for (1) the acquisition of interests or rights in land having value as a resource to the State; (2) the payment of debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State; (3) annual administration costs for the LCF; and (4) costs related to the operation, maintenance, and management of lands acquired by way of the LCF. Section 173A-2 explains that “‘land having value as a resource to the State’ 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.” Subsection 173A-5(i) and Section 173A-9 establish a land acquisition grant program that is open to state agencies, counties, and nonprofit land conservation organizations. The Department’s Legacy Land Conservation Program (LLCP) conducts an extensive public process to review, vet, prioritize, and fund grant applications for use of the LCF, including:

- application review, field visit reports, public testimony, and recommendations provided by the Legacy Land Conservation Commission (LLCC), which the Legislature established in 2006 (*see* 2006 Hawai‘i Session Laws Act 254, Section 1 at 1088-1089).
- consultation with the President of the Senate and the Speaker of the House of Representatives (*see* Subsection 173A-5(i) and Section 173A-9, HRS).
- review, public testimony, and approval provided by the Board of Land and Natural Resources (Board) (*Id.*).
- review and approval by the Department of Budget and Finance.
- review and approval by the Governor (*see* Section 173A-9, HRS).

Subsection 173A-5(l), HRS, paragraph (2), requires that the Board “[p]repare and submit an annual report to the governor and the legislature at least twenty days prior to the convening of each regular session [that] shall include:

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

In accordance with subsection 173A-5(1), HRS, paragraph (3), the Board makes copies of the annual report available to the public via the Department website (*available at* <http://dlnr.hawaii.gov/reports>) and upon request.

(A) and (B) INTERESTS OR RIGHTS IN LAND ACQUIRED DURING THE PRECEDING FISCAL YEAR AND RESOURCE VALUE SUMMARY

During Fiscal Year 2017, the Land Conservation Fund (LCF) contributed \$3,113,995 from previous fiscal years to complete four land acquisitions valued at \$9,767,410 (total costs) and conserving 3,945 acres (total). The LCF also contributed \$1,500,000 from Fiscal Year 2017 to pay for debt service on one state financial instrument relating to the acquisition of interests or rights in land having value as a resource to the State.

1. Kahuku Coastal Property, Ka‘ū District, Hawai‘i Island (LLCP 12-07)

Applicant:	County of Hawai‘i
Acres conserved:	3,127.95 (fee simple)
Conservation purpose:	protection of shoreline, coastal access, and natural area
LCF \$:	\$ 621,245 (awarded for Fiscal Year 2012)
Matching \$:	\$ 2,034,873 (U.S. Fish and Wildlife Service Recovery Land Acquisition Program + County of Hawai‘i Public Access, Open Space, and Natural Resources Preservation Fund)



The Kahuku Coastal Property includes over one mile of wild ocean frontage along the remote southwestern shore of Hawai‘i island, and shares a 2.5 mile boundary with the southern portion of DLNR’s Manukā Natural Area Reserve (NAR), the largest NAR in the State. The local community uses the rocky

shoreline and sandy beaches for fishing, diving, camping, and related activities. Valuable natural and cultural resources include lava tube cave complexes and anchialine ponds; nesting grounds for ‘ea (Hawksbill sea turtle, *Eretmochelys imbricata*) and resting grounds for ‘ilio holo i ka uaua (Hawaiian monk seal, *Monachus schauinslandi*); and early Hawaiian trails, habitation features, and petroglyphs.

This acquisition secured a large, key parcel for landscape-level protection of the area’s unique native ecosystems and high-quality habitats, and enables public access and partnerships for preserving and managing cultural and recreational use and natural areas. Public access across the popular “Road to the Sea” is now legal and permanent, leading to the shoreline and to the southern portion of Manukā NAR, including part of DLNR’s Hunting Unit K.



2. Ka Iwi Coast Mauka Lands, Ko‘olaupoko District, O‘ahu Island (LLCP 15-02)

Applicant:	Livable Hawai‘i Kai Hui
Partner:	The Trust for Public Land (TPL)
Acres conserved:	181.14 (fee simple + conservation easement)
Easement holders:	TPL + City and County of Honolulu (CCOH)
Conservation purpose:	protection of scenic and cultural resources
LCF \$:	\$ 1,000,000 (awarded for Fiscal Year 2015)
Matching \$:	\$ 2,998,848 (CCOH Clean Water and Natural Lands Fund, private donations, and TPL)



Ka Iwi Coast is the favorite scenic drive or hike of many, a daily surf or fishing ritual to others, and a treasured landscape for all Hawai‘i. The Ka Iwi Coast Mauka Lands (acquired as two separate parcels) are a key part of an undeveloped vista that connects many important cultural and natural landmarks along portions of the State-designated Maunaloa-Makapu‘u Scenic Byway. These landmarks include Wāwamalu, an ancient Hawaiian fishing village, and Ke Kula o Kamauwai, the coastal plain between Makapu‘u and Kohelepelepe (Koko Crater), known for its ‘uala (sweet potato).

The two properties harbor undocumented early Hawaiian cultural sites, including traditional drystack rock walls, paths, enclosures, and terraces; at least two religiously significant pōhaku lele (balancing or floating rocks); and a coral pathway and coral covered area.

This acquisition of the last two Ka Iwi Coast parcels that were threatened by development secures the scenic and open space values of the entire coastline in perpetuity.



The viewplanes and historic relationships between each celebrated place along the Ka Iwi Coast will now remain intact. The area will remain natural and wild for future generations to enjoy, with managed public access that focuses on providing a peaceful and secluded place for Hawaiian cultural practices such as studying the night sky for voyaging, and offering oli and pule.

The purchase and preservation of the last “capstone” piece of the Ka Iwi coastline was an example of the power, magic and effectiveness of public-private partnerships.

Elizabeth Reilly, Phil Estermann, and Greg Takara, Ka Iwi coastline is a legacy for generations to come, Honolulu Star-Advertiser Editorial, Island Voices, April 11, 2017.

3. Kānewai Spring, Kona District, O‘ahu Island (LLCP 16-02)

Applicant:	Maunalua Fishpond Heritage Center
Partner:	The Trust for Public Land (TPL)
Acres conserved:	0.77 (fee simple + conservation easement)
Easement holders:	Livable Hawai‘i Kai Hui + City and County of Honolulu (CCOH)
Conservation purpose:	Protection of aquatic habitat for threatened or endangered species and cultural resources (among others)
LCF \$:	\$ 1,300,000 (awarded for Fiscal Year 2016)
Matching \$:	\$ 1,023,133 (landowner donation, CCOH Clean Water and Natural Lands Fund, private donations, and TPL)

We are proud to be part of the effort to preserve Kānewai Spring. It is a great achievement to successfully collaborate on an honorable goal with such diverse partners . . . to leave this remarkable legacy behind for our future generations.
Ms. Nishihara, President of Rikuo Corporation (former landowner)

Kānewai Spring, located in Kuli‘ou‘ou, is one of the last remaining freshwater springs in Honolulu. The health of the spring affects the health of the waters into which it flows: through Kānewai Fishpond to DLNR’s Paikō Lagoon Wildlife Sanctuary to Maunalua Bay. Throughout these waterbodies, freshwater and saltwater mix to provide a fertile environment that is the source of life for a wide variety of native and endemic species, including pīpīwai and hapawai (rare nerites); ‘ōpae ‘oeha‘a (prawn) and ‘ōpae huna (feeble shrimp); ‘o‘opu ‘akupa (goby fish); and ‘ama‘ama (striped mullet) and āholehole (Hawaiian/Pacific flagtail), fish that feed on the treasured limu ‘ele‘ele. The property includes a historic coconut grove with over 50 niu trees; traditional dry-stack stone walls; a stone fishing shrine and a canoe lashing stone; a mākāhā (gate system) and an ‘auwai (watercourse) for managing fish movement and water flow; and an ownership interest in the adjacent, privately-owned fishpond.



Kānewai Spring Complex was listed in 2015 as one of Hawaii’s Most Endangered Historic Places (an annual public awareness campaign jointly sponsored by Historic Hawaii Foundation, HONOLULU Magazine, and DLNR’s Historic Preservation Division). This acquisition secures Maunalua Fishpond Heritage Center’s ongoing role as caretaker for the property, and its continuing use for public benefit as a cultural, educational, and natural resource.

Kānewai Spring has changed who I am as a person. It has opened my eyes up to my kuleana and what our generation must do . . . we must rebuild those pilina (connections) that we have lost with the ‘āina and kūpa‘a ma hope o ka ‘āina (stand firmly behind the land).
Ella Gibson, Volunteer

4. Kalauao Valley, ‘Ewa District, O‘ahu Island (LLCP 12-01)

Applicant:	State Department of Land and Natural Resources, Division of Forestry and Wildlife (DLNR-DOFAW)
Acres conserved:	635 (fee simple)
Conservation purpose:	protection of forested watershed and critical habitat
LCF \$:	\$ 192,750 (awarded for Fiscal Year 2012)
Matching \$:	\$ 596,561 (U.S. Fish and Wildlife Service Recovery Land Acquisition Program; DOFAW; Seller)



Kalauao Valley extends from the urban edge of ‘Aiea (elevation 443 feet) to the clouded forested tops of the Ko‘olau mountain range (elevation 2,746 feet). The property conserved by this acquisition is next to the 384 acre Keaīwa Heiau State Recreation Area, also managed by DLNR, and contains parts of the ‘Aiea Loop Trail and ‘Aiea Ridge Trail. Kalauao is within the management area of the Ko‘olau Mountains Watershed Partnership, with portions of valley designated by the U.S. Fish and Wildlife Service (USFWS) as Critical Habitat for the endangered forest bird, O‘ahu ‘elepaio (*Chasiempis sandwichensis ibidis*), and ten species of plants.

Native trees, primarily the endemic koa (*Acacia koa*) and ‘ōhi‘a (*Metrosideros macropus*), dominate the valley’s forest cover, identified by the USFWS as potential habitat for endangered O‘ahu tree snails (*Achtinella*). Kalauao’s perennial stream supplies water for a system of wetlands that provide important habitat for endemic waterbirds and migratory shorebirds and waterfowl. The stream and the surrounding valley support a healthy population of native Hawaiian insects that provide food for native forest birds and protect the birds by serving as predators for disease-carrying mosquitoes. Since completing this acquisition, DOFAW added the acquired land to its ‘Ewa Forest Reserve, and manages the area for native species and ecosystem protection, research, public education, and recreation.



DLNR’s Legacy Land Conservation Commission (LLCC) ranked the Kalauao acquisition as the highest priority among the eight applications that the LLCC reviewed for Fiscal Year 2012.

5. Turtle Bay Makai – Kahuku Kawela Forever, Ko‘olauloa District, O‘ahu Island (LLCP 17-00)



Applicant: State Department of Land and Natural Resources (DLNR)
Partners: The Trust for Public Land, The North Shore Community Land Trust, Turtle Bay Resort, City and County of Honolulu
Conservation purpose: protect natural resources, maintain public access (Act 121, 2015)
LCF \$: **\$ 1,500,000** for the annual payment of debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State

Turtle Bay Makai is a highly significant and important property for residents and visitors on the North Shore of O‘ahu. The property acquired by the State includes 52+ acres of land (fee simple) at Kawela Bay—which the State leased back to the Turtle Bay Resort (TBR) for 65 years—and a perpetual conservation easement over 568+ acres, all fronted by about five miles of undeveloped shoreline. Treasured and beloved for its natural beauty, habitat for native species, recreational value, and rich cultural history, community members fought for decades to limit resort development in the area. This ground-breaking and innovative acquisition is part of a broader State, City, community, and nonprofit effort to work out a voluntary negotiated solution with the landowner to conserve highly sensitive natural areas and widely used recreational areas.

Under its State lease, TBR is responsible for managing the State land for public access and recreation, while TBR’s existing commercial activities there—such as horseback riding, disc golf, and parking/staging for surf lessons, picnics, jogging, and hiking—may continue. Similarly, the land under the conservation easement is permanently restricted from further development, while TBR’s existing commercial uses there—such as golf course, golf clubhouse, and restaurant—may continue. DLNR’s Division of Forestry and Wildlife (DOFAW) holds the conservation easement, and monitors it in partnership with The North Shore Community Land Trust. DLNR’s Land Division has jurisdiction over the State fee simple land at Kawela Bay, where DOFAW assists with the management and enforcement of TBR’s lease. Funding for this landmark conservation transaction included a \$35 million state bond issue, and \$2.5 million that The Trust for Public Land secured from the U.S. Army Compatible Use Buffer Program. In accordance with Chapter 173A-13, HRS, TPL submitted an application for a \$1.5 million grant from the Land Conservation Fund to pay debt service on the bonds.

The Department’s Legacy Land Conservation Commission recommended that the Board of Land and Natural Resources approve a debt service grant award for Turtle Bay Makai, first and foremost, with relation to competing applications for land acquisition grants.

(C) **PROPOSALS FOR FUTURE LAND ACQUISITIONS, INCLUDING A SUMMARY OF THE RESOURCE VALUE THAT THE LAND MAY POSSESS**

For the Fiscal Year 2017 (FY17) application cycle, the Legacy Land Conservation Program advertised the availability of approximately \$4.5 million in grant funding from the Land Conservation Fund (LCF) for the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations and state agencies applied for funding for six separate resource land acquisitions and for the payment of debt service on a recent State land acquisition (Turtle Bay Makai), totaling \$8,096,860.

After conducting field visits and public decision-making meetings, the Legacy Land Conservation Commission recommended full funding for four grants as funds are available. The Department consulted with the Senate President and the Speaker of the House of Representatives regarding the Commission’s recommendations, in accordance with Chapter 173A, HRS. The legislators responded in writing, offering no objections or comments regarding the recommendations of the Commission. Then, the Board of Land and Natural Resources, and lastly, Governor Ige, approved two grants for full funding, one grant for partial funding, and one grant for contingent funding, based on the total funding available for FY17. Because the Department used FY17 funds to fill a funding gap for land acquisition grants awarded in the Fiscal Year 2015 application cycle, the total funding available for FY17 applicants was limited to \$2,338,346.

The conservation purpose for each approved land acquisition grant, as described below, is keyed to the nine Legacy Land resource conservation purposes established in subsection 173A-5(g):

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

1. Waikapuna, Ka‘ū District, Hawai‘i Island (LLCP 17-01)

Applicant:	Ala Kahakai Trail Association
Partner:	The Trust for Public Land (TPL)
Acreage:	2,209.307 (fee simple + conservation easement)
Easement holder:	To be determined (Ala Kahakai National Historic Trail and/or County of Hawai‘i)
Conservation purpose:	All, except (6)
Funding requested:	\$ 2,000,000
FY17 Funding awarded:	\$ 100,000 (partial funding)
Matching \$ secured:	\$ 61,000 (landowner + TPL)
Matching \$ pending:	\$ 4,200,000 (landowner donation of land value + alternatives)



A longstanding goal of the Ka‘ū community is to permanently preserve its beloved coast to honor Ka‘ū’s ancestors and allow all current and future generations to be nourished by these coastal lands. The Waikapuna property holds County development entitlements for 22 lots of record, and the landowner could move forward with a subdivision plan if the property is not purchased for conservation.

The fishing village of Waikapuna is one of the most resource-rich and famed wahi pana (legendary places) in the center of the Ka‘ū cultural landscape, and is intimately connected with the ‘ohana of revered Hawaiian scholar Mary Kawena Pūku‘i. The Waikapuna property includes over two miles of diverse coastline and an extensive network of cultural features, including: heiau; burials; house foundations; ahu; lava tubes/habitation caves; petroglyphs; papamū; salt gathering ponds; agricultural terraces; canoe sheds; kāmala wind shelters; intact segments of the Ala Loa footpath (and a network of connecting trails); and a stone-lined spring.

An array of intertidal pools and channels span the breadth of the embayment at Waikapuna, serving as a refuge and nursery area for nearshore marine fauna. Sea caves and sea cliffs along the shoreline are home to numerous native bird species, including the endangered ‘ua‘u (federally listed Hawaiian petrel, *Pterodroma sandwichensis*) and ‘akē‘akē (State-listed Band-rumped storm petrel, *Oceanodroma castro*). Native groundcover dominates the coastal vegetation, and native trees and shrubs dot the mauka lands, including wiliwili, alahe‘e, lama, ‘ilima, and naio.

Portions of the property are licensed for agricultural use (livestock grazing) and leased for telecommunication infrastructure. The landowner and tenants provide limited community access for coastal activities (fishing, camping, hiking), conservation, and cultural practice. The proposed acquisition would guarantee public access for future generations, protect immense biocultural resources, and secure a critical piece of the larger Ka‘ū coast conservation puzzle.



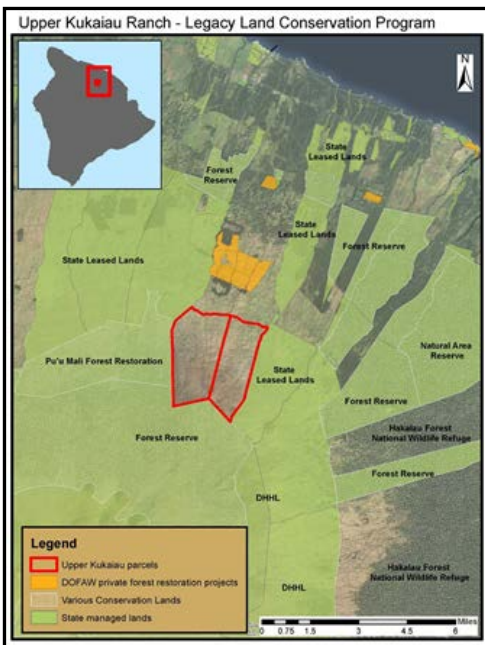
2. Upper Kūka‘iau Ranch, Hāmākua District, Hawai‘i Island (LLCP 17-02)

Applicant:	State Department of Land and Natural Resources, Division of Forestry and Wildlife	
Acreage:	4,469.585	(fee simple)
Easement holder:	The Nature Conservancy	(pre-existing)
Conservation purpose:	All, except (2) and (6)	
Funding requested:	\$ 738,346	
FY17 Funding awarded:	\$ 738,346	(full funding)
Other LCF \$:	\$ 625,000	(awarded from Fiscal Years 2016 and 2012)

Matching \$ secured: \$ 1,732,947 (U.S. Fish and Wildlife Service, National Fish and Wildlife Foundation; The Nature Conservancy; U.S. Department of Agriculture, Forest Legacy Program)

Matching \$ pending: \$ 36,041 (landowner, State staff time)

Upper Kūkaʻiau Ranch (UKR) is an iconic property that holds deep cultural and historical significance and hosts a wide and valuable array of natural resources, including critical habitat for the endangered palila bird (*Loxioides bailleui*). Extending from 5,200-8,400 feet on the northern flank of Mauna Kea, the property covers former koa-māmā forest land that was converted to pasture, then grazed by cattle for over 130 years. Existing ranch infrastructure includes roads, fences, water systems, cabin area, and telcom towers.



The proposed acquisition is strongly supported with over 50% matching funds from the U.S. Fish and Wildlife Service (Endangered Species Recovery Land Acquisition Program); the National Fish and Wildlife Foundation (Wal-Mart Acres for America Program); and The Nature Conservancy, which holds a conservation easement that restricts development and management activities on the property. DLNR intends to designate and manage the UKR property as an addition to the adjacent Mauna Kea Forest Reserve.

This conservation transaction holds great potential for enabling extensive reforestation with koa and other native trees; expanding public access to adjacent public hunting areas; enhancing on-site and off-site outdoor recreation opportunities; and helping to restore the integrity of the cultural landscape in partnership with lineal descendants and other native Hawaiians.

3. Kepler Ke‘anae Lo‘i Easement, Hana District, Maui Island (LLCP 17-03)

Applicant: Hawaiian Islands Land Trust (HILT)

Acres: 6.12 (conservation easement)

Conservation purpose: All, except (2) and (5)

Funding requested: \$ 210,000

FY17 Funding awarded: \$ -0- (contingent funding)

Matching \$ secured: \$ 86,080 (landowner, private funds and land value donation)

Matching \$ pending: \$ 220,537 (private funds raised by HILT)



The Kepler property includes the small lo'i originally belonging to the chief Ke'anae, from which it is reported that the entire ahupua'a took its name.

The proposed conservation easement would prohibit further residential development and protect the unique soils and agricultural use of the land, in perpetuity.

4. Turtle Bay Makai – Kahuku Kawela Forever, Ko'olauloa District, O'ahu Island (LLCP 17-00)

Full funding (\$1,500,000) for payment of debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State.

COMPLETED IN FISCAL YEAR 2017, please see details in Sections (A) and (B), above.

GRANT ADMINISTRATION

The Department's Division of Forestry and Wildlife—with assistance from the Land Division, Administrative Services Office, and the Department of the Attorney General—administers approved grant awards in accordance with numerous legal requirements and program procedures. At the close of Fiscal Year 2017, seventeen funded awards remained open, including:

- nine awards for six state agency land acquisitions (all fee simple)
- one award for county land acquisition (fee simple)
- seven awards for nonprofit land acquisition (five fee simple and two conservation easements).

The Department anticipates that awardees may be able complete as many as eleven of these open grants during the next fiscal year, covering three state agency land acquisitions, one county land acquisition, and four nonprofit land acquisitions. However, completion of two of these nonprofit land acquisitions depends upon the receipt of matching contributions from the City and County of Honolulu Clean Water and Natural Lands Fund, which is now subject to new administrative requirements that resulted from recent amendments to the City Charter.

A grant to a State agency remains open until the agency grantee completes or discontinues the land acquisition. In order to complete a State agency land acquisition, the agency grantee works with Land Division staff to perform buyer's due diligence according to "Standard BLNR Acquisition Procedures," subject to final approvals from the Deputy Attorney General and the Board of Land and Natural Resources (Board). The Department administers a grant to a county or a nonprofit land conservation organization through a contractual grant agreement that has an initial two-year performance period, which the Department may choose to extend for additional one-year periods. In order to complete a county/nonprofit land acquisition, the grantee works with DOFAW staff to perform buyer's due diligence according to the "Checklist for Legacy Land Conservation Program (LLCP) Projects" (which is incorporated as part of the grantee's

contract with the State), subject to final approvals from the Department Chairperson, the Deputy Attorney General, and the DOFAW Administrator.

For land acquisition grants, Chapter 173A, Hawai‘i Revised Statutes (HRS), establishes requirements for:

- a conservation easement, agricultural easement, deed restriction, or covenant that shall run with the land and be recorded with the land to ensure the long-term protection of land having value as a resource to the State and preserve the interests of the State (Section 173A-4);
- a county or a nonprofit grantee to provide matching funds of at least twenty-five per cent of the total project costs (Section 173A-5);
- Board approval of a sale, lease, or other disposition of the acquired property (Section 173A-9); and
- sharing the proceeds of a sale, lease, or other disposition of the acquired property with the State (Section 173A-10).

In addition, Chapter 13-140, Hawai‘i Administrative Rules, authorizes the Department to monitor the status of resource values protected under the terms of a grant agreement by requiring a grantee to submit documentation thereof, and by conducting site visits for the purpose of inspecting the condition of the property and resources (Sections 140-32 and 140-33, respectively). Sections 140-55 and 140-56 provide remedies for a breach of a grant agreement or a deed restriction, respectively, and Section 140-57 sets forth the Board’s enforcement authority (*see also* Section 173-11, HRS, General Powers).

(D) FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR

Of the conveyance taxes that the State collects each fiscal year, ten percent or \$6,800,000, whichever is less, is credited to the Land Conservation Fund (LCF). *See* subsection 247-7(1), Hawai‘i Revised Statutes (HRS). During Fiscal Year 2017 (FY17), credits to the LCF reached the \$6,800,000 revenue cap before the end of the third quarter.

Status of LCF for FY17:

Beginning cash balance of LCF on July 1, 2016	\$ 15,580,209
Revenue to LCF in FY17 (from conveyance tax)	\$ 6,800,000
Revenue to LCF in FY17 (from interest)	165,748
Previously authorized transfers in FY17	\$ 2,232,522
Expenditures during FY17	\$ 2,892,141
Outstanding previous year encumbrances	\$ 1,755,337
FY17 outstanding encumbrances at year end	\$ 2,213,195
Cash balance minus outstanding encumbrances	\$ 17,917,807

During FY17, LCF revenues totaled \$6,965,748. Expenditures and encumbrances totaled \$5,036,123, which fell within the authorized appropriation of \$5,109,644. The Department encumbered or expended \$4,421,954 as awards to state agencies, counties, and nonprofit land conservation organizations for the acquisition of interest or rights in lands having value as resource to the State. The Department expended \$168,128 on salaries and administrative costs, and the Department of Budget and Finance (B&F) levied \$390,244 for special fund assessments (central service fees of 5% on revenue and 2% on expenditures).

Grant awards

Total grant expenditures and encumbrances	\$ 4,421,954
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Salary costs

Salaries	\$ 168,128
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Administrative expenses

Commission and staff training and travel	\$ 11,684
Fees, notices, services, equipment	\$ 44,113

Special Fund Assessment

B&F Central Service Fees	\$ 390,244
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Total expended/encumbered	\$ 5,036,123
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Under subsection 173A-5(h), HRS, paragraph (3), annual administration costs for the LCF may not exceed five per cent of annual LCF revenues from the previous year. In addition to salary costs, the FY17 administrative budget funded staff training at the National Land Conservation Conference (Deputy Attorney General and DOFAW Program Specialist); travel costs for four Legacy Land Conservation Commission meetings and for seven field visits by Commission permitted interaction groups; two contracts for program support services; subscription and membership fees; and office supplies and equipment.

(E) OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR

Objectives

The highest priorities for the Fiscal Year 2018 (FY18) budget were to:

- (1) raise the FY18 spending ceiling for the Legacy Land Conservation Program (LLCP) to restore \$2,228,250 of Fiscal Year 2015 allotment that lapsed at the end of Fiscal Year 2016, and
- (2) raise the FY18 and Fiscal Year 2019 spending ceilings by \$1.7 million each year—from \$5.1 million to \$6.8 million—to match the statutory \$6.8 million conveyance tax revenue cap for the Land Conservation Fund (LCF).

The Governor included each of these increases in the Executive Budget Request (House Bill 100), which the House removed in HD1 and which the Senate reinserted in SD1. The House-Senate conference committee did not include the requested increases in CD1, the final budget bill.

Other objectives for implementing the program in FY18 are: (1) complete prior-year grants for State agency land acquisitions; (2) provide support for completing prior-year grants for county and nonprofit land acquisitions, including coordination with the City and County of Honolulu's new Department of Land Management and Clean Water and Natural Lands Fund Advisory Commission; (3) coordinate the award, encumbrance, and expenditure of FY18 grant funds towards the acquisition of lands having value as a resource to the State; (4) cooperate with the State Office of the Auditor, which will conduct a performance audit of the LCF (*see* 2017 Hawai'i Session Laws, Act 209); (5) continually improve program operations; and (6) conduct planning activities that help guide the Board of Land and Natural Resources in the acquisition of resource value land under Chapter 173A, HRS.

Budget Projections

As of September 7, 2017, the State Council on Revenues estimates that general fund revenue derived from real estate conveyance tax revenue in Fiscal Year 2018 (FY18) will be 7.4% greater than in Fiscal Year 2017. *See* http://files.hawaii.gov/tax/useful/cor/2017gf09-07_attach_1.pdf. Therefore, the Department anticipates that ongoing vigor in real estate markets in FY18 will again generate \$6,800,000 of conveyance tax revenue to the LCF, which is the maximum amount authorized by statute.

Given the ongoing rise in property values and land acquisition costs, and the steady flow of applications for worthy uses of the LCF, the Department recommends that the Legislature raise the spending ceiling of the Land Conservation Fund for future years to match total Fund revenue from the most recently completed fiscal year (conveyance tax revenue plus investment pool interest), in order to help the program maintain its purchasing power.

CONCLUSION

During Fiscal Year 2017, the Land Conservation Fund contributed \$3,113,995 from previous fiscal years to complete four land acquisitions valued at \$9,767,410 (total costs) and conserving 3,945 acres (total), and contributed \$1,500,000 to pay for debt service on one state financial instrument relating to the acquisition of interests or rights in land having value as a resource to the State at Turtle Bay, O'ahu. The Legacy Land Conservation Program (LLCP) awarded \$838,346 in grant funds towards the completion of two land acquisitions valued at \$9,357,293 (total costs) that will conserve 6,679 acres (total); and awarded \$1.5 million to the Department for debt service payment on the Turtle Bay Reimbursable General Obligation Bonds. Also, the LLCP administered existing grant awards, contracts, and state financial accounts that will provide \$8,907,000 from previous fiscal years for thirteen pending land acquisitions valued at \$31,712,086 (total costs) and conserving 8,971 additional acres (total).

In 2006, the Department secured approval from the Board of Land and Resources (Board) and from the Governor for the inaugural use of the LCF to acquire land having value as a resource to the State, in accordance with terms specified by the legislature for expending its initial appropriation from the LCF. *See* 2005 Hawai‘i Session Laws Act 156, Section 9. Since that time, the LLCP processed 79 completed grant applications for land acquisition. The Board—based on recommendations from the Legacy Land Conservation Commission, the Department’s Division of Forestry and Wildlife, and public testimony—approved 57 of these 79 applications for funding. The Governor approved 54 of the 57 applications that the Board approved, which resulted in releases of funding for the acquisition of 51 properties. The LLCP completed 28 of the 51 funded acquisitions, while 14 funded acquisitions remain active, and just 9 funded acquisitions were discontinued by applicants. For detailed information about the Legacy Land Conservation Program, please visit dlnr.hawaii.gov/ecosystems/llcp, or contact:

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