

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii

June 25, 2021

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: ACCEPTANCE OF HEARING OFFICER'S REPORT ON A PUBLIC HEARING FOR FOUR PROPOSED ADDITIONS AND ONE PROPOSED WITHDRAWAL TO THE FOREST RESERVE SYSTEM ON THE ISLANDS OF KAUAI, OAHU, MOLOKA'I, MAUI, AND HAWAII.

APPROVAL AND RECOMMENDATION TO THE GOVERNOR THE ISSUANCE OF AN EXECUTIVE ORDER TO WITHDRAW TAX MAP KEY (4) 2-4-009: PORTION OF 003 COMPRISING 2.752 ACRES MORE OR LESS, FROM LIHUE-KOLOA FOREST RESERVE, KALAHEO, WAHIAWA, KOLOA, KAUAI.

APPROVAL AND RECOMMENDATION TO THE GOVERNOR THE ISSUANCE OF AN EXECUTIVE ORDER FOR ADDITION OF TAX MAP KEY (1) 6-3-001:002, COMPRISING 3,716.00 ACRES MORE OR LESS, TO PUPUKEA-PAUMALU FOREST RESERVE (WAIMEA SECTION), WAIMEA, KO'OLAULO, OAHU.

APPROVAL AND RECOMMENDATION TO THE GOVERNOR THE ISSUANCE OF AN EXECUTIVE ORDER FOR ADDITION OF TAX MAP KEYS (2) 5-6-005:001, (2) 5-6-006:002, (2) 5-6-007:068 & 070, COMPRISING 733.932 ACRES MORE OR LESS, TO MOLOKA'I FOREST RESERVE, PUA'AHALA, MOLOKA'I.

APPROVAL AND RECOMMENDATION TO THE GOVERNOR THE ISSUANCE OF AN EXECUTIVE ORDER TO SET ASIDE TAX MAP KEYS (2) 2-3-005:002 & 014, COMPRISING 3,433.7495 ACRES MORE OR LESS, AS KAMEHAMENUI FOREST RESERVE, KAMEHAMENUI, KULA, MAKAWAO, MAUI.

APPROVAL AND RECOMMENDATION TO THE GOVERNOR THE ISSUANCE OF AN EXECUTIVE ORDER FOR ADDITION OF TAX MAP KEYS (3) 2-4-008:004 & 017, COMPRISING 216.837 ACRES MORE OR LESS, TO UPPER WAI'AKEA FOREST RESERVE, WAI'AKEA, SOUTH HILO, HAWAII.

SUMMARY:

This board submittal requests acceptance of a Hearing Officer's Report (**Exhibit A**) for four proposed additions and one proposed withdrawal to the Forest Reserve System on the Islands of Kaua'i, O'ahu, Moloka'i, Maui, and Hawai'i, and approval and recommendation to the Governor the issuance of Executive Orders for the withdrawal of land from the Līhue-Kōloa Forest Reserve, addition of land to the Pūpūkea-Paumalū Forest Reserve (Waimea Section), addition of land to the Moloka'i Forest Reserve, designation of Kamehamehame Forest Reserve, and addition of land to the Upper Waiākea Forest Reserve.

LEGAL REFERENCE:

Section 183-11, Hawai'i Revised Statutes (HRS), as amended.

LOCATION, AREA, AND ZONING:

See **Exhibit B**

BACKGROUND:

Withdrawal from the Līhue-Kōloa Forest Reserve

At its meeting on June 9, 2017, under agenda item D-1, the Board of Land and Natural Resources (the Board) approved the withdrawal of Tax Map Key (TMK) (4) 2-4-009: portion of 003 from the Līhue-Kōloa Forest Reserve (see **Exhibit C**), and the subsequent set aside to the County of Kaua'i, Department of Water. The land would be set aside to the County to repair, upgrade, or replace its aging water system equipment at this location, which is needed to meet maximum day demand storage capacity and fire flow requirements for current and future demand in the Kalaheo-Lawa'i-'Oma'o Water Service Area.

An amendment to this Board actions was approved as item D-2 at the Board's meeting on January 8, 2021. The purpose of the amendment was to correct the Governor's Proclamation referenced from Governor's Proclamation dated June 5, 1909, to Governor's Proclamation dated December 24, 1926, and to change the area withdrawn from 3.20 acres to 2.752 acres more or less.

Addition to the Pūpūkea-Paumalū Forest Reserve (Waimea Section)

At its meeting on October 25, 2019, under agenda item C-1, the Board approved the acquisition of privately owned TMK (1) 6-3-001:002 (approximately 3,716 acres) for addition to the Pūpūkea-Paumalū Forest Reserve (Waimea Section), Waimea, Ko'olauloa, O'ahu (see **Exhibit D**). The acquisition of this property was funded by a combination of state, federal, and private sources, including grants from the US Fish and Wildlife Service (USFWS), the State Land Conservation Fund, as well as private

donations. The Trust for Public Land (TPL) purchased the property from the Dole Corporation and conveyed the property to the State of Hawai'i on December 26, 2019.

The property contains high priority watersheds, including the headwaters of the Kamananui and 'Elehāhā Streams, and native ecosystems that provide habitat for endangered plants and wildlife. With lower Waimea Valley protected in 2006, and Waimea Beach Park at the shoreline boundary, this acquisition completes decades of efforts to protect Waimea from the summit to the sea.

Addition to the Moloka'i Forest Reserve

At its meeting on November 8, 2019, under agenda item C-5, the Board approved the acquisition of privately owned TMKs (2) 5-6-005:001, 012, 036, (2) 5-6-006:002, (2) 5-6-007:001, 002, 004, 068, 069, 070 for addition to the Moloka'i Forest Reserve and for the creation of a wildlife sanctuary at Pua'ahala, Moloka'i (see **Exhibit E**). All the parcels mauka of the highway, TMKs (2) 5-6-005:001, (2) 5-6-006:002, (2) 5-6-007:068 & 070 (approximately 733.932 acres) were proposed to be added to the Moloka'i Forest Reserve. The parcels makai of the highway, TMKs (2) 5-6-005:012, 036, 5-6-007:001, 002, 004, 069, will be managed as a wildlife sanctuary. The acquisition of the Pua'ahala property was funded by grants from the USFWS and the State Legacy Land Conservation Program. The acquisition was executed by all appropriate parties and recorded at the Bureau of Conveyances on January 10, 2020.

The acquisition protects almost the entire ahupua'a of Pua'ahala from the mountains to the ocean. The mauka areas of the ahupua'a contain some of the most pristine forests remaining in the area. This acquisition was also important for completing the Pāku'i watershed protection project, part of a larger effort with community support to fence and protect vital watersheds on Moloka'i (see **Exhibit E**). The area also contains roadways that will be valuable for creating fuel breaks and mitigating the risks of wildfires in the surrounding area.

Addition of the Kamehamenui Forest Reserve

At its meeting on May 8, 2020, under agenda item C-1, the Board approved the acquisition of privately owned TMKs (2) 2-3-005:002 & 014 (approximately 3,433.75 acres), for the purpose of adding it to the State Forest Reserve System, (**Exhibit F**). The acquisition of this area was jointly funded by both state and federal sources, including a State Capital Improvement Project Appropriation, a U.S. Forest Service Forest Legacy Program grant, and a grant through the USFWS Habitat Conservation Plan. The property was purchased by TPL from the Shizuka Asakawa Revocable Trust in July 2020, and it was conveyed to the State of Hawai'i on August 31, 2020.

The Kamehamenui Forest Property is located between Kula Forest Reserve and Haleakalā National Park, and its protection is critical to achieve the overarching goal to restore the "mauna lei", the band of forest that once encompassed Haleakalā. Restoring this contiguous lei of habitat around the mountain will ensure biological connectivity and

restore ecological services. The parcel will also provide additional access from Kekaulike Avenue to this popular recreational area.

Addition to the Upper Waiākea Forest Reserve

At its meeting on March 25, 2021, under agenda item C-1, the Board authorized DOFAW to conduct a public hearing for the proposed addition of TMKs (3) 2-4-008:004 and (3) 2-4-008:017 (approximately 216.837 acres) to the Upper Waiākea Forest Reserve (**Exhibit G**). The area was previously encumbered by state pasture leases, but upon their expiry in the early 1990s, DOFAW assumed management of the area. At the time it was thought that the area was part of the Upper Waiākea Forest Reserve. Closer examination revealed that the area was excluded from the Governor's Proclamation dated January 3, 1923 that set the current boundary of the forest reserve. As such, the area is currently unencumbered and DOFAW recommends that the parcels be added to the Upper Waiākea Forest Reserve.

DISCUSSION:

Approval to hold a public hearing on the proposed changes to the forest reserve system was obtained from the Board of Land and Natural Resources on June 9, 2017, October 25, 2019, November 8, 2019, May 8, 2020, and March 25, 2021. Approval to hold the public hearing and to appoint Lance DeSilva, Forestry Management Supervisor, as the Hearing Officer was obtained from the Chairperson on March 11, 2021. Notice of the public hearing was published on April 11, 2021, in the Sunday editions of the Garden Island, Honolulu Star-Advertiser, West Hawai'i Today, and Hawai'i Tribune-Herald newspapers, on Saturday April 10, 2021, by Maui News, and on Wednesday, April 14, 2021, in the Molokai Dispatch.

Five members of the public attended the hearing. Three people provided oral testimony at the hearing and six written testimonies were submitted. A summary of the testimony and the proceedings of the hearing can be found in the attached Hearing Officer's Report (**Exhibit A**). All testimony received that expressed an opinion on the matter at hand, were in support of the proposed changes to the Forest Reserve System. Based on these results, staff recommends final processing of the proposed four additions and one withdrawal from the State Forest Reserve System.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action does not trigger the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343, HRS, environmental requirements apply to DOFAW use of the lands, DOFAW shall be responsible for compliance for those projects with Chapter 343, HRS, as amended.

RECOMMENDATION:

That the Board:

- 1) Accept and approve the Hearing Officer's report and minutes for the public hearing held on April 28, 2021, for the four proposed additions and one proposed withdrawal from the Forest Reserve System on the islands of Kaua'i, O'ahu, Moloka'i, Maui, and Hawai'i.
- 2) Approve and recommend to the Governor issuance of an executive order to withdraw Tax Map Key (4) 2-4-009: portion of 003 comprising 2.752 acres more or less, from Governor's Proclamation dated December 24, 1926, Lihue-Kōloa Forest Reserve, Kalaheo, Wahiawa, Kōloa, Kaua'i.
- 3) Approve and recommend to the Governor issuance of an executive order setting aside Tax Map Key (1) 6-3-001:002, comprising 3,716.00 acres more or less, to Pūpūkea-Paumalū Forest Reserve (Waimea Section), Waimea, Ko'olauloa, O'ahu.
- 4) Approve and recommend to the Governor issuance of an executive order setting aside Tax Map Keys (2) 5-6-005:001, (2) 5-6-006:002, (2) 5-6-007:068 & 070, comprising 733.932 acres more or less, to Moloka'i Forest Reserve, Pua'ahala, Moloka'i.
- 5) Approve and recommend to the Governor issuance of an executive order setting aside Tax Map Keys (2) 2-3-005:002 & 014, comprising 3,433.7495 acres more or less, as Kamehamenui Forest Reserve, Kamehamenui, Kula, Makawao, Maui.
- 6) Approve and recommend to the Governor issuance of an executive order setting aside Tax Map Keys (3) 2-4-008:004 & 017, comprising approximately 216.837 acres, to Upper Waiākea Forest Reserve, Waiākea, South Hilo, Hawai'i.
- 7) Recommendations Nos. 2 through 6 are further made subject to the following:
 - a. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - c. Review and approval by the Department of the Attorney General; and

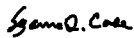
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

- Exhibit A – Hearing Officer’s Report and Minutes of Public Hearing
Exhibit B – Location, Area, and Zoning of Proposed Changes
Exhibit C – Map of Proposed Withdrawal from Līhue-Kōloa Forest Reserve
Exhibit D - Map of Proposed Addition to Pūpūkea-Paumalū Forest Reserve (Waimea Section)
Exhibit E – Map of Proposed Addition to Moloka‘i Forest Reserve
Exhibit F – Map of Proposed Kamehamenui Forest Reserve
Exhibit G – Map of Proposed Addition to Upper Waiākea Forest Reserve

EXHIBIT A

HEARING OFFICER'S REPORT AND MINUTES OF:

Public Hearing for Five (5) Proposed Changes Affecting the Area of Government Forest Reserve Lands on the Islands of Kaua'i, O'ahu, Moloka'i, Maui, and Hawai'i

Online via Zoom and livestreamed to YouTube

April 28, 2021, 6:00PM

SUMMARY OF TESTIMONIES RECEIVED

Written testimonies are kept on file in the Division of Forestry and Wildlife for public review.

One oral testimony and two written testimonies were received for agenda item #1, the proposed withdrawal of Tax Map Key (4) 2-4-009: portion of 003 comprising approximately 2.752 acres from the Līhue-Kōloa Forest Reserve, Kalaheo, Wahiawa, Kōloa, Kaua'i.

Nicholas Koch – Provided oral testimony and stated that he has been working in forestry in Hawai'i for 20 years and identifies it as his adopted home. Speaking as an individual, he wanted to give his emphatic support for the large additions and the small, incidental withdrawal from the forest reserve system. He says this broad designation provides DOFAW with the scope they need to manage these lands effectively. He also submitted a written copy of his testimony after the hearing.

Richard Pezzulo - Provided written testimony and identified himself as the Executive Director of Hi'ipaka, LLC dba Waimea Valley. He and his organization support all five proposed changes, especially the Waimea valley property addition. He mentions some of the benefits public forest lands provide, such as watershed restoration, native, threatened, and endangered species habitat protection and management, and cultural opportunities among others.

Kathleen Roche - Provided written testimony in support of all five proposed changes to the forest reserve system. She is also in support of the state seeking to restore the "mauna lei" or the band of forest that once encompassed Haleakalā. She mentions these lands deserve to have this area restored to near natural conditions.

Three oral testimonies and two written testimonies were provided for agenda item #2, the proposed addition of Tax Map Key (1) 6-3-001:002 comprising approximately 3,716.00 acres to the Pūpūkea-Paumalū Forest Reserve, Waimea, Ko'olaupia, O'ahu.

See agenda item #1 above for testimony in support of the proposed change provided by Nicholas Koch, Richard Pezzulo and Kathleen Roche.

Denise Antolini – Provided oral testimony and identified herself as the President of Mālama Pūpūkea-Waimea (MPW), a non-profit organization on the North Shore of O'ahu working to replenish and sustain the natural and cultural resources of the Pūpūkea and Waimea ahupua'a.

They strongly support the addition of the 3,716 acres of land in upper Waimea Valley to the Pūpūkea-Paumalū Forest Reserve. She stated that protecting the forested mauka areas now, and restoring their native ecosystems to abundance in the future – is critically important to ensuring the health and abundance of the Pūpūkea Marine Life Conservation District, which is directly impacted by stormwater runoff. They also invited DOFAW to collaborate with MPW, Waimea Valley Hi‘ipaka LLC, and other partners, on a long-term plan for native forest restoration for Pūpūkea-Paumalū and Waimea. She also submitted a written copy of her testimony after the hearing.

Bob Leinau – Provided oral testimony and stated that he supported and was very excited about this acquisition and addition to the Pūpūkea-Paumalū Forest Reserve, and that it connected the ahupua‘a which is important historically. He was particularly interested in recreation opportunities, and noted that the parcel connects with the Pūpūkea trails and the future Pūpūkea forest park. He also hopes this acquisition can lead to getting more DOCARE officers into the area.

One oral testimony and two written testimonies were received for agenda item #3, the proposed addition of Tax Map Keys (2) 5-6-005:001, (2) 5-6-006:002; (2) 5-6-007:068 & 070 comprising approximately 733.932 acres to the Moloka‘i Forest Reserve, Pua‘ahala, Moloka‘i.

See agenda item #1 above for testimony in support of the proposed change provided by Nicholas Koch, Richard Pezzulo and Kathleen Roche.

One oral testimony and six written testimonies were provided for agenda item #4, the proposed addition of Tax Map Keys (2) 2-3-005:002 & 014 comprising approximately 3433.75 acres to the Forest Reserve System, Kamehamehenui, Kula, Makawao, Maui.

See agenda item #1 above for testimony in support of the proposed change provided by Nicholas Koch, Richard Pezzulo and Kathleen Roche.

John & Melissa Meier - Provided written testimony stating that they strongly support adding the proposed lands to the State Forest Reserve System. John and Melissa live on Maui and are part of a group that hikes in forest reserves every week on Maui. They expressed that there is opportunity to connect to the trails in the adjacent Kula Forest Reserve, and the bottom of the property connects to Kekaulike Avenue which can provide access to new recreational activities.

Jeffrey Kinores – Provided written testimony and did not state whether he supported or opposed the proposed addition of Kamehamehenui to the Forest Reserve System, but he provided written testimony stating that he is a strong supporter of protecting, reforesting, and perpetuating Hawai‘i’s native plants and animals. He supports fencing followed by ungulate removal in upper elevations, but recommends using public hunters to remove game mammals. He also hopes to see archery only for hunting of game mammals at mid/lower elevations as well as gamebird hunting. Lastly he notes the encroachment of invasive wattle trees in the area, and would like to see this mitigated during reforestation.

Joshua DeCambra - Provided written testimony in support of the addition of Kamehamehenui to the Forest Reserve System. He also supports hunting as a management tool in controlling game mammals within the reserve. He mentions that Kamehamehenui is attractive for hunting due to the ease of access, and that sustainable game mammal and bird populations should be allowed to exist in lower elevations. If game mammal populations conflict with designated conservation areas, he would request hunters be allowed to first harvest some of the game animals.

Chad Sagon – Provided written testimony and did not state whether he supported or opposed the proposed addition of Kamehamehenui to the Forest Reserve System, but provided written testimony identifying himself as someone who spends a lot of time hunting in Polipoli. He asked that hunting be allowed in the newly acquired area, and mentions that hunting generates money that supports wildlife.

One oral testimony and two written testimonies were received for agenda item #5, the proposed addition of Tax Map Keys (3) 2-4-008:004 & 017 comprising approximately 216.837 acres to the Upper Waiākea Forest Reserve, Waiākea, South Hilo, Hawai‘i.

See agenda item #1 above for testimony in support of the proposed change provided by Nicholas Koch, Richard Pezzulo and Kathleen Roche.

I. SUMMARY OF PUBLIC HEARING PROCEEDINGS

The public hearing was called to order at 6:06 pm. In attendance were the following staff members from the Department of Land and Natural Resources:

Division of Forestry and Wildlife:

Lance DeSilva - Hearing Officer

Mapuana O’Sullivan

Ryan Peralta

Jay Hatayama

Marigold Zoll

Jan Pali

Tanya Rubenstein

Andy Cullison

Kylee Wideman

Maui District Forest Management Supervisor

Kaua‘i District Forest Management Supervisor

O‘ahu District Forest Management Supervisor

Hawai‘i District Forest Management Supervisor

O‘ahu District DOFAW Manager

Forestry Planner

Cooperative Management Forester

NARS Specialist

PCSU Forestry Associate

Also in attendance were the following staff from the County of Kaua‘i Board of Water Supply and their contractor:

Keith Aoki

Cary Kondo

Jay Stone (Contractor)

Five members of the public attended the meeting, three of whom provided oral testimony. Six written testimonies were submitted by email. The information that the Division of Forestry and Wildlife had prepared for this public hearing was presented as planned.

The public hearing was adjourned at 6:39 pm.

II. APPROVALS AND NOTICES OF PUBLIC HEARING

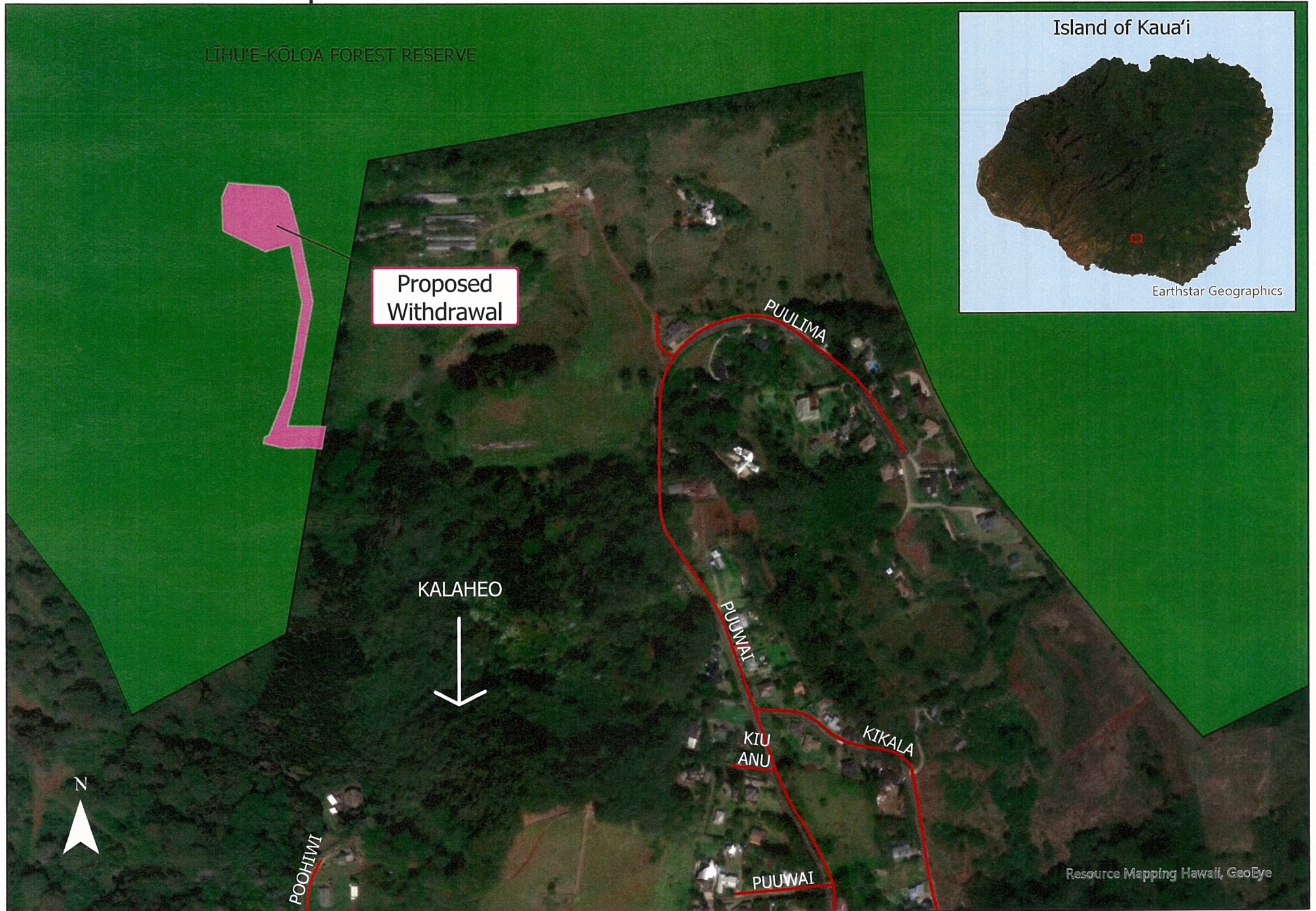
- A. Approval to hold this public hearing on the proposed forest reserve items was obtained from the Board of Land and Natural Resources on June 9, 2017, October 25, 2019, November 8, 2019, May 8, 2020, and March 25, 2021.
- B. Approval to hold the public hearing and to appoint Lance DeSilva, Forest Management Supervisor, as the Hearing Officer was obtained from the Chairperson on March 11, 2021.
- C. Notice of the public hearing was published on April 11, 2021, in the Sunday editions of the Garden Island, Honolulu Star-Advertiser, West Hawai'i Today, and Hawai'i Tribune-Herald newspapers, on Saturday April 10, 2021, by Maui News, and on Wednesday, April 14, 2021, in the Molokai Dispatch.

Minutes prepared and respectfully submitted by Lance DeSilva.

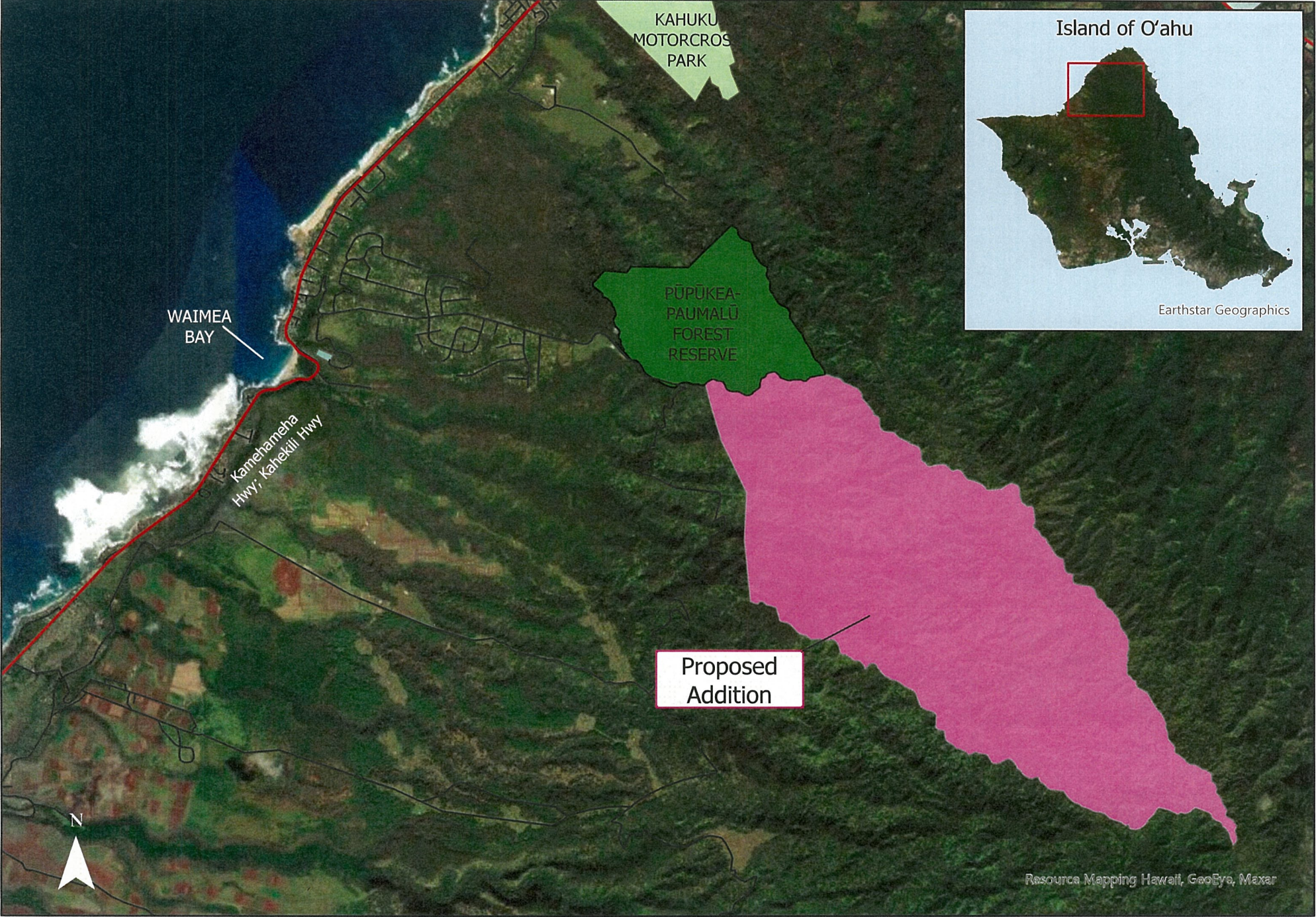
EXHIBIT B**Exhibit A Location, Area, and Zoning**

| <u>Tax Map Key</u> | <u>Location</u> | <u>Acres (more or less)</u> | <u>State Land Use</u> | <u>County Zoning</u> |
|---|-----------------|-----------------------------|-----------------------------------|----------------------|
| Līhue-Kōloa Forest Reserve | | | | |
| (4) 2-4-009: portion of 003 | Koloa | 2.75 | Conservation: General/Resource | Agriculture |
| Pūpūkea-Paumalū Forest Reserve (Waimea Section) | | | | |
| (1) 6-3-001:002 | Ko'olauloa | 3,716.00 | Conservation | Preservation |
| Moloka'i Forest Reserve | | | | |
| (2) 5-6-005:001 | Pua'ahala | 16.44 | Agriculture | Agriculture |
| (2) 5-6-006:002 | Pua'ahala | 674.75 | Agriculture & Conservation | Agriculture |
| (2) 5-6-007:068 | Pua'ahala | 39.82 | Agriculture | Agriculture |
| (2) 5-6-007:070 | Pua'ahala | 2.92 | Agriculture | Agriculture |
| Kamehamehenui Forest Reserve | | | | |
| (2) 2-3-005:002 | Makawao | 3433.72 | Agriculture | Agriculture |
| (2) 2-3-005:014 | Makawao | 0.03 | Agriculture | Agriculture |
| Upper Waiākea Forest Reserve | | | | |
| (3) 2-4-008:004 | South Hilo | 205.34 | Conservation: Protected | Conservation |
| (3) 2-4-008:017 | South Hilo | 11.5 | Conservation: Protected | Conservation |

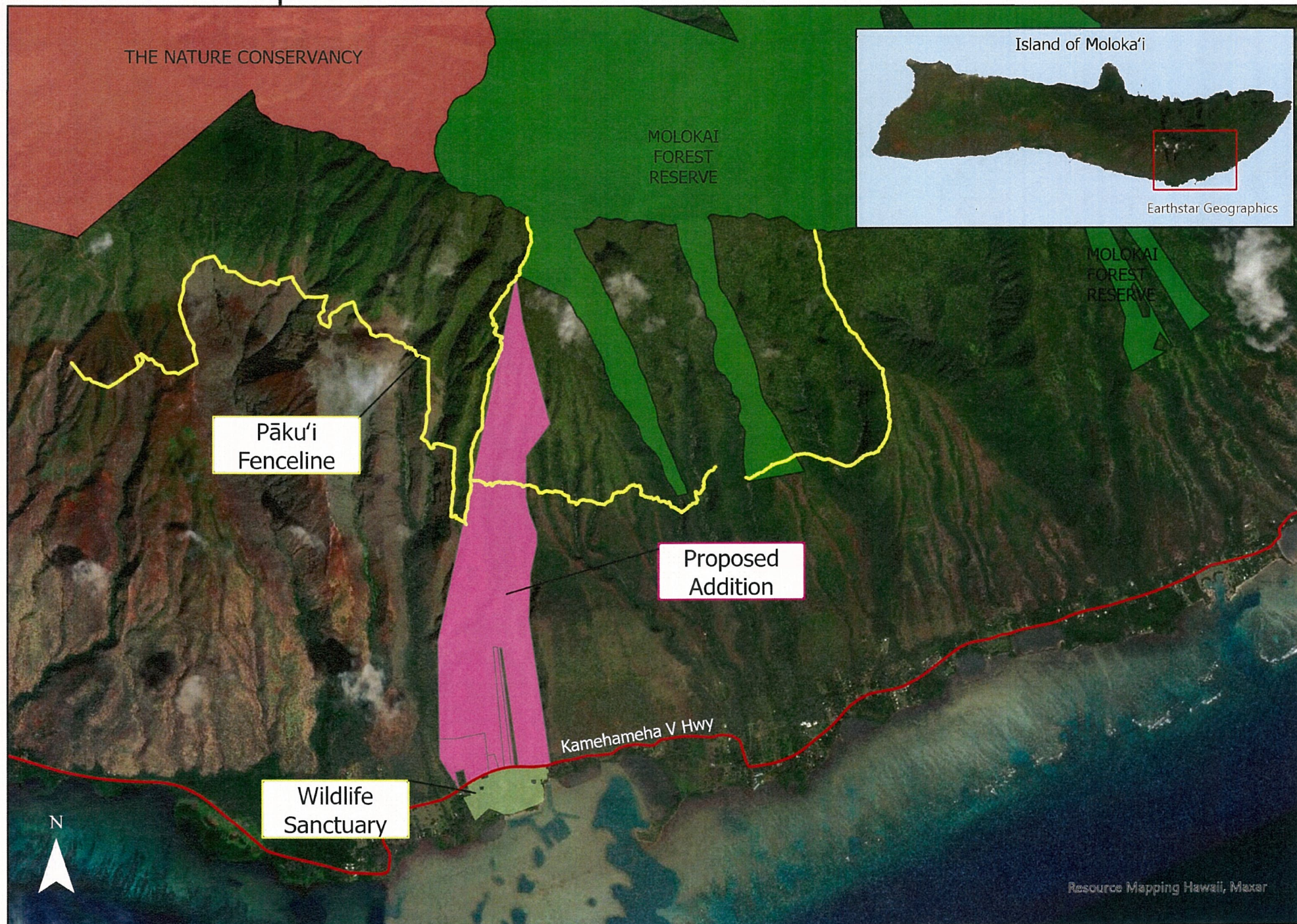
Proposed Withdrawal from Līhu'e-Kōloa Forest Reserve



Proposed Addition to Pūpūkea-Paumalū Forest Reserve



Proposed Pua'ahala Addition to Moloka'i Forest Reserve



Proposed Kamehamehameui Addition to Forest Reserve System



Proposed Addition to Upper Waiākea Forest Reserve

