

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

May 13, 2022

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Board Members:

SUBJECT: APPROVE GRANT AWARDS FROM AVAILABLE FUNDS IN THE LAND CONSERVATION FUND, AS REQUESTED IN APPLICATIONS TO THE FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM AND AS RECOMMENDED BY THE LEGACY LAND CONSERVATION COMMISSION, FOR THE ACQUISITION OF INTERESTS AND RIGHTS IN SPECIFIC PARCELS OF LAND HAVING VALUE AS A RESOURCE TO THE STATE, FOR:

- A. HAWAIIAN ISLANDS LAND TRUST, \$3,000,000, FOR THE ACQUISITION OF APPROXIMATELY 642.46 ACRES AT KOHALA DISTRICT, ISLAND OF HAWAII (MĀHUKONA NAVIGATION AND ECOLOGICAL COMPLEX), TAX MAP KEY NUMBERS (3) 5-7-002:011, :027, :036, :037 AND (3) 5-7-003:001, :002, :003, :007, :008, :010, :018
- B. DIVISION OF FORESTRY AND WILDLIFE, \$1,000,000, FOR THE ACQUISITION OF APPROXIMATELY 257.8 ACRES AT WAILUKU DISTRICT, ISLAND OF MAUI (POHAKEA WATERSHED LANDS), TAX MAP KEY NUMBER (2) 3-6-001:018
- C. KE AO HALI'I (SAVE THE HĀNA COAST), UP TO \$675,000, FOR THE ACQUISITION OF APPROXIMATELY 8.58 ACRES AT HĀNA DISTRICT, ISLAND OF MAUI (HANEO'O LANDS), TAX MAP KEY NUMBER (2) 1-4-010:015

AND

EXEMPT THREE PROPOSED AWARDS OF GRANT FUNDS—FOR THE ACQUISITION OF INTERESTS AND RIGHTS IN SPECIFIC PARCELS OF LAND, IDENTIFIED AS ITEMS A, B, AND C, ABOVE (MĀHUKONA NAVIGATION AND ECOLOGICAL COMPLEX; POHAKEA WATERSHED LANDS; AND HANEO'O LANDS)—FROM THE REQUIREMENT TO PREPARE AN ENVIRONMENTAL ASSESSMENT, PURSUANT TO CHAPTER 343, HAWAII REVISSED STATUTES AND CHAPTER 11-200.1, HAWAII ADMINISTRATIVE RULES.

ITEM C-1

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

SUMMARY

The Division recommends that the Board (1) approve up to \$4,250,000 in Legacy Land Conservation Program grant awards, from available funds in the Land Conservation Fund, as requested in three applications to the Fiscal Year 2022 Legacy Land Conservation Program and as recommended by the Legacy Land Conservation Commission, for the acquisition of interests and rights in specific parcels of land having value as a resource to the State, and (2) exempt three awards of Fiscal Year 2022 grant funds from the requirement to prepare an environmental assessment, pursuant to State environmental review law. These grant awards are key elements in the Department's fulfillment of its resource protection mission, and contribute to important public-private stimulus packages that help to reshape and diversify our economy and enhance the quality of life for our communities.

BACKGROUND

Chapter 173A, Hawai'i Revised Statutes ("Acquisition of Resource Value Lands") authorizes the Department to administer and manage the Land Conservation Fund, and Chapter 13-140, Hawai'i Administrative Rules ("Legacy Land Conservation Program Rules") delegates authority to the Division of Forestry and Wildlife for administering the Legacy Land Conservation Program. The governing statute authorizes four uses of the Land Conservation Fund, including "[t]he acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the establishment of permanent conservation easements under chapter 198 or agricultural easements" (Section 173A-5(h)(1)).

The Legacy Land Conservation Program ("LLCP") conducts an annual application process for land acquisition grants (open to State agencies, counties, and nonprofit land conservation organizations, only) that includes consultation with the Legacy Land Conservation Commission ("LLCC"), the President of the State Senate, and the Speaker of the State House of Representative. Based on the results of the application process, the Department recommends to the Board specific parcels of land to be acquired (this Board submittal). After the Board and the Governor approve annual funding for land acquisition grants, the Department encumbers the approved funding, executes contracts with county and nonprofit grantees, oversees the acceptance and approval of grantee transactional due diligence, and makes payment on the grant award. Unexpended grant funds return to the unencumbered and unappropriated cash balance of the Land Conservation Fund, and the Department retains an ongoing obligation to monitor the management of an acquired property.

Application Review, Ranking, and Recommendation for Fiscal Year 2022

After several applicants dropped out of the Fiscal Year 2022 application process for various reasons (for example, property sold on the open market to a different buyer; property acquired with other funding sources; willing seller becomes unwilling), the LLCC received three timely, final grant applications for land acquisition before the deadline of February 14, 2022, with funding requests that ranged from \$1,000,000 to \$3,000,000 and totaled \$6,658,525. The LLCC reviewed and ranked the final grant applications, and

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

incorporated the results of agency consultations, field visits, and public testimony into a recommendation issued on March 11, 2022 (Meeting 75, Agenda Item 5). The attached LLCC Ranking and Recommendation Summary (**Attachment 1**) also includes maps and photos as submitted with each application. In reviewing the applications and advising the Department and the Board, the LLCC is required by statute to give the following lands priority in its recommendations for acquisitions (Section 173A-2.6, Hawai'i Revised Statutes):

- (1) Lands having exceptional value due to the presence of:
 - (A) Unique aesthetic resources;
 - (B) Unique and valuable cultural or archaeological resources; or
 - (C) Habitats for threatened or endangered species of flora, fauna, or aquatic resources;
- (2) Lands that are in imminent danger of development;
- (3) Lands that are in imminent danger of being modified, changed, or used in a manner to diminish its value;
- (4) Lands providing critical habitats for threatened or endangered species that are in imminent danger of being harmed or negatively impacted;
- (5) Lands containing cultural or archaeological sites or resources that are in danger of theft or destruction; and
- (6) Lands that are unique and productive agricultural lands.

Legislative Consultation

On March 28, 2022, the Department forwarded the LLCC recommendation to the Senate President and the House Speaker, along with the Department's request for consultation. In written replies dated March 31, 2022, the legislators stated "no concerns or objections" about the three applications that are presented for approval in this Board submittal (**Attachment 2**).

LEGACY LAND CONSERVATION COMMISSION RECOMMENDATION

As indicated in **Attachment 1**, the LLCC recommends that the Board approve full funding for each application for a land acquisition grant, in the order ranked, as funds are available. Given the funding currently available for grants from the Land Conservation Fund (up to \$4,250,000 from the operating budget for Fiscal Year 2022), Board approval of the LLCC recommendation would result in awards to:

- (A) Hawaiian Islands Land Trust, for the acquisition of approximately 642.46 acres at Kohala District, Island of Hawai'i (Item A, Māhukona Navigation and Ecological Complex, full award, \$3,000,000);
- (B) Division of Forestry and Wildlife, for the acquisition of approximately 257.8 acres at Wailuku District, Island of Maui (Item B, Pohakea Watershed Lands, full award, \$1,000,000); and

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

(C) Ke Ao Hali'i for the acquisition of approximately 8.58 acres at Hāna District, Island of Maui (Item C, Haneo'o Lands, partial award, \$250,000);

In order to provide for greater flexibility in the awards program, the LLCC also recommends that the Board :

- (1) Approve—as a contingency in the event that an awardee declines its award, or is unable to accept or expend all or part of its awarded funds—awards of remaining, available funds from the Land Conservation Fund, up to the amounts originally requested in the Fiscal Year 2022 applications, to Ke Ao Hali'i as an alternate, for the acquisition of 8.8 acres at Hāna District, Island of Maui (Item C, Haneo'o Lands), provided that Ke Ao Hali'i submits amended application materials as requested by Legacy Land Conservation Program staff not later than March 28, 2022.

Ke Ao Hali'i submitted amended application materials in a timely manner, and the amendments are reflected in this submittal. If the Board enters into a contract with Ke Ao Hali'i for this acquisition, then the amended application will be included in the contract as Exhibit A. Also note that staff corrected the area of this property to 8.58 acres, as indicated in Attachment 1.

- (2) Delegate authority to the Chair to redirect remaining, available funds from a Fiscal Year 2022 grant award—that were declined, not accepted, or not used by an awardee—to other Fiscal Year 2022 applications that the Legacy Land Conservation Commission recommended for funding, so as to accomplish full funding for each approved award in the order ranked by the Commission, as funds are available.

In order to facilitate maximum encumbrance of available grant funds, as recommended by the LLCC, the Division recommends that the Board delegate authority to the Chairperson to redirect remaining, available funds from a Fiscal Year 2022 Legacy Land grant award—that were declined, not accepted, or not expended by an awardee—to other Fiscal Year 2022 applications that the Legacy Land Conservation Commission recommended for funding, so as to accomplish full funding for each approved award in the order ranked by the Commission, as funds are available.

DISCUSSION

The following discussion of individual applications includes summaries of and excerpts from each application, while **Attachment 3** provides key sections from each application that address Importance and Threats (Section G), Stewardship and Management (Section H), and Cultural and Historical Significance (Section I).

A. Māhukona Navigation and Ecological Complex: Hawaiian Islands Land Trust ("HILT") applied for \$3,000,000 to acquire approximately 642.46 acres at Kohala District, Island of Hawai'i (eleven parcels), for all nine Legacy Land resource preservation purposes established in Section 173A-5(g), Hawai'i Revised Statutes:

- (1) Watershed protection

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

- (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

Section C.15 of the Māhukona application explains that the property is part of a coastal ecosystem that encompasses the ancient Kohala Field System. Since the mid 1900's, this area has been slated for large scale resort and residential development. Currently, the land is held by prior investors who perfected their lien, foreclosed on the property, and are looking to divest of their land holding at Māhukona. Up until recent times, the landowner was engaging developer buyers for the property. In late 2019, HILT was able to make inroads with the landowner and began applying for public funding for the acquisition of Māhukona. Acquiring and protecting the property will prevent uses that are incompatible with conservation and cultural perpetuation, e.g., resort and residential development, golf courses, or other activities that generate pesticides or other pollutants, and so would eliminate huge irreversible threats to Māhukona's endangered, threatened, and at risk species.

Section G of the Māhukona application describes how these lands serve as a piko and power source for ancient and contemporary non-instrumental navigators throughout the Pacific. This is the centerfold/core significance of these lands—the navigational importance and the resurgence and living cultural practice of non-instrumental navigation attributed to it. Spanning six ahupua'a along the North Kohala coastline, including Māhukona, Hihui, and Kaoma from the south, and Kamano, Kou, and Kapa'a Nui to the north, the "Māhukona Living Navigational and Cultural Complex" provides Hawai'i a tremendous opportunity to protect the engrained and universal cultural and conservation values of the land in perpetuity.

At Meeting 75 of the LLCC (held March 11, 2021), presenters for the applicant included Shae Kamaka'ala (HILT), Patricia Sullivan, Chadd 'Onohi Paishon (Senior Captain, Na Kalai Wa'a), and Hawai'i County Mayor Mitch Roth. The application garnered nine pieces of written testimony in support, including a letter from Herbert M. "Tim" Richards III, County Council Member for the North and South Kohala District of Hawai'i Island, noting that "it is critical to preserve and maintain such unparalleled historical heritage within the Māhukona Properties and its coastline, which are of great significance to our island's cultural landscape." Tim Richards, Toni Withington, and Shorty Bertelmann delivered spoken testimony in support.

The applicant expects to receive matching funds estimated at 84% of total project costs that would be secured through the Hawai'i County Open Space Fund (\$8,000,000); a subgrant of federal Recovery Land Acquisition funds from the Department (\$4,000,000, see Agenda Item C-1 for the Board meeting held April 22, 2022); and substantial private donations fundraised by HILT.

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

B. Pohakea Watershed Lands: The Division of Forestry and Wildlife ("DOFAW") applied for \$1,000,000 to acquire approximately 257.8 acres at Wailuku District, Island of Maui, Hawai'i for all nine Legacy Land resource preservation purposes established in Section 173A-5(g), Hawai'i Revised Statutes:

- (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; and
- (9) Open spaces and scenic resources.

Section C.15 of the application explains that the Pohakea Watershed Lands are located along Honoapi'ilani Highway, the main access road from central Maui to Lahaina and West Maui. The land spans two ahupua'a -- Ukumehame and Wailuku -- located at the base of Mauna Kahalawai. The property is located across the highway and mauka of the Maui Ocean Center, Mā'alaea Shops, and Mā'alaea Harbor. Part of the Mā'alaea Conservation Corridor, the property connects with nearby landmarks such as Kealia National Wildlife Refuge, the National Marine Whale Sanctuary, Maui Ocean Center, Pacific Whale Foundation headquarters, and a petroglyph site on adjacent state land. This project is important for public safety. Under public ownership, the property will be managed to decrease risks from wildfire, erosion and flooding and will ensure long term health of the watersheds, wetlands, and coastal marine areas. If the property is sold to another private owner, there is no way to ensure future stewardship and management activities will align with the community vision. State acquisition and co-stewardship with community groups will guarantee that the scenic open space property near major population centers and tourist attractions will forever remain a source of inspiration and treasured community resource for open space, recreation, and agriculture. Protecting the coastal plain from development has been a community priority for decades. There is a willing seller landowner, broad support for acquisition, and interagency plans for ongoing stewardship.

The application includes letters of support from Maui County Councilmember Kelly T. King; Ma'alaea Village Association; Maui Nui Marine Resource Council; Maui Ocean Center, Maui Tomorrow Foundation, Inc.; and Sierra Club of Hawai'i, Maui Group. At Meeting 75 of the LLCC (held March 11, 2021), presenters for the applicant included Scott Fretz (DOFAW), Lucienne de Naie (Sierra Club of Hawai'i, Maui Group), Tapani Vuori (Maui Ocean Center), Michael Fogarty (Maui Nui Marine Resource Council), and Leah Rothbaum (The Trust for Public Land – Sustainable Hawai'i Program). Spoken testimony in support was delivered by Claire Apana (Sierra Club), Aja Eyre (Maui Tomorrow Foundation), Lynn Britton (Ma'alaea Village Association), and Dick Mayer.

The application received 22 pieces of written testimony in support, including Maui County Council Resolution No. 22-55, FD1 (adopted February 18, 2022) noting that Pohakea "is a keystone property for watershed protection and provides important natural habitat for bats, the sphinx moth, and nene," and that "acquisition will maximize public benefits by enabling

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

large-scale protection of important natural and cultural resources and minimizing risk from environmental hazards and natural disasters." State Senator Rosalyn H. Baker observed that "[t]here is resounding community support for this project and once the land is publicly owned and protected from development threats, the community, County, and the State will collaborate to protect cultural and scenic resources, reduce recurrent wildfire risks and soil erosion, safeguard clean drinking water, and enhance marine ecosystem health of Ma'alaea Bay." State Representative Angus L.K. McKelvey explained that "Pohakea Watershed Land will provide various social, economic, and environmental benefits to the land, people of Maui, and our state. Social opportunities may include educational trips and various community programs. Further, opening the land to the public will provide additional economic growth throughout the local community."

The applicant expects to receive matching funds estimated at 88% of total project costs through a grant from the Maui County Open Space Fund (derived from a Maui County Fiscal Year 2022 budget allocation of up to \$5,500,000 for the acquisition); a substantial land value donation from the seller; and private donations of cash. The Maui County grant program requires (1) an application that includes a brief overview of a long-term management plan for the subject property; (2) conveyance of a conservation easement to the County, containing restrictive covenants such as "[t]he general public shall be allowed reasonable access to this property; provided that access may be limited or controlled for cultural and environmental resource protection and public safety;" and (3) annual reports for the first three years documenting progress toward implementation of the long-term management plan and compliance with grant terms and conditions.

C. Haneo'o Lands: Ke Ao Hali'i (Save the Hana Coast) applied for \$2,658,525 to acquire approximately 126 acres at Hāna District, Maui Island of Maui (five parcels) for seven of the nine Legacy Land resource preservation purposes established in Section 173A-5(g), Hawai'i Revised Statutes:

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

Unfortunately, the day before the LLCC met to review and rank the Fiscal Year 2022 applications, the landowner sold four of the five parcels proposed in the Ke Ao Hali'i ("KAH") application. Based on the information presented at the LLCC meeting, the LLCC recommended an award of \$675,000 for the remaining available parcel, approximately 8.58 acres.

Section C.15 of the application explains that the land is being used for cattle grazing at this time and KAH will use the land for cattle grazing pending further investigation of the historical sites and burial sites. These sites will be fenced or protected to deter any desecration. There are rock piles and we suspect remnants of heiau or more unknown burial sites. If KAH acquires these lands, the Archaeological study will provide KAH a better

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

understanding of the landscape. And the study of the water flow will allow more protection of the water and ocean.

The application also notes that preserving the past is vital to the Hāna community, explaining that our ancestral legacy lives on to pass on to the generations to follow. We will continue to stop harm to historical sites and desecration of burials. These lands are currently on the market for sale and the historical sites are threatened by private development. There are three known Heiaus in close proximity Hale O Lono Heiau, the impressive Kaluanui Heiau and Pakiokio Heiau all carbon dated between the 1400s-1800s. We plan to conserve the remnants left on the land and maintain it for educational purposes. Hāna descendants have a strong sense of kuleana to protect these lands from private development. The theft of our Hawaiian lands has made a huge impact on descendants of Hāna. These lands are a significant part of Hana's culture and spiritual connections to the ancestors, the inspirational beauty and feeling it gives to those who live here and come to visit is precious. We need to inform and inspire the public to be aware of these historical treasures and safeguard them.

The application includes letters of support from Maui Nui Makai Network and The Nature Conservancy Maui Marine Program. At Meeting 75 of the LLCC (held March 11, 2021), presenters for the applicant included KAH Board members Mary Ann Kahana, Robin Rayner, and Scott Crawford (Chair). The application received written and spoken testimony in support from Kelley Lehuakeapuna Uyeoka ('Ohana Puhi), as a kuleana landowner affected by surrounding patterns of property ownership, and written testimony from County Council member Shane Sinenci, who stated his support, as the council member representing East Maui, for this budget item to be included in the County's Fiscal Year 2023 budget, while noting that "Ke Ao Hāli'i has demonstrated their capacity to complete these acquisition projects" and expressing his "confidence in their ability to manage and steward these lands into the future, for the benefit of our Hāna and Maui community."

The applicant expects to receive \$237,500 in matching funds (26% of total project costs) through private sources (KAH and HILT), public funds (Office of Hawaiian Affairs and Maui County), and/or others.

Conservation Easements, Agricultural Easements, Deed Restrictions, and Covenants

Hawai'i Revised Statutes Sections 173A-4(c) (for State and County grantees) and 173A-4(d) (for private grantees) require that a recipient of LLCP grant funds must:

provide a conservation easement under chapter 198, or an agricultural easement or deed restriction or covenant to the department of land and natural resources; the department of agriculture; the agribusiness development corporation; an appropriate land conservation organization; or a county, state, or federal natural resource conservation agency, 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 . . . [and t]he board shall require as a condition of the receipt of funds that it be an owner of a conservation easement.

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

To help assure compliance with this statute, the Department requires that each recipient of LLCP grant funding record a deed of conveyance that includes deed restrictions and covenants as mandated by statute. Similar to federal land acquisition programs, the LLCP restrictions for deeds to county and nonprofit grantees require ongoing compliance with the terms and conditions of the grant agreement that is executed between the Board and the grantee, and all deeds require that the property "be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawai'i Revised Statutes." All deeds also recite the State's statutory restrictions on the sale, lease, or other disposition of the acquired interests and rights in land. These statutory restrictions include (1) a requirement that the Board approve disposition of the land (Sections 173A-4 and 173A-9) and (2) post-disposition payback provisions (Section 173A-10).

With regard to "a conservation easement under chapter 198," Section 173A-4(d) further provides that "[t]he board or an appropriate land conservation organization or county, state, or federal agency required to be provided an easement pursuant to this section may grant an exemption for any easement required pursuant to this section." Hawai'i Administrative Rules Section 13-140-28 echoes that "[t]he board shall require projects receiving land acquisition grants for fee purchase from the fund to incorporate a conservation easement under chapter 198, HRS, unless . . . (1) The grant is to a county agency or to a state agency; or (2) The proposed project already includes a conservation easement to a county agency, state agency, federal agency, or nonprofit land conservation organization.

The Department advises that the Legacy Land deed restrictions customarily imposed on grant recipients—as bolstered by statutory and contractual provisions—are generally sufficient to ensure the long-term protection of land having value as a resource to the State and to preserve the interests of the State, and the Department consistently recommends that the Board exempt State and county agency awardees from additional easement requirements. Thus the Division advises that the Board exempt from the easement requirement the State grant for Item B (Pohakea Watershed Lands, Maui), which would be used to acquire lands that would be held and managed by the Department. If federal matching funds are used for the Pohakea acquisition, then it is likely that the deed of conveyance to the State would include restrictions mandated by a federal natural resource agency. If Maui County matching funds are used, it is likely that Maui County would require that the property be encumbered with a conservation easement held by the County.

The Division further advises that the Board require, for the remaining two applications recommended for funding, that each awardee provide a conservation easement to an appropriate land conservation organization or a county, state, or federal natural resource conservation agency. As advised by the Deputy Attorney General assigned to the LLCP, the Division now requires that a private, prospective easement holder sign the LLCP grant agreement as a Consenting Party, to document notice and assurance of standard State requirements for (1) Board approval to dispose of, encumber title/interests in, or convert the use of the conservation easement, and (2) revenue sharing with the State for the net proceeds of an easement sale.

For Item A, Māhukona Navigation and Ecological Complex, the application for acquisition of fee title by Hawaiian Islands Land Trust ("HILT"), a nonprofit land conservation organization, includes (1) a letter indicating that the County of Hawai'i is willing to hold a

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

conservation easement over the property, and (2) a fully executed purchase and sale agreement (between HILT and the County) and a draft Grant of Conservation Easement covering HILT's conveyance of a conservation easement to the County. The County of Hawai'i holds conservation easements over other privately owned properties; however, this would be the first property owned by HILT to be protected with a conservation easement held by the County.

For Item C, Haneo'o Lands, the application for acquisition of fee title by Ke Ao Hali'i ("KAH"), a nonprofit land conservation organization, does not indicate a pre-existing conservation easement, and does not identify a willing holder for a future conservation easement over the property. HILT holds conservation easements over other nearby properties, including two separate easements that HILT co-holds with Maui County on two properties that Ke Ao Hali'i acquired recently (one in 2020 and one in 2021) with grants from the LLCP and the Maui County Open Space Fund. If the County Open Space Fund provides grant moneys for this acquisition, then Maui County Code requires the conveyance of a conservation easement to the County.

Chapter 343, Hawai'i Revised Statutes, Environmental Review

1. Statutory Exemptions

Section 343-5(a), Hawai'i Revised Statutes, provides that an environmental assessment is not required for an action that proposes the use of state funds for the acquisition of unimproved real property. However, the meaning of "unimproved" under Chapter 343 remains undefined. Regardless of this definitional uncertainty, the Division advises that the results of the Legacy Land application process, narrowly interpreted, indicate that the properties that the Legacy Land Conservation Commission ("LLCC") recommended for Fiscal Year 2022 acquisition are not "unimproved."

2. Administrative Exemptions

Routine Activities and Ordinary Functions (de minimis activity)

Section 343-6(a)(2), Hawai'i Revised Statutes, provides for "procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an environmental assessment." Chapter 11-200.1, Hawai'i Administrative Rules, establishes a process for exempting the use of State funds for a land acquisition grant—awarded through the Legacy Land Conservation Program—from the preparation of an environmental assessment by securing concurrence from the Environmental Council for a two-part "exemption list" in which the second part allows an agency "to use part one of its exemption list, developed pursuant to subsection (a)(1), to exempt a specific activity from preparation of an EA and the requirements of section 11-200.1-17 [Exemption Notices] because the agency considers the specific activity to be de minimis" (Section 11-200.1-16). However, under Section 11-200.1-15, an exemption is inapplicable "when the cumulative impact of planned and successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment."

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

On March 3, 2020, the Environmental Council concurred with the Department's new two-part exemption list, and on November 10, 2020, the Environmental Council concurred with a revised version. The list includes, under Exemption Class 1 (Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing), PART 1:

- Action Type 38, "[a]cquisition of land or interests in land," and
- Action Type 42, "[t]he award of grants under Haw. Rev. Stat. Chapter 173A [Acquisition of Resource Value Land] provided that the grant does not fund **an activity that causes any material change of use of land or resources beyond that previously existing**" (emphasis added).

Exemption for Item B (Pohakea Watershed Lands) under Action Type 38, "[a]cquisition of land or interests in land."

The Division believes that the exemption for Action Type 38 applies only to an acquisition that transfers ownership to the Department, which in this case applies to Item B (Pohakea Watershed Lands).

Exemptions for Items A (Māhukona Navigation and Ecological Complex), B (Pohakea Watershed Lands) and C (Haneo'o Lands) under Action Type 42, "the grant does not fund an activity that causes any material change of use of land or resources beyond that previously existing."

The governing authorities for Action Type 42 do not define "material change of use." The Division believes (1) that the "activity" of land acquisition funded by a grant from the Legacy Land Conservation Program merely enables the possibility of—rather than "causes" with certainty—a future "change of use" action by an awardee that takes ownership of a property, and (2) that such land acquisition is thus exempt from the preparation of an environmental assessment. Importantly, a post-acquisition "change of use" action would be subject to environmental review requirements under Chapter 343, subsequent to and independent of the acquisition, if applicable at that time to that action. Also, based on the results of the Fiscal Year 2022 Legacy Land grant application process, the Division concludes that the action of awarding State Legacy Land grant funds for the recommended land acquisitions (a) is not related to the significance of "cumulative impact of planned and successive actions in the same place, over time," and (b) "will not be significant in a particularly sensitive environment."

In any case, the Division may require awardees to meet any requirements of Chapter 343 prior to disbursing funds for land acquisition grants (Section 13-140-24(a)(8), Hawai'i Administrative Rules). Internally, the Department's Land Division imposes the same requirement on land acquisition by a State agency. In this context, it is important to distinguish that post-acquisition management activity described in an application is aspirational, not obligatory, and does not represent an irrevocable commitment that would be enforceable under a Legacy Land Conservation Program grant agreement.

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

Therefore, the Division believes that the proposed awards of State grant funds for land acquisition at Māhukona, Kohala, Hawai'i (Item A); Pohakea, Wailuku, Maui (Item B); and Haneo'o Lands, Hāna, Maui (Item C), through the Legacy Land Conservation Program (using the Fiscal Year 2022 Land Conservation Fund), are exempt from the requirement to prepare an environmental assessment, pursuant to State environmental review law.

RECOMMENDATIONS

That the Board:

- 1) Approve an award from the Land Conservation Fund, using a total of \$1,000,000 from beneath the Fiscal Year 2022 spending ceiling for the Legacy Land Conservation Program, to the Division of Forestry and Wildlife, and authorize the Chairperson to execute a letter of offer to the landowner and encumber funds from the Land Conservation Fund, for the acquisition of approximately 257.8 acres at Wailuku District, Island of Maui (Item B, Pohakea Watershed Lands), subject to the availability of funds, the approval of the Governor, compliance with Chapters 173A and 343, Hawai'i Revised Statutes, and the normal process and procedures for the acquisition of lands by the State.
- 2) Authorize the Chairperson to enter into agreements and encumber Fiscal Year 2022 funds from the Land Conservation Fund with Hawaiian Islands Land Trust for \$3,000,000 for the acquisition of approximately 642.46 acres at Kohala District, Island of Hawai'i, with a conservation easement held by the County of Hawai'i (Item A, Māhukona Navigation and Ecological Complex), and with Ke Ao Hali'i for up to \$675,000 for the acquisition of approximately 8.58 acres at Hāna District, Island of Maui, with a conservation easement held by an appropriate land conservation organization or a county, state, or federal natural resource conservation agency (Item C, Haneo'o Lands) – together using a total of up to \$3,250,000 from beneath the Fiscal Year 2022 spending ceiling for the Legacy Land Conservation Program, subject to:
 - a. compliance with Chapters 173A and 343, Hawai'i Revised Statutes;
 - b. compliance with Chapter 198, Hawai'i Revised Statutes;
 - c. execution of a Grant Agreement with the Board, including requirements that each prospective private easement holder sign the Grant Agreement as a Consenting Party;
 - d. certification of an appraisal by the Department;
 - e. insertion of Legacy Land Conservation Program restrictions and covenants into the deeds as a condition of contractual agreements with the grant recipients;
 - f. approval of the Grant Agreement and of the Deeds by the Attorney General's office;
 - g. the availability of funds;
 - h. the approval of the Governor; and
 - i. such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

- 3) Approve—as a contingency in the event that an awardee declines its award, or is unable to accept or expend all or part of its awarded funds—awards of remaining, available funds from the Land Conservation Fund, up to the amounts originally requested in the Fiscal Year 2022 application, to Ke Ao Hali'i as an alternate, for the acquisition of approximately 8.58 acres at Hāna District, Island of Maui (Item C, Haneo'o Lands).
- 4) Delegate authority to the Chairperson to redirect remaining, available funds from a Fiscal Year 2022 Legacy Land grant award—that were declined, not accepted, or not expended by an awardee—to other Fiscal Year 2022 applications that the Legacy Land Conservation Commission recommended for funding, so as to accomplish full funding for each approved award in the order ranked by the Commission, as funds are available.
- 5) Require the imposition of Legacy Land Conservation Program deed restrictions and covenants into the deeds for each completed acquisition of land or interests in land, and as a condition of contractual agreements with grant recipients where applicable, and exempt each acquisition by a State agency from any additional conservation easements that may be required under Section 173A-4, Hawai'i Revised Statutes.
- 6) Exempt the following three proposed uses of State funds (for Fiscal Year 2022 Legacy Land Conservation Program grant awards from the Land Conservation Fund to acquire interests and rights and interests in land having value as a resource to the State) from the requirement to prepare an environmental assessment, in accordance with Sections 343-5 and 343-6, Hawai'i Revised Statutes; Sections 11-200.1-1, -2, -8, -13, -14, -15, and -16, Hawai'i Administrative Rules; and the Department of Land and Natural Resources Exemption List, reviewed and concurred on by the Environmental Council on November 10, 2020:

Exemption Class 1, PART 1, Action Type 42

Item A.	LLCP 2022-01	Hawaiian Islands Land Trust (Māhukona Navigation and Ecological Complex)
Item B.	LLCP 2022-02	Department of Land and Natural Resources, Division of Forestry and Wildlife (Pohakea Watershed Lands)
Item C.	LLCP 2022-03	Ke Ao Hali'i (Haneo'o Lands)

Exemption Class 1, PART 1, Action Types 38 and 42

Item B.	LLCP 2022-02	Department of Land and Natural Resources, Division of Forestry and Wildlife (Pohakea Watershed Lands)
---------	--------------	---

FISCAL YEAR 2022 LEGACY LAND CONSERVATION PROGRAM

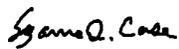
- 7) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the Fiscal Year 2022 Legacy Land Conservation Program grants and acquisitions approved by the Board and the Governor.

Respectfully submitted,



DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



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

ATTACHMENTS:

- Attachment 1:** Table of recommended awards for the Fiscal Year 2022 Legacy Land Conservation Program, with project maps and photos for Items A–C
- Attachment 2:** Consultation Letters from the President of the State Senate (March 31, 2022) and the Speaker of the State House of Representatives (March 31, 2022)
- Attachment 3:** Application Sections G, H, I for Items A-C

Attachment 1
May 13, 2022

**Table of recommended awards
for the Fiscal Year 2022
Legacy Land Conservation Program**

**(3 pages, followed by maps
and photos for projects A - C)**

Legacy Land Conservation Commission Ranking and Recommendation* Summary, Fiscal Year 2022
March 11, 2022 (Meeting 75, Agenda Items 4 & 5)

*Commission Recommendation at bottom of last page (page 3).
 Text in *italics* indicates revised information, as requested by applicant during the meeting and accepted by Commission, or corrected by staff.

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$	TOTAL \$
4B	1	Māhukona Navigation & Ecological Complex	Hawaiian Islands Land Trust (HILT)	Kohala, Hawai'i	Fee + Easement (County of Hawai'i)	<p>The proposed 645 acre Māhukona Navigational & Cultural Preserve is part of a coastal ecosystem that encompasses the ancient Kohala Field System. Since the mid 1900's, this area has been slated for large scale resort and residential development. Currently, the land is held by prior investors who perfected their lien, foreclosed on the property, and are looking to divest of their land holding at Māhukona. Up until recent times, the landowner was engaging developer buyers for the property. In late 2019, HILT was able to make inroads with the landowner and began applying for public funding for the acquisition of Māhukona. Acquiring and protecting the property will prevent uses that are incompatible with conservation and cultural perpetuation, e.g., resort and residential development, golf courses, or other activities that generate pesticides or other pollutants, and so would eliminate huge irreversible threats to Māhukona's endangered, threatened, and at risk species.</p> <p>The lands of Māhukona, Kohala, Hawai'i serve as a piko and power source for ancient and today's non-instrumental navigators throughout the Pacific. This is the centerfold/core significance of these lands—the navigational importance and the resurgence and living cultural practice of non-instrumental navigation attributed to it. Spanning six ahupua'a along the North Kohala coastline, including Māhukona, Hihū, and Kaoma from the south, and Kamano, Kou, and Kapa'a Nui to the north, the "Māhukona Living Navigational and Cultural Complex" provides Hawai'i a tremendous opportunity to protect the engrained and universal cultural and conservation values of the land in perpetuity.</p> <p>TMKs: (3) 5-7-002:011, :027, :036, :037 (3) 5-7-003:001, :002, :003, :007, :008, :010, :018</p>	642.46	Urban + Agricultural + Conservation (Resource Subzone)	Resort-Hotel + A-1a + A-5a + V-2.0 + Open	\$16,277,084 84.4%	\$3,000,000	\$19,277,084
										Corrected mathematical computations in application Form 3 and Form 4.		

Legacy Land Conservation Commission Ranking and Recommendation* Summary, Fiscal Year 2022
 March 11, 2022 (Meeting 75, Agenda Items 4 & 5)

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$	TOTAL \$
4A	2	Pohakea Watershed Lands	DLNR-Division of Forestry & Wildlife	Wailuku, Maui	Fee	<p>The Pohakea Watershed Lands are located along Honoapiʻilani Highway, the main access road from central Maui to Lahaina and West Maui. The land spans two ahupuaʻa -- Ukumehame and Wailuku -- located at the base of Mauna Kahalawai. The property is located across the highway and mauka of the Maui Ocean Center, Māʻalaea Shops, and Māʻalaea Harbor. Part of the Māʻalaea Conservation Corridor, the property connects with nearby landmarks such as Kealia National Wildlife Refuge, the National Marine Whale Sanctuary, Maui Ocean Center, Pacific Whale Foundation headquarters, and a petroglyph site on adjacent state land.</p> <p>This project is important for public safety. Under public ownership, the property will be managed to decrease risks from wildfire, erosion and flooding and will ensure long term health of the watersheds, wetlands, and coastal marine areas. If the property is sold to another private owner, there is no way to ensure future stewardship and management activities will align with the community vision. State acquisition and co-stewardship with community groups will guarantee that the scenic open space property near major population centers and tourist attractions will forever remain a source of inspiration and treasured community resource for open space, recreation, and agriculture. Protecting the coastal plain from development has been a community priority for decades. There is a willing seller landowner, broad support for acquisition, and interagency plans for ongoing stewardship.</p> <p>TMK: (2) 3-6-001:018</p>	257.8	Agricultural	AG + Open OZ + Residential R-3 + Road/ Street Reserve	\$7,300,134 87.9%	\$1,000,000	\$8,300,134

Legacy Land Conservation Commission Ranking and Recommendation* Summary, Fiscal Year 2022
March 11, 2022 (Meeting 75, Agenda Items 4 & 5)

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$	TOTAL \$
4C	3	Haneo'o Lands	Ke Ao Hali'i (KAH-Save Hana Coast)	Hāna, Maui	Fee + Easement (Holder Uncertain)	<p>The land is being used for cattle grazing at this time and we will use the land for cattle grazing until we investigate further with the historical sites and burial sites. These sites will be fenced or protected to deter any desecration. There are rock piles and we suspect remnants of heiau or more unknown burial sites. If we acquire these lands, the Archaeological study will provide KAH a better understanding of the landscape. And the study of the water flow will allow more protection of the water and ocean.</p> <p>One may ask how conserving these lands benefit the Hāna community. Preserving the past is vital to the Hāna community. Our ancestral legacy lives on to pass on to the generations to follow. We will continue to stop harm to historical sites and desecration of burials. These lands are currently on the market for sale and the historical sites are threatened by private development. There are three known Heiaus in close proximity Hale O Lono Heiau, the impressive Kaluanui Heiau and Pakiokio Heiau all carbon dated between the 1400s-1800s. We plan to conserve the remnants left on the land and maintain it for educational purposes. Hāna descendants have a strong sense of kuleana to protect these lands from private development. The theft of our Hawaiian lands has made a huge impact on descendants of Hāna. These lands are a significant part of Hana's culture and spiritual connections to the ancestors, the inspirational beauty and feeling it gives to those who live here and come to visit is precious. We need to inform and inspire the public to be aware of these historical treasures and safeguard them.</p> <p>TMK: (2) 1-4-007:015 <i>The day before Commission decisionmaking, the landowner sold four other parcels that were also in the application.</i></p>	8.58	Agricultural + Conservation (Limited Subzone)	AG + SMA	\$237,500 26%	\$675,000	\$912,500
										<p><i>Acreage from Maui County parcel information, as provided in application. Revised financial figures for acquiring one parcel rather than five parcels.</i></p>		

***Agenda Item 5 - Recommendation**

The Legacy Land Conservation Commission (Commission) recommends that the Board of Land and Natural Resources (Board) approve three awards for grants from available funds in the Land Conservation Fund, for full funding of the three top-ranking FY2022 applications for land acquisition grants, in the order ranked by the Commission, as funds are available.

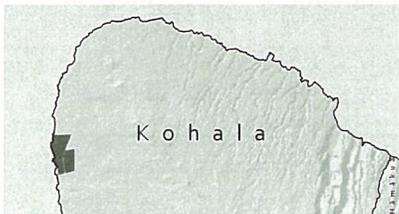
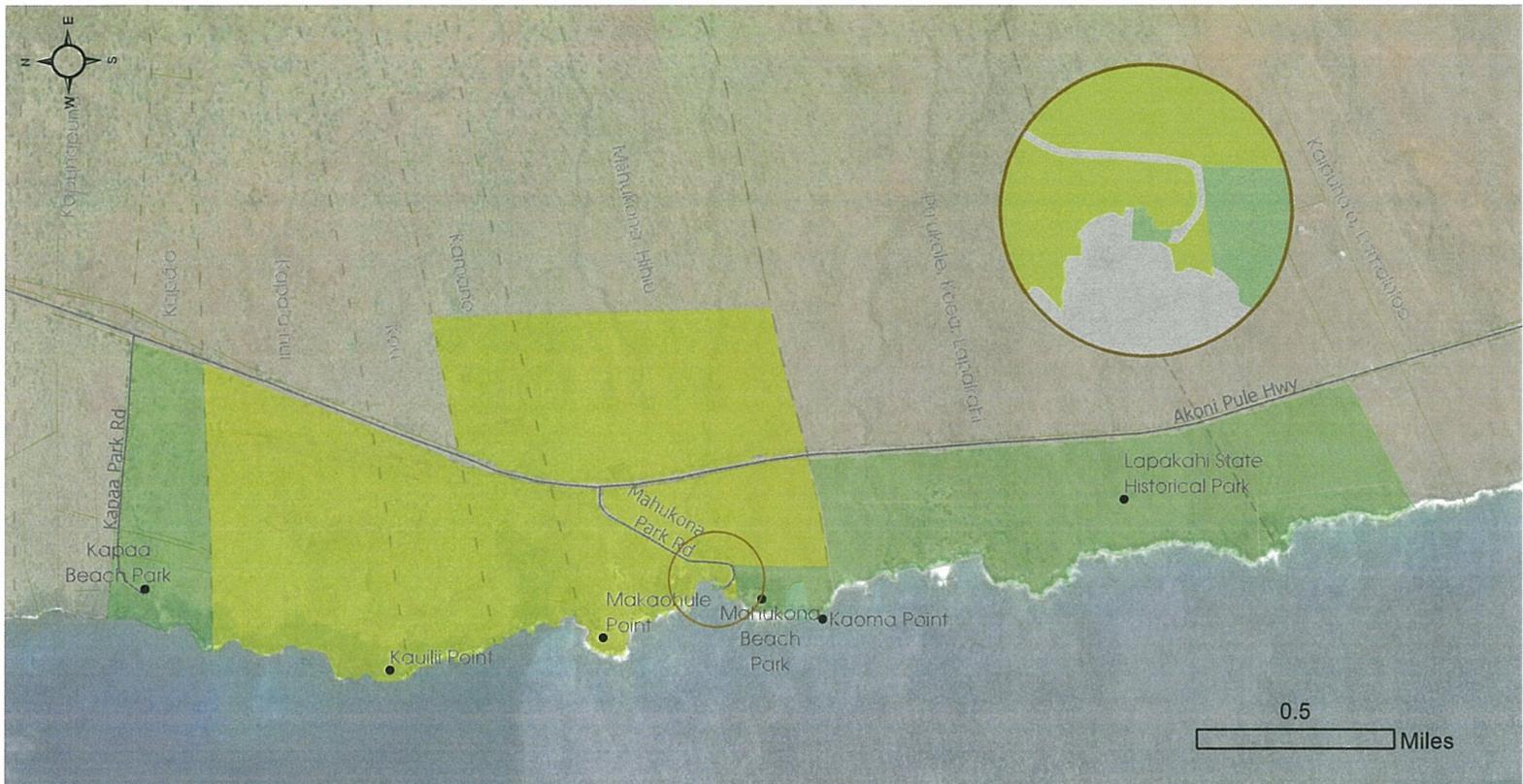
In order to provide for greater flexibility in the awards program, the Commission also recommends that the Board:

- (1) Approve—as a contingency in the event that an awardee declines its award, or is unable to accept or expend all or part of its awarded funds—awards of remaining, available funds from the Land Conservation Fund, up to the amounts originally requested in the FY2022 applications, to Ke Ao Hali'i as an alternate, for the acquisition of 8.8 acres at Hana, Maui, provided that Ke Ao Hali'i submits amended application materials as requested by Legacy Land Conservation Program staff not later than March 28, 2022.
- (2) Delegate authority to the Chair to redirect remaining, available funds from a FY2022 grant award—that were declined, not accepted, or not used by an awardee—to other FY2022 applications that the Legacy Land Conservation Commission recommended for funding, so as to accomplish full funding for each approved award in the order ranked by the Commission, as funds are available.

Attachment 1(A)
Mahukona Navigation
and Ecological Complex
Kohala, Hawai'i
Maps & Photos

MĀHUKONA NAVIGATIONAL AND CULTURAL COMPLEX

KAPA'A NUI, KOU, KAMANO, MĀHUKONA, HIHIU, AND KAOMA AHUPUA'A, KOHALA, HAWAI'I ISLAND



Map Key

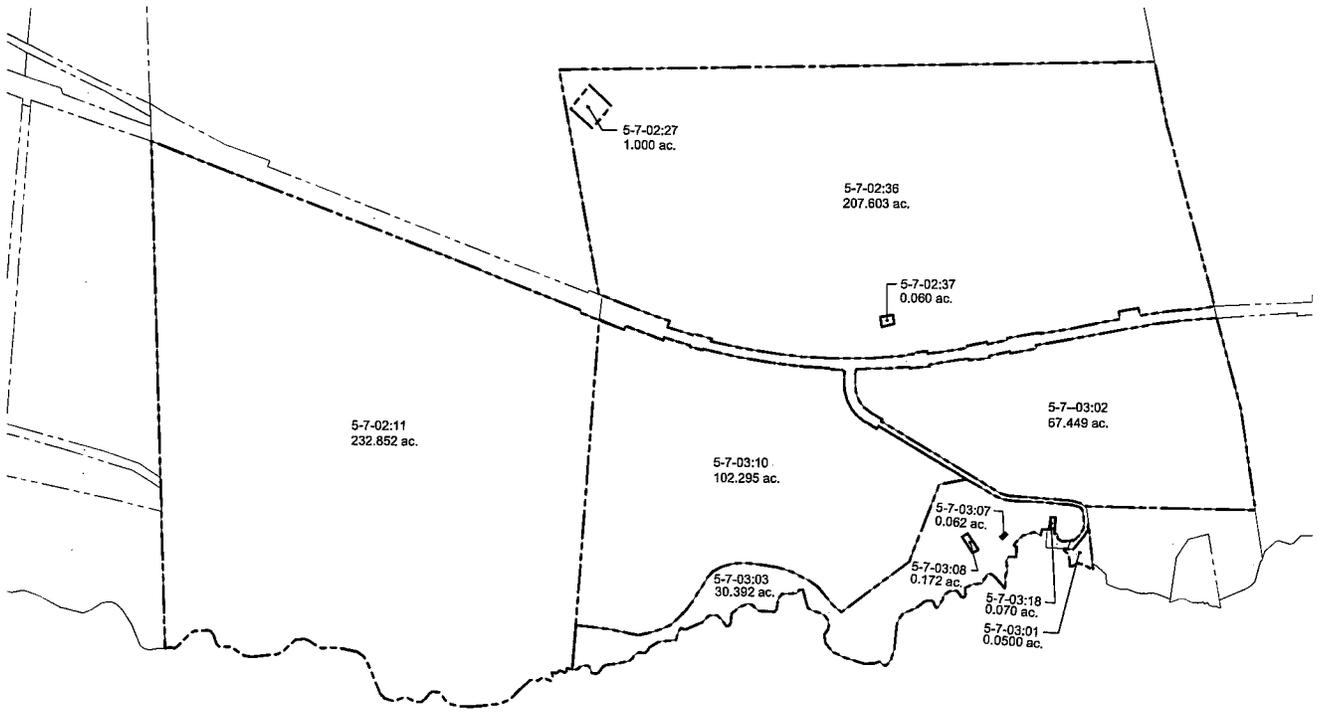
- Project Area (642 acres)
- State of Hawaii
- United States of America

Ahupuaa

- Ahupuaa
- Tax Map Boundaries



Māhukona, Kohala Map 2: Eleven (11) TMK Parcels



MAHUKONA TMK LOTS

KOHALA PRESERVE CONSERVATION TRUST, LLC (821/08 TA)

MARK 012298

NORTH	AREA SCALE	VERTICAL SCALE (FEET)

NORTH KOHALA, ISLAND OF HAWAII

Māhukona, Kohala Photo 1: Viewplane looking north



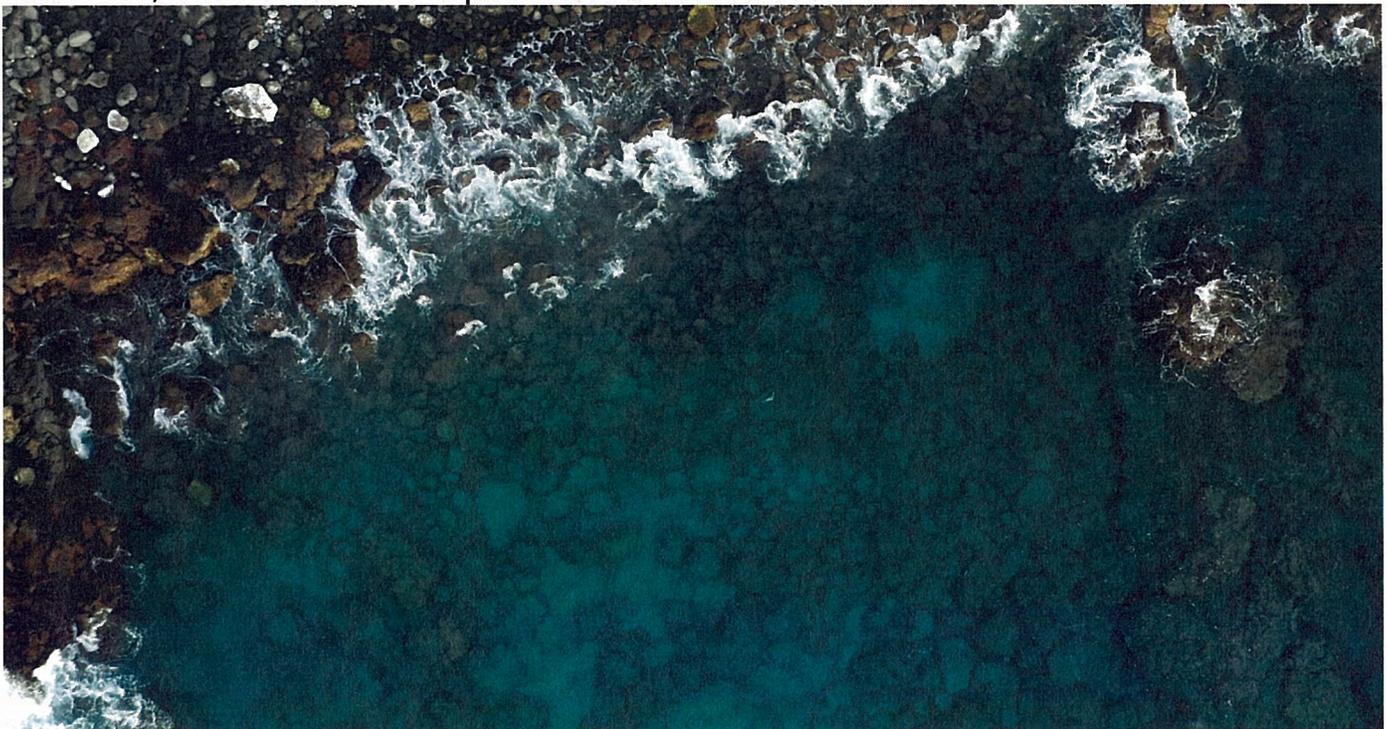
Māhukona, Kohala Photo 2: Over 170 significant cultural sites on property



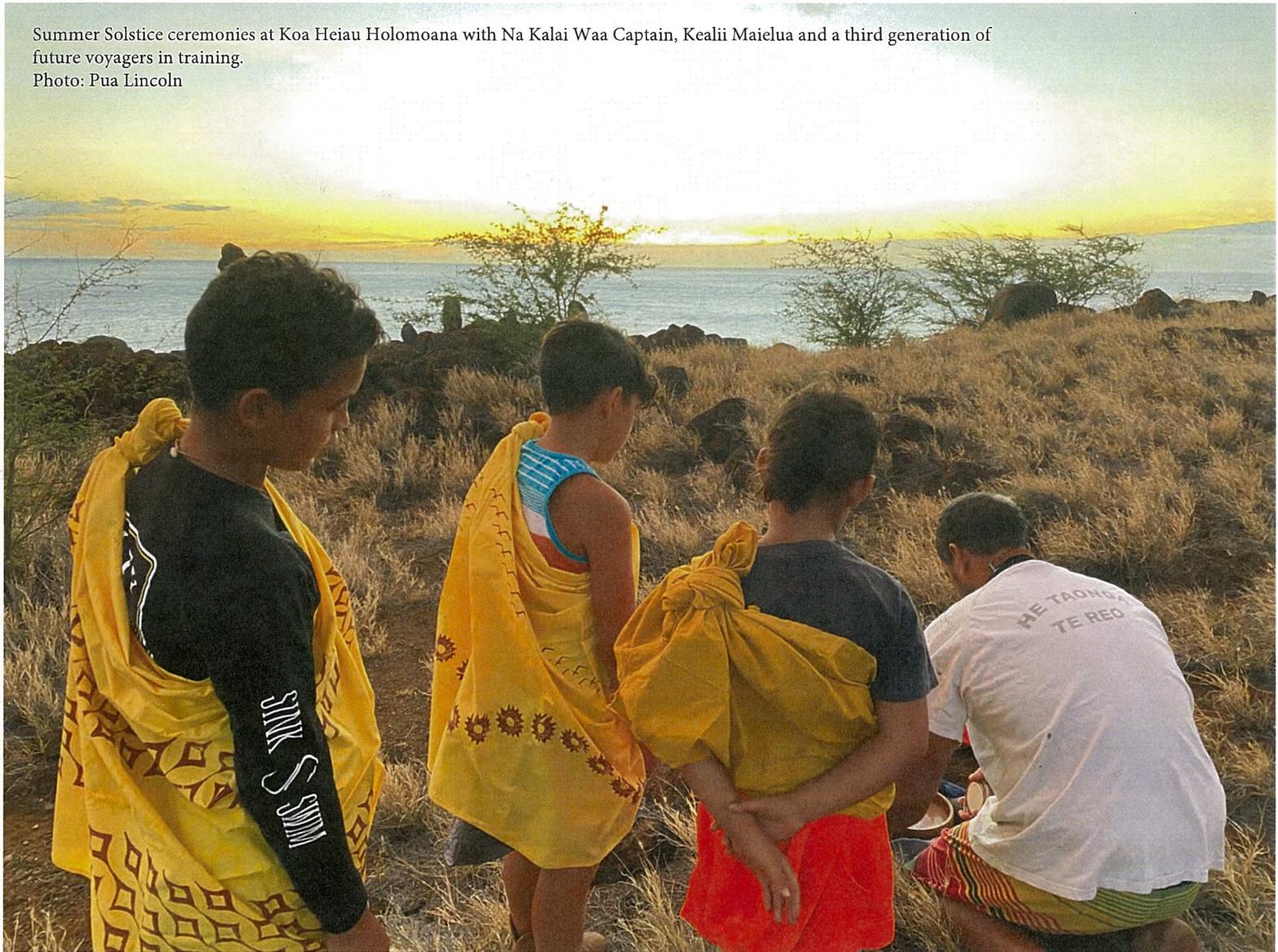
Māhukona, Kohala Photo 3: Viewplane looking south



Māhukona, Kohala Photo 4: Unique and abundant coastline features

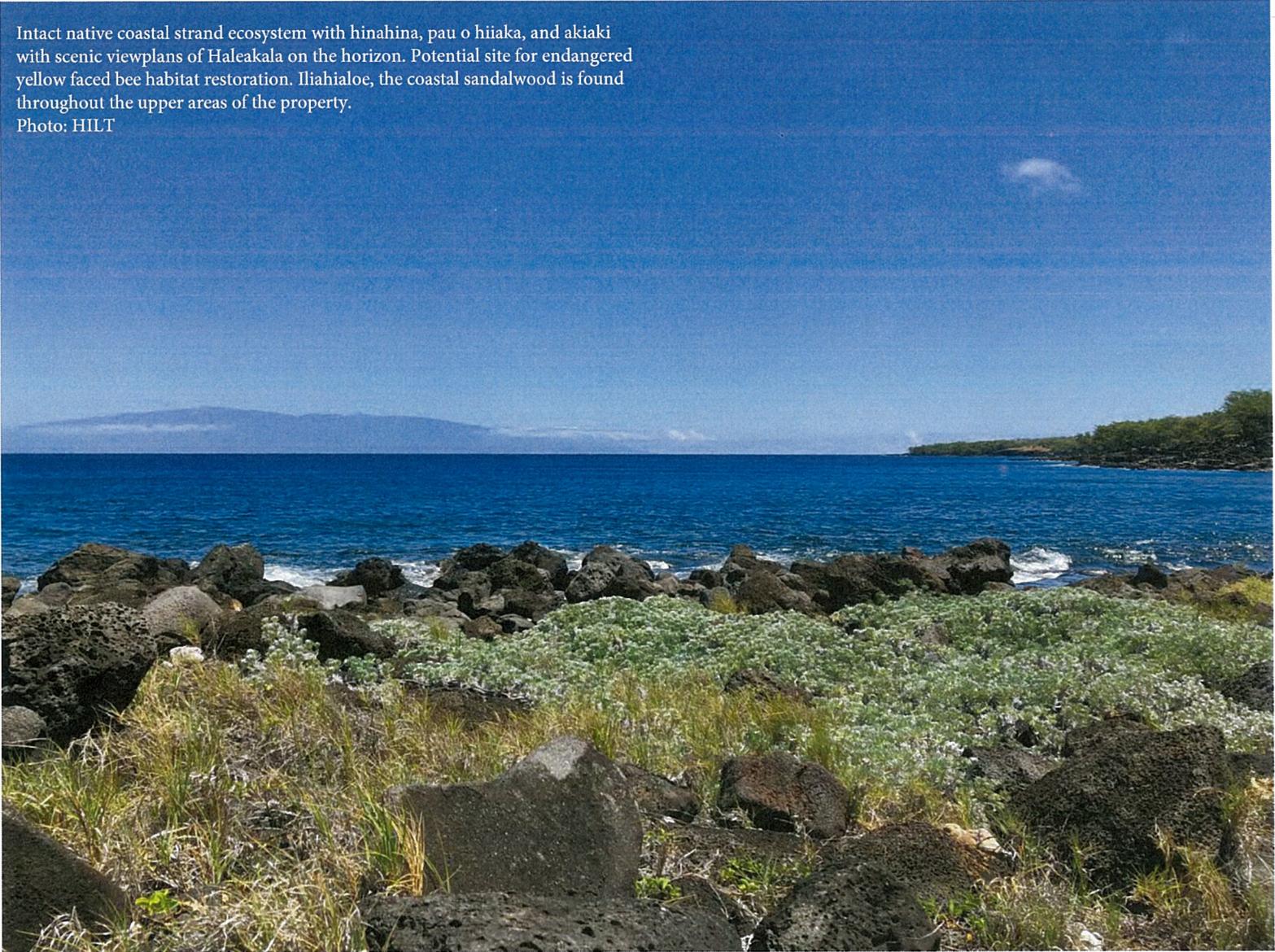


Summer Solstice ceremonies at Koa Heiau Holomoana with Na Kalai Waa Captain, Kealii Maielua and a third generation of future voyagers in training.
Photo: Pua Lincoln



Intact native coastal strand ecosystem with hinahina, pau o hiiaka, and akiaki with scenic viewplans of Haleakala on the horizon. Potential site for endangered yellow faced bee habitat restoration. Iliahialoe, the coastal sandalwood is found throughout the upper areas of the property.

Photo: HILT



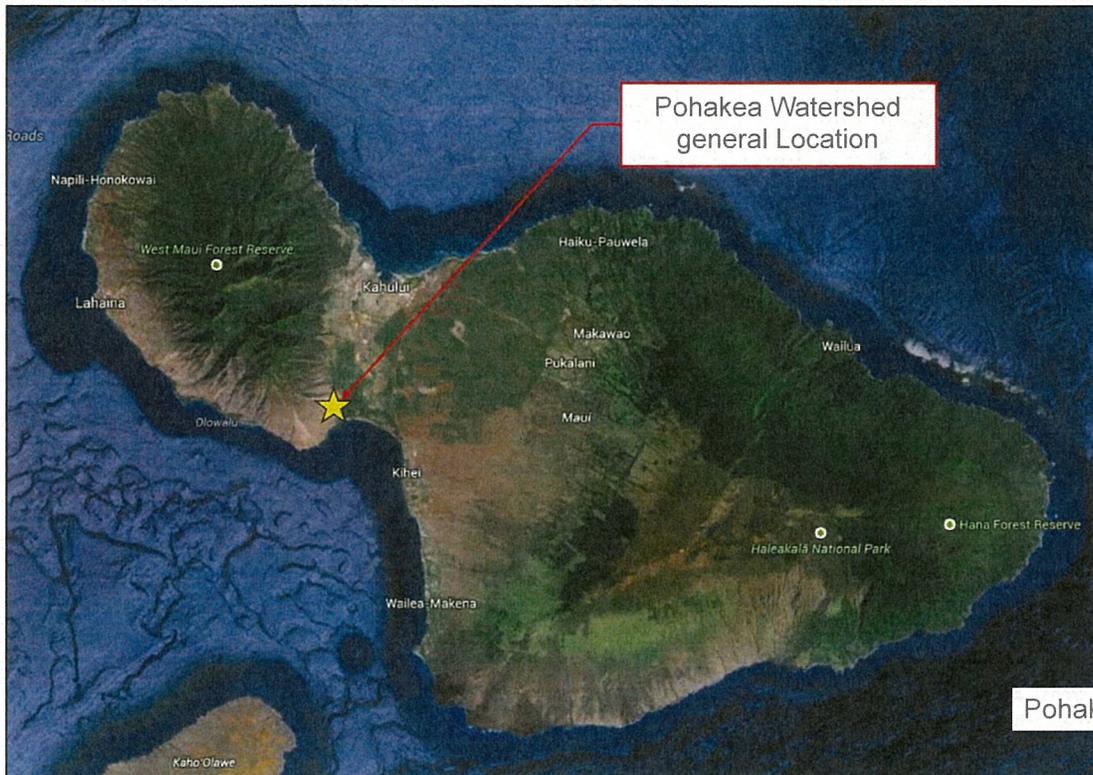
Koa Heiau Holomoana, a site revered by voyagers throughout the Pacific and still used today for training in navigational wayfinding. Mahukona was a place of training in navigation in ancient days and is envisioned to host a Hawaiian School of Navigation in partnership with Hawaii Land Trust.
Photo: Kuhao Zane



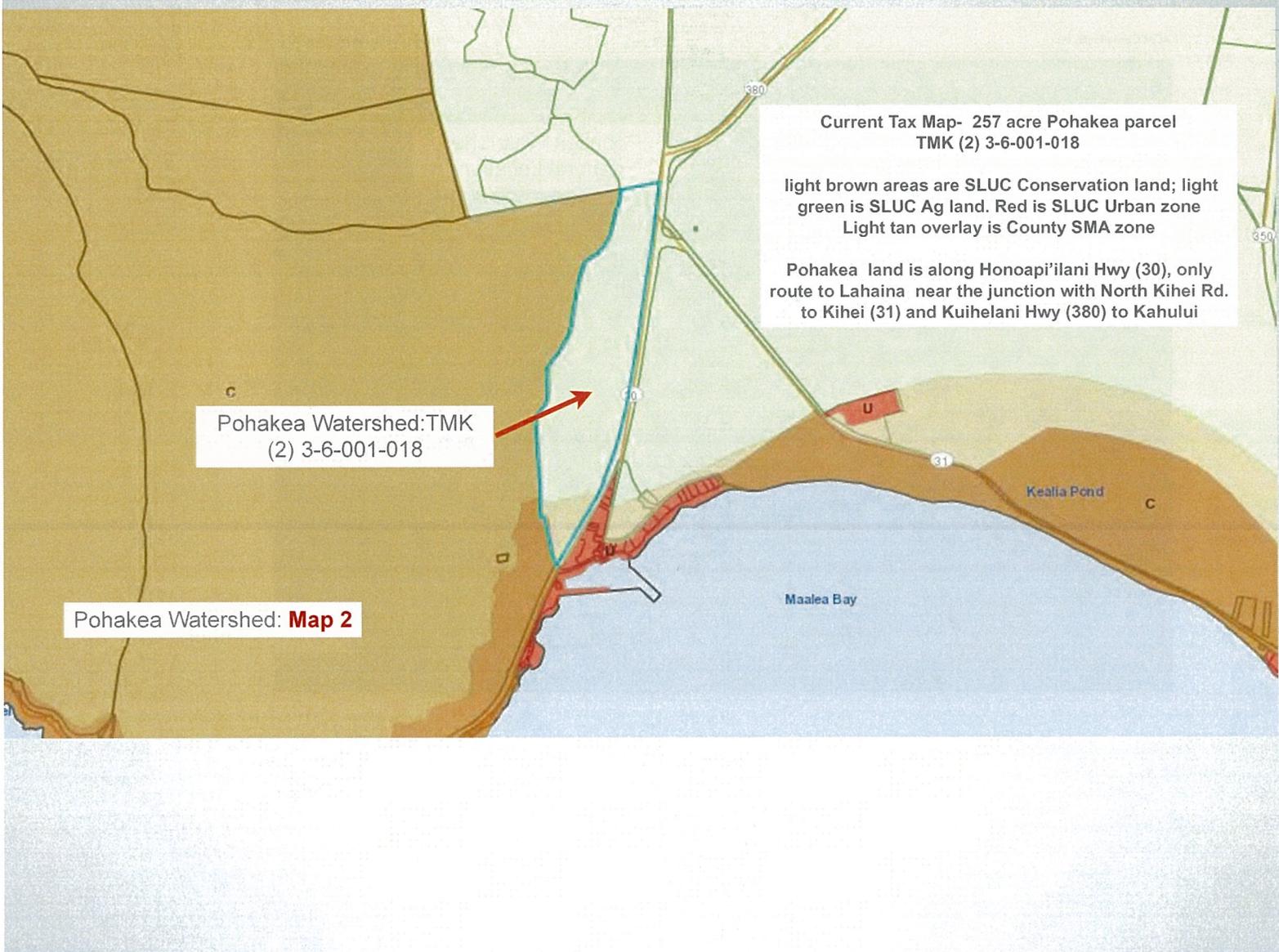
Attachment 1(B)

**Pohakea Watershed Lands
Wailuku, Maui**

Maps & Photos



Pohakea Watershed: **Map 1**



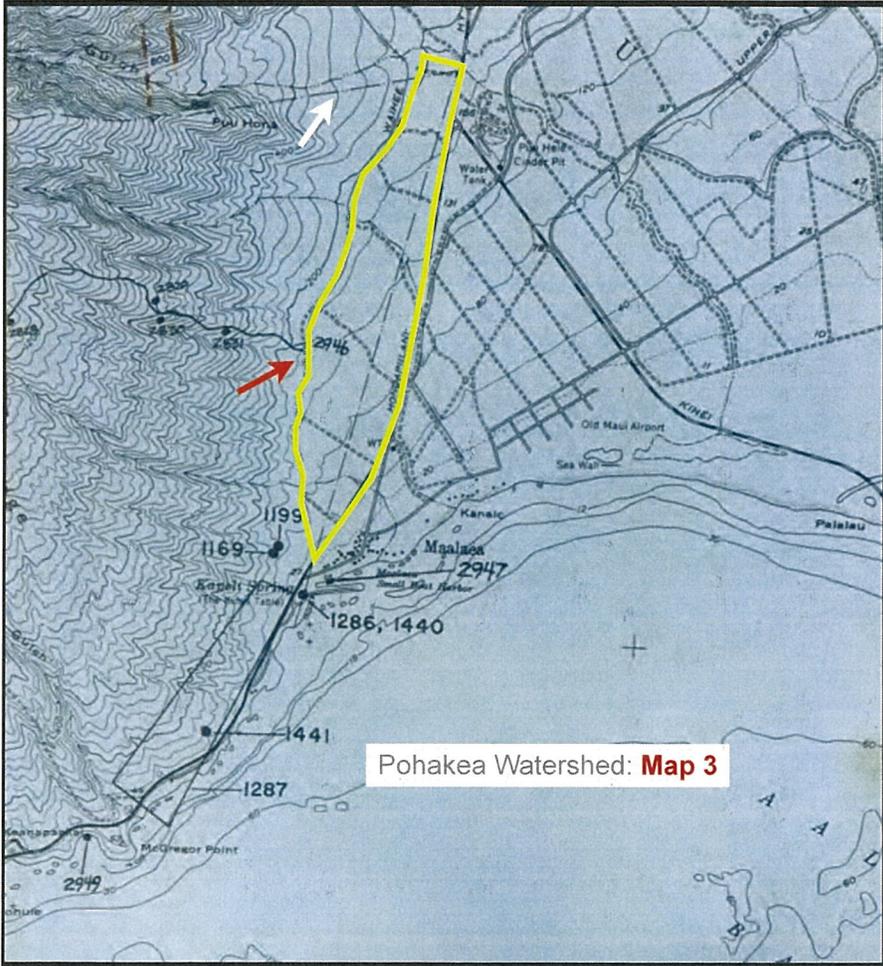
Current Tax Map- 257 acre Pohakea parcel
TMK (2) 3-6-001-018

light brown areas are SLUC Conservation land; light green is SLUC Ag land. Red is SLUC Urban zone
Light tan overlay is County SMA zone

Pohakea land is along Honoapi'iilani Hwy (30), only route to Lahaina near the junction with North Kihei Rd. to Kihei (31) and Kuihelani Hwy (380) to Kahului

Pohakea Watershed: TMK
(2) 3-6-001-018

Pohakea Watershed: **Map 2**



Pohakea Watershed: **Map 3**

1973: State Historic Division archaeological map of Ma'alaea, Maui.
Shows Site complexes recorded in Mā'alaea, adjacent to Pohakea lands (outlined in yellow)

Site **1169:** Mā'alaea Petroglyphs

Site **1287:** Mā'alaea complex: seventeen habitation features

Site **1441:** 3 C-shapes near McGregor Pt.

Site 2946: the Lahaina Pali Trail & 18 associated archaeological sites (red arrow)
Trail head begins on Pohakea parcel

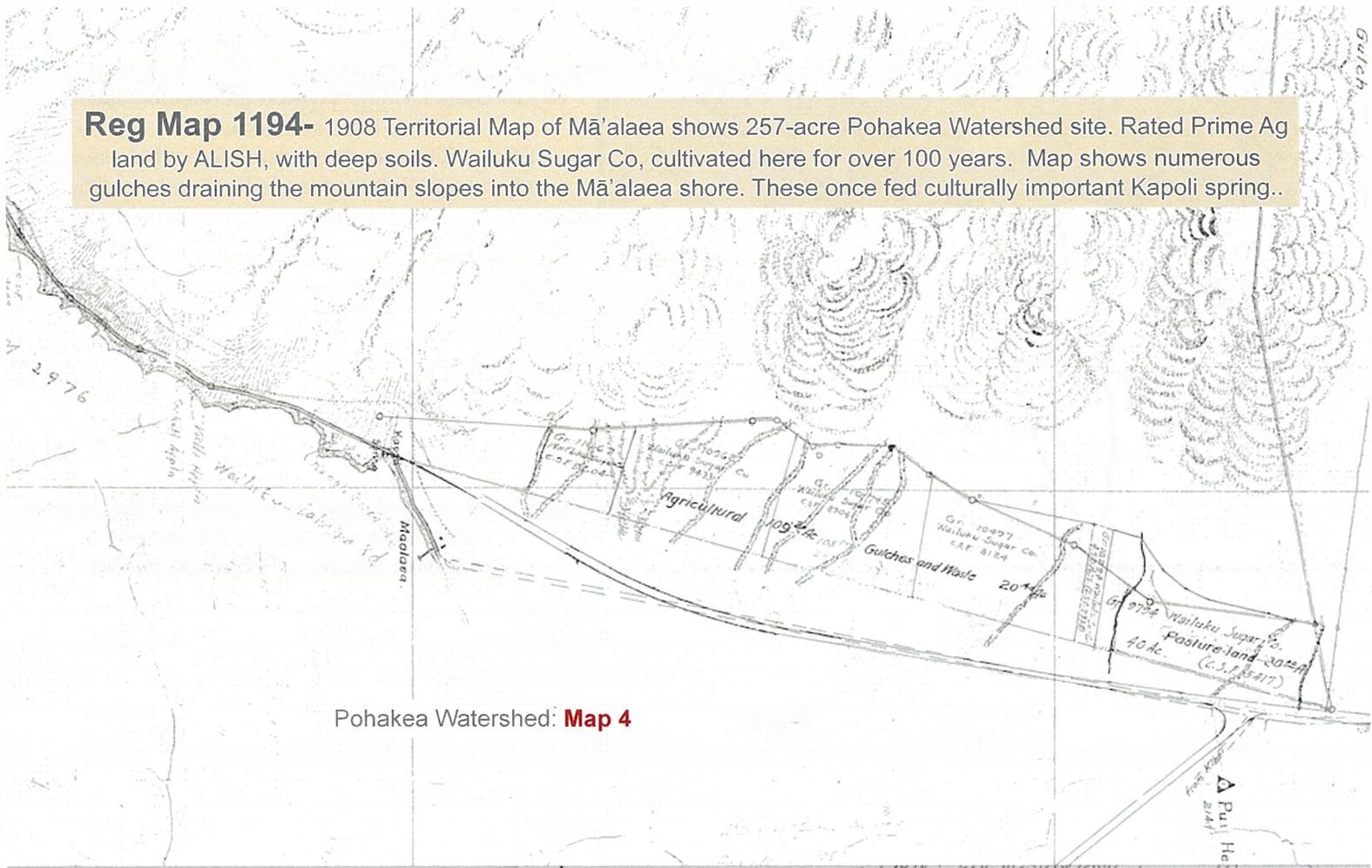
Site 1286: Grinding stone

Site 1440: Piko stone

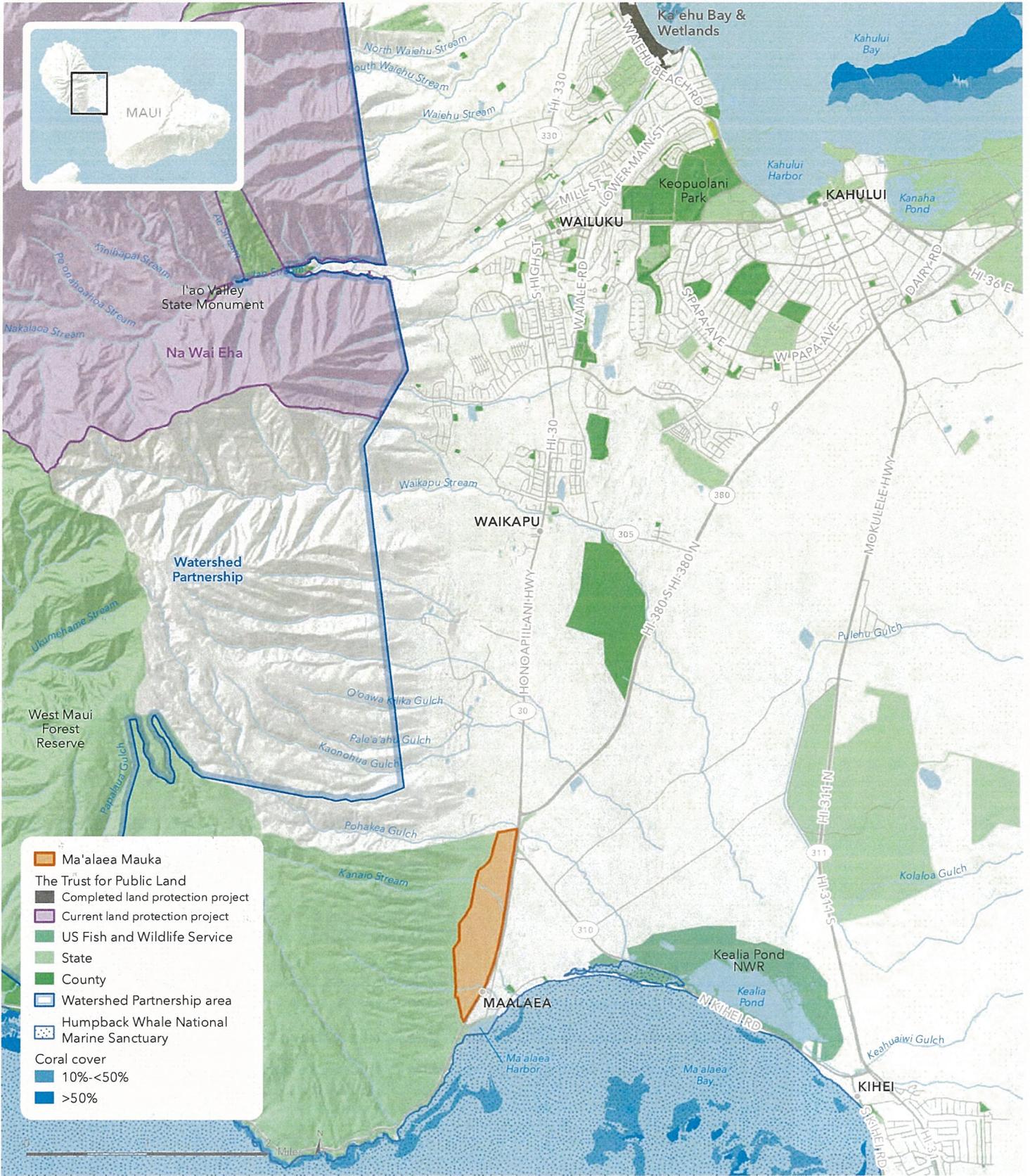
both of these were originally part of the Mā'alaea complex, but were saved when sites were bulldozed in 1952.

Moku Boundary: (white arrow)

Reg Map 1194- 1908 Territorial Map of Mā'alaea shows 257-acre Pohakea Watershed site. Rated Prime Ag land by ALISH, with deep soils. Wailuku Sugar Co, cultivated here for over 100 years. Map shows numerous gulches draining the mountain slopes into the Mā'alaea shore. These once fed culturally important Kapoli spring..



Pohakea Watershed: **Map 4**

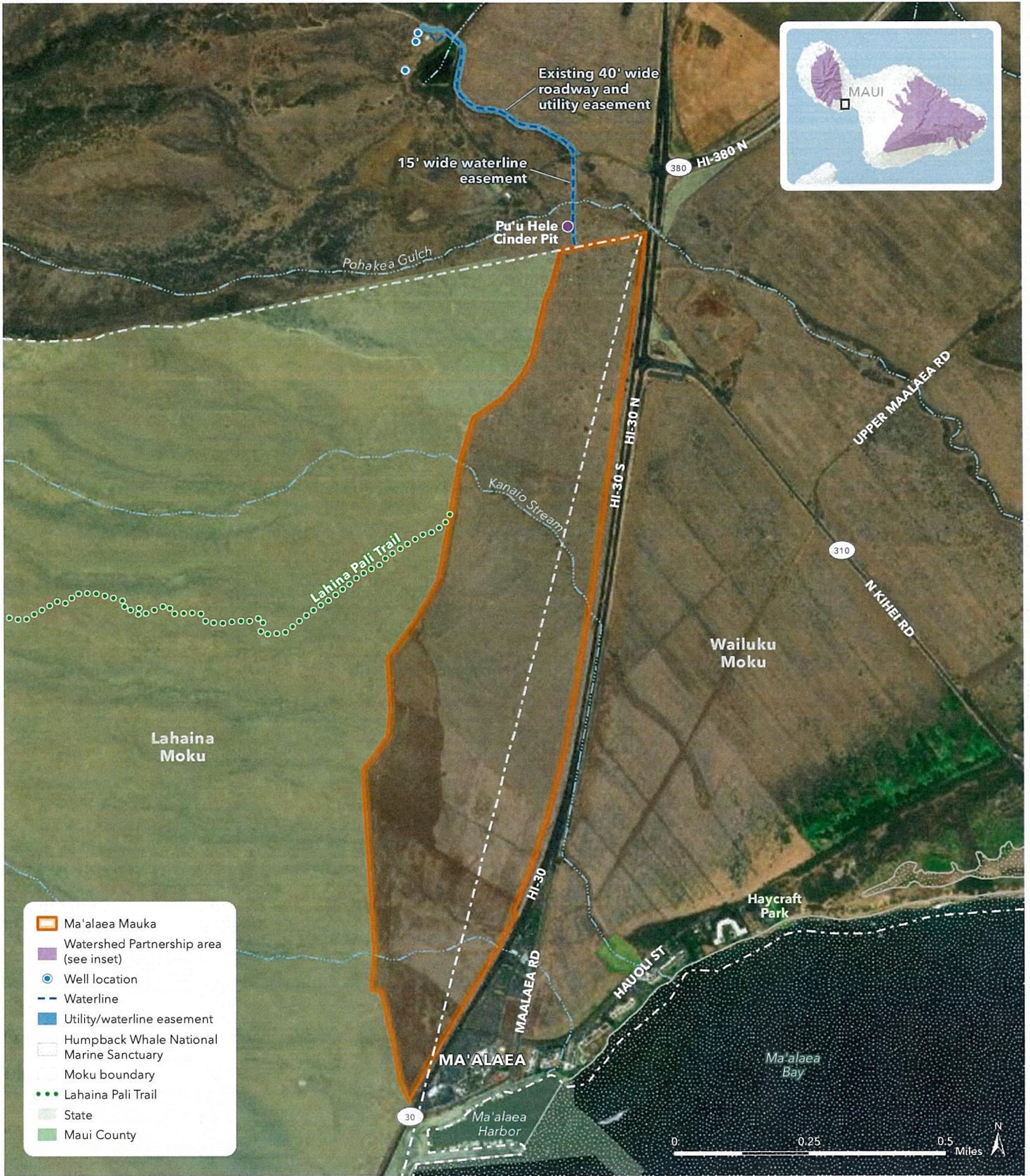


Ma'alaea Mauka

ISLAND OF MAUI, HAWAII

October 26, 2021. Copyright © The Trust for Public Land. The Trust for Public Land, The Trust for Maui Land Trust, and related, registered marks of The Trust for Public Land. Information on this map is provided for informational purposes only. www.tpl.org





Ma'alaea Mauka

ISLAND OF MAUI, HAWAII

November 1, 2021. Copyright © The Trust for Public Land. The Trust for Public Land and The Trust for Public Land logo are federally registered marks of The Trust for Public Land. Information on this map is provided for purposes of discussion and visualization only. www.tpl.org



Pohakea Watershed Lands, Ma'alaea Maui

Ma'alaea Harbor and Bay, State owned

Proposed Pohakea lands, 250 acres

View of Pohakea Lands from State Conservation lands, 3,400 acres

Pohakea Watershed: **Pix 1**

Tuesday, February 18, 20

State Conservation lands, 3,400 acres

Proposed Pohakea lands, 257 acres

Honoapi'ilani Hwy (Rte 30)

Pohakea Watershed: **Pix 2**

257 acre Pohakea Watershed Lands at Ma'alaea Maui would be part of a "conservation corridor" in South Maui including the Ma'alaea reef system, National Humpback Whale Marine Sanctuary Waters, Kealia Pond National Wildlife Refuge, the conservation lands, critical habitats, native forests and Nene sanctuary on Kealaloloa Ridge (Windfarm site) and the Ma'alaea archaeological complex and Lahaina Pali Trail that adjoin the 257 acres

State Conservation lands, 3,400 acres

Proposed Pohakea lands, 250 acres

Ma'alaea small boat harbor- part of National Marine Sanctuary waters

Pohakea Watershed: **Pix 3**

View of 257 acre Pohakea lands from the State conservation lands upslope, with Kealia Pond National Wildlife refuge in distance

Kealia Pond NWR



Proposed Pohakea lands, 257 acres



Pohakea Watershed: **Pix 4**

State Conservation lands, 3,400 acres,
downslope view to Pohakea lands

Pohakea Watershed Lands Photos

Photo 1

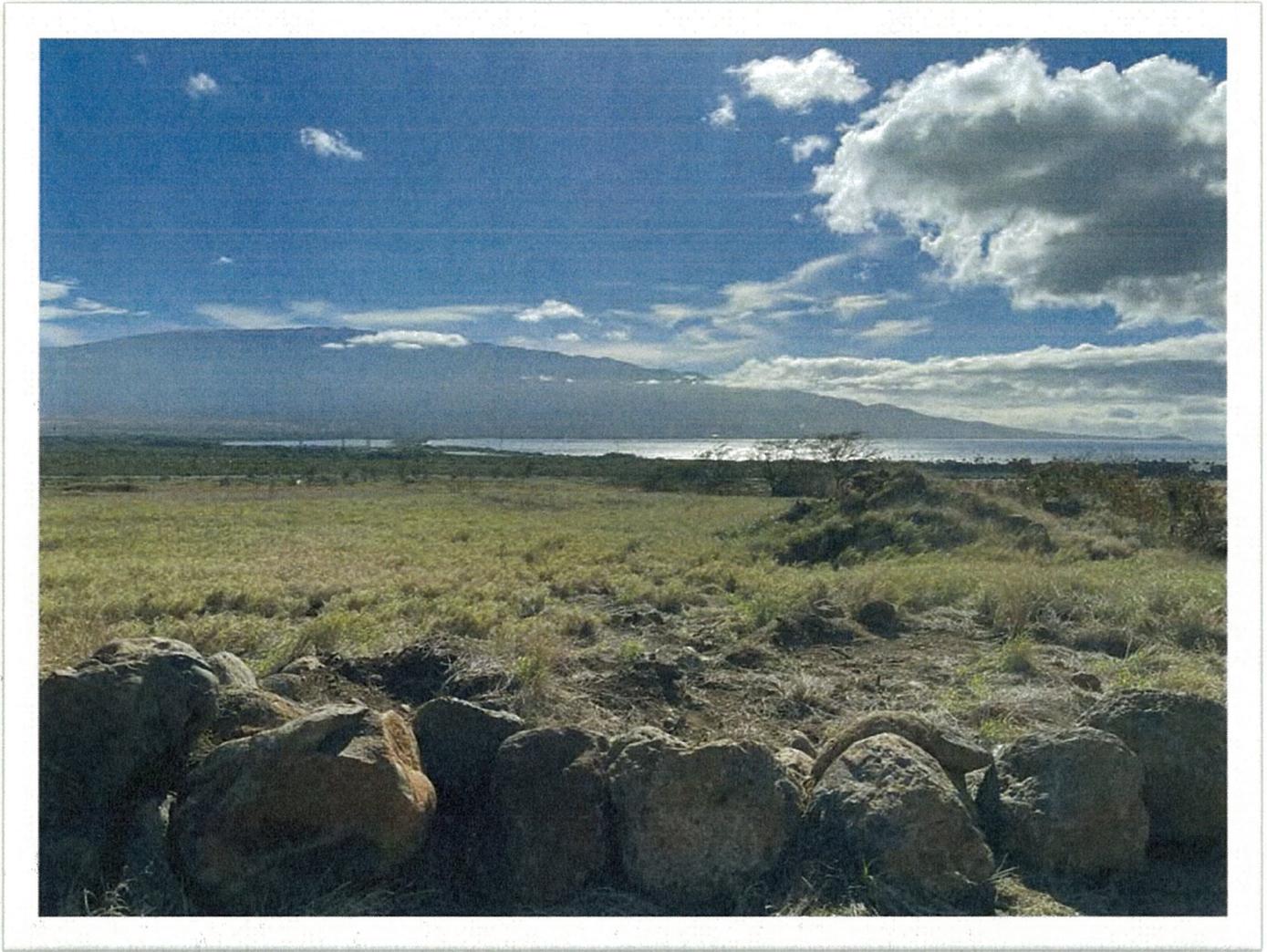
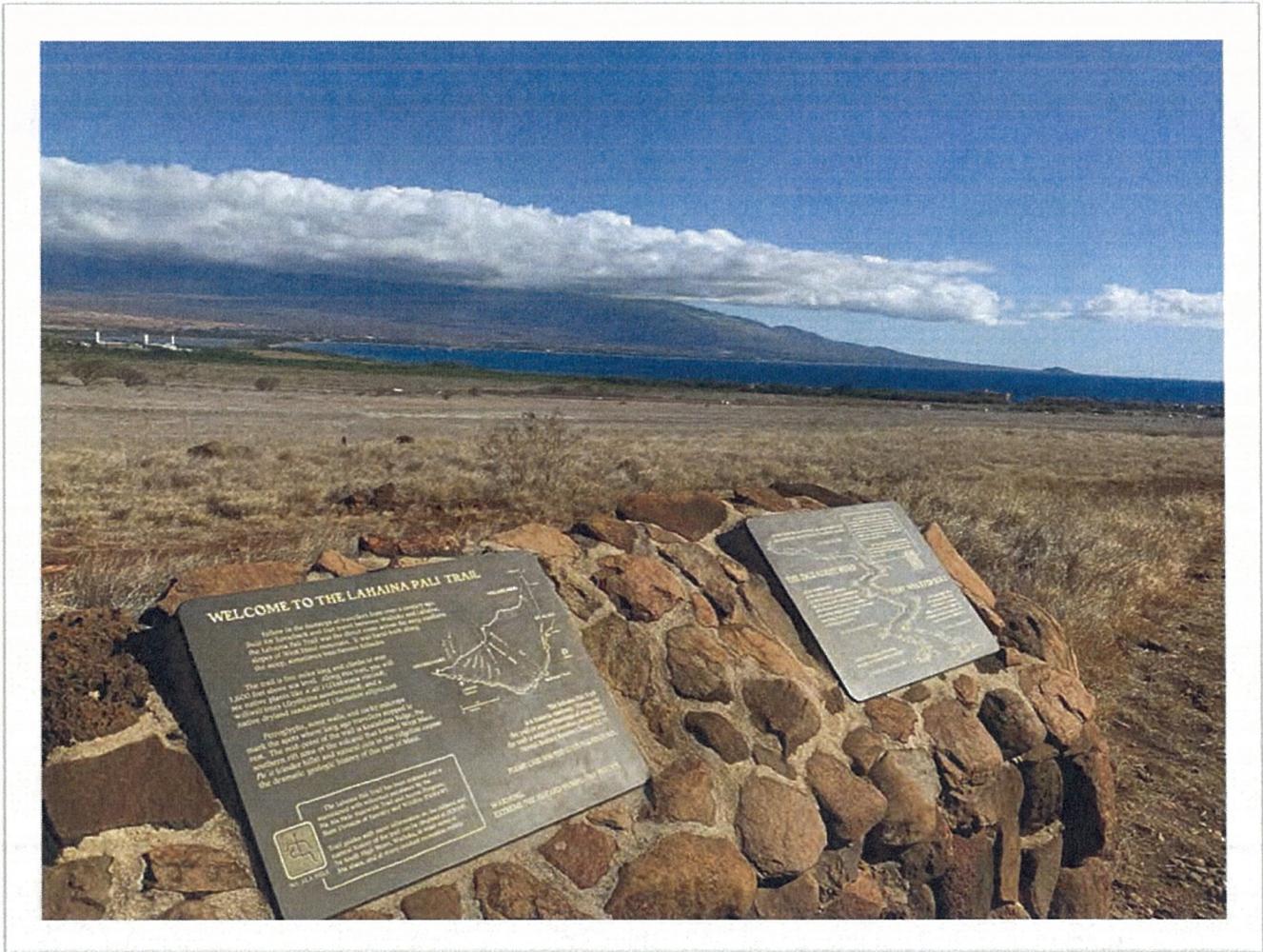


Photo taken from the existing Lahaina Pali Trailhead parking area looking towards south east property boundary along Honoapiʻilani Highway. The property slopes gently from the West Maui Mountains towards the Kealia Pond National Wildlife Refuge and Māʻalaea Bay. The upland watershed lands are prone to erosion, strong winds and frequent wildfire. The land lacks adequate stormwater management and silt-laden runoff from the mountains sheet flows across it destroying habitat and depositing silt into Māʻalaea Bay where it smothers sensitive coral ecosystems.

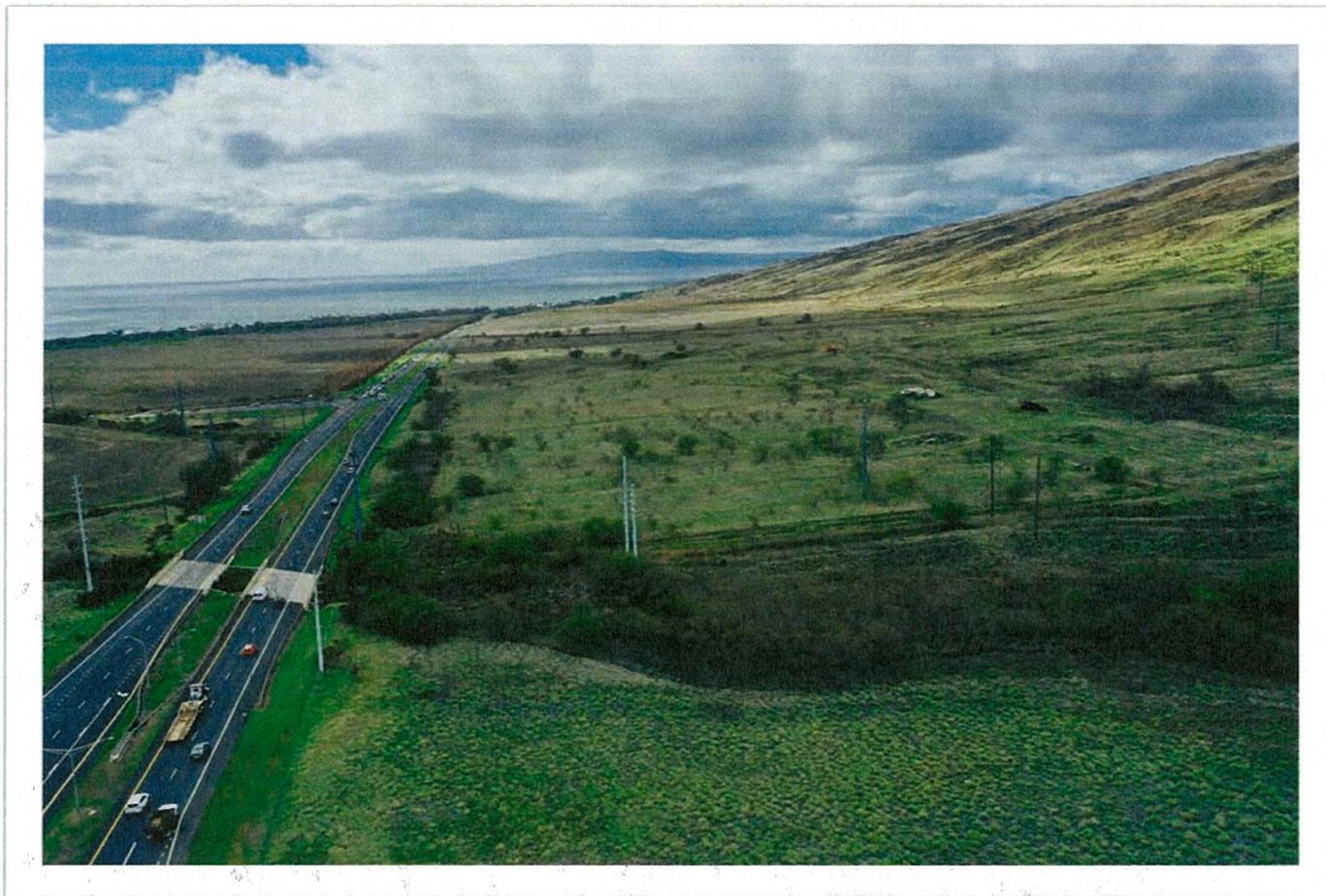
Photo 2:



Public access to the historic Lahaina Pali Trail is directly off the Honoapiʻilani Highway over the subject property. Given its central location and proximity to the most populous areas of Maui, the trail is highly utilized and residents treasure the easy access to outdoor recreation and scenic open space. This is a known wildfire area and unmanaged dried vegetation and frequent windy conditions contribute to rapidly spreading fires that threaten nearby residences and businesses.

The land acquisition includes a separate water component which will benefit the Pohakea Watershed Land: three agricultural wells, a 750,000-gallon storage tank, and easements for the delivery of water across adjacent lands. The water resources will provide significant benefits for land management and help prevent erosion from damaging marine environments.

Photo 3:



Aerial view looking south towards the base of the slopes of the iconic West Maui Mountain and the ocean. Pohakea Gulch traverses the property near its northern boundary. The riparian corridor along the gulch and nearby areas provide important habitat for bats, sphinx moths, and nene. DLNR DOFAW intends to protect and enhance natural habitat and manage for watershed restoration by working with volunteers to replant the riparian corridor with less fire prone species. The property is highly visible from Honoapiʻilani Highway and the threat of residential development would mar the unique aesthetic resources of sweeping mauka to makai views as well as destroy habitat, exacerbate erosion, and potentially expose a greater number of people to fire hazards.

Attachment 1(C)

**Haneo'o Lands
Hāna, Maui**

Maps & Photos

Hāna Maui

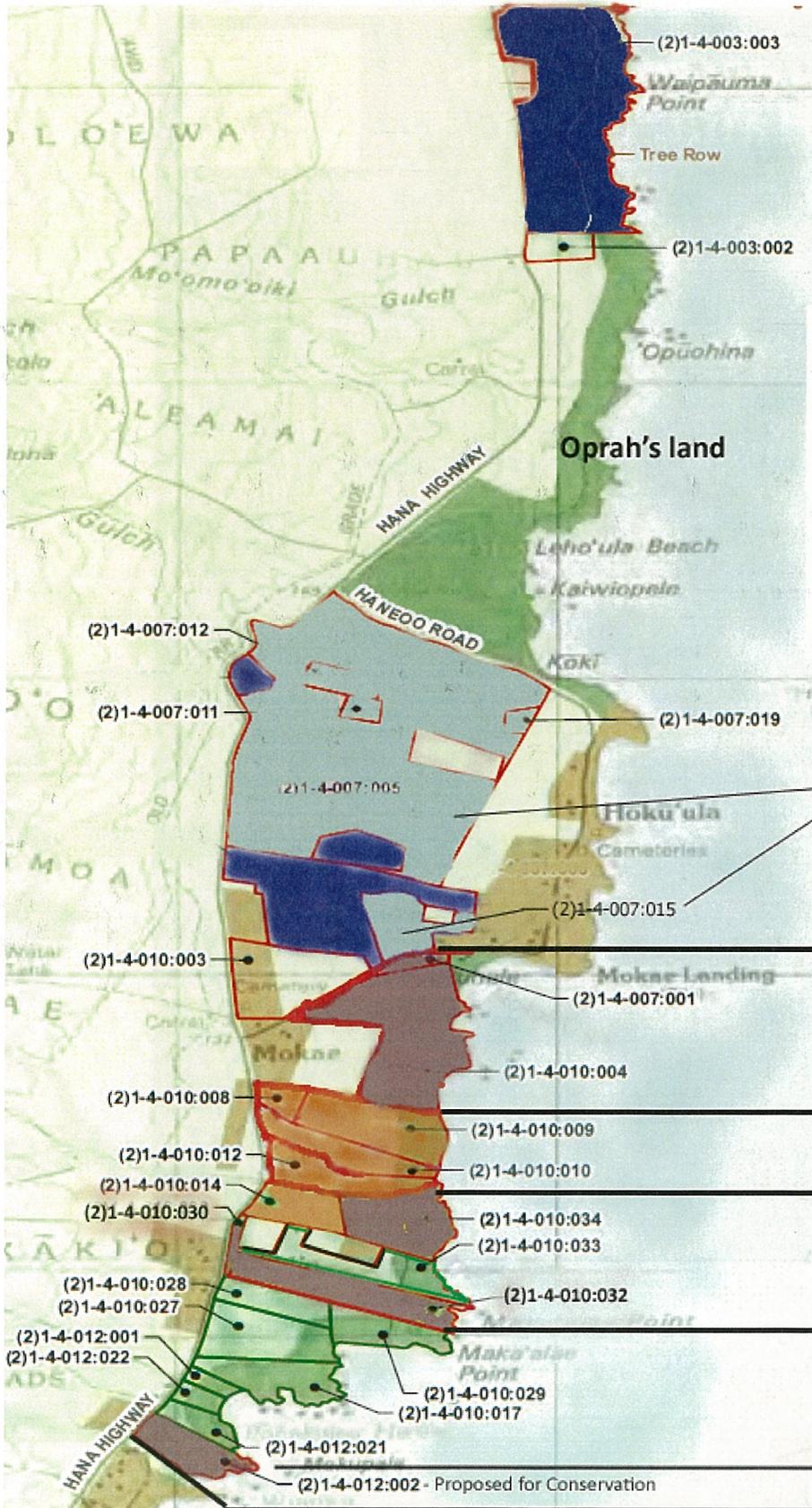
400 acres Coastal Pasture Lands Under Threat of Development

February 2022



Location Map

Ke Ao Hali'i Save Hana Coast



LEGEND

- Parcels for sale
- Parcels with Conservation Easement
- Parcels sold to private party
- Parcels under KAH Ownership
- Agricultural
- Rural
- Conservation

**Legacy Land Conservation Program
FY22 Grant Application**

Completed purchase March 2020

**Legacy Land Conservation Program
FY21 Grant Application**
Maui OSF FY21-matching funds
 Scheduled to complete March 2022

Completed purchase Nov. 2021

**Conservation lands-
Seller agrees to donated once
all other parcels are purchased**

Completed purchase Nov. 2021

Haneo'o Lands Hana, Maui

116.39 acres
4 parcels total



Location map



TMK (2) 1-4-007:012

TMK (2) 1-4-007:011

TMK (2) 1-4-007:019

TMK (2) 1-4-007:005

Mouae Cv

Haneo`o Lands







0 ft ▲

Mouae C

POWER
es

1872692.11, 140635

A3 Maps TMK: 214007015



09/03/2008

Haneo'o Lands

Hana, Maui

Ke Ao Hali'i



Haneo'o Lands

Hana, Maui

Ke Ao Hali'i











Attachment 2

May 13, 2022

Consultation Letters

from the President of the Senate

(March 31, 2022)

and

the Speaker of the House

of Representatives (March 31, 2022)



The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

March 31, 2022

Ms. Suzanne D. Case
Chairperson
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, Hawaii 96813

RE: Projects for the Fiscal Year 2022 Legacy Land Conservation Program

Dear Chair Case:

I am in receipt of your letter dated March 28, 2022 regarding the Legacy Land Conservation Commission's recommendation for the funding of projects for the Fiscal Year 2022 Legacy Land Program.

This is to confirm that I have no concerns or objections at this time as it relates to the projects enumerated in the aforementioned letter.

Thank you and should you have any questions with regard to the foregoing, please do not hesitate to contact my office.

Sincerely,

RONALD D. KOUCHI
Senate President
8th Senatorial District- Kauai and Niihau

Cc: Speaker Scott K. Saiki
Mr. David Penn, DLNR Program Specialist

SCOTT K. SAIKI
Speaker



Phone No.: (808) 586-6100
FAX No.: (808) 586-6101

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL, ROOM 431
415 SOUTH BERETANIA STREET
HONOLULU, HAWAII 96813

March 31, 2022

Ms. Suzanne D. Case, Chairperson
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, HI 96813

Sent via email to:
suzanne.case@hawaii.gov

SUBJECT: Fiscal Year 2022 Legacy Land Conservation Program

Dear Chair Case:

Thank you for your letter dated March 28, 2022, in which you submitted for my review the recommendations from the Legacy Land Conservation Commission grants from the Land Conservation Fund to preserve features, functions, and uses of land having value as a resource to the State.

Upon review, I currently have no concerns or objections to the recommendations as proposed in your attachment.

If you have any questions or need further assistance, please contact me at (808) 586-6100.

Sincerely,

Scott K. Saiki
Speaker of the House

cc: Senate President Ronald D. Kouchi
Mr. David Penn, DLNR Program Specialist

Attachment 3
May 13, 2022

Application Sections G, H, I

**Attachment 3(A)
Mahukona Navigation
and Ecological Complex
Kohala, Hawai'i
Sections G, H I**



Section G

Fiscal Year 2022 Grant Application for Land Acquisition: Importance and Threats

Applicant: Hawai'i Land Trust (HILT)
 Application Title: Mahukona Navigation & Ecological Complex

Describe the overall significance and importance of the property to be acquired:

If I have courage, it is because I have faith in the knowledge of my ancestors. – Mau Piailug

The lands of Māhukona, Kohala, Hawai'i serve as a piko and power source for ancient and today's non-instrumental navigators throughout the Pacific. This is the centerfold/core significance of these lands—the navigational importance and the resurgence and living cultural practice of non-instrumental navigation attributed to it. Spanning six ahupua'a along the North Kohala coastline, including Māhukona, Hihii, and Kaoma from the south, and Kamano, Kou, and Kapa'a Nui to the north, the "Māhukona Living Navigational and Cultural Complex" provides Hawai'i a tremendous opportunity to protect the engrained and universal cultural and conservation values of the land in perpetuity.

Māhukona, and more specifically the ahupua'a of Kou is home of the navigational ko'a heiau, Holomoana. Holomoana holds extreme mana and significance as it serves as the piko for traditional voyagers throughout the Pacific. Wa'a (sailing canoes) from around the Pacific hold a strong reverence for Holomoana. Many of them engage in protocol at this site before their voyages commence. The location of Holomoana and Māhukona's location in relation to the Alahahanui Channel speaks to the significance and function of Māhukona for the ancient, and modern day, practice of non-instrumental navigation. Māhukona is still used today as a learning, training, and teaching site by the wa'a sailing group, Nā Kālai Wa'a and the wa'a, Makali'i, along with other navigators throughout the Pacific. The practice of non-instrumental navigation is highly dependant on the health of the ocean and the surrounding environment. From nai'a and koholā in the ocean to the seabirds who all provide navigational cues, to the health of the lands that support a healthy marine ecosystem.

Applicants, please note that the Legacy Land Conservation Program uses the content provided in this section to describe the proposed land acquisition to the Legacy Land Conservation Commission, the Board of Land and Natural Resources, the State populace in general, and other agencies, individuals, organizations, and media outlets. Be aware that the content provided in this [form/section] may be copied, exactly, into various other program materials, and can serve as an important basis for future review, approvals, and publicity.



Section G

Fiscal Year 2022 Grant Application for Land Acquisition: Importance and Threats

Identify and assess conditions that threaten the significance and importance of the property. Address, where applicable, erosion, sedimentation, polluted runoff, flooding, invasive species, conflicting activities:

Since the mid 1900's, this area has been slated for large scale resort and residential development. Currently, the land is held by prior investors who perfected their lien, foreclosed on the property, and are looking to divest of their land holding at Māhukona. Up until recent times, the landowner was engaging developer buyers for the property. In late 2019, HILT was able to make inroads with the landowner and began applying for public funding for the aquisition of Māhukona. Acquiring and protecting the property will prevent uses that are incompatible with conservation and cultural perpetuation, e.g., resort and residential development, golf courses, or other activities that generate pesticides or other pollutants, and so would eliminate huge irreversible threats to Māhukona's endangered, threatened, and at risk species.

This acquisition site offers restoration and recovery habitat for a host of endangered, threatened, and at-risk species in what was one of Hawai'i's most biologically diverse ecosystem, the dryland coastal strand. Māhukona also provides opportunities to engage in meaningful public-private partnerships to re-grow native forest species and advance carbon sequestration initiatives.

Of equal importance is the trust building and commitment by the local community and generations of area cultural practitioners who are dedicated to this effort. Countless hours were spent preparing this proposal by volunteer community members and scientists reviewing thousands of pages of scientific reports and archaeological surveys completed for the 1900's and early 2000's resort development plans, and biological surveys with our keiki (kids) in tow—because this effort is about protecting vulnerable but resilient habitat while ensuring the permanancy of indigenous led stewardship and raising the next generation of 'āina (reciprocity of land and people) stewards.



Section H

Fiscal Year 2022 Grant Application for Land Acquisition: Stewardship and Management

Applicant: Hawai'i Land Trust (HILT)
 Application Title: Mahukona Navigation & Ecological Complex

1. Describe the proposed future uses of the property to be acquired, including:

- Goals (short-term and long term)
- Resource management plan
- Funding sources (for start-up and for operations and maintenance)
- Permit requirements
- Management entity (identity, expertise, experience)
- Integration of existing cultural resources with the overall preservation/protection and use of the property

The Māhukona fee conservation acquisition and its permanent project will serve multiple objectives, detailed below:

1. Objective One: Secure Lease and Fee Acquisition to Permanently Protect Māhukona

The first objective is to acquire and permanently protect the threatened Māhukona lands, which will result in fee ownership by HILT and a perpetual conservation easement granted to the County of Hawai'i. HILT will hold the title to the land if this project is successful. The project sites consists of 642 acres. The property name is generally referred to as "Māhukona". Stewardship partners include local 501(c)3, Nā Kālai Wa'a. The land has been vacant for over two decades, with the upland parcel being previously leased for cattle grazing which ceased in 2013.

2. Objective Two: Build Native Habitat Resilience, Restoration, Control Native Species' Threats & Enhance Cultural Practice. HILT's second objective is to develop and implement a comprehensive restoration plan for this parcel that will integrate restoration of native and especially TER species, control non-native species' threats, engaging communities, and building a creative public-private partnership for long-term stewardship. In HILT's lease phase of the project, we plan to engage sustainable restoration efforts to increase ecological and biocultural resilience of the land and near shore areas, with planning work set to begin in late 2021 or 2022.

3. Objective Three: Develop and Achieve Carbon Sequestration, Climate Change and Biodiversity Goals



Section H

Fiscal Year 2022 Grant Application for Land Acquisition: Stewardship and Management

Although Objective Two related land management actions could lend to carbon sequestration, climate change, and undoubtedly biodiversity goals, HILT's plans for carbon sequestration and climate change mitigation is focused on the 207 acre parcel on the ma uka (mountain side) of the main highway. HILT will continue to engage partnerships for securing freshwater resources to support restoration focused carbon sequestration efforts. HILT will also need to complete fencing for the upper lateral boundary of this TMK parcel.

4. Objective Four Cultural Based Education & Outreach

- a. Continue cultural based education and outreach at Māhukona by supporting the continued presence of local non-profit organization and project partner, Nā Kālai Wa'a, who have been studying navigation, running non-instrumental navigational educational programs, care taking cultural navigational sites, and engaging in vessel maintenance on the property for over 40 years.
- b. Support TEK knowledge sharing of traditional fisheries management strategies for local fishing practitioners.
- c. Engage and support traditional knowledge and practice of ancient 'oli (chants), mele (songs), mo'olelo (stories), and other traditinal writings that inform archaic baseline studies and observations of Māhukona, as well as inform the acknowledgment and integration of cultural protocols for Māhukona restoration and stewardship activities.
- d. Integrate all of the above to inform a public and visitor code of conduct and inform overall management and stewardship of Māhukona.
- e. Partner with local schools to continue integrating and enhancing cultural and place based education at Māhukona.
- f. Integrate cultural TEK to inform Māhukona's threatened and endangered species habitat restoration activities.



Section I *Fiscal Year 2022 Grant Application for Land Acquisition: Cultural and Historical Significance*

Applicant: Hawai'i Land Trust (HILT)
 Application Title: Mahukona Navigation & Ecological Complex

Describe the cultural significance and historic uses of the land to be acquired, including:

- Place names, with translations and possible interpretations
- Known pre-contact history and land uses
- Information about neighboring areas, land divisions, and management units, in relationship to the land to be acquired

The property spans what we currently understand as six ahupuaa along the leeward Kohala coastline. The ahupuaa of Mahukona is understood through chants shared by 'ohana of Kohala, to be a natural phenomenon observed over the ocean of spouting vapors.

Attachment 3(B)

Pohakea Watershed Lands Wailuku, Maui

Sections G, H, I

Section G Importance and Threats

Describe the overall significance and importance of the property to be acquired:

This project is important for public safety. Under public ownership, the property will be managed to decrease risks from wildfire, erosion and flooding and will ensure long term health of the watersheds, wetlands, and coastal marine areas. If the property is sold to another private owner, there is no way to ensure future stewardship and management activities will align with the community vision. State acquisition and co-stewardship with community groups will guarantee that the scenic open space property near major population centers and tourist attractions will forever remain a source of inspiration and treasured community resource for open space, recreation, and agriculture.

Protecting the coastal plain from development has been a community priority for decades. There is a willing seller landowner, broad support for acquisition, and interagency plans for ongoing stewardship. The Pohakea Watershed Lands are located in a highly visible scenic area at the base of the West Maui Mountains. The property is a keystone property for watershed protection, provides important natural habitat and is critical for managing wild fires - a chronic threat in this area of Maui – and for mitigating erosion, soil runoff, and pollution of Ma‘alaea Bay and its nearshore coral reefs. Purchase of the property includes three wells, a 750,000-gallon tank and easements for the delivery of water across adjacent lands. The water resources will provide significant benefits for land management that will help prevent erosion that damages marine environments.

Acquisition will maximize public benefits by enabling large scale protection of important natural and cultural resources and minimize risk from environmental hazards and natural disasters. The property is in a chronically wildfire prone area and there is an urgent need to acquire and manage it for public safety. Recent fires have caused closure of the only road available for emergency vehicles needing to get to urgent care services from Lahaina.

DLNR DOFAW already has firebreaks on this property, and would incorporate the property in an area wide wildfire management strategy. Control of wildfires would also substantially contribute to reducing erosion and runoff into streams, Pohakea Gulch, and Ma‘alaea Bay, which smothers and damages nearshore corals. The property will be part of a mauka to makai “Conservation Corridor” linking protecting State owned upland watershed lands and Pohakea Gulch to the Kealia National Wildlife Refuge wetland ponds, coral reefs, and offshore waters. The greater area of Mā‘alaea Bay is dedicated as a National Humpback Whale Marine Sanctuary. The property provides exceptional views of the West Maui Mountains to thousands of daily commuters and this acquisition will protect regionally important open space. The historic Lahaina Pali Trail runs through the land and there is limited public access. Public access will continue and acquisition of the property will allow for the long term possibility for enhanced outdoor recreation and enjoyment, such as improved trailhead parking if future community based management planning indicates there is community need/desire for such improvements.

The Division of Forestry and Wildlife (DOFAW) is currently engaged in a broad collaborative effort with agency, NGO, and landowner partners to plan and implement land management solutions to break the fire and erosion cycles, restore habitats, and stop erosion that fouls marine and nearshore ecosystems in south and west Maui. Those plans include set aside of the mauka state lands to forest reserve and incorporation into the Mauna Kahalawai Watershed Partnership, enabling DOFAW and partners to

direct additional operational resources to effective management. Acquisition of the subject parcel by conservation partners with management capacity is a key component of this effort because, 1) a number of the most damaging sources of erosion are located on the parcel and must be addressed on that land and, 2) the parcel lies between the highway and the mauka state lands and therefore holds the potential, through maintenance of habitat and firebreaks, of preventing the movement of fires, both from the highway mauka and from the mauka lands across the highway to the community. Acquisition of the subject parcel will enable DOFAW to place it into the forest reserve system, providing connectivity of lands and continuity of conservation action. Without those efforts, the parcel will likely continue to be threatened by wildfire and erosion and the cycle will persist. Vegetation will become overgrown and fuel wildfires. Furthermore, if the current landowners subdivides the property for a housing development or sells the property to another private developer, the land will continue to lose fertile top soil via erosion, flooding, and stormwater runoff. Muddy runoff will damage the marine ecosystem, inhibit use of nearshore waters for recreational, subsistence, and cultural use, and threaten ocean- and recreation-based businesses. Recovering losses from wildfires, erosion, and reef damage comes at significant expense to taxpayers and some losses are irrevocable. This property is important as it is a key piece of area-wide efforts to manage mauka lands in a responsible way that protects makai water quality.

State ownership will protect these unique and threatened natural and cultural resources by safeguarding cultural and historic archaeological sites and provide green infrastructure to reduce negative impacts caused by erosion and stormwater runoff. The property is in the vicinity of lands with rich cultural and archaeological sites and it is important to preserve what remains on an area prized for its iconic scenic views and unique aesthetic resources.

Identify and assess conditions that threaten the significance and importance of the property. Address, where applicable, erosion, sedimentation, polluted runoff, flooding, invasive species, conflicting activities:

The subject parcel and the 3,400 acres of unencumbered state lands mauka of the parcel are prone to hazardous cycles of wildfires followed by massive erosion events. The fires threaten public safety and properties in the nearby commercial and residential areas and the subsequent soil loss threatens a significant watershed and smother nearshore coral reef ecosystems that support recreational, commercial, and subsistence activities, resulting in significant damage to those ecosystems

The state and private lands in the Pohakea Watershed of Mā'ālaea pose important challenges for resource managers. The dry and windy conditions of the area, coupled with an abundance of vegetation present on the subject parcel are highly conducive to the rapid spread of wildfires. The property is a major drainage way for waters funneling down from the West Maui Mountains to Pohakea Gulch. The property currently has inadequate stormwater management and there is an urgent need to manage vegetation to reduce fuels for wildland fires and to slow erosion and silt laden runoff from entering Mā'ālaea Bay, which is currently listed as an impaired water body.

As a percent of total land area, Hawaii's wildfires burn as much or more land each year than any other state. Wildfires affect mental health, degrade air quality and harm coral reefs, threaten freshwater supplies and deter tourists. Catastrophic wildfires take a large economic toll on communities through property losses, decreased tourism, and even changes in the long-term structure of the local economy. Significant brushfires in Mā'ālaea have occurred recently on average every two-years and spread towards West Maui bringing a significant expense to taxpayers and great risk to fire fighters. Climate

predictions and changing weather patterns in Hawaii suggest that invasive grasses and shrubs will see strong growth and create a self-replenishing fuel that outpaces native vegetation. Higher temperatures and drier conditions contributed to the July 2019 wildfire that burned 9,000 acres and the October 2019 wildfire that burned over 4,500 in Mā'alaea and Pohakea. Thousands of residents and tourists evacuated towns on the west coast, two major roads were closed while fire department crews built up a berm to prevent the fire from encroaching onto the highway, and numerous flights were diverted due to smoke.

Preventing development on this scenic property has been a longstanding community priority and there continues to be real threat that the property could become another dense agricultural subdivision. The landowner has been approached many times with offers to purchase the property and there are no guarantees that a future owner would retain the scenic open space that is beloved by the community. Prior subdivision proposals have been a few votes shy of getting full approval and future attempts to develop the property may be granted by current or future decision makers. Public acquisition is urgently needed to ensure that a private buyer without any stewardship obligations does not further contribute to environmental hazards exacerbated by lack of management.

Applicant Name (Agency or Nonprofit): DLNR/DOFAW with TPL
email address for Applicant Point of Contact: scott.fretz@hawaii.gov

SECTION H. STEWARDSHIP AND MANAGEMENT

24. Completed Section H attached on next page

Section H Stewardship and Management

1. Describe the proposed future uses of the property to be acquired, including:

• Goals (short-term and long term)

Short Term Goals

- Vegetation management
- Install/maintain green firebreaks
- Reduce silty runoff to Mā'alaea Bay
- Protect property from development
- Increase public access to open space

Long Term Goals

- Reduce wildfire threat
- Increase public safety
- Soil stabilization and capture to reduce erosion
- Protect and enhance natural habitat
- Protect a significant watershed
- Improve water quality in Mā'alaea harbor for fishing and recreation
- Enhance public recreation activities (ex. Lahaina Pali Trail)
- Maintain iconic views of unique aesthetic resources

DOFAW, Maui Fire Department (MFD), Maui Nui Marine Resource Council (MNMRC), the Pohakea Watershed Initiative currently steward the property (e.g., existing firebreaks) and each has capacity for future long-term management partnerships. Short term goals include DOFAW and MFD working with volunteers to install green fire breaks with less fire prone species. As part of a broader collaborative effort with conservation partners, DLNR/DOFAW is scoping set aside of the adjacent State owned unencumbered lands to the Forest Reserve system.

Set aside of this property and adjacent State owned lands for inclusion in the West Maui Forest Reserve will place them under Chapter 13-104, HAR, which provides legal protections for their natural and cultural resource values. DLNR/DOFAW will manage the property holistically to protect, restore, monitor natural resources, and provide recreational opportunities, aesthetic benefits, watershed restoration, habitat management, and other community benefits.

The State plans to continue working with all the partners - HECO/MECO, Hui o Na Wai 'Ēha, Mā'alaea Village Association, Maui Fire Department, Maui Cultural Lands, Maui Nui Marine Resources Council, Mauna Kahalawai Watershed Partnership, and others— to prevent wildfire, reduce erosion and runoff, and improve nearshore water quality at Mā'alaea Bay. Management actions include construction and maintenance of fire breaks, habitat restoration, construction of erosion control measures to include soil stabilization and capture, and establishment of a series of green breaks to reduce fire spread.

• Resource management plan

There are a number of land management plans available that address resource conservation, erosion, and fire needs for the subject parcel and adjacent lands. Each is currently being implemented by agency, community, and landowner partners. Those plans include:

- 1) The Pohakea Watershed Stormwater Management Plan, which provides documentation of the sources, locations, and causes of erosion and sediment transport caused by surface water flow contributing to water quality degradation in downstream near shore and marine habitats. The

plan provides source by source recommendations for actions needed to reduce erosion and impacts to marine habitats.

- 2) The Mauna Kahalawai Watershed Management Plan, a comprehensive management plan to protect and preserve native ecosystems and fresh water supply for the 50,000-acre watershed lands that comprise Mauna Kahalawai Watershed Partnership. The plan includes detailed guidance for the control of feral ungulates (wild hooved animals) and invasive species, monitoring threats and performance toward management objectives, and education and outreach to engage communities in natural resources protection.
- 3) Community Wildfire Plans: The Western Maui Community Wildfire Protection Plan and the South Maui Community Wildfire Protection Plan call for numerous management actions to prevent and suppress wildfires, control and mitigate erosion, restore and reforest habitat, provide for compatible public use, and foster community engagement. DOFAW is working with Hawaiian Electric Company to plan and implement measures to reduce ignition from power lines suspected to be a source of ignition on lands adjacent to the subject property.

• **Funding sources (for start-up and for operations and maintenance)**

This acquisition is a unique funding opportunity for the state, county, and community partners to acquire and protect the land in an innovative partnership. In 2019, MNMRC, State DLNR, and community partners secured a \$400,000 federal grant to implement wildfire reduction activities in the entire Pohakea Watershed area.

The Maui County Office of Climate Change, Resiliency & Sustainability awarded a \$40,000 grant to The Trust for Public Land, working in close partnership with the Mā'alaia Village Association and DOFAW, for Open Space preservation in FY22 to put towards due diligence costs to acquire and protect the property. Maui County budgeted up to \$5.5M of open space funds for the acquisition of the property and this money is expected to provide the majority of acquisition costs.

DOFAW and community partners are actively seeking to secure funds through state, federal, and private grant opportunities for habitat management, reducing ignition sources, erosion control, and climate resiliency. If the property is designated as forest reserve, DOFAW will have budgeted support for resource management, including development and implementation of fire pre-suppression and suppression plans. In addition, DOFAW will seek capital improvement budget allotments for the planning, design, and construction of structural remedies for the stabilization of soil and control and capture of erosion.

Other possible funding sources include the National Oceanic and Atmospheric Administration's Coastal and Estuarine Land Conservation Program (CELP) and the Federal Emergency Management Association's Building Resilient Infrastructure and Communities (BRIC) program. CELP is intended to further the goals of the Coastal Zone Management Act and aligns with LLCP program objectives including preserving historic, cultural, and archaeological features, protecting aesthetic coastal features and scenic vistas, and providing recreational opportunities with public access. BRIC funding may be used by states to undertake hazard mitigation projects to reduce risks they face from disasters and natural hazards like wildfires, flooding, erosion, and poor water quality.

- **Permit requirements**

If State acquisition is successful, any major activities or improvements on the land would need to be approved by the State Board of Land and Natural Resources, as well as comply with local county permitting requirements. Additional compliance with HRS Chapter 343 (environmental/cultural assessments), State Historic Preservation Laws (HRS Chapter 6E), and other laws may also be required.

- **Management entity (identity, expertise, experience)**

A number of community organizations are interested in co-management with the State of the biological and cultural resources of the property. Some entities are already involved in management of the property and nearby lands, and others are poised to actively participate. DLNR/DOFAW will be the primary management entity and has considerable expertise and experience with land stewardship and management.

DOFAW maintains approximately 18 miles of fire breaks in West Maui, including several miles of breaks on the mauka lands of the Pohakea Watershed. In 2020, DOFAW and the Maui Nui Marine Resources Council partnered to expand firebreak work to the subject parcel, creating an additional 3.5 miles of fire breaks along the length of the parcel adjacent to the highway makai and to the state lands mauka. DOFAW plans to expand those firebreaks by adding three connecting cross breaks to the parcel, including a number of green breaks, for a total of 4.5 miles of breaks on the parcel.

- **Integration of existing cultural resources with the overall preservation/ protection and use of the property**

The far north of the property is a traditional moku boundary with historic significance and the area is still an ahupua'a boundary between Ukumehame and Wailuku lengthwise. The property is adjacent to the largest collection of petroglyphs on Maui and the historic Lahaina Pali Trail or "King's Trail" traverses the property, a cultural remnant from the 1500's and the path of King Pi'ilani. State ownership would improve public access and enable better management for the ancient Lahaina Pali Trailhead (State Historic site number 0-50-09-2946).

Applicant Name (Agency or Nonprofit): DLNR/DOFAW with TPL
email address for Applicant Point of Contact: scott.fretz@hawaii.gov

SECTION I. CULTURAL AND HISTORICAL SIGNIFICANCE

25. Completed Section I attached on next page

Section I: Cultural and Historic Significance

Describe the cultural significance and historic uses of the land to be acquired, including:

- **Place names, with translations and possible interpretations**
- **Known pre-contact history and land uses**
- **Information about neighboring areas, land divisions, and management units, in relationship to the land to be acquired**

Mā'alaea, being a possible contraction of the word Maka 'alaea (ocherous earth beginning) is an ahupua'a (land division from the mountain to the sea) in the Wailuku District. Mā'alaea is rich in cultural and natural resources that play a significant role in in the health and life of the land and its peoples. The Mā'alaea Mauka property consists of 257 acres of dry land conditions that is nestled between the slopes of Mauna Kahālāwai to the west and Honoapi'ilani Highway to the east.

A number of perennial streams flow through the lands of Mā'alaea from both directions of East and West Maui. One of the most famous of these streams is Waikapū stream, which is part of the larger Nā Wai 'Ehā or "The Four Waters," which consist of Waikapū, Wailuku, Waiehu, and Waihe'e. The makai portions of Mā'alaea consists of two coastal features, Kealia Pond and the famous Mā'alaea Bay.

Kealia Pond is an aquatic habitat for various native marine life such as 'āholehole, 'ama'ama, and the endangered 'ōpae 'ula. It is also the home for several endangered native water birds such as ae'o, 'alae 'ula, and 'auku'u. Currently, Kealia Pond is considered a National Wildlife Refuge.

Mā'alaea Bay is also a cultural and modern day resource. Recreationally, Mā'alaea Bay provides intense surfing conditions for the most skilled surfers due to the reef break as well as the mauka wind patterns. The extensive reef system along the bay acted as a vital subsistence fishery for fishermen as well as a sanctuary for many native species of fish. The reef also acted as an 'ilina or burial ground where many Native Hawaiians would bury the bones of their ancestors in the reef. Mā'alaea Bay also has a rich history for its use as a prime transit area for travel during both pre-contact and post-contact period. After the passing of Chief Kekaulike, a canoe landed in Mā'alaea Bay that contained the chief's remains. Prior to 1945, Mā'alaea Bay was used by the U.S. marine division as a practice area and by the mid-1950s, construction of the Mā'alaea harbor began.

Protecting the Mā'alaea Mauka property would help preserve a variety of cultural complexes and archaeological features such as pōhaku (stones; Site 1286, Site 1440), seventeen habitation complexes (Site 1287), petroglyphs (Site 1169), including the entrance portion of Lahaina Pali Trail, which traverses across the State-protected conservations lands. Lahaina Pali Trail (State Historic site number 0-50-09-2946) is home to approximately 18 archaeological sites that are located in the surrounding area. These lands are vital for protection as runoff from heavy rains from these lands can potentially affect other cultural resources makai of this property.

Attachment 3(C)

Haneo'o Lands Hāna, Maui

Sections G, H, I



Section G

Fiscal Year 2022 Grant Application for Land Acquisition: Importance and Threats

Applicant: Ke Ao Hali'i

Application Title: Haneo'o

Describe the overall significance and importance of the property to be acquired:

One may ask how conserving these lands benefit the Hāna Community. Preserving the past is vital to the Hāna Community. Our ancestral legacy lives on to pass on to the generations to follow. We will continue to stop harm to historical sites and desecration of burials. These lands are currently on the market for sale and the historical sites are threatened by private development.

There are three known Heiaus in close proximity: Hale O Lono Heiau, the impressive Kaluanui Heiau & Pakiokio Heiau all carbon dated between the 1400s-1600s. We plan to conserve the remnants left on the land and maintain it for educational purposes. Hāna descendants have a strong sense of kuleana to protect these lands from private development. The theft of our Hawaiian lands has made a huge impact on descendants of Hāna. These lands are a significant part of Hāna's culture and spiritual connections to ancestors, the inspirational beauty and feeling it gives to those who live here and come to visit is precious. We need to inform and inspire the public to be aware of these historical treasures and safeguard them.

If we were to step into the 1700's (approx.), it is known that the Hāna Community lived off the land and ocean. There were active Hawaiian fishponds built to support the Hana Community that consisted of thousands of people. The Loko Nui (big pond) and Kuamaka loko (pond) are springfed water that runs through the 110 acre parcels. The ponds are visible south of Koki Beach next to Haneo'o Road. Currently, the ponds are not active but there is a plan to restore one of the ponds. According to Kimokeo Kapulehua, we are able to assess if the ponds are thriving by the pipipi (shellfish) growing, such as limu ele ele, wai wai ole and limu pepe'e. In the past there were no water testing capabilities like today. The message here is protection of water from mountain to ocean because brackish water enhances growth of the limu and fishponds. The ocean water of Hamoa and near Kuamaka loko was tested dated Feb 9, 2022, resulted in less salinity which means brackish water still is active and no pollutants after first testing. Because Haneo'o Lands has been untouched with development, we think preservation of our resources is an important part of Hāna Community especially Hana descendants still fish and gather from the ocean to feed their ohana. One common theme of my interviews with the kupuna is ali'i's once lived in this area due to the nearby surf, loko, heiau, iwi kupuna, rich soil to grow food and the views of Koki & Hamoa Beach.

Applicants, please note that the Legacy Land Conservation Program uses the content provided in this section to describe the proposed land acquisition to the Legacy Land Conservation Commission, the Board of Land and Natural Resources, the State populace in general, and other agencies, individuals, organizations, and media outlets. Be aware that the content provided in this [form/section] may be copied, exactly, into various other program materials, and can serve as an important basis for future review, approvals, and publicity.



Section G

Fiscal Year 2022 Grant Application for Land Acquisition: Importance and Threats

Identify and assess conditions that threaten the significance and importance of the property. Address, where applicable, erosion, sedimentation, polluted runoff, flooding, invasive species, conflicting activities:

#1 Threat: Development is the number one threat to these lands that sit directly across from Koki Beach. Private new land buyers may not have any awareness of what is culturally significant. It is true that the dollar is much more important than culture. This is why KAH chooses to continue to educate newcomers on the significance of conserving historical sites.

#2 Threat: Destroying the water that feeds our current fishponds will make it much more difficult for restoration. The fishponds play an important survival role and if the spring water is destroyed then the restoration of the ponds can be permanently damaged.

#3 Threat: Our invasive species such as our limu, shellfish and our fish that the Hana Community rely on for subsistence can be detrimental for those who rely on the ocean's resources. This is a significant cultural Hawaiian practice that must be sustained and maintained.

#4 Threat: The remnants of the Heiau, the rock piles that sit on each parcel have to be preserved. An Archaeological survey have to be implemented. This is history that connects us to our ancestors. In addition, this parcel is registered as a historical site known for having burials.

#5 Threat: Another threat is human-caused impacts like desecration of unknown burials. These burials need to be protected as those who live before us have chosen this area to rest. Ola na iwi per Halealoha Ayau "the bones live". These are the bones of our ancestors that deserve respect by leaving them alone and preserving what is left.

#6 Threat: Most commonly of Conservation Land is invasive species (see attachment).

According to my most recent visit with the current neighbors of Hamoa, all decline development in the area for cultural reasons and the desire to view nature from mountain to ocean side. The rest of the Hana Community also support neighbors of Hamoa because as you drive down the road of Haneo`o, you will be able to view the green pasture land currently used for grazing and amazing ocean scenery that most developers find as a selling point for development.

KAH will continue to stop development, we have within our grasp the resources to honor the ancestors and protect the Hawaiian culture that was taken away. If this land is sold for development, we will never get it back and the opportunity to restore the fishing ponds and conserve the historical sites, restore the land for future generations, in perpetuity, will forever be lost.



Section H

Fiscal Year 2022 Grant Application for Land Acquisition: Stewardship and Management

Applicant: Ke Ao Hali'i

Application Title: Haneo'o

1. Describe the proposed future uses of the property to be acquired, including:

- Goals (short-term and long term)
- Resource management plan
- Funding sources (for start-up and for operations and maintenance)
- Permit requirements
- Management entity (identity, expertise, experience)
- Integration of existing cultural resources with the overall preservation/protection and use of the property

Goals: Ke Ao Hali'i (KAH) was only recently formed early in 2018 with the incentive to protect these lands. Our initial short term goal is simply to stop the development of this land by securing ownership & establishing conservation status. Our flyer, intended to help communicate our goals to our Hana neighbors, quotes our mission: "to purchase, preserve & manage Hana's natural, scenic coastline, saving our cultural history & resources for the benefit & education of future generations." The areas of relevance: Historic and Cultural Considerations; Educational Opportunities; Environment incentives; and Stewardship of the Land (see flyer attachment). The following are resources we plan to protect as aligned by the Legacy Land Conservation Program; Cultural/Historic, Coastal, Agricultural, Habitat, Natural Areas, Open space and Watershed.

Resource management plan: After securing these lands; we will be working diligently in creating a Land Management Plan. We will continue to graze cattle and work with BioLogical Capital, who ranch the land now, to develop a lease agreement and grazing plan. We plan to, at a minimum, protect by fencing the sacred & sensitive cultural and archaeological sites, pending further investigation if appropriate. Proper investigation such as Archaeological survey will allow better decision making in protecting the vital resources of the land.

The largest threat is invasive species and we will continue to promote volunteerism to nurture these lands. Agriculture may be in consideration because when the percentage of developed land increases, the amount of space available to grow edible crops and trees decreases. KAH is positioned perfectly in acquiring these lands because of the recent purchase of Conservation land at Mokae and Maka'ala'e that is within the vicinity of Haneo'o.



Section H *Fiscal Year 2022 Grant Application for Land Acquisition: Stewardship and Management*

Funding sources: KAH has an established budget after countless hours of volunteer workload & reaching to the community for funds to support operations & maintenance. We were grateful to receive \$90K from a realtor as start-up management funds after purchasing the Mokae and Maka`alae lands that is currently under Conservation. After the purchase of these lands, increased supporters have donated funds to KAH's objectives and mission. The funds allows us to meet the objectives of our donors and to take care of the land.

Permit requirements: We do not anticipate a need for any permits since our intension is to maintain cattle grazing for the moment. The land is zone Agricultural and this is one of our intent is to grow food. Future plans will come into fruition with the lessons learned from the Mokae and Maka`alae lands to include discussions of mapping these lands designated to resources.

Management entity: Hana Ranch-BioLogical Capital currently has a lease with sellers to graze cattle & we believe they will continue the lease under new ownership and to offer their expertise in managing the land; so we do not foresee immediate change until long-term plans are developed. (see support letters attached)

Integration of existing cultural resources - One of our main objective is protect the burial sites and protect the iwi kupuna (bones of ancestors). We will provide strict protocols of 'iwi areas known to have 'iwi kupuna & reporting of any new discoveries. This land, is fenced with gated accesses via grass roads to the main Haneo'o road. We expect to achieve growing food at appropriate spaces of the land to include protecting historical sites. As the organization solidifies, we will encourage Hana residents, Hana descendants and volunteers to give back to the land by caring and removing unwanted invasive species. We will learn further from Archaeological surveys to include sites that needs to be protected from human impacts such as the remnants of the Heiau (s).

Subsistence Resources of Hana

Overall, life in the district of Hana (1787-1898), thanks to the abundance of natural resources available to the Hawaiian people who lived there, was pleasant and healthy. Several of the kupuna interviewed by Mary Kawena Pukui confirmed this observation. One of the kupunas stated The stomach is always filled, the stomach is not troubled (McGregor 2007). Today, due to the conflicts with the Hawaiians and Westerners to include increased development, changes in culture and lifestyle, the traditional Hawaiian practices are fading.

Today, our stomach is troubled. The Hana communities that remained in Hana from generation to generation, pursuing subsistence livelihoods and employing traditional methods of fishing and planting, provided all Hawaiians with a connection to a unique Hawaiian way of life. We would like to protect and restore this lifestyle.

There is rich history connected to these lands and all means need to be made to protect these lands from destruction and usage outside of KAH's mission.



Section I *Fiscal Year 2022 Grant Application for Land Acquisition: Cultural and Historical Significance*

Applicant: Ke Ao Hali'i

Application Title: Haneo'o

Describe the cultural significance and historic uses of the land to be acquired, including:

- Place names, with translations and possible interpretations
- Known pre-contact history and land uses
- Information about neighboring areas, land divisions, and management units, in relationship to the land to be acquired

HANEO'O HISTORY

Haneo'o Ahupua'a begins around the corner where the road turns by Koki Beach, just below the road next to Kaiwiopole and ends at a rock in the ocean called Pohakuoleiwalu, where Hamoa begins, up to Mokae, just past Hamoa Beach aka Mokae Cove. Haneo'o goes up past the main road of Hana Highway to the mountains and consists of well over 100 acres. Hamoa Village encompasses all these areas.

Haneo'o in ancient (kahiko, almost 2,000 years ago) times is known for being the first place ever to have fishponds anywhere. Ku'ulakai's first ever fishpond was built at Lehoula, fronting Kaiwiopole Hill.

Pre-contact: Hana was one of Maui's major centers of late prehistoric population concentration & political development. It is also home to Pi`ilani Heiau, considered the largest intact sacred sites in the Hawaiian islands (12 century). As the grant writer and being one of the descendants of the Pi`ilani lineage, grandfather named George Kanawai Pi`ilani from Hana, Maui, I feel it is my kuleana (responsibility) to protect these "wahi pana" (legendary places). The importance of Hana during pre-contact can be attributed to the productivity of the ocean enhanced by fishponds, the relatively gentle slopping fertile volcanic soils of the Hana plains, & abundant rain reducing the need for irrigation making Hana one of the richer resource areas within the Hawaiian Islands during ancient times.

(Dockall-2005)

Considered a favored residence of the ali'i, Hana offered "an abundance of useful woods for making scaffolds & ladders (for scaling fortresses) & where warriors could procure the best round smooth stones for making slingstones". Hamoa was also a playground for the ali`i who enjoyed water sports & surfing. (Handy, 1991)



Section I

Fiscal Year 2022 Grant Application for Land Acquisition: Cultural and Historical Significance

SITES IN HANEO'O

W.M. Walker, Archaeology of Maui, 189. Sites of Maui #79; Haneo, Luumaikaua Heiau, Walker Site 118: Location: About 200 yards east of the County Road and 500 yards south of Ka Iwi o Pele hill. Description: A small heiau 18 x 25 feet, perched on a hill-top 25 feet above the cane land. It is built of rough blocks of lava, and has neither coral nor pebbles in its platform. It has a low wall on three sides, the front being open to the sea. There is a rough terrace at the top.

W.M. Walker, Archaeology of Maui, 190. Sites of Maui #80; Haneo, Kahuwakahoku Heiau, Walker Site 119: Location: On the shore near the large fishpond. Description: A large heiau 30 x 115 feet. It is an open platform of rough construction on which a house and modern sheds and graves have been placed. There is some coral and pebbles. The highest distance of the platform from the ground is 4 feet.

W.M. Walker, Archaeology of Maui, 298. Sites of Maui #83; Haneo Fish Pond, Ponds for entrapping and keeping fish alive are to be seen at only five places on Maui: Hana, Keoneoio, Makena, Kalepolepo and Lahaina. The Hana region has three of these sea ponds. The largest is at Haneo just south of the great cliff, Ka Iwi O Pele. A low wall of stones extends some 300 yards from one point of land to another at a distance of 150 yards from shore. The waves at high tide break over the wall but are held out at low tide, thus trapping any fish which have been swept inside the pond. An entrance 6 feet wide makes ingress easier through the center of the wall, but egress is effectually stopped by placing a net or sack across it. At the south end of the pond a heavy wall of beach stones extends out from shore for 150 feet. It is 30 feet wide and 5 feet high. The old entrance through this wall can still be seen as a channel 25 feet long and 4 feet wide. The top of the wall is flat and many small fishing shelters have been built on it.

W.M. Walker, Archaeology of Maui, 194. Sites of Maui #88; Hamoa; Hale O Lono Heiau, Walker Site 123
Location: In the center of the cane lands about a quarter mile up from the shore 100 yards North of the

Hamoa Road (Haneo `o Road)

Description: A large heiau nearly 100 feet square. It is a great open platform terraced on the North slope to a height of 15 feet at the NE corner and 10 feet at the NW. There is a wall on the North and West sides. At the West end in the center is a platform 2 feet high measuring 42 x 25 feet. There is a stone lined pit 6 feet in diameter and about the same in depth at the Northwest corner of the platform. The rim is fully 2 feet above the surface of the platform. What its use was is unknown, but possibly it was the luakini or pit into which the refuse from the sacrificial lele was thrown. Pieces of glass and rubbish were found at the bottom, but this only indicates that the site was occupied in recent times as well. A walled enclosure probably for the priest stands in the corner of the heiau wall. Near the center of the main platform is a smaller one connected by a low terrace to the North wall. At the Southeast corner of the heiau is a depression which may have been an enclosure.