

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

June 24, 2022

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

Board Members:

SUBJECT: ANNUAL REVIEW OF GRANTS FROM THE LAND CONSERVATION FUND FOR EACH PROJECT THAT HAS BEEN PENDING FOR OVER FIVE YEARS – FOR INFORMATION, DISCUSSION, AND POSSIBLE ACTION:

- (A) LLCP 13-02, DLNR DIVISION OF STATE PARKS, ULUPŌ HEIAU BUFFER, KO'OLAUPOKO DISTRICT, ISLAND OF O'AHU, TAX MAP KEY NUMBER (1) 4-2-103:032 (portion)
- (B) LLCP 15-01, WAIPĀ FOUNDATION, KALUANONO AT WAIPĀ, HALELE'A DISTRICT, ISLAND OF KAUA'I, TAX MAP KEY NUMBER (4) 5-6-004:010 (**INFORMATION ONLY**)
- (C) LLCP 2017-03, HAWAIIAN ISLANDS LAND TRUST, KEPLER KE'ANAE LO'I CONSERVATION EASEMENT, KO'OLAUPOKO DISTRICT, ISLAND OF MAUI, TAX MAP KEY NUMBER (2) 1-1-003:041 (**INFORMATION ONLY**)

SUMMARY

The Division requests that the Board review one grant from the Land Conservation Fund for a project that has been pending for over five years, and take action for that grant, if deemed appropriate, to (1) defer action on the grant until the next annual review of grants for projects that have been pending for over five years, (2) impose new conditions for grant completion on the Awardee, or (3) terminate the grant. The Division also provides information about two projects scheduled for a future annual review.

BACKGROUND

A 2019 performance audit of the Department's Legacy Land Conservation Program ("LLCP"), available at <http://files.hawaii.gov/auditor/Reports/2019/19-01.pdf>, included a recommendation that LLCP "[i]mplement a policy that places a reasonable limit on the time a project, whether proposed by a state, county, or nonprofit organization, can

remain pending." The Department's response to this recommendation indicated that "[t]he Department will conduct an annual review of each LLCP project that has been pending for over five years, and will present that review to the Board for discussion and possible action. This review will help determine the extent to which the various agencies and non-profits who are responsible for completing these transactions are still working diligently to complete them, and the likelihood of completion within a reasonable time frame."

The Department recently completed its fourth annual review of grants from the Land Conservation Fund for projects that have been pending for over five years, and now presents its review to the Board for information, discussion, and possible action.

- (A) LLCP 13-02, DLNR DIVISION OF STATE PARKS, ULUPŌ HEIAU BUFFER, KO'OLAUPOKO DISTRICT, ISLAND OF O'AHU, TAX MAP KEY NUMBER (1) 4-2-103:032 (portion)

On March 8, 2013, under agenda item C-1, the Board approved a \$1 million grant from the Land Conservation Fund for the State's acquisition of approximately 3.44 acres in Ko'olaupoko District, Island of O'ahu. The Legacy Land grant application estimated total project costs at \$2 million. The Board submittal from the Division explained that:

The buffer abuts the north and east sides of Ulupo Heiau, the largest platform heiau structure on Oahu. Ulupo Heiau is listed on the National and Hawaii Registers of Historic Places. Culturally significant springs are located around the heiau and nearby springs were used to irrigate the lo'i kalo between the heiau and the Kawainui fishpond. Acquisition of the land for inclusion into Ulupo Heiau State Park preserves the cultural landscape and historical setting of the heiau, and also allows State Parks to provide better management of visitation and cultural education programs and better coordination with neighboring land uses. Plans for the park include walking paths to assist understanding and visitation of the restored site.

The Board reviewed this grant on three previous occasions, each time deferring action until the next annual review (January 25, 2019, under agenda item C-1; January 10, 2020, under agenda item C-1; and March 12, 2021, under agenda item C-1).

The Department and the landowner/seller, YMCA of Honolulu, agreed to a \$1.73 million purchase price for the property and to other conditions of the sale. The Division of State Parks has secured \$800,000 in matching funds from (1) the federal Land and Water Conservation Fund (\$550,000, ending September 30, 2024) and (2) the Castle Foundation (\$250,000 ending December 31, 2022).

The Department's submittal for the Board's first annual review of this grant included a letter dated November 17, 2018, from the Department to the YMCA, outlining several steps for project completion. The status of these steps is summarized below:

COMPLETED

- YMCA subdivided its property and created a distinct 3.2 acre parcel for conveyance to the State.
- Engineering assessment of existing storm drainage performance (recommended minimum safety measures that would cost State Parks \$250,000-\$300,000).
- Phase 1 Environmental Site Assessment (found Department of Health records of lead, onsite, that exceeded acceptable levels).
- Preliminary Title Report (identified an encumbrance (easement) that provides driveway access to a neighboring property).
- Appraisal update (report forthcoming).

PENDING

- Phase 2 Environmental Site Assessment;
- Pro Forma title insurance policy;
- LLCP acceptance of Project Accounting and Resource Value Documentation;
- Board approval of the acquisition, based on review of due diligence and draft final conveyance documents (Purchase and Sale Agreement, Warranty Deed);
- CSF map for the new State property; and
- Recordation of conveyance to the State.

The Department plans to complete the transaction no later than December 31, 2022.

(B) LLCP 15-01, WAIPĀ FOUNDATION, KALUANONO AT WAIPĀ, HALELE'A DISTRICT, ISLAND OF KAUA'I, TAX MAP KEY NUMBER (4) 5-6-004:010 **(INFORMATION ONLY)**

At meetings held during 2015 (February 27, under agenda item C-1) and 2019 (January 25, under agenda item C-4), the Board approved a \$398,250 grant from the Land Conservation Fund to Waipā Foundation for the acquisition of approximately 1.8 acres in Halele'a, Kaua'i for the protection of cultural resources, agricultural resources, and natural wetland habitat. The Board submittals from the Division explained that:

Kaluanono is a mo'o kalo (narrow strip of land cultivated in taro) that is bounded by other lo'i kalo (wetland taro patches), a pond called Kalokowai and Waipa Stream, and an ancient 'auwai. The southern and southwest boundaries of Kaluanono are Waipa Foundation's farm lots. Kaluanono at Waipa is habitat for the endangered Koloa Maoli (Hawaiian Duck), 'Alae 'Ula (Hawaiian Moorhen), 'Alae Ke'oke'o (Hawaiian Coot), Ae'o (Hawaiian Stilt), Nene (Hawaiian Goose), and the native Auku'u (Black-crowned Night Heron). These native wetland birds traverse Kaluanono's shallow stream banks, and the 'Alae 'Ula, 'Alae Ke'oke'o, and Nene have been seen nesting on the property. Waipa Foundation will hold the property and manage the natural, cultural, and agricultural resources. Kaluanono would provide Waipa Foundation a place to teach students about native wetland species and the importance of a healthy ahupua'a, and an opportunity to expand its existing wetland bird curriculum for youth.

Acquisition would allow Waipa Foundation to expand its current agricultural activities on the property, possibly planting an orchard with ground crops on the southern portion adjoining Waipa Foundation's existing farm lots, and reopening lo'i kalo (wetland taro patches) on the northern portion. Waipa Foundation will review agricultural plans with native wetland bird experts to prevent impacts on the property's resources and wetland bird behavior. Waipa Foundation envisions a learning shelter in the middle of the property for visitors and students to observe and discuss the wetland habitat and agricultural activities.

After unforeseen funding delays, the State entered into its contract with Waipā Foundation on September 20, 2017. Therefore this project is not due for Board review until the 2023 annual review cycle.

(C) LLCP 2017-03, HAWAIIAN ISLANDS LAND TRUST, KEPLER KE'ANAE LO'I CONSERVATION EASEMENT, KO'OLAUPOKO DISTRICT, ISLAND OF MAUI, TAX MAP KEY NUMBER (2) 1-1-003:041 (**INFORMATION ONLY**)

At meetings held during 2017 (May 26, under agenda item C-1, and July 28, under agenda item C-2), the Board approved a \$210,000 grant from the Land Conservation Fund to Hawaiian Islands Land Trust for the acquisition of a conservation easement over approximately 6.12 acres in Ko'olaupoko District, Island of Maui (excluding the area of an existing home), for the protection of cultural resources, agricultural resources, and natural wetland habitat. The Board submittals from the Division, referencing the grant application, explained that:

"The property includes the small lo'i originally belonging to the chief Ke'anae, from which it is reported that the entire ahupua'a took its name . . . [and] both the native Hawaiian coot ('Alae Ke'oke'o) and the native Hawaiian Stilt (Ae'o) are known to occur here on a regular basis." The easement, if acquired, "will prohibit further residential development and will protect the unique soils that are present on the Property . . . [and] the agricultural use of the land in perpetuity . . . [under a] management plan . . . to actively farm the lo'i kalo." However, although the grant application states that "[t]he . . . ancient kalo lo'i at Ke'anae will be permanently conserved because conservation easement will prevent uses incompatible with agricultural production," it also indicates that "[t]he easement requires only that the land remain in agricultural production, but does not specify the crop grown."

After unforeseen funding delays, the State entered into its contract with Hawaiian Islands Land Trust on May 10, 2018. Therefore this project is not due for Board review until the 2023 annual review cycle.

DISCUSSION

- (A) LLCP 13-02, DLNR DIVISION OF STATE PARKS, ULUPŌ HEIAU BUFFER, KO'OLAUPOKO DISTRICT, ISLAND OF OAH'U, TAX MAP KEY NUMBER (1) 4-2-103:032 (portion)

The Division of Forestry and Wildlife ("DOFAW") believes that the Division of State Parks—with support from Land Division, Engineering Division, DOFAW, the Department of Accounting and General Services (Land Survey Division), the Department of the Attorney General (Land/Transportation Division), Castle Foundation, the U.S. Department of the Interior, and the YMCA—is still working diligently to complete this transaction, and is likely to complete it within a reasonable time frame.

RECOMMENDATIONS

That the Board:

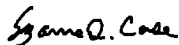
- 1) Defer action, until the 2023 annual review, on a grant from the Land Conservation Fund for LLCP 13-02 to DLNR Division of State Parks for Ulupō Heiau Buffer at Ko'olaupoko District, Island of O'ahu, Tax Map Key Number (1) 4-2-103:032 (portion).

Respectfully submitted,



DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



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