

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, Hawaii 96813

December 8, 2022

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

Land Board Members:

SUBJECT: APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND THE NATURE CONSERVANCY FOR WATERSHED PROTECTION MANAGEMENT IN THE NA PALI-KONA AND HALELEA FOREST RESERVES, KAUAI, TAX MAP KEYS: (4) 1-4-001:003 AND (4) 5-4:001:001

AND

REQUEST APPROVAL OF DECLARATION OF EXEMPTION FROM CHAPTER 343, HRS ENVIRONMENTAL COMPLIANCE REQUIREMENTS FOR THE PROJECT

AND

REQUEST FOR DELEGATION OF AUTHORITY TO THE CHAIRPERSON TO NEGOTIATE, APPROVE AND EXECUTE MEMORANDUM OF UNDERSTANDING, RIGHT-OF-ENTRY, AND RELEASE OF LIABILITY AGREEMENTS, FOR THE NATURE CONSERVANCY FOR WATERSHED MANAGEMENT IN THE NA PALI-KONA AND HALELEA FOREST RESERVES

SUMMARY:

This Board Submittal requests approval of a Memorandum of Understanding (MOU) between the Division of Forestry and Wildlife (Division) and The Nature Conservancy, a private non-profit 501(c)(3) organization, for the management of watershed forests in portions of the Na Pali-Kona and Halelelea Forest Reserves (See map in Exhibit A). The Division also requests approval of a declaration of exemption from Chapter 343, HRS environmental compliance requirements, and delegation of authority to the Chairperson to negotiate, approve and execute future MOUs, right-of-entries (ROE), and/or release of liability agreements, as appropriate, with The Nature Conservancy related to this project.

BACKGROUND:

The Nature Conservancy (TNC) is the coordinator of the Kaua`i Watershed Alliance and has been actively managing these and adjacent watershed forests since the Alliance was established in 2003. During the last twenty years, TNC has been frequently contracted to conduct watershed forest management actions by the Division of Forestry and Wildlife, particularly in the Alakai Wilderness Preserve section of the Na Pali-Kona Forest Reserve and in Namolokama in the Halelea Forest Reserve. These actions mainly include invasive plant removal, fence maintenance, hooved animal removal, and monitoring. The Nature Conservancy also is seeking funding from other public and private sources to conduct this management.

The Alliance has created management plans that are reviewed and approved by the partners (including DOFAW) to guide the management of the core watershed forests of Kaua`i. These management plans are consistent with DOFAW's *Nā Pali-Kona Forest Reserve Management Plan*, which was published in 2009, and the *Halele`a Forest Reserve Management Plan* published in 2010.

DISCUSSION:

The Division is interested in a Memorandum of Understanding with TNC for the proposed term of twenty years, for the continued management of this area. An MOU would help to establish a long-term DOFAW/TNC partnership to implement the management plans for the identified areas.

This MOU would not be exclusive as there are other community organizations who are interested in contributing to management for this large area in a complementary way.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with the requirements of Chapter 343, HRS, Hawaii Administrative Rule Section 11-200-8(6), the Exemption List for the Division of Forestry and Wildlife, Department of Land and Natural Resources as reviewed and concurred upon by the Environmental Council on November 10, 2020, the subject project is exempt from the preparation of an environmental assessment pursuant to the following exemption classes:

From the DLNR November 10, 2020, Exemption List:

General Exemption Type 1, Part 1

*4. Operation, repair, and maintenance, of existing structures and facilities, including base yards, offices, cabins, sheds, and fencing.*

### General Exemption Type 3, Part 2

*1. Natural resource management actions that the Department declares are designed specifically to monitor, conserve, or enhance the status of native species or native species' habitats, such as fences around or to manage rare, threatened, or endangered plants...*

### General Exemption Type 4, Part 1

*3. Removal of invasive vegetation utilizing cutting, mowing, application of federal and state-approved herbicides in conformance with label instructions, distribution of biocontrol agents already approved and permitted by the State of Hawaii, and other approved methods...*

*9. Control of pests utilizing federal and state-approved pesticides, herbicides, fungicides, and toxicants in conformance with label instructions; traps, snares, lures, and repellents; and other approved methods.*

### RECOMMENDATIONS:

That the Board:

1. Approve a Memorandum of Understanding between the State of Hawai'i Division of Forestry and Wildlife and The Nature Conservancy for watershed protection management in the Na Pali-Kona and Halelea Forest Reserves, Kauai, Tax Map Keys: (4) 1-4-001:003 and (4) 5-4:001:001.
2. Declare that, after considering the potential effects of the proposed dispositions provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will likely have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
3. Delegate to the Chairperson the authority to negotiate, approve and execute a periodic memorandum of understanding, right-of-entry, and release of liability agreement, as appropriate, between the State of Hawai'i Division of Forestry and Wildlife and The Nature Conservancy for watershed management in the Na Pali-Kona and Halelea Forest Reserves, further subject to the following:
  - a. Review and approval as to form by the Department of the Attorney General; and
  - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND THE NATURE CONSERVANCY FOR WATERSHED PROTECTION MANAGEMENT IN THE NA PALI-KONA AND HALELEA FOREST RESERVES, KAUAI

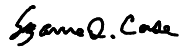
Respectfully submitted,



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DAVID G. SMITH  
Administrator

APPROVED FOR SUBMITTAL:



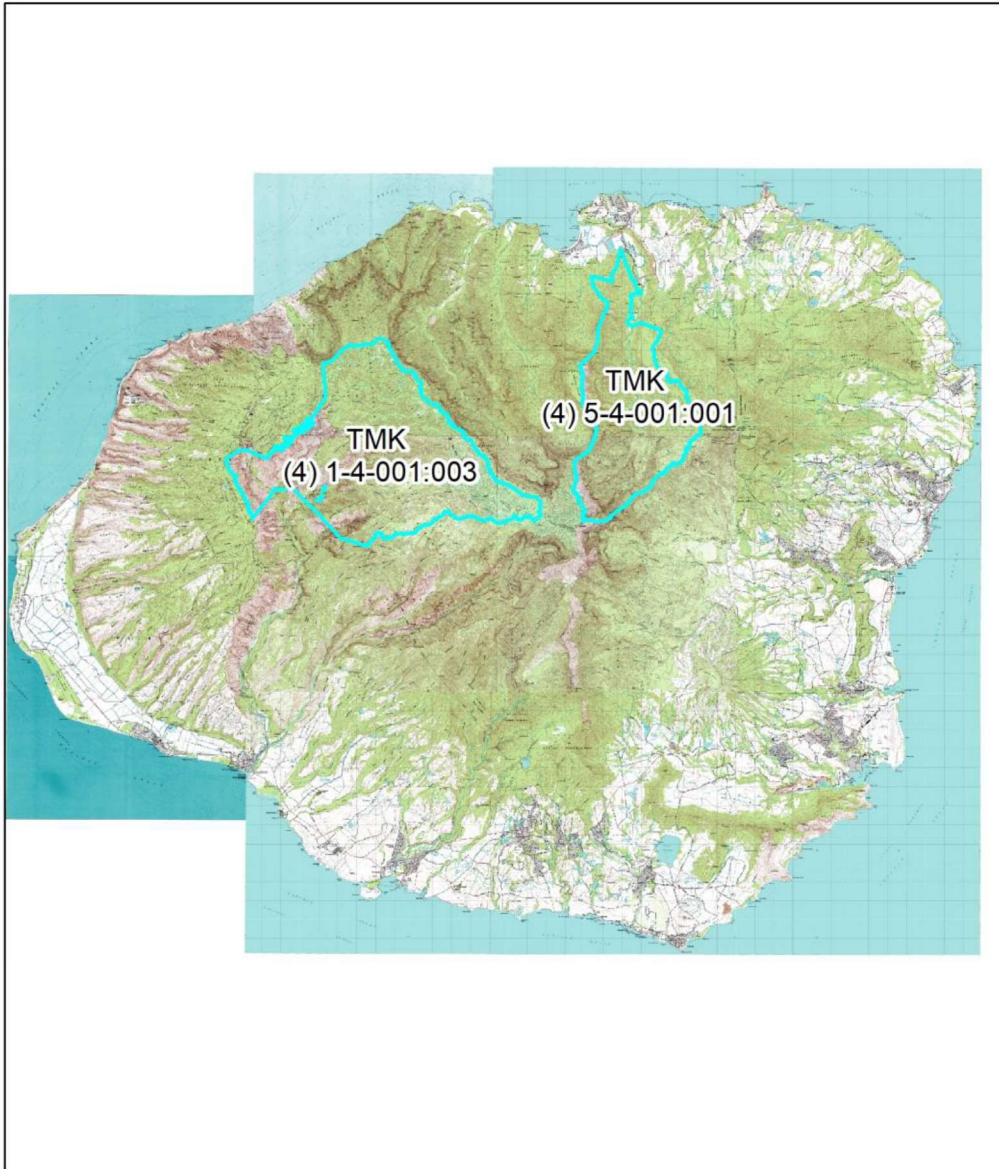
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SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Exhibit A: Map

APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND THE NATURE CONSERVANCY FOR WATERSHED PROTECTION MANAGEMENT IN THE NA PALI-KONA AND HALELEA FOREST RESERVES, KAUAI

Portions of the Na Pali-Kona and Halelea Forest Reserves



10 5 0 10 Miles

Features approximate and subject to change. DOFAW Oct 2022. (808) 587-4170.