

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

December 8, 2022

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

Land Board Members:

SUBJECT: APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND UHIWAI O HALEAKALA, INC. FOR WATERSHED PROTECTION MANAGEMENT IN THE AHIHI KINAU, NAKULA, AND KANAIO NATURAL AREA RESERVES, AND OTHER STATE LANDS, MAUI, TAX MAP KEYS: (2) 1-8:001:006, (2) 1-8:001:009, (2) 1-8:001:005, (2) 2-1:003:050 (por.), (2) 2-1:003:054, (2) 2-1:002:002, (2) 2-1:004:113, (2) 2-1:004:073, (2) 2-1:004:075, (2) 2-1:004:110, (2) 2-1:006:010, (2) 2-1:006:077, (2) 2-1:006:078

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 A MEMORANDUM OF UNDERSTANDING, RIGHT-OF-ENTRY, AND RELEASE OF LIABILITY AGREEMENTS, FOR UHIWAI O HALEAKALA, INC. FOR WATERSHED PROTECTION MANAGEMENT IN THE SUBJECT PARCELS

SUMMARY:

This Board Submittal requests approval of a Memorandum of Understanding (MOU) between the Division of Forestry and Wildlife (Division) and Uhiwai O Haleakalā, Inc., a private non-profit 501(c)(3) organization, for the management of watershed forests in various parcels on Maui (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 Uhiwai O Haleakalā, Inc. related to this project.

TERM OF MEMORANDUM OF UNDERSTANDING:

The term of the Memorandum of Understanding shall be for a period of twenty years.

CONSIDERATION:

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BACKGROUND:

Uhiwai O Haleakalā, Inc. is a non-profit organization formed in 2018 with the purpose of restoring and protecting native ecosystems, focusing on the leeward slopes of Haleakalā. These actions mainly include invasive plant removal, native tree planting, fence maintenance, hooved animal removal, and monitoring. This organization has been working on private lands in the vicinity of these State lands. Uhiwai O Haleakalā, Inc. is also seeking funding from other public and private sources to conduct this management.

The work proposed is consistent with the Division's *Nakula Natural Area Reserve Management Plan*, published in 2015, the *`Ahihi Kina`ū Natural Area Reserve Management Plan*, published in 2012, and generally with the management guidelines of the Natural Area Reserves.

DISCUSSION:

The Division is interested in a Memorandum of Understanding with Uhiwai O Haleakalā, Inc. for the term of twenty years, for the continued management of this area. A MOU would further establish the long-term Division /Uhiwai O Haleakalā, Inc. partnership to implement the management plans for this area.

This MOU would not be an exclusive disposition as there are other community organizations who are interested in implementing the management plans 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 baseyards, 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. Fences shall contain step-overs or other features that permit pedestrian access for cultural and recreational use.”

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. This exemption would not apply to issuing permits for initial releases of biocontrol of invasive species which are regulated and permitted by the Department of Agriculture or commercial logging;” and #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;” and #5. “Establish temporary or permanent vegetative cover including trees, shrubs, grasses, and sod for landscaping, reforestation, soil stabilization, watershed protection, native wildlife habitat, native ecosystem restoration, and rare plant preservation; provided, however, that this exemption shall not apply to vegetation that is likely to be invasive or for tree plantings for which harvesting is planned or is reasonably foreseeable.”

RECOMMENDATIONS:

That the Board:

1. Approve a Memorandum of Understanding between the State of Hawai‘i Division of Forestry and Wildlife and the Uhiwai O Haleakalā, Inc. for watershed protection management in the ‘Ahihi Kina‘ū, Nakula, and Kanaio Natural Area Reserves, and other State lands, Maui, Tax Map Keys: (2) 1-8:001:006, (2) 1-8:001:009, (2) 1-8:001:005, (2) 2-1:003:050 (por.), (2) 2-1:003:054, (2) 2-1:002:002, (2) 2-1:004:113, (2) 2-1:004:073, (2) 2-1:004:075, (2) 2-1:004:110, (2) 2-1:006:010, (2) 2-1:006:077, (2) 2-1:006:078.
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 periodic Memorandum of Understanding, Right-Of-Entries, and Release of Liability Agreements, as appropriate, between the State of Hawai‘i Division of Forestry and Wildlife and Uhiwai O Haleakalā, Inc. for watershed protection management in the subject parcels,

further subject to the following:

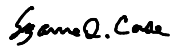
- a. Review and approval as to form by the Department of the Attorney General.
- b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



DAVID G. SMITH
Administrator

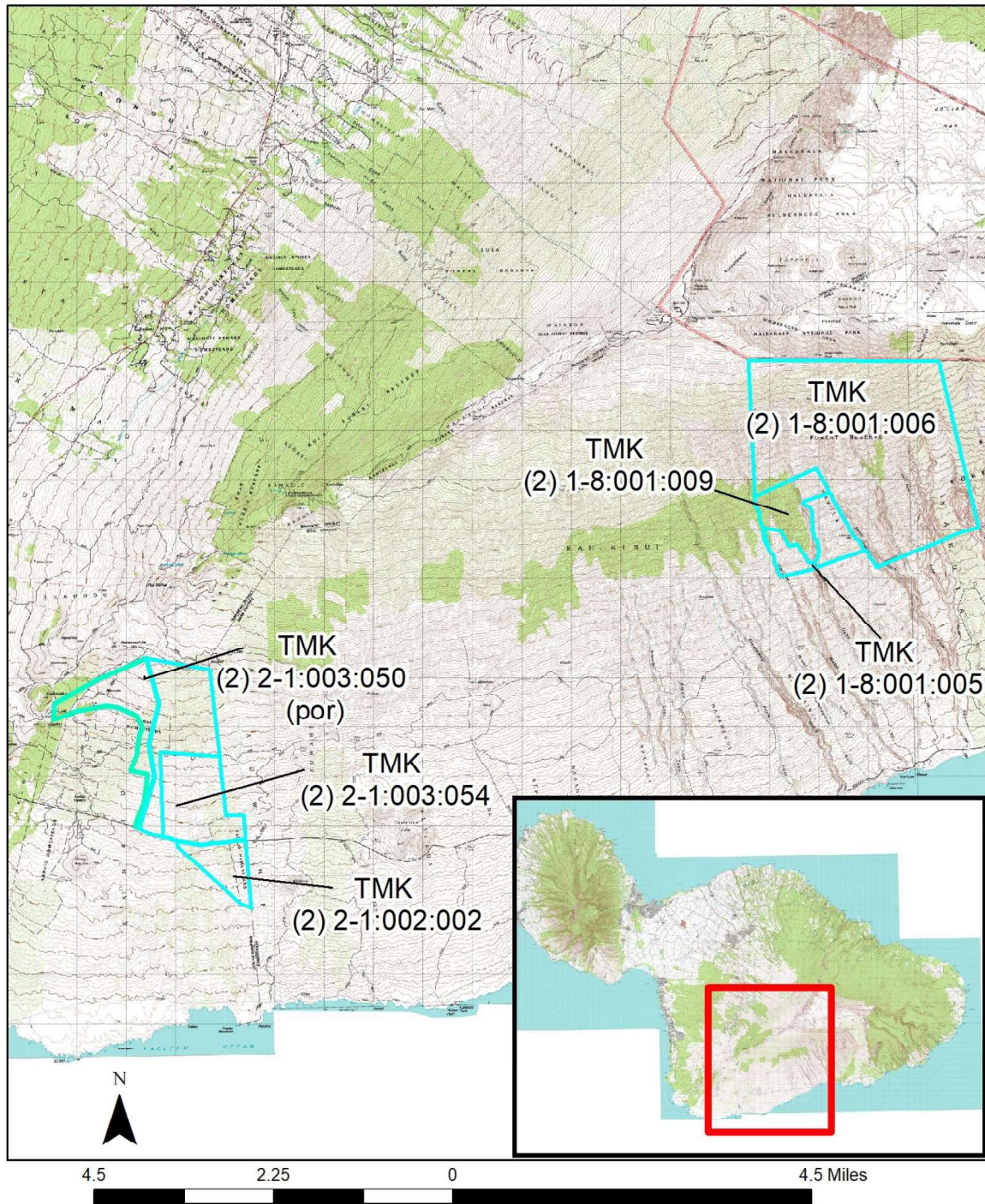
APPROVED FOR SUBMITTAL:



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

Exhibit A: Map

Parcels for Proposed MOU with Uhiwai O Haleakala, Inc.
Map 1 of 2



Parcels for Proposed MOU with Uhiwai O Haleakala, Inc.
Map 2 of 2

