

STATE OF HAWAI'I  
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 THE KOHALA CENTER, INC. FOR WATERSHED PROTECTION MANAGEMENT IN THE PU'U O 'UMI NATURAL AREA RESERVE, KOAIA TREE SANCTUARY, AND OTHER STATE LANDS, HAWAII, TAX MAP KEYS: (3) 4-9:013:001 (POR), (3) 6-1:001:001 (POR), (3) 6-2:001:001, (3) 6-2:001:002, (3) 6-3:001:002 (POR), (3) 6-3:001:004 (POR), (3) 6-3:001:005 (POR), (3) 6-2:001:031; (3) 6-2:001:003 (POR)

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 THE KOHALA CENTER, 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 (Forestry and Wildlife) and The Kohala Center, Inc., a private non-profit 501(c)(3) organization, for the management of watershed forests in various parcels on Hawai'i Island (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 Kohala Center, Inc. related to this project.

## BACKGROUND:

The Kohala Center, Inc. (TKC) is working in partnership with the Kohala Watershed Partnership, to assist with the management of these areas. TKC has been frequently contracted to conduct watershed forest management actions by the Division of Forestry and Wildlife. These actions mainly include invasive plant removal, native tree planting, fence maintenance, hooved animal removal, and monitoring. TKC is also seeking funding from other public and private sources to conduct this management.

The Watershed Partnership has created management plans that are reviewed and approved by the partners (including Forestry and Wildlife) to guide the management of the core watershed forests of Kohala. This management plan is consistent with Forestry and Wildlife's "Pu'u O 'Umi Natural Area Reserve Management Plan," published in 1989.

## DISCUSSION:

Forestry and Wildlife is interested in a Memorandum of Understanding with TKC for the continued management of this area. An MOU would further establish the long-term Forestry and Wildlife /TKC partnership to implement the management plans for this area.

This MOU would not be exclusive as other community organizations 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 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.*

*#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 Kohala Center, Inc. for watershed protection management in the Pu'u O 'Umi Natural Area Reserve, Koaia Tree Sanctuary, and other State lands, Hawaii, Tax Map Keys: (3) 4-9:013:001 (por.), (3) 6-1:001:001 (por.), (3) 6-2:001:001, (3) 6-2:001:002, (3) 6-3:001:002 (por.), (3) 6-3:001:004 (por.), (3) 6-3:001:005 (por.), (3) 6-2:001:031; (3) 6-2:001:003 (por.)
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 The Kohala Center, 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; and
  - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

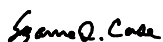
Respectfully submitted,



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DAVID G. SMITH  
Administrator

APPROVED FOR SUBMITTAL:



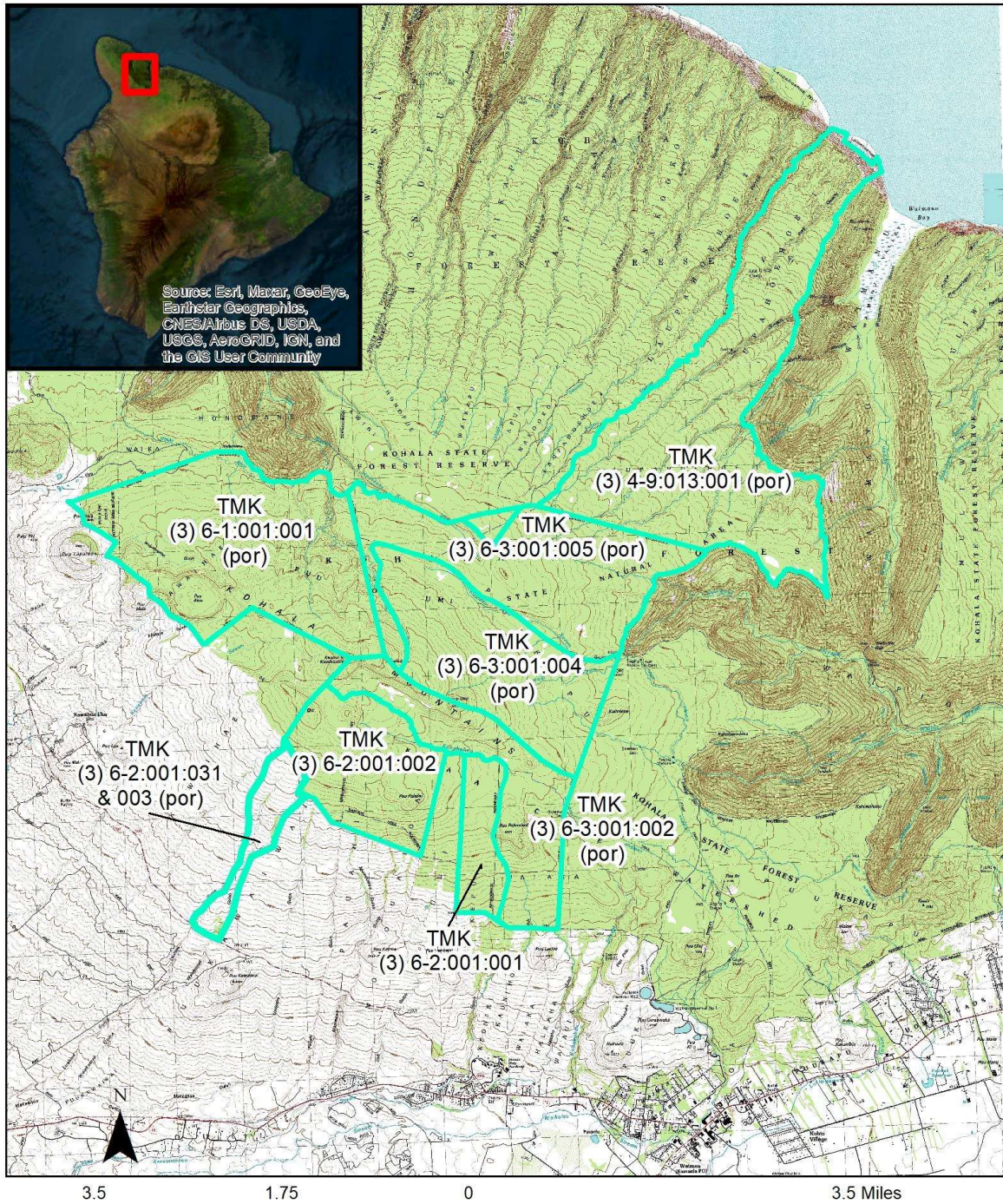
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SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Exhibit A: Map



# Parcels for Proposed MOU with The Kohala Center, Inc.



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