

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
STATE PARKS  
Honolulu, Hawai'i 96813  
April 28, 2023

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

**OAHU**

NON-ACTION ITEM: INFORMATIONAL BRIEFING ON AHUPUA'A 'O KAHANA STATE PARK: HISTORY, CURRENT STATUS, AND PROPOSED PATH FORWARD, KAHANA, KO'OLAULOA, O'AHU, HAWAI'I, TMK Nos.: (1) 5-2-002:006, 020, 021, 022, 023, 024, 026, 027, 028, 029, 030, 031, 034, 035, 036, 037, 038, 039, 040, 041, 043, 044, 045, 046, 047, and 048 PORTION; (1) 5-2-005:022 and 023 PORTION; AND (1) 5-002-001 PORTION

**Legislative enactments – Establishment of Kahana as a Living Park Concept**

Between 1965 and 1969, the State acquired the Kahana Ahupua'a<sup>1</sup> for development as a state park<sup>2</sup>. Initial plans were for a large-scale commercial park that catered to tourists. In 1986 the Attorney General confirmed that to legally reside within a State Park, residents must conduct interpretive and management actions as part of programs – ostensibly to interact and be part of an educational element for out-of-state visitors. In lieu of monetary rent and in exchange for gratis, 65-year leases, the residential households must perform

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<sup>1</sup> In the 1800's, the Ahupua'a of Kahana sustained an estimated population of 200 at the time of the Great Māhele. After the Māhele, the maka'āinana obtained 33 parcels, small in total acreage but significant in agricultural value, and the vast remainder of the ahupua'a was granted to Keohokālole, mother of the future King David Kalākaua and Queen Lili'uokalani. In 1874, a hui of Hawaiian members of the Church of Latter-Day Saints moved to acquire Keohokālole's ahupua'a interest, and for time periods were able to manage and cultivate the land in the manner comprised of traditional Hawaiian practices. However, both their shares, and the separate maka'āinana interests, were gradually either mortgaged and foreclosed upon, or sold outright. Mary Foster, a socially prominent part-Hawaiian woman and member of the Robinson family, ended up acquiring most shares after struggles for control with Kāne'ohē Ranch and Lincoln McCandless. After Mary Foster's death in 1930, her estate continued to hold the ahupua'a. Kahana's residents were mostly Hawaiian, but included a mixture of Chinese, Filipino, and other ethnic groups. The population dwindled until there were insufficient numbers to maintain the Huilua Fishpond and the mauka taro lo'i.

<sup>2</sup> Ahupua'a 'O Kahana State Park (Kahana) is the only state park in the United States that has long-term residential leases with families who live within a park unit and must provide a service to do so. Kahana is also the only intact ahupua'a on the island of O'ahu that is in public ownership. This ahupua'a is a robust watershed that historically has been farmed for loi kalo, rice, fishing in the bay, and unfortunately also used for military training. Designated by the State Legislature as a "cultural living park," Kahana and its imbedded experimental residential community have experienced many challenges and difficulties during the 54 years since the State of Hawai'i acquired the land. These challenges and difficulties are documented in several studies on Kahana, including the report by the Hawai'i Legislative Reference Bureau entitled "Kahana: What Was, What is, What Can Be" (Susan Jaworowski, 2001).

25 hours of interpretive services per month to the park to preserve, restore, and share Kahana's history and rural lifestyle with the public.

In 1987 (Act 5) the Legislature authorized the Department to issue long term residential leases. In 1988 (Act 238) the Legislature appropriated funds to Hawaii Housing Finance Development Corporation (HHFDC) to provide low interest home construction and mortgage loans for the lessees. In 1993, the Board issued 31 leases to the existing families living in Kahana and required the residents to perform 25 hours of interpretive services per month. Many of the residents applied for loans from HHFDC.

### **State Parks challenges implementing the Living Park Concept**

By 2009 the original Kahana residents had accepted leases and relocated to the two new residential subdivisions established by State Parks. Since the land is zoned Conservation, a CDUP was executed for the subdivisions with lessees located out of the stream's primary floodplain. There were six original houses that were in the floodplain that had not been demolished and were subsequently re-occupied by some of the descendants of the lessees. There were some residents that were in arrears in their mortgages to HHFDC and non-compliant with their interpretive hours and the Department sought to evict some of non-compliant residents. Because of considerable controversy surrounding the Department's plans to evict occupants who remained on the property within [?] the park, the Legislature enacted Act 15, SLH 2009, which was vetoed by the Governor, and then subject to a veto override. Act 15 established a two-year moratorium on evictions of Kahana residents and authorized the issuance of long-term leases to qualified persons who participated in interpretive programs for Kahana and have continuously lived there since before 1987 or hold long term leases. Act 15 concluded that until a master plan is adopted, persons living in Kahana shall not be evicted if they are contributing at least 25 hours of service each month. After over eight years of Kahana Planning Council (KPC) meetings, a master plan was not developed. The KPC was repealed by the Legislature in the 2020 Session.

In 2015 and 2016, State Parks contracted with Townscape Consulting to develop a master plan. Townscape was to perform a critical analysis of issues, conducting resident surveys and meet with available residents, community outreach and meetings, and assembling historical and background data relevant to Kahana. At the end of their process, Townscape concluded that three primary issues needed to be addressed and resolved prior to a master planning process:

1. The cultural living park concept – is this concept still valid for Kahana and the existing residential community?
2. The 65-Year Leases that dictate the terms under which Kahana families are permitted to live in the valley – the terms of these leases should be reviewed and may need to be amended. Lease-to-fee (requires legislative amendments) or change to a monetized rent are questions that have been circulated among the Kahana community.

3. Overall management of Ahupua'a 'O Kahana – Is the DSP still the most appropriate manager to this park and/or its resident community? If not, then what new entity or entities could and should manage Kahana?

Additional findings of the report included:

1. Natural and Cultural Resources Management

State Parks should continue to work with Kahana families on important natural and cultural resource management programs, including the restoration of Huilua Fishpond, community-based management of the ocean resources of Kahana Bay, restoration of lo'i and 'auwai, and restoration on of the free flow of Kahana Stream. In the longer term, State Parks and the Kahana community need to work together toward a comprehensive program for the ongoing management and stewardship of the natural and cultural resources of this 5,249-acre ahupua'a.

2. Property Management

State Parks should consider the creation of a full-time property manager for Kahana – as distinct from the current O'ahu Interpretive Specialist who oversees interpretive hours in addition to other duties. As Kahana lessees have clearly and repeatedly stated, it will be essential for the Kahana property manager to have strong and proven "people skills," and to have the ability to work with Kahana lessees and families to help them to address and solve community and family problems, large and small.

3. Leases for the Six Families Awaiting Leases

State Parks plans to continue to work with the six families that are awaiting Kahana leases. State Parks first needs to obtain funding and Department of Health approval for the construction of legal and compliant Individual Wastewater Systems for the six house sites. State Parks will also need to work with the Board of Land and Natural Resources (BLNR) to amend the 1979 Conservation District Use Permit. The application for that permit, dated June 8, 1979, stated that: "No dwelling units will be constructed in hazard (flooding, tsunami) prone areas." However, the six families that are awaiting Kahana leases plan to live in houses that are within the coastal flood plain. Once these actions have been completed, leases for the six Kahana families can be executed. Note: These six leases should include revisions to Kahana leases that need to be made to further the economic well-being of Kahana lessees.

4. Amending the Kahana Leases

State Parks should work with Kahana lessees to revise and amend the Kahana leases to provide more economic flexibility and potential economic benefits to lessees. Changes to the terms of the Kahana leases may include an option of nominal monetary lease rents in lieu of the currently required 25 hours per month of participation in cultural programs for each Kahana family. This lease amendment process will also further explore the

possibility of lease to fee conversion as an option for Kahana lessees. State Parks will retain expert legal counsel to assist with this lease amendment process.

#### 5. Changes State Land Use Designation "Conservation" to State Land Use "Agricultural"

The existing residential and small-scale agricultural uses within Ahupua'a 'O Kahana State Park are not permitted uses within the State "Conservation" District. Technically, such residential and agricultural uses require a Conservation District Use Permit before these uses can be implemented. State Parks should consider the submittal of an application for a boundary amendment to the State Land Use Commission to change the Kahana residential and small-scale agricultural areas from "Conservation" lands to "Agricultural." In doing so, the mauka watershed and the coastal beach park section will remain Conservation.

#### **Current status of the state leases:**

There are currently 28 leases, one (1) revocable permit, and six (6) families without leases or permits. The residents are required to contribute at least 25 hours of interpretive service hours each month in lieu of rent. In 1988, HHFDC had sufficient funds for 26 of the lessees to receive loans to build their homes. Most of the loans were in the amount of \$50,000.

All but two homes are completed – two remain partially built. Since the completion of the remaining homes and the issuance of the leases, other families have sought to obtain long term leases. However, the Department has been unable to issue them because Act 5 provisions and limitations expired when leases were negotiated and recorded in the bureau of conveyances for all parcels meeting the criteria or on January 1, 1992, whichever occurred first. Over time, of the 31 leases, three were forfeited due to defaults and one was auctioned due to foreclosure.

The locations of the six (6) lots where the houses were not demolished were originally planned for park and interpretive use and residents were encouraged to locate homes further mauka. State Parks discouraged the use of these lands for residential purposes because the use was not consistent with existing plans and because there would be permitting challenges due to being in a floodplain.

On March 22, 2013, under agenda item E-1, the Board of Land and Natural Resources approved a direct lease to the remaining six families for residential purposes. Pursuant to the terms of the leases, the residents are required to contribute at least 25 hours of service each month in lieu of rent.

The Attorney General did not approve the issuance of the leases since the six homes were using undocumented cesspools. The wastewater systems must comply with Department of Health and Environmental Protection Agency Regulations for each of the six lots before each lease is executed, and the responsibility for resolving any compliance issues shall be the responsibility of the respective lessee. State Parks hired another

consultant to evaluate how to install compliant individual wastewater systems (IWS) for the six houses in a floodplain. A design was rendered that would elevate the IWS and required the user to maintain and service the system. The cost was approximately \$200,000 per system. This concept was never implemented.

### **Interpretive hours programs and status**

The interpretive program participation requirement for in-kind payment of the lease rent is twenty-five (25) hours per month of services related to interpretive programs (i.e., cultural demonstrations, mālama 'āina, educating park visitors, etc.). Such programs are administered to local students, community interest groups, or other park visitors and are either co-facilitated with the park interpretive specialist or independently. Service hours will be credited for all aspects of an interpretive activity including planning, gathering/preparing materials, presenting the activity and cleaning up after the event. Service hours will also be credited for learning, teaching, and participating in community meetings. All family members are eligible to provide the scheduled service hours. The State fully supports the residents need to practice the traditions and customs of Native Hawaiians in their most natural unrestricted environment which may at times be scheduled when the visitor is unavailable. These independent activities are also counted as interpretive service hours. This interpretive program participation requirement began once leases were initially signed.

There are 28 lessees, nine of which are current with in-kind interpretive service hours. There has been an increase of participation over the years, compared to the past 3 years where only 3 lessees were out of arrears. There are at least three other known residents that perform interpretive activities but need to submit their hours. The remainder of the residents have either not reported their hours, or performed interpretive activities, some of which are in arrears equating to 3 to 19 years of overdue service hours.

State Parks is working with each lessee to inform them of the status of their interpretive hours, enable them to report past-due service hours performed, and to provide guidance on interpretive activities/programs that the lessees feel competent in performing. Interpretive Programs are generally based on the expressed interest of valley residents, and any resident may recommend additional programs to the park interpretive specialist that fit their interest, knowledge, and availability. The reporting of monthly service hours is very accessible. In addition to mailing in reported hours or dropping them off in the park's drop-box, reports via email and an online submission form are available. An annual interpretive hour balance is shared with each lessee at the end of each year.

### **Status of resident compliance with State Parks leases and interpretive program**

Of the 28 current leaseholders, nine are compliant. Parks staff have been working with the remaining 19 families to become compliant. 61 percent of the lessees are in arrears with their interpretive hours. 39 percent of lessees are not compliant with required liability insurance provisions. 25 percent owe city and county of Honolulu property taxes. 32 percent have balances due with HHFDC.

Furthermore, 43 percent of the original lessees have passed, and the successors have yet to be able to complete an assignment approved by the Board. Three out of six successorship forms need to be updated after Board approves the assignment. The other three successorship forms are from families whose successors have passed and now need to select a new successor by updating the designation of successorship form.

Interpretive Hours	17	61%
Deceased Assignment	12	43%
Certificate of Ins.	11	39%
HHFDC	9	32%
Property Taxes	7	25%

The leases states that assignment of the lease is allowed, “provided, that with the prior written approval of the Board the assignment and transfer of the written lease or interest thereof may be made if the assignee is a member of Lessee’s family.”

**Recreational elements and State Parks FY22 costs**

State Parks maintains a popular beach campground with 10 camping sites and day use area on Kahana Bay along the Kamehameha Highway with comfort station and portable toilets, showers, and water faucets. 1,020 camping permits were issued in FY22, averaging 6,120 campers per year. The Division of Boating and Ocean Recreation manages a small boat launching ramp adjacent to the beach campground. This is an important access for local fishermen.

Across the highway is Coconut Grove, a large grass area used by the residents and community for events and gatherings. It is serviced by a comfort station. There is an also Interpretive Center used for meetings and other gatherings. Mauka of the residential subdivision is the Nākoa Trail, a popular 3.5-mile loop into the lower area of the watershed.

The Division of Forestry and Wildlife manages game mammal (feral pig) Hunting Unit F comprised of 3,655.74 acres in the upper watershed portion of Ahupua’a O Kahana State Park.

In FY22 – State Park labor cost was: \$195,853.61, and total operating cost was: \$98,954.66. State Park operational costs in FY22 for managing recreational use and infrastructure in the park was \$294,808.27.

**Water concerns related to restoring lo’i kalo production**

Uncle Clinton “Nana” Gorai, a 90-year-old taro farmer from Kahana Valley, has been unable to get water to flow to lo’i kalo he has cultivated for decades. Commission on Water Resource Management (CWRM) has been working with Uncle Nana to address the stream diversion to get water back into the ‘auwai. CWRM, along with the U.S. Geological Survey and Honolulu Board of Water Supply, is assessing the diversion of the ‘auwai that feeds Uncle Nana’s lo’i kalo. Due to changes in the stream channel, the diversion is no longer able to divert water from the stream and no water is flowing in the ‘auwai. CWRM and State Parks are working with Uncle Nana to get water back into the ‘auwai.

### **Recent Community Outreach to propose a course of action:**

Rep. Sean Quinlan represents House District 47 which includes Kahana Valley. He has convened several community meetings in attempts to understand the issues and seek resolutions. Many of the residents have expressed concerns with the inability to amend their leases to include successorship, limited terms of their lease which impact their ability to get financing, too many restrictions on use of conservation district rules to permit farming, dwellings, lo'i kalo activities, etc. Likewise, State Parks has recognized their limitations with capacity, mission, and resources to manage Kahana as a Living Park. Due to various reasons, including COVID and economic conditions, several of the residents have been in arrears with their mortgages to HHFDC. Council for Native Hawaiian Advancement (CNHA) has expressed an interest in seeking financial solutions for these residents who are mostly Native Hawaiians with connections to these lands.

On March 11, 2023, Rep. Quinlan and the Department hosted a meeting with the Kahana Valley Residents to provide an update on proposed short and long-term paths forward for the Kahana residents and the Department. The residents expressed appreciation to Rep. Quinlan, the Department and CNHA for meeting with the community and providing them a path forward that may be more appropriate for the residents than the Living Park managed by State Parks.

The Kahana Planning Committee convened a community meeting and State Parks' staff attended and worked with the lessees to update their files and forms. Council for Native Hawaiian Advancement is partnering with Rep. Quinlan and State Parks hosted a resource fair for CNHA programs for Kahana Valley residents on Saturday, April 15 at the Kahana Orientation Center which was well attended.

### **Next Steps and Timelines**

The Department, in consultation with Rep. Quinlan and CNHA, has proposed to the Kahana residents short and long-term courses of action to address some of the long-standing issues.

1. Short Term proposed course of action:
  - State Parks will work with Kahana residents to get them in compliance with their leases and interpretive hours. State Parks' staff will work with residents to update their leases, including successorship, and seek appropriate Land Board approvals;
  - CNHA will work with residents to facilitate mortgage relief;
  - The community residents will continue to meet to discuss long term vision for Kahana;
  - Within the next 90 days, State Parks will prepare a Land Board Submittal to seek approval to update the Kahana Leases.

2. Long Term proposed course of action:

- The Department believes the pono course of action is to seek a Land Use District Boundary Amendment (DBA) to change zoning where the Kahana residents primarily reside up to Uncle Nana's lo'i kalo activities from conservation to agriculture or rural which would permit agricultural uses and farm dwellings, lo'i kalo, and farm related activities. However, the area that is currently being used by State Parks for park purposes and the area mauka of Uncle Nana's lo'i kalo would be used for watershed protection, trails, traditional and customary practices, public hunting, and forestry management;
- Next year, the Department will request legislative appropriation (in coordination with Rep. Quinlan) to contract services for the DBA, environmental compliance, subdivision (if necessary), community engagement, and relocation of the six residential properties out of the floodplain to a more appropriate location;
- FY2024 Pending legislative appropriation, the Department would proceed with necessary regulatory processes for the DBA. We anticipate that the DBA process and other regulatory processes could take between 3-5 years;
- Once the DBA has been approved, the Department intends to seek a more appropriate government agency or non-profit to manage the residential subdivisions.

Respectfully submitted,



*For* Curt A. Cottrell  
Administrator  
Division of State Parks

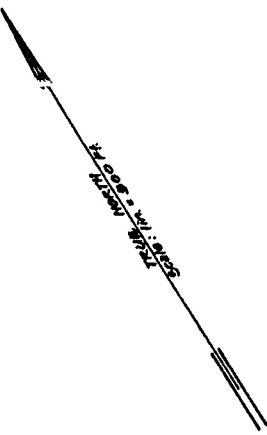
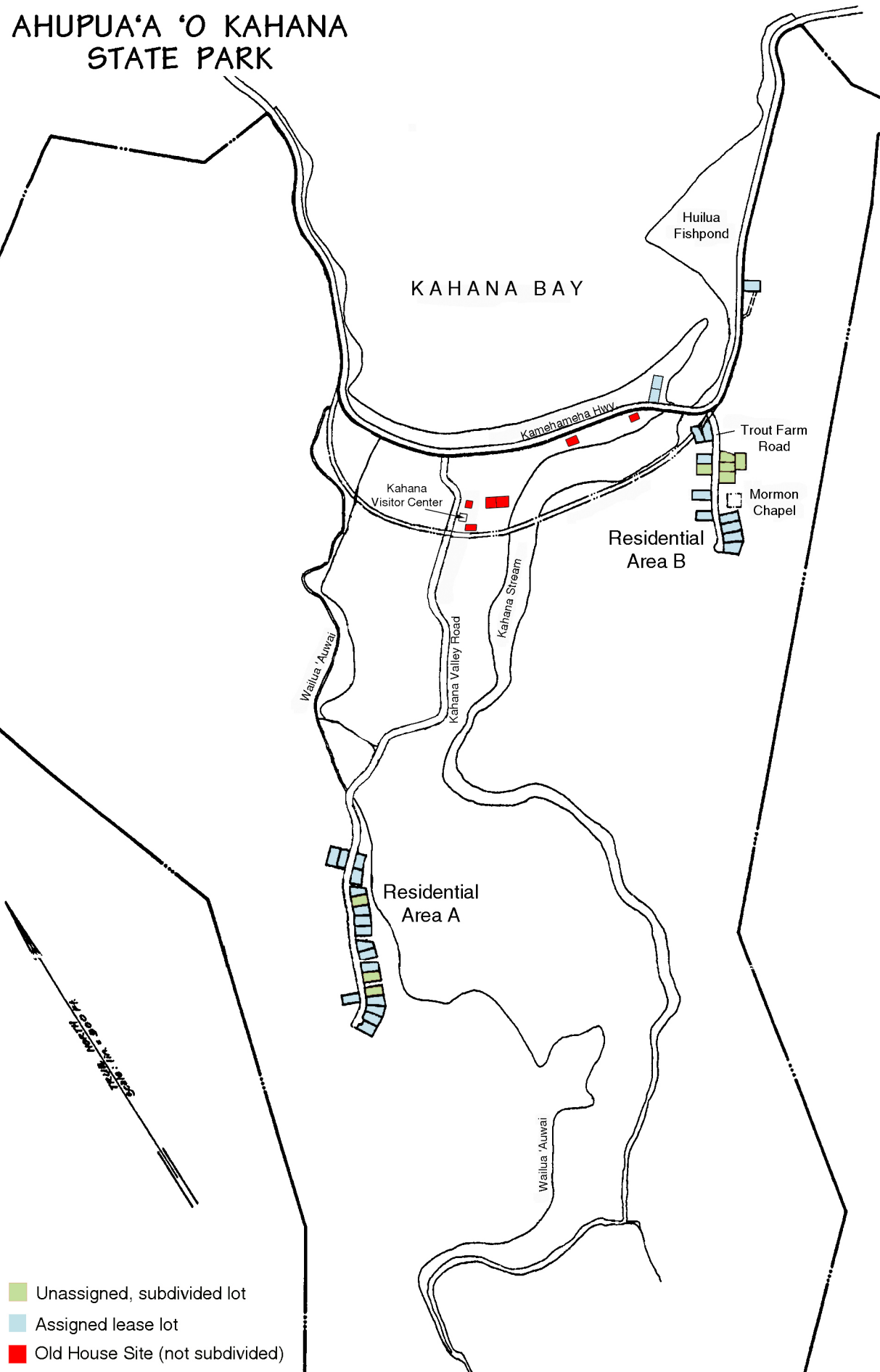
APPROVED AS SUBMITTED:






Dawn N.S. Chang  
Chairperson  
Board of Land and Natural Resources



# AHUPUA'A 'O KAHANA STATE PARK



-  Unassigned, subdivided lot
-  Assigned lease lot
-  Old House Site (not subdivided)