

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

April 12, 2024

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

Land Board Members:

SUBJECT: APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND THE NATURE CONSERVANCY FOR WATERSHED PROTECTION MANAGEMENT IN MOLOKAI FOREST RESERVE, PUU ALII AND OLOKUI NATURAL AREA RESERVES, AND OTHER STATE LANDS, MOLOKAI, TAX MAP KEYS: (2) 6-1-001:002 POR; (2) 5-9-006:002 POR; (2) 5-2-013:007 POR; (2) 5-2-014:003; (2) 5-4-003:025 POR; (2) 5-6-005:001; (2) 5-6-006:002; (2) 5-6-006:011; (2) 5-6-006:026; (2) 5-6-007:068; (2) 5-6-007:070; (2) 5-7-005:005; (2) 5-7-005:013; (2) 5-8-015:007 POR; (2) 5-9-005:008; (2) 5-9-005:011; (2) 5-9-005:013; (2) 5-9-005:015; (2) 5-9-005:035; (2) 5-9-005:038; (2) 5-9-005:039; (2) 5-9-005:041; (2) 5-9-005:048; (2) 5-9-005:052; (2) 5-9-005:054; (2) 5-9-005:056; (2) 5-9-005:057; (2) 5-9-005:060; (2) 5-9-005:063; (2) 5-9-005:067; (2) 5-9-005:083; (2) 5-9-005:085; (2) 5-9-005:086; (2) 5-9-006:002; (2) 5-5-001:013; (2) 5-5-001:015; (2) 5-5-001:022; (2) 5-5-001:036; (2) 5-5-001:038

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 NATURE CONSERVANCY 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 The Nature Conservancy (TNC), a private non-profit 501(c)(3) organization, for the management of watershed forests in various parcels on Molokai (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.

TERM OF MEMORANDUM OF UNDERSTANDING:

The terms of the Memorandum of Understanding shall remain in effect until canceled or modified.

BACKGROUND:

The Nature Conservancy is the managing entity of the East Molokai Watershed Partnership. The Division of Forestry and Wildlife frequently contracts the partnership to conduct watershed forest management actions. These actions include invasive plant removal, native tree planting, fence maintenance, hooved animal removal, and monitoring. TNC also receives funding from other public and private sources for this management work.

The Watershed Partnership has created management plans that are reviewed and approved by the partners (including the Division) to guide the management of the core watershed forests of East Molokai. These management plans are consistent with the Division's *Molokai Forest Reserve Management Plan*, published in 2009, the *Puu Alii Natural Area Reserve Management Plan*, published in 1991, and the *Olokui Natural Area Reserve Management Plan*, published in 1991. The area proposed for the MOU includes other State lands proposed for addition to the Forest Reserve System in Makolelau.

DISCUSSION:

The Division is interested in a Memorandum of Understanding with TNC to facilitate management of this area and clarify roles and responsibilities. An MOU would further formalize the long-term partnership between the Division and TNC to implement the management plans for this area.

This MOU would not confer exclusive use of the areas defined as other community organizations and cooperators will participate in the management of this large area in a complementary way. The MOU would not include a 5.6-acre portion of (2) 5-4:003:025, which contains an easement.

## 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 according 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 explicitly designed 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 in concept a Memorandum of Understanding between the State of Hawai'i Division of Forestry and Wildlife and The Nature Conservancy for watershed protection management in Molokai Forest Reserve, Puu Alii and Olokui Natural Area Reserves, and other State lands, Molokai, Tax Map Keys: (2) 6-1-001:002 por; (2) 5-9-006:002 por; (2) 5-2-013:007 por; (2) 5-2-014:003; (2) 5-4-003:025 por; (2) 5-6-005:001; (2) 5-6-006:002; (2) 5-6-

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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 impact 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 Nature Conservancy 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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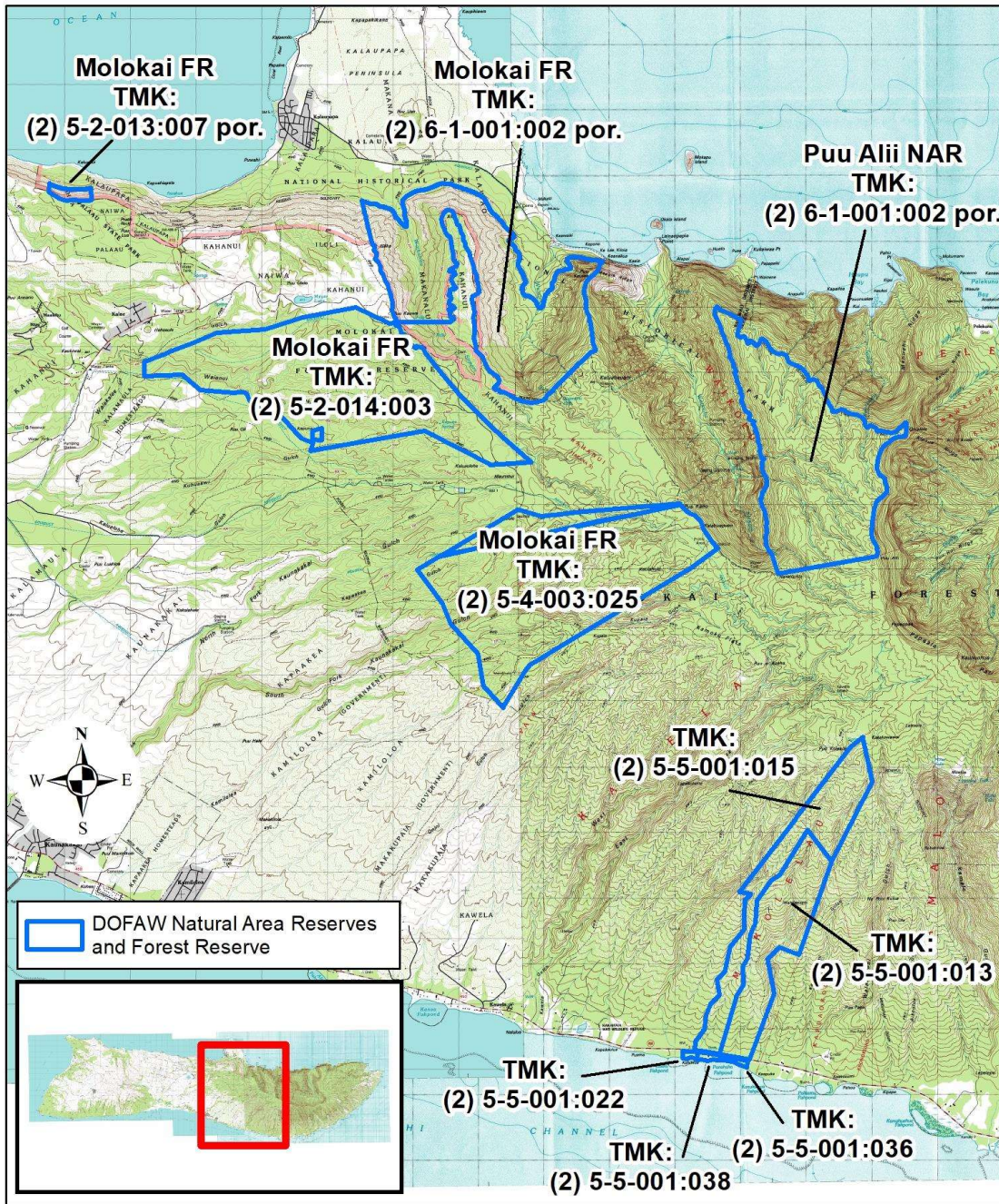
DAWN N. S. CHANG, Chairperson  
Board of Land and Natural Resources

Exhibit A: Map



APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND THE NATURE CONSERVANCY FOR WATERSHED PROTECTION MANAGEMENT IN MOLOKAI FOREST RESERVE, PUU ALII AND OLOKUI NATURAL AREA RESERVES, AND OTHER STATE LANDS, MOLOKAI

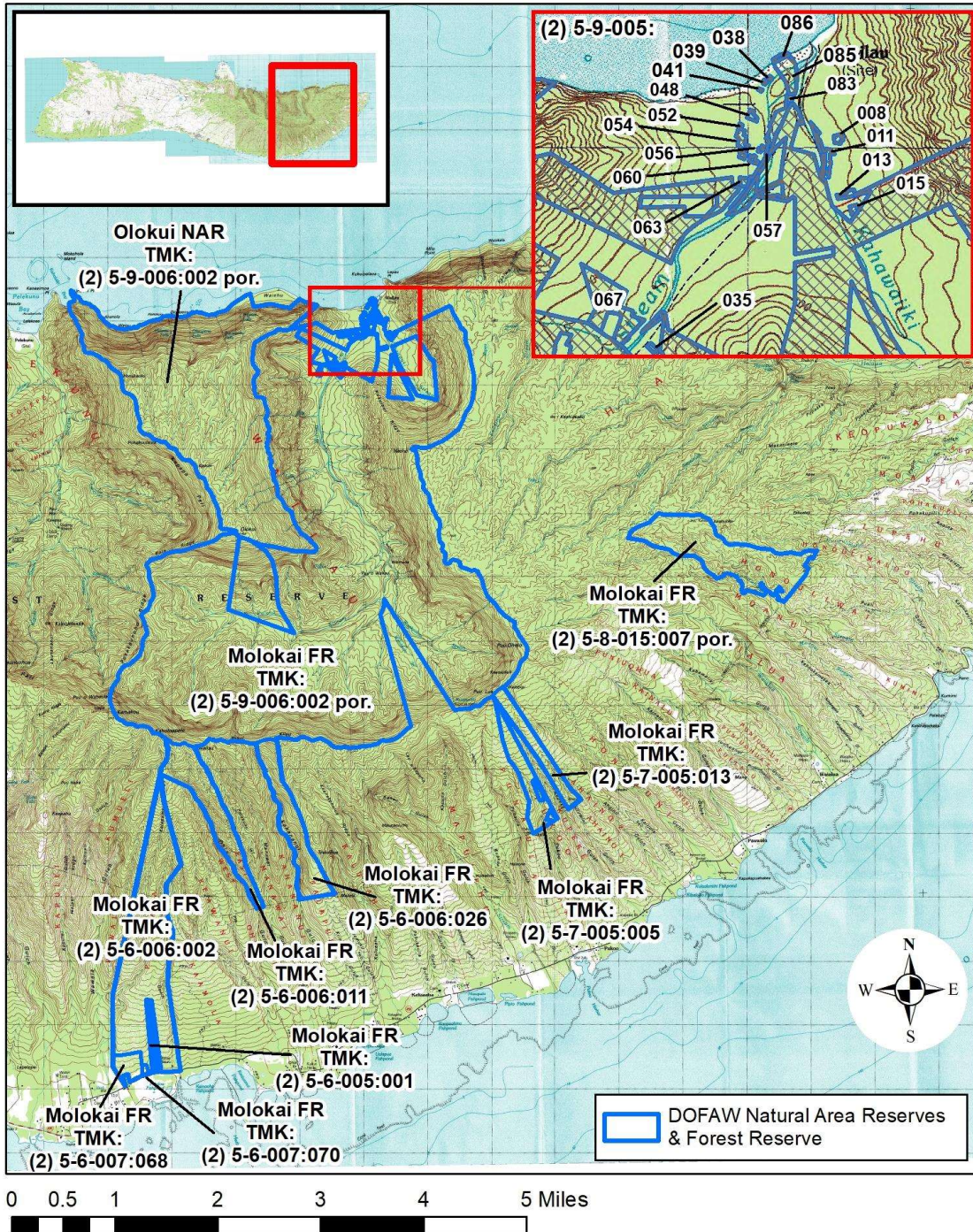
Parcels for Proposed MOU with TNC (Map 1 of 2)



Parcels are approximate and subject to change DOFAW March 2024. (808) 587-4170



### Parcels for Proposed MOU with TNC (Map 2 of 2)



Parcels are approximate and subject to change DOFAW March 2024. (808) 587-4170