

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

May 24, 2024

- SUBJECT: (1) APPROVE UP TO \$750,00 IN A GRANT AWARD FROM AVAILABLE FUNDS IN THE LAND CONSERVATION FUND, AS REQUESTED IN AN APPLICATION TO THE FISCAL YEAR 2024 LEGACY LAND CONSERVATION PROGRAM AND AS RECOMMENDED BY THE LEGACY LAND CONSERVATION COMMISSION, FOR THE ACQUISITION OF INTERESTS AND RIGHTS IN A SPECIFIC PARCEL OF LAND HAVING VALUE AS A RESOURCE TO THE STATE, TO: MALAMA LOKO EA FOUNDATION FOR THE ACQUISITION OF APPROXIMATELY 1.1 ACRES AT DISTRICT OF WAIALUA, ISLAND OF O'AHU (LOKO EA QUEEN'S RESIDENCE), TAX MAP KEY NUMBER (1) 6-2-003:008 (APPROXIMATELY 0.56 ACRES) PLUS APPROXIMATELY 0.54 ACRES IN LOKO EA PLACE (TAX MAP KEY NUMBER NOT ASSIGNED), WITH A CONSERVATION EASEMENT HELD BY THE CITY & COUNTY OF HONOLULU.
- (2) EXEMPT THE PROPOSED AWARD IDENTIFIED IN ITEM (1) ABOVE FROM THE REQUIREMENT TO PREPARE AN ENVIRONMENTAL ASSESSMENT, UNDER CHAPTER 343, HAWAI'I REVISED STATUTES AND CHAPTER 11-200.1, HAWAI'I ADMINISTRATIVE RULES.
- (3) AUTHORIZE THE DEPARTMENT TO PROCEED WITH ALL DUE DILIGENCE AND NEGOTIATIONS NECESSARY TO CARRY OUT THE FISCAL YEAR 2024 LEGACY LAND CONSERVATION PROGRAM GRANT AND ACQUISITION IDENTIFIED IN ITEM 1 ABOVE AS APPROVED BY THE BOARD AND THE GOVERNOR.

SUMMARY

The Division recommends that the Board (1) approve up to \$750,000 in a Fiscal Year 2024 Legacy Land Conservation Program grant award to a nonprofit land conservation organization, from available funds in the Land Conservation Fund, based on the amount requested in an application and as recommended by the Legacy Land Conservation Commission, for the acquisition of interests and rights in a specific parcels of land having value as a resource to the State, covering a total area of approximately 1.1 acres; (2) exempt the award of Fiscal Year 2024 grant funds from the requirement to prepare an environmental assessment, under Chapter 343, Hawai'i

Revised Statutes; and (3) authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the Fiscal Year 2024 Legacy Land Conservation Program grant and acquisition approved by the Board and the Governor.

This grant award contributes to meaningful public-private land conservation partnerships that help to reshape and diversify our economy and enhance the quality of life for our communities.

BACKGROUND

Governing Authorities Cited

Hawai'i Revised Statutes (HRS)

- Chapter 92 Public Agency Meetings and Records
- Chapter 173A Acquisition of Resource Value Lands
- Chapter 198 Conservation Easements
- Chapter 343 Environmental Impact Statements

Hawai'i Administrative Rules (HAR)

- Chapter 11.200.1 Environmental Impact Statement Rules
- Chapter 13-140 Legacy Land Conservation Program Rules

Acquisition of Interests or Rights in Land

In 2012, the Board adopted regulations implementing the provisions of HRS Chapter 173A, including a delegation of authority to the Division of Forestry and Wildlife for the administration of the Legacy Land Conservation Program (see HAR § 13-140-3). HRS § 173A-5(f) authorizes the Department to administer and manage the Land Conservation Fund. Under § 173A-5(h), the Land Conservation Fund shall be used for four purposes, including (1) *The acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the establishment of permanent conservation easements under chapter 198 or agricultural easements.* Grant awards from the Land Conservation Fund provide financial assistance for State agencies, counties, and nonprofit land conservation to acquire interests or rights in land for one or more of the nine public purposes established in § 173A-5(g).

Grant Award Process

The grant award process for the Fiscal Year 2024 ("FY2024") Legacy Land Conservation Program ("LLCP") includes the following steps:

- LLCP consults with the Legacy Land Conservation Commission ("LLCC") about grant application forms and timelines in a public meeting.
- The Department approves grant application forms and timelines.
- LLCP notifies the public about the application process.

- An applicant consults with the Department, the Department of Agriculture, and the Agribusiness Development Corporation "regarding the maximization of public benefits of the project, where practicable . . ." (HRS § 173A-5(i)(7)).
- An applicant submits its grant application to the LLCP (see content requirements in § 173A-5(i)).
- LLCC Permitted Interaction Groups investigate the applications submitted (see HRS § 92-2.5(a)(1)).
- In public meetings, the LLCC reviews and ranks the applications, culminating in recommendations to the Board for approving grant awards (**EXHIBIT I**, and see mandatory evaluation priorities in § 173A-2.6 and discretionary evaluative criteria in HAR § 13-140-39).
- The Department consults with the Senate President and the Speaker of the House of Representatives about the LLCC recommendations (see **EXHIBIT II**).
- The Board approves grant awards with standard and special conditions (this submittal).
- The Governor approves grant awards and release of grant funding (through recommendations from the Department of Budget and Finance).
- Applicant accepts the Department grant award offer.
- The Department blanket encumbers funding for approved grants.
- The Board and its Awardee execute a Legacy Land Conservation Program Grant Agreement, followed by contract certification (Department of Accounting and General Services) and a Notice to Proceed from the Division.

If an Awardee completes its transactional due diligence as required in the grant agreement, subject to review and acceptance by LLCP staff and approvals from the Division, the Department of the Attorney General (Land Division), and the Chairperson (see **EXHIBIT IV**, from LLCP Grant Agreement Template), then the Division requests, receives, and processes an Awardee's invoice for payment on the grant agreement, resulting in Awardee's endorsement of the check for deposit into escrow and closing of the conservation transaction.

HRS § 173A-4.5(a) establishes appraisal processes for the acquisition of land having value as a resource to the State, and § 173A-4.5(b) mandates that "[n]o land shall be purchased for a sum greater than the highest value fixed by any appraisal accepted [by the Board] or performed [by the Board's contractor] under subsection (a)." While the amount requested and recommended for each grant award arises from the applicant's current fair market value estimate, the future expenditure of the awarded grant funds can be limited by the approved appraised value and the matching funds secured for the acquisition. If the Department reduces its payment on a grant agreement such that the Awardee meets its obligated percentage of matching funds, then the unexpended grant funds return to the unencumbered cash balance of the Land Conservation Fund and can be encumbered and expended subject to appropriation and allotment.

Throughout the application process, the LLCP advised applicants that approximately \$6,800,000 in FY2024 funding would be available for land acquisition awards and

suggested that applicants consider this funding situation for project planning purposes. After several potential applications dropped out of the process, the LLCP received eight eligible, timely, final applications for land acquisition awards by the deadline of December 1, 2023, with funding requests that ranged from \$32,843 to \$4,000,000 (totaling \$10,306,566) for properties ranging in size from one acre to 222 acres (totaling 496 acres). Three of these applicants withdrew from the process, leaving five applications, three of which the Board approved for a grant award at its meeting held May 10, 2024, under Agenda Item C-8, and another which is presented for Board action in this submittal.

Agency Consultation

Agency Consultation comments for the recommended application are limited to a response from the Department's Division of Aquatic Resources ("DAR") that DAR supports the acquisition of lands as laid out in the application and that if the area is restored as planned, that will improve the surrounding aquatic resources. DAR reminded the applicant of the impacts of land-based source pollution and sediment on aquatic resources and advised it to utilize native flora and fauna to help control erosion. Any work on streams should be done in such a way that native species are still able to move freely through the streams at all times. If the application involves the future construction of new buildings, DAR requests the ability to review and comment on proposed construction when plans have been finalized for additional best management practices to prevent impacts to aquatic resources.

Application Review, Ranking, and Recommendation

The LLCC reviewed, compared, and ranked the final five grant applications, incorporating the results of agency consultations, permitted interaction group investigations (including field visits), and public testimony into the recommendation that the LLCC issued on March 1, 2023 (Meeting 84, Agenda Items 4 and 5), which recommends that four of the five applications receive the total amount of funding requested, and does not recommend funding for one application. The attached LLCC Ranking and Recommendation Summary (**EXHIBIT I**) also includes maps and photos as submitted with the subject application.

Legislative Consultation

On March 11, 2024, the Department forwarded the Fiscal Year 2024 LLCC recommendation to the Senate President and the Speaker of the House of Representatives, along with the Department's request for consultation. After forwarding the complete grant applications—as requested by the legislators—and meeting with the Senate President, the Department received written replies dated April 15, 2024, from the Senate President, and April 17, 2024, from the Speaker of the House, confirming that there are no comments, concerns, or objections from the legislators about the four applications that are presented for approval in this Board submittal (**EXHIBIT II**).

DISCUSSION

EXHIBIT I summarizes basic information and presents maps and photos from the recommended application, while **EXHIBIT III** provides key sections from the application that address Importance and Threats (Section G), Stewardship and Management (Section H), and Cultural and Historical Significance (Section I).

Loko Ea Queen's Residence: Malama Loko Ea Foundation applied for \$750,000 to acquire approximately 1.1 acres (one parcel plus one roadway lot) at District of Waialua, Island of O'ahu, for all nine Legacy Land resource preservation purposes established in subsection 173A-5(g), Hawai'i Revised Statutes:

- (1) Watershed protection
- (2) Habitat protection
- (3) Cultural and historical sites
- (4) Parks
- (5) Recreational and public hunting areas
- (6) Parks
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

The Applicant expects to receive matching funds estimated at 51.1% of total project costs through a pending application to the City & County of Honolulu Clean Water and Natural Lands Fund and other sources, some of which have been secured. The City & County of Honolulu would hold a conservation easement over the property. **EXHIBITS I and III** present other key components of the application.

Conservation Easements, Agricultural Easements, Deed Restrictions, and Covenants

Historically, the Department requires that each nonprofit recipient of LLCP funding for a fee simple land acquisition record a deed of conveyance and a grant of conservation easement (also governed by Chapter 198, HRS) to meet the requirements of HRS § 173A-4. Although an applicant can request and receive an exemption from easement requirements, each of the four FY2024 applicants for acquiring fee simple did not request an exemption. The Division advises that the Board require, for the subject application, that the awardee provide a conservation easement to an appropriate land conservation organization or a county, state, or federal natural resource conservation agency. As advised by the Deputy Attorney General assigned to the LLCP, the Division requires that a private land conservation organization that will hold an easement sign the LLCP grant agreement as a Consenting Party.

LLCP restrictions for deeds to county and nonprofit grantees reference the grant agreement that is executed between the Board and the grantee, and all deeds must recite the State's statutory restrictions on the sale, lease, or other disposition of the acquired interests and rights in land (see §§ 173A-4, 173A-9, and 173A-10). Per the

grant agreement, deed restrictions also require that an owner manage the land in a manner consistent with the protection of the resources as described in the original grant application.

Chapter 343, Hawai'i Revised Statutes, Environmental Review

On November 20, 2020, the Environmental Council concurred with the Department's adoption of a two-part exemption list (as defined in HAR § 11-200.1-2 and implemented pursuant to § 11-200.1-16), including General Exemption Type 1, PART 1, Action Type 42 *The award of grants under HRS Chapter 173A provided that the grant does not fund an activity that causes any material change of use of land or resources beyond that previously existing.* As these awards are strictly for acquisition and not management, the Division recommends that the Board exempt the subject proposed awards of State grant funds for land acquisition from the requirement to prepare an environmental assessment.

RECOMMENDATIONS

That the Board:

- 1) Authorize the Chairperson to enter into an agreement and encumber Fiscal Year 2024 funds from the Land Conservation Fund with: Malama Loko Ea Foundation, up to \$750,000 for the acquisition of approximately 1.1 acres at District of Waialua, Island of O'ahu (Loko Ea Queen's Residence), Tax Map Key Number (1) 6-2-003:008 (approximately 0.56 acres), plus approximately 0.54 acres in Loko Ea Place (Tax Map Key Number not assigned), with a conservation easement held by the City & County of Honolulu;

The grant agreement shall be subject to each of the following provisions:

- i. compliance with Chapter 173A, Hawai'i Revised Statutes;
- ii. compliance with Chapter 343, Hawai'i Revised Statutes;
- iii. execution of a Grant Agreement with the Board, including requirements that each nonprofit easement holder signs the Grant Agreement as a Consenting Party;
- iv. certification of an appraisal by the Department;
- v. insertion of Legacy Land Conservation Program restrictions and covenants into the deeds as a condition of contractual agreements with the grant recipients;
- vi. approval of the Grant Agreement and the Deeds by the Attorney General's office;
- vii. the availability of funds;
- viii. the approval of the Governor; and
- ix. such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

- 2) Exempt the proposed use of State funds in Recommendation 1) above from the requirement to prepare an environmental assessment, in accordance with Sections 343-5 and 343-6, Hawai'i Revised Statutes; Sections 11-200.1-1, -2, -8, -13, -14, -15, and -16, Hawai'i Administrative Rules; and the Department of Land and Natural Resources Exemption List (Exemption Type 1, Part 1, Action Type 42) reviewed and concurred on by the Environmental Council on November 10, 2020.
- 3) Authorize the Department to proceed with all due diligence and negotiations necessary to carry out the Fiscal Year 2024 Legacy Land Conservation Program grant and acquisition identified in Recommendation 1 above as approved by the Board and the Governor.

Respectfully submitted,



DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



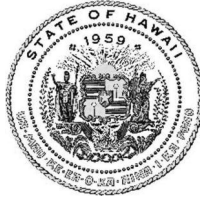
DAWN N.S. CHANG, Chairperson
Board of Land and Natural Resources

EXHIBITS

- EXHIBIT I:** Table of recommended awards for the Fiscal Year 2024 Legacy Land Conservation Program, with project maps and photos for Item (1)
- EXHIBIT II:** Consultation Responses from the President of the Senate (April 15, 2024) and the Speaker of the House of Representatives (April 17, 2024)
- EXHIBIT III:** Application Sections G, H, I for Item (1)
- EXHIBIT IV:** Checklist for Legacy Land Conservation Program Projects (Exhibit B for Legacy Land Conservation Program Grant Agreements)

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HAWAII 96809

May 1, 2024

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

TO: Division Administrators, Heads of Offices, DOFAW Staff

FROM: David G. Smith, DOFAW Administrator *DGS*

SUBJECT: Acting Administrator, Division of Forestry and Wildlife

I will be on official travel to Washington, DC to attend and participate in the National Association of State Foresters Executive Committee Meeting from May 6-10, 2024. In my absence, Oahu Forestry & Wildlife Manager, Marigold Zoll, will be Acting Administrator.

Your usual courtesy and cooperation to Ms. Zoll will be greatly appreciated.

Acting Administrator - 0506-1024

Final Audit Report

2024-05-01

Created:	2024-05-01 (Hawaii-Aleutian Standard Time)
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Status:	Signed
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Signature Date: 2024-05-01 - 4:51:22 PM HST - Time Source: server- IP address: 74.87.211.242
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EXHIBIT I
May 24, 2024

**Map and Table of recommended
grant awards for the Fiscal Year
2024 Legacy Land Conservation
Program**

**(6 pages, followed by maps and
photos for Table Item 2C, Loko Ea)**



Kaua'i



Ni'i'hau

2C Loko Ea
Queen's
Residence



2D Ke Ola Project
- Conservation
& Culture



O'ahu

Moloka'i



Maui



Lāna'i



Kaho'olawe

2B Nani Ka
Hoku Farm
Ag Easement



2A' Anaeho'omalu
Kapalaoa

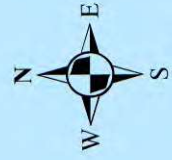


Hawai'i

2E Improving
Sustainable
Production



★ Grant Applications for FY2024 Land Conservation Fund



Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2024
 March 1, 2024 (Meeting 84, Agenda Items 4 & 5)

*Commission Recommendation at bottom of last page (page 5).
 Text in *italics* indicates revised information, as requested by applicant during the meeting and accepted by Commission, or as corrected/modified by staff.

Item	Rank	Application	Applicant	District, Island	Type	Description (from online application Item 15: Narrative description of location, ecosystems, land use, and human activity on the property and in the surrounding area)	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$ Requested	TOTAL \$
2A	1	'Anaeho'omalu Kapalaoa	Nā Ōiwi o Pu'uuanahulu	Kona, Hawaii	Fee + Easement (County of Hawaii)	'Anaeho'omalu Kapalaoa is located on the boundary between Waikōloa Ahupua'a in South Kohala and Pu'uuanahulu Ahupua'a in North Kona, which is marked by Hi'iakaika'ale'i and Keahualono Heiau. Adjacent to the Waikoloa Beach Resort, 'Anaeho'omalu Kapalaoa is the last remaining undeveloped beachfront parcel in Waikoloa Beach Resort along the shoreline of 'Anaeho'omalu Bay. 'Anaeho'omalu (protected mullet) Kapalaoa (sperm whale) is known as an "ice box" for the local community and was a site for salt making, limu gathering, and traditional fishing practices like the hukilau (communal, shoreline net fishing), a launch area for canoes, and raising fish at Kū'uai'i and Kahāpapa fishponds (located north of the property). 'Anaeho'omalu Bay is also now used heavily by visitors, especially during high travel season for swimming, snorkeling, kayaking, kite surfing, and sailing, negatively impacting the marine environment and traditional fishing and gathering grounds. The parcel is home to healthy strands of native milo and naupaka kahakai along the shore, rare maiapilo, occasional hala, pua kala, noni, and 'uhaloa, as well as a complex of ten pristine anchialine ponds teeming with 'ōpae 'ula. TMK: (3) 7-1-003:010	27.38	Conservation (Resource and General Subzones)	Open	4,434.00 59.6%	3,000,000	7,434,000

Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2024
 March 1, 2024 (Meeting 84, Agenda Items 4 & 5)

Item Rank	Application	Applicant	District, Island	Type	Description (from online application Item 15: Narrative description of location, ecosystems, land use, and human activity on the property and in the surrounding area)	Acres <i>approx</i>	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$ Requested	TOTAL \$
2C	Loko Ea Queen's Residence	Mālama Loko Ea Foundation	Waialua, O'ahu	Fee + Easement (County of Honolulu)	<p>Loko Ea Queen's Residence, once part of Queen Lili'uokalani's beloved Waialua estate and believed to be the site of the Queen's bath, sits on the bank of Loko Ea Fishpond in the 'ili 'āina of Hale'iwa, Kawaioa Ahupua'a, Waialua District, on O'ahu. The property is mauka of Kamehameha Highway, with Waialua Bay to the west and Anahulu River to the south. It is adjacent to a commercial development of retail shops, restaurants, offices, and businesses called the Shops at Anahulu.</p> <p>The property is comprised of a private paved roadway lot that provides access for a few adjacent lots, and a vacant, undeveloped lot that was previously modified by past activities related to residential home construction.</p> <p>The property is critically located on the southern bank of Loko Ea Fishpond, stewarded by Mālama Loko Ea Foundation ["MLEF"] for the last 14 years. MLEF uses the fishpond for 'āina-based education, restoration, and stewardship, hosting thousands of students and volunteers every year. The fishpond and wetland are ideal habitats for endangered and native wetland birds, native marine life, as well as native vegetation and canoe plants.</p> <p>TMK: (1) 6-2-003:008 (~0.56 acres) plus ~0.54 acres in Loko Ea Place (TMK not assigned)</p>	1.1	Urban	R-5	784,000 51.1%	750,000	1,534,000

Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2024
 March 1, 2024 (Meeting 84, Agenda Items 4 & 5)

Item	Rank	Application	Applicant	District, Island	Type	Description (from online application item 15: Narrative description of location, ecosystems, land use, and human activity on the property and in the surrounding area)	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$ Requested	TOTAL \$
2B	3	Nani Kai Hoku Farm	Moku o Keawe Land Conservancy	Kohala, Hawaii	Agricultural Easement	<p>Farm is in North Kohala, ahupuaa of Honomakau, makai of Hawi on the north shore of Hawaii Island, approx. 1800 feet from the ocean. The farm is a peninsula sitting above gulches with disrupted streams on three sides of the property that drain to the ocean.</p> <p>The gulch habitat has been undisturbed since the early 1970s. Endemic birds of prey (io and pueo) and the Hawaiian Hoary bat frequent the farm because the regenerative and traditional farming practices provide a safe hunting habitat – no poisons or rodenticides – as well as safe perches and roosting areas in the windbreak and fruit trees.</p> <p>The ancient and historic land use was agriculture and the farm today uses regenerative and traditional farming methods that create pollinator habitat, conserve and protect water, protect soil and create a health soil microbiome that helps sequester carbon, increases food production yields, and creates soil and crop resiliency (able to withstand changes in temperature and moisture).</p> <p>The area is surrounded by agricultural land, but most of the land is not in active or commercial agriculture. Comparing aerial satellite images between the year 2000 and 2023, shows numerous houses and estates.</p> <p>TMK: (3) 5-5-008:069</p>	20.1	Agricultural	A-20a	1,129,250 66.3% 69.35% (corrected by staff)	499,000	1,628,250

Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2024
 March 1, 2024 (Meeting 84, Agenda Items 4 & 5)

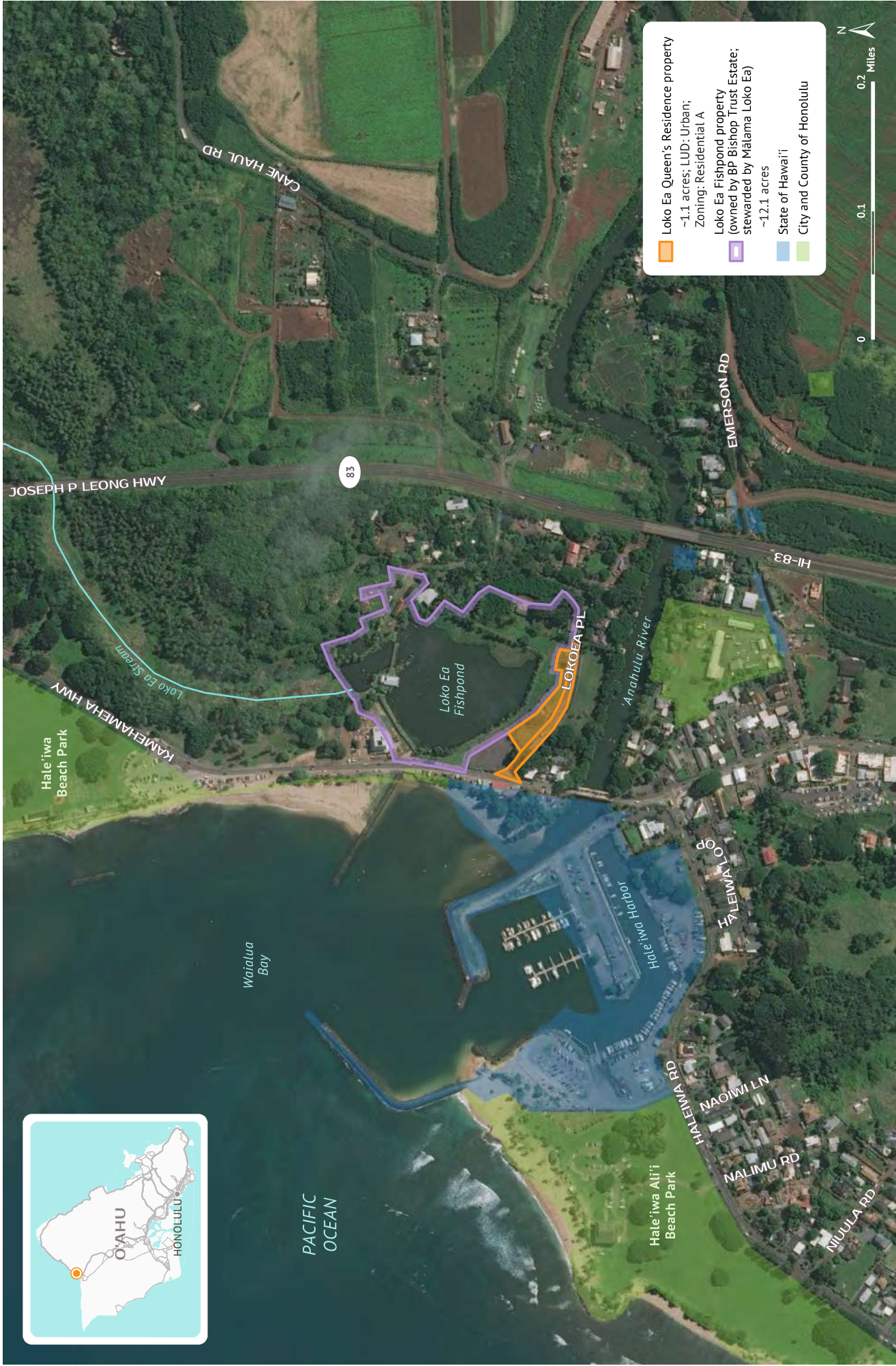
Item	Rank	Application	Applicant	District, Island	Type	Description (from online application item 15: Narrative description of location, ecosystems, land use, and human activity on the property and in the surrounding area)	Acres <i>approx</i>	State Land Use District	County Zoning	Matching \$ Match % (<i>rounded</i>)	LLCP \$ Requested	TOTAL \$
2D	4	Ke Ola Project Conservation & Culture	Pu'uwai Ko Ola	Waianae O'ahu	Fee + Easement (Holder uncertain)	<p>The parcel of land to be acquired is a very important and sacred piece of the entire Kaupuni Watershed and this parcel is host to a region encompassing mountains, streams, waterfalls, nature, solitude, peace and quiet; all only begin to describe this valuable region in our Ahupua'a of Wa'ianae.</p> <p>The property sits at the ascent of O'ahu's highest mountain, surrounded by miles of protected government land; this property is currently appointed with a barn, gazebo, and campsite. It is a mere three miles to beaches and to community conveniences yet this removed, upcountry property deserves to have a steward of the land which is a Native Hawaiian organization restoring Hawaiian lands into Hawaiian hands.</p> <p>With a unique and unparalleled mountain-effect climate, this private, verdant valley enjoys cooler temperatures, breezes, rain showers, mists and rainbows, with ideal conditions to begin the next planting of indigenous plants, harvesting viable crops, and growing fields that can be planted with a multitude of natural flowers from the islands of Hawaii'i.</p> <p>The stream, and the lush forest of the lower acreage hosts a winding 1/4-mile nature trail that is ideal for the cultural programs.</p> <p>TMK: (1) 8-5-005:0050002</p>	2.77	Agricultural	Ag-2	202,080 25%	606,238	808,318

Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2024
 March 1, 2024 (Meeting 84, Agenda Items 4 & 5)

Item Rank	Application	Applicant	District, Island	Type	Description (from online application Item 15: Narrative description of location, ecosystems, land use, and human activity on the property and in the surrounding area)	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$ Requested	TOTAL \$
2E	Improving Sustainable Production	Malama Sanctuary	Puna, Hawaii	Fee + Easement (Holder uncertain)	Located just a few blocks from Fissure 8, the center of the Kilauea eruption, this one acre parcel was untouched by the recent lava flow. The parcel is home to numerous ohia trees and the resilience of this Hawaii community. The key resources to be protected will be a demonstration farm that will feature three scalable and native crops: mamaki and kava, and also a germplasm repository of low bearing and disease resistant coconuts. The location of the property highlights the resilience of the community after the Kilauea eruption, and also provides an accessible location for agricultural programs and the germplasm repository.	1.00	Agricultural	A-1a	10,947 25%	32,843	43,790
<p><i>Based on ranking results, potential environmental hazards, and program suitability concerns, the Legacy Land Conservation Commission did not recommend a grant award for this application.</i></p> <p>TMK: (3) 1-3-017:016</p>											

***Agenda Item 5 - Recommendations**

The Legacy Land Conservation Commission ("Commission") recommends that the Board of Land and Natural Resources ("Board") approve four awards for grants from available funds in the Land Conservation Fund, for full funding of the four top-ranking Fiscal Year 2024 applications for land acquisition grants, in the order ranked by the Commission, as funds are available, provided that Board approval for the fourth-ranked project (2D Ke Ola) be contingent upon the applicant receiving a purchase and sale agreement for the property, signed by the Seller, prior to Board action on this Commission recommendation.

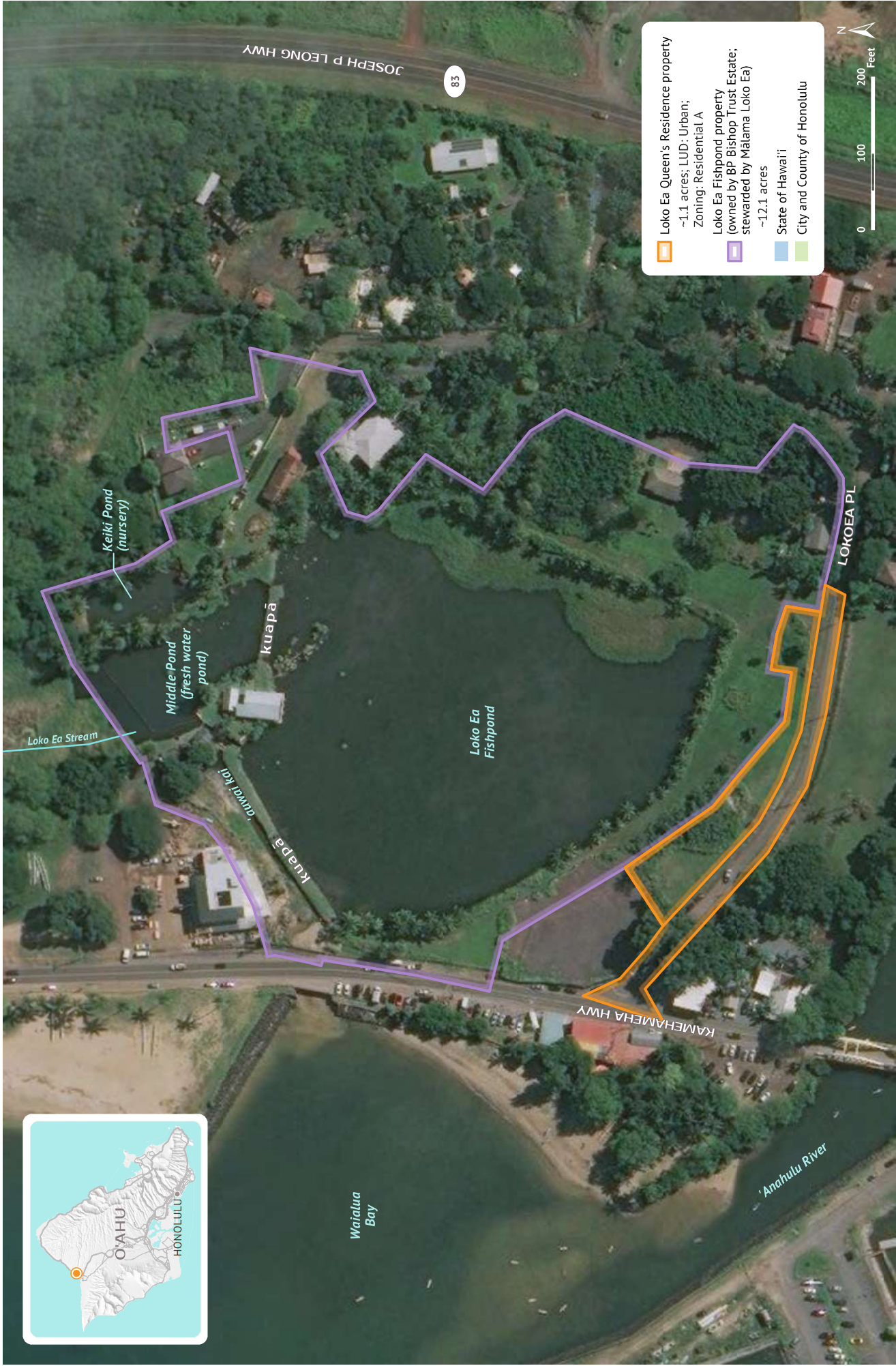


Loko Ea Queen's Residence

ISLAND OF O'AHU, HAWAII'

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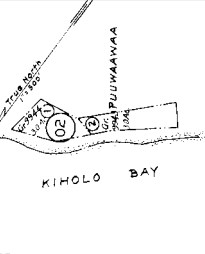
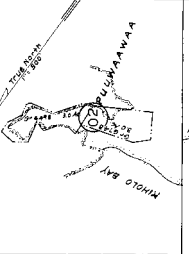
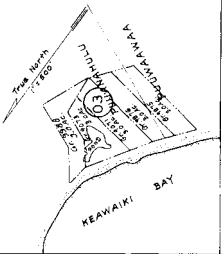
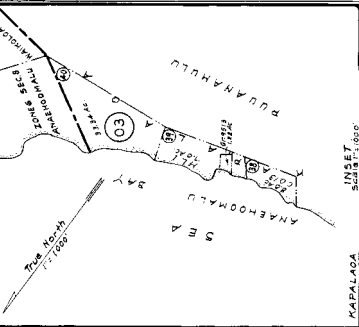
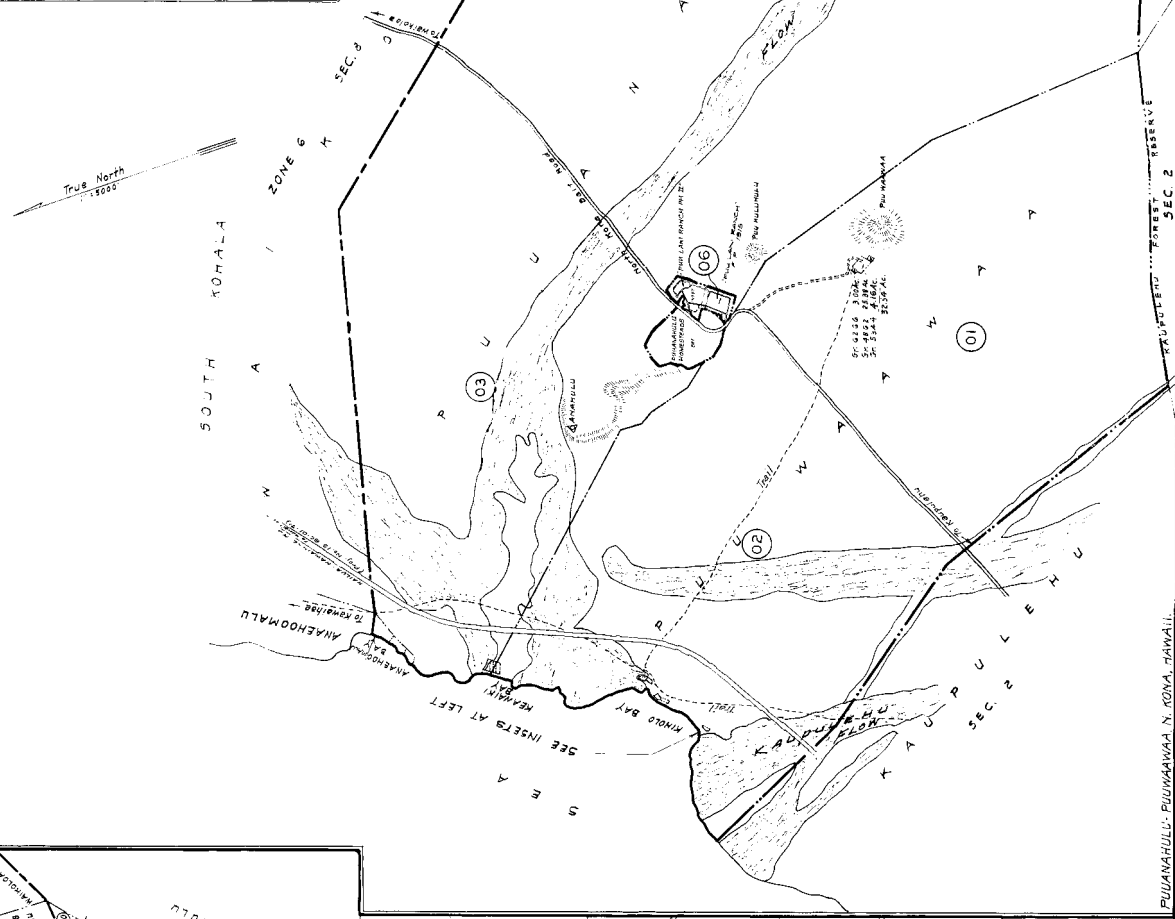
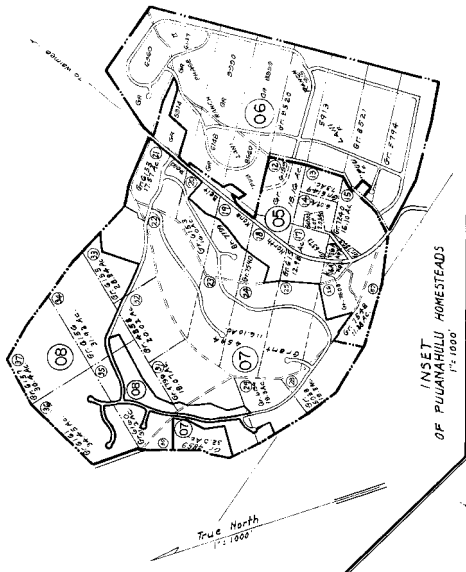
Loko Ea Queen's Residence

ISLAND OF O'AHU, HAWAII'

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T 1



ADVANCE SHEET
SUBJECT TO CHANGE

THIRD DIVISION	PLATS
ZONE 1 SEC. 1	SCALE 1:5,000 FT.
7	

PRINTED

Dwg. No. 1151

Appr. by: _____
 Revised by: _____
 Source: SURVEY MAPS

PUUNAHULU, PUUNAHULU N. KOHA, HAWAII.

Photo 1: Aerial view of the Loko Ea Queen's Residence parcel



Photo 2: Loko Ea Fishpond with Loko Ea Queen's Residence parcel and Ka'ala Mountain Range in the background

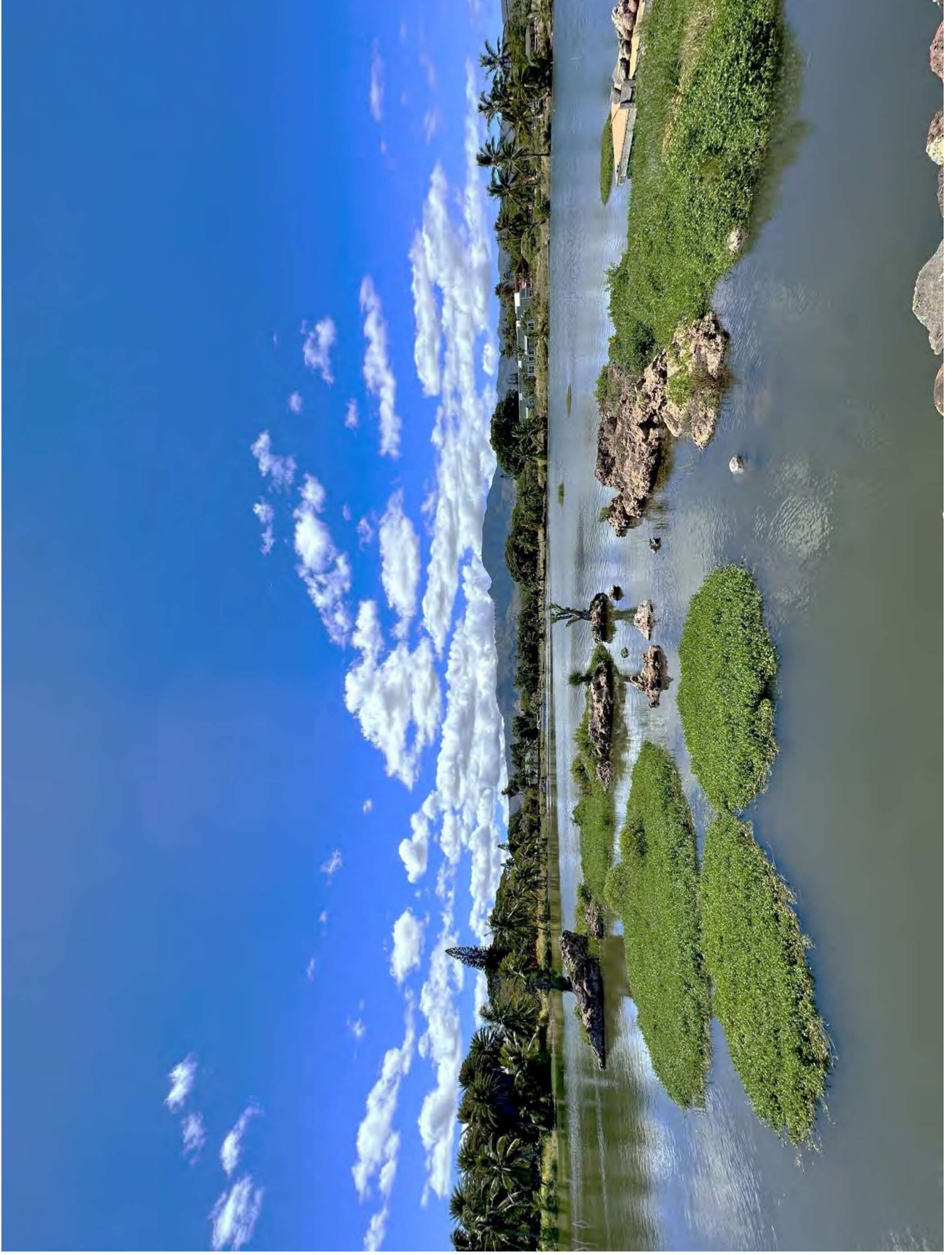


Photo 3: 'Alae 'ula (makua and keiki) at Loko Ea Fishpond

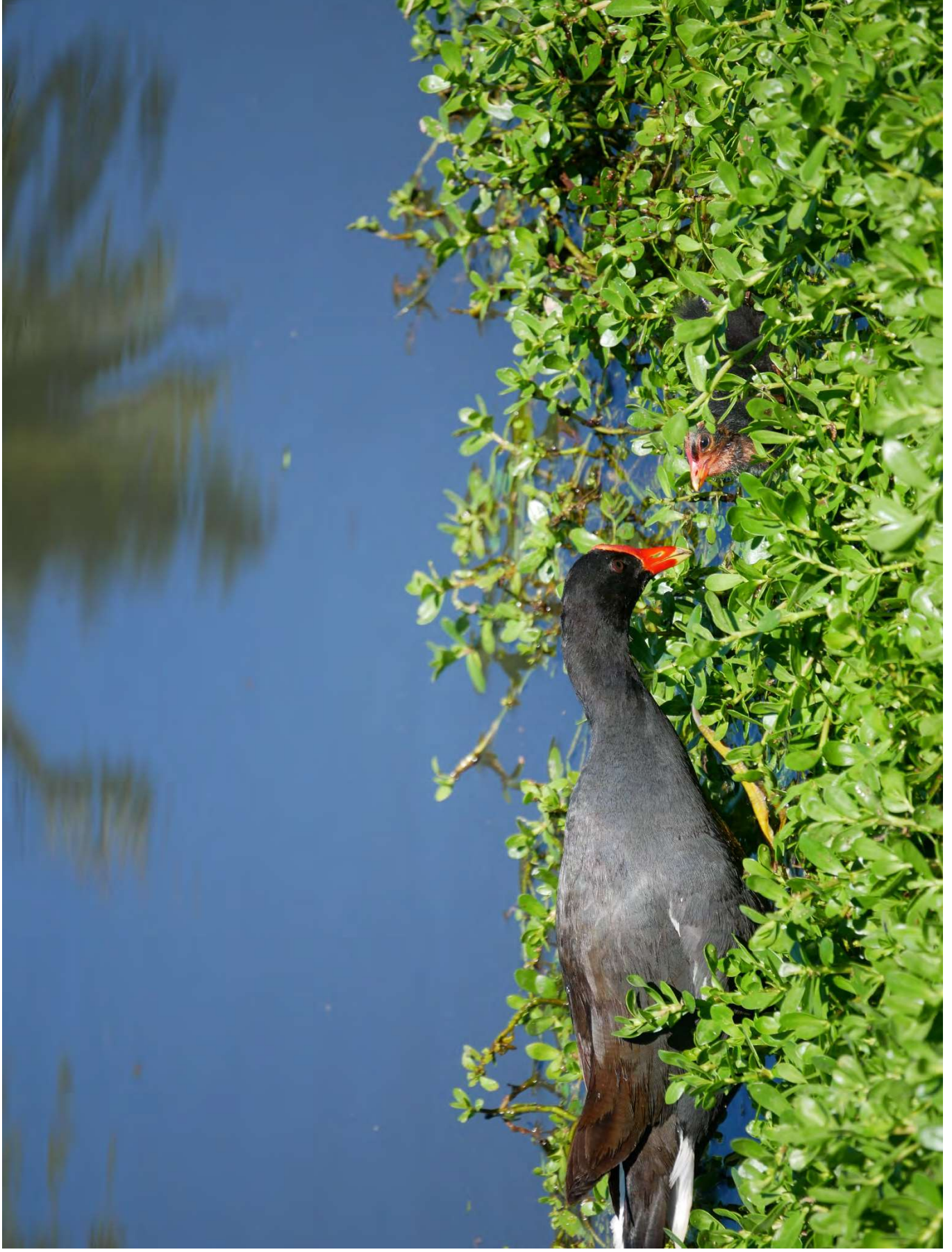


Photo 4: Queen Lili'uokalani's Waialua Residence seen in the background from Loko Ea Fishpond. (PC: Forbes, D. "The Diaries of Lili'uokalani of Hawai'i". 2018)

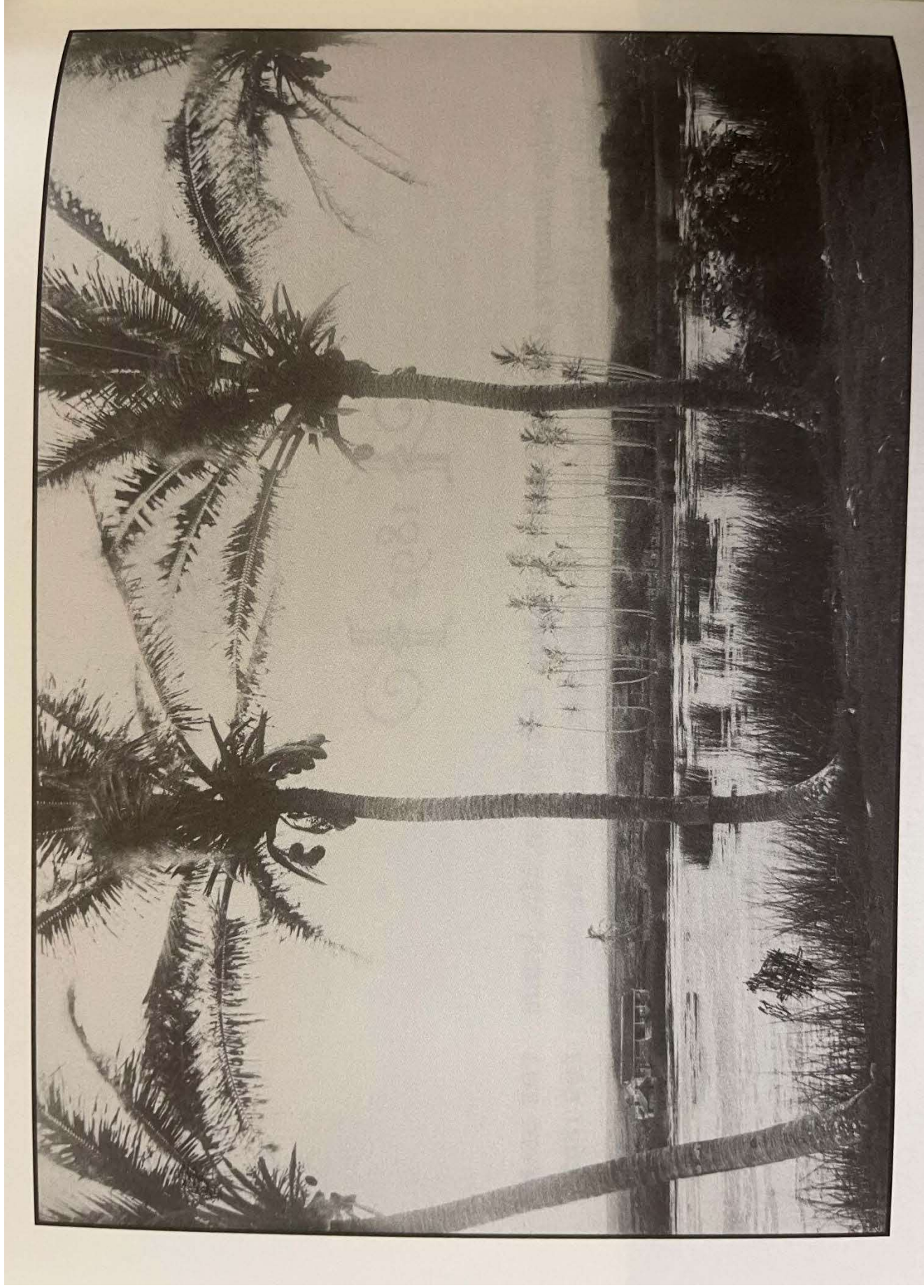


EXHIBIT II

May 24, 2024

Consultation Responses

from the President of the Senate

(April 15, 2024)

and

the Speaker of the House

of Representatives (April 17, 2024)



The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

April 15, 2024

TRANSMITTED VIA EMAIL

Ms. Dawn N.S. Chang
Chairperson
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, Hawaii 96813

RE: Projects for the Fiscal Year 2024 Legacy Land Conservation Program

Dear Chair Chang:

I am in receipt of your letter dated Wednesday, March 6, 2024, regarding the Legacy Land Conservation Commission's recommendation for the funding of projects for the Fiscal Year 2024 Legacy Land Program.

This is to confirm that I have no concerns or objections at this time as it relates to the projects enumerated in the aforementioned letter.

Thank you and should you have any questions with regard to the foregoing, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "RONALD D. KOUCHI".

RONALD D. KOUCHI
Senate President
8th Senatorial District- Kauai and Niihau

Cc: Speaker Scott K. Saiki
Mr. David Penn, DLNR Program Specialist

FW: Legislative Consultation for FY2024 Legacy Land Grants

Kealalio, Kanani <kanani.kealalio@hawaii.gov>

Wed 4/17/2024 9:26 AM

To: Penn, David <david.penn@hawaii.gov>; Matsushige, Van H <van.h.matsushige@hawaii.gov>; Chang, Dawn <dawn.chang@hawaii.gov>; Smith, David G <david.g.smith@hawaii.gov>
Cc: Terrago, Rubyrosa T <rubyrosa.t.terrago@hawaii.gov>

FYI – See Speaker Saiki’s email below. Tomorrow’s meeting is canceled.

Mahalo,
Kanani

From: Rep. Scott K. Saiki <repsaiki@capitol.hawaii.gov>
Sent: Wednesday, April 17, 2024 9:15 AM
To: Chang, Dawn <dawn.chang@hawaii.gov>
Cc: Kealalio, Kanani <kanani.kealalio@hawaii.gov>
Subject: Legislative Consultation for FY2024 Legacy Land Grants

Aloha Chairperson Chang,

After reviewing the information you provided, I would like to confirm that I do not have any comments or concerns. Please proceed.

We do not need to meet tomorrow at 2 p.m.

Feel free to contact me if you have any questions.

Thank you.

EXHIBIT III

May 24, 2024

Loko Ea Queen's Residence

Waialua, O'ahu

Sections G, H, I



Section G *Fiscal Year 2024 Grant Application: Importance and Threats*

Applicant: Mālama Loko Ea Foundation (Partner - Trust for Public Land)
 Application Title: Loko Ea Queen's Residence

Describe the overall significance and importance of the property to be acquired:

Loko Ea Queen's Residence, one part of Queen Lili'uokalani's beloved Waialua residence, and believed to be home to the Queen's Bath, sits on the bank of the renowned Loko Ea Fishpond in Hale'iwa, Kawaiiloa, Waialua, O'ahu. Loko Ea is part of the historic 'Uko'a-Loko Ea Wetland Fishpond Complex and is the third largest wetland on O'ahu. Protecting this parcel would provide community access to Loko Ea Fishpond and protect part of the Queen's Waialua residence and what's believed to be the former site of the Queen's favorite swimming hole. The parcel will also buffer and protect Loko Ea, its 'auwai (irrigation ditch), 400 foot long kuapā (fishpond wall), seven mākāhā (sluice gates), preserving aquaculture for local food security, habitat for endangered and native wetland birds ('ālae 'ula, 'ālae ke'oke'o, ae'o 'auku'u), native marine life (āhole, 'ama'ama, 'o'opu, kākū, ulua 'aukea, 'ōpae 'oeha'a (Hawaiian river shrimp)), and native wetland vegetation, enhancing the water quality of Loko Ea Stream, Waialua Bay, and providing nutrients to support Waialua's nearshore fishery.

While Mālama Loko Ea Foundation (MLEF) has stewarded and licensed Loko Ea Fishpond for 14 years, the fishpond is technically landlocked without any legal access. Protecting this property will finally provide MLEF legal access to Loko Ea, allowing it to continue its fishpond restoration, its transformational 'āina based educational programs, and to serve as a kīpuka for the community. MLEF does not own any of the lands it stewards. Acquiring this property would ensure their permanent presence as kia'i (caretakers, guardians) of Loko Ea.

MLEF will continue to partner with the Waialua community to lovingly restore Loko Ea and its wetland ecosystem back to health, expand their 'āina based educational programs, use the property to provide educational and cultural access to the fishpond, and possibly use a portion of the property to host a farmers market and or food truck increasing access to healthy, cultural foods for the community.

Applicants, please note that the Legacy Land Conservation Program uses the content provided in this section to describe the proposed land acquisition to the Legacy Land Conservation Commission, the Board of Land and Natural Resources, the State populace in general, and other agencies, individuals, organizations, and media outlets. Be aware that the content provided in this [form/section] may be copied, exactly, into various other program materials, and can serve as an important basis for future review, approvals, and publicity.



Section G

Fiscal Year 2024 Grant Application: Importance and Threats

Identify and assess conditions that threaten the significance and importance of the property. Address, where applicable, erosion, sedimentation, polluted runoff, flooding, invasive species, conflicting activities:

The current landowner is Lili'uokalani Trust (LT), a private foundation established in 1909 for the benefit of orphan and destitute children, with preference given to Native Hawaiians. LT has 15 offices statewide. LT housed a temporary office in Waialua and planned to develop a permanent center on the Loko Ea Queen's Residence property with an office building and caretaker home on the parcel, as well as a parking lot and pavillion on an adjacent parcel. After developing a new strategic plan, LT shelved plans to develop the property and is now willing to sell the property to Mālama Loko Ea Foundation (MLEF) if a price and other terms can be agreed to. However, if MLEF is not successful in raising acquisition funding, LT plans to sell the property on the open market.

Loko Ea Queen's Residence is zoned residential and if sold would likely be developed into a large private luxury waterfront estate. The threat of increased commercial, retail, dining, and residential development and expansion of Hale'iwa Town is very real. Loko Ea's delicate ecosystem and open space have already been negatively impacted by increased development including a sewage spill from an adjacent property that prevented MLEF from going into the water for a year and a half, and rapid encroachment on the banks of the fishpond by the 2018 development of the Shops at Anahulu, a 5,200 square foot commercial retail building and parking lot, and two other large neighboring private estates. Development of the property would lead to increased runoff, pollution, and erosion into the Fishpond and out into Waialua Bay, negatively impacting the fishpond and wetland's delicate ecosystem as well as Waialua Bay's fishery and offshore reef.

The Loko Ea Queen's Residence property is currently covered in invasive grasses, a monkey pod tree, and date palms, which conflict with the neighboring fishpond's thriving native vegetation and habitat.

Native Hawaiian fishponds are arguably Hawai'i's most threatened cultural, ecological, and aquacultural resource. A 1990 survey identified 488 loko i'a across six Hawaiian islands. In the early 1900s there were about 99 active ponds that produced 680,000 pounds of fish annually. In the 1950s, unprecedented development and a growing population led to the filling and destruction of fishponds throughout Hawai'i. A 1973 study identified 56 fishponds that had potential for use, with 6 rated excellent, 15 good, and the rest fair or poor. Most of Hawai'i's inland pu'uone fishponds have already been filled and destroyed, making Loko Ea one of the rare surviving pu'uone. Thanks to a resurgence of fishpond practitioners, today there are currently about 50 fishponds in various conditions being stewarded and restored by community. Today Loko Ea is one of only two loko i'a remaining on the North Shore of O'ahu being restored (the other is Kalou Fishpond in Waiale'e) and the Waialua community's last remaining fishpond.



Section H *Fiscal Year 2024 Grant Application: Stewardship and Management*

Applicant: Mālama Loko Ea Foundation (Partner - Trust for Public Land)

Application Title: Loko Ea Queen's Residence

1. Describe the proposed future uses of the property to be acquired, including:

Goals (short-term and long term)

Resource management plan

Funding sources (for start-up and for operations and maintenance)

Permit requirements

Management entity (identity, expertise, experience)

Integration of existing cultural resources with the overall preservation/protection and use of the property

Resource Management Plan: Mālama Loko Ea Foundation (MLEF) will own, manage, and steward Loko Ea Queen's Residence and is committed to developing a community-based resource management plan for the property within 24 months of taking ownership, in partnership with the community, descendants, residents, organizations, and stakeholders. The plan will focus on community-based restoration and preservation of the property as part of the greater 'Uko'a-Loko Ea Wetland Fishpond Complex. MLEF developed a Master Plan in 2021 which references the Loko Ea Queen's Bath property as a potential strategic site acquisition to help establish long-term management over the fishpond.

Short-Term Goals:

- Secure funding and support to develop a community-based resource management plan
- Identify and apply for funding sources to begin management plan implementation
- Partner with other community organizations to help with restoration
- Begin to use the property to provide managed, guided educational and cultural access to Loko Ea
- Begin to use the property for access to help with fishpond restoration and sediment removal.
- Begin to manage and remove invasive vegetation
- Maintain open space on the banks of Loko Ea
- Begin to establish a welcoming space for community groups and volunteers to participate in 'āina programming and restoration.

Long-Term Goals

- Work to research, identify, and locate cultural sites (e.g Queen's Bath), if located determine whether restoration is possible.
- Develop programming to share the mo'olelo and legacy of Queen Lili'uokalani
- Replant native and canoe plants on the property, and possibly a lei or la'au māla (garden)



Section H ***Fiscal Year 2024 Grant Application: Stewardship and Management***

- Construct a pavilion structure, composting toilets (or other green bathroom facility), and storage unit in/ around the footprint of the old house foundation and cesspool to provide a space for a local fish stand, farmer's market, and food truck to provide healthy, cultural foods to the community, as well as to host 'āina programming and community gatherings.
- Reconnect generational Waialua families to 'āina, mo'olelo, and cultural foods
- Protect Loko Ea Queen's Residence as an essential part of the restoration and health of the greater 'Uko'a-Loko Ea Wetland Fishpond Complex.

Funding Sources: MLEF anticipates stewardship funding to come from a diverse set of sources: public grants, private foundations, fundraisers, and earned revenue. MLEF's Master Plan identifies potential avenues for revenue generation including nursery production, agroforestry, composting, event hosting, a dorm camp, commercial kitchen, and food truck all to support their ongoing restoration and educational programs.

Management Entity: MLEF's mission is to perpetuate Native Hawaiian culture through education, land stewardship, and community building, while sustainably restoring our precious natural resources. In 2008, Kamehameha Schools reached out to the public to ask for help to restore Loko Ea Fishpond. The call was answered by community members who established Mālama Loko Ea Foundation as a nonprofit in 2009 to continue this legacy of stewardship and revive Loko Ea as an abundant and thriving fishpond.

MLEF has 12 staff, 3 interns, and a budget of \$1.1 million for 2023. Since 2009 MLEF has (1) Secured Native Hawaiian Education funding for education and cultural programs; (2) Provided cultural educational experiences for over 60,000 youth & volunteers, averaging 5,000 to 6,000 participants a year; (3) Served over 69% of Native Hawaiian students and 2/3rds of DOE Title I schools; (4) Raised over \$400,000 in private funding to acquire dredging equipment to revitalize Loko Ea; (5) Provided a pathway for local youth to become interns and expand their career training in natural resources; (6) Transformed 12 acres back into productive use; (7) Activated volunteers who provided over \$4 million in in-kind labor.

MLEF has four major program areas:

- (1) Kupuohi Education Programs for pre-K to post college students highlight cultural knowledge, environmental stewardship, and best practices for restoring and sustaining Hawaiian fishpond(s) through virtual learning, field trips, and year long classes.
- (2) Kaiaulu Programs engage in community cultural regeneration by reclaiming the ancestral identity of Waialua as the piko of natural and cultural excellence through cultural workshops, language classes, summer programs, harvesting and preparing food for 'ohana and kupuna, and lawai'a (fishing) camps.
- (3) Kulaiwi Nani Program strengthens Hawaiian and local community resilience through place-based resource management for increased food production, cultural skills development, training and employment, and collaborative innovation with community stakeholders including monthly community workdays, repairing the kuapa (fishpond wall), makaha (sluice gates), dredging, bank stabilization, water quality and monitoring, invasive weed removal, invasive fish removal, native fish recruitment, and native plant restoration.
- (4) Holomua Green Workforce Program focuses on internship programs for high school and college students providing training, hands on, peer to peer, and research based learning in indigenous resource management.



Section I *Fiscal Year 2024 Grant Application: Cultural and Historical Significance*

Applicant: Mālama Loko Ea Foundation (Partner - Trust for Public Land)

Application Title: Loko Ea Queen's Residence

Describe the cultural significance and historic uses of the land to be acquired, including:

Place names, with translations and possible interpretations

Known pre-contact history and land uses

Information about neighboring areas, land divisions, and management units, in relationship to the land to be acquired

Waialua (two waters) is said to reference its two prominent streams, Kaukonahua and Poamoho, that flow into Kaiaka Bay. Known for its extensive lo'i kalo (wetland taro fields), Waialua was lovingly referred to as "poi bowl". Waialua is also revered as a sacred place for birth. Kūkaniloko, was the birthing place for the ali'i (chiefs), including the famed Mā'ilikūkahi. 'Ōlelo no'eau that describe Waialua include: "Ka 'ehu kai o Pua'ena" (the sea sprays of Pua'ena) reference the misty sea spray from the pounding surf a Pua'ena. "Waialua, 'āina kū palua i ka la'i" speaks of Waialua's calm weather, rich land, and the lifestyle of its people.

Kawailoa (long water), an ahupua'a in Waialua, consists of verdant agricultural lands and the 'Uko'a-Loko Ea Fishpond Wetland Complex. Kawailoa's agricultural lands were known for lo'i kalo, mai'a (banana), kō (sugarcane), wauke (paper mulberry), and other native plants.

The 'Uko'a-Loko Ea Fishpond Wetland Complex, 130 acres in size, and the third largest wetland on O'ahu, was comprised of 'Uko'a Fishpond (State Site # 50-80-04- 236), Loko Ea (State Site # 50-80-04-233), nauahi (a dwelling settlement), lo'i kalo, and a cluster of large and smaller fishponds. Archaeology at 'Uko'a indicates human settlement for over 1,000 years. Although one mile apart, 'Uko'a and Loko Ea are physically connected by Loko Ea stream and spiritually connected as the home of Lanawahine their mo'o guardian who swam to the sea through an underground cave/ tunnel, and to whom offerings were made.

Loko means "pond" and Ea has many powerful meanings: "sovereignty, independence, life, air, breath, to rise". "Uko'a was a very strange fishpond—extraordinary fishes lived there. A fish might be a kumu fish on one side and an 'anae mullet, on the other; or one side might be a weke pueo, and the other an 'anae; or a fish might be silver white like a white cock and when scaled the flesh might be striped and variegated inside . . . Sometimes they [the mullet] were thin, with woody heads, and sometimes they disappeared altogether." (Samuel



Section I ***Fiscal Year 2024 Grant Application: Cultural and Historical Significance***

Manaiakalani Kamakau, translated by Mary Kawena Pukui from the Hawaiian newspaper Ke Au 'Okō'a and compiled in Ka Po'e Kahiko, the People of Old [Kamakau 1991:84])

'Uko'a and Loko Ea were referred to as royal fishponds. Many ali'i including Kakuhihewa, Ka'ahumanu, and Lili'uokalani, held exclusive rights to Loko Ea fishpond during the 19th century. One historic account described the vast amount of fish at 'Uko'a-Loko Ea being in the thousands and the fish measuring three feet in length.

Loko Ea, 12 acres in size, is a loko pu'uone (an inland, brackish water fishpond enclosed by sand dunes) and its features include: an 'auwai (irrigation ditch), 400 foot long kuapā (fishpond wall), seven mākāhā (sluice gates), two spring fed caves, and a ko'a (fishing shrine).

The Loko Ea Queen's Residence property was once part of Queen Lili'uokalani's beloved Waialua home and believed to be the site of her favorite bath. In 1867, John Domins, governor of O'ahu and husband to Queen Lili'uokalani, acquired the property. The Queen described her Waialua residence with fondness, including a large wooden lānai that her husband had built as a surprise, where she could take comfort in the shade with friends after a row up 'Anahulu Stream.

After the overthrow of the Kingdom of Hawai'i and after the Queen was released from prison in 1896, she sought refuge at her Waialua residence fishing and riding horseback. "Some days later [...] I took a drive out to my residence at Waialua, where we spent two very delightful weeks [...]. We had a quiet little celebration all to the ourselves, fishing and riding, and the time sped by so pleasantly that we forgot to count the hours... We caught fish, and placed them immediately on hot coals, supplementing our picnic with bread and butter, and our native poi."

The Queen spent many summers at the property enjoying her "favorite swimming hole" which bordered the western edge of the fishpond, marked by a grove of hau trees.

During the Māhele in 1848, the majority of Waialua was awarded to Victoria Kamāmalu including Pa'ala'a and Kawailoa. A total of 134 maka'āinana received an average of 3.83 acres of land within these two ahupua'a.

Land Commission Award 3373-B was awarded to Kahuna and comprises the northwestern portion of Loko Ea Queen's Residence. Kahuna records several 'āpana containing 16 lo'i and a kula. His 'āpana 4 which appears to correspond to the property is described as a house lot at Lokoea Pond.

In 1848, Wehiwehi, a kuleana holder makai of Loko Ea Queen's Residence, said of the fishpond, "There is a daily right to take fish; the right to take the anae is only in the windy times, that is when they can be caught" (NR 596 v3, translated by Frances Frazier, Hawai'i State Archives).

EXHIBIT IV

May 24, 2024

**Checklist for Legacy Land
Conservation Program Projects**

*Exhibit B for Legacy Land Conservation Program Grant
Agreements*

Exhibit B

Checklist for Legacy Land Conservation Program (LLCP) Projects

The following items must be completed to the STATE's satisfaction prior to the final award:

- Title report review. A current title report of the Property must be submitted to and reviewed through the Department of Land and Natural Resources, Land Division ("LD").
- Appraisal certification. AWARDEE shall first supply LD a current title report, then contact LD regarding certification requirements prior to issuing appraisal instructions for a new appraisal or ordering an update of a pre-existing appraisal. An appraisal of the Property must be done and submitted to the LLCP and the Awardee must produce an independent review report using specific instructions from LLCP and LD, with final approval by the Chairperson of the Board of Land and Natural Resources.
- Matching funds and project accounting. Evidence of matching funds, as required by law, must be provided to LLCP. AWARDEE must provide an accounting of all LLCP grant funds to be expended, evidenced by supporting documentation.
- Escrow. Funds that are to be used for the purchase of property will be deposited directly into escrow by LLCP. AWARDEE must provide a copy of the escrow instructions, the account number, and a tentative buyer's statement to the LLCP.
- Title insurance. AWARDEE must obtain title insurance in the full amount of the purchase price, insuring that the title to the Property is vested in the AWARDEE.
- Environmental inspection. AWARDEE must conduct an environmental inspection to determine whether there is any environmental contamination or potential for contamination on the property. One or more Environmental Site Assessment(s) (ESA) may be required by STATE. If an environmental condition is found, a Phase II and appropriate remediation (at the cost of awardee) will be required prior to disbursement of funds. AWARDEE must complete the form supplied by the LLCP and return to the LLCP before funds may be disbursed.
- Chapter 343, HRS, compliance. An Environmental Assessment and/or Cultural Assessment as may be required by law.
- Resource value documentation. AWARDEE shall submit a written statement and photographs that reflect the current status and condition of the resources for which the land is to be protected. The statement shall be certified by AWARDEE and the photographs shall be taken from identifiable locations on the Property.

- Purchase and Sale Agreement. AWARDDEE shall submit a copy of the purchase and sale agreement in final draft form.

- Deed. AWARDDEE shall submit a copy of proposed deed prior to execution of deed for review and approval by STATE. The purchase price of the property must be included in the deed.