

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

June 28, 2024

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

Board Members:

SUBJECT: ANNUAL REVIEW OF GRANTS FROM THE LAND CONSERVATION FUND FOR EACH PROJECT THAT HAS BEEN PENDING FOR OVER FIVE YEARS:

- (A) LLCP 2017-03, HAWAIIAN ISLANDS LAND TRUST, KEPLER KE'ANAE LO'I CONSERVATION EASEMENT, DISTRICT OF KO'OLAUPOKO, ISLAND OF MAUI, TAX MAP KEY NUMBER (2) 1-1-003:041
- (B) LLCP 2019-04, DIVISION OF FORESTRY AND WILDLIFE, KĀNE'OHE PALI TO LO'I, DISTRICT OF KO'OLAUPOKO, ISLAND OF O'AHU, TAX MAP KEY NUMBERS (1) 4-5-025:008, (1) 4-5-041:001, (1) 4-5-041:004, and (1) 4-5-042:018

SUMMARY

The Division requests that the Board review two grants from the Land Conservation Fund for projects that have been pending for over five years and, for each grant, to either (1) defer action on the grant until the next annual review of grants for projects that have been pending for over five years, (2) impose new conditions for grant completion on the Awardee, or (3) terminate the grant.

BACKGROUND

A 2019 performance audit of the Department's Legacy Land Conservation Program ("LLCP"), available at <http://files.hawaii.gov/auditor/Reports/2019/19-01.pdf>, included a recommendation that LLCP "[i]mplement a policy that places a reasonable limit on the time a project, whether proposed by a state, county, or nonprofit organization, can remain pending." The Department's response to this recommendation indicated that "[t]he Department will conduct an annual review of each LLCP project that has been pending for over five years and will present that review to the Board for discussion and possible action. This review will help determine the extent to which the various agencies and non-profits responsible for completing these transactions are still working

diligently to complete them and the likelihood of completion within a reasonable time frame."

The Department recently completed its sixth annual review of grants from the Land Conservation Fund for projects that have been pending for over five years and is now presenting its review to the Board.

- (1) LLCP 2017-03, HAWAIIAN ISLANDS LAND TRUST, KEPLER KE'ANAE LO'I CONSERVATION EASEMENT, DISTRICT OF KO'OLAUPOKO, ISLAND OF MAUI, TAX MAP KEY NUMBER (2) 1-1-003:041

At meetings held during 2017 (May 26, under agenda item C-1, and July 28, under agenda item C-2), the Board approved a \$210,000 grant from the Land Conservation Fund to Hawaiian Islands Land Trust for the acquisition of a conservation easement over approximately 6.12 acres at District of Ko'olaupoko, Island of Maui (excluding the area of an existing home), for the protection of cultural resources, agricultural resources, and natural wetland habitat. The Board submittals from the Division of Forestry and Wildlife, referencing the grant application, explained that:

"The property includes the small lo'i originally belonging to the chief Ke'anae, from which it is reported that the entire ahupua'a took its name ... [and] both the native Hawaiian coot ('Alae Ke'oke'o) and the native Hawaiian Stilt (Ae'o) are known to occur here on a regular basis." The easement if acquired, "will prohibit further residential development and will protect the unique soils that are present on the Property ... [and] the agricultural use of the land in perpetuity ... [under a] management plan ... to actively farm the lo'i kalo." However, although the grant application states that "[t]he ... ancient kalo lo'i at Ke'anae will be permanently conserved because conservation easement will prevent uses incompatible with agricultural production," it also indicates that "[t]he easement requires only that the land remains in agricultural production but does not specify the crop grown."

The State entered into its contract with Hawaiian Islands Land Trust on May 10, 2018, making today's submittal the Board's second review of the grant. In a letter dated February 2, 2024, Hawaiian Islands Land Trust ("HILT") summarized its progress and expressed its vision for the impact of this project:

- Matching public and private funding sources are secured to cover the full project budget.
- Additional time is requested to complete due diligence and closing.
- A boundary survey and an initial draft Conservation Easement ("CE") is completed.
- The upcoming appraisal process will further inform partner decision-making on CE terms.
- Project partners expect to close in Q4 2024, possibly in 2025.

- Clarifying the grant application with LLCP staff will be an ongoing process that may require additional BLNR review and approval.

"HILT remains committed to the desire of Ke'anae and Wailua Nui 'ohana to ensure lo'i lands are preserved in perpetuity. As the waters were ordered returned to the streams of Maui Hikina in 2018 and with approximately 150 acres of lo'i complexes on the Ke'anae peninsula and 300 acres of lo'i complexes in Wailua Nui, HILT hopes the protection of the Kepler's Ke'anae Lo'i opens the door for future opportunities to ensure Ke'anae and Wailua Nui remain in active lo'i kalo cultivation for generations to come."

- (2) LLCP 2019-04, DIVISION OF FORESTRY AND WILDLIFE, KĀNE'OHE PALI TO LO'I, DISTRICT OF KO'OLAUPOKO, ISLAND OF O'AHU, TAX MAP KEY NUMBERS (1) 4-5-025:008, (1) 4-5-041:001, (1) 4-5-041:004, and (1) 4-5-042:018

At its meeting held April 26, 2019, the Board, under its agenda item C-2, approved a \$700,000 grant from the Land Conservation Fund to the Division of Forestry and Wildlife for the acquisition of approximately 948.2 acres at District of Ko'olaupoko, Island of O'ahu for seven of the nine Legacy Land resource preservation purposes: watershed protection; habitat protection; cultural and historical sites; recreational and public hunting areas; natural areas; agricultural production; and open spaces and scenic resources. The Board submittal from the Division of Forestry and Wildlife, referencing the grant application, explained that:

"the property extends from the Pali Highway and Lookout to the Ha'ikii boundary of the Kane'ohe Forest Reserve, intersecting with the Honolulu Forest Reserve at the Ko'olau summit. The property is a key freshwater source, where several springs and perennial streams coexist with water development tunnels, pumping stations, and storage reservoirs. Erosion rates are high due to heavy rainfall over sheer cliffs and steep terrain, magnified by the shallow root systems of invasive plants and the uprooting of the understory by feral pigs. The property includes areas of federally designated critical habitat for over 45 endangered species including 'elepaio, damselflies, Hawaiian hoary bat, and numerous endemic plant species.

The property has many documented and undocumented cultural sites contributing to its cultural landscape value, including heiau, ahu, lo'i terraces, and 'auwai. Future management plans include increasing cultural site protection with active community care of the existing features, as well as facilitating a strong community interest in resuming historical agricultural practices for crops such as kalo, pineapple, rice, and banana. The privately owned nature of the property prevents authorized hunting and allows little recreational activity, but the applicant would work with community partners to increase recreational access, restore hiking trails, and manage access for hunting and cultural practice."

The Department transferred the approved grant funds into a Departmental trust account in June 2019, making today's submittal the Board's first review of the grant. The Department acquisition team reports that transactional due diligence is in progress (with appraisal and environmental site assessment starting this summer). Board approval is targeted for October 2024 and closing before the end of the 2024 calendar year. Additional funding is provided by the U.S. Forest Service and the U.S. Navy.

DISCUSSION

- (1) LLCP 2017-03, HAWAIIAN ISLANDS LAND TRUST, KEPLER KE'ANAE LO'I CONSERVATION EASEMENT, DISTRICT OF KO'OLAUPOKO, ISLAND OF MAUI, TAX MAP KEY NUMBER (2) 1-1-003:041

The Division believes that the Hawaiian Islands Land Trust—with support from the U.S. Department of Agriculture, Natural Resources Conservation Service—is working diligently to complete this transaction and will likely do so within a reasonable time frame.

- (2) LLCP 2019-04, DIVISION OF FORESTRY AND WILDLIFE, KĀNE'OHE PALI TO LO'I, DISTRICT OF KO'OLAUPOKO, ISLAND OF O'AHU, TAX MAP KEY Numbers (1) 4-5-025:008, (1) 4-5-041:001, (1) 4-5-041:004, and (1) 4-5-042:018

The Division believes that the Department acquisition team—with support from project partners The Trust for Public Land, U.S. Forest Service, and U.S. Navy—is working diligently to complete this transaction and will likely do so within a reasonable time frame.

CONTINUED ON PAGE 5

RECOMMENDATIONS

That the Board:

- (1) Defer action, until the 2025 annual review, on a grant from the Land Conservation Fund for LLCP 2017-03 to Hawaiian Islands Land Trust for Kepler Ke‘anae Lo‘i Conservation Easement at District of Ko‘olaupoko, Island of Maui, Tax Map Key Number (2) 1-1-003:041.
- (2) Defer action, until the 2025 annual review, on a grant from the Land Conservation Fund for LLCP 2019-04 to the Division of Forestry and Wildlife for Kāne‘ohe Pali to Lo‘i at District of Ko‘olaupoko, Island of O‘ahu, Tax Map Key Numbers (1) 4-5-025:008, (1) 4-5-041:001, (1) 4-5-041:004, and (1) 4-5-042:018.

Respectfully submitted,



DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



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