

REPORT TO THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

RELATING TO THE LAND CONSERVATION FUND
AND
THE LEGACY LAND CONSERVATION PROGRAM



Prepared by

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

In response to Section 173A-5, Hawaii Revised Statutes

Honolulu, Hawaii

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PURPOSE

Act 156, Session Laws of Hawaii (SLH) 2005, amended Section 173A-5, Hawaii Revised Statutes (HRS) by authorizing the transfer of 10% of all taxes imposed and collected under Section 247-1, HRS, to be credited to the Land Conservation Fund (LCF) and used to acquire lands having value as a resource to the State. Act 254, SLH 2006, further amended Chapter 173A, HRS, by establishing a nine-member Legacy Land Conservation Commission (Commission) to advise the Department of Land and Natural Resources (Department) and Board of Land and Natural Resources (Board) regarding requests for grants from the LCF and proposals to use LCF for acquisitions of interests in land, and to recommend to the Board the acquisitions of interests or rights in certain lands having value as a resource to the State.

Act 254, SLH 2006, also mandated that the Department prepare and periodically revise a plan for the acquisition of land having value as a resource to the State. Pursuant to Section 173A(5)(j), HRS, this annual report includes:

- A summary of all interest or rights in land acquired during the preceding fiscal year;
- A summary of what value each newly acquired land has as a resource to the State;
- Proposals for future land acquisitions, including a summary of the resource value that the land may possess;
- A financial report for the preceding fiscal year; and
- Objectives and budget projections for the following fiscal year.

INTERESTS OR RIGHTS IN LAND ACQUIRED DURING THE PRECEDING FISCAL YEAR

For the Fiscal Year (FY) 2009 application cycle, the Legacy Land Conservation Program (LLCP) advertised up to \$4.7 million in project funding from the LCF for the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations,

county agencies, and state agencies applied for funding for 12 separate resource land acquisition projects for the September 15, 2008, application deadline.

After conducting site visits and public decision-making meetings, the Commission recommended eight prioritized applicants for funding a total of \$4.7 million in projects, listing the next projects down the list as alternates. On December 23, 2008, Department staff and Commission Chair Dale Bonar met with Speaker of the House of Representatives Calvin Say and Senate Vice President Russell Kokubun to seek the consultation of these legislators regarding the Commission's recommendations, pursuant to Chapter 173A, HRS. The Legislators agreed with the recommendations of the Commission regarding the funding of the eight grants listed below.

On February 13, 2009, based on the recommendations of the Commission and the consultation with members of Legislature, the Board approved the recommended projects for grant funding. The Governor approved five of these eight grants on May 20, 2009.

The Governor approved the release of \$3,299,382 in funding for the following projects:

State of Hawai'i at \$982,956.50 for the acquisition of 3,582 acres in Honouliuli Preserve, Wai'anae Mountain Range, Island of O'ahu;

State of Hawai'i at \$450,000 for the acquisition of 65.56 acres in Hamakua, Kailua, Island of O'ahu;

State of Hawai'i at \$7,000 for the acquisition of 7 acres in North Kohala, Island of Hawai'i;

State of Hawai'i at \$1,250,000 for the acquisition of 17.05 acres in Lapakahi, Kohala, Island of Hawai'i; and,

Maui Coastal Land Trust at \$609,425 for the acquisition of an agricultural conservation easement over 27.44 acres, in Pupukea, North Shore, Island of O'ahu, to be held by the North Shore Community Land Trust.

The Governor, citing concerns with the anticipated reduction in revenue into the LCF and the shortfall in funding for state programs, did not approve the release of \$1,400,618 in funding for the following projects on the grounds that the applicants were short of having the full purchase funds even with the LCF grant. Applicants were notified they remain eligible for LCF grants in the future and encouraged to find additional funds.

Kona Historical Society at \$448,831 for the acquisition of 2.11 acres in Kona Mauka, Island of Hawai'i;

Kaua'i Public Land Trust at \$750,000 for the acquisition of 0.74 acres in the area of Black Pot Park, Hanalei, Island of Kaua'i, to be held by the County of Kaua'i; and,

Center for Non-Violent Education and Action (Malu Aina) at \$201,787.50 for the acquisition of 11.14 acres in Puna District, Island of Hawai‘i.

The approved grants are being administered according to program requirements and are being brought to closure by the parties. Nonprofit and county grant recipients have two years from the date of their respective grant agreements to bring projects to closure. Pursuant to Chapter 173A, HRS, deed restrictions are placed on each property, and the Board must approve any transfer of lands away from the original awardee. Upon the sale of a property, an amount of the net proceeds proportionate to the original award must be returned to the LCF.

The projects which were not approved for funding were notified of the Governor’s decision to not release the funding and advised that they could resubmit their proposals for consideration in future funding cycles.

VALUE THAT EACH NEWLY ACQUIRED LAND HAS AS A RESOURCE TO THE STATE

The definition of “land having value as a resource to the State,” under Section 173A-2, HRS, includes land having natural, environmental, recreational, scenic, cultural, agricultural production, or historic value, and may also include park and trail systems that provide access to any such land.

State of Hawai‘i at \$982,956.50 for the acquisition of 3,582 acres in Honouliuli Preserve, Wai‘anae Mountain Range, Island of O‘ahu

The State of Hawaii, with the assistance of Trust for Public Land (TPL), requested funding for a parcel of land, a portion of tax map key (TMK) (1) 9-2-005:013, in Honouliuli, Oahu, for the protection of its natural, scenic, and watershed values. The parcel is being acquired from the James Campbell Company and TPL has secured over \$3 million in matching federal funds for this project. The Department's Division of Forestry and Wildlife (DOFAW) will hold the property and will cooperate with the United States (U.S.) Army to continue the restoration, management, and preservation activities that are currently being performed by the U.S. Army and The Nature Conservancy.

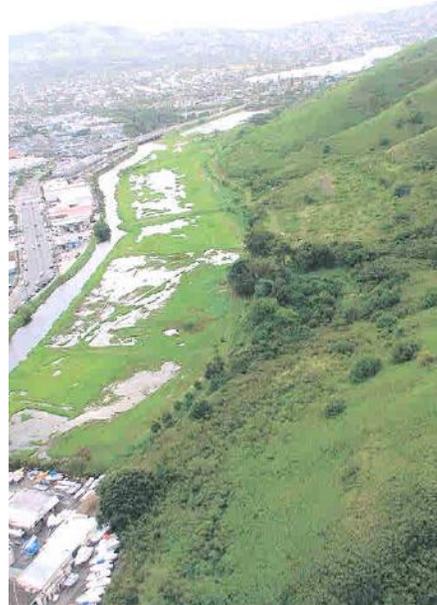


The Honouliuli lands contain extreme biodiversity, including over 90 rare and endangered plant and animal species. Many areas of cultural significance, including Maunakapu (sacred mountain) and Pohakea Pass are located within the area to be preserved. Hiking, educational activities, and hunting are planned for the land. The Preserve is part of the watershed that feeds Honouliuli and Waikele

Streams, which flow into Pearl Harbor.

State of Hawai‘i at \$450,000 for the acquisition of 65.56 acres in Hamakua, Kailua, Island of O‘ahu

The State of Hawai‘i requested funding for a parcel of land, TMK (1) 4-2-003:017, on the Hamakua hillside, adjacent to Hamakua Marsh Wildlife Sanctuary, Kailua, Oahu, for the protection of its natural habitat, scenic, and watershed values. The parcel is being acquired from Kaneohe Ranch (Castle Family Limited Partners) and the State has secured approximately \$755,000 in matching federal and private funds for the acquisition. DOFAW will hold the property and manage it for the protection of its watershed and habitat values as part of a 10-year Hamakua Marsh Watershed restoration and education project. Management and operations will also be in accordance with the U.S. Natural Resources Conservation Service Cooperative Agreement and Conservation Plan covering the area.



The property includes steep slopes, drainage gullies, and wetlands, and it makes up the entire mauka watershed for Hamakua Marsh Wildlife Sanctuary. Hamakua Marsh helps to absorb flood waters in the Koolaupoko watershed, buffering near-shore and reef habitats from the negative effects of rainfall runoff carried towards the coastline. The wetland restoration portion of the property will provide habitat for endangered Hawaiian waterbird species. This area is also one of the last green spaces in urban Kailua.

State of Hawai‘i at \$7,000 for the acquisition of seven acres in North Kohala, Island of Hawai‘i

The State of Hawai‘i requested funding for a parcel of land, TMK (3) 5-6-001:0051 and TMK (3) 5-6-001:0051, in Kukuipahu Ahupua‘a, leeward North Kohala, Island of Hawai‘i, for the protection of its scenic, cultural, and historic values. The parcel is being acquired from Chalon International of Hawaii, Inc., by the State of Hawaii with the aid of a \$960,000 land value donation from the owner. The Department's Division of State Parks, will manage the land as a protective and scenic buffer for the neighboring Kukuipahu Heiau, as part of the North Kohala Historic Sites State Monument.



The seven-acre buffer around three sides of the

heiau parcel will provide an open space that maintains the cultural and historical setting of the heiau and shields the heiau from the residential development that is expected in the area.

State of Hawai‘i at \$1,250,000 for the acquisition of 17.05 acres in Lapakahi, Kohala, Island of Hawai‘i



The State of Hawai‘i, with the assistance of TPL, requested funding for a parcel of land, TMK (3) 5-7-001:0011, in the ahupua‘a of Kaipuha‘a and Lamaloloa, at the southern end of Lapakahi State Historical Park, Island of Hawai‘i, for the protection of its watershed, coastal, natural, cultural, and historical values. The parcel is being acquired from a private owner by the State of Hawai‘i, and the TPL has secured approximately \$1.29 million in matching federal

and private funds for the acquisition. The Division of State Parks will manage the land as part of Lapakahi State Historical Park, for the preservation of its cultural and historical resources.

The property contains 19 historical sites dating from the native Hawaiian pre-contact period, circa A.D. 1300 or earlier. Part of the historic Ala Kahakai trails system also runs through the property. The coastline that will be protected borders on Lapakahi Marine Life Conservation District. The County General Plan, the County Council, and Legislature have all designated the scenic viewshed from Akoni Pule Highway to the coastline as a priority for protection.



Maui Coastal Land Trust at \$609,425 for the acquisition of an agricultural conservation easement over 27.44 acres, in Pupukeya, North Shore, Island of O‘ahu, to be held by the North Shore Community Land Trust

The Maui Coastal Land Trust (MCLT) requested funding for an agricultural conservation easement over a parcel of land, TMK (1) 5-9-005:067, for the protection of its agricultural, watershed, and open space values. MCLT is purchasing the easement from a private owner and has secured over \$1 million in federal Farm and Ranchland Protection Program funds for the acquisition. The North Shore Community Land Trust (NSCLT) will hold and monitor the conservation easement and work with the landowner in managing the land for its agricultural, recreational, and scenic resources.

MCLT's mission is to preserve and protect coastal lands in Maui Nui for the benefit of the natural environment and of current and future generations. NSCLT protects, stewards, and enhances the natural landscapes, cultural heritage, and rural character of



ahupua'a from Kahuku Point to Ka'ena. MCLT and NSCLT are nonprofit organizations exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

The property is classified as prime agricultural land for its accessibility, terrain and drainage. It is located mauka of Pu'u o Mahuka Heiau, and is situated at the meeting point of four important conservation and public recreation areas: the Pupukea-Paumalu Park Reserve, Waimea Valley, the Pupukea Boy Scout Camp, and the Na Ala Hele Kaunala Loop trail. The conservation easement will protect the agricultural values of the property into perpetuity.

PROPOSALS FOR FUTURE LAND ACQUISITIONS, INCLUDING A SUMMARY OF THE RESOURCE VALUE TO THE STATE

Applications for the current 2009 (FY10) LLCP grant process were due September 16, 2009. LLCP staff reviewed applications for completeness and, pursuant to Section 173A-2.5, HRS, has delivered them to the Commission for consideration. A list of all FY10 proposals for future land acquisitions is available per request to the LLCP at (808) 586-0921, or molly.e.schmidt@hawaii.gov. Basic information on proposed projects is also available at: <http://hawaii.gov/dlnr/dofaw/llcp/legacy-land-conservation-program-projects-new>. The Commission is scheduled to produce project recommendations in late December, 2009. A list of Commission-recommended project proposals will be available at that time.

FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR

Status of LCF for FY09:

Beginning cash balance of LCF on July 1, 2008	\$8,345,438
Revenue to LCF in FY09	\$2,593,975
Outstanding previous year encumbrances	\$3,962,700
Expenditures during FY09	\$2,937,471
<u>FY09 outstanding encumbrances at year end</u>	<u>\$609,545</u>
Cash balance minus outstanding encumbrances	\$3,429,697
Ending cash balance as of June 30, 2009	\$8,001,942

For FY09, revenues totaled \$2,593,975. Expenditures and encumbrances totaled \$3,547,016; this amount fell within the authorized spending cap of \$5,100,000. An amount of \$3,299,382 was encumbered or expended as awards to state agencies and nonprofit land conservation organizations for the acquisition of interest or rights in lands having value as resource to the State. An amount of \$247,634 was expended on salaries and administrative costs.

Grant awards

DOFAW (Honouliuli)	\$982,957
DOFAW (Hamakua)	\$450,000
Division of State Parks (North Kohala)	\$7,000
Division of State Parks (Lapakahi)	\$994,724
<u>Maui Coastal Land Trust</u>	<u>\$609,425</u>
Total grant expenditures and encumbrances	\$3,299,382

Salary costs

Salaries, full year at 2.0 FTE	\$125,002
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Administrative expenses

Staff and Commission training and travel	\$14,331
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Special Fund Assessment

B&F Central Service Fees	\$108,181
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Total expended/encumbered **\$3,546,896**

The Department may use up to five percent of the revenue of LCF from the previous year to administer the Program to cover costs such as travel, training, and materials and supplies. FY08 revenue totaled \$4,270,662, allowing administrative costs of up to \$213,533 during FY09. Administrative expenses and encumbrances in FY09 totaled \$14,331. The administrative budget funded travel costs related to the Commission, which met six times during the fiscal year to accomplish its duties, and provided staff training in currently-developing area of conservation land acquisition. The Legislature, through the administrative budget (Act 1900, SLH 2006), created two temporary civil service positions to staff the LLCP. The Department filled the first position in FY07 and the second in FY08, and those salary costs totaled \$125,002 in FY09. The fund was also assessed the statutorily required central service fee of 5% on revenue which totaled \$108,181 for FY09.

OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR

The Department, through LLCP, plans to accomplish four main objectives in FY10.

Objectives

The Department's primary objectives for LLCP in FY10 are: (1) To bring State acquisitions receiving FY08 and FY09 funds to closure and to provide support to FY08 and FY09 nonprofit and county grant recipients; (2) To effectively coordinate the award of FY10 grant funds towards the acquisition of lands having high value as a resource to the State; (3) To build and improve LLCP through promulgating program rules and with the support of the LLCC; (4) To implement administrative procedures for the LLCP pursuant to changes mandated by Act 139, SLH 2008; and (5) To continue with planning activities that support the acquisition and protection of lands having value as a resource to the State.

1. Currently, the Department is working with FY08 and FY09 grant recipients to ensure the proper disbursement of grant funds. Four FY08 grants awardees and one FY09 grant awardee are in the process of meeting LLCP requirements in order to receive grant funds and acquire the respective properties. Four FY09 State acquisitions are currently undergoing due diligence and are expected to close within the next year and a half.
2. Staff is currently assisting the Commission with its review of FY10 applications. After the Commission produces recommendations, the Department will seek the consultation of the Senate President and Speaker of the House; and will then submit the Commission's recommendations and any additional consultation comments to the Board for approval. Upon approval of the Governor, grant funds awarded by the Board will be encumbered.
3. The Department will continue to work through the rulemaking process in order to promulgate administrative rules for the LLCP and also provide administrative support to the Commission in the promulgation of rules relating to the development of the Commission's project selection criteria based on the project selection priorities listed under Section 173A-C, HRS.
4. The Department will continue the implementation of Act 139, SLH 2008, by providing an administrative framework and corresponding administrative rules for the award of up to 5% of the previous years revenues for the management and operation of lands acquired under the LLCP.
5. Pursuant to Section 173A-3, HRS, the Department is in the process of implementing planning activities that support the coordination of conservation land acquisitions in the State and guide the Board in the acquisition of land having value as a resource to the State. In the past year, the Department assembled all state and county agency plans and priorities relating to conservation land acquisition in Hawaii onto a single location on the web. In the upcoming year, the Department will gather additional information and analyze how to utilize partnerships, conservation tools, and funding sources to maximize the amount of acres and quality of resources protected through the LLCP.

Budget Projections

Due to the slow down in the economy and projected decline in conveyance tax revenue, the funding for FY10 LCF is expected to decline by 50% or more. Consequently, the amount of funding available for grants in FY10 will be reduced. The Board may award up to \$3 million in grant funding to county agencies, state agencies, and nonprofit land conservation organizations, subject to the availability of funds. Funding will continue to be used to administer the program (less than or equal to 5% previous year's revenues) to fund Commission travel, staff training, and operational costs such as supplies and materials. The LCF will also continue to support salaries for two civil service positions, one in the Department's Land Division and one in DOFAW and the Budget and Finance central services fee.

CONCLUSION

LLCP provided approximately \$3.3 million in grant funding for the acquisition of interests in five properties, which will result in the protection of approximately 3,699 acres of land having value as a resource to the State. This grant funding will protect agricultural land, cultural resources, historic resources, wetland and endangered species habitat, and native forest habitat. The Program brought in approximately \$8,107,369 in matching federal, county, or private funds for these acquisitions, including about \$2 federal dollars for every State dollar spent. The Program offers great promise for the future, and is well positioned to take advantage of a proposed significant increase in federal funding under the national Land and Conservation Fund. The State Legacy Land Conservation Program should be supported and continued.

For detailed information on LLCP (<http://www.hawaii.gov/dlnr/dofaw/lcpl/>), please contact LLCP, Department of Land and Natural Resources, Division of Forestry and Wildlife, 1151 Punchbowl Street, Room 224, Honolulu, HI, 96813, by telephone, at (808) 586-0921, or by email, at molly.e.schmidt@hawaii.gov.