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

May 11, 2012

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

Board Members:

SUBJECT: REVIEW AND APPROVAL OF PROJECT RECOMMENDATIONS FOR

FUNDING FROM THE FISCAL YEAR 2012 LEGACY LAND CONSERVATION

PROGRAM (LAND CONSERVATION FUND)

SUMMARY:

Pursuant to H.R.S., section 173A-2.5, the Legacy Land Conservation Commission (the Commission) has produced recommendations to the Board of Land and Natural Resources on project selection for Fiscal Year 2012 (FY12) funding from the Legacy Land Conservation Program (LLCP). Pursuant to H.R.S., section 173A-5, the Department has sought and received the consultation of the Senate President and Speaker of the House of Representatives. This submittal summarizes these recommendations for the Board's review and requests approval for projects to receive FY12 LLCP funding.

BACKGROUND:

Legacy Land Conservation Commission Recommendations:

In July, 2011, the LLCP announced available FY12 funding from the Land Conservation Fund (LCF) for projects proposing 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 nine separate resource land acquisition projects for the September 16, 2011, application deadline. On December 14, 2011, at a public meeting, the Commission ranked eight projects and recommended that they be funded in the order ranked, to the extent that funds are available (see Attachment 1). The Department finds that funding is available in the amount of \$4,600,000. This amount will fund the ranked projects one through six at the requested amounts, provide a partial award of \$621,245 to the seventh project (Kahuku Coastal Property), and provide no funding to the remaining project on the list.

The Commission's recommendation results in the following awards:

1. **Kalauao Valley;** DLNR, DOFAW, at \$192,750 for purchase 635.00 acres of in Honolulu, Island of O'ahu, for the protection of forested watershed and critical habitat.

- 2. **Maunawila Heiau**; Hawaiian Islands Land Trust (HILT) at \$650,000 for acquisition of 9.08 acres in Koʻolauloa, Island of Oʻahu, for the protection of Maunawila Heiau.
- 3. **Ka'ena Point Natural Area Reserve Cove Extension;** DLNR, DOFAW, at \$86,450 for purchase of 0.75 acre in Waialua, Island of O'ahu, for protection of a sand dune ecosystem and intertidal flora and fauna adjacent to the Ka'ena Point Natural Area Reserve.
- 4. Kuka'iau Ranch Forest Legacy Conservation Easement Project; The Nature Conservancy and DLNR, DOFAW, at \$600,000 to fund the acquisition (by DOFAW) of a conservation easement over 3,688.00 acres in Hamakua, Island of Hawai'i, to restrict operations on portions of the property to sustainable forestry practices.
- 5. **Kaiholena South**; the Ala Kahakai Trail Association (AKTA) at \$1,449,555 for purchase of 34.63 acres in North Kohala, Island of Hawai'i, for protection of coastal lands, cultural resources and a portion of the Ala Kahakai National Historic Trail.
- 6. **Kuka'iau Acquisition & Palila Habitat Restoration**; The Nature Conservancy (TNC) at \$1,000,000 for the purchase of 4,469.00 acres in Hamakua, Island of Hawai'i, for the protection of watershed and endangered Palila bird habitat.
- 7. **Kahuku Coastal Property;** County of Hawai'i at \$621,245 to purchase 3,127.95 acres in Ka'ū, Island of Hawai'i, for the protection of shoreline, coastal access, and natural area adjacent to Manuka Natural Area.

In summary, the Commission recommended funding eight projects, in the order ranked (see Attachment 1) to the extent that funds are available. The Department finds that funding is available in the amount of \$4,600,000, which will fund the above-listed projects one through six at the requested amounts, and provide a partial award of \$621,245 to the seventh project. Details on each project are included in the discussion.

Legislative Consultation

Following the Commission meeting, the Department and the Commission Chair sought the consultation of Senate President Shan Tsutsui and the Speaker of the House of Representatives Calvin Say regarding the Commission's recommendations, pursuant to H.R.S. Chapter 173A. The legislators advised that the projects be funded as recommended by the Commission. The Senate President and Speaker of the House of Representatives confirmed this advice in follow-up letters dated February 9, 2012, and February 29, 2012, respectively (Attachments II and III).

DISCUSSION:

The following discussion describes the details surrounding each of the Legacy Land Conservation Commission's recommended projects.

Kalauao Valley

DLNR, DOFAW, applied for \$192,750 in grant funding to purchase 635.00 acres of forested watershed in Honolulu, Island of Oʻahu. The land is mauka of Aiea and Keaiwa Heiau and contains parts of the Aiea Loop Trail and Aiea Ridge Trail and is within the Koʻolau Mountains Watershed Partnership management area. The forest is dominated by Koa and 'Ohia and has been designated as Critical Habitat for ten species of plants and the endangered Oʻahu 'Elepaio.

DOFAW is seeking matching funding from the Forest Legacy program, the federal Recovery Land Acquisition program, and the City and County of Honolulu's Clean Water Natural Lands Fund. In the short term, DOFAW intends to add the currently unmanaged Kalauao Valley into DOFAW's inventory of managed lands. Longer term goals include converting the parcel into a Natural Area Reserve or a Forest Reserve under DOFAW and managing the area for native species and ecosystem protection, research, public education, and recreation.

Maunawila Heiau

The Hawaiian Islands Land Trust (HILT) applied for \$650,000 to fund the acquisition of 9.08 acres containing Maunawila Heiau in Koʻolauloa, Island of Oʻahu. The Maunawila Heiau is one of the remaining relatively intact heiau in the Koʻolauloa region. The current landowner has agreed to allow the Koʻolauloa Hawaiian Civic Club to begin clearing overgrowth from the heiau with the supervision of an archeologist. HILT is seeking matching funds from the landowner (in the form of a reduction in price from the appraised value) and the City and County of Honolulu's Clean Water and Natural Lands Fund.

HILT intends to hold the property in perpetuity and work with community organizations to clear and steward the heiau and to allow access to the cultural sites. Initial plans include conducting an archeological survey and then working with community organizations to draft a management plan. HILT is a local nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC). HILT's mission is to protect the lands that sustain us for current and future generations.

Ka'ena Point Natural Area Reserve Cove Extension

DLNR, DOFAW, applied for \$86,450 in grant funding to purchase 0.75 acre near Ka'ena Point in Waialua, Island of O'ahu. This shoreline parcel, which is adjacent to the Ka'ena Point Natural Area Reserve and the Ka'ena Point State Park, is a sand dune ecosystem contains naupaka and intertidal flora and fauna. Currently erosion from nearby off-road driving drains out in the parcel. The beach is a resting area for the Hawaiian monk seal.

The area has been recommended by the NARS Commission for inclusion in the Natural Area Reserve System. After acquisition, DOFAW NARS staff will manage the parcel under its mandate to preserve in perpetuity specific land and water areas which support communities, as relatively unmodified as possible, of the natural flora and fauna, as well as geological sites, of Hawaii. The land would also be included within the Department's action plan for the larger Ka'ena Pont Stewardship Area.

Kuka'iau Ranch Forest Legacy Conservation Easement Project

The Nature Conservancy and DLNR, DOFAW, applied for \$600,000 to fund the acquisition of a conservation easement over 3,688.00 acres in Hamakua, Island of Hawai'i. The land is watershed on the northern flank of Mauna Kea and is currently used for ranching, forestry, and agriculture. It contains remnant stands of old growth 'ohi'a, cultural sites, including sites and caves. DOFAW is seeking federal Forest Legacy funding as match.

The conservation easement will restrict operations on portions of the property to sustainable forestry practices. The landowner's current lessee, Hawaiian Legacy Hardwoods, intends to increase its leased lands from 1,000 to 3,600 acres. A Forest Stewardship Management Plan is being completed for the area, with the primary management objective of restoring a biologically and economically viable forest system that can serve as a model for forest restoration through the State.

Kaiholena South

The Ala Kahakai Trail Association (AKTA) applied for \$1,449,555 in grant funding for the purchase of 34.63 acres in North Kohala, Island of Hawai'i. The coastal parcel is within the ahupua'a of Kaiholena, adjacent to land being purchased by the Count y of Hawaii for open space protection, and contains coastal access trails and a portion of the Ala Kahakai National Historic Trail. The land also contains cultural sites and is within view of the Lapakahi State Historical Park. AKTA will use a combination of private, nonprofit, and National Park Service funding to complete the acquisition.

AKTA plans to support the existing partnerships of local community organizations and public agencies to manage and care for the land. Stewardship work is guided by the NPS Ala Kahakai Trail Management Plan and informed by the North Kohala community. AKTA is a local nonprofit organization, tax-exempt under 501(c)(3) of the IRC. The AKTA's mission is to support and guide a community-managed trail that honors those who came before and perpetuates for those to follow – with protocols and respect for Hawaii's past, present and future.

Kuka'iau Acquisition & Palila Habitat Restoration

The Nature Conservancy (TNC) applied for \$1,000,000 in grant funding to purchase 4,469.00 acres in Hamakua, Island of Hawai'i. The upper portion of the property is within federally-designated Palila bird habitat, forested with māmane, The land is within the Mauna Kea Watershed Partnership and contains the headwaters of many streams that run to the ocean. TNC has secured match from Acres for America and is seeking funding from the Army Compatible Use Buffer program.

The land is currently protected by a conservation easement; however, the underlying fee owner is selling this restricted interest. A portion of the property is fenced and managed by the State of Hawaii for Palila. TNC is seeking to acquire the land for intensive management, in order to increase māmane stands that support the Palila population. TNC plans, in the long term, to transfer the property to public ownership after reforestation. TNC is a local nonprofit

organization, tax-exempt under 501(c)(3) of the IRC; its mission is to conserve the lands and waters on which all life depends.

Kahuku Coastal Property

The County of Hawai'i applied for \$1,214,000 (of which \$621,245 is being recommended for award) in grant funding to purchase 3,127.95 acres of coastal land in Ka'ū, Island of Hawai'i. The property is adjacent to the southern portion of the Manuka Natural Area Reserve (NAR), and is currently used for NAR access, fishing, diving, camping, and related activities. There is over a mile of ocean frontage and an anchialine pond complex situated in a volcanic crack within the property. Part of the shore is accessible for fishing/gathering, part contains an accessible black sand beach. There is a known Hawksbill Turtle nesting ground and the endangered Hawaiian monk seal has been observed on the shoreline of this property as well.

The acquisition will provide a permanent legal public access to the as well as southern portion of Manuka NAR. At this time, access to the property is used by the public, however; the public has no legal rights to this access. The County plans to allow continued access to the shoreline for fishing, hiking, and recreational and cultural purposes. In the long term, the County will work with the local community and federal and state agencies to plan for future uses and management of the area.

In summary, in its recommendations below, DOFAW advises the Board to approve the projects selected by the Commission and approved by the legislators, amounting to a total of \$4,600,000 in awarded funding from the Land Conservation Fund. This amount will fund projects one through six fully and provide a partial award (an award of \$621,245 of the requested \$1,214,000) to the seventh project, the Kahuku Coastal Property.

Conservation easements and deed restrictions

Current 2012 legislation, if passed, may require that nonprofit recipients of Legacy Land Conservation Program grants provide conservation easements over lands being acquired, and that full or partial ownership of these conservation easements be given to the Board of Land and Natural Resources. While the Board currently possesses the optional authority to impose such conservation easements under previous legislation, the Division recommends waiting until the passage of the current legislation and the implementation of the Fiscal Year 2013 grant cycle to impose these restrictions. The addition of a conservation easement to a project is a substantive change to the project that affects whether it is submitted by the applicant, how it is supported by the public, and how it is reviewed by the Legacy Land Conservation Commission. If this requirement is made clear at the beginning of the grant process, applicants to the program will be able to prepare appropriately for a substantial change to the projects that they are submitting, and members of the public and the Commission will be able to review the project in its entirety.

Chapter 343, Hawaii Revised Statutes: Environmental Assessment

Class 1, Exemption 15, on the June 12, 2008, Division of Forestry and Wildlife Exemption List, states, "The award of grants under H.R.S., Chapter 173A, for the acquisition of interests in land, provided that the acquisition does not cause any material change of use of land or resources beyond

that previously existing." DOFAW advises declaring awards exempt from the preparation of an environmental assessment pursuant to this exemption.

RECOMMENDATIONS:

That the Board:

- 1) Approve the acquisition of the following parcels and authorize the Chairperson to execute a letter of offer to the landowner and encumber funds, under the FY12 LLCP ceiling, from the LCF for the following State projects:
 - a. **Kalauao Valley;** DLNR, DOFAW, at \$192,750 for purchase 635.00 acres of in Honolulu, Island of O'ahu, for the protection of forested watershed and critical habitat.
 - b. **Ka'ena Point Natural Area Reserve Cove Extension;** DLNR, DOFAW, at \$86,450 for purchase of 0.75 acre in Waialua, Island of O'ahu, for protection of a sand dune ecosystem and intertidal flora and fauna adjacent to the Ka'ena Point Natural Area Reserve.
 - c. Kuka'iau Ranch Forest Legacy Conservation Easement Project; DLNR, DOFAW, at \$600,000 to fund the acquisition of a conservation easement over 3,688.00 acres in Hamakua, Island of Hawai'i, to restrict operations on portions of the property to sustainable forestry practices.

Using a total of \$879,200 from the LCF, subject to compliance with H.R.S., Chapter 173A, and the normal process and procedures for the acquisition of lands by the State.

- 2) Authorize the Chairperson to enter into agreements and encumber FY12 funds with the listed grant recipients for the following grants to nonprofit land conservation organizations and counties:
 - a. **Maunawila Heiau**; Hawaiian Islands Land Trust (HILT) at \$650,000 for acquisition of 9.08 acres in Koʻolauloa, Island of Oʻahu, for the protection of Maunawila Heiau.
 - b. **Kaiholena South**; the Ala Kahakai Trail Association (AKTA) at \$1,449,555 for purchase of 34.63 acres in North Kohala, Island of Hawai'i, for protection of coastal lands, cultural resources and a portion of the Ala Kahakai National Historic Trail.
 - c. Kuka'iau Acquisition & Palila Habitat Restoration; The Nature Conservancy (TNC) at \$1,000,000 for the purchase of 4,469.00 acres in Hamakua, Island of Hawai'i, for the protection of watershed and endangered Palila bird habitat.
 - d. **Kahuku Coastal Property;** County of Hawai'i at \$621,245 to purchase 3,127.95 acres in Ka'ū, Island of Hawai'i, for the protection of shoreline, coastal access, and natural area adjacent to Manuka Natural Area.

using a total of \$3,720,800 from the LCF, subject to:

- a. compliance with H.R.S., Chapter 173A;
- b. compliance with H.R.S., Chapter 343;

- c. execution of a Grant Agreement with the BLNR;
- d. certification of an appraisal for each project by the Department;
- e. insertion of Legacy Land Conservation Program restrictions into the deed as a condition of contractual agreements with the grant recipients;
- f. approval of the Grant Agreement and of the Deed by the Attorney General's office;
- g. the availability of funds;
- h. the approval of the Governor; and
- i. such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 3) Declare these awards of funds exempt in accordance with Class 1, Exemption 15, on the June 12, 2008, Division of Forestry and Wildlife Exemption List.
- 4) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the grants and acquisitions mentioned above.

Respectfully submitted,

PAUL J. CONRY, Administrator Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:

WILLIAM J. AILA, JR., Chairperson Board of Land and Natural Resources

ATTACHMENTS:

Attachment I: Table of recommended awards for the Fiscal Year 2012 Legacy Land

Conservation Program with individual project information attached

Attachment II: February 9, 2012, letter from the Senate President

Attachment III: February 29, 2012, letter from the Speaker of the House of Representatives



The Senate

STATE CAPITOL HONOLULU, HAWAII 96813

February 9, 2012

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William J. Aila, Jr., Chairperson Board of Land and Natural Resources State of Hawaii P.O. Box 621 Honolulu, Hawaii 96809

Dear Mr. Aila:

I am in receipt of your letter dated January 10, 2012 in which you submit for my review and consultation the recommendation of the Legacy Land Conservation Commission's funding of eight projects for the Fiscal Year 2012 Legacy Land Conservation Program. This letter is to acknowledge that you are seeking comment to fulfill your statutory requirement pursuant to Hawaii Revised Statutes, Chapter 173A, that requires the Department to request consultation on the list of recommended projects with the Senate President, prior to submitting them to the Board of Land and Natural Resources for approval.

After reviewing we currently have no concerns or objections to the eight projects as proposed in your attachments.

Thank you for the opportunity to provide comments on this matter.

Sincerely,

Shan S. Tsutsui

President Hawaii State Senate

CALVIN K.Y. SAY SPEAKER

HOUSE OF REPRESENTATIVES

STATE OF HAWAII STATE CAPITOL HONOLULU, HAWAII 96813 RECEIVED



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February 29, 2012

DEPT. OF LAND & NATURAL RESOURCES STATE OF HAWAII

Mr. William J. Aila, Jr. Chair Board of Land and Natural Resources State of Hawaii P.O. Box 621 Honolulu, Hawaii 96809

Dear Chair Aila:

This communication acknowledges that I, as Speaker of the House of Representatives, have been consulted on the Legacy Land Conservation Commission's recommendations for projects to be funded under the fiscal year 2012 Legacy Land Conservation Program. On Wednesday, February 29, 2012, I met with the following persons to discuss the recommendations: Guy Kaulukukui, Deputy Director, Department of Land and Natural Resources (DLNR); Randall Kennedy, Natural Area Program Manager, DLNR; Molly Schmidt, Legacy Land Staff, DLNR; Dale Bonar, Chair, Legacy Land Conservation Commission; and Lori Buchanan, Member, Legacy Land Conservation Commission.

Based on the discussion, I <u>agree</u> with the ranking of projects listed in the attached.

If you have any questions, please free to contact me at 6-6100 or repsay@hawaii.capitol.gov.

Very truly yours.

CALVIN K.Y. SAY, Speaker

House of Representatives

State of Hawaii

CC:

The Honorable Shan S. Tsutsui, President

Hawaii State Senate

Attachment

Legacy Land Conservation Program, Department of Land and Natural Resources Summary of Fiscal Year (FY) 2012 Legacy Land Conservation Commission Recommendations

On December 14, 2011, the Legacy Land Conservation Commission recommended that the Board of Land and Natural Resources (BLNR) fund the projects in the order ranked (below), to the extent that funds are available. The Commission also recommended that, in the case that only part of an applicant's requested funding is available, the BLNR proceed with awarding this partial funding to the project.

On that date, the projected range of available funding from the Fiscal Year 2012 Legacy Land Conservation program was from \$3.7 million to \$4.4 million.* The total requested amount was \$5,692,755. If the minimum estimate is available, projects one through five will be funded, with partial funding of \$721,245 going to the sixth project. If the maximum estimate is available, projects one through six will be funded, with partial funding of \$421,245 going to the seventh project.

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1	Kalauao Valley	DLNR DOFAW	Honolulu, Island of O'ahu	fee	635.00	\$192,750
2	Maunawila Heiau	Hawaiian Islands Land Trust	Koʻolauloa, Island of Oʻahu	fee	9.08	\$650,000
3&4 (tied)	Ka'ena Point NAR Cove Extension Kuka'iau	DLNR, Division of Forestry & Wildlife (DOFAW)	Waialua, Island of Oʻahu	fee	0.75	\$86,450
3&4 (tied)	Ranch Forest Legacy CE Project	The Nature Conservancy & DLNR DOFAW	Hamakua, Island of Hawaiʻi	CE	3,688.00	\$600,000
5	Kaiholena South Kuka'iau Acquisition	Ala Kahakai Trail Association	North Kohala, Island of Hawai'i	fee	34.63	\$1,449,555
6	& Palila Habitat Restoration Kahuku	The Nature Conservancy	Hamakua, Island of Hawaiʻi	fee	4,469.00	\$1,000,000
7	Coastal Property Kahuku Mauka	County of Hawai'i The Trust for Public Land & North	Kaʻū, Island of Hawaiʻi	fee	3,127.95	\$1,214,000
8	Mauka Agricultural Lands	Shore Community	Koʻolauloa, Island of Oʻahu	fee	248.00	\$500,000

Depending on remaining Fiscal Year 2012 revenues and the release of funds (\$700,000) for an uncompleted prior year project

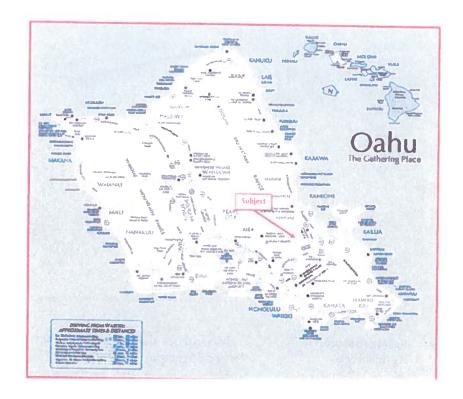
Legacy Land Conservation Program, Department of Land and Natural Resources Summary of Fiscal Year (FY) 2012 Legacy Land Conservation Commission Recommendations

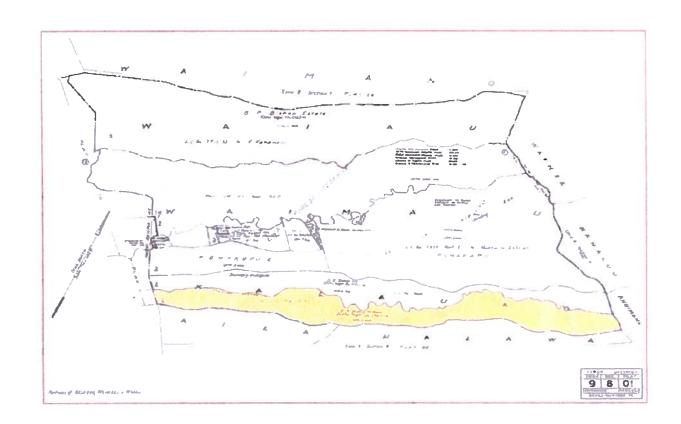
On December 14, 2011, the Legacy Land Conservation Commission recommended that the Board of Land and Natural Resources (BLNR) fund the projects in the order ranked (below), to the extent that funds are available. The Commission also recommended that, in the case that only part of an applicant's requested funding is available, the BLNR proceed with awarding this partial funding to the project.

The amount available from the Fiscal Year 2012 Legacy Land Conservation program is from \$4.6 million. The total requested amount was \$5,692,755. If the Division's proposed recommendations to the Board of Land and Natural Resources are approved, projects one through six will be funded, with partial funding of \$621,245 going to the seventh project. Maps and photos for the projects proposed for funding are attached.

Legacy Land Conservation Commission: FY 2012 Applicant Ranking								
Rank	Project title	Agency/org	District & Island	Fee /CE	Acres	LL Request		
1	Kalauao Valley	DLNR DOFAW	Honolulu, Island of Oʻahu	fee	635.00	\$192,750		
2	Maunawila Heiau	Hawaiian Islands Land Trust	Koʻolauloa, Island of Oʻahu	fee	9.08	\$650,000		
3&4 (tied)	Ka'ena Point NAR Cove Extension Kuka'iau	DLNR, Division of Forestry & Wildlife (DOFAW)	Waialua, Island of Oʻahu	fee	0.75	\$86,450		
3&4 (tied)	Ranch Forest Legacy CE Project	The Nature Conservancy & DLNR DOFAW	Hamakua, Island of Hawaiʻi	CE	3,688.00	\$600,000		
5	Kaiholena South	Ala Kahakai Trail Association	North Kohala, Island of Hawai'i	fee	34.63	\$1,449,555		
	Kukaʻiau Acquisition & Palila Habitat	The Nature	Hamakua, Island					
6	Restoration Kahuku	Conservancy	of Hawaiʻi	fee	4,469.00	\$1,000,000		
7	Coastal Property Kahuku Mauka	County of Hawai'i The Trust for Public Land & North	Kaʻū, Island of Hawaiʻi	fee	3,127.95	\$1,214,000		
8	Agricultural Lands	Shore Community Land Trust	Koʻolauloa, Island of Oʻahu	fee	248.00	\$500,000		

Kalauao Valley – DLNR, DOFAW (Maps)







View of valley Summit from 'Aiea Ridge Trail



View of Honolulu from trail



Hauula Homestead Road, HI



Hauula Community Park

show route



Photo of one of many pohaku believed may have significance to the site.

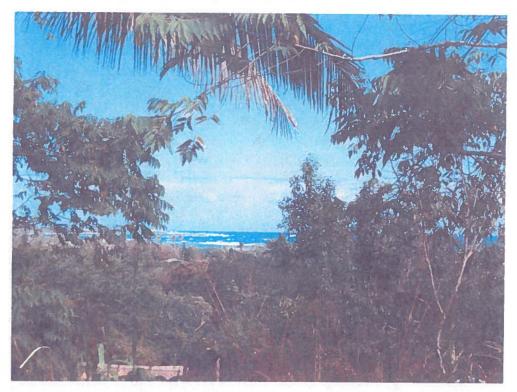
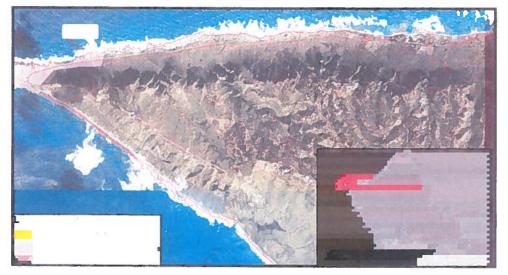


Photo from upper property line looking towards La`ie Point.

Ka'ena Point NAR Cove Extension – DLNR/DOFAW (Maps)

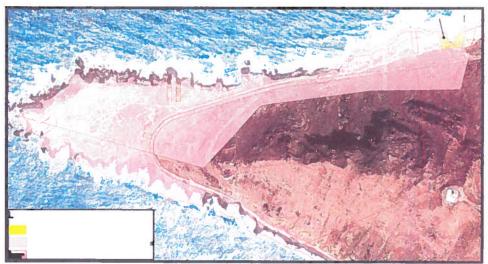






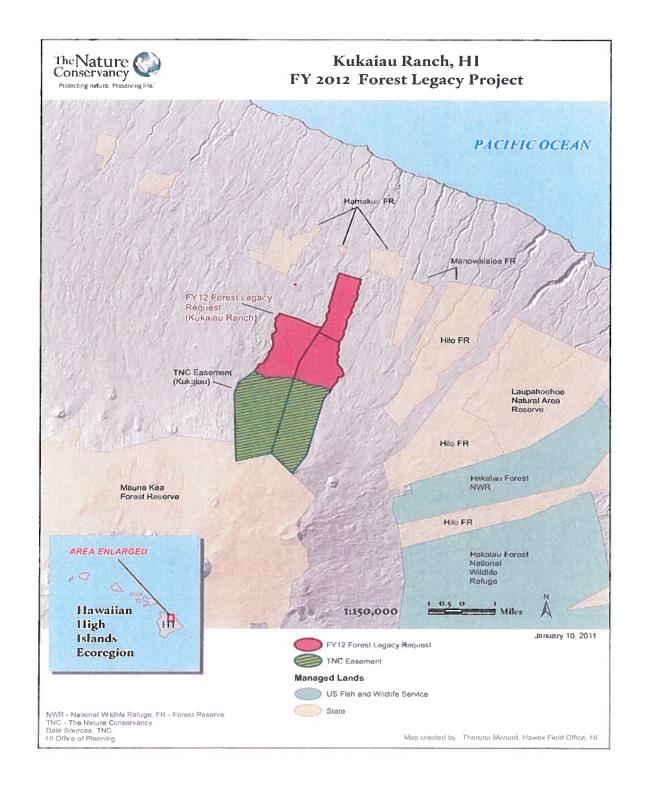












Kuka'iau Ranch Forest Legacy CE Project - The Nature Conservancy & DLNR/DOFAW (Photos)

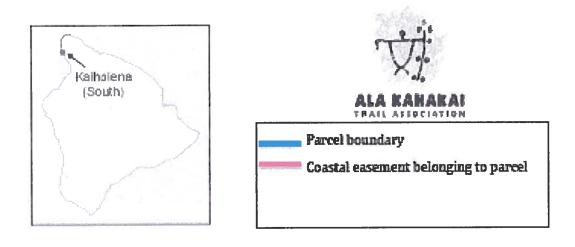


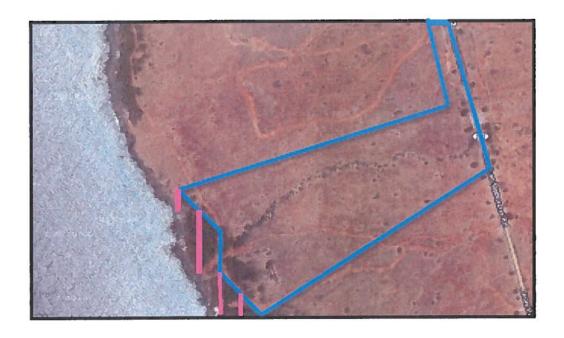
Blessing at the edge of the Koa Forest. Photo by: Hawaiian Legacy Hardwoods

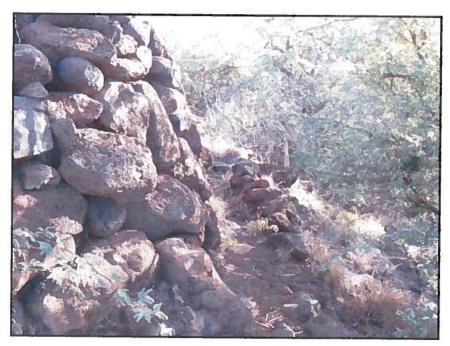


Koa replanting crew at Kūka' iau Property. Photo by: Hawaiian Legacy Hardwoods

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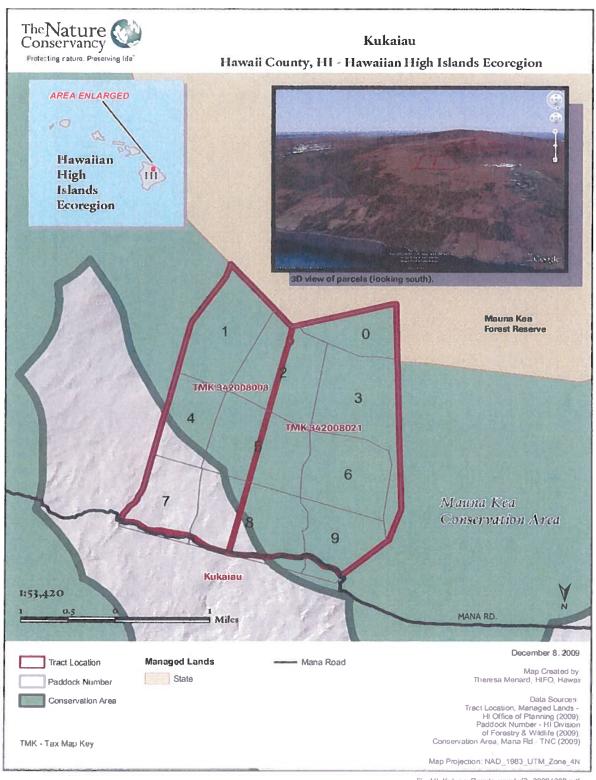




Example of how massive many of the sites are.



Probable heiau



file Ht_KukaiauRanicti_map1of2_20091208 pdf

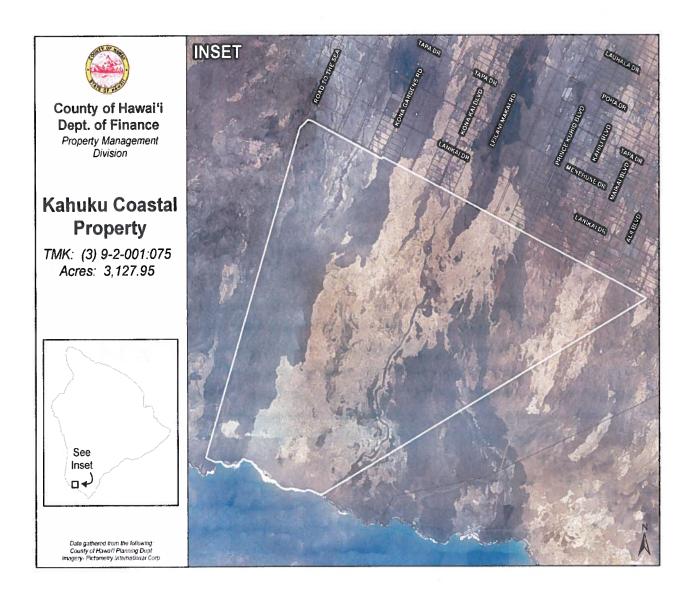
Kuka'iau Acquisition & Palila Habitat Restoration - The Nature Conservancy (Photos)



Figure 1. Küka'iau Forest



Aerial view of Kūka'iau Ranch Property.





Sandy beach (Kahuku)



Vegetation on upper portion of property (Kahuku)