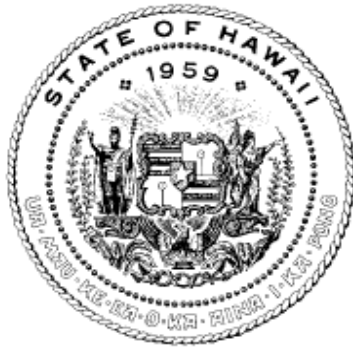


REPORT TO THE TWENTY-FOURTH LEGISLATURE  
REGULAR SESSION OF 2008  
RELATING TO THE LAND CONSERVATION FUND  
AND  
THE LEGACY LAND CONSERVATION PROGRAM



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 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.

**INTEREST OR RIGHTS IN LAND ACQUIRED DURING THE PRECEDING FISCAL YEAR**

For the Fiscal Year (FY) 2007 application cycle, the Legacy Land Conservation Program (LLCP) advertised \$3.6 million in project funding from 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 ten separate resource land acquisition projects for the October 16, 2006, application deadline.

The Hawaii State Legislature, by way of Act 254, SLH 2006, appropriated \$1.1 million from LCF for the purchase of agricultural easements in cooperation with the Federal Farm and Ranchland Protection Program (FRPP). One state agency applied for funding from this appropriation.

At its May 18, 2007, meeting, the Commission recommended five prioritized applicants for funding, listing a sixth project as a possible alternate. On May 23, 2007, Department staff and the Commission Chair Dale Bonar met with Senate President Colleen Hanabusa, Speaker of the House of Representatives Calvin Say, Senator Russell Kokubun and Representative Kenneth Ito to seek the consultation regarding the Commission's recommendations, pursuant to Chapter 173A, HRS. The Legislators agreed with the Commission regarding the funding of the first five grants listed below, and notwithstanding the Commission's decision to the contrary, the Legislators also recommended funding the single applicant for the \$1.1 million FRPP appropriation (Project 6, below).

On June 8, 2007, based on the recommendations of the Commission and the consultation with members of Legislature, the Board approved the following projects for grant funding:

Project 1: The Division of Forestry and Wildlife (DOFAW), Department of Land and Natural Resources, at \$430,250, for the acquisition of the 1,335.98-acre Carlsmith property near Hilo, on the Island of Hawai'i.

Project 2: The National Tropical Botanical Garden (NTBG), at \$1,500,000, for the acquisition of 169.87 acres in Honomā'ele, Hana, on the Island of Maui.

Project 3: The Cave Conservancy of Hawai'i, at \$154,000, for the acquisition of nine acres in Kula Kai View Estates, on the Island of Hawai'i.

Project 4: The Kona Historical Society, at \$301,000, for the acquisition of the 5.536-acre Uchida Farm in Kealakekua on the Island of Hawai'i.

Project 5: The County of Hawaii, at \$1,214,750, for the acquisition of 234.293 acres in Kawa'a, on the Island of Hawai'i.

Project 6: Agribusiness Development Corporation (ADC), for \$1.1 million, to acquire a 108.217-acre agricultural easement across land in Kunia, on the Island of Oahu, from the Hawaii Agricultural Research Center (HARC).

The Governor approved these grants on June 25, 2007. State acquisitions are now being brought to closure by the Department. Grants to nonprofits and counties 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.

### **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.

#### **Project 1. DOFAW, at \$430,250, for the acquisition of the 1,335.98-acre Carlsmith property near Hilo, on the Island of Hawaii.**

DOFAW requested funding for a parcel of land on the windward flank of Mauna Loa in the Hilo District of the Island of Hawaii. This parcel, tax map key (TMK) (3) 2-4-008:003, is adjacent to the Waiakea Forest Reserve and provides habitat for several threatened and endangered species, and contains old-growth merchantable koa timber. The property is being acquired from willing landowner Ivan Lui-Kwan (49%), the law firm of Carlsmith Ball (50%), and several charities (1%) for either \$1,250,000 or the appraised fair market value of the easement, whichever is the lesser value. Matching funds for the project include an \$870,000 grant from the United States (U.S.) Department of Interior’s Recovery Land Acquisition Program and \$5,729.13 in in-kind services from the landowner. The property will be incorporated in state management as either a forest reserve or a Natural Area Reserve, and managed for the protection of the threatened and endangered species on the property.

#### **Project 2. NTBG, at \$1,500,000, for the acquisition of 169.87 acres in Honomā‘ele, Hana, on the Island of Maui.**

NTGB requested funding for a parcel of land in Honomā‘ele, Hana, on East Maui. This parcel, TMK (2) 1-3-002:001, is adjacent to NTBG’s Kahanu Garden and is within site distance from the Pi‘ilanihale Heiau, a National Historic Landmark, and one of Hawaii’s largest intact heiaus. The parcel also contains a native coastal plant community and a native Hala forest. The property is being acquired from willing landowner Kahanu Kinney Sweet, LLC. This landowner is providing a \$1,119,700 land value donation. The property will be managed for its natural and cultural resources and used to expand the Kahanu Garden’s botanical collection as part of the Kahanu Garden Master Plan

NTGB’s mission is to enrich life through discovery, scientific research, conservation, and education by perpetuating the survival of plants, ecosystems, and cultural knowledge of tropical regions. NTBG is a nonprofit organization exempt from federal taxation under 501(c)(3) of the Internal Revenue Code (IRC).

#### **Project 3. CCH, at \$154,000, for the acquisition of 9 acres in Kula Kai View Estates, on the Island of Hawai‘i.**

CCH requested funding for two subdivision lots in Kula Kai View Estates in the Kau District on the Island of Hawaii. These lots, TMK (3) 9-2-193:062 and TMK (3) 9-2-193:069, are eight miles north of the southern most point of the Island and two miles makai of the Mamalahoa Highway. Both properties protect extensive areas of the Kipuka Kanohina cave system, which contains numerous archeological features, including trails, stairs, walls, platforms, terraces and gourd cradles. The caves also contain rare flora and fauna, some of which are still being researched and identified. The lots are being acquired from willing landowners William Bethman and Paul Myers. A third lot, TMK (3) 9-2-193:27, is being donated by CCH member as \$88,000 in matching funds for the project. The properties will be managed for public access and stewardship of the natural and cultural resources of the property.

CCH's overall management objective is to preserve cave systems from adverse impact inadvertently created by development of commercial or residential properties. CCH is a non-profit corporation, exempt from federal taxation under 501(c)(3) of the IRC.

Project 4. The Kona Historical Society (KHS), at \$301,000, for the acquisition of the 5.536-acre Uchida Farm in Kealahou on the Island of Hawai'i.

KHS requested funding for a lot in Kealahou, nearby the Manago Hotel and the Mamaloahoa Highway on the Island of Hawaii. The lot, TMK (3) 8-2-15:013, contains the Kona Coffee Living History Farm (D. Uchida Farm), which is a Smithsonian Institution Affiliate and is listed on State and National Registers of Historic Places. KHS currently has a lease agreement with the landowners with an option to buy the property for \$300,000. In effect, the landowner is donating \$1,700,000 in land value to this project. KHS will continue to operate a self-sustaining coffee farm and living history tours on the property.

KHS's mission is to collect and preserve information about the history of the Kona District. KHS is nonprofit corporation and is exempt from federal taxation under 501(c)(3) of the IRC.

Project 5. The County of Hawaii, at \$1,214,750, for the acquisition of 234.293 acres in Kawa'a, on the Island of Hawai'i.

The County of Hawaii (County) requested funding for a parcel near Kawa'a Bay in the District of Ka'u on the southeastern coast of the Island of Hawaii. The parcel, TMK, (3) 9-5-17:007, consists of the portion of the Hilea Nui ahupua'a below Highway 11. Several native Hawaiian threatened or endangered species are found on the parcel, as well as many cultural artifacts, including burial caves and remnant wells. The site also contains freshwater springs, anchialine ponds, and coastal access. The lot is being acquired from landowner Marcia Johnson. The County has offered \$500,000 to \$1.5 million in matching funds from the County's Open Space Fund. The County will manage the land to protect its natural and cultural resources and public beach access.

The County intends to purchase four contiguous parcels along the Kawa`a Coast. The Commission also recommended allowing the purchase of an adjacent parcel with the LLCP funds if the specified parcel should become unobtainable.

Project 6. ADC, for \$1.1 million, to acquire a 108.217-acre agricultural easement across land in Kunia, on the Island of Oahu, from HARC.

ADC requested funding for a parcel of land in Kunia, on the Island of Oahu, at the corner of Highway 1 and Kunia Road. The parcel, part of TMK (1) 9-2-01:11, was formerly a sugarcane field and is now an agricultural research site for crops such as sugarcane, coffee, cacao, corn, and papaya. The site houses several structures, including a house, greenhouse, storage sheds, laboratories, and office space. The landowner, HARC, plans to subdivide the parcel to gain 100% undivided interest in the 108.217 acre site, and to construct an energy efficient laboratory facility and agricultural business facility on the land.

ADC is a public corporation and a state agency organized within the Hawaii Department of Agriculture. ADC was created by Chapter 163D, HRS, to facilitate the transition of agricultural infrastructure from plantation operations into other agricultural enterprises. The FRPP, a program within the U.S. Department of Agriculture's Natural Resource Conservation Service (NRCS), has obligated \$1,839,412 in federal funding to ADC for the acquisition of conservation easements. To use this federal funding, ADC must provide 50% of the land acquisition costs, up to 25% of which may be in the form of a land value donation. The ADC easement will run with the land in perpetuity, prevent the land from being converted to nonagricultural uses, and require management of the property in accordance with a conservation plan developed using NRCS/FRPP specifications and standards.

FRPP requires that the farm or ranchland purchased with program funding be composed of at least 50% of prime, unique, statewide, or locally important soil or contain historic or archaeological sites. To be eligible, the land must be covered by a conservation plan for any highly erodible land, be large enough to sustain agricultural production, be accessible to markets for what the land produces, and be surrounded by parcels of land that can support long-term agricultural production. NRCS has approved funding for this property under FRPP.

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

Applications for the current 2007 (FY08) LLCP grant process, (available via the LLCP website, <http://www.hawaii.gov/dlnr/dofaw/llcp/>) are due October 17, 2007, at 4:30 p.m. LLCP staff will review the applications for completeness and, pursuant to Act 254, SLH 2006, will deliver them to the Commission for consideration. A list of proposals for future land acquisitions will be compiled and available October 22, 2007 (for a copy of this list, please contact LLCP at (808) 586-0921, or [molly.e.schmidt@hawaii.gov](mailto:molly.e.schmidt@hawaii.gov)).

## **FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR**

### **Status of Land Conservation Fund (LCF) for FY07 (S-07-317 and S-07-330)**

Beginning cash balance of LCF on July 1, 2007	\$5,664,761
Revenue during to LCF in FY07	\$5,069,333
FY06 grant (\$1.1 M) expended in FY07 (under FY06 ceiling)	\$(1,100,000)
Expenditures during FY07	\$(1,586,325)
FY07 Encumbrances at year end	\$(3,203,545)
Ending Cash Balance as of June 30, 2007	\$8,047,769
Cash Balance minus FY07 Encumbrance	\$4,844,244

For FY07, revenue totaled \$5,069,333 and expenditures and encumbrances totaled \$4,789,870, slightly less than revenues and within the authorized spending cap of \$5.1 million. An amount of \$1,100,000 was encumbered to purchase perpetual agricultural conservation easements as selected by the NRCS/FRPP; \$3.6 million was awarded to state agencies, county agencies, and nonprofit land conservation organizations for the acquisition of interest or rights in lands having value as resource to the State.

### **Grant budget**

Division of Forestry and Wildlife, DLNR	\$430,250
National Tropical Botanical Garden	\$1,500,000
The Cave Conservancy of Hawai'i	\$154,000
The Kona Historical Society	\$301,000
The County of Hawaii	\$1,214,750
<u>Agribusiness Development Corporation</u>	<u>\$1,100,000</u>
Total grant funding provided:	\$4,700,000

### **Administrative budget**

Five percent of the revenue of LCF from the previous year may be used by the Department to administer the Program. FY06 revenue totaled \$5,664,761, with allowable administrative costs of up to \$283,238 during FY07. Administrative costs totaled \$89,870 or 1.8% of FY06 revenues. The largest expense was \$72,020 with the University of Hawaii's Office of Research Services to provide personnel services for the initial implementation of LLCP. The Legislature, through the administrative budget (Act 1900, SLH 2006), authorized the creation of two temporary civil service positions to implement LLCP. The Department has filled one and is in the process of filling the other. The Department also used administrative funds to develop program materials, including an application form and instructions, a website, a database of contacts, and a program outreach materials. These materials were reviewed by the Department of the Attorney General, the State Procurement Office, the Commission, and have been reviewed and approved by the Board. These improved versions are being used to

conduct the current application process. The administrative budget also funded costs related to the newly-confirmed Commission, which met twice before the end of the fiscal year to accomplish its duties. Administrative costs are expected to increase in FY08 when both newly created positions are in place.

## **OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR**

The Department, through LLCP, plans to accomplish five main objectives for FY08 with a budget of \$5.1 million.

### **Objectives**

The Department's primary objectives for LLCP in FY08 are: (1) To bring state land acquisitions receiving FY07 funds to closure and to provide support to FY07 nonprofit and county grant recipients; (2) To protect the State's interests as stated under Chapter 173A, HRS, through oversight and monitoring of LCF grants; (3) To effectively coordinate the award of FY08 grant funds towards the acquisition of lands having high value as a resource to the State; (4) To build and improve LLCP through the provision of support to the LLCC; and (5) To create the Resource Land Acquisition Plan.

1. Currently, the Department is working with FY07 grant recipients to ensure the proper disbursement of grant funds. The Department will work to bring two state land acquisitions to the closing stage and will coordinate with county and nonprofit grant recipients to meet LLCP acquisition, monitoring, and accounting requirements.
2. In FY07, the Department produced grant recipient guidelines and a draft monitoring form. Starting one year after the closure of each FY07 acquisition, the Department will monitor the grant recipient and the acquisition site on an annual basis to oversee the State's financial interests and the protection of the State's resource values under Chapter 173A, HRS.
3. Upon receipt of the FY08 project applications, staff will review the applications for completeness and will deliver them to Committee for consideration. After the Committee produces recommendations, the Department will consult with the Senate President and Speaker of the House; and will then submit this information to the Board. Pending the approval of the Governor, grant funds awarded by the Board will be administered by LLCP.
4. The Department will provide administrative support to Committee in the promulgation of rules relating to the development of project selection criteria based on the project selection priorities listed under Section 173A-C, HRS. The Department will also be requesting the expertise of the Commission as it refines and strengthens LLCP for the next annual application process.



5. Under section 173A-3, HRS, the Department must prepare a Resource Land Acquisition Plan to guide the Board in the acquisition of land having value as a resource to the State. This plan must consider all related state and county agency plans. The initial step in the preparation of this plan is the compilation of related plans and use of departmental expertise to complete a first draft by the Department. Next, the LLCP Coordinator will distribute to partner organizations and agencies for input on its format, goals/objectives, and content, and thus produce a second draft, which will be revised as necessary to attain the satisfaction of the Department, the Commission, and the approval of the Board.

### **Budget Projections**

In FY08, the Board may award \$4.7 million in grant funding to county agencies, state agencies, and nonprofit land conservation organizations. The remaining funds under the \$5.1 million program ceiling will either be used as part of the administrative budget (less than or equal to 5% previous year's revenues) or returned to LCF for future use. LLCP has dedicated its FY08 administrative budget to costs related to personnel, partnerships, the Commission, and the maintenance and development of the Program. The budget is funding two LLCP staff positions, one in the Department's Land Division, another in the Division of Forestry and Wildlife. A substantial portion of the budget is committed to the Land Division and the Department of the Attorney General partners for training related to land conservation transactions. Another portion is set aside for the Commission's travel, including visits to project sites. Program costs, such as equipment, annual grant monitoring, outreach and awareness, and acquisition-related costs are also accounted for in the FY08 administrative budget.

### **CONCLUSION**

LLCP aided the acquisition of interests in six properties, resulting in the protection of 1,863 acres of land having value as a resource to the State. Protected resources included a range of values from watershed and threatened and endangered species habitat protection (3) archeological and cultural values (1) and agricultural values (2). The Program brought in approximately \$4,600,230 in matching federal, county, or private funds for the acquisitions. The Program offers great promise for the future and should be supported and continued.

For detailed information on LLCP (<http://www.hawaii.gov/dlnr/dofaw/llcp/>), 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](mailto:molly.e.schmidt@hawaii.gov).