

REPORT TO THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

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



Prepared by

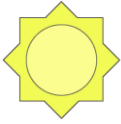
STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

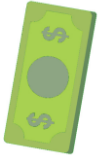
Honolulu, Hawaii

November 2015

FY 15 Legacy Land Conservation Program Summary



Six projects awarded funding, protecting 5,990 total acres.



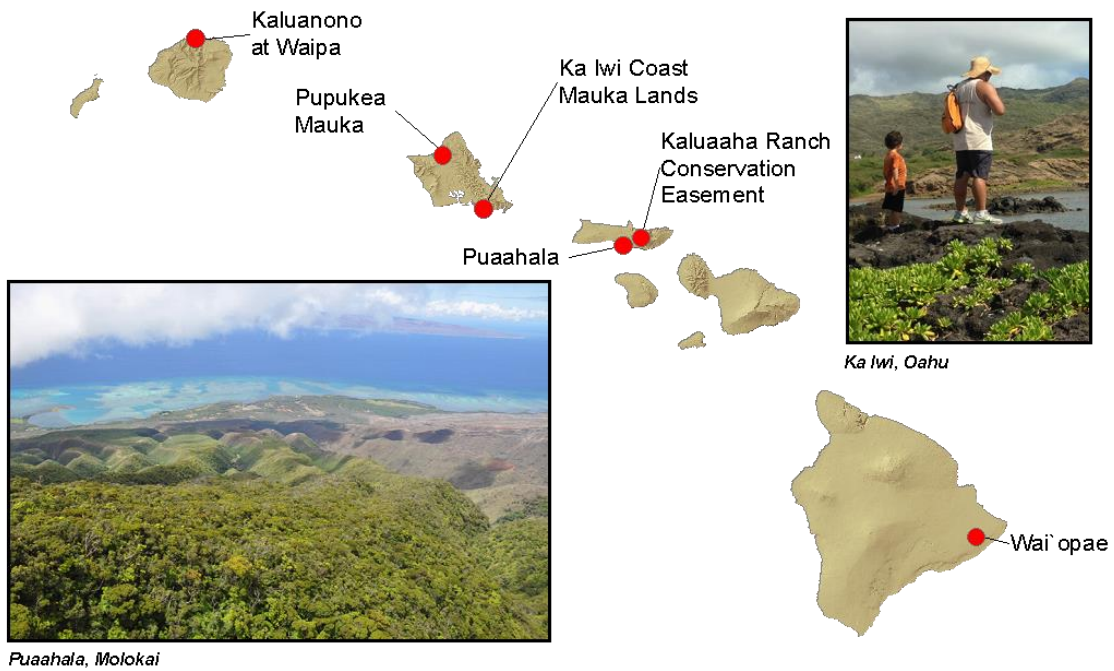
\$4.5 million in State funds matched by \$11.8 million in federal, county, and private funds.



These projects protect watershed, coastal, scenic, cultural, habitat, and agricultural resources.



Over a dozen partners contributed to these projects.



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

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) 2015 application cycle, the Legacy Land Conservation Program (LLCP) advertised approximately \$4.5 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 seven separate resource land acquisition projects.

After conducting site visits and public decision-making meetings, the Commission recommended six prioritized applicants. In January 2015, the Department sought the consultation of Senate President Donna Mercado Kim and Speaker of the House of Representatives Joseph Souki regarding the Commission's recommendations, pursuant to

Chapter 173A, HRS. The legislators responded in writing, offering no objections or comments regarding the recommendations of the Commission.

At two meetings on February 27, 2015, and April 10, 2015, after reviewing the recommendations of the Commission and the consultation with members of Legislature, the Board approved the recommended projects for grant funding, subject to certain terms and conditions.

On June 3, 2015, Governor Ige approved the release of \$4,500,000 in funding for the following projects:

1. Kaluanono at Waipa; Waipa Foundation, at \$398,250 for purchase of 1.8 acres in Hanalei, Island of Kauai, for the protection of cultural resources, agricultural resources and natural wetland habitat.
2. Ka Iwi Coast Mauka Lands; Livable Hawaii Kai Hui, at \$1,000,000 for acquisition of 181.14 acres in Ko'olaupoko, Island of Oahu, for the protection of scenic and cultural resources.
3. Wai'opae; County of Hawaii, at \$1,330,000 for acquisition of 322.167 acres in Puna, Island of Hawaii, for the protection of coastal, natural, and cultural resources.
4. Puaahala Watershed Acquisition; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$855,625 for acquisition of 800 acres in Kamalo, Island of Molokai, for the protection of watershed and natural habitat.
5. Kaluaaha Ranch Conservation Easement; Molokai Land Trust, at \$500,000 for acquisition of a conservation easement over 969 acres in Molokai district, Island of Molokai, for the protection of watershed, natural areas, and habitat.
6. Pupukea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$416,125 (of \$1,000,000 request) for acquisition of 3,716 acres in Waialua, Island of Oahu, for the protection of watershed and natural areas.

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. Additionally, nonprofit grant recipients that are acquiring properties in fee will provide conservation easements to eligible government agencies. Upon the sale of a property, an amount of the net proceeds proportionate to the original award must be returned to the LCF.

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

Chapter 173A, HRS, instructs the Department and Commission to use Legacy Land funds to protect land having value 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. The Commission reviews projects for resource lands and selects lands listed as “priority” under Section 173A-2.6. The resource values which make each project a priority under Section 173A-2.6 are explained below.

Kaluanono at Waipa

Trust for Public Land (TPL) and Waipa Foundation applied for \$398,250 for the purchase of 1.8 acres in Hanalei, Island of Kauai, for the protection of cultural resources, agricultural resources and natural wetland habitat. Waipa Foundation and TPL will seek the matching funds to cover the remaining 25 percent of project costs from the Kauai County open space fund and TPL. The County of Kauai anticipates holding conservation easement over the land as a condition of grant funding.

Kaluanono at Waipā is habitat for the endangered Koloa Maoli (Hawaiian Duck), ‘Alae ‘Ula (Hawaiian Moorhen), ‘Alae Ke‘oke‘o (Hawaiian Coot), Ae‘o (Hawaiian Stilt), Nēnē (Hawaiian Goose), and the native Auku‘u (Black-crowned Night Heron). These native wetland birds traverse Kaluanono’s shallow stream banks, and the ‘Alae ‘Ula, ‘Alae Ke‘oke‘o, and Nēnē have been seen nesting on the property.



Kaluanono is a mo`o kalo (narrow strip of land cultivated in taro) that is bounded by other lo`i kalo (wetland taro patches), a pond called Kalokowai and Waipa Stream, and an ancient `auwai. The southern and southwest boundaries of Kaluanono are Waipā Foundation’s farm lots.

Waipa Foundation will hold the property and manage the natural, cultural, and agricultural resources. Kaluanono would provide Waipā

Foundation a place to teach students about native wetland species and the importance of a healthy ahupua‘a, and an opportunity to expand its existing wetland bird curriculum for youth. Acquisition would allow Waipā Foundation to expand its current agricultural activities on the property, possibly planting an orchard with ground crops on the southern portion adjoining Waipā Foundation’s existing farm lots, and reopening lo‘i kalo (wetland taro patches) on the northern portion. Waipa Foundation will review agricultural plans with native wetland bird experts to prevent impacts on the property’s resources and wetland bird behavior. Waipā Foundation envisions a learning shelter in the middle of the property for visitors and students to observe and discuss the wetland habitat and agricultural activities.

Waipa Foundation is a nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC); its mission is to restore Waipā’s vibrant natural systems and resources; inspire healthy, thriving communities connected to their resources; and lead by example.

Ka Iwi Coast Mauka Lands

The Department of Land and Natural Resources, Livable Hawaii Kai Hui, and The Trust for Public Land applied for \$1,000,000 for the acquisition of 181.14 acres in



Ko‘olaupoko, Island of Oahu, for the protection of scenic and cultural resources. The Livable Hawaii Kai Hui will hold the property and intends to secure 75% of the matching funds for this project from the City and County of Honolulu Clean Water Natural Land Program, private donations, and TPL. The City and County of Honolulu typically requires a conservation easement a condition of grant funding for its Clean Water and Natural Lands Program.

The Ka Iwi Coast Mauka Lands are part of a scenic landscape that can be seen from the trail to Makapu‘u Lighthouse, Wawamalu (Queen’s Beach), Sandy Beach Park, and the various Ka Iwi Coast scenic lookouts. In 2014, the State designated portions of this land as the Maunalua-Makapu‘u Scenic Byway for its exceptional scenic, natural, and cultural resource values. Acquisition of these lands would safeguard undocumented ancient and post-contact cultural sites found on the properties. Sites that would be protected include traditional Hawaiian drystack rock walls, paths, enclosures and terraces, at least two pōhaku lele (balancing or floating rocks) that have religious significance, and a coral pathway and coral covered area. Protection of the properties also allows for managed public access with a focus on providing a peaceful and more secluded place for various Hawaiian cultural practices such as studying the night sky for voyaging, and offering oli and pule. The primary management goal described in the project application is to protect the land as undeveloped open space. In the short term, the property will be passively managed and left in its current state. Long term management would include a planning process and low-impact uses in consultation with the community.

For the purposes of this project, LHKH is representing the Ka Iwi Coalition, which has had a role in caring for the area for over thirty years. As a property owner or manager, the organization offers expertise in native plants and birds, leaders in community building and stewardship, and volunteers and Hawaiian cultural practitioners that are interested in providing appropriate and dedicated care to cultural sites and landscapes.



LHKH is a nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC); its mission is “for charitable, education, and scientific purposes, including encouraging grass roots organization, community awareness and education of laws, rules and regulations that guide sensible growth and development to enhance the quality of life for residents, focusing on the preservation of the agricultural lands in Kamilonui Valley, natural watershed and adequate open spaces and community stewardship for the protection of watersheds, wetlands, natural and scenic resources and cultural and historic areas in East Honolulu.”

Wai‘opae

The County of Hawaii applied for \$1,330,000 for acquisition of 322.167 acres in Puna, Island of Hawaii, for the protection of coastal, natural, and cultural resources. The County has secured 50% of the grant funds from the County’s Public Access, Open Space, and Natural Resource Preservation Program.



Wai‘opae is contiguous with the Marine Life Conservation District and supports anchialine pools and tide pools fed by springs that support a diverse coral reef community and a nursery for juvenile fish as well as an occasional resting place for the Hawaiian Monk Seal. The coastal tide pools that border this property are popular for snorkeling and swimming with local residents as well as tourists. The property also contains diverse

native coastal wet forest, lava flows recently colonized by native plants, and caves and burial sites. The native lowland forest is rare in the Hawaiian Islands and provides habitat for native birds.

Acquisition would allow the County of Hawaii to protect this property from potential development into a subdivision in the lower elevation land along the coastline. The property is at low elevation in some areas (sea level to 20 feet in the front third) and includes a long coastline (approximately 4,000 feet) is therefore subject to rising sea levels, subsidence, and tsunami and storm surge inundation. In addition to preserving a natural and recreational resource, protection of the property prevents the potential financial cost to the County to provide infrastructure and the protection of the residents in this high hazard zone and the subsequent repairs when natural disasters strike.

Puaahala Watershed Acquisition

The Department of Land and Natural Resources, Division of Forestry and Wildlife, applied for \$855,625 for acquisition of 800 acres in Kamalo, Island of Molokai, for the protection of watershed and natural habitat. The Division will seek the 75% of the total project costs as from two federal land acquisition programs with consistent purposes (Forest Legacy and Recovery Land Acquisition Program).



The Puaahala acquisition contains virtually an entire ahupuaa, including a critical watershed area with portions of the highest quality remaining native watershed forest on Molokai. The ahupua'a includes habitat for 48 listed species, including designated or proposed critical habitat for 40 species. The highest elevation portions of this habitat include ohia montane wet and mesic forest – prime habitat for native forest birds. The coastal parcels contain estuarine and intertidal ecosystems and the largest freshwater pond on Molokai. This rare ecosystem is only found in five locations on the island.



The Department will designate the mauka parcels as Forest Reserve and the makai parcels as Wildlife Sanctuary. The acquisition will enable the Department to install a planned fence for watershed protection and will allow the Department to provide access to the East Molokai Watershed Partnership to restore and manage the watershed values on this land along with the contiguous parcels it currently manages. The Department will ensure public access in perpetuity to high

value coastal areas along with restoration of the coastal wetland habitat for indigenous species.

Kaluaaha Ranch Conservation Easement

The Molokai Land Trust (MLT) applied for \$500,000 for acquisition of a conservation easement over 969 acres in Molokai district, Island of Molokai, for the protection of watershed, natural areas, and habitat. MLT will seek 68% of the total project costs from the U.S. Fish and Wildlife Service’s Recovery Lands Acquisition Program.



Associated with the conservation easement (inside or within a three mile radius) are at least 64 populations of 41 federally listed rare or endangered species. The U.S. Fish and Wildlife Service (“USFWS”) has designated critical habitat for eight endangered plant species in the conservation easement, with critical habitat for 18 more in a three mile radius. USFWS Recovery Plans identify nesting, transitory corridor (*e.g.*, nest to sea), and/or attractant (features that attract nearby species) for the Nene (Hawaiian Goose), Hawaiian Waterbirds, Hawaiian Dark-Rumped Petrel and Newell’s Manx Shearwater, and Hawaiian Forest Birds. The Moloka’i Plant Clusters Recovery Plan identifies seven included species near the conservation easement.

The conservation easement will also help to preserve and improve the watershed, which spans the ahupua’a and descends from over 4000 feet to near sea level before emptying into a vibrant nearcoastal ecosystem that includes fishponds and a live, 35 mile fringing reef. From the native forest in the upper conservation easement to scrubland and grasslands below, retention of falling and flowing water will aid aquifer recharge essential to Molokai’s fresh water supply and furthermore minimize the amount of sediment impacting the near-coastal environment and marine habitat.

MLT will manage the conservation easement in accordance with the restrictions of the Recovery Land Acquisition Program. The short-term plan is to fence portions of the upper KRCE and begin ungulate control. Kalua’aha Ranch joined the East Moloka’i Watershed Partnership in 2012; the watershed



partnership will begin fencing approximately 500 acres of the upper conservation easement as early as 2015. The long-term goals of the conservation easement are to control ungulates and other feral animals as necessary within the fenced upper conservation easement, eradicate targeted invasive plant species in conjunction with Moloka'i Maui Invasive Species Committee (MoMISC), and to restore and create native habitat, focusing on appropriate critical habitat for endangered species associated with the conservation easement.

MLT is a nonprofit organization, tax-exempt under 501(c)(3) of the Internal Revenue Code (IRC) and its mission is to protect and restore the land, natural, and cultural resources of Moloka'i, and to promote, educate, and perpetuate the unique Native Hawaiian traditions and character of the island for the benefit of the future generations of all Moloka'i, particularly Native Hawaiians.

Pupukea Mauka

The Department of Land and Natural Resources, Division of Forestry and Wildlife, at was funded \$416,125 (out of an initial \$1,000,000 request), for this project in Waialua, Island of Oahu, for the protection of watershed and natural areas. The Division proposed to provide 79% of the total project costs; it has secured Recovery Lands Acquisition Funding and will also seek Army Compatible Use Buffer Program funding and Capital Improvement Project (CIP) funding from the Legislature.

The property's elevation ranges from 600 to 2,266 feet and contains the two perennial headwater tributaries of Kamananui Stream which feeds Waimea Falls and enters into the marine protected area at Waimea Bay. The parcel provides excellent watershed function and is listed as Priority I watershed area under the Watershed Initiative plan. It is comprised of lowland wet forest and shrubland dominated by ohia, koa, and uluhe native forest and mountainous stream habitat. Twenty-five species of listed threatened or endangered plants or animals have been recorded as existing on this parcel and DOFAW anticipates that additional surveys will reveal many more rare species in this area.



DOFAW would designate the parcel as Forest Reserve and Public Hunting Area and would add trails to the Na Ala Hele Trail and Access system. Short term management goals would be to develop a comprehensive management plan for the parcel and secure implementation funding. Long term goals likely

to be identified in the plan would be establishment of additional trails, picnic and camping sites, and establishment of a public hunting area to increase limited hunting opportunities. In addition to base operational funds from the State, DOFAW would apply for management funding from U.S. Fish and Wildlife endangered species grants and State

CIP. The planning effort would include writing of an Environmental Assessment to assess and minimize impacts of these uses.

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

Applications for the current 2015-2016 (FY16) LLCP grant process were due September 15, 2015. 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 FY16 proposals for future land acquisitions is available per request to the LLCP at (808) 586-0921 or dlnr@hawaii.gov. Basic information on proposed projects is also available at <http://dlnr.hawaii.gov/ecosystems/llcp/projects/>. The Commission is scheduled to provide project recommendations in December 2015. A list of Commission-recommended project proposals will be available at that time.

FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR

Status of LCF for FY15:

Beginning cash balance of LCF on July 1, 2014	\$ 4,250,000
Revenue to LCF in FY15	\$ 7,975,148
Previously authorized transfers in FY15	\$ 7,988,003
Expenditures during FY15	\$ 1,868,294
Outstanding previous year encumbrances	\$ 4,250,000
<u>FY15 outstanding encumbrances at year end</u>	<u>\$ 3,233,363</u>
Cash balance minus outstanding encumbrances	\$ 10,861,494

During FY15, revenues totaled \$7,975,148. An amount of \$4,500,000 was encumbered or expended as awards to counties and nonprofit land conservation organizations for the acquisition of interest or rights in lands having value as resource to the State. An amount of \$195,737 was expended on salaries and administrative costs; an amount of \$405,920 was levied for special fund assessments (central service fees).

Grant awards

Waipa Foundation	\$ 398,250
Livable Hawaii Kai Hui	\$1,000,000
County of Hawaii	\$1,330,000
Division of Forestry and Wildlife	\$ 855,625
Molokai Land Trust	\$ 500,000
<u>Division of Forestry and Wildlife</u>	<u>\$ 416,125</u>
Total grant expenditures and encumbrances	\$4,500,000

Salary costs

Salaries, full year at 2.0 FTE	\$ 176,164
--------------------------------	------------

Administrative expenses

Commission and staff training and travel	\$ 12,261
Fees, notices, services, equipment	\$ 7,312

Special Fund Assessment

B&F Central Service Fees	\$ 405,920
--------------------------	------------

Total expended/encumbered \$5,101,657

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. FY14 revenue totaled \$7,515,186, allowing administrative costs of up to \$375,759 during FY15. Administrative expenses and encumbrances in FY15 totaled \$19,573. The administrative budget funded travel costs related to the Commission, which met four times during the fiscal year to accomplish its duties, as well as dues, services, publications, and staff travel. The Legislature, through Act 1900, SLH 2006, created two civil service positions to staff the LLCPC. These salary costs totaled \$176,164 in FY15. The fund was also assessed the statutorily required central service fees of up to the sum of 5% on revenue and 2% on expenditures; in FY15 central service fees totaling \$405,920 were deducted from the LCF.

OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR

The Department’s primary objectives for LLCPC in FY16 are: (1) To bring prior-year State acquisitions to closure and to provide support to prior-year nonprofit and county grant recipients; (2) To effectively coordinate the award of FY16 grant funds towards the acquisition of lands having high value as a resource to the State; (3) To continually improve the operation of the program and implement recent legislative changes to the LLCPC; and (4) 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 State recipients of FY09, FY10, FY12, FY13, FY14, and FY15 awards to bring acquisitions to closure and is providing support to FY10, FY11, FY12, FY13, FY14, and FY15 nonprofit and county grant to ensure the proper disbursement of grant funds. Ten State acquisitions are currently undergoing due diligence and are expected to close within the next two years. Eleven nonprofit and county grant awardees are in the process of meeting LLCPC requirements in order to receive grant funds and acquire the respective properties.
2. Staff is currently assisting the Commission with its review of FY16 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 LLCP is continuing to improve program efficiency and effectiveness, as well as implementing legislative changes from the 2015 Legislative Session. Pursuant to Act 121, SLH 2015, a nonprofit organization submitted a proposal for the repayment of debt service on Turtle Bay reimbursable general obligation bonds to the Turtle Bay Conservation Easement Special Fund. Pursuant to Act 84, SLH 2015, conveyance tax funds that may be deposited to the Land Conservation Fund are now capped at 10 percent of conveyance tax revenues or \$6,800,000, whichever is less.
4. Pursuant to Section 173A-3, HRS, the Department is in the process of conducting 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. Subsequent to consultation with the Legacy Land Conservation Commission, which decided not to participate due to a possible conflict of interest, the Department has begun researching and compiling information on land acquisition planning, partnerships, and conservation tools. The Department will continue this work in 2016.

Budget Projections

FY 16: In FY16, the Board may award approximately \$4.5 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.

FY 17: The total conveyance tax receipts for FY15 almost reached \$80 million, with the Land Conservation Fund receiving 10% of those revenues. If these trends continue into FY16 and FY17, the Land Conservation Fund will easily reach its cap at \$6.8 million. Thus, the Department recommends that the spending ceiling imposed on the Land Conservation Fund for FY17 equal \$6.8 million, which would allow this program to support land acquisition projects to the level that the Legislature has set its cap. This ceiling increase would help keep funding availability for projects steady while the Land Conservation Fund supports debt service for the Turtle Bay Conservation Easement Special Fund, pursuant to Act 121, SLH 2015.

CONCLUSION

LLCP provided \$4,500,000 in grant funding for the acquisition of interests in six properties, which will result in the protection approximately 5,990 acres of land having threatened or unique natural, cultural, recreational, and agricultural resources. The

commitment of these funds will help secure approximately \$11.8 million in matching federal, county, and private funds for these acquisitions; resulting in about \$16.3 million in land and acquisition costs secured for \$4.5 million in State funds spent.

Because FY17 LCF revenues are projected to meet the \$6,800,000 cap for revenues deposited from the conveyance tax, the Department recommends that the spending ceiling of the LCF for FY17 equal \$6,800,000 to match the cap.

The Program offers great promise for the future, and is positioned to take advantage of federal land acquisition funds. The State Legacy Land Conservation Program should be supported and continued.

For detailed information on LLCP (<http://www.hawaii.gov/dlnr/dofaw/llcp/>), please contact the LLCP by telephone, at (808) 586-0921, or by email, at dlnr@hawaii.gov.