REPORT TO THE THIRTY FIRST LEGISLATURE
STATE OF HAWAII
2021 REGULAR SESSION

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

December 2020

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

OVERVIEW

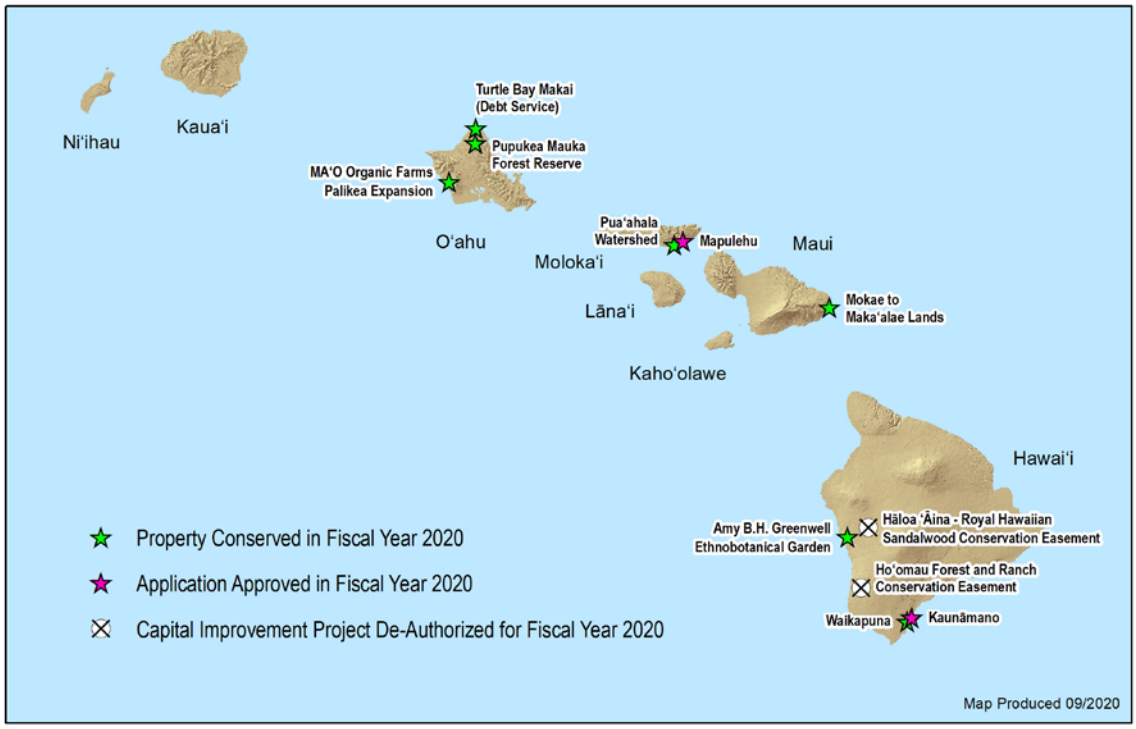
Fiscal Year 2020 was a banner, fifteenth-anniversary year for the Land Conservation Fund and the Legacy Land Conservation Program. The Department of Land and Natural Resources and its partners completed six conservation transactions spanning four islands (please see map at top of page 2); welcomed new program staff; implemented several recommendations from the January 2019 audit report; and co-hosted a celebration of "I Love Legacy Land" at the Legislature on February 14, 2020, in solidarity with Hawaiian Caucus Week. The celebration included recognition in Senate and House certificates and floor presentations, and the adoption of House Resolution 20—offered by Representative Richard P. Creagan (District 5)—commending the Legacy Land Conservation Program for "helping to strengthen the connections between our communities, places, and important resources and to maintain the integrity of our unique landscape by preserving open spaces and scenic views."
Available at: https://www.capitol.hawaii.gov/session2020/bills/HR20_.PDF.

PURPOSE

The Legislature established the Land Conservation Fund ("Fund") in 2005 to provide permanent adequate funding for land conservation by dedicating proceeds from the real estate conveyance tax to the Fund. *See* 2005 Hawai'i Session Laws Act 156, Section 1 at 387. Recognizing that despite "the value of Hawaii's natural resources to its economy, culture, and quality of life . . . an alarmingly small amount of money is invested each year to protect our natural capital base," the 2005 Legislature, per Act 156, also found that:

- The preservation, protection, and enhancement of the State's land, coastal areas, and natural resources are of central importance for current and future residents and for the state economy.
- Article XI, Section 1 of the Constitution of the State of Hawai'i sets forth the State's duty to conserve and protect Hawai'i's natural beauty.
- Adequate funding to conserve land for watershed protection, coastal preservation, flood prevention, parks, habitat protection, cultural preservation, agricultural production, and open space and scenic resources is necessary to ensure protection of these lands and resources for future generations.

Map of Fiscal Year 2020 Conservation Transactions (summaries begin on page 4)



Enabling legislation for the Land Conservation Fund, at subsection 173A-5(h), Hawai'i Revised Statutes ("HRS"), provides that the Fund shall be used for:

(1) the acquisition of interests or rights in land having value as a resource to the State;
(2) the payment of debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State;
(3) annual administration costs for the Land Conservation Fund; and
(4) costs related to the operation, maintenance, and management of lands acquired by way of the Land Conservation Fund that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands; provided that the costs related to the operation, maintenance, and management of lands acquired by way of this fund do not exceed five per cent of annual fund revenues of the previous year.

Section 173A-2 explains that "'land having value as a resource to the State' 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." Subsection 173A-5(i) and Section 173A-9 establish a land acquisition grant program that is open to state agencies, counties, and nonprofit land conservation organizations. The Legacy Land Conservation Program conducts an extensive public process, annually, to review, vet, prioritize, and fund grant applications for use of the Land Conservation Fund. The process includes:

- application review, field visit reports, public testimony, and recommendations provided by the Legacy Land Conservation Commission, which the Legislature established in 2006 (*see* 2006 Hawai'i Session Laws Act 254, Section 1 at 1088-1089);

- consultation with the President of the Senate and the Speaker of the House of Representatives (*see* Subsection 173A-5(i) and Section 173A-9, HRS);
- review, public testimony, and approval provided by the Board of Land and Natural Resources (Id.);
- review and approval by the Department of Budget and Finance; and
- review and approval by the Governor (*see* Section 173A-9, HRS).

PROGRAM HISTORY – LEGACY LAND CONSERVATION

The Department of Land and Natural Resources ("DLNR") administers and manages the Land Conservation Fund ("Fund") and the Legacy Land Conservation Program ("LLCP") in accordance with:

- Chapter 173A, Hawai'i Revised Statutes ("HRS"), Acquisition of Resource Value Land;
- Chapter 13-140, Hawai'i Administrative Rules, Legacy Land Conservation Program Rules; and
- other state and federal governing authorities, particularly:
    - Chapter 171, HRS (Public Lands, Management and Disposition of);
    - Chapter 198, HRS (Conservation Easements); and
    - rules of a partnering federal land conservation program that would govern a transfer of a permanent conservation easement, *see* Section 173A-9, HRS.

In 2006, DLNR secured approval from the Board of Land and Resources ("BLNR") and from the Governor for the inaugural use of the Fund to acquire land having value as a resource to the State, in accordance with terms specified by the legislature for expending its initial appropriation from the Fund. *See* 2005 Hawai'i Session Laws Act 156, Section 9. Since that time, the LLCP processed over 100 completed grant applications for land acquisition.

As of June 30, 2020, BLNR—based on recommendations from the Legacy Land Conservation Commission, DLNR's Division of Forestry and Wildlife, and public testimony—had approved 68 of these grant applications for funding. The Governor approved 65 of the 68 grant applications that the BLNR approved, which resulted in releases of funding for the acquisition of 62 properties (two properties funded through multiple applications). Among these 62 properties, the LLCP has completed 37 acquisitions; 11 acquisitions remain active; applicants discontinued 12 acquisitions; and BLNR terminated 2 acquisitions. In addition, since Fiscal Year 2017 the Legislature has appropriated Fund monies, directly—from above the annual spending ceiling imposed on LLCP grant awards—to four DLNR capital improvement projects (CIPs) for land acquisition. Two of these DLNR CIP acquisitions remain active, while two were de-authorized by the 2020 Legislature in Act 6 (*see* House Bill No. 2725 HD1 SD1, Part I, Section 4, at 214, Item Nos. K6 and K7).

For detailed information about the Land Conservation Fund and the Legacy Land Conservation Program, please visit dlnr.hawaii.gov/ecosystems/llcp, or contact:

Legacy Land Conservation Program
Telephone: (808) 586-0921
Email: legacyland@hawaii.gov

ANNUAL REPORT

Subsection 173A-5(l), Hawai'i Revised Statutes ("HRS"), paragraph (2), requires that the Board of Land and Natural Resources ("BLNR") "[p]repare and submit an annual report to the governor and the legislature at least twenty days prior to the convening of each regular session [that] shall include:

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

In accordance with subsection 173A-5(l), HRS, paragraph (3), BLNR makes copies of the annual report available to the public via the Department of Land and Natural Resources ("DLNR") website (*available at:* dlnr.hawaii.gov/reports) and upon request.

In response to a recommendation from the State Office of the Auditor (Report No. 19-01, Recommendation 5), the financial report for the preceding fiscal year reports transactions that transferred funds to and from the DLNR trust account (please see page 18).

(A) and (B) INTERESTS OR RIGHTS IN LAND ACQUIRED DURING THE PRECEDING FISCAL YEAR AND RESOURCE VALUE SUMMARY

During Fiscal Year 2020 ("FY20"), the Land Conservation Fund contributed $6,889,750 from previous fiscal years to acquire interests and rights in land for six properties, and $1,500,000 from FY20 funds to pay for debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State (Turtle Bay reimbursable general obligation bonds). The map on page 2 of this report shows the location of each property conserved, with summaries presented in chronological order on the following pages, from most recent grant to oldest grant.

Legacy Land Conservation Commission for Fiscal Year 2020

Far L: Jacob Tavares (*Maui*)

Back Row, L>R: Charmiane "Kaui" Lucas (*O'ahu*), William "Butch" Haase (*Molokai*), Wendy Wiltse (*O'ahu*), Kanoe Wilson (*Hawai'i*), Frederick "Rick" Warshauer (*Hawai'i*), Angela "Hi'ilei" Kawelo (*O'ahu*)

Front Row, L>R: John Sinton (*O'ahu*), Beryl Blaich (*Kaua'i*), David Penn (staff)

Mokae to Maka'alae Lands, Hāna District, Maui (LLCP 19-03)

Awardee:	Ke Ao Hāli'i (Save the Hāna Coast) https://savehanacoast.org/hana-lands/mokae	
Acreage:	**27**	(fee simple + conservation easement)
Tax Map Key Number:	(2) 1-4-010:004	
FY19 Funding awarded:	$ 2,225,625	(full funding)*
FY19 Funding expended:	**$ 2,118,000**	($ 107,625 unspent stays in LCF)
Matching funds expended:	**$ 706,060**	(County of Maui, in-kind contributions, Awardee)
Conservation Easement:	Hawaiian Islands Land Trust (Administrative Holder) County of Maui (Co-Holder)	

Additional Information: Report to the 2020 Legislative Session, page 11, *available at:*
http://files.hawaii.gov/dlnr/reports-to-the-legislature/2020/FW20-Legacy-Land-Report-FY19.pdf

NOTE: Full funding made possible by one-time spending ceiling increase from 2018 Legislature

Mokae is the area of Hana land
that was arguably under the greatest threat of development,
being located next to renowned Hamoa Beach . . .

Photo and quotes: Ke Ao Hāli'i

This land has great and deep significance, historically and culturally,
and is the resting place of many of our 'iwi kūpuna,
as well as an important gathering place for that which nourishes nā 'ohana.
Our goal is to provide the most opportunity for the Hāna community
to benefit from, enjoy and learn from these lands,
while protecting, restoring and enhancing the resources and values of the place.
Establishing trust and a mutual understanding between Ke Ao Hāli'i and the Hāna community
will afford everyone a chance to feel ownership and stewardship for Mokae.

MA'O Organic Farms Palikea Expansion, Wai'anae District, O'ahu (LLCP 18-01a)

Awardee:	Wai'anae Community Re-development Corporation (dba MA'O Organic Farms) https://www.maoorganicfarms.org	
Partner:	The Trust for Public Land	
Acreage:	**21.1**	(fee simple + conservation easement)
Tax Map Key Number:	(1) 8-7-010:006	
FY18 Funding awarded:	$ 750,000	(full funding)
FY18 Funding expended:	**$ 750,000**	
Matching funds expended:	**$ 688,493**	(Freeman Foundation, The Trust for Public Land, Hawaiian Islands Land Trust, in-kind contributions)
Conservation Easement:	Hawaiian Islands Land Trust	

Additional Information: Report to the 2019 Legislative Session, pages 5-6, *available at:* https://dlnr.hawaii.gov/wp-content/uploads/2018/12/FW19-Legacy-Land-Report-FY18.pdf

Conservation purpose:

See 173A-5(g), HRS:
(8) Agricultural production
(9) Open spaces and scenic resources

In 2019 we began the hana nui of incorporating the Palikea21 parcel into MA'O's farming operation. This 'āina was once a "truck farm" growing onions, watermelons and other crops, but had lain fallow for more than 30 years. Work last year included removing and chipping kiawe trees and haole koa scrub, using the chipped material as mulch, and installing the main irrigation line and first tributary field irrigation lines.

Installation of the irrigation system provided a great teaching opportunity for MA'O's Farm Apprentices and the summer Farm Expansion Experience (FE'E) interns, illustrating the integral role that youth are serving in the farm development. Evolution of the Apprenticeship and FE'E programs in 2019 reflects the growth of the 'auwai and our commitment to mentoring youth leaders, as well as a deepening of MA'O's agricultural vocational training programming.

The first crops planted were kalo huli, 'ulu and citrus along the field perimeters. The first field block yielded a harvest in October, and has been fully integrated into the farm's production rotation since. Preparation of the second field block began in December, in anticipation of planting in Spring 2020.

Photos and quotes: MA'O Organic Farms (see Growth and Impact Report 2019)

Amy B.H. Greenwell Ethnobotanical Garden, Kona District, Hawai'i Island (LLCP 18-01b)

Awardee:	Friends of Amy B.H. Greenwell Ethnobotanical Garden https://www.amygreenwell.garden	
Acreage:	**13.6**	(fee simple + conservation easements)
Tax Map Key Numbers:	(3) 8-2-013:002, :003, :014; (3) 8-2-014:043; (3) 8-2-015:059	
FY18 Funding awarded:	$ 750,000	(full funding)
FY18 Funding expended:	**$ 750,000**	
Matching funds expended:	**$ 940,908**	(U.S. Forest Service, Bishop Museum, Atherton Foundation, Cooke Foundation, in-kind contributions, Awardee, County of Hawai'i)
Conservation Easements:	County of Hawai'i (2)	

Additional Information: Report to the 2019 Legislative Session, pages 6-7, *available at:* https://dlnr.hawaii.gov/wp-content/uploads/2018/12/FW19-Legacy-Land-Report-FY18.pdf

Conservation purpose: Habitat protection, Cultural and historical sites, Recreational and public hunting areas, Parks, Natural areas, Agricultural production, Open spaces and scenic resources

With Bishop Museum as a partner, the Friends will open Greenwell Garden once more to resume its position as a valuable and unique educational and cultural resource and place of rare beauty for residents and visitors alike to enjoy.

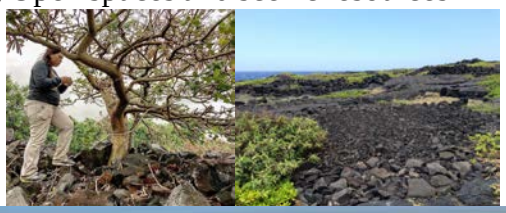
Waikapuna, Ka'ū District, Hawai'i Island (LLCP 17-01)

Awardee:	Ala Kahakai Trail Association http://www.alakahakaitrail.org	
Partner:	The Trust for Public Land https://www.tpl.org/our-work/waikapuna	
DLNR News Release:	https://dlnr.hawaii.gov/blog/2019/12/17/nr19-207	
Acreage:	**2,317.8**	(fee simple + conservation easement)
Tax Map Key Numbers:	(3) 9-5-007:016	
Total Funding awarded:	$ 2,000,000	(FY17+FY18, full award)
Total Funding expended:	**$ 2,000,000**	
Matching funds expended:	**$ 5,366,695**	(County of Hawai'i, Ka'u Mahi LLC, The Trust for Public Land, in-kind contributions, Awardee)
Conservation Easement:	County of Hawai'i	

Additional Information: Report to the 2018 Legislative Session, pages 8-10, *available at:* https://dlnr.hawaii.gov/wp-content/uploads/2017/10/FW18-Legacy-Land-Report-FY17.pdf

Conservation purpose:

See 173A-5(g), HRS:
(1) Watershed protection
(2) Coastal areas, beaches, and ocean access
(3) Habitat protection
(4) Cultural and historical sites
(5) Recreational and public hunting areas
(7) Natural areas
(8) Agricultural production
(9) Open spaces and scenic resources



This purchase conserves over 2.3 miles of the Ala Kahakai National Historic Trail or ala loa, the ancient fishing village of Waikapuna, and hundreds of intact pre-contact Native Hawaiian cultural sites. This land holds special meaning for Native Hawaiians as it is the place where noted Hawaiian scholar Mary Kawena Pukui spent her summers as a child, and where she learned the traditions and knowledge that formed the basis of her book, "The Polynesian Family System in Ka'ū." As the new steward of the land, ATA can preserve both our ancient history and the paniolo heritage of ranching in Ka'ū. We look forward to working closely with Ka'ū families to mālama this special 'āina and cultural legacy for future generations.
Keoni Fox, Board of Directors, Ala Kahakai Trail Association

Pua'ahala Watershed, Kona District, Molokai (LLCP 15-04)

Awardee:	State Department of Land and Natural Resources (DLNR) Division of Forestry and Wildlife	
DLNR News Release:	https://dlnr.hawaii.gov/blog/2020/01/28/nr20-013	
Acreage:	**800.8**	(fee simple)
Tax Map Key Numbers:	(2) 5-6-005:001, :012, :036; (2) 5-6-006:002; (2) 5-6-007:001, :002, :004, :068, :069, :070.	
FY15 Funding awarded:	$ 855,625	(full award)
FY15 Funding expended:	**$ 855,625**	
Matching funds expended:	**$ 2,625,780**	(U.S. Fish & Wildlife Service, DLNR)

Additional Information: Public records of final BLNR approval, *available at*:
https://dlnr.hawaii.gov/wp-content/uploads/2019/11/C-5.pdf
Report to the 2016 Legislative Session, pages 7-8, *available at:*
http://files.hawaii.gov/dlnr/reports-to-the-legislature/2016/FW16-Legacy-Land-Report-FY15.pdf

Conservation purpose: *See* 173A-5(g), HRS:

(1) Watershed protection
(2) Coastal areas, beaches, and ocean access
(3) Habitat protection
(4) Cultural and historical sites
(5) Recreational and public hunting areas
(7) Natural areas
(9) Open spaces and scenic resources

a lot of people on Moloka'i . . . are happy that the State has made this purchase because it will help protect and enhance the native, natural resources on which our community depends.
Ed Misaki, Molokai Program Director,
The Nature Conservancy

Management of the Pāku'i fence and portions of the Pua'ahala property will occur in coordination with the East Molokai Watershed Partnership, whose 2020 Management Action Plan and South Slope Management Plan calls for intensive watershed management to control ungulates, fire, and invasive species.
DLNR Resource Value Documentation

Pūpūkea Mauka (Waimea Native Forest), Waialua District, O'ahu (LLCP 15-06)

Awardee:	State Department of Land and Natural Resources (DLNR) Division of Forestry and Wildlife	
Partner:	The Trust for Public Land	
DLNR News Release:	https://dlnr.hawaii.gov/blog/2019/12/30/nr19-214/	
Acreage:	**3,716**	(fee simple)
Tax Map Key Number:	(1) 6-3-001:002	
FY15 Funding awarded:	$ 416,125	(full award)
FY15 Funding expended:	**$ 416,125**	
Matching funds expended:	**$ 3,352,857**	(U.S. Fish & Wildlife Service, National Fish & Wildlife Foundation, Kawailoa Wind, private donors, The Trust for Public Land, DLNR)

Additional Information: Public records of final BLNR approval *available at*:
https://dlnr.hawaii.gov/wp-content/uploads/2019/10/C-1-1.pdf
Report to the 2016 Legislative Session, pages 9-10, *available at:*
http://files.hawaii.gov/dlnr/reports-to-the-legislature/2016/FW16-Legacy-Land-Report-FY15.pdf

Conservation purpose:

See § 173A-5(g), HRS:

(1) Watershed protection
(2) Coastal areas, beaches, and ocean access
(3) Habitat protection
(4) Cultural and historical sites
(5) Recreational and public hunting areas
(6) Parks
(7) Natural areas
(8) Agricultural production
(9) Open spaces and scenic resources

The State's Legacy Land Program is an important and vital method of preserving some of Hawai'i's most treasured mountain lands and coastlines in perpetuity. The program, with tremendous support from the Hawai'i State Legislature, has helped fund 35 acquisitions since 2006, with a total Legacy Land contribution of $33.1 million. The Waimea Native Forest acquisition is the most acreage conserved in a single transaction involving the program's financial support.

Suzanne D. Case, Chairperson, State of Hawai'i Board of Land and Natural Resources

Waterfall at Kamananui Stream

Loulu (native fan palm, Genus *Pritchardia*)

Turtle Bay Makai – Kahuku Kawela Forever, Ko'olauloa District, O'ahu (LLCP 20-00)

Awardee:	State Department of Land and Natural Resources
Partners:	The Trust for Public Land, North Shore Community Land Trust, BRE-Turtle Bay Resort & successors, City & County of Honolulu
FY20 Funding expended:	**$ 1,500,000** for the annual payment of debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State

Conservation purpose: Protect natural resources and maintain public access per 2015 Hawai'i Session Laws Act 121, *available at*: https://www.capitol.hawaii.gov/slh/Years/SLH2015/SLH2015_Act121.pdf

Turtle Bay Makai is a highly significant and important property for residents and visitors on the North Shore of O'ahu. The interests acquired by the State includes 52+ acres of land (fee simple) at Kawela Bay—which the State leased back to the Turtle Bay resort operators for 65 years—and a perpetual conservation easement over 568+ acres, all fronted by about five miles of undeveloped shoreline. Treasured and beloved for its natural beauty, habitat for native species, recreational value, and rich cultural history, community members fought for decades to limit resort development in the area.

Kahuku Point - Image from North Shore Community Land Trust

DLNR's Division of Forestry and Wildlife ("DOFAW") holds the conservation easement, and monitors it in partnership with North Shore Community Land Trust. DLNR's Land Division has jurisdiction over the State fee simple land at Kawela Bay, where DOFAW assists with lease management. Funding for this landmark conservation transaction included a $35 million state bond issue and $2.5 million that The Trust for Public Land ("TPL") secured from the U.S. Army Compatible Use Buffer Program. In accordance with Chapter 173A-13, Hawai'i Revised Statutes, TPL—a nonprofit land conservation organization—submitted the required yearly debt service grant application for $1.5 million from the Land Conservation Fund.

Additional Information:
https://www.northshoreland.org/land-conservation/#Turtle-Bay-Ma-Kai
https://www.tpl.org/our-work/kahuku-kawela-forever

(C) PROPOSALS FOR FUTURE LAND ACQUISITIONS, INCLUDING A SUMMARY OF THE RESOURCE VALUE THAT THE LAND MAY POSSESS

For the Fiscal Year 2020 application cycle, the Legacy Land Conservation Program advertised the availability of approximately $3.2 million in grant funding from the Land Conservation Fund for the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations and state agencies applied for grant funding for eleven separate resource land acquisitions totaling over $16.5 million. After conducting field visits and public decision-making meetings, the Legacy Land Conservation Commission recommended full funding for two land acquisition grants (up to $3.5 million total, as funds are available), and recommended eight additional land acquisition grants as back-ups/contingencies for the available grant funding, in the order ranked, as presented below (news release *available at:* https://dlnr.hawaii.gov/blog/2019/10/09/nr19-172):

Full Funding

1. Ala Kahakai Trail Association, Kaunāmano, Ka'ū, Hawai'i

Partial Funding, with back-up/contingency for full funding

2. Molokai Land Trust, Mapulehu: Valley to Summit, Kona, Molokai

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Back-up/contingency for full funding

3. Ke Ao Hāli'i (Save the Hāna Coast), Maka'alae Lands, Hāna, Maui
4. Ala Kahakai Trail Association, Manāka'a Fishing Village, Ka'ū, Hawai'i
5. Waipā Foundation, Halulu Fishpond Access, Halele'a, Kaua'i

7.T-HI Department of Land and Natural Resources, Hāloa 'Āina - Royal Hawaiian Sandalwood Conservation Easement, Kona, Hawai'i

7.T-MA Department of Land and Natural Resources, Nā Wai 'Ehā, Wailuku, Maui

8. Hawaiian Islands Land Trust, Waikalua Loko I'a Conservation Easement, Ko'olaupoko, O'ahu
9. Department of Land and Natural Resources, Keone'ō'io Bay Coastal Protection, Honua'ula, Maui
10. Mālama Kauai, Olohena 'Āina Center, Puna, Kaua'i
11. Department of Land and Natural Resources, Nānu'alele Anchialine Pond Reserve, Hāna, Maui (application withdrawn after rankings completed)

Representatives of the Department of Land and Natural Resources ("DLNR") then met with the Senate President and the House Speaker regarding the Commission's recommendations, in accordance with Chapter 173A, Hawai'i Revised Statutes ("HRS"). The legislators responded in writing, offering no objections or other comments about the recommendations presented. Next, the Board of Land and Natural Resources ("BLNR"), and lastly, Governor Ige, approved the Commission's recommendations, and DLNR encumbered funds for one grant for full funding (Kaunāmano, number 1 above) and one grant for partial funding (Mapulehu, number 2 above), based on the total funds available from the Fiscal Year 2020 budget allotment. The map on page 2 of this report shows the location of the property to be acquired for each of the two grants encumbered with FY20 operating funds. Public records of BLNR approval (Item C-3) are *available via:*
https://dlnr.hawaii.gov/meetings/blnr-meetings-2020/land-board-submittals-04-24-20;
https://dlnr.hawaii.gov/wp-content/uploads/2020/06/Minutes-200424.pdf; and
http://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-200424.m4a.

Kaunāmano, Ka'ū District, Hawai'i Island (LLCP 20-01)

Awardee:	**Ala Kahakai Trail Association**	
	http://www.alakahakaitrail.org	
Partner:	The Trust for Public Land	
Acreage:	**1,363**	(fee simple + conservation easement)
Tax Map Key Numbers:	(3) 9-5-011:001, :004, :005, :006; (3) 9-5-012:001	
FY20 Funding awarded:	**$ 2,400,000**	(full award)
Estimated Matching Funds:	**$ 3,701,000**	(County of Hawai'i, The Trust for Public Land, Awardee, Seller)
Conservation Easement:	County of Hawai'i (Willing/Intended Holder)	

Kaunāmano is an undeveloped coastal property [five parcels] east of Nā'ālehu and south of Honu'apo. From the shore, it stretches almost two miles inland to the 600 foot elevation. In ancient times, the land supported a thriving community with vast resources including fertile soil, prime fishing grounds and underground freshwater springs. The land contains a high concentration of cultural sites including two large settlement areas at Pā'ula and Pauku, numerous heiau, habitation caves, a rock paved anchialine pool, a lua training area associated with the nearby makahiki grounds, and almost three miles of the ala kahakai trail. Since the plantation era, the land has been used for cattle grazing.

Four miles of coastline provides excellent habitat for native coastal plants and nesting seabirds. The anchialine pond within Puhi'ula teems with 'ōpae 'ula. Kaunāmano's marine ecosystem is home to humpback whales, dolphins, endangered monk seals and Hawksbill turtles, threatened green sea turtles, an abundance of native fish, limu and shellfish. Makai areas are used for cultural access, hiking, and subsistence fishing and gathering. The entire property is leased to Kuahiwi Ranch for cattle grazing.

Land Acquisition Priorities (Section 173A-2.6, HRS)
as self-identified in approved application:

(1)(A)	exceptional value:	Unique aesthetic resources
(1)(B)	exceptional value:	Unique and valuable cultural or archaeological resources
(1)(C)	exceptional value:	Habitats for threatened or endangered species of flora, fauna, or aquatic resources
(2)	imminent danger:	of development
(3)	imminent danger:	of being modified, changed, or used in a manner to diminish its value
(4)	critical habitats for threatened or endangered species that are in imminent danger of harm or negative impact	
(5)	danger:	theft or destruction of cultural or archaeological sites or resources
(6)	unique and productive:	agricultural lands

Additional Information: https://www.tpl.org/our-work/kaunamano

Mapulehu: Valley to Summit, Kona District, Molokai (LLCP 20-02)

Awardee:	**Molokai Land Trust**	
	https://molokailandtrust.org	
Partner:	The Trust for Public Land	
Acreage:	**1,816**	(fee simple + conservation easement)
Tax Map Key Numbers:	(2) 5-7-005:002, :027	

FY20 Funding requested:	$ 1,100,000	
FY20 Funding awarded:	**$ 900,000**	(partial award)
Estimated Matching Funds:	**$ 2,600,000**	(U.S. Fish & Wildlife Service and County of Maui)

Conservation Easement: Willing/Intended Holders:
Hawaiian Islands Land Trust (Administrative Holder)
County of Maui (Co-Holder)

Mapulehu is located at East Moloka'i, east of Kalua'aha and west of 'Ohi'a branch of the Moloka'i Forest Reserve [two parcels]. The makai border of the property begins a few hundred yards from the ocean, and extends to the summit of East Moloka'i. The lower property contains the platform of 'Ili'iliopae, a training area for Kahuna and a sacrificial heiau. The lower property also can support kalo cultivation, as was likely in the past in lo'i along Mapulehu Stream and its tributaries.

The upper property is largely watershed forest area, which was likely more robust before western contact, the introduction of cattle and other invasive species, and climate changes that reduced precipitation on East Moloka'i. Historical human activity on the upper property likely included agricultural use at lower elevations; hunting; and gathering of materials for daily use and cultural use. After western contact, the population of Moloka'i decreased considerably, and with the spread of Christianity, 'Ili'ili'opae fell into disuse. The property was thereafter used for ranching, a dairy, and orchard land, as well as for dwellings.

Land Acquisition Priorities (Section 173A-2.6, HRS)
as self-identified in approved application:

(1)(A)	exceptional value:	Unique aesthetic resources
(1)(B)	exceptional value:	Unique and valuable cultural or archaeological resources
(1)(C)	exceptional value:	Habitats for threatened or endangered species of flora, fauna, or aquatic resources
(2)	imminent danger:	of development
(3)	imminent danger:	of being modified, changed, or used in a manner to diminish its value
(4)	critical habitats for threatened or endangered species that are in imminent danger of harm or negative impact	
(5)	danger:	theft or destruction of cultural or archaeological sites or resources
(6)	unique and productive:	agricultural lands

GRANT ADMINISTRATION – LAND ACQUISITION

The Department of Land and Natural Resources ("DLNR"), Division of Forestry and Wildlife—with assistance from DLNR-Land Division, DLNR-Administrative Services Office, and the Department of the Attorney General—administers approved grant awards in accordance with numerous legal requirements and program procedures. At the close of Fiscal Year 2020, eleven funded grant awards remained open, including:

- three awards for state agency land acquisitions (all fee simple)
- one award for county land acquisition (fee simple)
- seven awards for nonprofit land acquisition (six fee simple, one conservation easement).

DLNR anticipates that awardees may be able complete as many as five of these open grants during the next fiscal year, covering one state land acquisition, one county land acquisition, and three nonprofit land acquisitions. A land acquisition grant to a State agency remains open until the agency grantee completes or discontinues the conservation transaction. In order to complete a State agency transaction, the agency grantee works with DLNR-Land Division staff to perform buyer's due diligence according to "Standard BLNR Acquisition Procedures," subject to final approvals from the Department of the Attorney General and the Board of Land and Natural Resources ("BLNR"). DLNR administers a grant to a county or a nonprofit land conservation organization through a contractual grant agreement that has an initial two-year performance period, which DLNR may choose to extend for additional one-year periods. In order to complete a county/nonprofit land acquisition, the grantee works with DLNR-Division of Forestry and Wildlife staff to perform buyer's due diligence according to the "Checklist for Legacy Land Conservation Program (LLCP) Projects" (which is part of the grantee's contract with the State), subject to final approvals from the BLNR Chairperson, the Department of the Attorney General, and the DLNR-Division of Forestry and Wildlife Administrator.

For land acquisition grants, Chapter 173A, Hawai'i Revised Statutes ("HRS"), establishes requirements for:

- a conservation easement, agricultural easement, deed restriction, or covenant that shall run with the land and be recorded with the land to ensure the long-term protection of land having value as a resource to the State and preserve the interests of the State (Section 173A-4);
- a county or a nonprofit grantee to provide matching funds of at least twenty-five per cent of the total project costs (Section 173A-5);
- BLNR approval of a sale, lease, or other disposition of the acquired property (Section 173A-9); and
- sharing the proceeds of a sale, lease, or other disposition of the acquired property with the State (Section 173A-10).

In addition, Chapter 13-140, Hawai'i Administrative Rules, authorizes DLNR to monitor the status of resource values protected under the terms of a grant agreement by requiring a grantee to submit documentation thereof, and by conducting site visits for the purpose of inspecting the condition of the property and resources (Sections 140-32 and 140-33, respectively). Sections 140-55 and 140-56 provide remedies for a breach of a grant agreement or a deed restriction, respectively, and Section 140-57 sets forth BLNR's enforcement authority (*see also* Section 173-11, HRS, General Powers).

DISCONTINUED GRANTS

None during Fiscal Year 2020.

ANNUAL REVIEW OF ACQUISITIONS PENDING FOR OVER FIVE YEARS

In response to a recommendation from the State Office of the Auditor (Report No. 19-01), the Legacy Land Conservation Program continued to implement an annual procedure to submit grants initiated more than five years ago for review and possible action by the Board of Land and Natural Resources ("BLNR"). On January 10, 2020, under agenda item C-1, BLNR reviewed three grants and deferred action on each (BLNR records *available at:* https://dlnr.hawaii.gov/wp-content/uploads/2020/01/C-1.pdf):

(a) LLCP 13-02, DLNR Division of State Parks, Ulupō Heiau Buffer, Ko'olaupoko, O'ahu
(b) LLCP 14-02, Ho'āla 'Āina Kūpono, Hakipu'u Lo'i Kalo, Ko'olaupoko, O'ahu
(c) LLCP 14-03, Kōkua Kalihi Valley, Ho'oulu Ola, Kalihi, O'ahu

More Information: https://dlnr.hawaii.gov/dsp/parks/oahu/ulupo-heiau-state-historic-site
https://www.tpl.org/our-work/hakipuu-loi-kalo-wetland-taro-farm
https://www.hoouluaina.com

(D) FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR

For Fiscal Years 2016-2020, of the real property conveyance taxes that the State collects each fiscal year, ten percent or $6,800,000, whichever is less, was credited to the Land Conservation Fund. *See* subsection 247-7(1), Hawai'i Revised Statutes ("HRS").[1] For Fiscal Year 2020 ("FY20"), collections of State conveyance tax revenue totaled approximately $61,109,858, with $6,394,057 credited to the Land Conservation Fund.[2] Additional revenue

[1] The 2015 Legislature established maximum amounts for distributing conveyance tax revenue among certain non-general funds—including the $6.8 million cap for the Land Conservation Fund ("LCF")—with the intent to (1) make forecasts of general funds more reliable, (2) increase legislative oversight of the agencies and programs supported by the non-general funds, and (3) subject such an agency or program to competition for limited public funds if the agency or program wants more than the amount automatically distributed to its non-general funds (*see* 2015 Hawai'i Session Laws Act 84, Section 1 at 219 and Section 3 at 220). Ten percent of total conveyance tax revenue exceeded $6.8 million in fiscal years 2017-2019. *See* Department of Taxation Annual Report, 2018-2019 (Chart 1.16, page 31), *available at:* files.hawaii.gov/tax/stats/stats/annual/19annrpt.pdf. For fiscal years 2007-2015, the LCF received a straight ten percent of total conveyance tax revenue, uncapped. *See* Department of Taxation Annual Report, 2014-2015 (Chart 1.16, page 24), *available at:* https://files.hawaii.gov/tax/stats/stats/annual/15annrpt.pdf.

[2] Although ten percent of total reported conveyance tax revenue was just over $6.11 million in fiscal year 2020 (*see* Department of Taxation, State Tax Collections and Distribution Report, June 2020, *available at: http://files.hawaii.gov/tax/stats/monthly/202006collec.pdf*), an inquiry with Department of Taxation staff indicated that the discrepancy between this amount ($6.11 million) and the $6.39 million credited to the Land Conservation Fund appears to be related to refunds of conveyance tax revenues initially credited to the General Fund (Seth Colby, personal communication, September 24, 2020).

from State investment pool returns ($562,882) and revenue sharing ($7,107, pursuant to Section 173A-10, HRS) raised total revenue in FY20 to $6,964,046 (see Table 1 below).

Table 1. Estimated Status of the Land Conservation Fund for FY20

A. Beginning cash balance	**$**	**31,918,378**
(FY14+FY15+FY17+FY18+FY19)		
FY20 Revenue from:		
conveyance tax	$	6,394,057
interest (State investment pool)		562,882
unspent funds transferred from DLNR trust account (see Table 3 below)	$	0
revenue sharing for disposition of private land (solar farm license)	$	5,959
revenue sharing for disposition of public land (holdover pasture license)	$	1,148
B. Total FY20 revenue	**$**	**6,964,046**
C. Total Expenditures (includes $5,618,000 to close grants from prior years)	($	7,361,082)
D. Outstanding encumbrances from prior years	($	3,360,250)
E. FY20 outstanding encumbrances	($	3,317,087)
F. Ending cash balance (A+B+C)	**$**	**31,521,432**
G. Unencumbered cash balance (F+D+E)		***24,844,005***

Expenditures and encumbrances for the FY20 Legacy Land Conservation Program totaled $5,043,082, which did not exceed the authorized allotment of $5,124,348.[3] DLNR encumbered or expended $4,800,000 as grant awards for the acquisition of interest or rights in lands having value as resource to the State, including debt service obligations (see Table 2 below).

Table 2. Land Conservation Fund Expenditures and Encumbrances for FY20

FY20 Grant awards		
Total grant expenditures and encumbrances	$	4,800,000
FY20 Personnel costs		
Salaries, benefits, assessments	$	207,122
FY20 Administrative expenses[4]		
Commission and staff training and travel	$	12,956
Services, fees, and supplies	$	23,004
Total FY20 funds expended/encumbered	**$**	**5,043,082**

[3] During the fourth quarter of FY20, the Department requested to utilize $50,000 in vacancy savings to help fund a $60,000 service contract with the University of Hawai'i (professional research support for completing a Resource Land Acquisition Plan). Because the Department of Budget and Finance denied this request, $60,000 of unspent FY20 funds lapsed into the unencumbered cash balance of the Land Conservation Fund, delaying the start date for the service contract, which now draws from FY21 operating funds, entirely.

[4] As a result of Department efforts to implement recommendation 4 (return of administrative fees) from the 2019 legislative audit report, the Director of Finance—in a memo to the Chairperson dated July 26, 2019—noted that "Pursuant to Comptroller's Memorandum No. 97-26, entitled "Accounting for Revenue Refunds and Expenditure Reimbursements," expenditure for prior-year reimbursements may be reduced against current expenditures" and "approved the utilization of $698,652 for CSA [Central Services Assessment] for the LCF [Land Conservation Fund] to be applied towards administrative expense assessment, as necessary, until that account is depleted." Pursuant to this approval, the Department applied $136,682 towards FY20 administrative expense assessment.

Under subsection 173A-5(h), HRS, paragraph (3), annual administration costs for the Land Conservation Fund may not exceed five per cent of annual conveyance tax revenues from the previous year (in this case, a $319,703 cap for FY20 administration costs). DLNR expended and encumbered $243,082 for FY20 personnel costs and administrative expenses. In addition to personnel costs (2.0 FTE, with vacancy savings from a mid-year resignation), the FY20 administrative budget funded staff training at the 2019 National Land Conservation Conference (Deputy Attorney General and Program Specialist) and the Native Hawaiian Law Training Course (Program Specialist and research associate); travel and operating costs for six meetings of the Legacy Land Conservation Commission and for eleven field visits by Commission permitted interaction groups; program research/support services; subscription fees for the online grant application portal; and operating supplies.

Table 3. FY20 transactions that transferred funds to and from the Department of Land and Natural Resources trust account (T-907)

DATE YYYYMMDD	$ FROM T-907	TO	NOTES
20191231	835,625	Title Guaranty (Escrow)	**LLCP 15-04, Pua'ahala Watershed** (purchase land)
20190927	12,500	Medusky & Co.	(appraisal report)
20191113	7,500	ACM Consultants	(appraisal review)
20191218	416,125	Title Guaranty (Escrow)	**LLCP 15-06, Pūpūkea Mauka** (purchase land)
20191211	417	Title Guaranty	**LLCP 19-01, Pia Valley Natural Area Reserve** (title report)
20200626	1,600	Kaimana Environmental	(Phase 1 Environmental Site Assessment)
TOTAL	**1,273,767**		

(E) OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR

Objectives

The highest priority for the Fiscal Year 2021 ("FY21") budget was to raise the FY21 spending ceiling for the Legacy Land Conservation Program. The Governor's Executive Budget Request included supplements of $4.9 million to accommodate additional grant awards recommended by the Legacy Land Conservation Commission and $200,000 for professional planning services to complete a Resource Land Acquisition Plan. However, the 2020 Legislature did not raise the spending ceiling above its historic base level, resulting in a FY21 appropriation of $5,124,348.

Pia Valley Natural Area Reserve (LLCP 19-01)

Kapanaia (LLCP 19-02)

Completion expected in FY21

As constrained within the existing budget, key objectives for implementing the Legacy Land Conservation Program in FY21 are:

(1) complete one to two prior-year grants for State agency land acquisitions;

(2) complete one to four prior-year grants for county and nonprofit land acquisitions;

(3) coordinate the award, encumbrance, and expenditure of FY21 grant funds towards the acquisition of lands having value as a resource to the State;

(4) complete the grant application cycle for FY22 awards, culminating in recommendations from the Legacy Land Conservation Commission;

(5) initiate the grant application cycle for FY23 awards;

(6) implement selected recommendations from the recent audit of the Land Conservation Fund (State of Hawai'i Office of the Auditor, Report No. 19-01); and

(7) continually improve program operations by tightening coordination among DLNR staff in different divisions, and by training additional staff as back-up for program operations.

Budget Projections

The most recent estimates from the State Council on Revenues (September 9, 2020) suggest that the total amount of conveyance tax revenue collected for Fiscal Year 2021 ("FY21") will be 4.4% greater than in Fiscal Year 2020 ("FY20"), reaching nearly $63.8 million, and increasing to over $72.3 million by Fiscal Year 2027 (18.3% greater than in FY20, but 34.6% less than in FY19). *See* Estimates of General Fund Revenue, *available at:* https://files.hawaii.gov/tax/useful/cor/2020gf09-09_attach_1.pdf, and Department of Taxation, State Tax Collections and Distribution Report, June 2020, *available at:* http://files.hawaii.gov/tax/stats/monthly/202006collec.pdf. However, the Council on Revenues acknowledged the great amount of uncertainty surrounding the forecast figures for FY 2021. *See* General Fund Forecast, *available at:* https://files.hawaii.gov/tax/useful/cor/2020gf09-09_with0909_Rpt2Gov.pdf.

The 2020 Legislature, in Act 6, revised the formula for annual disposition of conveyance taxes—provided in Section 247-7, Hawai'i Revised Statutes—by reducing the maximum amount paid into the Land Conservation Fund ("Fund") from $6.8 million to $5.1 million. *See* Senate Bill No. 126 CD1, Part II, Section 2 at page 62, line 3 ("SECTION 5"). Therefore, the Department of Land and Natural Resources ("DLNR") anticipates that $5.1 million of annual conveyance tax revenue will flow into the Fund for the next six years; interest on the Fund's cash balance will continue to accumulate in accordance with State investment fund returns; and the Fund will continue to receive quarterly deposits under an existing revenue-sharing agreement that arose from a disposition of interests in property acquired with a grant from the Fund (licensing for solar energy production, nineteen years remaining, ten year extension possible). Less predictably, unspent grant funds for land acquisition by a State agency return to the Fund and are reported, for accounting purposes, as additional revenue. Funding for active State agency grants now totals $3,766,500. Similarly, unspent grant funds for a county or nonprofit land acquisition return to the Fund's unencumbered cash balance, available for re-appropriation.

Given the ongoing rise in property values and land acquisition costs, and the steady flow of applications for worthy uses of the Fund, DLNR recommends that the Legislature raise the spending ceiling of the Fund for future years in order to help this important and popular program maintain its purchasing power and meet public demand. DLNR's annual Legacy Land Conservation Program budget request for Fiscal Year 2022 and beyond will be based on (1) the required $1.5 million payment for Turtle Bay debt service; (2) estimated expenses for program administration; and (3) applications received and recommendations issued by the Legacy Land Conservation Commission to award grant funding for the acquisition of specific resource value lands, The Commission reviews, inspects, and ranks grant applications in a rigorous, transparent process that includes agency consultation (DLNR, State Department of Agriculture, and Agribusiness Development Corporation) and public participation.

SUMMARY

During Fiscal Year 2020 ("FY20"), the Legacy Land Conservation Program:

- enabled the Land Conservation Fund to contribute $6,889,750 from previous fiscal years to complete six grant funded land acquisitions, valued at $20,570,343 (total project costs) and conserving 6,896 acres (total area);
- encumbered $3,300,000 in FY20 funds for two newly-approved grants for future land acquisitions valued at $9,801,000 (estimated total project costs) that will conserve 3,179 acres (total area);
- expended $1,500,000 from FY20 funds to pay for debt service on one state financial instrument relating to the acquisition of interests or rights in land having value as a resource to the State (Turtle Bay, O'ahu); and
- continued to administer existing grant awards, contracts, and state financial accounts that would provide $13,426,750 from previous fiscal years for thirteen pending land acquisitions (eleven grants and two capital improvement projects) valued at $31,165,417 (estimated total project costs) and conserving 12,934 additional acres (total area).

In Hawai'i and nationally, we live in divisive and distrustful times,
where belief in policymakers and each other seems to decline daily. But there is hope.
Reflect on our collective efforts to mālama 'āina across Hawai'i for the last 15 years
through the State Legacy Land Conservation Program . . .

At a recent closing of a Legacy Land property, one community member announced,
"Thank goodness there's still something having to do with land in Hawai'i that everyone can agree on!"

Butch Haase, Earlynne Maile, and Mary Charles. Legacy Lands Program marks 15 years of protecting nature. Island Voices (Honolulu Star-Advertiser Editorial), February 13, 2020. *Available at:* https://www.staradvertiser.com/2020/02/13/editorial/island-voices/column-legacy-lands-program-marks-15-years-of-protecting-nature.