

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the matter of the Petition of	)	DOCKET NO. BR93-691
	)	
OFFICE OF STATE PLANNING,	)	HEARING OFFICER' S
STATE OF HAWAII	)	PROPOSED FINDINGS OF
	)	FACT, CONCLUSIONS OF
To Amend the Agricultural Land	)	LAW, AND DECISION AND
Use District Boundary into the	)	ORDER
Conservation Land Use District	)	
for Approximately 969 Acres at	)	
Kaena Coastline, Kaena Ahupuaa,	)	
Waiialua, Island of Oahu, State	)	
of Hawaii, Tax Map Key Numbers:	)	
6-9-01: 2, por. 4; 6-9-03: por. 2,	)	
por. 3; 6-9-04: 1, 2, 6, 7, 12,	)	
13, 14, 15, 16, 17, por. 19;	)	
6-9-05: 1, 2, 3, 4, 5, 6, and	)	
por. 7	)	
	)	

HEARING OFFICER'S PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND DECISION AND ORDER

The Office of State Planning, State of Hawaii ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on October 7, 1993, and a First Amended Petition on January 18, 1994, pursuant to sections 205-4 and 205-18, Hawaii Revised Statutes ("HRS"), and chapter 15-15, Hawaii Administrative Rules ("HAR"), to amend the State land use district boundary by reclassifying approximately 969 acres of land in the Agricultural District situated at Kaena, Waiialua, Island of Oahu, State of Hawaii, identified as Tax Map Key Numbers of the First Division: 6-9-1: 2, por. 4, 6-9-3: por. 2, por. 3, 6-9-4: 1, 2, 6, 7, 12, 13, 14, 15, 16, 17, por. 19, 6-9-5: 1, 2, 3, 4, 5, 6, and por. 7 ("Property" ), into the Conservation District.

The duly-appointed Hearing Officer of the Land Use Commission, State of Hawaii, having heard and examined the

testimony, evidence and argument of counsel presented during the hearings: Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order, hereby makes the following proposed findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On October 7, 1993, Petitioner filed a Petition for Land Use District Boundary Amendment ("Petition").

2. On January 18, 1994, Petitioner filed a First Amended Petition.

3. On January 18, 1994, Petitioner filed a Motion to Waive Requirement for Metes and Bounds Description ("Motion").

4. No petitions for intervention were received by the Commission.

5. On February 3, 1994, a prehearing conference on the Petition was held at Honolulu, Hawaii, with the Hearing Officer and all parties in attendance. At the Prehearing conference, the parties exchanged available exhibits, exhibit lists, and witness lists.

6. On March 10, 1994, a hearing was held before [a] the duly-appointed Hearing Officer, Benjamin M. Matsubara, Esq. ("Hearing Officer") pursuant to a public notice published in the Honolulu Star-Bulletin on January 14, 1994.

7. No individuals testified as public witnesses.

8. On March 10, 1994, the Hearing Officer heard testimony from the parties on Petitioner's Motion. The Hearing

Officer granted Petitioner's Motion. (LUC Finding, T. 3/10/94, p. 9, ln 5 - p. 14, ln 10.)

9. On April 5, 1994, an Order Granting Petitioner's Motion to Waive Requirement for Metes and Bounds Description was issued. (LUC Finding)

#### DESCRIPTION OF THE PROPERTY

##### General Characteristics

10. The Property consists of approximately 969 acres along the Kaena Coastline. The Property is generally bounded by the shoreline to the north, Keekee Gulch to the east, the 800-foot contour to the south, and Puu Pueo to the west. (T. 3/10/94. P.36. L.11-16.; Petitioner's Exhibit B. P.4.; Petitioner's Exhibit 1. P.5.; Petitioner's Exhibit 3; Petitioner's Exhibit 4; Petitioner's Exhibit 6; Petitioner's Exhibit 9. P.2.)

11. The Property is entirely State-owned. (T. 3/10/94. P.36. L.24-25.; P.37. L.20-25.; P.38. L.1-2.; P.39. L.24-25.; P.40. L.1.; Petitioner's Exhibit B. P.4.; Petitioner's Exhibit 1. P.5.; Petitioner's Exhibit 2; Petitioner's Exhibit 5A; Petitioner's Exhibit 5B; Petitioner's Exhibit 5C; Petitioner's Exhibit 5D; Petitioner's Exhibit 9. P.2.)

12. The Property is contiguous to the existing Conservation District on its west side and on portions of its east and north sides. The remainder of the Property is contiguous to the Agricultural District. (T. 3/10/94. P.36. L.11-24.; Petitioner's Exhibit B. P.4.; Petitioner's Exhibit 1. P.3 through 5.; Petitioner's Exhibit 6; Petitioner's Exhibit 9. P.2.)

13. The Property generally extends from the shoreline up to the 800-foot contour. The general slope in the western portion of the Property is approximately 50 percent, as compared to a general slope of approximately 33 percent in the eastern portion. Slope variation is most pronounced between the coastal and upland regions. The coastal areas have slopes of between 10 and 20 percent. From a distance of approximately 1000 feet from the shoreline in the western portion, slopes increase to approximately 85 percent. In the eastern portion, slopes increase to 50 percent beginning at a distance of approximately 2000 feet from the shoreline. (T. 3/10/94. P.36. L.11-14.; P.41. L.1-6.; Petitioner's Exhibit 1. P.13.; Petitioner's Exhibit 9. P.2.)

14. The median annual rainfall in the Property is between 800 millimeters and 1000 millimeters. The wettest month of the year is January with a median rainfall amount between 100 millimeters and 125 millimeters. June through September are the driest months with the Property typically receiving no more than 25 millimeters of precipitation per month. (Petitioner's Exhibit 1. P.12.; Petitioner's Exhibit 9. P.3.)

15. The annual mean temperature in the Petition Area is approximately 75 degrees Fahrenheit. Temperatures range between a low of 50 degrees Fahrenheit and a high of 96 degrees Fahrenheit. The wind pattern in the Petition Area is dominated by tradewinds which can approach 50 [mph] miles per hour. The trades are especially prevalent during the summer months. From October through April, storm-generated Kona winds become more common.

(Petitioner's Exhibit 1. P.12 through 13.; Petitioner's Exhibit 9. P.3.)

16. The United States Department of Agriculture Soil Conservation Service's Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii classifies the soils within the Property as follows:

- a. Stony steep land (rSY)
- b. Waialua stony silty clay, 3 to 8 percent slopes (WIB)
- c. Rock outcrop (rRO)
- d. Mahana-Badland complex (MBL )
- e. Pulehu clay loam, 0 to 3 percent slopes (PsA)
- f. Beaches (BS)
- g. Mokuleia clay loam (Mt)
- h. Coral outcrop (CR)
- i. Lualualei clay, 0 to 2 percent slopes (LuA)
- j. Rock land (rRK)
- k. Lualualei extremely stony clay, 3 to 35 percent slopes (LPE)

(Petitioner's Exhibit 1. P.14 through 19.; Petitioner's Exhibit 7; Petitioner's Exhibit 9. P.3 through 6.)

17. The University of Hawaii Land Study Bureau's (LSB) Detailed Land Classification - Island of Oahu (1972) has given the Property agricultural productivity ratings of "D" and "E". The ratings range from a high productivity rating of "A" to the lowest productivity rating of "E." Almost all of the Petition Area is rated as "E" lands. The only "D" rated lands are in a band west of Camp Kaena and in a pocket near Camp Erdman. (Petitioner's Exhibit 1. P.19 through 20.; Petitioner's Exhibit 9. P.7.)

18. The State Agricultural Lands of Importance to the State of Hawaii (ALISH) system classifies lands as either "Prime, "Unique," or "Other Important Agricultural Land." ALISH classifies

the lands near the coast as "Other Important Agricultural Land." The remainder of the Petition Area is unclassified. (Petitioner's Exhibit B. P.6.; Petitioner's Exhibit 1. P.20.; Petitioner's Exhibit 8.; Petitioner's Exhibit 9. P.7.)

19. The Flood Insurance Rate Map classifies the Property as Zone D, which are areas where flood hazards are undetermined. (Petitioner's Exhibit B. P.6.; Petitioner's Exhibit 1. P.22.; Petitioner's Exhibit 9. P.7.)

#### Existing Uses

20. The Property is presently used for a variety of recreational activities, including hiking, fishing, camping, and hunting. The Property is primarily in a natural state. Existing uses would be allowed to continue in the Conservation District pursuant to section 183-41(b), HRS, and Title 13, chapter 2, HAR. (T. 3/10/94. P.40. L.24-25.; P.42. L.13-17.; Petitioner's Exhibit B. P.6.; Petitioner's Exhibit 1.; Petitioner's Exhibit 1. P.10.; Petitioner's Exhibit 9. P.7 through 8.)

21. The State Department of Transportation maintains Highway 930 which traverses the Property in an east-west direction. The Department of the Army holds State General Lease S-3845 pertaining to the Kaena Point Satellite Tracking Station. Lucky "S" Dairy holds State General Lease S-6685 for pasture uses on TMK 6-8-2:7 and 6-9-3:2. Hawaiian Electric Company and GTE Hawaiian Tel maintain easements through the Property for electrical and communication line purposes. Other than these uses, the Property

is vacant and remains in its natural state. (T. 3/10/94. P.38. L.8-11.; Petitioner's Exhibit 1. P.10.)

PROPOSAL FOR RECLASSIFICATION

22. The Petition is based on a recommendation made by Petitioner in the report entitled State Land Use District Boundary Review, Oahu ("Boundary Review Report") prepared as a part of the Five-Year Boundary Review conducted by Petitioner. The Boundary Review Report recommends that the Property be reclassified to the Conservation District for protection of rare and endangered plants and scenic and recreational resources. The proposed reclassification is a Priority 1 recommendation. (T. 3/10/94. P.39. L.17-20.; Petitioner's Exhibit 1. P.1.; Petitioner's Exhibit 9. P.8.)

23. The purpose of the Five-Year Boundary Review was to conduct a comprehensive, statewide evaluation of State Land Use Districts. Based on this evaluation, certain areas currently outside of the Conservation District but containing conservation resources as defined in section 205-2(e), HRS, have been recommended for reclassification to the Conservation District. (Petitioner's Exhibit 9. P.8.)

24. The Petition involves the reclassification of State-owned lands and privately owned lands abutting the Property are not affected by the Petition. (LUC Finding)

25. No new uses are being proposed for the Property. (Petitioner's Exhibit B. P. 7 .; Petitioner's Exhibit 1. P. 32 .; Petitioner's Exhibit 9. P. 8.)

26. Existing uses of the Property will be allowed to continue as non-conforming uses pursuant to section 183-41(b), HRS, and Title 13, chapter 2, HAR. (T. 3/10/94. P.42. L.13-17.; Petitioner's Exhibit 9. P.7 through 8., P.11., P.14.)

PETITIONER'S FINANCIAL CAPABILITY  
TO UNDERTAKE THE PROPOSED DEVELOPMENT

27. Pursuant to section 15-15-50(c)(8), HAR, Petitioner is a State agency and is not required to demonstrate financial capability. Moreover, no development of the Property is being proposed. (Petitioner's Exhibit B. P.7., P.8.; Petitioner's Exhibit 9. P.8.)

STATE AND COUNTY PLANS AND PROGRAMS

28. The Property is located within the State Land Use Agricultural District as shown on the Commission's Official Map, O-1 (Kaena). (T. 3/10/94. P.32. L.9-14.; P.35. L.10-11.; P.39. L.17-20.; Petitioner's Exhibit B. P.4.; Petitioner's Exhibit 1. P.1.; Petitioner's Exhibit 9. P.1.)

29. Petitioner published the Boundary Review Report in 1992. The reclassification of the Property to the Conservation District is supported by this report. (T. 3/10/94. P.39. L.17-20.; Petitioner's Exhibit 1. P.1.; Petitioner's Exhibit 9. P.1., P.9.)

30. The Property differs from the area recommended for reclassification in the Boundary Review Report due to the exclusion of a privately-owned parcel in the northeastern portion of the Property. (LUC Finding)

31. The Property is designated as primarily Preservation in the City and County of Honolulu's North Shore



Development Plan Map. A small area near Camp Kaena is designated as Parks and Recreation and an area near Camp Erdman is designated as Public and Quasi-Public. (T. 3/10/94. P.41. L.17-21.; Petitioner's Exhibit B. P.9 through 10., P.41.; Petitioner's Exhibit 9. P.9.)

32. The City and County of Honolulu has zoned the Property P-2. (T. 3/10/94. P.49. L.3-6.; Petitioner's Exhibit B. P.9 through 10.; Petitioner's Exhibit 9. P.9.)

33. Portions of the Property closest to the shoreline fall within the Special Management Area designated by the City and County of Honolulu. The proposed reclassification is in general conformance with the objectives and policies of Special Management Areas set forth in section 205A-2, HRS. (Petitioner's Exhibit B. P.8.; Petitioner's Exhibit 1. P.39.; Petitioner's Exhibit 9. P.9.)

#### NEED FOR THE PROPOSED RECLASSIFICATION

34. The proposed reclassification will provide increased protection for scenic and recreational resources and rare and endangered plants and animals. (T. 3/10/94. P.40. L. 2-9.; Petitioner's Exhibit B. P.7.; Petitioner's Exhibit 1. P.27.; Petitioner's Exhibit 9. P.9.)

35. As a scenic resource, the Property is unlike any other coastal region on Oahu. Its isolation from the island's population centers and the lack of an improved access road have preserved the scenic resources of the Property. (T. 3/10/94. P.40. L.10-11.; P.46. L.15-20.; P.47. L.1-2.; Petitioner's Exhibit 1. P.1 through 3.; Petitioner's Exhibit 9. P.9 through 10.)

## ECONOMIC IMPACTS

36. The visitor industry is the State's leading industry and relies on Hawaii's scenic beauty and natural resources. The proposed reclassification will help to preserve the wildland character of the Kaena coastline and in so doing protect the qualities that visitors to the area come to appreciate. (Petitioner's Exhibit 1. P.29.; Petitioner's Exhibit 9. P.10.)

37. No economic activities will be displaced as a result of the proposed reclassification. Because the Petition requests reclassification to the Conservation District, the reclassification will not result in an increase in employment opportunities or economic development. (T. 3/10/94. P.42. L.13-17.; Petitioner's Exhibit B. P.7.; Petitioner's Exhibit 1. P.29.; Petitioner's Exhibit 1. P.33.; Petitioner's Exhibit 9. P.10.)

## SOCIAL IMPACTS

38. The proposed reclassification will benefit society by preserving a unique semi-wildland environment. Visitors to the Kaena coastline can experience a physical and biological setting unlike any other on Oahu. (T. 3/10/94. P.41. L.7-9.; P.45. L.25; P.46. L.1-25.; P.47. L.1-2.; Petitioner's Exhibit 1. P.33.; Petitioner's Exhibit 9. P.11.)

## IMPACTS UPON RESOURCES OF THE AREA

### Agricultural Resources

39. With a Land Study Bureau rating of primarily "E," the soils of the Property are generally not suitable for

agricultural production. (Petitioner's Exhibit 1. P.27.; Petitioner's Exhibit 9. P.11.)

40. Existing pasture uses will be allowed to continue as non-conforming uses. (T. 3/10/94. P.42. L.13-17.; Petitioner's Exhibit 9. P.11.)

#### Flora and Fauna

41. The Petitioner reviewed The Nature Conservancy's Hawaii Heritage Program (HHP) database to determine the presence of rare or endangered plants and animals. The HHP database indicates that within the Property, there are six plant species listed as endangered by both the State and Federal governments. These are the oha (*Lobelia niihauensis*), nehe (*LiPochaeta lobata*), Kului (*Nototrichium humile*), naupaka (*Scaevola coriacea*), awiwi (*Centaurium sebaeoides*), and akoko (*Chamaesyce celastroides* var *kaenana*). (T. 3/10/94. P.40. L.18-23.; Petitioner's Exhibit 1. P.22 through 23.; Petitioner's Exhibit 9. P.11 through 12.)

42. The Petitioner indicates that some of the best examples of rare dry forest and shrubland are within the Property. (Petitioner's Exhibit 1. P.27.; Petitioner's Exhibit 9. P.12.)

43. The HHP database indicates that the Hawaiian monk seal and Hawaiian owl were spotted in the Property near the Camp Kaena and Camp Erdman areas. The Hawaiian monk seal is listed as endangered by both the State and Federal governments; the Hawaiian owl is listed as endangered by the State. (T. 3/10/94. P.45. L.25.; P.46. L.1-14.; Petitioner's Exhibit 1. P.24.; Petitioner's Exhibit 9. P.12.)

44. The Property's flora and fauna populations will benefit from being placed into the Conservation District. Many of the threats to their habitats, including grading, urban developments, and pollution, will be greatly diminished in the Conservation District. (Petitioner's Exhibit 1. P.27.; Petitioner's Exhibit 9. P.12.; Petitioner's Exhibit 10.)

Archaeological/Historical Resources

45. The State Historic Preservation Division has identified three sites in the Property. Site #3714 is the Kaena small shelter site (small c-shaped shelter) situated in the southeast corner of the Property. This site is significant because it has yielded, or is likely to yield, information important for research on prehistory or history and because it has an important traditional cultural value to an ethnic group of the State. Site #9535 is located in the northeast corner of the Property near Camp Erdman. The name of this site is Hauone Koa and it is in direct line with the now destroyed Ulehulu Heiau. This site is significant because it has an important traditional cultural value to an ethnic group of the State.

The third site is the Camp Erdman Burial, site #4051. This burial is exposed in a high bank cut by high surf. The significance of site #4051 is unknown. (Petitioner's Exhibit 1. P.24 through 25.; Petitioner's Exhibit 9. P.12 through 13.)

46. The proposed reclassification to the Conservation District would have a beneficial impact on these archaeological resources by more strictly regulating the types of uses allowed.

(Petitioner's Exhibit 1. P.25.; Petitioner's Exhibit 9. P.13.)

#### Ground Water Resources

47. The majority of the Property falls within the North Aquifer Sector, Mokuleia system. This aquifer system is high level (fresh water not in contact with seawater), unconfined (the water table is the upper surface of the saturated aquifer), and geologically classified as dike (aquifers in dike compartments).

In 1990 3.4 mgd of groundwater was withdrawn from the Mokuleia Aquifer System. This represents approximately 28 percent of sustainable yield. It is noted, however, that there is a need for further study in the North Sector to better estimate the amount of economically recoverable potable water available. (Petitioner's Exhibit 1. P.22.; Petitioner's Exhibit 9. P.13.)

48. The proposed reclassification will reduce the risk of groundwater contamination by restricting the types of uses allowed on the Property. (Petitioner's Exhibit 1. P.26.; Petitioner's Exhibit 9. P.13.)

#### Recreational Facilities

49. Hiking is one of the recreational resources available in the Property. (T. 3/10/94. P.40. L.24-25.; Petitioner's Exhibit B. P.6.; Petitioner's Exhibit 1. P.27.; Petitioner's Exhibit 9. P.14.)

50. Shorefishing is another common recreational activity. Fishermen and their families camp in the area. (T. 3/10/94. P.40. L.24-25.; Petitioner's Exhibit B. P.6.; Petitioner's Exhibit 1. P.28.; Petitioner's Exhibit 9. P.14.)

51. The only principal swimming areas in the vicinity of the Property are Camp Erdman and Keekee, both of which are also referred to as Mokuleia Beach. Camp Erdman is considered to be of high islandwide significance while Keekee is rated as having islandwide significance. (Petitioner's Exhibit 1. P.28.; Petitioner's Exhibit 9. P.14.)

52. Portions of the upper elevations of the Petition Area fall within the State's public hunting area at Kuaokala Forest Reserve. The hunting of feral pigs, feral goats, and game birds is allowed here on a seasonal basis. (T. 3/10/94. P.40. L.24-25.; Petitioner's Exhibit 1. P.28.; Petitioner's Exhibit 9. P.14.)

53. The proposed reclassification would protect these recreational resources from incompatible land uses. Existing uses would be allowed to continue in the Conservation District pursuant to section 183-41(b), HRS, and Title 13, chapter 2, HAR. (T. 3/10/94. P.42. L.13-17.; Petitioner's Exhibit 9. P.14.)

#### Scenic Resources

54. As described in the Boundary Review Report, the Property's scenic resources are one of the reasons it is being proposed for reclassification to the Conservation District. (Petitioner's Exhibit 1. P.1.; Petitioner's Exhibit 9. P.14.)

55. As a scenic resource, the Property is unlike any other coastal region on Oahu. Its isolation from the island's population centers and the lack of an improved access road have preserved the scenic resources in the Property. (T. 3/10/94. P.46.)

L.15-25.; P.47. L.1-2.; Petitioner's Exhibit 1. P.2.; Petitioner's Exhibit 9. P.14 through 15.)

56. With the Waianae Mountain range on the south and the rough shoreline on the north, visitors to the area can witness sharp changes in landforms, topography, and ecosystems. The deeply dissected uplands of the Waianae Mountain Range are visually striking. These sea cliffs were carved by waves approximately 300,000 years ago when the melted ice of Antarctica and Greenland caused the sea level to be 95 feet higher than today. (T. 3/10/94. P.40. L.11-17.; Petitioner's Exhibit 1. P.2.; Petitioner's Exhibit 9. P.15.)

#### Cultural Resources

57. One of the cultural resources in the Property is a large white rock thought by some to be the soul-catching leaping place. According to legend, this area is the site for souls of the dead to depart for other spiritual realms. (Petitioner's Exhibit 1. P.28 through 29.; Petitioner's Exhibit 9. P.15.)

58. The Kaena Point area was an ancient Hawaiian fishing camp. Large, black stones in a wall-like pile indicates there was a camp near the lighthouse. (Petitioner's Exhibit 1. P.29.; Petitioner's Exhibit 9. P.15.)

59. Three historical sites within the Property have been identified by the State Historic Preservation Division as noted in Finding No. 46. (Petitioner's Exhibit 1. P.24 through 25.; Petitioner's Exhibit 9. P.15.)

## ENVIRONMENTAL QUALITY

### Noise and Air

60. The Property is exposed to low noise levels. Noise in the vicinity of the Property is primarily attributable to surf and occasional aircraft. (Petitioner's Exhibit 1. P.26.; Petitioner's Exhibit 9. P.16.)

61. No air quality data are available for the Property. However, an air quality study done for a project near Dillingham Airfield indicates that air quality in the vicinity of the Property is good as prevailing tradewinds typically keep pollutants out of this coastal area. Man-made sources of air pollution include automobile exhaust and sugarcane growing and harvesting activities. Natural pollutants in the area include sea spray, plants, dust, and occasional vog from the island of Hawaii. (Petitioner's Exhibit 1. P.25 through 26.; Petitioner's Exhibit 9. P.16.)

### Water Quality

62. Reclassification of the Property to the Conservation District will have a positive effect on the Property's hydrological conditions because urban development, which often accelerates runoff and erosion, will be restricted. The risk of groundwater contamination from urban or agricultural uses is also greatly reduced for lands in the Conservation District. (Petitioner's Exhibit 1. P.26 through 27.; Petitioner's Exhibit 9. P.16.)

## ADEQUACY OF PUBLIC SERVICES AND FACILITIES

63. The Petition does not propose any new uses for the



Property. (Petitioner's Exhibit B. P.7.; Petitioner's Exhibit 9. P.16.)

64. The availability or adequacy of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, roads, and police and fire protection will not be affected by the Petition. (Petitioner's Exhibit 1. P.32.; Petitioner's Exhibit 9. P.16 through 17.)

#### COMMITMENT OF STATE FUNDS AND RESOURCES

65. No development of the Property is being proposed; therefore, no significant long term commitment of State funds or resources is involved. The availability or adequacy of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, roads, and police and fire protection will not be affected or unreasonably burdened by the proposed reclassification to the Conservation District. The public agency which would be impacted is the Department of Land and Natural Resources ("DLNR") since additional effort may be required to administer and enforce regulations in the newly added Conservation District lands. (Petitioner's Exhibit 1. P.32 through 33.; Petitioner's Exhibit 9. P.10 through 11.)

#### CONFORMANCE TO CONSERVATION DISTRICT STANDARDS

66. Portions of the Property are contiguous to the existing Conservation District. (T. 3/10/94. P.36. L.11-23.; Petitioner's Exhibit B. P.4.; Petitioner's Exhibit 1. P.3 through 5.; Petitioner's Exhibit 6.; Petitioner's Exhibit 9. P.2.)

67. Section 205-2(e), HRS, states that Conservation Districts shall include areas necessary for:

"...preserving scenic and historic areas; providing park lands, wilderness, and beach reserves; conserving indigenous or endemic plants, fish, and wildlife, including those which are threatened or endangered; preventing floods and soil erosion; open space areas whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities, or would maintain or enhance the conservation of natural or scenic resources; areas of value for recreational purposes..."

The Property is a very scenic coastal area and a popular recreational region. The Property is also habitat for the endangered Hawaiian coot and several endangered plants. (T. 3/10/94. P.40. L.2-25.; P.41. L.1-16.; Petitioner's Exhibit 1. P.29 through 30.; Petitioner's Exhibit 9. P.17.)

68. Reclassification is in conformance with the following standards of the Conservation District set forth in section 15-15-20, HAR:

Section 15-15-20 (4): It shall include lands necessary for the conservation, preservation, and enhancement of scenic, cultural, historic or archaeologic sites and sites of unique physiographic or ecologic significance...

Section 15-15-20 (5): It shall include lands necessary for providing and preserving parklands, wilderness and beach reserves, and for conserving natural ecosystems of endemic plants, fish, and wildlife...

Section 15-15-20 (7): It shall include lands with topography, soils, climate, or other related environmental factors that may not be normally adaptable or presently needed for urban, rural, or agricultural use...

Section 15-15-20 (8): It shall include lands with a general slope of twenty percent or more which provide for open space amenities or scenic values...

(T. 3/10/94. P.40. L.2-25.; P.41. L.1-16.: Petitioner's Exhibit 1. P.30.; Petitioner's Exhibit 9. P.17 through 18.)

CONFORMANCE WITH THE GOALS, OBJECTIVES AND POLICIES OF THE HAWAII STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

69. The proposed reclassification of the Property is generally consistent with the following objectives and policies of the Hawaii State Plan:

Section 226-11, HRS: Objectives and policies for the physical environment--land based, shoreline, and marine resources.

Section 226-11(a)(1), HRS: Prudent use of Hawaii's land-based, shoreline, and marine resources.

Section 226-11(a)(2), HRS: Effective protection of Hawaii's unique and fragile environmental resources.

Section 226-11(b)(1), HRS: Exercise an overall conservation ethic in the use of Hawaii's natural resources.

Section 226-11(b)(2), HRS: Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.

Section 226-11(b)(6), HRS: Encourage the protection of rare or endangered plant and animal species and habitats native to Hawaii.

Section 226-11(b)(9), HRS: Promote increased accessibility and prudent use of inland and shoreline areas for public recreational, educational, and scientific purposes.

Section 226-12, HRS: Objectives and Policies for the Physical environment--scenic, natural beauty, and historic resources.

Section 226-12(a), HRS: Planning for the State's physical environment shall be directed towards achievement of the objective of enhancement of Hawaii's scenic assets, natural beauty, and multi-cultural/historical resources.

Section 226-12(b)(1), HRS: Promote the preservation and restoration of significant natural and historic resources.

Section 226-12(b)(3), HRS: Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of

mountains, ocean, scenic landscapes, and other natural features.

Section 226-12(b)(4), HRS: Protect those special areas, structures, and elements that are an integral and functional part of Hawaii's ethnic and cultural heritage.

Section 226-13, HRS: Objectives and policies for the physical environment--land, air, and water quality.

Section 226-13(a)(1), HRS: Maintenance and pursuit of improved quality in Hawaii's land, air, and water resources.

Section 226-13(a)(2), HRS: Greater public awareness and appreciation of Hawaii's environmental resources.

Section 226-13(b)(2), HRS: Promote the proper management of Hawaii's land and water resources.

Section 226-13(b)(8), HRS: Foster recognition of the importance and value of the land, air, and water resources to Hawaii's people, their cultures, and visitors.

Section 226-23, HRS: Objective and policies for socio-cultural advancement--leisure.

Section 226-23(a), HRS: Planning for the State's socio-cultural advancement with regard to leisure shall be directed towards the achievement of the objective of the adequate provision of resources to accommodate diverse cultural, artistic, and recreational needs for present and future generations.

Section 226-23(b)(6), HRS: Assure the availability of sufficient resources to provide for future cultural, artistic, and recreational needs.

(T. 3/10/94. P.41. L.10-16.; Petitioner's Exhibit 1. P.34 through 37.; Petitioner's Exhibit 9. P.18 through 20.)

70. The proposed reclassification of the Property is generally consistent with the following priority guidelines of the Hawaii State Plan:

Section 226-104(b)(9), HRS: Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimized.

Section 226-104(b)(10), HRS: Identify critical environmental areas in Hawaii to include but not be limited to the following: ...wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; ...scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; ...; and scenic resources.

Section 226-104(b)(12), HRS: Utilize Hawaii's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.

Section 226-104(b)(13), HRS: Protect and enhance Hawaii's shoreline, open spaces, and scenic resources. (T. 3/10/94. P.41. L.10-16.; Petitioner's Exhibit 1. P.37.; Petitioner's Exhibit 9. P.20.)

71. The proposed reclassification of the Property is generally consistent with the following objective of the State Conservation Lands Functional Plan:

Objective IIB: Protection of fragile or rare natural resources.

(Petitioner's Exhibit 1. P.38.; Petitioner's Exhibit 9. P.20.)

CONFORMANCE WITH COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

72. The proposed reclassification of the Property will have a beneficial impact upon coastal resources by retaining the Property in its natural state. (Petitioner's Exhibit 9. P.21.)

73. The Petition is in conformance with the following objectives and policies of the Coastal Zone Management Program:

Section 205A-2(b)(3), HRS: Scenic and open space resources;

(A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.

Section 205A-2(b)(4), HRS: Coastal ecosystems;

(A) Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.

Section 205A-2(c) (1), HRS: Recreational resources;

(B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:

(i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;

Section 205A-2(c) (3), HRS: Scenic and open space resources;

(A) Identify valued scenic resources in the coastal zone management area;

(C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources.

Section 205A-2(c) (4), HRS: Coastal ecosystems;

(B) Preserve valuable coastal ecosystems of significant biological or economic importance.

(Petitioner's Exhibit 1. P.38 through 39.; Petitioner's Exhibit 9. P.21.)

#### CONFORMITY TO COUNTY PLANS

74. The General Plan for the City and County of Honolulu is a policy document containing objectives and policies addressing the health, safety, and welfare of Oahu's people. (Petitioner's Exhibit 1. P.40.; Petitioner's Exhibit 9. P.22.)

75. The proposed reclassification conforms to the following General Plan objectives and policies for the Natural Environment:

Objective A: To protect and preserve the natural environment.

Policy (1): Protect Oahu's natural environment, especially the shoreline, valleys, and ridges, from incompatible development.

Policy (10): Increase public awareness and appreciation of Oahu's land, air, and water resources.

Objective B: To preserve and enhance the natural monuments and scenic views of Oahu for the benefit of both residents and visitors.

Policy (1): Protect the Island's well-known resources: its mountains and craters; forests and watershed areas; marshes, rivers, and streams...

Policy (2): Protect Oahu's scenic views, especially those seen from highly developed and heavily traveled areas.

(T. 3/10/94. P.48. L.1-3.; Petitioner's Exhibit 1. P.40 through 41.; Petitioner's Exhibit 9. P.22.)

76. The majority of the Property is designated Preservation in the City and County of Honolulu's North Shore Development Plan map. The proposed reclassification is in conformance with this designation. A small portion of the Petition Area near Camp Kaena is designated as Parks and Recreation and an area near Camp Erdman is designated as Public and Quasi-Public. (T. 3/10/94. P.41. L.18-21.; P.48. L.2-3.; Petitioner's Exhibit B. P.9 through 10.; Petitioner's Exhibit 1. P.41.; Petitioner's Exhibit 9. P.22 through 23.)

77. The City and County of Honolulu has zoned the Property P-2 (General Preservation). A designation of P-1 (Restricted Preservation) would be more appropriate should the Property be reclassified to the Conservation District. (T. 3/10/94. P.49. L.3-22.; Petitioner's Exhibit B. P.10.; Petitioner's Exhibit 9. P.23.)

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by the Petitioner or the other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact shall be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law shall be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

Pursuant to chapter 205, HRS, and the Hawaii Land Use Commission Rules under chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Property consisting of approximately 969 acres of land in the Agricultural District situated at Kaena, Waialua, Island of Oahu, State of Hawaii, identified as Tax Map Key Numbers of the First Division: 6-9-1: 2, por. 4, 6-9-3: por. 2., por. 3, 6-9-4: 1, 2, 6, 7, 12, 13, 14, 15, 16, 17, por. 19, 6-9-5: 1, 2, 3, 4, 5, 6, and por. 7 into the Conservation District is reasonable, nonviolative of section 205-2, HRS, and is consistent with the Hawaii State Plan set as forth in chapter 226, HRS.




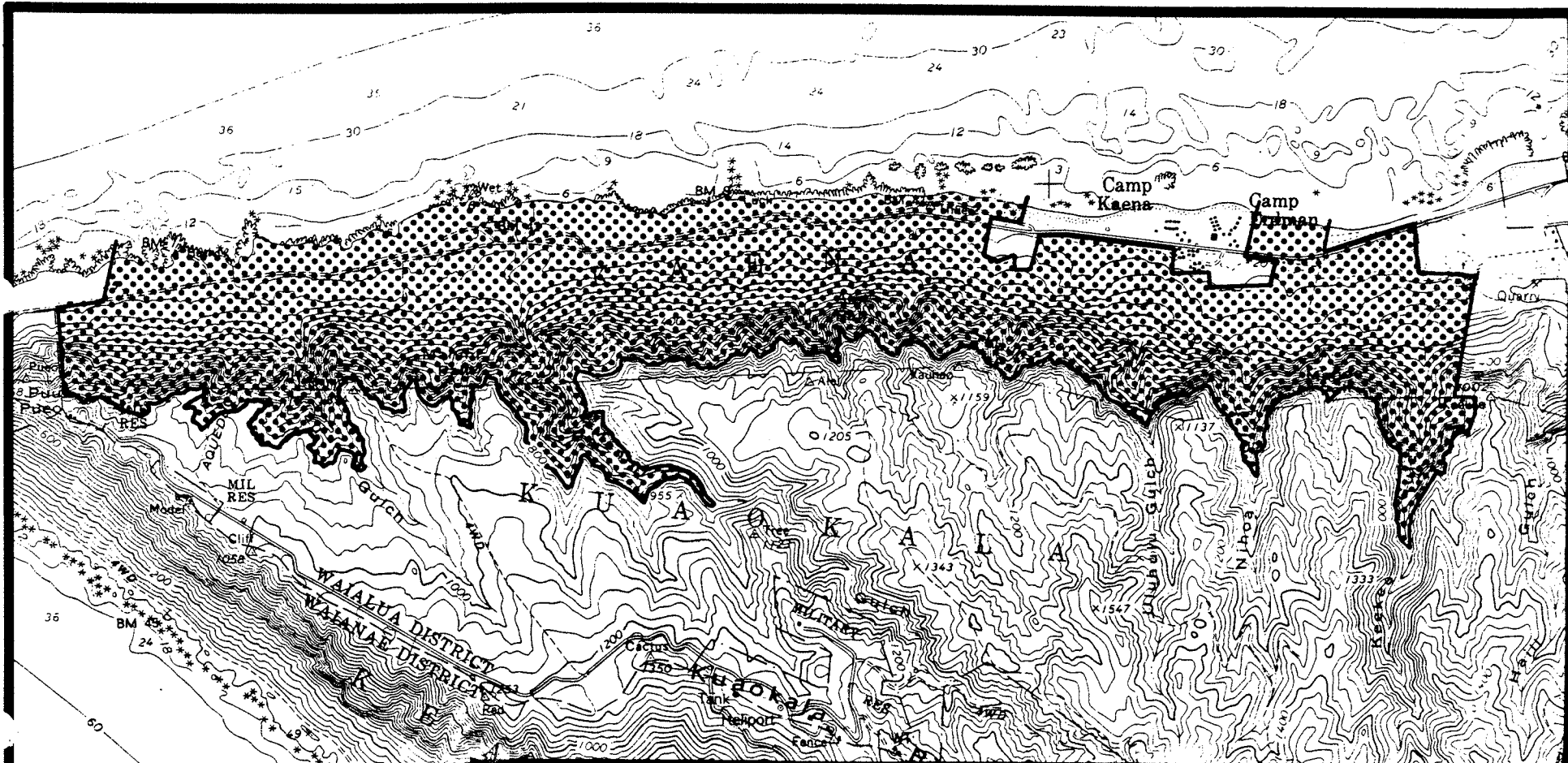
PROPOSED ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. BR93-691 by Petitioner Office of State Planning, State of Hawaii, consisting of approximately 969 acres of land in the Agricultural District situated at Kaena, Waialua, Island of Oahu, State of Hawaii, identified as Tax Map Key Numbers of the First Division: 6-9-1: 2, por. 4, 6-9-3: por. 2., por. 3, 6-9-4: 1, 2, 6, 7, 12, 13, 14, 15, 16, 17, por. 19, 6-9-5: 1, 2, 3, 4, 5, 6, and por. 7, and approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, is hereby reclassified into the State Land Use Conservation District, and that the State Land Use District Boundaries are amended accordingly, subject to the following condition:

Petitioner shall ensure that the Property is placed into the proper Conservation District Subzone by working with the Department of Land and Natural Resources in their determination of the proposed subzone.

Dated: Honolulu, Hawaii this 26th day of April 1994.

  
BENJAMIN M. MATSUBARA  
Hearing Officer



**LOCATION MAP**

BR93-691 / OFFICE OF STATE PLANNING,  
STATE OF HAWAII

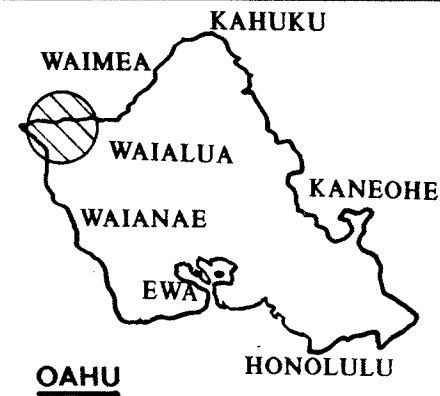
T.M.K.: 6-9-01: 2, por. 4, 6-9-3: por. 2, por. 3,  
6-9-04: 1, 2, 6, 7, 12, 13, 14, 15, 16, 17, por. 19,  
6-9-05: 1, 2, 3, 4, 5, 6, & por. 7

**KAENA, WAIALUA, OAHU**



APPROVED AREA

SCALE: 1" = 2,000 ft. ±



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. BR93-691
	)	
OFFICE OF STATE PLANNING,	)	CERTIFICATE OF SERVICE
STATE OF HAWAII	)	
	)	
To Amend the Agricultural Land	)	
Use District Boundary into the	)	
Conservation Land Use District	)	
for Approximately 969 Acres at	)	
Kaena Coastline, Kaena Ahupuaa,	)	
Waialua, Island of Oahu, State of	)	
Hawaii, Tax Map Key Numbers:	)	
6-9-01: 2, por 4; 6-9-03: por. 2,	)	
por. 3; 6-9-04: 1, 2, 6, 7, 12,	)	
13, 14, 15, 16, 17, por. 19;	)	
6-9-05: 1, 2, 3, 4, 5, 6, and	)	
por. 7	)	
	)	

CERTIFICATE OF SERVICE


I hereby certify that a copy of the Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

HAROLD S. MASUMOTO, Director  
Office of State Planning  
State of Hawaii  
P.O. Box 3540  
Honolulu, Hawaii 96811-3540  
Attention: Ms. Mary Lou Kobayashi

RICK J. EICHOR, ESQ.  
Department of the Attorney General  
State of Hawaii  
425 Queen Street  
Honolulu, Hawaii 96813

ROBIN FOSTER, Chief Planning Officer  
Planning Department  
City and County of Honolulu  
650 South King Street  
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 26th day of April 1994.



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BENJAMIN M. MATSUBARA, ESQ.  
Hearing Officer