

PHONE (808) 594-1888
BOARD OF TRUSTEES
Colette Y. Machado, *Chairperson*
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Rowena Akana, *Trustee At-Large*
Keli'i Akina, *At-Large*
Peter Apo, *O'ahu Trustee*
Carmen. Hulu Lindsey, *Maui Trustee*
Robert K. Lindsey, Jr., *Hawai'i Trustee*



FAX (808) 594-1868

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
MEETING OF THE BOARD OF TRUSTEES

DATE: Thursday, September 6, 2018
TIME: 10:00 am
PLACE: OHA Board Room, Nā Lama Kukui
560 N. Nimitz Hwy., Suite 200
Honolulu, HI 96817

AGENDA

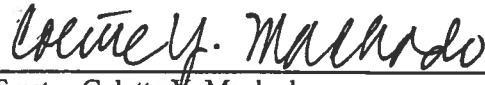
- I. Call to Order
- II. Approval of Minutes
 - A. August 8, 2018 (Community Meeting)[†]
 - B. August 9, 2018[†]
- III. Public Testimony*
- IV. Unfinished Business
 - A. CEO's 15-Minute Update on Ho'oulu Lāhui Aloha and OHA Activities
- V. New Business
 - A. Committee on Resource Management
 1. Action Item RM #18-10: Master Plan for OHA's 511-Acre Property surrounding the Kūkaniloko Birthing Stone[†]
 2. Action Item RM #18-11: OHA recognizes and thanks the Kūkaniloko Master Plan Working Group - Nā Lālā 'Ike Pono a Kūkaniloko - for participating in the creation of the Kūkaniloko Master Plan and issues to each the attached certificate.[†]
- VI. Executive Session[†]
 - A. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding Civil No. 17-1-1823-11 JPC, OHA v. State, et. al. *Pursuant to HRS § 92-5(a)(4).*
 - B. Presentation by OHA's Permitted Interaction Group of its findings and recommendations with legal assistance provided by OHA Attorneys Paul Alston, Esq. and Judy Tanaka, Esq., without discussion, re: Contract Number 3147 pursuant to *HRS §92-2.5(b)(1)(B) and §92-5(a)(4).*
- VII. Community Concerns*
- VIII. Announcements
- IX. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Albert Tiberi at telephone number: 594-1754 or by email at: albertt@oha.org no later than three (3) business days prior to the date of the meeting.

*Notice: Persons wishing to provide testimony are requested to submit 13 copies of their testimony to the Chief Executive Officer at 560 N. Nimitz, Suite 200, Honolulu, HI, 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.

† Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.

† Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.



Trustee Colette Y. Machado
Chairperson, Board of Trustees



Date

Office of Hawaiian Affairs
Board of Trustee Meeting
September 6, 2018
10:00 am

II. Approval of Minutes

- A. August 8, 2018 (Community Mtg.) *
- B. August 9, 2018

** Item II.A. August 8, 2018 (Community Mtg.) will be deferred.*

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
Kūlana 'Ōiwi Hālau
600 Kamehameha Highway
Kalama'ula, Moloka'i, Hawai'i 96748**

**Minutes of the Office of Hawaiian Affairs Board of Trustees Meeting
Thursday, August 9, 2018
10:00 am**

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE ROWENA AKANA
TRUSTEE W. KELI'I AKINA
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN, BOARD COUNSEL

EXCUSED:

TRUSTEE LEINA'ALA AHU ISA
TRUSTEE DAN AHUNA
TRUSTEE PETER APO
TRUSTEE ROBERT LINDSEY

ADMINISTRATION STAFF:

KAWIKA RILEY, CHIEF ADV
JOCELYN DOANE, PP
GAYLA HALINIAK-LLYOD, CO
JASON LEE, DPM
KAWENA CARVALHO-MATTOS, DPM
ALICE SILBANUZ, DPM

BOT STAFF:

CAROL HOOMANAWANUI
DAYNA PA
LAURENE KALUAU-KEALOHA
CRAYN AKINA
NATHAN TAKEUCHI
MARIA CALDERON
LEHUA ITOKAZU
KAMA HOPKINS

GUESTS:

LOUISE MILILANI HANAPI
ALAPAI HANAPI
JUDY LOKELANI NAKI CAPARIDA
BETTY PUAA
IWALANI KADOWAKI
STACY HELM CRIVELLO

I. CALL TO ORDER

Chair Colette Machado Calls the Board of Trustees meeting to order at 10:01 am. Roll call is taken; Trustees Akana, Akina, Carmen Hulu Lindsey, Waihe'e and Machado are present; constituting a quorum of five (5) trustees. Excuse memos were received from Trustee Leina'ala Ahu Isa, Trustee Dan Ahuna, Trustee Peter Apo, and Trustee Robert Lindsey.

Before I move forward, I would like to defer action on the approval of Minutes from July 12, 2018.

Trustee John Waihe'e IV moves to defer the minutes of July 12, 2018.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Any discussion? Hearing none roll call vote.

Trustee John Waihe'e IV moves to defer the minutes of July 12, 2018.
Trustee Carmen Hulu Lindsey seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA						Excused
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						Excused
TRUSTEE CARMEN HULU LINDSEY	X		X			
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE JOHN WAIHE'E		X	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			5			4
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passed with five (5) YES votes, and four (4) excused.						

II. APPROVAL OF MINUTES

A. July 12, 2018 - *(The July 12, 2018 minutes were deferred.)*

III. PUBLIC TESTIMONY

Chair Colette Machado – We have people who have signed up under community concerns so we will move forward to Unfinished Business. I'd like to call on Kawika Riley.

IV. UNFINISHED BUSINESS

A. Ka Pouhana/CEO's 15-Minutes Update on Ho'oulu Lāhui Aloha and OHA Activities

Kawika Riley – Aloha mai Kakou. Thank you Chair for this opportunity to provide Administration's update and mahalo to the community of Molokai. Beneficiaries and others for hosting us here and for the chance to update you. Administration has four items that we would like to provide update at this time. The first is with respect to OHA's disaster relief efforts. As many of you know on April 14th, flash floods of historic proportions struck the island of Kauai. Most especially the northern portion or the north shore. Less than a month later, starting on May 3rd seismic and volcanic activities in the Puna region on the island of Hawaii started a pathway, what has led to damage and destruction of hundreds of homes and various farms, individuals, families, businesses and others in the Puna area and other parts of Hawaii Island.

In response to what we were seeing, the information that was coming in and requests from many beneficiaries who were effected by both of those disasters, the Office of Hawaiian Affairs decided to partake in a disaster response effort. By the end of the month of May the action item had moved and been approved by the appropriate committee of jurisdiction, the Resource Management Committee under the Chairpersonship of Trustee Carmen Hulu Lindsey. On June 7th the Board of Trustees approved the relief effort which allocated half a million dollars to help native Hawaiian households harmed by those two disasters.

Administration wanted to provide an update in terms of getting that relief to Native Hawaiian individuals and 'ohana. Starting with the island of Kauai, in partnership with Catholic Charities and the Waipa Foundation we are pleased to report that at this time all but \$30,000 of that relief has made its way to where it needs to go to the households and individuals who need it. Tomorrow we will be holding a meeting on Kauai with our partners and others to determine how best we can conduct an additional wave of outreach to get these monies

to individuals and 'ohana who need it. What we are hearing from community members and what we are seeing ourselves is that there is a high likelihood that there are other native Hawaiians who were affected and qualify but for whatever reason may not have been forthcoming to respond to our initial outreach. We will be meeting on how best to connect with them. To let them know if this is something that they need it is available to them.

With respect to the Puna disaster response, our community partner is Neighborhood Place of Puna. Working with our partner we have identified a 119 native Hawaiian households who qualify and have complete the applications to receive aid for that disaster. We will be allocating the first \$100,000 of the \$250,000 of aid to some of those individuals tomorrow. The aid is moving and we are working proactively with our community partners to see that this aid gets to the families and individuals that need it.

Secondly, I wanted to provide an update on the 'āina summit. On June 29th and 30th, the Office of Hawaiian Affairs along with Kamehameha School and the Department of Land and Natural Resources hosted the first ever 'āina summit in Kaneohe on the Island of Oahu. Over 120 participants, this was a very diverse group of participants. From Government officials to farmers, cultural practitioners, non-profit leaders, service providers, and many other who gathered to share best practices, ideas and talk about challenges and opportunities to mālama 'āina with a greater excellence. On August 24th, the steering committee for the summit will be meeting and will be looking at the feedback and data that resulted from the summit and determining the appropriate next steps.

Third, we wanted to give a brief update on OHA's strategic plan. The Strategic plan was referenced by some of the testifiers. The strategic plan is an important document for Office of Hawaiian Affairs. It states our priorities and guides where we place out focus, where we place our emphasis in terms of resources and attention. The current strategic plan was from 2010-2018. We are currently in the close out period of the current plan. What we are doing is we are focusing on completing the activities on this last year of the plan and at the same time doing data assessment to determine the reach or the outcome of the activities that we undertook. We expect to complete the research and analysis close out portion by the end of this year. The Trustees recently formalized an Ad Hoc committee consisting of Trustees and staff for the strategic plan. As we close out the current plan we are going to be shifting into the process of coming up with the next strategic plan. It is our goal that plan will be the product of staff work, community input, Trustee decision making and the approval of our Board of Trustees. This will be approved in 2019 and we will start that strategic plan implementation in 2020.

Lastly, we wanted to provide a brief update on OHA activities related to the Aloha Poke controversy. As many of you are aware earlier this summer a non-native Hawaiian owned Chicago based business began sending cease and desist letters to other businesses, including some of which were native Hawaiian owned, with the words Aloha and or Poke in their name. The aggressive actions of this business has sparked a great deal of controversy and shock not just the Native Hawaiian community but really local, State, National and International. Last night I read an article from the London Guardian highlighting the issue; it has been in the New York Times, the Washington Post. This poor decision on company has generated a lot of bad publicity for it. Certainly as we all know this is not the first time non-Hawaiian business has attempted to profit off the use of 'ōlelo Hawaii or representation of Hawaiian culture. What is especially appalling is this effort to use the threat of legal action to bully others from the use of Hawaiian language and the representation of Hawaiian culture. There are a few activities that OHA has been involved with in response. Conducting background research to appropriately understand the circumstances and legal issues at play. In terms of those who have requested direct legal assistance, we have our legal services provider, Native Hawaiian Legal Corporation. In OHA's statement is that we are appalled by the actions of this company and reminding everyone that representation of our culture and use of our language is non-negotiable and is a matter of self-determination for the native Hawaiian people.

There will also be a number of activities, sign waiving, demonstrations, workshops on the topic of control, self-determination of traditional language that will be taking place this weekend in Chicago. We are supporting community leaders who are participating in those activities both to elevate the voices of our people and to use this opportunity to provide a broader context to the issue. This sort of thing is something that isn't coming up for the first time. It is a recurring issue every so many years. The larger topic of use and control of traditional knowledge, language and attempts to commodify our culture and native Hawaiian voice is something that deserves significant discussion and consideration. That is the sum of administrations updates. We appreciate the opportunity to share them with the Molokai Community and wanted to express on behalf of staff our gratitude to everyone who attended last night. For all of the updates that you shared there as well. It is a pleasure and honor to be here. Thank you Chair.

Chair Colette Machado – Any questions from the Trustees to Kawika. If not I'd like to ask our Board Attorney to give us a briefing on what the Aloha Poke and the trademark issue and the impact it has on Native Hawaiian Culture and 'ōlelo Hawaii.

Robert G. Klein, Board Counsel - What happened with Aloha Poke in Chicago is that they created a business and a logo for the business that's been pretty successful. What they do is that they sell poke bowls, you folks have seen that, it's a bowl and has good tasting fish and what not. They've monetized the name Aloha Poke, they have a trademark in the federal system that protects the logo, and then of course they tried to protect the name Aloha Poke as well as a trade name. They have those protections under Federal Law in place. Based in that, that is why they sent the cease and desist letter. This is not a court order; this is a letter from their lawyer to people who they've located all over the United States who use the name Aloha Poke. In Alaska, they had a Hawaiian wahine who used Aloha Poke in her family business. She gave up, she didn't fight it, and she changed the name to Lei's Poke. It happened in California as well, the person who was using Aloha Poke was a native Hawaiian and he caved in he didn't want to fight it.

Here in Honolulu, there has been quite an uproar about Aloha Poke. Well there should be, just by way of the law, the law provides that the first user of the name has common law protection and can't be drummed out of business by someone who subsequently registers the name. Under the law, use is the most important, first use gets protected. I am not sure of the chronology of whether the local Hawaiian Business and businesses actually used the phrase Aloha Poke in their business prior to the trademark registration by the Chicago Company. As I understand from reading articles, that was in 2016 that they actually got a registration and began using the name. So if our people used it prior to that time they would be protected and they couldn't be drummed out of business by a cease and desist letter. That is just on the legal side.

On the cultural side, it's a more interesting struggle. What I read in the articles were Kuhio Lewis of CNHA, took an aggressive stance and said we are going to look with our lawyers into actually suing the Chicago operations. That is all well and good if you have a reason, a claim, or a legal basis upon which you can bring a suit. I didn't read that in the article and I was wondering what that claim would actually be. Cultural appropriation is obviously where a minority group has long cultural tradition, in this particularly using the word Aloha. If you can imagine how can you appropriate the word Aloha. The more majority culture tries to take that, monetize it, and use it out of its cultural context. There has been a lot written on the subject. I think it's an interesting subject but it hasn't really coalesce into legal rights and duties. This is more of a cultural struggle then it is a legal one. I am glad that OHA has been really Akamai about following this and participating and I congratulate the staff and Trustees in jumping into the mix. Because our voice needs to be heard. If you are not going to jump in on Aloha what else would you jump in on? I think more needs to be done. More background and more understanding of what remedies are available. I would not want to be a Chicago company coming to Hawaii trying to enforce cease and desist on the word Aloha or Aloha Poke or any combination of those. I don't think they would get far in the legal system. Mahalo Chair.

Chair Colette Machado – Last night we heard public testimony on OHA's official testimony with the CBSFA of Moomomi. I'd like to call Jocelyn Doane to the microphone to summarize our involvement and participation with Hui Mālama o Moomomi.

Jocelyn Doane – Aloha. I think, as most people know Molokai has been at the forefront of reintegrating community based fisheries management concepts throughout Hawaii. Moomomi was the very first community based subsistence based fisheries areas established by the State as a pilot project. OHA has strongly supported our beneficiaries' use of traditional fishing practices generally and for subsistence purposes, specifically this is consistent with our position on protecting the rights of native Hawaiian traditional and customary practices. We have, with leadership of the community been at the forefront of the laws that have shaped how the State views traditional, customary practices. Of course, we have the Judge that wrote the opinion on it too, thankfully.

As it relates to the more recent iterations of community based subsistence fisheries areas, our board has taken a position in support, specifically of the concept and we have advocated strongly for models that integrate place based management practices. Models that look to the kupuna that have kuleana in that area. Moomomi, the ideas of what Moomomi's management should look like has changed over time. If you look at fisheries management you can start at one end of the spectrum is no take, on the other end of the spectrum is free for all and so without management it's a free for all. What we have with Moomomi is place based and some limitations but certainly not any no take in that specific area. That is the jest of the summary.

What has happened so far is that there have been numerous meetings here. The Board of Land and Natural resources approved for draft rules to go out to the public. Which means that there will be more hearings and we are waiting on the Governor to give the go ahead to have hearings. After the hearings, the BLNR will be given the option to passing the rules then the Governor will have to sign it for it to become effective. We are still in the early stages even though it has been decades now that this community has been trying to get some additional regulations and place based specific regulations in place to ensure that the people of this place can fish appropriately there forever. There is no regulations that prevent people from other places coming in, it's been what the community has asked for over time has been watered down, but it is certainly place based and community based and kupuna based. Mahalo.

Chair Colette Machado – Members is there anything else. If not we are going to move right into community concerns.

V. COMMUNITY CONCERNS

Chair Colette Machado – We have four people who have signed up as community concerns. I wanted to acknowledge that under the community concerns portion that you completed a form, each testifier will be limited to 5 minutes I will be handling the time cards to manage the time. Outside of that under community concerns you are able to address any topic that you choose to bring to us the Trustees. With that said, I would like to call Mililani Hanapi to the microphone please, followed by Alapai Hanapi.

Ms. Louise Mililani Hanapi – Aloha Trustees and welcome back to Molokai. Actually what I wanted to talk about quite a few subjects. The Office of Hawaiian Affairs, and myself we do have a relationship and I appreciate your folk's help and your support when I came before the Board in 2009. Since then there has been process. What I really wanted to speak about is that I just came back from Maui and this pertains to land taxes. I believe that if we do any auditing we should be auditing these tax offices. I am actually an 80% owner of kuleana lands. Some people might think that we never kept tradition but in our household, they did. They always said never sell outside, you sell to your family.

I have been privileged to have that all, however lands no small legacy that is what David Malo said. Land is no small legacy. It certainly isn't for my husband and myself. We have been illegally taxed since 1930. I had

to hire Yuklin Aluli **about** 5 years ago and she found out all these bad things that they were doing. I was being taxed for stuff that don't exist and the tax office cannot claim ignorance as a defense. I never went for the kuleana land taxes, one was because our taxes were already out of control and didn't make sense before Office of Hawaiian Affairs and everybody passed that kuleana exemption. One of our lands, it was easier because it was cheaper and you have to clear your taxes first. The larger piece that I am on, and it is on the beachfront, since 1853 to the present time my family has been paying taxes. I did a tax history for real when I first began my research on our lands. I had a privilege of meeting a man named Albert Like, he was 94 at the time and he was the one who instructed me to do a tax history. So during that time it was on Bethel Street, you get as much as you can and then you go to the archives. We went to the actual books when they come through every ahupua'a on every island. My father and I, there were about 90 books, and we flipped through every single page. Of course, as you see other families' names you say e kala mai I don't mean to call you guys, I just looking for my own. So we found them, this is what really neutralized the attorneys when we went into our lawsuit. So now, we are still at the enforcement part of it. Which is quite an experience to go with a lawsuit from the beginning and now to the end, the death throws is what I call it.

That's only for one part of our ahupua'a. The other part of the ahupua'a that I live on is where the taxes are weird and terrible and we are being illegally taxed. I won two of my tax appeals, as citizens we can go and ask other citizens; they ruled in my favor, I was given land tax exemption for ag. Those who know my husband and myself we really do live on the land. I grow wauke and I make stuff. I actually harvest something, produce it and sell it. So that is all under the definition of farming. My husband is a woodcarver; we have huge trees that he has kept for maturity. The agricultural land exemptions for landowners, my husband and I were certainly entitled to it for 20 years, we were given it, and then it disappeared. So it's really weird how they have been taxing us and like I said, I had to hire an attorney. Then we did get them to come down to a number then all of a sudden, things got busy. I deferred my last one; I just came back from the island of Maui where they were having again our tax appeal. They should be having it here on the island of Molokai. Why I came before the Office of Hawaiian Affairs is because like I said, I am a beneficiary and I think you folks for your hard work, love, and dedication to even be here. We are volunteers in our community ourselves and we love the land, we are grateful for the ancestors for giving it to us and we look forward to the real management of it. Again, I really am asking the Office of Hawaiian Affairs if someone could either be appointed to us to help us sort this out administratively. Why should we have to sue and clear all this. Even I am secure, its 80% is ours. I am going to walk away with something. I don't think that we should bring everything, do a quiet title. Our families are really tight, I would never shaft them, and it's a wonderful thing to understand what Ua Mau Ke Ea O Ka 'Aina I Ka Pono really means. For us I'd like to continue to honor my ancestors and actually, we are pretty good at what we do as artist. I'd like to do a museum over there, something that tells our story of the ahupua'a. Our story of the struggles, our story of the relationship. Again, my family lived there since 1853; I actually did a tax history to the present time. It went from three acres to two acres, to one acre and no one in my family ever sold. So this is where I am staying. If we ever do an audit, I think that is something we should do is the audit on these tax offices and the way they are handling things. I wouldn't have known if I didn't hire somebody. Now I ask you for help. Thank you, you folks.

Chair Colette Machado – Mahalo, Alapai Hanapi. Mili you can come back after the last speaker if you have more to say. Thank you.

Mr. Alapai Hanapi – Welcome to Molokai. Taxes is a big thing like my wife says. They are literally ripping us off, encumbering our titles and deeds. The relators are bringing in another class of people who don't care. They be selling it cash. If there is a \$1.5 million parcel, they are going to buy it cash. That brings into question, what about my, how come no one has title, nobody like do quiet title any more. But the mayor gives out a deed from a land option where all the titles are encumbered. Where the kanaka maoli loses their kuleana because of illegal assessment methods. So we do need your help in that.

I am up here to talk about something else. This is about our Manae, or east end community, we formed a hui of kuleana landowners and the native tenants from Kamalo to Halawa. We are called Hui Aloha Aina o Manae.

So I'm here on behalf, I am a member and I am also an advisory. We are a free association but we do have officers, a president, vice preside, treasurer, secretary and my wife and I are advisors of the group. We are here on all of our behalf to ask for another comprehensive and accurate study and report of the east end community plan that was done in 1981 when all the kupuna, when I say the kupuna I am talking about the ones that have passed. They said no commercial activity up Manae to fragile, kuleana ole no. Native tenant wale no. Now all of a sudden we have poe haole, foreigner buying up and no even live over here and we have all these bunch of legal and illegal vacation rentals. I mean what is it man, is it our culture or is it recreation. I mean if I have to out there and fight 20 kite surfers on grounds that I depend upon to sustain my family and subsistence, no fair. So I want to know who is enforcing our native rights. We talk about our constitution native rights but I don't see no action. But I see plenty enforcement for private owners, private property owner's rights. Where is ours? I see plenty money, I see fence lines; I see all kinds of stuff going to homesteaders who don't even own their land. We own our land and yet nothing comes to us. We are left to judicial, like we can afford it. I stand over here we get plenty land but we indigent. I live in a tent, ok, I take all you guys down Manae now and I show you all our people who live in the bush and tent. That is the condition down there.

So I am asking for funding for another accurate report for the Manae Community Plan. We don't want the 1981 changed. We want the one where the kupuna was still alive, it was pono, and they said no commercial activities. And tell me if realty is a commercial activity on the east end of Molokai. They are selling us out. They are coming in here and taking our kuleana. We are not going to take it. How about the social impact, how about the suicides over here, how about the multiple suicide. Because our young people don't understand. Just like when the mahele came and the old people said I don't understand this and I am going to continue living by the konohiki. Same thing happening today. So we need funding for that report because the last one that was done was not accurate and does not reflect the true, accurate, current happenings of our kanaka maoli in Manae. We are asking for funding, something please kōkua us. You know what homesteaders are taken cared of. Us kuleana guys are in a war, just no bloodshed. I am sorry for the way I talk but we trauma, we get kanaka trauma. We been in it for over 30 years, they pulled soldiers out of wars after 1 year, 2 year, 3 year, us guys we been in it 30 plus years. It has affected us for three generations and now we are going down to our fourth. That Yankee dollar stops with us. We don't want this kaumaha to be passed down to our children and our children's children. So please fund us so we can do an accurate report and we ask for your folks help.

Chair Colette Machado – Mahalo Alapai.

Trustee Rowena Akana – This plan that he is asking for, are you familiar with it and how do we get a copy of it?

Chair Colette Machado – The question is about the East End Policy Statement.

Jocelyn Doane – So the original East End Policy Statement was finished in 1981 and when Maui County moved to have the Molokai Community Plan updated. Members of the community, they actually talked about taking it out the planning department because it was not updated. They suggested that it wasn't necessarily relevant because it was old. By the way this a really unusual situation, that no other community plan has a vision statement in the plan. This is very Molokai thing and it's a great thing but it is very unusual. So the planning department and the way that they thing, it didn't make sense to them that this would be in the plan itself. Anyway, the Community made it clear that they wanted to continue to have the plan in there and they had numerous meetings to update the plan so that it was more relevant. So that they could argue with the planning department that it still made sense to have it in the plan. Because again, this was created almost 40 years ago, so the planning department didn't think it made sense to leave it in there because so much time has changed. As plans are meant to be fluid and updated, some plans are community growth plans, some plans are sustainable plans, I am talking about overall because we look at the different community plans.

My understanding is, uncle I don't know your specific involvement with the update, there were numerous meetings in the community to update it. So in looking at the opportunities for folks had to participate we were supporting, again not the specifics in the plan itself. But the process by which the people had the opportunity to have input on it.

Trustee Rowena Akana – So are you saying what he is speaking to is no longer in the plan and it's too late.

Jocelyn Doane – What I am saying is he supports, as many of the people on the east side, the original plan which was developed 40 some odd years ago. It has been subsequently updated, so the Molokai Planning Department wanted to take that out and the community said 'a'ole, we want it in. So they updated it, the plan still needs to be approved by the Council. There is a four-step process to this, there is a local community process, then the Molokai Planning Commission, then it goes to the County Council. There have been numerous hearings by the different committees of the Council so it's still in there. It's still in there but it's an updated version, which Uncle likes, less than the older one, which I understand correctly. But the planning department wants to take the whole thing out. What we have been advocating for is ensuring that something stays in.

Trustee Rowena Akana – Relative to the kuleana portion of lands. I know we've been involved for 8 years in the kuleana land thing. With their particular parcel, you folks have your genealogy right. So how can OHA assist them in what they are asking for relative to the kuleana portion?

Jocelyn Doane – Do you guys qualify for the tax exemption?

Ms. Hanapi – I think Kuleana tax exemptions are premature. What I mean is that when something is newly started with all the different things coming up it can easily be dismissed and if you have an amount, I am like \$60,000, so something like \$60,000 they don't give it to you unless it is zeroed out. So the land that we could zero out we have kuleana tax exempt. So for me I don't mind taking agricultural. If I take agricultural exemption I get to keep my equity, I get to keep my privacy, not everybody maha'oe what my genealogy is and the other thing I liked about it, again I call it immature because the lands that I live on is the kupuna wahine. The man she marries, because of the respect for our men, of course during the mahele. While he was alive and her they deed it again to the family. Again, I was always told that it made it more binding. That way when he died it didn't go to all the other children that man had but stayed in one line. That is very Hawaiian. That is my line, she was the Chiefess not him. Next door was her brother my sister lives on. We do have kuleana exemption because it is not on the beach. So it's not like \$3,000 a year taxes and being taxed for a house that doesn't exist. Like my husband said we live on the land and they cannot claim ignorance at all the tax office, they been to my house. They've given me tax exemption. Again my husband and I we have the age also and the economics. Kuleana lands I thought of is immature. I gave my genealogy to you folks, I never heard back and I continue to do my due diligence and I continue to deal with the tax office on my own.

Trustee Rowena Akana – Can you call my office and I'll check on your genealogy and follow up on this.

Chair Colette Machado – The question that Trustee Carmen Hulu Lindsey has, have you folks been working with Lucy Meyer.

Ms. Hanapi – I was given to Lucy Meyer but I never really got to hook up with her, which I should. Because like I said, a lot of things are immature when, because kuleana land taxes just recently happened. Like I said the Kupuna Kane, it's not his land it's her land. But we respected our men so if I am going to follow his line but I was told he was an Uncle but that's it.

Trustee Rowena Akana – But if you can work with my office and Lucy, we can help.

Ms. Hanapi – Yes, because I think it can be administratively done and we got them real close to settling on a number before.

Mr. Alapai- That is only us Trustee Akana. There is a whole bunch of us that there have been cases with NHLHC where the State takes the mauka side after it is over the lawyers take Makai and sell and get their monies back and they leave the kanaka maoli muddling around in the middle to subdivide and figure out where they are at. There are a lot more cases than just that. The thing is kuleana and the rest of the private properties is the economics. How can we get ahead when we are encumbered where we live and we are the land and the land is us? Can you imagine and trauma and stress our people have, it is there and it's real. We can't even get ahead because we are stuck behind to get our kuleana unencumbered.

Chair Colette Machado – Our next speaker is Judy Naki Caparida.

Ms. Judy Naki Caparida – I am going to continue from yesterday. The community plan that brother is talking about has been upset. They have trying to dig up all this stuff that say they putting it up to date. They putting this fishing thing inside, they inserting it inside. They have a problem up there, it's a conflict and they are trying to put it inside when they don't know they don't need Manae. The fisherman know, they given a lot of monies to train all our children in school about all this kind of stuff. And yet it is not sustainable enough. They still want to stick something in there that they having problems over there. That is why you guys got to get involved. It's not taking someone else's word. You guys have to come over here and see it because you don't live here. That is why inside my heart, I tell myself, when you was raised when you was little, you come big you train all your children you never have a problem. Because they know how to do it. But for those that don't they having education now. And they giving money for them to get educated in school. This is why I say to myself the planning commissioner, they making stuff they want to do. They want to rezone the place this is where the problem is. Manae, they are rezoning it and that is why guys make money. The don't got any land anymore around so they come out Mahoe on Molokai and they making business. You know what, culture is when you make food, residence is where you live, business is where you go over there for business. But they making business right next door and they don't care. They think they own everything. This is what is the difference with us on Molokai. My sister and I go to every meeting. If get two meetings, I go to one and she goes to the other and we come home in the evening and we sat down and we talk it over and we pray over it. This is not no small thing because god is the one that blesses us. He is the one. If you don't believe it, and it is not my problem. But I can tell you that we are so blessed.

I went to Maui and the Puwalu and they are struggling over there. Those Hawaiian people out there, and yet they are so contented. We got a lot of stuff here. We get a lot of blessings here but they use and abuse it. I don't have to tell you the truth because you guys should know, you guys should serve us. We put you there, you service us. The community not one small group. This is the way we do it. This is how they do it, one small group then they go to Honolulu, they spread their germs over there and then they listen. This is why, you know what, everything that we do on Molokai you have to honest, be open. I never talk like this long time. But you know what the Lord says to me, all the lies have to stop, and that is why I am here to tell you. We are here because God gave us all these blessings and these blessings were given to us free. And we still have to pay for everything. I telling you the kuleana land, if you own land up Manae you can go and do what you want to do. Come to the community. I never went inside and have any talk about this. You guys signing up for me, I want you guys to take it off because people is going, and you guys are going to get sued. They asking for attorneys now because you signed something that you guys never come back to the community. You just took it on someone else's word to do it. This fishing stuff, hey you have a problem solve. If they want to come as one, the Manae side we come as one. I get land over there and I am the community. So I thank you guys for hearing me out because you guys got to do something. I wanted it removed, it's so easy to sign your name but you don't live the life. This is what I am asking. Thank you.

Chair Colette Machado – Mahalo Aunty Judy. Our next speaker is Betty Puaa.

Ms. Betty Puua – Good morning. If you can see across the street, there is a certified kitchen that was done there, and that was about 5 years ago. What I wanted to know, I just found out from your niece, that you guys gave \$82,000 to start it. But it's still there not finished. So what does OHA when you loan money, people come to you, is there a promise that you are going to finish the project? Do you folks just let it go like over there? Who can answer that? When they come with a promise that they are going to build something for the community, they have to tell you how long going take right. You guys gave \$82,000 on that project that is Hawaiian Homes across there. That was the liveliest park on the island. All the Hawaiians go there, we have luau there, family campouts. Why is that certified kitchen necessary.

Chair Colette Machado – Auntie Betty, our funds that we provided was a planning grant for the overall planning of that site there. OHA's limitation, Kalama'ula Association received a grant, it was to hire a team of people to come up with a design, it was only a planning grant. It never was intended to take it from the permitting. I cannot answer you that. Because the nonprofit that oversees it after our funding ended and the compliance of the grant was made as a planning grant. To assess how to do the planning. As far as the kitchen that was something that the community determined. That didn't involve OHA. I believe they also got funds from the State Legislature to complete it.

Ms. Puua – But you know what you folks look only a certified kitchen. Still no pau but they thing is with that project going nobody can use the pavilion down by the beach where we take our mo'opuna.

Chair Colette Machado – Are you aware that the lease with the Hawaiian Homes is with the Kalama'ula Homestead Association? Not OHA.

Ms. Puua – Yes, but one by one all those people are dying. When the people die who is taking over, who supposed to finish that park over there that you guys spend \$82,000 on.

Chair Colette Machado – And the Legislature gave over half a million to complete the project. OHA is not involved that is what I am trying to say. The grant ended when the planning capacity was done by Kalama'ula.

Ms. Puua – Yeah, but you guys get plenty projects that you guys give them the money and that's it. Doesn't anyone check, how the thing going? Who is monitoring it? If you guys owed the money to the bank, they would put penalties on you already. You now they even take it away, of course they cannot take that away because it is Hawaiian Home Lands but you know somebody do something. 5 years, shame for the Hawaiians. Every time they start something they no finish um. It's going to be like the rail, they run out of money they never reach their destination. This one auwe we supposed to be enjoying the park already.

Chair Colette Machado – Our grant that we gave was not intended to see the project completed it was only a planning grant.

Ms. Puua – But \$82,000 is a lot of money.

Chair Colette Machado – You know how much we gave for Kalaniana'ole took half a million. The Department of Hawaiian Homes shut that project down.

Ms. Puua – So who we got to see?

Chair Colette Machado – Hawaiian Homes.

Ms. Puua – So you go Hawaiian Homes and when they get their meeting like this, oh, we will look into it but they never get back to you on any of the problems. My suggestion, OHA when you give monies, hey it's the

Hawaiian's money, when you give money kind of have someone monitor how you folks doing. Is the project pau. Thank you.

Chair Colette Machado – Based on the grant they got they complied to all of their threshold objectives that they wanted to achieve so the grant was closed. Completed, final and closed. Anything that came after the planning grant that is something that you have to figure out from the Kalama'ula Homestead and also the Department of Hawaiian Homestead. Do we have jurisdiction on the property? Absolutely not. That is under Hawaiian Homes inventory and who has the lease is Kalama'ula Homestead Association. Not the Office of Hawaiian Affairs.

Ms. Puaa– My point is if you folks are using the Hawaiian's money somebody monitor, monitor. If it was Bank of Hawaii, those guys would have so much interest on there.

Chair Colette Machado – That grant was given over 6 years ago.

Ms. Puaa – Grants are grant but you know I hard head. I go to the very end. How you folks going monitor that thing? Make shame for the Hawaiians.

Trustee Keli'i Akina – I think that both our Chairperson and Auntie Betty are correct. I am going to agree with our Chairperson that this project was not an OHA project so other people are responsible for the completion of it. But Auntie you raise an important point, we were involved in a little bit of it in the front end and we as Trustees need to be responsible to say what is that \$82,000 effective in the long run. I have been advocating that we create a budgeting system so that when the budget comes around we have to look at number and say did that item work. I am calling for an adoption of a program planning budgeting system.

Trustee Rowena Akana – Thank you Auntie Betty. I have a sore spot with DHHL because we have given them so much money over the years from 1993 we've been subsidizing them big time. Once we give them money we don't know what they are doing with it. We've given money to them for everything that we asked for. Right now, we are carrying their debt. \$3 million a year on their bonds. And even the State Auditor can't find where they are putting all their money. This is something we need to call them on. I will personally call DHHL and ask them about this project. Thank you.

Chair Colette Machado – Our next speaker is Iwalani Kadowaki.

Ms. Iwalani Kadowaki – Aloha Trustees. I am Iwalani Kadowaki. First of all, I love everyone. It might not be what you are doing I don't totally agree but the love is there. I am looking at OHA as empowering us Hawaiians. Because you people are the conduit for our wishes and needs and I thank you for that. I need to address the matter that Judge Robert Klein had mentioned about Aloha Poke that was used and it was cease and desist. I have a comment regarding that. Only because our Hawaiian language is sacred. It originated here and it remains here. Having to commercialize it, it's like ripping the heart out of our families. Because I treasure families because that is where the aloha is. And poke is when we get together and eat together and enjoy each other. I feel for what Judge has said and I really would encourage you look at the sacredness of our language.

Another matter is, in regard to land. I have a report from Dr. Alfred DeZayas; he is the United Nations Independent expert Office of the High Commission for Human Rights. His memorandum was sent out to Judge W.B. Chang which is the land court Judge and also to Jeanette H. Castagnetti, she is the First Circuit Court Judge in regards to the land. In entirety, he had sent memorandum to the entire Judiciary staff of the State of Hawaii. This was regarding land tax. One of his findings is that the United Nations of the High Commission for Human Rights pointing out historical and ongoing plundering of the Hawaiian land is particularly of those heirs and decedents with land titles that originate from the distribution of lands under the authority of the Hawaiian Kingdom. This is pursuant to the US Supreme Court in the Paquete Habana Case

1900. This goes far back as his research. I'd like to make it short, it has been found that the US Courts have to take international law and customary law in to account in property dispute. The State of Hawaii Court should not lend themselves to flagrant violation of the rights of the land titleholders in consequence of pertinent international norms. Therefore, the courts of the State of Hawaii must not enable or collude in the wrongful taking of private lands, bearing I mind that the right to property is recognized no only US Law but also in Article 17 of the Universal Declaration of Human Rights, adopted under the leadership of Eleanor Roosevelt. Like I said our land court Judge, Judiciary System of Hawaii are put on notice regarding these findings. This is a current issue out on May 2018. If anyone interested I do have the site you can gather all the information. I am just sharing this information to the public. Thank you.

Chair Colette Machado – Our next speaker is Councilmember Stacy Helm Crivello.

Stacy Helm Crivello, Councilmember – Aloha everyone. I actually just came in from Maui and I wanted to hear what your meeting was about. The timing is good. If I may, there are several items that falls in line with the County of Maui. For instance, the kuleana lands that the Hanapi family has concerns about. Trustee Akana if you will be assisting them great. But we really are lucky that we are able to have no taxes with our kuleana land process. Hands off with the County of Maui with the Real Property taxes as far as once you get the stamp from OHA and it is noted through OHA and is notified to the Real Property and you have all your genealogy in place more power. They have to hands off you. Now on the assessment side, that is something I am willing to bring the department and have a conversation on how do we address it. I think it is necessary for us, sometime we appeal our assessments and that is the process that is available to us. I just wanted to touch base on that.

I wanted to touch further, somehow when I listened to all the different concerns. Short-term rentals, you know that the community plan as well as the attempt for us for zero out, there is no cap; it is to zero out on the Manae side. That is going through a process with the Land Use Committee and that would be before the Council before the end of the year. But it's already in the East End policy with the Community Plan.

The other thing I wanted to touch base on is our Molokai Community Plan. Every 10 years the community plans are revisited. Nobody paid attention to our community plan after 17 years we are addressing the old plan. So we brought it up from the Councils end. We have a process we go through the community that is called the CPAC made up of 13 Molokai residents. It started from 2016, hundreds of meetings were held and community participated. We all know how our community is, we are never in agreement but we agree to disagree and that is what has happened to that process. Then after they are done, they make their recommendation and it goes to the Molokai Planning Commission. I was able to participate in a lot of CPAC meetings that is the first step. The East End Policy was talked about, practically brought up by the residents of Molokai. Then there was the West End side that said we want something too, at that point their community gathered and came up and we have a West End Policy. What that young lady said was correct; you would never see this in any plan, never. That was the challenge we had with our planning department. I will stand up before you, whether it was responsible on my part, because I passed through the planning commission and before it even came to council I support had a heavy intense conversation with our planning department, this is a policy that before in the existing it was put on the back burner. For me I am representing the community, they did not want it to be just an appendix, we wanted to hold power in that plan. The response is that we cannot enforce it, we cannot implement it, it's not real, you are talking about cultural lands, you talking about everything traditional. How do we implement it? But we got it through. Even as we come to the process where the Council and the Committee level we got it passed. Maybe not everyone on Molokai agreed to that East End Policy but my golly we've come out ahead by having our own policy for the areas that people are most concerned about. The East Manae and the West and it touches base on everything from water, from Mauka to Makai to the kuleana land, the traditional style of our living and what have you. They don't understand that but we do. I would hope that those values are imbedded in our plan before anybody says, oh I never know and develop this in Manae, that plan will say, no can, you have to follow these, this is what is in the plan not just shove underneath as an appendix.

We talk about community-based subsistence fishing area. County has no jurisdiction over that. But we decided we cannot get involved with the hakakā going on with Moomomi, north shore and what have you. But my golly, if our young people jump on the boat to save our mea ai that outside people are coming to the islands to just hoard our community should have a say as to how we want to protect or let it go or forget about it and that is what community based is all about. Community based is a mantra that we live by on this island. I just want to add to that. It is a concept but we have no jurisdiction but we put that mention in there because we talk about subsistence throughout our whole plan. With that being said Department planners we want to say our community embraces subsistence and it's based on what the community wants. Not any individual or organization but what that particular community wants.

I want to add on something about over there. I am a Kalama'ula Homesteader, been all my life and was also part of the kick off to get it going. This started back more than 5 years. When my late brother Greg Helm and our late Richard Negrillo. They were volunteers. Brother passed, next was Uncle Richard. We don't have the funding, we put in a proposal just to plan and design because you have to get stamp of approval from the County and that is what they did. We also used whatever funds we had to get materials to get it started. This was built by volunteers. Then you find that you have to meet other regulations and it is going to take more funds. Funding is not easily acceptable, so you still have that opportunity to leverage; we are working with Department of Hawaiian Homes. Do you think it's easy to pass and see this not completed. Many of us feel hurt about it but we have a process that we have to go through. We have to pay to do an Environmental Assessment and we couldn't afford for people to do it so some of us figured out how to do it to be accepted. All these different steps but all with volunteer kōkua. Now we had to do the roofing because it didn't meet what we had to. That took about \$127,000. But as I sat here, I saw many topic that involve the County and Auntie Betty your last one I would love to talk story with you further. Our association can go a little farther on that. But it's nothing out of neglect, as Richard passed on, and he was getting sick he was basically the konohiki, and now it takes another group to step up and finish it up. I believe we will.

Ms. Puua – Did they abandon it?

Councilmember Crivello – It is not abandoned.

Ms. Puua – If we abandon it will they open the park.

Councilmember Crivello – I don't think it is the intent of the organization to abandon it. I think for the access for the other side I am not sure what the lease said. But I think the conversation can be with the association and Department of Hawaiian Home Lands. Thank you all pau.

VI. ANNOUNCEMENTS/FYI

NONE

VII. ADJOURNMENT

Chair Colette Machado – Is there anyone else who would like to address the Trustees at this time. If not then the Chair would like to entertain a motion to adjourn.

Trustee Carmen Hulu Lindsey moves to adjourn the meeting

Trustee John Waihe'e IV Seconds the motion.

Chair Colette Machado – Roll call please.

Trustee Carmen Hulu Lindsey moves to adjourn the meeting
Trustee John Waihe'e IV Seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA						Excused
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						Excused
TRUSTEE CARMEN HULU LINDSEY	X		X			
TRUSTEE ROBERT LINDSEY						Excused
TRUSTEE JOHN WAIHE'E		X	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			5			4
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passed with five (5) YES votes, and four (4) excused.						

The meeting was adjourned at 11:20 am.

Respectfully submitted,

Dayna Pa, Board Secretary

As approved by the Board of Trustees on _____.

Colette Y. Machado, Chairperson
Board of Trustees

Attachment:

1. Trustee Leina'ala Ahu Isa Excuse Memo
2. Trustee Dan Ahuna Excuse Memo
3. Trustee Peter Apo Excuse Memo
4. Trustee Robert Linsdsey Excuse Memo



OFFICE OF HAWAIIAN AFFAIRS
Interoffice Memorandum

DATE: July 24, 2018

TO: Trustee Colette Machado, Chairperson

FROM: Trustee Leina'ala Aherns 

RE: **Molokai Board of Trustee Meeting – Thursday, August 9, 2018**

Aloha,

Please excuse my absence for the upcoming Board of Trustee meeting scheduled for Thursday, August 9, 2018. Should you have any questions or concerns please feel free to contact my office staff.

Mahalo.




OFFICE OF
HAWAIIAN AFFAIRS
STATE OF HAWAII
RECEIVED-BOT

2018 JUL 31 P 3:54

Office of Trustee Dan Ahuna
OFFICE OF HAWAIIAN AFFAIRS
Interoffice Memorandum

Date: July 31, 2018

To: Trustee Colette Y. Machado, Chair
Board of Trustees

From: Trustee Dan Ahuna 

Subject: Molokai Island BOT Meetings Absence

I am unable to attend the Molokai BOT meetings scheduled for August 8-9, 2018. Please extend my excused absence and my sincere apologies to the members of the board.

Mahalo.



INTEROFFICE MEMORANDUM

TO: Trustee Colette Machado, BOT Chair
Trustee Dan Ahuna, BOT Vice-Chair

FROM: Trustee Peter Apo

DATE: August 7, 2018

RE: BOT Meeting Absence on August 9, 2018

I am unable to attend the BOT Meeting on Thursday, August 9, 2018 to be held on Moloka'i at 10 a.m. Please excuse my absence and extend my apologies to the members of the Board.

If you have any questions, please call my office at 594-1879.

Mahalo.



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
HONOLULU, HAWAII 96817

July 13, 2018

TO: Trustee Colette Machado
Chair, Board of Trustees

Trustee Dan Ahuna, IV
Vice – Chair, Board of Trustees

Members of the Board of Trustees

FROM: Trustee Robert K. Lindsey, Jr.

SUBJECT: Excused Absence Moloka'i BOT Meeting

Aloha e Chair Machado:

I am unable to attend the Moloka'i Board of Trustees meeting at Kūlana 'Ōiwi on Thursday, August 9, 2018.

Please extend my excused absence and sincere apologies to the board members.

With sincere aloha,

A handwritten signature in black ink, appearing to read "Robert K. Lindsey, Jr.", written over a horizontal line.

Trustee Robert K. Lindsey, Jr.
Hawai'i Island, Board of Trustees

Office of Hawaiian Affairs
Board of Trustee Meeting
September 6, 2018
10:00 am

V. New Business

A. Committee on Resource Management

1. Action Item RM #18-10: Master Plan for OHA's 511-Acre Property surrounding the Kūkaniloko Birthing Stone
2. Action Item RM #18-11: OHA recognizes and thanks the Kūkaniloko Master Plan Working Group - Nā Lālā 'Ike Pono a Kūkaniloko - for participating in the creation of the Kūkaniloko Master Plan and issues to each the attached certificate.

Note: The committee reports for these items will be forwarded to the Board of Trustees following its approval at the RM Committee Meeting scheduled for September 5, 2018.

**THE COMMITTEE ON RESOURCE
MANAGEMENT**

COMMITTEE REPORT

Sept 6, 2018

The Honorable Colette Machado,
Chairperson Board of Trustees
Office of Hawaiian Affairs

Madame Chair Machado,

Your Committee on Resource Management, having met on September 5, 2018 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

To support to approve the long-term direction of the Master Plan for OHA's 511-acre property in Wahiawā surrounding the Kūkaniloko Birthing Stones, and authorize OHA's Administration to take further steps toward its implementation.

Relevant attachments are included for your information and reference. Attachment(s):


1. Action Item RM#18-10
2. RM Roll Call Vote Sheet (1)

Respectfully submitted:

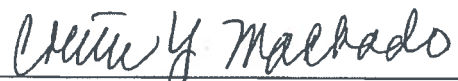

Trustee Carmen Hulu Lindsey, Chair


Excused
Trustee Peter Apo, Member



Trustee Leina'ala Ahu Isa, Member


Trustee Robert Lindsey, Member


Trustee Dan Ahuna, Member


Trustee Colette Machado, Member


Trustee Rowena Akana, Member


Trustee John Waihe'e, IV., Member


Trustee Keli'i Akina, Member



COMMITTEE ON RESOURCE MANAGEMENT

September 5, 2018

RM #18-10

Action Item Issue: The OHA Board of Trustees support and approval of the Master Plan developed for OHA's 511-acre property in Wahiawā surrounding the Kūkaniloko Birthing Stones.

Prepared by:


Jonathan Ching,

8/30/2018

Date

'Aho Kāko'o Mahele Mālama 'Āina, Legacy Lands Manager

Reviewed by:



Miles Nishijima,

08/30/2018

Date

Ka Pou Kihi Kanaloa 'Āina, RMLA Director

Reviewed by:

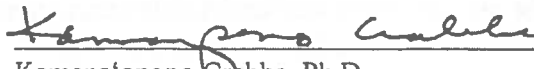

Miles Nishijima,

08/30/2018

Date

Interim Ka Pou Nui, Chief Operating Officer

Reviewed by:



Kamana'o pono Crabbe, Ph.D.

8/30/18

Date

Ka Pouhana, Chief Executive Officer

Reviewed by:


Ke Kua, Trustee Carmen Hulu Lindsey

Date

Luna Ho'omalua o ke Kōmike RM

Chair of the Committee on Resource Management

- I. **Action.** To support to approve the long-term direction of the Master Plan for OHA's 511-acre property in Wahiawā surrounding the Kūkaniloko Birthing Stones, and authorize OHA's Administration to take further steps toward its implementation.

II. **Background.**

The Place, a Sacred Place

Kūkaniloko is a wahi kapu (sacred place), and believed to be one of the most sacred places on the island of O'ahu and within the Pae 'Āina o Hawai'i. Situated in the geographical center of O'ahu, Kūkaniloko is located in the moku of Waialua and sits in the saddle between the Ko'olau and Wai'anae mountain ranges.

It is a place of mana where only the most sacred and highest ranking Ali'i were born including:

- Kapawa (the first Ali'i born here and the first one to be set up as a ruling Chief);
- La'amaikahiki (recognized as a higher ranking chief as a result of being born there);
- Mā'ilikūhahi (Formalized the Ahupua'a land management & governance construct, and invested in the leadership of the Pae 'Āina by taking the first-born male children of all families, whether of maka'āinana or ali'i lineage, to be raised and educated in his chiefly complex.);
- Kalanimanuiā (Mo'i wahine of O'ahu whom invested in sustainable food resources for her people); and
- Kākuhihewa, a chief whose name has become synonymous with the island of O'ahu (became renowned for productivity and extensive cultivation during his time).

It is important to recognize these names as their leadership qualities and deeds exemplify the sacred significance of this place, and has heavily influenced the development of this Plan.

Kūkaniloko is also recognized for being a chiefly center, a pu'uhonua (place of refuge) and is known to have significant astronomic relationships incorporated into how the site is located on the island and physically cited on the ground.

Many of OHA's beneficiaries understand the above information and more to a greater depth and continue to revere the Ali'i and their legacies, and the various accolades associated with the place. Additionally groups and individual families continue to engage and care for the site with a clear understanding of its historic and contemporary significance, spiritual and physical energy and mana, and its ability and capacity to help lead our people into the future. This has also heavily influenced the Plan.

OHA's Acquisition

In 2012 OHA acquired the 511-acre property in Wahiawā surrounding the Kūkaniloko Birthing Stones for the purposes as follows as documented in Action Item ARM/BAE#11-07 (Signed 5-18-2011).

- A. To protect Kūkaniloko by providing a buffer against future incompatible development in the area;
- B. To explore the development of compatible agricultural uses and other programmatic initiatives;
- C. To contribute to Hawai'i's food self-sufficiency, preservation of open space and watershed lands and overall community planning goals for central O'ahu.

The Cost for Acquisition and the Conservation Easement

OHA paid \$3 million, leveraging it with \$1 million from the Army, \$1 million from TPL sources, and \$2 million from the City & County of Honolulu (C&C). The funds provided by the Army and C&C resulted in the creation of a conservation easement that accompanies the property. The conservation easement restricts the use of the property to minimize uses that conflict with agriculture and the Military mission (training exercises and flight paths).

Zoning

The C&C has zoned the property as "AG-1 Restricted Agriculture". AG-1 is the most restrictive agricultural designation intended to protect and preserve important agricultural lands.

OHA Sets the Conceptual Direction for the Property

In February 26, 2015, OHA's Legacy Land Program (then the Land and Property Management Program) presented a conceptual direction for the property that gained unanimous support by the Board of Trustees. This conceptual direction, informed by input provided by the Hawaiian Civic Club of Wahiawa (long-time caretakers of the site). The Conceptual Direction aligned itself with OHA's Mission, OHA's purposes of acquisition, and an understanding that planning for a property of this level of significance would require a unique approach. The premise was set that Kūkaniloko was extremely sacred, has a rich and valuable historical significance associated with the property, and is a cultural Kipuka resource to OHA's Beneficiaries and the greater community for current and future generations.

Three primary land use concepts emerged as follows:

1. Ho'omana: Protection/Sanctification;
2. Ho'onau'ao: Education/Connection; and
3. Ho'oulu'āina: Agriculture/Ecological Rehabilitation/Soil Remediation

Additional Work Leading up to the Master Plan

After obtaining support from the Trustees the Legacy Lands Program conducted a number of studies in preparation for master planning. The studies consisted of:

- 1) Creating a Preservation Plan for the 5-acre parcel on which the birthing stones are located (currently owned by DLNR-State Parks). The Preservation Plan sets the direction for actions that OHA shall and may take to care for the historic site that is on both the State and Federal Register of Historic Places. OHA officially submitted the Preservation Plan to SHPD as of December of 2017 and OHA is awaiting any comments and/or approval.
- 2) Addressed outstanding issues relative to the Traditional Cultural Properties (TCP) Study, originally completed in 2012. The TCP study contains a plethora of valuable information with regard to the history of the Kūkaniloko birthing stones and the surrounding area. The research documented in the TCP document helped to inform the Preservation Plan, and the document itself contains a great deal of information that will be a valuable resource for OHA, our Beneficiaries, and anyone who is interested in the Kūkaniloko Birthing Stones or the surrounding area. After additional analysis it was determined that OHA did not agree with specific portions of the study and has since corrected those specific issues by adding an "OHA Commentary" document to the TCP. The TCP will now be officially included (and thus published) as a part of the appendix of the Preservation Plan.
- 3) Creating a Draft Archaeological Inventory Assessment Plan (AISP) for the 511-acre property. The purpose of the AISP is: To plan in preparation to conduct an Archaeological Inventory Survey (AIS) that complies with the State Historic Preservation Division's (SHPD) regulatory requirements in a way that documents the processes, procedures, and outcomes of how OHA will conduct an AIS on OHA's 511-acre parcel in Wahiawā (when required). The Legacy Land Program worked with consultants, native Hawaiian and other experts (in the fields of archaeology, law, traditional cultural practitioners, and experience land stewards) to better understand any requirements, typical practices, and issues that may be of concern to our beneficiaries and practitioners prior to OHA taking any action. It was important for OHA to understand this issue so that we can take action in a way that does not

compromise cultural integrity; and sets an example for other landowners to follow. OHA officially submitted the AISP to SHPD as of March 2018 and OHA is awaiting any comments and/or approval.

- 4) Conducted Water, Soil, and Agricultural studies to inform our planning. This included:
 - a. An analysis of OHA's water resource and filtration options;
 - b. Water infrastructure needs;
 - c. Recommendations for soil rehabilitation; and
 - d. Agricultural recommendations for OHA to consider.
- 5) OHA has secured water resources from the Agribusiness Development Corporation (ADC an entity of the Department of Agriculture). OHA worked to secure an agreement with the ADC such that the ADC will provide 1 million gallons of water per week (142,857 gallons per day) to OHA. OHA will need to pay for the cost of the water (still to be negotiated) and provide water storage facilities to receive the water. Although OHA anticipates a maximum water need of 1-1.5 million gallons per day under the most extensive agricultural models, it is a great start and the only feasible water source available to OHA at this time.
- 6) OHA has worked to construct an entry gate at the Kamehameha Highway access point to control vehicular access to the site and mitigate unsafe conditions.
- 7) OHA has conducted houseless sweeps and has removed tons of trash and illegally constructed "dwellings" that previously existed on the 511-acre property. Additionally and has implemented regular security patrols to keep the property clear of illegal trespassing and illegal camping.
- 8) OHA has cleared and kept clear invasive vegetation on approximately 23-acres of the 511-acre property where illegal trespassing and illegal camping were previously prevalent. Additionally OHA has maintained a firebreak around the 5-acre property where Kūkaniloko Birthing Stones inclusive of the easement road that traverses OHA's 511-acre property to enable access to the site.
- 9) OHA has conducted a property boundary survey relocated and permanently marked the property pins. More than half of the property boundary survey was completed in collaboration with the houseless sweeps with the remainder to be completed in FY 19.

III. Discussion. OHA has been working on a community informed Master Planning effort over the past two years to advance the OHA approved conceptual direction to a point of understanding that will guide OHA's direction for the 511-acre property. The planning process included:

- a. Intentional community engagement and has leveraged the expertise of various consultants and that of community "thought leaders", various stakeholders (landowners, Civic Organizations, and the community at large), and a community-based working group to further define the programmatic uses and infrastructural needs of the property based on the primary conceptual land uses (Ho'omana - Protection/Sanctification, Ho'onau'ao - Education/Connection, and Ho'oulu'āina - Agriculture/Ecological Rehabilitation/Soil Remediation;
- b. OHA's mission and purpose of acquisition;
- c. OHA's institutional knowledge; and
- d. All of the aforementioned studies and actions listed above (1 through 9).

The plan sets the long-term direction for OHA to follow and take action upon as resources, partnerships, and conditions allow over time. The plan defines:

1. A robust understanding of the historical, contemporary and future potential of the site by providing information alluding to its sacred nature, social and ecological value, and an understanding of how to care for and leverage its unique resources for the overarching wellbeing of OHA's beneficiaries and the community;
2. Guiding Themes, Philosophies, Values, Principles, and Guidelines to guide OHA in the long-term implementation of the plan;
3. Programmatic use recommendations and the infrastructure needed to support them; and
4. A basis of understanding to guide OHA on the next steps recommended for the further development and implementation of the plan.

IV. Recommended Action. Approve the proposed action stated in I.

V. Timeframe. This action item will go into effect immediately upon the BOT's approval.

VI. Attachments. Conservation Easement



STATE OF HAWAII
OFFICE OF ASSISTANT REGISTRAR
RECORDED

December 10 2012 8 01 AM

Doc No(s) T-8379211
on Cert(s) 1052192
Issuance of Cert(s)



59 3/8 DML
B-32174100

H/ NICKI ANN THOMPSON
ASSISTANT REGISTRAR

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (X) Pickup () To:

CITY AND COUNTY OF HONOLULU
ATTN MR DOUGLAS B CHIN
530 SOUTH KING STREET, ROOM 306
HONOLULU HI 96813

TGON: 201205100 - 5
TGEB: T2-101-0241
BARBARA PAOLO

TMKS: (1) 7-1-001:008, -025 and -026

Total No. of Pages: 59

**GRANT OF CONSERVATION EASEMENT
(For Agricultural Preservation)**

This Grant of Conservation Easement (For Agricultural Preservation)
("Easement") is made by and between the following parties and relates to the Property
described herein.

Grantor:	The Trust for Public Land ("Grantor"), a California nonprofit public benefit corporation
Grantee:	City and County of Honolulu ("Grantee"), a Hawaii municipal corporation
Affected Land:	Those certain parcels of land in the City and County of Honolulu, Island of Oahu, Hawaii, bearing TMKS (1) 7-1-001:028, 025, and 008 (the "Property")

RECITALS

I. STRUCTURE OF THIS CONSERVATION EASEMENT AND INITIAL DEFINITIONS

- A. This Easement includes three main subdivisions: (1) The *Recitals* provide a general description of the Property, the surrounding area, the existing zoning and other land use rights and restrictions affecting the Property, and the Agricultural Values (defined in the Glossary and in the Recitals) to

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be protected by this Easement. (2) The *Covenants and Restrictions* describe the rights and obligations of the Grantor and the Grantee, (3) The *Exhibits* identify the Property and the Baseline Documents, defined in the Glossary.

- B. The Grantor is referred to in this Easement as "*the Grantor*". The Grantee is referred to in this Easement as "*the Grantee*".
- C. Other capitalized terms used in this Easement are either defined when they first appear in this Easement or may be found in the Glossary, located in Section XI of the Covenants and Restrictions.

II. IDENTIFICATION OF THE PROPERTY AND ITS AGRICULTURAL VALUES

- A. General Property Location and Description. The Property affected by this Easement consists of approximately 511 acres, is located in Central O'ahu, and is described and identified in Exhibit A, and incorporated herein by reference. Property improvements within the Property are described in attached Exhibit A-1. The Property excludes the approximately 4.415-acre parcel surrounding Lot 1-B-1-B upon which the Kōkaniloko birthing stones are located, which parcel was condemned by the State of Hawai'i in 1992, and is more fully described on Exhibit A-2 attached hereto (collectively, the "Kōkaniloko Buffer Property").
- B. Importance of Property for Agricultural Preservation. The U.S. Department of Agriculture's Natural Resources Conservation Service's Web Soil Survey (WSS), which provides soil data and information produced by the National Cooperative Soil Survey, identifies the Property as Unique Farmland (if irrigated).
- C. Cultural Significance of the Property. The Property surrounds the Kōkaniloko birthing stones, one of the most important cultural sites in Hawai'i, listed in the State and National Registers of Historic Places. The overall significance of Kōkaniloko extends beyond the immediate location of the birthing stones; the Property is located at the midway point between the highest peak of the Waianae range and the highest point of the Ko'olau range on the central plain of O'ahu and in ancient times was used, in part, as a royal center that included kauhale for chiefs and commoners, agricultural fields and associated features.
- D. Army Mission Activities. The U.S. Department of the Army (the "Army") has a third party contingent interest in the conservation of the Agricultural Values, and has determined that this Easement will serve a public purpose. The Army has determined that the preservation of Agricultural Values will minimize the likelihood of land use and development of the Property that could adversely impact the training, testing and operations at the nearby U.S. Army Garrison Hawai'i (collectively, the "Military Mission")

and that the perpetual protection and enforcement of these values will support the Military Mission.

III. DESCRIPTION OF THE PROPERTY AND SURROUNDINGS

History of Land Uses on the Property and Surrounding Areas. The Property has been used for pineapple cultivation by the Estate of George Galbraith ("Seller") or Seller's predecessors or their respective lessees since at least 1844, if not earlier. Prior to that, the Property was used for other agricultural purposes, including grazing. From ancient times through the end of the 18th century, the Property and the surrounding area was renowned as a royal center, including Kūkaniloko, the birthing place of many notable and high ranking chiefs. The town of Wahiawā borders the Property's southern boundary and experienced significant residential suburban growth in the 20th century. The Property's northern, eastern, and western boundaries are located adjacent to other land associated with Seller, with a similar property use history. The Property's southwestern corner lies near the U.S. Army Garrison Hawai'i, which has also grown rapidly in the 20th century.

IV. CURRENT LAND USE LAWS.

As of the date hereof:

- A. Hawai'i State Land Use District. All of the approximately 511 acres of the Property are located in the "Agricultural" State Land Use District, as defined by Hawai'i Revised Statutes ("HRS") Chapter 205.
- B. Hawai'i Coastal Zone Management Act. The Property is not located within the Special Management Area, as defined by the Hawai'i Coastal Zone Management Act ("CZMA"), HRS Chapter 205A.
- C. Community Plans. The Property lies within the Central O'ahu Sustainable Community Development Plan area (December 2002) (the "Plan").
- D. County Zoning. The Property is zoned "AG-1" ("restricted") under the Honolulu Land Use Ordinance ("LUO").

V. FUNDING SOURCES FOR PURCHASE OF THIS EASEMENT

Funding for the purchase of this Easement comes, in part, from the Clean Water Natural Lands Fund ("CWNLFF"), established by City and County of Honolulu Ordinance 07-18. The purpose of CWNLFF includes acquiring real estate interests for land conservation in the City and County of Honolulu for, among other purposes, the preservation of agricultural lands and the preservation of historic or culturally important land areas and sites. Grantee is providing to Grantor TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) from CWNLFF funds in connection with the acquisition of the Easement. Funding for the purchase of the Property and this Easement also comes from the Army through Cooperative Agreement (W911SR-05-2-001), between Grantor and the Army (the "Cooperative Agreement"), in accordance with the authorities codified at 10 U.S.C. §2684a which authorizes the Army to enter into agreements to protect the

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Military Mission of the U.S. Army Garrison Hawai'i from encroachment by incompatible development and to conserve property for agricultural purposes. The parties intend the Army to be a third party beneficiary to this Easement. The parties do not intend, by reference in this Recital, to incorporate in this Easement the specific terms of the Cooperative Agreement, which are binding only between Grantor and the Army.

VI. INTENT TO PROTECT AGRICULTURAL VALUES OF PROPERTY FOR AGRICULTURAL PRODUCTION

- A. The Property possesses significant values worthy of being conserved, specifically the preservation and protection of agricultural resources, arable soils and productive agricultural lands, which have been identified as Unique Farmland and have not been lost to development; and which may (at Grantor's option) be utilized in a culturally sensitive manner for agricultural production (collectively, the "Agricultural Values"). Agriculture is a land use that is generally more compatible with the Military Mission than other forms of development in the location of the Property.
- B. Grantor believes that with the intelligent and careful use of a conservation easement, the Agricultural Values of the Property can be protected in a manner that promotes agricultural production and also permits Grantor's continuing ownership, use and enjoyment of the Property, including without limitation, the stewardship and preservation of the cultural significance of the Property.
- C. Grantor intends to convey to Grantee an easement to take actions to preserve and protect the Agricultural Values of the Property as set forth herein.
- D. Grantee represents that HRS Chapter 198 provides that public bodies, such as Grantee, may acquire and hold conservation easements by purchase, agreement, donation, devise or bequest.
- E. Grantor and Grantee (i) recognize the Agricultural Values of the Property, and (ii) concur in taking actions to preserve and protect in perpetuity the Agricultural Values of the Property through the use of restrictions on the Property. Including, without limitation, the transfer from Grantor to Grantee of certain rights for the preservation and protection of the Agricultural Values of the Property as fully set forth below.

NOW, THEREFORE, in consideration of TEN AND NO/100 DOLLARS and other good and valuable consideration, the covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Grantor, and the above and mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of Hawai'i, including HRS Chapter 198, Grantor hereby voluntarily grants and conveys to Grantee and its successors and permitted assigns this Easement in perpetuity over the Property in accordance with the terms and conditions set forth below. Grantor declares that the

Property shall be held, mortgaged, encumbered, transferred, sold, conveyed, used, and occupied subject to the covenants, conditions, restrictions, and easements set forth below, which covenants, conditions, restrictions, and easements shall be deemed to run with the land in perpetuity.

COVENANTS AND RESTRICTIONS

I. PURPOSE

The "Purpose" of this Easement is to preserve and protect in perpetuity the Agricultural Values identified in Section VI.A of the Recitals. The parties hereto acknowledge and agree that to the extent Grantor shall engage in activities on the Property, no activity which significantly impairs the Agricultural Values will be permitted.

II. RIGHTS OF GRANTOR

Except as prohibited or restricted by the provisions in Section IV of the Covenants and Restrictions of this Easement or by applicable law, Grantor reserves all the following customary rights and privileges of ownership not granted to Grantee, provided such rights and privileges are not inconsistent with the Purpose of this Easement and are exercised in a manner and intensity that does not significantly impair the Agricultural Values, including, but not limited to:

- A. Alienation and Use. The right to (i) sell, lease, license, encumber and devise the Property and to lease or license less than all of the Property, so long as such lease of less than all of the Property constitutes an Agriculture Land Lease/License or Agriculture Facilities Lease/License, and provided that this Easement shall be referenced in every lease as burdening the Property or portion of the Property covered by the lease/license; (ii) construct, maintain, renovate, use, demolish or remove any other structures as permitted by this Easement; (iii) maintain and use the unimproved portions of the Property existing at the time of this Easement; (iv) complete the recordation of the subdivision of the Kūkaniloko Buffer Property and conveyances and transfers to and/or from the State of Hawai'i and/or its designee; and (v) all other incidents of ownership of real property that are not inconsistent with the Purpose of this Easement.
- B. Privacy and Quiet Enjoyment. The right of privacy and the right to deny access to other persons, except where expressly permitted to Grantee under the terms of this Easement, as well as the right to all manner of access to and personal use and enjoyment of the Property, including, without limitation, the right to undertake activities reasonably necessary to carry out the rights reserved to Grantor. Such rights shall include the ability to secure the Property and/or any portion thereof, including, without limitation, by installing security devices, erecting fencing and deploying guard animals, all in accordance with applicable law.

- C. Guests and Invitees. The right to permit or invite others to engage in any use of, or activity on, the Property permitted by this Easement and not inconsistent with the Purpose of this Easement.
- D. Agricultural Use. The right to use the Property for agricultural activities and uses that comply with federal, state and local laws and regulations and that do not significantly impair the Agricultural Values of the Property, including, but not limited to, the following:
1. Cultivation. Cultivation, harvesting and rotation of crops, including but not limited to silviculture, floriculture, horticulture, forestry and other types of agricultural crop cultivation;
 2. Animal Husbandry. Propagation of, raising of, and grazing, each for agricultural purposes, of livestock, including but not limited to cattle, dairy cows, sheep, goats, game, poultry, bees, fish, or other animal or aquatic life raised primarily for its food value;
 3. Farm Product Storage and Preparation. The preparation, storing, processing and curing of agricultural products for off-site sales using raw farm products, including the construction of structures supporting such activities;
 4. Fences, Drainage and Irrigation Systems. The right to construct and maintain fences and drainage and irrigation transmission systems, including pipes, filtration systems, and related irrigation and drainage components necessary or desirable to support the Agricultural Values of the Property. The right to construct, install, maintain and reconstruct wells, reservoirs, ponds, ditches, catchment systems, water tanks, or water transmission lines and systems necessary or desirable to support the Agricultural Values of the Property;
 5. Agricultural Facilities. The right to construct, repair, remodel, maintain, and use agricultural facilities and structures that are in furtherance of, and reasonably necessary in connection with, the agricultural activities on the Property including, but not limited to: barns; facilities associated with animal husbandry; paddocks; slaughterhouses; vehicle, tool and equipment storage areas; workshops; greenhouses; hothouses; shadehouses; mills; agricultural employee parking; agricultural employee bathroom facilities and security or guard facilities; and
 6. Accessory Structures and Improvements. The right to construct, repair, remodel, maintain, and use accessory structures and improvements that are customarily appurtenant to farm structures on the Island of O'ahu, including, but not limited to, septic tanks and

leach fields, utilities and alternative energy devices that provide power to the agricultural structures or activities on the Property.

- E. Utility Services and Septic Systems. Wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communications, or other utility services to the improvements permitted herein may be installed, maintained, repaired, removed, relocated and replaced, and Grantor may grant easements over and under the Property for such purposes. Septic or other underground sanitary systems serving the improvements permitted by this Easement may be installed, maintained, repaired or improved.
- F. Educational or Interpretive Structures and Signs. As otherwise permitted by law, the right to construct and maintain educational or interpretive signs and structures regarding agricultural or cultural resources on the Property.
- G. Native Hawaiian Cultural Activities and Practices. The right to conduct cultural activities and practices including, but not limited to, experiential and activity-based education and training in resource stewardship and community economic development.
- H. Motorized Vehicles and Equipment. The right to use motorized vehicles and equipment for access, land management, agricultural activities, and/or other activities permitted under this Easement.
- I. Waste. To the extent permitted by law, the right to compost, burn, or store vegetative waste generated by permitted activities and uses and the right to store for removal at reasonable intervals normal and customary waste generated on the Property by permitted activities and uses.
- J. Signs. The right to post all or a portion of the Property against trespassing and hunting and erect identification and warning signs.
- K. Access to Farming and Cultural Sites. The right to establish reasonable rights-of-way, including providing roadway, pedestrian and utility access, to permitted structures and facilities, crops or growing areas on the Property, areas to be used by cultural practitioners and to culturally significant sites, and to cut trees, grass, and other vegetation to provide such access and rights-of-way. Access made under the provisions of this provision shall be done in a manner so as to create the least possible disturbance to the Agricultural Values of the Property (for example, by creating access along unpaved roads), and in no event shall such improvements exceed legal restrictions or governmental consents.
- L. Emergencies. The right to take any emergency action Grantor reasonably believes necessary to protect human, animal or plant life, cultural or historic resources, or improvements permitted by this Easement on the Property.

- M. Use and Maintenance of Water Sources. The right to use and maintain water sources, water courses and water bodies within the Property.
- N. No Restoration Obligation. Unless otherwise specified below, nothing in this Easement shall require Grantor to take any action to restore the condition of the Property after any act of God or other event over which Grantor had no actual control or no ability to foresee.
- O. Chemical Applications. Subject to compliance with all applicable requirements and laws, agricultural chemicals may be applied to the Property for bona fide agricultural purposes provided that the application of such chemicals does not significantly impair the Agricultural Values of the Property.

III. GOOD FAITH NEGOTIATIONS

Promptly upon the execution of this Agreement, the Grantor and the Grantee agree to negotiate in good faith, and with the concurrence of the Army (which shall not be unreasonably withheld to the extent that the requested activity, structure or use is not inconsistent with the Military Mission), over terms and conditions that may be added to this Agreement by amendment relating to (a) the possible construction of farm dwellings and related infrastructure for use by farming tenants dwelling on the Property, and (b) certain commercial and recreational activities that may be permitted on the Property.

IV. PROHIBITIONS AND OTHER RESTRICTIONS OF OR ON THE PROPERTY

The following activities and uses are prohibited or restricted without the prior consent of Grantee pursuant to Section VI.A of the Covenants and Restrictions and the concurrence of the Army, which shall not be unreasonably withheld to the extent that the requested activity or use is not inconsistent with the Military Mission, unless an exception is expressly provided:

- A. Impervious Surfaces. The aggregate Impervious Surfaces on the Property shall not exceed six percent (6%) of the total area of the Property.
- B. Subdivision. The legal division, subdivision or partitioning of any of the Property (including condominium regime) for a purpose that is inconsistent with the Purpose of this Easement; except that, Grantor may enter into Agricultural Land Leases/Licenses and Agricultural Facilities Leases/Licenses and take any and all actions necessary to effectuate such Agriculture Land Leases/Licenses or Agriculture Facilities Leases/Licenses (including subdivision), and may subdivide or allow the subdivision of the Property as may be necessary to convey the Kūkaniloko Buffer Property to the State or its designee pursuant to the 1982 condemnation order relating to the Kūkaniloko Property.
- C. Dwellings. The construction of any type of dwelling or use of a structure as a dwelling not expressly agreed upon by the parties pursuant to Section III of the Covenants and Restrictions.

- D. Structures and Facilities. The construction of any structure or facility not expressly permitted by Section II of the Covenants and Restrictions or not expressly agreed upon by the parties pursuant to Section III of the Covenants and Restrictions.
- E. Commercial/Retail Activities. Conducting any commercial or retail activities on the Property, other than the operation of commercial agricultural enterprises and other commercial or retail activities expressly agreed upon by the parties pursuant to Section III of the Covenants and Restrictions, is prohibited. Agricultural tours, farms stands and other commercial or retail activities on the Property which may be accessory to commercial agricultural enterprises are also prohibited unless expressly agreed upon by the parties pursuant to Section III of the Covenants and Restrictions. Notwithstanding the foregoing, it shall not be deemed a commercial or retail activity for Grantor to charge fees to the public for use of any educational or interpretive facilities it may develop pursuant to the terms of this Easement.
- F. Height Restrictions. Grantor may not build or install any kind of structure exceeding 100 feet in height anywhere on the Property.
- G. Uses and Activities Inconsistent with the Purpose of the Easement. Any use of, or activity on, the Property inconsistent with the Purpose of this Easement is prohibited except as otherwise allowed by this Easement, and Grantor acknowledges and agrees that it will not conduct, engage in, or permit any such use or activity without the prior consent of Grantee. Without limiting the generality of the foregoing, the following uses of, or activities on, the Property, though not an exhaustive list of inconsistent uses or activities, are inconsistent with the purposes of this Easement and shall be prohibited, except where expressly reserved as unconditional or conditional rights of Grantor as established in Section II of the Covenants and Restrictions of this Easement:
1. Alteration of Land. The excavation or removal from the Property of soil, sand, gravel, rock, peat, or sod, except for the alteration of land necessary in connection with uses and activities permitted by this Easement including, without limitation, the construction and maintenance of permitted structures or improvements associated with the uses and activities permitted by this Easement;
 2. Erosion or Water Pollution. Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters except to the extent permitted by law;
 3. Waste Disposal. The disposal or permanent storage of rubbish, garbage, debris, unregistered vehicles, abandoned equipment or

parts thereof or, except as may be done in connection with uses and activities permitted under this Easement and in compliance with applicable law, Hazardous Material on the Property;

4. Mining. The exploration for, or development and extraction of, minerals, hydrocarbons and geothermal resources on, below or through the surface of the Property; and
5. Water Rights. Grantor shall not transfer, encumber, sell or lease any Water Rights separately from the Property, or otherwise separate any Water Rights from the Property without the approval of Grantee pursuant to Section VI of the Covenants and Restrictions; provided, however, that no approval of Grantee shall be required under this paragraph for (i) Grantor's transfer, sale or lease of Water Rights to lessees, tenants, licensees and other users of the Property or any portions thereof; (ii) the use of Water Rights between any portions of the Property; or (iii) Grantor's obtaining water and Water Rights from other sources.

- H. Hazardous Materials. The Release of Hazardous Materials onto the Property in violation of applicable law.

V. AFFIRMATIVE RIGHTS CONVEYED TO GRANTEE

To accomplish the Purpose of this Easement the following rights are conveyed to Grantee. These rights are to be carried out by Grantee as the primary party charged with the responsibility to monitor and enforce this Easement, and any separate or independent action by the Army is expressly limited by the restrictions set forth in Section V.L of the Covenants and restrictions of this Easement.

- A. Intentionally Deleted.
- B. Access and Reporting. Subject to the limitations set forth below, Grantee or its agents have the right to enter the Property for the purpose of monitoring compliance with this Easement and for enforcement:
 1. Annual Monitoring. Upon fifteen (15) days prior Notice to Grantor (in the manner set forth set forth in Section VI.D), and without unreasonably interfering with the use of or access to the Property by Grantor or anyone claiming by or through Grantor (including, without limitation, a tenant, licensee, or invitee), Grantee has the right to enter upon the Property, but not including building interiors, at reasonable times and in a reasonable manner in order to monitor Grantor's compliance with, and otherwise enforce the terms of, this Easement; provided that in the absence of evidence which gives Grantee a reasonable basis to believe there has been a violation of the provisions of this Easement (which evidence shall be made available to Grantor at the time of such Notice and request to enter

the Property), such entry shall not occur more often than once per year. Grantee shall be solely responsible for any damage, injury or loss, including, without limitation, injury to person (including death) and damage to real or personal property, resulting from, and to the extent caused by, Grantee's entry onto the Property and activities thereon at Grantee's expense. Without limiting the foregoing, Grantee shall promptly restore any property damaged by its entry and activities hereunder to its pre-damaged condition at Grantee's sole expense.

2. **Reporting.** On or before the 20th day of the seventh month of each year, the Grantor shall use best efforts to deliver a report to Grantee containing the following information within its possession covering the previous calendar year:
 - i. Number of on-going and new leases.
 - ii. Number of acres leased and cultivated.
 - iii. General description of crops and animals raised on the land.
 - iv. Average number of hired farm workers per farm.
 - v. Gross farm sales per farm as of 12/31.
 3. **Emergency Entry.** Where Grantee has a reasonable belief that there is a significant and imminent threat to any of the Agricultural Values, Grantee has the right to enter the Property, but not including building interiors, to monitor the Property in accordance with the terms of Section V.B.1 above. Where time permits, Grantee shall make good faith efforts to provide at least twenty-four hours' Notice to Grantor (and if twenty-four hours' Notice is not possible, then the maximum amount of Notice possible under the circumstances) in the manner set forth in Section VI.D of the Covenants and Restrictions for emergencies and shall, in all events, notify Grantor as soon as reasonably possible after any entry onto the Property for an imminent threat.
- C. **Enforcement.** Grantee has the right to enforce this Easement and the covenants and restrictions herein, including, but not limited to, the right to enjoin any use of, or activity on, the Property that is in violation of the terms of this Easement, and to require the restoration of such areas or features of the Property as may be damaged by uses or activities inconsistent with the provisions of this Easement.
1. **Disputes.** Grantor and Grantee agree that they shall endeavor to resolve all disputes arising under or with respect to this Easement first through mediation by a single neutral mediator administered by

Dispute Prevention & Resolution, Inc. ("DPR") or similar neutral professional dispute resolution organization acceptable to the parties; provided, however, that the foregoing shall not preclude a party from seeking temporary or preliminary injunctive relief in the First Circuit Court of the State of Hawai'i without mediation should circumstances require. The mediation shall take place in Honolulu, Hawai'i. If mediation does not resolve the dispute(s), the parties agree that the dispute(s) shall be resolved by the First Circuit Court of the State of Hawai'i.

2. Notice of Violation, Corrective Action, Opportunity to Cure. If Grantee determines that the Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written Notice to Grantor (in the manner set forth in Section VI.D of the Covenants and Restrictions) of such violation or threatened violation. In the case of an actual violation, Grantee may demand corrective action sufficient to cure the violation (within the permitted time periods set forth in Section V.C.3 of the Covenants and Restrictions) and, where the violation involves Injury to the Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee. In the case of a threatened violation, Grantee's sole right shall be to provide a Notice with reasonable detail as to the threatened violation and a demand that such threatened violation be avoided.

3. Grantor's Failure to Cure. Grantee may commence an action, or mediation, as appropriate, pursuant to this Section V of the Covenants and Restrictions with respect to actual violations as provided in this Section V.C if Grantor:

- i. Fails to cure a violation of Section V.B.2 of the Covenants and Restrictions within one hundred twenty (120) days after receipt of Notice thereof from Grantee;
- ii. Fails to cure any other violation within sixty (60) days after receipt of Notice thereof from Grantee; or
- iii. Under circumstances where the violation cannot reasonably be cured within the sixty-day (60) period, fails to begin curing such violation within the sixty (60) day period and fails to continue diligently to cure such violation until finally cured.

D. Remedies; Damages. Grantee's rights and remedies identified in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

1. If Grantee and Grantor are not able to resolve Grantee's claim of a violation of this Agreement through mediation, Grantee may bring an action at law or in equity to enforce the terms of this Easement:
 - i. To enjoin the violation by an award of temporary, preliminary or permanent injunctive relief; and
 - ii. To require the restoration of the Property to the condition that existed prior to any such injury.
2. Damages. Grantee shall be entitled to recover actual damages for violation of the terms of this Easement or injury to any Agricultural Values protected by this Easement to the extent such damages may be ascertained with reasonable certainty. Without limiting or enlarging Grantor's liability in any way, Grantee may, in its sole discretion, apply any damages recovered to the cost of undertaking corrective or restoration action on the Property. In no event shall Grantee be entitled to consequential or punitive damages as a result of a violation of this Easement.
3. No Bond Required. Any action for injunctive relief or damages may be taken without Grantee being required to post bond or provide other security except as otherwise required by applicable law.
- E. Grantee's Forbearance. Failure by Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of any other terms of this Easement or of any of Grantee's other rights under this Easement. No delay or omission by Grantees in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- F. Acts Beyond Grantor's Control; Emergency Conditions. Nothing contained in this Easement shall be construed to entitle Grantee to assert a claim against Grantor to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or for acts of trespassers or other third parties beyond Grantor's reasonable control, governmental regulation, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes or to protect bona fide public health or safety in an emergency situation.
- G. Rights of the U.S. Army. If the Grantee fails to enforce any term of this Easement or permits the Property to be used or developed in a manner inconsistent with the Purpose, then:

1. The Secretary of Army shall give the Grantor and Grantee written notice that the Grantee has failed to enforce a term of this Easement or has permitted the Property to be used or developed in a manner inconsistent with the Purpose and shall demand the Grantee to commence remediating action within a reasonable period of time.
2. If Grantee does not commence remediating action within a reasonable period of time, the Secretary of the Army, through his or her authorized representative, and as a third party beneficiary of the Easement, shall have the right to enforce the Easement using the procedures set forth in Sections V.C. and V.D of the Covenants and Restrictions.
3. If the Army is unable to enforce the Easement using the procedures set forth in Sections V.C. and V.D of the Covenants and Restrictions, it shall have the right to cause the Grantee to transfer its right and interest in and to this Easement either to an entity approved by the Army, which approval shall not be unreasonably withheld, or to the United States, at the sole discretion of the Army. Under 10 U.S.C. §2684a(d)(5) the Secretary is required to limit such transfer request to the minimum property or interests necessary to ensure that the Property concerned is developed and used in a manner appropriate for the purposes of 10 U.S.C. §2684a.

In the event the United States Government ceases to own or control the real property on which U.S. Garrison Hawai'i is located and the Military Mission completely ceases, the Army's rights under this Easement shall terminate.

VI. APPROVAL; BREACH; COMPLIANCE CERTIFICATES

- A. Approval by Grantee. In the event that Grantor desires or requires Grantee's approval under this Easement for activities and/or uses at the Property, Grantor shall follow the procedures set forth in this Section VI.A.
1. Approval Procedures. Grantor shall request approval from Grantee in writing. The request for approval shall describe in detail the nature, scope, location, timetable, its conformity with this Easement, and, when applicable, evidence of conformity with existing land use regulations, and any other material aspect of the proposed activity. Delivery of the request shall conform to the service methods set forth in Section VI.D. Grantee shall have thirty days (30) from receipt of the request in which to approve, disapprove, or approve subject to modification, the request. In the case of withholding of approval, Grantee shall notify Grantor in writing with reasonable specificity of the reasons for withholding of approval, and the conditions, if any, on which approval might

otherwise be given. If Grantor does not receive a written response from Grantee for any approval requested, other than a request for approval of an activity, structure or use expressly prohibited under Section IV of the Covenants and Restrictions (each, a "Section 4 Request"), within thirty (30) days of its request, Grantee shall be deemed to have unconditionally approved Grantor's request, provided that the Grantor and Grantee have the option to waive the thirty (30) day deadline to further discuss the requested approval. With respect to a Section 4 Request, if Grantee fails to respond within such 30-day period, Grantor shall have the right to further request a response from Grantee by telephone conference. If Grantor does not receive a written response from Grantee for the Section 4 Request within fifteen (15) days after such telephone request, Grantee shall be deemed in default under this Easement.

2. Standard of Approval; Prohibited Activities, Structures, Uses. Grantee may withhold approval for any activity, structure or use, set forth in Section IV of the Covenants and Restrictions in its sole discretion; provided, however that the foregoing shall in no way diminish or limit the Grantee's obligations to negotiate in good faith with respect to the matters set forth in Section III of the Covenants and Restrictions.
 3. Standard of Approval; Other Activities, Structures, Uses. Grantee shall not unreasonably withhold approval of a proposed use or activity requiring approval under this Easement. It shall be reasonable for Grantee to withhold approval where the proposed activity or use will significantly impair the Agricultural Values or the proposed activity or use is not consistent with the Purpose of this Easement, among other reasons.
- B. Breach of Approval Provisions. Engaging in any activity for which approval is required by this Section VI and its subsections but is not obtained shall be a material breach of this Easement and shall entitle Grantee to such rights or remedies as may be available under Section V of the Covenants and Restrictions. Notwithstanding the foregoing, Grantee may, at its sole option, permit Grantor to cure the breach by showing despite lack of conformity with this Easement or the laws, that the action was justified because of an emergency.
- C. Compliance Certificates. Grantee, or its successor, as the primary enforcer of this Easement shall, within thirty (30) days of a request by Grantor, execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, that certifies Grantor's compliance or lack thereof with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement. Such certificate shall be binding upon Grantee. Such

certification shall be limited to the condition of the Property as of the most recent monitoring visit carried out by Grantee and its successors and permitted assignors. If Grantor requests more current documentation, Grantee shall conduct a monitoring visit in accordance with Section V.B.1 of the Covenants and Restrictions, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request.

D. Notices and Responses. Any notice, demand, request, consent, approval, or communication (collectively "Notice") that either party desires or is required to give to the other shall be in accordance with the following procedures:

1. In ordinary circumstances, the Notice shall be in writing and either delivered personally or sent by certified mail, return receipt requested, postage prepaid, addressed to the appropriate party, at the appropriate address set forth below in this Section. Where Notice is served by certified mail, the receipt of Notice shall be considered to have occurred upon the elapse of three (3) days after mailing. The serving party may also attempt to, in addition, serve Notice pursuant to the "emergency circumstances" provisions set forth immediately below.
2. In emergency circumstances (where Notice needs to occur in 48 hours or less), the party shall make best efforts to deliver the Notice in writing and either deliver it personally, or by email or by facsimile transmission. Where Notice is served by email or fax, the party serving the Notice shall, in addition, make concurrent attempts to notify the other party by telephone of the Notice, and attempt to receive oral or written confirmation from the party or the party's attorney that the Notice has been received.
3. Notices may also be served by any other method mutually agreed to between the parties.
4. Notices shall be served at the following addresses or to such other address as any of the parties from time to time shall designate by written notices to the other:

To Grantor: The Trust for Public Land
101 Montgomery Street
8th Floor
San Francisco, CA 94104
Attn: Tily Shue
Tel: (415) 495-5660
Email: tily.shue@tpf.org

To Grantee: City and County of Honolulu

Office of the Managing Director
Attn: Managing Director
530 South King Street, Room 306
Honolulu, HI 96813
Tel.: (808) 768-8634
Fax: (808) 768-4242

With a copy to: Office of the Corporation Counsel
Attn: Corporation Counsel
530 South King Street, Room 110
Honolulu, HI 96813
Tel: (808) 768-5193
Fax: (808) 768-5105
E-mail: cor@honolulu.gov

- E. Army Concurrence. In the event that Grantor requires the Army's concurrence with respect to the matters described in Section III above or the activities and uses restricted under Section IV above, Grantor shall follow the procedures set forth in this Section VI.E.
1. Procedure. Grantor shall request concurrence from Army in writing. The request for concurrence shall describe in detail the nature, scope, location, timetable, its conformity with this Easement, and when applicable, evidence of conformity with existing land use regulations, and any other material aspect of the proposed activity. Delivery of the request shall be made to the Office of the Staff Judge Advocate at the U.S. Army Garrison Hawai'i. The Army shall have thirty days (30) from receipt of the request in which to concur, non-concur, or concur subject to modification, the request. In the case of non-concurrence, the Army shall notify Grantor in writing with reasonable specificity of the reasons for non-concurrence, and the conditions, if any, on which concurrence might otherwise be given. If Grantor does not receive a written response from the Army for any request, other than a request for concurrence to an activity or use that is reasonably foreseeable as inconsistent with the Military Mission (each a "Mission Sensitive Request"), within thirty (30) days of its request, the Army shall be deemed to have unconditionally approved Grantor's request, provided that the Grantor and the Army have the option to waive the thirty (30) day deadline to further discuss the request. With respect to a Mission Sensitive Request, if the Army fails to respond within such 30-day period, Grantor shall have the right to further request a response from the Army by telephone conference. If Grantor does not receive a written response from the Army for the Mission Sensitive Request within fifteen (15) days after such telephone request, the Army shall be deemed in default under this Easement.

2. Standard. The Army shall not unreasonably withhold concurrence of a proposed use or activity requiring its concurrence under this Easement to the extent that the requested activity or use is not inconsistent with the Military Mission.

VII. LIABILITIES, LEGAL AND ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION.

- A. Waiver of Recovery; Compliance with Laws. Grantor and Grantee waive their right to recover for loss or damage to the extent that the loss or damage is covered by proceeds of the injured party's insurance. This waiver applies whether or not the loss is due to the negligent acts or omissions of Grantor or Grantee. Grantor remains solely responsible for obtaining any applicable governmental permits and approval for any activity or use permitted by this Easement, and any such activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantee shall comply with all applicable federal, state and local laws, regulations and requirements with regard to its entry onto and activities on the Property provided for in this Easement.
- B. Intentionally Deleted.
- C. Environmental Warranty and Remediation.
 1. Grantor warrants that Grantor shall remain in compliance with all applicable Environmental Laws with respect to the Property. Grantor warrants that it has not received any written notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Except as set forth in the Baseline Documentation, Grantor warrants that it has no actual knowledge of a release or threatened release of any Hazardous Materials or, at, beneath or from the Property exceeding regulatory limits.
 2. If at any time, there occurs a Release in or on the Property of a Hazardous Material, Grantor agrees to take all steps necessary to assure its containment and remediation, or to require any entity causing such release to take all necessary steps, including any cleanup that may be required, unless the Release was caused by Grantee or the Army.
- D. Control. Nothing in this Easement shall be construed as giving rise to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, of any of Grantor's activities on the Property, or otherwise to become an "operator" with respect to the

Property within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended ("CERCLA") or the Environmental Laws of the State.

- E. Grantor's Indemnification. To the extent permitted by law, Grantor shall be responsible for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and causes of action or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee may be subject or incur which arise from Grantor's breach of its representations, warranties, covenants and agreements contained in this Easement (collectively, "Losses"); provided, however, that Grantor shall pay for Losses provided that funds are appropriated and allotted to Grantor by the Hawai'i State Legislature for that purpose (to the extent applicable to Grantor or its successors as a body corporate and agency of the State of Hawai'i).
- F. Grantee's Indemnification. To the extent permitted by law, Grantee shall be responsible for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and causes of action or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantor may be subject or incur which arise from Grantee's breach of its covenants and agreements contained in this Easement.

VIII. TRANSFER; AMENDMENT; EXTINGUISHMENT; CONDEMNATION

- A. Transfer of Property. This Easement shall be filed in the Office of the Assistant Registrar of the Land Court and shall be referenced in any deed or other legal instrument by which Grantor transfers any interest in all or a portion of the Property, including, without limitation, Agricultural Land Leases/Licenses and Agricultural Facilities Leases/Licenses.
- B. Limitations on Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee may by written agreement jointly amend this Easement. Any such amendment shall be recorded in the State of Hawai'i Bureau of Conveyances (if Regular System) or with the Assistant Registrar of the Land Court of the State of Hawai'i (if Land Court System). Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment of this Easement.

- C. Extinguishment. A court with jurisdiction under this Easement may, if it determines that conditions upon or surrounding the Property, or relating to Grantor or its successors or assigns, have changed so much that it becomes impossible or impractical to fulfill the Purpose of this Easement, extinguish or modify this Easement in accordance with applicable State law. If this Easement is extinguished by judicial proceeding, from and after the judicial proceeding, the Property shall no longer be subject to the terms of this Easement and Grantor may record the judgment or from the judicial proceeding (or notice thereof) with the Bureau of Conveyances or Land Court (as applicable); provided, however, this Easement shall not be released of record until such time as Grantor shall have paid to Grantee the portion of the proceeds from the sale or other disposition of the Property following the judicial proceeding equal to the fair market value of the Easement. The foregoing shall in no way limit a party's right to contest such an action or determination.
- D. Condemnation. If all or any part of the Property is proposed to be taken under the power of eminent domain and such taking results in a cancellation of this Easement as to all or a portion of the Property, Grantor shall have the right to join in appropriate proceedings at the time of such proposed taking to recover the full value of its interests in the Property subject to the taking and all damages resulting from the taking. In the event of any such taking, Grantee shall have the right to pursue an award for its interest under this Easement. Each party pursuing a condemnation award shall be responsible for all of the costs and expenses it incurs in connection with such pursuit.

IX. ASSIGNMENT AND SUCCESSION

- A. Assignment. Subject to the following conditions and with the advance written approval of the Army and the Grantor, Grantee may assign its rights and obligations under this Easement to a qualified organization, as described below:
1. Grantee may assign this Easement only to an organization that is at the time of the assignment authorized to acquire and hold conservation easements under HRS Chapter 198;
 2. The assignment shall be subject to the terms of succession referenced in Section IX.B below;
 3. Grantee assigning its rights shall require the assignee to exercise its rights under the assignment consistent with the Purpose of this Easement and to assume all of Grantee's obligations under this Easement; and

4. Grantee assigning its rights shall obtain Grantor's advance approval of the assignee organization, which approval shall not be unreasonably withheld by Grantor.
- B. Succession. If at any time it becomes impossible for Grantee to ensure compliance with the covenants, terms, conditions and restrictions contained in this Easement and Grantee at issue has not named a successor organization, or if Grantee shall cease to exist or to be authorized to acquire and hold conservation easements under HRS Chapter 198, then Grantee's rights and obligations under this Easement shall vest in such organization as a court having jurisdiction under this Easement shall direct, pursuant to the applicable Hawai'i law, and with due regard to the purposes of this Easement and subject to the prior approval of Grantor.

X. GENERAL PROVISIONS

- A. Reasonableness Standard. Grantor and Grantee shall follow a reasonableness standard, unless otherwise expressly stated herein, and shall use their best efforts to make any determinations that are necessary or are contemplated to be made by them (either separately or jointly) under this Easement in a timely manner and shall cooperate with one another and shall take all other reasonable action suitable to that end.
- B. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Hawai'i.
- C. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed to fulfill the Purpose of this Easement and the policy and purpose of HRS Chapter 198. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- D. Severability. If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.
- E. No Waiver of City Law, Ordinance, Rules or Regulations. Grantor acknowledges that the execution of this Easement by the City and County of Honolulu does not constitute a waiver by the Grantee of any law, ordinance, rule or regulation enacted and enforced by the Grantee.
- F. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Property and supersedes all prior discussions,

Page 21 of 25

negotiations, understandings, or agreements between Grantor and Grantee relating to the Property, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section VII.B of the Covenants and Restrictions.

- G. Successors and Assigns; Runs with Land. The covenants, terms, rights, conditions and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective successors and assigns.
- H. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer unless expressly assumed by the transferee.
- I. Counterparts. The parties may execute this instrument in two or more counterparts. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
- J. Effective Date. Grantor and Grantee intend that the restrictions arising hereunder shall take effect on the date of this Easement being recorded in the State of Hawai'i Bureau of Conveyances (if Regular System) or with the Assistant Registrar of the Land Court of the State of Hawai'i (if Land Court System) after all required signatures have been affixed hereto, and after closing of the transaction contemplated in this Easement.
- K. No Merger. Grantee agrees to take whatever steps are necessary to ensure that merger of the fee and Easement estates does not occur in order to ensure the continued viability of this Easement.

XI. GLOSSARY

The definitions below shall have the same meaning as the reference source, where provided, and in all other cases, shall be given their natural, commonly accepted definitions. Some definitions for other terms used in this Easement are set forth in other parts of the Easement and not included here.

- A. "Agriculture Facilities Lease/License" means a lease or license for agriculture-related activities of a structure or a portion of a structure located within the Property under lease or license.
- B. "Agriculture Land Lease/License" means a lease or license of a portion of the Property where the principal use of the land under lease or license is agriculture.

- C. *"Agricultural Values"* means the significant values worthy of being conserved, specifically the preservation and protection of agricultural resources, arable soils and productive agricultural lands, which have been identified as Unique Farmland and have not been lost to development; and which may (at Grantor's option) be utilized in a culturally sensitive manner for agricultural production.
- D. *"Approval by Grantee"* means the approval required prior to some Grantor actions, as identified in this Easement, subject to the procedures set forth in Section VI.A of the Covenants and Restrictions.
- E. *"Baseline Documents"* means the description of the existing condition and use of the Property set forth in the Baseline Report for OHA Parcels prepared by Townscape, Inc. dated November, 2012, attached as Exhibit B and the documents attached thereto and referenced therein, including title report, maps, photographs and assessments of the agricultural resources, which documents provide an accurate description of the condition of the Property and its agricultural and cultural resources on the effective date of this Easement, a copy of which documents are on file with the Grantee and with Grantor.
- F. *"CFR"* means the Code of Federal Regulations, as now enacted or hereinafter amended.
- G. *"County"* means the City and County of Honolulu.
- H. *"Effective Date"* is defined in Section X.1 of the Covenants and Restrictions.
- I. *"Environmental Law" or "Environmental Laws"* means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, hazard communication, noise, radioactive material, resource protection and inland wetlands and watercourses, as may now or at any time hereafter be in effect.
- J. *"Grantee,"* and any pronouns used in its place, means the Grantee or Grantees of this Easement.
- K. *"Grantor,"* and any pronouns used in its place, means the person(s) or entity(ies) who hold legal title to the Property.
- L. *"Hazardous Materials"* means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic

chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

- M. *"HRS"* means the Hawai'i Revised Statutes, as now enacted or hereinafter amended.
- N. *"HRS Chapter 198"* means the Hawai'i law governing conservation easements in Hawai'i, currently codified at Chapter 198 of the HRS, or as hereinafter amended, or any successor provision(s) hereinafter applicable.
- O. *"Impervious Surface"* means permanent, non-seasonal roof tops, concrete or asphalt surfaces, including farm dwellings, agricultural buildings (with or without flooring), and other paved areas but specifically excluding paved areas used for drainage, irrigation systems and water storage infrastructure and covered facilities used for agricultural that are not paved beneath the covered areas, such as greenhouses, nurseries and livestock holding pens.
- P. *"LUO"* means the Land Use Ordinance for the City and County of Honolulu in effect on the Effective Date of this Easement, as the same may be amended from time to time.
- Q. *"Notice"* means providing notification by one party to this Easement to another party to this Easement in the manner set forth in Section VI.D of the Covenants and Restrictions.
- R. *"Purpose"* means the purpose of this Easement as defined in Section I of the Covenants and Restrictions.
- S. *"State"* means the State of Hawai'i.
- T. *"Unique Farmland"* means land other than prime farmland that is used for the production of specific high-value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. 7 CFR § 1491.3.
- U. *"Water Rights"* means and includes any and all water and water rights, ditches and ditch rights, springs and spring rights, reservoir and storage rights, wells and groundwater rights, and other rights in and to the use of water historically used on or otherwise appurtenant to the Property.

IN WITNESS WHEREOF, the Grantor and Grantee have hereby executed this Easement as of the date first written above, intending to be bound hereby.

GRANTOR:

GRANTEE:

THE TRUST FOR PUBLIC LAND

CITY AND COUNTY OF HONOLULU

By: *[Signature]*
Name: TILY SHUE
Its: SR. COUNSEL

By: _____
Name: _____
Its: _____

APPROVED AS TO FORM AND
LEGALITY:

Corporation Counsel, City and County of
Honolulu

IN WITNESS WHEREOF, the Grantor and Grantee have hereby executed this Easement as of the date first written above, intending to be bound hereby.

GRANTOR:

GRANTEE:

THE TRUST FOR PUBLIC LAND

CITY AND COUNTY OF HONOLULU

By: _____
Name: _____
Its: _____

By: Peter B. Lielich
Name: Peter B. Lielich
Its: MAYOR

APPROVED AS TO FORM AND
LEGALITY:

[Signature]
Corporation Counsel, City and County of
Honolulu Koko Iyama, Deputy Corporation Counsel

ACKNOWLEDGMENT

State of California
County of San Francisco

On December 3, 2017 before me, Hsiao-Wen Shih,
Notary Public, personally appeared Tily Shue, who
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~
signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

[Handwritten Signature]



(Seal)

NOTARY

11/30/2012 10224.42 644094 v.5 GALAPAGOS CONSERVATION EASEMENT

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

CBE
(N.P.) On this 4th day of December, 2012, before me personally appeared Peter B. Carlisle and and, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that such persons executed such instrument as the free act and deed of such persons and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Signature: Sharon T. Emoto



Print Name: Sharon T. Emoto
Notary Public, State of Hawaii
My commission expires: 3/26/15

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Grant of Conservation Easement (For Agricultural Purposes)

Doc. Date: undated

No. of Pages: 60 Jurisdiction: 1st Circuit
(In which notarial act is performed)

Sharon T. Emoto 12/4/12
Signature of Notary Date of Notarization and
Certification Statement

Sharon T. Emoto
Printed Name of Notary



NOTARY

11/30/2012 10224.12 044094V.5 GALAPAGOS CONSERVATION EASEMENT

EXHIBIT A

Legal Description of the Property

All of those certain parcels of land situate at Wahiawa, City and County of Honolulu, State of Hawaii, described as follows:

LOTS:	AREA:
LOT 23	4.074 acres, more or less, as shown on Map <u>39</u> ;
LOT 25	0.630 acres, more or less, as shown on Map <u>39</u> ;
-Note:- Lot 23 and 25 are covered by Tax Map Key (1) 7-1-001- portion 025.	
LOT 22	263.3016 acres, more or less, as shown on Map <u>39</u> ;
LOT 1-H-1-A-2	57.3739 acres, more or less, as shown on Map <u>14</u> ;
-Note:- Lot 22 and Lot 1-H-1-A-2 are covered by Tax Map Key (1) 7-1-001- portion 008.	
LOT 21	186.160 acres, more or less, as shown on Map <u>39</u> ;
-Note:- Lot 21 is covered by Tax Map Key (1) 7-1-001- portion 026.	

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 262 of Hawaiian Trust Company, Limited, Trustee under the Will and of the Estate of George Galbraith, deceased.

Being the land(s) described in Transfer Certificate of Title No. December 10, 2012 8:01 AM
issued to The Trust for Public Land, a California nonprofit public benefit corporation.

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. -AS TO LOTS 25, 22, 1-H-1-A-2 AND 21:-

Easements of right-of-way in favor of HAWAIIAN ELECTRIC COMPANY, INC., for utility

EXHIBIT A

11/30/2012 10224.42 844094 v 5 GALBRAITH CONSERVATION EASEMENT

purposes, being easement for guy wires and anchors, and for wire lines (25 feet wide), as set forth by FINAL ORDER OF CONDEMNATION (Civil No. 4410), dated January 13, 1959, filed as Land Court Document No. 252179, and also shown on Right-of-Ways Maps 58-127A and 1006-665A attached thereto.

3. -AS TO LOT 23 AND 25:-

Rights of others who may have easement or access rights in said Lot.

4. -AS TO LOT 25:-

A. DESIGNATION OF EASEMENT "V"

PURPOSE : access
SHOWN : on Map 39, as set forth by Land Court Order No. T-8228309 filed on July 12, 2012.

B. Access Rights over Easement "V", in favor of Lot 24 as set forth by Land Court Order No. T-8228309 filed on July 12, 2012.

5. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

6. Any matters which an archaeological study would disclose.

7. Utility Poles and encroachments, if any, located along Kamehameha Highway, Kaukonahua Road, Kamananui Road, Whitmore Avenue and Wilikina Drive which an ALTA Survey would disclose.

8. Terms and conditions contained in Warranty Deed dated December 10, 2012, in favor of The Trust for Public Land filed in the Office of the Registrar of the Land Court of the State of Hawaii as Document No.

Doc T-8228309
CT 1952162
December 10, 2012 8:01 AM

EXHIBIT A

11/30/2012 10224 42 844084 v.5 GALBRAITH CONSERVATION EASEMENT

EXHIBIT A-1

Property Improvements

None

EXHIBIT A-1

11/30/2012 10224.42 844094V.5 GALBRATH CONSERVATION EASEMENT

EXHIBIT A-2

Kūkaniloko Buffer Property

All of those certain parcels of land situate at Wahiawa, City and County of Honolulu, State of Hawaii, described as follows:

LOT:	AREA:
LOT 24	5.000 acres, more or less, as shown on Map <u>39</u>

filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 252 of Hawaiian Trust Company, Limited, Trustee under the Will and of the Estate of George Galbraith, deceased.

Being a portion of the land(s) described in:

1. Transfer Certificate of Title No. 38,479 issued to BANK OF HAWAII, a Hawaii corporation, as Trustee under the Will and of the Estate of George Galbraith, deceased.

SUBJECT, HOWEVER, TO THE FOLLOWING:

1. Mineral and water rights of any nature in favor of the State of Hawaii.
2. FINAL ORDER OF CONDEMNATION (Civil No. 91-2040-06) dated January 15, 1992, filed as Land Court Document No. 1887053, in favor of the STATE OF HAWAII, by its Attorney General, condemned for public purposes and use, preservation and maintenance of an historically significant site, the Kūkaniloko Birthstone Site, being more particularly described as follows:

PROPOSED KUKANILOKO BIRTHSTONE SITE
PARCEL A
AND PERPETUAL NON-EXCLUSIVE ACCESS ROAD EASEMENT
Wahiawa, Oahu, Hawaii

PROPOSED KUKANILOKO BIRTHSTONE

PARCEL A

Comprising the following:

A. All of Lots 1-B-1-B as shown on Map 13 of Land Court Application 262;

EXHIBIT A-2

11/30/2012 10224 42 844084v 8 GALBRAITH CONSERVATION EASEMENT

- B. Portion of Lot 1-B-1-A-1 as shown on Map 28 of Land Court Application 282;
- C. Portion of Lot 1-E-1 as shown on Map 4 of Land Court Application 282;
- D. Portion of Lot 1-H-1-A-1 as shown on Map 14 of Land Court Application 282;

Beginning at the southeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station, "MAILI" running by azimuths measured clockwise from true South:

- | | | |
|-------------|--------|---|
| 1. 87° 31' | 805.00 | feet along the remainder of Lot 1-H-1-A-1 as shown on Map <u>14</u> of Land Court Application 282; |
| 2. 157° 31' | 360.00 | feet along the remainders of Lot 1-H-1-A-1 as shown on Map <u>14</u> , Lot 1-E-1 as shown on Map <u>4</u> and Lot 1-B-1-A-1 as shown on Map <u>28</u> of Land Court Application 282; |
| 3. 247° 31' | 805.00 | feet along the remainder of Lot 1-B-1-A-1 as shown on Map <u>28</u> of Land Court Application 282; |
| 4. 337° 31' | 360.00 | feet along the remainders of Lot 1-B-1-A-1 as shown on Map <u>14</u> , Lot 1-E-1 as shown on Map <u>4</u> and Lot 1-H-1-A-1 as shown on Map <u>28</u> of Land Court Application 282 to the point of beginning and containing an area of 5.00 acres, more or less. |

PERPETUAL NON-EXCLUSIVE ACCESS ROAD EASEMENT

Being a portion of Lot 1-E-1 as shown on Map 4 of Land Court Application 282.

Beginning at the northeast corner of this easement and on the southwest side of Kamehameha Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MAILI" being 5,847.70 feet south and 20,287.15 feet east, thence running by azimuths measured clockwise from true South:

EXHIBIT A-2

11/30/2012 10224.42 844054v.5 GALBRAITH CONSERVATION EASEMENT

- | | | |
|-------------|--------|--|
| 1. 312° 39' | 42.60 | feet along the southwest side of Kamehameha Highway; |
| 2. 62° 47' | 895.00 | feet along Lot 1-H-1-A-1 as shown on Map 14 of Land Court Application 262; |
| 3. 157° 31' | 40.14 | feet along Parcel A of the Proposed Kukaniloko Birthstone Site; |
| 4. 242° 47' | 877.03 | feet along Lot 1-B-1-A-1 as shown on Map 28 of Land Court Application 262 to the point of beginning and containing an area of 0.630 acres, more or less. |

-NOTE:- Land Court Order T-8228309 filed on July 12, 2012, sets forth the consolidation and resubdivision of the land pursuant to the above Final Order of Condemnation. The order makes reference to presentation of proper deeds of transfer to the Assistant Registrar to complete the condemnation. Title Guaranty of Hawaii, Inc. is unable to locate recordation of said deeds.

3. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.
4. Any matters which an archaeological study would disclose.
5. Utility Poles and encroachments, if any, located along Kamehameha Highway, Kaukonahua Road, Kamananui Road, Whitmore Avenue and Wilikina Drive which an ALTA Survey would disclose.
6. Terms and conditions contained in Warranty Deed dated December 10, 2012, in favor of The Trust for Public Land filed in the Office of the Registrar of the Land Court of the State of Hawaii as Document No. Dec T-8378210
CT 10321182
December 10, 2012 @ 01 AM

EXHIBIT A-2

11/30/2012 10224 42 844004V 8 GALBRAITH CONSERVATION EASEMENT

Exhibit B

*Galbraith Estate
Trust Lands*

Baseline Report for OHA Parcels

Tax Map Key Parcels: 1-7-1-001:008 por
 1-7-1-001:025
 1-7-1-001:026 por

Prepared For:
The Trust for Public Land
Hawaiian Islands Office

Prepared By:
Townscape, Inc.

November 2012

35

Property Summary

Property Owner: George Galbraith Trust

Intended Property Owner: Office of Hawaiian Affairs

Lots, Parcels, and Land Area:¹

Land Court Lot No.	Tax Map Key	Acres
1-E-1	*1-7-1-001:025	4.7050
1-H-1-A-1	*1-7-1-001:008 por	263.3028
1-H-1-A-2	1-7-1-001:008 por	57.3739
1-B-1-A-1	*1-7-1-001:028	185.573
TOTAL		510.9545

NOTE: the property to be conveyed to OHA excludes Lot 1-B-1-B, an approximately 0.585 acre lot which is a portion of the 5.0 acre parcel that was condemned by the State of Hawai'i pursuant to the Final Order of Condemnation (Civil No. 91-2040-08) dated January 15, 1992, filed as Land Court Document No. 1887053, in favor of the State of Hawaii, by its Attorney General (the "Condemnation Order"). The rest of the 5.0 acre parcel condemned under the Condemnation Order (the "Kūkaniloko Buffer Area") is excluded from the property subject to the easement.

*Areas noted on land court maps have been reduced by the areas associated with the condemnation for the Kūkaniloko Birthing Stones site.

Ahupua'a & Moku: Kamananui, Waiāluā

City Planning District(s): Central O'ahu Development Plan Area

Most Recent Land Use: Agriculture – pineapple (currently fallow)
Cultural Use – Access to and buffer for the Kūkaniloko Birthing Stones State Historic Site

¹ John Child & Company Appraisers and Consultants January 25, 2012. Report to Trust for Public Land Covering the George Galbraith Trust Lands Waiāluā and Waiāluā Oahu, Hawai'i. p. 2.

Property Summary (continued)

State Land Use Classification: Agriculture

City Zoning: Ag-1 Restricted Agriculture

Structures: None

Cultural Uses: Cultural Use – Access to and buffer for the Kōkaniloko
Birthing Stones State Historic Site

Note: Lot 1-B-1-B is not subject to this baseline
documentation as such Lot 1-B-1-B is not being conveyed
to OHA.

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Appendices

Appendix A	Waypoint GPS Log from Site Visit on August 28, 2012
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Acronyms

ADC	Agribusiness Development Corporation
City	City and County of Honolulu
DP	Development Plan
GPS	Global Positioning System
OHA	Office of Hawaiian Affairs, State of Hawai'i
NAD83	North American Datum of 1983
REC	Recognized Environmental Condition
SCP	Sustainable Communities Plan
TPL	Trust for Public Land
UTM	Universal Transverse Mercator

1. Introduction

A baseline documentation is intended to record the current condition of a property and document important uses of the property that the Office of Hawaiian Affairs (OHA) intends to preserve and protect in connection with its proposed acquisition of the property. The intent of OHA's purchase of a portion of the Galbraith Estate Trust Lands is to preserve lands for agriculture and to protect cultural values. This baseline documentation records the general condition of the property and specific man-made features as of the date hereof.

2. Process

OHA intends to acquire the Property from The Trust for Public Land (TPL) immediately after its acquisition of the Property from the Galbraith Estate Trust. A Conservation Easement is intended to be granted by TPL to the City prior to the conveyance to OHA.

The previous studies and reports on the property listed in the References section below were reviewed to gain a general understanding of the site and to identify any characteristics of the property that might be of interest to TPL, OHA, and the City, as they relate to a planned conservation easement over the property from TPL to the City.

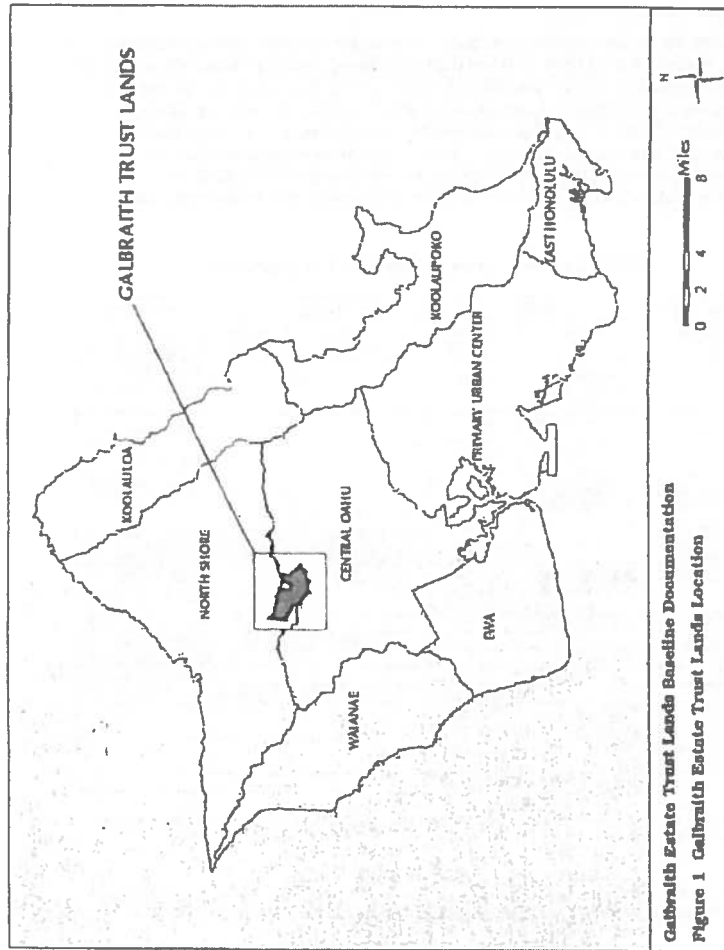
A total of ten Tax Map Key parcels are being purchased from the Galbraith Estate Trust; three are intended to be conveyed to OHA and seven to ADC. One site visit of all ten (10) parcels was conducted by Townscape on August 28, 2012 to confirm report findings of property use and structures present.

Locations were recorded using a Garmin GPSMAP 78CS model recreational grade global positioning system (GPS) unit. This GPS unit has an accuracy of less than 15 meters (49 feet). Therefore, data points (also called "waypoints") should not be substituted for survey notes and bounds. Data are recorded in the North American Datum of 1983 (NAD83),² Universal Transverse Mercator (UTM) projection.³

Photos were taken on-site using a Canon Rebel T3i 18 mega-pixel digital SLR camera. One photo point was established at the Kōkanihoko Birth Stones State Historic Site located on a parcel surrounded by the property that will potentially be acquired by OHA. This waypoint was mapped using the GPS and logged in Appendix A. The photos taken at are also located in Appendix A.

² Geodetic systems are used to translate locations taken by equipment such as global positioning system (GPS) units into their real position on Earth. A datum is a set of values used to define a specific geodetic system. The map datum that was used to define the points taken in the field is the North American Datum of 1983 (NAD83).

³ A map projection is a method of representing the surface of the Earth (a three-dimensional object) in two-dimensions as a map. A coordinate system enables every location on Earth to be defined by a set of numbers and/or letters. The coordinate system used was the Universal Transverse Mercator (UTM).



3. Site Description

TPL has contracted with the Galbraith Estate Trust to acquire, for itself or its assignee(s), ten tax map key parcels and fourteen (14) land court lots, totaling 1,743.3195 acres. TPL, in turn, is under contract with (1) ADC to cause Galbraith Estate Trust to convey seven tax map key parcels to ADC and (2) OHA to cause Galbraith Estate Trust to convey three tax map key parcels to OHA (Table 1). Specifically excluded from the conveyance to OHA and therefore from this report is Lot 1-B-1-B. Lot 1-B-1-B is contained within a 5-acre parcel that was condemned by the State of Hawaii pursuant to the Condemnation Order in 1992, the subdivision of which from the rest of the property is in the process of being finalized in Land Court.

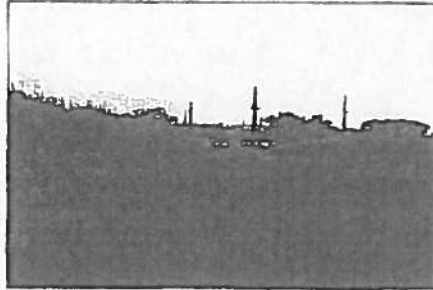
Table 1 Tax Map Keys and Land Court Lot Numbers⁴

	Land Court Lot No.	ADC		OHA		Planning District
		TMK	Acres	TMK	Acres	
1	1-E-1			*1-7-1-001.025	4.7050	Central O'ahu DP
2	1-F-1	Portion of Wilkine Road	8.719			Central O'ahu DP and North Shore SCP (road)
3	1-D-1-D	1-7-1-001.005 per	0.062			Central O'ahu DP
4	2-C	1-7-1-001.005 per	0.001			Central O'ahu DP
5	1-A-3-C-1-A	1-8-5-002.010				North Shore SCP
6	1-A-3-C-1-A	1-7-1-001.003	458.001			Central O'ahu DP
7	1-H-1-A-1			*1-7-1-001.008 per	283.3028	Central O'ahu DP
8	1-H-1-A-2			1-7-1-001.008 per	57.3738	Central O'ahu DP
9	1-A-1-A-1-B-1	1-7-1-001.012	31.081			Central O'ahu DP
10	10	1-7-1-001.005 per	238.167			Central O'ahu DP
11	1-A-1-B-1	1-7-1-001.028	1.139			Central O'ahu DP
12	1-B-1-A-1			*1-7-1-001.028	185.573	Central O'ahu DP
13	1-B-3-A	1-8-5-002.025				North Shore SCP
14	1-B-3-A	1-7-1-001.002	484.195			Central O'ahu DP
TOTAL			1,227.383		510.9546	
Less Lot 1-F-1		Portion of Wilkine Road	(8.7190)			
Less NCTAMS access road condemnation			(11.1530)			
		NET ACRES	1,207.4930			

*NOTE: Areas noted on land court maps have been reduced by the areas associated with the condemnation for the Kūkanikoko Birth Stones site

⁴ John Child & Company Appraisers and Consultants. January 25, 2012. Report to Trust for Public Land Covering the George Galbraith Trust Lands Waihe'e and Waihe'e, Oahu, Hawaii. p. 2.

This document covers the three tax map key parcels that will be conveyed to OHA. All of these parcels are located in the ahupua'a of Kamananui in the moku of Waialua, on the island of O'ahu, and are located in the Central O'ahu Development Plan area (see Figure 2). All of the Galbraith Estate lands to be conveyed to ADC and OHA are nestled between Poamoho Stream to the north and Kaukonahua Stream to the south. The land to be conveyed to OHA are to the south, abutting the north fork of Kaukonahua Stream.



Easement providing access to the Kūkaniloko Birth Stones State Historic Site from Kamehameha Highway.

Most of the property is gently sloping between the 840 foot elevation near Wahiawa Reservoir and the 980 foot elevation north of Kamehameha Highway. Average annual rainfall is 44.4 inches and the mean temperature is 71.7 °F.

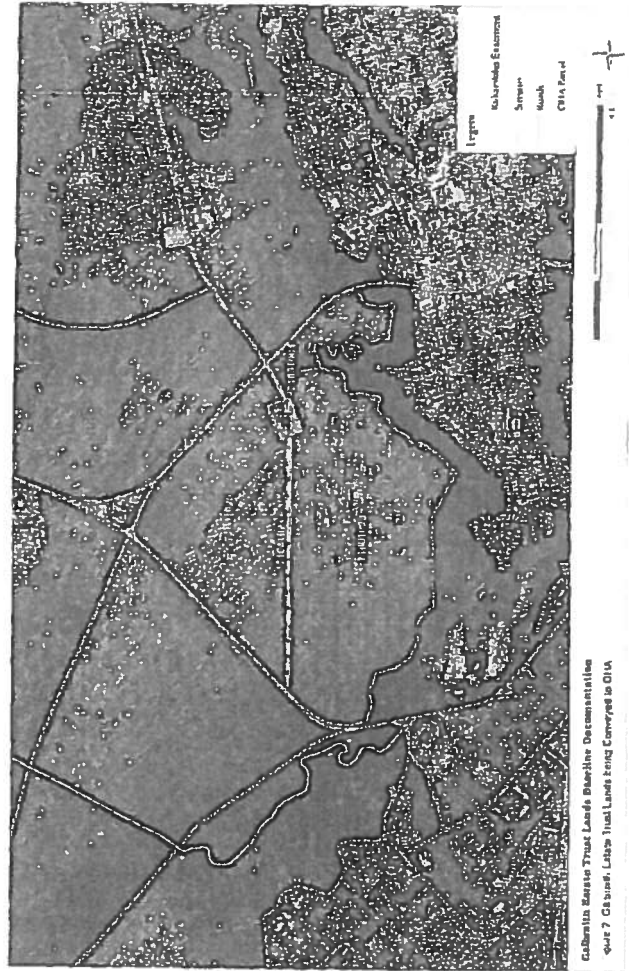
a. Easements

The property is encumbered by the following easements for access and electrical utilities, which are more particularly described in that certain preliminary title report dated August 13, 2012 prepared by Title Guaranty of Hawaii: easement in favor of Hawaiian Electric Company for utility purposes and perpetual non-exclusive access road easement set forth in the Condemnation Order. Locations and descriptions of these easements may be found in the January 25, 2012 Report to Trust for Public Land Covering the George Galbraith Trust Lands Wahiawa and Waialua, Oahu, Hawaii by John Child & Company Appraisers and Consultants.

b. Access

The property is accessed by Kamananui Road which runs along the northwestern border of TMK 1-7-1-001:026 and Kamehameha Highway, which borders the northeastern boundaries of TMK parcels 1-7-1-001:026 and 1-7-1-001:008 (Figure 2).

Public access is currently allowed across the property through a perpetual non-exclusive access roadway easement set forth in the Condemnation Order to the Kūkaniloko Birth Stones State Historic Site located adjacent to the property. An access road from to the birth stones site is chained and locked near its intersection with Kamehameha Highway, but pedestrian access is allowed.



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c. Historic and Current Land Use

The property was previously cultivated for large-scale pineapple cultivation but is currently fallow. For the most part, the property is covered with tall grasses and trees, such as African Tulip (*Spathodea campanulata*). A fire break plan map identifies fire breaks around the 5-acre Kōkaniloko Birth Stones State Historic Site and along the access roadway easement set forth in the Condemnation Order (Figure 3).⁵ Fire breaks were observed around the Kōkaniloko Birth Stones Historic site, but were not walked or mapped.

d. Adjacent land uses and protected areas

Surrounding land uses include agriculture; military facilities at Schofield Barracks, Wheeler Army Air Field and the Navy NCTAMS; and residential/urban uses at Wahiawā and Whitmore Village. The nearest town is Wahiawā (including Schofield Barracks) located to the south and separated from the property by Kaukonahua Stream. Nearby protected areas include the 'Ewa Forest Reserve, about four miles to the east, and the Mokuā'ia Forest Reserve, about four miles to the west.

e. Views

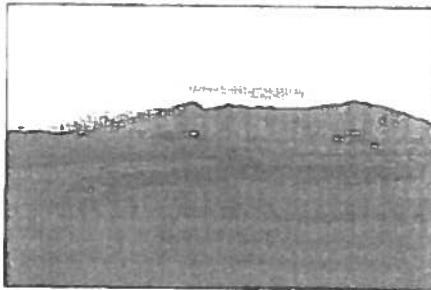
Views are mostly limited by the tall vegetation, but the Wai'anae Mountains can be readily seen when facing west, as well as portions of the Ko'olau Mountains when facing east.

f. Impervious Surfaces

No impervious surfaces were observed.

g. Structures

No structures were found on the property. All stones and other structures associated with Kōkaniloko are located on Lot 1-B-1-B.



Modern stone structure located within the Kōkaniloko Birth Stones State Historic Site.

⁵ Aglitech Pacific, August 7, 2011. Galbraith Estates Fire Break Project.

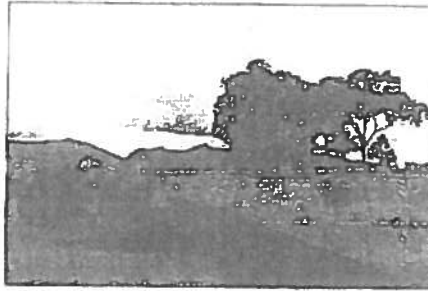
h. Utilities

The January 25, 2012 Report to Trust for Public Land Covering the George Galbraith Trust Lands Wai'alea and Wai'alea, Oahu, Hawaii identified a 12-inch water line extending from the Bott Well through TMKs 7-1-001:026 and 7-1-001:008. Overhead telephone and electrical lines run along Kamehameha Highway and Kamananui Road. There are no wastewater utilities servicing the property.

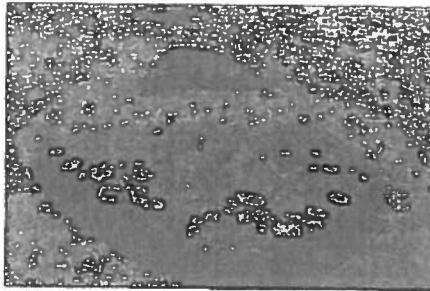
i. Cultural Sites

The Property surrounds the Kūkaniloko birthing stones, one of the most important cultural sites in Hawai'i, listed in the State and National Registers of Historic Places. The overall significance of Kūkaniloko extends beyond the immediate location of the birthing stones; the Property is located at the midway point between the highest peak of the Waialeale range and the highest point of the Ko'olau range on the central plain of O'ahu and in ancient times was used, in part, as a royal center that included *kauhale* for chiefs and commoners, agricultural fields and associated features. The five-acre Historic Site is currently under the jurisdiction of the State Department of Land and Natural Resources Division of State Parks.

The property serves as buffer to the Kūkaniloko Birth Stones State Historic Site. Public access to the site from Kamehameha Highway is available during daylight hours.



Kūkaniloko Birth Stones State Historic Site.



Stones within the Kūkaniloko Birth Stones State Historic Site.

j. Alteration of Land

The property was previously cultivated for pineapple and have thus been tilled in support of agriculture. Unimproved agricultural roads previously provided access to the various fields, but have since been overgrown by grasses.

k. Waste Disposal

The Phase I Environmental Site Assessment prepared by Bureau Veritas North America, Inc. and dated September 30, 2011 (the "Phase I") found roofing materials near Kaunohua Stream. No other dumping was observed on the property, although tall grass restricted access for in-depth investigations.

l. Hazardous Materials

The Phase I identified the following recognized environmental condition (REC):

- Buried dumpsites – a buried dumpsite located in the new Navy road right-of-way was identified as an REC because it contained car parts. While this REC is located off-site, it was discussed in the report because it raises the potential for additional similar dump sites on-property.

Additionally, there is the potential for hazardous materials associated with the following earlier land uses:

- Pesticide and herbicide application on agricultural lands
- Abandoned vehicles, vehicle parts, and other waste items

m. Uses and Activities Inconsistent with the Purpose of the Acquisition

The purpose of acquiring these Galbraith Estate Trust Lands is to protect cultural values, to preserve the lands for agriculture, and to provide a buffer for military activities in adjacent areas. No land uses or activities inconsistent with these purposes were observed.

References

- Bureau Veritas North America, Inc. September 30, 2011, *Phase I Environmental Site Assessment, The Galbraith state Property Wahiawa, Oahu, Hawaii*. Project No. 17011-011113.00.
- John Child & Company Appraisers and Consultants. January 25, 2012. *Report to Trust for Public Land Covering the George Galbraith Trust Lands Wahiawa and Waiialua, Oahu, Hawaii*.
- Sam O. Hirota, Inc. Revised Sept. 25, 2009. *Barik of Hawaii Trustee Under the Will and of the Estate of George Galbraith Land Court Application 282*.

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*Galbraith Estate
Trust Lands*

Baseline Report for OHA Parcels

Appendix A

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Photo Documentation of the Property

This baseline documentation of the Galbraith Estate Trust Lands is intended to record the current condition of a property, as well as any important conservation values, particularly as they might relate to agriculture, cultural values, and as a buffer for military activities in the area.

A site visit was conducted on August 28, 2012 to record findings of property use and structures present. Locations were recorded using a Garmin GPSMAP 76CS model recreational grade global positioning system (GPS) unit. This GPS unit has an accuracy of less than 15 meters (49 feet). Therefore, data points (also called "waypoints") should not be substituted for survey metes and bounds. Data are recorded in North American Datum of 1983 (NAD83),¹ Universal Transverse Mercator (UTM) projection.²

Photos were taken on-site using a Canon Rebel T3i 18 mega-pixel digital SLR camera. Fourteen photo points were established at structures or other significant areas on the property however, only waypoint number 217 corresponds to property to be conveyed to the Office of Hawaiian Affairs (OHA). This waypoint and the photos taken at this point are provided below.

Table 1 Parcels Visited on August 28, 2012

Lot No.	Tax Map Key	Acres
1-E-1	*1-7-1-001.025	4.705
1-F-1	Portion of Wilkins Drive	8.719
1-A-3-C-1-A	1-6-5-002.010	458.001
1-A-3-C-1-A	1-7-1-001.003	
1-H-1-A-1	*1-7-1-001.008 per	263.3026
10	1-7-1-001.005 per	238.187
1-A-1-B-1	1-7-1-001.028	1.139
1-B-1-A-1	*1-7-1-001.028	185.573
1-B-3-A	1-6-5-002.025	494.195
1-B-3-A	1-7-1-001.002	
	**1-7-1-001.004	5.0

*NOTE: Areas noted on land court maps have been reduced by the areas associated with the condemnation for the Kūkaniloko Birth Stones site.

—This parcel consists of the Kūkaniloko Birth Stones Historic Site and is not a part of the lands to be conveyed to either ADC or OHA.

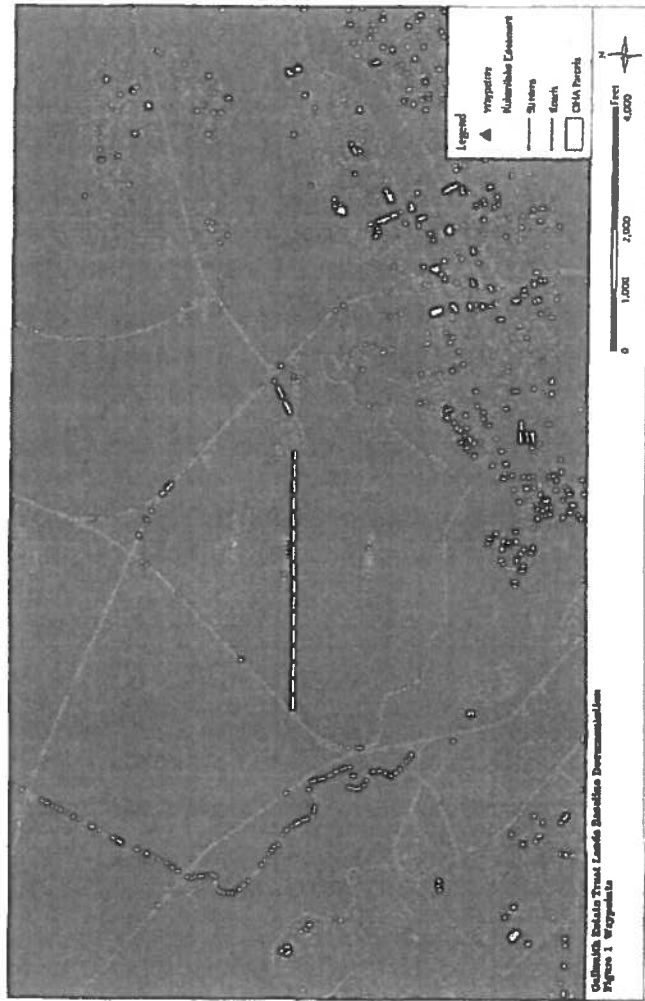
¹ Geodetic systems are used to translate locations taken by equipment such as global positioning system (GPS) units into their real position on Earth. A datum is a set of values used to define a specific geodetic system. The map datum that was used to define the points taken in the field is the North American Datum of 1983 (NAD83).

² A map projection is a method of representing the surface of the Earth (a three-dimensional object) in two-dimensions as a map. A coordinate system enables every location on Earth to be defined by a set of numbers and/or letters. The coordinate system used was the Universal Transverse Mercator (UTM).

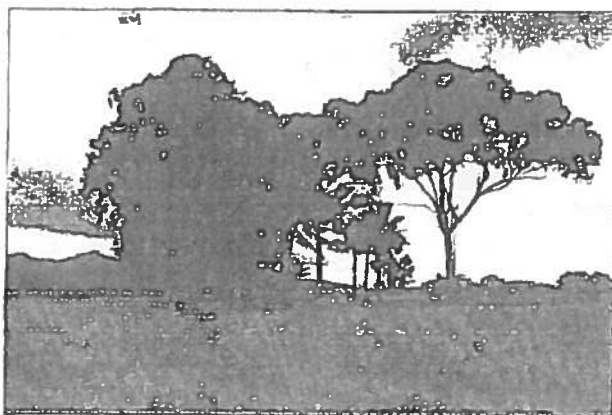
Table 2 Waypoint GPS Log

Waypoint Number	Position	Altitude (Feet)	Date/Time	Comment
208	N21 31.091 W158 04.021	932	28-AUG-12 7:40:55AM	Well Access Road Gate at Kaulanahua Road. Provides access to Del Monte Corporation Well #5 (Boil Well) (TMK 6-5-002:025)
209	N21 31.029 W158 03.785	1004	28-AUG-12 7:49:42AM	DWC Well #5 (Boil Well) (TMK 6-5-002:025)
210	N21 30.998 W158 03.268	957	28-AUG-12 8:16:57AM	Army Access Road Gate on the north side of Kaulanahua Road (TMK 6-5-002:010)
211	N21 31.277 W158 02.659	850	28-AUG-12 8:55:01AM	Bridge over Poamoho Stream. Part of Army Access Road (TMK 6-5-002:010)
212	N21 31.286 W158 02.849	863	28-AUG-12 9:07:17AM	Base of hill with survey marker near the bridge over Poamoho Stream (TMK 6-5-002:010)
213	N21 30.590 W158 03.487	906	28-AUG-12 8:24:25AM	Army Access Road Gate on the north side of Wilikina Drive (TMK 6-5-002:025)
214	N21 30.590 W158 03.488	917	28-AUG-12 8:27:12AM	Drainage Culvert on the north side of Wilikina Drive (TMK 6-5-002:025)
215	N21 31.230 W158 04.243	870	28-AUG-12 9:44:19AM	Storm Drain at intersection of Wilikina Drive and Kaulanahua Road (TMK 6-5-002:025)
218	N21 30.637 W158 02.227	980	28-AUG-12 9:57:09AM	Turner Station along Kamehameha Highway (TMK 7-1-001:006)
*217	N21 30.278 W158 02.193	966	28-AUG-12 10:17:33AM	Kikilani Birth Stone State Historic Site (TMK 7-1-001:004)
218	N21 30.525 W158 01.792	984	28-AUG-12 10:28:22AM	Triple barrel culvert under Navy access road at remnant parcel (TMK 7-1-001:005)
219	N21 30.650 W158 01.796	989	28-AUG-12 10:38:17AM	Dump site where household, vehicular, and construction waste was found during site visit on August 28, 2012 (TMK 7-1-001:005)

*NOTE: Only Waypoint #217 was taken within the area to be conveyed to OHA.



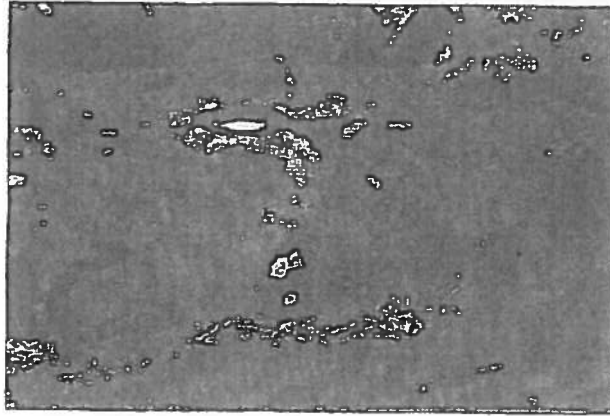
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Waypoint No. 217: Kūkaniloa Birth Stones State Historic Monument
View of the site from the entrance looking south toward the Waianae Mountains.



Waypoint No. 217: Kūkaniloa Birth Stones State Historic Monument
View of the site looking northwest.



Waypoint No. 217: Kūkaniloko Birth Stones State Historic Monument
Stones at the site.



Waypoint No. 217: Kūkaniloko Birth Stones
State Historic Monument
Stones at the site.

Office of Hawaiian Affairs
560 N Nimitz Hwy. Ste. 200
Honolulu, HI 96817
Roll Call Vote Sheet – ACTION ITEM

Committee on Resource Management	DATE: September 5, 2018 Motion: Vote:
---	--

AGENDA ITEM: III. New Business

A. RM #18-10: Master Plan for OHAs 511-Acre Property surrounding the Kukaniloko Birthing Stone

Motion/Action:

To support and approve the long-term direction of the Master Plan for OHA's 511-acre property in Wahiawā surrounding the Kūkaniloko Birthing Stones, and authorize OHA's Administration to take further steps toward its implementation.

AMENDMENT:

MEANS OF FINANCING:

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA			X			
DAN	AHUNA		X	X			
ROWENA	AKANA			X			
KELI'I	AKINA			X			
PETER	APO						X
ROBERT	LINDSEY			X			
COLETTE	MACHADO	X		X			
JOHN	WAIHE'E			X			
CHAIR HULU	LINDSEY			X			
TOTAL VOTE COUNT				8			1

MOTION: [] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

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**THE COMMITTEE ON RESOURCE
MANAGEMENT**

COMMITTEE REPORT

Sept 6, 2018

The Honorable Colette Machado,
Chairperson Board of Trustees
Office of Hawaiian Affairs

Madame Chair Machado,

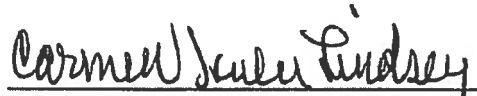
Your Committee on Resource Management, having met on September 5, 2018 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

To recognize and thank the Kūkaniloko Master Plan Working Group (KMPWG) – Nā Lālā ‘Ike Pono a Kūkaniloko – members for participating in the creation of the Kūkaniloko Master Plan.

Relevant attachments are included for your information and reference. Attachment(s):

1. Action Item RM#18-11
2. RM Roll Call Vote Sheet (1)

Respectfully submitted:



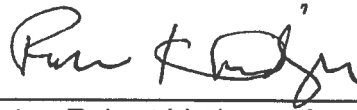
Trustee Carmen Hulu Lindsey, Chair

Excused

Trustee Peter Apo, Member



Trustee Leina'ala Ahu Isa, Member



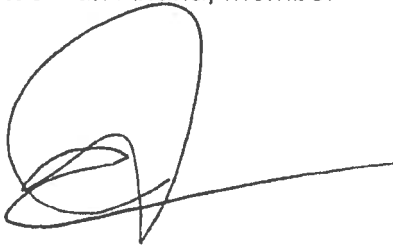
Trustee Robert Lindsey, Member



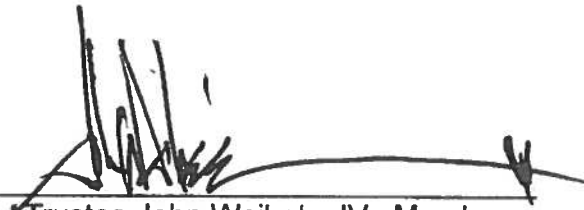
Trustee Dan Ahuna, Member



Trustee Colette Machado, Member



Trustee Rowena Akana, Member



Trustee John Waihe'e, IV., Member



Trustee Keli'i Akina, Member



COMMITTEE ON RESOURCE MANAGEMENT
September 5, 2018

RM #18-11

Action Item Issue: OHA recognizes and thanks the Kūkaniloko Master Plan Working Group – Nā Lālā ‘Ike Pono a Kūkaniloko – for participating in the creation of the Kūkaniloko Master Plan and issues to each the attached resolution certificate.

Prepared by:

Jonathan Ching,
‘Aho Kāko‘o Mahele Mālama ‘Āina, Legacy Lands Manager

8/30/2018

Date

Reviewed by:

Miles Nishijima,
Ka Pou Kihī Kanaloa ‘Āina, RMLA Director

08/30/2018

Date

Reviewed by:

Miles Nishijima,
Interim Ka Pou Nui, Chief Operating Officer

08/30/2018

Date

Reviewed by:

Kamana‘opono Chabbe, Ph.D.
Ka Pouhana, Chief Executive Officer

8/30/18

Date

Reviewed by:

Ke Kua, Trustee Carmen Hulu Lindsey
Luna Ho‘omalū o ke Kōmike RM
Chair of the Committee on Resource Management

Date

- I. **Action.** To recognize and thank the Kūkaniloko Master Plan Working Group (KMPWG) – Nā Lālā ‘Ike Pono a Kūkaniloko – members for participating in the creation of the Kūkaniloko Master Plan.
- II. **Background.** Between February 2017 and September 2018, OHA worked with a community advisory council, called the Kūkaniloko Master Plan Working Group – Nā Lālā ‘Ike Pono a Kūkaniloko, to develop a Master Plan for OHA’s 511 acres of land in Wahiawā surrounding the Kūkaniloko Birthing Stones. The KMPWG has since met on about a monthly basis and has advised on the development of the Master Plan. The KMPWG has been the primary community and cultural voice throughout the process, while also providing valuable expertise in areas such as long-standing stewardship with the site, education, agriculture, business, and more.

The KMPWG was comprised of 10 community members: Leilani Basham, Jesse Cooke, Susan Crow, Jo-Lin Lenchanko Kalimapau (official representative of the Hawaiian Civic Club of Wahiawā), Ku‘uipo Laumatia, La‘akapu Lenchanko, Thomas Lenchanko, Noa Lincoln, Kukui Maunakea-Forth, and Manu Meyer.

- III. **Discussion.** The concerns, ideas, and diverse viewpoints of all noted participants shared at KMPWG and other public meetings have provided an invaluable contribution to the overall success of the planning process. OHA would like to express our deep gratitude and appreciation to these contributors for their two-year commitment to the Master Plan process.
- IV. **Recommended Action.** Approve the proposed action stated in I.
- V. **Timeframe.** This action item will go into effect immediately upon the BOT’s approval.
- VI. **Attachments.** Certificates.

A Resolution of the Office of Hawaiian

Thanking the Kūkaniloko Master Plan Working Group – Nā Lālā 'Ike Pono a Kūkaniloko – members who graciously assisted Office of Hawaiian Affairs in the creation of the Master Plan for OHA's 511 acres in Wahiawā.

WHEREAS, in 2012, OHA acquired 511 acres of agricultural land in Wahiawā surrounding the Kūkaniloko Birthing Stones, one of the most sacred Hawaiian places in the Pae 'Āina as the birth place of many notable ali'i; and

WHEREAS, OHA acquired this property to protect Kūkaniloko by providing a buffer against future incompatible development in the area, to explore the development of compatible agricultural uses and other programmatic initiatives, and to contribute to Hawai'i's food self-sufficiency, preservation of open space and watershed lands, and overall community planning goals for central; and

WHEREAS, between February 2017 and September 2018, a Kūkaniloko Master Plan Working Group (KMPWG) was initiated to inform the Master Plan for OHA's property. This group, which named themselves "Nā Lālā 'Ike Pono a Kūkaniloko," served to advise OHA in the development of a unique, innovative, exemplary, and culturally-focused Master Plan to harmoniously protect, preserve, and perpetuate the resources of Kūkaniloko for today's and future generations; and

WHEREAS, since that time, KMPWG members have generously contributed their mana'o to the Master Plan process through regular meetings with OHA and its contractors, public community gatherings, and site visits; and

WHEREAS, the KMPWG was comprised of 10 community members: Leilani Basham, Jesse Cooke, Susan Crow, Jo-Lin Lenchanko Kalimapau (official representative of the Hawaiian Civic Club of Wahiawā), Ku'uipo Laumatia, La'akapu Lenchanko, Thomas Lenchanko, Noa Lincoln, Kukui Maunakea-Forth, and Manu Meyer; and

WHEREAS, the concerns, ideas, and diverse viewpoints of all noted participants have been the community and cultural voice of the planning process, while also providing valuable expertise in subjects such as stewardship, education, agriculture, business, and more; and

WHEREAS, the KMPWG's expertise on these complex topics have been an invaluable contribution to the Master Plan's overall success.

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of the Office of Hawaiian Affairs on this [] day of [month], 2018, extends its gratitude and appreciation to [name] for your outstanding service to the Office of Hawaiian Affairs and the Hawaiian community.

A Resolution of the Office of Hawaiian

BE IT FURTHER RESOLVED that the copies of this Resolution be transmitted to each KMPWG member.

ADOPTED this [] day of [month] 2018, island of O'ahu, State of Hawai'i, by the Board of Trustees of the Office of Hawaiian Affairs in its regular meeting assembled.

Colette Y. Machado
Ke Kauhulu, Chairperson
Ke Kua Moloka'i a me Lāna'i

Robert K. Lindsey Jr.
Ke Kua Hawai'i,
Trustee, Hawai'i

William Keli'i Akina, Ph.D.
Ke Kua Pae Mokupuni,
Trustee, At-Large

Carmen Hulu Lindsey
Ke Kua Maui,
Trustee, Maui

Dan Ahuna
Ke Kua Kaua'i a me Ni'ihau,
Trustee, Kaua'i Ni'ihau

John D. Waihe'e IV
Ke Kua Pae Mokupuni,
Trustee, At-Large

Leina'ala Ahu Isa, Ph.D.
Ke Kua Pae Mokupuni,
Trustee, At-Large

Peter Apo
Ke Kua O'ahu
Trustee, O'ahu

Rowena N. Akana
Ke Kua Pae Mokupuni,
Trustee, At-Large

Office of Hawaiian Affairs
560 N Nimitz Hwy. Ste. 200
Honolulu, HI 96817
Roll Call Vote Sheet – ACTION ITEM

Committee on Resource Management	DATE: September 5, 2018 Motion: Vote:
---	--

AGENDA ITEM: III. New Business

A. RM #18-11: OHA recognizes and thanks the Kūkaniloko Master Plan Working Group – Nā Lālā ‘Ike Pono a Kūkaniloko – for participating in the creation of the Kūkaniloko Master Plan and issues to each the attached resolution certificate.

Motion/Action:

To recognize and thank the Kūkaniloko Master Plan Working Group (KMPWG) – Nā Lālā ‘Ike Pono a Kūkaniloko – members for participating in the creation of the Kūkaniloko Master Plan.

AMENDMENT:

MEANS OF FINANCING:

TRUSTEE		1	2	‘AE (YES)	A’OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA			X			
DAN	AHUNA		X	X			
ROWENA	AKANA			X			
KELI’I	AKINA			X			
PETER	APO						X
ROBERT	LINDSEY			X			
COLETTE	MACHADO			X			
JOHN	WAIHE’E	X		X			
CHAIR HULU	LINDSEY			X			
TOTAL VOTE COUNT				8			1

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Office of Hawaiian Affairs
Board of Trustee Meeting
September 6, 2018
10:00 am

VI. Executive Session

- A. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding Civil No. 17-1-1823-11 JPC, OHA v. State, et. al. *Pursuant to HRS § 92-5(a)(4).*
- B. Presentation by OHA's Permitted Interaction Group of its findings and recommendations with legal assistance provided by OHA Attorneys Paul Alston, Esq. and Judy Tanaka, Esq., without discussion, re: Contract Number 3147 pursuant to *HRS §92-2.5(b)(1)(B) and §92-5(a)(4).*

Note: Any material that is relevant to this section will be distributed at the table.