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Enclosure A:

Background on the Public Land Trust, the Hawai'i Admissions Act, and the Federal–Native Hawaiian Trust Relationship

I. Overview of the Public Land Trust

The vast majority of lands currently leased by the United States military in Hawai'i originate from the **Crown Lands and Government Lands of the Hawaiian Kingdom**, which were seized following the 1893 overthrow and subsequently transferred to the United States. Under **Section 5(b) of the Hawai'i Admissions Act of 1959 (Public Law 86-3)**, these lands—approximately 1.4 million acres—were conveyed to the State of Hawai'i “**as a public trust**” for five purposes, including the betterment of conditions of Native Hawaiians.

Section 5(f) of the Act codifies the fiduciary nature of the State's obligations, requiring that all revenues, proceeds, and uses of these lands be managed in accordance with trust principles and for the benefit of the trust's beneficiaries.

The **Hawai'i State Constitution, Article XII, Section 4**, reaffirms the State's fiduciary responsibility, declaring that all “public lands...shall be held by the State as a public trust for native Hawaiians and the general public.”

II. Role of the Office of Hawaiian Affairs (OHA)

The **Office of Hawaiian Affairs** was established by a Hawai'i state constitutional amendment in 1978. Article XII, Sections 5 and 6:

- Recognize OHA as the entity responsible for ensuring the State's compliance with its trust duties toward Native Hawaiians;
- Empower OHA to manage and administer income and proceeds from the public trust; and

- Affirm OHA's role as a trustee charged with protecting Native Hawaiian rights, resources, and beneficiaries.

As the **designated trust agency for Native Hawaiians**, OHA has both the authority and the responsibility to:

- Provide oversight of state actions involving trust lands;
- Protect Native Hawaiian rights, cultural sites, resources, and beneficiaries; and
- Participate in governmental decision-making that affects trust lands and Native Hawaiian interests.

See also Hawai'i Revised Statutes chp. 10.

III. Federal Recognition of the Political and Trust Relationship

The United States has repeatedly acknowledged a **special political and trust relationship with Native Hawaiians**—not as a racial classification, but as an Indigenous people with whom the United States maintains a recognized political relationship.

This acknowledgment is reflected in **over 250 federal statutes**, including:

- **Public Law 103-150** (The Apology Resolution), which acknowledges the role of the United States in the 1893 overthrow and the subsequent seizure of Crown and Government Lands;
- The **Hawaiian Homes Commission Act (1920)**, establishing homestead lands for Native Hawaiians under federal trust principles;
- Federal Native Hawaiian education, health, housing, and cultural resource protection laws;
- Statutes and policies requiring consultation with Native Hawaiian organizations where cultural, historical, or sacred resources may be affected.

These laws collectively affirm Native Hawaiians as an Indigenous people whose trust relationship with the United States parallels that enjoyed by American Indians and Alaska Natives.

IV. Military Use of Public Trust Lands

Between 1964 and 1965, the State of Hawai'i executed multiple 65-year leases to the U.S. military for long-term use of public trust lands across Hawai'i Island, O'ahu, Maui, Kaua'i, and Ni'ihau. Most leases were issued for nominal consideration and without comprehensive cultural or environmental review by today's standards.

These leases—including those at Pōhakuloa, Mākua, Kahuku, Kawailoa–Poamoho, PMRF, and Ka'ena Point—**expire between 2028 and 2031**, presenting a once-in-a-generation decision point regarding continued military use of public trust lands.

Renewal, extension, exchange, or modification of these leases must comply with:

- The Hawai‘i Admissions Act;
- The Hawai‘i State Constitution;
- State trust law and fiduciary principles;
- Federal Native Hawaiian consultation norms and statutory obligations; and
- Cultural, historic preservation, and environmental protections.

V. Importance of Consultation and Transparency

Given the trust nature of these lands and the federal–state–Native Hawaiian relationship, meaningful consultation with OHA and Native Hawaiian organizations is essential to:

- Ensure decisions reflect fiduciary duties;
- Protect cultural and natural resources;
- Maintain public confidence and transparency;
- Uphold U.S. commitments under federal law; and
- Support long-term, sustainable defense posture in the Indo-Pacific.

Consultation is not merely a courtesy—it is an expression of the trust relationship, consistent with decades of federal policy governing Indigenous communities, and foundational to maintaining long-term federal–community partnerships.

Summary

The legal and historical framework governing Hawai‘i’s public trust lands requires that any military lease renewal, extension, or land exchange:

1. Comply with the fiduciary obligations established under the Hawai‘i Admissions Act and Hawai‘i Constitution;
2. Recognize OHA’s constitutional role as a trustee for Native Hawaiians;
3. Respect the United States’ special political and trust relationship with the Native Hawaiian people; and
4. Include meaningful consultation with OHA and Native Hawaiian organizations.

The forthcoming expiration of the 1960s-era military leases presents a rare opportunity for the United States and State of Hawai‘i to reaffirm these commitments and uphold the integrity of Hawai‘i’s public trust.