

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Proclamation related to the COVID-19 Delta Response, dated October 1, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listen by phone: (213) 338-8477

Minutes of the Office of Hawaiian Affairs
Board of Trustees
MINUTES
December 29, 2021

ATTENDANCE:

Chairperson Carmen Hulu Lindsey
Trustee Dan Ahuna
Trustee Kaleihikina Akaka
Trustee Keli'i Akina
Trustee Luana Alapa
Trustee Brendon Kalei'āina Lee
Trustee Keola Lindsey
Trustee John Waihe'e, IV

ADMINISTRATION:

Sylvia Hussey, CEO
Casey Brown, COO
Ramona Hinck, CFO
Everett Ohta, Interim General Counsel
Na'u Kamali'i, Chief Advocate
Kurt Klein, Board Counsel
Daniel Santos, IT Support
Arlene Aginaldo, IT Support

BOT STAFF:

Colin Kippen, COS
Amber Kalua, Trustee Aide
Kanani Iaea, Trustee Aide
Lehua Itokazu, Board Secretary

GUEST:

Sherry Broder, Esq./Counsel
Wayne Tanaka, Sierra Club Chapter Director

Call to Order

Chair Hulu Lindsey Calls the Board of Trustees Meeting to order for Thursday, December 29, 2021, at 10:01 a.m. Board Secretary, please do a roll call.

| MEMBERS | | | Present | TIME ARRIVED |
|-------------|--------------------|---------|---------|-----------------------|
| TRUSTEE | LEINA'ALA | AHU ISA | | X |
| TRUSTEE | DAN | AHUNA | | Joins mtg at 11:39 am |
| TRUSTEE | KALEI | AKAKA | X | |
| TRUSTEE | KELI'I | AKINA | X | |
| TRUSTEE | LUANA | ALAPA | X | |
| TRUSTEE | BRENDON KALEI'ĀINA | LEE | X | |
| TRUSTEE | KEOLA | LINDSEY | X | |
| TRUSTEE | JOHN | WAIHE'E | | Joins mtg at 10:05 am |
| CHAIRPERSON | CARMEN HULU | LINDSEY | X | |
| | | | 6 | 1 |

At the Call to Order, **six (6)** Trustees are PRESENT, thereby constituting a quorum.

Chair Hulu Lindsey Thank you. Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Proclamation related to COVID-19 Response dated November 29, 2021, that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location. The OHA Board of Trustees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at www.oha.org/livestream

I will go over some quick announcements. Please mute your mics when you are not speaking. We are recording today's meeting for the sole purpose of producing written minutes, which will become the official record of this meeting.

Joining the Trustees today is my staff Colin Kippen-COS, my Aides-Kanani Iaea and Amber Kalua, and our Board Secretary-Lehua Itokazu. With us today is Kurt Klein, our Board Counsel and Sylvia Hussey, our CEO. I will now call on Sylvia, our Pouhana, to announce who is joining us from administration.

Sylvia Hussey, CEO Thank you Chair and good morning Trustees, Chair, we have our COO-Casey Brown, Interim Senior Legal Counsel-Everett Ohta, Na'unanikina'u Kamali'i-Chief Advocate, as well our IT staff-Dan and Arlene who are supporting us this morning. Thank you.

Approval of Minutes

- A. October 7, 2021**
- B. October 21, 2021**
- C. October 26, 2021**
- D. October 28, 2021**

Chair Hulu Lindsey Moving on to item II approval of minutes. Before you, you'll see October 7th, 21st, 26th, and the 28th.

Trustee Akina Moves to approve all four minutes.

Trustee Akaka Seconds the motion.

| | | | | | | |
|---|---|---|--------------|--------------------|----------------------|-----------------------|
| MINUTES: A. October 7, 2021 B. October 21, 2021 C. October 26, 2021 D. October 28, 2021 | | | | | | |
| | 1 | 2 | 'AE (YES) | 'A'OL E (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI AHU ISA | | | | | | X |
| TRUSTEE DAN AHUNA | | | | | | Joins mtg at 11:39 am |
| TRUSTEE KALEI AKAKA | | X | X | | | |
| TRUSTEE KELI'I AKINA | X | | X | | | |
| TRUSTEE LUANA ALAPA | | | X | | | |
| TRUSTEE BRENDON LEE | | | X | | | |
| TRUSTEE KEOLA LINDSEY | | | X | | | |
| TRUSTEE JOHN WAIHE'E | | | | | | Joins mtg at 10:05 am |
| CHAIRPERSON HULU LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | 6 | | | 1 |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passes with six (6) YES votes and one (1) EXCUSED vote. | | | | | | |

Chair Hulu Lindsey Thank you. I just want to announce that Trustee Dan Ahuna will be joining us later in the meeting. I also want to mention that I will be taking the public testimony and community concerns together, back to back. As a reminder, you will be given five minutes to share your mana'o. Your name will be called and your microphone will be unmuted when it is your turn to testify. If you are not audible, you will be muted and the next testifier will be called. Your name will be called again before the conclusion of the public testimony and the community concern section. Board Secretary, do we have any testimony?

Board Secretary Yes, Gina Hara.

Gina Hara Hi, my name is Gina Hara and I am from Hālawā Valley and I have been following the Red Hill issue for the past eight years. I just wanted to let you know that I've been to almost every single meeting up until last year. This year I could not make some of the meetings including the City Council. I wanted to let

you know that every time I went to these meetings, I asked about alternative sites and what the Navy would say is they'll do this and that. But after this 13-hour injunction hearing, it was the first time I saw question and answer where attorneys could ask detailed questions. It took an injunction hearing to find out. It wasn't on May 6 like 38 gallons spilled, it was almost 19,000 gallons. It was related to the November 20 spill which was 14,000 gallons. These two related spills are a total of 33,000 gallons which was predicted by everything we've been talking about since 2014. The fact that it had to take for it to come out in people's houses for people to get shaken up and say the words shut it down. I just wanted to give you a quick background so you don't waste your time, that the Navy is always not going to want to move it because of three reasons: 1) it will be gravity fed; 2) its underground – they will never address that it is 100 ft. above the aquifer; 3) and they will never leak, they still have not figured out what is the root cause of the leak. This continues to happen and will continue to happen according to their experts too. I just wanted to prep you regarding this issue. Secondly, I wanted to let you know that there is a way to remediate with indigenous microbes. I think it's a little overwhelming for the Board of Water if I talk to them about Korean natural farming and how it's used around the world to clean water. It is also used in EM which is in Okinawa used to clean oil. There is a lot of natural methods to clean oil but also the Korean natural farming method, which is indigenous microbes, can also clean the pesticides under the GMO lands which also pollutes the water. What I want to suggest is that it may be in your best interest to invest in this. This could turn around \$18 million dollar farm lands to organic, and clean the water at the same time. With this technology, this could be a new industry for young Hawaiian children. They can become experts on how to remove and remediate. I just wanted to bring it to you in a positive way because I know the Navy is not going to come up with it. Monsanto is not going to come up with it. The technology is there, the person who is an expert on this in Korea, who learned it from Japan, is still alive and willing to teach anything and everything we need. It will take a while to shut down Red Hill but it needs to be as soon as possible. OHA might be the best entity to support the overall remediation of all of these toxins that are happening through the US military. Thank you for your time.

Clare Apana Good morning, Board members, thank you for hearing this issue. I am a member of the Sierra Club, State board. I think you're going to hear from Wayne later today. I just want to say that I hope that we will take a leadership role in the preservation of the water. I hope that you will also advocate for kanaka maoli as the special relationship we have to the United States government and their fiduciary duty to us. We really should be taking a forefront in protecting the 'āina and the water. Thank you so much for hearing this and I really like the last speakers idea of doing the intervention so that the land and water might be able to becoming clean again. So, thank you. That's all I have to say.

Routh Bolomet My name is Routh Bolomet and I will be talking about some information that was given to me in December 2010 when I applied for kuleana land tax. I was denied on the basis that the land that we are on was part of Kamehameha III's private lands that were made inalienable under Act 34. That made the lands inalienable as of January 3, 1865, and for that reason we could not lawfully own the land and therefore qualify for the kuleana land tax. We have been trying to resolve this issue through our title insurance and the courts since then. We literally put in the information and notified the loan company in August 2013 to have our title insurance invoked. Now, part of the requirements of us doing this was we had to stop making payments, otherwise they would not do any research, and then they wouldn't start the research until we were 90 days delinquent. Up till that point, we were not delinquent. The loan company then started the research, the research continued on and alot of stuff came out of it which was alot of fraud. We were denied having our title insurance invoked and because we were delinquent, we were then thrown into foreclosure court but if we paid any part of the loans, they would stop all research; so, we were between a rock and a hard space on this because according to Hawaiian Kingdom Act 34, its true the lands were made inalienable, could not be sold and therefore, it was a defective title and the only remedy available to us was actually getting the title insurance to pay off the loan. Now, this is relevant to OHA because OHA opened up this pandora's box.

Because you're a State agency, we were put on notice. We could not lawfully sell this property; we could not lawfully get a loan for it; and we couldn't lawfully keep using this land as collateral for a line of credit that we had. This land was not purchased with a loan. Initially, it was purchased in cash, actually gold backed Swiss currency, so it wasn't Fiat currency, it was actually gold. They bought this land and we are the only entities that have any kind of value that was put into this land. We are about to lose this and November 29th is a summary judgment, the Court ruled against us and they're about to take our house and put it up for auction. Well, my question is if we can't sell it, how can they take advantage of this? The remedy that I'm looking for with OHA is, I want to have OHA to help me get a settlement conference between the State and the City and County of Honolulu to resolve my relationship with this land and to the State. So, the State is claiming that this land was ceded to them according to the written testimony that I have submitted to all of you. It will show your Dr. Desias has brought up actual US Supreme court laws that will show you in fact, it was not lawfully transferred, and which case laws will support that. So, I am asking for your assistance in helping me to resolve this and a meeting so that we can get into more details that I can't get into in five minutes. Would it be possible for me to set up a meeting to get into details and ask you all for additional help and the remedies that I see are available to me and that OHA can help me with? Thank you very much.

Chair Hulu Lindsey Routh, I will refer your inquiry to our CEO, who will see what kind of meeting you can have or if there is another State agency that you should see.

Routh Bolomet Okay, because they are about to make the order to foreclose on our house. We have all of our pension and everything tied up into this, and we are about to lose so big and I just cannot find a way out of this.

Chair Hulu Lindsey So, Sylvia if you could find out what kind of assistance we can give this lady.

Routh Bolomet Thank you.

Community Concerns

Clare Apana I would like to bring up a concern that I brought up earlier this year. That is about the compliance department and the reorganization, they lost staff members and lost their department functioning as an independent department. For myself, I think the Compliance department as it was structured was so important to advocating for Kanaka maoli and our rights, especially for myself with the burial issues. The way that I see the changes is that these poor people are so overworked. They were overworked already but now they are really overworked. I have seen this huge mistake happen which I don't think would've happened had they not been so pressed to take care of all the work they have to do with less staff. What has happened was a project that we've been advocating for nine years and OHA was the last body to give an approval of the preservation plan. The maps are still missing thirty sites. In 2012, the compliance department pointed this out to the developer and SHPD but I don't think they honestly have enough time to go through a project like this and vetted if it actually happened or not. I am really concerned that the department has been taken apart and wondering what happened to the objections that were made by the public by the staff at the time of the proposed reorganization? What happen to that? I do not foresee a good result happening, you may kill Kai Markell because he is so overworked. That is truthfully not a good thing to do to such a valuable employee who has so much knowledge to share and to bring forth as we move into this next part of advocacy for our burials, sacred sites, our cultural practitioners to continue their practices because if we don't have water, we don't have limu or fish. We cannot continue these things. Who is going to advocate? Please give this a real thought. What has happen here? Why would we want to stress his department or stress the people that are left in community rather than they are having their own department. Why would we want to give up

a place where we could really advocate for Kanaka maoli and our rights. Thank you. I hope you can answer my question. I do not know what happen or how the reorganization is ultimately going to affect compliance and the beneficiaries that depend upon OHA to give the voice to the County government, the State government, to SHPD to advocate for the iwi kūpuna and sacred sites. Mahalo, thank you very much for letting me speak today.

Routh Bolomet Regarding the Bill that you have been discussing that you want to pass and submit to the legislature, there were several things that jumped out at me. One of the things was when they talked about the lands being ceded to the public trust. I think there needs to be definitions that are very clear. So, one, the public trust I hear sometimes that they say it's set up for the Native Hawaiians and for the general public, you know the funds that were to go in there. First of all, in international law, the general public could include the Americans. Now, the spirit of setting up the public trust was for the Kanaka maoli. Now, if you look at the definition, the US definition, of Native Hawaiian, that does not necessarily be related to just Kanaka maoli. They put a blood quantum on there and they do a lot of things that are not in compliance with Hawaiian Kingdom law which were the laws I believe were under International law that the US has their obligation to fulfill their international obligation with international law and not with domestic law because of that, they will have to rely on Hawaiian Kingdom definitions. The definition of Native Hawaiian in Hawaiian kingdom law is the first born naturalize children to become a Hawaiian National so that does not mean Kanaka maoli so that is outside of the spirit of what I believe what the public trust was originally set up for. It was set up to take care of our people, he Kanaka. The other thing if you could clarify the definition of what a Native Hawaiian is and actually change it to Kanaka maoli. The second thing was they're saying and there is a lot of assumptions that are being carried over based on untruth. The untruth is the lands that were ceded so, there were no lands ceded and under the October 4th, 1988 department of justice memorandum to Congress, they said there was no treaty and so in the historical review that happened a couple of days, it was said that in history, there was a treaty. Well, there wasn't a treaty and you cannot transfer or cede lands under domestic law, which is what has happened and part of that land that was transferred was the Crown lands. In my own case, I was told that those were inalienable so if they're inalienable for me, why isn't it inalienable for the state? And how is that other people, other than the heirs and successors of Kamehameha III as written out in his last will and testament, can have access to funds now? I do have a letter, a certified letter, that and copy of documents from FS Pratt who address the US Congress and the President of the United States in 1893 that explains specifically what is the Crown land and how it is private and he was testifying that at no time were those lands ever mixed into the government lands or any of the funding transferred. If that's the case, then we cannot take any of the monies from the crown lands. Those are separate from the government lands and there's several case laws that I have submitted if you look in my written testimony, you'll be able to see and the memorandum from Alfred Desires; the third memorandum that was written on my behalf to the courts, it shows specific laws that you can apply to this so that you can double check and confirm what I'm saying. But, it's those things that I was hoping that you can modify this bill with so that we can have absolute clarity and it cannot be challenged in the future. If you have any questions, I'll be happy to answer them. Thank you.

Chair Hulu Lindsey Thank you.

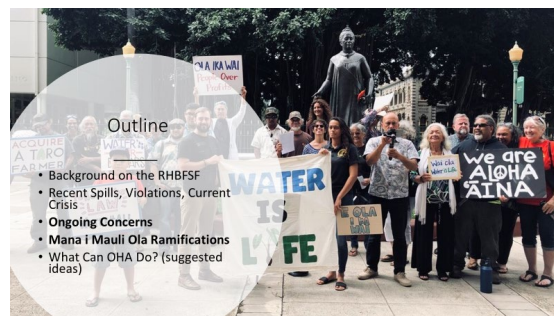
New Business

A. Presentation: Red Hill Storage Tanks, Update by Wayne Tanaka, Sierra Club of Hawai'i Chapter Director

Wayne Tanaka, Sierra Club Ch. Director Good morning everyone, it's been awhile. Thank you so much for this opportunity to talk story with all of you about the O'ahu water crisis that is currently unfolding. I have a PowerPoint that I will be presenting and before we start, I want to share my perspective. The Native Hawaiian community had no part in placing this fuel facility above the principal water source for this island and they should be given the burden of the responsibility of trying to clean up this mess that they had no hand in making. As we've discussed, the Hawaiian community has a heightened, if not unmatched, interest in the environmental and cultural integrity of Hawai'i and from the research that OHA has done through advocacy, the community outreach and now through your new strategic plan, we have a fairly good understanding of, if something catastrophic happens, it will impact everyone, but the burden will fall particularly heavy on the lāhui. This is why I appreciate the opportunity to come and share with you folks what I've learned, especially as someone who's been nurtured by the agency and by the lāhui. I want to give you a sense of what's going on and the confidence you need to understand, to be able to decide which actions may be appropriate for the agency.

O'ahu Water Crisis: Red Hill and Mana i Maui Ola

Office of Hawaiian Affairs
Board of Trustees
December 29, 2021

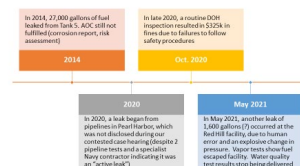


Background

- >100 million gallons of petroleum fuel stored in 14-15, 12.5 million gallon-capacity tanks (note: 4 tanks currently empty for inspection, repair).
- Tanks were built in the early 1940s in Kapūkākī, 100' over the Southern O'ahu Sole Source Aquifer
- Tank walls when new were 1/4" thick; encased in concrete*
- Aquifer now serves 450,000 residents (plus tourists, businesses, etc. from Hālawā to Maunaloa)
- 1995 – Facility was declassified
- 180,000 gallons (likely conservative) spilled since the 1940s; petroleum components have been found in the groundwater
- Navy leaders repeatedly assured us that there will not be any more leaks.



Red Hill Recap: Recent Spills, Violations



The two main things I hope you take away from this presentation are: 1) why it is a real and present danger; and 2) how this impacts your strategic plan which does a good job of illustrating some of the priorities in the Native Hawaiian community.

Quick background, as you know there is well over 100 million gallons of petroleum that is stored in 14 tanks; currently, each with 12.5 million gallon capacity. Each tank could fit the Aloha tower inside. This facility was built in the early 1940s in Kapūkākī or Red Hill and is located 100 ft. above what's called an EPA region 9 Southern O'ahu Sole Source Aquifer. It is essentially the principle drinking supply for the island and it serves everywhere from Hālawā to Maunaloa. When these tanks were built, their steel liner/steel walls were a 1/4 inch thick. If you shrunk one of these tanks to the size of a 32oz. hydroflask, their walls would be the thickness of tin foil. The service area from this aquifer feeds 123,000 residents, that is not including tourist. This also includes areas like Kalihi, Chinatown, Downtown Honolulu, Waikīkī, Mānoa, Pauoa, Pālolo, and all the way to Kuli'ou'ou and Hawai'i Kai. It was declassified in 1995 and at that point, we began learning about the history of spills from this facility. We know that 180,000 gallons have spilled since the 1940s; we know that petroleum constituents components have been found in the ground water; these

leaks have hit the ground water already and every time there is a leak we are told by Navy leaders that we'll figure it out, we'll make sure it doesn't happen again but we see what's happened in the last few years.

Recap of some of the recent spills and leaks: In 2014, that was the big 27,000 gallon spill from tank five. There was an initiative order of consent that was agreed to between the Navy and the EPA and the Department of Health that has still not been fulfilled seven-eight years later. Last year while our contested case was pending, a leak began in pipelines in Pu'u'loa which are attached to the facility; this was not disclosed in our contested case hearing that took place this year. Also, last year there was a routine DOH inspection of the facility, \$325,000 in fines were issued because of the Navy's failure to follow their own safety procedures for the facility. In May of this year, there was another fuel leak from the facility, about 1,600 gallons supposedly; that illustrated for me, the potential of explosive changes in pressure. In that instance, they threw the wrong valves and the wrong sequence and pipes blew up. Pipes blew up their couplings and another pipe bent 16 inches, bashed into metal ducting and deformed that. That is really scary, metal hitting concrete is how you create sparks and if you do not have a sense of leaking tanks, then that could be a really bad situation. The navy said it contained all the fuel that spilled at that time but shortly thereafter, we had vapor readings, vapor test that showed fuel did escape the facility and now more recently, it may have been a much larger leak.

In September of this year, there was mysterious changes and pressure in the pipelines. Navy officials sent emails saying they thought multiple valves may be leaking, they shut the facility down for nine days and we're still not sure what happened there. In October, that's when the whistleblower came forward so that's basically when I started my job and told the Department of Health about how the Navy wrongfully withheld information during our contested case hearing including the extent of their pipelines, their pumps, historical corrosion records including records of through wall holes in the steel liner that weren't reported to regulators. Then in November, there was 14,000 gallons of water fuel mixture that was released from a drain line connected to the fire suppression system in the facility. The fumes are so strong there were multiple 911 calls made to the fire department. The fire department had to show up trying to figure out what was going on. A few days later, we have families reporting odor, a strong smell of fuel in their sinks. When the sprinklers went on, everyone is getting sick like pets, children are getting rashes, throwing up, and getting headaches. All these symptoms consistent with on betrayal and exposure. At that time, the Navy was saying that there was no indication that the water is unsafe to drink but yet they shut down the hill shaft which is their drinking water shaft and didn't tell the Board of Water Supply (BWS). Eventually, they confirmed that the Red Hill shaft was contaminated. One of the Navy reports that came out of the ALC, essentially, they said if there was a big spill what they would need to do is not to shut the shaft down but to turn it on and continue pumping so that it can suck the petroleum into all of the aquifer. What happened instead was they shut down the shaft so that the petroleum was being moved and they didn't tell the BWS for a few days; and so the BWS was sucking from their well which is less than a mile away and that can pull the plume over to the municipal system. That was very concerning and as soon as Ernie Lau heard about that, he shut down all of BWS pumps.

Note on Navy's Red Hill Shaft Shut-Down

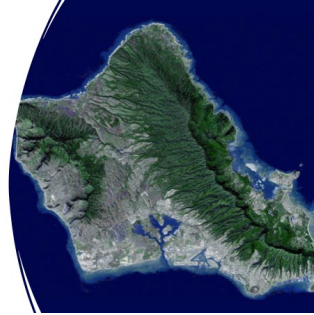
"Maintain continuous pumping" ... "water treatment plant"

In the unlikely scenario of a Significant Release from the Facility, there is a high probability of the Red Hill Shaft being directly impacted within a short period of time. The environmental modeling predicts that for any Significant Release to be captured and prevented from entering the public drinking water source, the Red Hill Shaft would need to maintain continuous pumping, and thus would require a water treatment plant to ensure the quality of the drinking water being supplied to Joint Base Pearl Harbor-Hickam (JBPHH).

The mitigation of any releases from the Facility would be via the extraction of contaminated water via Red Hill Shaft. As the aquifer is a dynamic system, the rate at which the water is extracted is

Current Consequences

- People have been poisoned and hundreds of families evacuated from their homes
- BWS wells shut down, no idea how much fuel in aquifer, where it is, and where it has gone/is going
- Water conservation measures = moratoria on construction, possible rate increases for residents, tourism
- No clear timeline when 93,000 homes will become habitable again
- This is (hopefully) temporary – the next spill may be much, much worse



So, what are we looking at with the recent events? People have been poisoned and hundreds of families have been evacuated from their homes. Now that the BWS wells are shut down, we can't turn them on again until we know how much fuel is in the aquifer, where it is, and where it has gone or where it may be going. If it's migrating over to the BWS wells, we may have to keep them shut down indefinitely. Because of that, we are looking at likely water conservation measures during the summer, moratorium on construction, potential increase in cost for businesses, homes, and tourism. Again, there is no clear timeline for the facilities and homes served by the Navy's water system will become habitable again. If you don't have running water, it's considered uninhabitable. Hopefully, this is temporary, this is a relatively small spill compared to what could happen. Another spill could be much, much worse.

Shares a short video from Youtube.

What is concerning is that after these townhalls, the Assistant Secretary of the Navy came to Hawaii for two weeks, his sole responsibility was to focus on the Red Hill contamination issue and despite being here for fourteen days in December and we asked him if he known that people had gotten sick, his response was "I'm not". Essentially, this is the person who is advising the Secretary of the Navy as to what is going on and what should be done which is terrifying. The current situation is a disaster and it's still unfolding, and we still don't know when we will recover from it. I think it's important to keep in mind, is what we are seeing could become unimaginably worse. There is no way they can keep us safe. The main foundation of preventing spills in the Navy's system is tank inspections. They actually have no idea on how bad the corrosion is in the steel liner walls. Concrete is porous and it cracks but because of the concrete, there is more moisture trapped against the steel liner and that is corroding the liner a lot faster then the Navy anticipated. Because of the concrete, they can actually see the liner and how bad it is.



Ongoing Concerns: Navy's Cannot be Trusted

- The Navy's "system of systems" is a system of band-aids that is full of holes
 - Navy has no idea how bad the corrosion may be
 - Concrete "casing" around steel tanks actually traps moisture around the steel
 - Water + steel = rust, corrosion!
 - Cannot directly observe tank conditions where corrosion is occurring due to concrete
 - Inspection method is inherently unreliable
 - Destructive testing on 10 steel "coupons" showed 40% miss rate in inspections
 - Eight tanks uninspected for 20+ years despite Navy standard of 10-year inspection cycle



"System of Systems" is Flawed

- Tank tightness testing (biannual):
 - Cannot detect slow leaks and may allow for 3,600 gallons to leak without any indication of vulnerability
 - Slow leaks could prelude larger or multiple leaks, especially when combined with other events
 - Cannot detect future leaks or near-through holes
- Tank fuel level monitoring
 - Alarm does not sound unless there is a 1/2" of fuel level change under normal conditions – i.e. 2,400 gallons will be lost before an alarm even sounds
 - Alarm won't sound until a much greater loss if fuel is being "moved"
- Do these even work? (Hotel Pier leaked for >6 months, could not be confirmed until July 2021; fuel in New release, in this shaft – where did it come from?)

What takes place is someone is hanging from the ceiling with a hand help scanner and they try to go over every inch of the tank to see if the sensor indicates that the tanks needs to be repaired in any particular spot. What they did after the big spill in 2014, they inspected a tank and broke off concrete and steel to see if this inspection method was working. It turns out that they missed a mark 40% of the time. Two of the coupons that the Navy said were fine, there was no need to repair but it turned out it wasn't fine and they were way below speck. Two of the other coupons, the Navy said they needed to fix them but later found out they didn't meet the threshold for repairs. This is inherently an unreliable way to determine if tanks need to be repaired

and that's if they inspect them because 8 of the tanks that currently have millions of gallons of fuel in them have not been inspected in more than 20 years. Three of them have not been inspected in over 38 years and one for over 40 years. Industry standard is 10 years. Apart from this inspection and repair process, there are two other things flawed:

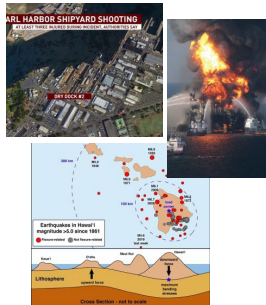
1. Tank tightness testing – done twice a year, they take like a snapshot of how tight these tanks are. Are they leaking fuel? It turns out they cannot detect slow leaks so between these tests, up to 1,600 gallons of fuel may leak without any indication that there is a leak. That's concerning because it still leaks; in addition, you're releasing fumes in the environment could indicate the potential for larger or multiple leaks; and then if you have fuel and outside of these tanks that you don't know about combined with other events like an electrical fire, could result in a disaster.
2. The other main system is Tank fuel level monitoring. They say if it drops a half inch when we're not moving fuel then an alarm will sound off. A ½ inch sounds small and a ½ inch of fuel is equal to over 2,400 gallons. They could lose over 2,400 gallons and have no indication that there is anything going on.

So, we really don't know if these monitoring systems work. We had the spill in Pu'uloa over six months, we still do not know where it came from that's poisoning people right now. The Navy has a working theory but again, there is nothing concrete that they can point to. Even if all of these systems worked perfectly, there are major things that they don't address. They don't address earthquakes. When these tanks were brand new in 1948 there was an earthquake that happened which resulted in over 1,100 barrels (about 46,000 gallons) were lost. The tanks are now eighty years old, corroded, and entering their end-of-life phase. An earthquake could be disastrous. The Navy also cannot prevent human error, which that last two major spills were due to human error. They did inspections and they were not running the facility properly combined with other weaknesses in their system could lead to catastrophic consequences. We have seen human error be factors in some of the biggest environmental disasters of our time.

"System of Systems": Blind Spots

The Navy cannot prevent:

- **Earthquakes**
 - 27% change of leaking between 1,000,000 gallons of fuel next year; 80% over the next five, without an earthquake
 - Earthquake in 1948 resulted in 1,100 barrels (about 46,000 gallons) of fuel lost; tanks were not 30 years old and not (as) corroded
- **Human error**
 - 2014 spill, May 2021 spill were due to "human error"
 - 2020 inspection and resulting notice of violations for just one person's error
 - May 2021 spill highlights explosive consequences for just one person's error
 - Combined with other weaknesses (undetected leaks, possible spark/fire sources) could lead to catastrophe
 - See also: Exxon Valdez, Deepwater Horizon, etc.
- **Human malice**
- **Murphy's law** undetected leak + electrical spark/fire, ?



What happens if there is a catastrophe? We know that 1,600 gallons was not contained. The 27,000 gallon spill reached the ground water. Just one spill of one million gallons is equal to 37 times the 2014 spill. Each

tank holds up to 12.5 million gallons. So even a fraction of fuel loss from anyone of these tanks could irreversibly contaminate this aquifer to the point where we could not utilize it anymore on top of all the other environmental impacts.

To help make this relevant for the agency, I went through the Mana I Maui Ola. There are three foundations: 'Ohana, Mo'omeheu, and 'Āina; and there are four strategic directions: Educational Pathways, Health Outcomes, Quality Housing, and Economic Stability.

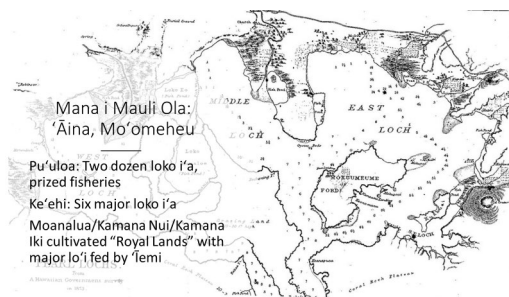
These are some thoughts and examples of ramifications of this fuel facility to OHA's priorities and strategic plan. First, 'āina and mo'omeheu and how they intertwine. The perception of 'āina compared to the western perception of land is something that can be commodified, divided up, bought, and sold. The maoli perception is that 'āina contains and consist of all living things including humans; all these things are connected, literally on a genealogical level; so, because of this familial relationship, you have these obligations of responsibility to care for each other, reciprocity and the same kind of things that you would expect with regards to your family. That perspective is particularly salient, I think, to the water source as being directly threaten. The waters of Moanalua are incredibly historically and culturaly significant; they continue to serve a number of roles and functions including the valley and how it acts as a kīpuka, how it acts as a keeper for Native plants and animals, especially cultural practices.

Mana i Maui Ola: 'Āina, Mo'omeheu

"The creation myth of Moanalua describes how the goddess Kahikūlani came across the ocean in a canoe, bearing gifts for her new husband Kamawaeluani, in search of fresh water, the waiola that her homeland Kahiki-ku did not have in abundance. The waiola of this ancient myth is nothing less than a miraculous blessing."

"One of the last truly open spaces located just outside of Honolulu, the valley features 3,716-acres with five distinct forest types, which are also a habitat for native plants and animals, including the endangered elepaio bird."

"In sharing my mana'o, I hope to deepen our shared understanding of the sacred waiola of Moanalua. . . . Healing the waiola is going to take people with 'ike working together toward this common vision, and in doing so they will have the 'ku aina behind them. This is the perfect example of mālama 'āina — if we take care of the land, it will take care of us and future generations." — Kahu Roddy Akau, Konohiki



This is an op-ed that Kahu Roddy from Moanalua Konohiki wrote to Star newspaper in 2015 after the big spill. He highlighted how the waters of Moanalua provides opportunity to practice mālama 'āina. When you look historically, this water source has always provided for life on this island. Looking at Pu'uloa, there was a famous fishery known for its abundance, it had two dozen loko i'a. Ke'ehi had six major loko i'a and all these things required fresh water input, including coastal discharge, springs. Moanalua, Kamana Nui, and Kamana Iki up mauka were all royal lands, and they were cultivated, and there were major lo'i fed by a spring called 'Iemi. And now up to our present day, this water source is for homes, schools, most of the major hospitals, and basically all of the communities from Hālawā up to Moanalua. A quick note of what we are seeing now of the water system being compromised: 93,000 people are being affected, some of them can go to hotels or other people's residences for water but the majority are living off of bottled water which creates a huge amount of trash which also translates to how we deal with the trash and where it goes. There is tons of water waste now, we do not know the impacts it will have while trying to clean out the Navy's water system that's contaminated including cleaning by flushing. How this filters down to the strategic directions:

First one is educational pathways – providing educational resources for all life long learners including traditional learning systems with cultural foundations and identity. It also includes support for Hawaiian immersion and Hawaiian-focused charter schools.

Ramifications:

Access to clean water in schools for child development, learning, and health. Principals are spending school money on bottled water when the money could be used towards other school resources. Schools will be forced to spend more on water, sanitation, and food. Also, if it is contaminated, it will compromise both the current and the future cultural revitalization efforts in regards to loko i'a, lo'i kalo, and the all the community centers served by this source.

As to Health outcomes, we look to strengthen Native Hawaiian well-being; this is physical, mental and spritual.

Ramifications:

The strengthening of 'āina and mo'omeheu including culturally grounded, 'āina-based intervention approaches are under a direct threat. Many major hospitals are served by this aquifer, houses, local agriculture, and community development.

Next Housing, you look at strengthening Native Hawaiian resources so that you can achieve stable housing and support and implement the Native Hawaiian Homes Commission Act (HHCA).

Ramifications:

Service and construction industries will be heavily impacted, and jobs will be lost. You can't do financial planning if you do not have financial resources. Families who struggle to pay rent will have to use more of their income on water cost and buying bottled water. The housing supply will become a burden if this petroleum gets sucked into the BWS system; you could compromise the housing supply for hundreds of thousands of people. Our housing situation now is dire. Low-income households will be disproportionately burdened by lack of access to water and/or greatly increased water bills. We will have conservation mandates, it will be harder to build ADUs, other housing projects, and possibly even Kaka'ako Makai. Also, there is DHHL. One the great things they face is the ability to access wet water and to get the water credits that they need for developments. It will further impair th department's ability to implement the Hawaiian Homes Commission Act

Finally, economic stability. This is strengthening the ability of famillies to pursue pathways to economic stability, cultivate economic development in and for Native Hawaiian communities.

Ramifications:

If you want to start a business, you need credit and financial institutions are looking at major losses; property values will go down the tank because there is no water; and other investments and construction. Local businesses will be less stable to weather increase costs of water and utilities and unemployment opportunities. A prolong economic strain with a larger and indefinite spill that will exacerbate Native Hawaiians being forced to leave the Hawaiian islands.

What Can OHA Do? Advocacy Landscape

- OVERALL GOAL: Remove 150,000,000 gallons of petroleum and other hazardous materials from Red Hill facility (12.5M gallon tanks, defuel lines, fire suppression system) before catastrophic release
- Intermediate goals:
 - Obtain White House support, intervention to defuel
 - Secure Congressional funding (Feb. 2022) and Pentagon directive for defueling
 - Obtain Congressional delegation, Pentagon support
 - Secure commitments from Hawai'i delegation
 - Secure commitments from Pentagon and Biden Administration

Key Targets

- President Joe Biden
- Secretary of Defense
- Secretary of the Navy
- Congressionals



That's my perspective to what OHA and the larger community may be concerned about. So, what can we do about it? Our target is to get this fuel away from the aquifer. This has to happen ASAP. To do so, we need White House support, potential intervention because, as I mentioned earlier that the Secretary of the Navy is being advised by people that don't necessarily seem to know what's going on. There is a first half of the Congressional budget appropriations bill for defense coming out in February so, that is the timeline we are looking at to get the first investment we need to get the fuel. To make sure that there's money in there, we need Congressional and litigation support from the Pentagon, hopefully. Key decision makers are the President Joe Biden, Secretary of Defense, Secretary of the Navy, and our Congressional. The Sierra Club is working on the ground to get the word out for folks to contact those targets and to talk to other people in their circles that could reach them potentially. OHA might have some unique things that they could do as an agency. It's great to have support with the Ka Wai Ola team, the CE team to maintain media coverage and promotion of events and informational briefings. There are some grassroots groups by beneficiaries; Kaohe Wai, O'ahu Water Protectors. I also think it would be very powerful if OHA could send a letter to the White House and the Pentagon as a Government agency whose responsibility and mission is to advocate for Native Hawaiians. Of course, the advocacy division has always been very effective in helping shape policy to the extent our public policy and compliance folks can lend some support. OHA also has connections with other Native American groups can also be very valuable. On a more individual level for those watching and wondering what can you do, I think of the question what would you do to protect the ones you love from harm? If that disaster happens, anyone on O'ahu will be harmed. Sierraclubhawaii.org/redhill you can sign up for action alerts and stay plugged in.

In summary, this Red Hill facility is being a menace to our water source for the last eight decades. It is contaminating our water source as we speak. We are at a time where we might actually watch this source go down and get killed and we cannot let that happen. We have this opportunity now to be the generation to take this menace down. That is my take on the situation, and I would be happy to answer any questions.

Trustee Akaka Wayne, what an insightful presentation. I want to commend you on your amazing work; putting to good use so much that you have learned at the Office of Hawaiian Affairs and applying it to your work to help our people, not of just today but of tomorrow. We are so proud of you. We thank you for spreading your wings and going out into the community and being a leader for us. You truly are doing amazing work. Mahalo nui Wayne Tanaka Maoli. Please continue to go hard on this.

Wayne Tanaka, Sierra Club Ch. Director Thank you Trustee.

Trustee K. Lindsey Aloha Wayne, nice to see you. Thank you for the presentation and thank you to you and everyone on the front lines regarding this situation. I am trying to wrap my head around 150 million gallons of fuel. Even if the President or the Secretary of Defense decided tomorrow that we are going to shut down Red Hill, it sounds like it is quite a process to do that. To me, that is the right decision, but it sounds like it's quite a process to do that and we're looking at in the face of an environmental disaster, which I hope doesn't come but like you highlighted in your presentation, the potential is there. We're looking at Congress has to authorize funds, we have to build new tanks or something to take them away. I guess what is the most important sequence of immediate steps that need to be taken?

Wayne Tanaka, Sierra Club Ch. Director Great question, thank you. Right now, there's a Governor's emergency order that essentially calls for the defueling of the facility. The first thing that it does is in that process is it requires the Navy to assess its defuel pipes and its system to take fuel out of these tanks. We don't even know if it is safe to do so. We don't know where this current fuel is coming from. There is all these weird pressure changes, potential leaky valves so we need to see if it's safe to get the fuel out of the

facility. If its not, they need to make all the repairs necessary to defuel. As they assess what's happening, they should be identifying where they can store this fuel. So, Par Pacific Hawai'i in Kapolei can take a third, another military facility on the island, there needs to be tankers coming from the Continent, this needs to happen now. Then they can figure out if they want to replace this supply somehow. That is a long-term thing and more expensive but what we need now is investments to safely defuel and get the fuel stored somewhere.

Trustee K. Lindsey Mahalo Wayne.

Chair Hulu Lindsey Thank you Wayne for a very thorough presentation. I encourage you to work with Na'u Kamali'i, our Chief Advocate, if there is anything we can collaborate. She has been working on statements from OHA and communications with the Federal government. I want to assure you that OHA is as concern as you are. We are happy to collaborate in more active activities that can help the situation. Thank you Wayne.

Wayne Tanaka, Sierra Club Ch. Director Great That's fantastic, thank you so much.

Chair Hulu Lindsey I would like to move on to item B.

A. Action Item BOT #21-18: Approve and Implement the OHA Policy Framework – (2nd reading)

Sylvia Hussey, CEO Trustees, as Chair has indicated, this is the second reading for the policies. It establishes the overall policy framework for the organization, as well as the first pin of the policies which provides that overarching context. Over the next year, then each of the policies at the trustee level will come to the trustees to be able to put into the framework as well as the discussion of the existing Executive Policy Manual that exist, migrating that into the framework. I'll entertain any questions.

Trustee Waihe'e I would like to move to

Motion #1

Approve the OHA Policy Framework, based on the approved Board Governance Framework, with the following components: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of Policies; 5) Business Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, documentation, desktop procedures, manuals as depicted at Attachment A.

Motion #2

Approve the Policy of Policies as newly drafted at Attachment B.

Trustee Akaka Seconds the motion.

Trustee Waihee moves to

Motion #1

Approve the OHA Policy Framework, based on the approved Board Governance Framework, with the following components: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of

| Policies; 5) Business Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, documentation, desktop procedures, manuals as depicted at Attachment A. <u>Motion #2</u> Approve the Policy of Policies as newly drafted at Attachment B. Trustee Akaka Seconds motion. | | | | | | |
|---|---|---|--------------|----------------|----------------------|----------|
| | 1 | 2 | 'AE (YES) | 'A'OLE (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI AHU ISA | | | | | | X |
| TRUSTEE DAN AHUNA | | | | | | |
| TRUSTEE KALEI AKAKA | | X | X | | | |
| TRUSTEE KELI'I AKINA | | | X | | | |
| TRUSTEE LUANA ALAPA | | | X | | | |
| TRUSTEE BRENDON LEE | | | | | X | |
| TRUSTEE KEOLA LINDSEY | | | X | | | |
| TRUSTEE JOHN WAIHE'E | X | | X | | | |
| CHAIRPERSON HULU LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | 6 | | 1 | 1 |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passes with six (6) YES, one (1) ABSTENSION and one (1) EXCUSED vote. | | | | | | |

Chair Hulu Lindsey Moving on to item C. I will call on Trustee Akaka.

A. Committee on Beneficiary Advocacy and Empowerment

1. Action Item BAE #21-07: Public Land Trust Bill, 2022 Legislature

Trustee Akaka Your Committee on Beneficiary Advocacy and Empowerment, having met on December 27, 2021 and after full and free discussion, recommends approval of the following motion to the Board of Trustees:

Motion 1:

Approve the submission of the Public Land Trust Bill (PLT) to the 2022 Legislature as OHA-1, that addresses the: 1) Federal Trust responsibilities to Indigenous People; 2) 1959 Admissions Act and the conditions of the new State of Hawai'i to hold lands in public

trust; 3) Purposes of such public land trust, including the betterment of the conditions of Native Hawaiians; 4) Roles and responsibilities of the Office of Hawaiian Affairs (OHA); 5) Current interim amount of \$15.1MM; 6) Existing amount of approximately \$29MM in the carry-forward trust holding account; 7) Projected accumulation (since 2012) of the difference between the interim PLT amount of \$15.1MM and the OHA's 20% pro-rata share of ceded land revenues; and 8) Accountability and reporting processes, at Attachment A.

Trustee K. Lindsey Seconds the motion.

Sylvia Hussey, CEO I just wanted to let the Trustees know that since the BAE meeting, administration has some updates that we recommend consulting with counsel.

Chair Hulu Lindsey Trustee Akaka, will you move us into executive session.

Trustee Akaka Madame Chair, I would like to move that we recuse ourselves into executive session.

Trustee Lee I move that we defer this item until after executive session. We have a motion in front of us and we cannot ignore it.

Chair Hulu Lindsey We can amend it after executive session.

Trustee Lee But it's in front of us now and you want to dispense with it then go into executive session. We have a motion in front of us and we cannot go into executive session with a motion in front of us. I move that we defer this matter until after.

Chair Hulu Lindsey Board Counsel can we get counsel on this matter.

Kurt Klein, Board Counsel Yes, this is just a matter of procedure here. Trustee is correct that we have a pending motion. We should resolve a motion before we go into executive session whether that resolution is to revisit it after executive session, as I am hearing there are concerns and discussions necessary with the CEO and there may be some legal questions.

Trustee Waihee Seconds the motion to defer.

| | | | | | | |
|---|---|---|--------------|--------------------|----------------------|---------|
| Trustee Lee Moves | | | | | | |
| To defer item after executive session. | | | | | | |
| Trustee Waihee Seconds the motion. | | | | | | |
| | 1 | 2 | 'AE (YES) | 'A'OL E (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI AHU ISA | | | | | | X |
| TRUSTEE DAN AHUNA | | | | | | |
| TRUSTEE KALEI AKAKA | | | X | | | |
| TRUSTEE KELI'I AKINA | | | X | | | |
| TRUSTEE LUANA ALAPA | | | X | | | |

| | | | | | | |
|---|---|---|----------|--|--|----------|
| TRUSTEE BRENDON LEE | X | | X | | | |
| TRUSTEE KEOLA LINDSEY | | | X | | | |
| TRUSTEE JOHN WAIHE'E | | X | X | | | |
| CHAIRPERSON HULU LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | 7 | | | 1 |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED | | | | | | |
| Motion passes with a seven (7) YES votes and one (1) EXCUSED vote. | | | | | | |

Chair Hulu Lindsey Roll call vote to recuse into Executive session.

Trustee Waihee Seconds the motion.

The Board recuses into Executive Session at 11:25 a.m.

| Motion to recuse into executive session pursuant to HRS Section §92-5 | | | | | | |
|---|---|---|--------------|----------------|----------------------|----------|
| | 1 | 2 | 'AE (YES) | 'A'OLE (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI AHU ISA | | | | | | X |
| TRUSTEE DAN AHUNA | | | | | | |
| TRUSTEE KALEI AKAKA | X | | X | | | |
| TRUSTEE KELI'I AKINA | | | X | | | |
| TRUSTEE LUANA ALAPA | | | X | | | |
| TRUSTEE BRENDON LEE | | | X | | | |
| TRUSTEE KEOLA LINDSEY | | | X | | | |
| TRUSTEE JOHN WAIHE'E | | X | X | | | |
| CHAIRPERSON HULU LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | 7 | | | 1 |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED | | | | | | |
| Motion passes with a seven (7) YES votes and one (1) EXCUSED vote. | | | | | | |

Board returns to open session at 11:33 a.m.

Trustee Akaka Move to amend the OHA Public Land Trust Bill, Action Item BAE #21-07, at Attachment A, as follows:

1. Delete “, or present real value” from page 7, line 7;
2. Insert a new section to read “Nothing in this Act shall resolve or settle, or be deemed to acknowledge the existence of, the claims of native Hawaiians to the income and proceeds of a pro rata portion of the public land trust under article XII, section 6 of the state constitution.”

Trustee K. Lindsey Seconds the motion.

| | | | | | | |
|--|---|---|--------------|--------------------|----------------------|----------|
| Trustee Akaka Move to amend the OHA Public Land Trust Bill, Action Item BAE #21-07, at Attachment A, as follows: <ol style="list-style-type: none"> 1. Delete “, or present real value” from page 7, line 7; 2. Insert a new section to read “Nothing in this Act shall resolve or settle, or be deemed to acknowledge the existence of, the claims of native Hawaiians to the income and proceeds of a pro rata portion of the public land trust under article XII, section 6 of the state constitution.” | | | | | | |
| Trustee K. Lindsey Seconds the motion. | | | | | | |
| | 1 | 2 | ‘AE (YES) | ‘A‘OL E (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI AHU ISA | | | | | | X |
| TRUSTEE DAN AHUNA | | | | | | |
| TRUSTEE KALEI AKAKA | X | | X | | | |
| TRUSTEE KELI‘I AKINA | | | X | | | |
| TRUSTEE LUANA ALAPA | | | X | | | |
| TRUSTEE BRENDON LEE | | | X | | | |
| TRUSTEE KEOLA LINDSEY | | X | X | | | |
| TRUSTEE JOHN WAIHE‘E | | | X | | | |
| CHAIRPERSON HULU LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | 7 | | | 1 |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED | | | | | | |
| Motion passes with a seven (7) YES votes and one (1) EXCUSED vote. | | | | | | |

Trustee Lee Before we take the vote on the main motion as amended, I would like to reiterate to administration that who goes to give testimony to the legislature stands ready to answer questions about how we came up with the lump sum over the ten years that I brought up in BAE. Thank you.

Chair Hulu Lindsey Thank you. We will now take a vote on the main motion as amended.

| | | | | | | |
|--------------------------------|---|---|--------------|--------------------|----------------------|---------|
| Main motion as amended. | | | | | | |
| | 1 | 2 | ‘AE (YES) | ‘A‘O LE (NO) | KANALUA (ABSTAIN) | EXCUSED |
| TRUSTEE LEI | | | | | | X |

| | | | | | | |
|---|---|---|----------|--|--|----------|
| AHU ISA | | | | | | |
| TRUSTEE DAN AHUNA | | | | | | |
| TRUSTEE KALEI AKAKA | X | | X | | | |
| TRUSTEE KELI'I AKINA | | | X | | | |
| TRUSTEE LUANA ALAPA | | | X | | | |
| TRUSTEE BRENDON LEE | | | X | | | |
| TRUSTEE KEOLA LINDSEY | | X | X | | | |
| TRUSTEE JOHN WAIHE'E | | | X | | | |
| CHAIRPERSON HULU LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | 7 | | | 1 |
| MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED | | | | | | |
| Motion passes with seven (7) YES votes and one (1) EXCUSED vote. | | | | | | |

Announcements

Chair Hulu Lindsey Thank you Trustees, this is the last Board meeting for 2021. Our next meeting will be on January 13, 2022. I just want to give you an update of the investiture, so far there has been no action by the Mayor or the Governor to close down indoor activities. We do have a chapel that can hold a thousand and we do not plan on having more than 200. The church has set a limit, so we are health protocol safe. The program is only an hour so. When we are done, we will leave the premises and each person will receive a grab-and-go lunch. There will be a 2:00pm rehearsal the day before on January 6th at the church.

Adjournment

Trustee Akaka Moves to adjourn the meeting.

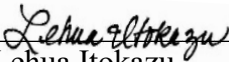
Trustee Waihe'e Seconds the motion.

| Adjournment | | | | | | | |
|--------------------|----------------|---|---|--------------|---------------|----------------------|---------|
| TRUSTEE | | 1 | 2 | 'AE (YES) | A'OLE (NO) | KANALUA (ABSTAIN) | EXCUSED |
| LEINA'ALA | AHU ISA | | | | | | X |
| DAN | AHUNA | | | X | | | |
| KALEIHIKINA | AKAKA | X | | X | | | |
| KELI'I | AKINA | | | X | | | |
| LUANA | ALAPA | | | X | | | |
| BRENDON KALEI'ĀINA | LEE | | | X | | | |

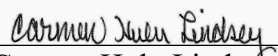
| | | | | | | | |
|-------------------------|---------|--|---|----------|--|--|----------|
| KEOLA | LINDSEY | | | X | | | |
| JOHN | WAIHE'E | | X | X | | | |
| CHAIR CARMEN HULU | LINDSEY | | | X | | | |
| TOTAL VOTE COUNT | | | | 8 | | | 1 |

Chairperson Carmen Hulu Lindsey Adjourns the Board of Trustees meeting at 11:41 a.m.

Respectfully submitted,


 Lehua Itokazu
 Board Secretary

As approved by the Board of Trustees on February 3, 2021.


 Carmen Hulu Lindsey
 Chairperson, Board of Trustees


Attachments:

- 1. Excused Memo – Trustee Ahu Isa**
- 2. PowerPoint – Sierra Club**
- 3. Action Item BOT#21-08: Approve and Implement the OHA Policy Framework**



OFFICE OF HAWAIIAN AFFAIRS MEMORANDUM

Mea ho'omana'o a ke Ke'ena Kuleana Hawai'i

To: Chairperson Carmen Hulu Lindsey
From: Trustee Leina'ala Ahu Isa, Ph.D. 
Date: December 22, 2021
Re: Excused Absence

Please be advised that I am unable to attend the virtual meeting of the Board of Trustees on Wednesday, December 29, 2021, at 10:00 A.M.

If you have any questions, please contact my office.

Mahalo!

O'ahu Water Crisis: Red Hill and Mana i Maui Ola

Office of Hawaiian Affairs
Board of Trustees
December 29, 2021



Outline

- Background on the RHBFSS
- Recent Spills, Violations, Current Crisis
- **Ongoing Concerns**
- **Mana i Maui Ola Ramifications**
- What Can OHA Do? (suggested ideas)



Background

- >100 million gallons of petroleum fuel stored in 14-15, 12.5 million gallon-capacity tanks (note: 4 tanks currently empty for inspection, repair).
- Tanks were built in the early 1940s in Kapūkakī, 100' over the Southern O'ahu Sole Source Aquifer
- Tank walls when new were ¼" thick; encased in concrete*
- Aquifer now serves **450,000 residents** (plus tourists, businesses, etc. from Hālawā to Maunaloa)
- 1995 – Facility was declassified
- **180,000 gallons (likely conservative) spilled since the 1940s; petroleum components have been found in the groundwater**
- **Navy leaders repeatedly assured us that there will not be any more leaks.**



Red Hill Recap: Recent Spills, Violations

In 2014, 27,000 gallons of fuel leaked from Tank 5. AOC still not fulfilled (corrosion report, risk assessment)

2014

In late 2020, a routine DOH inspection resulted in \$325k in fines due to failures to follow safety procedures

Oct. 2020

2020

In 2020, a leak began from pipelines in Pearl Harbor, which was not disclosed during our contested case hearing (despite 2 pipeline tests and a specialist Navy contractor indicating it was an “active leak”)

May 2021

In May 2021, another leak of 1,600 gallons (?) occurred at the Red Hill facility, due to human error and an explosive change in pressure. Vapor tests show fuel escaped facility. Water quality test results stop being delivered

Red Hill Recap: Recent Spills, Violations

In Sept. 2021, Red Hill Facility shut down for > 1 week due to mysterious pressure changes, “multiple valves” suspected of leaking

Sept. 2021

In November, 14,000 gallons of “water-fuel” mixture released from a drain line; fumes prompt 911 calls

Nov. 2021

Oct. 2021

Whistleblower e-mails reveal “wrongful withholding of information” regarding leaks, infrastructure

Nov.-Dec. 2021

Military families report odor, oil slicks in water, illnesses. **RH shaft shut down without notifying BWS**; fuel confirmed in RH shaft and BWS shuts down Hālawā shaft. Late test results show contamination for months prior.

Note on Navy's Red Hill Shaft Shut-Down

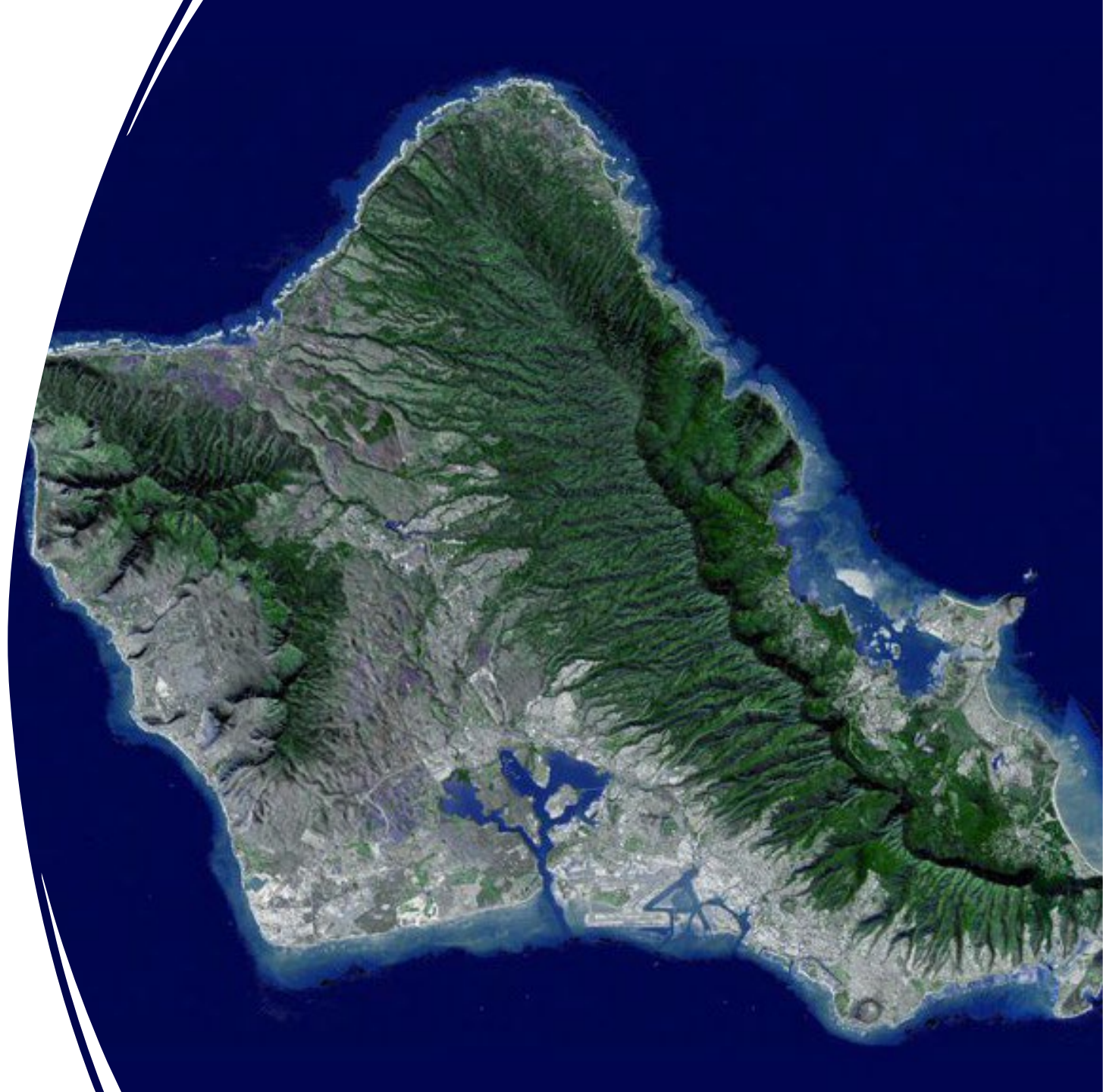
“Maintain continuous pumping” . . . “water treatment plant”

In the unlikely scenario of a Significant Release from the Facility, there is a high probability of the Red Hill Shaft being directly impacted within a short period of time. The environmental modeling predicts that for any Significant Release to be captured and prevented from entering the public drinking water source, the Red Hill Shaft would need to maintain continuous pumping, and thus would require a water treatment plant to ensure the quality of the drinking water being supplied to Joint Base Pearl Harbor-Hickam (JBPHH).

The mitigation of any releases from the Facility would be via the extraction of contaminated water via Red Hill Shaft. As the aquifer is a dynamic system, the rate at which the water is extracted is

Current Consequences

- People have been poisoned and hundreds of families evacuated from their homes
- BWS wells shut down, no idea how much fuel in aquifer, where it is, and where it has gone/is going
- Water conservation measures = moratoria on construction, possible rate increases for residents, tourism
- No clear timeline when 93,000 homes will become habitable again
- This is (hopefully) temporary -- the next spill may be much, much worse





Ongoing Concerns: Navy's Cannot be Trusted

- The Navy's "system of systems" is a system of bandaids that is full of holes:
 - Navy has no idea how bad the corrosion may be
 - Concrete "casing" around steel tanks actually traps moisture around the steel
 - Water + steel = rust, corrosion!
 - Cannot directly observe tank conditions where corrosion is occurring due to concrete
 - ← Inspection method is inherently unreliable
 - Destructive testing on 10 steel "coupons" showed 40% miss rate in inspections
 - Eight tanks uninspected for 20-plus years despite Navy standard of 10-year inspection cycle



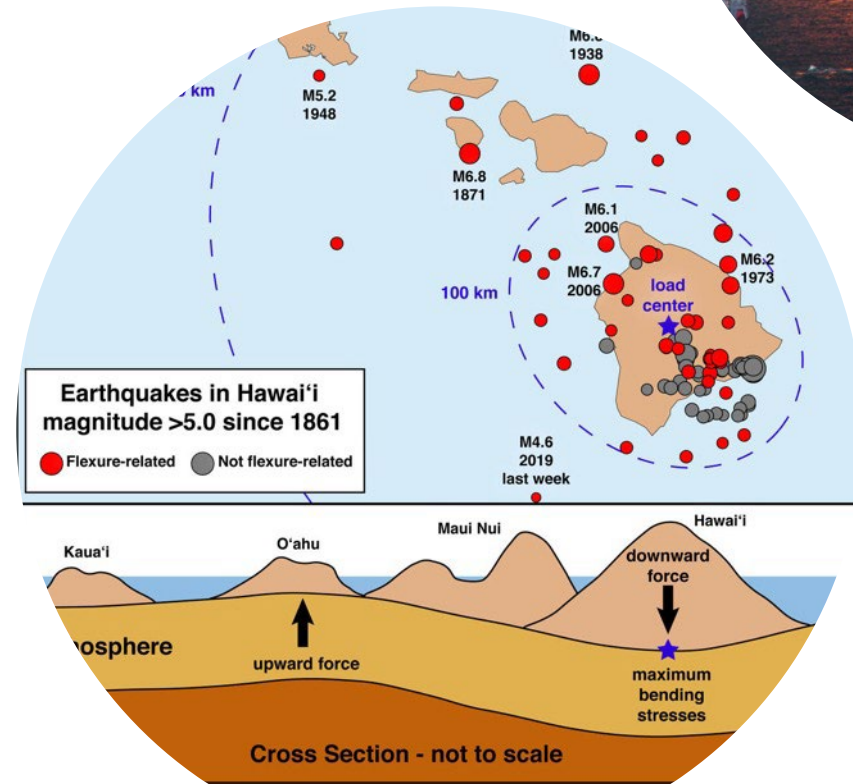
“System of Systems” is Flawed

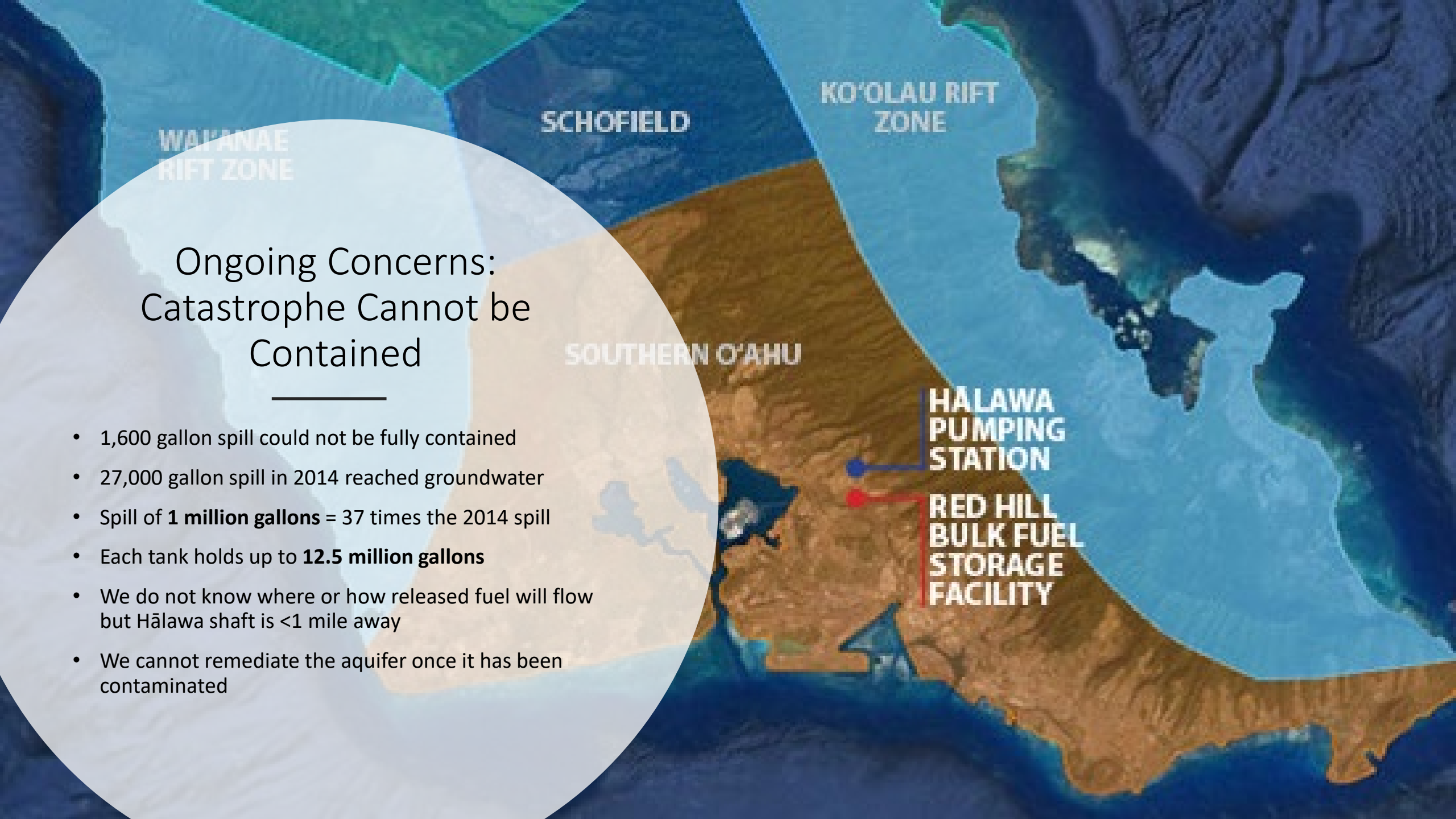
- Tank tightness testing (biannual):
 - Cannot detect slow leaks and may allow for 1,600 gallons to leak without any indication of vulnerability
 - Slow leaks could prelude larger or multiple leaks, especially when combined with other events
 - Cannot detect future leaks or near-through holes
- Tank fuel level monitoring
 - Alarm does not sound unless there is a $\frac{1}{2}$ ” of fuel level change under normal conditions – i.e. 2,400 gallons will be lost before an alarm even sounds
 - Alarm won’t sound until a much greater loss if fuel is being “moved”
- Do these even work? (Hotel Pier leaked for >6 months, could not be confirmed until July 2021; fuel in Nov. release, in RH shaft – where did it come from?)

“System of Systems”: Blind Spots

The Navy cannot prevent:

- **Earthquakes:**
 - 27% chance of leaking between 1,000-33,000 gallons of fuel next year, 80% over the next five, without an earthquake
 - Earthquake in 1948 resulted in 1,100 barrels (about 46,000 gallons) lost, when tanks were not 80 years old and not (as) corroded
- **Human error:**
 - 2014 spill, May 2021 spill were due to “human error”
 - 2020 inspection and resulting notice of violation(s)
 - May 2021 spill – highlights explosive consequences for just one person’s error
 - Combined with other weaknesses (undetected leaks, possible spark/fire sources) could lead to catastrophe
 - See also: Exxon Valdez, Deepwater Horizon, etc.
- **Human malice**
- **Murphy’s law:** undetected leak + electrical spark/fire, ?;



A topographic map of Oahu, Hawaii, with different regions color-coded: Wai'anae Rift Zone (light blue), Schofield (dark blue), Ko'olau Rift Zone (medium blue), and Southern O'ahu (brown). The Halawa Pumping Station is marked with a blue dot and the Red Hill Bulk Fuel Storage Facility with a red dot. A large white circle on the left contains text about fuel spills.

Ongoing Concerns: Catastrophe Cannot be Contained

- 1,600 gallon spill could not be fully contained
- 27,000 gallon spill in 2014 reached groundwater
- Spill of **1 million gallons** = 37 times the 2014 spill
- Each tank holds up to **12.5 million gallons**
- We do not know where or how released fuel will flow but Hālawā shaft is <1 mile away
- We cannot remediate the aquifer once it has been contaminated

SCHOFIELD

KO'OLAU RIFT
ZONE

WAI'ANAE
RIFT ZONE

SOUTHERN O'AHU

HALAWA
PUMPING
STATION

RED HILL
BULK FUEL
STORAGE
FACILITY



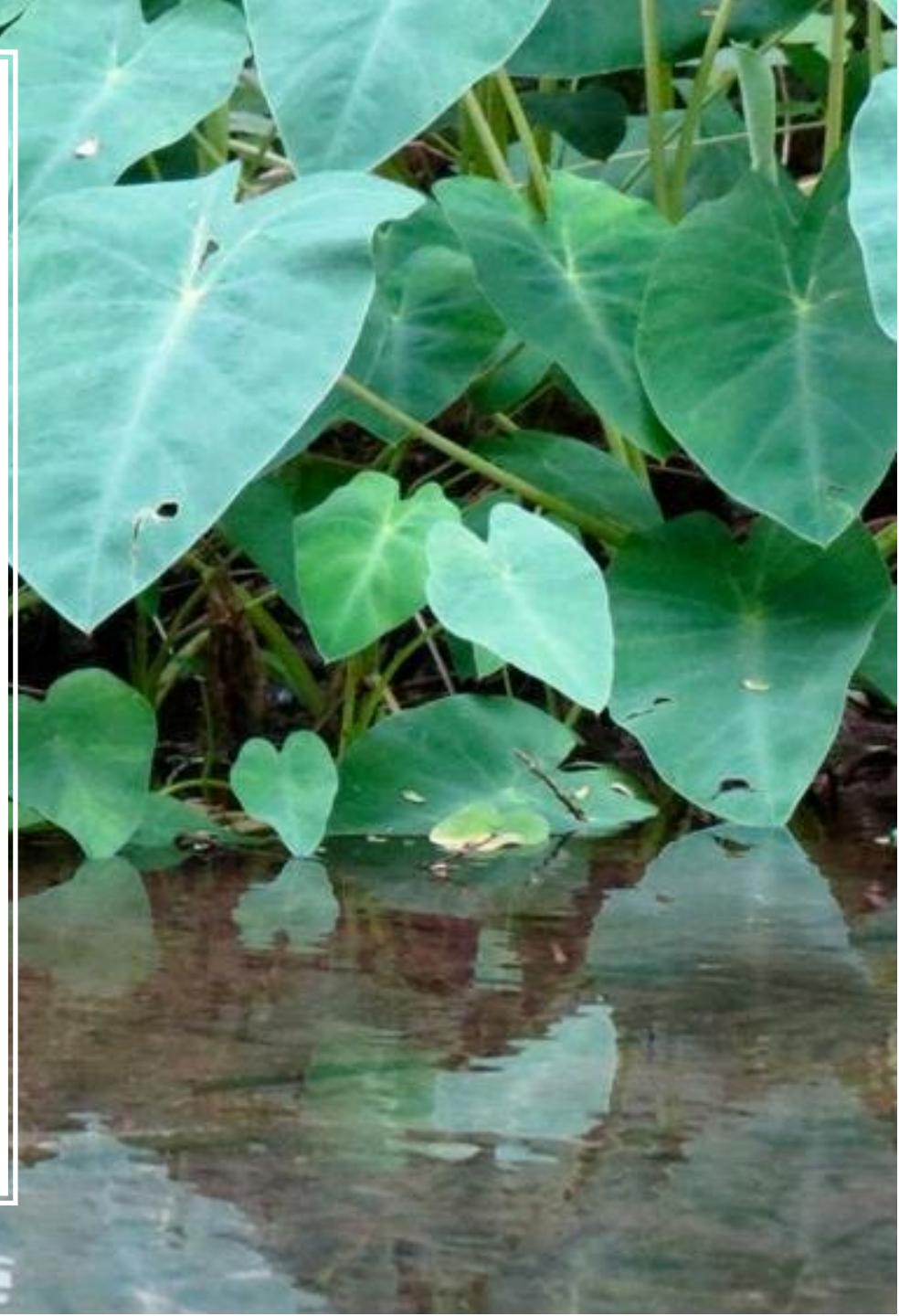
Mana i Maui Ola: Ramifications of the Red Hill Threat

- Foundations: 'Ohana, Mo'omeheu, 'Āina
- Strategic Directions:
 - Educational Pathways
 - Health Outcomes
 - Quality Housing
 - Economic Stability

Mana i Maui Ola: 'Āina, Mo'omeheu

'Āina v. "Land"

- "The Kumulipo explains that Maoli descend from akua (ancestors or gods) and are physically related to all living things in the Hawaiian archipelago. As younger siblings, Native Hawaiians are bound to their extended family and have a kuleana (responsibility and privilege) to care for Hawai'i's natural and cultural resources. Given the **familial relationship** between Maoli and the native environment, **elder siblings support younger ones** by providing the resources necessary to sustain human and other life. In return, Kanaka Maoli care for their elder siblings by managing those resources as a **public trust** for present and future generations. This complex, **reciprocal relationship was the foundation of traditional Kanaka Maoli society**. . . . At bottom, there is an "inseparable spiritual- and genealogical--connection between Native Hawaiians and their land and environment . . . the land, or 'āina, is not a mere physical reality," it is integral to social, cultural, and spiritual life."
- -D. Kapua'ala Sproat, Wai through Kānāwai: Water for Hawai'i's Streams and Justice for Hawaiian Communities (Marquette Law Review, 2011)



Mana i Maui Ola: ‘Āina, Mo‘omeheu

“The creation myth of Moanalua describes how the goddess Kahikilaulani came across the ocean in a canoe, bearing gifts for her new husband Kamawaelualani, in search of fresh water, the waiola that her homeland Kahiki-ku did not have in abundance. **The waiola of this ancient myth is nothing less than a miraculous blessing.**”

"One of **the last truly open spaces** located just outside of Honolulu, the valley features 3,716-acres with five distinct forest types, which are also a habitat for native plants and animals, including the endangered elepaio bird.”

“In sharing my mana‘o, I hope to deepen our shared understanding of the sacred waiola of Moanalua. . . . Healing the waiola is going to take people with ‘ike working together toward this common vision, and in doing so they will have the ku aina behind them. **This is the perfect example of mālama ‘āina — if we take care of the land, it will take care of us and future generations.**” – Kahu Roddy Akau, Konohiki

Mana i Maui Ola:
 'Āina, Mo'omeheu

Pu'uloa: Two dozen loko i'a,
 prized fisheries

Ke'ehi: Six major loko i'a

Moanalua/Kamana Nui/Kamana
 Iki cultivated "Royal Lands" with
 major lo'i fed by 'Īemi

Mana i Maui Ola:
 'Āina, Mo'omeheu

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From
 A Hawaiian Government survey
 in 1873.

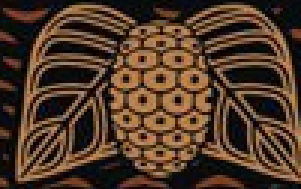
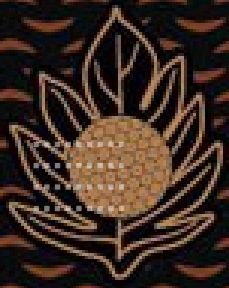
Mana i Maui Ola:
 ‘Āina, Mo‘omeheu

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Moanalua/Kamana Nui/Kamana
 Iki cultivated “Royal Lands” with
 major lo‘i fed by ‘Īemi

From
 A Hawaiian Government survey
 in 1873.



Mana i Maui Ola: 'Āina, Mo'omeheu

- Red Hill Facility threatens an irreplaceable and culturally invaluable, sacred water source that has provided for environment, people for millenia up to the present
- Cultural revitalization: Source is also foundation of cultural revitalization efforts in Moanalua, Pu'uloa and surrounding areas, existing and potential future cultural centers and programs throughout O'ahu

**Also indirect impacts: trash, waste, pollution*

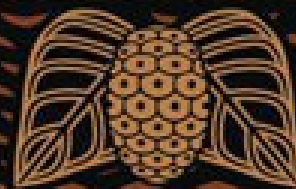
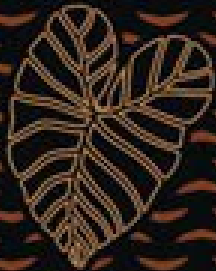
Mana i Maui Ola: Educational Pathways

- *Development and use of educational resources for all Hawaiian lifelong learners, including through traditional learning systems with cultural foundations, identity*
- *Support for Hawaiian immersion and Hawaiian focused charter schools*
- Ramifications:
 - Access to clean water in schools critical for child development, learning, health
 - Schools may be forced to spend more resources on water, sanitation, food
 - Impairment of the Waiola o Moanalua will foreclose current and future cultural revitalization efforts dependent on clean, fresh water: loko i'a, lo'i kalo, community centers served by source.



Water Access in Schools:
Why it's important and
how schools can help



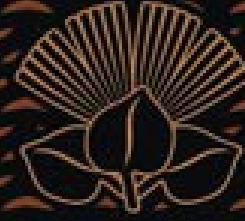


Mana i Maui Ola: Health Outcomes

THE DETERMINANTS OF HEALTH

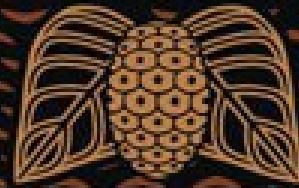
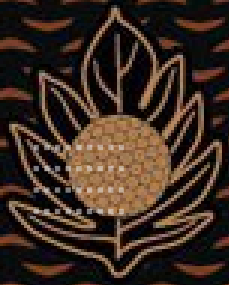
Stress Discrimination Education Connection to Culture Housing Unemployment

- *Strengthen Native Hawaiian well-being (physical, mental, spiritual, emotional health)*
- *Strengthen health of ‘āina and mo‘omeheu*
- Ramifications for Maui Ola:
 - ‘Āina, mo‘omeheu including culturally grounded ‘āina based intervention approaches under direct threat
 - Majority of major hospitals served by Moanalua-Waimalu aquifer
 - Medically vulnerable may be most susceptible to loss of access to water due to shutdowns, mandates (sustenance, hygiene, mental health)
 - Other determinants salient to Maui Ola: education, housing, economic stability (of low-income households and industries with high NH representation), local agriculture and food production, etc.), community development



Mana i Maui Ola: Quality Housing

- *Strengthen Native Hawaiian resource management skills needed for stable sustainable housing*
- *Support implementation of HHCA*
- Ramifications
 - Service and construction industries to be heavily impacted – can't do financial planning without financial resources
 - Low-income households disproportionately burdened by lack of access to water and/or greatly increased water utility bills
 - Current housing supply may already be compromised, tens of thousands of additional units may become uninhabitable
 - Conservation mandates will impact ADUs, other housing projects, Kaka'ako Makai indefinitely
 - DHHL: access to water, water credits major obstacle to development of HHL, implementation of HHCA



Mana i Maui Ola: Economic Stability

- *Strengthen 'ohana abilities to pursue multiple pathways toward economic stability*
- *Cultivate economic development in and for Hawaiian communities*
- Ramifications:
 - Financial institutions providing credit will take major losses due to economic catastrophe
 - Local businesses less able to weather increased costs of water and utilities
 - Higher overhead, conservation mandates will also reduce/limit employment opportunities
 - Prolonged economic strain, downturn will exacerbate NH exodus, further limit indigenous economic system and development

What Can OHA Do? Advocacy Landscape

- OVERALL GOAL: Remove 150,000,000 gallons of petroleum and other hazardous materials from Red Hill facility (12.5M gallon tanks, defuel lines, fire suppression system) before catastrophic release
- Intermediate goals:
 - **Obtain White House support, intervention to defuel**
 - Secure Congressional funding (Feb. 2022) and Pentagon directive for defueling
 - **Obtain Congressional delegation, Pentagon support**
 - Secure commitments from Hawai'i delegation
 - Secure commitments from Pentagon and Biden Administration

Key Targets

- President Joe Biden
- Secretary of Defense
- Secretary of the Navy
- Congressionals





What Can OHA Do?
(Some ideas...)

- Continued media coverage, support, promotion of actions
- Support grassroots groups: Ka'ohewai, O'ahu Water Protectors
- **Agency Letter to the White House, Pentagon (see Key Targets)**
- **Advocacy support**
- Connection with Native American groups
- Connection with Pacific Islander groups

What can you do?

What would you do to protect the ones you love?

#protectwhatyoulove #shutdownredhill



“Protecting the
waiola is sacred
work”

- The Red Hill Facility has threatened the purity of our island’s waiola for 80 years.
- The aquifer it is contaminating as we speak has provided for life on this island for millenia, up to the present day.
- We will not watch our people, our economy, our environment, our way of life go down without a fight.
- Together, we will be the generation that finally takes it down, once and for all.



SIERRA CLUB OF HAWAI'I

Thank you so much!
wayne.tanaka@sierraclub.org
www.sierraclubhawaii.org/redhill





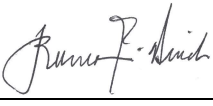


ACTION ITEM

BOARD OF TRUSTEES

December 9, 2021

BOT #21-18

Action Item Issue: Approve and Implement the OHA Policy Framework

| | | |
|---------------------|--|-------------|
| Prepared by: |  | Dec 2, 2021 |
| | Sylvia M. Hussey, Ed.D. Ka Pouhana, Chief Executive Officer | Date |
| Reviewed by: |  | Dec 2, 2021 |
| | Casey K. Brown Ka Pou Nui, Chief Operating Officer | Date |
| Reviewed by: |  | Dec 2, 2021 |
| | Ramona G. Hinck Pou Kāko‘o Ho‘opono Kūikawā, Interim Controller & Ka Pou Kihi Kanaloa Wai, Chief Financial Officer | Date |
| Reviewed by: |  | Dec 2, 2021 |
| | Raina Gushiken Ka Paepae Puka, Senior Legal Counsel | Date |
| Reviewed by: |  | Dec 3, 2021 |
| | Trustee Carmen Hulu Lindsey Ke Kauhuhu o ke Kaupoku Chairperson of the Board of Trustees | Date |

I. Proposed Actions

Motion #1

Approve the OHA Policy Framework, based on the approved Board Governance Framework, with the following components: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of Policies; 5) Business Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, documentation, desktop procedures, manuals as depicted at Attachment A.

Motion #2

Approve the policy guidelines as contained in the newly drafted Policy of Policies at Attachment B.

II. Issue

Whether or not the Board of Trustees (BOT) will approve the: A) OHA policy framework, based on the approved Board Governance Framework, with the following components: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of Policies; 5) Business Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, Documentation at Attachment A; and B) Policy Guidelines as contained in the newly drafted Policy of Policies at Attachment B.

III. Background and Discussion

This action item is a result of the following memos to the Board and/or Board workshops regarding an OHA policy framework: 1) - February 7, 2021 Memo - Introduction of a Proposed Policy Framework for OHA and Facilitated Discussion re: Development of a T-Level Grant Policy; 2) – May 3, 2021 Memo; 3) May 6, 2021 Presentation Workshop; 4) November 4, 2021 Presentation Workshop; and 5) November 18, 2021 Presentation Workshop.

A. Policy Framework: The Why? - Board Governance Framework. In January 2019, the Board approved the formation of a Permitted Interaction Group (PIG) to: Investigate various elements of governance frameworks and models, including but not limited to cultural, indigenous, native, national and international contexts.

The PIG was established with: 1) Trustee Brendon Kalei‘āina Lee as Project Sponsor and Chair; 2) Trustee Colette Machado as Business Process Owner and Vice Chair of the PIG; and 3)

Lahui

**Constitution,
Chapter 10**

By-Laws

Policies

**Supporting
Documents, Practices**

Figure 1: Board Governance Framework

Action Item BOT #21-18: Approve and Implement the OHA Policy Framework

Trustees Robert Lindsey¹ and John Waihee² as members. The PIG was supported by Trustee Machado, Lee, Lindsey and Waihee's Aides; and Administration, then Ka Pouhana, Kamana`opono Crabbe, then Ka Pou Nui, Sylvia Hussey and staff.

The PIG presented its final report and recommendations to the Board of Trustees (BOT) at its March 28, 2019 meeting; and on April 4, 2019, via Action Item BOT# 19-04, the BOT approved the five elements of OHA's Board Governance Framework: 1) Identity; 2) Values and Mana; 3) Statutory Basis; 4) Policies; and 5) Supporting Documents and Practices (Operations).

Implementation of a policy framework is a mechanism to operationalize the approved Board Governance Framework.

B. Executive Policy Manual

The Executive Policy Manual (EPM), as depicted at right, was revised by the Board of Trustees in February 2012. Subsequent policy changes (via action item) were tracked by Corporate Counsel; who also reviewed new policies developed since 2012; and the application of policy to various organization actions. CC has since incorporated all EPM impacted policy changes into one new EPM document and will issue an updated document to the BOT.

Once the new policy framework is approved, Administration will: map, crosswalk, and migrate policies and/or policy language from the EPM to the new Policy Framework, eventually sunseting the EPM document itself; and create and populate a new electronic policy framework location, accessible to internal and external stakeholders.

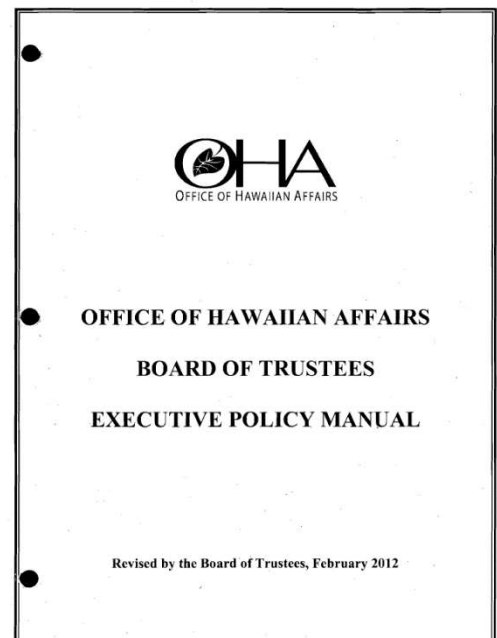


Figure 2: Executive Policy Manual

C. Policy Framework Element Development via Permitted Interaction Groups

After the approved Board Governance Framework was approved, the Board's Permitted Interaction Group (PIG) work continued.

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¹ Interim Chair of the Resource Management Committee at the time of the formation of the Permitted Interaction Group

² Chair of the Beneficiary, Advocacy and Empowerment Committee

- 1. L-Lāhui Level Policies PIG.** On April 4, 2019, via Action Item #19-05, the BOT approved the formation of a Permitted Interaction Group to investigate the development of L-Lāhui level policies for OHA's Board Governance Framework.

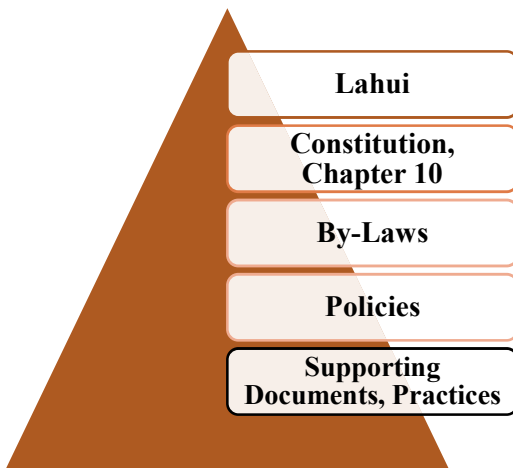


Figure 3: Board Governance Framework

The purview of the PIG was for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to: (1) Investigate the development of L-Lāhui policies for OHA's Board Governance Framework, (2) Establish consistent policy formulation, format, review and update parameters, mechanisms and processes; and (3) Integrate the developed policies into the Board Governance Framework.

Via Action Item #19-06, at the May 30, 2019 BOT meeting, the Board approved the L-Lāhui Level Policies: (1) E Mālama (to protect); (2) E Ho'omau (to perpetuate); (3) E Pūpūkahi i Holomua (to unite in order to progress); (4) E 'Imi'ike (to seek knowledge); (5) E Ho'oulu Lāhui (to grow the Lāhui), developed in accordance with the approved PIG purview.

- 2. Board By-Laws PIG.** Via Action Item #19-07, at the May 30, 2019 BOT meeting, the Board approved the formation of a new PIG to continue the implementation of the Board Governance Framework elements. The purview of the new PIG was for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to: (1) Investigate the alignment and update of existing BOT By-Laws and related documents; (2) Establish consistent format, review and update parameters, mechanisms and processes; and (3) Integrate the developed BOT By-Laws and related documents into the Board Governance Framework.

On October 17, 2019, the Board, extended the Board of Trustees By-Laws PIG to no later than January 31, 2020. The PIG distributed its report to the BOT at its January 23, 2020 meeting; and held discussion about the report, including the related red-line and clean attachments (e.g., by-laws, appendices), at the February 6, 2020 Board meeting. The report was discussed and one additional edit (e.g., definition of public records in Article XVI Confidentiality) made. Via Action Item BOT #20-01, at the February 20, 2020 Board meeting, the BOT By-Laws were approved after a first reading; and subsequently approved after a second reading at the March 5, 2020 Board meeting.

- 3. Incorporating PIG.** Incorporation of completed and approved work products of the Board Governance Framework and alignment and update of existing Board governance documents PIG was approved via Action Item BOT #19-08 at the May 30, 2019 meeting. The extension via Action Item #19-18 at the November 7, 2019 BOT meeting extended the work to June 30, 2020. No further action was taken to extend the end date and therefore, the time for the authorized work expired (June 30, 2020) and this PIG is closed.

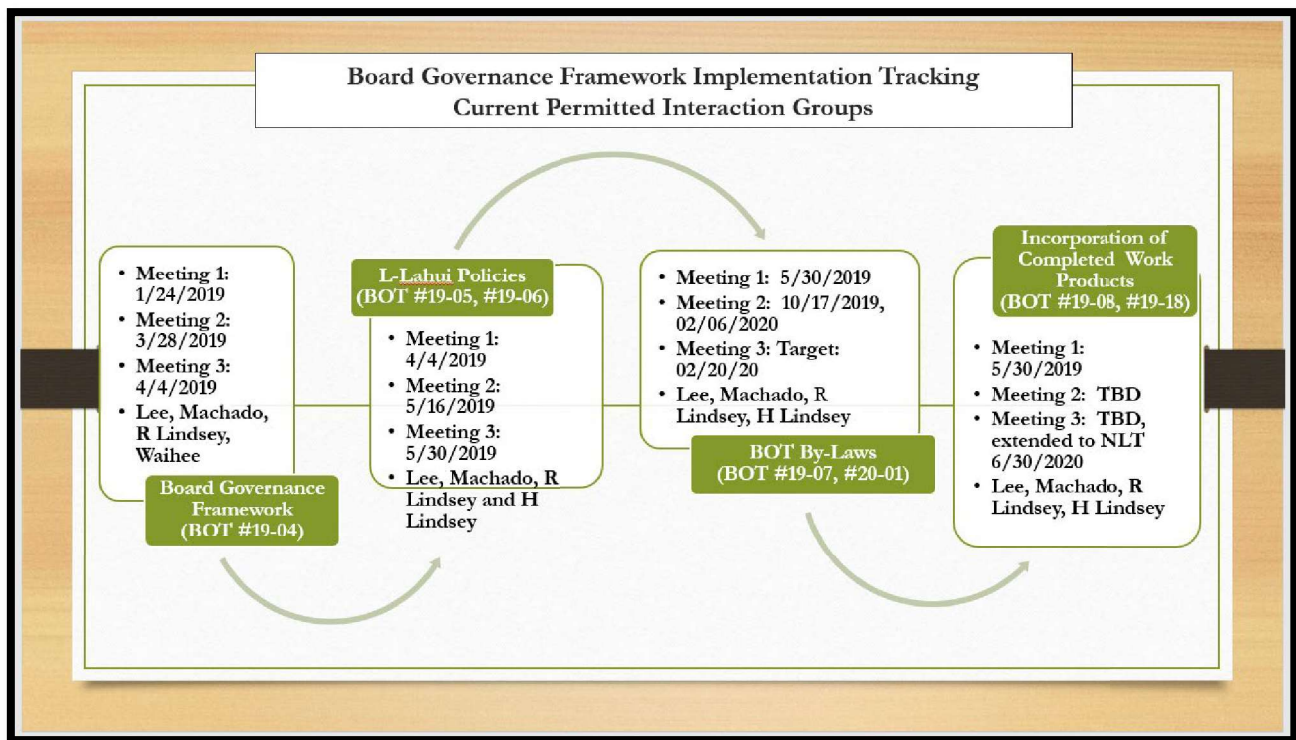


Figure 4: Board Governance Framework Development Tracking

- 4. Trustee Level Policies PIG.** Via Action Item BOT #20-05: Approve the formation of a Permitted Interaction Group to investigate the development of T-Level Trustee policies for OHA's Board Governance Framework, September 10, 2020, T-Level Trustee policy work began. The purview of the PIG was for the Board of Trustees (BOT), BOT staff and OHA Administration staff to work together to: (1) Investigate the alignment and update of existing T-Trustee level Investment, Debt, Spending, Kaka'ko Makai and development of Endowment specific policies and related documents; (2) Establish consistent format, review and update parameters, mechanisms and processes; (3) Review the implementation of the specified T-Trustee level policies; (4) Determine the scope of specified T-Trustee level policies, including delegation of policies to the C-CEO level; and (5) Integrate the specified T-Trustee level policies and related documents into the Board Governance Framework.

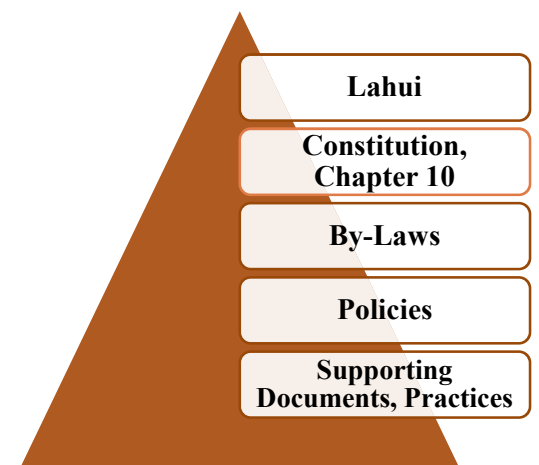


Figure 5: Board Governance Framework

Action Item BOT #21-18: Approve and Implement the OHA Policy Framework

Permitted Interaction Group – Members. The membership of the Permitted Interaction Group was: (a) Trustee Brendon Kalei‘aina Lee; (b) Trustee Colette Machado; (c) Trustee Robert K. Lindsey, Resource Management Committee, Vice Chairperson; and (d) Trustee John D. Waihe‘e, IV. Trustee Lee served as the Chair of the Permitted Interaction Group and Trustee Machado served as its Vice Chair.

Permitted Interaction Group - Term/Duration. The term of the Permitted Interaction Group expired at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than November 4, 2020.

At the October 22, 2020 Board meeting, the report was distributed and no further discussion was held at the October 29, 2020 Board meeting, as there were no recommendations from the PIG.

D. Development of Policy Framework Elements

Based on PIG work in approving the Board Governance Framework elements and the subsequent L-Lāhui level policies, BOT By-laws and the initial T-Trustee level policies work, approval of the OHA Policy Framework is comprised of the following elements: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of Policies; 5) Business Processes; 6) Standard Operating Procedures; 7) Systems, Documentation

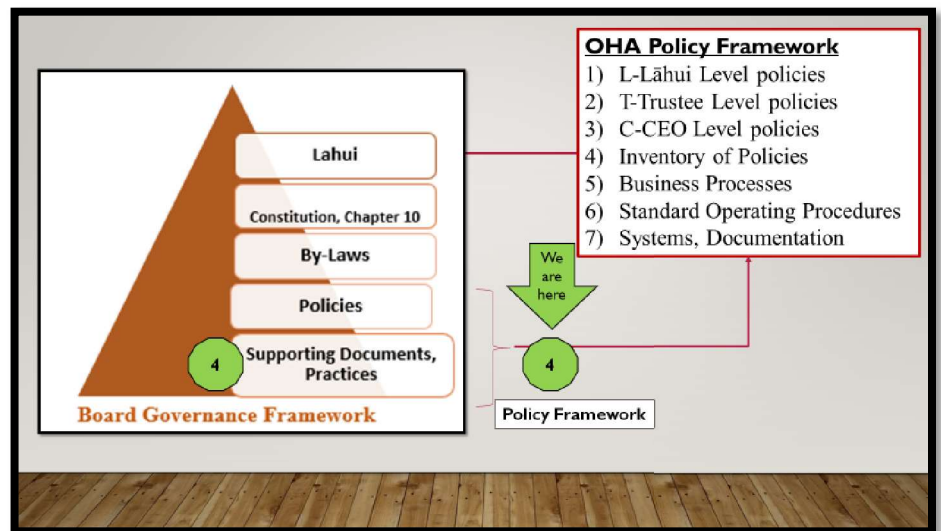
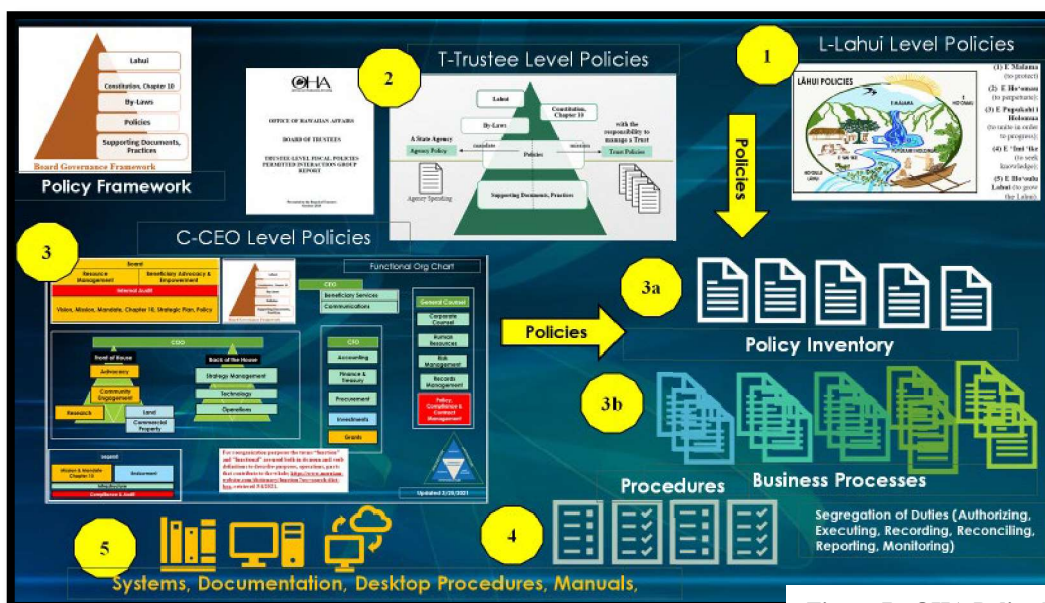


Figure 6: OHA Policy Framework Elements (Depiction 1)



Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, documentation, desktop procedures, manuals as depicted below.

Figure 7: OHA Policy Framework Elements (Depiction 2)

E. Policy Guidelines, in a Policy of Policies

To operationalize the policy framework, Administration is also recommending seven (7) policy guidelines for approval, contained

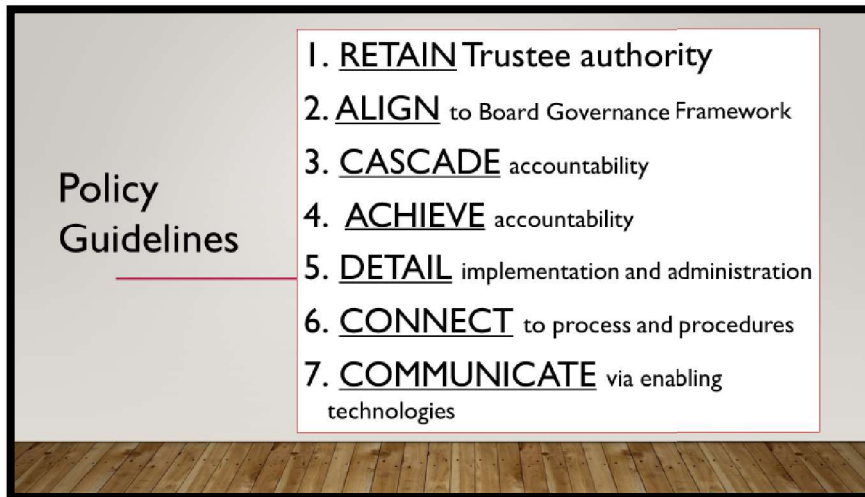


Figure 8: Policy Guidelines, Included in the Policy of Policies

The purpose of this policy is to provide overarching policy guidelines, definitions and accountabilities to aid in policy development and implementation such that policies: 1) Retain Trustee authority unless specifically delegated; 2) Align to the Board Governance Framework in support of the OHA's mission; 3) Cascade to consistent accountability levels (e.g., Board, Administration); 4) Achieve accountability by identifying the responsible parties; 5) Detail implementation and administration;

6) Connect to related business processes and procedures; and 7) Communicate clear and

concise information by leveraging technology.

F. Continuing Discussion re: Retention and Delegation of Authority – Trustees

Administration recommends that Trustees continue workshop discussion(s) re: explicit (vs. implicit) retention or delegation of authority, as determined by HRS Chapter 10; therefore, no action is recommended in this action item.

Administration will bring forward additional details and examples in a subsequent workshop for further Trustee consideration and discussion.

IV. Funding Source

Not applicable, no dedicated funding needed to approve the OHA's Policy Framework (Attachment A) and policy guidelines contained in the Policy of Policies (Attachment B).

IV. Recommended Actions

Based on the approved Board Governance Framework and subsequent policy work and related workshops, Administration recommends the Board:

A) Approve the OHA Policy Framework, based on the approved Board Governance Framework, with the following components: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of Policies; 5) Business Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, documentation, desktop procedures, manuals as depicted at Attachment A; and

B) Approve the policy guidelines as contained in the newly drafted Policy of Policies at Attachment B.

Action Item BOT #21-18: Approve and Implement the OHA Policy Framework

V. Time Frame

Implementation of the OHA Policy Framework can be done as soon as Board approval is given at the 2nd reading. As also noted earlier: Once the new policy framework is approved, Administration will map, crosswalk, and migrate policies and/or policy language from the EPM to the new Policy Framework, eventually sunsetting the EPM document itself and creating and populating a new electronic policy framework location, accessible to internal and external stakeholders.

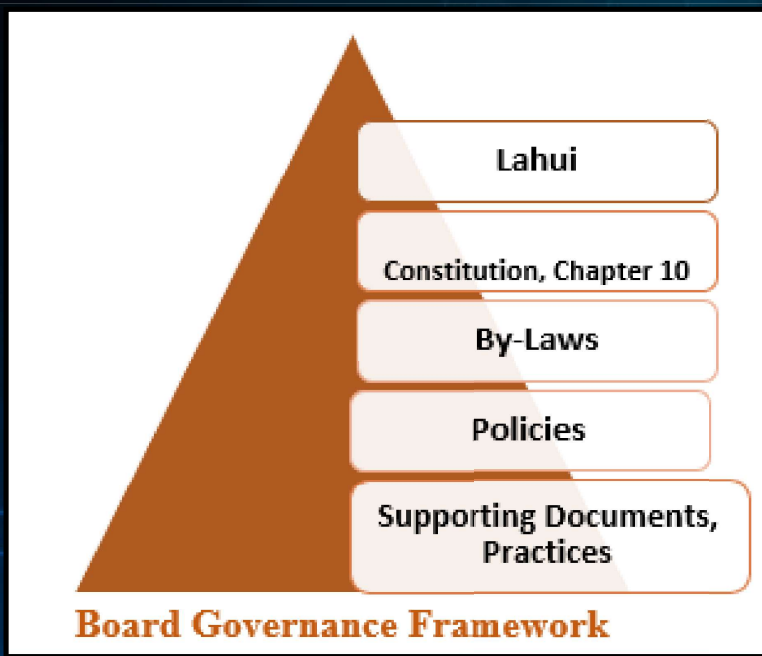
VI. References

- A. **Memos & Workshops (5):** February 6, 2021, May 6, 2021, May 25, 2021, November 4, 2021 and November 18, 2021.
- B. **Action Item BOT #20-01:** Approve the Office of Hawaiian Affairs Board of Trustees' Updated By-Laws, March 5, 2020
- C. **Action Item BOT #19-06:** Approve L-Lāhui Level Policies: (1) E Mālama (to protect); (2) E Ho'omau (to perpetuate); (3) E Pūpūkahi Holomua (to unite in order to progress); (4) E 'Imi 'Ike (to seek knowledge); (5) E Ho'oulu Lāhui (to grow the Lāhui) as Detailed in Attachments 2 to 6, Respectively, May 30, 2019
- D. **Action Item BOT #19-04:** Approve the Five (5) Board Governance Framework Elements, April 4, 2019

VII. Attachments

- A. OHA Policy Framework
- B. Policy guidelines as contained in the newly drafted Policy of Policies

Attachment A – Policy Framework

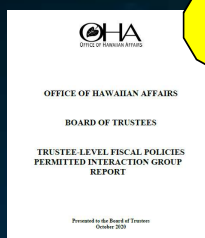
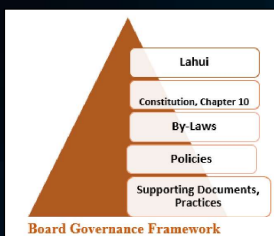


OHA Policy Framework

- 1) L-Lāhui Level policies
- 2) T-Trustee Level policies
- 3) C-CEO Level policies
- 4) Inventory of Policies
- 5) Business Processes
- 6) Standard Operating Procedures
- 7) Systems, Documentation

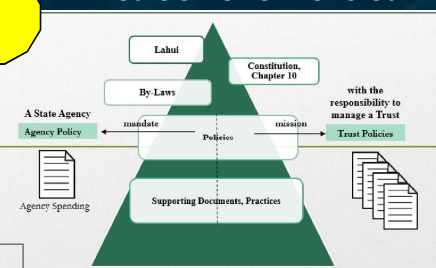
Depiction #1

Attachment A – Policy Framework

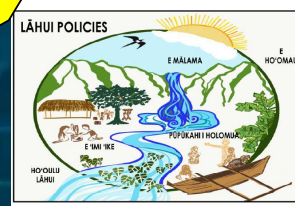


2

T-Trustee Level Policies

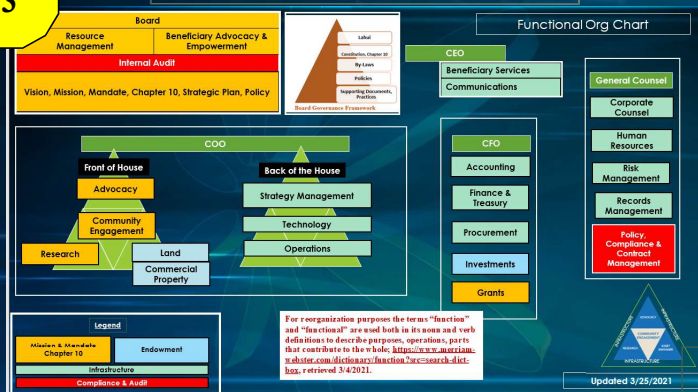


L-Lahui Level Policies



- (1) E MALAMA (to protect)
- (2) E HO'OMAU (to perpetuate)
- (3) E PUPUKAHI I HOLOMANA (to unite in order to progress)
- (4) E 'IMI 'IKE (to seek knowledge)
- (5) E HO'OUU LAHUI (to grow the Lahui)

C-CEO Level Policies



Policies



Standard Operating Procedures



Segregation of Duties (Authorizing, Executing, Recording, Reconciling, Reporting, Monitoring)

Depiction #2

5



4



Policy Guidelines, Policy of Policies

Subject: Provides overarching policy guidelines, definitions and accountabilities to aid in the implementation of the policy framework as a mechanism to operationalize the approved Board Governance Framework.

Effective Date: Upon 2nd reading of the Policy by the Board of Trustees

Scope: Organization

Date Reviewed/Revised: 2nd reading date of the Policy by the Board of Trustees

Responsible Organizational Unit: Board of Trustees

Next Scheduled Review Date: No later than two (2) years from the effective date, unless circumstances warranted otherwise (e.g., Chapter 10 change).

Policy Administrator or Owner: Board Chair

I. POLICY AND GENERAL STATEMENT

It is the policy of the Office of Hawaiian Affairs (OHA) to operationalize the Board Governance Framework consisting of the following five elements: 1) Identity; 2) Values and Mana; 3) Statutory Basis; 4) Policies; and 5) Supporting Documents and Practices (Operations) in a policy-based manner.

Elements of the OHA Policy Framework, based on the approved Board Governance Framework, including the following components: 1) L-Lāhui Level policies; 2) T-Trustee Level policies; 3) C-CEO Level policies; 4) Inventory of Policies; 5) Business Processes (listed within each policy); 6) Standard Operating Procedures for each business process; and 7) Systems, documentation, desktop procedures and manuals.

II. POLICY GUIDELINES

The purpose of this policy is to provide overarching policy guidelines, definitions and accountabilities to aid in policy development and implementation such that policies: 1) Retain Trustee authority unless specifically delegated; 2) Align to the Board Governance Framework in support of the OHA's mission; 3) Cascade to consistent accountability levels (e.g., Board, Administration); 4) Achieve accountability by identifying the responsible parties; 5) Detail implementation and administration; 6) Connect to related business processes and procedures; and 7) Communicate clear and concise information by leveraging technology.



II. DEFINITIONS

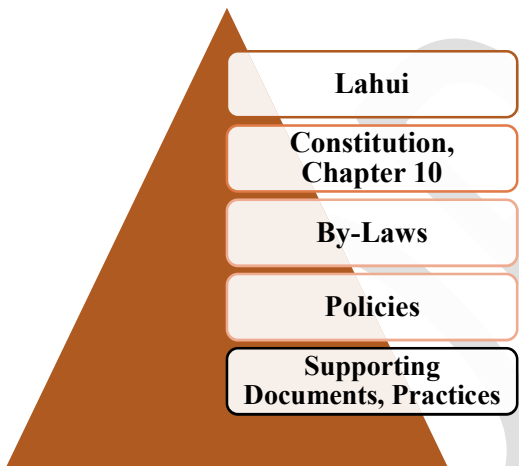
- A. Lāhui:** A term or descriptor that should not be conceived of as having multiple meanings, but rather as having a meaning that encompasses and includes concepts that require multiple words in English; and have different meanings such as “nation” and “race.” In using the word “lāhui,” we did not mean “the nation” or “the race” or “the people.” Rather, when used, the word “lāhui,” means the inclusive broad concept of “lāhui,” which includes the English expressed concepts of “nation,” “race,” and “people.”
- B. Governance:** Establishment of policies, and continuous monitoring of their proper implementation, by the members of the governing body of an organization. It includes the mechanisms required to balance the powers of the members (with the associated accountability), and their primary duty of enhancing the prosperity and viability of the organization.
- C. Policy:** Prudence or wisdom in the management of affairs; management or procedure based primarily on material interest; a definite course or method of action selected from among alternatives and in light of given conditions to guide and determine present and future decisions; a high-level overall plan embracing the general goals and acceptable procedures especially of a governmental body.¹
- D. L-Lāhui Level Policy:** L-Lāhui level policies articulate the Hawaiian cultural foundation of the organization as a basis for the *kaumaha* (heavy weight, sadness) or significant *kuleana* (responsibility) to normalize Hawaiian language, protect and exercise native rights regarding ‘āina, water, wahi pana and iwi kupuna, strengthen ‘ohana and kaiāulu, perpetuate Hawaiian culture, knowledge and practices and engage in global, international indigenous contexts.
- E. T-Trustees Level Policy:** T-Trustee level policies would articulate broad, systemic, strategic, overarching policies that are attributed to OHA’s Trustee role as a result of the Constitution and Chapter 10 purposes and duties (e.g., fiduciary, care, obedience, code of ethics); and focus on statutory and strategic perspectives.
- F. C-Level Policy:** C-CEO level policies guide and direct operations such as facilities, health, safety, compensation, recruitment, procurement, contracting, technology, data retention, asset protection, risk management.
- G. Policy Initiator:** The Board Chair or if delegated, the Administrator, who identifies an organization level issue and assigns the development of a policy proposal.
- H. Policy Administrator or Owner:** The Policy Administrator (or Owner) is the Board Chair or if delegated, the Administrator, whose jurisdiction covers the subject matter of the policy.
- I. Process:** A series of actions that produce something or that lead to a particular result.

¹ <https://www.merriam-webster.com/dictionary/policy>, retrieved October 31, 2021



- J. Procedure:** A guideline or series of interrelated steps in a process: taken to help implement the policy; should identify and link to the specific policy(ies) and process(es); is written in a consistent format that is easy to follow and accessible by those who need to follow the procedures; and should be reviewed and updated as necessary to ensure agreement with the most revision of the policy. Procedures related to technical systems (e.g., Oracle Fusion, business travel) should be developed and implemented at the time of the system implementation.
- K. Practice:** The action(s) of actors in the policy system that: complete or carry out implementation activities or performance of the procedure (i.e., practice); should be compliant with the written procedure(s); and understands that non-compliance (i.e. misalignment of procedure and practice) introduces risk (e.g., reputation, internal control, legal) to the organization and undermines the integrity of policy(ies), process(es), and procedure(s).
- L. Stakeholder:** Internal (e.g., employees, administration, board staff, Board of Trustees) and/or external (e.g., beneficiaries, contractors) community members, who are affected by the policy developed and implemented.

III. MO‘OKŪ‘AUHAU – Board Governance Framework



On April 4, 2019, via Action Item BOT# 19-04, the Board of Trustees (BOT) approved the five elements of OHA’s Board Governance Framework: 1) Identity; 2) Values and Mana; 3) Statutory Basis; 4) Policies; and 5) Supporting Documents and Practices (Operations).

Implementation of the policy framework is the approved mechanism to operationalize the approved Board Governance Framework levels labeled “Policies” and “Support Documents, Practices”.

IV. SCOPE AND DELEGATION OF AUTHORITY

- A. Hawaii Revised Statutes, Chapter 10 [§10-1]** Declaration of purpose. (a) The people of the State of Hawai‘i and the United States of America as set forth and approved in the Admission Act, established a public trust which includes among other responsibilities, betterment of conditions for Native Hawaiians. The people of the State of Hawai‘i reaffirmed their solemn trust obligation and responsibility to native Hawaiians and furthermore declared in the state constitution that there be an office of Hawaiian affairs to address the needs of the aboriginal class of people of Hawaii. (b) It shall be the duty and responsibility of all state departments and instrumentalities of



state government providing services and programs which affect native Hawaiians and Hawaiians to actively work toward the goals of this chapter and to cooperate with and assist wherever possible the office of Hawaiian affairs.

- B. Hawaii Revised Statutes, [§10-3]** Hawai‘i Revised Statutes (HRS) Chapter 10 provides that OHA is meant to address the needs of the Native Hawaiian people, including: (1) The betterment of conditions of native Hawaiians; (2) The betterment of conditions of Hawaiians; (3) Serving as the principal public agency responsible for the performance, development, and coordination of programs and activities relating to native Hawaiians and Hawaiians; except that the Hawaiian Homes Commission Act, 1920, as amended, shall be administered by the Hawaiian Homes Commission; (4) Assessing the policies and practices of other agencies impacting on native Hawaiians and Hawaiians, and conducting advocacy efforts for native Hawaiians and Hawaiians; (5) Applying for, receiving, and disbursing, grants and donations from all sources for native Hawaiian and Hawaiian programs and services; and (6) Serving as a receptacle for reparations.²
- C. Retention of Authority:** The Board of Trustees retains all powers, duties and responsibilities as outlined in Chapter 10, subject to specific delegation(s) of authority, documented in policy.
- D. Delegation of Authority:** The Board of Trustees may delegate policy development, implementation, monitoring and evaluation activities to Administrator, who may then further delegate to operational functions, units and systems. Both policy/authority delegations—BOT to Administrator and subsequently to Operations---shall be documented in policy and communicated and updated in accordance with the specific policy.

IV. RELATED POLICIES

- A. TBD - Policy B-2021-002: Retention and Delegation of Authority – Trustees*
- B. TBD - Policy C-2021-001: Retention and Delegation of Authority – Administration*

V. CONTACTS

The Policy Administrator or Owner is:

| Organizational Unit | Position |
|---------------------|-------------|
| Board of Trustees | Board Chair |

² HRS §10-3; see also HRS §10-1.

VI. POLICY FRAMEWORK

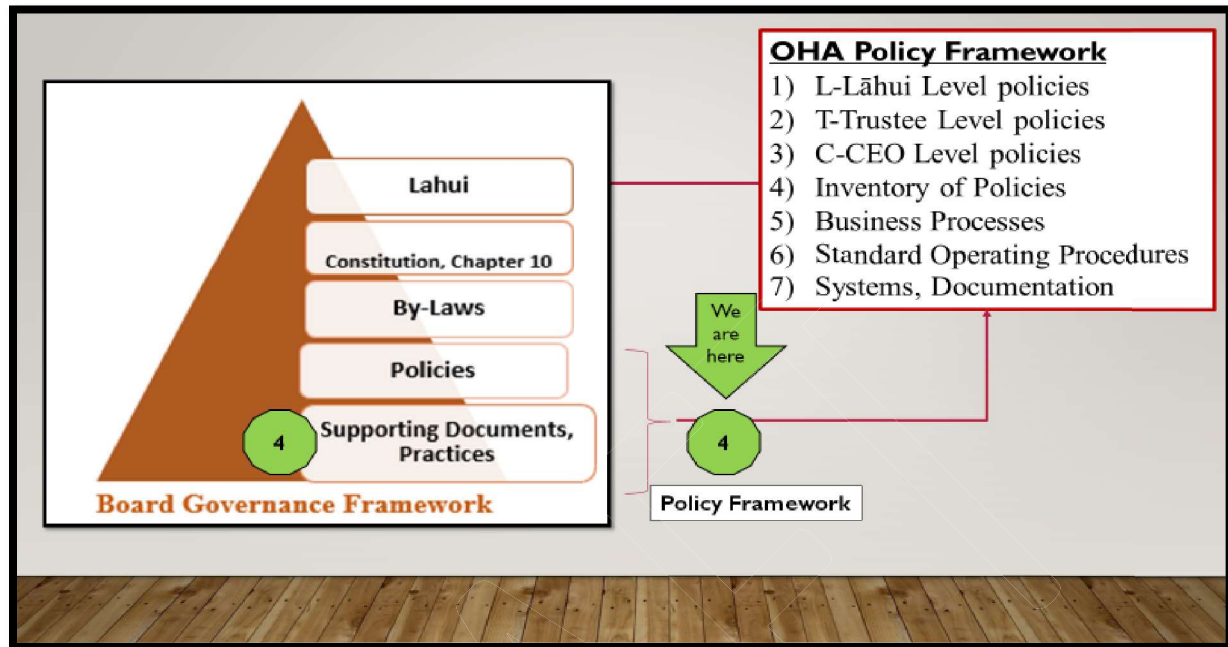


Figure 1: OHA Policy Framework Elements (Depiction 1)

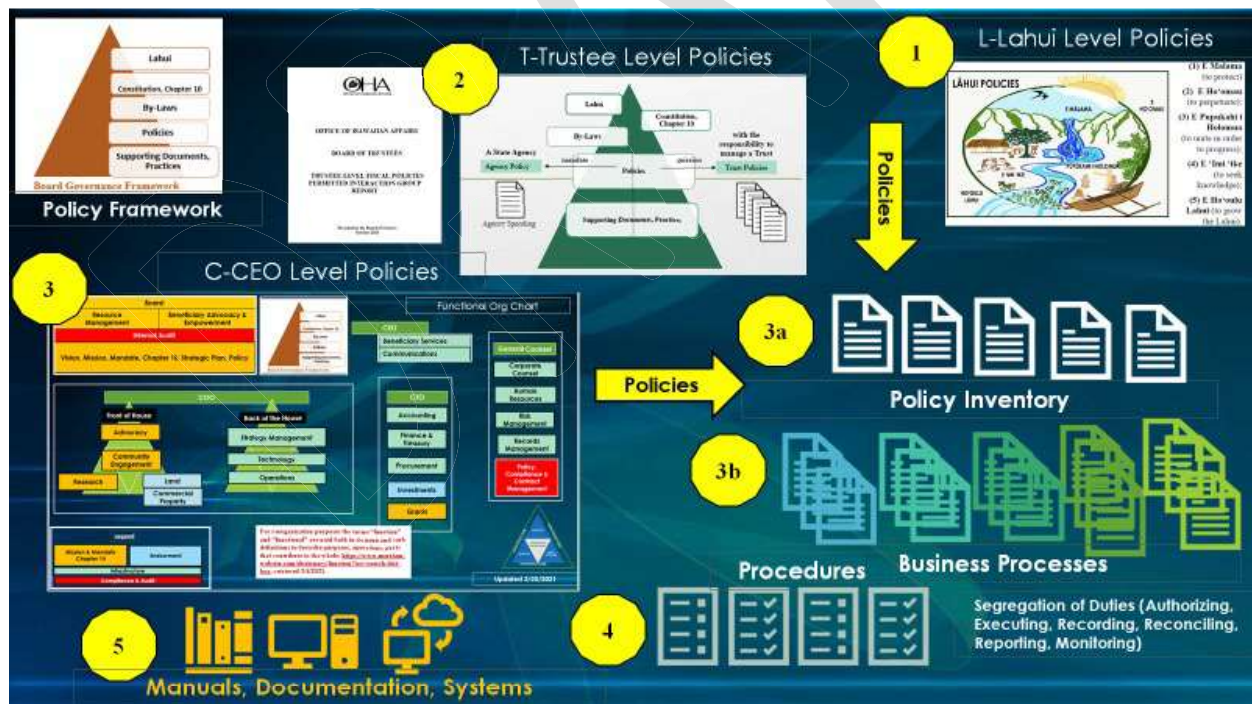


Figure 2: OHA Policy Framework Elements (Depiction 2)