



**STATE OF HAWAII'
OFFICE OF HAWAIIAN AFFAIRS**

MEETING OF THE PUBLIC LAND TRUST (PLT) WORKING GROUP

DATE: Tuesday, October 17, 2023

TIME: 10:00am

PLACE: Virtual Meeting

560 N. Nimitz Hwy, Ste. 200

Honolulu, HI 96817

Viewable at www.oha.org/livestream Or

Listen by phone: (213) 338-8477, Webinar ID: 847 2643 2840

This virtual meeting can be viewed and observed via livestream on OHA's website at www.oha.org/livestream or listened by phone using the call-in information above. A physical meeting location, open to members of the public who would like to provide oral testimony or view the virtual meeting, will be available at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817.

AGENDA

- I. Call to Order**
- II. Further discussions and comments regarding the State Land Information Management System (SLIMS), the Public Land Trust Information System (PLTIS), the Department of Land and Natural Resources (DLNR) Reports to the Legislature pursuant to Act 178, Session Laws of Hawai'i 2006, and the Report to the Office of Hawaiian Affairs on the Accuracy and Completeness of a report by the Department of Land and Natural Resources to the Hawaii State Legislature on Public Land Trust Receipts for Fiscal Year ended June 30, 2016, by N&K CPAs, Inc. (2018). [Page 3](#)**
- III. Action Item PLT 23-01: Review, discussion, and comments to draft letter to state agencies regarding the reporting made and supporting documentation available to finalize:
 - (1) an accurate and complete inventory of ceded lands and Public Land Trust lands, including submerged lands; and**
 - (2) an accurate and complete accounting of the income and proceeds from the ceded lands and the Public Land Trust lands, including submerged lands, under their jurisdiction. [Page 4](#)****
- IV. Discussion regarding request to the counties and federal government for information relating to the inventory and identification of ceded lands and Public Land Trust lands, including submerged lands, under their jurisdiction, and accounting of the income and proceeds derived therefrom. [Page 14](#)**



**STATE OF HAWAII
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V. Discussion: Next PLT Working Group meeting Page 15

VI. Adjournment

If you require an auxiliary aid/service or other accommodation due to a disability, please contact Everett Ohta at telephone number (808) 594-1988 or by email everetto@oha.org as soon as possible. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this notice is available in alternate/accessible formats.

Meeting Materials will be available to the public at least 48 hours prior to the meeting at OHA's main office located at 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817. Meeting materials will also be available to view at OHA's website at: <https://www.oha.org/PLT-working-group/>

In the event that the livestream or the audiovisual connection is interrupted and cannot be restored, the meeting may continue as an audio-only meeting through the phone and Webinar ID listed at the beginning of this agenda. Meeting recordings are available upon request to pltworkinggroup@oha.org until the written meeting minutes are posted to OHA's website.

Public Testimony must be limited to matters listed on the meeting agenda. Hawai'i Revised Statutes, Chapter 92, Public Agency Meetings and Records, prohibits Working Group members from discussing or taking action on matters not listed on the meeting agenda.

Testimony can be provided to the PLT Working Group either as: (1) **written testimony emailed** at least 24 hours prior to the scheduled meeting, (2) **written testimony mailed** and received at least two business days prior to the scheduled meeting, or (3) live, oral testimony online or at the physical meeting location during the virtual meeting.

- (1) Persons wishing to provide **written testimony** on items listed on the agenda should submit testimony via **email** to pltworkinggroup@oha.org at least **24 hours prior** to the scheduled meeting or via **postal mail** to Office of Hawaiian Affairs, Attn: PLT Working Group Meeting Testimony, 560 N. Nimitz Hwy., Suite 200, Honolulu, HI 96817 **to be received at least two business days prior** to the scheduled meeting. Any testimony received after these deadlines will be late testimony and will be distributed to the Working Group members after the scheduled meeting.
- (2) Persons wishing to provide **oral testimony online** during the virtual meeting must first register at: https://us06web.zoom.us/webinar/register/WN_wmTdbVsuQyWuR0VgO8bREA

You need to register if you would like to orally testify. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting, along with further instructions on how to provide oral testimony during the virtual meeting. The registration page will closed once the Public Testimony agenda items have concluded.

To provide oral testimony online, you will need:

- (1) a computer or mobile device to connect to the virtual meeting;
- (2) internet access; and
- (3) a microphone to provide oral testimony.

Oral testimony online or at a physical meeting location will be limited to five (5) minutes.

Oral testimony by telephone/landline **will not** be accepted at this time.

Once your oral testimony is completed, you will be asked to disconnect from the meeting. If you do not sign off on your own, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

Meeting of the Public Land Trust Working Group

October 17, 2023

10:00 A.M.

II. Further discussions and comments regarding the State Land Information Management System (SLIMS), the Public Land Trust Information System (PLTIS), the Department of Land and Natural Resources (DLNR) Reports to the Legislature pursuant to Act 178, Session Laws of Hawai`i 2006, and the Report to the Office of Hawaiian Affairs on the Accuracy and Completeness of a report by the Department of Land and Natural Resources to the Hawaii State Legislature on Public Land Trust Receipts for Fiscal Year ended June 30, 2016, by N&K CPAs, Inc. (2018).

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(2) an accurate and complete accounting of the income and proceeds from the ceded lands and the Public Land Trust lands, including submerged lands, under their jurisdiction.

DRAFT PLTWG LETTER TO STATE AGENCIES 101323
See Exhibit A attached for list provided by DLNR of valid agencies and
list agencies reporting to PLTIS
For discussion purposes only
Drafted by Sherry Broder

I. Introduction

The Public Land Trust Working Group was established by Act 226 (SLH 2022). Our specific statutory responsibilities are to:

- (1) Account for all ceded lands in the public land trust inventory;
- (2) Account for all income and proceeds from the public land trust; and
- (3) Subsequently determine the twenty per cent pro rata share of income and proceeds from the public land trust due annually to the office of Hawaiian affairs for the betterment of the conditions of Native Hawaiians.

At this time in the process, we are asking all state agencies with ceded lands that they hold title to, over which they maintain management control or otherwise use, to provide information, data, documents and maps to ensure that they have completely and accurately identified and reported to Department of Land and Natural Resources (“DLNR”) the following: (1) all ceded land parcels for the purpose of an inventory and (2) all income and proceeds collected or received from the public land trust.

II. Background

In 1978, the people of Hawaii ratified constitutional amendments relating to the rights, claims, culture and language of Native Hawaiians proposed by the Constitutional Convention, including but not limited to article XII, sections 4, 5, and 6, of the Hawaii State Constitution, which established the Office of Hawaiian Affairs (“OHA”) and clarified its right to a pro rata share of the income and proceeds of the ceded lands.

Article XII, section 4 provides that the ceded lands “shall be held by the State as a public trust for native Hawaiians and the general public.”

Article XII, Section 6 provides that “[t]he board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever

sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians.”

Article XVI, section 7, of the Hawai'i State Constitution requires the State to enact legislation to comply with its trust obligations. “Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation ” This section also protects the pro rata share due to OHA, among other things. “Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article XII.”

Act 273, Session Laws of Hawai'i 1980, enacted section 10-13.5, Hawaii Revised Statutes, to implement OHA's constitutionally mandated pro rata share provided “Twenty per cent of all funds derived from the public land trust, described in section 10-3, shall be expended by the office, as defined in section 10-2, for the purposes of this chapter.”

III. Accounting

Act 178, Session Laws of Hawai'i 2006, requires all state agencies that use or manage public land trust lands to provide an accounting of all receipts from lands described in section 5(f) of the Admission Act for the prior fiscal year.

Section 5 requires that:

Not later than January 1 of each year, the department of land and natural resources, with the cooperation of the department of budget and finance and any other state department or agency that uses or manages public lands, shall provide an accounting of all receipts from lands described in section 5(f) of the Admission Act for the prior fiscal year. With respect to each receipt, the department of land and natural resources shall identify:

- (1) The total gross amount;
- (2) The amount transferred to the office of Hawaiian affairs;
- (3) The amount retained by the State;
- (4) The account or fund in which the amount specified in paragraph (3) was transferred or deposited;
- (5) The parcel of land subject to section 5(f) of the Admission Act that generated the receipt, whether by tax map key number, department of land and natural resources inventory number, or other recognizable description; and
- (6) The state department or agency that received the total gross amount identified in paragraph (1).

The accounting shall also indicate whether any parcel of land described in section 5(f) of the Admission Act was sold or exchanged in the prior fiscal year and, if so, the amount of consideration that the State received for the respective parcels.

Please describe any and all reviews or audits to determine if the income and proceeds or receipts reported to DLNR contain any inaccuracies.

If there are any income and proceeds or receipts from the public land trust that were omitted from the income and proceeds reported to DLNR for inclusion in its Accountings of All Receipts from Lands Described in Section 5 (f) of the Admission Act for Fiscal Year 2021 and Fiscal Year 2022, please provide all information required by Act 178, including but not limited to the source and amount of each omitted amount.

If the Report to the Office of Hawaiian Affairs on the Accuracy and Completeness of a report by the Department of Land and Natural Resources to the Hawaii State Legislature on Public Land Trust Receipts for Fiscal Year ended June 30, 2016, by N&K CPAs, Inc. (2018) identified any gaps in reporting for this agency, please describe the steps taken to include the income and proceeds or receipts reported as a gap.

IV. Inventory

Act 54, Session Laws Hawaii 2011, Section 2 (b) describes the goals of the PLTIS. “The purpose of this Act is to facilitate the establishment of a comprehensive information system to inventory and maintain information about the lands of the public land trust described in section 5(f) of the Admission Act and article XII, section 4 of the Hawaii State Constitution. “

Act 54, Section 1 is clear that the PLTIS is to be a “complete and accurate inventory of all lands.” “The information system shall consist of a complete and accurate inventory of all lands in the public land trust to which state agencies hold title or over which they maintain management control.” Section 2 (b).

Act 54, Section 2 (g) requires “All state and county agencies shall assist the department in facilitating the establishment of the public land trust information system and shall comply with any and all requests the department of land and natural resources may make for any information and services pertinent to the completion of the information system.”

Act 54, Section 2 (c) requires the DLNR to consult with the state and county agencies to develop this comprehensive and complete and accurate inventory.

At minimum, the department of land and natural resources shall determine whether the following information relating to each parcel of land in the operating inventory would be useful:

- (1) The parcel's location by metes and bounds, tax map key number, or both;
- (2) The parcel's size rounded to the nearest acre;

- (3) The date the parcel was acquired;
- (4) If conveyed out of the public land trust, the date the parcel was conveyed;
- (5) Whether the parcel was acquired by the State pursuant to section 5(b) or 5(e) of the Admission Act or Public Law 88-233, or in exchange for a parcel of land acquired by the State pursuant to those laws;
- (6) Whether the parcel is a subdivided portion of a larger parcel acquired by the State pursuant to section 5(b) or 5(e) of the Admission Act or Public Law 88-233, or in exchange for a parcel of land acquired by the State pursuant to those laws;
- (7) Whether, the parcel or any portion of the parcel is ceded land, and the extent to which the parcel consists of ceded land;
- (8) The name of the state or county agency holding title to the parcel;
- (9) Whether the parcel has been set aside and the name of the state or county agency to which the parcel has been set aside;
- (10) The parcel's current state land use, state land classifications pursuant to section 172-10, Hawaii Revised Statutes, and county zoning designations;
- (11) A description of all natural resources, including minerals and water, found on or appurtenant to the parcel ;
- (12) A description of every easement, covenant, regulatory condition, or other benefit or servitude to which the parcel is entitled or subject; and
- (13) A description of all leases, uses, or other disposition to which the parcel has been put.

Please describe the information from the list of 13 above that were included in this agency information and data provided to DLNR to create and maintain the PLTIS.

Please describe any and all steps that are taken by this agency to verify your data and to determine if there are any inaccuracies in the PLTIS.

Please identify any current inaccuracies discovered in this agency information provided or otherwise available to the DLNR or now present in the PLTIS and include: (A) A description of how the inaccuracy will be corrected; and (B) Copies of all documents related to the correction of those inaccuracies.

Please describe any and all principles or guidelines utilized by this agency in its reporting. For instance, if a parcels is part ceded lands and part non-ceeded lands, how does the agency determine whether it will be included as ceded lands.

Please confirm that all conservation district lands or preservation zoned lands which this agency holds title or over which it maintains management control were included in the reporting.

Please confirm that all Public Law 88-233 transferred since August 21, 1959 from the federal government to the state and to this agency was reported to DLNR and is included in the PLTIS.

V. Submerged lands

The submerged lands are ceded and included in the Public Land Trust. The Hawai'i State Constitution, Article XV, Section 1, describes the boundaries of the state of Hawaii and provides a basis for an identification of submerged lands that should be included in the ceded lands inventory.

[t]he State of Hawaii shall consist of all the islands, together with their appurtenant reefs and territorial and archipelagic waters, included in the Territory of Hawaii on the date of enactment of the Admission Act, except the atoll known as Palmyra Island, together with its appurtenant reefs and territorial waters; but this State shall not be deemed to include the Midway Islands, Johnston Island, Sand Island (offshore from Johnston Island) or Kingman Reef, together with their appurtenant reefs and territorial waters." See also Admission Act, sections 2 and 5(a).

Please identify and describe any submerged lands within the jurisdiction or use of this agency and provide the information and data required by Act 54.

VI. Conclusion

This communication is without waiver of any and all rights, remedies, claims, or defenses of our any party. Nothing herein shall be construed to constitute an admission or waiver for any purposes.

Please respond to the PLTWG within 45 days.

Thank you for your prompt attention to this matter.

Exhibit A

Agencies Information provided by DLNR

1. List of agencies

Agribusiness Development Corporation
City and County of Honolulu
City and County of Honolulu - Board of Water Supply
City and County of Honolulu - Honolulu Authority for Rapid Transportation
County of Hawaii
County of Kauai
County of Maui
Department of Accounting and General Services
Department of Accounting and General Services - Automotive Management Division
Department of Accounting and General Services – Leasing
Department of Accounting and General Services – Other
Department of Accounting and General Services – Planning
Department of Accounting and General Services - Stadium Authority
Department of Agriculture
Department of Agriculture - Agricultural Resource Management
Department of Agriculture – Other
Department of Budget and Finance
Department of Business, Economic Development and Tourism
Department of Business, Economic Development and Tourism - Foreign Trade Zone
Department of Business, Economic Development and Tourism - Hawaii Community
Development Authority
Department of Business, Economic Development and Tourism - Hawaii Film Office
Department of Business, Economic Development and Tourism - Hawaii Housing Finance and
Development Corporation
Department of Business, Economic Development and Tourism - Hawaii Tourism Authority
Department of Business, Economic Development and Tourism - High Technology Development
Corporation
Department of Business, Economic Development and Tourism - Natural Energy Laboratory of
Hawaii Authority
Department of Business, Economic Development and Tourism – Other
Department of Commerce and Consumer Affairs
Department of Defense
Department of Education
Department of Hawaiian Homelands
Department of Health
Department of Human Resources
Department of Human Services
Department of Human Services - Vocational Rehabilitation Division
Department of Human Services - Hawaii Public Housing Authority

Department of Human Services – Other
Department of Industrial Relations
Department of Land and Natural Resources
Department of Land and Natural Resources - Division of Boating and Ocean Recreation
Department of Land and Natural Resources - Division of Conservation and Resources Enforcement
Department of Land and Natural Resources - Division of Forestry and Wildlife
Department of Land and Natural Resources - Land Division
Department of Land and Natural Resources – Other
Department of Land and Natural Resources - State Parks
Department of Public Safety
Department of Taxation
Department of the Attorney General
Department of Transportation
Department of Transportation – Administration
Department of Transportation – Airports
Department of Transportation – Harbors
Department of Transportation – Highways
Hawaii Health Systems Corporation
Judiciary
Legislature
Office of Hawaiian Affairs
Office of Information Management Technology
Office of the Governor
Office of the Lieutenant Governor
OTHER
University of Hawaii

2. List of agencies that have reported parcels and/or encumbrances in PLTIS.

City and County of Honolulu
City and County of Honolulu - Board of Water Supply
City and County of Honolulu - Honolulu Authority for Rapid Transportation
County of Hawaii
County of Kauai
County of Maui
Department of Accounting and General Services - Automotive Management Division
Department of Accounting and General Services – Leasing
Department of Accounting and General Services – Planning
Department of Accounting and General Services - Stadium Authority
Department of Agriculture
Department of Agriculture - Agricultural Resource Management
Department of Business, Economic Development and Tourism
Department of Business, Economic Development and Tourism - Foreign Trade Zone

Department of Business, Economic Development and Tourism - Hawaii Community Development Authority
Department of Business, Economic Development and Tourism - Hawaii Film Office
Department of Business, Economic Development and Tourism - Hawaii Housing Finance and Development Corporation
Department of Business, Economic Development and Tourism - Hawaii Tourism Authority
Department of Business, Economic Development and Tourism - High Technology Development Corporation
Department of Business, Economic Development and Tourism - Natural Energy Laboratory of Hawaii Authority
Department of Defense
Department of Education
Department of Hawaiian Homelands
Department of Health
Department of Human Services - Vocational Rehabilitation Division
Department of Human Services - Hawaii Public Housing Authority
Department of Land and Natural Resources
Department of Land and Natural Resources - Division of Boating and Ocean Recreation
Department of Land and Natural Resources - Division of Forestry and Wildlife
Department of Land and Natural Resources - Land Division
Department of Land and Natural Resources - State Parks
Department of Transportation – Airports
Department of Transportation – Harbors
Department of Transportation – Highways
Office of Hawaiian Affairs
University of Hawaii

3. Contact was made and interviews were conducted with over 40 stakeholder state and county agencies as part of the initial data gathering effort. Stakeholder agencies included in the survey included:

1. Department of Accounting and General Services (DAGS)
2. Department of Agriculture (DOA)
3. Agribusiness Development Corporation
4. Department of the Attorney General (AG)
5. Department of Budget and Finance (B&F)
6. Department of Business, Economic Development, and Tourism (DBEDT)
 - 6.1. Aloha Tower Development Corporation (ATDC)
 - 6.2. Hawaii Community Development Authority (HCDA)
 - 6.3. Hawaii Film Office
 - 6.4. Hawaii Housing Finance and Development Corporation (HHFDC)
 - 6.5. High Technology Development Corporation (HTDC)
 - 6.6. Natural Energy Laboratory of Hawaii Authority (NELHA)

- 6.7. Foreign Trade Zone (FTZ)
7. Department of Commerce and Consumer Affairs (DCCA)
8. Department of Defense (DOD)
9. Department of Education (DOE)
10. Department of Hawaiian Home Lands (DHHL)
11. Department of Health (DOH)
12. Department of Human Resources Development (DHRD)
13. Department of Human Services (DHS)
14. Department of Labor and Industrial Relations (DLIR)
15. Department of Land and Natural Resources (DLNR)
 - 15.1. Land Division (LD)
 - 15.2. Division of Boating and Ocean Recreation (DOBOR)
 - 15.3. Division of Forestry and Wildlife (DOFAW)
 - 15.4. Division of State Parks
16. Department of Public Safety (PSD)
17. Department of Taxation (DOTAX)
18. Department of Transportation (DOT)
 - 18.1. Airports Division
 - 18.2. Harbors Division
 - 18.3. Highways Division
19. Hawaii Health Systems Corporation (HHSC)
20. Judiciary (JUD)
21. Office of Hawaii Affairs (OHA)
22. University of Hawaii (UH)
23. City and County of Honolulu (C&C)
 - 23.1. Board of Water Supply (BWS)
 - 23.2. Honolulu Authority for Rapid Transportation (HART)
24. County of Maui
25. County of Hawaii
26. County of Kauai

A total of six stakeholder agencies reported that they do not own, nor have any management of, any lands within the state. Those six are:

1. Department of the Attorney General
2. Department of Budget and Finance
3. Department of Commerce and Consumer Affairs
4. Department of Human Resources Development
5. Department of Labor and Industrial Relations
6. Department of Taxation

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V. Discussion: Next PLT Working Group meeting