

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

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.

Meeting of the Public Land Trust (PLT) Working Group
MEETING SUMMARY
June 4, 2024

ATTENDANCE:

Sherry Broder
Dawn Chang, DLNR
Brickwood Galuteria, OHA
Ryan Kanaka‘ole, DLNR
Carmen Hulu Lindsey, OHA
Luis Salaveria, Dept. of Budget and Finance

ADMINISTRATIVE SUPPORT:

Stacy Ferreira, OHA
Everett Ohta, OHA
Amber Kalua, OHA
Arlene Aguinaldo, OHA

The video recording of this PLT Working Group meeting can be viewed at:

<https://youtu.be/nGvIVrQpeFo?si=pQ11GK875ef2jlc5>

I. Call to Order

The Public Land Trust Working Group (PLTWG) meeting was called to order on Tuesday, June 4, 2024, at 8:03am. This was a virtual meeting that could be viewed and observed via livestream at www.oha.org/livestream. The members present at the time the meeting was called to order were Sherry Broder, Dawn Chang, Ryan Kanaka‘ole, Hulu Lindsey and Luis Salaveria. Brickwood Galuteria joined the meeting at 8:17am.

II. Approval of Meeting Summary

1. May 6, 2024

No one signed up to testify on this item. Motion to approve the meeting summary for May 6, 2024 was moved Luis Salaveria and seconded by Sherry Broder at 8:04am. Item was opened for discussion. Motion was approved by Sherry Broder, Dawn Chang, Ryan Kanaka‘ole, Hulu Lindsey, and Luis Salaveria at 8:05am.

III. Issues and status of various inventories:

- (1) Updates on procurement and timeline for technical upgrades of the PLTIS and process for OHA input on specifications; and**
- (2) Designation of technical staff at DLNR and OHA to discuss OHA input on specifications; and**
- (3) Review of status of OHA Kipuka Database; and**
- (4) Development of list of state repositories and libraries by DLNR and OHA containing historical documents relating to the lands of the Hawaiian Kingdom and the subsequent transfers; and**
- (5) Draft letter to letter to all federal agencies and to the counties to inquire about their information systems on the lands of the Hawaiian Kingdom, historical transfers and current status of inventories they have or plan to develop; and**
- (6) Development of list of federal repositories and libraries and request for federal funding available for inventories and accountings.**

No one signed up to testify on this item. Discussion on this item began at 8:05am. Sherry Broder shared a draft letter (Attachment 1) to send to Senator Schatz and the Secretary of the Department of Interior (DOI), Deb Haaland, at 8:21am. Motion was made by Sherry Broder at 8:34am to *amend the following in her draft letter to include the words “, original source materials” after “relevant documents” in the second paragraph, change “please respond to XXXX and YYYY at (provide emails and telephone numbers)” to “please provide us with the appropriate contact person by June 20, 2024” in the first sentence of the second to the last paragraph, and to adopt this amended letter (Attachment 2) to be sent out to Senator Schatz and the Secretary of the DOI, Deb Haaland, with a cc to the Office of Native Hawaiian Relations, the Office of Tribal Relations, and the attorney assigned to Native Hawaiian issues at DOI.* Luis Salaveria seconds the motion. Motion was approved by Sherry Broder, Dawn Chang, Brickwood Galuteria, Ryan Kanaka‘ole, Hulu Lindsey, and Luis Salaveria.

IV. Discussion regarding steps to follow up on first set of responses to PLTWG letter to state agencies in order receive substantive detailed response. lands, including submerged lands.

No one signed up to testify on this item. Discussion on this item began at 8:53am.

V. Discussion regarding templates to standardize state agency accounting methods to bring consistence in Act 178 agency reporting.

No one signed up to testify on this item. Discussion on this item began at 9:07am.

VI. Support for legislation in 2025 Session to pay for retention of expert consultants to analyze current inventories and 2023 DLNR Act 178 Report for accuracy and completeness.

No one signed up to testify on this item. Discussion on this item began at 9:13am.

VII. Discussion regarding requests to the federal government and counties 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.

No one signed up to testify on this item. Discussion on this item began at 9:15am.

VIII. Review Act 304 (Session Laws Hawai'i 1990) and the extent to which Act 304 is still being relied on, court decisions and history of payments of pro rata share of Airport Revenues to OHA and last OHA demand for yearly pro rata share based on 2016 N&K Financial Review and how to update.

No one signed up to testify on this item. Discussion on this item began at 9:17am.

IX. Discussion: Next PLT Working Group meeting

Discussion began at 9:27am. Next meeting is scheduled for Thursday, June 27, 2024, at 10am via Zoom.

X. Adjournment

Motion to adjourn was moved by Luis Salaveria and seconded by Ryan Kanaka'ole at 9:30am. Motion approved by Sherry Broder, Dawn Chang, Brickwood Galuteria, Ryan Kanaka'ole, Hulu Lindsey, and Luis Salaveria. Meeting adjourned at 9:30am.

PLTWG Draft letter to DOI and
Senator Schatz and Senate Committee on Indian Affairs.
06/04/24

The Public Land Trust Working Group ('PLTWG') of six members was established by Act 226 (Session Laws Hawai'i (2022)). Three members are appointed by the Governor and three by the Office of Hawaiian Affairs. The PLTWG has been meeting regularly for over one year. Its 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.

We write to request (1) assistance in working with federal agencies that may have relevant documents and maps and (2) funding for the work required to research, prepare and publish a complete and accurate inventory and report of lands ceded to the stewardship of and management by the federal government during the Territorial period and transferred to the state government via the Admission Act, An Act to Provide for the Admission of the State of Hawaii into the Union, Public Law 86-3, enacted 1959. This request is made pursuant to the well-established federal trust responsibility to the indigenous peoples of Hawai'i.

The ceded lands, consisting of crown lands, once property of the Hawaiian monarchy, and of the government lands of the Kingdom of Hawai'i, totaled 1.8 million acres upon annexation in 1898. Pursuant to the Joint Resolution of Annexation, all of these lands were considered transferred or "ceded" to the United States government "for the benefit of the inhabitants of the Hawaiian Islands." Underscoring the federal trust responsibility are the findings of the US Congress in the Apology Resolution,

"Whereas, the Republic of Hawaii also ceded 1,800,000 acres of crown, government, and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government."

"Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum" Public Law 103-150 (1993). Upon statehood in 1959, the federal government returned to the State of Hawai'i all ceded lands not set aside for its own use. S

In 1978, the people of Hawai'i 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.”

Please respond to XXXX and YYYY at (provide emails and telephone numbers) to commence the discussion on next steps to take on this important inventory. It is vitally important to move ahead as quickly as possible. We look forward to hearing from you.

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

Aloha OHA Chair Hulu Lindsay

I. Discussion regarding requests to the counties 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.

PLTWG Draft letter to DOI and
Senator Schatz and Senate Committee on Indian Affairs.
06/04/24

The Public Land Trust Working Group ('PLTWG') of six members was established by Act 226 (Session Laws Hawai'i (2022)). Three members are appointed by the Governor and three by the Office of Hawaiian Affairs. The PLTWG has been meeting regularly for over one year. Its 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.

We write to request (1) assistance in working with federal agencies that may have relevant documents, original source materials and maps and (2) funding for the work required to research, prepare and publish a complete and accurate inventory and report of lands ceded to the stewardship of and management by the federal government during the Territorial period and transferred to the state government via the Admission Act, An Act to Provide for the Admission of the State of Hawaii into the Union, Public Law 86-3, enacted 1959. This request is made pursuant to the well-established federal trust responsibility to the indigenous peoples of Hawai'i.

The ceded lands, consisting of crown lands, once property of the Hawaiian monarchy, and of the government lands of the Kingdom of Hawai'i, totaled 1.8 million acres upon annexation in 1898. Pursuant to the Joint Resolution of Annexation, all of these lands were considered transferred or "ceded" to the United States government "for the benefit of the inhabitants of the Hawaiian Islands." Underscoring the federal trust responsibility are the findings of the US Congress in the Apology Resolution,

"Whereas, the Republic of Hawaii also ceded 1,800,000 acres of crown, government, and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government."

"Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum" Public Law 103-150 (1993). Upon statehood in 1959, the federal government returned to the State of Hawai'i all ceded lands not set aside for its own use. S

In 1978, the people of Hawai`i 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.”

Please provide us with the appropriate contact person by June 20, 2024 to commence the discussion on next steps to take on this important inventory. It is vitally important to move ahead as quickly as possible. We look forward to hearing from you.

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

Aloha OHA Chair Hulu Lindsey