

**HAWAIIAN HOMES COMMISSION**  
**Minutes of March 19, 2012**  
**Meeting Held in Kapolei, O`ahu**

Pursuant to proper call, the 625th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawai`i, beginning at 9:40 a.m.

**PRESENT** Mr. Albert "Alapaki" Nahale-a, Chairman  
Mr. Imaikalani Aiu, Commissioner, Kaua`i  
Mr. Perry O. Artates, Commissioner, Maui  
Ms. Leimana DaMate, Commissioner, West Hawai`i  
Mr. J. Kama Hopkins, Commissioner, O`ahu  
Mr. Michael P. Kahikina, Commissioner, O`ahu  
Mr. Ian B. Lee Loy, Commissioner, East Hawai`i  
Mr. Henry K. Tancayo, Commissioner, Moloka`i  
Mr. Renwick V.I. Tassill, Commissioner, O`ahu

**COUNSEL** Deputy Attorney General Scott Kalani Bush

**STAFF** Michelle Ka`uhane Deputy to the Chairman  
Linda Chinn, Administrator, Land Management Division  
Darrell Yagodich, Administrator, Planning Office  
Francis Apoliona, Compliance Officer  
Sandra Pfund, Administrator, Land Development Division  
Juan Garcia, Administrator, District Homestead Operations  
Kaleo Manuel, Planner, Planning Division  
Julie Cachola, Planner, Planning Division  
Darrell Ing, Real Estate Development Specialist, Land Development  
Kahana Albinio, Property Development Manager, Land Management  
Nancy McPherson, Planner, Planning Office  
Bob Freitas, Planner, Planning Office  
Nella Kauwenaole, Clerk Typist, ICRO  
Ku`uwehi Hiraishi, Information Specialist, ICRO  
Elaine Searle Secretary to the Commission

**PULE/MELE** Commissioner Kama Hopkins

**AGENDA** Commissioner Perry Artates moved, seconded by Commissioner Kama Hopkins, to approve the agenda. Motion carried unanimously.

**MINUTES** Commissioner Kama Hopkins moved, seconded by Commissioner Renwick Tassill, to approve the minutes of February 21-22, 2012 as circulated. Motion carried unanimously.

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

**HAWAIIAN HOMES COMMISSION WORKSHOP/AGENDA**  
**91-5420 Kapolei Parkway, Kapolei, O`ahu, Hawai`i**  
**9:30 a.m., Monday, March 19, 2012 & 8:30 a.m., March 20, 2012**

**ORDER OF BUSINESS**

Roll Call  
Approval of Agenda  
Approval of Minutes of February 21-22, 2012

**A - WORKSHOP PRESENTATIONS**

- A-1 Waimanalo Kupuna Hale Presented by Commission R. Tassill
- A-2 Update on the KIUC/HCDC PV Farm

**B - PUBLIC TESTIMONY ON AGENDIZED ITEMS**

**C - OFFICE OF THE CHAIRMAN**

- C-1 Strategic Goals and Objectives Progress Report
- C-2 Resolution No. 260 - Non Homesteading Leasing of Trust Lands
- C-3 OHA - DHHL Joint Resolution No. 261 on Ceded Lands
- C-4 HHC Ad Hoc Administrative Rules Committee Report

**D - HOMESTEAD SERVICES DIVISION**

- D-1 HSD Status Reports
  - Exhibits:
    - A - Homestead Lease and Application Totals and Monthly Activity Reports
    - B - Delinquency Report and Status of Contested Case Hearings
- D-2 ~~Deferred Sales-Price Loans Program (Deleted)~~
- D-3 Ratification of Loan Approval
- D-4 Approval of Consent to Mortgage
- D-5 Refinance of Loans
- D-6 Schedule of Loan Delinquency Contested Case Hearings
- D-7 Homestead Application Transfers / Cancellations
- D-8 Reinstatement of Deferred Applications
- D-9 Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds

- D-10 Approval of Assignment of Leasehold Interest
- D-11 Approval of Amendment of Leasehold Interest
- D-12 Request to Schedule Contested Case Hearing - Lease Violations
- D-13 Cancellation of Lease - **Rebecca Niau and Jerry Kanahele**
- D-14 Request to Surrender Lease - **Roy Bumanglag (aka Roy Kalani Palama)**

#### **F- LAND MANAGEMENT DIVISION**

- F-1 Findings of No Significant Impact, Kekaha Community Enterprise Center, Kekaha, Kaua'i
- F-2 Preliminary Approval to Issue License, Aha Punānā Leo, Inc., Kalawahine, O'ahu
- F-3 Notices of Default and Revocations, Statewide
- F-4 Approval to the Issuance of a General Lease to Hawaiian Community Development Board and SolarCity, Kalaeloa, O'ahu

#### **G - PLANNING OFFICE**

- G-1 Approval of the Waimea Nui Regional Plan, March 2012
- G-2 Approval to Hire Independent Counsel to Assert Hawaiian Home Lands Water Rights

#### **H - ADMINISTRATIVE SERVICES OFFICE**

- H-1 Transfer of Hawaiian Home Receipts Money at the End of the Third Quarter, FY 2012

#### **EXECUTIVE SESSION**

The Commission anticipates convening in executive meeting Pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities on these matters.

1. Richard Nelson, III, Kaliko Chun et al. v HHC, Civil No. 09-1-161507
2. Kalima v SOH, DHHL, Civil No. 99-0-4771-12(EHH) (Class Action)
3. Petition for Certiorari to US Supreme Court, Corboy v Louie
4. Resolution of Property Tax Liability
5. Potential Conflicts of Interests of Commissioners Under HRS 84-14(a)
6. Defect of Title Claims
7. Regarding HRS 10-2-18, 10-2-19 & 10-2-20
8. Alternate Land Use for Pastoral & Agricultural Homestead Leases
9. Ceded Land Settlement Between SOH & OHA
10. Civil Union Law
11. Re: Hawaiian Homes Commission Act 208(5) - Conditions of Lease
12. Retaining of Private Counsel for HHC
13. Matter Relating to Puowaina Parcel, Papakolea, O'ahu

14. June Aina v Mark Development
15. Lono v Mark Development

### ANNOUNCEMENTS AND ADJOURNMENT

1. Next Meeting – April 23-24, 2012, Kalama'ula, Moloka'i, Hawai'i
2. Other Announcements
3. Adjournment



**Albert "Alapaki" Nahale-a, Chairman**  
**Hawaiian Homes Commission**

### COMMISSION MEMBERS

**Imaikalani P. Aiu, Kaua'i**  
**Perry O. Artates, Maui**  
**Leimana DaMate, West Hawai'i**  
**J. "Kama" Hopkins, O'ahu**

**Michael P. Kahikina, O'ahu**  
**Ian B. Lee Loy, East Hawai'i**  
**Henry K. Tancayo, Moloka'i**  
**Renwick V.I. Tassill, O'ahu**

The next community meeting will be held on Monday, April 23, 2012, 6:00 p.m., Lanikeha Community Center, Farrington Ave.(across Fire Station), Ho'olehua, Moloka'i.

Special Accommodations (such as Sign Language interpreter, large print, taped materials) can be provided, if requested at least five (5) working days before the scheduled meeting on the respective island by calling (808) 620-9590.

## **A - WORKSHOP PRESENTATIONS**

### **A-1 - Waimanalo Kupuna Hale, presented by Commissioner R. Tassill**

Commissioner Renwick "Joe" Tassill addressed issues and concerns of residents at Kupuna Hale in Waimanalo which serves its senior community. Some of the needs he addressed are:

- lack of water for gardening use - a) some units have gardening areas but no water, and b) some units have water but no gardening area
- Some tenants prefer communal gardening
- Provisions for parking stalls for each unit
- System in place for potential evacuation
- Wheelchair accessible vehicles available in time of disaster
- Equipped Alert alarm system in units to address disaster / evacuation situations
- ADA compliant requirements
  - a) Toilet seat too low
  - b) Curbside too high
  - c) Inoperable gate opener - equip system within tenant's unit
- How to protect the surviving spouse who is non-Hawaiian and protecting his/her interest
- Storage area for perishable and non-perishable food items
- Overall safety and wellbeing for all tenants

Chairman Nahale-a noted that the commission can spend hours addressing these types of issues. The department does its due diligence investigating issues and loopholes in contracts with management to see where it can be adjusted before moving forward. These are tough issues that require additional investigations, and no easy task.

Commissioner Aiu inquired if contracts are reviewed annually. Although unfamiliar with this particular contract, Chairman believes it a high priority as it involves our kupuna. All contracts have review periods and every parcel has a land manager. Land Management Supervisor Kahana Albinio will advise land agent Kaipō Duncan to follow-up on these concerns. Commissioner Kahikina says there is no need to belabor the issue. Staff should be utilized to address such matters and possibly orchestrate a tribunal to allow beneficiaries to voice their concerns at a smaller venue. The department will respond to Commissioner Tassill's concerns and determine what needs to be implemented to address such matters.

### **A-2 - Update on the KIUC/HCDC PV Farm**

Homestead Community Development Corporation's Robin Danner provided information on a renewable energy joint solar project between Anahola Hawaiian Homestead Association and Kaua'i Island Utility Cooperative (KIUC) for a 12 megawatt solar project to be developed on a 53 acre parcel in Anahola, Kaua'i. Ms. Danner presented an overview and submitted an informational packets to be made a part of these minutes as Exhibits "A" and "B." She listed 15 components in a homestead benefits agreement (HBA) package for non-homesteading use.

Commissioner Hopkins inquired if consultation is provided to all beneficiaries, not necessarily limited to those in Anahola community. Yes. HCDC welcomes all beneficiaries to participate. It would allow those knowledgeable in this area to share information and advice.

Commissioner Hopkins asked what happens when the project is decommissioned? Based on the economical and feasibility of the project, it is hopeful that the project will be continued beyond the initial 25 years, said Ms. Danner. These negotiations came as a result of beneficiary consultation along with meetings with Chairman Nahale-a and Land Management Administrator Linda Chinn.

Commissioner Hopkins asked how much annual revenue would the department realize on this project? Based on the 3.2 million and the 80/20 split, the total revenue is estimated at \$128,358 (pg 3) and the department is expected to gain \$103,000. What about profit percentages? It was determined to take the percentages of gross production, not the net. The total package is 2% of gross energy produced off the 53 acres in addition to full market value.

Commissioner DaMate asked if renewable energy lectures can be held at other high schools besides the charter school? It is conceivable and will be included in its schedule to provide this type of knowledge to other beneficiaries.

Commissioner I. Lee Loy inquired as to the type of technology being utilized? Scott Danner stipulated portable voltaic panels will be installed by RAC with an output of 12 megawatt capacity on site. KIUC is planning on a 70% operational output with battery backup.

Commissioner Aiu inquired if there is a potential to utilize hydro battery storage at nearby reservoirs? Anahola homestead leader Lorraine Rapozo is in discussion with KIUC to establish the potential use of a small hydro in Anahola for the reservoirs. The suggestion of combining the battery on solar and tying it in to the hydro sounds engaging, noted Ms. Danner.

Commissioner Tassill asked for an example of cultural and other subject matter experts?

A prime contractor has been negotiated to include a local native practitioner to prepare a cultural impact. The local practitioner will accompany the contractor on every aspect of the construction project. No contractor is allowed on site without the cultural practitioner.

Is there a plan to dispose of the used batteries? These are huge installations but there will be a creation of funding to remove them, claimed Scott Danner.

A priority list is being created for Washington D.C. to implement policies for energy resources for all Hawaiian home lands. Because of this project, HCDC was able to discern what types of federal funding sources were available. Next year HCDC plans to aggressively campaign to place Hawaiian home lands where funds would be made available.

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federal funding sources were available. Next year HCDC plans to aggressively campaign to place Hawaiian home lands in a position to gain additional funds.

## **B - PUBLIC TESTIMONY ON AGENDIZED ITEMS**

- 1) Re: Item F-2 - Preliminary Approval to Issue License, Aha Punānā Leo, Inc., Kalawahine, O`ahu, Testifier: Kahealani Keahi (Wood) & Keali`i Lum

Ms. Keahi (Wood) expressed mahalo to the department for comments expressed at the January 2012 commission meeting in support of a preliminary license agreement for Aha Punānā Leo, Inc. She claims to represent Kalai Ona from Hilo's Aha Punānā Leo, Hui Makaainana a Kalawahine, a beneficiary organization and Kalau Kamana.

Mr. Lum says he represents Papakolea Hawaiian Civic Club and Ku`ulei Nishiyama, Papakolea Community Association and its president Adam Asing who collectively support the implementation of this priority project for the keiki in the community. He thanked the commission and those who support it. Mr. Lum extended an invitation to a March 31<sup>th</sup> celebration of Prince Jonah Kuhio Kalaniana'ole Festival at Lincoln Elementary, 9 - 1 p.m. He expressed Mahalo to OHA and Trustee Colette Machado for funding this event. Ms. Keahi (Wood) added she is eager to work with all community organizations including PCDC and thanked everyone for sharing their mana`o.

- 2) Re: Item C-1 - Strategic Goals and Objectives Progress Report, C-2 - Resolution No. 260 - Non Homesteading Leasing of Trust Lands and , Item No. C-3 – OHA - DHHL Joint Resolution No. 261 on Ceded Lands - Testifier Kamaki Kanahele, SCHHA President

Kamaki Kanahele claims SCHHA members across the state met and discussed all the above-stated items at meetings held throughout the state. He expressed his gratitude to Commissioner M. Kahikina for his diligence in keeping the meetings sane. Although many good ideas were shared, there may not be ample time to bring resolutions forward to assist beneficiaries. Mr. Kanahele is excited SCHAA will be represented fully when OHA accepts the ceded lands. He thanked various community leaders for their efforts and involvement in settling these claims.

The information shared earlier regarding Waimanalo Kupuna Hale is all too familiar, said Kamaki Kanahele. The rules and regulations of both Federal and State law require geriatric training, correct nursing care and correct college certification to apply to certain senior living quarters. What is correct and "pono" in our style of taking care of our kupunas is different from the non-Hawaiian way of life. He deems a course of action by this commission will be a tough one to deliver.

He expressed appreciation to Chairman Nahale-a for being able to "move mountains" and open doors in the year he has been chairman. He wished chairman aloha as he leaves his post.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner R. Tassill to convene with Item C-3. Motion carried unanimously.

**ITEM NO. C-3**

**SUBJECT: OHA - DHHL Joint Resolution No. 261 on Ceded Lands**

RECOMMENDATION

This item is being presented for action today after deferral in February's meeting which is to approve a Joint Resolution to support the land settlement between the State of Hawai'i and the Office of Hawaiian Affairs (OHA).

MOTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate

DISCUSSION

Chairman Nahale-a acknowledged with appreciation the number of participants witnessing this Joint Resolution. Deputy Ka`uhane noted with pride the leadership of both chairpersons, Colette Machado and Alapaki Nahale-a, with assistance of the community, for the first time have collaborated together to make this awesome commitment together which was passed by OHA board on February 23, 2012. OHA Board Chairman Colette Machado expressed how this "resolution has made both chairpersons as better leaders", with openness to serving "all" people, not limiting it to the blood quantum measure. Sometimes walls become huge barriers where politicians and law makers forget to see the end. Ms. Machado thanked Robin Danner and OHA attorney Bill Meheula for challenging and necessitating action on this behalf. She thanked Chairman Nahale-a for his openness and assistance in the unification of OHA-DHHL boards to benefit the beneficiaries of the trust. She thanked SCHAA Kamaki Kanahale for shouldering the burden of the SCHHA. The community had to endure a lot, claimed Chairman Nahale-a. All we can offer is a promise. We need to show up every day and do the work. Commissioners Tassill and DaMate shared their mana`o to continue the unity.

ACTION

Motion carried unanimously.

**ITEM NO. C-1**

**SUBJECT: Strategic Goals and Objectives Progress Report**

MOTION/ACTION

None. For Information Only

DISCUSSION

Deputy M. Ka`uhane provided a list of Strategic goals and objectives for year 2012 which was approved by this commission. A system is in place to have reporting each month to the commission on these objectives. This should be posted on the department's website to share with community.

Commissioner K. Hopkins articulated this is a bold and ambitious goal and thanked the staff and its willingness to complete these objectives and offered his assistance wherever necessary. Commissioner L. DaMate had some concerns regarding the filling of a position of an agriculture/pastoral expert. She would like to ensure the individual has knowledge of the `aina.

**ITEM NO. C-2**

**SUBJECT: Resolution No. 260 - Non-Homesteading Leasing of Trust Lands**

COMMENT

This resolution was previously deferred to allow Attorney General's office to review and decipher the implications of the resolution.

MOTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate.

DISCUSSION

Deputy Attorney General Matt Dvovich thanked Deputy Ka`uhane and the department for the work on this resolution. The resolution reviewed earlier is different from the one being presented today. The viewpoint of the attorney general's office is from a legal stance to ensure this commission can implement its policy decisions and to limit liability the commission will face in the future. Preliminary concerns were given at an earlier version of the resolution. As today's resolution was received at the start of today's meeting, Attorney Dvovich is requesting time to review it.

Chairman Nahale-a asked for an amended motion to adopt the new resolution.

AMENDED MOTION

Moved by Commissioner L. DaMate, seconded by Commissioner I. Aiu to adopt the amended resolution.

ACTION

Motion carried unanimously.

DISCUSSION

Deputy M. Ka`uhane gave a synopsis of the 13 resolutions being presented. Items #1, #1, #3 and #4 refer to data transparency. Discussion was among staff on how to become more transparent. An issue on consultation on data would reach out to both beneficiaries on the waitlist and on the land. What is being done now is none of the above. Currently, a revocable permit (RP) can be approved and ratified by commission without any disclosures. These will be now be posted on the website. Homesteading and non-homesteading lands and who is the beneficiary is a priority. It will be a work in progress which will constantly improve over time.

Deputy Attorney General Matt Dvonch recommended adjournment to executive session to consult with the commission on the legal concerns of this resolution.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to adjourn to Executive Session.

DISCUSSION

Commissioner M. Kahikina recognized Robin Danner to come forward. Robin Danner requested to update the commission and Deputy Attorney General's office the changes created by CNHA's policy center and DHHL staff of the current resolution prior to executive session so the commission is well brief of this updated resolution.

MOTION TO RESCIND

Commissioner K. Hopkins rescinded his motion. There is no motion on the floor. Attorney has advised to adjourn to executive session.

DISCUSSION

Commissioner K. Hopkins is uncomfortable about taking a vote on this resolution due to numerous concerns received by others who have not seen this resolution. Attorney General's office is asking to review it. Although it may belabor the issue another month, Commissioner K. Hopkins is recommending to defer this item until the next meeting.

MOTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to defer this item.

## DISCUSSION

Commissioner I. Lee Loy agrees with deferral due to concerns by associations and communities regarding this resolution. It will give the commission time to respond to these concerns and give the Attorney General's office to review the document. Commissioner L. DaMate is opposed to deferral of the resolution. Although she agrees in general the reasons for his deferral, Commissioner L. DaMate believes the commission needs to be bold and pass it to provide something in writing now. If the resolution needs to be amended at a later time, it can be addressed then. In general, she supports the A.G.'s office, but sometimes their perspective is not a "Hawaiian" perspective. Commissioner P. Artates agrees with the deferral due to possible legal issues. He wants to assure the commission has clarity and fall in the guidelines from an opinion as well as from the beneficiaries. Commissioner K. Hopkins agrees in principle this is a great resolution but requests to defer the matter to the April meeting. Commissioner I. Lee Loy agrees to defer to April. Commissioner H. Tancayo called for the question.

## ACTION

Motion carried unanimously.

## ACTION

Chairman called for the question to defer

### AYE

Imaikalani Aiu  
Perry Artates  
Kama Hopkins  
Ian Lee Loy  
Henry Tancayo  
Renwick Tassill

### OPPOSED

Leimana DaMate  
Michael Kahikina

## ITEM NO. C-4

**SUBJECT: HHC Ad Hoc Administrative Rules Committee Report**

## MOTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to accept the committee report.

## DISCUSSION

Dre Kalili, Policy Analyst presented the Administrative Rules committee report. The committee will provide a monthly report to include activities occurring just prior. Information will be

provided on-line with a 30- day comment period on future issues and a 14-day comment period on items prior to commission action. Three items will be addressed at April's meeting: Treatment of Previous Lessees, One Chance and Sale of Leases.

Commissioner I. Aiu chose to receive comments through e-mail. What was heard overwhelmingly was there was a lack of time. He clarified taking electronic comments on-line is not subject to beneficiary consultation. Beneficiary consultation will still continue at a later date. It was meant for input as a policy debate level. The process will help more people become involved in the front end of the process. Commissioner I. Aiu was not pleased with the personal attacks due to frustrations. This staff works diligently to provide excellent service to make this trust whole. Hopefully, we can move forward with that mana`o.

### ACTION

Motion carried unanimously.

### COMMENT

Hui Kako`o Executive Director Kaipo inquired if there would be an opportunity to comment on the three issues within the 30-day and 14-day comment period to which recommendations will be made to the full commission. The two week process was passed earlier for these items, noted Commissioner K. Hopkins. The community consultation piece will be available for future comments. How will this be published? It will be completed on-line because it will provide information quicker and eliminate the high cost of mail out. New policy regarding a change in administrative rules is being suggested. Testimony will be allowed when the issue is brought before the full commission. CNHA's Robin Danner asked the Ad Hoc committee to consider two items. She claims the resolutions just discussed empower beneficiaries with transparency and trust and the administrative rules have the potential of taking down beneficiary rights and should not be part of the process to have Attorney General's opinion. Commissioner K. Hopkins clarified that the A.G's opinion is part of the process. Ms. Danner strongly recommends soliciting comments from Department of Interior (DOI) to give insight to this department's administrative rules which may diminish beneficiary rights. Ms. Danner has recommended to Deputy Ka`uhane to meet with Department of Interior Director Kaloii.

Malu`ohai Homestead president Homelani Schaedel wants assurance leadership and associations are notified on issues important to beneficiaries. She was notified by DOI, not DHHL on this particular item. Commissioner I. Aiu explained there needs to be definition of proper notification as this Ad Hoc committee is not operating by public hearing notices. We are taking the best technology available to engage with beneficiaries which was not available 20 years ago. There is a list of e-mails of leadership associations and e-mails should be provided to the department. Commissioner I. Lee Loy suggested commissioners advise their communities to respond to the subject matter. He agrees with DOI involvement to assist. Getting information out to associations through commissioners may be helpful, noted Commissioner L. DaMate. Commissioner K. Hopkins pointed out that it would be judicious to allow the department to

provide the information instead due to HRS Chapter 92 . Commissioner R. Tassill concurs it is important to provide information to the beneficiary.

ACTION

Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner I. Lee Loy to recess for 15 minutes, seconded by Commissioner L. Motion carried unanimously.

RECESS: 11:55 A.M.

RECONVENE: 12:15 P.M.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate to reconvene the regular meeting. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate to convene with all "F" items. Motion carried unanimously.

**ITEM NO. F-1**

**SUBJECT: Findings of No Significant Impact - Kekaha Community Enterprise Center, Kekaha, Kaua`i**

RECOMMENDATION

Property Development Agent Kahana Albinio submitted approval of a FONSI for Final Environmental Assessment (FEA) prepared by North Shore Consultants, LLC for Council for Native Hawaiian Advancement (CNHA) for Lot 51, Kekaha Residence Lots for the proposed Kekaha Community Center in Kekaha, Kaua`i.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate.

DISCUSSION

Lily Kapuniaia, Council of Native Hawaiian Advancement, claims a significant amount of work was completed to ensure the environmental assessment was done properly with respect to remains on the property. CNHA is prepared to proceed to begin with necessary permits.

Commissioner K. Hopkins addressed Deputy Attorney General K. Bush regarding a fax received earlier today on the possibility of "iwi" located on the said property. Deputy A.G. Bush says he is aware of these allegations.

Chairman Nahale-a asked what appropriate level of guidance should be required to address these matters. To make a determination, there would need to be evidence affirming those claims, explained Deputy A.G. Bush. It appears due diligence has been complied with.

Commissioner L. DaMate recommended to the department to include cultural and archaeological practices in the areas where EA's and FONSI are required. The information faxed earlier is not substantive information. Exhibit "A" submitted by CNHA; Exhibits "B", "C" & "D" submitted by Phoebe Eng and Kawai Warren and Chancellor Sherone Ivey respectively to be made a part of these minutes.

EXECUTIVE SESSION

MOTION/ACTION

Moved by Commissioner I. Aiu, seconded by Commissioner K. Hopkins to adjourn to Executive Session to consult with its attorney on issues and concerns on this matter. Motion carried unanimously

RECESS: 12:30 P.M.

RECONVENE 12:43 P.M.

MOTION/ACTION

Moved by Commissioner H. Tancayo, seconded by Commissioner K. Hopkins to reconvene to regular meeting. Motion carried unanimously.

**ITEM NO. F-1 (cont.)**

**SUBJECT: Finds of No Significant Impact - Kekaha Community Enterprise Center**

DISCUSSION

Planner Kaleo Manuel has some concerns on the EA and recommends amending some of the items.

MOTION/ACTION

Commissioner K. Hopkins recommended to defer this item until end of today's agenda, seconded by Commissioner I. Aiu. Motion carried unanimously.

**ITEM NO. F-2**

**SUBJECT: Preliminary Approval to Issue License, Aha Punānā Leo, Inc., Kalawahine, O`ahu**

RECOMMENDATION

Property Development Agent Albinio stated that Land Management is requesting to withdraw the recommendation approved at the January 23, 2012 commission meeting which was submitted as Item F-2.

MOTION

Motion is on the floor is to approve issuance of a license.

DISCUSSION

This matter was discussed before the commission which proved contentious amongst its community. One of the key points made by Papakolea Community Development Corporation (PCDC) is that they had the right to plan the parcel via the contract the commission approved, affirmed Chairman Nahale-a. It was further verified by the Attorney General's office. There is still the planning process for the parcel which will need to be reviewed by the commission.

Commissioner Hopkins conveyed how difficult a journey it's been for him. It was not something he had intended from a personal standpoint. Commission needs to be made aware of policy decisions from the start. Commissioner Tassill desires that everyone benefit from this especially the children. Chairman Nahale-a articulated that the legal advice is sound. He claims proper steps should be taken before awarding a property. This is a great project and there are priority projects in the Papakolea community to which PCDC is providing the planning process. With all due respect, this commission maintains the right to determine the land disposition.

Commissioner Aiu asked if there is an expiration date on the contract. It's pretty much an open-ended grant, stated Chairman Nahale-a. The department will be able to enforce it just as other grants are made accountable. It is a good learning curve to deal with such sensitive issues, noted Commissioner M. Kahikina. Going through the process and vetting out the legal ramifications help for better understanding in dealing with community issues.

ACTION

No. Ayes. Motion failed.

**ITEM NO. F-3**

**SUBJECT: Notices of Default and Revocations, Statewide**

MOTION/ACTION

Moved by Commissioner H. Tancayo, seconded by Commissioner K. Hopkins. Motion carried unanimously.

**ITEM NO. F-4**

**SUBJECT: Approval to the Issuance of a General Lease to Hawaiian Community Development Board and SolarCity, Kalaeloa, O`ahu**

RECOMMENDATION

Issuance of an exclusive general lease to Hawaiian Community Development Board (HCDB) and Solar City (jointly) to use approximately 34 acres of Hawaiian home lands located in Kalaeloa for development, operation, management and maintenance of a solar power facility and a pilot integrated greenhouse system.

MOTION

Moved by Commissioner H. Tancayo, seconded by Commissioner K. Hopkins.

DISCUSSION

Hawaiian Community Development Board (HCDB) Executive Director Kali Watson thanked Chairman Nahale-a for making this program a better one and expressed his aloha to Chairman. He applauded Robin Danner for her efforts on the Anahola solar project and assisting his efforts.

With respect to this particular project it will be combined in a unique benefits package with a new marketing tax credit that will provide a revenue stream between 20-25%. Mr. Watson introduced Solar City partners Peter Cooper and Lani Keala who Mr. Watson claims have

tremendous expertise and resources on these types of projects. They plan to engage in beneficiary consultations with members of the homestead communities.

Patti (Tancayo) Barbi was introduced as project manager. Ms. Barbi says Ku`upono Initiative who manages a 4 billion dollar trust will assist in providing direct funding. She detailed a number of initiatives designed to fund various projects on Hawaiian home lands. She anticipates providing support to a number of Hawaiian homestead communities.

There is a difference in the types of technology utilized in both the Anahola Solar project and the SolarCity project, claims Peter Cooper. The Anahola project will produce 12 megawatt while the SolarCity project produces 5 megawatt. SolarCity production is limited to what HECO is offering to purchase from them while Anahola will provide KIUC all of its resources.

AMENDED MOTION

Moved by Commissioner L. DaMate, seconded by Commissioner K. Hopkins to add to this contract on Page 3, No. 19: "approval by the Chairman **and** the Hawaiian Homes Commission." And on Page 1, Introduction paragraph: "pilot integrated greenhouse or **warehouse** system."

ACTION

Motion carried unanimously on the changes. Commissioners M. Kahikina and H. Tancayo recused from voting due to conflict of interest.

ACTION

Motion carried on the amended motion, except from Commissioners Kahikina and Tancayo.

**ITEM NO: D-1**  
**SUBJECT: HSD Status Reports**

MOTION/ACTION

None, for information only.

**ITEM NO: D-2**  
**SUBJECT: ~~Deferred Sales Price Loans Program (deleted)~~**

**ITEM NO: D-3**  
**SUBJECT: Ratification of Loan Approval**

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina. Motion carried unanimously.

**ITEM NO: D-4**

**SUBJECT: Approval of Consent to Mortgage**

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates. Motion carried unanimously.

**ITEM NO: D-5**

**SUBJECT: Refinance of Loans**

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins. Motion carried unanimously.

**ITEM NO: D-6**

**SUBJECT: Schedule of Loan Delinquency Contested Case Hearings**

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins. Motion carried unanimously.

**ITEM NO: D-7**

**SUBJECT: Homestead Application Transfers/Cancellations**

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins. Motion carried unanimously.

**ITEM NO: D-8**

**SUBJECT: Reinstatement of Deferred Applications**

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates. Motion carried unanimously.

**ITEM NO: D-9**

**SUBJECT: Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds**

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates. Motion carried unanimously.

**ITEM NO: D-10**

**SUBJECT: Approval of Assignment of Leasehold Interest**

RECOMMENDATION

Acting Homestead Administrator Dean Oshiro made a correction to Item No. 6, Page 3: Lessee: Arthur K. Mersberg's Lease No. is **3590, Lot No. 74.**

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates to include corrections. Motion carried unanimously.

**ITEM NO: D-11**

**SUBJECT: Approval of Amendment of Leasehold Interest**

MOTION/ACTION

Moved by Commissioner H. Tancayo, seconded by Commission K. Hopkins. Motion carried unanimously.

**ITEM NO: D-12**

**SUBJECT: Request to Schedule Contested Case Hearing - Lease Violations**

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

**ITEM NO: D-13**

**SUBJECT: Cancellation of Lease - Rebecca Niau and Jerry Kanahele**

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

**ITEM NO: D-14**

**SUBJECT: Request to Surrender Lease - Roy Bumanglad (aka Roy Kalani Palama)**

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

**ITEM NO: G-1**

**SUBJECT: Approval of the Waimea Nui Regional Plan, March 2012**

MOTION/ACTION

Moved by Commissioner L. DaMate, seconded by Commissioner M. Kahikina.

DISCUSSION

Planner Kaleo Manuel conveyed this regional plan was formerly known as Lalamilo-Pu`ukapu Regional Plan. It was exclusive of some of the existing homesteads and specific communities. The community suggested a name change to capture the identity of the homestead areas within this region. Three meetings were held with the community to establish its priority projects. Five priority projects were addressed: 1) Hawaiian homestead community complex, located next to Kanu O Ka`aina Charter School. 2) Revised agriculture and pastoral development plan, 3) Support land development of affordable housing in Waimea Nui. The last two priority projects address administrative projects. 4) Implementing assessment of property taxes and 5) Assessing non-standard building codes. The community felt it important to address these last two issues as it has been a concern of the community for a long time.

Commissioner L. DaMate concurs that the issues identified today in this plan are what the community has expressed to her. She thanked Kaleo Manuel for his excellent work on this

system built in 2008 supplies water to all Pu`ukapu homesteads, noted Kaleo Manuel. Waimea Nui Regional Plan submitted as part of these minutes as Exhibit "A"

EXECUTIVE SESSION

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate to adjourn in Executive Session to consult with its attorney on questions and issues pertaining to this item. Motion carried unanimously.

**RECESS:** 12:45 P.M.

**RECONVENE:** 12:50 P.M.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate to reconvene to regular meeting. Motion carried unanimously

**ITEM NO: G-1 (cont)**

**SUBJECT: Approval of the Waimea Nui Regional Plan, March 2012**

DISCUSSION

Commissioner I. Lee Loy expressed the excellence and dedication presented in today's regional plan and anticipates the same energy and expertise for Ka`u's Regional Plan. People in Ka`u look forward to embracing a road map to their future, added Commissioner Lee Loy.

ACTION

Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner R. Tassill to reconvene with Item No. F-1. Motion carried unanimously.

**ITEM NO. F-1 (cont)**

**SUBJECT: Findings of No Significant Impact - Kekaha Community Enterprise Center, Kekaha, Kaua`i**

DISCUSSION

Planner Kaleo Manuel expressed mahalo to CNHA and its consultant in reviewing this submittal. There are a lot of nuances that need to be addressed. He apologized to the Planning office for earlier comments. There are a few items that need addressing. One is to append a federal compliance document required by Housing and Urban Development (HUD).

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Lee Loy to append the federal compliance document. Motion carried unanimously.

MOTION/ACTION

Move by Commissioner K. Hopkins, seconded by Commissioner I. Lee Loy to append Holly McEldowney's letter of February 2003. Motion carried unanimously.

AMENDED/ACTION

Motion carried unanimously to approve FONSI.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Lee Loy to convene with Item H-1. Motion carried unanimously.

ITEM NO. H-1

SUBJECT: Transfer of Hawaiian Home Receipts Money at the End of the Third Quarter, FY 2012

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins. Motion carried unanimously.

EXECUTIVE SESSION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Lee Loy to adjourn in Executive Session to consult with its attorney on questions and issues pertaining to the water rights in Item No. G-2. Motion carried unanimously.

RECESS: 2:00 P.M.

RECONVENE: 2:25 P.M.

MOTION/ACTION

Moved by Commission I. Aiu, seconded by Commissioner K. Hopkins to reconvene in regular meeting. Motion carried unanimously.

ITEM NO: G-2

SUBJECT: Approval to Hire Independent Counsel to Assert Hawaiian Home Lands  
Water Rights

MOTION/ACTION

Moved by Commissioner L. DaMate, seconded by Commissioner I. Lee Loy. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner H. Tancayo, seconded by Commissioner K. Hopkins to adjourn in Executive Session. Motion carried unanimously.

RECESS: 2:27 P.M.

EXECUTIVE SESSION

The Commission convened in Executive Session Pursuant to Section 92-5 (a), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.

1. Waiakea Center Community Benefit Donations
2. Richard Nelson, III, Kaliko Chun et al. v HHC, Civil No. 09-1-161507
3. Honokaia `Ohana v HHC & DHHL, Civil No. 09-00395
4. Petition of Certiorari to U.S. Supreme Court, Corboy v Louie

5. Proposed Resolution of Property Tax Liability
6. Defect of Title Claims
7. June Aina v Mark Development
8. Alternate Land Use for Pastoral and Agricultural Homestead Leases
9. Hiring Private Council for HHC and Trust
10. General Leasing Policy
11. Contested Case Hearings Using Video Conference Technology

**RECONVENE:** 2:55 P.M.

**MOTION/ACTION**

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to reconvene to regular meeting. Motion carried unanimously.

**ANNOUNCEMENTS**

KROC Center has extended an invitation to commission members to tour its facility located on Ku`alaka`i Parkway, Kapolei at 4 p.m. today. A community meeting is scheduled tonight at Kapolei High School Cafeteria beginning at 6:00 p.m.

**ADJOURNMENT:** 2:55 P.M.

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to adjourn the regular meeting.

**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING**                      April 23-24, 2012, Kalama`ula, Moloka`i

**ANNOUNCEMENTS**

**ADJOURNMENT**                      2:55 P.M.

Respectfully submitted:



---

Albert P. Nahale-a, Chairman  
Hawaiian Homes Commission

Prepared by:



---

Elaine Searle  
Secretary to the Commission

APPROVED BY:  
The Hawaiian Homes Commission  
At Its Regular Monthly Meeting Of  
April 23, 2012



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Albert "Alapaki" Nahale-a, Chairman  
Hawaiian Homes Commission

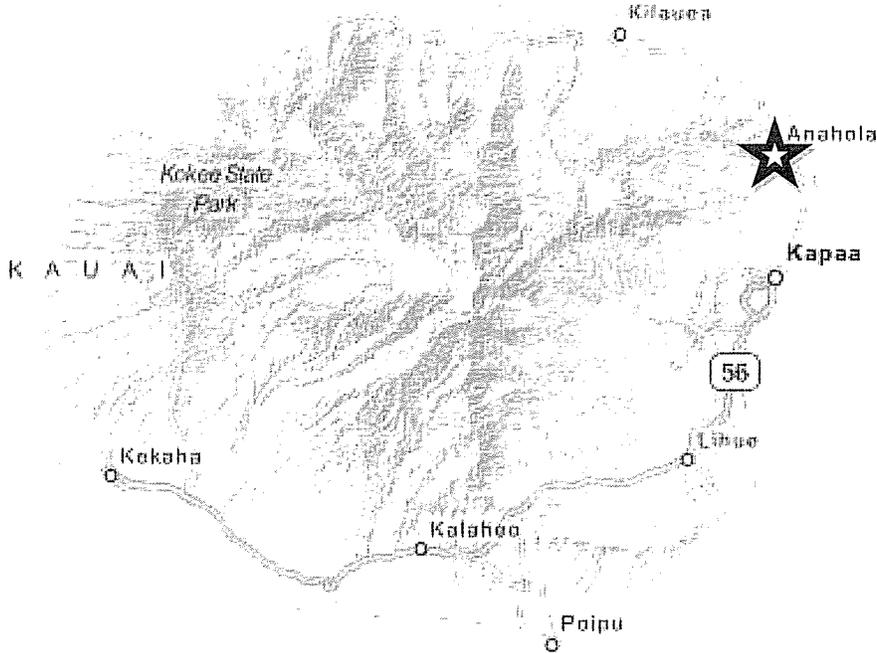
HAWAIIAN HOMES COMMISSION

**SIGN IN SHEET  
TESTIMONY**

Date & Time: 3/19/12  
 Re: HHC Agenda  
 Location: Hale Pono'i Bldg.

FULL NAME (PLEASE SIGN)	ADDRESS (STREET, CITY, ZIP)	E-MAIL	BUSINESS / MOBILE
1. Kahenani Keahi	Kalaheo	F-2	397-8625
2. Kamaki Karale	89-237 Kaula	Kamaki@weir.com	
3. KEAHI LUM	PAPAHOA	F-2	
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			

# Anahola Solar Project



## Anahola, Kauai, Hawaii February 2012



WKshp  
HHC Item No. A-2  
Exhibit A  
Date 3-19-12

## About the Anahola Solar Project

The Anahola Solar Project is an outstanding example of a collaboration between a local Native Hawaiian homestead community, a non-profit Utility Cooperative, and a Hawaiian Land Trust created by the U.S. Congress in 1920 similar to Indian reservations on the continent. The project is located in the state of Hawaii, on the island of Kauai. The project will reduce the cost of energy to all of the people of Kauai while meeting the purpose of the Hawaiian Home Land Trust.

### Project Profile

Project Location:	Anahola, Kauai, State of Hawaii Inside the Anahola Hawaiian Homestead Community Population of Anahola: 2,300 Population of Kauai: 67,091
Land Transaction:	Leased at Market Value from the Hawaiian Home Land Trust Administered by the State of Hawaii, Department of Hawaiian Home Lands
Number of Acres:	55 Acres, with a 2-acre substation with an estimated 5,000 Panels
Estimated Power Production:	12 MW of the 76 MW Kauai Island System Peak 5.0% of the Kauai Island Usage, 4,130 residences
Estimated Cost of Project Construction:	\$56 Million
Estimated Jobs During Construction:	75 to 100 Full Time Positions
Estimated Cost of Annual Operations:	\$250,000
Primary Developer:	Kaua'i Island Utility Cooperative Non-profit Cooperative Owned by Kauai Members
Mentee Developer:	Homestead Community Development Corporation Non-profit of Native Hawaiian Homestead Associations
Partner Organization on Project:	Anahola Hawaiian Homes Association Non-profit Homestead Association for Anahola Region
EPC Contractor:	REC Solar

### Capital Profile

Estimates on Source of Funds:

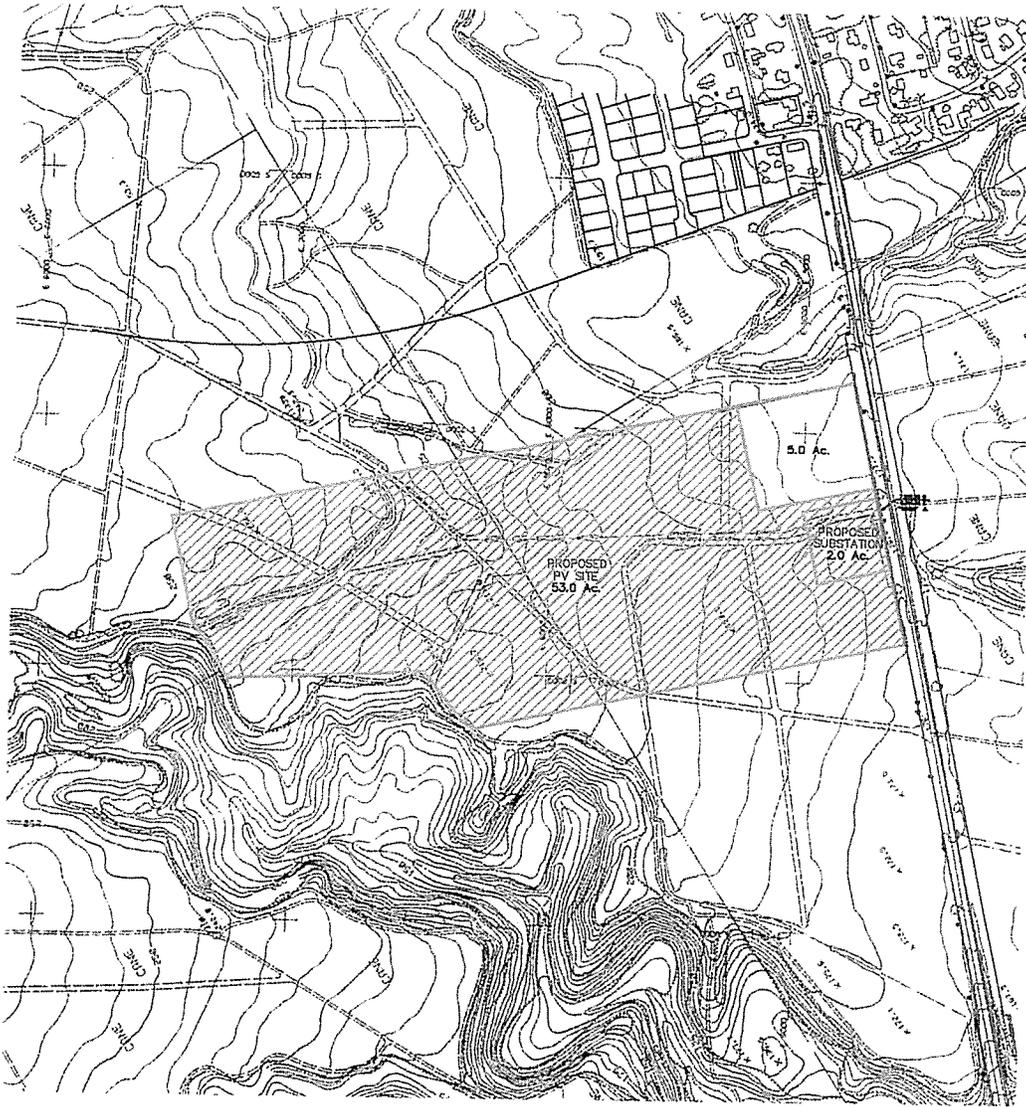
\$36,128,832	Term Loan: USDA, Rural Utility Service
\$11,527,517	Federal 1603 Energy Tax Incentive Grants
<u>\$ 8,400,000</u>	State of Hawaii Energy Tax Incentives
<b>\$56,056,349</b>	<b>Total Source of Funds</b>

### Government Agency Partners

State Agency Oversight:	State of Hawaii, Department of Hawaiian Home Lands Governor Abercrombie & DHHL Director Nahale-a
Federal Agency Oversight:	Department of Interior, Office of Native Hawaiian Relations Secretary Salazar & Director Kaloii

### Consultation & Community Benefit Agreements

Consultation is a key tenet of federal/state Native self-determination practices, particularly when Native trust land assets are involved. HCDC engaged in 60 days of active consultation with community residents and leaders. Local knowledge, expertise and priorities resulted in a local benefits agreement that includes full value on the land lease, local job and small business opportunities, energy production revenue sharing, high school renewable energy curriculum, employment internships and fellowships, establishment of a project advisory committee of homestead residents, cultural monitoring during construction, mandatory land ownership signage, annual convening of utility/homestead leadership and annual budgeting of community based programming.



# HCDC

Homestead • Community  
Development • Corporation

PO Box 646  
Anahola, Hawaii 96703  
Phone: 808.855.2108



## Kauai Island Utility Cooperative

Your Touchstone Energy® Cooperative 

4463 Pahe'e Street, Suite 1  
Lihue, Hawaii 96766-2000  
Phone: 808.246.4300

## Project Timeline to Date

06/2011	Discussions Begin with KIUC and Homestead Community Leaders
08/2011	Memorandum of Understanding Executed to Collaborate
09/2011	Appropriate Lands Identified in Anahola – Appraisal Completed
10/2011	Hawaiian Homes Commission Approves Project Approach by Homestead CDC
10/2011	Hawaii Public Utilities Commission Docket Opened
11/2011	Homestead Community Consultation Begins
11/2011	Interim Land License Negotiated & Finalized
12/2011	Solar Contractor Winning Bid Awarded
12/2011	Project Qualified for Federal \$1603 Energy Tax Incentive Grant Program
01/2012	Homestead Community Consultation Concluded
01/2012	Local Employment and Local Small Business Outreach Begins
01/2012	Environmental Assessment & Cultural Impact Assessment Contracts Awarded
02/2012	Homestead Benefits Agreement Finalized
02/2012	Project Progress Continues.....

## About KIUC

The Kaua'i Island Utility Cooperative (KIUC) is a Hawaii consumer cooperative association and the sole generation, transmission and distribution electric load serving entity on Kauai. It was created to acquire the former Kauai Electric to return ownership and control of the electric utility on Kauai to the consumers it serves. KIUC is led by a nine-member elected board of directors, with more than 36,000 members across the county of Kauai.

KIUC, as the lead developer and financier on the Anahola Solar Project, has partnered with the Anahola Native Hawaiian community through the Homestead Community Development Corporation (HCDC) to locate the project on Hawaiian Homes Trust Lands in Northeast Kauai.

## About Hawaiian Home Lands

Native Hawaiians are the indigenous peoples of the Hawaiian Islands, having settled the island chain more than 2,000 years ago. In 1920, the United States Congress enacted the Hawaiian Homes Commission Act at the urging of Prince Jonah Kuhio Kalaniana'ole, a member of the Hawaiian royal family, and a congressional delegate representing the territory of Hawaii, to assure a land trust for the aboriginal peoples of the Hawaiian Islands. In 1959, the U.S. Congress enacted the Hawaii Statehood Act requiring the new State to administer the land trust, also referred to as "homesteads", with federal oversight. The State of Hawaii Department of Hawaiian Home Lands manages 203,000 acres of Hawaiian Home Lands to benefit Native Hawaiians in residential, agricultural and pastoral homesteading, as well as commerce activities.

More than 30 homestead areas statewide are organized through homestead associations with leadership positions established and elected by the membership. The Anahola Solar Project is located in the Anahola homestead on Kauai, and engages the Anahola Hawaiian Homes Association (AHHA) and its nonprofit, HCDC.



# HCDC

Homestead • Community  
Development • Corporation

1050 Queen Street, Suite 200 Honolulu, Hawai'i 96814 • 808.596.8155

## Final Homestead Benefits Agreement Overview Anahola Solar Project

March 3, 2012

### About HCDC

The Homestead Community Development Corporation (HCDC) was formed in 2009 as a tax exempt 501c3 CDC to serve one or more homestead associations with democratically elected leaders. Many homestead associations have formed CDCs to develop projects in their homestead areas. HCDC was formed to serve this purpose for multiple homestead associations to increase the efficiency and capacity of small or rural homestead associations. HCDC has been evaluated by DHHL and issued a stage four capacity level under its Kulia Ika Nuu program, one of the highest ratings provided.

HCDC may not be an approach for every homestead association, but for those that can benefit by consolidating and working together, HCDC can be an effective solution to developing projects, sharing best practices and creating organizational sustainability. To date, the following homestead associations have designated HCDC as their nonprofit development arm:

- Anahola Hawaiian Homes Association
- Association of Hawaiians for Homestead Lands
- Kaupe`a Homestead Association
- Waimea Hawaiian Homestead Association

### About Homestead Benefits Agreements

HCDC has adopted the CNHA Policy Center priority to create a new paradigm at the Hawaiian Home Land Trust by moving from past practices by DHHL in primarily leasing lands only for lease rents, and instead to a practice of achieving market value lease rents plus additional benefits to the trust and to its beneficiary homestead communities. As such, HCDC developed a Homestead Benefits Agreement that we hope will be used by DHHL as a required addendum to any non-homesteading land instrument.

### Solar Project Land Use Homestead Benefits Agreement

On behalf of the Anahola Hawaiian Homes Association (AHHA), HCDC worked directly with DHHL and the Kauai Island Utility Cooperative (KIUC) to develop a homestead benefits agreement on a 12MW solar project located on 53 acres of Hawaiian Home Lands in rural Anahola, Kauai.

The following are 15 components in the HBA finalized on the 53-acre parcel of Hawaiian Home Lands approved by the Hawaiian Homes Commission for non-homesteading use:

1. **Consultation.** Require consultation locally and statewide to base the content of the final HBA on the manao of HHCA beneficiaries.

*Result.* 60 days of consultation activities were completed on the project consisting of 6 consultation sessions in the Anahola homestead and through open comment forms throughout the period and distributed to the statewide homestead leadership network.

2. **Beneficiary Inclusion on the Land Transaction.** Require HCDC to be a party to the land instrument, and not solely to a non-beneficiary entity.

HHC Item No. A-2  
Exhibit B  
Date 3-19-12

*Result.* HCDC is a party to the interim land license, and is the sole lessee on the general lease upon approval of an environmental assessment. As such, this land transaction complies with the HHCA section promoting commerce activities by beneficiary controlled organizations.

- 3. Market Value on Lease Rents.** Require project to remit market value lease rents of the Anahola lands, AND that the amount must be substantiated by a third party professional appraisal.

*Result.* An appraisal was purchased by the HCDC/KIUC development team, and the lease rent is based entirely on the appraised value, including a 6% step up throughout the 25-year term.

- 4. Revenue Sharing on Project Improvements.** Require the project to dedicate a portion of its gross revenue, not net revenue to benefit the trust and/or its beneficiary homestead community.

*Result.* 1% of the value of the energy generated annually for the life of the project will be directed to the beneficiary community. The energy shall be valued at \$200 per MWh.

- 5. Cultural & Other Subject Matter Experts.** Require the project contractors to collaborate with local practitioners and subject matter experts with specific knowledge of Hawaiian culture, stewardship practices and trust policies.

*Result.* Requirement included in HBA, resulting in among other things, a locally owned beneficiary consulting group contracted to complete the Cultural Impact Assessment and other Professional Services.

- 6. Predevelopment Cost Reimbursement.** Require costs of beneficiary homestead association to engage, discuss, inform and contemplate project to be reimbursed by KIUC.

*Result.* Total budget of \$55,000 dedicated toward homestead cost reimbursements.

- 7. Development Fee Sharing.** Require a fee payment to benefit the homestead community once project is constructed and commercially operating.

*Result.* \$150,000 included in HBA to be paid to benefit homestead community upon commercial operation date.

- 8. Project Signage.** Require 53-acre site to have adequate signage making clear that the project is built on Hawaiian Home Lands.

*Result.* HBA includes a requirement for KIUC to contract the installation of signage on the project site.

- 9. Employment and Business Contracting Opportunities.** To require specific efforts for local hire and use of local businesses, including homesteaders and their businesses.

*Result.* HBA includes requirements to hold job fairs, maintain a jobs registry, contractor briefings, and to actively conduct referrals of local residents and businesses.

- 10. Operations & Maintenance Contracts.** To require specific efforts to qualify and engage local residents including homesteaders and their businesses to perform long term O & M activities such as landscaping, security, solar panel cleaning, etc.

*Result.* HBA includes requirement and an active outreach program.

- 11. Internships, Fellowships & Employment Training.** To require KIUC to offer programming that may lead to employment opportunities within KIUC regardless of relation to the solar project itself (ie, accounting, lineman, etc)

*Result.* HBA includes the requirement, wherein KIUC will fully fund the salaries to engage interns, fellows or apprentices at KIUC over the project life.

**12. Project Advisory Committee & Leadership Engagement.** To require the establishment of a homestead advisory committee for the project, and to require engagement between homestead leaders and KIUC at least annually.

*Result.* The requirement is in the HBA, and includes an annual budget of up to \$45,000 for the advisory committee to direct and spend on sponsorships, special project programs, briefings on Hawaiian issues, and other priorities determined by the committee.

**13. High School Class Lectures.** To require solar project managers to conduct classes and lectures on renewable energy and renewable energy financing at the local Native Hawaiian charter school.

*Result.* Requirement included in the HBA, and coordinated with Kanu Ika Pono Charter School in Anahola.

**14. Renewable Energy Mentorship.** To require KIUC to share and teach homestead leaders about the construction, financing and operation of a solar project to enhance capacity and invest in the knowledge and participation on future projects.

*Result.* Requirement included in the HBA, with full briefings and participation in financial proforma development, sharing of financial data, contractor planning meetings, and every other aspect of the project.

**15. Decommission & Reclamation.** To require KIUC to set aside funding and include contractual requirements to decommission the project to return the lands to former agricultural use.

*Result.* Requirement included in the HBA, including the decommissioning being conducted with the oversight of the project advisory committee.

**Homestead Benefits Agreement Value**

There are components of the HBA that have exact or projected values, and ones that have an economic impact value or are more difficult to value based on dollars. This section of the summary document compiles the values that are specific amounts and/or can be projected.

<u>HBA Component for 25 Year Land Instrument</u>	<u>Annual Avg</u>	<u>Total Project</u>
HBA Item #3 – Land Value at Market Value	\$128,358	\$3,208,965
<b>Total Land Value Revenues</b>	<b><u>\$128,358</u></b>	<b><u>\$3,208,965</u></b>
<i>\$2422 per acre/per year at 53 Acres</i>		
HBA Item #4 – Energy Revenue Sharing to Homestead	\$52,920	\$1,323,000
HBA Item #6 – Pre Development Activities to Homestead	\$2,200	\$55,000
HBA Item #7 – COD Fee to Homestead	\$6,000	\$150,000
HBA Item #12 – Advisory Committee Budget to Homestead	\$45,000	\$1,125,000
<b>Total HBA Benefits to the Homestead</b>	<b><u>\$106,120</u></b>	<b><u>\$2,653,000</u></b>
<i>\$2002 per acre/per year at 53 Acres</i>		
<b>Total Land + HBA</b>	<b>\$234,478</b>	<b>\$5,861,965</b>
<i>\$4424 per acre/per year at 53 Acres</i>		

## Homestead Benefits Agreement Summary

HCDC, along with the local homestead association and KIUC dedicated several hundred hours on the project approach, consultation sessions, negotiations and the review and drafting of various documents. In addition, KIUC, as a Kauai based nonprofit cooperative, unlike most profit making entities, shares many of the values of the homestead organizations in serving a community purpose. As a result, this HBA represents a first-of-its-kind partnership between a homestead community and a local utility to build the largest solar project in the state, on Hawaiian Home Lands. Truly a new paradigm and experience where homestead residents are actively involved in the development of trust lands in their community.

For the majority of the last 50 years of administration by the state DHHL, lands issued from the pool of trust lands for non-homesteading purposes, has been done primarily on lease value of the land. On this project, the 53 acres would yield **\$3.2 million** under this approach, which is consistent with hundreds of land instruments approved by the Hawaiian Homes Commission over the last 50 years. With the new priority of implementing an HBA on every non-homesteading land instrument, and customizing the HBA to the project, an additional **\$2.6 million** has been achieved on the same 53 acres for a total of **\$5.8 million**.

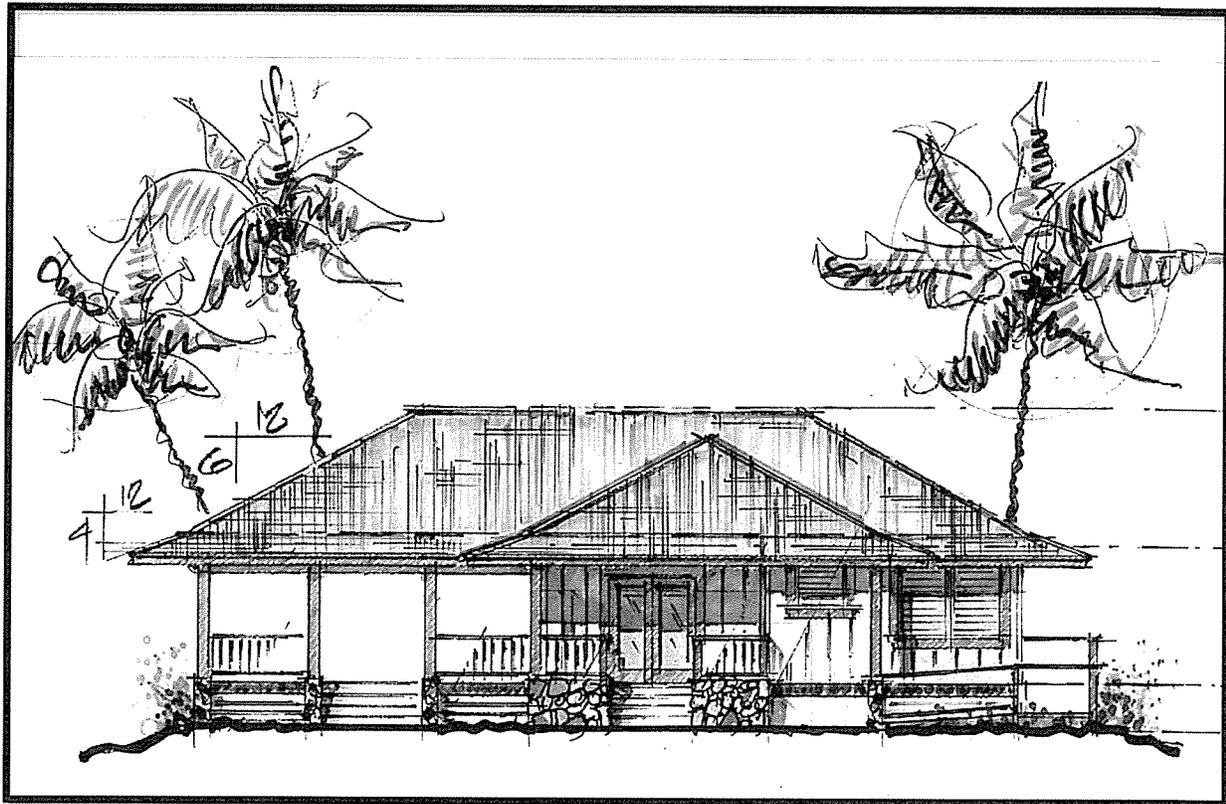
Moreover, the non-revenue and/or economic impact components of the HBA are incredible standards, including signage, school lectures, employment internships, contracting opportunities, and cultural activism in the implementation of the project, together worth additional millions of dollars indirectly.

We mahalo the Hawaiian Homes Commission, the Department of Hawaiian Home Lands, the leadership of the Anahola homestead, other homestead leaders around the state and KIUC, all of which contributed to the HBA, as well as the Anahola Solar Project.



Final Environmental Assessment  
Kekaha Community Enterprise Center  
Kekaha, Kaua`i, Hawai`i  
TMK # (4) 1-2-017:051

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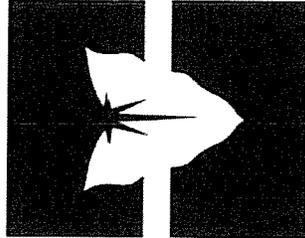
*Prepared for  
State of Hawai`i  
Department of Hawaiian Home Lands*

March 2012

HHC Item No. F-1  
Exhibit A  
Date 3-19-12

**Final Environmental Assessment (FEA) Kekaha Community Enterprise Center  
Kekaha, Hawai'i**

**Applicant**



State of Hawai'i Department of Hawaiian Home Lands  
Hale Kalaniana'ole PO Box 1875  
Kapolei, Hawai'i 96707  
Mr. Kaipo Duncan, Land Agent

**Proponent**



Kaua'i Community College and the  
Council for Native Hawaiian Advancement  
1050 Queen Street, Suite 200  
Honolulu, Hawai'i 96814  
Lilia Kapuniai, Vice-President

**Prepared by**



**NORTH SHORE CONSULTANTS, LLC**  
PO Box 790  
Haleiwa, HI 96712  
David M. Robichaux, Principal

## **PROJECT SUMMARY**

PROJECT NAME: Kekaha Community Enterprise Center

APPLICANT/LESSOR: Council for Native Hawaiian Advancement  
1050 Queen Street, Suite 200  
Honolulu, Hawai`i 96814

PROJECT LOCATION: Kekaha, Hawai`i 96752, Waimea District

TAX MAP KEY: (4) 1-2-017: 051

PROPERTY OWNERSHIP: State of Hawai`i Department of Hawaiian Home Lands

HUD GRANTEE: Kaua`i Community College/ Council for Native Hawaiian Advancement

LOT AREA: 2.629 acres (117,539 s.f.)

EXISTING USE: Vacant.

PROPOSED USE: Community Center.

STATE LAND USE: Urban

COUNTY ZONING: Agriculture District (A), Residential (R-6)

SPECIAL DISTRICT: Special Management District

ACTION REQUESTED: Use of State Lands

APPROVING AGENCY: Department of Hawaiian Home Lands

ANTICIPATED DETERMINATION: Finding of No Significant Impact (FONSI)

PERMITS REQUIRED IWS and NPDES Form C

AGENCIES CONSULTED: Department of Hawaiian Home Lands  
US Fish and Wildlife Service  
Kaua`i Planning Department  
Hawai`i Department of Health EPO

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2. Subdivision Map
3. Conceptual elevation drawing
4. Conceptual Site Plan Drawing
5. Conceptual Floor Plan Drawing
6. Project Schedule
7. Map of Culturally Sensitive Area

**Appendices**

- a. Comments received during preparation of the Draft Environmental Assessment
- b. Archaeological Report
- c. Meeting notes and Attendees Public hearing on November 29, 2011, Comments/responses received following publication of the DEA

## Final Environmental Assessment (FEA) Kekaha Community Enterprise Center Kekaha, Hawai'i

### 1.0 Project Description

The following section describes various aspects of the proposed development associated with the Kekaha Community Enterprise Center to be located on Lot 51 of the Kekaha Residence Lots. The land and infrastructure is owned by the State of Hawai'i Department of Hawaiian Home Lands, (DHHL). The property is located near Kekaha, County of Kaua'i, State of Hawai'i, USA.

### 1.1 Project Location

The project is located on the west end of the community of Kekaha on the southwest side of the Island of Kaua'i (Figure 1). It lies within The Kekaha Residence lots; a new residential area which is owned by DHHL and developed in 2005. The site is identified as Tax Map Key: (4) 1-2-017: 051. At this time there is no street address. The parcel covers 2.62 acres and is on the southwest corner of the subdivision (Figure 2). The southwest portion of neighborhood is dedicated to other public uses including a school and Kekaha Gardens Park. This lot was originally designated for use as a detention basin, which was subsequently determined to be not necessary. It is bounded on the north by Ulili Street, on the South and west by vacant undeveloped land, and on the east by residential lots. A large drainage structure surrounds the property on the east, south, and west.

### 1.2 Proposed Action

The Kekaha Community Enterprise Center (KCEC) will be funded by a grant from the U.S. Department of Housing and Urban Development (HUD), through the Alaska Native/Native Hawaiian Institutions Assisting Communities Grant Program. The grant was awarded to the Kaua'i Community College with the Council for Native Hawaiian Advancement as the sub-recipient managing the project. Upon completion the KCEC will serve the Kekaha Hawaiian Homestead beneficiaries, the Kekaha Hawaiian Homestead Association, and community members of Western Kaua'i.

The Center will be a 2600 square foot (sf) single level building designed in a style consistent with other single family homes in the neighborhood (Figure 3). Internal spaces include:

An entrance area	336 sf
A covered lanai	768 sf
An open Learning Center Room	648 sf
A lunch/Conference Room	294 sf
An Office	120 sf
Storage	120 sf

The total covered lanai space will be approximately 1200 sf and the total interior spaces will be approximately 1368 sf. There will be a single bathroom with no shower or bathtub facilities. The building will have an uneven L-shape with a hip roof (Figure 4).

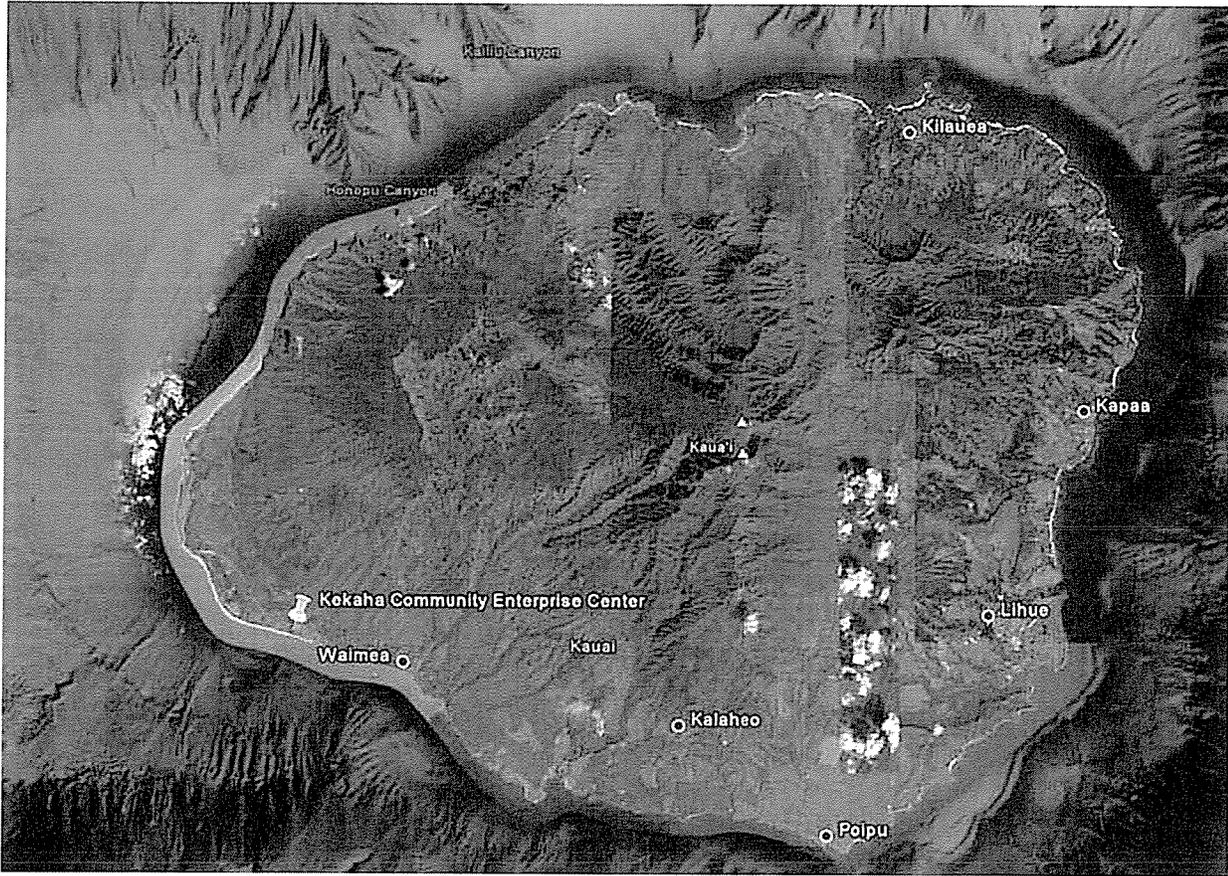
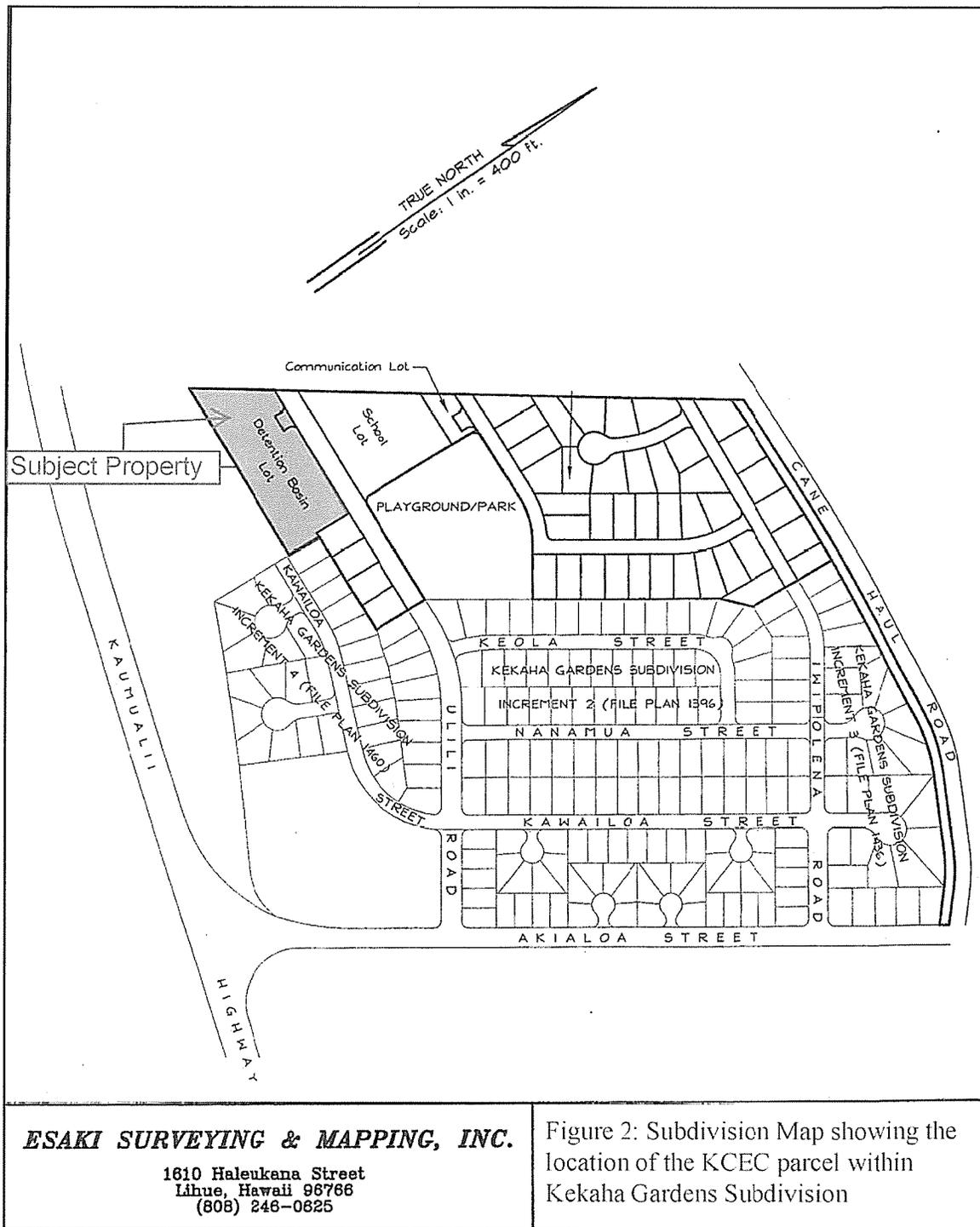


Figure 1: The approximate location of the Kekaha Community Enterprise Center, Kekaha, Kaua'i, Hawai'i



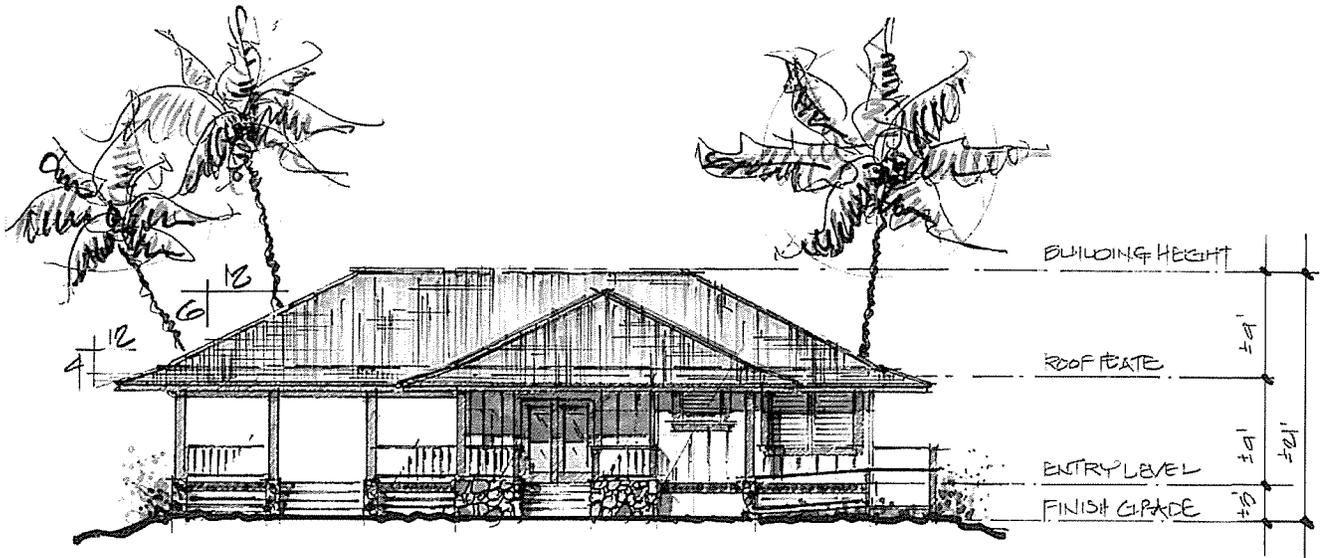


Figure 3: Conceptual elevation of the proposed building

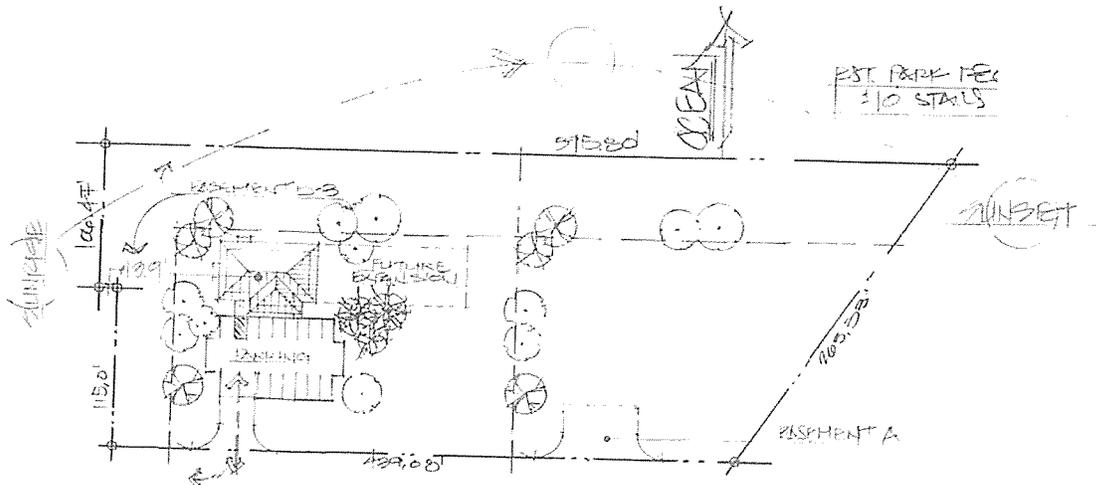


Figure 4: Conceptual site layout

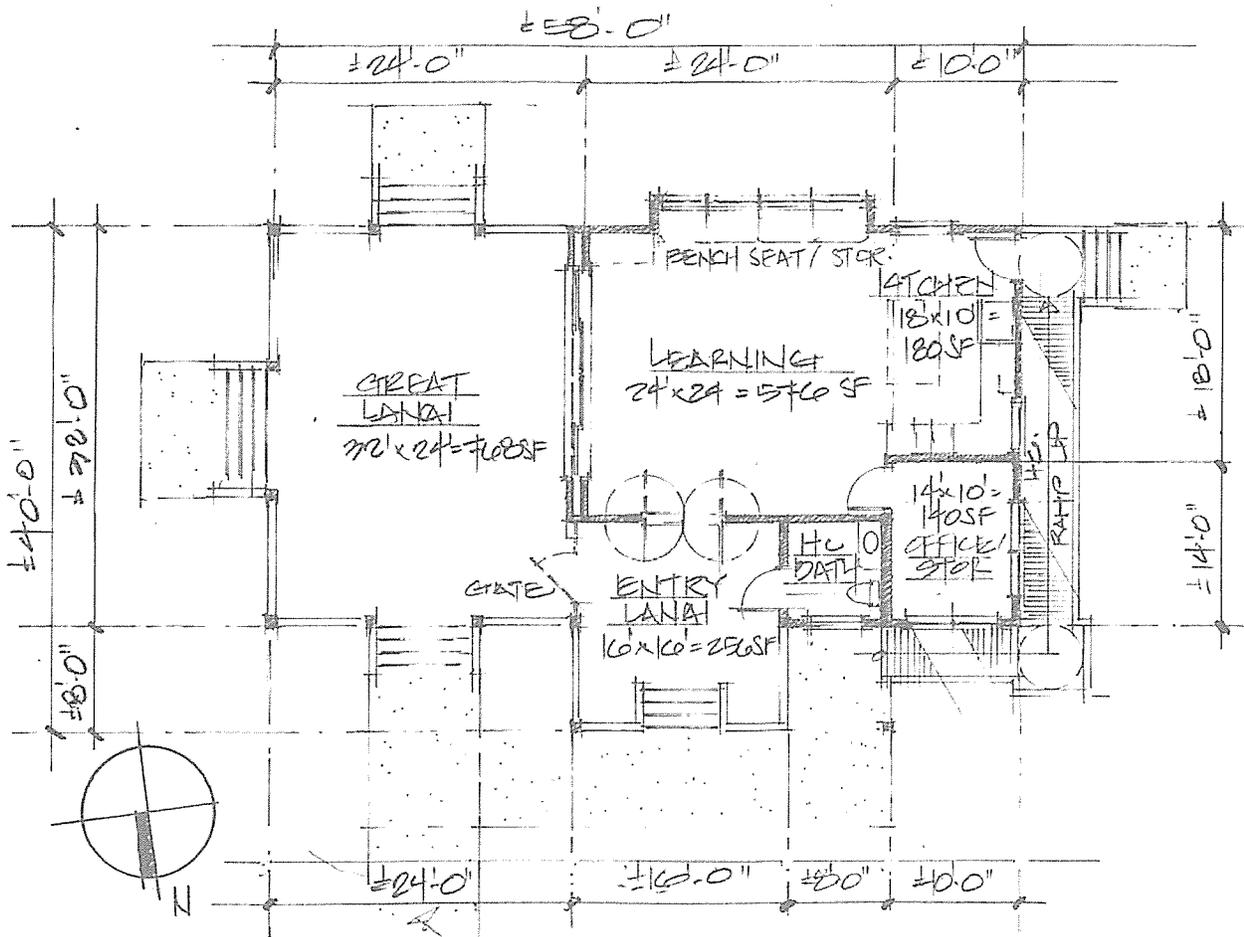


Figure 5: Floor plan of the proposed building.

The Kekaha Community Enterprise Center will be built and operated by Council for Native Hawaiian Advancement. Typical activities onsite include office activities, group meeting and training events and other general community meeting facility uses. The hours of operation for the facility are from 8:30 am to 5:30 pm Monday through Friday.

### 1.3 Project Objectives

The goal of the proposed project is to construct the KCEC on Lot 51 to offer basic skills and capacity building sessions to West Kaua'i Hawaiian Homestead residents. It will serve as a community resource by providing offices and meeting rooms to support community activities and learning.

The objective of the proposed action is to assist Native Hawaiian institutions to expand their role and effectiveness in addressing community development needs. The approach will be to assist Native community-based development organizations in

- neighborhood revitalization,
- economic development,
- energy conservation,
- employment,
- crime prevention,
- child care,
- transportation,
- health care,
- drug abuse, and
- education.

The facility will be used for organization and locating counseling and training programs, small business assistance, community events and family services.

Examples of these services include training in

- financial literacy counseling,
- foreclosure prevention workshops,
- substance abuse counseling, and
- support for microenterprises.

#### **1.4 Project Schedule**

Planning for the proposed KCEC has been ongoing since 2007. Funds were secured near the end of 2009 and community interfacing was begun during that period. In October 2011 the final steps for planning, permitting and design were initiated. This Environmental Assessment and required building and grading permits will be completed by April, 2012. Construction will begin shortly thereafter and be completed by the end of August. Initial operations are expected to begin in September 2012. A proposed schedule is included in Figure 6.

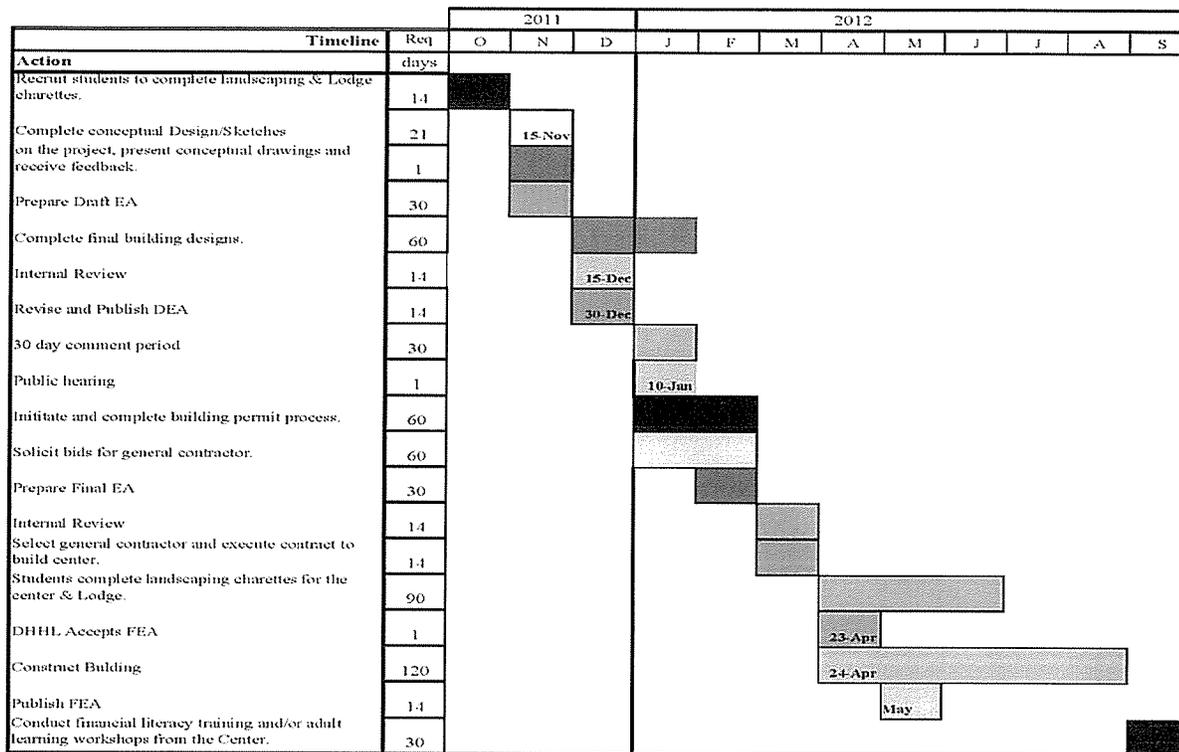


Figure 6: Proposed project schedule

### 1.5 Permits and Approvals

Because the development is located on DHHL land, County of Kaua'i permits and approvals are not required. It has been the policy of DHHL to comply with these permits; however, it is likely that this compliance will be done with informal consultations and that no formal permit applications will be submitted. State and other permits that may be required are listed below:

Permit or Approval	Approving Agencies
Environmental Assessment	Department of Hawaiian Home Lands
Individual Wastewater (Septic)	Department of Health
NPDES Stormwater Form C	Department of Health

### 1.6 Need for an Environmental Assessment

The Kaua'i Community College has requested a grant from the U.S. Department of Housing and Urban Development (HUD) for the development of a community enterprise center in Kekaha, Kaua'i. These funds were provided by HUD and are administered by the Kaua'i Community College along with sub-grantee The Council for Native Hawaiian Advancement. Any project utilizing federal funding is subject to the National Environmental Policy Act (NEPA). The objective of NEPA is to inform the public and other agencies on the actions and initiatives of the federal government. NEPA requirements

for the proposed KCEC were satisfied previously by the Federal HUD Environmental review process. The federal environmental review forms and acceptance letter are included here in Appendix C.

The State of Hawai`i has similar requirements which are defined in Hawai`i Administrative Rules (HAR) Chapter 11-200, and Hawai`i Revised Statutes (HRS) Chapter 343, called HEPA. HEPA encourages cooperation between federal and state agencies in the environmental review process; however, since the federal review was completed in advance of the State's, it was determined that separate environmental review documents should be prepared.

This Environmental Assessment is prepared in conformance with the requirements of HAR Chapter 11-200, which contains 9 distinct triggers. Should any of the triggers be applied to the proposed action an Environmental Assessment (EA) or Environmental Impact Statement (EIS) will be required. Triggers are defined in the regulation as follows:

1. Use of public lands or funding...
2. Use of land in the State Conservation District...
3. Use within the Shoreline setback...
4. Use of any historic site of district...
5. Use within the Waikiki District...
6. Requires amendment to the General Plan...
7. Reclassification of Conservation district Lands...
8. Proposed helicopter facilities
9. Propose any:
  - (a) Wastewater facilities
  - (b) Waste-to Energy Facility
  - (c) Landfill.
  - (d) Oil refinery, or
  - (e) Power generating facility.

The proposed action will utilize public funding from the HUD and public land belonging to DHHL. As stated, the federal requirement has been previously satisfied. This EA is prepared to satisfy the requirements of the Hawaii Environmental Protection Act (HEPA) contained in HAR 11-200 and HRS 343. This document is prepared in response to Trigger Number 1 because it will utilize public land.

## 2.0. Environmental Setting, Anticipated Impacts, and Mitigation Measures

### 2.1 Existing Land Use

The subject property is in an agricultural area that has experienced minor residential development over the past 10 – 20 years. Adjacent uses include single-family residences to the north and east and fallow agricultural lands to the south and west. Kaumuali'i Highway is approximately 500 feet to the south at its closest point. The subject property is accessed by Ulili Road. A District Park is located to the northeast across Ulili Road.

The project site is located on the western end of Kekaha. The general area was in cultivation of sugarcane until the late 1990s, but it is unlikely the cane field extended over the subject property. The Kekaha Gardens subdivision was originally constructed starting in the early 1970's and is still being developed. The property has not contained structures during recent history. It was covered with Kiawe and other brush and trees until it was cleared in late 2005. Since 2005 there has been no additional activity on the property with exception of periodic removal of abandoned vehicles, clearing and mowing.

The subject property is in the State Urban District, and the County zoning is Residential (R-6). It is located within the Special Management Area (SMA).

The proposed project will be located within a residential subdivision. Its use will be as a meeting place and resource to serve the community. The DHHL is exempt from County Zoning restrictions; however, the Department generally stays within the guidelines specified by County regulations. A community Center is an allowable land use within the residential zone. The Special Management Area requirements involve prevention of environmental degradation including management of stormwater and hazardous materials. Compliance with these requirements will be made part of the operations plan for the facility.

### *Impact and Mitigation*

The area of Kekaha Gardens is dedicated to community uses. The proposed KCEC is compatible with the park. Because the KCEC is intended to primarily serve the Kekaha Gardens DHHL beneficiaries, the normal noise and traffic generated by the facility is expected to be minimal. With exception of special events the Facility will be operated during business hours and primarily serve the immediate residents of the Kekaha Gardens subdivision. The proposed addition will not significantly alter the appearance, population, or usage of the surrounding areas.

### 2.2 Socioeconomic Characteristics

As of the 2000 census, there were 3,175 people, 1,073 households, and 799 families residing in the Census Designated Place (CDP) of Kekaha. The population density was 3,178.2 people per square mile. There were 1,162 housing units at an average density of 1,163.2 per square mile. The racial makeup of the CDP was 15.9% White, 0.2% African American, 0.5% Native American, 43.6% Asian, 12.4% Pacific Islander, 1.0% from other races, and 26.4% from two or more races.

There were 1,073 households out of which 30.4% had children under the age of 18 living with them, 55.9% were married couples living together, 13.1% had a female householder with no husband present, and 25.5% were non-families. 21.4% of all households were made up of individuals and 9.4% had someone living alone who was 65 years of age or older. The average household size was 2.96 and the average family size was 3.44.

In the CDP the population was spread out with 25.1% under the age of 18, 7.5% from 18 to 24, 24.4% from 25 to 44, 27.4% from 45 to 64, and 15.6% who were 65 years of age or older. The median age was 40 years. For every 100 females there were 98.1 males. For every 100 females age 18 and over, there were 96.2 males.

The median income for a household in the CDP was \$41,103, and the median income for a family was \$48,629. Males had a median income of \$32,969 versus \$26,739 for females. The per capita income for the CDP was \$17,117. About 10.9% of families and 11.2% of the population were below the poverty line, including 11.8% of those under age 18 and 11.1% of those ages 65 or over (Wikipedia, 11/2011). The DHHL community immediately surrounding the proposed facility is expected to have socio-economic characteristics that are different from the larger community of Kekaha.

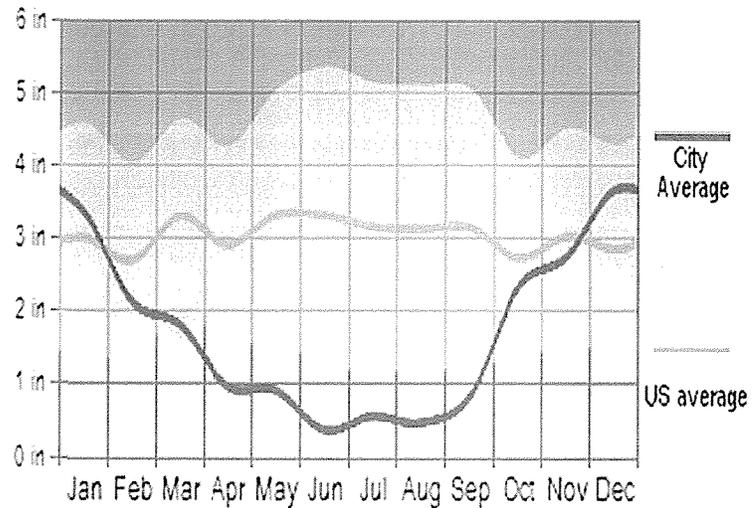
Data that is more applicable to Native Hawaiian living on the Island of Kauai is available from a survey done for DHHL in 2008 (DHHL, 2008). Of the respondents almost all (96%) were applicants waiting on a homestead. About half had income exceeding 80% of the median family income and half were below the 80% income level. 35% of respondents owned a home, nearly 40 % rented, and another 25% shared accommodations or had other no cost living arrangements. Of the applicants responding 43% had never been offered a homestead award, and 55% have been offered and turned down an award at least once.

The provision of training and community management services and training are important functions within the community to cope with substance abuse and provide skill sets designed to improve income potential among the residents. The project will also provide economic benefits that include the creation of construction employment, the addition of four additional staff positions, generation of operational income, additional tax revenue, and secondary spending. The proposed action will have positive social and economic impacts. The project is consistent with the plans and policies for directed growth in the Kekaha area and is a positive contribution to the ultimate development of the region.

### 2.3 Weather and Climate

Kekaha typically has a warm and dry climate. Prevailing tradewinds arrive from the northeast. According to the National Weather Service Honolulu Office, over a period of 30 years, normal monthly high temperatures range from 80 degrees in January to a high of 89 degrees in August for an average of 84 degrees. Normal month low temperatures range from a low of 65 degrees in February and a high of 74 degrees in August for a monthly average of 70 degrees. Precipitation typically ranges from 0.44 inches in August to a high of 3.8 inches in December.

### Precipitation



### 2.4 Topography, geology and soils

The project site is relatively flat and has been graded and partially cleared. The project site and surrounding areas are relatively flat and devoid of any significant natural features. The site is naturally drained and storm water is retained onsite.

The project site is located on soils classified Jaucus loamy fine sand, 0 to 8% slopes according to the *Soil Survey of Islands of Kaua`i, Oahu, Maui, Molokai, and Lanai, State of Hawai`i* by the U.S. Department of Agriculture Soil Conservation Service. This series occurs on old beaches and on windblown sand deposits in the western and southern parts of Kaua`i. It has a profile like that of Jaucus sand with a different texture on the surface layer. These soils are used for pasture, sugarcane, truck crops, recreational areas, wildlife habitat and urban development.

There is no known evidence of hazardous materials, solid wastes or industrial land use that may suggest on-site contamination. The site may have been in sugar cane cultivation in years past.

#### Impact and Mitigation

The project will require surface grading to prepare for the proposed construction. Impacts related to grading and construction are discussed in Section 2.5. Best Management Practices will be in place during the grading work, in accordance with the rules relating to soil erosion, or standards and guidelines imposed by the County.



Buffelgrass (*Chenchrus ciliaris*), Sandbur (*Chenchrus echinatus*), and Guinea grass (*Panicum maximum*). Trees and brush include Koa Haole (*Leucaena glauca*), Kiawe (*Prosopis pallida*), and Ironwood (*Casurina sp.*). A brief survey of the subject property by North Shore Consultants and others did not reveal threatened or endangered plants. A few instances of native plants including a`ali`i (*Dodnea viscosa*), and ilima (*sida fallax*) are found in the area, both occur commonly.

A botanical survey completed in 1993 for the subdivision concluded:

Rare native plants are very vulnerable to soil disturbance, invasive seeds and human activity, all of which have been present for many decades at the site. It is highly unlikely that any additional survey work will uncover any rare and endangered Hawaiian plant species (Flynn and Chapin, 1993).

Animal life common to the area is subject to similar pressures as are plants in the area. Threatened and endangered species fare poorly when exposed to repeated grading, invasive animals, and human activity. No Threatened or endangered species are known to inhabit or nest on the subject property. Seabirds including Newell's shearwater (*Puffinus auricularis newelli*), and the Dark rumped petrel (*Pterodroma phaeopygia sandwichensis*) are likely passers-by. The endangered Hawaiian Duck (*Anas wyvilliana*), Nene (*Branta sandvicensis*) Hawaiian Hawk (*Buteo solitaries*) may also be seen on occasions in the vicinity of the subject property.

### *Impacts and Mitigation*

The proposed action will add to the amount of human presence in the area; however, the addition of a community center in the vicinity of a park, and residential areas will not create significant additional impacts on threatened and endangered plants or animals in the vicinity. No mitigation is required to support biological resources.

## **2.7. Archaeological, Cultural and Historic Resources**

The subject property was studied as part of a larger 89 acre Archeological study completed in 1993 for the overall development (Cultural Surveys Hawai`i, Hammatt et al. 1993). During that study, in addition to a comprehensive surface survey, 100 subsurface test trenches were excavated. Figure 7 shows the location in relation to the subject property. The study recorded no archeological artifacts or *iwi* within the area of the current study parcel. The following is a summary of the findings of the 1993 Cultural Surveys Hawai`i study:

Hammatt et al. (1993) identified two distinct geomorphologies within their overall study area, a Pleistocene aged lithified dune area (comprising most of the 89 acre project area), and a previously sand-mined more recent (Holocene) coastal dune area. The current study parcel falls in the previously mined area at the interface of the older and younger deposits. No archaeological deposits or features were found in the lithified dune area. Subsurface archaeological resources including two burials were discovered in the previously sand-mined, coastal dune area. These resources were found to exist to the south and west of the current study parcel (see Figure 7). In that area, burials were encountered in Trench 7 and Trench 18. A widespread but discontinuous cultural deposit was recorded extending along the coast and terminating *makai* of the subject property. Four test trenches were excavated on the subject property, Trenches 3, 4, 83 and 100.

All trenches within or immediately adjacent to the subject property documented negative results with respect to archaeological resources. Profiles of these trenches are included in Appendix A along with an Archeological survey conducted by Rechtman Consulting, Inc.

Dr. Robert B. Rechtman, Ph.D. conducted a 100% surface reconnaissance of the subject parcel to assess the probability of archaeological resources were present at the site. It was evident that the entire 2.6 acre lot had been subject to surface grubbing and grading in the past as well as subsurface disturbance along its margins where the drainage channels were constructed. The channel along the eastern parcel boundary is concrete lined, while the channel along the southern boundary is partially concrete and partially filled with large boulders, and the channel along the western boundary is an earthen swale. Dr. Rechtman concluded that it was unlikely that the study parcel contained archaeological resources. Several areas nearby the proposed site have cultural significance. These include a 12-acre site adjacent to the highway and beach and 1-acre near the existing homestead area are designated Special Districts due to the presence of cultural artifacts and *iwi* (Figure 7).

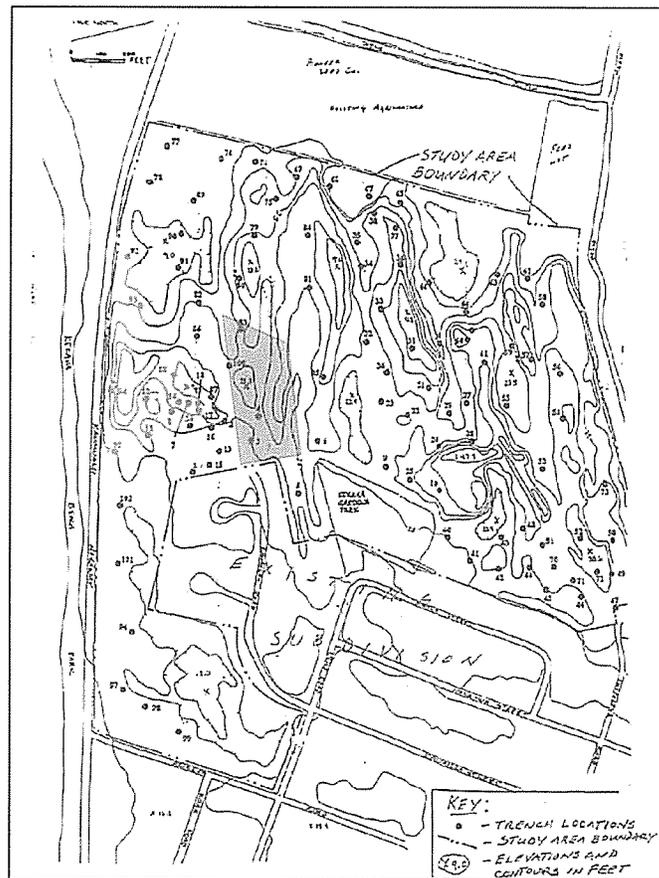


Figure 7: Showing the subject property in gray along with the area having known or suspected cultural deposits shaded in pink. Dots with numbers are test pits or trenches dug during the 1993 study. From Hammett et al, 1993

Other known historic sites located within 2 miles of the subject property include two heiau that are listed on the Hawai'i Register of Historic Places (sites number 30-05-12 and 30-05-16).

A letter from the State Historic Preservation Division of DLNR was obtained for the benefit of the whole subdivision development in 2003. It states that there are no historic sites in the development area because urbanization and residential development have altered the land, and that no historic properties will be affected by the proposed development of the Kekaha Gardens subdivision.

The project area had been in sugar cultivation for over 200 years. The heavy disturbance and active use of the land during the sugar cultivation years may have precluded use by native Hawaiian cultural practitioners during plantation years. The 2003 EA prepared for the development of the entire subdivision requested opinions from local *Kupuna* on the existence of unique cultural resources of the area. None was documented during that assessment. Native use of the site and by reference cultural practices probably occurred on the site during pre-history; however, no evidence of such practices has been discovered during this or previous assessments.

Some stories were related by residents that the Sugar Company used the land for a dump site in recent history.

### *Impact and Mitigation*

The known and suspected burials will be protected within special districts from future housing and incompatible uses. The proposed uses within the special districts include a pavilion area, picnic tables, campsites, and restroom facilities. The area would benefit DHHL beneficiaries island-wide who would be able to come to the property for camping and ocean recreation.

To further protect cultural, archeological and historic resources on-site monitoring will be used during significant grading activities. The following conditions will be included in all permits for grading and construction as recommended by the State Historic Preservation Division (Division): documents:

1. A qualified archeologist shall be hired to conduct onsite monitoring as needed during the project. Prior to starting the monitoring work an acceptable monitoring plan shall be submitted to the Division for review and approval. The Monitoring Plan will spell out a process for documenting sites that are found, for evaluating significance in consultation with the Division and for developing and executing mitigation work with the approval of the Division, and for mitigation treatment (as needed) with approval of the Division. The Monitoring Plan must be clear that if historic sites, including burials, are uncovered during the monitoring, construction must stop in the immediate vicinity and the archeologist shall be allowed sufficient time to evaluate the site and carry out mitigation as needed. The Plan must include provisions for as acceptable Monitoring Report, documenting all the findings to be approved by the Division.
2. If burials are found, a burial treatment Plan shall be prepared for inadvertent burial discoveries encountered during the monitoring of the project. In addition, consultation with appropriate ethnic groups, the procedures outlined in Chapter 6E-43 shall be followed. It is necessary for the

Treatment Plan to be prepared after consultation with Native Hawaiians, such as the Kaua'i Island Burial Council and the Office of Hawaiian Affairs.

3. A report documenting the monitoring and burial treatment work shall be submitted to the Division for review and approval. The report shall include:
  - 1) Detailed drawings of burials and deposits to scale.
  - 2) All artifacts shall be sketched and photographed
  - 3) Analysis of all perishable and datable remains shall be conducted
  - 4) Stratigraphic profiles shall be drawn to scale,
  - 5) All locations of historic sites shall be shown on an overall map of the project area,
  - 6) Initial significance evaluations shall be included for each historic site found,
  - 7) Documentation of the nature and age of each of the historic sites shall be done.

The proposed action is not expected to result in significant negative impacts on historic sites, archaeological artifacts or Native Hawaiian cultural practices. Alternatively, the proposed action is intended to provide valuable services to the community, resulting in positive impacts for Native Hawaiian beneficiaries.

## 2.8 Scenic and Visual Resources

The proposed action will result in the loss of 2.6 acres of open space that will be replaced by a new building. Portions of the subject property are used for a horse paddock, and the rest is unused. Its current condition is unkempt and unsightly. The property would not be considered a visual resource by itself and due to topography and vegetation. The subject property does not offer scenic coastal views.

### *Impact and Mitigation*

The site is not located on or considered part of any significant scenic vista. The proposed project is expected to have a positive impact on the scenic value of the neighborhood by replacing the existing fallow brush with an area that is maintained. No mitigation measures are proposed.

## 2.9 Traffic Impacts

The proposed action is to construct a community center to serve community members. Traffic is expected to be primarily of local origin rather than from outside the community. The KCEC is located near the west end of Ulili Road. Offsite access to the KCEC is from Kaumuali'i Highway to Aki'aloa Road, one block then left on Ulili Road. Kaumuali'i Highway is the major highway serving the region. It is currently operating well below its capacity.

The KCEC is designed to serve a limited number of beneficiaries during business hours. Most of the facility users will be from Kekaha Gardens subdivision or other nearby Hawaiian Home Lands communities. The quantity of new traffic into the subdivision is expected to be limited to specialists who are there to offer support for the beneficiaries and occasional guests from outside the community. Ulili Road is designed to accommodate school and park traffic, which will be far in excess of the KCEC

utilization. The facility is expected to sponsor special events on occasion. These are most likely to be during evenings and weekends when other traffic will be minimal.

#### *Impact and Mitigation*

No significant impact on traffic is expected to result from the proposed action.

### **2.10 Noise Environment**

Sources of noise within the project area are typical of urbanized environments. Noise sources include vehicular traffic, park activities, and aircraft operations from Barking Sands.

Operation of the KCEC will not generate significant amounts of noise during business hours. Should the facility be used for parties or special events these activities would be restricted to certain hours, to avoid impacts to neighboring residents.

Short-term noise impacts will occur during the construction period. These impacts result from trucks, construction equipment operation and actual construction activities. These impacts are unavoidable, but will be subject to prevailing construction noise management regulations. Construction will be limited to standard business hours.

#### *Impact and Mitigation*

Short-term and temporary noise impacts related to construction are to be expected. These will be mitigated through limiting construction to standard business hours, and best management practices. The successful construction contractor will utilize best management practices to minimize the noise impact during construction operations. Evening events may generate noise on special occasions. The facility operating rules will limit the duration of special functions to 10:00 pm in order to reduce potential disturbance related to evening events at the facility.

### **2.11. Air Quality**

The proposed project is on the leeward side of Kaua'i in an agricultural area. Air quality in Kekaha is generally quite good in terms of the regulated pollutants. Agricultural activities regularly generate dust upwind of the project site. This dust is unavoidable and uncontrolled by current regulations.

The KCEC is not expected to be a source of regulated air pollution during its construction or operation. A community kitchen is one possible future component of the facility. Kitchen odors may be present during its operation, typically during early morning hours. Cooking odors are not normally considered an impact, but may occasionally be unpleasant.

Minor dust and odors may be generated during site construction. As discussed above, dust generated from offsite is usually present. During North easterly wind conditions, dust generated on the subject property would not migrate over developed areas, but be carried across the highway to the ocean. Dust and possible diesel odors would be short term temporary impacts associated with construction.

### *Impact and Mitigation*

Minor short-term air quality impacts may occur during construction from fugitive dust and diesel-powered equipment. These pollutants are expected to be transported away from developed areas by tradewinds. Mitigation measures to control dust include frequent watering of exposed soil, dust screening, and general good housekeeping practices. The County will require all construction contractors to utilize best management practices for reduction of dust and odors as a condition of the permit. No long-term air quality impacts are anticipated from the proposed action.

#### **2.12. Public Utilities and Infrastructure**

The subject property is currently served by an existing County water system installed during the original construction of the subdivision. The use of County water is not expected to change significantly because the facility will primarily serve residents who are provided water by the same water main supplying the subdivision. The KCEC will install a new meter and pay the infrastructure fees, but because the users primarily originate within the community, no significant increase in area-wide water use is anticipated. Water conservation measures are likely to be part of the permit requirements.

Electricity was provided to the site boundary by Kaua'i Island Utility Cooperative (KIUC) during the initial construction of the subdivision. Power demands from the facility are likely to be within the normal range for a single family household. The capacity for generation and transmission of power is adequate to meet the additional demand proposed for the KCEC.

Telephone service is supplied by Sandwich Isles Communication, Inc. (SIC) under a license to the Hawaiian Homes Commission. SIC is providing an underground fiber optic system to all Islands. Upon completion the system will deliver high speed internet, telephone and television to the area. Nearby areas are also served by Oceanic Cable company which may also supply high speed internet, telephone and television.

Stormwater generated in the entire community is drained toward the project site and dispersed in large collection swales surrounding Lot 51. Infiltration of stormwater is quite rapid and the design of stormwater interceptors has proven adequate since its construction. Construction of the KCEC will add approximately 3,000 square feet of new impermeable surface to the area. The quantity of impervious surface is less than 2% of the subject property area and will not result in a measurable increase of stormwater runoff. The County requires that storm water runoff from new impermeable surfaces be retained on site. This will not be a problem using the current design.

Wastewater is disposed in individual wastewater systems (IWS) which by law now consist of septic tanks and leach fields. One septic system is allowed per each lot of record. The KCEC will have a septic system designed and permitted within the requirements imposed by the Hawai'i Department of Health. An IWS permit will be obtained from the Department of Health during the development process.

Solid waste will be generated by the facility on a scale that is roughly equivalent to a single family home. During special events, this quantity may increase significantly; however, the quantity of solid waste is not expected to overwhelm the existing infrastructure for collection and disposal. It is expected that private refuse collection service will be used to service the project site, and management may implement recycling programs.

*Impact and Mitigation*

The proposed action is not expected to significantly affect the capacity of any public utilities or infrastructure due to the limited size and scope of operations.

**2.13. Public Services**

The Waimea Fire Station provides fire protection service to the project area as well as first response emergency medical service. The station is located 9835 Kaumuali`i Highway in Waimea. Response time to the project site is approximately seven minutes. Back up response will be provided by the Hanapepe Fire Station. Ambulance service is provided by American Medical Response (AMR) which will provide emergency services first to Kaua`i Veterans Memorial Hospital and secondly to Wilcox Memorial Hospital. Police service is provided by the Kaua`i Police Department Waimea Substation, which is collocated with the Waimea Fire Station. Response time to the site by the beat patrol is approximately five to ten minutes.

*Impact and Mitigation*

The proposed action is a service center for existing residents. Its construction and operation will not significantly affect the demand for police, fire or ambulance services. Other public services including parks, recreational facilities and schools are not expected to be affected by the proposed action for the same reason.

### 3.0 Alternatives to the Proposed Action

The goals and objectives of the proposed project are to offer basic skills and capacity building sessions to West Kaua`i Hawaiian Homestead residents. The proposed action is intended to serve as a community resource by providing offices and meeting rooms to support community activities and learning in order to assist Native Hawaiian Institutions to expand their role and effectiveness in addressing community development needs.

#### 3.1 No Action Alternative

Under the No-Action Alternative the KCEC would not be constructed, the 2.6 acre parcel would remain undeveloped and the services and functions of the facility would not be provided. The No-Action Alternative is rejected because it does not meet the needs of the beneficiaries or the mission of the Council for Native Hawaiian Advancement and other cooperating institutions.

#### 3.2 Alternative Location

The KCEC could provide the desired services from a different location or different configuration; however, after consultation with agencies providing funding and guidelines the current configuration is deemed appropriate for the scope of services proposed. The location is appropriate because it is located within the Hawaiian Homelands community. Its location is in the portion of that community which is designated for public facilities including a planned school and park. The proposed site has fewer negative characteristics than if it were located elsewhere in the community.

An alternative location was the County Park next to the DHHL subdivisions. Discussions with the County Parks department staff indicated some willingness to consider this possibility but there was never a clear path of action to facilitate its development. The County system was not conducive to changing the designation or planned use of its land to the benefit of Native Hawaiians and the process would not have progressed at a rate that was acceptable to the funding agency. Federal funding for the project is vulnerable to delays, and the County decision-making process would almost certainly have exceeded the period allowed to encumber the funds and build the facility.

Another location suggested was the possibility of it being located in the Hanapepe area designated for commercial or community use. The Hanapepe site is a prime commercial use that is viewed for future revenue generation by the Department so the center would have to be integrated with potential future commercial establishments. This possibility was evaluated and rejected due to potentially high operating costs and difficulty for access by the intended beneficiaries. The Hanapepe sites do not meet the primary objective of providing a resource to the DHHL beneficiaries.

A third site considered was one of the residential lots, Lot 26, within the subdivision, which is also designated TMK# (4)1-2-017:026. Lot 26 is near the northwest side of the residential area on an 11,000 square foot lot. Its proximity to other houses and limited areas created potentially greater impacts to surrounding neighbors. The lot was rejected because of its size, location, and the fact that if it were used for the KCEC, the lot would not be available for a residential use and one more beneficiary would be denied access to the community.

## 4.0 Relationship to Plans, Codes and Ordinances

### 4.1 United States

Title I of the Housing and Community Development Act of 1974 requires the federal government to provide housing and related assistance to disadvantaged persons and communities. The US Department of Housing and Urban Development, Office of Policy Development and Research, Office of University Partnerships (OUP) is established to administer this and other programs to meet this need.

OUP initiated the Alaska Native/Native Hawaiian Institutions Assisting Communities program in FY00. This program assists institutions of higher education expand their role and effectiveness in addressing community development needs in their localities—including neighborhood revitalization, housing, and economic development, principally for low and moderate-income persons. Grants are awarded for:

- Special economic development activities described at 24 CFR 570.203 and assistance to facilitate economic development by providing technical or financial assistance for the establishment, stabilization, and expansion of microenterprises, including minority enterprises.
- Assistance to community-based development organizations (CBDOs) to carry out neighborhood revitalization, community economic development, or energy conservation projects, in accordance with 24 CFR 570.204. This could include activities in support of a HUD-approved local entitlement grantee, CDBG Neighborhood Revitalization Strategy (NRS) or HUD-approved State Community Development Block Grant (CDBG) Community Revitalization Strategy (CRS); and
- Public service activities such as general support activities that can help to stabilize a neighborhood and contribute to sustainable redevelopment of the area, including but not limited to such activities as those concerned with employment, crime prevention, childcare, healthcare services, drug abuse, education, housing counseling, energy conservation, homebuyer down payment assistance, establishing and maintaining Neighborhood Networks centers in federally assisted or insured housing, job training and placement, and recreational needs.

This project is intended to address the needs established under Title I of the Housing and Community Development Act of 1974.

### 4.2 State of Hawai'i

Prince Jonah Kūhiō Kalaniana'ole spearheaded the passage of the Hawaiian Homes Commission Act in 1921 to address the dwindling native Hawaiian population. With the enactment of the Hawaiian Homes Commission Act, the United States set aside approximately 200,000 acres of land to establish a permanent home land for native Hawaiians, who were, according to the legislation, a landless and “dying” people. The State of Hawai'i established the Department of Hawaiian Home Lands shortly thereafter to implement programs



in support of Native Hawaiians. The proposed action is identified in the DHHL General Plan for West Kaua`i as a priority for implementation (DHHL 2011).

As part of their strategic planning efforts, DHHL realized the need for financial education as a key component of rehabilitating native Hawaiians. The Home Ownership Assistance Program (HOAP) has become a central part of DHHL's commitment to native Hawaiians. It is the most important program we have because beyond building homes, it builds homeowners. Beyond building affordable homes and homeowners, DHHL began building homes that are affordable to live in. DHHL has made tremendous progress as a Department, and it is positioned as a major contributor to the overall wellbeing of the state of Hawai'i and to the native Hawaiian people. It has set a foundation to communicate to the general public because fulfilling these commitments can make life better for all the people of Hawai'i (DHHL Annual Report 2009).

Chapter 205, Hawai'i Revised Statutes establishes the State land use districts that comprise all lands in the State of Hawai'i. These districts are "Urban", "Rural", "Agricultural" and "Conservation". The project site is within the urban boundary on the State Land Use District Boundary Map. The proposed use is consistent with urban land uses.

#### **4.3 County of Kaua`i**

The County General Plan was prepared in 1999 based on the comments of community members in identifying priorities. One of the primary priorities of West Kaua`i residents is in maintaining the small-town character and appearance of their area.

State of Hawai'i Department of Hawaiian Home Lands are generally exempt from the specific conditions of the Comprehensive Zoning Ordinance (CZO), but encouraged to follow these standards. The CZO identifies the project site as zoned R-6 Residential, and AG Agriculture. Community service facilities are an ancillary use of residential lands under the CZO.

The project is located outside of the Special Management Area which generally is located near coastal, stream and wetland areas. The project will not require a Special Management Permit.

## **5.0 Growth-Inducing Factors, Secondary and Cumulative Impacts**

Growth inducing changes were considered positive impacts many years ago in most areas; however, many residents of our state no longer consider growth a goal to be sought after. Some developments do not have significant impacts in their construction or operation, but because of their demand may they may change the price of real estate, impact privacy, or change the character of a neighborhood. Growth inducing factors such as installation of a mass transit system, or opening of a Wal-Mart may create significant impacts due only to their growth inducing characteristics.

A secondary or indirect impact is an impact that is caused by the proposed action but is removed in time or space from the project.

Cumulative impacts may be defined as impacts on the environment which results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes the action (Council on Environmental Quality, 1997).

The proposed action is intended to provide services to Native Hawaiian members of the community. This limitation is expected to eliminate traffic impacts and limit the number of people entering the area from outside the community. Under these circumstances the proposed action does not create growth in the area. Positive secondary impacts may include increase employment or income for the beneficiaries, construction workers and social workers employed by the facility. One positive cumulative impact could be considered the general capacity improvement resulting from federal programs such as this, which are designed to elevate the standard of living for Native Hawaiians.

### **5.1. Irreversible and Irretrievable Commitment of Resources**

Implementation of the proposed project will result in an irreversible and irretrievable commitment of resources including public funds, energy, and labor. Materials used for new construction may have salvage value; however, it is unlikely that such efforts will be cost-effective. The expenditure of these resources is offset by gains in construction related wages, increased tax base, secondary and tertiary spending.

### **5.2. Adverse Impacts Which Cannot be Avoided**

Adverse impacts associated with the proposed action that cannot be avoided are related to short-term construction impacts including noise, dust and construction-related traffic. These impacts can be minimized by sound construction practices, Best Management Practices (BMPs), adherence to applicable construction regulations as prescribed by the Department of Health, and coordination with applicable County agencies. The loss of open space may also be considered an adverse impact; however, the condition of this space and its use as a dumping ground for abandoned vehicles and debris did not contribute to the quality of life in the vicinity of the subject property.

## 6.0 Determination

The Hawai'i Administrative Rules Chapter 11-200(12) defines significance. If a proposed action is expected to have significant impacts, a full Environmental Impact Statement would be necessary. If the proposed action does not result in "significant" impacts the proponent is required to prepare an Environmental Assessment and Finding of No Significant Impacts (FONSI).

### 6.1 Definition of Significance

HAR 11-200 (12): In determining whether an action may have a significant effect on the environment, the agency shall consider every phase of a proposed action, the expected consequences, both primary and secondary, and the cumulative as well as the short-term and long-term effects of the action. In most instances, an action shall be determined to have a significant effect on the environment if it:

- *Involves an irrevocable commitment to the loss or destruction of any natural or cultural resource.*

The proposed action will occupy a portion of vacant land; however, as discussed the loss of open space is balanced by cleaning up an area that is prone to use for illegal dumping and has historically not been an asset to the community. Cultural resources have been identified in the vicinity of the subject property and these have been designated as special districts that will not be used for housing. No of the culturally significant artifacts have been identified from the subject property.

- *Curtails the range of beneficial uses of the environment.*

The proposed project is an appropriate use that will benefit the community and is consistent with the surrounding land-use. The environment was not well served when the property was vacant, but upon completion of the proposed action it will provide access to needed community management and training services. Some comments received from interested parties preferred the existing condition of open space to the proposed action. The open space was utilized only for illegal dumping and vegetative buffers. The no-action alternative is considered in Section 3.1. The No-Action Alternative is rejected because it does not meet the needs of the beneficiaries or the mission of the Council for Native Hawaiian Advancement and other cooperating institutions.

- *Conflicts with the State's long-term goals or guidelines as expressed in Chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders.*

The purpose of chapter 344 is to establish a state policy which will encourage productive and enjoyable harmony between people and their environment, promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humanity, and enrich the understanding of the ecological systems and natural resources important to the people of Hawai'i. The

proposed action supports the objectives of Chapter 344, by providing capacity building services to the residents of the community.

- *Substantially affects the economic or social welfare of the community or State.*

The proposed action will have a positive contribution to the welfare and economy of the community and through increased training and adult education as well as through economic activities provided during construction and operation.

- *Substantially affects public health.*

The proposed action will have a positive impact on public health.

- *Involves substantial or adverse secondary impacts, such as population changes or effects on public facilities.*

The proposed action is designed to serve the existing community. It is not expected to create substantial population changes and secondary impacts are negligible with exception of positive economic and social impacts resulting from the proposed education and training activities.

- *Involves a substantial degradation of environmental quality.*

The proposed action will not degrade environmental quality with exception of short-term temporary impacts associated with noise and dust during construction. These impacts will be mitigated through best management practices imposed upon the construction contractor.

- *Is individually limited but cumulatively has a considerable effect upon the environment or involves a commitment for larger actions.*

The proposed action is not part of a larger action, and its cumulative impacts may be limited to improved economic potential of its beneficiaries.

- *Substantially affects rare, threatened or endangered species, or their habitats.*

According to comments from the US Fish and Wildlife Service, the proposed action will not affect any rare, threatened or endangered species, or critical habitat.

- *Detrimentially affect air or water quality or ambient noise levels.*

Short-term temporary impacts on air quality and noise may occur during construction, but will be mitigated by Best Management Practices imposed on the construction contractor.

- *Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach erosion prone area, geologically hazardous land, estuary, fresh water, or coastal waters.*

The proposed action is not located in any of the high risk areas listed above, and will not have an impact on an environmentally sensitive area.

- *Substantially affects scenic vistas and view planes identified in County or State plans or studies.*

The proposed action will not affect scenic vistas or view planes near the project.

- *Require substantial energy consumption.*

The project will use fossil fueled equipment during construction, and increase electrical energy consumption during operation. These increases are expected to be typical of most urban uses, and are not expected to impact the area power demand for fossil fuels or line power.

## 6.2 Finding of No Significant Impact

The Department of Hawaiian Home Lands having considered public inputs has reached a Finding of No Significant Impact (FONSI) for the proposed Kekaha Community Enterprise Center.

## 7.0 Consulted Parties and Preparers

### 7.1 Public Input Received During Preparation of the Draft EA

In preparation of the Draft Environmental Assessment CNHA conducted a public hearing on November 29, 2011 at the Waimea Neighborhood Center. The meeting was attended by approximately 40 people who heard a description of the KCEC and other projects. Discussion was held on the design, location and operations of the facility. Questions on the location of potential burials sites were answered by Dr. Robert Rechtman, and questions on the EA process were answered by Mr. David Robichaux. Contact information for both Rechtman and Robichaux were provided to the community along with a request for comments. Meeting notes and attendance are recorded in Appendix C.

The community was generally quite supportive of the project, and provided ideas on optimizing the design and operations. The general consensus was that it will be well utilized, convenient for community business, and useful for building capacity and skills. A full set of meeting notes appears in Appendix B, along with written comments from agencies and interested parties. Some of the principal comments and concerns that arose from the meeting and/or subsequent contacts are listed below:

- Location on the parcel would be better if it were moved to the eastern end of the lot in order to be farther away from existing residences. (implemented as shown in Figure 4).
- Place parking in the rear of the building so that the Center does not appear congested,
- Include solar PV so that it is more sustainable and cheaper to operate,
- Center should be made available for all Hawaiians not just those living in Kekaha,
- Make the Center comfortable for short stay-overs in case trainers or DHHL personnel need a place to stay, but not too comfortable so that nobody can live there permanently

### 7.2 Public Input Received During Preparation of the Final EA

Public input received during the 30-day comment period included two petitions circulated among community members, beneficiaries and other interested parties. Several letters were also submitted for inclusion. All appear in Appendix C in their chronological order.

The first petition was in opposition to the proposed action containing 58 signatures. The petition contained eleven statements of opinion, which were primarily directed to the grant recipients, who the petitioners felt were outsiders who should not have a presence in the community. The criticisms were primarily directed to the various aspects of grant management rather than the proposed action. Opposition petitioners apparently supported the objectives of the proposed action but would prefer that it be managed by others or conducted at a different location. A legitimate concern was raised over the possible presence of native Hawaiian burials (*iwi*) on the site. This concern was based on the fact that their preferred consultant was not involved. The archaeological assessment contained in Appendix B was conducted for the benefit of this Assessment. The consultant again determined that there was no evidence of *iwi* within the project boundaries (Section 2.7).

The opposition petition did not contain new information regarding potential environmental impacts resulting from the proposed action that would affect the findings.

A second petition was circulated within the Kekaha Community Association. It stated:

We, the undersigned, support the building of the Enterprise Center proposed by the Council for Native Hawaiian Advancement (CNHA) in the Kekaha Gardens Hawaiian Homestead Neighborhood Lot 51 as an effort towards bettering and improving our neighborhood and surrounding area. It was signed by 125 people who supported the project during the period between December 29 and January 10, 2012.

Responses to these petitions were prepared by the Proponent, Kauai Community College and the Department of Hawaiian Home Lands.

A second letter from the authors of the opposition petition was received on January 12, 2012 by the Kauai Community College. Again the letter alleges mismanagement of the grant, disregard for the grantees as well as continued concern over Native Hawaiian burials. The letter states that “the benefits of the HUD grant would be beneficial for the community in terms of educational opportunities” but urge that the Community Center not be constructed. The letter recommends acquisition of a vacant building in the Kekaha Community. Section 3.2 discusses use of vacant lands in the Kekaha Gardens Subdivision. Alternative uses of a residential lot preclude residential uses and deprives one more potential beneficiary of a homestead. Vacant buildings located in other areas of Kekaha are not as accessible to the targeted DHHL beneficiaries. With exception to the concerns over *iwi* which were addressed in the 1993 and 2011 by professional consultants, the opposition seems to be in favor of the project objectives but opposed to the manner in which it is being developed. These concerns are not typically relevant in considering environmental impacts. We believe that the opponents represent a minority of potential beneficiaries. A response from the proponent is included in Appendix C. The response urges all to put aside personality differences for the benefit of native Hawaiian beneficiaries in the Kekaha Gardens area.

### 7.3 Agencies Contacted During Preparation of the Draft EA

During preparation of the DEA the following agencies were contacted to solicit input:

- State Historic Preservation Division, DLNR
- US Fish and Wildlife Service Pacific Field Office,
- County of Kaua`i Planning Department
- Department of Hawaiian Home Lands (Proponent)

### 7.4 Preparers

The Final Environmental Assessment was prepared by North Shore Consultants, LLC, David M. Robichaux, Principal. The work could not have been completed in an accurate or timely manner without substantial assistance from the following persons:

Ms. Lilia Kapunia, Vice President of the Council for Native Hawaiian Advancement

Mr. Kaipo Duncan, Land Agent for the Department of Hawaiian Homelands  
Mr. Marc Ventura, Principal of Marc Ventura AIA, LLC  
Mr. Robert Rechtman, Principal of Rechtman Consulting  
Mr. Wayne Wada, Principle of Esaki Surveying

Kekaha Community Association members and Community leaders including but not limited to:

- Leah Pereira
- Lorraine Rapozo
- Liberta Albao
- Kaimana Castaneda

## 8.0 References

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**Appendix A**

**COMMENTS RECEIVED DURING PREPARATION OF  
THE DRAFT ENVIRONMENTAL ASSESSMENT**

## David Robichaux

---

**From:** liberta@hawaiiink.net  
**Sent:** Monday, December 12, 2011 10:27 PM  
**To:** David Robichaux  
**Cc:** Leahkperreira@aim.com  
**Subject:** Re: Kekaha Community Enterprise Center

David: Mahalo for contacting me. The following is my views:

1. I support the project
2. Beneficiaries will have their own community center that will be used for meetings, learning center, after school programs, kupuna program wellness and exercise program, etc.
3. It is necessary that the CNHA grant be utilized for the native hawaiian community. There's no other source of funding.
4. Two beneficiaries had a vision 4 years ago, they wanted a center for the community. (Leah Pereira and Ilei Beneamina - deceased)
5. I like the design of the building. Room for expansion/playground for the keikis and kupuna can socialize.
6. Kauai community college is a good partner for the project.
7. My observation, most of the beneficiaries support the project.
8. Special interests are using Lot 51 for their personal use for many years and DHHL has not enforced nor sent eviction notice.
9. Please include Hanapepe beneficiaries. They can use the center too.
10. Hawaiians often sing of the beauty of the "aina", the land, a very important gift from God. There's NO COST FOR THE LAND FOR THE PROJECT
11. Prince Kuhio Kalaniana'ole had a vision. As beneficiaries we should perpetuate the spirit of "olu'olu" encouraging us to treat each other with kindness and respect, bringing us together as a strong community for the benefit of the future generations.
12. The project is an asset for the community.

My cell # 652.8290

Dear Auntie Liberta:

>  
>  
>  
> I'm preparing the Draft Environmental Assessment for the Kekaha  
> Community Enterprise Center (KCEC). Because you are a community  
> leader, it is very important that I get your thoughts on how its  
> going, whether we got it right and how it will impact the  
> beneficiaries. I'd like to call this afternoon or tomorrow. I really  
> would appreciate a little of your time. If you are busy when I call  
> please tell me so. I'm not shy.  
>  
>

>  
> David M. Robichaux  
>  
> Description: Description: Description: C:\Users\Ronald L.  
> Soroos\AppData\Local\Microsoft\Windows\Temporary Internet  
> Files\Content.IE5\WGCKX92F\MCj03292280000[1].wmfNORTH SHORE  
> CONSULTANTS, LLC  
>  
> PO Box 1018  
>  
> Haleiwa, HI 96712  
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>  
> 637-8030 office  
>  
> 368-5352 cell  
>  
> [robichaud001@hawaii.rr.com](mailto:robichaud001@hawaii.rr.com)  
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## David Robichaux

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**From:** Keith\_Castaneda/WAIMEAH/HIDOE@notes.k12.hi.us  
**Sent:** Tuesday, December 13, 2011 9:41 AM  
**To:** David Robichaux  
**Cc:** Connie\_Castaneda/KEKAHA/HIDOE@notes.k12.hi.us; castanedaohana@aol.com  
**Subject:** Re: Kekaha Community Enterprise Center

Mr, Robichaux, Thank you very much in assisting with this project and for taking time out to call me and getting my input. I look forward to hearing your update.

KEITH K. CASTANEDA  
Waimea High School JROTC  
Army Instructor  
808-338-6810ext152  
"Deeds Not Words"

**Appendix B**  
**Archaeological Report**  
**Rechtman Consulting**  
**November 2011**

An Archaeological Assessment Survey of  
TMK: 4-1-2-17:051

Waimea Ahupua'a  
Kona District  
Island of Kaua'i

Draft Version

PREPARED BY:

Robert B. Rechtman, Ph.D.

PREPARED FOR:

David Robichaux  
North Shore Consultants LLC  
P.O. Box 1018  
Hale'iwa, HI 96712

November 2011

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e-mail: bob@rechtmanconsulting.com

ARCHAEOLOGICAL, CULTURAL, AND HISTORICAL STUDIES

An Archaeological Assessment Survey of  
TMs: 4-1-2-17:051

Waimea Ahupua'a  
Kona District  
Island of Kaua'i

**RECHTMAN CONSULTING**

## MANAGEMENT SUMMARY

At the request of David Robichaux of North Shore Consultants, LLC., on behalf of his client, the Council for Native Hawaiian Advancement, Rechtman Consulting, LLC conducted an archaeological assessment of a 2.6 acre parcel (TMK:4-1-2-17:051) in the Kekaha portion of Waimea Ahupua'a, Kona District, Island of Kaua'i. The Council for Native Hawaiian Advancement intends to build a community center on the parcel, which is within the Department of Hawaiian Home Lands Kekaha Gardens Subdivision. The current study was undertaken in accordance with Hawai'i Administrative Rules 13§13–284, and was performed in compliance with the Rules Governing Minimal Standards for Archaeological Inventory Surveys and Reports as contained in Hawai'i Administrative Rules 13§13–276. According to 13§13-284-5 when no archaeological resources are discovered during an archaeological survey the production of an Archaeological Assessment report is appropriate. Compliance with the above standards is sufficient for meeting the historic preservation review process requirements of both the Department of Land and Natural Resources–State Historic Preservation Division (DLNR–SHPD) and the County of Hawai'i Planning Department. The current study parcel was part of a larger area that had been the subject of an archaeological inventory survey conducted by Cultural Surveys Hawaii in 1993. During the earlier study both surface survey and an extensive program of subsurface testing was conducted. No archaeological resources were identified within the boundary of the current study parcel, which at the time was designated as a Detention Basin lot and subject to both surface and subsurface alteration. As part of the current study, this parcel was reexamined to verify existing conditions. The boundaries of the parcel were clearly visible as its perimeter on three sides is an excavated drainage channel, and the northern boundary is Ulili Road. No historic properties were identified as a result of the current fieldwork and the evidence for past land alteration was evident. Given the negative findings of both the previous and current studies, it is concluded that the proposed development of a community center will not significantly impact any known historic properties. It was however a recommendation of the earlier study that an archaeological monitor be present during initial grubbing and grading activities in order to provide an immediate response to, and protection for, any unanticipated resources that may be unearthed. It is the conclusion of the current study that this monitoring recommendation is an appropriate precautionary measure.

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## INTRODUCTION

At the request of David Robichaux of North Shore Consultants, LLC., on behalf of his client, the Council for Native Hawaiian Advancement, Rechtman Consulting, LLC conducted an archaeological assessment of a 2.6 acre parcel (TMK:4-1-2-17:051) in the Kekaha portion of Waimea Ahupua'a, Kona District, Island of Kaua'i (Figures 1). The Council for Native Hawaiian Advancement intends to build a community center on the parcel, which is within the Department of Hawaiian Home Lands Kekaha Gardens Subdivision (Figure 2).

The current study was undertaken in accordance with Hawai'i Administrative Rules 13§13-284, and was performed in compliance with the Rules Governing Minimal Standards for Archaeological Inventory Surveys and Reports as contained in Hawai'i Administrative Rules 13§13-276. According to 13§13-284-5 when no archaeological resources are discovered during an archaeological survey the production of an Archaeological Assessment report is appropriate. Compliance with the above standards is sufficient for meeting the historic preservation review process requirements of both the Department of Land and Natural Resources–State Historic Preservation Division (DLNR–SHPD) and the County of Hawai'i Planning Department.

This report provides a project area description, a presentation of a prior archaeological study (Hammatt et al. 1993) that included the current project area, and the results of the current field inspection of the subject parcel. For a discussion of the cultural historical background of the project area the reader is referred to the earlier Hammatt et al. (1993) study.

## PROJECT AREA DESCRIPTION

The study parcel is 2.6 acres in size and is situated immediately adjacent to Ulili Road within the DHHL Kekaha Gardens Subdivision (see Figure 2). Elevation of the study parcel is roughly 20 feet (roughly 6.1 meters) above sea level (see Figure 1). This general area comprises lithified sand dunes of Pleistocene age (Hammatt et al 1993). The project area soils are characterized as Jaucas Loamy Sand (JfB) (USDA NRCS Soil Survey Website). As can be seen in a 2006 aerial photograph (Figure 3) and based on ground observations, the entire study parcel has been significantly impacted in the past from mechanical grading activity and the creation of a surrounding drainage channel. Currently, vegetation across the study parcel is sparse and consists of *koa-haole* (*Leucaena glauca*), *kiawe* (*Prosopis pallida*) and various weeds (Figures 4 and 5).

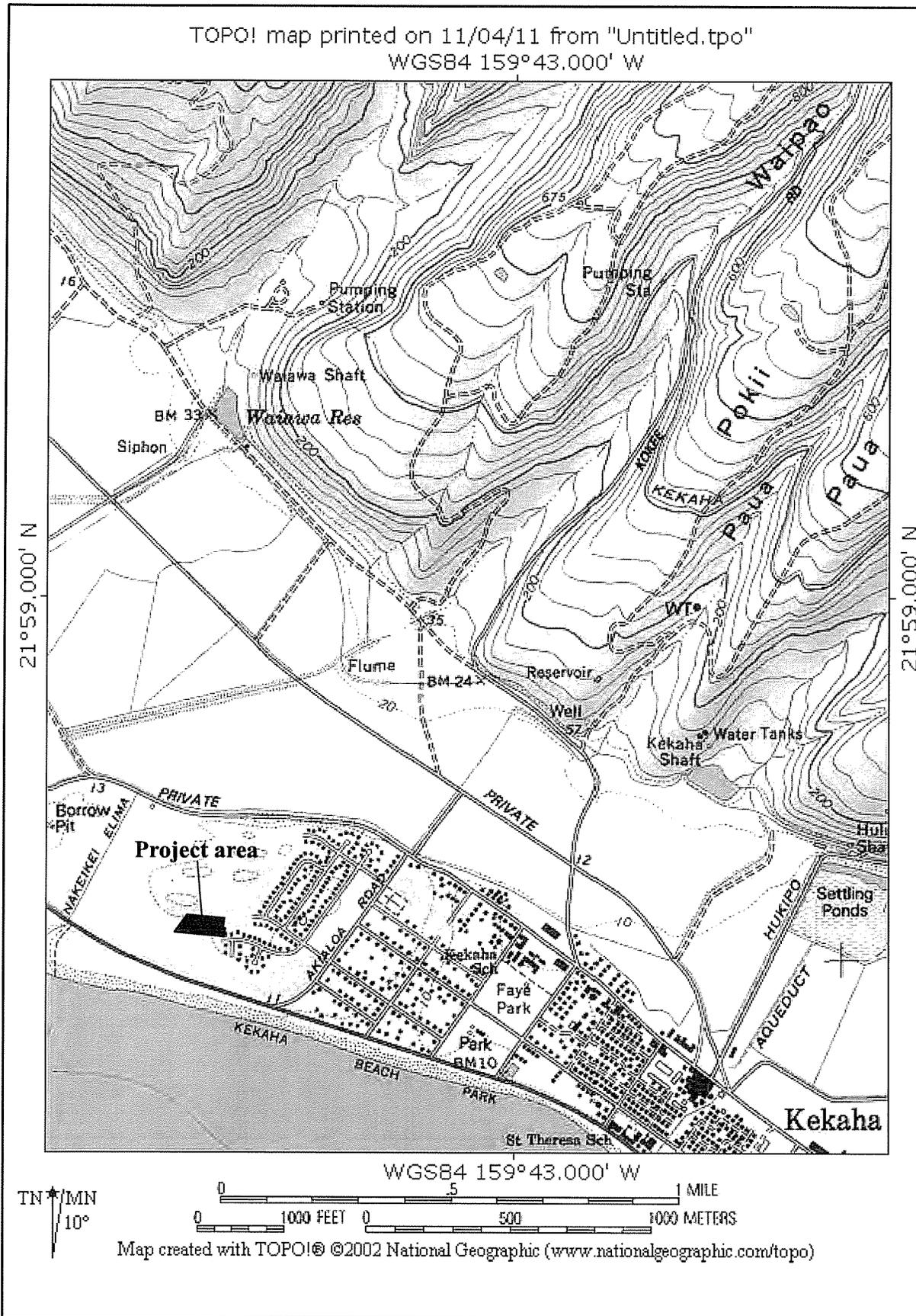


Figure 1. Project area location.

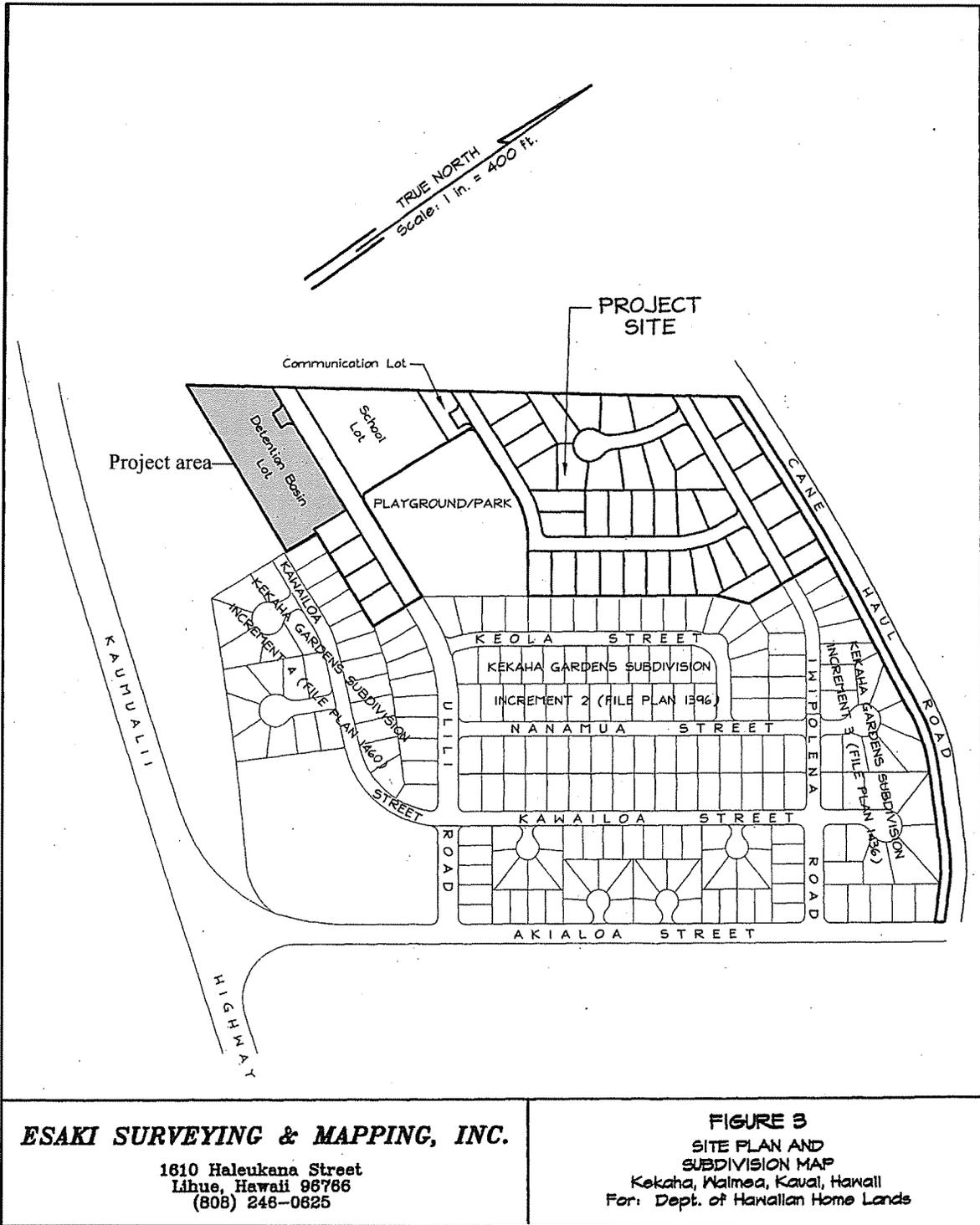


Figure 2. SIHP Site xxxx Feature x TU-x xx wall profile.



Figure 3. 2006 aerial photograph showing the current study parcel grubbed and graded.

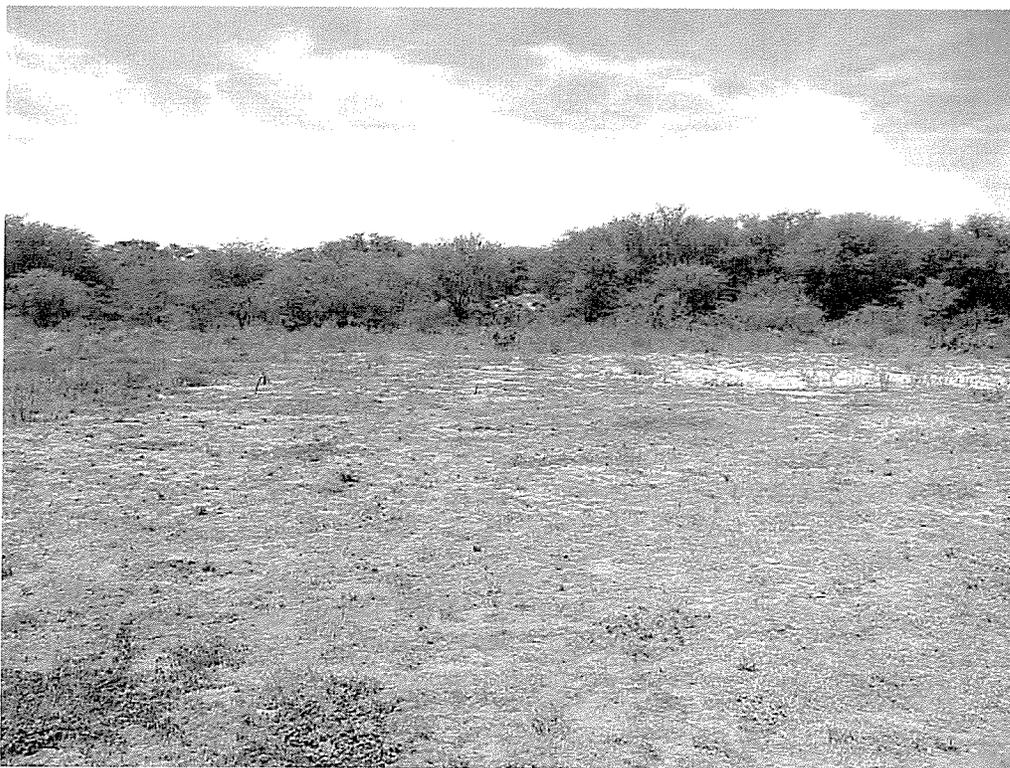


Figure 4. Vegetation in the central portion of the study parcel, view to the southwest.



Figure 5. Vegetation in the southern portion of the study parcel, view to the south.

## PRIOR ARCHAEOLOGICAL FIELDWORK

The current study parcel was part of a larger 89 acre study area that in 1993 was subject to an archaeological inventory survey conducted by Cultural Surveys Hawaii (Hammatt et al. 1993). During that study, in addition to a comprehensive surface survey, 100 subsurface test trenches were excavated (Figure 6). As a result of the Hammatt et al. (1993) investigation there were no archaeological resources recorded within the area of the current study parcel. The following is a summary of the findings of the 1993 Cultural Surveys Hawaii study.

Hammatt et al. (1993) identified two distinct geomorphologies within their overall study area, a Pleistocene aged lithified dune area (comprising most of the 89 acre project area), and a previously sand-mined more recent (Holocene) coastal dune area. The current study parcel falls in the previously mined area at the interface of the older and younger deposits. No archaeological deposits or features were found in the lithified dune area. In the previously sand-mined, coastal dune area subsurface archaeological resources including two burials were discovered. These resources were found to exist to the south and west of the current study parcel (see Figure 6). In that area, burials were encountered in Trench 7 (Figure 7) and Trench 18 (Figure 8), and a widespread but discontinuous cultural deposit was recorded extending along the coast and terminating *makai* of the current study parcel. It appears as though four test trenches were excavated in the vicinity of the current study parcel, Trench 3 (Figure 9), Trench 4 (Figure 10), Trench 83 (Figure 11) and Trench 100 (Figure 12); all documented negative results with respect to archaeological resources.



Trench 7: length 6.0 m. (319° TN), width 1.8 m., max. depth 1.8 m.

NOTE: Present dune surface slopes away to the southeast while stratigraphy contains a buried "A" horizon which slopes away slightly to the northwest. This is evidence for the constant changes in the ground surface typical of dunes. Profile measurements taken from the northwest corner of the northeast trench face.

Str.IA - 0 to 5 cm. - 10YR 8/3 very pale brown, fine loamy sand; "A" horizon.

Str.IB - 5 to 65 cm. - 10YR 8/6 yellow, fine coral sand; dune deposit.

Str.II - max. 55 to 85 cm. - 10YR 5/3 brown, fine coral sand with charcoal staining; cultural layer. Sparse midden present; 2 concentrated areas of charcoal were sampled for radio-carbon dating (see C14 #3 and #4, fig. 9).

Str.III 60 to 180 cm. - 10YR 7/6 yellow, fine coral sand; dune deposit. No culture present; burial #1 exposed at east end of trench, 150 cm. b.s.(see Survey Results; Burials). Excavations halted upon unearthing of the burial, maximum depth being 1.2 m. below the surface at the southeast end of the trench.

\* Burial pit occurs at southeast end of trench from 55 to 180 cm.; horizontal bedding of backfilled sediment from Stratum II and Stratum III occurs within the burial pit.

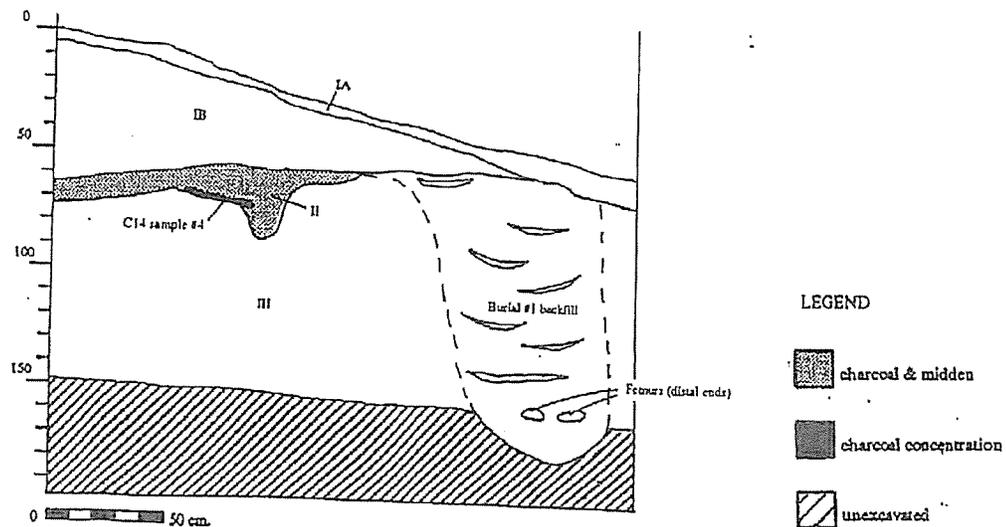


Figure 7. Trench 7 profile and description (from Hammatt et al. 1993:26).

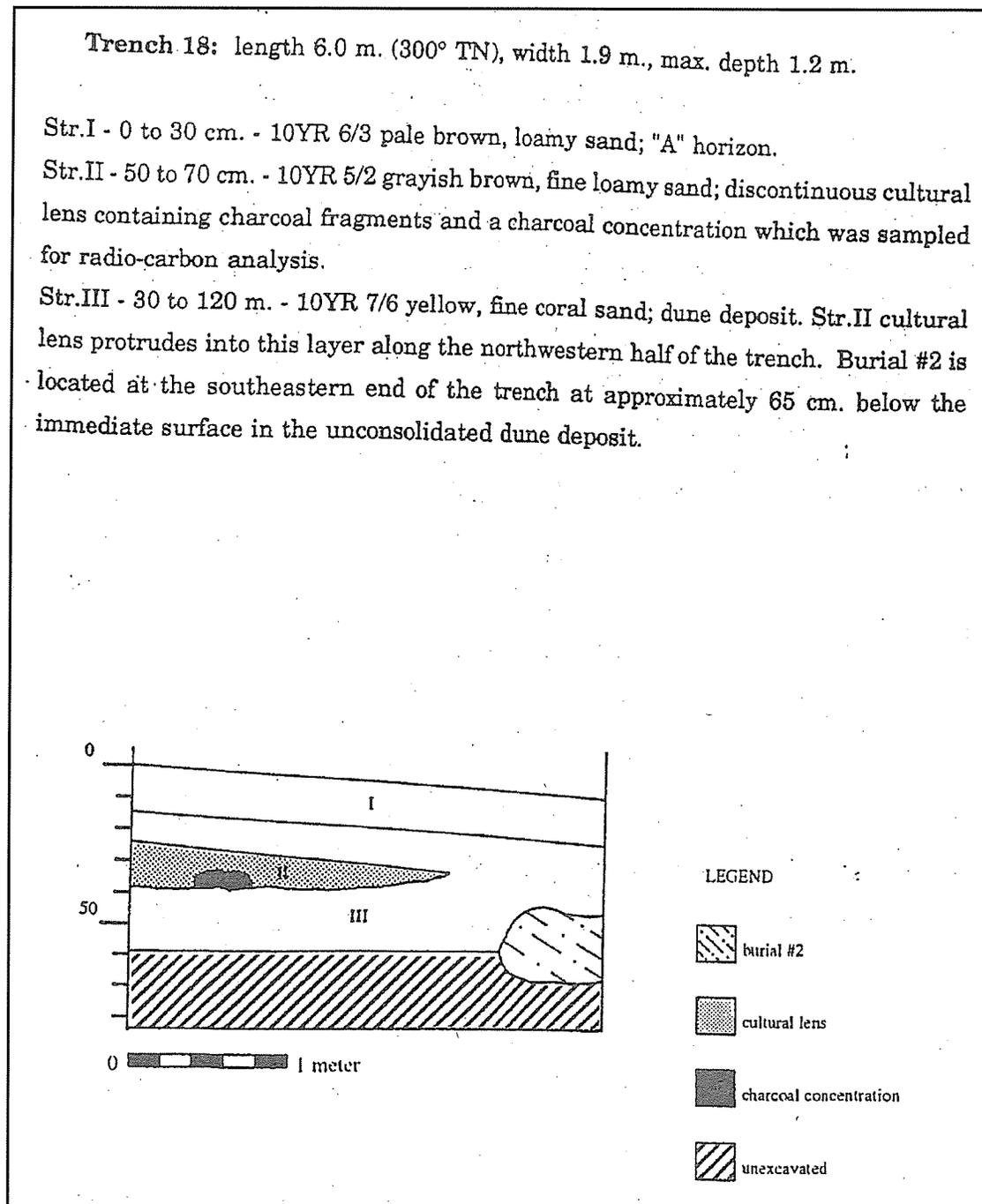


Figure 8. Trench 18 profile and description (from Hammatt et al. 1993:27).

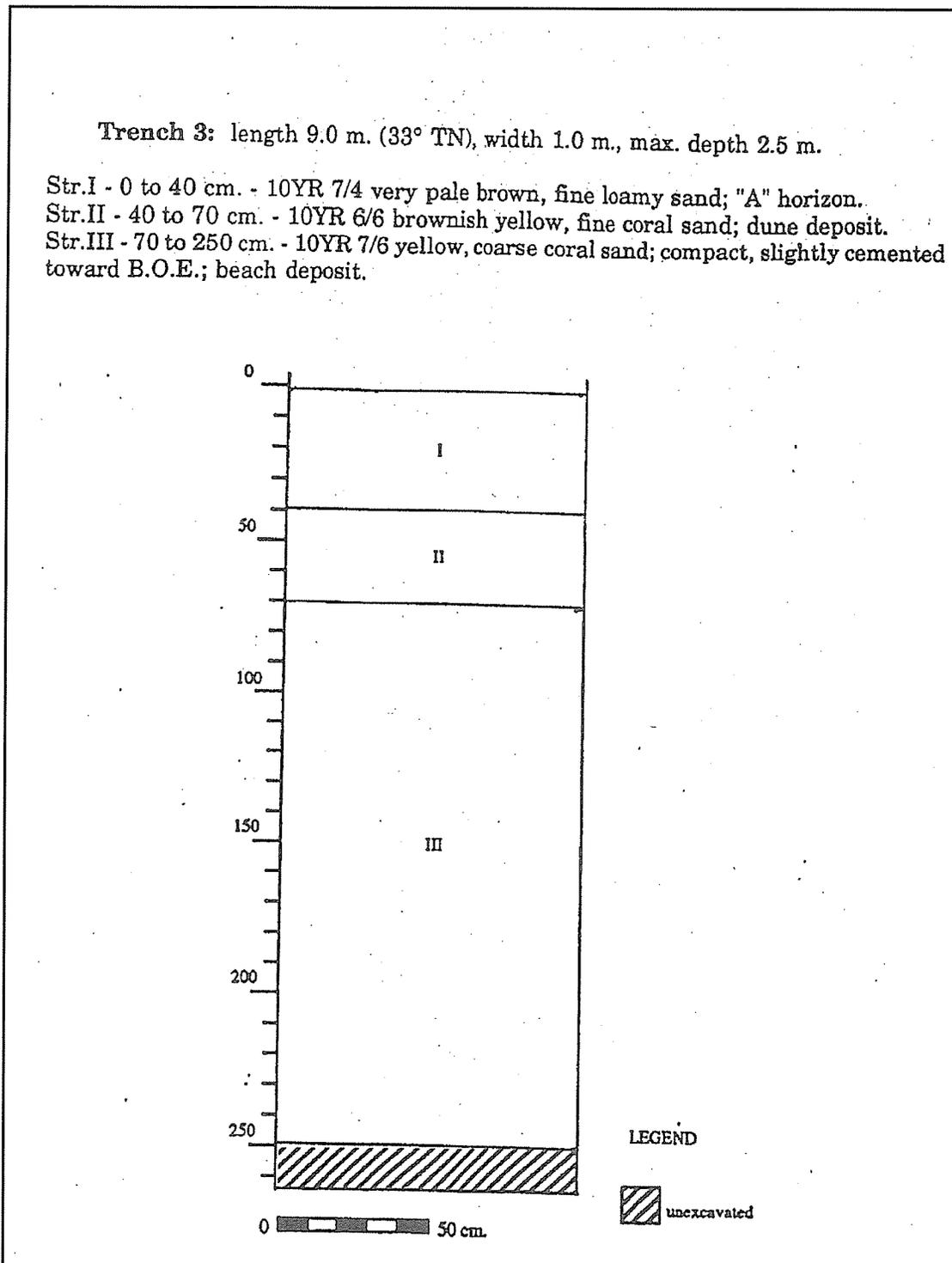


Figure 9. Trench 3 profile and description (from Hammatt et al. 1993: 36).

**Trench 4:** length 14.5 m. (13° TN), width 1.0 m., max. depth 2.1 m.

Str.I - 0 to 40 cm. - 10YR 7/6 yellow, fine coral sand; "A" horizon.

Str.II - 40 to 115 cm. - 10YR 7/3 very pale brown, fine coral sand; slightly cemented.

Str.III - 115 to 205 cm. - 10YR 7/6 yellow, coarse coral sand; beach deposit.

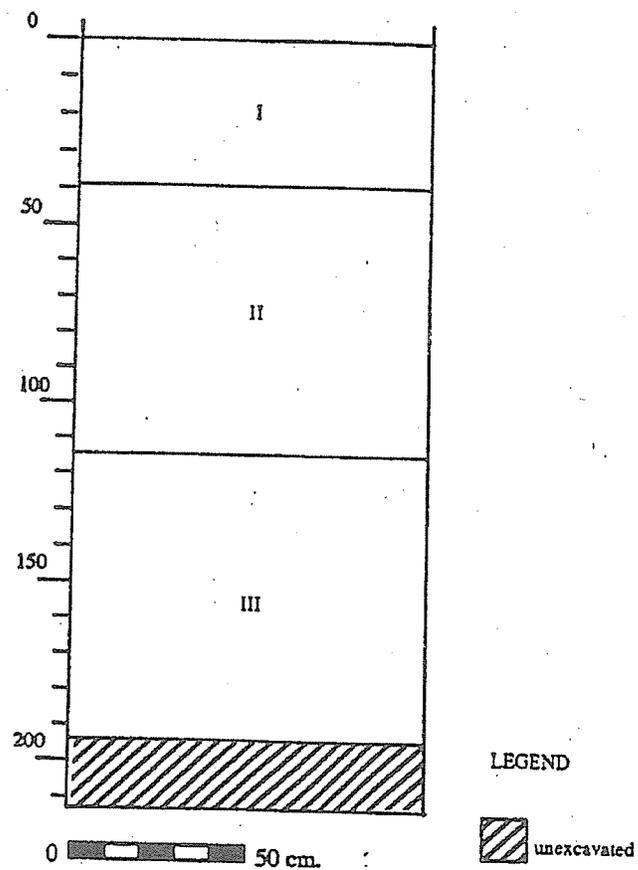


Figure 10. Trench 4 profile and description (from Hammatt et al. 1993:37).

**Trench 83:** length 7.0 m. (110° TN), width 0.8 m., max. depth 0.9 m.

Str. I - 0 to 5 cm. - 10YR 6/4 light brownish gray, fine loamy sand; "A" horizon.

Str. II - 5 to 15 cm. - 10YR 7/6 yellow, fine coral sand; dune deposit.

Str. III - 15 to 85 cm. - 10YR 8/2 white, coarse cemented coral sand; lithified possible beach deposit.

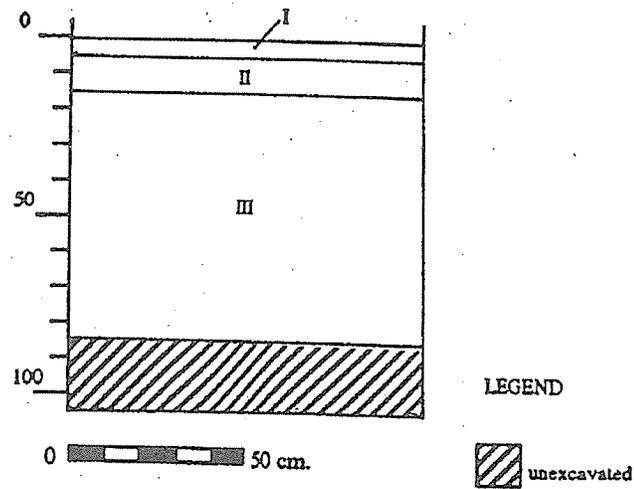


Figure 11. Trench 83 profile and description (from Hammatt et al. 1993:114).

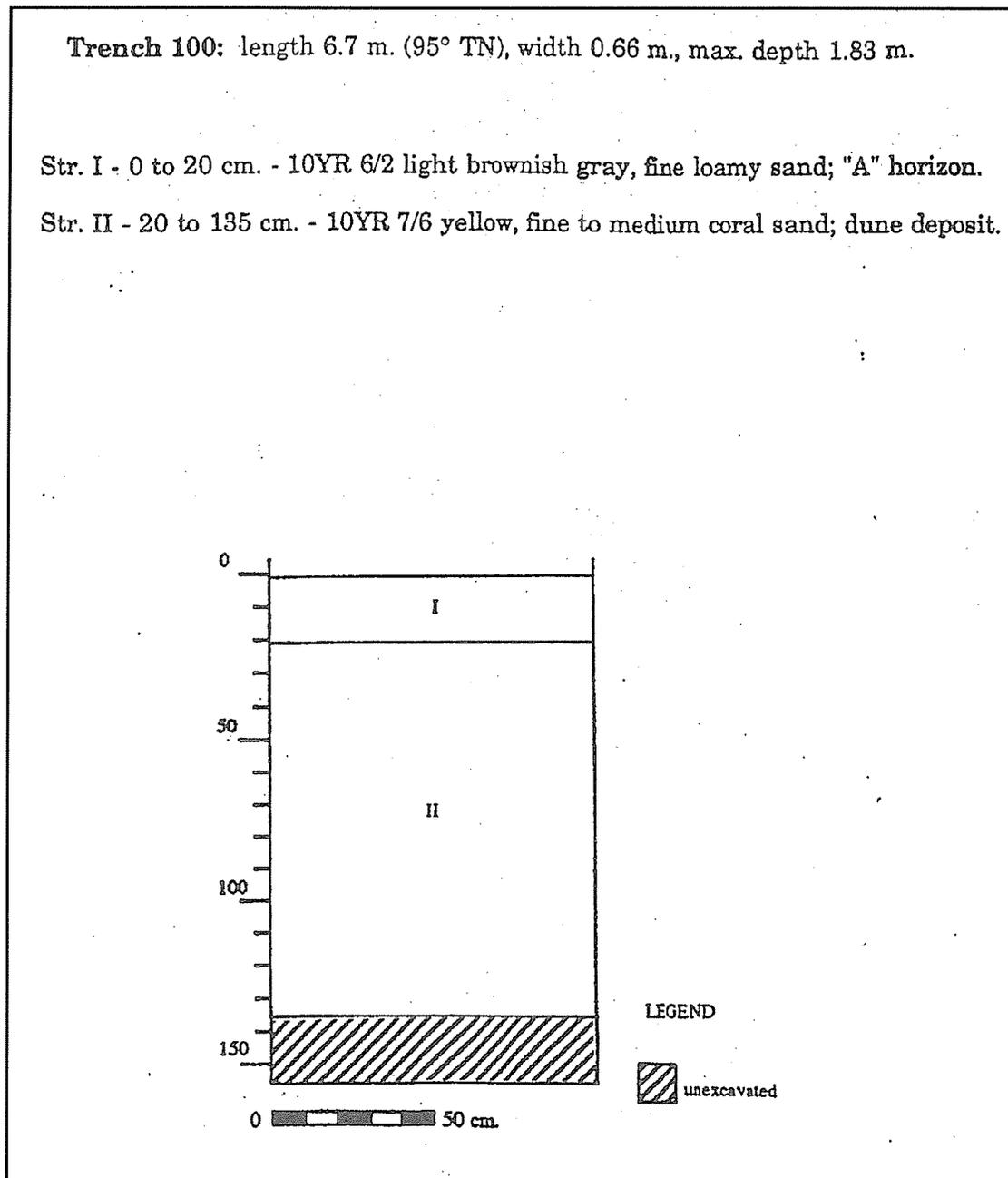


Figure 12. Trench 100 profile and description (from Hammatt et al. 1993:131).

## CURRENT FIELD INSPECTION

On October 14, 2011, Robert B. Rechtman, Ph.D. conducted a 100% surface reconnaissance of the subject parcel, the limits of which were identified in the field based on existing infrastructural development (i.e., roads and engineered drainage channels); ground visibility was excellent. No archaeological resources were observed within the study parcel. It was evident that the entire 2.8 acre lot had been subject to surface grubbing and grading in the past (Figure 13), as well as subsurface disturbance along its margins when the drainage channels were constructed. The channel along the eastern parcel boundary is concrete lined (Figure 14), the channel along the southern boundary is partially concrete and partially filled with large boulder riprap (Figure 15), and the channel along the western boundary is an earthen swale (Figure 16). The western third of the parcel has been fenced (Figure 17) and was formerly used as a horse paddock.



Figure 13. Study parcel, view to the northwest.

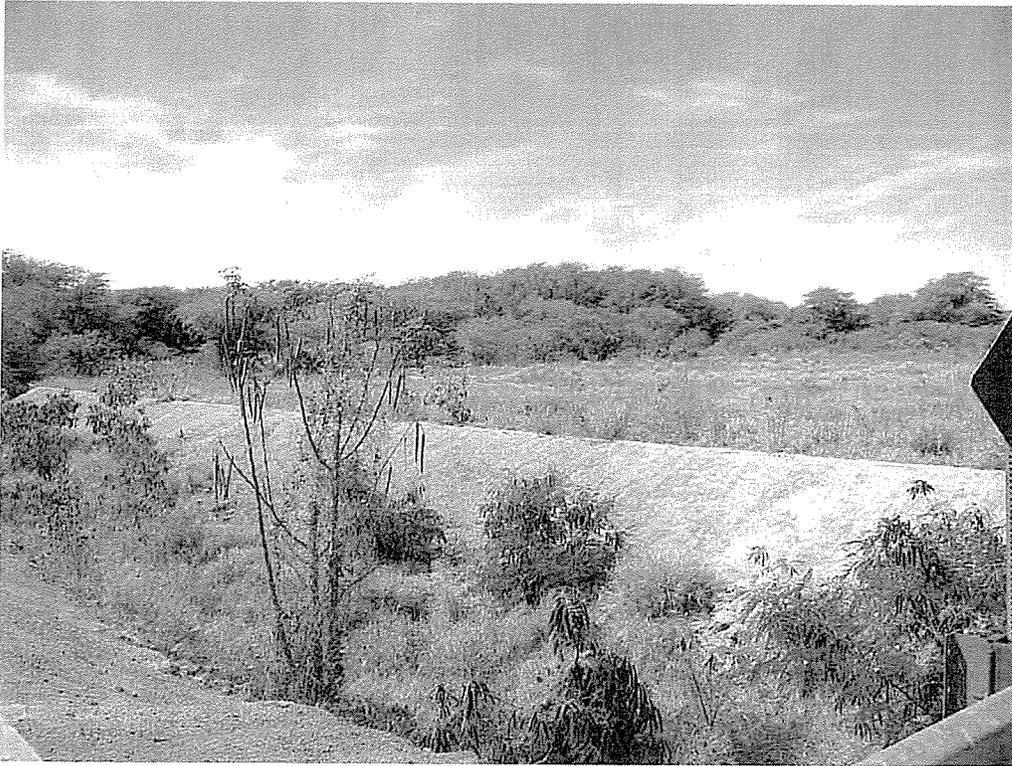


Figure 14. Concrete drainage channel along eastern parcel boundary, view to the southwest.

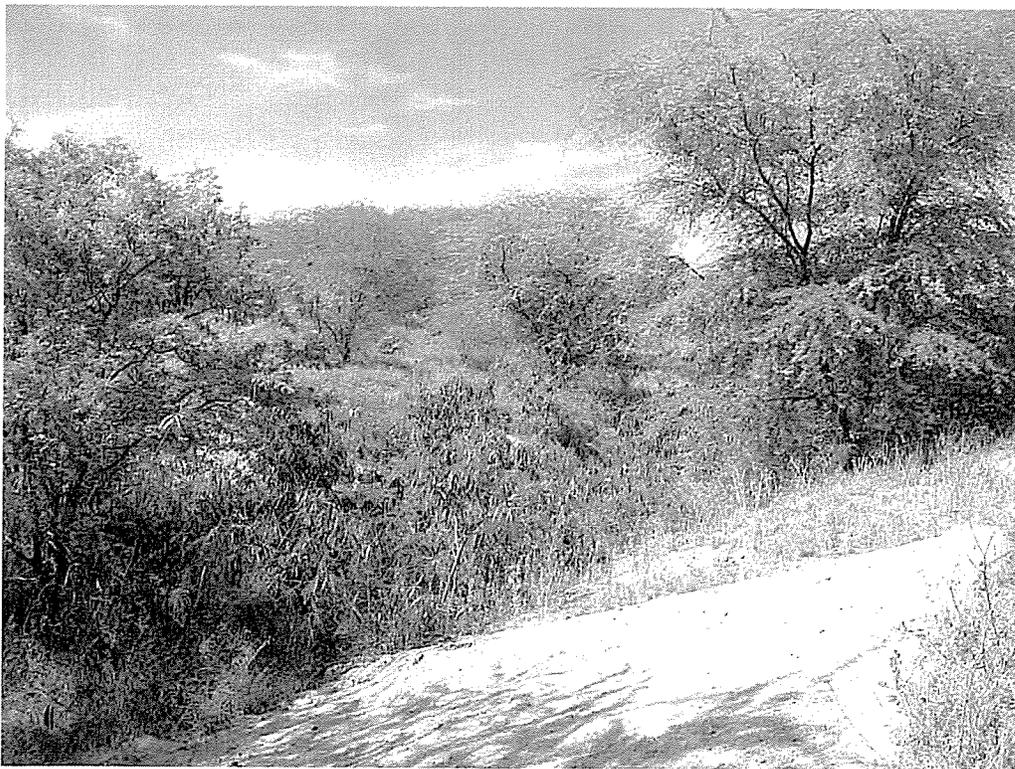


Figure 15. Drainage channel along southern parcel boundary, view to the west.



Figure 16. Earthen swale along western parcel boundary, view to the north.

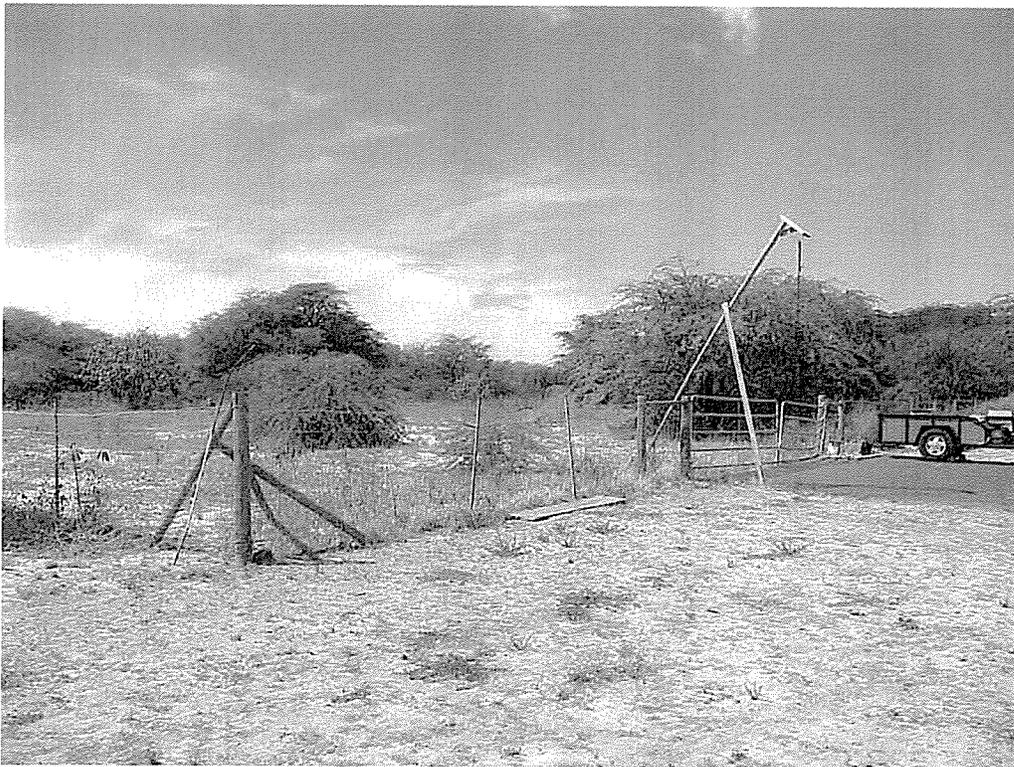


Figure 17. Fenced paddock in western third of the parcel, view to the southwest.

## **CONCLUSION AND RECOMMENDATIONS**

Given the negative findings of the previous archaeological inventory survey (Hammatt et al. 1993) and of the current study, it is concluded that the proposed development of a community center will not significantly impact any known historic properties. It is however recommended that an archaeological monitor be present during initial grubbing and grading activities in order to provide an immediate response to, and protection for, any unanticipated resources that may be unearthed. Significant subsurface cultural deposits are known to exist to the south of the current study parcel.

## **REFERENCE CITED**

- Hammatt, H., W. Folk, I. Masterson, J. Winieski,, and E. Novack  
2003 Archaeological Inventory Survey of Kekaha Housing Project (TMK: 1-2-12: 38 and 1-2-02:32, 34, & 38). Prepared for Kauai Housing Development Corp. County of Kauai.

**APPENDIX C**

**MEETING NOTES AND ATTENDEES PUBLIC HEARING, COMMENTS RECEIVED  
FOLLOWING PUBLICATION OF THE DEA**

**NOVEMBER 29, 2011**



# COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT

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## **Kekaha Community Enterprise Center Community Meeting Report**

Meeting Held on Tuesday, November 29, 2011, at the Waimea Neighborhood Center

Report by the Council for Native Hawaiian Advancement (CNHA)

On Tuesday, November 29, 2011, CNHA coordinated and facilitated a community planning meeting to provide the Kauai homestead beneficiaries and West Kauai community members with a status update on the Kekaha Community Enterprise Center (KCEC) Project, share draft conceptual plans, and collect input from participants.

Over 30 individuals attended the meeting representative of the East and West homestead communities, various community-based organizations, and project partners (Kaua'i Community College, Homestead Community Development Corporation, North Shore Consultants, LLC and Marc Ventura AIA, LLC). *For a complete list of attendees, see Attachment A.*

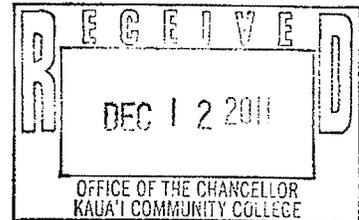
Ms. Robin Danner, CNHA President and CEO, and Ms. Lilia Kapuniaia, CNHA VP & Community Services Manager, facilitated the meeting. The meeting started with a prayer and brief introductions. Utilizing a PowerPoint presentation, participants received an overview of CNHA, an overview of the U.S. Department of Housing and Urban Development Alaska Native / Native Hawaiian Assisting Communities Grant Program, an overview and status report on the KCEC Project, a summary of the Lodge Feasibility Study results, a summary of the Draft Archaeological Assessment Survey, and an overview of the draft Building Plans.

Consensus was achieved in support of the development of the Center within the Kekaha residential community as planned. Most of the participants voiced interest in using KCEC for gatherings, training sessions, and educational purposes for youth and adults. Participants raised questions regarding business hours, the project budget, building location options, future building operations and maintenance, the target community to be served, parking capacity, and facility occupancy. Participants also voiced concerns over the location of the building in the Kekaha residential area, placement of the building on Lot 51 as presented, historical remains located near Lot 51, and additional traffic and noise that may be generated. There were three individuals present that voiced opposition to the project based on concerns identified above. Suggestions were made to change the placement of the building on Lot 51, add a playground and deliver additional beneficiary consultation sessions on the topic. All questions and concerns were addressed, and suggestions have been taken into consideration.

The meeting was a success in briefing the community on the KCEC Project, documenting Project support and collecting feedback on the building plans. Over ten applications were received from individuals interested in participating in the CNHA Project Working Group. For more information about the project and/or to receive a copy of the PowerPoint presentation and handouts, please contact Ms. Kapuniaia at 808.596.8155 or [info@hawaiiancouncil.org](mailto:info@hawaiiancouncil.org).

December 8, 2011

Kauai Community College  
Susan Cox, Chancellor  
3-1901 Kaunualii Highway  
Lihue, HI 96766



Re: Community Opposition to HUD Funded Construction Project

Dear Ms. Cox,

We are sending the enclosed petitions, submitted by 55 Hawaiian beneficiaries and residents of Kekaha and West Kaua'i to demonstrate community opposition to a HUD-funded construction project in the middle of our Hawaiian housing subdivisions. We will continue to gather petition signatures.

As explained in the petition, signatories are concerned that a native Hawaiian organization from outside our Kekaha community, the Anahola-based Council for Native Hawaiian Advancement, will be sited at a central location within our local Hawaiian community.

While we thank CNHA for its gesture, we note too many areas of concern around this project that demonstrate that this is not the right project for our community. A number of concerns have emerged:

- In 2010 and 2011 this organization and its affiliates supported the longterm leasing of our entire Kekaha home lands, which would have effectively deprived our beneficiary community of its homestead rights under the Hawaiian Homes Act.
- Over the three years of this grant (2008-2011) there has not been adequate notice of the grant project to key Kekaha stakeholders. Even those immediately across the street from the proposed building site have never been informed of the intended construction. Once informed and given the details, a number of residents opposed the project. Because there was no further communication made to those opposed, several felt that the project had been terminated and were quite surprised of the recent push to complete this project in the so-called "no cost" extension.
- In choosing Hawaiian homestead lots years ago, several Hawaiian homesteaders were assured, by then DHHL Chairman, Micah Kane, that that proposed building lot was a dedicated lot and would never be developed. Many chose their lots based on that representation, looking forward to the clear, open lot in front of their homes.
- Community support for this project may have been overstated. A review of the original grant proposal is in order.
- We have learned that significant monies have been spent, yet not much has resulted. Building permits are not in place, control of the lot is currently tenuous, and deadlines have expired.

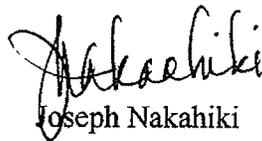
- The proposed building is small for its intended purpose as a training center, though the floor plan includes office space dedicated to CHNA operations and its leaders. The project architect stated to concerned residents that he was contacted only two weeks ago to provide a design for the building.
- The proposed site is a drainage ditch that was not able to be developed in the past by Department of Hawaiian Homelands due at least in part to inadequate wastewater capacity.
- There are *iwi*, or ancestors' remains, on the building site. The presence of *iwi* makes this site vulnerable to challenge for any proposed development. A video was made by DHHL, again then under the direction of Micah Kane, of a family member regarding such *iwi* on the property. Furthermore, no contact was made to the burial historian for this area, Kunane Aipolani, as a consultant when the archaeological survey was being conducted by a non-Kauai resident. Nor were the results of the study provided to the families or residents.
- Hawaiian home rule principles stress the importance of grassroots leadership by local homestead associations to serve its local beneficiaries. The Kekaha community, including the wider non-Hawaiian beneficiary community, feels strongly that if a Hawaiian-run training center is constructed in Kekaha, that it be run and owned by our own beneficiary organization, not an organization principally run by residents based in Anahola, which is on the other side of our island. It is an aggressive act from a Hawaiian standpoint. Identical projects can be run, owned, and supported through local Kekaha efforts.
- While many venues for meeting and training are readily available in our town, it is the actual training that is of utmost value to our residents. Training does not require the building of a structure in Kekaha, since there is an abundance of meeting and training space in our area.
- Finally, this community has tried to make its voice heard, but have been threatened with "either this or nothing," and made to feel like their voices and opinions were of no significance.

Thank you for your attention to this matter. We would like to recommend that remaining funds for the grant be returned, as is customary for grant projects facing such circumstances. Alternatively, if the principle grantee, Kauai Community College, would like to work directly with the Kekaha community on the establishment of a learning site in our town with the remaining funds, to be run and owned by our local beneficiary association, our residents would gladly welcome the opportunity to discuss this further with the college.

Sincerely,



Ruth Potts



Joseph Nakahiki

**To Our Leaders:**

**I support Home Rule for Kekaha beneficiaries.** It is against the values of Home Rule and local kuleana that an Anahola organization should own and control the central Hawaiian hale, in the middle of our Kekaha Hawaiian homestead subdivisions. *Permits for such a project should not be granted.*

**There is too much discord and bad feeling with this project overall.** Our beneficiaries were not adequately notified or consulted in the important planning stages of this project. Too many deadlines have been missed or have expired. Proposed activities have not been delivered. We do not know exactly where nearly \$500,000 of grant monies have already been spent for this project. This is not an acceptable way to develop beneficiary projects for Kekaha.

**Kekaha beneficiaries, through our own homestead association, KHHA, will launch our own projects to bring programs and a training hale to our community.** Kekaha has many teachers and programmers in many fields. We have many potential educational partners and supporters. And we have the best local knowledge to ensure that programs are designed specifically for our local Hawaiian residents.

**We thank the Anahola organization for its efforts,** however this project is not the right one for our community.

**We will honor the legacy of our kupuna by creating alternative training and educational programs.** If our beneficiaries feel strongly that Kekaha Hawaiian Homestead Association needs a hale separate from our Kekaha Neighborhood Center and other meeting spaces, we will work hard toward making this a reality, and commemorate the hale in honor of our kupuna.

Print name: Joni Keamoai

Signature: Joni A. Keamoai

Fifty-four additional signed petitions identical to the previous page were included with the package dated December 8, 2011.

They are not included here for the sake of brevity.

January 10, 2012

Kauai Community College  
Ramona Kincaid, Director of University Center  
& Academic Support  
3-1901 Kaunualii Highway  
Lihue, HI 96766



Re: Community Opposition to HUD Funded Construction Project

Dear Ms. Kincaid,

As stated in our letter dated December 8, 2011, we have continued collecting petition signatures and are again sending enclosed petitions, submitted by now 108 Hawaiian beneficiaries and residents of Kekaha and West Kaua'i to demonstrate community opposition to a HUD-funded construction project in the middle of our Hawaiian housing subdivisions.

Although we received the attached letter from Kaua'i Community College Chancellor, Helen Cox, dated December 12, 2011 in response to the first submittal of petitions, we were a bit disappointed that instead of having our concerns answered by CNHA or KCC, we were told in yet another presentation on December 20<sup>th</sup> by CNHA (Robin Danner) that our petition was incorrect. In fact, rather than answer some of the concerns in the petition, she focused on informing the petitioners present that CNHA is not an Anahola based organization and that the rounded amount of nearly \$500,000 that we listed as spent in our petition was incorrect.

First of all, our conclusions are based solely on the research that we've done along with the information that has been shared at presentations held by CNHA for the KHHA association. We listed CNHA as an Anahola based organization because as listed in CNHA's presentation documents received on December 20, 2011, on page 5, "CNHA has offices located on **Kauai, Oahu and Washington D.C.** The only office address we found on their website for Kaua'i lists an Anahola address, so we do not believe that this is an incorrect statement. Secondly, although many requests were made at the various presentations on the Enterprise Center regarding the money spent, we have never gotten an itemized written financial statement of the exact amount of money spent. All we were told was that there was just enough money left to build the hale, which was listed as a projected cost of \$398,600. Robin Danner, CEO of CNHA also informed us that she has already spent approximately \$230,000 in addition to complete this project. Again, more than \$300,000 plus \$230,000 is definitely nearly \$500,000 based on the information that was provided.

We understand and empathize with Chancellor Cox, of KCC and too, want a suitable solution to be reached, as she outlined in her letter however, the response from CNHA, specifically, Ms. Danner proved to be less than receiving and more of discrediting and attacking of our concerns. Rather than answer our concerns; Ms. Danner seemed to want

to make sure that attention was directed towards what she deemed as "incorrectness" in our petition and as she stated, so that we would not embarrass ourselves towards those in authority with an incorrect petition. In fact, at the December 20<sup>th</sup> membership meeting of the Kekaha Hawaiian Homestead Association, Ms. Danner presented the project again, but prefaced her opening with the response letter that we received from KCC, which she circulated amongst those in attendance at that meeting. Later we learned that the 55 individual petitions were also forwarded to KHHA's board members as well. Is this how concerns are answered? We are a bit confused as to why individual petitions in opposition to this project would be circulated in the community and want to know if this is a normal response to petitions being received by any organization. Unfortunately, our perception of this response is that it serves no other purpose then to perhaps make public of those who have signed and question or intimidate them as a result.

We as individuals took it upon ourselves to gather as much information as possible regarding this project because of the many unanswered questions and concerns that we had after listening to several contradictory presentations by Ms. Danner and CNHA. For example, on November 29<sup>th</sup> at her presentation in Waimea, she stated that the building was a modest 1300 square foot building; then on December 20<sup>th</sup> at the KHHA membership meeting the building became a modest 2000 square foot building. The plans that were provided in a beautiful 50 page (front and back with dividers) spiral bound book, are "no scale drawings" with no architecture stamp. Again, it is hard to trust that unofficial plans like those provided will not change similarly to the square footage changing depending on the presentation that a person attends.

The possibilities of family remains or "iwi" that may be present on this particular property were also of a concern in our petition. According to the archaeological survey that was presented in the booklet, a study was done in 1993 on 89 acres, which includes the entire subdivision and results were based on that particular study. Family members had asked who did the archaeological study and if in fact someone locally from the burial council was asked to walk the parcel with the surveyors. Again, the data provided on the survey proved insufficient to answer the concerns of the family members of interest.

The discord and bad feeling with this project overall is felt within the association, community and again many community members Hawaiian's and non-Hawaiian's have still not been informed of this project. It is truly difficult to understand how a grant, which specifically outlines activities such as "capacity building" for the Kekaha Hawaiian Homestead Association, has done very little in that department. This is an organization with young, enthusiastic officers and board, who obviously need help in capacity building. By the mere fact that Robin Danner and CNHA's approach to reaching a solution to the concerns is to have members write letters of support or opposition rather than teach the association (as part of the capacity building) to hear individual concerns and discuss them as a membership and board, she is creating fractures in the association and rather than build capacity. This division of the KHHA board is being encouraged through further suggestions by Ms. Danner to rush an approval this project. It is truly disheartening when the completion and money already spent on this grant has become more important then the outlined intended benefits of the project.

Finally, we have always maintained that the benefits of the HUD grant would be very beneficial for the community in terms of the educational opportunities that could be provided and are willing to work with KCC in accomplishing this. We understand that the grant specifically stated that classes would be held by KCC once the building was built, but the grant stipulations also state that a building may be **constructed, renovated or acquired**. If, as stated in the grant, a building is needed in order for classes to start then a positive resolution may be to acquire a building in the Kekaha Community that is already vacant. We still feel strongly that the **construction** of a building on Lot 51, Kekaha Hawaiian Homestead should be stopped because of the concerns that have been presented in our petition. Again, we thank you for your attention to this matter and will continue to solicit petitions in opposition to this project.

Sincerely,



Ruth Potts  
P.O. Box 309  
Kaumakani, HI 96747



Joseph Nakaahiki  
P.O. Box 1073  
Kekaha, HI 96752

NEIL ABERCROMBIE  
GOVERNOR  
STATE OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879  
HONOLULU, HAWAII 96805

ALBERT "ALAPAKI" NAHALE-A  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

MICHELLE K. KAUHANE  
DEPUTY TO THE CHAIRMAN

M. WAIALEALE SARSONA  
EXECUTIVE ASSISTANT

January 10, 2012

Ms. Ruth Potts  
Mr. Joseph Nakahiki  
Post Office Box 309  
Kaunakakai, HI 96747

Aloha Ms. Potts and Mr. Nakahiki,

Mahalo for your letter dated December 8, 2011 regarding community opposition to the HUD funded construction project at Kekaha, Kauai. We acknowledge receipt of your concerns and the petitions signed in opposition to the project referenced.

The Department of Hawaiian Home Lands (DHHL) fully understands the need for community support around development projects. Although we acknowledge the recent opposition, this particular project was identified as a priority in our regional planning process, where it also received broad community support. The West Kauai Regional Plan was adopted and approved by the Hawaiian Homes Commission on February 2011, after numerous meetings that occurred in 2010, where the community identified and voted on this project as a Priority Project. Moreover, if you review the Regional Plan, there is a listing of over 15 key stakeholder representatives and 50 individuals that participated and supported the project. The plan can be found online at: [http://hawaii.gov/dhhl/publications/regional-plans/kauai-regional-plans/DHHL\\_West\\_Kauai\\_Regional\\_Plan\\_030111\\_small.pdf](http://hawaii.gov/dhhl/publications/regional-plans/kauai-regional-plans/DHHL_West_Kauai_Regional_Plan_030111_small.pdf)

Community concerns and/or opposition to the proposed community facility were never brought forward until just recent. As you are aware, the Council for Native Hawaiian Advancement (CNHA) secured the funding for the building in partnership with Kaua'i Community College. CNHA did complete a Draft Environmental Assessment and DHHL has reviewed the draft and anticipates Findings of No Significant Impact (FONSI). Continued progress is being made on the project and DHHL has been supportive as the project remains a priority approved within our Regional Plan.

The DHHL also understands that most community projects have support as well as opposition. However, opposition to a project does not constitute immediate termination. Large amounts of time, energy, and resources have gone into the Kekaha project and opposition at this stage should be raised with CNHA as they have taken the lead to develop.

Thank you for sharing your concerns and allowing us the opportunity to comment on the issue. I am hopeful that CNHA and Kaua'i Community College will continue to work with the community to address the opposition while resolving the concerns with a positive solution.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Ka'uhane". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michelle K. Ka'uhane  
Deputy to the Chairman



# COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT

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January 12, 2012

Ms. Helen Cox, Chancellor  
Kaua'i Community College  
3-1901 Kaumuali'i Highway  
Lihu'e, Hawai'i 96766

Subject: Response to 12/8/11 "Community Opposition to HUD Funded Construction Project"  
Letter from Ruth Potts and Joseph Nakaahiki

Aloha e Ms. Cox:

Thank you for providing the letter of concern and petitions signed by individuals opposing the CNHA Kekaha Community Enterprise Center. We will respond by first laying out the points made by Mrs. Ruth Potts and Mr. Joseph Nakaahiki, followed by our response:

- 1. Petitioners Statement:** *In 2010 and 2011 this organization (meaning CNHA) and its affiliates supported the long-term leasing of our entire Kekaha home lands, which would have effectively deprived our beneficiary community of its homestead rights under the Hawaiian Homes Commission Act.*

**CNHA Response:** This statement is entirely unrelated to this project, the Kekaha Community Enterprise Center, and has no place in the discussion, and especially should not be fodder to silence free speech and engagement with our State government agencies.

It appears that the petitioners are referring to a leasing decision made by the State Department of Hawaiian Home Lands (DHHL) and the governing body, the Hawaiian Homes Commission, wherein this state agency responsible for administering the Hawaiian Home Land Trust put out to bid thousands of acres for agricultural leasing. They approved a lease to Pacific West Energy, a firm working to develop renewable energy.

CNHA's nonprofit community development corporation, of which is governed by homestead associations and homestead leaders, issued a letter to DHHL articulating a minimum of eight recommendations that should be required by DHHL in a "Community Benefits Agreement" if the state agency endeavored to actually issue the agricultural lease.

Contrary to the petitioner's statement, CNHA took a policy position to protect the rights of homesteaders, including the Kekaha Hawaiian Homestead.

- 2. Petitioners Statement:** *Over the three years of the grant (2008-2011) there has not been adequate notice of the grant project to key Kekaha stakeholders. Even those immediately across the street from the proposed building site have never been informed of the intended construction. Once informed and given the details, a number of residents opposed the project. Because there was no further communication made to those opposed, several felt that the project had been*

*terminated and were quite surprised of the recent push to complete this project in the so-called "no cost" extension.*

**CNHA Response:** This narrative statement is simply false in its entirety. Not only has CNHA coordinated and held numerous stakeholder meetings over the last three years covering the KCEC project, but other project stakeholders, in particular, DHHL, the agency that contributed the land to the project, has also held numerous community meetings on this project.

In fact, DHHL over the calendar year of 2010 coordinated its standard regional planning meetings, an extensive exercise to identify priority land uses for the region. Over 50 Kekaha community residents participated in the planning process, including some of the individuals that signed the petition, all of which are listed in the State of Hawaii DHHL West Kauai Regional Plan. A copy of the plan can be found on-line at [http://hawaii.gov/dhhl/publications/regional-plans/kauai-regional-plans/DHHL\\_West\\_Kauai\\_Regional\\_Plan\\_030111\\_small.pdf/](http://hawaii.gov/dhhl/publications/regional-plans/kauai-regional-plans/DHHL_West_Kauai_Regional_Plan_030111_small.pdf/)

What is extraordinary about the petitioner's statement, is that the outcome of these very meticulous and far reaching community planning sessions that are required to be broadly published, resulted in our KCEC project being identified as a "Priority Project" through a participant vote! This result not only re-affirmed the Kekaha homestead support of this CNHA project, but also DHHL's support for the project since 2008. Moreover, the selection of the KCEC as a Priority Project in the West Kauai Regional Plan, automatically makes the project eligible for direct support funding from DHHL under its regional planning project grant program.

And finally, once the Kekaha homestead community completed its regional planning, the overall plan was placed on the formal agenda of the Hawaiian Homes Commission in February 2011, wherein this nine-member, Governor-appointed Commission, approved and adopted the West Kauai Regional Plan. As a result, the Commission approved without opposition in April 2011, the issuance of a license to pursue an Environment Assessment (EA) on the site for the KCEC.

In relation to the petitioner's statement about a "recent push to complete this project in the so-called no cost extension", the formal No-Cost Extension was received from HUD, on July 8, 2011. Since notification, it's been included in all briefing materials. In July 2011, CNHA was invited to a KHHA Board meeting, to present a project status update. A complete briefing, including the request for a no-cost extension, was presented to all individuals present, including individuals that signed the petition.

- 3. Petitioners Statement:** *Community support for this project may have been overstated. A review of the original grant proposal is in order.*

**CNHA Response:** It is well known that this project came from the community as early as 2007, through the leadership of the late Aunty Ilei Beniamina, former Kekaha Hawaiian Homestead Association President, Aunty Leah Perieira, and Robin Danner, President of CNHA, all community leaders from Kauai. The most powerful documentation of community support, aside

from the KCEC project files, is the selection of the KCEC as a "Priority Project" in the DHHL West Kauai Regional Plan, wherein 50 individuals and 19 stakeholder representatives listed on page seven of the plan, makes clear the support for this project. In addition, the reaction of the Kekaha community to the petitioner's opposition reflected in 53 signatures, was to produce a petition in strong support of over 125 signatures in a matter of 7 days (attached).

4. **Petitioners Statement:** *We have learned that significant monies have been spent, yet not much has resulted. Building permits are not in place, control of the lot is currently tenuous, and deadlines have expired.*

**CNHA Response:** The total grant award to KCC as the grant recipient is \$787,728. CNHA is the grant sub-recipient to achieve all of the deliverables approved in the grant by HUD which includes the building of the KCEC, is \$680,000. CNHA has completed all of the deliverables on time and within budget, and has a remaining grant balance of \$444,619 to construct the 2,000 square foot KCEC facility and once completed, to deliver the KCEC project training services laid out in our grant. To date, CNHA has brought \$52,924 to the project, and anticipates a total leverage of at least \$90,000 by the end of the project period, not including the staffing costs to continue to implement the project over the no-cost extension period.

Contrary to the petitioner's statement that "control of the lot is currently tenuous", site control is well in hand. As stated previously, the Hawaiian Homes Commission and DHHL have taken formal action to dedicate the site for the project. During 2011, CNHA initiated and completed an EA and the Archaeological Assessment Survey (AAS), both of which are in draft form awaiting formal approval through their respective processes. DHHL has issued its preliminary approval of the EA, which has now been submitted to the State Office of Environmental Quality Control, to satisfy the 30-day public comment period requirement.

In addition, CNHA delayed the project construction to be responsive to community recommendations that an AAS be completed to ensure that cultural and burial remains are not an issue. The time taken was well spent, and the result of the AAS is that cultural deposits are not located on the project site, but rather to the south of the location.

And finally, building permits are not on the schedule to be obtained until after we complete the planned engagements with students of KCC on the site plan, as well as to finalize the floor plans which is scheduled for the end of January 2012.

In summary, the project has been well managed fiscally, and its timeline adjusted to meet regulatory requirements, as well as cultural priorities.

5. **Petitioners Statement:** *The proposed building is small for its intended purpose as a training center, though the floor plan includes office space dedicated to CNHA operations and its leaders. The project architect stated to concerned residents that he was contacted only two weeks ago to provide a design for the building.*

**CNHA Response:** The KCEC plan is entirely sufficient for the purposes of the project and for the size of the community. In response to the architect schedule, CNHA's relationship with Marc Ventura AIA, LLC began during proposal development stages in 2008. On January 25, 2010, his firm completed the KCEC Site Investigation Report, stating that Lot 51 would be suitable for the proposed building design and construction. Design work was halted due to the discussion of burial remains on Lot 51 during 2010. The results of the Draft AAS triggered the execution of a formal contract with Marc Ventura AIA, LLC. to conduct architectural design and construction management services.

6. **Petitioners Statement:** *The proposed site is a drainage ditch that was not able to be developed in the past by Department of Hawaiian Home Lands due at least in part to inadequate wastewater capacity.*

**CNHA Response:** The proposed site, Lot 51, was originally designated for use as a Detention Basin by DHHL, which was subsequently determined to be unnecessary. The site is bounded on the north by Ulili Street, on the South and west by vacant undeveloped land, and on the east by residential lots. A large drainage structure surrounds the property on the east, south, and west. This is documented by the Draft Environmental Assessment for the Kekaha Community Enterprise Center (dated December 2011) and by the DHHL Environmental Assessment for the Kekaha Residence Lots (dated April 2003).

7. **Petitioners Statement:** *There are iwi, or ancestor's remains, on the building site. The presence of iwi makes this site vulnerable to challenge for any proposed development. A video was made by DHHL, again then under the direction of Micah Kane, of a family member regarding such iwi on the property. Furthermore, no contact was made to the burial historical for this area, Kunane Aipolani, as a consultant when the archaeological survey was being conducted by a non-Kauai resident. Nor were the results of the study provided to the families or the residents.*

**CNHA Response:** Through excellent community engagement throughout the implementation of this project, CNHA received information of the potential of iwi on the site in 2010. To be responsive and to ensure maximum mitigation, CNHA halted the construction planning aspect of the project, to take the time and resource to conduct an AAS, recently completed November 2011.

As soon as the draft AAS was completed in November 2011, CNHA scheduled a community meeting on November 29<sup>th</sup> to share the results, with the consultant on hand at the meeting. The draft report confirms that cultural remains are not located on Lot 51. CNHA also was responsive to the Kekaha Hawaiian Homestead Association (KHHA) Board of Directors, which invited us to present project information at their members meeting on December 20, 2011. We did so, and distributed 75 copies of the AAS to KHHA, including copies hand-delivered to Mrs. Ruth Potts and Mr. Joseph Nakaahiki.

8. **Petitioners Statement:** *Hawaiian home rule principles stress the importance of grassroots leadership by local homestead associations to serve its local beneficiaries. The Kekaha community, including the wider non-Hawaiian beneficiary community, feels strongly that if a Hawaiian-run training center is constructed in Kekaha, that it be run and owned by our beneficiary organization, not an organization principally run by residents based in Anahola, which is on the other side of our island. It is an aggressive act from a Hawaiian standpoint. Identical projects can be run, owned, and supported through local Kekaha efforts.*

**CNHA Response:** The petitioner's statement about CNHA is incorrect. CNHA is a beneficiary-serving organization incorporated in 2001, dedicated to enhance the cultural, economic and community development of Native Hawaiians. Our headquarters is located in Honolulu, and we have offices located throughout the State of Hawaii. Three of our five offices are located in Hawaiian Home Land homestead communities on Kauai, Maui and Hawaii Island. The Kekaha facility will be the 4<sup>th</sup> office inside a homestead community.

CNHA and its 100% Native Hawaiian Board of Directors, developed the KCEC in partnership with KCC, dedicating CNHA resources, its capacity, its credibility with partners, and financial capacity to successfully accomplish the KCEC. As a result, the Hawaiian Homes Commission and DHHL which governs and administers the Hawaiian Home Lands, approved CNHA to receive land for the project based on its capacity, past performance, fiscal strength, beneficiary status, and expertise in homestead areas.

Although the petitioners may not be aware, it is quite common for Native Hawaiian organizations, like CNHA, including organizations such as Native Hawaiian Charter Schools and social service nonprofits, to receive land awards from DHHL to build and operate community facilities in homestead areas. These decisions are based primarily on the needs of the homestead, and the capacity and expertise of the organization developing and operating the facilities.

Finally, CNHA has 15 full-time, local resident employees across the state. Three of four of our senior managers are homesteaders from three different homestead areas, and 80% of our 15 employees are indigenous peoples from Hawaii and the Pacific region. Similar to our offices on Kauai, Maui and Hawaii Island, we anticipate that we will hire staff or partner with volunteers for the KCEC in Kekaha that will be from the West Kauai community.

9. **Petitioners Statement:** *While many venues for meeting and training are readily available in our town, it is the actual training that is of utmost value to our residents. Training does not require the building of a structure in Kekaha, since there is an abundance of meeting and training space in our area.*

**CNHA Response:** There are no facilities for community meetings and trainings inside the Kekaha homestead, on Hawaiian Home Lands, operated by and for community. This project is a community facility that will serve Kekaha for generations to come.

**10. Petitioners Statement:** *Finally, this community has tried to make its voice heard, but have been threatened with "either this or nothing," and made to feel like their voices and opinions were of no significance.*

**CNHA Response:** CNHA has conducted itself in a transparent manner and has performed above and beyond to outreach, to include and to welcome community input over the three-year history of the KCEC project. The petitioners have only in recent months decided to avail themselves of that access. CNHA has made sure that in the production of the EA, every concern and input received is documented and included. Furthermore, CNHA has consistently adjusted the project over the three-year period to be responsive to community input.

This opposition petition was dated just nine days following the November 29<sup>th</sup> meeting, and it was mailed to a number of entities including KCC, DHHL and HUD, but not CNHA. We received a full copy of the petition from KCC. In fact, Kekaha community members of the KHHA Board had not received a copy of the petition either, until CNHA distributed it on December 29<sup>th</sup>, even though the President of the KHHA Board of Directors signed it and helped to circulate it. Although this reality created a challenge to address the concerns of the petitioners more directly, we appreciate the opportunity to now address them to KCC with the well-being of our community and project in mind.

**11. Petitioners Statement:** *Recommend that the remaining funds for the grant be returned, as is customary for grant projects facing such circumstances. Alternatively, if the principle grantee, Kauai Community College, would like to work directly with the Kekaha community on the establishment of a learning site in our town with the remaining funds, to be run and owned by our local beneficiary association, our residents would gladly welcome the opportunity to discuss this further with the college.*

**CNHA Response:** CNHA applied for the KCEC project to KCC and was awarded a sub-recipient grant to accomplish the KCEC. CNHA applied and received approval from DHHL and the Hawaiian Homes Commission for the land for the project. Both of these actions are based on the original grant proposal to HUD, and based upon the capacity and fiscal strength of CNHA, as well as its past performance. CNHA, as a sub-recipient grantee, and the licensee of the lands from DHHL, we remain committed to this project, to our community, in particular to the needs of the Kekaha homestead which is well within our service area and mission.

CNHA and its board of directors will continue to work to complete the KCEC, as has been supported by the majority of the community, unless HUD or KCC cancels the project and requires the return of the remaining balance of \$444,619, as well as the return of the required matching resources.

Since the award of HUD Grant No. AHAC-08-HI-05 to build the KCEC in 2008, CNHA and all of its community partners and stakeholders have diligently and successfully implemented the deliverables of the project. Although we are disappointed by the inaccuracies of the petitioners statements, we remain

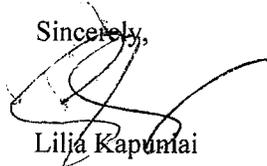
CNHA Letter to KCC re: 12/8/11 Community Opposition Position

January 12, 2012

Page 6 of 7

committed and positively energized to successfully complete the KCEC to benefit KCC, its students, and our local community.

Sincerely,



Lilia Kapunai  
CNHA Vice President and Community Services Manager

Enclosure: KHHA Petition in Support of KCEC

cc: Alapaki Nahale-a, Chairman, Department of Hawaiian Home Lands  
Alvin Parker, Chairman, CNHA Board of Directors  
Robin Puanani Danner, CNHA President/CEO  
Lorraine Rapozo, Mokupuni of Kauai Homestead Associations President & Board of Directors  
Van Kawai Warren, Kekaha Hawaiian Homes Association & Board of Directors  
CNHA KCEC Project Working Group Members

**Kekaha Hawaiian Homes Association**

We, the undersigned, support the building of the Enterprise Center proposed by the Council for Native Hawaiian Advancement (CNHA) in the Kekaha Gardens Hawaiian Homestead Neighborhood Lot 51 as an effort towards bettering and improving our neighborhood and surrounding area:

Name (Print)	Signature	Date
Lei Natagiese		01/01/2012
DONI KAHALU		01/01/2012
Lu Koerte		01/01/2012
Momi Nihem Schmidt	Momi Nihem Schmidt	01/01/2012
Leon Nihem Schmidt	Leon Nihem Schmidt	01/01/2012
MICHAEL E. KOERTE		1/01/2012
Leila Kamakahi		1/02/2012
Maike Mor		1/2/12
Bert Kohala BERTK		1/3/12
Rosemary VAIVAO		1/3/12
Johnny VAIVAO		1/3/12
Emantha VAIVAO		1/3/12
Maureen VAIVAO		1/3/12
Thomas VAIVAO		1/3/12
Cheryl Lou Morimoto		1/4/12
Jolly Makaha		1/4/12
Melanie Kaneapua		1-4-12
Jamie Koerte		1/4/12
Michelle KOERTE		1/4/12
NANI NAEPID		1/6/12
ANITA APPELGATE		1/11/12
PAUL APPELGATE		1/11/12
Chanin Tavita		1/11/12
Loida Lazaro		01/11/12
Sharlene Morimoto		1-11-12
Roy Borja		1-11-12
JOANEN Borja		1-11-12
SHARON NOLAN		1-11-12
Sharon Kai		1-11-12

Kekaha Hawaiian Homes Association

We, the undersigned, support the building of the Enterprise Center proposed by the Council for Native Hawaiian Advancement (CNHA) in the Kekaha Gardens Hawaiian Homestead Neighborhood Lot 51 as an effort towards bettering and improving our neighborhood and surrounding area:

Name (Print)	Signature	Date
Lutabelle H. Kelley		01/04/12
Helga Ishida		01/05/12
Quincy HAKAAMIKI		1/5/12
Jaqueline Matsumura		1/5/12
Tobi Freitag		1/5/12
Joanne Pangos		1/5/12
Sharon Lynn		1/5/12
LISA DAVALOS		1/5/12
Paul Williams		1/5/12
VANESSA AKANA		01-05-12
Makanae Ayan		01-05-12
Jonathan Olores		1-5-12
JUNE AKANA		1-6-12
Darlene MUKAOKA		1-6-12
Karen Dickinson		1-6-12
MacLynn Jardin		1-6-12
MELO PEREIRA		1-6-12
YOSABEL YONG		1-6-12
HEMI HOY		1-9-12
MARK WHIDDY		1-11-12
Timothy LEGASPI		1-11-12
Jayne Murawaka PEREIRA		1/11/2012
Glenda Miyazaki		1/11/2012
Sandi Arfaho		1/11/12
Andrew Franco		1/11/12
Shirley		1/11/12
Richard		1/11/12
Linda Wychem		1/11/12
Cinthy Kagawa		1/11/12

**Kekaha Hawaiian Homes Association**

We, the undersigned, support the building of the Enterprise Center proposed by the Council for Native Hawaiian Advancement (CNHA) in the Kekaha Gardens Hawaiian Homestead Neighborhood Lot 51 as an effort towards bettering and improving our neighborhood and surrounding area:

Name (Print)	Signature	Date
CAROLINE KANAHELE	Caroline Kanahale	12/29/11
Vigilant KANAHELE	Vigilant Kanahale	12/29/11
Glady's Kahale	Glady's Kahale	12/29/11
Hookipa Kanahale	HOOPIA KANAHELE	12/29/11
* Sylvia Nakaahiki	Sylvia R. Nakaahiki	12/29/11
* Emalia Kanahale	Emalia Kanahale	12/29/11
Bethylen Kanahale	Bethylen Kanahale	12/29/11
Luciano Bustillos	<del>Luciano Bustillos</del>	
Rebecca Nihar-Yong	<del>Rebecca Nihar-Yong</del>	12/29/11
Grace Kahoelaulii	Grace Kahoelaulii	12/29/11
William K. Nizo	William K. Nizo	12/29/11
Jack Holskalkali-Nizo	Jack K. Holskalkali-Nizo	12/29/11
Lotuvala Bustillos	<del>Lotuvala Bustillos</del>	12/29/11
Donna-May Kanahale	Donna-May Kanahale	12/29/11
Wesley Kanahale	Wesley Kanahale	12/29/11
Amy Kahale	Amy Kahale	12/29/11
Ricky Kahale	Ricky Kahale	12/29/11
Lisa Kanahale	<del>Lisa Kanahale</del>	12/29/11
CONNIE Shimazu	C. Shimazu	12.29.11
CHARLES Kaliloa	Charles Kaliloa	12/29/11
Dorothy Kaliloa	Dorothy Kaliloa	12/29/2011
Sharon Kanahale	Sharon Kanahale	12/29/11
Leslie Kanahale	Leslie Kanahale	12/29/11
24 Ruth Kahoelaulii	<del>Ruth Kahoelaulii</del>	01/10/12

**Kekaha Hawaiian Homes Association**

We, the undersigned, support the building of the Enterprise Center proposed by the Council for Native Hawaiian Advancement (CNHA) in the Kekaha Gardens Hawaiian Homestead Neighborhood Lot 51 as an effort towards bettering and improving our neighborhood and surrounding area:

Name (Print)	Signature	Date
Lakabelle H. Kelley		01/04/12
Helga Ichida		01/05/12
QUEENE HAKAAMIKI		1/5/12
Jaqueline Matsumura		1/5/12
Tedei Freitag		1/5/12
Joanne Paringas		1/5/12
Sherley Lynn		1/5/12
LISA DAVALOS		1/5/12
Paul Williams		1/5/12
VALISSA AKANA		01.05.12
Makanae Ayan		01.05.12
Jonathan Olores		1.5.12
JENE AKENA		1-6-12
Dorlene MUKAOKA		1-6-12
Karen Dickinson		1-6-12
MaLynn Jardin		1-6-12
Mik Perera		1-6-12
Yosabel Yong		1-6-12
NEVIN HOY		1-9-12
MARK WHIDDAY		1-10-12
L. KADUNA		1/10/12
KIRO BLAS		1/10/12
Elijah Kane		1-10-12
Hualani Duncan		10 Jan 12
DAVID DUNCAN		1-10-12
Kane Toralde		1-10-12
Cherice Rapozo		1.10.12
STEPHEN L. SPEARS		1/10/12
Johnny K. Kanahale Sr		



**NORTH SHORE CONSULTANTS, LLC**

February 3, 2012

Ms Ruth Potts  
PO Box 307  
Kaunakani, Hawaii 96747

Mr. Joseph Nakaahiki  
PO Box 1078  
Kekaha, Hawaii 96752

Draft Environmental Assessment Kekaha Community Enterprise Center  
Lot 51, Kekaha Gardens Subdivision

Dear Ms. Potts and Mr. Nakaahiki:

North Shore Consultants is preparing an Environmental Assessment for the above referenced project. The Draft EA has been published and is now available for your review. I have enclosed a copy for your use. It can also be found on the internet at:

[http://oeqc.doh.hawaii.gov/Shared%20Documents/EA\\_and\\_EIS\\_Online\\_Library/Kauai/2010s/2012-01-23-DEA-Kekaha-Community-Enterprise-Center.pdf](http://oeqc.doh.hawaii.gov/Shared%20Documents/EA_and_EIS_Online_Library/Kauai/2010s/2012-01-23-DEA-Kekaha-Community-Enterprise-Center.pdf)

Your letters and petition on the subject have found their way to me through the project proponent The Council for Native Hawaiian Advancement (CNHA). I have just now received these because they were not addressed or copied to CNHA. The majority of your concerns seem to be directed at the contract management by CNHA, which are beyond the scope of an Environmental Assessment.

Native Hawaiian Burials or other cultural artifacts are within our scope and are discussed in the Draft EA Section 2.7. The two professional archaeologists conducted surveys in accordance with standard practices for their industry and did not find evidence of *iwi* or other cultural artifacts. Due to the level of concern expressed during this planning period an archaeologist will be present to monitor the site during construction and excavation. Section 2.7 recommends a mitigation procedure if artifacts are discovered.

The comment period for this document is now open and will remain open until February 22, 2012. I value your participation in the Environmental Assessment process. Please mail or email any comments on potential environmental impacts to me prior to the closing date.

Thank You,



**NORTH SHORE CONSULTANTS, LLC**

David M. Robichaux, Principal

P.O. Box 790  
Hale'iwa, Hawai'i 96712  
robichaud001@hawaii.rr.com

Telephone: 808.637.8030  
Telephone: 808.368.5352

Alapaki Nahale'a, Chairman  
Hawaiian Homes Commission  
Hale Kalaniana'ole, 91-5420 Kapolei Parkway  
Kapolei, HI 96707

March 19, 2012

**RE: Agenda Item F-1, March 19 and 20, 2012 Agenda:**  
**Recommendation to Commissioners to Postpone or Disapprove FONSI**  
**Kekaha Enterprise Center, Kekaha, Kaua'i**

Dear Chairman Nahale'a:

At the request of a member of Kekaha's Naka'ahiki ohana, this letter is submitted with regard to the March 19 and 20 Hawaiian Homes Commission Agenda **Item # F-1**, involving the Commission's pending approval of a FONSI in its Environmental Assessment of the Kekaha Enterprise Center building site in Kekaha, Kaua'i ("Lot 51").

As you and CNHA, the current holder of the land use rights of Lot 51, are aware, through letter dated February 9, 2012 (attached) Kekaha Hawaiian Homestead Association is currently going through a beneficiary process to create a democratically-drafted beneficiary association Position Statement on this issue. Specifically, our west side beneficiaries will be deciding together whether they approve or disapprove of the siting of the Kekaha Enterprise Center on Lot 51.

KHHA has embarked on this meticulously planned board process, reaching out as never before to Hawaiian speakers (see Hawaiian translation flyer attached) and to the community in general (also attached).

**There are issues involving *iwi* on Lot 51 that make a FONSI by the Commission extremely vulnerable to challenge.** Beneficiary and legal examination of relevant statutes, state mandated preservation plans, and consultation of laws and experts on Hawaiian burial grounds, indicate that a FONSI finding may not only be premature, but inappropriate and illegal. Further, enforcement provisions in state law impose criminal sanctions on the improper excavation and alteration of burial grounds and artifacts.

To protect the Commission and its leasees from such liability, and from needless expense stemming from a hasty approval of a FONSI for this EA, we urge the Commission to postpone this vote until:

- 1) KHHA has concluded its Position Statement process and submitted this statement to stakeholders and decision makers. This democratically-created Position Statement will further inform an appropriate recommendation on the Draft EA that may or may not be a FONSI; and

HHC Item No. F-1  
Exhibit B  
Date 3-19-12

- 2) Our internal investigation with experts and advisors can recommend to the Commission and project sponsors a more rigorous set of recommendations that bring a greater level of accountability to the ohana of Kekaha and their family burial grounds.

Thank you for your consideration. I request that this letter be made part of the minutes of the Commission meeting, and included in the official record of the Commission deliberations of the March 19 and 20 Commission meetings in Kapolei.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Phoebe Eng". The signature is written in black ink and is positioned above the printed name.

Phoebe Eng

Cc: Burial Council members, State of Hawaii

## Kekaha Hawaiian Homestead Association

Alapaki Nahale'a, Chairman  
Hawaiian Homes Commission  
Hale Kalaniana'ole, 91-5420 Kapolei Parkway  
Kapolei, HI 96707

February 9, 2012

### Re: KHHA Update and Board Process on DHHL Lot 51 Project

Dear Chairman Nahale'a:

The board of the Kehaha Hawaiian Homestead Association would like to update you and the Commission on our activities regarding the Kekaha Enterprise Center, currently planned for siting in the middle of our Kekaha homestead subdivision ("Lot 51").

As you may know the Kekaha Enterprise Center generally is an approved project in our recent West Kaua'i Regional Plan. However, we have recently heard serious objections and contentious views to this project from several members of our beneficiary community. At least one petition opposing the project has been circulated in our community. We are aware that this petition was sent to several parties involved in the project, including the Department of Hawaiian Home lands (DHHL), U.S. Department of Housing and Urban Development (HUD), and Kauai Community College (KCC), the formal recipient of the HUD grant for construction of the Kekaha Enterprise Center building. There are also statements from other members expressing support for the project. Emotions run high on this issue.

In light of the potential harm in causing long term rifts in our community, the board of directors of KHHA has decided to facilitate a process of allowing our membership to establish the official position of our organization regarding this project. In order to do this, each member of our Board has pledged to take a position of neutrality, so that all of us can effectively help our beneficiaries voices be heard, without our personal bias. **Our board has chosen to create a process and timeline whereby board members will facilitate a fact finding and discussion in March among our members, so that they may determine the official position statement of our organization regarding this project.**

As with all Hawaiian beneficiary organizations, KHHA is a membership-driven organization and we take our representative responsibilities very seriously. To be true and accountable to our membership, we must represent the perspectives of our membership as fully and with as much fairness and disclosure to them as possible.

Many of our members have expressed concern that there are iwi on the proposed building lot, and that further research is needed before any building approval on the site should occur. Other beneficiaries have stated that, at the time of their lot selection, DHHL had represented to

(Nahale'a cont'd, page 2)

HHC Item No. F-1  
Exhibit C  
Date 3-19-12

them that Lot 51 would not be developed or built upon, as it was a drainage ditch unsuitable for building construction. Some beneficiaries chose their lots based on those representations.

There are also other beneficiaries that support this project and see its many potential benefits. Many understand that an enterprise center could provide a gathering place for Hawaiian organizations, as well as a training and education center that our beneficiaries need to begin their paths toward self sufficiency.

In light of this, our KHHA process that helps our members determine our formal position statement will build confidence among our beneficiaries that they have had a full opportunity to be informed, heard, and counted by project decisionmakers. We view this as a new level active engagement by our board with our membership, **and** a key capacity-building effort that builds both trust and accountability for our organization.

**We anticipate that our membership will finalize their position statement by the week of March 19.** We hope that you and DHHH will honor our KHHA position statement, and refrain from making any decisions on approving or denying land use for this project, until then. We were told that CNHA and/or HCDC are planning an internal board vote on whether to continue with the project within the coming week, and so this letter is being cc'd to them, as well as to Kauai Community College, in hopes that they too will respect Kekaha's local processes of self determination and home rule.

Mahalo for your consideration. It will be both important and meaningful to our beneficiaries that you and the Commission wait for, and defend, their position statement. I do hope that you will support us.

Please direct any responses to this letter to me at [kawaiwarren@gmail.com](mailto:kawaiwarren@gmail.com).

Sincerely,



Kawai Warren  
President, Kekaha Hawaiian Homestead Association

Cc: U.S. Department of Housing and Urban Development  
Kauai Community College  
Hawaiian Community Development Corporation  
Council for Native Hawaiian Advancement  
Commissioners, Department of Hawaiian Homelands

**ATTENTION TO:**  
All Native Hawaiian Beneficiaries from Kalaheo to Mana  
**FROM:**  
 Board of Directors, Kekaha Hawaiian Homestead Association (KHHA)

## LET OUR BENEFICIARY VOICES BE HEARD!

### Help Us Create the Official KHHA Position Statement on LOT 51/Kekaha Enterprise Center

On Monday, March 19 and Tuesday, March 20, 2012, the Board of Directors of Kekaha Hawaiian Homestead Association (KHHA) will hold a closed meeting with west side beneficiaries to create the **official KHHA Position Statement** on Lot 51/Kekaha Enterprise Center.

This position statement discussion will be limited to west side native Hawaiian beneficiaries from Kalaheo to Mana:

1. **Homestead Lease Holders** (Name must appear on the DHHL's official list of leasees); and
2. **Applicants** (Must have a valid applicant number that appears on the DHHL applicant list for Residential, Ag, or Pastoral lots).
3. Spouses, immediate household family members of (1) and (2) above may attend both meetings as observers.

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The KHHA Position Statement process will consist of 2 meetings:

⇒ **MEETING 1: Monday, March 19, 2012 (Board and Beneficiary discussion):**

*March 19, at 6:30 pm at Kekaha Elementary School cafeteria. Check in starts at 5:30 pm.*

GOAL: KHHA board hears and responds to questions and comments about Lot 51 and Kekaha Enterprise Center. Discussion among lessees, applicants, and board members. Spouses and family household members may attend as observers.

⇒ **MEETING 2: Tuesday, March 20, 2012 (Creating the Final Position Statement):**

*March 20, at 6:30 pm at Kekaha Elementary School cafeteria. Check in starts at 5:30 pm.*

GOAL: Facilitated discussion to create a final KHHA Position Statement. Discussion and voting limited to lessees and applicants. Spouses and family household members may attend as observers.

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**PLEASE ATTEND AND ADD YOUR VOICE:**

- ⇒ *Are there any adjustments to the project that would make it acceptable?*
- ⇒ *Are we able to find alternative ways to bring education to Kekaha if KHHA beneficiaries disapprove of this project?*
- ⇒ *What are the KHHA board's top Pro's and Con's of the project?*
- ⇒ *Do you approve or disapprove of the Kekaha Enterprise Center on Lot 51?*

The Board of Directors will do its best to ensure that the KHHA Position Statement influences key decision makers.

We look forward to your participation. Let your voice be heard.

**E Nānā mai:****Nā Ho‘oilina ‘Ōiwi Hawai‘i Āpau mai Kalaheo i Mana****Na:****Nā Papa Luna Ho‘okele, ‘Ahahui ‘Āina Pulapula o Kekaha (KHHA)****E Kōkua a Ho‘okumu mai i ka ‘Ōlelo Kūhelu o KHHA ma ‘Āpana  
51/Kekaha Enterprise Center**

Ma ka Po‘akahi, lā 19 o Malaki a me ka Po‘alua, lā 20 o Malaki, 2012, Na nā Papa Luna Ho‘okele o ‘Ahahui ‘Āina Pulapula o Kekaha e mālama he hālāwai pa‘a me nā ho‘oilina komohana no ka ho‘okumu ‘ana he ‘Ōlelo Kūhelu a KHHA ma ka ‘āpana 51/Kekaha Enterprise Center. Ho‘opa‘a ‘ia he hō‘ulu‘ulu pōkole o ka papahana.

E kaupalena ‘ia kēia ‘ōlelo kūhelu i nā ho‘oilina komohana mai Kalaheo i Mana:

1. **Mea Ho‘olimalima ‘Āina Pulapula** (Pono ka inoa e kau ma luna o ka papa kūhelu DHHL)
2. **Mea Noi** (Pono e loa‘a ka helu mea noi kū i ke kānawai e kau ma luna o ka papa palapala noi DHHL no nā ‘āpana Kama‘āina, Mahi‘ai, a i ‘ole nā pā holoholona.)
3. **Kāne/wahine, ‘ohana pili koko me nā lālā o (1) a me (2) ma luna. Hiki ke hele pū i nā hālāwai.**

E mālama ‘ia ana he 2 hālāwai no ka ‘Ōlelo Kūhelu KHHA:

**HĀLĀWAI 1: Po‘akahi, lā 19 o Malaki, 2012 (Kūkā me ka Papa a me nā Ho‘oilina):**

*Lā 19 o Malaki, Ho‘omaka ma ka hola 6:30 o ke ahiahi ma ka hale ‘aina o Ke Kula Kamali‘i o Kekaha. Ho‘omaka ke kāinoa ‘ana ma ka hola 5:30 o ke ahiahi.*

**Pahuhopu:** E ho‘olono a pane pono ka papa KHHA i nā nīnau a me nā mana‘o e pili ana i ka ‘āpana 51 a me Kekaha Enterprise Center. He kūkākūkā ma waena o nā po‘e ho‘olimalima, nā mea noi, a me nā papa lālā. Hiki ke hele mai nā kāne/wahine a me ka ‘ohana ma ke ‘ano he mau mea nānā.

**HĀLĀWAI 2: Po‘alua, lā 20, o Malaki, 2012 (Ho‘okumu ‘ia ka ‘Ōlelo Kūhelu Hope Loa):**

*Lā 20 o Malaki, Ho‘omaka ma ka hola 6:30 o ke ahiahi ma ka hale ‘aina o Ke Kula Kamali‘i o Kekaha. Ho‘omaka ke kāinoa ‘ana ma ka hola 5:30 o ke ahiahi.*

**Pahuhopu:** He kūkākūkā no ka ho‘okumu ‘ana he ‘Ōlelo Kūhelu Hope Loa o KHHA. E kaupalena ‘ia ke kūkākūkā a koho pāloka ‘ana i nā po‘e ho‘olimalima a me nā mea noi. Hiki ke hele mai nā kāne/wahine a me ka ‘ohana ma ke ‘ano he mau mea nānā.

**E ‘OLU‘OLU ‘OUKOU E HELE MAI A HO‘OPUKA I KOU MANA‘O:**

- *He mau lolī hou a‘e kā ‘oukou e ho‘omaika‘i ai kēia papahana?*
- *Hiki iā mākou e ‘imi i mau ‘ano ‘oko‘a e ho‘onui i ka ho‘ona‘auao no Kekaha inā e ‘āpono ‘ole nā ho‘oilina KHHA o kēia papahana?*
- *He aha nā mea maika‘i a maika‘i ‘ole o kēia papahana?*
- *E ‘āpono a ‘āpono ‘ole ‘oukou o Kekaha Enterprise Center ma ka ‘āpana 51?*

E hana maika‘i ka Papa Luna Ho‘okele i mea e ho‘ololi ai ka ‘Ōlelo Kūhelu KHHA i ka po‘e ho‘oholo ko‘iko‘i. E ho‘ohiki ‘ia kēia papa lālā he ho‘ohiki kūkonu i mea e mālama ai he kūkākūkā palekana a kaulike ma waena o nā po‘e koho pāloka e ho‘okumu ai i ka ‘Ōlelo Kūhelu.

Mahalo i ke kōkua ‘ana mai! E lohe ‘ia nō kou leo.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-6000

OFFICE OF POLICY DEVELOPMENT  
AND RESEARCH

June 29, 2011

Ms. Helen A. Cox  
Chancellor  
Kauai Community College  
3-1901 Kaumuali'i Highway  
Lihu'e, HI 96766-9591

Dear Ms. Cox:

SUBJECT: Alaska Native/Native Hawaiian Institutions Assisting Communities Program  
Grant Number AHIAC-08-HI-05  
Removal of Environmental Conditions

This letter is to advise you that an Environmental Assessment as been completed for your *Kekaha Commercial Enterprise Center* project to be undertaken with funds from the subject grant. Based on the results of this review, the Department of Housing and Urban Development has made a *Finding of No Significant Impact* for the planned activities pursuant to the regulations at 24 CFR 50.33. Enclosed is a copy of form HUD-4128, Environmental Assessment, documenting compliance with the federal laws and authorities at 24 CFR 50.4 and other applicable program factors.

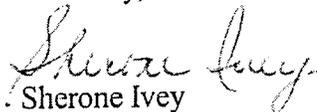
Please note the special conditions listed in section 11 on page 1 of form HUD-4128 and summarized below:

1. Implement best management practices during the construction phase of the project to minimize impacts from increased noise, fugitive dust, and emissions from construction equipment.
2. Project must comply with the County of Kauai Department of Public Works drainage standards.
3. If cultural resources are uncovered during construction, work must stop and an archeologist will be provided sufficient time to evaluate the site and carry out mitigation as needed.
4. Wastewater system must comply with local requirements and State of Hawaii Department of Health Administrative rules.
5. Erect perimeter fence along the adjacent drainage ditches to prevent unsafe access by users of the facility.

You may proceed to obligate and expend grant funds in the amount of \$794,728 on the planned construction activities subject to the terms and conditions of your grant agreement. Should you decide to modify or increase the scope of activities under this grant, please submit a description of the changes prior to incurring any costs. If necessary, the environmental review will be updated to reflect the new scope of work.

We look forward to working with you to achieve the objectives in your grant proposal. If you have any questions, please contact me at (202) 402-4200 or by e-mail at [sherone.e.ivey@hud.gov](mailto:sherone.e.ivey@hud.gov).

Sincerely,

A handwritten signature in cursive script that reads "Sherone Ivey".

Sherone Ivey

Deputy Assistant Secretary

Office of University Partnerships

Enclosure

# Environmental Assessment and Compliance Findings for the Related Laws

U.S. Department of Housing and Urban Development

1. Project Number: **AHIAC-08-HI-05**  
 HUD Program: **Alaska Native/Native Hawaiian Institutions Assisting Communities**  
 2. Date Received: **04/14/10**

RMS: HI-00487R

**Findings and Recommendations** are to be prepared **after** the environmental analysis is completed. Complete items 1 through 15 as appropriate for all projects. For projects requiring an environmental assessment, also complete Parts A and B. For projects categorically excluded under 24 CFR 50.20, complete Part A. Attach notes and source documentation that support the findings.

3. Project Name and Location: (Street, City, County, State) <b>Kekaha Commercial Enterprise Center 7680 Ulili Road Kekaha, Kauai, HI 96752</b>		4. Applicant Name and Address (Street, City, State, Zip Code), and Phone <b>University of Hawaii - Kauai Community College 2530 Dole Street, Sakamaki Hall, D-200 Honolulu, HI 96822</b>	
5. <input type="checkbox"/> Multifamily <input type="checkbox"/> Elderly <input checked="" type="checkbox"/> Other <b>Public facility (Community Enterprise Center)</b>	6. Number of: <b>0</b> Dwelling Units <b>1</b> Story	<b>1</b> Building <b>1</b> Acre	7. Displacement: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <b>Site is vacant and has never been developed.</b>
8. <input checked="" type="checkbox"/> New Construction <input type="checkbox"/> Rehabilitation <input type="checkbox"/> Other <b>Construct a multipurpose community center (1,100 sq. f.) to provide training and counseling programs, primarily to low-income Native Hawaiians.</b>		10. Planning Findings: Is the project in compliance or conformance with the following plans? Local Zoning: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable Coastal Zone: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable Air Quality (SIP): <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable <b>Parcel is zoned "Residential R-6 District." Per letter dated 6/23/11, DHHL agreed to waive the zoning restrictions to allow the facility to be built (letter in Tab B). Project site is outside of Special Management Area boundary (map in Tab C). All of Hawaii is an attainment area for air quality.</b>  Are there any unresolved conflicts concerning the use of the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9. Has an environmental report (federal, state, or local) been used in completing this form? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Environmental Assessment and corresponding Environmental Review Record dated April 2003 prepared by DHHL to develop Kekaha Residence Lots (resource center will be built on lot 51).</b>			

11. Environmental Finding: (check one)

Categorical exclusion is made in accordance with § 50.20 or

Environmental Assessment and a **Finding of No Significant Impact (FONSI)** is made in accordance with § 50.33 or

Environmental Assessment and a **Finding of Significant Impact** is made, and an Environmental Impact Statement is required in accordance with §§ 50.33(d) and 50.41.

Project is recommended for approval (List any conditions and requirements):  Project is recommended for rejection (State reasons):

1. Implement best management practices during the construction phase of the project to minimize impacts from increased noise, fugitive dust, and emissions from construction equipment.
2. Project must comply with the County of Kauai Department of Public Works drainage standards.
3. If cultural resources are uncovered during construction, work must stop and an archeologist will be provided sufficient time to evaluate the site and carry out mitigation as needed.
4. Wastewater system must comply with local requirements and State of Hawaii Department of Health Administrative rules.
5. Erect perimeter fence along the adjacent drainage ditches to prevent unsafe access by users of the facility.

12. Preparer: (signature) <b>Robert S. Kroll</b> <i>Robert S. Kroll</i>	Date: <b>6/28/11</b>	13. Supervisor: (signature)	Date:
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14. Comments by Environmental Clearance Officer (ECO): (required for projects over 200 lots/units)

15. HUD Approving Official: <b>Sherone Ivey, Deputy Assistant Secretary, Office of University Partnerships</b> <i>Sherone Ivey</i>	<b>6/29/11</b>
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**Part A. Compliance Findings for §50.4 Related Laws and Authorities**

§50.4 Laws and Authorities	Project is in Compliance		Source Documentation and Requirements for Approval
	Yes	No	
6. Coastal Barrier Resources	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There are no Coastal Barrier Zones off the coast of Hawaii. <b>Ref: <a href="http://www.fws.gov/habitatconservation/coastal_barrier.htm">www.fws.gov/habitatconservation/coastal_barrier.htm</a></b>
7. Floodplain Management (24 CFR Part 55)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The property is designated as Flood Zone X per FIRM Community Panel Number 150002 0152 D dated 9/30/95. No special mitigation is required. <b>(See flood map in Tab C and section 2.5 of Kekaha EA dated April 2003 in Tab G)</b>
8. Historic Preservation (36 CFR Part 800)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Archeological survey report dated August 2003 disclosed no cultural resources in Kekaha subdivision. Letter dated 7/19/02 from State Historic Preservation Division states "no historic properties will be affected [because] residential development/urbanization has altered the land." <b>(See SHPO letter in Tab D and section 2.6 of Kekaha EA dated April 2003 in Tab G)</b>
9. Noise Abatement (24 CFR Part 51 Subpart B)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Site is located in a rural area of Kauai and is not within 1,000 feet of a major roadway or 3,000 feet of a railroad. Route 50 is 700 feet from the site, but is a two-lane highway with limited traffic volume. The Pacific Missile Range facility is five miles northwest, but the 65 dBA noise contour for airport operations does not extend to the project site. Missile launches can increase the noise to between 82 dBA and 92 dBA, but they are infrequent (maximum of six per year). <b>(See Pacific Missile Range Facility Master Plan and EIS in Tab E)</b>
10. Hazardous Operations (24 CFR Part 51 Subpart C)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	There are no above-ground storage tanks within line of site of the project. <b>Ref: Field visit by B. Kroll on 6/10/10.</b>
1. Airport Hazards (24 CFR Part 51 Subpart D)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The Lihue Airport is located 24 miles from the project site. There is a military airport within the Pacific Missile Range Facility, approximately six miles northwest. The airfield Clear Zones, Accident Potential Zones, and Missile Danger Zone are either over open water or contained within the military base boundary. <b>(See Pacific Missile Range Facility Master Plan and EIS in Tab E)</b>
2. Protection of Wetlands (E.O. 11990)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No wetland areas are identified on the National Wetlands Inventory maps. Two drainage pumping stations, located north and south of the subdivision, are operated by the Kekaha Sugar Company to prevent the area from reverting to its former wetland status. Drainage ditches are on the makai and east sides of the site. Field visit by B. Kroll on 6/10/10 confirmed the lack of wetland areas on or adjacent to the site. <b>(See map in Tab F and section 2.5 of Kekaha EA dated April 2003 in Tab G)</b> <b>Ref: <a href="http://www.fws.gov/wetlands/Data/Mapper.html">http://www.fws.gov/wetlands/Data/Mapper.html</a></b>
3. Toxic Chemicals & Radioactive Materials (§50.3(i))	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Hazardous materials, contamination, toxic chemicals and gases, radioactive substances:</b> Per Phase I Environmental Site Assessment dated May 2002, no hazardous waste generators were within one mile of the property and no facilities that treat, store, or dispose of hazardous waste are within one-half mile of the property. <i>EnviroMapper</i> reveals one current EPA regulated hazardous waste handler (warehouse) approximately one mile from the site with no health or safety violations. <b>(See Phase I ESA in Tab G)</b> <b>Ref: <a href="http://oaspub.epa.gov/enviro/fii_query_dtl_disp_program_facility">http://oaspub.epa.gov/enviro/fii_query_dtl_disp_program_facility</a></b> <b>Superfund:</b> EPA website at <a href="http://www.epa.gov">www.epa.gov</a> lists no superfund sites on the island of Kauai. <b>Previous use of site:</b> The site is vacant and was never previously developed. Surrounding area has used for agricultural activities and fugitive dumping in past decades. <b>(Section 2.5 of Phase 1 ESA in Tab G)</b> <b>Underground storage tank:</b> EDR database search found no LUST releases within one-half mile of the project site. <b>(Section 3.1.10 of Phase 1 ESA in Tab G)</b>
4. Other §50.4 authorities (e.g., endangered species, sole source aquifers, farmlands protection, flood insurance, environmental justice)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Air Quality [Sections 176(c), (d), and 40 CFR 6.51.93]:</b> The entire state of Hawaii is an attainment area for all six federally regulated air pollutants, per Environmental Protection Agency website at <a href="http://www.epa.gov/air/data/repstst.html?st~HI~Hawaii">www.epa.gov/air/data/repstst.html?st~HI~Hawaii</a> . <b>Flood Insurance [§50.4(b)]:</b> Property is not in a floodplain and flood insurance is not required (flood map in Tab C). <b>Endangered Species [§50.4(c)]:</b> Biological/botanical survey conducted in 1993 found vegetation to be dominated by alien species and site to be highly degraded. No flora or fauna were considered threatened or endangered. Survey concluded that it was <i>highly unlikely that additional survey work would uncover any rare or endangered species</i> . <b>(Section 2.5 of EA dated April 2003 and Botanical Survey dated 6/10/93 in Tab G)</b> <b>Sole Source Aquifers [§50.4(d)]:</b> EPA website indicates there are no Sole Source Aquifers on the island of Kauai. <b>(Map in Tab I)</b> <b>Ref: <a href="http://www.epa.gov/safewater/sourcewater/pubs/qrg_ssamap_req9.pdf">http://www.epa.gov/safewater/sourcewater/pubs/qrg_ssamap_req9.pdf</a></b> Water service for the project will be provided by the County of Kauai utility authority. Sewer will be connected to a septic system constructed by permit pursuant to county health standards. <b>Wild and Scenic Rivers [§50.4(f)]:</b> The National Park Service website confirms there are no designated Wild and Scenic Rivers in Hawaii. <b>Ref: <a href="http://www.rivers.gov">http://www.rivers.gov</a></b> <b>Environmental Justice [§50.4(I)]:</b> The project site does not suffer from disproportionately adverse environmental effects on

minority or low-income populations relative to the community-at-large.

**Farmlands Protection [50.4(i)]:**

The project site is not currently used for agricultural activities and has been designated for residential use; therefore, no agricultural lands will be withdrawn from production. In addition, per 10/8/02 conversation with USDA, no lands in the state of Hawaii fall under the Farmland Policy Protection Act. (See DHHL memo dated 10/8/02 in Tab J)

Ref: Field visit by B. Kroll on 6/10/10.

**Part B. Environmental/Program Factors**

Factors	Anticipated Impact/ Deficiencies			Source Documentation and Requirements for Approval
	None	Minor	Major	
5. Unique Natural Features and Areas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The site is set back 400 feet from Kaunualii Highway and does not interfere with the <i>makai</i> to <i>mauka</i> scenic view plane. Also, the Kakaha subdivision is buffered by native shrub. (Section 2.12 of the EA dated April 2003 found in Tab G)
6. Site Suitability, Access, and Compatibility with Surrounding Development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Site is slightly elevated and surrounded by agricultural and residential properties. Project will duplicate the look and style of area single-family homes. Site and neighborhood have immediate all-weather access to Kaunualii Highway, the primary transportation corridor on the island of Kauai. (Pages 7 and 8 of DHHL EA dated 4/03 found in Tab G) Ref: Field visit by B. Kroll on 6/10/10.
7. Soil Stability, Erosion, and Drainage	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The soils type is Jaucas loamy fine sand (JfB) and Dune Land (DL). Permeability is rapid and runoff is slow. Slopes are between 0% and 8%. Geotechnical investigation determined soils are suitable for construction with either on-grade slabs or on-post and beam foundations. Drainage plan must ensure positive runoff due to soils conditions. (Sections 2.2 and 2.3 of DHHL EA dated 4/03 found in Tab G)
8. Nuisances and Hazards (natural and built)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Site debris from illegal dumping was noted in the April 2003 EA. Field visit by B. Kroll on 6/10/10 confirmed these hazards had been removed. Perimeter fence should be erected along the drainage ditches to prevent unsafe access by users of the facility. (Photos in Tab A)
9. Water Supply/Sanitary Sewers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Project will be served by a municipal water system operated by the County of Kauai. Sewer will be connected to a septic system constructed by permit pursuant to county health standards. Ref: Field visit by B. Kroll on 6/10/10.
0. Solid Waste Disposal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Solid waste will be collected at least weekly by the County of Kauai. Ref: Field visit by B. Kroll on 6/10/10.
1. Schools, Parks, Recreation, and Social Services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The project does not involve housing; however, site is within the Kekaha subdivision and is served by local public schools, parks, and social service providers, all within a five mile radius. (Section 1.6 of DHHL EA dated 4/03 found in Tab G) Ref: Field visit by B. Kroll on 6/10/10.
2. Emergency Health Care, Fire and Police Services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The Waimea Fire Station, Waimea Police Sub-station, and West Kauai Medical Center are located within 4 miles of the site. (Section 1.6 of DHHL EA dated 4/03 found in Tab G) Ref: Field visit by B. Kroll on 6/10/10.
3. Commercial/Retail and Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Site is served by a public bus system and is located in the largest urban area on Maui. A wide variety of commercial and retail facilities are located within the vicinity of the project. (Transportation Plan dated May 1997 in Tab K)
4. Coastal Zone Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Project site is outside of Special Management Area boundary; therefore, no SMA permit is required. (Map in Tab C).



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION  
KANAHEKA BUILDING, ROOM 304  
801 KAAHAKOULA BOULEVARD  
HONOLULU, HAWAII 96817

PETER T. YOUNG, CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCES MANAGEMENT  
DEPUTY  
ERNEST Y. W. LAU

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CIVIL ENGINEERING  
LAND AND WATER RESOURCES  
MANAGEMENT  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
PLANNING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
STATE PARKS

February 27, 2003

Mr. Stewart Matsumaga  
Department of Hawaiian Home Lands  
P.O. Box 1879  
Honolulu, Hawaii 96805

Ms. Nadine K. Nakamura  
NKN Project Planning  
4849 I'iwi Road  
Kapaa, Hawaii 96746

Dear Mr. Matsumaga and Ms. Nakamura:

**SUBJECT: Chapter 6E-42 Historic Preservation Review -  
Draft EA for Kekaha Residence Lots  
Kekaha, Kauai, TMK: (4)1-2-002: 044**

Thank you for the opportunity to comment on the proposed project. We have reviewed the DEA for the proposed 42 single family house lots. Section 2.6 of the DEA deals with the Historic, Cultural and Archaeological Resources. In 1993, an archaeological inventory survey [CSH, 1993] was conducted and identified a cultural deposit and human burials in the southeast portion of the project area.

As a result of the archaeological survey findings parcel 32 was subdivided into two lots [44 and 45]. Parcel 45 contains the cultural deposit and burials and will be preserved as is and not developed. We recommended mitigation in the form of archaeological monitoring for the areas to be developed. According to the Impact and Mitigation Measures outlined on page 12 of the DEA, archaeological monitoring is to take place during all subsurface construction work, including landscaping.

We concur with the mitigation measures outlined in the DEA and recommend that the following wording be used on any permit conditions:

- 1) A qualified archaeologist shall be hired to conduct on-site initially (then on-call as needed) monitoring during the project. Prior to starting the monitoring work, an acceptable monitoring plan (scope of work) shall be submitted to the State Historic Preservation Division for review and approval. The monitoring plan will spell out a process for documenting sites that are found, for evaluating significance in consultation with our Division and for developing and executing

mitigation work with the approval of our Division and for mitigation treatment (as needed) with the approval of our Division. It must be clear that if historic sites, including burials, are uncovered during the monitoring, construction must stop in the immediate vicinity and the archaeologist shall be allowed sufficient time to evaluate the site and carry out mitigation, as needed. The plan must include provisions for an acceptable monitoring report, documenting all the findings, to be approved by our Division.

2) If burials are found, a burial treatment plan shall be prepared for inadvertent burial discoveries encountered during the monitoring of the project. In addition, consultation with the appropriate ethnic groups, the procedures outlined in Chapter 6E-43 shall be followed. It is necessary for the treatment plan to be prepared after consultation with native Hawaiians, such as the Kauai Island Burial Council and the Office of Hawaiian Affairs.

3) A report documenting the monitoring and burial treatment work shall be submitted to the State Historic Preservation Division for review and approval. The report shall include: 1) Detail drawings of burials and deposits to scale. 2) All artifacts shall be sketched and photographed. 3) Analyses of all perishable and datable remains shall be conducted. 4) Stratigraphic profiles shall be drawn to scale. 5) All locations of historic sites shall be shown on an overall map of the project area. 6) Initial significance evaluations shall be included for each historic site found. and 7) Documentation on the nature and age of the historic sites shall be done.

If you have any questions, please call Nancy McMahon, our archaeologist for Kauai, at 742-7033.

Aloha,

*P. Holly McEldowney*

P. HOLLY McELDOWNEY, Acting Administrator  
State Historic Preservation Division

NM:ak