

**HAWAIIAN HOMES COMMISSION**  
Minutes of July 21, 2020, via Videoconference  
DHHL Main Office, Hale Pono‘i, Kapolei, O‘ahu, Hawai‘i

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held via teleconference, moderated by Chairman William Aila Jr. and Commission Secretary Leah Burrows-Nuuanu, from Hale Pono‘i, 91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i, beginning at 9:30 a.m.

**PRESENT** William J. Aila Jr., Chairman  
Randy K. Awo, Maui Commissioner (via videoconference)  
Zachary Z. Helm, Moloka‘i Commissioner (via videoconference)  
David B. Ka‘apu, West Hawai‘i Commissioner (via videoconference)  
Michael L. Kaleikini, East Hawai‘i Commissioner (via videoconference)  
Russell K. Kaupu, O‘ahu Commissioner (via videoconference)  
Pauline N. Namu‘o, O‘ahu Commissioner (via videoconference)  
Dennis L. Neves, Kauai Commissioner (via videoconference)  
Patricia A. Teruya, O‘ahu Commissioner (via videoconference)

**COUNSEL** Alana Rask, Deputy Attorney General (via videoconference)

**STAFF** Tyler I. Gomes, Deputy to the Chairman  
Leah Burrows-Nuuanu, Secretary to the Commission  
Andrew Choy, Acting Planning Manager  
Kahana Albinio, Acting Land Management Division Administrator  
Juan Garcia, Homestead Services Division Administrator  
Cedric Duarte, Information & Community Relations Officer  
Stewart Matsunaga, Acting Land Development Division Administrator  
Paula Aila, Acting Contact and Awards Division Administrator  
Jamilia Epping, Information Specialist  
Michael Low, Information Specialist

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Aila called the meeting to order at 9:46 a.m. All members were present via videoconference at roll call.

Pursuant to the Governor’s June 10, 2020, Supplementary Proclamations in response to the COVID-19 pandemic, Hawai‘i Revised Statutes (“HRS”) Chapter 92 regarding public agency meetings and records are currently suspended through July 30, 2020, to the extent necessary to enable boards to conduct business without holding meetings open to the public and to allow state agencies the ability to more effectively provide emergency relief and engage in emergency management functions.

**APPROVAL OF AGENDA**

**MOTION/ACTION**

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the agenda. Motion carried unanimously.

## **APPROVAL OF JUNE 12, 2020 WORKSHOP MINUTES**

### **MOTION/ACTION**

Moved by Commissioner Kaapu, seconded by Commissioner Neves, to approve the June 12, 2020, Commission Meeting Minutes. Motion carried unanimously.

## **APPROVAL OF JUNE 16, 2020 MEETING MINUTES**

Commissioner Kaapu stated that the roll call table on pages 3 and 4, incorrectly lists him as the motion maker when Commissioner Ka'apu was the motion maker.

### **MOTION/ACTION**

Moved by Commissioner Neves, seconded by Commissioner Teruya, to approve with amendments, the June 16, 2020, Commission Meeting Minutes. Motion carried unanimously.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS (via weblink only)**

Testimony on agendized items was submitted in writing via the Department of Hawaiian Home Lands website at [www.dhhl.hawaii.gov/hhc/hhc-contact](http://www.dhhl.hawaii.gov/hhc/hhc-contact). Testimonies received by yesterday's 4:30 p.m. deadline were forwarded to Commissioners. Testimonies received after the deadline will be stamped "Late" and submitted to the Commissioners after the meeting is adjourned.

**ITEM A-1**      **Sheila Dean**  
**ITEM A-2**      **Kimberly Balauro**  
**ITEM A-3**      **Kekoa Enomoto**

Note: Testimonies are attached.

## **ITEMS FOR DECISION MAKING**

### **CONSENT AGENDA**

#### **HOMESTEAD SERVICES DIVISION**

**ITEM D-2**      **Approval of Consent to Mortgage (see exhibit)**  
**ITEM D-3**      **Approval of Homestead Application Transfers/Cancellations (see exhibit)**  
**ITEM D-4**      **Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)**  
**ITEM D-5**      **Approval of Assignment of Leasehold Interest (see exhibit)**  
**ITEM D-6**      **Approval of Amendment of Leasehold Interest (see exhibit)**  
**ITEM D-7**      **Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)**

### **RECOMMENDED MOTION/ACTION**

Acting Homestead Services Division Administrator Juan Garcia presented the following: Motion to approve the Consent Agenda D-2 through D-7, as listed in the submittal.



### MOTION/ACTION

Moved by Commissioner Neves to approve the Consent Agenda. Seconded by Commissioner Teruya						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Commissioner Teruya		X	X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED						
Motion passed unanimously- nine (9) Yes votes						

### **REGULAR AGENDA**

#### **LAND MANAGEMENT DIVISION**

#### **ITEM F-1      Approval to Issuance of Right of Entry Permit to Goodfellow Bros. LLC, Moiliili, Island of Oahu, TMK No: (1) 2-7-008:020 (por.)**

#### RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:  
Motion that the Hawaiian Homes Commission (HHC) Approve the issuance of Right of Entry Permit to Goodfellow Bros. LLC, Moiliili, Island of Oahu, TMK No: (1) 2-7-008:020 (por.)

#### DISCUSSION

Commissioner Awo mentioned one of the questions posed in the public testimony submitted by K. Enomoto asked if a beneficiary consultation was done for this permit. Chair Aila stated a beneficiary consultation would not be required for this permit because the term runs for six months. He offered to provide Commissioners with the Beneficiary Consultation Policy.

Commissioner Teruya asked how the rent is determined. K. Albinio stated page three of the submittal provides the information about the formula.

#### MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Teruya, to approve the issuance of a Right of Entry Permit to Goodfellow Bros. LLC, Moiliili, Island of Oahu, TMK No: (1) 2-7-008:020 (por.)

Moved by Commissioner Neves, to approve the issuance of a Right of Entry Permit to Goodfellow Bros. LLC, Moiliili, Island of Oahu, TMK No: (1) 2-7-008:020 (por.) Seconded by Commissioner Teruya						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Commissioner Teruya		X	X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			1
MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED						
Motion passed unanimously- nine (9) Yes votes						

## PLANNING OFFICE

### ITEM G-1 Adoption of the Papakōlea Regional Plan Update (2020) and Authorization to Disseminate the Regional Plan Update

#### RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy and Planner Nancy McPherson presented the following: Motion to adopt the Papakōlea Regional Plan Update (2020) and Authorization to Disseminate the Regional Plan Update.

#### MOTION

Moved by Commissioner Neves, seconded by Commissioner Kaapu, to approve the motion as stated in the submittal.

#### DISCUSSION

Commissioner Neves asked if there was any opposition to the Update. N. McPherson stated there was none.

Commissioner Namu'o stated she was supportive of the Update and mentioned that the Papakōlea community is one of the more active Hawaiian communities on O'ahu. They are very active in Civic Club activities. She will communicate the Commission's support with the leadership of the community.

Commissioner Awo appreciated the historical information in the presentation and was notified by a beneficiary that, in some manner, the Papakōlea community was being described as second class citizens. He received the information second hand and wanted to mention it so that someone could look for the reference and remove it. N. McPherson stated she will investigate further.

Commissioner Kaupu pointed to the priority projects list and highlighted the five-acres identified for residential lots. He asked for a status. N. McPherson stated if the Department

were to get to the point of developing that area, a lot of soil studies and stabilization work would have to be done first. The Department has been focusing on Kapolei developments, which has a higher capacity for residential lot development. In town, the Department has also been looking at the Bowl A Drome site to develop additional housing in the urban core.

Commissioner Kaapu asked which of the priority projects are likely to come before the Commission first. N. McPherson stated the traffic safety project and the Pūowaina project are the most likely to start soonest.

Chair Aila added that the community has flipped the script on the development plan for part of the 23-acre parcel and is now asking if they can do senior housing. The parcel is zoned Special Use, so the Department has to determine if senior housing fits into the zoning. If not, the Department will need to ask the Commission for permission to change it, which would allow for a land disposition that would allow them to do an environmental assessment.

Commissioner Helm asked about the 30 abandoned lots in Papakōlea. Chair Aila stated that he will have HSD provide a more detailed accounting of the different statuses of the lots.

#### ACTION

Moved by Commissioner Neves to approve the motion, as stated in the submittal. seconded by Commissioner Kaapu						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ka'apu		X	X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED						
Motion passes with nine (9) Yes votes						

#### **ITEM G-2 Declaration of a Finding of No Significant Impact for the DHHL Pu'u 'Ōpae Kuleana Homestead Settlement Plan Final Environmental Assessment, Waimea, Kaua'i TMK: (4) 1-2-002:023**

#### RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following: Motion to declaration a Finding of No Significant Impact for the DHHL Pu'u 'Ōpae Kuleana Homestead Settlement Plan Final Environmental Assessment, Waimea, Kaua'i TMK: (4) 1-2-002:023.



## MOTION

Moved by Commissioner Neves, seconded by Commissioner Teruya, to approve the motion as stated in the submittal.

## DISCUSSION

A. Choy stated the draft environmental assessment was presented to Commissioners in April. He offered a slide presentation that is attached.

Commissioner Neves asked for a status on KIUC (Kaua'i Island Utilities Cooperative). A. Choy stated the Department met with KIUC in June, and they reported that their design was at sixty percent. They are looking to publish their own draft environmental assessment for their hydro-electric project in September of this year.

Commissioner Kaapu expressed concern about access and the situation for water transmission lines to half-acre lots. He sees a lot of potential issues that may come up based on the Department's experience with Kuleana lots. A. Choy stated the Department learned a lot from the Kahikinui experience. The Department needs to provide a lot more upfront education about what is expected, and another barrier was the individual TMKs for financing. Finally, the kuleana of maintaining general areas are a lot easier with a larger settlement at the outset.

Commissioner Kaupu asked for the estimated timeframe of the overall project implementation. A. Choy stated it depends on the Department's ability to get funding for the roads and KIUC's ability to finish road improvements. It takes the Department between five to eight years to develop a homestead project from raw land.

Commissioner Neves agreed with the previous speakers and stressed the importance of educating the lessees as soon as they are identified to get them involved from the beginning. Kaua'i folks are excited about the project, and he wants to see it through. Chair Aila stated some revenue would come from the lease with KIUC, and the Department has a commitment from them for a million gallons of water per day from the reservoir. A. Choy added the Department has water reservations for 6.9 mg.

A. Choy stated the Planning Office's focus has been on the physical planning of the homestead area, but once that is finished, it will move toward programmatic planning for the project. One of the best lessons learned from Kahikinui is that the Department needs to provide more programmatic support to the lessees.

Commissioner Awo added that while the Department's philosophical understanding of Kuleana Leases has grown, it still lacks the physical resources needed to enforce certain areas of the lease agreement. He supports the project but is readily reminded of what can go wrong.

Commissioner Teruya asked about the next steps and if the public comment period is still open. A. Choy stated that once a FONSI is issued, the EA will be posted, and the public can challenge the FONSI.



## ACTION

Moved by Commissioner Neves to approve the motion, as stated in the submittal. seconded by Commissioner Teruya						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Commissioner Teruya		X	X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED						
Motion passes with nine (9) Yes votes.						

**RECESS**

**11:21 A.M.**

**RECONVENE**

**11:31 A.M.**

## MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves to convene in an executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issue pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. Motion carried unanimously.

## **EXECUTIVE SESSION IN**

**11:31 AM**

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. Update on Nelson Case - Richard Nelson, III et al., v HHC, Civil No. 07-1-1663
2. Update on Kalima v. State of Hawai'i, Civil No. 99-04771-12
3. Aruda v. State of Hawaii, et al., Civ. No. 2CC16-1-621; Proposed Settlement.
4. Update on Honokaia Non-Potable Water System Settlement

## **EXECUTIVE SESSION OUT**

**1:15 PM**

**RECESS**

**1:15 P.M.**

**RECONVENE**

**1:25 P.M.**

**ITEM G-3      Amendment to the Kaua'i Island Plan to Apply Subsistence Agriculture, Pastoral Homestead, Community Use, Special District to Pu'u 'Ōpae, Waimea, Kaua'i TMK: (4) 1-2-002:023**

**RECOMMENDED MOTION/ACTION**

Acting Planning Manager Andrew Choy presented the following: That the Hawaiian Homes Commission (HHC) approve an amendment to the Kaua'i Island Plan (2004) to apply Subsistence Agriculture, Supplemental Agriculture, Pastoral Homestead, Community Use, and Special District Land Use Designations to Pu'u 'Ōpae, Waimea, Kaua'i TMK (4) 1-2-002:023 (por.).

**MOTION**

Moved by Commissioner Teruya, seconded by Commissioner Neves, to approve the motion as stated in the submittal.

**DISCUSSION**

DHHL is recommending amending the Kaua'i Island Plan land use designation for approximately 1,414 acres of 15,000 acres of land in Waimea, aligning with proposed land uses developed during the Pu'u' Ōpae Kuleana Homestead Settlement Plan. The land use designation revision will allow DHHL to pursue the development of Kuleana agricultural and pastoral homesteads and allow the Kekaha Hawaiian Homestead Association to move forward with its plans for the community use area in which it has a license from DHHL for. The proposed land use designation changes to the KIP are described in Table G2-3, Proposed land use designations for Pu'u' Ōpae below and Figure G2.4 Comparison of Existing and Proposed Land Uses.

*Table 1: Proposed land use designations for Pu'u 'Ōpae*

Land Use Designation	Kaua'i Island Plan (2004) Acres	Proposed Hawai'i Island Plan Amendment Acres
Residential Homestead	709	0
Subsistence Agriculture	0	387
Pastoral Homestead	0	110
Supplemental Agriculture	0	63
Community Use	0	152
General Agriculture	184	0
Special District	521	702
<b>Total</b>	<b>1,414</b>	<b>1,414</b>

## ACTION

Moved by Commissioner Teruya, to approve the motion as stated in the submittal. Seconded by Commissioner Neves						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Commissioner Teruya	X		X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
MOTION: [ ] UNANIMOUS [ X ] PASSED [ ] DEFERRED [ ] FAILED						
Motion passes with nine (9) Yes votes.						

## ITEMS FOR INFORMATION AND DISCUSSION

### WORKSHOPS

### PLANNING OFFICE

#### **ITEM G-5 For Information Only – Homesteads with Declaration of Covenants, Conditions, and Restrictions**

##### RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Manager Andrew Choy and Grants Specialist Gigi Cairel presented the following:

##### DISCUSSION

G. Cairel provided a slide presentation that is attached.

##### **NEXT STEPS**

###### **Policy level: Function before Form**

- Re-visit the goals and objectives of the DCCR model
- Applicability to Kuleana Homesteads Explore options
- Determine the level of support to Associations

###### **Department level:**

- Clarify Division roles and responsibilities
- Develop procedures

###### **Community Outreach**

- Community Outreach on the New Admin Rules
- Choose to stay in or Opt-out

Commissioner Kaupu asked for an explanation of the opt-out provision of the Rules.

DHHL Rules Officer Hokulei Lindsey stated because the rules were after the fact, there is an opt-in provision. The opt-in provision was put in not so much if they want to remain a DCCR homestead or not, but whether or not they want to fall under the provision of the Rules. If they want the enforcement provision the Rule provides, they need to opt in to participate. If they don't opt-in, they still have the issue of them being at the status quo. If they opt-in, the Department can help with collecting the dues and other common issues they've been facing.

Commissioner Awo stated Waiehu Kou IV was dissolved. He asked if that meant lessees no longer needed to pay association dues. G. Cairel stated the Association was dissolved, so there is no one administering the funds, but the DCCRs are linked to the leases, and dues are still a part of it. H. Lindsey stated the DCCR is tied to the land. Waiehu Kou IV may not want to be a part of the Rules, but they are still subject to their DCCRs.

Commissioner Kaupu stated he would think the Department would want to maintain the associations in place because they provide a framework to transfer financial responsibility to a community going forward. Hopefully, it would allow the Department to focus on new developments.

Commissioner Kaapu stated from a policy standpoint, a deeper dive into the issues is needed. The DCCRs run with the land, so it is difficult to untangle. When beneficiaries sign the lease with a DCCR, you are stuck with those rules. Beneficiaries need to understand what they're getting into when they sign a lease with a DCCR. G. Cairel stated the Department didn't have any program to go over DCCRs with lessees.

Commissioner Awo felt communities should be allowed to decide for themselves. Sometimes the community doesn't want to participate.

## **OFFICE OF THE CHAIRMAN**

### **ITEM C-1 For Information Only - Status Update on Emergency Postponement of Mortgage Payments for DHHL Direct Loans and Loans Assigned to DHHL**

#### RECOMMENDED MOTION/ACTION

None. For information Only – Homestead Services Division Administrator presented the following:

#### DISCUSSION

J. Garcia stated since the Commission action, 277 or 28% of the DHHL Direct Loan Borrowers have elected to postpone their April payment, while 70 or 44% of the Borrowers whose loan has been assigned to the Department elected to postpone their June payment. By comparison, 330 or 34% of the DHHL Direct Loan Borrowers have elected to postpone their June payment, while 81 or 51% of the Borrowers whose loan has been assigned to the Department elected to postpone their June payment.

The presentation is to determine whether Commissioners want to extend the postponement for another six-months.

Commissioner Neves asked how an extension would affect the Department's bottom line. J. Garcia stated the principal loss is \$2 million, and another \$1 million in interest.



Commissioner Awo asked how long the Department can sustain postponements. Chair Aila stated Administrative Services Officer Rodney Lau would be able to provide Commissioners with the answer.

**ITEM C-2 For Information Only - Native Hawaiian Housing Block Grant Overview**

RECOMMENDED MOTION/ACTION

None. For information Only – NAHASDA Manager Lehua Kinilau-Cano presented the following:

DISCUSSION

L. Kinilau-Cano introduced Claudine Allen with the Department of Housing and Urban Development Office of Native American Programs with the.

Claudine Allen provided a slide presentation that is attached.

Commissioner Awo noted there was funding available for enforcement and security. C. Allen is crime prevention and safety in affordable housing neighborhoods, like a neighborhood watch program or speed bumps. As far as law enforcement activities, it would have to be for something above and beyond what the County police department already provides. If DHHL had a staff position that included those types of job duties, specifically the NHHBG program, it could be something that could fall under the administrative costs to carry out the program.

Commissioner Awo asked the Department to look at creative ways to help with enforcement concerns. Chair Aila stated the Department could put into next year's Plan, and we have time to be creative.

Commissioner Teruya mentioned using NHHBG funding for neighborhood watch programs and speed bumps for her community, which includes three schools without adequate safety measures in school zones. C. Allen stated both could be included in the Department's housing plan. It would depend on the description, goals, and outcomes for the programs.

Commissioner Kaleikini stated he would like to be involved in next year's NHHBG Housing Plan.

**ITEM C-3 For Information Only - Draft 2020 Annual Performance Report – Native Hawaiian Housing Block Grant**

RECOMMENDED MOTION/ACTION

None. For information Only – NAHASDA Manager Lehua Kinilau-Cano presented the following:

DISCUSSION

L. Kinilau-Cano stated the NHHBG Housing Plan for 2020-2021 was already approved, but what if before the Commission today is the Annual Performance Report that ended June 30, 2020. In all areas but two, the Department either met or exceeded the Plan it proposed in the Housing Plan. Page 41 described the Uses of Funding.

The Plan fell short in the areas of Home Repair and Emergency Financing. Home Repair has been challenging because the idea was that the older communities like Kalama'ula and Keaukaha would need rehabilitation funding. There are funds sitting in escrow. Older homes

often have lead-based paint, asbestos, and cesspools, which gets very expensive. They completed two homes and hoped to add two more, but the City and County of Honolulu added burdensome requirements in order to tie into the sewer system. They continue to work with the families.

Emergency Financing was another area not met because DHHL received funds from the Legislature for repair and maintenance, so no NAHASDA funds were used.

The Department exceeded in the areas of Rental Operating Subsidy for Waimānalo Kupuna Housing. The subsidy went to 81 Kupuna. The other area the Plan exceeded its goal is Rental Vouchers. As of June 30, 25 families were approved for rental assistance through the Aloha United Way COVID-19 Emergency Rental Program.

#### **ITEM C-4 For Information Only - Summary of Legislative Session 2020**

##### RECOMMENDED MOTION/ACTION

None. For information Only – NAHASDA Manager Lehua Kinilau-Cano presented the following:

##### DISCUSSION

L. Kinilau-Cano reviewed the submittal. There were no questions from Commissioners.

#### **ITEM C-5 For Information Only - Legislative Proposals for 2021**

##### RECOMMENDED MOTION/ACTION

None. For information Only – NAHASDA Manager Lehua Kinilau-Cano presented the following:

##### DISCUSSION

L. Kinilau-Cano reviewed the submittal and entertained questions from Commissioners.

Commissioner Namu'o asked if there would be an update on the Department's Budget once the Legislature adjourned. Chair Aila stated although the Legislature adjourned, the Governor still hasn't made cuts based on the next report from the Council on Revenues.

#### **ITEM C-6 For Information Only - Status Update on DHHL COVID-19 Emergency Rental Assistance Program**

##### RECOMMENDED MOTION/ACTION

None. For information Only – NAHASDA Manager Lehua Kinilau-Cano presented the following:

##### DISCUSSION

L. Kinilau-Cano reviewed the submittal and entertained questions from Commissioners.

Commissioner Teruya stated she expected the numbers to be a lot higher but felt that with COVID-19 cases on the rise, the users would rise as well.

## LAND DEVELOPMENT DIVISION

### **ITEM E-1 For Information Only - Fiscal Year 2020 Budget Encumbrance Summary**

#### RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Land Development Division Administrator Stewart Matsunaga reviewed the submittal and entertained questions from Commissioners.

#### DISCUSSION

S. Matsunaga stated in Fiscal Year 2020, the Department encumbered over \$99,000,000 from various Hawaiian Home Lands funding sources, including Hawaiian Home Lands Trust Fund, Operating Fund, General Fund, and Special Fund and Legislative Capital Improvement Program General Obligation Bond Fund.

Chair Aila thanked S. Matsunaga and all of the DHHL managers for their work in procuring, contracting, and encumbering the projects outlined in the table. Commissioners agreed and added their thanks to the managers for their diligence and efforts to reserve the funds for important DHHL projects.

## LAND MANAGEMENT DIVISION

### **ITEM F-2 For Information Only – Renewable Energy Projects Statewide, Joint Presentation by LMD/PO**

#### RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Land Management Division Administrator Kahana Albinio and Land Manager Allen Yanos reviewed the submittal and entertained questions from Commissioners.

#### DISCUSSION

Commissioner Helm asked why the Kahikinui project fell through. A. Yanos stated their company provided no reason, they just sent in a letter noting their withdrawal.

## PLANNING OFFICE

### **ITEM G-4 For Information Only – Notice of Availability of Surplus Real Property Former National Oceanic and Atmospheric Administration, National Weather Service Pacific Tsunami Warning Center, ‘Ewa Beach, O‘ahu, TMK (1) 9-001-001 (por.)**

#### RECOMMENDED MOTION/ACTION

None. For Information Only. Acting Planning Manager Andrew Choy and Planner Pearlyn Fukuba provided a slide presentation that is attached.

#### DISCUSSION

Commissioner Neves asked if there may be a possibility of short-term rental of the parcels to get income for the cost of maintaining the land.

Commissioner Kaapu asked when the due diligence will be completed. A. Choy stated the due diligence should be complete by the end of July. Commissioner Kaapu asked to get it as soon as it is completed.

Commissioner Neves asked if the Department decided to develop the parcel, how long would it take. A. Choy stated if the capacity of the infrastructure can support additional residential development, it would significantly affect the timeline.

## **ITEMS FOR INFORMATION AND DISCUSSION**

### **GENERAL AGENDA**

**ITEM J-1 Kanani Higbee – Native Hawaiians on the Land**

**ITEM J-2 Kathleen Chase – Fee Waiver**

Chair Aila stated the J Agenda listees submitted written testimony, which was provided to Commissioners. He asked if there were any questions regarding the testimonies. There were none.

Commissioner Teruya stated when she gets emails from beneficiaries, and she forwards them to the Chairman's office. She asked if anyone responds to those emails. Chair Aila said the response is sent after the issue is investigated.

### **REGULAR AGENDA**

#### **HOMESTEAD SERVICES DIVISION**

**ITEM D-1 HSD Status Reports**

**A - Homestead Lease and Application Totals and Monthly Activity Reports**

**B – Delinquency Report**

**C – DHHL Guarantees for USDA-RD Mortgage Loans**

#### **RECOMMENDED MOTION/ACTION**

None. For Information Only.

## **ANNOUNCEMENTS AND ADJOURNMENT**

#### **MOTION/ACTION**

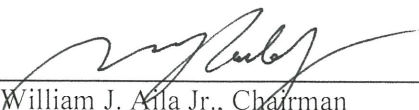
Moved by Commissioner Neves, seconded by Commissioner Awo, to adjourn the meeting.

Motion carried unanimously.

### **ADJOURNMENT**

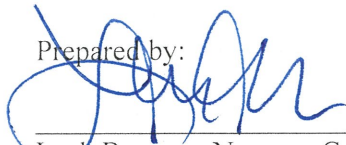
**4:43 PM**

Respectfully submitted:

  
\_\_\_\_\_  
William J. Aila Jr., Chairman  
Hawaiian Homes Commission



Prepared by:



Leah Burrows-Nuuanu, Commission Secretary  
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

August 18, 2020

Attachments

1. Public Testimony – Kekoa Enomoto
2. Public Testimony – Sheila Dean
3. Public Testimony – Kimberly Balauro
4. Item C-2- For Information Only - Native Hawaiian Housing Block Grant Overview
5. Item G-2 –Declaration of a Finding of No Significant Impact for the DHHL Pu‘u ‘Ōpae Kuleana Homestead Settlement Plan Final Environmental Assessment, Waimea, Kaua‘i TMK: (4) 1-2-002:023Item D-1 – COVID-19 Loan Deferral Report
6. Item G-4 - For Information Only – Notice of Availability of Surplus Real Property Former National Oceanic and Atmospheric Administration, National Weather Service Pacific Tsunami Warning Center, ‘Ewa Beach, O‘ahu, TMK (1) 9-001-001 (por.)
7. Item G-5 - For Information Only – Homesteads with Declaration of Covenants, Conditions, and Restrictions

# PUBLIC TESTIMONIES



## Pa`upena Community Development Inc.

P.O. Box 403, Kula, Maui, Hawai'i 96790

Telephone/Text: (808) 276-2713

Email: paupena.kekoa@gmail.com

---

July 20, 2020

Aloha mai e na Hawaiian Homes Commissioners,

`O Kekoa Enomoto ko`u inoa. I serve as 2019-23 president of the Maui/Lana`i Mokupuni Council, a consortium of 17 Hawaiian homelands entities on two islands; 2019-23 secretary of the Sovereign Council of Hawaiian Homestead Associations, and co-founding board chairwoman of Pa`upena Community Development Corporation (or CDC, at [www.paupena.org](http://www.paupena.org)).

I would like to testify on agendized item F-1 Approval to issuance of Right Of Entry permit to Goodfellow Bros. LLC, Mo`ili`ili, island of O`ahu, TMK No. (1) 2-7-008:20 (por.). I want to compare DHHL and its Land Management Division's attention to and support of a land-use request by a non-Hawaiian/nonbeneficiary entity, Goodfellow Bros., vis-a-vis their consideration of a native Hawaiian/beneficiary entity's land-use request.

The timeline in the case of Goodfellow Bros. LLC, a so-called foreign corporation, is, as follows:

- 7/2/20 — Goodfellow officials wrote a letter requesting a Right Of Entry (ROE) to 1,000 square feet of Honolulu homelands, in order to store machinery and equipment.
- 7/9/20 — A Land Management Division (LMD) engineer provided DHHL General Plan justification for the ROE, and LMD's acting director responded to the applicant.
- 7/16/20 — LMD forwarded the land-use request for Hawaiian Homes Commission approval.
- 7/21/20 — The commission will consider the land-use request at its monthly meeting.

Thus, LMD took seven days to respond to Goodfellow Bros. There was no beneficiary consultation, as is required for Maui native Hawaiian/beneficiary ROE applications. LMD took 14 days to forward the application materials for inclusion in the commission-agenda packet, and the commission will vote after 19 days have elapsed from applicant letter to commission consideration for a non-Hawaiian/nonbeneficiary land-use request.

In contrast, the timeline in the case of Pa`upena CDC, a domestic corporation, is, as follows:

- 12/24/16 — Pa`upena officials completed and sent a DHHL land-use request form for an ROE to 5,057 acres of Upcountry Maui homelands. The organization provided its own ROE justification, citing plans to provide farming-and-ranching training to beneficiaries. Pa`upena also seeks to maintain and manage the acreage against dumping, theft and fires, such as the 7/8/20 wildland blaze that scorched 4,300 Upcountry Hali`imaile acres.
- 1/28/19 — Pa`upena submitted a 57-page written "capacity" document required by DHHL under a new pre-ROE rule neither previously announced nor assessed by beneficiary consultation.
- 5/30/19 — Pa`upena's ROE land-use request underwent a two-month beneficiary-consultation process required by DHHL under a new rule neither previously announced nor assessed by beneficiary consultation.
- 8/15/19 — LMD forwarded Pa`upena's land-use request (that DHHL reduced from 5,057 to 127 acres) for consideration at the commission's 8/19/19 meeting.

---

*Pa`upena Community Development's vision is to fulfill Prince Kuhio's century-old dream for native Hawaiians to reconnect with Waiohuli ahupua`a in thriving agricultural and pastoral communities, and to share this paradigm throughout the pae`aina.*



## Pa`upena Community Development Inc.

P.O. Box 403, Kula, Maui, Hawai'i 96790

Telephone/Text: (808) 276-2713

Email: paupena.kekoa@gmail.com

---

Thus, LMD took 2.7 years (versus 14 days) to forward the Pa`upena application materials for inclusion in the commission-agenda packet. And the commission voted after two years, seven months and 25 days (versus 19 days) elapsed from the application to commission consideration for a native Hawaiian/beneficiary organization's land-use request. The latter process was 51 times longer for LMD and the Hawaiian Homes Commission to approve use of federal trust lands by a trust beneficiary entity.

To resolve this inequity, I recommend that DHHL and LMD support Hawaiian Homes Commission Act (HHCA) Section 101 Purpose, stated to be "placing native Hawaiians on the lands set aside under this Act in a prompt and efficient manner, and assuring long-term tenancy to beneficiaries of this act and their successors (and) providing adequate amounts of water and supporting infrastructure, so that homestead lands will always be usable and accessible." I call upon DHHL to facilitate homestead lands always being usable and accessible by beneficiaries, by implementing the following LMD protocol on a proactive basis:

- (1) Inform beneficiaries via maps and lists of TMKs/acreages of all homelands available for Rights Of Entry, homesteading and other land uses.
- (2) Mentor beneficiaries via on-site and remote interactive workshops on available homelands and how to apply for those trust lands.
- (3) Expedite beneficiaries' land-use requests.

In the spirit of justice and Brown Lives Matter, I urge Hawaiian Homes Commission reinforcement, and DOI Office of Native Hawaiian Relations oversight/enforcement, of DHHL Affirmative Action to permit our trust lands first and foremost to our native Hawaiian beneficiaries and beneficiary organizations, per HHCA Section 204(2). The latter section mandates that DHHL "is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of Hawaiian home lands or any improvements thereon to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, or industrial, or other business purposes."

Ninety-nine years ago this month, 10-term congressional delegate, Prince Jonah Kuhio Kalaniana`ole, witnessed successful July 9, 1921, passage of the Hawaiian Homes Commission Act by Congress. Mahalo for this opportunity, as a 34-year lessee and homelands advocate, to present mana`o about the use of our 203,000 acres of federal trust lands.

Me ka ha`aha`a,

Kekoa Catherine Enomoto  
Chairwoman of the board

cc: DOI Office of Native Hawaiian Relations

---

*Pa`upena Community Development's vision is to fulfill Prince Kuhio's century-old dream for native Hawaiians to reconnect with Waiohuli ahupua`a in thriving agricultural and pastoral communities, and to share this paradigm throughout the pae`aina.*



Sent: Wednesday, July 15, 2020 11:07 AM  
First Name: Sheila  
Last Name: Dean  
Email: kuladean@gmail.com  
Subject: To all Hawaiian Homes Commissioners  
Aloha e Commissioners,

My name is Sheila Dean. I am a lessee living in Waiohuli, Maui. I have a concern that I think needs to be addressed immediately. I have tried going through other channels but keep running into obstacles. I was advised to contact DHHL/HHC directly.

My issue has to do with our phone/internet service through Sandwich Isles Communications. Since the start of the Covid19 Pandemic, I have worked from home and my keiki were on their devices for distance learning. (I am a teacher). I contacted Sandwich Isles several times because we kept running into internet issues. The technician came out and manually fixed some problems that were preventing signals from reaching our home. However, even with the fix and the "best" plan that Sandwich Isles has to offer, it is still not good enough. To give you an example, their best "copper" plan allows for 15mbps upload speeds and 3 mbps download speeds. That is their BEST plan for our community.

(Other companies offer 100+ mbps speed packages) When I tried ordering internet services through other providers, like Spectrum and Hawaiian Telcom, I was denied internet service because they said that Sandwich Isles has the contract. What I find interesting is that my neighbors across the street and family members who live down my street, on DHHL lands, HAVE Spectrum wifi and cable services. I have brought this to Spectrum's attention and they are aware. The reply I keep getting is "Sorry, there is nothing we can do."

In my communication with Sandwich Isles, I asked what it would take for Sandwich Isles to provide better/faster internet services to our Waiohuli community. The service representative said there is nothing that Sandwich Isles can do and that it is too costly to install fiber optics. So, the package we have IS the best they can do for us.

As the SOLE contracted company for DHHL phone and internet services, I would hope that my DHHL leaders would expect and advocate for QUALITY services for our Native Hawaiian communities. We have families who are working from home and distance learning. It might not have been a big issue a year ago, but right now, keeping our people safe and employed and learning are priorities our leaders need to address. I feel like I have a metaphorical KNEE on my NECK! Lack of access to quality internet infrastructures and providers in a Native Hawaiian community, in my opinion, is oppressive. We expect and deserve better.

> Internet access is no longer a luxury item; it is a basic utility in which we all need fair and equal access. Sandwich Isles, as the contracted/monopoly provider must be held accountable for the quality and reliability of their services. If they cannot provide quality services to our community, then I believe it is the Department's (DHHL) kuleana to take action to ensure that immediate changes occur OR that lessess' hands are not tied/necks are not stepped on! Do NOT be complicit in oppressing our Native Hawaiian families. Take immediate action and resolve this issue so our keiki can safely learn from their homes and our mākuā can safely work/teach from home. I am more than willing to meet, respond, answer questions, etc. I look forward to hearing back from ANY commissioner, as soon as possible. School starts back in a few short weeks.

Mahalo nui for your time and attention, Sheila Dean DHHL Lessee, Waiohuli, Maui

Greetings, Commissioners!

I hope all is well with you. I'm seeking an authorization from the Hawaiian Homes Commission to amend my lease. According to the attached document dated September 2019, my lease lot 23 is a "residential" lease. My original lease agreement was an agricultural lease for Lualualei in Waianae. However, because of water issues and other land issues, my contract was amended, and I was awarded a lot in Waiahole Valley.

The issue/challenge is DHHL, never reclassified or converted the ag to residential, causing all of this confusion. I ask the commissioners to authorize my lease to be amended and reclassified as a residential lease, which states in the attached letter.

Lot 23 is approximately 6,800 square feet.

In 2019 a motion was made and passed by the commissioners, which resulted in a written document from DHHL and the Attorney General's office. See attached document.

I'm currently refinancing my mortgage loan with Homebridge mortgage to take advantage of the current low-interest rates and HUD 184a. I received notice from my loan officer that HUD 184a is not available for DHHL agricultural land, although the Code of Federal Regulations on HUD 184a, <https://www.govinfo.gov/content/pkg/CFR-2019-title24-vol4/xml/CFR-2019-title24-vol4-part1007.xml>, which clearly states that ALL trust lands, ag, residential,

pastoral, etc. is allowed to use the 184a. The local HUD office is not honoring this federal regulation.

The local Oahu HUD office has rejected the letter from DHHL/attorney general, which claims has no merit that renders my lot as a residential. Claudine Allen is the lead native Hawaiian program specialist in the HUD Honolulu field office. Here is Claudine's statement to my loan officer,

Hi Ed,

For HUD 184A loan purposes, we refer to the Hawaiian Home Lands Lease designation of the homestead lot. The Hawaiian Home Lands Lease is the security for the 184A mortgage. Currently, 184A financing is available for Hawaiian home land residential lots only. Let me know if you have further questions.

I'm also attaching the last statement I received from Juan Garcia on 7/18/20,

Aloha Kim,

Thank you for your patience regarding your issue with applying for a 184A loan refinance with Homebridge.

Following a discussion with Claudine Allen, with US Department of Housing and Urban Development (HUD), regarding your 184A loan refinance, DHHL has been advised that currently the 184A loan program is not available for DHHL agricultural leases. Claudine did mention that the matter is with HUD's Office of Native American Programs for further consideration. Therefore, there is no telling when and if 184A loan program will be available for DHHL agricultural leases.

Please be advised that an option for you presently is to refinance your existing 247 FHA loan with your existing Lender or another Lender that may process an FHA 247 loan.

At this time, DHHL will not be looking to convert your agricultural lease to a residential lease.

Commissioners, I am asking the commission board to amend my lease to covert my lot 23 from ag to residential, which should have been done in 1998 when I was awarded lot #23 in Waiahole Valley.

Mahalo for your time and support,

Kimberly Puanani Balauro  
48-4010 Maihua Place  
Kaneohe, Hawaii 96744  
Waiahole Valley Lessee Lot #23  
386-3363

July 7, 2020

Hi Juan!

I'm a little confused with your last comment "At this time, DHHL will not be looking to convert your agricultural lease to a residential lease." Are you saying the attached letter signed by Craig K. Hirai, Executive Director Hawaii Housing Finance and Development Corporation, has "no" merit, although it clearly states my lot 23 is residential? Can you clarify?

Last year I sat in front of the commissioners to request an amendment to lot 23 from agricultural to residential because, at the time of the exchange from the HHFDC to DHHL, there was no amendment made.

My original lease was agricultural for Lualualei in Waianae. Still, because of water issues and other land issues at the time, DHHL asked me to surrender Lualualei for Waiahole, and I agreed and was awarded a "residential" lot in Waiahole, 1998.

All the commissioners agreed that it should be reclassified as residential, mainly because it's only 6,800 square feet.

My request to be placed on the July 21st agenda to ask the commissioners to authorize an amendment to my lease is a reasonable request. I'd like this to be done not just for myself but for my future successors.

Also, I'd like to ask if you made an effort to contact the HUD office in Washington DC for written clarification and evidence of the actual document as to what the local HUD office is claiming? To me, the seriousness of the matter in regards to HUD 184a would have a substantial negative impact on all Kanaka and trust lands. I hope this is concerning to DHHL as much as it worries my Ohana and me.

I'm looking forward to your response/clarification. I also cc'd my Senator Gil Riviere and Robin Danner, SCHHA Chair, to bring awareness to this matter.

Mahalo,  
Kim Balauro  
Waiahole Valley Lessee Lot 23  
386-3363

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM  
**HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION**  
677 QUEEN STREET, SUITE 300  
HONOLULU, HAWAII 96813  
(808) 587-0600

IN REPLY REFER TO:  
**19:DEV/136**

September 11, 2019

Homebridge Financial Services  
711 Kapiolani Boulevard, Suite 1600  
Honolulu, Hawaii 96813  
ATTN: Clint Lacaden, Loan Officer

Dear Mr. Lacaden:

Re: Application of the Declaration of Restrictive Covenants for Waiahole Valley  
Agricultural Park and Residential Lots Subdivision and Homestead Road Lands to  
Department of Hawaiian Home Lands' Agricultural Leases

The purpose of this letter is to clarify the application of the Declaration of Restrictive Covenants for Waiahole Valley Agricultural Park and Residential Lots Subdivision and Homestead Road Lands (DCC&Rs) to certain Hawaiian home land leases in the Waiahole Valley Agricultural Park and Residential Lots Subdivision and Homestead Road Lots (the "subdivision").

Twenty vacant lots located in the subdivision were transferred from the Housing and Community Development Corporation of Hawaii, now known as the Hawaii Housing Financing and Development Corporation (HHFDC), to the Department of Hawaiian Home Lands (DHHL) by agreement dated October 9, 1998.<sup>1</sup>

HHFDC conveyed the lots to DHHL subject to DCC&Rs.<sup>2</sup> The Transfer Agreement further specifies that all DHHL lessees in the subdivision will be members of the Waiahole Waikane Community Association (WWCA) and have the same rights, privileges, and responsibilities as all members of the WWCA.<sup>3</sup>

The subdivision contains both residential and agricultural lots. The DCC&Rs specify restrictions pertaining to agricultural lots alone, restrictions pertaining to residential lots alone, and restrictions that apply to both agricultural and residential lots.<sup>4</sup> Exhibit "2" to the DCC&Rs provides a "Summary of Lots," indicating whether each lot in the subdivision is categorized as

---

<sup>1</sup> See Transfer Agreement at 1; Transfer Agreement at Exhibit "A".

<sup>2</sup> See Transfer Agreement at 2, 4.

<sup>3</sup> See Transfer Agreement at 6.

<sup>4</sup> See DCC&Rs at 6-12.

agricultural or residential. “Agricultural Lot” is defined in the DCC&Rs as “each of the agricultural lots in the Subdivision which are listed and identified in the ‘Summary of Lots’ attached as Exhibit ‘2’ . . . .”<sup>5</sup> “Residential Lot” is defined as “the residential lots in the Subdivisions which are listed an identified in the ‘Summary of Lots’ attached as Exhibit ‘2’ . . . .”<sup>6</sup>

Of the twenty vacant lots transferred to DHHL, thirteen are categorized as residential in Exhibit “2”.<sup>7</sup> The following table lists each of DHHL’s residential lots in the subdivision, and the corresponding DHHL lease number.

Lot No.	Lease No.	Type of Lot
23	6644	Residential
24	6662	Residential
28	6646	Residential
29	6645	Residential
67	6656	Residential
69	6625	Residential
88	6629	Residential
89	6624	Residential
91	6623	Residential
93	6666	Residential
94	6617	Residential
100	6619	Residential
101	6650	Residential

DHHL awarded agricultural leases to lessees of the aforementioned residential lots in the subdivision. The lease terms state that each lease is subject “to the restrictive covenants as contained in the original and first supplemental Declaration of Restrictive Covenants for the Waiahole Valley Agricultural Park and Residential Lots Subdivision.”<sup>8</sup> That these residential lots were awarded as DHHL agricultural leases merely renders them subject to DHHL’s

---

<sup>5</sup> DCC&Rs at 3.

<sup>6</sup> DCC&Rs at 3.

<sup>7</sup> See DCC&Rs Exhibit 2.

<sup>8</sup> See, e.g., Amendment to Lease No. 6644 at 3-4.



Mr. Clint Lacaden  
September 11, 2019  
Page 3

agricultural lease conditions, which are stated in the lease documents. It does not change their classification as residential lots under the DCC&Rs.<sup>9</sup> The lots' continued status as residential under the DCC&Rs renders them subject to the residential lot restrictions on pages 9 to 12 of the DCC&Rs. The lots are *not* subject to any of the agricultural lot restrictions on pages 6 to 9 of the DCC&Rs as they are not categorized as agricultural for the purposes of the DCC&Rs.

Please circulate this letter to other loan officers in your organization who may need this information regarding the subdivision.

Sincerely,



Craig K. Hirai  
Executive Director  
Hawaii Housing Finance and Development Corporation

Enclosures

cc: William J. Aila, Jr.  
Chairman, Hawaiian Homes Commission  
Department of Hawaiian Home Lands

---

<sup>9</sup> The Transfer Agreement states, "[i]f there are any conflicts between the provisions of the DCC&Rs and the provisions in the individual DHHL leases, the DCC&Rs shall control."

ITEM C-2

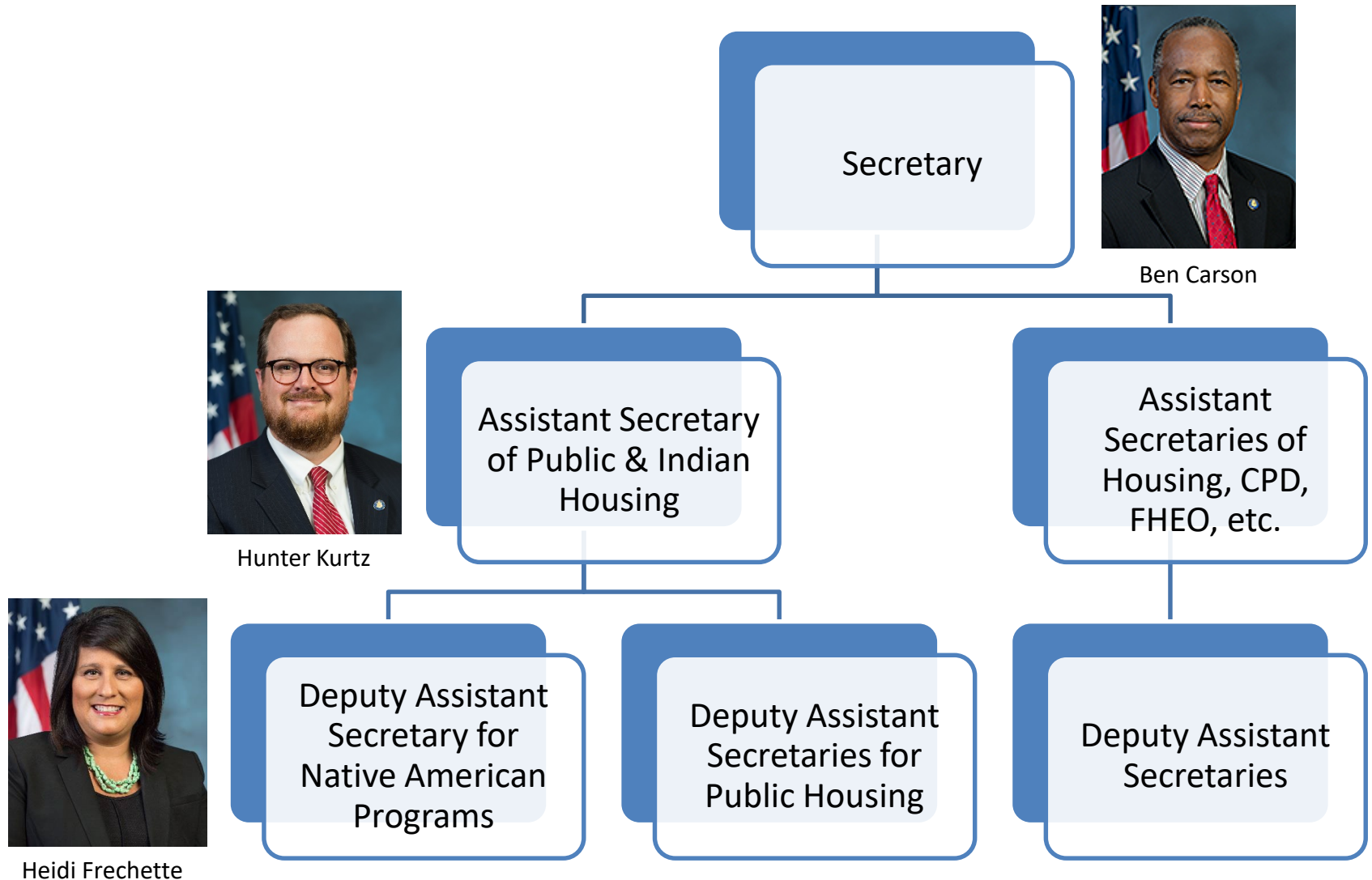
# HUD

# Native Hawaiian

# Housing Programs



# HUD Office of Native American Programs (ONAP)





# HUD Office of Native American Programs (ONAP)

**Deputy Assistant Secretary for Native American Programs**  
(includes Native Hawaiian Programs)

**Directors for...**Headquarters Operations;  
Field Operations; Grants Management;  
Grants Evaluation; Performance and  
Planning

**Director for Office of Loan Guarantee**  
(includes Sections 184 & 184A  
and Title VI programs)

**Administrator Eastern Woodlands AONAP**  
(Chicago, IL) – IHBG & ICDBG

**Administrator Southern Plains AONAP** (Oklahoma City, OK) – IHBG & ICDBG

**Administrator Northern Plains AONAP** (Denver, CO) – IHBG & ICDBG

**Administrator Southwest AONAP** (Phoenix, AZ) – IHBG & ICDBG

**Administrator Northwest AONAP** (Seattle, WA) – IHBG & ICDBG

**Administrator Alaska Area ONAP** (Anchorage, AK) – IHBG & ICDBG



# Native American Programs

## Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996

### ❖ Indian Housing Block Grant (IHBG)

- Formula grant to Federally recognized Indian Tribes to provide affordable housing opportunities for low-income Native Americans and Alaska Natives

### ❖ Title VI Loan Guarantee for IHBG Recipients

- Leverages IHBG to finance affordable housing activities

## Other Programs that provide housing assistance for Native Americans and Alaska Natives

### ❖ Indian Community Development Block Grant (ICDBG)

- Competitive grant to Indian Tribes, Bands, Nations & Alaska Native Villages for Housing, Community Facilities, and Economic Development

### ❖ Section 184 Native American Housing Loan Guarantee

- Homeownership loan for Indian Tribal Members and Alaska Natives
- On Indian Reservation or Designated Indian Operating Areas = “Indian Area”

# Native Hawaiian Programs



## Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996

Amended in 2000 to add Title VIII – Housing Assistance for Native Hawaiians

### ❖ Native Hawaiian Housing Block Grant (NHHBG)

- Provides affordable housing opportunities to low-income Native Hawaiian families eligible to reside on Hawaiian home lands

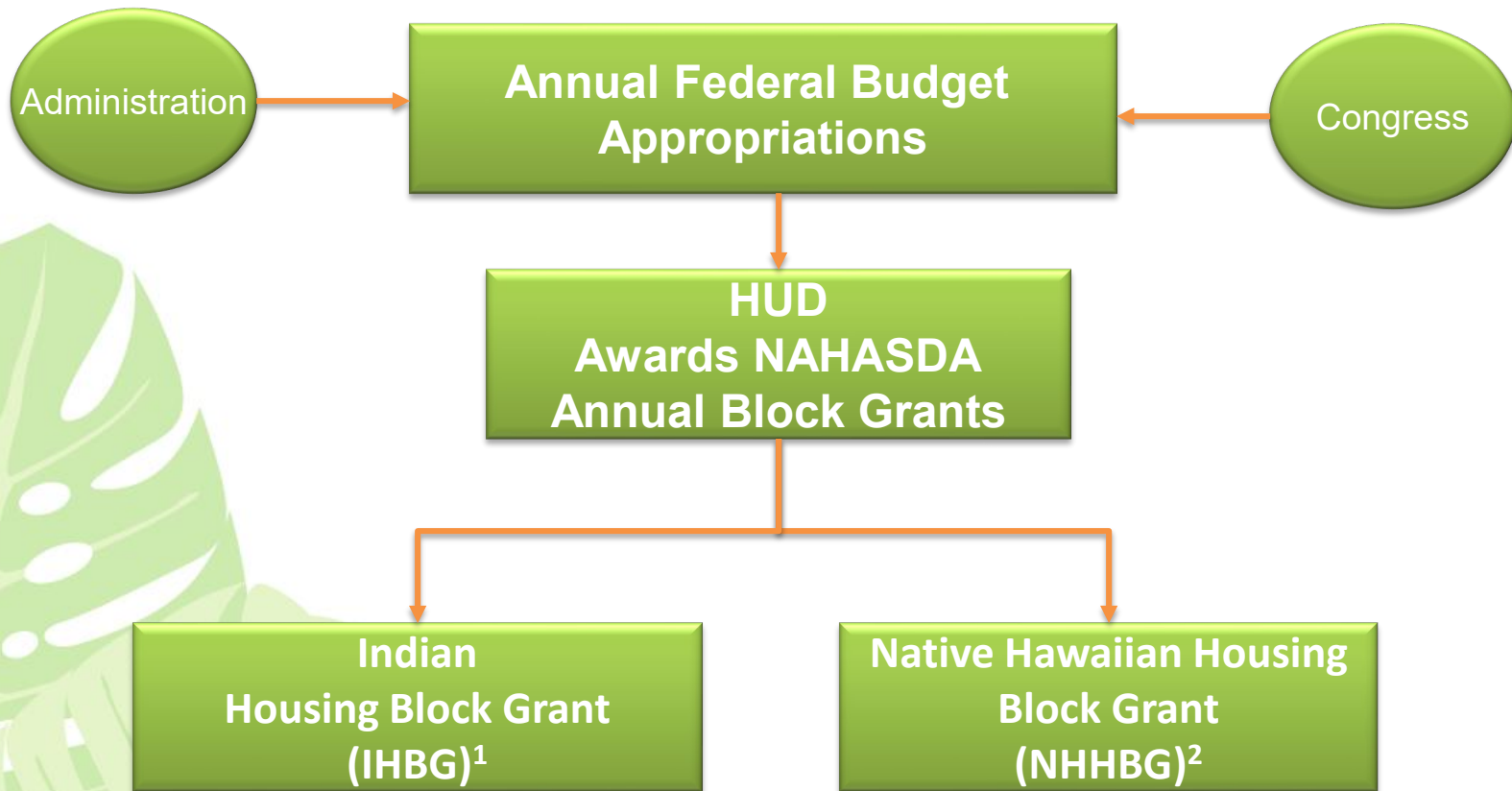
## Housing & Community Development Act (HCDA) of 1992

Amended in 2000 to add Section 184A - Loan Guarantees for Native Hawaiian Housing

### ❖ Section 184A Native Hawaiian Housing Loan Guarantee

- Homeownership loan for Native Hawaiians on Hawaiian home lands

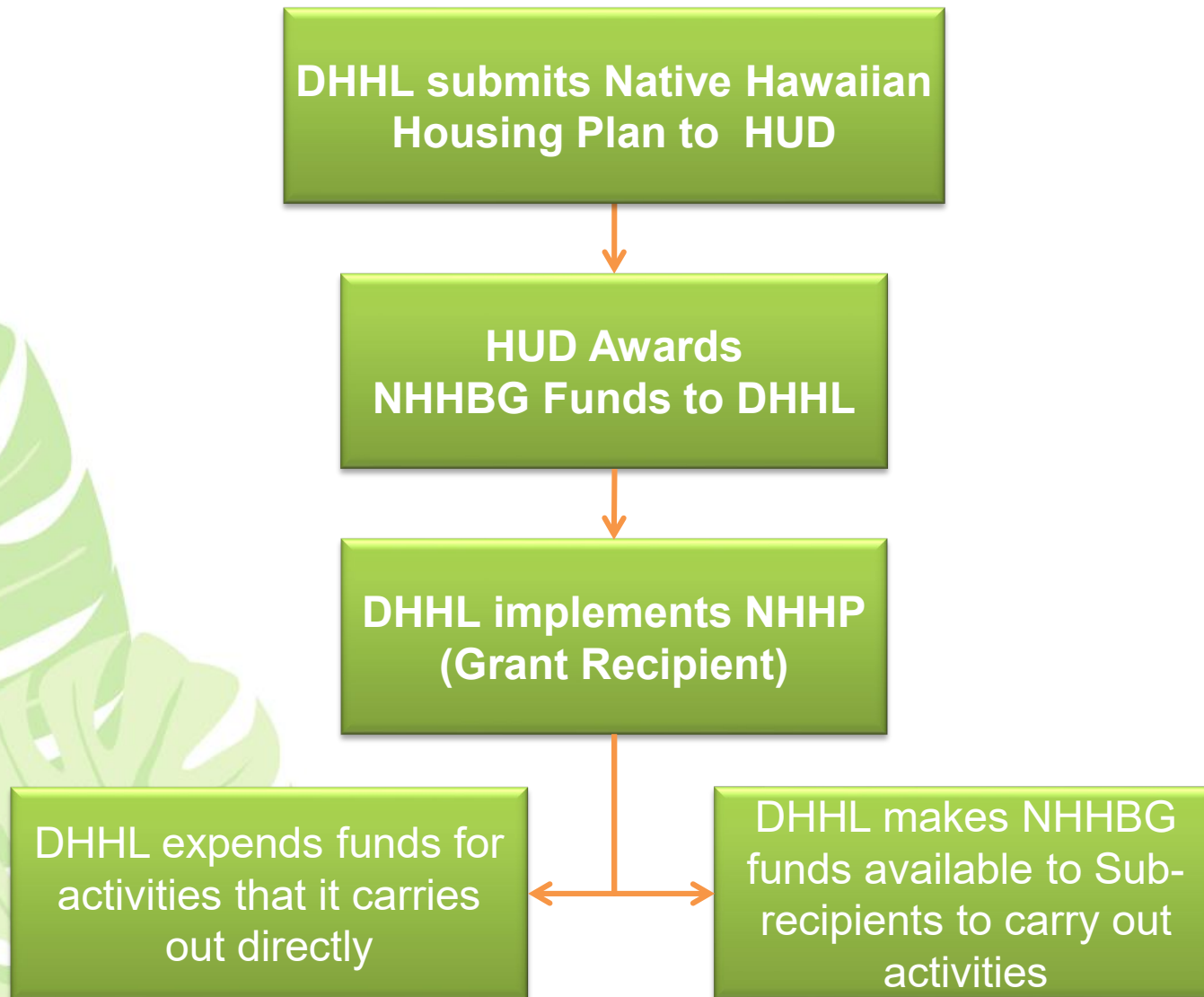
# Appropriation to Grant Process



<sup>1</sup>Entire Allocation divided among & directed to Tribes based on formula

<sup>2</sup> Entire Allocation directed to DHHL

# Appropriation to Grant Process





# Native Hawaiian Housing Block Grant (NHHBG)

NHHBG provides *affordable housing* opportunities to *low-income Native Hawaiian families* eligible to reside *on Hawaiian home lands*

- **Affordable Housing:** housing that is developed or assisted with NAHASDA; housing that meets the requirements of NAHASDA.
- **Low-income:** not exceeding 80% of the median income for the area.
- **Native Hawaiian Families:** DHHL determines eligibility to reside on Hawaiian home lands pursuant to the Hawaiian Homes Commission Act.
- **Housing Area:** on Hawaiian home lands for homeownership; on and off Hawaiian home lands for rental assistance (per 2018-2020 appropriation language).

# NHHBG Eligible Activities

- ❖ **NHHBG must be used for eligible activities consistent with the Native Hawaiian Housing Plan**
  - **DEVELOPMENT**—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing
  - **HOUSING SERVICES**—The provision of housing-related services for affordable housing
  - **HOUSING MANAGEMENT SERVICES**—The provision of management services for affordable housing
  - **CRIME PREVENTION AND SAFETY ACTIVITIES**—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime
  - **MODEL ACTIVITIES**—Housing activities under model programs that are designed to carry out the purposes of NAHASDA; and *specifically approved by the Secretary*

# Native Hawaiian Housing Plan

- ❖ **NHHBG must be used for eligible activities consistent with the Native Hawaiian Housing Plan**
  - **DHHL must submit a housing plan for each Federal fiscal year**
    - **Five-year Plan:**
      - ✓ Mission statement
      - ✓ Goals and objectives
      - ✓ Activities plan
    - **One-year Plan:**
      - ✓ Goals and objectives
      - ✓ Statement of needs/Planned fiscal year activities
      - ✓ Financial resources/Budget – sources & uses of funding
      - ✓ Affordable housing resources
      - ✓ Other: Useful life affordability period; Model activities
      - ✓ Certifications of compliance
  - **DHHL must submit any amendment to the 1-year plan for HUD review before undertaking new activities not included in the current plan**
  - **HUD will review Housing Plan to determine compliance with NAHASDA**

# Administrative Expenses

## ❖ Up to such amount authorized by HUD

- **HUD authorizes DHHL** to budget and expend up to 20% of each grant award for reasonable administrative and planning expenses
- **ADMINISTRATIVE & PLANNING COSTS**—Related to carrying out NAHASDA and activities assisted with NHHBG funds
  - ✓ Wages and related costs of DHHL staff
  - ✓ Travel costs related to carrying out NHHBG program
  - ✓ Administrative services performed under third-party contracts – e.g., audit services; preparation of housing plan and reports; monitoring activities, etc.
  - ✓ Goods and services required for administration of program – e.g., rental/purchase of equipment, insurance, utilities, office supplies, rental and maintenance of office space

# NHHBG Requirements

## ❖ DHHL and all Sub-recipients must comply with statutory and regulatory requirements

- **Statute:** Title VIII of the Native American Housing Assistance and Self-Determination Act (NAHASDA)
- **Regulation:** 24 CFR Part 1006 and other federal regulations and requirements:
  - Eligible Activities
  - Native Hawaiian Housing Plan
  - Monitoring
  - Annual Performance Report
  - Federal Financial Report
  - Annual Audit Report
  - Eligible Families
  - Affordability Restriction and Binding Commitments



# NHHBG Requirements

## ❖ DHHL and all Sub-recipients must comply with statutory and regulatory requirements (continued)

- Insurance Coverage – assisted units; contractor activities
- Program Income
- Labor Standards (Davis-Bacon wage rates and related Acts)
- Environmental Review
- Nondiscrimination
- Administrative Requirements / Cost Principles / Procurement / Conflict of Interest / Audit Requirements – 2 CFR Part 200
- Lead-Based Paint – 24 CFR Part 35
- Drug-Free Workplace – Drug Free Workplace Act of 1988
- Displacement and Relocation – 49 CFR Part 24
- Housing Counseling – Section 106 of the HUD Act of 1968
- Employment, Contracting & Training Opportunities – Section 3 of the HUD Act of 1968

# NHHBG Requirements

- **One Primary Objective of Title VIII of NAHASDA** is to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by **low-income** Native Hawaiian families. [Section 809 of NAHASDA]
- **Eligible Families – Section 809(a)(2) NAHASDA; § 1006.301**
  - ▶ Generally limited to low-income Native Hawaiian families who are eligible to reside on Hawaiian home lands
  - ▶ Exception to low-income requirement:
    - ✓ Homeownership assistance to **non low-income** NH families, as approved by HUD to address a need for housing that cannot be reasonably met without that assistance;
    - ✓ Assistance to **non low-income and non-NH** okay *if* DHHL determines that the presence of the family in the housing involved is essential to the well-being of NH families and the need for housing of such family cannot be reasonably met without the assistance.

Example of essential family: Medical Practitioner, Police Officer, etc.

# Affordability Period and Binding Commitments

- The use of NHHBG funds on a property is an investment made for low-income families in the community.
- The return on that NHHBG investment is the period of time that the unit will be available for continued future use by low-income families = Affordability Period or “useful life” for that property.
- A useful life/affordability period must be established when NHHBG funds are used on a lot, housing unit, or provided to a family for the following activities:
  - ✓ Construction/Rehabilitation
  - ✓ Acquisition/Down payment/Closing costs
  - ✓ Financing
  - ✓ Regardless of whether assistance is a grant or loan

# Affordability Period and Binding Commitments

- The affordability period must be enforced with a binding commitment that includes remedies for breach of the commitment.
- DHHL must track each affordable unit and keep records of all use restrictions.

## ❖ **DHHL must make a concerted effort to accurately estimate how many NHHBG affordable units will result when planning a multi-unit project**

- If 50% of the housing units are expected to be occupied by low-income families, then NHHBG should be used to pay only 50% of the project cost.
- It is not acceptable to purposely front-load project costs with NHHBG funds and just pay it back later!

# NHHBG Requirements

- **Insurance Coverage – Section 811(c) NAHASDA and § 1006.330**
  - Adequate insurance coverage required for housing units owned, operated, or assisted with more than \$5,000 of NHHBG funds (including loans).
  - Contractors and subcontractors shall provide insurance covering their activities in the contract.
- **Program Income – Section 805(a) NAHASDA and § 1006.340**
  - Income generated from the use of NHHBG (including payments of principal and interest on loans made with NHHBG) totaling more than \$25,000 in one fiscal year.
  - Must be used for affordable housing activities in accordance with NAHASDA and 24 CFR Part 1006 *before* disbursing additional NHHBG funds.
- **Labor Standards – Section 805(b) NAHASDA and § 1006.345**
  - Any contract or agreement for assistance, sale, or lease must require prevailing wage rates under the Davis-Bacon Act to be paid to laborers and mechanics employed in the development of the affordable housing involved.



# NHHBG Requirements

- **Labor Standards (cont'd) – Section 805(b) NAHASDA and § 1006.345**
  - Any contract or agreement for assistance, sale, or lease must require prevailing wage rates, as determined by HUD, to be paid to architects, technical engineers, draftsmen, and technicians employed in the development; and all maintenance laborers and mechanics employed in the operation of the affordable housing involved.
  - When NHHBG is only used to assist homebuyers to acquire single family housing, Davis-Bacon wages rates apply to the construction of the housing if there is a written agreement with the housing owner or developer that NHHBG will be used to assist homebuyers to buy the housing.
  - Prime contracts not in excess of \$2,000 are exempt from Davis-Bacon wage rates.
  - Volunteer labor (including sweat equity) is exempt from Davis-Bacon and HUD-determined wage rates.
  - Contracts in excess of \$100,000 to which Davis-Bacon or HUD-determined wage rates apply are subject to the overtime provisions of the Contract Work Hours and Safety Standards Act.

# Environmental Review Basics

24 CFR Part 58 – NHHBG Recipient (DHHL) assumes responsibility for environmental review

**Every penny of NHHBG funds must be covered by an environmental review.**

If DHHL intends to use HUD funds for any activity in a project, DHHL must complete the environmental review process under 24 CFR Part 58 for all planned activities in that project BEFORE committing HUD and non-HUD funds for any activity in that project.

Exempt activities and some categorically excluded activities do not require a request for release of funds (RROF) and HUD approval of the release of funds.

- ✓ In those instances, DHHL must document its determination and comply with applicable requirements in 58.6 before the funds are committed and expended for the activity.

# Environmental Review Basics

## (Cont'd)

### Limits on Activities Prior to Clearance

**§ 58.22** Neither a recipient nor any participant in the development process may commit HUD funds and non-HUD funds on any activity or project until HUD has approved the Recipient's RROF and the related certification from the RE (unless the activity is exempt or categorically excluded not subject to §58.5).

"Participant" includes public or private non-profit or for-profit entities, or any of their contractors.

**NOTE:** Requesting a bid for work is not necessarily a choice limiting action as long as the bid allows the responsible entity to cancel /reject the project if the environmental review reveals the site is not suitable for the use intended.

# NHHBG Requirements

- **Audits – § 1006.375(d) & 2 CFR Part 200 Subpart F**

- Non-Federal entities that expend \$750,000 or more in a year in Federal awards (includes recipients and subrecipients) must have a single or program-specific audit conducted for that year and submit it to the Federal Audit Clearinghouse.

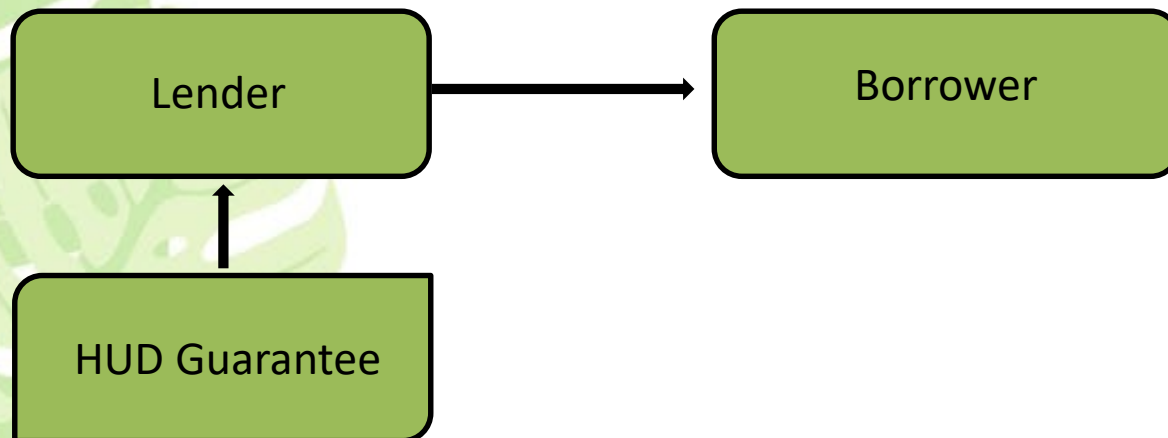
- **Housing Counseling - § 1006.375(e)**

- Effective August 1, 2020: Housing counseling that is funded with or provided in connection with HUD programs (including NHHBG) must be provided by certified housing counselors who work for organizations approved to participate in HUD's Housing Counseling Program – Section 106 HUD Act of 1968.
- *Housing Counseling (§ 5.100)*: independent, expert advice customized to the need of the consumer to address the consumer's housing barriers and to help achieve their housing goals and must include the following processes: Intake; financial and housing affordability analysis; an action plan, except for reverse mortgage counseling; and a reasonable effort to have follow-up communication with the client when possible.

# Section 184A Native Hawaiian Housing Loan Guarantee

**184A** provides access to sources of private financing for homes located on Hawaiian home lands

- Hawaiian home lands are inalienable, cannot be foreclosed by lenders.
- Allows HUD to guarantee up to 100% of unpaid principal and interest due on an eligible loan.





# Section 184A Native Hawaiian Housing Loan Guarantee

## 184A loan highlights:

- Purchase, Rehabilitation, New Construction, Refinance
- 30-year, fixed rate loan
- Market interest rate
- Minimum 2.25% down payment
- 41% Debt-to-income ratio
- 1% guarantee fee, financeable
- Assumable



**Family built home with sweat equity  
in Maluohai - Kapolei, Oahu**



**Interior of self-help home - Anahola, Kauai**



**Kaupea infrastructure work  
Kapolei, Oahu**



**Waiakea infrastructure – Hilo, Hawaii**





**New single-family homeownership units built in Kaupea  
Kapolei, Oahu**



**The Amano family is congratulated by Secretary Donovan and Senator Inouye on their NHHBG-assisted home purchase in Kanehili Kapolei, Oahu**





85 1032

**Kaupuni Village - LEED Platinum Certified single-family homes built with ARRA funds**  
**Waianae, Oahu**





**Interior of a Kaupuni Village home  
Waianae, Oahu**

# NHHBG home replacement Hoolehua, Molokai

**BEFORE**



**AFTER**





# Kalamaula, Molokai

**BEFORE**



**AFTER**







**Papakolea Community Center Model Activity - Oahu**







Nanakuli Housing  
Corporation: NHHBG  
subrecipient doing homebuyer  
education and self-help home repair  
training

First-time homebuyer: received  
NHHBG down payment grant,  
Section 8 homeownership assistance,  
USDA RD Loan, and housing  
counseling through DHHL's Home  
Ownership Assistance Program



# SUCCESS STORY – LOT DEVELOPMENT IN WAIOHULI



- The future home for 46 Hawaiian Home Lands beneficiaries and their families in the first phase of the Keokea-Waiohuli subdivision in Kula, Maui was celebrated during a groundbreaking ceremony in 2016.
- NAHASDA funds were used to focus on construction drainage improvements such as ditches, swales, and earth berms; and will also include grading and other access improvements.





# SUCCESS STORY – OLSEN `OHANA

- Casey Olsen and his 'ohana receive the keys to their 3-bedroom, 2-bathroom home in the Kanehili subdivision of Kapolei.
- The home was built in partnership with Habitat for Humanity Leeward Oahu utilizing NAHASDA funds.



# SUCCESS STORY – SANTOS `OHANA

- Kinohi and Rusty Santos were joined by their extended `ohana to break ground for construction on their new home in Kumuhau in Waimanalo.
- Once complete, the Santos 'Ohana will be moving into a 5-bedroom, 2-bathroom home, made possible through a unique collaboration among several partners.
- The Santos' will be paying \$600 a month for mortgage, compared to \$900 in rent per month on a 2-bedroom home.



# SUCCESS STORY – JOHNSON `OHANA

- Vernon Johnson and his 'ohana receive the keys to their 6-bedroom, 3-bathroom home in Waimanalo.
- The home was built through a partnership between DHHL and Honolulu Habitat for Humanity and was funded through a zero-interest loan made possible by NAHASDA.
- More than 500 local volunteers helped complete the Puha Street project, totaling over 4,000 volunteer hours.





# SUCCESS STORY – 6 FAMILIES RECEIVE KEYS TO NEW HOMES

- The Ah Yee, Gomes, Joseph, Kam, Kane, and Lai 'ohana were joined by Honolulu Habitat for Humanity, Habitat for Humanity Leeward Oahu, DHHL, and dozens of volunteers who all had a hand in the completion of these 6 homes.
- The homes range in size and price from a 2-bedroom, 1-bathroom home for \$167,472 to a 4-bedroom, 2-bathroom home for \$197,472, with an estimated monthly mortgage payment ranging from \$465 to \$548.



# SUCCESS STORY – HO'OLIMALIMA

- With funding from NAHASDA, 30 families were able to convert from rental to home ownership.
- The purchase price on these homes ranged from \$64,939 to \$78,810 with an average monthly mortgage of \$300 per month.
- The tax credits earned over the life of the 15-year project raised over \$6.7 million in equity, which was passed onto the native Hawaiian renters who exercised the purchase option offered to them.



# SUCCESS STORY – REBUILD FOR DARLEEN KANIHO

- Aging infrastructure and a reluctance to leave a lifetime of memories behind had homesteader Darleen Kaniho living in uninhabitable conditions for several years in her childhood home in Papakolea.



- With the help of NAHASDA and Honolulu Habitat for Humanity, Darleen was able to rebuild a 2-bedroom, 1-bathroom home.





# SUCCESS STORY – PACKAGE HOMES ON MOLOKAI

- Happy Kaleikini, 53, originally received his homestead lease in 1985, but was unable to afford the cost of construction.
- Conrad Aquino, 58, spent the last 10 years living in a tent in Molokai, this opportunity to build a home closer to his family, was one he could not refuse.



- Both homesteaders will be paying approximately \$400 a month for their mortgage on a 2-bedroom, 2-bathroom packaged home.





# *Mahalo*

*Claudine C. Allen*

Lead Native Hawaiian Program Specialist

HUD Honolulu Field Office

1132 Bishop Street, Suite 1400

Honolulu, HI 96813

Email: [claudine.c.allen@hud.gov](mailto:claudine.c.allen@hud.gov)

Phone: (808) 457-4674

ITEM G-2



HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION • DEPARTMENT OF HAWAIIAN HOME LANDS

**G-2**

# **Pu'u 'Ōpae Kuleana Homestead Settlement**

July 21, 2020



# Background

- There are 2,555 combined agriculture and pastoral wait-listers for Kauaʻi
- Many people have been waiting for more than 20+ years
- Beneficiaries expressed a shared frustration that the wait length is too long
- The Kuleana Homesteading Program will expedite the awarding of lots in as-is condition



# Kuleana Homestead Program

## **Kuleana**

Right, privilege, concern, responsibility, title, business, property, estate, portion, jurisdiction, authority, liability, interest, claim, ownership, tenure, affair, province; reason, cause, function, justification; small piece of property, as within an ahupua'a

## **Ho'okuleana**

To entitle, give right to possess; to give a responsibility





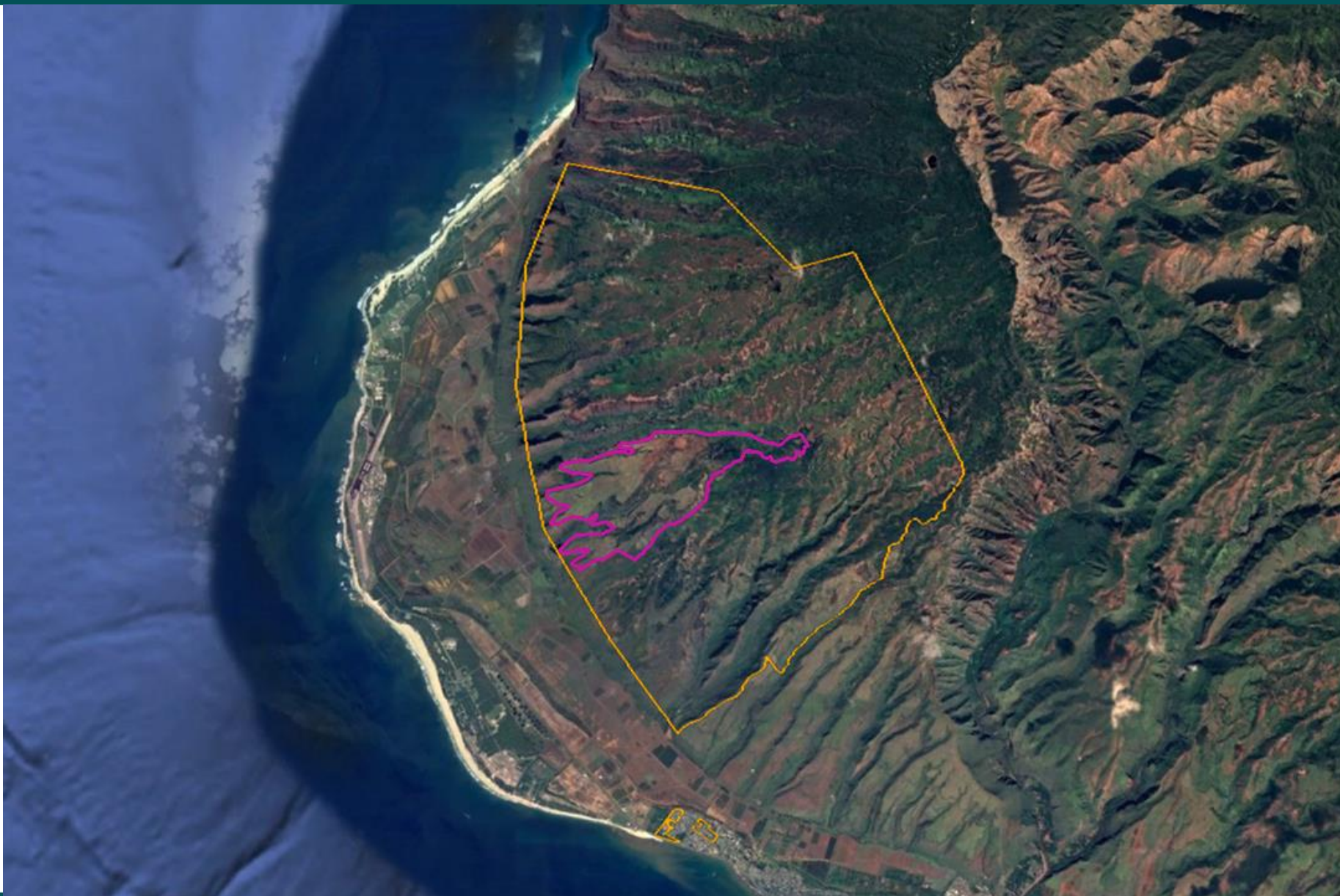
# DHHL Lands on Kaua'i







# DHHL Lands in Waimea





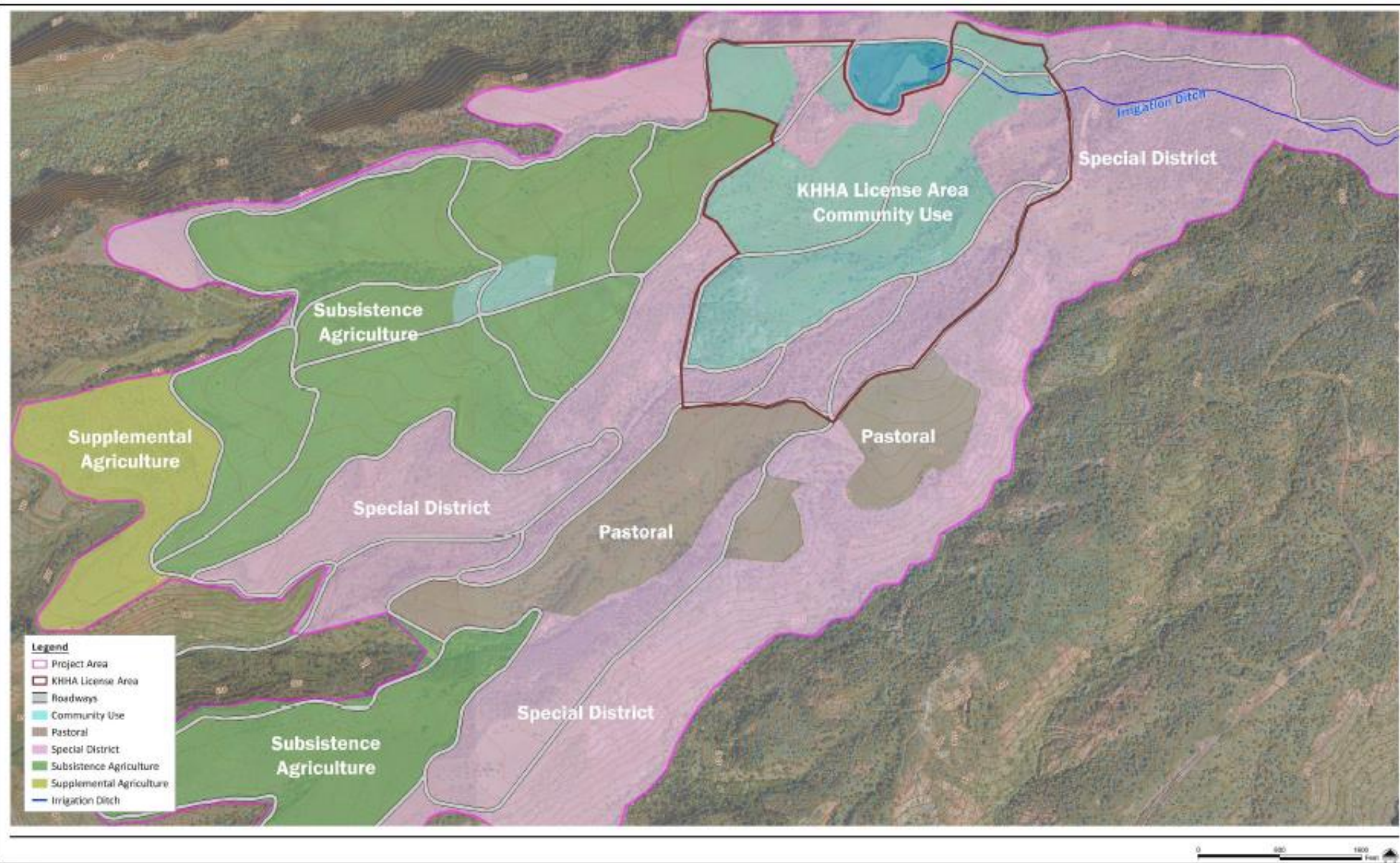
# Beneficiary Consultation

- October 23, 2017 – Small group meeting with West Kaua‘i beneficiaries;
- November 15, 2018 – Beneficiary consultation meeting #1 with Kaua‘i Agricultural Waitlist beneficiaries and West Kaua‘i beneficiaries;
- August 8, 2019 – Beneficiary consultation meeting #2 with Kaua‘i Agricultural Waitlist beneficiaries West Kaua‘i beneficiaries;
- February 6, 2020 – Beneficiary consultation meeting #3 with Kaua‘i Agricultural Waitlist beneficiaries West Kaua‘i beneficiaries;





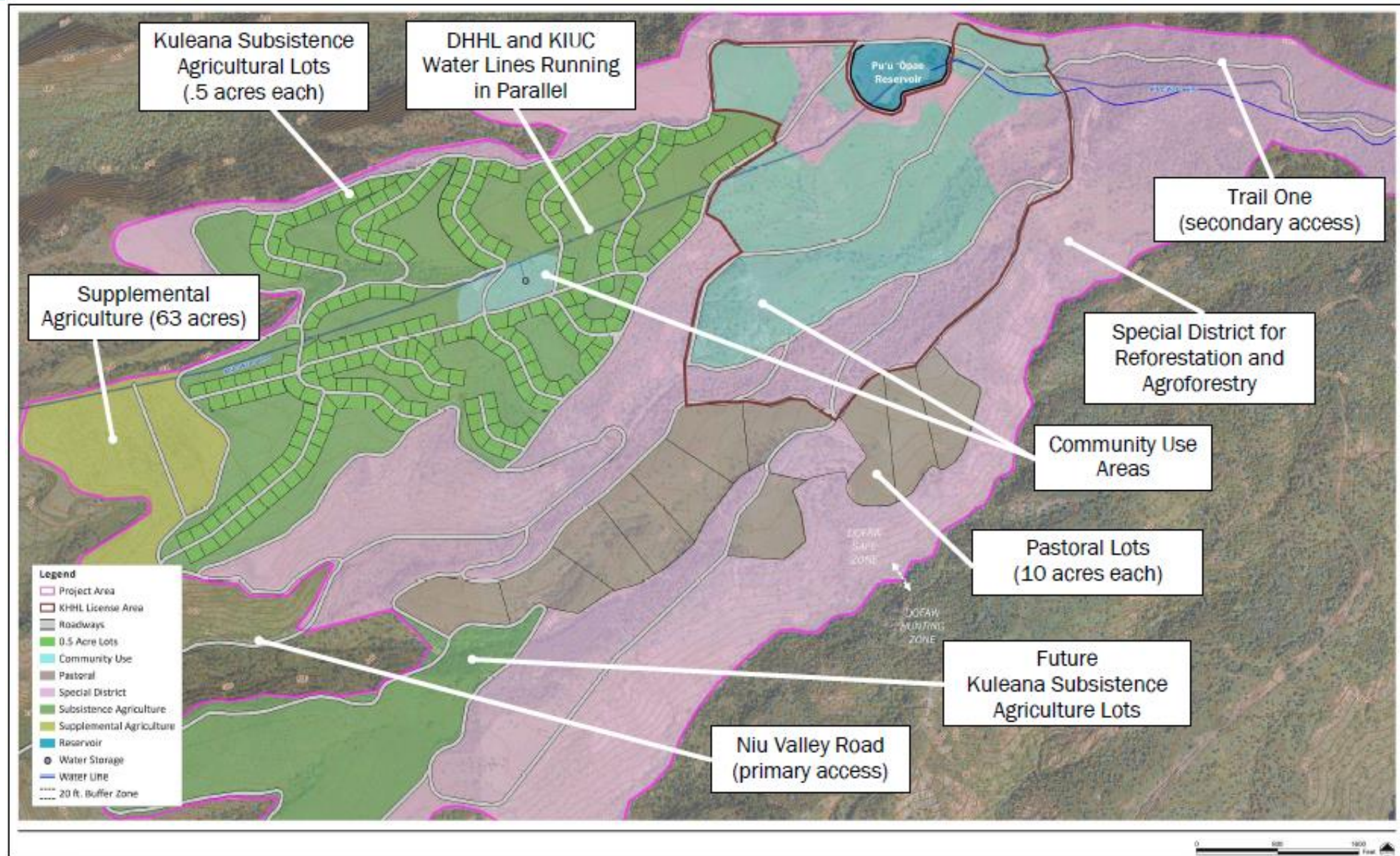
# Proposed DHHL Land Use







# Proposed Pu'u 'Ōpae Lot Scheme







# Subsistence Agriculture

## Phase 1







# Subsistence Agriculture

*Phase 2*







# Natural Resources

Due to its long history of intensive sugarcane cultivation, a biological survey found the site to be dominated by non-native vegetation, with just a few native species present in certain areas of the site







# Historic and Cultural Resources



## 3 Historic Properties were Identified:

- Plantation Camp
- Pu'u 'Ōpae Reservoir
- Military Trenches







# Historic and Cultural Resources



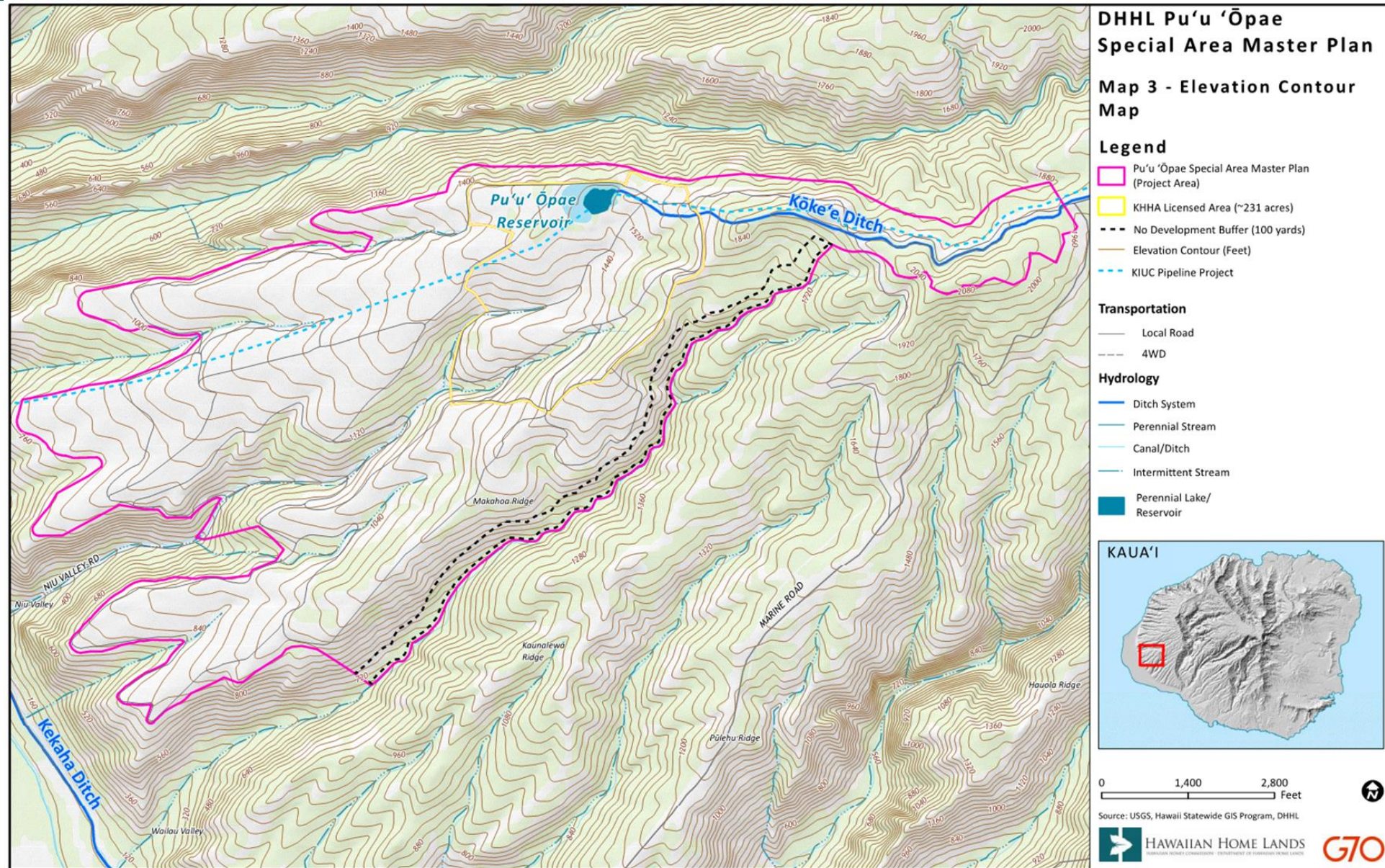
- Lot scheme was designed to avoid impacts to cultural and historic resources
- Potential for undiscovered historic properties
- Additional identification survey may be required for future work
- Potential for community archaeology program





# Hydrology and Drainage

- The project area generally slopes to the west and drains into the adjacent property through several valleys along the western property boundary
- The major discharges occur through Niu Valley





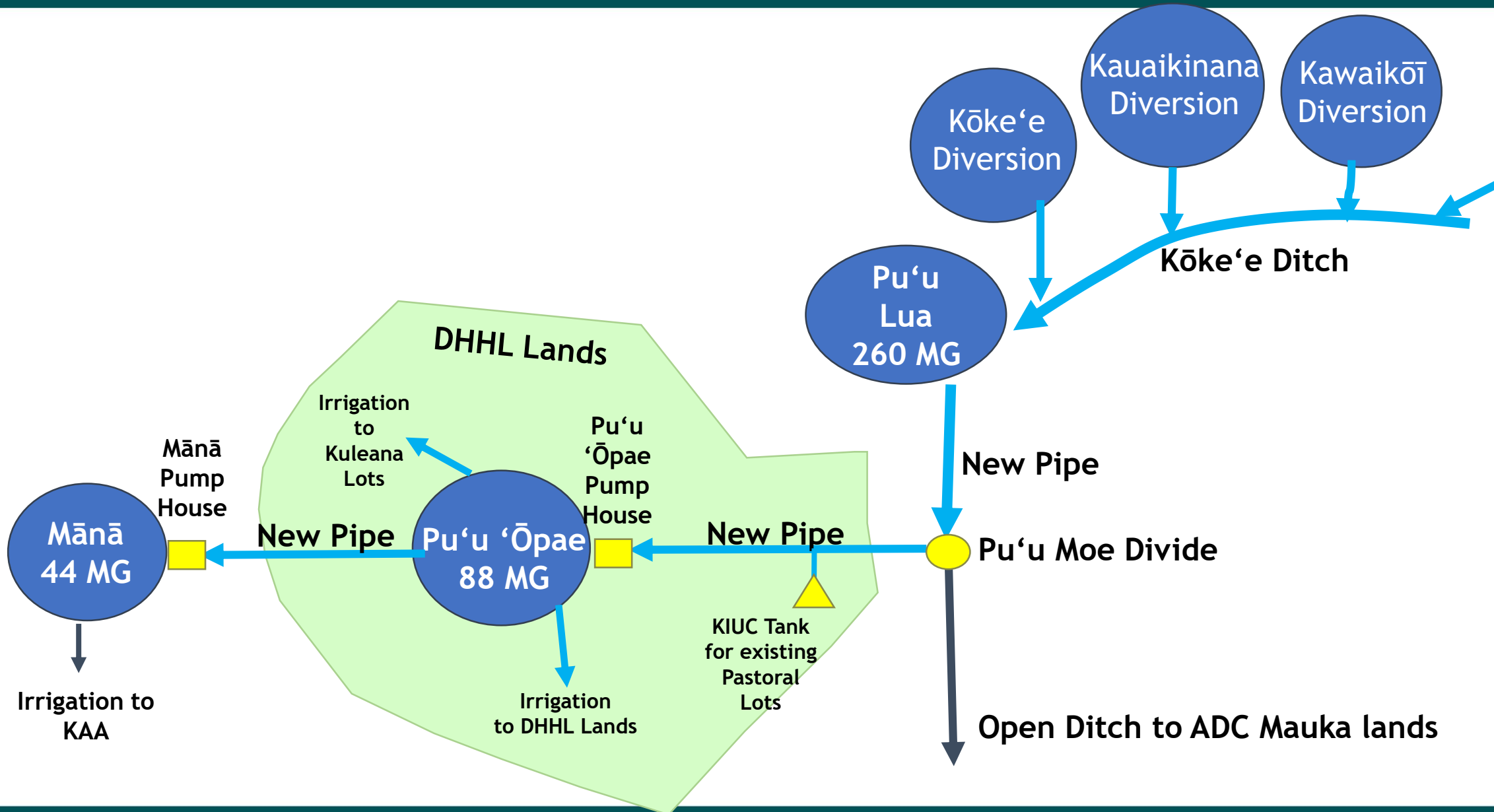


# Hydrology and Drainage





# Infrastructure: Non-Potable Water







# Infrastructure: Potable Water



- Rainwater Catchment System
- Haul in personal drinking water
- Responsibility of lessee





# Infrastructure: Roadways

- Lot scheme planned to maximize use of existing road network
- DHHL will construct some new unpaved gravel roads to provide four-wheel drive access to the Kuleana Homestead Lots
- Beneficiaries will be responsible for roadway upkeep and maintenance







# Infrastructure: Roadways

- KIUC will improve existing Niu Valley Road to the Pu'u 'Ōpae Reservoir
- Mauka Roadway from the Pu'u 'Ōpae Reservoir to Kōke'e Road will also be improved, but to a lesser extent
- Improvements will include rock, crowning, grading, and constructing drainage ditches alongside







# Infrastructure: Wastewater



- Individual wastewater systems are allowed and would be the responsibility of the lessee

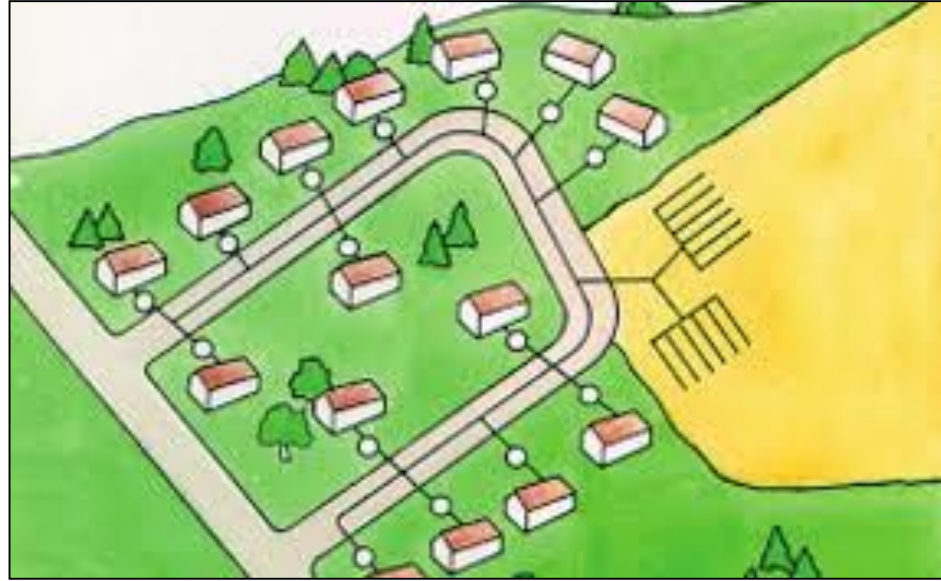






# Infrastructure: Wastewater

- Cluster Wastewater System
- A cooperative wastewater treatment organization that collects wastewater from a small number of homes and transports it to a pretreatment land absorption area with no surface discharge of effluent





# Comments Received on Draft EA

- 30-Day Comment Period May 23<sup>rd</sup> to June 22<sup>nd</sup>.
- Substantive agency comments received from:
  - State DOH Clean Air Branch
  - State DLNR Commission on Water Resource Management
  - State DLNR Division of Forestry & Wildlife
  - State DOT
  - OHA
  - County Planning Department
  - County Department of Public Works



# Finding of No Significant Impact (FONSI)

Per HAR 11-200-12, a FONSI determination must be based on the following 13 criteria:

1. Involve an irrevocable loss or destruction of any natural or cultural resources;
2. Curtail the range of beneficial uses of the environment;
3. Conflict with the state's long-term environmental policies or goals and guidelines as expressed in HRS Chapter 344, and any revisions thereof and amendments thereto, court decisions, or executive orders;
4. Have a substantial adverse effect on the economic welfare, social welfare, or cultural practices of the community and state;
5. Substantially affects public health;
6. Involves adverse secondary impacts, such as population changes or effects on public facilities;





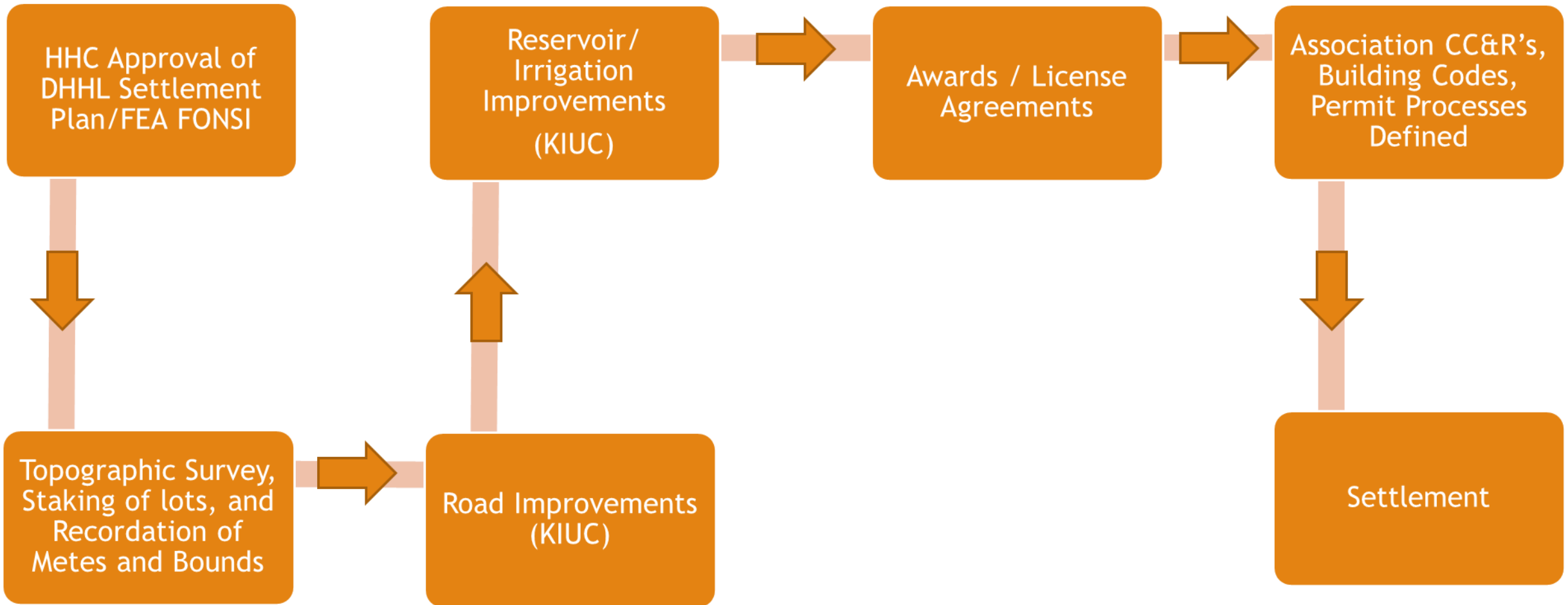
# Finding of No Significant Impact (FONSI)

Per HAR 11-200-12, a FONSI determination must be based on the following 13 criteria:

7. Involves a substantial degradation of environmental quality;
8. Individually limited but cumulatively have substantial adverse effect upon the environment or involved a commitment for larger actions;
9. Have a substantial adverse effect on a rare, threatened or endangered species, or habitat;
10. Have a substantial adverse effect on air or water quality or ambient noise levels;
11. Affects or is likely to suffer damage by being located in an environmentally sensitive area such as flood plain, tsunami zone, beach, or erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal water;
12. Substantially affects scenic vistas and view-planes identified in county or state plans or studies;
13. Require substantial energy consumption.

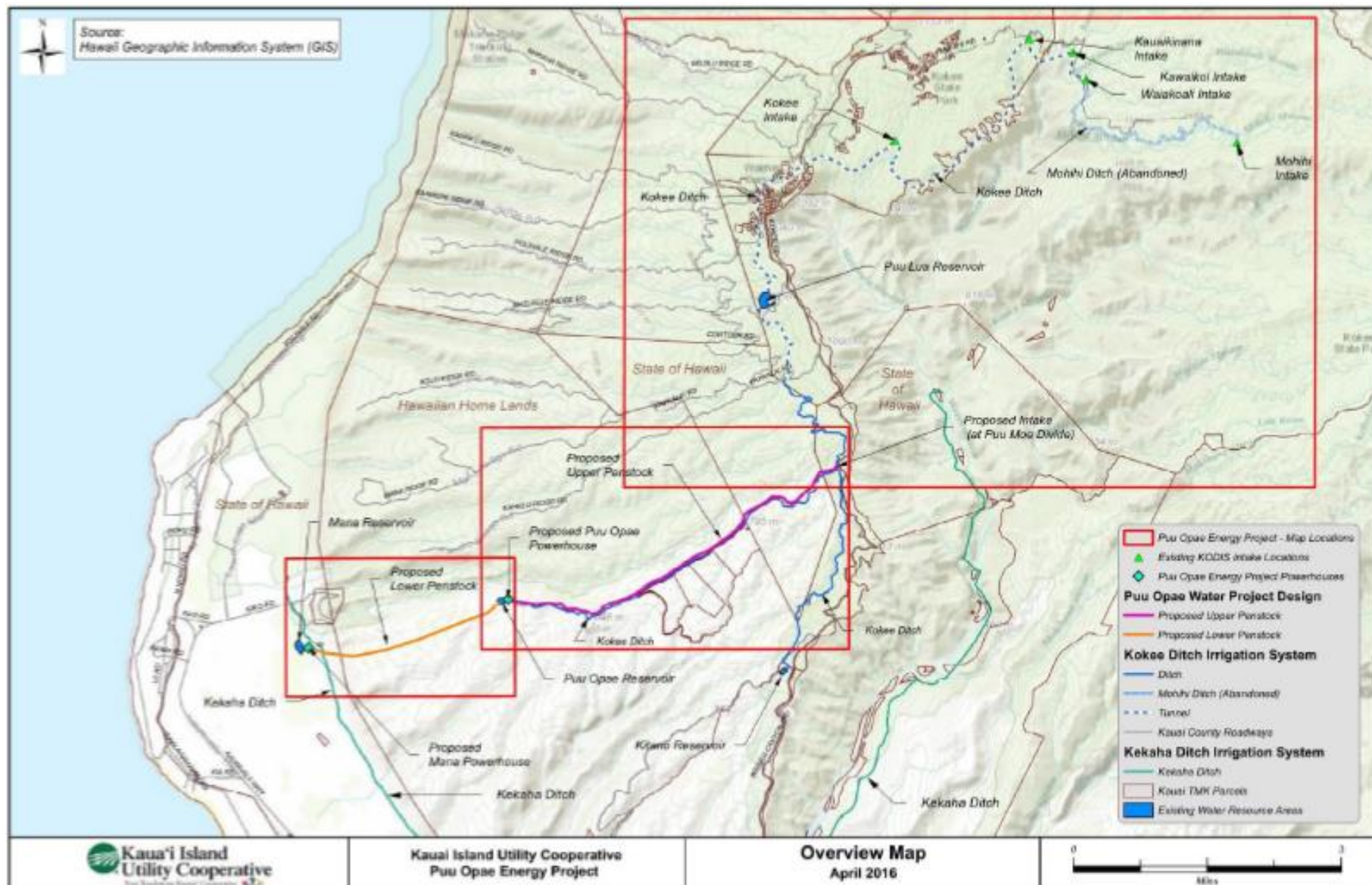


# Next Steps for Overall Project Implementation





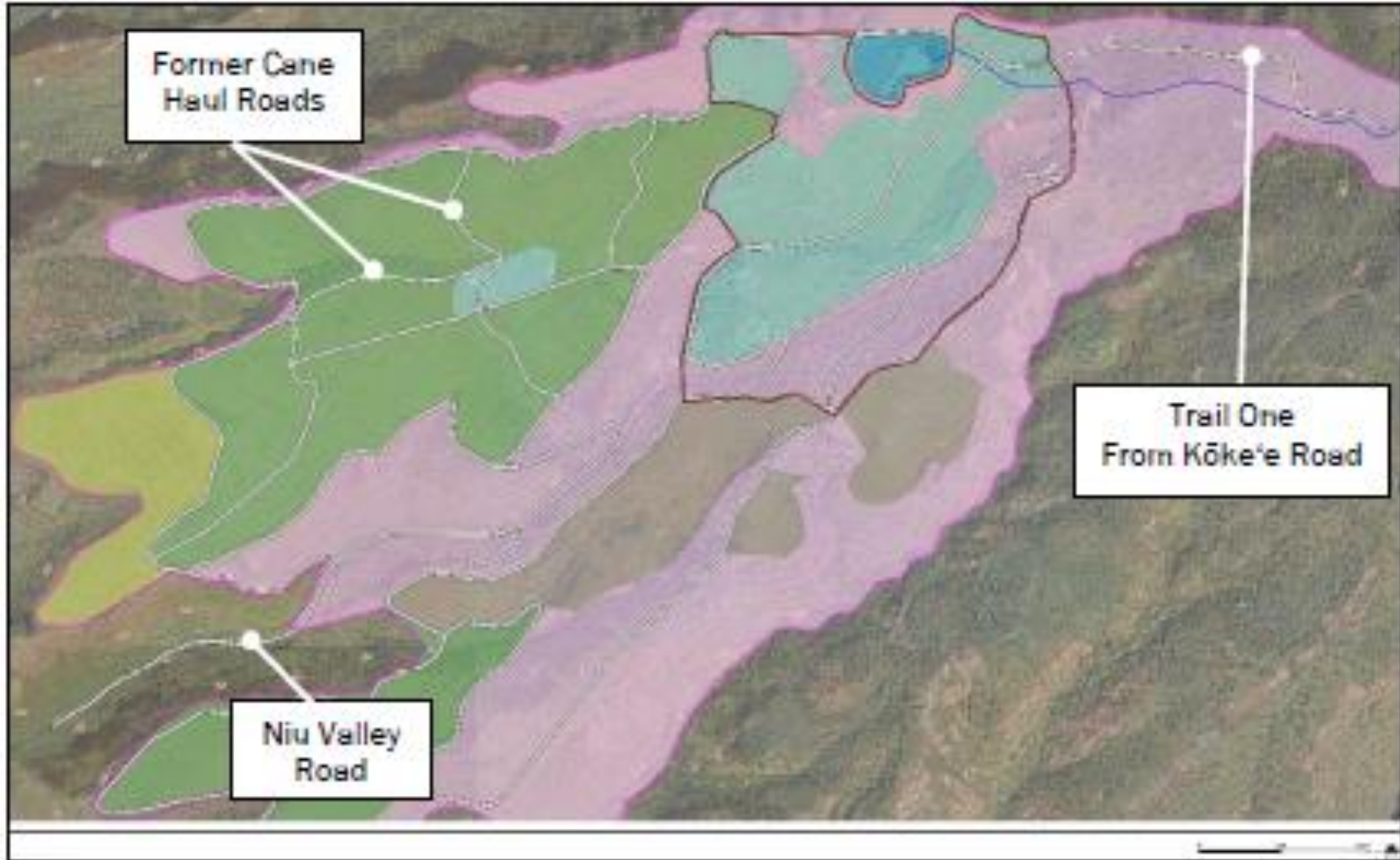
# KIUC Improvements





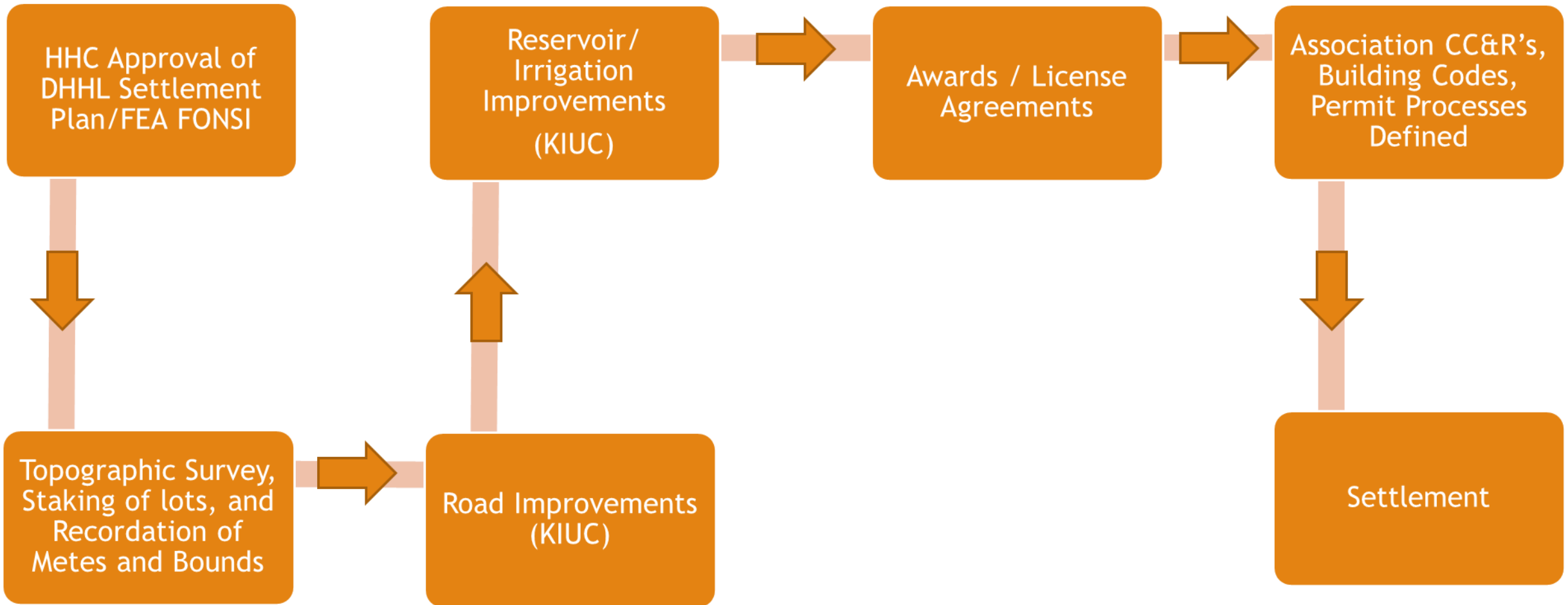


# KIUC Improvements





# Next Steps for Overall Project Implementation





# Mahalo



DEPARTMENT OF HAWAIIAN HOME LANDS

[www.dhhl.hawaii.gov](http://www.dhhl.hawaii.gov)



ITEM G-4



# HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION • DEPARTMENT OF HAWAIIAN HOME LANDS

## **G-4**

## **GSA Surplus Land - Notice of Availability**

## **‘Ewa Beach, O‘ahu, Hawai‘i**

July 21, 2020



# For Information Only

## **AGENDA:**

1. General Services Administration - Notice of Availability
2. Hawaiian Homelands Recovery Act
3. DHHL Priorities
4. Property Description
5. DHHL Due Diligence Actions
6. Next Steps





# For Information Only

## 1. GSA Notice of Availability

1. General Services Administration - Notice of Availability
2. Hawaiian Homelands Recovery Act
3. DHHL Priorities
4. Property Description
5. DHHL's Due Diligence Actions
6. Next Steps



# For Information Only

## 1. GSA Notice of Availability

- GSA Notice of Availability, dated March 19, 2020
- Hawaiian Homelands Recovery Act, Public Law 104-42 provisions
- Deadline to respond is August 31, 2020



# For Information Only

## 2. HHLRA

1. General Services Administration (GSA) - Notice of Availability
2. **Hawaiian Homelands Recovery Act, Public Law 104-42**
3. DHHL Priorities
4. Property Description
5. DHHL's Due Diligence Actions
6. Next Steps





# For Information Only

## 2. HHLRA

- HHLRA, signed November 2, 1995
- Authorizes conveyance of non-ceded federal land in exchange for the federal government's continued use of Hawaiian home lands (Lualualei and Waimānalo)
- Includes claims from the lost use or foregone rent for past use of lands
- Land use includes homesteads, communities, and income
- Land reserved for the lost use of compensation may also be sold
- Federal government process:
  1. Declare land as excess
  2. CERCLA environmental cleanup
  3. Completion of surveys and legal documents



# For Information Only

## 2. HHLRA

HHLRA: Amount Due to the DHHL		1998 LAND VALUES (\$MILLIONS)		
	ACRES	LOW	MIDDLE	HIGH
DHHL Claims	1,486	\$74.900	\$77.700	\$80.500
Waipahū FCC Credit		+16.900	+16.900	+16.900
Total Due DHHL		<u>\$91.800</u>	<u>\$94.600</u>	<u>\$97.400</u>
Less: Federal Land Transfers to DHHL	843	<u>-58.280</u>	<u>-65.395</u>	<u>-72.490</u>
<b>Balance Due DHHL</b>		<b>\$33.520</b>	<b>\$29.205</b>	<b>\$24.010</b>



# For Information Only

## 3. DHHL Priorities

1. General Services Administration (GSA) - Notice of Availability
2. Hawaiian Homelands Recovery Act, Public Law 104-42

### 3. DHHL Priorities

4. Property Description
5. DHHL's Due Diligence Actions
6. Next Steps





# For Information Only

## 3. DHHL Priorities

- O'ahu Residential List – 9,832 applications
- O'ahu land holdings 3% of DHHL's inventory
- Most beneficiaries with the least amount of land
- O'ahu Island Plan
  1. Number one priority is homestead development
  2. Kapolei and Waimānalo are the priority locations
  3. Obtain lands where offsite infrastructure is
    - Already in place
    - Under development
    - Requires limited resources to connect to infrastructure



## 3. DHHL Priorities

- Learn from past experiences
- Follow review process to determine potential
  1. Density
  2. Infrastructure cost
  3. Topography (slope less than 25%)
  4. Not a critical habitat or floodway
  5. Restrictions
  6. Location
  7. Revenue potential



## 4. Property Description

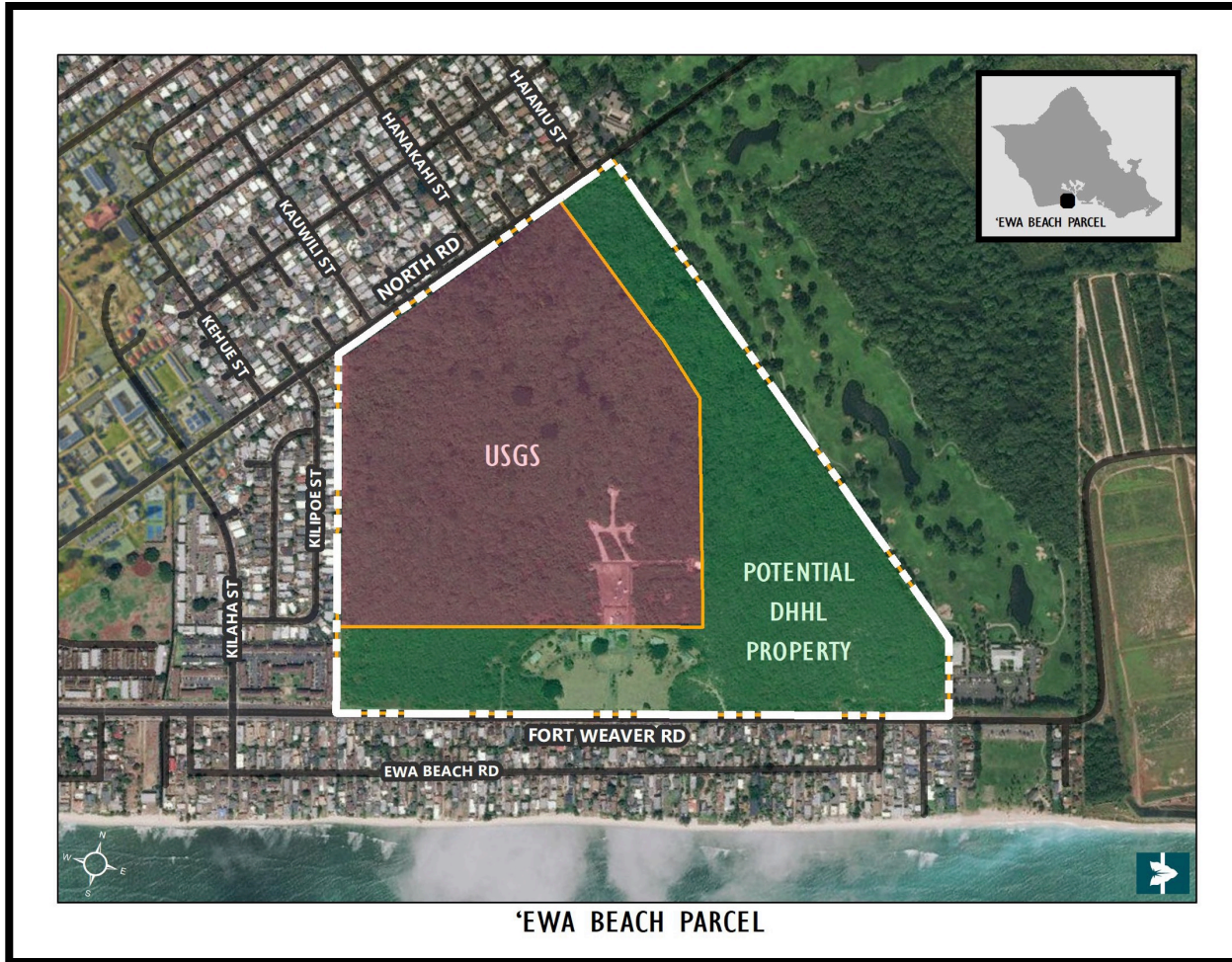
1. General Services Administration - Notice of Availability
2. Hawaiian Homelands Recovery Act
3. DHHL Priorities
- 4. Property Description**
5. DHHL's Due Diligence Actions
6. Next Steps





# For Information Only

## 4. Property Description



- 80 acres in 'Ewa Beach, O'ahu
- Primarily residential
- North Road to the northwest
- 'Ewa Beach Golf Club to the northeast
- Fort Weaver Road to the south
- Single-family homes and low-rise apartments to the west





# For Information Only

## 4. Property Description



- Fort Weaver Road main entrance
- Well maintained roadways, parking lot, and lawn area
- Topography is relatively flat
- Daily security patrols and grounds maintenance





# For Information Only

## 4. Property Description



- Building structures are in fair condition
- Office and storage structures contain office furniture and small appliances
- Homes contain some appliances





# For Information Only

## 4. Property Description



- 4 employee homes - 1,899 s.f.
- 1 manager's home - 2,560 s.f.
- 1 office structure - 1,603 s.f.
- 1 storage annex - 1,440 s.f.

SHPD determination that none of the structures require historic preservation.





# For Information Only

## 4. Property Description



- Remainder of the parcel is heavily vegetated
- Perimeter access road allows for fire control access and security patrols



## 5. DHHL Due Diligence Actions

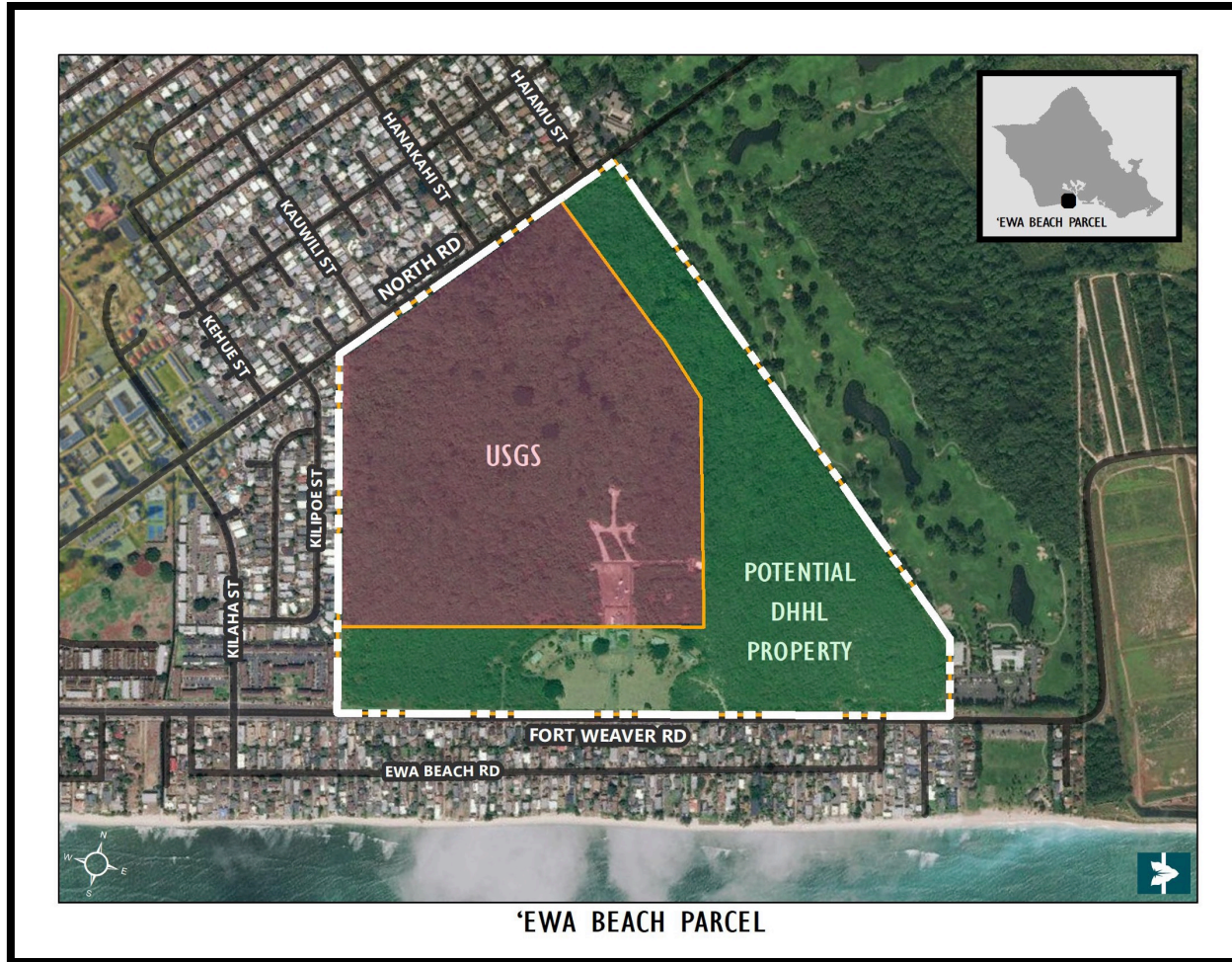
1. General Services Administration - Notice of Availability
2. Hawaiian Homelands Recovery Act
3. DHHL Priorities
4. Property Description
5. DHHL Due Diligence Actions
6. Next Steps





# For Information Only

## 5. DHHL Due Diligence Actions



1. Property title and boundary issues
2. Environmental hazard considerations
3. Development potential and constraints
4. Interim cost to maintain and manage the property prior to development



# For Information Only

## 5. DHHL Due Diligence Actions

Category	Uncertainties	Action Needed	Findings To Date
Property Title & Boundaries	Location of boundaries, easements, encroachments, and deed restrictions.	1) Title Report 2) Surveyor's Report	1) GSA provided report 2) GSA provided report
	Subdivision of the current 175-acre.	GSA action	The GSA will subdivide the property
Environmental Considerations	Onsite presence of contaminants/ hazardous materials.	1) Phase I Environmental Site Assessment (ESA) 2) Hazardous Materials Survey (HMS)	EnviroServices and Training, LLC: 1)Phase I ESA received 2)HMS received
	Presence of other hazardous anomalies such as UXO.	Magnetometer, topography and aerial imagery survey.	Dudek: Report is expected by August 15, 2020.
	Impact of sea level rise (SLR)	Obtain SLR map.	Map obtained.
	Tsunami inundation zone (TIZ)	Obtain TIZ map.	Map obtained.



# For Information Only

## 5. DHHL Due Diligence Actions

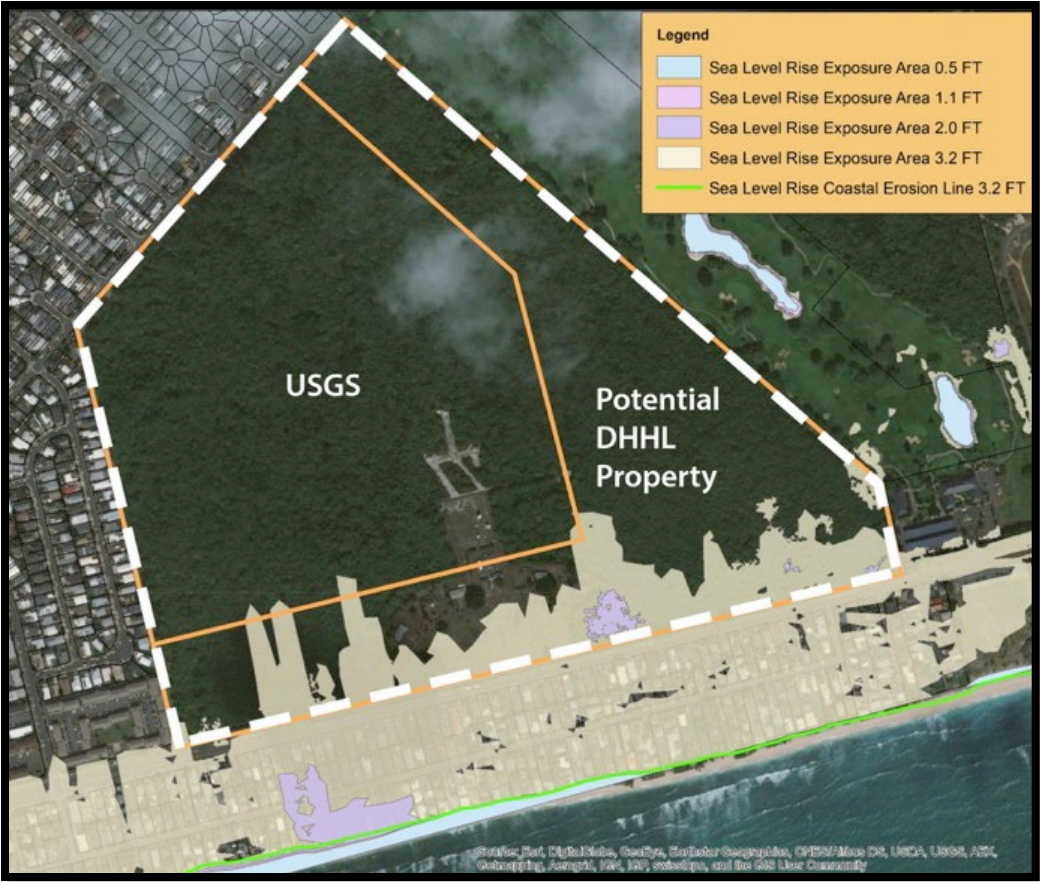
Category	Uncertainties	Action Needed	Findings To Date
Development Potential and Constraints	Presence of historic properties	State Historic Preservation Office determination (SHPD)	SHPD determination received
	Potential number of single-family and multi-family residential lots that can be developed .	Conduct evaluation and analyses for future development: A. Development within constraints of the existing infrastructure. B. Maximum development with infrastructure improvement(s).	Bowers + Kubota: Analysis and designs expected by early-mid August 2020.
	Current infrastructure capacity		
	Impact of the USGS Magnetic Observatory	Determine if easements for access and utilities will impact future DHHL development.	GSA is amenable to the DHHL providing alternatives for easements. It is subject to USGS review and approval
		Confirm USGS' intent to install a perimeter fence around their property.	USGS intends to install fencing around their parcel.  Design/construction/funding to be determined.
Interim Cost(s) to maintain the property for an unknown amount of time before DHHL development can occur	Existing cost(s) for security, maintenance, utilities	Obtain copies of monthly bills and contracts.  Obtain copies of security incidence logs.	Current average monthly costs: 1) Landscaping, pest control and security patrols \$9,857/mth; 2) Electricity \$2,000/mth; 3) Water/Sewer \$4,500/mth  Cost-sharing with the USGS for their proportionate share has been requested.



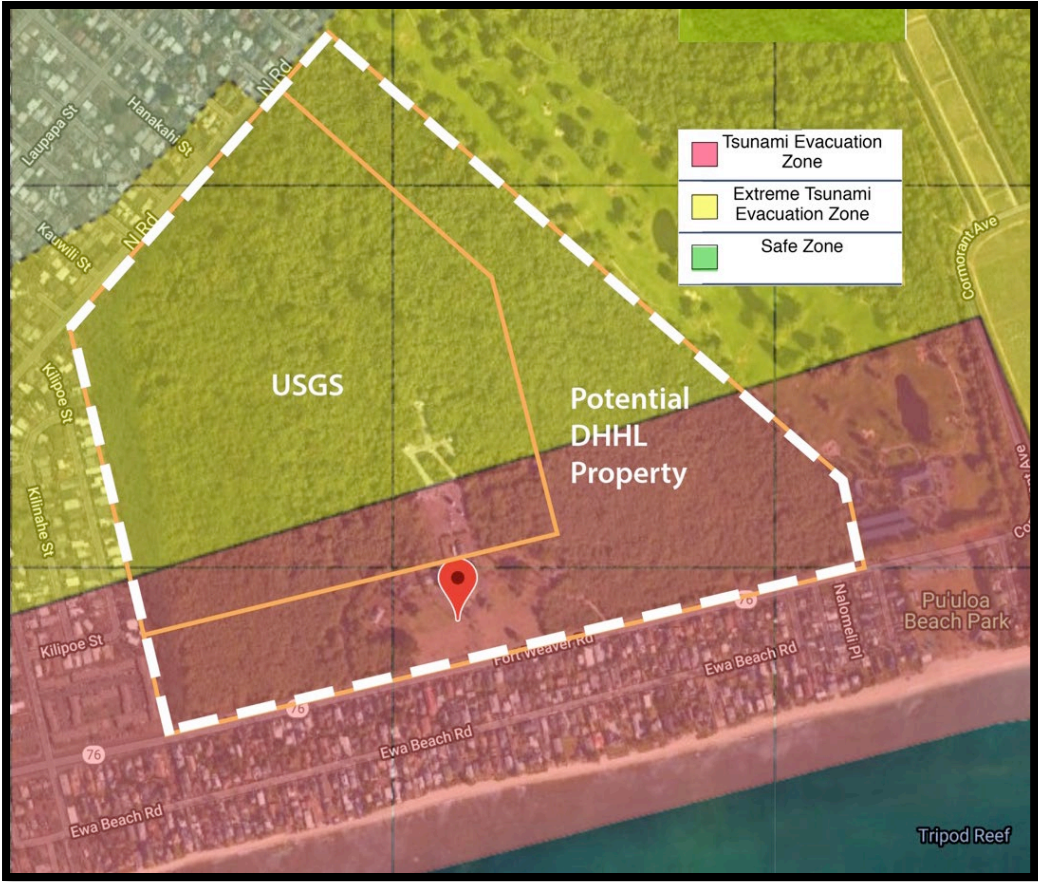


# For Information Only

## 5. DHHL Due Diligence Actions



Sea Level Rise



Tsunami Evacuation Zones



## 6. Next Steps

1. General Services Administration - Notice of Availability
2. Hawaiian Homelands Recovery Act
3. DHHL Priorities
4. Property Description
5. DHHL's Due Diligence Actions

### 6. Next Steps



# For Information Only

## 6. Next Steps

1. HHC Meeting - August 17 and 18, 2020
  - DHHL staff will present its due diligence findings and recommendations to the HHC
  
2. August 31, 2020
  - Deadline for the DHHL to notify the GSA of its intent to accept the entire property, accept a portion of the property, or reject the property offer based on the HHC's decision on the August 2020 HHC meeting





## 6. Next Steps

3. Should the DHHL accept the surplus property offer
  - GSA and the DHHL will conduct a property appraisal (6 to 9 months)
4. Within 30 days after the appraisal is completed
  - DHHL may accept or reject the property
5. If the DHHL accepts the surplus property
  - Conveyance documents are completed and executed. (Timeframe TBD)



# Mahalo



DEPARTMENT OF HAWAIIAN HOME LANDS

[www.dhhl.hawaii.gov](http://www.dhhl.hawaii.gov)

ITEM G-5





HAWAIIAN HOME LANDS  
HAWAIIAN HOMES COMMISSION  
DEPARTMENT OF HAWAIIAN HOME LANDS

# Homesteads with DCCRs

**Hawaiian Homes Commission**

**Item G-5**

**July 21, 2020**

# Agenda

- **Background**
  - **Definitions: DCCR and Planned Community Assoc**
  - **Who, What, Where, When, Why**
- **Key differences: DCCRs on Hawaiian Home Lands and DCCRs on fee simple land**
- **DHHL Experience: Implementation Challenges**
- **Moving Forward**

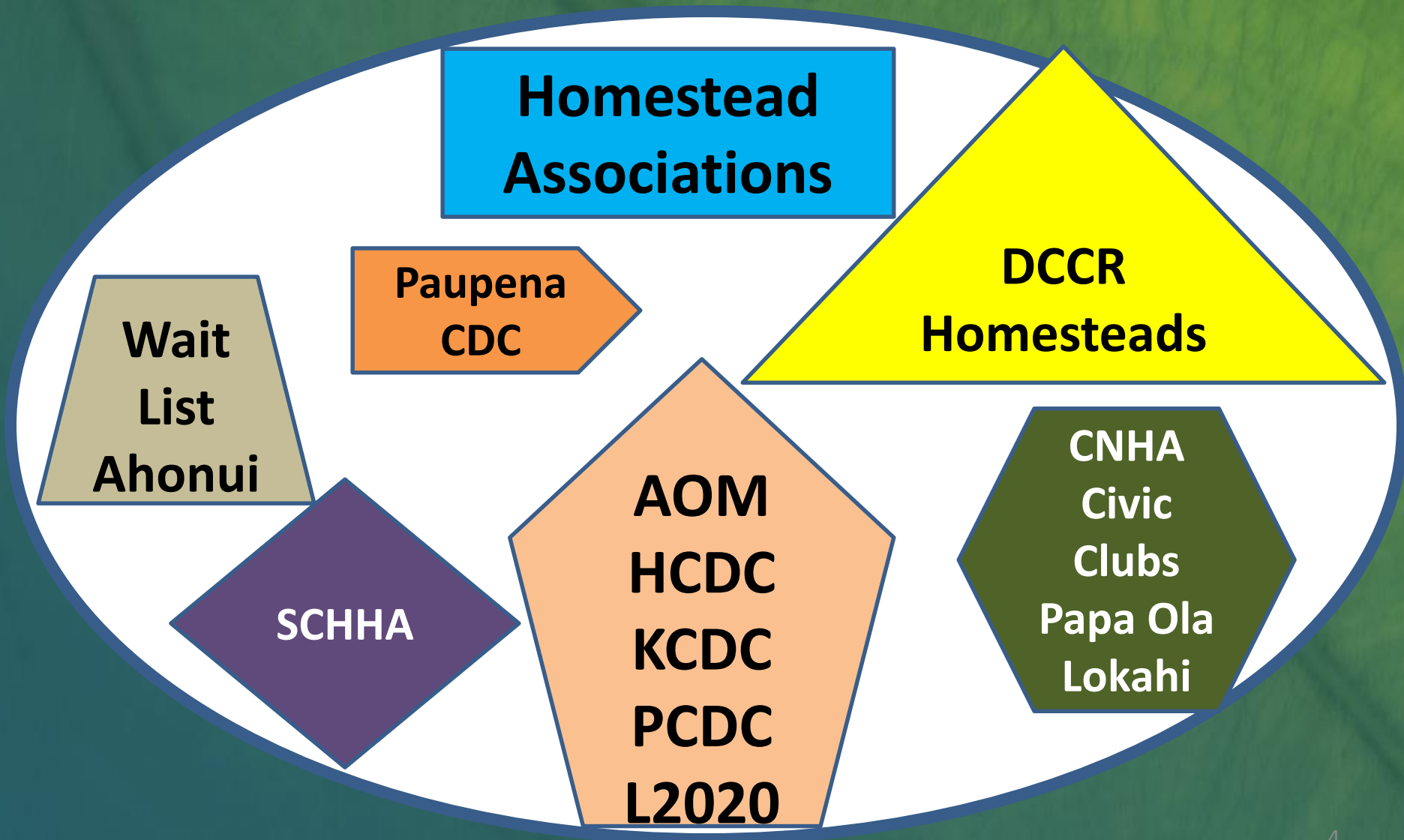
# Definitions

- **DCCRs** – Declaration of Covenants, Conditions and Restrictions
- **Planned Community Association** – a specific type of nonprofit, by law, requires homeowners to automatically be members; mandatory dues and assessments to operate the association; and documents (ie DCCRs) that bind homeowners



# Nonprofits come in all shapes and sizes

## Function before Form



# DCCR Homesteads

## Different types



**DHHL  
Acquired  
Properties (6)  
(HHFDC)**

**DHHL created ones  
(12)**

# **The “Planned Community Association”**

## **A particular type of nonprofit**

### **3 basic types:**

- Planned community
- Condominium
- Apartment

### **3 characteristics:**

- Automatic membership
- Documents that bind homeowners
- Mandatory dues and assessments to operate the association



# Who, What, When, Where, Why

## WHY

Master-planned communities and  
opportunity for homesteads to self-manage

**WHERE:** Statewide, except Molokaʻi

## WHEN

1995 (Princess Kahanu) – 2009 (Kānehili)

# Who, What, When, Where, Why

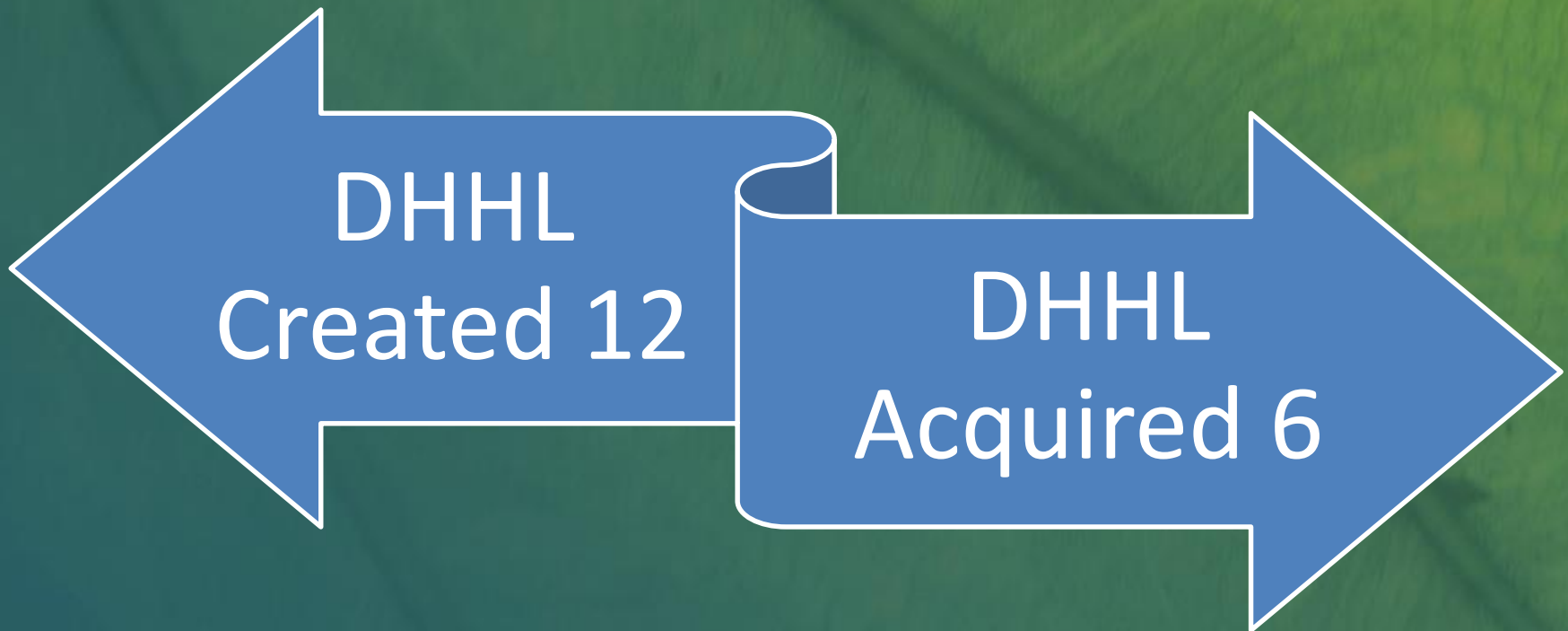
## WHAT

DHHL created 12 DCCR Homesteads  
and DHHL acquired 6 properties  
with DCCRs

TOTAL 18 properties

2,309 lessees (23% of total lessees)

# Total of 18 properties with DCCRs



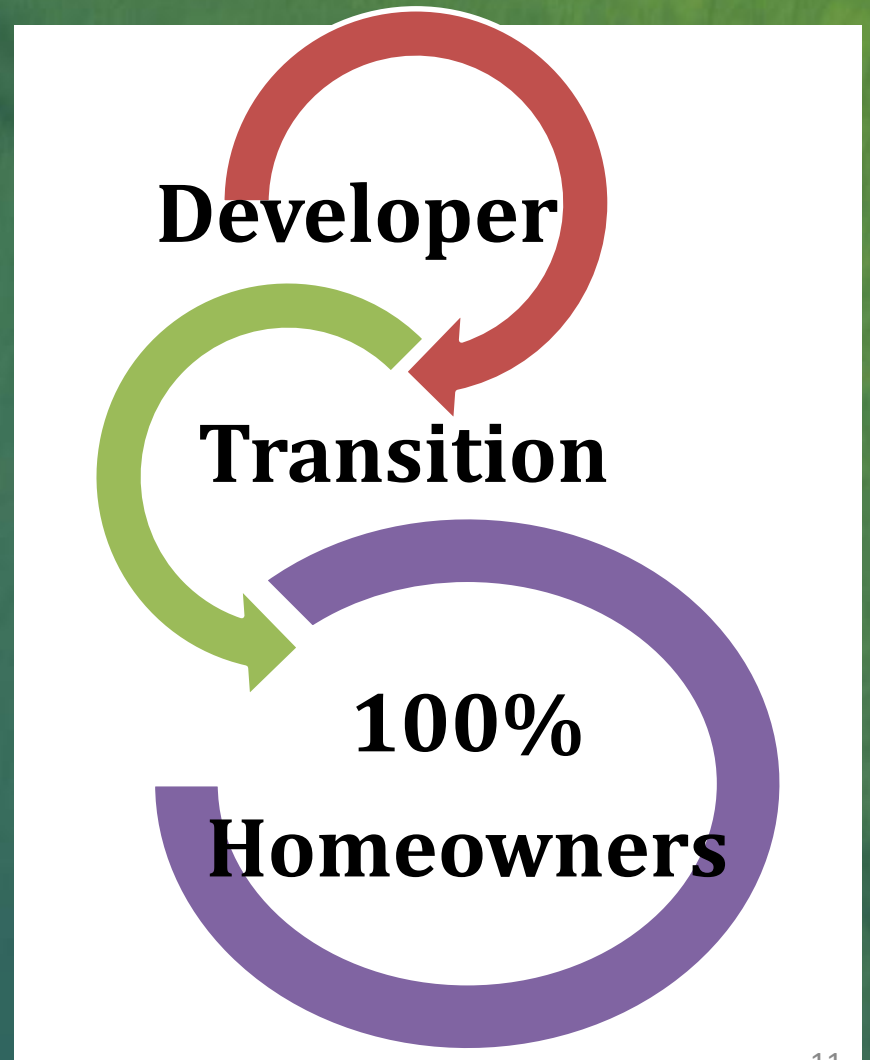
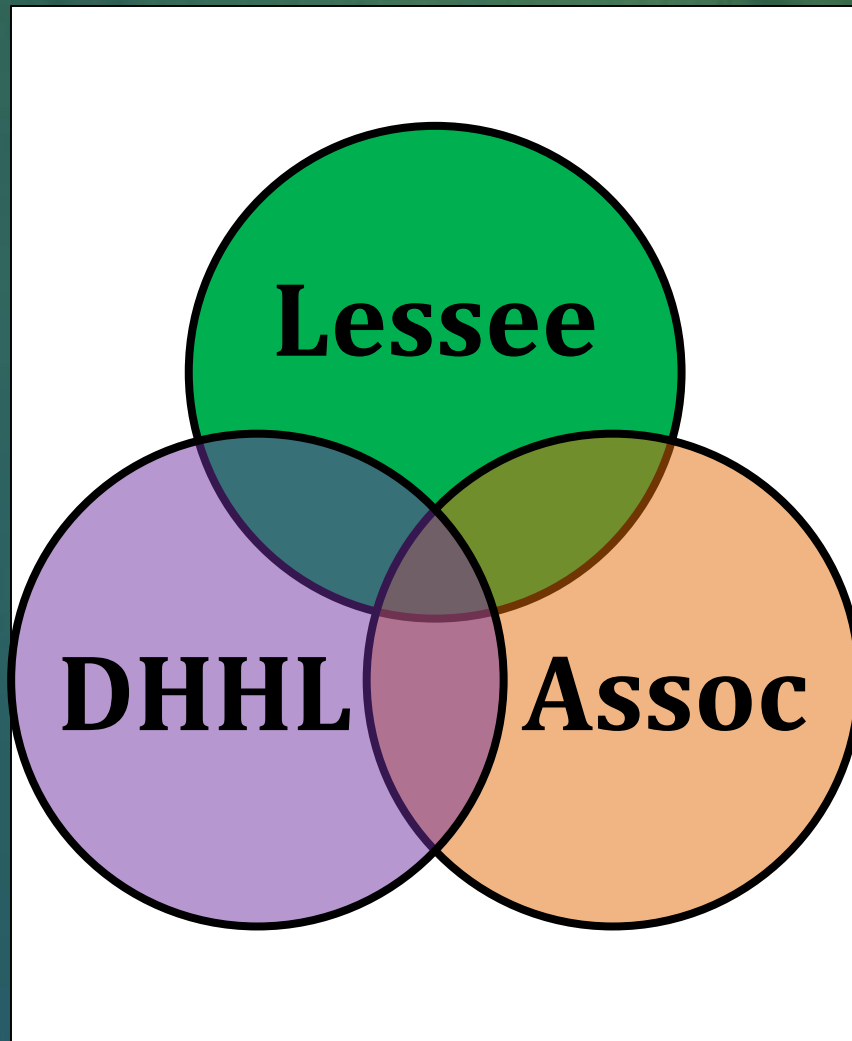


# WHO are these DCCR Homesteads

## Refer to Tables 1 (page 2) and Table 2 (page 5)

OAHU	MAUI	KAUAI	HAWAII
Kalāwahine	Kahikinui	Pi'ilani Mai Ke Kai	<b>Discovery Harbor</b>
<b>Kaupe'a</b>	<b>Leiali'i</b>		<b>La'i 'Ōpua</b>
Kaupuni	Waiehu Kou 2		Lālāmilo
Kumuhau and Kaka'ina	Waiehu Kou 3		
<b>Malu'ōhai</b>	Waiehu Kou 4		
Princess Kahanu	LĀNĀ'I DCCR status unknown		
<b>Waiāhole</b>	MOLOKA'I (none)		

# Key Differences



# Key Differences

Refer to Table 3 on page 7

## Fee Simple

- Fee simple
- Project based on market studies –SFH, MFH, facilities
- Developer in, then out
- Buyer: general public
- Infrastructure
- DCCRs based on market studies, buyer preferences

## Hawaiian Home Lands

- Leasehold
- SFH only, with or without facilities
- DHHL remains
- Buyer: HHCA beneficiaries only
- Infrastructure maintenance unclear
- DCCRs templated



# Key Differences (continued)

Refer to Table 3 on page 7

## Fee Simple

- Developer sets up Assoc, transitions, leaves
- Rarely does Assoc decline
- Assoc self-manages and self-governs

## Hawaiian Home Lands

- DHHL partially set up the Assoc, transitioned, continued to assist Assoc, as resources allowed
- Association decline. At least half have inactive boards.
- New Rules tie Assoc and DHHL in DCCR enforcement

# DHHL Implementation Challenges

- ☐ Enforcement
- ☐ Declining association membership participation
- ☐ Management of community facilities
- ☐ Inconsistent programmatic implementation and support



HAWAIIAN HOME LANDS  
HAWAIIAN HOMES COMMISSION  
DEPARTMENT OF HAWAIIAN HOME LANDS

# Moving Forward

# Next Steps

## **Policy level: Function before Form**

- **Re-visit goals and objectives of the DCCR model**
- **Applicability to Kuleana Homesteads**  
**Explore options**
- **Determine level of support to Associations**

## **Department level:**

- **Clarify Division roles and responsibilities**
- **Develop procedures**

## **Community outreach**

- **Community Outreach on the New Admin Rules**
- **Choose to opt-in**



# **Long Term Programmatic Framework**

- **Involve community throughout process**
- **Concept phase – research and analysis**
- **Formulate policy – seek HHC action**
- **Operational Plan**
  - **Clear division roles and responsibilities**
  - **Procedures**

## **THEN IMPLEMENT**

- **Monitor, Evaluate, Adjust**



HAWAIIAN HOME LANDS  
HAWAIIAN HOMES COMMISSION  
DEPARTMENT OF HAWAIIAN HOME LANDS

***Mahalo!***