

HAWAIIAN HOMES COMMISSION

Minutes of September 20, 2021 via Interactive Conferencing Technology (ICT)

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

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

COUNSEL Ryan Kanaka‘ole, Deputy AG (via ICT)

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 Ailā, Acting Contact and Awards Division Administrator
Jamilia Pacheco, Information Specialist
Michael Lowe, Information Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Ailā called the meeting to order at 9:37 a.m. nine (9) members were present at roll call.

Pursuant to the Governor’s emergency proclamation, related to COVID-19 Emergency, Hawai‘i Revised Statutes (“HRS”) Chapter 92 regarding public agency meetings and records are currently suspended through October 6, 2021, 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 effectively and efficiently provide emergency relief and engage in emergency management functions.

Chair Aila stated agenda Item C-4 will be deferred to next month’s agenda. Items G-1, G-2, F-1 and F-2 will be deferred to Tuesday as the applicants are not available. Item G-5 was sent to the Commissioners over the weekend.

Chair Aila stated he is requesting an amendment to the agenda to add a transaction to Item D-10. Homestead Services Division Administrator Juan Garcia explained that Item D-10, No. 2 made it to the submittal but didn’t make it to the exhibit list.

There were ten people signed up for Public Testimony. The Commission would recess at noon for 30 minutes for lunch and convene in executive session for an additional 30 minutes.

APPROVAL OF AMENDED AGENDA

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Awo, to approve the amended agenda. Motion carried unanimously.

Commissioner Teruya asked for the status of the Hawai'i Community Development Corporation project and when it would be listed on an agenda. Chair Aila stated the Department requested additional financial information.

Commissioner Teruya requested to address the J Agenda speakers before the Commission goes into executive session. It is a concern that they have to wait till late afternoon to speak. She asked that be noted and supported.

APPROVAL OF MINUTES FOR AUGUST 10, 2021, and August 16 & 17, 2021

Chair Aila noted no amendments to the August 10, 2021 meeting minutes.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the August 10, 2021 Minutes. Motion carried. Commissioner Teruya abstained.

Chair Aila asked if there were any amendments to the August 16 & 17, 2021 Minutes. Commissioner Neves stated that on page 3, K. Punua testified in support of KKOAA, not Kekoa Enomoto. Chair Aila asked for a motion to approve the August 16 & 17, 2021 Minutes.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Namu'o, to approve the August 16 & 17, 2021 Minutes with that change. Motion carried unanimously.

Chair Aila reminded Commissioners of the rules enacted by Act 220 relating to virtual meetings. The Act does not take effect until January 2022.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

PT-1 Shari Lynn – Item F-4

Shari Lynn is the Executive Director of Ka Hale Pomaikai. Ka Hale Pomaikai is a free treatment center for drug and alcohol addiction, and they are the sole provider and resource on the island of Moloka'i. Since the COVID-19 pandemic, more people have turned to drugs and alcohol to deal with job loss, isolation, hunger, insecurity, and stress.

Commissioner Helm stated he supports the continued services of Ka Hale Pomaikai.

Commissioner Teruya asked if it is an ROE that the Department will address in the future. S. Lynn stated Anna King, who lives in the home, willed the land to the Department in 2001. Requests were put in to use it for their treatment center. Ka Hale Pomaikai is requesting a long-term lease.

PT-2 Zelda Kapuni – Item F-4

Z. Kapuni stated she was a methamphetamine addict, and the Ka Hale Pomaikai saved her life. She has been clean for eight years and used methamphetamine for 18 years, and she has been with Ka Hale Pomaikai since 2013.

PT-3 Dayna Dudoit – Item F-4 (Deferred)

PT-4 Teddy Gorospe – Item F-4

T. Gorospe is a former client of Ka Hale Pomaikai and currently an employee in his 1st year of training as a Certified Substance Abuse Counselor. He has been drug and alcohol-free for three years, seven months, and three weeks. Ka Hale Pomaikai is their sanctuary.

Commissioner Helm stated the program keeps the Moloka'i people on their island instead of going to another island.

Commissioner Awo thanked and commended the two speakers who have overcome a difficult addiction and become part of the community to resolve this issue.

PT-5 Mimi Alvarez – Item F-4

M. Alvarez has been the Administrative Assistant at Ka Hale Pomaikai for about ten years. Ka Hale Pomaikai is the only substance abuse facility on Moloka'i, and it never shut down even during the pandemic. Ninety-nine percent of its clients are of Hawaiian ancestry. They also help distribute food from the bank as the grocery stores are 30 minutes away.

PT-6 Pualani Akaka – Item F-4

P. Akaka is the Chairperson of the Board of Directors for Ka Hale Pomaikai and is testifying for the approval to issue a license to Ka Hale Pomaikai. She is grateful for the 18 years of partnership with DHHL in which its partnership has contributed to vital service to the Moloka'i community. She asked the Commission for its favorable decision on Item F-4.

Commissioner Awo stated he heard a speaker ask for a long-term license, but the license is only for two years with the opportunity to extend to 3 years. He asked if that was correct, and P. Akaka stated yes.

Chair Aila stated the short time is because the settlement plan for 'Ualapu'e is still being considered, and the Department does not know what the use of the property will be.

PT-7 Ruth Tanielu – Item F-4

R. Tanielu testified in opposition to the extension of Item F-4 for Ka Hale Pomaikai and stated that she only supports the 2-year license without any extension. She asked to see the license agreement with G70's environmental assessment. She asked the Commission to support the license for 2-years without any extensions. The Planning Officer is asking for 2-years for all TMK's except the TMK 01, Ka Hale Pomaikai.

PT-8 Jeremy Makepa – Item F-7

J. Makepa is the Fire Prevention Captain for the Island of Kaua'i. His testimony supports Kukulu Kumuhana O Anahola (KKOA) and the approval of a long-term lease. He stated they got help from the community to clean up the area. He is seeking ROEs for the other areas through his non-profit (indiscernible) Alliance. He stated the community held clean-ups and created fire breaks. He introduced the idea of having a non-profit provide security which he has been doing to prevent illegal dumpings and activities.

Commissioner Neves confirmed there are no squatters or homeless in that area now. He supports the idea of a non-profit for an ROE.

Commissioner Teruya asked how they removed abandoned vehicles. J. Makepa stated his neighbor rented a Sky Track forklift and brought an excavator, and Hanalei Heritage brought in another excavator. The two excavators pulled the abandoned cars off of the shoreline onto the road. His dad drove the forklift, which scooped up the vehicles and set them at a staging area for tow trucks to haul the vehicles away at a later time.

PT-9 Cora Snackenberg-Item F-4

C. Snackenberg stated that Ahonui opposes Item F-4. Ahonui supports what Ka Hale Pomaikai does but does not support the five years. They are in support of 2 years only, and G70 has yet to complete the assessment study. The 3-years extension would work against the 'Ualapu'e project.

Commissioner Awo asked if the maximum was 3-years or three-plus years. K. Albinio stated the total is 5-years. The extension is a maximum of 3-years; it could be 1-year or 2-years, but the maximum is 3-years.

Commissioner Kaleikini asked if there was a schedule for the settlement plan. A. Choy stated it is 2-years depending on the beneficiary consultation process, the settlement, and the environmental assessment.

Commissioner Helm asked that the Commission revisit this before 2-years for discussion.

Commissioner Teruya asked what the zoning was. A. Choy stated it is residential.

Commissioner Awo suggested the language may extend up to a maximum of 3-years and then return to revisit with the Commission.

Commissioner Neves agreed with Commissioner Awo and stated it should be up to the Commission to decide on the extension.

PT-10 Patrick Kahawailoaa – Items F-2 and G-2

P. Kahawailoaa stated that he supports Kamehameha Schools at the Keaukaha site.

Note: Testimonies are attached.

RECESS
RECONVENED

10:30 AM
10:40 AM

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 GIL CAMPBELL – Waimanalo Lease (Deferred)

ITEM J-2 Homelani Schaedel – Malu‘ōhai Community Safety Concerns

H. Schaedel stated there are two issues in their homestead. The first are two neighbors who have TROs against each other, and they renew their TROs every two years for the past 12-years. The other situation is a family member of the lessee who terrorizes the homestead. One family was told by the terrorists that they would be shot and killed.

H. Schaedel stated that before, enforcement would go out and talk with the perpetrators, and things would settle down. Since a personal visit cannot be done now, she asked that the Department send a letter to the lessee who is causing the issue.

Commissioner Awo stated beneficiaries should not be subjected to fear and uncertainty in obtaining a resolution. He is concerned about the depleted Enforcement Division and asked for a status on hiring for positions on the Compliance Team. Chair Aila stated the Department has a request before the Department of Budget and Finance, the precursor to approval from the Governor to fill those positions. He has not received a response from Budget and Finance.

Commissioner Neves asked DAG Kanaka`ole if anything was in the lease regarding quiet enjoyment and sent a letter to the party to put them on notice. In her lease notes, H. Schaedel stated Section 9 “ways of unlawful and offensive use of premises,” and No. 10 is “compliance with laws.” There is something in the lease but no one to enforce it.

DAG Kanaka`ole stated these issues are reviewed with the lease to ensure the correct provisions are cited in a violation letter. There must be an investigation before the letter of violation is issued, and once the violation is noted, it becomes a contested case.

Commissioner Teruya stated that public safety should be a priority and brought to the Governor and the State’s attention. People know the Department does not have enforcement, so they continue to violate their lease, distribute drugs, and go on and on.

Commissioner Kaleikini stated they have very similar situations on Hawai`i Island. Liz Masaoka runs the Keaukaha/Panaewa Association's neighborhood watch, and they are good about calling the Police anytime there is something suspicious.

Commissioner Awo stated he supports sending a letter to the perpetrator and bringing this issue to the Commission in the form of a contested case. He asked if the Department could contract out investigators for that purpose. Chair Aila stated the Department has reached out to the Attorney General’s investigators and hopes to get some assistance.

Commissioner Helm stated he is in favor of a contested case. He asked what the role of the City and County Police Department and the Sheriff’s Department is and why is it difficult for them to help the Hawaiian Homes beneficiaries? Chair Aila stated Commissioners received the Hawai`i

State Supreme Court Decision, which clearly articulates that the State and County Officials have the authority, i.e., Police, Sheriffs, etc., to enforce criminal law on DHHL lands. The Decision was shared with the District Managers to notify the various law enforcement departments to implement criminal law on DHHL lands. The Police should come into the homestead communities with badges to enforce criminal law, and criminals should be prosecuted.

Commissioner Awo asked if the Department could use the police reports to determine if a contested case is appropriate short of going to court for a criminal conviction. DAG Kanaka`ole agreed.

Commissioner Teruya asked what the short-term for getting the letters to the perpetrators is. Chair Aila stated the Department has already begun to send out the letters. Homestead Services Division has formed a sub-committee for identifying the elements necessary for success in terms of reports and presentations for the hearings officer and the Commission to take the cases to contested cases.

ITEM J-3 Lani Olsen – Successorship Issue

Chair Aila cautioned L. Olsen and the Commissioners that this is a potential contested case, so they need to be careful about responding to any questions.

L. Olsen stated their anxiety is no communication, no updates, and no clue what the procedures are. It would be easier to know what is happening. Chair Aila responded that the issue is going before the Commission in a contested case request. That tells the Department that there are issues that have to be determined. It is challenging what the Department can say given that other parties are requesting the contested case. L. Olsen asked if they would be notified of when the contested case was scheduled. Chair Aila stated they are not a party to the case but will be notified of the outcome. L. Olsen stated they would continue to wait.

ITEM J-4 Cora Schnackenberg – Ahonui Homestead Association

C. Schnackenberg testified on the kuleana homestead lease program, citing HAR (Hawai'i Administrative Rules) Chapter 10-3-30. She started advocating for the wait listers on the agricultural list in April 2020. When the Ahonui Homestead Association went in for help, they were refused service, so they took it on themselves to move it the best they could. To expedite the project, the Ahonui Homestead Association looked into what the land was used for in the past. Then they noted what is happening now and how the problems could be corrected. The work they did was submitted to G70. She asked that the Commission approve their list.

ITEM J-5 Al Hee – Paniolo Bankruptcy

A. Hee testified that Item J-5, the Paniolo Bankruptcy, directly affects Item F-6, Amendment to the Hawaiian Telcom's Right of Entry. His testimony should be made a part of Item F-6 also.

Thirty years ago, the Hawaiian Homes Commission agreed to provide communications infrastructure. In doing so, they also provided an opportunity for businesses to be used in their rehabilitation obligation. The Hawaiian Homes Commission issued a beneficiary benefit license that required improvements, and the money generated by the improvements can only be used for beneficiaries. A foreign-owned company, Hawaiian Telcom, wants to keep the money generated and buy the most valuable improvements.

Chair Aila stated that the Commission's perspective is that Hawaiian Telcom now owns Paniolo, so the undersea cables and the middle mile are now controlled by Hawaiian Telcom. You still have Sandwich Isles Communications, which is the final mile. From the Commission's perspective, the interest is to make sure that services can be provided to the homesteads under those circumstances.

A. Hee stated he has taken all the necessary steps and negotiated all the agreements. The Paniolo Trustee took control of the middle mile, as you described, a year and a half ago. Service did not drop from any of Sandwich Isle's customers because he had to operate it under its license. A. Hee stated, therefore, he negotiated the agreements with the Paniolo Trustee to continue service and ensure that service would not drop.

Chair Aila stated the Commission's understanding is that at the close of the sale, the agreement to operate Sandwich Isles Communication and the negotiated conditions that the bankruptcy Trustee had negotiated were terminated.

A. Hee stated the Paniolo Trustee on September 30th notified Sandwich Isles Communication that because Sandwich Isles had paid a bill, he was canceling the agreement. Within an hour, Hawaiian Telcom notified Sandwich Isle Communication that they were not bound by the agreement. That agreement that they say is no longer in effect has a dispute resolution clause that calls for 30-days before it can be terminated. The dispute resolution process, which the Paniolo Trustee insisted on, says in 30-days, if an agreement cannot be reached and the dispute settled, one of them can go to court.

Chair Aila stated he wanted to make the point that the bankruptcy determination is that those agreements are terminated as of now. A. Hee stated the agreement has a 30-day dispute resolution period before a court can weigh in, and no court has weighed in. Chair Aila stated someone has to trigger the court to do that. A. Hee stated that is right, either Paniolo has to do it, or he has to do it, and it only can be done after 30-days.

Chair Aila asked A. Hee to tell the Commission his thoughts of the FCC or the PUC to ask him to continue providing services. A. Hee stated Sandwich Isles is not threatening to cut off service; Hawaiian Telcom is, and he has been fighting to keep service on.

Chair Aila asked, so as a commitment to beneficiaries, you will continue to provide services. A. Hee stated as long as he could.

Commissioner Awo asked if the alleged threat by Hawaiian Telcom to cut off service to the beneficiaries, is that something the Commission has in writing? Chair Aila stated the Commissioners have the letter. Hawaiian Telcom sent to Sandwich Isles Communications a notice to please come and negotiate with them, in good faith, so that Hawaiian Telcom could continue providing the middle mile services to Sandwich Isles Communications to provide the final mile services.

A. Hee answered that what the Chairman relayed was correct. The Chairman has a letter sent from Hawaiian Telcom, or the AG sent to Sandwich Isles Communications.

Chair Aila stated because of the complexity of the issue; the Department is trying to identify all possible methodologies for keeping services to the homesteads.

A. Hee suggested if the Commission is interested in keeping the service on, reject the Right of Entry. They did not need it before to operate the facility, and they have been operating it since December. See what happens because it is only the Right of Entry with which Hawaiian Telcom is writing that letter threatening to cut off service to the homesteaders.

Commissioner Teruya asked who sent the letter threatening beneficiaries of the disconnection of service. A. Hee stated Sandwich Isles Communications never threatened the beneficiaries about their service. Sandwich Isles Communications felt obligated to inform beneficiaries that Hawaiian Telcom threatened to cut off the middle mile. That was not a threatening letter from Sandwich Isles Communications. That was a letter that Sandwich Isles Communication felt was necessary to inform the customers that they may lose their service if Hawaiian Telcom follows through with their threat. Sandwich Isles Communications is not the one threatening service. Hawaiian Telcom is the one threatening service.

ITEM J-6 Blossom Feiteira – Maui Concerns

B. Feiteira testified on activities that took place the past 30-days mentioning Sandwich Isles Communications, disqualifying applicants on the waitlist, Item C-3, the rescission of the undivided interest lessees' leases for the beneficiaries on the rent-to-own project, and Item C-1 legislative proposal on compliance and enforcement.

On September 13, she convened a Zoom meeting with homestead associations on the matters she mentioned. Twenty-seven organizations participated, and there were over 50 people on the call.

Regarding Sandwich Isles Communication, A. Hee had the opportunity to address the attendees at the Zoom meeting. He shared the same mana'o, and B. Feiteira stated it got a bit rough with the organizations regarding connectivity and service. After hearing from A. Hee, the groups want to hear from the Department and Hawaiian Telcom.

Regarding the disqualification, the primary concern was the application process when the people got on the waitlist. They would like to support the item, but see certain conditions attached:

1. Each applicant be given the right to consideration
2. HSD convene a series of Workshops about the process

B. Feiteira stated she looked at the rules regarding rental housing, Chapter 10-7-6. She asked if the referral process is limited to applicants on the waitlist, how an undivided interest lessee got into that program, and how they got access to participate in the rent with option to own program in La'i 'Opua. She asked if it means now that the Commission has the discretionary authority to include the undivided interest in any other future rental program.

B. Feiteira stated they support Items F-3 and F-5. For Item E-2 relating to the cesspool, they ask to consider the kupuna's financial situations in those communities because that is a hefty chunk of change.

B. Feiteira asked if the Commission would consider moving all of the GIA projects into the CIP projects. Also, the Department needs to have enforcement that has the power and authority to conduct an investigation and, more importantly, enforce the laws and rules. She stated they are in support, and should this package not make the cut, and they would like to be notified. They would take the step to submit it independently to the Legislature.

Commissioner Awo and Neves thanked her for coordinating the Zoom meeting.

Commissioner Helm commented on the cesspool issue, stating that there may be native Hawaiians interested in that type of business to help the kupuna. B. Feiteira stated native Hawaiian businesses in the construction field could benefit from a project like this. She stated she has been spending time looking for potential grant funding sources to help offset the costs.

ITEM J-7 Donna Sterling – Kahikinui Concerns (not available)

ITEM J-8 Ainaaloha Ioane – Kings Landing

A. Ioane testified on behalf of the King's Landing Tract 2 and provided primary evidence at the October 19, 2020, meeting. Commissioners were provided a packet with information for the Right of Entry 76, issued in 1976; Right of Entry 294, issued in 2001; the Kanaka Code, which establishes the building guidelines for subsistence lifestyle living; Code of Ethics, which is the expectations and behaviorisms within the King's Landing Village.

A. Ioane provided the Commission with her experiences at King's Landing to offer supplemental information for the packet given to the Commission last year.

Commissioner Awo stated that King's Landing resulted in the inspiration to create the kuleana homestead for Kahikinui.

ITEM J-9 John Kaohelauii – Anahola Kuleana Homestead Project

J. Kaohelauii testified on the upcoming Anahola Settlement Plan. He had three key points to his testimony:

1. Non-profit organizing
2. Non-profit capacity, and
3. Time

J. Kaohelauii stated he asked for an update, and A. Choy gave him an outline of the next steps in the process. He stated the low definitive timeline was not so good. If the long-term success of the Anahola kuleana settlement plan is dependent on the strength and capacity of the homestead's non-profit, then it needs to start now.

J. Kaohelauii asked if it still can generate revenue off of the lands in the Anahola kuleana settlement plan area, or is it too late? His second question was, what can he do to start the organizing process? He urged the Commission and Department to continue to support the smaller organizations that put in their sweat and time to make things better for the beneficiaries.

Chair Aila stated he would consult with staff and get back to him.

ITEM J-10 Allen Cardines, Jr. – Keaulana Avenue

A. Cardines is the Pastor of the Nanaikapono Protestant Church. He stated safety is the highest priority and that no child should be mobbed or sold in their community. Kupuna should be able to enjoy their golden years without being terrorized by their neighbors, dodging bullets from a robbery at the game room, or dealing with crystal meth and other drugs creating hurts, habits, and hang-ups. There is so much criminal activity. He stated that they have reached out to the

Department who has helped de-escalate many dangerous situations. Trespassing signs were put up, and so were speed bumps.

A. Cardines stated that lessees have failed to create a place of quiet enjoyment for the keiki and kupuna and have historically disrespected and hindered the quiet enjoyment of the beneficiaries of Keaulana Avenue for years. The activities have been documented since 2004. A. Cardines is asking the Department for help with solutions. He stated the Commission should have received an email from him requesting a contested case.

Commissioner Teruya reiterated what A. Cardines testified on and thanked him.

RECESS

1:28 PM

RECONVENED

1:33 PM

MOTION

Moved by Commissioner Ka'apu, 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 issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

EXECUTIVE SESSION IN

1:34 PM

The Commission anticipates convening an 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. Discussion on *Duncan v. DHHL*, Civ. No. 19-1-0037 JKW, before the Fifth Circuit Court of the State of Hawai'i
2. Update on *Tacub v. Hawaiian Homes Commission, et al.* CAAP-20-0000665, before the Hawai'i Intermediate Court of Appeals

EXECUTIVE SESSION OUT

2:36 PM

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 For Information Only – Workshop on DHHL Supplemental Budget Requests for Fiscal Year 2023 (Sufficient Sums Budget)

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:
None. For information only.

DISCUSSION

R. Lau briefed Commissioners on the Fiscal Year 2023 Supplemental Budget request, submitted to the Legislature via the Governor's Executive Budget. Article 12, Section 1, of the State Constitution, states that the Legislature shall provide Sufficient Sums for four (4) purposes:

- Purposes 1, 2, 3 – Lot Development, Loans, and Rehabilitation Projects Budget Request for Supplemental Budget Request FY 2023. This falls under the political doctrine and can only be determined by the Legislature.
- Purpose 4 – Administrative and Operating Budget Request. The Supreme Court stated that this could be determined by the Courts.

The Department is asking for full personnel costs because the Legislature funded only 159 out of 200 positions in the last legislative session.

R. Lau stated there was a request in the J-Agenda to transfer the GIA into the CIP. Legislative Analyst Lehua Kinilau-Cano stated that it is in the GIA because the communities have site control. If site control is turned over to the Department, they can get a CIP, so as long as the association has site control, it needs to be under GIA and not the CIP.

The Department did not make a federal fund appropriation request because Act 88, Session Laws, Hawai'i 2021, authorized \$23.3 million for the fiscal year 2023. In addition, it authorized \$7 million for the NAHASDA Direct Loan.

Commissioner Teruya asked if the 200 positions would also be covering staffing for the E-Team, and R. Lau confirmed.

Chair Aila stated the Department currently has 200 authorized positions, but they are not funded. The budget request includes funding for all of them, and the Legislature provided the position count but no funding.

Commissioner Teruya asked if Voice of America was funded adequately for construction for FY 2022. Acting Land Development Division Administrator Stewart Matsunaga stated that Voice of America construction funding will be in FY 2024. Commissioner Teruya asked about the Waianae Valley Unit 4, 8-Lots. S. Matsunaga stated that construction would be completed shortly.

Commissioner Teruya asked about Nanakuli rehabilitation, she sees ocean safety and cultural education for planning, but there is no funding or GIA. L. Kinilau-Cano stated the project stemmed from the Puwalu held on Maui. The representation from Nanakuli expressed concern about the Zablan area, the Nanakuli Beach Park area, and what people call Mermaid's Cave area. There was no dollar amount associated with the concept, but the concern needed to be addressed.

One option could be to reach out to Councilmember Tupola because the City has the disposition for the Beach Park. Commissioner Teruya also brought up the abandoned homes and vehicles and traffic calming, and L. Kinilau-Cano stated that S. Matsunaga would address those issues.

Commissioner Teruya asked about the Kaupuni Park Development; she sees GIA in that and asked if that is for construction or planning. L. Kinilau-Cano stated that anytime you see GIA, the community has a disposition and site control. Kaupuni Park wants to look at having their own disposition to do their own community center.

S. Matsunaga stated in FY 20; there was a \$1 million set aside for Nanakuli for repair and maintenance appropriation. There is a bid process opening to include signage, striping, and flashing beacons around Nanakuli schools.

Commissioner Neves asked about the Anahola Dam Reservoir Design and Construction and Anahola Kuleana. S. Matsunaga stated the funding is for the remaining two reservoirs, which need to be demolished. For the Kuleana, it is for design, and it would include the roadway. He stated they would follow what was proposed in the final EA. Regarding the Waialua Resident Lots master plan, there is \$1 million set aside for that.

Chair Aila stated it is money the Department is requesting because many beneficiaries on the Kaua'i waitlist prefer to live in Waialua. Still, the Department cannot move anything forward until it has a plan.

Commissioner Helm asked what the \$30 million for Naiwa includes. S. Matsunaga stated funding is for infrastructure built to County standards. If the Department does not get that amount, it will look for funding made available. Commissioner Helm asked about including additional water and if there are water lines there already. S. Matsunaga stated water lines are included. The MIS development within the subdivision for the 58-Lots.

Commissioner Kaleikini asked how many positions are funded for East Hawai'i. R. Lau stated he would get back to Commissioner Kaleikini.

Commissioner Ka'apu asked about Pu'ukapu roadway improvements and what those improvements would be, besides grading. S. Matsunaga stated slopes, paving, signage, sight distance issues, and it is a matter of delegating resources into the areas.

Commissioner Ka'apu asked what was left to do on the Pu'ukapu Water System. S. Matsunaga stated that because of some major repairs, they are looking at what could be done for long-term sustainability. Commissioner Ka'apu asked about the Lalamilo Increment 2 regarding UXO. S. Matsunaga stated Increment 2 are new lots, and the soil testing has come up negative in terms of toxicity.

Commissioner Ka'apu asked if that's the one waiting on the UXO to be completed. Chair Aila stated the Department is in the process of completing the testing on the front section. Based on the results, DHHL may ask the Department of Health to approve a follow-up of the lower lot at a lower sampling concentration. Commissioner Ka'apu asked if there was a timeline for opening the lots? Chair Aila stated he did not have a timeline right now, but he could get that for Commissioner Ka'apu.

Commissioner Ka'apu would like to get a Budgeted to Actuals report.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

- | | |
|-----------------|---|
| ITEM D-2 | Approval of Consent to Mortgage (see exhibit) |
| ITEM D-3 | Approval of Streamline Refinance of Loans (see exhibit) |
| ITEM D-4 | Approval of Homestead Application Transfers / Cancellations (see exhibit) |
| ITEM D-5 | Commission Designation of Successors to Application Rights – Public Notice 2015, 2019 & 2020 (see exhibit) |
| ITEM D-6 | Approval to Certify Applications of Qualified Applicants with Application Dates between April 30, 2021 thru July 1, 2021 (see exhibit) |

- ITEM D-8** **Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)**
- ITEM D-9** **Approval of Assignment of Leasehold Interest (see exhibit)**
- ITEM D-10** **Approval of Amendment of Leasehold Interest (see exhibit)**
- ITEM D-11** **Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)**
- ITEM D-12** **Request to Surrender Residential Lease No. 6499, Lot No. C-1, Anahola, Kaua'i – LORRIN E.K. MANOI**
- ITEM D-13** **Conditional Approval of Subdivision, Transfer of a Portion of Lease and Amendment to Lease No. 6913, Lot No. 44, Pu'ukapu, Hawai'i – OLIVER C.I. SHIMAOKA, III**
- ITEM D-14** **Commission Designation of Successor – STEPHANIE KANANI REAVIS, Residential Lease No. 6306, Lot No. 51B, Keaukaha, Hawai'i**

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:
Motion to approve the 12 Consent Agenda items listed for the Commission's consideration.

J. Garcia stated Commissioner Ka'apu is recusing himself with respect to Items D-4, No. 6; D-5, No. 12, and Item D-13.

MOTION/ACTION

Moved by Commissioner Namu'o, seconded by Commissioner Ka'upu, to approve the Consent Agenda minus Items D-4, No. 6; D-5, No. 12; and Item D-13. Motion unanimously passed.						
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	X			
Commissioner Namu'o	X		X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously- nine (9) Yes votes.						

Chair Aila asked for a motion to approve Items D-4, No. 6; D-5, No. 12; and Item D-13. Commissioner Ka'apu recused himself.

MOTION/ACTION

Moved by Commissioner Namu'o, seconded by Commissioner Ka'upu, to approve Items D-4, No. 6; D-5, No. 12; and Item D-13. Motion unanimously passed.						
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	X			
Commissioner Namu'o	X		X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			8		1	
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passed - eight (8) Yes votes. One (1) Abstain						

ITEM D-7 Approval to Cancel Applications on Non-Qualified Applicants (see exhibit)

MOTION

Moved by Commissioner Neves, seconded by Commissioner Helm to convene in an executive session pursuant to Section 92-J-1, HRS, related to government records maintained by the Department of Hawaiian Home Lands that are not required to be publicly disclosed. Motion carried.

Chair Aila stated the Commission is on the agenda item that deals with native Hawaiian qualifications, and it is presented before the Commission for approval to remove from the application list.

EXECUTIVE SESSION IN

3:34 PM

The Commission anticipates convening an executive meeting pursuant to Section 92-J-1, HRS, related to government records maintained by the Department of Hawaiian Home Lands that are not required to be publicly disclosed.

EXECUTIVE SESSION OUT

4:39 PM

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:
Motion that the Hawaiian Homes Commission approve the Cancellation of Applications on Non-Qualified Applicants.

DISCUSSION

J. Garcia stated the Department has been unable to verify the applicants in the submittal noting that they have not met the blood quantum as required by the Hawaiian Homes Commission Act 1920 as Amended.

Chair Aila asked for an amendment to the recommendation to remove from this action Carl Wilson for further investigation.

AMENDED MOTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the amendment to remove Carl Wilson for further investigation. Motion carried unanimously.

MOTION AS AMENDED/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve cancellation of applications on non-qualified applicants named in the submittal except for Carl Wilson.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ka'apu			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: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- nine (9) Yes votes.						

RECESS

4:40 PM

RECONVENED

4:47 PM

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-6 Approval to First Amendment to Right of Entry No. 704, Hawaiian Telcom, Inc., Portions of Various Tax Map Keys, Islands of Kaua'i, O'ahu, Moloka'i, Maui, Hawai'i, State of Hawai'i

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission approve to the First Amendment to Right of Entry No. 704, Hawaiian Telcom, Inc., Portions of Various Tax Map Keys, Islands of Kaua'i, O'ahu, Moloka'i, Maui, Hawai'i, State of Hawai'i

K. Albinio stated the approval is subject to the conditions noted in the submittal under A, B, C, and D. Last month; the Hawaiian Homes Commission approved the right of entry to Hawaiian Telcom, Inc. for non-access to conduct due diligence related to acquiring, maintaining and operating submarine and terrestrial communication assets situated on portions of Hawaiian home lands. At the time, the exhibit provided was incomplete, and this amendment will provide an administrative correction to update the exhibit to represent all Hawaiian home lands where assets are situated.

MOTION

Moved by Commissioner Neves, seconded by Commissioner Namu`o, to approve the motion stated in the submittal.

DISCUSSION

Chair Aila stated it allows Hawaiian Telcom to operate the middle mile. Commissioner Neves asked if the facilities belong to Hawaiian Homes. Chair Aila stated the land below the facilities belongs to Hawaiian Homes.

Commissioner Teruya stated she received beneficiary emails, and many of them were in opposition to this item. She is trying to understand what she is approving and why it is called First Amendment to Right of Entry No. 704.

Executive Assistant Jobie Masagatani stated there was misinformation included in Al Hee's testimony this morning regarding the Waimana License as a beneficiary benefit license. What A. Hee describes does not exist under the Hawaiian Homes Commission Act. Through the Paniolo Bankruptcy proceedings, Hawaiian Telcom purchased assets formally held by Paniolo Cable and a portion of the Sandwich Isles Communication assets as part of the Bankruptcy proceedings. The action that the Commission took last month, there was an exhibit that listed the specific properties that were going to be covered by the Right of Entry. There were four (4) cabinets not included in the exhibit, and there was an administrative disconnect. Because the Commission does not have the authority to issue the Right of Entry for those four cabinets, the Department came back to the Commission to seek an amendment to that exhibit so that it is complete. That is why it is an amendment to identify the properties now under Hawaiian Telcom's ownership correctly.

Commissioner Kaleikini asked for clarification if the Right of Entry is a month-to-month agreement. K. Albinio stated Rights of Entries are month-to-month, renewable annually. Commissioner Kaleikini asked if the Commission wanted to take back the Right of Entry in a month, and the Commission did that. K. Albinio stated yes it could.

Commissioner Teruya asked what \$150 is shall be waived. J. Masagatani stated because the Department is only adjusting the exhibit, the Department has already charged for the processing and documentation fee.

Commissioner Awo asked if the submarine assets were part of the middle mile assets? Chair Aila stated the first mile is the submarine cables, and then the middle mile comes up on land and goes to the offices and facilities that act as the middle mile. Then, through some switches, the final mile.

Commissioner Awo asked that the Department put together a statement to inform our beneficiaries on what they can discuss and give them background on where the Commission is. Chair Aila stated the Department is working on that.

J. Masagatani stated that what is in front of the Commission is to make sure that all of the properties on Hawaiian Home lands now owned by Hawaiian Telcom are covered in the Right of Entry. Hawaiian Telcom already owns those assets. The Right of Entry clarifies what Hawaiian Telcom's role is as a tenant on Hawaiian Home Lands with the Department.

Commissioner Helm stated with all the emails being received; he does not think the beneficiaries know that Hawaiian Telcom did purchase those facilities. He thinks the Department should inform them. J. Masagatani stated the Department would be working with Cedric to clarify the situation because a lot of misinformation is being put out there.

Commissioner Awo stated it is a specific threat, and it is probably a letter that the Department has not seen and wants to know if there is any validity to the threat. Chair Aila finished the letter's content stating it is a contractual proposal that Hawaiian Telcom is making to Sandwich Isles, with the conditions, and it does state that if they are unable to reach an agreement, Hawaiian Telcom could cut off services. That is actually in there but based upon two private companies trying to agree on changing conditions. The changing conditions are that Sandwich Isles no longer belongs to Paniolo Cable. There are services that wholesalers provide to retailers based upon contractual agreements.

Steve Golden is Vice-President of External Affairs at Hawaiian Telcom and would like to address some of the questions that he has heard.

S. Golden stated there was never a letter, and no letters were sent to Sandwich Isles threatening to shut service off. There was a letter Hawaiian Telcom sent to Sandwich Isles dated August 31st, basically saying, let us work together, we are the new owners, and let us work together so we can come up with an agreement. Hawaiian Telcom's request was to try to do that in 30-days, and that is where Mr. Hee is getting the 30-days from. Further in that letter, Hawaiian Telcom also clarified that as long as negotiations are going forward in good faith, Hawaiian Telcom will consider extending that time. S. Golden stated that Hawaiian Telcom has other correspondence to Sandwich Isles before settling down to an agreement.

Commissioner Awo asked to reaffirm; Hawaiian Telcom has not said they will cut off internet service to Hawaiian Home Land beneficiaries. S. Golden stated correct, Hawaiian Telcom has never made that sort of statement at all. S. Golden stated Hawaiian Telcom looks at Sandwich Isles as a customer and wants to work with them and understand its impact on beneficiaries.

Commissioner Teruya asked if there will be an increase in cable or internet service because she keeps hearing beneficiaries are concerned that they will see an increase in their bill? S. Golden stated Hawaiian Telcom is not ultimately the one providing that service, and it will be Sandwich Isles or whoever the other provider is. The service will still be provided by Sandwich Isles as Hawaiian Telcom has bought the middle mile of cable. That last mile is what Sandwich Isles has, and they are the ones that set those rates. Commissioner Teruya asked who was maintaining the cable lines? S. Golden stated that it would be Hawaiian Telcom. The last mile from those buildings to the beneficiaries, homes, and businesses would be Sandwich Isles.

Commissioner Kaleikini asked what does Hawaiian Telcom need from Sandwich Isles to maintain services to the beneficiaries. S. Golden stated they need some information from Sandwich Isles, specified in the letter, so Hawaiian Telcom knows where all the different circuits are. Hawaiian Telcom bought the Paniolo Cable assets, so there is still certain information needed concerning the use of the assets and items that they still have on Hawaiian Telcom's property. There is a lot of details to be worked out.

Commissioner Awo stated it seems like Sandwich Isles still has leverage and asked what does that mean. S. Golden stated he first misspoke when he said that Hawaiian Telcom does not need anything from them. Hawaiian Telcom needs certain information that Sandwich Isles have regarding the Paniolo Cable, which will help Hawaiian Telcom manage it going forward. S. Golden stated Hawaiian Telcom holds the undersea and the middle mile, but the actual service to the customers or beneficiaries is owned and maintained by Sandwich Isles. The conduits that go through the homesteads and communities are all maintained by Sandwich Isles. S. Golden stated that Hawaiian Telcom provides wholesale services to Sandwich Isles, and they purchase the wholesale services from Hawaiian Telcom to provide that end-use service to the homesteaders.

Commissioner Awo asked if the beneficiaries are still reliant on receiving services from Sandwich Isles exclusively since they own the last mile, or do they still have opportunities to go elsewhere? S. Golden stated that the beneficiaries are still reliant on Sandwich Isles until other carriers can operate on the homestead lands.

Commissioner Helm asked, so are you saying that Sandwich Isles will continue to build their customers and nothing will change after September 30th? S. Golden stated Sandwich Isles is still the provider of the service on Hawaiian Home Lands, yes. Commissioner Helm stated he thinks there is a misunderstanding with beneficiaries thinking that you guys are taking over completely. S. Golden stated it is confusing because most people go online and don't see the different pieces of it, and he understands how people can misinterpret it. The last mile is still being provided by Sandwich Isles.

Commissioner Teruya stated she is supporting the ROE moving forward. From what she heard, there will be a beneficiary consultation or letter to inform the beneficiaries, and she asked if that is what she heard?

J. Masagatani stated the assets are now owned by Hawaiian Telcom. The Department is in the process of negotiating a land disposition and a license document to Hawaiian Telcom. Land dispositions requiring a longer-term requires beneficiary consultation. The Right of Entry allows Hawaiian Telcom the permission to operate while the Department puts in place the longer-term disposition.

Commissioner Ka'upu stated there are beneficiaries that are saying they don't like Sandwich Isles because their service is not good, it is slow and unreliable. When Hawaiian Telcom steps into that middle mile, do the service and speed get better for those beneficiaries, or because Sandwich Isles is in the last mile, there is not much Hawaiian Telcom can do in the middle? Is it all the final mile that is causing the issues? S. Golden stated it is hard for him to speak on what is causing those issues, but ownership from Paniolo to Hawaiian Telcom would not immediately impact that. He does know that Hawaiian Telcom is making investments to improve the middle mile. He hesitated to say that that is going to result in a change to the last mile because if the issue is with the middle mile, then it will address it, but if the slower speed is with the last mile, it probably would not have an impact.

Commissioner Ka'upu asked from what S. Golden knows of the middle mile, is it adequate to provide adequate pipes to the Hawaiian Homes community? Is that final mile too small? Kalani Andrade is on the call to address the adequacies.

K. Andrade stated today Sandwich Isles gets a lot of their services leased from Spectrum. He thinks some of the capacity may be limited on some of the speeds. At some point the Hawaiian Telcom network should be able to work out a partnership with Sandwich Isles if they want to

increase their capacity to provide better service to their subscribers. That is something that has to be worked out between Sandwich Isles and Hawaiian Telcom.

Commissioner Neves asked K. Andrade to improve the system, is that primarily the middle mile the provides that or the last mile. K. Andrade stated it would vary because the customers that are receiving service over fiber, have enough capacity in the last mile to provide good service. It's the middle mile piece that needs to increase. Commissioner Neves asked Hawaiian Telcom's evaluation of the system, are there issues in the middle mile on some of the locations being talked about for the ROE as far as fiber? K. Andrade stated he thinks there is sufficient capacity.

Commissioner Neves stated this ROE keeps the lights on until the Department can figure out the license and beneficiary consultation. If the Commission does not approve this proposal the Department won't have a middle mile. Commissioner Neves stated he is in favor of moving this forward.

Chair Aila asked if Hawaiian Telcom and the other carriers have contracts and agreements across each other's lines to provide service? S. Golden stated Hawaiian Telcom does have current agreements with Sandwich Isles that they purchased from Hawaiian Telcom. Chair Aila asked so this is common? S. Golden stated yes, it is very common.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Namu`o, to approve the motion as stated in the submittal.						
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	X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously- nine (9) Yes votes.						

RECESS

5:40 PM

HAWAIIAN HOMES COMMISSION
Minutes of September 21, 2021 via ICT
DHHL Main Office, Hale Pono`i, Kapolei, O`ahu, Hawai`i

PRESENT William J. Ailā Jr., Chairman
Randy K. Awo, Maui Commissioner (via ICT) (9:40 a.m.)
Zachary Z. Helm, Moloka`i Commissioner (via ICT)
David B. Ka`apu, West Hawai`i Commissioner
Michael L. Kaleikini, East Hawai`i Commissioner (via ICT)
Russell K. Ka`upu, O`ahu Commissioner (via ICT)
Pauline N. Namu`o, O`ahu Commissioner (via ICT)
Dennis L. Neves, Kauai Commissioner (via ICT)
Patricia A. Teruya, O`ahu Commissioner (via ICT)

COUNSEL Ryan Kanakaole, Deputy AG (via ICT)

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 Ailā, Acting Contact and Awards Division Administrator
Jamilia Pacheco, Information Specialist
Michael Lowe, Information Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Ailā called the meeting to order at 9:35 a.m. eight (8) members were present via ICT at roll call.

Pursuant to the Governor’s emergency proclamation, related to COVID-19 Emergency, Hawai`i Revised Statutes (“HRS”) Chapter 92 regarding public agency meetings and records are currently suspended through October 6, 2021, 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 effectively and efficiently provide emergency relief and engage in emergency management functions.

Chair Aila stated meetings via interactive conference technology have specific rules. A quorum of Commissioners must be visible during the meeting.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

PT-1 Mike Hodson – Item F-1

M. Hudson provided a brief overview and history of the Waimea Hawaiian Homestead Association. Aha Pūnana Leo brings value to the community in education, child care, the teachings of the Hawaiian language, culture, and customary practices. Aha Pūnana Leo is not

funded by Kamehameha Schools, the biggest Trust in the State, and their financial resource is limited. Gratis is a recommendation for Aha Pūnana Leo.

PT-2 Kekoa Enomoto – Item

K. Enomoto testified that she and Norman Abihai accessed the 5,000-acre parcel of the Waiohuli/Keokea tract. They forwarded 13 photos for the Commission's review of current activity by Kaonoulu Ranch.

N. Abihai stated Kaonoulu Ranch is stealing land from the 5,000-acres. Kaonoulu has their water truck and their electric fence is up at the double gate. They have about 1,000-acres of the 5,000-acres. N. Abihai stated he mentioned this to the Commission a couple months ago and still no action has been taken by the Department. He stated if the Department is not going to do its job, they will step up to do it for the Department. He also asked why Hawaiian Telcom got a Right of Entry and if there will be a beneficiary consultation.

Note: Testimonies are attached.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

ADMINISTRATIVE SERVICES OFFICES

**ITEM H-1 Approval of DHHL Supplemental Budget Requests for Fiscal Year 2023
(Sufficient Sums Budget)**

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:
Motion that the Hawaiian Homes Commission:

1. Approve the Fiscal Year 2023 Operating and Capital Improvement Program Budget Requests, the Sufficient Sums Budget, to present to the Governor for consideration in the Administration's Executive Budget Request to the 2022 Legislature
2. Approve the Fiscal Year 2023 Operating and Capital Improvement Program Budget Requests, the Sufficient Sums Budget, to present to the 2022 Legislature
3. Authorize the Chairman to adjust the Operating and CIP Budget Requests, to make technical adjustments to minor errors before it is incorporated into the Administration's Executive Budget

MOTION

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

DISCUSSION

Commissioners Kaleikini and Helm asked for position lists for Hawai'i and Moloka'i. R. Lau would send that information to them later.

ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm	X		X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- nine (9) Yes votes.						

ITEM H-2 Transfer of Hawaiian Home Receipts Fund at the End of the First Quarter, FY 2022

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:

Motion that the Hawaiian Homes Commission approve the transfer of the entire Receipts Deposited into the Hawaiian Home Receipts Fund as of September 30, 2021 to the Hawaiian Home General Loan Fund

MOTION/ACTION

Moved by Commissioner Namu'o, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o	X		X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- nine (9) Yes votes.						

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of 2022 Legislative Proposals

RECOMMENDED MOTION/ACTION

Legislative Analyst Lehua Kinilau-Cano presented the following:

Motion that the Hawaiian Homes Commission approve the Legislative Proposals to be recommended for inclusion in the Administration's Legislative Package for the 2022 Regular Session

The recommendation from staff is to submit 10 Legislative Proposals. L. Kinilau-Cano highlighted proposals No. 10 and No. 11 and the Adoption bill.

MOTION

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

DISCUSSION

Commissioner Awo would like to see the Compliance and Enforcement Division could control criminal activities with full police power. L. Kinilau-Cano stated the bill does allow for police power, in Section 4 of page 6.

Commissioner Ka'apu stated he does not want to tie the Judge's hand. His concern is the threat of bodily harm. If there is a consequence to a failure to show, the Judge can make a judgement. He does not believe the Department will be able to use police powers to enforce lease provisions. That is a civil matter, and the Department still must jump through all the hoops. He is thinking of drug houses and gambling. If the Department goes in and finds firearms, illegal substances, gaming equipment, the Department would need the ability to seize to build a case to go before the Judge. Limiting it to search handcuffs the Department. The misdemeanor and the fine for people not showing up, without that why would people show up.

L. Kinilau-Cano stated she is amending HRS and not the Hawaiian Homes Commission Act. It is a fine line trying to amend the Hawaiian Home Commission Act versus the HRS. Her hope is that the Department's Compliance Officers work with HPD. The AGs might bounce it back and say that the Hawaiian Homes Commission Act must be amended.

Commissioner Ka'apu stated there are problems getting HPD to show up and enforce. If the Department created their own force with policing powers, HPD will say that it is DHHL's job, it is not. The Department would get less cooperation than more.

Chair Aila officers with enforcement powers can be creative in terms of how they collect evidence and hold it until adjudication.

Commissioner Awo stated, in his experience, law enforcement would show up if they understand the Department's purpose and role as a professional organization that wants to form a partnership. The Department having no enforcement, the agencies feel like they are babysitting, and the Department brings nothing to the table to help them with their case load. When there is a professional organization within the Department, it provides opportunities for the law enforcement representatives to meet with prosecutors, to speak about bench warrants, and strategies. He thinks these partnerships will strengthen the Department and make the communities safer.

Commissioner Kaleikini asked if a child is less than 50% Hawaiian blood, adopted by parents who combined are 50%, would that adopted child be considered qualified. L. Kinilau-Cano asked if Commissioner Kaleikini is asking about being qualified to succeed to a lease. The Department goes according to the blood quantum. If the adopted parents make you 50%, it is not acceptable, it is your actual blood quantum. There needs to be that relationship of your spouse, child, grandchild, brother, or sister. Sometimes people adopt someone to have that legal relationship, but the blood quantum was already established under their natural birth relationship. Chair Aila stated the blood quantum is tied to the biological relationship, and not the adopted relationship. L. Kinilau-Cano stated yes.

Commissioner Awo does not think it wise for the Department to remove certain things from a police agency that is already embedded in statute. Criminal process gets it through quicker than a contested case hearing.

Chair Aila suggested seeking advice from the Commission's attorney and asked for a motion to resolve into an executive session, after a five minute recess.

RECESS
RECONVENED

10:53 AM
10:58 AM

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm 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

11:01 AM

The Commission anticipates convening an 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.

EXECUTIVE SESSION OUT

11:22 AM

L. Kinilau-Cano stated what she believes she heard is the failure to obey a summons, that language will stay, but will give the Judge discretion, and it will not be subjected to a petty misdemeanor or imprisonment but allow for discretion for any failure to appear. Regarding the search and the seizure, the language will be in, but to her understanding, it is going to be very broad because the underlined issues are covered in other parts, so this will allow for police powers the ability to search and seize and to give the Judge discretion on failure to appear or obey a summons. Her understanding is the AGs will help with some language to put in there. It will still go through AG review.

Commissioner Awo recommended that the language be left as is, so the authority for the officers to do certain things remain. He believes it is the statute that delegates to the Judge the authority to decide on the matters; not the Department to tell the Judge to use his discretion on how to deal with someone who fails to show up at court.

L. Kinilua-Cano read Chapter 199-6.

Commissioner Ka'upu thought he heard DAG Iha say the Hawaiian Homes Commission Act does not have any specific criminal type prohibitions and power. He also heard DAG Iha say the Department could just give them authority to enforce compliance with law. L. Kinilau-Cano referred to page 7 line 6 to lift that and move it to section 1.

Chair Aila stated on the record Commissioner Teruya is not supporting No. 9, HHL 0922, but supports all the other HHL proposals.

ACTION

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

For the record, Commissioner Teruya did not support No. 9, HHL 0922, but support all other HHL proposals.

ITEM C-2 Approval of Lease Award Kakaina Subdivision Residential Vacant Lot, Waimanalo, Oahu, Approval of Lease Award Nanakuli Subdivision-First and Second Series Wai'anae, Oahu and Approval of Lease Awards Ka'uluokaha'i Residential Subdivision Vacant Lot, Kapolei, O'ahu (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Contact and Awards Division Administrator Paula Aila presented the following: Motion that the Hawaiian Homes Commission approve 4/99-year Leases in the Kakaina Subdivision in Waimanalo, in Nanakuli First and Second Series in Waianae, Kauluokahai and Kapolei.

MOTION

Moved by Commissioner Ka'upu, seconded by Commissioner Helm, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Teruya asked for specifics on location of the lot. P. Aila stated it is a pre-owned lot that came back to the Department. Case Management Specialist Kaila Bolton stated that the lot is on Haleakala Avenue.

ACTION

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

ITEM C-3 Approval of Rescission of Homestead Lease Award and Reinstatement of Application for La'i `Opua Villages 4 & 5, which commenced on December 3, 2005 (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Contact and Awards Division Administrator Paula Aila presented the following: Motion that the Hawaiian Homes Commission the Rescission of Homestead Lease Award and Reinstatement of Application for Lai Opua Villages 4 & 5, undivided interest, which commenced on December 3, 2005.

P. Aila made a request to amend the submittal removing the last two names on the list, AKAU, SONONINI and ENRIQUES, there were further questions after it was submitted.

MOTION

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

The recommendation is to approve the rescission of four undivided interest residential leases as named for: Kalino, Spencer, Tina and Wong, and then to reinstate the four as residential applicants on the Hawai'i Island wait list according to their original date of application.

DISCUSSION

Commissioner Ka'apu's concern, as stated last month, was the applicants/lessees have the right to transfer their undivided interest to a successor, were they given that opportunity? They could transfer their interest, if they chose not to, by signing up for the rent to own program, that they sign off on a form knowingly and knowing the ramifications. If they pass away within the 15-years, their children have nothing, even if they have made all the payments on their lease, the children have no interest because it is just a rental. He wanted to be sure it is incorporated into the document.

P. Aila stated the staff did follow up with those that opted in to ensure that they understood what they opted in to. Everyone understood and were referred back to the

letter they were sent for the offering. The rescission was explained it would change their status from an undivided lessee to an applicant.

Commissioner Ka'apu asked if 5-years down the line a beneficiary, a rent to own beneficiary, dies, and the family says I could have succeeded to the undivided lease. Is it sufficient what the Department has which is the submittal, or would the Department want something like a surrender of lease? DAG Kanaka'ole stated he thinks in that hypothetical situation it would be better to have a signed document.

Commissioner Ka'apu stated he would vote on it conditionally upon receiving a signed document that is notarized from the people that are rescinding their leases, and that way the files are all in order and there's no question, even if it comes up in the future, that the beneficiary rescinded. Sign the document and that is what the Department ratifies.

P. Aila stated that is fair and the Department can send a letter and ask them to get it notarized by a certain date. She stated they are against timing issues as the units must be filled by the end of October.

AMENDED MOTION

Moved by Commissioner Neves, seconded by Commissioner Teruya to amend the motion to reflect that it is conditional upon receipt of the signed rescission from the beneficiary.

ACTION

Moved by Commissioner Neves, seconded by Commissioner Teruya to amend the motion to reflect that it is conditional upon receipt of the signed rescission from the beneficiary						
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 Ailā			X			
TOTAL VOTE COUNT			9			
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passed unanimously- nine (9) Yes votes.						

Chair Aila stated that amendment was inclusive of the removal of the most recent two because they will be put through the procedure. Chair Aila wanted to make it clear for the record that that is the case.

MOTION/ACTION

Moved by Commissioner Teruya, seconded by Commissioner Helm 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

12:16 PM

The Commission anticipates convening an 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 issues related to Telecommunications and Broadband service on Hawaiian Home Lands;
2. Discussion on *Paniolo Cable Company, LLC*. Case No. 18-01319 (RJF) before the U.S. Bankruptcy Court. District of Hawai'i, and
3. Discussion on the *United States of America vs. Sandwich Isles Communications, Inc. et al.*, Case No. 18-00145 (JMS-RT) before the U.S. District Court for the District of Hawai'i

EXECUTIVE SESSION OUT

1:50 PM

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

OFFICE OF THE CHAIRMAN

ITEM C-5 For Information Only – Presentation on the Impact of COVID-19 on Native Hawaiians

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:
None. For information only.

Special Assistant Office of the Chairman Niniau Kawaihae introduce Dr. Joshua Quint, PhD, Epidemiologist, from the Department of Health, and Chantelle "Telli" Matangi who is in charge of the Department of Health Contact Tracing System.

Dr. Quint stated he is the steward and epidemiologists that manages all the Covid data on the dashboards. He shared his presentation of the dashboard and the data. He gave a brief overview on what is being seen in the State, what has been seen historically, particularly with the outbreaks, and Chantel will share what she has been seeing on the ground.

The Delta Variant began in India and began to spread throughout the world, and is highly infectious.

Chair Aila stated in the chat are links for your information.

C. Matagi stated the challenges are contacting the community members and have their cooperation. Due to a legacy of mistrust, often when her team calls the people, the people do not want to share the information. Without the information, the team cannot offer the resources that are necessary and are unable to give them proper guidance needed for isolation or quarantine.

When the numbers were lower, they were able to offer isolation and food support, but because the numbers are high, they have been struggling to do that. The non-profit organizations have been assisting them. These are the biggest issues as far as contact tracing. Social media has been hard to combat because of the misinformation such as this is a conspiracy, infringement upon our rights, it will affect fertility, it is the mark of the beast, and these are heard. There is a robust campaign to address this issue.

Note: Slide presentation is attached

ITEMS FOR DECISION MAKING

REGULAR AGENDA

PLANNING OFFICE

**ITEM G-1 Accept the Beneficiary Consultation Report for the Aha Pūnana Leo Inc.
Request to Utilize DHHL Land for a Hawaiian Language Pre-School,
Waimea, Hawai'i Island TMK No. (3) 6-4-001: 059**

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:

Motion that the Hawaiian Homes Commission accept the Beneficiary Consultation Report as the official feedback and record for the Aha Pūnana Leo Inc. Request to Utilize DHHL Land for a Hawaiian Language Pre-School, Waimea, Hawai'i Island TMK No. (3) 6-4-001: 059

MOTION

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

DISCUSSION

Commissioner Neves asked if the self-identified beneficiaries were from an association or a group. The President of the Waimea Homestead Association, Mike Hudson participated in the meeting.

Commissioner Teruya asked what the zoning for that area is. A. Choy stated it is for community use. She stated she would support the item as the summary stated with regards to the rent.

ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			9			
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- nine (9) Yes votes.						

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issuance of License to Aha Pūnana Leo, Inc., Waimea, Island of Hawaii, TMK No.: (3) 6-4-001:059(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission approve the Issuance of License to Aha Pūnana Leo, Inc. Waimea, Island of Hawai'i, TMK No.: (3) 6-4-001:059(por.)

MOTION

Moved by Commissioner Namu'o, seconded by Commissioner Helm, to approve the motion as stated in the submittal

DISCUSSION

Commissioner Teruya asked to explain No. 2, the term of the license. K. Albinio explained that the term of the license can be extended for one additional 10-year period. The extension is at the option of the Chairman of the Hawaiian Homes Commission. The licensee must apply 6-months prior to the expiration of the term.

Commissioner Ka'apu stated he does not understand the methodology the Department uses. What is the decision making on whether to charge somebody or not? What are the criteria. Some people pay rent and some people do not pay rent. He thinks it is something the Commission should take up so it does not have different outcomes for similarly situated organizations

K. Albinio stated it is a good question. He started when Kanu O Ka Aina came aboard, and a nominal rent was considered. He is not sure how the Kamehameha School deal brokered. He wanted to make sure that he produced some type of formula for the Commission.

Commissioner Ka'apu stated he would like to see some consistency going forward so when the Commission deals with these types of organizations, they know what they are looking at.

Chair Aila suggested since the submittal is before the Commission, approve it as is, and come back with a recommendation of what should be a more consistent application throughout different uses by eleemosynary groups, non-profits, educational purposes, cultural purposes, and the Commission can adjust the rent across the board for all.

Commissioner Ka'apu stated he is okay with that if the Commission looks at it again once the Commission develops a policy for this. He also wanted to know percentagewise, how many people are benefiting from Pūnana Leo School. The recommendation was 30%, but if it is 50%, he thinks it is good information to have.

Commissioner Awo stated he agreed with Commissioner Ka'apu. Pūnana Leo paying \$900 a month concerns him and he wanted this on record.

ACTION

Moved by Commissioner Namu'o, seconded by Commissioner Helm, to approve the motion as stated in the submittal,						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o	X		X			
Commissioner Neves			X			
Commissioner Teruya					X	
Chairman Ailā			X			
TOTAL VOTE COUNT			8			
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passed unanimously- eight (8) Yes votes. One (1) Abstain						

ITEM F-2 Approval to Issuance of License to Kamehameha Schools, Keaukaha, Island of Hawaii, TMK Nos.: (3) 2-1-023:157(por.) & :158(por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission approve the Issuance of License to Kamehameha Schools, Keaukaha, Island of Hawaii, TMK Nos.: (3) 2-1-023:157(por.) & :158(por.)

MOTION

Moved by Commissioner Kaleikini, seconded by Commissioner Ka'apu, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Kaleikini asked what percentage of the students are from the Keaukaha community. G. Naone stated that he can get back to Commissioners with an answer. Commissioner Kaleikini asked if the students pay, what the annual fee is, and how many students get financial aid. G. Naone stated because of the Covid pandemic the hours were

shortened from 7:30am to 3:30 pm and the tuition is \$2500, and financial aid is somewhere in the mid 80%. A. Choy stated in the Kamehameha Schools' presentation, it was reported that 20-30% of the keiki enrolled are from Keaukaha.

Chair Aila stated he will make the same caveat to approve it as is and come back with a recommendation of what should be a more consistent application throughout different uses by eleemosynary groups, non-profits, educational purposes, cultural purposes, and the Commission can adjust the rent across the board for all.

ACTION

Moved by Commissioner Kaleikini, seconded by Commissioner Ka'apu to approve the motion as stated in the submittal.						
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		X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves			X			
Commissioner Teruya					X	
Chairman Ailā			X			
TOTAL VOTE COUNT			8			
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passed unanimously- eight (8) Yes votes. One (1) Abstain						

ITEM F-3 Approval to Issuance of Right of Entry Permit, State of Hawaii Department of Agriculture, Waimanalo, Island of O'ahu, TMK No.: (1) 4-1-011:001 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the Issuance of Right of Entry Permit, State of Hawaii Department of Agriculture, Waimanalo, Island of O'ahu, TMK No.: (1) 4-1-011:001 (por.)

MOTION

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

DISCUSSION

Inspector and Compliance Sector Chief for the Plant Quarantine Branch Jonathan Ho stated coqui was not a pest until they got to Hawai'i Island. The State Department of Agriculture's has been responding to coqui reports on O'ahu for decades. He stated chemical treatment is the best option which is a 16% citric acid solution. The area is sprayed until there are no frogs. The challenge for DOA is the grade and the distance from the road.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			9			
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- nine (9) Yes votes.						

ITEM F-4 Approval to Issue a License to Ka Hale Pōmaika'i, 'Ualapu'e, Molokai, TMK: (2) 5-6-002:001 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission approve to Issue a License to Ka Hale Pōmaika'i, 'Ualapu'e, Molokai, TMK: (2) 5-6-002:001 (por.)

Chair Aila stated there was also discussion about issuing a 2-year license and coming back and not giving the Chairman any extension rights. Chair Aila stated this is just for the 2-years.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Ka'apu, to approve the motion as stated in the submittal.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			9			
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- nine (9) Yes votes.						

ITEM F-5 Approval to Issue a Right of Entry, Alpha, Inc., Honokowai, Maui, TMK: (2) 4-4-002:018 (por.)

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to Issue a Right of Entry, Alpha, Inc., Honokowai, Maui, TMK: (2) 4-4-002:018 (por.)

MOTION/ACTION

Moved by Commissioner Awo, seconded by Commissioner Helm, to approve the motion as stated in the submittal.

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

ITEM F-7 Approval to Issue a License Agreement, Kūkulu Kumuhana O Anahola (KKOA), Ulupono Project, Anahola, Island of Kauai, TMK Nos. (4)4-8-003:019

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to Issue a License Agreement, Kūkulu Kumuhana O Anahola (KKOA), Ulupono Project, Anahola, Island of Kauai, TMK Nos. (4)4-8-003:019

MOTION

Moved by Commissioner Namu'o, seconded by Commissioner Helm, to approve the motion as stated in the submittal.

DISCUSSION

Land Agent Kaipo Duncan stated Kūkulu Kumuhana O Anahola has done all their due diligence over the last 2-years with the right of entry. KKOAA wants to build a comfort station and storage on the property. The permanent building triggered the need for an environmental assessment.

Commissioner Neves asked if there is a schedule and timeline for the long-term lease or license. Planner Nancy McPherson stated they want to work with KKOA in the next 60-days to work on milestones, a timeline, and a schedule.

Commissioner Neves stated he is concerned over the change in the scope which was initially for a garden. He wants to make sure it is a successful process. He supports the organization. He would like any request for additional acreage come back to the Commission, and that DHHL confirms the completion of the due diligence.

N. McPherson stated right now they have a grant from the Office of Hawaiian Affairs and are a beneficiary formed organization. Rae Nam stated they are not an association but a non-profit. All five members are beneficiaries.

Commissioner Ka'apu stated it would be more appropriate to establish the milestones before the Commission issues a 5-year license agreement.

Chair Aila asked if there is a deadline connected to the grant from the Office of Hawaiian Affairs. R. Nam stated the project is not an OHA project and there are several grantors. She stated the license is very critical.

Chair Aila stated the normal process is you get the disposition then you get the grant. This puts the Commission in a challenging situation. Commissioner Ka'apu stated it looked like the project had to be scaled down to fit it into an EA. He stated normally the due diligence is done in the 2-years and then come for the disposition. The submittal says KKOA is going to continue to do due diligence. Commissioner Ka'apu stated he is not sure how it fits into the overall picture. You don't continue doing due diligence for the next 5-years.

N. McPherson stated if you are a priority project in the Regional Plan, you can avail yourself of DHHL grants. In this case, KKOA got grants to continue to implement the mala plan, but they kept proposing things that DHHL could not exempt. Planning put the breaks on and had to section out the activities that could be done without any permanent structures, then issue an exemption and they can continue to do the studying of the site as part of their educational activities.

Commissioner Ka'apu stated he would consider a conditional.

Chair Aila asked if removing the language authorizing the Chairman in the 2nd paragraph of No. 1, would address the concern, as it would require KKOA to come back to the Commission. Commissioner Awo stated it would.

Commissioner Neves stated the 3rd paragraph on page 3 is requesting a 30-year license and staff recommends 10-years; that should be 5-years.

Commissioner Ka'apu stated item No. 8 in the recommendation that stated "DHHL should issue 1-5/8 -inch water meter at no cost, and the discussion talked about a water meter credit to be issued. Is it talking about the physical equipment or the entitlement to the water from the credits that DHHL has? K. Albinio stated correct it is a credit.

Commissioner Ka'apu stated he is okay with the Chair's suggestion to approving the license subject to working out the milestones. He is also okay with the non-standard process that it is

going through because it sounds like Commissioner Neves knows they have the right people and the right mission in mind.

Commissioner Teruya asked if the grant from OHA is to provide for a water system for 7-acres. R. Nam stated the grant from OHA will end in 2022 and KKOAA will lose it if they don't use it, so KKOAA has 9-months to use the \$75,000 from OHA.

Chair Aila stated he believes they could request an extension of the grant if they show progress moving forward. Commissioner Neves stated it is important to get the scheduled amounts out in 60- days.

Commissioner Namu'o stated she is not in support because there is no plan, but she does support in everything that Commissioner Neves said.

Chair Aila suggested the language for the amended motion be, the Hawaiian Homes Commission authorize the issuance of a 5-year license agreement covering the subject areas identified and described in the corrected submittal, i.e. removing the Chairman from conditions 1 and 3, conditioned on establishing milestones with the Department within 60-days.

Chair Aila stated the condition approval will allow them to deal with their OHA issue and coming back within 60-days with a plan will allow to remove the condition. Commissioner Ka'apu stated if the milestones have not been laid out or approved by the Commission, then it may not go forward.

Chair Aila stated KKOAA is asking to partner with DHHL, and it appears that KKOAA has lots of good ideas and phased plans. The Commission asks that she works with staff in the next 60-days and come up with the milestones to initiate settlement of the 10-acres.

AMENDED MOTION/ACTION

Moved by Commissioner Namu'o, seconded by Commissioner Helm, , the Hawaiian Homes Commission authorize the issuance of a 5-year license agreement covering the subject areas identified and described in the corrected submittal, i.e. removing the Chairman from conditions 1 and 3, conditioned on establishing milestones with the Department within 60-days.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o	X		X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			9			
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passed unanimously- nine (9) Yes votes.						

RECESS
RECONVENED

4:15 PM
4:24 PM

Chair Aila asked DAG Kanaka`ole for his advice to recess the regular Commission meeting, go into the one Contested Case that the Commission has, and come back to the regular meeting. DAG Kanaka`ole stated it would not be an adjournment but a recess.

RECESS
RECONVENED

4:26 PM
4:59 pm

Note: Commissioner Ka`apu left for the airport at 5:00 p.m.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

PLANNING OFFICE

ITEM G-7 For Information Only – Draft Environmental Assessment for the Barbers Point Solar Project, East Kalaeloa, `Ewa District, O`ahu, and Anticipated Finding of No Significant Impact (AFONSI), TMK Nos. (1) 9-1-013:038, (1) 9-1-013:040, and (1) 9-1-016:027.

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:
None. For information only.

A. Choy introduced Leslie McLane of TetraTex who provided the environmental assessment. L. McLane presented a PowerPoint, Building A Better World With Renewable Energy, Barbers Point Solar Project. The purpose of the briefing is to:

- Update the Hawaiian Homes Commission (HHC) on the proposed Barbers Point Solar Project located on DHHL owned lands in East Kalaeloa
- Present summary highlights of the Draft Environmental Assessment (DEA)
- Notify the HHC prior to the publication of the DEA for public comment next month.

DISCUSSION

Commissioner Ka`apu asked how the cultural sites would be protected. L. McLane stated her guess is the sites are going to be outside of the solar ray fence line and not close to the point of disturbance. They have made recommendations which include preservation of the majority of the site. She stated they will develop a preservation plan as a next step and for all the Hawaiian sites the recommendation is a buffer of 10-meters from any project.

Commissioner Teruya asked about the pu`eo. L. McLane stated they did see a pu`eo one early morning and have been working with DOFAW (State of Hawai`i Department of Forestry and Wildlife) for nests before construction. If a nest is found they will stop construction and have a biologist check the nest.

Note: Commission Teruya left the meeting at 5:25 p.m.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

PLANNING OFFICE

ITEM G-5 Accept Beneficiary Consultation Report for Long-Term Lease with Nexamp Inc. for Proposed Community-Based Renewable Energy Project, Kalaoa, North Kona, Island of Hawai'i, TMK No. (3) – 7-3-010:007

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:

Motion that the Hawaiian Homes Commission accept the Beneficiary Consultation Report for Long-Term Lease with Nexamp Inc. for Proposed Community-Based Renewable Energy Project, Kalaoa, North Kona, Island of Hawai'i, TMK No. (3) 7-3-010: 007

Planner Julie-Ann Cachola presented the PowerPoint for Beneficiary Consultation Reports on 2 proposed Community-Based Renewable Energy (CBRE) projects. She stated Item G-5 is for Kalaoa, North Kona, Island of Hawai'i, TMK No. (3) 7-3-010: 007, and Item G-6 is for Kawaihae in South Kohala, Island of Hawai'i TMK No. (3) 6-1-006: 003.

- Kalaoa
 - Invited 975 lessees and applicants
 - 2 regional plan priority projects
 - BC mtg July 13, 2021, introduced selected developer
 - 4 lessees
- Kawaihae
 - Invited 187 Kawaihae lessees
 - BC mtg Dec. 8, 2020, 11 lessees, 1 HECO
 - BC mtg July 26, 2021, introduced selected developer

MOTION

Moved by Commissioner Awo, seconded by Commissioner Kaleikini, to approve the motion as stated in the submittal

DISCUSSION

Commissioner Kaleikini asked how many beneficiaries are there for the 88% AMI. J. Cachola stated they have a percentage for applicants and a percentage for lessees. It is generally about 50%. Commissioner Kaleikini asked about the land position if the Commission needs to approve the general lease to satisfy that land requirement at the PUC's level? A. Choy stated it would be better for Nexamp to have a right of entry from the Commission for their application process. Commissioner Kaleikini asked if there were any provisions to consider expanding the amounts of energy at the locations? J. Cachola stated the Department could put it as far as their proposal.

ACTION

Moved by Commissioner Awo, seconded by Commissioner Kaleikini, to accept the motion as stated in the submittal.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo	X		X			
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini		X	X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- nine (9) Yes votes.						

Commissioner Awo stated he will be signing off as he has other commitments. He commented the Department creating an agenda that is so crowded is unfair to the Commission and to the beneficiaries.

Chair Aila stated this was a test doing the Public Testimony and the J-Agenda before the decision making. He stated as Commissioners we need to exercise some constraint on the number of comments that are made.

Commissioner Awo stated he did not agree that the Commissioners should constrain themselves to the kinds of questions being asked. Chair Aila stated it is not the questions, the comments, and the congratulatory statements. With some constraint on the amount comments can be reduced and get to the business in a more efficient manner.

Commissioner Awo stated he is not sure how to measure and quantify that comment because he has not paid attention to the amount of time that it took to make congratulatory comments. He stated they could see that it was going to be a crowded agenda before the Commission assembled. He also stated the Commissioners are getting lengthy documents the day of, but if it was done properly the Commissioners should be able to read through it. Interactions with the Commissioners are results of matters that have been mitigated before it reached the Commission meeting.

Note: Commissioners Awo and Helm signed off 6:15 pm.

Chair Aila stated there is one more decision-making item to go and the other items can be deferred.

ITEM G-6 Accept Beneficiary Consultation Report for Long-Term Lease with Nexamp Inc. for Proposed Community-Based Renewable Energy Project, Kawaihae, South Kohala, Island of Hawai'i, TMK No. (3) 6-1-006: 003.

RECOMMENDED MOTION/ACTION

Acting Planning Manager Andrew Choy presented the following:

Motion that the Hawaiian Homes Commission accept the Beneficiary Consultation Report for Long-Term Lease with Nexamp Inc. for Proposed Community-Based Renewable Energy Project, Kawaihae, South Kohala, Island of Hawai'i, TMK No. (3) 6-1-006: 003.

DISCUSSION

Commissioner Ka'upu asked if given the unique circumstances of the facilities on Hawaiian home land, can the Department renegotiate that with them. The Department will get as many beneficiaries as possible that will qualify, then the next year we overflow to those who are beyond that so the Department can get fully subscribed credits. J. Cachola stated she thinks the Department is special and should get special considerations. It is between the PUC and HECO. Letters have been drafted to the PUC explaining how the Department is different. Commissioner Ka'upu asked to try and work with Counsel and try to pursue this.

Chair Aila stated the Commission has that power to set conditions in the lease that says something other than what echo the RFP. Just understand the Commission is taking a risk.

Commissioner Kaleikini volunteered to investigate options with HECO. Chair Aila stated there are also probably some tax credits intertwined if Commissioner Kaleikini could flesh that out.

MOTION/ACTION

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

Note: Commissioner Kaapu reconnected by teleconference at 6:30 p.m.

ITEMS FOR INFORMATION/DISCUSSION

WORKSHOPS

LAND DEVELOPMENT DIVISION

ITEM E-2 For Information Only – Workshop on Wastewater Disposal on Hawaiian Home Lands Focus on Cesspools

RECOMMENDED MOTION/ACTION

None. For information only Acting Land Development Division Administrator Stewart Matsunaga presented the following:

S. Matsunaga was joined by Consultant Wei Chen of Fukunaga and Associates who went through the submittal highlighting certain points focusing on cesspools:

- Project Description
- Project Approach
- Phase I Survey
- Phase II Survey
- Conversion Option Assessment
- Preliminary Schedule and Budgetary Estimates
- Future Work

DISCUSSION

Commissioner Namu`o asked when the Department will be doing Papakōlea. S. Matsunaga stated Papakōlea is a sewage for now. Commissioner Namu`o asked about Waimānalo. S. Matsunaga stated Waimanalo is on list. DHHL's consultants Fukunaga and Associates is going to start the notification to those lessees with known cesspools.

Commissioner Kaleikini asked the conversion must be done by 2050, what are the exceptions? Consultant Wei Chen stated he would forward the criteria to S. Matsunaga to share.

Chair Aila stated maybe as part of the study the Department can ask that question if they have designated criteria.

Commissioner Ka`upu asked if the Department is trying to collect the expense from the affected homes or does the Department eat that cost as the landowner. S. Matsunaga stated the Department is eating that cost as the landowner.

Commissioner Ka`upu asked how does the Department propose for those lessees who have cesspool that the Department needs to upgrade to septic; how does the Department justify passing on that cost to the lessees. S. Matsunaga stated that is an issue that the Department needs to deliberate, and it is being looked into.

Note: Slide presentation is attached.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on October 18 & 19, 2021, (ICT) Zoom

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Kaupu, to adjourn the meeting.
Motion carried unanimously.

ADJOURNMENT

6:40 PM

Respectfully submitted:



William J. Ailā Jr., Chairman
Hawaiian Homes Commission

Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

Attachments:

- 1) Slide Presentation E-2
- 2) Slide Presentation G-5
- 3) Slide Presentation G-6
- 4) Slide Presentation G-7
- 5) Submittal H-1
- 6) Submittal H-3
- 7) Submittal C-3 Amended

DHHL Oahu Cesspool Assessment

For
State of Hawaii, Department of Hawaiian Home Lands
By Fukunaga and Associates, Inc.

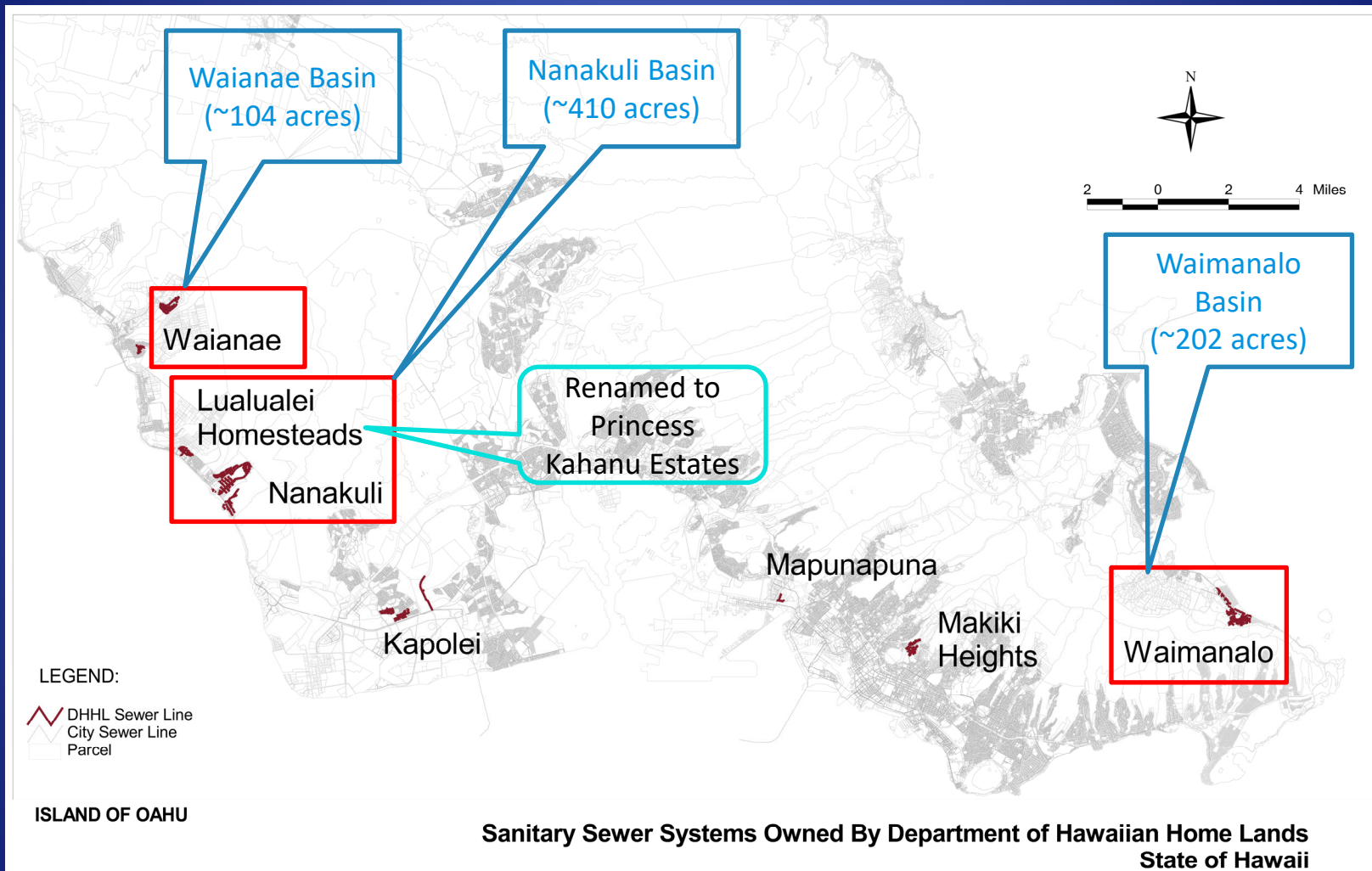
July 22, 2021
Updated August 24, 2021

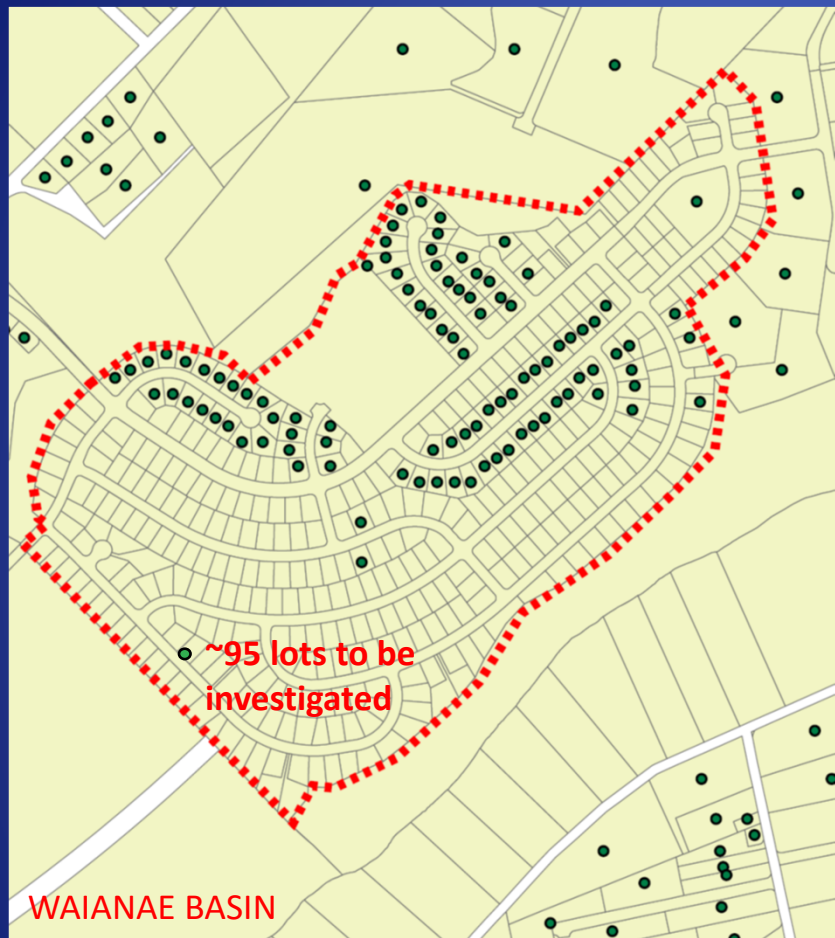
Meeting Agenda

- Project Description
- Project Approach
- Phase I Survey
- Phase II Survey
- Conversion Option Assessment
- Preliminary Schedule and Budgetary Estimates
- Future Work

Project Description

- Background : Act 125 requires upgrade, conversion, or sewer connection of all cesspools by 2050 unless exempted
- Project Objectives:
 - 1) Confirm the existing lots with cesspools
 - 2) Assess options of connections to the public sewer
- Scope of Work:
 - Identification and survey of the DHHL lots with cesspools in three basins at Waianae, Nanakuli and Waimanalo
 - Assessment report





Source: Hawaii Statewide GIS Program - On-site Sewage Disposal Systems
Lots without dot: connected to public sewers or undeveloped

Onsite Sewage Disposal System (OSDS) Classes

Class 1: Soil treatment

Class 2: Septic tank

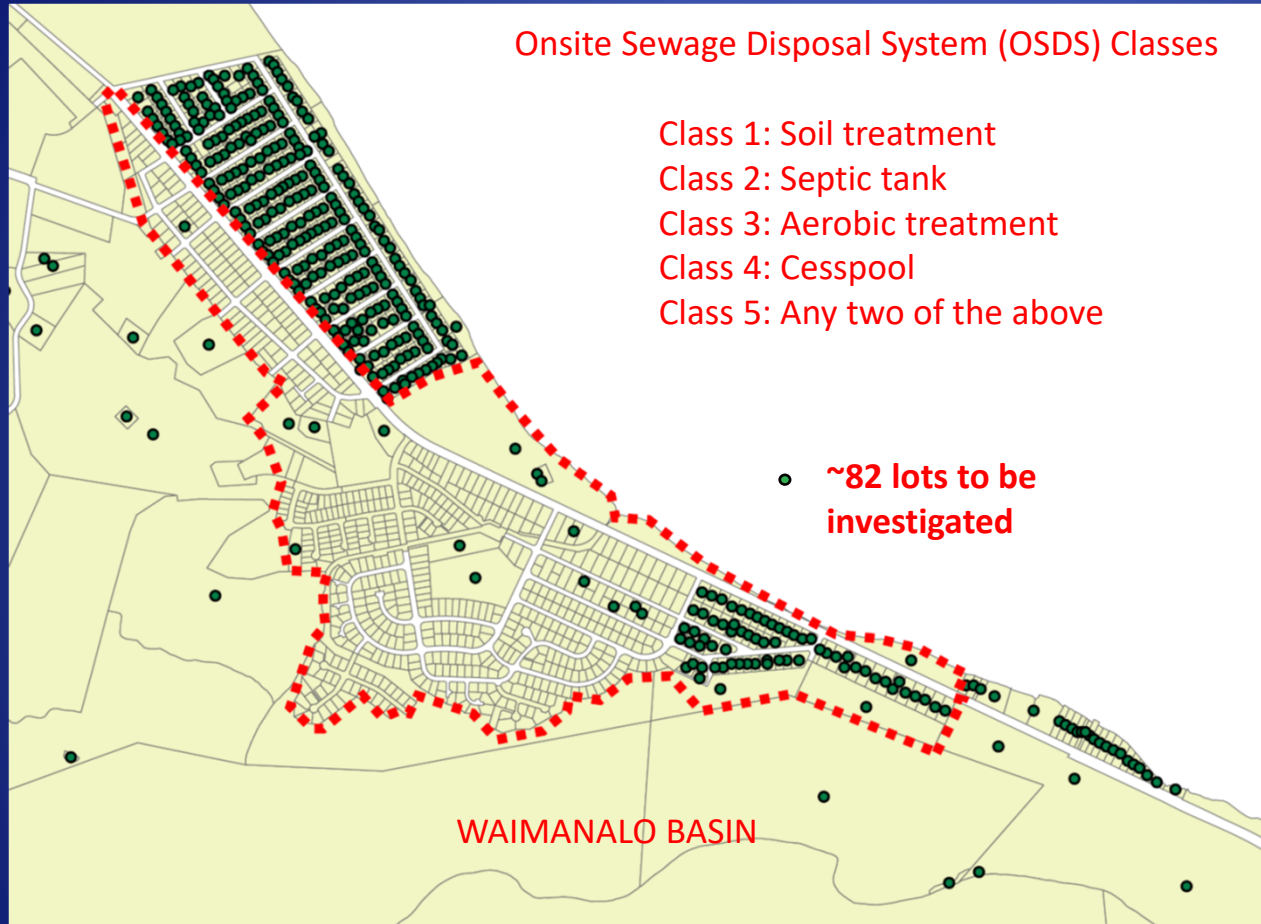
Class 3: Aerobic treatment

Class 4: Cesspool

Class 5: Any two of the above

~82 lots to be investigated

WAIMANALO BASIN



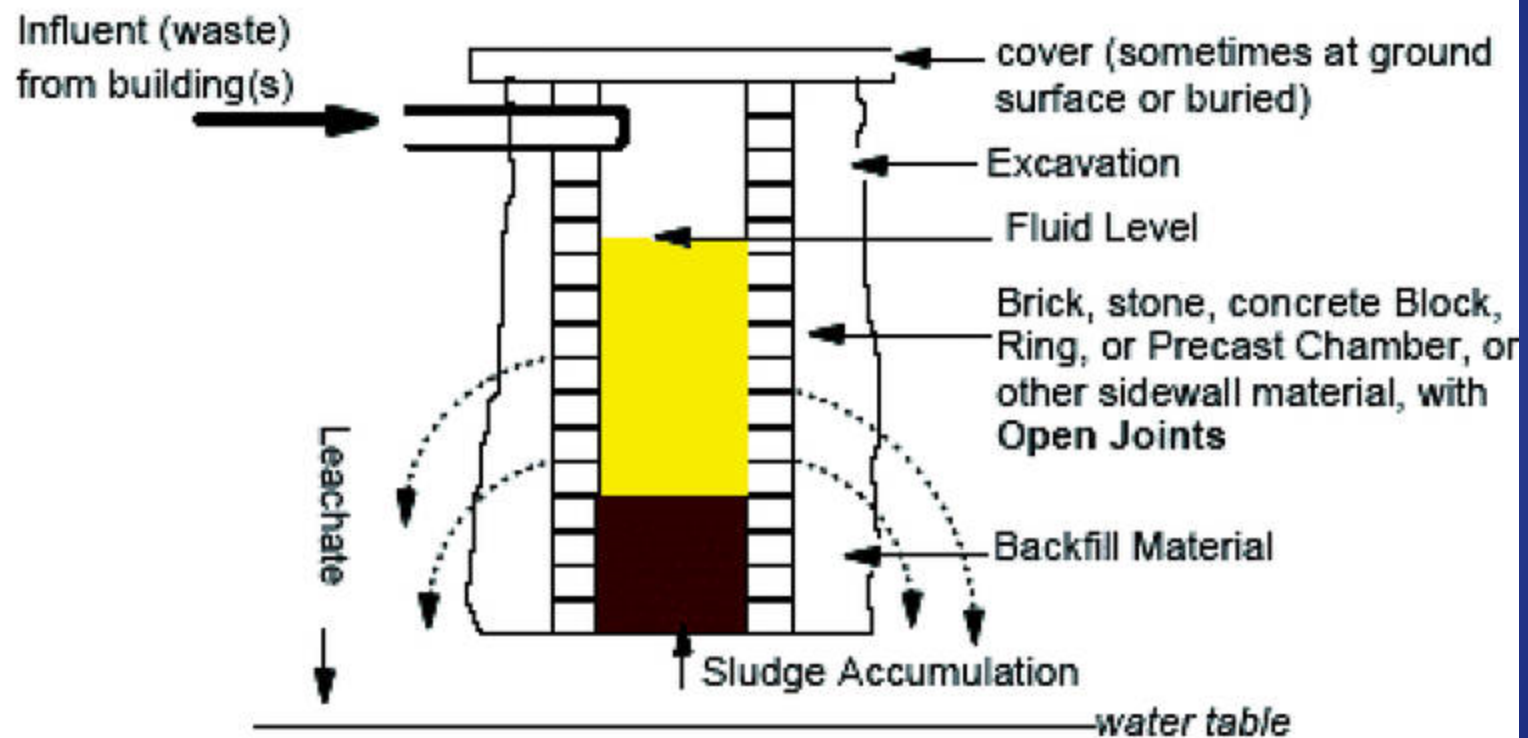
Project Area Categories
per HDOH:

Waimanalo: Priority 3
(Potential to impact
sensitive waters)

Waianae and Nanakuli:
Priority 4 (Impacts to
be fully analyzed)

Source: Hawaii Statewide GIS Program - On-site Sewage Disposal Systems
Lots without dot: connected to the public sewer or undeveloped

Typical Cesspool



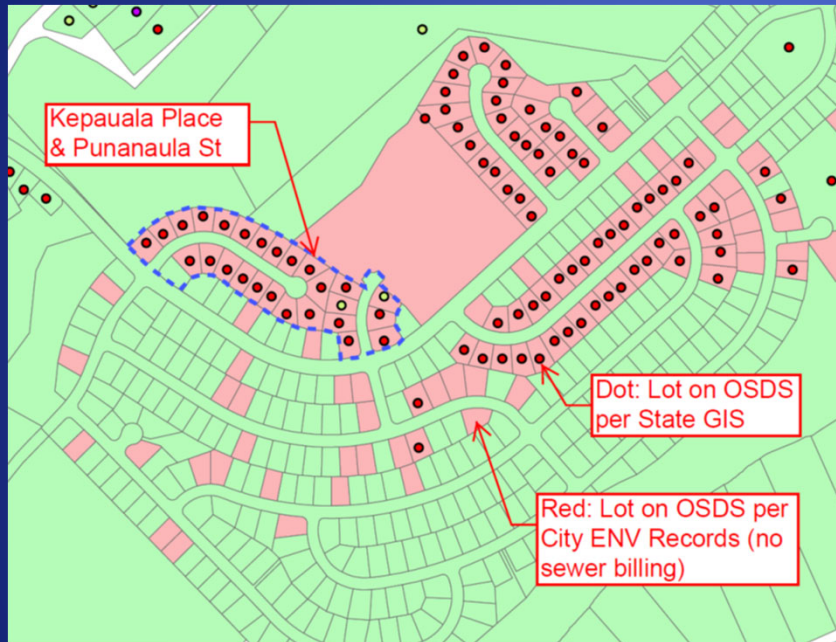
Project Approach

- Phase I
 - Background research
 - Public notification
 - Field verify OSDS lots and identify cesspools
- Phase II
 - Phase II topographical survey of cesspool lots
 - Connection option assessment
 - Design for sewer connection: gravity sewer or low pressure sewer system (LPSS) connection - not in scope yet

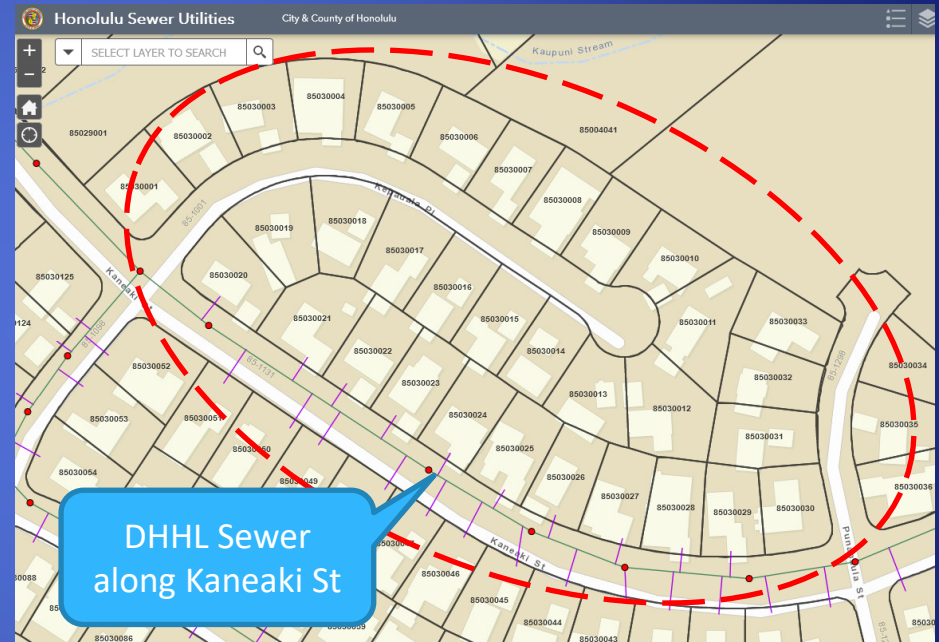
Phase I Survey

- Pre-survey desktop research to identify OSDS lots
 - State GIS database
 - State DOH records
 - City GIS database
 - BWS billings
- **Phase I Field Survey** to verify cesspool lots
- HDOH is updating its database, so actual numbers of cesspool lots could be much different from what the State GIS map shows

Pre-survey Desktop Research



Waianae Subdivision Results



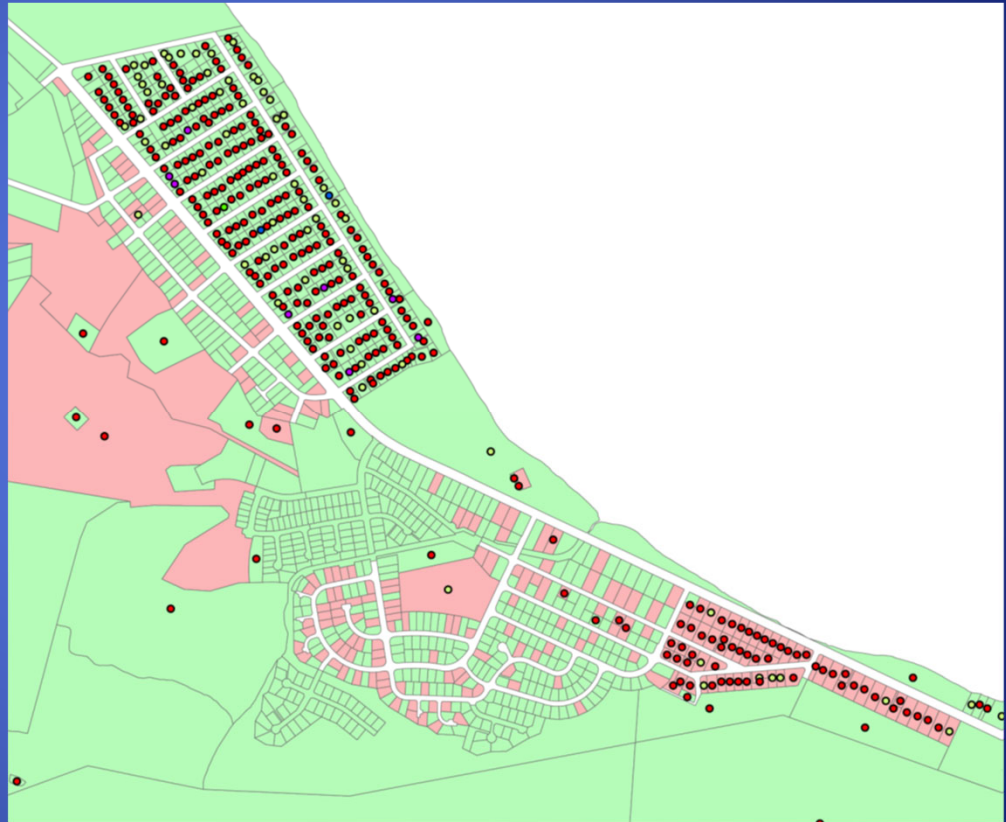
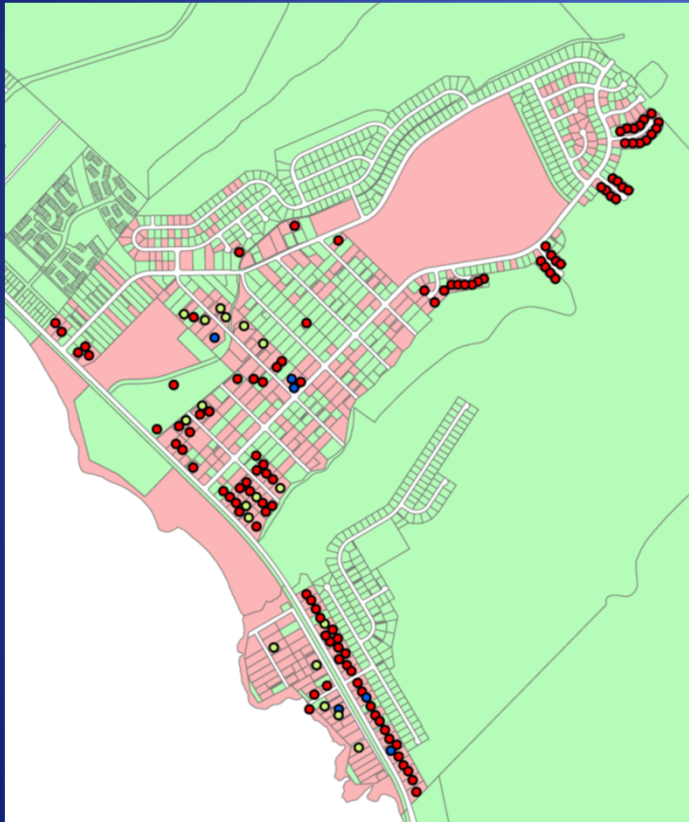
Kepaula Pl & Punanaula St

Pre-survey Desktop Research

Notes:

1. A parcel with a sewer lateral installed doesn't mean that parcel is connected to the sewer system
2. State GIS Map is dated 2008
3. No sewer billing could also be due to vacant land or government owned facilities
4. Field verification is necessary

Nanakuli and Waimanalo Results



Phase I Field Survey

- Public Notification Letter: inform lessees of the project
- Questionnaire:
 - Check boxes for preliminary OSDS information
 - Contact information for survey scheduling
 - Right of entry agreement
- **Phase I Field visit** after receiving the questionnaire back from the lessees
- Successful project progress is highly dependent on cooperation from the lessees

Notification Letter

Dear Lessee:

Subject: DHHL Oahu Cesspool Assessments
Survey Notification, Questionnaire, and Right of Entry Agreement
85-1076 Kepauala Place, TMK: 85030001

Hawaii State Act 125 requires upgrade, conversion or sewer connection of all cesspools in the State before 2050 unless exempted. The Department of Hawaiian Home Lands (DHHL) plans to conduct a cesspool assessment in your area for feasible options to connect the existing cesspooled lots to a public sanitary sewer system. After they are connected, existing cesspools will be disconnected, and the sewage discharged from those lots will be collected and transported to a public wastewater treatment plant for treatment and disposal. This will significantly improve public health, water quality and the environment. DHHL will install the sewer pipe from the homestead property line to a public sewer nearby at no cost to the lessees.

This letter is to inform you that our project team has determined that your homestead property is not currently connected to a public sewer system and may be served by cesspool(s) or other type of onsite sewage disposal system (OSDS). A Phase I field survey will be performed at your property to identify the locations of cesspool(s) and the location of sewer pipes connecting the dwelling units to the cesspool. Phase I survey may take about 15 to 30 minutes, including walk around the property and interview with the lessees.

After the Phase I survey is done, a Phase II topographic survey will be performed to determine feasible connection options to a public sewer nearby. The DHHL requests you to grant our survey team the right of entry into your property for both phases and provide a safe and unobstructed access allowing passage of equipment and personnel to perform the required survey. Phase II field survey may take up to 2 hours. Please clear any obstacles that may prevent or delay the completion of the survey. Design and construction will follow the Phase II survey.

Please fill out the attached pre-survey questionnaire. Please check proper boxes, provide the contact information, indicate the best days/time for the survey team to visit your property, sign and return the questionnaire to DHHL within 30 days of receiving this letter. The information provided will be used by the project team to arrange/schedule both Phase I and Phase II field surveys.

If you have any questions, please call Mitchell Kawamura, Project Manager, Land Development Division, at 620-9278.

Mahalo for your cooperation.

Sincerely,

Stewart T. Matsunaga, Acting Administrator
Land Development Division

Questionnaire

CESSPOOL QUESTIONNAIRE

1. Check applicable boxes

☐ My property doesn't have active cesspool(s) or other onsite sewage disposal system (OSDS).

SKIP the following if you check the box above. Go to 2 directly.

☐ My property has active cesspool(s) or other type of OSDS.

☐ I don't know what type of OSDS I have at my property.

☐ Concurrence for DHHL and Consultant Team to access property for the OSDS survey.
(for both Phase I and Phase II field survey)

a. OSDS location (check one):

☐ Front yard ☐ Back yard ☐ Side yard ☐ I don't know

b. My property has (check those applicable):

☐ Fence/Wall ☐ Gate ☐ No gate ☐ Watchdog(s)

2. Information for Field Survey Schedule Arrangement

a. Contact person's name: _____

b. Property street address: _____

c. Mailing Address: _____
(if it is different from the property street address)

d. Phone: _____ Email: _____

e. Best day and time to visit: _____

*During the visit the survey team will interview the lessee, asking questions relating to cesspools.

3. Owner Grants the project team the right of entry to perform the required survey

Owner's name (print): _____

Sign: _____ Date: _____

Check boxes

Contact
information

Entry
agreement

Phase I Field Visit

- Confirm/verify the information provided by the lessees
- Determine the general location of the cesspools (backyard, front yard, etc.). The information will be used to plan the Phase II Field Survey
- **Entry assistance from DHHL is very critical for a successful cesspool survey based on the experience from the previous sewer cleanout survey**

Entry Assistance from DHHL

- Experience from the previous sewer cleanout survey
 - Undeliverable mails
 - Dogs and/or locked gates (inaccessible)
 - Lack of response from the lessees resulted in multiple trips
 - Low percentage of sewer cleanouts being surveyed
- DHHL Assistance: Hand deliver the letter and/or accompany the survey team to visit the lots with access issues

Phase II Survey

- Topographical survey of cesspool lots
 - Critical information: lateral inverts at the cesspool and all cleanouts in the property, especially the ones next to the building
- Phase II field survey form
 - Interview lessees
 - Pictures
- Entry assistance from DHHL required

Phase II Field Survey Form

Existing On-site Sewer Disposal System (OSDS) Field Survey

Date/Time: _____ Record No.: _____

TMK: _____ Location (circle one): Waianae Nanakuli Waimanalo

Property Owner: _____ Contact Info _____

Property Address: _____ City: _____

Engineer: _____ Contractor: _____

Weather (circle one): Sunny Clear Cloudy Shower Other _____

Lot Occupied? (circle one) Yes Vacant No House Other _____

OSDS Found? (circle one) Yes No If Yes, Access Port Provided? (circle one) Yes No

Number of Access Ports: _____ Port Size (in): _____

OSDS Location (circle all that apply): Frontyard Backyard Next to Bldg Other _____

Right of Entry Issue (circle all that apply): None Fenced Gated Dogs Other _____

Questions for Homeowner to Answer

Is this property on OSDS or on Public Sewer? (circle one) OSDS Public Sewer Unknown

If OSDS is found, is OSDS still in service? (circle one) Yes No (Abandoned) Unknown

Number of Living People: _____ Number of OSDS units: _____ Total volume: _____ Gal Unknown

Does your house have a basement? Yes No If Yes, does it have sink or toilet? Yes No

How many sewer cleanouts in your property? _____ (Please open all to measure their inverts)

Solids pumped out every (circle one): <6 6-9 9-12 12-24 >24 Other _____ (month) Unknown

Does the OSDS unit have an overflow pipe to public sewer? (circle one) Yes No Unknown

OSDS Type (circle one): Cesspool Septic Tank Aerobic Unit Other _____ Unknown

Best Day/Time for Future Visit _____

Contact (name/phone) _____ / _____ Email _____

Mailing Address _____

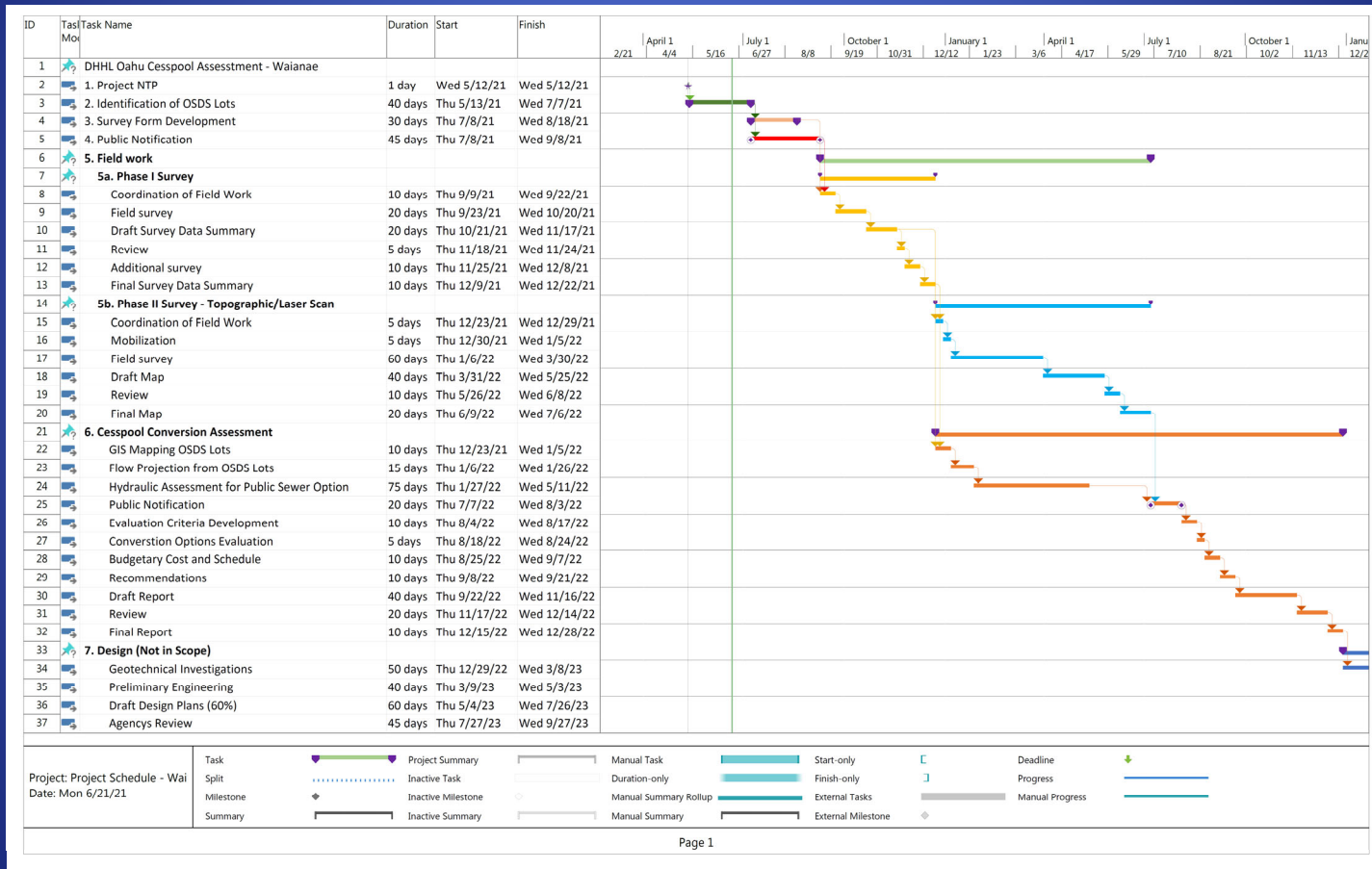
Notes:

1. Sample data form to reflect the information to be collected.
2. Form to be filled out electronically and stored in a Cloud server
3. Some data fields will be prefilled using the data collected from the Phase I Survey

Conversion Option Assessment

- Evaluation of connection options
 - Gravity sewer connection to the public sewer
 - Small lift (packaged) pump station
 - LPSS connection to the public sewer (for the lots located lower than the public sewer)
 - Individual wastewater systems (not in scope and more study required; will discuss briefly)

Waianae Schedule - Preliminary



Waianae Schedule - Preliminary

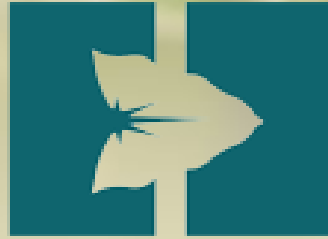
ID	Task Name	Duration	Start	Finish																									
					2/21	April 1	4/4	5/16	July 1	6/27	8/8	October 1	9/19	10/31	12/12	January 1	1/23	April 1	3/6	4/17	5/29	July 1	7/10	8/21	October 1	10/2	11/13	Janu	12/2
38	Public Notification	45 days	Thu 9/28/23	Wed 11/29/23																									
39	Prefinal Design Plans (90%)	90 days	Thu 11/30/23	Wed 4/3/24																									
40	Prefinal Specs (90%)	30 days	Thu 4/4/24	Wed 5/15/24																									
41	Prefinal Cost (90%)	20 days	Thu 5/16/24	Wed 6/12/24																									
42	Prefinal Review	45 days	Thu 6/13/24	Wed 8/14/24																									
43	Permits including NPDES NOI-C	20 days	Thu 8/15/24	Wed 9/11/24																									
44	Final contract document	15 days	Thu 9/12/24	Wed 10/2/24																									
45	8. Bidding services (Not in Scope)	35 days	Thu 10/3/24	Wed 11/20/24																									
46	9. Contract award (Not in Scope)	40 days	Thu 11/7/24	Wed 1/15/25																									
47	10. Construction services (Not in Scope)	275 days	Thu 1/16/25	Wed 2/4/26																									

- Estimated Time (subject to change pending access to property)
 - Research + Public Notifications + Phase I Survey: 7 months
 - Phase II Survey: 7 months
 - Assessment: 12 months
 - Design: 12 months (not in scope)
 - Construction: 12 months

ID	Task Name	Duration	Start	Finish
38	Public Notification	45 days	Thu 9/28/23	Wed 11/29/23
39	Prefinal Design Plans (90%)	90 days	Thu 11/30/23	Wed 4/3/24
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- Estimated Time (subject to change pending access to property)
 - Research + Public Notifications + Phase I Survey: 7 months
 - Phase II Survey: 7 months
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 - Design: 12 months (not in scope)
 - Construction: 12 months

MAHALO!



HAWAIIAN HOME LANDS

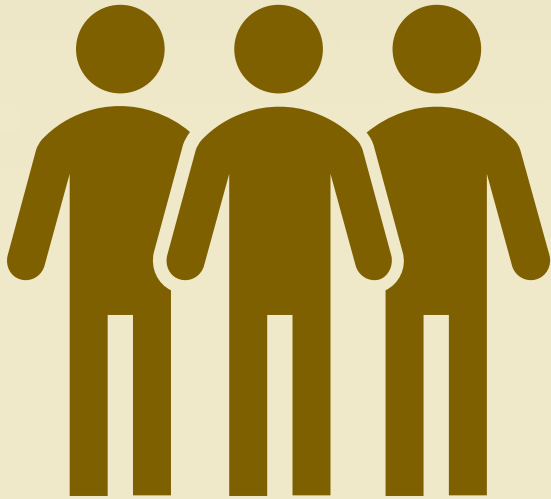
HAWAIIAN HOMES COMMISSION • DEPARTMENT OF HAWAIIAN HOME LANDS

**Beneficiary Consultation Reports
on two (2) Proposed
Community Based Renewable Energy
Solar Project in Kalaoa and Kawaihae
G-5: Kalaoa
G-6: Kawaihae**

Beneficiary Consultation Meetings

Kawaihae:

- 187 Kawaihae Lessees
- BC Mtg Dec. 8, 2020—11 lessees, 2 HECO
- BC Mtg July 26, 2021



Kalaoa:

- 975 Lessees and Applicants
- 2 regional plan priority projects
- BC mtg July 13, 2021—introduced selected developer
- 4 lessees

AGENDA and PURPOSE FOR MEETING


Part I: Provide Information

1. Why is DHHL Involved in Renewable Energy?
2. How does DHHL get Involved in Renewable Energy?
3. Overview of the process and approvals; opportunities for beneficiary input
4. HECO's "Community Based Renewable Energy" program: what it is, how it works, how can the community benefit?

Part II: Presentation by Nexamp

Part III: Discussion

Closing: Next Steps



Why is DHHL Involved in Renewable Energy?
Why in Kawaihae and Kalaoa? Why now?
How does it work?

Why is DHHL Involved in Renewable Energy?

- **2009 DHHL's Energy Policy:** to enable native Hawaiians to lead efforts to achieve energy self-sufficiency and sustainability.
- **2015 State law:** requires electric utilities to produce 100% of their electricity from renewable energy sources by the year 2045. This created the need and demand for renewable energy.
- **We have needs--Renewable Energy development on HHLs can generate revenue to develop new homesteads and deliver community benefits to the homestead community**
- **DHHL Trust lands that have excellent renewable energy resources (Solar, Wind, Hydroelectric resources)**

Hawaiian Home Lands Trust

Kawaihae:

- 10,150 acres
- Leeward Kohala Mountains
- Sea Level to 4,600 ft.

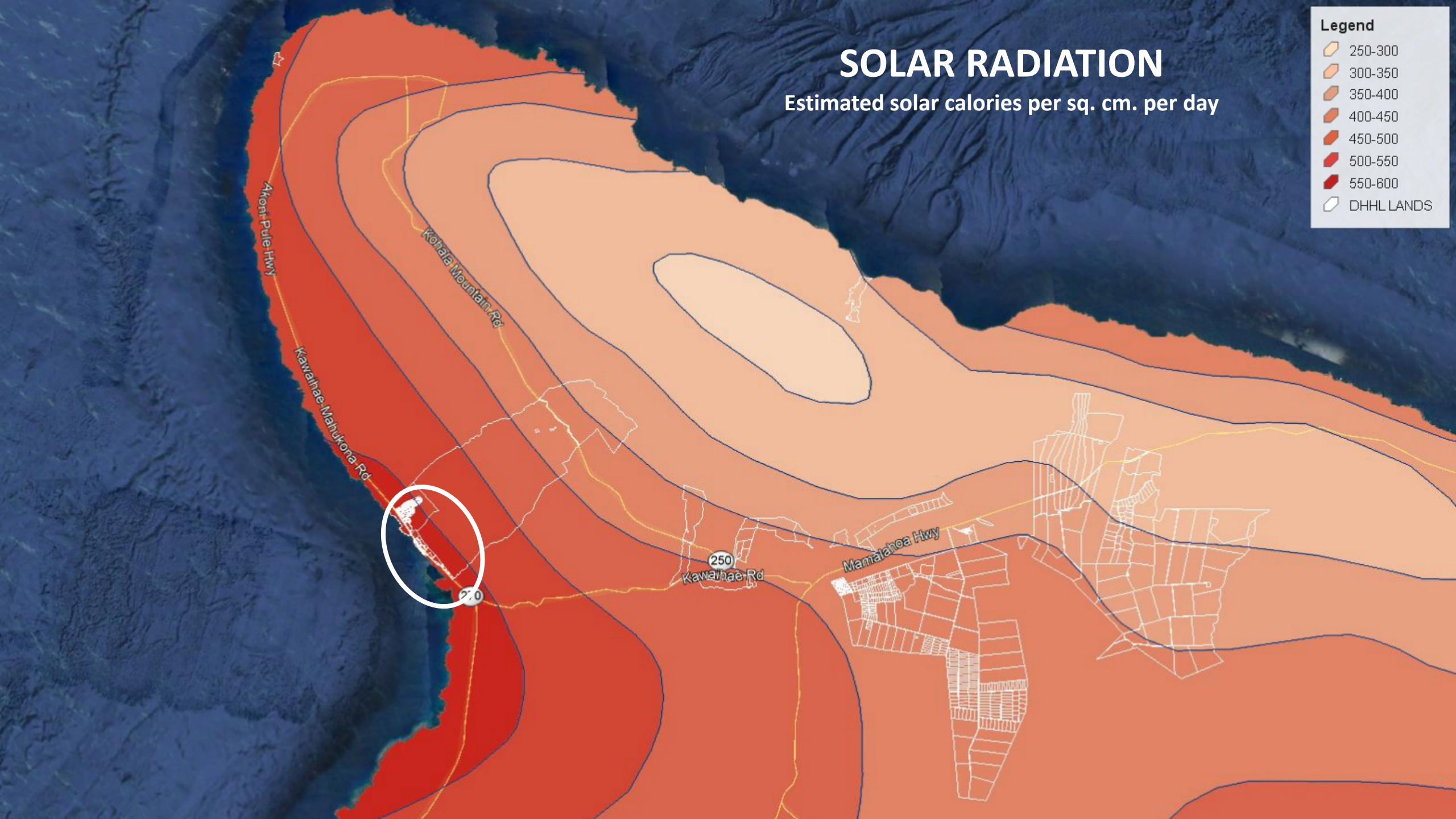


SOLAR RADIATION

Estimated solar calories per sq. cm. per day

Legend

- 250-300
- 300-350
- 350-400
- 400-450
- 450-500
- 500-550
- 550-600
- DHHL LANDS



ISLAND PLAN LAND USE DESIGNATIONS

Legend

Commercial

Community Facility

General Agriculture

Industrial

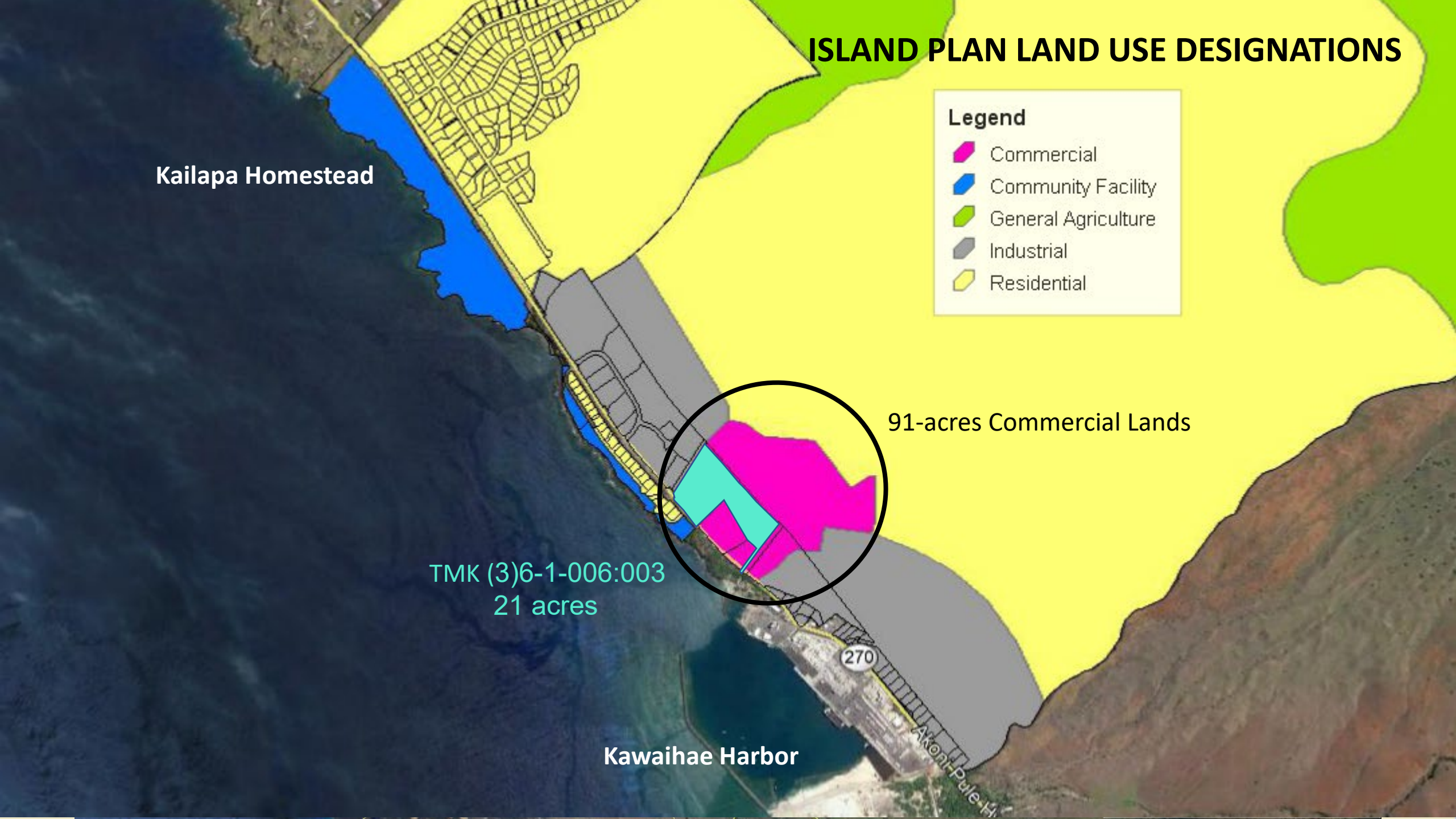
Residential

Kailapa Homestead

91-acres Commercial Lands

TMK (3)6-1-006:003
21 acres

Kawaihae Harbor



Project Site

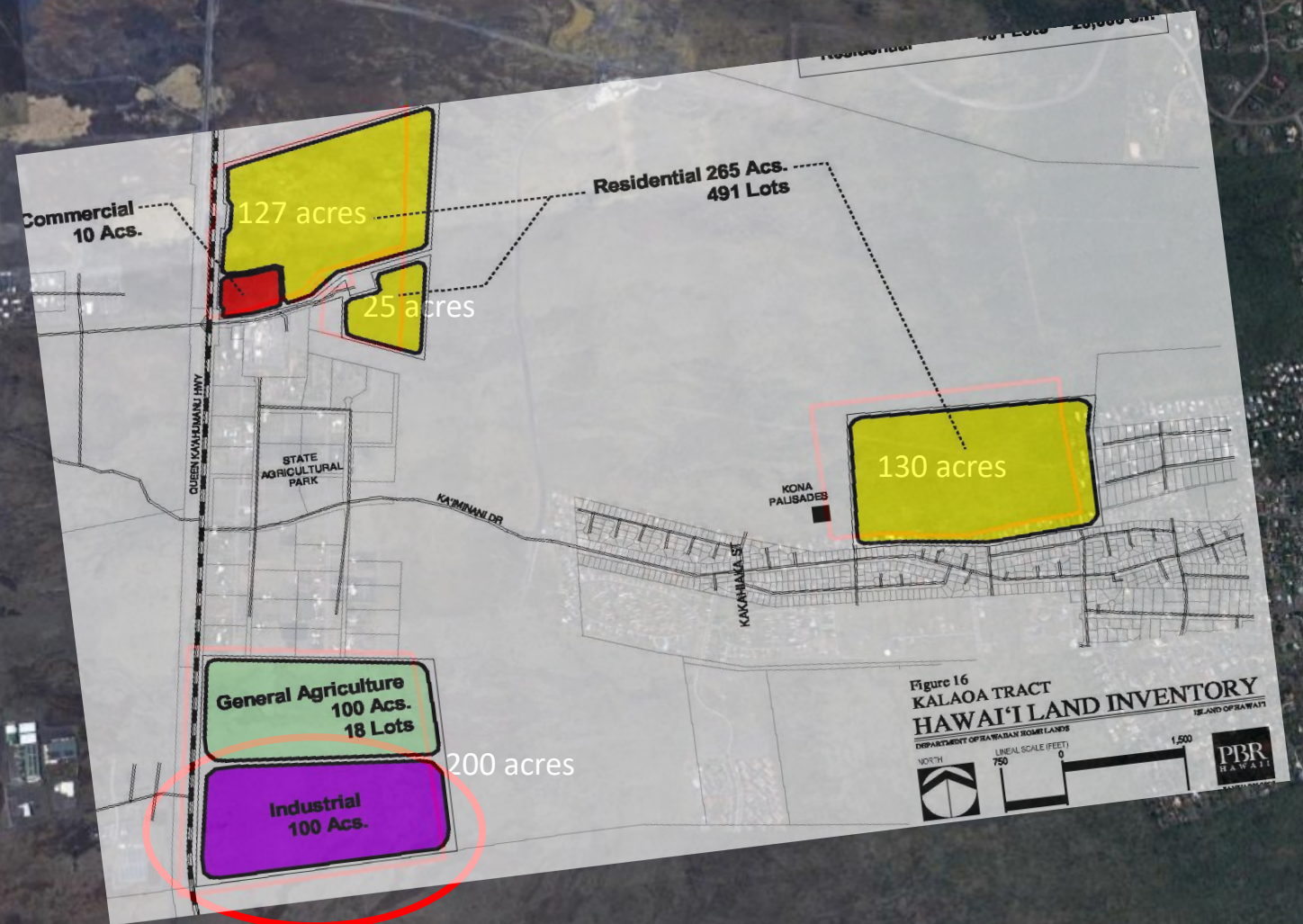
Akoni Pule Hwy

270

Kaewa Pl



DHHL Kalaoa Lands



DHHL Kalaoa Industrial Lands

Keāhole Airport

Ka'iminani Dr.

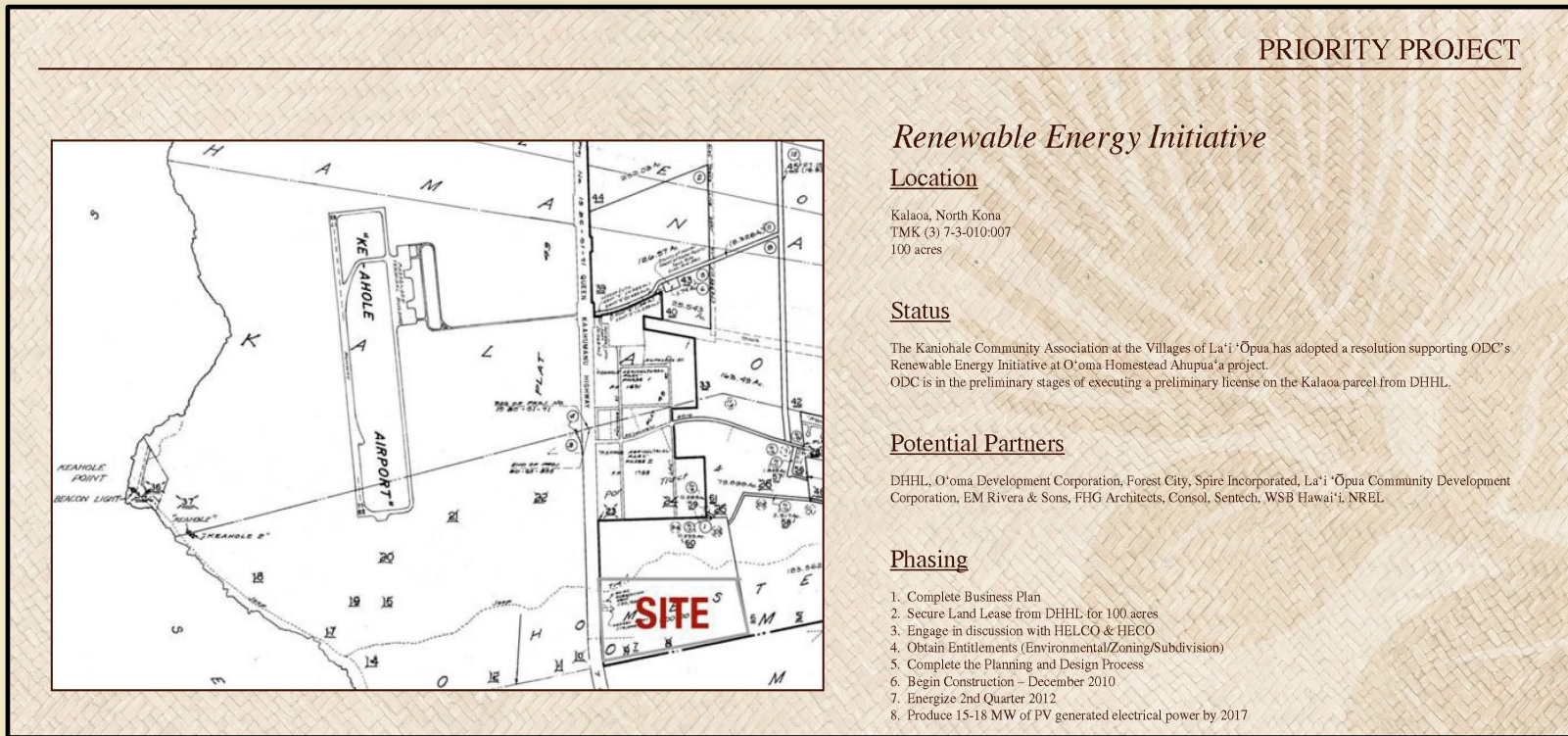
NELHA

PROJECT AREA
100 acres



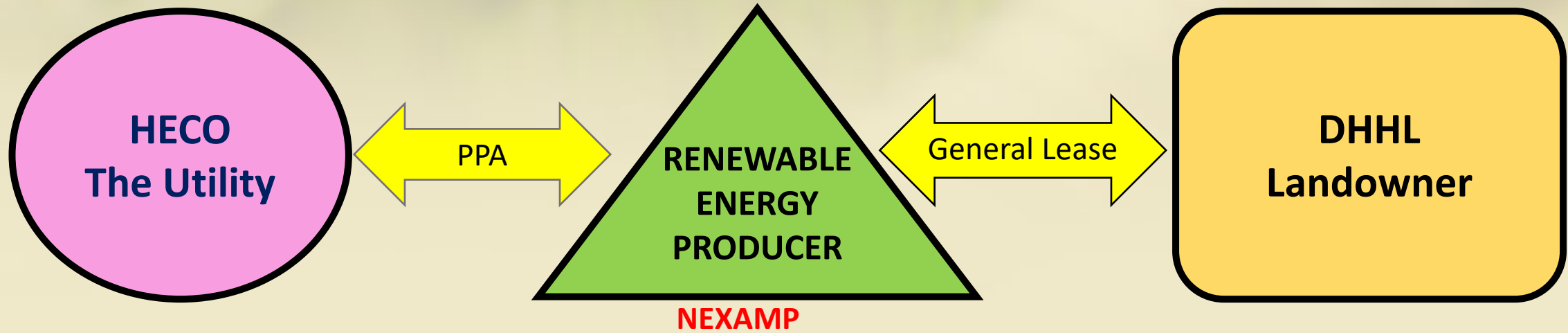
2009 and 2020 Regional Plan Priority Projects

Renewable Energy Initiative



- To increase energy self-sufficiency within the region.
- To provide benefits to the community.
 - a. Benefits from the project that goes to the community
 - b. Training and professional development to provide job opportunities for beneficiaries.

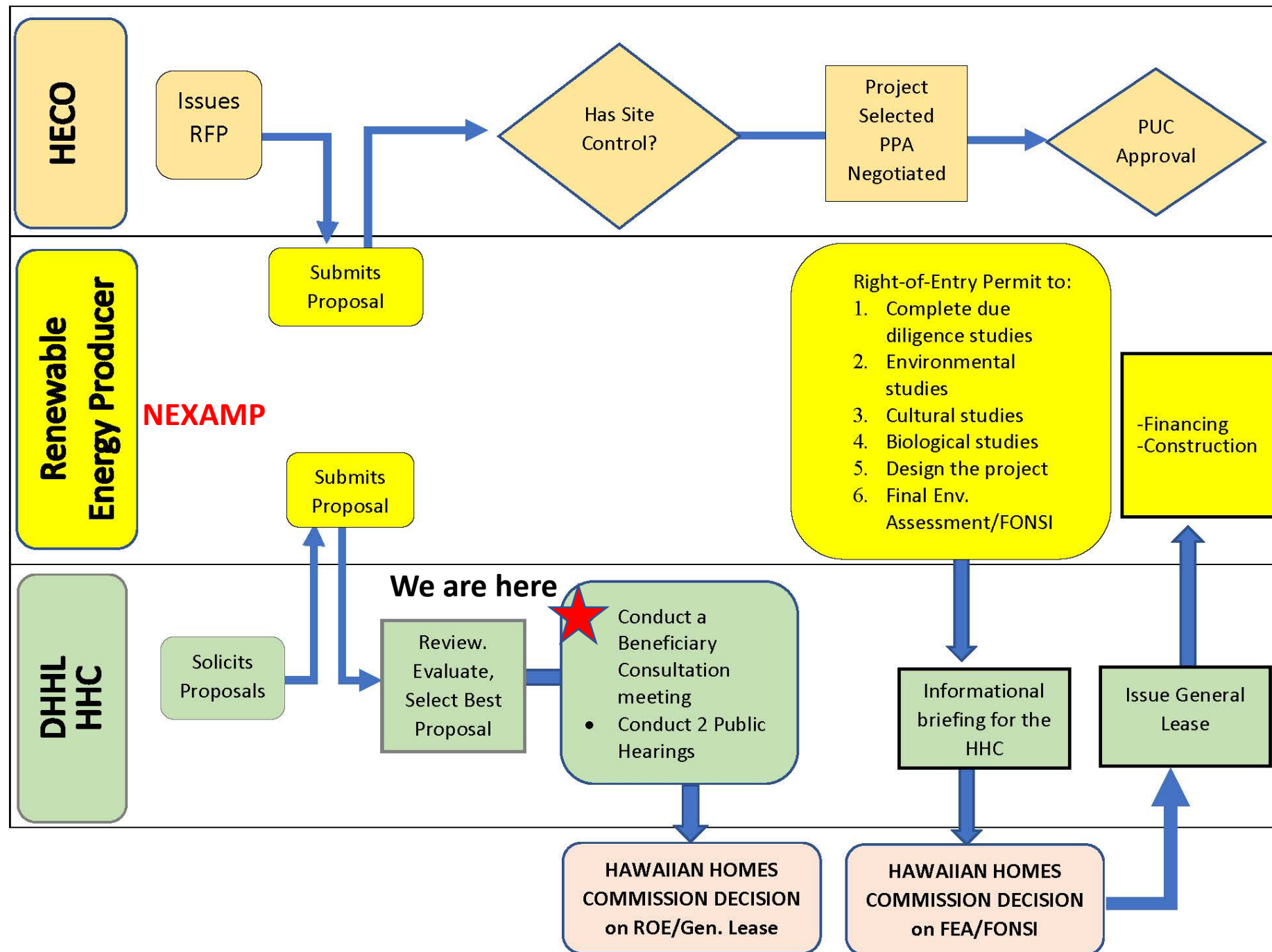
How Does DHHL Get Involved in Renewable Energy Development?



- Needs to be 100% renewable by 2045
- They buy energy from RE producers
- Process starts with a Request for Proposals
- Competitive Process
- Power Purchase Agreement (PPA)

- Have the technology
- Needs land with the renewable energy resource [DHHL]
- Needs the utility to buy the power they produce [HECO]

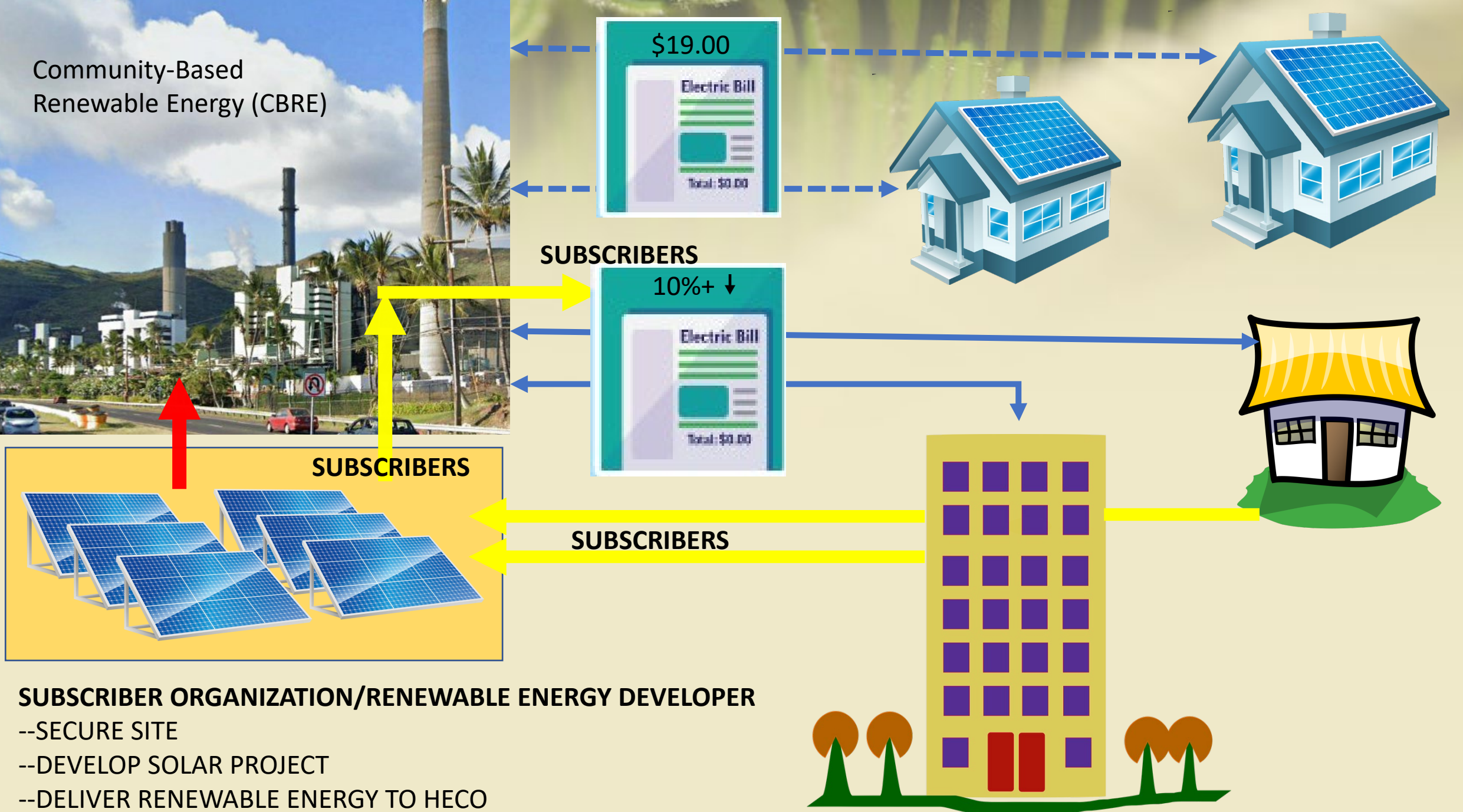
- **Land/Renewable energy resource:**
 - General Lease revenue
- **Beneficiaries:**
 - Minimize adverse impacts
 - Maximize community benefits
 - Regional Plan Projects
 - Workforce Training
 - Lower electricity bills



The background of the slide is a blurred photograph of green plants, possibly ferns, with a light green and yellowish tint. A horizontal band of slightly darker green color runs across the middle of the slide, serving as a background for the title text.

HECO'S Community Based Renewable Energy Initiative

Community-Based Renewable Energy (CBRE)





Part II: Presentation by Nexamp Solar, LLC Kawaihae Community Solar Introduction



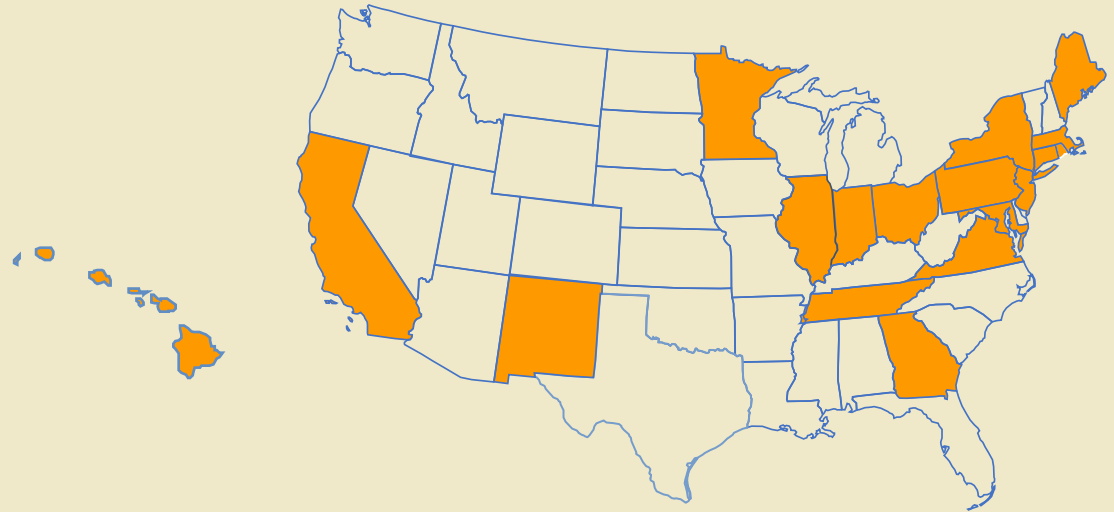
Speaker: **Julie Beauchemin**,
Nexamp Director of Business Development, Hawai'i

Agenda

- 01 Company Introduction
- 02 Hawai'i Renewable Energy Progress
- 03 CBRE 2 Program Summary
- 04 Proposed Solar Layout
- 05 Community Benefits
- 06 Nexamp's Community Solar Subscription
- 07 Outreach Capabilities
- 08 Comments, Q & A

About Nexamp

- Founded in 2007 (**14 years experience** in solar) by two high school friends
- Actively managing or developing solar projects in **18 territories** (12 are Community Solar markets)
- Over 200 projects built totaling **370+ Megawatts**
- Long-term owner and operator
 - › Landowner has 1 contact throughout project life
- Strong financial partner, Diamond Generating Corporation, a Mitsubishi subsidiary





Current Status of Hawai'i Renewable Energy

- 1 in 3 homes in Hawai'i have rooftop solar
- State goal of **100%** renewable energy utilization by **2045**
- Hawaiian Electric achieved **34.5%** renewables across its territory by end of 2020
 - Waste-to-energy, biomass, geothermal, hydro, wind, biofuels and solar, utility-scale and customer-sited rooftop systems.

Community-Based Renewable Energy (CBRE) Phase 2

- HECO program overseen by the Public Utilities Commission
- HECO Self-Build team and developers bid in projects, HECO selects projects
- Phase 2 objectives:
 - › To address significant renewable demand among customers without rooftop solar
 - › To help compensate for previous renewable energy programs falling short of goals
 - › To give low-to-moderate income customers access to renewable energy
 - › To speed up market development and customer access to CBRE benefits
 - › To address near-term capacity needs because of fossil fuel station retirements

Community-Based Renewable Energy (CBRE) Phase 2

Kawaihae and Kalaoa Projects would be a Low-to-Moderate Income (LMI) Project

- Based on Low (80% AMI) Income Limits by U.S. Dept of House & Urban Dev (HUD)*

FY 2021 Income Limit Category	Persons in Family							
	1	2	3	4	5	6	7	8
Low (80%) Income Limits (\$)	47,950	54,800	61,650	68,500	74,000	79,500	84,950	90,450
Explanation								

- Per program rule, at least 60% of energy generated must go to LMI homes
- Kawaihae 3.9-Megawatt system can host ~500 homes (~130 homes per Megawatt)
- Kalaoa 8.4-Megawatt system can host ~1,100 homes (~130 homes per Megawatt)
 - If not enough beneficiary homes sign up, rest of power can go to a nonprofit or other association that serves homesteads

Proposed Layout: Kawaihae



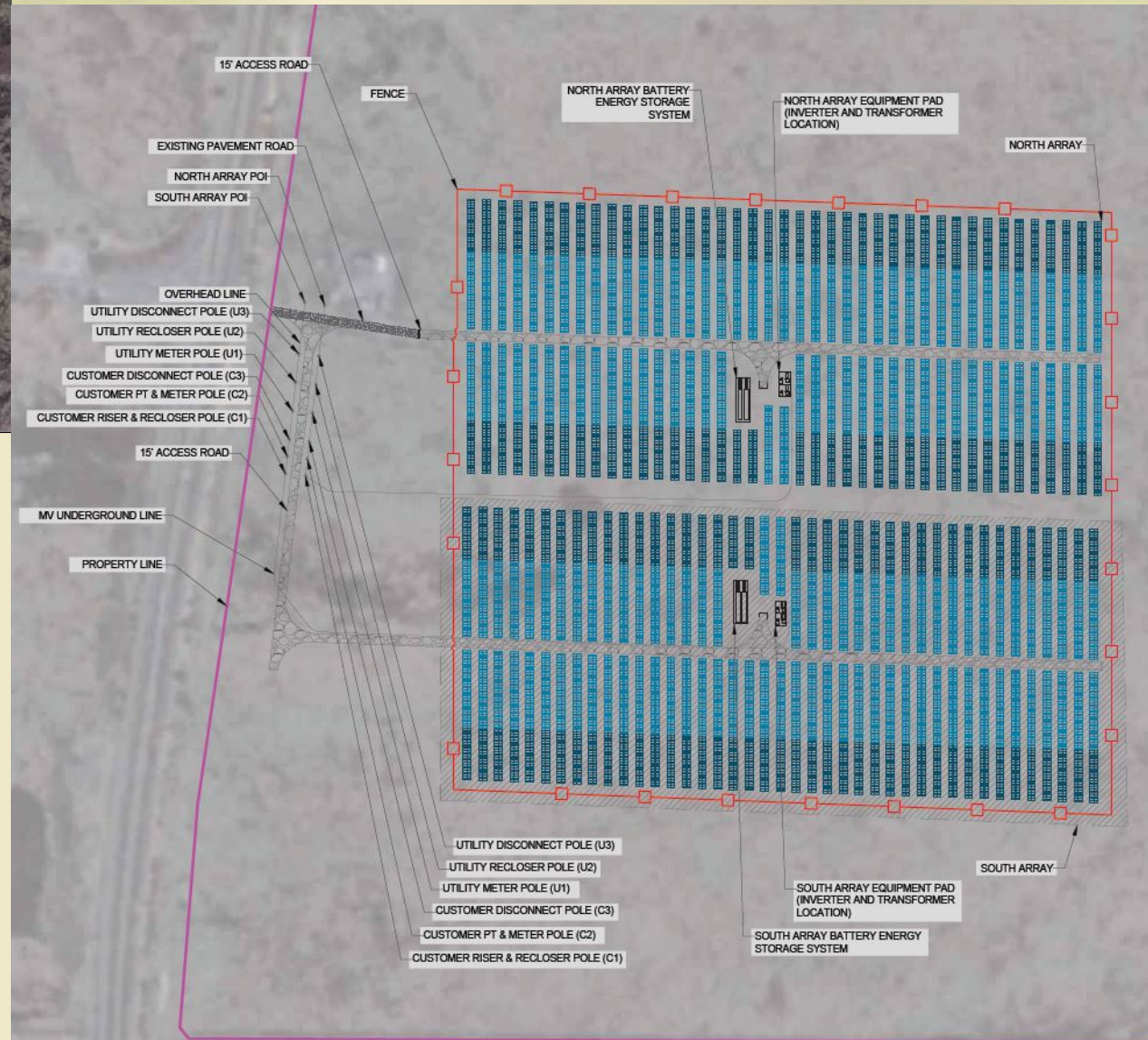
- Mauka of Akoni Pule Hwy
- 3.9 Megawatts + battery storage
- 14.9 acres fenced
- Tracker system & bi-facial panels



Proposed Layout: Kalaoa



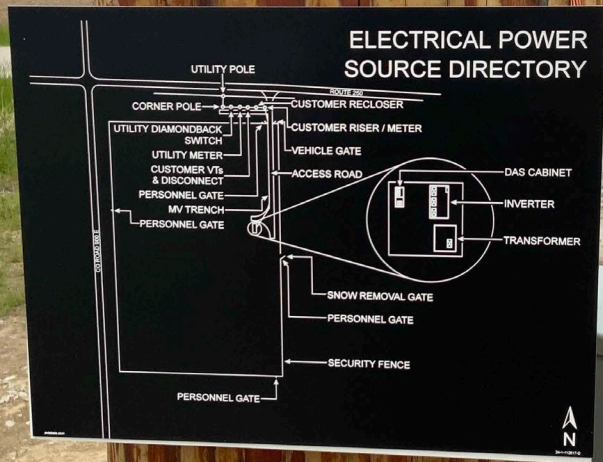
- Behind existing substation
- 8.4 Megawatts + battery storage
- 27.6 acres fenced
- Tracker system & bi-facial panels







CAUTION:
MULTIPLE SOURCES
OF POWER
LOCKABLE AC GENERATION
SOURCE DISCONNECT



UTILITY SERVICE DISCONNECT
FOR PV SYSTEM
PV INVERTER AC DISCONNECTS
LOCATED AT INVERTER NEXT TO
TRANSFORMER



Battery



10/11/20, 8:34 AM

Monitoring System & Inverter



10/11/20, 8:34 AM



Source: Oahu Grazers



Compatible ground-mounted solar dual uses:

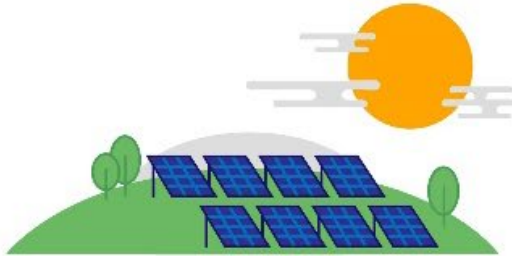
- Sheep farm
- Pollinator habitat
- Certified wildlife habitat
- Hand-picked crops not needing direct light
- Other uses?

Community Benefits

- ✓ **Discounted electricity to beneficiaries for 20+ years**
 - Savings depends on final CBRE 2 rules; likely 10-15% monthly discount
 - Priority to DHHL beneficiaries
- ✓ **Upgraded electrical infrastructure** in community
- ✓ **Local workforce opportunities**
 - Workforce training program for trade jobs in Construction and Maintenance
- ✓ **Donations** to nonprofit organizations that serve the homesteads
- ✓ **Local food production or other agriculture** suggested by beneficiaries
- ✓ **Low-impact use that conserves land** for future agriculture/other uses

community solar with nexamp

subscribe to a local
Nexamp solar farm



add clean, solar energy
to your utility grid



receive credits from your
utility and save on your
annual electricity cost



The Nexamp Community Solar contract has:

- ✓ **Guaranteed discount**
- ✓ **No upfront costs**
- ✓ **No cancellation fees**
- ✓ **No long-term commitment; can cancel with 90 days' notice**
- ✓ **No credit check or FICO score requirement**

Utility Portal: communityenergyhawaii.com



Hawaiian
Electric

[HOME](#)

[VIEW PROJECTS](#)

[GET STARTED](#)

Welcome

Please sign into your account.

[LOG IN](#)

[Forgot Username?](#)

[Forgot Password?](#)

New Customer?

Get started by [creating an account](#)

Local Outreach

Nexamp is committed to the following outreach activities to ensure project success:

- **Information sessions** with Nexamp representatives in a public space
 - For project updates and community solar information
- **Direct mail** to beneficiaries, paid for by Nexamp
- **Printed ads** in local publications, paid for by Nexamp
- **Promoted posts** on Facebook, paid for by Nexamp
- **Flyers** with program information, provided by Nexamp



Outreach Materials

Direct Mail



Dear <Name>,

We're excited to let you know that Nexamp's community solar farms located in the Town of Rochester are currently being constructed and we anticipate they will be going live soon. We'd like to thank the town for their support as we work to bring clean, renewable energy to the local community.

As a reminder, the solar farms are located off Route 209 near Samserville Road and off Airport Road and will serve approximately 1,100 homes.

Nexamp's farms are part of New York's community solar program, which allows residents to subscribe to a share of a local solar farm and go solar without rooftop panels. Subscribers receive credits on their electrical utility bill for the energy produced by their solar farm share.

Participants in the farm will receive a 10% discount on the credits they receive, helping them reduce their electric bills by up to 10% annually. With Nexamp, there's no upfront cost or long-term commitment - you can cancel your share with no penalties. Signing up for this program will not affect your relationship with your utility, Central Hudson Gas & Electric.

While the farms are almost full, we're reserving an additional 100 spots for residents of the Town of Rochester who enroll by July 10th.

To learn more or start the subscription process, please visit www.rochester-solar.info or call Nexamp at 800-945-5124.

Nexamp will also be hosting information sessions in the area for you to learn more about the benefits of community solar. Please bring a recent electricity bill to the meeting so that Nexamp can estimate the size of the solar farm share you will need.

Tuesday, June 25th
7:00pm
New Paltz Community Center
3 Veterans Drive
New Paltz, NY 12561

Wednesday, June 26th
7:00pm
Wawarsing Town Hall
108 Canal Street
Ellenville, NY 12428

We look forward to seeing you there.

Zaid Ashai
President & CEO, Nexamp

Mike Baden
Town of Rochester Supervisor

Printing and postage costs for this letter were paid for by Nexamp, Inc.

Flyer

community solar with
nexamp

Go Solar. Save Money.
No Rooftop Panels Required.

Community Solar programs allow utility customers to tap into solar energy and save on their annual electricity cost without having to install solar panels.




THE BENEFITS:

 **No installation** of any equipment on your roof or property.

 **No upfront costs** or long-term contracts.

 **Save up to 10%** on your annual electricity cost.

 **Support solar power** and demonstrate your commitment to renewable energy.

Visit www.rochester-solar.com to learn more or call 800-945-5124

Nexamp - 101 Summer Street, Boston, MA 02110 - solarize@nexamp.com

Facebook Post



COMMUNITY SOLAR INFO SESSION

JAN 24 Rochester Community Solar Info Session
Public · Hosted by Nexamp

★ Interested ✓ Going

Thursday, January 24, 2019 at 6:30 PM – 7:30 PM
about 1 month ago

15 Tobacco Rd, Accord, NY 12404-5026, United States [Show Map](#)

Hosted by Nexamp [Message Host](#)

About Discussion

Write Post Add Photo/Video Live Video Create Poll

Write something...

9 Went · 37 Interested
Share this event with your followers

Onboarding Kit

- New subscribers receive the kit shortly before credits appear on their utility bills
- Contains a community solar handbook, reusable bag and window decal
- The handbook will be a resource for questions about credits and billing



Most Recent CBRE Phase 2 Schedule

Milestone	Schedule Dates
(1) Draft RFP filed	July 9, 2020
(2) Technical Conference	July 29, 2020
(3) Parties and Participants file Comments by	August 12, 2020
(4) Proposed Final RFP filed	September 8, 2020
(5) Updated RFP Draft filed per Order 37592	March 30, 2021
(6) Parties and Participants file Comments by	April 14, 2021
(7) Proposed Updated RFP filed	May 14, 2021 ¹⁰
(8) Final RFP issued	June 14, 2021 ¹¹
(9) IPP and Affiliate Proposal due date	August 13, 2021 at 2:00 pm HST
(10) Priority List selected	October 12, 2021
(11) BAFOs due	October 19, 2021
(12) Final Award Group selected	February 1, 2022
(13) Contract Negotiations Start	February 8, 2022

RFP = Request For Proposals

IPP = Independent Power Producer

BAFO = Best And Final Offer

NEXT STEPS

2nd Week in October

- Two Public Hearings
- HHC Decision-Making on a Right-of-Entry to conduct due diligence studies and conversion to a General Lease if all requirements met.
- Due Diligence work on-site
- HECO has to release the RFP for CBRE
- Nexamp will respond to RFP—Secure Selection

More Information, More Questions?

MORE INFORMATION: on our website at:

<https://dhhl.hawaii.gov/po/Hawaii-island/>

--Powerpoint, meeting notes, recording of the meeting

MAHALO!

BENEFICIARY DISCUSSION

- Questions on the Presentation?
 - Questions on the Process?
 - Questions about the Site?
 - Questions about HECO's CBRE Program
- Input on how the Project could benefit your homestead community?
 - What kind of projects would benefit the homestead community.
 - What Regional Plan Priority Projects would you like to see supported by
 - IF there was only one RP PP that could be supported by this RE devmt, what do you think it should it be?



Renewable Energy.
Sustainable Development.

**BUILDING A
BETTER WORLD WITH
RENEWABLE ENERGY**

Barbers Point Solar Project

Hawaiian Homes Commission

September 21, 2021

Agenda Item G-7

Draft Environmental Assessment

Informational Briefing



Purpose of Briefing

- Update the Hawaiian Homes Commission (HHC) on the proposed Barbers Point Solar Project located on DHHL owned lands in east Kalaheo
- Present summary highlights of the Draft Environmental Assessment (DEA)
- Notify the HHC prior to the publication of the DEA for public comment next month.

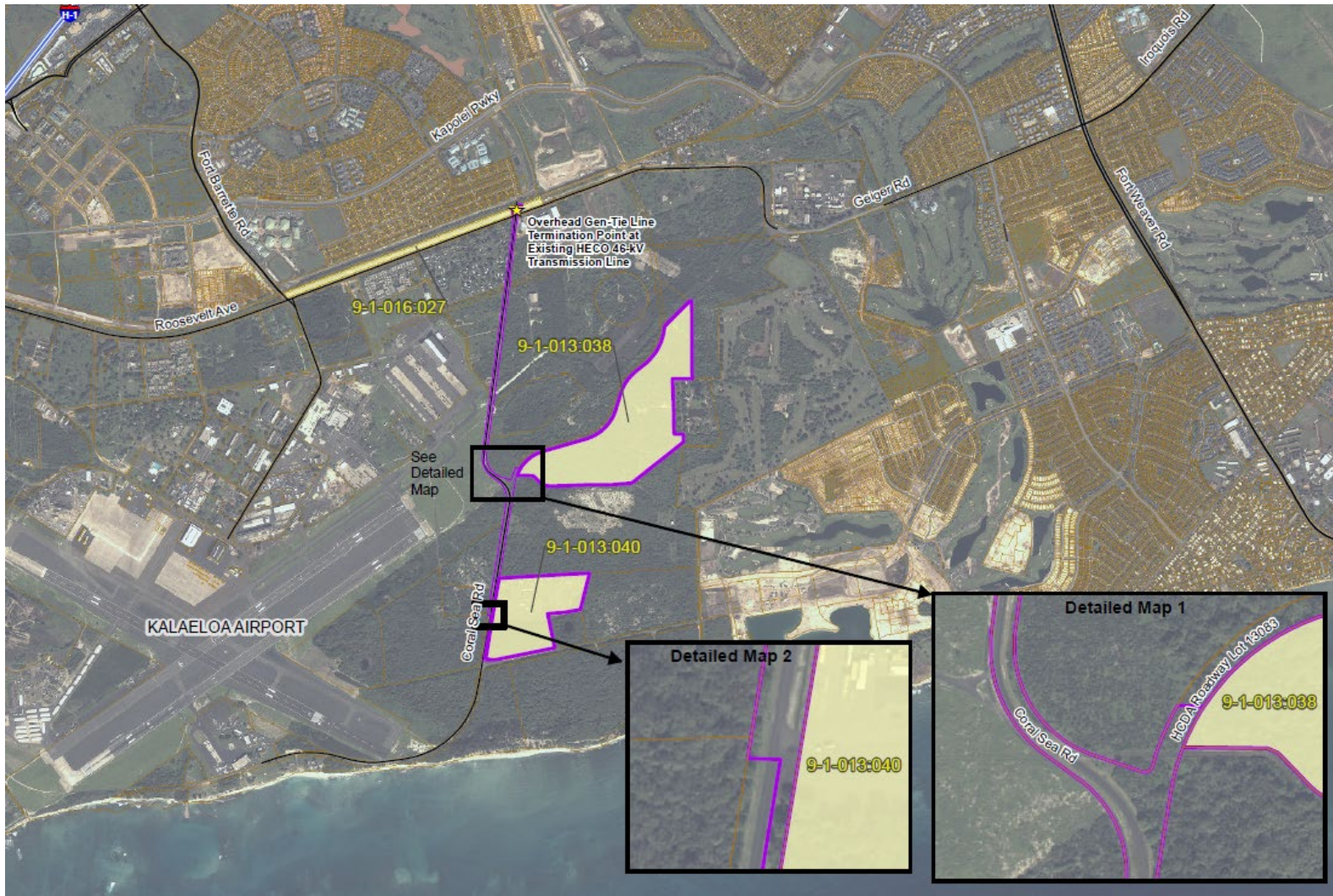


Presentation Outline

- Project Description
- Project Background
- Summary of Highlights from the Draft Environmental Assessment (DEA)
- The Criteria for Finding of No Significant Impact to satisfy Chapter 343, HRS
- Project Schedule



Barbers Point Solar Project Description

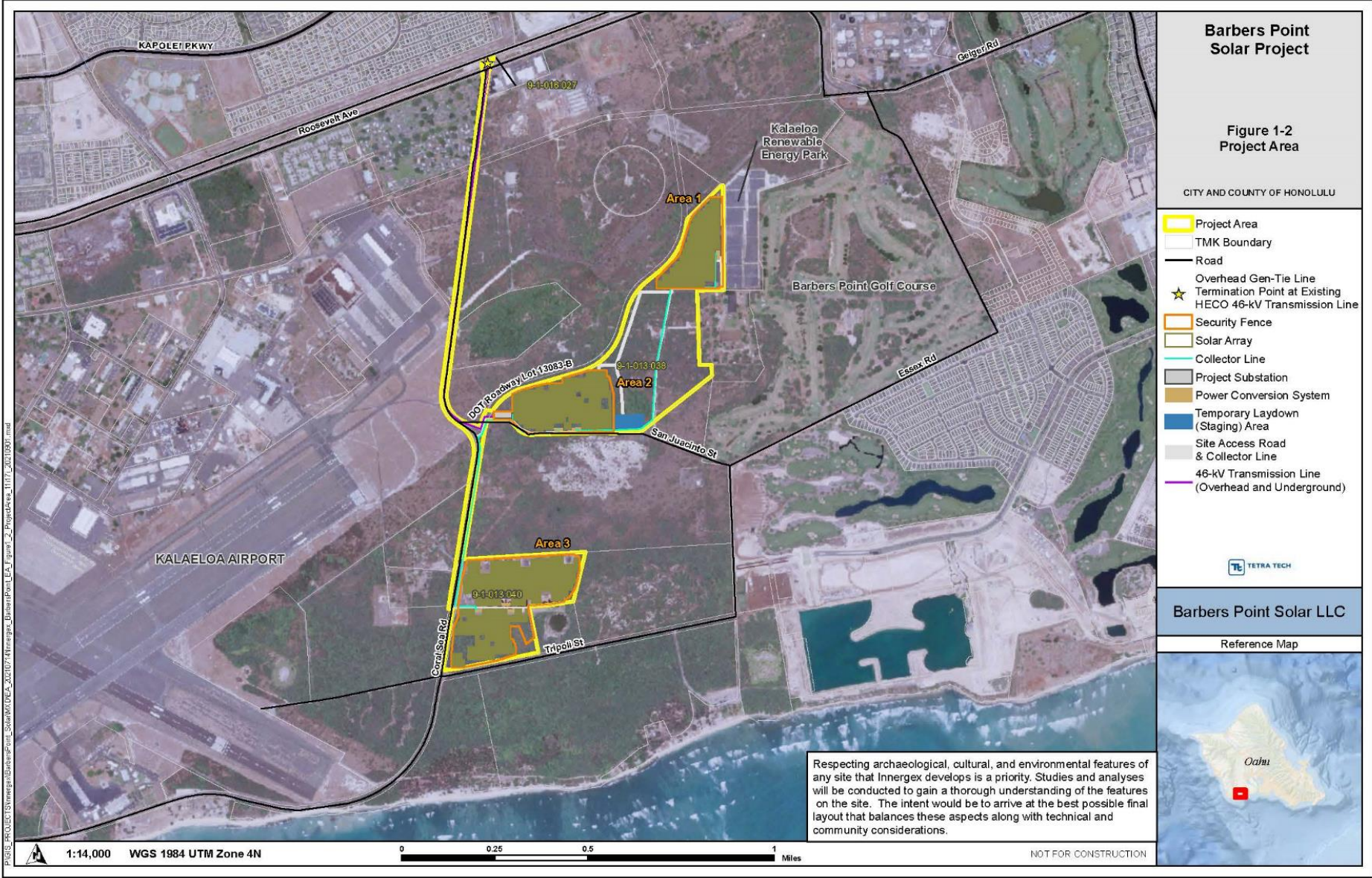


The solar + battery energy storage project is proposed on DHHL owned TMKs 9-1-013:038 and 9-1-013:040, in east Kalaheo.

The project also includes a generation tie-line in DOT right-of-way associated with Coral Sea Road ending at TMK 9-1-016:027 where it will connect into the HECO grid.

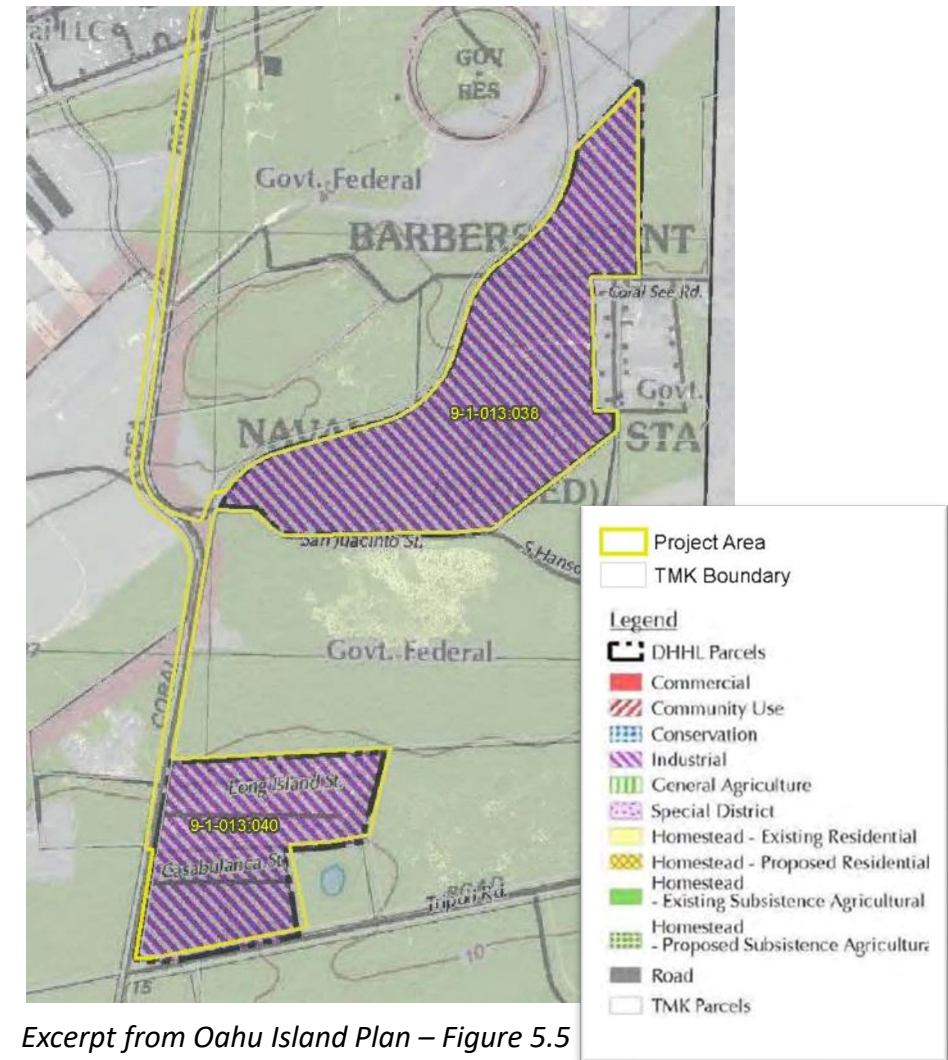


Barbers Point Solar Project Layout



Project Background

- In 1996, Parcels 38 and 40 transferred from the U.S. Navy to DHHL as part of settlement agreement under Hawaiian Home Lands Recovery Act.
- DHHL's 2010 Kapolei Regional Plan designated the two DHHL parcels in the Project area as "Mixed Use" and intended for revenue generation as the parcels lack infrastructure for residential development.
- DHHL's 2014 Oahu Island Plan designated the lands makai of Roosevelt Avenue within Kalaeloa for industrial use.
- The Project will directly support Objective 2 of the Ho'omalūō Energy Policy
- The Project will support Energy Partnership Charter DHHL and HECO entered into in August 2009.



Excerpt from Oahu Island Plan – Figure 5.5



Project Background

- In 2018 and in 2019, DHHL ran consecutive competitive solicitation processes for the disposition of these sites by general leases for renewable energy projects.
- Innergex/Barbers Point Solar, LLC was selected as the final applicant for the proposed project site and to continue with the leasing process that included consultation meetings with DHHL's beneficiaries and public hearings.
- In July 2019, the HCC authorized the Chairman to issue a Right-of-Entry permit to Innergex Renewables USA LLC.



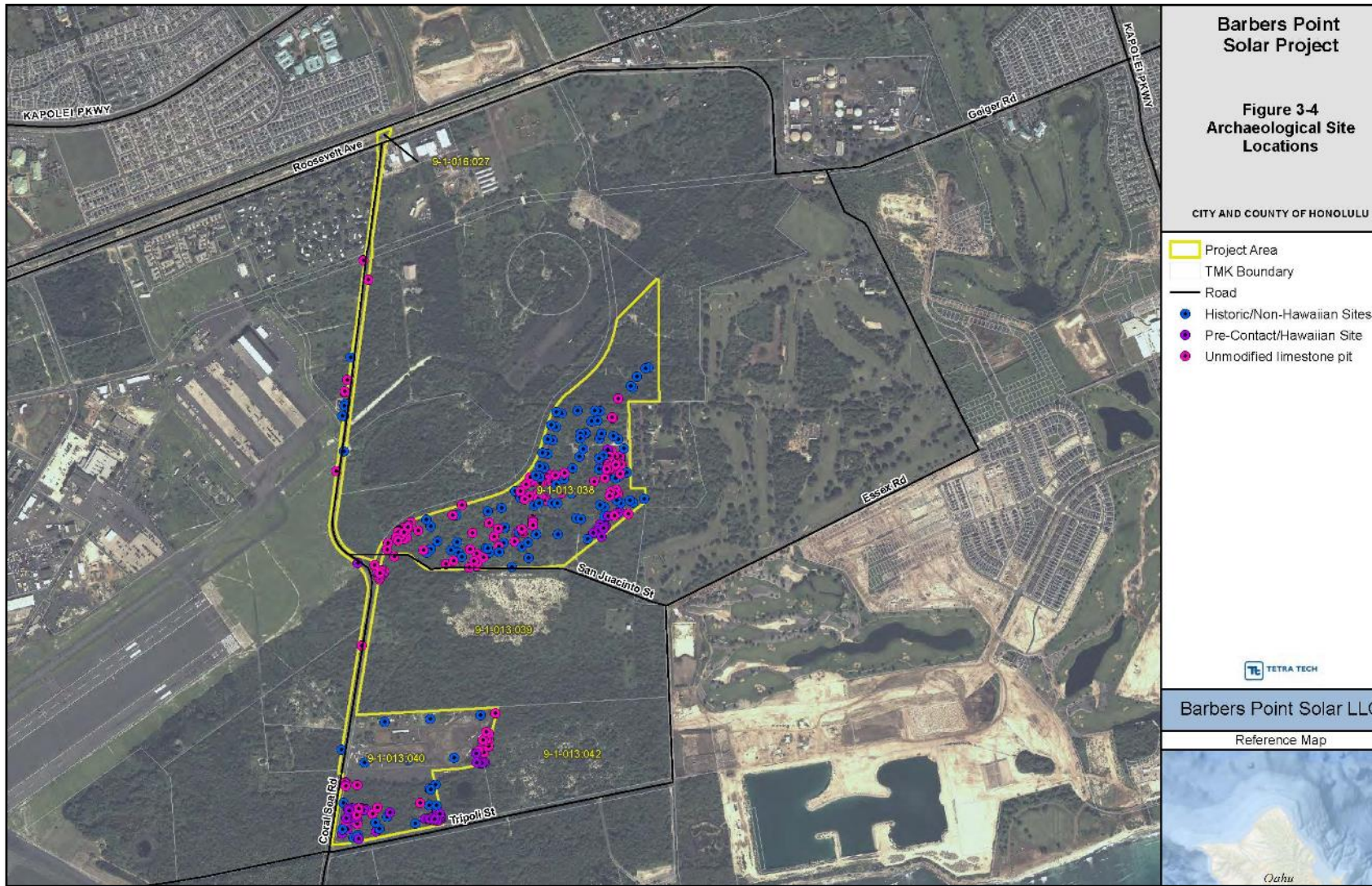
Highlights from Draft EA

Technical studies conducted:

- Archaeological Inventory Survey (AIS), a draft of which has been submitted and is pending review by the SHPD in compliance with HRS Chapter 6E and HAR §13-284;
- Cultural Impact Assessment (CIA) to evaluate the potential effect of the Project on cultural beliefs, practices, and resources, including traditional cultural properties;
- Biological Resources Survey and Supplemental 'Akoko Survey;
- Visual Impact Assessment Report;
- Glare Analysis Report; and
- Transportation Impact Analysis



Historic Properties

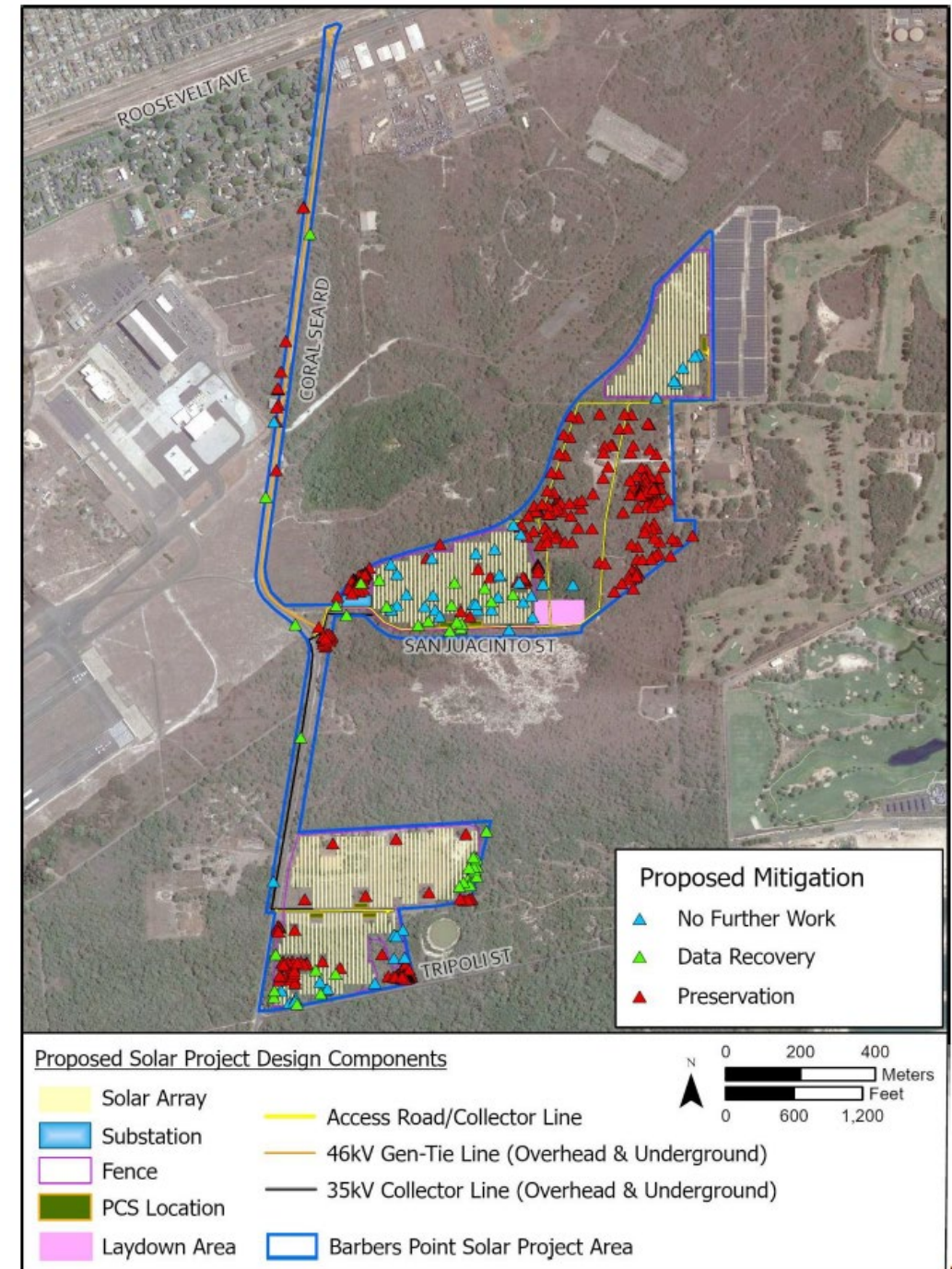


17 historic properties documented by AIS containing 438 archaeological features.

Two concentrations of traditional Hawaiian historic properties: southern portion of Parcel 40 and southeastern portion of Parcel 38.

Historic Properties – Potential Effect and Minimization Measures

- 348 of 438 total documented features to be preserved.
- Project will potentially impact 90 of the 438 documented features.
 - 42 features mitigated through data recovery.
 - 48 features (all associated with military infrastructure from mid-20th century) adequately documented; recommended for no further work.
- Effect determination for the Project is anticipated to be “effect, with proposed mitigation commitments.”



Cultural Resources

- Cultural Impact Assessment prepared.
- Scoping letters sent to 15 individuals who are affiliated with a range of organizations.
- 6 responded with one providing e-mail correspondence and two kama‘āina and/or kūpuna participating in formal interviews:
 - Mr. Shad Kane
 - Ms. Keala Norman
 - Mr. Mana Caceres
- Site visit occurred June 17, 2021 with three CIA participants.



Cultural Resources

- Archival research and mo‘olelo (oral traditions) indicated that the Kualaka‘i Trail passed near to the Project area.
- Sinkholes in the larger general area were utilized as natural planters for dryland crops, temporary shelters, storage features, and sources of water.
- Kahua (an open place for sports), or makahiki grounds, as well as numerous trails in the area that connected to trails in the Kalaeloa Heritage Park.
- CIA found that no cultural practices have been occurring presently in the Project area from the Pre-Contact era or Post-Contact era periods.



Figure 280. SIHP 50-80-12-05106, Feature 69 modified pit (view to northwest).

Cultural Resources

- Potential for limestone pit features to contain ancestral burials (iwi kupuna) was a shared primary concern of those interviewed for the AIS and CIA.
- Development of an archaeological data recovery program and archaeological monitoring during construction are recommended.
- The cultural descendants who participated in the CIA should be further consulted to develop protocols for the appropriate protection and preservation of sites, and these protocols should be recognized in future land uses and transactions. Their mana'o on procedures for clearing, caring for, and reactivating the kahua would be invaluable as well.



Figure 250. SIHP 50-80-12-05106, Feature 52 modified limestone pit (view to east-southeast).

Biological Resources

- Surveys conducted in 2020 and 2021 including:
 - General Plant and Wildlife Survey
 - Pueo Survey
 - 'Akoko Survey
- Project area has been extensively disturbed and modified by the previous military use, current activities, and the introduction of invasive species, which has resulted in a reduction of native species and suitable habitats for native species.



Biological Resources

- No listed plants observed in the Project area.
- The Project area is dominated by non-native vegetation, measures would be implemented to avoid or minimize impacts to the wiliwili trees on the site and the endangered 'akoko known to occur nearby (off site), implementation of the Project is not expected to have a significant impact on vegetation.
- Most of the wildlife in the Project area is non-native to the Hawaiian Islands, and native habitats have been disturbed by previous activities and the introduction of invasive species, which has reduced the presence of native wildlife.
- Potential impacts and associated mitigation measures specific to listed wildlife species, as recommended by USFWS and DOFAW will be implemented. The Project is not expected to have a significant impact on native or listed wildlife.



Visual Resources

- Due to the Project area's flat terrain and surrounding vegetation, the Project would be discernable at locations adjacent or near the Project site but would not be viewable from surrounding areas.
- The visual impact analysis shows that in many cases the Project will be partially or fully screened by existing vegetation. The Project is expected to have minimal or no significant impact on scenic and visual resources.



Glare and FAA Determination of No Hazard

- A glare analysis was conducted and no glare was predicted for selected observation around the Project area.
- Limited amounts of green glare are predicted at Kalaheo Airport Runways 22L and 22R and the potential occurrence of glare is limited (less than 7.2 percent of annual daylight hours). No yellow or red glare is predicted at any of the receptors. Glare impacts associated with the Project are expected to be minimal.
- FAA conducted an aeronautical study and concluded that the proposed structures do not exceed obstruction standards and would not be a hazard to air navigation.



Transportation and Traffic

- Project construction is not expected to measurably affect overall level of service at the signalized intersections adjacent to the Project area. However, construction could result in temporary, minor, localized impacts to traffic and the roadway network.
- To reduce potential traffic impacts, a traffic management plan for the Project's construction phase will be developed.
- During the operational phase of the Project, impacts on traffic are expected to be negligible given the low frequency and volume of vehicles accessing the Project Study Area for operations and maintenance.



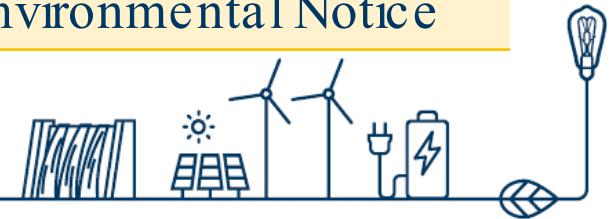
Chapter 343 Significance Criteria

Based upon the analysis completed in the DEA, DHHL staff anticipates a finding of no significant impact for the Project. This determination is based upon the 13 criteria of significance that approving agencies must consider as specified in Hawai'i Administrative Rules 11-200.1-13.



Next Steps for Completing the Environmental Process

October 8, 2021	DEA anticipated to be published in Environmental Review Program's publication of the Environmental Notice
October 8 – November 8, 2021	30-day public comment period on the DEA
October 20, 2021	Virtual Public Open House during comment period
December 2021	Revise DEA per public comments and complete Final Environmental Assessment (FEA)
December 2021	Present FEA to HHC; HHC issues Findings of No Significant Impact (FONSI) declaration for the project
January 2022	HHC FONSI declaration for the project and FEA submitted to the Environmental Review Program for publication in the Environmental Notice



Next Steps for Overall Project Implementation

Permit/Approval	Regulating Agency	Status
HRS Chapter 343 Compliance	DHHL (approving agency)	Draft EA published for public review
Development Permit	HCDA	Application to be submitted following HRS Chapter 343 EA process
Variance	HCDA	Application to be submitted following HRS Chapter 343 EA process
CUP	HCDA	Application to be submitted following HRS Chapter 343 EA process
HRS Chapter 6E Compliance (Historic Preservation Review)	SHPD	Draft AIS submitted to SHPD for review on September 8, 2021
NPDES Permit	DOH, Clean Water Branch	To be obtained prior to construction
Community Noise Permit	DOH, Indoor and Radiological Health Branch	To be obtained prior to construction
Building Permit	DPP	To be obtained prior to construction
Grading and Grubbing Permit	DPP	To be obtained prior to construction
Use and Occupancy Permit	HDOT	To be obtained prior to construction, as applicable
Permit to Perform Work Upon State Highways	HDOT	To be obtained prior to construction, as applicable
Weekly Lane Closure Form	HDOT	To be obtained prior to construction, as applicable
Permit to Operate or Transport Oversize and/or Overweight Vehicles and Loads	HDOT	To be obtained prior to construction, as applicable
Movement of Oversize and/or Overweight Vehicles and Loads Permit	DTS	To be obtained prior to construction, as applicable
Notice of Proposed Construction or Alteration (Form 7460-1)	FAA	To be submitted prior to construction
Notice of Actual Construction or Alteration (Form 7460-2, Part 2)	FAA	To be submitted within 5 days after construction reaches its greatest height

INNERGEX

Renewable Energy.
Sustainable Development.



MAHALO

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 21, 2021

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Rodney K. M. Lau, Administrative Services Officer

SUBJECT: Approval of DHHL Supplemental Budget Requests for
Fiscal Year 2023 (Sufficient Sums Budget)



RECOMMENDED MOTION/ACTION

1. That the Commission approve the FY 2023 Operating and Capital Improvement Program (CIP) budget request (Sufficient Sums Budget) presented below to the Governor for consideration in the Administration's Executive Budget requests to the 2022 Legislature.
2. That the Commission approve the FY 2023 Operating and Capital Improvement Program (CIP) budget request (Sufficient Sums Budget) be presented to the 2022 Legislature.
3. That the Commission authorize the Chairman to adjust the Operating and CIP budget request to make technical adjustments due to minor errors before it is incorporated into the Administration's Executive Budget.

DISCUSSION

For your information is a chronology of DHHL's supplemental budget request for FY 2023.

Article XII, Section 1 of the State Constitution states "The legislature shall make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands...."

On October 19, 2007, several beneficiaries filed a lawsuit against the State and the Hawaiian Homes Commission claiming that the State violated its constitutional duty to sufficiently fund the Department of Hawaiian Home Lands.

On March 9, 2012, the Supreme Court in Nelson I affirmed the Intermediate Court of Appeals judgment in part that the courts can determine what constitutes "sufficient sums" for the DHHL's administrative and operating expenses to carry out the purposes of the Hawaiian Homes Commissions Act, 1920, as amended.

The Supreme Court also determined that "sufficient sums" for (1) development of lots, (2) loans, and (3) rehabilitation projects are political in nature and could not be judicially determined.

Based on instructions from the Supreme Court in Nelson I, a non-jury trial was held on Plaintiff's claims that the State of Hawaii violated its constitutional duty to provide sufficient sums to the DHHL for its administrative and operating budget (Count 1) and the DHHL, the Hawaiian Homes Commission and its commissioners breached their trust duties by failing to seek from the legislature all the funding to which the department is constitutionally entitled (Count 2).

In November 2015, the Circuit Court ordered the term "sufficient" would change over the years, but that for fiscal year 2015-16, the administrative and operating budget of DHHL was \$28 million. The Circuit Court further determined that judgment on counts 1 and 2 would be entered in favor of Plaintiffs and against the State Defendants (as to Count 1) and the DHHL defendants (as to Count 2).

State Defendants appealed the ruling. In *Nelson v. Hawaiian Homes Commission* (February 2018) ("Nelson II", the Supreme Court vacated all Circuit Court's orders and remanded to the Circuit Court. On remand, the Supreme Court gave explicit instructions to the Circuit Court to only "determine whether the State Defendants have provided 'sufficient sums' for DHHL's administrative and operating budget using the only judicially discoverable and manageable standard identified in *Nelson I*, the 1978 baseline of \$1.3 to \$1.6 million, adjusted for inflation." Thus, this Court does not make findings in regard to Counts 1 and 2 of the Complaint and those issues are left undecided. This Court only makes findings and conclusions which would

assist the Court in defining the term "inflation" as used by the Supreme Court in Nelson II.

In September 2020, an evidentiary hearing was held to determine the best method to adjust the 1978 baseline of \$1.3 to \$1.6 million for inflation so that the circuit court could determine the singular issue remanded in Nelson II. In December 2020, the circuit court used the State and Local Government Consumption Expenditures Price Index (SLGC) to determine that "by appropriating over \$17 million for FY 2016, the State Defendants provided "sufficient sums" for DHHL's administrative and operating budget for the 2015-2016 fiscal year using the only judicially discoverable and manageable standard identified in Nelson I: the 1978 baseline of \$1.3 to 1.6 million, adjusted for inflation."

Based on the Article XII, Section I, the Hawaiian Homes Commission, the head of the Department of Hawaiian Home Lands, has a fiduciary responsibility to ask for amounts the Commission considers "sufficient sums" for the Department's administrative and operating expenses.

The Hawaiian Homes Commission request is formulated in two parts:

- a) Administrative and Operation costs relating to the Supreme Court ruling regarding purpose no. 4 of Article XII, Section I. This part also includes existing infrastructure projects with a long-standing history of operational, maintenance, and repair issues that have become capital improvement issues.
- b) Costs aligned with purposes numbers 1, 2 and 3, of Article XII, Section I, of the Hawaii State Constitution relating to: ...(1) development of home, agriculture, farm and ranch lots"; (2) home, agriculture, aquaculture, farm and ranch loans; and (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved..." which the Supreme Court ruled as political in nature and could not be judicially determined.

DHHL Supplemental Budget Requests - Fiscal Year 2023

Administrative and Operating Costs: Purpose 4 of Article XII, Section I

The proposed supplemental budget request for administrative and operating costs total \$81,996,876 for fiscal year 2023. (see Attachment A).

In light of the COVID 19 pandemic, the "sufficient sums" request for fiscal year 2023 was adjusted.

"Personal Services" category costs were based on 206 (FTE) positions as authorized for Fiscal Year 2023, pursuant to Act 88, SLH 2021. 60 positions were reduced from the 266 positions as previously requested in the FB 2019-2021 sufficient sums request to the Legislature. The reduction of the 60 positions does not preclude the department from requesting the 266 positions when the economy recovers. Fringe benefit costs are absorbed by a separate Department of Budget and Finance general fund appropriation. The annual personnel costs request represents an aggregate of the annual base salaries. In the proposed FY 2023 request, DHHL is requesting full funding of the 266 positions.

In the proposed FY 2023 request, the DHHL's fiscal year 2021 budget for the "Other Current Expenses" category was used as a base line and adjusted to exclude costs related to development of homestead lots, loans, and rehabilitation projects. Consequently, the base budget was adjusted for debt service costs, loans, grants in aid and grants. The annual "Other Current Expenses" category totaled \$17,780,378. Attachment A-1 provides the "Other Current Expenses" category approved by the Commission relating to the Administrative and Operating Costs, with adjustments, to determine the "sufficient sums" amount.

Ongoing repairs and maintenance for infrastructure on Hawaiian home lands totaled \$4,323,000 for fiscal year 2023 and is requested as a separate general fund "Repair and Maintenance" request in the "Other Current Expenses" category (See Attachment B-2).

DHHL's initial CIP general obligation bond request relating to repair and maintenance of infrastructure on Hawaiian home lands is made as a lump sum request under the title of "Hawaiian Home Lands Development, Statewide" totaling \$47,650,000 for fiscal year 2023 (See Attachment B-1). The infrastructure projects have a long-standing history of operational, maintenance and repair issues that have become capital improvement issues.

Attachments "A" provides a summary recap of the discussion.

will still need to go through the normal GIA process to secure funding.

While a Puwalu discussion was not held in 2020 because of COVID-19, the projects identified as part of the prior Puwalu in 2018 continue to be a priority in communities statewide. In addition, DHHL updates regional plans documenting current conditions and trends as well as analyzing state and county plans to identify a prioritized list of projects important to the community. Since the Puwalu in August 2018, the following regional plans have been updated or are in process: Waianae & Lualualei Regional Plan (December 2018), Molokai Regional Plan (2019), Kealahou - Kai Opua Regional Plan (May 2020), and Papakolea Regional Plan Update (2020).

Operating Budget: HHC Federal Fund Request

None. Pursuant to Act 88, SLH 2021, the Legislature authorized a ceiling of \$23,318,527 that may be encumbered/expended for FY 2023 from the Native Hawaiian Housing and Self Determination block grant.

In addition, Act 88, SLH 2021, authorized a ceiling of \$7,000,000 to finance and account for NAHASDA direct loans in a revolving loan fund.

The Commission's approval of the above recommended motion is respectfully requested.

Department of Hawaiian Home Lands
Purpose 4: Administrative and Operating Costs
FY 2023
Budget Request Summary

		FY 2023 Budget Request to HHC	MOF
State Constitution, Article XII, Section 1, Purpose 4: Administrative and Operating Costs			
	Personnel Costs	\$12,243,498	A
	Other Current Expenditures	\$17,780,378	A
	Subtotal Administrative and Operating Costs	\$30,023,876	
	Repair and Maintenance of Infrastructure	\$4,323,000	A
	Repair and Maintenance of Infrastructure	\$47,650,000	C
	Subtotal R&M of Infrastructure	\$51,973,000	
	Total Administrative and Operating Costs	\$81,996,876	

<u>Means of Financing:</u>			
A =	General Fund	\$34,346,876	A
C =	General Obligation Bonds	\$47,650,000	C
	Total	<u>\$81,996,876</u>	

Purpose 4: "Other Current Expenses" Category								
Executive Budget for FY 2021 as Approved by the HHC on June 16, 2020								
		Administration and Operating Costs						TOTAL
Object		General	Administration	Operating Fund		Operating Fund (Non App)		Other Current
Code		Fund	Account	Operating Portion	Development Portion	Operating Portion	Development Portion	Expenditures
2900	Other Personal Services	704,000	225,000	0	0	0	0	929,000
3010	Operating Supplies - Gas & Oil Supplies	68,800	10,000	18,000	0	0	0	96,800
3020	Operating Supplies - Fuel & Oil Other	2,950	3,000	26,500	0	0	0	32,450
3030	Operating Supplies - Janitorial	24,380	0	6,548	0	0	0	30,928
3090	Operating Supplies - Others	24,500	2,350	17,284	0	0	0	44,134
3100	Maintenance Materials Supplies & Parts	11,800	0	100,000	0	0	0	111,800
3200	Office Supplies	127,150	0	800	0	0	0	127,950
3400	Other Supplies	21,866	0	1,500	0	0	0	23,366
3500	Dues and Subscriptions	15,762	2,000	300	0	0	0	18,062
3600	Freight and Delivery Charges	3,770	600	4,000	0	0	0	8,370
3700	Postage	181,990	0	4,550	0	0	0	186,540
3800	Telephone	130,210	0	600	0	0	0	130,810
3900	Printing and Binding	72,950	0	0	0	0	0	72,950
4000	Advertising	78,700	0	500	0	0	0	79,200
4100	Car Mileage	22,750	0	0	0	0	0	22,750
4200	Transportation, Intrastate	337,900	0	7,000	0	0	0	344,900
4300	Subsistence Allowance, Intra-State	187,970	0	4,000	0	0	0	191,970
4400	Transportation, Out of State	24,250	0	0	0	0	0	24,250
4500	Subsistence Allowance, Out of State	25,000	1,000	0	0	0	0	26,000
4600	Hire of Passenger Cars	59,075	0	3,000	0	0	0	62,075
5000	Electricity	402,000	665,000	510,200	0	0	0	1,577,200
5200	Water	113,700	267,000	229,800	0	0	0	610,500
5500	Rental of Land and Bldg.	12,800	0	0	0	0	0	12,800
5810	Repairs- Data Processing	14,000	0	0	0	0	0	14,000
5815	Maintenance - Data Processing	130,000	0	0	0	0	0	130,000
5820	Repairs- Equipment, Building, etc.	57,410	2,000	25,500	0	0	0	84,910
5825	Maintenance- Equipment, Building, etc.	389,100	45,550	73,972	0	0	0	508,622
5830	Repairs- Motor Vehicles	41,000	3,000	10,000	0	0	0	54,000
5835	Maintenance- Motor Vehicles	30,250	5,000	5,000	0	0	0	40,250
5840	Maintenance-Unencumbered Lands & Oth	609,625	200,000	0	0	0	0	809,625
5895	Maintenance-Other Miscellaneous	79,934	600,000	5,000	0	0	0	684,934
5900	Insurance	75,000	0	0	0	0	0	75,000
7110	Services Fee Basis	782,400	2,345,900	2,412,600	125,000	2,403,437	0	8,069,337
7230	Training Costs	115,500	32,000	7,000	0	0	0	154,500
7290	Other Current Expenditures	13,056	20,809	15,880	0	0	0	49,745
Total - Current Expenditure & Equipment		6,811,698	4,824,709	3,515,534	225,000	2,403,437	0	17,780,378
Means of Financing: General Fund								

Department of Hawaiian Home Lands
Purpose 1: Lot Development
FY 2023 Budget Request

PRIORITY	AREA or SUBDIVISION	PROJECT COMPONENTS	Lots	PHASE (PLANNING, DESIGN, CONSTRUCTION, HOUSING)	FY 2023
		PURPOSE 1: LOT DEVELOPMENT			
	HAWAII				
1	Hilo	Panaewa Lot 184	6	Design & Construction	500,000
2	Laiopua	Laiopua Village 1	200	Design & Construction	2,000,000
3	Hilo	Hilo Community College Model Home	6	Construction	300,000
4	Honolulu	Honolulu Subsistence Ag Lot, Phase 2	40	Construction	3,000,000
5	Ka'u	Kamaoa Pastoral Lots Subdivision	25	Design & Construction	1,000,000
6	Ka'u	Pu'uueo Agricultural Lots Subdivision	15	Design & Construction	500,000
7	Island-wide	UXO Mitigation and Construction Support		Construction	1,000,000
8	Puukapu	Puukapu Water Development		Design & Construction	1,000,000
9	Lalamilo	Lalamilo Phase 2A, Increment 2	80	Design & Construction	2,000,000
	KAUAI				
1	Anahola	Kuleana Homestead		Design	500,000
2	Puu Opaie	Kuleana Homestead		Design	500,000
3	Wailua	Wailua Residential Lots Masterplan		Masterplan	1,000,000
4	Hanapepe	Hanapepe Residential Subdivision Phase 2	75	Construction	20,000,000
5	Anahola	Piilani Mai Ke Kai Phase 3	40	Design & Construction	500,000
6	Anahola	Anahola Residence Lots, Units G & G-1	30	Re-design	750,000
	LANAI				
1	Lanai Residence Lots	Phase 2 Off-site Development		Planning & Design	3,000,000
	MAUI				
1	Lahaina	Villages of Leialii Ph1B, Incr 1	92	Construction	10,000,000
2	Wailuku	Puunani Homestead Water Development		Planning & Design	2,000,000
3	Honokowai	Honokowai Residential and Subsistence Agr	80	Design & Construction	500,000
4	Lahaina	Villages of Leialii Ph1B, Incr 2	108	Design & Construction	1,000,000
5	Keokea-Waiohuli	Keokea-Waiohuli, Phase 3 Site Improvements	75	Design & Construction	1,500,000

Department of Hawaiian Home Lands
Purpose 1: Lot Development
FY 2023 Budget Request

PRIORITY	AREA or SUBDIVISION	PROJECT COMPONENTS	Lots	PHASE (PLANNING, DESIGN, CONSTRUCTION, HOUSING)	FY 2023
	MOLOKAI				
1	Hoolehua	Naiwa Agriculture Lots	57	Construction	30,000,000
2	Kalamaula	Kalamaula Farm Lots Site Improvements	40	Design & Construction	1,000,000
3	Island-wide	Water Development		Planning & Design	1,000,000
	OAHU				
1	East Kapolei	Kauluokahai Incr II-E	158	Design & Construction	1,750,000
		Total	1,127		\$86,300,000
		MEANS OF FINANCING: GENERAL OBLIGATION BONDS			

Home Lands
Purpose 4: Administrative and Operating Costs
FY 2023 Budget Request

PRIORITY	AREA or SUBDIVISION	PROJECT COMPONENTS	PHASE	FY23
		PURPOSE 4: ADMINISTRATIVE AND OPERATING COSTS - REPAIR AND MAINTENANCE OF INFRASTRUCTURE		
	HAWAII			
1	Hilo	Keaukaha Sewer Improvements - Masterplan / Cesspool Closure	Design & Construction	1,000,000
2	Ka'u	Ka'u Water System, Phase 2	Design & Construction	1,000,000
3	Puukapu	Puukapu Roadway Improvements	Construction	2,000,000
4	Ka'u	Ka'u Water System, Phase 3	Design & Construction	1,000,000
5	Hilo	Keaukaha Road Improvements - Health & Safety	Design & Construction	1,500,000
6	Puukapu	Puukapu Non-Potable Water System	Design & Construction	500,000
7	Kawaihae	Kawaihae Water: Production, Storage & Transmission	Planning & Design	1,000,000
	KAUAI			
1	Anahola	Anahola Dam & Reservoir Improvements/Kuleana Non-potable Water	Design & Construction	500,000
1	Kahikinui	Kahikinui Roadways	Construction	1,000,000
2	Keokea	Keokea Farm Lots Drainage System culvert Improvements	Construction	500,000
3	Keokea-Waiohuli	Wastewater alternatives and feasibility study	Planning	1,000,000
	MOLOKAI			
1	Kalamaula	Kalamaula Water & Drainage System Improvements	Design	1,000,000
2	Kalamaula & Kapaakea	Sea Level Rise Planning	Planning & Environmental	250,000
3	Kalamaula / Kapaakea / One Alii	Cesspool conversion	Design & Construction	2,000,000
	OAHU			
1	Papakolea	Papakolea Sewer Improvements Phase 2	Construction	15,000,000
2	Papakolea	Sewer Improvements- CM Services	Construction Management	2,000,000
3	Waimanalo	Waimanalo Bell Street Drainage Improvements	Design	1,000,000
4	Waimanalo	Waimanalo Dirt Drainage Channel Improvements, Phase 1	Design & Construction	3,000,000

Home Lands
Purpose 4: Administrative and Operating Costs
FY 2023 Budget Request

PRIORITY	AREA or SUBDIVISION	PROJECT COMPONENTS	PHASE	FY23
5	Waianae	Waianae Sewer Improvements	Construction	3,400,000
6	Nanakuli	Nanakuli Sewer Improvements	Construction	3,000,000
7	Waimanalo	Cesspool conversion	Design & Construction	2,000,000
8	Waimanalo	Waimanalo Sewer Improvements	Construction	3,000,000
9	Nanakuli	Rehabilitation of School Seawall	Construction	1,000,000
		Total		\$47,650,000
		MEANS OF FINANCING: GENERAL OBLIGATION BONDS		

Department of Hawaiian Home Lands
Purpose 4: Administrative and Operating Costs
Repair and Maintenance of Infrastructure on Hawaiian Home Lands
FY 2023 Budget Request

ISLAND	AREA or SUBDIVISION	MAINTENANCE COMPONENTS- PURPOSE	FY 2023
Hawaii	Kawaihae	Water System Operation and Maintenance	120,000
Hawaii	Laiohua Villages	Brush Clearing and Fire Breaks	50,000
Hawaii	Puukapu	Water System Operation and Maintenance	255,000
Kauai	Anahola	Water System Operation, Maint, Emerg Call	75,000
Kauai	Hanapepe	Fencing/Gate Install/ Repair	
Kauai	Piilani MKK and Anahola	Maintenance	75,000
Lanai	Lanai City	Maintenance	75,000
Maui	Kula	Maintenance	200,000
Maui	Leialii	Leialii Parkway Maintenance	85,000
Maui	Waiehu Kou	Detention Basins and Ditches	125,000
Maui	Waiehu Kou	Sewage Pump Station	80,000
Maui	Islandwide	Fencing/Gate Install/ Repair	
Lanai	Lanai	Ground Maintenance	
Oahu	East Kapolei II	Detention Basins (2)	30,000
Oahu	Kapolei	Maluohai, Kaupea, Kanehili Maintenance	75,000
Oahu	Nanakuli	Princess Kahanu Road Repairs	30,000
Oahu	Oahu	Sewage Spill Response and Repair	150,000
Oahu	Oahu	Street Light Replacement	375,000
Oahu	Oahu	Scattered Location Repair and Maintenance	1,200,000
State	Statewide	Tree Maintenance/Control	500,000
Oahu	Waimanalo	Drainage Channel and Tree Trimming	38,000
Oahu	Waimanalo	Detention Basin	30,000
State	Statewide	Ground Maintenance	500,000
State	Statewide	Sign Replacement	255,000
		Total	\$4,323,000

Means of Financing: General Fund

Department of Hawaiian Home Lands
Purpose 2: Loans
FY 2023 Budget Request

Purpose	FY 2023
Mortgage Capitalization for Gap Group and Low to Moderate Income Families	37,500,000
Interim Financing (for Turnkey)	32,400,000
Debt Service - Revenue Bonds	3,200,000
Total	\$73,100,000

Department of Hawaiian Home Lands
Purpose 3: Rehabilitation Projects
FY 2023 Budget Request

				FY 2023		
				DHHL		GIA
ISLAND	AREA	PROJECT COMPONENTS	PHASE	OPERATING	CIP	
Hawaii	Kaumana	Community Center	Planning		100,000	
Hawaii	Piihonua	Community Pasture	Planning			
Hawaii	Panaewa	Kamoleao Infrastructure & Bldg	Construction			
Hawaii	Keaukaha Panaewa	Agricultural Education Center	Planning		425,000	
Hawaii	Makuu	Community Center	Construction			6,000,000
Hawaii	Keaukaha	Community Pavilion	Planning			
Hawaii	Kamaoa Puueo	Water Master Plan Implementation	Construction			
Hawaii	Kamaoa Puueo	Cultural & Natural Resource Land Mgmt Implementation				
Hawaii	Waiohinu	Agriculture Homestead Leases	Planning		100,000	
Hawaii	Kau	Discovery Harbor Res Lots, Scattered Lots (38)			500,000	
Hawaii	Waimea	WHHCC Ag Complex Infrastructure	Construction			
Hawaii	Waimea	WHHCC Cemetery	Design			
Hawaii	Waimea	Finalizing Access Road to Lalamilo Phase I				
Hawaii	Waimea	WHHC Operations				
Hawaii	Waimea	Research and develop criteria for unpermitted structures				
Hawaii	Kailapa	Community Resource Ctr/Emergency Shelter				
Hawaii	Kailapa	Emergency Access Road	Planning and EA			
Hawaii	Kailapa	Community Assn Operations				
Hawaii	North Kona	Test Well for Gianulias site	Design and Construction			
Hawaii	North Kona	Well for Gianulias site	Design and Construction		13,000,000	
Hawaii	Laipua	Laipua 2020 Operation Funding				
Hawaii	Laipua	Renewable energy project	Planning and EA		280,000	
Hawaii	Laipua	Internal driveway to connect L2020 community parcel to Ane Keohokalole Hwy	Planning and Design		300,000	
Kauai	Puu Opae	Refurbish existing irrigation system				
Kauai	Puu Opae	Farm equipment for education program				
Kauai	Puu Opae	Training, processing, storing and repair facility				500,000
Kauai	Puu Opae	Road Improvements				
Kauai	Puu Opae	Temporary lodging				100,000
Kauai	Anahola	Irrigation System (\$1,000,000)	Planning & Design			
Kauai	Wailua	Access to surface/ground water			6,000,000	
Kauai	Kekaha	Ag with homestead				
Kauai	West Kauai	Multi-Purpose: Evacuation & Education Ctr				
Kauai		Study drug rehab facilities within the community				500,000
Kauai		Educational programs		100,000		
Kauai		Bring assn's together to collaborate (\$100,000)*				
Kauai	Hanapepe	Ag land				
Lanai		Award remaining 16 residential homestead lots				
Lanai		Establish homestead community association				
Lanai		Interim Use of Undeveloped Land		50,000		
Lanai		Acquire additional lands for ag and pastoral homesteads			5,000,000	

Department of Hawaiian Home Lands
Purpose 3: Rehabilitation Projects
FY 2023 Budget Request

				FY 2023		
				DHHL		GIA
ISLAND	AREA	PROJECT COMPONENTS	PHASE	OPERATING	CIP	
Maui	All Homesteads	Community Beautification: clean-up debris and abandoned vehicles		200,000		
Maui	All Homesteads	Lot Development & Road Repair	Equipment	400,000		
Maui	All Homesteads	Maui Homeowner Financial Education		250,000		
Maui	Keokea	Farmers Marketplace & Community Center	Planning and EA		550,000	600,000
Maui	Keokea	Water sourced infrastructure for potable and nonpotable water	Planning, EA & Construction		4,750,000	
Maui	Keokea-Waiohuli	Community Based Planning for Cultural Preserves	Survey, Research, Planning & Dev		500,000	
Maui	Keokea-Waiohuli	Safety Awareness Program		200,000		
Maui	Keokea-Waiohuli	Speed humps on Ahulua St.				
Maui	Waiohuli UI	Acquire Lands for Community Development			500,000	
Maui	Paukukalo	Armory Site Development	Planning, Design and EA		500,000	
Maui	Paukukalo	Pihana Heiau Restoration	Planning and EA		100,000	
Maui	Paukukalo	Park Beautification and Upgrades	Playground equipment, courts			
Maui	Waiehu Kou	Community Center & Bus Stop			500,000	
Maui	Waiehu Kou	Landscaping Maintenance Contract		150,000		
Maui	Waiehu Kou	Community Garden - Water Development			1,500,000	
Maui	Waiehu Kou	Drainage Basins - siltation clean up (\$3,500,000)				
Maui	Kahikinui	Community Center/Pavilion			1,000,000	
Maui	Kahikinui	Community Economic Center and Hale Pili	Planning & EA			
Maui	Kahikinui	Road Construction and Repair			5,000,000	
Maui	Kahikinui	Road Development and Repair	Equipment	100,000		
Maui	Kahikinui	Fog Catchment System: Phase 2	Distribution System			
Maui	Kahikinui	Water Storage (water tanks)				
Maui	Kahikinui	Community Pasture Paddocks/Fencing	Design & Construction	250,000		
Maui	Kahikinui	Stewardship Economy			500,000	
Maui	Kahikinui	Ungulate Removal and Reforestation		60,000		
Maui	Leialii	Neighborhood Park	Planning & Design		500,000	
Maui	Honokowai	Community Subsistence Ag Program Development	Education, Training, Ag program			
Maui	Honokowai	Ag Education and Training	Facility and Program Dev			
Maui	Honokowai	R-1 Water for Ag Irrigation	Research, Planning and Dev			
Maui	Pulehunui	Community-Based Economic Dev				
Molokai		Transition Cespools to Septic Systems				
Molokai	Malama Park	Land Use Designation & Master Plan				
Molokai	Kiowea Park	Complete Pavilion Project				

Department of Hawaiian Home Lands
Purpose 3: Rehabilitation Projects
FY 2023 Budget Request

				FY 2023		
				DHHL		GIA
ISLAND	AREA	PROJECT COMPONENTS	PHASE	OPERATING	CIP	
Molokai		Deer management plan	Planning			
Molokai		Cross fencing/deer fencing				200,000
Molokai	Hoolehua	Playground and youth center			100,000	
Molokai		Tiny homes			80,000	
Molokai	Kalamaula Mauka	Passive Park	Planning		150,000	
Molokai	Kapaakea	Temporary residence shelter			125,000	
Molokai		Renovate Ahupuaa o Molokai Hale			250,000	
Molokai	Kapaakea	Remodel/renovate kupuna hsg in flood zone			300,000	
Molokai		Transitional home			80,000	
Oahu	Papakolea	Address Abandoned Homes		150,000		
Oahu	Papakolea	Kupuna Supportive Living Ctr Feasibility Study				
Oahu	Papakolea	Operate Kupuna Community Care Network				400,000
Oahu	Papakolea	Puowaina EA				
Oahu	Papakolea	Basketball Complex Improvements				
Oahu	Papakolea	Education/Health Programs				850,000
Oahu	Nanakuli	Ocean safety & Cultural education	Planning			
Oahu	Princess Kahanu	Traffic calming				
Oahu	Princess Kahanu	Community center expansion	Land acquisition			1,500,000
Oahu	Waianae Valley	Coumbarium with large area for cultural uses	Plng and Dsgn			
Oahu	Waianae Valley	Kaupuni Park Development				3,500,000
Oahu	Kapolei	Kapolei Heritage Center Phase II				
Oahu	Kanehili	Park Development				
Oahu	Kaupea	Perimeter wall at Kamaaha/Kapolei Pkwy (\$500,000)				
Oahu	Kapolei	Safety/Drug coalition with NSW				
Oahu	Kapolei	NSW equipment				
Oahu	Kapolei	Maintenance/Repair for dedication of roads (\$125,000)				
Oahu	Kapolei	Place of worship & place of rest/cemetery			250,000	
Oahu	Waimanalo	Emergency Evacuation and Street Extension			13,500,000	
Oahu	Waimanalo	Land Based Aquaculture Facilities		50,000		
			Puwalu: Subtotal	\$1,960,000	\$56,440,000	\$14,150,000
	Homeowner Affordability Initiative			5,000,000		
	Lease Cancellation Prevention/Financial Literacy			5,000,000		
	Native Hawaiian Development Program Plan			2,744,100		
			Total	\$14,704,100	\$56,440,000	\$14,150,000
	Means of Financing:		()	(A)	(C)	
	(A) General Funds					
	(C) General Obligation Bonds					
	* Projects are funded in other budgets					

Hawaiian Homes Commission Budget Request: Purpose no. 4 - State Constitution, Article XII, Section 1

FY 2023

(206.00)

Administrative and Operating Budget Request	A/A-1	\$30,023,876	(A)
Operating Budget: Repairs and Maintenance of Infrastructure	B-2	\$4,323,000	(A)
CIP Budget: Repairs and Maintenance of Infrastructure	B-1	\$47,650,000	(C)
Total HHC Administrative and Operating Budget Request		\$81,996,876	
Means of Financing: (A)= General Fund; (C) = General Obligation Bond			

Hawaii State Constitution: Purposes 1, 2, 3 of Article XII, Section I; Lot Development, Loans and Rehabilitation Projects

The proposed supplemental budget request for Purposes 1, 2, 3 of Article XII, Section I (Lot Development, Loans and Rehabilitation Projects) total \$230,544,100 for FY 2023. Details of the request are shown in Attachments "B-1" (Lot Development), "D" (Loans), and "E" (Rehabilitation Projects).

Hawaiian Homes Commission Budget Request: Purposes no. 1, 2, 3, State Constitution, Article XII, Section 1

FY 2023

Purpose 1: Lot Development	B-1	\$86,300,000	(C)
Purpose 2: Loans	D	\$73,100,000	(C)
Purpose 3: Rehabilitation Projects	E	\$56,440,000	(C)
Rehabilitation Projects	E	\$14,704,100	(A)
Total		\$230,544,100	

Means of Financing: (A) = General Fund; (C)=General Obligation Bond

In August 2018, DHHL participated in a Puwalu discussion in Maui that brought native Hawaiian beneficiary leaders state-wide together regarding priorities in their communities and programmatic needs. These needs provided by the beneficiaries were identified and sorted according to the purposes provided by Article XII, Section 1 of the State Constitution and included in the FB 2022-2023 request. These projects are identified in Attachment "E".

Separate from the "sufficient sums" request, that is also included in Attachment "E", are grants-in-aid (GIA) projects that were brought up in the Puwalu discussion. DHHL will provide information to the Administration and the Legislature on GIA projects that may be coming forward. The GIA requesters

What is a “Management Letter” in an audit?

Management Letter means **a letter prepared by the auditor which discusses findings and recommendations for improvements in internal control**, that were identified during the audit and were not required to be included in the auditor's report on internal control, and other management issues.

Volume 75%

Akamine, Oyadomari & Kosaki, CPA’s Inc. excerpts from Management Letter.

“...during our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses or significant deficiencies.”

“A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis.”

“During our audit, we became aware of the following deficiency in internal control, other than significant deficiencies or material weaknesses, that is an opportunity for strengthening internal controls and operating efficiency:

- Internal Control Over Recording NAHASDA Loan Terms Should Be Improved
- Policies for the Disposition of Aging Improvements Purchased Should Continue to Be Implemented
- Aging Receivables for General Leases, Licenses, and Rights-of-Entry Should be Addressed

Volume 75%

CURRENT YEAR (FY2020) FINDINGS
AND RECOMMENDATIONS

INTERNAL CONTROL FINDING NO.1

Internal Control Over Recording of NAHASDA Loan Terms Should Be Improved

DHHL assists eligible low-income lessees by providing mortgage loans with favorable terms using federal awards under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). DHHL has recently expanded the benefits to lessees by awarding certain lessees a combination loan and grant. In these arrangements, the lessee makes payments only on the loan portion, while the grant principal is gradually forgiven over the term of the loan.

During our audit, we noted 2 new loans made with NAHASDA funds during fiscal year 2020 which included a grant portion, but which were recorded as loans receivable.

The improperly recorded grant portion resulted in a reclassifying entry for the fiscal 2020 financial statements.

Recommendation:

We recommend the Department of Hawaiian Home Lands continue to improve the necessary internal controls over NAHASDA loans to ensure loan terms are accurately recorded in the loan subledger.

DHHL'S RESPONSE: Concur

Corrective action has been taken to the 2 new loans identified in the audit. The NAHASDA loans process has been reintegrated with the Homestead Services Division loan processing. There are a small number of loans pending that staff will take corrective action.

INTERNAL CONTROL FINDING NO. 2

Policies for Disposition of Aging Improvements Purchased Should Continue to Be Implemented

Improvements purchased are comprised primarily of single-family dwellings purchased from former lessees on DHHL land. These dwellings are awaiting re-award to new lessees. During our audit, we noted 12 improvements in DHHL's inventory which had an appraisal dated more than 5 years ago.

Since unoccupied buildings and improvements deteriorate over time unless properly maintained, policies should provide for disposition of aging, unsold improvements.

Administrative rules also require DHHL to make payment to former lessees only after commencement of a new lease (HAR Sec. 10-3-65(c)). Therefore, the delay in disposition of improvements also delays compensation of former lessees. At June 30, 2020, DHHL's payments to 12 former lessees were awaiting the disposition of the related improvement.

We noted DHHL has taken steps toward the disposition of certain aging improvements. During fiscal year 2020, 10 homes were demolished or re-awarded to new lessees. However, at June 30, 2020, DHHL still had inventory of 28 homes.

Recommendation:

We recommend the Department of Hawaiian Home Lands continue to implement policies that pursue the timely disposition of improvements purchased.

DHHL'S RESPONSE: Concur

Effective August 2020, the DHHL, with Chair's approval, may proceed with demolishing homes that have deemed to be beyond repair. There are approximately 10 homes in this bucket and the Homestead Services Division (HSD) is working with the Land Development Division (LDD) in procuring a vendor(s) to perform the work.

DHHL has addressed the issue of demolishing homes beyond repair in its fiscal year 2021 and 2022 budgets.

There are a few improvements purchased pending the completion of the successorship of the lease. HSD is taking steps, including cancelling the lease.

There are a few cases that HSD is in process before transmitting to CAD for re-award.

There are a number of lots that have already been transmitted for re-award.

INTERNAL CONTROL FINDING NO. 3

Aging Receivables for General Leases, Licenses, and Rights-of-Entry Should Be Addressed

The Department, through its Land Management Division, earns income through general leases, licenses, and rights-of-entry for non-homestead use. The income from these leases are intended to financially support the Department's work of serving beneficiaries.

The Department reviews its accounts periodically and provides notices for delinquent lease accounts. Cases may be forwarded to the Department of the Attorney General, State of Hawai'i (AG) if the Department cannot collect on its receivables.

As of June 30, 2020, the Department had accounts receivable for leases of which approximately 79% was 90 or more days delinquent. The delinquent balances grew from 70% in fiscal year 2019. Several accounts with delinquent receivables terminated several years ago. High rates of uncollectible accounts increase the financial and administrative burden on the Department.

The Department should have adequate controls to ensure uncollectible accounts are timely identified and remitted to the AG.

Recommendation:

We recommend the Department of Hawaiian Home Lands review its account balances for general leases, licenses, and rights-of-entry for collectability and implement procedures for the disposition of aging receivables. In this connection, the Department should ensure uncollectible accounts are timely identified and remitted to the State Department of the Attorney General.

DHHL'S RESPONSE: Concur

DHHL will continue to process Default Notices and follow-up with delinquent tenants (GL/LIC/ROE).

Due to the COVID-19 Pandemic, LMD as authorized and approved by the HHC has implemented rent relief opportunities to any tenant who submitted an application by the deadline and met the criteria as required under the rent relief implementation. Only 4 out of 7 tenants were approved to participate in the rent relief implementation.


DHHL continues to work with State of Hawaii Attorney Generals' Office in pursuing litigation for back rent due and disposition termination.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

September 20, 2021

AMENDED

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Paula Aila, Acting Administrator, 
Contact & Awards Division

FROM: Moana Freitas, Case Management Specialist
Contact & Awards Division

SUBJECT: **Rescission of Homestead Lease Award and Reinstatement
of Application - Laiopua Villages 4 & 5, Undivided
Interest**

MOTION/ACTION

1. To approve the rescission of four (4) Undivided Interest Residential Lease, Laiopua Villages 4 & 5, which commenced on December 3, 2005.
2. To reinstate four (4) residential lease applications to the Hawaii Island Residential Waitlist according to the original date of application.

DISCUSSION

On October 29, 2005, at the Laiopua Villages 4 & 5 Undivided Interest Selection Meeting, Bruce K. Kalino, Tyran K. Spencer, Philip K. Tina, and Bernadette K. Wong, executed the selection agreement and the lease award was approved on December 3, 2005.

The following Lessees have decided to rescind their lease at this time to participate in the Lai Opua Village 4 - Akau Subdivision - Rent with Option to Purchase. They will return to the Hawaii Island Residential Application Waitlist according to their original date of application.

<u>NAME</u>	<u>LEASE INFORMATION</u>	<u>APPLICATION INFORMATION</u>	<u>ITEM NO.</u>
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Kalino, Bruce K	Lease No. 10712 Commencement Date: 12/03/05 Area: Laiopua Village 4&5	Hawaii IW Res Area Code: 393 App Date: 02/22/1989
Spencer, Tyran K	Lease No. 10757 Commencement Date: 12/03/05 Area: Laiopua Village 4&5	Hawaii IW Res Area Code: 393 App Date: 11/15/1994
Tina, Philip K	Lease No. 10805 Commencement Date: 12/03/05 Area: Laiopua Village 4&5	Hawaii IW Res Area Code: 393 App Date: 04/27/1999
Wong, Bernadette K	Lease No. 10743 Commencement Date: 12/03/05 Area: Laiopua Village 4&5	Hawaii IW Res Area Code: 393 App Date: 08/18/1992