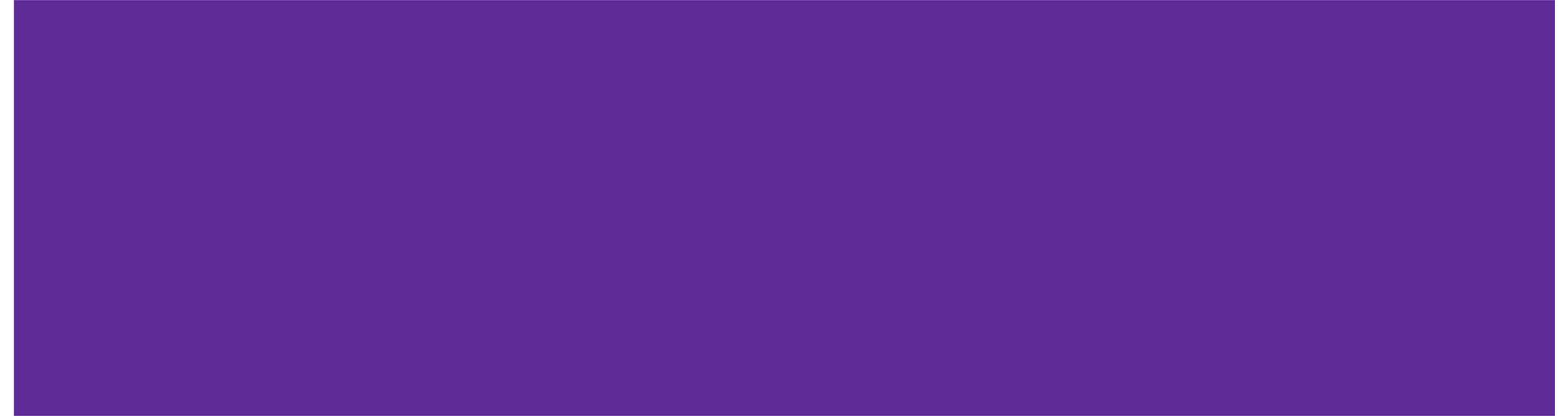


# Kalaupapa Working Group

December 13, 2021

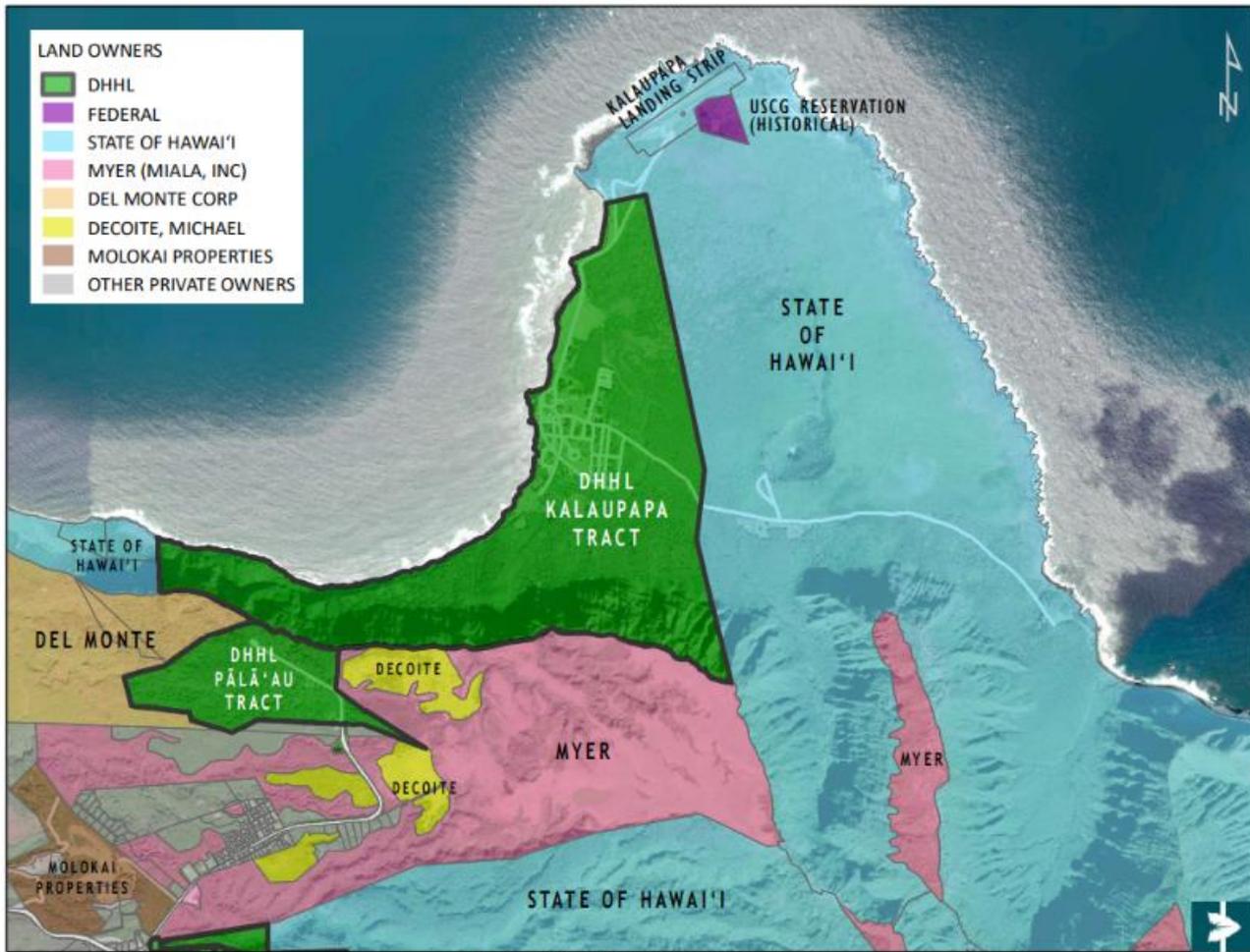


# Agenda

- Recap of Process & October 25 Meeting
- Updates
  - Transition Team
  - General Lease
- Establish a Mutual Understanding of Section 106 Parking Lot Issues
- Revisit Programmatic Agreement
  - Goal: Avoid adverse impacts to beneficiaries by giving beneficiaries a seat at the table and more oversight of the process & answer current questions
  - Identify Adverse Impacts to Beneficiaries & Potential Collaboration Options
- Identify Group Composition & Areas of Discussion for Broader Community Convenings
  - Identify how we will move forward
- Next Steps

# Ground Rules

- Be respectful of other participants' mana'o, please do not interrupt
- Please be aware of the air you take up in the room
- Respect the viewpoint of others: non-agreement can be a respectful process
- Do your best to be an active listener and a thoughtful participant
- Please remember to mute yourself when not speaking to help minimize background noise
- Be understanding of those who are juggling multiple responsibilities (childcare, schooling, kupuna care, etc.)



KALAUPAPA, MOLOKA'I

# Process Recap & Looking Ahead

- 3rd meeting of 3 process focused meetings Discussion
- Goal for Today: Arrive at understanding of composition of group and focus of broader conversation with beneficiaries re: Kalaupapa

## Looking Ahead

- Time for staff to do research / follow-up
- Further meetings will be opened up and focus on substance
  - Tentatively have series of 3 meetings in mind
  - First meeting will be held by March 2022

# Recap of 10/25

## Process

- Purpose of this WG is to better integrate beneficiary voices into Kalaupapa process
- Letters to sent to this group as folks deeply involved in advocacy for Kalaupapa to help us shape process
- **Will record and send link of recordings to participants**

## Issues

- Programmatic Agreement -- adverse impacts to beneficiaries
  - EIS should have been required
- Concerns with Tourism -- who benefits?
  - Process for negotiation?
- Another Track Focused on Taking Park Back from NPS -- options for beneficiaries on Moloka'i
  - Includes engaging on the political level
- Proposal for Kalawao County to be under Maui County
- Structural Barriers -- AGs look out for the State; not necessarily beneficiaries
  - Opportunity for beneficiaries to directly connect with the Commission?
  - Questions on whether terms of lease delivery on DHHL's fiduciary responsibilities
  - Need for independent legal advice (i.e. students; Ka Huli Ao; Malia?)
- Need to Prepare for When the Last Kupuna Passes -- what will things look like?
- NPS a Bad Manager of Kalaupapa -- irresponsible
  - Structural issue as well

# Transition Team Updates & Discussion

## Updates

- Agencies participating: DHHL, DOH, DLNR, DOT, NPS, DOI-ONHR, Co. of Maui
- Group meets quarterly
- Current discussions focus on logistics
- Topics include
  - Telephone, internet, electrical system
  - Water system
  - CoM-DOH Mutual Aid Agreement
  - Essential Air Service/Mokulele Schedule
  - Airport staffing / Firefighting capability
  - COVID-9 Emergency Rules
  - NPS Staffing Issues
  - Annual Barge
  - Above Ground Fuel Station
  - Solid Waste Management
  - Cesspool conversions
  - Management of Conservation Resources
- Department will separately be meeting with:
  - DOH
  - NPS Superintendent (12/1)

## Discussion

- So there is a “list” of kuleana
- So the group is more ministerial. Are there conversations taking place on the jurisdictional and political issues?
- Will community members be involved?
  - Interagency
  - Trying to figure out best way to do that
  - Haven’t figured that out yet
  - Above our paygrade
    - Up to directors, reps, Mayor, Council, Leg
  - Why we started WG meetings - talk with beneficiaries

# Discussion

- Current goal of these convos: What is a good process to better manage and integrate Kalaupapa into the larger island and beneficiary community
  - What are possible tracks for future discussion with the larger group?
- Meetings in response to request after experiencing NPS's activities
  - DHHL landowners but don't have resources to manage > fed
- Afraid convo may divide community
- Need a concerted approach
  - Not to benefit USA
  - Benefit beneficiaries and the Dept
- Mix short and long term for benefit of all

- Potential Tracks
  - Take back Kalaupapa for Hawaiians?
  - Work with NPS
    - Cooperative agreements with NPS?
  - Other?
- Potential Scenarios
  - Lease until 2041 - not a renewal
    - Work with NPS
  - Come up with plan as beneficiaries
    - Where get \$ from?
    - Focus on lease and engaging beneficiaries
    - Maui County as one route
    - Willing to file lawsuit to show violation of lease
    - Terminate lease sooner
- Potential Approach
  - Short term?
    - Working with NPS
      - DHHL?
      - Community (Elroy)
  - Long term?
    - Take back
      - DHHL
      - Community (Walter)

# Discussion

## Short Term

- Beneficiary led
- DHHL create list to show how what beneficiaries want is supported in plans and other docs

## Mid Term

- DOH transition out
- Kalawao jurisdictional issue
  - All of peninsula > DHHL

## Long Term?

- Moloka'i driven and stewarded
  - Moloka'i County?
- DHHL help create a plan to show what beneficiaries envision Kalaupapa should look like

## Ka 'Ohana -- both short/long term

- Share stories
- Descendants can connect
- Ancestors are remembered

## Related issues

- Staff pushing Commissioners
  - Open to anyone
- Staff keep fighting for proper funding
  - Way to get community to see DHHL as something they gotta protect
- How to get HACBED help for community so they don't only work for the Dept > help community organize

# Looking Ahead

- Output: Plan

- Frame:

- Short: work with Park
- Mid
- Long: Beneficiaries steward Park

- Vision

- Start of an operational/financial plan

- Outreach

- Lori work with homestead groups

- Timeline

- 2022 - 4 meetings with DHHL

- HACBED help coordinate meetings

- DHHL help to organize

- Funding
- Political

- How big should the group get?

- Not wide yet

- Stick with list that Commissioners approved

- Lineal descendants

- Ka 'Ohana

- Beneficiaries

- Keani

- Commissioner Helm

- One representative for each 'ohana?

- Lori/Elroy/Walter/Halealoha meet and get back to the group in Jan

- Who should be invited

- How to do outreach

- How should we convene?

# Next Steps

- **Lori/Elroy/Walter/Halealoha figure out how they are going to do beneficiary outreach and get back to the KBWG group**
- **KBWG group + Keani, Commissioner Helm, Monica (Monday, 1/24, 6-8pm) -- agenda**
  - **Who should be invited + how to do outreach**
  - **Info updates based on requests (i.e. General Lease, Transition)**
  - **Get feedback on draft agenda for broader community mtgs**
    - **Short term**
      - **Section 106 Parking lot issues**
      - **Programmatic Agreement issues**
    - **Long term**
      - **Broader vision for Kalaupapa**

# General Lease Updates & Discussion

## Updates from the Department

## Discussion

- Department reached out to Malia Akutagawa who will have more time to review the GL at the end of the semester
- Clarity on legal advice the Department is seeking
  - AG -- fulfill state responsibilities as a state dept
  - Ka Huli Ao -- determine whether the terms of the lease are in the best interest of beneficiaries
- Initial responses to questions regarding the lease

## Updates from the Working Group?

# Establish a Mutual Understanding of Section 106 Parking Lot Issues

- Issues with NPS' Cultural Landscape Report not consulting with cultural practitioners
- (Under)Staffing
- Community Advisory Group with “teeth”
- Want more transparency re: Interagency Transition Working Group meetings
- Cultural land use, esp traditional farming in Waikolu Valley
- Would “gathering” also include hunting?
- Release of 35 comment letters submitted to NPS on GMP EA
- Is it NPS's position that it will not invest more funds into DHHL lands prior to 2041 lease expiration date unless DHHL extends its lease with NPS in 2021, 20 years?
- Summary & clarification of adverse effects list -- effects that exist now & causing significant adverse effects to historic properties (e.g. “benign neglect”)
- Future of Kalawao County/Plans for Kalaupapa after 2041

# NPS Letter of Intent (LOI)

Past Superintendent shared intent to continue to work on broader issues identified by the public and beneficiaries through General Plan Process -- starting points for ongoing dialogue:

- DHHL-NPS agreement re: future operations
  - Traditional & customary access for farming, cultural practices, and subsistence gatherings within the park boundaries
  - Explore potential role of a Tribal Historic Preservation Officer
  - Consider proposal to develop a Community Hui
  - Jointly develop & present a DHHL-NPS General Lease “primer” to beneficiaries that clarifies the terms of the lease and roles/responsibilities
  - Identify & jointly address beneficiary issues regarding Kalaupapa
- Research application of Coastal Zone Management regulations to Kalaupapa
  - Develop strategies to improve communication and consultation with beneficiaries
  - Enter conversations re: concept of homesteading opportunities consistent with current plans
  - Begin conversations to address concerns re: visitation and visitor orientation, particularly as DOH reduces its role in visitor use management
  - Continue commitment to work with Ka ‘Ohana O Kalaupapa on a variety of operational issues
    - Completion of Kalaupapa Memorial project
    - Recognizes obligations of Ka ‘Ohana & DLNR to address regulatory & policy requirements

# **Section 106 Parking Lot Issues Discussion...**

# Revisit Programmatic Agreement (PA)

## Table of Contents

- Introduction (whereas clauses)
- Stipulations
  - Staffing
  - Community Engagement
  - Streamlined Review Process
  - Undertakings Subject to Standard Review
  - Projects Proposed by Others
  - Inadvertent Discoveries
  - Reporting and Annual Review
  - Emergency Actions
  - Dispute Resolution
  - Termination and Amendment
  - Duration of this Agreement
  - Anti-Deficiency Act

## Overview

- Department is an invited signatory to the PA
- Department is going to be engaging with NPS and new leadership and wants to avoid adverse impacts to beneficiaries by giving beneficiaries a seat at the table and more oversight of the process
  - Identify Adverse Impacts to Beneficiaries
  - Identify Potential Collaboration Options
- Department open to answering questions and curious to see if it is worthwhile to walk through the PA with the larger group

# PA - Staffing

Thoughts? Concerns?

- Cultural Resources Management Team to fulfill Nationwide PA requirements
- Park will strive to develop a team with historic preservations experience in Hawai'i
- NPS to develop training/recruitment for Native Hawaiians

# PA - Community Engagement

- Establish community engagement program within 1 year of PA execution as a regular program Discussion
- Purpose -- enhance communication among place-based community members and the NPS
  - Opportunities for feedback to NPS
- Bi-annual meeting schedules with Concurring Parties re: activities identified or related to this PA
  - 1 mtg in Kalaupapa as feasible
- Establish a Community & Public Engagement Newsletter w/in 1 year of PA execution
  - Relay info related to culture, values, histories that are important to current patients
  - Update Concurring Parties on park projects/efforts
- Partnerships
  - Cultivate, establish, enhance, and maintain a range for long-term stewardship
  - Regularly liaise with DHHL re: input from beneficiaries re: PA scope

# PA - Streamlined Review Process / Standard Review

- Criteria for using the Streamlined Review Process      Discussion
  - CRM Team that meets Nationwide PA req'ts
  - If property not formally listed or determined eligible for Nat'l Register -- Park will make eligibility determination
  - CRM Team will implement streamlined review process per Stip III.B in Nationwide PA -- Appendix A
  - CRM team will review projs for compliance -- Appendix D
  - Except for Stipp III.C.12 (Reburial of Human Remains and Other Cultural Items) NPS will follow streamlined Review Process
  - Standard Review Process for undertakings that do not meet streamlined review criteria
  - Annual Report
- If not subj to Streamlined -- Standard Review

# PA - Projects Proposed by Others, Inadvertent Discoveries

## Discussion

- Projects Proposed by Others
  - As NPS becomes aware, will make info avail to Consulting Parties
  - Properties not under NPS mgmt authority -- NPS may provide TA/review to avoid potential adverse effects
- Inadvertent Discoveries
  - Historical properties not NAGPRA related
  - NAGPRA related

# PA - Reporting & Annual Review

- Annual Report to SHPO and CPS no later than 1 cal year following PA execution and every year after
    - Summarize activities
    - Review implementation
    - Determine whether amendments needed
  - Shall include projects, plans, CRM team and qualifications, training, inventories, initiatives, potential amendments...
  - Mtg with 75 days of Report lease with SHPO, DHHL, NHOs, CPs
  - Report provided no less than 30 days prior to mtg
  - Hard copies to residents and a meeting
    - Comments considered in Section 106
  - May make available to the public
- Discussion

# PA - Dispute Resolution, Termination & Amendment

- Dispute Resolution: If any party to the Discussion agreement disagrees, Park, DHHL, SHPO shall consult with objecting party
  - If cannot be resolved through consultation, forward documentation to Advisory Council on Historic Preservation (ACH)
  - 30 days
  - If AHCP does not provide comments in 30 days, Park may render a decision
- Amendment: Agreement in writing makes amendment effective day it is signed
- Termination: If within 90 days no consensus can be reached, any signatory may terminate PA upon written notification
  - If termination, NPS shall comply with Nationwide PA

# Areas to Follow-up On & Share with NPS?

Specific adverse impacts to beneficiaries?

Potential collaborative opportunities?

# Looking Ahead

- Aiming to convene a series of 3 meetings with the broader community beginning in March 2022
  - Thoughts on...
    - Areas of discussion?
    - Group composition?
-

# Identify Areas of Discussion for Broader Community Convenings

## Discussion

### Potential

- What to do after the last kupuna departs?
  - DOH's responsibility will conclude
- Establish criteria for governance of Kalaupapa that centers beneficiaries?
- Clarify access for traditional uses?
- Clarify beneficiary access for commercial uses?
- Addressing other Section 106 Programmatic Agreement parking lot issues?
- Creating Cooperative Agreements?
- Other?

### Update

- General Lease will be touched on at a high level but not in a detailed discussion

# Identify Group Composition for Broader Community Convenings

Discussion

Guidelines shared with the Commission:

- Beneficiaries on the Moloka'i Island wait list
- Beneficiaries who have family members buried in Kalaupapa
- Lineal descendants of Native Hawaiian 'ohana who were displaced from Kalaupapa in 1865
- Beneficiaries who have participated consistently in the NPS GMP and Section 106 process
- Beneficiary representative of Ka 'Ohana O Kalaupapa

Questions

- Still make sense?
- Update?

# Next Steps

- Share notes/recording
- Department research / follow-up
  - Financial situation
- Kick start 1st of 3 broader community meetings on substantive areas by March 2022

Discussion