

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

August 8, 2008

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Board members:

SUBJECT: REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT TO SUBGRANT BETWEEN THE KAUAI PUBLIC LAND TRUST AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES FOR THE PURCHASE OF UNIT E OF THE KILAUEA COASTAL PRESERVE, KILAUEA, KAUAI, TMK 4-5-1-5-16.

SUMMARY:

This Board Submittal requests approval to enter into an Agreement to Subgrant between the Kauai Public Land Trust (KPLT) and the Department of Land and Natural Resources (DLNR) for the pass through of Federal Funds for the purchase of Unit E of the Kilauea Coastal Preserve, Kilauea, Kauai, TMK 4-5-1-5-16 (total land area 20.532 acres, more or less) for conservation purposes as per U.S. Fish and Wildlife Service (USFWS) Section 6 Recovery Lands Acquisition Grant No. E-15-RL-1 (see attached map).

BACKGROUND:

The acquisition of Unit E of the Kilauea Coastal Preserve is a joint effort by KPLT, the USFWS, and the State of Hawaii to protect 20.532 acres of estuarine and associated wetland and coastal habitat on the Island of Kauai. KPLT will use a combination of their own funds as well as funds from the USFWS Recovery Lands Acquisition program and the State of Hawaii Legacy Lands program to purchase the fee title to the property and perpetually manage it for endangered species recovery.

The 20.532-acre property, Unit E of the Kilauea Coastal Preserve, is located on the North Shore of the island of Kauai, 5 miles east of Hanalei, near the small town of Kilauea in the Kilauea River Valley. The subject land consists of a single 20.532-acre parcel (TMK 4-5-1-5-16) adjacent to the Kilauea Point National Wildlife Refuge. The parcel fronts the scenic Kilauea Bay shoreline on the north shore of Kauai for approximately 3,141 lineal feet along its north boundary.

The Kilauea River Valley contains highly productive ecologically sensitive coastal, dune, estuary, and wetland habitats. Coastal bluffs in this area provide nesting habitat for native seabirds; beach dunes provide resting habitat for the endangered Hawaiian monk seal and the threatened green sea turtle; and estuary waters and wetland habitats support endemic stream gobies, snails, shrimp, fish, and Hawaiian waterbirds.

The USFWS Section 6 Recovery Land Acquisition Grant Program provides funding to State agencies to purchase lands directly or to pass through the funds to third parties, such as nongovernmental conservation organizations, to purchase lands for the recovery of listed species. The Hawaii Division of Forestry and Wildlife established a selection committee to review and rank the 2007 Recovery Land Acquisition proposals. The subject proposal received the highest internal rank and was the project selected by the Division for funding.

The Honolulu Office of the USFWS worked with the Division of Forestry and Wildlife and KPLT to finalize the grant proposal and submit it for consideration by the Service. The submitted grant proposal identified that the funds would be passed through to KPLT for the purchase of the property and that KPLT would hold title. The acquisition of Unit E of the Kilauea Coastal Preserve was one of only a handful of projects nationally selected for funding.

DISCUSSION:

KPLT is a tax-exempt corporation under Section 501(c) 3 of the Internal Revenue Code. KPLT has adopted the Standards and Practices of the Land Trust Alliance. This requires land trusts to operate ethically and legally in the public interest. KPLT also partners with the Trust for Public Land and other land trusts to promote the importance of land trusts and public lands.

KPLT is a qualified Section 501(c) (3) non-profit organization with experience in land acquisition and stewardship and is thus an appropriate entity to hold the proposed fee title over the subject property. The certified appraised value of the property is \$3,400,000.00.

In order to facilitate the acquisition of new lands for the Kilauea Coastal Preserve and manage them in perpetuity, KPLT has collaborated with a diverse array of project partners. The Kilauea Coastal Preserve will include habitat restoration, enhancement, and management programs supported by a range of private and governmental agencies and organizations as well as private business and local communities. Supporting organizations include: County of Kauai, Kilauea Neighborhood Association, Kilauea Point Natural History Association, Aina Ho'okupu o' Kilauea, Jim O'Connor Realty, USFWS, Ducks Unlimited, and The Nature Conservancy.

DLNR is the authorized agency within the State of Hawaii with the statutory (HRS Chapter 171) and constitutional (Article XI) responsibility for the management and conservation of wildlife in the State of Hawaii. The Agreement to Subgrant would ensure that the pass through of State issued USFWS Recovery Land Acquisition funds contribute to the purchase and perpetual conservation of the subject property. Language in the Agreement to Subgrant will guarantee that upon dissolution of KPLT or if KPLT is otherwise unable to manage the property, subject to Board approval, title to the subject property shall be conveyed by KPLT to another appropriate

conservation organization or agency which will continue to manage the property for the conservation values specified in the Deed. Alternatively, subject to Board approval, the property may be conveyed to DLNR free and clear of any liens and encumbrances not previously approved by the parties and DLNR will continue to manage the property for the conservation values specified in the Deed. Any conveyance to DLNR shall be done *gratis* and KPLT shall be responsible for any and all fees and costs associated with the conveyance. Furthermore, any transfer of interest in the property will need to comply with USFWS Recovery Land Acquisition Grant program rules. A draft of the negotiated Agreement to Subgrant is attached for your review.

RECOMMENDATION:

That the Board authorize the Chairperson to negotiate and execute an Agreement to Subgrant with the Kauai Public Land Trust to provide a pass through of federal grant funds in an amount not to exceed \$2,742,181.00 from the U.S. Fish and Wildlife Service's Recovery Land Acquisition Grant program to acquire and hold in perpetuity for the purpose of conservation Unit E of the Kilauea Coastal Preserve as discussed above, subject to:

1. certification of the appraisal as reasonable and appropriate by the U.S. Fish and Wildlife Service's Federal Appraisal Department;
2. compliance with federal RLA grant requirements;
3. the Deed containing language that provides:
 - a. This property has been acquired with funds from the USFWS Section 6 Recovery Land Acquisition Grants. Title to the property conveyed by this Deed shall vest in KPLT subject to the condition that the property shall be managed for land conservation purposes only, and shall not convert to other uses. In the event that KPLT is unable to continue operations or is otherwise unable to manage the property, subject to the approval of the State of Hawaii Board of Land and Natural Resources ("BLNR"), title to the subject property shall be conveyed by KPLT to another appropriate conservation organization or agency which will continue to manage the property for the conservation values specified in the Deed. Alternatively, subject to BLNR approval, the property may be conveyed to DLNR free and clear of any liens and encumbrances not previously approved by BLNR and DLNR will continue to manage the property for the conservation values specified in the Deed. Any conveyance to DLNR shall be done *gratis* and KPLT shall be responsible for any and all fees and costs associated with the conveyance. Furthermore, any transfer of interest in the property shall comply with USFWS Recovery Land Acquisition Grant program rules.
 - b. The Kilauea Coastal Preserve property has been acquired in part with funds from the U.S. Fish and Wildlife Service, ("Service") and the property described is subject to all the terms and conditions of Grant Agreement Number E-15-RL-1 between the SERVICE and DLNR. A copy of the Grant Agreement is kept on file at the offices of the SERVICE, Eastside Federal Complex, 911 N.W. 11th Avenue, Portland, Oregon 97232-4181 and at the offices of DLNR, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

c. This acquisition is for the protection of threatened or endangered species habitat in perpetuity and shall run with the land to all heirs and successors.

d. When subject property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied (43 CFR 12.71).

4. approval of the Agreement to Subgrant by the Attorney General's office.

Respectfully submitted,



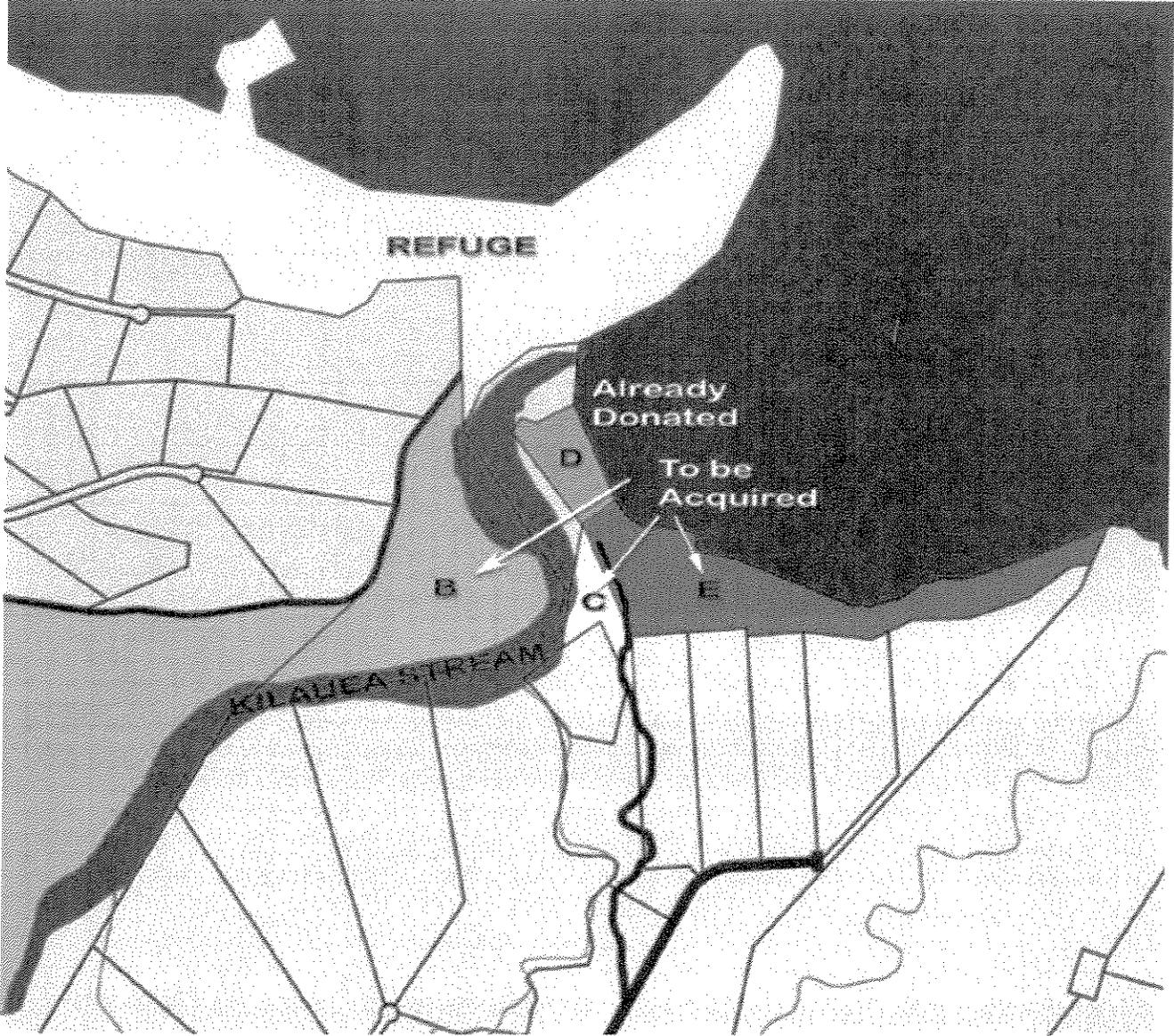
Paul J. Conry, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson
Department of Land & Natural Resources

Map of Land Units of the Proposed Kilauea Coastal Preserve



AGREEMENT TO SUBGRANT

Between:

**KAUAI PUBLIC LAND TRUST
&
STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

This Agreement to Subgrant is made this ___ day of _____, 200_ by THE KAUAI PUBLIC LAND TRUST, a Hawaii nonprofit corporation, having an address at P.O. Box 562 Kilauea, Hawaii 96754 ("KPLT") and the STATE OF HAWAII through its Department of Land and Natural Resources ("DLNR"), whose principal place of business is 1151 Punchbowl Street, Honolulu, Hawaii 96813.

WHEREAS, the Department of the Interior, acting through its Fish and Wildlife Service ("FWS") and DLNR have entered into Grant Agreement No. E-15-RL-1, to facilitate the acquisition of real property identified in said Grant Agreement;

WHEREAS, the FWS will permit DLNR to subgrant FWS grant funds to another state or local agency or non-profit organization ("potential recipients"), conditioned on the grant funds being used to acquire the identified real property and the potential recipient agreeing to accept all of the provisions and obligations set forth in said Grant Agreement;

WHEREAS, KPLT is a charitable organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, whose purpose includes acquiring land through donations and purchases for the benefit of the public;

WHEREAS, KPLT will purchase, in fee simple, that certain real property, situate at Kilauea River Valley, Hanalei District, County of Kauai, State of Hawaii, consisting of 20.532 acres, more or less, and bearing tax map key ("TMK") number (4)-5-1-5-16, as more particularly described in Exhibit A ("Kilauea Coastal Preserve Expansion and Habitat Restoration Project");

WHEREAS, KPLT and DLNR desire that the 20.532 acre Property be protected in perpetuity as part of the Kilauea Coastal Preserve Expansion and Habitat Restoration Project, as a conservation area for open space, native wildlife habitat, cultural resources, coastal resources and passive public recreation; and

NOW THEREFORE, DLNR and KPLT agree to a subgrant of the FWS grant funds to KPLT in accordance with the following terms and conditions. DLNR hereby agrees to subgrant to KPLT an amount not to exceed the sum of Two Million Seven Hundred Forty Two Thousand One Hundred Eighty One and No/100 Dollars (\$2,742,181.00) ("Grant Funds"), subject to the terms and conditions of this Agreement to Subgrant.

PURPOSE OF SUBGRANT

DLNR is making this Subgrant, using funds to DLNR by FWS, for the purpose of facilitating KPLT's acquisition of 20.532 acres, more or less, of land as part of the Kilauea Coastal Preserve Expansion and Habitat Restoration Project, as more particularly described in Exhibit A, which is attached hereto and made a part hereof by this reference.

KPLT agrees that if the Grant Funds are received and it acquires the Property, such acquisition will be for the purposes of conservation area for open space, native wildlife habitat, cultural resources, coastal resources and passive public recreation, and the provisions of Grant Agreement No. E-15-RL-1.

CONDITIONS OF SUBGRANT

1. KPLT agrees to purchase and forever hold in fee simple the 20.532 acres, more or less, of Unit E of the Kilauea Coastal Preserve consisting of the following parcel: TMK (4) 5-1-5-16 from Louise Zweben for a purchase price of Three Million Four Hundred Thousand and No/100 Dollars (\$3,400,000.00). The anticipated closing date for this purchase is _____, 200__.
2. KPLT agrees to establish The Kilauea Coastal Preserve Expansion and Preservation Project on the 20.532 acres, more or less, TMK (4) 5-1-5-16.
3. FWS shall provide the Grant Funds in an amount not to exceed \$2,742,181.00 for purchase of the 20.532 acres, more or less, which will be designated as part of the Kilauea Coastal Preserve, such funds to be made available for escrow prior to the closing date.
4. As owner of Unit E of the Kilauea Coastal Preserve, KPLT shall:
 - a. Facilitate and oversee the creation of a Comprehensive Restoration and Management Plan for the Kilauea Coastal Preserve that consists of:
 - i. A Predator Control Program describing the goals, objectives, and implementation steps for predator control in the Preserve;
 - ii. An Invasive Species Eradication Program describing the goals, objectives and implementation steps for invasive species eradication in the Preserve;
 - iii. A Public Outreach and Education Program describing the goals, objectives, and implementation steps for education and public outreach in the Preserve;
 - iv. Re-establishment of historic native plant assemblages;
 - v. Erosion control strategy;
 - vi. Translocation of endangered species;

- vii. Wetland enhancement activities;
- viii. Water quality improvement practices;
- ix. Fish habitat enhancements;
- x. Identification and protection of cultural resources; and
- xi. Strong volunteer corps development.

b. Seek external funding for implementation of the Comprehensive Restoration and Management Plan.

c. Implement the Comprehensive Restoration and Management Plan.

d. Manage, conduct, and oversee the restoration efforts specified in the Comprehensive Restoration and Management Plan.

e. Provide annual reports to DLNR as to progress toward the goals and objectives specified in the Comprehensive Restoration and Management Plan.

f. Consult with DLNR if substantive changes to the Comprehensive Restoration and Management Plan are contemplated.

5. DLNR shall review and comment on the Comprehensive Restoration and Management Plan as it is being developed and, where possible, allow appropriate staff to participate in the planning process.

6. At the request of DLNR, not more than once in any calendar year, KPLT shall allow DLNR access to the subject property to assess compliance with the terms and conditions contained herein.

7. KPLT shall not transfer, mortgage, hypothecate, or pledge the subject property or any portion thereof without the prior written approval of DLNR.

8. Consistent with cultural and environmental resource protection and public safety, and subject to the rights of native tenants, appropriate portions of the subject property, including but not limited to all of the shoreline and access thereto, shall be open to the public at reasonable days and times.

9. In the event that KPLT is unable to continue operations or is otherwise unable to manage the property, subject to the approval of the State of Hawaii Board of Land and Natural Resources ("BLNR"), title to the subject property shall be conveyed by KPLT to another appropriate conservation organization or agency which will continue to manage the property for the conservation values specified in the Deed. Alternatively, subject to BLNR approval, the

property may be conveyed to DLNR free and clear of any liens and encumbrances not previously approved by BLNR and DLNR will continue to manage the property for the conservation values specified in the Deed. Any conveyance to DLNR shall be done *gratis* and KPLT shall be responsible for any and all fees and costs associated with the conveyance. Furthermore, any transfer of interest in the property shall comply with USFWS Recovery Land Acquisition Grant program rules.

10. The recorded Deed to KPLT shall include the following language:

a. This property has been acquired with funds from the USFWS Section 6 Recovery Land Acquisition Grants. Title to the property conveyed by this Deed shall vest in KPLT subject to the condition that the property shall be managed for land conservation purposes only, and shall not convert to other uses. In the event that KPLT is unable to continue operations or is otherwise unable to manage the property, subject to the approval of the State of Hawaii Board of Land and Natural Resources (“BLNR”), title to the subject property shall be conveyed by KPLT to another appropriate conservation organization or agency which will continue to manage the property for the conservation values specified in the Deed. Alternatively, subject to BLNR approval, the property may be conveyed to DLNR free and clear of any liens and encumbrances not previously approved by BLNR and DLNR will continue to manage the property for the conservation values specified in the Deed. Any conveyance to DLNR shall be done *gratis* and KPLT shall be responsible for any and all fees and costs associated with the conveyance. Furthermore, any transfer of interest in the property shall comply with USFWS Recovery Land Acquisition Grant program rules.

b. The Kilauea Coastal Preserve property has been acquired in part with funds from the U.S. Fish and Wildlife Service, (“Service”) and the property described is subject to all the terms and conditions of Grant Agreement Number E-15-RL-1 between the SERVICE and DLNR. A copy of the Grant Agreement is kept on file at the offices of the SERVICE, Eastside Federal Complex, 911 N.W. 11th Avenue, Portland, Oregon 97232-4181 and at the offices of DLNR, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

c. This acquisition is for the protection of threatened or endangered species habitat in perpetuity and shall run with the land to all heirs and successors.

d. When subject property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied (43 CFR 12.71).

11. Prior to the last to occur of (1) DLNR’s deposit of the Grant Funds into escrow and (2) KPLT’s close of escrow for acquisition of the Property, either party may terminate this Agreement to Subgrant for any reason or for no reason, by providing the other party with a minimum of thirty (30) days written notice of such termination.

12. After close of escrow for the acquisition of the Property, this Agreement to Subgrant shall remain in full force and effect for the purpose of securing compliance with the "PURPOSE OF SUBGRANT" provisions set forth above.

13. Any notice, demand, request, consent, approval, or communication that any party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To KPLT: The Kauai Public Land Trust
 P.O. Box 562
 Kilauea, Hawaii 96754

To DLNR: Hawaii Department of Land and Natural Resources
 Division of Forestry and Wildlife
 1151 Punchbowl Street, Rm. 325
 Honolulu, Hawaii 96813

or to such other address as either party from time to time shall designate by written notice to the other.

14. KPLT shall indemnify, defend, and hold harmless the State of Hawaii, DLNR, and the Board of Land and Natural Resources, its officers, employees, and agents, from and against any and all claims, demands, liabilities, suits actions, causes of action, judgments, costs, and expenses (including attorneys' fees) for loss, injury, death, or damage, including without limitation, claims for property damage, personal injury, or death of persons, whenever such damage, injury, loss, or death arises out of, is connected with or related to the Agreement to Subgrant or Unit E of the Kilauea Coastal Preserve. It is understood that the STATE shall in no way be held liable for any claims, damages, causes of action, or suits resulting from any acts or omissions of KPLT in the development of the Comprehensive Restoration and Management Plan for the Kilauea Coastal Preserve.

15. The interpretation and performance of this Agreement to Subgrant shall be governed by the laws of the State of Hawaii.

16. No person performing work under this Agreement to Subgrant, including any subcontractor, employee, or agent of KPLT, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.

17. KPLT shall comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state, and federal laws, now in force or which may be in force.

18. KPLT and DLNR agree that nothing in this Agreement to Subgrant should be construed as creating any type of partnership or joint venture arrangement or principal and agent relationship between them.

19. KPLT and DLNR agree that neither party shall be deemed to be the drafter of this Agreement to Subgrant and further that in the event that this Agreement to Subgrant is ever construed by a court of law, such court shall not construe this Agreement to Subgrant or any provision herein against KPLT or DLNR as the drafter.

20. Each party has thoroughly reviewed and revised this Agreement to Subgrant and has had the advice of counsel prior to the execution hereof, and the parties agree that neither party shall be deemed to be the drafter of this Agreement to Subgrant.

IN WITNESS WHEREOF KPLT and DLNR have set their hands on the day and year first above written.

Approved by the Board of
Land and Natural Resources
At its meeting held on

APPROVED AS TO FORM:

Deputy Attorney General

STATE OF HAWAII
DEPARTMENT OF LAND AND
NATURAL RESOURCES

By _____
Chairperson
Board of Land and
Natural Resources

THE KAUAI PUBLIC LAND TRUST, a
Hawaii nonprofit corporation

By _____

Its _____

And by _____

Its _____

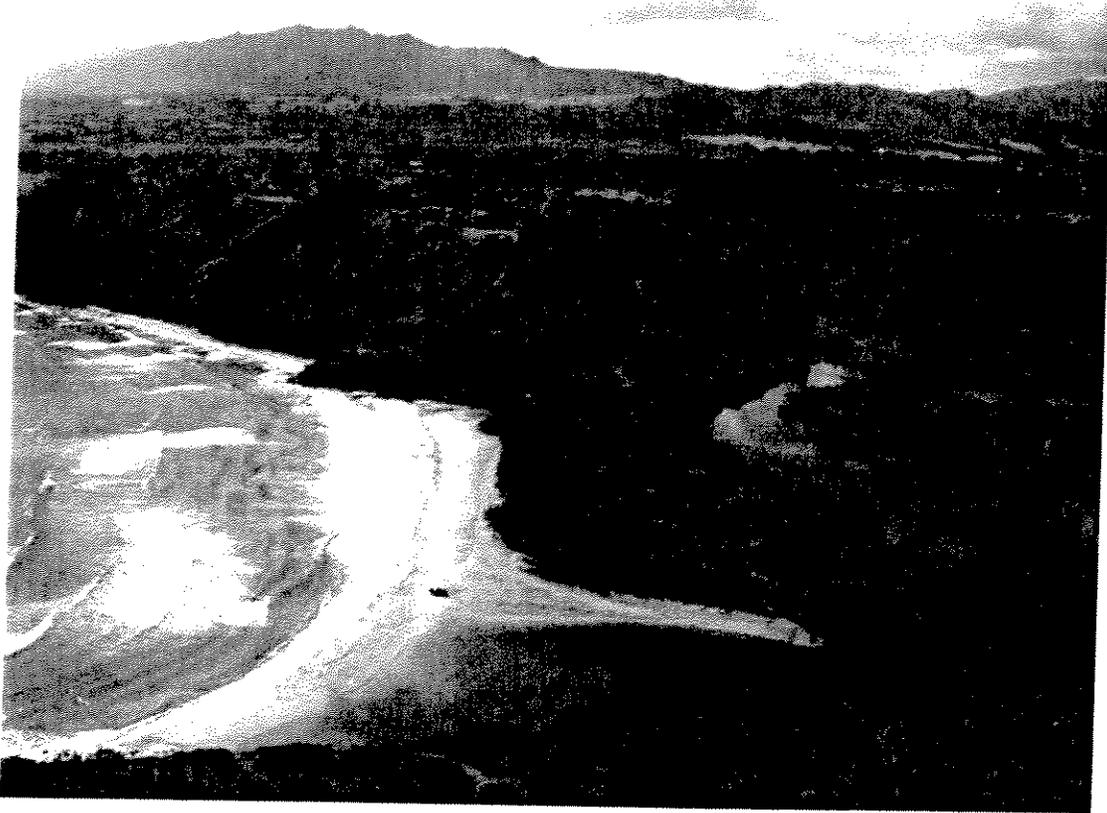
STATE OF HAWAII)
) SS.
COUNTY OF)

On this ___ day of _____, 20___, before me appeared _____ and _____, to me personally known, who, being by me duly sworn, did say that they are the _____ and _____, respectively of the KAUAI PUBLIC LAND TRUST, a Hawaii nonprofit corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and the said _____ and _____ acknowledged said instrument to be the free act and deed of said corporation.

Notary Public, State of Hawaii

My commission expires: _____

Kilauea Coastal Preserve Expansion and Habitat Restoration Project



**State of Hawaii
Department of Land and Natural Resources
Division of Forestry & Wildlife**

TITLE: Kilauea Coastal Preserve Expansion and Habitat Restoration Project

SUBMITTED BY: Hawaii Department of Land and Natural Resources
Division of Forestry and Wildlife
1151 Punchbowl Street, Room 325
Honolulu, Hawaii 96813

CONTACT: Scott Fretz
Wildlife Program Manager
(808) 587-4187

DATE: Original Submission February 7, 2007
Revised on December 21, 2007

PROJECT NEED:

Hawaii is known for the high level of endemism of its native flora and fauna. The native flowering plants of Hawaii consist of approximately 2700 taxa, over ninety percent of which occur only in the Hawaiian Islands. In an environment where the only mammals were bats and seals, birds proliferated and predominated with one hundred thirteen endemic bird species evolving from only nineteen bird families. Today, Hawaii's flora and fauna is in a precarious state. Unfortunately, Hawaii has the highest number of listed endangered and threatened species in the nation. There are 317 threatened and endangered species in the State of Hawaii, of which 273 are plants. Hawaiian plants comprise forty-five percent of the U.S. endangered plant list. Only sixty-six avian species and subspecies remain, thirty of which are endangered. The disappearance of these unique species is of widespread concern, and a driver of conservation and restoration initiatives in Hawaii. Loss of habitat is the primary threat to most listed species. However, vulnerability to disease and predation combined with relentless pressure from invasive species introductions and habitat losses have left Hawaii's endangered species teetering on the brink of extinction.

The best protection for native species is to reside in reserve and refuge areas where threats to their existence can be minimized and mitigated by professional wild-land managers and trained volunteers. The Island of Kauai offers a place of refuge with its rich natural resources, concerned citizens and lack of intensive development. Besides providing habitat for over 83 listed endangered plant species, 2 endangered mammal species, and 11 endangered bird species, Kauai is Hawaii's only mongoose free island, providing a last safe place for the 4 endangered ground nesting waterbirds, and the Hawaiian goose. In addition, Kauai boasts one of only two pure *koloa* populations left in the Hawaiian Islands. On the rest of the main islands the Koloa duck's genetic integrity has been weakened due to interbreeding with the introduced mallard duck (*Anas Platyrhynchos*). An available parcel of undeveloped land offers the rare opportunity to increase nesting habitat for seabirds and waterbirds, and areas where critically endangered plant species could find refuge.

On the North Shore of the island of Kauai, a land parcel (TMK 4-5-1-5-16) totaling 20 acres is currently on the market in the Kilauea River watershed. Located 5 miles east of Hanalei,

near the small town of Kilauea lies the Kilauea River Valley (see map 1). This valley contains highly productive, ecologically sensitive coastal, dune, estuary and wetland habitats. Coastal bluffs provide nesting habitat for seabirds such as the Laysan Albatross or *Moli* (*Phoebastria immutabilis*), the Red-footed Booby or 'A (*Sula sula*), the Wedge-tailed sheer water or 'Ua 'u kani (*Puffinus pacificus*), the White-tailed tropic bird or *Koa'e kea* (*Phaethon lepturus*), the Red-tailed tropic bird or *Koa'e'ula* (*Phaethon rubricauda*), and nesting habitat for the Brown Booby or 'A (*Sula leucogaster*), and the Great Frigate Bird or 'Iwa (*Fregata minor*). Beach dunes provide resting habitat for the endangered Hawaiian Monk Seal or 'Ilio holo I ka uaua (*Monachus schauinslandi*) and the endangered Green Sea Turtle or *Honu* (*Chelonia mydas*). Estuary waters in Kilauea support three species of endemic stream gobies, *O'opu naniha* (*Stenogobius hawaiiensis*), *O'opu akupa* (*Eleotris sandvicensis*), and the Pointed-tail goby (*Oxyurichthys lonchotus*), along with two species of endemic snails, *hapawai* (*Neretina vespertina*) and *pipiwai* (*Theodoxus cariosus*), as well as an endemic shrimp *opae oehaa* (*Macrobrachium grandimanus*) and endemic prawn *opae huna* (*Palaemon debilis*). In addition multiple marine species including *aholehole* (*Kuhlia xenura*), gray mullet or *ama'ama* (*Mugil cephalus*), various species of *papio*, *ulua* (*Caranx spp.*), *awa awa* (*Elops hawaiiensis*), *barracuda* or *kaku* (*Sphyraena barracuda*), and white crab or *kuhonu* (*Portunus sanguinolentus*) utilize the estuary area in the Kilauea Coastal Preserve. Wetland habitat in the estuary and adjacent ponds provide habitat for the: Hawaiian stilt or *Ae'o* (*Himantopus mexicanus knudseni*), Hawaiian coot or 'Alae keo 'keo (*Fulica alai*), Hawaiian gallinule or 'Alae ula (*Gallinula chloropus sandvicensis*), and Hawaiian duck or *Koloa* (*Anas wyvilliana*); while grasslands and shrubs provide habitat for the endangered Hawaiian Goose or *Nene* (*Branta sandvicensis*).

Intensive pressure stemming from increasing urbanization has pushed development into most lowland areas. This encroachment has caused declines in wetland, estuary, and coastal ecosystems across the Hawaiian Islands. At one time Hawaii contained an estimated 59,000 acres of wetland. Today, over 12 percent of its total wetland acreage and over 30 percent of its natural lowland wetlands are gone, and the remaining wetlands cover less than three percent of Hawaii's surface area. Hawaii's estuary systems are plagued by degraded water quality and increased erosion loads. Coastal habitats worldwide are in crisis, and Hawaii is no exception. All of these threatened ecotypes provide unique and irreplaceable habitat for a diversity of Hawaii's species assemblages. In addition, wetlands improve the water quality of the shore and near shore environment as well as providing nesting and foraging habitat for endangered birds. Estuaries act as the primary nursery grounds for many commercially important fish species. They also serve as the gateway for all of Hawaii's native stream fauna with diadromous life cycles. The estuary is the first place these animals encounter as they make their way back up the stream habitats of their birth. Coastal habitats offer opportunities for public recreation and act as buffer areas against storm surges. All of these ecosystems are extremely valuable and important because they support both plant and animal species endemic to the Hawaiian Islands. This unique opportunity to purchase land containing wetland, estuary and coastal habitat has potential to help recover populations of both terrestrial and marine endangered species while placing undeveloped land into conservation in perpetuity.

The Kauai Public Land Trust's (KPLT) mission is to acquire, preserve and protect Kauai's land resources for the integrity of the natural environment and the enjoyment of future generations. KPLT pursues this mission thru facilitating the purchase and sound management of

lands by working closely with community, business, government and landowners. In order to accomplish their goal KPLT is actively working to purchase 200 acres in order to create the Kilauea Coastal Preserve (see map 2). The Kilauea Coastal Preserve is part of a patchwork quilt of managed areas being developed to protect rare and endangered species in the Kilauea River Watershed that includes State and County managed lands, a U.S. Fish and Wildlife Service National Wildlife Refuge, and private land partners, all managed to include protection for native ecosystems. The Preserve began with the donation of a 5.5 acre parcel in the Kilauea River basin (Unit D in map 2). The second addition was made in November of 2005 which added a 3 acre parcel to the new preserve (Unit C in map 2). Currently a 20 acre parcel, Unit E, is available for purchase and addition to the existing coastal preserve (Unit E in map 2). Unit E is privately owned and due to increasing land value in the Hawaiian Islands the threat of development is always present. However, the current owner of the property understands the value of endangered species protection and is willing to sell their property for conservation purposes.

This proposal will directly address the primary goal of the Recovery Land Acquisition Program by acquiring habitat for threatened and endangered species, and conducting habitat conservation actions on non-Federal lands. Once Unit E is acquired, the title will go to the Kauai Public Land Trust who will add the parcel to the Kilauea Coastal Reserve and manage it for endangered species recovery. The KPLT accompanied by federal agencies, non-profit organizations, and community groups is committed to securing funding for the implementation of management of the habitat within the Kilauea Coastal Reserve in perpetuity. Management and habitat restoration will be accomplished by implementing a management plan developed to address the mutual goals of the diverse partnership involved in this project while managing the area for endangered species recovery, watershed protection, and native species habitat restoration.

OBJECTIVE:

The overall goal of the Kilauea Coastal Preserve Expansion and Habitat Restoration Project is to acquire, restore and protect over 190 acres of Kauai's coastal wetlands in the Kilauea River Watershed which are currently for sale. This proposal will allow the restoration program to acquire a 20 acre parcel for addition to the Preserve area.

The objectives of this project are:

- 1) Acquire 20 acres of over 190 acres available for purchase of privately owned lands
- 2) Develop a management plan for the area
- 3) Implement the management plan

Project Phases:

1) Phase I (completed): Acquired Unit D of TMK 4-5-1-5-16 (5 acres), and Unit C, TMK parcel 4-5-1-5-5-16 (3 acres). This phase was recently completed with the donation of 5 acres, and purchase of 3 acres of prime riverfront/beachfront real estate located at the mouth of the Kilauea Stream at Kahili beach for long-term conservation management.

- 2) Phase II (this proposal): acquire Unit E of TMK 4-5-1-5-16 (20 acres) and add it to the land protected in Phase I to form a portion of the core of the proposed 200-acre Kilauea Coastal Preserve. Provide protection in perpetuity to a significant portion of wetland habitat and a suite of endangered wetland birds, migratory birds, seabirds, endemic plants, fish, and insects.
- 3) Phase III: Develop a comprehensive management plan for the area with assistance from the multiple cooperators in the Kilauea Coastal Preserve Partnership including KPNWR and members of the community. The Preserve will be managed in perpetuity by a cooperative partnership of County, Federal and private partners for the purposes of endangered species recovery, watershed protection, and native species habitat restoration.
- 4) Phase IV: Implementation of the management plan, including additional surveys to document populations of rare and native species, habitat restoration through control of invasive non-native plants and animals, outplanting of native coastal and wetland plants, and monitoring of biotic and abiotic resources within the Preserve.
- 5) Future phases of this project will be to continue to set aside habitat in and around the Kilauea Coastal Reserve and manage it in perpetuity for the purposes of endangered species conservation and recovery (remaining 162 acres, Parcel B in map 2).

EXPECTED RESULTS AND BENEFITS:

Purchase of Unit E for addition to the Kilauea Coastal Preserve will result in perpetual protection of an area that contains five federally listed endangered bird species: the Hawaiian Goose (*Branta sandvicensis*), Hawaiian stilt (*Himantopus mexicanus knudseni*), Hawaiian coot (*Fulica alai*), Hawaiian gallinule (*Gallinula chloropus sandvicensis*), and Hawaiian duck (*Anas wyvilliana*). Besides species specifically contained in the unit, two federally listed endangered mammal species have been observed using the habitat, these include the Hawaiian Hoary bat (*Lasiurus cinereus semotus*), and the Hawaiian Monk Seal (*Monachus schauinslandi*). In addition, the area contains habitat suitable for the Newell's shearwater (*Puffinus newelli*), a federally listed threatened seabird. This project will also improve habitat for three state listed species of concern, the *Hihiwai*, a native freshwater snail and two native goby species, *O'opu naniha* (*Stenogobius hawaiiensis*), *O'opu akupa* (*Eleotris sandvicensis*). In addition numerous other migratory birds, shorebirds, fishes (Papio, Aholehole, mullet) and invertebrate species will all benefit from the acquisition and protection of the Kilauea Coastal Preserve.

This project will result in the restoration and permanent protection of approximately 20 acres of estuarine and associated wetland and coastal habitat on the Island of Kauai. The location of this project is significant in that Kilauea Point National Wildlife Refuge is adjacent to the eastern land boundary of the proposed purchase area. In creating the Kilauea Coastal Preserve, two protected areas (KPNWR and the Preserve) have been linked together thus creating a contiguous protected habitat and reducing habitat fragmentation for the endangered species that live there.

The KPNWR is a nesting, and resting site for thousands of Hawaiian seabirds and is also home to the endangered Hawaiian goose. With an average of 300,000 visitors per year, the educational and outreach opportunities of an easily visible estuary wetland area such as the

Kilauea Point Coastal Preserve are great. Located 5 miles east of the Hanalei National Wildlife Refuge, which provides habitat for Hawaiian stilts, coots, moorhens and ducks as well as 45 other species of birds, the acquisition and restoration of the Kilauea Coastal Preserve will provide additional habitat to a large population of wetland birds in the Kilauea/Hanalei vicinity. This project will assist in achieving the goals of several management plans and objectives.

Management Plan or Effort	How this project helps implement its goals
Draft Revised Recovery Plan for Hawaiian Waterbirds	Acquisition, management and protection of wetland habitat on the island of Kauai
Migratory Bird Program Strategic Plan	Protect, restore and manages migratory bird habitat
US Shorebird Conservation Plan	Provide high quality habitat to ensure that shorebirds in the region are not unduly limited by habitat availability and ensure that efforts to provide habitat for shorebirds are integrated into multiple species habitat management initiatives
North American Waterbird Conservation Plan	Restoration and protection of habitat that supports the life cycle needs of waterbirds; Stops the use of vehicles on the beaches.
U.S. Pacific Islands Regional Shorebird Conservation Plan	Calls for "habitat restoration, vegetative clearing and long-term management" of habitats for priority shorebird species including the Hawaiian stilt and the Pacific golden plover.
Ducks Unlimited Conservation Plan	Hawaiian wetlands are identified as a "High" priority for wetland conservation activities.

In addition there are numerous federally listed threatened and endangered species that will benefit from the Kilauea Coastal Preserve Expansion and Habitat Restoration Project.

Common Name	Scientific Name	Status	Project Benefits	Does this project support goals of a RP or HCP? List plan and goals
Hawaiian moorhen	<i>Gallinula chloropus sandvicensis</i>	Federally Endangered	Habitat acquisition will provide additional nesting and foraging areas for Hawaiian moorhen, Hawaiian coot, Hawaiian duck and Hawaiian stilt.	USFWS Hawaiian Waterbird Recovery Plan whose goal is to downlist to threatened status and then delist the Hawaiian moorhen, Hawaiian coot, Hawaiian duck and Hawaiian stilt.
Hawaiian coot	<i>Fulica alai</i>	Federally Endangered		
Hawaiian duck	<i>Anas wyvilliana</i>	Federally Endangered		
Hawaiian stilt	<i>Himantopus mexicanus knudseni</i>	Federally Endangered		
Hawaiian monk seal	<i>Monachus schauinslandi</i>	Federally Endangered	In stopping vehicular traffic on beaches project protects haul out and possible birthing sites for the Hawaiian	Hawaiian Monk Seal Recovery Plan, 1983 NOAA/NMFS. Goal is to identify & prevent human activities that could result in degradation or

			Monk Seal	destruction of habitats or habitat components critical to survival and recovery of the species.
Hawaiian hoary bat	<i>Lasiurus cinereus semotus</i>	Federally Endangered	Project may provide roosting sites for this species as well as foraging areas	USFWS Recovery Plan for the Hawaiian Hoary Bat whose goal is to downlist to threatened status and then delist the species.
Lo'ulu Palm	<i>Pritchardia viscosa</i>	Federally Endangered	Outplanting of this species will help to ensure a separate viable population	
Hawaiian green sea turtle	<i>Chelonia mydas aggazizi</i>	Federally Threatened	Protection of coastline will ensure this species has basking sites and foraging areas free of sedimentation and runoff	NOAA Recovery Plan for the U.S. Pacific Populations of the Green Turtle, <i>Chelonia mydas</i>
Hawaiian goose	<i>Branta sandvicensis</i>	Federally Endangered	Restored and protected coastal grasslands will provide much needed habitat for the species	USFWS Hawaiian Goose Recovery Plan
Newell's Shearwater	<i>Puffinus pacificus newelli</i>	Federally Threatened	Acquisition will provide new habitat for this species	

Although the endangered species habitat in Kilauea Coastal Preserve requires minimal management to provide benefits to the primary species, having the Kilauea Coastal Preserve lands jointly managed will ensure that there is access to the area for restoration purposes, and will allow more thorough biological surveys and aggressive ecosystem management activities such as invasive species eradication. By minimizing predation through predator control within the area and suppressing invasive plant species, native plants and animals can begin to recover and proliferate.

APPROACH:

A total of \$2,759,181.00 from the Recovery Lands Acquisition Program is being sought for the purchase of Unit E (TMK 4-5-1-5-16, 20 acres) for addition to the Kilauea Coastal Preserve. Since Units C and D have already been acquired by the KPLT, through donation and purchase, the acquisition of Unit E would complete the acquirement of available land parcels by KPLT. Unit E is currently on the market and available for purchase. The present land owner is supportive of selling the parcel to a preservation oriented organization (see attachment 1, support letter) in order to have the habitat value and unique resident species preserved in perpetuity. If RLA funds are leveraged the process of acquisition will begin immediately. Acquisition will entail the completion of a boundary survey of Unit E as well as an official federal blue book land appraisal. Once funds are leveraged the following timeline will commence.

August 2007	Grant award received and internally processed
September 2007	Negotiations with landowner initiated for purchase of parcel
October–December 2007	Undertake boundary survey of property
January 2008	Completion of federal blue book appraisal
January – March 2008	Submit offer to purchase the property; once accepted the property would go into escrow.
April 2008	Property purchase complete
May 2008	KPLT will provide a permanent conservation easement to the State or other agreement between KPLT and the State will be drawn to ensure protection in perpetuity of lands acquired.
June –August 2008	Development and execution of management plan for Kilauea Coastal Preserve
August 2008-June 2009	Habitat management and restoration preformed in order to recover endangered species populations

Upon successful acquisition of parcel E, a comprehensive restoration and management plan will be developed. The realization of conservation goals requires strategies for managing whole landscapes including areas allocated to both species protection and habitat enhancement. The management plan developed for the Kilauea Coastal Preserve would be an adaptable plan developed with both short and long term goals, and would include the following management strategies:

- Predator control program
- Invasive species eradication program
- Re-establishment of historic native plant assemblages
- Erosion control strategy
- Translocation of endangered species
- Wetland enhancement activities
- Water quality improvement practices
- Fish habitat enhancements
- Public outreach and education program
- Identification and protection of cultural resources
- Strong volunteer corps development

Once the management plan has been accepted by all project partners, the implementation phase of the management plan would then be initiated. Implementation of the management plan would begin in phases. For example, the first phase would encompass a water quality monitoring program, biological surveying to inventory current species assemblages, and identification of critical habitat areas within the preserve. Once a baseline of biological data was collected, an aggressive invasive species eradication program could commence. Once non-

native vegetation and mammals are removed, subsequent phases that include the re-introduction of native plants and birds could begin. These phases would continue until endangered species populations within the preserve were recovered.

In order to facilitate the acquisition of new lands for the preserve and manage them in perpetuity, a diverse array of project partners will collaborate to create a successful project. The Kilauea Coastal Preserve will include a habitat restoration, enhancement and management program supported by a range of private and government agencies organizations as well as private business and local communities. Supporting organizations include:

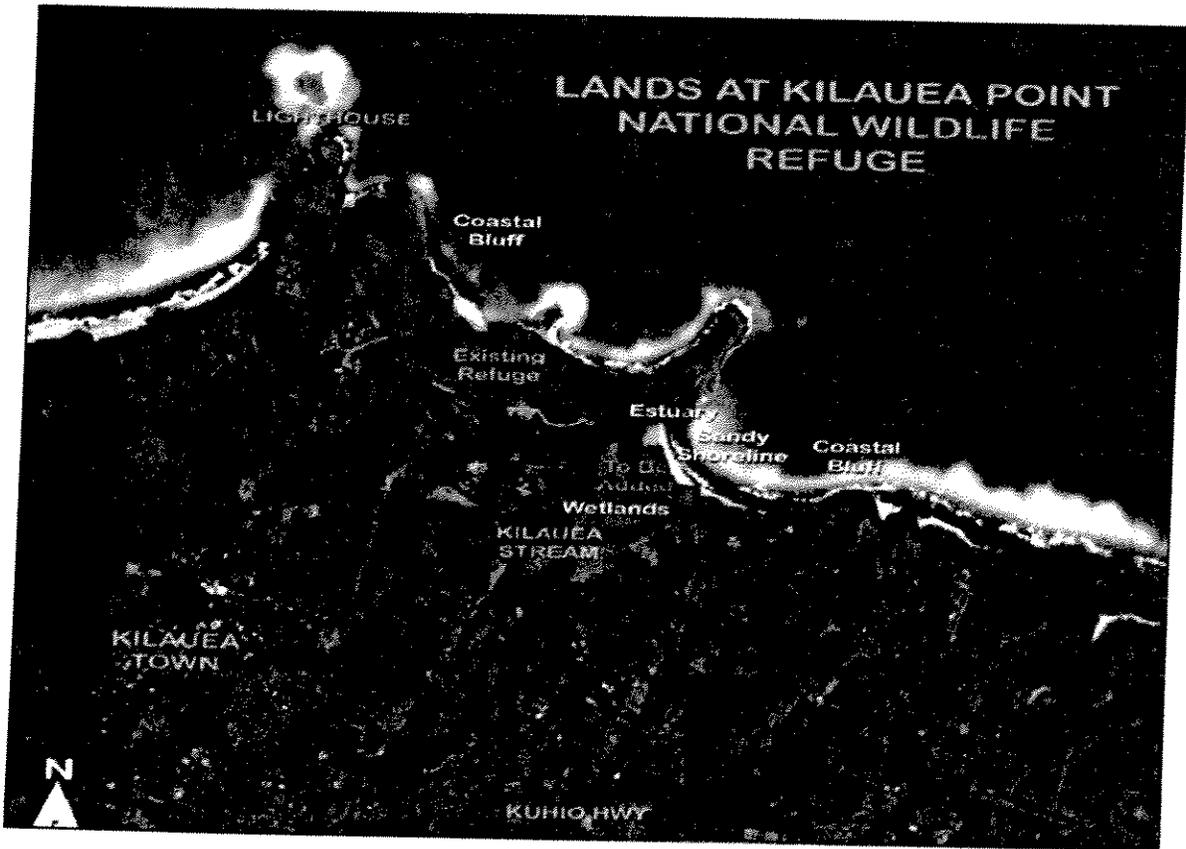
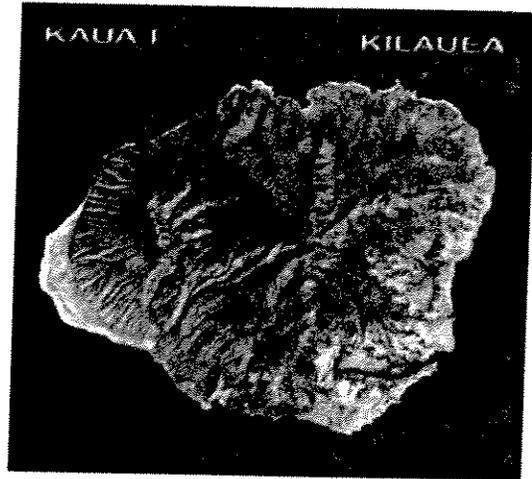
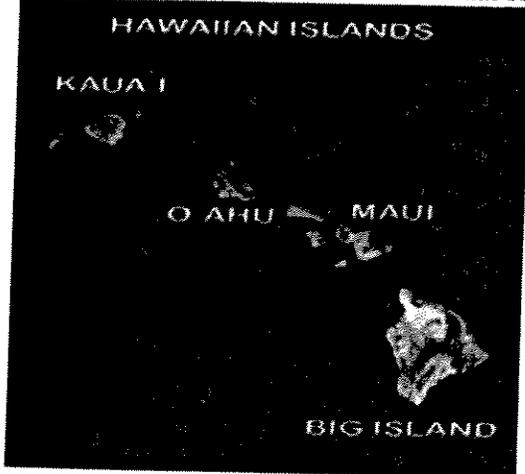
- County of Kauai
- Kilauea Neighborhood Association
- Kilauea Point Natural History Association
- Aina Ho'okupu o Kilauea
- Jim O'Connor Realty
- Kauai Public Land Trust
- U.S. Fish and Wildlife Services
- Ducks Unlimited
- The Nature Conservancy

The present opportunity to acquire Unit E (20 acres) for protection and rehabilitation is of paramount importance as there are factors present that are often rare in combination: a willing seller, strong commitments from private donors, beautiful coastal wetland and associated costal and estuary areas, adjacent healthy reef and clean waters, Hawaiian cultural sites and definite opportunities to expand endangered species habitat. Furthermore, acquiring this parcel would help to make the vision of permanently preserving a beautiful Hawaiian Coastline within the Kilauea Coastal Preserve a reality.

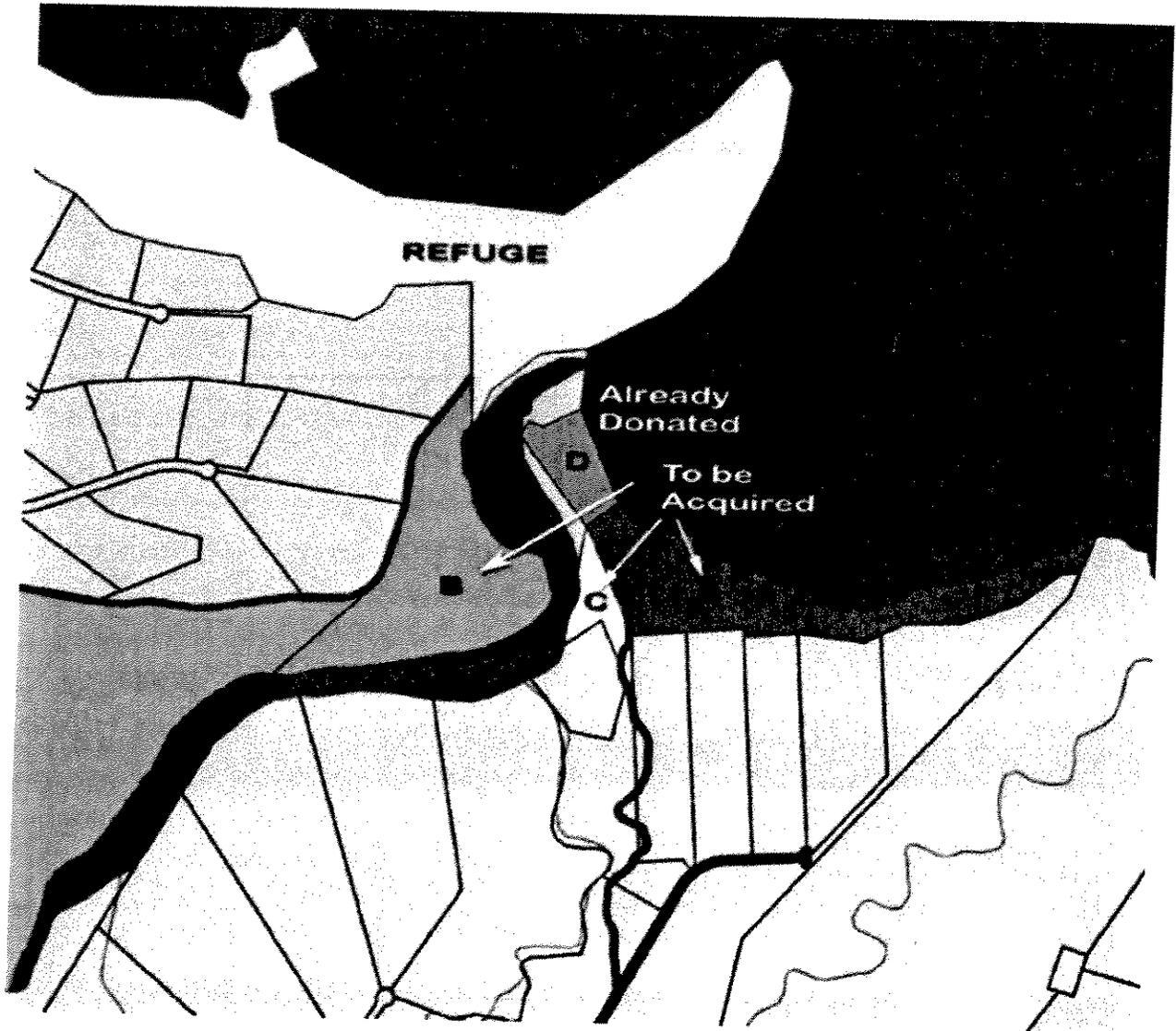
LOCATION:

The parcels proposed for acquisition is Unit E of TMK 4-5-1-5-16 at Kahili Beach on Kilauea Bay, Kilauea, Kauai, Hawaii.

Map 1. Position of Kilauea within Kauai Hawaii



Map 2. Land Units of the Kilauea Coastal Preserve



Unit	Size	Status	Cost
B	162 acres	Not for sale at present	Estimated at 5.5 + million
C	3 acres	Acquired	1.496 Million
D	5.5 acres	Donated	Donation appraised at 4 million
E	20 acres	For sale	3 Million

Estimated Cost:

The estimated appraisal cost of Unit E totaling 20 acres in the Kilauea Coastal Preserve Expansion and Habitat Restoration Project is approximately \$3 million dollars.

Source	Amount	Percent
<i>Federal Share</i>		
Recovery Land Acquisition Program (2007)	\$2,759,181.00	
Land Purchase	\$2,742,181.00	
Personnel Costs	\$12,000.00	
Admin. Costs	\$5,000.00	
Total Federal	\$2,759,181.00	75%
<i>Non-federal Match</i>		
	\$919,727.00	
Kauai Public Land Trust	\$219,727.00	
State of Hawaii Legacy Lands	\$700,000.00	
Total Non-Federal	\$919,727.00	25%
<i>Project Total</i>		
	\$3,678,908.00	100%

\$2,759,181.00 from the Recovery Land Acquisition program will allow us to work with the land owner and give us more time to obtain additional funding for acquisition of lands within the Kilauea Coastal Preserve.

Questions regarding this proposal:

Scott Fretz, PhD
 Wildlife Program Manager
 Hawaii Department of Land and Natural Resources
 Division of Forestry and Wildlife
 1151 Punchbowl Street, Room 325
 Honolulu, Hawaii 96813
 Phone (808) 587-4187
 Cell (808) 227-3403
 FAX (808) 587-0160
 email: Scott.Fretz@hawaii.gov

List of Attachments:

- Attachment 1. Letter of support from land owner
- Attachment 2. Property descriptions

Louise Zweben
3466 21st St,
San Francisco, CA 94110

January 31, 2007

Ms. Christine McGuire
C/o Department of Land and Natural Resources
Honolulu, Hawaii

Dear Ms. McGuire,

I am the owner of Unit E, an approximately 20 acre bluff oceanfront parcel fronting Kahili (otherwise known as Rock Quarry) beach on the island of Kauai.

We are very extremely excited about the potential ownership of this unique land parcel by preservation orientated organization and, as such, wish to convey our willingness to sell to an organization such as yours.

Please feel free to contact me with any concerns or questions that you may have.

Sincerely,

Louise Zweben

(415) 285 8692

Louise.zweben@sbcglobal.net

Cell
email

Attachment 2. Property Descriptions:

TMK: 4-5-1-5-16 Unit D, five (5) acres, was donated to the Kauai Public Land Trust in December 2003. The property was appraised at over \$4 million and is part of the non-Federal match for this project. This gift ensures that this key coastal asset will be available for the public's benefit in perpetuity. It has river frontage on its southern (mauka) and western borders and fronts Kahili Beach and Kilauea Bay to the north. It contains an extensive dune system known to harbor Hawaiian burials. It is vegetated primarily by exotics, mainly Ironwood trees, but it also has some coverage by *Hau*, *Milo*, *Kou*, and *Pohuehue* (Beach Morning Glory). Significant stewardship of Unit D has already been done by KPLT in collaboration with the Kilauea Neighborhood Association (KNA). Between 10/21/03 and 3/12/05, \$10,886.31 was spent improving the property and over 230 volunteer hours have been invested in clean ups activities. Recently, driving on the beach was prohibited (September 2004), and now Monk Seals are observed on the beach and *Pohuehue* is starting to thrive. The next restoration step will be to collaborate with the Hawaiian community on a sensitive, careful stabilization and re-vegetation of the dunes, utilizing native Hawaiian coastal plants. Interpretative signage is also planned, as funding becomes available. The southeast corner of the parcel could also be used as habitat for Lo'ulu Palm (endangered).

TMK 4-5-1-5-51-4 Unit C, was acquired in November of 2005. Unit C is the most eastern parcel of the Kilauea Coastal Preserve, and is currently vegetated mainly by invasive plants. This parcel has the potential to provide habitat for endangered Hawaiian waterbirds once some restoration and management is undertaken.

TMK 4-5-1-5-16 Unit E, There is an immediate need to acquire this parcel due to heavy pressure of Kauai's real estate market. Sale of this parcel to another private owner interested in owning their own piece of paradise will eliminate the current opportunity to protect a long stretch of unique coastal wetland habitat and a healthy estuary and harm recovery efforts for threatened seabirds and struggling native Hawaiian coastal bluff and coastal estuarine Flora and fauna.