

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii

August 28, 2009

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

SUBJECT: Amend Prior Board Action of January 11, 2008, Item D-3: "Acquisition of Private Lands and Set-Aside to Division of Forestry and Wildlife (DOFAW) for Addition to the Upper Waiakea Forest Reserve at Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-4-008: 003."

Acceptance of Hearing Officer's Report on a Public Hearing for Seven Proposed Changes to the Forest Reserve System on the Island of Hawaii.

Approval and Recommendation to the Governor for an Executive Order to Amend Governor's Proclamation Dated December 22, 1928 to Change the Status of the Lands within Hilo Forest Reserve Defined as TMK (3) 2-4-008:003, Comprising Approximately 1,336 acres at Waiakea, South Hilo, Hawaii, from Private to Public (State) Ownership Under the Control and Management of the Department of Land and Natural Resources Division of Forestry and Wildlife.

Confirm and Adopt Prior Board Actions and Recommend to the Governor the Issuance of Executive Orders for: 1) Addition of approximately 110 acres to Hilo Forest Reserve (Laupahoehoe section) at Laupahoehoe, North Hilo, Hawaii; 2) Withdrawal of approximately 182 acres from Hilo Forest Reserve at Piihonua, South Hilo, Hawaii; 3) Cancellation of Governor's Proclamation dated April 17, 1917 that established Panaewa Forest Reserve at Waiakea and Keaau, South Hilo and Puna, Hawaii, under which approximately 1,125 acres remain; 4) Withdrawal of approximately 4.4 acres from the Waiakea Forest Reserve at Waiakea, South Hilo, Hawaii; 5) Addition of approximately 1,261 acres to the Waiakea Forest Reserve at Waiakea, South Hilo, Hawaii; and 6) Addition of approximately 1,257 acres to Kau Forest Reserve at Kapapala, Kau, Hawaii.

Background: As a result of items D-5 of February 10, 2006 and D-3 of January 11, 2008, the Board of Land and Natural Resources (Board) authorized the Department to pursue acquisition of approximately 1,336 acres (TMK (3) 2-4-008:003) of private lands at Waiakea, South Hilo,

Hawaii; authorized the Division of Forestry and Wildlife (Division) to conduct a public hearing regarding the proposed addition of these lands to the Upper Waiakea Forest Reserve; and approved of and recommended to the Governor the issuance of an executive order (EO) setting aside the lands to the Division. These actions represent a proposed transfer of private lands purchased by the State into the public Forest Reserve System with the intent to provide the watershed area and native ecosystems of these lands with the protection of forest reserve statutes and rules. Following the Board's action on January 11, 2008, item D-3 (Exhibit A), the Division determined that pursuant to Governor's Proclamation dated December 22, 1928, entitled "Proclamation of Modification of Boundaries of the Hilo Forest Reserve, District of South Hilo, Island and County of Hawaii, Territory of Hawaii," TMK (3) 2-4-008:003 (Exhibit B) lies within the current boundary of Hilo Forest Reserve.

The Division notes that due to a practice of the Territorial Government in the early 20th century, both public and private lands were sometimes included within proclaimed forest reserve boundaries. As a result, the lands that now comprise TMK (3) 2-4-008:003 were included in the December 22, 1928 Proclamation that modified the boundaries of Hilo Forest Reserve as private lands. Parcel 003 is an example of this practice, and while its status has changed to State ownership, it technically still lies within the boundary of Hilo Forest Reserve.

Rather than representing a potential addition to Hilo Forest Reserve as requested of the Board on January 11, 2008, under item D-3, staff request that the Board **amend** item D-3 to approve in principle the proposed transfer of private lands purchased by the State to Hilo Forest Reserve. In order to accomplish this, staff now requests that the Board approve of and recommend to the Governor an Executive Order to amend Governor's Proclamation dated December 22, 1928 for the currently existing Hilo Forest Reserve to indicate that the lands comprising TMK (3) 2-4-008:003 are no longer privately owned but part of the public lands of Hilo Forest Reserve.

Public hearings have been held for the Board actions discussed above as well as the following six (6) items regarding forest reserves on the Island of Hawaii. These items were previously considered and recommended by the Board and are now being submitted to the Board for final action and determination regarding amendments to the state Forest Reserve System:

1. Board meeting of March 28, 2008, item D-6: Addition of approximately 110 acres (TMK (3) 3-6-006:046) at Laupahoehoe, North Hilo, Hawaii to the Hilo Forest Reserve (Laupahoehoe section) (Exhibit C). This is a proposed transfer of lands between Land Division and the Division of Forestry and Wildlife, and would provide a site for a field research and education facility in support of the Hawaii Experimental Tropical Forest. This parcel is currently encumbered under General Lease No. S-5320 for pasture purposes; the Division would assume management of this lease, from which 20 acres is proposed to for removal to accommodate the planned research and education facility site. The remaining 90 acres of the lease would remain with the current lessee until its expiration, after which the Division would manage the former grazing lands for plantation or native forest management.
2. Board meeting of May 8, 2009, item D-5: Withdrawal of approximately 182 acres (portions of TMK (3) 2-6-018:004 & 010) at Piionua, South Hilo, Hawaii from the Hilo

Forest Reserve (Exhibit D). This land would be set aside to the Department of Transportation for the Saddle Road realignment project, which generally follows and overlaps the existing roadway. Where the new road does not overlap, the existing road will be destroyed, with these areas returned to forest reserve status.

3. Board meeting of August 22, 2008, item D-1 and July 22, 2009, item D-2: Cancellation of the Governor's Proclamation of April 17, 1917, establishing Panaewa Forest Reserve. Areas affected would include approximately 1,125 acres consisting of TMKs in the following Plats: (3) 1-6-003, 2-2-046, 2-2-048, 2-2-052, 2-2-056, 2-2-061, 2-4-004, 2-4-049, and 2-4-008: portion of 001 at Waiakea and Keaau, South Hilo and Puna, Hawaii (Exhibit E). This proposed action includes an after-the-fact removal of lands previously converted to residential and agricultural subdivisions, as well as remnant lands along existing road rights-of-way. The remaining forest lands (approximately 100 acres) would be reconsolidated with the adjacent Waiakea Forest Reserve.
4. Board meetings of August 22, 2008, item D-3, November 14, 2008, item D-7 and March 27, 2009, item D-7: Withdrawal of approximately 4.4 acres (TMK (3) 2-4-049: portions of 011,012 & 031, and 2-4-008: portion of 001) at Waiakea, South Hilo, Hawaii, from the Waiakea Forest Reserve (Exhibit F). This withdrawal primarily relates to a proposed transfer of land jurisdiction from the Division of Forestry and Wildlife to the Land Division. Staff recently discovered that a small portion of Waiakea Forest Reserve was placed under agricultural leases by Land Division in the 1960s without having been formally removed from Waiakea Forest Reserve. This area represents a narrow strip of land that runs along Stainback Highway within the agricultural subdivision that has little forest resource value. Of the proposed 4.4 acre withdrawal, less than one acre represents a land unit that would be returned to Waiakea Forest Reserve in a separate action (see Section 5 below), and is included here to complete corresponding transfer records.
5. Board meeting of August 22, 2008, item D-2: Addition of approximately 1,261 acres (TMK (3) 2-4-008:022 & portion of 001) at Waiakea, South Hilo, Hawaii, to the Waiakea Forest Reserve (Exhibit G). This proposed addition is a transfer of land jurisdiction within DLNR. It reconsolidates: Less than one acre of land (Section 4 above); forest land remaining from the proposed cancellation of Panaewa Forest Reserve (Section 3 above); and addition of unencumbered lands consisting of TMK (3) 2-4-008:022 & portion of 001 (approximately 1,261 acres). Addition of these lands to Waiakea Forest Reserve would provide for expanded commercial forestry and public hunting opportunities.
6. Board meeting of December 12, 2008, item C-2: Addition of approximately 1,257 acres (TMK (3) 9-8-001:014) at Kapapala, Kau, Hawaii, to Kau Forest Reserve (Exhibit H). This addition involves a proposed change in land use designation; the parcel was previously designated as the "Kapapala Koa Management Area", whose purpose is to provide koa forest management with a focus on canoe log production, along with recreation (including hunting) and watershed and forest bird habitat protection. However, there is no formal land designation category called "koa management area" in DLNR's land use designation system. As such, the Division proposes to add the subject lands to the currently existing and adjacent Kau Forest Reserve. This action would

merely change the designation of the area from “koa management area” to “Forest Reserve,” placing the area under the guidance of statutes and rules associated with the Forest Reserve System. The Division currently has management jurisdiction of these lands, and would retain jurisdiction with their transfer to the Forest Reserve System. Management objectives for the area would not change.

Approval to hold public hearings on the proposed forest reserve additions and withdrawals were obtained from the Board of Land and Natural Resources on January 11, 2008 (Hilo-Kukuau addition), March 28, 2008 (Hilo-Laupahoehoe addition), August 22, 2008 (Panaewa cancellation, Waiakea addition and Waiakea withdrawal), November 14, 2008 (Waiakea withdrawal), December 12, 2008 (Kau addition) and May 8, 2009 (Hilo removal). Approval to set the date of the public hearing and to appoint Roger Imoto as the Hearing Officer was obtained from the Chairperson on June 23, 2009.

In accordance with Notices of Public Hearing published in the Honolulu Star-Bulletin, the Garden Island, the Maui News, the West Hawaii Today, and the Hawaii Tribune-Herald newspapers on Sunday, June 28, 2009, a public hearing was held on July 13, 2009 to receive public input on the seven (7) items described above.

No members of the public attended this hearing, the proceedings of which are summarized in the Hearing Officer’s report (Exhibit I). No verbal testimony was received regarding these items. Two individuals submitted written testimony by mail after the meeting. Based on these results, staff recommends final processing of the proposed transfers.

Division staff consulted with the Office of the Attorney General in preparing this submittal regarding the amendments proposed for their input and concurrence.

RECOMMENDATIONS:

That the Board of Land and Natural Resources:

1. Amend its prior Board action of January 11, 2008, under agenda item D-3 by striking Recommendation No. 6 in its entirety and replacing it with the following language:
 - “6. Approve in principle the proposed transfer of private lands purchased by the State (TMK (3) 2-4-008:003, comprising approximately 1,336 acres) at Waiakea, South Hilo, Hawaii, to Hilo Forest Reserve with the intent to place the watershed area and native ecosystems of these lands under the protection of forest reserve statutes and rules.”
2. Accept and approve the Hearing Officer’s report and minutes for the public hearing held on July 13, 2009 relating to proposed Forest Reserve System additions and withdrawals on Hawaii Island as described above.

3. Approve of and recommend to the Governor an Executive Order to amend Governor's Proclamation dated December 22, 1928, changing the status of the lands defined as TMK (3) 2-4-008:003 at Waiakea, South Hilo, Hawaii, comprising approximately 1,336 acres, from private to public (State) ownership, and as such that these lands now fall under management of the Department of Land and Natural Resources Division of Forestry and Wildlife as the Kukuau Section of Hilo Forest Reserve.
4. Based on the results of the public hearing held on July 13, 2009, on the island of Hawaii, the Board confirm and adopt its prior recommendations made at the Board meetings of:
 - a) March 28, 2008, item D-6 - That the Governor issue an executive order setting aside lands to the Division of Forestry and Wildlife, for addition to the Hilo Forest Reserve (Laupahoehoe section), consisting of TMK (3) 3-6-006:046 (approximately 110 acres) at Laupahoehoe, North Hilo, Hawaii as described above.
 - b) May 8, 2009, item D-5 - That the Governor issue two (2) executive orders: 1) withdrawing lands from the Hilo Forest Reserve, consisting of portions of TMK (3) 2-6-018:004 & 010 (approximately 182 acres) at Piihonua, South Hilo, Hawaii, as described above and 2) setting aside these same lands to the Department of Transportation.
 - c) August 22, 2008, item D-1 and July 22, 2009, item D-2 – That the Governor issue an executive order cancelling Governor's Proclamation dated April 11, 1917, consisting of TMKs in the following Plats: (3) 1-6-003, 2-2-046, 2-2-048, 2-2-052, 2-2-056, 2-2-061, 2-4-004, 2-4-049, and 2-4-008: portion of 001 (approximately 1,125 acres) at Waiakea and Keaau, South Hilo and Puna, Hawaii as described above.
 - d) August 22, 2008, item D-3 and November 14, 2008, item D-7 and March 27, 2009, item D-7 – That the Governor issue an executive order withdrawing lands from the Waiakea Forest Reserve, consisting of TMK (3) 2-4-049: portions of 011,012 & 031, and 2-4-008: portion of 001 (approximately 4.4 acres) at Waiakea, South Hilo, Hawaii as described above.
 - e) August 22, 2008, item D-2 – That the Governor issue an executive order setting aside lands to the Division of Forestry and Wildlife, for addition to the Waiakea Forest Reserve, consisting of TMK (3) 2-4-008:022 & portion of 001 (approximately 1,261 acres) at Waiakea, South Hilo, Hawaii as described above.
 - f) December 12, 2008, item C-2 – That the Governor 1) cancel Executive Order 4109 and 2) issue an executive order re-designating TMK (3) 9-8-001:014 (approximately 1,257 acres) at Kapapala, Kau, Hawaii as described above as a set aside to the Division of Forestry and Wildlife, to be known as the Kapapala Section of Kau Forest Reserve.
5. Recommendation Nos. 3 and 4 above are further made subject to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;

- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

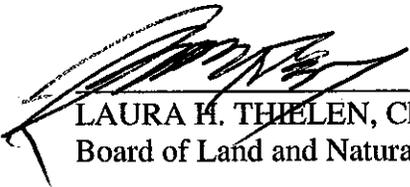
Respectfully submitted,



PAUL J. CONRY
Administrator

Attachments

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 11, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 06HD-002

HAWAII

Acquisition of Private Lands and Set-Aside to Division of Forestry and Wildlife (DOFAW) for addition to the Upper Waiakea Forest Reserve at Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-4-008:003.

APPLICANT AGENCY:

Division of Forestry and Wildlife, Department of Land and Natural Resources.

PRIVATE LANDOWNER:

CARLSMITH BALL LLP, a limited liability law partnership LLP, with an undivided 0.50 interest as Fee Owner, IVAN MICHAEL LUI-KWAN, husband of Frances Patricia Lui-Kwan, with an undivided 0.49947990 interest, HAWAII COUNTY ECONOMIC OPPORTUNITY COUNSEL [sic], a Hawaii private non-profit organization, with an undivided 0.00011622 interest; PEARSON FOUNDATION, INC., a Hawaii private non-profit organization, with an undivided 0.00005789 interest; BOY SCOUTS OF AMERICA, ALOHA COUNCIL, a Hawaii non-profit organization, with an undivided 0.00005789 interest; and the ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII, a Hawaii non-profit corporation, with an undivided 0.00028810 interest, or their legal successors, whose business and mailing address is IVAN LUI-KWAN et al.

Honolulu, HI
and
CARLSMITH BALL LLP
ASB Tower
1001 Bishop Street, Suite 2200
Honolulu, HI 96813

LEGAL REFERENCE:

Sections 107-10, 171-11 171-30, and Chapter 198, Hawaii Revised Statutes, as amended, as may be necessary.

January 11, 2008

LOCATION:

Privately owned lands situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-4-008:003, as shown on the attached map labeled Exhibit A.

AREA:

1,335.980 acres, more or less.

ZONING:

State Land Use District: Conservation--Protective and Resource
Subzones
County of Hawaii CZO: Not zoned

CURRENT USE:

Vacant and unimproved.

CONSIDERATION:

Purchase price is \$1.25 million, pursuant to prior Board approval on February 10, 2006, Agenda Item D-5.

PURPOSE:

The parcel will become a permanent addition to the State's Upper Waiakea Forest Reserve.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 343-5(a)(1), HRS, an environmental assessment (EA) is not required where State or county funds are being used for the acquisition of unimproved real property. As the subject lands are unimproved, an EA is not required. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

There have been three Conservation Use District Applications (CDUA) on record. The first in 1981 was approved for lot consolidation/resubdivision, and two in 1988 intended to subdivide the property were submitted but then withdrawn.

APPLICANT REQUIREMENTS:

January 11, 2008

Applicant shall be required to:

- 1) Pay for the appraisal cost to determine the value of the properties to be acquired;
- 2) Process and obtain subdivision approval at Applicant's own cost;
- 3) Provide survey maps and descriptions for the privately owned property according to State DAGS standards and at Applicant's own cost;
- 4) Obtain a title report for the privately owned property at Applicant's own cost and subject to review and approval by the Department;
- 5) Pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

REMARKS:

BACKGROUND: At its meeting of February 10, 2006, under Agenda Item D-5, the Board granted approval-in-principle of this acquisition, subject to terms and conditions approved by the Attorney General. The purchase price was approved to be the lower of \$1.25 million or fair market value, as determined by an independent appraiser contracted by the Department of Land and Natural Resources. An appraisal completed in December 2006 established fair market value of the subject property, including its valuable timber resource, at greater than the purchase price amount of \$1.25 million. Federal and State grants have been secured by the Applicant to fund this acquisition.

DESCRIPTION. The Carlsmith Trust Property consists of 1,335.980 acres, more or less, located between 2400 and 3800 ft. elevations on the windward slopes of Mauna Loa on the island of Hawaii. Adjacent to the Waiakea Forest Reserve to the south and west, and the Hilo Forest Reserve and private forestlands to the north and east, the parcel is part of the larger watershed area of Mauna Kea and Mauna Loa. A valuable native koa forest, which comprises about 550 acres of the Carlsmith property, has apparently never been harvested for its valuable hardwood resources. An overflight and hike through adjacent areas indicated a diverse native flora in the lowland wet forest section which remains remarkably free of invasive alien species that invade and dominate neighboring areas.

NEED FOR ACQUISITION. A variety of threatened and endangered native plant and animal species (e.g., Hawaiian hoary bat-*Lasiurus cinereus semotus*, Hawaiian hawk-*Buteo solitarius*, Hawaiian honeycreeper, 'amakihi-*Hemignathus virens*) have been

January 11, 2008

documented in adjacent areas, indicating similar species may likely be resident on the subject property. An adjacent parcel has been re-zoned to allow for subdivision and development. If left unmanaged, the native forest on the subject property will almost certainly be invaded by alien species, eventually threatening important habitats for these native threatened and endangered species.

Therefore, it is important to bring this area under the control and management of the Division of Forestry and Wildlife (DOFAW) in order to protect this valuable native ecosystem in perpetuity. DOFAW's intention is for the State to acquire fee title for the entire property to allow its permanent addition to the State's Upper Waiakea Forest Reserve.

FUNDING SOURCES. DOFAW has secured a U.S. Fish and Wildlife Service (USFWS) Recovery Land Acquisition (RLA) grant that will provide \$870,000 towards the purchase price. The RLA grant requires a minimum 25% match of non-Federal funds. To this end, DOFAW has also secured a State of Hawaii Land Conservation Fund (LCF) grant in the amount of \$430,250, of which \$380,000 will be applied to the \$1.25 million purchase price, providing a match of approximately 30%. The LCF grant was approved by the Board on June 8, 2007 (Item C-3), and is administered by the Legacy Land Conservation Program (LLCP), pursuant to HRS Chapter 173A.

ENCUMBRANCES. There are currently two mortgages attached to the property, both of which shall be released at closing. Other encumbrances have been removed from the title report and the certificate of title to the satisfaction of the Department and the Department of the Attorney General. Other than the mortgages, the title report and Certificate of Title reveal no other imperfections.

An owner identified on the Certificate of Title as Pearson Foundation, Inc., is registered in the Department of Commerce and Consumer Affairs Business Registration Division as The Pearson Foundation of Hawaii, Inc. This inconsistency was resolved by the filing of a petition in Land Court to amend the Certificate of Title to reflect the name of the registered entity. The petition was adopted as Land Court Order 171665, dated August 13, 2007.

APPLICANT REQUIREMENTS. DOFAW provided funding for an appraisal, which was contracted by the Department, pursuant to section 171-30, HRS. The appraisal, dated January 9, 2007, and conducted by Medusky & Co., Inc., has been reviewed and accepted by the Department. A title report, prepared by Title Guaranty of Hawaii, Inc., dated July 19, 2007, and a Phase I environmental site assessment (ESA) and update for the parcel, performed by Clayton Group Services, and dated April 24, 2006 and July 13, 2007, respectively, have also been received by the Department. A survey description has been prepared by DAGS Survey Division. The update to the ESA was provided pursuant to a request by the Department. The assessments were performed in conformance with

January 11, 2008

ASTM Practice E-1527-05 and found no evidence of recognized environmental conditions. However, since the acquisition will not close within the six month viability period from the date of the update, a new Phase I ESA will be required to meet the all appropriate inquiry standard.

AGENCY COMMENTS. Agency comments were sought regarding this acquisition. DOFAW and the Office of Hawaiian Affairs provided comments in support of the acquisition. Department of Hawaiian Homelands and the County of Hawaii Planning Office had no objections. The DLNR Office of Conservation and Coastal Lands had no comment. Comments were solicited but not received from the DLNR State Historic Preservation Division.

CONSOLIDATION OF INTERESTS. Seller Ivan Lui-Kwan intends to relieve Sellers Hawaii County Economic Opportunity Counsel [sic], The Pearson Foundation of Hawaii, Incorporated, Boy Scouts of America, Aloha Council, and the Roman Catholic Church in the State of Hawaii, of the responsibility for the hazardous materials provisions in the State's warranty deed. Therefore, prior to the conveyance to the State, Mr. Lui-Kwan plans to acquire from the aforementioned Sellers their interests and the authority to sell, convey and transfer the subject property. Mr. Lui-Kwan, along with Seller Carlsmith Ball LLP, then intends to convey the full undivided interest in the subject property to the State.

DEED LANGUAGE. Sellers have expressed concern about the hazardous materials testing provision in the State's warranty deed form. The Sellers believe that as currently worded, the language is too broad, and they are concerned about the possible financial liability into perpetuity. At the Sellers' request, along with the review and approval of the Department of the Attorney General, the Department has adopted certain amendments to the warranty deed form for this acquisition, attached hereto as Exhibit B. The amendments serve to narrow the scope of testing by limiting the authority to test to relevant government agencies.

RECOMMENDATION: That the Board:

1. Authorize the Chairperson to enter into a purchase and sale agreement under terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - A. Review and approval by the Department of the Attorney General.
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the acquisition of the subject private lands under the terms and conditions cited above which are by this

January 11, 2008

reference incorporated herein and further subject to the following:

- A. The terms and conditions of the amended deed document form, attached as Exhibit B, as may be further amended from time to time;
 - B. Review and approval by the Department of the Attorney General;
 - C. Receipt of a Phase I Environmental Site Assessment that satisfies the all appropriate inquiry standard;
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize DOFAW to conduct a public hearing to add approximately 1,335.980 acres at Waiakea, South Hilo, Hawaii to the Upper Waiakea or Hilo Forest Reserve, under provisions of HRS §183-11, Government Land for Forest Reserves and §183-12, Notice of Hearing.
 4. Authorize the Chairperson to set the date and time for a public hearing, and appoint a Hearing Master.
 5. Authorize the issuance of a management right-of-entry permit to DOFAW covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 6. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the DLNR Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney

January 11, 2008

General; and

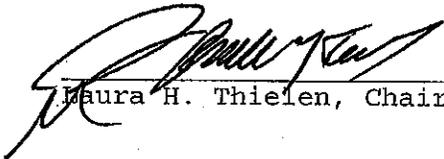
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



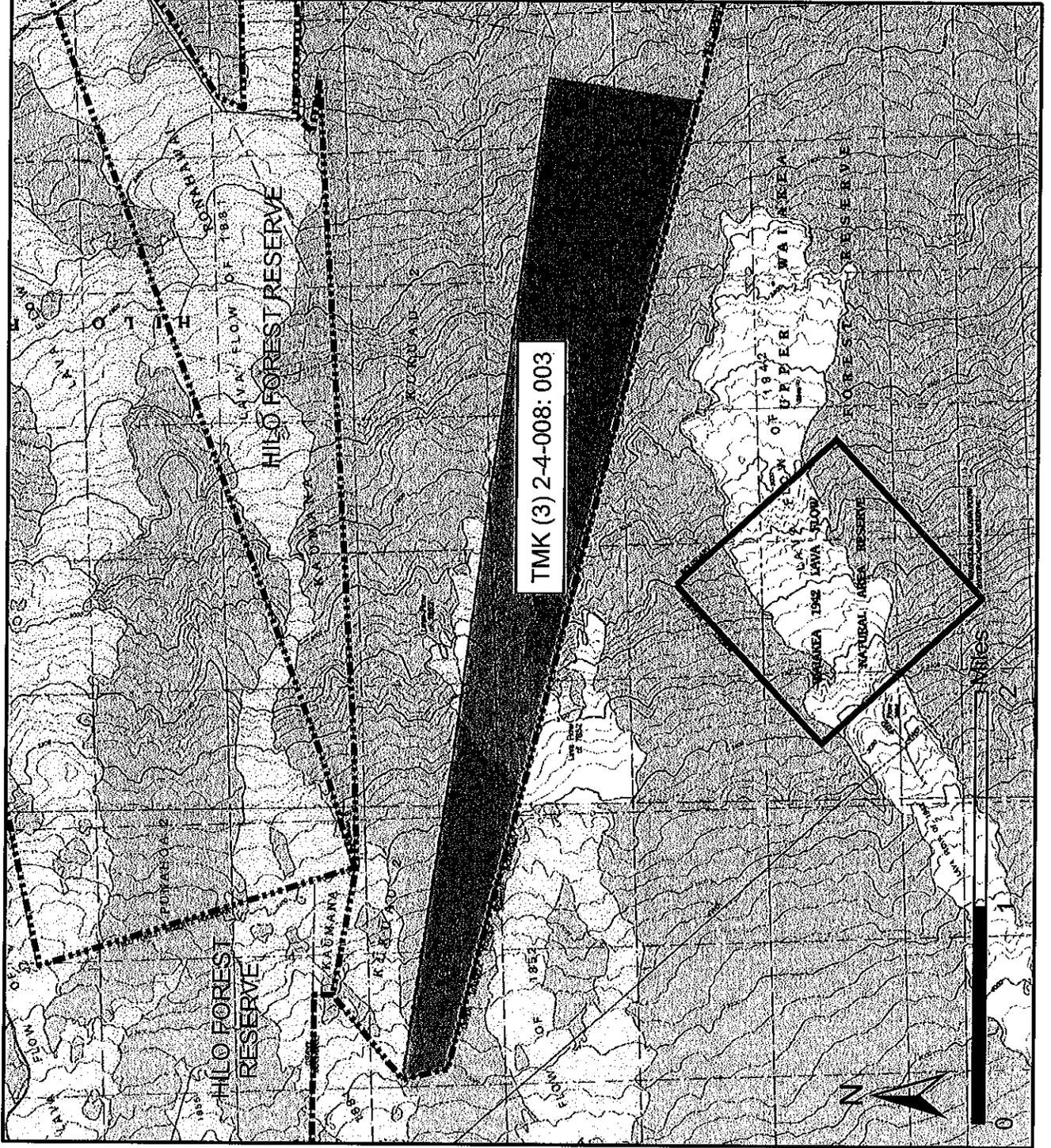
Ian C. Hirokawa
Project Development Specialist

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

Exhibit B - Proposed addition to Hilo Forest Reserve (Kukuau section)



Legend

- Proposed addition to Hilo Forest Reserve
- Current State Reserve boundaries

State of Hawaii
 Department of Lands and Natural Resources
 Division of Forestry and Wildlife
 808-587-0166
 June 2009



HAWAII STATEWIDE GIS PROGRAM

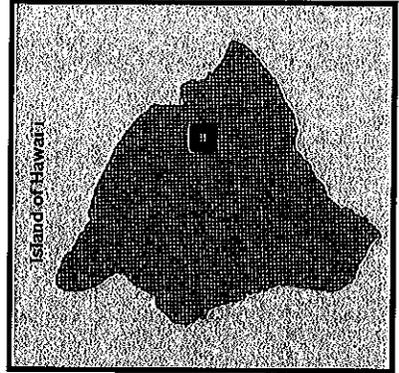
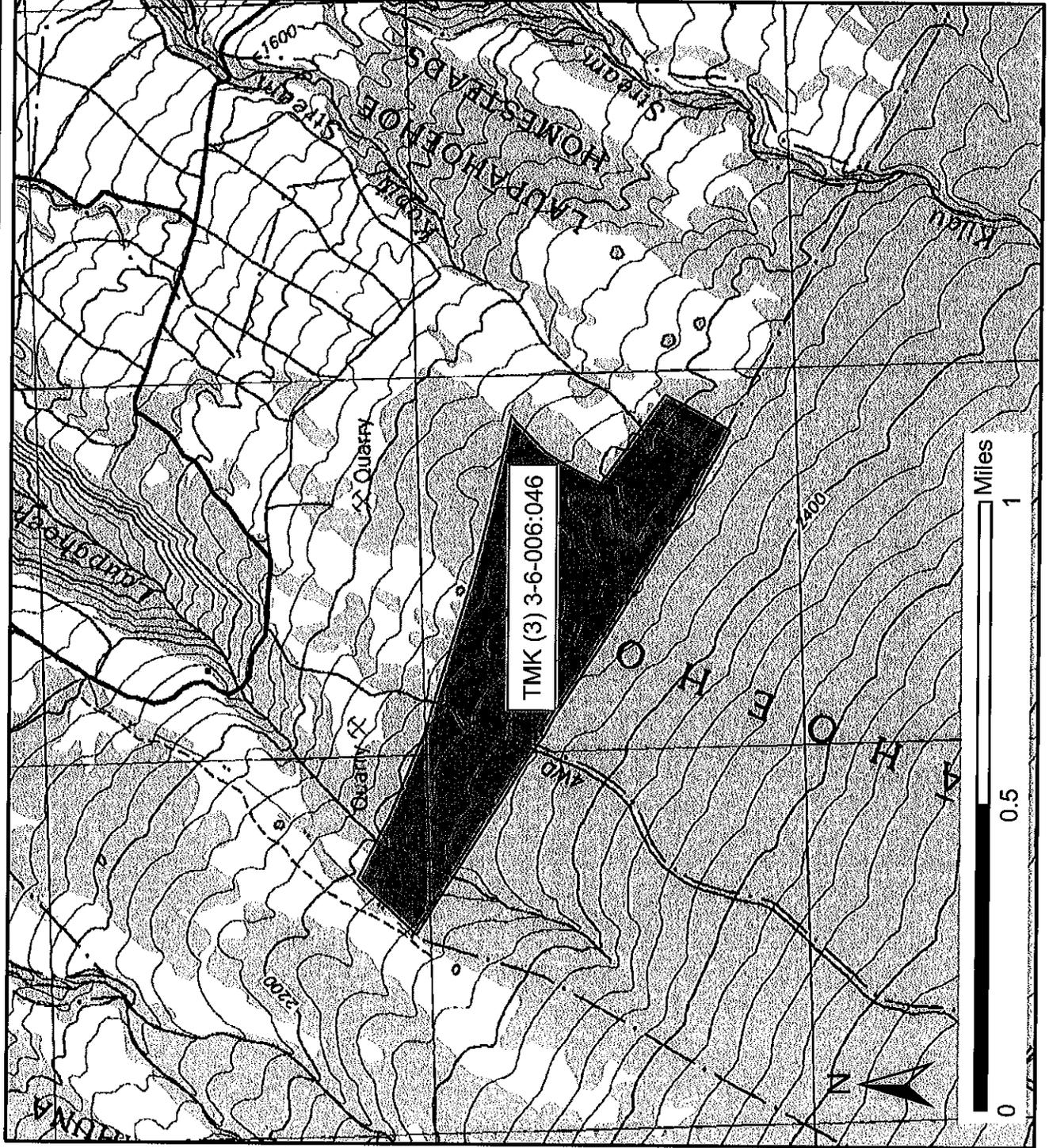


Exhibit C - Proposed addition to Hilo Forest Reserve (Laupahoehoe section)



Legend

- Proposed addition to Hilo Forest Reserve
- Current State Reserve boundaries

State of Hawaii
Department of Land and Natural Resources
Division of Forestry and Wildlife
808-587-0166
June 2009



HAWAII
STATEWIDE
GIS
PROGRAM

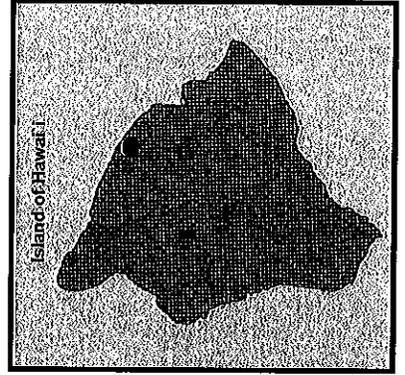
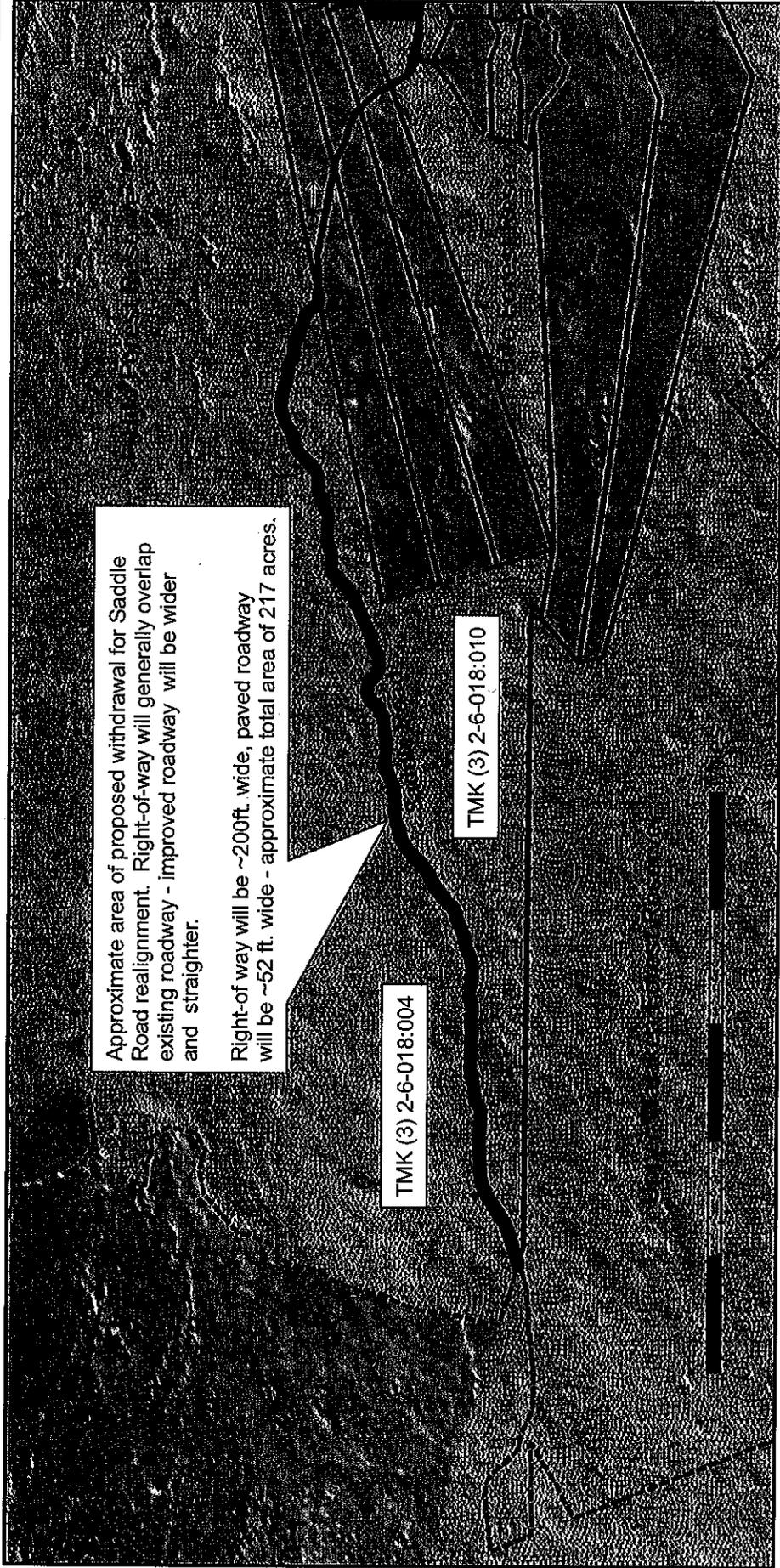


Exhibit D - Proposed withdrawal from Hilo Forest Reserve (Saddle Road)



Approximate area of proposed withdrawal for Saddle Road realignment. Right-of-way will generally overlap existing roadway - improved roadway will be wider and straighter.

Right-of-way will be ~200ft. wide, paved roadway will be ~52 ft. wide - approximate total area of 217 acres.

TMK (3) 2-6-018:004

TMK (3) 2-6-018:010

Legend

- TMK boundaries
- Current State Reserves

State of Hawai'i
 Department of Land and Natural Resources
 Division of Forestry and Wildlife
 808-587-0166

June 2009

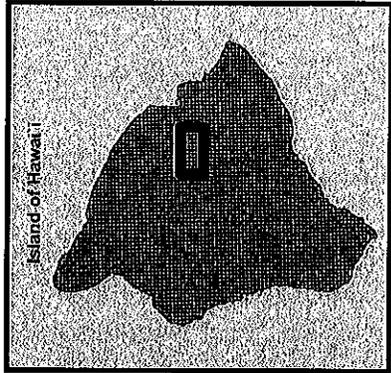
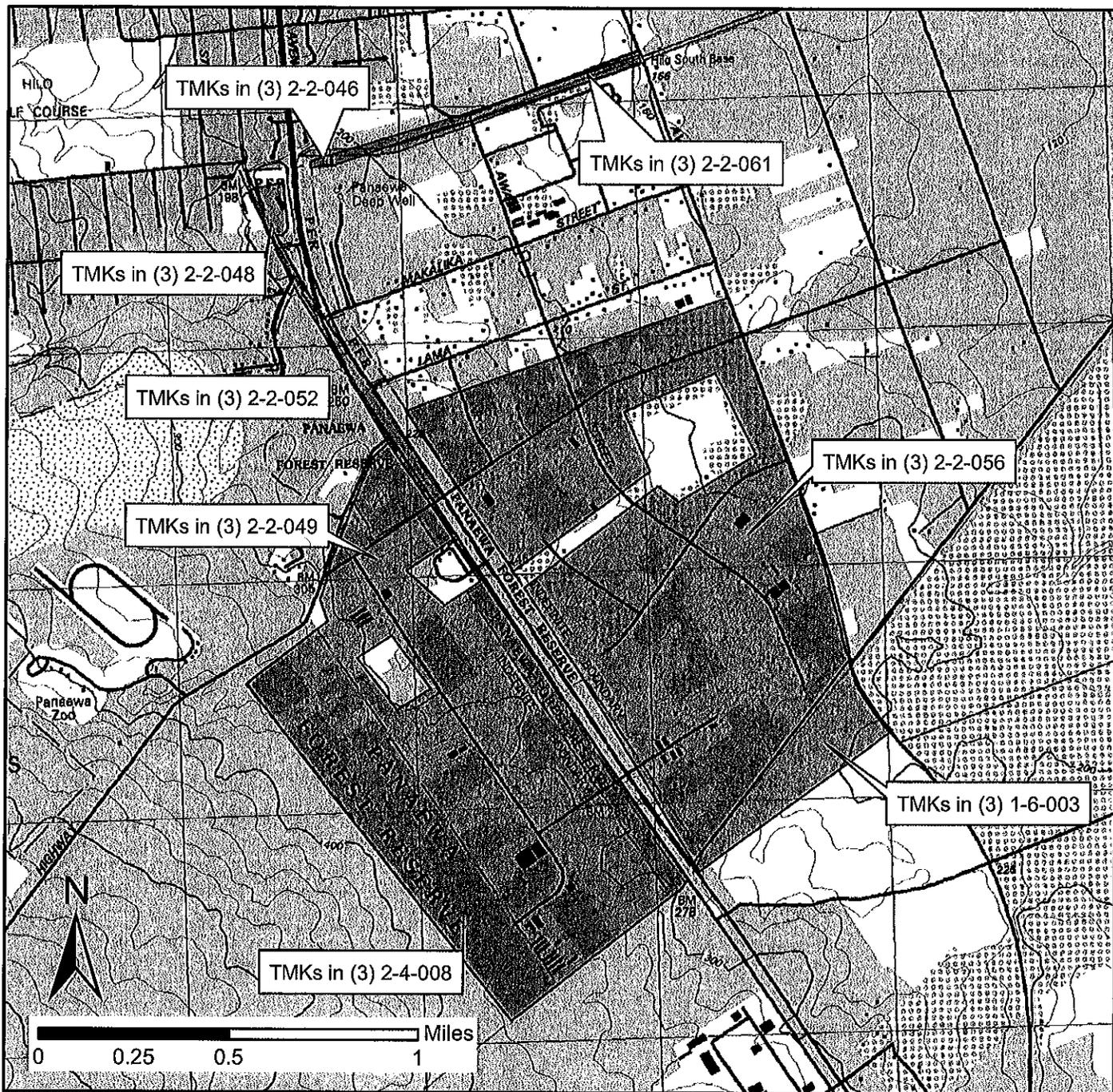


Exhibit E: Cancellation of Pana'ewa Forest Reserve



Legend

 Remaining area of Pana'ewa Forest Reserve to be cancelled

State of Hawai'i
 Department of Land and Natural Resources
 Division of Forestry and Wildlife
 808-687-0166
 June 2009

Department of Land and Natural Resources
 State of Hawai'i

FORESTRY AND WILDLIFE
 HAWAII

HAWAII STATEWIDE GIS PROGRAM

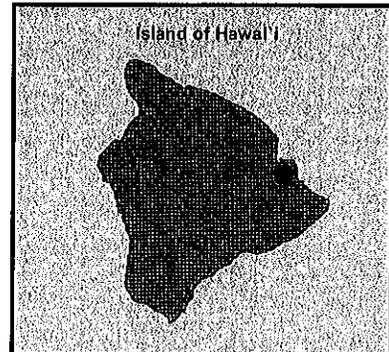
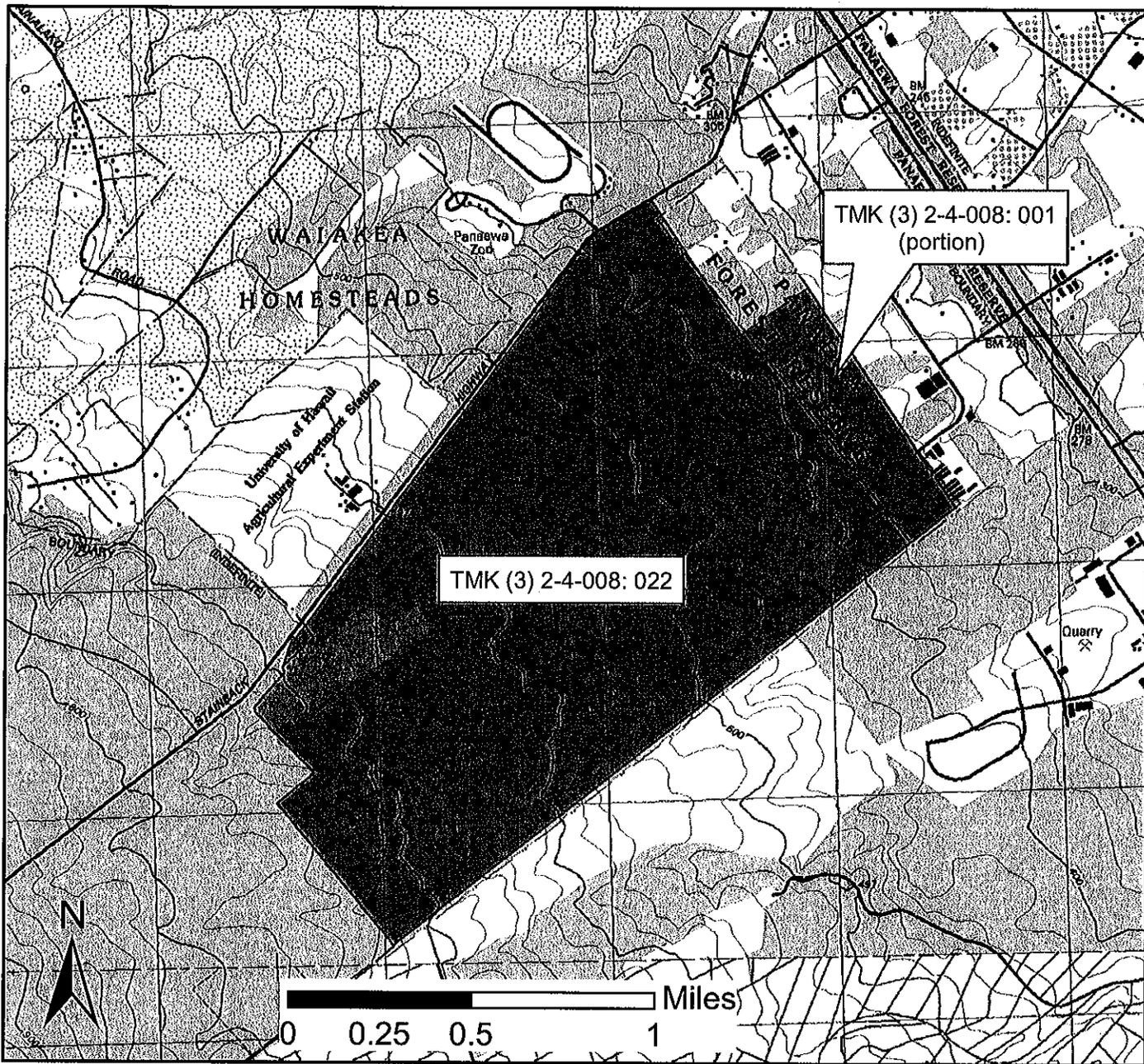


Exhibit G - Proposed addition to Waiakea Forest Reserve



Legend

 Proposed addition to Waiakea Forest Reserve

State of Hawaii
 Department of Land and Natural Resources
 Division of Forestry and Wildlife
 808-587-4166

June 2009



**HAWAII
 STATEWIDE
 GIS
 PROGRAM**

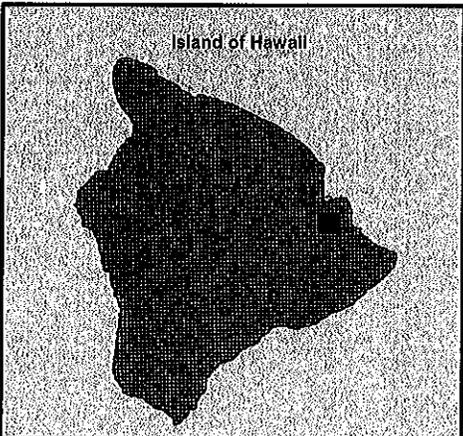
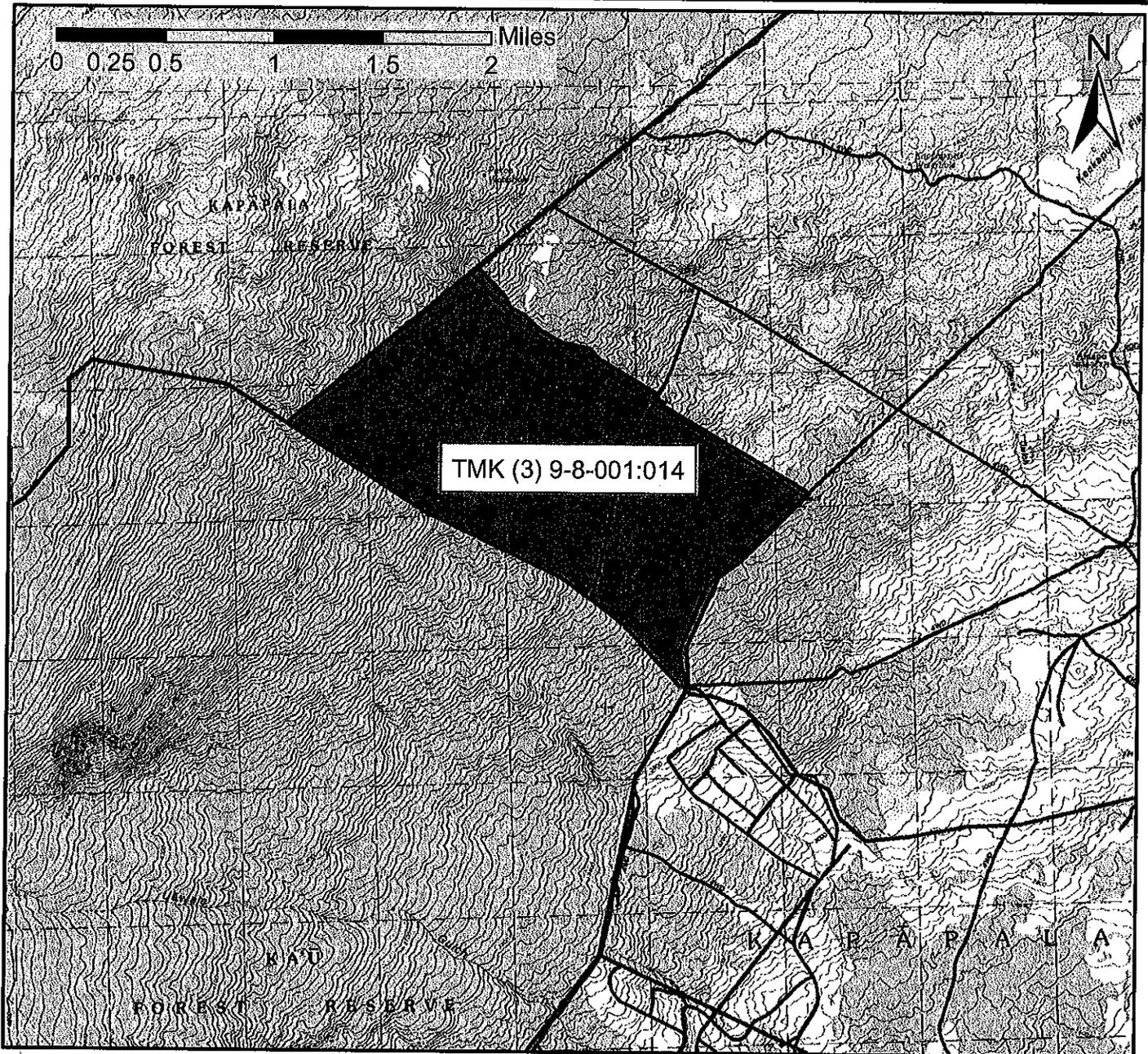


Exhibit H - Proposed addition to Kau Forest Reserve



Legend

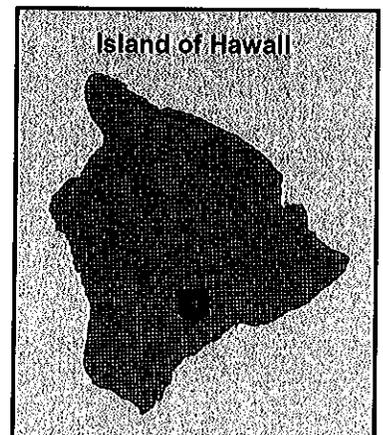
-  Proposed addition to Kau Forest Reserve
-  TMK boundaries
-  Minor roads

State of Hawaii
Department of Land and Natural Resources
Division of Forestry and Wildlife
808-587-0166

July 2009



**HAWAII
STATEWIDE
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PROGRAM**



HEARING OFFICER'S REPORT AND MINUTES OF:

**Public Hearing for Seven (7) Proposed Changes Affecting the Area of
Government Forest Reserve Lands on the Island of Hawaii**

Division of Forestry and Wildlife Conference Room
19 East Kawili Street, Hilo, Hawaii 96720

July 13, 2009

SUMMARY OF TESTIMONIES RECEIVED

Written testimonies are kept on file in the Division of Forestry and Wildlife for public review.

No oral testimonies were received.

Written testimony from two individuals was received by mail after the hearing. Both were in regards to hearing item #2: Addition of approximately 110 acres (TMK parcel (3) 3-6-006:046) at North Hilo, Hawaii to the Hilo Forest Reserve (Laupahoehoe section). Testimonies received were from Deborah L. Chang of Pa'auilo, HI and from Michael Crosson of Honokaa, HI. Ms. Chang supports this forest reserve addition with the qualification that public access rights on this parcel be retained by the Department in any future disposition – Ms. Chang would like to see public access provided in this location; Mr. Crosson offers neither support nor opposition to the addition, but also requests that public access be provided.

DOFAW notes that there is currently no developed public access to the makai boundary of the subject parcel. Such access would have to cross adjacent private lands in order to connect to the nearest public roads or trails. Until such a time that public access is negotiated and developed leading up to the subject parcel boundary, the Division is not aware of a way for the public to practically access the parcel or commute to the bottom of Blair Road (which connects to the mauka boundary of the parcel). However, DOFAW believes reserving public access in concept and in a manner that is compatible with management needs is important for the Department.

At its meeting of December 8, 2006, under agenda item C-5, the Board approved the cooperative agreement between the USDA Forest Service and DLNR regarding the Hawaii Experimental Tropical Forest, one unit of which is immediately adjacent to and mauka of the subject lands. Those documents established that the Board has regulatory authority regarding public access within the experimental forest to accommodate ongoing research and management activities as well as public needs. Regarding public access as

it relates to future dispositions of or encumbrances on the subject parcel, the Division will likely recommend that the Board retain similar authority and control.

I. SUMMARY OF PUBLIC HEARING PROCEEDINGS

- A. The public hearing was called to order at 5:30 pm. In attendance were the following staff members from the Department of Land and Natural Resources:

Division of Forestry and Wildlife:

Roger Imoto – Hearing Officer

Steven Bergfeld

Jacqueline Robson

Hawaii Island Branch Manager

Hawaii Island Forestry Manager

Forestry & Watershed Planner

- B. No members of the public attended the meeting, thus no written or oral testimony was collected in regards to the proposed Forest Reserve additions and withdrawals during the meeting. The information that the Division of Forestry and Wildlife had prepared regarding these items was not presented as there were no attendees other than staff.
- C. The public hearing was adjourned at 6:00 pm.

II. APPROVALS AND NOTICES OF PUBLIC HEARING

- A. Approval to hold a public hearing on the proposed forest reserve additions and withdrawals was obtained from the Board of Land and Natural Resources on January 11, 2008 (Hilo-Kukuau addition), March 28, 2008 (Hilo-Laupahoehoe addition), August 22, 2008 (Panaewa cancellation, Waiakea addition and Waiakea withdrawal), November 14, 2008 (Waiakea withdrawal), December 12, 2008 (Kau addition) and May 8, 2009 (Hilo removal).
- B. Approval to set the date of the public hearing and to appoint Roger Imoto as the Hearing Officer was obtained from the Chairperson on June 23, 2009.
- C. Notice of this public hearing was published in the Honolulu Star-Bulletin, the Garden Island, the Maui News, the West Hawaii Today, and the Hawaii Tribune-Herald newspapers on Sunday, June 28, 2009.

Minutes prepared and respectfully submitted by Jacqueline Robson.