

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

December 9, 2011

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

Land Board Members:

SUBJECT: APPROVAL OF RIGHT-OF-ENTRY AND RELEASE OF LIABILITY AGREEMENTS FOR THE DIVISION OF FORESTRY AND WILDLIFE TO CONDUCT ANIMAL CONTROL ACTIVITIES FOR THE EAST MOLOKAI WATERSHED PARTNERSHIP ON PRIVATE LANDS AT KAPUALEI AND KAWELA, MOLOKA'I, TAX MAP KEYS NOS.: (2) 5-4-003:001, (2) 5-4-003:028, AND (2) 5-6-006:001

AND

REQUEST FOR DELEGATION OF AUTHORITY TO THE CHAIRPERSON TO (1) NEGOTIATE, APPROVE, AND EXECUTE RIGHT-OF-ENTRY AND RELEASE OF LIABILITY AGREEMENTS FOR THE DIVISION OF FORESTRY AND WILDLIFE TO CONDUCT ANIMAL CONTROL ACTIVITIES ON PRIVATE LANDS; AND (2) DETERMINE AND APPROVE CHAPTER 343, HRS ENVIRONMENTAL COMPLIANCE REQUIREMENTS, INCLUDING APPROVAL OF DECLARATIONS OF EXEMPTIONS FROM ENVIRONMENTAL ASSESSMENT(S) FOR THE DIVISION OF FORESTRY AND WILDLIFE FOR AGREEMENTS WITH PRIVATE LANDOWNERS RELATED TO ANIMAL CONTROL ACTIVITIES

SUMMARY:

This Board Submittal requests approval for Right-of-Entry and Release of Liability Agreements for animal control activities on private lands at Kapualei and Kawela on Moloka'i. The Nature Conservancy is also a party to these Agreements as the coordinator for the East Molokai Watershed Partnership. Additionally, the Division requests delegation of authority to the Chairperson to approve all future Right-of-Entry and Release of Liability Agreements for animal control activities and to determine and approved Chapter 343, HRS environmental compliance requirements, including approval of Declarations of Exemptions.

BACKGROUND

Since 1992, the Department has been entering into Right-of Entry and Release of Liability Agreements (hereafter referred to as “Agreements”) with private landowners to allow the Division of Forestry and Wildlife (DOFAW) to conduct animal control activities, including aerial shooting, on their properties. The East Molokai Watershed Partnership of which DOFAW is an integral partner, has an approved management plan which outlines an ungulate control program that includes aerial shooting activities over Kapualei Ranch and Kawela Plantation. Similar Right-of-Entries for these properties were approved by the Chairperson and Attorney General’s office in 2008 and 2009. A Right-of-Entry is currently in place for the adjacent Kamehameha Schools property at Kamalo. The Nature Conservancy is also a party to these agreements since they coordinate the activities and staff of the East Molokai Watershed Partnership. The Attorney General’s office recently advised that, as a matter of land disposition with private parties, these Right-of-Entry Agreements should be approved by the Board or its delegated authority. We are additionally requesting that the Board delegate approval of these Agreements with private landowners to the Chairperson.

DLNR’s Aerial Shooting Policy for Feral Animals was approved by the Board in August of 2006. This policy delegates authority for the approval of Aerial Shooting Plans to DOFAW’s Administrator and Branch Managers. The Division of Forestry and Wildlife policy for ungulate control follows the process described in Technical Report No. 07-01, “Review Of Methods And Approach For Control Of Non-Native Ungulates In Hawaii”, available at: <http://www.state.hi.us/dlnr/dofaw/pubs/Ungulate%20Control%20Methods%20FINAL%20Mar%202007.pdf> . Control or elimination of non-native ungulates is essential to maintain the biological integrity of sensitive native ecosystems in many areas. The Division’s overall approach emphasizes public access to game resources and deployment of the most humane methods of control when possible. Within this framework, safety, human impacts to sensitive ecosystems, feasibility, and effectiveness of alternative methods to reduce or eliminate ungulate numbers vary among target species and the biological and geological features of the habitat in which the work is conducted. Once it has been determined that public hunting and staff control are no longer feasible or effective in an area, it calls for evaluating other control methods designed to complete the control including aerial shooting. In the case of East Molokai Watershed Partnership lands, there is a long history of public hunting and community meetings leading up to the use of aerial shooting as outlined below.

History- Aerial shooting was conducted in 2001 on private watershed partnership lands on Molokai’s south slope, but after that aerial shooting statewide was suspended until DLNR could update protocols. In 2008, aerial shooting resumed on the north shore cliffs of Moloka`i. In June 2009 aerial shooting resumed on the south slope, only in the steep gulches of Kawela, Kamalo, and Kapualei that are remote and dangerous. Neither The Nature Conservancy staff, Prohunt (professional hunters from New Zealand), nor Moloka`i hunters considered ground hunting feasible in these areas due to the steep, crumbling cliff faces. Public hunting has continued on the flatter areas between the steep gulches. No aerial shooting has been done in areas where public hunting is safe.

Public Hunting- Since 2001, over 64 community goat hunts were held at Kawela, Kamalo, and

Kapualei (involving over 450 hunters). Since 2000, Kamalo (landowner Kamehameha Schools) has been open to public hunting on weekends and holidays, totaling over 1,000 available days. Kapualei Ranch land is also open to public hunting by appointment. Kawela Plantation is open to hunting year round to its homeowner association members. Non-resident hunters have to be sponsored and accompanied by an association member. Despite continuous hunting, feral goats have reproduced rapidly and find safe haven in the deep steep gulches where ground hunters are not able to reach them.

Meat Salvage : Goats are made available to the public upon request where it is safe to retrieve.

Estimated goat populations: In 2001 aerial shooting eliminated 800 goats. 5,000 goats were estimated in 2009. Since 2009 hunts have been held only once per year to prevent habituation of goats to helicopter noise. Annual surveys continue to help shape future planning. The most recent survey estimated about 1,000 goats remaining in the three properties affected. There is on-going USGS study, which had documented erosion rates at up to 100 times the predicted rates on forested land in this south slope area. After control activities in 2009 to 2011, vegetation has begun to return to the previously barren slopes and USGS is finding erosion has been abated.

Public Outreach and Support- The Moloka'i Hunter's Association understands the need for the project, and understands goat meat will be made available upon request and only if it is safe to retrieve. The Nature Conservancy's Moloka'i Advisory Committee's (MAC) 15 members support the project. MAC includes community members from all sectors of Moloka'i: the Moloka'i Planning Commission, Governor's Task Force, local police, homeowners, and kupuna. Seven meetings with partners, landowners, citizens, and hunters held on Moloka'i, Maui and Oahu in April and May of 2009. Further meetings were held with Kamalo, Kapualei and Kawela Ahupua`a communities as well as Maui based partners. Kupuna and 'Aha Ki'ole member Vandah Hanakahi conducted a cultural ceremony to bless the project. Concerns about impacts on water quality were addressed through pre- and post-monitoring conducted by the Department of Health. Hunts area done during the dry season.

Animal welfare/animal rights- Based on a May 4, 2009 meeting, local Humane Societies on Moloka'i, Maui, Oahu, and Hawai'i Island understand the need and are supportive of humane methods of animal control. The American Veterinary Medical Association Guidelines on Euthanasia (2007) state: "A properly placed gunshot can cause immediate insensibility and humane death. In some circumstances, a gunshot may be the only practical method of euthanasia." An AVMA 2001 report states aerial shooting is a humane method of controlling feral animals "when it is carried out by experienced and skilled shooters and pilots; the animal can be clearly seen and is within range; the correct firearm, ammunition and shot placement is used; and wounded animals are promptly located and killed."

Purposes-

1. Stop Erosion: A USGS erosion study at Kawela shows erosion is occurring at 100 times the natural rate. The bare slopes and gulches cannot hold water and are the cause of massive seasonal floods that result in clogged streams and highways.
2. Stop Sedimentation: The south shore fringing reef, the longest continuous reef tract in the US and the number one food resource for the people of Moloka'i, is "severely" degraded by

sedimentation (USGS). Sedimentation smothers coral and fish, beaches become muddy and undesirable, growth of the alien mangrove is promoted. Sedimentation is a non-point source pollutant. EPA and DOH TMDL (total maximum daily load) studies and implementation plans require actions to reduce sediment loads.

3. Improve the Watershed and Protect Natural and Cultural Resources: East Molokai’s ancient native forest are the heart of the watershed, containing plants and animals found only on Moloka`i. Feral goats are continually “foraging” at the forest edge, denuding the landscape so it cannot hold water and support plant growth. Hooves destroy roots and loosen soil so it can erode.

Public notification is accomplished through publications of legal notices in the *Maui News* and *Moloka`i Dispatch*. Landowners are notified by phone calls followed up by a letter one week prior to hunt. Signs are posted at all accessible land entrances one day before hunt. Gates remain locked and landowners do not allow access on hunt days.

In 2008 and 2009 meetings were held with the former governor’s staff and the Moloka`i Governor’s Task Force, legislators Kalani English and Mele Carroll, OHA representatives, as well as the former Maui Mayor and County Council.

LOCATION:

A Map of the proposed aerial shooting and control areas is shown on the attached map labeled Exhibit A.

AREA:

Kawela Plantation has 5,497 acres and Kapualei Ranch has 1,680 acres within the watershed partnership lands.

TERM OF RIGHT-OF-ENTRY:

The term will extend from the date of approval to June 30, 2016. Drafts of the Agreements are attached as Exhibits B and C.

FUNDING SOURCES

The East Molokai Watershed Partnership provides funding for its activities through grants received from the County of Maui, DLNR’s Watershed Partnership Program, federal programs and private foundations.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

A Finding of No Significant Impact was issued for the East Molokai Watershed Management Project on October 8, 2000 (Exhibit D). The Final Environmental Assessment includes the use of aerial shooting for control of feral ungulates.

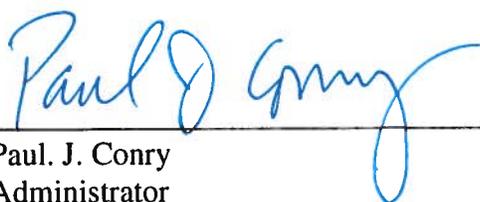
DELEGATION OF AUTHORITY

The Board previously approved DLNR’s 2006 Aerial Shooting Policy for Feral Animals which delegated authority for the approval of aerial shooting plans to DOFAW’s Administrator and Branch Managers. Through 2010, the Chairperson routinely signed Agreements relating to animal control activities including aerial shooting. Confirming the Chairperson’s authority to approve Agreements is consistent with past practice and delegation of authority for aerial shooting plans to the Division.

RECOMMENDATION: That the Board

1. Approve Right-of Entry and Release of Liability Agreements for the Division of Forestry and Wildlife to conduct aerial shooting at Kupualei Ranch and Kawela Plantation covering the subject areas under the terms and conditions cited in the Agreements, subject to approval as to form by the Department of the Attorney General.
2. Authorize the Chairperson to negotiate, approve and execute the Right-of-Entry and Release of Liability Agreements for the Division of Forestry and Wildlife to conduct animal control activities on private lands, subject to review and approval by the Office of the Attorney General.
3. Authorize the Chairperson to determine and approve Chapter 343, HRS environmental compliance requirements for agreements with private landowners related to animal control activities, including approval of declaration of exemptions as permitted under Chapter 11-200, HAR.

Respectfully Submitted,



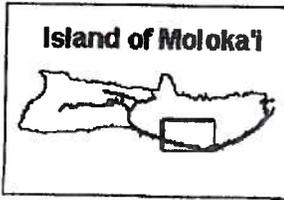
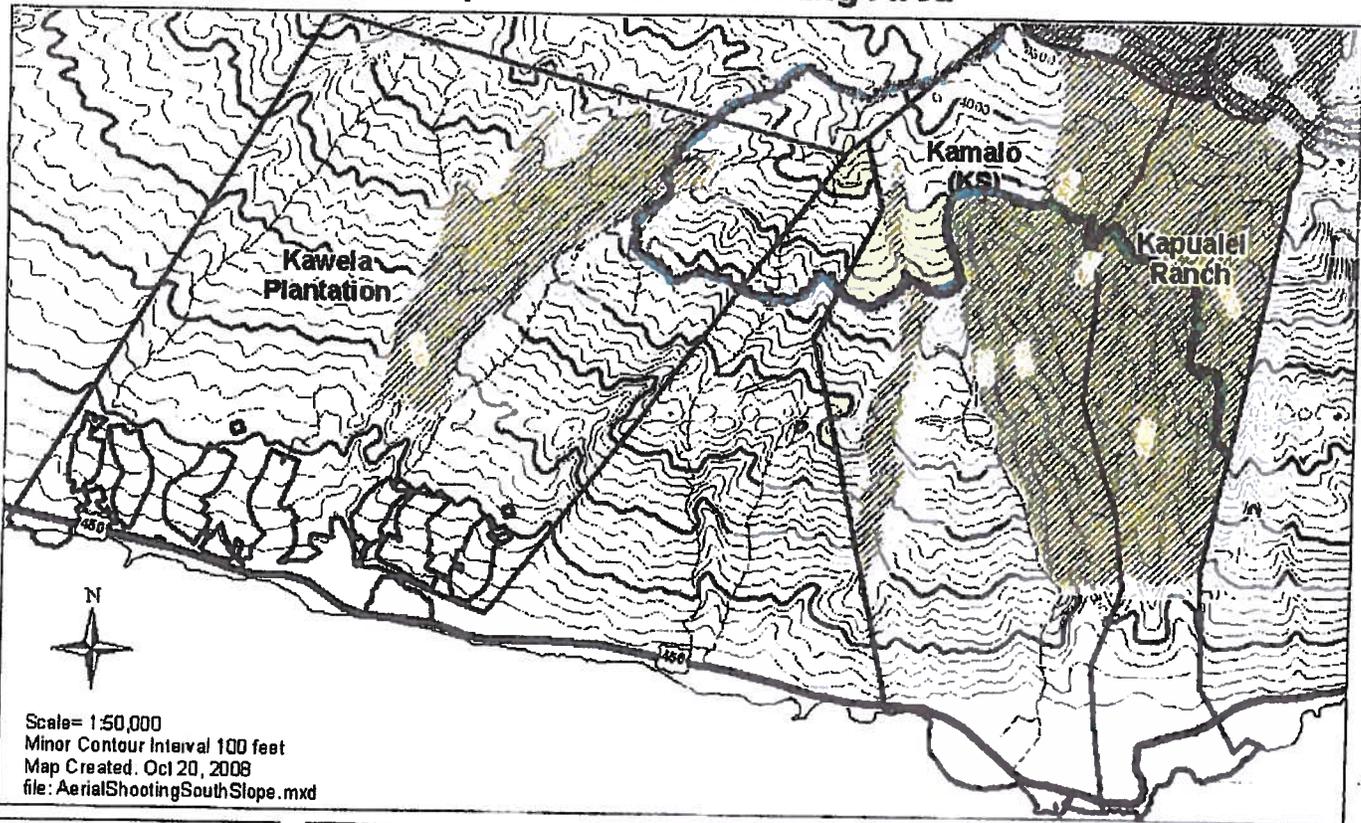
Paul. J. Conry
Administrator

APPROVED FOR SUBMITTAL:

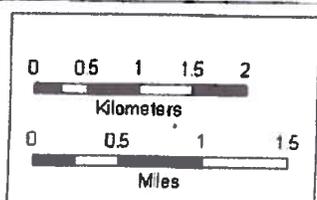


William J. Aila, Jr., Chairperson

South Slope Moloka'i Proposed Aerial Shooting Area



-  Fence
-  4WD Roads
-  Highway
-  Aerial shooting area
-  EMoWP Partners



The Nature Conservancy 

Protecting nature. Preserving life.™

Kapualei Ranch
RIGHT-OF-ENTRY AND RELEASE OF LIABILITY AGREEMENT

THIS AGREEMENT is made on _____, by and among KAPUALEI RANCH, also known as Ka-Pua-Lei Ranch, a Hawaii general domestic partnership whose post office address is c/o Howard Green, Esq., P.O. Box 3467, Honolulu, Hawaii 96801, THE NATURE CONSERVANCY (“TNC”), a District of Columbia non-profit corporation doing business through its Molokai Program Office located at 23 Pueo Place, Kaunakakai, Hawaii 96748 and the STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF FORESTRY AND WILDLIFE (“DOFAW”) located at 1151 Punchbowl St., Honolulu, Hawaii 96813.

RECITALS:

1. In 1999 the East Molokai Watershed Partnership (“EMoWP”) was formed as part the USDA’s Empowerment Zone (EZ) Molokai Strategic Plan Application. The EZ planning process involved hundreds of Molokai residents, and the Kamalo/Kapualei Watershed project proposal was voted as a high priority by this planning process.
2. Kapualei Ranch includes approximately 1,680 acres of land that falls within the East Molokai Watershed, such land being situated at Kamalo, Molokai, Hawaii, being designated as Tax Map Key No. 2-5-6-06-01 (the “Kapualei Ranch Property”) as further shown and described in the map attached as Attachment A and made a part of this Agreement . Kapualei Ranch became a member of the EMoWP as an opportunity to manage its upper forested watershed through cooperative efforts and with the resources and management plans that might not otherwise be available.
3. The Kapualei Ranch Property is being threatened by feral ungulates, especially goats.
4. Feral ungulates are one of the major threats to the natural resources of Hawaii and one of the most difficult to control. TNC’s ungulate control program and conservation plan are more fully described in the East Molokai Watershed Partnership 2015 South Slope Management Plan dated August 7, 2008 (“Management Plan”) which is attached as Attachment B and made a part of this Agreement. The ungulate control program includes a component that requires aerial shooting activities (Aerial Shooting Activities as defined in Paragraph 2 below), over the Kapualei Ranch Property.
5. TNC has received grants and will continue to seek funding to conduct Aerial Shooting Activities.
6. As a matter of DLNR policy and State law regarding aerial shooting programs, 1) only State DLNR employees carrying out feral animal and pest wildlife control programs may shoot from helicopters, and 2) private individuals may not engage in aerial shooting activities even on their own land and 3) a written agreement with the private landowners must be in place before State employees are allowed to shoot animals on private lands.
7. Kapualei Ranch supports TNC’s efforts to fulfill its objectives as more fully described in the Management Plan.

NOW THEREFORE, Kapualei Ranch, TNC and DOFAW agree to the following terms and conditions of this Right of Entry Agreement:

AGREEMENT:

1. In consideration of the covenants and conditions contained herein, Kapualei Ranch does hereby give TNC and DOFAW a non-exclusive license to enter and conduct Aerial Shooting Activities consistent with its Management Plan, including Aerial Shooting Activities upon the Kapualei Ranch Property from July 1, 2011 to June 30, 2016.
2. The Division of Forestry and Wildlife (DOFAW) will:
 - A. Conduct aerial shooting in the Kapualei Ranch Property.
 - B. Provide a DOFAW qualified staff person to conduct any aerial shooting, subject to availability of qualified staff.
 - C. Conduct all aerial shooting in accordance with the highest standards of safety to minimize all risk of harm to persons and property.
 - D. Follow the State of Hawaii, Department of Land and Natural Resources' ("DLNR") aerial shoot policies, firearms policy and blanket helicopter policy attached as Attachment C to and made a part of this Agreement.
3. TNC will:
 - A. Provide Kapualei Ranch at least two weeks' written notice to the person or persons designated from time to time by Kapualei Ranch, of any planned Aerial Shooting Activities. Written notice may be in the form of email to the General Manager.
 - B. Inform and work with the Kamalo community hunters as to the date and results of the aerial shoot.
 - C. Act as the coordinator of the Aerial Shooting Activities and will keep Kapualei Ranch informed of the activities through quarterly reports or special summary reports if requested.
 - D. Be financially responsible for all Aerial Shooting Activities.
4. Access to the Kapualei Ranch Property is limited to providing the opportunity for Aerial Shooting Activities to be conducted by the parties but shall not create any obligations to do so except as described herein or as may be determined by separate instrument.
5. TNC and DOFAW acknowledge that Kapualei Ranch has not made, and will not make, any representation or warranty, implied or otherwise, with respect to the condition of the lands or their suitability for the Aerial Shooting Activities. TNC and DOFAW accept that entry upon the Kapualei Ranch Property is with full assumption of all risks and consequences thereof.
6. TNC and DOFAW agree that Kapualei Ranch does not assume and shall not incur any liability for injury or damage to any person or property incidental to or which may arise during or in consequence of the Aerial Shooting Activities, and TNC's and DOFAW's entry described herein except due to the willful misconduct or gross negligence of Kapualei Ranch, its agents or employees.
7. TNC will indemnify, defend and hold harmless Kapualei Ranch, its agents and employees, from and against all claims, actions, penalties, damages, liabilities and expenses to the extent arising from TNC's and DOFAW's activities, including, without limitation, Aerial Shooting Activities, on, over and adjoining the Kapualei Ranch Property.
8. TNC and Kapualei Ranch agree to release the State from any liability for injuries, death or property damage that may be caused by or result from DOFAW's action except for DOFAW's own gross negligence or willful misconduct or for violations of this Agreement.

9. TNC shall ensure that Aerial Shooting Activities do not interfere with Kapualei Ranch activities. All dates for EMoWP Management Activities shall be calendared with Kapualei Ranch's prior approval.
10. In carrying out the terms of this agreement, each party will provide up to two representatives for the purpose of resolving differences and determining the direction and goals of common work. In the event differences among the parties to this agreement cannot be mutually resolved, no EMoWP Management Activities will occur until such differences can be resolved.
11. The representatives for DOFAW are:
 1. Maui District DOFAW Manager
 2. Maui District NARS Specialist

The representatives for TNC are:

1. Director of Molokai Programs
2. TNC Regional Attorney

The representatives for Kapualei Ranch are:

1. James Kimo Austin
2. Howard Green

The parties may substitute or designate other representatives as needed. Notification of such substitution shall be delivered to the other parties in writing.

12. This Right of Entry Agreement shall continue in effect through June 30, 2016 and may be extended in writing by mutual agreement of the parties in the event that additional funds are made available for additional ungulate control methods.
13. All parties reserve the right to revoke and terminate this Agreement at any time, in their sole discretion, for any or no reason, upon thirty (30) days prior written notice to the other parties.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date first above written.

THE NATURE CONSERVANCY, A District of Columbia Nonprofit Corporation

By Suzanne Case, Hawaii State Executive Director

Date: _____

KAPUALEI RANCH, A Hawaii General Domestic Partnership

By _____

Its _____

THE STATE OF HAWAII,
DEPARTMENT OF LAND AND NATURAL RESOURCES

By
Chairperson
Date: _____

Approved as to form:

By
Deputy Attorney General
Date

LIST OF ATTACHMENTS

Attachment A:

Map of Kapualei Ranch Property

Attachment B:

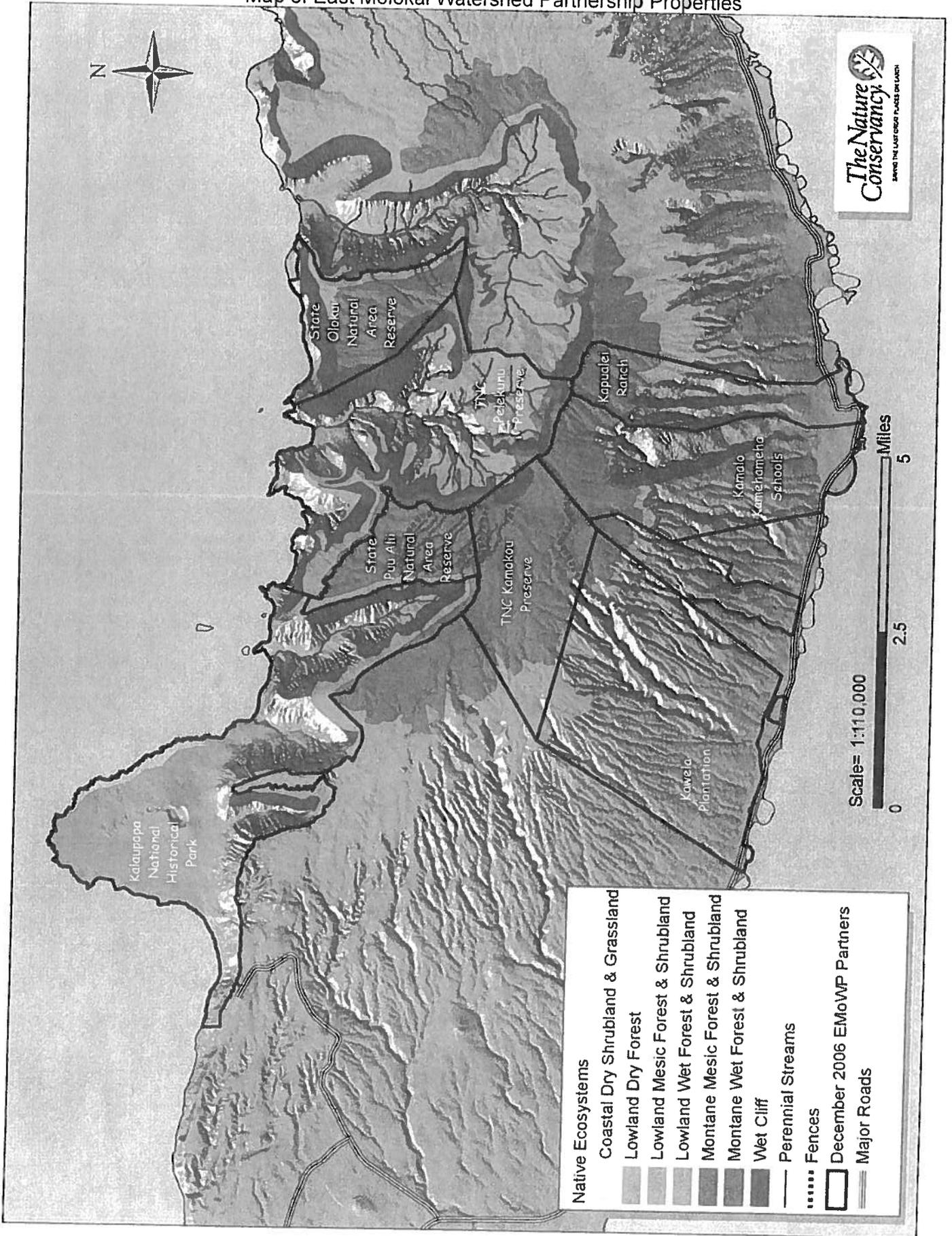
East Molokai Watershed Partnership 2015 South Slope Management Plan

Attachment C:

DOFAW Aerial Shooting Policy, Firearms Policy and Blanket Helicopter Policy

ATTACHMENT A

Map of East Molokai Watershed Partnership Properties



Kawela Plantation
RIGHT-OF-ENTRY AND RELEASE OF LIABILITY AGREEMENT

THIS AGREEMENT is made on _____, by and among by the KAWELA PLANTATION HOMEOWNERS' ASSOCIATION ("Kawela"), a Hawaii non-profit corporation whose post office address is P.O. Box 28, Kaunakakai, Hawaii 96748, THE NATURE CONSERVANCY ("TNC"), a District of Columbia non-profit corporation doing business through its Molokai Program Office located at 23 Pueo Place, Kaunakakai, Hawaii 96748 and the STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF FORESTRY AND WILDLIFE ("DOFAW") located at 1151 Punchbowl St., Honolulu, Hawaii 96813.

RECITALS:

1. In 1999 the East Molokai Watershed Partnership ("EMoWP") was formed as part the USDA's Empowerment Zone (EZ) Molokai Strategic Plan Application. The EZ planning process involved hundreds of Molokai residents, and the Kamalo/Kapualei Watershed project proposal was voted as a high priority by this planning process.
2. Kawela Plantation includes approximately 5,497 acres of land that fall within the East Molokai Watershed, such land being situated at Kawela, Molokai, Hawaii, and designated as Tax Map Key Nos. (2) 5-4-003: 001 and 028 and further shown and described in the map attached as Attachment A and made a part of the Agreement. Kawela became a member of the EMoWP as an opportunity to manage Kawela's upper forested watershed through cooperative efforts and with the resources and management plans that might not otherwise be available.
3. The Kawela Property is being threatened by feral ungulates, especially goats.
4. Feral ungulates are one of the major threats to the natural resources of Hawaii and one of the most difficult to control. TNC's ungulate control program and conservation plan are more fully described in the East Molokai Watershed Partnership 2015 South Slope Management Plan dated August 7, 2008 ("Management Plan"), which is attached as Attachment B and made a part of this Agreement. The ungulate control program includes a component that requires aerial shooting activities ("Aerial Shooting Activities" defined in paragraph 2 below), over the Kawela Property.
5. TNC has received grants and will continue to seek funding to conduct Aerial Shooting Activities.
6. As a matter of DLNR policy and State law regarding aerial shooting programs, 1) only State DLNR employees carrying out feral animal and pest wildlife control programs may shoot from helicopters, and 2) private individuals may not engage in aerial shooting activities even on their own land and 3) a written agreement with the private landowners must be in place before State employees are allowed to shoot animals on private lands.
7. Kawela supports TNC's efforts to fulfill the program objectives as more fully described in the Management Plan.

NOW THEREFORE, Kawela, TNC and DOFAW agree to the following terms and conditions of this Right of Entry Agreement:

AGREEMENT:

1. In consideration of the covenants and conditions contained herein, Kawela does hereby give TNC and DOFAW a revocable, non-exclusive license to enter and conduct Aerial Shooting Activities (described in Paragraph 2 below) consistent with its Management Plan, upon the Kawela Property from July 1, 2011 to June 30, 2016.
2. The Division of Forestry and Wildlife (DOFAW) will:
 - A. Conduct aerial shooting in the Kawela Property.
 - B. Provide a DOFAW qualified staff person to conduct any aerial shooting, subject to availability of qualified staff.
 - C. Conduct all aerial shooting in accordance with the highest standards of safety to minimize all risk of harm to persons and property.
 - D. Follow the State of Hawaii Department of Land and Natural Resources (“DLNR”) aerial shooting policies, firearms policy and blanket helicopter policy attached as Attachment C and made a part of this Agreement.
3. TNC will:
 - A. Provide Kawela at least two weeks’ written notice to the person or persons designated from time to time by Kawela, of any planned Aerial Shooting Activities, including, without limitation: (1) the dates and times of such Aerial Shooting Activities; (2) the nature of such activities to be conducted; (3) the approximate location where such Activities will be conducted; and (4) such other information as Kawela may reasonably request. Written notice may be in the form written notice sent certified mail, return receipt requested to Kawela at P.O. Box 28, Kaunakakai, HI 96748, Attention: General Manager or by email to the General Manager at kawelapha@gmail.com, provided that TNC receives timely email confirmation of receipt from the General Manager.
 - B. Act as the coordinator of the Aerial Shooting Activities.
 - C. Keep Kawela and its members informed of the dates and results of the Aerial Shooting Activities through quarterly reports, or special summary reports if requested.
 - D. Be financially responsible for all Aerial Shooting Activities.
4. Access to the Kawela Property is limited to providing the opportunity for Aerial Shooting Activities only to be conducted by DOFAW and /or TNC but shall not create any obligations to do so except as described herein or as may be determined by separate instrument.
5. TNC and DOFAW acknowledge that Kawela has not made, and will not make, any representation or warranty, implied or otherwise, with respect to the condition of the lands or their suitability for the Aerial Shooting Activities. TNC and DOFAW accept that entry upon the Kawela Property is with full assumption of all risks and consequences thereof.
6. TNC and DOFAW agree that Kawela does not assume and shall not incur any liability for injury or damage to any person or property incidental to or which may arise during or in consequence of the Aerial Shooting Activities, or TNC’s or DOFAW’s entry except due to the willful misconduct or gross negligence of Kawela, its agents or employees.

7. TNC will indemnify, defend and hold harmless Kawela, its agents and employees, from and against all claims, actions, penalties, damages, liabilities and expenses to the extent arising from or in connection with TNC's and DOFAW's activities, including, without limitation, Aerial Shooting Activities, on, over and adjoining the Kawela Property.
8. TNC and Kawela agree to release the State from any liability for injuries, death or property damage that may be caused by or result from DOFAW's action except for DOFAW's own gross negligence or willful misconduct or for violations of this Agreement.
9. TNC shall ensure that Aerial Shooting Activities do not interfere with Kawela activities. No Aerial Shooting Activities may occur on the Kawela Property until Kawela has given its prior written approval.
10. In carrying out the terms of this agreement, each party, including the Kawela Board of Directors and Kawela residents, will provide up to two representatives for the purpose of resolving differences and determining the direction and goals of common work. In the event differences among the parties to this Agreement cannot be mutually resolved, no activities will occur on until such differences can be resolved.
11. The representatives for DOFAW are:
 1. Maui District DOFAW Manager
 2. Maui District NARS Specialist

The representatives for TNC are:

1. Director of Molokai Programs
2. TNC Regional Attorney

The representatives for Kawela are:

1. Kawela Plantation Homeowner's Association Board President
2. General Manager

The parties may substitute or designate other representatives as needed. Notification of such substitution shall be delivered to the other parties in writing.

12. This Right of Entry Agreement shall continue in effect through June 30, 2016, unless otherwise terminated as set forth in this Agreement, and may be extended in writing by mutual agreement of the parties in the event that additional funds are made available for additional ungulate control methods.
13. All parties reserve the right to revoke and terminate this Agreement at any time, in their sole discretion, for any or no reason, upon thirty (30) days prior written notice to the other parties.
14. This Agreement may be executed in multiple counterparts, each of which shall be deemed a duplicate original, but all of which when taken together shall constitute one and the same instrument.

[SIGNATURES BEGIN ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have signed this Agreement on the date first above written.

THE NATURE CONSERVANCY, A District of Columbia non-profit corporation

By Suzanne Case, Hawaii State Director
Date: _____

KAWELA PLANTATION HOMEOWNERS' ASSOCIATION, A Hawaii non-profit corporation

Pat Harris
Its President

Chair, Common Ground Committee of Kawela Plantation Homeowners' Association

Date: _____

THE STATE OF HAWAII,
DEPARTMENT OF LAND AND NATURAL RESOURCES

By
Chairperson
Date: _____

Approved as to form:

By Deputy Attorney General Date

LIST OF ATTACHMENTS

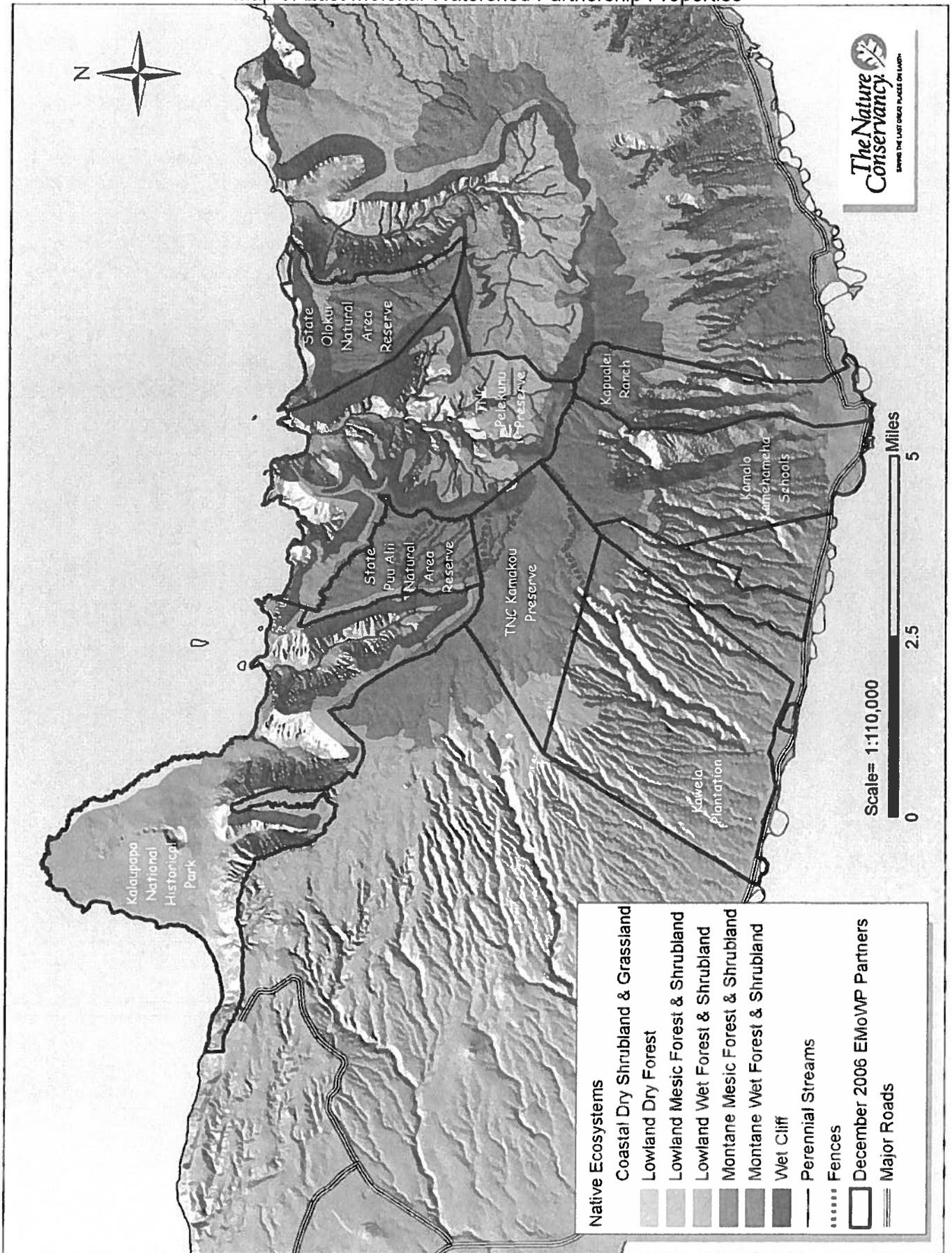
Attachment A:

Map of Kawela Plantation Property

Attachment B:

East Molokai Watershed Partnership 2015 South Slope Management Plan

ATTACHMENT A
Map of East Molokai Watershed Partnership Properties

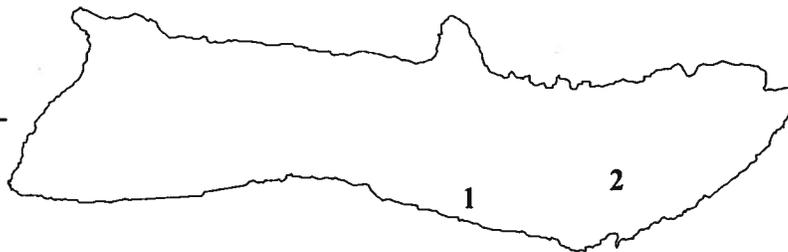


- Native Ecosystems**
- Coastal Dry Shrubland & Grassland
 - Lowland Dry Forest
 - Lowland Mesic Forest & Shrubland
 - Lowland Wet Forest & Shrubland
 - Montane Mesic Forest & Shrubland
 - Montane Wet Forest & Shrubland
 - Wet Cliff
 - Perennial Streams
 - Fences
 - December 2006 EMoWP Partners
 - Major Roads

Molokai Notices

OCTOBER 8, 2000

Draft Environmental Assessments



(1) Molokai Day Care/Senior Center (Revised)

District: Kaunakakai
TMK: 5-3-2:por. 168 and 5-3-3:por. 1
Applicant: Hale Mahaolu
 200 Hina Avenue
 Kahului, Hawaii 96732
 Contact: Roy Katsuda (872-4100)

Approving Agency/Accepting Authority: Department of Housing and Human Concerns
 200 South High Street
 Wailuku, Hawaii 96793
 Contact: Alice Lee (270-7805)

Consultant: Munekiyo, Arakawa & Hiraga, Inc.
 305 High Street, Suite 104
 Wailuku, Hawaii 96793
 Contact: Milton Arakawa (244-2015)

Public Comment
Deadline: November 8, 2000
Status: DEA First Notice pending public comment. Address comments to the applicant with copies to the approving agency or accepting authority, the consultant and OEQC.

Permits Required: District Boundary & Community Plan Amendments, Change in Zoning, County Special Use, SMA

The applicant for the project, Hale Mahaolu, is proposing to develop the Molokai Day Care/Senior Center in Kaunakakai, Molokai, Hawaii. A Final Environmental Assessment for the project was filed on March 23, 1999 for the subject project; however, there have been revisions to the project due to budgetary limitations.

The original plans called for a day care/senior center structure of approximately 6,336 square feet of floor area. The structure was proposed to be located on the eastern portion of the Home Pumehana Elderly Housing Project (TMK 5-3-2:168). Parking for the facility was proposed to be provided by consolidating with the Home Pumehana parcel.

The revised project involves a 4,500 square foot structure which would instead be added onto the existing Home Pumehana laundry/meeting facility. The structure would contain social areas, a kitchen, offices, storage, and restroom facilities. A porte cochere is proposed to allow for easy pickup and dropoff. A semi-circular driveway with 12 parallel parking stalls flank the porte cochere. The configuration of the 1.0 acre parking area also differs from the original proposed layout. Approximately 24 paved parking stalls and overflow grass parking are proposed on the 1.0 acre parcel.

Community Development Block Grant (CDBG) funds have been utilized to acquire a perpetual exclusive easement on the approximately 1.0 acre of property needed for additional parking. An easement for the driveway to Kolapa Place has also been secured. The Home Pumehana site is owned by the County of Maui and under long term lease to Hale Mahaolu.

Final Environmental Assessments/Findings of No Significant Impacts (FONSI)

(2) East Molokai Watershed Management Project

District: Molokai
TMK: 5-5-1:16 and 5-6-6:1
Applicant: Molokai-Lanai Soil & Water Conservation District
 P.O. Box 396
 Hoolehua, Hawaii 96729
 Contact: Paul Elia (567-6869)

Molokai Notices

Lanai Notices

OCTOBER 8, 2000

Approving Agency/Accepting

Authority: Department of Land and Natural Resources
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96813
Contact: Eric Hill (587-0380)

Public Challenge

Deadline: November 8, 2000
Status: FEA/FONSI issued, project may proceed.
Permits Required: CDUP

MLSWCD proposes to install a fence along the ridgeline or browse line at Kamalo Canyon and Kapualei to protect forest and watershed areas from further degradation due to the presence of feral animals. Fencing is also proposed to be installed at Kaapahu. The total length of fencing will be approximately 5.5 miles in the Protective and Resource Subzones of the Conservation District. Fencing will be constructed of galvanized materials and will be installed by hand to avoid impacting possible archeological sites. Helicopter landing sites and staging areas are identified in the application. Construction of the fence will take place over a period of approximately two years. Management land uses are proposed to consist of landscaping, the removal of non-desirable, non-native plant species and revegetation over a period of twenty years.

Previously Published Projects Pending Public Comments

Draft Environmental Assessments

► Lanaihale Watershed Protection and Forest Restoration

Applicant: The Lanai Company, Inc.
P.O. Box 630310
Lanai, Hawaii 96763-0310
Contact: Darrell Stokes (565-7041)

Approving Agency/Accepting

Authority: Department of Land and Natural Resources
Division of Forestry and Wildlife
1151 Punchbowl Street, Room 325
Honolulu, Hawaii 96813
Contact: Karl Dalla Rosa (587-4174)

Public Comment

Deadline: October 23, 2000

Request for Proposals Community Based Coral Reef Initiatives Solicitation No. RFP-01-02-OP

Pursuant to the Hawaii Public Procurement Code, Chapter 103D, Hawaii Revised Statutes, the State Department of Business, Economic Development, and Tourism (DBEDT) is soliciting proposals. The proposals are for community-based initiatives that benefit the coral reefs of the State of Hawaii. This is a multiple award solicitation and only proposals requesting funding at or below \$20,000 shall be considered.

Sealed proposals shall be received up to 4:30 p.m., Hawaii Standard Time (HST) on Friday, November 3, 2000 in the Administrative Services Office/Contracts, Department of Business, Economic Development, and Tourism (DBEDT), State of Hawaii, No. 1 Capitol District, 250 South Hotel Street, 5th Floor, Room 510D, Honolulu, Hawaii, 96813. Proposal Documents may be obtained from that office.

All proposals shall comply with DBEDT General Terms and Conditions for Goods and Services Projects dated April 15, 1996 and must be submitted on DBEDT proposal forms. Offerors are encouraged to carefully read the entire proposal document.

Any questions should be directed in writing to Larry Conley at the above address.