

I hereby certify that this is a true copy from the records of the Bureau of Conveyances.

*Nicki Ann Thompson*  
Registrar of Conveyances  
Assistant Registrar, Land Court  
State of Hawaii

*CG Dech*  
*1/1*



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
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/s/ NICKI ANN THOMPSON  
REGISTRAR  
LAND USE COMMISSION  
STATE OF HAWAII

Return by Mail ( ) Pickup (X) To: (526-3011)  
Kamehameha Schools  
Endowment Legal Division, Legal Services (DS)  
567 South King Street, Suite 310  
Honolulu, Hawaii 96813

This document contains 31 pages.

Tax Map Key Nos.: (4) 5-6-003:001 (por.), (4) 5-6-004:023 (por.), (4) 5-6-004:024, (4) 5-6-004:025 (por.),  
(4) 5-7-002:001 (por.), and (4) 5-7-003:001 (por.)

**DECLARATION OF IMPORTANT AGRICULTURAL LANDS**

JANEEN-ANN AHULANI OLDS, LANCE KEAWE WILHELM, ROBERT K.W.H. NOBRIGA, CORBETT AARON KAMOHAIKIOKALANI KALAMA and MICAH A. KANE, as Trustees of the Estate of Bernice Pauahi Bishop, dba Kamehameha Schools, whose address is Kawaiahao Plaza, Suite 200, 567 South King Street, Honolulu, Hawaii 96813 (“**Declarant**”), as Petitioner of that certain Petition For Declaratory Order to Designate Important Agricultural Lands in Docket No. 13-50 of the Land Use Commission of the State of Hawai‘i, affecting approximately 190 acres of land situated at Hanalei, Kaua‘i, Hawai‘i, Tax Map Key Numbers 5-6-003:001 (portion), 5-6-004:023 (portion), 5-6-004:024, 5-6-004:025 (portion), 5-7-002:001 (portion), and 5-7-003:001 (portion), as shown in the Findings of Fact, Conclusions of Law, and Decision and Order entered January 28, 2014, in Docket No. DR13-50 (the “**Decision and Order**”) attached hereto as **Exhibit “A”** and incorporated herein by reference, do hereby certify as follows:

THAT by the Decision and Order, the Land Use Commission of the State of Hawai‘i designated as important agricultural lands approximately 190 acres of land in Hanalei, Kaua‘i, Hawai‘i, as shown in Exhibit “A” attached to the Decision and Order.

AND THAT pursuant to the Decision and Order, Petitioner hereby records the Decision and Order, as set forth in **Exhibit “A”**, in the Bureau of Conveyances of the State of Hawaii.

AND THAT, if any of the Tax Map Key parcels shown above are subdivided and/or if the Tax Map Key Numbers shown above are changed, then the Declarant reserves the right to update this Declaration of Important Agricultural Lands to reflect the Tax Map Key parcels within which the important agricultural lands designated by the Decision and Order are located.

This Declaration has been executed by or on behalf of the Trustees of the Estate of Bernice Pauahi Bishop in their fiduciary capacities as said Trustees, and not in their individual capacities. No personal liability or obligation under this Declaration shall be imposed or assessed against said Trustees in their individual capacities.

Dated: Honolulu, Hawaii, JAN 30 2014, 2014.

TRUSTEES OF THE ESTATE OF BERNICE  
PAUahi BISHOP, as aforesaid

  
\_\_\_\_\_  
JANEEN ANN AHULANI OLDS

  
\_\_\_\_\_  
LANCE KEAWE WILHELM

  
\_\_\_\_\_  
MICAH A. KANE

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On January 30, 2014, before me personally appeared

JANEEN-ANN AHULANI OLDS, one of the TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP and not individually, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed as such Trustee.

Signature: [Handwritten Signature]  
Name: LESLIE M. YAMASHITA  
Notary Public, State of Hawaii

LESLIE M. YAMASHITA  
Notary Public, State of Hawaii  
My commission expires Sept. 27, 2016

My commission expires: 9/27/2016

[Handwritten Initials]  
(Official Stamp or Seal)

<b>NOTARY CERTIFICATION STATEMENT</b>	
Document Identification or Description: Declaration of Important Agricultural Lands	
Doc. Date: _____ or <input checked="" type="checkbox"/> Undated at time of notarization	
No. of Pages: <u>31</u>	Jurisdiction: First Circuit (in which notarial act is performed)
<u>[Handwritten Signature]</u> Signature of Notary	<u>1/30/2014</u> Date of Notarization and Certification Statement
<u>LESLIE M. YAMASHITA</u> Printed Name of Notary	(Official Stamp or Seal)

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On January 30, 2014, before me personally appeared

LANCE KEAWE WILHELM, one of the TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP and not individually, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed as such Trustee.

Signature: *Leslie M. Yamashita*  
Name: LESLIE M. YAMASHITA  
Notary Public, State of Hawaii

LESLIE M. YAMASHITA  
Notary Public, State of Hawaii  
My commission expires Sept. 27, 2016

My commission expires: 9/27/2016

(Official Stamp or Seal)

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Signature of Notary

Date of Notarization and Certification Statement

Leslie M. Yamashita  
LESLIE M. YAMASHITA

1/30/2014

Printed Name of Notary

(Official Stamp or Seal)

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

On January 30, 2014, before me personally appeared

MICAH A. KANE, one of the TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP and not individually, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed as such Trustee.

Signature: *Leslie M. Yamashita*  
Name: LESLIE M. YAMASHITA  
Notary Public, State of Hawaii

LESLIE M. YAMASHITA  
Notary Public, State of Hawaii  
My commission expires Sept. 27, 2016

My commission expires: 9/27/2016

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*Leslie M. Yamashita*  
Signature of Notary

Date of Notarization and Certification Statement

LESLIE M. YAMASHITA  
Printed Name of Notary

*LM*  
(Official Stamp or Seal)



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

2014 JAN 28 A 9 43

In the Matter of the Petition of

TRUSTEES OF THE ESTATE OF  
BERNICE PAUHI BISHOP dba  
KAMEHAMEHA SCHOOLS

For Declaratory Order to Designate  
Important Agricultural Lands for  
approximately 190 acres at Hanalei,  
Kaua'i; Tax Map Keys: 5-6-003:001  
(portion), 5-6-004:023 (portion), 5-6-  
004:024, 5-6-004:025 (portion), 5-7-  
002:001 (portion), and 5-7-003:001  
(portion)

DOCKET NO. DR 13-50

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
DECISION AND ORDER;  
CERTIFICATE OF SERVICE

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DECISION AND ORDER

AND

CERTIFICATE OF SERVICE

This is to certify that this is a true and correct copy of  
the document on file in the office of the State Land  
Use Commission, Honolulu, Hawai'i.

January 28, 2014 by

Executive Officer

**EXHIBIT "A"**



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

TRUSTEES OF THE ESTATE OF  
BERNICE PAUHI BISHOP dba  
KAMEHAMEHA SCHOOLS

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(portion), 5-6-004:023 (portion), 5-6-  
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(portion)

DOCKET NO. DR 13-50

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
DECISION AND ORDER;  
CERTIFICATE OF SERVICE

LAND USE COMMISSION  
STATE OF HAWAII  
2014 JAN 28 A 9 43

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DECISION AND ORDER

AND

CERTIFICATE OF SERVICE



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

2014 JAN 28 A 9:43

In the Matter of the Petition of

DOCKET NO. DR 13-50

TRUSTEES OF THE ESTATE OF  
BERNICE PAUHI BISHOP dba  
KAMEHAMEHA SCHOOLS

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
DECISION AND ORDER

For Declaratory Order to Designate  
Important Agricultural Lands for  
approximately 190 acres at Hanalei,  
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(portion), 5-6-004:023 (portion), 5-6-  
004:024, 5-6-004:025 (portion), 5-7-  
002:001 (portion), and 5-7-003:001  
(portion)

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND DECISION AND ORDER

TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP dba

KAMEHAMEHA SCHOOLS ("Petitioner" or "Kamehameha Schools"), filed a Petition

for Declaratory Order to Designate Important Agricultural Lands ("Petition") on

November 7, 2013, pursuant to Hawai'i Revised Statutes ("HRS") §§ 205-44 and 45, and

Hawai'i Administrative Rules ("HAR") §§ 15-15-98 and 99, to designate as Important

Agricultural Lands ("IAL") approximately 190 acres of land situated at Hanalei, Kaua'i,

DR 13-50 Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools  
Findings Of Fact, Conclusions Of Law, And Decision And Order



Hawai'i, Tax Map Keys ("TMKs"): 5-6-003:001 (portion), 5-6-004:023 (portion), 5-6-004:024, 5-6-004:025 (portion), 5-7-002:001 (portion), and 5-7-003:001 (portion) (collectively "Petition Area").

The State of Hawai'i Land Use Commission ("Commission"), having heard and examined the testimony, evidence, and argument of counsel presented during the hearing, along with the pleadings filed herein, hereby makes the following findings of fact, conclusions of law, and decision and order:

### FINDINGS OF FACT

#### PROCEDURAL MATTERS

1. On November 7, 2013, Petitioner filed the Petition and Exhibits "A" through "E."
2. On November 12, 2013, Petitioner filed a Certificate of Service Re: Petition for Declaratory Order to Designate Important Agricultural Lands; Verification; Exhibits "A" - "E."
3. On November 12, 2013, Petitioner filed a compact disk containing digital files of the Petition.
4. On November 20, 2013, the Commission's Executive Officer granted the Deputy Attorney General's request on behalf of the State of Hawai'i Office of Planning ("OP") for an extension of filing date from November 29, 2013, to December 6, 2013. The Commission asked to be advised of respective agency positions and any

immediate objections that may exist by the original submittal date of November 29, 2013, but that final comments containing more details and/or supporting documentation may be filed by December 6, 2013.

5. On December 5, 2013, the State of Hawai'i Department of Agriculture ("DOA") filed comments on the Petition from Russell S. Kokubun, Chairperson, Board of Agriculture.

6. On December 6, 2013, OP filed comments on the Petition from Jesse K. Souki, Director.

7. On December 13, 2013, the County of Kaua'i Planning Department ("County") filed comments on the Petition from Michael Dahilig, Director.

8. On December 30, 2013, the Commission sent its Notice of Hearing and Agenda for its January 8, 2014, Site Visit and Meeting.

9. On January 6, 2014, the State of Hawai'i Commission on Water Resource Management ("CWRM") through OP filed comments on the Petition from William Tam, Deputy Director.

10. On January 7, 2014, Petitioner filed a Stipulation Regarding Petitioner's Exhibits signed by Petitioner, OP, and the County.

11. On January 8, 2014, the Commission conducted a site visit to the Petition Area in the ahupua'a of Waipā and Lumaha'i.

12. On January 8, 2014, the Commission held an action meeting on the Petition in Līhu'e, Kaua'i, Hawai'i. William Meheula, Esq., Tom Witten, and Darrell Hamamura appeared on behalf of Petitioner. Mauna Kea Trask, Esq., Michael Dahilig, and Leanora Kai'aokamālie appeared on behalf of the County. Bryan C. Yee, Esq., and Rodney Funakoshi appeared on behalf of OP.<sup>1</sup> At the meeting, the Commission admitted into evidence Petitioner's Exhibits "A" through "E" and the written comments on the Petition from the DOA, OP, the County, and the CWRM. Petitioner, the County, and OP then commenced with their respective presentations on the Petition. Following discussion, a motion was made and seconded to grant the Petition. There being a vote tally of 9 ayes and 0 nays, the motion carried.

#### DESCRIPTION OF PETITION AREA

13. The Petition Area consists of approximately 190 acres of land situated at Hanalei, Kaua'i, Hawai'i, and is identified by TMKs: 5-6-003:001 (portion), 5-6-004:023 (portion), 5-6-004:024, 5-6-004:025 (portion), 5-7-002:001 (portion), and 5-7-003:001 (portion).

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<sup>1</sup> At the start of the meeting, Chair Ronald Heller disclosed that his law firm provides services to the County of Kaua'i and Petitioner in the area of labor and employment law. Vice-Chair Chad McDonald also disclosed that his architectural and engineering firm has provided services to Petitioner in the area of education. In addition, Commissioner Carol Torigoe disclosed that her architectural firm provides services to Petitioner. Vice-Chair Lance Inouye further disclosed that his construction firm has provided services to Petitioner and occasionally bids on some of Petitioner's projects. Finally, Commissioner Aaron Mahi disclosed that he is a cultural advisor with the Partners in Development Foundation, which has worked with Petitioner on various issues within the Hawaiian community. There were no objections to these Commissioners' continued participation in the proceeding.

14. The Petition Area is divided into two areas by a mountain ridge defining Lumaha'i Valley to the west and Waipā to the east. Lumaha'i consists of approximately 66.2 acres and Waipā consists of approximately 123.6 acres.

15. The Petition Area is owned in fee simple by Petitioner.

#### DESCRIPTION OF REQUEST

16. Petitioner seeks a determination from the Commission that the Petition Area identified by Petitioner in this Petition should be designated as IAL pursuant to HRS §§ 205-44 and 45.

17. Petitioner's position is that the Petition Area meets the qualifications for designation as IAL under HRS § 205-44, and that the Commission should issue a declaratory order designating the Property as IAL pursuant to HRS § 205-45.

18. Petitioner is not seeking reclassification of land pursuant to HRS § 205-45(b) in conjunction with its Petition.

19. Petitioner has represented that it voluntarily waives any and all rights to assert, claim, or exercise any credits pursuant to HRS § 205-45(h), as effective as of the date of its Petition, that may be earned by Petitioner. Petitioner has represented that this waiver is limited to the use of credits for the sole purpose of reclassifying other lands that are not the subject of the Petition to the State Land Use Urban, Rural, or Conservation Districts pursuant to HRS § 205-45(h), as effective as of

the date of its Petition, and shall not apply to any credits, incentives, rights, or privileges that Petitioner may possess now or in the future, whether known or unknown.

CONFORMANCE WITH THE STANDARDS AND CRITERIA FOR THE IDENTIFICATION OF IAL

20. As described below, the Petition Area has a long history of agricultural use.

- a. The three dominant pre-contact Hawaiian agricultural systems were lo'i, dryland field systems, and a third mixed cropping system occurring on the slopes of valleys, termed "colluvial-slope" agriculture. Within the ahupua'a of Waipā and Lumaha'i, there is evidence that these lands have supported the types of pre-contact agricultural systems identified above.
- b. Lo'i agriculture, based on taro (*Colocasia esculenta*; kalo), occurred in the flat bottoms of stream-fed windward valleys, such as Lumaha'i and Waipā, and was especially prominent on the geologically older islands, including Kaua'i.
- c. Conversely, dryland field systems, based upon sweet potato (*Ipomoea batatas*; 'uala), were confined to geologically young soils with a specific rainfall gradient. This type of

agriculture did not occur at large scales on Kaua'i as it did on other islands primarily because of the older age of soils present on Kaua'i that are leached of rock-derived nutrients, such as nitrogen and phosphorus, unless rejuvenated by some type of stream or erosion transport of sediment.

- d. The colluvial-slope system is a rain-fed system based upon root, tuber, and tree crops and non-food crops, such as dryland taro, sweet potato, banana (*Musa* spp.; mai'a), breadfruit (*Artocarpus alilis*; 'ulu), olonā (*Touchardia latifolia*), paper mulberry (*Broussontia papyrifera*; wauke), kava (*piper methysticum*; 'awa), and ti (*cordyline fruticosa*; kī). This system occurred in the lower slopes of broad valleys on the older islands, where mass-wasting and fluvial erosion caused the release of new supplies of rock-derived nutrients into the soil, allowing the soil to support a complex population of crops.
- e. Hawaiian colluvial-slope agriculture has been recorded in ethnohistoric and archaeological records as occurring in sloped areas up to 30 degrees in slope but is also determined by colluvial soil type, temperature, and a lower rainfall

boundary (750mm/year). Modeling of traditional Hawaiian agricultural systems has predicted large areas of colluvial-slope agriculture (1,312 acres) in both Lumaha`i and Waipā Valleys, surrounding a predicted 441 acres of lo`i agriculture. Modeling also indicates that these areas in the two valleys alone could produce approximately 8,760 tons/year of traditional Hawaiian food. Nevertheless, the feasibility of active farming of traditional or other crops in these colluvial-slope areas has not yet been explored by Petitioner and is not being pursued by the current Lumaha`i and Waipā tenants.

- f. Direct evidence of agricultural use in Lumaha`i Valley by the early Hawaiians has been adversely affected by the impacts of ranching on these lands. However, the expansive flat lands alongside Lumaha`i River in the lower valley suggest that Lumaha`i would have been an ideal location for cultivation. Information from literature and archaeological surveys suggests that there was lo`i agriculture in Lumaha`i. From the 1860s to the 1930s, rice and taro were primarily cultivated in Lumaha`i. From the 1930s to the 1960s,

ranching replaced the early rice and taro agricultural practice. From the 1990s to the present, taro cultivation returned to Lumaha'i as the primary agricultural use, along with ongoing pasture use.

- g. In Waipā, lo'i systems were recorded during the Mahele (the division of Hawaiian lands) of 1848, indicating that the irrigated flat plain alongside Waipā Stream was utilized for taro cultivation. From approximately the 1860s to 1940, all flat lands in Waipā were rice fields. From 1945 to 1985, these lands were converted to pasture use to raise livestock. In 1986, Waipā was leased by Hawaiian Farmers of Hanalei, Inc. ("HFH"), and HFH began farming taro using the ancient irrigation 'auwai.
- h. HFH formed the Waipā Foundation<sup>2</sup> in 1994 as a non-profit to manage the ahupua'a.

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<sup>2</sup> The mission of the Waipā Foundation is to restore the Waipā ahupua'a as a Hawaiian community learning center and to create a sustainable, cultural, and community-based model for land use and management inspired by the traditional values of the ahupua'a. Waipā Foundation's agricultural goals include: (1) growing Hawaiian crops/plants for food, cultural practice, ahupua'a restoration, teaching, learning, and community-based economic development; (2) maximizing the use of agricultural areas by restoring areas not in production to managed, productive healthy lands; (3) farming in a manner that continuously improves the quality and health of the soil, water, natural ecosystems, and other resources, while maximizing production of high-quality crops; and (4) growing crops in the ahupua'a context for the mutual benefit of the 'āina.



- i. In 2004, a master plan was prepared for the Waipā Foundation. In Waipā, the Petition Area includes areas for pasture, field crops, and lo'i and excludes the area for an education complex and other mission supporting uses. In addition, there are several kuleana parcels (owned by others) in Waipā, and are thus not included in the Petition Area.
- j. Lumaha'i is currently encumbered by a 5-year license agreement to the Harada 'Ohana. The current agricultural use includes approximately 37 acres of pasture and 6 acres of taro lo'i. Taro cultivation has the potential to be increased by an additional 6 acres under the current irrigation system. In addition to the taro and pasture use, the diversified agricultural plantings include beans, squash, sugarcane, papaya, banana, ti leaf, pumpkin, chili pepper, fruit trees, and heliconia. For security purposes, video cameras with day/night vision, sound, and movement sensors are set up around the property. The balance of Lumaha'i, approximately 17 acres, is suitable for a variety of crops and is planned to be incrementally cleared and put into agricultural uses.

k. In Waipā, Kamehameha Schools is currently in partnership with the Waipā Foundation to expand agricultural and traditional kalo production and to implement an `āina-based education program. The Waipā Foundation has a long-term lease agreement ending in 2050. The current agricultural use includes approximately 45 acres of pasture and 15 acres of diversified agriculture, including taro lo'i, organic vegetable farming, native plant nurseries, and Hawaiian plant gardens. By the end of the current lease term, the agricultural use in Waipā is expected to expand to 45 acres of pasture and 49 acres of diversified agriculture. Critical to achieving the mission of the Waipā Foundation, the lands along Kūhiō Highway that are excluded from the Petition Area consist of the HFH "Historic Piko" that serves as a central gathering area and includes the HFH house, equipment shed, and caretaker's home.<sup>3</sup>

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<sup>3</sup> Some of the uses and facilities planned within this area include: (1) Kahua - open multi-use area that would continue to host the Farmers' Market; (2) Community Complex - certified kitchen, Hale Imu, a multi-purpose building administration building, and bunkhouse; (3) Education Complex - four school buildings, including a preschool, small-scale farm and garden and supporting infrastructure; and (4) Kupuna and Worker Housing - housing for workers and Kupuna that are a resource for operations and programs at Waipā.

I. In total, the 124 acres in Waipā will be in productive agricultural use or supporting uses consistent with the Waipā Foundation agricultural master plan. Further, Waipā includes essential elements of active agricultural operations, such as stream buffers, drainage ways, ditches, and access roads.

21. The Detailed Land Classification System and Agricultural Land Productivity Ratings by the Land Study Bureau (LSB), University of Hawai'i are based on a five-class productivity rating system using the letters A, B, C, D, and E, with A representing the class of highest productivity and E the lowest. Approximately 74 percent of the Petition Area is rated C, 2 percent is rated D, and 24 percent is rated E.

The following table summarizes the productivity rating of the Petition Area:

Detailed Land Classification System/Agricultural Land Productivity Ratings:

Productivity Rating	Lunaha'i		Waipā		Total IAL	
	Acres	% of IAL	Acres	% of IAL	Acres	% of IAL
A	-	-	-	-	-	-
B	-	-	-	-	-	-
C	64.37	34%	75.70	40%	140.07	74%
D	-	-	3.73	2%	3.73	2%
E	1.70	1%	44.25	23%	45.95	24%
Not LSB	0.05	0.03%	-	-	0.05	0%
<b>Totals:</b>	<b>66.12</b>	<b>35%</b>	<b>123.68</b>	<b>65%</b>	<b>189.80</b>	<b>100%</b>

22. Although the Petition Area has relatively low productivity ratings, it has been historically used for agriculture and at present is productive for taro and

other diversified crop cultivations along with some pasture use for cattle, horses, and goats.

23. Based on the Sunshine Maps prepared in 1985 by the State of Hawai'i Department of Business, Economic Development and Tourism, formerly known as the State of Hawai'i Department of Planning and Economic Development, Energy Division, the Petition Area receives an annual average of 350 calories of solar energy per square centimeter per day. The level of solar radiation is beneficial towards supporting diversified agricultural uses.

24. The Agricultural Lands of Importance to the State of Hawai'i ("ALISH") classification system was developed in 1977 by the DOA. The system was primarily, but not exclusively, based on the soil characteristics of lands and existing cultivation. There are three classes of ALISH lands – Prime, Unique, and Other. Approximately 89 percent of the Petition Area is classified in ALISH: 5 percent Prime ALISH, 6 percent Unique ALISH, and 78 percent Other ALISH. The balance of the Petition Area is not classified under ALISH classification but includes essential elements of the active agricultural operation, such as streams and drainageways, and most of the unclassified land is currently used for pasture.

The following table summarizes the ALISH classifications for the Petition Area:

ALISH Classifications	Lumaha`i		Waipā		Total IAL	
	Acres	% of IAL	Acres	% of IAL	Acres	% of IAL
Prime	-	-	10.31	5%	10.31	5%
Unique	-	-	10.93	6%	10.93	6%
Other	61.38	32%	86.56	46%	147.94	78%
Not ALISH	4.74	2%	15.88	8%	20.62	11%
<b>Totals:</b>	<b>66.12</b>	<b>35%</b>	<b>123.68</b>	<b>65%</b>	<b>189.80</b>	<b>100%</b>

25. Based on historic agricultural uses and current agricultural production, the Petition Area has adequate quantities of water to support viable agricultural production. The Petition Area is irrigated by ditch from the respective Lumaha`i and Waipā systems that consist of centrally located perennial streams and tributaries of the streams.

- a. In Lumaha`i, the existing `auwai irrigation system is currently in disrepair. The current licensee farming the property expects to repair the system to increase the water delivery capacity. There are no recent ditch capacity measurements that quantify the water being used. The primary water source is Lumaha`i River that, based on the historical records for 1914 through 1938, has a minimum flow of over 13 million gallons per day. It is likely that the current flow has decreased but is still a significant watershed that has ample water resources to support the Petition Area when the water delivery system is improved. The CWRM

does not have any records of existing stream diversion works (registered or permitted) for Lumaha'i Stream.

Petitioner has represented that Petitioner or its Lumaha'i licensee will file (i) an after-the-fact Stream Diversion Works Permit application with the CWRM within 90 days of the issuance of this Decision and Order but reserves the right to request a time extension from the CWRM if necessary to file said application; and (ii) an amendment to the interim instream flow standards for Lumaha'i Stream if it is deemed necessary.

- b. In Waipā, the water sources include Waipā Stream, Kīwa'a Spring and the County of Kaua'i's Hanalei water system. Although the capacity of the sources has not been quantified, the stream and related 'auwai irrigation system is in the process of being restored and utilized for irrigating the Petition Area. Historically, these water sources have supported the agricultural use of the Waipā lands.

26. The Petition Area receives an average of 100 inches of rain annually. Moreover, ongoing and planned restoration of the agricultural water systems will continue to improve the irrigation water delivery system.

27. The Petition Area's agricultural classification is consistent with the General Plan of the County of Kaua'i.

28. The Petition Area is situated within the State Land Use Agricultural District.

29. The Petition Area contributes to maintaining a critical land mass important to agricultural operating productivity.

30. The Petition Area is supported with infrastructure conducive to agricultural productivity. Existing infrastructure serving the Petition Area includes irrigation ditches and systems, roadways, transport systems, and facilities. Kamehameha Schools has planned infrastructural improvements and plans to build agricultural support facilities. Moreover, the Waipā Foundation hosts a popular weekly farmers market, showcasing the work of local farmers and providing a venue for local produce and agricultural support.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the Petition pursuant to HRS §§ 91-8, 205-44, and 205-45 and HAR § 15-15-98.

2. Pursuant to HRS § 205-44(a), the Commission has the authority to designate lands as IAL so long as any of the criteria in HRS § 205-44(c) are met.

3. The Petition Area is currently used for agricultural production in accordance with HRS § 205-44(c)(1).

4. The Petition Area has soil qualities and growing conditions that support agricultural production in accordance with HRS § 205-44(c)(2).
5. The Petition Area constitutes lands identified under agricultural productivity rating systems, such as the ALISH system adopted by the Board of Agriculture on January 28, 1977, in accordance with HRS § 205-44(c)(3).
6. The Petition Area includes traditional Native Hawaiian agricultural uses such as taro cultivation in accordance with HRS § 205-44(c)(4).
7. The Petition Area has sufficient quantities of water to support viable agricultural production in accordance with HRS § 205-44(c)(5).
8. The Petition Area's designation as IAL is consistent with the General Plan of the County in accordance with HRS § 205-44(c)(6).
9. The Petition Area contributes to maintaining a critical land mass that is important to agricultural operating productivity in accordance with HRS § 205-44(c)(7).
10. The Petition Area is within close proximity to or is near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power in accordance with HRS § 205-44(c)(8).
11. The designation of the Petition Area as IAL meets the purposes of Article XI, section 3, of the Hawai'i State Constitution by conserving and protecting



agricultural lands, promoting diversified agriculture, increasing agricultural self-sufficiency, and assuring the availability of agriculturally suitable lands.

12. The designation of the Petition Area as IAL meets the objectives of HRS § 205-42(b) by contributing to the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations.

13. The designation of the Petition Area as IAL meets the policies of HRS §205-43(1) by promoting the retention of IAL in blocks of contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management.

14. The designation of the Petition Area as IAL meets the policies of HRS § 205-43(2) by discouraging the fragmentation of important agricultural lands and the conversion of these lands to non-agricultural uses.

15. The designation of the Petition Area as IAL meets the policies of HRS § 205-43(8) by promoting the maintenance of essential agricultural infrastructure systems, including irrigation systems.

16. The Petition Area meets the requirements of HRS § 205-45 for designation as IAL.

17. Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

#### DECISION AND ORDER

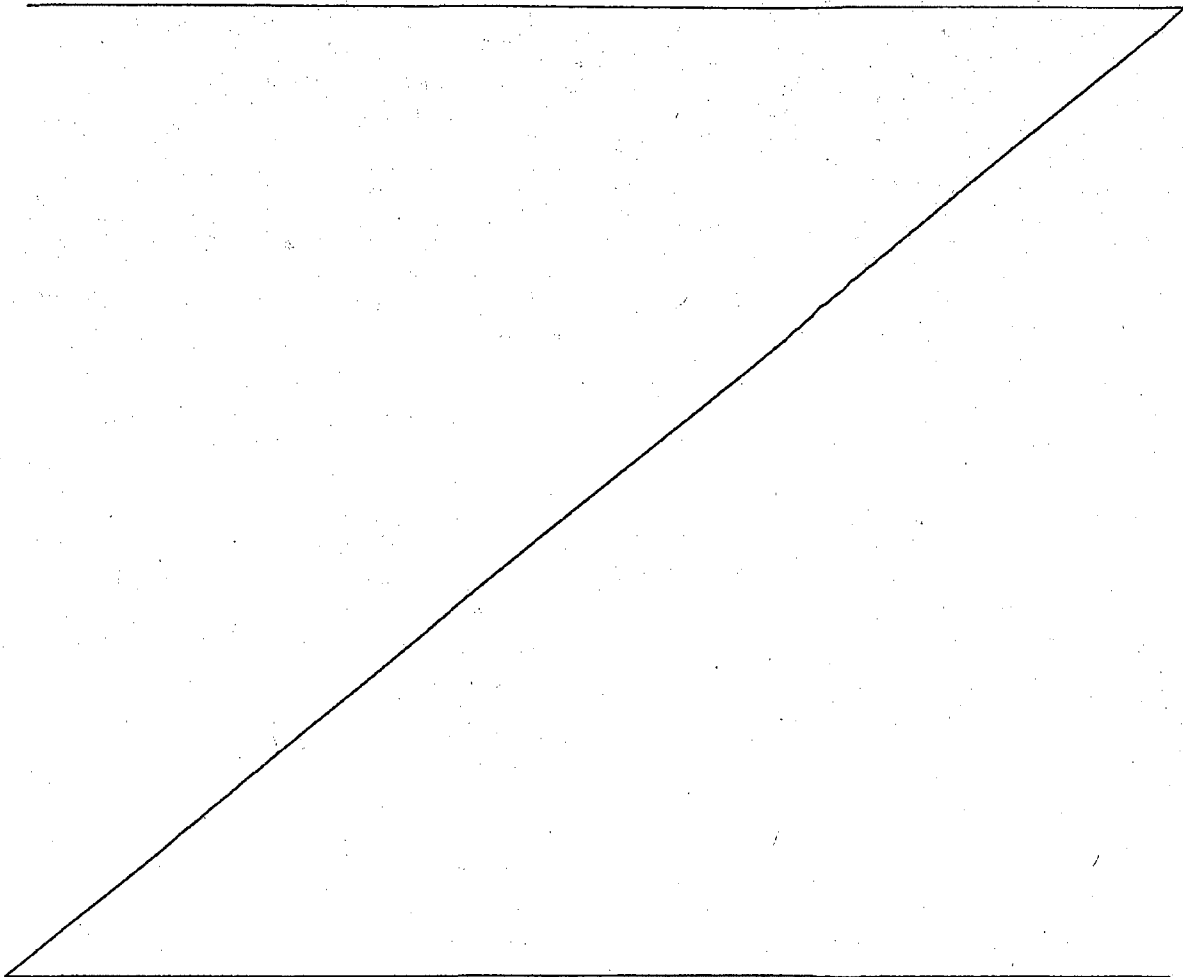
This Commission, having duly considered the Petition, the oral and/or written comments of Petitioner, OP, DOA, CWRM, and the County, and a motion having been made at a meeting on January 8, 2014, in Līhu'e, Kaua'i, Hawai'i, and the motion having received the affirmative votes required by HAR §§ 15-15-98 and 99 and HRS §§ 205-44 and 45, and there being good cause for the motion,

HEREBY ORDERS that the Petition Area, consisting of approximately 190 acres of land situated at Hanalei, Kaua'i, Hawai'i, TMKs: 5-6-003:001 (portion), 5-6-004:023 (portion), 5-6-004:024, 5-6-004:025 (portion), 5-7-002:001 (portion), and 5-7-003:001 (portion), and shown approximately on Exhibit "A," attached hereto and incorporated by reference herein, shall be and is hereby designated as IAL as governed by HRS chapter 205.

IT IS FURTHER ORDERED that designation of the Petition Area as IAL shall be subject to the following conditions:

1. Petitioner shall comply with representations made to the Commission with respect to not claiming any credits described in HRS § 205-45(h) with respect to the Petition Area.

2. Within seven (7) days of the issuance of the Commission's Decision and Order, Petitioner shall record it with the Bureau of Conveyances.



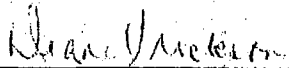
ADOPTION OF ORDER

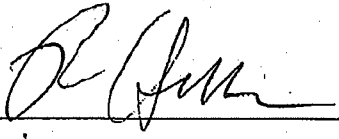
This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 28th day of January, 2014,  
per motion on January 23, 2014.

APPROVED AS TO FORM

LAND USE COMMISSION  
STATE OF HAWAII

  
\_\_\_\_\_  
Deputy Attorney General

By   
\_\_\_\_\_  
Chairperson

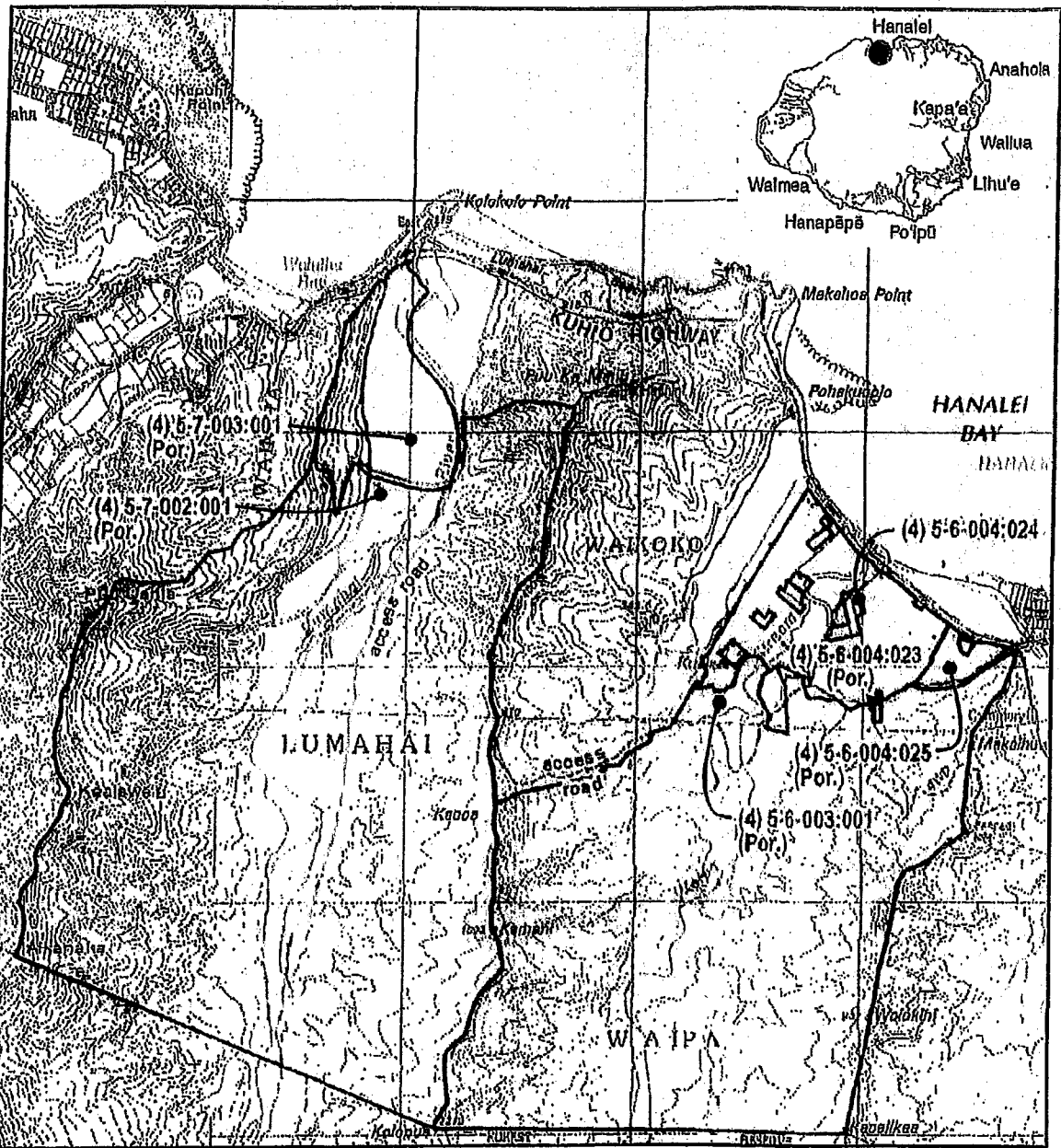
Filed and effective on:

1-28-14

Certified by:

  
\_\_\_\_\_  
DANIEL ORODENKER  
Executive Officer

File: C:\Statewide\GIS\Important\AG Land\GIS\Project\Kauai\Report Figures\TMK 2013\_07.mxd



DATE: 7/17/2013

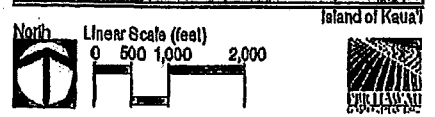
**LEGEND**

- IAL Lands Related TMK Parcels
- Proposed IAL Designation

**EXHIBIT "A"**

**TMK Parcel Map**

**KS IAL KAUA'I**



Source: Kamehameha Schools (2013), Kauai TMK (2012), U.S. Geological Survey  
 Disclaimer: This graphic has been prepared for general planning purposes only.



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of

TRUSTEES OF THE ESTATE OF  
BERNICE PAUAHI BISHOP dba  
KAMEHAMEHA SCHOOLS

For Declaratory Order to Designate  
Important Agricultural Lands for  
approximately 190 acres at Hanalei,  
Kaua'i; Tax Map Keys: 5-6-003:001  
(portion), 5-6-004:023 (portion), 5-6-  
004:024, 5-6-004:025 (portion), 5-7-  
002:001 (portion), and 5-7-003:001  
(portion)

DOCKET NO. DR 13-50

CERTIFICATE OF SERVICE

2011 JAN 28 A 9 43

CERTIFICATE OF SERVICE

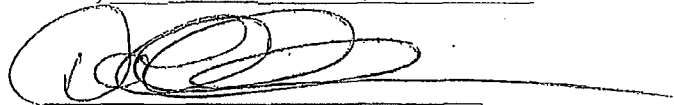
I hereby certify that a copy of the **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER** was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
JESSE SOUKI, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	X		

DR 13-50 Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools  
Certificate of Service

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
BRYAN YEE, ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		X	
WILLIAM MEHEULA (2227) 745 Fort Street, Suite 801 Ocean View Center Honolulu, Hawaii 96813			X
MAUNA KEA TRASK, ESQ. Office of the County Attorney, County of Kauai 4444 Rice Street, Suite 220 Lihue, Hawai'i, 96766			X
MICHAEL A. DAHLIG Director of Planning 4444 Rice St. Suite 453 Lihue, Hawai'i, 96766		X	
SCOTT ENRIGHT Director State Department of Agriculture 1428 South King Street Honolulu, Hawai'i 96814-9613		X	

Dated: Honolulu, Hawai'i, 1/28/14



DANIEL ORODENKER  
Executive Officer



DR 13-50 Trustees of the Estate of Bernice Pauahi Bishop dba Kamehameha Schools  
Certificate of Service