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Ref. No. P-14191

December 6, 2013

To: Daniel Orodener, Executive Officer
State Land Use Commission

From: *for* Jesse K. Souki, Director *Jesse K. Souki*

Subject: DR13-50, Petition to Designate Important Agricultural Lands
Petitioner: Trustees of the Estate of Bernice Pauahi Bishop
dba: Kamehameha Schools
Location: Hanalei, Kauai, Hawaii
Area: Approximately 190 acres

The Office Planning (OP) appreciates the Trustees of the Estate of Bernice Pauahi Bishop, dba: Kamehameha Schools' (Petitioner) participation in the voluntary process for the designation of important agricultural lands (IAL). The designation of the most productive agricultural lands in Hawaii will help to realize the vision expressed in the Administration's New Day Plan, which calls for an agricultural renaissance in Hawaii. OP further commends Petitioner for its comprehensive Strategic Agricultural Plan which embodies goals and actions consistent with the State of Hawaii's Increased Food Security and Food Self-Sufficiency Strategy (OP and Department of Agriculture, October 2012).

Having reviewed the Petition after consulting with other agencies and applying the available information to the IAL law, OP recommends that the Land Use Commission (LUC) fully approve the designation of the Petition lands at Hanalei as IAL. The following is provided in support of this recommendation.

Applicable Law. The State law for IAL is contained within Hawaii Revised Statutes (HRS) §§205-41 through 205-44. Lands being considered for IAL designation must meet the definition of IAL pursuant to HRS §205-42(a), which provides that IAL lands:

- “(1) Are capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology;
- (2) Contribute to the State's economic base and produce agricultural commodities for export or local consumption; or
- (3) Are needed to promote the expansion of agricultural activities and income for the future, even if currently not in production.”

HRS §205-44(c) lists eight (8) standards and criteria for the identification of IAL, which will be assessed as part of OP's review. OP recognizes that lands identified as IAL need not meet every standard and criteria listed; however, HRS §205-44(a) also requires that "the designation of important agricultural lands shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in article XI, section 3, of the Hawaii Constitution and the objectives, policies, standards, and criteria for important agricultural lands in sections 205-42 and 205-43."

Summary of key elements of the Petition. The Petitioner is requesting that the LUC issue a declaratory order designating 189.8 acres of lands at Hanalei, Kauai, Hawaii as IAL. (Refer to Exhibit A for the Petition areas.) OP notes that the requested IAL lands constitute only 15.6 percent of the approximately 1,215 acres of Agricultural District lands owned by the Petitioner on Kauai. The Petitioner further represents that if the Petition is approved, all rights to any credits that may be earned under HRS §205-45(h) will be waived.

The proposed lands are classified in the State Agricultural District and are owned by the Petitioner. Six parcels (totaling 189.8 acres) in the Petition area consists of two contiguous lands separated by a ridge in Lumahai and Waipa Valleys (Refer to Exhibit B and Exhibit C).

- A. **Lumahai:** The proposed IAL lands consist of 66.2 acres in two tax map parcels. There is currently a renewable five-year license agreement between the Petitioner and a farm operator. The Petitioner indicates that 37 acres of the land is presently used as grazing for horses and six acres for taro cultivation, including some diversified crops and native planting. Based on the Petitioner's Exhibit (Figure No. 2), the map does not show a clear comparison between the current and proposed use of the land. However, the proposed Petition indicates a total of 12 acres of wetland taro and additional 17 acres of plants, trees, and crops may be incrementally established in the future.
- B. **Waipa:** The proposed IAL lands consist of 123.6 acres in four tax map parcels. The current agricultural use in Waipa is 60 acres, which includes 45 acres of pasture and 15 acres of diversified agriculture such as taro and native plants. The Petitioner has a partnership and a lease agreement with the Waipa Foundation until 2050. According to the Petition, there are future plans to provide a total of 124 acres in Waipa for productive agricultural uses consistent with its agricultural master plan (refer to the Petitioner's Figure 1). The plans include an additional 49 acres of diversified agriculture. The long range goals of the Waipa Foundation include the expansion of agricultural uses, traditional kalo productivity, and educational programs.

Basis of review and comments. OP's review is based on the Petition, Petition exhibits, and public data available on the proposed lands, including analysis of spatial data using

geographic information systems (GIS). In addition, OP requested comments on the Petition from the following entities.

- **State Department of Agriculture (DOA)**, the DOA is in support of the Petition, as well as the Petitioner's long-term Strategic Agricultural Plan for statewide management of its agricultural lands. DOA states that the overall direction and commitment to agricultural development by the Petitioner increases the likelihood of the proposed IAL are put into productive agricultural use. The DOA finds that the Petition meets all eight of the IAL standards and criteria, with additional comments provided on file.

Comments were requested but not yet received from the College of Tropical Agriculture and Human Resources, Commission on Water Resource Management, and the Natural Resources Conservation Service. Any agency comments received after the filing of this response will be included in the testimony by OP.

Assessment of Petition lands. The following assesses the proposed IAL areas relative to the eight (8) standards and criteria for the identification of IAL established in HRS §205-44(c).

1. §205-44(c)(1), Land currently used for agricultural production.

Lumahai: Of the 66.2 acres, 43 acres of land in Lumahai proposed as IAL are currently in agricultural use, with pasture for horses as the dominant use.

Waipa: Of the 124 acres proposed as IAL in Waipa, 60 acres are currently used for agricultural production, including taro and diversified agriculture such as organic vegetables, native plants, and 15 acres of pasture.

2. §205-44(c)(2), Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops. Based on the Land Study Bureau (LSB) rating system, the soil productivity ratings for all of the Petition lands in Lumahai and Waipa are rated as C, D, and E. Overall, 74 percent of both Lumahai and Waipa lands have a C or "Fair" soil productivity rating (Refer to Table No. 1).

Lumahai: Of the 66 acres of land proposed as IAL, 64 acres are rated as C, which represents most of the site. Only 1.70 acres of the land have the soil productivity rating E or "Very Poor".

Waipa: Of the 124 acres of proposed IAL, 76 acres (40%) are rated as C (Fair) and 44 acres (23%) are rated as E (Very Poor).

The soil qualities for both sites are not highly rated for crop production. However, the proposed lands meet this criterion since the areas have been historically used for agriculture and remain active with taro and diversified crop production, including livestock grazing. The Petition further states that the two proposed sites have the optimal level of solar radiation, with an average of 350 calories of solar energy per square centimeter per day, which is beneficial in supporting any diversified agricultural uses. It is also noted by the Petitioner that there may be future exploration on the feasibility of farming traditional crops in the colluvial-slope areas in the low terrains of the valleys.

Table No .1						
LSB Soil Rating:	Lumamai		Waipa		Total	Total
	Percent (of IAL)	Acreage	Percent (of IAL)	Acreage	Percent (of IAL)	Acreage (of IAL)
C (Fair)	34%	64.37	40%	75.70	= 74%	140.07
D (Poor)	-		2%	3.73	= 2%	3.73
E (Very Poor)	1%	1.70	23%	44.25	= 24%	45.95
Total:	35%	66.07	65%	123.68	= 100%	189.80

3. §205-44(c)(3), Land identified under agricultural productivity rating systems, such as the Agricultural Lands of Importance to the State of Hawaii (ALISH) system adopted by the Board of Agriculture on January 28, 1977.

Lumamai: Under the ALISH system, which is based on the soil characteristics of lands and existing cultivation, 61 acres of land are classified as “Other Important” and only the remainder of 5 acres are not classified as ALISH (Refer to Table No. 2 below). One criterion for qualifying land as “Other Important” are lands with slopes less than 35 percent, presently used for grazing, or has grazing potential that are not classified as “Prime or Unique”. Therefore, the proposed IAL in Lumamai would be consistent with its value for grazing.

Waipa: Overall, a total of 108 acres of land in Waipa are classified as Prime, Unique, and Other Important, while 16 acres are not classified as ALISH.

In total, 89 percent of the lands in Lumamai and Waipa are classified within ALISH, of which the majority of them are rated as “Other Important”. Therefore, the Petition lands meet this criterion (Refer to Table No. 2 below).

ALISH Rating	Lumahai		Waipa		Total (percent)	Total (acreage)
	Percent (of IAL)	Acreage	Percent (of IAL)	Acreage		
Prime	-	-	5%	10.31	5%	10.31
Unique	-	-	6%	10.93	6%	10.93
Other Important	32%	61.38	46%	86.56	78%	147.94
Not in ALISH	2%	4.74	8%	15.88	11%	20.62
Total:	35%	66.12	65%	123.68	100%	189.80

4. §205-44(c)(4), Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production. The proposed lands in Lumahai and Waipa meet this criterion. The Petitioner has provided extensive information on various types of historical agricultural systems used by the Native Hawaiians in the Lumahai and Waipa lands, such as the loi, dryland field systems, and mixed cropping system known as the colluvial- slopes agriculture.

Lumahai: According to the Petitioner, there are records of rice and taro as the dominate cultivation through the practice of loi system for over a period of 80 years. Taro cultivation has since returned two decades ago to the present, including small-scale diversified agricultural use in Lumahai.

Waipa: The long-term lease along with the goals of the Waipa Foundation Master Plan, which include emphasis on diversified agriculture such as Hawaiian crops/plants and promoting ahupuaa standards, will help the proposed IAL fulfill and maintain this criterion. The DOA concurs that the master plan goals in place will benefit the proposed IAL.

5. §205-44(c)(5), Land with sufficient quantities of water to support viable agricultural production. Based upon the natural water resources available to both sites and the proposed restoration of the auwai irrigation systems by the Petitioner, the proposed IAL lands meet the criterion. Both the Lumahai and Waipa sites are irrigated by ditch systems from the perennial streams and the general area receives an average of 100 inches of rainfall annually.

Lumahai: According to the Petition, the Lumahai River is the primary water source in Lumahai, with historical data showing minimum flows of up to 13 million gallons per

day. The Petitioner stated that existing irrigation systems are not in working order. Hence, the current farmer operator pumps water from the river. There are plans to increase the water capacity with future repairs and upgrades under the current lease.

Waipa: The primary water sources at the site are the Waipa Stream, Kiwaa Spring, as well as the County's water system. The Petitioner noted the irrigation system is in the process of being restored in order to supply irrigation to the proposed IAL lands in Waipa.

6. §205-44(c)(6), Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county. The Petition generally meets the criterion. According to the General Plan of the County of Kauai and the North Shore Planning District Land Use Map, the Petition land in Lumahai is designated as Open and the land in Waipa is designated as Agriculture. Based on the Petition's Exhibit (Figure 9A), 73 percent (75 acres) of the lands requested by the Petition overlaps the County's Proposed IAL maps under the "28 Point Threshold" (lands that meet the IAL criteria).
7. §205-44(c)(7), Land that contributes to maintaining a critical land mass important to agricultural operating productivity. The Petition lands meet this criterion. Although the proposed IAL lands are in separate locations, each site is contiguous and suited for agricultural uses. There are some small parcels in Waipa within the proposed IAL boundary that are not part of the Petition. However, these parcels are not owned by the Petitioner and appear to be mostly agricultural-related uses. Overall, the proposed IAL lands are relatively flat and without adverse topography. Although nearby mountain ranges surround both Lumahai and Waipa lands, the petition areas have slopes of less than 20 percent. Portions of the western and eastern boundaries of Lumahai, as well as the southeastern boundary of Waipa abut nearby mountain terrains containing steep slopes (ranges from 20 to 80 percent in elevation). (Refer to Exhibit D.)
8. §205-44(c)(8), Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power. The proposed lands meet this criterion based on their proximity and access to roads, markets, and power. Kuhio Highway is the major access roadway which connects to multiple roadways that lead into both Lumahai and Waipa. A weekly farmers market is available and is adjacent to the Waipa foundation facility on Kuhio Highway. Also included in the Waipa Master Plan are goals to construct various support facilities, such as housing for farm workers, community center, farmers market, and schools.

Mr. Daniel Orodener
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Summary and Recommendation.

Based on available information and Petitioner's representations, and having weighed the IAL standards and criteria in consideration of the constitutionally-mandated purposes in Article XI, Section 3, of the Hawaii Constitution and the objectives and policies for IAL in HRS §§205-41 through 205-44, OP recommends that the LUC approve the designation of the Petition area in its entirety. OP further recommends that a condition of approval be imposed on the Petition waiving any and all rights to credits under HRS §205-45(h), as represented by the Petitioner in its Petition.

Thank you for the opportunity to comment on the Petition.

Attachments

c: William Meheula, Esq., Law Offices of William Meheula LLC
Mr. Russell S. Kokubun, Department of Agriculture
Mr. Michael A. Dahilig, Department of Planning, County of Kauai