

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 ap-
proximately 9,171.161 acres at
Kawailoa, O'ahu identified by TMK Nos.
(1) 6-1-005: 001 (por.); 6-1-006: 001
(por.); 6-1-007: 001; 6-2-009: 001 (por.);
6-2-010: 001 (por.); 6-2-011: 001 (por.); 6-
2-011: 021 and approximately 420.887
acres at Punalu'u, O'ahu identified by
TMK Nos. (1) 5-3-001: 041 (por.); 5-3-
003: 001 (por.); 5-3-004: 005; 5-3-004:
007; 5-3-004: 013; 5-3-004: 018 (por.); 5-
3-004: 019; 5-3-007: 023 (por.)

DOCKET NO. DR-14-52

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

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LAND USE COMMISSION
STATE OF HAWAII

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Petitioner TRUSTEES OF THE ESTATE OF BERNICE PAUHI BISHOP,
dba KAMEHAMEHA SCHOOLS ("**Petitioner**"), filed a Petition for Declaratory
Order to Designate Important Agricultural Lands ("**Petition**") on December 12,
2014, pursuant to Hawai'i Revised Statutes ("**HRS**") §§ 205-44 and -45 and Hawai'i
Administrative Rules ("**HAR**") §§ 15-15-98, -99, -120, and -121, to designate as
Important Agricultural Lands ("**IAL**") approximately 9,171.161 acres of land situat-

ed at Kawaiiloa, O'ahu, identified by Tax Map Key ("TMK") Nos. (1) 6-1-005:001 (por.); 6-1-006:001 (por.); 6-1-007:001; 6-2-009:001 (por.); 6-2-010:001 (por.); 6-2-011:001 (por.); and 6-2-011:021 (the "Kawaiiloa Property") and to designate 420.887 acres of land situated at Punalu'u, O'ahu identified by TMK Nos. (1) 5-3-001:041 (por.); 5-3-003:001 (por.); 5-3-004:005; 5-3-004:007; 5-3-004:013; 5-3-004:018 (por.); 5-3-004:019; and 5-3-007:023 (por.) (the "Punalu'u Property") (the Kawaiiloa Property and Punalu'u Property are collectively referred to herein as the "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 hearings, along with the pleadings filed herein, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

I. PROCEDURAL MATTERS

1. On December 12, 2014, Petitioner filed the Petition and Exhibits "A" through "J" with the Commission.

2. On December 12, 2014, Petitioner filed a compact disk containing digital files of the Petition.

3. On January 21, 2015, the State of Hawai'i Commission on Water Resource Management ("CWRM") submitted comments on the Petition to the State of Hawai'i Office of Planning ("OP").

4. On January 26, 2015, the United States Department of Agriculture ("USDA") submitted comments on the Petition to OP ("USDA Ltr.").

5. On January 27, 2015, the Commission sent its Notice of Land Use Commission Meeting and Agenda for its February 4, 2015 site visit.

6. On February 2, 2015, the State of Hawai'i Department of Agriculture ("DOA") submitted comments dated January 29, 2015 on the Petition ("DOA's Ltr.") to the LUC.

7. On February 4, 2015, the Commission conducted a site visit to view the Petition Area.

8. On February 10, 2015, Petitioner responded by letter to OP's inquiries set forth in a January 29, 2015 email ("Petitioner's Ltr").

9. On February 10, 2015, OP submitted comments on the Petition ("OP's Ltr.") to the LUC. CWRM, USDA, DOA's comments, and Petitioner's letter were attached as exhibits to OP's comments.

10. On February 17, 2015, the City and County of Honolulu (the "City") submitted comments on the Petition to the LUC.

11. On February 18, 2015, the Commission held a hearing on the Petition in Honolulu, Hawaii.

12. Calvert G. Chipchase, Esq. and Lisa D. Ayabe, Esq., appeared on behalf of Petitioner.

13. Bryan C. Yee, Esq. appeared on behalf of OP.

14. Richard Lewallen, Esq. appeared on behalf of the City.

15. At the hearing, the Commission admitted into evidence Petitioner's Petition, including Exhibits "A" through "J," Petitioner's PowerPoint, the written comments on the Petition from DOA, OP, USDA, CWRM, and City, Petitioner's letters, and letters of support from the Punalu'u Community Association, Bihn T. Huynh, Muoy Huynh, Cindy Kamp, Keith Ward, Thongthip Khanthavong, Ikaika Bishop, John Ha, Daniel Bishop, Darrell Tachibana, Kim Phomahasay, Henry Rabino, Chau Nguyen, Joan Sourychack, Andrew Nakamura, Robert Taira, Kekaulike Arquette, Lloyd D. Burlew, Deldrene "Didi" Herron, and Somlith Thongsavath.

16. Petitioner called Sydney Keliipuleole, Giorgio Caldarone, and Thomas Witten. Mr. Witten was qualified as an expert in land planning and environmental planning.

17. OP called Rodney Funakoshi. Earl Yamamoto of DOA was called to answer specific questions posed by the LUC regarding certain IAL incentives.

18. OP supported the designation of the entire Kawaihoa Property as IAL and 290 acres of the Punalu'u Property as IAL.

19. DOA supported the designation of the entire Punalu'u Property as IAL and the designation of the entire Kawaihoa Property as IAL, provided certain questions regarding one of the planned uses within the Kawaihoa Property were addressed.

20. The City had no objections to the designation of the entire Petition Area as IAL.

21. The motion to approve the Petition in its entirety was made by Commissioner Arnold Wong and seconded by Commissioner Neil Clendeninn. There being a vote tally of 6 ayes and 1 nay, the motion carried.

II. DESCRIPTION OF PETITION AREA

22. The Petition Area consists of approximately 9,171.161 acres of land situated at Kawaihoa, O'ahu, identified by TMK Nos. 6-1-005:001 (por.); 6-1-006:001 (por.); 6-1-007:001; 6-2-009:001 (por.); 6-2-010:001 (por.); 6-2-011:001 (por.); and 6-2-011:021 and 420.887 acres of land situated at Punalu'u, O'ahu, identified by TMK Nos. 5-3-001:041 (por.); 5-3-003:001 (por.); 5-3-004:005; 5-3-004:007; 5-3-004:013; 5-3-004:018 (por.); 5-3-004:019; and 5-3-007:023 (por.). Exhibit A to Petition.

23. The Petition Area represents approximately 52% of all of Petitioner's O'ahu lands, excluding lands held in the conservation district. Petitioner's Ltr. at 1.

24. Petitioner owns and manages the Petition Area. Petition at 3.

25. Petitioner is responsible for sustaining its endowment in perpetuity, while maximizing cultural, economic, environmental, educational, and community benefits pursuant to Petitioner's values, vision and mission. Id.

26. To further its mission, Petitioner developed its Strategic Agricultural Plan, which is a statewide strategic plan for the management of Petitioners' agricultural lands. Id.

27. Petitioner has also developed regional plans targeting specific agricultural areas in the State. The Kawaihoa Property is covered in Petitioner's North Shore Plan. The North Shore Plan sets forth Petitioner's commitment to enhancing diversified agriculture and food production through sustainable land management practices and shows all the proposed Kawaihoa Property as planned for agriculture. Id.

28. The Punalu'u Property is covered by Petitioner's Punalu'u Ahupua'a Plan. Id. The Punalu'u Ahupua'a Plan sets forth Petitioner's commitment to ensuring that agricultural lands are responsibly utilized in order to sustain small-scale commercial farming for future generations.

29. Designation of the Kawaihoa Property and Punalu'u Property as IAL is consistent with Petitioner's state-wide Strategic Agricultural Plan, North Shore Plan and Punalu'u Ahupua'a Plan.

III. DESCRIPTION OF REQUEST

30. Petitioner seeks a determination from the Commission that the Petition Area should be designated as IAL pursuant to HRS §§ 205-44 and -45 and HAR §§ 15-15-98, -99, -120, and -121. Petition at 2.

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

32. Petitioner has represented that it is voluntarily waiving 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 pursuant to HRS § 205-45(h), as effective as of the date of its Petition. The waiver does not apply to any other credits, incentives, rights or privileges that Petitioner may possess now or in the future, whether known or unknown.

IV. CONFORMANCE WITH THE STANDARDS AND CRITERIA FOR THE IDENTIFICATION OF IAL

33. HRS § 205-44(c) and HAR § 15-15-120(c) set out the criteria for identifying IAL. Lands identified as IAL do not need to meet every criterion listed in section 205-44(c). Rather, lands meeting any criterion in section 205-44(c) shall be given initial consideration, and the designation of IAL shall be made by weighing criteria with each other to meet the constitutional mandated purposes in article XI, section 3 of the Hawai'i Constitution and the objectives and policies for IAL identified in sections 205-42 and -43.

34. HRS § 205-44(c)(1): Lands currently used for agricultural production.

a. Kawailoa Property. There is a long history of agricultural use of the Kawailoa Property. The lands of Kawailoa were a major food producing area of the district of Waialua. The coastal areas of Kawailoa were primarily used for habitation, while the kula lands were used extensively for dryland agriculture. Given the geographic location and topography, the lower lands were utilized for two types of agricultural production—rain-fed dryland agriculture on the lower slope and colluvial slope cultivation on the upper slope, with both systems reliant on seasonal rainfall rather than irrigation systems. Petition at 7. Sugar was an established agricultural crop as early as 1836. Id. The Kawailoa Property was under lease and used for sugar and other crops between 1898 and 1999. Id. Currently, diversified agriculture is a primary agricultural use in Kawailoa. Other lands are currently under pending leases for cattle and pasture operations. Mauka unirrigated lands are designated for multiple and layered uses consisting of livestock, orchard, forestry and renewable energy. Thirty wind turbines are currently in operation. Approximately 384.1 acres are being planned for a 50 MW photovoltaic (PV) energy farm that will include sheep grazing as a dual use. Petition at 7-8; PowerPoint at Slide 8. Petitioner intends that the entire Kawailoa Property will be under agricultural leases.

b. Punalu‘u Property. Similar to Kawailoa, the Punalu‘u Property has a long history of agricultural use. The Punalu‘u Property was one of the major food producing ahupua‘a of Ko‘olau Loa and served as the “bread-basket” of the North Shore. During pre-contact times, the land supported many acres of lo‘i (taro

fields). In later years, rice fields were planted. Until the early 1900s, rice was the dominant crop and rice cultivation was known to exist from the shoreline to the mountains. From the 1900s to the 1970s, sugar was the leading agricultural use. Taro and pineapple were also produced under smaller agricultural leases issued by Petitioner. Since the 1970s, agricultural use at Punalu'u has been diversified. Today, agriculture in Punalu'u includes various crops, pasture use, aquaculture and plant nurseries. Petition at 8-9. Petitioner intends that the entire Punalu'u Property, other than areas impacted by the stream restoration, will be under agricultural leases.

35. HRS § 205-44(c)(2): Land with soil qualities and growing conditions that support agricultural production for food, fiber or fuel, and energy-producing crops. 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 productivity rating. Id. at 10.

a. Kawailoa Property. Approximately 33.1% of the Kawailoa Property is rated A, 17.8% is rated B, 12.4% is rated C, 2.6% is rated D, 33.3% is rated E, and 0.8% is unrated. Id.

b. Punalu'u Property. Approximately 9.4% of the Punalu'u Property is rated B, 34.7% is rated C, 12.3% is rated D, 43.5% is rated E, and 0.1% is unrated.

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

<i>Productivity Rating</i>	<i>Kawailoa</i>		<i>Punalu'u</i>		<i>Total IAL</i>	
	<i>Acres</i>	<i>% of IAL</i>	<i>Acres</i>	<i>% of IAL</i>	<i>Acres</i>	<i>% of IAL</i>
A	3,034.663	33.1%	-	-	3,034.663	31.6%
B	1,632.211	17.8%	39.440	9.4%	1,671.651	17.4%
C	1,134.423	12.4%	146.313	34.7%	1,280.736	13.3%
D	241.536	2.6%	51.859	12.3%	293.395	3.1%
E	3,054.790	33.3%	183.257	43.5%	3,238.047	33.8%
Not LSB	73.538	0.8%	0.018	0.1%	73.556	0.8%
Totals:	9,171.161	95.6%	420.887	4.4%	9,592.048	100%

37. Based on the Sunshine Maps prepared in 1985 by the State Department of Business, Economic Development and Tourism, formerly known as the State Department of Planning and Economic Development, Energy Division, the Kawailoa Property receives an annual average of 400 to 450 calories of solar energy per square centimeter per day. The Punalu'u Property receives an annual average of 300 to 350 calories of solar energy per square centimeter per day. The level of solar radiation for the Kawailoa Property and Punalu'u Property is very beneficial for various agricultural uses. Id. at 11.

38. HRS § 205-44(c)(3): Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawai'i

(“ALISH”) system adopted by the board of agriculture on January 28, 1977. The ALISH classification system was developed in 1977 by DOA. Id. at 12. The system was primarily, but not exclusively, based on the soil characteristics of lands and existing cultivation. There are three classes of ALISH land—Prime, Unique and Other. Approximately, 66.0% of the Kawaihoa Property is classified in ALISH, with 63.8% in Prime and 2.2% in Other. Id. at 12. The balance of the proposed land is not classified under ALISH. The unclassified land includes essential elements of the active agricultural operation, such as streams, drainage ways, water systems, and roadways. Approximately 68.4% of the Punalu‘u Property is classified in ALISH with 6.0% in Prime and 62.4% in Other. Id. at 13. The balance of the proposed land is not classified under ALISH. Most of the unclassified land is currently used for diversified agriculture and pasture. Id.

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

<i>ALISH Classifications</i>	<i>Kawaihoa</i>		<i>Punalu‘u</i>		<i>Total IAL</i>	
	<i>Acres</i>	<i>% of IAL</i>	<i>Acres</i>	<i>% of IAL</i>	<i>Acres</i>	<i>% of IAL</i>
Prime	5,852.319	63.8%	25.243	6.0%	5,877.562	61.3%
Unique	-	-	-	-	-	-
Other	198.572	2.2%	262.547	62.4%	461.119	4.8%
Not ALISH	3,120.270	34.0%	133.097	31.6%	3,253.367	33.9%
Totals:	9,171.161	95.6%	420.887	4.4%	9,592.048	100%

40. HRS § 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.

a. Kawailoa Property. Traditional Hawaiian and historic-era agricultural sites, including irrigation ditches and infrastructure, are well documented at the Kawailoa Property. Archaeological surveys of the Kawailoa lands have recorded traditional agricultural sites on the lower lands and gulches, while the upper table lands do not exhibit any traditional sites. Across Kawailoa, Kuleana awards show that in the mid-1800s land uses included lo‘i (taro bond fields), ‘auwai (water courses/ditches), and kula (dryland planting fields). Crops included taro, ‘awa, hala, ipu (bitter gourd), kukui, koa, ma‘i (banana), noni, olonā, kō (sugarcane), ‘uala (sweet potato), and wauke. Id. at 14.

b. Punalu‘u Property. In 2005, Petitioner commissioned an Ethno-historic Study of Punalu‘u. The study included the collection of archival and oral historical records. The research focused on two sources of information—historical literature and the results of an oral historical interview program with kūpuna and kama‘āina who were known to be familiar with the history of lands in Punalu‘u. The Ethnohistoric Study aided in the planning efforts in Punalu‘u. Id. at 14. In 2011, as Petitioner started to plan for agricultural expansion, it initiated an Archaeological Reconnaissance Survey (“ARS”) of its agricultural lands. The focus of this effort was to identify historic and cultural resources in lower Punalu‘u so that those resources could be inventoried to assist with the planning and stewardship of the lands. Id. at

15. In 2014, Petitioner commissioned a Cultural Impact Assessment (“CIA”) of Punalu‘u. The approximately 433-acre study centered on Punalu‘u Stream, also known as Wai‘ono Stream, immediately mauka of Kamehameha Highway and extending approximately 1.2 miles into the foothills of the Ko‘olau Mountains. The CIA report was designed to provide stakeholders with a roadmap for preserving and perpetuating significant cultural resources and practices in ways that are both authentic and practical. Id. at 15. Through these studies, Petitioner confirmed that traditional Hawaiian and historic-era agricultural sites, including ditches and infrastructure, were prevalent in Punalu‘u. More than 40 notable sites were identified, including multiple heiau, traditional Hawaiian habitation sites, and cultivation sites, such as traditional and historic terraces, enclosures, walls, irrigation ditches, and other infrastructure. As noted in the archaeological and cultural studies, the lands of Punalu‘u were one of the major food producing ahupua‘a of Ko‘olau Loa. In pre-contact times, the land supported lo‘i kalo terraces along the valley floor and dryland agricultural features along the slopes of the valley. These conclusions are consistent with the archaeological work conducted in the 1970s by Bishop Museum. Id. at 15. Through the Bishop Museum studies, archaeologists recorded pre-Contact agricultural and habitation complexes, variously comprised of terraces, mounds, and walls. Kuleana records reveal that in the mid-1800s land uses included lo‘i (taro pond fields), ‘auwai (water courses/ditches), and kula (dryland planting fields). Crops included taro, ‘awa, hala, ipu (bitter gourd), kukui, koa, mai‘a (banana), noni, olonā, ‘uala (sweet potato), and wauke. Id. at 16. Currently,

there are several taro fields on the Punalu'u Property, a mamaki farm (a native Hawaiian plant used for herbal tea), and an aquaculture farm.

41. HRS § 205-44(c)(5): Land with sufficient quantities of water to support viable agricultural production.

a. Kawailoa Property. OP concluded in its comment letter that the Kawailoa Property has sufficient water to support agriculture in Kawailoa. OP's Ltr. at 8. The Kawailoa Property is supported by an extensive irrigation system that was constructed by Castle & Cooke more than a hundred years ago. The irrigation system connects Waimea River, Ka'alaea Stream, Kawailoa Stream, Laniākea Stream and Anahulu River with ditches, pipelines, and reservoirs. Petition at 16. Most of the agricultural water can be distributed to the agricultural use areas. Petitioner has been restoring and repairing the operational but aging infrastructure. Petitioner will continue to make infrastructure improvements to the irrigation system and other agricultural facilities in order to support farmers and preserve the historic agricultural lands in Kawailoa. In recent years, Petitioner has invested more than \$17 million for agricultural infrastructure improvements at the Kawailoa Property. PowerPoint at Slide 9. Petitioner invested \$2,845,000.00 to upgrade the Opaulea Reservoir 1, approximately \$5,727,000.00 in the ditch to pipe conversion project, \$1,585,000.00 in a new reservoir, \$1,039,000.00 in an irrigation filter system, \$4,137,000.00 in well pumps and controls, \$350,000.00 in roadways, and approximately \$1,400,000.00 in fencing and security related improvements. Id.

Along with the described water resources, the Kawaihoa Property receives an average of 35 to 80 inches of rain annually. Petition at 17.

b. Punalu'u Property. DOA concluded in its comment letter that there is an "abundant irrigation water supply" at the Punalu'u Property. DOA's Ltr. at 7. The Punalu'u Property is mainly irrigated by Punalu'u Stream and ditches that are connected to the stream. Petition at 17. From 2009 to 2014, Petitioner has invested approximately \$1.5 million to upgrade the agricultural irrigation water sources and distribution system within Punalu'u. Petitioner has already installed more than 5,000 linear feet of piping in the former Punalu'u irrigation ditch. The entire Punalu'u area has access to these water resources. In addition to the described water resources, the Punalu'u Property receive an average of 65 to 120 inches of rain annually. Petition at 17. Petitioner is also undertaking significant stream restoration work for approximately 87 acres of the Punalu'u Stream. Petitioner plans to invest approximately \$5 million for stream restoration. The stream restoration is intended to mitigate flood impacts on riparian and coastal ecosystems, minimize disruptions to agricultural activities, enhance use of the stream for educational, community, and cultural initiatives, install secondary feeder drainage ditches, and relocate the farm access road.

42. HRS § 205-44(c)(6): Land whose designation as IAL is consistent with general, development, and community plans of the county. The Petition Area's agricultural classification is consistent with the O'ahu General Plan. The Petition Area is situated within the State Land Use Agricultural District. The Kawaihoa

Property is consistent with the City's North Shore Sustainable Communities Plan. The Punalu'u Property is consistent with the Ko'olau Loa Sustainable Communities Plan. In addition, the Petition Area is consistent with the City's top three and top four priority criteria for the designation of land as IAL. Petition at 18-20.

43. HRS § 205-44(c)(7): Land that contributes to maintaining a critical land mass important to agricultural operating productivity. The Petition Area contributes to maintaining a critical land mass important to agricultural operating productivity. The USDA recognized the "potential benefits of preserving the [Petition Area] as a large block of contiguous land area" as "conducive to environmental protection and healthy integrity resource management." USDA Ltr. at 2. Petitioner has always managed the Kawailoa Property and Punalu'u Property as cohesive and contiguous units as evidenced by the North Shore Plan and Punalu'u Ahupua'a Plan, respectively. It is critical to Petitioner's agricultural plans and continued agricultural investment in these lands that they be managed as a cohesive unit, including by making the benefits of IAL designation available to all farms on the lands.

44. HRS § 205-44(c)(8): Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water or power. The Petition Area has sufficient support infrastructure conducive to agricultural productivity. Existing infrastructure serving the Petition Area includes an extensive irrigation system, ditches, pipelines, reservoirs, and roads. Petitioner has invested more than \$17 million for agricultural infrastructure improvements at the

Kawailoa Property and approximately \$1.5 million to upgrade the agricultural irrigation water sources and distribution system within Punalu'u. PowerPoint at Slides 9 and 11. In addition, Petitioner plans to continue making infrastructure improvements to the irrigation system and to build agricultural support facilities. Petition at 21.

45. The current or planned agricultural use of the area sought to be designated as IAL.

a. Kawailoa Property. Petitioner intends that diversified agriculture and pasture will remain the primary agricultural uses. Petition at 21. Petitioner will generate increased water supply by continuing to restore and improve its irrigation system. Id. Approximately 384.1 acres are being planned for a dual-use 50 MW photovoltaic (PV) energy farm and grazing by sheep. PowerPoint at Slide 8.

b. Punalu'u Property. Petitioner intends that diversified agriculture will continue to be the primary agricultural use in Punalu'u. Petition at 22. In the near term, Petitioner will complete the renovation work to the existing agricultural water system, develop an overall agriculture production and land conservation plan, establish longer-term leases with tenants, and construct a central agricultural base yard facility. Id. In the long term, Petitioner proposes to develop traditional farming and organic farming programs. Id. For some of the agricultural lands makai of the Punalu'u Property, the plans also include an agricultural processing

complex, renovated agricultural residences, a farmer's market and retail facility, and on-site housing for a property manager. Id.

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 in accordance with the criteria set forth in HRS § 205-44(c).

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 includes substantial 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 has been used for traditional native Hawaiian agricultural uses. The Punalu'u Property currently includes cultivation of 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 State District Boundaries and the State Plan, the O'ahu General Plan, and the City's North Shore and Ko'olau Loa Sustainable Communities Plans 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 to expand agricultural income and job opportunities and increase agricultural 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 Areas 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. Under HRS § 205-49(a)(3), if a majority of a landowner's holdings are approved for designation as IAL (excluding lands in the State Conservation District), the county is precluded from designating additional acreage of that landowner as IAL except by a voluntary petition pursuant to section 205-45. Since the Petition Area represents approximately 52% of Petitioner's agriculture and urban lands on O'ahu, the City is precluded from designating additional agricultural lands of Petitioner as IAL.

18. 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 written testimony of Petitioner, DOA, OP, USDA, CWRM, and the City, the Punalu‘u Community Association, Bihn T. Huynh, Muoy Huynh, Cindy Kamp, Keith Ward, Thongthip Khanthavong, Ikaika Bishop, John Ha, Daniel Bishop, Darrell Tachibana, Kim Phomahasay, Henry Rabino, Chau Nguyen, Joan Sourychack, Andrew Nakamura, Robert Taira, Kekaulike Arquette, Lloyd D. Burlew, Deldrene “Didi” Herron, and Somlith Thongsisavath, and a motion having been made at a meeting on February 18, 2015, in Honolulu, Hawaii, 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 9,171.161 acres of land situated at Kawailoa, O‘ahu, identified by TMK Nos. (1) 6-1-005:001 (por.); 6-1-006:001 (por.); 6-1-007:001; 6-2-009:001 (por.); 6-2-010:001 (por.); 6-2-011:001 (por.); and 6-2-011:021 and 420.887 acres of land situated at Punalu‘u, O‘ahu, identified by TMK Nos. (1) 5-3-001:041 (por.); 5-3-003:001 (por.); 5-3-004:005; 5-3-004:007; 5-3-004:013; 5-3-004:018 (por.); 5-3-004:019; and 5-3-007:023 (por.), 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 the representations made to the Commission with respect to disclaiming 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

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this _____ day of _____, 2015. This ORDER may be executed in counterparts. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this _____ day of _____, 2015.

APPROVED AS TO FORM

LAND USE COMMISSION
STATE OF HAWAII

Deputy Attorney General

By _____
CHAIRPERSON

EXHIBIT A

Tax Map Key Description

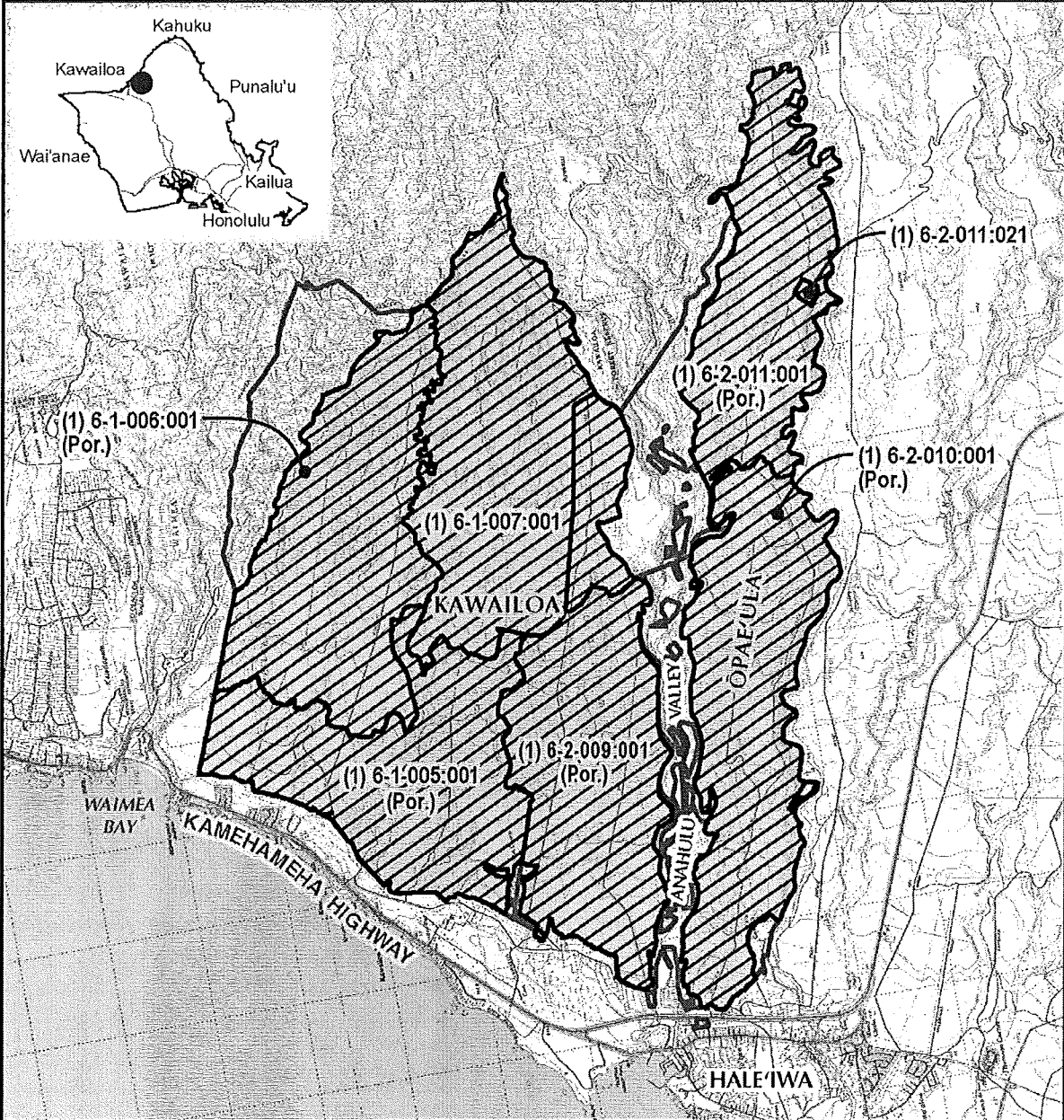
A total of approximately 9,592.048 acres of land owned by Kamehameha Schools on O'ahu are proposed to be designated as Important Agricultural Land (IAL): 9,171.161 acres in Kawaiiloa and 420.887 acres in Punalu'u.

The Kawaiiloa lands are specifically described as TMK numbers: 6-1-005:001 (portion), 6-1-006:001 (portion), 6-1-007:001, 6-2-009:001 (portion), 6-2-010:001 (portion), 6-2-011:001 (portion), and 6-2-011:021. The Punalu'u lands are described as TMK numbers: 5-3-001:041 (portion), 5-3-003:001 (portion), 5-3-004:005, 5-3-004:007, 5-3-004:013, 5-3-004:018 (portion), 5-3-004:019, and 5-3-007:023 (portion).

The following table shows a summary of TMK parcels and approximate acreage for the proposed IAL lands:



<i>LOCATIONS</i>	<i>TMK NUMBER</i>	<i>APPROXIMATE ACREAGE</i>	<i>EXHIBIT</i>
Kawaiiloa	6-1-005:001 (Por.)	1,437.951	A-1A
	6-1-006:001 (Por.)	1,611.441	A-1B
	6-1-007:001	1,754.590	A-1C
	6-2-009:001 (Por.)	1,400.731	A-1D
	6-2-010:001 (Por.)	1,541.840	A-1E
	6-2-011:001 (Por.)	1,413.448	A-1F
	6-2-011:021	11.160	
<i>SUBTOTAL:</i>		9,171.161	
Punalu'u	5-3-001:041 (Por.)	20.761	A-2A
	5-3-003:001 (Por.)	270.826	A-2B
	5-3-004:005	0.434	A-2C
	5-3-004:007	5.351	
	5-3-004:013	0.204	
	5-3-004:018 (Por.)	24.769	
	5-3-004:019	0.942	A-2D
	5-3-007:023 (Por.)	97.600	
	<i>SUBTOTAL:</i>		420.887
<i>GRAND TOTAL:</i>		9,592.048	

Exhibit A illustrates the proposed IAL and the related Tax Map Key parcels. To illustrate the individual TMK parcels, Exhibits A-1A to A-2D are provided to identify the individual TMK parcels and portions thereof that are proposed to be designated IAL.



DATE: 12/9/2014

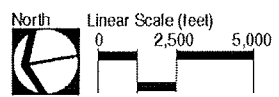
LEGEND

-  IAL Lands Related TMK Parcels
-  Proposed IAL Designation

**EXHIBIT A-1
Kawaiiloa**

TMK Parcels - Key Map

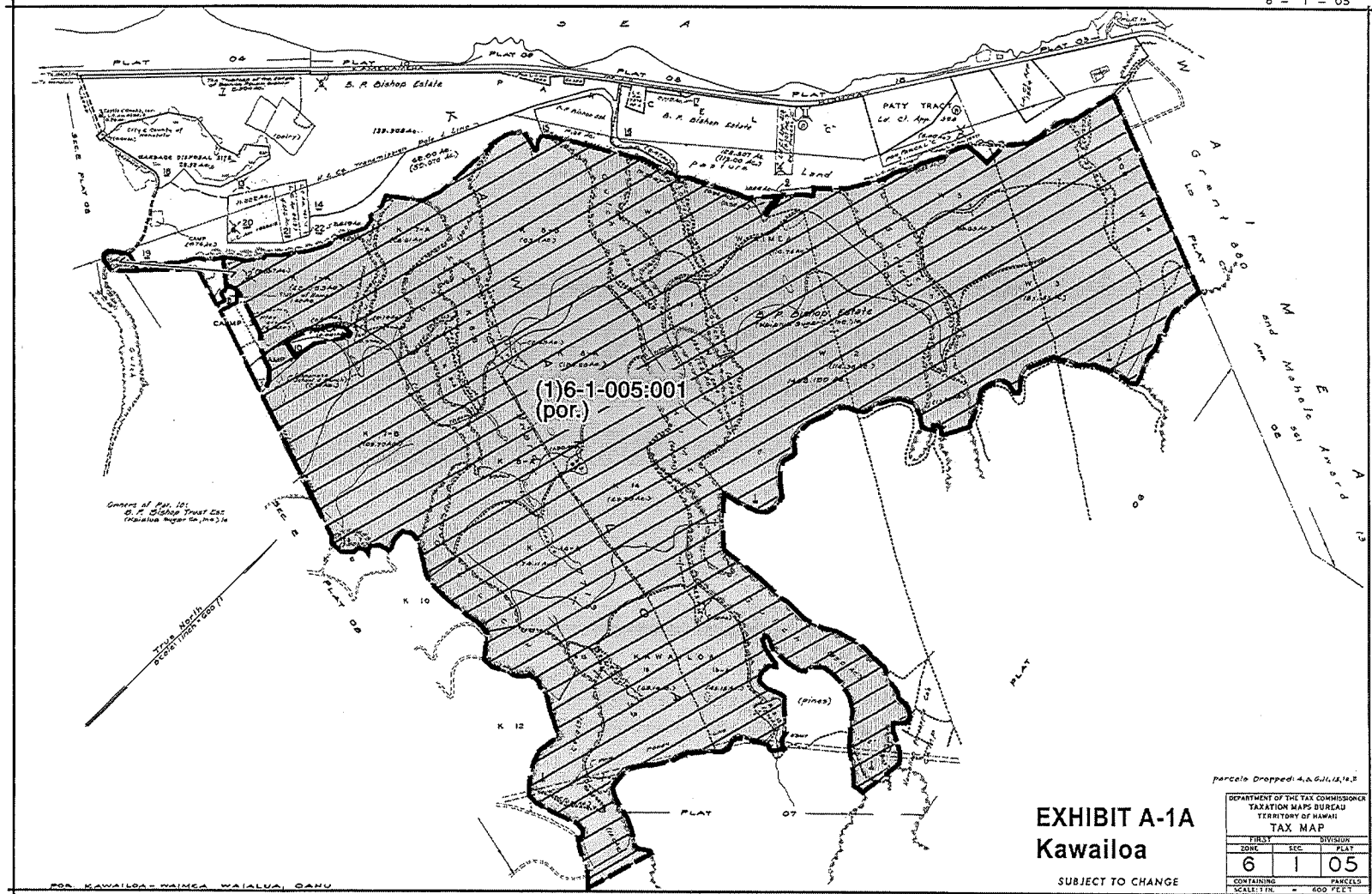
KS IAL O'AHU



Island of O'ahu



Source: Kamehameha Schools (2014), Oahu TMK (2014), U.S. Geological Survey
 Disclaimer: This graphic has been prepared for general planning purposes only.



(1)6-1-005:001
(por.)

EXHIBIT A-1A
Kawailoa
SUBJECT TO CHANGE

parcels Dropped: 4, 6, 6.1, 12, 14, 3

DEPARTMENT OF THE TAX COMMISSIONER			
TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
TIRIST	SEC.	DIVISION	
6	1	05	
CONTAINING		PARCELS	
SCALE 1" =		600 FEET	

W A I M E A

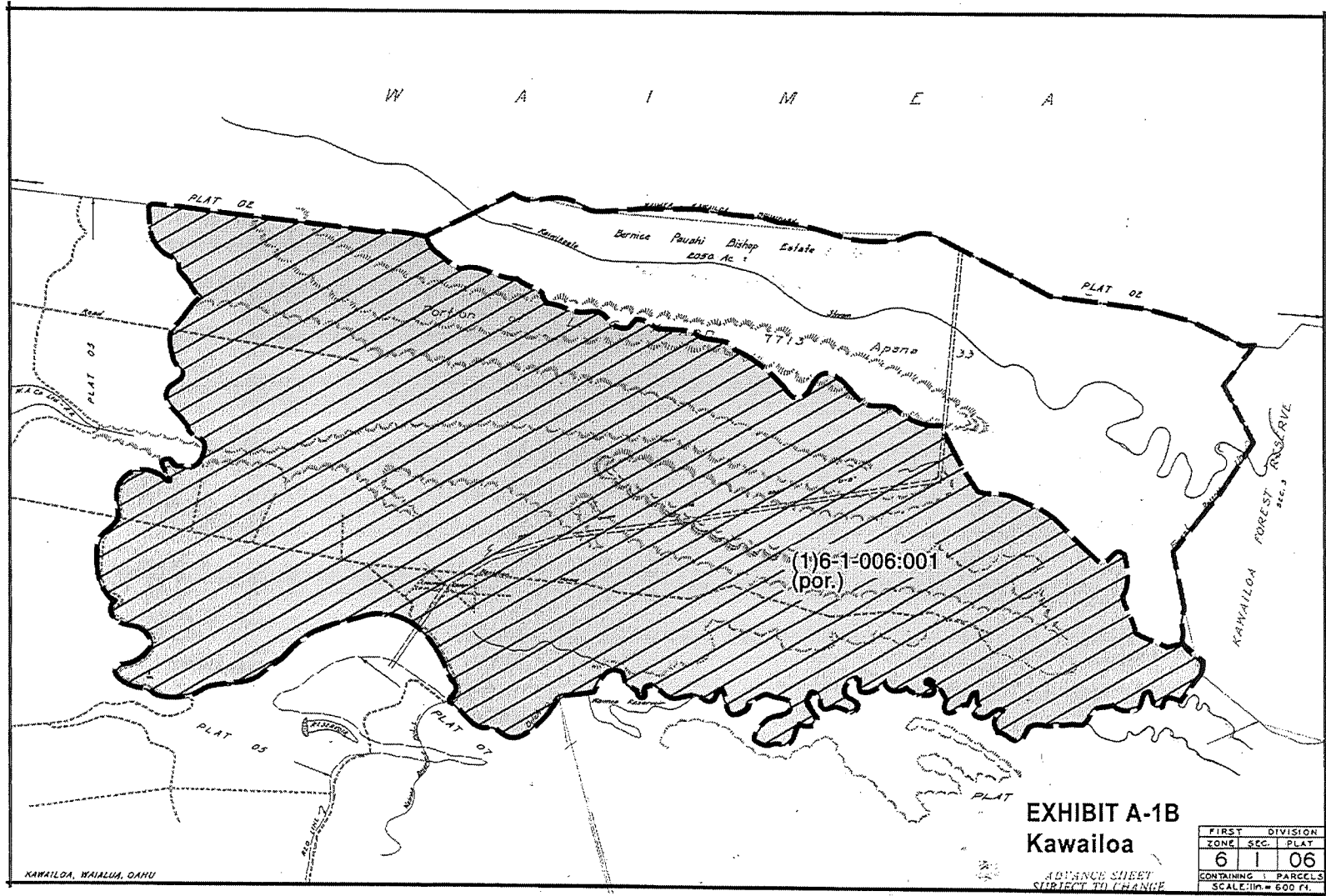
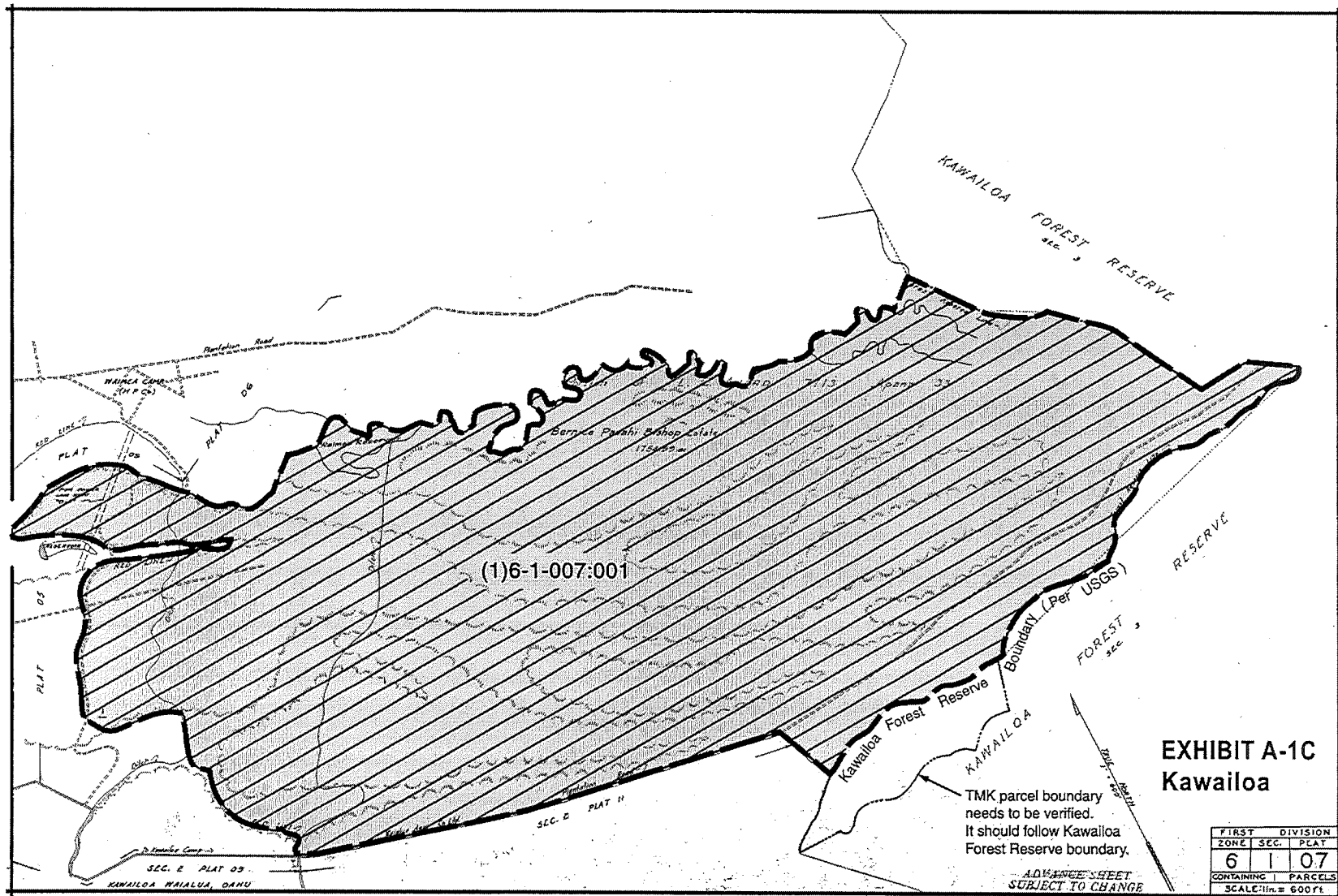


EXHIBIT A-1B
Kawaiiloa

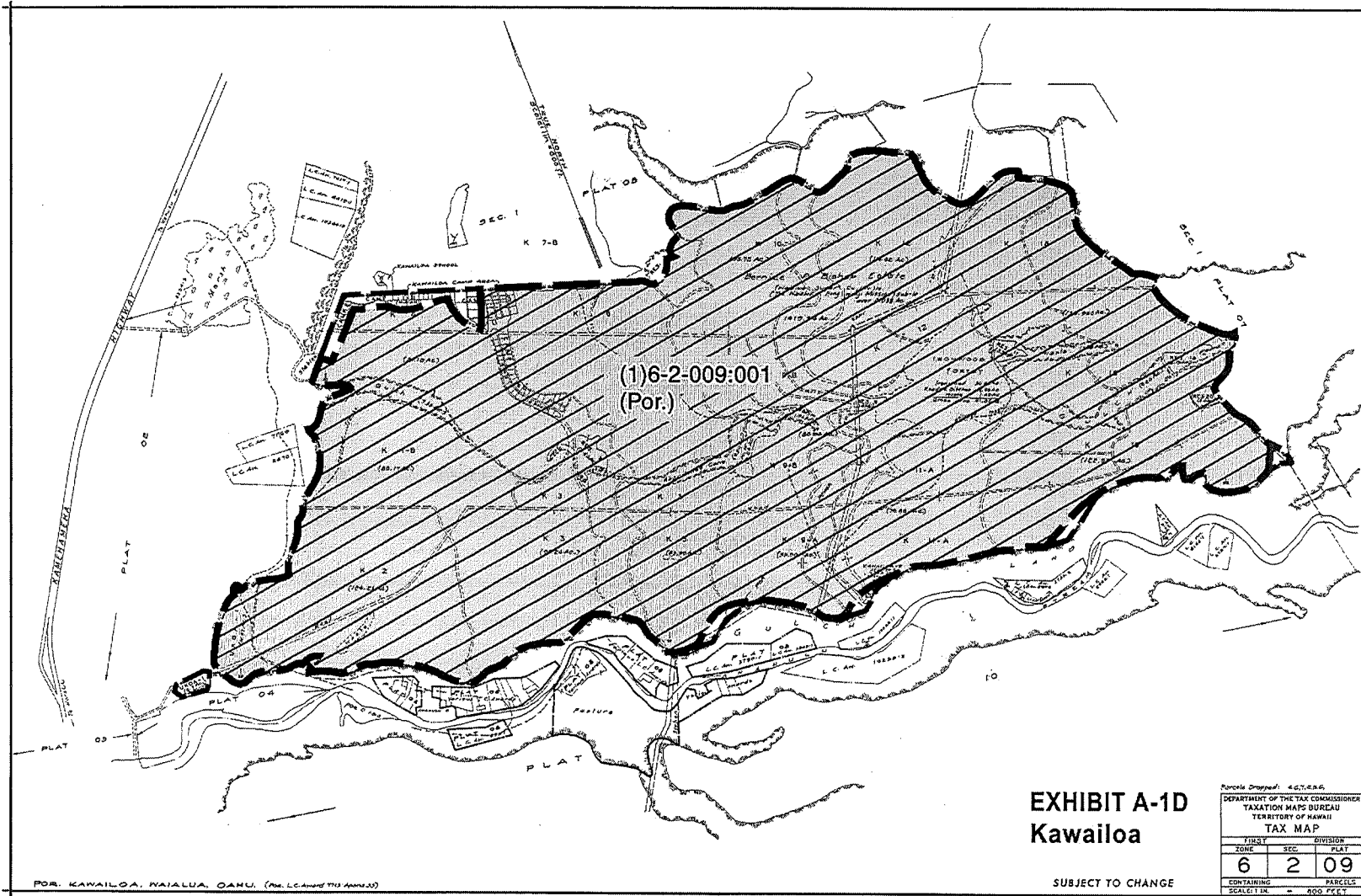
ADVANCE SHEET
 SUBJECT TO CHANGE

FIRST DIVISION	
ZONE	SEC. PLAT
6	1 06
CONTAINING 1 PARCELS	
SCALE: 1/4" = 600 FT.	



**EXHIBIT A-1C
Kawaiiloa**

FIRST DIVISION		
ZONE	SEC.	PLAT
6	1	07
CONTAINING 1 PARCELS		
SCALE: 1 in. = 600 ft.		



POR. KAWAILOA, MAIALUA, OAHU. (NO. LC 44870 ANNEX)

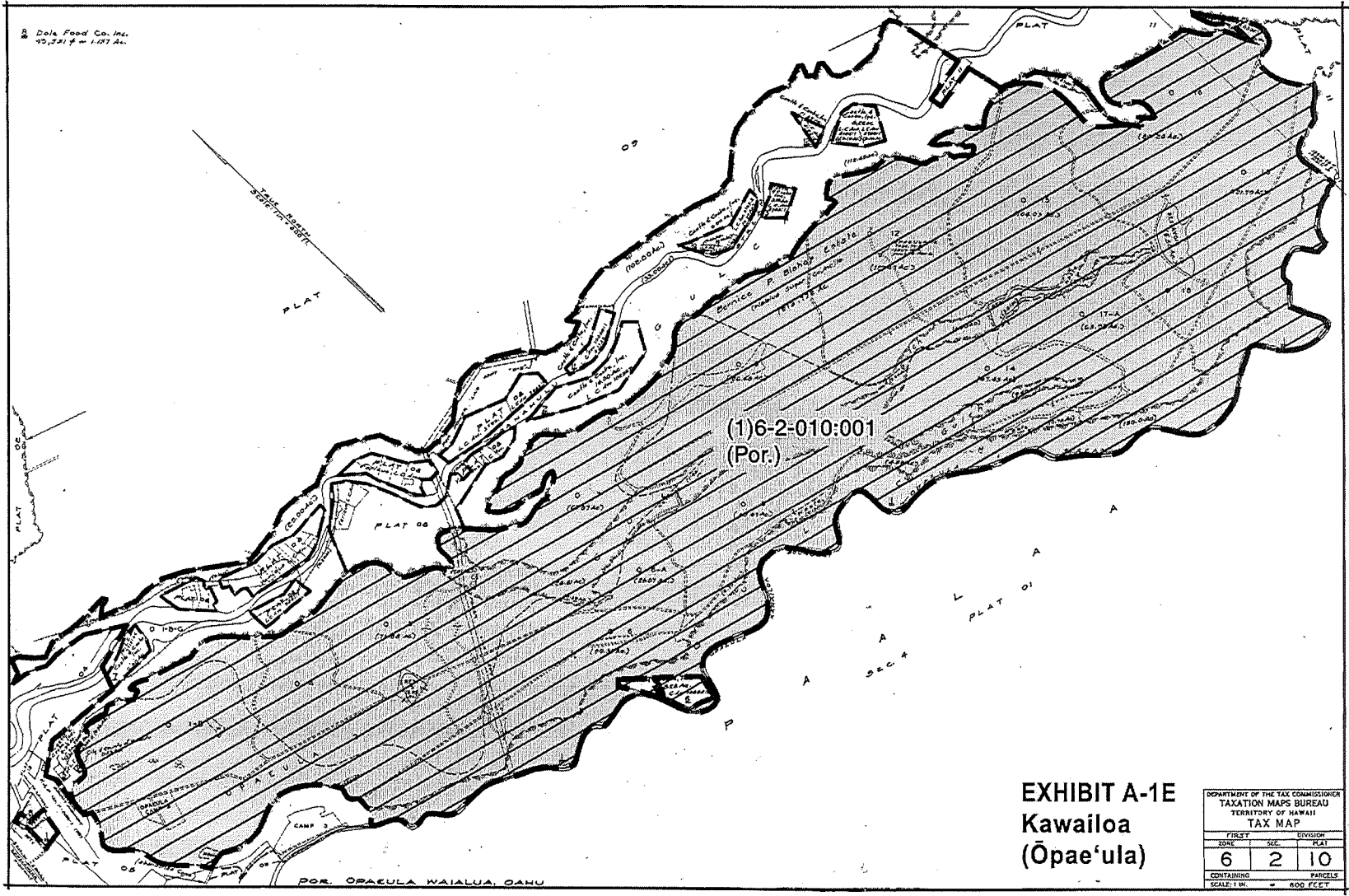
EXHIBIT A-1D
Kawailoa

SUBJECT TO CHANGE

Portals Drawn: 4.27.2006
 DEPARTMENT OF THE TAX COMMISSIONER
 TAXATION MAPS BUREAU
 TERRITORY OF HAWAII
TAX MAP

ZONE	SEC.	DIVISION	PLAT
6	2	09	

CONTAINING 7 PARCELS
 SCALE 1 IN. = 200 FEET



Dole Food Co. Inc.
 25,251 sq. ft. 1.07 Ac.

(1)6-2-010:001
 (Por.)

EXHIBIT A-1E
Kawaiiloa
(Ōpae‘ula)

DEPARTMENT OF THE TAX COMMISSIONER			
TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
FIRST		DIVISION	
ZONE	SEC.	PLAT	PLAT
6	2	10	
CONTAINING		PARCELS	
SCALE: 1 IN.		= 800 FEET	

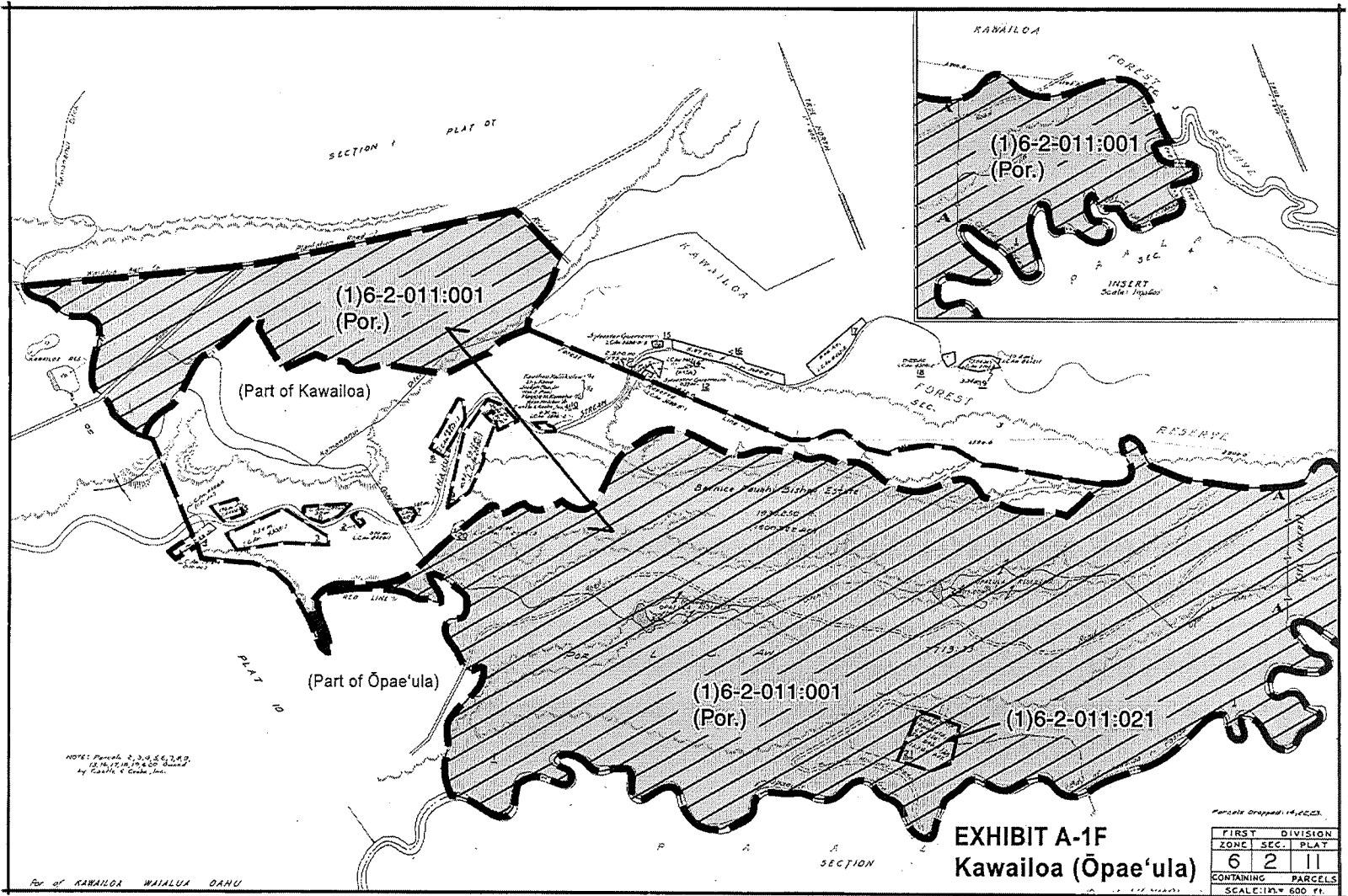
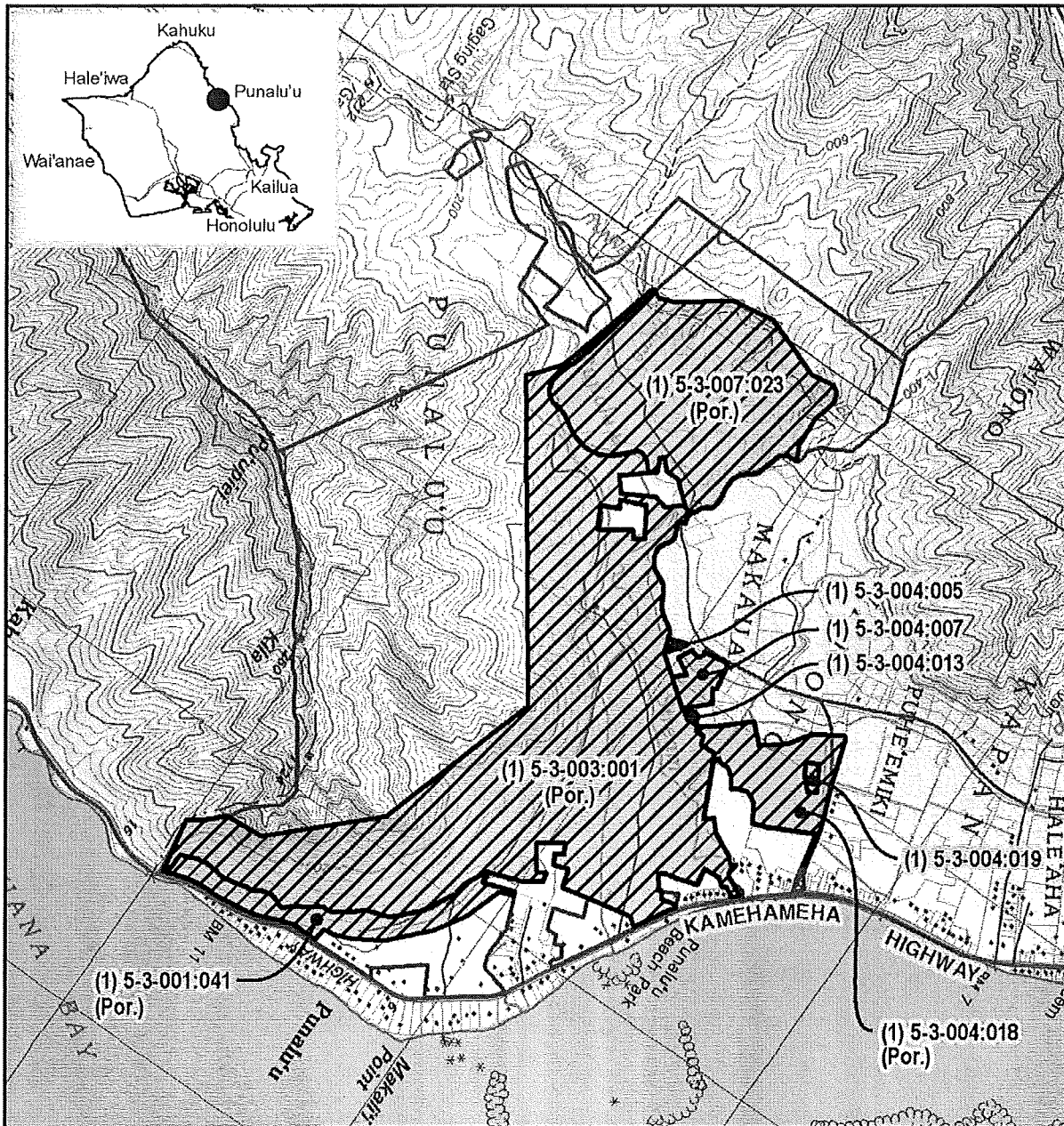


EXHIBIT A-1F
Kawaiiloa (Ōpae'ula)

Parcel Chopped: 14, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

FIRST DIVISION		
ZONE	SEC.	PLAT
6	2	11
CONTAINING		PARCELS
SCALE: 1" = 600 FT.		



DATE: 12/9/2014

LEGEND

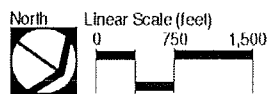
- IAL Lands Related TMK Parcels
- Proposed IAL Designation

**EXHIBIT A-2
Punaluu**

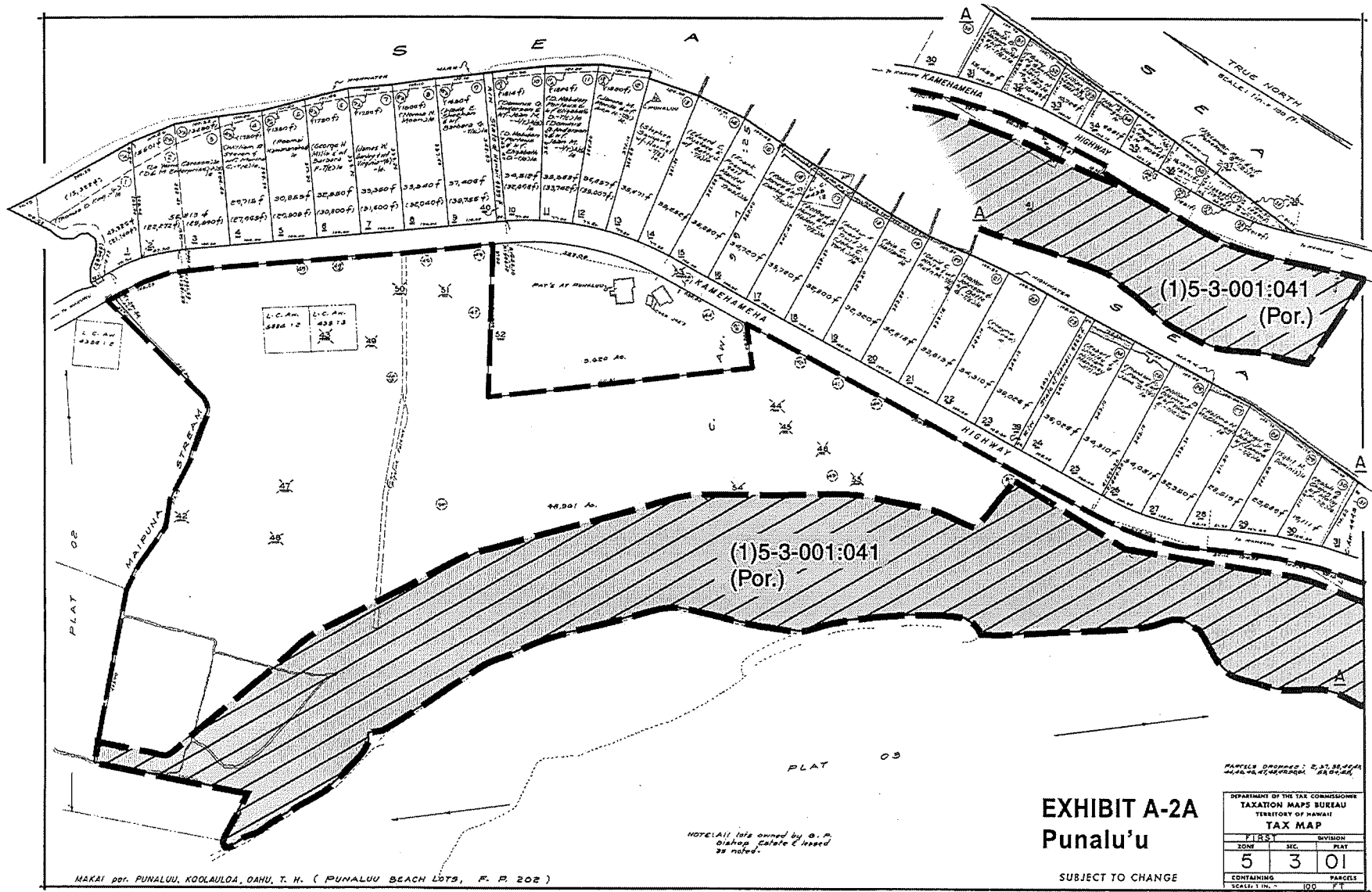
TMK Parcels - Key Map

KS IAL O'AHU

Island of O'ahu



Source: Kamehameha Schools (2014), Oahu TMK (2014), U.S. Geological Survey
 Disclaimer: This graphic has been prepared for general planning purposes only.



MAKAI PRT. PUNALUU, KOOLAULOA, OAHU, T. H. (PUNALUU BEACH LOTS, F. P. 202)

NOTE: All lots owned by O. P. Bishop Estate & leased as noted.

**EXHIBIT A-2A
Punalu'u**

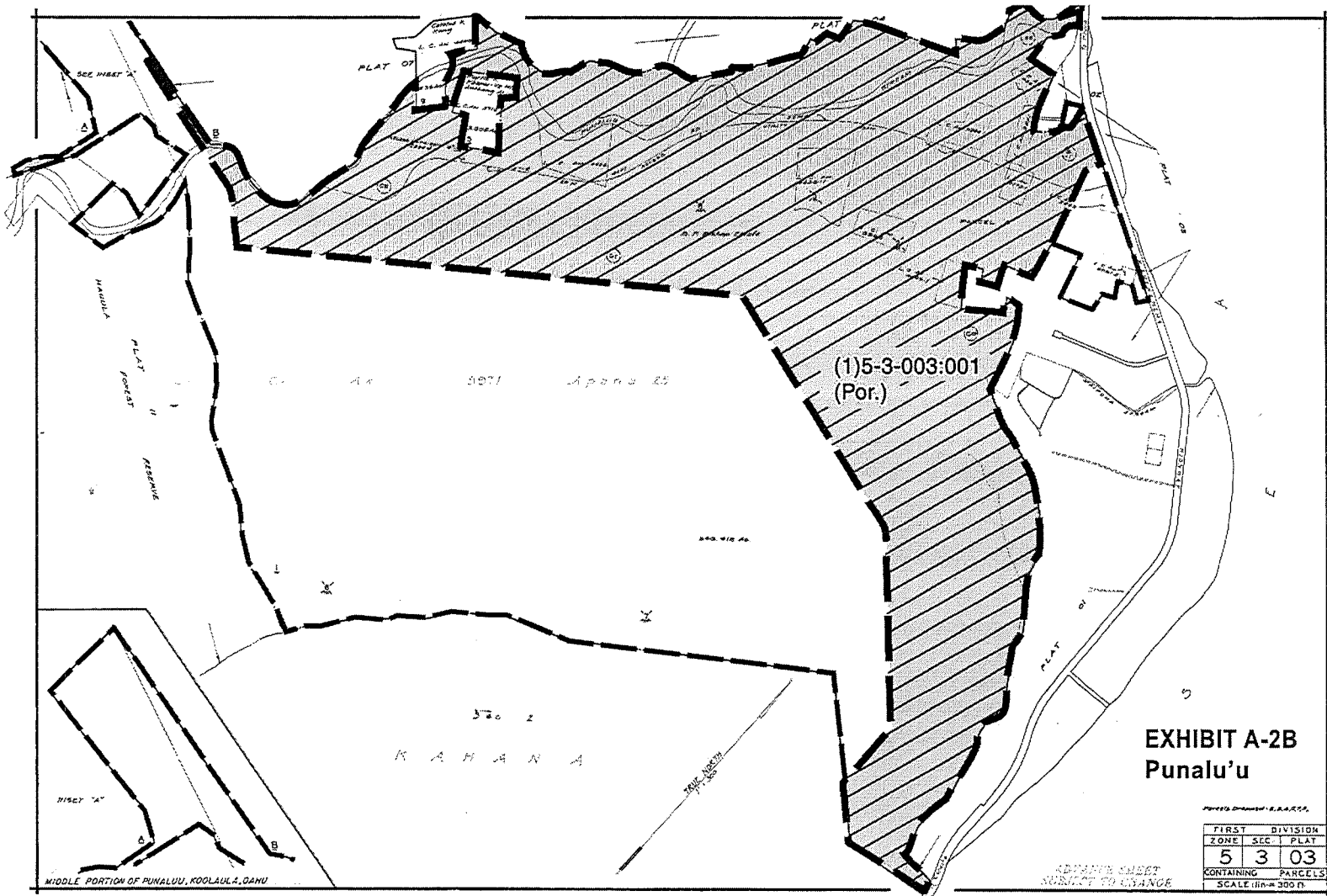
SUBJECT TO CHANGE

MAPS DRAWN: 2-22-54/55
BY: H. H. HARRISON, JR.

DEPARTMENT OF THE TAX COMMISSIONER
TAXATION MAPS BUREAU
TERRITORY OF HAWAII
TAX MAP

ZONE	SEC.	PLAT
5	3	01

CONTAINING PARCELS
SCALE: 1 IN. = 100 FT.



(1)5-3-003:001
(Por.)

EXHIBIT A-2B
Punalu'u

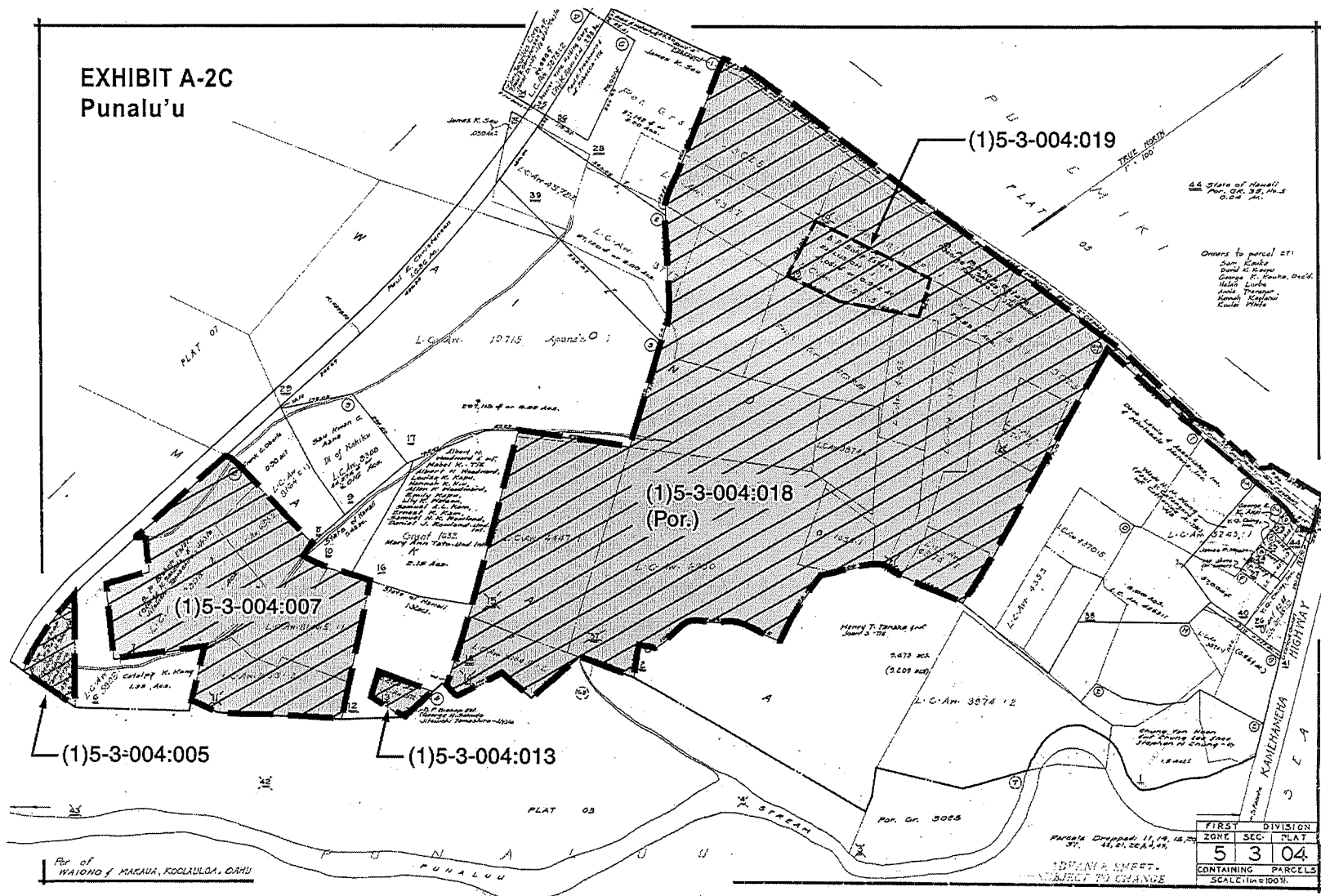
Prepared by: S. A. A. K. S. A.

FIRST DIVISION	
ZONE	SEC. PLAT
5	3 03
CONTAINING PARCELS	
SCALE (1" = 300')	

MIDDLE PORTION OF PUNALUU, KOOLAULA, OAHU

SEPARATE SHEET
SUBJECT TO CHANGE

**EXHIBIT A-2C
Punalu'u**



State of Hawaii
Part of Sec. 38, 1/4, 1/2

Owners to parcel 271
Sam Kaika
Doris K. Kaika
George K. Kaika, Dec'd
Helen Kaika
Alice Kaika
Kamali Kaika
Kula Paka

FIRST DIVISION	
ZONE	SEC. PLAT
5	3 04
CONTAINING PARCELS	
SCALE 1" = 100'	

For of
WAIANO O MAKAUA, KOOLAULOA, OAHU

Parcels Dropped 11, 14, 14, 20
31, 41, 51, 52, 53, 54
15 PAGE SHEET -
SUBJECT TO CHANGE

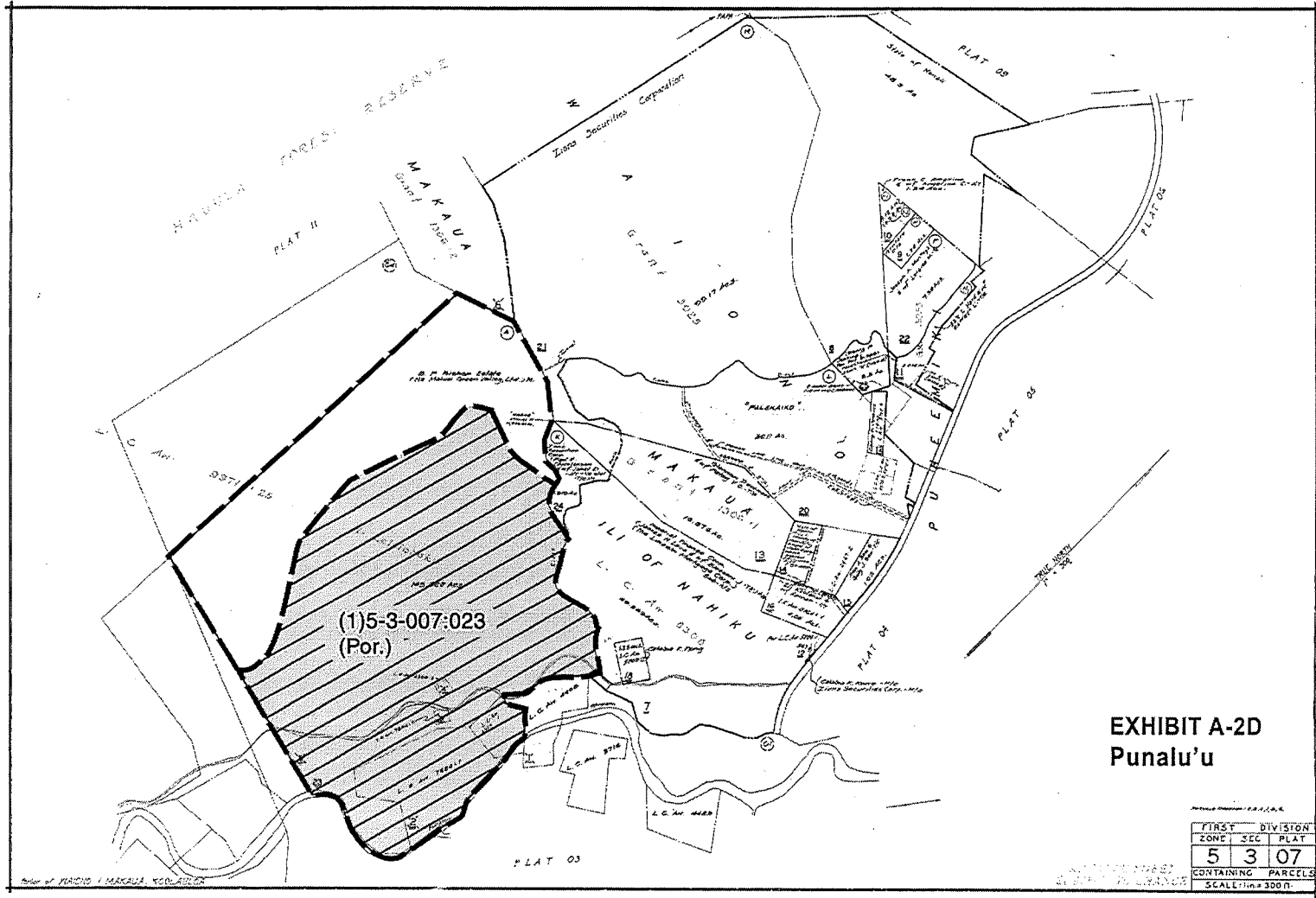


EXHIBIT A-2D
Punalu'u

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 ap-
proximately 9,171.161 acres at
Kawailoa, O'ahu identified by TMK Nos.
(1) 6-1-005: 001 (por.); 6-1-006: 001
(por.); 6-1-007: 001; 6-2-009: 001 (por.);
6-2-010: 001 (por.); 6-2-011: 001 (por.); 6-
2-011: 021 and approximately 420.887
acres at Punalu'u, O'ahu identified by
TMK Nos. (1) 5-3-001: 041 (por.); 5-3-
003: 001 (por.); 5-3-004: 005; 5-3-004:
007; 5-3-004: 013; 5-3-004: 018 (por.); 5-
3-004: 019; 5-3-007: 023 (por.)

DOCKET NO. 14-52

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER was served on the fol-
lowing parties at their last known addresses listed below, by depositing a copy with
the U.S. Postal Service, postage prepaid, first class mail:

CITY & COUNTY OF HONOLULU
DEPARTMENT OF PLANNING & PERMITTING
650 South King Street

Honolulu, Hawaii 96813
Attention: Director George I. Atta

CITY & COUNTY OF HONOLULU
DEPARTMENT OF CORPORATION COUNSEL
530 South King Street, Room 110
Honolulu, Hawaii 96813
Attention: Richard Lewallen

STATE OF HAWAII
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814
Attention: Chairperson Scott E. Enright

STATE OF HAWAII
OFFICE OF PLANNING
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Attention: Acting Director Leo R. Asuncion, Jr.

JR LITTLE & SONS FARMS
59-657 Alapio Road
Haleiwa, HI 96712

LONOHANA ESTATE CHOCOLATE LLC
3661 Woodlawn Drive
Honolulu, Hawaii 96822

D. A. BUNNELL aka DONALD A. BUNNELL
P.O. Box 474
Haleiwa, HI 96712

A & K NURSERY, INC.
P.O. Box 450
Waimanalo, HI 96795

KAWAILOA WIND, LLC
1099 Alakea Street, #2440
Honolulu, Hawaii 96813
Attention: Wren Westcoatt

KAWAILOA SOLAR, LLC
1099 Alakea Street, #2440
Honolulu, Hawaii 96813

Attention: Wren Westcoatt

CORN STATES LLC
P.O. Box 209
Haleiwa, Hawaii 96712

TERVIVA BIO ENERGY INC.
5203RD Street #201
Oakland, CA 94607

KAHUKU FARMERS, INC.
P.O. Box 36
Kahuku, Hawaii 96731

PETER DELUZ
P.O. Box 795
Honokaa, Hawaii 96727

JAMES SAKUGAWA & SONS
3302 Omaopio Road
Kula, Hawaii 96790

PANIOLO CATTLE COMPANY, LLC
66-1304 Mamalahoa Highway
Kamuela, Hawaii 96743

HAWAIIAN ELECTRIC COMPANY, INC.
P.O. Box 2750
Honolulu, Hawaii 96804
Attention: Phil Hauret

DATED: Honolulu, Hawai'i, _____

DANIEL ORODENKER
Executive Director