

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)
OFFICE OF STATE PLANNING,)
STATE OF HAWAI'I)
To Amend the Land Use District)
Boundary of Certain Lands Situated)
at Halehaku and Peahi Ahupuaa,)
Makawao, Island of Maui, State of)
Hawai'i, Identified by Tax Map Key)
Number of the Second Division:)
2-8-8: por. 7 and 2-8-8: 12,)
Consisting of Approximately 932)
Acres, from the Agricultural)
District to the Conservation)
District)
_____)

DOCKET NO. BR94-713
ORDER ADOPTING HEARING
OFFICER'S PROPOSED
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION AND ORDER

JUN 28 7 45 AM '95
LAND USE COMMISSION
HONOLULU HAWAII

ORDER ADOPTING HEARING OFFICER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

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)	FINDINGS OF FACT,
To Amend the Land Use District)	CONCLUSIONS OF LAW, AND
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at Halehaku and Peahi Ahupuaa,)	
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ORDER ADOPTING HEARING OFFICER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

On March 31, 1995, the duly appointed Hearing Officer, Benjamin M. Matsubara, Esq., conducted a hearing on the Petition for Land Use District Boundary Amendment filed by the Office of State Planning ("Petitioner") on December 7, 1994, and as amended on January 27, 1995 (collectively "Petition").

On May 4, 1995, the parties in this proceeding filed a Stipulation between the Petitioner and the Maui County Planning Department on the Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order.

On May 24, 1995, Hearing Officer, Benjamin M. Matsubara, Esq., submitted his report to this Commission, including the Hearing Officer's Proposed Findings of Fact, Conclusions of Law, and Decision and Order ("Hearing Officer's Proposed Decision and

Order"). No exceptions to the Hearing Officer's Proposed Decision and Order were filed by the parties.

This matter came on for consideration on June 23, 1995, in Wailuku, Maui, before this Commission. Hearing Officer Benjamin M. Matsubara, Esq. appeared before the Commission; James Nagle, Esq., and Mary Lou Kobayashi appeared on behalf of the Petitioner; and Gary Zakian, Esq., and Clayton Yoshida appeared on behalf of the Maui County Planning Department.

This Commission, upon consideration of the Hearing Officer's Proposed Decision and Order, the record and files herein, and good cause existing and upon motion duly passed by this Commission,

IT IS HEREBY ORDERED that this Commission shall hereby adopt the Hearing Officer's Proposed Decision and Order as its own Findings of Fact, Conclusions of Law, and Decision and Order.

Done at Honolulu, Hawaii, this 28th day of June 1995,
per motion on June 23, 1995.

LAND USE COMMISSION
STATE OF HAWAII

By *Allen K. Hoe*
ALLEN K. HOE
Chairperson and Commissioner

By *Eusebio Lalenia, Jr.*
EUSEBIO LALENIA, JR.
Vice Chairperson and Commissioner

By *M. Casey Jarman*
M. CASEY JARMAN
Commissioner

By (absent)
LLOYD F. KAWAKAMI
Commissioner

By *Joann N. Mattson*
JOANN N. MATTSON
Commissioner

By (absent)
RENTON L. K. NIP
Commissioner

Filed and effective on
June 28, 1995

Certified by:

Elton Wada
Executive Officer

By *Trudy K. Senda*
TRUDY K. SENDA
Commissioner

By *Elton Wada*
ELTON WADA
Commissioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of) DOCKET NO. BR94-713
)
OFFICE OF STATE PLANNING,) CERTIFICATE OF SERVICE
STATE OF HAWAI'I)
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at Halehaku and Peahi Ahupuaa,)
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District)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Adopting Hearing Officer's Proposed 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 certified mail:


GREGORY G.Y. PAI, PH.D., Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540
Attention: Ms. Judith Henry

CERT. RICK J. EICHOR, ESQ., Attorney for Petitioner
Department of the Attorney General
425 Queen Street
Honolulu, Hawaii 96813

CERT. GWEN OHASHI, Acting Planning Director
Planning Department, County of Maui
250 South High Street
Wailuku, Hawaii 96793

CERT. JEFFREY SCHMIDT, ESQ.
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

DATED: Honolulu, Hawaii, this 28th day of June 1995.



ESTHER UEDA
Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. BR94-713
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OFFICE OF STATE PLANNING,)	HEARING OFFICER'S
STATE OF HAWAI'I)	PROPOSED FINDINGS OF
)	FACT, CONCLUSIONS OF
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Boundary of Certain Lands Situated)	ORDER
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HEARING OFFICER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

BENJAMIN M. MATSUBARA
Kendall Bldg., 8th Floor
888 Mililani Street
Honolulu, Hawaii 96813

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

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HEARING OFFICER'S PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER

The Office of State Planning, State of Hawai'i ("Petitioner"), filed a Petition for Land Use District Boundary Amendment on December 7, 1994, and a First Amended Petition for Land Use District Boundary Amendment on January 27, 1995 pursuant to §205-4 and §205-18, Hawai'i Revised Statutes ("HRS"), and Chapter 15-15, Hawai'i Administrative Rules ("HAR"), to amend the State land use district boundary by reclassifying approximately 932 acres of land in the State Land Use Agricultural District, situated at Halehaku and Peahi Ahupuaa, Makawao, Maui, State of Hawai'i, identified as Tax Map Key Numbers of the Second Division: 2-8-8: por. 7 and 2-8-8:12 ("Petition Area" or "Property"), into the State Land Use Conservation District.

The duly appointed Hearing Officer of the Land Use Commission of the State of Hawai'i ("Commission"), having heard and examined the testimony, evidence and argument of the parties presented during the hearing; Petitioner's Proposed Findings of Fact, Conclusions of Law and Decision and Order; and the Stipulation concerning Petitioner's Proposed Findings of Fact, Conclusions of Law, and Decision and Order filed by the Petitioner and the Maui County Planning Department ("Planning Department"), hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On December 7, 1994, Petitioner filed a Petition for Land Use District Boundary Amendment. On January 27, 1995, Petitioner filed a First Amended Petition for Land Use District Boundary Amendment (cumulatively "Petition").

2. On December 7, 1994, Petitioner filed a Motion To Waive Requirement for Metes and Bounds Description. On February 21, 1995, Petitioner filed a First Amended Motion to Waive Requirement for Metes and Bounds Description (cumulatively "Motion").

3. On February 14, 1995, the Planning Department filed its "Position Paper of the Maui County Planning Department" in support of the Petition.

4. On February 23, 1995, the Commission granted Petitioner's Motion To Waive Requirement for Metes and Bounds Description.

5. On March 14, 1995, the Commission issued its Order granting Petitioner's Motion to Waive Requirements for Metes and Bounds Description.

6. On March 17, 1995, a prehearing conference was held in Honolulu, Hawai'i. At the prehearing conference, the parties exchanged exhibit lists, witness lists, and exhibits.

7. On March 31, 1995, a hearing was held before the duly-appointed hearing officer pursuant to a public notice published in the Honolulu Advertiser and Maui News on February 10, 1995.

8. At the March 31, 1995 hearing, the following individuals provided written and/or oral testimony as public witnesses: Dennis Dias, Cheryl Nagata, Brian McCafferty representing Hoomana O Hawai'i, Edwin Lindsey.

9. No petitions for intervention were filed.

DESCRIPTION OF THE PROPERTY

10. The Property encompasses approximately 932 acres and is located approximately four miles east of Haiku. It is situated between Opana Gulch and Honopou Gulch beginning approximately 2,500 feet mauka of Hana Highway. The mauka boundary of the Property is at approximately 1,200 feet elevation.

11. The Petition Area includes only those lands owned by East Maui Irrigation Company, Ltd. Unidentified Kuleana lands may exist within the Petition Area. East Maui Irrigation Company, Ltd. currently leases a portion of TMK 2-8-8:7 to Stephen Cabral for cattle pasture purposes. In a letter dated

September 8, 1994, signed by John C. Couch, East Maui Irrigation Company, Ltd. through its parent company Alexander & Baldwin, Inc. authorized the filing of the Petition.

12. The Property is adjacent to the existing Conservation District on its east side. The west, south and north boundaries are adjacent to the existing Agricultural District.

13. The Property's terrain slopes seaward with an average slope gradient of approximately 6 percent.

14. The Property is heavily influenced by the northeasterly tradewinds. As the trades blow across the island, they are intercepted by the high land mass causing moderate to heavy precipitation on the windward side.

15. Average annual rainfall in the Property is 120 inches.

16. The average temperature in the Property is approximately 71°F per year. Temperatures range from a low of 61°F to a high of 90°F.

17. The Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawai'i, prepared by the US Department of Agriculture Soil Conservation Service (1972), indicates that the Property primarily consists of the following soil types:

- a. Rough broken land (rRR)
- b. Kailua silty clay, 3 to 25 percent slopes (KBID)
- c. Pauwela clay, 15 to 25 percent slopes (PFD)

18. The soils in the Property have an agricultural productivity rating of "D" (poor) and "E" (very poor) as determined by the University of Hawai'i Land Study Bureau.

19. The State Agricultural Lands of Importance to the State of Hawai'i ("ALISH") system does not classify the majority of lands in the Property. A small portion in the west side of the Property is classified as Prime.

20. The Flood Insurance Rate Map designates the Property as Zone C, which is an area of minimal flooding.

21. The Property is presently used for cattle grazing and activities related to cattle operations, including utilizing tractors for the clearing of brush and trees, planting of pasture grasses, and fence and gate construction. Other existing uses include the repair and maintenance of ditches, roads and trails. Uses in connection with the cattle operation include:

- clearing of brush and trees utilizing tractors
- planting of pasture grasses using tractors
- fence and gate construction and maintenance using hand tools, tractors, 4-WD pickup truck, gas or tractor mounted post hole digger, electric or gas welder, etc.
- corral construction and maintenance using hand tools, tractors, 4-WD pickup truck, gas or tractor mounted post hole digger, etc.
- rounding up of cattle using horses, dogs, all terrain vehicles, 4-WD pickup trucks, etc.
- hauling of cattle to or from pasture using cattle truck or trailer

- fertilizing pasture grasses with commercial fertilizers or manure using tractor, trucks, mechanical spreaders, etc.
- brush control using gas chain saw, tractor mounted mower, cane knife, or tractors
- eradication of brush and trees using gas powered drill, chain saw, cane knife and herbicide
- construction and maintenance of access roads using tractors, chain saw, and small hand tools
- branding and marking of cattle using horses, dogs, propane torch and other small hand tools

Other existing uses include:

- maintenance of ditches, tunnels and intakes utilizing tractors, crawler/loaders, air compressor, gas, and electric welders, concrete mixer, small power tools and hand tools
- maintenance of roads and trails utilizing tractors, crawler/loaders, dump trucks, 4-WD pickup trucks, chain saw, and small hand tools
- spraying of access roads, trails and ditchbanks with herbicide utilizing 4-WD pickup truck and gas powered 100- or 200-gallon spray rig and backpack sprayers
- repairing of ditch banks, tunnels and access roads utilizing trucks, tractors, concrete mixer, guniting machine, air compressor and small hand tools, etc
- clearing of boulders from ditches, tunnel or roads using tractors, air compressor, air drills and explosives
- maintenance and repair of telemark lines and poles using tractors, 4-WD pickup truck and small hand tools
- use of on-site dirt, rocks and/or logs in repairing ditches, tunnels, roads and

trails utilizing tractors, trucks,
crawler/loaders, etc.

The Property may also include lands used for taro cultivation and other traditional agricultural uses.

PROPOSAL FOR RECLASSIFICATION

22. The Petition is based on a Priority 1 recommendation made by the Petitioner as part of the State Land Use District Boundary Review. The State Land Use District Boundary Review: Maui, Molokai, Lanai, 1992 report recommends that the Property be reclassified from the State Land Use Agricultural District to the State Land Use Conservation District for protection of this water recharge area.

23. The purpose of the State Land Use District Boundary Review was to conduct a comprehensive, statewide examination of State land use district boundaries.

24. Petitioner does not propose to use the Property.

25. Existing uses would be allowed to continue in the Conservation District pursuant to section 183C-5, HRS, and chapter 13-5, HAR.

PETITIONER'S FINANCIAL CAPABILITY TO UNDERTAKE THE PROPOSED DEVELOPMENT

26. Pursuant to §15-15-50(c)(8), HAR, as an agency of the State of Hawai'i, the Petitioner is not required to demonstrate financial capability.

STATE AND COUNTY PLANS AND PROGRAMS

27. The Property is located within the State Land Use Agricultural District, as reflected on the State Land Use District Boundary map, USGS Quad M10 (Haiku).

28. Petitioner published the State Land Use District Boundary Review: Maui, Molokai, Lanai, 1992 which recommended the reclassification of the Property to the State Land Use Conservation District for the protection of a water recharge area.

29. The Property is not zoned by the County of Maui since it is in the State Land Use Agricultural District.

30. The Property is located in the County of Maui's Paia-Haiku Community Plan region. The Paia-Haiku Community Plan land use designation for the Property is Agricultural. However, the Property is not shown on the Paia-Haiku Community Plan map.

31. The Petition is in general conformance with the intent of the General Plan of the County of Maui, more specifically; Environment objective (I.C.1), to preserve and protect the County's unique and fragile environmental resources; Water objective (IV.B.1), to provide an adequate supply of potable and irrigation water to meet the needs of Maui County's residents; and Water policy (IV.B.1.h.), maintain the right to manage the County's water sources and transmission systems at the County level.

32. §205-2(e), HRS, states that "Conservation Districts shall include areas necessary for protecting watersheds and water sources..." The proposed reclassification places the Property into the Conservation District, thereby conforming to and implementing §205-2(e), HRS.

33. The Petition conforms to the objectives and policies of §205A-2, HRS, Coastal Zone Management Program.

34. The Property does not fall within the Special Management Area as delineated by the County of Maui maps drawn pursuant to Section 205A-23, HRS.

NEED FOR THE PROPOSED RECLASSIFICATION

35. The Property's annual average rainfall total of 120 inches makes it an important water recharge area. Presently, the Property provides water for agricultural uses. Left in the Agricultural District, permitted uses including dwellings and processing facilities could adversely impact upon the Property's water quality and quantity. Reclassification to the Conservation District would help ensure that uses which are incompatible with watershed management are precluded.

36. A technical study conducted for the State Land Use District Boundary Review by the Water Resources Research Center, University of Hawai'i, entitled Five-Year Review of State Land Use Districts: Protection of Watershed and Water Resources in Hawai'i recommended that the Property be reclassified to the Conservation District to protect the watershed/water recharge area.

37. The Property is part of a broader region which has substantial potential as a domestic water source for Central Maui.

38. §205-2(e), HRS, states that Conservation Districts shall include "open space areas whose existing openness, natural condition, or present state of use, if retained...would maintain or enhance the conservation of natural or scenic resources..." The Property is an open space area.

SOCIO-ECONOMIC IMPACTS

39. Adequate domestic water supply is a critical issue in Central Maui. Preservation of this watershed could potentially provide substantial long-term economic benefits to the County. Although not slated for well development as part of the East Maui Water Development Plan, placing the Property into the Conservation District would at least preserve its groundwater for possible future domestic water use.

40. The Property's economic activities (pasture use) would be allowed to continue in the Conservation District. The stricter Conservation District regulations are not expected to adversely affect these uses.

41. The proposed action will protect the public health, safety, and welfare by regulating uses within the Property by placing it into the Conservation District and thereby protecting an integral component of groundwater recharge in East Maui.

42. The availability or adequacy of public services and facilities such as infrastructure, parks, and public safety will not be affected or unreasonably burdened by the proposed reclassification.

43. The public agency which may be impacted is the Department of Land and Natural Resources ("DLNR") since additional effort may be required to administer the newly added Conservation District lands.

44. The reclassification of the Property to the Conservation District will not provide employment opportunities since no development of the Property is proposed.

45. The reclassification of the Property to the Conservation District does not involve the long-term commitment of State funds.

IMPACTS UPON RESOURCES OF THE AREA

Agricultural Resources

46. Existing agriculturally related uses in the Property would be allowed to continue in the Conservation District pursuant to section 183C-5, HRS, and chapter 13-5, HAR. The proposed reclassification is not expected to adversely affect agricultural operations.

47. The Land Study Bureau and Soil Conservation Service have rated the Property's soils as generally unsuitable for crop cultivation.

Flora and Fauna

48. The Petitioner reviewed The Nature Conservancy's Hawai'i Heritage Program (HHP) database to determine the presence of rare or endangered plants and animals. Based on this review, no rare or endangered plant or animal species are expected to occur in the Property.

49. The proposed reclassification will help preserve the habitat for flora and fauna populations in the Property.

Archaeological/Historical/Cultural Resources

50. The State Historic Preservation Division has not surveyed the Property. However, based on information available in similar locales, there may be agricultural terrace sites along the streams.

51. There are no known cultural resources in the Property. The proposed reclassification would aid in the preservation of any unknown cultural resources.

Groundwater Resources

52. The Property is located within the Haiku and Honopou aquifer systems, two of four systems found within the Koolau aquifer sector. The Koolau aquifer sector is one of the most productive regions for the occurrence of groundwater and surface water on Maui. The estimated sustainable yield of this sector is 202 mgd (million gallons per day) or 42 percent of Maui's total water supply.

53. The Property's hydrological conditions are the primary basis for the proposed reclassification. Conservation District status will protect groundwater quality from urban-related pollution. Recharge quantities will also be safeguarded since any new use such as those increasing impervious surfaces will be carefully reviewed through the Conservation District Use Application review process.

Recreational Facilities

54. The Property is not used for any recreational facilities. The proposed reclassification would therefore have no effect on recreational resources.

Scenic Resources

55. The proposed reclassification would protect the scenic and open space resources of the Property.

Coastal/Aquatic Resources

56. The proposed reclassification would protect the quality of coastal waters by controlling nonpoint sources of pollution often associated with development in upland areas.

ENVIRONMENTAL QUALITY

Noise and Air

57. Noise quality in the vicinity of the Property is believed to be good. Hana Highway's distance from the Property mitigates its noise level effect.

58. Air quality data for the Property are not available. However, data from nearby locations indicate that present air quality is very good. Particulates and carbon dioxide emissions from cane fires are potential sources of air pollution in this region.

Water Quality

59. The primary reason for the Petition is the protection of water quality and quantity in the Property.

60. If the Property is left in the State Land Use Agricultural District, permitted uses including dwellings and processing facilities could adversely impact upon the Property's water quality and quantity. Reclassification to the State Land Use Conservation District would help ensure that uses which are incompatible with watershed management are precluded.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

61. The availability or adequacy of public services and facilities will not be affected by the proposed reclassification.

COMMITMENT OF STATE FUNDS AND RESOURCES

62. The proposed reclassification does not involve the long-term commitment of State funds. The availability or adequacy of public services and facilities such as infrastructure, parks, and public safety will not be affected by the proposed reclassification.

63. The DLNR is the administrative and enforcement agency for Conservation District lands. The addition of lands to the Conservation District may increase DLNR's workload.

CONFORMANCE TO APPLICABLE DISTRICT STANDARDS

64. The proposed reclassification is consistent with the purpose and intent of the Conservation District, specifically §205-2(e), HRS, which states that Conservation Districts shall include areas necessary for:

"protecting watershed and water sources...; conserving indigenous or endemic plants, fish, and wildlife, including those which are threatened or endangered; preventing floods and soil erosion; forestry; open space areas whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities, or would maintain or enhance the conservation of natural or scenic resources..."

65. The proposed reclassification is in conformance with the following standards of the Conservation District set forth in §15-15-20, Hawai'i Administrative Rules:

§15-15-20 (1): It shall include lands necessary for protecting watersheds, water resources, and water supplies...

§15-15-20 (2): It may include lands susceptible to floods, and soil erosion...

§15-15-20 (5): It shall include lands necessary for providing and preserving parklands, wilderness and beach reserves, and for conserving natural ecosystems of endemic plants, fish, and wildlife for forestry and other related activities...

§15-15-20 (7): It shall include lands with topography, soils, climate, or other related environmental factors that may not be normally adaptable or presently needed for urban, rural, or agricultural use...

66. As required by §205-17, HRS, the Land Use Commission shall specifically consider the following when reviewing any petition for reclassification of district boundaries:

§205-17(1), HRS: The extent to which the proposed reclassification conforms to the applicable goals, objectives, and policies of the Hawai'i State Plan and relates to the applicable priority guidelines of the Hawai'i State Plan and the adopted functional plans.

Comment: The proposed reclassification is in conformance with the Hawai'i State Plan and relates to the applicable priority guidelines of the Hawai'i State Plan and the adopted functional plans.

§205-17(2), HRS: The extent to which the proposed reclassification conforms to the applicable district standards.

Comment: The proposed reclassification conforms to the Conservation District standards identified in Chapter 205-2(e), HRS, and §15-15-20, HAR.

§205-17(3), HRS: The impact of the proposed reclassification on the following areas of state concern:

(A) Preservation or maintenance of important natural systems or habitats;

Comment: The proposed reclassification will help preserve and protect the East Maui Watershed, which is important to Maui County's future groundwater supplies and will enable the accommodation of future growth and development.

(B) Maintenance of valued cultural, historical, or natural resources;

Comment: The proposed reclassification will preserve the natural resource values of the watershed.

(C) Maintenance of other natural resources relevant to Hawai'i's economy, including, but not limited to, agricultural resources;

Comment: The proposed reclassification will protect water resources which are vital to Hawai'i's economy. It will also support the visitor industry which relies on Hawai'i's natural beauty by preserving the natural views of the slopes of Haleakala. The Property is not suitable for intensive agricultural use and has greater beneficial use as a watershed area.

(D) Commitment of state funds and resources;

Comment: The proposed reclassification does not involve the long-term commitment of State funds. The availability or adequacy of public services and facilities such as infrastructure, parks, and public safety will not be affected by the proposed reclassification. The DLNR is the administrative and enforcement agency for Conservation District lands. The addition of lands to the Conservation District may increase DLNR's workload.

(E) Provision for employment opportunities and economic development;

Comment: The reclassification will not result in an increase in employment opportunities. Open and natural areas are valuable resources, however, and indirectly contribute to economic development. This is especially true in Hawai'i which has limited land resources and which must remain attractive to keep the visitor industry healthy. In addition, maintenance of the quality and quantity of this potential groundwater source is vital to the long term economic development of the East and Central Maui Districts.

(F) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups.

Comment: While the proposed reclassification makes no provision for housing opportunities, it does not take away land compatible with housing development given the Property's high erosion potential and lack of infrastructure. The site has greater beneficial use as a watershed area.

CONFORMANCE TO THE GOALS, OBJECTIVES AND POLICIES OF THE HAWAI'I STATE PLAN; RELATIONSHIP WITH APPLICABLE PRIORITY GUIDELINES AND FUNCTIONAL PLANS

67. The Hawai'i State Planning Act, HRS, Chapter 226, sets forth long-range goals, objectives, policies and priority guidelines designed to achieve a strong viable economy and a desirable physical environment that will promote the physical, social and economic well-being of Hawai'i's residents.

The proposed reclassification is in conformance with the following objectives and policies of Chapter 226, HRS, Hawai'i State Plan:

§226-5, HRS: Objective and Policies for Population

§226-5(a), HRS: It shall be the objective in planning for the State's population to guide population growth to be consistent with the achievement of physical, economic, and social objectives contained in this chapter.

§226-5(b)(7), HRS: Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.

§226-11, HRS: Objectives And Policies for the Physical Environment - Land Based, Shoreline, and Marine Resources

§226-11(a), HRS: Planning for the state's physical environment with regard to land based, shoreline, and marine resources shall be directed toward achievement of the following objectives:

§226-11(a)(1), HRS: Prudent use of Hawai'i's land-based, shoreline, and marine resources.

§226-11(a)(2), HRS: Effective protection of Hawai'i's unique and fragile environmental resources.

In support of these objectives, the proposed reclassification is consistent with the following Hawai'i State Plan policies:

§226-11(b)(1), HRS: Exercise an overall conservation ethic in the use of Hawai'i's natural resources.

§226-11(b)(2), HRS: Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.

§226-12, HRS: Objectives and Policies for the Physical Environment - Scenic, Natural Beauty, and Historic Resources

§226-12(a), HRS: Planning for the State's physical environment shall be directed towards achievement of the objective of enhancement of Hawai'i's scenic assets, natural beauty, and multi-cultural/historical resources.

In support of this objective, the proposed reclassification is consistent with the following Hawai'i State Plan policies:

§226-12(b)(1), HRS: Promote the preservation and restoration of significant natural and historic resources.

§226-12(b)(3), HRS: Promote the preservation of views and vistas to enhance the visual and aesthetic enjoyment of mountains, ocean, scenic landscapes, and other natural features.

§226-13, HRS: Objectives and Policies for the Physical Environment - Land, Air, and Water Quality

§226-13(a), HRS: Planning for the State's physical environment with regard to land, air, and water quality shall be directed toward achievement of the following objectives:

§226-13(a)(1), HRS: Maintenance and pursuit of improved quality in Hawai'i's land, air, and water resources.

In support of this objective, the proposed reclassification is consistent with the following Hawai'i State Plan policies:

§226-13(b)(2), HRS: Promote the proper management of Hawai'i's land and water resources.

§226-13(b)(5), HRS: Reduce the threat to life and property from erosion, flooding, tsunamis, hurricanes, earthquakes, volcanic eruptions, and other natural or man-induced hazards and disasters.

§226-13(b)(8), HRS: Foster recognition of the importance and value of the land, air, and water resources to Hawai'i's people, their cultures, and visitors.

68. The proposed reclassification is in conformance with the following priority guidelines set forth in Chapter 226, HRS, the Hawai'i State Plan:

§226-104(b)(9), HRS: Direct future urban development away from critical environmental areas or impose mitigating measures so that negative impacts on the environment would be minimized.

§226-104(b)(10), HRS: Identify critical environmental areas in Hawai'i to include but not be limited to the following: watershed and recharge areas; wildlife habitats (on land and in the ocean); areas with endangered species of plants and wildlife; natural streams and water bodies; scenic and recreational shoreline resources; open space and natural areas; historic and cultural sites; areas particularly sensitive to reduction in water and air quality; and scenic resources.

§226-104(b)(12), HRS: Utilize Hawai'i's limited land resources wisely, providing adequate land to accommodate projected population and economic growth needs while ensuring the protection of the environment and the availability of the shoreline, conservation lands, and other limited resources for future generations.

§226-104(b)(13), HRS: Protect and enhance Hawai'i's shoreline, open spaces, and scenic resources.

69. Section 226-55, HRS, requires functional plans for various functional areas e.g., transportation, conservation, etc. These plans are one of the mechanisms for implementing the Hawai'i State Plan. The State Functional Plans outline specific strategies and implementing actions to carry out the long-term objectives of the State.

The proposed reclassification is in general conformance with the objectives and policies of the State Conservation Lands Functional Plan. The following objectives relate most directly to the proposed reclassification:

Objective IIB: Protection of fragile or rare natural resources.

Objective IIC: Enhancement of natural resources.

The proposed reclassification is in general conformance with the objectives and policies of the State Tourism Functional Plan. The following objective relates most directly to the proposed reclassification:

Objective IIIA. Enhancement of respect and regard for the fragile resources which comprise Hawai'i's natural and cultural environment. Increased preservation and maintenance efforts.

CONFORMANCE TO COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

70. The proposed reclassification meets the following objectives and policies of §205A-2, HRS, Coastal Zone Management Program:

§205A-2(b)(1), HRS: Recreational resources;

(A) Provide coastal recreational opportunities accessible to the public.

§205A-2(c)(1), HRS: Recreational resources;

(B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:

(vi) Adopting water quality standards and regulating point and nonpoint sources of pollution to protect and where feasible, restore the recreational value of coastal waters;

§205A-2(b)(2), HRS: Historic resources;

(A) Protect, preserve, and where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawai'ian and American history and culture.

§205A-2(c)(2), HRS: Historic resources;

(A) Identify and analyze significant archaeological resources;

(C) Support state goals for protection, restoration, interpretation, and display of historic resources.

§205A-2(b)(4), HRS: Coastal ecosystems;

(A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.

§205A-2(c)(4), HRS: Coastal ecosystems;

(B) Preserve valuable coastal ecosystems of significant biological or economic importance;

(C) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs;

(D) Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate state water quality standards.

§205A-2(b)(5), HRS: Economic uses;

(A) Provide public or private facilities and improvements important to the State's economy in suitable locations.

§205A-2(c)(5), HRS: Economic uses;

(C) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments...

§205A-2(b)(6), HRS: Coastal hazards;

(A) Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.

§205A-2(c)(6), HRS: Coastal hazards;

(B) Control development in areas subject to storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards.

CONFORMANCE TO COUNTY PLANS

71. The County of Maui General Plan is a broad, narrative document setting forth strategies to shape the County's future. The proposed reclassification is in general conformance with the plan's intent.

72. The Property is in the Paia-Haiku Community Plan region. The Paia-Haiku Community Plan's land use designation for the Property is Agricultural. However, the Property is not shown on the plan's land use map.

73. The County of Maui has not zoned the Property.

RULING ON PROPOSED FINDINGS OF FACT

Any of the proposed findings of fact submitted by any of the parties in this proceeding not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

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

CONCLUSIONS OF LAW

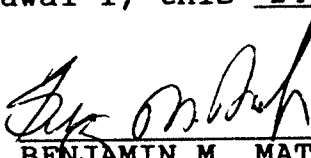
Pursuant to Chapter 205, HRS, and the Hawai'i Land Use Commission Rules under Chapter 15-15, HAR, and upon consideration of the Land Use Commission decision-making criteria under Section 205-17, HRS, this Commission finds upon a clear preponderance of the evidence that the reclassification of the Property consisting of approximately 932 acres in the State Land Use Agricultural

District situated at Halehaku and Peahi Ahupuaa, Makawao, Maui, State of Hawai'i, identified as Tax Map Key Numbers of the Second Division: 2-8-8: por. 7 and 2-8-8: 12 into the State Land Use Conservation District, is reasonable, conforms to the standards for establishing the conservation district boundaries is nonviolative of §205-2, HRS, and is consistent with the Hawai'i State Plan as set forth in Chapter 226, HRS.

PROPOSED ORDER

IT IS HEREBY ORDERED that the Property, being the subject of this Docket No. BR94-713/Office of State Planning, State of Hawai'i, consisting of approximately 932 acres in the State Land Use Agricultural District situated at Halehaku and Peahi Ahupuaa, Makawao, Maui, State of Hawai'i, identified as Tax Map Key Numbers of the Second Division: 2-8-8: por. 7 and 2-8-8: 12, and approximately shown on Exhibit "A" attached hereto and incorporated by reference herein, is hereby reclassified into the State Land Use Conservation District, and that the State Land Use District Boundaries are amended accordingly.

Dated: Honolulu, Hawai'i, this 24th day of May 1995.



BENJAMIN M. MATSUBARA
Hearing Officer

APPROVED AREA

SCALE: 1" = 2,000 ft.

HALEHAKU AND PEAHU, MAKAWAO, MAUI

TAX MAP KEY: 2-8-08: por. 7 and 12

OFFICE OF STATE PLANNING, STATE OF HAWAII

DOCKET NO. BR94-713 /

LOCATION MAP



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. BR94-713
OFFICE OF STATE PLANNING,)	CERTIFICATE OF SERVICE
STATE OF HAWAI'I)	
To Amend the Land Use District)	
Boundary of Certain Lands Situated)	
at Halehaku and Peahi Ahupuaa,)	
Makawao, Island of Maui, State of)	
Hawai'i, Identified by Tax Map Key)	
Number of the Second Division:)	
2-8-8: por. 7 and 2-8-8:12,)	
Consisting of Approximately 932)	
acres, from the Agricultural)	
District to the Conservation)	
District)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Hearing Officer's Proposed 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 certified mail:


GREGORY G.Y. PAI, PH.D., Director
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Attention: Ms. Judith Henry

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CERT. JEFFREY SCHMIDT, ESQ.
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

DATED: Honolulu, Hawaii, this 24th day of May 1995.



ESTHER UEDA
Executive Officer