



OFFICE OF PLANNING STATE OF HAWAII

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>


LAND USE COMMISSION
STATE OF HAWAII

2017 OCT 10 P 2:53

Ref. No. 201710091421

October 10, 2017

To: Daniel Orodener, Executive Officer
State Land Use Commission

From: Leo R. Asuncion, Director 

Subject: DR17-60 Petition for Declaratory Order to
Designate Important Agricultural Lands

Petitioner: Monsanto Company, A Delaware corporation
Location: Naiwa, Manowainui, Kahanui, Molokai, Hawaii
Petition Area: Approximately 1,084.079 acres
Tax Map Key: (2) 5-2-012: 004

The Office of Planning (OP) appreciates Monsanto Company's (Petitioner) voluntary participation in the process for the designation of important agricultural lands (IAL). The designation of the most productive agricultural lands in Hawaii will help to realize the goals of sustainability and food security for the State of Hawaii.

Having reviewed the Petition and evaluated all available information pursuant to applicable IAL law, OP recommends that the Land Use Commission (Commission) partially approve the designation of approximately 1,026.079 acres in the Petition Area as IAL. OP recommends that approximately 58 acres be excluded from the IAL designation. This 58 acres is comprised of a culturally significant Puu Uala directly adjacent to the State owned reservoir. The remainder of 1,024.079 acres would still allow a large contiguous area of IAL. The following is provided in support of this recommendation.

Applicable Law. The State law for IAL is found at 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 standards and criteria for the identification of IAL which were assessed as part of OP's review. OP recognizes that lands identified as IAL need not meet every standard and criteria listed, but 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." HRS § 205-44(a).

Summary of key elements of the Petition. The Petitioner is requesting that the LUC issue a declaratory order designating 1,084.079 acres of land at Naiwa, Manowainui, Kahanui, Molokai (Petition Area) as IAL. *See* OP Exhibit 1. The Petitioner represents that if the Petition is approved, it is waiving all rights to any credits that may be earned under HRS § 205-45(h). Also, if this Petition is approved by the Commission, the Petition Area would constitute a voluntary designation of a majority of all of Petitioner's land holdings within the State Agricultural District, such that further involuntary IAL designation of Petitioner's land holdings would be precluded, as provided for in HRS § 205-49(a)(3)¹. Table 1 below describes the Petitioner's approximate land holdings in the County of Maui, and the majority percentage sought for IAL designation, as well as the majority percentage for OP's recommendation. Note that OP's recommendation would still constitute a majority of the Petitioner's land holdings.

TABLE 1			
	Petitioner's Land Holdings	Proposed for IAL	% IAL
Molokai (three parcels)	1,221.24 acres	1,084.079 acres	59.651%
Kihei, Maui	596.117 acres	0	0
Total:	1,817.357 acres	1,084.079 acres	59.651%
OP Proposal		1,026.079 acres	56.460%

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

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

¹ HRS § 205-49(a)(3) states in part, "...if the majority of landowners' landholdings is already designated as important agricultural lands, excluding lands held in the conservation district, pursuant to section 205-45 or any other provision of this part, the commission shall not designate any additional lands of that landowner as important agricultural lands except by a petition pursuant to section 205-45."

1. HRS §205-44(c)(1) - Land currently used for agricultural production. The Petition Area meets this criterion. According to the Petitioner, all of the Petition Area is currently in active agricultural production. However, we note that aerial photos of the site indicate that the Puu adjacent to the State-owned reservoir is not under active production. Table 2 below summarizes the current uses as provided by the Petition.

TABLE 2		
Agricultural Use	Acres	Percent
Crop Production-seed corn and soybeans	524.400	48%
Coffee farming (COHI)	115.5	10.65%
Hemp seeds (Tom DeCourcy)	8	7.3%
Other (agricultural infrastructure, soil conservation, roads, water infrastructure, Communications tower)	210	20%
Non-classified areas, such as Conservation habitat within the gulch lands, Puu Uala, and areas too steep for row planted crops.	226.179	20.49%
Total:	1,084.079	100%

Crop production is on a year-round basis with 95% of the fields planted with seed corn and the remaining 5% planted in soybeans. Approximately one-third of the fields in the Petition Area is planted at any given time. During the period between seed corn or soybean production, the fields are planted with cover crops for conservation and crop rotation purposes. Currently, the cover crops used are a combination of sunflowers, sunn hemp (legume), mustards, canola, okra, and buckwheat.

The balance of the Petition Area consists of water infrastructure, roads, soil conservation measures, a conservation habitat in the gulch, Puu Uala, and areas too steep for row planted crops.

The Petition Area has been in agricultural production for about 120 years. Since about 1897 the Petition Area was used for ranching by Molokai Ranch until the early 1900's, when Del Monte cultivated pineapple. The Petition Area continued as part of the pineapple plantation until the mid-1980's. A portion of the Petition Area was then leased for coffee production, used for ranching, or was left fallow.

2. HRS §205-44(c)(2) - Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops. Most of the Petition Area meets this criterion. Based on the Land Study Bureau (LSB) ratings, the soil productivity ratings of the Petition Area are generally favorable for agricultural production if they are irrigated. With irrigation, about 92% of the lands are rated “very good” or “good”. Approximately 7% is rated “very poor”. Table 3a and 3b below summarizes the productivity ratings of the Petition Area.

TABLE 3a With Irrigation		
Productivity Rating	Total IAL	
	Acres	% of IAL
A (Very good)	764.504	70.4%
B (Good)	245.739	22.8%
C (Fair)	1.298	0.1%
D (Poor)	0	0%
E (Very Poor)	72.538	6.7%
Unclassified	0	0%
Total:	1,084.079	100%

TABLE 3b Without Irrigation		
Productivity Rating	Total IAL	
	Acres	% of IAL
A (Very good)	0	0%
B (Good)	0	0%
C (Fair)	200.437	18.5%
D (Poor)	631.625	58.1%
E (Very Poor)	252.017	23.3%
Unclassified	0	0%
Total:	1,084.079	100%

OP Exhibit 2 illustrates the LSB ratings across the Petition Area. The E rated lands or Very Poor quality lands are generally consistent with steeper land slope primarily associated with Puu Uala. OP’s Exhibit 3 illustrates the land slope associated with the Petition Area. Puu Uala should be excluded from the Petition Area. It is not planned for cultivation, and since it is adjacent to the State-owned reservoir, it is a natural separation from the cultivated row crops.

3. HRS §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. The Petition Area meets this criterion. The table below

summarizes the ALISH system classifications for the Petition Area. The majority of the property of 90%, rated Prime, and 0.7% is rated as “Other” Important Agricultural Lands. The remaining 9.3% lands “Not in ALISH” includes essential elements for active agricultural operations, such as streams and drainage ways, water system infrastructure, roadways, and areas for soil conservation.

TABLE 4		
ALISH Rating	Acres	% of IAL
Prime	975.729	90%
Unique	0	0.0%
Other	7.453	.7%
Not in ALISH	100.897	9.3%
Total:	1,084.079	100%

4. 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. The Petition Area partially meets this criterion. Coffee has been cultivated on the Petition Area for at least 30 years. Although the remainder of the Petition Area has not been associated with traditional native Hawaiian agricultural uses, the Petition Area has been in active crop production both under Petitioner’s ownership and prior ownership since 1897. The remainder of the Petition lands are not considered unique agricultural lands under this criterion.
5. HRS §205-44(c)(5), Land with sufficient quantities of water to support viable agricultural production. The Petition Area meets this criterion. According to the Petitioner majority of the Petition Area is irrigated with water by the Molokai Irrigation System (MIS), which is owned by the State of Hawaii, and operated by the State Department of Agriculture.

Based on available data, for the past three years, Petitioner’s and their tenants water usage has been, ranging from approximately 1.8 to 1.2 million gallons per month.

The Petition Area is also naturally irrigated by rainfall. The Petition Area receives a mean annual rainfall of approximately 22 to 34 inches of rain according to the Online Rainfall Atlas of Hawaii.

6. HRS §205-44(c)(6), Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county. The Petition Area meets this criterion. The Petition Area is appropriately and entirely within the State Land Use Agricultural

District, and is consistent with the County of Maui's current and draft Policy Plans and Community Plans.

7. HRS §205-44(c)(7), Land that contributes to maintaining a critical land mass important to agricultural operating productivity. The Petition Area appears to meet this criterion. The Petition Area is generally contiguous area of over 1,000 acres as a seemingly self-sufficient operation. Petitioner indicated that approximately 66% of the land is currently in crop production, 20% for conservation habitat, Puu Uala, and other steep areas, and 20% for "other" that includes agricultural infrastructure, and soil conservation.
8. 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 meets this criterion with respect to the ongoing availability of water for irrigation and applicable utilities. Farrington Avenue and Maunaloa Highway are the major adjacent access ways with proximity to roads, major markets and harbors.

Cultural Resources

An Archaeological Inventory Survey was not completed for the Petition Area. However, a "Report of Findings on Cultural Research Related to the Designation of a Majority of Monsanto Company's Maui County Lands as Important Agricultural Lands", ("Report") dated September 29, 2017, was completed by PBR Hawaii & Associates, Inc., and is included as Petitioner's Exhibit 5.

The Report indicates that no specific cultural practices, activities, or protocols are currently being conducted within the Petition Area. However, there are pre-contact cultural artifacts and post-contact plantation burials present on or in the vicinity of Puu Uala. According to the Petitioner, Puu Uala is not currently used for agricultural purposes. *See* Table 2 above. The Report also indicates that "Puu Uala is a part of culturally significant important four Puu complex which includes Puu Kapeelua, Puu Anoano and Puu Kanaio, and is located in close proximity to the lands where the ancient Makahiki games on Molokai were conducted." Puu Uala is also the previous location of foot races and other contests of skill. No games or footraces are currently conducted on Puu Uala. The Petition Area is also said to be associated with the Po Kane and 'night marchers'.

Summary and Recommendation

Based on the above analysis that includes review of all available information and Petitioner's representations, and weighing the IAL standards and criteria, OP recommends that the Commission approve most of the Petitioner's proposed IAL or about 1,026 acres, excluding the area containing Puu Uala, consisting of approximately 58 acres. OP further recommends that a condition of approval

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be imposed waiving any and all rights to credits under HRS § 205-45(h), as represented by the Petitioner. *See* OP Exhibit 4.

Particular areas of the Petition Area are considered less productive agricultural lands due to steep land slopes over 20% consisting of gulches, Puu Uala (OP Exhibit 2) and areas of poor soil qualities as indicated by ALISH and LSB (Tables 2 and 3). However, based on the presence of active crop production, as well as the Petitioner's representations that sufficient water supplies are available, OP believes that approximately 1,026.079 acres of the Petition Area sufficiently meets the IAL criteria. Also, consistent with the meaning of "IAL" under HRS § 205-42(a)(2), the Petitioner's current active crop production produces agricultural commodities for export and therefore contributes to the State's economic base.

The Petition Area constitutes approximately 56% of all the land owned by the Petitioner that lies within the State Agricultural Land Use District within the County of Maui. Thus, under HRS § 205-49(a)(3), the Commission is barred from designating any additional land owned by the Petitioner that may be identified by the County of Maui for designation as IAL under Section 205-49, HRS. *See* Table 1 above for a summary of the Petitioner's land holdings.

Thank you for the opportunity to comment on the Petition. If you have any questions, please contact Lorene Maki of our Land Use Division at 587-2888.

Exhibits

cc: Department of Agriculture
Department of Planning, County of Maui

Petition Area
LUC Docket DR17-60
Monsanto Company

Petition Area

Molokai

Petition Area

0 0.5 1
Miles

This map was produced by the Office of Planning (OP) for planning purposes. It should not be used for boundary interpretations or other spatial analysis beyond the limitations of the data. Information regarding compilation date and accuracy of the data presented can be obtained from OP. Map No. 20170818-01-OK Map Date: 08/18/17 Sources: Petition Area: LUC Petition, 2017; Aerial Photo: World View 2, 2015.

OP Exhibit 1

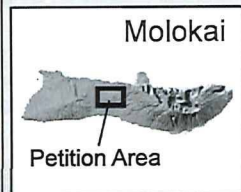
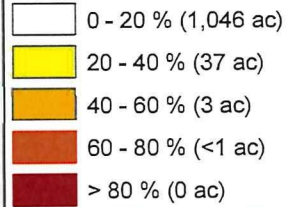


OP Exhibit 2

**Petition Area
LUC Docket DR17-60
Monsanto Company**

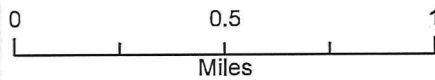
 Petition Area

Slope Pct.



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Map No. 20170816-02-OK
Map Date: 09/16/17
Sources:
Petition Area: LUC Petition, 2017.
Slope Pct: USGS DEM, 1983.

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OP Exhibit 4