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December 15, 2021



Mr. Daniel Orodener  
Executive Officer  
Land Use Commission  
235 South Beretania Street  
Suite 406  
Honolulu, Hawaii 96813

Dear Mr. Orodener:

Subject: Petition for Declaratory Order to Designate Important Agricultural Lands  
Docket No. DR21-76  
Kekaha Agriculture Association  
TMK: (4) 1-2-002: por. 1  
Area: approximately 12,123 acres Kekaha, Kauai

Thank you for this opportunity to comment on this important petition. The Department of Agriculture expresses its appreciation to Kekaha Agriculture Association (Petitioner) for seeking Important Agricultural Land (IAL) designation for about 12,123 acres of agricultural lands owned by the State of Hawaii and controlled by the Agribusiness Development Corporation (ADC) at Kekaha, Kauai (Petition, page 2 and Exhibit B, page 1). This represents about 95 percent of the 12,762 acres of Kekaha Ag Lands controlled by ADC in the area. This is the first petition seeking IAL designation for agricultural lands that are owned by the State. If approved in its entirety, Kauai will have 49,533 acres of designated IAL and 33 percent of the total area designated as IAL in the State.

This is the sixth submitted IAL petition involving agricultural lands on the island of Kauai and the nineteenth IAL petition submitted statewide (including three petitions that were withdrawn). Over 135,000 acres of agricultural land have been designated as IAL by the Land Use Commission since 2009.

In summary, the Department believes that all eight IAL identification criteria have been satisfactorily met and the petitioned area merits consideration for designation as IAL. The long-standing management of the land and infrastructure assets by the Kekaha Agriculture Association and its licensee tenant members as authorized by the Agribusiness Development Corporation appear to ensure continuity through 2027.



In the following, we are responding to the Petitioner's statements as to how the petitioned lands meet the eight criteria used for identifying potential IAL (Section 205-44, HRS).

**1. Land currently used for agricultural production.**

The crops and other types of agricultural activity occurring within the petitioned area include: Diversified crops (alfalfa, melon, squash, papaya, avocado, banana, mango, other fruits and vegetables); Aquaculture (shrimp); Research crops and seed production (corn); and Hawaiian crop (dryland taro). (Petition, page 6; and Exhibit B, page 3)

The acreage in specific crops is not provided. The three largest licensees occupy 3,496 acres on the plain.

Hartung Brothers (2,314 acres);  
Corteva Agriscience (767 acres); and  
Kauai Shrimp (415 acres). (Petition, page 6; and Exhibit B, page 4)

In the easternmost section of the petitioned area are Wines of Kauai (127 acres) and Kokee Farm (62 acres) (Exhibit B, Figure 2, page 5). Within the Kauai Shrimp licensed area is Beck's (10 acres, a seed corn processing and distribution entity). Other unidentified licensed farmers are "actively growing crops" on 167 acres in the plain, mostly mauka of Kekaha village. (Petition, page 6; and Exhibit B, page 4 and Figure 2, page 5)

In describing the area in active agricultural production, reference is made to the 2015 Statewide Agricultural Land Use Baseline (Melrose, Perroy, and Cares). Seed corn production is found on plain along with aquaculture and tropical fruits.

Apart from the 3,852 acres that are currently licensed to agricultural operations, there are 3,894 acres that are unlicensed and available for farming, and 4,377 acres are "designated for continuity for maintaining critical land mass important to agricultural operation..." (Petition, pages 6-7 and Exhibit B, page 4) The location of the licensed and unlicensed petitioned areas, and the steeply sloped area that is needed for "continuity for maintaining critical land mass" are seen in Exhibit B, Figure 2, page 5.

Further, 5,371 acres of the petitioned area is subject to a "...restrictive covenant for the protection and preservation of agricultural production through 2029" but there is no explanation what this restrictive covenant is. (Petition, page 7; and Exhibit B, page 4)

There is no indication in the Petition or the attached exhibits as to future plans the Petitioner or ADC has with respect to agricultural use of the 3,894 acres of lands available for licensing and farming.

We note that nearly 23 percent of the petitioned area has a slope of 20 percent or greater. (Petition, pages 7-8 and Table 2; and Exhibit B, page 4 and Figure 3, page 6) These areas are found along the bluff that run the length of the Kekaha to Mana plain and within the gulches that cut north to south within the triangular area in the easternmost portion of the petitioned area. Further research by Department staff confirms the plateau areas between the gulches in the triangular area were cultivated in sugarcane and irrigated as of 1967. ("Detailed Land Classification – Island of Kauai", L.S.B. Bulletin No. 9, December 1967; Maps 8, 12, 13, 14, 19, 20)

**DOA position on Criterion 1:** This criterion is satisfactorily met.

**2. Land with soil qualities and growing conditions that support agricultural production for food, fiber or fuel and energy-producing crops.**

Nearly 11 percent (1,300 acres) of the 12,123-acre petitioned area has a Land Study Bureau (LSB) Overall Productivity Rating of "A" or very good productivity potential for most agricultural uses. Another 45 percent (5,525 acres) is rated "B", 7 percent (834 acres) is rated "C", 2 percent is rated "D", and 34 percent (4,149 acres) is rated "E". (Petition, pages 8-9; and Exhibit B, page 7 and Figure 4, page 8) DOA staff estimates that nearly, if not all, of the "A", "B", "C" and some "D" rated areas were irrigated at the time the Study was undertaken.

**DOA position on Criterion 2:** This criterion is satisfactorily met.

**3. Lands 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 ALISH "Prime" footprint of 4,979 acres is primarily within the Kekaha-Mana plain. There are some "Prime" lands in the triangular area in the easternmost portion of the petitioned area. (Petition, pages 9-11; and Exhibit B, pages 7 and 10 and Figure 6, page 11). Most of the 3,155 acres of "Other Important" agricultural lands are found within the triangular area. DOA staff suspects that the slope of the plateaus in the triangular area may have been a contributing factor. The 3,989 acres not classified according to ALISH are in the gulches that bisect the triangular area and the bluffs mauka of the Kekaha-Mana plain.

**DOA position on Criterion 3:** This criterion is satisfactorily met.

**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 identifies possible pre-contact intensive agricultural uses in the southeastern section of the petitioned area including wetland taro. Groundwater springs in the Mana area

may have supported crop cultivation. (Petition, page 11; and Exhibit B, page 12) The petition does identify dry- and wet-land taro cultivation as potential crops. The principal historic use was the cultivation of sugarcane. We note that the petitioned area contains no "Unique" agricultural lands according to the ALISH system which would indicate the prior existence and potential for wetland or similar crops.

**DOA position on Criterion 4:** This criterion is satisfactorily met.

**5. Lands with sufficient quantities of water to support viable agricultural production.**

An adequate and reliable supply of irrigation water and its distribution is critically important for existing and future licensee farmers within the petitioned area to achieve and maintain optimal crop production and to meet food safety standards. The Petitioner has access to irrigation water supplied by the Kokee and Kekaha ditch irrigation systems and granted by Governor's Executive Order No. 4287. (Petition, page 13, and Exhibit B, page 13 and Figure 7, page 14) The Kokee system supplies up to 0.5 million gallons per day (mgd) to reservoirs along the eastern edge of the triangular easternmost portion of the petitioned area. The Kekaha system supplies 6 to 10 mgd to the remaining petitioned area to its terminus near Polihale State Park. There are 5 active groundwater wells that supply an additional 0.5 mgd. Annual mean rainfall ranges from 18 inches on the plain to 30 inches in the upper elevation of the petitioned area. The Petition states that the quantity of water is sufficient to support viable agricultural production.

The Petition does not indicate whether the permitted amount of irrigation water is sufficient to meet full utilization of the petitioned area's 3,894 acres of unlicensed arable lands. We understand that the ADC has an agreement with the Petitioner through 2027 which includes KAA being responsible for maintaining the ditch system, under guidance from ADC.

**DOA position on Criterion 5:** Based on the information in the petition and exhibits, and additional staff research, it appears this criterion is satisfactorily met.

**6. Land whose designation as Important Agricultural Land is consistent with general, development, and community plans of the County.**

The petitioned area is entirely within the State Agricultural District. (Petition, page 15, and Exhibit B, Figure 10, page 20) The petitioned area conforms to the County of Kauai General Plan (2018) objectives and policies regarding agriculture. The Plan's Land Use Map designates the Kekaha-Mana plain as "Agricultural" and the bluffs mauka of the plain and the triangular easternmost portion of the petitioned area as "Natural". Department staff researched the General Plan which defines the "Natural" designation as inclusive of the "...ridges, waterfalls, river valleys, and rugged coastlines of the island that comprise its open spaces and scenic views." (Kauai County General Plan, page 54)

The West Kauai Community Plan (adopted 2021) also has “Agricultural” and “Natural” designations in the same areas (Petition, page 15, and Figure 9, page 17).

The Kauai County Comprehensive Zoning Ordinance (CZO) Table of Uses (Table 8-2.4, page 38) identifies “diversified agriculture” and “livestock and grazing” as permitted uses within the Open district which generally encompasses the area designated “Natural” in the General Plan and West Kauai Community Plan. “Diversified agriculture” is defined as “...growing and harvesting of plant crops for human consumption which does not involve a long-range commitment to one (1) crop. Diversified Agriculture includes truck gardening and the production of fresh vegetables, and minor fruit or root crops such as guava or taro.” (CZO, page 13) “Intensive agriculture” requires approval by Use Permit and is defined as “...growing and harvesting of plant crops for human consumption or animal feeds primarily for sale to other and involving the long-range commitment to one crop such as sugar, pineapple, sorghum, or grain.” (CZO, page 17)

The CZO permits all agricultural activities except poultry/piggeries which require approval by Use Permit. (CZO, Table 8-2.4, page 38)

**DOA position on Criterion 6:** This criterion is satisfactorily met with the understanding that agricultural tourism may not be a permitted activity on the petitioned area unless the County of Kauai has enacted ordinances in compliance with Section 205-4.5(a)(13) and (14), Hawaii Revised Statutes.

**7. Land that contributes to maintaining a critical land mass important to agricultural operating productivity.**

The Petition cites the physical contiguity of the 12,123-acre petitioned area. If approved, the petitioned area will be the fourth largest designation of IAL in the State. Department staff notes the long history of sugarcane cultivation in the petitioned area has resulted in a unique combination of large contiguous areas of potentially productive soils; a comprehensive irrigation source, storage, and distribution system; fairly intensive agricultural activity; and a location that limits exposure of the majority of the agricultural production areas to urban uses.

**DOA position on Criterion 7:** This criterion is satisfactorily met.

**8. Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power.**

Existing infrastructure includes the two irrigation systems, roadways, drainage ditches, reservoirs, fencing, gates, electrical infrastructure, storage facilities, baseyard, field worker shelters, greenhouses and other structures, and adjacency to County and State roads. (Petition, pages 18-20)

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**DOA position on Criterion 8:** This criterion is satisfactorily met.

**Overall Comments and Recommendations:**

The Department of Agriculture believes all of the eight IAL identification criteria have been satisfactorily met and the petitioned area merits consideration for designation as IAL.

Should you have any questions, please contact Earl Yamamoto at 973-9466, or email at earl.j.yamamoto@hawaii.gov.

Sincerely,



Phyllis Shimabukuro-Geiser  
Chairperson, Board of Agriculture

c: Ms. Mary Alice Evans, Director, Office of Planning and Sustainable Development  
Mr. Ka'aina S. Hull, Director, Kauai County Planning Department