



**STATE OF HAWAII  
OFFICE OF PLANNING  
& SUSTAINABLE DEVELOPMENT**



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Coastal Zone  
Management  
Program

December 15, 2021

Environmental Review  
Program

TO: Daniel Orodener, Executive Officer  
State Land Use Commission

Land Use Commission

Land Use Division

FROM: Mary Alice Evans, Director *Mary Alice Evans*  
Office of Planning and Sustainable Development

Special Plans Branch

State Transit-Oriented  
Development

SUBJECT: DR21-76 Petition For Declaratory Order To Designate  
Important Agricultural Lands

Statewide Geographic  
Information System

Petitioner: Kekaha Agricultural Association  
Landowner: State of Hawaii, Agribusiness Development  
Corporation

Statewide  
Sustainability Program

TMK: (4) 1-2-002: 001 Por.

Location: Kekaha, Kauai

Petition Area: Approximately 12,123 Acres

The Office of Planning and Sustainable Development (“OPSD”) appreciates Kekaha Agricultural Association’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 filed on December 2, 2021 (“Petition”) and evaluated all available information pursuant to applicable IAL law, OPSD recommends that the Land Use Commission (“LUC”) approve the Petition to designate 12,123 acres of land at Kekaha, Kauai (“Petition Area”) as 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 205-52. 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 OPSD's review. OPSD 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 Commission issue a declaratory order designating approximately 12,123 acres of land at Kekaha, Kauai as IAL. Petitioner is a cooperative which manages and operates agricultural infrastructure, such as infrastructure for irrigation water, drainage, roadways and electric power system on lands known as the Kekaha Ag Lands, which totals 12,762.26 acres. The lands proposed for IAL designation constitute 95% of the Kekaha Ag Lands that Petitioner manages. The entire parcel, including the lands proposed for IAL designation, are within the State Land Use Agricultural District. The Petition Area is owned by the State of Hawaii, Agribusiness Development Corporation ("ADC"), which then licenses to a mix of agricultural entities and individual tenant farmers. The Petitioner has a Restated and Amended Memorandum of Agreement dated August 29, 2008 with the ADC to manage and operate the Kekaha Ag Lands, which has a term of 20 years.

Petitioner is excluding a rectangular area approximately 639 acres or about five percent of the total parcel area from the Petition. See Petitioner's Exhibit A. This area is proposed to be part of the West Kauai Energy Project, which will encompass the land area mauka and within the Petition Area. As described in the Draft Environmental Assessment ("DEA") for the project, the rectangular area will contain a solar photovoltaic array which will produce about 35 MWac and 56 MWdc, on approximately 375 acres of land with accessory structures, including a 70MWh of battery storage, substations, and other accessory uses. The energy project is comprised of approximately 1,015 acres mauka and within the KAA parcel, but outside of the Petition Area. The energy project will involve the construction of two new hydroelectric facilities with powerhouses of reinforced concrete and accessory and supporting structures, and will also require a State Special Permit from the LUC.

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).

Basis of review and comments. OPSD’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 § 205-44(c)(1) - Land currently used for agricultural production. The Petition Area satisfies this criterion. See table below.

Licensee	Acreage	Approx. Percentage
Hartung Brothers, Inc.	2,314 acres	19%
Corteva Agriscience	767 acres	6.3%
Kauai Shrimp	415 acres	3.4%
Kokee Farms	62 acres	0.5%
Wines of Kauai	127 acres	1.04%
Makai portions-small farmers	167 acres	1.36%
Unlicensed fields are fallow but available for licensing	3,894 acres	32.12%
Land for maintaining critical land mass important to agricultural operations	4,377 acres	36.1%
TOTAL	12,123 acres	Approx. 100%

According to the Petition, current farming activities include diversified crops, research crops and seed corn cultivation, aquaculture ponds for the production of shrimp, and traditional Hawaiian crops, such as dryland taro are grown. Future plans for the development of loi for wetland taro cultivation are also being considered. The Petition also notes that the Statewide Agricultural Land Use Baseline 2015 study confirms agricultural use on site.

Table 2 on Page 8 of the Petition summarizes the slopes on the Petition Area. Approximately 77.3% of the Petition Area contains slopes from 0 to 20%: 6,775 acres are 0 to 10% and 2,591 acres are from 10 to 20% slopes. The remaining 2,755 acres have 20% or greater slopes. These lands are too steep for certain crops or are gulches and drainageways. Petitioner maintains that these lands contribute to the continuity of agricultural uses on “other parts of the land that are cultivated and are important parts of the overall KAA IAL for land stewardship, soil conservation, cohesion and continuity of

agricultural uses, and maintaining a critical land mass important to overall agricultural operation productivity.”

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. 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 with about 56.3% rated “very good” or “good.” Approximately 6.9% is rated “fair,” 2% is rated “poor,” and 34.2% is rated “very poor.” Petitioner’s Table 3 below summarizes the LSB productivity ratings of the Petition Area. (Petition Exhibit B, Table 3, p. 7, and Figure 4).

<b>TABLE 3</b>		
<b>Productivity Rating</b>	<b>Total IAL</b>	
	<b>Acres</b>	<b>% of IAL</b>
A (Very good)	1,300	10.7%
B (Good)	5,525	45.6%
C (Fair)	834	6.9%
D (Poor)	244	2.0%
E (Very Poor)	4,149	34.2%
Unclassified	71	0.6%
<b>Total:</b>	<b>12,123</b>	<b>100%</b>

The lower quality-rated lands are generally consistent with steeper land slope ratings.

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. Within the Petition Area, 41.1% (4,979 acres) is rated Prime and 26.0% is rated Other Important (3,155 acres).

<b>TABLE 3</b>		
<b>ALISH Rating</b>	<b>Acres</b>	<b>% of IAL</b>
Prime	4,979	41.1%
Unique	0	0%
Other Important	3,155	26.0%
Not in ALISH	3,989	32.9%
<b>Total:</b>	<b>12,123</b>	<b>100%</b>

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. Page 6 of the Petition indicates that current agricultural operations include the cultivation of traditional and native Hawaiian crops such as dryland taro and other fruits and vegetables.
5. HRS § 205-44(c)(5), Land with sufficient quantities of water to support viable agricultural production. Pages 13 to 15 of the Petition indicates that the Petitioner has sufficient quantities of water, water-related infrastructure, and other agricultural infrastructure to support viable agricultural production for the Petition Area.

The Petitioner has access to irrigation water from the Kokee Ditch Irrigation System, as well as the Kekaha Ditch Irrigation System. Water rights from both irrigation systems are granted by the Governor's Executive Order No. 4287. In addition to the irrigation ditches, Petitioner obtains supplemental water from existing wells within the Petition Area. Five wells remain in active use on the Petition Area. Petitioner has provided Figure 7 showing the water system and indicating the irrigation ditches, reservoirs, water infrastructure, well locations and drainage pumps that provide water throughout the Petition Area. A mean annual rainfall of about 18-30 inches per year provides supplemental water for agricultural use.

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 entirely within the State Land Use Agricultural District. The Petition Area is consistent with the County of Kauai's General Plan and West Kauai Community Plan region, as about half of the Petition Area is designated as Agricultural and the remainder is designated as Natural on the steeper areas of the Petition Area. The Petition Area is zoned Agriculture (A) with smaller portions as Open District within the mauka boundary to the north and east, and the steeper portions of the mauka lands.
7. HRS § 205-44(c)(7), Land that contributes to maintaining a critical land mass important to agricultural operating productivity. The Petition Area meets this criterion. The Petition Area is generally contiguous over 12,123 acres as seemingly self-sufficient operations. Petitioner states that about 33% of the land is currently in crop production, an additional 32% can be licensed in agricultural use, and the remaining 36%, while portions are constrained by steep topography, support the agricultural activities on the adjacent cultivated lands and agricultural operations.

Furthermore, adjacent lands surrounding the Petition Area are within the State Agricultural District, classified as Agricultural by the County of Kauai. Designation of

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the Petition Area as State IAL will contribute to maintaining a critical land mass important to agricultural activity in the region.

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. The Petition Area contains several main agricultural roads and several access points to Kaumualii Highway, Kokee Road, and Kekaha Road, and Waimea Canyon Drive. Within the Petition Area, Mana Track and the Upper Saki Mana Road to the 130 Reservoir, runs through the length of the Petition Area. These roads connect most of the fields along the makai portions. Other internal agricultural roadways create an internal network, which feeds into the major roadways.

### **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, OPSD recommends that the Commission approve Petitioner's proposed IAL in its entirety. OPSD believes the Petition Area sufficiently meets seven IAL criteria and partially meets the remaining IAL criterion.

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 [Lorene.k.maki@hawaii.gov](mailto:Lorene.k.maki@hawaii.gov)

Enclosures

cc. Department of Agriculture  
County of Kauai Planning Department