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Attorneys for  
KEKAHA AGRICULTURE ASSOCIATION

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of  
KEKAHA AGRICULTURE  
ASSOCIATION,  
a Hawaii agricultural cooperative,  
  
For Declaratory Order to Designate  
Important Agricultural Lands for  
approximately 12,123 acres at Kekaha,  
Kauai;  
TMK 4-1-2-002:001 Por.

DOCKET NO. DR21-76

MOTION TO AMEND PETITION FOR  
DECLARATORY ORDER TO DESIGNATE  
IMPORTANT AGRICULTURAL LANDS;  
EXHIBIT 1; DECLARATION OF JOSHUA  
UYEHARA; CERTIFICATE OF SERVICE

**MOTION TO AMEND PETITION FOR DECLARATORY ORDER  
TO DESIGNATE IMPORTANT AGRICULTURAL LANDS**

Petitioner KEKAHA AGRICULTURE ASSOCIATION (“Petitioner” or “KAA”),  
by and through its attorneys Schlack Ito, A Limited Liability Law Company, respectfully moves  
the Land Use Commission of the State of Hawaii (“Commission”) to amend its Petition filed in  
the above-captioned-matter on December 2, 2021 (“Petition”).

This Motion is made pursuant to Chapter 205, Hawaii Revised Statutes, and Title  
15, Subtitle 3, Chapter 15 of the Hawaii Administrative Rules (“HAR”) § 15-15-70, and other

authorities and arguments stated in the attached Memorandum in Support of Motion, and the pleadings and files in this matter.

Petitioner requests the Commission to hear this Motion, pursuant to Hawaii Administrative (“HAR”) § 15-15-70(c), in conjunction with the further hearing of this matter at a date and time to be scheduled by the Commission.

DATED: Honolulu, Hawai’i, April 27, 2022.



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DOUGLAS A. CODIGA  
Attorney for Petitioner  
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**MEMORANDUM IN SUPPORT OF MOTION**

Petitioner KEKAHA AGRICULTURE ASSOCIATION (“Petitioner” or “KAA”),  
by and through its attorneys Schlack Ito, A Limited Liability Law Company, respectfully moves  
the Land Use Commission of the State of Hawaii (“Commission”) to amend its Petition filed in  
the above-captioned-matter on December 2, 2021 (“Petition”).

**I. ARGUMENT**

Petitioner moves the Commission to amend the Petition and to proceed in this  
matter based upon the proposed amended Petition attached as Exhibit 1 (“Amended Petition”).  
The Amended Petition reduces, and does not increase, the acreage requested to be designated as

Important Agricultural Land (“IAL”) in this proceeding. The Petition requested a declaratory order designating approximately 12,123 acres as IAL (“KAA IAL”).<sup>1</sup> The Amended Petition requests a declaratory order designating approximately 11,863 acres as IAL for the KAA IAL.<sup>2</sup>

The reduction in acreage requested to be designated as IAL in the Amended Petition is based in part on stakeholders comments. Specifically, the Petition excluded certain acreage from the proposed KAA IAL based on Petitioner’s understanding that a portion of the Kauai Island Utility Cooperative’s (“KIUC”) West Kauai Energy Project (“WKEP”) would be located on that acreage.<sup>3</sup> Subsequent to filing the Petition on December 2, 2021, Petitioner was requested to expand the WKEP acreage to be excluded, and the Amended Petition therefore expands and increases the excluded WKEP acreage, contributing to an overall reduction in the size of the proposed KAA IAL. In addition, the Amended Petition proposes to further reduce the size of the proposed KAA IAL by excluding acreage in an area which currently has a rock quarry facility and has the potential for additional non-agricultural uses.

Accordingly, the Motion seeks to amend the Petition to reflect the reduction of IAL acreage and to make necessary conforming revisions with regard to acreage figures and other relevant information. For clarity, the Amended Petition is attached as Exhibit 1 to this Motion; Exhibit A attached to the Amended Petition is the map, “TMK Parcels and Proposed IAL,” which has been amended based on the reduced KAA IAL; and Exhibit B attached to Amended Petition is the Agricultural Lands Assessment, which has also been amended based on the reduced KAA IAL.

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<sup>1</sup> See Petition at 1.

<sup>2</sup> See Amended Petition at 1.

<sup>3</sup> See Letter from KIUC to Agribusiness Development Corporation dated March 14, 2021 (referencing acreage for WKEP components in relation to authorization of Petition) *available at* <https://luc.hawaii.gov/completed-dockets/declaratory-rulings/general/dr21-76/>.

## II. CONCLUSION

For all of the foregoing reasons, Petitioner respectfully requests the Commission to grant the Motion and authorize amendment of the Petition; to proceed in this matter based upon the Amended Petition; and to grant any further relief the Commission deems to be just and proper.

DATED: Honolulu, Hawai'i, April 27, 2022.

  
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DOUGLAS A. CODIGA  
Attorney for Petitioner  
KEKAHA AGRICULTURE ASSOCIATION