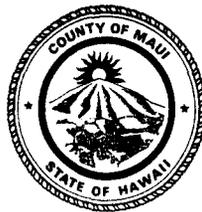


ALAN M. ARAKAWA
MAYOR



RECEIVED

KEITH A. REGAN
MANAGING DIRECTOR

2018 OCT 31 AM 8:22

OFFICE OF THE MAYOR OFFICE OF THE
Ke'ena O Ka Meia COUNTY COUNCIL
COUNTY OF MAUI – Kalana O Maui

October 30, 2018

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

A handwritten signature in black ink, appearing to read "Alan Arakawa", with the date "10/30/18" written to the right. The signature is written over a horizontal line.

For Transmittal to:

Honorable Riki Hokama
Chair, Budget and Finance Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Hokama:

SUBJECT: AMENDING THE FISCAL YEAR 2019 BUDGET: OPEN SPACE, NATURAL RESOURCES, CULTURAL RESOURCES, AND SCENIC VIEWS PRESERVATION FUND (HAWAIIAN ISLANDS LAND TRUST) (BF-182)

Pursuant to your letter dated October 24, 2018, requesting additional information regarding a proposed amendment to the Fiscal Year 2019 Budget, Appendix A, Part II, Special Purpose Revenues – Schedule of Revolving/Special Funds, Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund to appropriate \$110,000 for a grant to the Hawaiian Islands Land Trust, please see responses below:

1. A copy of the appraisal.

Response: Please see attached.

2. The Hawaiian Islands Land Trust has secured a preliminary funding approval of \$210,000 from the Legacy Land Conservation Fund through the Department of Land and Natural Resources. Explain why the approval is "preliminary". Is the funding contingent upon approval of other sources of funds? Explain.

Response: Funding provided by the Legacy Land Conservation Fund is subject to a \$110,000 matching funds requirement.

3. Is the \$100,000 from a private foundation secured? Explain.

Response: The private foundation has given Hawaiian Islands Land Trust preliminary, verbal indications that it would like to support the project, but the foundation has asked that they complete the project, once the other funding has been lined up.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me at Ext. 7212.

Sincerely,

A handwritten signature in black ink, appearing to read "Sananda K. Baz". The signature is fluid and cursive, with the first name being the most prominent.

SANANDA K. BAZ
Budget Director

Attachment



PREPARED FOR: **MR. EDWARD CLEMENT, JR. ESQUIRE**
Executive Director

HAWAIIAN ISLANDS LAND TRUST
PO Box 965
Wailuku, HI 96793

EFFECTIVE DATE: **September 1, 2013**

**A SELF-CONTAINED APPRAISAL THE KEPLER CONSERVATION EASEMENT,
KEANAE, ISLAND OF MAUI, HAWAII**



September 9, 2013

13-9082

Mr. Edward Clement, Jr., Esquire
Executive Director
Hawaiian Islands Land Trust
PO Box 965
Wailuku, Hawaii 96793

RE: Property located on Keanae Place, Keanae, Island of Maui, State of Hawaii

Tax Map Key: Division 2, Zone 1, Section 1, Plat 03, Parcels 041 and 065

Tenure: Fee Simple

Dear Mr. Clement:

In accordance with your instructions and requirements, we have inspected the above-described property in order to provide an opinion of the fee simple market value of the conservation easement as it relates to the above described property. The intended use of this report is to provide market data and an opinion of value upon which internal decision-making related to a potential conservation easement may be based.

The State of Hawaii Tax Map shows the subject as being two parcels totaling 6.3 acres. Parcel 041 is 6.12 acres, while Parcel 065 is a 0.18-acre (7,840 square foot) oceanfront remnant parcel separated by Keanae Place. You have stated that the portion of Keanae Place bisecting your property is actually an unrecorded easement. Supporting documents were requested by the Appraiser; however, none were made available by you. This report has been based on the Extraordinary Assumption that the subject legally exists as a single oceanfront parcel with a net usable area of 6.3 acres.

This appraisal is presented as a **Self-Contained Appraisal Report** which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for a Self-Contained Appraisal Report. A self-contained appraisal report sets forth the data considered, the appraisal procedures followed, and the reasoning employed in the appraisal, addressing each item in the depth and detail required by its significance to the appraisal and providing sufficient information so that the client and the users of the report will understand the appraisal and not be misled or confused. The final value estimate was based on the on-site inspection of the property, a search of the market for conservation easement sales, an analysis of agricultural and conservation land transactions and a study of current economic conditions.

Based on our research and study, it is our opinion that the fee simple (surface rights) market value of the conservation easement, as of September 1, 2013, and subject to the "Certification",

Mr. Edward Clement, Jr.
September 9, 2013
Page 2

"Extraordinary Assumptions and Conditions" and "Limiting and Contingent Conditions" set forth herein, is as summarized:

| | |
|---|-------------|
| Market Value BEFORE Encumbrance By the Conservation Easement | \$1,940,000 |
| Market Value AFTER Encumbrance By the Conservation Easement | \$1,440,000 |

Based on the Before & After analysis presented in this report, the market value of the Conservation Easement, subject to the hypothetical condition that the subject is encumbered by a Conservation Easement, is the difference between the two values above, or

FIVE HUNDRED THOUSAND DOLLARS
\$500,000

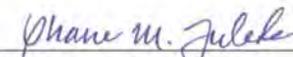
The following appraisal report presents a narrative review of the appraisal and our analysis of data along with other pertinent materials on which the estimate of value is predicated.

Thank you for allowing us the opportunity to work on this interesting assignment.

Respectfully submitted,
ACM Consultants, Inc.



Glenn K. Kunihiwa, MAI
Certified General Appraiser
State of Hawaii, CGA-039
Expiration: December 31, 2013



Shane M. Fukuda
Certified General Appraiser
State of Hawaii, CGA-810
Expiration: December 31, 2013

TABLE OF CONTENTS

| | Page |
|---|-------------|
| SUMMARY OF SALIENT FACTS AND CONCLUSIONS | i |
| THE ASSIGNMENT (PROBLEM IDENTIFICATION) | x |
| Client | x |
| Intended User..... | x |
| Intended Use..... | x |
| Type of Opinion | x |
| Effective Date of Opinion | x |
| Interest Appraised | x |
| Relevant Characteristics of the Subject..... | xi |
| Assignment Conditions..... | xi |
| Statement of Competency..... | xii |
| SCOPE OF WORK | xiii |
| Extent to Which the Property is Identified | xiii |
| Extent to Which the Property is Inspected | xiii |
| Type and Extent of the Data Researched..... | xiv |
| Type and Extent of the Analysis Applied..... | xiv |
| Summary of the Appraisal Problems..... | xiv |
| CERTIFICATION | xvi |
| REGIONAL DATA - Maui County..... | 1 |
| NEIGHBORHOOD DESCRIPTION | 19 |
| PROPERTY DATA | 22 |
| Legal Description | 22 |
| Real Estate Assessments and Taxes..... | 22 |
| Owner of Record..... | 24 |
| Transaction History | 24 |
| SITE DATA | 26 |
| Environs..... | 26 |
| Size and Shape..... | 26 |
| Topography and Soil Condition..... | 26 |
| Vehicular Access..... | 26 |
| Easements and Restrictions..... | 26 |
| Flood Status | 27 |
| Utilities | 31 |
| County Zoning | 31 |
| Hana Community Plan..... | 33 |
| DESCRIPTION OF THE IMPROVEMENTS | 35 |
| DESCRIPTION OF THE CONSERVATION EASEMENT | 37 |
| THE APPRAISAL PROCESS..... | 44 |
| VALUATION BEFORE IMPOSITION OF THE CONSERVATION EASEMENT | 47 |
| HIGHEST AND BEST USE..... | 48 |
| THE COST APPROACH..... | 53 |
| CONCLUSION OF FEE SIMPLE LAND VALUE | 65 |
| REPRODUCTION COST NEW OF IMPROVEMENTS: | 66 |
| SUMMARY | 67 |

| | |
|--|-----------|
| VALUATION AFTER IMPOSITION OF THE CONSERVATION EASEMENT | 69 |
| HIGHEST AND BEST USE..... | 70 |
| THE COST APPROACH..... | 75 |
| CONCLUSION OF FEE SIMPLE LAND VALUE | 86 |
| REPRODUCTION COST NEW OF IMPROVEMENTS: | 87 |
| SUMMARY | 88 |
| RECONCILIATION AND FINAL OPINION OF VALUE | 90 |

EXHIBITS

| | |
|-----------|--|
| Exhibit A | County of Maui Agricultural District Zoning Ordinance |
| Exhibit B | Hawaii Revised Statutes Conservation District |
| Exhibit C | Summaries of Comparable Land Transactions “Before” the Conservation Easement |
| Exhibit D | Summaries of Comparable Land Transactions “After” the Conservation Easement |
| Exhibit E | Copy of Deed of Conservation Easement Including Development Rights Draft |
| Exhibit F | Title Guaranty of Hawaii, Inc. – Preliminary Report |
| Exhibit G | Environmental Report |
| Exhibit H | Summary of Collateral Analyses |
| Exhibit I | Sketch of Improvements |

ADDENDA

| |
|------------------------------------|
| Definitions |
| Limiting and Contingent Conditions |
| Qualifications of the Appraiser |

TABLES

| | |
|--|----|
| Table 1 – Real Property Assessments and Taxes..... | 23 |
| Table 2 – Comparative Analysis of the Property “Before” and “After” the Easement | 41 |
| Table 3 – Land Transaction Adjustment Schedule (Before the Conservation Easement)..... | 57 |
| Table 4 – Summary of the Cost Approach (Before Imposition of the Conservation Easement)..... | 68 |
| Table 5 – Land Transaction Adjustment Schedule (After the Conservation Easement)..... | 79 |
| Table 6 – Summary of the Cost Approach (After Imposition of the Conservation Easement) | 89 |

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

| | | |
|---|---|-----------------------|
| Date Of Valuation | September 1, 2013 | |
| Tax Map Key | Division 2, Zone 1, Section 1, Plat 03, Parcels 041 and 065 | |
| Location | Keanae Place, in Keanae, Island and County of Maui, State of Hawaii | |
| Census Tract | 301.00 | |
| Registered Fee Owners | William G. Kepler and Luellen K. Kepler | |
| Zoning | Parcel 41 | Agricultural District |
| | Parcel 65 | Conservation District |
| State Land Use Designation | Parcel 41 | Agriculture |
| | Parcel 65 | Conservation |
| Flood Status | Zone X Flood insurance is not required | |
| Site Area | Parcel 041: | 6.12 acre |
| | Parcel 065: | <u>0.18 acres</u> |
| | Total: | 6.30 acres |
| Existing Improvements | Existing improvements include a one-story single-family dwelling containing approximately 1,150 square feet of living area and a deck/porch of 801 square feet. | |
| Real Property Assessments (2013) | Parcel 041: | \$ 29,500 |
| | Building: | \$121,000 |
| | Parcel 065: | <u>\$ 3,600</u> |
| | Total: | \$154,100 |
| | <i>Note: Parcel 041 is being assessed based on its dedicated agricultural use. The County of Maui Tax Office indicates a 2013 market land assessment of \$382,600 for Parcel 041.</i> | |
| Real Property Taxes (2013) | Parcel 041: | \$ 910.53 |
| | Parcel 065: | <u>\$ 250.00</u> |
| | Total: | \$1,160.53 |
| | <i>Note: The \$250.00 real property tax for Parcel 065 represents the County of Maui minimum</i> | |

Highest and Best Use

Before the Easement Encumbrance

Subdivision of the land into three agricultural lots with the potential for a full-sized agricultural dwelling and a 1,000 square foot accessory dwelling on each subdivided lot.

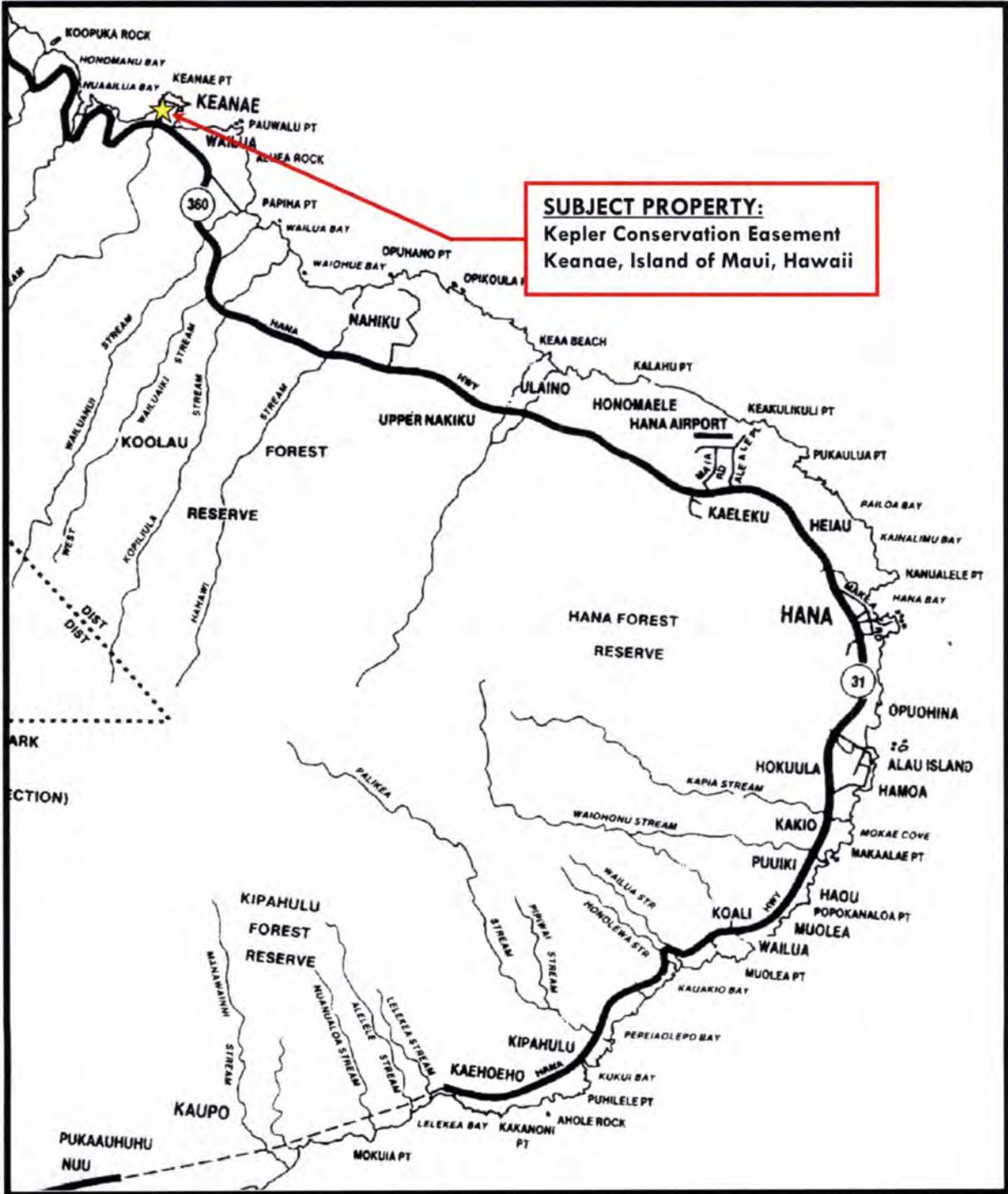
After the Easement Encumbrance

Conservation and preservation of the existing parcel

Value Opinion of the Conservation Easement

FIVE HUNDRED THOUSAND DOLLARS

\$500,000



Not to Scale!

LOCATION MAP



10



Photograph No. 1

Taken From: Point 1
Camera Facing: Southeasterly
Date Taken: September 1, 2013
Taken By: Glenn Kunihisa, MAI

Description: This photograph depicts a front view of the subject's improvements taken from Keanae Place.



Photograph No. 2

Taken From: Point 2
Camera Facing: Northwesterly
Date Taken: September 1, 2013
Taken By: Glenn Kunihisa, MAI

Description: This photograph depicts a rear view of the subject's improvements.

PHOTOGRAPHS OF THE SUBJECT



Photograph No. 3

Taken From: Point 3
Camera Facing: Southwesterly
Date Taken: September 1, 2013
Taken By: Glenn Kunihsa, MAI

Description: This photograph depicts the living area within the subject improvements.



Photograph No. 4

Taken From: Point 4
Camera Facing: Northwesterly
Date Taken: September 1, 2013
Taken By: Glenn Kunihsa, MAI

Description: This photograph depicts the subject's view from the front deck.

PHOTOGRAPHS OF THE SUBJECT



Photograph No. 5

Taken From: Point 5
Camera Facing: Northerly
Date Taken: September 1, 2013
Taken By: Glenn Kunihsa, MAI

Description: This photograph depicts a portion of the subject's oceanfront remnant.



Photograph No. 6

Taken From: Point 6
Camera Facing: Easterly
Date Taken: September 1, 2013
Taken By: Glenn Kunihsa, MAI

Description: This photograph depicts a view of the many taro fields that are located on the subject property.

PHOTOGRAPHS OF THE SUBJECT



Photograph No. 7

Taken From: Point 7
Camera Facing: Southeasterly
Date Taken: September 1, 2013
Taken By: Glenn Kunihsa, MAI

Description: This photograph depicts an additional of the subject's taro fields.



Photograph No. 8

Taken From: Point 8
Camera Facing: Southwesterly
Date Taken: September 1, 2013
Taken By: Glenn Kunihsa, MAI

Description: This photograph depicts Keanae Place with the subject driveway at left.

PHOTOGRAPHS OF THE SUBJECT



Photograph No. 9

Taken From: Point 9
Camera Facing: Northeasterly
Date Taken: January 16, 2012
Taken By: Glenn Kunihsa, MAI

Description: This photograph depicts Keanae Place with the oceanfront remnant at left.



Photograph No. 10

Taken From: Point 10 (Off map)
Camera Facing: Northwesterly
Date Taken: January 16, 2012
Taken By: Glenn Kunihsa, MAI

Description: This photograph depicts a portion of the Keanae Peninsula taken from Keanae Lookout. The approximate location of the subject improvements is to the left of the tall pine tree in the center rear of the photo.

PHOTOGRAPHS OF THE SUBJECT

THE ASSIGNMENT (PROBLEM IDENTIFICATION)

Client

The client is the Hawaiian Islands Land Trust.

Intended User

The intended users of this report are the client, the County of Maui and the United States Department of Agriculture/National Resource Conservation Service (USDA/NRCS). All appraisal reports submitted to the entity and NRCS for review become the property of the United States and may be used for any legal and proper purpose.

Intended Use

The intended use of this report is to provide real property information, real estate market data, and an informed value conclusion upon which internal decision-making related to a potential conservation easement may be based. This report is not intended for any other use. The Appraiser is not responsible for unauthorized use of this report.

Type of Opinion

The Appraiser will provide an opinion of the market value of this property. Market Value, as defined in NRCS 440-V-CPM 519.102(c)(2)(i) as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- *Buyer and seller are typically motivated;*
- *Both parties are well informed or well advised, and acting in what they consider their best interests;*
- *A reasonable time is allowed for exposure in the open market;*
- *Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and*
- *The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.*

Effective Date of Opinion

The effective date of this appraisal is September 1, 2013.

Interest Appraised

Fee Simple Interest

Relevant Characteristics of the Subject

The property is located on Keanae Place in Keanae, Island and County of Maui. Improvements consist of a single-family dwelling with approximately 1,150 square feet of living area and 801 square feet of covered porch, built upon approximately 6.3 acres of land. The County of Maui zoning designations for this site are Agricultural District and Conservation District. The subject's use is in conformance with these zoning classifications. At the time of inspection, the improvements were observed to be of sound construction quality and in good overall condition.

Assignment Conditions

Extraordinary Assumptions. An assumption, directly related to a specific assignment, which, if found to be false, could alter the Appraiser's opinion or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal or economic characteristics of the subject property; or about conditions external to the property such as market conditions or trends; or about the integrity of data used in an analysis.

(1) The State of Hawaii Tax Map shows the subject as being two parcels totaling 6.3 acres. Parcel 041 is 6.12 acres, while Parcel 065 is a 0.18-acre (7,840 square foot) oceanfront remnant parcel separated by Keanae Place. The property owner has stated that the portion of Keanae Place bisecting the subject is actually an unrecorded easement. Supporting documents were requested by the Appraiser; however, none were made available. This report has been based on the extraordinary assumption that the subject legally exists as a single oceanfront parcel with a net usable area of 6.3 acres.

(2) The Appraiser was provided with a copy of the Deed of Conservation Easement Including Development Rights for review. Although the document is in draft form, the Appraiser has conducted this appraisal under the extraordinary assumption that the content will remain unchanged upon execution.

(3) A pre-acquisition environmental database search report was provided to the Appraiser and has been included as Exhibit G. According to the report, no environmental concerns to the parcel were identified. The value estimated in this report is based on the assumption that the property is not negatively affected by the existence of hazardous substances, detrimental environmental conditions or articles of archaeological significance. The Appraiser(s) is not an expert in the identification of hazardous substances, detrimental environmental conditions or archaeological artifacts. Should tests and inspections made by a qualified hazardous substance and environmental expert reveal the existence of hazardous material and detrimental environmental conditions on or around the property, such a discovery would have a negative

impact upon the market value reported herein, and would invalidate this appraisal.

(4) This appraisal report is also subject to the standard "Limiting and Contingent Conditions" located in the Addendum to this report.

Hypothetical Conditions. A hypothetical condition is that which is contrary to what exists but is supposed for the purpose of analysis. Hypothetical conditions assume conditions contrary to known facts about physical, legal or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.

One valuation was conducted under the hypothetical condition that a perpetual conservation easement has been placed on the property as a whole. This analysis was conducted to measure the perceived impact on the property by the Conservation Easement.

Statement of Competency

ACM Consultants, Inc. has been actively appraising residential, commercial and industrial real estate in the State of Hawaii since 1982. The Appraiser(s) signing this report consider themselves competent to render an opinion of value for the subject property.

SCOPE OF WORK

This is a **Self-Contained Appraisal Report** which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for a Self-Contained Appraisal Report. A self-contained appraisal report sets forth the data considered, the appraisal procedures followed, and the reasoning employed in the appraisal, addressing each item in the depth and detail required by its significance to the appraisal and providing sufficient information so that the client and the users of the report will understand the appraisal and not be misled or confused. In the process, we have gathered pertinent data with respect to economic, social and environmental factors, along with other regional data that would have direct or indirect influence upon the subject.

This assignment has been completed with the intent of complying with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and specific guidelines of the Uniform Standards of Professional Appraisal Practice (USPAP).

The appraisal process is described in more detail in the following paragraphs.

Extent to Which the Property is Identified

Physical Characteristics

The Appraiser physically identified the property by its location of the tax maps of the State of Hawaii and by its postal address. A physical inspection of the subject site, improvements and its immediate neighborhood was conducted and provided the basis for the neighborhood site inspections.

Legal Characteristics

A preliminary title report dated September 25, 2008, as well as a State of Hawaii Tax Map, provided information regarding easements, covenants, restrictions, and other encumbrances. The Appraiser did not research the presence of such items independently.

Economic Characteristics

The Appraiser reviewed County of Maui Tax Office records, prior sales history and evidence from the market to evaluate the subject's economic characteristics.

Extent to Which the Property is Inspected

Glenn Kunihsa and Shane Fukuda have made personal inspections of the appraised property which is the subject of this report and all comparable sales used in developing the opinion of value. The

dates of inspection are September 1, 2013, January 16, 2012 and August 11, 2008. The method of inspection was by-foot.

The Appraiser also used information from county records, assessor's records, and state records to identify the characteristics of the subject that are relevant to the valuation problem.

Type and Extent of the Data Researched

The Appraiser researched data on comparable land and improved sales, and construction costs; confirmed all comparable sales information; and analyzed the information gathered in applying the cost approach and sales comparison approach.

Type and Extent of the Analysis Applied

The value opinions presented in this report are based upon review and analysis of the market conditions affecting real property value, including land values, as well as cost and depreciation estimates.

The appraisal problem did not warrant an intensive highest and best use study. Given the nature of the subject real estate, the conclusion of highest and best use was based on logic and observed evidence.

There are three traditional approaches used to arrive at an opinion of value of real estate: the Cost Approach, the Income Capitalization Approach and the Sales Comparison Approach. In this case, the Sales Comparison Approach was utilized in the valuation of the underlying land as part of the Cost Approach. The Cost Approach was used in the Before and After method to arrive at an opinion of the market value of the conservation easement, as of the effective date of this appraisal.

As described in the following section, the appraisal of the subject was very challenging. The subject is located in the remote district of Hana, where there are very few improved property sales, even during robust markets. The lack of appropriate improved property sales precluded the use of the Sales Comparison Approach. Furthermore, the subject is occupied on a part-time basis by the property owner. Properties in this neighborhood are not utilized for rental income-generation purposes; therefore, market rent cannot be established. As such, the Income Approach was needed not applicable.

Summary of the Appraisal Problems

This section of the report is provided to acquaint the reader with the specific appraisal problems which have been encountered during the valuation process.

The subject is located in the Hana District which is remotely situated with respect to all other districts on the Island of Maui. It is critically important that the reader/user understand Hana and its unique characteristics. The most compelling and distinguishing trait of the Hana region, to its residents and visitors, are the low density and slow population growth resulting in an unchanging, rural environment. Thus, the people who choose to live in Hana do so for this reason. There are very few people who commute from Hana to other regions of the island on a daily basis because the drive along the very narrow and winding road is arduous and time consuming. Many people have lived on Maui for their entire lifetime but have visited Hana only once.

Hana has been, and continues to be, intentionally maintained by the community as a unique, secluded and historic Hawaiian area. As a result, there is very little real estate activity in comparison to other regions of Maui. And, the real estate in Hana cannot be compared, on any level, to real estate anywhere else on Maui.

This is a major problem to deal with, because the deficient number of real estate transactions makes it difficult to locate appropriate and highly comparable sales. In the absence of recent sales, and without the ability to utilize sales from other parts of the island, the Appraiser is compelled to employ older sales from the Hana District, even if there are wide dissimilarities with the subject. The absence of sufficient data also makes it difficult to provide quantitative support for adjustments made in the valuation tables. As a result, many of the adjustments are supported by explanation and discussion reflecting the Appraiser's valuation experience on Maui.

Besides the subject's location, its size posed another problem for the Appraiser. There are very few market sales to begin with; therefore, to find sufficient vacant land transactions that could compare to a 6.3-acre site was extremely difficult. Consequently, conveyances of tracts with varied acreage were employed.

In summary, most of the difficulties in this assignment are rooted in the subject's location in Hana. The minimal sales activity and the unique and isolated market made this appraisal a highly challenging task.

CERTIFICATION

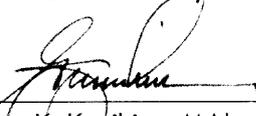
The undersigned does hereby certify that except as otherwise noted in this appraisal report:

1. The Appraisers' compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
2. The Appraisers have no present or prospective interest in the property that is the subject of this report, and no personal interest or bias with respect to the parties involved. The "Estimate of Market Value" in the appraisal report is not based in whole or in part upon the race, color, or national origin of the prospective owners or occupants of the properties in the vicinity of the property appraised.
3. The Appraisers have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
4. The Appraisers' engagement in this assignment was not contingent upon developing or reporting predetermined results.
5. The Appraisers have personally inspected the property, and has made an inspection of all comparable sales listed in the report, and is a signatory of this Certification.
6. To the best of the Appraisers' knowledge and belief, all statements of fact and information in this report are true and correct, and the Appraisers have not knowingly withheld any significant information.
7. No other person provided significant assistance to the persons signing this report.
8. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are the Appraisers' personal, impartial and unbiased professional analyses, opinions and conclusions.
9. The Appraisers certify that, to the best of their knowledge and belief, the report analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.
10. This appraisal is to be used only in its entirety and no part is to be used without the whole report. All conclusions and opinions concerning the real estate are set forth in the appraisal report were prepared by the Appraisers whose signatures appear on the appraisal report, unless indicated as "Review Appraiser." No change of any item in the appraisal report shall be made by

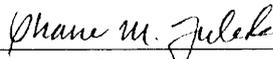
anyone other than the Appraisers, and the Appraisers shall have no responsibility for any such unauthorized change.

11. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
12. As of the date of this report, Glenn Kunihsa has completed the continuing education program for Designated Members of the Appraisal Institute.
13. As of the date of this report, Shane Fukuda has completed the Standards and Ethics Education Requirements for Candidates of the Appraisal Institute.
14. The Appraisers have performed services involving the subject within the three years prior to this assignment. Consulting services were conducted in January 2012.
15. Glenn Kunihsa and Shane Fukuda have made personal inspections of the appraised property which is the subject of this report and all comparable sales used in developing the opinion of value. The dates of inspection were September 1, 2013, January 16, 2012 and August 11, 2008, and the method of inspection was by-foot.
16. In the Appraisers' opinion, as of September 1, 2013, the market value of the subject before encumbrance by the proposed easement is \$1,940,000, and the market value of the subject after encumbrance by the proposed easement is \$1,440,000.

ACM Consultants, Inc.



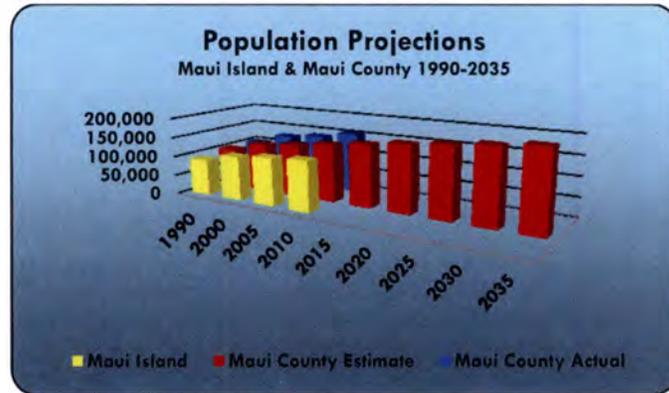
Glenn K. Kunihsa, MAI
Certified General Appraiser
State of Hawaii, CGA-039
Expiration: December 31, 2013



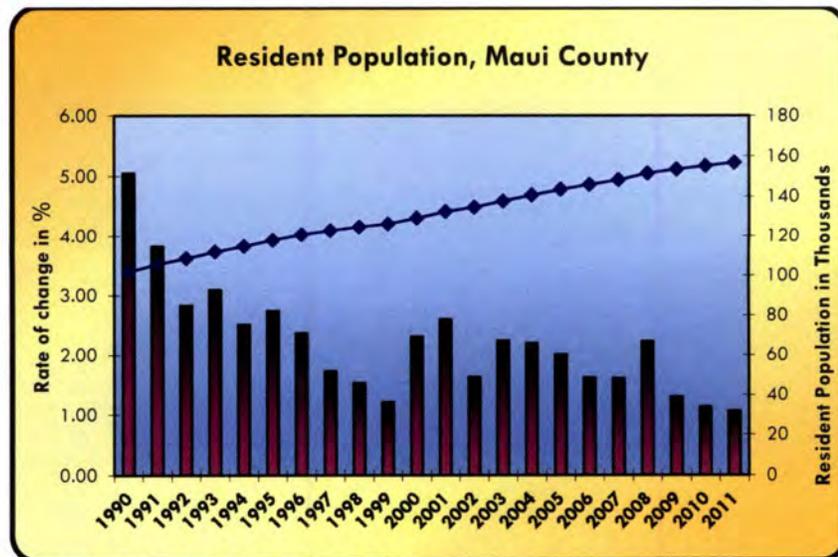
Shane M. Fukuda
Certified General Appraiser
State of Hawaii, CGA-810
Expiration: December 31, 2013

REGIONAL DATA - Maui County

Maui County is the third most populous of the four counties of Hawaii, with a total resident population of 154,834 (2010 Census); a change of 20.12 percent from 2000 and 52.23 percent since 1990. Maui County consists of the islands of Maui, Molokai, Lanai, and Kahoolawe. Ninety percent (90%) of County residents live on Maui Island; The Island of Maui consists of a total of 734.5 square miles, or 470,080 acres. Population Projections for Maui County and the Island Maui are illustrated on the table below.



The following graph illustrates the resident population change in Maui County from 1990 through 2010. The graph indicates that although Maui's population has been steadily growing, it now appears to be rising at a decreasing rate.



Source: UHERO Economic Information Service

Like all the Hawaiian Islands, Maui, Molokai and Lanai are blessed by warm air temperatures year-round, and ocean waters that range from 72-77°F in winter to 77-81°F in summer. The islands' distance from other continents, the moderating effects of the surrounding water and the tropical location combine to create this pleasant climate. Hawaii's topography, particularly the mountains and valleys and location of each island, contributes to the great variety of microclimates within very small areas. On Maui, the West Maui Mountains and Haleakala are the primary geological features affecting the weather. Due in part to the above geographical factors, Maui, for seventeen out of the last eighteen years, was selected "Best Island in the World" by readers of Condé Nast Traveler magazine.

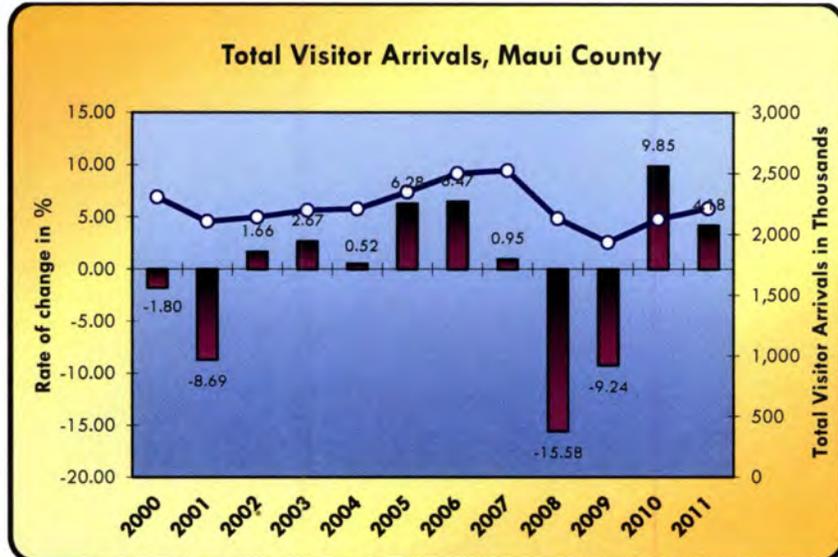
Visitor Industry

Historically, Maui hotel occupancies typically exceeded any area in the state with the exception of Waikiki. Its high rating is due to a number of factors. First, Maui receives the good fortune of location and climate. Second, Maui has the infrastructure in place to move tourists to a diverse variety of activities with a minimum of inconvenience and down time. The accommodations on Maui are another reason. Maui resort hotels have consistently ranked above other Hawaii resort destinations. In the Condé Nast Traveler magazine, eight (8) of the "Top 20 Hawaii Resorts" for 2011 were Maui County resorts. The Travaasa Hana Hotel topped the list, while other Maui County resorts garnering honors included: Four Seasons Resort Maui at Wailea (2nd); Four Seasons Resort Lanai at Manele Bay (4th); Four Seasons Resort Lanai, The Lodge at Koele (5th); Grand Wailea (11th); Fairmont Kea Lani (12th); Hyatt Regency Maui Resort & Spa (13th); and, Ritz-Carlton Kapalua (14th).

With the possible exception of Kauai, Maui is more dependent on tourism than any of Hawaii's four counties. That sector is not treating Maui very well today. For years, Maui has worked very hard at cultivating a worldwide image as a premier, upscale tropical island destination. In fact, it is the only county government in Hawaii that spends money to support tourism. In the wake of the current financial crisis, Maui's tourism counts and hotel occupancy have fallen significantly. Even the upscale and affluent markets, it appears, have curtailed their spending on trips to the Valley Isle.

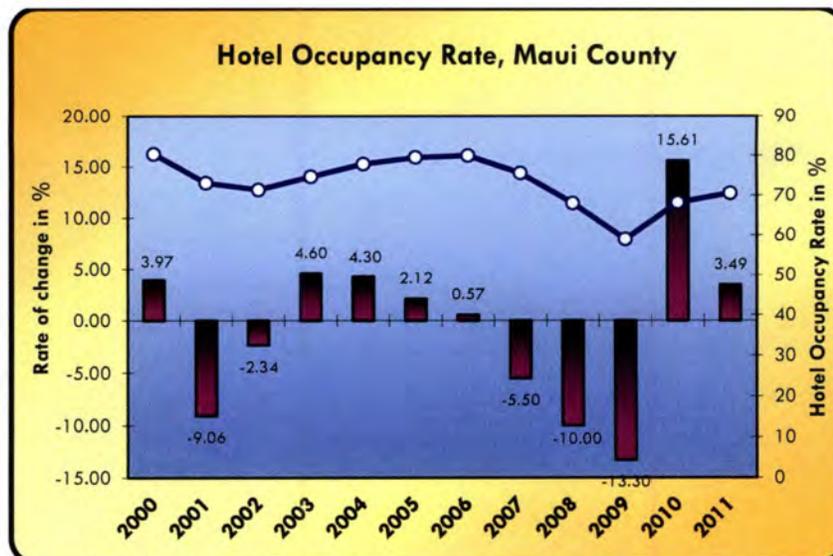
Tracking the tourism counts during this decade begins with the effects of the September 11, 2001 terrorist attacks on this country which had a drastic impact on the tourism industry. The final Maui visitor count for 2001 was 2,104,480. In 2002, the visitor count rebounded slightly to 2,139,427 as the visitors slowly returned during the mid to latter part of the year. Visitor totals from 2003 to 2007 indicate positive increases. As a result of the dismal economic conditions in 2008 and 2009, total visitor arrivals declined by 15.58 percent (2,129,040) and 9.24 percent (1,932,360), respectively, in those years. The lowest visitor arrival in Hawaii and many other visitor destinations worldwide were

severely impacted by the national and global economic recession. However, in 2010 the visitor count rebounded with a 9.85 percent jump to 2,122,640, as the economic conditions began to show signs of stability. A further increase of 4.18 percent was witnessed in 2011, as visitor arrivals climbed to 2,211,410.



Source: UHERO Economic Information Service

The hotel occupancy rate generally follows the trend of total visitor arrivals. Maui's occupancy rate increased by 15.61 percent from 2009 to 2010; the first increase witnessed in several years. In 2011, Maui County had the second highest occupancy rate of all the Hawaii counties at 70.5 percent, behind Oahu at 80.8 percent. Meanwhile, Kauai showed occupancy of 64.4 percent and Big Island at 58.4 percent.



Source: UHERO Economic Information Service

Visitor shopping opportunities have increased in recent years with the opening of The Maui Marketplace, a 275,000 square foot shopping complex, modeled after Oahu's successful Waikale Center. The Maui Marketplace is now home to such retail superstores like Lowe's Hardware, Pier One Imports, Sports Authority, Starbucks Coffee, and Office Max, as well as many small local retailers and restaurants. Also opening in the same Kahului area were Home Depot, Wal-Mart, Big K and Costco. In addition, the Shops at Wailea opened in December 2000 and added approximately 150,000 square feet of high-end retail space in the Wailea Resort. At about the same time, the 150,000 square foot Piilani Shopping Center opened in Kihei with Safeway as its anchor tenant. The latest entry into the retail sector is the Lahaina Gateway, which opened in 2007. Dubbed a "lifestyle center", Lahaina Gateway, offers almost 137,000 square feet of gross leasable area. Tenants include Barnes and Noble, Foodland Farms, Office Max, Outback Steakhouse, Central Pacific Bank and many other smaller retail shops.

Maui offers more than any other Neighbor Island in the way of proven vacation experiences. It has a larger tourism activities industry relative to the size of its economy than any other county. Such activities include ocean recreation, helicopter tours, biking down Haleakala, zip lining, and golfing, among numerous other activities. Maui's well-developed ocean recreation industry ranges from windsurfing to snorkeling, scuba diving and sailing cruises which leave regularly from Lahaina and Ma'alaea Harbors.

Maui also has theme destinations, such as the Maui Tropical Plantation, Maui Nui Botanical Gardens, Alii Kula Lavender Farm, and Surfing Goat Dairy. But the premier theme destination on the island is the Maui Ocean Center. This center, featuring the marine environment of the Hawaiian Islands, is modeled after five other aquarium parks developed elsewhere in the world by Coral World International. This ocean center is located just behind the Maalaea Boat Harbor, and is easily accessible from Kahului/Wailuku, and the resort areas of Lahaina/Kaanapali and Kihei/Wailea. The Maui Ocean Center anchors the 18-acre Maalaea Harbor Village, which also includes a retail strip shopping center, restaurants and other services.

While the United States and the world in general recover from the current economic crisis, it is anticipated that Maui will continue to be a strongly favored destination for Mainland tourists. The island has a large share of condominiums available for families and groups on a budget. The California recovery in the early 2000's fueled higher demand for condominium rentals and this may happen again in the next decade.

Between 2008 and 2010, hotels and other tourism-related industries cut back their work force to match declining occupancy

rates. Today, with tourism showing signs of growth, the work force is noticeably increasing. While tourism still dominates the labor force, the profitability problems of the large resorts have led managers to refine their operations.

Real Estate

Residential real estate can be divided into three broad categories (single-family homes, condominiums and residential lots) and four important geographic regions. With a variety of property types in each of the regions, the market has proven capable of moving up and down with relatively little correlation amongst regions.

All of the neighborhoods have single-family housing and residential lots. However, several neighborhoods such as Kapalua, Kaanapali, and Wailea are virtually comprised solely of luxury housing. Areas such as Kahului have no luxury housing and Wailuku has very little. All other areas have a mix.

With respect to condominium units, Upcountry and East Maui have virtually no condominium properties. All other areas have condominium units. When looking at leasehold versus fee simple projects, South Maui and Central Maui have very few leasehold condominiums. Only West Maui has a mixture of both types.

Areas such as Upcountry and East Maui are made up primarily of agricultural and rural properties. All other areas are limited in this property type.

Owner-occupied housing on Maui runs about 56 percent of all occupied housing units. The total housing stock has been growing at a rate of about 1,000 units a year in the 1980's. The total accelerated to 1,500-2,000 new units in the late 1980's, well short of demand. The Maui population has expanded tremendously for the past 10 to 12 years, but housing was not being built at the same pace as the 1980s. As a result, demand for housing during that period outpaced supply and homes prices and rents rose dramatically. The median single-family home price on Maui averaged \$471,925 in 2012, which is an increase of 7 percent from the 2011 average of \$440,160. This marked the first year-over-year gain since 2006. Median sales price for a single family home averaged \$462,346 in 2010; \$498,708 in 2009; \$574,760 in 2008; \$627,887 in 2007; \$697,450 in 2006; and \$678,321 in 2005.

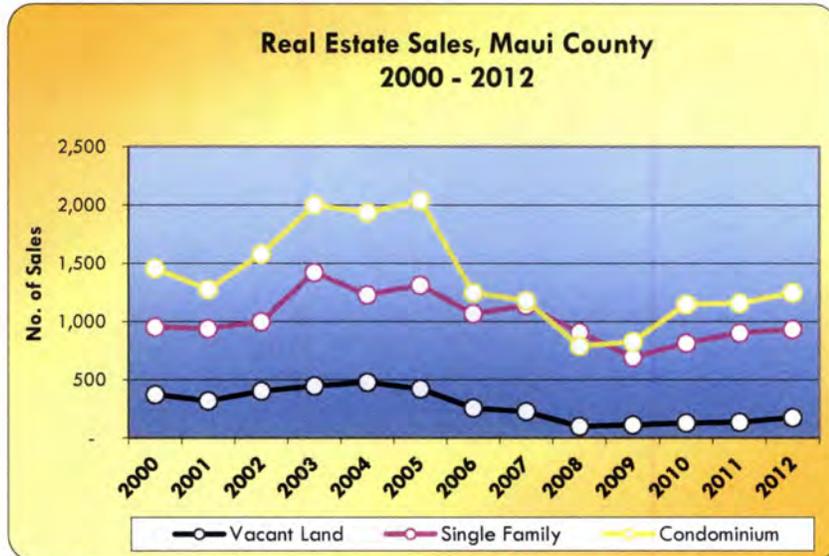
Years 2005, 2006, and 2007 are considered the height of the real estate market. From 2008 to 2011, the real estate market changed direction, with a less stable economy and more stringent lending practices. The onset of the Great Recession in late-2008 severely weakened the ability of owner-occupants and investors to acquire real estate.

There was measured growth in 2012, with regard to unit sales volume and median prices. Those active in both the residential and commercial markets report increased interest and sales activity. They attribute this to a lack of available inventory, coupled with interest rates remaining at historically low levels.

Average annual interest rates have been on a steady decline since 2006 when the average interest rate was 6.41 percent. In 2012, interest rates averaged 3.66 percent, down from the previous year's average of 4.45 percent. The 3.66 percent interest rate represents the lowest annual average since 1971. Lending institutions were also more willing to finance real estate purchases from 2012, which has allowed market participants to take advantage of these low interest rates.

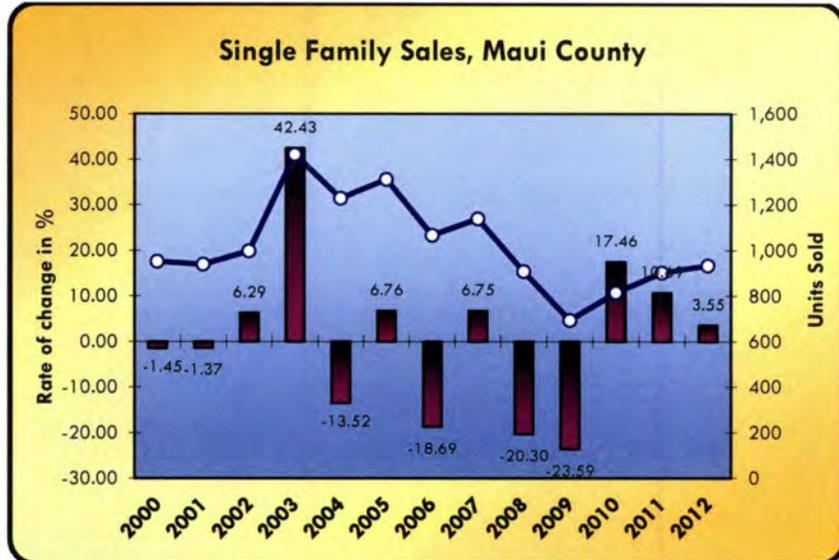
The following summarizes a sales volume history for Maui County from 1990 to 2012, which includes resales and new project sales.

| <u>Year</u> | <u>Vacant Land</u> | <u>Single Family</u> | <u>Condominium</u> |
|-------------|--------------------|----------------------|--------------------|
| 1990 | 298 | 560 | 1,459 |
| 1991 | 116 | 430 | 593 |
| 1992 | 120 | 382 | 496 |
| 1993 | 121 | 361 | 461 |
| 1994 | 148 | 404 | 592 |
| 1995 | 118 | 331 | 495 |
| 1996 | 126 | 451 | 577 |
| 1997 | 182 | 507 | 812 |
| 1998 | 276 | 641 | 999 |
| 1999 | 408 | 965 | 1,348 |
| 2000 | 372 | 951 | 1,456 |
| 2001 | 318 | 938 | 1,274 |
| 2002 | 402 | 997 | 1,578 |
| 2003 | 447 | 1,420 | 2,001 |
| 2004 | 477 | 1,228 | 1,935 |
| 2005 | 421 | 1,311 | 2,041 |
| 2006 | 255 | 1,066 | 1,247 |
| 2007 | 226 | 1,138 | 1,179 |
| 2008 | 97 | 907 | 788 |
| 2009 | 110 | 693 | 826 |
| 2010 | 127 | 814 | 1,147 |
| 2011 | 134 | 901 | 1,157 |
| 2012 | 173 | 933 | 1,248 |



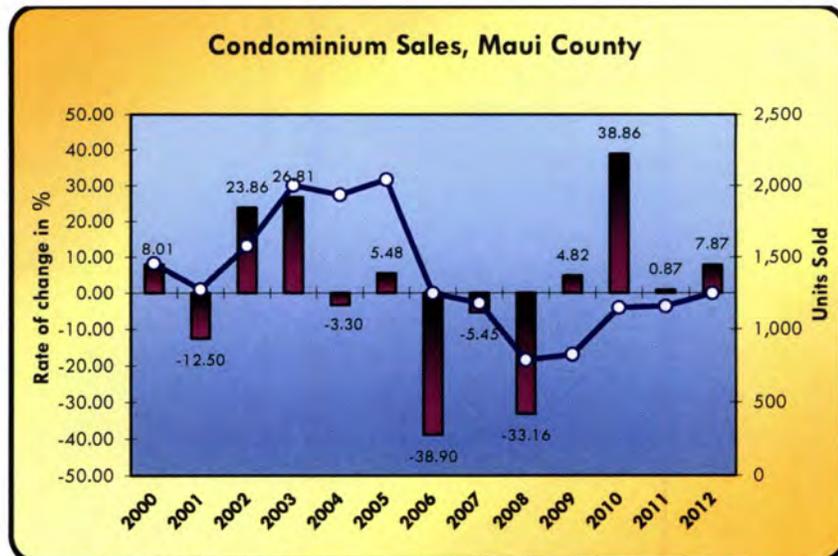
The real estate market increased significantly between 2002 and 2006. Single-family sales saw noteworthy increases in 2003, where the number of single-family sales leaped upwards of 42 percent. There was a 13 percent dip in 2004, followed by a rebound of almost 7 percent in 2005. For 2006, there was a decrease of 18 percent, with a subsequent upward bounce of almost 7 percent in 2007. Then, with the eroding economic conditions and financial crisis in 2008 and 2009, Maui County experienced a 20 and 23 percent drop in sales in each of the respective years. This was the biggest decline in sales since 1991, when sales of single-family homes dropped by 25 percent.

Since 2010, however, there has been a gradual increase in the number of single family sales. This is attributed to the low property prices which have attracted market participants. The market for single family homes has experienced price depreciation of about 30 percent since the peak of the market in 2006 and 2007. The following graph further illustrates the single-family sales volume history for Maui County from 2000 to 2012.



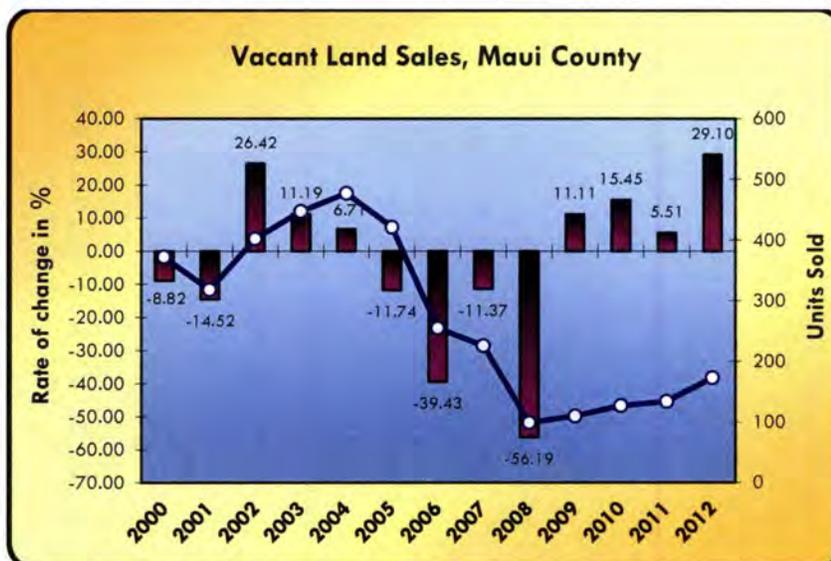
Source: Realtors Association of Maui

Similarly, condominium sales had experienced significant increases since 1999 in terms of units sold, achieving a high in 2005. In 1999, 1,348 condominium units were sold, registering a 34 percent increase from the prior year. In 2001, the number of sales fell slightly, but rebounded significantly in 2002. In 2003, however, total condominium sales skyrocketed to 2,001, fell slightly to 1,935 units in 2004 and then jumped to 2,041 units in 2005. It appears that 2006 was the turning point for sales volume, as condominium sales plunged over 38 percent, followed by another 5 percent fall in 2007. For 2008, sales volume dived 39 percent. Since then, however, there have been year-over-year gains of 14 percent in 2009, 38 percent in 2010, 1 percent in 2011 and 8 percent in 2012. The following graph further illustrates the condominium sales volume history for Maui County from 2000 to 2012.



Source: Realtors Association of Maui

Land sales increased steadily between 2001 and 2004, but dropped 11 percent in 2005 with only 421 sales, then another 40 percent to 251 sales in 2006. This trend continued in 2007, with an 8 percent slide to 229 sales, surpassed by a huge 57 percent plunge in 2008. The first increase in four years was witnessed in 2009, as vacant land sales volume increased by 12 percent and again increased in 2010 by 14 percent. In 2011, the volume of land sales increased again but at a slower pace of about 5 percent. In 2012, the pace of sales increased with 30 percent greater sales volume than in 2011. Many developers, realtors and lenders consider the passage of the Workforce Housing Ordinance (December 2006; revised 2010) and the Water Availability Ordinance (December 2007; revised 2011 and 2012) to have had a significant contribution to the severe decline of sales of vacant land. There was also unwillingness by lending institutions to finance land purchases from the onset of the Great Recession in late-2008 through 2011. The following graph further illustrates the vacant land sales volume history for Maui County from 2000 to 2012.



Source: Realtors Association of Maui

Median prices continued to rise until 2006 for all categories of real estate. The average monthly median prices in 2006, for land parcels, single-family homes and condominium units, increased 30 percent, 4 percent and 34 percent, respectively. In 2007, average monthly median prices for land and single-family property decreased 19 percent and 11 percent, respectively, while the average median price for a condominium increased 6 percent. It should be noted that the average condominium median price had heavy upward influence by December closings in Honua Kai, a luxury oceanfront property. For 2008, the average monthly median prices for single-family homes retreated by approximately 8 percent. Vacant land saw a gain of about 31 percent over 2007, while condominiums decreased by 2 percent. In 2009, vacant land

median price decreased by 18 percent, while single-family and condominium properties decreased by 13 and 15 percent, respectively. As the economic recession continued into 2010, the median sales price for all property types declined. Vacant land showed the largest drop of 33 percent from 2009 levels, and single family and condominium properties decreased by 7 and 16 percent, respectively. Median prices continued to decline in 2011, with vacant land leading the pack at 16 percent, condominiums at 20 percent, and single-family prices at 5 percent.

In 2012, median prices averaged 7 percent higher for single-family and 13 percent higher for condominium units. The vacant land average median price was generally stable, exhibiting a decline of only 1 percent. Discussions with real estate professionals indicate that this change in market trend is being fueled by a combination of low interest rates, more abundant financing opportunities and a lack of inventory. Research of the Maui Multiple Listing Service revealed that active listings of vacant land, single-family and condominium properties have declined by 50 percent from mid-2009 through 2012.

Construction and Development

The construction industry, in the mid part of this decade, benefitted from a robust economy and building climate. Three new commercial centers were built in 2000. The Wailea Shopping Village had been demolished and was replaced with The Shops at Wailea, which includes 150,000 square feet of upscale retail and restaurant space. Also, the 150,000 square foot Piilani Village shopping center was built at the same time and is anchored by a 55,000 square foot Safeway store, one of the largest Safeway in the state. The Ma'alaea Harbor Village shopping complex, where the premier Maui Ocean Center presently stands, was also built during the same period; however, since then, no other project has been attempted and the majority of the lots in this commercial subdivision sit vacant. As previously discussed, the Lahaina Gateway was completed in 2008 and injected an additional 137,000 square feet of retail space.

In 2012, neighborhood retail centers in Maui Lani and Kehalani broke ground, with Kehalani Village Center's first anchor store, Longs Drugs, already open for business. The landscape near Kahului Airport also saw significant change, with the completion of the Courtyard by Marriott Maui Airport Hotel. Across the street, Costco expanded its warehouse and finished a new fueling center. Meanwhile, A&B Properties began site work on its 179-acre Maui Business Park 2.

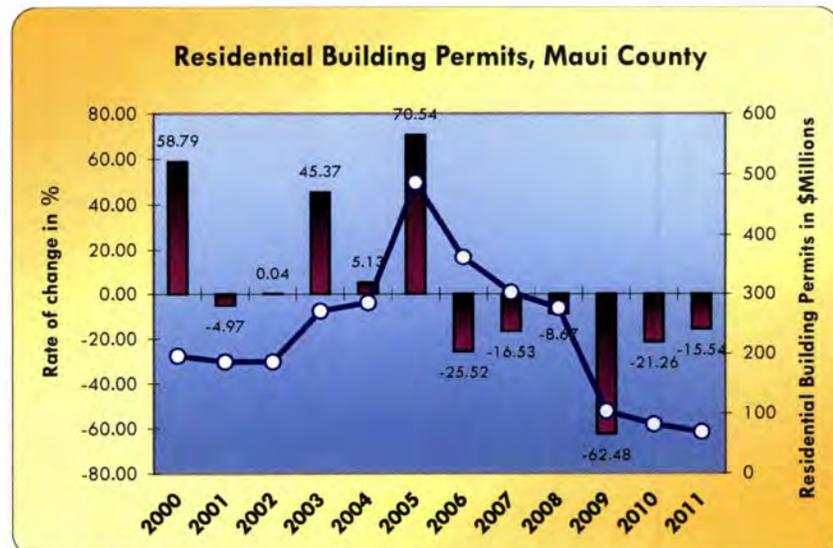
Vertical construction of the Kihei Police Station is underway along Piilani Highway. In Wailea, the Andaz Maui at Wailea Resort & Spa is slated to open in mid-2013, on the site of the former Renaissance Wailea Beach Resort. Meanwhile, the South Maui

community's goal of having its own public high school took a positive step, as the project's final environmental impact statement was approved in November 2012.

There were no large commercial development starts in West Maui for 2012; however, one of Maui's largest public works projects, the Lahaina bypass highway, continues to move forward.

Construction of single-family and condominium properties has fallen significantly, as developers have curtailed building to meet their anticipated sales levels. As mentioned earlier, the real estate market softened between 2008 and 2011, with median prices decreasing as well as an increase in marketing days. Although the economic recession has played a big part in the decrease of construction of residential properties; the enactment of two ordinances—the Workforce Housing Ordinance (2006; revised 2010) and the Water Availability Ordinance (2007; revised 2011 and 2012), which have forced stringent requirements on developers, has also greatly affected construction on Maui.

The following graph illustrates the trend of residential building permits (in dollars) in Maui County from 1999 through 2011. As shown in the following graph, residential permits peaked in 2005 at the height of the real estate market. As previously discussed, many feel that the passage of County ordinances relating to development in 2006 and 2007, coupled with increased construction costs and poor economic conditions, have severely lessened the ability to feasibly create new housing projects.



Source: UHERO Economic Information Service

In Central Maui, the majority of the residential construction is within the Kehalani and Maui Lani project districts, which are being developed with several new subdivisions and condominium projects.

There are three condominium developments under construction in the Kehalani district: Villas at Kehalani, Milo Court and Ho'olea Terrace. All three are townhouse style developments. Presently, there are two ongoing projects at Maui Lani: Traditions (single-family homes) and Parkways (both house lots and single-family homes). Sandhills Estates is a completed single-family house lot subdivision with a few developer lots remaining.

The demand for housing in the Central Maui area had been extremely strong up to mid-2006, with projects usually sold out prior to completion of construction. Due to the more recent downward trend of the economy and residential real estate market, developers are now finding themselves holding inventory and most new residential construction outside of the aforementioned project districts has ceased.

Spencer Homes completed construction of a 410-unit affordable project in 2008, called Waikapu Gardens. Approximately half of the houses met County affordable housing pricing requirements. This project was welcomed by the community as "affordable" prices were stated to be below \$300,000. This project gained approval by the Maui Nui Affordable Housing Taskforce which was set up in response to the growing need for affordable housing on Maui. In 2012, Spencer Homes began the entitlement process to extend its Waikapu Gardens project by an additional 48 affordable homes.

Up to 2006, Kihei had also seen an upswing in residential development brought upon by ongoing residential projects including Ke Ali'i Ocean Villas (townhouse condominiums) and Moana Estates (single-family homes) by Towne Development, Kamali'i Alayna (single-family homes) by Betsill Brothers, Inc., and Signature Homes' Hokulani Golf Villas (residential condominiums). Other current South Maui projects are Kilohana Waena (house lots) and Kai Ani (townhouse condominiums). Similar to Central Maui, the developers of ongoing projects have slowed construction while continuing to market their units; whereas, previous Kihei developments were often sold out prior to construction completion.

Ongoing condominium projects in West Maui include Hoonanea and The Breakers. Both are townhouse-style developments with new fee simple units for sale.

Retailing

In retail, the most significant addition to Maui is the Lahaina Gateway situated along Honoapiilani Highway across from the Lahaina Cannery Mall. It was dubbed as a "lifestyle center" with specialty retail shops, services and restaurants. Opened in late 2007, this 137,000 square foot center includes anchor tenants such as Office Max, Barnes & Noble, Outback Steakhouse, and Lahaina Farms, a supermarket owned by Foodland's Sullivan family.

Prior to Lahaina Gateway, Maui Marketplace on Dairy Road was the last large retail development to be built, at 275,000 square feet. This center contains the likes of Lowe's Hardware, Office Max, Sports Authority, Old Navy, Petco, Pier One Imports, Burger King and Starbucks Coffee.

Wal-Mart and Home Depot are also located on Dairy Road, immediately west of the Maui Marketplace. These outlets joined earlier arrivals Costco and Kmart, as well as Alexander & Baldwin's neighboring Triangle Square, in carving up the Maui retail pie. However, the local malls are answering the challenge with more food and entertainment, and retailers that can compete in their niche. Maui's largest mall, Queen Kaahumanu Center in Kahului, has been challenged by the presence of these large box retailers and vacancies are very noticeable.

In Kaanapali, Whalers Village has taken a turn toward the luxury market popular with the Japanese. After completing a \$3 million renovation and a change in its tenant mix, this oceanfront center now aims for both westbound and eastbound visitors. Japanese visitors are targeted with Duty Free Shoppers, Louis Vuitton, Prada, Loewe and other high-end shops.

The 150,000-square foot Shops at Wailea opened in 2000, offering upscale shopping in its high-end retail shops. Tenants include Louis Vuitton, Coach, Bally, Fendi, Tiffany & Co., Banana Republic, and Georgiou. Restaurants in this mall include Ruth Chris Steak House, Tommy Bahama Café and Emporium, and Longhi's. Other retailers include Crazy Shirts, Hot Topix, Gap, Wolf Camera, and Whalers General Store.

Phase I of Wailea Town Center was completed in 2006 while Phase II was completed in 2007. It contains neighborhood services which include retail and office owner-occupants. The second phase included more commercial condominium units and residential units on the second floor. Current condo owners in this project include Coldwell Banker and First Hawaiian Bank. This development was met with high demand as all of the units have already sold and some have even resold. Another commercial retail/office project, Wailea Gateway Center, was completed in 2009 and is home to several restaurants, retailers, and real estate related offices.

Agriculture

Agriculture on Maui has historically been dominated by larger operations like Maui Land & Pineapple Company and Alexander & Baldwin's Hawaii Commercial and Sugar (HC&S).

Pineapple now confronts more foreign competition from places like Thailand. In 2007, Maui Land & Pineapple Company shut down the canning portion of its operation to rely solely on the more profitable fresh fruit segment. Downsizing of the plantation occurred in 2008, which resulted in a reduction of over 200

employees. In December 2009, Maui Land & Pineapple Company announced that it would be shutting down its agricultural arm, citing continued annual losses. A new company, Haliimaile Pineapple Company, was formed the following week and was able to take over a portion of the pineapple operations.

HC&S survives as Hawaii's only remaining sugar operation due in part to its economies of scale, its land configuration (a relatively compact and contiguous land area in the isthmus of the Valley isle), and its commitment and ability over the years to reinvest and upgrade plant and equipment. But the last active sugar plantation in the state is facing other hardships, namely water. There had been drought conditions on Maui between 2007 and 2009, contributing to low sugar yields. According to HC&S, future viability is dependent on continued stream diversion; however, there has been opposition to this continued practice. HC&S continues to re-evaluate its operations to remain viable, including consideration of potential biofuels and other energy alternatives.

Another of Maui's sugar operation casualties, Pioneer Mill in West Maui, is missed visibly. For years, proponents of maintaining and sustaining Hawaii's sugar industry argued that growing sugarcane imparted to this economy an important, if underestimated, non-pecuniary benefit; sugar kept the land green and attractive, for tourists and locals alike, and its cultivation contributed to the recharge of groundwater resources. Economists call this situation an "externality," an activity that affects others for better or worse, without those others paying or being compensated for activity.

Anyone who doubts that logic now has only to drive the West Maui coast from Olowalu to Kaanapali and look mauka, at an entire mountain side of dry brush and unused fields. As with many cases where sugar plantations have shut down, most diversified agriculture crops are just not land intensive enough to utilize all the vacant land. Coffee and seed corn operations are possibilities, but they make only a small dent.

In addition to sugar and pineapple cultivation, Maui also offers rich opportunities for agricultural diversification by small farmers and large agribusinesses. Top among new agricultural products are: papaya, cut flowers, coffee, Kula onions and strawberries, and Chinese cabbage from Kula. Molokai offers its sweet potatoes, Molokai lettuce and alfalfa, as well as taro.

High-Tech

Maui's contribution to Hawaii's fledgling high-tech industry remains pre-eminent in the state. It also represents genuine diversification of the economy. The Maui Research and Technology Park in Kihei has its entire infrastructure in place, and has completed four major building projects. Most important, it houses one of the country's most powerful supercomputers. The park now hosts over 30 companies and over 300 employees on 415 acres.

With access to one of the most powerful supercomputers in the world, funded by the U.S. Air Force, the Maui Research and Technology Park is continuing its efforts to diversify the Maui economy into something fundamentally different from what exists in the county or anywhere else in the state.

An office building was developed by the Maui Economic Development Board in 2006, and contains approximately 31,500 square feet of rentable area on a 2.8-acre site. Another completed project is Park Plaza, a 26-unit commercial office condominium building developed by Goodfellow Brothers and Betsill Brothers. Since its completion in 2008, sales have been very sluggish.

The Park is sticking to its long-run strategic plan to capitalize on its location at the center of the Pacific Basin. Its extensive fiber-optic network to the U.S. Mainland makes it one of the most fiber-rich environments in the world, greater than many facilities actually located on the Mainland.

County Government

Maui County is unique in having several inhabited islands in its jurisdiction: Maui, Molokai, as well as Lanai, and the uninhabited island of Kahoolawe.

Maui County has an elected Mayor and County Council, and the Liquor Control Commission is semi-autonomous with appointed directors. Although all courts are conducted by the State, the County is responsible for prosecution and the Mayor appoints the prosecutor. The council has nine members, each residing in one of nine districts; however, voters cast ballots for all nine seats. Unlike other states, Hawaii has only two layers of government: State and County. The State is responsible for many functions that elsewhere come under the jurisdiction of municipalities, such as schools, hospitals, and airports. Also, unlike other states, Hawaii has statewide zoning implemented by the State Land Use Commission. The County has zoning authority within the boundaries established by the commission.

The lack of affordable housing continues to be a concern within the County of Maui. Maui is one of the most expensive counties for single-family home buyers. A record high median price of \$780,000 was set in July 2006 for a single-family home. Since then, the single-family median sale price has fallen, with an average monthly median of \$627,887 in 2007, \$575,510 in 2008, \$498,708 in 2009, \$462,346 in 2010 and \$440,160 in 2011. An increase to \$471,925 was witnessed in 2012. Even with the decline in median price, according to the latest State of Hawaii Data Book, 8 percent of the houses are overcrowded on Maui and 41.4 percent of the households pay more than the recommended limit of 30 percent of their income on housing. In fact, 27.1 percent pay more than 40 percent on housing.

This heightened effort by the County resulted in the passage of Ordinance 3418 on December 5, 2006, under which all proposed developments are subject to review if they are to contain five or more units or lots. Under this ordinance, if the average sales price is projected to be less than \$600,000, 40 percent of the total units must be priced to meet the various affordable categories. If the average sales price in the project is \$600,000 or more, then 50 percent of the units must be affordably priced. An alternative to providing the affordable units is to pay an in-lieu fee equal to 30 percent of the average projected sales price of the market rate units multiplied by the number of affordable units required in the development. Or, the owner may elect to provide land which is equal in value to the in-lieu fee. This ordinance has had a profound effect on residential development since its passage. The subsequent reduction in proposed projects had many in the building and real estate industries questioning whether the ordinance created too much of an obstacle for developers.

In an effort to stimulate residential construction, the ordinance was revised by the County Council as Ordinance No. 3719, effective February 26, 2010, reducing the amount of required affordable housing units built on site to 25 percent, provided the average sales price of the market units is projected to be less than \$600,000. If the average sales price in the project is \$600,000 or more, then 50 percent of the units must be affordably priced. The new law also clarified the calculation of required affordable units built off site; based on 50 percent of the total number of on-site market units, regardless of their projected average sales price.

The water availability ordinance is another law that has made an impact on the development community. On December 14, 2007, the County of Maui passed into law Ordinance 3502. As a result, the Department of Water Supply (DWS) is presently restricting the issuance of meters for all uses in the central and south Maui service areas and this bill restricts issuance of any building permits until the DWS can issue a meter consistent with the provisions of the bill. In order to do so, the DWS director needs to provide verifiable, long-term supply of water to the property. Landowners and professionals in the development community have been openly critical of the ordinance, some calling it a de facto moratorium on housing. Not surprisingly, sales of vacant development lands have been impacted.

The ordinance was revised by the County Council as Ordinance No. 3818, effective April 5, 2011, exempting infill development (10 residential dwellings or less) within areas already developed and having consistent land use; residential workforce housing units built by a qualified housing provider; residential development projects with 100 percent affordable units; and public or quasi-public development projects. The exemptions are only applicable within areas serviced by the Water Department's Central or West Maui

water systems. An April 10, 2012 revision by the County Council, Ordinance No. 3934, allows developers to defer conformance with the WAO until subdivision construction plans are to be approved, rather than upon submittal. Time will tell if the latest versions of both ordinances will help to achieve their intended goals.

NEIGHBORHOOD DESCRIPTION

General Description

The subject is a part of the Hana district which encompasses approximately 145,000 acres in the eastern portion of the island of Maui. The boundary of the region, from its northern shoreline at Makaiwa Bay, runs mauka along 'O'opuola and Waikamoi Streams, then along the boundaries of Haleakala National Park and the Kahikinui Forest Reserve and finally makai along the boundary between Auahi and Kanaio to Kanaloa Point on the southern shoreline of the region. This area includes the entire tax map key Zone 1.

Hana Town is located on the easternmost shoreline of Maui, midway between the region's northern and southern boundaries. Situated 55 miles from the County seat in Wailuku, Hana Town is the major population center of the region. The Hana region also includes Keanae, Kipahulu and Kaupo, small rural settlements situated at dispersed points along the coast. The region's population was 2,291 in 2010, 1,855 in 2000, 1,895 in 1990, 1,423 in 1980 and 969 in 1970.

The region's economy is based primarily on diversified agriculture, the visitor industry, government services and subsistence activities. Diversified agricultural activities include ranching, tropical fruit, flower and foliage and taro cultivation. Visitor accommodations are centered in Hana Town. The entire region offers numerous scenic attractions including Oheo Gulch which is part of the Haleakala National Park.

Environmental and Historical Context

The Hana District contains more the 90 *ahupua`a* within the five traditional districts of Koolau, Hana, Kipahulu, Kaupo and Kahikinui. The subject is situated in **Keanae**, which is a part of Koolau.

Encompassing the eastern half of Haleakala, rainfall in the region ranges from over 150 inches annually along the Keanae shoreline to only 20 inches along the Kahikinui coastline. Steep slopes, rugged shorelines and the rough waters of the Alenuihaha Channel characterize the entire region as do mountain rainforests, perennial streams and open ranch lands.

Most of the region, except portions of Hana and Kipahulu, was never plowed under for large-scale plantation agriculture which has resulted in the preservation of many of its ancient and historic sites in stream valleys and along the shoreline. There are at least 104 *heiau* (ancient burial grounds) recorded in the Hana region. There are several remaining Hawaiian churches over 100 years old, which were built of stone and coral cement in former population centers throughout the region. The scenic Hana Highway, with its many historic bridges, winds through the Koolau and Hana districts and becomes Piilani Highway as it passes

through Kipahulu, Kaupo and Kahikinui. The ancient "King's Highway" of Piilani Trail is also intact throughout much of the region.

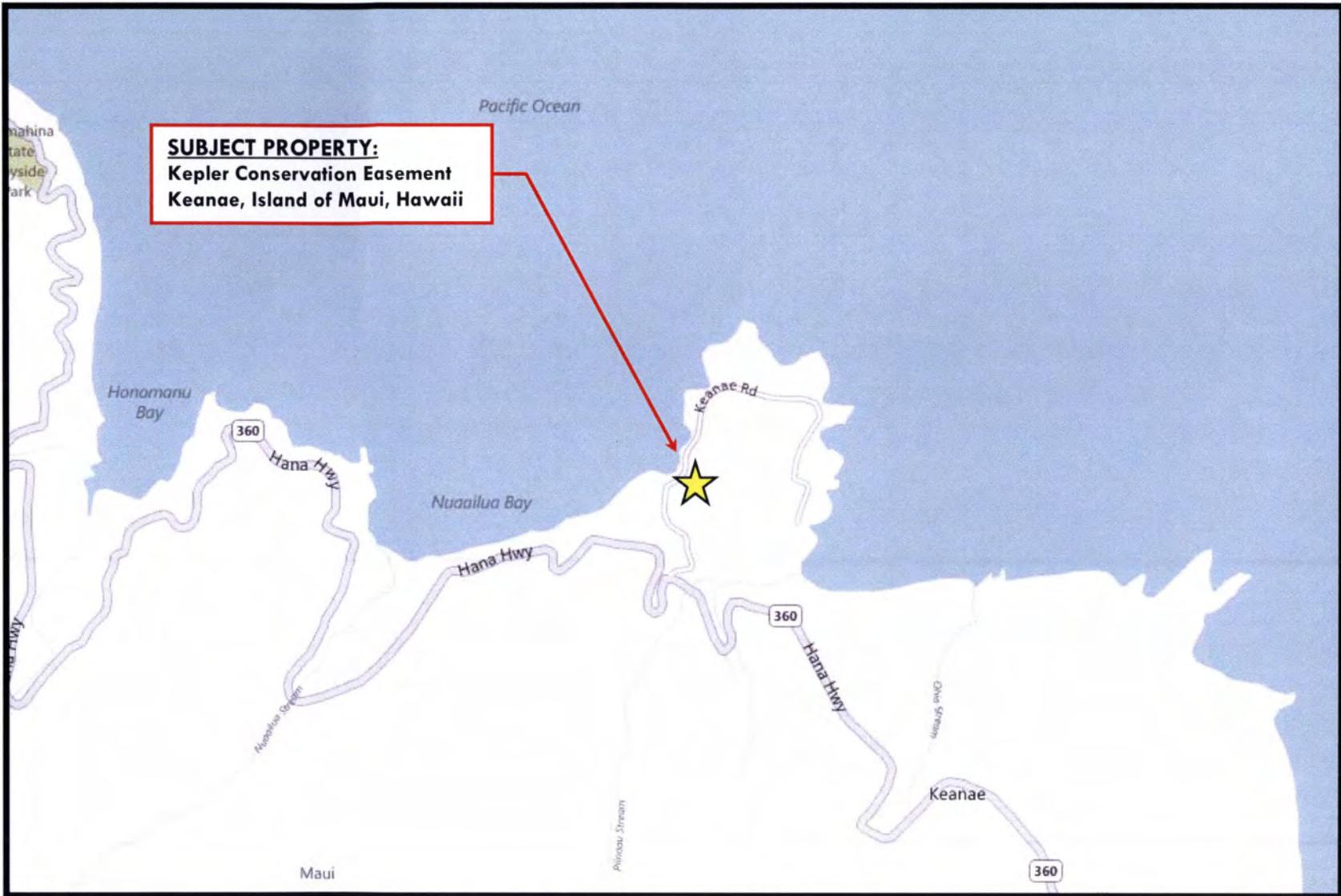
Koolau, the northern portion of east Maui, is by far the wettest, and its many streams provide water for the taro growing centers of Keanae and Wailua, as well as for the former canoe building center of Nahiku. Taro *lo'i* blanket the Keanae peninsula and ring the Wailua Valley, many of which are still in cultivation today. The historic Koolau ditch, constructed by Japanese stone cutters, bisects the many streams of the district, exporting water for irrigation and urban use in the central valley and upcountry region. There are 20 recorded *heiau* in Koolau.

Hana is steeped in legend and was a major center of population and political power in ancient Hawaii. Plantation sugar was cultivated here from the mid-nineteenth to the mid-twentieth century, obliterating many traditional structures. However, the ruggedness of the land, and the persistence of a large Hawaiian population with many small land claims have contributed to the preservation of sites. Hana has 32 recorded *heiau*, including the recently restored Pi'ilanihale, the largest in the state.

Kipahulu also experienced plantation agriculture for a period of approximately 40 years during which countless taro terraces, house sites and *heiau* were destroyed. However, at least six *heiau* still exist and other sites are still plentiful in the rugged areas not cultivated in sugar. The old Kipahulu mill, other plantation remnants, Hawaiian house sites, and terraces dot the landscape.

Kaupo supported a large population before an earthquake in the 1930s dried up several springs that watered Manawainui and Naholoku. Numerous agricultural terraces and house sites cover the landscape. Loalua *heiau* is a National Historical Landmark, one of 30 recorded *heiau* in the district.

Kahikinui is said to have been heavily wooded and populated before devastating lava flows and fires in the mid-eighteenth century. Overgrazing destroyed what remained of the high altitude dryland forest in the early 20th century. Many intact village sites, 16 recorded *heiau* and the 19th century Hoapili trail make up the archaeological resources found in the desolate landscape of Kahikinui today.



Not to Scale!

NEIGHBORHOOD MAP

PROPERTY DATA

Legal Description

The subject property is located along Keanae Place on the Keanae Peninsula. It is a part of the Keanae Homestead, 1st Series, Koolau, Hana, Island of Maui, Hawaii. The legal description of this property was gleaned from the Preliminary Report prepared by Title Guaranty of Hawaii, Inc. dated September 25, 2008.

PARCEL FIRST

All of that certain parcel of land situate at Keanae, District of Hana, Island and County of Maui, State of Hawaii, described as follows:

LOT 1, area 4.85 acres, more or less, as shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 240 of Annie Amoy Ah Quai Chamberlain.

PARCEL SECOND

All of that certain parcel of land situate at Keanae, District of Hana, Island and County of Maui, State of Hawaii, described as follows:

LOT 3, area 1.45 acres, more or less, as shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 240 of Annie Amoy Ah Quai Chamberlain.

The subject is further described on the Tax Maps of the State of Hawaii as:

Division 2, Zone 1, Section 1, Plat 03, Parcels 041 & 065

It is hereby noted that the tax map indicates land areas of 6.12 acres for Parcel 041 and 0.18 acre for Parcel 065, totaling 6.30 acres. While these areas do not match with the legal descriptions of Parcel First and Parcel Second above, the total land area of 6.30 acres is the same.

Real Estate Assessments and Taxes

Land and improvements in Hawaii are assessed based on 100 percent of their estimated market value. Assessed valuations are calculated on a fiscal year basis. The table on the following page reflects the Maui County Tax Office assessments for the tax periods 2011 to 2013. In this case, the larger Parcel 041 is dedicated to Agricultural use and, for parcels so designated, the County significantly lowers its assessed value. As will be demonstrated in

the valuation section of this report, the market values of these parcels are significantly higher than the assessed values by the County of Maui.

Similarly, lands designated Conservation District also have lower assessments due to the limitations placed on their potential uses. The market, however, has demonstrated that it will pay prices much higher than the assessed values.

Table 1 – Real Property Assessments and Taxes

Parcel 041

| Year | 2013 | 2012 | 2011 |
|-------------------|-------------|-------------|-------------|
| Land | \$29,500 | \$27,000 | \$32,000 |
| Exemptions: | \$0 | \$0 | \$0 |
| Building | \$121,000 | \$119,100 | \$119,500 |
| Exemptions: | \$0 | \$0 | \$0 |
| Total: | \$150,500 | \$146,100 | \$151,500 |
| Rate per \$1,000: | \$6.05 | \$6.00 | \$5.80 |
| R. P. Taxes: | \$910.53 | \$876.60 | \$878.70 |

Parcel 065

| Year | 2013 | 2012 | 2011 |
|-----------------------------|-------------------|-------------------|-------------------|
| Land | \$3,600 | \$2,400 | \$3,200 |
| Exemptions: | \$0 | \$0 | \$0 |
| Building | \$0 | \$0 | \$0 |
| Exemptions: | \$0 | \$0 | \$0 |
| Total: | \$3,600 | \$2,400 | \$3,200 |
| Rate per \$1,000: | \$6.25 | \$6.20 | \$5.60 |
| R. P. Taxes: ^[1] | \$250.00 | \$250.00 | \$150.00 |
| Total R. P. Taxes: | \$1,160.53 | \$1,126.60 | \$1,028.70 |

^[1] Represents the minimum real property tax for the County of Maui.

The 2013-2014 tax rate per \$1,000 assessment for Pitt Code 500 (Agricultural) and Pitt Code 600 (Conservation) are \$6.05 and \$6.25, respectively. Based on these tax rates, the subject's 2013-2014 real property taxes are \$1,160.53 [(\$150,500 ÷ 1,000 x \$6.05) + \$250.00]. It should be noted that the 2013-2014 real property tax for Parcel 065 is \$250.00, which represents the minimum real property tax for the County of Maui. No known special assessments are on record against the subject property.

Owner of Record

According to the public records with the Maui County Real Property Tax Office, the current owners of the property are William G. Kepler and Luellen K. Kepler.

Transaction History

Public records do not indicate any conveyance of the subject within the 10 years prior to the effective date of this appraisal. The property was acquired by the current owners on August 17, 1993.

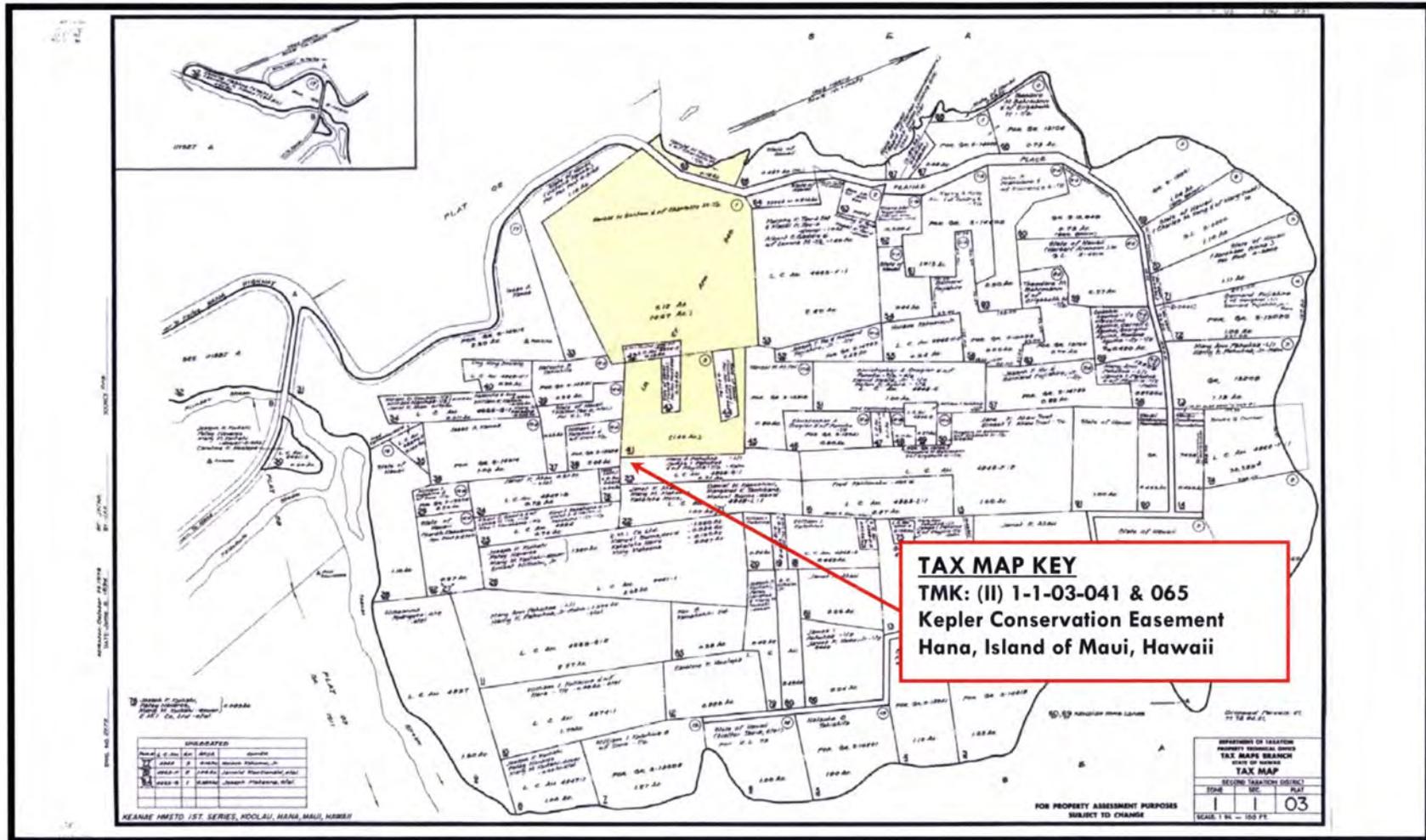
Consideration is currently being given to the application of a conservation easement on this property by the owners, William and Luellen Kepler.

Listing History

The Multiple Listing Service did not reveal any listing of this property within the past 10 years.

Rental History

The existing dwelling is occupied by the property owners on a part-time basis, with occasional use by their friends and family. The subject has not been rented within the three years prior to the effective date of this appraisal.



Not to Scale!

TAX MAP

SITE DATA

Environs

The subject is located at the southeastern side of Keanae Place, along the Keanae coastline in the District of Hana, Island and County of Maui, State of Hawaii.

The section of Keanae Place fronting the subject runs generally in a north-south direction from the major thoroughfare in the region, Hana Highway. This narrow, paved roadway provides vehicular access to the coastline and affords access to a number of agricultural and residential properties in the neighborhood. Most of the homes in this small, oceanfront community are older modest homes built during the mid-1900s. A small park and a church also exist in this rural neighborhood.

The subject is surrounded by the ocean to the west, and agricultural land (mostly taro farming) to the north, east and south.

Size and Shape

The State of Hawaii Tax Map shows the subject as being two parcels totaling 6.3 acres. Parcel 041 is 6.12 acres, while Parcel 065 is a 0.18-acre (7,840 square foot) oceanfront remnant parcel separated by Keanae Place. The client has stated that the portion of Keanae Place bisecting the subject is actually an unrecorded easement. Supporting documents were requested by the Appraiser; however, none were made available. This report has been based on the extraordinary assumption that the subject legally exists as a single oceanfront parcel with a net usable area of 6.3 acres.

Topography and Soil Condition

The site is generally level with the Keanae Place grade. The Appraiser has not been provided with soil, subsoil or other engineering studies to determine the load-bearing capacity of the subject parcel. However, based on typical construction in the neighborhood and our knowledge of other properties in the immediate vicinity, the site is presumed to have stable soil conditions and no apparent drainage problems.

Vehicular Access

Vehicular access to the property is currently allowed by way of Keanae Place, via Hana Highway.

Easements and Restrictions

A review of the Tax Maps of the State of Hawaii indicated that there are three legal land parcels situated within the boundaries of Parcel 041. They are identified as Tax Map Keys (2) 1-1-03: Parcels 042, 043 and 044. Respectively, these parcels have land areas of 5,662 square feet, 6,359 square feet and 8,755 square feet and are all generally rectangular in shape. These parcels

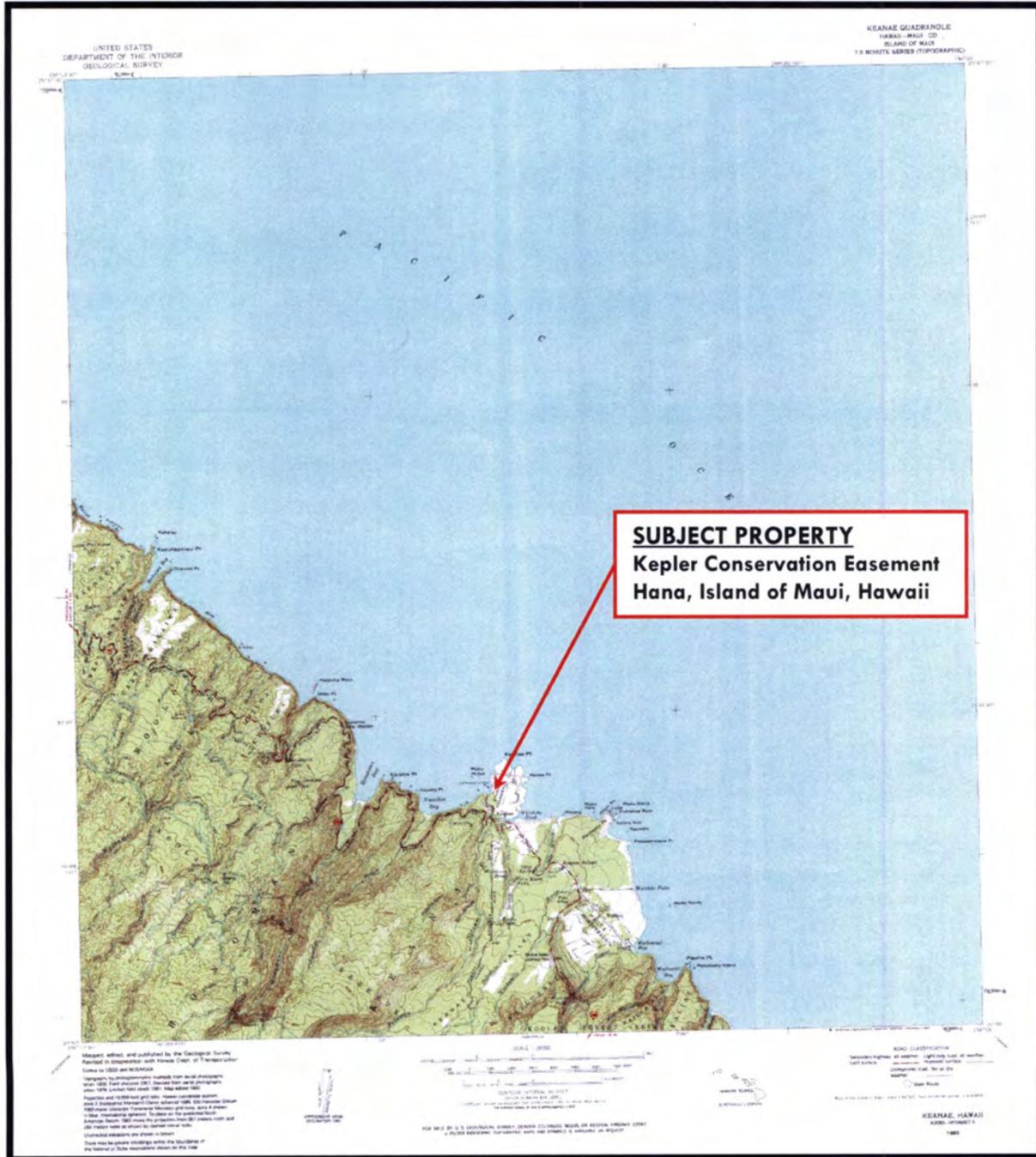
appear to be landlocked as the tax map does not show any access easement or other form of roadway ingress. As shown in the Plat Map of the subject, these sites are situated within the eastern portion of Parcel 041.

The Preliminary Report prepared by Title Guaranty of Hawaii, Inc. also revealed an easement granted to Maui Electric Company, Limited and GTE Hawaiian Telephone Company, Incorporated now known as Hawaiian Telcom, Inc. This easement grants a perpetual right and easement to build, construct, reconstruct, rebuild, repair, maintain and operate pole and wire lines and underground power lines, etc., for the transmission of electricity.

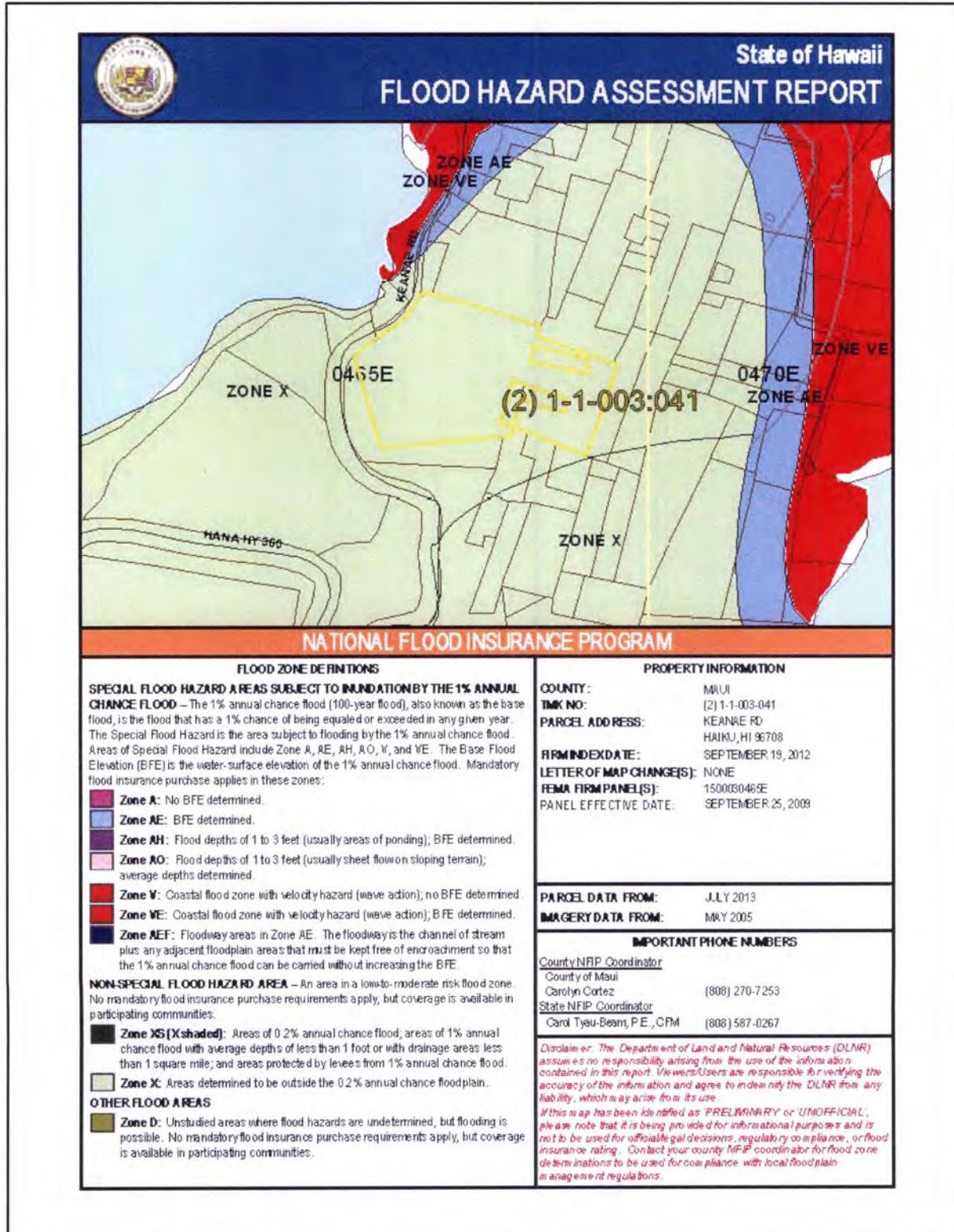
Flood Status

Within the County of Maui, certain areas are subject to periodic inundation by flooding and/or tsunami which may result in loss of life and property, creation of health and safety hazards, disruption of commerce and governmental services as well as extraordinary public expenditures for flood and tsunami protection and relief. Congress has determined that regulation of construction in areas subject to flood hazards is necessary for the protection of life and property and reduction of public costs for flood control, rescue and relief efforts, thereby, promoting the safety, health, convenience and general welfare of the community. In order to achieve these purposes, Title 19, Article IV, Chapter 19.62 establishes flood hazard districts and imposes restrictions upon man-made changes to improved and unimproved real estate within the districts. These restrictions are necessary to qualify the County of Maui for participation in the federal flood insurance program. Failure to participate in the program would result in the denial of federal financial assistance for acquisition and construction purposes, and jeopardize the making, securing, extension and renewal of loans secured by improved real estate by lending institutions regulated by the federal government.

Flood Hazard Districts are delineated on Flood Boundary and Floodway Maps and the Federal Insurance Rate Maps prepared by the Federal Insurance Administration and Federal Emergency Management Agency. The parcel, as illustrated by Map Number 150003 0465E dated September 25, 2009, by the Federal Emergency Management Agency, lies in Zone X. Zone X indicates areas determined to be outside the 0.2 percent annual chance floodplain. Flood insurance is not required in this zone.

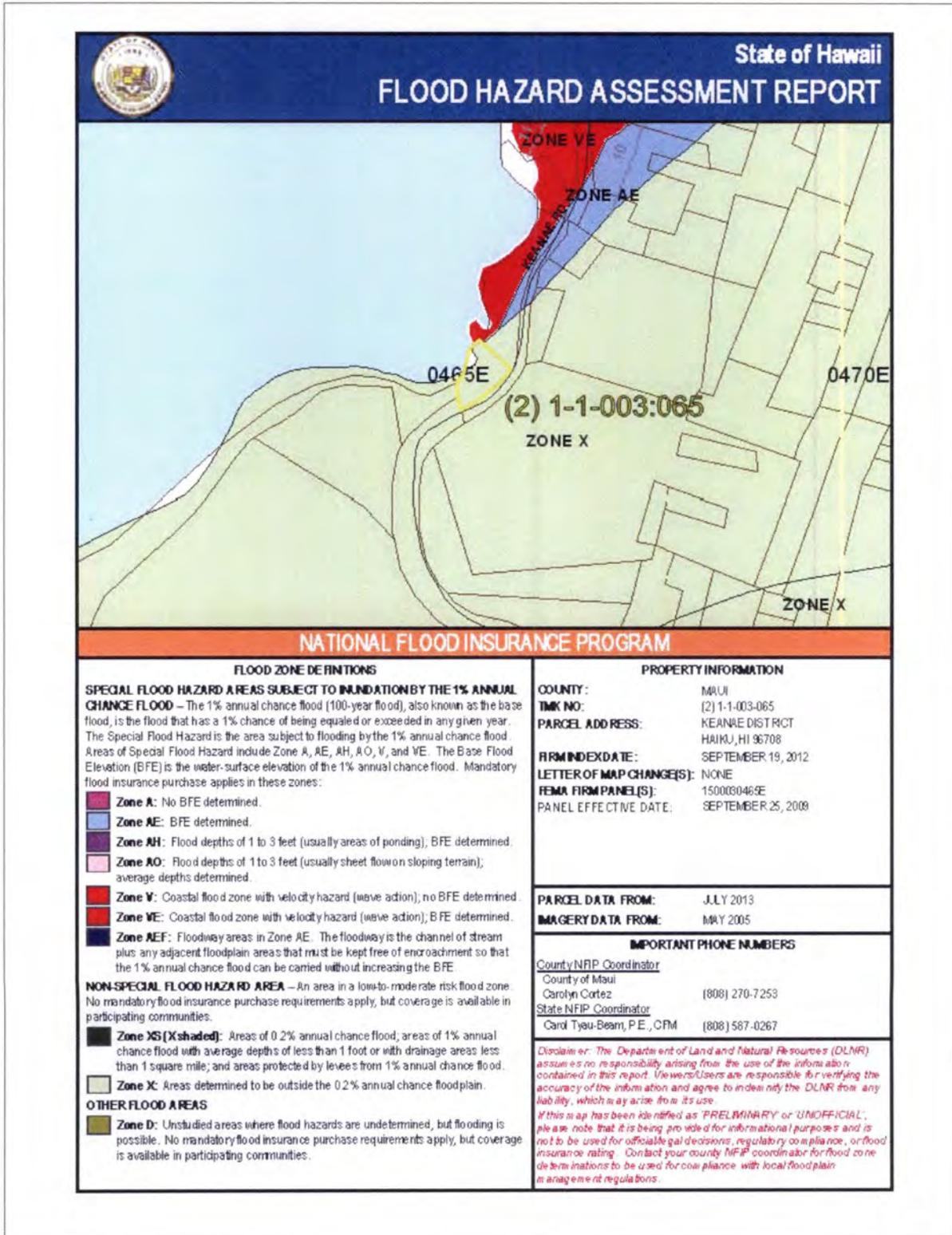


TOPOGRAPHY MAP



Not to Scale!

FLOOD MAP LOCATION



Not to Scale!

FLOOD MAP LOCATION

Utilities

Public utilities are available to the property and provided as follows:

Water/Sewer Water is provided by the County of Maui Department of Water Supply through a four-inch underground main along Keanae Place. Sewer service is provided by the County of Maui Department of Environmental Management.

Electricity Electricity is provided by Maui Electric Company and available to the site from an overhead line.

Telephone Telephone service is provided by the Hawaiian Telcom through an overhead line to the property.

County Zoning

Parcel 041 is classified within the State Land Use (SLU) Agricultural District and County of Maui zoned Agricultural District. Parcel 065 is designated Conservation District by the State of Hawaii and the County of Maui. Refer to Exhibit A at the end of this report for the entire zoning ordinance.

Agricultural District

The purpose of the Agricultural District is to (1) implement chapter 205, Hawaii Revised Statutes, and the goals and policies of the Maui County General Plan and Community Plans; (2) promote agricultural development; (3) preserve and protect agricultural resources; and (4) support the agricultural character and components of the County's economy and lifestyle.

Permitted uses include (1) agriculture; (2) agricultural land conservation; (3) agricultural parks, pursuant to chapter 171 Hawaii Revised Statutes; (4) animal and livestock raising, including animal feed lots and sales yards; (5) private agricultural parks as defined in the Maui County Code; (6) minor utility facilities as defined in section 10.04.040, Maui County Code; and (7) retention, restoration, rehabilitation, or improvement of buildings, sites or cultural landscapes of historical or archaeological significance. Other accessory uses are listed in the Agricultural District zoning ordinance displayed in its entirety in **Exhibit A** at the end of this report.

Of special significance to this report is the passage of Bill No. 113 (1998) on December 31, 1998. This bill made it more difficult to develop agricultural subdivisions by limiting the maximum number of lots that may be created from a bulk parcel of agricultural land. Under prior law, developers were able to maximize the number of marketable lots by subdividing a bulk parcel into as many 2.00-acre lots that the land area could support. Under the new

ordinance, a 31-acre lot can only be subdivided into 7 two-acre minimum lots. A table outlining this restriction is shown below.

According to this bill, "this subsection shall not apply to any lot which received preliminary subdivision approval prior to the effective date of this ordinance and which receives final subdivision approval after the effective date of this ordinance. The subsequent lots resulting from such subdivision shall be subject to this subsection."

| Area of Lot in Acres | Two-Acre Minimum Lot Size |
|------------------------------------|--|
| At least 2 but less than 31 acres | 7 lots. |
| At least 31 but less than 61 acres | 7, plus one additional lot for each 10 acres above 31 acres. |
| At least 61 but less than 92 acres | 10, plus one additional lot for each 15 acres above 61 acres; plus, one additional 15-acre minimum lot. |
| 92+ acres | 12, plus one additional lot for each 40 acres above 92 acres (not to exceed 14 lots); plus 2 additional 15-acre minimum lots and one additional lot for each 60 acres above 92 acres; plus, 1 additional 25-acre minimum lot size and 1 additional lot for each 100 acres above 92 acres; plus, 1 40-acre minimum lot for each 160 acres above 92 acres. |

Source: Ordinance No. 2749, Bill No. 113 (1998), Approved 12/31/98

Conservation District

The purpose of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public, health, safety and welfare. This district includes land that is primarily park, watershed, floodplain (coastal and stream), wildlife reserve, historic/scenic sites, mountains and offshore outlying islands. It follows that land uses are highly restrictive in this district.

The Conservation District has five subzones: Protective, Limited, Resource, General and Special. Omitting the Special subzone, the four subzones are arranged in a hierarchy of environmental sensitivity ranging from the most environmentally sensitive (Protective) to the least sensitive (General). The Special subzone is applied in special cases specifically to allow a unique land use on a specific site.

These subzones define a set of "identified land uses" which may be allowed by discretionary permit. The Office of Conservation and Coastal Lands (OCCL) can only accept a permit application for an identified land use listed under the particular subzone covering the subject property. Most of the identified land uses require a discretionary permit or some sort of approval from the Department of Land and Natural Resources or the Board of Land and Natural Resources. Major permits are required for land uses which have the greatest potential impact and an environmental assessment and/or an Environmental Impact Statement is required (and may also require a public hearing). Minor permits are required for land uses which may have fewer impacts, and decision making is delegated to the Board Chairperson (and may not require a public hearing) or it may be referred to the OCCL for other minor issues.

Hana Community Plan

The Hana Community Plan, one of nine (9) Community Plans for Maui County, reflects current and anticipated conditions in the Hana region and advances planning goals, objectives, policies and implementation considerations to guide decision-making in the region through the year 2010. Its most current version was adopted on July 1, 1994. The Hana Community Plan provides specific recommendations to address the goals, objectives and policies contained in the General Plan, while recognizing the historic values and unique spiritual significance of island cultures of Hana, in order to enhance the region's overall living environment. The Maui County General Plan, first adopted in 1980 and updated in 1991, sets forth goals, directions and strategies for meeting the long-term social, economic, environmental, land use and cultural needs of the County. Similarly, the Hana Community Plan was first adopted by Ordinance No. 1247 in 1982 and was updated in 1992-93.

For Maui County, the General Plan and the Community Plans are strategic planning documents which guide government action and decision-making. Both the General Plan and the Community Plans are part of a planning hierarchy which includes, as primary components, the Hawaii State Plan and State Functional Plans. Mutually supporting goals, objectives, policies and implementing actions contained in the Hawaii State Plan, State Functional Plans, Maui County General Plan and the Hana Community Plan provide for optimum planning effectiveness and benefits for the residents of the Hana Community Plan region. Implementation of the goals, objectives and policies contained in the Community Plan are

defined through specific implementing actions, also set forth in each Community Plan. Implementing actions as well as broader policy recommendations are effectuated through various processes, including zoning, capital improvements program, and the County budgeting process.

As shown on the Hana Community Plan Map and verified with the Maui County Land Use and Codes Division, the subject property is located in an area designated (AG) Agriculture. This use indicates areas for agricultural activity which would be in keeping with the economic base of the County and the requirements and procedures of Chapter 205 HRS, as amended.

DESCRIPTION OF THE IMPROVEMENTS

The existing improvements to the subject site include a one-story single-family dwelling and a detailed description of the structural components is included below. A sketch of the improvements has been included as **Exhibit I**.

| Item | Description |
|----------------------|---|
| Year Constructed | Circa 1980 |
| Building Area | Ground floor living area: 757 SF Interior loft area: 393 SF Total living area: 1,150 SF |
| Other Building Areas | Porch/Deck 801 SF |
| Foundation | Post on pier |
| Exterior Wall | T1-11 plywood |
| Doors | Hollow-core interior doors and sliding entrance doors |
| Roof Design | Gable |
| Roof Finish | Concrete tile |
| Gutters | Copper gutters and down spouts |
| Windows | Fixed and sliding windows, vinyl frame |
| Floor Covering | Wood floor in living areas and ceramic tile floor in bathroom |
| Ceiling | Open beam ceiling |
| Interior Partitions | Finished drywall |
| Electrical Fixtures | Recessed and track lighting fixtures |
| Kitchen Appliances | Refrigerator and range/oven |
| Rooms | One bedroom (loft style), one bathroom, living room, kitchen and dining area |
| Air Conditioning | None |
| Landscaping: | Mixed tropical foliage |
| Garage/Carport | None |

Overall, the improvements were observed to be of sound construction quality and in good condition. Its layout and design are deemed to be highly conducive to its intended single-family use. Originally built in 1980, the structure exhibited normal evidence of wear and tear, and there was no visible evidence of significant structural deterioration. According to the property owner, \$35,000 in renovations were completed in 2008 and included replacement of the concrete tile roof, replacement of the vinyl windows and sliding door, replacement of the gutters and downspouts, installation of new flooring, and initial repair to the wood deck. The subject's improvements are estimated to have an effective age of 25 years with a remaining economic life of approximately 30 years, assuming proper and timely maintenance.

DESCRIPTION OF THE CONSERVATION EASEMENT

The Hana Community Plan recognizes the environmental and cultural resource opportunities available to the Hana community, of which the subject is a part. Its description, as reported below, provides the foundation of the proposed conservation easement.

Environment

Recognizing that many of the residents depend upon the region's natural resources for sustenance, protection of the region's natural environment is essential to ensuring the sustainability of these resources. Through respect for and proper management of the region's natural resources, future generations will be able to continue to enjoy the natural, scenic beauty characteristics of Hana.

Cultural Resources

The sensitivities of the region's residents for the cultural resources which are located within Hana district are recognized. The district's historic sites and cultural resources provide evidence of Hana's history and serve as tools for conveying the heritage of the region to its youth as a legacy for the future.

The conservation easement is proposed between the owners, William and Luellen Kepler and the Maui Coastal Land Trust, which is now part of the Hawaiian Islands Land Trust (Land Trust). The Land Trust's mission includes the preservation of lands like the subject. To facilitate preservation of such lands, the Land Trust proposes to secure funding from the County of Maui and the United States Department of Agriculture (USDA) to purchase preservation easements over such lands that will ensure that such lands are perpetually maintained and are not converted to urban, residential, non-agricultural commercial, or non-agricultural industrial uses.

The Appraiser was provided with a draft copy of the Deed of Conservation Easement Including Development Rights for review. Although the document is in draft form, the Appraiser has assumed that the content will remain unchanged upon execution. The following represents a summary of the easement guidelines:

Purpose

The purpose of this Easement is to preserve the conservation values which include protection of the top priority soils by substantially retaining its current open-space condition for agricultural activities, subject to the express restrictions on such agricultural activities set forth in the actual easement document.

Rights Conveyed to Grantee

To accomplish the purpose of this easement, the rights of protection, access and enforcement will be conveyed to the Grantee.

Protection

The Grantee has the right to preserve and protect in perpetuity to prevent any use of, or activity on, the protected property that will significantly impair or interfere with the conservation values of the protected property, and to enhance by mutual agreement the conservation values of the protected property.

Grantor's Reserved Uses

The Grantor, on the other hand, reserves for itself all rights accruing from ownership of the Protected Property not granted to the Grantee pursuant to the Easement. These rights include the following:

1. The right of privacy and quiet enjoyment
2. The right to permit or invite others to engage in any use consistent with the easement.
3. The right to use the property for agricultural activities consistent with law and the easement.
4. The right to repair, replace, construct, occupy and use Farm Dwellings and appurtenant structures and facilities within the Farmstead Area subject to the impervious surface limitation set forth in Section 5(g) of the easement document and the right to operate, maintain, repair and replace underground utility services to serve the Farmstead Area, and the right of ingress and egress to and from the Farmstead Area.
5. The right to undertake recreational activities provided that such activities are conducted in a manner and intensity that does not adversely impact the conservation values of the property and the purpose of the easement.
6. The right to construct and maintain fences within or around the property, provided that their design and location do not impair the conservation values of the property or be contrary to the purpose of the easement.
7. The right to place signs on the protected property to advertise for sale or rent or to state the conditions of access to the property; provided that such signs do not significantly degrade the conservation values of the protected property.
8. The right to undertake other activities necessary to protect public health or safety on the protected property.
9. The right to grant easements or dedicate areas to governmental agencies as long as they are

consistent with the conservation values of the protected property.

Prohibited Uses and Activities

Any use of, or activity on, the protected property inconsistent with the purpose of this easement is prohibited. Such uses include the following:

1. Subdivision or partitioning of the property.
2. Transfers of individual parcels unless all such parcels are transferred to the same transferee.
3. The placement or construction of any permanent or temporary non-agricultural buildings or improvements of any kind, except as permitted by the Grantee upon a finding it will not significantly diminish the conservation values of the protected property or be inconsistent with the purpose of this easement.
4. Alteration of the land.
5. Erosion or water pollution.
6. Alteration of water courses. The draining, filling dredging, ditching, or diking of wetland areas, the alteration or manipulation of ponds and water courses, or the creation of new wetlands, water impoundments, or water courses, except as approved by Grantee for agricultural purposes or to preserve or protect the Conservation Values of the Protected Property.
7. Total impervious surface area shall be no greater than six percent (6%.
8. Waste disposal.
9. The above ground installation of new utility systems or extensions of existing utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities on the protected property.
10. The placement of commercial signs, billboards or other advertising material except as provided for in the easement.
11. The placement and use of any outdoor electric lights, except as approved by the Grantee for agricultural uses or to preserve or protect the conservation values of the protected property.
12. Mining.
13. The introduction of nonnative plants and nonnative invasive species except and approved by the Grantee.
14. The operation of off-road vehicles, except as necessary for agricultural uses.
15. Commercial recreation is generally prohibited except as permitted by the Grantee.

A copy of the Deed of Conservation Easement Including Development Rights, in its entirety, has been included in the Exhibit section of this report.

Table 2 – Comparative Analysis of the Property “Before” and “After” the Easement

| CATEGORY | BEFORE | AFTER |
|---------------------------|---|---|
| Protection | The Grantor was allowed to carry out any activity permitted by law | Grantee has the right to preserve and protect in perpetuity, to prevent any use of, or activity on, the Protected Property that will significantly impair or interfere with the Conservation Values of the Protected Property, and to enhance by mutual agreement the Conservation Values of the Protected Property. |
| Accessibility | Property was private | Grantee has the right to reasonable access to carry out the purpose of the Easement. |
| Grantor's Property Rights | Fee simple ownership. Real estate rights are undisturbed and limited only by law. | (1) Privacy and quiet enjoyment. Grantor has the right to deny access to other persons, except as provided by law or as expressly permitted to the Grantee in the Easement. |
| | The right of a private property owner | (2) Guests and Invitees. Grantor has the right to permit or invite others to engage in, any use of, or activity on, the Protected Property that is not inconsistent with the Purpose of the Easement. |
| | Similar | (3) Agricultural use. Grantor has the right to use the Protected Property for agricultural activities that comply with federal, state and local regulations and do not significantly impact or degrade the Conservation Values of the Protected Property (for example, the planting, raising, and harvesting of kalo), but subject to the express limitations, restrictions, and prohibitions contained in the Easement. |
| | Fee simple ownership would permit greater amount of recreational use. | (4) Recreation. Grantor has the right to undertake recreational activities such as picnicking, fishing and bird watching on the Protected Property; provided that such activities are conducted in a manner and intensity that does not adversely impact the Conservation Values of the Protected Property and the Purpose of the Easement or otherwise impact highly erodable soils, wetlands or cultural sites. No motorized recreational vehicles or activities that could adversely impact the Conservation Values of the Protected Property are allowed in any Conservation Zone areas indicated in the Easement and/or in the Baseline Documentation. |
| | Fences could be built as desired. | (5) Fences. Grantor has the right to construct and maintain fences within or around the Protected Property; provided that their design and location shall not impair the Conservation Values of the Protected Property or be contrary to the Purpose of the Easement. |
| | Signs could be placed as desired as long as it conforms to Maui County signage laws | (6) Signs. Grantor has the right to place signs on the Protected Property to advertise for sale or rent or to state the conditions of access to the Protected Property; provided that such signs are located to preserve, as much as possible, views from Keana'e Road to the coastline and ocean, and so that they do not significantly degrade the Conservation Values of the Protected Property. The design and erection of any sign in excess of three (3) square feet requires prior written approval by Grantee. |

Table 2 Continued – Comparative Analysis of the Property “Before” and “After” the Easement

| CATEGORY | BEFORE | AFTER |
|--|---|---|
| <p>Uses and Activities Inconsistent with the Purpose of the Easement</p> | <p>Permission to grant easements and dedication from a third party is not required.</p> <p>Subdivision is allowed (2-acre minimum) Transfers of individual parcels allowed Residential and farm structures permitted Land may be altered</p> <p>Alterations may be permitted Less limitations on impervious areas</p> <p>Above-ground utilities permitted Signs are allowed to an extent Yard lights are permitted</p> <p>Off road vehicles are not banned Commercial recreation may be allowed</p> | <p>(7) Protection of Public Health or Safety. Grantor has the right right to undertake other activities necessary to protect public health or safety on the Protected Property, or other activities required by any governmental agency with authority to require such activity; provided that any such activity shall be conducted so that interference with the Conservation Values of the Protected Property is avoided, or, if avoidance is not possible, minimized to the extent possible.</p> <p>(8) Easements and Dedication. Grantor has the right to grant easements to governmental agencies or utility providers for the installation, maintenance, repair and replacement of underground utility services; the right to dedicate areas along the existing highway to the State of Hawaii or the County of Maui as may be required by the State or County for public highway purposes; and the right to grant to adjoining lands appropriate drainage easements which may be required by the County of Maui, provided that such utility and drainage easements shall not materially alter the soils or agricultural use of the Protected Property for scenic and open space purposes, and no such easements or dedications shall significantly adversely affect the Conservation Values of the Protected Property. Grantor shall notify Grantee in writing prior to granting any such easement or making any such dedication.</p> <p>Any use of, or activity on, the Protected Property inconsistent with the Purpose of this Easement is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Without limiting the generality of the foregoing, the following uses of, or activities on, the Protected Property, though not an exhaustive list of inconsistent uses or activities, are inconsistent with the purposes of this Easement and shall be prohibited, <u>except</u> as expressly provided in Section 3 of the Easement Document.</p> <p>(1) Subdivision (2) Transfers of individual parcels (3) Structures (non-agricultural) (4) Alteration of the land (5) Erosion or water pollution (6) Alteration of water courses (7) Impervious surface area - no more than 6% (8) Waste disposal (9) Installation of above-ground utilities (10) Signs (11) Yard lights (12) Mining (13) Introduced vegetation (14) Off-road vehicles (15) Commercial recreation</p> |

Table 2 Continued – Comparative Analysis of the Property “Before” and “After” the Easement

| CATEGORY | BEFORE | AFTER |
|-----------------------------|---------------------------------|--|
| Invasive Non-Native Species | Optional for the property owner | Grantor agrees to consider working with Grantee over the coming years to explore and implement reasonable methods of controlling and eradicating invasive non-native species on the Protected Property, except for non-native species necessary to the conduct of the permitted agricultural uses, and to encourage the establishment of appropriate native species on the Protected Property. |

THE APPRAISAL PROCESS

Appraisal Method for Conservation Easements

The valuation of conservation easements as partial interests in real property does not differ from the valuation of real property in general. In areas where there is market data relating to the sale of properties encumbered by conservation easements, the sales comparison valuation approach should be used.

If there is no established, reliable market for sales of easement-encumbered properties, as is most often the case, such interests must generally be valued indirectly through the Before and After method of appraisal.

Before and After Appraisal Method

According to the 3rd Edition of Appraising Easements, published by the Land Trust Alliance, the Before and After method is described as follows:

The Before and After method is used to determine whether, and the degree to which, an easement changes a property's use and value. Under the Before and After method, the value of the property after the imposition of the easement is subtracted from the value of the property before the imposition of the easement to estimate the value of the easement. Each value conclusion is made as of the date of the easement donation.

Employing this methodology, the following steps are generally required of the Appraiser.

- (1) Provide a value opinion of the property BEFORE the imposition of the conservation easement based on its highest and best use.
- (2) Provide a value opinion of the property AFTER the imposition of the conservation easement based on its highest and best use.
- (3) Subtract the market value of the property AFTER the easement encumbrance from the market value of the property BEFORE the easement encumbrance to derive the market value of the conservation easement.

Appraisal Methods for the Property, Before & After

The valuation of real estate is derived principally through three approaches to market value: Cost Approach, Income Capitalization Approach and Sales Comparison Approach. In the valuation of the subject, all three approaches were considered, however, only the Cost Approach was deemed appropriate for the valuation of the "Before" and "After" conditions of the property. The three traditional approaches are summarized below.

Cost Approach

The Cost Approach is based on the principal of substitution which holds that a prudent purchaser will not pay more for a property than the cost of creating an equally desirable property in the market. In this case, it is the cost of acquiring a site and constructing a building of equal utility. The Cost Approach embodies estimates of the worth of the land, as if vacant, and the replacement or reproduction cost of the improvements. From these are deducted the Appraiser's estimates of physical deterioration, functional obsolescence and external obsolescence, as observed during inspection of the property and its neighborhood. The Cost Approach is particularly relevant in estimating the value of a new building that represents the highest and best use of the land **or in estimating the value of a unique or specialized property for which comparable market data is not available. In this case, the Cost Approach was judged to be the most reliable indicator of the market value of the improved property due to the absence of improved comparable sales.**

Income Capitalization Approach

The Income Capitalization Approach involves the conversion of anticipated future benefits (income) to be derived from the ownership of a property into an estimate of value. The procedure requires the estimation of revenues and expenses from which net income can be derived. This estimated net annual income is then capitalized by a market supported capitalization rate to arrive at an indication of value, or the net annual income and reversion is discounted over an investment holding period to a net present value. The Income Capitalization Approach is applicable in the valuation of investment properties in an active market or when comparable market data is available. **The subject is occupied on a part-time basis by the property owner. Properties in this neighborhood are not utilized for rental income-generation purposes; therefore, market rent cannot be established. As such, this methodology was deemed inappropriate for the valuation of this property.**

Sales Comparison Approach

The Sales Comparison Approach is based on the principle of substitution which states that a prudent purchaser will not pay more for a property than the cost of acquiring an equally desirable property in the market with the same utility. The Sales Comparison Approach involves the comparison of comparable properties that have recently sold with the subject property. In analyzing the market data of the comparables, it is imperative that the sales prices be reduced to common units of comparison to relate the degree of comparability to the property under appraisal. The Sales Comparison Approach is dependent on an active market where comparable market data is available in sufficient quantity. It is relatively unreliable if the comparable market data is unavailable or unable to be verified. **The Appraiser was unable to uncover any improved sales worthy of comparison to the subject; therefore, the Sales Comparison Approach could not be supported. This methodology, however, was best suited in the valuation of the land parcel, and was employed for that purpose.**

VALUATION BEFORE IMPOSITION OF THE CONSERVATION EASEMENT

HIGHEST AND BEST USE

Highest and Best Use analysis applies to both the site as though vacant and the property as currently improved. In highest and best use analysis, the four criteria that the property must satisfy are:

- (1) Physically possible uses;
- (2) Legally permissible uses;
- (3) Financially feasible uses; and
- (4) Maximally productive use.

These criteria should be considered sequentially through an examination of the physical and economic data reported in the previous sections of this report. Within the four categories mentioned above, other considerations include: use must be legal and in compliance with zoning and building requirements; use must be within the realm of probability and not speculative or conjectural; demand for such use must exist; use must be profitable; use should provide the highest net return to the land; and the use should produce the maximum return for the longest possible time.

Since the appraisal of the subject property is based on a particular premise of use, the highest and best use analysis determines just what this premise of use should be.

In this case, two assumptions must be given pertinent consideration in the analysis of highest and best use.

- 1) The site as if vacant and available for development; and
- 2) The site as presently improved

THE PROPERTY BEFORE ENCUMBRANCE BY THE CONSERVATION EASEMENT

This assessment considers the highest and best use of the property without the encumbrance and restrictions of the conservation easement.

As If Vacant

The first major aspect of the highest and best use analysis is considering the property as if it were vacant and available for development. This assumption is made to determine whether the land alone is worth more than the existing property, as is. In other words, this is the beginning benchmark to compare with the highest and best use of the property, as is, to determine whether the site is presently under-utilized.

Physically Possible Use

The physical aspects of the site impose the first constraint on any possible use of the property. The Appraiser has not been provided with soil or subsoil or other engineering studies to determine the load-bearing capacity of the subject parcel. However, based on our review of other properties in the immediate vicinity, the site is presumed to have stable soil conditions upon which single-family and farm structures could be built. Since taro farming requires shallow ponds, the drainage and irrigation issues appear to be controlled by the farmers through man-made channels connecting the taro patches. Parcel 041 has a land area of 6.12 acres and is located across Keanae Place from the ocean. Parcel 065 is located on the ocean and has 0.18 acres of irregularly shaped land. The 6.12-acre portion of the subject is irregularly shaped and, as mentioned earlier, has three landlocked parcels located within its boundaries. However, due to the large size of this parcel, good utility to the land still remains.

Legally Permissible Use

Parcel 041 (6.12 acres) is zoned Agricultural District and Parcel 065 (0.18 acre) is zoned Conservation District.

Permitted uses in the Agricultural District include (1) agriculture; (2) agricultural land conservation; (3) agricultural parks, pursuant to chapter 171 Hawaii Revised Statutes; (4) animal and livestock raising, including animal feed lots and sales yards; (5) private agricultural parks as defined in the Maui County Code; (6) minor utility facilities as defined in section 10.04.040, Maui County Code; and (7) retention, restoration, rehabilitation, or improvement of buildings, sites or cultural landscapes of historical or archaeological significance. Other accessory uses are listed in the Agricultural District zoning ordinance displayed in its entirety in **Exhibit A** at the end of this report. In addition, the ordinance allows the development of a primary single-family residence (farm dwelling) and an accessory dwelling of 1,000 square feet or less. If the agricultural land is being actively farmed, additional farm dwellings would be permitted for the farm labor. In addition, related farm structures would also be allowed.

Furthermore, the zoning ordinance stipulates that the minimum lot size in the Agricultural District is two (2) acres. This would allow the subdivision of Parcel 041 into three agricultural lots of approximately two acres each.

The purpose of the Conservation District (**Exhibit B**) is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public, health, safety and welfare. This district includes land that is primarily park, watershed, floodplain (coastal and stream), wildlife reserve, historic/scenic sites, mountains and offshore outlying islands. It follows that uses are highly

restrictive in this district and all uses must be approved by the Board of Land and Natural Resources on a case by case basis.

Consequently, the spectrum of permitted uses is narrow and places a significant limitation on the potential use of the property. A copy of the agricultural ordinance and the conservation statute are included in the Exhibit section of this report.

Financially Feasible Use

The test of financial feasibility involves an analysis of the likelihood of the use producing an income, or return, greater than the combined income needed to satisfy operating expenses, financial expenses, and capital amortization. All uses that are expected to produce a positive net income or rate of return are considered to be financially feasible.

The demand for vacant, agricultural zoned parcels in the Hana region has grown as people seek larger, more private home sites with potential for small farming arrangements. This demand has grown in all areas of Maui, although the growth in the remote Hana region has been slightly slower. Still, the subject's oceanfront location is a very lucrative one, and the Appraiser is of the opinion that this parcel would be highly sought if put on the open market. In fact, the present property owners have, throughout the years, received several unsolicited offers to purchase this property.

There are only a few potential feasible uses for Parcel 41 which encompasses 6.12 acres. First, it could be farmed, which would be consistent with its agricultural zoning. A second alternative would be the development of a 6-acre agricultural home site which would serve as a small rural estate or second home. Finally, the subject could be subdivided into three 2-acre agricultural home sites and sold individually.

Parcel 065, on the other hand, is probably not developable for several reasons. First, it is extremely irregular with a very narrow configuration; therefore, although it has a land area of 7,841 square feet, the physical building setbacks from the ocean and the roadway may preclude development of a single-family dwelling. If anything, perhaps a gazebo may be built if permitted by the Board of Land and Natural Resources. Secondly, this parcel is zoned Conservation District and is located on the shoreline; therefore, development on this parcel would be highly improbable. Finally, there is a very strong community sentiment to maintain the view planes the ocean and the quality of the shoreline, and it would be extremely difficult to develop this site if there is negative input from the neighboring properties.

Maximally Productive Use

In the final analysis, a determination must be made as to which feasible use is the highest and best use of the parcel as if vacant. Based on the property's current zoning, location and physical attributes of the site, and the demand for agricultural home sites in the neighborhood, it is the Appraiser's opinion that it is reasonable for the subject to be subdivided into three 2-acre parcels. Present prices for these types of properties should support such a small development and provide for maximum profitability. Hence, the Highest and Best Use of the subject site, as if vacant, is subdivision into three agricultural home sites, with Parcel 065 serving as an oceanfront common area for the three parcel owners since its development is highly unlikely.

As Presently Improved

The highest and best use of the property as improved is determined by analyzing the use that should be made of the property as it exists. Consideration is given to whether the existing improvements should be renovated, expanded, demolished, or replaced with a use that is different in type and intensity.

The subject is located in a neighborhood with similar agricultural and residential uses, and is in conformity with the immediate environs. The neighborhood is located on the Kanae peninsula and the neighborhood represents a traditional rural lifestyle that has endured through the years. The planting and harvesting of taro, a Hawaiian food staple, still plays a role in the day-to-day activities of this community, even in this modern age of mechanization. In this light, the sentiment in the greater Hana region is to continue to maintain the rural lifestyle of the community. Most new projects are not well-received, and there is no concerted effort toward development due to the region's remote location on Maui. There is one upscale, but low-density, hotel in Hana; one school; and one general store.

The subject is presently improved with a single-story, wood-frame dwelling containing approximately 1,150 square feet of living area and 801 square feet of porch area which conforms to the Agricultural zoning ordinance. The subject improvements are considered to be of sound construction quality and in good overall condition. Its layout and design are considered functional and conducive to its existing uses. The subject's improvements are estimated to have an effective age of 25 years with a remaining economic life of approximately 30 years, assuming proper and timely maintenance.

As the valuation section of this report will indicate, the present improvements make a substantial contribution to the property in excess of the value of the site. No alternative legal use could economically justify removal of the existing improvements or

massive renovations, and the existing facility represents an optimum use of the site at this time.

As mentioned earlier, the subject may be legally subdivided into three lots of approximately two acres in size. In light of the fact that this is one of the largest parcels on the Keanae Peninsula, and that there are numerous small agricultural parcels there, the potential for such a subdivision appears to be reasonable and probable. The fact that only two additional lots can be created for this site is not expected to raise community opposition. In addition, the three-lot subdivision falls into the category informally recognized by the County of Maui as the "family subdivision", and the process is not as stringent as it is for larger developments.

In light of these factors, the highest and best use of the subject is to subdivide the parcel into three lots, one of which will already be improved with the existing dwelling. Parcel 065, the oceanfront remnant can serve as a common area for the three parcel owners since its development is highly unlikely.

Conclusion of Highest And Best Use

This conclusion is based upon the analysis of the site's location and physical attributes, current zoning, the complementary nature of the neighboring development, the existing improvements and the condition of the existing real estate market. As a result, the Highest and Best Use of the subject property is concluded to be subdivision of the site into three agricultural house lots and retaining the existing dwelling on one of the lots.

THE COST APPROACH

As previously mentioned, the Keanae neighborhood, as well as the greater Hana region, has very little real estate sales activity when compared to other regions of Maui. The absence of sales is due to the lack of demand in this highly remote location on the island; furthermore, the subject is especially unique with its oceanfront location, large acreage (for the area) and the presence of a small house.

Due to the limited availability of comparable sales data, use of the Sales Comparison Approach could not be supported and was not employed. The Income Approach is not generally utilized in the valuation of agricultural real estate like the subject because they are not regarded as income-producing properties; hence, this methodology was also ruled out.

It is the Appraiser's opinion that the use of the Cost Approach would be the most appropriate methodology in estimating the market value of the subject. It is even more reliable because the greatest value contribution to this property is provided by the approximate six acres of oceanfront land.

The Cost Approach is based on the principal of substitution, which holds that an informed purchaser would not pay more for a property than the cost of acquiring another property having the same utility. The rationale is that a prudent purchaser would not pay more for a property than the cost of acquiring a similar site and constructing improvements of equal design and utility.

The Cost Approach requires the estimation of three distinct components: the land as though vacant and available for development to its highest and best use; the reproduction or replacement cost of the improvements on the effective date of the appraisal; and accrued depreciation in the improvements. The accrued depreciation is deducted from the reproduction cost or replacement cost of the improvements to derive an estimate of the contributory value of the improvements. The depreciated reproduction or replacement cost of the improvements is added to the estimated land value yielding a value estimate of the property by the Cost Approach.

LAND VALUATION

The most commonly accepted approach for land valuation is the direct comparison of the subject land with sales of other land parcels in the market. When the availability of data permit its use, this analytical method produces an indication of what the purchaser-investor would most probably have to pay for the same rights in existing substitute properties in the same market, as of the effective date of the appraisal.

The value of the subject parcel was derived from an analysis of comparable sales in the general vicinity of the subject and their location relative to the subject is shown on the Comparable Land Transactions Map in this section of the report. Because no two properties are ever truly identical, the prices of the market indicators must be reduced to various units of comparison to reflect the value of the subject property. Typically, the variations in sales prices reflect differences in size, location, zoning, time and terms of sale, and the physical characteristics of the land.

The value indication is developed using a unit of comparison in which the type of site being appraised is typically bought and sold on the market. In this assignment, the price per acre of land is the most appropriate unit of comparison. The land sales which have been utilized as comparables in this valuation assignment are summarized on the following pages.

Comparable Land Transactions

Land Transaction No. 1

TMK: (2) 1-1-05-003

This fee simple property is located along Hana Highway in the Hana community and Hana District. It occupies an oceanfront location with a cliff front with a small rocky beachfront which allows access to the ocean. The 12.090-acre site has a State Land Use designation of Rural, with Interim District County zoning. The property has an irregular shape and a gradual topographical rise from the cliff front to the highway. Panoramic ocean and mountain views are available from this site. Public electricity is available to this site, but no public water source.

This property was sold from Walter Stender and Katherine McGuire to Yankovic Revocable Trust on January 21, 2010 at a price of \$1,390,000 or \$114,971 per acre. This transaction was recorded at the Bureau of Conveyances as LCD 3933567. Public records did not reveal any other sale of this property within the three years prior to this transaction.

Land Transaction No. 2

TMK: (II) 1-2-03-059

This fee simple property is located on Ulaino Road in the Nahiku community of the Hana District, about 10 miles from Hana Town. It occupies an oceanfront location with a very high cliff front and ocean access is not available. The 17.955-acre site is primarily zoned Agricultural District with a narrow Conservation District classification along the coastline. The property has a slightly irregular shape and a gradual topographical rise from the ocean to the highway. The site possesses panoramic ocean and mountain views. Overhead telephone and electrical lines currently service the immediate neighborhood; and, a private water source has been developed for the property. Vehicular ingress and egress is

afforded by a long access easement over another property from Hana Highway.

This property was sold from Bobbie Wesson, et al. to Bruce White on February 2, 2006 at a price of \$2,250,000 or \$125,313 per acre. This transaction was recorded at the Bureau of Conveyances as Document No. 06-021983.

Public records revealed that partial interests in this property were previously sold from Bobbie Wesson, et al. to Roberta Morris (39 percent) and Naomi Fujioka (17 percent) on April 23, 2004. The total price was \$639,000 for a 56 percent undivided interest.

Land Transaction No. 3

TMK: (II) 1-6-10-003

This site is located on the Hana Highway in Kipahulu, which is situated southwest of Hana Town. This parcel has an oceanfront location, with a high cliff front and ocean access is not available. This 3.374-acre parcel is primarily zoned Agricultural District with a narrow Conservation District classification along the coastline. The site is generally rectangular in shape with a level to gently sloping topography. The property offers panoramic ocean and mountain views. Telephone service is available to the site; and, a private water source has been developed for the property. Vehicular ingress and egress is directly from Hana Highway.

This property was sold from Norman & Karen Blake to Douglas & Gale McNish on January 17, 2006 at a price of \$1,550,000 or \$459,395 per acre. This transaction was recorded at the Bureau of Conveyances as Document No. 06-009376. Public records did not indicate any other conveyance of this property within the three years prior to this transaction.

Land Transaction No. 4

TMK: (II) 1-2-03-021

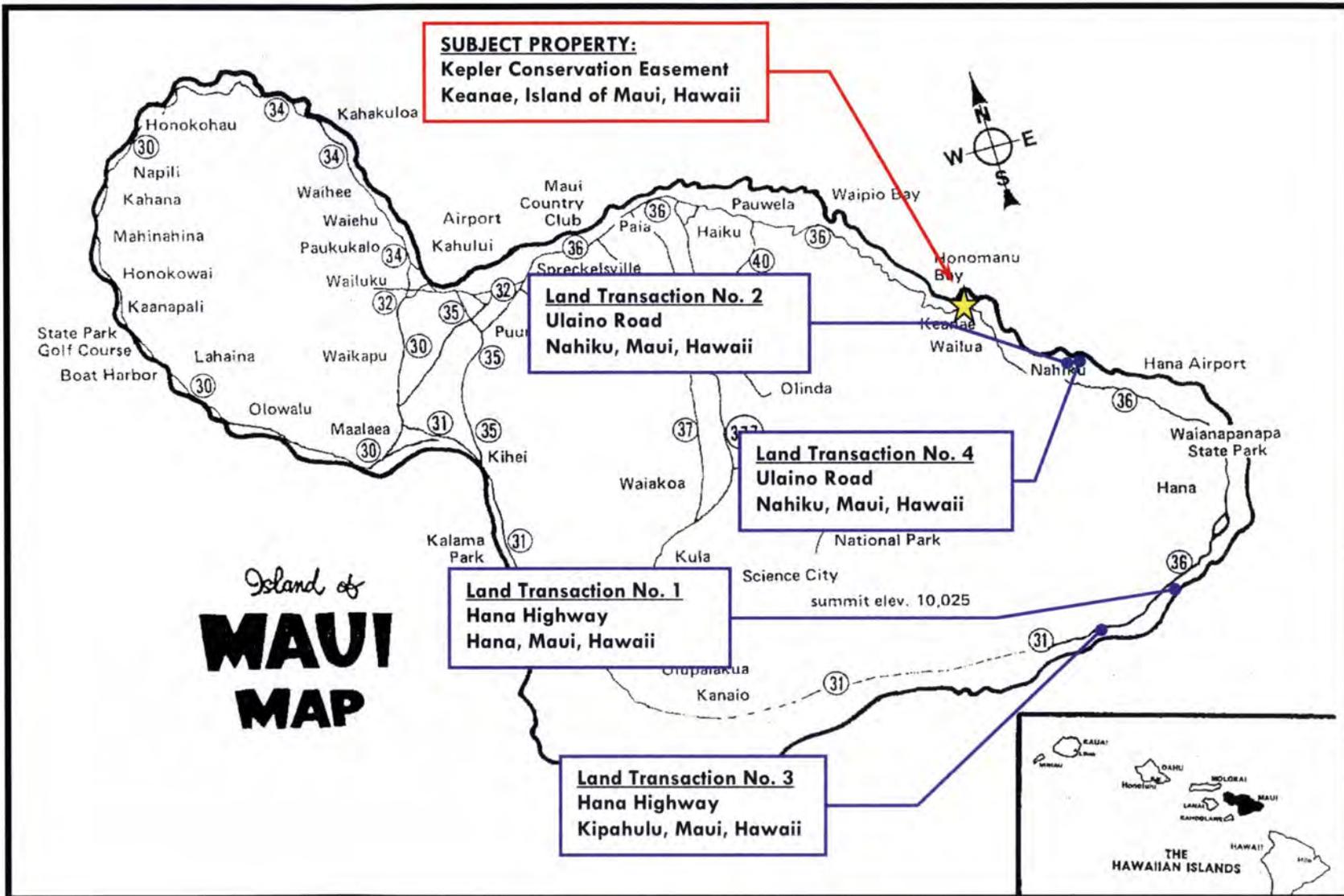
This fee simple property is located on Ulaino Road in the Nahiku community of the Hana District, about 10 miles from Hana Town. It occupies an oceanfront location with a very high cliff front and ocean access is not available. It is primarily zoned Agricultural District with a narrow Conservation District classification along the coastline. The 8.615-acre property has a slightly irregular shape and a gradual topographical rise from the ocean to the highway. The site possesses panoramic ocean and mountain views. Overhead telephone and electrical lines currently service the immediate neighborhood; and, a private water source has been developed for the property. Vehicular ingress and egress is afforded by a long access easement over another property from Hana Highway.

This property was sold from Maui Dream Limited Partnership to Teresa Lynn Allred on March 2, 2005 at a price of \$1,500,000 or \$174,115 per acre. This transaction was recorded at the Bureau

of Conveyances as Document No. 05-041718. Public records did not indicate any other conveyance of this property within the three years prior to this transaction.

Table 3 – Land Transaction Adjustment Schedule (Before the Conservation Easement)

| SUBJECT | | LAND TRANSACTIONS | | | |
|--|--------------------------------------|---------------------------|---------------------------|------------------------|---------------------------|
| | | No. 1 | No. 2 | No. 3 | No.4 |
| Tax Map Key (Div 2) | 1-1-3-041 & 065 | 1-5-05-003 | 1-2-03-059 | 1-6-10-003 | 1-2-03-021 |
| Street Address | Keanae Road | Hana Highway | Ulaino Road | Hana Highway | Ulaino Road |
| Community Location | Keanae | Hana | Nahiku | Kipahulu | Nahiku |
| Ocean Frontage | Oceanfront, bisected by Keanae Place | Oceanfront | Ocean Cliff Front | Ocean Cliff Front | Ocean Cliff Front |
| County Zoning | Agriculture & Conservation | Interim (Rural SLU) | Ag & Conservation | Ag & Conservation | Ag & Conservation |
| Community Plan | Agriculture | Rural & Open Space | Agriculture | Agriculture | Agriculture |
| Land Tenure | Fee Simple | Fee Simple | Fee Simple | Fee Simple | Fee Simple |
| Special Management Area | Yes | Yes | Yes | Yes | Yes |
| Parcel Configuration | Irregular | Irregular | Irregular | Generally rectangular | Irregular |
| Topography/Terrain | Level to gentle slope | Level to gentle slope | Level to gentle slope | Level to gentle slope | Level to gentle slope |
| Roadway Accessibility | Adequate | Adequate | Inferior | Adequate | Inferior |
| Domestic Utilities | Electricity & Water | Electricity/No water | Electricity/Private water | No elec/Private water | Electricity/Private water |
| Predominant Site Views | Ocean/Mountain | Ocean/Mountain | Ocean/Mountain | Ocean/Mountain | Ocean/Mountain |
| FEMA Flood Status | Zone X | Zones X and VE | Zones X and VE | Zone X | Zones X and VE |
| Site Encumbrances | Roadway/Landlocked parcels | None noted | None noted | None noted | None noted |
| Land Area in Acres | 6.300 | 12.090 | 17.955 | 3.374 | 8.615 |
| Date Recorded | | 1/21/10 | 2/2/06 | 1/17/06 | 3/2/05 |
| Instrumental/Financing | | Deed / Cash | Deed | Deed | Deed |
| Document Number | | LCD 3933567 | 06-021983 | 06-009376 | 05-041718 |
| Grantor | | Stender & McGuire | Bobbie Wesson, et al. | Norman Blake, et al. | Maui Dream Ltd Ptnr |
| Grantee | | Yankovic Trust | Bruce White | Douglas McNish, et al. | Teresa Lynn Allred |
| Transaction Price | | \$1,390,000 | \$2,250,000 | \$1,550,000 | \$1,500,000 |
| Financing/Conditions of Sale Adjustment | | \$0 | \$0 | \$0 | \$0 |
| Adjusted Transaction Price | | \$1,390,000 | \$2,250,000 | \$1,550,000 | \$1,500,000 |
| Indicated Transaction Price per Acre | | \$114,971 | \$125,313 | \$459,395 | \$174,115 |
| Market Conditions Adjustment (Time) | | 1.03 | 0.94 | 0.95 | 1.17 |
| Market Conditions Adjusted Unit Price | | \$118,420 | \$117,794 | \$436,426 | \$203,714 |
| ADJUSTMENTS | | | | | |
| Location | | 0% | 0% | 0% | 0% |
| Zoning/Community Plan Designation | | -10% | 0% | 0% | 0% |
| Availability of Domestic Utilities | | 20% | 5% | 10% | 5% |
| Roadway Accessibility | | 0% | 5% | 0% | 5% |
| Special Management Area | | 0% | 0% | 0% | 0% |
| View Amenities | | 0% | 0% | 0% | 0% |
| Flood Status | | 0% | 0% | 0% | 0% |
| Site Encumbrances & Restrictions | | 0% | 0% | 0% | 0% |
| Oceanfront Quality | | 2.5% | 5% | 5% | 10% |
| Other Physical Characteristics | | -10% | -10% | -10% | -10% |
| Net Adjustments | | 2.5% | 5% | 5% | 10% |
| Adjusted Unit Price | | \$121,381 | \$123,684 | \$458,247 | \$224,086 |
| Size Adjustment | | 1.68 | 2.31 | 0.61 | 1.28 |
| Final Size Adjusted Unit Price per Acre | | \$203,920 | \$285,711 | \$279,531 | \$286,830 |
| WEIGHTING FACTOR | | 10.00% | 10.00% | 40.00% | 40.00% |
| Product | | \$20,392 | \$28,571 | \$111,812 | \$114,732 |
| Range of Adjusted Values: | \$203,920 - | \$286,830 per Acre | | | |
| Median Unit Value: | | \$282,621 per Acre | | | |
| Mean Unit Value: | | \$263,998 per Acre | | | |
| Weighted Unit Value: | | \$275,507 per Acre | | | |
| Estimated Value of the Land, Fee Simple: | | \$275,507 per Acre | | | |
| Indicated Site Value: | 6.30 Ac x | \$275,507 = | \$1,735,696 | | |



Not to Scale!

LAND TRANSACTION MAP

DISCUSSION AND CONCLUSION OF FEE SIMPLE LAND VALUE

The appraiser has conducted a search for competitive vacant land transactions that occurred relatively recently, occupy oceanfront or near-oceanfront locations; are similarly zoned, and are situated in the vicinity of the subject site.

As noted earlier in this report, the difficulty of this appraisal assignment is rooted in the subject's Hana location. The market activity in Hana is very low. Consequently, there are very few sales from which to choose, and of those few, most do not match up well to the subject.

The subject's unique characteristics also made comparable sale selection difficult. These features include its size, at 6.3 acres; and, its divided Agricultural and Conservation District zoning.

In the absence of comparable sales in the neighborhood, conventional appraisal wisdom would typically require an expansion of the geographic selection area. But, as discussed earlier, there are no neighborhoods on Maui, or possibly in the State of Hawaii, that could compare to Hana's real estate market. Thus, with little or no current sales to work with, the Appraiser made the decision to employ sales dating as far back as 2005.

None of the comparable sales employed are within the same size range as the subject, but they are the smallest oceanfront land transactions available in the Hana district since 2005. In the Appraiser's opinion, the four comparable transactions represent the most competitive transactions in the market and are the most appropriate value indicators for the subject.

After comparing these land transactions with the subject, adjustments were applied to the sales prices for each of the applicable categories (Refer to **Table 3**). These adjustments are discussed in the paragraphs below.

Financing

No adjustments were required since purchase of all the comparable Land Transactions were conducted with cash, or financing that is considered to be conventional or typical of the market.

Time/Market Conditions

This category was considered in order to compensate for changes in real property values over time, if any, in the subject's market area. The transactions occurred between March 2005 and January 2010. The Appraiser has found evidence that the market for vacant land in Hana appreciated at an average straight-line rate of approximately 3 percent per month between 2000 and 2007 (See Market Conditions Analysis Table A to follow).

Since 2007, land sales in the Hana District have been scarce, but it is obvious that the real estate market experienced a downward trend. Lacking resale data, the Appraiser analyzed single-family average monthly median prices for Maui County since 2007. The use of average monthly median prices for vacant land was considered; however, these numbers were determined to be skewed by the lack of sales volume. For example, in December 2008 and January 2009 there were only two and three vacant land sales, respectively, for the entire island. Since the Appraiser has concluded that the Highest and Best Use of the property would be for agricultural residential development, single-family residential medians were analyzed. Monthly medians for single-family residential property in Maui County averaged \$627,887 in 2007, \$574,760 in 2008, \$498,708 in 2009, \$462,821 in 2010, \$440,160 in 2011 and \$471,925 in 2012. These figures provide evidence of a decline for single-family residential real estate on Maui from 2007 through 2011, with recovery in 2012. (See Market Conditions Analysis Table B to follow).

In light of the aforementioned analysis, the Appraiser has applied a positive adjustment of eight hundredths of one percent (0.08%) per month for Land Transaction No. 1, from the time of its conveyance through 2012. Land Transactions No. 2, No. 3 and No. 4 were subjected to a positive adjustment of three percent (3.0%) per month from their transaction date to January 1, 2007. This was followed by a negative adjustment of forty-one hundredths of one percent (-0.41%) per month from January 1, 2007 through 2012. This resulted in net adjustments of positive 3 percent for Land Transaction No. 1, negative 6 percent for Land Transaction No. 2, negative 5 percent for Land Transaction No. 3, and positive 17 percent for Land Transaction No. 4.

It is acknowledged that year-to-date monthly sale statistics indicate an increased rate of single-family residential median price recovery for Maui County, as a whole. However, there are still an insufficient number of sales and statistical indicators in 2013 to confirm this trend for the East Maui submarket. Thus, adjustments for market conditions have not been applied past 2012.

Market Condition Analysis Table A

| 2nd Division Tax Map Key | Size (Acres) | Original Sale Date | Subsequent Sale Date | Period (Months) | Original Price | Subsequent Price | Percent Appreciation | Monthly Appreciation |
|-----------------------------|-----------------|-----------------------|-------------------------|--------------------|-------------------|---------------------|-------------------------|-------------------------|
| 1-2-01-004 | 63 | 06/27/00 | 05/31/05 | 57 | \$640,000 | \$1,260,000 | 96.88% | 1.70% |
| 1-2-03-019 | 57 | 03/21/02 | 12/31/03 | 21 | \$275,000 | \$400,000 | 45.45% | 2.16% |
| 1-3-03-042 | 6.58 | 06/15/04 | 04/19/06 | 22 | \$375,000 | \$580,000 | 54.67% | 2.48% |
| 1-3-05-034 | 7.36 | 03/15/00 | 12/30/04 | 57 | \$109,000 | \$275,000 | 152.29% | 2.67% |
| 1-3-09-026 | 4.32 | 04/01/04 | 11/22/06 | 31 | \$310,000 | \$495,000 | 59.68% | 1.93% |
| 1-3-09-034 | 4.84 | 10/10/04 | 05/11/07 | 31 | \$300,000 | \$650,000 | 116.67% | 3.76% |
| 1-3-04-001 | 72.81 | 09/20/99 | 10/01/04 | 61 | \$580,000 | \$1,025,000 | 76.72% | 1.26% |
| 1-4-06-005 | 1.17 | 11/18/04 | 07/26/05 | 8 | \$175,000 | \$230,000 | 31.43% | 3.93% |
| 1-4-11-011 | 29.55 | 06/28/01 | 12/10/07 | 78 | \$850,000 | \$1,999,999 | 135.29% | 1.73% |
| 1-4-11-040 | 10.3 | 10/17/03 | 03/13/06 | 29 | \$390,000 | \$765,000 | 96.15% | 3.32% |
| 1-4-11-015 | 11.57 | 08/05/03 | 10/25/06 | 38 | \$330,100 | \$850,000 | 157.50% | 4.14% |
| 1-4-14-034 | 0.2631 | 11/07/03 | 04/08/04 | 5 | \$133,500 | \$185,000 | 38.58% | 7.72% |
| 1-7-02-020 | 13.88 | 08/02/02 | 12/19/07 | 64 | \$225,000 | \$505,000 | 124.44% | 1.94% |

| <u>Monthly Appreciation</u> | |
|-----------------------------|---------------|
| Range | 1.26% - 7.72% |
| Mean | 2.98% |
| Median | 2.48% |

Market Condition Analysis Table B

| Year | Avg. Monthly Single-Family Median | % Change | Period | No. of Months in Period | Straight-Line % Change per Month |
|------|---|-------------|-----------|-------------------------------|--|
| 2012 | \$471,925 | | | | |
| 2011 | \$440,160 | 7% | 2011-2012 | 12 | 0.60% |
| 2010 | \$462,821 | 2% | 2010-2012 | 24 | 0.08% |
| 2009 | \$498,708 | -5% | 2009-2012 | 36 | -0.15% |
| 2008 | \$574,760 | -18% | 2008-2012 | 48 | -0.37% |
| 2007 | \$627,887 | -25% | 2007-2012 | 60 | -0.41% |

| | | |
|----------------|--------------------------------|------------------------|
| MAUI COUNTY | Range of Monthly Change | -0.41% to 0.60% |
| | Median Value of Range | -0.26% |
| | Average Value of Range | -0.21% |

General Location

The location adjustment considers the overall desirability of the immediate neighborhood, proximity to complementary services and vehicular traffic patterns. It also considers the overall desirability of the site with respect to its highest and best use. The subject is located on the Keanae Peninsula in the Hana region and each of the comparable parcels occupies a location in the Hana region which is considered to be similar. For this reason, no adjustment for general location was warranted.

Zoning

The zoning adjustment considers the potential higher uses of the property with respect to current zoning classifications. The majority of the site (6.12 acres) is zoned Agricultural District while the oceanfront portion of the site (0.18 acre) is zoned Conservation.

Land Transactions No. 2, No. 3 and No. 4 have similar zoning, where no adjustment could be justified.

Land Transaction No. 1 has Interim zoning, with Rural State Land Use classification, in addition to Rural and Open Space community plan designation. As such, the comparable has the potential to be subdivided into 12 to 24 rural residential lots. However, this superior characteristic is partially offset by the fact that the property owner would first need to successfully obtain a change in zoning from Interim District zoning to Rural District zoning. In addition to the time needed to carry out this process, the developer would incur additional costs and risk. Furthermore, it was confirmed that the intent of the buyer was to leave the property undeveloped, as they own the property on the opposite side of Hana Highway and wish to retain their view plane. After consideration of all of these factors, a tempered adjustment of negative 10 percent was applied to Land Transaction No. 1.

Availability of Utilities

This category addresses the availability of domestic utilities for the subject and the comparable sales. The subject has both public water and electricity available on site.

The ability to acquire public utilities is important in the timing of future development. Properties in the greater Hana district are known to rely upon photovoltaic technology or wind energy for electrical power, and the use of streams or private wells as water sources. While the presence of a public water meter on site is typically viewed as a superior characteristic, not having one is a common characteristic on large Hana properties. This problem has been resolved by various methods: (1) constructing a water catchment system to recycle Hana's abundant rainfall; (2) pumping water from one of Hana's many streams and running it to the site and through a reverse osmosis system; (3) applying and waiting for a County water meter; or (4) drilling a private well. The first two would be suitable alternatives for a single-family dwelling, and the last two would be the most satisfactory options for large tracts of land. While the absence of on-site water would be considered a more serious problem in other parts of Maui, this condition is more acceptable in Hana due to alternate water sources and the rural lifestyle and land uses in this community. As a result, many vacant parcels are sold without this utility.

In arriving at an adjustment factor for this category, the Appraiser considered the cost to construct and maintain private systems to provide electrical power and/or water.

Land Transaction No. 1 has public electricity, but no water source. A positive 20 percent adjustment was merited for this conveyance. Land Transactions No. 2 and No. 4 have electricity and no public water; however, they have private water sources to utilize. This inferior characteristic warranted a positive 5 percent adjustment to

each comparable. Land Transaction No. 3 does not have electricity, but does have private water available to it; hence, a positive 10 percent adjustment was applied to this sale.

Roadway Access

Vehicular access to the subject is provided by a paved asphalt roadway and ingress and egress are not difficult. Vehicular access to Land Transactions No. 2 and No. 4 is via a long access easement through an adjacent property, which was deemed more difficult and time consuming; hence, a positive 5 percent adjustment was applied to these sales. No other adjustments were merited as the remaining land transactions have roadway access considered to be similar to the subject.

Special Management Area

The subject and all of the comparable sales are located in the Special Management Area (SMA) and are subject to their restrictions and approval processes. No adjustments were required of the comparable sales because, like the subject, they are identically challenged by the SMA regulations.

View Amenities

The subject has panoramic views of the ocean as well as views of the mountain range to the west. Each of the comparable sales benefits from similar ocean and mountain views and no adjustments were warranted.

Flood Status

This category considers the bearing of being in a federally determined flood zone which requires flood insurance. The subject is located in Flood Zone X. Zone X indicates areas outside of the 0.2 percent annual chance floodplain.

Land Transactions No. 1, No. 2 and No. 4 each have a primary designation of Zone X with Zone VE present in a narrow fringe along the rocky shoreline. The location of this inundation area does not affect the value of the parcel as it is within the shoreline setback area. As such, it would not require the purchase of insurance nor limit the buildable area of the parcel. For this reason, the flood designation of these comparable sales is considered equal to the subject and no adjustments were merited. Like the subject, Land Transaction No. 3 is situated solely in Zone X and no adjustment was warranted.

Oceanfront Characteristics

This category addresses the relative desirability of ocean access and beach frontage as opposed to cliff frontage. The subject was once an oceanfront parcel, prior to the creation of Keanae Place, which now bisects the property. However, traffic on this roadway is sparse and does not significantly impact ocean accessibility or the subject's view plane.

Land Transaction No. 1 is an oceanfront parcel with primarily low cliff frontage and some rocky beach access. As a whole, its coastline was deemed slightly inferior to the subject, where a positive 2.5 percent adjustment was made.

Land Transactions No. 2 and No. 3 are also oceanfront parcels, but do not possess ocean access, as they are set atop high cliffs. A positive 5 percent adjustment was applied to each of these sales for this inferior characteristic.

Land Transaction No. 4 lacks direct ocean frontage due to a narrow strip of land situated between it and the ocean. This narrow strip of land acts as a buffer from the ocean, but will also preserve the view of this comparable sale because it is owned by the State of Hawaii. Still, the oceanfront characteristics of this parcel are observed to be inferior to the subject and a positive 10 percent adjustment was applied to it.

Other Physical Characteristics

The physical characteristics adjustment considers the impact of shape, topography and utility of the site with respect to development potential. As mentioned earlier, the subject was once a single parcel of land before Keanae Place was constructed and effectively created an oceanfront remnant of the property. The presence of the roadway has little effect on access to the ocean, as the roadway is not highly traveled. However, the subject has three land-locked parcels located within its boundaries, owned by the State of Hawaii and East Maui Irrigation Company, et al. These characteristics of the subject are frequently found on many properties previously occupied by the ancient Hawaiians. However, they are still observed to be limitations on the market value of the subject, as they could potentially infringe on the privacy of the subject. In addition, although ingress and egress to these land-locked lots are currently provided by a verbal agreement with the property owner, a formal access easement may need to be created at some point in time. Finally, these parcels may affect the subdivision of the site to a small degree. Based on these factors, the comparable sales are considered to be superior, with regard to physical characteristics. As a result, a negative 10 percent adjustment was applied to each land transaction.

Size Adjustment

The size factor typically reflects the contention that larger parcels have lower unit values, and smaller parcels have higher unit values. Larger parcels typically generate more risk with respect to entitlement, construction and marketing; therefore, buyers of large lots typically will pay lower unit prices than smaller lots.

Appropriate adjustments were applied to each of the land sales, based on a statistical curve analysis. The respective sizes and unit prices of the land sales were compared with one another in order to arrive at a curve which best represents the correlation between price and size in this market. This was accomplished by measuring the relationship between the mean and standard deviation of the comparables. In this case, the results of the analysis warranted the use of a 57.5 percent curve. The size of each land transaction was then judged against that of the subject, resulting in size adjustments

of between negative 39 and positive 131 percent. The wide disparity is not surprising, considering the lack of similarity among the sizes of the comparable sales.

CONCLUSION OF FEE SIMPLE LAND VALUE

After careful consideration of the competitive parcels and adjustments to reflect the differences in the properties, the estimated value of the subject site was determined to be in the range of \$203,920 to \$286,830 per acre. The comparable sales were analyzed for their strengths and weaknesses attributed to their use. A review of the gross adjustments indicated that Land Transactions No. 3 and No. 4 required the least adjustments and, thus, are most similar to the subject. As such, equal majority reliance was placed on these sales. Equal minority weight was assigned to Land Transactions No. 1 and No. 2. After consideration of their comparative size, location, accessibility and visibility, physical characteristics, and zoning, it was felt that the estimated value of the site is fairly represented by **\$275,507 per acre** and for 6.3 acres; it is the Appraiser's opinion that the **fee simple** market value of the subject site is **\$1,735,696**. This figure is utilized in the Cost Approach, and rounding is reserved as the final calculation in this methodology.

Collateral Analysis 1

A \$1,650,000 sale of an 18.968-acre oceanfront property in Hana occurred in August 2013. Although the listing indicated that the sale included a 1,200-square foot one-bedroom/one-bath residence, public records recognize the structure as an open carport and no building permits were shown in County of Maui online records. The 2013 real property tax building assessment for the structure is \$10,600. Upon confirmation with the seller's agent, it was disclosed that the seller was in the process of adding an additional bedroom and bathroom; however, would not divulge if an appropriation of value was even considered for the unpermitted improvements in this cash deal. When pressed as to why the improvements were not pictured in the listing, the agent admitted that most of the value is in the land.

Deduction of the \$10,600 building assessment resulted in an extracted land value of \$1,639,400, or about \$86,430 per acre. When compared to the subject, this site has inferior zoning, utilities, oceanfront quality, topography and is larger in size. However, it lacks the subject's landlocked parcels. After consideration of the various factors, an extracted unit value for the land was estimated at about \$280,000 per acre.

Collateral Analysis 2

An active listing was uncovered for an oceanfront parcel in Hana. The 3.817-acre site was made available for sale in August 2012, with a current asking price of \$899,000, or \$235,525 per acre.

When compared to the subject, this site has inferior utilities, flood status and oceanfront quality. However, it lacks the subject's landlocked parcels, has superior zoning and is smaller in size. After consideration of the various factors, an adjusted unit value for the land was estimated at about \$235,000 per acre.

The results of this collateral analysis indicate unit values of approximately \$235,000 and \$280,000 per acre. This range brackets the subject's unit value and provides additional support of the Appraiser's conclusion. A summary table with the collateral analyses properties has been included as **Exhibit H**.

REPRODUCTION COST NEW OF IMPROVEMENTS:

In the construction of any project, the total cost of development can be divided into two basic categories: (1) Direct or "hard" costs and (2) Indirect or "soft" costs. Direct costs are expenditures for the labor and materials needed to construct a new improvement, including the contractor's overhead and profit. Indirect costs are development expenses that are not included in the general construction contract or land acquisition.

In this case, replacement cost information was gleaned from Marshall Valuation Service (MVS), a national construction cost data base. Direct construction costs were estimated to be \$346,130, which included site work (Refer to **Table 4**, Page 68). This figure was compared against cost data from recently constructed structures of similar quality. Based on this comparison, the Appraiser's estimated costs by MVS appear to be consistent with the market.

Indirect "soft" construction costs totaled \$10,000, which was limited to permits and legal fees. Architectural, engineering, interim loan interest and fees, as well as developer's profit and overhead are included in the costs data prepared by Marshall Valuation Services, thus, are not calculated in the table. Replacement cost new of improvements, including all development costs and developer's profit were estimated to be \$356,130.

ACCRUED DEPRECIATION:

Accrued depreciation, as defined by *Real Estate Appraisal Terminology*, is the difference between reproduction cost new or replacement cost new of the improvements and the present worth of those improvements, both measured as of the date of the appraisal.

In measuring accrued depreciation, the appraiser is interested in identifying and measuring the loss in utility experienced by the subject structure in its present condition, as compared to the utility it would have as a new improvement representing the highest and best use of the site.

The three components of accrued depreciation are:

Physical Deterioration

Physical deterioration is defined as the loss in value due to the general wear and tear arising from the improvement's age, use and/or inadequate maintenance.

In this case, the improvements are estimated to have an effective age of 25 years with a remaining economic life of 30 years, assuming proper and timely maintenance. Deterioration, on a straight-line basis, calculates to 45 percent, or \$150,514.

Functional Obsolescence

Functional obsolescence reflects the loss in value brought about by impairments to the property that are physical in nature, such as poor layout or design. It also reflects the inability of the structure to adequately perform the function for which it is currently employed. In this case, the improvements were specifically designed and suited for its intended use, and are fully functional for residential use.

External Obsolescence

External obsolescence is the impairment of desirability of useful life arising from factors external to the property, such as economic forces or environmental changes which affect supply-demand relationships in the market. The agricultural real estate market on Maui has been declining but appears to be stabilizing, and the subject's neighborhood consists of similar agricultural uses. Therefore, there appears to be no indication of economic obsolescence in the subject property at this time.

SUMMARY

In summary, only an adjustment for physical deterioration was calculated in the amount of \$150,514. No adjustments were made for functional obsolescence or external obsolescence. Adding the fee simple site value of \$1,735,696 to the depreciated value of the improvements, \$205,616, resulted in the overall value of the subject by the Cost Approach of **\$1,940,000** (rounded). The details of the Cost Approach process are outlined in **Table 4** on the following page.

Table 4 – Summary of the Cost Approach (Before Imposition of the Conservation Easement)

| Marshall & Swift | | | | | | |
|--|-----------|------------------------------------|----------|--------------|----------------------------|--|
| Cost Source: Marshall & Swift | | # 12: Dwellings, Multiples, Motels | | | | |
| No. of Stories Multiplier: | 1.000 | Local Multiplier: | | | 1.590 | |
| Height/Story Multiplier: | 1.000 | Current Cost Multiplier: | | | 1.050 | |
| Floor Area/Shape Multiplier: | 1.053 | Combined Multipliers: | | | 1.758 | |
| Building Improvements | | | | | | |
| Item | Unit Type | Cost | Quantity | Multiplier | Total | |
| SF Residence, Class D, Very Good | Sq. Ft. | \$136.61 | 1,150 | 1.758 | \$276,182 | |
| Wood Porch, Very Good | Sq. Ft. | \$31.96 | 800 | 1.758 | \$44,948 | |
| Total Building Improvement Costs | | | | | \$321,130 | |
| Price per SF Gross Building Area | | | | | \$279.24 | |
| Site Improvements | | | | | | |
| Item | Unit Type | Cost | Quantity | Total | | |
| Site Preparation & Improvements | Lump Sum | \$25,000 | 1 | \$25,000 | | |
| Total Site Improvement Costs | | | | | \$25,000 | |
| Subtotal: Building & Site Costs | | | | | \$346,130 | |
| Price per SF Gross Building Area | | | | | \$300.98 | |
| Soft Costs | | | | | | |
| Item | | | | Percent Type | Total | |
| Engineering | 0.0% | % of Building Cost | | \$0 | | |
| Architectural | 0.0% | % Bld. & Site Cost | | \$0 | | |
| Permits & Legal | | | | | \$10,000 | |
| Leasing | | | | | \$0 | |
| Total Soft Costs | | | | | \$10,000 | |
| Total Costs | | | | | | |
| Subtotal: Building, Site & Soft Costs | | | | | \$356,130 | |
| Developer's Profit 0.0% | | | | | \$0 | |
| Total Cost | | | | | \$356,130 | |
| Price per SF Gross Building Area | | | | | \$309.68 | |
| Depreciation: Section 1 of 1 | | | | | | |
| Component | Eff. Age | Life | Percent | Amount | | |
| Physical Depreciation: Building | 25 | 55 | 45% | \$150,514 | | |
| Physical Depreciation: Site | 0 | 20 | 0% | \$0 | | |
| Functional Obsolescence Building | | | | \$0 | | |
| External Obsolescence Building | | | | \$0 | | |
| Total Depreciation | | | | | \$150,514 | |
| Depreciated Value of Improvements | | | | | \$205,616 | |
| Cost Per Square Foot Gross Building Area | | | | | \$178.80 | |
| Land Value | | | | | | |
| Land Value | | | | | \$1,735,696 | |
| Other | | | | | \$0 | |
| Cost Approach Value Indication | | | | | \$1,941,312 | |
| | | | | | Rounded \$1,940,000 | |

VALUATION AFTER IMPOSITION OF THE CONSERVATION EASEMENT

HIGHEST AND BEST USE

Highest and Best Use analysis applies to both the site as though vacant and the property as currently improved. In highest and best use analysis, the four criteria that the property must satisfy are:

- (1) Physically possible uses;
- (2) Legally permissible uses;
- (3) Financially feasible uses; and
- (4) Maximally productive use.

These criteria should be considered sequentially through an examination of the physical and economic data reported in the previous sections of this report. Within the four categories mentioned above, other considerations include: use must be legal and in compliance with zoning and building requirements; use must be within the realm of probability and not speculative or conjectural; demand for such use must exist; use must be profitable; use should provide the highest net return to the land; and the use should produce the maximum return for the longest possible time.

Since the appraisal of the subject property is based on a particular premise of use, the highest and best use analysis determines just what this premise of use should be.

In this case, two assumptions must be given pertinent consideration in the analysis of highest and best use.

- 3) The site as if vacant and available for development; and
- 4) The site as presently improved

THE PROPERTY AFTER ENCUMBRANCE BY THE CONSERVATION EASEMENT

As If Vacant

This assessment considers the highest and best use of the property with the encumbrance and restrictions of the conservation easement.

The first major aspect of the highest and best use analysis is considering the property as if it were vacant and available for development. This assumption is made to determine whether the land alone is worth more than the existing property, as is. In other words, this is the beginning benchmark to compare with the highest and best use of the property, as is, to determine whether the site is presently underutilized.

Physically Possible Use

The physical aspects of the site impose the first constraint on any possible use of the property. The Appraiser has not been provided with soil or subsoil or other engineering studies to determine the load-bearing capacity of the subject parcel. However, based on our review of other properties in the immediate vicinity, the site is presumed to have stable soil conditions upon which single-family and farm structures could be built. Since taro farming requires shallow ponds, the drainage and irrigation issues appear to be controlled by the farmers through man-made channels connecting the taro patches. Parcel 041 has a land area of 6.12 acres and is located across Keanae Place from the ocean. Parcel 065 is located on the ocean and has 0.18 acres of irregularly shaped land. The 6.12-acre portion of the subject is irregularly shaped and, as mentioned earlier, has three landlocked parcels located within its boundaries. However, due to the large size of this parcel, good utility to the land still remains.

Legally Permissible Use

The imposition of the Conservation Easement will, to a great degree, remove all potential for economic use of the 6.3 acres of land. The Grantor's reserved uses of the land, together with the prohibited uses as the Appraiser understands them to be, are summarized below.

Grantor's Reserved Uses

The Grantor, on the other hand, reserves for itself all rights accruing from ownership of the Protected Property not granted to the Grantee pursuant to the Easement. These rights include the following:

1. The right of privacy and quiet enjoyment
2. The right to permit or invite others to engage in any use consistent with the easement.
3. The right to use the property for agricultural activities consistent with law and the easement.
4. The right to undertake recreational activities provided that such activities are conducted in a manner and intensity that does not adversely impact the conservation values of the property and the purpose of the easement.
5. The right to construct and maintain fences within or around the property, provided that their design and location do not impair the conservation values of the property or be contrary to the purpose of the easement.
6. The right to place signs on the protected property to advertise for sale or rent or to state the conditions of access to the property; provided that such signs do not significantly degrade the conservation values of the protected property.

7. The right to undertake other activities necessary to protect public health or safety on the protected property.
8. The right to grant easements or dedicate areas to governmental agencies as long as they are consistent with the conservation values of the protected property.

Prohibited Uses and Activities

Any use of, or activity on, the protected property inconsistent with the purpose of this easement is prohibited. Such uses include the following:

1. Subdivision or partitioning of the property
2. Transfers of individual parcels unless all such parcels are transferred to the same transferee
3. The placement or construction of any permanent or temporary non-agricultural buildings or improvements of any kind, except as permitted by the Grantee upon a finding it will not significantly diminish the conservation values of the protected property or be inconsistent with the purpose of this easement.
4. Alteration of the land.
5. Erosion or water pollution.
6. Alteration of water courses.
7. Total impervious surface area shall be no greater than six percent (6%).
8. Waste disposal.
9. The above ground installation of new utility systems or extensions of existing utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities on the protected property.
10. The placement of commercial signs, billboards or other advertising material except as provided for in the easement.
11. The placement and use of any outdoor electric lights, except as approved by the Grantee for agricultural uses or to preserve or protect the conservation values of the protected property.
12. Mining.
13. The introduction of nonnative plants and nonnative invasive species except and approved by the Grantee.
14. The operation of off-road vehicles, except as necessary for agricultural uses.
15. Commercial recreation is generally prohibited except as permitted by the Grantee.

Consequently, the spectrum of permitted uses after the imposition of the Conservation Easement is extremely narrow and places a significant limitation on the potential use of the property.

Financially Feasible & Maximally Productive Uses

The test of financial feasibility involves an analysis of the likelihood of the use producing an income, or return, greater than the combined income needed to satisfy operating expenses, financial expenses, and capital amortization. All uses that are expected to produce a positive net income or rate of return are considered to be financially feasible.

As mentioned above the Conservation Easement will essentially remove all potential for economic uses of the property with the exception of agricultural activities. Outside of agricultural uses, the encumbered land will be used only to preserve, restore and maintain existing natural attributes. These include scenic, open space, shoreline access and non-commercial recreational features of the property.

The demand for vacant lands for conservation use is existent, but limited in its strength due to the heavy limitations on use, and strict management by government agencies. Still, the subject's oceanfront location is a very lucrative one, and the Appraiser is of the opinion that this parcel would be still be in demand if put on the open market.

As Presently Improved

The highest and best use of the property as improved is determined by analyzing the use that should be made of the property as it exists. Consideration is given to whether the existing improvements should be renovated, expanded, demolished, or replaced with a use that is different in type and intensity.

The subject is located in a neighborhood with similar agricultural and residential uses, and is in conformity with the immediate environs. The neighborhood is located on the Keanae peninsula and the neighborhood represents a traditional rural lifestyle that has endured through the years. The planting and harvesting of taro, a Hawaiian food staple, still plays a role in the day-to-day activities of this community, even in this modern age of mechanization. In this light, the sentiment in the greater Hana region is to continue to maintain the rural lifestyle of the community. Most new projects are not well-received, and there is no concerted effort toward development due to the region's remote location on Maui. There is one upscale, but low-density hotel in Hana; one school; and one general store.

The subject is presently improved with a single-story, wood-frame dwelling containing approximately 1,150 square feet of living area and 801 square feet of porch area which conforms to the Agricultural zoning ordinance. The subject improvements are considered to be of sound construction quality and in good overall condition. Its layout and design are considered functional and conducive to its existing uses. The subject's improvements are estimated to have an effective age of 25 years with a remaining

economic life of approximately 30 years, assuming proper and timely maintenance.

As the valuation section of this report will indicate, the present improvements make a substantial contribution to the property in excess of the value of the site. No alternative legal use could economically justify removal of the existing improvements or massive renovations, and the existing facility represents an optimum use of the site at this time.

The purpose of the Conservation Easement is to preserve the conservation values which include protection of the top priority soils by substantially retaining its current open-space condition for agricultural activities, subject to the express restrictions on such agricultural activities set forth in the actual easement document. Therefore, outside of approved agricultural activities, no other economic uses appear to be viable.

In light of these factors, the highest and best use of the subject is to (1) utilize the existing dwelling for a desirable oceanfront residential purpose; (2) farm the land with a native crop such as taro, which is currently grown in this community; and (3) preserve and maintain the property's current attributes of open space, views and other conservation values deemed suitable by the Grantee of this easement.

THE COST APPROACH

As previously mentioned, the Keanae neighborhood, as well as the greater Hana region, has very little real estate sales activity when compared to other regions of Maui. The absence of sales is due to the lack of demand in this highly remote location on the island; furthermore, the subject is especially unique with its oceanfront location, large acreage (for the area) and the presence of a small house.

Due to the limited availability of comparable sales data, use of the Sales Comparison Approach could not be supported and was not employed. The Income Approach is not generally utilized in the valuation of agricultural real estate like the subject because they are not regarded as income-producing properties; hence, this methodology was also ruled out.

It is the Appraiser's opinion that the use of the Cost Approach would be the most appropriate methodology in estimating the market value of the subject. It is even more reliable because the greatest value contribution to this property is provided by the approximate six acres of oceanfront land.

The Cost Approach is based on the principal of substitution, which holds that an informed purchaser would not pay more for a property than the cost of acquiring another property having the same utility. The rationale is that a prudent purchaser would not pay more for a property than the cost of acquiring a similar site and constructing improvements of equal design and utility.

The Cost Approach requires the estimation of three distinct components: the land as though vacant and available for development to its highest and best use; the reproduction or replacement cost of the improvements on the effective date of the appraisal; and accrued depreciation in the improvements. The accrued depreciation is deducted from the reproduction cost or replacement cost of the improvements to derive an estimate of the contributory value of the improvements. The depreciated reproduction or replacement cost of the improvements is added to the estimated land value yielding a value estimate of the property by the Cost Approach.

LAND VALUATION

The most commonly accepted approach for land valuation is the direct comparison of the subject land with sales of other land parcels in the market. When the availability of data permit its use, this analytical method produces an indication of what the purchaser-investor would most probably have to pay for the same rights in existing substitute properties on the same market, as of the effective date of the appraisal.

The value of the subject parcel was derived from an analysis of comparable sales in the general vicinity of the subject and their location relative to the subject is shown on the Comparable Land Sales Map in this section of the report. Because no two properties are ever truly identical, the prices of the market indicators must be reduced to various units of comparison to reflect the value of the subject property. Typically, the variations in sales prices reflect differences in size, location, zoning, time and terms of sale, and the physical characteristics of the land.

The value indication is developed using a unit of comparison in which the type of site being appraised is typically bought and sold on the market. In this assignment, the price per acre of land is the most appropriate unit of comparison. The land sales which have been utilized as comparables in this valuation assignment are summarized on the following pages.

Comparable Land Transactions

Land Transaction No. 5

TMKs: (II) 1-6-03-003; 1-6-04-007, 008 & 010

This fee simple property is located on Hana Highway in the Kipahulu community of the Hana District. It occupies an oceanfront location with ocean access from a rocky shoreline. The 6.508-acre site is zoned Conservation District and has an irregular shape. The site possesses panoramic ocean and mountain views. Electricity is available to the site and water is provided by a stream source and an on-site storage tank. Vehicular ingress and egress is directly from Hana Highway. According to the buyer's agent, a Conservation District Use Permit, allowing residential use on Parcel 003, was included with the sale.

This property was sold from Four Gossess LLC to Kamapuaa Kipahulu LLC on August 18, 2011 at a price of \$1,825,000 or \$280,424 per acre. This transaction was recorded in the Bureau of Conveyances as Document No. 11-131565. The property was previously conveyed in October 6, 2009 for \$70,100 from Robert Gillespie to PMB Mortgages LP and in April 2010 for \$71,100 from PMB Mortgages LP to Four Gossess LLC. These conveyances were deemed non-market transactions as they involved a bankruptcy proceeding and subsequent bank sale. Public records did not indicate any other conveyance of this property within the three years prior to this transaction.

Land Transaction No. 6TMK: (II) 1-6-09-008

This fee simple property is located along Hana Highway in the Kipahulu community of the Hana District. It occupies an oceanfront location with a cliff front with a small rocky beachfront along the eastern portion of the site which allows access to the ocean. The 35.10-acre parcel is partially zoned Agricultural District with a wide band of Conservation District classification along the coastline. The conservation district subzone is designated "Limited" by the Department of Land and Natural Resources. The property has a slightly irregular shape and a gradual topographical rise from the ocean to the highway. Panoramic ocean and mountain views are available from this site. Public utilities are not available to this site although water is privately piped to the property to support cattle grazing.

The subject's oceanfront location affords it panoramic ocean and mountain views. The vast majority of the property is situated in Flood Zone X, an area of minimal flooding. A very small segment at the oceanfront tip of the property is classified as Flood Zone V23, an area of coastal flooding with wave action.

This property was sold from The Nature Conservancy to Sue L. Wong on October 12, 2007 at a price of \$3,600,000. This price reflects an encumbered value of the property since a conservation easement was placed on the property by The Nature Conservancy prior to the sale. According to information provided by the seller, this property was appraised as a fee simple estate for \$4,780,000 at the time of sale. The property was also appraised with the conservation easement in place for \$3,600,000. The difference of \$1,180,000 was determined to be the value of the conservation easement, by inference. Although this transaction did not appear on Hawaii Information System, it was confirmed with seller, The Nature Conservancy and the Maui Coastal Land Trust which will be managing the conservation easement on this site. A 5-acre building pad was reserved for the property owner in the Conservation Easement Document. Public records did not indicate any other conveyance of this property within the three years prior to this transaction.

Land Transaction No. 7TMK: (II) 1-2-01-026

This fee simple property is located on Nahiku Road in the Nahiku community of the Hana District, about 10 miles from Hana Town. It occupies an oceanfront location with a very high cliff front and ocean access is not available. The 0.84-acre site is zoned Conservation District and has a generally rectangular shape. The site possesses panoramic ocean and mountain views. Electricity is available to the site. Vehicular ingress and egress is afforded by a long access easement over another property from Hana Highway.

This property was sold from Marie Youlin to Arthur & Mary Miller on February 20, 2004 at a price of \$239,900 or \$285,595 per acre. This transaction was recorded in the Bureau of Conveyances as Document No. 04-035061. Public records did not indicate any other conveyance of this property within the three years prior to this transaction.

Land Transaction No. 8

TMK: (II) 1-6-09-003

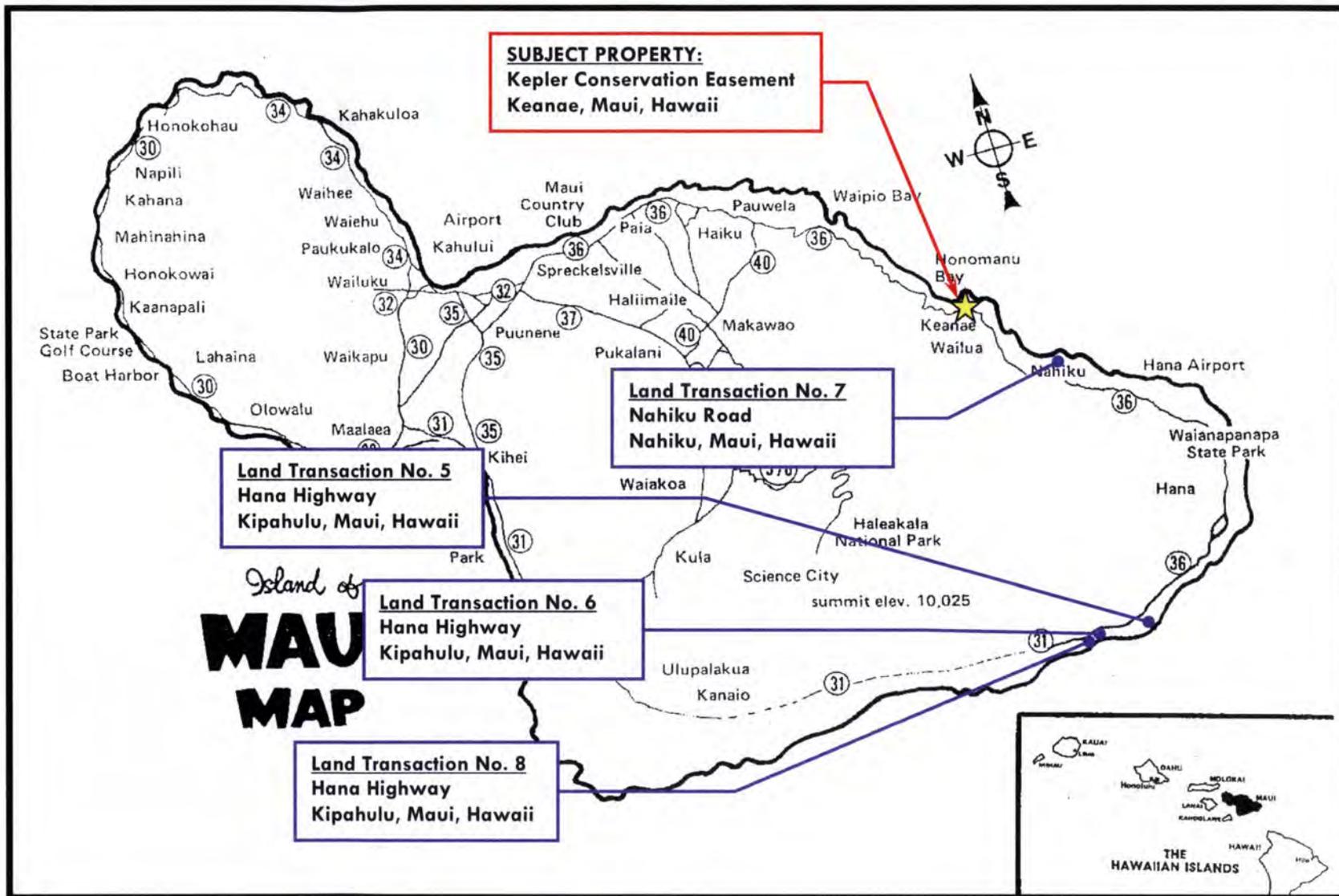
This fee simple property is located on Hana Highway in the Kipahulu community of the Hana District. It occupies an oceanfront location with ocean access from a rocky shoreline. The 3.177-acre site is zoned Conservation District and has a generally rectangular shape. The site possesses panoramic ocean and mountain views. Electricity is available to the site. Vehicular ingress and egress is directly from Hana Highway.

This property was sold from Michael Love to Theodore Firestone on January 30, 2004 at a price of \$800,000 or \$251,810 per acre. This transaction was recorded in the Bureau of Conveyances as Document No. 04-020554.

Public records indicated several quiet title deeds over the years involving Michael Love; however, there were no outright sales of this property.

Table 5 – Land Transaction Adjustment Schedule (After the Conservation Easement)

| SUBJECT | | LAND TRANSACTIONS | | | |
|--|--------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| | | No. 5 | No. 6 | No. 7 | No. 8 |
| Tax Map Key (Div 2) | 1-1-3-041 & 065 | 1-6-03-003, various | 1-6-09-008 | 1-2-01-026 | 1-6-09-003 |
| Street Address | Keanae Road | Hana Highway | Hana Highway | Nahiku Road | Hana Highway |
| Community Location | Keanae | Kipahulu | Kipahulu | Nahiku | Kipahulu |
| Ocean Frontage | Oceanfront, bisected by Keanae Place | Oceanfront | Oceanfront | Ocean Cliff Front | Oceanfront |
| County Zoning | Agriculture & Conservation | Conservation | Ag & Conservation | Conservation | Conservation |
| Community Plan | Agriculture & Conservation | Conservation | Ag & Conservation | Conservation | Conservation |
| Land Tenure | Fee Simple | Fee Simple | Fee Simple | Fee Simple | Fee Simple |
| Special Management Area | Yes | Yes | Yes | Yes | Yes |
| Parcel Configuration | Irregular | Irregular | Irregular | Nearly rectangular | Nearly rectangular |
| Topography/Terrain | Level to gentle slope | Level to gentle slope | Level to gentle slope | Level to gentle slope | Level to gentle slope |
| Roadway Accessibility | Adequate | Adequate | Adequate | Inferior | Adequate |
| Domestic Utilities | Electricity & Water | Elec avail./Stream | No public utilities | Elec avail./No water | Elec avail./No water |
| Predominant Site Views | Ocean/Mountain | Ocean/Mountain | Ocean/Mountain | Ocean/Mountain | Ocean/Mountain |
| FEMA Flood Status | Zone X | Zone X | Zones X and VE | Zones X and A | Zone X |
| Site Encumbrances | Land locked parcels/Consv. esmnt. | Access/utility/stream | Conservation easement | None noted | None noted |
| Land Area in Acres | 6.300 | 6.508 | 35.100 | 0.84 | 6.908 |
| Date Recorded | | 8/18/11 | 10/12/07 | 2/20/04 | 1/30/04 |
| Instrumental/Financing | | Deed | Deed | Deed | Deed |
| Document Number | | 11-131565 | 07-181525 | 04-035061 | 04-020554 |
| Grantor | | Four Gosses LLC | Nature Conservancy | Marie Youlin | Michael Love |
| Grantee | | Kamapuaa Kipahulu LLC | Sue L. Wong | Arthur & Mary Miller | Theodore Firestone |
| Transaction Price | | \$1,825,000 | \$3,600,000 | \$239,900 | \$800,000 |
| Financing/Conditions of Sale Adjustment | | \$0 | \$0 | \$0 | \$0 |
| Adjusted Transaction Price | | \$1,825,000 | \$3,600,000 | \$239,900 | \$800,000 |
| Indicated Transaction Price per Acre | | \$280,424 | \$102,564 | \$285,595 | \$115,808 |
| Market Conditions Adjustment (Time) | | 1.10 | 0.74 | 1.43 | 1.45 |
| Market Conditions Adjusted Unit Price | | \$308,467 | \$75,897 | \$408,401 | \$167,921 |
| ADJUSTMENTS | | | | | |
| Location | | 0% | 0% | 0% | 0% |
| Zoning/Community Plan Designation | | -20% | 0% | 0% | 0% |
| Availability of Domestic Utilities | | 2.5% | 10% | 5% | 5% |
| Roadway Accessibility | | 0% | 0% | 5% | 0% |
| Special Management Area | | 0% | 0% | 0% | 0% |
| View Amenities | | 0% | 0% | 0% | 0% |
| Flood Status | | 0% | 0% | 10% | 0% |
| Site Encumbrances & Restrictions | | 0% | 0% | 0% | 0% |
| Conservation Easement Administration | | -5% | 0% | -5% | -5% |
| Oceanfront Quality | | 0% | 0% | 5% | 0% |
| Other Physical Characteristics | | 0% | -10% | -10% | -10% |
| Net Adjustments | | -22.5% | 0% | 10.0% | -10.0% |
| Adjusted Unit Price | | \$239,062 | \$75,897 | \$449,241 | \$151,129 |
| Size Adjustment | | 1.02 | 2.22 | 0.39 | 1.04 |
| Final Size Adjusted Unit Price per Acre | | \$243,843 | \$168,492 | \$175,204 | \$157,174 |
| WEIGHTING FACTOR | | 40.00% | 10.00% | 20.00% | 30.00% |
| Product | | \$97,537 | \$16,849 | \$35,041 | \$47,152 |
| Range of Adjusted Values: | \$157,174 - | \$243,843 | per Acre | | |
| Median Unit Value: | | \$171,848 | per Acre | | |
| Mean Unit Value: | | \$186,178 | per Acre | | |
| Weighted Unit Value: | | \$196,579 | per Acre | | |
| Estimated Value of the Land, Fee Simple: | | \$196,579 | per Acre | | |
| Indicated Site Value: | 6.30 Ac x | \$196,579 | = | \$1,238,451 | |



Not to Scale!

LAND TRANSACTION MAP

DISCUSSION AND CONCLUSION OF FEE SIMPLE LAND VALUE

The appraiser has conducted a search for competitive vacant land transactions that occurred relatively recently, occupy oceanfront or near-oceanfront locations; are similarly zoned, and are situated in the vicinity of the subject site.

In light of the permitted and prohibited uses set forth by the Conservation Easement, the Appraiser searched the land sales having Conservation District zoning. Parcels zoned Conservation District by the State of Hawaii are viewed as being highly restrictive in their potential uses and, therefore, consistent with the subject upon imposition of the easement.

As mentioned earlier, the purpose of the Conservation District zoning ordinance is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public, health, safety and welfare. This district includes land that is primarily park, watershed, floodplain (coastal and stream), wildlife reserve, historic/scenic sites, mountains and offshore outlying islands. It follows that uses are highly restrictive in this district and all uses must be approved by the Board of Land and Natural Resources on a case by case basis.

The availability of conservation-zoned land sales is even more limited than for agricultural-zoned sales. Such transactions are highly infrequent due to their remote location and less significant demand for such properties when compared to other communities on Maui. The three land sales employed in this valuation have Conservation District zoning; however, in order to find these types of sales, the scope of the research went as far back as 2004. In the Appraiser's opinion, the three comparable sales represent the most recent competitive transactions in the market and are the most appropriate value indicators for the subject.

After comparing these land transactions with the subject, adjustments were applied to the sales prices for each of the applicable categories (Refer to **Table 5**). These adjustments are discussed in the paragraphs below.

Financing and Conditions of Sale

No adjustments were required of these three sales since their purchases were conducted with cash, or financing that is considered to be conventional or typical of the market.

Time/Market Conditions

This category was considered in order to compensate for changes in real property values over time, if any, in the subject's market area. The transactions occurred between January 2004 and August 2011. As discussed earlier in the previous section, the Appraiser has

found evidence that the market for vacant land in Hana appreciated at an average straight-line rate of approximately 3 percent per month between 2000 and 2007.

Since 2007, land sales in the Hana District have been scarce, but it is obvious that the real estate market experienced a downward trend. Lacking resale data, the Appraiser analyzed single-family average monthly median prices for Maui County since 2007. The use of average monthly median prices for vacant land was considered; however, these numbers were determined to be skewed by the lack of sales volume. For example, in December 2008 and January 2009 there were only two and three vacant land sales, respectively, for the entire island. Since the Appraiser has concluded that the Highest and Best Use of the property would be for agricultural residential development, single-family residential medians were analyzed. Monthly medians for single-family residential property in Maui County averaged \$627,887 in 2007, \$574,760 in 2008, \$498,708 in 2009, \$462,821 in 2010, \$440,160 in 2011 and \$471,925 in 2012. These figures provide evidence of a decline for single-family residential real estate on Maui from 2007 through 2011, with recovery in 2012. (See Market Conditions Analysis Table B, Page 60).

In light of the aforementioned analysis, Land Transactions No. 7 and No. 8 were subjected to a positive adjustment of three percent (3.0%) per month from their transaction date to January 1, 2007. This was followed by a negative adjustment of forty-one hundredths of one percent (-0.41%) per month from January 1, 2007 through 2012. Land Transaction No. 6 was negatively adjusted by forty-one hundredths of one percent (-0.41%) per month from its time of conveyance through 2012. Land Transaction No. 5 was positively adjusted by six-tenths of one percent (0.60%) per month from its time of conveyance through 2012. This resulted in net adjustments of positive 10 percent for Land Transaction No. 5, negative 26 percent for Land Transaction No. 6, positive 43 percent for Land Transaction No. 7 and positive 45 percent for Land Transaction No. 8.

As previously discussed, year-to-date monthly sale statistics indicate an increased rate of single-family residential median price recovery for Maui County, as a whole. However, there are still an insufficient number of sales and statistical indicators in 2013 to confirm this trend for the East Maui submarket. Thus, adjustments for market conditions have not been applied past 2012.

General Location

The location adjustment considers the overall desirability of the immediate neighborhood, proximity to complementary services and vehicular traffic patterns. It also considers the overall desirability of the site with respect to its highest and best use. The subject is located on the Keanae Peninsula in the Hana region and each of the comparable parcels occupies a location in the Hana region

which is considered to be equal. For this reason, no adjustment for general location was warranted.

Zoning

The zoning adjustment considers the potential higher uses of the property with respect to current zoning classifications. Land Transaction No. 5 is zoned Conservation District, but sold with a Conservation District Use Permit (CDUP MA-46) that allows the construction of a single-family residence on Parcel 003. Given the subject's zoning and location within the Special Management Area, this was deemed to be a superior characteristic, warranting a negative 20 percent adjustment. Land Transaction No. 6 was split zoned Agriculture and Conservation, but a conservation easement had been placed on the property by The Nature Conservancy, prior to its sale. This easement is considered to have a similar effect on the property as the subject's easement and no adjustment was necessary. The remaining two comparable sales are zoned Conservation District. This classification is considered to be highly comparable to the permitted uses of the subject when encumbered by the Conservation Easement. With this in mind, it is the Appraiser's opinion that an adjustment for zoning is not required.

Utilities

This category addresses the availability of domestic utilities for the subject and the comparable sales. The subject has both water and electricity available on site.

The ability to acquire public utilities is important in the timing of future development. Properties in the greater Hana district are known to rely upon photovoltaic technology or wind energy for electrical power, and the use of streams or private wells as water sources. While the presence of a public water meter on site is typically viewed as a superior characteristic, not having one is a common characteristic on large Hana properties. This problem has been resolved by various methods: (1) constructing a water catchment system to recycle Hana's abundant rainfall; (2) pumping water from one of Hana's many streams and running it to the site and through a reverse osmosis system; (3) applying and waiting for a County water meter; or (4) drilling a private well. The first two would be suitable alternatives for a single-family dwelling, and the last two would be the most satisfactory options for large tracts of land. While the absence of on-site water would be considered a more serious problem in other parts of Maui, this condition is more acceptable in Hana due to alternate water sources and the rural lifestyle and land uses in this community. As a result, many vacant parcels are sold without this utility.

In arriving at an adjustment factor for this category, the Appraiser considered the cost to construct and maintain private systems to provide electrical power and/or water. At the same time, however, the importance of having of public utilities was deemed to be significantly less, because of the subject's diminished

development potential once the conservation easement is put in place.

Land Transaction No. 5 has electricity and a stream water source with storage tank. This was considered to be slightly inferior to the subject and a positive 2.5 percent adjustment was issued. Land Transaction No. 6 has neither water nor electricity available and a positive 10 percent adjustment was warranted. Land Transactions No. 7 and No. 8 only have electricity available. To account for this deficiency, positive 5 percent adjustments were applied to these sales.

Roadway Access

Vehicular access to the subject is provided by a paved asphalt roadway and ingress and egress are not difficult. Vehicular access to Land Transactions No. 5, No. 6 and No. 8 are also convenient, since they are located on Hana Highway. As such, no adjustment was necessary for these two sales. On the other hand, Land Transaction No. 7 is situated far off Hana Highway in Nahiku. Accessing the property is more difficult and time consuming; hence, a positive 5 percent adjustment was applied to this sale.

View Amenities

The subject has panoramic views of the ocean as well as views of the mountains range to the west. Each of the comparable sales benefits from similar ocean and mountain views and no adjustments were warranted.

Flood Status

This category considers the bearing of being in a federally determined flood zone which requires flood insurance. The subject is located in Flood Zone X. Zone X indicates areas outside of the 0.2 percent annual chance floodplain.

Land Transaction No. 6 is primarily designated Zone X with Zone VE present in a narrow fringe along the rocky shoreline. The location of this inundation area does not affect the value of the parcel as it is within the shoreline setback area; as such it would not require the purchase of insurance for improvements, nor limit the buildable area of the parcel. For this reason, the flood designation of this comparable sale is considered equal to the subject and no adjustment was merited.

Land Transaction No. 7 has approximately half the land in Zone X and the other half in Zone A. Zone A indicates special flood areas subject to inundation by the 1 percent annual chance flood, no Base Flood Elevation determined; flood insurance is required. To account for this deficient flood classification, a positive 10 percent adjustment was applied to this sale.

Like the subject, Land Transactions No. 5 and No. 8 are situated solely in Zone X and no adjustments were warranted.

Conservation Easement Administration

This adjustment category addresses the additional administrative work expected of the property owner after placing the Conservation Easement on the property. The Landowner has the right to control access and prevent trespass which will require much attention. It is also the responsibility of the Landowner to control noxious plants and pests, and maintain fences to protect the habitat. Also, the Landowner is required to report any conditions or events which may adversely affect the wetlands, wildlife and other natural values of the easement area. These issues are viewed as an undesirable feature from a market value perspective and a negative 5 percent adjustment was made to Land Transactions No. 5, No. 7 and No. 8, which are not bound by this encumbrance.

Land Transaction No. 6 was sold with a Conservation Easement in place; therefore the sales price is reflective of the additional burden caused by this encumbrance. In this light, no adjustment was considered.

Oceanfront Characteristics

This category addresses the relative desirability of ocean access and beach frontage as opposed to cliff frontage. The subject was once an oceanfront parcel, prior to the creation of Keanae Place, which now bisects the property. However, traffic on this roadway is sparse and does not significantly impact ocean accessibility or the subject's view plane.

Land Transactions No. 5, No 6 and No. 8 were deemed to have characteristics similar to the subject and no adjustments were necessary.

Land Transaction No. 7 is also an oceanfront parcel, but does not possess ocean access, as it is set atop a high cliff. A positive 5 percent adjustment was applied to this sale for this inferior characteristic.

Other Physical Characteristics

The physical characteristics adjustment considers the impact of shape, topography and utility of the site with respect to development potential. As mentioned earlier, the subject was once a single parcel of land before Keanae Place was constructed and effectively created an oceanfront remnant of the property. The presence of the roadway has little effect on access to the ocean, as the roadway is not highly traveled. However, the subject has three land-locked parcels located within its boundaries, owned by the State of Hawaii and East Maui Irrigation Company, et al. These characteristics of the subject are observed to be limitations on the market value of the subject, as they could potentially infringe on the privacy of the subject. In addition, although ingress and egress to these land-locked lots is currently provided by a verbal agreement with the property owner, a formal access easement may

need to be created at some point in time. Finally, these parcels may affect the subdivision of the site to a small degree. Based on these factors, Land Transactions No. 6, No. 7 and No. 8 are considered to be superior, with regard to physical characteristics. As a result, a negative 10 percent adjustment was applied to each land transaction.

Land Transaction No. 5 surrounds a land-locked parcel owned by the State of Hawaii. It is also encumbered by beach access and utility easements. Overall, these factors were considered to be similar to those affecting subject and no adjustment was made.

Size Adjustment

The size factor typically reflects the contention that larger parcels have lower unit values, and smaller parcels have higher unit values. Larger parcels typically generate more risk with respect to entitlement, construction and marketing; therefore, buyers of large lots typically will pay lower unit prices than smaller lots.

Appropriate adjustments were applied to each of the land sales, based on a statistical curve analysis. The respective sizes and unit prices of the land sales were compared with one another in order to arrive at a curve which best represents the correlation between price and size in this market. This was accomplished by measuring the relationship between the mean and standard deviation of the comparables. In this case, the results of the analysis warranted the use of a 72.5 percent curve. The size of each land transaction was then judged against that of the subject, resulting in size adjustments of between negative 61 and positive 122 percent. The wide disparity is not surprising, considering the lack of similarity among the sizes of the comparable sales.

CONCLUSION OF FEE SIMPLE LAND VALUE

After careful consideration of the competitive parcels and adjustments to reflect the differences in the properties, the estimated value of the subject site was determined to be in the range of \$157,174 to \$243,843 per acre. Land Transaction No. 5 was the most recent sale and closest in size, but was conveyed with a permit that allows single-family use on a portion of the consolidated property. Land Transaction No. 6 is the only sale of a property with a conservation easement already in place. However, it is significantly larger than the subject. Meanwhile, Land Transactions No. 7 and No. 8 are less recent sales that are much closer in size than Land Transaction No. 6. In light of these factors and their overall gross adjustment, primary weight of reliability was issued to Land Transaction No. 5, while secondary weight was given to Land Transaction No. 8. Land Transaction No. 7 received tertiary weight and minimal weight was given to Land Transaction No. 6. After consideration of their comparative size, location, accessibility and visibility, physical characteristics, and zoning, it was felt that the estimated value of the site is fairly represented by

\$196,579 per acre and for 6.3 acres; it is the Appraiser's opinion that the **fee simple** market value of the subject site is **\$1,238,451**. This figure is utilized in the Cost Approach, and rounding is reserved as the final calculation in this methodology.

REPRODUCTION COST NEW OF IMPROVEMENTS:

In the construction of any project, the total cost of development can be divided into two basic categories: (1) Direct or "hard" costs and (2) Indirect or "soft" costs. Direct costs are expenditures for the labor and materials needed to construct a new improvement, including the contractor's overhead and profit. Indirect costs are development expenses that are not included in the general construction contract or land acquisition.

In this case, replacement cost information was gleaned from Marshall Valuation Service (MVS), a national construction cost data base. Direct construction costs were estimated to be \$346,130, which included site work (Refer to **Table 6**, Page 89). This figure was compared against cost data from recently constructed structures of similar quality. Based on this comparison, the Appraiser's estimated costs by MVS appear to be consistent with the market.

Indirect "soft" construction costs totaled \$10,000, which was limited to permits and legal fees. Architectural, engineering, interim loan interest and fees, as well as developer's profit and overhead are included in the costs data prepared by Marshall Valuation Services, thus, are not calculated in the table. Replacement cost new of improvements, including all development costs and developer's profit were estimated to be \$356,130.

ACCRUED DEPRECIATION:

Accrued depreciation, as defined by *Real Estate Appraisal Terminology*, is the difference between reproduction cost new or replacement cost new of the improvements and the present worth of those improvements, both measured as of the date of the appraisal.

In measuring accrued depreciation, the appraiser is interested in identifying and measuring the loss in utility experienced by the subject structure in its present condition, as compared to the utility it would have as a new improvement representing the highest and best use of the site.

The three components of accrued depreciation are:

Physical Deterioration

Physical deterioration is defined as the loss in value due to the general wear and tear arising from the improvement's age, use and/or inadequate maintenance.

In this case, the improvements are estimated to have an effective age of 25 years with a remaining economic life of 30 years, assuming proper and timely maintenance. Deterioration, on a straight-line basis, calculates to 45 percent, or \$150,514.

Functional Obsolescence Functional obsolescence reflects the loss in value brought about by impairments to the property that are physical in nature, such as poor layout or design. It also reflects the inability of the structure to adequately perform the function for which it is currently employed. In this case, the improvements were specifically designed and suited for its intended use, and are fully functional for residential use.

External Obsolescence External obsolescence is the impairment of desirability of useful life arising from factors external to the property, such as economic forces or environmental changes which affect supply-demand relationships in the market. The agricultural real estate market on Maui has been declining but appears to be stabilizing, and the subject's neighborhood consists of similar agricultural uses. Therefore, there appears to be no indication of economic obsolescence in the subject property at this time.

SUMMARY

In summary, only an adjustment for physical deterioration was calculated in the amount of \$150,514. No adjustments were made for functional obsolescence or external obsolescence. Adding the fee simple site value of \$1,238,451 to the depreciated value of the improvements, \$205,616, resulted in the overall value of the subject by the Cost Approach of **\$1,440,000** (rounded). The details of the Cost Approach process are outlined in **Table 6** on the following page.

Table 6 – Summary of the Cost Approach (After Imposition of the Conservation Easement)

| Marshall & Swift | | | | | | |
|--|-----------|------------------------------------|----------|--------------|---------------------------------------|--|
| Cost Source: Marshall & Swift | | # 12: Dwellings, Multiples, Motels | | | | |
| No. of Stories Multiplier: 1.000 | | | | | Local Multiplier: 1.590 | |
| Height/Story Multiplier: 1.000 | | | | | Current Cost Multiplier: 1.050 | |
| Floor Area/Shape Multiplier: 1.053 | | | | | Combined Multipliers: 1.758 | |
| Building Improvements | | | | | | |
| Item | Unit Type | Cost | Quantity | Multiplier | Total | |
| SF Residence, Class D, Very Good | Sq. Ft. | \$136.61 | 1,150 | 1.758 | \$276,182 | |
| Wood Porch, Very Good | Sq. Ft. | \$31.96 | 800 | 1.758 | \$44,948 | |
| Total Building Improvement Costs | | | | | \$321,130 | |
| Price per SF Gross Building Area | | | | | \$279.24 | |
| Site Improvements | | | | | | |
| Item | Unit Type | Cost | Quantity | Total | | |
| Site Preparation & Improvements | Lump Sum | \$25,000 | 1 | \$25,000 | | |
| Total Site Improvement Costs | | | | | \$25,000 | |
| Subtotal: Building & Site Costs | | | | | \$346,130 | |
| Price per SF Gross Building Area | | | | | \$300.98 | |
| Soft Costs | | | | | | |
| Item | | | | Percent Type | Total | |
| Engineering | 0.0% | % of Building Cost | | \$0 | | |
| Architectural | 0.0% | % Bld. & Site Cost | | \$0 | | |
| Permits & Legal | | | | \$10,000 | | |
| Leasing | | | | \$0 | | |
| Total Soft Costs | | | | | \$10,000 | |
| Total Costs | | | | | | |
| Subtotal: Building, Site & Soft Costs | | | | | \$356,130 | |
| Developer's Profit 0.0% | | | | | \$0 | |
| Total Cost | | | | | \$356,130 | |
| Price per SF Gross Building Area | | | | | \$309.68 | |
| Depreciation: Section 1 of 1 | | | | | | |
| Component | Eff. Age | Life | Percent | Amount | | |
| Physical Depreciation: Building | 25 | 55 | 45% | \$150,514 | | |
| Physical Depreciation: Site | 0 | 20 | 0% | \$0 | | |
| Functional Obsolescence Building | | | | 0% | | |
| External Obsolescence Building | | | | 0% | | |
| Total Depreciation | | | | | \$150,514 | |
| Depreciated Value of Improvements | | | | | \$205,616 | |
| Cost Per Square Foot Gross Building Area | | | | | \$178.80 | |
| Land Value | | | | | | |
| Land Value | | | | \$1,238,451 | | |
| Other | | | | \$0 | | |
| Cost Approach Value Indication | | | | | \$1,444,067 | |
| Rounded | | | | | \$1,440,000 | |

RECONCILIATION AND FINAL OPINION OF VALUE

Although the preferred method in the valuation of conservation easements would be the Sales Comparison Approach, finding such sales in the marketplace with similar easement restrictions can be extremely difficult or impossible. The Appraiser, in this case, conducted the necessary research for sales of conservation easements and encountered only one sale, which has been included as Land Transaction No. 6. However, a direct comparison with this solitary sale would not provide a credible result. As such, the Before and After methodology was employed as the most suitable technique given the situation.

In the process, the typical valuation methodologies were considered but two were considered to be inappropriate. Due to the limited availability of comparable sales data, use of the Sales Comparison Approach could not be supported and was not employed. The Income Approach is not generally utilized for in the valuation of agricultural real estate like the subject because they are not regarded as income-producing properties; hence, this methodology was also ruled out.

It was the Appraiser's opinion that the use of the Cost Approach would be the most appropriate methodology in estimating the market value of the subject. It is even more reliable because the greatest value contribution to this property is provided by the approximate six acres of oceanfront land.

The Cost Approach yielded the following market value indications in the Before and After scenarios.

| | |
|--|--------------------|
| Value of the Property Before | |
| Encumbrance by the Easement..... | \$1,940,000 |
| Value of the Property After | |
| Encumbrance by the Easement..... | <u>\$1,440,000</u> |
| Value of the Conservation Easement..... | \$500,000 |

EXHIBITS

EXHIBIT A
County of Maui Agricultural District
Zoning Ordinance

Chapter 19.30A

AGRICULTURAL DISTRICT

Sections:

- 19.30A.010 Purpose and intent
- 19.30A.020 District criteria
- 19.30A.030 District standards
- 19.30A.040 Limitations on resubdivision
- 19.30A.050 Permitted uses
- 19.30A.060 Special uses
- 19.30A.070 Private agricultural parks
- 19.30A.080 Agricultural leases
- 19.30A.090 Substandard agricultural lots
- 19.30A.100 Exemptions pursuant to state law
- 19.30A.110 Permits issued prior to the enactment of this ordinance
- 19.30A.120 Rule-making authority

19.30A.010 Purpose and intent.

- A. Purpose. The purpose of the agricultural district is to:
 - 1. Implement chapter 205, Hawai'i Revised Statutes, and the goals and policies of the Maui County general plan and community plans;
 - 2. Promote agricultural development;
 - 3. Preserve and protect agricultural resources; and
 - 4. Support the agricultural character and components of the County's economy and lifestyle.
- B. Intent. It is the intent of this chapter to:
 - 1. Reduce the land use conflicts arising from encroachment of nonagricultural uses into agricultural areas;
 - 2. Mitigate rising property values of farm lands to make agricultural use more economically feasible;
 - 3. Discourage developing or subdividing lands within the agricultural district for residential uses, thereby preserving agricultural lands and allowing proper planning of land use and infrastructure development;
 - 4. Discourage establishment of nonagricultural subdivisions;
 - 5. Ensure that the rezoning of land from the agricultural district shall be open for public debate and in the overall public interest, as evidenced by conformance with the Maui County general plan and community plan land use designations and policies, State land use law, this chapter and good planning practices; and
 - 6. Notify the public that lands within the agricultural district are used for agricultural purposes. Owners, residents, and other users of such property or neighboring properties may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations. Such normal and accepted agricultural practices and operations include but are not limited to noise, odors, dust, smoke, the operation of machinery of any kind, including aircraft, and the storage and disposal of manure. Owners, occupants, and users of such property or neighboring properties shall be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations. (Ord. 2749 § 3 (part), 1998)

19.30A.020 District criteria.

Agricultural lands that meet at least two of the following criteria should be given the highest priority for retention in the agricultural district:

- A. Agricultural Lands of Importance to the State of Hawai'i (ALISH);
- B. Lands not classified by the ALISH system whose agricultural land suitability, based on soil, topographic, and climatic conditions, supports the production of agricultural commodities, including but not limited to coffee, taro, watercress, ginger, orchard and flower crops and nonirrigated pineapple. In addition, these lands shall include lands used for intensive animal husbandry, and lands in agricultural cultivation in five of the ten years immediately preceding the date of approval of this chapter; and
- C. Lands which have seventy-five percent or more of their boundaries contiguous to lands within the agricultural district. (Ord. 2749 § 3 (part), 1998)

19.30A.030 District standards.

Except as otherwise provided in this chapter, the following district standards shall apply for uses, facilities and structures in the agricultural district:

- A. Minimum lot area: two acres;
- B. Minimum lot width: two hundred feet;
- C. Minimum yard setbacks: front yards, twenty-five feet; side and rear yards, fifteen feet;
- D. Maximum developable area: ten percent of the total lot area. This restriction shall apply to farm dwellings, but shall not apply to any structure or portion thereof which is used to support agriculture, including but not limited to storage facilities, barns, silos, greenhouses, farm labor dwellings, and stables, and shall not apply to utility facilities as permitted by this chapter;
- E. Maximum height limit: Unless otherwise provided for in this chapter, the maximum height of any dwelling shall be thirty feet, except that vent pipes, fans, chimneys, antennae and solar collectors on roofs shall not exceed forty feet. Any non-dwelling structure such as a barn or silo that is over thirty-five feet in height shall be set back one additional foot for each foot in structure height;
- F. Maximum wall height: Walls shall not exceed four feet within the yard setback area as measured from the finished or existing grade, whichever is lower, to the top of the wall as defined herein. This does not preclude constructing fences on the top of the wall for safety purposes. The director of public works and waste management may permit greater heights of walls as needed to retain earth, water or both for health and safety purposes;
- G. The maximum number of lots that may be created from a lot, or portion thereof, that is in the agricultural district shall be based on the gross area of the subject lot, which for the purposes of this subsection shall be the tax map key parcel as certified by the real property tax division on March 1998, as follows:
For the purposes of this subsection, any lot(s) or portions(s) thereof that is contained entirely within the subject lot, and that is owned by the same persons or related corporate entities as the subject lot, shall be considered a part of the subject lot and shall count towards the maximum number of permitted lots that may be created from the subject lot. This subsection shall not apply to any lot which received preliminary subdivision approval prior to the effective date of the ordinance codified in this chapter and which receives final subdivision approval after the effective date of said ordinance. The subsequent lots resulting from such subdivision shall be subject to this subsection. (Ord. 2749 § 3 (part), 1998)

19.30A.040 Limitations on resubdivision.

- A. Following the effective date of this the ordinance codified in this chapter:
1. At the time of subdivision, the director of public works and waste management shall determine the maximum number of lots that can be created based upon the provisions and standards set forth in section 19.30A.030;
 2. The subdivider shall allocate the maximum number of lots that can be created between the original lot and any new lot created as a result of the subdivision;
 3. The allocation of lots shall be recorded with the bureau of conveyances; and
 4. No lot, or portion thereof, which is in the agricultural district shall be further subdivided beyond the maximum number of lots permitted pursuant to this chapter and as recorded with the bureau of conveyances, except as provided by subsection 19.30A.040.C.
- B. The following subdivisions shall not reduce the gross "area of lot" nor the "maximum number of permitted lots" as provided by subsection 19.30A.030.G:
1. Any subdivision requested by a public agency or public utility company for a public purpose;
 2. Any consolidation and resubdivision in which no additional developable lots, as defined by section 18.04.123, Maui County Code, are created, provided that this would not result in the potential to create any additional lots than could have been created prior to consolidation and resubdivision;
 3. Any subdivision for purposes of providing an easement exclusively for the protection of sites of cultural and historic significance; greenways; protection of sensitive environmental areas such as wetlands, streams, and endangered species habitat; and easements for public access to shoreline and mountain areas; or
 4. Any subdivision for purposes of providing a roadway easement or lot.
- C. If the original lot has been subdivided into the maximum number of lots permitted pursuant to this chapter, additional lots may be created for family members as described in subsections 18.20.280.B.1 and 18.20.280.B.2, Maui County Code, whether or not a deferral of improvements is intended, with the approval of the council; the application for such additional lots shall be processed in the same manner as applications for conditional permits, as provided by chapter 19.40, Maui County Code.
- D. No deed, lease, agreement of sale, mortgage or other instrument of conveyance shall contain any covenant or clause which restricts, directly or indirectly, the operation of agricultural activities on lands within the agricultural district. This subsection shall not apply to any covenant or clause existing prior to the effective date of the ordinance codified in this chapter. (Ord. 2749 § 3 (part), 1998)

19.30A.050 Permitted uses.

The following uses and structures shall be permitted in the agricultural district provided they also comply with all other applicable laws:

A. Principal Uses.

1. Agriculture;
2. Agricultural land conservation;
3. Agricultural parks, pursuant to chapter 171, Hawai'i Revised Statutes;
4. Animal and livestock raising, including animal feed lots and sales yards;
5. Private agricultural parks as defined herein;
6. Minor utility facilities as defined in section 19.04.040, Maui County Code; and
7. Retention, restoration, rehabilitation, or improvement of buildings, sites or cultural landscapes of historical or archaeological significance.

B. Accessory Uses. Uses which are incidental or subordinate to, or customarily used in conjunction with a permitted principal use, as follows:

1. Two farm dwellings per lot, one of which shall not exceed one thousand square feet of developable area;
2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot shall meet two of the following three criteria:
 - a. Provide proof of at least \$35,000 of gross sales of agricultural product(s) per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by State general excise tax forms and federal Schedule F forms;
 - b. Provide certification by the Maui board of water supply that agricultural water rates are being paid if the subject lot is served by the County water system; or
 - c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.On the islands of Moloka'i and Lana'i, the owner or lessee of the lot shall meet both of the criteria provided by subsections 19.30A.050.B.2.a and 19.30A.050.B.2.b;
3. One agricultural products stand per lot, for the purpose of displaying and selling agricultural products grown and processed on the premises or grown in the County, provided that said stand shall not exceed three hundred square feet, shall be set back at least fifteen feet from roadways, shall have a wall area which is at least fifty percent open, and shall meet the off-street parking requirements for roadside stands provided by section 19.36.010, Maui County Code, except that paved parking shall not be required; stands which display or sell agricultural products which are not grown on the premises shall be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;
4. Farmer's markets, for the growers and producers of agricultural products to display and sell agricultural products grown and processed in the County; structures shall have a wall area which is at least fifty percent open; markets shall operate only during daylight hours and shall not operate on parcels less than ten acres; the director of public works and waste management may impose additional requirements if a building permit is required for any structures; markets which display or sell agricultural products which are not grown on the premises shall be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;
5. Storage, wholesale and distribution, including barns; greenhouses; storage facilities for agricultural supplies, products and irrigation water; farmer's cooperatives; and similar structures that are customarily associated with one or more of the permitted principal uses or, for the purpose of this section, are associated with agriculture in the County;
6. Processing of agricultural products, the majority of which are grown in the County; this includes the burning of bagasse as part of an agricultural operation;
7. Energy systems, small-scale;
8. Small-scale animal-keeping;
9. Animal hospitals and animal board facilities; if conducted on the island of Moloka'i, such uses shall have been approved by the Moloka'i planning commission as conforming to the intent of this chapter;
10. Riding academies; if conducted on the island of Moloka'i, such uses shall have been approved by the Moloka'i planning commission as conforming to the intent of this chapter;
11. Open land recreation as follows: hiking; noncommercial camping; fishing; hunting; equestrian activities; rodeo arenas; arboretums; greenways; botanical gardens; guided tours which are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours; hang gliding; paragliding; mountain biking; and accessory restroom facilities. If hiking, fishing, hunting, equestrian activities, rodeo arenas, hang gliding, paragliding or mountain biking and conducted for commercial purposes on the island of Moloka'i, such uses shall have been approved by the

Moloka'i planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection or by subsection 19.30A.060.H shall be prohibited; certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;

12. Parks for public use, not including golf courses and not including commercial uses except when under the supervision of a government agency in charge of parks and playgrounds; and

13. Other uses which primarily support a permitted principal use; however, such uses shall be approved by the appropriate planning commission as conforming to the intent of this chapter. (Ord. 2749 § 3 (part), 1998)

19.30A.060 Special uses.

The following uses and structures shall be permitted in the agricultural district if a special use permit, pursuant to section 19.510.070, Maui County Code, has been obtained; except that if a use described in this section also requires a special permit pursuant to chapter 205, Hawai'i Revised Statutes, and if the land area of the subject parcel is fifteen acres or less, the State special permit shall fulfill the requirements of this section:

A. Additional farm dwellings beyond those permitted by subsection 19.30A.050.B.1;

B. Farm labor dwellings that do not meet the criteria of subsection 19.30A.050.B.2;

C. Agricultural products stands that do not meet the standards of subsection 19.30A.050.B.3;

D. Farmer's markets that do not meet the standards of subsection 19.30A.050.B.4;

E. Public and quasipublic institutions which are necessary for agricultural practices;

F. Major utility facilities as defined in section 19.04.040, Maui County Code;

G. Telecommunications and broadcasting antenna;

H. Open land recreation uses, structures or facilities which do not meet the criteria of subsection 19.30A.050.B. 11, including commercial camping; gun or firing ranges; archery ranges; skeet shooting; paint ball; bungee jumping; skateboarding; roller blading; playing fields; accessory buildings and structures. Certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes. The following uses or structures shall be prohibited: airports, heliports, drive-in theaters, country clubs, drag strips; motor sports facilities; golf courses and golf driving ranges;

I. Cemeteries, crematories, and mausoleums;

J. Churches and religious institutions;

K. Mining and resource extraction; and

L. Landfills. (Ord. 2749 § 3 (part), 1998)

19.30A.070 Private agricultural parks.

Private agricultural parks provide for appropriately sized, functionally configured, and affordable agricultural parcels to support diversified agricultural development. Lots created for the purposes of establishing or expanding a private agricultural park shall not be counted in or as part of the number of lots permitted by subsection 19.30A.030.G. Except as otherwise provided in this chapter, the following requirements and standards shall apply for uses, facilities, and structures in areas designated as private agricultural parks;

A. Individual lot leases or deeds shall provide that the lots is restricted to agricultural purposes;

B. Lots within private agricultural parks shall be made available for lease or sale;

C. No permanent or temporary dwellings or farm dwellings, including trailers and campers, shall be permitted within a private agricultural park, unless the following requirements are met:

1. A special use permit, pursuant to section 19.510.070, Maui County Code, has been obtained;
2. The lot on which the dwelling is located is used principally for agriculture, and the occupant of the dwelling provides security or caretaker services for the private agricultural park;
3. A maximum of one dwelling per lot;
4. The private agricultural park shall be subject to a maximum density of one dwelling per twenty-five acres of private agricultural park area; and
5. The dwelling shall be subject to a maximum developable area of seven hundred square feet.

D. A restrictive covenant excluding dwellings that do not meet the criteria of subsection 19.30A.070.C shall be included in the deed of the lot and run with said lot as long as said lot is within the agricultural district. This restriction shall not prohibit the construction of storage sheds, equipment sheds or other structures appropriate to the agricultural activity carried on within the lot;

E. Agricultural parks shall not be less than twenty-five acres in size;

F. Minimum lot area: five acres;

G. Subdivision requirements, as set forth in the following provisions of Title 18, Maui County Code, shall not apply to private agricultural parks and the lots therein:

1. 18.16.010 to 18.16.180;
2. 18.16.270 to 18.16.310B;
3. 18.16.320;
4. 18.20 to 18.20.090;
5. 18.20.140; and
6. 18.28; and

H. All requirements set forth herein shall terminate if an area designated as an agricultural park is rezoned to a nonagricultural zoning district. (Ord. 2749 § 3 (part), 1998)

19.30A.080 Agricultural leases.

A. Any landowner may enter into an agricultural lease provided that the following conditions are met:

1. The principal use of the leased land is agriculture; and
2. No permanent or temporary dwellings or farm dwellings, including trailers and campers, are constructed on the leased area. This restriction shall not prohibit the construction of storage sheds, equipment sheds or other structures appropriate to the agricultural activity carried on within the lot.

B. Subdivision requirements, as set forth in Title 18, Maui County Code, shall not apply to agricultural leases. (Ord. 2749 § 3 (part), 1998)

19.30A.090 Substandard agricultural lots.

Substandard agricultural lots existing prior to the enactment of the ordinance codified in this chapter shall be subject to the following standards:

A. Lots less than two acres but equal to or greater than one-half acre shall be subject to the yard and building height standards as set forth for lots of such area in section 19.29.020, Maui County Code, and shall be exempt from the maximum developable area restriction of subsection 19.30A.030.D; and

B. Lots less than one-half acre shall be subject to the yard and building height standards as set forth for lots of such area in sections 19.08.050 and 19.08.060, Maui County Code, and shall be exempt from the maximum developable area restriction of subsection 19.30A.030.D. (Ord. 2749 § 3 (part), 1998)

19.30A.100 Exemptions pursuant to state law.

A. If provided by Hawai'i Revised Statutes, for lands legally defined and recognized as kuleana or similar type of land ownership, such as land commission awards or royal patents, the district standards of section 19.30A.030, and the density restriction of subsection 19.30A.050.B.1, shall not apply.

B. Affordable housing projects as set forth in chapter 201E, Hawai'i Revised Statutes, shall be exempt from the requirements of this chapter. (Ord. 2749 § 3 (part), 1998)

19.30A.110 Permits issued prior to the enactment of this ordinance.

State or County special permits, special use permits, conditional permits and variances issued prior to the enactment of the ordinance codified in this chapter shall remain in full force and effect for their duration, and their renewal shall be subject to the provisions of this chapter. Any dwelling or structure that was constructed with a building permit that was approved prior to the enactment of said ordinance need not acquire a County special use permit, conditional permit or variance and may be reconstructed as permitted by the original building permit(s), and such dwellings or structures may be expanded or modified with a building permit, subject to the other provisions of this chapter and this title. (Ord. 2749 § 3 (part), 1998)

19.30A.120 Rule-making authority.

The planning director and the director of public works and waste management shall have the authority to adopt rules regarding the administration of this chapter. (Ord. 2749 § 3 (part), 1998)

EXHIBIT B
Hawaii Revised Statutes
Conservation District

[CHAPTER 183C]

CONSERVATION DISTRICT

Section

- 183C-1 Findings and purpose
- 183C-2 Definitions
- 183C-3 Powers and duties of the board and department
- 183C-4 Zoning; amendments
- 183C-5 Nonconforming uses
- 183C-6 Permits and site plan approvals
- 183C-7 Penalty for violation
- 183C-8 Zoning order; appeal to circuit court

Attorney General Opinions

New administrative rules superseded old rules as to all matters except permit applications that were filed before July 1, 1994, when statutory authority for old rules was repealed. Att. Gen. Op. 97-4.

[§183C-1] Findings and purpose.

The legislature finds that lands within the state land use conservation district contain important natural resources essential to the preservation of the State's fragile natural ecosystems and the sustainability of the State's water supply. It is therefore, the intent of the legislature to conserve, protect, and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare. [L 1994, c 270, pt of §1]

[§183C-2] Definitions.

As used in this chapter, unless the context otherwise requires:

"Board" means the board of land and natural resources.

"Chairperson" means the chairperson of the board of land and natural resources.

"Conservation district" means those lands within the various counties of the State bounded by the conservation district line, as established under provisions of Act 187, Session Laws of Hawaii 1961, and Act 205, Session Laws of Hawaii 1963, or future amendments thereto.

"Department" means the department of land and natural resources.

"Kuleana" means those lands granted to native tenants pursuant to L. 1850, p. 202 entitled "An Act Confirming Certain Resolutions of the King and Privy Council, Passed on the 21st Day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges," as originally enacted and as amended.

"Land" means all real property, fast or submerged, and all interests therein, including fauna, flora, minerals, and all such natural resources, unless otherwise expressly provided.

"Landowner" means an owner of land or any estate or interest in that land.

"Land use" means:

- (1) The placement or erection of any solid material on land;
- (2) The grading, removing, harvesting, dredging, mining, or extraction of any material or natural resource on land;
- (3) The subdivision of land; or
- (4) The construction, reconstruction, demolition, or alteration of any structure, building, or facility on land.

"Nonconforming" use means the lawful use of any building, premises or land for any trade, industry, residence or other purposes which is the same as and no greater than that established prior to October 1, 1964, or prior to the inclusion of the building, premises, or land within the conservation district. [L 1994, c 270, pt of §1]

[§183C-3] Powers and duties of the board and department.

The board and department shall:

- (1) Maintain an accurate inventory of lands classified within the state conservation district by the state land use commission, pursuant to chapter 205;
- (2) Identify and appropriately zone those lands classified within the conservation district;
- (3) Adopt rules, in compliance with chapter 91 which shall have the force and effect of law;
- (4) Set, charge, and collect reasonable fees in an amount sufficient to defray the cost of processing applications for zoning, use, and subdivision of conservation lands;
- (5) Establish categories of uses or activities on conservation lands, including allowable uses or activities for which no permit shall be required;
- (6) Establish restrictions, requirements, and conditions consistent with the standards set forth in this chapter on the use of conservation lands; and
- (7) Establish and enforce land use regulations on conservation district lands including the collection of fines for violations of land use and terms and conditions of permits issued by the department. [L 1994, c 270, pt of §1]

[§183C-4] Zoning; amendments.

(a) The department, after notice and hearing as provided in this section, shall review and redefine the boundaries of the zones within the conservation district.

(b) The department shall adopt rules governing the use of land within the boundaries of the conservation district that are consistent with the conservation of necessary forest growth, the conservation and development of land and natural resources adequate for present and future needs, and the conservation and preservation of open space areas for public use and enjoyment. No use except a nonconforming use as defined in section 183C-5, shall be made within the conservation district unless the use is in accordance with a zoning rule.

(c) The department may allow a temporary variance from zoned use where good cause is shown and where the proposed temporary variance is for a use determined by the department to be in accordance with good conservation practices.

(d) The department shall establish zones within the conservation district, which shall be restricted to certain uses. The department, by rules, may specify the land uses permitted therein which may include, but are not limited to, farming, flower gardening, operation of nurseries or orchards, growth of commercial timber, grazing, recreational or hunting pursuits, or residential use. The rules may control the extent, manner, and times of the uses, and may specifically prohibit unlimited cutting of forest growth, soil mining, or other activities detrimental to good conservation practices.

(e) Whenever any landowner or government agency whose property will be directly affected makes an application to change the boundaries or land uses of any zone, or to establish a zone with certain land uses, or where the department proposes to make the change or changes itself, the change or changes shall be put in the form of a proposed rule by the applicant and the department shall then give public notice thereof during three successive weeks statewide and in the county in which the property is located. The notice shall be given not less than thirty days prior to the date set for the hearing, and shall state the time and place of the hearing and the changes proposed. Any proposed rules and the necessary maps shall be made available for inspection by interested members of the public. The hearing shall be held in the county in which the land is located and may be delegated to an agent or representative of the board as may otherwise be provided by law and in accordance with rules adopted by the board. For the purpose of its

public hearing or hearings, the board may summon witnesses, administer oaths, and require the giving of testimony. [L 1994, c 270, pt of §1; am L 1998, c 2, §49]

[§183C-5] Nonconforming uses.

Neither this chapter nor any rules adopted hereunder shall prohibit the continuance of the lawful use of any building, premises, or land for any trade, industrial, residential, or other purpose for which the building, premises, or land was used on October 1, 1964, or at the time any rule adopted under authority of this part takes effect. All such existing uses shall be nonconforming uses. Any land identified as a kuleana may be put to those uses which were historically, customarily, and actually found on the particular lot including, if applicable, the construction of a single family residence. Any structures may be subject to conditions to ensure they are consistent with the surrounding environment. [L 1994, c 270, pt of §1]

[§183C-6] Permits and site plan approvals.

(a) The department shall regulate land use in the conservation district by the issuance of permits.

(b) The department shall render a decision on a completed application for a permit within one-hundred-eighty days of its acceptance by the department. If within one-hundred-eighty days after acceptance of a completed application for a permit, the department shall fail to give notice, hold a hearing, and render a decision, the owner may automatically put the owner's land to the use or uses requested in the owner's application. When an environmental impact statement is required pursuant to chapter 343, or when a contested case hearing is requested pursuant to chapter 91, the one-hundred-eighty days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the board.

(c) The department shall hold a public hearing in every case involving the proposed use of land for commercial purposes, at which hearing interested persons shall be afforded a reasonable opportunity to be heard. Public notice of the time and place of the hearing shall be given at least once statewide and in the county in which the property is located. The notice shall be given not less than twenty days prior to the date set for the hearing. The hearing shall be held in the county in which the land is located and may be delegated to an agent or representative of the board as may otherwise be provided by law and in accordance with rules adopted by the board. For the purposes of its public hearing or hearings, the department shall have the power to summon witnesses, administer oaths, and require the giving of testimony. As used in this subsection, the term "commercial purposes" shall not include the use of land for utility purposes.

(d) The department shall regulate the construction, reconstruction, demolition, or alteration of any structure, building, or facility by the issuance of site plan approvals.

(e) Any permit for the reconstruction, restoration, repair, or use of any Hawaiian fishpond exempted from the requirements of chapter 343 under section 183B-2 shall provide for compliance with the conditions of section 183B-2. [L 1994, c 270, pt of §1; am L 1995, c 177, §4; am L 1998, c 2, §50]

Case Notes

Decisions under prior law (§183-41).

Where a majority of the board (pre-2001 amendment to §171-5) did not affirmatively approve or disapprove of electric company's application to modernize and expand electric generating station on conservation land within the time established, the board failed to render a "decision" so as to avoid the 180-day default mechanism of §183-41; thus, electric company was allowed to subject land to the use applied for. 102 H. 257, 75 P.3d 160.

[§183C-7] Penalty for violation.

(a) The department shall prescribe administrative procedures as it deems necessary for the enforcement of this chapter and any zoning rule adopted in accordance therewith. These rules may be enforced by court order at the suit of the department or of the owner or owners of real estate directly affected by the rules. The provisions of section 607-25 shall apply to this chapter.

(b) Any person violating this chapter or any rule adopted in accordance with this chapter shall be fined not more than \$2,000 per violation in addition to administrative costs and costs associated with land or habitat restoration, or both, if required, and damages to state land. After written or verbal notification from the department, willful violation of this section may incur an additional fine of up to \$2,000 per day per violation for each day in which the violation persists. [L 1994, c 270, pt of §1; am L 2003, c 16, §1]

[§183C-8] Zoning order; appeal to circuit court.

Any final order of the department based upon this [chapter] may be appealed to the circuit court of the circuit in which the land in question is found. The appeal shall be in accord with chapter 91 and the Hawaii rules of civil procedure. [L 1994, c 270, pt of §1]

Rules of Court

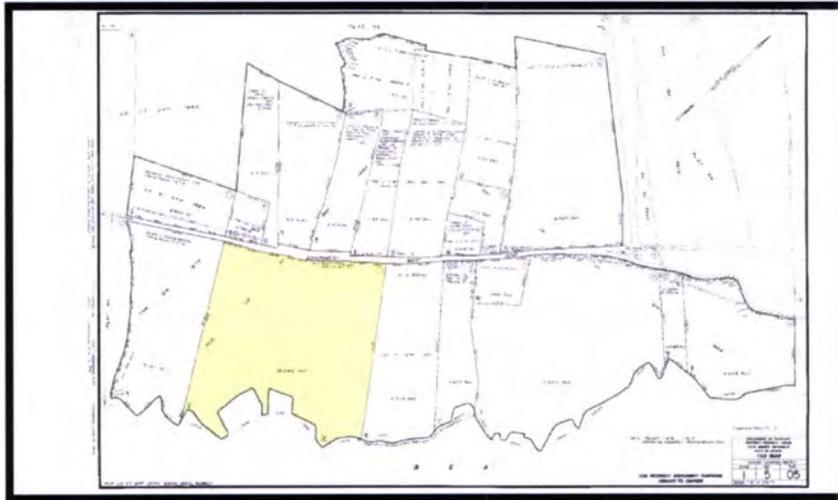
Appeal to circuit court, see HRCF rule 72.

EXHIBIT C
Summaries of Comparable Land Transactions
“Before” the Conservation Easement

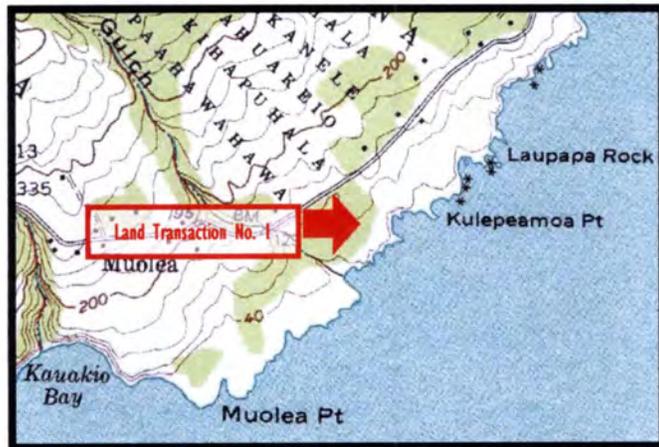
LAND TRANSACTION NO. 1



| | |
|-----------------------|--|
| Tax Map Key: | Division 2, Zone 1, Section 5, Plat 05, Parcel 003 |
| Address/Location: | Hana Highway, Hana, Hana District |
| Site Area: | 12.09 acres |
| Land Tenure: | Fee simple |
| Zoning: | Interim |
| Community Plan: | Rural and Open Space |
| Flood Status: | Zone X and Zone VE |
| Parcel Configuration: | Irregular |
| Topography: | Level to gentle slopes |
| Electricity: | Electricity available |
| Water: | No water source |
| Views: | Ocean and mountain views |
| Highest and Best Use: | Rural residential development |
| Grantor: | Walter Stender and Katherine McGuire |
| Grantee: | Yankovic Revocable Trust |
| Instrument/Financing: | Deed/Cash |
| Date Recorded: | January 21, 2010 |
| Document No. | LCD 3933567 |
| Recorded Sale Price: | \$1,390,000 |
| Unit Price: | \$114,971 per acre |
| Prior Sales: | Public documents did not reveal any other sale of this property within the three years prior to this transaction. |
| Comments: | This property has cliff side ocean frontage with shoreline access via a small rocky beach. The buyers in this <u>arms-length transaction</u> own the property across Hana Highway and purchased the comparable to retain their view plane. They do not intend to build on this site. |
| Confirmation: | Ms. Dawn Lono – (Buyer's Agent) Michael Spalding Realty, Inc. |



TAX MAP KEY



TOPOGRAPHIC MAP

LAND TRANSACTION NO. 2

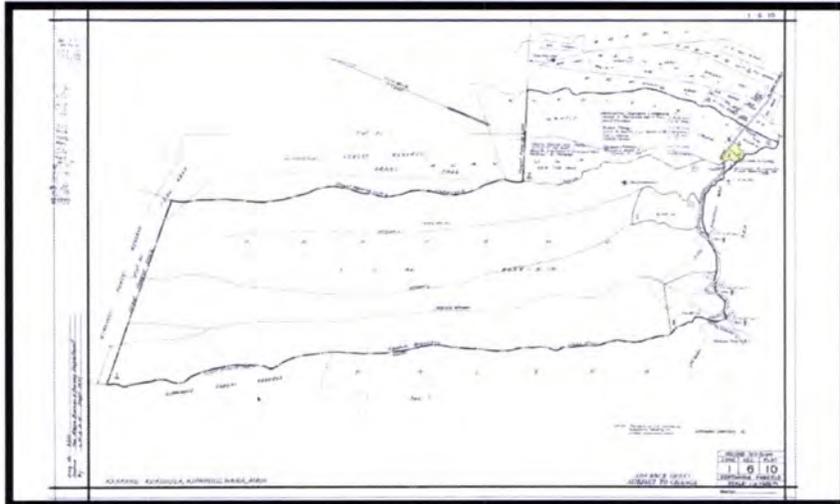


| | |
|-----------------------|---|
| Tax Map Key: | Division 2, Zone 1, Section 2, Plat 03, Parcel 059 |
| Address/Location: | Ulaino Road, Nahiku, Hana District |
| Site Area: | 17.955 acres |
| Land Tenure: | Fee simple |
| Zoning: | Primarily Agricultural District with Conservation District along shoreline |
| Community Plan: | Agriculture |
| Flood Status: | Zone X Zone VE |
| Parcel Configuration: | Irregular |
| Topography: | Level to gentle slopes |
| Electricity: | Electricity available |
| Water: | Private water available |
| Views: | Ocean and mountain views |
| Highest and Best Use: | Rural residential development |
| Grantor: | Bobbie and Leah Wesson, Roberta Morris and Naomi Fujioka |
| Grantee: | Bruce White |
| Instrument/Financing: | Deed/Conventional |
| Date Recorded: | February 2, 2006 |
| Document No. | 06-021983 |
| Recorded Sale Price: | \$2,250,000 |
| Unit Price: | \$125,313 per acre |
| Prior Sales: | Public records revealed that partial interests in this property were previously sold from Bobbie Wesson, et al. to Roberta Morris (39 percent) and Naomi Fujioka (17 percent) on April 23, 2004. The total price was \$639,000 for a 56 percent undivided interest. |
| Comments: | This property has cliff side ocean frontage. The buyer in this <u>arms-length transaction</u> did not have immediate plans for the site. |
| Confirmation: | Mr. Carl Lindquist (Co-Listing Agent) Hana Coast Realty, Inc. |

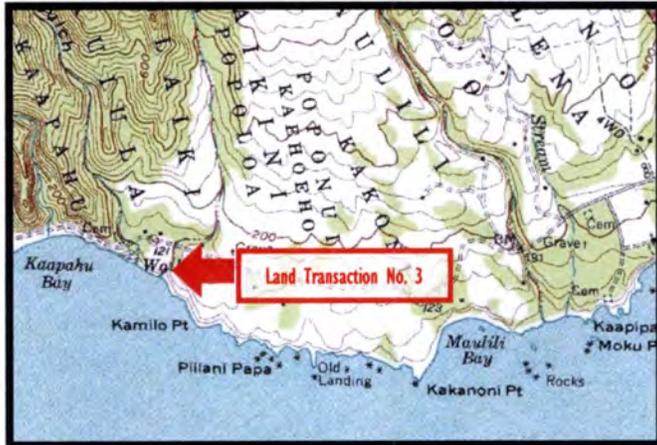
LAND TRANSACTION NO. 3



| | |
|-----------------------|--|
| Tax Map Key: | Division 2, Zone 1, Section 6, Plat 10, Parcel 003 |
| Address/Location: | Hana Highway, Kipahulu, Hana District |
| Site Area: | 3.374 acres |
| Land Tenure: | Fee simple |
| Zoning: | Primarily Agricultural District with Conservation District along shoreline |
| Community Plan: | Agriculture |
| Flood Status: | Zone X |
| Parcel Configuration: | Generally rectangular |
| Topography: | Level to gentle slopes |
| Electricity: | No electricity available |
| Water: | Private water available |
| Views: | Ocean and mountain views |
| Highest and Best Use: | Rural residential development |
| Grantor: | Norma and Karen Blake |
| Grantee: | Douglas and Gale McNish |
| Instrument/Financing: | Deed/1031 Exchange |
| Date Recorded: | January 17, 2006 |
| Document No. | 06-009376 |
| Recorded Sale Price: | \$1,550,000 |
| Unit Price: | \$459,395 per acre |
| Prior Sales: | Public documents did not reveal any other sale of this property within the three years prior to this transaction. |
| Comments: | This property has cliff side ocean frontage. The buyers in this <u>arms-length transaction</u> intend to build an agricultural dwelling on the site. |
| Confirmation: | Mr. Carl Lindquist (Listing Agent) Hana Coast Realty, Inc. |



TAX MAP KEY

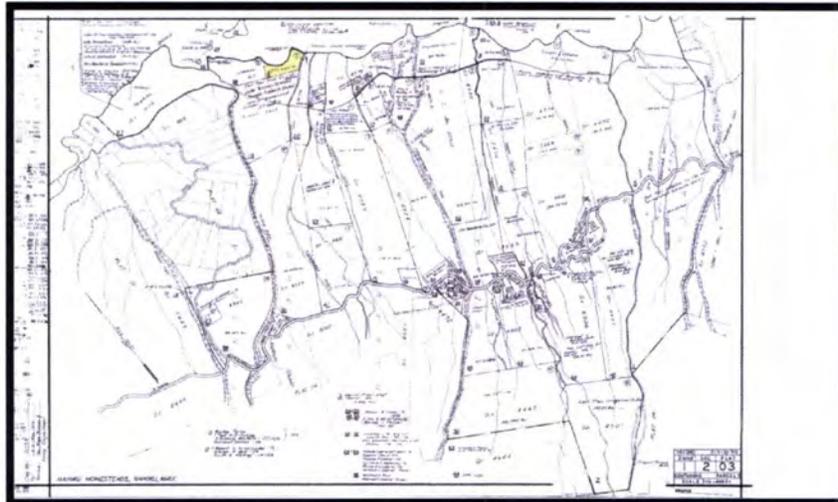


TOPOGRAPHIC MAP

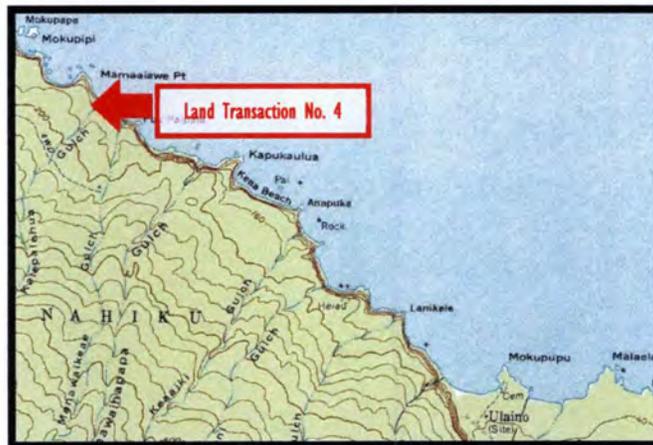
LAND TRANSACTION NO. 4



| | |
|-----------------------|--|
| Tax Map Key: | Division 2, Zone 1, Section 2, Plat 03, Parcel 021 |
| Address/Location: | Ulaino Road, Nahiku, Hana District |
| Site Area: | 8.615 acres |
| Land Tenure: | Fee simple |
| Zoning: | Primarily Agricultural District with Conservation District along shoreline |
| Community Plan: | Agriculture |
| Flood Status: | Zone X and Zone VE |
| Parcel Configuration: | Irregular |
| Topography: | Level to gentle slopes |
| Electricity: | Electricity available |
| Water: | Private water available |
| Views: | Ocean and mountain views |
| Highest and Best Use: | Rural residential development |
| Grantor: | Maui Dream Limited Partnership |
| Grantee: | Teresa Lynn Allred |
| Instrument/Financing: | Deed/Conventional |
| Date Recorded: | March 2, 2005 |
| Document No. | 05-041718 |
| Recorded Sale Price: | \$1,500,000 |
| Unit Price: | \$174,115 per acre |
| Prior Sales: | Public documents did not reveal any other sale of this property within the three years prior to this transaction. |
| Comments: | This property has cliff side ocean frontage. The buyer in this <u>arms-length transaction</u> did not have immediate plans for the site. |
| Confirmation: | Mr. Carl Lindquist (Listing Agent & Buyer's Agent) Hana Coast Realty, Inc. |



TAX MAP KEY



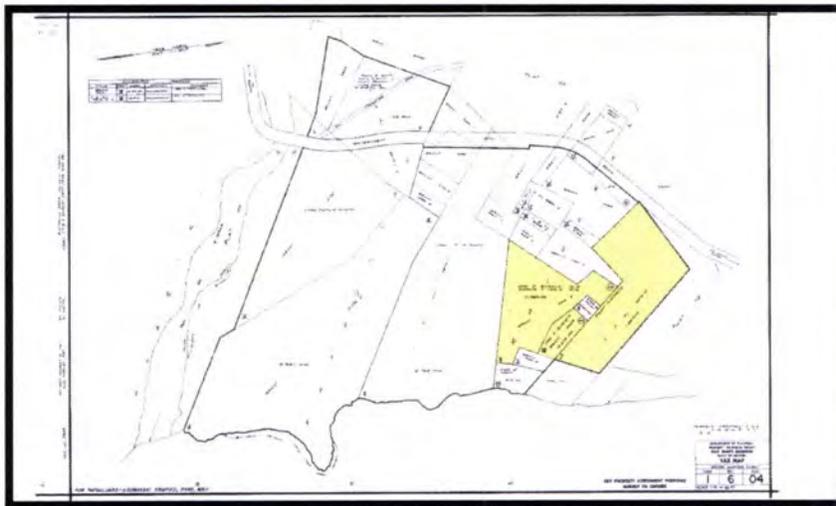
TOPOGRAPHIC MAP

EXHIBIT D
Summaries of Comparable Land Transactions
“After” the Conservation Easement

LAND TRANSACTION NO. 5



| | |
|-----------------------|---|
| Tax Map Keys: | Division 2, Zone 1, Section 6, Plat 03, Parcel 003; Division 2, Zone 1, Section 6, Plat 04, Parcels 007, 008 & 010 |
| Address/Location: | Hana Highway, Kipahulu, Hana District |
| Site Area: | 6.508 acres |
| Land Tenure: | Fee simple |
| Zoning: | Conservation District |
| Community Plan: | Conservation |
| Flood Status: | Zone X |
| Parcel Configuration: | Irregular |
| Topography: | Level to gentle slopes |
| Electricity: | Electricity available |
| Water: | Stream source with on-site storage tank |
| Views: | Ocean and mountain views |
| Highest and Best Use: | Conservation |
| Grantor: | Four Gossess LLC |
| Grantee: | Kamapuaa Kipahulu LLC |
| Instrument/Financing: | Deed/Cash |
| Date Recorded: | August 18, 2011 |
| Document No. | 11-131565 |
| Recorded Sale Price: | \$1,825,000 |
| Unit Price: | \$280,424 per acre |
| Prior Sales: | The property was previously conveyed in October 6, 2009 for \$70,100 from Robert Gillespie to PMB Mortgages LP and in April 2010 for \$71,100 from PMB Mortgages LP to Four Gossess LLC. These conveyances were deemed non-market transactions as they involved a bankruptcy proceeding and subsequent bank sale. Public documents did not reveal any other sale of this property within the three years prior to this transaction. |
| Comments: | This property has rocky ocean frontage with ocean access to a small beach. According to the buyer's agent, a Conservation District Use Permit, allowing residential use on Parcel 003, was included with the sale; however, the buyer in this <u>arms-length transaction</u> did not have immediate plans for the site. |
| Confirmation: | Ms. Virginia Pierce (Buyer's Agent) Windermere Valley Isle Properties (Wailea) |



TAX MAP KEYS



TOPOGRAPHIC MAP

LAND TRANSACTION NO. 6



| | |
|-----------------------|--|
| Tax Map Key: | Division 2, Zone 1, Section 6, Plat 09, Parcel 008 |
| Address/Location: | Hana Highway, Kipahulu, Hana District |
| Site Area: | 35.10 acres |
| Land Tenure: | Fee simple encumbered with a conservation easement |
| Zoning: | Primarily Agricultural District with Conservation District along shoreline |
| Community Plan: | Agriculture |
| Flood Status: | Zone X and Zone VE |
| Parcel Configuration: | Irregular |
| Topography: | Level to gentle slopes |
| Electricity: | No electricity available |
| Water: | No water available |
| Views: | Ocean and mountain views |
| Highest and Best Use: | Conservation |
| Grantor: | The Nature Conservancy |
| Grantee: | Sue Len Wong |
| Instrument/Financing: | Deed/Assumed Typical |
| Date Recorded: | October 12, 2007 |
| Document No. | 07-181525 |
| Recorded Sale Price: | \$3,600,000 |
| Unit Price: | \$102,564 per acre |
| Prior Sales: | Public documents did not reveal any other sale of this property within the three years prior to this transaction. |
| Comments: | This property has rocky ocean frontage with ocean access to a small beach. The buyer in this <u>arms-length transaction</u> intends to continue conservancy. |
| Confirmation: | The Nature Conservancy Maui Coastal Land Trust |

LAND TRANSACTION NO. 7

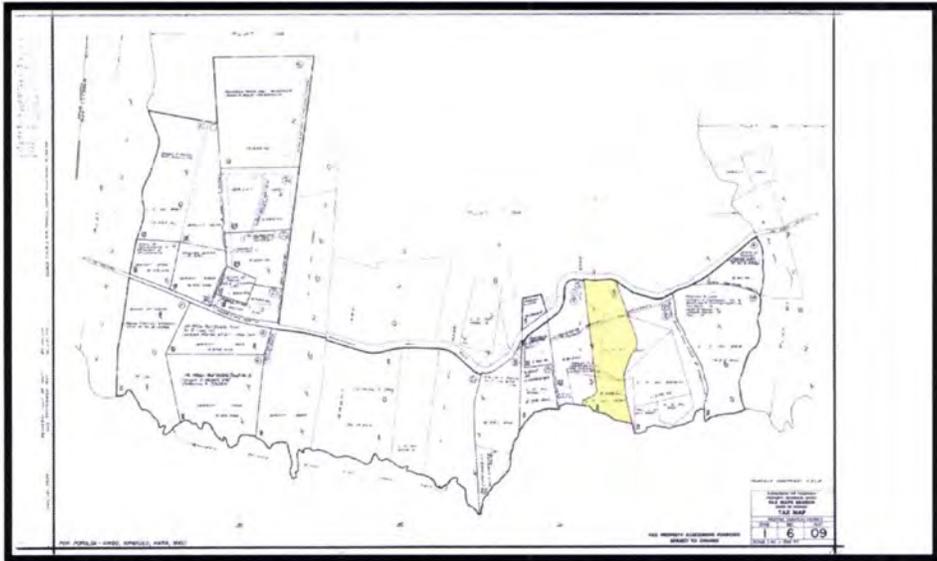


| | |
|-----------------------|--|
| Tax Map Key: | Division 2, Zone 1, Section 2, Plat 01, Parcel 026 |
| Address/Location: | Nahiku Road, Nahiku, Hana District |
| Site Area: | 0.84 acre |
| Land Tenure: | Fee simple |
| Zoning: | Conservation District |
| Community Plan: | Conservation |
| Flood Status: | Zone X and Zone A |
| Parcel Configuration: | Nearly rectangular |
| Topography: | Level to gentle slopes |
| Electricity: | Electricity available |
| Water: | No water available |
| Views: | Ocean and mountain views |
| Highest and Best Use: | Conservation use |
| Grantor: | Marie Youlin |
| Grantee: | Arthur and Mary Miller |
| Instrument/Financing: | Deed/Cash |
| Date Recorded: | February 20, 2004 |
| Document No. | 04-035061 |
| Recorded Sale Price: | \$239,900 |
| Unit Price: | \$285,595 per acre |
| Prior Sales: | Public documents did not reveal any other sale of this property within the three years prior to this transaction. |
| Comments: | This property has cliff side ocean frontage. The buyer in this <u>arms-length transaction</u> did not have immediate plans for the site. |
| Confirmation: | Mr. Carl Lindquist (Buyer's Agent) Hana Coast Realty, Inc. |

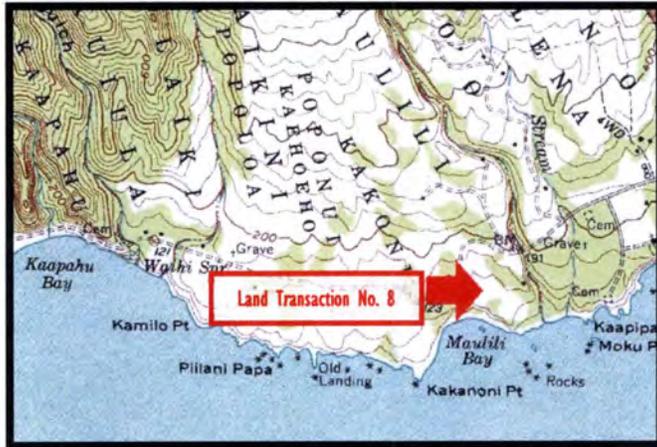
LAND TRANSACTION NO. 8



| | |
|-----------------------|--|
| Tax Map Key: | Division 2, Zone 1, Section 6, Plat 09, Parcel 003 |
| Address/Location: | Hana Highway, Kipahulu, Hana District |
| Site Area: | 3.177 acres |
| Land Tenure: | Fee simple |
| Zoning: | Conservation District |
| Community Plan: | Conservation |
| Flood Status: | Zone X |
| Parcel Configuration: | Nearly rectangular |
| Topography: | Level to gentle slopes |
| Electricity: | Electricity available |
| Water: | No water available |
| Views: | Ocean and mountain views |
| Highest and Best Use: | Conservation use |
| Grantor: | Michael Love |
| Grantee: | Theodore Firestone |
| Instrument/Financing: | Deed/Assumed Typical |
| Date Recorded: | January 30, 2004 |
| Document No. | 04-020554 |
| Recorded Sale Price: | \$800,000 |
| Unit Price: | \$251,810 per acre |
| Prior Sales: | Public documents did not reveal any other sale of this property within the three years prior to this transaction. |
| Comments: | This property has rocky ocean frontage. The Appraiser could not confirm the buyer's immediate plans for the site. |
| Confirmation: | This transaction was not conducted through the Multiple Listing Service and attempts to reach Michael Love and Theodore Firestone were unanswered and unsuccessful. The only Realtor in Hana, Carl Lindquist of Hana Coast Realty, Inc., confirmed that this was an <u>arms-length</u> sale. |



TAX MAP KEY



TOPOGRAPHIC MAP

EXHIBIT E
Copy of Deed of Conservation Easement
Including Development Rights (Draft)

this predominantly agricultural area where kalo (taro) farming predominates. The Protected Property's inland ("mauka") boundaries are adjacent kalo fields; its seaward ("makai") boundary includes approximately 400 feet of shoreline, with the local coastal road separating the shoreside edge of the property from the main body.

2. Current and past uses. The Protected Property has historically been, and is currently being, used for kalo cultivation. The Property contains 39 kalo lo'i, the largest single holding on Keana'e, and includes the small "Keanae Lo'i" which legend suggests was the prime lo'i reserved for royalty.

3. Agricultural Land Designations: The soils of the Protected Property are classed as "Unique" soils by the United States Department of Agriculture.

4. History. The Protected Property is part of Keanae Peninsula which is famous statewide for its kalo, and has been held up as a striking example of Hawaiian agricultural ingenuity. The area plays a significant role in Hawaiian history and legends.

5. Nearby Development and Amenities. The Protected Property is approximately 35 miles from Kahului, Maui, Hawaii and 30 miles from Hana, Maui, Hawaii. The surrounding area is entirely agricultural, low density residential and there are not commercial or industrial developments within 25 miles.

C. The following land use designations relate to the Protected Property:

1. State District Boundary. The oceanfront ("makai") portion of the Protected Property is classified as "Conservation," as defined by Hawai'i Revised Statutes ("HRS") Chapter 205 ("Land Uses"). The majority (remainder) of the Protected Property is classified as "Agriculture," as defined by HRS Chapter 205. The district boundary between the Conservation and Agriculture districts within the Protected Property runs approximately 200 feet inland of the shoreline. Use of the Protected Property is limited as set forth in HRS Chapter 205.

2. County Zoning. The portion of the Protected Property outside of the Conservation designated area is zoned "Agriculture," as defined by Chapter 19.30 of the Maui County Code, and is limited to the uses prescribed therein.

3. Special Management Area. The Protected Property falls within the Special Management Area, as defined and identified in the Hawai'i Coastal Zone Management Act, HRS Chapter 205A ("CZMA"), and development is limited as described therein, including consistency with the goals and objectives of the CZMA, which include the goal "to protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources," and to minimize, where possible, "any development which would substantially interfere with or detract from the line of sight toward the sea from the State highway nearest the coast."

4. Community Plan. The Protected Property is designated for agricultural use in the Hana Community Plan, which articulates preservation policies in order to enhance the region's overall living environment. Objectives of the Hana Community Plan relevant to the Protected Property include: (a) prohibiting uses and discouraging activities which adversely affect active diversified agricultural endeavors within designated agricultural use areas; discouraging development of land under agricultural use for passive agricultural, estate residential uses; (b) promoting and maintaining agriculture as a major economic activity with emphasis on a regional diversified agricultural industry, and (c) preserving open space vistas by discouraging linear development along the highways traversing the Koolau District;

D. Development potential. The above land designations are not sufficiently restrictive to prohibit subdivision of the land and construction of dwellings or other non-agricultural use structures.

E. In light of the above, the Protected Property possesses important conservation values, including scenic, open space, and agricultural values (collectively, the "Conservation Values"), which are threatened. The Conservation Values of the Protected Property are further documented in an inventory of relevant features of the Protected Property, dated _____, 2009 ("Baseline Documentation"), on file at the offices of the Grantee, and are incorporated into this Easement by this reference. The Baseline Documentation, which has been reviewed and accepted by Grantor and Grantee, consists of reports, maps, photographs, and other documentation that provide, collectively, an accurate representation of the Protected Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.

F. Grantor believes that with the intelligent and careful use of conservation easements, the agricultural resources and other Conservation Values of the Property can be protected in a manner that also permits continuing private ownership of land and the continued use and enjoyment of the Property by Grantor.

G. Grantor and Grantee have applied for and been awarded funding to pay for part of the fair market value of the development rights to be conveyed by this Easement. Matching funding was awarded to Grantor and Grantee by Maui County from the Maui County Open Space Fund. This program provides funding for unique and fragile places and resources in the County of Maui including, among other things, agricultural production areas. In addition, the Grantee has partnered with the United States under the Farm and Ranch Lands Protection Program ("FRPP"), 16 U.S.C. 3838h-3838i. The purpose of the FRPP is to purchase conservation easements on land with prime, unique, or other productive soil for the purpose of protecting topsoil from conversion to nonagricultural uses. FRPP is administered by the United States Department of Agriculture ("USDA") Natural Resources Conservation Service ("NRCS") on behalf of the Commodity Credit Corporation. Fifty percent (50%) of the funds used to purchase this Easement are provided by FRPP and entitle the United States to certain rights as set forth herein. A portion of the funds used to purchase this Easement are also provided by the County of Maui and entitle the County of Maui to certain rights as set forth herein.

H. HRS Chapter 198 provides that any public body and any organization which qualifies for and holds an income tax exemption under section 501(c) of the federal Internal Revenue Code of 1954, as amended, and whose organizational purposes are designed to facilitate the purposes of HRS Chapter 198, may acquire and hold conservation easements by purchase, agreement, donation, devise, or bequest.

I. Grantee is a publicly supported, tax-exempt nonprofit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, and also qualified as a nonprofit corporation under HRS 414D, whose primary purpose is to acquire, hold, preserve and dispose of land, easements, leases, or other rights and interests in land, or improvements to land, with an emphasis on coastal lands of Maui, Lana'i and Moloka'i, for the purpose of: (1) protecting scenic and open space values; (2) protecting and promoting ecological integrity of natural habitats; (3) providing access to beaches and other coastal areas for traditional cultural uses and recreation; (4) protecting archaeological, historical and cultural resources; and, (5) preserving traditional agricultural areas. Grantee is an organization that is qualified to receive funds under FRPP under Cooperative Agreement No. 73-9251-5-697.

J. Grantor desires that the Conservation Values of the Protected Property be preserved and maintained in perpetuity by permitting the continuation of only those uses of the

Protected Property that do not significantly impair or interfere with the Conservation Values. And Grantee desires to accept this Easement to preserve and protect in perpetuity the Conservation Values of the Protected Property for the benefit of this generation and the generations to come.

NOW THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions contained in this Easement, Grantor hereby voluntarily grants, conveys and warrants to Grantee a conservation easement in perpetuity over the Protected Property, as defined in this Easement, subject only to the restrictions contained in this Easement and title matters of record as of the date of this Easement. This Grant is made as a completed Grant of Easement, subject only to the mutual covenants, terms, conditions and restrictions set forth in this Easement and title matters of record as of the date of this grant, and for no other consideration whatsoever.

COVENANTS AND RESTRICTIONS

1. Definitions

The definitions below shall have the same meaning as the reference source, where provided, and in all other cases, shall be given their natural, commonly accepted definitions.

- a. "Conservation Values" means the values of the Property to be preserved in perpetuity, which values are identified in Section 2 of the Covenants and Restrictions.
- a. "Approval by Grantee" is required prior to some Grantor actions, as identified in this Easement. The Approval process is set forth in Section 7 of the Covenants and Restrictions.
- b. "CFR" means the Code of Federal Regulations.
- c. "Conservation Plan" means a plan prepared by NRCS in partnership with the Grantor to establish agriculture management protocols for the Property.
- d. "County" means the County of Maui.
- e. "Developable area" means the same as MCC § 19.04.040 as of the time of recording this Easement, namely the total area, in square feet, of all enclosed living areas of dwellings.
- f. "Easement Value Ratio" is defined in Section 12(b) below.
- g. "Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.
- h. "Family" means an individual living alone or a group of two or more persons related by blood or marriage and their legal issue living together as a single housekeeping unit in a dwelling unit and in which two boarders, unrelated by blood may be living on a long-term residential basis. A family may also be defined as no more than five unrelated persons living together as a single housekeeping unit (MCC § 19.04.040).
- i. "Farm Area" means any portion of the Property which is not part of the Farmstead Area or the Coastline Area.

- j. "Farm Structures" means structures that are in furtherance of, and reasonably necessary in connection with, the agricultural activities on the Property, excluding "farm dwellings" (see definition for "Farmstead Residence Structures, Section A.1.I, below) but including, but not limited to: ponds; water tanks; water transmission lines; irrigation systems; barns; vehicle, tool and equipment storage areas; workshops; stables; greenhouses; shadehouses; storage and processing facilities; mills; maintenance facilities; fences; pens; and riding arenas, paddocks and corrals.
- k. "Farmstead Area" means the area of approximately one-third (0.3) acre in size, identified in Exhibit B, which is not located on Prime Farmland, and within which the Grantor is permitted to construct Farmstead Residence Structures and Farm Structures, as permitted by state and county law, without prior approval from Grantee.
- l. "Farmstead Residence Structures" means up to two "farm dwellings -- one main dwelling for a Family not exceeding 3,500 square feet of Developable Area, and one accessory dwelling for a Family not exceeding 1,000 square feet of Developable Area -- subject to the condition that the dwellings must be located entirely within the Farmstead Area; and associated structures and improvements, which must be located within the Farmstead Area, as are customarily appurtenant to comparable farm dwellings in the vicinity of the Property, including, but not limited to, personal, non-commercial recreational facilities, garages, barns, stables, paddocks, storage sheds, catchments systems, septic tanks and leach fields, wind towers, solar panels, and other buildings and facilities ordinarily associated with the Farmstead uses permitted under this Easement, and also including, to the extent permitted by law, a customary home occupation or professional office for the occupants.
- m. "FOTG" means the Field Office Technical Guide, the official document for NRCS guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. The FOTG contains detailed information on the conservation of soil, water, air, plant and animal resources applicable to the local area for which it is prepared.
- n. "Grantor" - "Grantee". The terms "Grantor" and "Grantee," wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include, respectively, William and Luellen Kepler , and their personal representatives, heirs, successors, and assigns, and the Maui Coastal Land Trust, and its personal representatives, successors and assigns.
- o. Hazardous Materials means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment.
- p. "HRS" means Hawai'i Revised Statutes.
- q. "HRS Chapter 198" means the Hawai'i law governing conservation easements in Hawai'i, currently codified at Chapter 198 of the HRS, or as hereinafter amended, or any successor provision(s) hereinafter applicable.
- r. "Impervious Surfaces" means the area of the Property covered by non-seasonal, permanent roof tops, concrete and asphalt, including residential buildings, agricultural buildings (with and without flooring), and paved areas both within and without the Farmstead Area (NRCS Guidance Manual § 519.64(H)).

- s. "MCC" means Maui County Code.
- t. "NRCS" means the Natural Resources Conservation Service, an agency of the U.S. Department of Agriculture delegated the task of managing the provisions of the FRPP or such other agency delegated that duty in the future.
- u. "Notice to Grantee" is required prior to some Grantor actions but approval by Grantee is not part of the process. The process for Notice to Grantee is set forth in Section 6 of the Covenants and Restrictions.
- v. "Prime Farmland" means land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, without intolerable soil erosion (7 CFR § 1491.3).
- w. "Purpose" means the purpose of this Easement as defined in Section 2 of the Covenants and Easements.
- x. "State" means the State of Hawai'i.
- y. "Unique Farmland" means land other than prime farmland that is used for the production of specific high-value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods (7 CFR § 1491.3).
- z. "Water Rights" means and includes any and all water and water rights, ditches and ditch rights, springs and spring rights, reservoir and storage rights, wells and groundwater rights, and other rights in and to the use of water historically used on or otherwise appurtenant to the Property.

2. Purpose. The purpose of this Easement is to preserve the Conservation Values, as prioritized herein (the "Purpose"). For the purposes of this Easement, including its construction and enforcement, Grantor and Grantee agree the Conservation Values shall be as follows:

(a) The soils of the Protected Property are recognized as Unique Farmland Soils as defined by the NRCS,

(b) To protect the top priority soils, the Protected Property (excluding the Farmstead Area) is to be retained substantially in its current open-space condition for agricultural activities, subject to the express restrictions on such agricultural activities set forth in this Easement.

With the exception of the Farmstead Area, no activity which shall significantly impair the actual or potential use of the Protected Property for agricultural production shall be permitted, and protection and preservation of agricultural production shall be given first priority in this Easement. To the extent that the preservation and protection of the other Conservation Values of the Property referenced above may be accomplished without impairing the primary purpose of protecting the agricultural soils, agricultural viability, and agricultural productivity of the Property in perpetuity, it is also the purpose of this Easement to protect those other Conservation Values of the Property, and to such extent, no activity which shall significantly impair those additional Conservation Values of the Property shall be permitted.

3 Rights Conveyed to Grantee. To accomplish the Purpose of this Easement the following rights are conveyed to Grantee:

(a) Protection: Subject to Grantee's permitted uses of the Farmstead Area, Grantee has the right to preserve and protect in perpetuity, to prevent any use of, or activity on, the Protected Property that will significantly impair or interfere with the Conservation Values of the Protected Property, and to enhance by mutual agreement the Conservation Values of the Protected Property.

(b) Access: Grantee has the right to reasonable access to carry out the Purpose of this Easement, and as further described below:

(i) To enter the Protected Property at least annually, at a reasonable time and upon prior written notice to Grantor, for the purpose of making inspections to monitor compliance with this Easement.

(ii) To enter the Protected Property at such other times as are necessary if Grantee, in its sole discretion, has reason to believe a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of this Easement. Such entry shall be upon prior reasonable notice to Grantor of not less than 24 hours, and Grantee shall not unreasonably interfere with Grantor's allowed uses and quiet enjoyment of the Protected Property.

(c) Enforcement. Grantee has the right to enforce this Easement and the covenants and restrictions herein, including, but not limited to, the right to enjoin any use of, or activity on, the Protected Property that is inconsistent with the Purpose of this Easement, and to require the restoration of such areas or features of the Protected Property as may be damaged by uses or activities inconsistent with the provisions of this Easement.

4 Grantor's Reserved Uses and Activities Consistent With the Purpose of the Easement. Grantor reserves for itself all rights accruing from ownership of the Protected Property not granted to Grantee pursuant to this Easement, including, but not limited to, the following:

(a) Privacy and Quiet Enjoyment. The right of privacy and the right to deny access to other persons, except as provided by law or as expressly permitted to Grantee in this Easement;

(b) Guests and Invitees. The right to permit or invite others to engage in, any use of, or activity on, the Protected Property that is not inconsistent with the Purpose of this Easement;

(c) Agricultural Use. The right to use the Protected Property for agricultural activities that comply with federal, state and local regulations and do not significantly impact or degrade the Conservation Values of the Protected Property (for example, the planting, raising, and harvesting of kalo), but subject to the following express limitations, restrictions, and prohibitions:

(i) Agricultural chemicals may be applied to the Protected Property for bonafide agricultural purposes provided that the application of such chemicals does not significantly impact or degrade the Conservation Values of the Protected Property.

(ii) Prior to initiating any agricultural activity other than the kalo cultivation currently conducted on the Protected Property and identified in greater specificity in the Baseline Documentation referred to herein, Grantor shall submit a plan to Grantee and NRCS for review and approval. The plan must indicate the desired location and nature of the activities and describe practices designed to ensure that the activities will not interfere with the

Conservation Values of the Protected Property and the Purpose of this Easement. Grantee shall not unreasonably deny or delay its approval of any such plan.

(v) No more than 49% (forty-nine percent) of the Protected Property can be forest land.

(vi) As required by section 1238l of the Food Security Act of 1985, as amended, the Grantor, his heirs, successors, or assigns, shall conduct agricultural operations on highly erodible land on the Protected Property in a manner consistent with a conservation plan prepared in consultation with NRCS and the Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12 that are in effect on the date of this Conservation Easement Deed. However, the Grantor may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Protected Property, with advance notice to the Grantor, in order to monitor compliance with the conservation plan.

In the event of noncompliance with the conservation plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform Grantee of the Grantor's noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of non-compliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Conservation Easement Deed based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

(d) Farmstead Residences. The right to repair, replace, construct, occupy and use Farm Dwellings and appurtenant structures and facilities within the Farmstead Area subject to the impervious surface limitation set forth in Section 5(g) below, and the right to install, operate, maintain, repair and replace underground utility services to serve the Farmstead Area, and the right of ingress and egress to and from the Farmstead Area.

(e) Recreation. The right to undertake recreational activities such as picnicking, fishing and bird watching on the Protected Property; provided that such activities are conducted in a manner and intensity that does not adversely impact the Conservation Values of the Protected Property and the Purpose of this Easement or otherwise impact highly erodable soils, wetlands or cultural sites. However, no motorized recreational vehicles, or activities that could adversely impact the Conservation Values of the Protected Property, are allowed in any Conservation Zone areas indicated on Exhibit B and/or in the Baseline Documentation.

(f) Fences. The right to construct and maintain fences within or around the Protected Property; provided that their design and location shall not impair the Conservation Values of the Protected Property or be contrary to the Purpose of this Easement.

(g) Signs. The right to place signs on the Protected Property to advertise for sale or rent or to state the conditions of access to the Protected Property; provided that such

signs are located to preserve, as much as possible, views from Keana`e Road to the coastline and ocean, and so that they do not significantly degrade the Conservation Values of the Protected Property. The design and erection of any sign in excess of three (3) square feet requires prior written approval by Grantee.

(h) Protection of Public Health or Safety. The right to undertake other activities necessary to protect public health or safety on the Protected Property, or other activities required by any governmental agency with authority to require such activity; provided that any such activity shall be conducted so that interference with the Conservation Values of the Protected Property is avoided, or, if avoidance is not possible, minimized to the extent possible. Because of the United States' interest in this easement, the United States must consent to any exercise of eminent domain or condemnation by any state or local government.

i) Easements and Dedications. Upon Approval by Grantee and NRCS based upon its assessment whether the granting of such rights is not inconsistent with the Purposes of this Easement, Grantor may grant or convey easements or make dedications of land as set forth below, and to grant the right to improve and maintain such easements, including:

ii. Easements to governmental agencies or utility providers for the installation, maintenance, repair and replacement of underground utility services;

iii. Dedication of portions of the Property fronting the existing highway to the State of Hawaii or County of Maui as may be required by law;

iiii. Easements to adjoining lands for drainage easements which may be required by the County.

5. Uses and Activities Inconsistent With the Purpose of the Easement. Any use of, or activity on, the Protected Property inconsistent with the Purpose of this Easement is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Without limiting the generality of the foregoing, the following uses of, or activities on, the Protected Property, though not an exhaustive list of inconsistent uses or activities, are inconsistent with the purposes of this Easement and shall be prohibited, except as expressly provided in Section 3 above:

(a) Subdivision. The legal subdivision or partitioning of the Protected Property.

(b) Transfers of Individual Parcels. The transfer of one or more of the TMK parcels constituting the Protected Property unless all such parcels are transferred to the same transferee shall be prohibited.

(c) Structures. Except as allowed in section 4 (d), the placement or construction of any permanent or temporary non-agricultural buildings, structures, or other improvements of any kind including, without limitation, roads, tennis courts, swimming pools or other non-agricultural structures, except as permitted by Grantee upon a finding it will not significantly diminish the Conservation Values of the Protected Property or be inconsistent with the Purpose of this Easement, and upon a showing that Grantor has or will obtain the necessary state and county permits necessary for such structure.

(d) Alteration of Land. Except as allowed in Section 4(d), the alteration of the surface of the land, including, without limitation, the excavation or removal of soil, sand, gravel, rock, peat, or sod, except as permitted by Grantee upon a finding it will not significantly diminish

the Conservation Values of the Protected Property or be inconsistent with the Purpose of this Easement.

(e) Erosion or Water Pollution. Any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters.

(f) Alteration of Water Courses. The draining, filling, dredging, ditching, or diking of wetland areas, the alteration or manipulation of ponds and water courses, or the creation of new wetlands, water impoundments, or water courses, except as approved by Grantee for agricultural purposes or to preserve or protect the Conservation Values of the Protected Property.

(g) Impervious Surface Area. Total impervious surface area shall be no greater than 6% (six percent) of the Protected Property area.

(h) Waste Disposal. The disposal or storage of rubbish, garbage, debris, unregistered vehicles, abandoned equipment, parts thereof, or other unsightly, offensive, or hazardous waste or material on the Protected Property.

(i) Utilities. The above-ground installation of new utility systems or extensions of existing utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities on the Protected Property.

(j) Signs. The placement of commercial signs, billboards, or other advertising material on the Protected Property except as provided in Section 3(f).

(k) Yard Lights. The placement and use of any outdoor electric lights outside of the Farmstead Area, except as approved by Grantee for agricultural uses or to preserve or protect the Conservation Values of the Protected Property and provided that all outdoor electric lights shall be shielded on all sides so as to direct light to the ground.

(l) Mining. The exploration for, or development and extraction of, minerals and hydrocarbons on or below the surface of the Protected Property.

(m) Introduced Vegetation. The introduction of nonnative plants and nonnative invasive species on the Protected Property, except as approved by Grantee to enhance the Conservation Values of the Protected Property.

(n) Off-Road Vehicles. The operation of motorcycles, "all terrain" vehicles, or any other type of off-road motorized vehicles within the Protected Property except as necessary for agricultural uses.

(o) Commercial recreation is generally prohibited, except as permitted by Grantee upon a finding it will not significantly diminish the Conservation Values of the Protected Property or be inconsistent with the Purpose of this Easement,

6. Invasive Non-Native Species. Grantor agrees to consider working with Grantee over the coming years to explore and implement reasonable methods of controlling and eradicating invasive non-native species on the Protected Property, except for non-native species necessary to the conduct of the permitted agricultural uses, and to encourage the establishment of appropriate native species on the Protected Property.

7. Notice and Approval.

(a) Notice. To afford Grantee an opportunity to ensure that any use or activity proposed by the Grantor is designed and carried out in a manner consistent with the Purpose of this Easement, Grantor shall notify Grantee and receive Grantee's written approval prior to undertaking certain activities permitted only after prior approval by Grantee as identified in this Easement, for example, in Sections 4(c)ii 4(h), 5(c), 5(f), 5(k), 5(m) and 5(o). Grantor shall notify Grantee in writing not less than forty-five (45) days prior to the date Grantor intends to undertake the use or activity for which prior approval is required. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the Purpose of this Easement.

(b) Approval. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request for approval. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the Purpose of this Easement. Grantee's approval may include reasonable conditions, which must be satisfied in undertaking the proposed use or activity. If Grantor must undertake emergency action to protect health or safety on the Property or must act by and subject to the requirement of any governmental agency, Grantor may proceed with such action without Grantee's approval only if Grantor notifies Grantee prior to taking such action and Grantee cannot provide its approval, with or without conditions, within such time as is reasonable under the circumstances.

(c) Grantee's Failure to Approve Within the Required Time. A request by Grantor shall be conclusively deemed approved upon Grantee's failure to respond within the sixty (60) day time period prescribed above.

(d) Addresses for Notices and Responses. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing either served personally or sent by certified mail, return receipt requested, postage prepaid, addressed to as follows:

To Grantors:

William Grier Kepler
Luellen Koutz Kepler
405 Liholiho St.,
Wailuku, HI 96793

To Grantee:

Maui Coastal Land Trust
P.O. Box 965
Wailuku, HI 96793

Copy to NRCS:

NRCS Director
300 Ala Moana Blvd; Rm 4-118
Honolulu, HI 96850

Copy to Department of Finance, County of Maui:

Director, Department of Finance
200 South High Street
Wailuku, HI 96793

or to such other address as either party from time to time shall designate by written notices to the other.

8. Dispute Resolution.

Should the United States become the Grantee in this Easement, this Section 8 shall not apply.

(a) Voluntary Cessation of Disputed Use or Activity. Grantor agrees to refrain from implementing any disputed use or activity pending resolution of the dispute. Grantee may seek judicial injunctive relief as provided in Section 9 if Grantor fails to voluntarily refrain from the disputed use or activity during the first sixty (60) days after Grantee becomes aware of the dispute.

(b) Face-to-face meeting. If a dispute arises between the parties concerning the consistency of any proposed use or activity with the Purpose of this Easement, the parties shall, within thirty (30) days of Grantee's first awareness of the dispute, arrange a face-to-face meeting of representatives of the parties and each make good faith efforts to resolve the dispute.

(c) Mediation. After the initial thirty (30) days, either party may refer the dispute to mediation by request made in writing to the other. Within ten (10) days of the receipt of such a request, the parties shall select a single mediator to hear the matter. The matter shall be settled in accordance with the Hawaii mediation rules then in effect. If mediation shall be unsuccessful in resolving the dispute by the end of thirty (30) days from the initial request to mediate, then either party may pursue all available equitable and legal remedies.

9. Grantee's Remedies.

(a) Notice of Violation, Corrective Action. If Grantee determines that the Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose of this Easement, to restore the portion of the Protected Property so injured to its prior condition in accordance with a plan approved by Grantee.

(b) Grantor's Failure to Respond. Grantee may bring an action as provided in subsection 9(c) if Grantor:

(i) Fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee;

(ii) Under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing such violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

(c) Grantee's Action.

(i) Injunctive Relief. Grantee may bring an action at law or in equity in a court having jurisdiction to enforce the terms of this Easement:

a. To enjoin the violation, ex parte as necessary, by temporary or permanent injunction; and

b. To require the restoration of the Protected Property to the condition that existed prior to any such injury.

(ii) Damages. Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Value protected by this Easement, to the extent such damages may be ascertained. Without limiting Grantor's liability in any way, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking corrective or restoration action on the Protected Property.

(iii) No Bond Required. Any action for injunctive relief or damages may be taken without Grantee being required to post bond or provide other security. Grantor is barred from using this provision regarding damages as an affirmative defense against Grantee's rights to injunctive relief.

(d) Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Protected Property, Grantee may pursue its remedies under this section without prior notice to Grantor or without waiting for the period provided for cure to expire; provided, that Grantee shall first make a reasonable attempt under the circumstances to give verbal/telephone notice to Grantor of the violation and proposed action.

(e) Scope of Relief. Grantee's rights under this section apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to injunctive and other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

(f) Costs of Enforcement. In the event Grantee must enforce the terms of this Easement, the costs of restoration necessitated by acts or omissions of Grantor or anyone under Grantor's control or authority or anyone in contractual privity with Grantor, in violation of the terms of this Easement, and Grantee's reasonable enforcement expenses, including attorney's fees, shall be borne by Grantor. In the event that Grantee secures redress for an Easement violation without initiating or completing a judicial proceeding, the costs of such restoration and Grantee's reasonable expenses shall be borne by Grantor. If Grantor ultimately prevails in any judicial proceeding initiated by Grantee to enforce the terms of this Easement, Grantor shall be entitled to reimbursement by Grantee of the expenses of such proceeding, including attorneys' fees. The preceding sentence does not apply to the United States, should the United States become the grantee.

(g) Grantee's Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor, its agents, employees, contractors, family members, invitees or licensees shall not be deemed or construed to be a waiver by Grantee of such term or any Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

(h) Waiver of Certain Defenses. Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Grantee in interest under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription.

(i) Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore

any condition on the Protected Property or to recover damages for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or for acts of trespassers, that Grantor could not reasonably have anticipated or prevented, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes.

(j) Estoppel Certificates. Grantee shall, within thirty (30) days of a request by Grantor, execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, that certifies, to the best of Grantee's knowledge, Grantor's compliance or lack thereof with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement. Such certification shall be limited to the condition of the Protected Property as of Grantee's most recent inspection. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within thirty (30) days of receipt of Grantor's written request.

10. Access By Public. Access by the general public to any portion of the Protected Property may be permitted by Grantor. Nothing herein shall prevent the exercise of any rights of Native Hawaiians for traditional and customary practices as may be required by Hawaii law.

11. Costs, Liabilities and Insurance, Taxes, Environmental Compliance and Indemnification.

(a) Costs, Legal Requirements, Liabilities and Insurance. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including the maintenance of any insurance coverage desired by Grantor. Grantor and Grantee release and relieve the other, and waive their entire right to recover for loss or damage to the extent that the loss or damage is covered by proceeds of the injured party's insurance. This waiver applies whether or not the loss is due to the negligent acts or omissions of Grantor or Grantee. Grantor remains solely responsible for obtaining any applicable governmental permits and approval for any activity or use permitted by this Easement, and any such activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Protected Property free of any liens arising out of any work performed for, material furnished to, or obligations incurred by Grantor.

(b) Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Protected Property by competent authority (collectively "Taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. If Grantor fails to pay any Taxes when due, Grantee is authorized, but in no event obligated, to make or advance such payment of Taxes upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the Taxes or the accuracy of the bill, statement or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.

(c) Remediation. If at any time, there occurs, or has occurred, a release in, on, or about the Protected Property of any substance now or hereafter defined, listed, or otherwise classified, pursuant to any federal, state, or local law, regulation, or requirement as, toxic or dangerous to the air, water, or soil, or in any other way harmful or threatening to human health or environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee, in which case Grantee shall be responsible for remediation.

(d) Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Protected Property, of any of Grantor's activities on the Protected Property, or otherwise to become an "operator" with respect to the Protected Property within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended ("CERCLA") or the environmental laws of the State of Hawaii or the County of Maui.

(e) General Indemnification. Grantor shall indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee may be subject or incur relating to the Protected Property, which may arise from, but are not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

(f) Environmental Warranty. Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

Moreover, Grantor hereby promises to hold harmless and indemnify the Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

(g) Control. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee or the United States or the State of Hawai'i to exercise physical or managerial control over the day-to-day operations of the Property, of any of Grantor's activities on the Property, or otherwise to become an "operator" with respect to the Property within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended ("CERCLA") or the environmental laws of the State.

(h) Right of Enforcement. Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Maui Coastal Land Trust fails to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.

12. Subsequent Transfer or Extinguishment.

(a) Extinguishment. Upon permission from the United States, a court with jurisdiction may, if it determines that conditions upon or surrounding the Protected Property have changed so much that it becomes impossible or impractical to fulfill the Purpose of this Easement, extinguish or modify this Easement in accordance with applicable State law, at the joint request of Grantor, Grantee and the United States. If this Easement is extinguished by judicial proceeding, Grantee and the United States shall be entitled to their Proportionate Share of the proceeds from any subsequent sale or other disposition of the Protected Property, calculated in accordance with subsection (b) below.

(b) Grantee's Compensation. This Easement constitutes a real property interest immediately vested in Grantee, partially funded by the United States. For the purpose of this subparagraph (b), the parties stipulate that this Easement has a fair market value of \$650,000.00, which was determined by multiplying (i) the fair market value of the Protected Property unencumbered by this Easement, by (ii) 28.5% (the "Easement Value Ratio") which is the ratio of the value of this Easement at the time of this grant to the value of the Protected Property, unencumbered by this Easement, at the time of this grant. The values at the time of this grant have been established by Grantor's qualified appraisal (pursuant to Treasury regulation § 1.170A-13) for federal income tax purposes. The Easement Value Ratio shall remain constant and, on a subsequent sale, exchange, or involuntary conversion of all or any portion of the Protected Property, pursuant to the provisions of subparagraph (a) of this Paragraph 12, Grantee, the County of Maui and the United States shall each be entitled to their Proportionate Share, defined below, of the gross proceeds (minus any portion attributable to improvements not paid for by the United States made after the date of this grant) multiplied by the Easement Value Ratio. In the event of extinguishment of this Easement by sale to Grantor (subject to the extinguishment provisions of subparagraph (a) of this Section 11), Grantee and the United States shall each be entitled to receive an amount equal to their Proportionate Share, defined below, of the fair market value of the Protected Property at the time of such sale (minus such amount as is attributable to improvements not paid for by the United States made after the date of this grant), as established by independent appraisal multiplied by the Easement Value Ratio. The United States Proportionate Share of the proceeds is equal to 50%. The County of Maui's Proportionate share is equal to 50%.

(c) Condemnation. If all or any of the Protected Property shall be taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interest in the Protected Property subject to the taking or in lieu purchase and all direct or incidental damages resulting from the taking or in lieu purchase. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Except as provided by applicable law, Grantor and Grantee agree that Grantee's share of the balance of the amount recovered shall be an amount determined by multiplying the balance (excluding compensation properly allocable to improvements constructed by Grantor after the date of this grant, all of which shall be paid to Grantor) by the Easement Value Ratio. Due to the United States' interest in this easement, the United States must consent to any condemnation action.

(d) Application of Proceeds. Grantee shall use any of its proceeds received under the circumstances described in this Section 11 in a manner consistent with its conservation purposes, which are exemplified by the Easement.

(e) Subsequent Transfers. Grantor agrees to:

(i) Incorporate the terms of this Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including without limitation, a leasehold interest;

(ii) Describe this Easement in and append it to, any executory contract for the transfer of any interest in the Protected Property;

(iii) Give written notice to the Grantee of the transfer of any interest in all or a portion of the Protected Property no later than ten (10) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or the prospective transferee's representative.

The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

13. Amendment. If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor, Grantee and the United States are free to jointly amend this Easement; provided that:

(i) no amendment shall be allowed that shall affect the qualification of this Easement or the status of Grantee under any applicable laws, including Hawaii Revised Statutes Chapter 198 or Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provisions(s) then applicable);

(ii) Any such amendment shall be consistent with the Purpose of this Easement, shall not affect its perpetual duration, shall be in accordance with the Assignment of Rights referred to in Section 13 below and shall be recorded in the State of Hawai'i Bureau of Conveyances.

(iii) Any such amendment shall be consistent with the Farm and Ranch Lands Protection Program and its implementing regulations, 16 U.S.C. §§ 3838h, 3838i, 7 C.F.R. Part 1491.

14. Assignment and Succession.

(a) Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under Hawaii Revised Statutes Chapter 198 (or any successor provision(s) then applicable) and in accordance with the provisions of the Assignment of Rights referenced in subsection (b) below. As a condition of such transfer, Grantee shall require that the transferee exercises its rights under the assignment consistent with the Purpose of this Easement. Grantee shall notify Grantor and the United States in writing, at Grantor's last known address, in advance of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

(b) Succession. If at any time it becomes impossible for Grantee to ensure compliance with the covenants, terms, conditions and restrictions contained in this Easement and Grantee has not named a successor organization, or the Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable) or to be authorized to acquire and hold conservation easements under Hawaii Revised Statutes Chapter 198 (or any successor provision(s) then applicable), then, at the option of the United States, Grantee's rights and obligations under this Easement shall become vested and fall upon the United States as described in Section 15, or, if the United States does not chose to accept interest in the Easement, shall vest in an entity with purposes similar to Grantee's, constituting a "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code of 1986, as

amended (or any successor provision(s) then applicable); provided that if such vesting in any such entity is deemed to be void under the Rule Against Perpetuities, the rights and obligations under this Easement shall vest in such organization as a court having jurisdiction shall direct, pursuant to the applicable Hawaii law and the Internal Revenue Code of 1986, as amended (or any successor provision(s) then applicable), and with due regard to the purposes of this Easement.

15. Contingent Rights of County of Maui. In the event that the Grantee or the NRCS fails to enforce the terms of this Easement, as determined in the sole discretion of the Mayor of the County of Maui ("Mayor"), the Mayor, his successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. Further, in the event that the Grantee attempts to terminate, transfer, or otherwise divest itself of rights, title, or interest in this Easement or extinguish the Easement without prior consent of the Mayor and payment of consideration as provided herein, and the NRCS declines to receive all right, title or interest in this Easement, then at the option of the Mayor, all right, title, or interest in this Easement shall become vested in the County of Maui.

16. Recordation. Grantee shall record this instrument in a timely fashion in the Bureau of Conveyances, State of Hawaii, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Easement.

17. General Provisions.

(a) Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Hawaii and the United States.

(b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Purpose of this Easement and the policy and purpose of Hawaii Revised Statutes Chapter 198. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

(c) Severability. If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements between Grantor and Grantee relating to the Protected Property, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section 12.

(e) No Forfeiture. Nothing contained in this Easement shall result in a forfeiture or reversion of Grantor's title in any respect.

(f) Successors and Assigns. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

(g) Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or

Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

(h) Counterparts. The parties may execute this instrument in two or more counterparts, which shall be signed by both parties. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

(i) Conservation Easement. The conveyance of this Easement is a conveyance of an interest in real property and constitutes a "conservation easement" as defined in Hawaii Revised Statutes Section 198-1.

(j) This Easement runs with the land and shall be binding upon Grantor's personal representatives, heirs, successors, and assigns in perpetuity.

18. Schedule of Exhibits.

- (a) Legal Description of Property Subject to Easement
- (b) Site Map

Executed and effective the day and year first above written.

By: _____

By: _____

(Owners)

"Grantor"

THE MAUI COASTAL LAND TRUST

By: _____

Dale B. Bonar
Its Executive Director

By: _____

Helen Nielsen
Its President

"Grantee"

STATE OF HAWAII)
)
COUNTY OF MAUI) SS.

On this _____ day of _____, 2009, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Notary Public, State of Hawaii
Printed Name: _____
My Commission Expires: _____

STATE OF HAWAII)
)
COUNTY OF MAUI) SS.

On this _____ day of _____, 2009, before me personally appeared _____, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.

Notary Public, State of Hawaii
Printed Name: _____
My Commission Expires: _____

EXHIBIT "A"

[Metes and bounds descriptions of the Protected Property]

EXHIBIT "B"

[Site map – showing conservation district boundary]

EXHIBIT F
Title Guaranty of Hawaii, Inc.
Preliminary Report

PRELIMINARY REPORT
(No Liability Hereunder)

This report (and any revisions thereto) is issued solely for the convenience of the titleholder, the titleholder's agent, counsel, purchaser or mortgagee, or the person ordering it for the purpose of facilitating the issuance of a policy of title insurance by Title Guaranty of Hawaii and no liability will arise under this report.

SCHEDULE A

Title Guaranty of Hawaii, Incorporated, hereby reports that, subject to those matters set forth in Schedule "B" hereof, the title to the estate or interest to the land described in Schedule "C" hereof is vested in:

WILLIAM GRIER KEPLER and
LUELLEN KOUTZ KEPLER,
husband and wife,
as Tenants by the Entirety,
as Fee Owner

This report is dated as of September 25, 2008 at 8:00 a.m.

Inquiries concerning this report
should be directed to
NICHOLETA CONDUS.
Email ncondus@tghawaii.com
Fax (808) 521-0288
Telephone (808) 533-5896.
Refer to Order No. 200845201.

**SCHEDULE B
EXCEPTIONS**

1. Real Property Taxes, if any, that may be due and owing.

Tax Key: (2) 1-1-003-por. 041 Area Assessed: 6.120 acres
- Covers Lot 3

Tax Key: (2) 1-1-003-por. 041 - Covers Lot 1
& 065

Land Classification: AGRICULTURAL

2. -AS TO LOT 1 ONLY:-

Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and the effect, if any, upon the area of the land described herein.

3. GRANT

TO : MAUI ELECTRIC COMPANY, LIMITED and GTE HAWAIIAN
TELEPHONE COMPANY INCORPORATED now known as
HAWAIIAN TELCOM, INC.

DATED : March 23, 1979

FILED : Land Court Document No. 934538

GRANTING : a perpetual right and easement to build, construct,
reconstruct, rebuild, repair, maintain and operate
pole and wire lines and underground power lines,
etc., for the transmission of electricity

END OF SCHEDULE B

SCHEDULE C

-PARCEL FIRST:-

All of that certain parcel of land situate at Keanae, District of Hana, Island and County of Maui, State of Hawaii, described as follows:

LOT 1, area 4.85 acres, more or less, as shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 240 of Annie Amoy Ah Quai chamberlain.

-PARCEL SECOND:-

All of that certain parcel of land situate at Keanae, District of Hana, Island and County of Maui, State of Hawaii, described as follows:

LOT 3, area 1.45 acres, more or less, as shown on Map 1, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application No. 240 of Annie Amoy Ah Quai Chamberlain.

Being land(s) described in Transfer Certificate of Title No. 419,696 issued to WILLIAM GRIER KEPLER and LUELLEN KOUTZ KEPLER, husband and wife, as Tenants by the Entirety.

BEING THE PREMISES ACQUIRED BY DEED

GRANTOR : HAROLD WEBER SEXTON and CHARLOTTE MARY SEXTON,
husband and wife

GRANTEE : WILLIAM GRIER KEPLER and LUELLEN KOUTZ KEPLER,
husband and wife, as Tenants by the Entirety

DATED : March 11, 1993

FILED : Land Court Document No. 2056195

END OF SCHEDULE C

GUIDELINES FOR THE ISSUANCE OF INSURANCE

- A. Taxes shown in Schedule B are as of the date such information is available from the taxing authority. Evidence of payment of all taxes and assessments subsequent to such date must be provided prior to recordation.
 - B. Evidence of authority regarding the execution of all documents pertaining to the transaction is required prior to recordation. This includes corporate resolutions, copies of partnership agreements, powers of attorney and trust instruments.
 - C. If an entity (corporation, partnership, limited liability company, etc.) is not registered in Hawaii, evidence of its formation and existence under the laws where such entity is formed must be presented prior to recordation.
 - D. If the transaction involves a construction loan, the following is required:
 - (1) a letter confirming that there is no construction prior to recordation; or
 - (2) if there is such construction, appropriate indemnity agreements, financial statements and other relevant information from the owner, developer, general contractor and major sub-contractors must be submitted to the Title Company for approval at least one week prior to the anticipated date of recordation.
- Forms are available upon request from Title Guaranty of Hawaii.
- E. Chapter 669, Hawaii Revised Statutes, sets forth acceptable tolerances for discrepancies in structures or improvements relative to private property boundaries for various classes of real property. If your survey map shows a position discrepancy that falls within the tolerances of Chapter 669, call your title officer as affirmative coverage may be available to insured lenders.
 - F. The right is reserved to make additional exceptions and/or requirements upon examination of all documents submitted in connection with this transaction.
 - G. If a policy of title insurance is issued, it will exclude from coverage all matters set forth in Schedule B of this report and in the printed Exclusions from Coverage contained in an ALTA policy or in the Hawaii Standard Owner's Policy, as applicable. Different forms may have different exclusions and should be reviewed. Copies of the policy forms are available upon request from Title Guaranty of Hawaii or on our website at www.tghawaii.com.

DATE PRINTED: 10/02/2008

STATEMENT OF ASSESSED VALUES AND REAL PROPERTY TAXES DUE

NAME OF OWNER: KEPLER, WILLIAM G/LUELLEN K
LEASED TO :

TAX MAP KEY

DIVISION ZONE SECTION PLAT PARCEL HPR NO.
(2) 1 1 003 041 0000

CLASS: 5 AREA ASSESSED: 6.120 AC

ASSESSED VALUES FOR CURRENT YEAR TAXES: 2008

This certifies that the records of this division show the assessed values and taxes on the property designated by Tax Key shown above are as follows:

| | | |
|-----------------|----|---------------------------|
| BUILDING | \$ | 116,000 |
| EXEMPTION | \$ | 0 |
| NET VALUE | \$ | 116,000 |
| LAND | \$ | 30,800 HIGHEST & BEST USE |
| EXEMPTION | \$ | 0 |
| NET VALUE | \$ | 30,800 |
| TOTAL NET VALUE | \$ | 146,800 |

Installment (1 - due 8/20; 2 - due 2/20) Tax Info As Of - 7/02/2008

| Tax Year | Installment | Tax Amount | Penalty Amount | Interest Amount | Other Amount | Total Amount | |
|----------|-------------|------------|----------------|-----------------|--------------|--------------|---------|
| 2008 | 2 | 330.30 | | | | 330.30 | PENDING |
| 2008 | 1 | 330.30 | | | | 330.30 | PENDING |
| 2007 | 2 | 308.02 | | | | 308.02 | PAID |
| 2007 | 1 | 308.03 | | | | 308.03 | PAID |
| 2006 | 2 | 279.22 | | | | 279.22 | PAID |
| 2006 | 1 | 279.23 | | | | 279.23 | PAID |

Total Amount Due: 660.60

Penalty and Interest Computed to: 7/02/2008

DATE PRINTED: 10/02/2008

STATEMENT OF ASSESSED VALUES AND REAL PROPERTY TAXES DUE

NAME OF OWNER: KEPLER, WILLIAM G/LUELLEN K
LEASED TO :

TAX MAP KEY

DIVISION ZONE SECTION PLAT PARCEL HPR NO.
(2) 1 1 003 065 0000

CLASS: 6 AREA ASSESSED: .180 AC

ASSESSED VALUES FOR CURRENT YEAR TAXES: 2008

This certifies that the records of this division show the assessed values and taxes on the property designated by Tax Key shown above are as follows:

| | | |
|-----------------|----|-------|
| BUILDING | \$ | 0 |
| EXEMPTION | \$ | 0 |
| NET VALUE | \$ | 0 |
| LAND | \$ | 3,200 |
| EXEMPTION | \$ | 0 |
| NET VALUE | \$ | 3,200 |
| TOTAL NET VALUE | \$ | 3,200 |

Installment (1 - due 8/20; 2 - due 2/20) Tax Info As Of - 7/02/2008

| Tax Year | Installment | Tax Amount | Penalty Amount | Interest Amount | Other Amount | Total Amount | |
|----------|-------------|------------|----------------|-----------------|--------------|--------------|---------|
| 2008 | 2 | 30.00 | | | | 30.00 | PENDING |
| 2008 | 1 | 30.00 | | | | 30.00 | PENDING |
| 2007 | 2 | 30.00 | | | | 30.00 | PAID |
| 2007 | 1 | 30.00 | | | | 30.00 | PAID |
| 2006 | 2 | 30.00 | | | | 30.00 | PAID |
| 2006 | 1 | 30.00 | | | | 30.00 | PAID |

Total Amount Due: 60.00

Penalty and Interest Computed to: 7/02/2008

EXHIBIT G
Environmental Report



January 30, 2009

Terracon Consultants, Inc.
9856 South 57th Street
Franklin, Wisconsin 53132
Phone 414.423.0255
Fax 414.423.0566

Shirley Yamaguchi
Natural Resources Conservation Service (NRCS)
300 Ala Moana Blvd
Honolulu, Hawaii 96850

Telephone: 808-541-2600
Facsimile: 808-541-1335

Re: Pre-Acquisition Environmental Database Search
Natural Resources Conservation Service
Farm and Ranch Protection Program (FRPP)
East Maui - Farm and Ranch Protection Program (FRPP)
Parcel 41 (Zone 1 Section 1 Plat 3)
Maui County
Hana, Hawaii 96713
Project No. 58097702

Dear Ms. Yamaguchi:

Terracon Consultants, Inc. (Terracon) is pleased to submit this Pre-Acquisition Environmental Database Search report for the above-referenced parcel. This search was performed in accordance with our proposal dated August 5, 2008.

1.0 INTRODUCTION

1.1 Parcel Description

Parcel Description

| | |
|--------------------------------|--|
| Parcel Name | East Maui - Farm and Ranch Protection Program |
| Parcel Location/Address | Parcel 41 (Zone 1 Section 1 Plat 3) Maui County Hana, Hawaii 59713 |
| Land Area | Approximately 6.18 acres |

Acronyms and terms used in this report are attached.

1.2 Scope of Services

This Pre-Acquisition Environmental Database Search was performed in accordance with our August 5, 2008 proposal, which was prepared in response to NRCS Solicitation No. AG-3A75-B-08-0004. The scope of services includes accessing select web-based resources, reviewing the available data, completing the attached summary table, and preparing this report summarizing the findings and conclusions of the search.

1.3 Standard of Care

This Pre-Acquisition Environmental Database Search was performed in accordance with generally accepted practices of this profession, undertaken in similar studies at the same time and in the same geographical area. We have endeavored to meet this standard of care, but may be limited by conditions encountered during performance, a client-driven scope of work, or inability to review information not received by the report date. Where appropriate, these limitations are discussed in the text of the report, and an evaluation of their significance with respect to our findings has been conducted.

Pre-Acquisition Environmental Database Searches, such as the one performed at this site, are of limited scope, are noninvasive and cannot eliminate the potential that hazardous, toxic, or petroleum substances are present or have been released at the site beyond what is identified by the limited scope. In conducting the limited scope of services described herein, certain sources of information and public records were not reviewed. It should be recognized that environmental concerns may be documented in public records that were not reviewed. Performance of this practice is intended to reduce, but not eliminate, uncertainty regarding the potential for environmental concerns. No warranties, express or implied, are intended or made. The limitations herein must be considered when the user of this report formulates opinions as to risks associated with the site or otherwise uses the report for any other purpose. These risks may be further evaluated – but not eliminated – through additional research or assessment. We will, upon request, advise you of additional research or assessment options that may be available and associated costs.

1.4 Additional Scope Limitations

Based upon the agreed-on scope of services, this Pre-Acquisition Environmental Database Search did not include subsurface or other invasive assessments, business environmental risk evaluations, or other services not particularly identified and discussed herein. Reasonable attempts were made to obtain information within the scope and time constraints set forth by the client; however, in some instances, information requested is not, or was not, received by the issuance date of the report. Information obtained for this ESA was received from several sources that we believe to be reliable; nonetheless, the authenticity or reliability of these sources cannot and is not warranted hereunder. We have no obligation to provide

information obtained or discovered by us after the issuance date of the report, or to perform any additional services, regardless of whether the information would affect any conclusions, recommendations, or opinions in the report. This disclaimer specifically applies to any information that has not been provided by the client.

This report represents our service to you as of the report date and constitutes our final document; its text may not be altered after final issuance. Findings in this report are based upon the site's current utilization and from other sources described herein; such information is subject to change. Further, these services are not to be construed as legal interpretation or advice.

2.0 RECORDS REVIEW

Terracon conducted a review of specific records described below. Select regulatory database information was provided by Environmental Data Resources, a contract information services company. Information in this section is subject to the accuracy of the data provided by the information services company and the date at which the information is updated, and the scope herein did not include confirmation of facilities listed as "unmappable" by regulatory databases.

In some of the following subsections, the words up-gradient, cross-gradient and down-gradient refer to the topographic gradient in relation to the site. As stated previously, the groundwater flow direction and the depth to shallow groundwater, if present, would likely vary depending upon seasonal variations in rainfall and the depth to the soil/bedrock interface. Without the benefit of on-site groundwater monitoring wells surveyed to a datum, groundwater depth and flow direction beneath the site cannot be directly ascertained.

2.1 Federal and State/Tribal Databases

The summary table below indicates whether the parcel or adjacent/surrounding parcels were identified on federal and state/tribal databases within the ASTM-required search distances from the approximate site boundaries. Database definition, descriptions, and the database search report are attached.

Federal and State Databases

| Database | Description/Source | Parcel Identified | Adjacent/Surrounding Parcels Identified |
|--|---|--------------------------|--|
| <u>Federal</u> | | | |
| CERCLIS | The CERCLIS database is a compilation of facilities which the EPA has investigated or is currently investigating for a release or threatened release of hazardous substances pursuant to the CERCLA of 1980. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| HMIRS | Hazardous Materials Information Reporting System (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| AIRS | Aerometric Information Tracking System (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| ERNS | The ERNS is a listing compiled by the USEPA on reported releases of petroleum and hazardous substances to the air, soil and/or water. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| FTTS | FIFRA/TSCA Tracking System (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| NPL | The NPL is the EPA's database of uncontrolled or abandoned hazardous waste facilities that have been listed for priority remedial actions under the Superfund Program. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| CERCLIS/ NFRAP | CERCLIS/NFRAP refers to facilities that have been removed and archived from EPA's inventory of CERCLA sites. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| PAD/PCB Transformer Registration Database | PCB Activity Database/PCB Transformer Registration Database. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| PCS | Permit Compliance System (http://www.epa.gov/enviro/html/pcs/pcs_query.html) | <input type="checkbox"/> | <input type="checkbox"/> |
| RCRA CORRACTS/ | The EPA maintains a database of RCRA facilities associated with treatment, storage, and disposal (TSD) of hazardous waste that are undergoing "corrective action." A "corrective action" | <input type="checkbox"/> | <input type="checkbox"/> |

| Database | Description/Source | Parcel Identified | Adjacent/Surrounding Parcels Identified |
|-------------------------------|---|--------------------------|---|
| TSD (RCRIS) | order is issued when there has been a release of hazardous waste or constituents into the environment from a RCRA facility. (EDR Radius Map™ Report) | | |
| RCRA Non-CORRACTS/TSD (RCRIS) | The RCRA Non-CORRACTS/TSD Database is a compilation by the USEPA of facilities which report storage, transportation, treatment, or disposal of hazardous waste. Unlike the RCRA CORRACTS/TSD database, the RCRA Non-CORRACTS/TSD database does not include RCRA facilities where corrective action is required. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| RCRA Generators (RCRIS) | The RCRA Generators database, maintained by the EPA, lists facilities that generate hazardous waste as part of their normal business practices. Generators are listed as either large (LQG), small (SQG), or conditionally exempt (CESQG). LQG produce at least 1000 kg/month of non-acutely hazardous waste or 1 kg/month of acutely hazardous waste. SQG produce 100-1000 kg/month of non-acutely hazardous waste. CESQG are those that generate less than 100 kg/month of non-acutely hazardous waste. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| SDWIS | Safe Drinking Water Information System. (http://www.epa.gov/enviro/html/sdwis/sdwis_query.html) | <input type="checkbox"/> | <input type="checkbox"/> |
| TRIS | Toxic Chemical Release Inventory System. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| IC / EC | A listing of sites with institutional and/or engineering controls in place. IC include administrative measures, such as groundwater use restrictions, construction restrictions, property use restrictions, and post remediation care requirements intended to prevent exposure to contaminants remaining on site. Deed restrictions are generally required as part of the institutional controls. EC include various forms of caps, building foundations, liners, and treatment methods to create pathway elimination for regulated substances to enter environmental media or effect human health. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |

| Database | Description/Source | Parcel Identified | Adjacent/Surrounding Parcels Identified |
|---------------------------|---|--------------------------|---|
| <u>State/Tribal</u> | | | |
| SHWS (equivalent CERCLIS) | List of Sites or Facilities in which the Office of Hazard Evaluation and Emergency Response has interest (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| LUST/LAST | Leaking Underground/Aboveground Storage Tank Database. (EDR Radius Map™ Report) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| Database | Description/Source | Parcel Identified | Adjacent/Surrounding Parcels Identified |
|-------------------------|---|--------------------------|---|
| UST/AST | Registered Underground/Aboveground Storage Tanks (EDR Radius Map™ Report) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| LIENS 2 | CERCLA Lien Information (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| LUCIS | Land Use Control Information System (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| INST CONTROL | Institutional Controls Information (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| State Landfill (SWF/LF) | Permitted Solid Waste Facilities/Landfill Sites in the State of Hawaii (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |
| BROWNFIELDS | Brownfield Sites with certain legal exclusions and additions (EDR Radius Map™ Report) | <input type="checkbox"/> | <input type="checkbox"/> |

| Database | Description/Source | Findings |
|-------------------------------|---|---|
| <u>Other</u> | | |
| Critical Habitat | National Wilderness Preservation System (http://www.wilderness.net/index.cfm?fuse=NWPS) U.S. FWS Critical Habitat (http://crithab.fws.gov/) and (www.fws.gov/refuges) | The U.S. Critical Habitat Mapping Service identified 87 critical habitats in Maui County, Hawaii. The National Wilderness Preservation System identified the Haleakala National Park in Maui County, Hawaii. The National Park is approximately 13 miles south of the site. The National Wildlife Refuge System identified the Kealia Ponds National Wildlife Refuge in Maui County, Hawaii. The Refuge is approximately 20 miles to the southwest of the site. |
| EPA NPDES/Waste Water Systems | National Pollution Discharge Elimination System which identifies facilities that discharge waste water to surface water bodies, including wastewater from treatment facilities (http://www.epa-echo.gov/echo/) Local Sources unavailable for Maui County | The EPA website identified 11 facilities in Maui County, Hawaii that discharge wastewater. The closest facility is approximately 15 miles from the site and therefore they do not constitute an environmental concern for the site. |
| FEMA | Federal Emergency Management Agency (http://msc.fema.gov) | According to FEMA Map #1500030225B, June 1, 1981, the site is not in a flood zone. |
| Local Zoning/Land Use Records | Current Zoning (Russ Higa, Maui County Planning Department) | Russ Higa, with Maui County Planning Department, was contacted regarding the zoning of the parcel. Mr. Higa indicated that the majority of the parcel was zoned agricultural but a small area on the western portion of the parcel was zoned conservation |
| Oil, Gas, or Other | Local Sources (http://digicoll.library.wisc.edu/cgi- | According to the 1991 Mineral Yearbook from the Bureau of |

| Database | Description/Source | Findings |
|------------------------|---|--|
| <u>Other</u> | | |
| Mineral Records | bin/EcoNatRes/EcoNatRes-idx?type=turn&entity=EcoNatRes_MinYB1991v2_p0169&isize=M) USGS NOGA (http://energy.cr.usgs.gov/oilgas/noga/) | Mines, the mineral resources in Maui County are crushed stone, pumice, and dimension limestone. The USGS National Oil and Gas Assessment indicate that Hawaii is not included in an oil and gas assessment area. |
| Wetlands | US Fish & Wildlife Service Wetlands Online Mapper (http://wetlandsfws.er.usgs.gov/wtlnds/launch.html) Local Sources unavailable for Maui County | The US Fish & Wildlife Service Online Mapper indicates that the eastern half of the site is considered freshwater forested/shrub, and freshwater emergent wetland |

Other federal, state, local and proprietary databases may have been provided by the database firm. A list of the additional reviewed databases is included in the attached regulatory database report.

2.2 Records Review Summary

A surrounding facility was identified during our search of the specified federal and state databases. According to the database report, a FINDS and LUST site is located approximately a ¼ mile south of the parcel. According to Mr. Darin Park, Underground Storage Tank Section inspector with the Department of Health in Hawaii, there are three tank records on file for the identified parcel. These tank records were not identified in the database report. One 600-gallon fiberglass tank containing diesel is currently in use at the facility. One 110-gallon bare steel tank was closed in place and filled with inert material in 1983 and a 285-gallon bare steel tank containing aviation fuel was closed and removed in 1998. Since the identified parcel is a ¼ mile from the subject site, this facility does not constitute an environmental concern for the parcel.

Other databases indicate that a wetland area is located on the parcel and in the surrounding area. Databases specific to critical habitat; flood zones; zoning; oil, gas, and mineral resources; and waste water systems; did not identify environmental concerns to the parcel.

3.0 DECLARATION

I, Blaine R. Schroyer, P.E., declare that, to the best of my professional knowledge and belief, I meet the definition of Environmental Professional as defined in Section 312.10 of 40 CFR 312; and I have the specific qualifications based on education, training, and experience to assess a site of the nature, history, and setting of the subject site. I have developed and performed the All Appropriate Inquiries in conformance with the standards and practice set forth in 40 CFR Part 312.

We appreciate the opportunity to perform these services for you. Please contact us if you have questions regarding this information or if we can provide any other services.

Sincerely,



Renee N. Ransom
Environmental Scientist



Blaine R. Schroyer, P.E.
Environmental Department Manager

Attachments - Environmental Database Information
Resumes
Description of Terms and Acronyms

East Maui
East Maui
Hana, HI 96713

Inquiry Number: 2408252.1s
January 27, 2009

The EDR Radius Map™ Report



440 Wheelers Farms Road
Milford, CT 06461
Toll Free: 800.352.0050
www.edrnet.com

TABLE OF CONTENTS

| <u>SECTION</u> | <u>PAGE</u> |
|--|-------------|
| Executive Summary | ES1 |
| Overview Map | 2 |
| Detail Map | 3 |
| Map Findings Summary | 4 |
| Map Findings | 7 |
| Orphan Summary | 8 |
| Government Records Searched/Data Currency Tracking | GR-1 |

GEOCHECK ADDENDUM

GeoCheck - Not Requested

Thank you for your business.
Please contact EDR at 1-800-352-0050
with any questions or comments.

Disclaimer - Copyright and Trademark Notice

This Report contains certain information obtained from a variety of public and other sources reasonably available to Environmental Data Resources, Inc. It cannot be concluded from this Report that coverage information for the target and surrounding properties does not exist from other sources. **NO WARRANTY EXPRESSED OR IMPLIED, IS MADE WHATSOEVER IN CONNECTION WITH THIS REPORT. ENVIRONMENTAL DATA RESOURCES, INC. SPECIFICALLY DISCLAIMS THE MAKING OF ANY SUCH WARRANTIES, INCLUDING WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE. ALL RISK IS ASSUMED BY THE USER. IN NO EVENT SHALL ENVIRONMENTAL DATA RESOURCES, INC. BE LIABLE TO ANYONE, WHETHER ARISING OUT OF ERRORS OR OMISSIONS, NEGLIGENCE, ACCIDENT OR ANY OTHER CAUSE, FOR ANY LOSS OF DAMAGE, INCLUDING, WITHOUT LIMITATION, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES. ANY LIABILITY ON THE PART OF ENVIRONMENTAL DATA RESOURCES, INC. IS STRICTLY LIMITED TO A REFUND OF THE AMOUNT PAID FOR THIS REPORT.** Purchaser accepts this Report "AS IS". Any analyses, estimates, ratings, environmental risk levels or risk codes provided in this Report are provided for illustrative purposes only, and are not intended to provide, nor should they be interpreted as providing any facts regarding, or prediction or forecast of, any environmental risk for any property. Only a Phase I Environmental Site Assessment performed by an environmental professional can provide information regarding the environmental risk for any property. Additionally, the information provided in this Report is not to be construed as legal advice.

Copyright 2009 by Environmental Data Resources, Inc. All rights reserved. Reproduction in any media or format, in whole or in part, of any report or map of Environmental Data Resources, Inc., or its affiliates, is prohibited without prior written permission.

EDR and its logos (including Sanborn and Sanborn Map) are trademarks of Environmental Data Resources, Inc. or its affiliates. All other trademarks used herein are the property of their respective owners.

EXECUTIVE SUMMARY

A search of available environmental records was conducted by Environmental Data Resources, Inc (EDR). The report was designed to assist parties seeking to meet the search requirements of EPA's Standards and Practices for All Appropriate Inquiries (40 CFR Part 312), the ASTM Standard Practice for Environmental Site Assessments (E 1527-05) or custom requirements developed for the evaluation of environmental risk associated with a parcel of real estate.

TARGET PROPERTY INFORMATION

ADDRESS

EAST MAUI
HANA, HI 96713

COORDINATES

Latitude (North): 20.861300 - 20° 51' 40.7"
Longitude (West): 156.147200 - 156° 8' 49.9"
Universal Transverse Mercator: Zone 4
UTM X (Meters): 796857.9
UTM Y (Meters): 2309294.5
Elevation: 23 ft. above sea level

USGS TOPOGRAPHIC MAP ASSOCIATED WITH TARGET PROPERTY

Target Property Map: 20156-G2 HAIKU, HI
Most Recent Revision: Not reported

TARGET PROPERTY SEARCH RESULTS

The target property was not listed in any of the databases searched by EDR.

DATABASES WITH NO MAPPED SITES

No mapped sites were found in EDR's search of available ("reasonably ascertainable ") government records either on the target property or within the search radius around the target property for the following databases:

STANDARD ENVIRONMENTAL RECORDS

Federal NPL site list

NPL..... National Priority List
Proposed NPL..... Proposed National Priority List Sites
NPL LIENS..... Federal Superfund Liens

Federal Delisted NPL site list

Delisted NPL..... National Priority List Deletions

EXECUTIVE SUMMARY

Federal CERCLIS list

CERCLIS..... Comprehensive Environmental Response, Compensation, and Liability Information System

Federal CERCLIS NFRAP site List

CERC-NFRAP..... CERCLIS No Further Remedial Action Planned

Federal RCRA CORRACTS facilities list

CORRACTS..... Corrective Action Report

Federal RCRA non-CORRACTS TSD facilities list

RCRA-TSDF..... RCRA - Transporters, Storage and Disposal

Federal RCRA generators list

RCRA-LQG..... RCRA - Large Quantity Generators

RCRA-SQG..... RCRA - Small Quantity Generators

RCRA-CESQG..... RCRA - Conditionally Exempt Small Quantity Generator

Federal institutional controls / engineering controls registries

US ENG CONTROLS..... Engineering Controls Sites List

US INST CONTROL..... Sites with Institutional Controls

Federal ERNS list

ERNS..... Emergency Response Notification System

State- and tribal - equivalent CERCLIS

SHWS..... Sites List

State and tribal landfill and/or solid waste disposal site lists

SWF/LF..... Permitted Landfills in the State of Hawaii

State and tribal leaking storage tank lists

INDIAN LUST..... Leaking Underground Storage Tanks on Indian Land

State and tribal registered storage tank lists

UST..... Underground Storage Tank Database

INDIAN UST..... Underground Storage Tanks on Indian Land

State and tribal institutional control / engineering control registries

INST CONTROL..... Sites with Institutional Controls

State and tribal voluntary cleanup sites

INDIAN VCP..... Voluntary Cleanup Priority Listing

EXECUTIVE SUMMARY

VCP..... Voluntary Response Program Sites

State and tribal Brownfields sites

BROWNFIELDS..... Brownfields Sites

ADDITIONAL ENVIRONMENTAL RECORDS

Local Brownfield lists

US BROWNFIELDS..... A Listing of Brownfields Sites

Local Lists of Landfill / Solid Waste Disposal Sites

DEBRIS REGION 9..... Torres Martinez Reservation Illegal Dump Site Locations

ODI..... Open Dump Inventory

INDIAN ODI..... Report on the Status of Open Dumps on Indian Lands

Local Lists of Hazardous waste / Contaminated Sites

US CDL..... Clandestine Drug Labs

Local Land Records

LIENS 2..... CERCLA Lien Information

LUCIS..... Land Use Control Information System

Records of Emergency Release Reports

HMIRS..... Hazardous Materials Information Reporting System

SPILLS..... Release Notifications

Other Ascertainable Records

RCRA-NonGen..... RCRA - Non Generators

DOT OPS..... Incident and Accident Data

DOD..... Department of Defense Sites

FUDS..... Formerly Used Defense Sites

CONSENT..... Superfund (CERCLA) Consent Decrees

ROD..... Records Of Decision

UMTRA..... Uranium Mill Tailings Sites

MINES..... Mines Master Index File

TRIS..... Toxic Chemical Release Inventory System

TSCA..... Toxic Substances Control Act

FTTS..... FIFRA/ TSCA Tracking System - FIFRA (Federal Insecticide, Fungicide, & Rodenticide Act)/TSCA (Toxic Substances Control Act)

HIST FTTS..... FIFRA/TSCA Tracking System Administrative Case Listing

SSTS..... Section 7 Tracking Systems

ICIS..... Integrated Compliance Information System

PADS..... PCB Activity Database System

MLTS..... Material Licensing Tracking System

RADINFO..... Radiation Information Database

FINDS..... Facility Index System/Facility Registry System

RAATS..... RCRA Administrative Action Tracking System

EXECUTIVE SUMMARY

DRYCLEANERS..... Permitted Drycleaner Facility Listing
AIRS..... List of Permitted Facilities
INDIAN RESERV..... Indian Reservations
SCRD DRYCLEANERS..... State Coalition for Remediation of Drycleaners Listing
PWS..... Public Water System Data

EDR PROPRIETARY RECORDS

EDR Proprietary Records

Manufactured Gas Plants..... EDR Proprietary Manufactured Gas Plants

SURROUNDING SITES: SEARCH RESULTS

Surrounding sites were identified in the following databases.

Elevations have been determined from the USGS Digital Elevation Model and should be evaluated on a relative (not an absolute) basis. Relative elevation information between sites of close proximity should be field verified. Sites with an elevation equal to or higher than the target property have been differentiated below from sites with an elevation lower than the target property. Page numbers and map identification numbers refer to the EDR Radius Map report where detailed data on individual sites can be reviewed.

Sites listed in ***bold italics*** are in multiple databases.

Unmappable (orphan) sites are not considered in the foregoing analysis.

STANDARD ENVIRONMENTAL RECORDS

State and tribal leaking storage tank lists

LUST: The Leaking Underground Storage Tank Incident Reports contain an inventory of reported leaking underground storage tank incidents. The data come from the Department of Health's Active Leaking Underground Storage Tank Log Listing.

A review of the LUST list, as provided by EDR, and dated 06/30/2008 has revealed that there is 1 LUST site within approximately 0.5 miles of the target property.

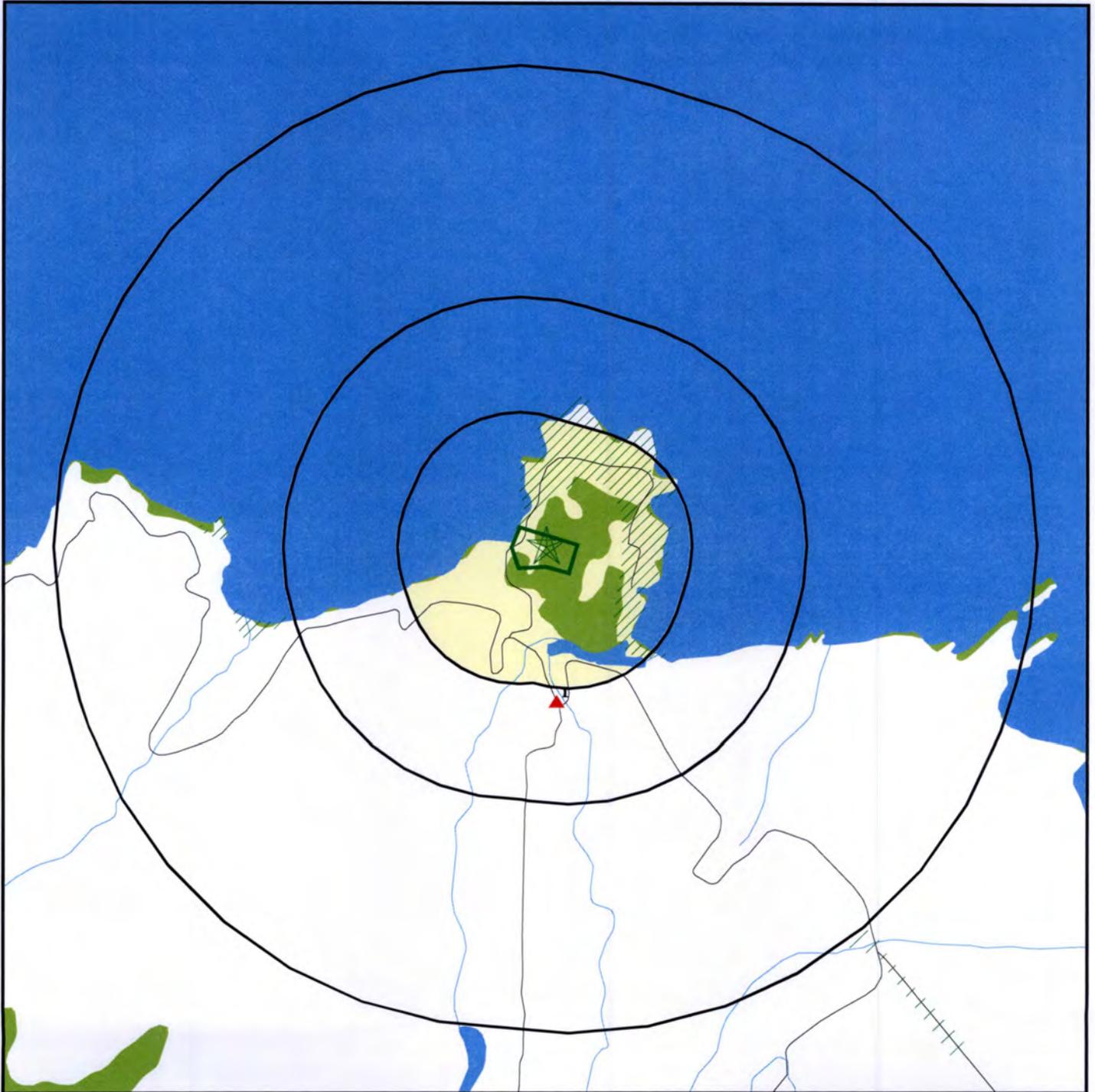
| <u>Equal/Higher Elevation</u> | <u>Address</u> | <u>Direction / Distance</u> | <u>Map ID</u> | <u>Page</u> |
|--|-----------------------------|---------------------------------------|-----------------|-----------------|
| <i>HANA CENTRAL OFFICE</i> Facility Status: Site Cleanup Completed (NFA) | <i>1652 HANA HWY</i> | <i>S 1/4 - 1/2 (0.279 mi.)</i> | <i>1</i> | <i>7</i> |

EXECUTIVE SUMMARY

Due to poor or inadequate address information, the following sites were not mapped:

| <u>Site Name</u> | <u>Database(s)</u> |
|------------------------------------|--------------------|
| COUNTY OF MAUI - HANA DOT BASEYARD | FINDS, LUST |
| HOTEL HANA MAUI - MOTORPOOL | UST |
| COUNTY OF MAUI - HANA DOT BASEYARD | UST |
| MAUI COUNTY OF | FINDS, RCRA-CESQG |
| HANA MAUI HOTEL | FINDS |
| HANA BAY, MAUI | SPILLS |

OVERVIEW MAP - 2408252.1s



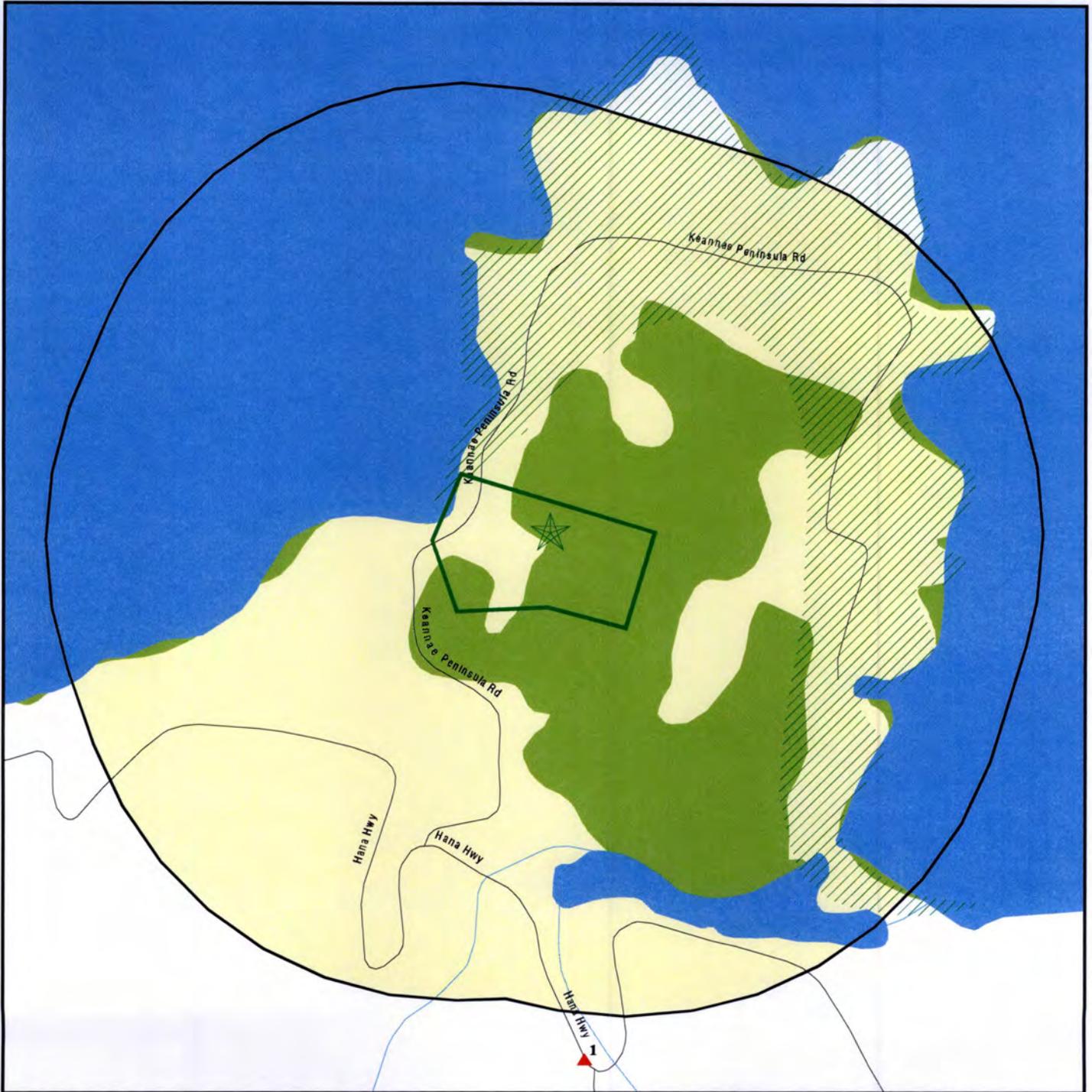
-  Target Property
-  Sites at elevations higher than or equal to the target property
-  Sites at elevations lower than the target property
-  Manufactured Gas Plants
-  National Priority List Sites
-  Dept. Defense Sites

-  Indian Reservations BIA
-  Oil & Gas pipelines
-  100-year flood zone
-  500-year flood zone
-  National Wetland Inventory

SITE NAME: East Maui
 ADDRESS: East Maui
 Hana HI 96713
 LAT/LONG: 20.8613 / 156.1472

CLIENT: Terracon, Inc.
 CONTACT: Renee N Ransom
 INQUIRY #: 2408252.1s
 DATE: January 27, 2009 12:46 pm

DETAIL MAP - 2408252.1s



-  Target Property
-  Sites at elevations higher than or equal to the target property
-  Sites at elevations lower than the target property
-  Manufactured Gas Plants
-  Sensitive Receptors
-  National Priority List Sites
-  Dept. Defense Sites

-  Indian Reservations BIA
-  Oil & Gas pipelines
-  100-year flood zone
-  500-year flood zone
-  National Wetland Inventory

SITE NAME: East Maui
 ADDRESS: East Maui
 Hana HI 96713
 LAT/LONG: 20.8613 / 156.1472

CLIENT: Terracon, Inc.
 CONTACT: Renee N Ransom
 INQUIRY #: 2408252.1s
 DATE: January 27, 2009 12:46 pm

MAP FINDINGS SUMMARY

| Database | Target Property | Search Distance (Miles) | < 1/8 | 1/8 - 1/4 | 1/4 - 1/2 | 1/2 - 1 | > 1 | Total Plotted |
|--|-----------------|-------------------------|-------|-----------|-----------|---------|-----|---------------|
| STANDARD ENVIRONMENTAL RECORDS | | | | | | | | |
| <i>Federal NPL site list</i> | | | | | | | | |
| NPL | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| Proposed NPL | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| NPL LIENS | | TP | NR | NR | NR | NR | NR | 0 |
| <i>Federal Delisted NPL site list</i> | | | | | | | | |
| Delisted NPL | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| <i>Federal CERCLIS list</i> | | | | | | | | |
| CERCLIS | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>Federal CERCLIS NFRAP site List</i> | | | | | | | | |
| CERC-NFRAP | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>Federal RCRA CORRACTS facilities list</i> | | | | | | | | |
| CORRACTS | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| <i>Federal RCRA non-CORRACTS TSD facilities list</i> | | | | | | | | |
| RCRA-TSDF | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>Federal RCRA generators list</i> | | | | | | | | |
| RCRA-LQG | | 0.250 | 0 | 0 | NR | NR | NR | 0 |
| RCRA-SQG | | 0.250 | 0 | 0 | NR | NR | NR | 0 |
| RCRA-CESQG | | 0.250 | 0 | 0 | NR | NR | NR | 0 |
| <i>Federal institutional controls / engineering controls registries</i> | | | | | | | | |
| US ENG CONTROLS | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| US INST CONTROL | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>Federal ERNS list</i> | | | | | | | | |
| ERNS | | TP | NR | NR | NR | NR | NR | 0 |
| <i>State- and tribal - equivalent CERCLIS</i> | | | | | | | | |
| SHWS | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| <i>State and tribal landfill and/or solid waste disposal site lists</i> | | | | | | | | |
| SWF/LF | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>State and tribal leaking storage tank lists</i> | | | | | | | | |
| LUST | | 0.500 | 0 | 0 | 1 | NR | NR | 1 |
| INDIAN LUST | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>State and tribal registered storage tank lists</i> | | | | | | | | |
| UST | | 0.250 | 0 | 0 | NR | NR | NR | 0 |
| INDIAN UST | | 0.250 | 0 | 0 | NR | NR | NR | 0 |

MAP FINDINGS SUMMARY

| <u>Database</u> | <u>Target Property</u> | <u>Search Distance (Miles)</u> | <u>< 1/8</u> | <u>1/8 - 1/4</u> | <u>1/4 - 1/2</u> | <u>1/2 - 1</u> | <u>> 1</u> | <u>Total Plotted</u> |
|---|------------------------|--------------------------------|-----------------|------------------|------------------|----------------|---------------|----------------------|
| <i>State and tribal institutional control / engineering control registries</i> | | | | | | | | |
| INST CONTROL | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>State and tribal voluntary cleanup sites</i> | | | | | | | | |
| INDIAN VCP | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| VCP | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>State and tribal Brownfields sites</i> | | | | | | | | |
| BROWNFIELDS | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <u>ADDITIONAL ENVIRONMENTAL RECORDS</u> | | | | | | | | |
| <i>Local Brownfield lists</i> | | | | | | | | |
| US BROWNFIELDS | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>Local Lists of Landfill / Solid Waste Disposal Sites</i> | | | | | | | | |
| DEBRIS REGION 9 | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| ODI | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| INDIAN ODI | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>Local Lists of Hazardous waste / Contaminated Sites</i> | | | | | | | | |
| US CDL | | TP | NR | NR | NR | NR | NR | 0 |
| <i>Local Land Records</i> | | | | | | | | |
| LIENS 2 | | TP | NR | NR | NR | NR | NR | 0 |
| LUCIS | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| <i>Records of Emergency Release Reports</i> | | | | | | | | |
| HMIRS | | TP | NR | NR | NR | NR | NR | 0 |
| SPILLS | | TP | NR | NR | NR | NR | NR | 0 |
| <i>Other Ascertainable Records</i> | | | | | | | | |
| RCRA-NonGen | | 0.250 | 0 | 0 | NR | NR | NR | 0 |
| DOT OPS | | TP | NR | NR | NR | NR | NR | 0 |
| DOD | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| FUDS | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| CONSENT | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| ROD | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| UMTRA | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| MINES | | 0.250 | 0 | 0 | NR | NR | NR | 0 |
| TRIS | | TP | NR | NR | NR | NR | NR | 0 |
| TSCA | | TP | NR | NR | NR | NR | NR | 0 |
| FTTS | | TP | NR | NR | NR | NR | NR | 0 |
| HIST FTTS | | TP | NR | NR | NR | NR | NR | 0 |
| SSTS | | TP | NR | NR | NR | NR | NR | 0 |
| ICIS | | TP | NR | NR | NR | NR | NR | 0 |

MAP FINDINGS SUMMARY

| <u>Database</u> | <u>Target Property</u> | <u>Search Distance (Miles)</u> | <u>< 1/8</u> | <u>1/8 - 1/4</u> | <u>1/4 - 1/2</u> | <u>1/2 - 1</u> | <u>> 1</u> | <u>Total Plotted</u> |
|------------------|------------------------|--------------------------------|-----------------|------------------|------------------|----------------|---------------|----------------------|
| PADS | TP | TP | NR | NR | NR | NR | NR | 0 |
| MLTS | TP | TP | NR | NR | NR | NR | NR | 0 |
| RADINFO | TP | TP | NR | NR | NR | NR | NR | 0 |
| FINDS | TP | TP | NR | NR | NR | NR | NR | 0 |
| RAATS | TP | TP | NR | NR | NR | NR | NR | 0 |
| DRYCLEANERS | | 0.250 | 0 | 0 | NR | NR | NR | 0 |
| AIRS | TP | TP | NR | NR | NR | NR | NR | 0 |
| INDIAN RESERV | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
| SCRD DRYCLEANERS | | 0.500 | 0 | 0 | 0 | NR | NR | 0 |
| PWS | TP | TP | NR | NR | NR | NR | NR | 0 |

EDR PROPRIETARY RECORDS

EDR Proprietary Records

| | | | | | | | | |
|-------------------------|--|-------|---|---|---|---|----|---|
| Manufactured Gas Plants | | 1.000 | 0 | 0 | 0 | 0 | NR | 0 |
|-------------------------|--|-------|---|---|---|---|----|---|

NOTES:

TP = Target Property

NR = Not Requested at this Search Distance

Sites may be listed in more than one database

Map ID
Direction
Distance
Elevation

MAP FINDINGS

Site

Database(s)

EDR ID Number
EPA ID Number

1
South
1/4-1/2
0.279 mi.
1475 ft.

HANA CENTRAL OFFICE
1652 HANA HWY
HANA, HI 96713

FINDS 1006841708
LUST 110014030609

Relative:
Higher

FINDS:
Other Pertinent Environmental Activity Identified at Site

Actual:
85 ft.

HI-UST (Hawaii - Underground Storage Tank). Hawaii Underground Storage Tank Program regulates underground storage tanks which store petroleum or hazardous substances and offers documents and data products for downloading.

LUST:
Facility ID: 9-500541
Facility Status: Site Cleanup Completed (NFA)
Facility Status Date: 09-Oct-01
Release ID: 980071
Project Officer: Mark Sutterfield

ORPHAN SUMMARY

| City | EDR ID | Site Name | Site Address | Zip | Database(s) |
|------|------------|------------------------------------|------------------------|-------|-------------------|
| HANA | 1004688824 | MAUI COUNTY OF | HIGHWAY 360 & UAKEA RD | 96713 | FINDS, RCRA-CESQG |
| HANA | U001236827 | HOTEL HANA MAUI - MOTORPOOL | P.O. BOX 158 | 96713 | UST |
| HANA | S108008826 | HANA BAY, MAUI | HANA BAY | 96713 | SPILLS |
| HANA | 1010043099 | HANA MAUI HOTEL | 5031 HANA HIGHWAY | 96713 | FINDS |
| HANA | U003402928 | COUNTY OF MAUI - HANA DOT BASEYARD | UAKEA ST | 96713 | UST |
| HANA | 1006844161 | COUNTY OF MAUI - HANA DOT BASEYARD | UAKEA ST | 96713 | FINDS, LUST |

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

To maintain currency of the following federal and state databases, EDR contacts the appropriate governmental agency on a monthly or quarterly basis, as required.

Number of Days to Update: Provides confirmation that EDR is reporting records that have been updated within 90 days from the date the government agency made the information available to the public.

STANDARD ENVIRONMENTAL RECORDS

Federal NPL site list

NPL: National Priority List

National Priorities List (Superfund). The NPL is a subset of CERCLIS and identifies over 1,200 sites for priority cleanup under the Superfund Program. NPL sites may encompass relatively large areas. As such, EDR provides polygon coverage for over 1,000 NPL site boundaries produced by EPA's Environmental Photographic Interpretation Center (EPIC) and regional EPA offices.

| | |
|---|--|
| Date of Government Version: 09/29/2008 | Source: EPA |
| Date Data Arrived at EDR: 10/10/2008 | Telephone: N/A |
| Date Made Active in Reports: 11/19/2008 | Last EDR Contact: 01/26/2009 |
| Number of Days to Update: 40 | Next Scheduled EDR Contact: 04/27/2009 |
| | Data Release Frequency: Quarterly |

NPL Site Boundaries

Sources:

EPA's Environmental Photographic Interpretation Center (EPIC)
Telephone: 202-564-7333

EPA Region 1
Telephone 617-918-1143

EPA Region 6
Telephone: 214-655-6659

EPA Region 3
Telephone 215-814-5418

EPA Region 7
Telephone: 913-551-7247

EPA Region 4
Telephone 404-562-8033

EPA Region 8
Telephone: 303-312-6774

EPA Region 5
Telephone 312-886-6686

EPA Region 9
Telephone: 415-947-4246

EPA Region 10
Telephone 206-553-8665

Proposed NPL: Proposed National Priority List Sites

A site that has been proposed for listing on the National Priorities List through the issuance of a proposed rule in the Federal Register. EPA then accepts public comments on the site, responds to the comments, and places on the NPL those sites that continue to meet the requirements for listing.

| | |
|---|--|
| Date of Government Version: 09/29/2008 | Source: EPA |
| Date Data Arrived at EDR: 10/10/2008 | Telephone: N/A |
| Date Made Active in Reports: 11/19/2008 | Last EDR Contact: 01/26/2009 |
| Number of Days to Update: 40 | Next Scheduled EDR Contact: 04/27/2009 |
| | Data Release Frequency: Quarterly |

NPL LIENS: Federal Superfund Liens

Federal Superfund Liens. Under the authority granted the USEPA by CERCLA of 1980, the USEPA has the authority to file liens against real property in order to recover remedial action expenditures or when the property owner received notification of potential liability. USEPA compiles a listing of filed notices of Superfund Liens.

| | |
|---|---|
| Date of Government Version: 10/15/1991 | Source: EPA |
| Date Data Arrived at EDR: 02/02/1994 | Telephone: 202-564-4267 |
| Date Made Active in Reports: 03/30/1994 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 56 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: No Update Planned |

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

Federal Delisted NPL site list

DELISTED NPL: National Priority List Deletions

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) establishes the criteria that the EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425.(e), sites may be deleted from the NPL where no further response is appropriate.

| | |
|---|--|
| Date of Government Version: 09/29/2008 | Source: EPA |
| Date Data Arrived at EDR: 10/10/2008 | Telephone: N/A |
| Date Made Active in Reports: 11/19/2008 | Last EDR Contact: 01/26/2009 |
| Number of Days to Update: 40 | Next Scheduled EDR Contact: 04/27/2009 |
| | Data Release Frequency: Quarterly |

Federal CERCLIS list

CERCLIS: Comprehensive Environmental Response, Compensation, and Liability Information System

CERCLIS contains data on potentially hazardous waste sites that have been reported to the USEPA by states, municipalities, private companies and private persons, pursuant to Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLIS contains sites which are either proposed to or on the National Priorities List (NPL) and sites which are in the screening and assessment phase for possible inclusion on the NPL.

| | |
|---|--|
| Date of Government Version: 10/07/2008 | Source: EPA |
| Date Data Arrived at EDR: 10/16/2008 | Telephone: 703-412-9810 |
| Date Made Active in Reports: 12/08/2008 | Last EDR Contact: 01/16/2009 |
| Number of Days to Update: 53 | Next Scheduled EDR Contact: 04/13/2009 |
| | Data Release Frequency: Quarterly |

Federal CERCLIS NFRAP site List

CERCLIS-NFRAP: CERCLIS No Further Remedial Action Planned

Archived sites are sites that have been removed and archived from the inventory of CERCLIS sites. Archived status indicates that, to the best of EPA's knowledge, assessment at a site has been completed and that EPA has determined no further steps will be taken to list this site on the National Priorities List (NPL), unless information indicates this decision was not appropriate or other considerations require a recommendation for listing at a later time. This decision does not necessarily mean that there is no hazard associated with a given site; it only means that, based upon available information, the location is not judged to be a potential NPL site.

| | |
|---|--|
| Date of Government Version: 12/03/2007 | Source: EPA |
| Date Data Arrived at EDR: 12/06/2007 | Telephone: 703-412-9810 |
| Date Made Active in Reports: 02/20/2008 | Last EDR Contact: 01/26/2009 |
| Number of Days to Update: 76 | Next Scheduled EDR Contact: 03/16/2009 |
| | Data Release Frequency: Quarterly |

Federal RCRA CORRACTS facilities list

CORRACTS: Corrective Action Report

CORRACTS identifies hazardous waste handlers with RCRA corrective action activity.

| | |
|---|--|
| Date of Government Version: 09/11/2008 | Source: EPA |
| Date Data Arrived at EDR: 09/19/2008 | Telephone: 800-424-9346 |
| Date Made Active in Reports: 10/16/2008 | Last EDR Contact: 12/01/2008 |
| Number of Days to Update: 27 | Next Scheduled EDR Contact: 03/02/2009 |
| | Data Release Frequency: Quarterly |

Federal RCRA non-CORRACTS TSD facilities list

RCRA-TSDF: RCRA - Transporters, Storage and Disposal

RCRAInfo is EPA's comprehensive information system, providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984. The database includes selective information on sites which generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA). Transporters are individuals or entities that move hazardous waste from the generator offsite to a facility that can recycle, treat, store, or dispose of the waste. TSDFs treat, store, or dispose of the waste.

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

Date of Government Version: 09/10/2008
Date Data Arrived at EDR: 09/23/2008
Date Made Active in Reports: 10/16/2008
Number of Days to Update: 23

Source: Environmental Protection Agency
Telephone: (415) 495-8895
Last EDR Contact: 01/23/2009
Next Scheduled EDR Contact: 02/16/2009
Data Release Frequency: Quarterly

Federal RCRA generators list

RCRA-LQG: RCRA - Large Quantity Generators

RCRAInfo is EPA's comprehensive information system, providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984. The database includes selective information on sites which generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA). Large quantity generators (LQGs) generate over 1,000 kilograms (kg) of hazardous waste, or over 1 kg of acutely hazardous waste per month.

Date of Government Version: 09/10/2008
Date Data Arrived at EDR: 09/23/2008
Date Made Active in Reports: 10/16/2008
Number of Days to Update: 23

Source: Environmental Protection Agency
Telephone: (415) 495-8895
Last EDR Contact: 01/23/2009
Next Scheduled EDR Contact: 02/16/2009
Data Release Frequency: Quarterly

RCRA-SQG: RCRA - Small Quantity Generators

RCRAInfo is EPA's comprehensive information system, providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984. The database includes selective information on sites which generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA). Small quantity generators (SQGs) generate between 100 kg and 1,000 kg of hazardous waste per month.

Date of Government Version: 09/10/2008
Date Data Arrived at EDR: 09/23/2008
Date Made Active in Reports: 10/16/2008
Number of Days to Update: 23

Source: Environmental Protection Agency
Telephone: (415) 495-8895
Last EDR Contact: 01/23/2009
Next Scheduled EDR Contact: 02/16/2009
Data Release Frequency: Quarterly

RCRA-CESQG: RCRA - Conditionally Exempt Small Quantity Generators

RCRAInfo is EPA's comprehensive information system, providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984. The database includes selective information on sites which generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA). Conditionally exempt small quantity generators (CESQGs) generate less than 100 kg of hazardous waste, or less than 1 kg of acutely hazardous waste per month.

Date of Government Version: 09/10/2008
Date Data Arrived at EDR: 09/23/2008
Date Made Active in Reports: 10/16/2008
Number of Days to Update: 23

Source: Environmental Protection Agency
Telephone: (415) 495-8895
Last EDR Contact: 01/23/2009
Next Scheduled EDR Contact: 02/16/2009
Data Release Frequency: Varies

Federal institutional controls / engineering controls registries

US ENG CONTROLS: Engineering Controls Sites List

A listing of sites with engineering controls in place. Engineering controls include various forms of caps, building foundations, liners, and treatment methods to create pathway elimination for regulated substances to enter environmental media or effect human health.

Date of Government Version: 10/06/2008
Date Data Arrived at EDR: 10/17/2008
Date Made Active in Reports: 12/08/2008
Number of Days to Update: 52

Source: Environmental Protection Agency
Telephone: 703-603-0695
Last EDR Contact: 12/29/2008
Next Scheduled EDR Contact: 03/30/2009
Data Release Frequency: Varies

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

US INST CONTROL: Sites with Institutional Controls

A listing of sites with institutional controls in place. Institutional controls include administrative measures, such as groundwater use restrictions, construction restrictions, property use restrictions, and post remediation care requirements intended to prevent exposure to contaminants remaining on site. Deed restrictions are generally required as part of the institutional controls.

| | |
|---|---|
| Date of Government Version: 10/06/2008 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 10/17/2008 | Telephone: 703-603-0695 |
| Date Made Active in Reports: 12/08/2008 | Last EDR Contact: 12/29/2008 |
| Number of Days to Update: 52 | Next Scheduled EDR Contact: 03/30/2009 |
| | Data Release Frequency: Varies |

Federal ERNS list

ERNS: Emergency Response Notification System

Emergency Response Notification System. ERNS records and stores information on reported releases of oil and hazardous substances.

| | |
|---|---|
| Date of Government Version: 12/31/2007 | Source: National Response Center, United States Coast Guard |
| Date Data Arrived at EDR: 01/23/2008 | Telephone: 202-267-2180 |
| Date Made Active in Reports: 03/17/2008 | Last EDR Contact: 01/23/2009 |
| Number of Days to Update: 54 | Next Scheduled EDR Contact: 04/19/2009 |
| | Data Release Frequency: Annually |

State- and tribal - equivalent CERCLIS

SHWS: Sites List

Facilities, sites or areas in which the Office of Hazard Evaluation and Emergency Response has an interest, has investigated or may investigate under HRS 128D (includes CERCLIS sites).

| | |
|---|--|
| Date of Government Version: 04/04/2008 | Source: Department of Health |
| Date Data Arrived at EDR: 06/18/2008 | Telephone: 808-586-4249 |
| Date Made Active in Reports: 07/22/2008 | Last EDR Contact: 12/18/2008 |
| Number of Days to Update: 34 | Next Scheduled EDR Contact: 03/16/2009 |
| | Data Release Frequency: Semi-Annually |

State and tribal landfill and/or solid waste disposal site lists

SWF/LF: Permitted Landfills in the State of Hawaii

Solid Waste Facilities/Landfill Sites. SWF/LF type records typically contain an inventory of solid waste disposal facilities or landfills in a particular state. Depending on the state, these may be active or inactive facilities or open dumps that failed to meet RCRA Subtitle D Section 4004 criteria for solid waste landfills or disposal sites.

| | |
|---|--|
| Date of Government Version: 05/19/2004 | Source: Department of Health |
| Date Data Arrived at EDR: 05/20/2004 | Telephone: 808-586-4245 |
| Date Made Active in Reports: 06/22/2004 | Last EDR Contact: 01/19/2009 |
| Number of Days to Update: 33 | Next Scheduled EDR Contact: 04/19/2009 |
| | Data Release Frequency: Varies |

State and tribal leaking storage tank lists

LUST: Leaking Underground Storage Tank Database

Leaking Underground Storage Tank Incident Reports. LUST records contain an inventory of reported leaking underground storage tank incidents. Not all states maintain these records, and the information stored varies by state.

| | |
|---|--|
| Date of Government Version: 06/30/2008 | Source: Department of Health |
| Date Data Arrived at EDR: 07/02/2008 | Telephone: 808-586-4228 |
| Date Made Active in Reports: 07/22/2008 | Last EDR Contact: 12/23/2008 |
| Number of Days to Update: 20 | Next Scheduled EDR Contact: 03/23/2009 |
| | Data Release Frequency: Semi-Annually |

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

INDIAN LUST R7: Leaking Underground Storage Tanks on Indian Land

LUSTs on Indian land in Iowa, Kansas, and Nebraska

| | |
|---|--|
| Date of Government Version: 04/01/2008 | Source: EPA Region 7 |
| Date Data Arrived at EDR: 12/03/2008 | Telephone: 913-551-7003 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 11/19/2008 |
| Number of Days to Update: 20 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Varies |

INDIAN LUST R10: Leaking Underground Storage Tanks on Indian Land

LUSTs on Indian land in Alaska, Idaho, Oregon and Washington.

| | |
|---|--|
| Date of Government Version: 11/18/2008 | Source: EPA Region 10 |
| Date Data Arrived at EDR: 11/19/2008 | Telephone: 206-553-2857 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 34 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Quarterly |

INDIAN LUST R9: Leaking Underground Storage Tanks on Indian Land

LUSTs on Indian land in Arizona, California, New Mexico and Nevada

| | |
|---|---|
| Date of Government Version: 10/10/2008 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 10/10/2008 | Telephone: 415-972-3372 |
| Date Made Active in Reports: 10/16/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 6 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Quarterly |

INDIAN LUST R8: Leaking Underground Storage Tanks on Indian Land

LUSTs on Indian land in Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming.

| | |
|---|--|
| Date of Government Version: 12/02/2008 | Source: EPA Region 8 |
| Date Data Arrived at EDR: 12/04/2008 | Telephone: 303-312-6271 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 19 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Quarterly |

INDIAN LUST R6: Leaking Underground Storage Tanks on Indian Land

LUSTs on Indian land in New Mexico and Oklahoma.

| | |
|---|--|
| Date of Government Version: 11/25/2008 | Source: EPA Region 6 |
| Date Data Arrived at EDR: 11/26/2008 | Telephone: 214-665-6597 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 27 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Varies |

INDIAN LUST R4: Leaking Underground Storage Tanks on Indian Land

LUSTs on Indian land in Florida, Mississippi and North Carolina.

| | |
|---|--|
| Date of Government Version: 06/06/2008 | Source: EPA Region 4 |
| Date Data Arrived at EDR: 10/09/2008 | Telephone: 404-562-8677 |
| Date Made Active in Reports: 11/19/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 41 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Semi-Annually |

INDIAN LUST R1: Leaking Underground Storage Tanks on Indian Land

A listing of leaking underground storage tank locations on Indian Land.

| | |
|---|--|
| Date of Government Version: 03/12/2008 | Source: EPA Region 1 |
| Date Data Arrived at EDR: 03/14/2008 | Telephone: 617-918-1313 |
| Date Made Active in Reports: 03/20/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 6 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Varies |

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

State and tribal registered storage tank lists

UST: Underground Storage Tank Database

Registered Underground Storage Tanks. UST's are regulated under Subtitle I of the Resource Conservation and Recovery Act (RCRA) and must be registered with the state department responsible for administering the UST program. Available information varies by state program.

| | |
|---|--|
| Date of Government Version: 06/30/2008 | Source: Department of Health |
| Date Data Arrived at EDR: 07/02/2008 | Telephone: 808-586-4228 |
| Date Made Active in Reports: 07/24/2008 | Last EDR Contact: 12/23/2008 |
| Number of Days to Update: 22 | Next Scheduled EDR Contact: 03/23/2009 |
| | Data Release Frequency: Semi-Annually |

INDIAN UST R10: Underground Storage Tanks on Indian Land

No description is available for this data

| | |
|---|--|
| Date of Government Version: 11/18/2008 | Source: EPA Region 10 |
| Date Data Arrived at EDR: 11/19/2008 | Telephone: 206-553-2857 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 34 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Quarterly |

INDIAN UST R9: Underground Storage Tanks on Indian Land

No description is available for this data

| | |
|---|--|
| Date of Government Version: 09/05/2008 | Source: EPA Region 9 |
| Date Data Arrived at EDR: 09/19/2008 | Telephone: 415-972-3368 |
| Date Made Active in Reports: 10/16/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 27 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Quarterly |

INDIAN UST R8: Underground Storage Tanks on Indian Land

No description is available for this data

| | |
|---|--|
| Date of Government Version: 12/01/2008 | Source: EPA Region 8 |
| Date Data Arrived at EDR: 12/04/2008 | Telephone: 303-312-6137 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 19 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Quarterly |

INDIAN UST R7: Underground Storage Tanks on Indian Land

No description is available for this data

| | |
|---|--|
| Date of Government Version: 06/01/2007 | Source: EPA Region 7 |
| Date Data Arrived at EDR: 06/14/2007 | Telephone: 913-551-7003 |
| Date Made Active in Reports: 07/05/2007 | Last EDR Contact: 11/19/2008 |
| Number of Days to Update: 21 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Varies |

INDIAN UST R6: Underground Storage Tanks on Indian Land

No description is available for this data

| | |
|---|--|
| Date of Government Version: 11/25/2008 | Source: EPA Region 6 |
| Date Data Arrived at EDR: 11/26/2008 | Telephone: 214-665-7591 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 27 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Semi-Annually |

INDIAN UST R5: Underground Storage Tanks on Indian Land

No description is available for this data

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

| | |
|---|--|
| Date of Government Version: 09/08/2008 | Source: EPA Region 5 |
| Date Data Arrived at EDR: 09/19/2008 | Telephone: 312-886-6136 |
| Date Made Active in Reports: 10/16/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 27 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Varies |

INDIAN UST R4: Underground Storage Tanks on Indian Land
No description is available for this data

| | |
|---|--|
| Date of Government Version: 06/06/2008 | Source: EPA Region 4 |
| Date Data Arrived at EDR: 10/09/2008 | Telephone: 404-562-9424 |
| Date Made Active in Reports: 11/19/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 41 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Semi-Annually |

INDIAN UST R1: Underground Storage Tanks on Indian Land
A listing of underground storage tank locations on Indian Land.

| | |
|---|--|
| Date of Government Version: 03/12/2008 | Source: EPA, Region 1 |
| Date Data Arrived at EDR: 03/14/2008 | Telephone: 617-918-1313 |
| Date Made Active in Reports: 03/20/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 6 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Varies |

State and tribal institutional control / engineering control registries

INST CONTROL: Sites with Institutional Controls
Voluntary Remediation Program and Brownfields sites with institutional controls in place.

| | |
|---|--|
| Date of Government Version: 04/04/2008 | Source: Department of Health |
| Date Data Arrived at EDR: 06/18/2008 | Telephone: 808-586-4249 |
| Date Made Active in Reports: 07/22/2008 | Last EDR Contact: 12/18/2008 |
| Number of Days to Update: 34 | Next Scheduled EDR Contact: 03/16/2009 |
| | Data Release Frequency: Varies |

State and tribal voluntary cleanup sites

INDIAN VCP R7: Voluntary Cleanup Priority Listing
A listing of voluntary cleanup priority sites located on Indian Land located in Region 7.

| | |
|---|--|
| Date of Government Version: 03/20/2008 | Source: EPA, Region 7 |
| Date Data Arrived at EDR: 04/22/2008 | Telephone: 913-551-7365 |
| Date Made Active in Reports: 05/19/2008 | Last EDR Contact: 01/19/2009 |
| Number of Days to Update: 27 | Next Scheduled EDR Contact: 04/19/2009 |
| | Data Release Frequency: Varies |

INDIAN VCP R1: Voluntary Cleanup Priority Listing
A listing of voluntary cleanup priority sites located on Indian Land located in Region 1.

| | |
|---|--|
| Date of Government Version: 04/02/2008 | Source: EPA, Region 1 |
| Date Data Arrived at EDR: 04/22/2008 | Telephone: 617-918-1102 |
| Date Made Active in Reports: 05/19/2008 | Last EDR Contact: 01/19/2009 |
| Number of Days to Update: 27 | Next Scheduled EDR Contact: 04/19/2009 |
| | Data Release Frequency: Varies |

VCP: Voluntary Response Program Sites
Sites participating in the Voluntary Response Program. The purpose of the VCP is to streamline the cleanup process in a way that will encourage prospective developers, lenders, and purchasers to voluntarily cleanup properties.

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

Date of Government Version: 04/04/2008
Date Data Arrived at EDR: 06/18/2008
Date Made Active in Reports: 07/22/2008
Number of Days to Update: 34

Source: Department of Health
Telephone: 808-586-4249
Last EDR Contact: 12/18/2008
Next Scheduled EDR Contact: 03/16/2009
Data Release Frequency: Varies

State and tribal Brownfields sites

BROWNFIELDS: Brownfields Sites

With certain legal exclusions and additions, the term 'brownfield site' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

Date of Government Version: 04/04/2008
Date Data Arrived at EDR: 06/18/2008
Date Made Active in Reports: 07/22/2008
Number of Days to Update: 34

Source: Department of Health
Telephone: 808-586-4249
Last EDR Contact: 12/18/2008
Next Scheduled EDR Contact: 03/16/2009
Data Release Frequency: Varies

ADDITIONAL ENVIRONMENTAL RECORDS

Local Brownfield lists

US BROWNFIELDS: A Listing of Brownfields Sites

Included in the listing are brownfields properties addresses by Cooperative Agreement Recipients and brownfields properties addressed by Targeted Brownfields Assessments. Targeted Brownfields Assessments-EPA's Targeted Brownfields Assessments (TBA) program is designed to help states, tribes, and municipalities--especially those without EPA Brownfields Assessment Demonstration Pilots--minimize the uncertainties of contamination often associated with brownfields. Under the TBA program, EPA provides funding and/or technical assistance for environmental assessments at brownfields sites throughout the country. Targeted Brownfields Assessments supplement and work with other efforts under EPA's Brownfields Initiative to promote cleanup and redevelopment of brownfields. Cooperative Agreement Recipients-States, political subdivisions, territories, and Indian tribes become Brownfields Cleanup Revolving Loan Fund (BCRLF) cooperative agreement recipients when they enter into BCRLF cooperative agreements with the U.S. EPA. EPA selects BCRLF cooperative agreement recipients based on a proposal and application process. BCRLF cooperative agreement recipients must use EPA funds provided through BCRLF cooperative agreement for specified brownfields-related cleanup activities.

Date of Government Version: 10/01/2008
Date Data Arrived at EDR: 11/14/2008
Date Made Active in Reports: 12/23/2008
Number of Days to Update: 39

Source: Environmental Protection Agency
Telephone: 202-566-2777
Last EDR Contact: 01/16/2009
Next Scheduled EDR Contact: 04/13/2009
Data Release Frequency: Semi-Annually

Local Lists of Landfill / Solid Waste Disposal Sites

DEBRIS REGION 9: Torres Martinez Reservation Illegal Dump Site Locations

A listing of illegal dump sites location on the Torres Martinez Indian Reservation located in eastern Riverside County and northern Imperial County, California.

Date of Government Version: 03/25/2008
Date Data Arrived at EDR: 04/17/2008
Date Made Active in Reports: 05/15/2008
Number of Days to Update: 28

Source: EPA, Region 9
Telephone: 415-972-3336
Last EDR Contact: 12/22/2008
Next Scheduled EDR Contact: 03/23/2009
Data Release Frequency: Varies

ODI: Open Dump Inventory

An open dump is defined as a disposal facility that does not comply with one or more of the Part 257 or Part 258 Subtitle D Criteria.

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

| | |
|---|---|
| Date of Government Version: 06/30/1985 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 08/09/2004 | Telephone: 800-424-9346 |
| Date Made Active in Reports: 09/17/2004 | Last EDR Contact: 06/09/2004 |
| Number of Days to Update: 39 | Next Scheduled EDR Contact: N/A |
| | Data Release Frequency: No Update Planned |

INDIAN ODI: Report on the Status of Open Dumps on Indian Lands
Location of open dumps on Indian land.

| | |
|---|---|
| Date of Government Version: 12/31/1998 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 12/03/2007 | Telephone: 703-308-8245 |
| Date Made Active in Reports: 01/24/2008 | Last EDR Contact: 11/24/2008 |
| Number of Days to Update: 52 | Next Scheduled EDR Contact: 02/23/2009 |
| | Data Release Frequency: Varies |

Local Lists of Hazardous waste / Contaminated Sites

CDL: Clandestine Drug Labs

A listing of clandestine drug lab locations. The U.S. Department of Justice ("the Department") provides this web site as a public service. It contains addresses of some locations where law enforcement agencies reported they found chemicals or other items that indicated the presence of either clandestine drug laboratories or dumpsites. In most cases, the source of the entries is not the Department, and the Department has not verified the entry and does not guarantee its accuracy. Members of the public must verify the accuracy of all entries by, for example, contacting local law enforcement and local health departments.

| | |
|---|---|
| Date of Government Version: 07/01/2008 | Source: Drug Enforcement Administration |
| Date Data Arrived at EDR: 10/31/2008 | Telephone: 202-307-1000 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 10/31/2008 |
| Number of Days to Update: 53 | Next Scheduled EDR Contact: 03/23/2009 |
| | Data Release Frequency: Quarterly |

Local Land Records

LIENS 2: CERCLA Lien Information

A Federal CERCLA ("Superfund") lien can exist by operation of law at any site or property at which EPA has spent Superfund monies. These monies are spent to investigate and address releases and threatened releases of contamination. CERCLIS provides information as to the identity of these sites and properties.

| | |
|---|---|
| Date of Government Version: 08/19/2008 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 08/29/2008 | Telephone: 202-564-6023 |
| Date Made Active in Reports: 09/09/2008 | Last EDR Contact: 11/17/2008 |
| Number of Days to Update: 11 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Varies |

LUCIS: Land Use Control Information System

LUCIS contains records of land use control information pertaining to the former Navy Base Realignment and Closure properties.

| | |
|---|--|
| Date of Government Version: 12/09/2005 | Source: Department of the Navy |
| Date Data Arrived at EDR: 12/11/2006 | Telephone: 843-820-7326 |
| Date Made Active in Reports: 01/11/2007 | Last EDR Contact: 12/08/2008 |
| Number of Days to Update: 31 | Next Scheduled EDR Contact: 03/09/2009 |
| | Data Release Frequency: Varies |

Records of Emergency Release Reports

HMIRS: Hazardous Materials Information Reporting System

Hazardous Materials Incident Report System. HMIRS contains hazardous material spill incidents reported to DOT.

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

| | |
|---|---|
| Date of Government Version: 09/30/2008 | Source: U.S. Department of Transportation |
| Date Data Arrived at EDR: 10/16/2008 | Telephone: 202-366-4555 |
| Date Made Active in Reports: 11/19/2008 | Last EDR Contact: 01/13/2009 |
| Number of Days to Update: 34 | Next Scheduled EDR Contact: 04/13/2009 |
| | Data Release Frequency: Annually |

SPILLS: Release Notifications

Releases of hazardous substances to the environment reported to the Office of Hazard Evaluation and Emergency Response since 1988.

| | |
|---|--|
| Date of Government Version: 04/04/2008 | Source: Department of Health |
| Date Data Arrived at EDR: 06/18/2008 | Telephone: 808-586-4249 |
| Date Made Active in Reports: 07/22/2008 | Last EDR Contact: 12/18/2008 |
| Number of Days to Update: 34 | Next Scheduled EDR Contact: 03/16/2009 |
| | Data Release Frequency: Varies |

Other Ascertainable Records

RCRA-NonGen: RCRA - Non Generators

RCRAInfo is EPA's comprehensive information system, providing access to data supporting the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments (HSWA) of 1984. The database includes selective information on sites which generate, transport, store, treat and/or dispose of hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA). Non-Generators do not presently generate hazardous waste.

| | |
|---|---|
| Date of Government Version: 09/10/2008 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 09/23/2008 | Telephone: (415) 495-8895 |
| Date Made Active in Reports: 10/16/2008 | Last EDR Contact: 01/23/2009 |
| Number of Days to Update: 23 | Next Scheduled EDR Contact: 02/16/2009 |
| | Data Release Frequency: Varies |

DOT OPS: Incident and Accident Data

Department of Transportation, Office of Pipeline Safety Incident and Accident data.

| | |
|---|---|
| Date of Government Version: 05/14/2008 | Source: Department of Transportation, Office of Pipeline Safety |
| Date Data Arrived at EDR: 05/28/2008 | Telephone: 202-366-4595 |
| Date Made Active in Reports: 08/08/2008 | Last EDR Contact: 11/26/2008 |
| Number of Days to Update: 72 | Next Scheduled EDR Contact: 02/23/2009 |
| | Data Release Frequency: Varies |

DOD: Department of Defense Sites

This data set consists of federally owned or administered lands, administered by the Department of Defense, that have any area equal to or greater than 640 acres of the United States, Puerto Rico, and the U.S. Virgin Islands.

| | |
|---|--|
| Date of Government Version: 12/31/2005 | Source: USGS |
| Date Data Arrived at EDR: 11/10/2006 | Telephone: 703-692-8801 |
| Date Made Active in Reports: 01/11/2007 | Last EDR Contact: 11/07/2008 |
| Number of Days to Update: 62 | Next Scheduled EDR Contact: 02/02/2009 |
| | Data Release Frequency: Semi-Annually |

FUDS: Formerly Used Defense Sites

The listing includes locations of Formerly Used Defense Sites properties where the US Army Corps of Engineers is actively working or will take necessary cleanup actions.

| | |
|---|--|
| Date of Government Version: 12/31/2007 | Source: U.S. Army Corps of Engineers |
| Date Data Arrived at EDR: 09/05/2008 | Telephone: 202-528-4285 |
| Date Made Active in Reports: 09/23/2008 | Last EDR Contact: 12/29/2008 |
| Number of Days to Update: 18 | Next Scheduled EDR Contact: 03/30/2009 |
| | Data Release Frequency: Varies |

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

CONSENT: Superfund (CERCLA) Consent Decrees

Major legal settlements that establish responsibility and standards for cleanup at NPL (Superfund) sites. Released periodically by United States District Courts after settlement by parties to litigation matters.

| | |
|---|---|
| Date of Government Version: 09/15/2008 | Source: Department of Justice, Consent Decree Library |
| Date Data Arrived at EDR: 10/22/2008 | Telephone: Varies |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 01/19/2009 |
| Number of Days to Update: 62 | Next Scheduled EDR Contact: 04/19/2009 |
| | Data Release Frequency: Varies |

ROD: Records Of Decision

Record of Decision. ROD documents mandate a permanent remedy at an NPL (Superfund) site containing technical and health information to aid in the cleanup.

| | |
|---|--|
| Date of Government Version: 10/21/2008 | Source: EPA |
| Date Data Arrived at EDR: 10/29/2008 | Telephone: 703-416-0223 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 12/29/2008 |
| Number of Days to Update: 55 | Next Scheduled EDR Contact: 03/30/2009 |
| | Data Release Frequency: Annually |

UMTRA: Uranium Mill Tailings Sites

Uranium ore was mined by private companies for federal government use in national defense programs. When the mills shut down, large piles of the sand-like material (mill tailings) remain after uranium has been extracted from the ore. Levels of human exposure to radioactive materials from the piles are low; however, in some cases tailings were used as construction materials before the potential health hazards of the tailings were recognized.

| | |
|---|--|
| Date of Government Version: 07/13/2007 | Source: Department of Energy |
| Date Data Arrived at EDR: 12/03/2007 | Telephone: 505-845-0011 |
| Date Made Active in Reports: 01/24/2008 | Last EDR Contact: 12/17/2008 |
| Number of Days to Update: 52 | Next Scheduled EDR Contact: 03/16/2009 |
| | Data Release Frequency: Varies |

MINES: Mines Master Index File

Contains all mine identification numbers issued for mines active or opened since 1971. The data also includes violation information.

| | |
|---|--|
| Date of Government Version: 08/07/2008 | Source: Department of Labor, Mine Safety and Health Administration |
| Date Data Arrived at EDR: 09/23/2008 | Telephone: 303-231-5959 |
| Date Made Active in Reports: 10/16/2008 | Last EDR Contact: 12/23/2008 |
| Number of Days to Update: 23 | Next Scheduled EDR Contact: 03/23/2009 |
| | Data Release Frequency: Semi-Annually |

TRIS: Toxic Chemical Release Inventory System

Toxic Release Inventory System. TRIS identifies facilities which release toxic chemicals to the air, water and land in reportable quantities under SARA Title III Section 313.

| | |
|---|--|
| Date of Government Version: 12/31/2006 | Source: EPA |
| Date Data Arrived at EDR: 02/29/2008 | Telephone: 202-566-0250 |
| Date Made Active in Reports: 04/18/2008 | Last EDR Contact: 09/19/2008 |
| Number of Days to Update: 49 | Next Scheduled EDR Contact: 12/15/2008 |
| | Data Release Frequency: Annually |

TSCA: Toxic Substances Control Act

Toxic Substances Control Act. TSCA identifies manufacturers and importers of chemical substances included on the TSCA Chemical Substance Inventory list. It includes data on the production volume of these substances by plant site.

| | |
|---|--|
| Date of Government Version: 12/31/2002 | Source: EPA |
| Date Data Arrived at EDR: 04/14/2006 | Telephone: 202-260-5521 |
| Date Made Active in Reports: 05/30/2006 | Last EDR Contact: 01/12/2009 |
| Number of Days to Update: 46 | Next Scheduled EDR Contact: 04/13/2009 |
| | Data Release Frequency: Every 4 Years |

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

FTTS: FIFRA/ TSCA Tracking System - FIFRA (Federal Insecticide, Fungicide, & Rodenticide Act)/TSCA (Toxic Substances Control Act)
FTTS tracks administrative cases and pesticide enforcement actions and compliance activities related to FIFRA, TSCA and EPCRA (Emergency Planning and Community Right-to-Know Act). To maintain currency, EDR contacts the Agency on a quarterly basis.

| | |
|---|---|
| Date of Government Version: 10/08/2008 | Source: EPA/Office of Prevention, Pesticides and Toxic Substances |
| Date Data Arrived at EDR: 10/17/2008 | Telephone: 202-566-1667 |
| Date Made Active in Reports: 12/08/2008 | Last EDR Contact: 12/15/2008 |
| Number of Days to Update: 52 | Next Scheduled EDR Contact: 03/16/2009 |
| | Data Release Frequency: Quarterly |

FTTS INSP: FIFRA/ TSCA Tracking System - FIFRA (Federal Insecticide, Fungicide, & Rodenticide Act)/TSCA (Toxic Substances Control Act)
A listing of FIFRA/TSCA Tracking System (FTTS) inspections and enforcements.

| | |
|---|--|
| Date of Government Version: 10/08/2008 | Source: EPA |
| Date Data Arrived at EDR: 10/17/2008 | Telephone: 202-566-1667 |
| Date Made Active in Reports: 12/08/2008 | Last EDR Contact: 12/15/2008 |
| Number of Days to Update: 52 | Next Scheduled EDR Contact: 03/16/2009 |
| | Data Release Frequency: Quarterly |

HIST FTTS: FIFRA/TSCA Tracking System Administrative Case Listing

A complete administrative case listing from the FIFRA/TSCA Tracking System (FTTS) for all ten EPA regions. The information was obtained from the National Compliance Database (NCDB). NCDB supports the implementation of FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act) and TSCA (Toxic Substances Control Act). Some EPA regions are now closing out records. Because of that, and the fact that some EPA regions are not providing EPA Headquarters with updated records, it was decided to create a HIST FTTS database. It included records that may not be included in the newer FTTS database updates. This database is no longer updated.

| | |
|---|---|
| Date of Government Version: 10/19/2006 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 03/01/2007 | Telephone: 202-564-2501 |
| Date Made Active in Reports: 04/10/2007 | Last EDR Contact: 12/17/2007 |
| Number of Days to Update: 40 | Next Scheduled EDR Contact: 03/17/2008 |
| | Data Release Frequency: No Update Planned |

HIST FTTS INSP: FIFRA/TSCA Tracking System Inspection & Enforcement Case Listing

A complete inspection and enforcement case listing from the FIFRA/TSCA Tracking System (FTTS) for all ten EPA regions. The information was obtained from the National Compliance Database (NCDB). NCDB supports the implementation of FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act) and TSCA (Toxic Substances Control Act). Some EPA regions are now closing out records. Because of that, and the fact that some EPA regions are not providing EPA Headquarters with updated records, it was decided to create a HIST FTTS database. It included records that may not be included in the newer FTTS database updates. This database is no longer updated.

| | |
|---|---|
| Date of Government Version: 10/19/2006 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 03/01/2007 | Telephone: 202-564-2501 |
| Date Made Active in Reports: 04/10/2007 | Last EDR Contact: 12/17/2008 |
| Number of Days to Update: 40 | Next Scheduled EDR Contact: 03/17/2008 |
| | Data Release Frequency: No Update Planned |

SSTS: Section 7 Tracking Systems

Section 7 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (92 Stat. 829) requires all registered pesticide-producing establishments to submit a report to the Environmental Protection Agency by March 1st each year. Each establishment must report the types and amounts of pesticides, active ingredients and devices being produced, and those having been produced and sold or distributed in the past year.

| | |
|---|--|
| Date of Government Version: 12/31/2006 | Source: EPA |
| Date Data Arrived at EDR: 03/14/2008 | Telephone: 202-564-4203 |
| Date Made Active in Reports: 04/18/2008 | Last EDR Contact: 12/04/2008 |
| Number of Days to Update: 35 | Next Scheduled EDR Contact: 01/12/2009 |
| | Data Release Frequency: Annually |

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

ICIS: Integrated Compliance Information System

The Integrated Compliance Information System (ICIS) supports the information needs of the national enforcement and compliance program as well as the unique needs of the National Pollutant Discharge Elimination System (NPDES) program.

| | |
|---|---|
| Date of Government Version: 07/31/2008 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 08/13/2008 | Telephone: 202-564-5088 |
| Date Made Active in Reports: 09/09/2008 | Last EDR Contact: 01/12/2009 |
| Number of Days to Update: 27 | Next Scheduled EDR Contact: 04/13/2009 |
| | Data Release Frequency: Quarterly |

PADS: PCB Activity Database System

PCB Activity Database. PADS Identifies generators, transporters, commercial storers and/or brokers and disposers of PCB's who are required to notify the EPA of such activities.

| | |
|---|--|
| Date of Government Version: 12/04/2007 | Source: EPA |
| Date Data Arrived at EDR: 02/07/2008 | Telephone: 202-566-0500 |
| Date Made Active in Reports: 03/17/2008 | Last EDR Contact: 09/18/2008 |
| Number of Days to Update: 39 | Next Scheduled EDR Contact: 11/03/2008 |
| | Data Release Frequency: Annually |

MLTS: Material Licensing Tracking System

MLTS is maintained by the Nuclear Regulatory Commission and contains a list of approximately 8,100 sites which possess or use radioactive materials and which are subject to NRC licensing requirements. To maintain currency, EDR contacts the Agency on a quarterly basis.

| | |
|---|--|
| Date of Government Version: 10/03/2008 | Source: Nuclear Regulatory Commission |
| Date Data Arrived at EDR: 10/15/2008 | Telephone: 301-415-7169 |
| Date Made Active in Reports: 11/19/2008 | Last EDR Contact: 12/29/2008 |
| Number of Days to Update: 35 | Next Scheduled EDR Contact: 03/30/2009 |
| | Data Release Frequency: Quarterly |

RADINFO: Radiation Information Database

The Radiation Information Database (RADINFO) contains information about facilities that are regulated by U.S. Environmental Protection Agency (EPA) regulations for radiation and radioactivity.

| | |
|---|---|
| Date of Government Version: 10/28/2008 | Source: Environmental Protection Agency |
| Date Data Arrived at EDR: 10/29/2008 | Telephone: 202-343-9775 |
| Date Made Active in Reports: 12/08/2008 | Last EDR Contact: 10/29/2008 |
| Number of Days to Update: 40 | Next Scheduled EDR Contact: 01/26/2009 |
| | Data Release Frequency: Quarterly |

FINDS: Facility Index System/Facility Registry System

Facility Index System. FINDS contains both facility information and 'pointers' to other sources that contain more detail. EDR includes the following FINDS databases in this report: PCS (Permit Compliance System), AIRS (Aerometric Information Retrieval System), DOCKET (Enforcement Docket used to manage and track information on civil judicial enforcement cases for all environmental statutes), FURS (Federal Underground Injection Control), C-DOCKET (Criminal Docket System used to track criminal enforcement actions for all environmental statutes), FFIS (Federal Facilities Information System), STATE (State Environmental Laws and Statutes), and PADS (PCB Activity Data System).

| | |
|---|--|
| Date of Government Version: 10/30/2008 | Source: EPA |
| Date Data Arrived at EDR: 10/31/2008 | Telephone: (415) 947-8000 |
| Date Made Active in Reports: 12/23/2008 | Last EDR Contact: 12/29/2008 |
| Number of Days to Update: 53 | Next Scheduled EDR Contact: 03/30/2009 |
| | Data Release Frequency: Quarterly |

RAATS: RCRA Administrative Action Tracking System

RCRA Administration Action Tracking System. RAATS contains records based on enforcement actions issued under RCRA pertaining to major violators and includes administrative and civil actions brought by the EPA. For administration actions after September 30, 1995, data entry in the RAATS database was discontinued. EPA will retain a copy of the database for historical records. It was necessary to terminate RAATS because a decrease in agency resources made it impossible to continue to update the information contained in the database.

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

Date of Government Version: 04/17/1995 Source: EPA
Date Data Arrived at EDR: 07/03/1995 Telephone: 202-564-4104
Date Made Active in Reports: 08/07/1995 Last EDR Contact: 06/02/2008
Number of Days to Update: 35 Next Scheduled EDR Contact: 09/01/2008
Data Release Frequency: No Update Planned

BRS: Biennial Reporting System

The Biennial Reporting System is a national system administered by the EPA that collects data on the generation and management of hazardous waste. BRS captures detailed data from two groups: Large Quantity Generators (LQG) and Treatment, Storage, and Disposal Facilities.

Date of Government Version: 12/31/2005 Source: EPA/NTIS
Date Data Arrived at EDR: 03/06/2007 Telephone: 800-424-9346
Date Made Active in Reports: 04/13/2007 Last EDR Contact: 12/09/2008
Number of Days to Update: 38 Next Scheduled EDR Contact: 03/09/2009
Data Release Frequency: Biennially

DRYCLEANERS: Permitted Drycleaner Facility Listing

A listing of permitted drycleaner facilities in the state.

Date of Government Version: 03/28/2008 Source: Department of Health
Date Data Arrived at EDR: 03/28/2008 Telephone: 808-586-4200
Date Made Active in Reports: 04/24/2008 Last EDR Contact: 12/22/2008
Number of Days to Update: 27 Next Scheduled EDR Contact: 01/26/2009
Data Release Frequency: Varies

AIRS: List of Permitted Facilities

A listing of permitted facilities in the state.

Date of Government Version: 03/28/2008 Source: Department of Health
Date Data Arrived at EDR: 03/28/2008 Telephone: 808-586-4200
Date Made Active in Reports: 04/24/2008 Last EDR Contact: 12/22/2008
Number of Days to Update: 27 Next Scheduled EDR Contact: 01/26/2009
Data Release Frequency: Varies

INDIAN RESERV: Indian Reservations

This map layer portrays Indian administered lands of the United States that have any area equal to or greater than 640 acres.

Date of Government Version: 12/31/2005 Source: USGS
Date Data Arrived at EDR: 12/08/2006 Telephone: 202-208-3710
Date Made Active in Reports: 01/11/2007 Last EDR Contact: 11/07/2008
Number of Days to Update: 34 Next Scheduled EDR Contact: 02/02/2009
Data Release Frequency: Semi-Annually

SCRD DRYCLEANERS: State Coalition for Remediation of Drycleaners Listing

The State Coalition for Remediation of Drycleaners was established in 1998, with support from the U.S. EPA Office of Superfund Remediation and Technology Innovation. It is comprised of representatives of states with established drycleaner remediation programs. Currently the member states are Alabama, Connecticut, Florida, Illinois, Kansas, Minnesota, Missouri, North Carolina, Oregon, South Carolina, Tennessee, Texas, and Wisconsin.

Date of Government Version: 09/08/2008 Source: Environmental Protection Agency
Date Data Arrived at EDR: 09/10/2008 Telephone: 615-532-8599
Date Made Active in Reports: 09/23/2008 Last EDR Contact: 12/08/2008
Number of Days to Update: 13 Next Scheduled EDR Contact: 02/09/2009
Data Release Frequency: Varies

FEDLAND: Federal and Indian Lands

Federally and Indian administrated lands of the United States. Lands included are administrated by: Army Corps of Engineers, Bureau of Reclamation, National Wild and Scenic River, National Wildlife Refuge, Public Domain Land, Wilderness, Wilderness Study Area, Wildlife Management Area, Bureau of Indian Affairs, Bureau of Land Management, Department of Justice, Forest Service, Fish and Wildlife Service, National Park Service.

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

| | |
|---|--|
| Date of Government Version: 12/31/2005 | Source: U.S. Geological Survey |
| Date Data Arrived at EDR: 02/06/2006 | Telephone: 888-275-8747 |
| Date Made Active in Reports: 01/11/2007 | Last EDR Contact: 11/07/2008 |
| Number of Days to Update: 339 | Next Scheduled EDR Contact: 02/02/2009 |
| | Data Release Frequency: N/A |

PWS: Public Water System Data

This Safe Drinking Water Information System (SDWIS) file contains public water systems name and address, population served and the primary source of water

| | |
|--|--|
| Date of Government Version: 02/24/2000 | Source: EPA |
| Date Data Arrived at EDR: 04/27/2005 | Telephone: N/A |
| Date Made Active in Reports: N/A | Last EDR Contact: 12/29/2008 |
| Number of Days to Update: 0 | Next Scheduled EDR Contact: 03/30/2009 |
| | Data Release Frequency: N/A |

PRP: Potentially Responsible Parties

A listing of verified Potentially Responsible Parties

| | |
|---|--|
| Date of Government Version: 07/09/2008 | Source: EPA |
| Date Data Arrived at EDR: 09/30/2008 | Telephone: 202-564-6064 |
| Date Made Active in Reports: 10/07/2008 | Last EDR Contact: 12/29/2008 |
| Number of Days to Update: 7 | Next Scheduled EDR Contact: 03/30/2009 |
| | Data Release Frequency: Quarterly |

EDR PROPRIETARY RECORDS

EDR Proprietary Records

Manufactured Gas Plants: EDR Proprietary Manufactured Gas Plants

The EDR Proprietary Manufactured Gas Plant Database includes records of coal gas plants (manufactured gas plants) compiled by EDR's researchers. Manufactured gas sites were used in the United States from the 1800's to 1950's to produce a gas that could be distributed and used as fuel. These plants used whale oil, rosin, coal, or a mixture of coal, oil, and water that also produced a significant amount of waste. Many of the byproducts of the gas production, such as coal tar (oily waste containing volatile and non-volatile chemicals), sludges, oils and other compounds are potentially hazardous to human health and the environment. The byproduct from this process was frequently disposed of directly at the plant site and can remain or spread slowly, serving as a continuous source of soil and groundwater contamination.

| | |
|----------------------------------|---|
| Date of Government Version: N/A | Source: EDR, Inc. |
| Date Data Arrived at EDR: N/A | Telephone: N/A |
| Date Made Active in Reports: N/A | Last EDR Contact: N/A |
| Number of Days to Update: N/A | Next Scheduled EDR Contact: N/A |
| | Data Release Frequency: No Update Planned |

OTHER DATABASE(S)

Depending on the geographic area covered by this report, the data provided in these specialty databases may or may not be complete. For example, the existence of wetlands information data in a specific report does not mean that all wetlands in the area covered by the report are included. Moreover, the absence of any reported wetlands information does not necessarily mean that wetlands do not exist in the area covered by the report.

Oil/Gas Pipelines: This data was obtained by EDR from the USGS in 1994. It is referred to by USGS as GeoData Digital Line Graphs from 1:100,000-Scale Maps. It was extracted from the transportation category including some oil, but primarily gas pipelines.

Electric Power Transmission Line Data

Source: PennWell Corporation
Telephone: (800) 823-6277

This map includes information copyrighted by PennWell Corporation. This information is provided on a best effort basis and PennWell Corporation does not guarantee its accuracy nor warrant its fitness for any particular purpose. Such information has been reprinted with the permission of PennWell.

GOVERNMENT RECORDS SEARCHED / DATA CURRENCY TRACKING

Sensitive Receptors: There are individuals deemed sensitive receptors due to their fragile immune systems and special sensitivity to environmental discharges. These sensitive receptors typically include the elderly, the sick, and children. While the location of all sensitive receptors cannot be determined, EDR indicates those buildings and facilities - schools, daycares, hospitals, medical centers, and nursing homes - where individuals who are sensitive receptors are likely to be located.

AHA Hospitals:

Source: American Hospital Association, Inc.
Telephone: 312-280-5991

The database includes a listing of hospitals based on the American Hospital Association's annual survey of hospitals.

Medical Centers: Provider of Services Listing

Source: Centers for Medicare & Medicaid Services
Telephone: 410-786-3000

A listing of hospitals with Medicare provider number, produced by Centers of Medicare & Medicaid Services, a federal agency within the U.S. Department of Health and Human Services.

Nursing Homes

Source: National Institutes of Health
Telephone: 301-594-6248

Information on Medicare and Medicaid certified nursing homes in the United States.

Public Schools

Source: National Center for Education Statistics
Telephone: 202-502-7300

The National Center for Education Statistics' primary database on elementary and secondary public education in the United States. It is a comprehensive, annual, national statistical database of all public elementary and secondary schools and school districts, which contains data that are comparable across all states.

Private Schools

Source: National Center for Education Statistics
Telephone: 202-502-7300

The National Center for Education Statistics' primary database on private school locations in the United States.

Flood Zone Data: This data, available in select counties across the country, was obtained by EDR in 1999 from the Federal Emergency Management Agency (FEMA). Data depicts 100-year and 500-year flood zones as defined by FEMA.

NWI: National Wetlands Inventory. This data, available in select counties across the country, was obtained by EDR in 2002 and 2005 from the U.S. Fish and Wildlife Service.

STREET AND ADDRESS INFORMATION

© 2009 Tele Atlas North America, Inc. All rights reserved. This material is proprietary and the subject of copyright protection and other intellectual property rights owned by or licensed to Tele Atlas North America, Inc. The use of this material is subject to the terms of a license agreement. You will be held liable for any unauthorized copying or disclosure of this material.

Description of Selected General Terms and Acronyms

| Term/Acronym | Description |
|--------------|---|
| ACM | <p>Asbestos Containing Material. Asbestos is a naturally occurring mineral, three varieties of which (chrysotile, amosite, crocidolite) have been commonly used as fireproofing or binding agents in construction materials. Exposure to asbestos, as well as ACM, has been documented to cause lung diseases including asbestosis (scarring of the lung), lung cancer and mesothelioma (a cancer of the lung lining).</p> <p>Regulatory agencies have generally defined ACM as a material containing greater than one (1) percent asbestos, however some states (e.g. California) define ACM as materials having 0.1% asbestos. In order to define a homogenous material as non-ACM, a minimum number of samples must be collected from the material dependent upon its type and quantity. Homogenous materials defined as non-ACM must either have 1) no asbestos identified in all of its samples or 2) an identified asbestos concentration below the appropriate regulatory threshold. Asbestos concentrations are generally determined using polarized light microscopy or transmission electron microscopy. Point counting is an analytical method to statistically quantify the percentage of asbestos in a sample. The asbestos component of ACM may either be friable or non-friable. Friable materials, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure and have a higher potential for a fiber release than non-friable ACM. Non-friable ACM are materials that are firmly bound in a matrix by plastic, cement, etc. and, if handled carefully, will not become friable.</p> <p>Federal and state regulations require that either all suspect building materials be presumed ACM or that an asbestos survey be performed prior to renovation, dismantling, demolition, or other activities that may disturb potential ACM. Notifications are required prior to demolition and/or renovation activities that may impact the condition of ACM in a building. ACM removal may be required if the ACM is likely to be disturbed or damaged during the demolition or renovation. Abatement of friable or potentially friable ACM must be performed by a licensed abatement contractor in accordance with state rules and NESHAP. Additionally, OSHA regulations for work classification, worker training and worker protection will apply.</p> |
| AHERA | Asbestos Hazard Emergency Response Act |
| AST | Above Ground Storage Tanks. ASTs are generally described as storage tanks less than 10% of which are below ground (i.e., buried). Tanks located in a basement, but not buried, are also considered ASTs. Whether, and the extent to which, an AST is regulated, is determined on a case-by-case basis and depends upon tank size, its contents and the jurisdiction of its location. |
| BGS | Below Ground Surface |
| BTEX | Benzene, Toluene, Ethylbenzene, and Xylenes. BTEX are VOC components found in gasoline and commonly used as analytical indicators of a petroleum hydrocarbon release. |
| CERCLA | Comprehensive Environmental Response, Compensation and Liability Act (a.k.a. Superfund). CERCLA is the federal act that regulates abandoned or uncontrolled hazardous waste sites. Under this Act, joint and several liability may be imposed on potentially responsible parties for cleanup-related costs. |
| CERCLIS | Comprehensive Environmental Response, Compensation and Liability Information System. An EPA compilation of sites having suspected or actual releases of hazardous substances to the environment. CERCLIS also contains information on site inspections, preliminary assessments and remediation of hazardous waste sites. These sites are typically reported to EPA by states and municipalities or by third parties pursuant to CERCLA Section 103. |
| CESQG | Conditionally exempt small quantity generators. |
| CFR | Code of Federal Regulations |
| DOT | U.S. Department of Transportation |
| EPA | U.S. Environmental Protection Agency |
| ERNS | Emergency Response Notification System. An EPA-maintained federal database which stores information on notifications of oil discharges and hazardous substance releases in quantities greater than the applicable reportable quantity under CERCLA. ERNS is a cooperative data-sharing effort between EPA, DOT, and the National Response Center. |
| ESA | Environmental Site Assessment |

Description of Terms and Acronyms (cont.)

| | |
|---------------------|--|
| FRP | Fiberglass Reinforced Plastic |
| Hazardous Substance | As defined under CERCLA, this is (A) any substance designated pursuant to section 1321(b)(2)(A) of Title 33. (B) any element, compound, mixture, solution, or substance designated pursuant to section 9602 of this title; (C) any hazardous waste having characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (with some exclusions); (D) any toxic pollutant listed under section 1317(a) of Title 33; (E) any hazardous air pollutant listed under section 112 of the Clear Air Act; and (F) any imminently hazardous chemical substance or mixture with respect to which the EPA Administrator has taken action under section 2606 of Title 15. This term does not include petroleum, including crude oil or any fraction thereof which is not otherwise listed as a hazardous substance under subparagraphs (A) through (F) above, and the term include natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). |
| Hazardous Waste | This is defined as having characteristics identified or listed under section 3001 of the Solid Waste Disposal Act (with some exceptions). RCRA, as amended by the Solid Waste Disposal Act of 1980, defines this term as a "solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed." |
| ILP | Innocent Landowner/Operator Program |
| LQG | Large quantity generators. |
| LUST | Leaking Underground Storage Tank. This is a federal term set forth under RCRA for leaking USTs. Some states also utilize this term. |
| MCL | Maximum Contaminant Level. This Safe Drinking Water concept (and also used by many states as a ground water cleanup criteria) refers to the limit on drinking water contamination that determines whether a supplier can deliver water from a specific source without treatment. |
| MSDS | Material Safety Data Sheets. Written/printed forms prepared by chemical manufacturers, importers and employers which identify the physical and chemical traits of hazardous chemicals under OSHA's Hazard Communication Standard. |
| NESHAP | National Emissions Standard for Hazardous Air Pollutants (Federal Clean Air Act). This part of the Clean Air Act regulates emissions of hazardous air pollutants. |
| NFRAP | Facilities where there is "No Further Remedial Action Planned," as more particularly described under the Records Review section of this report. |
| NOV | Notice of Violation. A notice of violation or similar citation issued to an entity, company or individual by a state or federal regulatory body indicating a violation of applicable rule or regulations has been identified. |
| NPDES | National Pollutant Discharge Elimination System (Clean Water Act). The federal permit system for discharges of polluted water. |
| NPL | National Priorities List, as more particularly described under the Records Review section of this report. |
| OSHA | Occupational Safety and Health Administration or Occupational Safety and Health Act |
| PACM | Presumed Asbestos-Containing Material. A material that is suspected of containing or presumed to contain asbestos but which has not been analyzed to confirm the presence or absence of asbestos. |
| PCB | Polychlorinated Biphenyl. A halogenated organic compound commonly in the form of a viscous liquid or resin, a flowing yellow oil, or a waxy solid. This compound was historically used as dielectric fluid in electrical equipment (such as electrical transformers and capacitors, electrical ballasts, hydraulic and heat transfer fluids), and for numerous heat and fire sensitive applications. PCB was preferred due to its durability, stability (even at high temperatures), good chemical resistance, low volatility, flammability, and conductivity. PCBs, however, do not break down in the environment and are classified by the EPA as a suspected carcinogen. 1978 regulations, under the Toxic Substances Control Act, prohibit manufacturing of PCB-containing equipment; however, some of this equipment may still be in use today. |
| pCi/l | Pico Curies per Liter of Air. Unit of measurement for Radon and similar radioactive materials. |
| PLM | Polarized Light Microscopy (see ACM section of the report, if included in the scope of services) |
| PST | Petroleum Storage Tank. An AST or UST that contains a petroleum product. |

Description of Terms and Acronyms (cont.)

| | |
|------------------------|---|
| Radon | A radioactive gas resulting from radioactive decay of naturally-occurring radioactive materials in rocks and soils containing uranium, granite, shale, phosphate, and pitchblende. Radon concentrations are measured in Pico Curies per Liter of Air. Exposure to elevated levels of radon creates a risk of lung cancer; this risk generally increases as the level of radon and the duration of exposure increases. Outdoors, radon is diluted to such low concentrations that it usually does not present a health concern. However, radon can accumulate in building basements or similar enclosed spaces to levels that can pose a risk to human health. Indoor radon concentrations depend primarily upon the building's construction, design and the concentration of radon in the underlying soil and ground water. The EPA recommended annual average indoor "action level" concentration for residential structures is 4.0 pCi/l. |
| RCRA | Resource Conservation and Recovery Act. Federal act regulating solid and hazardous wastes from point of generation to time of disposal ("cradle to grave"). 42 U.S.C. 6901 et seq. |
| RCRA Generators | The RCRA generators list is part of the RCRIS database maintained by EPA and lists facilities that generate hazardous waste as part of their normal business operations, as more particularly defined under Section 5.0 of this report. |
| RCRA CORRACTS/TSDs | The USEPA maintains a database of RCRA facilities associated with treatment, storage, and disposal (TSD) of hazardous materials which are undergoing "corrective action". A "corrective action" order is issued when there is a release of hazardous waste or constituents into the environment from a RCRA facility. |
| RCRA Non-CORRACTS/TSDs | The RCRA Non-CORRACTS/TSD Database is a compilation by the USEPA of facilities which report storage, transportation, treatment, or disposal of hazardous waste. Unlike the RCRA CORRACTS/TSD database, the RCRA Non-CORRACTS/TSD database does not include RCRA facilities where corrective action is required. |
| RCRA Violators List | RAATS. RCRA Administrative Actions Taken. RAATS information is now contained in the RCRIS database and includes records of administrative enforcement actions against facilities for noncompliance. |
| RCRIS | Resource Conservation and Recovery Information System, as defined in the Records Review section of this report. |
| REC | Recognized Environmental Conditions" are defined by ASTM E1527-05 as "the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of release of any hazardous substances or petroleum products into structures on the property or into the ground, ground water, or surface water of the property. The term includes hazardous substances or petroleum products even under conditions of compliance with laws. The term is not intended to include <i>de minimis</i> conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies." |
| SCL | State "CERCLIS" List (see SPL /State Priority List, below). |
| SPCC | Spill Prevention, Control and Countermeasures. SPCC plans are required under federal law (Clean Water Act and Oil Pollution Act) for any facility storing petroleum in tanks and/or containers of 55-gallons or more that when taken in aggregate exceed 1,320 gallons. SPCC plans are also required for facilities with underground petroleum storage tanks with capacities of over 42,000 gallons. Many states have similar spill prevention programs, which may have additional requirements. |
| SPL | State Priority List. State list of confirmed sites having contamination in which the state is actively involved in clean up activities or is actively pursuing potentially responsible parties for clean up. Sometimes referred to as a State "CERCLIS" List. |
| SQG | Small quantity generators. |
| SWF | Solid Waste Facility List. A Vista Information Solutions, Inc. database of solid waste facilities listed by state. |
| TPH | Total Petroleum Hydrocarbons |
| TRI | Toxic Release Inventory. Routine EPA report on releases of toxic chemicals to the environment based upon information submitted by entities subject to reporting under the Emergency Planning and Community Right to Know Act. |
| TSCA | Toxic Substances Control Act. A federal law regulating manufacture, import, processing and distribution of chemical substances not specifically regulated by other federal laws (such as asbestos, PCBs, lead-based paint and radon). 15 U.S.C 2601 et seq. |
| USACE | United States Army Corps of Engineers |
| USC | United States Code |
| USGS | United States Geological Survey |
| USNRCS | United States Department of Agriculture-Natural Resource Conservation Service |

Description of Terms and Acronyms (cont.)

| | |
|----------|---|
| UST | Underground Storage Tank. Most federal and state regulations, as well as ASTM E1527-05, define this as any tank, incl., underground piping connected to the tank, that is or has been used to contain hazardous substances or petroleum products and the volume of which is 10% or more beneath the surface of the ground (i.e., buried). |
| VCP | Voluntary Cleanup Program |
| VOC | Volatile Organic Compound |
| Wetlands | <p>Areas that are typically saturated with surface or ground water that creates an environment supportive of wetland vegetation (i.e., swamps, marshes, bogs). The <u>Corps of Engineers Wetlands Delineation Manual</u> (Technical Report Y-87-1) defines wetlands as areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. For an area to be considered a jurisdictional wetland, it must meet the following criteria: more than 50 percent of the dominant plant species must be categorized as Obligate, Facultative Wetland, or Facultative on lists of plant species that occur in wetlands; the soil must be hydric; and, wetland hydrology must be present.</p> <p>The federal Clean Water Act which regulates "waters of the US," also regulates wetlands, a program jointly administered by the USACE and the EPA. Waters of the U.S. are defined as: (1) waters used in interstate or foreign commerce, including all waters subject to the ebb and flow of tides; (2) all interstate waters including interstate wetlands; (3) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, etc., which the use, degradation, or destruction could affect interstate/ foreign commerce; (4) all impoundments of waters otherwise defined as waters of the U. S., (5) tributaries of waters identified in 1 through 4 above; (6) the territorial seas; and (7) wetlands adjacent to waters identified in 1 through 6 above. Only the USACE has the authority to make a final wetlands jurisdictional determination.</p> |

BLAINE R. SCHROYER, P.E.

ENVIRONMENTAL DEPARTMENT MANAGER/OFFICE MANAGER

PROFESSIONAL EXPERIENCE

Mr. Schroyer is a project engineer with 16 years of environmental project experience. As office manager for Terracon's Appleton, Wisconsin office and Environmental Department Manager for Terracon's Milwaukee, Wisconsin office, his responsibilities include administering staff and projects covering the range of services Terracon offers. Mr. Schroyer provides client development, project management, project cost management, and report review services for his office. He also provides technical support and review for other projects and other Terracon offices.

Mr. Schroyer environmental expertise focuses on projects involving pesticides, herbicides, and other unique chemicals. Mr. Schroyer manages several sites involving mixed contaminants. During the past several years, he has been called upon to coordinate and manage large-scale project efforts involving more than two dozen Terracon personnel and regions including North Dakota, Ohio and Texas.

In 2007, Mr. Schroyer took on the responsibility for environmental services throughout Wisconsin. He oversees environmental operations, mentors staff in both Wisconsin offices, and continually works to introduce potential clients to Terracon.

PROJECT EXPERIENCE

- **Former Chrome Plating Facility – Kaukauna, Wisconsin**
Performed a treatment system evaluation for an existing carbon absorption/ion exchange groundwater treatment system designed to remove solvents and chromium. Proposed improvements enhanced system performance dramatically, decreasing the required life of the system. The system continues to operate and has removed approximately 400 pounds of chromium from the groundwater since 2001. The property is owned by Outagamie County and funded/managed by the Wisconsin Department of Natural Resources.
- **Former Landfill Assessment and Closure – Westport, Wisconsin**
Prepared an investigative work plan to determine whether or not a former demolition landfill which had accepted paint solvents and medical waste had impacted groundwater to the extent that could necessitate active remediation. Cost-saving methods employed reduced estimated costs from greater than \$100,000 to \$50,000. The site is being considered for redevelopment due to its proximity to the Bishop's Bay Country Club.
- **Pesticide Formulating Site – Albert Lea, Minnesota**
Performed assessment of soil and groundwater impacts, evaluation of risk-based cleanup goals and survey of remedial options. Project resulted in remediation of multiple classes of contaminants, including RCRA chemicals, using on-site thermal desorption technology, a first for chlorinated compounds in Minnesota, and microencapsulation.
- **Former Power Pole Treatment Site – Willmar, Minnesota**
Performed assessment of soil and groundwater impacts involving pentachlorophenol, diesel and dioxins/furans with evaluation of remedial options resulting in limited excavation followed by enhanced bioremediation and phytoremediation.

EDUCATION

Master of Science, Civil Engineering, 1999, University of Minnesota
Bachelor of Science, Civil and Environmental Engineering, 1991, University of Wisconsin

REGISTRATIONS

Professional Engineer: Wisconsin, Minnesota

AFFILIATIONS

American Society of Civil Engineers
Wisconsin Federation of Cooperatives

WORK HISTORY

Terracon, Project Engineer/Office Manager, 1997-present;
Environmental Engineer, 1994-1997; Environmental Engineer, 1992
USGS/University of Minnesota, Hydrologist/Research Assistant, 1992-1994
Bureau of Land Management, Land Surveyor, 1990-1991

PROJECT EXPERIENCE (continued)

- **Brownfield Redevelopment – Grand Chute, Wisconsin**

Coordinated Phase I and II environmental site assessments (ESA), asbestos demolition survey and wetland delineation and permitting and developed a remedial action plan which allowed two otherwise blighted and under-taxed properties to be developed into a large retail business. Contaminants included metals, petroleum and solid wastes.

- **Agricultural Facilities Acquisition – Multiple States**

Coordinated site visits of six site assessors for due diligence purposes. The team members visited 130 sites in seven states in a two-week period. The data was used to select sites for Phase II actions. Phase II efforts were then coordinated at seven of the sites, resulting in exclusion of environmental liabilities amounting to more than \$500,000. All efforts were completed within a five-week period.

- **Spill Prevention, Control and Countermeasures (SPCC) Plans – Large Portfolio**

Managed site visits, evaluation and preparation of SPCC plans for a local utility company for their substations, hydroelectric generation facilities, coal-fired plants, natural gas plants, diesel plants, nuclear plant, warehouses and operations facilities. The total number of facilities was nearly 200.

- **Petroleum Pipeline Spill**

Researched and developed a stream bed sediment sampling plan for a large petroleum spill. More than 500,000 gallons of unleaded gasoline containing nine percent methyl tert-butyl ether (MTBE) was released to an intermittent stream bed extending approximately 28 miles to a water supply reservoir. Assessment of the stream bed sediments for the entire 28 miles was complete within seven days of initiation. Sediment sampling was repeated on affected reaches two more times. A cross-sectional sampling plan was implemented, perennial pool sampling was conducted and monitoring wells were installed to assess the stream/groundwater interactions. The data was utilized to evaluate appropriate remedial actions for the stream bed sediments. As a result of the data obtained, active cleanup of the stream bed sediments was avoided.

PUBLICATIONS/PRESENTATIONS

Schroyer, Blaine R., *Remediation of Chlorinated Pesticides using Thermal Desorption* (Presentation), presented at the State Approaches to Agricultural Cleanups, Minnesota Department of Agriculture Conference in St. Paul, Minnesota, February 18-19, 2000.

Schroyer, Blaine R., G.N. Delin, M.K. Landon, K.J. Nelson, R.B. Wanty, R.W. Healy, H.W. Olsen, J.K. Bohlke and P.D. Capel, *Hydrogeologic and Water Quality Data Used to Evaluate the Effects of Focused Recharge on Groundwater Quality Near Princeton, Minnesota, 1991-1995*. U.S. Geological Survey, Open file report 97-21.

Schroyer, Blaine R. and Paul D. Capel, *A High-Performance Liquid Chromatography-Based Screening Method for the Analysis of Atrazine, Alachlor, and Ten of Their Transformation Products* (Proceedings of American Chemical Society, 1996), pp. 34-42.

Schroyer, Blaine R., Paul D. Capel, Lin Ma, Steven J. Larson and Therese A. Gilchrist, *Analysis and Detection of the New Corn Herbicide Acetochlor in River Water and Rain*. Environmental Science and Technology, Vol. 29, No. 6, 1995.

Engineers Remediate Land Polluted with Fertilizer, Pesticide – by Brett Hanson. Civil Engineering, Vol. 76, No. 3, March 2006. Article highlights an environmental project and innovative solution designed and permitted by Mr. Schroyer.

RENEE N RANSOM

STAFF GEOLOGIST

PROFESSIONAL EXPERIENCE

Ms. Ransom is an Environmental Scientist in the Franklin office. She is involved with the site reconnaissance, historical research, database interpretation, and writing associated with the preparation of technical reports submitted to the clients of Terracon Consultants, Inc.

PROJECT EXPERIENCE

- **Phase I Environmental Site Assessments – Wisconsin**
Performed Phase I Environmental Site Assessments for locations in Wisconsin to identify past or present recognized environmental concerns. Investigated and analyzed data compiled through historical research and site reconnaissance.

PUBLICATIONS / PRESENTATIONS

- **Ransom RN, Hooper RL, Kerner D, Nicols S, 2007, "Fingerprinting Persistent Turbidity in Sheep Creek Reservoir, Owhyee, Nevada,"** Poster presented at the San Francisco AGU Fall Meeting, December 2007.

EDUCATION

*Bachelor of Science, Geology,
2007, University of Wisconsin –
Eau Claire*

WORK HISTORY

*Terracon Consultants, Inc., Staff
Geologist, 2008-Present*

*University of Wisconsin – Eau
Claire, Eau Claire, WI, Student
Research Assistant, 2006-2007*

*University of Wisconsin – Eau
Claire, Eau Claire, WI, Student
Teaching Assistant, 2005-2007*

All Appropriate Inquiry - Land Acquisition Screening

Worksheet 2: INTERVIEWS WITH PAST and PRESENT OWNERS, OPERATORS, and OCCUPANTS

This worksheet is intended to assist with completion of the "Interview" portion of the All Appropriate Inquiry land acquisition screening. While it is intended as a useful guide, it is not all inclusive and does not meet all the requirements for CERCLA defenses.

The AAI rule requires that interviews be conducted of the current owner and occupant of the subject property. If the property has multiple occupants, the inquiry of the environmental professional shall include interviewing major occupants, as well as those occupants likely to use, store, treat, handle or dispose of hazardous substances, pollutants, contaminants, petroleum and petroleum products, and controlled substances, or those who have likely done so in the past. This includes interviewing one or more of the following persons:

- Current and past facility managers with relevant knowledge of uses and physical characteristics of the property;
- Past owners, occupants, or operators of the subject property; or
- Employees of current and past occupants of the subject property.

In the case of inquiries conducted at "abandoned properties," where there is evidence of potential unauthorized uses of the subject property or evidence of uncontrolled access to the subject property, the inquiry must include interviewing one or more (as necessary) owners or occupants of neighboring or nearby properties from which it appears possible to have observed uses of, or releases at, such abandoned properties

(Separate questionnaires must be completed for each property)

Name of person being interviewed: William G. Kepler Phone number: (808) 283-1903-Cell

Affiliation with Property:

Owner

(Owner/operator/caretaker/previous owner/neighbor, etc.)

Time frame affiliated with Property:

"To the Best of Your Knowledge..."

A. Property Use/s

1. Do you possess or know of the existence of any of the following records related to the property? If yes, please provide copies or make them available. Yes ___ No ___ Unknown ___

- a. Radon, Asbestos and/or Lead-Based Paint Surveys No Copy/s Attached ___ No copy avail. ___
- b. Environmental Compliance Audit Reports No Copy/s Attached ___ No copy avail. ___
- c. Environmental Permits Related to Current or Previous Site Activities (example, waste disposal permits, wastewater permits, NPDES permits) No Copy/s Attached ___ No copy avail. ___
- d. Registrations for underground and above-ground storage tanks. No Copy/s Attached ___ No copy avail. ___
- e. Hazardous Materials Management Plans (Emergency Planning and Community Right-To-Know Act (EPCRA)) No Copy/s Attached ___ No copy avail. ___
- f. Facility safety plans No Copy/s Attached ___ No copy avail. ___
- g. Preparedness and prevention plans No Copy/s Attached ___ No copy avail. ___
- h. Spill Prevention, Control, and Countermeasure (SPCC) plans No Copy/s Attached ___ No copy avail. ___
- i. Hydrogeologic and geotechnical reports on the property or surrounding area. No Copy/s Attached ___ No copy avail. ___
- j. Notices or other correspondence from any government agency relating to past or current violations of environmental laws with respect to the property. No Copy/s Attached ___ No copy avail. ___
- k. Notices or other correspondence from any government agency relating to environmental liens encumbering the property. No Copy/s Attached ___ No copy avail. ___
- l. Hazardous waste generator notices or reports. No Copy/s Attached ___ No copy avail. ___
- m. Risk assessments No Copy/s Attached ___ No copy avail. ___
- n. Recorded deed or environmental land use restrictions No Copy/s Attached ___ No copy avail. ___
- o. Other environmental studies or investigations No Copy/s Attached ___ No copy avail. ___

None
No



2. Is the property currently or was previously used for an industrial, commercial use (i.e. official and unofficial shooting ranges, processing, handling, management, disposal, storage, manufacture, or transportation of hazardous substances or petroleum products, such as a gasoline station, motor repair facility, commercial printing facility, dry cleaners, photo developing laboratory, methamphetamine lab, junkyard, boneyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility). If yes, describe the activities and provide the time frame, types, location/s and quantities of hazardous substance use and/or storage. Yes ___ No Unknown ___

3. Has there been any past, present, or permitted or planned mining activity or oil and gas exploration/development present on the property? If yes, describe the activities and provide the time frame, location/s and scope of operations. Yes ___ No Unknown ___

4. Has the property ever been used for agricultural, livestock, crop purposes? If yes, describe the operations and indicate the location/s and time frames involved. Yes No ___ Unknown ___

Taro

If yes, was hazardous substance use and/or storage involved in the operations (for example, pesticide/herbicide use, cattle dip vats). If yes, describe and provide location/s and the type, quantity, duration of use and management practices. Yes ___ No Unknown ___

5. Are there, or have there been any improvements, such as buildings, water towers, smokestacks, smelters, old building foundations, etc., on the property? If yes, describe each improvement, including: date of construction for each improvement; location on the property; square footage; past and current uses; dates of major renovations, additions, modifications; number of stories; type of construction, heating and cooling sources; water sources; sewage, solid and hazardous waste disposal; and the date of removal (if applicable). Yes No

Unknown

Residence - Refer to picture

6. Other Questions as necessary based on the records review:

None

B. Hazardous Materials & Substances

1. Do the **current** operations at/on the property involve the use and storage of hazardous materials and substances. If yes, please describe the operations and indicate the location/s, type and quantities of materials used. Describe the storage location/s and if any chemical mixing (for example, pesticide mixing and loading areas) operations occur. Discuss any use, storage, mixing, or disposal of chemicals, automotive or industrial batteries, pesticides (e.g., insecticides, herbicides, fungicides) paints, solvents, or other, on fence lines, right of ways, or other structures such as airstrips, heliports, crop duster operations, etc. Yes ___ No Unknown ___

If yes, has there been a spill or release of hazardous substances, petroleum products, or other potential environmental problems on the property associated with **current** operations? If yes, describe the nature and location/s of the release and the quantities and types of hazardous substances. This includes staining or soils and floors in areas utilized for the use and storage of hazardous materials. Yes ___ No Unknown ___

If a spill or release of hazardous substances or petroleum products had occurred, was it reported to the National Response Center or a local or State emergency response authority? If yes, identify the agency. Yes ___ No N/A Unknown ___

If a spill or release of hazardous substances or petroleum products has occurred, has the release been mitigated? If yes, describe the mitigation, identify the regulatory agency who oversaw the mitigation and indicate if a no-further action (NFA) determination has been issued by the lead regulatory agency. Yes ___ No ___ N/A Unknown ___

If remediation is completed, is there contamination or residual contamination present? If yes, are there any institutional controls/land use restrictions in place or long term monitoring and maintenance requirements? Yes ___ No ___ N/A Unknown ___

2. Are there any **past operations** at the property that involved the use and storage of hazardous materials and substances? If yes, describe the operations and the location/s, types and quantities. Yes ___ No Unknown ___

If yes, has there been a spill or release of hazardous substances, petroleum products, or other potential environmental problems on the property associated with **past operations** or tenants? If yes, describe the nature and location/s of the release and the quantities and types of hazardous substances. Yes ___ No ___ N/A Unknown ___

If a spill or release of hazardous substances or petroleum products had occurred, was it reported to the National Response Center or a local or State emergency response authority? If yes, identify the agency. Yes ___ No ___ N/A Unknown ___

If a release of hazardous substances or petroleum products had occurred, was the release been mitigated? If yes, describe the mitigation, identify the regulatory agency who oversaw the mitigation and indicate if a no-further action (NFA) determination was been issued by the lead regulatory agency. Yes ___ No ___ N/A Unknown ___

If remediation is completed, is there still contamination or residual contamination present? If yes, are there any institutional controls/land use restrictions in place or long term monitoring and maintenance requirements? Yes ___ No ___ N/A Unknown ___

3. Are there or have there ever been any easements, rights-of-way, pipelines, utility lines, railways, entry/exit ports and associated structures, either buried or overhead, crossing the property,? If yes, please describe and indicate the location/s, approximate date when constructed and the identification of the owner. Yes ___ No Unknown ___

If yes, are you aware of any spills or releases associated with them? If yes, please describe the spills and/or releases and indicate the date, type and quantities of materials involved. Yes ___ No Unknown ___

If a spill or release has occurred, are you aware if the release has been mitigated? If yes, please indicate who conducted the mitigation and identify the regulatory agency who oversaw the mitigation. If known, indicate if a no-further action (NFA) determination was been issued by the lead regulatory agency. Yes ___ No ___ N/A Unknown ___

If remediation is completed, are you aware if there is still contamination or residual contamination present? If yes, are there any institutional controls/land use restrictions in place or long term monitoring and maintenance requirements? Yes ___ No ___ N/A Unknown ___

4. Are you aware if the site topography has been altered and/or if there are any unnatural topographic features present on the property? If yes, please describe the topographic alterations and/or unnatural features. Indicate their location/s on the property and if known when the alterations occurred and by whom. Yes ___ No Unknown ___

5. Has fill material ever been brought onto the property that originated from a contaminated site or that was of an unknown origin? If yes, describe the date and quantity of material brought to the property, indicate when on the property the material was placed.

Yes ___ No Unknown ___

If fill material came from a contaminated site, identify the contaminated site of origin of the material and describe the contamination present.

None

6. Is there any evidence of waste materials currently or previously being dumped above grade, buried, and/or burned on the property (i.e. hazardous materials, petroleum products, labeled/unlabeled drums or containers, pesticide containers, household and farm debris, automotive or industrial batteries, building demolition debris, or any other waste materials)? Yes ___ No Unknown ___

7. Are there any floor drains in of the on-site structures and/or areas where hazardous materials (used oil, antifreeze, solvents, pesticides) are used and/or stored or have been used and/or stored in the past? If yes, indicate the location/s of the structures and the types, quantities and time frames related to the associated hazardous materials use and/or storage. For each area/structure also indicate where the floor drains discharge.

Yes ___ No Unknown ___

8. Are there any chemical stains present on the walls, floors and/or ceilings of the on-site areas and structures where hazardous materials are/have been used and/or stored? If yes, indicate which areas/structures have chemical staining. Yes ___ No Unknown ___

9. Are there or have there been any floors, drains, walls, or ceilings stained by substances other than water or that are emitting foul and/or unnatural odors (i.e. mold, mildew, other)? If yes, describe the location/s and the site operations that occur and have occurred in the past. Yes ___ No Unknown ___

10. Are there electrical transmission lines, transformers, capacitors, lighting ballast, or hydraulic equipment (i.e., elevators, presses, lifts, doors, etc.) present on the property? If yes, identify the location/s and approximate age of the equipment. Yes ___ No Unknown ___

If electrical transmission lines, transformers, capacitors, lighting ballast, or hydraulic equipment are present, has testing been conducted to determine the presence of polychlorinated biphenyls (PCB's) present or have PCB's ever been present in on-site equipment? If yes, indicate the location/s and type of equipment and dates. Yes ___ No Unknown ___

If PCBs are or have been present, are you aware of any release of PCBs that has occurred? If yes, describe the release and indicate the date, location/s and whether the release was mitigated. Yes ___ No ___ N/A Unknown ___

11. Is there or has there previously been any mercury containing equipment (i.e. switches, thermostats, thermometers, manometers, sink traps, etc) on the property? If yes, indicate the location/s and type of equipment and dates. Yes ___ No Unknown ___

12. Are you aware of any radon, asbestos-containing materials, or lead-based paint on the property? If yes, indicate the type, locations and dates. Yes ___ No Unknown ___

If yes, Have any radon, asbestos-containing materials, or lead-based paint surveys ever been conducted on the property? If yes, indicate whether radon, asbestos-containing materials, or lead-based paint has been identified in any on-site buildings. Identify the dates of the surveys, the structures and the results and condition of the materials? Yes ___ No Unknown ___

13. Are any above-ground or underground storage tanks, including drums or other fuel containers, being or have been used on the property? If yes, identify where on the property the tanks are/were located, when the tanks were installed and the types and quantities of hazardous materials stored. If the tanks were removed indicate when the removal took place and whether a closure certification notice was received by the lead regulatory agency. Yes ___ No Unknown ___

If above-ground or underground storage tanks are or have been used on the property, was there ever a spill or release of hazardous substances associated with the tank system? If yes, indicate the date and nature of the spill or release. Yes ___ No Unknown ___

If a spill or release has occurred related to an on-site tank system, was it mitigated to the satisfaction of the lead regulatory agency? If no, describe further actions that must be undertaken to address the spill or release. Yes ___ No ___ Not Applicable Unknown ___

14. Are you aware of any hazardous substance or pollutant or contaminant spill or release, or other potential environmental problems on any adjacent or nearby properties? If yes, please describe (if known) the location/s of the release, the type and quantities of materials involved and the approximate dates. If know, also indicate the owner of the property where the release occurred. Yes ___ No Unknown ___

If there was a release of hazardous substances, petroleum products on any adjacent or nearby properties are you aware if the release was mitigated? Yes ___ No ___ Not Applicable Unknown ___

15. Are you aware of contamination present or residual contamination present on adjacent and/or nearby properties which poses a threat or may pose a future threat to the property? If yes, describe the threat or potential threat.
Yes ___ No Unknown ___

16. Are you aware of any institutional controls/land use restrictions in place or long term monitoring and maintenance requirements in place on adjacent or nearby properties that affect the property? If yes, please describe and identify the adjacent or nearby property and the property owner. Yes ___ No Not Applicable ___ Unknown ___

17. Other Questions as necessary based on the records review:

None

C. Water and Wastewater

- 1. Does the property currently or has it ever been supplied by an on-site drinking water supply well? If yes, provide the location/s of the well and date of construction. Yes ___ No Unknown ___

Have contaminants ever been identified in the on-site drinking water well or the water system that exceeded acceptable levels? If yes, describe the contamination and indicate the dates, contaminant levels and the source of the contamination, if known.

Yes ___ No ___ Not Applicable Unknown ___

If an on-site drinking water well is no longer used, has it been properly abandoned in accordance with applicable regulatory requirements. If, yes, indicate the date the well was abandoned. Yes ___ No ___ Not Applicable Unknown ___

- 2. Does the property currently have or has there ever been an on-site waste water treatment and disposal systems (septic systems, sewage lagoons, etc.). If yes, please provide a description of the system, including the location/s, size, date constructed, and which buildings discharge to the system. Yes ___ No Unknown ___

If the on-site waste water treatment and disposal system is no longer in use has it been closed? If yes, describe method of closure and date closed. Yes ___ No ___ Not Applicable Unknown ___

3. Have any monitoring wells been installed on the property? If yes, explain the purpose of the wells and provide the location/s, dates of construction and any analytical results. Yes ___ No Unknown ___

If the monitoring well are no longer in use, have they been properly abandoned in accordance with applicable regulatory requirements. If, yes, indicate the date the well/s was abandoned. Yes ___ No ___ Not Applicable Unknown ___

4. Is surface water present on the property (i.e. pits, ponds/lagoons, rivers, creeks, oceans, etc.)? If yes, provide a description of the location/s and type of surface water present. Yes No ___ Unknown ___

Ditch for Agriculture - Taro

If surface water is present, are you aware of any unnatural characteristics (i.e., color, sheens, odors, sterile, etc.)? If yes, please describe and indicate whether the situation is new or has been present for an extended period of time.

Yes ___ No Not Applicable ___ Unknown ___

5. Is the property or has the property in the past discharged industrial and/or other wastewater (excluding storm water runoff or sanitary wastewater discharges from restrooms, kitchens, or other household-type uses) on or adjacent to the property? If yes, describe the discharge and indicate the location/s and dates. Yes ___ No Unknown ___

6. Other Questions as necessary based on the records review:

D. Compliance/Permits

1. Have there been any environmental permits or licenses issued for current or past operations associated with the property (for example, air quality and water discharge, landfills)? If yes, describe the permitted operations, indicate the permitting agency, date the permit was issued and whether the permit is still effective. Yes ___ No Unknown ___

2. Are you aware of any environmental liens against the property that have been filed or recorded under federal, tribal, state or local law? If yes, describe the lien and indicate the date and effect on the current and future use of the property.
Yes ___ No Unknown ___

3. Are you aware of any activity and land use limitations that are in place on the property or that have been filed or recorded under federal, tribal, state or local law? If yes, describe the land use restrictions and identify when they were issued and by whom.
Yes ___ No Unknown ___

4. Are you aware of any compliance/enforcement notices relating to past or current-violations of environmental laws with respect to the property or any facility on the property? If yes, describe the violations and the dates involved. Yes ___ No Unknown ___

5. Are you aware if any environmental site assessment, or other environmental investigations, of the property, or any other property/site records ever indicated the presence of hazardous substances, petroleum products, or other potential environmental problems on the property. If yes, describe the report and findings. Yes ___ No Unknown ___

6. Are you aware of any environmental site assessment, or other environmental investigations, of the property, or any other property/site records ever recommended further assessment of the property? If yes, identify the report and indicate if the further assessment was performed. Yes ___ No Unknown ___

7. Are you aware of any past, threatened, or pending lawsuits or administrative proceedings concerning a release or threatened release of any hazardous substances or petroleum products on the real property? If yes, describe and identify when and by whom the legal and/or administrative action was initiated by. Yes ___ No Unknown ___

8. Other Questions as necessary based on the records review:

None

E. Other

1. Are you aware of the presence of or has there been, any anomalous vegetation (i.e. stressed, dead, etc.) present on the property? If yes, indicate the location/s and approximate dates. Yes ___ No Unknown ___

2. Are you aware of the presence of invasive or non-native plants on the property? If yes, please indicate the location/s and common name if known (e.g., kudzu, phragmites, cheatgrass, etc.), and approximate amount if possible (e.g., approximately half an acre, etc.).

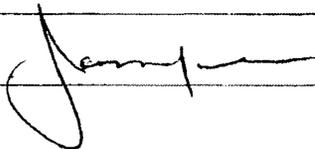
Yes ___ No Unknown ___

If yes, has there been any attempt to remove or eradicate the invasive species? If yes, explain what was attempted and if it was successful? Yes ___ No Unknown ___

Have there been any vegative control programs (i.e. along transmission lines, fence lines, rights-of-ways, pipelines) conducted on the property? If yes, describe the program and types of activities. Yes ___ No Unknown ___

3. If not mentioned above, is there anything else that could indicate the presence of hazardous substances, petroleum products or other environmental conditions that may impact the property? Yes ___ No Unknown ___

Name, Title, and signature of person conducting interview:



Date of interview:

11/2/09

All Appropriate Inquiry - Land Acquisition Screening
Worksheet 3: SITE VISIT SURVEY-VISUAL ON-SITE INSPECTION OF THE PROPERTY AND OF
ADJOINING PROPERTIES

This worksheet is intended to assist with completion of the "Site Visit Survey" portion of the All Appropriate Inquiry land acquisition screening. The AAI Rule calls for a visual on-site inspection of the subject property and facilities and improvements on the subject property, including a visual inspection of the areas where hazardous substances may be or may have been used, stored, treated, handled, or disposed. This includes a visual inspection of adjoining properties, from the subject property line, public rights-of-way, or other vantage point (e.g., aerial photography), including a visual inspection of areas where hazardous substances may be or may have been stored, treated, handled or disposed. In the unusual circumstance where an on-site visual inspection of the subject property cannot be performed because of physical limitations, remote and inaccessible location/s, or other inability to obtain access to the property, provided good faith (as defined in § 312.10) efforts have been taken to obtain such access, an on-site inspection will not be required. EPA has specified that the mere refusal of a voluntary seller to provide access to the subject property does not constitute an unusual circumstance.

In such unusual circumstances where the on-site visual inspection cannot be performed, the AAI inquiry must include: (1) Visually inspecting the subject property via another method (such as aerial imagery for large properties), or visually inspecting the subject property from the nearest accessible vantage point (such as the property line or public road for small properties); (2) Documentation of efforts undertaken to obtain access and an explanation of why such efforts were unsuccessful;

If an on-site visual inspection cannot be performed, the final report must include an assessment and comments by the environmental professional on the significance of the failure to conduct a visual on-site inspection of the subject property with regard to the ability to identify conditions indicative of releases or threatened releases on, at, in, or to the subject property, if any.

In conducting the on-site visual inspection, the staff conducting the visit must maintain a photo log and property/site map that identifies the location/s photo was taken and approximate direction of view.

To the extent that the property and on-site structures and improvements are not obstructed by water, adjacent buildings and/or structures or other physical obstructions, the following are key areas that must be noted and observed while conducting the on-site visual inspection:

- The periphery of the property shall be visually and/or physically inspected and observed.
- To the extent possible, the adjacent and surrounding properties shall be visually and/or physically observed during the site visit, so as to determine current, and if possible past uses that may help indicate environmental conditions in connection with the adjoining/surrounding properties or the property.

- If roads or paths are present on the property, they must be walked and/or driven to determine whether it has been used as an avenue for the illegal disposal of solid and hazardous wastes or petroleum products.
- The periphery and interior of all structures on the property shall be visually and/or physically inspected and observed. This includes the accessible common areas in the structures that are expected to be used by occupants or the public, maintenance and repair areas, and the occupant spaces.
- Any current and previous areas likely to involve, or have involved, the use, treatment, storage, disposal, or generation of hazardous substances or petroleum products shall be visually and/or physically inspected and observed.
- The topographic conditions of the property shall be visually and/or physically observed and noted, as well as the general topography of the area surrounding the property that is visually and/or physically observed from the periphery of the property.
- Any sewage disposal system(on-site septic systems, cesspools, etc.) for the property shall visually and/or physically observed.
- Above ground storage tanks, or underground storage tanks or vent pipes, fill pipes or access ways indicating underground storage tanks shall be visually and/or physically observed during the site visit.
- Strong, pungent, or noxious odors shall be noted during the on-site visual inspection.
- Drains, pools or sumps containing liquids likely to be hazardous substances or petroleum products shall be described in the report to the extent visually and/or physically observed or identified from the interviews or records review.
- Electrical or hydraulic equipment known to contain PCBs or likely to contain PCBs shall be described in the report to the extent visually and/or physically observed
- Stains or corrosion on floors, walls, ceilings, soils or concrete shall be visually and/or physically observed during the on-site visual inspection, except for staining from water.
- Pits, ponds, or lagoons on the property shall be visually and/or physically observed, particularly if they have been used in connection with waste disposal or waste treatment. To the extent possible, pits, ponds, or lagoons on properties adjoining the property shall be visually and/or physically observed from the property.
- All wells (including dry wells, irrigation wells, drinking water supply wells, injection wells, abandoned wells, or other wells) shall be visually and/or physically observed.
- Known or suspected areas of on-site waste disposal shall be visually and/or physically observed.

Please note that while it is intended as a useful guide, it is not all inclusive and does not meet all the requirements for the AAI rule.

A. Property Use/s

1. Are there currently structures and improvements present on the property? If yes, provide a physical description of all structures and improvements, including their condition and location/s on a property/site map.

Yes No Photo Log ID Number/s: Item: 1

Residence 32ft by 35 ft

2. Is there evidence that there were structures and improvements present on the property in the past? If yes, describe the evidence and provide a physical description of all structures and improvements, including their condition and location/s on a property/site map.

Yes No Photo Log ID Number/s: _____

Rock walls observed. Refer to photos

3. Is there evidence of past and/or current agricultural use (livestock, crop raising, nurseries, agricultural drainage; including surface, and/or subsurface drains)? If yes, describe the operations. Provide physical description of operations and identify the location/s on the property/site map.

Yes No Photo Log ID Number/s: _____

Taro raised on part of the property

4. Is there evidence of current and/or past oil and gas exploration/development. If yes describe the operations. Provide physical description of the activities and list out and identify the associated structures and improvements and identify the location/s on the property/site map.

Yes No Photo Log ID Number/s: _____

If yes, are oil and/or gas drilling pads, holding ponds or conveyance pipelines and structures present on the property? If yes, describe the operations and improvements and identify the location/s on the property/site map.

Yes ___ No ___ Not Applicable Photo Log ID Number/s: _____

If there is evidence of current and/or past spills or releases of hazardous substances or pollutants, contaminants, petroleum and petroleum products related to the oil and gas exploration/development? If yes, describe and provide the location/s of the potential spills and releases on the property/site map. Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

5. Is there any evidence of current and/or past strip mining, hard rock mining, piles, or other extractive mineral activities? If yes, describe the operations. Provide physical description of the activities and list out and identify the associated structures and improvements (waste rock piles, mill sites, mill tailings, etc.) and identify the location/s on the property/site map.

Yes ___ No Photo Log ID Number/s: _____

If there is evidence of current and/or past minerals extraction operations, is there evidence of the use/storage, or release of hazardous substances (example, fuel storage tanks, cyanide or chemical use at mill sites). If yes, describe the operations and provide physical description of the evidence and provide the location/s on the property/site map. Yes ___ No Not Applicable

Photo Log ID Number/s: _____

Refer Dr. Michael Garcia letter 6/25/2006

If there is evidence of current and/or past minerals extraction operations, are there other potential environmental concerns (draining adits or acid mine drainage, waste rock or mill tailings in or adjacent to streams and surface waters, etc.). If yes, provide physical description and provide the location/s on the property/site map. Yes ___ No Not Applicable ___

Photo Log ID Number/s: _____

If there is evidence of current and/or past minerals extraction operations, are there physical safety hazards present (open adits, vertical shafts, heavy equipment, etc.). If yes, provide physical description of the hazards and the location/s on the property/site map.

Yes ___ No ___ Not Applicable Photo Log ID Number/s: _____

If the areas of current and/or past mineral extraction activities (mine sites, mill sites, etc) are not accessible for visual and/or physical inspection, describe the reason for the inaccessibility.

None

6. Describe and note the topographic conditions of the property as well as the general topography of the area surrounding the property that is visually and/or physically observed from the periphery of the property. Identify and locate on a property/site map any key topographic features that may relate to off-site or on-site migration of contaminants. Photo Log ID Number/s: _____

The land topography is 0-3% slope with elevation change of 10-15 feet. The North and East condition contain hard fields w/ few residence. The West section is ocean front. The South portion contain heavy stands of brush. No evidence of contaminants. Refer to Topographic map

7. Is there evidence of modified topography, or unnatural topographic features? (i.e., fill dirt brought onto the property, cover for dumps, mounds, fill areas, depressions, etc.). If yes, provide a physical description and provide the location/s on the property/site map.

Yes ___ No Photo Log ID Number/s: _____

8. Is there any evidence of waste materials currently or previously being dumped above grade, buried, and/or burned on the property? (i.e., dumps, industrial waste, petroleum products, labeled/unlabeled drums or other containers, pesticide containers, household and farm debris, automotive or industrial batteries, building demolition debris, etc.). If yes, describe the evidence and provide information relating to the waste materials and disposal areas and identify the location/s on the property/site map.

Yes ___ No Photo Log ID Number/s: _____

9. Are there roads and/or paths present on the property? If yes, provide a description and indicate the location/s on a property/site map.

Yes No ___ Photo Log ID Number/s: _____

Refer to Conservation Plan map

If roads and/or paths are present, is there evidence of illegal or unauthorized dumping activities occurring? If yes provide a description of the dumping and waste materials. Based on observations indicate the approximate age of the wastes and the location/s on a property/site map. Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

B. Hazardous Materials & Substances

1. Is there evidence that current operations on the property involve the processing, handling, management, disposal, storage, manufacture, or transportation of hazardous substances or petroleum products (example, official and/or unofficial shooting ranges, gasoline station, equipment/vehicle repair, printing facility, dry cleaners, photo developing laboratory, analytical laboratory, junkyard, boneyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility)? If yes, describe the operations a provide information relating to the chemical use and storage and identify the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

If yes, is there evidence that there has been a spill or release of hazardous substances, petroleum products, or other potential environmental problems on the property associated with **current operations**? If yes, describe the nature and location/s of the release and the quantities and types of hazardous substances and identify the location/s on a property/site map. This includes staining or soils and floors in areas utilized for the use and storage of hazardous materials.

Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

2. Is there evidence that **previous operations** on the property involved the processing, handling, management, disposal, storage, manufacture, or transportation of hazardous substances or petroleum products,(example, official and/or unofficial shooting ranges, gasoline station, equipment/vehicle repair, printing facility, dry cleaners, photo developing laboratory, analytical laboratory, junkyard, boneyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility)? If yes, describe the operations and provide information relating to the chemical use and storage and identify the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

If yes, is there evidence that there has been a spill or release of hazardous substances, petroleum products, or other potential environmental problems on the property associated with **past operations or tenants**? If yes, describe the nature and location/s of the release and the quantities and types of hazardous substances and identify the location/s on a property/site map. This includes staining or soils and floors in areas utilized for the use and storage of hazardous materials.

Yes ___ No Not Applicable Photo Log ID Number/s: _____

3. Is there evidence that the property is currently or was previously used for any form of illegal activities which may involve the processing, handling, management, disposal, storage, manufacture, or transportation of hazardous substances or petroleum products (example, illegal drug labs, marijuana farms, stills, waste disposal sites)? (Any illegal activities may present very dangerous safety, chemical or explosive hazards. LEAVE the area immediately and report to proper local officials.) If yes, describe the activities and provide information relating to the chemical use and storage and identify the location/s on the property/site map. Yes ___ No

Photo Log ID Number/s: _____

4. Is there evidence of use, storage, mixing, and/or disposal of industrial drums (typically 55 gallons) or sacks of chemicals, automotive or industrial batteries, pesticides (including herbicides), paints, solvents, or other chemicals at the property? If yes, describe and indicate the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

5. Are there any unidentified substance containers on the property? if yes, provide a description of the containers that includes size, quantity and condition. Indicate their location/s on a property/site map. Yes ___ No Photo Log ID Number/s: _____

6. Is there evidence of use of chemicals, automotive or industrial batteries, pesticides, herbicides, fungicides, paints, solvents, or other, on fence lines, right of ways, airstrips, heliports, crop duster operations, etc.? If yes, describe the evidence and indicate location/s on a property/site map. Yes ___ No Photo Log ID Number/s: _____

7. Is there evidence of oiled roads, oil seeps and slicks, staining on the soil and cracked concrete, asphalt, adjacent to storm-water drains, or other surfaces? If yes, describe and indicate the location/s on a property/site map. Yes ___ No Photo Log ID Number/s: _____

8. Are there currently any aboveground or underground storage tanks on the property or indications of the presence of abandoned aboveground or underground storage tanks, such as any vent pipes, fill pipes, access ways indicating a fill pipe, concrete or asphalt pads or patches, islands, or dispensers on the property or adjacent to any structure on the property? If yes, describe and identify what materials the tanks hold/held and identify where on the property the tanks are located. Yes ___ No Photo Log ID Number/s: _____

If aboveground or underground storage are present, is there any evidence of spill or releases. If yes, describe and indicate the location/s on a property/site map. Yes ___ No ___ N/A Photo Log ID Number/s: _____

9. Is there evidence or any indications that an aboveground or underground storage tank had been installed on the property in the **past**? For example, the presence of tank pads, vent pipes, fill pipes, access ways indicating a fill pipe, or dispensers on the property or adjacent to any structure on the property? If yes, describe the evidence and identify the location/s on the property where the tanks were located. If known indicate when the tanks were removed. Yes ___ No Photo Log ID Number/s: _____

If aboveground or underground storage were previously present, is there any evidence of spill or releases. If yes, describe and indicate the location/s on a property/site map. Yes ___ No ___ N/A Photo Log ID Number/s: _____

10. Are there electric transmission lines, transformers, capacitors, or any hydraulic equipment (i.e., elevators, presses, lifts, doors, etc.) currently present on the property? If yes, describe the equipment. Indicate whether any of the equipment is labeled as either containing PCBs or being PCB free. Record information from any identification tags and indicate the location/s on a property/site map. Yes ___ No Photo Log ID Number/s: _____

If electrical transmission lines, transformers, capacitors, or hydraulic equipment are present, is there any evidence of leakage, or the presence of PCBs. If yes, describe and indicate the location/s on a property/site map.

Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

11. Is there any evidence electric transmission lines, transformers, capacitors, or any hydraulic equipment (i.e., elevators, presses, lifts, doors, etc.) being present on the property in the **past**? If yes, describe the evidence and indicate if known when and what type of equipment was present. If known indicate whether any of the equipment contained PCBs and indicate the former location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

12. Are there identified mercury containing materials (i.e., fluorescent lamps, button batteries, thermostats, thermometers, manometers, and other medical devices, pressure gauges, switches, relays, sink traps, and medical waste) on site? If yes, identify the materials. Include the quantity and a description of the condition of the equipment and identify the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

13. Is there evidence of any pipelines, utility lines, railways, entry/exit ports and associated structures, either buried or overhead, or crossing the property? If yes, describe the structures and indicate the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

If yes, is there any evidence of any spills or releases associated with them? If yes, provide a description and indicate the location/s on a property/site map. Yes ___ No Not Applicable Photo Log ID Number/s: _____

14. Is there any evidence of contamination (i.e., hazardous substances or petroleum products) or other materials (soil, rock, etc.) migrating from adjacent and/or nearby properties onto the site? If yes, describe and indicate the location/s on a property/site map. Also indicate if the migration appears to be current or whether it happened in the past. Yes ___ No Photo Log ID Number/s: _____

15. Is there any evidence of any drains, pools or sumps that contain liquids likely to be hazardous substances or petroleum products? If yes, describe and indicate the location/s on a property/site map. If know indicate what structure or site operations may be associated with the drains, pools or sumps. Yes ___ No Photo Log ID Number/s: _____

16. Are there structures (i.e., buildings, water towers, lead smelters, etc.), and/or soils surrounding structures on site, which might indicate the presence of lead in dust, old paint (peeling, chipping, chalking, or cracking lead-based paint), and/or which were built prior to 1978 (or of unknown construction dates)? If yes, identify the structures. Include a description of the lead and the location/s (interior or exterior of structures) and identify the location/s on a property/site map. If lead based paint is present also indicate whether the paint is peeling and whether there is evidence of paint chips on the ground surrounding the structures. Yes ___ No Photo Log ID Number/s: _____

If a structure contains lead, is there any indication of what the intended use for the structure is, or is it to be demolished? If yes, provide description and evidence and the location/s on a property/site map.

Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

17. Are there structures on site containing identified asbestos-containing materials (ACMs) or with suspect ACMs (i.e., fire proofing, acoustical plaster, siding, floor tiles, roofing shingles, mastic, insulation, vermiculate, etc.)? If yes, describe the structure and the ACMs. Indicate the condition of the ACMs and identify the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

18. Are there floor drains present in any of the on-site structures and/or areas where hazardous materials are used and/or stored or have been used and/or stored in the past? If yes, provide a description including the current and previous use of the structure (if known) and observed operations and types of hazardous materials. Also indicate the location/s of the floor drains in the structures, the structures on a property/site map and where the floor drain discharges to. Yes ___ No Photo Log ID Number/s: _____

In the areas with floor drains, is there evidence of any chemical stains present on the walls and/or floors of the on-site areas and structures where hazardous materials are/have been used and/or stored? If yes, indicate which areas/structures have chemical staining and where they are located on a property/site map. Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

19. Are there any floors, drains, ceilings, or walls stained by substances other than water or that are emitting foul and/or unnatural odors (i.e. mold, mildew, other)? If yes, describe the site operations that occur and/or that have occurred in the past and indicate the location/s on a property/site map. Yes ___ No Photo Log ID Number/s: _____

20. If structures are present on the property, is there indication of how the structures are heated/cooled? If yes, describe the refrigeration/cooling systems and indicate whether they contain Freon and other regulated substances? For the heating systems, identify the heating and fuel source (for example, heating oil, gas, electric, radiators from steam boiler fueled by gas) and locate on a property/site map. Yes ___ No Photo Log ID Number/s: _____

Structure borders Ocean

C. Water/Waste Water

1. Is surface water present on the property (i.e. pits, ponds, lagoons, rivers, creeks, oceans, etc.)? If yes, provide a description of the type of surface water and its location/s on a property/site map. Yes No ___ Photo Log ID Number/s: Item 1

Shoreline borders Ocean and Irrigation Ditches for irrigation of turf.

If surface water is present (example pits, ponds, lagoons), is there evidence of any unnatural characteristics (i.e., color, sheens, odors, sterile, etc.). If yes, describe and indicate the location/s on a property/site map. If known indicate whether it is associated with an activity related to the property and whether it is the situation is new or has been present for an extended period of time.

Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

If surface water is present, is there evidence of hazardous materials dumping in water bodies (e.g. used for agricultural, commercial and/or industrial purposes, marinas, docks, etc.)? If yes, describe and indicate if this is a current/on-going activity or whether it has happened in the past. Indicate the location/s on a property/site map. Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

If surface water is present, is there any evidence of bank erosion and/or other unusual characteristics in running water bodies (i.e., rivers, streams, drain channels)? If yes, describe and indicate if this is a current/on-going activity or whether it has happened in the past. Indicate the location/s on a property/site map. Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

2. Is there evidence that the property currently or was previously served by an on-site drinking water supply well? If yes, describe the well and it's condition and provide the location/s on a property/site map. If the well is no longer used indicate whether it has been properly abandoned. If no, indicate whether the property is supplied by an off-site water source. Yes ___ No Photo Log ID Number/s: _____

If a well is present on the property is there evidence of any contamination of the water supply or of the nearby soils If yes, provide a description. Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

3. Is there evidence that the property currently or was previously served by a non-potable water system (example, agricultural well, livestock troughs, fire suppression, process water, irrigation, cooling). If yes, describe the well and its condition and provide the location/s on a property/site map. If the well is no longer used indicate whether it has been properly abandoned. Yes No

Photo Log ID Number: Item 1
Used for Agriculture - Taro fields

If a non-potable well is present on the property is there evidence of any contamination of the water supply or of the nearby soils. If yes, provide a description. Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

4. Other than stormwater or sanitary wastewater discharges from restrooms, kitchens, or other household-type uses, is there evidence of industrial and/or other wastewater discharges on or adjacent to the property? If yes describe the discharge and indicate if it is a current/on-going activity or whether it has happened in the past. Indicate the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

5. Is there evidence that the property currently has, or had in the past, an on-site sanitary wastewater treatment and disposal systems (septic systems, sewage lagoons, etc.) or public sewer connection? If yes, describe the system and indicate which structures and operations discharged to the system. Provide the location/s of the system on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

If the on-site waste water treatment and disposal system is no longer in use, is there evidence that it has been closed? If yes, describe method of closure. Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

6. Is there evidence that the property discharged waste water to an off-site facility? If yes, provide a description. Yes ___ No Photo Log ID Number/s: _____

7. Is there evidence of other wastewater treatment/disposal facilities (example oil water separators, ponds, pits, lagoons, industrial) located on the property that have or may have been used for waste disposal? If yes, describe and provide the location/s on a property/site map and identify the property/site operations that may have discharged to the systems. Yes ___ No Photo Log ID Number/s _____

8. Is there evidence of any other existent discharges, drains, grates, etc that have not been addressed previously? If yes, describe and indicate the location/s on a property/site map. Yes ___ No Photo Log ID Number/s: _____

D. Other

1. Is there any evidence that any monitoring wells have been installed on the property? If yes, describe and explain the purpose of the wells (if known) and indicate the location/s on a property/site map. Yes ___ No Photo Log ID Number/s: _____

If the monitoring wells have been installed and are no longer in use, is there evidence that they been properly abandoned in accordance with applicable regulatory requirements. If, yes, describe and indicate the date the well/s was abandoned if known.

Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

2. Is there evidence of stressed vegetation on the property (i.e., bare ground, distressed/dead vegetation, unusually healthy vegetation, etc.) that is not associated with insufficient or too much water? If yes, provide a description and indicate the location/s on a property/site map and any current or past site activities or operations in the area (if known).

Yes ___ No Photo Log ID Number/s: _____

3. Are there invasive or non-native plants on the property? If yes, please indicate the location/s and common name if known (e.g., kudzu, phragmites, cheatgrass, etc.), and approximate amount if possible (e.g., approximately half an acre, etc.). Also indicate the location/s on a property/site map. Yes No ___ Photo Log ID Number: _____

African Tubip, Falmosa 120a - Java Plant

If yes, is there any indication of an attempt(s) to remove or eradicate the invasive or non-native species? If yes, provide a description and indicate the location/s on a property/site map and any current or past site activities or operations in the area (if known).

Yes No Photo Log ID Number: _____

Around residence - but not throughout property

Is there any indication of any vegative control programs (i.e. along transmission lines, fence lines, rights-of-ways, pipelines) conducted on the property? If yes, describe the program and types of activities. Yes No Photo Log ID Number: _____

4. Is there anything else observed that could indicate the presence of hazardous substances, petroleum products, or other potential environmental problems on the property? If yes, provide a description and indicate the location/s on a property/site map and how it relates to current and/or past activities or operations. Yes No Photo Log ID Number/s: _____

E. Surrounding Property Use

1. As can be visually and/or physically observed from the periphery of the property, are there currently structures and improvements present on the surrounding property? If yes, provide a physical description of the observable structures and improvements. Yes No Photo Log ID Number/s: _____

2. As can be visually and/or physically observed from the periphery of the property, is there evidence that there were structures and improvements present on the surrounding property in the past? If yes, describe the evidence.

Yes No Photo Log ID Number/s: _____

Foundations and planters - very minimal size - 3'x3' Dimension

3. As can be visually and/or physically observed from the periphery of the property, is there evidence that **current operations** on the surrounding property involve the processing, handling, management, disposal, storage, manufacture, or transportation of hazardous substances or petroleum products,(example, shooting ranges, gasoline station, equipment/vehicle repair, printing facility, dry cleaners, photo developing laboratory, analytical laboratory, junkyard, boneyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility)? If yes, describe the operations and identify the location/s on a property/site map.

Yes No Photo Log ID Number/s: _____

4. As can be visually and/or physically observed from the periphery of the property, is there evidence that **past operations** on the surrounding property involved the processing, handling, management, disposal, storage, manufacture, or transportation of hazardous substances or petroleum products,(example, shooting ranges, gasoline station, equipment/vehicle repair, printing facility, dry cleaners, photo developing laboratory, analytical laboratory, junkyard, boneyard, or landfill, or as a waste treatment, storage, disposal, processing, or recycling facility)? If yes, describe the evidence and identify the location/s on a property/site map.

Yes No Photo Log ID Number/s: _____

5. Is there evidence of any other nearby land uses or activities, especially upstream or up gradient that might have had a waste or dump site? For example, are there upstream or up gradient active or abandoned mine sites which may impact or threaten the property. If yes, describe evidence and the land use or activity and identify the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

6. Is there evidence of any hazardous substance or pollutant or contaminant spill or release, or other potential environmental problems on any adjacent or nearby properties? If yes, describe the evidence and the release and provide the location/s on a property/site map.

Yes ___ No Photo Log ID Number/s: _____

7. As can be visually and/or physically observed from the periphery of the property, is there any evidence of contamination (i.e., hazardous substances or petroleum products) or other materials (soil, rock, etc.) migrating from adjacent and/or nearby properties onto the property/site? If yes, describe and indicate the location/s on a property/site map. Also indicate if the migration appears to be current or whether it happened in the past. Yes ___ No Photo Log ID Number/s: _____

8. As can be visually and/or physically observed from the periphery of the property, is there evidence of any current or past agricultural drainage, surface, and/or subsurface drains, field runoff, etc. discharging from the adjacent properties onto the property/site. If yes, describe the discharge and indicate the location on a property/site map. Yes No ___ Photo Log ID Number/s: Item 2

Irrigation flumes used for Taro

9. As can be visually and/or physically observed from the periphery of the property, is there evidence of oil and gas exploration/development on the adjacent and surrounding property. If yes describe the operations and identify the location/s on the property/site map.

Yes ___ No Photo Log ID Number/s: _____

If yes, is there any evidence of oil and/or gas drilling pads, holding ponds or conveyance pipelines and structures present on the adjacent and surrounding property? If yes, describe the operations and improvements and identify the location/s on the property/site map.

Yes ___ No ___ Not Applicable Photo Log ID Number/s: _____

As can be visually and/or physically observed from the periphery of the property, is there evidence of current and/or past spills or releases of hazardous substances or pollutants, contaminants, petroleum and petroleum products related to the oil and gas exploration/development? If yes, describe and provide the relative location/s on a property/site map.

Yes ___ No Not Applicable ___ Photo Log ID Number/s: _____

10. As can be visually and/or physically observed from the periphery of the property, is there any evidence of strip mining, hard rock mining, piles, or other extractive mineral activities on the adjacent and surrounding property? If yes, describe the operations and identify any associated structures and improvements (waste rock piles, mill sites, mill tailings, etc.) and identify the location/s on the property/site map. Yes ___ No Photo Log ID Number/s: _____

11. As can be visually and/or physically observed from the periphery of the property, is there evidence of the use/storage, or release of hazardous substances (example, fuel storage tanks, cyanide or chemical use at mill sites) associated with the minerals extraction operations on the adjacent and surrounding property. If yes, provide a description of the evidence and provide the location/s on a property/site map. Yes ___ No Photo Log ID Number/s: _____

12. As can be visually and/or physically observed from the periphery of the property, describe and note the topographic conditions of the surrounding property as well as the general topography of the area. Identify and locate on a property/site map any key surrounding topographic features that may relate to off-site or on-site migration of contaminants. Photo Log ID Number/s: _____

Refer to Topo map - Land is fairly flat w/ slopes from 2-4% elevation change 10-15' from upper end of property to ocean.

13. As can be visually and/or physically observed from the periphery of the property, is there evidence of modified topography, or unnatural topographic features on the surrounding property that may indicate ? (i.e., fill dirt brought onto the property, cover for dumps, mounds, fill areas, depressions, etc.). If yes, provide a physical description and provide the location/s on the property/site map.

Yes ___ No Photo Log ID Number/s: _____

14. As can be visually and/or physically observed from the periphery of the property, is there evidence of stressed vegetation on the surrounding property (i.e., bare ground, distressed/dead vegetation, unusually healthy vegetation, etc.) that is not associated with insufficient or too much water? If yes, provide a description and indicate the location/s on a property/site map and any current or past site activities or operations in the area (if known). Yes ___ No Photo Log ID Number/s: _____

15. As can be visually and/or physically observed from the periphery of the property, are there invasive or non-native plants on the surrounding property? If yes, please indicate the location/s and common name if known (e.g., kudzu, phragmites, cheatgrass, etc.), and approximate amount if possible (e.g., approximately half an acre, etc.). Also indicate the location/s on a property/site map. Yes

No Photo Log ID Number: _____

Refer to Item 1 photo.

If yes, is there any indication of an attempt(s) to remove or eradicate the invasive or non-native species on the surrounding property? If yes, provide a description and indicate the location/s on a property/site map and any current or past site activities or operations in the area (if known). Yes No Photo Log ID Number: _____

Yes around the residence but not through out the property

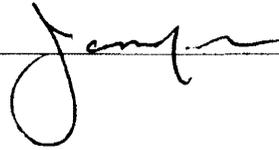
Is there any indication of any vegative control programs (i.e. along transmission lines, fence lines, rights-of-ways, pipelines) conducted on the surrounding property? If yes, describe the program and types of activities. Yes No

Photo Log ID Number: _____

16. Is there anything else observed that could indicate the presence of hazardous substances, petroleum products, or other potential environmental problems on the property or surrounding properties? If yes, provide a description and indicate the location/s on a property/site map and how it does or may threaten the property/site.

Yes ___ No Photo Log ID Number/s: _____

Name, title and signature of person conducting site visit survey: _____



Date of visit: _____

1/6/09

EXHIBIT H
Summary of Collateral Analyses

| SUBJECT | |
|--|---|
| Tax Map Key (Div 2) | 1-1-3-041 & 065 |
| Street Address | Keanae Road |
| Community Location | Keanae |
| Ocean Frontage | Oceanfront, bisected by Keanae Place |
| County Zoning | Agriculture & Conservation |
| Community Plan | Agriculture |
| Land Tenure | Fee Simple |
| Special Management Area | Yes |
| Parcel Configuration | Irregular |
| Topography/Terrain | Level to gentle slope |
| Roadway Accessibility | Adequate |
| Domestic Utilities | Electricity & Water |
| Predominant Site Views | Ocean/Mountain |
| FEMA Flood Status | Zone X |
| Site Encumbrances | Roadway/Landlocked parcels |
| Land Area in Acres | 6.300 |
| Date Recorded | |
| Instrumental/Financing | |
| Document Number | |
| Grantor | |
| Grantee | |
| Transaction Price | |
| Financing/Conditions of Sale Adjustment | |
| Adjusted Transaction Price | |
| Indicated Transaction Price per Acre | |
| Market Conditions Adjustment (Time) | |
| Market Conditions Adjusted Unit Price | |
| ADJUSTMENTS | |
| Location | |
| Zoning/Community Plan Designation | |
| Availability of Domestic Utilities | |
| Roadway Accessibility | |
| Special Management Area | |
| View Amenities | |
| Flood Status | |
| Site Encumbrances & Restrictions | |
| Oceanfront Quality | |
| Other Physical Characteristics | |
| Net Adjustments | |
| Adjusted Unit Price | |
| Size Adjustment | |
| Final Size Adjusted Unit Price per Acre | |

| Collateral 1 | Collateral 2 |
|--------------------------|-----------------------|
| 1-5-10-001 | 1-5-04-010 |
| 45-550 Hana Hwy | 47000 Hana Hwy |
| Hana | Hana |
| Ocean Cliff Front | Ocean Cliff Front |
| Conservation & Ag | Interim (Rural SLU) |
| Conservation & Ag | Rural |
| Fee Simple | Fee Simple |
| Yes | Yes |
| Irregular | Irregular |
| Level to irregular slope | Level to gentle slope |
| Adequate | Adequate |
| PV/Private water | Electricity/No water |
| Ocean/Mountain | Ocean/Mountain |
| Zone X | Zones X and VE |
| Pedestrian access | None noted |
| 18.968 | 3.817 |
| 8/5/13 | Listed 8/7/12 |
| Deed / Cash | Active Listing |
| 8617083 | MLS 353100 |
| Liljestrand Trust | Vandergaag, etal. |
| Gasztonyi Trusts | Not applicable |
| \$1,650,000 | \$899,000 |
| \$10,600 | \$0 |
| \$1,639,400 | \$899,000 |
| \$86,430 | \$235,525 |
| 1.00 | 1.00 |
| \$86,430 | \$235,525 |
| 0% | 0% |
| 10% | -10% |
| 10% | 20% |
| 0% | 0% |
| 0% | 0% |
| 0% | 20% |
| 0% | 0% |
| 5% | 5% |
| 10% | -10% |
| 35% | 25% |
| \$116,680 | \$294,407 |
| 2.40 | 0.80 |
| \$280,032 | \$235,525 |

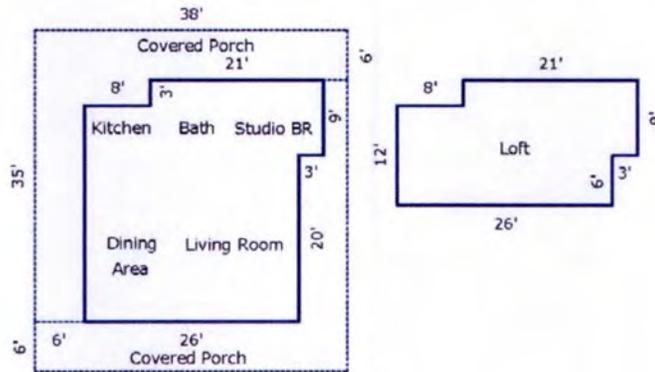
EXHIBIT I
Sketch of Improvements

SKETCH/AREA TABLE ADDENDUM

File No 12-9003

| | | | | |
|---------|--|--|--------------|-----------|
| SUBJECT | Property Address Kepler Keanae Property | | | |
| | City Keanae | County Maui | State Hawaii | Zip 96713 |
| | Borrower | | | |
| | Lender/Client Hawaiian Islands Land Trust | LIC Address P.O. Box 985 Wailuku, Hawaii 96793 | | |
| | Appraiser Name Glenn K. Kunihisa, MAI, CRE | Appr Address ACM Consultants, Inc. | | |

IMPROVEMENTS SKETCH



Scale: 1 = 17

AREA CALCULATIONS

| AREA CALCULATIONS SUMMARY | | | |
|---------------------------|--------------|-----------|------------|
| Code | Description | Net Size | Net Totals |
| GLA1 | First Floor | 757.0 | 757.0 |
| GLA2 | Loft Bedroom | 393.0 | 393.0 |
| P/P | Porch | 426.0 | |
| | | 375.0 | 801.0 |
| Net LIVABLE Area | | (rounded) | 1150 |

| LIVING AREA BREAKDOWN | | |
|-----------------------|-----------|------|
| Breakdown | Subtotals | |
| First Floor | | |
| 29.0 x 6.0 | 174.0 | |
| 3.0 x 21.0 | 63.0 | |
| 20.0 x 26.0 | 520.0 | |
| Loft Bedroom | | |
| 21.0 x 3.0 | 63.0 | |
| 6.0 x 26.0 | 156.0 | |
| 6.0 x 29.0 | 174.0 | |
| 6 Items | (rounded) | 1150 |

ADDENDUM

DEFINITIONS

The purpose of this Glossary is to assist the reader in understanding specific terminology used in this report.

- Appraisal** (noun) the act or process of developing an opinion of value; an opinion of value (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.
- Cash Equivalent** A price expressed in terms of cash, as distinguished from a price expressed totally or partly in terms of the face amounts of notes or other securities that cannot be sold at their face amounts.
- Counseling** Providing competent, disinterested, and unbiased advice and guidance on diverse problems in the broad field of real estate; may involve any or all aspects of the business such as merchandising, leasing, management, acquisition/disposition planning, financing, development, cost-benefit studies, feasibility analysis, and similar services. Counseling services are often associated with evaluation, but they are beyond the scope of appraisal.
- Discounting** A procedure used to convert periodic incomes, cash flows, and reversions into present value; based on the assumption that benefits received in the future are worth less than the same benefits received now.
- Extraordinary Assumption** An assumption, directly related to a specific assignment, as of the effective date, which, if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property such as market conditions or trends; or about the integrity of data used in an analysis. An extraordinary assumption may be used in an assignment only if:
- It is required to properly develop credible opinions and conclusions;
 - The appraiser has a reasonable basis for the extraordinary assumption;
 - Use of the extraordinary assumption results in a credible analysis; and
 - The appraiser complies with the disclosure requirements set forth in USPAP for extraordinary assumptions.
- Fair Value** The cash price that might reasonably be anticipated in a current sale under all conditions requisite to a fair sale. A fair sale means that buyer and seller are each acting prudently, knowledgeably, and under no necessity to buy or sell-, i.e., other than in a forced or liquidation sale. The appraiser should estimate the cash price that might be received upon exposure to the open market for a reasonable time, considering the property type and local market conditions. **When a current sale is unlikely- i.e., when it is unlikely that the sale can be completed within 12 months-the appraiser must discount all cash flows generated by the property to obtain the estimate of fair value.** These cash flows include, but are not limited to, those arising from ownership, development, operating, and sale of the property. The discount applied shall reflect the appraiser's judgment of what a prudent, knowledgeable purchase under no necessity to buy would be willing to pay to purchase the property in a current sale.

| | |
|---|---|
| <i>Fee Simple Estate</i> | Absolute ownership encumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat. |
| <i>Hawaiian Terms</i> | The Hawaiian words "mauka" and "makai" are commonly used in the islands as indicators of direction. The word "mauka" means toward the mountain, and "makai" means toward the ocean. |
| <i>Highest and Best Use</i> | The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability. |
| <i>Highest and Best Use of Land or a Site as Though Vacant</i> | Among all reasonable, alternative uses, the use that yields the highest present land value, after payments are made for labor, capital, and coordination. The use of a property based on the assumption that the parcel of land is vacant or can be made vacant by demolishing any improvements. |
| <i>Highest and Best Use of Property as Improved</i> | The use that should be made of a property as it exists. An existing improvement should be renovated or retained as is so long as it continues to contribute to the total market value of the property, or until the return from a new improvement would more than offset the cost of demolishing the existing building and constructing a new one. |
| <i>Hypothetical Condition</i> | A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis. Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. A hypothetical condition may be used in an assignment only if: <ul style="list-style-type: none"> • Use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison; • Use of the hypothetical condition results in a credible analysis; and • The appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions |
| <i>Leased Fee Interest</i> | An ownership interest held by a landlord with the rights of use and occupancy conveyed by lease to others. The rights of the lessor (the leased fee owner) and the lessee are specified by contract terms contained within the lease. |
| <i>Leasehold Interest</i> | The interest held by the lessee (the tenant or renter) through a lease transferring the rights of use and occupancy for a stated term under certain conditions. |
| <i>Market Rent</i> | The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the specified |

lease agreement including term, rental adjustment and revaluation, permitted uses, use restrictions, and expense obligations; the lessee and lessor each acting prudently and knowledgeably, and assuming consummation of a lease contract as of a specified date and the passing of the leasehold from lessor to lessee under conditions whereby:

- Lessee and lessor are typically motivated.
- Both parties are well informed or well advised, and acting in what they consider their best interests.
- A reasonable time is allowed for exposure in the open market.
- The rent payment is made in terms of cash in United States dollars, and is expressed as an amount per time period consistent with the payment schedule of the lease contract.
- The rental amount represents the normal consideration for the property leased unaffected by special fees or concessions granted by anyone associated with the transaction.

Market Value

The major focus of most real property appraisal assignments. Both economic and legal definitions of market value have been developed and refined. Continual refinement is essential to the growth of the appraisal profession.

The most widely accepted components of market value are incorporated in the following definition:

“The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.”

Market value is defined in the Uniform Standards of Professional Appraisal Practice (USPAP) as follows:

“A type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser as applicable in an appraisal.”

The following definition of market value is used by agencies that regulate federally insured financial institutions in the United States:

“The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:”

- Buyer and seller are typically motivated;
- Both parties are well informed or well advised, and acting in what they consider their best interests;
- A reasonable time is allowed for exposure in the open market;

- Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Prospective Market Value Upon Completion of Construction

The prospective future value of a property on the date that construction is completed, based upon market conditions forecast to exist as of the completion date.

Prospective Value Opinion

A forecast of the value expected at a specified future date. A prospective value opinion is most frequently sought in connection with real estate projects that are proposed, under construction, or under conversion to a new use, or those that have not achieved sellout or a stabilized level of long-term occupancy at the time the appraisal report is written.

Report

Any communication, written or oral, of an appraisal, appraisal review, or appraisal consulting service that is transmitted to the client upon completion of an assignment. The types of written reports listed below apply to real property appraisals:

Self-Contained Appraisal Report: A written appraisal report prepared under Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice. A self-contained appraisal report sets forth the data considered, the appraisal procedures followed, and the reasoning employed in the appraisal, addressing each item in the depth and detail required by its significance to the appraisal and providing sufficient information so that the client and the users of the report will understand the appraisal and not be misled or confused.

Summary Appraisal Report: A written report prepared under Standards Rule 2-2(b) or 8-2(b). A summary appraisal report contains a summary of all information significant to the solution of the appraisal problem. The essential difference between a self-contained appraisal report and a summary appraisal report is the level of detail of presentation.

Restricted Appraisal Report: A written report prepared under Standards Rule 2-2(c), 8-2(c), or 10-2(b). A restricted use appraisal report is for client use only. The restricted use appraisal report should contain a brief statement of information significant to the solution of the appraisal problem.

Uniform Standards of Professional Appraisal Practice

Current standards of the appraisal profession, developed for appraisers and the users of appraisal services by the Appraisal Standards Board of The Appraisal Foundation. The Uniform Standards set forth the procedures to be followed in developing an appraisal, analysis, or opinion and the manner in which an appraisal, analysis, or opinion is communicated. They are endorsed by the Appraisal Institute and by other professional appraisal organizations.

LIMITING AND CONTINGENT CONDITIONS

ACM Consultants, Inc.

1. The property is appraised as though free and clear of any or all liens and encumbrances unless otherwise stated in this report. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable, and therefore, will not render any opinions about the title.
2. Legal descriptions referenced in the report were obtained from public documents from the State of Hawaii, Bureau of Conveyances, or were furnished by the client, and were assumed to be correct.
3. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in this appraisal report.
4. It is assumed that all required licenses, certificates of occupancy or other legislative or administrative authority from any local, state, or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report are based.
5. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless otherwise stated in this report. Responsible ownership and competent property management are assumed unless otherwise stated in this report.
6. The Appraiser has inspected as far as possible, by observation, the land and the improvements; however, it was not possible to personally observe conditions beneath the soil or hidden structurally or by other components. The appraisal assumes that there are no hidden, unapparent, or apparent conditions of the property site, subsoil, or structures or toxic material which would render it more or less valuable. The Appraiser and firm have no responsibility for any such conditions or for any expertise or engineering to discover them. All mechanical components are assumed to be in operable condition and status standard for properties of the subject type. Conditions of heating, cooling, ventilation, electrical and plumbing equipment is considered to be commensurate with the conditions of the balance of the improvements unless otherwise stated. No judgment may be made by us as to adequacy of insulation, type of insulation, or energy efficiency of the improvements or equipment, and no representations are made herein as to these matters unless specifically stated and considered in the report.
7. Information provided by third parties including government agencies, financial institutions, realtors, buyers, sellers, property owners and others and contained in this report were obtained from sources considered reliable and believed to be true and correct. However, no warranty is assumed for possible misinformation.
8. All engineering is assumed to be correct. Any plot plans and illustrative material in this report are included only to assist the reader in visualizing the property. Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report. No survey has been made for the purpose of this report.
9. The appraiser is not qualified to detect hazardous waste and/or toxic materials. Any comment by the appraiser that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The appraiser's value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in this report. No responsibility is assumed for any environmental conditions, or for any expertise or engineering knowledge required to discover them. The appraiser's descriptions and resulting comments are the result of the routine observations made during the appraisal process.
10. If analysis contained in this appraisal involves partial interests in real estate, the value of the fractional interest plus the value of all other fractional interests may or may not equal the value of the entire fee simple estate considered as a whole.
11. Unless otherwise stated in this report, the subject property is appraised without a specific compliance survey having been conducted to determine if the property is or is not in conformance with the requirements of the Americans with Disabilities Act. The presence of architectural and communications barriers that are structural in nature that would restrict access by disabled individuals may adversely affect the property's value, marketability, or utility.
12. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event, only with proper written qualification and only in its entirety.
13. The Appraiser(s) or those assisting in preparation of the report will not be asked or required to give testimony in court or hearing because of having made the appraisal, in full or in part, nor engage in post appraisal consultation with client or third parties except under separate and special arrangement and at additional fee. If testimony or deposition is required because of subpoena, the client shall be responsible for any additional time, fees, and charges regardless of issuing party.
14. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news sales, or other media without prior written consent and approval of the appraiser.

ACCEPTANCE OF, AND/OR USE OF THIS APPRAISAL REPORT BY CLIENT OR ANY THIRD PARTY CONSTITUTES ACCEPTANCE OF THE ACM CONSULTANTS, INC., CERTIFICATION, LIMITING AND CONTINGENT CONDITIONS. APPRAISER LIABILITY EXTENDS ONLY TO STATED CLIENT, NOT SUBSEQUENT PARTIES OR USERS OF ANY TYPE, and the total liability of Appraiser(s) and firm is limited to the amount of fee received by Appraiser.

PROFESSIONAL QUALIFICATIONS

Glenn K. Kunihisa, MAI

STATE LICENSING

State Certified General Appraiser,
State of Hawaii, License No. CGA 39, July 17, 1991
Expiration: December 31, 2013



PROFESSIONAL AFFILIATIONS

Member, Appraisal Institute, MAI Designation, Hawaii Chapter No. 67
Member, National Association of Realtors, Maui Board of Realtors

PROFESSIONAL INVOLVEMENT

Past President – Hawaii Chapter of the Appraisal Institute – 2009
Past Chair – Hawaii Chapter of The Counselors of Real Estate - 2011

COMMUNITY AFFILIATIONS

St. Anthony Parish School Board
Board Member 1995 to 2008
Board President 1997 and 1998
Alii Community Care, Inc. – A non-profit health care corporation
Board Member 2004 to 2006

EMPLOYMENT

President, ACM Consultants, Inc.
May, 1997 to present

Previously associated with the following:

ACM, Real Estate Appraisers, Inc. - 1986 to 1997
A&B Commercial Company; a division of Alexander & Baldwin, Inc. - 1979 to 1985
Bank of Hawaii - 1976 to 1979

GENERAL EDUCATION

University of Hawaii at Manoa
Master of Business Administration (MBA) - Executive MBA Program V, 1988
Bachelor of Business Administration (BBA), 1976
Iolani School, 1971

LEGAL & CONSULTING

Qualified as an expert witness in the Second Circuit Court of the State of Hawaii
Qualified as an expert in testimony to the State Land Use Commission
Experienced in real estate arbitration assignments in the State of Hawaii

APPRAISAL EDUCATION

Appraisal Institute

| | |
|---------|---|
| Course | <i>Fundamentals of Separating Real Property, Personal Property and Intangible</i> |
| | <i>Business Assets</i> |
| | Honolulu, Hawaii – July 2012 |
| Course | <i>Online 7-Hour National USPAP Equivalent Course</i> |
| | Chicago, Illinois – December 2011 |
| Seminar | <i>Appraisal Curriculum Overview (2-day general)</i> |
| | Honolulu, Hawaii – July 2010 |

Professional Qualifications
Page 2

| | |
|------------|--|
| Seminar | <i>Online Valuation of Green Residential Properties</i> Chicago, Illinois – July 2010 |
| Seminar | <i>Hotel Valuation</i> Honolulu, Hawaii – February 2010 |
| Seminar | <i>Online Small Hotel/Motel Valuation</i> Chicago, Illinois – November 2009 |
| Seminar | <i>Business Practices and Ethics</i> Honolulu, Hawaii – September 2009 |
| Seminar | <i>Hawaii Lands, Historical Review</i> Lihue, Hawaii – August 2009 |
| Seminar | <i>Appraisal Challenges: Declining Markets and Sales Concessions</i> Cambria, California – October 2008 |
| Course | <i>7-Hour National USPAP Update Course</i> Honolulu, Hawaii – September 2008 |
| Course | <i>Online 7-Hour National USPAP Equivalent Course</i> Chicago, Illinois – October 2007 |
| Course | <i>Valuation of Conservation Easements</i> Denver, Colorado – October 2007 |
| Seminar | <i>Uniform Standards for Federal Land Acquisitions (“Yellow Book”)</i> <i>Practical Applications for Fee Appraisers</i> Honolulu, Hawaii – December 2006 |
| Seminar | <i>California Conservation Easements</i> Sacramento, California – November 2005 |
| Course 400 | <i>7-Hour National USPAP Update Course</i> Honolulu, Hawaii – October 2005 |
| Seminar | <i>Case Studies in Limited Partnership and Partial Interest Valuation</i> Honolulu, Hawaii – May 2005 |
| Seminar | <i>Appraisal Consulting: A Solutions Approach for Professionals</i> Honolulu, Hawaii – February 2005 |
| Seminar | <i>Real Estate Finance, Value and Investment Performance</i> Honolulu, Hawaii – February 2005 |
| Seminar | <i>Fannie Mae Residential Presentation</i> Honolulu, Hawaii - July 2004 |
| Seminar | <i>Subdivision Analysis</i> Chicago, Illinois - August 2003 |
| Seminar | <i>Supporting Capitalization Rates</i> Chicago, Illinois - August 2003 |
| Seminar | <i>The Technology Assisted Appraiser</i> Chicago, Illinois - August 2003 |
| Seminar | <i>Scope of Work: Expanding Your Range of Services</i> Chicago, Illinois - August 2003 |
| Course 400 | <i>National Uniform Standards of Professional Practice</i> Honolulu, Hawaii - May 2003 |
| Course 420 | <i>Business Practices and Ethics</i> Honolulu, Hawaii - May 2003 |
| Seminar | <i>The Private Conservation Market</i> Honolulu, Hawaii - July 2002 |
| Seminar | <i>Finance Reporting Valuations Parts I and II</i> Honolulu, Hawaii - July 2002 |
| Seminar | <i>Future of Appraisal Profession from a Global Perspective</i> Honolulu, Hawaii - July 2002 |

| | |
|-------------------|---|
| Seminar | <i>Appraisal Office Management</i> Honolulu, Hawaii - July 2002 |
| Course 540 | <i>Report Writing</i> Denver, Colorado - December 2000 |
| Seminar | <i>Partial Interests: Theory and Case Law</i> Las Vegas, Nevada - July 2000 |
| Seminar | <i>Easement Valuation</i> Las Vegas, Nevada - July 2000 |
| Seminar | <i>Bridging the Gap: Marketability Discounts for Real Estate Interests</i> Las Vegas, Nevada - July 2000 |
| Course 430 | <i>Standards of Professional Practice, Part C</i> Honolulu, Hawaii - September 1999 |
| Seminar | <i>Litigation Skills for the Appraiser: An Overview</i> Honolulu, Hawaii - May 1998 |
| Seminar | <i>Special Purpose Properties</i> Honolulu, Hawaii - September 1997 |
| Seminar | <i>Highest and Best Use Applications</i> Honolulu, Hawaii - September 1997 |
| Seminar | <i>Detrimental Conditions</i> Honolulu, Hawaii - July 1997 |
| Seminar | <i>The Appraiser As Expert Witness</i> Honolulu, Hawaii - August, 1995 |
| Seminar | <i>How to Appraise FHA-Insured Property</i> Los Angeles, California - January, 1995 |
| Seminar | <i>Understanding Limited Appraisals and Reporting Options</i> Honolulu, Hawaii - August, 1994 |
| Seminar | <i>Valuation of Leasehold Interests</i> Honolulu, Hawaii - May, 1993 |
| Seminar | <i>Valuation of Leased Fee Interests</i> Honolulu, Hawaii - May, 1993 |
| Seminar | <i>Valuation Considerations: Appraising Non-Profits</i> Boston, Massachusetts - July, 1992 |
| Seminar | <i>Americans With Disabilities Act</i> Boston, Massachusetts - July, 1992 |
| Seminar | <i>Valuation in Today's Capital and Financing Markets</i> Honolulu, Hawaii - June 1992 |
| Seminar | <i>Arbitration Principles, Procedures and Pitfalls</i> Honolulu, Hawaii - June, 1992 |
| Seminar | <i>Institutional Real Estate in the 1990's</i> Honolulu, Hawaii - June, 1992 |
| Seminar | <i>FIRREA and its Impact on Appraisers</i> Honolulu, Hawaii - June, 1992 |
| Course 410/420 | <i>Standards of Professional Practice, Parts A & B</i> Honolulu, Hawaii - April, 1991 |

The American Society of Farm Managers and Rural Appraisers, Inc.

| | |
|---------|--|
| Seminar | <i>Agricultural Lease Valuation</i> Honolulu, Hawaii – March 2006 |
|---------|--|

Maui Coastal Land Trust

| | |
|---------|---|
| Seminar | <i>Understanding the New Tax Incentives: Conservation Easements & Other Charitable Contributions</i> Wailuku, Hawaii – June 2007 |
|---------|---|

Society of Real Estate Appraisers

- | | |
|------------|--|
| Course 101 | <i>Introduction to Appraising Real Property</i> Dallas, Texas – 1987 |
| Course 102 | <i>Applied Residential Property Valuation</i> Honolulu, Hawaii - July 1990 |
| Course 201 | <i>Principles of Income Property Appraising</i> Chicago, Illinois, 1987 |
| Course 202 | <i>Applied Income Property Valuation</i> San Diego, California - 1988 |
| Seminar | <i>Professional Practice and the Society of Real Estate Appraisers</i> Honolulu, Hawaii - 1988 |
| Seminar | <i>Appraisal Standards Seminar - Federal Home Loan Bank Board Guidelines, Regulations and Policies</i> Honolulu, Hawaii - April, 1988 |
| Seminar | <i>Appraisal Standards Seminar - Federal Home Loan Bank Board Guidelines, Regulations and Policies</i> Honolulu, Hawaii - April, 1988 |

American Institute of Real Estate Appraisers

- | | |
|---------|--|
| Seminar | <i>Rates, Ratios and Reasonableness</i> Honolulu, Hawaii - 1989 |
| Seminar | <i>Discounted Cash Flow Analysis</i> Honolulu, Hawaii - 1989 |
| Seminar | <i>Highest and Best Use</i> Honolulu, Hawaii - 1989 |
| Seminar | <i>Capitalization Overview - Part A</i> Honolulu, Hawaii - 1990 |
| Seminar | <i>Capitalization Overview - Part B</i> Honolulu, Hawaii – 1990 |
| Seminar | <i>Accrued Depreciation</i> Honolulu, Hawaii - 1990 |

International Right of Way Association

- | | |
|------------|--|
| Course 410 | <i>Reviewing Appraisals in Eminent Domain</i> San Diego, California – February 2011 |
| Course 101 | <i>Appraisal</i> Las Vegas, Nevada - October 1998 |
| Course 101 | <i>Negotiation</i> Las Vegas, Nevada - October 1998 |

National Business Institute, Inc.

- | | |
|---------|--|
| Seminar | <i>Commercial Real Estate Leasing In Hawaii</i> Honolulu, Hawaii - 1989 |
|---------|--|

American Arbitration Association

- | | |
|---------|--|
| Seminar | <i>Real Estate Dispute Resolution - Mediation and Arbitration</i> Kahului, Maui, Hawaii - October, 1990 |
|---------|--|

PROFESSIONAL QUALIFICATIONS

Shane M. Fukuda

STATE LICENSING

State Certified General Appraiser
State of Hawaii, License No. CGA-810, July 1, 2007
Expiration: December 31, 2013

PROFESSIONAL AFFILIATIONS

Candidate for Designation – Appraisal Institute

EMPLOYMENT

ACM Consultants, Inc.
November 2009 to Present
Vice President – Commercial Division
July 2007 to October 2009
Staff Appraiser
October 2004 to June 2007
Appraiser Assistant; Appraiser Trainee

Previously associated with the following:

Dollar Thrifty Automotive Group, Inc.
1994 to 2004
Rental Agent; Lead Rental Agent; Station Manager; Senior Station Manager

GENERAL EDUCATION

Maui Community College, 1989-1991
Henry Perrine Baldwin High School, 1989

APPRAISAL EDUCATION

Appraisal Institute

| | |
|--------------|--|
| Course 405G | <i>Online General Appraiser Report Writing and Case Studies</i> Chicago, Illinois – August 2012 |
| Course | <i>Online 7 Hour National USPAP Equivalent</i> Chicago, Illinois – December 2011 |
| Course 501GD | <i>Advanced Income Capitalization</i> San Diego, California – June 2011 |
| Seminar | <i>Hotel Valuation</i> Honolulu, Hawaii – February 2010 |
| Seminar | <i>Online Subdivision Valuation</i> Chicago, Illinois – December 2009 |

Professional Qualifications
Page 2

| | |
|------------|---|
| Seminar | <i>Online Business Practices and Ethics</i> Chicago, Illinois – December 2009 |
| Seminar | <i>Online Small Hotel/Motel Valuation</i> Chicago, Illinois – December 2009 |
| Course | <i>Online 7 Hour National USPAP Equivalent</i> Chicago, Illinois – December 2009 |
| Seminar | <i>Hawaii Lands, Historical Review</i> Kahului, Hawaii – September 2009 |
| Course 320 | <i>General Applications</i> San Diego, California – July 2006 |
| Course 310 | <i>Basic Income Capitalization</i> San Diego, California – July 2006 |
| Course 101 | <i>Basic Appraisal Procedures</i> Denver, Colorado – April 2005 |
| Course 100 | <i>Basic Appraisal Principles</i> Denver, Colorado – April 2005 |

Lincoln Graduate Center

| | |
|------------|---|
| Course 405 | <i>Residential Sales Comparison & Income Approaches</i> Honolulu, Hawaii – November 2006 |
| Course 404 | <i>Residential Appraiser Site Valuation & Cost Approach</i> Honolulu, Hawaii – November 2006 |
| Course 403 | <i>Residential Market Analysis & Highest & Best Use</i> Honolulu, Hawaii – November 2006 |
| Course 772 | <i>National USPAP Course</i> Honolulu, Hawaii – October 2006 |
| Course 772 | <i>National USPAP Course</i> Honolulu, Hawaii – January 2005 |

MISCELLANEOUS EDUCATION

REALM Business Solutions

| | |
|--------|---|
| Course | <i>Argus 12.0</i> Honolulu, Hawaii – July 2005 |
|--------|---|