

PSLU Committee

From: Lucienne de naie <laluzmaui@gmail.com>
Sent: Thursday, November 12, 2020 8:30 AM
To: PSLU Committee
Subject: Testimony for PSLU-54(2)
Attachments: W670 Compliance PSLU 54(2).1.pdf; PSLU-54(2) Summary.doc

Aloha PSLU Chair Paltin-

herte is our presentation for today.

Mahalo

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Nov. 12, 2020

TO: PSLU Committee Members-

RE: PSLU-54-2: Citizen Presentation on Honua'ula Project 2020 Zoning Compliance

Please find a summary of the Conditions of Zoning that concern us and are the subject of our presentation.

Condition 2

Requires various roadway improvements, including a widening of Piilani Hwy to 4 lanes from Kilohana St to Wailea Ike Dr. before any construction can begin on Wailea 670 parcel

This condition complies with Kihei-Makena CP which specifies that the 4-lane capacity needs to be available before larger projects from Wailea south are built (ie Wailea 670, Wailea Resort Phase II, Makena Resort.)

This Condition involves widening the Highway for its last 1.44 miles. The HP "compliance reports" since 2009 have used a 2009 Draft EA and a 2012 Final EA for the 4- lane widening as the "proof" that progress is being made on the condition. This EA was done as a joint effort by Makena Resort/ W670 and A&B Wailea Resort who all are required to contribute to funding the improvements.

In reality, in 2014 an agreement was quietly made between A&B Wailea and HDOT to OK a "3 lane" Piilani Hwy. to meet future traffic impacts to 2035. This means Wailea Resort will construct one additional lane on the Maui Meadows /W670 side of the Hwy.

Maui Meadows residents were never informed of this decision. **This option was never discussed or evaluated in the 2012 Final EA for Piilani widening that HP refers to in every one of its reports.**

HP has never mentioned the existence of this agreement in ANY of their 6 compliance reports since 2014, although it is highly unlikely that they knew nothing about it.

This agreement is based on a traffic consultant's report commissioned by A&B Wailea and sent to HDOT in 2014. The report concluded that only one additional lane was needed and it should be northbound only. (This ignores the South Maui Community Plan that specifically requires a 4 lane highway the entire length of Piilani before any large developments approved from Wailea south are built.)

Conveniently, this meant that Wailea resort did not need to relocate utility poles/ water lines etc located in what would have been the road ROW on the Wailea side and the entire construction impact, blasting blue rock cliffs and modifying nine drainage culverts would be on the Maui Meadows side.

CONCLUSION: The intent of Condition 2, upholding the South Maui Community Plan and providing adequate road capacity, appears to be circumvented by a backroom deal. The Council appears unaware that this is what is planned. The communities affected by the 'solution' have not been informed. The sincere effort for "compliance" on this condition is questionable. It appears like a money saving solution that leaves out the impacted neighborhoods; ignores the community plan and may not provide necessary road capacity.

Condition 20

requires marine water quality monitoring/testing reports to establish a baseline of existing water quality along the Wailea shoreline BEFORE HP/Wailea 670 project construction, during, and after construction.

The idea was to have this water quality monitoring/testing provide useful info to the DOH who does not have the resources to test the Wailea area and has very little info in their federal water quality reports on the area. The Compliance report states that Marine Research Consultants (MRC) was hired and the testing is done annually and reports sent to HDOH. The reports, it turns out were never submitted to Dept of Health as required in Condition 20, therefore, that information has not been utilized in any way for the past 12 years since the Condition was agreed to. The State Land Use Commission required a similar, but less specific condition in 1993. The reports required by Maui County are cited as compliance with that condition.

CONCLUSION: it doesn't appear HP or their consultants takes these "conditions" seriously. There is clear lack of compliance with the specifics and the intent of this condition for the past 12 years since NO DATA is getting to HDOH to help create a long term baseline of the area's marine water quality.

Condition 13 and 26:

26 requires a Historic Preservation Plan approved by BOTH SHPD and OHA.

13 requires a "Cultural Resources Preservation Plan" (CRPP) reviewed by SHPD and OHA and reviewed and "adopted" by the Maui Cultural Resources Commission.

This was because the rezoning application did not meet Title 19 Zoning: Chapter 19.510 APPLICATION AND PROCEDURES standards:

D. Content of Application. All applications shall provide the following information:

- 9. Preliminary archaeological and historical data and comments from the department of land and natural resources and office of Hawaiian affairs of the State, and if applicable, a preservation/mitigation plan which has been reviewed and approved by the department of land and natural resources and office of Hawaiian affairs of the State;

The language of Condition 26 came from this CIZ Application requirement.

Wailea 670 rezoning was approved in 2008 without any complete arch survey or Preservation Plan. In fact, it is fair to say, that the project's archaeologist had overlooked the majority of historic sites on the land, including a number of ceremonial sites and rare traditional stepping stone trails. SHPD had sent back the Draft Arch Survey (AIS) reports numerous times to fix lack of information, and citizens had brought forth proof of many more arch sites than the few shown in the Draft AIS report. Condition 26 gave HP the chance to move forward, with its next approvals, but required that they go back and really have good archaeological review before the Project District Phase II approval from the Maui Planning Commission.

This proved to be important, because while the project told the council in 2008 that the whole 670 acre site had just 28 arch sites with 40 features, the truth is it is a very important cultural landscape with over 200 sites and thousands of archaeological features.

Many arch reports later, the project pressured SHPD to accept arch reports and "Preservation Plans" that are missing important sites. An AIS was accepted by SHPD in 2015 after 2 years of

revisions, even though it left out around 50 known arch sites that were recorded so poorly that they couldn't be relocated to be included in the AIS report. Many of these are very culturally important sites, whose true significance has not been fully evaluated, since the comments of cultural users were not sought and when offered, not valued. Instead, HP held a number of meetings where archaeologists gave their opinions.

Citizens and cultural users of the land, relocated and documented dozens of these "missing" arch sites and included their mapping and protection in the 2016 EIS Challenge Settlement agreement between Sierra Club, Maui Unite! and HPLLC and Maui County. HP consultants referred to them as "decommissioned" sites- a term that does not exist among archaeological reviewers.

Even though HP had a signed settlement agreement with citizen groups that specifically protected around 50 "missing" arch sites, all of these important archaeological resources were left out of the HP 2017 "Preservation Plan" that was accepted by SHPD. Since this is the "document of record" that other studies will use for decades to come, this is a serious gap in archaeological reporting.

The same deeply flawed maps used in the HP Preservation Plan were used in the HP "Cultural Resources Preservation Plan" (CRPP) a document that sounds impressive, but actually has no legal definition, guidelines or review standards. Condition of Zoning 13 requires that this CRPP be reviewed and "adopted" by the Maui Cultural Resources Commission (CRC.) This happened in March, 2018, even though the CRPP left out scores of cultural sites that are in plain view on the property, and now are at risk of destruction, because arch maps show a blank spot where a historic site is actually located

Citizens are still trying to get an adequate review done of the thousands of archaeological sites and features on the land. Our slide show will illustrate those efforts.

OHA beneficiaries have asked the agency to not accept a substandard HP Preservation Plan and want the job done right: starting with an updated AIS survey that actually includes all the sites on the land and a two way consultation process.

CONCLUSION: HP has consistently tried to avoid preservation of the important cultural landscape on their lands for nearly 20 years. The intent of Condition 26 is to have the area receive proper review and protection. The Council should recommend that the County Archaeologist review citizen concerns and the existing reports and recommend to State Historic Division whether updated survey work is needed to truly fulfill condition 26.

Condition 13 was "satisfied: in 2018 by presenting a deeply flawed document to the CRC and then not providing truthful information to CRC questions. The CRC has no standards by which to "adopt" a CRPP, yet this decision was made. We hope the Committee will recommend that the decision be revisited since it was made based on false information.

Condition 27 is a bit complicated.

Title 19. Zoning: Chapter 19.510 APPLICATION AND PROCEDURES

Requires various studies and plans that were not done in Wailea 670's rezoning application, so the equivalent conditions were put into the rezoning conditions. Condition 27 is based upon this language in Title 19:

“16. Identification of environmentally sensitive areas, habitat and botanical features which include, but which are not limited to, wetlands, streams, rock outcroppings, endangered plants and animals, and exceptional trees, if applicable, a baseline study and preservation/mitigation plan, and comments, if applicable, from the department of land and natural resources of the State, the United States Fish and Wildlife Service, and the United States Corps of Engineers;”

Condition 27 requires a Preserve area for native plants and Arch sites to be established in the project. This was proposed to be 22-acres when the rezoning was discussed in 2008. Condition 27 specified a larger preserve if USFWS and DLNR felt that the presence of native species merited such protection. They did, but HP LLC resisted creating the larger preserve until the Sierra Club/ Maui Unite! EIS challenge entered settlement negotiations. HP began work on a Federal Habitat Conservation Plan (HCP) and a “takings permit” . The HCP draft was presented to Maui Planning Commission in 2018 to satisfy that portion of Condition 27. Suffice it to say, HP appears to have used the USFWS reviewed (but not yet approved) HCP to satisfy part of Condition 27, then, last month, HP withdrew from the voluntary Habitat Conservation Plan process.

This makes it unlikely that HP will ever have a Conservation Plan reviewed and approved by DLNR or USFWS, since these agencies only review plans that follow specific guidelines to achieve accountability. The new claim that the endangered Blackburn Sphinx moth no longer occupies the site is also questionable, since the survey was conducted in April, May and June 2020 during drought-like conditions. Creatures trying to stay alive do not breed during such conditions, so it is not surprising none were seen.

For many years HP has told the Council during compliance reports that they are meeting this condition by working with USFWS on their Habitat Conservation Plan. Without USFWS to oversee compliance, it is unlikely that any effort to establish a preserve, maintain a preserve and enhance conditions for the thousands of native plants will be sincerely implemented.

CONCLUSION: Since the intention of Condition 27 is to create and effectively maintain a preserve for native plants and animals on the Wailea 670 lands, the Council and the County should question whether HP's switch to a plan that may appear to be similar to a HCP, but will have no accountability or guidelines for State or federal review, is truly in compliance with Condition 27?

HONUA'ULA COMPLIANCE

2008- 2020



WHY DOES HONUA'ULA HAVE CONDITIONS OF ZONING?

- HONUA'ULA PROJECT WAS REVIEWED FROM 2002 TO 2008
- CITIZENS AND COUNCIL MEMBERS ASKED FOR A “COMPLETE” CHANGE IN ZONING APPLICATION, BUT WERE TOLD INFO WOULD BE GIVEN LATER, ON SOME KEY TOPICS, AFTER ZONING CHANGE APPROVED.
- THE PROJECT WAS APPROVED WITHOUT A COMPLETE ARCHAEOLOGICAL SURVEY OR PRESERVATION PLAN; A COMPLETE BOTANICAL SURVEY; AND MISSING OTHER IMPORTANT DATA.
- AS A RESULT, THE PROJECT HAD 30 CONDITIONS OF ZONING TO HELP “FILL IN THE GAPS”, SOME “STANDARD,” SOME SPECIFICALLY TO ENSURE THAT THE LANDOWNERS ACTUALLY PROVIDED ADEQUATE INFORMATION AND PLANS TO MITIGATE THE PROJECT'S IMPACTS.

REMEMBER: CONDITIONS OF ZONING WERE SUPPOSED TO “FIX” A CONTROVERSIAL PROJECT AND MAKE IT “PONO.”

- **WAILEA 670/HONUUA’ULA MADE MANY, MANY “PROMISES” TO THE COUNCIL MEMBERS, AND STILL ONLY PASSED BY A VOTE OF 5 TO 4.**
- **VOTING TO DENY THE REZONING FOR THE 670 ACRES WERE COUNCIL CHAIR HOKAMA, AND SOUTH MAUI COUNCILMEMBER ANDERSON. EAST MAUI AND WEST MAUI COUNCIL MEMBERS ALSO VOTED TO DENY REZONING.**
- **COUNCIL MEMBER VICTORINO, VOTED “YES” & TOLD THE PUBLIC THAT THE 30 CONDITIONS MEANT THE PUBLIC COULD HOLD THE PROJECT “ACCOUNTABLE.”**

CONDITION 2 COMPLIANCE

PIILANI HWY IMPROVEMENTS

- **KIHEI-MAKENA COMMUNITY PLAN REQUIRES A 4-LANE PI'ILANI HWY ALL THE WAY TO WAILEA IKI DR BEFORE ANY NEW LARGE DEVELOPMENTS ARE BUILT SOUTH OF KILOHANA DR. (MAUI MEADOWS)**
- **CONDITION 2 REQUIRES THE HONUA'ULA PROJECT TO: “Upgrade Piilani Highway, from Kilohana Drive to Wailea Ike Drive, to four lanes of traffic. The improvements shall be completed prior to the commencement of any construction on the site, with the exception of grading. “**
- **MAKENA RESORT AND WAILEA RESORT ALSO HAVE ZONING CONDITIONS THAT REQUIRE A FOUR LANE PI'ILANI HWY BEFORE CERTAIN PERMITS ARE ISSUED.**
- **HP COMPLIANCE REPORTS REFER TO A DRAFT AND FINAL EA ON THE WIDENING PROJECT COMPLETED IN 2012 AND A VAGUE REFERENCE TO A “DRAFT PROJECT DEVELOPMENT AGREEMENT” BEING REVIEWED BY STAKEHOLDERS.**

1.44 MILES OF PI'ILANI HWY WOULD BE WIDENED.

A 2014 WAILEA/HDOT AGREEMENT WOULD HAVE ALL CONSTRUCTION ON MAUKA SIDE OF HWY WHICH IS 75% FRONTING EXISTING NEIGHBORHOODS.

HP COMPLIANCE REPORTS DO NOT MENTION THAT THIS IS CURRENT PLAN, OR DESCRIBE HP ROLE IN THE PLAN.

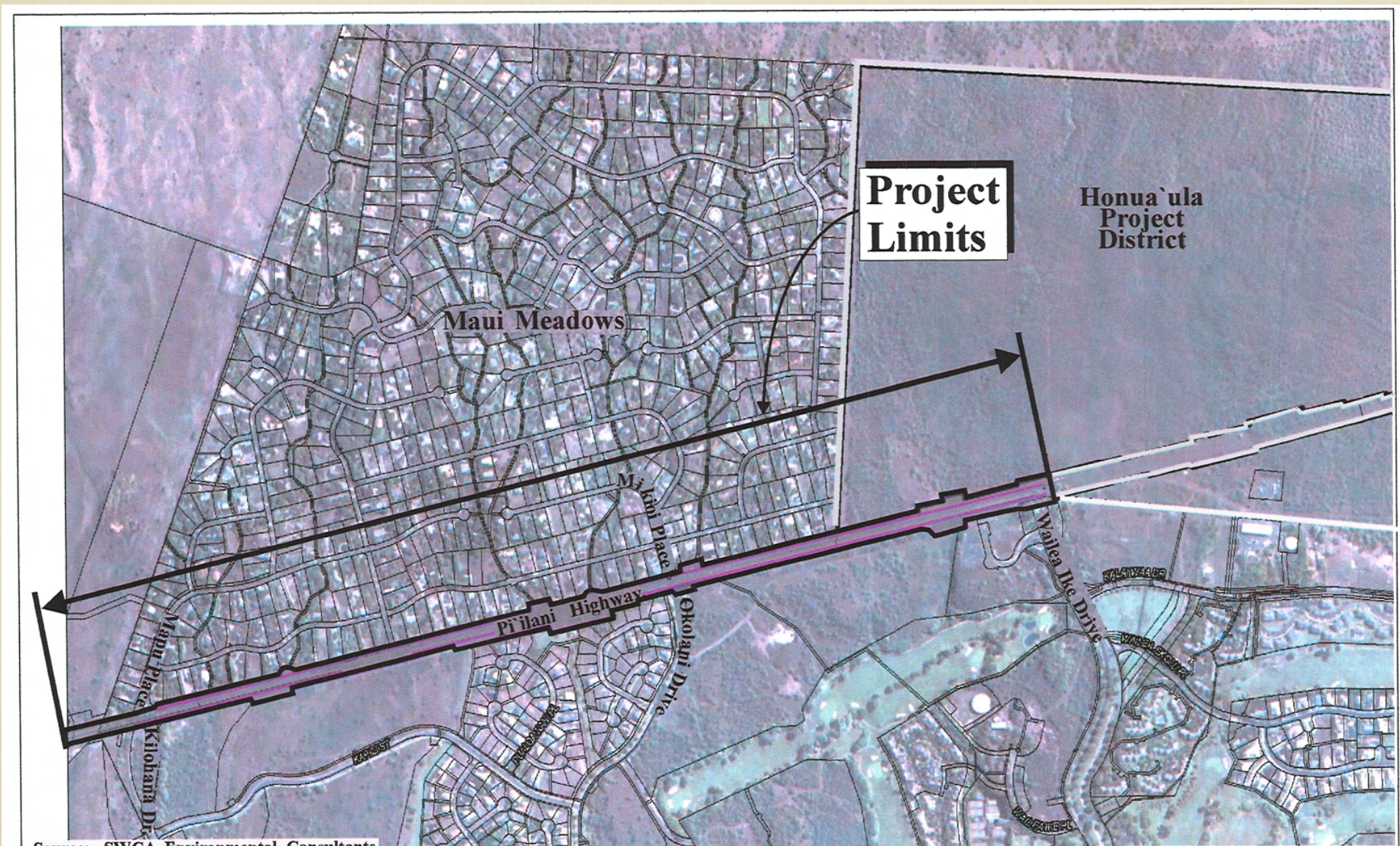


Figure 2

Pi'ilani Highway Widening Project
Project Limits

NOT TO SCALE



Prepared for: Honua'ula Partners, LLC, A&B Wailea LLC,
Keaka LLC and ATC Makena Holdings LLC

MUNEKIYO & HIRAGA, INC.

CONCLUSION: THERE IS NOT CLEAR AND UPDATED INFORMATION BEING PROVIDED BY HP RE: CONDITION 2.

- **HP COMPLIANCE REPORTS ACT AS IF THE FINAL EA FOR PI'ILANI WIDENING IS CURRENTLY ALL THAT IS NEEDED FOR SATISFACTORY COMPLIANCE FOR THE CONDITION.**
- **HP DOES NOT REVEAL THAT ANOTHER PIILANI WIDENING PLAN ALREADY HAS BEEN “APPROVED” BY HDOT- AN OPTION FOR ONE ADDITIONAL LANE INSTEAD OF TWO, THAT WAS NEVER EVALUATED IN THE FINAL EA.**
- **HP DOES NOT REVEAL IF THE COMPANY INTENDS TO ASK THAT CONDITION 2 BE MODIFIED TO ALLOW THE “ONE LANE SOLUTION” TO FULFILL CONDITION 2, THEREBY BYPASSING THE SPECIFIC REQUIREMENT OF THE KIHEI-MAKENA COMMUNITY PLAN**

CONDITION 20 COMPLIANCE

MARINE WATER QUALITY TESTING BASELINE

- **WAILEA 670 WAS REQUIRED BY ITS 1993 LAND USE COMMISSION RECLASSIFICATION CONDITIONS (LUC DOCKET 93-689 D&O, COND.1 1) TO CONTRIBUTE TO NEAR SHORE WATER QUALITY MONITORING PROGRAMS AND THE COORDINATE WITH DOH, DAR AND DLNR**
- **CONDITION 20 BUILT ON THIS REQUIREMENT. VERY LITTLE INFORMATION WAS AVAILABLE ON THE RESULTS OF THESE REQUIRED MONITORING EFFORTS DURING THE 2004-2008 COUNCIL REZONING REVIEW. CONDITION 20 REQUIRED TESTING AND REPORTS FOR THE WAILEA SHORELINE WATERS AND REEFS.**
- **CONDITION 20 REQUIRED THAT TESTING FOLLOW DOH METHODOLOGY AND BE SUBMITTED ANNUALLY TO DOH TO BE USED IN THEIR CLEAN WATER ACT COMPLIANCE REPORTS.**
- **IT ALSO REQUIRED A SURVEY OF WAILEA AREA REEF HEALTH, WITH RESULTS SUBMITTED TO STATE AGENCIES**

COMPLIANCE: EVERY YEAR HP REPORTS THAT THE TESTING HAS BEEN DONE AND ANNUAL REPORTS UPDATED AND SENT TO DOH.

DOH REPORTS NO DATA FROM MRC, HP CONSULTANTS, FOR WAILEA WATERS IN THEIR CLEAN WATER ACT REPORTS, FROM 2010 TO THE PRESENT

Table 13. MAUI Marine Waters

Most marine water bodies are located (*) within their respective watershed assessment unit. The watershed assessment unit provides a holistic view of waters within the State.

*Watershed Assessment Unit with Individual Water Bodies	Water Body ID	Water Body Type	Wet/Dry Criteria	Enterococcus	TN	NO ₃ +NO ₂	NH ₄	TP	Turbidity	Chl <i>a</i>	Other Pollutants	Category	TMDL Priority
*Kihei Coast-Mokulele	HIW00042	C	Dry	-	N	N	-	-	N	N		3,5	L
WAHIKULI WATERSHED	TBD	C	Wet	A	A	N	A	A	N	A		2,5	M
*Hanaka'o'o Beach Co. Park	HI797917	C	Wet	N	A	N	N	A	N	A		2,5	M
*Kaanapali (Kahekili Beach)	HI643627	C	Wet	A	A	N	A	A	N	A		2,5	M
*Kaanapali (Sheraton Kaanapali Shoreline)	HIW00022	C	Wet	A	A	N	N	A	N	A		2,5	M
WAIIEHU WATERSHED	TBD	C	Wet	-	-	-	-	-	-	-		3	
*Waiehu Beach Co. Park	HI916183	C	Wet	A	-	-	-	-	N	-		2,3,5	L
WAIHEE WATERSHED	TBD	C	Wet	-	-	-	-	-	-	-		3	
*Waihee	HI343702	C	Wet	A	-	-	-	-	-	-		2,3	
WAILEA WATERSHED	TBD	C	Dry	A	-	-	-	-	N	-		2,3,5	L
*Kamaole Beach 1	HI761092	C	Dry	A	A	N	N	A	N	N		2,5	L
*Kamaole Beach 2	HI097179	C	Dry	A	-	-	-	-	N	N		2,3,5	L
*Kamaole Beach 3	HI496115	C	Dry	A	-	-	-	-	N	N		2,3,5	L
*Keawakapu Beach	HI607763	C	Dry	A	-	-	-	-	N	N		2,3,5	L
Kihei Coast-Cove Park	HIW00167	C	Dry	-	N	N	-	-	N	N		3,5	L
*Kihei Coast-Estuary Boat Ramp	HIW00166	C	Dry	-	N	N	-	-	N	-		3,5	L
Kihei Coast-Keawakapu	HIW00074	C	Dry	-	-	N	-	-	-	N		3,5	L
*Kihei Coast-Maui Coast	HIW00073	C	Dry	-	-	N	-	-	N	N		3,5	L
*Kihei Coast-South Kamaole II	HIW00071	C	Dry	-	-	N	-	-	-	N		3,5	L
*Makena Landing Beach	HI245556	C	Dry	A	-	-	-	-	-	-		2,3	
*Malu'aka Beach	HI847607	C	Dry	A	-	-	-	-	-	-		2,3	
*Mokapu Beach Park	HI861961	C	Dry	A	-	-	-	-	-	-		2,3	
*Palauea Beach Park	HI997014	C	Dry	A	-	-	-	-	-	-		2,3	
*Polo Beach Park	HI339656	C	Dry	A	-	-	-	-	-	-		2,3	
*Poolenalena Beach	HI684864	C	Dry	A	-	-	-	-	-	-		2,3	
*Pu'u ola'i (Small Beach)	HI157533	C	Dry	A	-	-	-	-	-	-		2,3	

**COUNCIL CONDITION 20 AND THE LUC CONDITION
11 INTENDED TO MAKE SURE THE POPULAR WAILEA
COASTAL AREAS AND MARINE HABITATS WERE NOT
IMPACTED BY UPSLOPE DEVELOPMENTS**



**CONCLUSION:
CONDITION 20 IS NOT BEING MET**

- ✦ **DOH DOES NOT REPORT HAVING ANY DATA FROM THE HP CONSULTANTS, NOR IS ANY HP DATA USED IN THE DOH REPORTS.**
- ✦ **DAR DOES NOT REPORT RECEIVING ANY WAILEA REEF DATA FROM HP CONSULTANTS**
- ✦ **HP TELLS THE LUC & MAUI COUNTY THERE IS COMPLIANCE, BUT IT DOES NOT APPEAR THAT THE TESTING DATA THAT MAY HAVE BEEN GENERATED FINDS ITS WAY TO ANY AGENCY THAT COULD USE IT.**

CONDITION 27 COMPLIANCE

130 ACRE NATIVE PLANT AND HISTORIC SITE PRESERVATION AREA AND CONSERVATION PLAN



• SOUTH HONUA'ULA LAVA FLOW IS UNIQUE BIOLOGICAL AREA, WITH MAUI'S RAREST NATIVE ECOSYSTEM- LOW ELEVATION DRYLAND FOREST.

✦ OTHER DRYLAND PRESERVES EXIST ON MAUI, IN REMOTE LOCATIONS. WAILEA 670 SITE IS ACCESSIBLE FOR USE IN ENVIRONMENTAL EDUCATION AND COMMUNITY RESTORATION

DURING COUNCIL REVIEW OF HP LANDS NO COMPLETE FLORA AND FAUNA SURVEY WAS DONE. THAT'S WHY CONDITION 27 WAS ADOPTED.

HP LANDOWNERS TRIED TO CONVINCED THE COUNCIL AND AGENCIES THAT NO ENDANGERED PLANTS OR ANIMALS USED THE LAND FOR HABITAT, AND DOWNPLAY THE BOTANICAL IMPORTANCE OF THE LAND, BUT THAT SIMPLY WAS NOT TRUE, AND PROOF WAS FOUND OF HABITAT USE.

CONDITION 27 REQUIRES HP TO HAVE AN UP TO 130 ACRE PRESERVE AND CONSERVATION PLAN APPROVED BY DLNR, USGS & USFWS



+ THESE SCIENCE BASED AGENCIES ONLY HAVE STANDARDS TO APPROVE HABITAT CONSERVATION PLANS THAT HAVE A LONG TERM COMMITMENT TO CARE FOR AND IMPROVE CONDITIONS FOR RARE AND ENDANGERED NATIVE SPECIES SURVIVAL.

WITHOUT USFWS OVERSIGHT, WHO WILL BE RESPONSIBLE TO MAKE SURE THE PRESERVE IS REALLY HELPING THE UNIQUE PLANTS AND ANIMALS AND THEIR CONNECTION TO THE HAWAIIAN CULTURE AND CULTURAL USERS.

- HONUA'ULA PARTNERS 2012 FEIS COMMITTED TO PRESERVING MANDUCA MOTH HABITAT, NOT ELIMINATE IT. THE ONLY WAY HP COULD REMOVE THE MOTH'S TOBACCO PLANT HOST, AS IT NOW PROPOSES TO DO, IS THROUGH SUCCESSFUL PROPAGATION OF THE NATIVE 'AIEA PLANT AS MOTH HOST, WHICH IS NOT PLANNED.

CONDITION 27 COMPLIANCE:

CURRENT STATUS

- **CONDITION 27 WAS INTENDED TO CREATE IN PERPETUITY A SIGNIFICANT PRESERVE AREA IN W670 THAT IS MANAGED AND MAINTAINED, AND TO HAVE A CONSERVATION PLAN THAT IS APPROVED BY USFWS AND DLNR.**
- **HP HAS BEEN WORKING WITH USFWS AND DOFAW (DLNR) SINCE 2010 TO OBTAIN A FEDERAL “TAKINGS PERMIT” AND CREATE A HABITAT CONSERVATION PLAN THAT WOULD BE APPROVED BY THE DLNR ENDANGERED SPECIES RECOVERY COMMITTEE AND USFWS.**
- **THE HABITAT PLAN ALSO TRIGGERED A FEDERAL SECTION 106 CONSULTATION, WHICH HP TRIED TO TELL STATE HISTORIC AND THE FEDS WAS ALREADY COMPLETED. OHA BENEFICIARIES, WHO SHOULD HAVE BEEN PROPERLY “CONSULTED” ASKED OHA TO SPEAK FOR THEM, AND REQUEST A GENUINE CONSULTATION PROCESS, SINCE THEY HAD NOT BEEN INFORMED ABOUT ANY 106 CONSULTATION IN THE PAST.**
- **ONE SECTION 106 MEETING WAS HELD IN NOV 2019 (HP COMPLIANCE REPORT HAS WRONG YEAR IN DATE). A LETTER WAS RECENTLY ISSUED ANNOUNCING HP WAS NOT PURSUING A FEDERAL TAKINGS PERMIT AND NO 106 PROCESS WOULD BE NEEDED.**
- **THIS WAS BASED ON A NEW 2020 SURVEY, TAKEN DURING A PERIOD OF DROUGHT, WHICH CONCLUDED THE ENDANGERED BLACKBURN SPHINX MOTH NO LONGER LIVED ON THE LAND AND ITS HOST, WILD TOBACCO PLANTS, COULD BE REMOVED OUTSIDE THE PRESERVE. HP DID A CONSERVATION AND STEWARDSHIP PLAN (2015) THAT WAS REQUIRED BY CONDITION 27. THIS PLAN COMMITTED TO A “NET CONSERVATION BENEFIT” MITIGATION COMMITMENT FOR THE ENDANGERED NATIVE MANDUCA MOTH.**

CONCLUSIONS:

- HP HAS BEEN TELLING THE COUNCIL AND THE PUBLIC AND THE MAUI PLANNING COMMISSION ETC THAT THEY ARE IN THE PROCESS OF CREATING A USFWS APPROVED HABITAT CONSERVATION PLAN (HCP) FOR YEARS. MAUI PLANING COMMISSION “APPROVED” A DRAFT VERSION OF THE HCP TO SATISFY A PART OF CONDITION 27.
- NOW HP LLC ARE PULLING OUT OF THE HCP AGREEMENT BASED ON ONE SURVEY TAKEN DURING A DROUGHT. THEY CLAIM THE NON-NATIVE TOBACCO PLANTS THE MOTH USES TO REPRODUCE WILL NO LONGER GROW ON THE SITE. CULTURAL USERS FIND THE TOBACCO IS SEASONAL AND PROLIFIC.
- CONDITION 27 PART A. REQUIRES: A "CONSERVATION PLAN FOR THE EASEMENT DEVELOPED BY HONUUA'ULA PARTNERS, LLC AND APPROVED BY THE STATE DEPARTMENT OF LAND AND NATURAL RESOURCES, THE UNITED STATES GEOLOGICAL SURVEY AND THE UNITED STATES FISH AND WILDLIFE SERVICE” BY WITHDRAWING FROM THE USFWS HCP PROCESS, THERE IS NO WAY THAT THE HP CAN HAVE A PLAN APPROVED BY EITHER STATE DLNR OR USFWS. THE AGENCIES HAVE NO PROCEDURE FOR “APPROVING” ANY PLANS THAT HAVE NO ACCOUNTABILITY BUILT INTO THEM. THIS IS NOT REAL COMPLIANCE WITH CONDITION 27. A HCP IS VOLUNTARY, BUT IT IS NECESSARY.

CONDITION 13 & 26 COMPLIANCE: PRESERVATION OF HISTORIC SITES

**HONUA'ULA'S ARCHAEOLOGICAL RESOURCES ARE VERY SIGNIFICANT
BUT HAVE BEEN UNDERCOUNTED OVER LAST 30 YEARS OF REVIEW**

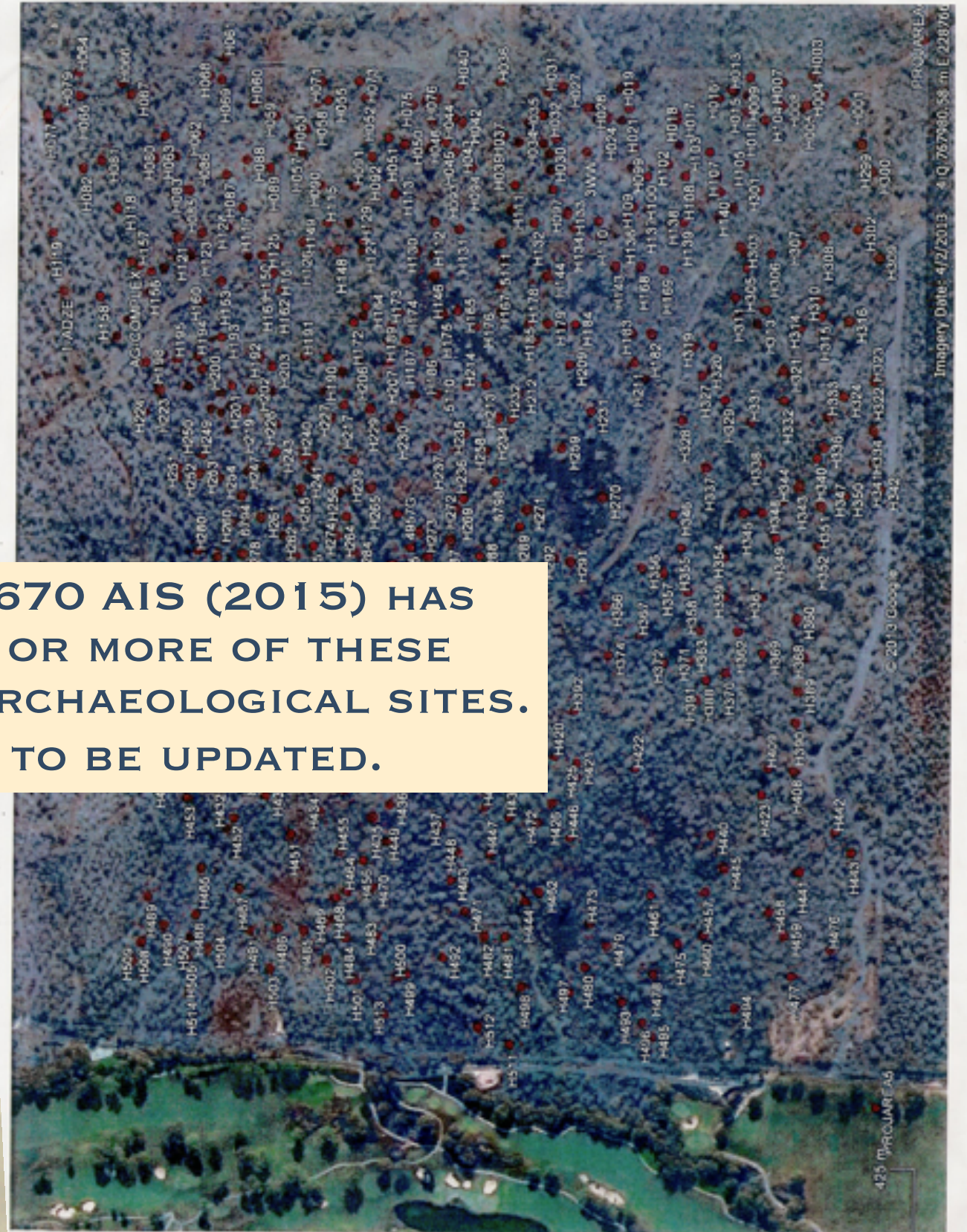
- **PROJECT RE-ZONE APPROVED IN 2008 SAYING 28 ARCH SITES WERE KNOWN AND "ALL SITES HAD BEEN FOUND." 6 WERE TO BE PRESERVED IN 22 AC. AREA.**
- **CITIZENS BROUGHT PHOTOS OF DOZENS OF ADDITIONAL SITES. PROJECT ARCHAEOLOGISTS TOLD COUNTY OFFICIALS THAT CITIZENS WERE MISTAKEN. CITIZENS WERE PROVEN TO BE CORRECT, BUT NOT UNTIL LATE 2012.**
- **2012 FINAL EIS HAD 40 ARCH SITES KNOWN. 16 WERE TO BE PRESERVED. CITIZENS BROUGHT PHOTOS OF MANY MORE SITES. IGNORED. CHALLENGED EIS.**
- **DEC 2012 SHPD STAFF TOURED SITE WITH CITIZENS AND HP. SHPD INFORMED HP OWNERS THAT THEIR 2012 AIS WAS MISSING NUMEROUS VISIBLE ARCH SITES, JUST AS CITIZENS HAD BEEN SAYING FOR 5 YEARS. NEW SURVEY WAS BEGUN IN 2013 AS PART OF SETTLEMENT OF EIS CHALLENGE.**

**2012 W670 EIS MAP:
40 ARCH SITES. TOTAL OF 60 FEA.**

**2013 W670 MAP AFTER NEW SURVEY:
200 ARCH SITES. SEVERAL THOUSAND FEA.**



Figure 6. Locations of 39 Sites in the Southern Section
(See large folded map insert at back of this report)



**ACCEPTED W670 AIS (2015) HAS
OMITTED 50 OR MORE OF THESE
DOCUMENTED ARCHAEOLOGICAL SITES.
IT NEEDS TO BE UPDATED.**

HONUA'ULA PROJECT LANDS ARE VIEWED BY KANAKA AS A "CULTURAL LANDSCAPE" NOT JUST A COLLECTION OF UNCONNECTED HISTORIC SITES. ONE OF MAUI'S ORIGINAL "SUSTAINABLE DEVELOPMENTS."



HUNDREDS OF MAUI STUDENTS HAVE ACCESSED HONUA'ULA PRESERVE. IT OFFERS A PREMIER HANDS-ON LOCATION FOR ENVIRONMENTAL AND CULTURAL EDUCATION

KIHEI CHARTER H.S. STUDENTS CLEAN OFF INVASIVE WEEDS & OFFER A CHANT TO THE 'AINA

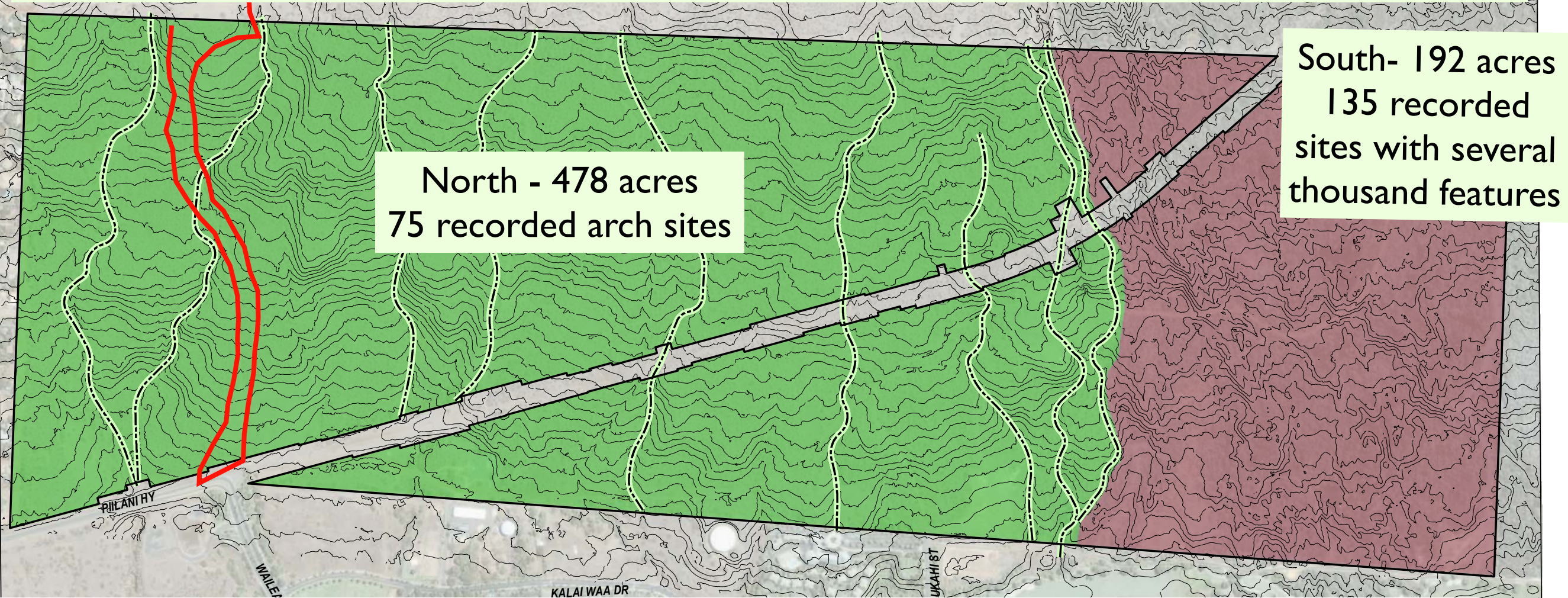


**ACCURATE AIS AND
PP ARE NEEDED
FOR FUTURE
GENERATIONS.
WE NEED TO GET IT
RIGHT! NOW!**



YOUNG ARCHAEOLOGICAL EXPLORERS FROM A LOCAL ELEMENTARY SCHOOL LEARN FROM KUPUNA LIKE UNCLE ASHFORD DE LIMA, WHOSE ANCESTORS CLAIMED SECTIONS OF PAEAHU DURING THE MAHELE. THEY ARE THRILLED TO UNCOVER PORTIONS OF PREVIOUSLY UNKNOWN HISTORIC SITE ON THE LAND.

Honua'ula Lands have separate arch studies for South and North parts of land- this is confusing and cultural users feel the north (Paeahu) lands did not get enough careful review

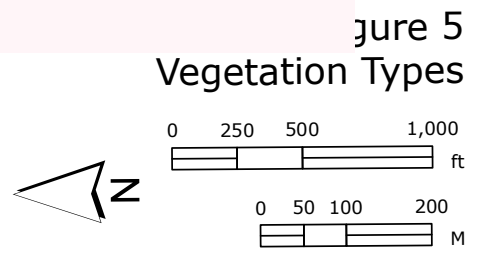


North - 478 acres
75 recorded arch sites

South- 192 acres
135 recorded sites with several thousand features

IMPACTS COULD COME SOON: PAEAHU SOLAR FARM ACCESS ROAD PASSES THROUGH NORTH HP LANDS (RED). THEIR ARCHAEOLOGISTS COULD NOT RELOCATE SITES FROM HP AIS MAPS AND GPS POINTS. HAD TO RE-SURVEY. ROAD COULD IMPACT SITES, DUE TO DEFICIENT HP AIS (ACCEPTED BY SHPD IN 2015) & PRESERVATION PLAN (2017) BEING THE “MAPS OF RECORD”

- [] Project Boundary
- Vegetation Types
 - [Green] Kiawe-buffel Grass Grassland
 - [Brown] Kiawe-wiliwili Shrubland



“NEW” ARCHAEOLOGICAL REVIEW BEGAN IN 2013. NUMEROUS SITES NOT ACCURATELY LOCATED OR DESCRIBED. SOME WERE COMPLETELY OVERLOOKED AND NEVER MAPPED. THE HP AIS WAS “ACCEPTED” BY SHPD IN 2015 AND THE “ACCEPTED” PRESERVATION PLAN (2017) WAS BASED ON THE INACCURATE AIS

- **SEPT 2013 A NEW SURVEY WAS BEGUN. ABOUT 170 NEW ARCH SITES WERE RECORDED AND MOST, BUT NOT ALL, OF 2012 SITES FOUND. HUNDREDS OF NEW ARCH “AG FEATURES” RECORDED. MANY LATER NOT RELOCATED AND CONSIDERED “DECOMMISSIONED”**
- **HONUA’ULA CONDITIONS REQUIRE A ARCH PRESERVATION PLAN (PP) APPROVED BY SHPD & OHA- BUT PLANS “APPROVED” BY SHPD WERE “MISSING” DOZENS OF IMPORTANT ARCH SITES & TRUE CONSULTATION HAS NOT OCCURRED. OHA HAS NOT APPROVED PP.**
- **OHA BENEFICIARIES WANT AN UPDATED HONUA’ULA/WAILEA 670 AIS AND PRESERVATION PLAN BEFORE FURTHER PROJECT APPROVALS, NOT AFTER PLANNING COMMISSION PHASE II PERMIT. PROJECT NEEDS TO KNOW WHERE SITES ARE LOCATED.**

WHAT'S MISSING?

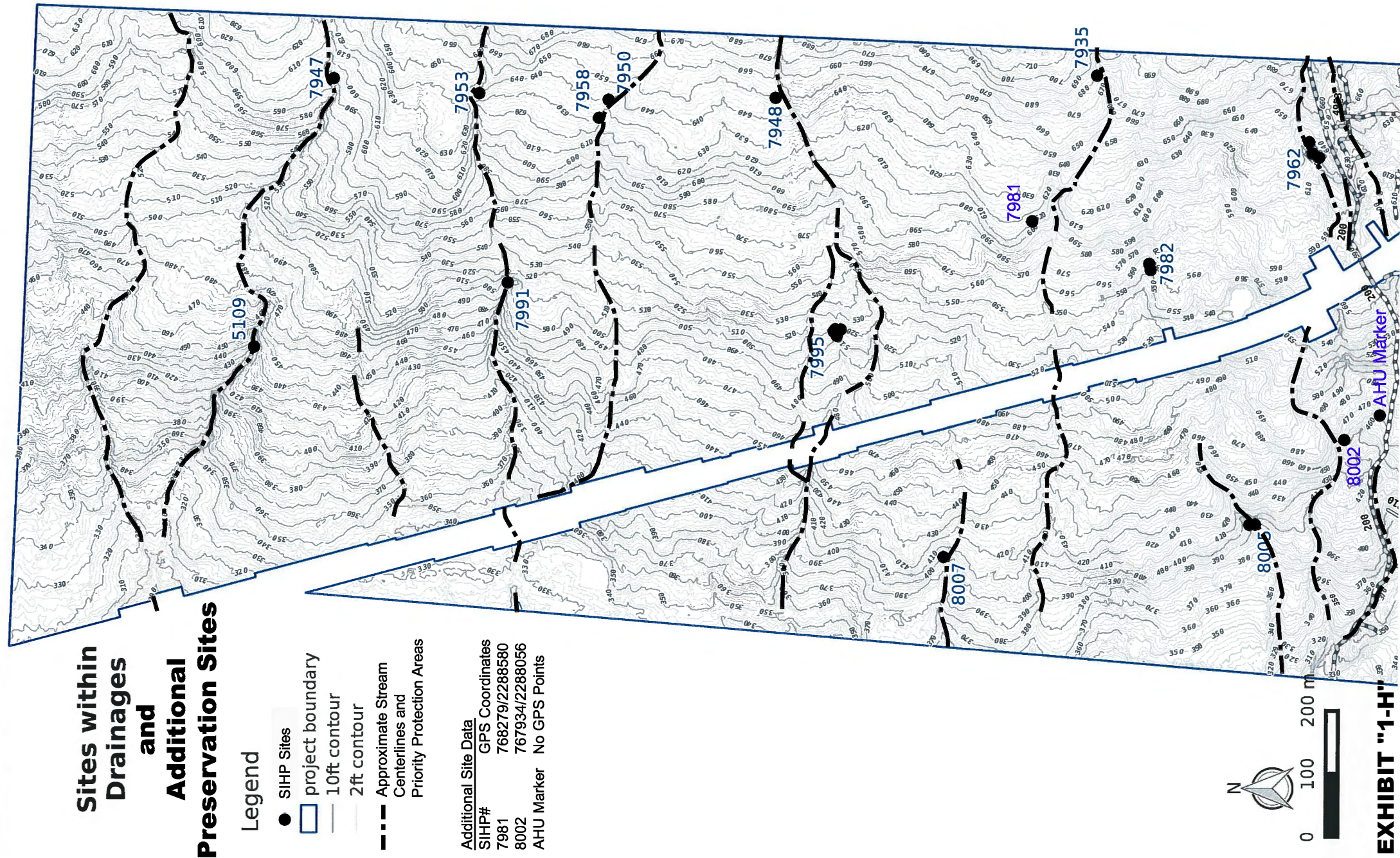
NORTH 478 ACRES: AHUPUA'A OF PAEAHU

- THE 2010-12 HP ARCH SURVEY (AIS) FOUND ONLY ONE ARCH SITE IN THE NORTHERN 478 ACRES OF THE LAND (PAEAHU AHUPUA'A)
- THE NEW 2013 HP ARCH SURVEY (AFTER CITIZEN EIS CHALLENGE) FOUND 74 MORE SITES IN THE NORTHERN 478 ACRES, INCLUDING SOME THAT CITIZENS HAD EARLIER PHOTOGRAPHED. **CITIZENS KNOW THAT MANY MORE SITES HAVE NOT BEEN DOCUMENTED.** 2015 "ACCEPTED" HP AIS PRESERVED NO SITES.
- PAEAHU IS WHAT IS NOW KNOWN AS "WAILEA." MAJORITY OF PAEAHU'S HAWAIIAN HISTORY HAS BEEN OBLITERATED BY WAILEA RESORT. HP LANDS COULD PROTECT SOME OF THE LAST THE HAWAIIAN REMAINS OF PAEAHU. PROTECTED.



- **PRESERVATION PLAN (2017) WAS REQUIRED BY SHPD TO PRESERVE 6 PAEAHU ARCH SITES.**
- **SIERRA CLUB & MAUI UNITE 2016 EIS SETTLEMENT WITH HP INCLUDED A PRECISE MAP SHOWING THE LOCATION OF 15 NORTH PRESERVATION SITES, ALONG MANY OF THE AREA'S SUBSTANTIAL GULCHES. ANOTHER MAP SHOWED 3 PRESERVE SITES IN THE MAUI MEADOWS-W670 BUFFER.**
- **HP DID NOT INFORM SHPD THAT ITS 2016 SETTLEMENT AGREEMENT WITH CITIZEN GROUPS **REQUIRED 18 NORTHERN SITES TO BE PRESERVED.****
- **THEY WERE LEFT OFF THE PP MAPS. AN UPDATED AIS AND PP IS NEEDED TO BE COMPLIANT WITH CONDITION 26**

2016 EIS SETTLEMENT MAP SHOWING 15 W670 SITES IN NORTH 478 ACRES TO BE PRESERVED ALONG GULCHES. "ACCEPTED" 2017 PRESERVATION PLAN, REQUIRED BY CONDITION 26, OMITTS 14 OF THESE SITES AND THREE ADDITIONAL ONES ON ANOTHER EIS SETTLEMENT MAP.



ONLY ONE SHORT SITE VISIT WAS OFFERED TO THE NORTH LANDS IN 2014, WHERE CULTURAL USERS COULD VISIT SITES AND OFFER VIEWS TO ARCHAEOLOGISTS. IT COVERED 8 OF 75 SITES AND WAS LIMITED TO 4 PEOPLE





WHAT'S MISSING?

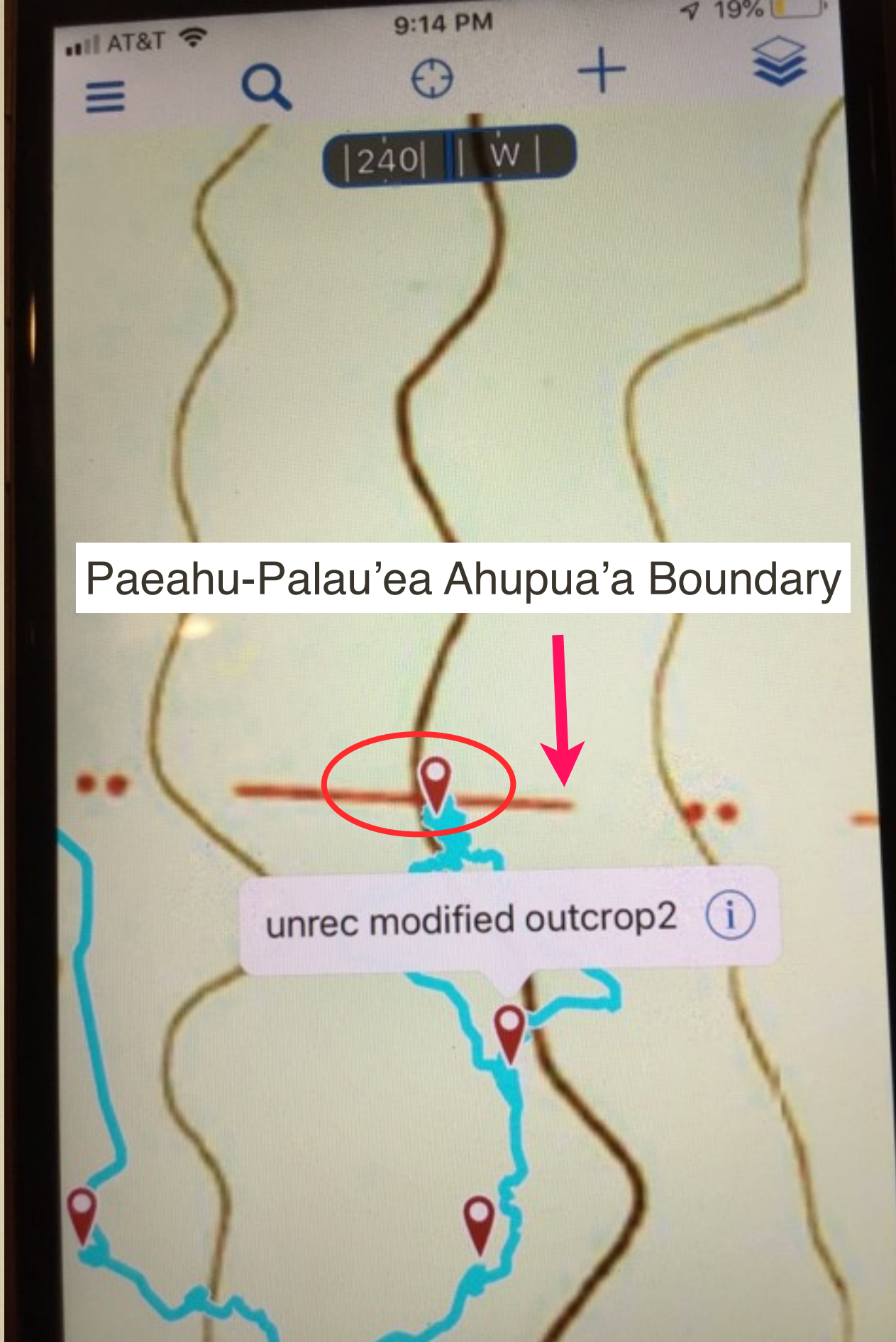
**IMPORTANT SITES IN
NORTHERN 478 ACRES HAVE
NEVER BEEN RECORDED.**

NORTH 478 ACRES

**UNRECORDED SITE
STACKED AREA WITH
UPRIGHT STONES ON LONG
RIDGE. ALIGNS WITH
PALAU'EA-PAEAHU
AHUPUA'A BOUNDARY ON
USGS MAP**

Status: Located in proposed development area

Site should be cleaned, evaluated, recorded and preserved.



Paeahu-Palau'ea Ahupua'a Boundary

unrec modified outcrop2 ⓘ

NORTH 478 ACRES

GPS TRACK FOR
UNDOCUMENTED SITE-
ALIGNS WITH PALAU'EA-
PAEAHU AHUPUA'A
BOUNDARY ON USGS MAP

Sample of Unrecorded Sites in Parcel North section

Legend

GPS POINTS OF UNDOCUMENTED POTENTIAL SITES IN NORTH 478 ACRES W670. MADE BY DR. JEANNE SCHAAF IN 2019 DURING CULTURAL ACCESSSES WITH LINEAL DESCENDANTS CONCERNED SITES WOULD BE DESTROYED. SEVERAL SITES ALIGN WITH AHUPUA'A BOUNDARY

river house

rock conc

burn site 1

possible feature

poss ahupuaa boundary

ash's table rock

unrec modified outcrop1

feature flag

Feature near 503 & wall 6805
Wall Flagged
near 501A and wall

edge of ring with md and pit unrecorded pit
coral near triangular platform
cupboard 2 H069
7772 notched platform
planter align Nnt to



WHAT'S MISSING?

CONSULTATION IS REQUIRED IN THE STATE HISTORIC REVIEW PROCESS. HP HELD MANY “MEETINGS.” ATTENDEES WERE TOLD THAT “ARCHAEOLOGIST’S KNEW BEST WHICH SITES WERE IMPORTANT.” INPUT ABOUT THE CULTURAL SIGNIFICANCE OF SITES SEEN WAS OFFERED, BUT IGNORED. NO SINCERE CONSULTATION ON WAILEA 670 AIS OR PP HAS OCCURRED.



IMPORTANT SITES IN NORTHERN LANDS HAVE NOT BEEN GIVEN PROPER SIGNIFICANCE, AND WILL BE DESTROYED. IN SPITE OF CULTURAL USERS SPEAKING TO THEIR IMPORTANCE.

NORTH 478 ACRES

**SITE 7998/TS64
CAVE SHELTER W/
HEARTH; TERRACE
AND TRADITIONAL
ARTIFACTS.**

Status: in development area
CLEARED FOR DESTRUCTION

Site has cultural use for gathering, seasonal observations and educational activities. Pueo nesting area nearby. Site Significance should be re- evaluated in consultation with OHA beneficiaries, additional artifacts recorded and preserved as excellent example of type.



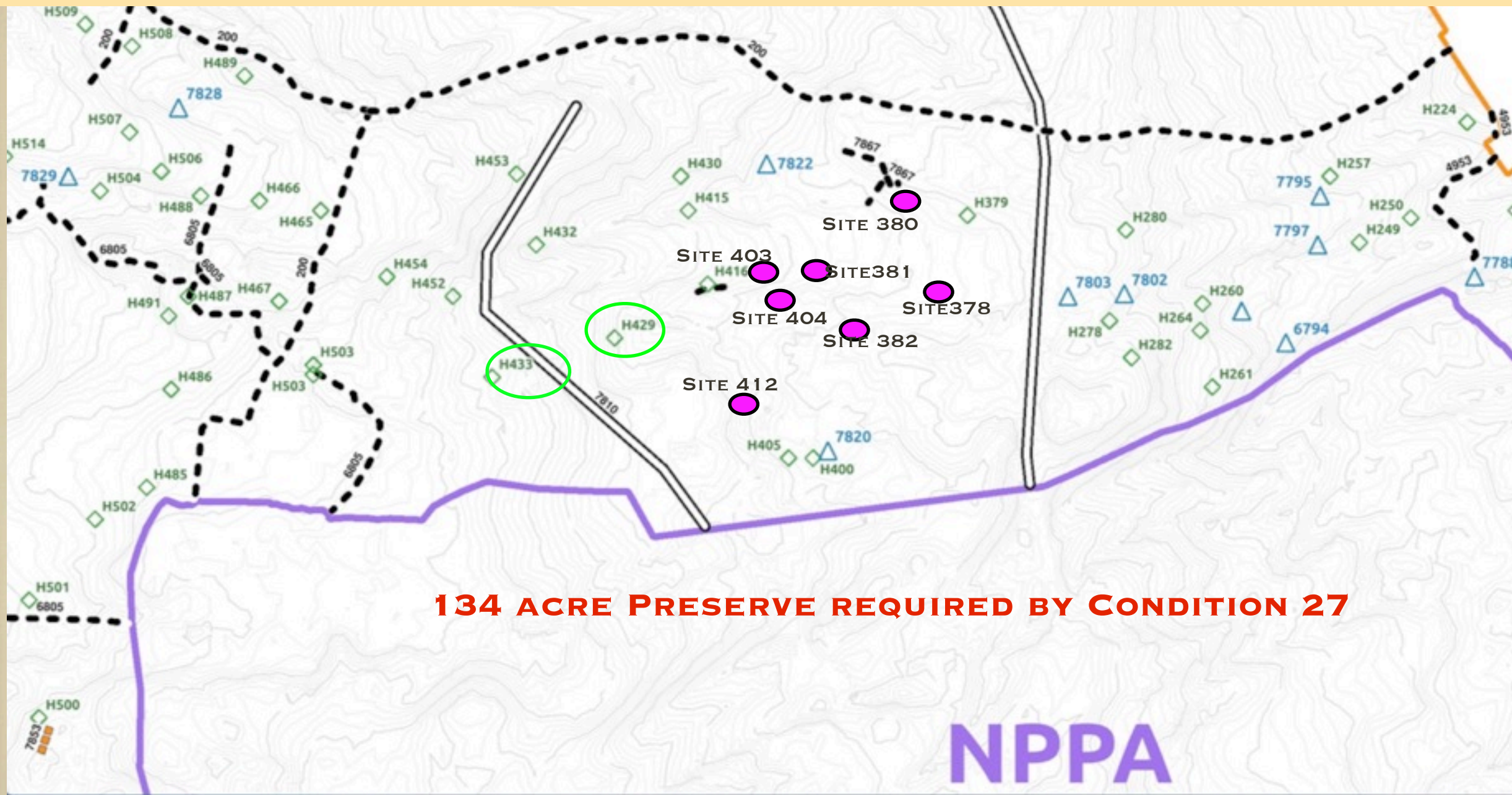
WHAT'S MISSING?

SOUTH 192 ACRES: PALAU'EA AND KEAUHOU AHUPUA'A

- OVERLOOKED SITES.
- “DECOMMISSIONED”/ ENDANGERED SITES. (“BULLDOZER BAIT”)
- MIS-LOCATED SITES.
- “INSIGNIFICANT” SITES.

“DECOMMISSIONED” SITES: SEVEN OF THE RECORDED SITES MISSING FROM “APPROVED” AIS AND PP MAPS, IN JUST ONE AREA OUTSIDE 134 AC PRESERVE. GPS COORDINATES INCORRECT FOR MOST. MANY ARE IN PROPOSED HOUSE LOTS. PP MAPS DON’T SHOW HOUSE LOTS. MORE MISSING SITES IN OTHER AREAS.

INSIGNIFICANT SITES: GREEN CIRCLES SHOW SITE COMPLEXES CLEARED FOR DESTRUCTION IN FUTURE HOUSE LOTS BECAUSE THE “SIGNIFICANT PARTS” OF THE SITE WERE NEVER SEEN OR MAPPED DURING AIS.



“DECOMMISSIONED” SITE H380- ROCK PLATFORM. RECORDED 2013. NOT ON AIS MAP. NOT IN PRESERVE. IN SETTLEMENT AGREEMENT. LOCATION DOES NOT MATCH AIS GPS POINTS. COULD BE DESTROYED.



OVERLOOKED SITES: IMPORTANT ARCH SITES, OUTSIDE OF ANY PROPOSED PRESERVE, HAVE NEVER BEEN RECORDED.

2019 WAILEA 670 PRESERVE BOUNDARY WALKS IDENTIFIED MANY UNDOCUMENTED SITES

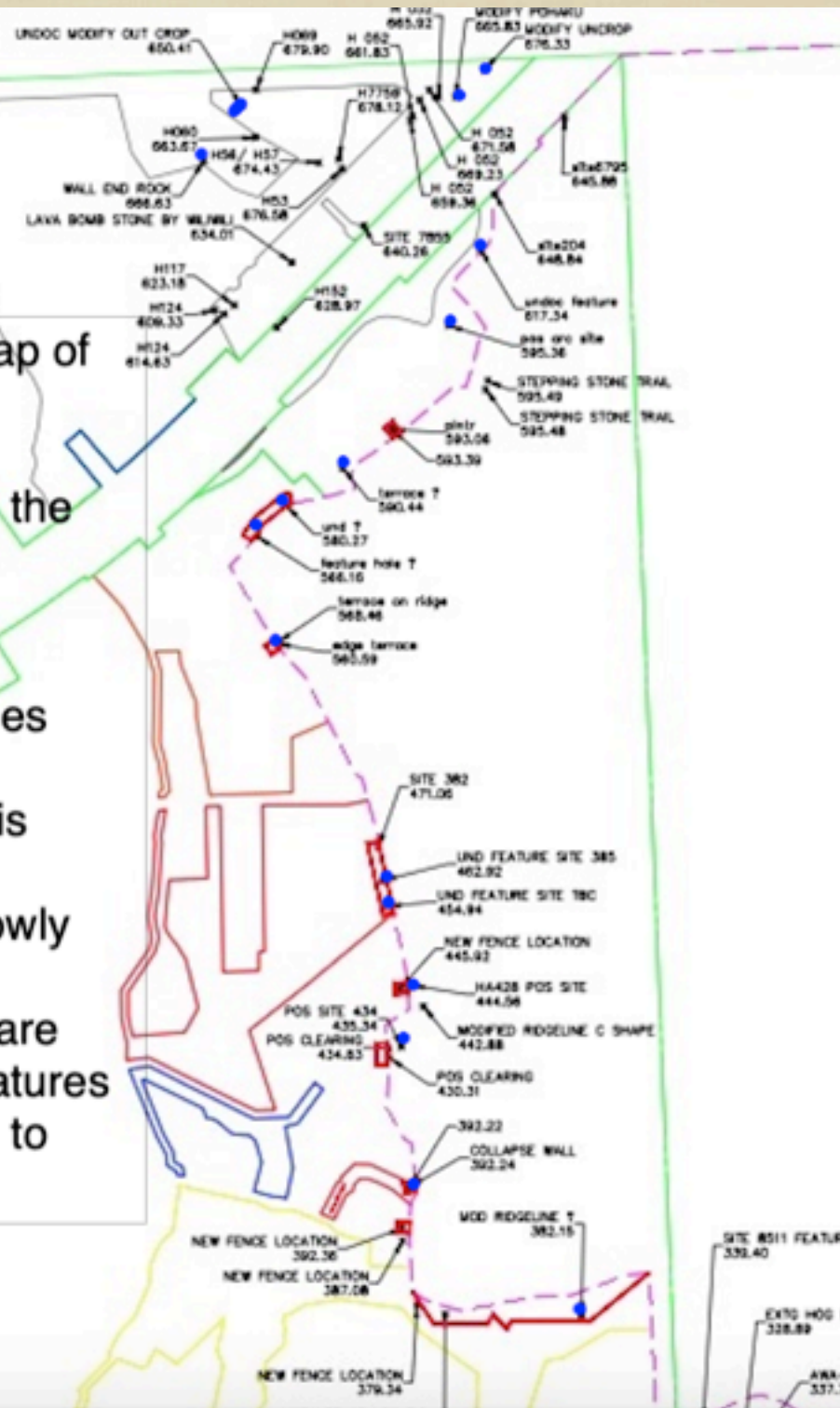
(16 BLUE DOTS ON SURVEYOR'S MAP TO L)

IT WAS PROMISED THAT THE BOUNDARY WOULD MOVE TO AVOID THESE NEW SITES, BUT THE "OFFICIAL RECORD" WILL NOT SHOW THAT THEY EXIST NOR THE AREA THEY COVER- THEY ARE AT RISK OF DESTRUCTION.

Goodfellows April 2019 map of a short section of fence realignment to avoid archaeological sites along the North Preserve boundary.

NOTE: The integrity of significant historic properties and critical habitat in the important North Preserve is threatened by house lots irregularly shaped to narrowly avoid historic properties.

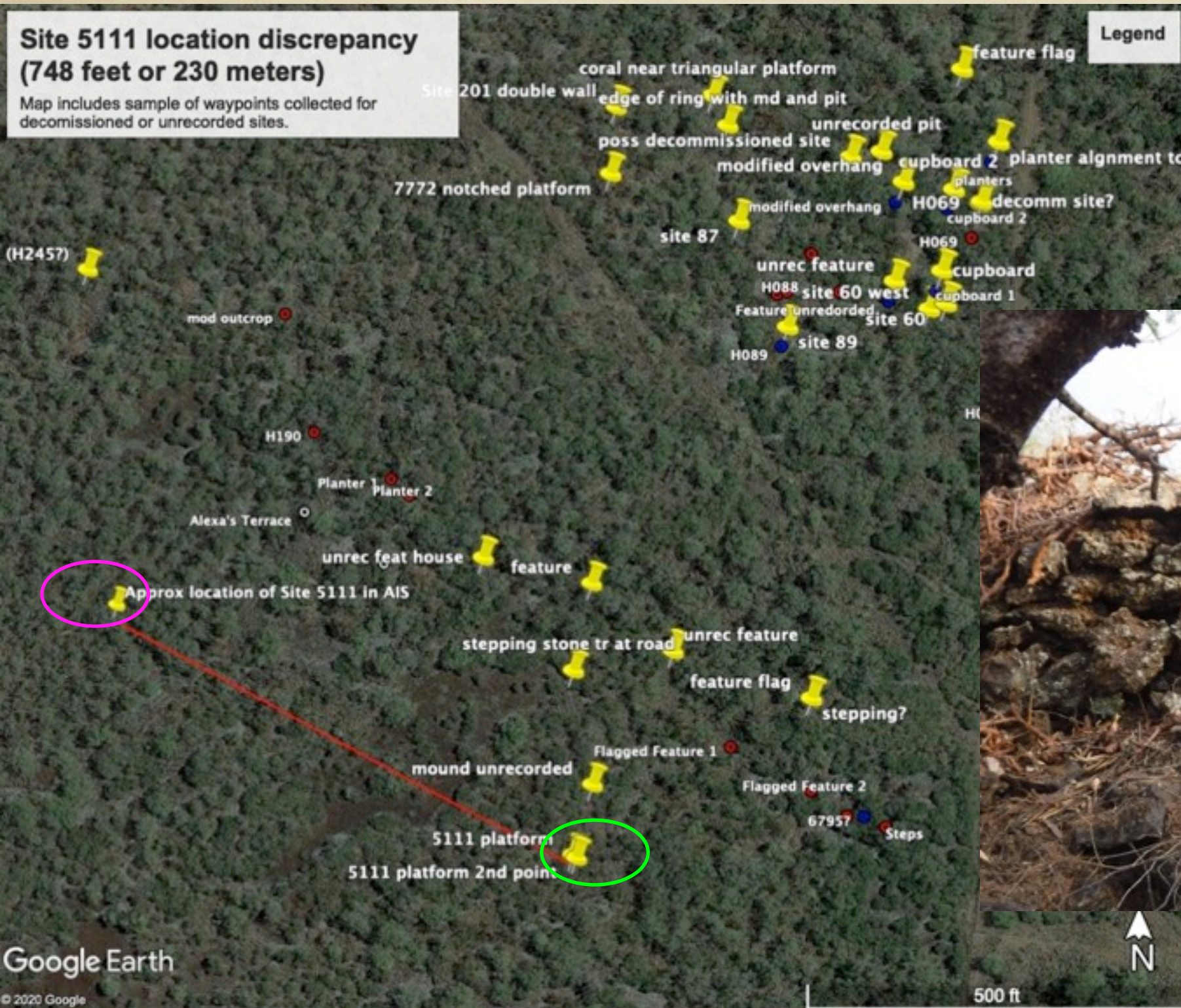
NOTE: Blue dots (N= 16) are undocumented sites or features that could not be matched to sites in the AIS.



“INSIGNIFICANT” SITES: SITE H429-ON APPROVED AIS MAP AS “AG FEATURE.” NO CONSULTATION WITH CULTURAL USERS WAS DONE. MOST OF SITE NEVER DOCUMENTED. SEVERAL IMPORTANT FEATURES INCLUDING A SHRINE (BELOW L.) AND LARGE TERRACE (R.) WERE NOT SEEN DURING AIS FIELD WORK. SITE H429 IS NOW CLEARED FOR DESTRUCTION IN “ACCEPTED” AIS AND PRESERVATION PLAN, UNLESS UPDATED STUDY IS DONE.



MIS-LOCATED SITES: IMPORTANT SITES WITHIN PRESERVE AREAS ARE NOT NOT RECORDED AT THE CORRECT LOCATION. **EXAMPLE:** SUBSTANTIAL PLATFORM, SITE 5111, IS SHOWN IN COMPLETELY WRONG LOCATION ON CURRENT AIS AND PRESERVATION PLAN MAPS. GREEN CIRCLE=CORRECT LOCATION. REQUESTS TO CHANGE LOCATION ON MAPS WERE IGNORED.



Sites and Features Outside of the NPPA

ACTUAL MAP FROM CRPP

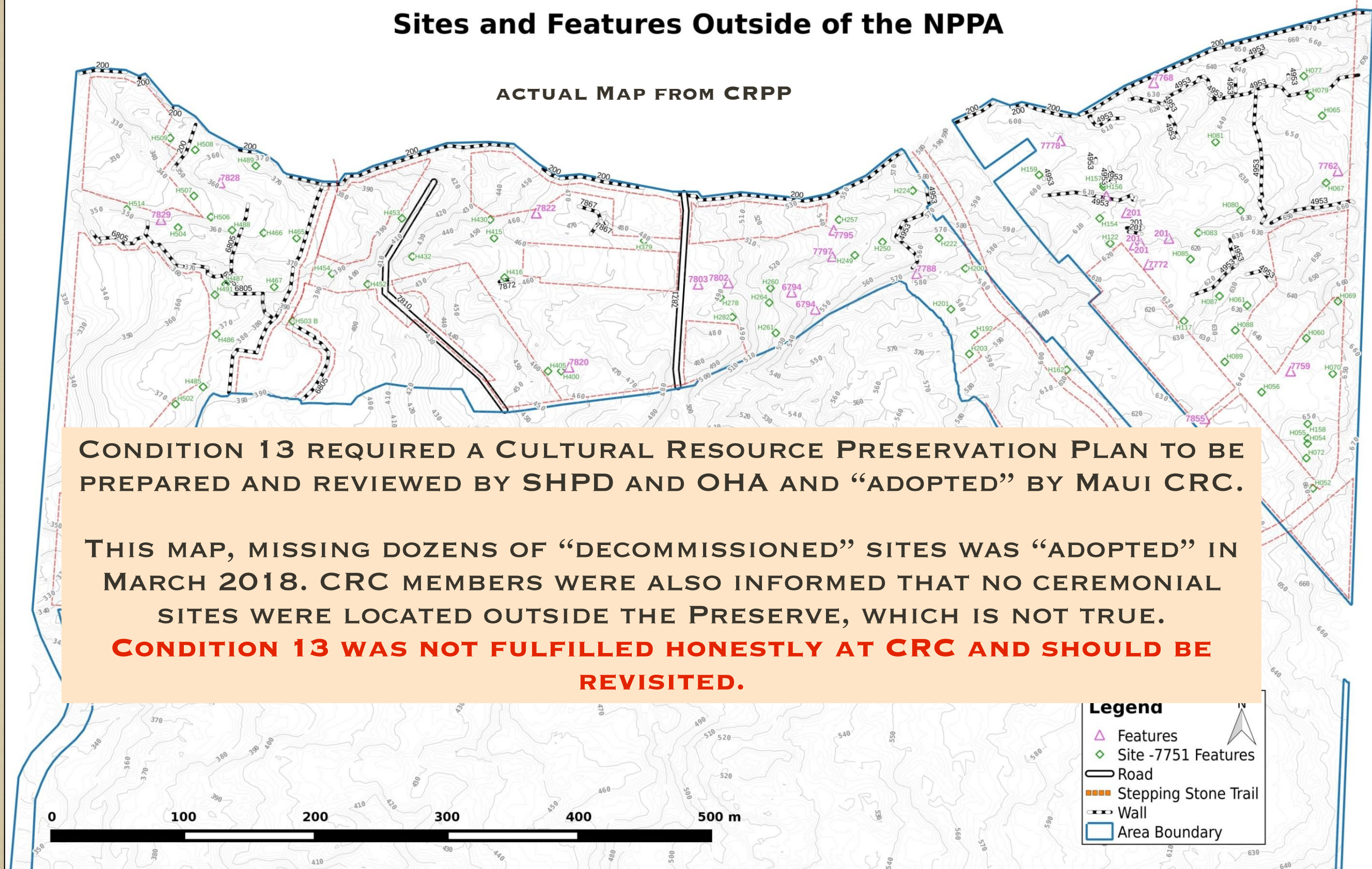


Figure 5: Sites and features outside of the NPPA that will be preserved.

CONCLUSIONS:

- ✦ **REPORTS REQUIRED BY CONDITIONS 13 AND 26 ARE ALL BASED ON THE FLAWED AND INACCURATE 2015 AIS. THEREFORE, THEY HAVE THE SAME MISSING, MISLOCATED AND OVERLOOKED ARCHAEOLOGICAL SITES.**
- ✦ **THE LACK OF INFORMATION ABOUT THESE SITES PUTS THEM AT RISK AND CANNOT BE “MADE RIGHT” BY SOME FUTURE PROMISED ARCH REPORT FOR EACH FUTURE DEVELOPMENT ACTION.**
- ✦ **THE INTENTION OF CONDITIONS 13 AND 26 WAS TO HAVE ACCURATE COMPLETE ARCH REPORTS BEFORE PROJECT DESIGN WAS FINALIZED AT THE PHASE II PROJECT DISTRICT APPROVAL.**

CONCLUSIONS

- ✦ **CONDITIONS 13 AND 26 SHOULD BE FULFILLED BY COMPLETE AND ACCURATE ARCH REPORTS THAT INVOLVE GOOD FAITH CONSULTATION.**
- ✦ **WE STRONGLY FEEL THAT THE PLSU COMMITTEE SHOULD MAKE SURE THE PROJECT DOES NOT “SKIP” A COMPLETE ARCHAEOLOGICAL REVIEW YET AGAIN.**
- ✦ **PLEASE ASK THE COUNTY ARCHAEOLOGIST TO REVIEW THE ACCEPTED HP REPORTS AND CITIZEN CONCERNS, AND RECOMMEND TO STATE HISTORIC IF UPDATED AIS AND PP SHOULD BE REQUESTED BY SHPD BEFORE THE PROJECT SUCCEEDS.**
- ✦ **COUNCIL SHOULD ALSO REQUEST THE PLANNING DEPARTMENT CONSIDER ASKING THE CRC TO REVISIT THEIR 2018 DECISION TO “ADOPT” THE HP CULTURAL RESOURCES PROTECTION PLAN (CRPP) DUE TO MISREPRESENTATIONS MADE DURING CRPP REVIEW, WHICH MATERIALLY CHANGED THE CRPP CONTENT.**

MAHALO!

- FROM HO'OPONOPONO O MAKENA
- SIERRA CLUB MAUI
- MAUI UNITE!
- MALAMA KALANILUA
- OTHER OHA BENEFICIARIES
- OTHER COMMUNITY GROUPS

