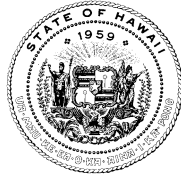


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GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
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SYLVIA J. LUKE
LT. GOVERNOR
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KALI WATSON
CHAIRPERSON, HHC
Ka Luma Ho'okele

KATIE L. LAMBERT
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Ka Hope Luma Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawai'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

January 28, 2026

Ref: PO-25-110

Ms. Keani Rawlins-Fernandez, Chair
Komike Aloha 'Āina, Maui County Council
200 South High St.
Wailuku, Hawaii 96793

Via Email: keani.rawlins@mauicounty.us

Aloha e Councilwoman Rawlins Fernandez:

**SUBJECT: RESPONSE TO REQUEST FOR INFORMATION, TRANSITIONING
KALAWAO COUNTY TO MAUI COUNTY (KA'Ā-1(2))**

Mahalo for the opportunity to respond to your letter dated December 5, 2025, requesting confirmation of four points of understanding regarding the potential incorporation of the land currently within Kalawao County into Maui County upon the dissolution of Kalawao County when the State Dept. of Health no longer has the responsibility to administer Kalawao as a separate County. We apologize for the lateness of this reply.

The State Dept. of Hawaiian Home Lands (DHHL) takes our kuleana for the trust lands in Kalaupapa very seriously. DHHL staff and administrators have been participating in multi-agency transition planning meetings since 2015. Based on past discussions with the National Park Service (NPS), State Dept. of Land and Natural Resources (DLNR), State Dept. of Health (DOH) and the County of Maui Mayor's Office re: transitioning post-DOH, DHHL anticipates that very little, if anything, would change for the County of Maui from current responsibilities. NPS would continue to operate, maintain and upgrade the electrical, water, wastewater, telecommunications and transportation systems and facilities in the peninsula, and would assume all operations and maintenance responsibilities for structures and infrastructure upon the departure of DOH.

DHHL relies on NPS compliance with the terms and conditions of General Lease 231 for management of DHHL lands in Kalaupapa, which contain most of the Kalaupapa Settlement, structures and infrastructure. NPS has site control over TMK 6-1-01:01 in its entirety and is

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responsible for maintaining structures and facilities under its purview. As the remaining facilities and structures transition from DOH to NPS, DHHL will continue to meet monthly with both agencies to assist with coordination and communication, so that the transition process can proceed in a logical and coherent manner.

DHHL can confirm the following understandings, with some minor corrections and clarifications, as follows:

1. The National Park Service, as the administrator of the National Historic Park, will ~~remain responsible~~ continue to assume and execute responsibility for maintaining roads, water and sewer systems, and buildings in Kalawao County.

As buildings and other structures and facilities gradually are transferred to NPS from the DOH, NPS will assume operations and maintenance responsibilities for them. To clarify, General Lease No. 231 with DHHL applies only to TMK 6-1-01:01, a.k.a the ahupua‘a of Kalaupapa, which includes the Kalaupapa Settlement, pali and trail. The terms and conditions of the DHHL lease do not apply to the land and structures within Kalawao County that are currently under the control of the DLNR Land Division. The National Park Service has a separate Cooperative Agreement with the DLNR for TMK 6-1-01:02, a.k.a. the ahupua‘a of Makanalua and Kalawao, which spells out their respective roles and responsibilities for those areas.

2. The County will not assume any maintenance responsibilities within Kalawao County.

DHHL can confirm that we do not foresee the County of Maui having to assume any maintenance responsibilities within the Hawaiian Home Lands (HHL) portion of Kalawao County.

3. The County will keep its current Memorandum of Agreement with the National Park Service to provide police and fire support.

DHHL is grateful for the County’s willingness to continue its role in police, fire and emergency response for Kalaupapa as described in the Mutual Aid Agreement/MOA. Many if not most of the NPS employees living and working in Kalaupapa are DHHL beneficiaries, and conditions for their health and safety in such a remote location are of concern to DHHL. While those living and working in Kalaupapa are very prepared and resilient, knowing that there is a coordinated, multi-agency response in the case of

emergencies and natural hazard events reassures us that rapid assistance will be available for them into the future.

However, DHHL has serious concerns with Item #4.

4. Under the proposed legislation, the County will extend its authority to Kalawao County for activity within the Special Management Area.

DHHL cannot at this time concur with the County's understanding regarding Item 4 for the following reasons:

1. Per the Hawaiian Homes Commission Act of 1920, as amended, the Hawaiian Homes Commission has exclusive control over land use and zoning on Hawaiian Home Lands.¹ When a statute or ordinance is clearly contrary to the interests of native Hawaiian beneficiaries, it is in conflict with the Act, and therefore of no effect. DHHL's current position is that projects on Hawaiian Home Lands within the SMA are not subject to County SMA and Shoreline Rules. DHHL is currently participating in a NOAA-funded project with the State Office of Planning and Sustainable Development to explore a pathway forward for clarifying DHHL's jurisdiction on Hawaiian Home Lands within the SMA and along the shoreline.
2. DHHL has serious concerns with the administration of SMA and Shoreline Rules for Molokai projects by the Molokai Planning Commission (MoPC) regarding scheduling challenges, which could pose significant delays for NPS projects in Kalaupapa:
 - The number of MoPC meetings canceled due to lack of quorum or no reason stated:
 - In 2025, 9 out of 22 meetings scheduled were canceled, or 41%.
 - In 2024, 5 out of 23 meetings scheduled were canceled, or 22%.
 - There have been very long backlogs of 3-5 years from application date to approval or denial for SMA assessments, exemptions and permits. We assume frequent MoPC meeting cancellations are due in part to lack of items ready for review and action.
3. There may be significant limitations on Maui County Planning Dept. staff to be able to conduct site visits and therefore process applications timely for Kalaupapa. Access is only by steep trail or plane, which may cause additional delays.
4. There is a lack of enforcement capability and jurisdiction even within the SMA on HHL, on State land, and there may be potential conflicts with federal NHP/NPS jurisdiction.

¹ *Kepo'o v. Watson*, 1998 WL 29635 (Hawaii 1998)

5. HEPA and NEPA environmental review processes already address CZM in Kalaupapa. NPS and DHHL work closely together on HRS CH 343, CH 205A and CH 6E compliance as well as NEPA and Section 106 compliance for all NPS projects on Hawaiian Home Lands. DHHL also works with the State Dept. of Health (DOH) on their environmental compliance projects.
6. OPSD-CZM Project of Special Merit: Goals and preliminary recommendations of this NOAA-funded project point to development of a CZM review capability within DHHL, which would satisfy HRS CH. 205A while maintaining the jurisdiction and authority of the Hawaiian Homes Commission over projects and actions on Hawaiian Home Lands in Kalaupapa.

The rate of meeting cancellations and SMA permit and assessment backlogs is of major concern to DHHL. Any unreasonable delays for construction projects in the SMA in Kalaupapa could jeopardize those projects, thus impacting DHHL as the underlying landowner. Adding another layer of jurisdiction to an already complex multi-jurisdictional situation would only exacerbate the coordination challenges already experienced by federal and state agencies and, in our opinion, would not improve coastal zone, natural resource or cultural resource protections in Kalaupapa.

When Jonah Kūhiō Kalanianaʻole (Prince Kūhiō) originally set up the system of Counties along with achieving passage of the HHCA, governance authority had previously been concentrated in the Kingdom, then Territorial government. While the Counties are technically and legally subdivisions of the State, there was a strong desire for home rule and self-governance on the part of the Counties. When the State decided to participate in the national Coastal Zone Management program, the initial idea for administering the State Coastal Zone Management Program, or CZMP, was to administer it at the State level, similar to the California Coastal Commission. Needless to say, the Counties did not agree, and the current system of administering the program through the County Planning Departments was created instead.

What is not clear to DHHL is whether the HHC ever approved of having the SMA Boundary drawn over Hawaiian Home Lands or ever agreed to waive its jurisdiction and agree to the Counties assuming regulatory authority over DHHL's or lessees' projects on Hawaiian Home Lands within the SMA. The legal experts cannot agree on this, and it will most likely require amendments to statute and administrative rules to finally resolve the dilemma.

Until a clear process can be articulated going forward, DHHL will continue to assert the sole authority of the Hawaiian Homes Commission over zoning and land use on its lands and may

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choose to limit regulatory compliance to state and federal laws, reserving the power to waive County requirements to the extent that the project or action does not jeopardize public health and safety or conflict substantively with HRS CH. 205A's purpose and intent.

The DHHL Planning Office is willing to meet with the County of Maui Planning Department to discuss ideas on how to achieve our mutual aims by other means, such as a consultation process. In the past, proponents of projects in the SMA on HHL on Molokai have been advised to present information on their projects to the MoPC as a courtesy and to gather comments. This way, there can be transparency and public comment that can help improve the project without waiving or jeopardizing the jurisdiction of the Hawaiian Homes Commission.

We look forward to discussing this further and will be happy to answer any questions the Kōmike may have. You may contact Lilliane Makaila, Acting Planning Program Manager, at Lilliane.k.makaila@hawaii.gov or Nancy McPherson, Planner, Nancy.m.mcpherson@hawaii.gov, DHHL Planning Office for more information.

Me ke aloha,

A handwritten signature in black ink that reads "Kali Watson". The signature is fluid and cursive, with the first name "Kali" being more prominent than the last name "Watson".

Kali Watson, Chairperson
Hawaiian Homes Commission