

This presentation represents many people's energy and efforts, including kūpuna, community members, and members of the County and State.

Through this positive collaboration we have been able to shine a light on a situation that deserves closer attention.

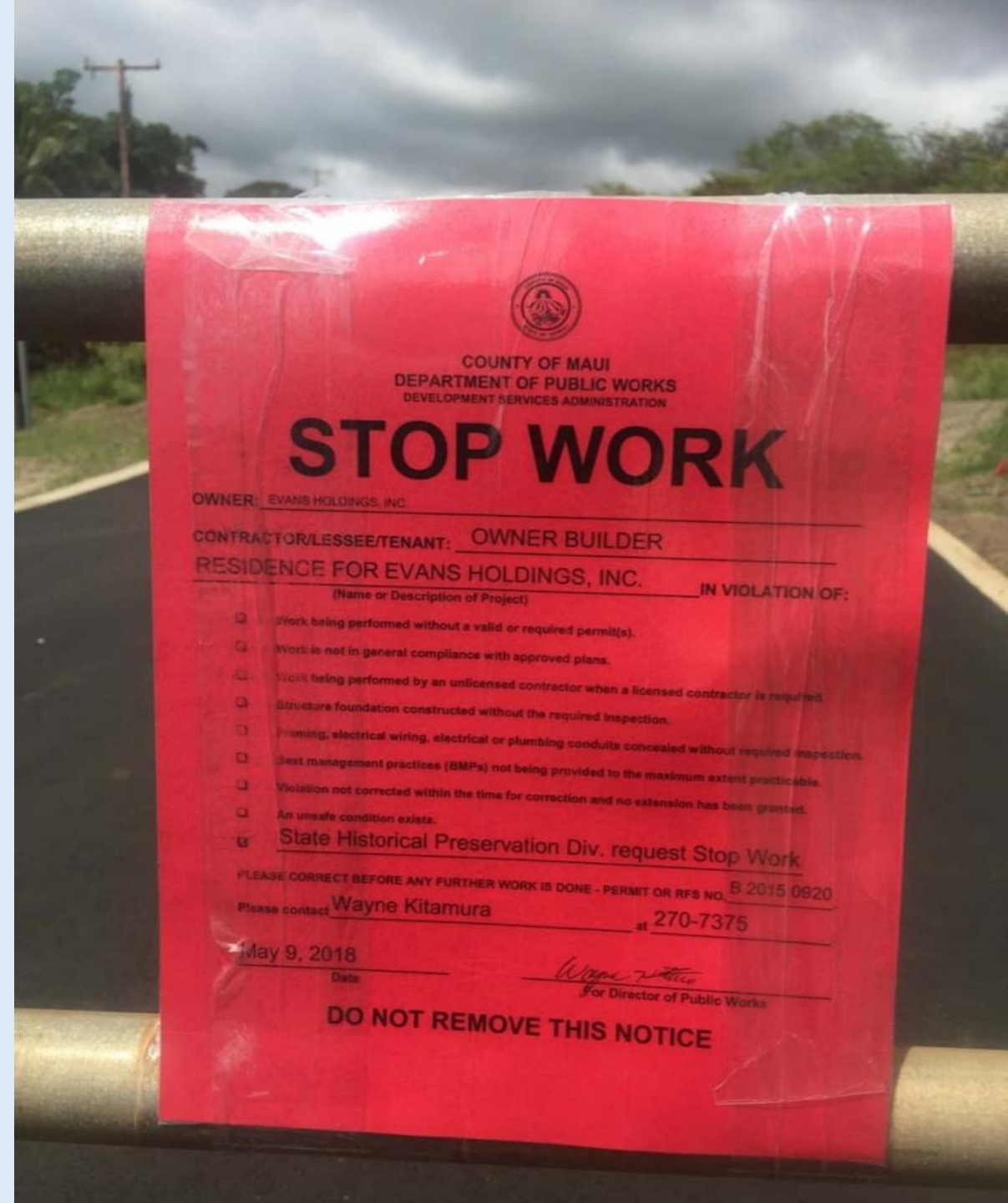
We thank you for your support.



**MAHALO**

# Mo'omuku Development:

Community concerns regarding County permitting, environmental impacts and archaeological sites.



COUNTY OF MAUI  
DEPARTMENT OF PUBLIC WORKS  
DEVELOPMENT SERVICES ADMINISTRATION

## STOP WORK

OWNER: EVANS HOLDINGS, INC.

CONTRACTOR/LESSEE/TENANT: OWNER BUILDER

RESIDENCE FOR EVANS HOLDINGS, INC. IN VIOLATION OF:  
(Name or Description of Project)

- Work being performed without a valid or required permit(s).
- Work is not in general compliance with approved plans.
- Work being performed by an unlicensed contractor when a licensed contractor is required.
- Structure foundation constructed without the required inspection.
- Framing, electrical wiring, electrical or plumbing conduits concealed without required inspection.
- Best management practices (BMPs) not being provided to the maximum extent practicable.
- Violation not corrected within the time for correction and no extension has been granted.
- An unsafe condition exists.
- State Historical Preservation Div. request Stop Work

PLEASE CORRECT BEFORE ANY FURTHER WORK IS DONE - PERMIT OR RFS NO. B 2015 0920

Please contact Wayne Kitamura at 270-7375

May 9, 2018

Date

*Wayne Kitamura*

For Director of Public Works

DO NOT REMOVE THIS NOTICE

Our main questions are...

Was ALL the work that was done in Mo'omuku properly permitted?

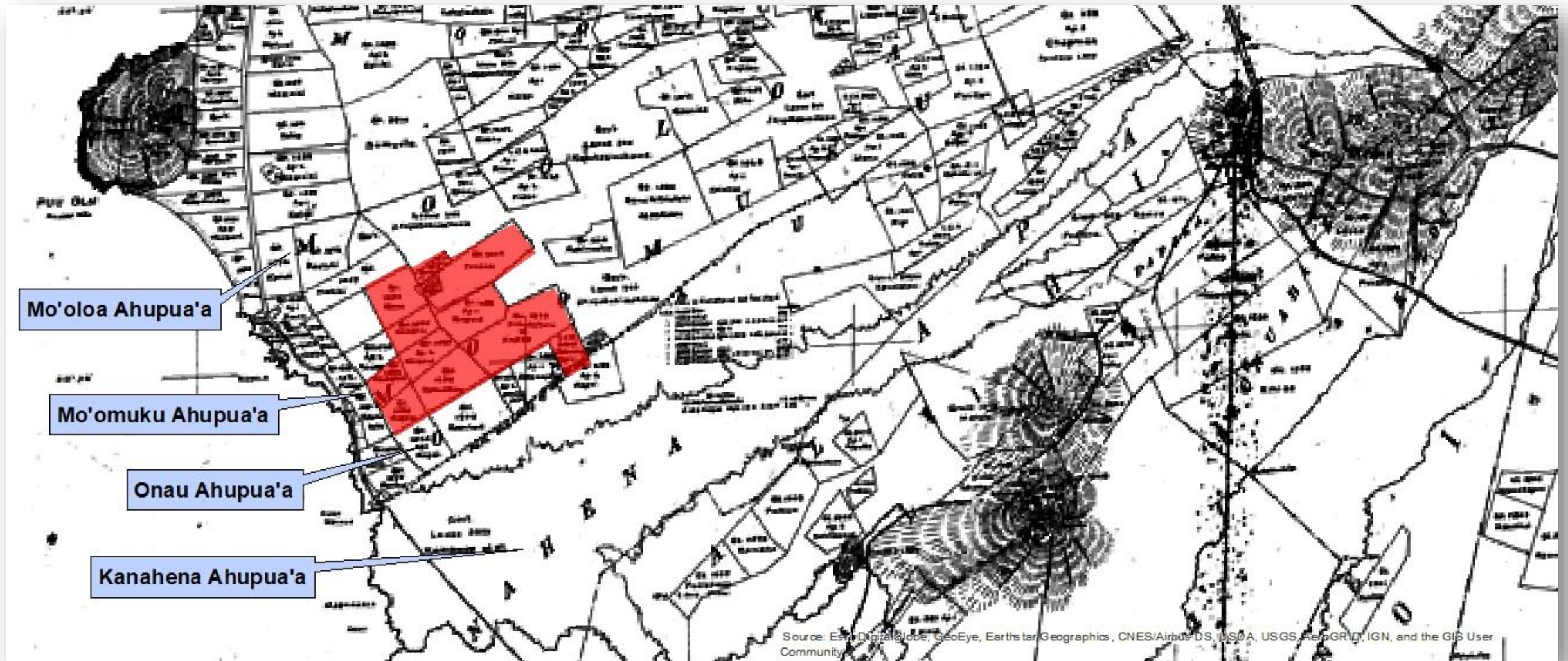
Is this project being segmented to avoid proper review processes?

Mo'omuku is located in Honua'ula Moku.



Esri, HERE, Garmin, OpenStreetMap contributors, and the GIS user community. Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

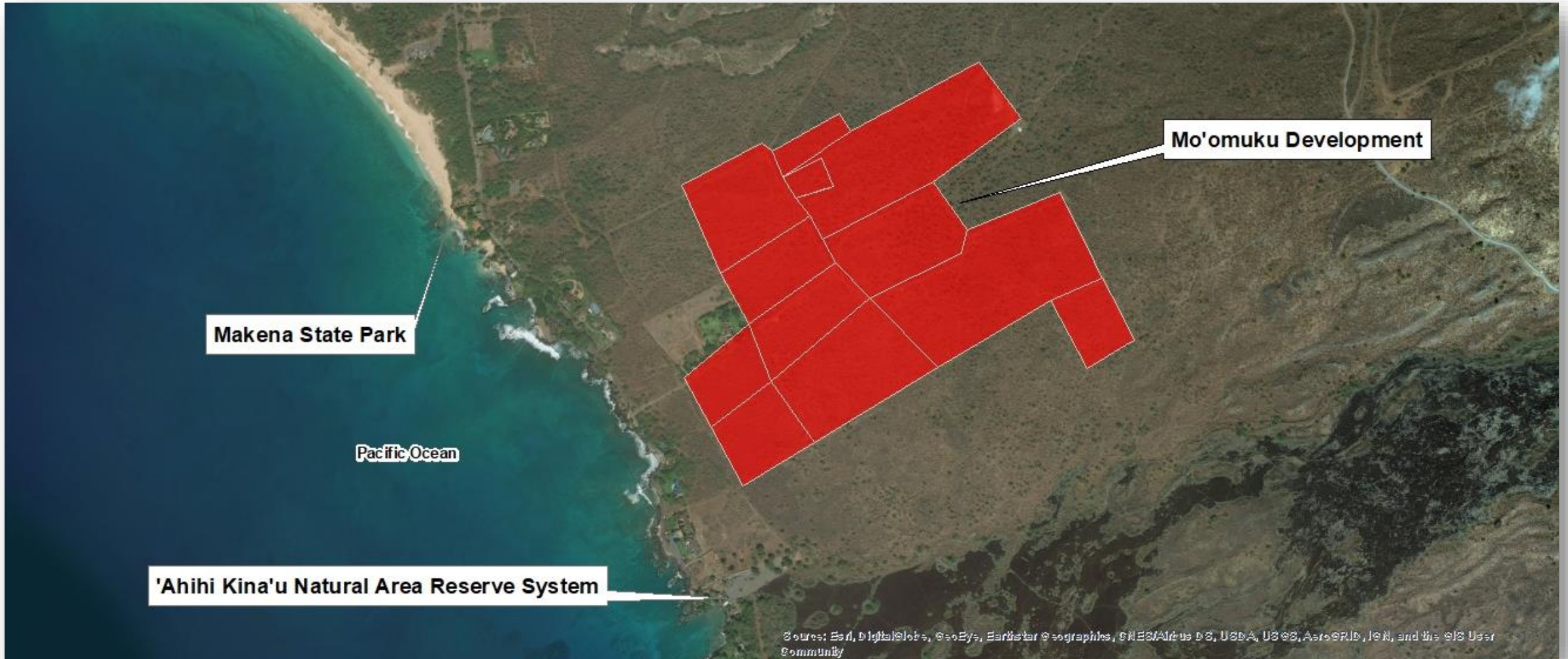
Mo'omuku is the traditional Ahupua'a place name of the project area. Mo'omuku has hundreds of cultural sites from pre-Contact to ranching eras. It also contains one of the last *wili wili* dryland forests on Maui.





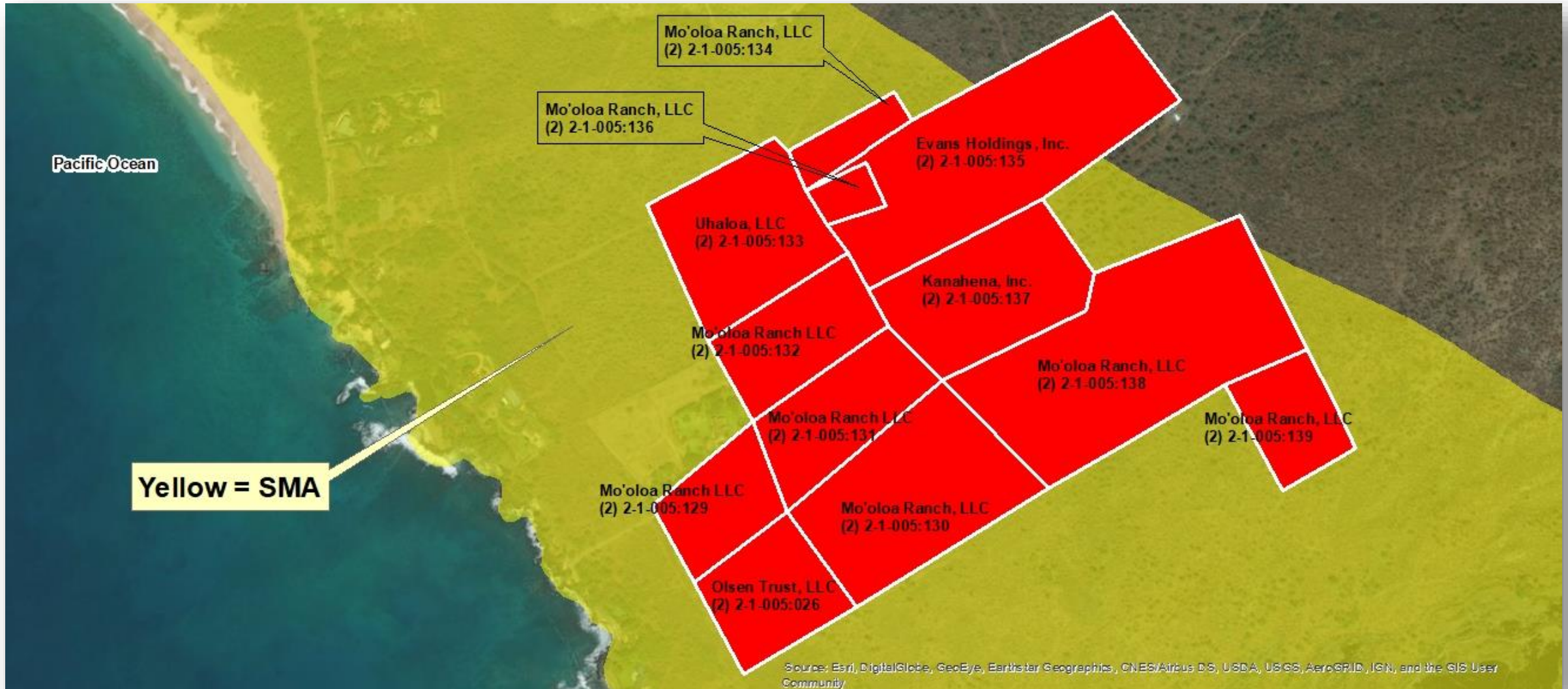


The development occurs between Mākena State Park and the 'Āhihi Kīna'u Natural Area Reserves System (NARS) in State and County agricultural districts.

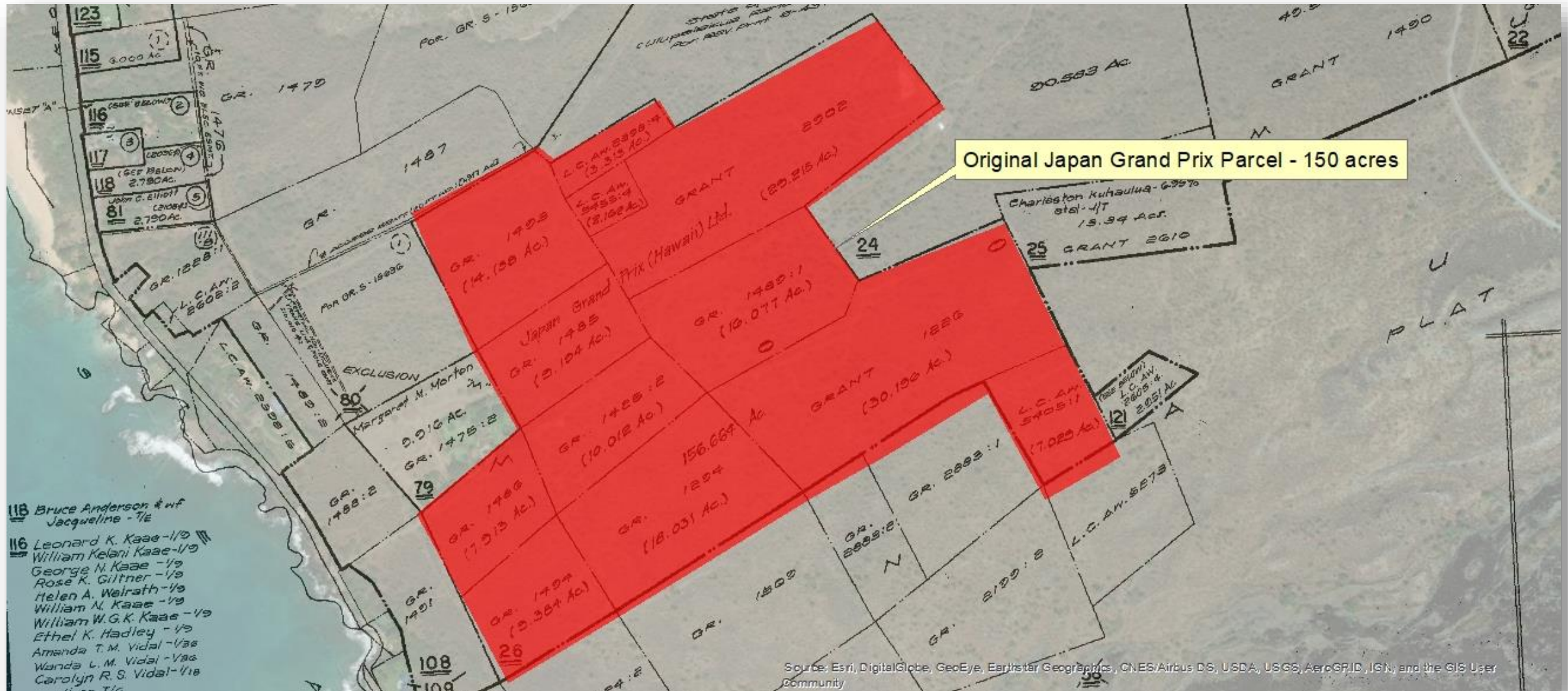




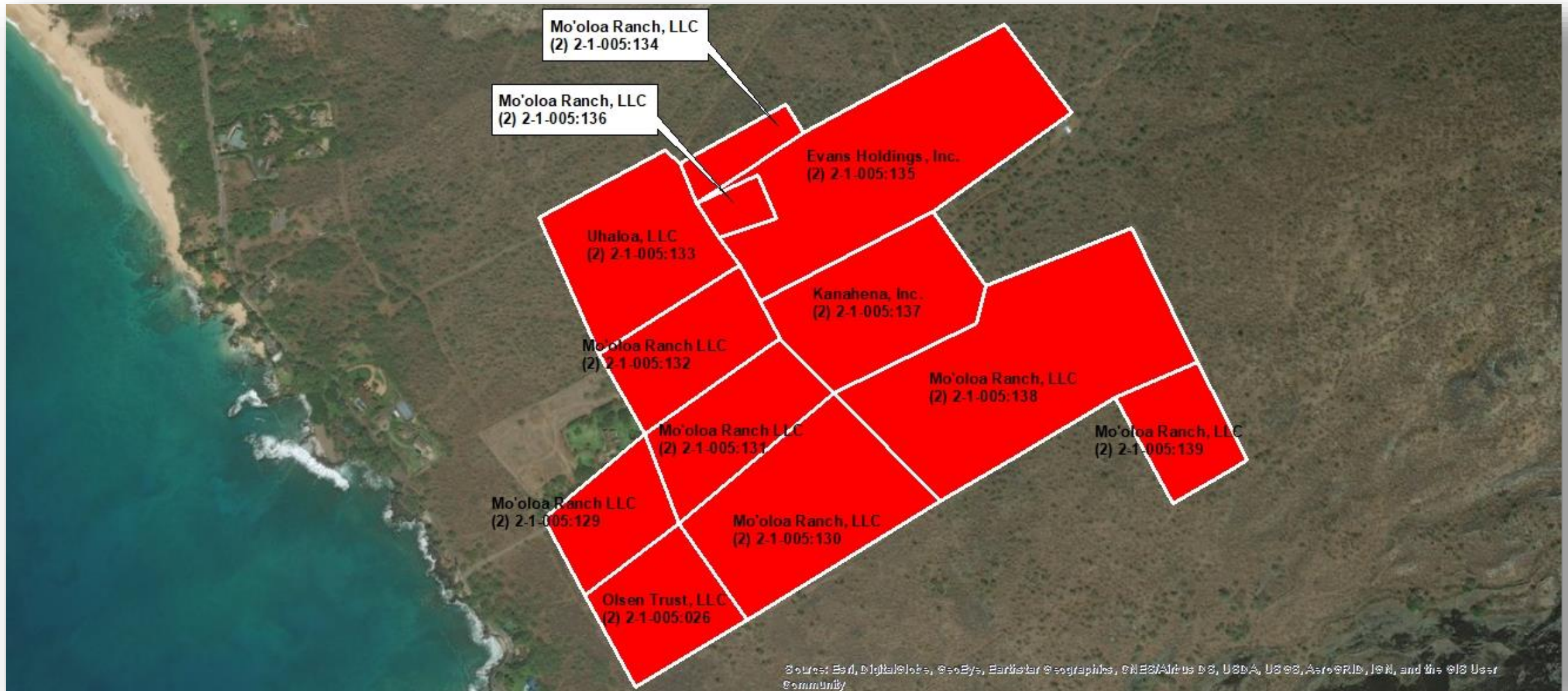
The majority of the Mo'omuku development is in the Special Management Area (SMA).



The area of concern was a large 150-acre parcel owned by Japan Grand Prix in the 1980's.



It was subsequently divided into the current ownership below under different names with the same contact address: 1100 Alakea Street, Suite 2100, Honolulu, HI 96813.



# Parties involved in Mo'omuku development:

- **Evans Holdings, Inc. & Mo'oloa Ranch, LLC** – Landowners
- **Frampton & Ward, LLC** – Planning consultants hired by landowner
- **Scientific Consulting Services, Inc. (SCS)** – Archaeology firm contracted by Frampton & Ward, LLC
- **Goodfellow Bros. Inc.** – Primary Contractor for work on Mo'omuku parcels
- **Maui County Dept. of Planning** – Issued SMA permits
- **Maui County Dept. of Public Works** – Issued grading permits
- **State Historic Preservation Division (SHPD)** – Provides recommendations and conditions per HRS Chapter 6E

# Timeline of Community Action

- **8/2017** – Community members notice increased construction traffic on Makena Rd. and take footage of historic walls being destroyed. Concerns arise regarding project proximity to 'Ahihi Kina'u NAR. Lineal Descendants of Honua'ula meet with Goodfellow Bros. and SCS to discuss project impacts to culturally sensitive area with hundreds of archaeological sites. A site visit was conducted.
- **12/2017** – Goodfellow Bros. reopens road on State land without permit to bring 3 rock crusher on site to process excavated material. No archaeological monitoring during crushing.
- **1/2018** – We communicate with Zoning Inspector from Planning and find that 6 of the 7 parcels where work occurred did not have SMA permits. We also find that historic review was not completed and there was no community consultation.
- **2/2018** – Community submits multiple Requests for Service (RFS). The county response is there are no permit violations. Community reaches out to OHA for support. OHA sends requests to County and SHPD for project information.
- **5/9/2018** – Based on OHA, SHPD, and community actions Public Works issues a stop work order for the Evans Holdings project based on outstanding archaeology reports. Work scheduled to continue when SHPD approves outstanding reports.

# Concern #1: Permitting Process

1. Grading permits issued without SHPD review
2. Only 1 of 5 parcels listed on grading permit received archaeological review
3. Grading on State land without a permit
4. Grading on additional parcels not covered under the issued permit



# A grading permit was issued by Public Works prior to completion of SHPD review.

- This permit allowed excavation to occur in an area containing 50+ archaeological sites without a plan to mitigate impacts to these sites.
- This was the basis for the stop work order.

(Figure based on Archaeological Inventory Surveys Reports conducted in Mo'omuku.)



7299  
SOUTH MAKENA



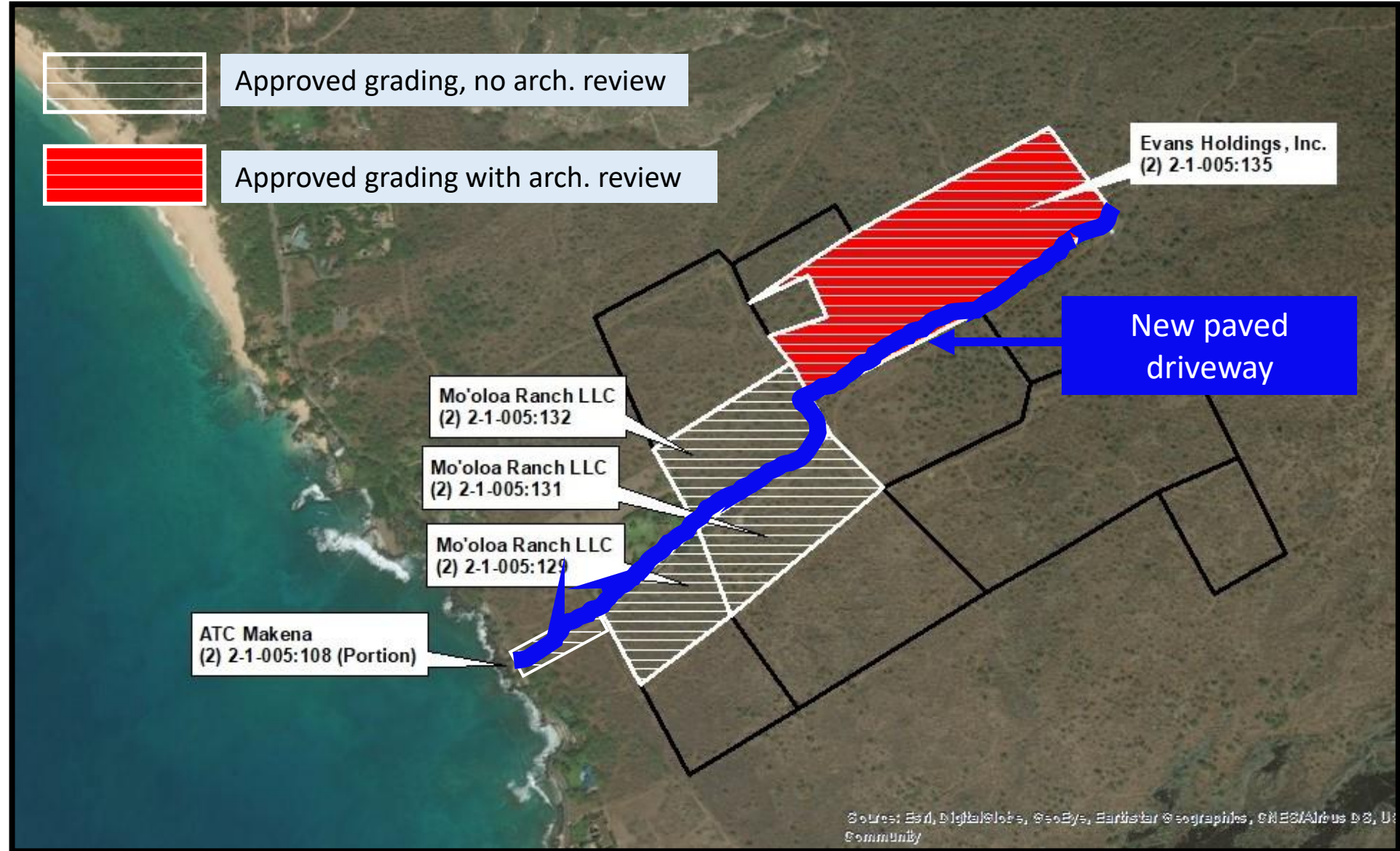


7299  
SOUTH MAKENA



# Public Works issued a grading permit for parcels that did not get archaeological review.

Grading occurred on a total of 7 parcels. Only 1 of the 7 parcels had an Archaeological Inventory Survey (AIS) conducted on it.











Frampton & Ward applied for major increases in project scope from the original application.

	G 2014/0187	G 2015/0117	Increased To
Fill	73.7 CY	4,870 CY	5,220 CY
Excavation	881 CY	1,990 CY	6,509 CY
Grading Area	0.42 acres	3.0 acres	6.7 acres



# Goodfellow Bros. conducted additional grading on neighboring parcels:



**(2) 2-1-005:024 (State of Hawai'i)** – Accessed and graded State land without permits to transport rock crushers to the site.



**(2) 2-1-005:137 (Mo'oloa Ranch LLC)** – Graded parcel for rock crushing and stockpiling without permits.

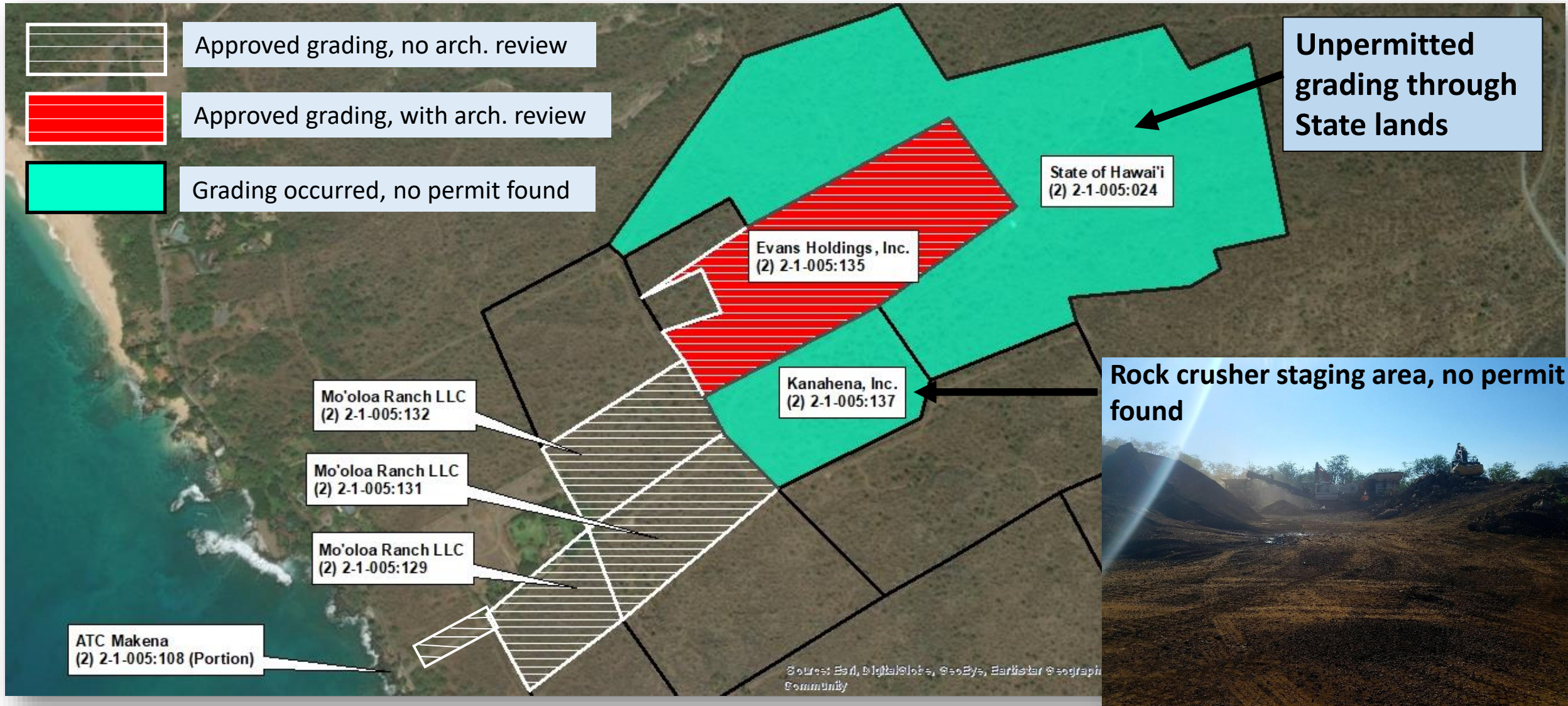


**(2) 2-1-005:108 (ATC Makena)**  
Graded an easement on ATC parcel without an SMA permit.





# State land and an adjoining parcel were graded without permits:



# Summary of concerns regarding grading permits:

- The Department of Public Works approved grading permits without SHPD review.
- The grading permit included 4 parcels that did not have an archaeological inventory survey.
- Goodfellow Bros. graded parcels without permits (parcel 137 and State parcel 024)

# Concern #2: Environmental Impacts

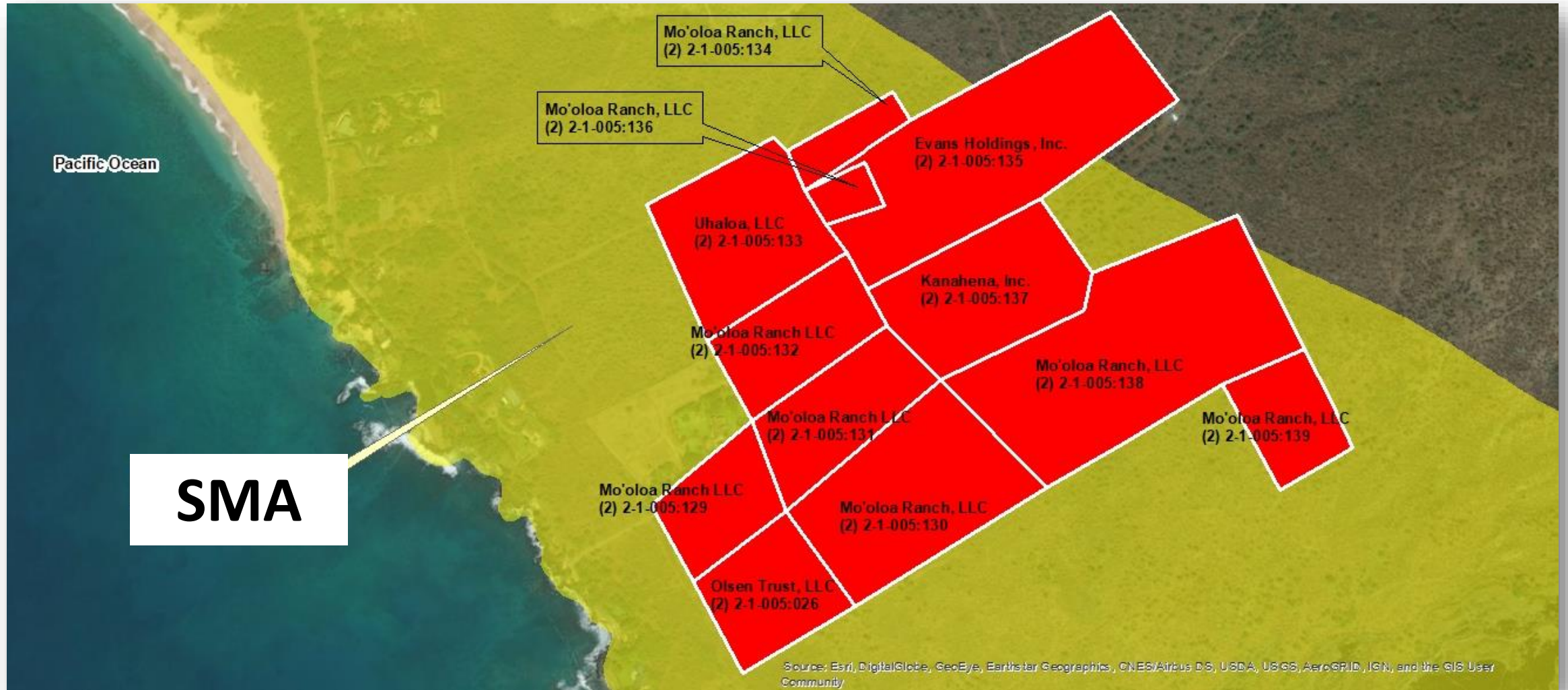
1. Project piecemealing
2. SMA permit violations
3. No SHPD review on SMA permits
4. 'Āhihi Kīna'u NAR
5. Long-term, cumulative impacts of the injection well and ground water on ecosystem



The community is concerned that the Mo'omuku development is being piecemealed to avoid environmental review.

Because of the interlocking ownership of the parcels and the infrastructure being put into place, community members are concerned that **this is a large scale project in the SMA that is not receiving proper environmental review due to parcel-by-parcel permitting.**

The Mo'omuku development is almost entirely within the Special Management Area (SMA).

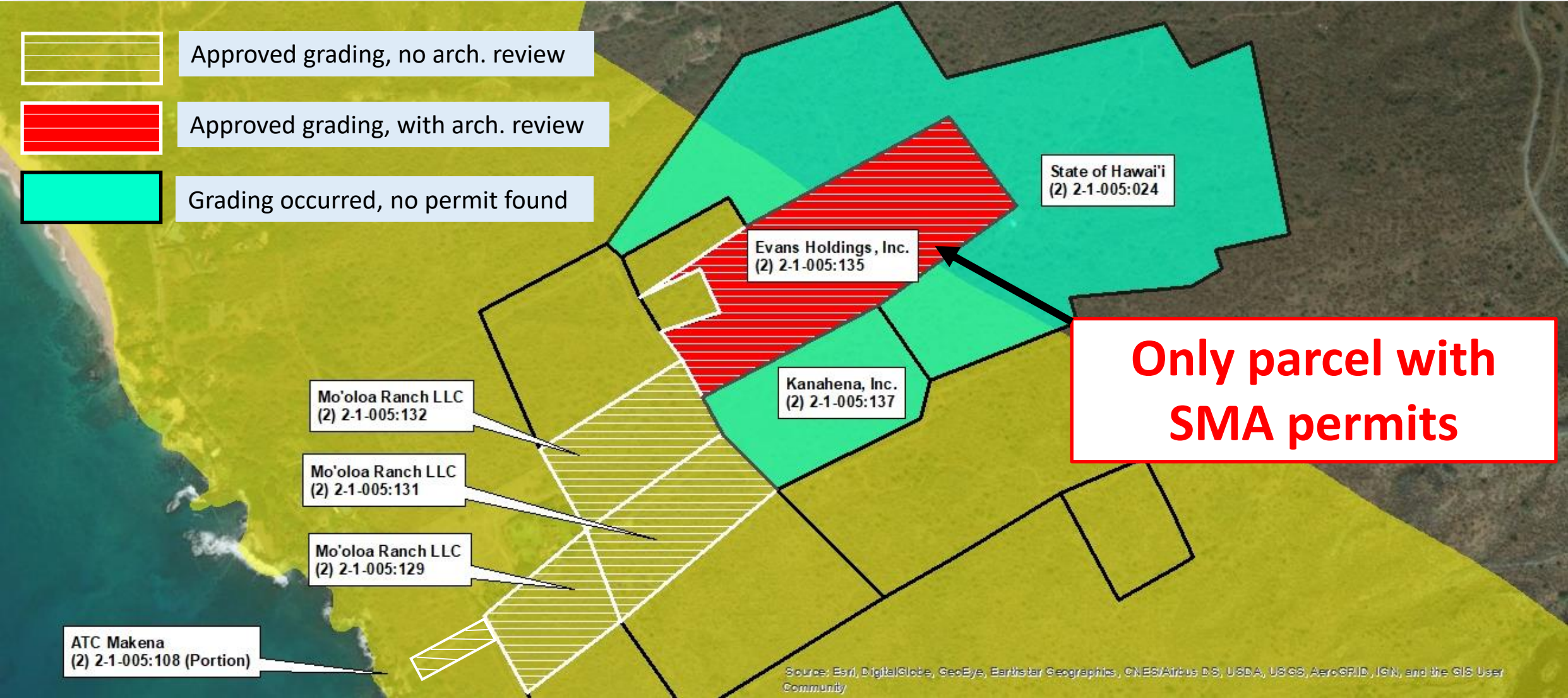




## Purpose of the SMA Permit:

The SMA permit was established in 1976 with the enactment of Act 176, known as the Shoreline Protection Act. The SMA extends inland from and along the shoreline. **It's a safeguard to protect the most sensitive area of the coastal zone.**

# SMA permit violations exist for 6 of the 7 parcels where grading occurred.



The SMA permits issued to Evans Holdings include a \$1.8 million farm dwelling, an injection well, and a gate. Two municipal wells, a water treatment facility and a 100,000 gallon water tank were also approved.

**SMA Permits:**

**2015 SMA Exemption**

Main Farm Dwelling  
\$1.8 million  
*No environmental impacts*

**2017 SMA Minor**

Brine disposal well  
\$220,000  
*No environmental impacts*  
(First brine injection well in the area)

**2016 SMA Minor**

Existing Gate  
\$22,000  
Amended to \$36,000  
*No environmental impacts*

**Questions:**

- **With SMA permits being reviewed on a parcel-by-parcel basis, how can the County examine the cumulative impacts of this project as a whole?**
- If you add the value of the total project improvements shouldn't it trigger an SMA Major?

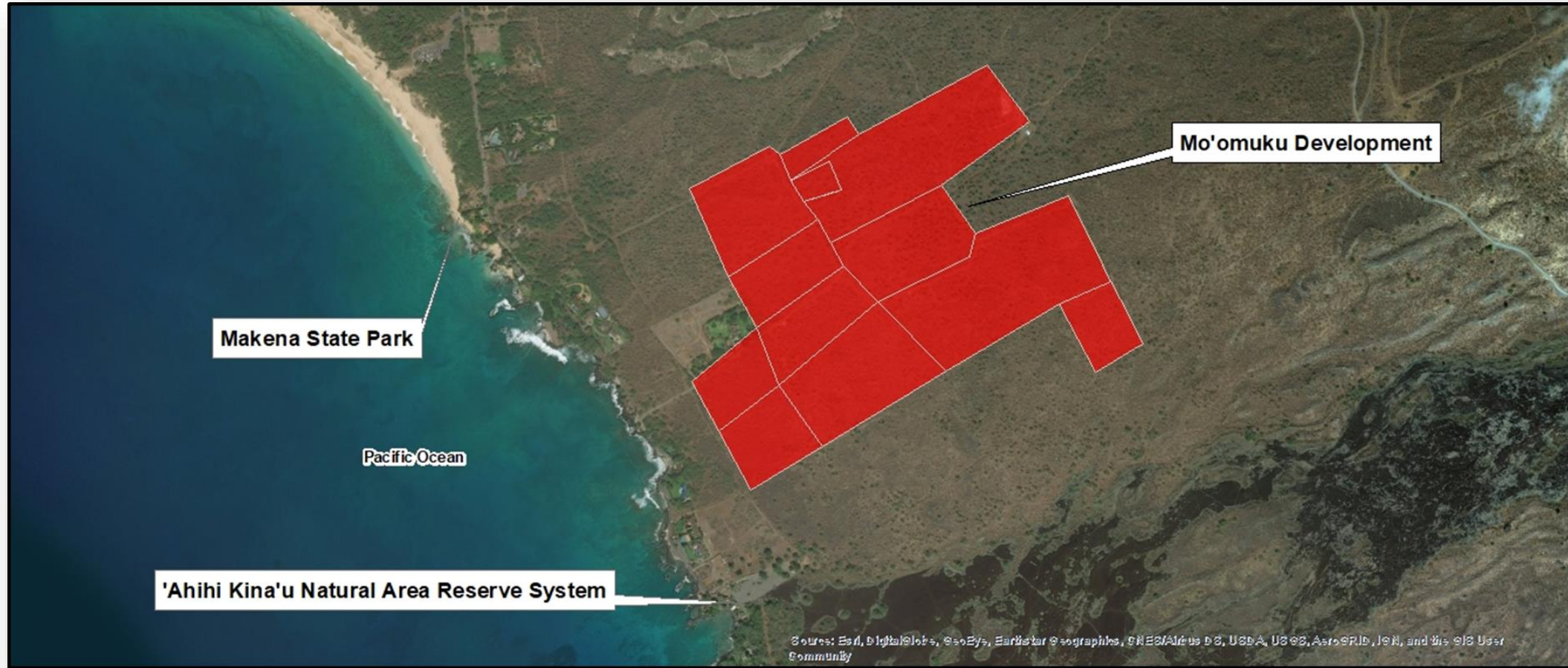
# The approved infrastructure does not match the Evans Holdings farm plan.

- Farm Plan states that 51% of parcel 135 will be kept as Agricultural Land Conservation (ALC). Located on this parcel are *wili wili* trees and buffel grass, which serve as a habitat for the deer population.
- **Why is there a need for a 100,000 gallon water tank and 2 municipal wells for a single farm dwelling with a farm plan that requires little to no water?** The habitat described in the plan occurs naturally in this area and does not require irrigation.
- “Municipal” defined by Water Commission Staff as “irrigation for a number of people, a privately owned system.”
- **Is this water to support a larger development in the future?**



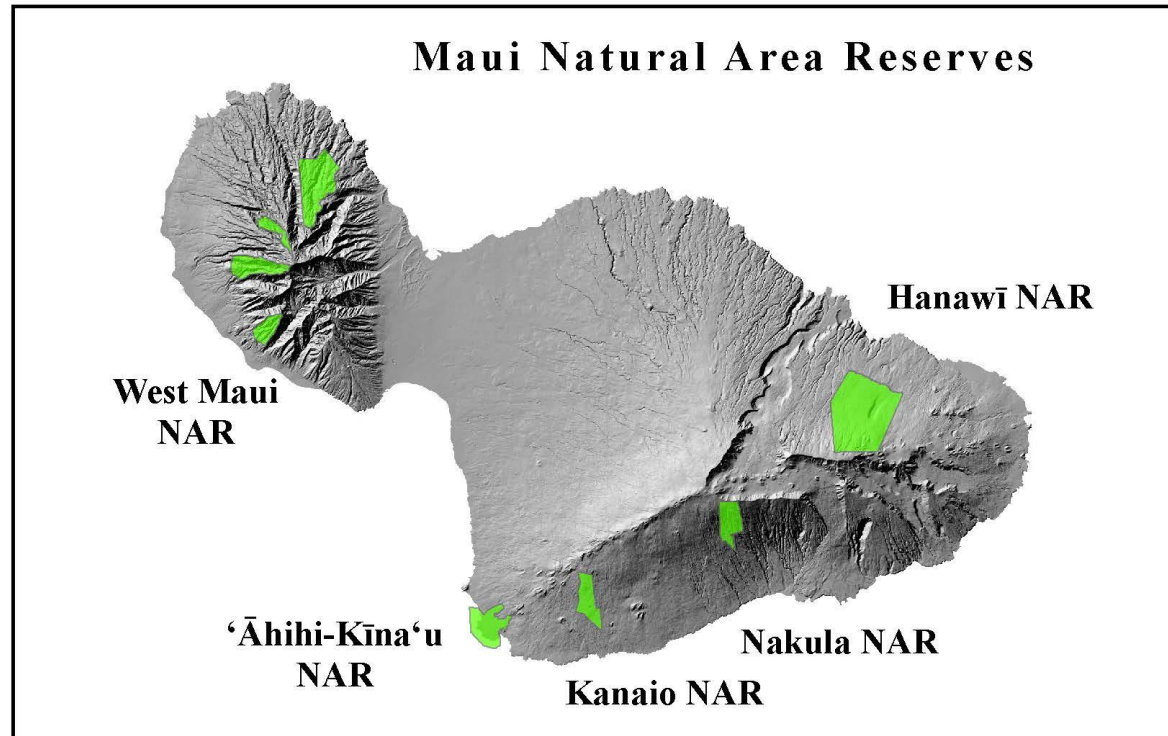


Natural Area Reserves System (NARS) is approximately ¼ mile from the Mo'omuku development.



The statewide system presently consists of 21 reserves on 5 islands, encompassing 123,810 acres of the State's most unique ecosystems.

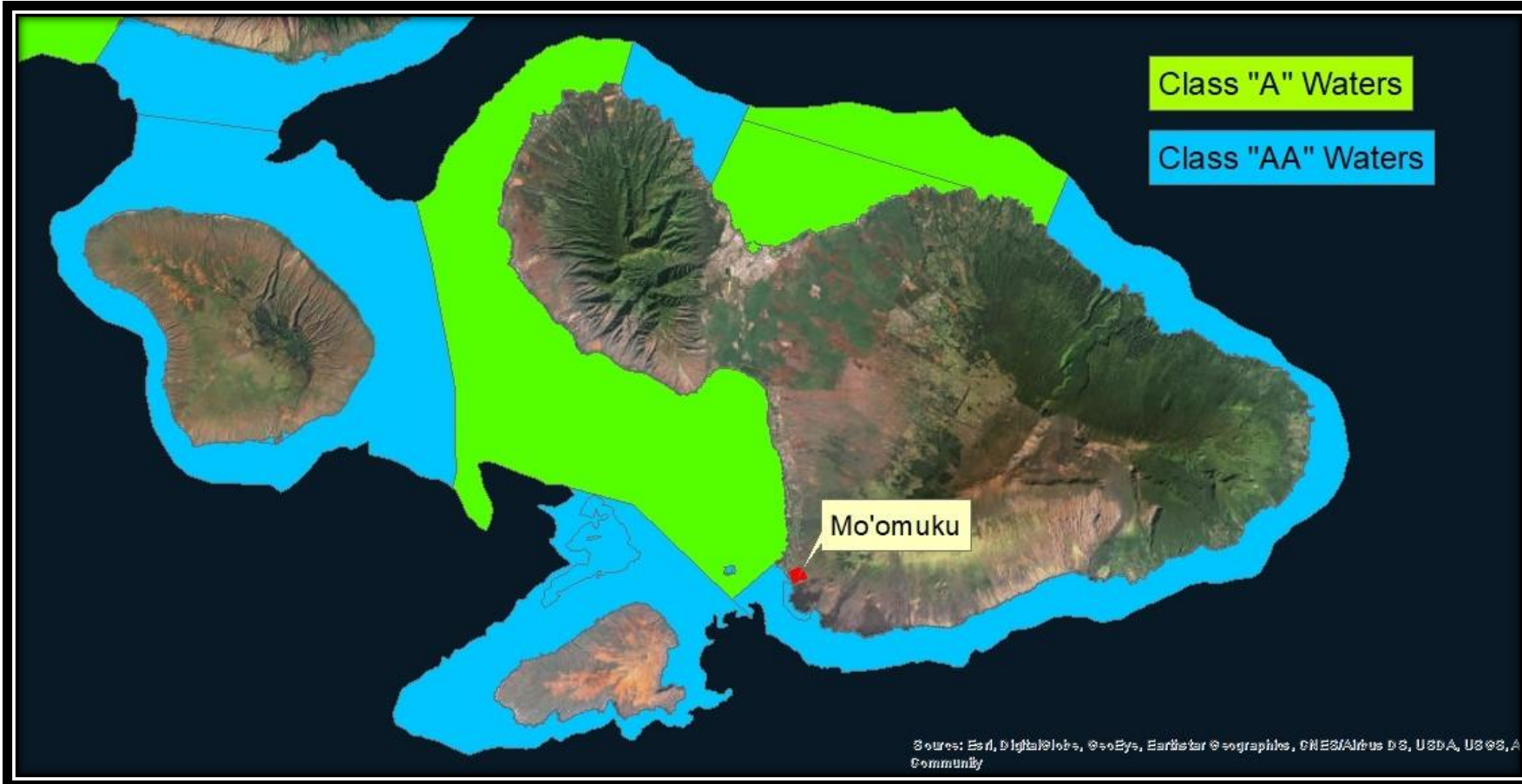
‘Āhihi Kīna‘u is the only NAR on Maui with a marine component. It was the first designated NAR in 1973. In 2007, DLNR Division of Aquatic Resources conducted a coral reef survey within the NAR boundary waters and it was **the only reef** from their test sites that was **not declining overall**.



- Community submitted an RFS requesting an Environmental Impact Statement to assess project impacts.
- Planning Department responded there are no EIS triggers.
- **How does a highly protected State reserve that is in close proximity to a large project in the SMA with an injection well have absolutely no review for environmental impacts?**
- **As manager of the reserve, why was DLNR (DAR & DOFAW-NARS) not consulted?**

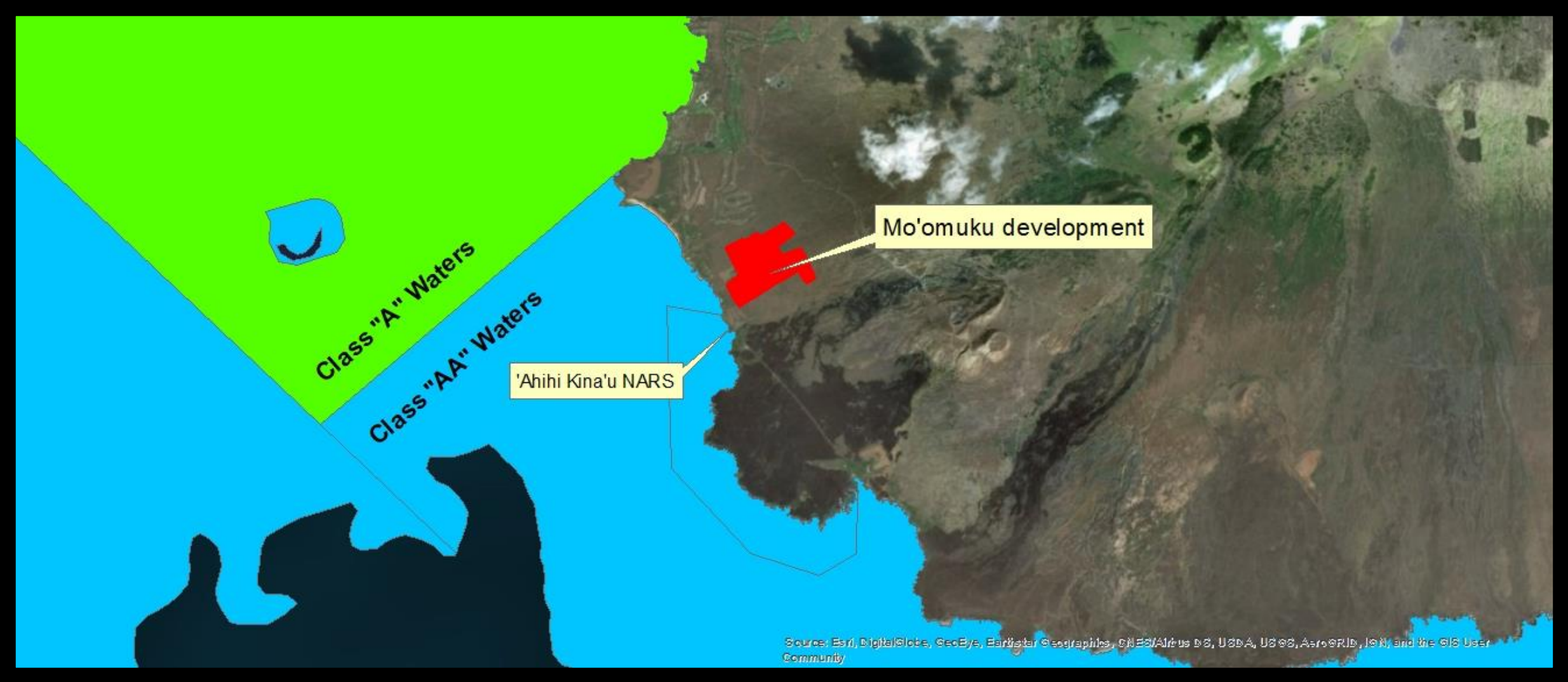


# Water Quality Classifications:



**Class AA.** (from Hawaii Administrative Rules, Title 11, Chapter 54): It is the objective of class AA waters that these waters **remain in their natural pristine state as nearly as possible** with an absolute minimum of pollution or alteration of water quality from any human-caused source or actions. To the extent practicable, **the wilderness character of these areas shall be protected.**

Potential impacts are silt run-off, injection wells, and groundwater extraction. All of these negatively impact our coral reefs and marine resources.







These are potential impacts that are not being reviewed by the County due to piecemealing of the permitting process:

- Impacts of new wells pumping groundwater have unknown short and long term negative impacts on ecosystem and shoreline cultural practices (fishing and gathering).
- Effects from disposal well of reverse osmosis brine has negative impacts to our water quality.
- Negative impacts on the NAR marine resources. NARS are the most highly protected State lands.
- Long-term impact of silt and dirt run-off carried by new paved “driveway” to ocean.
- Impacts on important cultural sites, such as *aupuni* wall and pre-Contact sites. The *aupuni* wall was built in the 1800’s by Kamehameha III to protect the farmers’ crops from free-ranging cattle. Besides fishponds, this is one of the few large-scale public works projects remaining from this era.





# Concern #3: Historic Preservation

1. Inadequate Archaeological Inventory Survey (AIS)
2. No community consultation











All public agencies in the State of Hawai'i, including the County of Maui, are obligated to comply with HRS Ch. 6E Historic Preservation laws.

According to HAR §13-284-5(a), for historic preservation regarding private projects (§6E-42), the agency [in this case, Maui County] shall ensure whether historic properties are present in the project area and, if so, it [Maui County] shall ensure that these properties are properly identified and inventoried.



# The County is obligated to uphold the Kihei- Mākena Community Plan:

## Implementing Actions:

**“Require development projects to identify all cultural resources located within or adjacent to the project area, prior to application, as part of the County development review process. Further require that all proposed activity include recommendations to mitigate potential adverse impacts on cultural resources, including site avoidance, adequate buffer areas and interpretation. Particular attention should be directed toward the southern areas of the planning region.”**

Evans Holdings, Inc. hired Scientific Consulting Services (SCS), to do two Archaeological Inventory Surveys (AIS) that were completed in 2015:

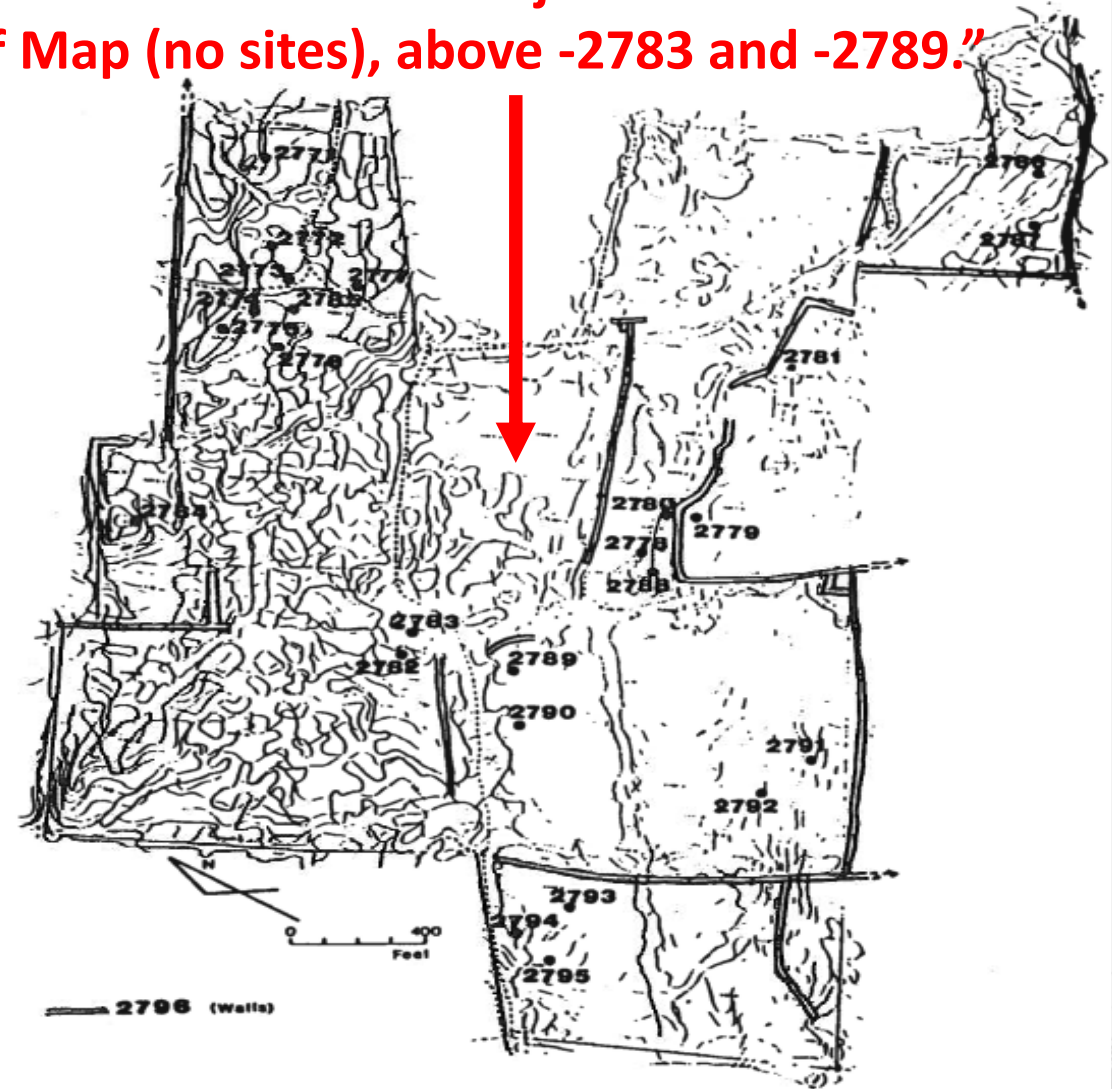


The community has serious concerns about the quality of SCS' archaeological work.

SCS did not identify known archaeological sites within their project area.

A previous AIS conducted in 1991 for the 150-acre Japan Grand Prix parcel resulted in the identification of numerous sites. SCS claimed none of these were in their AIS project area.

**SCS states: "Current Project Area is Center of Map (no sites), above -2783 and -2789."**



**Figure 2. Locations of Archaeological Sites.**

**Figure 3: Map Showing Location of Sites Documented by Cleghorn (1991). Note: Current Project Area is Center of Map (no sites), above Site -2783 and -2789.**



Actual location  
of SCS  
Archaeological  
Inventory Survey  
project area  
according to  
OHA GIS data -  
includes 9  
known sites.



Where SCS  
claimed their  
AIS project area  
was – “center  
of map (no  
sites)...”

Figure 3: Map Showing Location of Sites Documented by Cleghorn (1991). Note: Current Project Area is Center of Map (no sites), above Site -2783 and -2789.

The results of SCS' Archaeological Inventory Survey: **50 new sites** consisting of **82 features** were identified.

SCS' recommendations for these sites:

<b>Sites</b>	<b>Recommendation</b>	<b>Meaning of Recommendation</b>
43/50 sites (86%)	"No Further Work"	Ok to remove = Erasing cultural history
4/50 sites (8%)	"Data Recovery"	Manual excavation and laboratory analysis
3/50 sites (6%)	"Preservation"	For these sites, they recommended a 5 meter permanent buffer zone

(Numbers taken from the SCS AISR for both project areas.)

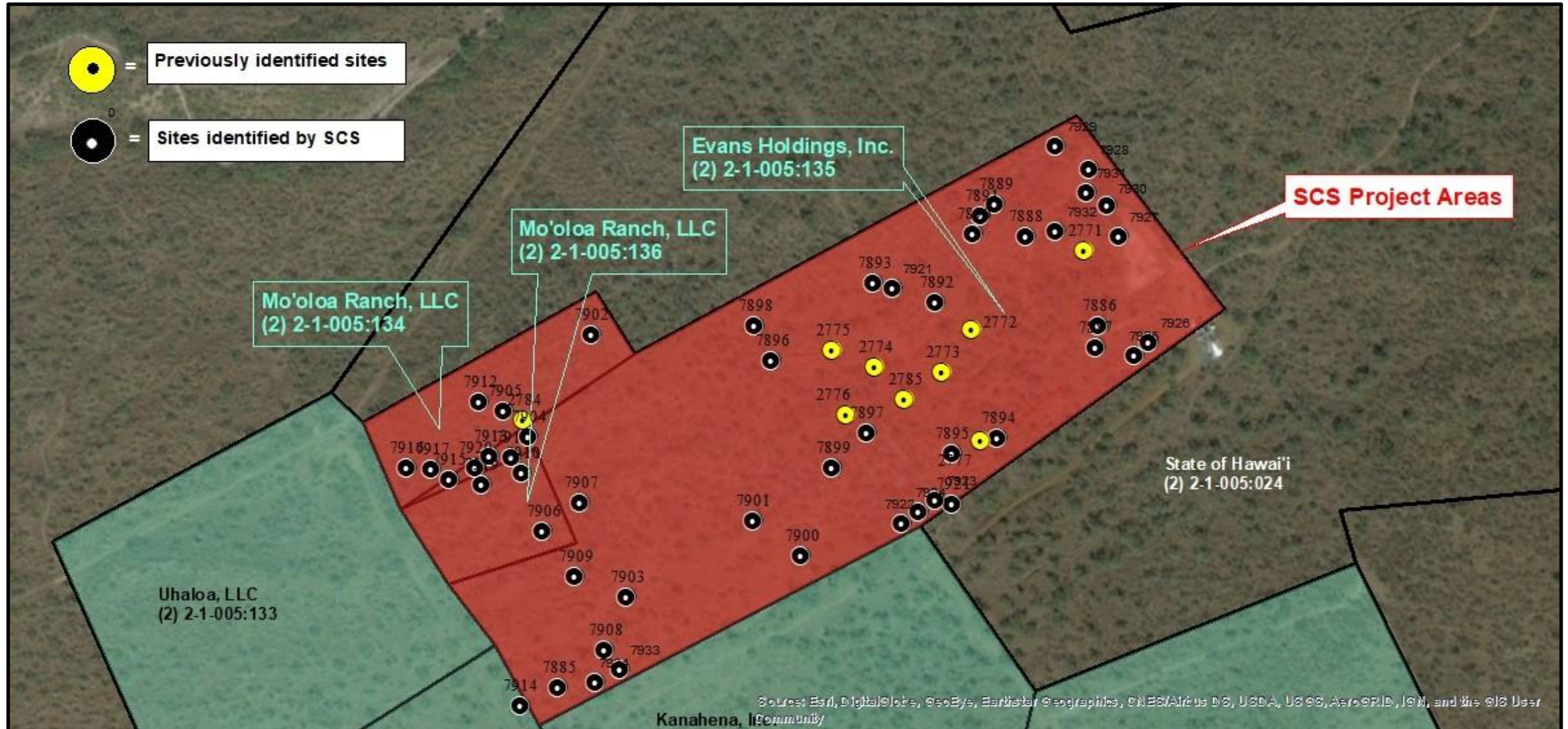


# SCS did not seek community consultation when deciding on site recommendations.

- Community consultation is the cornerstone of understanding the true significance of Hawaiian archaeological sites
- SCS has knowledge of Honua'ula Moku cultural consultants but did not attempt to reach out to them during significance assessments or recommendations for these cultural sites.
- Regarding the 3 Criterion "E" Sites: HAR §13-284-8 (a)(2), If properties with significance, so evaluated under criterion "e," as defined in paragraph 13-284-6(b)(5) are involved, the agency shall initiate a consultation process with ethnic organizations or members of the ethnic group for whom the historic properties have significance under criterion ' e ' to seek their views on the proposed forms of mitigation. For native Hawaiian properties which may be significant under criterion "e", the Office of Hawaiian Affairs also shall be consulted.



# All identified sites in SCS project areas by State Inventory of Historic Places site number:









# Community recommendations to the County for improving current processes:

1. Support the Kihei-Mākena Community Plan.
2. The Cultural Resource Commission and all County departments involved in permitting processes should have a consultation list provided by Aha Moku.
3. The SMA permit should be the first permit required when multiple permits are required for a development.
4. Introduce legislation to close loopholes in the county code that are being taken advantage of. The code should ensure accountability and protection to our resources.
5. The County and the State needs to figure out a better communication process to avoid misinterpretation of comment letters.

# Requested Actions:

- Look at the Mo'omuku Development as a whole to examine cumulative, long-term impacts; conduct an Environmental Assessment/Environmental Impact Statement.
- Regulate historic properties through ordinances; according to HRS 6E-15, if the county wanted to they could enact their own laws to protect cultural resources.
- Re-open the Archaeological Inventory Survey to include all parcels that had grading.
- Consultation with community and Aha Moku to develop conservation for the *wili wili* forest and preservation of cultural resources.



# Conclusion

Mo'omuku has a very rich cultural and natural history. The dryland *wili wili* forest, countless historical sites, pristine marine ecosystem, cultural practices, and the sacredness of these lands deserves to be protected. The current construction avoided environmental review processes that protect these resources.

In the past two hundred years development has erased so much cultural history and depleted our resources. We need to start saving what history still lives and give life back to our 'āina. If we don't make drastic changes now we will fail our kuleana as Makua to our keiki.

Thank you to all those who contributed their energy to this presentation, including everyone here in this room today. It represents the efforts of many and was only possible through collaboration.

**We hope that the County *continues* to collaborate with the community, because in the end what we want is the same . . . to protect the place, the people and the values that we love.**



**MAHALO NUI**