

Info Briefing:
**Updates from Department of Land and Natural Resources
on ACT 90, 2003 session law.
Transfer of Agricultural Lands to DOA from DLNR.**

SENATE COMMITTEE ON WATER AND LAND
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

December 9, 2020

Hawai'i Constitution

Public Trust Resources. For the benefit of present and future generations, the State and its political subdivisions shall ***conserve and protect*** Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the ***development and utilization*** of these resources in a manner consistent with their conservation and in furtherance of ***the self-sufficiency*** of the State.

All public natural resources are held in trust by the State for the benefit of the people.

- Article 11, Section 1.

Agricultural Sustainability. The State shall conserve and protect agricultural lands, promote diversified agriculture, increase ***agricultural self-sufficiency*** and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing. - Article 11, Section 3.

The public lands shall be used for the development of farm and home ownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law. -Article 11, Section 10.



Governor Ige's SUSTAINABLE HAWAI'I INITIATIVE

Strengthening our waters, land and food for Hawaii's communities

double
local food
production

A white icon of a bowl with two leaves, representing local food production.

100% increase in local
agricultural production
by 2020

Hawai'i
interagency
biosecurity plan

A white icon of a shield with a checkmark, representing biosecurity.

Stronger invasive species
policy, infrastructure and
capacity by 2027

30 x 30
watershed
protection

A white icon of a tree with a water drop, representing watershed protection.

30% of priority
watersheds protected by
2030

30 x 30
marine
management

A white icon of a fish, representing marine management.

30% of nearshore marine
areas effectively managed
by 2030

100%
renewable
energy

A white icon of a sun, representing renewable energy.

Complete transfer to
clean, renewable energy
by 2045



Aloha+ CHALLENGE





ACT 90 SLH 2003

Act 90 provides for the transfer of non-agricultural park lands from DLNR to DOA by mutual agreement:

certain public lands classified for agricultural use by the department of land and natural resources should be transferred to the department of agriculture, with the approval of the board of land and natural resources and the board of agriculture

§166E-3 Transfer and management of non-agricultural park lands and related facilities to the department of agriculture. (a) Upon mutual agreement and approval of the board (of agriculture) and the board of land and natural resources:

(1) The department may accept the transfer of and manage certain qualifying non-agricultural park lands....

DLNR is in full compliance with Act 90, 2003

Lands transferred from DLNR to DOA under Act 90:

Kaua'i: 37 leases, revocable permits, and vacant parcels, totaling 538 acres*

* plus lands transferred from DLNR to ADC

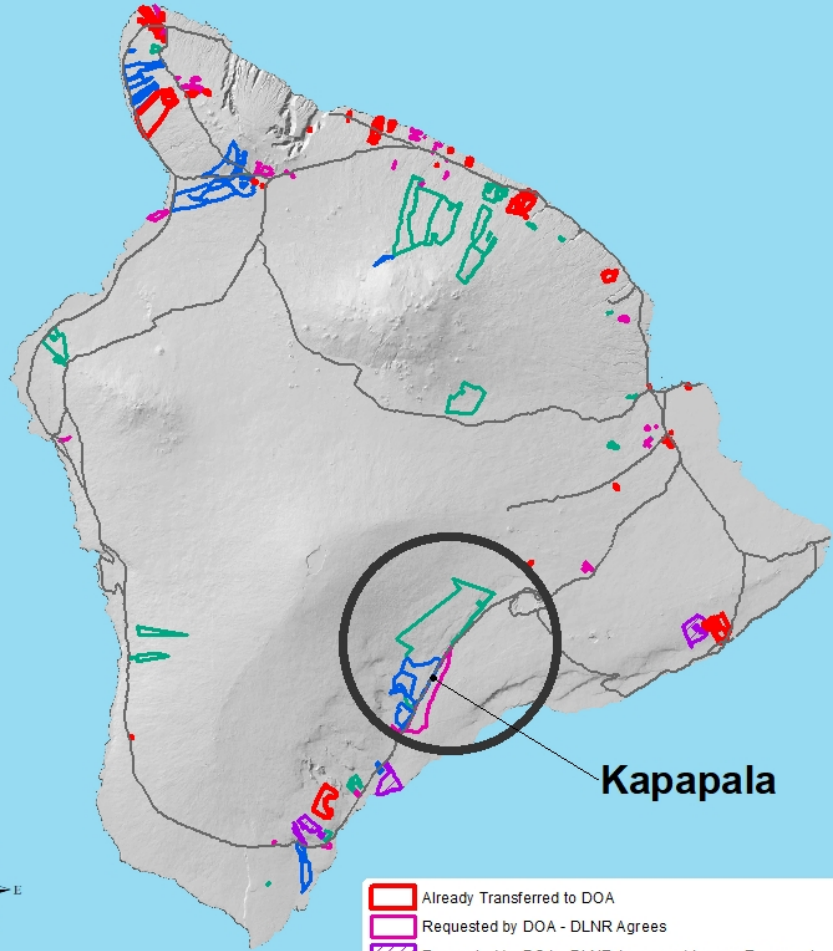
O'ahu: 88 leases, revocable permits, and vacant parcels, totaling 1,417 acres

Maui: 19 leases, revocable permits, and vacant parcels, totaling 1,317 acres

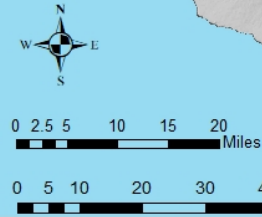
Hawai'i Island: 86 leases, revocable permits, and vacant parcels, totaling
15,812 acres

Total: *237 transfers from DLNR to DOA, totaling 19,084 acres*

DLNR Agricultural and Pasture Lands Hawai'i Island

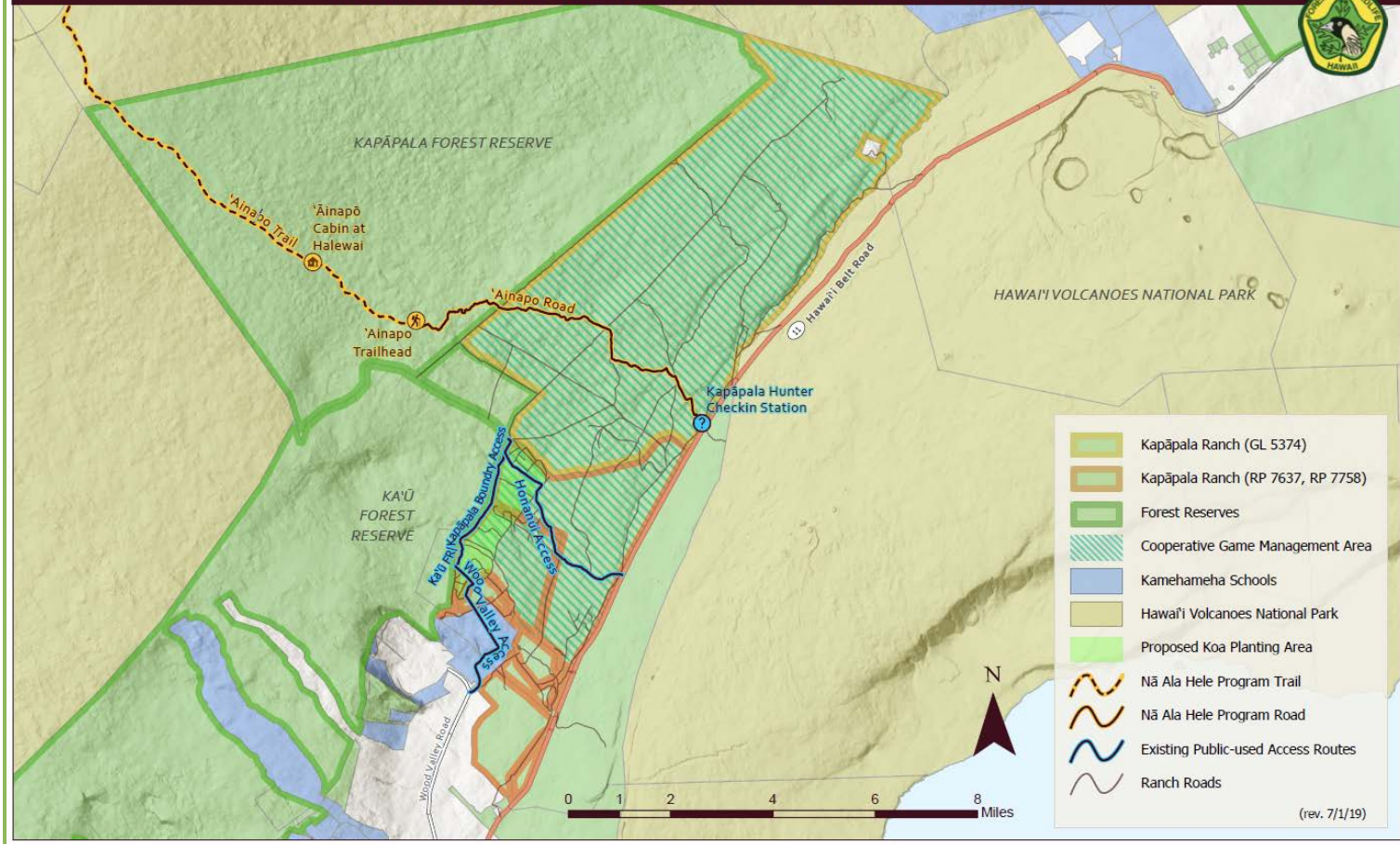


- Already Transferred to DOA
- Requested by DOA - DLNR Agrees
- Requested by DOA - DLNR Agrees w/ Access Easement
- Requested by DOA - DLNR Disagrees
- Other Lands Proposed by SB2812/BH2035; DLNR high priority
- Major Roads



Map does not include transfers made outside of Act 90 (for agricultural parks or to ADC, for example), (808) 587-4170. Dec 2020.

KAPĀPALA RANCH AND ADJACENT FOREST RESERVES



(rev. 7/1/19)

ACT 90 TRANSFERS



Almost all parcels that DLNR and DOA have mutually agreed to transfer have been transferred.

For parcels identified by DOA for possible transfer that have not been transferred, where DLNR agrees, the reasons include:

- DOA has not completed *file review or inspections* of the parcels needed to determine whether to accept transfer
- DOA has identified *compliance* issues with the current lease or permit that impede completion of the transfer
- Land *surveys* of the parcels or updates of old CSF maps are needed before the transfer can be documented

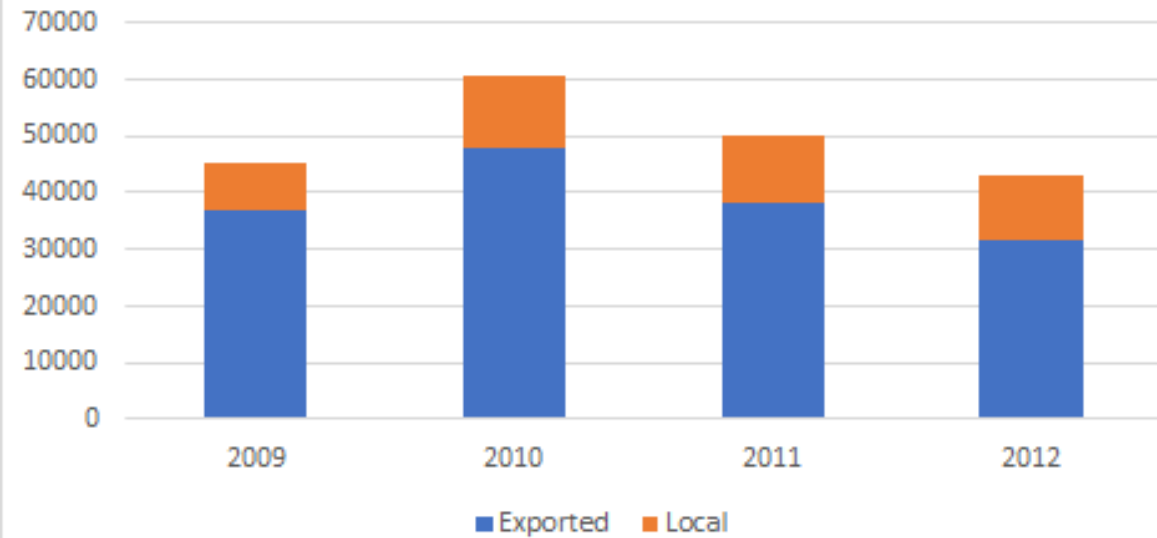
ACT 90 TRANSFERS



For parcels identified by DOA for possible transfer that have not been transferred, where DLNR does not agree, the reason is that DLNR has identified important *public trust forestry and wildlife natural resource that it is our constitutional duty to conserve and protect.*

This is a very thoughtful, careful analysis parcel by parcel on each island, looking at native forest, endangered species, reforestation, public hunting, trails, traditional and customary cultural practices, access to shoreline and mauka lands for management and public access, and other public trust values.

Cattle Production in Hawaii
(Head of cattle)



**DOA's
priorities**



Is it good agricultural land, like former sugar and pineapple lands, with good soils and water?
Is it actually being used for Hawai'i's food security, versus export?

DLNR also has worked on projects to support agriculture

- Ewa feedlot
- Hilo dairy facilities in Hilo
- Water for ag lands in Lalamilo
- East Kauai irrigation system
- Water for diversified ag in East Maui



Multiple Uses

Areas where grazing, forestry, hunting, access, renewable energy projects can co-exist.

DLNR does not seek to displace anyone, but to collaborate on multiple uses and preserve the status quo for future generations

DLNR is looking at the next hundred years. Stop the conversion.

Hawai'i cannot be the Amazon forest destruction of the Pacific.



Pending Reviews

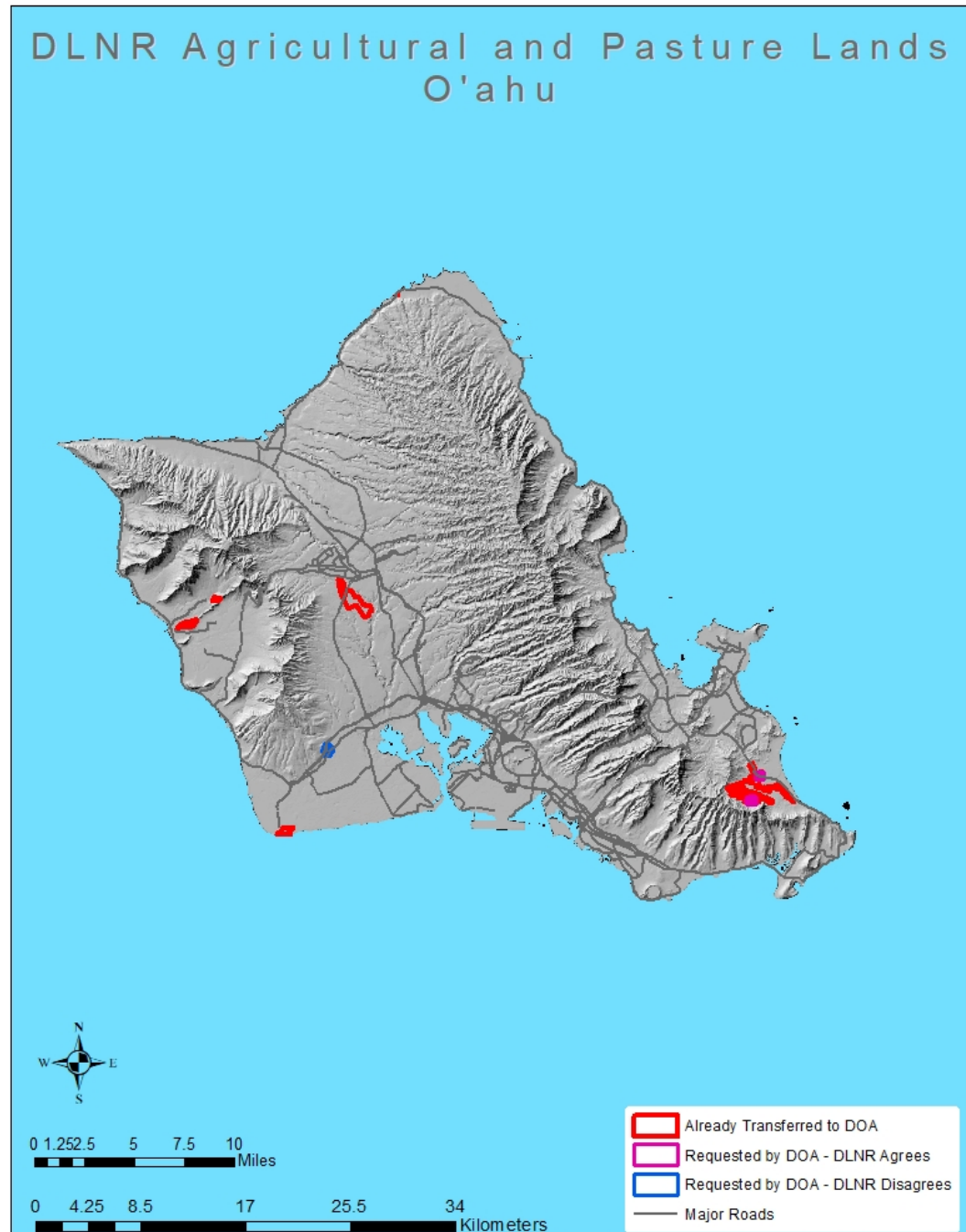
DOA's most recent review list as of November, 2019:

- Kauai: 35 reviews requested by DOA
 - 30 are pending DOA file review & site inspection
 - 21 identified by DOFAW as important for reforestation, forest carbon, public hunting, access to mauka managed lands, public recreation, wetland habitat, nene habitat
 - 1 transfer completed

Pending reviews

DOA's most recent request list as of November, 2019:

- Oahu: 3 review requested by DOA
 - 1 is pending DOA file review & site inspection
 - 1 parcel to be retained by DLNR: East Kapolei/UH West Oahu Rail TOD
 - 1 transfer approved by BLNR; EO paperwork nearly completed

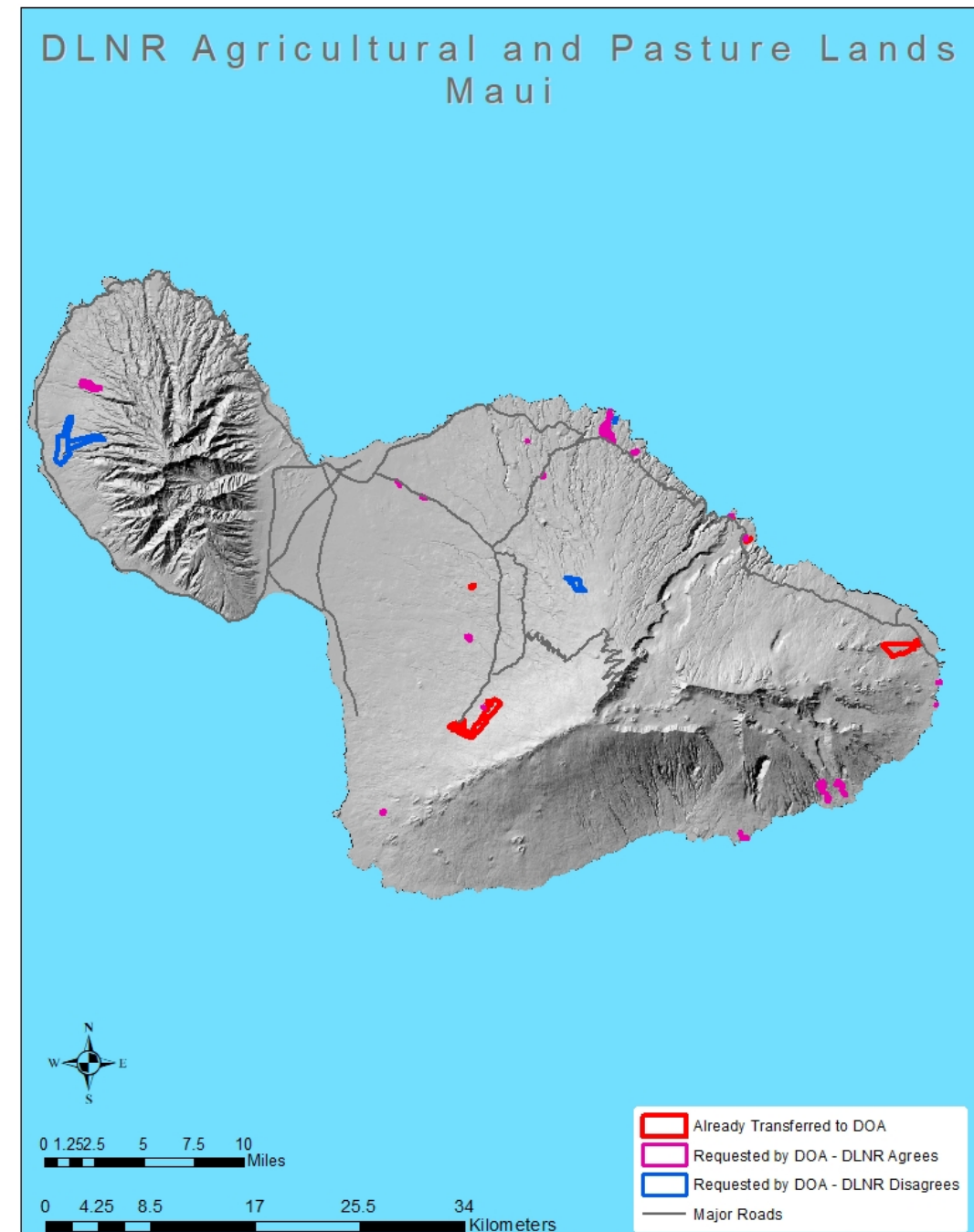


Map does not include transfers made outside of Act 90 (for agricultural parks or to ADC, for example), (808) 587-4170. Dec 2020.

Pending reviews

DOA's most recent review list as of November, 2019:

- Maui: 32 reviews requested by DOA
 - 25 are pending DOA file review & site inspection
 - 7 transfers completed;
 - 3 identified by DOFAW as important for native forest, koa silviculture, shoreline and forest access, stream protection, historic trails, cultural values, lowland dry forest reforestation, public recreation, mauka to makai connectivity via forests and streams



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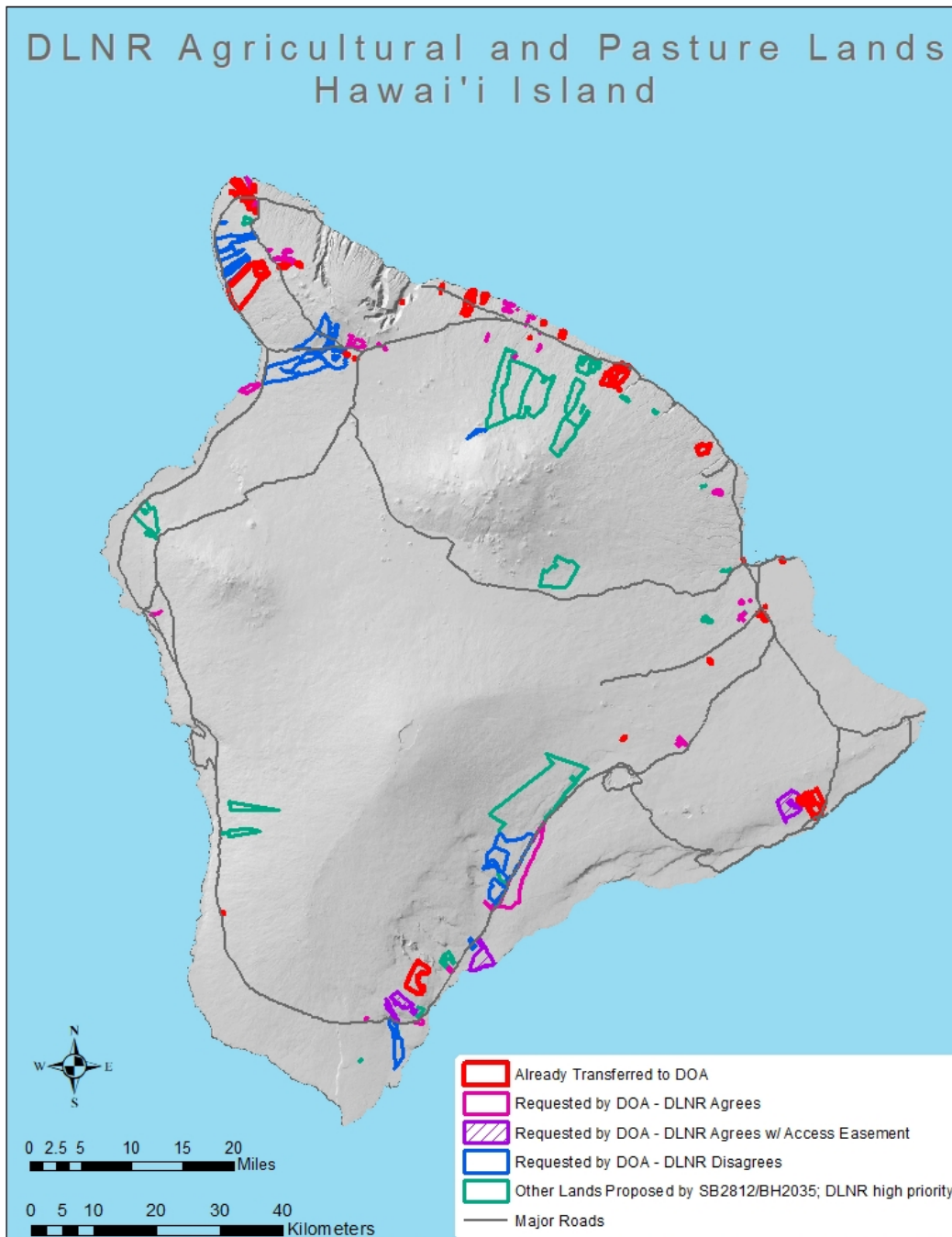
Pending reviews



DOA's most recent review list as of November, 2019:

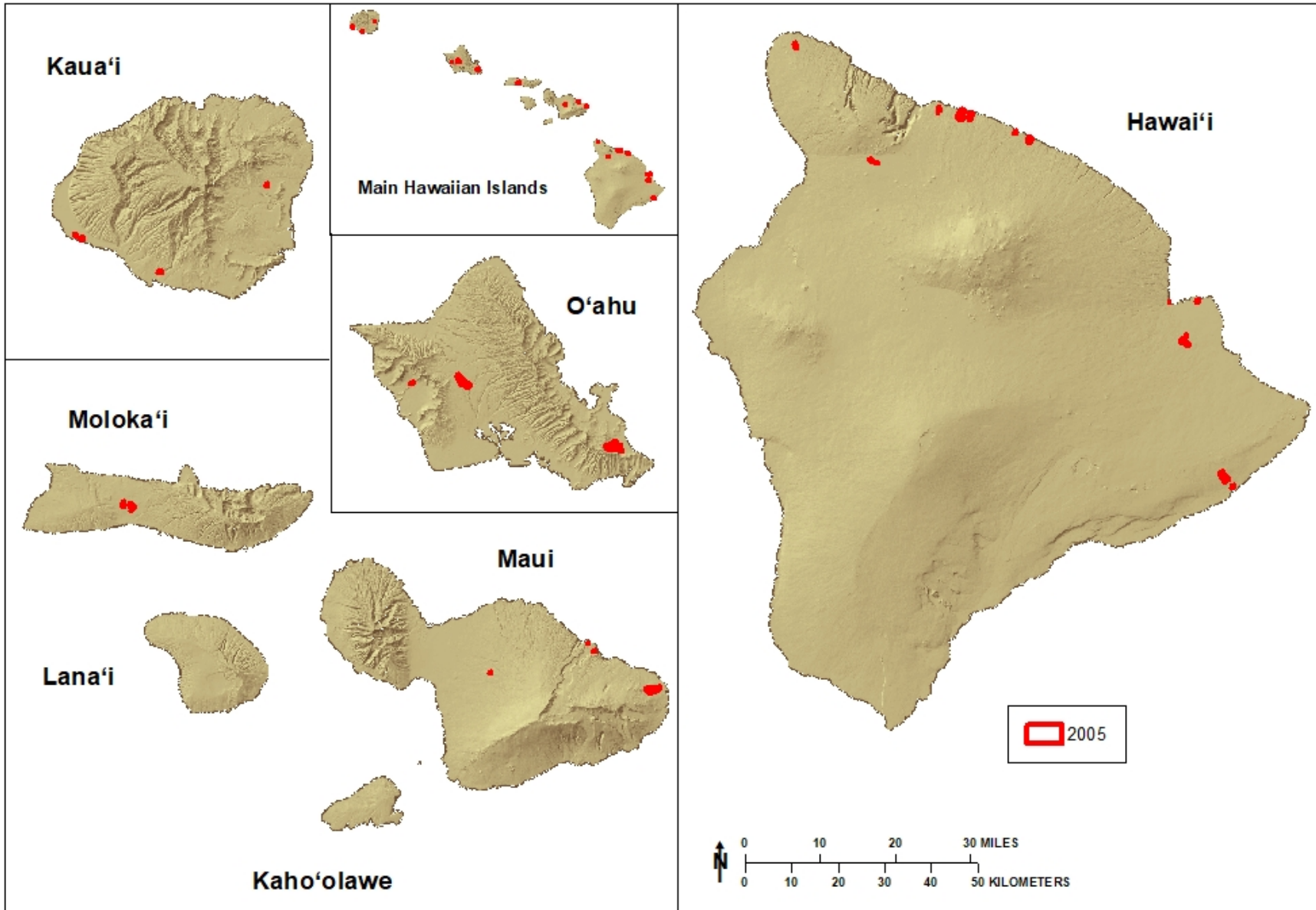
- Hawai'i Island: 52 reviews requested by DOA
 - 52 are pending DOA file review & site inspection
 - 11 identified by DOFAW as important for forest protection, reforestation and forest carbon sequestration, koa canoe logs for paddling clubs, public hunting and trails, access to mauka managed lands, public recreation
 - 1 RP was canceled by the RP holder; BLNR approved it for set-aside to Forest Reserve

DOA 2019
review list
+
SB2812 parcels



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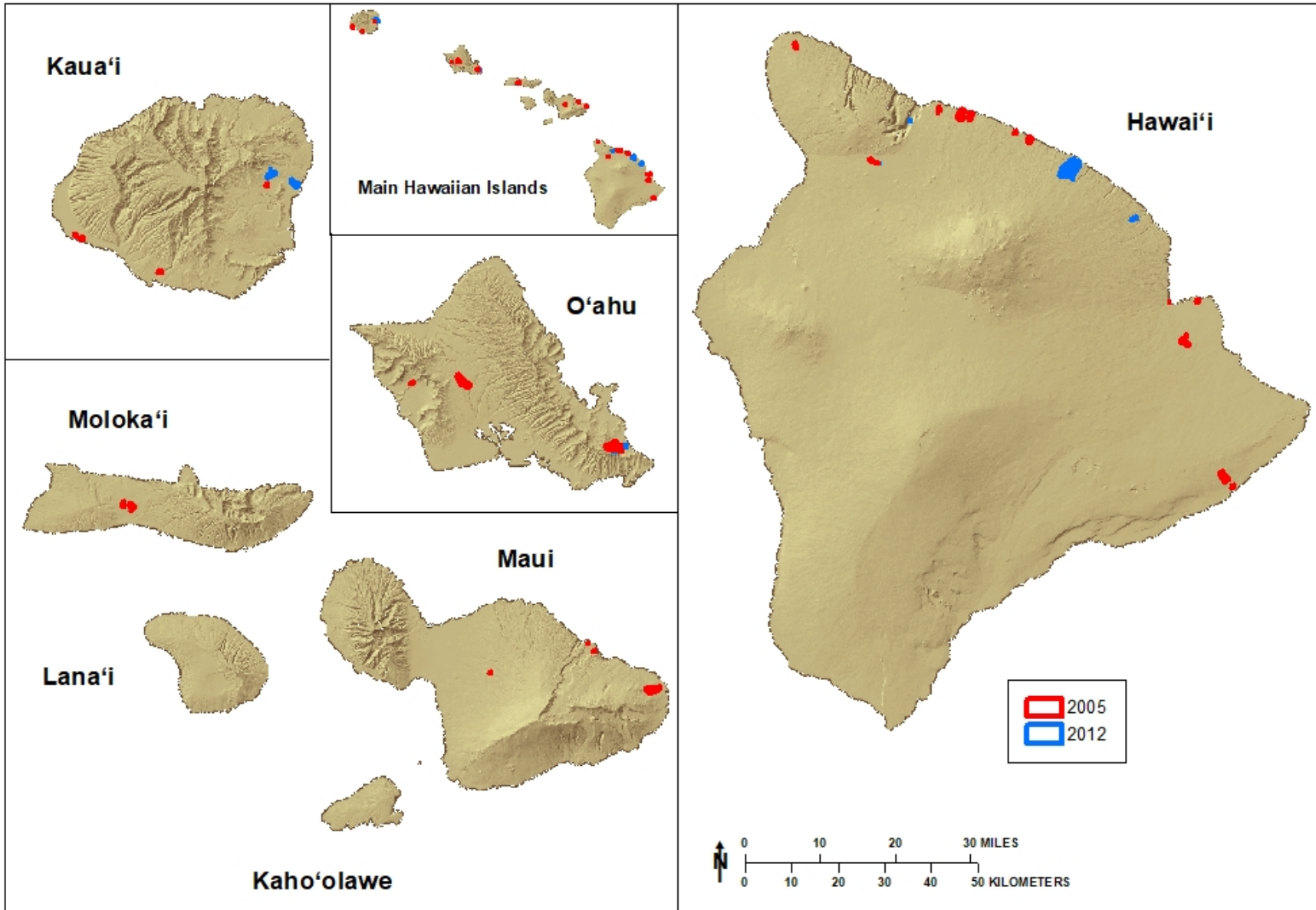
DLNR Lands Transferred to DOA



2005

Does not include lands transferred outside of Act 90 (for agricultural park, or to ADC, for example), (808) 587-4170. December 2020.

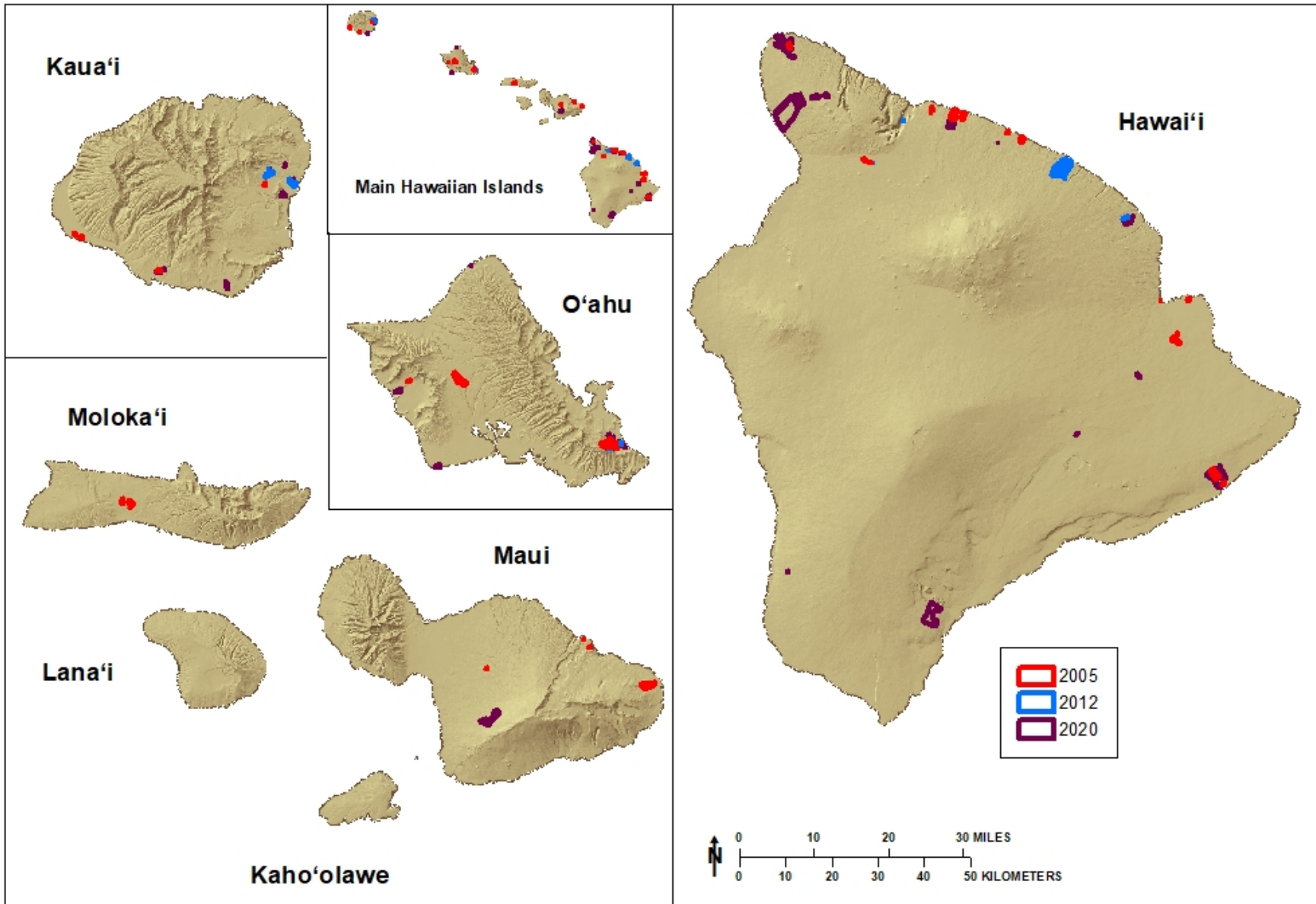
DLNR Lands Transferred to DOA



2012

Does not include lands transferred outside of Act 90 (for agricultural park, or to ADC, for example), (808) 587-4170. December 2020.

DLNR Lands Transferred to DOA



2020

Total transferred to date:
237 leases, revocable
permits, and vacant parcels,
totaling 19,084 acres

Does not include lands transferred outside of Act 90 (for agricultural park, or to ADC, for example), (808) 587-4170. December 2020.

Issues that Hamper Transfers

- The farm is not economically feasible according to DOA.
- The Ag parcel is not economically feasible (too small) according to DOA.
- Ag land is mixed together with conservation land within a legally subdivided lot. Survey and subdivision would be required which is not economically feasible for DOA, DLNR or the tenant to undertake.
- Many lands (ag or otherwise) do not have a survey or is not a legally subdivided lot precluding a transfer; and costs to survey and subdivide are beyond the budgets or desires of DOA, DLNR or the tenant.
- Tenant is noncompliant with CDUP or other clearance from OCCL.
- Tenant is noncompliant with lease terms.



Why do farmers and ranchers want to transfer from DLNR to DOA so badly?

- *Favorable lease rents* – DOA interprets its laws to allow for fair market value for agricultural use. Chapter 171 requires DLNR to set rents by a “disinterested appraiser”, who often applies the “highest and best use” or animal carrying capacity standard.
- *Future security*– DOA interprets its laws to allow for **directly negotiated leases** to farmers and **ranchers without regard to others interested**. DOA allows **conversion of revocable permits to direct leases**.
 - Chapter 171 requires DLNR to require **public auctions for leases**. Revocable permits can be revoked and the land set-aside to public trust uses.
- *Agriculture leases can exclude other public trust uses*. DOA’s priority is supporting farming and ranching use. DLNR’s priority is public trust values of natural and cultural resources and public recreation, and fair income generation.



How does DLNR provide ranchers the same opportunity that DOA provides, to protect public trust multiple uses?

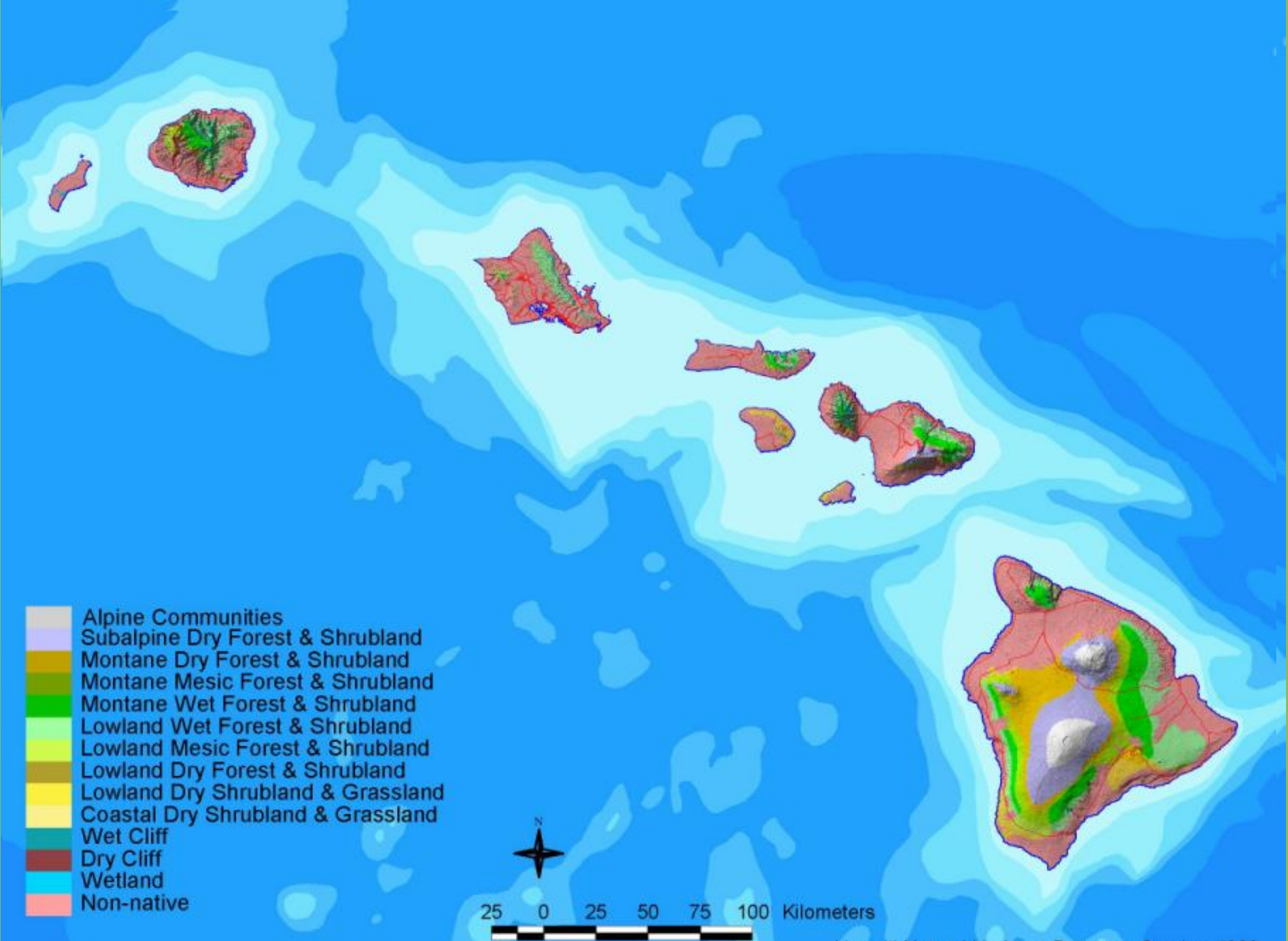
DLNR BILLS TO GAIN FLEXIBILITY IN AG LEASE MANAGEMENT

In the 2020 Legislative session, DLNR introduced HB2358 and SB2914 to amend Chapter 171, HRS, in a way that would:

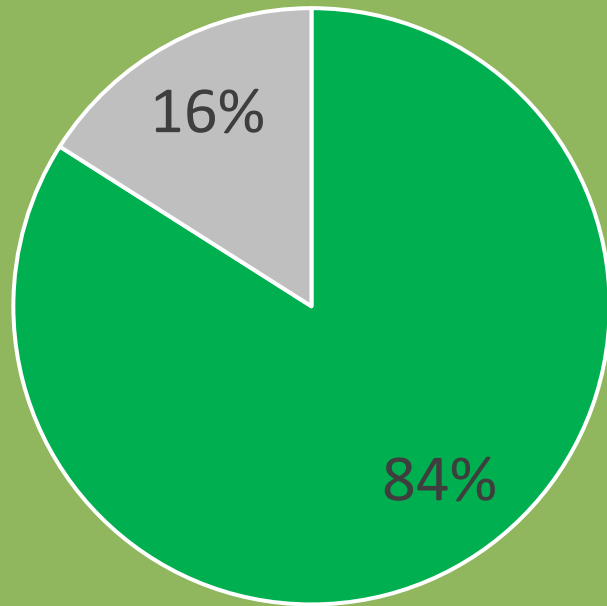
- Provide incentives for DLNR and ranchers to work together on mutually beneficial terms to promote public priorities by providing DLNR with statutory powers similar to those exercised by DOA in the management of its leases.
- Give DLNR authority to extend pasture leases up to an aggregate term of 65 years, and to amend the leases to place grazing or other use restrictions on high resource value portions of the lease premises.
- Allow DLNR to factor use restrictions as well as the value of any land conservation and stewardship services lessees are required to perform under their leases in determining an appropriate rent to charge.

Why are some State ranch lands
so important to DLNR?



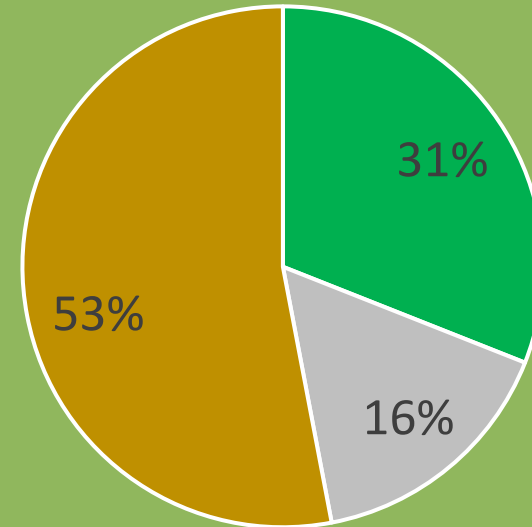


Before Humans



■ native vegetation ■ barren lava

Today



■ native vegetation

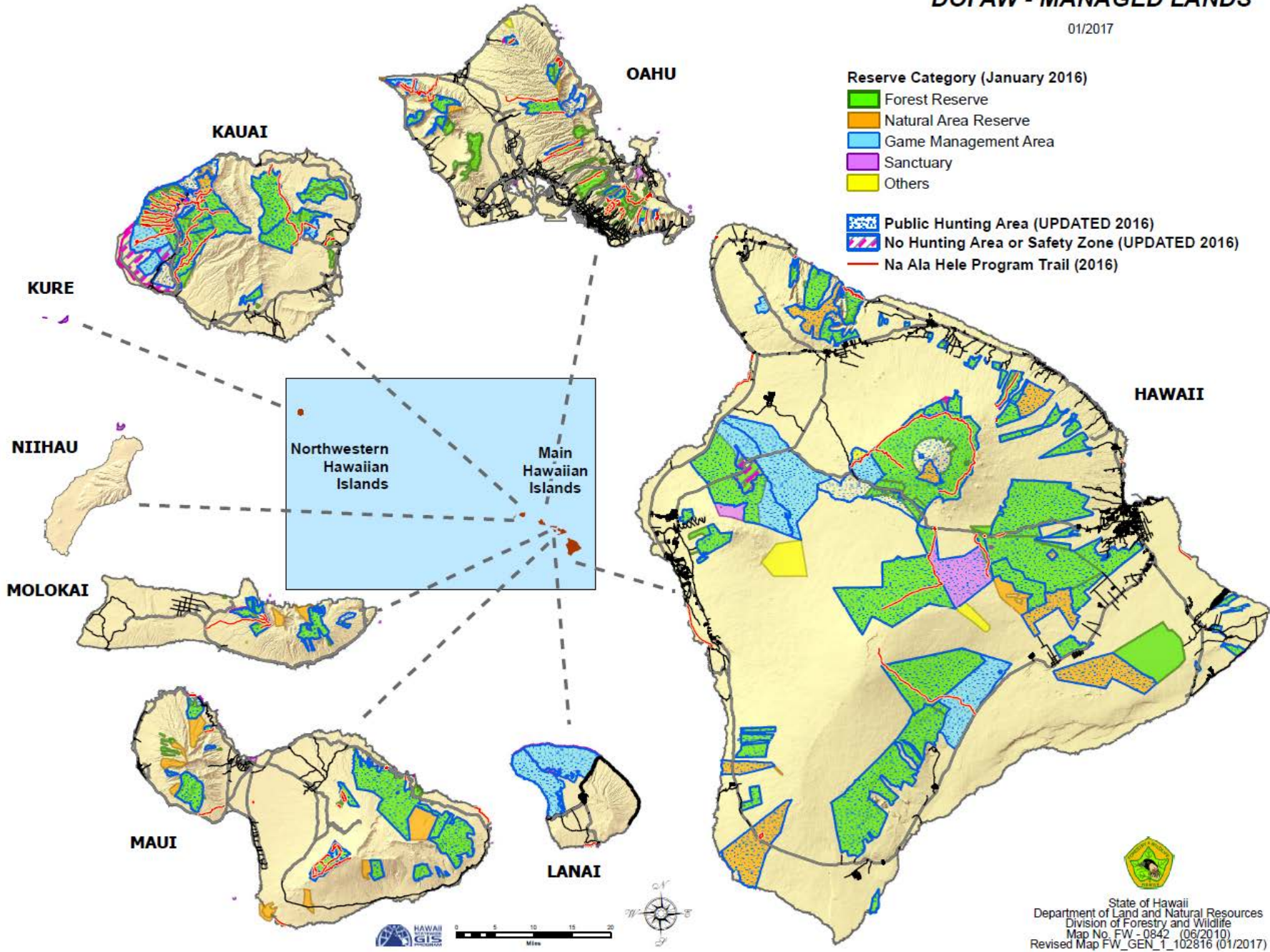
■ barren lava

■ non-native/human modified lands

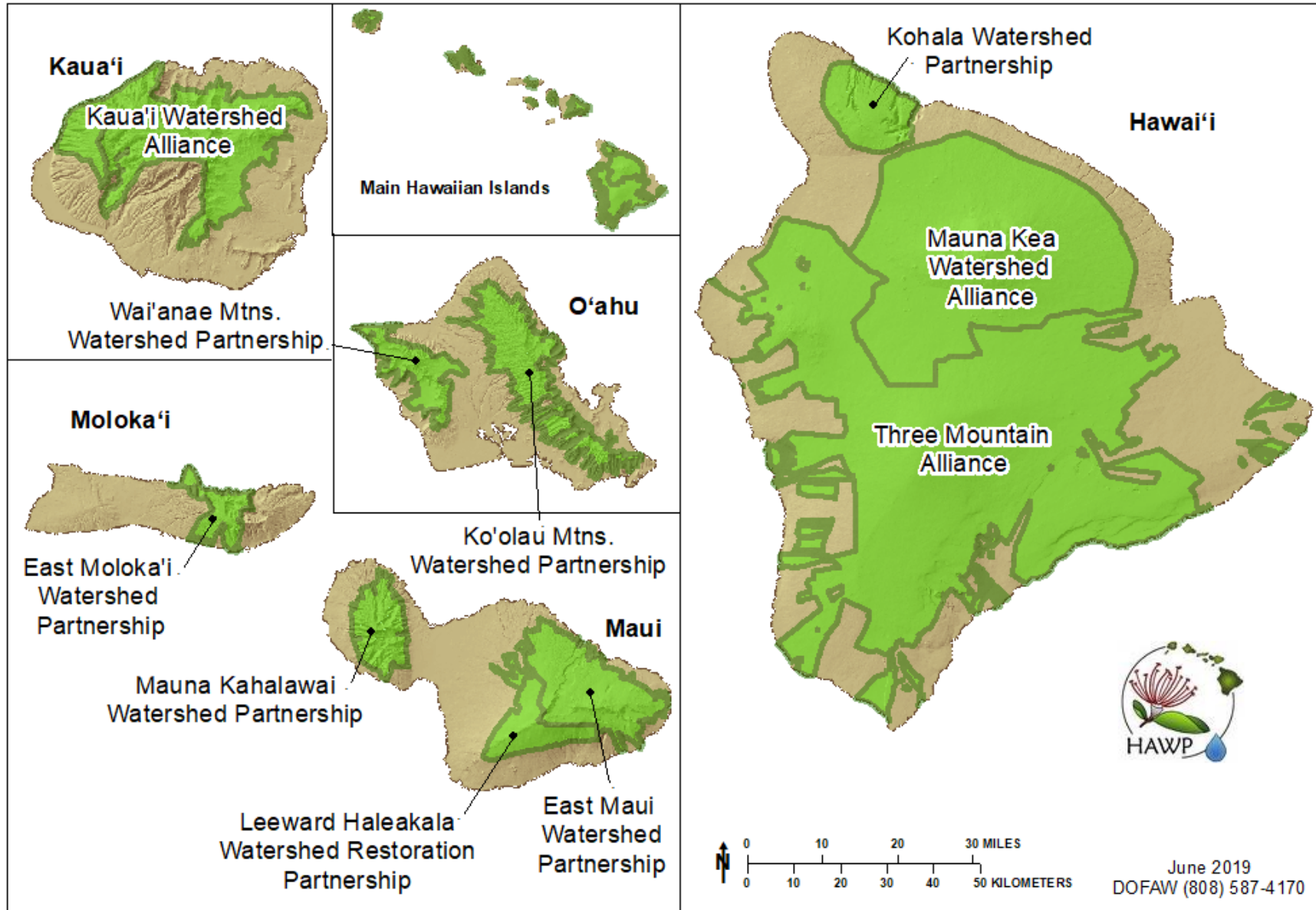


DOFAW - MANAGED LANDS

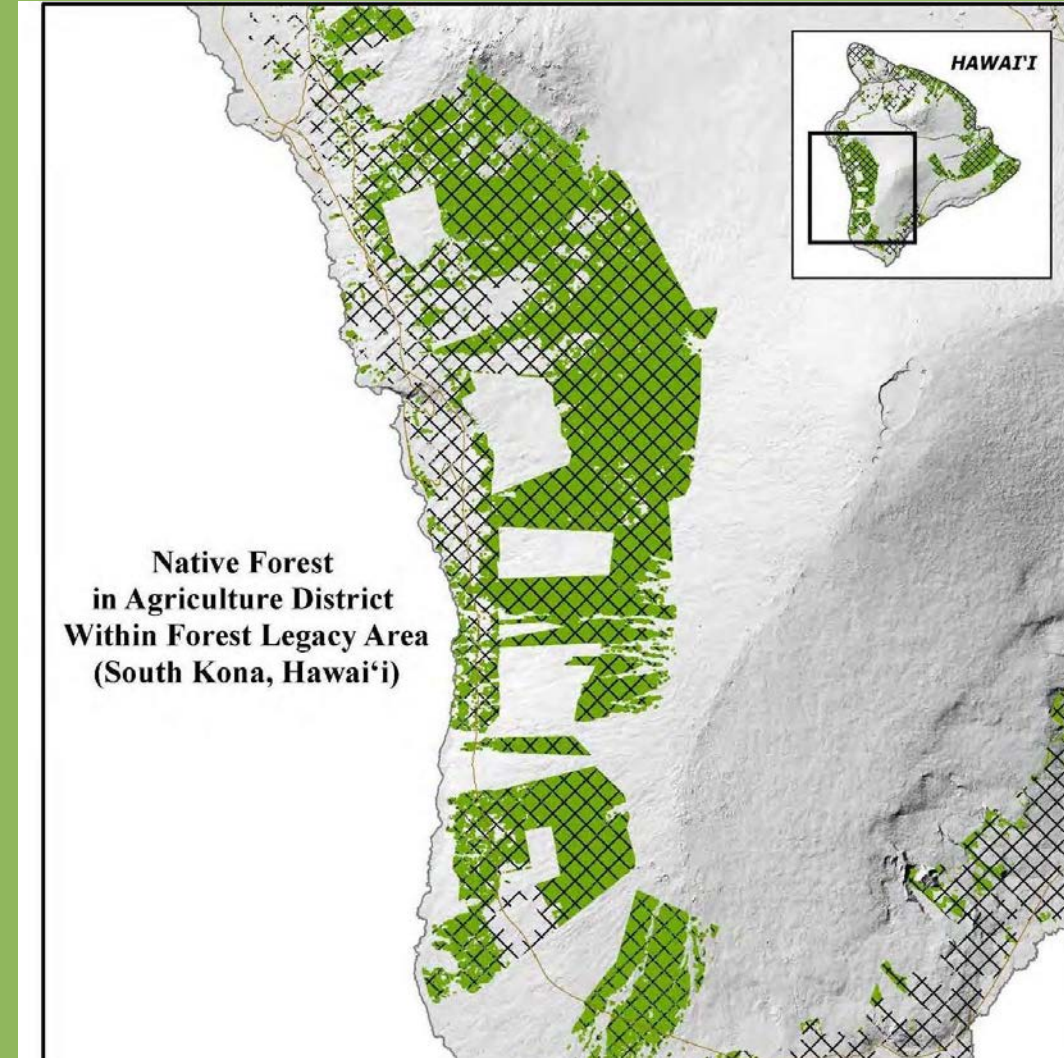
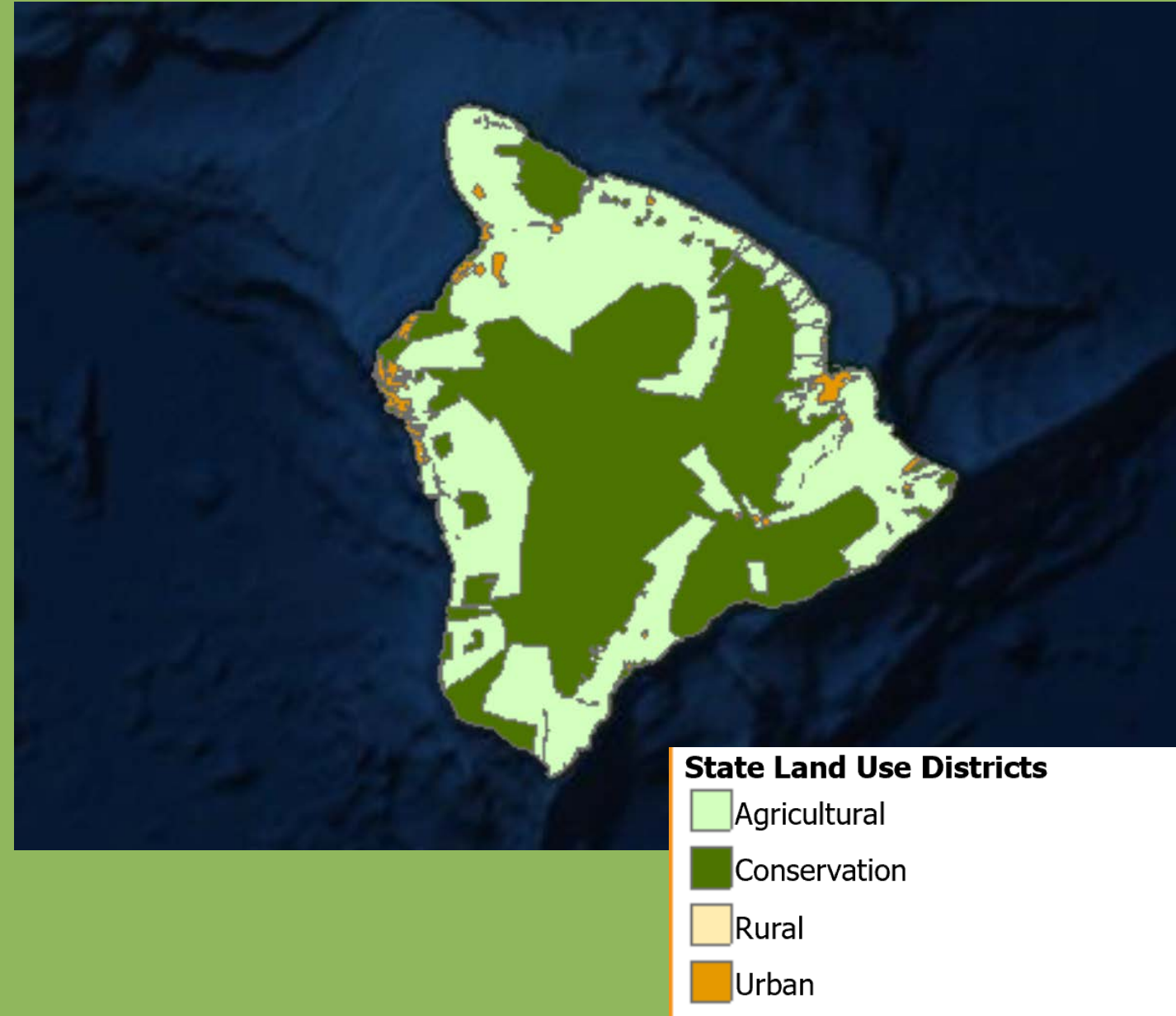
01/2017



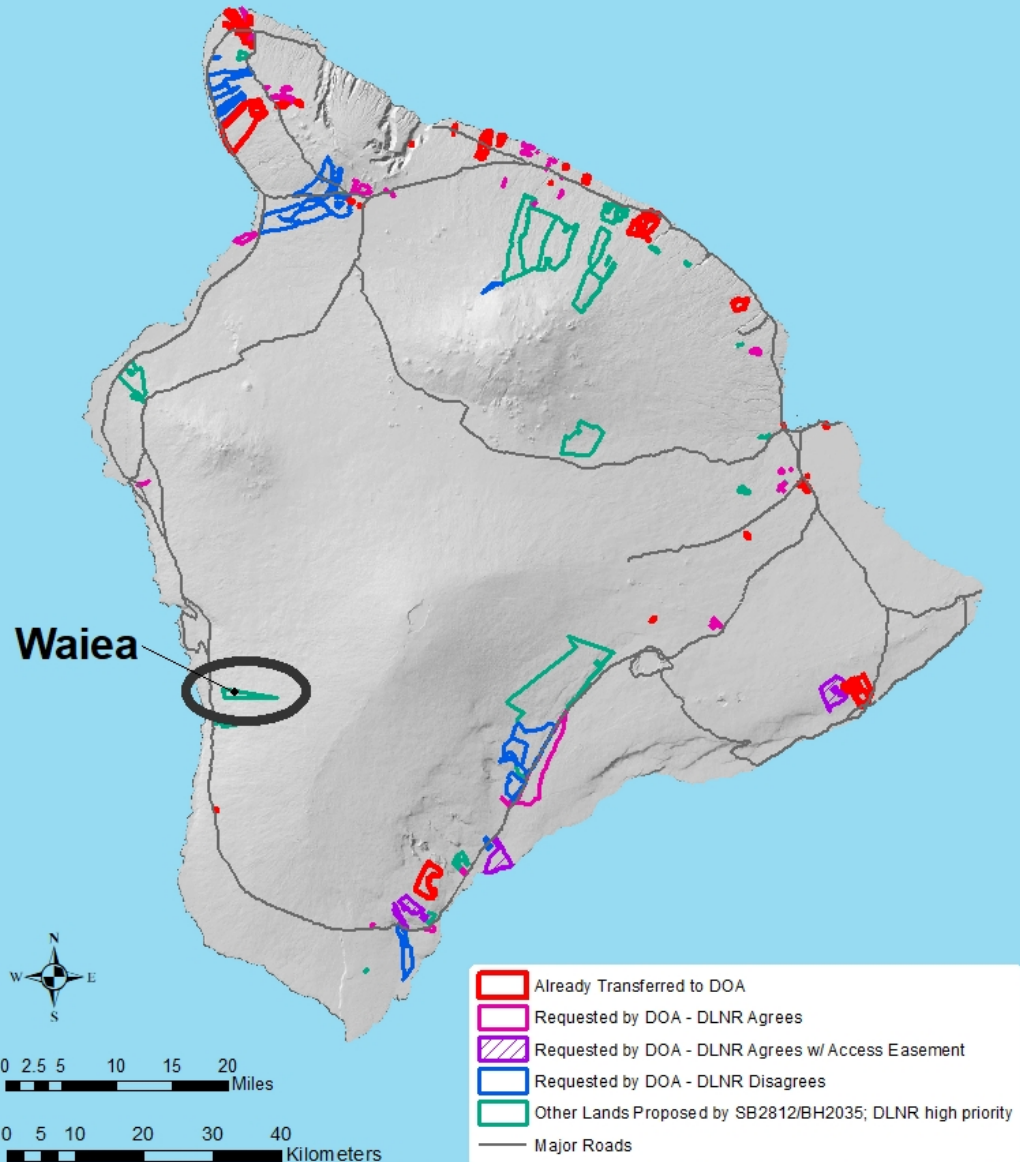
Hawai'i Watershed Partnerships



State Land Use Boundaries



DLNR Agricultural and Pasture Lands Hawai'i Island



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Waiea

- 1,200-acre parcel proposed by SB2812/HB2035 to be transferred to DOA
- In the Agricultural District.
- Landlocked and no applicants seeking use.
- Valuable watershed for the South Kona area and habitat for four endangered forest birds.
- Proposed as a Natural Area Reserve.

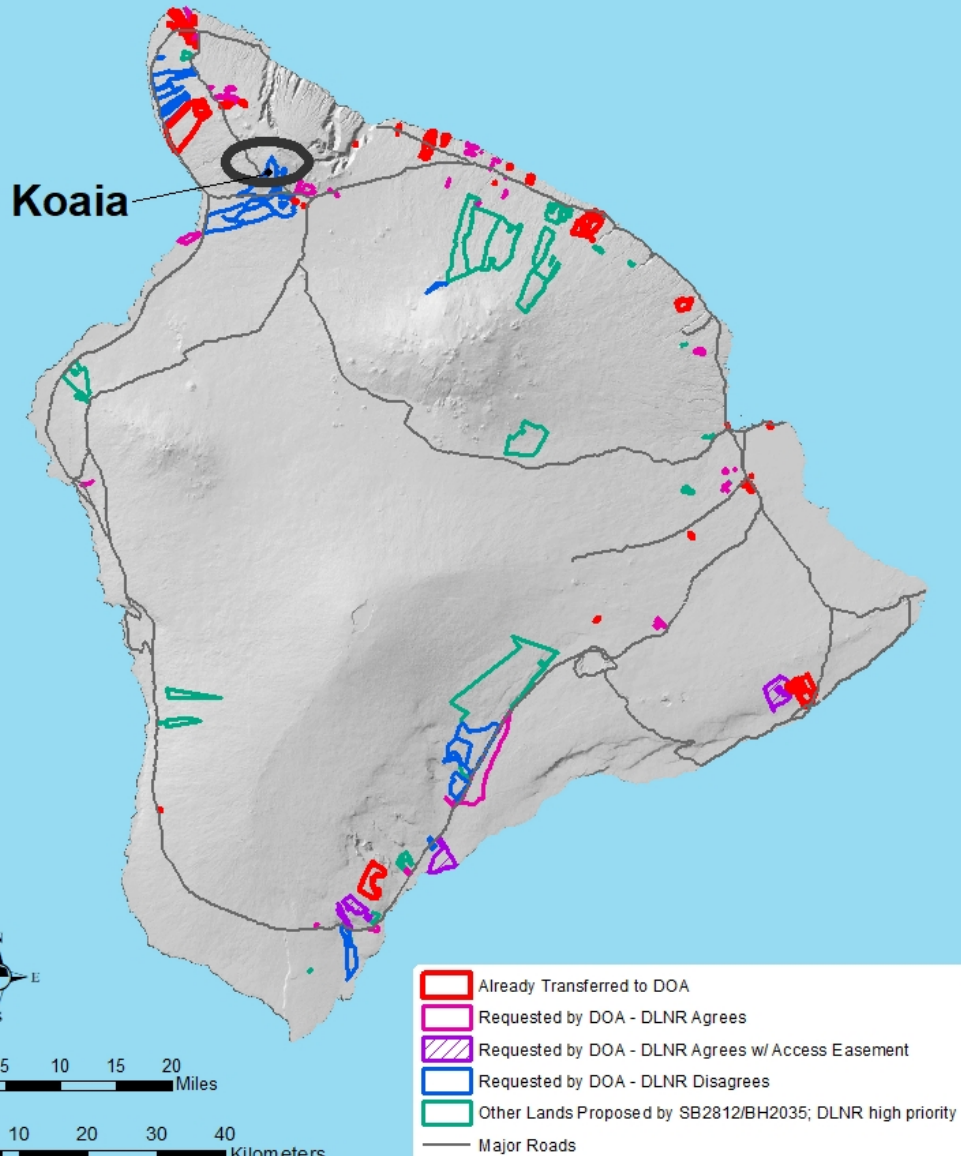


Waiea

- Triangular parcel sandwiched between Wildlife Refuges being managed for rare bird recovery.
- Contains an aviary to recover ‘alalā



DLNR Agricultural and Pasture Lands Hawai'i Island



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Koaia

- 1,902-acre General Lease requested by DOA and proposed to be transferred by SB2812/HB2035.
- In the Agricultural District.
- Extensive volunteer effort to replant the unique Koaia tree ecosystem.



Photo: Lara Tomov
(not for other uses)

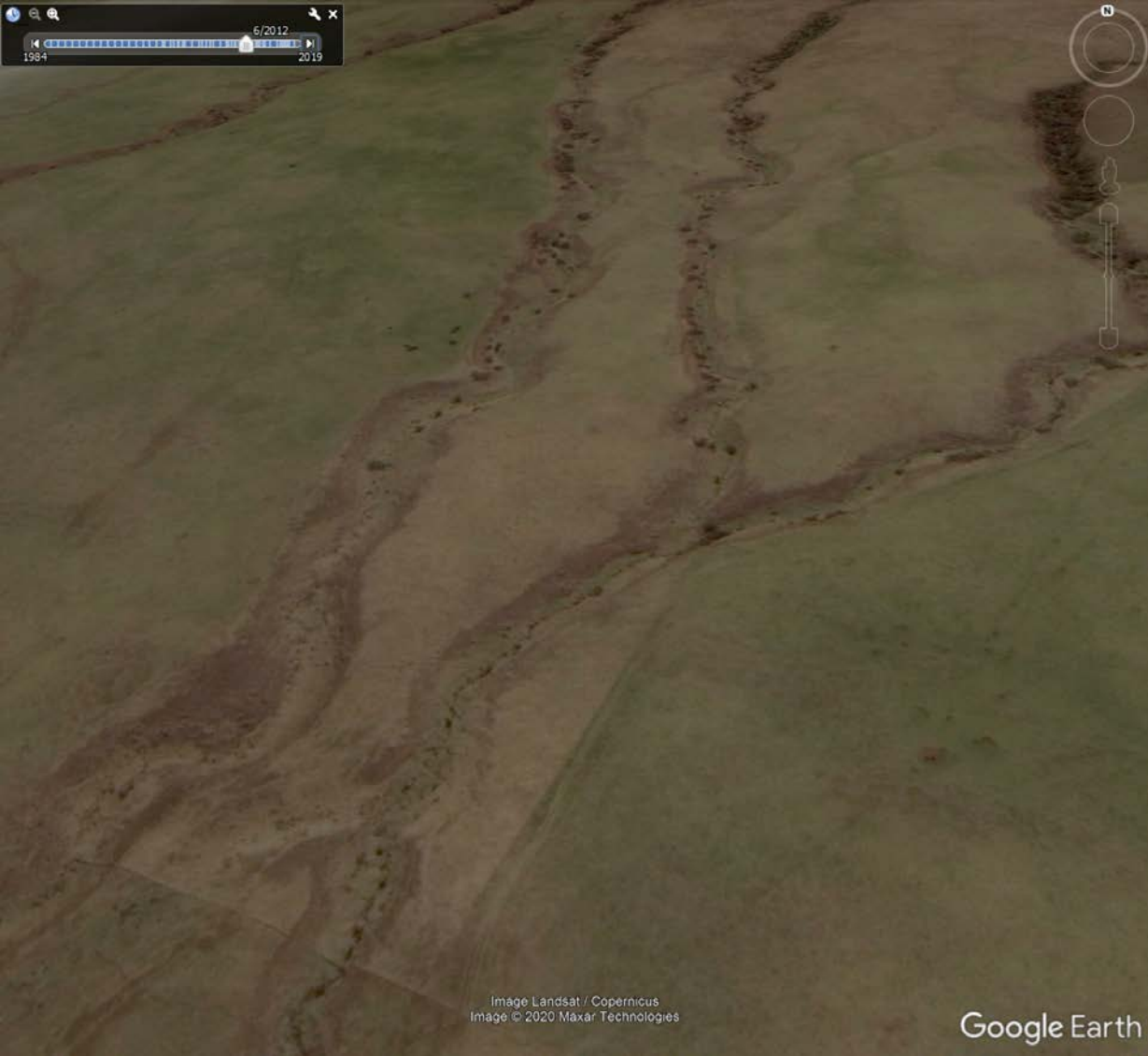


- Part of a 15,400-acre mauka to makai restoration project to protect Pelekane bay and the coral reefs of the Kohala coast from erosion caused by the loss of Kohala's leeward forests.

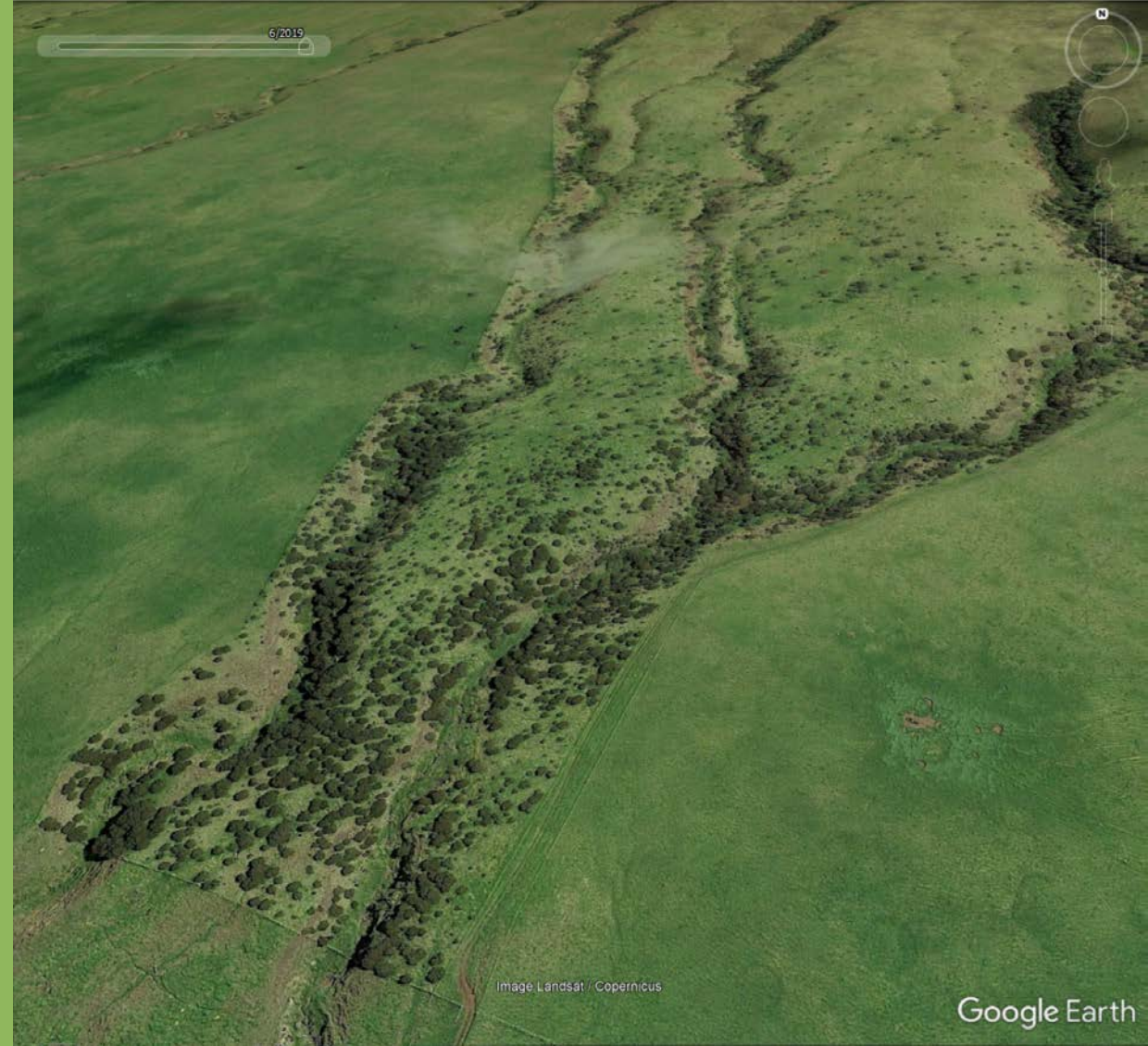


Photo: Lara Tomov
(not for other uses)

Fencing and Restoration Began in 2015



2012



2019

Koiaia Before/After Fence Construction and Restoration



Photo: Lara Tomov
(not for other uses)

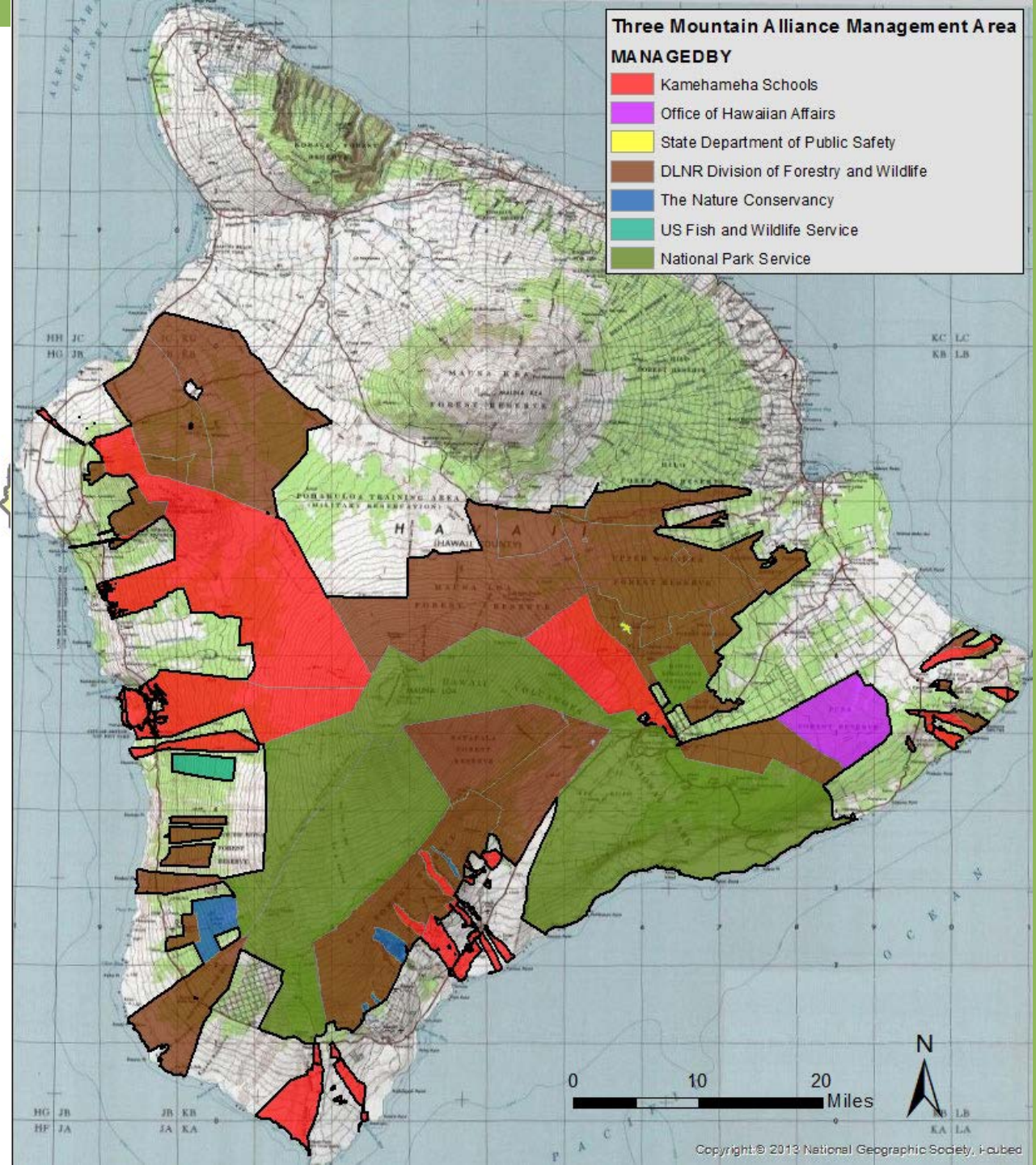
Successful Restoration of the Koaia Forest



Landscape-scale conservation

Three Mountain Alliance

connectivity & resilience





Hawaii's Native
Forests &
Agricultural
Diversification w/ Koa
LNR 172

The current koa supply is only 36% of what the market demands.

The Hawaii Forest Industry Association is worried the koa market could collapse due to a lack of supply and rising prices.

DLNR is working with public and private partners to develop a koa forestry economic model



Kapāpala Koa Canoe Management Area

Forest Stewardship Program

10 Year Program

Eligible Lands: Privately owned or public lands under long-term lease; must be forested or have the potential for reforestation. 5 acre minimum

Incentives: 50% reimbursement for creation of management plan

50% reimbursement of practices

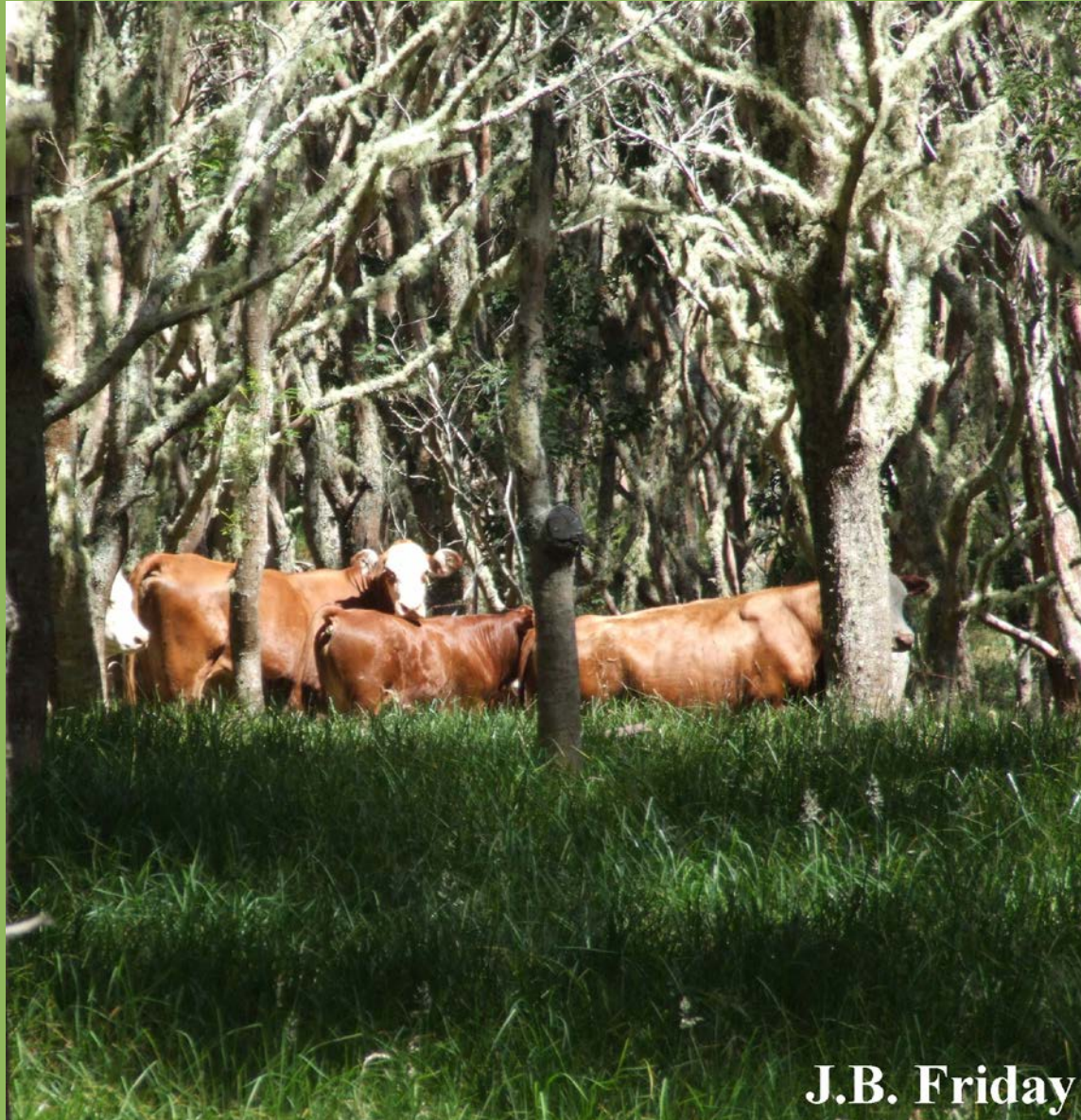




Forest Stewardship Program

Silvopasture

Agroforestry



J.B. Friday



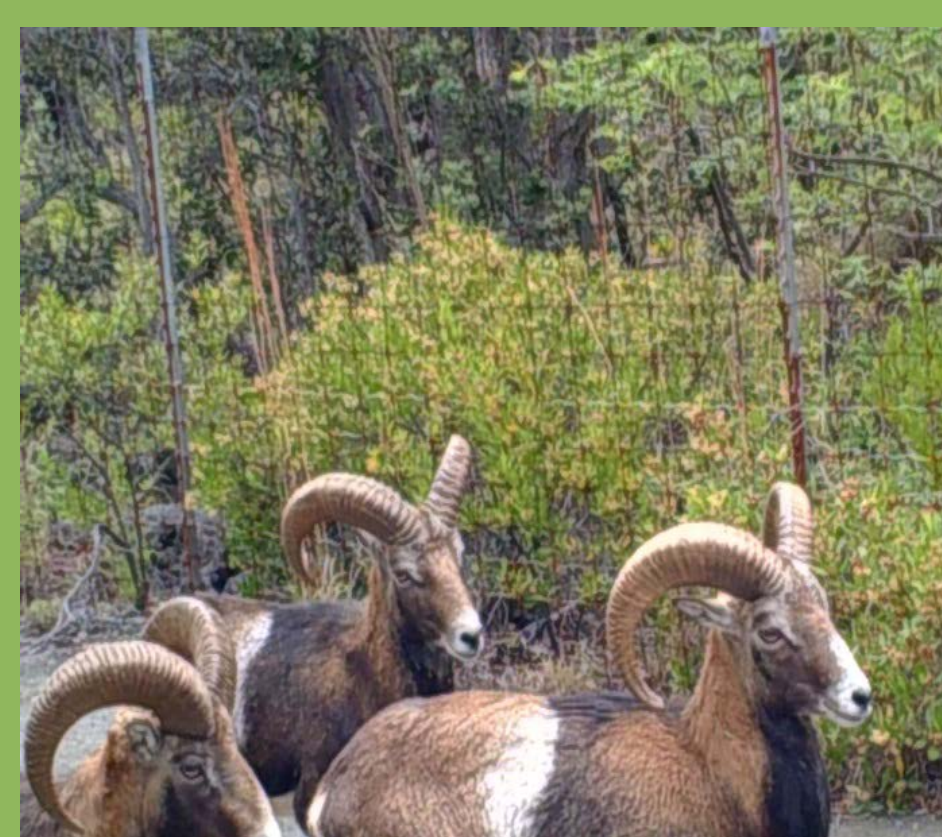
Forest Carbon

- State carbon reduction
- Freshwater recharge
- Erosion control
- Endangered species
- Carbon offset revenues



Wildlife Resources

GAME AND NON GAME MANAGEMENT OBJECTIVES

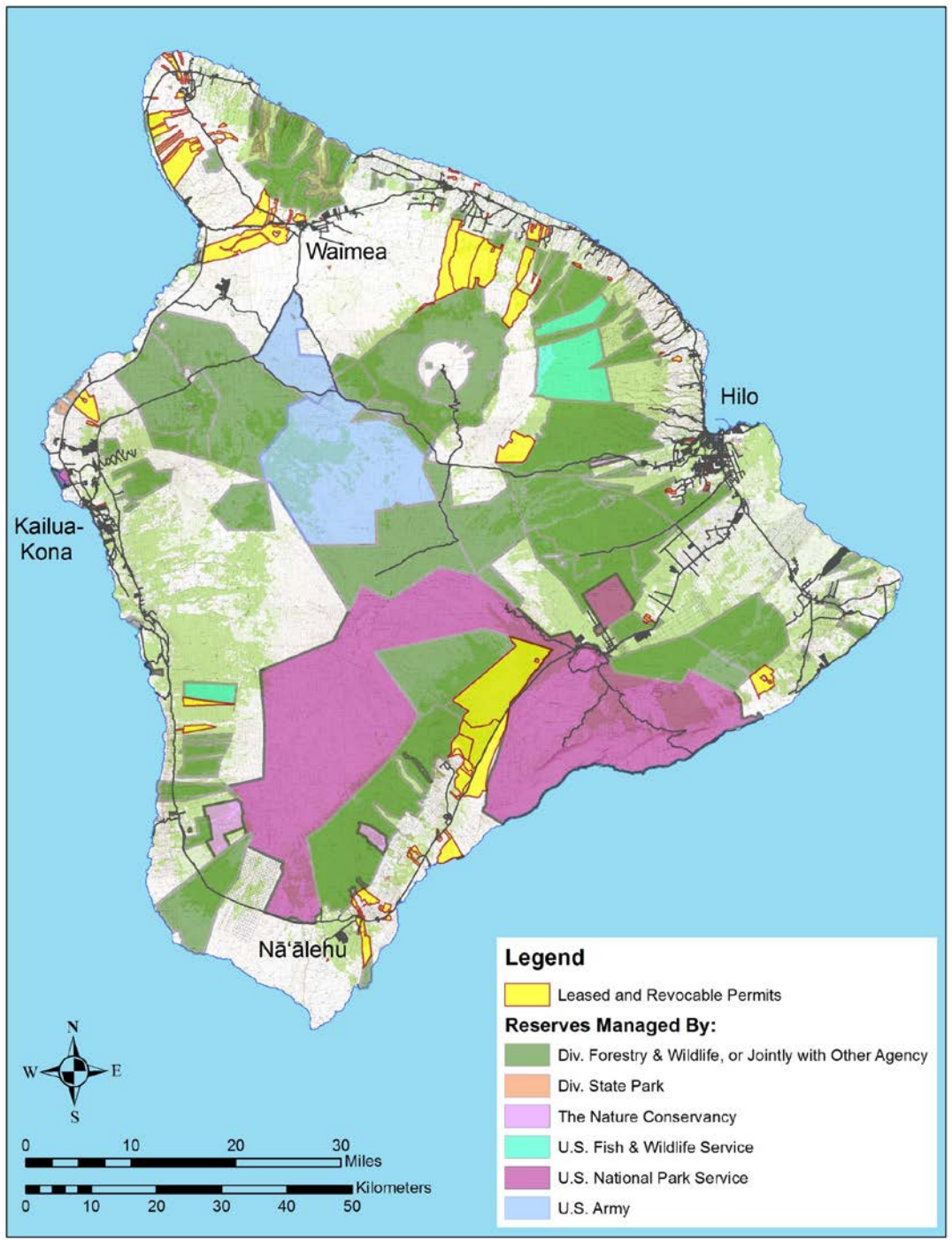












Mahalo

