



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
1151 PUNCHBOWL STREET, ROOM 325
HONOLULU, HAWAII 96813

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

Before the Act 90 Working Group

**Thursday, September 9, 2021
10:00 a.m.**

**In consideration of
TESTIMONY SUBMITTED BY BRENDON BALTHAZAR
IN THE LAST ACT 90 WORKING GROUP MEETING, AND
AS RELATED IN A STAR-ADVERTISER ARTICLE**

Mr. Brendan Balthazar stated in verbal testimony to the Act 90 Working Group at their meeting of August 23, 2021, that the state is withdrawing 60% of a parcel of land from a grazing lease he holds with the state. He subsequently complained about the state's action in a *Star-Advertiser* article, and is quoted as saying "*What good is the lease? The lease wasn't as good as the paper it was written on*". Mr. Balthazar's statements are misleading and not relevant to the Act 90 discussion.

Mr. Balthazar is referring to a lease that he held with a private landowner for grazing on lands that are locally known as the former Von Tempsky property in the ahupuaa of Kamehamehenui in Kula. Prior to purchase by the state in 2020, the Kamehamehenui lands were for sale on the open market and threatened with development and loss of open space. With their sweeping vistas and unparalleled beauty, the lands were prime for development of country estates. The lease Mr. Balthazar is referring to is the one he signed with the private landowner while the land was on the market for sale. He was aware of the pending sale and the terms, which enable the landowner to cancel the lease at any time with one year notice. It was set up specifically to enable sale of the property without a long-term encumbrance.

With the Kamehamehenui land for sale and under threat of development, the state took action and turned a potential loss of natural resources and open space into an opportunity for sustainable management of public trust resources.

With DLNR as the lead, a coalition of partners presented a proposal that enabled the Kamehamehenui lands to be purchased and added to the state forest reserve system. Working with the Trust for Public Lands, that proposal generated support from the U.S. Forest Service, U.S. Fish and Wildlife Service, Maui County, state legislators, and private individuals and organizations. Together the partners generated more than \$12M to purchase and begin restoration and management of those lands for their

wide-reaching public benefits, including watershed protection, biodiversity, endangered species protection, climate change mitigation, and significant opportunities for forest and outdoor recreation.

The land purchase had broad support from numerous stakeholders. That support included grants with certain terms and obligations. Among those are a \$4M grant from the U.S. Forest Service that requires reforestation of 75% of the lands within the first 10 years of purchase, and a \$2M U.S. Fish and Wildlife Service grant for the protection and management of endangered species habitat. That is an ambitious commitment given the threats that native ecosystems face, and we need to begin that work immediately.

Recognizing the vision of the conservation partners and the public benefits to be achieved, the Board of Land and Natural Resources approved a set aside of the lands to the state forest reserve system to become a part of the adjacent Kula Forest Reserve, one of Maui's most popular hiking and recreation areas. At the board hearing, held May 8, 2020, written testimony in support of the acquisition, set-aside, and administration of the Balthazar lease was received from the Office of the Mayor, Maui County, Haleakala Ranch, The Leeward Haleakala Watershed Restoration Partnership, the Maui Conservation Alliance, Hawaiian Islands Land Trust, and Trust for Public Land. There was no testimony in opposition.

The inclusion of the Kamehamenui lands, and the lease held by Brendan Balthazar, are not relevant to the Act 90 Working Group discussions, as the land was recently purchased from a private party with funds requiring specific outcomes, and are not eligible for transfer to the Department of Agriculture.



KE ONE O KĀKUHIIHEWA

O'ahu Council of the
Association of Hawaiian Civic Clubs

BENTON KEALII PANG, PH.D.-
HAWAIIAN CIVIC CLUB OF
HONOLULU
PELEKIKENA

JACOB KA'ŌMAKAOKALĀ AKI-
KING KAMEHAMEHA HCC
HOPE PELEKIKENA

GEORGIANA NAVARRO-
MĀKAHA HCC
HOPE PELEKIKENA 'ELUA

LEATRICE KAUAHI-HCC OF
HONOLULU
PU'UKŪ

ROTH PUAHALA -KING
KAMEHAMEHA HCC
PELEKIKENA IHO NEI

TERI LOO-KO'OLAUPOKO HCC
KĀKAU 'ŌLELO

CHRISTINE "CHRISSEY" ANJO-
PEARL HARBOR HCC
HOLE KĀKAU 'ŌLELO

'AHAHUI SIWILA HAWAI'I O
KAPOLEI
KALA HOLDEN

ALI'I PAUAHI HCC
KEHAULANI LUM

'EWA-PU'ULOĀ HCC
MARLEEN KAU'I SERRAO

HCC OF HONOLULU
ANITA NAONE

KAILUA HCC
MAPUANA DE SILVA

KALIHI-PĀLAMA HCC
JUANITA BROWN
KAWAMOTO

KING KAMEHAMEHA HCC
LETANI PELTIER

KO'OLAULOĀ HCC
RANAE "TESSIE"
FONOIMOANA

KO'OLAUPOKO HCC
ROCKY KALUHIWA

LUALUALEI HCC
SHIRLINE HO

MĀKAHA HCC
LUANN LANKFORD-
FABORITO

MAUNALUA HCC
ROSE KITTY SIMONDS

NA LANI 'EHA HCC
R. KELANI RAMOS

NĀNAIKAPONO HCC
JAYCINE HICKS

PAPAKŌLEA HCC
KEALII LUM

PEARL HARBOR HCC
ANTOINETTE LEE

PRINCE KŪHIŌ HCC
A. MAKANA PARIS

PRINCESS KAHANU HCC
DREANA KALILI

PRINCESS KAI'ULANI HCC
RUSTY RODENHURST

QUEEN EMMA HCC
RAWLETTE P. KRAUT

HCC OF WĀHIAWA
NOELANI DEVINCENT

HCC OF WAIALUA
MAKALAPUA CASSON-
FISHER

WAI'ANAЕ HCC
CYNTHIA ENRIQUEZ

WAIKIKI HCC
DWYNN KAMAI

HCC OF WAIMĀNALO
LOUANA KAIO

ACT 90 WORKING GROUP

Thursday, September 9, 2021, 10:00 am
Via Videoconference

Working Group Discussion on potential remedies, including legislation, fulfill the Working Group's purpose in accordance with Act 139 (SLH 2021)

Aloha Senator Lorraine Inouye, Representative David Tarnas and members of the Working Group,

Ke One O Kākuhihewa supports the Department of Land and Natural Resources partnerships with ranchers on all the major islands to protect forested watersheds and threats from invasive species. These watershed partnerships are effective in cost-sharing mutually beneficial land management activities that cross many different landowners. We encourage ranchers to sign on as members and applaud the efforts of Haleakalā Ranch, Hana Ranch, Kapualei Ranch, Parker Ranch, Kualoa Ranch and 'Ulupalakua Ranch for their current efforts in protecting our watersheds from invasive species.

We would also like to ensure lands for traditional and customary practices are maintained. In 2018, the Association of Hawaiian Civic Clubs, for which Ke One O Kākuhihewa is a member, passed Resolution 2018-35 "**EXPRESSING SUPPORT OF EFFORTS TO RESTORE WAI'ANAЕ KAI FOREST RESERVE AND WATER FLOW IN WAI'ANAЕ WATERSHED STREAMS FOR TRADITIONAL AND CUSTOMARY NATIVE HAWAIIAN PRACTICES**" and we recognize the cultural, legal and environmental importance of our streams (see attached).



Ke One O Kākūhihewa applauds the work of this working group to ensure our lands are protected for generations to come.

Ke One O Kākūhihewa is a native Hawaiian council made up of 24 civic clubs on the island of O‘ahu. Our oldest member, Hawaiian Civic Club of Honolulu was established by Prince Jonah Kūhiō Kalaniana‘ole on December 7, 1918.

Sincerely,

A handwritten signature in black ink, appearing to read "Benton Kealii Pang". The signature is fluid and cursive, with a large initial "B" and a long, sweeping tail.

Benton Kealii Pang, Ph.D.,
Pelekikena (President)

ASSOCIATION OF HAWAIIAN CIVIC CLUBS

A RESOLUTION

No. 2018 – 35

EXPRESSING SUPPORT OF EFFORTS TO RESTORE WAI‘ANAE KAI FOREST RESERVE AND WATER FLOW IN WAI‘ANAE WATERSHED STREAMS FOR TRADITIONAL AND CUSTOMARY NATIVE HAWAIIAN PRACTICES

WHEREAS, the Association of Hawaiian Civic Clubs passed a resolution of expressing support of efforts to restore water flow in the historic, natural waterways of Hawai‘i for traditional and customary Native Hawaiian practices (AHCC Resolution 2017-32); and

WHEREAS, the Wai‘anae Watershed is defined by the geographic area encompassed by the City’s “Wai‘anae District” boundaries and roughly coterminous with the traditional boundaries of the Wai‘anae Moku (Wai‘anae Watershed Management Plan, page ES-4); and

WHEREAS, the Wai‘anae community has shown a strong interest in restoring stream flow in order to provide for native aquatic species habitat, local small-scale farming and irrigation, and the revitalization of cultural practices (2009 Wai‘anae Watershed Management Plan, page 2-13); and

WHEREAS, in 2016, the Wai‘anae Coast Neighborhood Board unanimously accepted and passed the ‘A‘ali‘i Resolution presented by students from Nānākuli High School regarding water management in Wai‘anae; and

WHEREAS, the August 2018 Wai‘anae Kai forest fire burned 1,500 acres of native forest which degraded forest cover and decreased water percolation into the perched aquifers; and

WHEREAS, there has been community-based conversations on the need for restoring the Wai‘anae Kai Forest to promote Wai‘anae Watershed health; and

WHEREAS, ensuring a healthy Wai‘anae Watershed will lead to continuous mauka-to-makai streamflow; and

WHEREAS, that continuous stream flow will catalyze the spawning of native stream and nearshore aquatic species, including endemic species of ‘o‘opu, ‘ōpae and other fish like ‘anae, promotes limu growth, and is critical for the perpetuation of traditional and customary practices such as lo‘i kalo restoration; and

WHEREAS, the Constitution of the State of Hawai‘i, Article XI, Section 7 establishes that the “State has an obligation to protect, control and regulate the use of Hawai‘i’s water resources for the benefit of its people”; and

WHEREAS, the Supreme Court of the State of Hawai‘i established the exercise of Native Hawaiian traditional and customary practices as a public trust purpose, along with the maintenance of waters in their natural state, in *In re Water Use Permit Applications*, 94 Hawai‘i 97, 9 P.3d 409 (2000) (*Waiāhole I*).

NOW, THEREFORE, BE IT RESOLVED, by the Association of Hawaiian Civic Clubs at its 59th Annual Convention in Kalapaki, Kaua‘i, in the malama of Welehu and the rising of ‘Olepau, this 17th day of November 2018, expressing support of efforts to restore Wai‘anae Kai forest reserve and water flow in Wai‘anae Watershed streams for traditional and customary Native Hawaiian practices; and

BE IT FURTHER RESOLVED, that the State of Hawai‘i Department of Natural Resources Division of Forestry and Wildlife (DOFAW) continue to effectively manage the Wai‘anae Kai Forest Reserve with native trees and shrubs; and

BE IT FURTHER RESOLVED, that DOFAW restore the recently burned forest areas from the August 2018 fire with native trees and shrubs in collaboration with the ‘Aha Moku o Wai‘anae throughout the forest restoration process; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be transmitted to Commission on Water Resources Management, Division of Forestry and Wildlife-Administrator, Board of Water Supply-Manager and Chief Engineer, Cultural Learning Center at Ka‘ala, Ho‘omau Ke Ola Treatment Center, as well as the Governor of the State of Hawai‘i, President of the State Senate, Speaker of the State House of Representatives, Chair of the State Senate Committee on Hawaiian Affairs, Chair of the State House Committee on Ocean, Marine Resources & Hawaiian Affairs, Chair of the Board of Trustees of the Office of Hawaiian Affairs, and all County Mayors.



The undersigned hereby certifies that the foregoing Resolution was duly adopted in the malama of Welehu and the rising of ‘Olepau on the 17th day of November 2018, at the 59th Annual Convention of the Association of Hawaiian Civic Clubs in Kalapaki, Kaua‘i.

Annelie C. Amaral, President



ACT 90 Working Group

Senator Lorraine Inouye, Co-Chair Representative David Tarnas, Co-Chair

Thursday, September 9, 2021, 10:00 a.m.

VIA VIDEOCONFERENCE

Aloha Senator Lorraine Inouye and Representative David Tarnas and Members of the Working Committee

My name is Eric Enos, and I am the Executive Director for Ka'ala Farm, Inc. Our organization witnessed decades of mismanagement of lands by the Department of Agriculture (DOA) and its leasees in Wai'anae. The 1100-acre ranch lease once managed by DOA is now managed by the Department of Land and Natural Resources (DLNR) along with Ka'ala Farm, Inc. This property is rich with historical and cultural sites and borders Wai'anae Kai Forest Reserve. Twenty-five years ago, we petitioned the DOA with support from the Office of Hawaiian Affairs, to help identify major historical archaeological sites and adjacent spring lo'i systems bordering the ranch lease. Unfortunately, our meeting with DOA was focuses on the needs of the "rancher" and our cultural needs were deemed irrelevant.

For context going back over 50 years, in my career, I first participated with a Kūpuna council that visited the cultural sites for Preservation. I remember Carey Taketa, who is 2nd generation "rancher", having to open the ranch access road to our group on trucks. She was ordered to do so.

The history of ranching in Hawai'i is complex... and we will leave it there.



For our community, and for Ka'ala Farm, co-stewardship of Historical sites in the Wai'anae Moku, are part of a long legacy of cultural adherence to the religious significance of cultural "wahi pana" (named cultural sites). And, for all intent and purposes we are cultural "practitioners".

For the purposes of this testimony, we are specifically involved in the stewardship of the Wai'anae Kai upper valley watershed of archaeological complex of sites. These sites encompass the "best preserved intact cultural sites on Oahu Island", per testimony and documented in the Env. Assessment, via Dr. Ross Cordy, former State Historic Div. Chief.

Now, specific to the 1100 acres ranch site, we are cognizant of past ranching activities altering the sites for road access and tapping of the Punana'ula spring lo'i in the Forest Reserve which was used for a cattle water catchment system to feed the lower animal water troughs. In addition, cattle were "allowed" to inhabit the Forest Reserve for over 10 to 15 years due to unmanaged fences. These cattle frequently entered Ka'ala Farm destroying crops and negatively impacted historic properties. Repeated requests for the Rancher and DOA's land manager to resolve the issues received no response. The discrepancy was only mitigated when DOA transferred land management to DLNR. DOFAW stepped in to round up almost 100 feral cattle in the Forest and constructed a Forest fence and firebreak.

We have no comments on these past actions and the ranch road is now being utilized by Ka'ala Farm and Ho'omau Ke Ola, our programs' lease partner. This existing ranch interior road is being utilized by the community to access management of the cultural sites, and specifically for a future fire-break road and access to constructing animal paddocks for grass, fuel load control, grazing.

This strategy for fire control written for our State Grant in Aid (GIA) request, coincides with the 2018 Wildfire which wiped out thousands of acres and millions of dollars of Farm infrastructure in lower Wai'anae Valley, into the Wai'anae Kai Forest, and spreading to the Wai'anae Agricultural Park with millions of dollars of damage, and climbing over the ridge into Mākaha valley.

As noted, Ka'ala Farm subsequently petitioned and wrote for a GIA to address this chronic arson problem, which were always lit along the upper portion of the Wai'anae Valley road leading to Ka'ala Farm and bordering the entire eastern side, bordering of the 1100 DLNR ranch land. This one mile of lonely public access road is "arson alley" with homeless living in cars, illegal dumping and criminal activities.

Fast forward: approximately \$200,000.00 of the GIA was just released by Governor Ige, and we are now negotiating with DLNR for an amended contract. We requested a million, so our deliverables has to be modified significantly for the Fire Remediation. With these reduced funds

we are focusing on fencing for sheep, maintenance of a green fire break road, and strategic water lines for green pasture zones along the vulnerable ranch lands bordering, as previously noted, the one-mile length of road. This is where we need the participation of the Honolulu Board of Water Supply (HBWS) and the other stakeholders/partnerships.

In order to accomplish this scaled back effort, as previously noted, we need the involvement of all of the stakeholders in the Valley who are directly impacted by these annual, human caused wildfires.

Through a community grant funded effort, we have revolving funds to contract a planning company, Townscape, Inc., who has been working with the Wai'anae Moku for the past 20 something years. Townscape assisted in drafting the GIA for us and is actively involved in assisting our community with the government mandated administrative task management.

Ka'ala Farm, along with other cultural groups, has stepped up to take the lead on these issues. We are working with an Alliance of other community groups working together on community health and wellness program goals.

Specifically, Ka'ala Farm, for over 25 plus years, has a series of curatorship agreements with the present and past Division of Forestry and Wildlife (DOFAW) managers going back to Herb Kikukawa. These agreements were for the active co-management of the cultural sites with DOFAW and other Government agencies. To ensure historic sites laws are being followed, we have been working under the tutelage of Dr. Ross Cordy (past Branch Chief for State Historic Div.). With Dr. Cordy, and over a 20-year time frame, and with Hawaiian Studies youth programs with the local high schools, we mapped and certified a comprehensive inventory of major cultural sites on the upper portion of the 1100 acre parcel. This also includes the cultural sites on the Eastern side of Wai'anae Kai Forest which includes Ka'ala Farm's 97 acre, Department of Hawaiian Homelands, being restored by Ka'ala Farm.

Historical Context for Pūnana'ula complex:

Ka'ala Farm took the lead and in the early 1980's, with crews of prison road crews and community volunteers, we ventured on a major brush and tree clearing restoration of the Punana'ula spring and Heiau. This complex is partially on the 1100-acre lease and extends into the DOFAW managed lands.

Currently, we are still actively working with cultural groups along with our Ka'ala staff to manage and restore these important sites. We are working very close with Ryan Peralta, DOFAW's O'ahu Island Chief.

In fact, Ryan participated actively with our Fire Remediation Huaka'i last week to work on a partnership with all the stakeholders to include the HBWS, Hawaiian Electric Company, with their power lines, the DOA (invited, but could not attend), and other community partners. The Hawai'i Wildfire Organization is part of our network and they have contributed funds and monthly strategic meetings with the Wai'anae community and government.

This testimony highlights the importance of good stewardship practices employed by the Department of Land and Natural Resources and the lack of stewardship by the previous land owner, Department of Agriculture. We support the DLNR hold on to as much of its lands as possible as the Department of Agriculture will not protect cultural sites, access to religious features, and water rights as illustrated with the Wai'anae Valley lease.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric Enos', with a long horizontal flourish extending to the right.

Eric Enos, Executive Director

Information on Act 90 Webpage

Jason Moniz <jasonmoniz73@gmail.com>

Wed 9/8/2021 4:02 PM

To: act90written <act90written@capitol.hawaii.gov>

Cc: Jeri Moniz <jeri.moniz@gmail.com>

I noticed when reviewing the DLNR list of pasture acreage withdrawn from leases that the approx. 2100 acres withdrawn from KK Ranch, Inc. in 2010 was not listed.

Jason Moniz

President, KK Ranch, Inc.