

1 **§ -3 Reservation of uses.** (a) The valley reserve shall
2 be used solely and exclusively for the following purposes
3 subject to the terms of any lease in effect as of July 1, 2015:

4 (1) Preservation and practice of all rights customarily
5 and traditionally exercised by native Hawaiians for
6 cultural, spiritual, and subsistence purposes;

7 (2) Preservation and protection of the valley reserve's
8 archaeological, historical, and environmental
9 resources;

10 (3) Rehabilitation, revegetation, habitat restoration, and
11 preservation; and

12 (4) Education.

13 (b) The valley reserve shall be reserved in perpetuity for
14 the uses enumerated in subsection (a). Commercial uses shall be
15 strictly prohibited.

16 **§ -4 Powers and duties.** The department and other
17 departments and agencies of the State shall be subject to the
18 oversight of the commission with regard to the control and
19 management of the valley reserve. Subject to section -6, the
20 department shall:



1 (1) Implement controls and permitted uses for the valley
2 reserve;

3 (2) Enforce this chapter; and

4 (3) Provide administrative support to the commission.

5 **§ -5 Commission.** (a) There is established the Makua
6 valley reserve commission to be placed within the department for
7 administrative purposes as provided in section 26-35. The
8 commission shall consist of seven members to be appointed in the
9 manner and to serve for the terms provided in section 26-34;
10 provided that:

11 (1) One member shall be a member of Malama Makua;

12 (2) One member shall be a member of Hui Malama O Makua;

13 (3) One member shall be a representative of families who
14 were evicted from the valley reserve or whose lands in
15 the valley reserve were condemned by the federal
16 government;

17 (4) One member shall be a member of the aha moku advisory
18 committee;

19 (5) One member shall be a trustee or representative of the
20 office of Hawaiian affairs;



1 (6) One member shall be the chairperson of the board of
2 land and natural resources, or the chairperson's
3 designee; and

4 (7) One member shall be appointed by the governor from a
5 list provided by native Hawaiian organizations.

6 The commission shall invite the commanding officer of the
7 United States Army, Pacific, or the commanding officer's
8 designee to serve as the nonvoting military representative to
9 the commission so long as the United States continues to lease
10 the valley reserve.

11 (b) The governor shall appoint the chairperson from among
12 the members of the commission.

13 (c) The members of the commission shall serve without pay
14 but shall be reimbursed for their actual and necessary expenses,
15 including travel expenses, incurred in carrying out their
16 duties.

17 (d) Any action taken by the commission shall be approved
18 by a simple majority of its voting members. Four voting members
19 shall constitute a quorum.



1 (e) The commission, without regard to the requirements of
2 chapter 76, may hire employees, including an executive director,
3 necessary to carry out its duties.

4 **§ -6 Responsibilities and duties of the commission.** The
5 general administration of the valley reserve shall rest with the
6 commission. In carrying out its duties and responsibilities,
7 the commission:

8 (1) Shall establish criteria, policies, and controls for
9 permissible uses within the valley reserve;

10 (2) Shall approve all contracts for services and rules
11 pertaining to the valley reserve;

12 (3) Shall provide advice to the governor, the department,
13 and other departments and agencies on any matter
14 relating to the valley reserve;

15 (4) Shall provide advice to the office of planning and the
16 department of the attorney general on any matter
17 relating to the federal conveyance of the valley
18 reserve;

19 (5) May enter into curator or stewardship agreements with
20 appropriate Hawaiian cultural and spiritual community
21 organizations for the perpetuation of native Hawaiian



- 1 cultural, religious, and subsistence customs, beliefs,
2 and practices for the purposes stated in section -3;
- 3 (6) Shall advise the board of land and natural resources
4 and the land use commission with regard to
5 dispositions and approvals pertaining to the valley
6 reserve;
- 7 (7) Shall advise the city and county of Honolulu and its
8 agencies concerning coastal zone dispositions and
9 approvals pertaining to the valley reserve;
- 10 (8) Shall advise the appropriate island burial council and
11 the department with regard to proper treatment of
12 burial sites and human skeletal remains found in the
13 valley reserve;
- 14 (9) Shall adopt rules in accordance with chapter 91 that
15 are necessary for the purposes of this chapter and
16 shall maintain a record of its proceedings and
17 actions;
- 18 (10) May delegate to the executive director or employees of
19 the commission, by formal commission action, such
20 power and authority vested in the commission by this



1 chapter as the commission deems reasonable and proper
2 for the effective administration of this chapter; and
3 (11) May solicit and accept grants, donations, and
4 contributions for deposit into the Makua valley
5 rehabilitation trust fund to support the purposes of
6 this chapter.

7 **§ -7 Interim activities of the commission.** Prior to the
8 return of the valley reserve from the United States Army to the
9 State, the commission shall enter into discussions with the
10 United States Army to:

- 11 (1) Facilitate the expedient return of the valley reserve
12 upon the expiration of the United States Army's lease;
- 13 (2) Ensure the clean-up of unexploded ordnance; and
- 14 (3) Ensure the expansion of opportunities for cultural
15 access.

16 **§ -8 Transfer.** Upon the expiration of the lease
17 existing as of July 1, 2015, the resources of the valley reserve
18 shall be held in trust as part of the public land trust;
19 provided that the State shall transfer management and control of
20 the valley reserve to the sovereign native Hawaiian entity upon
21 its recognition by the United States and the State.



1 All terms, conditions, agreements, and laws affecting the
2 valley reserve, including any ongoing obligations relating to
3 the clean-up of the valley reserve, shall remain in effect
4 unless expressly terminated.

5 **§ -9 Makua valley rehabilitation trust fund.** (a) There
6 is created in the state treasury a trust fund to be designated
7 as the Makua valley rehabilitation trust fund to be administered
8 by the department with the prior approval of the commission.
9 Subject to this chapter:

- 10 (1) All moneys received from the federal government for
11 the rehabilitation and environmental restoration of
12 the valley reserve;
- 13 (2) Any moneys appropriated by the legislature to the
14 trust fund;
- 15 (3) Any moneys received from grants, donations, and
16 proceeds from contributions; and
- 17 (4) The interest or profit on investments earned from
18 moneys in the trust fund,
19 shall be deposited in the trust fund and shall be used to
20 fulfill the purposes of this chapter.



1 (b) The commission may use moneys in the trust fund to
2 carry out the purposes of this chapter, including hiring
3 employees, specialists, and consultants necessary to complete
4 projects related to the purposes of this chapter.

5 (c) Moneys deposited into or appropriated to the trust
6 fund shall remain available until they are obligated or until
7 the trust fund is repealed.

8 (d) The trust fund shall be repealed on July 1, 2045. The
9 commission shall transfer to the general fund of the State, all
10 unexpended or unencumbered balances remaining in the trust fund
11 on June 30, 2045; provided that all unexpended or unencumbered
12 balances of federal moneys shall be disbursed in accordance with
13 applicable federal law.

14 § -10 Severability. If any provision of this chapter or
15 the application thereof to any person or circumstance is held
16 invalid, the invalidity shall not affect other provisions or
17 applications of this chapter that can be given effect without
18 the invalid provision or application, and to this end the
19 provisions of this chapter are severable."

20 SECTION 2. This Act shall not obstruct, deny, or revoke
21 any rights or privileges heretofore exercised by the United



1 States Army in its use of Makua valley throughout the term of
2 its lease.

3 SECTION 3. This Act shall take effect on July 1, 2015.

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H.B. NO. 1430

Report Title:

Makua Valley Reserve Commission

Description:

Establishes Makua Valley Reserve Commission to oversee control and management of Makua Valley. Subject to Commission oversight, requires the Department of Land and Natural Resources to implement controls and permitted uses for the Valley and provide administrative support to the Commission.

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