

DEPT. COMM. NO. 59

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 1, 2016

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

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FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
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

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki, Speaker
and Members of the House of
Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Relating To The Land Conservation Fund And The Legacy Land Conservation Program report, as required by Section 173A-5, Hawaii Revised Statutes (HRS). In accordance with Section 93-16, HRS, a copy of this report has been transmitted to the Legislative Reference Bureau and the report may be viewed electronically at <http://dlnr.hawaii.gov/reports/>.

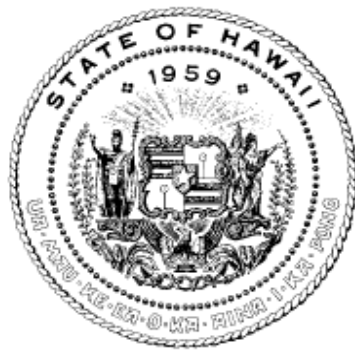
Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne Case".

SUZANNE CASE, Chair
Board of Land and Natural Resources

REPORT TO THE TWENTY-NINTH LEGISLATURE
STATE OF HAWAII
2017 REGULAR SESSION

RELATING TO THE LAND CONSERVATION FUND
AND
THE LEGACY LAND CONSERVATION PROGRAM



Prepared by

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

In response to Section 173A-5, Hawaii Revised Statutes

Honolulu, Hawaii

November 2016

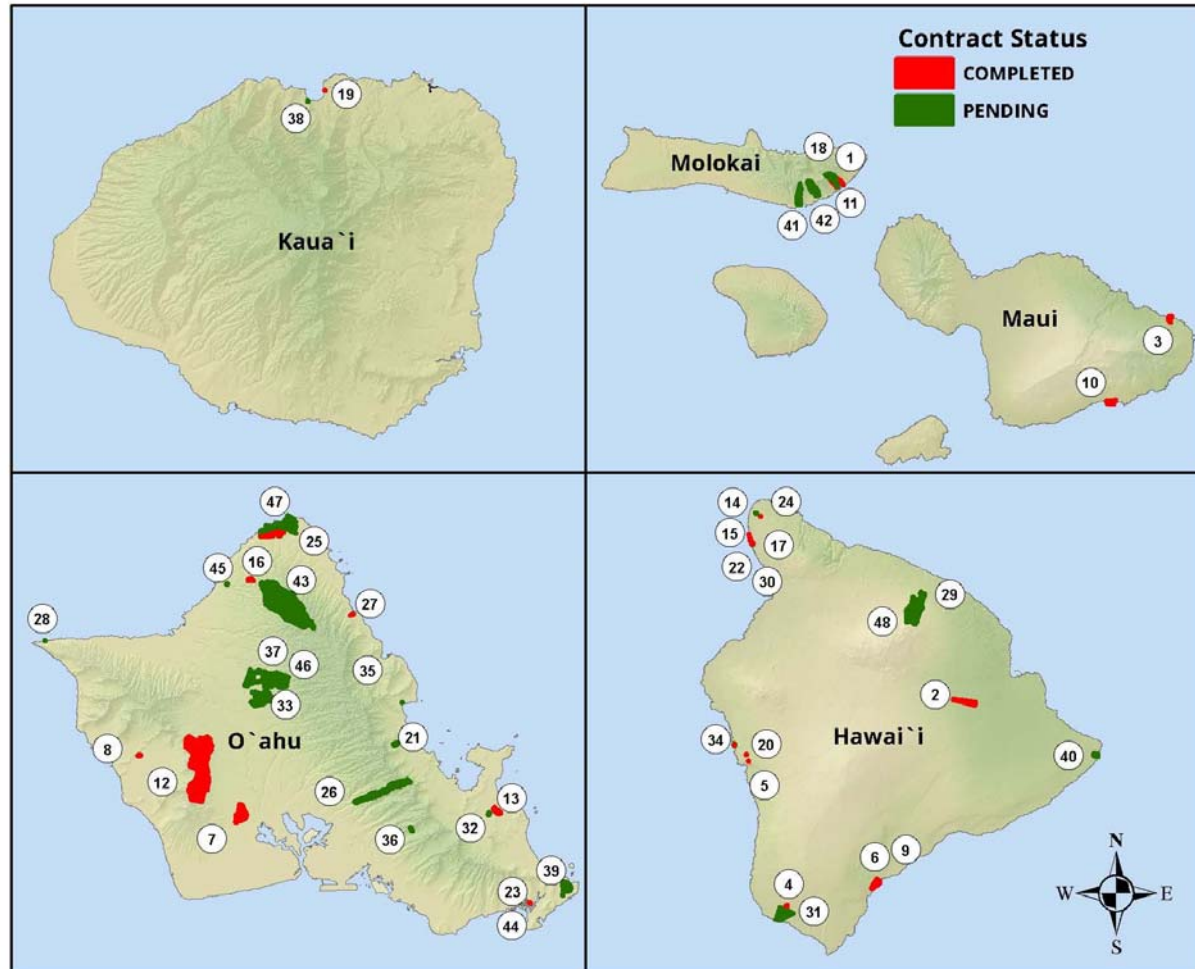


Legacy Land Conservation Program Projects

GROWING BY THE ACRE: RESOURCES PROTECTED FOR THE PUBLIC BENEFIT

Protected Properties (CE = Conservation Easement)

| YEAR | PROJECT | ACRES |
|------------------------------|-----------------------|-------|
| 2006 | 1 Kainalu CE | 167 |
| 2007 | 2 Carlsmith | 1336 |
| 3 | Kaharu | 170 |
| 4 | Caves | 3 |
| 5 | Uchida Farm | 6 |
| 6 | Kawa | 234 |
| 7 | Kunia CE | 108 |
| 2008 | 8 MA`O | 11 |
| 9 | Kawa II | 551 |
| 10 | Nuuu | 81 |
| 11 | Kawaikapu | 196 |
| 2009 | 12 Honouliuli | 3593 |
| 13 | Harmakua | 66 |
| 14 | N Kohala | 7 |
| 15 | Lapakahi | 17 |
| 16 | Sunset Ranch CE | 27 |
| 2010 | 17 Pao`o | 11 |
| 18 | Kainalu CE | 614 |
| 19 | Black Pot | 1 |
| 20 | KHS II | 2 |
| 21 | Fong Plantation CE | 108 |
| 2011 | 22 Kaiholena | 77 |
| 23 | Hawea | 5 |
| 24 | Kauhola | 28 |
| 25 | Turtle Bay Mauka CE | 469 |
| 2012 | 26 Kaluaao Valley | 635 |
| 27 | Maunawila Heiau | 9 |
| 28 | Kaena Pt Extension | 1 |
| 29 | Kuka`iau Ranch CE | 3688 |
| 30 | Kaiholena South | 35 |
| 31 | Kahuku Coastal | 3128 |
| 2013 | 32 State Parks | 3 |
| 33 | Whitmore Ag Lands | 456 |
| 2014 | 34 Kuamo`o | 47 |
| 35 | Hakipu`u Lo`i Kalo | 2 |
| 36 | Hoozulu Ola | 11 |
| 37 | Helemano | n/a |
| 2015 | 38 Kaluanono at Waipa | 2 |
| 39 | Ka Iwi Coast Mauka | 181 |
| 40 | Wai`Opae | 322 |
| 41 | Puaahala Watershed | 800 |
| 42 | Kalua`aha Ranch CE | 969 |
| 43 | Pupukea Mauka | 3716 |
| 2016 | 44 Kanewai Spring | 1 |
| 45 | Pu`ukua | 4 |
| 46 | Helemano (II) | 3027 |
| 47 | Turtle Bay CE & Fee | 621 |
| 48 | Upper Kuka`iau | 4470 |
| Total Protected Acres | 30,016 | |



RELATING TO THE LAND CONSERVATION FUND
AND
THE LEGACY LAND CONSERVATION PROGRAM

PURPOSE

The Legacy Land Conservation Program (LLCP) was established because Hawai‘i’s unique cultural, natural agricultural, historical, and recreational resources are often damaged or lost when private lands possessing these resources are sold and developed. The LLCP provides grants from the Land Conservation Fund to State agencies, counties, and nonprofit land conservation organizations seeking to acquire property that has value as a resource to Hawai‘i. These resources are defined as land having natural, environmental, recreational, scenic, cultural, agricultural production, or historic value, and may also include park and trail systems that provide access to any such land.

INTERESTS OR RIGHTS IN LAND ACQUIRED DURING THE PRECEDING FISCAL YEAR AND RESOURCE VALUE SUMMARY

During Fiscal Year 2016, the following Legacy Land transactions were completed from previous year’s awards:

- 1. Kuamo‘o:** Trust for Public Land and Mohala Hou Foundation: for the purchase of 47 acres, Kona, Island of Hawai‘i, for the protection of coastal lands and cultural and historic resources. (Awarded Legacy Land funding in FY2014)

The property is the site of a significant transition in Hawaiian history, the Battle of Kuamo‘o, fought in December 1819 (also known as “Kaua ‘ai noa” or the battle of free eating) regarding the traditional kapu system. Kekuaokalani, nephew of Kamehameha I, and his wife, Chiefess Manono, are said to be buried on the property along with many of their warriors. The property includes burial mounds and sites (platforms, lava



Kuamo‘o Sea Arch

tubes), two previously documented heiau, undocumented heiau or shrines, habitation and farming areas, and well-preserved portions of the Ala Kahakai National Historic Trail, which provides scenic views of the Kona coast and unique features such as sea arches.

Aloha Kuamo‘o ‘Āina (the successor organization to Mohala Hou Foundation) will provide pedestrian public access to the coastal trails, including the Ala Kahakai National Historic Trail, and provide education on the significance of the area.

- 2. Kaiholena South:** Ala Kahakai Trail Association (AKTA); for the purchase of 34.63 acres in North Kohala, Island of Hawai‘i, for the protection of cultural, scenic, and coastal resources. (Awarded Legacy Land funding in FY2012)

The coastal parcel is within the ahupua‘a of Kaiholena, adjacent to land being purchased by the County of Hawai‘i for open space protection, and contains coastal access trails and a portion of the Ala Kahakai National Historic Trail. The land also contains cultural sites and is within view of the Lapakahi State Historical Park.

- 3. Turtle Bay Mauka:** Trust for Public Land and the North Shore Community Land Trust (NSCLT), for a conservation easement over 469 acres, Ko‘olauloa, Island of O‘ahu, for the protection of agricultural resources. (Awarded Legacy Land funding in FY11)



This is an agricultural conservation easement over Turtle Bay mauka lands in Ko‘olauloa. NSCLT will hold the conservation easement and work with the landowner to develop a soil and water conservation plan.

PROPOSALS FOR FUTURE LAND ACQUISITIONS, INCLUDING A SUMMARY OF THE RESOURCE VALUE THAT THE LAND MAY POSSESS

For the Fiscal Year 2016 application cycle, the Legacy Land Conservation Program advertised the availability of approximately \$4.5 million in project funding from the Land Conservation Fund for the purchase of lands having value as a resource to the State. Nonprofit land conservation organizations and state agencies applied for funding for four separate resource land acquisition projects and for the payment of debt service on a recent State land acquisition.

After conducting site visits and public decision-making meetings, the Legacy Land Conservation Commission recommended full funding for four projects and partial funding for one project. The Department consulted with the Senate President and Speaker of the House of Representatives regarding the Commission’s recommendations, pursuant to Chapter 173A, HRS. The legislators responded in writing, offering no objections or comments regarding the

recommendations of the Commission. Then, the Board of Land and Natural Resources, and lastly, Governor Ige, approved the recommended projects for grant funding:

1. **Pu‘ukua** - Hi‘ipaka, LLC and Trust for Public Land: \$175,000 for the purchase of 3.75 acres in Waimea, Ko‘olauloa, O‘ahu, for the protection of cultural, aesthetic, and potential agricultural resources.

Waimea Valley has a rich history of native Hawaiian inhabitants and traditional religious leaders. Despite the many changes, Waimea is still respected today as a sacred and powerful valley filled with history. Now that the vast majority of Waimea has been returned to, and is thriving under, Hawaiian stewardship, it is hoped that the general area believed to contain Hewahewa’s final resting place can be protected and cared for from mauka to makai. Apart from cultural resources, Pu‘ukua



likely functions as a buffer zone and filter to reduce runoff from the adjacent parking lots into the Waimea River, which is home to almost a dozen endangered ‘alae ‘ula (Hawaiian moorhen).

Matching funds to cover 60% of the estimated cost of acquisition are being sought, with a total of 18% from Hi‘ipaka, LLC and The Trust for Public Land secured; 40% recommended to be sought from the City and County of Honolulu Clean Water and Natural Lands Fund; and 2% pending from the landowner.

Hi‘ipaka, LLC and The Trust for Public Land have had an initial conversation with the City Administration regarding the City holding or co-holding the conservation easement. The City is currently evaluating the most efficient way to run its Clean Water and Natural Lands Program, and what role it would like to play in future Clean Water and Natural Lands funded projects. One viable option is for the City and the North Shore Community Land Trust to co-hold the conservation easement.

Hi‘ipaka, LLC is a nonprofit, limited liability company created to nurture and care for Waimea Valley; its mission is to preserve and perpetuate the human, cultural, and natural resources of Waimea for generations through education and stewardship.

2. **Kānewai Spring** - Maunalua Fishpond Heritage Center and Trust for Public Land: \$1,300,000 for the purchase of 0.77 acres in Kuli‘ou‘ou, O‘ahu, for the protection of aquatic habitat for threatened and endangered species and cultural resources.

Kānewai Spring is one of the last remaining freshwater springs in Honolulu. The mixing of fresh and salt water between Kānewai Spring and Kānewai Fishpond provides the fertile estuary that is the source of life for a wide variety of native species, including rare freshwater limpets (pipiwai and hapawai); native shrimp (‘opae ‘oeha‘a and ‘opae huna); native goby fish (‘o‘opu ‘akupa); and ‘ama‘ama and ‘aholehole which feed on the treasured limu ‘ele‘ele. It is the source of abundant freshwater and marine life.



The health of Kānewai Spring directly affects the health of the waters into which it flows: Kānewai Fishpond, Paikō Wildlife Sanctuary, and Maunalua Bay. Archaeological and cultural sites surround the spring.

Matching funds totaling 42% of the estimated cost of acquisition are being sought, with approximately 1% from The Trust for Public Land and the landowner secured, and approximately 41% recommended to be sought from the City and County of Honolulu Clean Water and Natural Lands Fund.

It is anticipated that the City and County of Honolulu will hold or co-hold the conservation easement. However, the City and County is currently re-evaluating the structure of its Clean Water and Natural Lands Program to make it more efficient for the City, and it is possible that it may choose to have another entity hold the conservation easement.

Maunalua Fishpond Heritage Center is a 501(c)(3) nonprofit organization; its mission is to preserve and mālama Honolulu’s last fishponds for community education.

- 3. Helemano** – Department of Land and Natural Resources (DLNR) and Trust for Public Land: \$1,500,000 for the purchase of 3,027 acres in the Wahiawā vicinity, O‘ahu, for the protection of watersheds, parks, recreational areas and natural areas and habitat.

The Trust for Public Land and DLNR’s Division of Forestry and Wildlife are working to protect approximately 3,027 acres of Dole Food Company lands for the public to enjoy, to secure critical watersheds and native species habitat, and to create a hub for local forestry products that will supply artisans and cultural practitioners with much-needed materials.



Despite substantial demand, there are only two public camping areas in the mountains of O‘ahu. Access for hunters and hikers is often blocked by private ownership of lands or access routes to public lands. Access to the Poamoho Ridge Trail, a premier route to summit the Ko‘olau Mountains, has been blocked – sometimes for years – by private ownership. After acquisition, these 3,027 acres of land will be secured in perpetuity for daily public use by hunters, hikers, and other outdoor enthusiasts. Access will also be secured to the Poamoho Ridge Trail and an additional 4,600 acres of the ‘Ewa Forest Reserve. The project’s central location will provide opportunities for schools and students to easily access the mountains to learn about watersheds, native species, and sustainable forestry. This project will also secure critical portions of the Paukauila and Ki‘iki‘i Watersheds, the largest drainage basin on O‘ahu and an important source of fresh drinking water.

Matching funds totaling 90% of the estimated cost of acquisition are being sought, with approximately 0.2% from The Trust for Public Land and the landowner secured; 1.7% awarded during the FY14 Legacy Land process; and an estimated 57.3% pending from U.S. Forest Service Forest Legacy, U.S. Navy Readiness and Environmental Protection Integration, Wal-Mart Acres for America, and the City and County of Honolulu. The remaining funds will be requested from additional grants in FY17 and FY18.

DLNR intends to include the Helemano Wilderness Recreation Area in the State Forest Reserve System as an addition to the Poamoho section of ‘Ewa Forest Reserve. DLNR plans to designate a Timber Management Area, a Public Hunting Area, and roads and trails that will be added to the Nā Ala Hele Trail and Access System. The Division of Forestry and Wildlife, O‘ahu District, will be responsible for the day-to-day management of the area.

Goals include providing public access to the Poamoho Ridge Trail and additional areas for hunting, picnic grounds, campsites, and multi-use off-road vehicle trails.

- 4. Turtle Bay Makai** -Trust for Public Land and DLNR: \$1,500,000 for debt service on the purchase of 53 acres, conservation easement of 568 acres, and 37.996 for a temporary conservation easement – future fee, Ko‘olauloa, O‘ahu, for the protection of parks, coastal areas, and natural areas and habitat.

The property is highly significant and important to residents and visitors on the North Shore of O‘ahu. The property includes approximately five miles of undeveloped shoreline that is treasured and beloved for its natural beauty, its habitat for native species, its recreational value, and its rich cultural history. Community members have fought



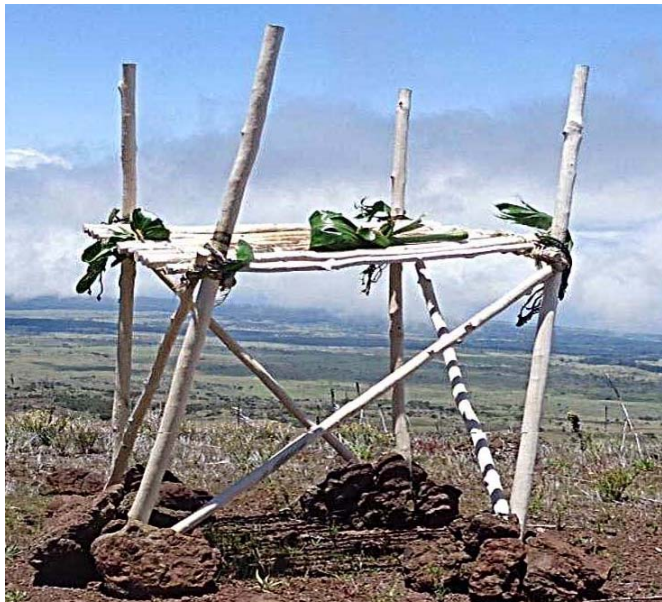
since the 1970/80s to limit the resort development in the area. This ground-breaking and innovative project is part of a broader State, City, community, and nonprofit effort to work out a voluntary negotiated solution with the landowner to conserve the most sensitive conservation areas and the most beloved and used recreation areas of this undeveloped shoreline.

Funding for this landmark acquisition included the State’s issuance of \$35 million in reimbursable general obligation bonds. Pursuant to Chapter 173A-13, HRS, The Trust for Public Land applied for \$1.5 million of Legacy Land funding to pay debt service on the bonds.

The approximately 53 acres of fee-simple land acquired by the State at Kawela Bay will be leased back to the Turtle Bay Resort for 65 years. Under the lease, the Resort will be responsible for managing the land for public access and recreation, but will be allowed to continue existing commercial activities such as horseback riding, disc golf, parking/staging for surf lessons, picnics, jogging, hiking, and other outdoor activities. The land under the conservation easement will be permanently restricted from further development, but existing commercial uses (e.g., golf course, golf clubhouse, and restaurant) will be allowed to continue. The Resort has been managing this land for over four decades since the Turtle Bay Resort was built. The Resort has all required permits to conduct all commercial activities on the land. The State of Hawai‘i Department of Land and Natural Resources, Division of Forestry and Wildlife will own, hold, and monitor the conservation easement in partnership with the North Shore Community Land Trust.

5. **Upper Kūka‘iau** – DLNR: \$25,000 for the purchase of 4,469 acres, Hāmākua, Hawai‘i, for the protection of watersheds, habitat and natural areas, agricultural production and open spaces and scenic resources.

Upper Kūka‘iau Ranch is an iconic property that holds deep cultural and historical significance and hosts a wide and valuable array of natural resources, including critical habitat for the endangered palila bird. DLNR’s proposed acquisition of the property is strongly supported by the U.S. Fish and Wildlife Service through its Endangered Species Recovery Land Acquisition Program; the National Fish and Wildlife Foundation through its WalMart Acres for America program; and The Nature Conservancy, which created the Conservation Easement that it purchased from the landowner. The property also holds great potential for expanding public access to adjacent public hunting areas and for enhancing on-site and off-site outdoor recreation opportunities.



Matching funds to cover the remaining 57% of the estimated cost of acquisition are being sought from the U.S. Fish and Wildlife Service Recovery Land Acquisition grant, The Nature Conservancy, DLNR Forest Legacy funding (secured) and Walmart Acres for America, with landowner donation and state staff time as in-kind match (pending).

The Nature Conservancy currently holds a Conservation Easement that restricts development and management activities. A public/private partnership to reforest substantial portions of the acreage with Koa and other native forest trees has also been proposed for this property. The property is prime Koa land – a former Koa forest converted to pasture after years of grazing. DOFAW would like to restore the land to Koa forest and restore the cultural integrity of the property for native Hawaiians.

GRANT ADMINISTRATION

The approved grants are being administered according to program requirements and are being brought to closure by the parties. Nonprofit and county grant recipients have two years from the date of their respective grant agreements to bring projects to closure. Pursuant to Chapter 173A, HRS, deed restrictions are placed on each property, and the Board of Land and Natural Resources must approve any transfer of lands away from the original awardee. Additionally, nonprofit grant recipients that are acquiring properties in fee will provide conservation easements to eligible government agencies. Upon the sale of a property, an amount of the net proceeds proportionate to the original award must be returned to the Land Conservation Fund.

FINANCIAL REPORT FOR THE PRECEDING FISCAL YEAR

Ten percent of all conveyance taxes (Section 247-7(1), HRS) or \$6,800,000, whichever is less, is credited to the Land Conservation Fund (LCF).

Status of LCF for FY16:

| | |
|---|---------------|
| Beginning cash balance of LCF on July 1, 2015 | \$ 16,278,836 |
| Revenue to LCF in FY16 | \$ 6,742,309 |
| Previously authorized transfers in FY16 | \$ 296 |
| Expenditures during FY16 | \$ 3,773,890 |
| Outstanding previous year encumbrances | \$ 3,371,245 |
| FY16 outstanding encumbrances at year end | \$ 1,323,755 |
| Cash balance minus outstanding encumbrances | \$ 14,552,551 |

During FY16, LCF revenues totaled \$6,742,309. Expenditures and encumbrances totaled \$5,097,645, which fell within the authorized appropriation of \$5,147,006. An amount of \$4,348,755 was encumbered or expended as awards to counties and nonprofit land conservation organizations for the acquisition of interest or rights in lands having value as resource to the State. An amount of \$153,074 was expended on salaries and administrative costs, and an amount of \$595,816 was levied for special fund assessments (central service fees).

Grant awards

| | |
|---|--------------|
| Total grant expenditures and encumbrances | \$ 4,348,755 |
|---|--------------|

Salary costs

| | |
|----------|------------|
| Salaries | \$ 125,937 |
|----------|------------|

Administrative expenses

| | |
|--|-----------|
| Commission and staff training and travel | \$ 17,881 |
| Fees, notices, services, equipment | \$ 9,256 |

Special Fund Assessment

| | |
|--------------------------|------------|
| B&F Central Service Fees | \$ 595,816 |
|--------------------------|------------|

| | |
|----------------------------------|---------------------|
| Total expended/encumbered | \$ 5,097,645 |
|----------------------------------|---------------------|

The Department may use up to five percent of LCF revenue from the previous year to administer the Program to cover costs such as travel, training, and materials and supplies. The administrative budget funded travel costs related to the Commission, which met four times during the fiscal year to accomplish its duties, as well as dues, services, publications, and staff travel. The fund was also assessed the statutorily required central service fees of up to the sum of 5% on revenue and 2% on expenditures.

FISCAL YEAR 15 BLANKET ENCUMBRANCE LAPSES \$2,228,250

The coordinator position for the LLCP was vacant for most of FY16. Due to staff turnover, a portion of the blanket encumbrance of FY15 funds for nonprofit and county acquisitions was not contracted to LLCP awardees before the end-of-fiscal-year deadline, and a corresponding allotment of \$2,228,250 lapsed back into the Land Conservation Fund. A one-time increase to the LLCP spending ceiling is needed to access this lapsed funding and complete FY15 contract awards. If the blanket encumbrance had not lapsed, the cash balance minus the outstanding encumbrance amount would total \$12,324,301.

OBJECTIVES AND BUDGET PROJECTIONS FOR THE FOLLOWING FISCAL YEAR

Objectives

The highest priority is to raise the LLCP spending ceiling to restore the \$2,228,250 allotment that lapsed, which requires Legislative action.

The other objectives are to continue implementing the program by: 1) bringing prior-year State acquisitions to closure and providing support to prior-year nonprofit and county grant recipients; (2) coordinating the award of FY17 grant funds towards the acquisition of lands having high value as a resource to the State; (3) continually improving the operation of the program; and (4) planning and prioritization of acquisition and protection of lands having value as a resource to the State.

Budget Projections

The expanding real estate market is anticipated to deposit approximately \$6,800,000 into the Land Conservation Fund in FY17, which is the maximum amount of conveyance tax revenues authorized. The Department of Land and Natural Resources recommends that the spending ceiling of the Land Conservation Fund for future years equal \$6,800,000 to match the conveyance tax revenue cap.

CONCLUSION

The Legacy Land Conservation Program provided \$4,500,000 in grant funding for the acquisition of interests in five properties, which will result in the protection approximately 3,690 acres of land having threatened or unique natural, cultural, recreational, and agricultural resources. An additional 4,469 acre project was also partially funded by this program. The program is also successfully completing the transactions funded by previous years' awards, protecting approximately 550 acres.

For detailed information on the Legacy Land Conservation Program, please visit <http://www.hawaii.gov/dlnr/dofaw/llcp/>, or contact the LLCP, Department of Land and Natural Resources, Division of Forestry and Wildlife, 1151 Punchbowl Street, Room 325, Honolulu, HI, 96813, by telephone, at (808) 586-0921, or by email, at David.Penn@hawaii.gov.