

DEPARTMENT OF LAND AND NATURAL RESOURCES

<http://dlnr.hawaii.gov>

The Department of Land and Natural Resources (DLNR), established under section 26-15, HRS, and whose jurisdiction is detailed in chapter 171, HRS, is headed by the Board of Land and Natural Resources. The Chairperson of the Board serves in a full-time capacity. DLNR manages the State's public lands and the water and mineral resources on those lands. It also manages the State's aquatic life and wildlife resources, forest reserves, state parks, and small boat harbors, and administers the state conservation districts and the endangered species, natural area reserves, boating and ocean recreation, and historic preservation programs. The Department develops and enforces rules on conservation and resources. It also provides a central repository for all instruments of conveyances.

BOARD OF LAND AND NATURAL RESOURCES

The Board of Land and Natural Resources, generally provided for in the State Constitution, Article XI, section 2, and specifically provided for in sections 26-15 and 171-4, HRS, is vested with powers for the management of natural resources owned or controlled by the State, and their disposition as may be provided by law. The Board is composed of seven members, one from each land district and three at large, who are appointed to four-year terms by the Governor with the advice and consent of the Senate. Not more than three members are from the same political party, and at least one member must have a background in conservation and natural resources. The Governor appoints the Chairperson of the Board from among its members. The Chairperson serves as the chief executive officer of the Department.

Office of Conservation and Coastal Lands

The Office of Conservation and Coastal Lands' (OCCL) mandate is to ensure environmentally responsible regulatory management of lands within the State of Hawaii Conservation District, which includes almost half the State's total land area, as well as all nearshore waters classified as submerged state land. As defined in section 183C-2, HRS, "Conservation district" means those lands within the various counties of the State bounded by the conservation district line, as established under provisions of Act 187, SLH 1961,¹ and Act 205, SLH 1963,² or future amendments thereto.

¹ Act 187, SLH 1961, section 2, established the State Land Use Commission, codified as chapter 98H, Revised Laws of Hawaii 1955 (hereafter "RLH 1955") (1961 supplement).

² Act 205, SLH 1963, section 2, amended chapter 98H, RLH 1955, subsequently codified as sections 205-1 to 205-15, HRS.

The State has both public and private lands classified as conservation lands. It is OCCL's responsibility to act as the zoning authority for proposed and ongoing activities on both public and private lands classified as conservation. To accomplish this task, OCCL coordinates the actions of the many agencies within the Department to regulate activities on Conservation District lands.

OCCL also has the responsibility to develop land management policies regarding the State's resources. For example, the Hawaii Coastal Erosion Management Plan (COEMAP) is intended to guide both governmental and non-governmental stakeholders in making decisions on managing Hawaii's coastal lands.

The Coastal Lands Program implements COEMAP. It also conducts environmental, economic, and engineering studies of Hawaii's precious shoreline areas. The Coastal Lands Program acts as the lead state agency in the development and implementation of shoreline restoration and protection projects.

OCCL works with other sectors of government such as federal, county, and other state agencies. OCCL articulates DLNR's position on possible environmental impacts of proposed projects and actions by federal, county, and other state agencies on Conservation District lands.

Bureau of Conveyances

The Bureau of Conveyances, as mandated under chapters 501 (Land Court Registration) and 502 (Bureau of Conveyances; Recording), HRS, maintains accurate records of land title registration and other comprehensive records of documents related to land titles. The Bureau also makes copies of recorded land documents available to various agencies and individuals. Certificates of title on registered land issued by the Bureau are guaranteed by the State against the loss, damage, or deprivation of land, estate, or interest in the land, arising through the fault of the assistant registrars in the performance of their duties. Hawaii is the only state in the nation with a single statewide recording office.

Aquatic Resources Division

The Aquatic Resources Division manages Hawaii's marine and freshwater resources through programs in commercial fisheries; aquatic resources protection, enhancement, and education; and recreational fisheries. Major programs include projects to manage commercial fisheries on a sustainable basis, protect native and resident species and their habitats, and provide facilities and opportunities for recreational fishing.

The Division establishes Marine Life Conservation Districts (MLCDs) for the Department as authorized by chapter 190, HRS, to conserve and replenish marine resources of the State. MLCDs include Hanauma Bay and Waikiki (Oahu), Kealakekua Bay (Hawaii Island), and Molokini Shoal (Maui).

Division of Boating and Ocean Recreation

The Division of Boating and Ocean Recreation manages the State's small boat harbors and statewide ocean recreation programs pertaining to the ocean waters and navigable streams of the State. The Division provides permits for ocean recreation events such as yacht races, canoe regattas, surfing, and board sailing contests. The Division also regulates commercial activities such as thrill craft operations and competing ocean recreation activities in nearshore waters.

Division of Conservation and Resources Enforcement

The Division of Conservation and Resources Enforcement is responsible for enforcing all state laws relating to conservation and natural, cultural, and historic resources. The Division, with full police powers, enforces all state laws and rules involving all lands within the State, including state parks, historical sites, forest reserves, aquatic life and wildlife areas, coastal zones, conservation districts, shorelines, and small boat harbors, as well as county ordinances involving county parks. The Division also enforces laws relating to firearms, ammunition, and dangerous weapons.

Engineering Division

The Engineering Division administers the State's programs in water resource development, geothermal resource management, flood control and prevention, dam safety, and soil and water conservation. The Division also provides engineering services to other DLNR divisions and other agencies.

Division of Forestry and Wildlife

The Division of Forestry and Wildlife is responsible for the management of state-owned forests, natural area reserves, public hunting areas (and the issuance of hunting licenses), and plant and wildlife sanctuaries. Responsibility is statewide for watershed and endangered species protection, wildland fire suppression, public trails and access, and game management programs. Cooperative natural resource programs are also planned and implemented on privately owned forest lands through natural area partnerships, forest stewardship programs, urban forestry projects, and other agreements.

Land Division

The Land Division is responsible for overseeing approximately 1.3 million acres of public lands. The large majority of these lands comprise the Public Land Trust, or lands that were ceded to the United States by the Republic and returned upon admission as a state. Use of Public Land Trust lands are guided by five purposes as defined in the Admission Act, section 5(f): for the support of the public schools and other public educational institutions, for the

betterment of the conditions of Native Hawaiians, for the development of farm and home ownership, for the making of public improvements, and for the provision of lands for public use.

Land use is managed by the Division in accordance with the goals, policies, and plans of the State, as embodied in the Hawaii Revised Statutes and rules adopted by the Department.

Other state lands, onshore and offshore, may be made available to the public for various uses through fee sales, leases, licenses, grants of easements, rights-of-entry, and month-to-month tenancies, and still others may be kept as valuable open-space areas. The Land Division generates revenues through sales, leases, month-to-month permits, land and water licenses, easements, and other dispositions. Twenty percent of revenues generated from Public Land Trust lands are transferred to the Office of Hawaiian Affairs, while the majority of the remaining funds go into the Special Land and Development Fund, under section 171-19, HRS, to help support departmental programs, missions, and functions.

Land may be acquired for public purposes from private owners or other government entities to add to the inventory of state lands. These acquisitions may be made via purchase negotiations, land exchanges, or through eminent domain, if necessary. Besides maintaining an inventory of state-owned lands, the Division serves as an office of record and maintains a central repository of all government land documents dating back to the Great Mahele of 1848.

The Division also provides abstracting and appraisal services, advises other state agencies on matters relating to land use history and use, and processes shoreline certifications for coastal properties using a multi-variable approach to accurately determine changes in shoreline boundaries.

The Division pursues proactive planning and development initiatives to fulfill its statutory obligations and ensure more effective and efficient use of lands in the public trust. As part of this initiative, certain state lands are developed for commercial use to support the public purposes of the Department and to promote economic activity in the State.

State Historic Preservation Division

The State Historic Preservation Division works to preserve reminders of earlier times which link the past to the present. The Division strives to accomplish this goal through maintaining an inventory of historic properties, administering the historic preservation review process, promoting economic incentives for preservation initiatives, supporting five island burial councils, developing public information and education projects, and conducting preservation planning.

The Division also maintains the Hawaii State Register of Historic Places, under chapter 6E, HRS. Nominations to the Register are heard by the Hawaii Historic Places Review Board,³ under section 6E-5.5, HRS, which may forward accepted and listed Hawaii Register sites to the National Register of Historic Places with the concurrence of property owners.

³ See page 137.

Division of State Parks

The Division of State Parks is responsible for the administration of the State Park System, under section 184-2, HRS, and the State's recreation planning program. The Division plans, constructs, operates, and maintains state park facilities and measures the compliance of concessionaires with its program requirements. It also develops interpretive programs to heighten visitor awareness and understanding of the State's resources and promotes their protection.

ATTACHED FOR ADMINISTRATIVE PURPOSES

Commission on Water Resource Management

The State Constitution, Article XI, section 7, mandates the Legislature to provide for a water resources agency to set overall water conservation, quality, and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds, and natural stream environments; establish criteria for water use priorities while ensuring appurtenant rights and existing correlative and riparian uses; and establish procedures for regulating all uses of Hawaii's water resources. This parallels Hawaii's public trust doctrine under the State Constitution, Article XI, section 1, which requires the State to conserve and protect Hawaii's natural resources and promote their development and utilization in a manner consistent with their conservation. The section concludes, "All public natural resources are held in trust by the State for the benefit of the people."⁴ This mandate of the State Constitution led the Legislature in 1987 to enact the State Water Code, chapter 174C, HRS, which gives the Commission on Water Resource Management exclusive jurisdiction and final authority in all matters relating to implementation and administration of the State Water Code.

The Commission is established under section 174C-7, HRS, and consists of seven members, including the Chairperson of the Board of Land and Natural Resources who serves as Chairperson of the Commission, and the Director of Health who serves as an ex officio, voting member. The five remaining members are appointed to four-year terms by the Governor, subject to confirmation by the Senate, from a list submitted by a nominating committee.⁵ Each of these members is to have substantial experience in the area of water resource management, and at least one member must have substantial experience or expertise in traditional Hawaiian water resource management techniques and traditional Hawaiian riparian usage, such as those preserved by section 174C-101, HRS.

⁴ The Hawaii Supreme has held that, "article XI, section 1 and article XI, section 7 adopt the public trust doctrine as a fundamental principle of constitutional law in Hawaii.

....
 "Under the public trust, the state has both the authority and duty to preserve the rights of present and future generations in the waters of the state." *In re Water Use Permit Applications*, 94 Haw. 97, 132, 141.

⁵ The nominating committee is composed of four individuals chosen as follows: two persons appointed by the Governor; one person appointed by the President of the Senate; and one person appointed by the Speaker of the House of Representatives. The nominating committee solicits applications and sends to the Governor the names of at least three individuals for each open position. See section 174C-7(d), HRS.

Public Land Development Corporation

Chapter 171C, HRS, relating to the Public Land Development Corporation, was repealed April 22, 2013, pursuant to Act 38, SLH 2013, sections 1 and 7.

Kahoolawe Island Reserve Commission

In 1993, Senator Daniel K. Inouye of Hawaii sponsored Title X of the Department of Defense Appropriations Act, 1994 (P.L. 103-139), that authorized conveyance of Kahoolawe and its surrounding waters to the State of Hawaii. In 1994, the Hawaii State Legislature established the Kahoolawe Island Reserve under chapter 6K, HRS. The Kahoolawe Island Reserve Commission (KIRC), established under section 6K-5, HRS, manages and oversees restoration of the Kahoolawe Island Reserve--including waters extending seaward two nautical miles from the shoreline--until such time as it may be transferred to a Native Hawaiian entity, recognized by the state and federal governments. Under section 6K-3, HRS, the Kahoolawe Island Reserve must be used solely and exclusively for the following purposes: (1) preservation and practice of all rights customarily and traditionally exercised by Native Hawaiians for cultural, spiritual, and subsistence purposes; (2) preservation and protection of its archaeological, historical, and environmental resources; (3) rehabilitation, revegetation, habitat restoration, and preservation; and (4) education. Commercial uses are strictly prohibited.

The Commission consists of seven members appointed to four-year terms by the Governor with the advice and consent of the Senate: one member of the Protect Kahoolawe Ohana (PKO); two from a list provided by the PKO; one trustee or representative of the Office of Hawaiian Affairs; one county official from a list provided by the Mayor of Maui; one from a list provided by Native Hawaiian organizations; and the Chairperson of the Board of Land and Natural Resources. The Governor appoints the KIRC Chairperson from among commission members.

Animal Species Advisory Commission

The Animal Species Advisory Commission, established under section 197-2, HRS, consists of thirteen members who are appointed to four-year terms by the Governor with the advice and consent of the Senate as follows: the Chairperson of each Aquatic Life and Wildlife Advisory Committee established in each of the counties under section 197-4, HRS; three members of the Department designated by the Chairperson of the Department, one each from the professional fields of aquatic life, wildlife, and conservation and resources enforcement; and six scientists in the fields of botany, mammalogy, ichthyology, entomology, ornithology, and invertebrate zoology. The Commission selects its own Chairperson. The Commission advises the Board of Land and Natural Resources on every proposal by the Department for the deliberate introduction of aquatic life and wildlife into any habitat within the State. The Commission may also advise the Board on any matter affecting the taking and conservation of aquatic life and wildlife, including proposed rules.

Endangered Species Recovery Committee

The Endangered Species Recovery Committee, established under section 195D-25, HRS, consists of six members as follows: two field biologists with expertise in conservation biology, the Chairperson of the Board of Land and Natural Resources, the Ecoregion Director of the U.S. Fish and Wildlife Service, Director of the U.S. Geological Survey, Biological Resources Division, and the Director of the University of Hawaii Environmental Center, or designees of the latter four. Nongovernmental members are appointed to four-year terms by the Governor with the advice and consent of the Senate. Governmental members from the federal agencies are requested but not required to serve on the Committee. The Committee: (1) reviews and recommends to the Board actions to take on all applications and proposals for habitat conservation plans, safe harbor agreements, and incidental take licenses; (2) reviews all habitat conservation plans, safe harbor agreements, and incidental take licenses on an annual basis to ensure compliance with agreed-to activities; (3) considers and recommends appropriate incentives to encourage landowners' involvement in endangered species restoration efforts; (4) performs other duties as needed; (5) consults with persons possessing expertise in endangered species matters as the Committee may deem appropriate and necessary; and (6) conducts annual site visits to properties covered under plans and agreements.

Hawaii Historic Places Review Board

The Hawaii Historic Places Review Board is established under section 6E-5.5, HRS, as a review board for the Hawaii Register of Historic Places and the National Register of Historic Places. The Board consists of ten members who are appointed to four-year terms by the Governor with the advice and consent of the Senate, and includes one professionally qualified member from each of the disciplines of archaeology, architecture, history, and sociology, and one member knowledgeable in traditional Hawaiian society and culture. The Board elects a Chairperson and Vice Chairperson. The Board orders historic properties entered into the Hawaii Register of Historic Places on the basis of their value to Hawaii's heritage; evaluates and recommends the nomination of historic properties to the National Register of Historic Places; reviews the state survey of historic properties and the state historic preservation plan; maintains the Hawaii Register of Historic Places, including all those listed on the National Register of Historic Places, and a program of notification and publication regarding properties on the registers; and develops policies on signage in historic districts.

Island Burial Councils

Five Island Burial Councils, one each for Hawaii, Maui/Lanai, Molokai, Oahu, and Kauai/Niihau, are established under section 6E-43.5, HRS, to implement section 6E-43, HRS (prehistoric and historic burial sites). Each Council consists of nine members, except the Molokai Council, which consists of five members. Each Council consists of no more than three representatives of development and large landowner interests, except that the Molokai Council consists of no more than one representative of development and large landowner interests. The remaining council members represent the geographic regions identified in section 6E-43.5(a),

HRS. At all times, at least two of the regional representatives of each Council shall have been appointed from a list of nominees submitted to the Governor by the Office of Hawaiian Affairs as provided under section 6E-43.5(b), HRS. Pursuant to section 6E-43.5(b), HRS, members are appointed to four-year terms by the Governor with the advice and consent of the Senate, and also in accordance with section 6E-43.5(a), from lists for each Council submitted by DLNR and the Office of Hawaiian Affairs. Regional representatives are selected from the Hawaiian community on the basis of their understanding of the culture, history, burial beliefs, customs, and practices of Native Hawaiians in the region they each represent. The Councils elect a Chairperson for a four-year term who serves for not more than two consecutive terms.

The Councils determine the preservation or relocation of previously identified Native Hawaiian burial sites; assist DLNR in the inventory and identification of Native Hawaiian burial sites; recommend appropriate management, treatment, and protection of Native Hawaiian burial sites; and maintain a list of appropriate Hawaiian organizations, agencies, and offices to notify regarding the discovery of remains.

Kokee State Park Advisory Council

The Kokee State Park Advisory Council, established under section 171-8.5, HRS, consists of: nine voting members who are appointed to three-year terms in equal numbers by the Governor, the Speaker of the House of Representatives, and the President of the Senate; and four ex officio, nonvoting members. The voting members are Kauai residents who possess general knowledge of at least one of four strategic areas: education; cultural resources; the environment; or native plants, animals, and ecosystems. The ex officio, nonvoting members are: (1) a representative of the U.S. Fish and Wildlife Service; (2) a representative of the Department of Land and Natural Resources (DLNR) Forestry and Wildlife Division, as designated by the Chairperson of the Board of Land and Natural Resources (BLNR); (3) a representative of DLNR State Parks Division, as designated by the Chairperson of BLNR; and (4) a representative of the County of Kauai, as designated by the Kauai County Council. A Chairperson is elected annually by the Council from among its voting members. The Council's responsibilities include: reviewing and assisting in updating and revising the Kokee State Park master plan; advising and assisting in the management of the Kokee recreational cabin leases; enhancing community education and cultural awareness of Kokee State Park; participating in the protection and preservation of Kokee State Park's natural and cultural resources; and advising and assisting in the overall implementation of the Kokee State Park master plan.

Legacy Land Conservation Commission

The Legacy Land Conservation Commission, established under section 173A-2.4, HRS, consists of nine members, including at least one member from each of the counties, who are appointed to four-year terms by the Governor with the advice and consent of the Senate. Four members possess scientific qualifications as evidenced by an academic degree in wildlife or marine biology, botany, forestry, ecology, resource management, biogeography, zoology, or geology; one member is a member of an environmental organization organized in the State; one

member is a member of a land conservation organization organized in the State; one member is a member of a statewide agricultural association; and one member is knowledgeable about native Hawaiian culture. The Chairperson of the Natural Area Reserves System Commission, or designee, serves as an ex officio, voting member. The members of the Commission elect the Chairperson. The responsibilities of the Commission include advising the Department and the Board on: proposals for the acquisition of any interest or rights in land having value as a resource to the State; and requests for grants from the Land Conservation Fund, established under section 173A-5, HRS, to a qualifying state or county agency or nonprofit land conservation organization for the preservation of lands having value as a resource to the State.

Natural Area Reserves System Commission

The Natural Area Reserves System Commission, established under section 195-6, HRS, consists of thirteen members who are appointed to four-year terms by the Governor with the advice and consent of the Senate. Six members possess qualifications in wildlife or marine biology, botany, forestry, ecology, resource management, biogeography, zoology, or geology; one member is a member of a hiking organization organized in the State; one member is a member of a hunting organization organized in the State, and one member is a person possessing a background in Native Hawaiian traditional and customary practices. The Chairperson of the Board of Land and Natural Resources, Director of the Office of Planning, Chairperson of the Board of Agriculture, and President of the University of Hawaii, or designees, serve as ex officio, voting members. The Governor appoints the Chairperson from among the appointed members. Among its duties, the Commission establishes criteria for determining whether an area is suitable for inclusion within the reserves system; conducts studies of areas for possible inclusion within the reserves system; establishes policies and criteria regarding the management, protection, and permitted uses of areas that are part of the reserves system; and advises the Governor and the Department on matters relating to the preservation of unique natural resources.

DEPARTMENT OF LAND AND NATURAL RESOURCES

