

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

August 10, 2026

Public testimony received by the Planning Department as of August 10, 2026, 8:00 am for the August 11, 2026, Planning Commission, Subdivision Committee meeting regarding the following items:

G.1.a. Subdivision Application No. S-2026-13
 Richard A. Littlestone Jr. / Toni S. Uchima
 Proposed 2-Lot Subdivision
 TMK: (4) 2-4-001: 044
 Kalāheo, Kaua'i

Kenneth Estes

From: Planning Department
Sent: Friday, August 7, 2026 8:24 AM
To: Shanlee Jimenez; Kenneth Estes
Subject: FW: SUBDIVISION APPLICATION NO. S-2026-13 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-4-001:044, KALAHEO, KAUAI) APPLICANTS: RICHARD A. LITTLESTONE JR. / TONI S. UCHIMA

Follow Up Flag: Follow up
Flag Status: Flagged

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Thursday, August 6, 2026 11:05 PM
To: Duke Nakamatsu <DNakamatsu@kauai.gov>; Planning Department <planningdepartment@kauai.gov>; Luc Dbedt <dbedt.luc.web@hawaii.gov>
Subject: SUBDIVISION APPLICATION NO. S-2026-13 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-4-001:044, KALAHEO, KAUAI) APPLICANTS: RICHARD A. LITTLESTONE JR. / TONI S. UCHIMA

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

WRITTEN TESTIMONY, FORMAL NOTICE OF CONSTITUTIONAL INFRINGEMENT, AND DEMAND FOR IMMEDIATE DEFERRAL/DENIAL

TO: Kauai County Planning Commission, Subdivision Committee, Planning Department, and Office of the Mayor **DATE:** August 11, 2026 **MEETING:** Subdivision Committee Meeting (Agenda Item G.1.a) **SUBMITTED VIA:** planningdepartment@kauai.gov

RE: SUBDIVISION APPLICATION NO. S-2026-13 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-4-001:044, KALAHEO, KAUAI) APPLICANTS: RICHARD A. LITTLESTONE JR. / TONI S. UCHIMA

I. STATEMENT OF STATUS, ANCESTRAL RIGHT, AND SOVEREIGN TITLE

I am a *Kanaka Maoli*, a *Hoaʻiʻina*, and a lawful *Hoʻoilina* (heir and successor) by bloodline and unbroken lineage to **Kaikioewa**, the recognized *Konohiki* of the Ahupuaʻa of Kalaheo, Governor of Kauai, and *hanai* father of King Kauikeaouli (Kamehameha III).

Pursuant to the laws of the Hawaiian Kingdom preserved under **Hawaii Revised Statutes (HRS) § 1-1** (incorporating Hawaiian usage and traditional custom) and **HRS § 172-11 and 172-12** (governing land vested in *Hooilina* and Hoaʻaina ancestral tenant

protections), I assert vested, private, allodial, and inalienable property rights over the lands of the Ahupua'a of Kalaheo.

The entirety of the Ahupua'a of Kalaheo constitutes Crown Land and private ancestral holdings. My vested private, property rights, ancestral rights, and customary and traditional rights (*Kuleana*) are superior, prior, and paramount to any county zoning ordinance, subdivision permit, or municipal administrative assertion.

II. POINT-FOR-POINT LEGAL AND CONSTITUTIONAL OBJECTIONS

1. Infringement Upon Inalienable Allodial Title and Private Property Rights

- **Objection:** The County of Kaua'i, its Planning Commission, and the Planning Department lack lawful authority to subdivide, alter, or convey municipal approvals over TMK: (4) 2-4-001:044 without the explicit, documented consent of the lawful *Hoa'aina* and *Ho'oilima* of the Kalaheo Ahupua'a.
- **Legal Authority:** Under the foundational principles of the Great Mahele and the Principles Adopted by the Board of Commissioners to Quiet Land Titles, the rights of native tenants (*Hoa'aina*) were expressly reserved and set apart as private, vested rights (*HRS §172-11*). Municipal land-use regulations cannot divest an heir of vested, private, allodial property rights without violating the Fifth and Fourteenth Amendments to the United States Constitution (*unconstitutional taking of private property without due process and just compensation*).

2. Violation of HRS § 1-1 and Hawaiian Kingdom Legal Precedents

- **Objection:** HRS § 1-1 mandates that Hawaiian usage and customary law establish binding legal standards within the state. Under Hawaiian Kingdom law and established jurisprudence, a *Konohiki* and their direct descendants retain vested rights that cannot be unilaterally extinguished by legislative or administrative acts.
- **Legal Authority:** As affirmed in *Kalipi v. Hawaiian Sugar Co.*, 66 Haw. 1 (1982) and *Pele Defense Fund v. Paty*, 73 Haw. 578 (1992), customary and ancestral property rights are legally enforceable private rights embedded directly into Hawaii state statutory law via HRS § 1-1. The administrative approval of a private subdivision without satisfying these prior rights constitutes a direct breach of statutory duty.

3. Illegal Divestment and Allocation of Water Rights

- **Objection:** Water within the Ahupua'a of Kalaheo is not a municipal commodity, nor is it the property of Kauai County, the Mayor, or the Planning Commission to divest, grant, allocate, or encumber for private subdivision developments.

- **Legal Authority:** Under Hawaiian Kingdom law (*Principles of 1847*) and reaffirmed in *Reppun v. Board of Water Supply*, 65 Haw. 531 (1982), the water rights attached to the land are inalienable appurtenant rights running directly with the land and its original *Hoa'aina*. Municipal authorities have a strict duty to protect water from unauthorized private diversion or municipal divestment. Granting subdivision approval that burdens local water systems violates both private appurtenant rights and the constitutional limits of municipal jurisdiction (*U.S. Const. art. I, Â§ 10; Haw. Const. art. XI, Â§ 7*).
4. **Oral Tradition and Genealogically Established Land Tenure as Unrebutted Evidence**
- **Objection:** Under Hawaiian legal history, oral tradition (*Mo'olelo* and *Kanawai*) coupled with genealogical evidence (*Mo'okuauhau*) constitutes binding historical title evidence that courts and administrative bodies are legally bound to recognize.
 - **Legal Authority:** The Supreme Court of Hawaii has repeatedly affirmed the legal weight of oral tradition, historical practice, and genealogical connection in establishing land boundaries and customary rights (*In re Estate of Kamanu*, 20 Haw. 262; *Public Access Shoreline Hawaii (PASH) v. Hawaii County Planning Commission*, 79 Hawaii 425 (1995)). The Planning Commission cannot dismiss or ignore unrebutted genealogical title claims without committing reversible error and incurring administrative liability.

III. FORMAL DEMAND AND LEGAL NOTICE

1. **IMMEDIATE DEFERRAL OR DENIAL:** The Planning Commission Subdivision Committee must immediately **DENY** or indefinitely **DEFER** Subdivision Application No. S-2026-13 (TMK: (4) 2-4-001:044).
2. **NOTICE OF PERSONAL AND ADMINISTRATIVE LIABILITY:** Be advised that proceeding to grant preliminary or final subdivision approval over this parcelâ€”in full view of these noticed title claims, statutory mandates (HRS Â§Â§ 1-1, 172-11, 172-12), and constitutional guaranteesâ€”constitutes an intentional violation of due process, ultra vires action beyond statutory authority, and an unlawful Clouding of Title.
3. **RESERVATION OF RIGHT TO SUE:** Notice is hereby given that any approval issued on August 11, 2026, will serve as direct grounds for immediate legal action in state and federal courts for injunctive relief, quiet title actions, constitutional torts, and civil rights violations under 42 U.S.C. Â§ 1983.

IV. SCRIPTURAL REFLECTION & PROTECTIVE PRAYER

- **Holy Scripture:**
“Do not move an ancient boundary stone set up by your ancestors.” Proverbs 22:28
- **Protective Prayer:**

Ke Akua Mana Loa, Creator of Heaven and Earth, Guard and protect this Aina and the rightful bloodline of Kaikioewa. We stand upon the truth of our ancestors, our kuleana, and our sacred duty to protect the land and the life-giving waters of Kalaheo. Shield us from unlawful acts, exposure, and injustice. Let all who seek to divide or exploit this land be brought to righteous accountability, and let wisdom, truth, and justice prevail over every council, commission, and court. Amene.

Respectfully submitted,

*Roslyn Cummings , Hoa'aina, Kanaka Maoli Direct Descendant of Kaikioewa,
Konohiki of Kalaheo*

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Appearing Specially, not generally

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR

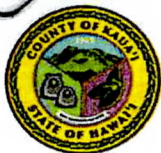


DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

August 10, 2026

Agency comments received by the Planning Department as of August 10, 2026, 8:00 am for the August 11, 2026, Planning Commission, Subdivision Committee meeting regarding the following items:

G.1.b. Subdivision Application No. S-2026-15
 Kiahuna Phase III-A & III-B / County of Kaua'i
 Proposed 2-Lot Subdivision
 TMK: (4) 2-8-014: 018
 Kōloa, Kaua'i



County of Kauai
Planning Department
4444 Rice St., Suite A473 Lihue, HI 96766
(808) 241-4050

AUG 7 '26 PM 2:11
PLANNING DEPT

FROM: Kaaina S. Hull, Director

Planner: Kenneth Estes

6/23/2026

SUBJECT: Subdivision S-2026-15
Tax Map Key: 28014018
Applicant: Kiahuna Phase IIIA & IIIB
Poipu Road at Kiahuna Plantation Drive Roundabout

TO:

- | | |
|--|--|
| ☒ State Department of Transportation - STP | ☒ County DPW - Engineering |
| ☒ State DOT - Highways, Kauai (info only) | ☒ County DPW - Wastewater |
| ☐ State DOT - Airports, Kauai (info only) | ☐ County DPW - Building |
| ☐ State DOT - Harbors, Kauai (info only) | ☐ County DPW - Solid Waste |
| ☒ State Department of Health | ☐ County Department of Parks & Recreation |
| ☐ State Department of Agriculture | ☒ County Fire Department |
| ☐ State Office of Planning | ☒ County Housing Agency |
| ☐ State Dept. of Bus. & Econ. Dev. Tourism | ☐ County Economic Development |
| ☐ State Land Use Commission | ☒ County Water Department |
| ☒ State Historic Preservation Division | ☐ County Civil Defense |
| ☐ State DLNR - Land Management | ☒ County Transportation Agency |
| ☐ State DLNR - Forestry & Wildlife | ☐ KHPRC |
| ☐ State DLNR - Aquatic Resources | ☒ U.S. Postal Department |
| ☐ State DLNR - Conservation & Coastal Lands | ☐ UH Sea Grant |
| ☒ State DLNR - Commission on Water Resource Management | |
| ☒ Office of Hawaiian Affairs | ☐ Other: |

FOR YOUR COMMENTS (pertaining to your department) (Due Date 7/23/2026)



**STATE OF HAWAII
DEPARTMENT OF HEALTH**
3040 Umi St. Lihue
Hawaii 96766

DATE: July 31, 2026

TO: To whom it may concern

FROM: Ellis Jones
District Environmental Health Program Chief

SUBJECT: RESPONSE_Kiahuna Phase IIA & IIIB_S-2026-15

In most cases, the District Health Office will no longer provide individual comments to agencies or project owners to expedite the land use review and process.

Agencies, project owners, and their agents should apply Department of Health "Standard Comments" regarding land use to their standard project comments in their submittal. Standard comments can be found on the Land Use Planning Review section of the Department of Health website: <https://health.hawaii.gov/epo/landuse/>. Contact information for each Branch/Office is available on that website.

Note: Agencies and project owners are responsible for adhering to all applicable standard comments and obtaining proper and necessary permits before the commencement of any work.

General summary comments have been included for your convenience. However, these comments are not all-inclusive and do not substitute for review of and compliance with all applicable standard comments for the various DOH individual programs.

Clean Air Branch

1. All project activities shall comply with the Hawaii Administrative Rules (HAR), Chapters 11-59 and 11-60.1.
2. Control of Fugitive Dust: You must reasonably control the generation of all airborne, visible fugitive dust and comply with the fugitive dust provisions of HAR §11-60.1-33. Note that activities that occur near existing residences, businesses, public areas, and major thoroughfares exacerbate potential dust concerns. It is recommended that a dust control management plan be developed which identifies and mitigates all activities that may generate airborne and visible fugitive dust and that buffer zones be established wherever possible.

3. Standard comments for the Clean Air Branch are at:
<https://health.hawaii.gov/epo/landuse/>

Clean Water Branch

1. All project activities shall comply with the HAR, Chapters 11-53, 11-54, and 11-55. The following Clean Water Branch website contains information for agencies and/or project owners who are seeking comments regarding environmental compliance for their projects with HAR, Chapters 11-53, 11-54, and 11-55:
<https://health.hawaii.gov/cwb/clean-water-branch-home-page/cwb-standardcomments/>.

Hazard Evaluation & Emergency Response Office

1. A Phase I Environmental Site Assessment (ESA) and Phase II Site Investigation should be conducted for projects wherever current or former activities on site may have resulted in releases of hazardous substances, including oil or chemicals. Areas of concern include current and former industrial areas, harbors, airports, and formerly and currently zoned agricultural lands used for growing sugar, pineapple or other agricultural products.
2. Standard comments for the Hazard Evaluation & Emergency Response Office are at:
<https://health.hawaii.gov/epo/landuse/>.

Indoor and Radiological Health Branch

1. Project activities shall comply with HAR Chapters 11-39, 11-45, 11-46, 11-501, 11-502, 11-503, 11-504.
2. Construction/Demolition Involving Asbestos: If the proposed project includes renovation/demolition activities that may involve asbestos, the applicant should contact the Asbestos and Lead Section of the Branch at <https://health.hawaii.gov/irhb/asbestos/>.

Safe Drinking Water Branch

1. Agencies and/or project owners are responsible for ensuring environmental compliance for their projects in the areas of: 1) Public Water Systems; 2) Underground Injection Control; and 3) Groundwater and Source Water Protection in accordance with HAR Chapters 11-19, 11-20, 11-21, 11-23, 11-23A, and 11-25. They may be responsible for fulfilling additional requirements related the Safe Drinking Water program:
<https://health.hawaii.gov/sdwb/>.
2. Standard comments for the Safe Drinking Water Branch can be found at:
<https://health.hawaii.gov/epo/landuse/>.

Solid & Hazardous Waste Branch

1. Hazardous Waste Program - The state regulations for hazardous waste and used oil are in HAR Chapters 11-260.1 to 11-279.1. These rules apply to the identification, handling, transportation, storage, and disposal of regulated hazardous waste and used oil.
2. Solid Waste Programs - The laws and regulations are contained in HRS Chapters 339D, 342G, 342H and 342I, and HAR Chapters 11-58.1, and 11-282. Generators and handlers of solid waste shall ensure proper recycling or disposal at DOH-permitted solid waste management facilities. If possible, waste prevention, reuse and recycling are preferred options over disposal. The Office of Solid Waste Management also oversees the

electronic device recycling and recovery law, the glass advanced disposal fee program, and the deposit beverage container program.

3. Underground Storage Tank Program – The state regulations for underground storage tanks are in HAR Chapter 11-280.1. These rules apply to the design, operation, closure, and release response requirements for underground storage tank systems, including unknown underground tanks identified during construction.
4. Standard comments for the Solid & Hazardous Waste Branch can be found at:
<https://health.hawaii.gov/epo/landuse/>.

Wastewater Branch

By Revised Statute 11-62-31.1 If the parcel is less than 10,000sq feet, an individual onsite waste-water unit may not be possible for future construction. Please contact DOH waste-water branch at 808-586-4288 for further information. For comments, please email the Wastewater Branch at doh.wwb@doh.hawaii.gov.

Sanitation / Local DOH Comments:

1. Noise may be generated during demolition and/or construction. The applicable maximum permissible sound levels, as stated in Title 11, HAR, Chapter 11-46, "Community Noise Control," shall not be exceeded unless a noise permit is obtained from the Department of Health.
2. According to HAR §11-26-35, No person, firm, or corporation shall demolish or clear any structure, place, or vacant lot without first ascertaining the presence or absence of rodents that may endanger public health by dispersal from such premises. Should any such inspection reveal the presence of rodents, the rodents shall be eradicated before demolishing or clearing the structure, site, or vacant lot. A demolition or land clearing permit is required prior to demolition or clearing.

Other

1. [CDC - Healthy Places - Healthy Community Design Checklist Toolkit](#) recommends that state and county planning departments, developers, planners, engineers, and other interested parties apply these principles when planning or reviewing new developments or redevelopment projects.
2. If new information is found or changes are made to your submittal, DOH reserves the right to implement appropriate environmental health restrictions as required. Should there be any questions on this matter, please contact the Department of Health, Kauai District Health Office at 808-241-3492.

Ellis Jones

Ellis Jones

District Environmental Health Program Chief
Office Phone: (808) 241-3326

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



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August 10, 2026

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G.1.b. Subdivision Application No. S-2026-15
 Kiahuna Phase III-A & III-B / County of Kaua'i
 Proposed 2-Lot Subdivision
 TMK: (4) 2-8-014: 018
 Kōloa, Kaua'i

Kenneth Estes

From: Planning Department
Sent: Friday, August 7, 2026 8:23 AM
To: Shanlee Jimenez; Kenneth Estes
Subject: FW: SUBDIVISION APPLICATION NO. S-2026-15 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-8-014:018, KIAHUNA PHASE III-A & III-B / COUNTY OF KAUAI, KAALOA, KONA MOKU, KAUAI)

Follow Up Flag: Follow up
Flag Status: Flagged

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Thursday, August 6, 2026 11:27 PM
To: Planning Department <planningdepartment@kauai.gov>; Luc Dbedt <dbedt.luc.web@hawaii.gov>
Subject: SUBDIVISION APPLICATION NO. S-2026-15 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-8-014:018, KIAHUNA PHASE III-A & III-B / COUNTY OF KAUAI, KAALOA, KONA MOKU, KAUAI)

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

WRITTEN TESTIMONY, FORMAL NOTICE OF CONSTITUTIONAL INFRINGEMENT, AND DEMAND FOR IMMEDIATE DEFERRAL/DENIAL

TO: Kauai County Planning Commission, Subdivision Committee, Planning Department, and Office of the Mayor **DATE:** August 11, 2026 **MEETING:** Subdivision Committee Meeting (Agenda Item G.1.b) **SUBMITTED VIA:** planningdepartment@kauai.gov

RE: SUBDIVISION APPLICATION NO. S-2026-15 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-8-014:018, KIAHUNA PHASE III-A & III-B / COUNTY OF KAUAI, KAALOA, KONA MOKU, KAUAI)

I. STATEMENT OF STATUS, ANCESTRAL RIGHT, AND SOVEREIGN TITLE

I am a *Kanaka Maoli*, a *HoaĒ»ÄĀ ina*, and a lawful *Hooilina* (heir and successor) by unbroken bloodline. I am a *MoĒ»opuna* of Abigail Kaaloo, Edward Kaaloo, Kaikioewa, King Kaumualii, and Chiefess Kamakahelei.

Pursuant to United States Federal Law, Constitutional Law, the laws of the Hawaiian Kingdom preserved under **Hawaii Revised Statutes (HRS) Â§ 1-1** (incorporating Hawaiian usage and traditional custom), and **HRS Â§Â§ 172-11 and 172-12**, I assert vested, private, allodial, and inalienable property rights, inherent rights, birthrights, and ancestral rights over the lands of Kaaloo within Kona Moku.

The lands of Kaaloa constitute Hawaiian Kingdom Government Land (). My vested private property rights, ancestral titles, and tenant rights (*Kuleana*) are superior, prior, and paramount to any county zoning ordinance, resort expansion permit, or municipal administrative assertion.

II. ENUMERATED MAUKA TO MAKAI CULTURAL, TRADITIONAL, AND CUSTOMARY PRACTICES

Pursuant to HRS §1-1, HRS § 7-1, and Article XII, Section 7 of the Hawai'i Constitution, all traditional and customary practices across the ecological zones from *Wao Akua* to *Kahakai* are protected by law and cannot be divested or infringed upon by municipal approvals:

Upland Forest & Watershed Realm (*Wao Akua* & *Wao Kele*)

1. Gathering *La'au Lapa'au* (medicinal plants, bark, and roots)
2. Harvesting *House Timber (Koa)* for structural construction
3. Collecting *Aho Cordage (Olona fiber)* for traditional lashings and nets
4. Harvesting *Firewood* for domestic and ceremonial use
5. Collecting *Thatch (Pili grass)* and *Lauae (Ti leaf)* for traditional housing and ritual wrapping
6. Gathering sacred foliage (*Maile, Palapalai, Lauuae*) for *Hula* protocols and adornment
7. Accessing high-altitude springs (*Kawaiola*) for sacred ceremonial purification (*Hiiuwai*)
8. Protecting and accessing sacred mountain *Heiau* and ancestral alignment points
9. Accessing and maintaining burial caves (*Ana*) and *Iwi Kupuna* interments
10. Bird catching and feather gathering (*Kia Manu*) for traditional regalia
11. Harvesting endemic materials for tool fabrication (*Adze quarrying / Ko'i*)

Agricultural & Mid-Elevation Realm (*Wao Kanaka* & *Kula*) 12. Cultivation and maintenance of *Lo'i Kalo* (taro patches) 13. Maintenance of traditional *Auwai* (irrigation ditch systems) and natural stream flow 14. Dryland farming (*Mala*) of sweet potato (*Ayala*), yam (*Uhi*), and sugar cane (*Kā*) 15. Planting and gathering *Noni, Kawa*, and agricultural staples 16. Gathering *Kapa*-making resources (*Wauke* bark) 17. Exercising traditional *Ala Loa* and *Ala Hula* trail access from mauka to makai 18. Gathering *Hau* wood and bark for outrigger canoe fabrication 19. Practicing traditional land stewardship (*Malama Aina*) and soil management

Coastal, Estuarine & Marine Realm (*Kahakai* & *Moana*) 20. Shoreline and reef fishing (*Lawaia*) using throw nets (*Upena*) and traditional poles 21. Deep-sea navigation and canoe launching (*Waea*) 22. Gathering edible seaweed (*Limo*) along shoreline intertidal zones 23. Harvesting shellfish (*Opihi, Pipi, Pipipi*) 24. Salt gathering (*Haupu / Paakai*) from natural coastal salt pans 25. Construction and operation of *Lokoi'a*

(traditional fishponds) 26. Gathering shoreline medicinal plants (*Scaevola* / *Naupaka*) 27. Practicing coastal ceremonial protocols, chant (*Oli*), and offerings (*Ho'okupu*) 28. Protecting and honoring coastal *Ilina* (sand dune burials) 29. Protecting subterranean lava tube freshwater discharge into coastal ecosystems

III. POINT-FOR-POINT LEGAL OBJECTIONS (FACTS OF LAW, RULE OF LAW, LACK OF LAW)

1. Desecration of Burial Caves, *Ilina* Burials, and Sacred Iwi *Kupuna* Under Federal Law

- **Fact of Law:** TMK: (4) 2-8-014:018 contains sacred burial caves, *ilina* burials, and *iwi kupuna* embedded within fragile subterranean basalt voids and lava tube networks.
- **Lack of Law & Municipal Liability:** The County of Kaua'i holds direct legal liability for issuing approvals that disturb Native Hawaiian ancestral remains and burial caves. Jurisdiction over ancestral remains and sacred sites under federal treaties and civil rights statutes bypasses state agencies and exposes county officers to direct federal action under the U.S. Constitution (Fifth and Fourteenth Amendments) and federal statutory protections.

2. Geological Instability and Severe Hazard Exposure (Sinkholes, Landslides, Fire, Flood, Earthquake)

- **Rule of Law:** Approving a subdivision upon geologically hazardous terrain "characterized by collapse-prone subterranean lava tube caves, sinkholes, landslide risks, wildfire propagation, flash flooding, and earthquake displacement" constitutes gross negligence.
- **Lack of Law:** The County possesses no lawful authority to grant subdivision permits that create public safety hazards or compromise subterranean burial systems. Approving development over known sinkholes and hazard zones creates direct municipal and personal liability.

3. Infringement Upon Inalienable Allodial Title and Private Property Rights on Government Land

- **Fact of Law:** The County of Kaua'i, its Planning Commission, and the Planning Department lack lawful authority to subdivide, alter, or convey municipal approvals over Hawaiian Kingdom Government Land without the explicit, documented consent of the lawful *Hoa'aina* and *Hooilina* descending from Chiefess Kamakahelei, Kaumualii, Kaikioewa, Edward Kaaloa, and Abigail Kaaloa.
- **Rule of Law:** Under the Great Mahele and HRS Â§ 172-11, the rights of native tenants (*Hoa'aina*) were expressly reserved as vested, private rights. Municipal land-use regulations cannot divest an heir of vested, private, allodial property rights without committing an unconstitutional taking under the U.S. Constitution.

4. **Illegal Divestment and Allocation of Water Resources**

- **Rule of Law:** Under Hawaiian Kingdom law (*Principles of 1847*) and reaffirmed in *Reppun v. Board of Water Supply*, 65 Haw. 531 (1982), water rights attached to the land are inalienable appurtenant rights running directly with the land and its original *Hoa'aina*.
- **Lack of Law:** Water resources and subterranean aquifers are not municipal commodities for Kauai County, the Mayor, or the Planning Commission to divest, grant, or encumber for private resort developments (*U.S. Const. art. I, Â§ 10; Haw. Const. art. XI, Â§ 7*).

5. **Oral Tradition and Genealogically Established Land Tenure as Unrebutted Evidence**

- **Fact of Law:** Under Hawaiian legal history and established evidence rules, oral tradition (*Mo'olelo*) and genealogical evidence (*Mo'okuauhau*) constitute binding historical title evidence that administrative bodies cannot dismiss or ignore (*In re Estate of Kamanu*, 20 Haw. 262; *PASH v. Hawai'i County Planning Commission*, 79 Hawai'i 425 (1995)). Dismissing unrebutted genealogical title evidence constitutes reversible administrative error.

IV. FORMAL DEMAND AND LEGAL NOTICE OF SUIT

1. **IMMEDIATE DEFERRAL OR DENIAL:** The Planning Commission Subdivision Committee must immediately **DENY** or indefinitely **DEFER** Subdivision Application No. S-2026-15 (TMK: (4) 2-8-014:018).
2. **NOTICE OF DIRECT PERSONAL AND COUNTY LIABILITY:** Be advised that granting preliminary or final subdivision approval over this parcelâ€”in direct defiance of noticed title claims, sacred burial caves, *ilina* burials, *iwi kâpuna*, geohazards (sinkholes, landslides, fire, flood, earthquake), and federal constitutional mandates constitutes an intentional violation of due process, an ultra vires act beyond statutory authority, and an unlawful Clouding of Title.
3. **GROUND FOR FEDERAL LAWSUIT:** Notice is hereby given that any approval issued on August 11, 2026, will serve as immediate grounds for federal lawsuit against the County of Kaua'i, the Planning Commission, and individual officials for injunctive relief, quiet title actions, constitutional torts, and civil rights violations under 42 U.S.C. Â§ 1983.

V. SCRIPTURAL REFLECTION & PROTECTIVE PRAYER

- **Holy Scripture:**

“Do not move an ancient boundary stone set up by your ancestors.” **Proverbs 22:28**

- **Protective Prayer:**

Ke Akua Mana Loa, Creator of Heaven and Earth, Guard and protect this sacred Hawaiian Kingdom land, our burial caves, our ilina, and our sacred iwi kupuna. Shield

the bloodline of Chiefess Kamakahalei, King Kaumualii, Kaikioewa , Edward Kaaloa, and Abigail Kaaloa. We stand upon the truth of our ancestors, our inherent birthrights, and our sacred duty to protect the land, sinkholes, and life-giving waters of Kane/Kanaloa. Let all who seek to divide or desecrate this sacred ground be held accountable under the highest law, and let divine truth and justice prevail over every commission and court. Amene.

Respectfully submitted,

Roslyn Cummings

Roslyn Cummings

Kanaka Maoli Direct Descendant of Chiefess Kamakahalei, King Kaumualii, Kaikioewa, Edward Kaaloa, and Abigail Kaaloa

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

August 10, 2026

Public testimony received by the Planning Department as of August 10, 2026, 8:00 am for the August 11, 2026, Planning Commission, Subdivision Committee meeting regarding the following items:

- G.1.c. Subdivision Application No. S-2027-1
 Grove Farm Company, Inc. / State of Hawai'i – Agribusiness Development Corporation
 Proposed 2-Lot Consolidation and Re-Subdivision into 3-Lots
 TMKs: (4) 3-8-018: 001 and 009
 Hanamā'ulu, Līhu'e, Kaua'i

Kenneth Estes

From: Planning Department
Sent: Friday, August 7, 2026 8:22 AM
To: Shanlee Jimenez; Kenneth Estes
Subject: FW: SUBDIVISION APPLICATION NO. S-2027-1 (PROPOSED 2-LOT CONSOLIDATION AND RE-SUBDIVISION INTO 3-LOTS, TMKS: (4) 3-8-018:001 AND 009, GROVE FARM COMPANY, INC. / STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION, HANAMA'ULU, LIHU'E, KAUA'I)

Follow Up Flag: Follow up
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From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Friday, August 7, 2026 5:55 AM
To: Planning Department <planningdepartment@kauai.gov>; Luc Dbedt <dbedt.luc.web@hawaii.gov>; Jessica L Puff <jessica.puff@hawaii.gov>; DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>
Subject: SUBDIVISION APPLICATION NO. S-2027-1 (PROPOSED 2-LOT CONSOLIDATION AND RE-SUBDIVISION INTO 3-LOTS, TMKS: (4) 3-8-018:001 AND 009, GROVE FARM COMPANY, INC. / STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION, HANAMA'ULU, LIHU'E, KAUA'I)

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WRITTEN TESTIMONY, FORMAL NOTICE OF CONSTITUTIONAL INFRINGEMENT, AND DEMAND FOR IMMEDIATE DEFERRAL/DENIAL

TO: Kauai County Planning Commission, Subdivision Committee, Planning Department, and Office of the Mayor DATE: August 11, 2026 MEETING: Subdivision Committee Meeting (Agenda Item G.1.c) SUBMITTED VIA: planningdepartment@kauai.gov

RE: SUBDIVISION APPLICATION NO. S-2027-1 (PROPOSED 2-LOT CONSOLIDATION AND RE-SUBDIVISION INTO 3-LOTS, TMKS: (4) 3-8-018:001 AND 009, GROVE FARM COMPANY, INC. / STATE OF HAWAII AGRIBUSINESS DEVELOPMENT CORPORATION, HANAMA'ULU, LIHU'E, KAUA'I)

I. STATEMENT OF STATUS, ANCESTRAL RIGHT, AND SOVEREIGN TITLE

I am a Kanaka, a Hoa'aina, and a lawful Ho'oilina (heir and successor) by unbroken bloodline. I am a Mo'opuna of Abigail Ka'aloa, Edward Ka'aloa, Kaikioewa, King Kaumuali'i, Chiefess Kamakahelei, and Mo'opuna o Ahukiniala'a with a direct line traced back to the 7th century of Puna Moku. I state my standing explicitly as Na Kanaka,

Ho'oilina, Hoa'aina, and Kanaka Maoli, which carry distinct legal rights under Hawaiian law and for which there is no English equivalent to define our full status and identity.

Pursuant to United States Federal Law, Constitutional Law, the laws of the Hawaiian Kingdom preserved under Hawai'i Revised Statutes (HRS) Section 1-1 (incorporating Hawaiian usage and traditional common law), HRS Section 2-2, and HRS Sections 172-11 and 172-12, I assert vested, private, allodial, and inalienable property rights, inherent rights, birthrights, and ancestral rights over the lands of Hanama'ulu and Lihu'e.

The subject lands constitute Hawaiian Kingdom Government Land ('Aina Aupuni / 'Aina Ali'i / 'Aina Hoa'aina). My vested private property rights, ancestral titles, and tenant rights (Kuleana) are superior, prior, and paramount to any county zoning ordinance, state corporate consolidation, or municipal administrative assertion.

II. MANDATED DUTY TO PROTECT ALL NATURAL RESOURCES OVER AGENDA ITEM G.1.c

The County of Kauai, the Planning Commission, and the Subdivision Committee are strictly mandated by law to protect all natural resources across TMKs: (4) 3-8-018:001 and 009. Approving Subdivision Application No. S-2027-1 directly violates these mandatory statutory and constitutional duties by jeopardizing:

- Subterranean Aquifers and Freshwater Resources: Protecting freshwater tables, natural springs (Puna Wai), and groundwater recharge zones from contamination, over-extraction, and structural impairment.
- Stream Ecosystems and Riparian Corridors: Safeguarding natural stream beds, native stream aquatic life ('o'opu, 'opae, hihiwai, wi), and traditional water flow dynamics.
- Forest Realms and Native Flora: Preserving native vegetation, watershed canopies, soil systems, and timber resources from land clearing and corporate degradation.
- Subterranean Geological Formations: Protecting collapse-prone basalt voids, lava tubes, sinkholes, and subterranean natural channels from surface development and structural collapse.
- Coastal and Wetland Ecosystems: Preserving natural silt basins, shoreline habitats, and marine recharge zones down-gradient from the subject parcels.

Under Article IX, Section 10 of the Hawai'i State Constitution (Public Health, Safety, and Property) and HRS Section 1-1, the County's affirmative duty to preserve these natural resources supersedes any administrative request for lot consolidation or subdivision.

III. COMPREHENSIVE LAW COVERAGE, CONSTITUTIONAL MANDATES, AND BRIDGING KINGDOM TO MODERN LAW

1. HRS Section 1-1 (Common Law and Hawaiian Usage) and HRS Section 2-2: Codifies Hawaiian Kingdom common law and Hawaiian usage prior to 1892 as

binding statutory law. This statutory bridge connects the foundational Hawaiian Kingdom acts—including Na Kanaka (1839 Constitution), Ho'oilina (1846-1848 Mahele Book), Hoa'aina (1850 Kuleana Act), and Kanaka Maoli (1859 Civil Code)—directly to modern statutory and United States Constitutional protections.

2. Article I, Section 5 & Article IX, Section 10 of the Hawai'i State Constitution (Public Health, Safety, and Property Protections): Article IX, Section 10 explicitly mandates that the State and its political subdivisions shall provide for the protection and promotion of public health, safety, and general welfare. Approving a subdivision upon unstable, hazard-prone terrain violates this affirmative constitutional duty.
3. Federal Constitutional Law (Fifth and Fourteenth Amendments): Guarantees that private allodial property rights, vested Hoa'aina land tenure, and ancestral titles cannot be taken, encumbered, or diminished without due process of law and just compensation.
4. 42 U.S.C. Section 1983 (Civil Rights Act): Holds individual municipal officers, commissioners, and county entities personally liable for deprivation of constitutional rights, property, and due process under color of state law.
5. HRS Sections 172-11 and 172-12: Expressly preserves vested private allodial tenant rights (Hoa'aina) and protects ancestral holdings from administrative extinguishment.
6. HRS Chapter 6E (Historic Preservation): Enforces criminal and civil protections over burial caves, ilina burials, iwi kupuna, and historical sites.
7. HRS Section 7-1 (Building & Gathering Rights): Guarantees perpetual, unextinguishable rights of Hoa'aina to gather materials, access streams, and utilize traditional paths.
8. Rules of Evidence & Legal Precedents: Establishes oral tradition (Mo'olelo) and family lineage as unrebutted evidence (In re Estate of Kamanu, 20 Haw. 262; PASH v. Hawai'i County Planning Commission, 79 Hawai'i 425 (1995)).
9. Appurtenant Water Rights Doctrine: Protects water from municipal divestment or corporate diversion (Reppun v. Board of Water Supply, 65 Haw. 531 (1982)).

IV. ENUMERATED MAUKA TO MAKAI CULTURAL, TRADITIONAL, AND CUSTOMARY PRACTICES (11–101)

Pursuant to HRS Section 1-1, HRS Section 7-1, and Hawaiian common law, all 101 traditional practices across all ecological zones are protected by law and cannot be divested or infringed:

Forest & Watershed Realm (Wao Akua / Wao Kele / Wao La'au)

1. Gathering La'au Lapa'au (medicinal herbs, barks, roots)
2. Harvesting Koa timber for canoe building and structures
3. Harvesting 'Ohi'a timber for structural posts

4. Collecting Olona fibers for cordage (Aho) and netting
5. Harvesting Pili grass for traditional thatch
6. Gathering La'i (Ti leaf) for food wrapping, rain capes, and ceremony
7. Collecting Maile for sacred adornment and protocol
8. Gathering Palapalai fern for Hula altars (Kuaahu)
9. Harvesting Lauuae fern for adornment
10. Collecting Mamaki for medicinal tea and kapa making
11. Gathering Ie'ie vines for basketry and fish traps
12. Collecting 'Ahu'awa for liquid straining
13. Harvesting Firewood for culinary and ceremonial fires
14. Accessing high-altitude springs (Kawaiola) for purification (Hi'uwai)
15. Protecting and accessing sacred mountain Heiau
16. Protecting and maintaining sacred burial caves (Ana) and Iwi Kupuna
17. Bird catching and feather gathering (Kia Manu)
18. Quarrying volcanic stone (Ko'i) for tool fabrication
19. Harvesting Hapu'u tree fern for food and medicinal uses
20. Gathering wild Uhi (yams) in upland forests
21. Collecting sacred water (Wai Karani) for ritual healing
22. Exercising upland trail access (Ala Pipi)
23. Observance of cardinal directional alignments and elemental markers
24. Protecting sacred alignment stones (Pohaku)
25. Preserving mountain stream headwaters (Puna Wai)

Agricultural & Mid-Elevation Realm (Wao Kanaka / Kula)

26. Cultivation and maintenance of Lo'i Kalo (taro patches)
27. Maintenance and construction of traditional 'Auwai (irrigation channels)
28. Dryland farming (Mala) of 'Uala (sweet potato)
29. Cultivation of Ko (sugar cane) for food and medicine
30. Planting and harvesting Kawa for ceremonial protocol
31. Harvesting Noni for medicinal applications
32. Harvesting Wauke bark for Kapa fabric production
33. Cultivation of Mai'a (banana) varieties
34. Planting Ulu (breadfruit) for food and timber
35. Cultivation of Ipu (gourds) for containers and instruments
36. Harvesting Kukui nuts for oil, lighting, and medicine
37. Processing Kukui bark for dye
38. Gathering Hau wood and bark for outrigger booms and lashings
39. Exercising traditional Ala Loa (main highways) and Ala Hula trails
40. Practicing traditional soil conservation (Malama 'Aina)
41. Maintaining agroforestry systems
42. Practicing ceremonial offerings (Ho'okupu) on agricultural altars
43. Harvesting native grasses for mulch
44. Accessing mid-elevation water channels
45. Protecting agricultural burial plots (Ilina)
46. Harvesting wild herbs ('Ohi'i) along field borders
47. Practicing oral traditions (Mo'olelo) tied to agricultural land markers
48. Conducting seasonal planting rituals based on Moon Cycles (Malama Hoku)
49. Preserving ancestral boundary markers (Pohaku Kihī)
50. Harvesting wild medicinal weeds ('Auhuhu)
51. Maintaining traditional windbreaks (Pa Niu)

Plains, Wetland & Stream Realm (Kula Wena / Kahawai) 52. Gathering 'O'opu (endemic stream goby) 53. Harvesting 'Opae (freshwater shrimp) 54. Gathering Hihiwai (freshwater snails) 55. Harvesting Wi (freshwater mollusks) 56. Gathering Lipoa and stream algae 57. Accessing stream banks for mud used in Kapa dyeing 58. Utilizing stream flow for traditional waterwheels and washing 59. Practicing stream-side purification ceremonies 60. Maintaining fish passages in stream systems 61. Harvesting Moa fern for medicinal uses 62. Gathering stream stones for cooking (Imu) 63. Harvesting Kaluha reeds for weaving 64. Accessing wetland areas for waterfowl hunting 65. Protecting stream-side burial interments 66. Practicing traditional stream resource monitoring (Kilo) 67. Preserving natural wetland silt basins 68. Harvesting Bambusa (Ohe) for fishing poles and instruments 69. Fabricating Ohe Hano Ihu (nose flutes) from stream bamboo 70. Utilizing clay deposits for traditional pottery/pigments 71. Gathering medicinal stream mosses 72. Practicing stream bed maintenance and clearing 73. Exercising access along stream banks (Kua'aina) 74. Protecting subterranean stream discharge networks 75. Conducting seasonal freshwater ceremonies

Coastal & Shoreline Realm (Kahakai / Muliwai) 76. Shoreline fishing (Lawai'a) using throw nets ('Upena) 77. Pole fishing (Kaka) from coastal ledges 78. Gathering edible seaweed (Limo Kohu, Limo Manauea) 79. Harvesting 'Opihi (limpets) along rocky shorelines 80. Gathering Pipipi and Pipi (mollusks) 81. Collecting Ha'upu / Pa'akai (sea salt) from natural rock salt pans 82. Operating and maintaining traditional Loko I'a (fishponds) 83. Harvesting Wana (sea urchins) 84. Gathering Ina (small sea urchins) for dye and food 85. Harvesting 'Inia and sea cucumbers (Loli) 86. Collecting drift logs (Koa) for woodworking 87. Harvesting coastal medicinal plants (Naupaka Kahakai) 88. Accessing coastal springs (Wai Puna) exposed at low tide 89. Protecting coastal sand dune burials (Ilina) 90. Practicing ocean entry purification (Hi'uwai) 91. Conducting shoreline chant (Oli) and ceremonial protocol 92. Gathering shells for traditional adornment and tools 93. Harvesting crab species (Papa'i, 'Aama) 94. Gathering beach stones ('Ili'ili) for games and ceremonies 95. Launching outrigger canoes (Wa'a) from coastal entries 96. Exercising shoreline transit rights along the highest wash of the waves 97. Monitoring ocean weather and surf conditions (Kilo Moana) 98. Protecting coastal lava tube openings and blowholes 99. Harvesting octopus (He'e) using traditional lures 100. Practicing seasonal kapu closures for fish spawning 101. Preserving coastal navigation sightlines and ancestral markers

V. POINT-FOR-POINT LEGAL OBJECTIONS AND PUBLIC RECORD MISMANAGEMENT

1. Public Record of Mismanagement by the Agribusiness Development Corporation (ADC)
 - Fact of Record: Official State Audit Report No. 21-01 and UHERO findings document severe, systemic mismanagement by the Agribusiness Development

Corporation (ADC). The State Auditor found that ADC operates in disarray, lacking required land management plans, possessing un-auditable financial records, allowing unpermitted land use, and neglecting its statutory duties under HRS Chapter 163D.

- Violation of Public Duty: Co-applicant ADC has failed its public and constitutional mandates. Entrusting land consolidation and subdivision permissions to an agency with a documented public record of administrative failure and resource neglect directly violates Article IX, Section 10 of the Hawai'i Constitution regarding public safety, welfare, and responsible oversight.
1. Failure of County Oversight and Violation of Article IX, Section 10 (Person, Property, and Safety)
 - Rule of Law: Under Article IX, Section 10 of the Hawai'i Constitution, the County has an affirmative duty to protect public health, safety, property, and all natural resources.
 - Fact of Law: TMKs: (4) 3-8-018:001 and 009 contain documented geohazards, including collapse-prone subterranean lava tubes, sinkholes, landslide risks, and wildfire propagation zones, alongside sacred burial caves, ilina burials, and iwi kupuna.
 - Application of Law: Ignoring known environmental hazards and documented subterranean voids to approve high-density or re-subdivision plans constitutes a direct breach of the County's constitutional duty to safeguard persons, property, public safety, and environmental integrity.
 1. Desecration of Burial Caves, Ilina Burials, and Sacred Iwi Kupuna
 - Fact of Law: Subterranean basalt voids and lava tubes across Hanama'ulu house sacred ilina burials and iwi kupuna.
 - Municipal Liability: Approving land disturbance over known burial caves violates HRS Chapter 6E and federal protections. Jurisdiction over ancestral remains and sacred sites under federal law bypasses municipal administrative discretion, exposing individual commissioners to civil rights actions under 42 U.S.C. Section 1983.
 1. Infringement Upon Inalienable Allodial Title and Private Property Rights on Government Land
 - Fact of Law: The County of Kauai and its Planning Commission lack authority to consolidate or subdivide Hawaiian Kingdom Government Land without the explicit, documented consent of the lawful Hoa'aina, Ho'oilina, and Mo'opuna o Ahukiniala'a.
 - Rule of Law: Under HRS Section 1-1, HRS Section 2-2, the Great Mahele, and HRS Section 172-11, vested Hoa'aina property rights cannot be administratively extinguished or transferred to corporate entities without committing an unconstitutional taking under the Fifth and Fourteenth Amendments of the U.S. Constitution.

1. Inalienable Appurtenant Water Rights
 - Rule of Law: Under Hawaiian Kingdom law and *Reppun v. Board of Water Supply* (65 Haw. 531), water rights are inalienable appurtenant rights attached directly to the land and its original Hoa'aina.
 - Lack of Law: The County and State agencies have no legal authority to divert, encumber, or reallocate ancestral water resources to facilitate corporate subdivision projects.
1. Oral Tradition and Family Lineage as Unrebutted Evidence
 - Fact of Law: Under HRS Section 1-1 and established evidence rules, oral tradition (Mo'olelo) and ancestral lineage constitute unrebutted legal title evidence (In re Estate of Kamanu, 20 Haw. 262; PASH, 79 Hawai'i 425). Dismissing unrebutted ancestral standing constitutes reversible legal error.

VI. FORMAL DEMAND AND LEGAL NOTICE OF SUIT

1. IMMEDIATE DEFERRAL OR DENIAL: The Planning Commission Subdivision Committee must immediately DENY or indefinitely DEFER Subdivision Application No. S-2027-1 (TMKs: (4) 3-8-018:001 and 009).
2. NOTICE OF DIRECT PERSONAL AND COUNTY LIABILITY: Approving this subdivision in light of documented ADC mismanagement, unmitigated geohazards, failure to protect natural resources, public safety threats under Article IX Section 10, and noticed allodial claims constitutes an ultra vires action, an intentional violation of due process, and an unlawful Clouding of Title.
3. GROUNDS FOR FEDERAL AND STATE LAWSUIT: Any approval issued on August 11, 2026, will serve as immediate grounds for formal legal action against the County of Kauai, the Planning Commission, and individual officials under 42 U.S.C. Section 1983, quiet title proceedings, and constitutional torts.

VII. SCRIPTURAL REFLECTION & PROTECTIVE PRAYER

Scripture: Do not move an ancient boundary stone set up by your ancestors. Proverbs 22:28

Protective Prayer: Ke Akua Mana Loa, Creator of Heaven and Earth, Guard and protect this sacred Hawaiian Kingdom land, our burial caves, our ilina, and our sacred iwi kupuna. Shield the bloodline of Chiefess Kamakahalei, King Kaumuali'i, Kaikioewa, Mo'opuna o Ahukiniala'a. We stand upon the truth of our ancestors, our inherent birthrights, and our sacred duty to protect the land, sinkholes, natural resources, and life-giving waters of Hanama'ulu, Lihu'e, and Puna Moku. Let all who seek to divide or desecrate this sacred ground be held accountable under the highest law, and let divine truth and justice prevail over every commission and court. Amene.

Respectfully submitted,

Roslyn Cummings

Roslyn Cummings

Ho'oilina, Hoa'aina, Kanaka Maoli, Na Kanaka Mo'opuna of Kaikioewa, King
Kaumuali'i, Chiefess Kamakahalei, and Mo'opuna o Ahukiniala'a (Direct line traced back
to 7th century Puna Moku)

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Kalaheo, Hawai'i 96741

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

August 10, 2026

Public testimony received by the Planning Department as of August 10, 2026, 8:00 am for the August 11, 2026, Planning Commission, Subdivision Committee meeting regarding the following items:

- G.2.a. Subdivision Application No. S-2025-4
 Po'ipū Kai Association / County of Kaua'i
 Proposed 2-Lot Subdivision
 TMK: (4) 2-8-027: 022
 Weliweli, Kōloa, Kaua'i

Kenneth Estes

From: Planning Department
Sent: Friday, August 7, 2026 8:19 AM
To: Kenneth Estes; Shanlee Jimenez
Subject: FW: PRELIMINARY SUBDIVISION EXTENSION REQUEST SUBDIVISION APPLICATION NO. S-2025-4 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-8-027:022, PO'IPU KAI ASSOCIATION / COUNTY OF KAUA'I, WELIWELI, KAUA'I, WITHIN KONA MOKU)

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From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Friday, August 7, 2026 6:01 AM
To: Planning Department <planningdepartment@kauai.gov>; Luc Dbedt <dbedt.luc.web@hawaii.gov>; Jessica L Puff <jessica.puff@hawaii.gov>; DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>
Subject: PRELIMINARY SUBDIVISION EXTENSION REQUEST SUBDIVISION APPLICATION NO. S-2025-4 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-8-027:022, PO'IPU KAI ASSOCIATION / COUNTY OF KAUA'I, WELIWELI, KAUA'I, WITHIN KONA MOKU)

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WRITTEN TESTIMONY, FORMAL NOTICE OF CONSTITUTIONAL INFRINGEMENT, AND DEMAND FOR IMMEDIATE DEFERRAL/DENIAL

TO: Kauai County Planning Commission, Subdivision Committee, Planning Department, and Office of the Mayor DATE: August 11, 2026 MEETING: Subdivision Committee Meeting (Agenda Item G.2.a) SUBMITTED VIA: planningdepartment@kauai.gov

RE: PRELIMINARY SUBDIVISION EXTENSION REQUEST SUBDIVISION APPLICATION NO. S-2025-4 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 2-8-027:022, PO'IPU KAI ASSOCIATION / COUNTY OF KAUA'I, WELIWELI, KAUA'I, WITHIN KONA MOKU)

I. STATEMENT OF STATUS, ANCESTRAL RIGHT, AND SOVEREIGN TITLE

I am a Kanaka, a Hoa'aina, and a lawful Ho'oilina (heir and successor) by unbroken bloodline. I state my standing explicitly as Na Kanaka, Ho'oilina, Hoa'aina, and Kanaka Maoli, which carry distinct legal rights under Hawaiian law and for which there is no English equivalent to define our full status and identity.

My ancestral lineage and foundational standing are established through the following unbroken lineage:

Kuwalupaukamoku (K) x Hameawahaula (W) | Kahakuakane (K) x Manukaikoo (W) | Kaumakaamano (K) x Kapoinukai (W) | Manokalanipo (K) Naekapulani (W) | Kukona (K) x Laupuapuamaa (W) | Luanuu (K) x Kalanimoeikawaikai (W) | Kamahano (K) x Kaaueanuiokalani (W) | Nana (K) x Hoakaleikini (W) | Ahukinialaa (K) x Ha'iakamaio (W)

Pursuant to United States Federal Law, Constitutional Law, the laws of the Hawaiian Kingdom preserved under Hawai'i Revised Statutes (HRS) Section 1-1 (incorporating Hawaiian usage and traditional common law), HRS Section 2-2, and HRS Sections 172-11 and 172-12, I assert vested, private, allodial, and inalienable property rights, inherent rights, birthrights, and ancestral rights over the lands of Weliweli and Koloa within Kona Moku.

The subject lands constitute Hawaiian Kingdom Government Land ('Aina Aupuni / 'Aina Ali'i / 'Aina Hoa'aina). My vested private property rights, ancestral titles, and tenant rights (Kuleana) are superior, prior, and paramount to any county zoning ordinance, municipal subdivision extension, or administrative assertion.

II. LEGAL MANDATES ON ORIGIN OF TITLE AND STATUTORY REQUIREMENTS

Under the fundamental principles of real property law, Hawaiian Kingdom jurisprudence, and HRS Section 1-1:

- **Origin of Title Requirements:** Land title in Hawai'i originates exclusively from the Hawaiian Crown and Government land system established through the Great Mahele (1848) and the Kuleana Act (1850). Administrative agencies, planning commissions, and municipal corporations do not possess the lawful authority to create, quiet, or alter allodial origin of title through local zoning approvals or subdivision extensions.
- **Reservation of Private Allodial Rights:** Under HRS Sections 172-11 and 172-12, the vested private property rights of Hoa'aina and Ho'oilina are expressly preserved and run with the land. These allodial rights cannot be extinguished, burdened, or transferred by municipal permit extensions without violating fundamental due process.

- **Strict Evidentiary Burden:** Under Hawaiian common law and established evidence rules, documented genealogical lineage and oral history (Mo'olelo) constitute un rebutted legal title evidence (In re Estate of Kamanu, 20 Haw. 262; PASH v. Hawai'i County Planning Commission, 79 Hawai'i 425 (1995)). Dismissing or bypassing origin of title claims without formal judicial adjudication constitutes reversible legal error and an unlawful Clouding of Title.

III. COMPREHENSIVE LAW COVERAGE, CONSTITUTIONAL MANDATES, AND PUBLIC SAFETY (ARTICLE IX, SECTION 10)

1. HRS Section 1-1 (Common Law and Hawaiian Usage) and HRS Section 2-2: Codifies Hawaiian Kingdom common law and Hawaiian usage prior to 1892 as binding statutory law. This statutory bridge connects foundational Hawaiian Kingdom acts—including Na Kanaka (1839 Constitution), Ho'oilina (1846-1848 Mahele Book), Hoa'aina (1850 Kuleana Act), and Kanaka Maoli (1859 Civil Code)—directly to modern statutory and United States Constitutional protections.
2. Article I, Section 5 & Article IX, Section 10 of the Hawai'i State Constitution (Public Health, Safety, Person, and Property): Article IX, Section 10 explicitly mandates that the State and its political subdivisions shall provide for the protection and promotion of public health, safety, and general welfare. Granting preliminary subdivision extensions on geologically unstable, fire-prone, and flood-vulnerable terrain violates this affirmative constitutional duty and creates direct municipal liability.
3. Federal Constitutional Law (Fifth and Fourteenth Amendments): Guarantees that private allodial property rights, vested Hoa'aina land tenure, and ancestral titles cannot be taken, encumbered, or diminished without due process of law and just compensation.
4. 42 U.S.C. Section 1983 (Civil Rights Act): Holds individual municipal officers, commissioners, and county entities personally liable for deprivation of constitutional rights, property, and due process under color of state law.
5. HRS Chapter 6E (Historic Preservation): Enforces strict criminal and civil protections over burial caves, ilina burials, iwi kupuna, and historical coastal sites.
6. Appurtenant Water Rights Doctrine: Protects water from municipal divestment or corporate diversion (Reppun v. Board of Water Supply, 65 Haw. 531 (1982)).

IV. FOUNDATIONAL CAUSES FOR LAWSUIT: BURIALS, DRAINAGE, FIRE, DROUGHT, WATER DIVERSION, TRAFFIC, INFRASTRUCTURE, WASTE, OUTFALLS, AND LANDFILL CRISIS

Granting a subdivision extension for Application No. S-2025-4 establishes immediate factual and legal foundations for administrative, state, and federal lawsuits based upon the following severe liabilities:

1. Desecration of Subterranean Burial Caves, Ilina, and Sacred Iwi Kupuna

- Fact of Law: TMK: (4) 2-8-027:022 and surrounding basalt terrains in Weliweli contain fragile lava tube networks, subterranean voids, and coastal sand systems housing sacred ilina burials and iwi kupuna.
 - Legal Liability: Approving permits or extensions that permit ground disturbance, heavy equipment compression, or trenching over known burial caves violates HRS Chapter 6E and federal protections. Bypassing federal and state burial site mandates exposes the County, private applicants, and individual commissioners to civil rights actions under 42 U.S.C. Section 1983.
1. Improper Infrastructure, Hazardous Human Waste Management, and Marine Outfalls
 - Fact of Law: The regional infrastructure is severely failing to handle existing loads. Inadequate human waste management systems, overburdened wastewater treatment facilities, injection wells, and coastal ocean outfalls discharge toxic effluent, bacteria, and excess nutrients into subterranean aquifers and sensitive marine reef ecosystems.
 - Legal Liability: Expanding density or extending subdivision approvals without verified, functioning, high-capacity wastewater treatment infrastructure violates the Clean Water Act, state public health statutes, and Article IX, Section 10 mandates, directly endangering coastal health and ancestral marine gathering grounds.
 1. Exacerbation of the County Landfill Capacity Crisis
 - Fact of Law: Kauai's Kekaha Landfill is rapidly approaching absolute capacity, creating an emergency solid waste crisis across the island. The County lacks long-term municipal waste solutions or active replacement infrastructure.
 - Legal Liability: Approving or extending residential and commercial subdivisions directly increases municipal solid waste volume, compounding an unmitigated environmental hazard. Approving extensions without accounting for municipal landfill limits constitutes gross administrative negligence and arbitrary decision-making.
 1. Severe Drainage Failures, Run-Off Hazards, and Subterranean Sinkhole Risks
 - Fact of Law: Increased surface density and altered drainage pathways directly overload natural discharge channels, accelerating coastal erosion, triggering sinkhole collapses within lava tube systems, and flooding adjacent properties.
 - Legal Liability: Failing to mandate comprehensive subterranean geological and hydrological impact studies prior to granting extensions constitutes gross negligence and a direct violation of Article IX, Section 10 mandates to protect person and property.
 1. Wildfire Propagation, Extreme Drought Conditions, and Flammable Upland Fuel Loads
 - Fact of Law: The Weliweli/Koloa region suffers from severe seasonal drought conditions and accumulation of invasive, highly flammable brush.

- Legal Liability: Expanding development density or extending approvals without verifying dedicated, high-capacity fire suppression infrastructure and defensive fuel breaks creates unmitigated public safety hazards, establishing direct tort liability for fire-related loss of life and property.
- 1. Unlawful Water Diversion and Aquifer Over-Extraction
 - Rule of Law: Under Hawaiian Kingdom law and *Reppun v. Board of Water Supply* (65 Haw. 531), water rights attached to the land are inalienable appurtenant rights running directly with the land and its original Hoa'aina.
 - Legal Liability: Diverting freshwater streams or over-pumping subterranean aquifers to service private subdivision projects causes saltwater intrusion, depletes traditional water resources, and violates the public trust doctrine, opening the County and co-applicants to immediate injunctive relief.
- 1. Traffic Gridlock and Compromised Emergency Evacuation Corridors
 - Fact of Law: The Po'ipu/Koloa road infrastructure relies on limited access corridors. Increasing lot counts or extending stagnant subdivision plans exacerbates severe traffic bottlenecks.
 - Legal Liability: In the event of a wildfire, tsunami, or flash flood, inadequate evacuation routes create catastrophic life-safety bottlenecks. Granting extensions without certified emergency evacuation clearance violates Article IX, Section 10 of the Hawai'i State Constitution.

V. ENUMERATED MAUKA TO MAKAI CULTURAL, TRADITIONAL, AND CUSTOMARY PRACTICES (1â€101)

Pursuant to HRS Section 1-1, HRS Section 7-1, and Hawaiian common law, all 101 traditional practices across all ecological zones are protected by law and cannot be divested or infringed:

Forest & Watershed Realm (Wao Akua / Wao Kele / Wao La'au)

1. Gathering La'au Lapa'au (medicinal herbs, barks, roots)
2. Harvesting Koa timber for canoe building and structures
3. Harvesting 'Ohi'a timber for structural posts
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8. Gathering Palapalai fern for Hula altars (Kuaahu)
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11. Gathering Ie'ie vines for basketry and fish traps
12. Collecting 'Ahu'awa for liquid straining
13. Harvesting Firewood for culinary and ceremonial fires

14. Accessing high-altitude springs (Kawaiola) for purification (Hi'uwai)
15. Protecting and accessing sacred mountain Heiau
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Plains, Wetland & Stream Realm (Kula Wena / Kahawai) 52. Gathering 'O'opu (endemic stream goby) 53. Harvesting 'Opae (freshwater shrimp) 54. Gathering Hihīwai (freshwater snails) 55. Harvesting Wi (freshwater mollusks) 56. Gathering Lipoa and stream algae 57. Accessing stream banks for mud used in Kapa dyeing 58. Utilizing stream flow for traditional waterwheels and washing 59. Practicing stream-side purification ceremonies 60. Maintaining fish passages in stream systems 61. Harvesting Moa fern for medicinal uses 62. Gathering stream stones for cooking (Imu) 63. Harvesting Kaluha reeds for weaving 64. Accessing wetland areas for waterfowl hunting 65. Protecting stream-side burial interments 66. Practicing traditional stream resource monitoring (Kilo) 67. Preserving natural wetland silt basins 68. Harvesting Bambusa

(Ohe) for fishing poles and instruments 69. Fabricating Ohe Hano Ihu (nose flutes) from stream bamboo 70. Utilizing clay deposits for traditional pottery/pigments 71. Gathering medicinal stream mosses 72. Practicing stream bed maintenance and clearing 73. Exercising access along stream banks (Kua'aina) 74. Protecting subterranean stream discharge networks 75. Conducting seasonal freshwater ceremonies

Coastal & Shoreline Realm (Kahakai / Muliwai) 76. Shoreline fishing (Lawai'a) using throw nets ('Upena) 77. Pole fishing (Kaka) from coastal ledges 78. Gathering edible seaweed (Limo Kohu, Limo Manaua) 79. Harvesting 'Opihi (limpets) along rocky shorelines 80. Gathering Pipipi and Pipi (mollusks) 81. Collecting Ha'upu / Pa'akai (sea salt) from natural rock salt pans 82. Operating and maintaining traditional Loko I'a (fishponds) 83. Harvesting Wana (sea urchins) 84. Gathering Ina (small sea urchins) for dye and food 85. Harvesting 'Inia and sea cucumbers (Loli) 86. Collecting drift logs (Koa) for woodworking 87. Harvesting coastal medicinal plants (Naupaka Kahakai) 88. Accessing coastal springs (Wai Puna) exposed at low tide 89. Protecting coastal sand dune burials (Iliina) 90. Practicing ocean entry purification (Hi'uwai) 91. Conducting shoreline chant (Oli) and ceremonial protocol 92. Gathering shells for traditional adornment and tools 93. Harvesting crab species (Papa'i, 'Aama) 94. Gathering beach stones ('Ili'ili) for games and ceremonies 95. Launching outrigger canoes (Wa'a) from coastal entries 96. Exercising shoreline transit rights along the highest wash of the waves 97. Monitoring ocean weather and surf conditions (Kilo Moana) 98. Protecting coastal lava tube openings and blowholes 99. Harvesting octopus (He'e) using traditional lures 100. Practicing seasonal kapu closures for fish spawning 101. Preserving coastal navigation sightlines and ancestral markers

VI. FORMAL DEMAND AND LEGAL NOTICE OF SUIT

1. IMMEDIATE DEFERRAL OR DENIAL: The Planning Commission Subdivision Committee must immediately DENY or indefinitely DEFER the Preliminary Subdivision Extension Request for Application No. S-2025-4 (TMK: (4) 2-8-027:022).
2. NOTICE OF DIRECT PERSONAL AND COUNTY LIABILITY: Approving this extension request in direct defiance of noticed origin of title, sacred burial caves, ilina burials, iwi kupuna, improper infrastructure, human waste outfall hazards, landfill capacity failure, unmitigated geohazards, fire and drought risks, illegal water diversions, traffic evacuation bottlenecks, and public safety mandates under Article IX Section 10 constitutes an ultra vires action, an intentional violation of due process, and an unlawful Clouding of Title.
3. FORMAL LEGAL FOUNDATION: Any approval issued on August 11, 2026, will serve as immediate evidentiary grounds for formal legal action against the County of Kauai, the Planning Commission, and individual officials under 42 U.S.C. Section 1983, quiet title proceedings, injunctive petitions, and constitutional torts.

VII. SCRIPTURAL REFLECTION & PROTECTIVE PRAYER

Scripture: "Do not move an ancient boundary stone set up by your ancestors. Proverbs 22:28

Protective Prayer: Ke Akua Mana Loa, Creator of Heaven and Earth, Guard and protect this sacred Hawaiian Kingdom land, our burial caves, our ilina, and our sacred iwi kupuna. Shield our unbroken lineage running from Kuwalupaukamoku down through Ahukinialaa. We stand upon the truth of our ancestors, our origin of title, our inherent birthrights, and our sacred duty to protect the land, sinkholes, natural resources, emergency evacuation paths, and life-giving waters of Weliweli, Koloa, Kona Moku, and Puna Moku. Let all who seek to divide or desecrate this sacred ground be held accountable under the highest law, and let divine truth and justice prevail over every commission and court. Amene.

By: Roslyn Cummings Without Prejudice, Appeasing Specially Not Generally All Rights Reserved

Ho'oilina, Hoa'aina, Kanaka Maoli, Na Kanaka Direct Lineage Heir of Ahukinialaa, Manokalanipo, and Kuwalupaukamoku Mailing Address: P.O. Box 315 Kalaheo, Hawaii 96741 Email: roslyncummings@ymail.com

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

August 10, 2026

Public testimony received by the Planning Department as of August 10, 2026, 8:00 am for the August 11, 2026, Planning Commission, Subdivision Committee meeting regarding the following items:

G.2.b. Subdivision Application No. S-2025-5
 State of Hawai'i – Department of Hawaiian Homelands
 Proposed 2-Lot Subdivision
 TMK: (4) 4-8-018: 009
 Anahola, Kaua'i

Kenneth Estes

From: Planning Department
Sent: Friday, August 7, 2026 8:19 AM
To: Shanlee Jimenez; Kenneth Estes
Subject: FW: PRELIMINARY SUBDIVISION EXTENSION REQUEST " SUBDIVISION APPLICATION NO. S-2025-5 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 4-8-018:009, STATE OF HAWAII " DEPARTMENT OF HAWAIIAN HOMELANDS, ANAHOLA, KAUA'I, WITHIN PUNA MOKU)

Follow Up Flag: Follow up
Flag Status: Flagged

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Friday, August 7, 2026 6:44 AM
To: DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>; Planning Department <planningdepartment@kauai.gov>; Jessica L Puff <jessica.puff@hawaii.gov>; Luc Dbedt <dbedt.luc.web@hawaii.gov>
Subject: PRELIMINARY SUBDIVISION EXTENSION REQUEST " SUBDIVISION APPLICATION NO. S-2025-5 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 4-8-018:009, STATE OF HAWAII " DEPARTMENT OF HAWAIIAN HOMELANDS, ANAHOLA, KAUA'I, WITHIN PUNA MOKU)

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

WRITTEN TESTIMONY, FORMAL NOTICE OF CONSTITUTIONAL INFRINGEMENT, AND DEMAND FOR IMMEDIATE DEFERRAL/DENIAL

TO: Kauai County Planning Commission, Subdivision Committee, Planning Department, and Office of the Mayor **DATE:** August 11, 2026 **MEETING:** Subdivision Committee Meeting (Agenda Item G.2.b) **SUBMITTED VIA:** planningdepartment@kauai.gov

RE: PRELIMINARY SUBDIVISION EXTENSION REQUEST " SUBDIVISION APPLICATION NO. S-2025-5 (PROPOSED 2-LOT SUBDIVISION, TMK: (4) 4-8-018:009, STATE OF HAWAII " DEPARTMENT OF HAWAIIAN HOMELANDS, ANAHOLA, KAUA'I, WITHIN PUNA MOKU)

I. STATEMENT OF STATUS, ANCESTRAL RIGHT, AND SOVEREIGN TITLE

I am a Kanaka, a Hoa'aina, and a lawful Ho'oilina (heir and successor) by unbroken bloodline. I state my standing explicitly as Na Kanaka, Ho'oilina, Hoa'aina, and Kanaka Maoli, which carry distinct legal rights under Hawaiian law and for which there is no English equivalent to define our full status and identity.

My ancestral lineage and foundational standing are established through the following unbroken Mo'okū'auhau:

O Laamaikahiki ke kane O Waolena ka wahine noho pu laua hanau ia O Ahukinialaa he kane | O Ahukinialaa ke kane O Haiakamaio ka wahine noho pu laua hanau ia o Kamahano he kane | O Kamahano ke kane o Kaaueanuiokalani ka wahine noho pu laua hanau ia Luanuu he kane | O Luanuu ke kane o Kalanimoeakawaikai ka wahine noho pu laua hanau ia o Kukona he kane | O Kukona ke kane o Laupuapuaamaa ka wahine noho pu laua hanau ia Manokalanipo he kane | O Manokalanipo ke kane O Naekapulani Ka Wahine noho pu laua hanau ia o Kaumakaamano he kane | O Kaumakaamano ke kane O Kapoinukai ka wahine noho pu laua hanau ia o Kahakuakane he kane | O Kahakuakane ke kane O Manukaikoo ka wahine noho pu laua hanau ia o Kuwalupaukamoku he kane | O Kuwalupaukamoku ke kane O Hameawahaula ka wahine noho pu laua hanau ia O Kahakumakapaweo he kane | O Kahakumakapaweo ke kane O Kahakukukanea ka wahine noho pu laua hanau ia o Kalanikukuma he kane | O Kalanikukuma ke kane O Kapoleikauila ka wahine noho pu laua hanau ia o Kahakumakalina he kane | O Kahakumakalina ke kane O Kahakumaia ka wahine noho pu laua hanau ia o Kamakapu he kane | O Kamakapu ke kane O Pawahine ka wahine noho pu laua hanau ia O Kawelomahamahaia he kane | O Kawelomahamahaia ke kane O Kapohinakalani ka wahine noho pu laua hanau ia O Kawelomakalua he kane | O Kawelomakalua ke kane O Kaawihikalani ka wahine noho pu laua hanau ia o Kawelopeekoa he kane, Kaweloaikanaka he kane | O Kaweloaikanaka ke kane O Naki ka wahine noho pu laua hanau ia o Kawelonaki he kane | O Kawelonaki ke kane O Kalakahinaloa ka wahine noho pu laua hanau ia O Kaweloehu he kane | O Kaweloehu ke kane O Kaioe ka wahine noho pu laua hanau ia O Keakaokananaloa he kane | O Keakaokananaloa ke kane O Kahulu ka wahine noho pu laua hanau ia O Luahiwa he kane | O Luahiwa ke kane O Kaho'ia a pehu ka wahine noho pu laua hanau ia o Kanealai ka wahine | O Kanealai ka wahine O Kekaulike ke kane

Pursuant to United States Federal Law, Constitutional Law, the laws of the Hawaiian Kingdom preserved under Hawai'i Revised Statutes (HRS) Section 1-1 (incorporating Hawaiian usage and traditional common law), HRS Section 2-2, and HRS Sections 172-11 and 172-12, I assert vested, private, allodial, and inalienable property rights, inherent rights, birthrights, and ancestral rights over the lands of Anahola within Puna Moku.

The subject lands constitute Hawaiian Kingdom Government Land ('Aina Aupuni / 'Aina Ali'i / 'Aina Hoa'aina). My vested private property rights, ancestral titles, and tenant rights (Kuleana) are superior, prior, and paramount to any county zoning ordinance, municipal subdivision extension, or administrative assertion.

II. FEDERAL LAW, UNITED STATES CONSTITUTIONAL MANDATES (ARTICLES I & II), AND TREATY OBLIGATIONS

1. U.S. Constitution Article VI Supremacy & Treaty Obligations: Under Article VI, Clause 2 of the United States Constitution, international treaties entered into under the authority of the United States are the supreme law of the land. Perpetual treaties of peace, friendship, and commerce between the Hawaiian Kingdom and the United States bind all political subdivisions—including the State of Hawai'i and the County of Kaua'i. Municipal subdivisions and administrative permits cannot impair, divest, or override treaty-protected land tenure and private ancestral title.
2. Comprehensive Application of U.S. Constitution Article I: The entire scope of Article I guarantees that administrative agencies and municipal boards cannot exercise legislative powers beyond delegated constitutional bounds:
 - **Section 8 (Commerce & Property Powers):** Federal authority over commerce and treaty obligations limits state and municipal overreach into unextinguished native lands.
 - **Section 9 (Privileges & Protections):** Prohibits ex post facto administrative determinations and unlawful deprivations of vested rights without due process.
 - **Section 10 (Contracts Clause):** Explicitly forbids any State or municipal political subdivision from passing any law or administrative rule that impairs the Obligation of Contracts—protecting original land patents, Mahele grants, and allodial titles from administrative infringement.
1. Comprehensive Application of U.S. Constitution Article II (Sections 1–4): Article II outlines Executive authority and the strict requirement that administrative bodies act under lawful executive and constitutional mandates:
 - **Sections 1, 2, & 3:** Executive authority enforces federal treaties and constitutional protections. Administrative boards operating as state entities cannot act outside executive statutory parameters to extinguish vested property rights.
 - **Section 4:** Holds all officers accountable for actions taken in violation of constitutional oaths, treaty obligations, and high legal duties.
1. Comprehensive Application of U.S. Constitution Article IV (Sections 1–4):
 - **Section 1 (Full Faith and Credit):** Demands full recognition of ancestral land records, Mahele title origin, and lawful genealogical inheritance (Mo'oku'auhau).
 - **Section 2 (Privileges and Immunities):** Guarantees that native inhabitants, Hoa'aina, and lawful heirs (Ho'oilina) enjoy all inherent protections, privileges, and immunities of landholders under federal law.
 - **Section 3 (Property Clause):** Affirms that federal treaty lands and protected rights cannot be prejudiced or disposed of by local municipal actions.
 - **Section 4 (Republican Form of Government):** Guarantees constitutional protection against unlawful administrative takings under color of local law.
1. Comprehensive Application of U.S. Constitution Article V, VI, and VII:
 - **Article V:** Mandates strict due process and prohibits the taking of private property for public or private development without just compensation.

- **Article VI:** Reaffirms Supreme Law, treaty priority, and the binding oath of all municipal and state officers to uphold the Federal Constitution above local zoning regulations.
- **Article VII:** Secures the historical framework of established common law rights preserved across jurisdictions.
- 1. Lawful Heirs (Ho'oilina) vs. Administrative Beneficiaries:
 - A fundamental legal conflict exists between the vested, allodial, hereditary land rights of lawful **Heirs (Ho'oilina)** under sovereign title and the administrative status of statutory "**Beneficiaries**" under state-managed land programs.
 - State statutory constructs—such as state-administered trust lands—were created by legislative acts that cannot alter, extinguish, or usurp prior existing allodial land titles, ancestral inheritance, or vested Kuleana rights preserved under federal law and the Great Mahele.
 - Administrative agencies cannot convert sovereign, private allodial heirs into administrative "tenants" or "beneficiaries" subject to municipal permitting authority. The rights of lawful Ho'oilina and Hoa'aina are grounded in paramount private property rights, constitutional protections, and treaty obligations that supersede legislative acts and administrative trust management.

III. LEGAL MANDATES ON ORIGIN OF TITLE AND STATUTORY REQUIREMENTS

Under the fundamental principles of real property law, Hawaiian Kingdom jurisprudence, and HRS Section 1-1:

- **Origin of Title Requirements:** Land title in Hawai'i originates exclusively from the Hawaiian Crown and Government land system established through the Great Mahele (1848) and the Kuleana Act (1850). Administrative agencies, planning commissions, and municipal corporations do not possess the lawful authority to create, quiet, or alter allodial origin of title through local zoning approvals or subdivision extensions.
- **Reservation of Private Allodial Rights:** Under HRS Sections 172-11 and 172-12, the vested private property rights of Hoa'aina and Ho'oilina are expressly preserved and run with the land. These allodial rights cannot be extinguished, burdened, or transferred by municipal permit extensions without violating fundamental due process.
- **Strict Evidentiary Burden:** Under Hawaiian common law and established evidence rules, documented genealogical lineage and oral history (Mo'olelo) constitute un rebutted legal title evidence (In re Estate of Kamanu, 20 Haw. 262; PASH v. Hawai'i County Planning Commission, 79 Hawai'i 425 (1995)). Dismissing or bypassing origin of title claims without formal judicial adjudication constitutes reversible legal error and an unlawful Clouding of Title.

IV. COMPREHENSIVE LAW COVERAGE, CONSTITUTIONAL MANDATES, AND PUBLIC SAFETY (ARTICLE IX, SECTION 10)

1. HRS Section 1-1 (Common Law and Hawaiian Usage) and HRS Section 2-2: Codifies Hawaiian Kingdom common law and Hawaiian usage prior to 1892 as binding statutory law. This statutory bridge connects foundational Hawaiian Kingdom acts—including Na Kanaka (1839 Constitution), Ho'oilina (1846-1848 Mahele Book), Hoa'aina (1850 Kuleana Act), and Kanaka Maoli (1859 Civil Code)—directly to modern statutory and United States Constitutional protections.
2. Article I, Section 5 & Article IX, Section 10 of the Hawai'i State Constitution (Public Health, Safety, Person, and Property): Article IX, Section 10 explicitly mandates that the State and its political subdivisions shall provide for the protection and promotion of public health, safety, and general welfare. Granting preliminary subdivision extensions on geologically unstable, fire-prone, and flood-vulnerable terrain violates this affirmative constitutional duty and creates direct municipal liability.
3. Federal Constitutional Law (Fifth and Fourteenth Amendments): Guarantees that private allodial property rights, vested Hoa'aina land tenure, and ancestral titles cannot be taken, encumbered, or diminished without due process of law and just compensation.
4. 42 U.S.C. Section 1983 (Civil Rights Act): Holds individual municipal officers, commissioners, and county entities personally liable for deprivation of constitutional rights, property, and due process under color of state law.
5. HRS Chapter 6E (Historic Preservation): Enforces strict criminal and civil protections over burial caves, ilina burials, iwi kupuna, and historical coastal sites.
6. Appurtenant Water Rights Doctrine: Protects water from municipal divestment or corporate diversion (*Reppun v. Board of Water Supply*, 65 Haw. 531 (1982)).

V. FOUNDATIONAL CAUSES FOR LAWSUIT: BURIALS, DRAINAGE, FIRE, DROUGHT, WATER DIVERSION, TRAFFIC, INFRASTRUCTURE, WASTE, OUTFALLS, AND LANDFILL CRISIS

Granting a subdivision extension for Application No. S-2025-5 establishes immediate factual and legal foundations for administrative, state, and federal lawsuits based upon the following severe liabilities:

1. Desecration of Subterranean Burial Caves, Ilima, Muliwai Interments, and Sacred Iwi Kupuna
 - Fact of Law: TMK: (4) 4-8-018:009 and surrounding terrains in Anahola contain fragile subterranean voids, coastal muliwai (river mouth/estuary) ecosystems, and ancestral interment grounds housing sacred ilima burials and iwi kupuna.
 - Legal Liability: Approving permits or extensions that permit ground disturbance, heavy equipment compression, or trenching over known burial caves or protected

muliwai interments violates HRS Chapter 6E and federal protections. Bypassing federal and state burial site mandates exposes the County, state applicants, and individual commissioners to civil rights actions under 42 U.S.C. Section 1983.

1. Improper Infrastructure, Hazardous Human Waste Management, and Marine Outfalls
 - Fact of Law: Anahola's regional infrastructure is severely failing to handle existing loads. Inadequate human waste management systems, cesspool conversions, overburdened wastewater treatment facilities, and coastal outfalls discharge toxic effluent, bacteria, and excess nutrients into subterranean aquifers, Anahola Stream, the muliwai, and sensitive marine reef ecosystems.
 - Legal Liability: Expanding density or extending subdivision approvals without verified, functioning, high-capacity wastewater treatment infrastructure violates the Clean Water Act, state public health statutes, and Article IX, Section 10 mandates, directly endangering muliwai ecosystems, coastal health, and ancestral gathering grounds.
1. Exacerbation of the County Landfill Capacity Crisis
 - Fact of Law: Kauai's Kekaha Landfill is rapidly approaching absolute capacity, creating an emergency solid waste crisis across the island. The County lacks long-term municipal waste solutions or active replacement infrastructure.
 - Legal Liability: Approving or extending residential and commercial subdivisions directly increases municipal solid waste volume, compounding an unmitigated environmental hazard. Approving extensions without accounting for municipal landfill limits constitutes gross administrative negligence and arbitrary decision-making.
1. Severe Drainage Failures, Run-Off Hazards, and Subterranean Sinkhole Risks
 - Fact of Law: Increased surface density and altered drainage pathways directly overload natural discharge channels into the muliwai, accelerating coastal erosion, triggering sinkhole collapses, and flooding adjacent agricultural and residential properties in the Anahola flood plain.
 - Legal Liability: Failing to mandate comprehensive subterranean geological and hydrological impact studies prior to granting extensions constitutes gross negligence and a direct violation of Article IX, Section 10 mandates to protect person and property.
1. Wildfire Propagation, Extreme Drought Conditions, and Flammable Upland Fuel Loads
 - Fact of Law: The Anahola/Puna region suffers from severe seasonal drought conditions and accumulation of invasive, highly flammable brush across open agricultural and fallow lands.
 - Legal Liability: Expanding development density or extending approvals without verifying dedicated, high-capacity fire suppression infrastructure and defensive fuel

breaks creates unmitigated public safety hazards, establishing direct tort liability for fire-related loss of life and property.

1. Unlawful Water Diversion and Aquifer Over-Extraction Impacting the Muliwai
 - Rule of Law: Under Hawaiian Kingdom law and *Reppun v. Board of Water Supply* (65 Haw. 531), water rights attached to the land are inalienable appurtenant rights running directly with the land and its original Hoa'aina.
 - Legal Liability: Diverting freshwater streams or over-pumping subterranean aquifers to service private or state subdivision projects starves the natural muliwai flow, causes saltwater intrusion, depletes traditional water resources, and violates the public trust doctrine, opening the County and co-applicants to immediate injunctive relief.
1. Traffic Gridlock and Compromised Emergency Evacuation Corridors
 - Fact of Law: Kuhio Highway serves as the sole arterial corridor through Anahola. Increasing lot counts or extending stagnant subdivision plans exacerbates severe traffic bottlenecks along this singular emergency evacuation route.
 - Legal Liability: In the event of a wildfire, tsunami, or flash flood, inadequate evacuation routes create catastrophic life-safety bottlenecks. Granting extensions without certified emergency evacuation clearance violates Article IX, Section 10 of the Hawai'i State Constitution.

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VII. FORMAL DEMAND AND LEGAL NOTICE OF SUIT

1. IMMEDIATE DEFERRAL OR DENIAL: The Planning Commission Subdivision Committee must immediately DENY or indefinitely DEFER the Preliminary Subdivision Extension Request for Application No. S-2025-5 (TMK: (4) 4-8-018:009).
2. NOTICE OF DIRECT PERSONAL AND COUNTY LIABILITY: Approving this extension request in direct defiance of noticed federal treaty law, constitutional supremacy under Articles I, II, IV, V, VI, and VII, origin of title, sacred burial caves, ilina burials, muliwai integrity, iwi kupuna, improper infrastructure, human waste outfall hazards, landfill capacity failure, unmitigated geohazards, fire and drought risks, illegal water diversions, traffic evacuation bottlenecks, and public safety mandates under Article IX Section 10 constitutes an ultra vires action, an intentional violation of due process, and an unlawful Clouding of Title.
3. FORMAL LEGAL FOUNDATION: Any approval issued on August 11, 2026, will serve as immediate evidentiary grounds for formal legal action against the County

of Kauai, the Planning Commission, and individual officials under 42 U.S.C.

Section 1983, quiet title proceedings, injunctive petitions, and constitutional torts.

VIII. SCRIPTURAL REFLECTION & PROTECTIVE PRAYER

Scripture: "Do not move an ancient boundary stone set up by your ancestors." â€”

Proverbs 22:28

Protective Prayer: Ke Akua Mana Loa, Creator of Heaven and Earth, Guard and protect this sacred Hawaiian Kingdom land, our burial caves, our ilina, our sacred muliwai, and our sacred iwi kupuna. Shield our unbroken lineage running from Laamaikahiki through Kanealai and Kekaulike. We stand upon the truth of our ancestors, our origin of title, our federal treaties, our inherent birthrights, and our sacred duty to protect the land, sinkholes, natural resources, emergency evacuation paths, and life-giving waters of Anahola, Puna Moku, and Kona Moku. Let all who seek to divide or desecrate this sacred ground be held accountable under the highest law, and let divine truth and justice prevail over every commission and court. Amene.

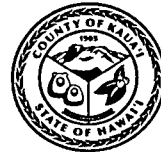
By: Roslyn Cummings Without Prejudice, Appeasing Specially Not Generally All Rights Reserved

Ho'oilina, Hoa'aina, Kanaka Maoli, Na Kanaka Direct Lineage Heir of Laamaikahiki, Ahukinialaa, Manokalanipo, and Kuwalupaukamoku Mailing Address: P.O. Box 315 Kalaheo, Hawaii 96741 Email: roslyncummings@ymail.com

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

August 10, 2026

Public testimony received by the Planning Department as of August 10, 2026, 8:00 am for the August 11, 2026, Planning Commission, Subdivision Committee meeting regarding the following items:

G.2.c. Subdivision Application No. S-2025-6
 Niu Pia Land Company, Ltd.
 Proposed 2-Lot Consolidation
 TMKs: (4) 3-6-003: 017 and 061
 Kalapakī, Līhu'e, Kaua'i

Kenneth Estes

From: Planning Department
Sent: Friday, August 7, 2026 8:19 AM
To: Shanlee Jimenez; Kenneth Estes
Subject: FW: PRELIMINARY SUBDIVISION / CONSOLIDATION REQUEST" SUBDIVISION APPLICATION NO. S-2025-6 (PROPOSED 2-LOT CONSOLIDATION, NIU PIA LAND COMPANY, LTD., TMKs: (4) 3-6-003:017 AND (4) 3-6-003:061, KALAPAKI, KAUAI)

Follow Up Flag: Follow up
Flag Status: Flagged

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Friday, August 7, 2026 7:00 AM
To: DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>; Planning Department <planningdepartment@kauai.gov>; Jessica L Puff <jessica.puff@hawaii.gov>; Luc Dbedt <dbedt.luc.web@hawaii.gov>
Subject: PRELIMINARY SUBDIVISION / CONSOLIDATION REQUEST" SUBDIVISION APPLICATION NO. S-2025-6 (PROPOSED 2-LOT CONSOLIDATION, NIU PIA LAND COMPANY, LTD., TMKs: (4) 3-6-003:017 AND (4) 3-6-003:061, KALAPAKI, KAUAI)

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

WRITTEN TESTIMONY, FORMAL NOTICE OF CONSTITUTIONAL INFRINGEMENT, AND DEMAND FOR IMMEDIATE DEFERRAL/DENIAL

TO: Kauai County Planning Commission, Subdivision Committee, Planning Department, and Office of the Mayor **DATE:** August 11, 2026 **MEETING:** Subdivision Committee Meeting (Agenda Item G.2.c) **SUBMITTED VIA:** planningdepartment@kauai.gov

RE: PRELIMINARY SUBDIVISION / CONSOLIDATION REQUEST" SUBDIVISION APPLICATION NO. S-2025-6 (PROPOSED 2-LOT CONSOLIDATION, NIU PIA LAND COMPANY, LTD., TMKs: (4) 3-6-003:017 AND (4) 3-6-003:061, KALAPAKI, KAUAI)

I. STATEMENT OF STATUS, ANCESTRAL RIGHT, AND SOVEREIGN TITLE

I am a Kanaka, a Hoa'aina, and a lawful Ho'oilina (heir and successor) by unbroken bloodline. I state my standing explicitly as Na Kanaka, Ho'oilina, Hoa'aina, and Kanaka Maoli, which carry distinct legal rights under Hawaiian law and for which there is no English equivalent to define our full status and identity.

My ancestral lineage and foundational standing are established through the following unbroken Mookuauhau:

O Laamaikahiki ke kane O Waolena ka wahine noho pu laua hanau ia O Ahukinialaa he kane | O Ahukinialaa ke kane O Haiakamaio ka wahine noho pu laua hanau ia o Kamahano he kane | O Kamahano ke kane o Kaaueanuioikalani ka wahine noho pu laua hanau ia Luanuu he kane | O Luanuu ke kane o Kalanimoeakawaikai ka wahine noho pu laua hanau ia o Kukona he kane | O Kukona ke kane o Laupuapuaamaa ka wahine noho pu laua hanau ia Manokalanipo he kane | O Manokalanipo ke kane O Naekapulani Ka Wahine noho pu laua hanau ia o Kaumakaamano he kane | O Kaumakaamano ke kane O Kapoinukai ka wahine noho pu laua hanau ia o Kahakuakane he kane | O Kahakuakane ke kane O Manukaikoo ka wahine noho pu laua hanau ia o Kuwalupaukamoku he kane | O Kuwalupaukamoku ke kane O Hameawahaula ka wahine noho pu laua hanau ia O Kahakumakapaweo he kane | O Kahakumakapaweo ke kane O Kahakukukanea ka wahine noho pu laua hanau ia o Kalanikukuma he kane | O Kalanikukuma ke kane O Kapoleikauila ka wahine noho pu laua hanau ia o Kahakumakalina he kane | O Kahakumakalina ke kane O Kahakumaia ka wahine noho pu laua hanau ia o Kamakapu he kane | O Kamakapu ke kane O Pawahine ka wahine noho pu laua hanau ia O Kawelomahamahaia he kane | O Kawelomahamahaia ke kane O Kapohinakalani ka wahine noho pu laua hanau ia O Kawelomakalua he kane | O Kawelomakalua ke kane O Kaawihikalani ka wahine noho pu laua hanau ia o Kawelopeekoa he kane, Kaweloaikanaka he kane | O Kaweloaikanaka ke kane O Naki ka wahine noho pu laua hanau ia o Kawelonaki he kane | O Kawelonaki ke kane O Kalakahinaloa ka wahine noho pu laua hanau ia O Kaweloehu he kane | O Kaweloehu ke kane O Kaioe ka wahine noho pu laua hanau ia O Keakaokananaloa he kane | O Keakaokananaloa ke kane O Kahulu ka wahine noho pu laua hanau ia O Luahiwa he kane | O Luahiwa ke kane O Kaho™oia a pehu ka wahine noho pu laua hanau ia o Kanealai ka wahine | O Kanealai ka wahine O Kekaulike ke kane

Pursuant to United States Federal Law, Constitutional Law, the laws of the Hawaiian Kingdom preserved under Hawai'i Revised Statutes (HRS) Section 1-1 (incorporating Hawaiian usage and traditional common law), HRS Section 2-2, and HRS Sections 172-11 and 172-12, I assert vested, private, allodial, and inalienable property rights, inherent rights, birthrights, and ancestral rights over the lands of Kalapaki.

The subject lands constitute Hawaiian Kingdom Government Land ('Aina Aupuni / 'Aina Ali'i / 'Aina Hoa'aina). My vested private property rights, ancestral titles, and tenant rights (Kuleana) are superior, prior, and paramount to any county zoning ordinance, municipal consolidation, or administrative assertion.

II. FEDERAL LAW, UNITED STATES CONSTITUTIONAL MANDATES (ARTICLES I & II), AND TREATY OBLIGATIONS

1. U.S. Constitution Article VI Supremacy & Treaty Obligations: Under Article VI, Clause 2 of the United States Constitution, international treaties entered into under the authority of the United States are the supreme law of the land. Perpetual treaties

of peace, friendship, and commerce between the Hawaiian Kingdom and the United States bind all political subdivisions—including the State of Hawai'i and the County of Kaua'i. Municipal consolidations and administrative permits cannot impair, divest, or override treaty-protected land tenure and private ancestral title.

2. Comprehensive Application of U.S. Constitution Article I: The entire scope of Article I guarantees that administrative agencies and municipal boards cannot exercise legislative powers beyond delegated constitutional bounds:
 - **Section 8 (Commerce & Property Powers):** Federal authority over commerce and treaty obligations limits state and municipal overreach into unextinguished native lands.
 - **Section 9 (Privileges & Protections):** Prohibits ex post facto administrative determinations and unlawful deprivations of vested rights without due process.
 - **Section 10 (Contracts Clause):** Explicitly forbids any State or municipal political subdivision from passing any law or administrative rule that impairs the Obligation of Contracts—protecting original land patents, Mahele grants, and allodial titles from administrative infringement.
1. Comprehensive Application of U.S. Constitution Article II (Sections 1–4): Article II outlines Executive authority and the strict requirement that administrative bodies act under lawful executive and constitutional mandates:
 - **Sections 1, 2, & 3:** Executive authority enforces federal treaties and constitutional protections. Administrative boards operating as state entities cannot act outside executive statutory parameters to extinguish vested property rights.
 - **Section 4:** Holds all officers accountable for actions taken in violation of constitutional oaths, treaty obligations, and high legal duties.
1. Comprehensive Application of U.S. Constitution Article IV (Sections 1–4):
 - **Section 1 (Full Faith and Credit):** Demands full recognition of ancestral land records, Mahele title origin, and lawful genealogical inheritance (Mo'oku'auhau).
 - **Section 2 (Privileges and Immunities):** Guarantees that native inhabitants, Hoa'aina, and lawful heirs (Ho'oilina) enjoy all inherent protections, privileges, and immunities of landholders under federal law.
 - **Section 3 (Property Clause):** Affirms that federal treaty lands and protected rights cannot be prejudiced or disposed of by local municipal actions.
 - **Section 4 (Republican Form of Government):** Guarantees constitutional protection against unlawful administrative takings under color of local law.
1. Comprehensive Application of U.S. Constitution Article V, VI, and VII:
 - **Article V:** Mandates strict due process and prohibits the taking of private property for public or private development without just compensation.
 - **Article VI:** Reaffirms Supreme Law, treaty priority, and the binding oath of all municipal and state officers to uphold the Federal Constitution above local zoning regulations.

- **Article VII:** Secures the historical framework of established common law rights preserved across jurisdictions.
- 1. Lawful Heirs (Ho'oilina) vs. Corporate & Administrative Assertions:
 - A fundamental legal conflict exists between the vested, allodial, hereditary land rights of lawful **Heirs (Ho'oilina)** under sovereign title and private corporate assertions or state-managed administrative land classifications.
 - Statutory constructs and corporate land titles created after the Great Mahele cannot alter, extinguish, or usurp prior existing allodial land titles, ancestral inheritance, or vested Kuleana rights preserved under federal law and the Great Mahele.
 - Administrative agencies cannot convert sovereign, private allodial heirs into secondary claimants subject to municipal permitting authority. The rights of lawful Ho'oilina and Hoa'aina are grounded in paramount private property rights, constitutional protections, and treaty obligations that supersede administrative approvals.

III. LEGAL MANDATES ON ORIGIN OF TITLE AND STATUTORY REQUIREMENTS

Under the fundamental principles of real property law, Hawaiian Kingdom jurisprudence, and HRS Section 1-1:

- **Origin of Title Requirements:** Land title in Hawai'i originates exclusively from the Hawaiian Crown and Government land system established through the Great Mahele (1848) and the Kuleana Act (1850). Administrative agencies, planning commissions, and municipal corporations do not possess the lawful authority to create, quiet, or alter allodial origin of title through local zoning approvals or consolidation applications.
- **Reservation of Private Allodial Rights:** Under HRS Sections 172-11 and 172-12, the vested private property rights of Hoa'aina and Ho'oilina are expressly preserved and run with the land. These allodial rights cannot be extinguished, burdened, or transferred by municipal permit extensions or lot consolidations without violating fundamental due process.
- **Strict Evidentiary Burden:** Under Hawaiian common law and established evidence rules, documented genealogical lineage and oral history (Mo'olelo) constitute un rebutted legal title evidence (In re Estate of Kamanu, 20 Haw. 262; PASH v. Hawai'i County Planning Commission, 79 Hawai'i 425 (1995)). Dismissing or bypassing origin of title claims without formal judicial adjudication constitutes reversible legal error and an unlawful Clouding of Title.

IV. COMPREHENSIVE LAW COVERAGE, CONSTITUTIONAL MANDATES, AND PUBLIC SAFETY (ARTICLE IX, SECTION 10)

1. HRS Section 1-1 (Common Law and Hawaiian Usage) and HRS Section 2-2: Codifies Hawaiian Kingdom common law and Hawaiian usage prior to 1892 as

binding statutory law. This statutory bridge connects foundational Hawaiian Kingdom including Na Kanaka (1839 Constitution), Ho'oilina (1846-1848 Mahele Book), Hoa'aina (1850 Kuleana Act), and Kanaka Maoli (1859 Civil Code) directly to modern statutory and United States Constitutional protections.

2. Article I, Section 5 & Article IX, Section 10 of the Hawai'i State Constitution (Public Health, Safety, Person, and Property): Article IX, Section 10 explicitly mandates that the State and its political subdivisions shall provide for the protection and promotion of public health, safety, and general welfare. Approving consolidation requests or developments on geologically sensitive, coastal, and flood-vulnerable terrain violates this affirmative constitutional duty and creates direct municipal liability.
3. Federal Constitutional Law (Fifth and Fourteenth Amendments): Guarantees that private allodial property rights, vested Hoa'aina land tenure, and ancestral titles cannot be taken, encumbered, or diminished without due process of law and just compensation.
4. 42 U.S.C. Section 1983 (Civil Rights Act): Holds individual municipal officers, commissioners, and county entities personally liable for deprivation of constitutional rights, property, and due process under color of state law.
5. HRS Chapter 6E (Historic Preservation): Enforces strict criminal and civil protections over burial caves, ilina burials, iwi kupuna, and historical coastal sites.
6. Appurtenant Water Rights Doctrine: Protects water from municipal divestment or corporate diversion (*Reppun v. Board of Water Supply*, 65 Haw. 531 (1982)).

V. FOUNDATIONAL CAUSES FOR LAWSUIT: BURIALS, DRAINAGE, FIRE, DROUGHT, WATER DIVERSION, TRAFFIC, INFRASTRUCTURE, WASTE, OUTFALLS, AND LANDFILL CRISIS

Granting approval for Application No. S-2025-6 establishes immediate factual and legal foundations for administrative, state, and federal lawsuits based upon the following severe liabilities:

1. Desecration of Subterranean Burial Caves, Iliina, Muliwai Interments, and Sacred Iwi Kupuna
 - Fact of Law: TMKs: (4) 3-6-003:017 and 061 in Kalapaki contain subterranean coastal voids, muliwai (estuary) environments, and ancestral interment grounds housing sacred ilina burials and iwi kupuna.
 - Legal Liability: Approving permits that permit ground disturbance, heavy equipment compression, or consolidation over known ancestral burial sites violates HRS Chapter 6E and federal protections. Bypassing federal and state burial site mandates exposes the County, corporate applicants, and individual commissioners to civil rights actions under 42 U.S.C. Section 1983.
1. Improper Infrastructure, Hazardous Human Waste Management, and Marine Outfalls

- Fact of Law: Kalapaki's regional infrastructure is overburdened. Inadequate waste management systems, cesspool discharges, and coastal runoff directly impact Nawiliwili Bay, local streams, and sensitive marine ecosystems.
 - Legal Liability: Approving lot consolidations or density changes without verified, functioning wastewater treatment infrastructure violates the Clean Water Act, state public health statutes, and Article IX, Section 10 mandates.
1. Exacerbation of the County Landfill Capacity Crisis
 - Fact of Law: Kauai's Kekaha Landfill is rapidly approaching absolute capacity, creating an emergency solid waste crisis across the island. The County lacks long-term municipal waste solutions or active replacement infrastructure.
 - Legal Liability: Approving or expanding commercial or residential lot configurations directly increases solid waste potential, compounding an unmitigated environmental hazard and violating administrative duties.
 1. Severe Drainage Failures, Run-Off Hazards, and Coastal Erosion
 - Fact of Law: Increased site density and altered drainage pathways directly overload natural discharge channels into Kalapaki Bay and muliwai, accelerating coastal erosion and flooding adjacent properties.
 - Legal Liability: Failing to mandate comprehensive geological and hydrological impact studies prior to granting approvals constitutes gross negligence and a direct violation of Article IX, Section 10 mandates to protect person and property.
 1. Wildfire Propagation, Extreme Drought Conditions, and Upland Fuel Loads
 - Fact of Law: Seasonal drought and unmaintained fuel loads in surrounding areas create severe fire hazards.
 - Legal Liability: Approving consolidation or altered land use without verifying dedicated fire suppression infrastructure creates unmitigated public safety hazards, establishing direct tort liability.
 1. Unlawful Water Diversion and Stream System Impacts
 - Rule of Law: Under Hawaiian Kingdom law and Reppun v. Board of Water Supply (65 Haw. 531), water rights attached to the land are inalienable appurtenant rights running directly with the land and its original Hoa'aina.
 - Legal Liability: Altering stream flow or groundwater recharge in Kalapaki harms natural muliwai resources and violates the public trust doctrine, opening the County and applicants to injunctive relief.
 1. Traffic Gridlock and Compromised Evacuation Corridors
 - Fact of Law: Nawiliwili and Rice Street corridors serve as critical traffic and evacuation paths for Kalapaki. Altering lot configurations without comprehensive traffic impact mitigation creates severe bottlenecking during emergencies.
 - Legal Liability: In the event of an emergency or natural disaster, inadequate evacuation access creates catastrophic life-safety bottlenecks violating Article IX, Section 10.

VI. ENUMERATED MAUKA TO MAKAI CULTURAL, TRADITIONAL, AND CUSTOMARY PRACTICES (101)

Pursuant to HRS Section 1-1, HRS Section 7-1, and Hawaiian common law, all 101 traditional practices across all ecological zones are protected by law and cannot be divested or infringed:

Forest & Watershed Realm (Wao Akua / Wao Kele / Wao La'au)

1. Gathering La'au Lapa'au (medicinal herbs, barks, roots)
2. Harvesting Koa timber for canoe building and structures
3. Harvesting 'Ohi'a timber for structural posts
4. Collecting Olona fibers for cordage (Aho) and netting
5. Harvesting Pili grass for traditional thatch
6. Gathering La'i (Ti leaf) for food wrapping, rain capes, and ceremony
7. Collecting Maile for sacred adornment and protocol
8. Gathering Palapalai fern for Hula altars (Kuaahu)
9. Harvesting Lauuae fern for adornment
10. Collecting Mamaki for medicinal tea and kapa making
11. Gathering Ie'ie vines for basketry and fish traps
12. Collecting 'Ahu'awa for liquid straining
13. Harvesting Firewood for culinary and ceremonial fires
14. Accessing high-altitude springs (Kawaiola) for purification (Hi'uwai)
15. Protecting and accessing sacred mountain Heiau
16. Protecting and maintaining sacred burial caves (Ana) and Iwi Kupuna
17. Bird catching and feather gathering (Kia Manu)
18. Quarrying volcanic stone (Ko'i) for tool fabrication
19. Harvesting Hapu'u tree fern for food and medicinal uses
20. Gathering wild Uhi (yams) in upland forests
21. Collecting sacred water (Wai Karani) for ritual healing
22. Exercising upland trail access (Ala Pipi)
23. Observance of cardinal directional alignments and elemental markers
24. Protecting sacred alignment stones (Pohaku)
25. Preserving mountain stream headwaters (Puna Wai)

Agricultural & Mid-Elevation Realm (Wao Kanaka / Kula)

26. Cultivation and maintenance of Lo'i Kalo (taro patches)
27. Maintenance and construction of traditional 'Auwai (irrigation channels)
28. Dryland farming (Mala) of 'Uala (sweet potato)
29. Cultivation of Ko (sugar cane) for food and medicine
30. Planting and harvesting Kawa for ceremonial protocol
31. Harvesting Noni for medicinal applications
32. Harvesting Wauke bark for Kapa fabric production
33. Cultivation of Mai'a (banana) varieties
34. Planting Ulu (breadfruit) for food and timber
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VII. FORMAL DEMAND AND LEGAL NOTICE OF SUIT

1. IMMEDIATE DEFERRAL OR DENIAL: The Planning Commission Subdivision Committee must immediately DENY or indefinitely DEFER the Preliminary Subdivision/Consolidation Request for Application No. S-2025-6 (TMKs: (4) 3-6-003:017 and 061).
2. NOTICE OF DIRECT PERSONAL AND COUNTY LIABILITY: Approving this consolidation request in direct defiance of noticed federal treaty law, constitutional supremacy under Articles I, II, IV, V, VI, and VII, origin of title, sacred burial caves, ilina burials, muliwai integrity, iwi kupuna, improper infrastructure, human waste outfall hazards, landfill capacity failure, unmitigated geohazards, fire and drought risks, illegal water diversions, traffic evacuation bottlenecks, and public safety mandates under Article IX Section 10 constitutes an ultra vires action, an intentional violation of due process, and an unlawful Clouding of Title.
3. FORMAL LEGAL FOUNDATION: Any approval issued on August 11, 2026, will serve as immediate evidentiary grounds for formal legal action against the County of Kauai, the Planning Commission, and individual officials under 42 U.S.C. Section 1983, quiet title proceedings, injunctive petitions, and constitutional torts.

VIII. SCRIPTURAL REFLECTION & PROTECTIVE PRAYER

Scripture: "Do not move an ancient boundary stone set up by your ancestors." Proverbs 22:28

Protective Prayer: Ke Akua Mana Loa, Creator of Heaven and Earth, Guard and protect this sacred Hawaiian Kingdom land, our burial caves, our ilina, our sacred muliwai, and our sacred iwi kupuna. Shield our unbroken lineage running from Laamaikahiki through Kanealai and Kekaulike. We stand upon the truth of our ancestors, our origin of title, our federal treaties, our inherent birthrights, and our sacred duty to protect the land, natural resources, emergency evacuation paths, and life-giving waters of Kalapaki, Puna Moku, and Kona Moku. Let all who seek to divide or desecrate this sacred ground be held accountable under the highest law, and let divine truth and justice prevail over every commission and court. Amene.

By: Roslyn Cummings Without Prejudice, Appeasing Specially Not Generally All Rights Reserved

Ho'oilina, Hoa'aina, Kanaka Maoli, Na Kanaka Direct Lineage Heir of Laamaikahiki,
Ahukinialaa, Manokalanipo, and Kuwalupaukamoku Mailing Address: P.O. Box 315
Kalaheo, Hawaii 96741 Email: roslyncummings@ymail.com

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

August 10, 2026

Public testimony received by the Planning Department as of August 10, 2026, 8:00 am for the August 11, 2026, Planning Commission, Subdivision Committee meeting regarding the following items:

- G.2.d. Subdivision Application No. S-2025-7
Tink Tank, LLC.
Proposed 2-Lot Boundary Adjustment
TMKs: (4) 2-1-003: 016 and 031
Ele'ele, Kaua'i

Kenneth Estes

From: Planning Department
Sent: Friday, August 7, 2026 8:21 AM
To: Shanlee Jimenez; Kenneth Estes
Subject: FW: Subdivision Committee Meeting (Agenda Item G.2.d) SUBMITTED VIA: planningdepartment@kauai.gov

Follow Up Flag: Follow up
Flag Status: Flagged

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Friday, August 7, 2026 8:18 AM
To: DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>; Planning Department <planningdepartment@kauai.gov>; Jessica L Puff <jessica.puff@hawaii.gov>; Luc Dbedt <dbedt.luc.web@hawaii.gov>
Subject: Subdivision Committee Meeting (Agenda Item G.2.d) SUBMITTED VIA: planningdepartment@kauai.gov

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

WRITTEN TESTIMONY, FORMAL NOTICE OF CONSTITUTIONAL INFRINGEMENT, AND DEMAND FOR IMMEDIATE DEFERRAL/DENIAL

TO: Kauai County Planning Commission, Subdivision Committee, Planning Department, and Office of the Mayor **DATE:** August 11, 2026 **MEETING:** Subdivision Committee Meeting (Agenda Item G.2.d) **SUBMITTED VIA:** planningdepartment@kauai.gov

RE: PRELIMINARY SUBDIVISION / BOUNDARY ADJUSTMENT REQUEST "SUBDIVISION APPLICATION NO. S-2025-7 (PROPOSED 2-LOT BOUNDARY ADJUSTMENT, TMKs: (4) 2-1-003:016 AND (4) 2-1-003:031, ÊLEELE, KAUAI, WITHIN KONA MOKU)

I. STATEMENT OF STATUS, ANCESTRAL RIGHT, AND SOVEREIGN TITLE

I am a Kanaka, a Hoa'aina, and a lawful Ho'oilina (heir and successor) by unbroken bloodline. I state my standing explicitly as Na Kanaka, Ho'oilina, Hoa'aina, and Kanaka Maoli, which carry distinct legal rights under Hawaiian law and for which there is no English equivalent to define our full status and identity.

My ancestral lineage and foundational standing are established through the following unbroken Mookuauhau:

O Kaumeheiwa ke kane O Kaapuwai ka wahine noho pu laua hanau ia O Lonoikahaupu he kane | O Lonoikahaupu ke kane O Kaumumuokalani ka wahine noho pu laua hanau ia

O Kauakahilau he kane | O Kauakahilau ke kane O Kuluina ka wahine noho pu laua hanau ia O Kane Kahaka he kane | O Kane Kahaka ke kane O Kealohipeekoa ka wahine noho pu laua hanau ia O Kauiahiwa he kane | O Kauiahiwa ke kane O Kuuwelokawai ka wahine noho pu laua hanau ia O Ilimealani he kane, O Kamili ka wahine (*Brother of Kahakumakalina*) | O Kahakumakalina ke kane O Kahakumaia ka wahine noho pu laua hanau ia O Kalanikukuma he kane | O Kalanikukuma ke kane O Kapoleikauila ka wahine noho pu laua hanau ia O Kahakumakapaweo he kane | O Kahakumakapaweo ke kane O Kahakukukanea ka wahine noho pu laua hanau ia O Kuwalupaukamoku he kane | O Kuwalupaukamoku ke kane O Hameawahaula ka wahine noho pu laua hanau ia O Kahakuakane he kane | O Kahakuakane ke kane O Manukaikoo ka wahine noho pu laua hanau ia O Kaumakaamano he kane | O Kaumakaamano ke kane O Kapoinukai ka wahine noho pu laua hanau ia O Manokalanipo he kane | O Manokalanipo ke kane O Naekapulani ka wahine noho pu laua; O Makali'i ka makuakane o Naekapulani

He mo'opuna au na Nuanua a me Ida "Horner" (i hanauia he Waikiki, o Piko ka makuahine, i mare ia Keaweulu).

Pursuant to United States Federal Law, Constitutional Law, the laws of the Hawaiian Kingdom preserved under Hawai'i Revised Statutes (HRS) Section 1-1 (incorporating Hawaiian usage and traditional common law), HRS Section 2-2, and HRS Sections 172-11 and 172-12, I assert vested, private, allodial, and inalienable property rights, inherent rights, birthrights, and ancestral rights over the lands of ELEELE within Kona Moku.

The subject lands constitute Hawaiian Kingdom Government Land ('Aina Aupuni / 'Aina Ali'i / 'Aina Hoa'aina). My vested private property rights, ancestral titles, and tenant rights (Kuleana) are superior, prior, and paramount to any county zoning ordinance, municipal boundary adjustment, or administrative assertion.

II. FEDERAL LAW, UNITED STATES CONSTITUTIONAL MANDATES (ARTICLES I & II), AND TREATY OBLIGATIONS

1. U.S. Constitution Article VI Supremacy & Treaty Obligations: Under Article VI, Clause 2 of the United States Constitution, international treaties entered into under the authority of the United States are the supreme law of the land. Perpetual treaties of peace, friendship, and commerce between the Hawaiian Kingdom and the United States bind all political subdivisions—including the State of Hawai'i and the County of Kaua'i. Municipal subdivisions, boundary adjustments, and administrative permits cannot impair, divest, or override treaty-protected land tenure and private ancestral title.
2. Comprehensive Application of U.S. Constitution Article I: The entire scope of Article I guarantees that administrative agencies and municipal boards cannot exercise legislative powers beyond delegated constitutional bounds:

- **Section 8 (Commerce & Property Powers):** Federal authority over commerce and treaty obligations limits state and municipal overreach into unextinguished native lands.
 - **Section 9 (Privileges & Protections):** Prohibits ex post facto administrative determinations and unlawful deprivations of vested rights without due process.
 - **Section 10 (Contracts Clause):** Explicitly forbids any State or municipal political subdivision from passing any law or administrative rule that impairs the Obligation of Contracts—protecting original land patents, Mahele grants, and allodial titles from administrative infringement.
1. Comprehensive Application of U.S. Constitution Article II (Sections 1-4): Article II outlines Executive authority and the strict requirement that administrative bodies act under lawful executive and constitutional mandates:
 - **Sections 1, 2, & 3:** Executive authority enforces federal treaties and constitutional protections. Administrative boards operating as state entities cannot act outside executive statutory parameters to extinguish vested property rights.
 - **Section 4:** Holds all officers accountable for actions taken in violation of constitutional oaths, treaty obligations, and high legal duties.
 1. Comprehensive Application of U.S. Constitution Article IV (Sections 1–4):
 - **Section 1 (Full Faith and Credit):** Demands full recognition of ancestral land records, Mahele title origin, and lawful genealogical inheritance (Mo'oku'auhau).
 - **Section 2 (Privileges and Immunities):** Guarantees that native inhabitants, Hoa'aina, and lawful heirs (Ho'oilina) enjoy all inherent protections, privileges, and immunities of landholders under federal law.
 - **Section 3 (Property Clause):** Affirms that federal treaty lands and protected rights cannot be prejudiced or disposed of by local municipal actions.
 - **Section 4 (Republican Form of Government):** Guarantees constitutional protection against unlawful administrative takings under color of local law.
 1. Comprehensive Application of U.S. Constitution Article V, VI, and VII:
 - **Article V:** Mandates strict due process and prohibits the taking of private property for public or private development without just compensation.
 - **Article VI:** Reaffirms Supreme Law, treaty priority, and the binding oath of all municipal and state officers to uphold the Federal Constitution above local zoning regulations.
 - **Article VII:** Secures the historical framework of established common law rights preserved across jurisdictions.
 1. Lawful Heirs (Ho'oilina) vs. Corporate & Administrative Assertions:
 - A fundamental legal conflict exists between the vested, allodial, hereditary land rights of lawful **Heirs (Ho'oilina)** under sovereign title and private corporate assertions or state-managed administrative land classifications.

- Statutory constructs and corporate land titles created after the Great Mahele cannot alter, extinguish, or usurp prior existing allodial land titles, ancestral inheritance, or vested Kuleana rights preserved under federal law and the Great Mahele.
- Administrative agencies cannot convert sovereign, private allodial heirs into secondary claimants subject to municipal permitting authority. The rights of lawful Ho'oilina and Hoa'aina are grounded in paramount private property rights, constitutional protections, and treaty obligations that supersede administrative approvals.

III. LEGAL MANDATES ON ORIGIN OF TITLE, NO ORIGIN OF AUTHORITY, AND STATUTORY REQUIREMENTS

Under the fundamental principles of real property law, Hawaiian Kingdom jurisprudence, and HRS Section 1-1:

- **Absence of Origin of Authority to the Hawaiian Kingdom:** Fact of Law establishes that the County of Kaua'i and its Planning Commission possess **no lawful origin of authority derived from or traceably granted by the Hawaiian Kingdom** to alter, subdivide, encumber, or extinguish Crown, Government, or Allodial Kuleana land titles. Administrative agencies cannot create underlying title or authority out of thin air. Any municipal assertion of underlying title control over Hawaiian Kingdom lands without explicit, unbroken delegation from the sovereign title holder constitutes an ultra vires act and an illegal Clouding of Title.
- **Origin of Title Requirements:** Land title in Hawai'i originates exclusively from the Hawaiian Crown and Government land system established through the Great Mahele (1848) and the Kuleana Act (1850). Administrative agencies, planning commissions, and municipal corporations do not possess the lawful authority to create, quiet, or alter allodial origin of title through local zoning approvals or boundary adjustments.
- **Reservation of Private Allodial Rights:** Under HRS Sections 172-11 and 172-12, the vested private property rights of Hoa'aina and Ho'oilina are expressly preserved and run with the land. These allodial rights cannot be extinguished, burdened, or transferred by municipal permit extensions or boundary adjustments without violating fundamental due process.
- **Strict Evidentiary Burden:** Under Hawaiian common law and established evidence rules, documented genealogical lineage and oral history (Mo'olelo) constitute un rebutted legal title evidence (In re Estate of Kamanu, 20 Haw. 262; PASH v. Hawai'i County Planning Commission, 79 Hawai'i 425 (1995)). Dismissing or bypassing origin of title claims without formal judicial adjudication constitutes reversible legal error and an unlawful Clouding of Title.

IV. COMPREHENSIVE LAW COVERAGE, CONSTITUTIONAL MANDATES, AND PUBLIC SAFETY (ARTICLE IX, SECTION 10)

1. HRS Section 1-1 (Common Law and Hawaiian Usage) and HRS Section 2-2: Codifies Hawaiian Kingdom common law and Hawaiian usage prior to 1892 as binding statutory law. This statutory bridge connects foundational Hawaiian Kingdom acts—including Na Kanaka (1839 Constitution), Ho'oilina (1846-1848 Mahele Book), Hoa'aina (1850 Kuleana Act), and Kanaka Maoli (1859 Civil Code)—directly to modern statutory and United States Constitutional protections.
2. Article I, Section 5 & Article IX, Section 10 of the Hawai'i State Constitution (Public Health, Safety, Person, and Property): Article IX, Section 10 explicitly mandates that the State and its political subdivisions shall provide for the protection and promotion of public health, safety, and general welfare. Approving boundary adjustments or development expansion on geologically sensitive, cliffside, and flood-vulnerable terrain in Elele violates this affirmative constitutional duty and creates direct municipal liability.
3. Federal Constitutional Law (Fifth and Fourteenth Amendments): Guarantees that private allodial property rights, vested Hoa'aina land tenure, and ancestral titles cannot be taken, encumbered, or diminished without due process of law and just compensation.
4. 42 U.S.C. Section 1983 (Civil Rights Act): Holds individual municipal officers, commissioners, and county entities personally liable for deprivation of constitutional rights, property, and due process under color of state law.
5. HRS Chapter 6E (Historic Preservation): Enforces strict criminal and civil protections over burial caves, ilina burials, iwi kupuna, and historical coastal sites.
6. Appurtenant Water Rights Doctrine & Public Trust Mandate: Protects surface waters, aquifers, and traditional stream flows from municipal divestment, arbitrary allocation, or corporate diversion (*Reppun v. Board of Water Supply*, 65 Haw. 531 (1982); *Waiahole Ditch Combined Contested Case*, 94 Hawai'i 97 (2000)).

V. FOUNDATIONAL CAUSES FOR LAWSUIT: WATER DIVERSION, MISMANAGEMENT LIABILITY, BURIALS, DRAINAGE, FIRE, DROUGHT, TRAFFIC, INFRASTRUCTURE, WASTE, OUTFALLS, AND LANDFILL CRISIS

Granting approval for Application No. S-2025-7 establishes immediate factual and legal foundations for administrative, state, and federal lawsuits based upon the following severe liabilities:

1. Direct County Liability for Unlawful Water Diversion, Mismanagement, and Deprivation of Appurtenant Rights
 - Fact of Law: The County of Kaua'i and its permitting authorities have actively permitted, facilitated, and sanctioned the diversion, over-extraction, and misallocation of freshwater streams, aquifers, and muliwai networks within Kona Moku without establishing legal water reservations for vested Hoa'aina and native tenants.

- Legal Liability under Precedent: Under Hawaiian Kingdom common law, HRS Â§ 1-1, and established constitutional doctrine (*Reppun v. Board of Water Supply*, 65 Haw. 531; *In re Water Use Permit Applications (Waiahole Ditch)*, 94 Hawai'i 97), water rights attached to the land are inalienable, appurtenant rights that run directly with the land to its original Hoa'aina and Kuleana landholders. Surface water and aquifers are protected under the Public Trust Doctrine as public resources, prioritizing traditional and customary Hawaiian uses above municipal development or commercial allocations.
 - Breach of Public Trust & Regulatory Taking: Approving subdivisions or lot adjustments that reallocate water, alter natural stream runoff, or increase municipal water draws without a formal, completed water availability assessment and public trust analysis constitutes an intentional breach of public trust duty. Mismanaging water allocations to accommodate commercial or suburban density“while drying out traditional muliwai systems, estuarine habitats, and agricultural lands“makes the County directly liable for inverse condemnation, breach of public trust, and gross administrative negligence.
1. Desecration of Subterranean Burial Caves, Ilima, Muliwai Interments, and Sacred Iwi Kupuna
 - Fact of Law: TMKs: (4) 2-1-003:016 and 031 in Elele contain subterranean coastal gulches, muliwai (estuary) networks, and ancestral interment grounds housing sacred ilima burials and iwi kupuna.
 - Legal Liability: Approving permits that permit ground disturbance, heavy equipment compression, or boundary alteration over known ancestral burial sites violates HRS Chapter 6E and federal protections. Bypassing federal and state burial site mandates exposes the County, applicants, and individual commissioners to civil rights actions under 42 U.S.C. Section 1983.
 1. Improper Infrastructure, Hazardous Human Waste Management, and Coastal Outfalls
 - Fact of Law: Elele's regional infrastructure is under significant stress. Inadequate waste management systems, agricultural runoff, and coastal outfalls discharge into Hanapepe Bay and sensitive coastal habitats.
 - Legal Liability: Approving lot alterations or density changes without verified, functioning wastewater treatment infrastructure violates the Clean Water Act, state public health statutes, and Article IX, Section 10 mandates.
 1. Exacerbation of the County Landfill Capacity Crisis
 - Fact of Law: Kauai's Kekaha Landfill is rapidly approaching absolute capacity, creating an emergency solid waste crisis across the island. The County lacks long-term municipal waste solutions or active replacement infrastructure.
 - Legal Liability: Approving or expanding residential or commercial lot configurations directly increases solid waste potential, compounding an unmitigated environmental hazard and violating administrative duties.

1. Severe Drainage Failures, Cliffside Erosion, and Run-Off Hazards
 - Fact of Law: Altered drainage pathways in the Kona Moku directly accelerate gulch and cliffside erosion, triggering landslide risks and flooding adjacent coastal plains and Hanapepe River estuarine zones.
 - Legal Liability: Failing to mandate comprehensive geological and hydrological impact studies prior to granting approvals constitutes gross negligence and a direct violation of Article IX, Section 10 mandates to protect person and property.
1. Wildfire Propagation, Extreme Drought Conditions, and Upland Fuel Loads
 - Fact of Law: The Kona Moku/Hanapepe corridor in Kona Moku experiences severe dry seasons with invasive brush accumulation, posing extreme wildfire hazards.
 - Legal Liability: Approving boundary adjustments or development alterations without verifying dedicated fire suppression infrastructure creates unmitigated public safety hazards, establishing direct tort liability.
1. Traffic Gridlock and Compromised Evacuation Corridors
 - Fact of Law: Kaunaloa Highway is the sole primary arterial route through the Kona Moku. Altering lot configurations without addressing traffic and emergency access creates dangerous choke points during coastal hazards or fires.
 - Legal Liability: In the event of an emergency, inadequate evacuation routes create catastrophic life-safety bottlenecks violating Article IX, Section 10.

VI. ENUMERATED MAUKA TO MAKAI CULTURAL, TRADITIONAL, AND CUSTOMARY PRACTICES (1-101)

Pursuant to HRS Section 1-1, HRS Section 7-1, and Hawaiian common law, all 101 traditional practices across all ecological zones are protected by law and cannot be divested or infringed:

Forest & Watershed Realm (Wao Akua / Wao Kele / Wao La'au)

1. Gathering La'au Lapa'au (medicinal herbs, barks, roots)
2. Harvesting Koa timber for canoe building and structures
3. Harvesting 'Ohi'a timber for structural posts
4. Collecting Olona fibers for cordage (Aho) and netting
5. Harvesting Pili grass for traditional thatch
6. Gathering La'i (Ti leaf) for food wrapping, rain capes, and ceremony
7. Collecting Maile for sacred adornment and protocol
8. Gathering Palapalai fern for Hula altars (Kuaahu)
9. Harvesting Lauuae fern for adornment
10. Collecting Mamaki for medicinal tea and kapa making
11. Gathering Ie'ie vines for basketry and fish traps
12. Collecting 'Ahu'awa for liquid straining
13. Harvesting Firewood for culinary and ceremonial fires

14. Accessing high-altitude springs (Kawaiola) for purification (Hi'uwai)
15. Protecting and accessing sacred mountain Heiau
16. Protecting and maintaining sacred burial caves (Ana) and Iwi Kupuna
17. Bird catching and feather gathering (Kia Manu)
18. Quarrying volcanic stone (Ko'i) for tool fabrication
19. Harvesting Hapu'u tree fern for food and medicinal uses
20. Gathering wild Uhi (yams) in upland forests
21. Collecting sacred water (Wai Karani) for ritual healing
22. Exercising upland trail access (Ala Pipi)
23. Observance of cardinal directional alignments and elemental markers
24. Protecting sacred alignment stones (Pohaku)
25. Preserving mountain stream headwaters (Puna Wai)

Agricultural & Mid-Elevation Realm (Wao Kanaka / Kula) 26. Cultivation and maintenance of Lo'i Kalo (taro patches) 27. Maintenance and construction of traditional 'Auwai (irrigation channels) 28. Dryland farming (Mala) of 'Uala (sweet potato) 29. Cultivation of Ko (sugar cane) for food and medicine 30. Planting and harvesting Kawa for ceremonial protocol 31. Harvesting Noni for medicinal applications 32. Harvesting Wauke bark for Kapa fabric production 33. Cultivation of Mai'a (banana) varieties 34. Planting Ulu (breadfruit) for food and timber 35. Cultivation of Ipu (gourds) for containers and instruments 36. Harvesting Kukui nuts for oil, lighting, and medicine 37. Processing Kukui bark for dye 38. Gathering Hau wood and bark for outrigger booms and lashings 39. Exercising traditional Ala Loa (main highways) and Ala Hula trails 40. Practicing traditional soil conservation (Malama 'Aina) 41. Maintaining agroforestry systems 42. Practicing ceremonial offerings (Ho'okupu) on agricultural altars 43. Harvesting native grasses for mulch 44. Accessing mid-elevation water channels 45. Protecting agricultural burial plots (Ilina) 46. Harvesting wild herbs ('Ohi'i) along field borders 47. Practicing oral traditions (Mo'olelo) tied to agricultural land markers 48. Conducting seasonal planting rituals based on Moon Cycles (Malama Hoku) 49. Preserving ancestral boundary markers (Pohaku Kihī) 50. Harvesting wild medicinal weeds ('Auhuhu) 51. Maintaining traditional windbreaks (Pa Niu)

Plains, Wetland & Stream Realm (Kula Wena / Kahawai) 52. Gathering 'O'opu (endemic stream goby) 53. Harvesting 'Opae (freshwater shrimp) 54. Gathering Hihīwai (freshwater snails) 55. Harvesting Wi (freshwater mollusks) 56. Gathering Lipoa and stream algae 57. Accessing stream banks for mud used in Kapa dyeing 58. Utilizing stream flow for traditional waterwheels and washing 59. Practicing stream-side purification ceremonies 60. Maintaining fish passages in stream systems 61. Harvesting Moa fern for medicinal uses 62. Gathering stream stones for cooking (Imu) 63. Harvesting Kaluha reeds for weaving 64. Accessing wetland areas for waterfowl hunting 65. Protecting stream-side burial interments 66. Practicing traditional stream resource monitoring (Kilo) 67. Preserving natural wetland silt basins 68. Harvesting Bambusa

(Ohe) for fishing poles and instruments 69. Fabricating Ohe Hano Ihu (nose flutes) from stream bamboo 70. Utilizing clay deposits for traditional pottery/pigments 71. Gathering medicinal stream mosses 72. Practicing stream bed maintenance and clearing 73. Exercising access along stream banks (Kua'aina) 74. Protecting subterranean stream discharge networks 75. Conducting seasonal freshwater ceremonies

Coastal, Estuary & Shoreline Realm (Kahakai / Muliwai) 76. Shoreline fishing (Lawai'a) using throw nets ('Upena) 77. Pole fishing (Kaka) from coastal ledges 78. Gathering edible seaweed (Limo Kohu, Limo Manaua) 79. Harvesting 'Opihi (limpets) along rocky shorelines 80. Gathering Pipipi and Pipi (mollusks) 81. Collecting Ha'upu / Pa'akai (sea salt) from natural rock salt pans 82. Operating and maintaining traditional Loko I'a (fishponds) and muliwai resources 83. Harvesting Wana (sea urchins) 84. Gathering Ina (small sea urchins) for dye and food 85. Harvesting 'Inia and sea cucumbers (Loli) 86. Collecting drift logs (Koa) for woodworking 87. Harvesting coastal medicinal plants (Naupaka Kahakai) 88. Accessing coastal springs (Wai Puna) exposed at low tide and within the muliwai 89. Protecting shoreline and muliwai burials (Iliina) 90. Practicing ocean and muliwai entry purification (Hi'uwai) 91. Conducting shoreline chant (Oli) and ceremonial protocol 92. Gathering shells for traditional adornment and tools 93. Harvesting crab species (Papa'i, 'Aama) 94. Gathering beach stones ('Ili'ili) for games and ceremonies 95. Launching outrigger canoes (Wa'a) from muliwai and coastal entries 96. Exercising shoreline transit rights along the highest wash of the waves 97. Monitoring ocean weather and surf conditions (Kilo Moana) 98. Protecting coastal lava tube openings and blowholes 99. Harvesting octopus (He'e) using traditional lures 100. Practicing seasonal kapu closures for fish spawning within the muliwai and bay 101. Preserving coastal navigation sightlines and ancestral markers

VII. FORMAL DEMAND AND LEGAL NOTICE OF SUIT

1. IMMEDIATE DEFERRAL OR DENIAL: The Planning Commission Subdivision Committee must immediately DENY or indefinitely DEFER the Preliminary Subdivision/Boundary Adjustment Request for Application No. S-2025-7 (TMKs: (4) 2-1-003:016 and 031).
2. NOTICE OF DIRECT PERSONAL AND COUNTY LIABILITY: Approving this request in direct defiance of noticed federal treaty law, constitutional supremacy under Articles I, II, IV, V, VI, and VII, lack of origin of authority to the Hawaiian Kingdom, water diversion and allocation mismanagement liabilities, origin of title, sacred burial caves, ilina burials, muliwai integrity, iwi kupuna, improper infrastructure, human waste outfall hazards, landfill capacity failure, unmitigated geohazards, fire and drought risks, and public safety mandates under Article IX Section 10 constitutes an ultra vires action, an intentional violation of due process, and an unlawful Clouding of Title.

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VIII. SCRIPTURAL REFLECTION & PROTECTIVE PRAYER

Scripture: "Do not move an ancient boundary stone set up by your ancestors." Proverbs 22:28

Protective Prayer: Ke Akua Mana Loa, Creator of Heaven and Earth, Guard and protect this sacred Hawaiian Kingdom land, our water rights, our sacred springs, our burial caves, our ilina, our sacred muliwai, and our sacred iwi kupuna. Shield our unbroken lineage running through Kaumehe'iwa, Lonoikahaupu, Kahakumakalina, Manokalanipo, Makali'i, Nuanua, and Ida "Horner" Waikiki. We stand upon the truth of our ancestors, our origin of title, our federal treaties, our inherent birthrights, and our sacred duty to protect the land, natural resources, emergency evacuation paths, and life-giving waters of Ê»Ê»EleÊ»ele, Kona Moku, and all surrounding moku. Let all who seek to divide, divert, or desecrate this sacred ground and water be held accountable under the highest law, and let divine truth and justice prevail over every commission and court. Amene.

By: Roslyn Cummings Without Prejudice, Appeasing Specially Not Generally All Rights Reserved

Ho'oilina, Hoa'aina, Kanaka Maoli, Na Kanaka Direct Lineage Heir of Kaumehe'iwa, Lonoikahaupu, Kahakumakalina, Manokalanipo, Makali'i, Nuanua, and Ida "Horner" Waikiki Mailing Address: P.O. Box 315 Kalaheo, Hawaii 96741 Email: roslyncummings@ymail.com

FORMAL NOTICE OF OBJECTION, HYDROLOGICAL HAZARD ANALYSIS, AND DEMAND FOR COUNTY LIABILITY ACKNOWLEDGMENT

BEFORE THE PLANNING COMMISSION AND SUBDIVISION COMMITTEE OF THE COUNTY OF KAUA'I IN RE: SUBDIVISION APPLICATION NO. S-2025-7 (TMKs: (4) 2-1-003:016 & (4) 2-1-003:031, 'Ele'ele, Kona Moku)

I. STATEMENT OF STANDING & REGIONAL CULTURAL JURISDICTION

We submit this formal objection as traditional and customary practitioners and lineal descendants of the entire **Kona Moku**. Our traditional relationship, resource access, and land/water stewardship obligations encompass all contiguous ahupua'a within Kona Moku—from the ridge lines to the marine boundary.

The hydrological systems across this region are deeply interconnected. Water within this sector is actively collected and diverted from multiple upstream and tributary sources across the moku:

- Hanapēpē River & Valley Systems
- Olokele Stream
- Wahiawa Stream & Watershed
- Kalāheo Watershed
- Ko'ula Valley

- **Manuahi Valley**
- **Manawaiopuna Falls & Tributary Drainage**

Because upstream agricultural diversions, ditch networks, and culvert channels redirect natural flow pathways across these valleys into the ‘Ele‘ele plateau and lower drainage basins, any land disturbance or subdivision approval in this corridor directly impacts the structural safety and integrity of our ancestral lands and residential homes.

II. MAP-BASED HYDROLOGICAL RISK & RESIDENTIAL WATER BREACH CORRIDORS

Topographical and flood inundation maps for ‘Ele‘ele and lower Hanapēpē demonstrate that existing overland flow corridors, modified agricultural ditches, and municipal stormwater conduits are currently operating at or near capacity. Approving high-density subdivision grading and impervious surface additions within these parcels creates a catastrophic flood breach hazard for existing homes:

- **Existing Drainage Corridors:** Site topographies show natural and altered surface runoff paths directing stormwater downhill from the plateau towards established residential subdivisions and the lower Hanapēpē valley floor.
- **Inundation & Structure Impact:** Map overlay analysis reveals that during high-intensity rainfall events, these existing drainage corridors act as funneling mechanisms. Upstream flows—exacerbated by diversions from Manuahi, Ko‘ula, Wahiawa, and Olokele—overflow existing retention basins and breach directly into surrounding residential properties, foundations, and lower-level living spaces.
- **Impervious Surface Amplification:** Converting permeable agricultural/open land into paved roads, rooftops, and concrete driveways significantly reduces soil infiltration, drastically accelerating peak runoff volume and flow velocity directly into nearby residences.

III. LEGAL BASIS FOR COUNTY LIABILITY IN THE EVENT OF A FLOOD DISASTER

Should the County of Kaua‘i approve this development without requiring complete regional hydrological remediation and infrastructure expansion, the County accepts direct civil and constitutional liability for downstream property damage, personal injury, and loss of life under Hawai‘i state law and property rights frameworks:

1. Inverse Condemnation & Takings (Article I, Section 20, Hawai‘i Constitution)

- Under the Hawai‘i Constitution, private property cannot be taken *or damaged* for public use without just compensation.
- When a government entity approves a subdivision plan that increases, accelerates, or re-diverts surface water onto private residential lots through public infrastructure or approved drainage corridors, the resulting flooding constitutes an unconstitutional "taking and damaging" of private real property (*Inverse Condemnation*).

2. Loss of Discretionary Immunity & Municipal Tort Liability (HRS Chapter 662)

- While routine planning decisions often carry immunity, the County loses immunity when it acts with actual or constructive notice of a known, dangerous public hazard.
- By placing this map evidence into the official public record, the Planning Commission and Department of Public Works are put on express notice that current drainage corridors breach into existing homes. Approving increased runoff under known dangerous conditions constitutes active negligence in infrastructure management (*Kauai v. County of Kaua‘i*).

3. Violation of the Reasonable Use Rule for Surface Waters

- Hawai‘i legal precedent adheres to the *Reasonable Use Rule* regarding surface waters. An upstream developer or approving municipality cannot alter natural runoff patterns to discharge unnatural quantities or velocities of water onto neighboring lower properties. Approving a site plan that creates channelized water breaches into residences constitutes an unreasonable use and an actionable private and public nuisance.

4. Strict Liability for Hazardous Artificial Accumulation & Diversion

- By maintaining, altering, and utilizing interconnected agricultural ditches and culvert networks that concentrate flows from multiple valley sources (Hanapēpē, Olokele, Wahiawa, Kalāheo, Ko‘ula, Manuahi, and Manawaiopuna), the County and developer maintain control over an artificial diversion system. Under established property tort law, channeling mass volumes of surface water into inadequate discharge corridors where breaches into homes are foreseeable creates direct liability for all resulting flood damages.

IV. MANDATED DEMANDS FOR RECORD

1. **Immediate Stay of Approval:** Halt all subdivision and build-out decisions for S-2025-7 until a comprehensive, multi-valley cumulative stormwater impact study is conducted.
2. **Moku-Wide Hydrological Assessment:** Require the developer and County engineers to model 100-year storm event impacts accounting for cumulative flows from Hanapēpē, Olokele, Wahiawa, Kalāheo, Ko‘ula, Manuahi, and Manawaiopuna.
3. **On-Site Retention & Zero Net Increase Guarantee:** Require 100% on-site retention of all additional post-development runoff so zero additional surface water enters existing residential corridors.

DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

August 10, 2026

Public testimony received by the Planning Department as of August 10, 2026, 8:00 am for the August 11, 2026, Planning Commission, Subdivision Committee meeting regarding the following items:

- G.3.a. Subdivision Application No. S-2025-2
 Kukui'ula Parcel Q Subdivision
 Makai Kōloa, LLC. Et Al.
 Proposed 3-Lot Consolidation and Re-Subdivision into 20 lots
 TMKs: (4) 2-6-014: 041 and 046 / 2-6-015: 005
 Kōloa, Kaua'i

Kenneth Estes

From: Planning Department
Sent: Monday, August 10, 2026 6:23 AM
To: Kenneth Estes; Shanlee Jimenez
Subject: FW: Agenda Item G.3.a (Makai Koloa Declaration / Kukuiula Parcel Q Subdivision)

Follow Up Flag: Follow up
Flag Status: Flagged

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Saturday, August 8, 2026 4:41 AM
To: Planning Department <planningdepartment@kauai.gov>; Luc Dbedt <dbedt.luc.web@hawaii.gov>;
DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>; Jessica L Puff <jessica.puff@hawaii.gov>
Subject: Re: Agenda Item G.3.a (Makai Koloa Declaration / Kukuiula Parcel Q Subdivision)

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

**ADDENDUM / CORRECTION NOTICE TO COUNTY OF KAUA'I
PLANNING COMMISSION**

**TO: Kaua'i County Planning Commission, Subdivision
Committee, Planning Department, and Office of the Mayor**

DATE: August 8, 2026

SUBMITTED VIA: planningdepartment@kauai.gov

**RE: FORMAL GENEALOGICAL ADDENDUM AND
AMENDMENT TO RECORD – STATEMENT OF
STANDING AND LINEAL ANCESTRY OF ROSLYN
CUMMINGS**

**Please accept this formal addendum to be made part of the
official administrative record for the August 11, 2026
Subdivision Committee Meeting (including Agenda Items
G.2.d and G.3.a).**

In addition to the unbroken Mo‘oku‘auhau previously submitted into the record, my standing as Wahine Maoli, Na Kanaka, Ho‘oilina, Hoa‘aina, and Kanaka Maoli holding vested, private, allodial title and unbroken ancestral rights across Kona Moku is further established through my direct paternal line extending to Chiefess Kamakahalei:

O Chiefess Kamakahalei (w) hanau o Keawe (k); hanau o Keawenui (w); hanau o Luke Naumu (w); hanau o Nahinu Malama (k); hanau o Ku Nahinu Malama (k); hanau o Joseph Ku Keoua Malama (k); hanau o Edmund Francis Malama Sr. (k); hanau o Edmund Francis Malama Jr. (k); hanau o Roslyn Nicole Manawaiakea Malama Mare Cummings (w).

This genealogical amendment confirms direct lineal succession to the historical Ali‘i Nui of Kaua‘i and reaffirms all treaty rights, native tenant protections, and private property rights asserted in previous filings.

***ALL RIGHTS RESERVED, WITHOUT PREJUDICE,
WITHOUT RECOURSE***

By: Roslyn Cummings

Appearing Specially, Not Generally

***Wahine Maoli, Na Kanaka, Ho‘oilina, Hoa‘aina, Kanaka Maoli
Hawaiian Kingdom National and Subject***

***Direct Lineage Heir of Chiefess Kamakahalei, Kamehameha I,
Kaumuali‘i I, Kaumeheiwa, Lonoikahaupu, Kahakumakalina,
Manokalanipo, Makali‘i***

Mailing Address: P.O. Box 315, Kalaheo, Hawaii 96741

Email: roslyncummings@ymail.com

On Aug 7, 2026, at 4:54 PM, Roslyn Cummings <roslyncummings@ymail.com> wrote:

FORMAL PETITION UNDER THE RIGHT TO PETITION, MEMORANDUM OF LAW, AND SELF-EXECUTING TRANSGRESSION FEE SCHEDULE

TO: Planning Commission, Subdivision Committee, Planning Department,
and Office of the Mayor, County of Kauai **DATE:** August 11, 2026

MEETING: Subdivision Committee Meeting (Agenda Item G.3.a)

SUBMITTED VIA: planningdepartment@kauai.gov

RE: FINAL SUBDIVISION MAP APPROVAL “ SUBDIVISION
APPLICATION NO. S-2025-2, KUKUIULA PARCEL Q SUBDIVISION,
MAKAI KOLOA, LLC, ET AL. (PROPOSED 3-LOT CONSOLIDATION
AND RE-SUBDIVISION INTO 20 LOTS, TMKS: (4) 2-6-014: 041 AND
046 / 2-6-015: 005, KOLOA, KAUAI, WITHIN KONA MOKU)

I. PETITION UNDER THE RIGHT TO PETITION & STATEMENT OF STANDING

Pursuant to the First Amendment of the Constitution of the United States of America (Right to Petition the Government for a Redress of Grievances) and Section 4 of the Hawaii State Constitution Article I, I submit this formal Petition and Memorandum of Law to expose, remove, and void all administrative divestiture, ambiguity, and quasi-jurisdictional assertions surrounding Agenda Item G.3.a (Makai Koloa Declaration / Kukuiula Parcel Q Subdivision).

I state my standing explicitly as Wahine Maoli, Na Kanaka, Ho'oilina, Hoa'aina, and Kanaka Maoli by unbroken bloodline. My ancestral rights are grounded in the historical unification and agreements established by my ancestors Kamehameha I and Kaumualii I across Ko Hawaii Pae Aina:

- **Wahine Maoli & Ancestral Rights:** Inherent, unbroken status, authority, and land stewardship rights derived through direct genealogical lineage.
- **Na Kanaka:** Codified under the 1839 Declaration of Rights and the 1840 Kanawai, guaranteeing inherent human rights, liberty, and protection of private property from arbitrary taking or administrative divestiture.
- **Ho'oilina:** Lawful heir and successor under the Hawaiian Kingdom Kanawai of 1846 and the Act of the Great Mahele of 1848, holding vested, private, allodial land title.
- **Hoa'aina:** Native tenant status recognized and secured under the 1850 Kuleana Act, running perpetually with the land.

- **Kanaka Maoli:** Codified under the 1859 Kanawai (Civil Code) and protected under the 1860 Law of Sepulture governing the absolute preservation of ilina burials and na iwi kupuna.

I state my standing as a Hawaiian Kingdom National and Subject under the binding, unextinguished international treaties of 1826 and 1849 between the Hawaiian Kingdom and the United States of America within Ko Hawaii Pae Aina.

II. MEMORANDUM OF LAW: JURISDICTION, TREATY LAW, AND CONSTITUTIONAL PROTECTIONS

1. Rule of Law, Fact of Law, and Law of Evidence:

- **Fact of Law (No Origin of Authority):** The County of Kauai, its Planning Commission, and Subdivision Committee possess no origin of authority derived from or traceably delegated by the Hawaiian Kingdom to alter, subdivide, consolidate, encumber, or extinguish Crown, Government, or Allodial land title. Administrative agencies cannot create underlying jurisdiction out of thin air. Any attempt to convert vested allodial title into administrative quasi-property constitutes an ultra vires act, a clouding of title, and an unlawful divesture.
- **Law of Evidence:** Unrebutted genealogical lineage (Mookuauhau) and land records constitute primary, unrebutted legal title evidence under Hawaiian common law (*In re Estate of Kamamu*, 20 Haw. 262). Administrative assertions based on corporate subdivider applications cannot divest or supersede prior existing private allodial title.

2. United States Domestic Law & Constitutional Mandates (Articles I through X):

- **Article I (Sections 8, 9, 10):** Prevents ex post facto administrative takings and explicitly forbids any political subdivision from passing rules that impair the Obligation of Contracts (Section 10, Contracts Clause), fully protecting original Mahele land grants and allodial patents.
- **Article II (Sections 1–4):** Establishes that administrative boards operating under state color of law cannot act outside statutory and executive mandates to divest private property rights.
- **Article III (Sections 1–3):** Limits administrative bodies from exercising judicial power to quiet or extinguish land title without full judicial due process.

- **Article IV (Sections 1“4):** Mandates Full Faith and Credit (Section 1) to historical land tenure records, guarantees Privileges and Immunities (Section 2) to native landholders, protects property rights (Section 3), and guarantees protection against administrative overreach (Section 4).
- **Articles V & XIV:** Strict Due Process guarantees against taking private property for public or private development without just compensation.
- **Article VI (Supremacy Clause):** Declares federal treaties“including the 1826 and 1849 Treaties with the Hawaiian Kingdom“to be the Supreme Law of the Land, binding all municipal and state agencies.
- **Articles VII, VIII, IX, X:** Preserves common law rights, protects against unconstitutional administrative fines/deprivations, and reserves non-delegated powers to the people.

3. Hawaii State Constitutional Mandates & Statutory Bridge:

- **Hawaii Constitution Article I, Section 5:** Guarantees due process and equal protection of the laws.
- **Hawaii Constitution Article I, Section 20:** Inverse Condemnation“prohibits taking or *damaging* private property for public or private development without just compensation.
- **Hawaii Constitution Article IX, Section 10:** Mandates that the State and County shall provide for the protection and promotion of public health, safety, and general welfare. Approving 20-lot subdivisions on flood-prone, geologically sensitive terrain violates this affirmative duty.

4. Statutory Bridge to Hawaiian Kingdom Jurisprudence:

- **HRS Section 1-1 (Common Law & Hawaiian Usage):** Incorporates Hawaiian Kingdom common law and Hawaiian usage prior to 1892 as binding statutory law. HRS Section 1-1 acts as the explicit statutory door bridging superior Hawaiian Kingdom jurisprudence into state law.
- **HRS Section 2-2:** Reaffirms the continuity of established law.
- **HRS Section 7-1:** Codifies native tenant rights to gather, access, and utilize natural resources, water, and timber.
- **HRS Sections 172-11 and 172-12:** Expressly preserves private allodial property rights, vested Hoa'aina land tenure, and original land title reservations.

III. THREE-PRONG KA PA'AKAI ANALYSIS & EXPOSURE OF AMBIGUITY, DIVESTURE, AND QUASI-AGREEMENTS

Under the framework established in *Ka Pa'akai O Ka 'Aina v. Land Use Commission*, 94 Hawaii 31 (2000), the County must satisfy a mandatory

three-prong assessment prior to taking any administrative action. The Makai Koloa Declaration and Application No. S-2025-2 fail to meet these requirements:

1. **Identification of Traditional & Customary Rights:** The scope of protected Kuleana rights across TMKs: (4) 2-6-014: 041/046 and 2-6-015: 005 includes all 101 enumerated Mauka to Makai practices (gathering La'au Lapa'au, accessing Wai Puna springs, coastal fishing, transit along traditional Ala Loa/Ala Hula trails, and maintaining spiritual connection to land).
2. **Extent of Impact by Development:** Converting Parcel Q into a 20-lot subdivision results in severe degradation of private Hawaiian Kingdom land, restriction of traditional access corridors, disruption of natural drainage pathways, and destruction of coastal ecosystems.
3. **Feasible Mitigations:** Quasi-mitigation measures, ambiguous developer declarations, and administrative conditions do not protect vested rights. Where a development threatens ilina burials, cave systems, or water pathways, the only lawful mitigation is denial or indefinite stay.

IV. COMPREHENSIVE IMPACT & HAZARD ANALYSIS: WATER, CAVES, BURIALS, DRAINAGE, AND COUNTY LIABILITY

Granting final map approval for Agenda Item G.3.a establishes direct legal and financial liability for the County of Kauai and applicant Makai Koloa, LLC due to the following unmitigated hazards:

- **Archaeological Reports, Cave Systems, and Caverns:** The Koloa basin contains extensive subterranean lava tube networks, karst caverns, and coastal cave systems. Heavy grading and 20-lot residential construction pose immediate risks of cavern collapse, alteration of subterranean water pathways, and irreversible damage to fragile underground environments.
- **Burials (Ilima) & Na Iwi Kupuna:** Known subterranean caves and coastal dunes in Koloa contain ancient ilima interments and na iwi kupuna. Approving surface disturbance or boundary shifts over these areas violates the 1860 Law of Sepulture, HRS Chapter 6E, and constitutes illegal desecration.
- **Improper Water Management & Drainage Failures:** Channelizing stormwater across 20 residential lots creates severe runoff acceleration. Natural drainage corridors feeding into lower Koloa and coastal waters will be overwhelmed during major rain events.

- **Flood Probability & Water Breach into Homes:** Existing residential structures down-gradient from Parcel Q face direct flood breaches, foundation damage, and structural inundation. Under the Reasonable Use Rule and Inverse Condemnation (Hawaii Const. Art. I, Sec. 20), approving plans that redirect surface waters into existing homes makes the County directly liable for all resulting property damage.
- **Increase in Bacteria & Waste Management Threats:** Increased density without expanded municipal wastewater capacity risks septic/sewer overflow into porous subterranean lava tubes, discharging bacterial pathogens (enterococci/E. coli) into coastal waters, tidepools, and marine ecosystems.
- **Fire Protection & Fire Mitigation Risks:** Expanding residential density in dry coastal corridors without dedicated secondary emergency evacuation routes and certified fire suppression infrastructure exposes the community to unmitigated wildfire threats. In the event of a disaster, compromised evacuation corridors create direct municipal tort liability under HRS Chapter 662 (*Kaui v. County of Kauai*).

V. SELF-EXECUTING TRANSGRESSION FEE SCHEDULE

Notice is hereby given that any officer, commissioner, employee, or corporate entity who proceeds to approve, execute, or implement Agenda Item G.3.a (Application No. S-2025-2) over this formal notice, without establishing origin of authority or securing express consent from the lawful Ho'oilina, shall be subject to the following self-executing fee schedule for constitutional, property, and civil rights transgressions under color of law (enforceable under 42 U.S.C. Section 1983 and private commercial law):

1. **Unlawful Clouding or Divesture of Allodial Title:** \$10,000,000 USD per parcel, per occurrence.
2. **Disturbance or Desecration of Ilina Burials / Na Iwi Kupuna / Cave Systems:** \$50,000,000 USD per site, per occurrence, plus immediate criminal referral under HRS Chapter 6E.
3. **Unlawful Water Diversion / Drainage Interference / Flooding of Homes:** \$5,000,000 USD per day of unmitigated breach or property interference.
4. **Infringement of Traditional & Customary Kuleana Practices (101 Enumerated Rights):** \$1,000,000 USD per violation, per practitioner.
5. **Administrative Overreach / Ultra Vires Action Under Color of Law:** \$2,500,000 USD per commissioner or officer signing approval documents.

VI. FORMAL DEMAND

1. **IMMEDIATE DENIAL OR INDEFINITE STAY:** The Subdivision Committee must DENY or indefinitely DEFER Agenda Item G.3.a (Subdivision Application No. S-2025-2).
2. **ACKNOWLEDGED COUNTY LIABILITY:** Proceeding with final map approval with constructive notice of these facts establishes direct, unextinguishable liability against the County of Kauai for all resulting disasters, flood breaches, environmental degradation, and constitutional torts.

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By: Roslyn Cummings *Appearing Specially, Not Generally*

Wahine Maoli, Na Kanaka, Ho'oilina, Hoa'aina, Kanaka Maoli Hawaiian Kingdom National and Subject Direct Lineage Heir under Kamehameha I, Kaumualii I, Kaumeheiwa, Lonoikahaupu, Kahakumakalina, Manokalanipo, Makali'i, Nuanua, and Ida "Horner" Waikiki Mailing Address: P.O. Box 315 Kalaheo, Hawaii 96741 Email: roslyncummings@ymail.com

Kenneth Estes

From: Planning Department
Sent: Monday, August 10, 2026 6:23 AM
To: Kenneth Estes; Shanlee Jimenez
Subject: FW: Agenda Item G.3.a (Makai Koloa Declaration)

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony

S-2025-2

From: Roslyn Cummings <roslyncummings@ymail.com>
Sent: Friday, August 7, 2026 4:54 PM
To: Planning Department <planningdepartment@kauai.gov>; Luc Dbedt <dbedt@kauai.gov>; DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>; Jessica L Puff <jessica.puff@kauai.gov>
Subject: Agenda Item G.3.a (Makai Koloa Declaration / Kukuiula Parcel Q Subdivision)

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FORMAL PETITION UNDER THE RIGHT TO PETITION, MEMORANDUM OF LAW, AND SELF-EXECUTING TRANSGRESSION FEE SCHEDULE

TO: Planning Commission, Subdivision Committee, Planning Department, and Office of the Mayor, County of Kauai **DATE:** August 11, 2026 **MEETING:** Subdivision Committee Meeting (Agenda Item G.3.a) **SUBMITTED VIA:** planningdepartment@kauai.gov

RE: FINAL SUBDIVISION MAP APPROVAL “SUBDIVISION APPLICATION NO. S-2025-2, KUKUIULA PARCEL Q SUBDIVISION, MAKAI KOLOA, LLC, ET AL. (PROPOSED 3-LOT CONSOLIDATION AND RE-SUBDIVISION INTO 20 LOTS, TMKS: (4) 2-6-014: 041 AND 046 / 2-6-015: 005, KOLOA, KAUAI, WITHIN KONA MOKU)

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2. **Disturbance or Desecration of Ilina Burials / Na Iwi Kupuna / Cave Systems:** \$50,000,000 USD per site, per occurrence, plus immediate criminal referral under HRS Chapter 6E.
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By: Roslyn Cummings *Appearing Specially, Not Generally*

Wahine Maoli, Na Kanaka, Ho'oilina, Hoa'aina, Kanaka Maoli Hawaiian Kingdom National and Subject Direct Lineage Heir under Kamehameha I, Kaumualii I, Kaumeheiwa, Lonoikahaupu, Kahakumakalina, Manokalanipo, Makali'i, Nuanua, and Ida "Horner" Waikiki Mailing Address: P.O. Box 315 Kalaheo, Hawaii 96741 Email: roslyncummings@ymail.com