

**STATE OF HAWAI'I**  
OFFICE OF HAWAIIAN AFFAIRS  
560 N. NIMITZ HIGHWAY, SUITE 200  
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT  
MINUTES

February 22, 2022 10:00 a.m.

ATTENDANCE:  
Chairperson Kaleihikina Akaka  
Trustee Leina'ala Ahu Isa  
Trustee Dan Ahuna  
Trustee Keli'i Akina  
Trustee Luana Alapa  
Trustee Brendon Kalei'aina Lee  
Trustee C. Hulu Lindsey  
Trustee John Waihe'e, IV

BAE STAFF:  
Brandon Mitsuda  
Mark Watanabe

ADMINISTRATION STAFF:  
Hussey, Sylvia, Ka Pouhana / CEO  
Brown, Casey / COO  
Hinck, Ramona / CFO  
Kamali'i, Na'u / Chief Advocate  
Ozawa, Nietzsche / Interim Senior Counsel  
Ohta, Everett / Interim General Counsel  
Ferreira, Kamakana / Lead Compliance Specialist  
Chak, Kevin, IT  
Santos, Dan, IT

EXCUSED:

I. CALL TO ORDER

Chair **Akaka** calls the Committee on Beneficiary Advocacy and Empowerment meeting for Tuesday, February 22, 2022 to order at **10:00 a.m.**

Chair **Akaka** notes for the record that PRESENT are:

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	EXCUSED	10:42 a.m.
TRUSTEE	DAN	AHUNA	EXCUSED	10:32 a.m.
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	LUANA	ALAPA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	JOHN	WAIHE'E, IV	PRESENT	

At the Call to Order, **SIX(6)** Trustees are PRESENT, thereby constituting a quorum.

II. PUBLIC TESTIMONY on Items Listed on the Agenda\*

**Germaine Meyers:** Aloha, my name is Germaine Meyers. I am an OHA beneficiary for beneficiary advocacy and empowerment. I'm also a Nānākuli Hawaiian homestead lessee. Today I come before the Beneficiary Advocacy and Empowerment Committee to address things that are coming before the Legislature. In whole, there are numerous bills that are coming to the Legislature and I would like to address all of them through my testimony in a specific way. I'm asking OHA Trustees to continue your advocacy and perseverance in asking the Legislature to increase the ceded land revenues. The Public Land Trust given to OHA, remove the cap and raise the amount. At the same time, OHA is asking for this to happen. I understand that there are bills, they're asking for \$15 million to go to CNHA and also \$600 million to go to DHHL. I'm asking the Trustees today for all of you to work together in supporting, Na'u, our Public Policy Advocate to convince the Legislatures, all of them are people, including my Legislators, Senator Maile Shimabukuro and Representative Stacy Eli. I have wanted to come to address you before, but I've never had an opportunity to due to my time schedule. But what has always been on my mind is to come here and express to you my concerns that you give the Legislatures the same messaging, but in addition to that you do not spread false rumors or false lies to the lāhui regarding these efforts. At this specific time one year ago, one of the Trustees had written in his column his Trustee column, that he was upset that the Legislature were having OHA do its job by funding DHHL, then he was quite upset with the Chairman and the CEO for not saying to the Legislatures that it was their job to fund DHHL, but I'd like to point out that in 2008, specifically on June 7, 2008 in the Star Bulletin, there was articles that OHA, DHHL form a valuable partnership for mutual gain. The Office of Hawaiian Affairs, not the Legislature will grant as much as \$90 million to help the DHHL Hawaiian Homelands put people in homes, a plan to financially aid the state agency that provides homes for Hawaiians fits the OHA Board Mission and improving the lives and protecting the culture of its beneficiaries. And it goes on to talk about the \$3 million that would be given each year for 30 years to pay debt service on revenue bonds. The grant also will augment the goal of the Department of Hawaiian Homelands to sustain the partnership between OHA and DHHL anticipates the kind of cooperative efforts that will be necessary should the Akaka Bill receive approval in Washington. Trustees, I will go ahead because of my time limitation. I'll go ahead and email this article to all of you because I want to put into perspective that before we go to the Legislature, please look into your your research and before you go ahead and put out a column, and especially when you're blaming the current Chair or the current CEO for false intentions or negative intentions at the Legislature, I'd like to ask you to please do your research. In here it says, though both have largely common beneficiaries, they sometimes come into conflict. They proposed agreement between the state and OHA for payment for ceded land revenues was rejected by lawmakers during the last session, in part because of objections from Hawaiians who thought OHA was extending benefits to widely. The partnership could bring Hawaiians closer and smooth out differences, so to see a column that you know blames the Legislature for wanting OHA to fund DHHL is really poor leadership, so I see that my time has run out. Thank you Akaka, and I hope you all have a blessed day.

**Scott Crawford:** Aloha kākou, good morning Trustees, members of the Committee and staff. My name is Scott Crawford and I am the Executive Director of the Kīpahulu 'Ohana. I'm here to testify in support of BAE 2202. The resolution in support of the Community Based Subsistence Fishing Area designation for Kīpahulu Moku and first off, on behalf of Kīpahulu 'Ohana, I just want to express our support, our mahalo for your support of this resolution and for our efforts for the Trustees and for the staff who helped put the resolution together and bring it before you. I just wanted to give a little bit of background about the Kīpahulu 'Ohana and our efforts around the CBSFA designation. The Kīpahulu 'Ohana was founded in 1995 by Uncle John Lind and Auntie Tweetie Lind and Uncle Mike Min and our main project for many years was the Kapahu Living Farm which is a traditional wetland taro farm in partnership with Haleakalā National Park. In about 2010, we took on expanding our efforts to include the Makai aspect of Ahupua'a management and Moku management and work to develop our Malama I Ke Kai Action Plan, which was finalized in 2012 with input from many fishermen and cultural practitioners and community members, scientists and teachers and one of the items in that plan was a priority action to designate Kīpahulu Moku as some sort of a protected area, a managed area. We chose a community based subsistence fishing area because it is the only designation within the state that first off, prioritizes traditional and customary practices, and focuses on the traditional lifestyle of the Hawaiians in relationship to

the resources, not just on the health of the resources themselves and also it allows for the community to enter into a co-management with the state and especially in remote Kīpahulu where the presence of DAR and you know the distance of DOCARE is very far away. It's all the more important that the community have a real active role in the management of the resources. So over the years we held many meetings and a lot of outreach to the community to develop the rules, package and in 2019 we formally submitted that proposal to DAR along with the management plan and we've continued to do education and outreach and gather feedback on that plan. We have very strong support among the communities and families of East Maui for Kīpahulu CBSFA designation and our emphasis is always on education and for fishers and users to understand the reasons behind the CBSFA designation and the rules that we're proposing so that they you know, comply or participate based on understanding that you know the importance of the pono practices, wanting to be pono and wanting to protect the resources for future generations and so we've, you know, put a lot of effort into outreach and education and we continue to do that moving forward, and we're hoping in April, we're planning to have DAR come out to Kīpahulu for a site visit to go over with all their staff for them to really be able to see. This will be their second site visit, but some additional staff who weren't able to attend the first time to really see exactly the area that we're talking about and then moving forward from there towards a public scoping meeting and towards the formal administrative rulemaking process, so we really appreciate this Committee considering this resolution and supporting this resolution. So as the process moves forward, the Office of Hawaiian Affairs, can take an official position in supporting our efforts and supporting the families of Kīpahulu in being able to manage the resources in partnership with the state and ensure that they are there for traditional practice to continue and Hawaiian lifestyle will continue for many generations to come, so mahalo.

**Ka'uiki Lind:** Good Morning Trustees, Ka'uiki Lind, I was here about a couple weeks ago testifying on behalf of Miloli'i. Same scope, this is for a resolution supporting community based subsistence fishing management area for Kīpahulu Hawai'i. We need the support from OHA and one of the reasons why we came up with the CBSFA designation which what Scott said, and I'd like to repeat is because of the growing, the rapid and significant decline in fish abundance and bio mass as similar to other more populated parts of Maui Island. So we decided on the CBSFA management because that's the only designation that we kind of geared to cultural and sustainable practices of the Hawaiian people and for everybody else too, but the proposed 1600 acres of submerged area under the jurisdiction of the state, about 5.7 miles of coastline, is what the CBSFA would encompass. In 2013, we had 680 petition, 80 members of the communities and their families to sign a petition in support all the CBSFA designations. Again, please OHA support a resolution and that's all I have to say pretty much. Thank you for listening to me and aloha.

**Karin Osuga:** Aloha kākou, good morning and mahalo for allowing me this time. My name is Karin Osuga and I'm the Coordinator for the Maui Nui Makai Network. Today I come before you on behalf of the Maui Nui Makai Network to testify in support of Action Item 2202, Resolution supporting Community Based Subsistence Fishing Area designations and rules in Kīpahulu, Maui. The network is composed of eight community group members across Maui County and four supporting organizations. Our mission is to connect communities across Maui Nui to care for and restore healthy ecosystems on which Hawai'i's people depend and Kīpahulu 'Ohana is a founding member of the Maui Nui Makai Network, which was formed in 2013, our purpose as a network is to share and learn from one another's diverse experiences, share lessons learned and best practices and to support one another in malama-ing our specific makai areas that we care for. As part of our effort to support Kīpahulu 'Ohana, we have been involved in their CBSFA process from the beginning and in particular we've hosted online public informational meetings. In 2021, we held a total of four meetings to provide opportunities for members of the public to learn more about the proposed Kīpahulu CBSFA, ask questions and share any concerns that they may have, we've also been very supportive of the efforts through social media outreach in helping develop products for social media content and amplifying Kīpahulu 'Ohana's message and Kīpahulu 'Ohana is also a large part of our Maui Hikina Huli A Mahi Process, which is an effort that the network is leading by bringing together communities of East Maui, which are all looking at Kīpahulu as an example of what regional management could look like for that area. So mahalo, OHA Trustees for support of community lead management and mahalo for allowing me this time to testify, aloha.

**Laila Kaupu:** Aloha kākou, 'O wau 'o Laila Kaupu ko'u inoa. No Omoka'a a me Miloli'i mai au. Noho au ma Miloli'i, Ho'ōpūloa. Good morning, Board, OHA, I'm here before you folks this morning in support for OHA and the Chair and the Committee of Beneficiary Advocacy and Empowerment in adopting the resolution to support the Kīpahulu Community Based Subsistence Fishing Areas and rules. I along with a few that have testified this morning have been before you a few weeks ago in the support of our own community Miloli'i and their Community Based Subsistence Fishing Areas. I may not be of Kīpahulu or Maui in itself, but as a sister community in this effort and the lawai'a of Miloli'i, I support traditional and customary practices in which the CBSFA designation aligns with. I support the protection of the ocean resources within and surrounding rural and secluded communities such as Miloli'i, Hā'ena and Kīpahulu who also look towards their communities and their traditional and customary practices to help in replenishing the abundance of their ocean resources while utilizing what they see fit for their community and for their generations to come. In all reality, this is not a practice, this is a lifestyle and a lifestyle of many communities. As a sister community in this effort, we are in this wa'a together and as we hap hou through the process we learn of each other and each others community and what best helps to keep us moving forward. My support for OHA to adopt a resolution in support of Kīpahulu and their CBSFA is one of the many synchronized strokes of a paddle in the efforts to obtain a community based subsistence fishing area in their community. On behalf of the Miloli'i community here on the Big Island, I wanna mahalo OHA staff, Ka Pouhana, Chair and Committee of Beneficiary Advocacy and empowerment for the opportunity, mahalo ā nui loa.

**Niegel Rozet:** Good morning Board, good morning Chair, good morning everybody, aloha, just wanted to share my support and urge the OHA Board to support this CBSFA designation by Kīpahulu as well. My name is Niegel Rozet, I'm from Makawao, Maui and living in Wahiawa now. I'm in full support of communities of their place managing their own resources and this proposal from Kīpahulu does that. Yeah, really good opportunity for the 'Ohanas from Kīpahulu to make sure there's fish for the future and yeah, that's all I wanted to share, mahalo.

**Kevin Chang:** Good morning Chair and Committee for Beneficiary Advocacy Empowerment, Pouhana and team. My name is Kevin Chang, I'm the Executive Director of an organization called Kua'āina Ulu 'Auamo, which means grass roots growing through shared responsibility our acronym, KUA, meaning backbone. KUA was created by the families that make up some of the folks who have already testified, and we stand behind and affirmed their testimony. We were created initially by communities in Mo'omomi, Hā'ena, Kīpahulu, Miloli'i, Ewa Beach, Wai'anae and many others because of a desire to have more say and collaborate to better manage fisheries closer to the traditional ways where communities participated as part of a konohiki system and this resolution before you today is very similar to the one in Miloli'i and the one passed from Mo'omomi and Hā'ena in 2014. As a former and proud employee of OHA back then, I left to do this work because I found that it was important for if our government is to help, if our government is made up of the people, then the people need to be more involved in the management, especially of the resources on the ground and as a former manager at OHA I saw this gap missing and so I appreciate that these resolutions in the past, and hopefully this one as well, have been supported by the Board. I think it's important for OHA to be able to not just make Hawai'i better by supporting the Native Hawaiian community through its work, but also directly supporting the desires and efforts for self determination that happened within our own communities and regions across the state, especially in those rural areas, these kīpukas where the culture and community still has the strength of values to mālama 'āina and can lead our state forward and lead the world forward and I would like to say that I think your support of this kind of resolution supports that kind of empowerment and builds a voice for Hawaiians in caring for Hawai'i and the earth. Thank you for this opportunity to testify, aloha.

**Tweetie Lind:** Good morning everybody from Kīpahulu. Good morning to all you Board of Trustees of OHA. I have had actually very good communication with you folks over the years, even though it has changed the Board over the years. We have appreciated all that you've done and I hope that looking at our project in support of CBSFA is very important for something kind of, some kind of guidelines that you can follow through instead of all the Hawaiians trying to go on their own. We have always found out that as a 'ohana that if we stuck together as a Hawaiian and we kept our cooperation Hawaiian it was much easier for us to do what we

have done in Kīpahulu. Over the years, OHA's support have always been I hope that they have been proud of what we have done on the state land that we have received on the projects that have gone around us like the building up of the farm taro patch and making our kitchen. All that came out of a purpose, actually all this came out way before we even created the Kīpahulu 'Ohana. It came back from the old days, in the 1978 after Kaho'olawe when we returned to Kīpahulu and Maui and Hana, we wanted to make things off our own. As we went through going through business, going through land, it wasn't easy to get on it because we never owned the lands. They say was all owned by the corporation of Hana Ranch or the hotel but we all loved them and we all worked with them. They have supported our parents and our families over the many years. So in behalf of the Kīpahulu 'Ohana like I said, this has been a long story, by the way we do have a certified Konohiki who is Uncle John Lind and he has been fighting this kind of movement. Anything to improve our ways of life in the Hawaiian have always been to do this. We are sorry sometimes if maybe we have been outspoken in things, but remember with this small community, it's just a whole bunch of us, with just like maybe 30 of us in this community that are surrounded by the National Park and if you ever worked with the National Park like we have over the years, we slowly doubt if they were really in our favor, but always to try to make themselves look better, which we have done. We're very obedient, actually, and we never tried to talk back because we knew down the road that we still had to meet each other. So like I say OHA, what you've done, I watch how you create it and hopefully you have never gone away from the focus of making lives better for the Native Hawaiians. Hawaiians, yes, but it's the Native Hawaiians prior to 1778, which we always push in front of in our community, 'cause we were here first. So I also want to thank some of the old timers, Senator Kahele, who is Kai Kahele's father, he was actually the one that came in to Kīpahulu and explained to us about saving the fish in Miloli'i. Before him we had friends like John Wailani, who was also down there and Kapiko down at the City of Refuge where they were trying very much to save and preserve their fishing area. So it was Senator Kahele that kind of got us started and since then we have progress, slow, slow but effective, and I think the 'Ohana is very effective in what we have done because we have a lot of respect. We have created a lot of good things behind us, taught thousands and thousands of kids, whether they were from the mainland from Hana from Honolulu from Kaua'i, Moloka'i, all around our islands. We have taught them without a doubt to teach them the good things that we know. So thank you OHA. My love goes all out to you. It's more than what you think. CBSFA and the fishing is not the only thing of our Hana's concern. We have many, many concerns that we hope you can maybe one day really come into Hana and really look at beyond what you see or what you hear, but I thank you all of you, all the old timers on the OHA Board and all the new ones. Mahalo very much for listening to our testimony. God bless all of you have a safe and honorable year, mahalo.

### III. NEW BUSINESS

#### **A. Action Item BAE #22-02: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Kīpahulu, Maui, Hawai'i**

**Chair Akaka** yields the floor to Ka Pouhana Hussey.

**Ka Pouhana Hussey:** Thank you, Chair, we will ask Trustee Aide Kama Hopkins to let us know the work that they have continued to be doing along with Shane, go ahead Kama.

**Trustee Aide Hopkins:** Mahalo, Ka Pouhana. Aloha Trustees, Madam Chair, Kama Hopkins for the Board of Trustees. We just want to share Trustees that in working with our, not only Miloli'i, but Kīpahulu communities as well, we wanted to share this special mahalo to our community, our beneficiaries, our people. They did the work, we were simply a conduit to help get their work here for us to take a look at and approve in support so that when they go before the Board of Land and Natural Resources for public comment they will be supported by us and know that they have our kōkua. Today, Shane could not be with us but he wanted me to share this thought. He wanted to express his mahalo and recognize our Native Hawaiian communities coming forward to civically engage in an arduous process to improve and manage valuable resources for sustainability by

effectuating their traditional and customary rights and practices along with their inter generational 'ike kupuna that will decrease the gap of cultural discontinuity and increase social economics. You know, as Shane and I have been able to work with Kevin and different communities throughout our pai'āina, we want to express again our appreciation to Ka Pouhana, to Chair Akaka, to our Chief Advocate Na'u Kamali'i for all of their support and we would like the Trustees to know that this isn't something that's done in a vacuum. It is something that's done with the work of everyone involved, even getting these resolutions to the Board, you know we want to say thank you to Na'u, to Ka Pouhana and to Chair Akaka because they make sure that it's the very best version that it can be. As it is presented to all of you and I know many of you have had the opportunity to look it over so without delaying this meeting any further, I really want to thank on behalf of Shane and I, thank once again, those that have testified this morning in support of this resolution. We truly, truly appreciate it, and please know that that we are here to support you as best as we can and Madam Chair, that's all for me. I stand ready for any questions if Trustees have them.

**Chair Akaka:** Mahalo, Kama and mahalo to Shane for all your folks work on this and I also want to mahalo our testifiers for what they shared with us this morning. It's very important to hear the voices of the community that we're working with this. Members are there any questions, concerns? Seeing none at this time, mahalo.

**Ka Pouhana Hussey:** I'll turn it back to you, Chair for the action by the Trustees.

**Chair Akaka:** May I please have a motion to approve **Action Item BAE #22-02: A Resolution Supporting Community Based Subsistence Fishing Area Designations and Rules, Kīpahulu, Maui, Hawai'i.**

**Trustee Ahuna:** So moved

**Trustee Waihe'e:** Second

**Chair Akaka:** It's been moved by our Trustee Ahuna and seconded by our RM Chair Trustee Waihe'e. Any other discussion numbers? Seeing none, Brandon could we have a **roll call vote**.

							10:40 a.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED	
LEINA'ALA						EXCUSED	
DAN	1		X				
KELI'I			X				
LUANA			X				
BRENDON KALEI'ĀINA			X				
CARMEN HULU			X				
JOHN		2	X				
CHAIR KALEIHIKINA			X				
<b>TOTAL VOTE COUNT</b>			7	0	0	1	

**MOTION:** [    ] UNANIMOUS [  ] PASSED [    ] DEFERRED [    ] FAILED

IV. UNFINISHED BUSINESS

**A. 2022 OHA State Legislative Bill Package Updates – SB2122/HB1474,  
SB2121/HB1473, coordinated advocacy - Matrix 1\*\***

**Chair Akaka** yields the floor to Ka Pouhana Hussey.

**Ka Pouhana Hussey:** Thank you, Chair, I'll go ahead and ask that Chief Operating Office Casey Brown and Chief Advocate to take over this portion of the meeting and continue on.

**COO Brown:** Mahalo, Ka Pouhana, right to Na'u.

**Chief Advocate Kamali'i:** Aloha everyone, aloha Trustees, also to community who is also online. Just a quick comment regarding the Kīpahulu resolution, gives me great joy, gives me great joy. All right this morning with regard to the legislative update, first thing we're going to do is to go over the calendar, which will explain why things are going to move along very quickly at this point in time, with regard to this update. So at this time we are at February 22nd. Last time we presented on the 15th, we noted that there were several bills that might die on the 17th and 18th because they would not make the hearing deadline. So I will report on that. I would say bills did die. With regards to the 22nd and also noting the first, this week there are several bills that are being heard in the Finance Committees i.e. WAM and Finance and you note on the 24th, the five day recess begins, doesn't mean that they can't have hearings, but bills are moving very quickly through these committees. Noting also on the third, the single referral deadline. Bills need to be heard by then i.e. WAM and Finance or they will die. There are hearings on the 3rd that have already been set by way of a deferral if they don't get through March 3rd, then they fail to make the first decking deadline. So what you're going to see from us today is really a very quick status of bills that have died. Bills that are deferred, bills that have not yet received a hearing because they are either A. headed to their last committee, headed to Finance or headed to WAM. I would look forward to a much more sort of maybe robust presentation on the 1<sup>st</sup> because we will be combing through all the bills that have made their way to Finance or WAM and when I mean all the bills, I mean all the bills, so there may have been some that we have monitored but they have survived these committees so we will take note to take a look at them in preparation for the crossover to the House. So I just wanted to preface our, you know, our update with that.

Also there was a hearing today on when we present on the package bills on the PLT Bills which we were able to watch while the community was presenting. So we have an update as to the status of the PLT Bills. Alright, so with regards to the OHA package, we'll note that the Building Back Pono bills did not survive, both versions of the House and Senate are dead. That does not mean that the effort you know is dead. It just means that this session they did not survive, so we will continue to look at ways to address the issue of socioeconomic conditions within environmental impact statements through the Legislature, but also through other means and maybe we can report back later how that could be done because it is a very important thing to our community, but just it should be done that the socioeconomic impact of any of these developments is taken a look at. But for now, for this session, both HB1473 and SB2121 are dead and want to thank the Trustees for making calls to try to get a hearing, but that effort was unsuccessful.

With regard to 1474, the House version of the bill of our PLT bill did not survive, so what remains is Senate Bill 2122 and it is in its last consideration for a crossover to the House if it survives and we believe it will survive, but there is also another bill which is SB2021, which was introduced by Senator Keohokalole which is being heard in consideration. They address different things but they are still moving. So what has happened in hearing today on SB2122, our PLT bill is that it has been deferred in hearing today until February 24th, that is Thursday at 10:05 a.m. The Keohokalole Bill, which is SB2021, it's been deferred until tomorrow and I believe that's at 10:00 o'clock as well. So interesting is that although they are very closely related, they are being deferred to two different days. We know what's in our bill. The Keohokalole Bill essentially looks at the CFTHA

Accounts. Looks at the definition of what are receipts, and also looks at establishing or reestablishing this committee. So it just tells me that they're considering how to do this, so we'll see what happens in a couple of days. Are there any questions regarding status or either of these? I'm bringing up what is 2021 because it's so closely related to our bill and it is surviving. Are there any questions?

**Board Chair Hulu Lindsey:** Na'u, that's not the bill where we share the Public Land Trust monies, right?

**Chief Advocate Kamali'i:** That is not the bill where we share the Public Land Trust money. SB2021 requests or that agencies collect receipts for any disposition of the Public Land Trust to each fiscal quarter and transfer to OHA the 20%. Also, requests return to OHA the certain monies that are previously claimed in the Public Land Trust over payments, what we know as CFTHA. Also provides that definition of receipt, and we have been using that definition which was previously, and so has the state in ACT 304 which no longer exists, but we continue to use that definition and then establishes the Public Land Trust Negotiating Committee. Our PLT bill clearly comes out with the annual amount due of 78.9 million. The past due amount of 638 million, and within the 638 million is the CFTHA account monies of 29 million, it's not specifically broken out, but included within the 638 million amount because that it's past due. This bill breaks it out so that there is a vehicle to pay it out to OHA. So we'll see what they do and how they reconcile those two bills. So it's good news that it's going. I'm not sure what it means that they're heard on two different days.

**Chair Akaka** recognizes Trustee Ahu Isa

**Trustee Ahu Isa:** Thank you, Chair. Kala mai, sorry I'm late, I had to go to another meeting. Going back to SB2121, the one that died. I did get in touch with Senator Inouye's Office 'cause she's Chair of that Water Land and I talked to there, they have a Committee Clerk that looks through all of the bills. I talked to Mel Ching, he also works in her office and Tammy Kotani. They said that bill is unconstitutional the way it's written, that's why they wouldn't give it a hearing. So can our attorneys look at that? They said it's not right the way it was written, and it's part of our package bill our package of OHA bills.

**Chief Advocate Kamali'i:** Thank you, we'll follow up with that Trustee.

**Chair Akaka:** Any other discussion members? Na'u, if you can please continue.

## **B. 2022 OHA State Legislature Bill Position Related to Measures Naming OHA – Matrix 2\*\***

**Chief Advocate Kamali'i:** Moving on the OHA named bills. So number one relating to Mauna Kea. Ka Pouhana testified along with Trustee Ahuna and that matter was deferred, but perhaps I can defer to you Ka Pouhana to give everyone an update on the testimony received from Mauna Kea on Saturday. She's note here, okay. So HB2024 I'll just go through it.

**Chair Akaka:** Kala mai, unless Trustee Ahuna would like to say something on it.

**Trustee Ahuna:** Mahalo, it's just that we were also on the working task force that made this bill so we were there to support it and there were a lot of people there to support it too as well, so thank you everyone for that.

**Chair Akaka:** Mahalo for sharing that Trustee Ahuna.

**Chief Advocate Kamali'i:** So the technical on SB2024 is that it's deferred for decision making on Wednesday, tomorrow at 11:00 AM, so that's decision making only, so we'll see what happens. There was robust testimony on both sides, so we'll see what happens.

HB2311 has received no hearing in Finance, so essentially we wait to see what the disposition is, but at this point no hearing has been set, and so as I indicated from now until March 3rd, notices and hearings could come up. But at this point, no hearing has been granted.

Relating to federal lands HB2327. That matter is dead. Relating to historic preservation. SB1411, there has been no hearing in JDC, so that was a two committee referral. We did support, but no hearing yet, so we have to monitor that to see if it you know, if a hearing is granted, if not then it would die.

SB2021, I just talked about that. That is what was the Senator Keohokalole Bill. SB2770 and I'm very, you know, 2770 and it's a House counterpart, it's just great that that's moving along. At this point, as of 2/18 the 48 hour notice, granted till 2/22/22, so the last action is WAM had recommended the measure be passed with amendments. So that looks very good and we've had positive feedback on the success of that bill to establish a Native Hawaiian Rehabilitation Program.

Okay, relating to Government Accountability. As you can see that bill has died. Next 3279 relating to Hawaiian Community Development Authority. That bill has died as well and that's it for the OHA named field that we had looked at last week.

**Chair Akaka:** Is there any discussion members on this? Seeing none, Na'u if you can please continue with the next matrices.

### **C. 2022 OHA Legislature Bill Positions Related to Measures Affecting Native Hawaiians – Matrix 3\*\***

**Chief Advocate Kamali'i:** Okay, going back to the top of what is matrix #3, so again I just want to say Trustees, we didn't offer any new bills for consideration because we wanted to see how they survive, what rises and if they cross over and we're combing through all the bills to see what the status is, even if they didn't make our list the first time because they rise, because of some of the subtleties, we may recommend them for consideration and change position.

So relating to the juvenile restitution, we oppose that bill. It has not received a hearing, this particular bill. But its companion, SB2086 died is dead and that's a technical. We'll really see what happens in the back door discussions about that bill, as I suspect there are discussions going on. Very quickly, HB1473 I already talked about that, that died. Relating to 1474. That was our House version of PLT, that died. Relating to 1508 relating to regenerative tourism, that died as well. Relating to a criminal reform, HB1567. There has been no hearing in Finance, so we're watching to see the notices to see if it gets a hearing. If it does, then you know a testimony to be submitted in support.

Regarding Hospital Association, excuse me, Kona Hospital appropriation bill HB1638. No hearing yet in Finance. Regarding to the House version of the regenerative tourism 1767 that bill died and this list will get shorter, will remove all of the dead bills and however may be replaced with other bills with change position. Relating to the geothermal royalties, that one has not received a hearing yet, but HB1808 is that, as you recall, that's the one that transferred the royalties to the counties and the state didn't like that because it would reduce their income.

Relating to government data, that one has not received a hearing yet. That's HB1885. Relating to minimum wage. The House version is dead. The Senate version is still going, so that's, you know, just their choice, how they want to handle that. Relating to Board of Education. This is where we have one member of the board, one member of the Board of Education be a Hawaiian immersion expert. That one has not received hearing yet, it's not a money issue, but it still hasn't received its hearing in JHA, so we're still, you know, watching that, it needs to get a hearing and we are in support of that.

Relating to the University of Hawai'i. So this again, these are all educational type bills. HB2015, no hearing yet in Finance. But note that the effective date of that bill is 7/1/2050, so it's likely when there's an indication of that type of effective date that there's lots of discussion going on for the proponents of the measure by UH and the state. We just talked about Mauna Kea. Relating to 2202, state symbols i.e. 'Ōhi'a Lehua, to be our state endemic tree. There has been no hearing in JHA yet. But also note the effective date is 7/1/2044. So they would be looking, you know at to see if there are any money issues when they give that kind of effective date and to be talking with appropriate agencies.

Relating to the Board of Land and Natural Resources, this bill is dead, that was 2270. Relating to the equitable distribution of grow your own resources. That one has not had a hearing yet, so we're watching. Obviously we are supporting that and we'll see what happens. Relating to the Native Hawaiian rehabilitation programs, that's 2311. HB2311, you know the counterpart I just spoke to, which is SB27770, so no hearing in Finance on this one, but the other version of the bill is moving. Noting also that the effective date is July 1, 3000.

We talked about our package bill on the EIS, that one is dead. Relating to federal lands establishing a Mākua Valley Task Force, that died as well. Relating to 2511, Department of Hawaiian Homelands. This is the 600 million bill that would be funding DHHL for Hawaiian Homeland. It was also spoken to by a community testifier Germaine, noting that this bill has not had a hearing in Finance yet.

Relating to historic preservation, 2411. We brought this to your attention a couple of times. There's no hearing in JDC on this measure. Relating to minimum wage, I noted that the House version of this bill died. However, the Senate version of this bill has been transmitted to the House, so that bill is moving, being transmitted to the House. First reading was on the 31st. Relating to increase in a payment, that's the Keohokalole Bill, the 2021 I've already talked about it and that has a hearing of tomorrow.

2023, relating to Health Equity, we were to issue comment. No hearing yet in WAM. Relating to rental discrimination SB206 that was transmitted to the House. Now just note that as we go through these numbers, they track what we did last year, but these numbers going forward are not in chronological order from the top, so this would be the bills that you the Trustees had provided new positions on last week of support or support with amendments. So regarding to rental discrimination that moved on to the House. Relating to the koa trees, no hearing yet.

SB2067, relating to burial sites, there's been, you know, much talk about this and who is to cover the cost when iwi is exposed due to coastal erosion. We did support that with amendments, but no hearing yet. So that's the status of that and Kamakana is, you know, still on top of that bill as he's the subject matter expert.

Relating to court appointed attorneys SB2072 and then that has not received a hearing yet and if you recall, this is ensuring that our families receive a court appointed attorney as soon as possible on the first day of their hearing in a CPS case. Related to juvenile restitution, the Senate version of that is dead and SB2021 is the environmental review. That's our bill that is dead. Our bill, SB2122, relating you know, as I spoken about, our bill is moving along and decision making will be on Thursday, February 24. I also want to interject that what is happening as well with regards to our bill. If you note that Peter Apo had an article this morning in Civil Beat. I was asked last week to be on KITV on Friday, which I did do the early morning show. I was also interviewed for public radio, we also had done presentation to the House, Native Hawaiian Caucus. Last week we also presented to the Nānākuli Neighborhood Board and this coming Thursday we will be presenting to the Moloka'i SHAW community. I think it's a good thing that as this bill moves along, we continue to increase you know, our exposure with a short PowerPoint presentation and I'm just going to interject here Trustee, inviting the Trustees if you know your community that you represent or NHOs or organizations that you represent that may want a short 20 minute presentation, please let us know and I present at night too. So just let us know to keep this going.

Relating to the Public Housing Authority SB225, we did oppose this bill, however, it has been deferred until the 3<sup>rd</sup> and for our decision making, we'll see what we can do additionally, to make sure that bill dies. The other bills that we had concern about you know that Senator Chang has introduced, SB2320 and SB2465 relating to housing, both those bills have died.

Relating to the state native tree. Again, I spoke of 'Ōhi'a Lehua in the Senate SB2520, but no hearing has been granted yet, so it hasn't died. But no hearing has been granted, so we'll see what they do with that. An old bill I've already reported on related to 2594, Trustee Lindsey you mentioned, is this the one? Is this the bill where they were going to fund both DHHL and OHA. That bill is dead and there is no House version of that.

Relating to filing fees. SB2663. That makes it easier for people to file motion when there is a change in child support. That one is going to have a hearing for decision making on the 24<sup>th</sup>, that is Thursday. We have been asked to submit testimony for that and we we will be doing that.

We've talked about SB2770, the rehab programs. SB2778 relating to pre trial release, that is dead. SB2830 relating to mental health licensing, that is dead. SB2861 relating to expungement. There have been no hearings yet in Judiciary, so there's still time but no hearings yet. SB2871 relating to pretrial release, that is also dead. So all of these court type cases regarding criminal law, you know they're not moving on, and they have died.

Relating to Ke Kula 'O 'Ehunuikaimalino. There is no hearing in WAM yet, so we'll see what happens to that bill. Relating to expungement of criminal records. This was a I believe is an electronic filing system issue. So it does continue to move along, but there is no hearing in JDC yet, so I suppose if they solve the problem it won't get a hearing.

Relating to historic preservation SB570, that has already been transmitted to the House, first reading was on February 8<sup>th</sup>. SB872, relating to the Commission on Water Resource Management at this point in time, there has been no hearing in JDC. The Chair of Hawaiian Homes Commission wanted to be added to the Water Commission, seeing that water is such an important issue for Hawaiian Homelands. That has not moved on yet, no hearing.

Relating to SB879, gives the county jurisdiction over infrastructure of the Department of Hawaiian Homelands. This was a jurisdictional boundary question. We supported that, no hearing yet in JDC. SB899 relating to the composition of state. The State Council on Mental Health, that as well has not yet received a hearing. In that situation, we wanted to have somebody who sat on the Council on Mental Health to have some experience in Native Hawaiian concepts of well being.

HB2136, relating to interim administrative rules on Department of Hawaiian Homelands, that bill has died. We continue to track a lot of the kalo cases and submit testimony relating to the disposition of water rights. HB1768 that bill is set for hearing tomorrow, February 23<sup>rd</sup>. Relating to the Judiciary's 'Ōlelo Hawai'i initiative, that has not received a hearing in Finance, that is HB1870. I suspect there's some you know discussion whether it's Judiciary budget or the Legislature's budget. It might be just you know, a budget reconciliation type of thing. But that's as you can see, the effective date is January 1<sup>st</sup>, 2022. So that deserves discussion.

Relating to the Office of Health Equity, HB2429. Establishing the Office of Health Equity. We commented on that, but you know, we are always interested in data and how that is managed, but that bill is dead for this session. Relating to taro, HB2466, exempts from gross proceeds or income received from the sale of any product resulting from cultivation and production on processed taro in the state from general excise tax. Now we had discussion on this bill the last BAE meeting and I believe we sent out an email to Trustees explaining that and I don't have that in front of me, but they were correct, Trustee Lee, that the total amount of land as referenced in the bill is under cultivation. We would like to think it was more, but it covered what is currently under cultivation. If any of the Trustees want more information on this please let us know and we can continue to provide information. That bill has not had a hearing in finance yet.

HB2516, relating to correctional facilities, that had to deal with the planning and design, there are many that didn't want this to go through. We supported, you know, looking at the design of jails and also looking at the trend with regard to building more prisons. That bill is dead.

SB1277, relating to environmental justice mapping, that continues to wait for hearing in JDC, it may receive a hearing. We're not sure, so we're continuing to check that and we support that. Relating to disposition of water rights, SB2759. That was reported from WAM and again, 48 hour notice so that bill is moving along.

SB2983 relating to kalo. That's exemption from tax. This version is dead. It did not get a first hearing, the other version is still going. Relating to Hawaiian Recognition Day 3218. No hearing in WAM, as of yet, that's to establish a Lā Kū'ok'oa day. It did not request that it be a state holiday, but in any event no hearing has been held in WAM.

Relating to the Hawaii Community Development Authority SB3279, and this is our Kaka'ako Makai. That bill did not receive a hearing so that bill is dead. Relating to SB880. Exempts any housing development for the Department of Hawaiian Homelands from the school impact fee requirement. That bill is dead. It was still potentially to move on the last time we reported last week, but it is now dead. And then finally relating to state symbols, here's the Senate version of the 'Ōhi'a Lehua bill and that has received 48 hour notice 2022, so that is the status of our current bills and I want to reiterate that we are going through all the measures to determine change up positions and also their status moving out of the finance committees. Are there any questions?

**Board Chair Hulu Lindsey:** Na'u, can you just line up Senate Bills 2122 and 2021 and just make clear to our Trustees what the differences are between those two bills.

**Chief Advocate Kamali'i:** Okay, so 2122 is our bill and the asks are a little different. 2122, we should all be familiar with, that's asking for our annual sum of 78.9 million. It also asked for the past due amount and that's the 638 million, included within that is the CFTHA and in that number there's not specific language dealing with a CFTHA account and then also within our bill we have, and let me know Trustee if I'm doing what you want me to do in terms of distinguishing between the two bills. So we have the annual ask. We have the CFTHA amount, difference between the amount of receipts transferred in immediately prior fiscal quarter. We also have the methodology for transfer funds. There's no change to that. That's basically our bill, it's pretty simple to drop in the numbers and I don't know if I'm explaining this right, but you know. So that's our bill, right?

**Board Chair Hulu Lindsey:** I wanna know if they choose one bill over the other, what we're going to be lacking?

**Chief Advocate Kamali'i:** Okay, let me go back to the Keohokalole Bill. We didn't focus on our bill quite a bit. Okay, so in the other bill, the 2021, it speaks about the revenue generating public lands and the figure in the preamble and this might be a good thing to consider, but it speaks about the revenue generating, public lands and the amounts derived from those lands. The bill tracks fiscal years 2011 to 2012, and it arrives at the average of for those years, \$197,433,474 and from that they calculate the 20% to be 39,846,000 per year. At this point we're at 15.1 cap and the Keohokalole Bill looks at those years on an average and provides the figure of 39 million per year. Okay, they might look at that figure in addressing what are the annual amounts due. In our bill we are figure is larger than that. It's 78.9 and it's that difference that includes those areas that traditionally have not been included like the airports or underreported or miss allocated like harbors, University of Hawai'i and we include those based upon our calculations from the 2015, 2016 financial report, which our figure arrives at the 78.9 million. So there is a distinction there between the two bills of what is the annual amount. The Keohokalole Bill does not address the past due amount that is due. So that is one rather significant distinction. Our bill does address for the 2021-2022, does address the past due amount due and includes the 29 million of CFTHA. The Keohokalole Bill includes the 29 million for CFTHA and also provides language that there shall be an amount to be left in the holding account as contingency payments need to meet the minimum quarterly payment, so it's conceivable and we've heard talk that they want to release the money in the CFTHA account, the 29 million. Also, within the Keohokalole Bill, there is a definition of what is

called a receipt and that definition tracks the definition that we have been using. However, it's in the bill, so that also is a distinction and also the Keohokalole Bill allows for this committee to be formed to resolve the issue of what are the true income and income and proceeds that are due and we've seen before and it hasn't been very effective to resolve this issue. We did support the Keohokalole Bill, but we also clearly support our bill because it addresses different things.

**Board Chair Hulu Lindsey:** Thank you

**Chief Advocate Kamali'i:** You know, I will say if I think our Counsel and our presentations to Counsel, Everett and Sherry have presented to this Committee before. If there is an increase and the increase is to the undisputed amount and that would be an increase of 15.1 million to 35 million annually and that would be welcomed. Certainly also if the 29 million that's sitting in account not serving anyone in the state, providing services or to OHA and its beneficiaries and they release those monies, certainly that would be welcomed as well, which is the 29 million. The 638 million, that might be, you know, very difficult to resolve this session so that may very well carry forward, but the testimony that we've provided is if that is carried forward, that does not change the obligation to pay what is due, so it will continue to accumulate and that figure logically would seem to be increasing next session.

**Board Chair Hulu Lindsey:** Maybe with a new Governor, can have a committee that will be more helpful.

**Chief Advocate Kamali'i:** Thank you, Trustee for your question. So I have nothing else to present on matrix three. Any other questions?

**Chair Akaka:** Any discussion members? Seeing none, Na'u, if you can continue.

#### **D. 2022 OHA Legislature Bill Positions and Monitored Bills Related to Measures Affecting Native Hawaiians – Matrix 4 \*\***

**Chief Advocate Kamali'i:** Very quickly to Matrix 4, these are the all positions and again I'm going to reiterate that we are combing through because of the time period between now and next week, we are combing through not only the all positions, but all bills that have made it to Finance and all bills that have made it and are going to WAM. This is like the reconciliation period for us to see if we missed anything. To see if we need to change some of these monitor positions to support, oppose or comments. We're going through that task this week. So I have nothing to say about what is the Matrix 4. Except, Trustees if you see something and you want that to change. Certainly always contact us and we are still getting feedback from the community over on things that we should take a look at. Subtle changes in the DLNR bills. There was one brought to our attention regarding hunting, but the language was always in there and DLNR at the last. So it didn't pose a problem, but in the last hearing, DLNR was successful in removing language pertaining to Native Hawaiians, so we're taking a look at that to add that language back. The language wars of delete and you don't know about it and then add it back because we caught them.

**Chair Akaka** recognizes Trustee Lee

**Trustee Lee:** Thank you, Madam Chair. So last week I waded discussing bills that it looked like they were going to die, but they have not. They have survived, so I have 10 measures that I would like to discuss, Madam Chair.

**Chair Akaka:** Yes, Trustee Lee.

**Trustee Lee:** Okay, thank you, so Na'u and I'll take them in order of the Matrix to help with facilitating a quicker movement. So the first one is House Bill 1961 and just for your context it has a companion Senate bill. So this is the one about the alkaline hydrolysis. So this bill was first introduced in the last session and OHA took a position of support. Why has it changed to monitor? And I apologize that this may seem late in the game, but when we first got our matrix two meetings ago, I was told that I couldn't ask any questions. So last meeting was the first one I could ask questions and it looked like this bill was going to die. So I didn't bring it up then, but it has survived, so that's why I'm bringing it up now.

**Chief Advocate Kamali'i:** You want a why, I don't have a why. More or less, Trustee Lee, you being the person who has the authority to change, or the power to change, if you're asking us to change a position from monitor to support, that would be helpful. I can't give you the entire discussion of, you know, persons who were here and have since left and why it's sitting in the position it is, I would just say I am extremely proud of the 2, 3, 4 Advocates that has stepped up and is able to do this work so the why, there are many reasons why at this point, do you wish to have a change position? If it's support, I believe we did discuss that and I'm familiar with the bill, and I understand how it aligns with traditional practices. I understand that and had that discussion with Kai as well as Kamakana, but if you wish to change position from monitor to support. Is that the request?

**Trustee Lee:** Well first, I too would like to recognize the work of your limited team that has stepped up. I completely understand the overwhelming amount of work that they've had to undergo, under very stressful conditions not having the support that your department normally has and the reason why I asked a question about why it was, maybe there was a reason and before I made the suggestion of changing it to support, I just wanted to know if there was a reason because if there was then I'm not going to ask for that change to support, but given the comments then I am gonna ask. If there isn't a reason why Advocacy would prefer it to be monitor rather than support because our position in the past was support, then I think we should be consistent, without a justification I think our position on this measure should be consistent with what it was last session, which was support and so the companion bill for that is Senate Bill 2828.

So I'll move on to the next one so that we can just take them all up together at the end. So just so you understand, Na'u, my intention of asking the questions is just that there may be a reason that I'm just not aware of and that's the reason why I'm asking that question. So the next one is House Bill 2030. Which is one of several. Chair, does Trustee Ahu Isa have a question about the previous bill before I move on?

**Chair Akaka:** Yes, I see her hands up, but I just wanted you to finish up what bill you wanted.

**Trustee Lee:** Well, before I move on to the new bill, she has a question about the other one.

**Chair Akaka** recognizes Trustee Ahu Isa

**Trustee Ahu Isa:** Yeah, it does deal with the bill that Trustee Lee is talking about. Some new information came in maybe that's why they monitor. I don't know if that's a real reason, but I wanted to just add some new information. There's other ways now because of the pandemic, because so many like New York and other Louisiana especially, they have so many bodies and they don't know how to handle. They are looking at a new environmental way to handle, so they're going to, but you must have seen this on the news. They're going to cremate, get the ashes, they're going to mix it with the soil of a forest and plant tree, and then they will name the tree after the person and this is a new way of handling our burial. I know we have the bones which we want to keep the iwi, but here's another way that we might look at, which is might be more environmentally friendly. That's all I wanted to add.

**Chair Akaka** recognizes Trustee Waihe'e

**Trustee Waihe'e:** Thank you, Madam Chair, I just sense if we're intending to, you know, take them all together on the subject matters. Does this bill basically include alkaline hydrolysis as one of the options for the

unclaimed bodies, is that pretty much what it does? Is it just an amendment of an existing law, or am I thinking of the wrong thing?

**Chief Advocate Kamali'i:** You are looking at the right thing. I'm just asking to see if Kamakana is still online. Yes, he is, so he can answer the technical questions that you are coming up with.

**Lead Compliance Specialist Ferreira:** So this would basically add an alternative which is currently not allowed under current statute as opposed to traditional cremation. You'd have this basic alkaline hydrolysis technique that would be used in the.

**Trustee Waihe'e:** Kamakana, that answers my question.

**Lead Compliance Specialist Ferreira:** Okay

**Trustee Waihe'e:** And it's amending an existing law that currently only has cremation as a option.

**Lead Compliance Specialist Ferreira:** Right, I don't know if there's any other questions.

**Chair Akaka:** Mahalo, Kamakana. Trustee Lee, if you'd like to continue.

**Trustee Lee:** Thank you, Madam Chair, so the next measure was the House Bill 2030, which is the Red Hill and all the Red Hill proposed legislation, we're only monitoring and the reason I'm asking is Chair Lindsey put out a very strongly worded press statement about Red Hill, which was great and OHA has taken a position about defueling and removing Red Hill, but all the legislation that's being proposed for that very measure, OHA hasn't submitted any testimony, we're only monitoring. I'm just asking the reason, because it seems strange that we would take such a strong position against Red Hill, but we wouldn't provide any testimony for legislation that's asking for that very thing to be accomplished.

**Chief Advocate Kamali'i:** Part of the approach for Red Hill is to realize the jurisdiction issues, and watching to see how the state bills move, but I'll say OHA has expanded its effort with the White House and with the Congressional Delegation, any defueling of the tanks is not going to necessarily happen because of what the state wants. The immediate defueling of the tanks is going to happen with appropriation, and so in the limited time we have on these bills I apologize, we are monitoring them and expanding the effort with the White House in discussions regarding the tanks, speaking to the military representatives at the highest possible level to ensure that the Native Hawaiian voice is heard, as well as spending time with the Congressional Delegation to ensure that the Committee on Appropriations in the Senate, of which Senator Schatz, as well as Senator Murkowski from Alaska, Senator Leahy from Vermont, that those people are very well informed on the Native Hawaiian issue, not just the contamination of the water, but also the native sentiment, and that it is important to us to fully fund as soon as possible whatever needs to be done so that defueling can occur and so I apologize if we're not as closely paying attention you know, to these bills. Instead, we're watching to see what falls off for lack of jurisdiction or realization with regard to the jurisdictional question of what is going to get the job done. It's Congressional appropriation, so that's why we're monitoring these bills. Some of them will fall off. Some of them will make it past the Finance Committee and CPC. That's the decision or that's the background to these bills.

**Trustee Lee:** Na'u, no apology is necessary. That is a great explanation. Thank you, that makes perfect sense. Thank you so much for clarifying that, I really appreciate that.

**Chief Advocate Kamali'i:** And I will say to the Trustees, even those discussions at that level, it takes a little bit of work, including establishing the right of self-determination, the right of consultation, mentioning 171. President Clinton's Executive Order which we are also looking at a Native Hawaiian Executive Order with regards to our right to consult on these very important things, not just the military DoD, but also on the wai,

which is included in the Public Land Trust. It's included in the Public Land Trust, so there are different policy considerations with regard to Red Hill that popped up that are not just apply to Red Hill, but they apply to our greater rights as Native Hawaiians and indigenous peoples of Hawai'i. They're all folded in together.

**Chair Akaka** recognizes Trustee Ahu Isa

**Trustee Ahu Isa:** Yeah, thank you, Chair. Trustee Lee and I were at that rally at the Capitol, so OHA was represented there, and we did speak to Congressman Kahele, so he agreed. He thanked OHA for coming out. He thanked the Hawaiians and I gave my card to Ernie Lau, 'cause he said he didn't know who to call. He had all these Hawaiians he want to thank 'cause whenever there's a protest nobody helps him but Hawaiians show up. You know, we showed up at the Capitol that day and he was so grateful, he took my card and he said I will call you. We need help with this wai, he used the word wai, he don't use water anymore, so that was a real educational thing for him. Mahalo, Trustee Lee for showing up.

**Chief Advocate Kamali'i:** Yes, mahalo for showing up Trustees, mahalo.

**Chair Akaka:** Trustee Lee, do you have any other questions regarding any other bills?

**Trustee Lee:** I do, Madam Chair. So Na'u, the next one is House Bill 2429 and this just might be a clerical thing, but I did notice the change. So in our previous Matrix, House Bill 2429 was approved for support and it has been changed to comment on this week's matrix.

**Chief Advocate Kamali'i:** And if I'm not mistaken, I believe that bill died.

**Trustee Lee:** That's okay, if it died it died that's fine, but I noticed the change from one matrix to the other that the position had been changed. So that's the only reason why I'm bringing it up.

**Chief Advocate Kamali'i:** Yeah, the Office of Health Equity I think I just right reported on that. I think that measure died and we seriously tracked that one.

**Trustee Lee:** So now I move on to the Senate bills. The first one is Senate Bill 2023. So this is relating to Hawaiian fishponds. I'm just curious why OHA and again, I apologize that this is so late in the process, right. Had I brought this up two meetings ago the Trustees probably would have had a discussion during the meeting about this, but given that it's related to the establishment of a functioning system and supporting local i'a. I'm curious why OHA wouldn't take a position on this, in either support or adding comments. How you know about the Native Hawaiian practice and the successfulness of local i'a.

**Chief Advocate Kamali'i:** We probably should, I don't know Trustee. The process of going through these was done by the team, so I may have missed that one, I'm sorry. I believe the current status is it's still on its way. The focus of my time has been on PLT and everything related to it, including presentations, showing up in front of a news camera you know all of that goes along with that, and I apologize to the Trustees, some of these bills and to the community at large listening. I apologize that it may have needed to have more attention. That is the process that we are going through now before these bills cross over so thank you, Trustee Lee, this raises raises our attention meter to these bills.

**Trustee Lee:** That's fine, Na'u and so I'll leave that one there, so at least now it's on your radar. The next one is Senate Bill 2544. The reason why I have this one is it has a position of that we're going to provide comments. This appears to be a new bill on our matrix. So I'm fine with us giving comments on it, but I think that's going to require our approval for that because this was not previously approved.

**Chief Advocate Kamali'i:** And I'm familiar with this bill. It got our attention because our the safe routes to school program is obviously, it speaks for itself. Our children walking to schools and there has been an

increase of children being approached for sex trafficking and those types of things and so when we looked at some of the family bills, this one did rise for us.

**Trustee Lee:** I read through the bill. I think it's a great bill, but the reason why I flagged it is.

**Chief Advocate Kamali'i:** Don't recall it, it didn't make the list yeah, I understand.

**Trustee Lee:** Yeah, but so the Trustees are going to have to approve the position of comment, so that's the only reason why I listed it because I didn't see on the agenda that we were going to be voting on anything so that's the reason why I brought it up so that we could make that motion to approve it so that you folks can go ahead with your comments.

The the next one is Senate Bill 2664. So it's another taro lands one and I'll say that similar to the local i'a one. You know, why we're not more than just monitoring. Providing either support or comments, supplying some sort of testimony. I would think this would be something that OHA would stand for, but you've answered that question with the local i'a one.

**Chief Advocate Kamali'i:** Yeah, and I do believe up to the extent that we could identify some of these bills that we had prior testimony on. The team may have submitted testimony, so this is the difficulty with the lag. Some of these bills pop up or get requests, and we consult with, you know, leadership. I'm new to OHA, as to what some of the parameters are for us to be able to testify. I believe that bill fell within the parameters for testimony. Like yes, to testify consistent with what we've done in the past in support.

**Trustee Lee:** Right and the same would go for Senate Bill 2665, which is basically the same thing.

**Chief Advocate Kamali'i:** Okay, Trustees, I really hope we can figure out a system that gives us more latitude to feel comfortable to jump into these bills based upon you know past policy with regard to support, anything that supports you know our agricultural lands ties to kalo and you know, enhancing our ability to produce. For example, some sort of broader kind of, and I know Trustee you've told me in the past, no, we like to approve bill by bill, but it does create sometimes an issue for us to be able to testify, to actually testify. So that falls when then that as well, maybe that's something we can work on in the future, but right now this is the process we have.

**Trustee Lee:** And it's not that we like to go bill by bill, that's just the process that we know.

**Chief Advocate Kamali'i:** So if you have ideas, I will definitely welcome them. Trustee, you're very 'ale'o to this process. Okay, anything else Trustee?

**Trustee Lee:** The last one is Senate bill 3213. So this one, this is the Hawai'i sailing canoes one. I'm okay with us monitoring it, but I needed to point this out because your team is our voice at the Legislature and I don't know, I haven't had a chance to go through the testimony that's been provided before, so I don't know if somebody has already caught this because I understand that bill is moving and there's been a lot of testimony in favor of this. But what I needed to point out because when I read through the bill it didn't give enough specificity into what a motorized canoe is and the reason why I bring that up is unless you have sailed on Hikianalia, you have no idea that Hikianalia has an engine and a motor and a propeller under it. Now it doesn't sail and that's the reason why Hikianalia doesn't necessarily need to have an escort vessel. But based on the definition that was in the original bill, this bill would exclude Hikianalia, that's an issue and that's the reason why I had it flagged, because like I said, because you folks are a voice at the Legislature and I just wanted to make sure that in the committees that that distinction was made to the Legislator, so that they know and can add an amendment or different wording so that Hikianalia is protected because unlike Hōkūle'a, and Hawai'iloa, who if they did need to go under motor, which they have in the past, they install an exterior motor that doesn't stay there, and I don't recall the last time Hōkūle'a did it because they usually just go on their tow, but I know

Hawai‘iloa does it from time to time. But Hikianalia has a fixed motor that cannot be removed and so that's the reason why I flagged this because I would hate to see Hikianalia excluded from this and that was my last measure, Madam Chair. Thank you, Na‘u, I appreciate your answers. Thank you so much for clarifying those issues for me.

**Chair Akaka:** Mahalo, so Trustee Lee, just to make sure, were there any of the bills that you went over that you definitely would like to have the position changed.

**Trustee Lee:** I will yield to Trustee Waihe‘e.

**Trustee Waihe‘e:** Yeah, I would want to support Bill 1961. The first one that, for sure that one.

**Trustee Lee:** Thank you, Trustee Waihe‘e, so Madam Chair, that was the only one I was going to say that I would like to change our position today. The rest of the ones I will wait for Na‘u and her team to come back. Like she said, bills that don't die this week that do move on her team will re digest this Matrix and provide possible position changes for the Trustees and I've already flagged a few that have caught the Chief Advocate's eye so they will make sure that those are in there list. So if you're seeking a motion, Madam Chair, I'd be happy to provide that.

**Chair Akaka:** Yes, please do

**Trustee Lee:** So, Madam Chair, I move that we change OHA's has position on Matrix 4. For House Bill 1961 and Senate Bill 2828, from monitor to support.

**Trustee Waihe‘e:** Second

**Chair Akaka:** It's been moved and seconded. Is there any discussion on that members? Seeing none, Brandon, can we please have **roll call vote**.

TRUSTEE		1	2	‘AE (YES)	A’OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA’ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED
KELI’I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI’ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
JOHN	WAIHE`E, IV		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
<b>TOTAL VOTE COUNT</b>				7	0	0	1

**MOTION:** [ ] UNANIMOUS [ X ] PASSED [ ] DEFERRED [ ] FAILED

**Chair Akaka:** Alright, just wanting to make sure that we have everything sorted before we move forward.

**COO Brown:** Madam Chair, we're working on the motion language to approve the remaining bill. There was one added bill identified as new so we're working on the motion language for that.

**Chair Akaka:** Are we adding to this?

**BAE Staff - Brandon:** Nothing to add Chair, this is the motion.

**Chair Akaka:** Mahalo, just wanted to confirm. Can I please have a motion to approve this?

**Trustee Lee:** Hang on, Madam Chair, before you get to the motion so we don't have to amend it. This measure is on Matrix 4, not Matrix 3.

**Board Chair Hulu Lindsey:** Trustee Lee, go ahead and make the motion.

**Trustee Lee:** Okay Trustee, I move to approve Administration's recommendations on new bills, item 63, Senate Bill 2059, as listed on Matrix 4, measures affecting Native Hawaiians.

**COO Brown:** I'm so sorry to interrupt but sorry, Trustee Lee, Madam Chair, but it is also on Matrix 3 as item 63, so I just didn't want to get screwy.

**Trustee Lee:** That's fine, that's fine.

**Chair Akaka:** Yes, that's how I have it on my end as well. Everett, was there something that you wanted to add onto this as well?

**Interim General Counsel Ohta:** Thank you, Chair Akaka. I just wanted to clarify for the Board's information that this motion that's presented referencing Matrix 3 is to add the new bill, that SB2059 relating to the 'Ōhi'a Lehua. That would be the new bill that was for.

**Chair Akaka:** Item 63

**Interim General Counsel Ohta:** Yes, that's correct. That's the new bill for approval, so that is separate from the prior motion by Trustee Lee to add as support HB1961 and SB2828.

**Chair Akaka:** Mahalo, so therefore we will keep it as Matrix 3.

**Trustee Lee:** Madam Chair and Senate Bill 2059 is not the measure that I was speaking to 'cause that is not on my list of measures to speak about. So that is incorrect, because the measure that I'm speaking about was not on Matrix 3. Hang on one second I will pull it up, Madam Chair.

**Chair Akaka** recognizes Interim General Counsel Ohta

**Interim General Counsel Ohta:** Yes, so recognizing that the bills that were raised by Trustee Lee were those measures relating to the alkaline hydrolysis process, this Committee just moved to approve the addition or the change rather from monitor to support on Matrix 4. However, as part of this Committee's actions Administration is also asking for the addition of new bills that were added to the Legislative Matrix 3 and for this week that is the addition of one new bill. SB2059 as item 63 on the existing Matrix 3 and that's what Administration has requested added on with the position provided in Matrix 3.

**Board Chair Hulu Lindsey:** Trustee Lee, didn't you ask for the fish pond bill?

**Trustee Lee:** I said that I would wait for Na'u them, that they were gonna re digest to see what bills survive. But there was another bill in Matrix 4 that has a position of comment that has not been approved by the Trustees, so I'm I'm looking through my list so that we can add it to this motion.

**Interim General Counsel Ohta:** Excuse me, Chair Akaka, I believe that's measure 2544 actually, as listed on the on the screen.

**Trustee Lee:** Thank you, Everett.

**Interim General Counsel Ohta:** Actually I could offer one more suggestion, Chair Akaka.

**Chair Akaka:** Yes, please do so.

**Interim General Counsel Ohta:** I believe SB2593 is the companion measure to HB1961, at least as provided for in the State Capitol website. So to the extent that this Committee is looking to adopt a support position on measures relating to alkaline hydrolysis, I believe SB2593 could also be added as the companion to HB1961. I believe SB2828 is also related to alkaline hydrolysis, but it does not have a companion. It's not listed as a companion measure, at least on the state Capitol website.

**Trustee Lee:** Thank you for that clarification, Everett. When I was going through the matrix, those were the two that I saw that said alkaline. So that's the reason why because one was Senate and one was House. I didn't realize the Senate had two different ones. I must have missed it on the matrix or it wasn't on there. It could be I missed it. I was going through a lot and it was late at night.

**Board Chair Hulu Lindsey:** Actually, this year they're calling it water cremation. That's why you probably missed it.

**Chair Akaka:** Yeah, it's been something that's been on the news as well. We're still putting up the motion, right?

**BAE Staff - Brandon:** Yes, so Everett is there anything you want me to add to this motion here?

**Interim General Counsel Ohta:** Yes, I guess for the BAE Committee's consideration. You can actually delete reference to item 208, before SB2544 and then below that add SB2593.

**Trustee Lee:** And on that note Everett, I would remove all references to item numbers and matrices, just so this doesn't get confusing.

**BAE Staff - Brandon:** And then Everett, what is the position?

**Trustee Lee:** Support

**Interim General Counsel Ohta:** As support

**BAE Staff - Brandon:** Everett, is that okay?

**Chair Akaka:** And I believe that we were going to remove Matrix 3 from that. Is that not correct?

**Interim General Counsel Ohta:** I would ask that at least for now, the reference to Matrix 3 remain. Given that the.

**Chair Akaka:** With your listing the specific item and bill number on there.

**Interim General Counsel Ohta:** In past BAE Committee actions we've referenced the item numbers to kind of expedite the approval of those measures by this Committee and by the Board referencing a larger number of item numbers as a range as opposed to listing each individual measure that's being approved, given the lower number of bills being approved by this, it would be okay to remove reference to the item numbers, although that was just again meant as a matter of convenience to hasten the Committee's approval of these legislative positions.

**Chair Akaka** recognizes Trustee Lee

**Trustee Lee:** And while I understand that practice and I totally get it, if we're going to do that then we would have to add the item number and the matrices for the other two bills that we're adding and because it's only three bills, that's the only reason why I suggested removing that from this particular motion. Because otherwise to be consistent we would need to add the item numbers for Senate Bill 2544 and Senate Bill 2593, and the matrices which refers to them. To Everett's point, I was just trying to save time for today's meeting. I wasn't suggesting that we remove it forever. Just for today, just for this one motion of three bills.

**Chair Akaka** recognizes Chief Advocate Kamali'i

**Chief Advocate Kamali'i:** Thank you, Trustee Lee. I just want to say again to Trustees as I had started this discussion for this particular meeting that the position of the bills matters that they are going to decision making in WAM or going to decision making in FIN and we couldn't submit testimony as you're indicating, Trustee, if we wanted to. I mean in that sense, for some of these bills. So we were asking maybe I should have been clearer. We are asking that you give us a week to digest and my team is saying do they understand there are also a thousand other bills that aren't on the matrix. We were asking that you give us time to digest all those bills. All of the bills, not just on the matrix, all the bills going to FIN and all the bills going to WAM, and some of the other bills that are going to important communities such as Judiciary and Finance so that we can come to next meeting on March 1st with a substantive list. It can be included next week, Trustee Lee, so that we have a clear list to be noticed and I'm suggesting that might be an alternative to taking up this motion because it's not going to matter to the action that needs to be taken at the Legislature. So I would just offer that comment.

**Trustee Lee:** Madam Chair, I'm happy to defer this matter and not take up this motion as the Chief Advocate is suggesting and this is in no way a disparity on our Chief Advocate and her team who have been doing an outstanding job with the limited resources that they have available to them at this point. But I would be remiss, Madam Chair, if I did not voice my displeasure that they're having to do this with limited resources. When the Trustees were given assurances a year and a half ago that this would not happen and I know I've said it in a BAE meeting before and I'm going to say it again today. This is unacceptable that one of our most important teams, our Advocacy team, is having to work under these conditions because they don't have the staff. That's unacceptable, Madam Chair, that they don't have the staff, not that they're not doing the work, but that they're having to work under these difficult conditions. They shouldn't have to. They should have the team that they need and that they deserve to get the work done to get the voices of our people where they need to be. Thank you, Madam Chair.

**Chair Akaka:** Mahalo, Trustee Lee. Na'u, if you can please flag these bills that we're going over right now so that we can bring it up for discussion when the time is appropriate.

**Chief Advocate Kamali'i:** Yes, Trustee and more so Trustee Lee to work with you to make sure that we do not leave out and even gleaning over the Red Hill bills again in light of our work at a Congressional and White House level to ensure that they get addressed when they cross over. The substantive work on the bills in the first committees as they crossed over to the House is where it's going to start up again and yes, we do need to be prepared for that, so I do welcome not only, Trustee Lee, but all Trustees to give us their mana'o from their community so that we can appropriately voice those concerns in the testimony. I certainly don't know the

expanse of the community's concerns, so you also are a vehicle for your constituents to let us know when they crossover it's a very important time for us to really hammer what has survived in support, thank you.

**Chair Akaka** recognizes Trustee Ahu Isa

**Trustee Ahu Isa:** Yeah, Na'u, if your still there, just let us know or just let me know if I can help, 'cause I know most of those Representatives and Senators personally and I do get to go into their offices and talk directly to them. So if you need help with anything, just let me know or Nathan. Nathan is always available. Just let me know, I can just go and see them, talk to them personally.

**Chief Advocate Kamali'i:** Mahalo thank you and Trustee Ahuna the voice from Kaua'i is you know, dear to me as one of my you know place where I spent many of my early days in summer and I really, the voice from Kaua'i I'm calling out for so that we address bills that are important to that community, to the moku. I know they're doing amazing things, but their eyes are incredible. The eyes from Maui, incredible. We need our people to tell us sometimes we can't see it 'cause we don't have that eye, that lens that they have so Trustees I welcome your input from your community, thank you.

**Chair Akaka:** Mahalo, Na'u, I believe that Trustee Ahuna is no longer on this meeting. Hopefully his supporting staff can inform him. But if you can bring this up back at our next meeting. Can we please have the motion edited. Just to reconfirm, Everett, is that good to go?

**Interim General Counsel Ohta:** Thank you, Chair Akaka. Yes, except to the extent that SB2544, which was listed as a comment on Matrix 4. Whether or not that in actuality should have a comment position or a monitor.

**Chair Akaka:** My understanding is that that would be brought up in following meeting.

**Interim General Counsel Ohta:** In that event then yes, the motion as is just listing SB2059 is sufficient.

**Chair Akaka:** Mahalo, is there a motion to approve or Trustee Lee did you want to.

**Board Chair Hulu Lindsey:** Trustee Lee didn't finish his motion.

**Trustee Lee:** Well now I'm confused. I thought we were just told to hold off on these motions until Advocacy has time to digest everything. If it doesn't matter and it's too late to provide testimony for anything then why do we need to approve just this one measure, why do we need to approve it? Why can't it wait till next week with everything else? That makes no sense to me.

**Board Chair Hulu Lindsey:** So withdraw

**Trustee Lee:** If there's a reason then please explain it to me and I'll be happy to make the motion. But if we're going to defer everything else, why are we taking up one item?

**Chair Akaka:** That makes sense.

**Board Chair Hulu Lindsey:** So there's no motion today, Madam Chair?

**Trustee Lee:** Well I don't see anybody else explaining it another way so. Right, if we're not going to be providing any type of anything, testimony or anything for Senate Bill 2059 between now and next week then why do we need to take this motion up today. We can just take everything up next week in a comprehensive list as our Chief Advocate suggested.

**COO Brown:** Madam Chair, I'm wondering if we need a withdrawal of a motion.

**Trustee Lee:** No motion has been made. So is this Administration agreeing that there is no need for this motion at this time?

**COO Brown:** Yes, I would say yes. Based on what Na'u has provided we can reserve everything to the next BAE meeting.

**Board Chair Hulu Lindsey:** Madam Chair

**Chair Akaka:** Yes

**Board Chair Hulu Lindsey:** I move that we recuse ourselves in Executive Session.

**Chair Akaka:** Mahalo, is there a second?

**Trustee Ahu Isa:** Second

**Chair Akaka:** Is there any discussion on this members if we do indeed want to go into Executive Session in regards to Public Land Trust.

**Chair Akaka** recognizes Trustee Lee

**Trustee Lee:** Maybe I'll yield to Everett, because I'm guessing Everett is going to ask the same thing I'm going to ask. I will yield to Everett.

**Interim General Counsel Ohta:** Thank you, Chair Akaka. Yes, as stated in prior meetings, this agenda item is there as a placeholder matter to ensure that we are able to enter into discussions to the extent that we could foresee the need for the Board to consult with its attorney given the sensitivity of the public land trust issues and legislation. So if the Board or this Committee rather has no inclination to engage in such consultation, we do not need to enter into Executive Session.

**Board Chair Hulu Lindsey:** The question is Na 'u, do you need to speak with us in private?

**Chief Advocate Kamali'i:** No, Trustee. It is just recommended to the body that give us a week to glean through all the bills so that we have a comprehensive list of change position so no Executive Session is needed from for what we're doing.

**Board Chair Hulu Lindsey:** I withdraw my motion.

## V. EXECUTIVE SESSION

### **A. Consultation with Interim General Counsel Everett Ohta re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the Public Land Trust and associated legislation, pursuant to HRS§92-5(a)(4).**

NONE

VI. ANNOUNCEMENTS

**Chair Akaka:** Members, are there any announcements at this time? Besides that we have our scheduled 1:30 RM meeting and Wednesday and Thursday Board meeting.

**Board Chair Hulu Lindsey:** I want to remind the Trustees that tomorrow's meeting and Thursday's meeting of the Board starts at 9:00 o'clock and public testimony for any of the items on the agenda will only be allowed tomorrow and not on Thursday. So I don't want any misunderstanding come Thursday. Somebody wanna offer public testimony and it's not going to be allowed so a reminder for those of you that nominated candidates, please tell them to tell their people who plan to give oral testimony only tomorrow, which is Wednesday.

**Chair Akaka:** Mahalo, Board Chair. Any other announcements members? Seeing none.

VII. ADJOURNMENT

**Board Chair Hulu Lindsey:** I move that we adjourn.

**Trustee Alapa:** Second

**Chair Akaka:** Brandon, can we please have roll call vote unless there is any discussion on this members. Seeing none, Brandon, **roll call vote** please.

TRUSTEE		1	2	‘AE (YES)	A’OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA’ALA	AHU ISA			X			
DAN	AHUNA						EXCUSED
KELI’I	AKINA			X			
LUANA	ALAPA		2	X			
BRENDON KALEI’ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
JOHN	WAIHE`E, IV			X			
CHAIR KALEIHIKINA	AKAKA			X			
<b>TOTAL VOTE COUNT</b>				<b>7</b>	<b>0</b>	<b>0</b>	<b>1</b>

**MOTION:** [ ] UNANIMOUS [ X ] PASSED [ ] DEFERRED [ ] FAILED

**Chair Akaka:** The meeting is now adjourned, mahalo members, all in attendance, and to all live streaming. A hui hou kākou, mālama pono.

**Chair Akaka** adjourns the BAE meeting at **12:17 p.m.**

Respectfully submitted,

\_\_\_\_\_  
Brandon Mitsuda Trustee Aide  
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment (BAE) on.

\_\_\_\_\_  
Trustee Kaleihikina Akaka  
Chair  
Committee on Beneficiary Advocacy and Empowerment

DRAFT