

LEGISLATIVE SUMMARY SHEET

Tracking No. 0205-116

DATE: June 30, 2016

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE SUPPORTING NATIVE HAWAIIAN PEOPLE IN REESTABLISHING A GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH THE UNITED STATES GOVERNMENT

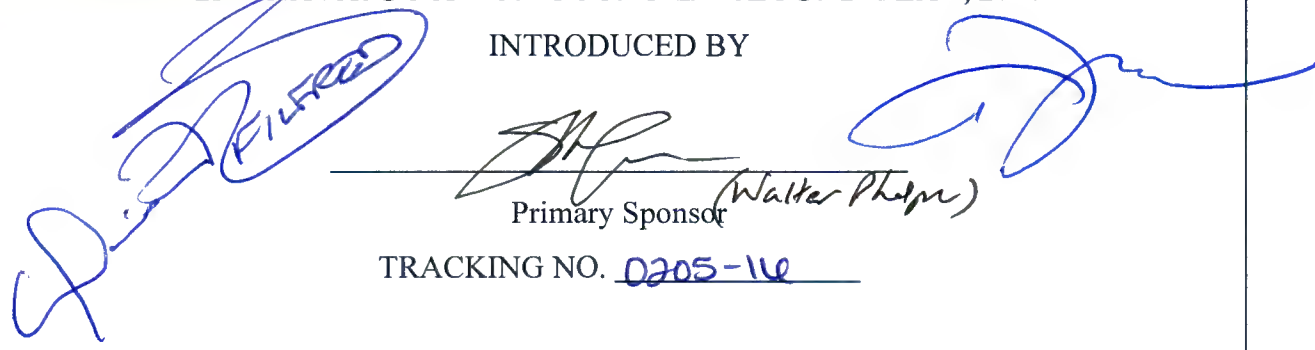
PURPOSE: This resolution if approved will support the Native Hawaiians in reestablishing and affirming their government-to-government relationship with the United States government and in doing so will be allow the Native Hawaiians the same rights and privileges bestowed to other Native American tribes, that are considered federally recognized.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed legislation in detail.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: _____
Posting End Date: 7/5/2016
Eligible for Action: 7/6/2016

PROPOSED STANDING COMMITTEE RESOLUTION
23RD NAVAJO NATION COUNCIL—SECOND YEAR, 2016

INTRODUCED BY



Primary Sponsor (Walter Phelps)

TRACKING NO. 0205-116

AN ACT
RELATING TO NAABIK'ÍYÁTI' COMMITTEE SUPPORTING NATIVE
HAWAIIAN PEOPLE IN REESTABLISHING A GOVERNMENT-TO-
GOVERNMENT RELATIONSHIP WITH THE UNITED STATES GOVERNMENT

WHEREAS:

- A. The Navajo Nation has a government-to-government relationship with the United States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.
- B. The United States has a unique political and trust relationship with federally recognized tribes across the country, as set forth in the United States Constitution, treaties, statutes, Executive Orders, administrative regulations, and judicial decisions. *See* Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community, 79 Fed. Reg. 119, 35297 (June 20, 2014)(to be codified at 43 C.F.R. pt. 50).
- C. The Federal government's relationship with these tribes is guided by a trust responsibility—a long-standing, paramount commitment to protect their unique rights and ensure their tribal sovereignty. *Id.*
- D. Congress has enacted more than 150 statutes recognizing and implementing a special political and trust relationship with the Native Hawaiian community; yet the benefits of the government-to-government relationship have long been denied to the Native Hawaiian people. *Id.* at 35298.

1 E. Hawaii is home to the Native Hawaiians one of the world's largest indigenous
2 communities. *Id.*

3 F. Since 1893, there has been no formal organized Native Hawaiian government, when
4 the Kingdom of Hawaii was overthrown; after the overthrow the Republic of Hawaii
5 ceded its land to the United States, and Congress passed a joint resolution annexing
6 the islands in 1898. *Id.*

7 G. The Hawaiian Organic Act, enacted in 1900, established the Territory of Hawaii,
8 placing ceded lands under the United States control, and directed that proceeds from
9 the lands be used to benefit the inhabitants of Hawaii. *Id.*

10 H. In 1919, the decline in the Native Hawaiian population led the Secretary of the
11 Interior to recommend to Congress that land be set aside to help the Native Hawaiians
12 reestablish their traditional way of life. *Id.*

13 I. Since Hawaii's admission to the Union, Congress has enacted dozens of statutes on
14 behalf of Native Hawaiians pursuant to the United States' recognized political
15 relationship and trust responsibility; the "Native Hawaiians have a cultural, historic,
16 and land-based link to the indigenous people who exercise sovereignty over the
17 Hawaiian Islands and that group has never relinquished its claims to sovereignty or its
18 sovereign lands." *Id.* at 35298-99.

19 J. Congress has:

- 20 1. Established special Native Hawaiian programs in the areas of health care,
21 education, loans and employment;
- 22 2. Enacted statutes to preserve Native Hawaiian culture, language, and historical
23 sites;
- 24 3. Extended to the Native Hawaiian people many of "the same rights and
25 privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut
26 communities" by classifying Native Hawaiians as "Native Americans" under
27 numerous Federal statutes;
- 28 4. Numerous enactments, Congress has expressly identified Native Hawaiians as
29 "a distinct and unique indigenous people with a historical continuity to the
30 original inhabitants of the Hawaiian archipelago.

1 *Id.* at 35298.

2 K. The reestablishment or formal recognition of the Native Hawaiians will greatly
3 benefit the people by:

- 4 1. Reorganizing a sovereign Native Hawaiian government;
- 5 2. Formally establish a government to government relationship with the federal
6 government;
- 7 3. Exercise inherent sovereign powers of self-governance and self-determination
8 and;
- 9 4. Enhance the implementation of programs and services Congress has created
10 specifically to benefit the Native Hawaiian community.

11 *Id.* at 35298-99; *see also* Exhibit A (Title VIII: NAHASDA & Hawaiian Home
12 Lands).

13 L. It is within the best interest of the Navajo Nation to support the Native Hawaiian
14 people in their efforts in reestablishing their government-to-government relationship
15 with the United States government.

16
17 **NOW THEREFORE, BE IT RESOLVED:**

- 18 A. The Navajo Nation requests the United States Department of the Interior, Office of
19 the Secretary to reaffirm the prior government-to-government relationship with the
20 Native Hawaiian community.
- 21 B. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation
22 Speaker, the Navajo Nation Chief Justice and their designees, to advocate for the
23 Native Hawaiian community and its people in their efforts in reestablishing their
24 government-to-government relationship with the United States government.

EXHIBIT

tabbies

A



**Title VIII: NAHASDA &
Hawaiian Home Lands**

May 6, 2016

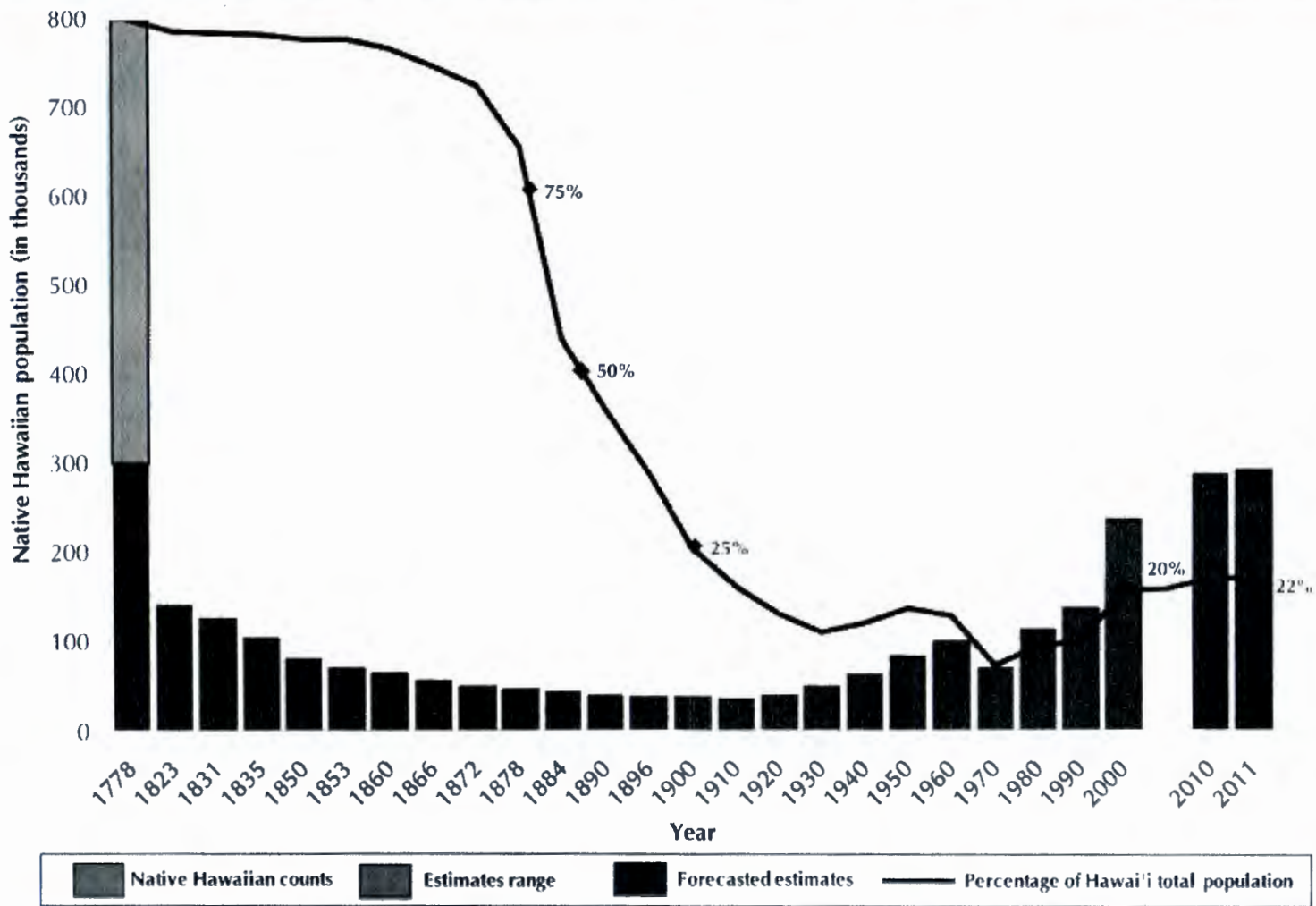
Territorial Hawaii Delegate to
Congress, 1902 - 1922:

Prince Jonah Kūhiō Kalanianaʻole

A Brief History of Hawaii

- 1778 Arrival of Captain James Cook
- 1810 Establishment of the Hawaiian Kingdom
- 1893 Overthrow of Hawaiian Kingdom
- 1898 United States Annexes Hawaii
- 1921 U.S. Congress passes Hawaiian Homes Commission Act**
- 1959 Hawaii becomes a State

Native Hawaiian Population



Honolulu, 1900s



"Rehabilitation"



"The only method in which to rehabilitate [Hawaiians] is to place them back upon the soil. It is certain that they will again retain their former vitality and in the course of years the race will increase."

- Prince Kuhio to the U.S. Senate



Early Purpose of the HHCA

- The Hawaiian must be placed upon the land in order to insure his rehabilitation
- Alienation of such land must be made impossible
- Accessible water in adequate amounts must be provided for all tracts
- The Hawaiian must be financially aided until his farming operations are well underway



In 1921, lands available for Hawaiian Home Lands were certain tracts of public lands...

- Minus forest land
- Minus sugar cane land
- Minus lands already leased



Hawaiian Homes Commission Act

- Passed by U.S. Congress in 1921
- Provides for homesteading by native Hawaiians (>50% blood quantum)
- Lands and assets are inalienable
- 3 Types of Homesteading:
 1. Residential
 2. Agriculture/Farming
 3. Pastoral/Ranching

(99 year lease)



Hawaiian Homes Commission Act

- Administered by the federal government until statehood in 1959
- Transfer of responsibility to Hawaii was a condition of statehood
- DHHL established in 1960 to administer Trust Lands

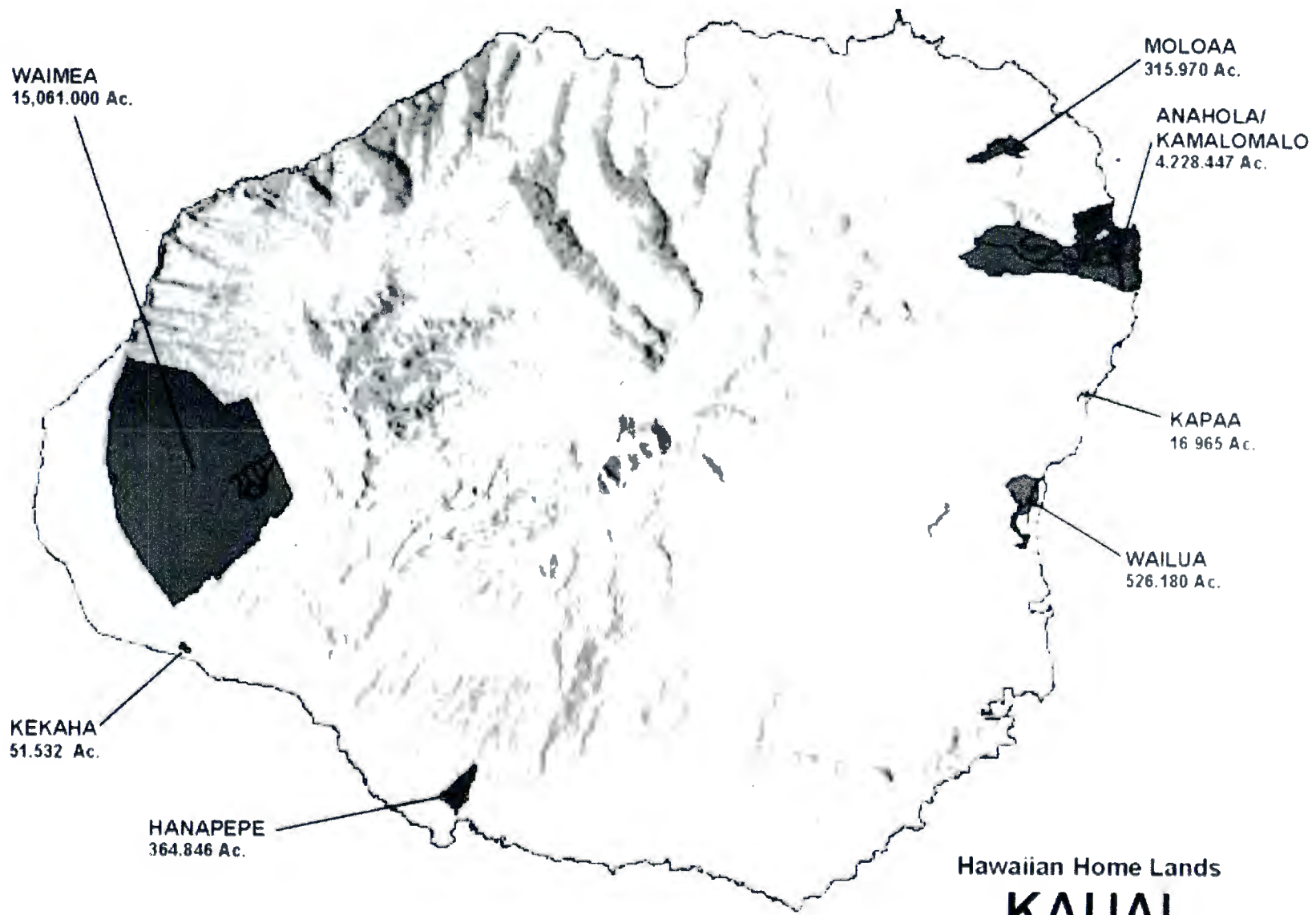




Hawaiian Home Lands



203,000 acres



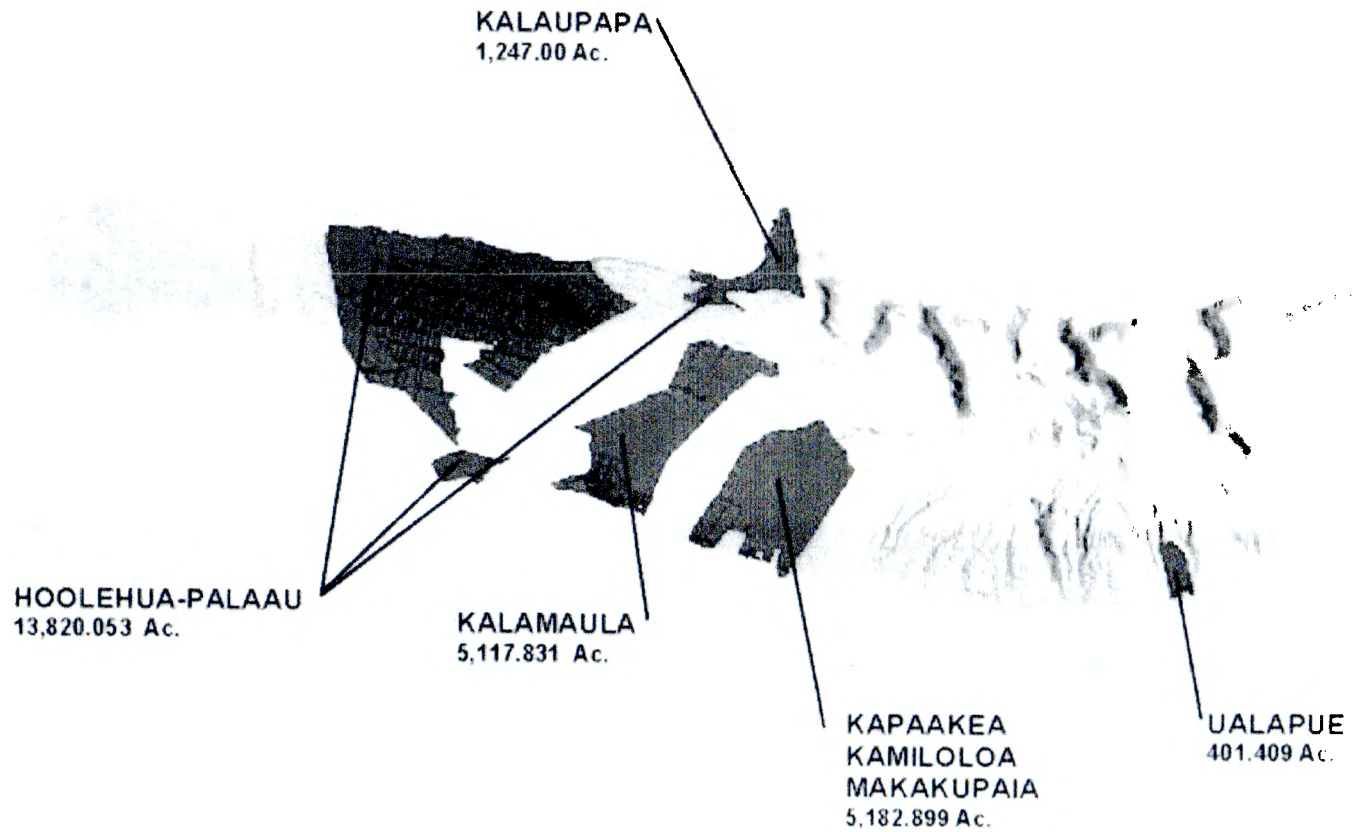
Hawaiian Home Lands
KAUAI
20,564.940 ACRES

(6/30/2003)

Hawaiian Home Lands

MOLOKAI

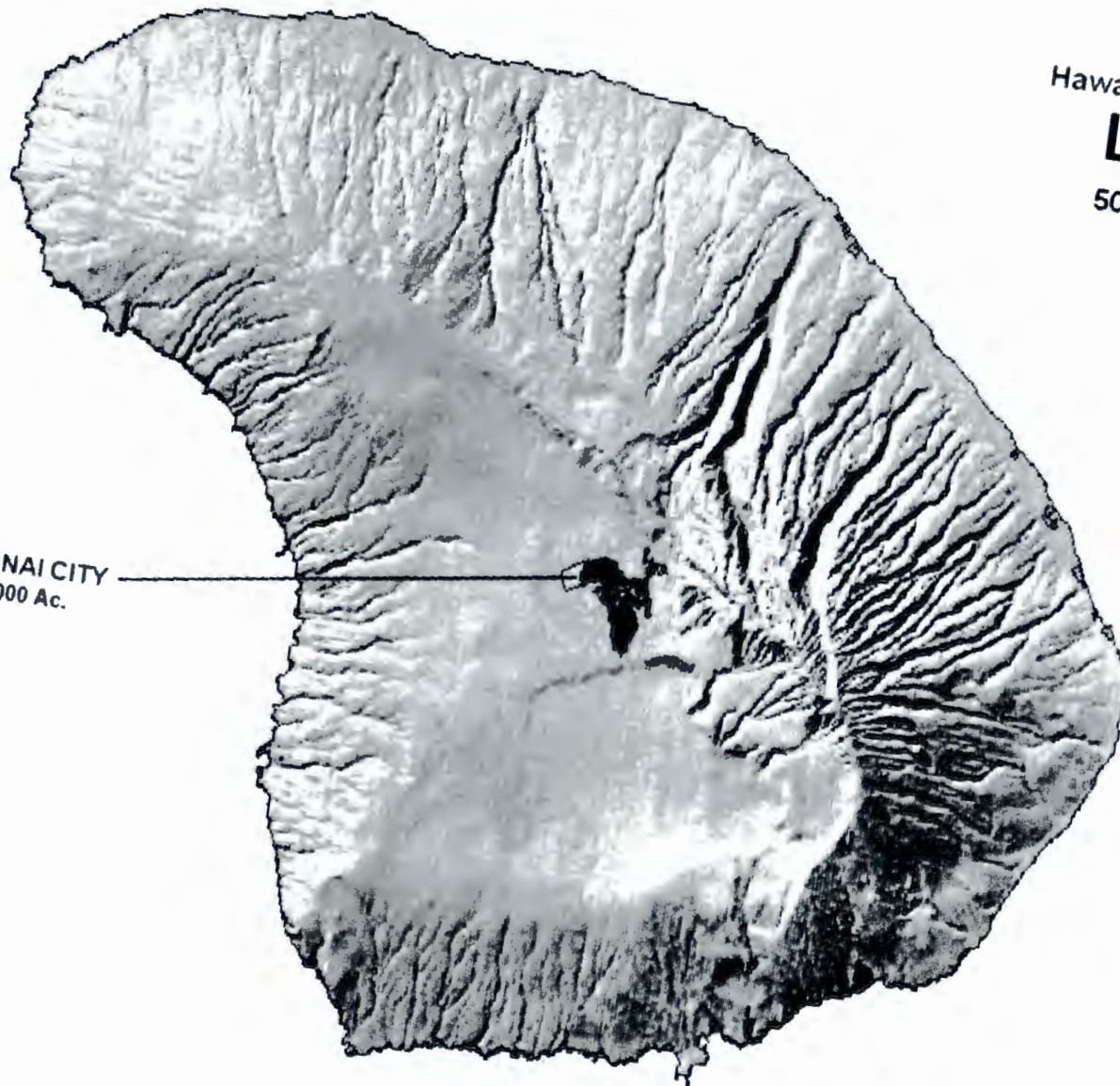
25,769.192 ACRES



Hawaiian Home Lands

LANAI

50,000 ACRES

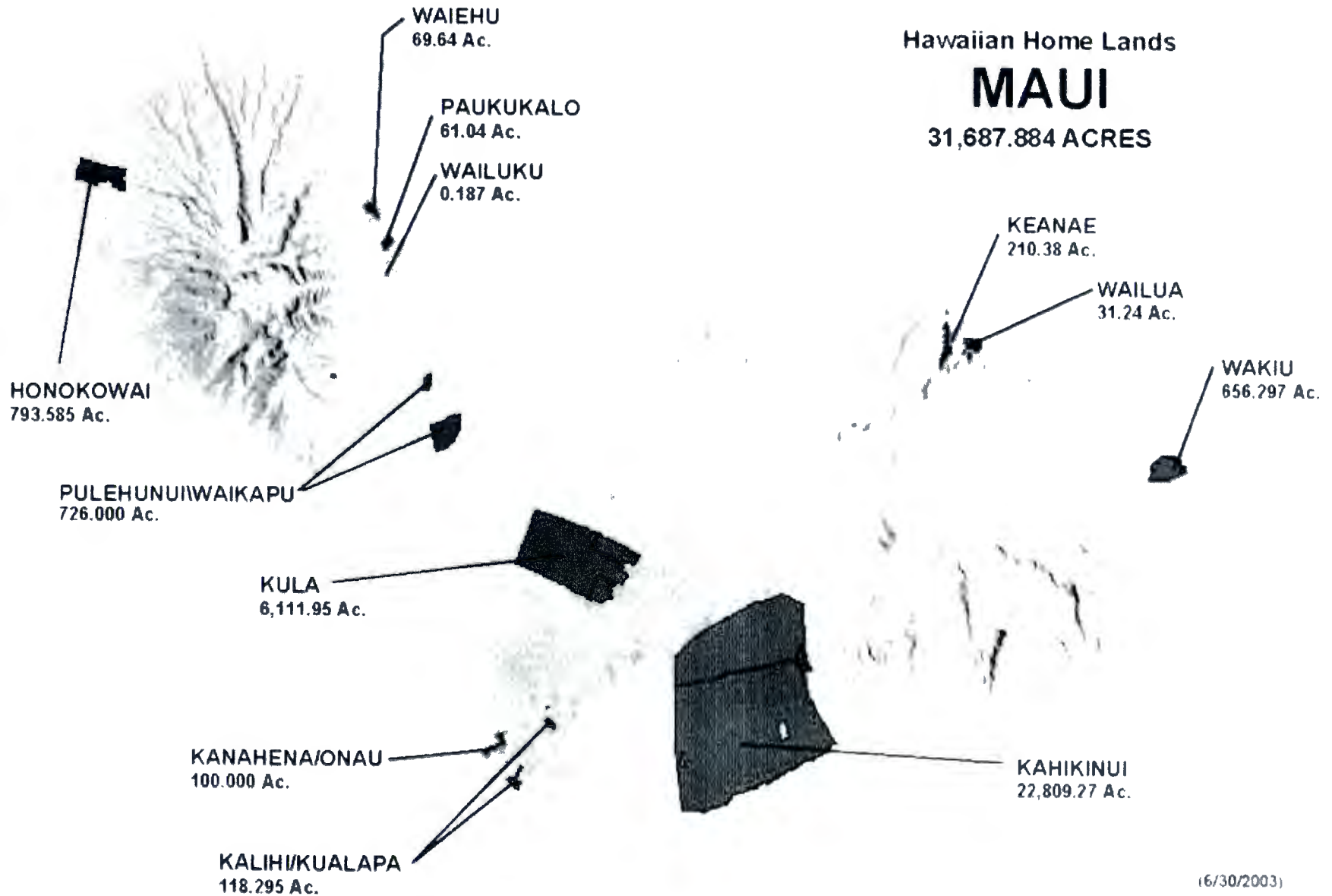


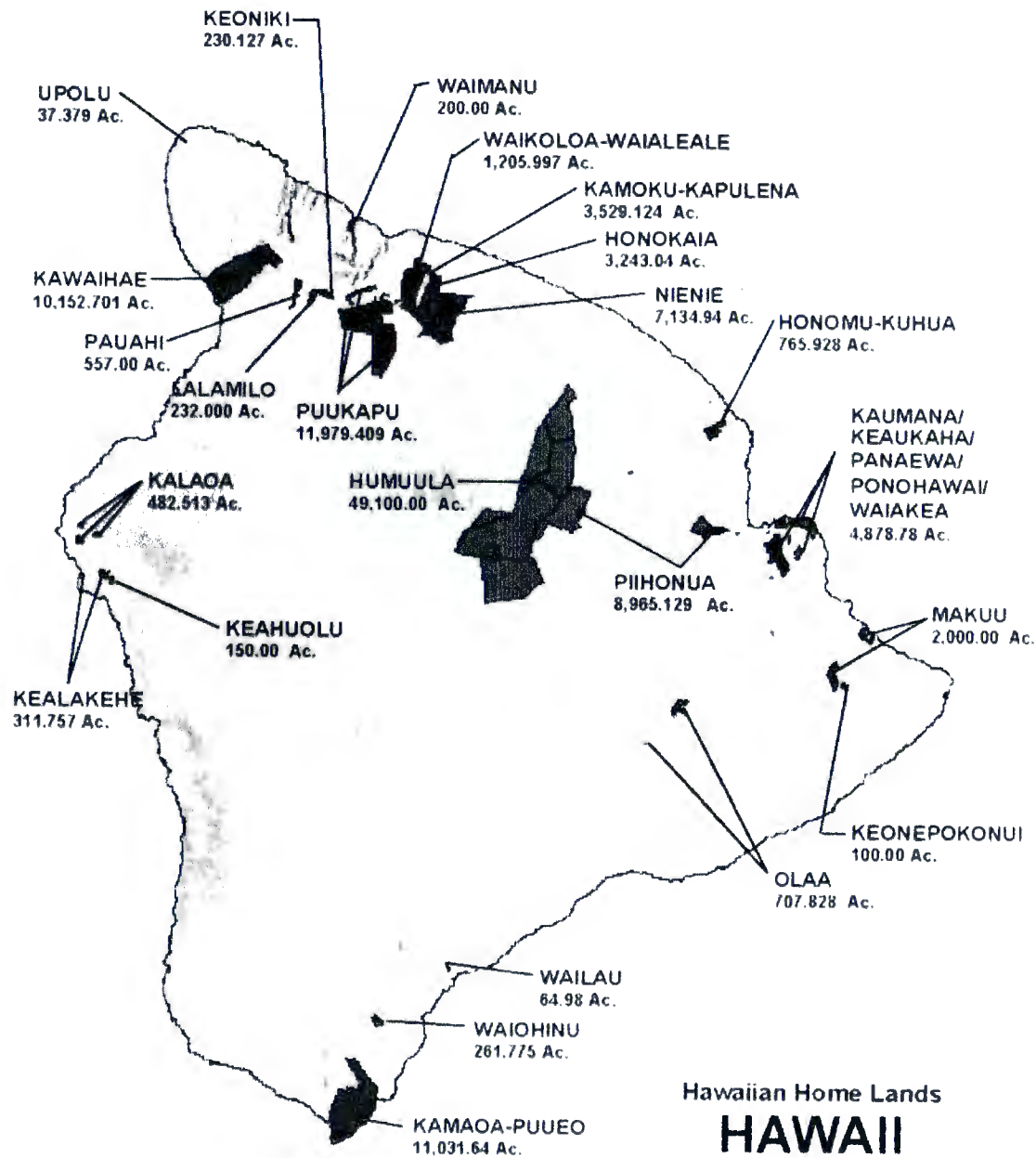
LANAI CITY
50,000 Ac.

Hawaiian Home Lands

MAUI

31,687.884 ACRES





Hawaiian Home Lands

HAWAII

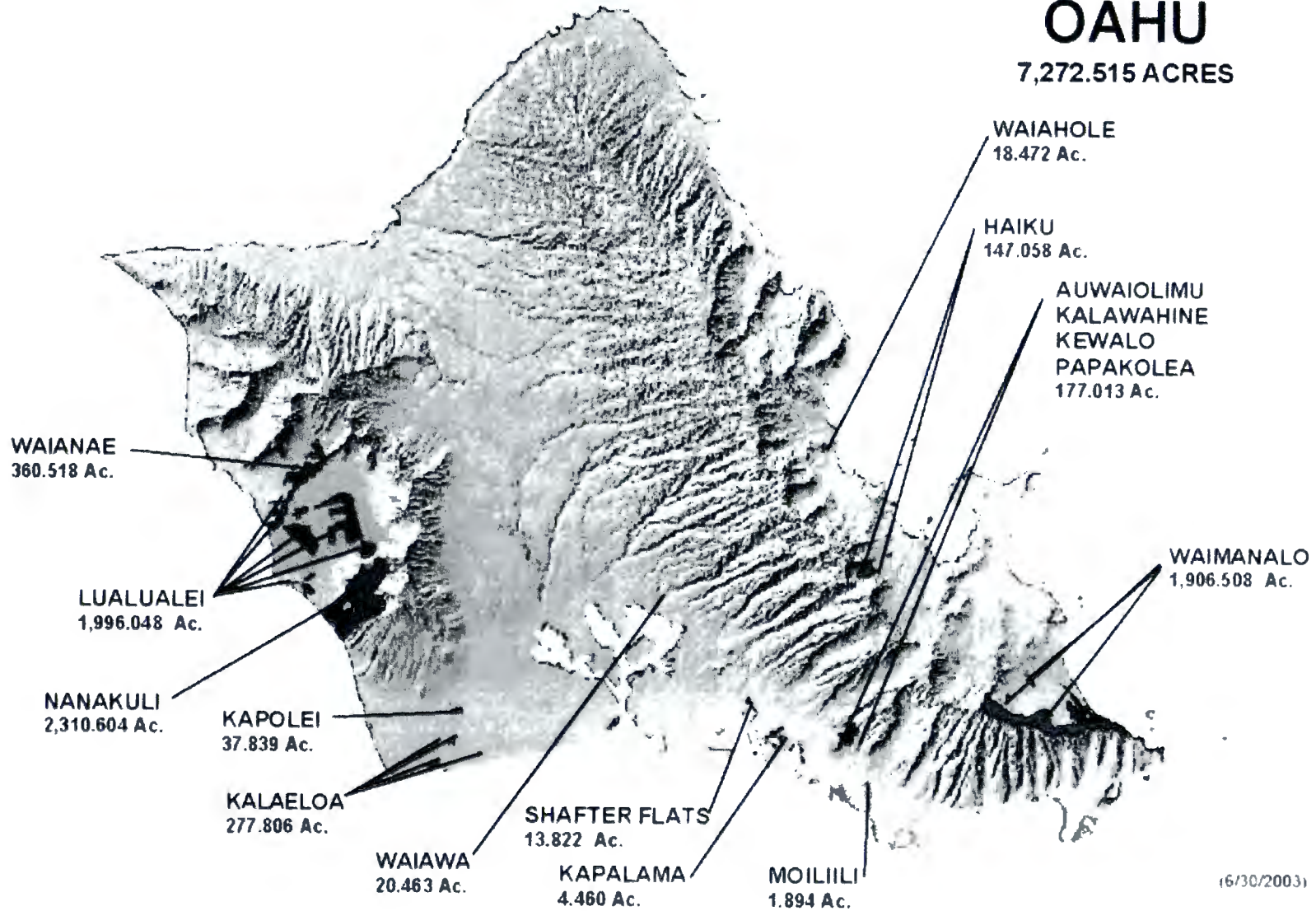
117,313.047 ACRES

(6/30/2003)

Hawaiian Home Lands

OAHU

7,272.515 ACRES



(6/30/2003)

Our Mission

**To manage the Hawaiian
Home Lands trust effectively
and to develop and deliver
lands to native Hawaiians.**



Balancing the housing needs of our beneficiaries...



...with the care and management of our natural and cultural resources.



Department of Hawaiian Home Lands

- Total acreage: **203,000+ acres**
 - 5% of land in Hawaii
- Total homestead leases: **9,815**
- Total homestead applicants: **27,341**
- Total applications: **43,795**

Leases count as of 12/31/15

Applicants and Applications count as of 2014 annual report
(last published)



Department of Hawaiian Home Lands

- Focus last 30+ years on Residential development
- Homestead leasing: DHHL's "sweet spot" is affordable single family residential
- Future direction – more options:
 - Rural lots (subsistence agriculture)
 - Affordable rentals for kupuna (elderly)
 - Rent with option to purchase



Housing Development Challenges

- Affordability
- High cost of living/low wages
- High construction costs
- Slow process
(procurement/environmental)
- Deep subsidies required
- Access to capital for families
(inalienable lands)



NAHASDA & Title VIII

- NAHASDA amended in 2000
- Title VIII – Native Hawaiian Housing Block Grant
- 184A loan guarantee program
- Helped over 1,500 families in 15 years
- \$8-12 million annually



NAHASDA & Title VIII

- Infrastructure development
- Home construction and repairs
- Financing for self-help/Habitat
- Financial counseling
- Down payment assistance
- Home repair training
- Home energy efficiency training



Eligibility

- 80% Area median income
- Eligible native Hawaiian under the Hawaiian Homes Commission Act, as amended, 1921
- Must be used on DHHL land
- Must be activities identified in annual housing plan



Need

NAHASDA Eligible: 4,517 Lessees
12,303 Applicants
17,366 Potential Applicants =

TOTAL: 34,186 nH Households

Need Calculation: 12,303
17,366

TOTAL: 29,669 X \$350,000 =

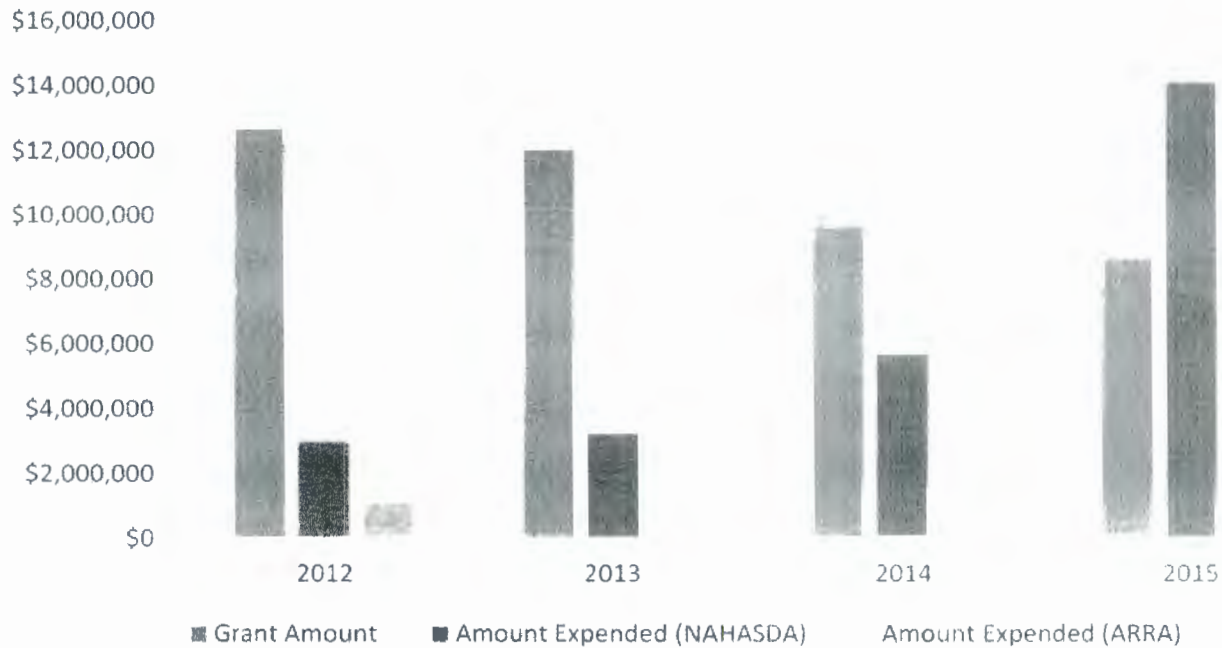
\$10,384,150,000 Sufficient Funding Request

Source: 2015 DHHL NAHASDA Annual Housing Plan



FY ending June 30	Grant Amount	Amount Expended (NAHASDA)	Amount Expended (ARRA)	% Change in NAHASDA Expend. from Previous Year
2012	\$12,700,000	\$2,974,059	\$1,104,937	
2013	\$12,035,714	\$3,217,652		8%
2014	\$9,700,000	\$5,682,328		77%
2015	\$8,700,000	\$14,131,955		149%

NAHASDA GRANT / EXPENDITURES



Source:

NHHBG Overview (prepared by HUD ONAP Local Office)

Packaged Home Financing

- 33 Vacant lots in Keaukaha, Hawaii
- 77 Vacant lots in Kalamaula, Molokai
- Lessees will qualify on 60/40 split:
 - 40% of total cost of packaged home construction with 1% interest
- Remaining 60% set aside for term of mortgage:
 - Recapture provision
- Mortgage payment approx. \$300-\$400



HALE Program

In Hawaiian, *hale* means “house”

“HALE” assists eligible applicants/lessees with the following:

Risk Mitigation

Homebuyer education

Assists borrowers to qualify

Loss Mitigation

Lease cancellation prevention

Keeps families in their homes

- HALE emphasizes *kuleana* in terms of financial behavior
- HALE promotes applicant/lessee empowerment
- Non-profit partners to provide services to families

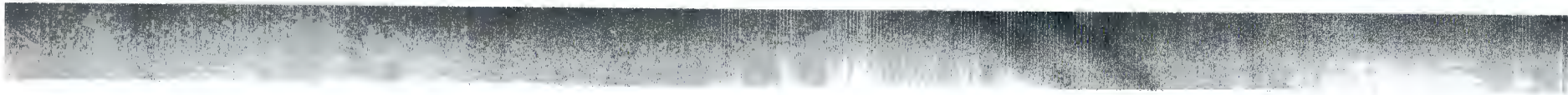


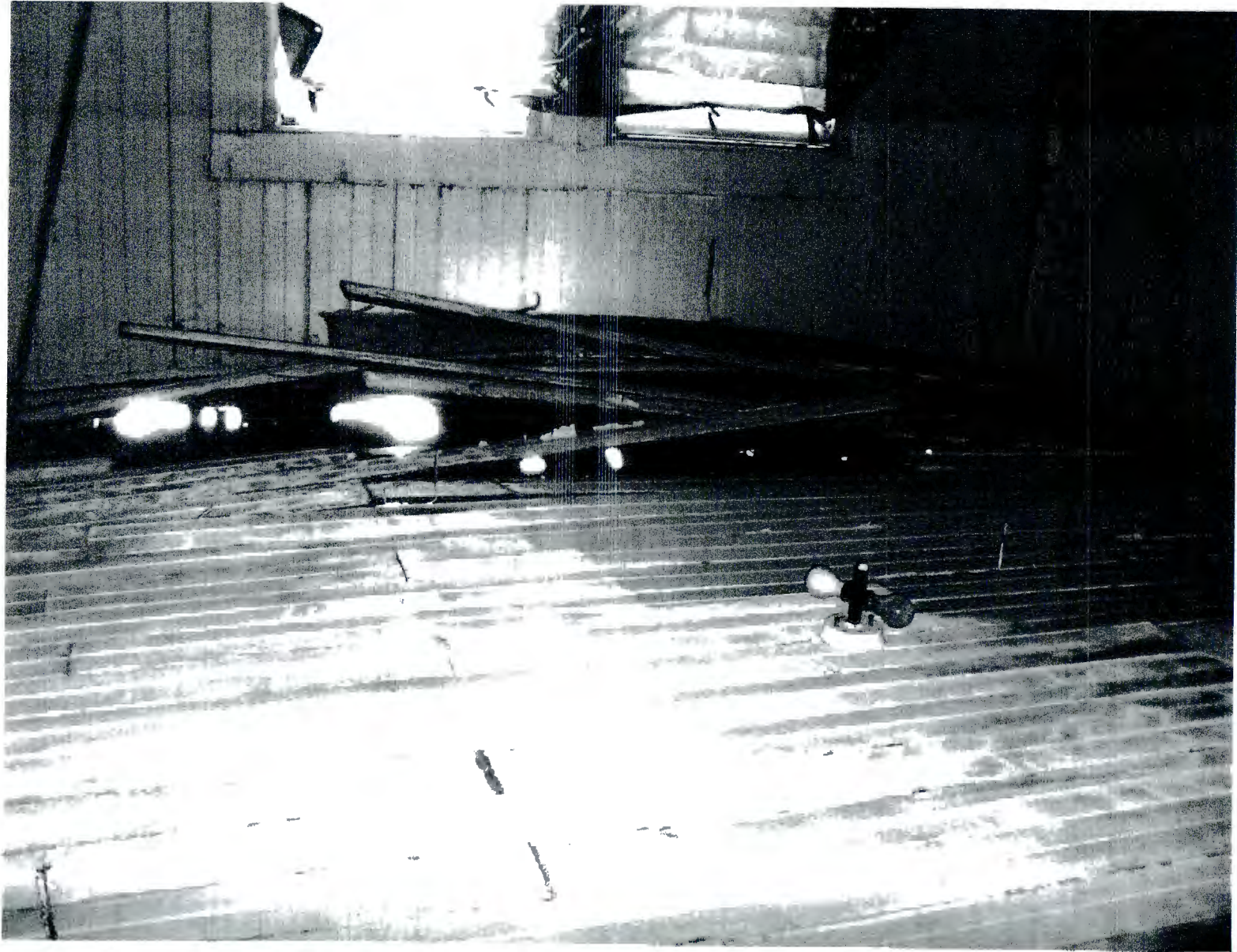
Home Assistance Program

- Provides \$100,000 no-payment loan for critical home repairs
- Approved by HHC 07/2013
- Priority areas defined by mo`oku`auhau of the homesteads (60 homes statewide)
- More need than available resources













Before and After Photos



Bathroom Before

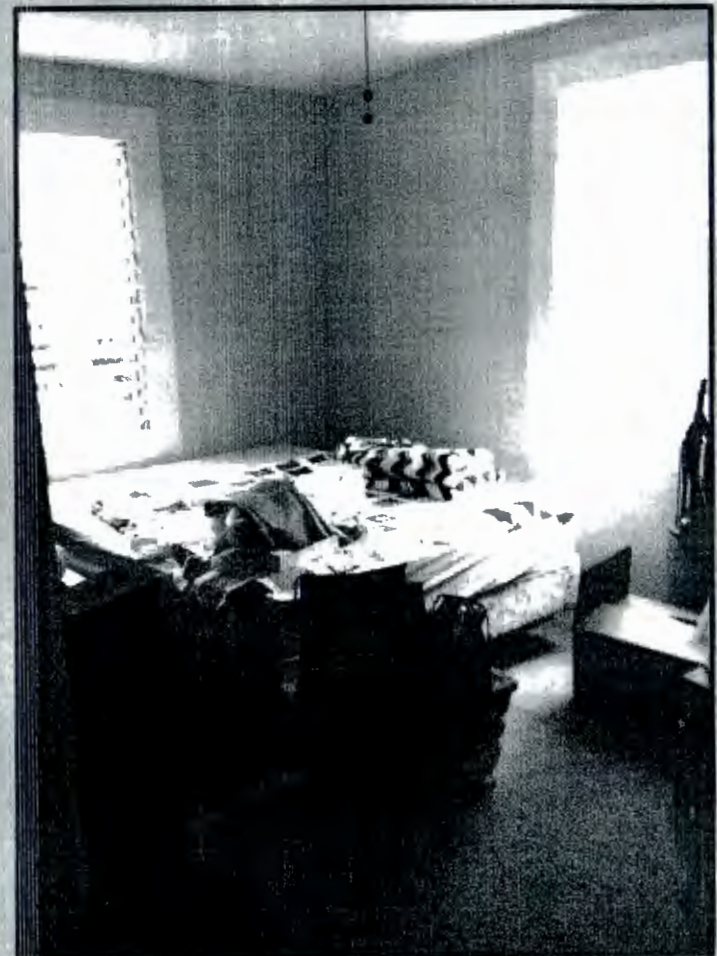


Bathroom After

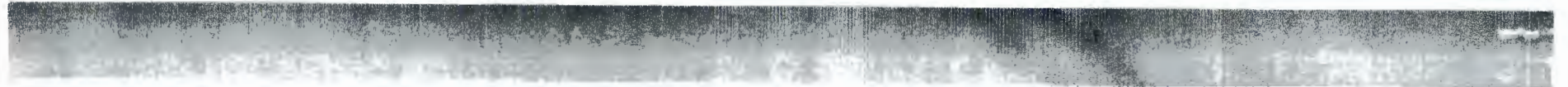
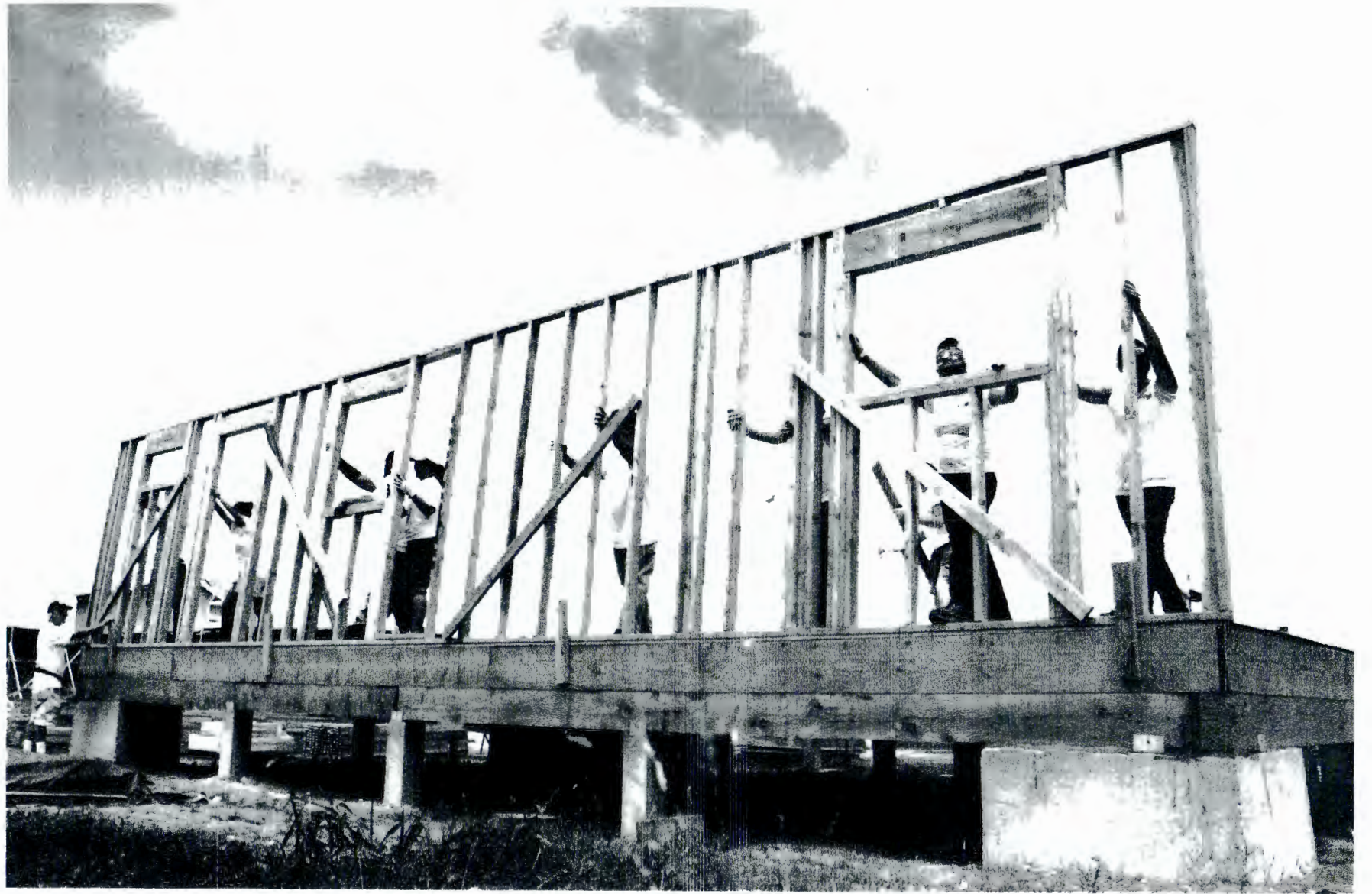
Before and After Photos



Bedroom Before

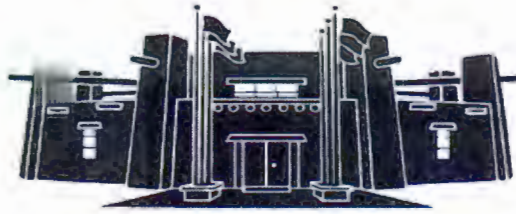


Bedroom After



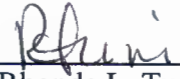







MEMORANDUM

TO: Honorable Walter Phelps
Navajo Nation Council

FROM: 
Rhonda L. Tuni
Office of Legislative Counsel

THRU: 
Levon Henry, Attorney
Office of Legislative Counsel

DATE: June 30, 2016

SUBJECT: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE
SUPPORTING NATIVE HAWAIIAN PEOPLE IN REESTABLISHING
A GOVERNMENT-TO-GOVERNMENT RELATIONSHIP WITH THE
UNITED STATES GOVERNMENT

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting.

Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0205-16

SPONSOR: Honorable Walter Phelps

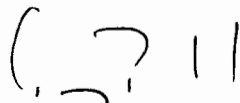
TITLE: An Action Relating To NAABIK'IYATI' Committee Supporting Native Hawaiian People Reestablishing A Government-To-Government Relationship With The United States Government.

Posted: June 30, 2016 at 5:08 PM

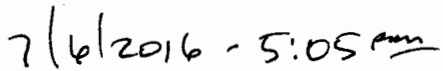
5 DAY Comment Period Ended: July 5, 2016

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments	<i>None</i>



Executive Director
Office of Legislative Services



Date/Time