

117TH CONGRESS
2D SESSION

H. R. 7130

To direct the Secretary of Defense to convey the Mākua Military Reservation to the State of Hawai‘i and establish a trust fund for such conveyance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2022

Mr. KAHELE introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committees on Transportation and Infrastructure, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Defense to convey the Mākua Military Reservation to the State of Hawai‘i and establish a trust fund for such conveyance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This bill may be cited as the “Leandra Wai Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

1 (1) Leandra Wai was a co-founder of the Na-
2 tive Hawaiian-led non-profit Mālama Mākua, served
3 as its president, and grounded the organization as
4 its cultural practitioner until her passing in 2016.
5 She embodied the cultural healing power of Mākua
6 Valley, and was the heart, soul, and spirit of
7 Mālama Mākua as the organization fought in Fed-
8 eral court to stop live-fire training in the sacred val-
9 ley. Twice per month, from 2002 until shortly before
10 her passing, Wai led cultural access into Mākua Val-
11 ley, facilitating the cultural reconnection of thou-
12 sands of community members with Mākua. Her lead-
13 ership still guides Mālama Mākua.

14 (2) Mākua, which means “parents” in Hawai-
15 ian, is a sacred site, rich in culture and biological re-
16 sources.

17 (3) Mākua Military Reservation (in this section
18 referred to as “MMR”) contains more than 100
19 sites eligible for listing on the National Register of
20 Historic Places, including Hawaiian temples,
21 shrines, petroglyphs, and other sacred, cultural, and
22 historic sites. Past military live-fire training has
23 damaged Mākua’s cultural sites, bombing them and
24 pockmarking them with bullet holes. Moreover, con-

1 tinued military occupation of MMR severely limits
2 access by Native Hawaiian cultural practitioners.

3 (4) In Native Hawaiian stories and legends, or
4 “mo‘olelo”, Mākua is an important place within a
5 much more expansive traditional cultural landscape
6 and network of interrelated sites. It has heightened
7 cultural significance because of its relationship to
8 other sites.

9 (5) Military training-related fires at MMR
10 threaten more than 40 species of animals and plants
11 protected under the Endangered Species Act (Public
12 Law 93–205; 16 U.S.C. 1531 et seq.), as well as na-
13 tive habitat identified as critical to the survival and
14 recovery of these imperiled species. Additionally,
15 training-related fires have burned thousands of acres
16 at MMR.

17 (6) Historically, Mākua was considered “‘āina
18 momona”, or fertile land, with evidence of extensive
19 agricultural terracing that could have produced sub-
20 stantial amounts of food and provided access to im-
21 portant offshore fisheries.

22 (7) Traditional and customary practices, such
23 as fishing, gathering of plants, and funerary prac-
24 tices, have continued at Mākua in different forms to
25 the present.

1 (8) Toxins from military training and related
2 activities at MMR, such as prescribed burns, con-
3 taminate Mākua’s air, land, and water. Contami-
4 nants are transported to civilian areas beyond
5 MMR’s boundaries—to Mākua Beach and the
6 ocean—via the air, Mākua’s streams, overland flow
7 during storm events, and groundwater.

8 (9) The Armed Forces seized Mākua for train-
9 ing shortly after the attack on Pearl Harbor, evict-
10 ing the families who had lived there for generations,
11 bombing their church, and destroying their homes.
12 The Armed Forces promised to return the land to
13 the local families six months after the end of hos-
14 tilities but broke that promise. Nearly eight decades
15 after World War II ended, the Armed Forces still
16 occupy MMR.

17 (10) In addition to seizing Hawaiian trust
18 lands, the Armed Forces condemned kuleana land
19 grants from Native Hawaiian families.

20 (11) MMR lies just across Farrington Highway,
21 a public roadway, from Mākua Beach, a public
22 beach where local children play, and local families
23 gather fish and limu to put food on their tables.

24 (12) The Armed Forces have not conducted live
25 fire training at MMR since June 2004. For more

1 than 23 years, Hawai‘i-based military units have
2 consistently and repeatedly been able to achieve
3 readiness to deploy for combat missions without con-
4 ducting any live-fire training at MMR.

5 (13) The Wai‘anae district is home to one of
6 the largest concentrations of Native Hawaiians any-
7 where, yet approximately one-third of Wai‘anae’s
8 land is occupied by the Armed Forces. The commu-
9 nity has been burdened with multiple threats to
10 health, safety, and the environment, which is re-
11 flected in poor health and socioeconomic indicators.

12 (14) Mākua is an important site for the revital-
13 ization of Native Hawaiian cultural practices and a
14 valuable educational resource for Hawaiian culture,
15 history, ecology, and environmental restoration.

16 **SEC. 3. STUDY OF THE COST TO MAKE THE MĀKUA MILI-**
17 **TARY RESERVATION SUITABLE FOR HUMAN**
18 **HABITATION.**

19 (a) STUDY REQUIRED.—The Secretary of Defense
20 shall, in collaboration with the State of Hawai‘i, conduct
21 a study to—

- 22 (1) map out land hazards including—
23 (A) unexploded ordnance; and
24 (B) other contaminants;

1 later than 180 days after the date of the enactment of
2 this Act.

3 (c) DESCRIPTION OF PROPERTY.—The exact acreage
4 and legal description of the parcel of property to be con-
5 veyed under this Act shall be determined by a survey that
6 is satisfactory to the State of Hawai'i after consultation
7 with the Secretary.

8 (d) REPORT ON CONVEYANCE.—Not later than 180
9 days after the conveyance under this Act, and annually
10 thereafter, the Secretary shall submit to the appropriate
11 congressional committees a report on the compliance with
12 the provisions of this Act.

13 **SEC. 5. MĀKUA MILITARY RESERVATION CONVEYANCE, RE-**
14 **MEDIATION, AND ENVIRONMENTAL RES-**
15 **TORATION TRUST FUND.**

16 (a) ESTABLISHMENT OF TRUST FUND.—There is es-
17 tablished in the Treasury of the United States a trust fund
18 that shall be known as the “Mākua Military Reservation
19 Conveyance, Remediation, and Environmental Restoration
20 Trust Fund” (in this section referred to as the “Fund”),
21 consisting of such sums as may be appropriated or cred-
22 ited to the Fund as provided in this section.

23 (b) TRANSFER TO THE FUND.—

1 (1) APPROPRIATIONS.—There are authorized to
2 be appropriated to the Fund such sums as may be
3 necessary—

4 (A) to make the Mākua Military Reserva-
5 tion suitable for agriculture, residential use,
6 and human habitation, including any remedial
7 actions under the Comprehensive Environ-
8 mental Response, Compensation, and Liability
9 Act of 1980 (42 U.S.C. 9620 et seq.); and

10 (B) to carry out this Act.

11 (2) INVESTMENT YIELD.—There shall be depos-
12 ited into the Fund any returns yielded from the in-
13 vestment of the sums appropriated to the Fund
14 under paragraph (1) of this subsection.

15 (c) EXPENDITURES FROM THE FUND.—Amounts in
16 the Fund shall be made available pursuant to the terms
17 of the Memorandum of Understanding under subsection
18 (d).

19 (d) MEMORANDUM OF UNDERSTANDING.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary of the Army, acting through the Chief of En-
23 gineers, shall enter into a Memorandum of Under-
24 standing with the State of Hawai‘i that shall gov-
25 ern—

1 (A) the study required under section 3(a);

2 (B) the conveyance required under section

3 4(a);

4 (C) the timing, planning, methodology, and
5 implementation for the removal of—

6 (i) unexploded ordnance; and

7 (ii) other contaminants; and

8 (D) the use of the sums appropriated to
9 the Fund under subsection (b)(1).

10 (2) CONSULTATION.—In carrying out para-
11 graph (1), with respect to the terms and conditions
12 included in the Memorandum of Understanding pur-
13 suant to paragraph (1)(C), the Secretary of the
14 Army shall consult with Native Hawaiian organiza-
15 tions.

16 (3) ACCESS TO SITE.—Nothing in the Memo-
17 randum of Understanding may restrict access to the
18 Mākua Military Reservation pursuant to paragraph
19 13 of the settlement agreement and stipulated order
20 of the United States District Court for the District
21 of Hawai‘i executed on October 4, 2001 (Civil No.
22 00–00813 SOM–LEK).

23 **SEC. 6. DEFINITIONS.**

24 In this Act:

1 (1) The term “appropriate congressional com-
2 mittees” means the Committees on Armed Services
3 of the Senate and House of Representatives.

4 (2) The term “Native Hawaiian organization”
5 has the meaning given such term—

6 (A) in section 6207 of the Native Hawai-
7 ian Education Act (20 U.S.C. 7517); or

8 (B) in section 300314 of title 54, United
9 States Code.

10 (3) The term “other contaminants” includes—

11 (A) improved conventional munitions;

12 (B) munitions waste;

13 (C) medical waste; and

14 (D) other hazardous materials introduced
15 to the Mākua Military Reservation by the Sec-
16 retary of Defense.

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