

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.

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## 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

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## 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           taminates 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;

(2) determine an appropriate schedule, consistent with community standards, for the removal of such land hazards; and

(3) provide a cost estimate for the land remediation and restoration activities required to make the Mākua Military Reservation suitable for agriculture, residential use, and human habitation.

(b) REPORT REQUIRED.—Not later than one year following the date of the enactment of this Act, the Secretary, in collaboration with the State of Hawai‘i, shall submit a report to the appropriate congressional committees that contains the results of such study.

13 SEC. 4. CONVEYANCE OF THE MĀKUA MILITARY RESERVA-  
14 TION TO THE STATE OF HAWAII.

(a) CONVEYANCE.—The United States, through the Secretary of Defense, shall convey and return, without consideration, to the State of Hawai‘i, all right, title, and interest of the United States in and to that parcel of property known as the Mākua Military Reservation located in Oahu, Hawai‘i.

(b) DEADLINE.—Notwithstanding section 120(h)(3)(A)(ii)(I) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)(A)(ii)(I)), the Secretary shall carry out the conveyance under subsection (a) of this section not

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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