

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
MAUI BRANCH
685 HALEAKALA HIGHWAY
KAHULUI, HAWAII 96732

REPORT

March 6, 2020

**Summary findings and conclusions regarding
State trail to Ho‘olawa Landing, Maui**

On September 1, 2016, staff of the Division’s Maui district office were contacted by email by persons identifying themselves as the Friends of Ho‘olawa Bay, who indicated that they are a group of residents that live near Ho‘olawa Landing, Hamakualoa, Maui. The inquiry expressed concerns that a state-owned trail leading to Ho‘olawa Landing may be unlawfully obstructed, requested a determination by the department as to whether the subject trail to the Landing was in fact a state trail, and requested assistance to ensure that the trail was available for public use. In response to that inquiry, staff conducted site inspections and surveys, contacted adjacent landowners, and reviewed available records and documents to gather information relevant to the inquiry. The purpose of this memo is to report our findings on this matter.

A. Ownership

Pursuant to §264-1, Hawaii Revised Statutes, all trails in the state declared to be public rights-of-ways by the Highways Act of 1892, or opened, laid out, or built by the government, are declared to be public trails. Under the Highways Act of 1892, all trails built by the government or private parties, and dedicated or abandoned to the public as a highway, are declared to be public highways. The focus of our investigation in this matter was to determine, in consultation with the Department of the Attorney General, whether documentation and records support the claim that the trail in question is a public trail, and, if so, to determine the location and condition of the trail. Our findings are as follows:

1. A survey of Grant 3263, dated 1879, used as a reference point for that grant, the “new road to Ho‘olawa Landing”.
2. The road noted above in the survey of Grant 3263 is shown on Registered Map (RM) 862, dated 1881, and is shown leading to the shoreline at Ho‘olawa Landing.

3. The road to Ho‘olawa Landing was dedicated to the public use in 1892, as evidenced by historical accounts.
 - a. From 1879 to 1896, the lands near Ho‘olawa from Honopou to Huelo supported sugar plantations known as the Huelo Plantations.
 - b. In 1880, an estimated 500 acres of sugar were under cultivation, employing an estimated 120 men under C. Brewer and Akanali‘ili‘i. Other sugar plantation interests in the area in later years included Watson and HC&S.
 - c. During those years, Ho‘olawa Landing served as a commercial port, supported financially by the government, and serving the public interests by providing transport for sugar, goods, US mail, and travelers.
 - d. The port at Ho‘olawa landing was serviced weekly from 1878 to 1902 by the Wilder Steamship Company’s 49-ton steamer Mokoli‘i. The fare for passengers to travel from Honolulu to Ho‘olawa Landing was \$6.
4. A judgement was filed in 1996 in the circuit court for quiet title for Tax Map Key (TMK) No. (2) 2-9-001:032, reserving in favor of the state the road shown on RM 862, pursuant to the Highways Act of 1892, and filed in the Bureau of Conveyances (BOC) as Doc. No. 97-117365.
5. Article 5(a) in Exhibit A of the warranty deed for parcel TMK No. (2) 2-9-001:032, reserves the in favor of the state the state road identified in BOC Doc. No. 97-117365.

Figure 1 shows RM 862 and the road to Ho‘olawa landing. Based on the findings above, after consultation with the Department of the Attorney General, staff concluded that the road shown on RM 862 is a public trail pursuant to §264-1, Hawaii Revised Statutes, owned in fee simple by the State of Hawaii, and comprising unencumbered state lands under the management of the Department. As such, use of the trail is regulated under Chapter 13-221, Hawaii Administrative Rules. We assume that the trail is 10 feet in width, based on typical construction and standard practice.

B. Location

To determine the location of the trail, we created a digital trace of the public trail shown on RM 862 and superimposed it onto modern maps and high-resolution imagery. The mapping showed that the location of the RM 862 trail coincided closely with existing roads and trails in use to access the Ho‘olawa area from Hana Highway.

C. Obstruction

A site visit by staff revealed that the road to Ho‘olawa Landing from Hana Highway was open and in public use to a point approximately 0.35 miles south of the Landing where, the road became impassable due to the presence of fences that appeared to be along property boundaries. The fences were encountered at the boundaries of Tax Map Key parcels (2) 2-9-002:013 and (2) 2-9-001:032, shown as Point A on Map 2. Staff were informed by members of the public that the landowner of parcel (2) 2-9-001:032 had informed them that the road to Ho‘olawa Landing was private property and that they were forbidden to pass upon it.

D. Notification

Staff contacted the owners of parcels (2) 2-9-002:013 and (2) 2-9-001:032 to inform them of the presence of a public trail crossing their property to Ho‘olawa Landing. Through their attorneys, both landowners stated that they disagreed that the government owned the public trail to Ho‘olawa Landing where it crossed through their respective properties, expressing their belief that the trail was owned by them. Both indicated a willingness to discuss potential alternate routes that may address certain concerns they had regarding the potential use of the trail by the public. Staff engaged with each landowner and their attorneys in lengthy discussions in order to come to an agreement on an appropriate alternate route. Ultimately however, no agreement was reached. Each were informed by certified letter that staff were concluding their investigation and would be submitting a final report of findings.

E. Mapping

Staff developed detailed maps of the location of the RM 862 trail in relation to current land features by digitally superimposing the trail as shown on RM 862 onto high resolution imagery (Map 1). The mapping showed that the historic trail shown on RM 862 coincides closely with roads or trails that are currently in use, with certain exceptions noted below (Maps 2-4). A description of the location of RM 862 in relation to those features is provided below.

- Segment AB, shown on Map 2, does not appear to be in current use and may not be apparent on the ground. Point A of this section is located at the boundary of parcels (2) 2-9-002:012 and (2) 2-9-002:013. A range fence obstructs the RM 862 trail at this point. Segment AB crosses parcels (2) 2-9-002:013 and (2) 2-9-001:033 where it meets a section of the trail that appears to be in current use. Specifically, we observed the residents of parcel (2) 2-9-001:032 using that section of the trail as a driveway to a home on the property. There are two additional fences that obstruct the trail along segment AB.
- Segment CD, shown on Map 3, coincides with the portion of the RM 862 trail noted above that appears to have been improved and in current use.
- Segment EF, shown on Map 4, passes west of a home that has been constructed on parcel (2) 2-9-001:032. County records indicate this home was constructed in 2003. This section does not appear to be in use and it may have been altered when the home was constructed. From point F, the trail follows a clear path to Ho‘olawa Landing.

F. Conclusions and recommendations

Our investigation indicates that the historic trail to Ho‘olawa Landing is owned by the state in fee simple pursuant to §264-1, Hawaii Revised Statutes. The location of that trail is depicted on RM 862. Overall, the digital tracing we developed from the RM 862 map very closely coincides with roads or pathways that are evident on site today. There are two notable sections, shown as segment AB on Map 2 and segment EF on Map 4, where the RM 862 tracing does not appear to coincide with roads or trails evident on the ground presently. In both of those sections, it appears that the route was slightly altered, and then returns to the RM 862 route.

Segment AB is obstructed by fences, which constitute encroachments onto state land where they cross the public trail. We recommend that the department install a simple step-over structure or a gate at each point where a fence crosses the trail. This would enable the public to use the trail while maintaining the fences that prevent movement of livestock. We assume the department would appropriately notify the adjoining landowners of the encroachments and provide for their removal. Segment EF may be in disuse and may require some minor brushing and clearing.

With regard to disposition, staff recommends that the trail remain unencumbered and unimproved at this time. There is currently no parking or amenities of any kind at the trail head, which is located in a relatively remote, rural agricultural area, and appropriate scoping and environmental review would be recommended before any improvements are undertaken.

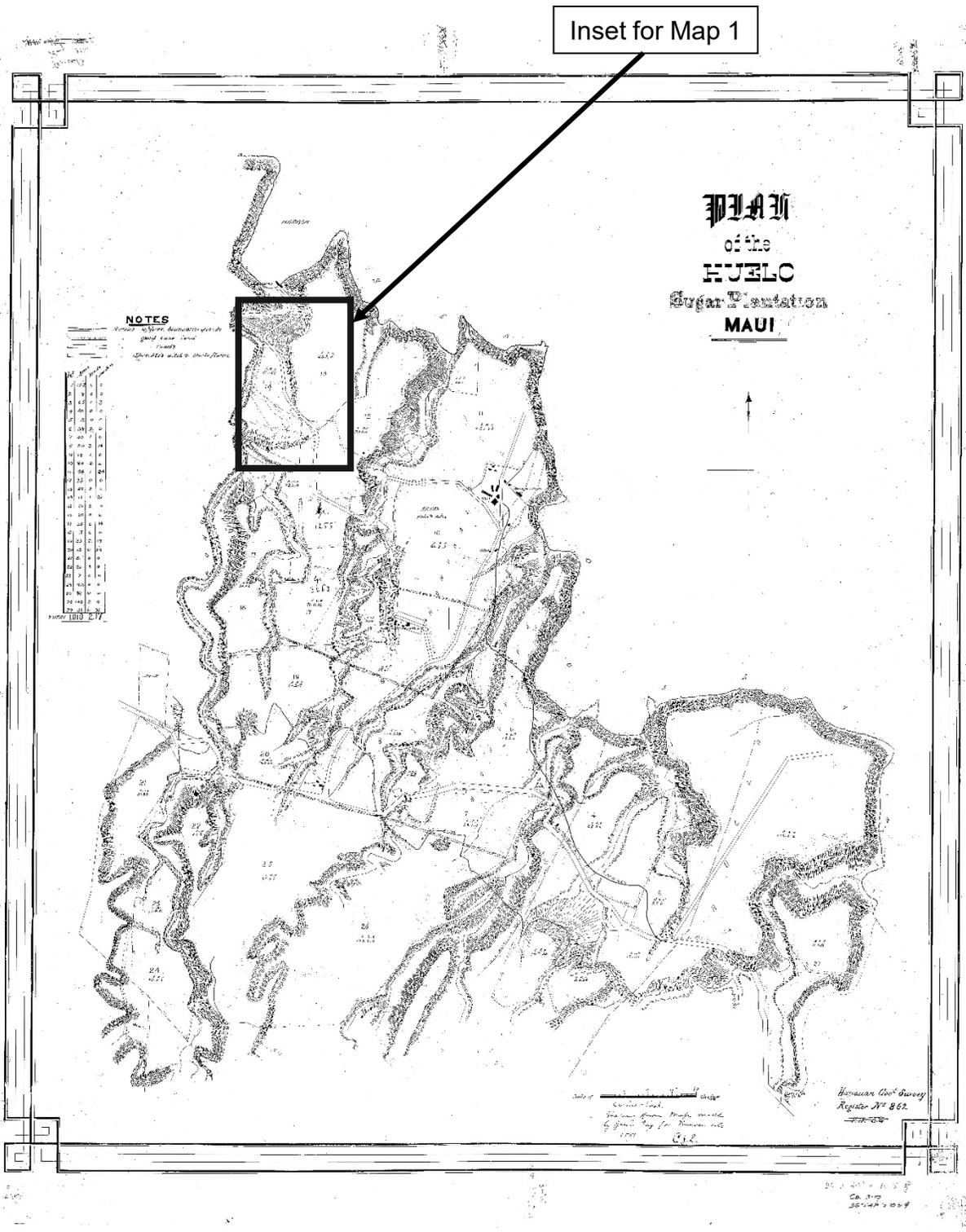
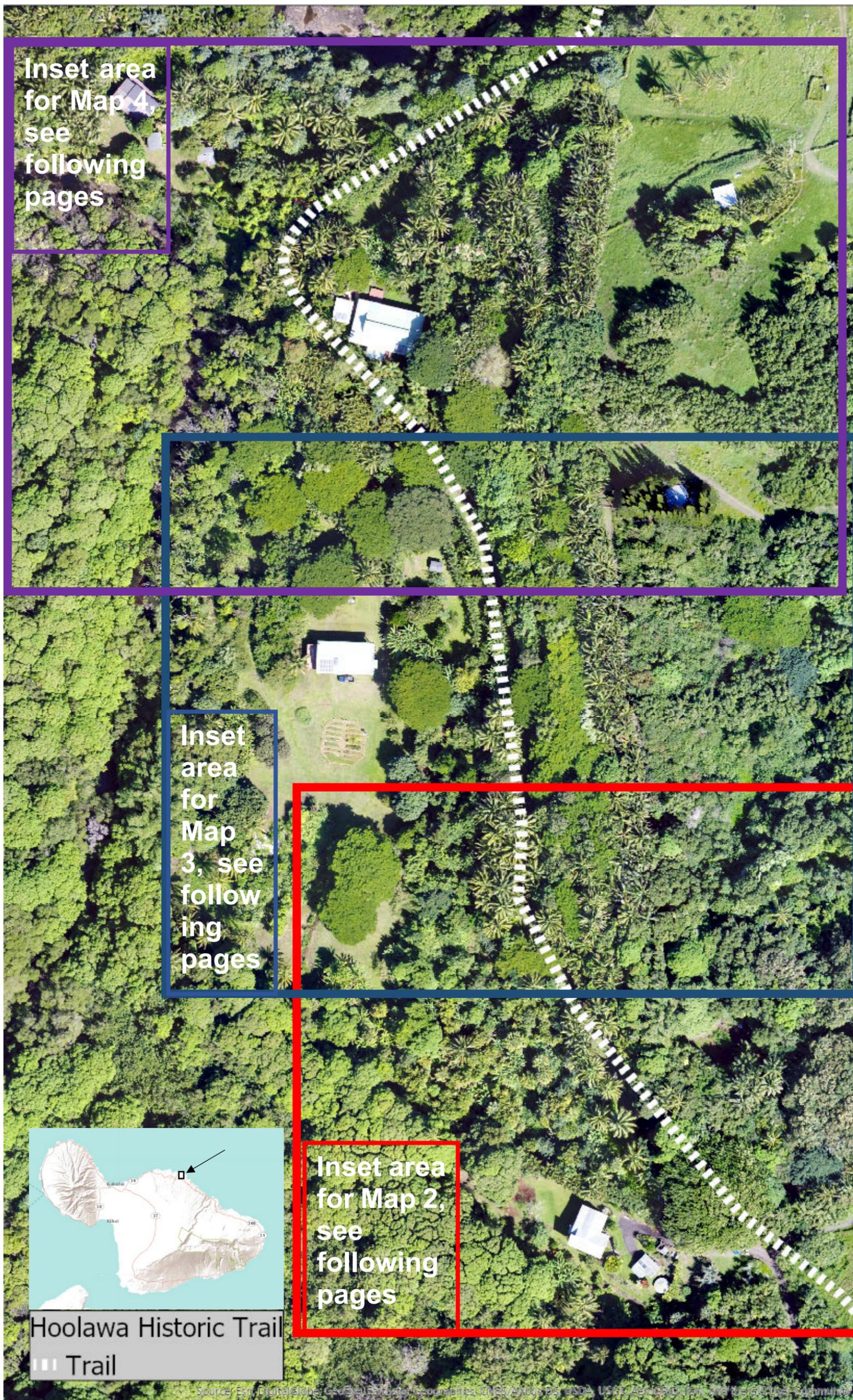


Figure 1. Registered Map 862, showing the location of the trail to Ho'olawa Landing



Map 1. Overview of the location of RM 862 trail from Ho‘olawa Road seaward

Map 2. Approximate location of RM 862 trail points A and B (see text for description)



Hoolawa Historic Trail
||| Trail

Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Map 3. Approximate location of RM 862 trail points C and D (see text for description)



Hoolawa Historic Trail
--- Trail

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Map 4. Approximate location of RM 862 trail points E and F (see text for description)



Hoolawa Historic Trail
--- Trail

Sources: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community