

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

July 8, 2016

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.:15KD-051

Kauai

Sale of Portions of Remnant State Parcels to Stephen P. Rapozo, Sr. Trustee of the Stephen P. Rapozo, Sr. Trust, Mervin L. & Fay T. Rapozo, Trustees of the Mervin L. & Fay T. Rapozo Trust, Doreen A. Rita and Madeline M. Yamaguchi, Castro Tract, Kapaa Homesteads, 4<sup>th</sup> Series, Kawaihau, Kauai, Tax Map Keys: (4) 4-6-010:004 & 005 portions.

Issuance of Immediate Right-of-Entry Permit to Stephen P. Rapozo, Sr. Trustee of the Stephen P. Rapozo, Sr. Trust, Mervin L. & Fay T. Rapozo Trustees of the Mervin L. & Fay T. Rapozo Trust, Doreen A. Rita and Madeline M. Yamaguchi for Access and Utility Purposes, Castro Tract, Kapaa Homesteads, 4<sup>th</sup> Series, Kawaihau, Kauai, Tax Map Keys: (4) 4-6-010:004 & 005 portions.

APPLICANTS:

Stephen P. Rapozo, Sr. Trustee of the Stephen P. Rapozo, Sr. Trust.  
Mervin L. & Fay T. Rapozo, Trustees of the Mervin L. & Fay T. Rapozo Trust.  
Doreen A. Rita, single, tenant in severalty.  
Madeline M. Yamaguchi, single, tenant in severalty.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portions of Government lands of Castro Tract, Kapaa Homesteads, 4<sup>th</sup> Series, Kawaihau, Kauai, situated at identified by Tax Map Keys: (4) 4-6-010:004 & 005, as shown on the attached map labeled Exhibit A.

AREA:

Tax Map Key: (4) 4-6-010:004 por. - 900 square feet, more or less.  
Tax Map Key: (4) 4-6-010:005 por. - 900 square feet, more or less.

ZONING:

State Land Use District: Urban  
County of Kauai CZO: Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraisal, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B.

DCCA VERIFICATION:

Not Applicable. As trusts or natural persons, applicants not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment of fair market value for the remnants and;
- 2) Provide survey maps and descriptions according to State DAGS standards and at applicant's own cost;
- 3) Consolidate the remnants with the Applicant's abutting property through the County subdivision process.

REMARKS:

The Kapaa Irrigation System was built in the 1920s to provide water for approximately 6,000 acres of land for sugar cane cultivation. The system comprises 22.5 miles of ditch and tunnel, the Wailua Reservoir with 242 million gallon capacity, the Kapahi Reservoir with 30 million gallon capacity and three smaller reservoirs.

On November 17, 2000 the Amfac Company ceased farming operations on Kauai, resulting in the closing of the East Kauai Water Company and the abandonment of the irrigation system of reservoirs and ditches in the region. The subject ditch remnants were abandoned prior to Amfac's termination of sugar cane cultivation and were last in use in the 1970s.

Pursuant to section 171-52, HRS, a remnant is defined as "a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics." The subject parcel has been determined to be a remnant by this definition for the following reasons:

- 1) The parcels are portions of an abandoned ditch.
- 2) There are no current plans for future State use of the subject property.
- 3) The irregular size, shape and location make the subject property economically and physically unsuitable for any alternate development or utilization.

The sale of such remnants to abutting private property owners relieves the State of maintenance costs and liability associated with them. The Applicants are co-owners of both TMKs: (4) 4-6-010:027 & 028, the abutting properties to the subject parcels. Applicants will purchase only the portion of the subject remnants that runs between their properties. See maps attached as Exhibit A.

A power line and access driveway servicing Applicants' parcels have crossed the remnants for a number of years. Staff is recommending the issuance of an immediate right-of-entry to authorize this use pending the consummation of the sale of the remnants. Doing so will provide the department with liability insurance and indemnity for Applicants' use of the remnants.

Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Comments were solicited from:

State Agencies:

DOH	No environmental health concerns
Historic Preservation	No historic properties affected
OHA	No response by suspense date

County Agencies:

County Planning	No response by suspense date
Public Works	No objections

Other Agencies:

East Kauai Water Co-op	No response by suspense date
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RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.
3. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (4) 4-6-010:027 and (4) 4-6-010:028, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
4. Authorize the subdivision and consolidation of the subject remnant by the Applicants. Remnant parcel (4) 4-6-010:004 to consolidate into Tax Map Key: (4) 4-6-010:027. Remnant parcel (4) 4-6-010:005 to consolidate into Tax Map Key: (4) 4-6-010:028.
5. Authorize the Issuance of an Immediate Right-of-Entry Permit to the Applicants on to subject properties for access and utility purposes, which will expire upon execution of sale of portions of remnant parcels.
  - a. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time.
  - b. Right-of-Entry permit will expire upon execution of sale of remnant parcel to the Applicant.
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnants to Stephen P. Rapozo, Sr. Trustee of the Stephen P. Rapozo, Sr. Trust, Mervin L. & Fay T. Rapozo, Trustees of the Marvin L. & Fay T. Rapozo Trust, Doreen A. Rita and Madeline M. Yamaguchi covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time.

- b. Review and approval by the Department of the Attorney General; and
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



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Marvin Mikasa  
District Land Agent

APPROVED FOR SUBMITTAL:



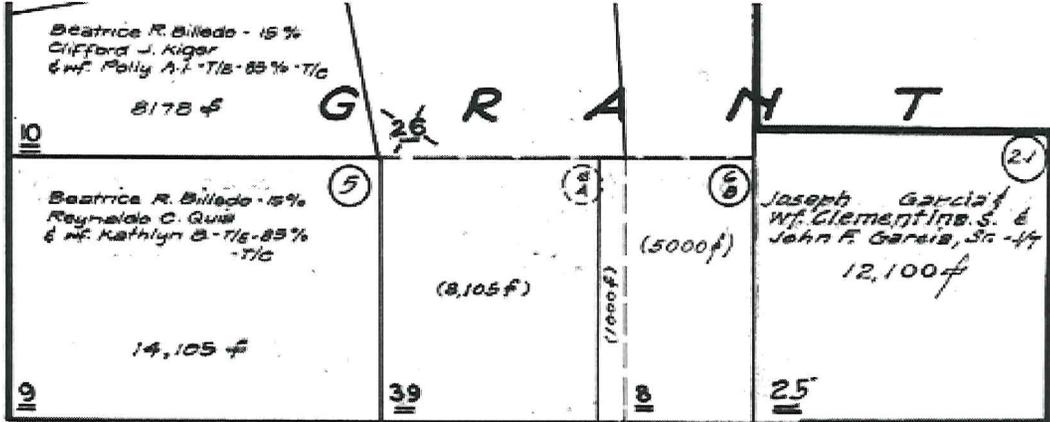
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Suzanne D. Case, Chairperson



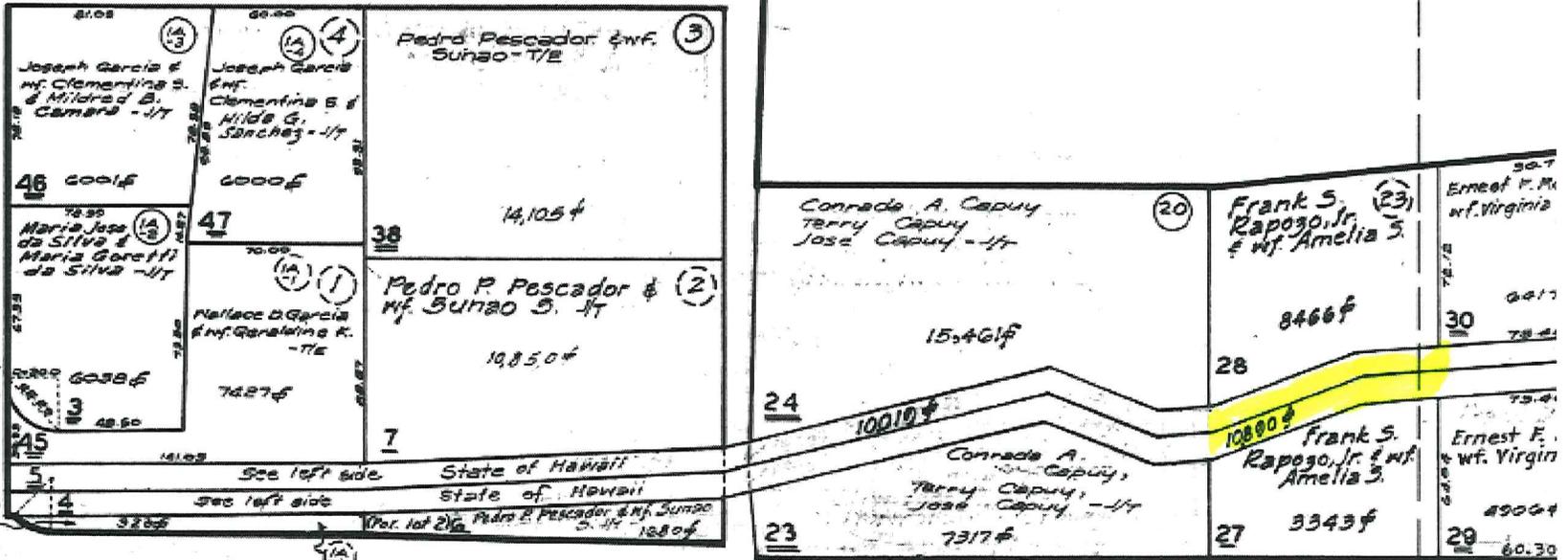


HOKU (CASTRO) RD.



PLAT 80

HONUA (SILVA) ROAD (8,609 f Gr.)



KAWAIIH

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

TO: Land Division

THROUGH: Suzanne D. Case, Chairperson

FROM: Stephen P. Rapozo, Sr. Trustee of the Stephen P. Rapozo, Sr. Trust, Mervin L. & Fay T. Rapozo Trustees of the Mervin L. & Fay T. Rapozo Trust, Doreen A. Rita and Madeline M. Yamaguchi

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, SALE OF REMNANT STATE PARCEL AND IMMEDIATE RIGHT-OF-ENTRY FOR ACCESS AND UTILITY PURPOSES TO STEPHEN P. RAPOZO, SR. TRUSTEE OF THE STEPHEN P. RAPOZO, SR. TRUST, MERVIN L. & FAY T. RAPOZO TRUSTEES OF THE MERVIN L. & FAY T. RAPOZO TRUST, DOREEN A. RITA AND MADELINE M. YAMAGUCHI

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Sale of Remnant State Parcels and Immediate Right-of-Entry for Access and Utility Purposes to Stephen P. Rapozo, Sr. Trustee of the Stephen P. Rapozo, Sr. Trust, Mervin L. & Fay T. Rapozo Trustees of the Mervin L. & Fay T. Rapozo Trust, Doreen A. Rita and Madeline M. Yamaguchi

PSF Number: 15KD-051

Project Description:

The Kapaa irrigation system was built in the 1920s to provide water for approximately 6,000 acres of land for sugar cane cultivation. The system comprises 22.5 miles of ditch and tunnel, the Wailua Reservoir with 242 million gallon capacity, the Kapahi Reservoir with 30 million gallon capacity and three smaller reservoirs.

EXHIBIT B

On November 17, 2000 the Amfac Company ceased farming operations on Kauai, resulting in the closing of the East Kauai Water Company and the abandonment of the irrigation system of reservoirs and ditches in the region. The subject ditch remnants were abandoned prior to Amfac's termination of sugar cane cultivation and was last in use in the 1970s. Several similar segments of abandoned ditch throughout the area have been filled in and sold as remnants to abutting private property owners.

The Applicants intent to consolidate the subject parcels into their abutting private properties.

Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Consulted Parties:

The Sale of State Remnant Parcels and Immediate Right-of-Entry application was sent out for review and comments to the following agencies: Hawaii Department of Health (DOH), State of Hawaii Historic Preservation Division, Office of Hawaiian Affairs (OHA), Kauai County Planning Department, Kauai County Public Works Division, and East Kauai Water Users Cooperative (EKWUC).

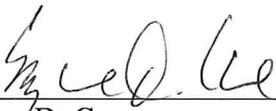
Exemption Determination:

After reviewing HAR § 11-200-(8), DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that the sale of the remnants is exempt from the requirement to prepare an environmental assessment.

According to the Exemption List for the Department of Land and Natural Resources, as Reviewed approved by the Environmental Council on June 5, 2015, Exemption Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing," Item 44 "Transfer of title to land" and Item 51 "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

Conclusion:

It is recommended that the Board declare that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

  
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Suzanne D. Case  
Board of Land and Natural Resources

6/21/10  
\_\_\_\_\_  
Date

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