

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

August 25, 2017

PSF No.: 17KD-046

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

KAUAI

Issuance of Right-of-Entry Permit to Kaiaulu Papaloa onto State Lands to Conduct Studies and Surveys for an Environmental Assessment, Kapaa Homesteads, 1st & 3rd Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-008:001 & 059, and 4-6-009:028 & 045.

APPLICANT:

Kaiaulu Papaloa, a Hawaii non-profit corporation.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa Homesteads, Series 1st & 3rd situated at Kawaihau, Kapaa, Kauai, identified by Tax Map Key: (4) 4-6-008:001 & 059 and 4-6-009:028 & 045, as shown on the attached map labeled Exhibit A.

TMK/ DISTRICT/ ZONE/ ENCUMBRANCE/ AREA:

TAX MAP KEY	DISTRICT	ZONE		ENCUMBRANCE	AREA (Acres)
		SLU	CZO		
(4) 4-6-008:001	Kawaihau, Kauai	Ag	Ag	Governor's Executive Order No. 4527, to Department of Agriculture (DOA); GLS-5563 to Stephen Sico for intensive Ag & pasture (now managed by DOA)	21.40
(4) 4-6-008:059	Kawaihau, Kauai	Ag	Ag	Vacant	6.00
(4) 4-6-009:028	Kawaihau, Kauai	Ag	Ag	Revocable Permit No. S-7721; Falko Partners, LLC, for natural recreation.	7.00
(4) 4-6-009:045	Kawaihau, Kauai	Ag	Ag	Revocable Permit No. S-7721; Falko Partners, LLC, for natural recreation.	57.03

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES _____ NO x

CHARACTER OF USE:

For purposes of conducting environmental surveys and investigations for potential lease for Education and Training of Youth Groups and Native Hawaiian Communities in the Traditional Native Hawaiian Cultural Protocols, Environmental Stewardship, Resource Management, and Traditional Knowledge for Sustainability purposes.

TERM OF RIGHT-OF-ENTRY:

One year

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See attached. (Exhibit B)

This is only a request for Land Board approval to grant Permittee a right-of-entry over the subject properties to enable Permittee to proceed with compliance of Chapter 343, HRS, prior to proposing a request for a direct lease.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u> x </u>	NO
Registered business name confirmed:	YES <u> x </u>	NO
Applicant in good standing confirmed:	YES <u> x </u>	NO

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence of Department of Agriculture, Stephen Sico and Falko Partners, LLC to enter their respective subject lands.
- 2) Coordinate with Department of Agriculture, Stephen Sico and Falko Partners, LLC on a schedule for entering their respective properties to conduct the necessary surveys and studies.

REMARKS:

In reference to an application received on February 28, 2017, Kaiaulu Papaloa, a Hawaii non-profit corporation, is a privately owned charitable organization which has been certified to be

tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended. Kaiaulu Papaloa is evaluating whether to submit a request to lease portions of the subject lands for the purposes for which its charter was issued and for which it was certified by the Internal Revenue Service. Kaiaulu Papaloa's charter purposes are: Education and Training of Youth Groups and Native Hawaiian Communities in the Traditional Native Hawaiian Cultural Protocols, Environmental Stewardship, Resource Management, and Traditional Knowledge for Sustainability. Kaiaulu Papaloa requested a right-of-entry onto State lands at Kapaa Homesteads to conduct an environmental assessment for consideration of a direct lease. Kaiaulu Papaloa is interested in leasing the subject State parcel to educate the area youths and communities by first identifying the many natural/cultural resources in the area. If it secures a lease, Kaiaulu Papaloa would then restore, landscape and cultivate some natural/traditional agriculture. It is hoped that visitors would learn the many traditional Hawaiian protocols, environmental stewardship and resource management of the land for traditional sustainability practices. Kaiaulu Papaloa hopes to also be able to include a visitor center to provide classroom settings for educational purposes.

The proposed right-of-entry is exempt pursuant to Chapter 11-200-8 (a)(5), HAR, "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource." It is anticipated that the survey and studies would be completed within twelve (12) months.

On July 12, 2017, various governmental agencies and interest groups were solicited for comments. Upon receipt of those responses, the information will be updated into the final submittal.

AGENCIES	COMMENTS
County of Kauai:	
Planning	No response by suspense date
Public Works	No comments
State of Hawaii:	
DLNR - CWRM	No response by suspense date
DLNR - DOFAW	No response by suspense date
DLNR - SHPD	No response by suspense date
DOA	No response by suspense date
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response by suspense date
Stephen Sico, Lessee, GLS-5563	See comments below
Falko Partners, LLC., Lessee, RPS-7721	No response by suspense date

Mr. Sico called KDLO to express his concerns about the permittee entering his leased property to conduct studies. He explained that when he was first approached by the permittee to discuss their plans to include his leasehold in their plans, he was in full support. However, over time, he did not feel comfortable as the plans proposed appeared to imply that the

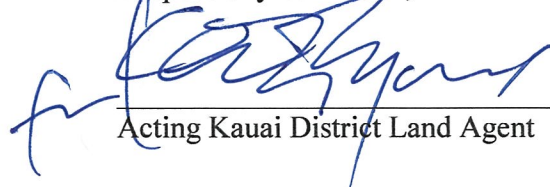
permittee would eventually take control over the development of the property, making Mr. Sico a minor stakeholder. First the proposal was to restore, landscape and cultivate some natural/traditional agriculture using native farming techniques, then it was more about starting an educational and cultural center to attract the Hawaiian community and other island visitors. Staff notes that pursuant to the Applicant Requirements listed above, Kaiaulu Papaloa cannot enter Mr. Sico's lease premises without his written consent.

Staff is recommending this right-of-entry permit be at gratis, with authorization to the Chairperson to grant extensions if necessary.

RECOMMENDATION: That the Board

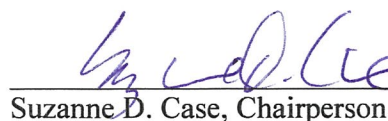
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to Kaiaulu Papaloa 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 right-of-entry permit form, as may be amended from time to time;
 - B. At its completion of the site analysis work performed, Kaiaulu Papaloa, its consultants, contractors and/or persons acting for or on its behalf shall provide copies of the environmental studies report, to the Kauai District Land Office;
 - C. Authorize the Chairperson to grant the Applicant extensions as necessary, in relation to its need to conduct/complete the required studies and surveys in preparing its environmental assessment; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;

Respectfully Submitted,



Acting Kauai District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

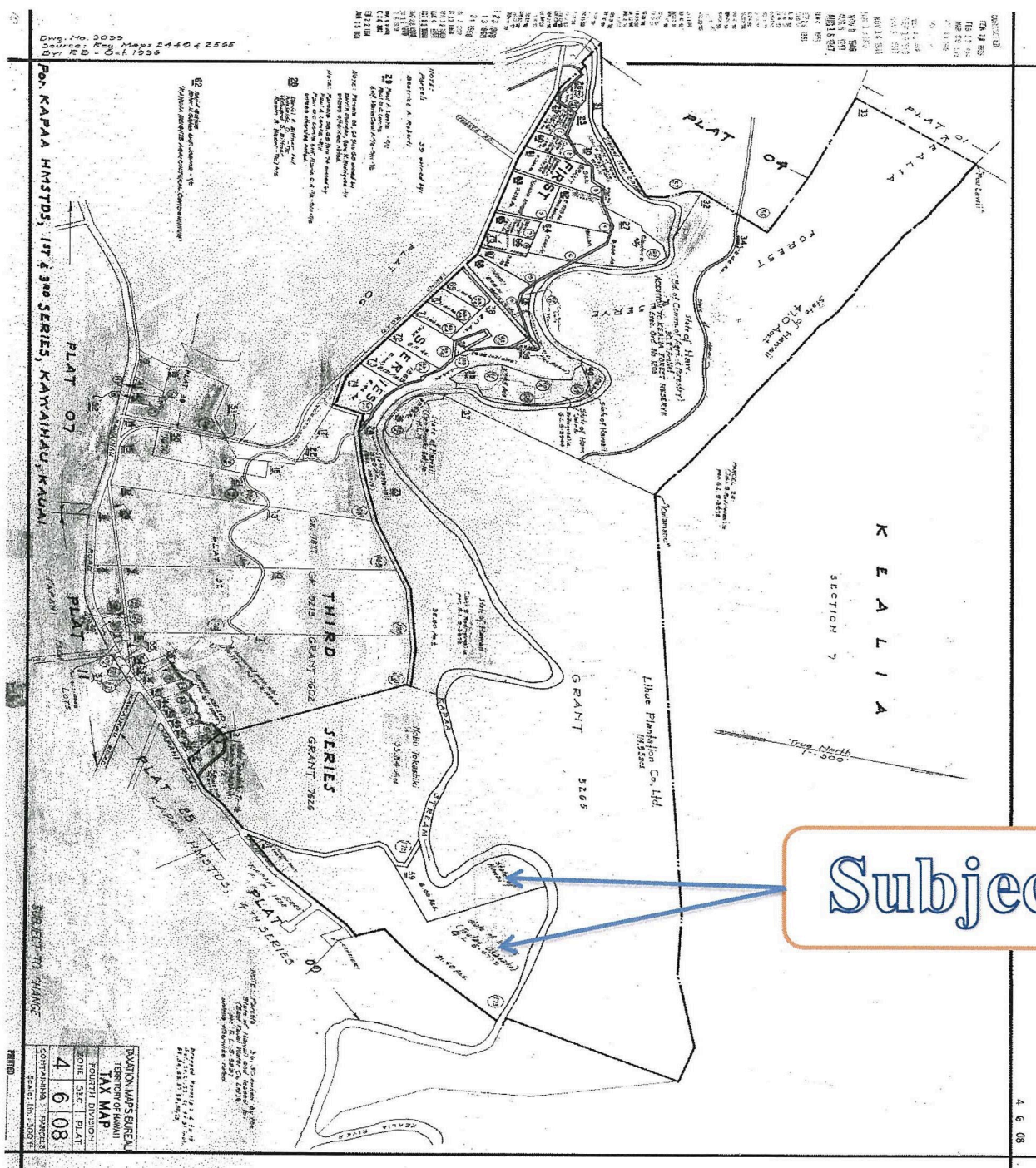


EXHIBIT A

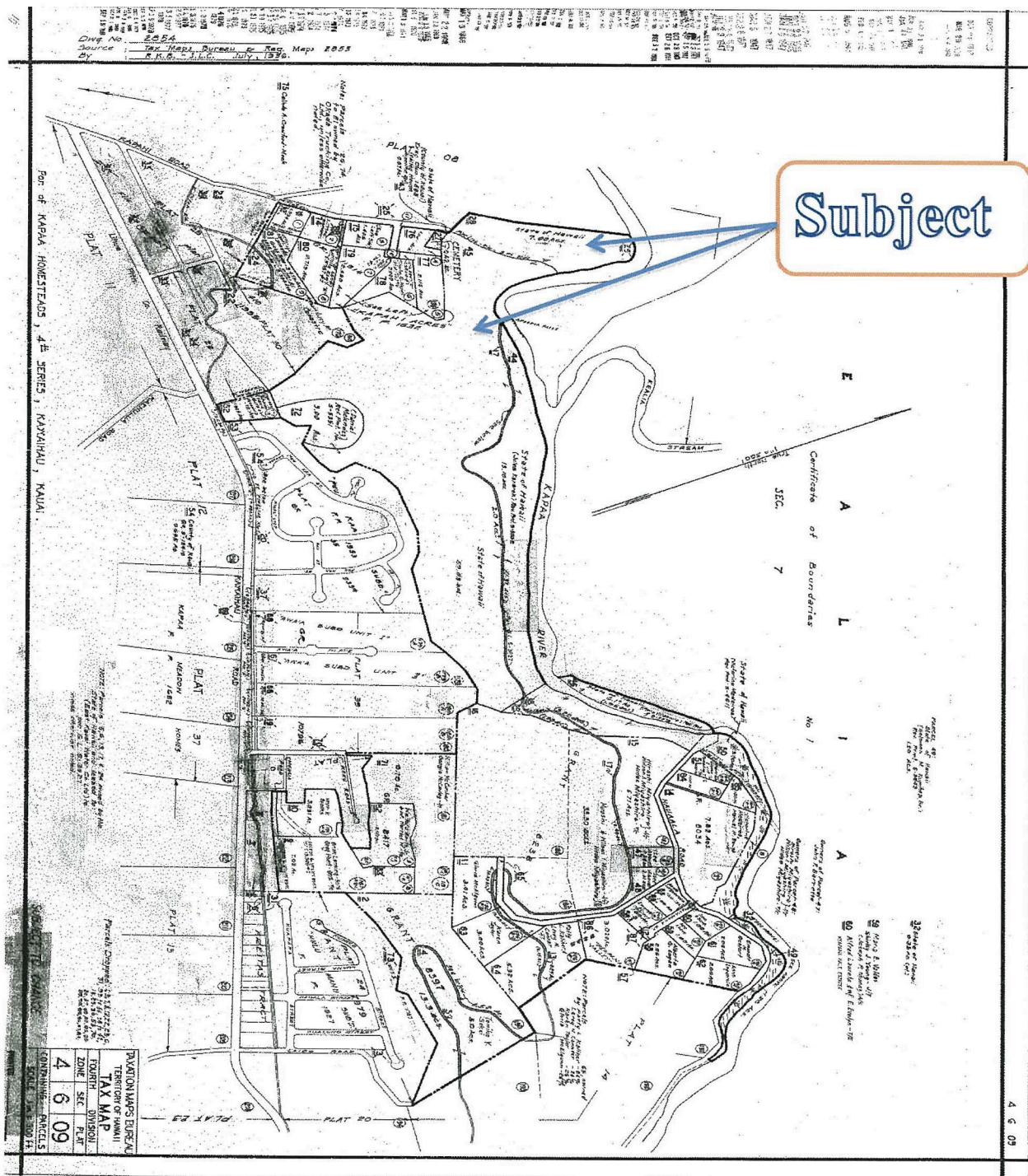


EXHIBIT A

DAVID Y. IGE
GOVERNOR OF HAWAII



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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Ref. No.: 17KD-046

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Issuance of Right-of-Entry to Kaiaulu Papaloa onto State Lands to Conduct Surveys and Studies for Preparing an Environmental Assessment.
Project / Reference No.:	PSF 17KD-046
Project Location:	Kapaa Homesteads, 1 st & 3 rd Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-008:001 & 059 and 4-6-009:028 & 045.
Project Description:	Issuance of Right-of-Entry to Kaiaulu Papaloa
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred with by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 51, which states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing".
Consulted Parties:	The Division of Forestry and Wildlife.
Recommendation:	It is recommended that the Board find that this disposition will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

EXHIBIT B