

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

November 9, 2017

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

Oahu

Amend Prior Board Action of August 26, 2016, agenda item E-3, Issuance of a Revocable Permit to Mary Thronas , Trustee of the Mary Thronas Trust for Pasture Purposes, Lot 23-A and 23-B, Wailua Rice and Kula Lots , Wailua, Lihue, Kauai, Hawaii, Tax Map Key: (4) 4-2-003:003.

BACKGROUND:

The Board at its meeting of August 26, 2016, under agenda item E-3 (Exhibit A), approved the issuance of a revocable permit to Mary Thronas, Trustee of the Mary Thronas Trust for pasture purposes.

Staff had recommended a commencement date be retroactive to February 24, 2002 because the applicants remained in possession of the property after the expiration General Lease No S-5514 had expired in February 24, 2002. However , an account was setup under SRP 7308 with Fiscal Office in which the rent for the subject area was paid to the Division of State Parks. The above account is presently current in the rent for the month of October 2017.

In the process of requesting the Office of the Attorney General assistance in the preparation of the revocable permit document, it was brought to staff s attention that a commencement date retroactive to February 24, 2002 would result in a duplicate payment to this account.

In addition to the above, the attorney for the Mary Thronas Trust had sent a copy of Mary Thronas Trust to State Parks infonning us that MaryThronas had passed away during the month of October 201 6 and that her son , Samuel K. Thronas Jr., who is the Successor Trustee of her trust is requesting that the issuance of new revocable pennit be issued to Samuel K. Thronas, Jr. (Exhibit B)

REMARKS:

Staff is returning to the Board to request the Board to amend its prior Board action of August 26, 2016, under agenda item E-3, by Deleting the recommendation for the commencement date to be retroactive from February 24, 2002 and to request that SRP 7308 for the Mary Thronas Trust be cancelled upon the execution of a new revocable permit issued to Samuel K. Thronas, Jr.

Staff has no objection to this request.

ITEM E-1

RECOMMENDATION: That the Board:

1. Amend its prior Board action of August 26, 2016, under agenda item E-3, by Deleting the recommendation for the commencement date to be retroactive from February 24, 2002 and to request that SRP 7308 for the Mary Thronas Trust be cancelled upon the execution of a new revocable permit be issued to Samuel K. Thronas, Jr.
2. All terms and conditions listed in its August 26, 2016 Board action, under agenda item E-3 to remain the same.

Respectfully Submitted,



Curt A. Cottrell
Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case
Chairperson

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

August 26, 2016

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

SRP7308

Kauai

Issuance of a Revocable Permit to Mary Thronas, Trustee of the Mary Thronas Trust,
For Pasture Purposes, Lot 23-A and 23-B, Wailua Rice and Kula Lots, Wailua,
Lihue, Kauai, Hawaii, Tax Map Key: (4) 4-2-003:003.

APPLICANT:

Mary Thronas, Trustee of the Mary Thronas Trust.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Wailua Rice and Kula Lot 23-A and 23-B, Kauai,
Hawaii, identified by Tax Map Key: (4) 4-2-003:003, as shown on the attached map
labeled Exhibit A.

AREA:

19.405 acres, more or less.

ZONING:

State Land Use District: Conservation
County of Kauai CZO:

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Encumbered by Governor's Executive Order 4260 setting aside land for state park
purposes to be under the control and management of the Division of State Parks in 2009.
Formerly encumbered under Land Division General Lease No. S-5114 to Mary Thronas
Trust, which expired on February 24, 2002.

Approved by the Board
of Land and Natural Resources
at its meeting held on

ITEM E-3

AUG 26 2016

EXHIBIT "A"

CHARACTER OF USE:

Pasture purposes. "Pasture" shall mean the conduct of livestock operation consisting of the keeping of cattle, primarily, and others, in a minor role, such as horses and sheep wherein the animals graze the land for feed produced thereon. Permitted uses shall include such compatible uses as woodland management, wildlife management, and the cultivation of feed crops to be used strictly within the premises, The keeping, raising, or grazing of goats or swine shall not be permitted. The operation of commercial activities such as feedlots (excepting a private feedlot designed to feed the lessee's own cattle), dairy milking parlors, boarding of horses, piggeries, and poultry husbandry shall also not be permitted.

COMMENCEMENT DATE:

February 25, 2002.¹ (Account for SRP 7308 previously setup)

MONTHLY RENTAL:

\$42.00 per month. (Current rent under SRP7308)

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 -ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources Environmental Impact Statement Exemption List", approved 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 Nos. 47 and 51 as stated in the Exemption Notification attached as Exhibit B.

DCCA VERIFICATION:

Not applicable. The Applicant is sole proprietorship and, as such, is not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT:

State Parks has learned from the Department of Agriculture (DOA) that several of the pasture properties in that area had been transferred to DOA by way of Act 90, Session Laws of Hawaii (SLH) 2003, which established the Non Agricultural Park Lands program within the Hawaii Department of Agriculture ("HDOA"), and was codified as Chapter 166E, Hawaii Revised Statutes ("HRS"). Under this program, the legislature found that certain public lands classified for agricultural use by the Department of Land and Natural Resources (DLNR) should be transferred to the HDOA for purposes and in a manner consistent with article XI, section 10, of the State Constitution

The purpose of this chapter is to ensure the long-term productive use of public lands leased or available to be leased by the DLNR for agricultural purposes by allowing these lands to be

¹ Staff is recommending a commencement date retroactive to February 24, 2002 because the applicants remained in possession of the property after the expiration of General Lease No. S-5514 in February 24, 2002. An account was setup under SRP7308 for this property and applicant is current in rent payments although no permit had been issued to them.

REMARKS:

The subject property identified as Lot 23-A and 23-B, was one of the nine (9) fifteen (15) year pasture leases which were authorized at public auction, and the issuance of revocable permits upon the expiration of the leases by the Board at its meeting of June 14, 1996, under item D-20.

Land Division initially issued the subject property to Mary Thronas, Trustee of the Mary Thronas Trust for pasture purposes for a term of fifteen (15) years commencing on February 25 1996 through February 24, 2002 and also approved the issuance of a revocable permit for this property when the lease expired in 2002.

By way of Governor Executive Order No. 4260, approximately (3) three of those nine (9) pasture leases, which were located along the Wailua River, were set aside to the Division of State Parks as addition to the Wailua State Park.

However, when the properties were transferred to the Division of State Parks by the Land Division, State Parks was not aware of these pastures leases along the Wailua River. The lease for Lot 23-A and Lot 23-B to Mary Thronas Trust had expired on February 24, 2002, and a revocable permit account was setup for Mary Thronas Trust with the Fiscal Office under SRP 7308. The Mary Thronas Trust remained on the property and continued to pay the rent on the property after the lease expired in 2002 although no revocable permit was issued to them.

The Division of State Parks had received a request from the Mary Thronas Trust requesting the issuance of a revocable permit to be able to continue to use the subject property for pasture purposes.

The commencement date for the new revocable would commence from February 25, 2002 on a month-to-month basis and the applicant is current in the rent and liability insurance requirements.

State Parks has learned from the Department of Agriculture (DOA) that several of the pasture properties in that area had been transferred to DOA by way of Act 90, Session Laws of Hawaii (SLH) 2003, which established the Non Agricultural Park Lands program within the Hawaii Department of Agriculture (“HDOA”), and was codified as Chapter 166E , Hawaii Revised Statutes (“HRS”). Under this program, the legislature found that certain public lands classified for agricultural use by the Department of Land and Natural Resources (DLNR) should be transferred to the HDOA for purposes and in a manner consistent with article XI, section 10, of the State Constitution.

The purpose of this chapter is to ensure the long-term productive use of public lands leased or available to be leased by the DLNR for agricultural purposes by allowing these lands to be transferred to the HDOA for leasing and management at a future date.

The Applicant has 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. No comments were solicited from other government or community agencies, as there will be no changes in the existing use of the property.

The Division of State Parks has no objections to the issuance of a revocable permit to Mary Thronas, Trustee of the Mary Thronas Trust for pasture purposes with the intention of having this property withdrawn from EO 4260 and the property transferred over to the Hawaii Department of Agriculture at a later date.

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 revocable permit to Mary Thronas, Trustees of the Mary Thronas Trust covering the subject area for pasture purposes 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 revocable permit 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.
5. Authorize the Chairperson to negotiate any other specific terms necessary to effectuate the revocable permit.

Respectfully Submitted,

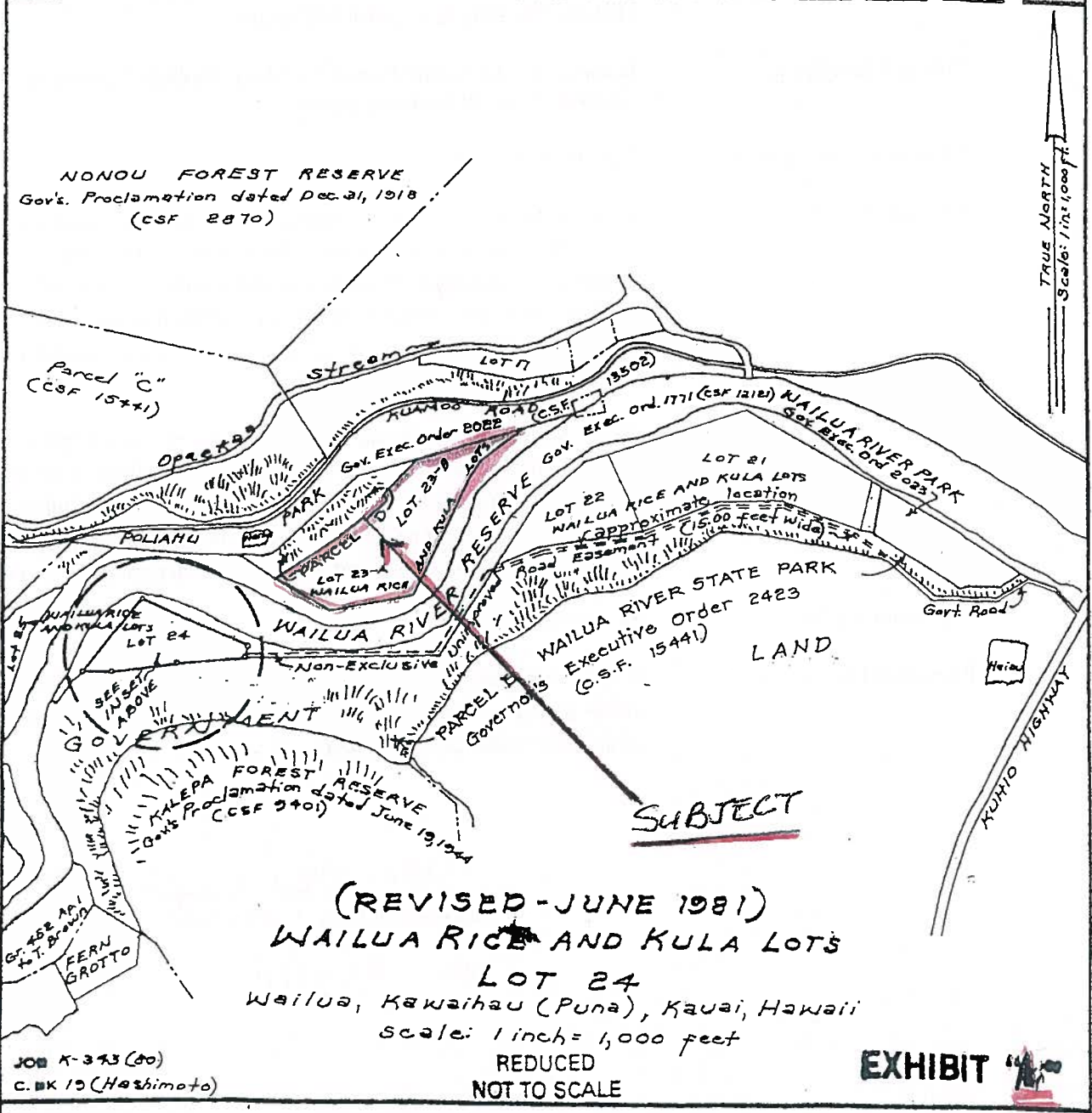
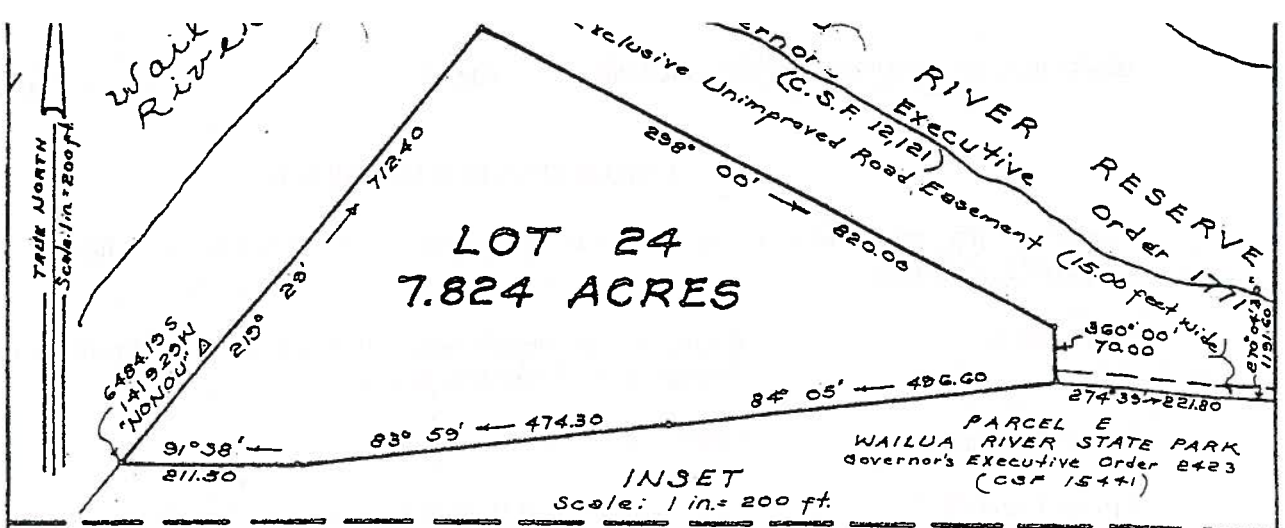


Curt A. Cottrell
Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



JOB K-343 (00)
C. BK 10 (Hashimoto)

TAX MAP 3-5-04
KAUAI FILE
CARTON 27

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

EXHIBIT 4

STN June 3, 1981

EXEMPTION NOTIFICATION

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

Project Title: Issuance of Revocable Permit To Mary Thronas, Trustee of the Mary Thronas Trust for pasture purposes.

Project / Reference No.: SRP 7308

Project Location: Lot 23-A and 23-B, Wailua Rice and Kula Lots, Wailua, Lihue, Kauai, Hawaii Tax Map Key: (4) 4-2-003:003

Project Description: Issuance of Revocable Permit To Mary Thronas, Trustee of the Mary Thronas Trust for pasture purposes.

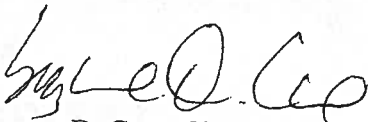
Chapter 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with the Exemption List for the Department of Land and Natural Resources Environmental Impact Statement Exemption List, approved 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 Nos. 47 and 51 as stated in the Exemption Notification attached as Exhibit B.

There would be no change in the proposed use of the property from the existing use of the property. Such use have resulted in no known significant impacts to the natural, environmental and cultural resources in the area. As such, staff believes the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Not applicable

Recommendation: It is anticipated 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.


Suzanne D. Case, Chairperson

Date: 8/17/16

EXHIBIT "B"

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

TITLE OF DOCUMENT:

SHORT FORM TRUST

PARTIES TO DOCUMENT:

SETTLOR: MARY THRONAS, unmarried

CO-TRUSTEES: MARY THRONAS and SAMUEL K. THRONAS, JR.
P. O. Box 55
Kapaa, Hawaii 96746

TRUST NAME: MARY THRONAS REVOCABLE TRUST

TRUST DATE: JULY 19, 1991, RESTATED JUNE 15, 2000 AND AMENDED
OCTOBER 3, 2006 AND MAR 16 2011

(This document consists of 6 pages.)

EXHIBIT "B"

SHORT FORM TRUST

DATE OF SHORT FORM TRUST: MAR 16 2011

SETTLOR'S NAME, RESIDENCE
AND POST OFFICE ADDRESS: MARY THRONAS, unmarried
P. O. Box 55
Kapaa, Hawaii 96746

CO-TRUSTEES' NAMES,
RESIDENCE AND POST OFFICE
ADDRESS: MARY THRONAS and SAMUEL K.
THRONAS, JR.
P. O. Box 55
Kapaa, Hawaii 96746

NAME OF TRUST: MARY THRONAS REVOCABLE TRUST

DATE OF TRUST AGREEMENT: JULY 19, 1991, RESTATED JUNE 15, 2000
AND AMENDED OCTOBER 3, 2006 AND
MAR 16 2011

WITNESSETH:

That the Settlor and Co-Trustees (herein referred to collectively as "Trustee") entered into a certain unrecorded Revocable Trust Agreement described above, all of which terms and conditions are hereby made a part hereof as fully and completely as if herein specifically set out in full;

That when the Settlor originally established this Trust, the Settlor was the sole Trustee. By Second Amendment to Second Restatement dated the same date as this Short Form Trust, SAMUEL K. THRONAS, JR. was added as a Co-Trustee; and

That in accordance with the terms of said Trust Agreement, the Trustee is given all of the powers given to a trustee in § 554A-(3)(c) of the Hawaii Revised Statutes. In addition to, but not in limitation of common law and statutory powers, the Trustee is given the following powers, rights, duties and discretion, which shall be liberally construed:

A. To buy, sell, mortgage, or lease real or personal property owned by the trust or any interest therein, and to retain, invest and reinvest the trust property,

wherever located, whether by sale, exchange, option or otherwise; the Trustee may specifically buy, sell and trade in securities of any nature or kind; to contract to sell and purchase puts, calls and selling uncovered options; and short sales, commodities, commodity futures contracts and commodity futures options, on margin, and for such purposes to maintain and operate margin accounts with brokers; to pledge or hypothecate any securities, commodities, commodity futures options held or purchased by it with such brokers as security for loans and advances made to the Trustee, and to delegate authority to agents to enter orders in securities and commodities transactions. The Trustee further has the discretion to borrow funds from any person or entity, including the Settlor's estate, and trusts established by the Settlor or others. The Trustee shall have the power to sell any real property at any sale, public or private, without prior court approval.

B. To make and guarantee loans to any person, corporation, limited liability company, partnership, trust or other legal entity whether or not related to Settlor or this Trust (including, but not limited to, loans to the Settlor's estate or to any beneficiary of this trust), secured or unsecured, in such amounts and upon such terms and rates of interest as the Trustee may determine, or to borrow, alone or as a co-borrower, mortgage or pledge trust assets as security for loans made to the trust or as an accommodation mortgagor or, at the Settlor's direction, for loans made to the Settlor or others.

C. To open and maintain checking, savings and other accounts in any bank, savings and loan, credit union or other financial institution, including the banking department of the Corporate Trustee or of a banking corporation affiliated with the Corporate Trustee.

D. To exercise all tax-related elections, options and choices which the Trustee believes will minimize the present and reasonably anticipated (but appropriately discounted) future administration expenses and taxes of any kind, not only on the trusts hereunder but on the beneficiaries and the Settlor's estate. The Trustee shall not be accountable to any person interested in any trust or in the Settlor's estate for the manner in which the Trustee shall carry out the aforementioned provision to minimize taxes, and in no event shall there be any compensation adjustments or reimbursements between any trusts hereunder, the Settlor's estate and the beneficiaries by reason of the elections, options and choices made by the Trustee.

E. To make any payment, division or distribution required or authorized hereunder in pro rata or non-pro rata shares, in kind or partly in kind and partly in cash, to make any such payment, division or distribution in undivided fractional interests in property or entire interests in property, to make any distribution subject to any mortgage or pledge which may be a lien on any property to be distributed without paying the debt or obligation for which such mortgage or pledge was given as security, and to make any such payment, division or distribution of properties at market values at the

dates so paid, divided or distributed without regard to differences in the income tax basis of any such properties, without regard to the effect of income tax basis on the beneficiary to whom such property is allocated and without regard to the effect of income tax basis on any other beneficiary of any trust hereunder.

F. Except as otherwise provided herein and in the Trustee's sole discretion, to permit any beneficiary to whom income of the trust may be distributed to occupy any real property held in the trust upon the following terms:

(1) If the beneficiary was, immediately prior to the Settlor's death, the Settlor's spouse or dependent, such beneficiary may occupy such real property free of all rent and charges;

(2) If the Trustee, in its discretion, permits any other beneficiary to occupy such real property, such beneficiary shall pay the Trustee the taxes, insurance, maintenance and other out of pocket expenses pertaining to such real property.

G. To determine, in the Trustee's discretion, what assets comprise the property of this Trust.

H. To do any act or transact any business authorized by this agreement even if the situation may be one of "conflict of interest," provided full disclosure is made to the living beneficiaries of the particular trust involved in such action or the guardians thereof. Any such action shall be binding upon all persons unless the Trustee acts fraudulently or in bad faith.

I. To reserve portions of any trust created hereunder until all liabilities and obligations of such trust and those set forth in Article III of such Trust Agreement (relating to the debts, administration expenses and taxes owed by the Settlor's estate) have been paid.

J. To compromise or arbitrate any matter relating to the trust property and to determine, in the Trustee's sole discretion, to abandon any claim.

K. To enter into any transaction with any fiduciary, including the purchase or sale of assets or the loaning or borrowing of any amounts, even if the fiduciary may be the Trustee.

L. To purchase and own policies of insurance on the life of the Settlor, and any beneficiary of any trust created hereunder.

M. To buy, sell, license and exploit copyrights, trademarks and patents anywhere in the world and to sue for the infringement of, and defend suits relating to, any of such rights.

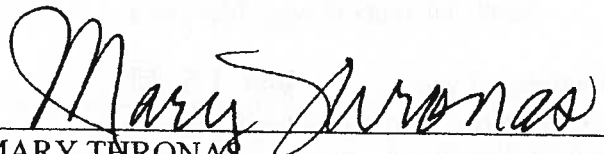
N. To execute any trust agreements or other instruments which will permit some of the assets of this trust to be administered and invested by any bank or trust company.

O. Notwithstanding the provisions of HRS § 557A-410, to determine, in its absolute discretion and based on a reasonable method of accounting, whether and to what extent the receipts from depletable property, including but not limited to leasehold interests, shall be treated as income or principal and whether and to what extent reasonable depletion reserves should be created.

The Settlor has retained the power to alter, amend or revoke such Trust and to replace the Trustee or add additional Trustees. Upon the death, resignation, removal or incapacity of either of the Initial Co-Trustees, the remaining shall serve as sole Trustee. Upon the death, resignation, removal or incapacity of both of the initial Co-Trustees, CHARMANE VALPOON is appointed Successor Trustee. Upon the death, resignation, removal or incapacity of CHARMANE VALPOON, GEORGE THRONAS is appointed Successor Trustee. Upon the death, resignation, removal or incapacity of GEORGE THRONAS, EARL THRONAS is appointed Successor Trustee. Each Successor Trustee shall have all the powers and authority of the Initial Trustee.

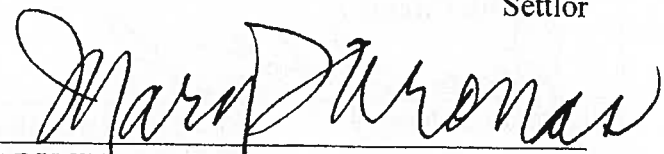
During any time when both MARY THRONAS and SAMUEL K. THRONAS, JR. are serving as Co-Trustees, the acts of either one of them shall bind the Trust for all matters concerning the administration of the Trust.

IN WITNESS WHEREOF, the Settlor and Co-Trustees have executed these presents on the day and year first above written.



MARY THRONAS

Settlor



MARY THRONAS



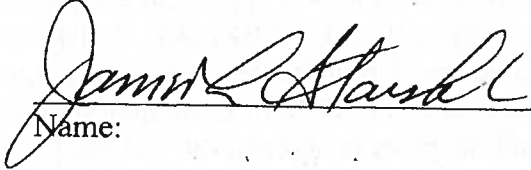
SAMUEL K. THRONAS, JR.

Co-Trustees

STATE OF HAWAII)
) SS:
COUNTY OF KAUAI)

On this MAR 16 2011, before me personally appeared MARY THRONAS and SAMUEL K. THRONAS, JR., to me personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.




Name: _____

Notary Public, State of Hawaii

My commission expires: 10/12/12

NOTARY CERTIFICATION STATEMENT

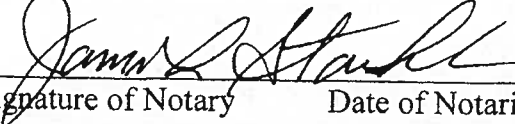
Document Identification or Description: Short Form Trust for
Mary Thronas Revocable Trust

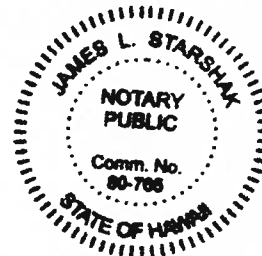
Document Date: MAR 16 2011

No. of Pages: six (6) including this page

Jurisdiction (in which notarial act is performed):

Fifth Circuit


Signature of Notary _____ Date of Notarization and
Certification Statement



Printed Name of Notary _____