

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

June 8, 2018

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

PSF No.: 08KD-202

KAUAI

Cancellation of Governor's Executive Order No. 1035 and Re-Set Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Hanalei Wharf (Pier) Purposes at Hanalei, Kauai, Hawaii, Tax Map Key: (4) 5-5-001:008 and seaward of same.

CONTROLLING AGENCY:

Department of Transportation (DOT), Harbors Division

APPLICANT:

Department of Land and Natural Resources (DLNR), Division of Boating and Ocean Recreation (DOBOR)

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended, and Act 272, Session Laws of Hawaii (SLH) 1991.

LOCATION:

Hanalei Wharf: Portion of the filled and submerged Government lands of Hanalei Bay situated at the North-East side of Hanalei Bay, Hanalei, Kauai identified by Tax Map Key: (4) 5-5-001:008, as shown on the attached maps labeled **Exhibits 1A, 1B, and 1C**, and photographed views of **Exhibit D**.

AREA:

Hanalei Wharf: 21,736.44 square feet, more or less.

ZONING:

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

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:

Hanalei Wharf: The subject land consists of 21,737 square feet more or less. Governor's Executive Order (GEO) No. 1035 sets aside 15,162 square feet more or less of the approach to the pier to the Department of Transportation, Harbors Division, for small boat harbor purposes. However, GEO No. 1035 does not include the approximately 6,575 square feet more or less of submerged lands under the Hanalei Wharf. See **Exhibit 3** attached.

PURPOSE OF SET ASIDE:

Hanalei Wharf (Pier) purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject action is exempt from the preparation of an environmental assessment pursuant to Exemption Class 1, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change beyond that previously existing;" Item 43, "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order." See **Exhibit 2** attached.

Inasmuch as the Chapter 343 environmental requirements apply to the Applicant's future use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

REMARKS:

The Hanalei Pier was built in 1920 and was used primarily for transportation of goods between islands. In the 1930's, Nawiliwili Harbor was constructed and became the primary transportation harbor for the island of Kauai.

On March 28, 1943, a Governor's Executive Order (GEO) No. 1035, was issued to the Department of Transportation and is an active executive order. The Hanalei Wharf (Pier) was abandoned in 1933, and from 1940 forward, the pier is primarily a recreational resource.

Accordingly, Act 272, SLH 1991, transferred from the DOT to DLNR-DOBOR fifty-four (54) small boat harbors, launching ramps, jetties, wharves and landings statewide. The Hanalei Wharf (Pier) is among the above transfers.

Hanalei Wharf is located at Hanalei Bay on the north coast of Kauai adjacent to the town of Hanalei in the North-East corner of Hanalei Bay, within Kauai County's Black Pot Beach Park. The bay and boating facilities are accessed via the Kuhio Highway, and Weke Road.

On September 13, 1997 Hanalei Wharf (Pier) was listed on the U.S. National Register of Historic Places as site number 79000757.

The Hanalei Bay has a semi-circular shape with a diameter of approximately 1 mile, and is part of the Hanalei Bay Ocean Recreation Management Area under DOBOR's jurisdiction pursuant to Section 13-256-39, Hawaii Administrative Rules. The wharf is located on the eastern edge of the bay, just south of the Hanalei River mouth. It has been repaired as a historic landmark. The pier has no moorings, however anchorage adjacent to the pier can accommodate approximately 65 vessels depending on size and weather conditions.

Staff consulted the agencies listed below on the submittal and proposed exemption from an environmental assessment with the results indicated:

Agency	Comments
DLNR, Division of Aquatic Resources	No comments received by suspense date.
DLNR, Division of Boating and Ocean Recreation	DOBOR has no objections to this Board submittal at this time because this re-setting aside finalizes Act 272, SLH 1991, that transferred from the DOT to DLNR-DOBOR fifty-four (54) small boat harbors, launching ramps, jetties, wharves and landings statewide. DOBOR is prepared to continue the management of this wharf (pier).
DLNR, Office of Conservation and Coastal Lands	No comments received by suspense date.
Department of Transportation	No comments received by suspense date.
Office of Hawaiian Affairs	No comments received by suspense date.

Hawaii Emergency Management Agency	No comments received by suspense date.
County of Kauai, Department of Parks and Recreation	No comments received by suspense date.
County of Kauai, Emergency Management Agency	No comments received by suspense date.
County of Kauai, Fire Department	No comments received by suspense date.
County of Kauai, Police Department	Kauai PD has no objections to this Board submittal at this time.
County of Kauai, Public Works	Kauai Public Works has no comments to this Board submittal at this time.
County of Kauai, Transportation Agency	Kauai DOT has no objections to this Board submittal at this time.
U.S. Army Corps of Engineers	No comments received by suspense date.
U.S. Coast Guard	No comments received by suspense date.
U.S. Department of Homeland Security	No comments received by suspense date.
U.S. National Park Service	No comments received by suspense date.

The Board's approval of the following recommendations will bring the documentation status current for the Hanalei Wharf.

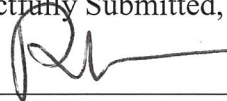
RECOMMENDATION:

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 preparation of an environmental assessment.
2. Approve of and recommend to the Governor the issuance of an executive order cancelling Governor's Executive Order No. 1035, subject to the following:
 - a. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

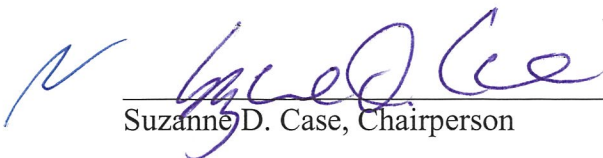
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands formerly encumbered by Governor's Executive Order No. 1035 to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Grant an immediate management right-of-entry to the DLNR, DOBOR over the subject lands, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. The standard terms and conditions of the most current management and construction right-of-entry form, as may be amended from time to time; and
 - b. The right-of-entry shall be effective upon acceptance and shall terminate upon issuance of the executive order.

Respectfully Submitted,



Roberta L. Chun
Project Development Specialist

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

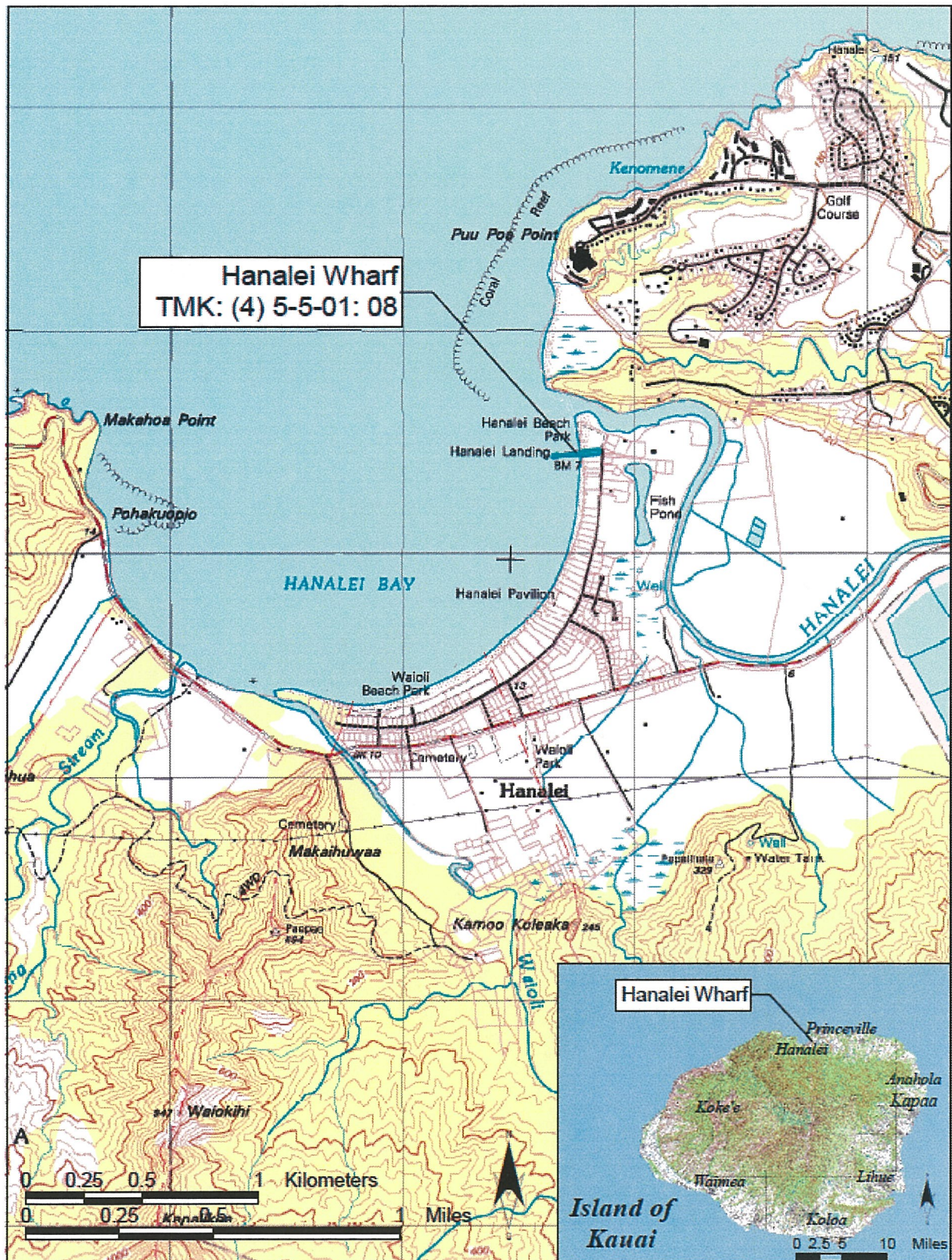


EXHIBIT 1A

[illegible]

HANALEI BAY

Note: Parcels 9, 11, 12, 13, 14, 15, 17 owned by Robert H. Wilcox unless otherwise noted.

State of Hawaii
0.443 Ac.
(Board of Harbor Commissioners)
HANALEI WHARF

County of Kauai
Por. of
Ld. Ct. App. 1160

2.47 Acs.

W.E.R.E.

R.O.A.D.

FISH POND

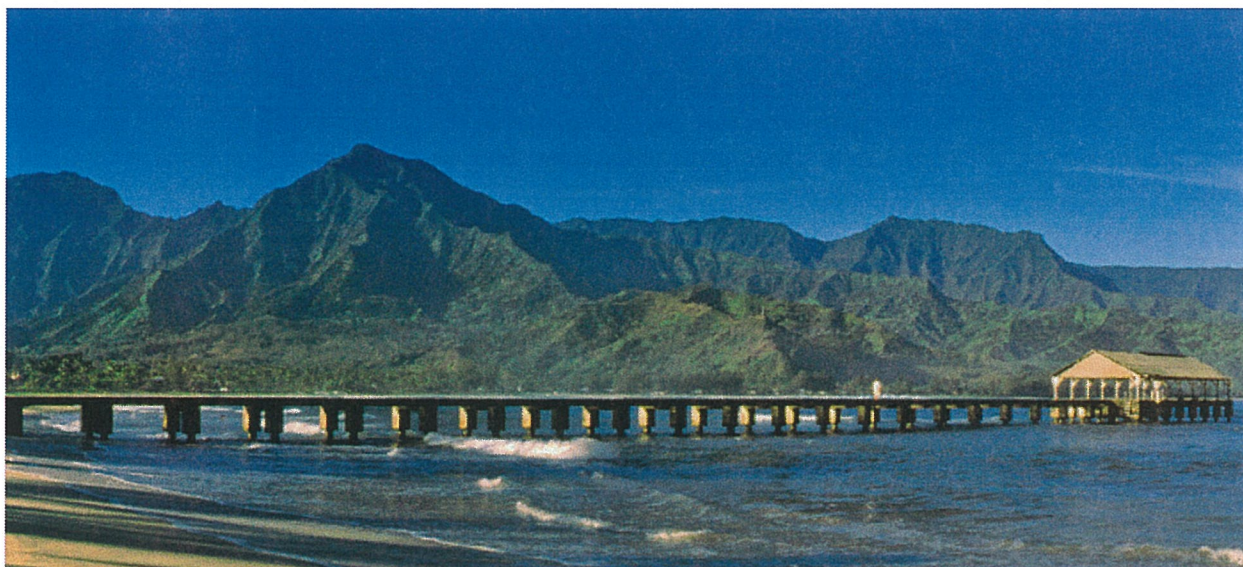
CANOE CLUB CONDO

Mark M.S. Song & Co.
Leinani K. - 7/8-66 2/3 %
Yvonne L. Song &
Sandra C. Grigg - 1/4
- 33 1/3 % /C

APP.

APP.

APP.



Source: Wikipedia



EXHIBIT 1D

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes and Chapter 11-200, Hawaii Administrative Rules:

PROJECT TITLE: Cancellation of Governor's Executive Order No. 1035 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Hanalei Wharf (Pier) Purposes Hanalei, Kauai, Hawaii

PROJECT / REFERENCE NO.: PSF No. 08KD-202

PROJECT LOCATION: Hanalei, Kauai, Hawaii, Tax Map Key: (4) 5-5-1: 8

PROJECT DESCRIPTION: Cancel governor's executive order and reissue governor's executive order for Hanalei Wharf (Pier) purposes.

CHAPTER 343 Trigger(s): Use of State Funds

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 43, "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order."

CUMULATIVE IMPACTS OF
PLANNED SUCCESSIVE
ACTIONS IN SAME PLACE
SIGNIFICANT:

No. The request is a single occurrence in the area.

ACTION MAY HAVE
SIGNIFICANT IMPACT ON
PARTICULARLY SENSITIVE
ENVIRONMENT:

No. The action proposed will have no significant impact to the environment.

ANALYSIS:

Fifty-four (54) small boat harbors were transferred from the Department of Transportation to the Department of Land and Natural Resources, DOBOR through Act 272, SLH 1991 and have been managed accordingly since 1991. There will be no changes in the use or management of this wharf beyond that currently existing. As such, staff believes that the completion of the set-aside as stipulated by Act 272 is

exempt from the preparation of an environmental assessment.

CONSULTED PARTIES:

Agency	Comments
DLNR, Division of Aquatic Resources	No comments received by suspense date.
DLNR, Division of Boating and Ocean Recreation	DOBOR has no objections to this Board submittal at this time because this re-setting aside finalizes Act 272, SLH 1991, that transferred from the DOT to DLNR-DOBOR fifty-four (54) small boat harbors, launching ramps, jetties, wharves and landings statewide. DOBOR is prepared to continue the management of this wharf (pier).
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County of Kauai, Transportation Agency	Kauai DOT has no objections to this Board submittal at this time.
U.S. Army Corps of Engineers	No comments received by suspense date.
U.S. Coast Guard	No comments received by suspense date.
U.S. Department of Homeland Security	No comments received by suspense date.
U.S. National Park Service	No comments received by suspense date.

RECOMMENDATION:

It is recommended that the Board find 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.