

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

June 28, 2019

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

PSF No.: 19KD-021

**KAUAI**

Set Aside Portions of Accreted Lands Along the Hanalei River to the County of Kauai for Public Park and Other Recreational Purposes, Hanalei, Kauai, Tax Map Key: (4) 5-5-001: Portions of Hanalei Riverbank.

**APPLICANT:**

County of Kauai (COK), a municipal corporation of the State of Hawaii.

**LEGAL REFERENCE:**

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

**LOCATION:**

Portions of the Hanalei River that might be considered accreted lands, situated at Hanalei, Kauai, identified by Tax Map Key: (4) 5-5-001: Portions of Hanalei Riverbanks, as shown on the attached map labeled Exhibit A.

**AREA:**

1.491 acres, more or less.

Exact area to be determined by survey, subject to review and verification by the Department of Accounting and General Services, Survey Division.

**ZONING:**

State Land Use District:	Conservation
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:

YES \_\_\_\_ NO x

CURRENT USE STATUS:

Vacant and unencumbered.

PURPOSE:

Public Park and Other Recreational purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Exemption notification is attached as Exhibit B. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
2. Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

By letter dated January 19, 2019, the COK requested a set aside of lands near the Hanalei River Mouth, that were created over the years by river sediment build-up (accretion) and were further accelerated/enlarged by the April 2018 flood. The County is requesting the accreted lands for proposed addition to its Black Pot Beach Park. The acquisition of the subject lands will enable the COK to enforce commercial activities at the Hanalei River and immediate areas.

On July 16, 2008, a strip of shoreline of the Hanalei Bay and a sandbar at the Hanalei River Mouth totaling 2.986 acres was set aside to COK under Governor's Executive Order No. 4227, for addition to its Black Pot Beach Park. One reason for this set-aside was also to

enable COK to enforce commercial activities and public uses of the area.

The properties located inland of the subject accreted land are currently owned by the COK, but were previously privately owned. On October 2011, the County purchased three private properties located off the Hanalei River, identified as Tax Map Keys: (4) 5-5-001:033 & 034 (purchased from Hanalei River Holdings), and (4) 5-5-001:049 (purchased from Michael Sheehan). There is another property identified as TMK: (4) 5-5-001:005 which continues to belong to Ohana Hanalei LLC, a Delaware real estate holding limited liability company.

Currently, an agreement is being drafted between the COK and the Patricia W. Sheehan Trust to Quitclaim a portion of the Sheehan property located further upriver, identified as TMK: (4) 5-5-001:001. The boundaries of this parcel are traced in purple on the attached map.

The COK is the appropriate agency to acquire use of the subject property and it intends to fully utilize the entire property. The proposed park use of the lands is currently the best and highest use available.

On April 17, 2019, various government agencies and interest groups were solicited for comments. To date, all respondents either had no objections or provided no comments.

AGENCIES	COMMENTS
County of Hawaii:	
Planning Department	No response by suspense date
Public Works	No comments
State of Hawaii:	
DLNR-Aquatic Resources	No objections
DLNR-CWRM	No response by suspense date
DLNR-Historic Preservation	No objections
DLNR - OCCL	No response by suspense date
Federal Agencies:	
U.S. Army Corps of Engineers	No response by suspense date
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response by suspense date

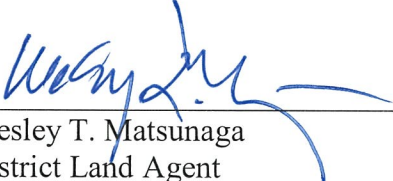
RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling the Applicant Requirements above, 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

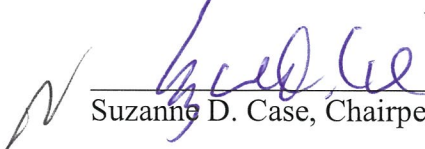
assessment.

2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the County of Kauai 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.

Respectfully Submitted,

  
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Wesley T. Matsunaga  
District Land Agent

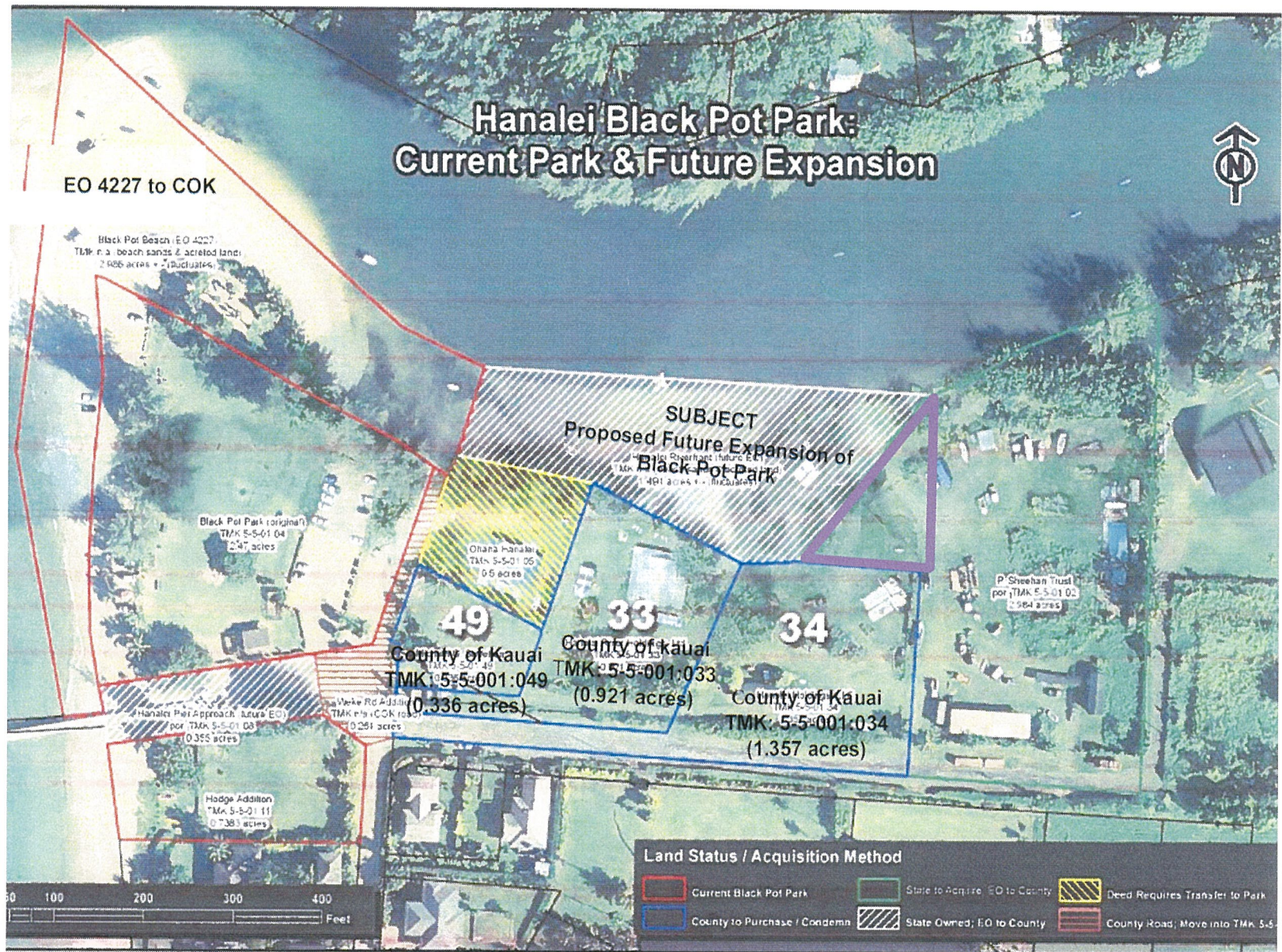
APPROVED FOR SUBMITTAL:

  
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Suzanne D. Case, Chairperson



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## EXEMPTION NOTIFICATION

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

Project Title:	Set-Aside Portions of Accreted Lands Along the Hanalei River to the County of Kauai for Public Park and Related Purposes.
Project / Reference No.:	PSF 19KD-021
Project Location:	Hanalei, Kauai, Tax Map Key: (4) 5-5-001: portion of Hanalei River
Project Description:	Set-aside portion of Hanalei River to County of Kauai for Park and related purposes.
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 reviewed and concurred by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "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 No. 43 that states "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 Impact of Planned Successive Actions in Same Place Significant:	No, being that this request is pertaining to a transfer of controlling and management authority, staff believes that the request would involve negligible expansion or change in use of the subject area beyond previously existing.
Action May Have Significant Impact on Particularly Sensitive Environment:	The requested area is in a heavily used Industrial area. Staff is not aware of any particularly sensitive environmental issues and use of the area would involve negligible change from what is existing.
Consulted Parties	Agencies as noted in the submittal.
Analysis:	The analysis factors are the proposed transfer of controlling and management authority to the County of Kauai, and negligible expansion or change in use of the subject area beyond previously

**EXHIBIT B**

existing. Taking these two factors into consideration staff believes there would be no significant impact to sensitive environmental or ecological receptors.

Recommendation:

That the Board finds 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.