

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

August 9, 2019

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

PSF No.: 19OD-066

OAHU

Withdrawal from Governor's Executive Order No. 1598 issued to Department of Agriculture and Sale of Remnant (Abandoned Ditch Right-of-Way) to Irene I. Chung, Lawrence Y. Ito, Mary Y.I. Gehrke, David D. K. Ito, and Paul T. Ito; Waimanalo, Koolauapoko, Oahu, TMK: (1) 4-1-024:115.

APPLICANTS:

Irene I. Chung, Lawrence Y. Ito, Mary Y.I. Gehrke, David D. K. Ito, and Paul T. Ito, as Joint Tenants.

LEGAL REFERENCE:

Section 171-11, and 52, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolauapoko, Oahu, identified by Tax Map Key: (1) 4-1-024:115 as shown on the attached map labeled **Exhibit A**.

AREA:

0.37 acre, more or less.

ZONING:

State Land Use District: Agricultural  
City and County of Honolulu LUO: AG-2 General Agriculture

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:

Encumbered by Governor's Executive Order No. 1598 set aside to the Department of Agriculture for the operation and maintenance of an irrigation system to develop small scale farming.

CONSIDERATION:

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

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) 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, "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 that states, "Transfer of title of land." See **Exhibit B**.

DCCA VERIFICATION:

Not applicable as applicants are landowners and not required to register with the Department of Commerce and Consumer Affairs.

APPLICANT REQUIREMENTS: Applicants shall be required to:

- 1) Provide survey map and description according to State survey standards and at Applicants' own cost, if applicable;
- 2) Pay for an appraisal to determine the one-time payment of fair market value for the remnant<sup>1</sup>; and
- 3) Consolidate the remnant with the Applicants' abutting property through the County subdivision process.

REMARKS:

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: It is a portion of an abandoned irrigation ditch, which is physically unsuitable for development.

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<sup>1</sup> The applicants were informed of the current market price for appraisal services and have agreed to the amount.

Staff has confirmed that the applicants are the fee owners of tax map keys: (1) 4-1-024:012, :013, and :014 with the City and County's Real Property Tax Office. The subject parcel is an abandoned ten-foot-wide State-owned irrigation ditch that divides the area into three lots. The subject area was once part of an irrigation ditch system which serviced Waimanalo Farm Lots pursuant to Governor's Executive Order No.1598.

Grants were issued by the Territory which reserved the fee title of the ditch system to the Territory. The Waimanalo lots in the area were later sold in fee with the State-owned abandoned ditches bisecting the lots into separate parcels. The applicants are requesting to purchase the remnant ditch from the State and are planning to consolidate the subject area with parcels 12, 13 and 14.

In response to a request for comments from other Government agencies, the City and County Facilities Maintenance, Board of Water Supply, and the Office of Hawaiian Affairs had no objection/comment to the request and concur with the proposed EA exemption. The Department of Agriculture, Commission on Water Resource Management, Historic Preservation Division, and City and County Department of Planning and Permitting have not responded to solicitation for comment before the response deadline.

The 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.

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 Keys: (1) 4-1-024:012, 013, and 014, 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. Approve of and recommend to the Governor the issuance of an executive order withdrawing the subject area from Governor's Executive Order No. 1598, 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;

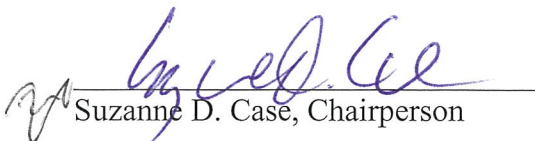
- b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session following the date of the setting aside;
  - c. Review and approval by the Department of the Attorney General; and
  - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 5. Authorize the subdivision and consolidation of the subject remnant by the Applicants.
- 6. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant 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,



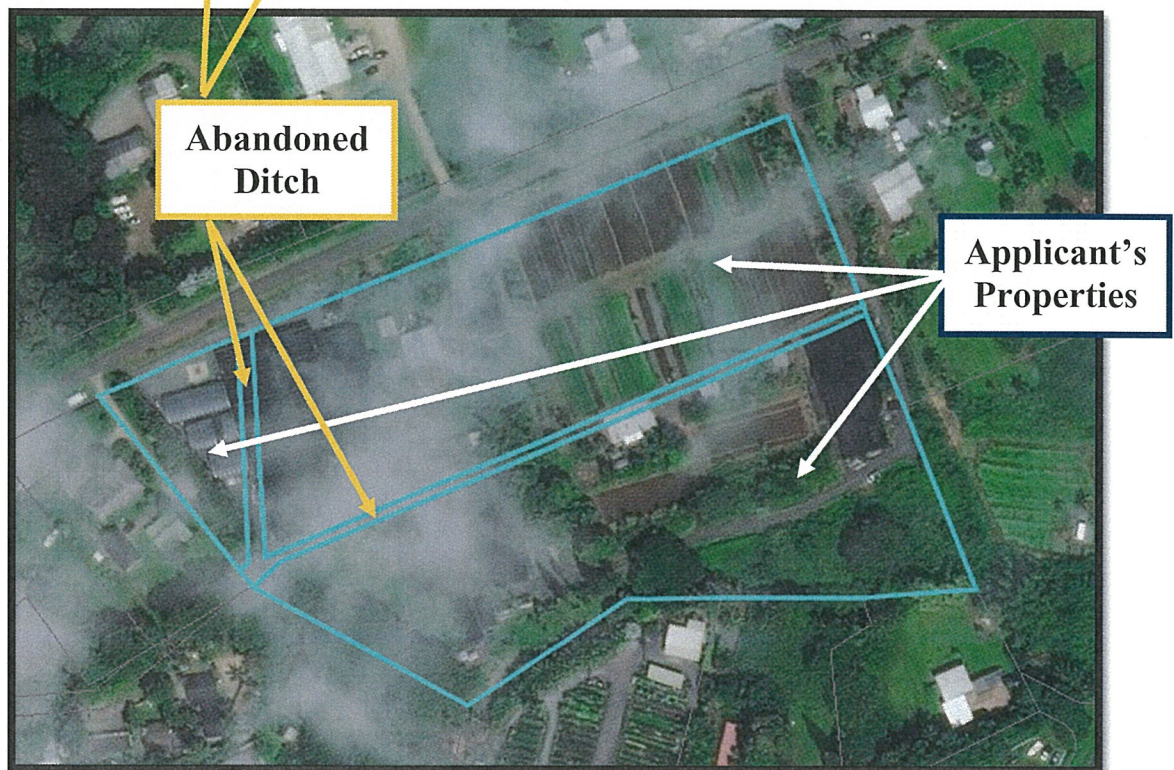
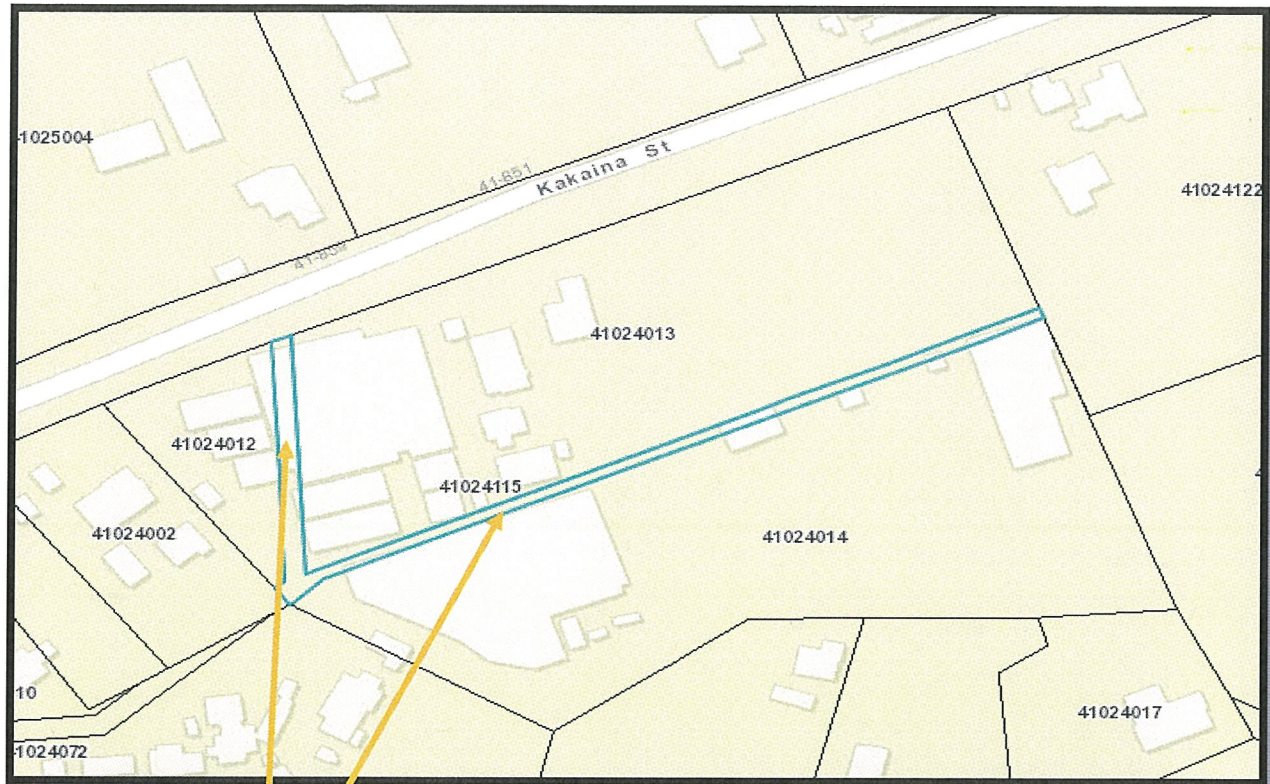
Darlene Bryant-Takamatsu  
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





(1) 4-1-024:115

**EXHIBIT A**



### EXEMPTION NOTIFICATION

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

Project Title:	Sale of Remnant
Project / Reference No.:	PSF 19OD-066
Project Location:	Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-024:115
Project Description:	Sale of abandoned irrigation ditch remnant.
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 on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to 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 that states, "Transfer of title of land."
Cumulative Impact of Planned Successive Actions in Same Place Significant:	No, the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.
Action May Have Significant Impact on Particularly Sensitive Environment:	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:	Taking two factors into consideration, the proposed transfer of title of land and negligible expansion in use of the subject area beyond previously existing, staff believes there would be no significant impact to sensitive environmental or ecological receptors.
Recommendation:	That the Board find 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.

**EXHIBIT B**