

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

December 13, 2019

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

PSF No. 19MD-137

Maui

Consent to Assign General Lease No. S-5276, Brendan L. Balthazar, Assignor, to Diamond B Ranch, LLC, Assignee, Nakula, Kaupo, Hana, Maui, Tax Map Key: (2) 1-8-001:003

APPLICANT:

Brendan L. Balthazar, as Assignor, to Diamond B Ranch, LLC, a Hawaii limited liability company, as Assignee.

LEGAL REFERENCE:

Section 171-36(a) (5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of the State of Hawaii situated at Nakula, Kaupo, Hana, Maui, identified by Tax Map Key: (2) 1-8-001:003, as shown on the attached map labeled Exhibit A.

AREA:

1,565 acres, more or less.

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:

Pasture purposes.

TERM OF LEASE:

Forty-five (45) years, commencing on March 27, 1993 and expiring on March 26, 2038. There is a rental reopening scheduled for December 9, 2019, and then the next rental reopening is scheduled for December 1, 2029.

ANNUAL RENTAL:

\$1,280.

CONSIDERATION:

Only nominal consideration changing hands in this related-entity transaction.

RECOMMENDED PREMIUM:

No lease assignment premium is recommended because only nominal consideration is changing hands in this related-entity transaction (assignment from Brendan L. Balthazar to a limited liability company of which he is the sole member and manager).

DCCA VERIFICATION:

ASSIGNOR:

Assignor is a private individual and, as such, is not required to register with the DCCA.

ASSIGNEE:

Place of business registration confirmed:	YES	<u>X</u>	NO	_____
Registered business name confirmed:	YES	<u>X</u>	NO	_____
Good standing confirmed:	YES	<u>X</u>	NO	_____

REMARKS:

The original term of the subject lease was for twenty-five (25) years, commencing March 27, 1993 and ending March 26, 2018. In 1999, lessee requested a twenty (20) year extension of the lease so he could qualify for a mortgage of \$100,000 to be used for leasehold improvements. The Board, at its meeting of December 10, 1999, item D-18, approved a consent to mortgage and twenty (20) year extension of the lease term, commencing March 27, 2018 and expiring on March 26, 2038, for an aggregate term (initial term plus all extensions) of forty-five (45) years.

The rental reopening of December 9, 2019 has been completed and the new rental amount is \$1,280 per year, per appraisal report of October 15, 2018. The previous rent amounts were:

1993: \$20,000 per year,  
1999: \$2,035 per year per appraisal report of 5/10/2000,  
and  
2009: \$2,890 per year per appraisal report of 5/15/2009.

Lessee created a limited liability company (LLC) called Diamond B Ranch, LLC in 2014. He is requesting to assign subject lease to his LLC for liability reasons. Lessee is the sole owner of Diamond B Ranch, LLC, and as such there will be no changes to the management of the business and the use of subject property.

Lessee has been in compliance with all lease terms and conditions and has a history of paying rent on time. Lessee is currently compliant and timely with the rent, insurance, and bond requirements of the lease.

Assignee 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.

In a memorandum dated August 9, 2017, DLNR's Division of Forestry and Wildlife (DOFAW) expressed interest in assuming management jurisdiction over the leased lands by executive order at lease expiration or termination. DOFAW envisions a future transition from active pasture use to conservation to allow for contiguous resource management that includes reforestation along a range of elevations from mauka (10,000+ ft.) to makai (sea level). See Exhibit B attached.

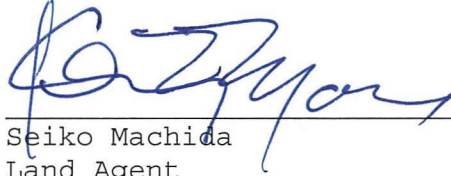
RECOMMENDATION:

That the Board consent to the assignment of General Lease No. S-5276 from Brendan L. Balthazar, as Assignor, to Diamond B Ranch, LLC, as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and

3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

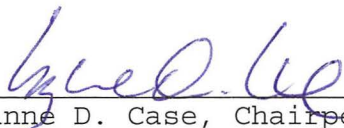
Respectfully Submitted,



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f Seiko Machida  
Land Agent

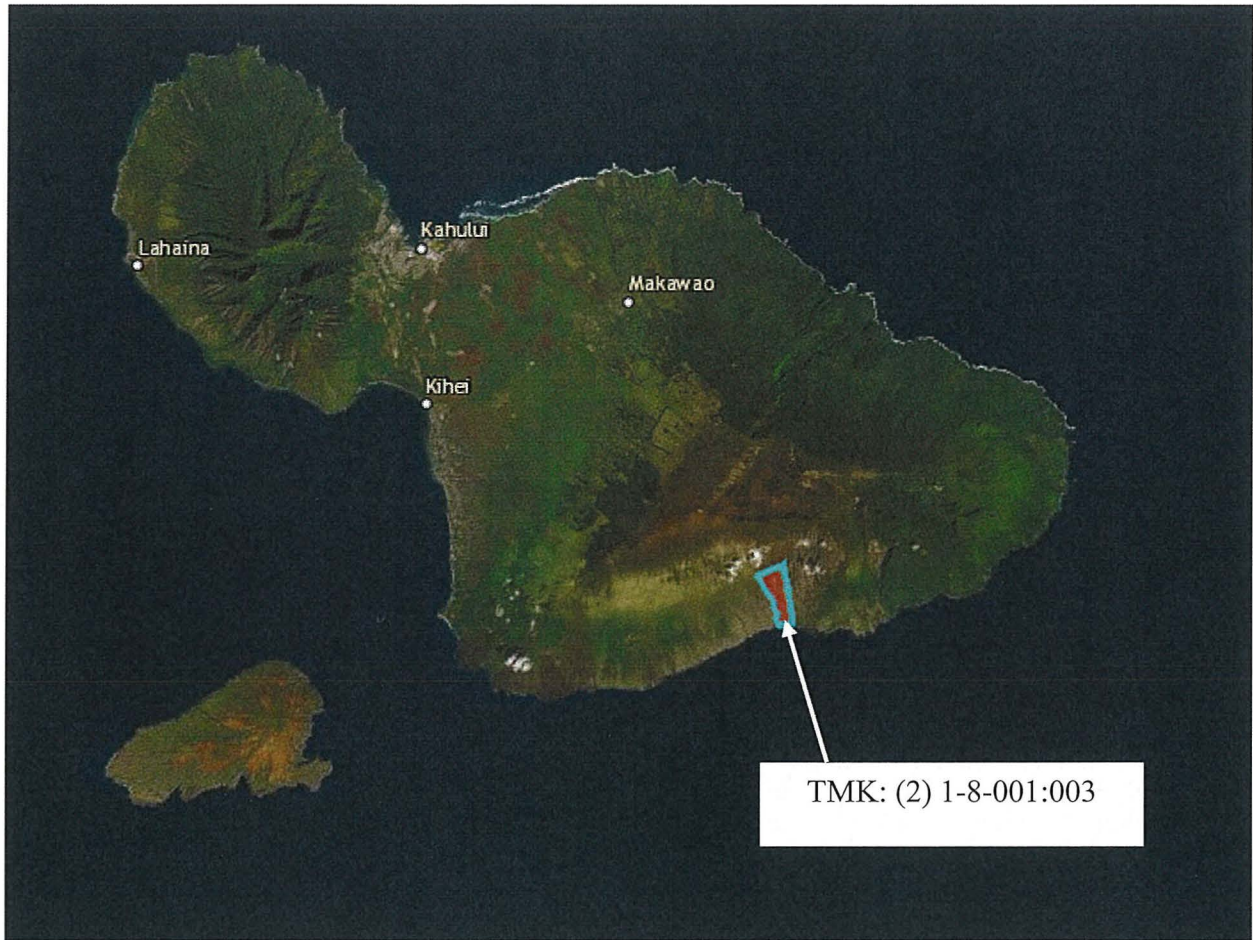
APPROVED FOR SUBMITTAL:



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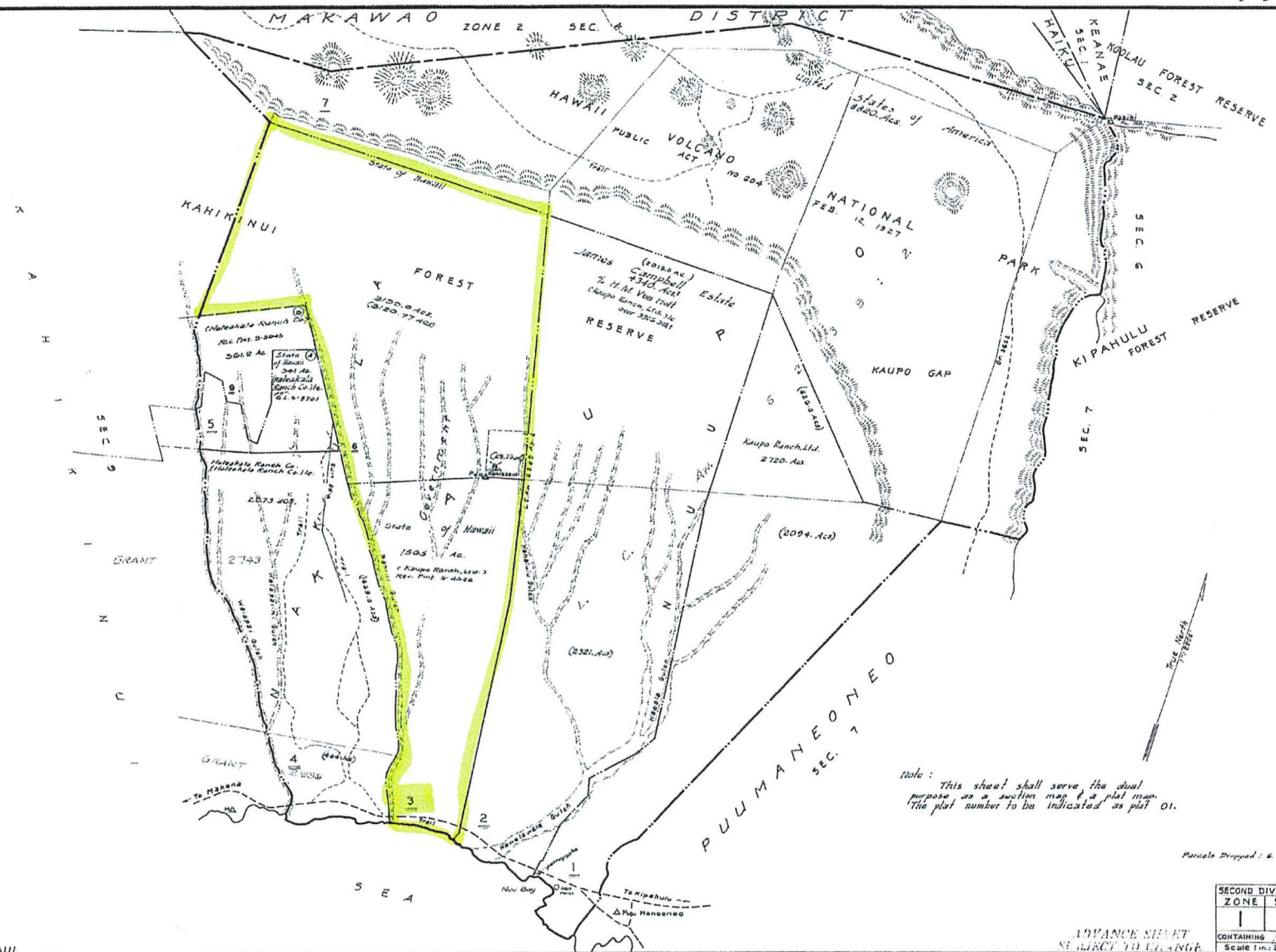
Suzanne D. Case, Chairperson





**EXHIBIT A**

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Div. No. 2045  
 By: J.K.C. 1-1-13  
 Source: Survey Map  
 Appr. by: J.K.C. 1-1-13  
 Appr. by: Survey Map

KAUPO, HANA, MAUI

Parcel Dropped: 8

SECOND DIVISION	
ZONE	SEC
1	8
CONTAINING 2 PLATS	
SCALE 1 in. = 2500 FT.	

ADVANCE SHEET  
SUBJECT TO U.S. 864

PRINTED

EXHIBIT A

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET, ROOM 325  
HONOLULU, HAWAII 96813

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

ROBERT K. MASUDA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

August 9, 2017

MEMORANDUM

**TO:** Russell Tsuji, Land Administrator  
Timmy Chee, Land Agent

**FROM:** David G. Smith, Forestry and Wildlife Administrator

**SUBJECT:** Request for comments on proposal to set aside Tax Map Key (2) 1-8-001:003 to the Department of Agriculture pursuant to Act 90, Session Laws of Hawai'i (2003).

Thank you for the opportunity to comment on the proposed transfer of certain land parcels on Maui to the Department of Agriculture pursuant to Act 90, Session Laws of Hawai'i (2003). The Division of Forestry and Wildlife provides the following comments.

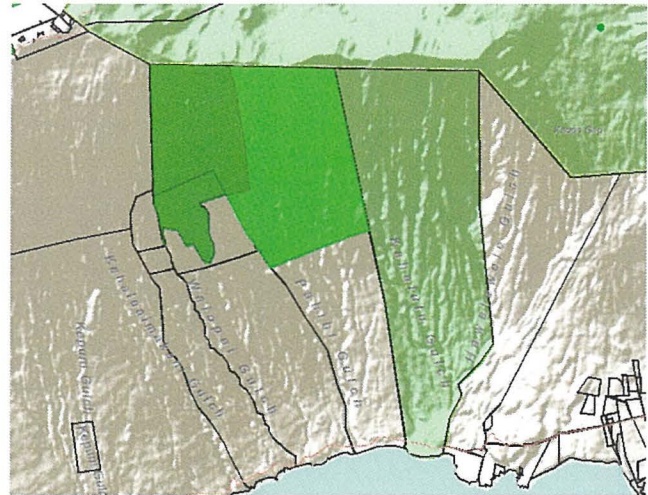
The Division is opposed to the transfer of the parcel identified as Tax Map Key (2) 1-8-001:003. This parcel has significant forestry and wildlife resource management needs with far reaching ecological implications and broad public benefits. Upon termination or expiration of the current lease, whichever comes first, the Division requests that this parcel be zoned as Conservation District and set aside to the Division of Forestry and Wildlife for incorporation into the state Forest Reserve system.

Tax Map Key (2) 1-8-001:003 is located within the ahupua'a of Na Kula in Kahikinui, Maui. The parcel extends from the sea shore to an elevation of approximately 3,000 feet, where it is contiguous with the Kahikinui Forest Reserve, which extends mauka to the southern rim of Haleakalā Crater at approximately 9,000 feet elevation. The parcel is adjacent to the Haleakalā National Park's Nu'u Section to the east, which extends from the southern rim of Haleakalā to the coast. Thus, by its location adjacent to these two conservation reserves, through incorporation into forestry and wildlife management, the subject parcel would extend and connect conservation efforts currently underway in these reserves from the summit to the sea, providing public benefits in the form of native species and watershed restoration, access to public trust lands, recreational and subsistence hunting and fishing, protection of cultural sites, and ahupua'a management consistent with traditional practice.

Prior to the introduction of grazing land mammals by Europeans in the 1800's, the leeward slopes of Haleakalā, including the subject parcel, supported a diverse native forest ecosystem

**EXHIBIT B**

from ridge to reef. Mid-elevation mesic forests were known to support some of the tallest stature koa and ohia lehua forest on the island, sustaining aquifer recharge, promoting soil stability, protecting coral reefs and nearshore marine ecosystems, and providing for the sustainable use of natural resources through traditional ahupua'a management practice. Over the last 200 years, those ecosystems have been severely impacted by land use practices, feral ungulates, and invasive species, resulting in wholesale destruction of native forests, loss and extinction of native species, massive soil erosion, and impacts to coral reef and fisheries ecosystems.



The Division of Forestry and Wildlife, and its partners in the Leeward Haleakalā Watershed Restoration Partnership, have initiated a landscape-scale forest restoration program to reverse the trend of declining biodiversity and ecosystem degradation, improve resilience to climate change, restore ecological function, and reestablish traditional management approaches for the sustainable use of natural resources on leeward Haleakalā. The partners have established a network of conservation reserves across the leeward slopes from Kanaio to Kipahulu, with management efforts underway for the control of feral ungulates and invasive species, restoration of native forests, including the planting of more than 150,000 native trees to date, and recovery of rare and endangered species. Much of this work has focused at mid and high elevation areas in order to prioritize work to protect the most intact areas, and because many lowland areas that connect conservation areas to the shoreline do not have reserve designations or are in private holdings. In 2008, the National Park Service acquired the Nu'u section, which established the first reserve within the network that encompassed the full sweep of the ahupua'a from the summit to the sea. Set aside of the subject parcel for forestry and wildlife purposes would complement partnership efforts to ensure sustainable management of resources in the region for the public benefit.

In addition, the mauka reserves of the Kahikinui Forest Reserve and Na Kula Natural Area Reserve are currently land locked by parcels through which public access is not lawfully available. As a result, the public cannot access the reserves and has no opportunity to visit those areas and experience first-hand many of the public benefits that those reserves support. The subject parcel comprises public trust lands directly makai of the reserves, and includes a road and trail that provides direct access to the reserves. However, the current use of the subject parcel as an agricultural lease not only prevents public access to, and use of, the parcel itself, but serves to block public access to the public lands of mauka reserves. The requested set aside of the subject parcel would ensure that these lands are accessible to the public for their natural resource benefits.

The Division of Forestry and Wildlife appreciates your consideration of these comments and this request. For additional information, please contact Scott Fretz, Maui Branch Manager at 984-8107.

**EXHIBIT B**