

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

February 28, 2020

Ref. No.: RPS-7739
PSF 19KD-148

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

KAUAI

Mutual Cancellation of Revocable Permit No. S-7739 (RP S-7739), Lance Laney, Permittee and Waiver of Phase I Environmental Site Assessment Required under RP S-7739; Issue New Revocable Permit to Lance Laney, Hanalei for Pasture Purposes, (Halelea), Kauai, Tax Map Key: (4) 5-4-002:033.

APPLICANT:

Lance Laney, married, Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government (Crown) Land situated at Hanalei (Halelea), Kauai, identified by Tax Map Key (TMK): (4) 5-4-002:033, as shown on the attached map labeled Exhibit A.

AREA:

5.32 acres more or less.

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:

Encumbered by Revocable Permit (RP) No. S-7739, Lance Laney, Permittee, for pasture purposes.

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

To be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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," and Item 51 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

The proposed use has continued since October 1986 and is anticipated to continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area.

DCCA VERIFICATION:

Not applicable. As an individual, Applicant is not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT:

- A. The subject parcel, TMK (4) 5-4-003:033 is already under RP 7739 to the applicant along with TMK (4) 5-4-002:042. Due to flooding and erosion, applicant only wants to rent parcel 033 and no longer wishes to rent parcel 042.
- B. Subject property abuts the applicant's private property and he has had a pasture there since August 6, 1996.

At this time, staff feels that a month-to-month tenancy for pasture purposes is the appropriate disposition given the present situation of this premises having no legal access other than through the applicant's private property.

REMARKS:

TMK Nos. (4) 5-4-002:033 and 042 were originally leased to William Fernandez for pasture purposes via State auction commencing October 1, 1986 under General Lease (GL) S-5122. On August 6, 1996, GLS-5122 was assigned to the applicant, Lance Laney. GLS-5122 was due to expire on February 24, 2001, but on February 9, 2001, the Board approved the holdover of GLS-5122 expiring on February 24, 2002. On August 2, 2002 Mr. Laney executed RPS-7319.

On November 22, 2010, the Board approved the reissuance of a large number of revocable permits statewide to update insurance and other provisions to protect the State's interest. As a part of that process, RP S-7319 to Lance Laney was replaced by RP S-7739 also to Lance Laney, commencing on September 1, 2011 and it has continued ever since.

Paragraph 14 of RPS-7319 provides as follows:

Prior to the termination or revocation of the subject Permit, Permittee shall conduct Phase I environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health and the DLNR. Failure to comply with the provisions of this paragraph shall not extend the term of this Permit or automatically prevent termination or revocation of the Permit. The Board at its sole option, may refuse to approve termination or revocation unless this evaluation and abatement provision has been performed. In addition, or in the alternative, the Board may, at its sole option if Permittee does not do so, arrange for performance of the provisions of this paragraph, all costs and expenses of such performance to be charged to and paid by permittee.

During staff's site inspection on December 19, 2019, staff observed no evidence of the use of hazardous materials on the premises. The property consists of a pasture and upon inspection, it appeared to adhere to such use, so staff is therefore recommending waiver of the Level One (1) Hazardous Waste Evaluation requirement.

There are no other applicants requesting the same parcel. Staff is of the thought that the new permit should be issued to Lance Laney since he is the abutting land owner.

Lance Laney 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.

The following State agencies were consulted on this action with the results indicated:

Agency:	Comment:
Historic Preservation	No response by suspense date
DLNR-Office of Conservation and Coastal Lands (OCCL)	Applicant is working directly with OCCL on Conservation District Use Authorization
Office of Hawaiian Affairs	No response by suspense date
DLNR-Water Resource Management	No response by suspense date
DLNR-Aquatic Resources	No objections
DLNR-Forestry and Wildlife	No objections

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, 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 cancellation of Revocable Permit No. S-7739 to Lance Laney, Permittee, 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. Effective upon a date to be determined; and
 - b. The Level One (1) Hazardous Waste Evaluation required under section 14 of the permit shall be waived.
3. Authorize the issuance of a new revocable permit to Lance Laney 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.

Respectfully Submitted,

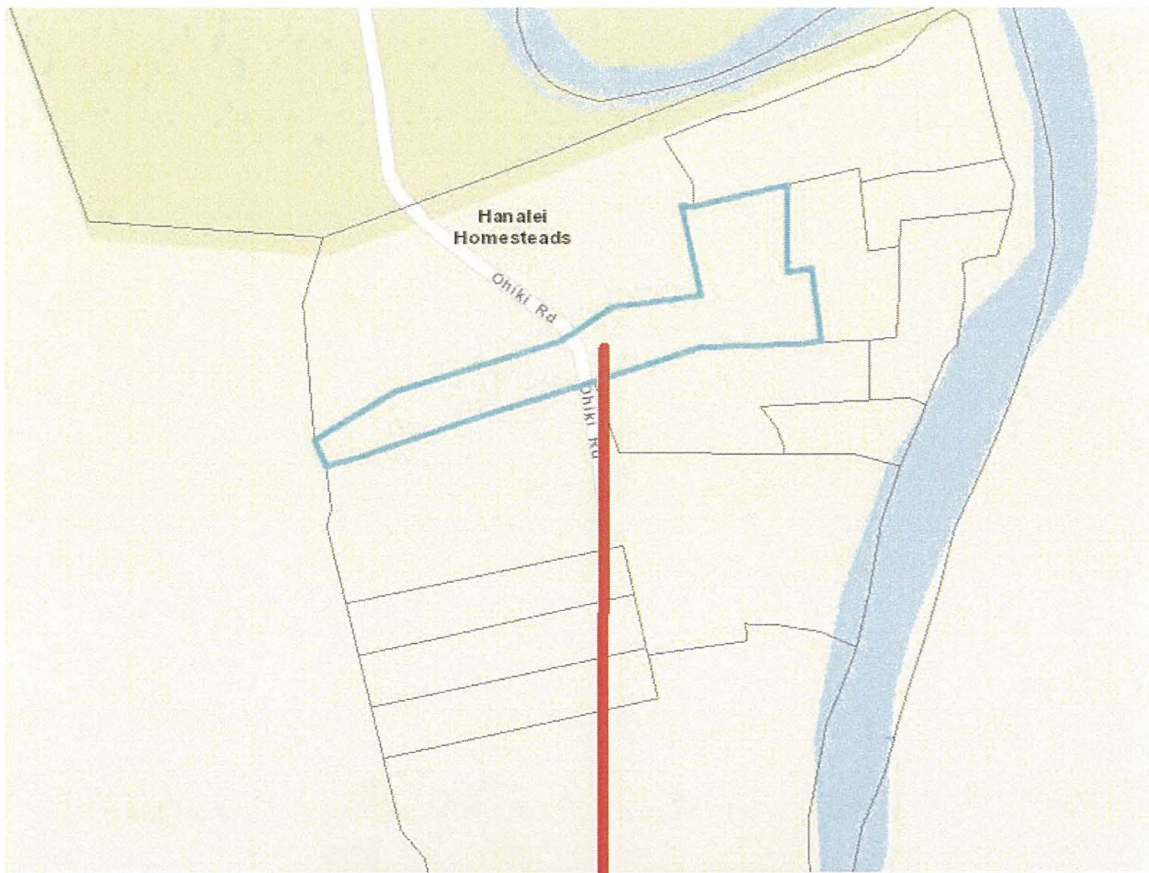


Alison Neustein
Land Agent

APPROVED FOR SUBMITTAL:



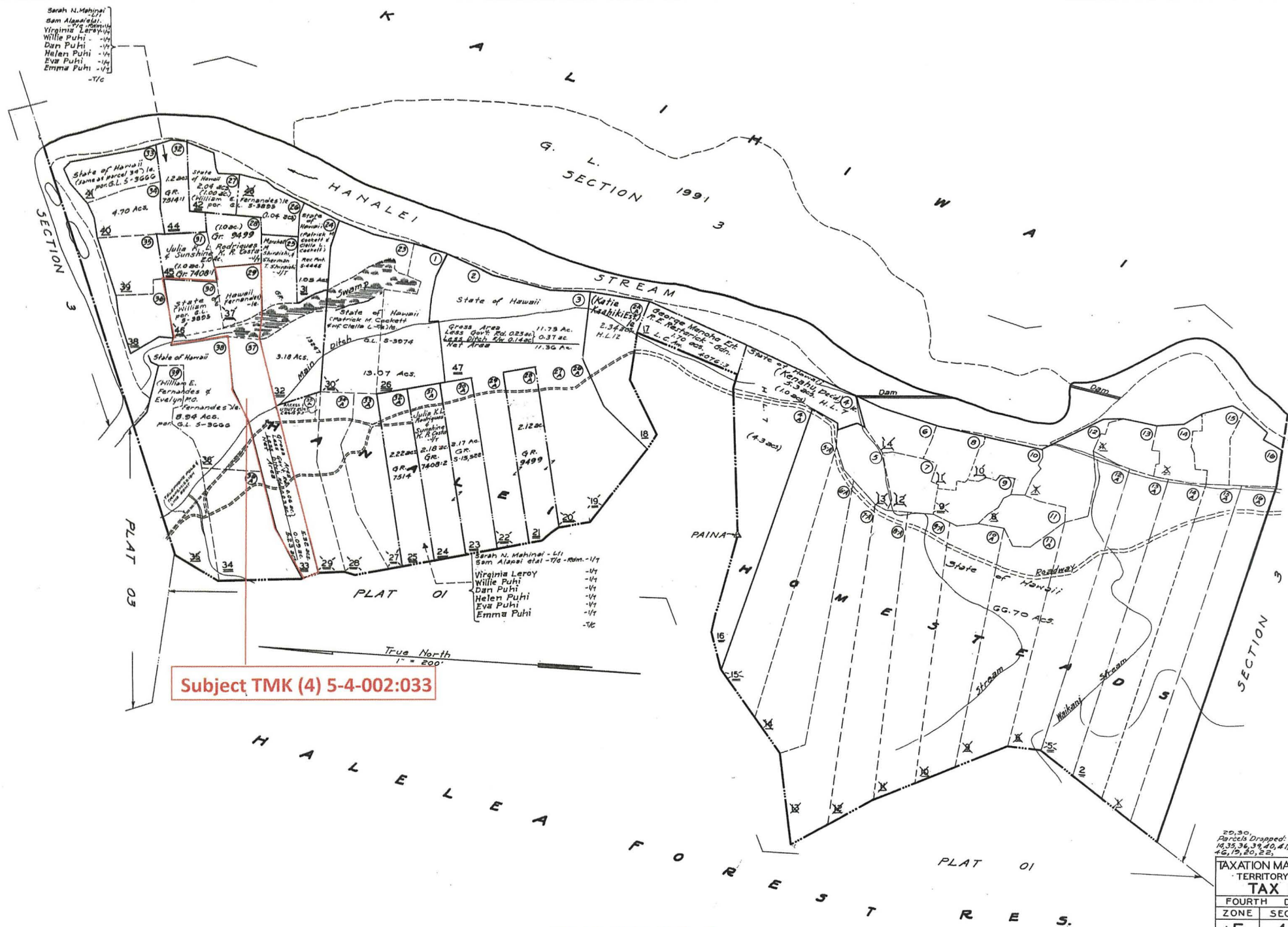
Suzanne D. Case, Chairperson



Subject TMK (4) 5-4-002:033



EXHIBIT A



Subject TMK (4) 5-4-002:033

EXHIBIT A

SUBJECT TO CHANGE

20,30	Parcel Drapped: 4
14,35,36,38,40,41	
46,47,20,22	
TAXATION MAP	
TERRITORY	
TAX I	
FOURTH	0
ZONE	SEC
5	4
CONTAINING	
SCALE: 1 in. = 200 ft.	

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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

3060 Eiwa Street, Room 208
Lihue, Hawaii 96766
PHONE: (808) 274-3491
FAX: (808) 241-3535

February 28, 2020

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR):

Project Title:	Mutual Cancellation of Revocable Permit No. S-7739, Lance Laney, Permittee and Waiver of Phase I Environmental Site Assessment Required under RP S-7739; Issue New Revocable Permit to Lance Laney, Hanalei for Pasture Purposes, (Halelea), Kauai, Tax Map Key: (4) 5-4-002:033.
Project / Reference No.:	PSF No.: 19KD-148 and RPS-7739
Project Location:	Portion of Government (Crown) Land situated at Hanalei (Halelea), Kauai, identified by Tax Map Key (TMK): (4) 5-4-002:033, as shown on the attached map labeled Exhibit A.
Project Description:	Mutual cancellation of Revocable Permit No. S-7739, Lance Laney, Permittee; Waiver of Phase I Environmental Site Assessment Required under RP S-7739 and issue a new Revocable Permit to Lance Laney for Pasture Purposes.
Chap. 343 Trigger(s):	Use of State land.
Exemption Class No. and Item No.:	In accordance with Section 11-200.1-15 of the Hawaii Administrative Rules and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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, 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, and Item 47, which states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existed."

EXHIBIT B

**Cumulative Impact of
Planned Successive
Actions in Same Place
Significant:**

No. There will be no successive actions in same place or no significant cumulative impact.

**Action May Have
Significant Impact on
Particularly Sensitive
Environment:**

No. There will be no particularly sensitive environments involved or no significant impact.

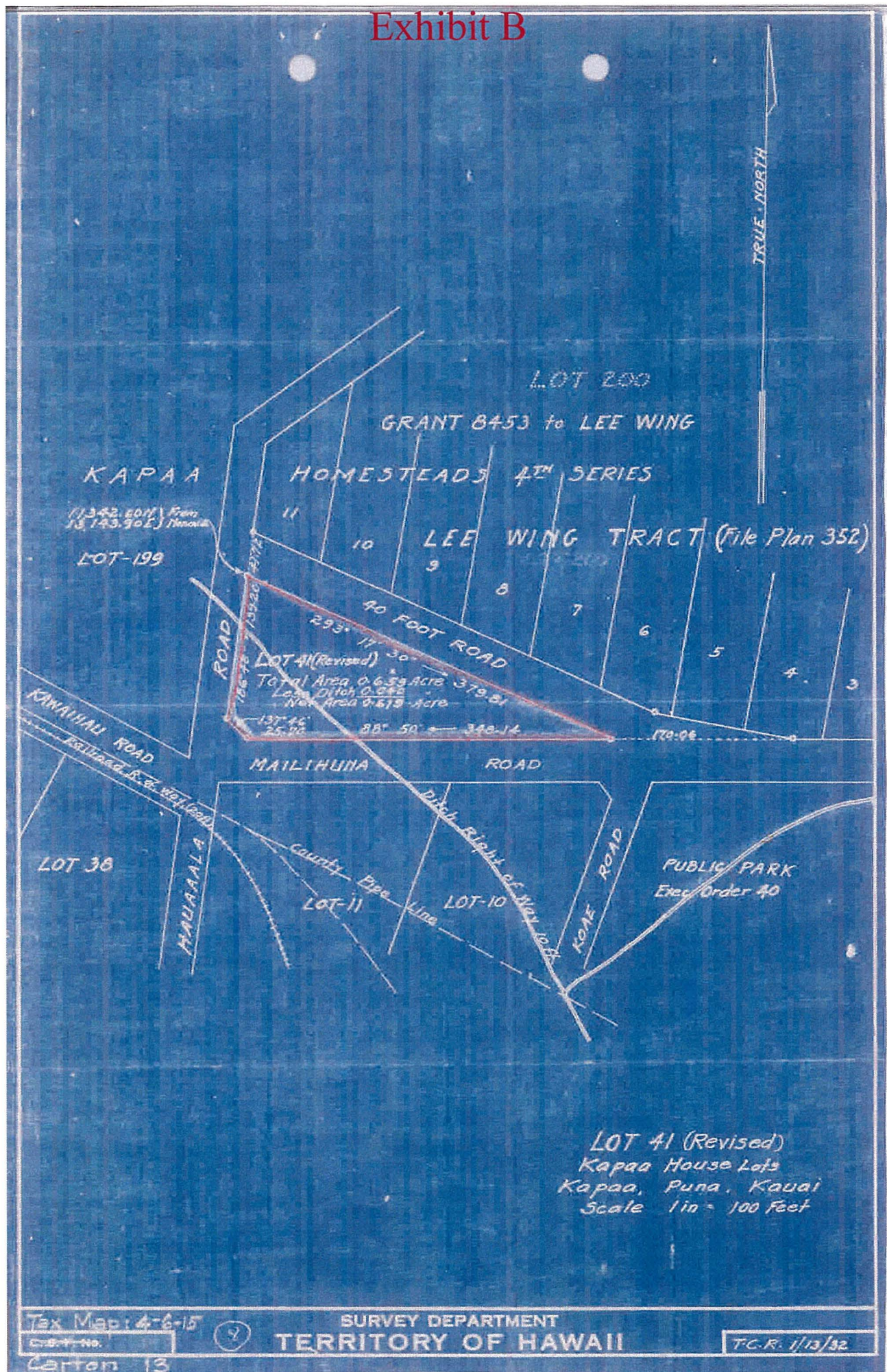
Consulted Parties:

Office of Hawaiian Affairs, DLNR Historic Preservation, DLNR Water Resource Management, DLNR-Office of Conservation and Coastal Lands (OCCL), DLNR-Aquatic Resources, and DLNR-Forestry and Wildlife

Recommendation:

It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.

Exhibit B



Tax Map: 4-6-15

C.B.P. No.

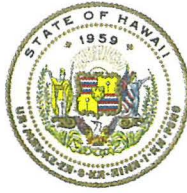
Carton 13

2

SURVEY DEPARTMENT
TERRITORY OF HAWAII

T.C.R. 1/13/32

DAVID Y. IGE
GOVERNOR OF HAWAII



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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

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February 24, 2020

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, Hawaii Administrative Rules.

Project Title:	Cancellation of Governor's Executive Order No. 1108 and Reset Aside to the County of Kauai for Park and Road Right-of-Way Purposes; Issuance of Immediate Construction and Management Right-of-Entry Permit to the County of Kauai, Kapaa House Lots, Kawaihau, Kapaa, Kauai, Tax Map Keys: (4) 4-6-015:021 and (4) 4-6-015:022 (Lot 41).
Project / Reference No.:	PSF No.: 19KD-047
Project Location:	Portion of Government lands of Kapaa House Lots, situated at Kawaihau, Kapaa, Kauai, identified by Tax Map Keys: (4) 4-6-015:021 and (4) 4-6-015:022 (Lot 41).
Project Description:	Kapaa House Lots, Kawaihau, Kapaa, Kauai, (4) 4-6-015:021 and (4) 4-6-015:022 (Lot 41), were initially set aside for Executive Order 1108 dated March 27, 1945. The existing Executive Order states the original public purpose was to "prevent traffic hazard and . . . no construction of any kind shall be made [on the land] but [it] shall be grassed and used as a park." The County of Kauai requests that the Board cancel and reissue EO 1108 with the recommended language: "for park and road right-of-way purposes, to be under control and management of the County of Kauai."
Chap. 343 Trigger(s):	Use of State land.
Exemption Class No. and Item No.:	In accordance with HAR Section 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on dated June 5, 2015, the subject request is exempt from the preparation of an

EXHIBIT C

environmental assessment pursuant to Exemption Class No. 1, Item 43 that states: "Transfer or management authority over state-owned land, such as setting aside of state lands to or from other government agencies through an executive order."

Cumulative Impact of
Planned Successive
Actions in Same Place
Significant:

No. There will be no successive actions in same place or no significant cumulative impact.

Action May Have
Significant Impact on
Particularly Sensitive
Environment:

No. There will be no particularly sensitive environments involved or no significant impact.

Analysis:

The County of Kauai is requesting to cancel and reset aside Executive Order 1108 only in that EO 1108 currently states that on the subject parcel(s) "no construction of any kind shall be made." The County of Kauai is planning on making improvements to the already existing surrounding roads. The County plans to use a just a small portion of Tax Map Keys: (4) 4-6-015:021 and (4) 4-6-015:022 (Lot 41) for proposed Street transport purposes" so that the County can move forward with their roadway construction project.

Consulted Parties:

Office of Hawaiian Affairs, DLNR Historic Preservation and County of Kauai Planning Department

Declaration:

It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.