

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

March 27, 2020

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

PSF No.: 20KD-004

Kauai

Issuance of Revocable Permit to Hawaii Land & Livestock, LLC for Land Maintenance Purposes, Portion of Government Land Situated at Kapaa Homesteads 4<sup>th</sup> Series, Kapaa, Kawaihau, Kauai, TMK Nos.: (4) 4-6-009:028, 044 and 045.

APPLICANT:

Hawaii Land & Livestock, LLC, a domestic Limited Liability Company (LLC).

LEGAL REFERENCE:

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

LOCATION:

Government Land Situated at Kapaa Homesteads 4th Series, Kapaa, Kawaihau, Kauai, TMK Nos.: (4) 4-6-009:028, 044 and 045, as shown on the attached map labeled Exhibit A.

AREA:

77.13 acres, more or less.

ZONING:

State Land Use District: Agriculture  
County of Kauai CZO: 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:

Vacant and unencumbered.

CHARACTER OF USE:

Land maintenance purposes including removal of underbrush, selective thinning of trees, fencing, prevention of tree-cutting by others, and prevention of trash-dumping and abandonment of vehicles.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$343.00 per month.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

JUSTIFICATION FOR REVOCABLE PERMIT:

Hawaii Land & Livestock, LLC (HLL) is the only interested party at this time and staff believes there is not enough market demand for the restrictive use of the land to warrant a public auction.

REMARKS:

The subject parcels are located in Keapana Valley, mauka of Kapaa Town. This tract of land comprises a portion of the western wall of Keapana Valley and is sandwiched between the Valley House Estate and the residential subdivision above.

Since February 25, 1986 the property was encumbered to the owner of the Valley House

Estate, Seven Pillars, Inc. for natural recreational purposes. Seven Pillars, Inc. was sold to Falko Partners, LLC (Falko Partners). Falko Partners have held a series of permits to this steeply sloping, wooded land allowing them to manage this otherwise difficult to use property as a natural buffer between themselves and the home sites above, the last being Revocable Permit (RP) S-7721. Management under the permit has included the removal of underbrush, selective thinning of trees, fencing, prevention of tree-cutting by others, prevention of trash-dumping and abandonment of vehicles, etc...

On December 2, 2019, Falko Partners informed Kauai District Land Office that they wish to cancel RP S-7721. Prior to Falko Partners' request for cancellation, at its meeting on September 27, 2019, under agenda item D-1, the Board approved a continuation of RP S-7721 with the new rent of \$343.00 per month effective January 1, 2020.

A request for a revocable permit for land maintenance purposes for TMK Nos. (4) 4-6-009:028, 044, & 045 was made December 4, 2019 by HLL. A separate request for a revocable permit for adjoining parcel TMK (4) 4-6-009:046 for pasture purposes was also made by HLL. HLL is the only interested party at this time and staff believes there is little market demand for the parcels to warrant a public auction at this time.

Applicant 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.

HLL is qualified and capable of successfully maintaining the subject land. Their main role is cattle ranching and land management. They have been in business since August 2011. Bobby Farias, owner and manager of HLL is a third-generation Kauai cattle rancher and fixture in Hawaii's beef industry. He used to work with prior permittees, Falko Partners and the Valley House Estate. He is very familiar with the nuances involved in the management of these parcels. HLL intends on keeping cows on the adjacent State and private parcels. The acquisition of these additional parcels would give their pasture a buffer from trespassers and add further protection to their cattle. They plan on maintaining the property and inhibiting people from dumping cars and garbage onto the State parcels.

The following State and County of Kauai (COK) agencies were consulted on this action with the results indicated:

Agency:	Comment:
Historic Preservation	No response by suspense date
Office of Hawaiian Affairs	No response by suspense date
Department of Agriculture	No response by suspense date
Division of Forestry and Wildlife	No response by suspense date
Division of State Parks	No response by suspense date
COK Planning Department	No response by suspense date
COK Department of Public Works	No objections



When Falko Partners' RP S-7721 was up for renewal at the Board meeting of September 27, 2019, agenda item D-1, testimony was submitted about a portion of the lands being used for trail access to reach waterfalls in the area. Na Ala Hele trails system staff appeared at the meeting and testified to clarify that there are no official trails on the lands, though Na Ala Hele is aware of one unofficial trail. The following excerpt is from Land Division's record of the results of the meeting:

Approved as submitted. Regarding the testimony submitted on Revocable Permit No. S-7721 issued to Falko Partners, LLC, Na Ala Hele reported that there is no program trail on the land but there is a trail that is inventoried by Na Ala Hele. Na Ala Hele stated that it has no objection to the renewal of the permit because the permit is a short-term disposition. Na Ala Hele added that if the land is ever put out for a long-term disposition, the program and the Board may want to consider reserving public access over the land.

The proposed RP to HLL will also be a short-term disposition terminable on 30 days' prior written notice by the State. Additionally, to the best of staff's knowledge, the unofficial but inventoried trail mentioned above meanders across the boundary between public and private lands. There is no trail located wholly on the State parcels that could be reserved at this time.

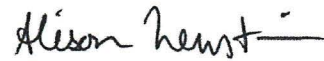
The proposed use has continued since at least 1986 and will continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

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, Hawaii Administrative Rules (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 issuance of a revocable permit to HLL covering the subject area for land maintenance 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.

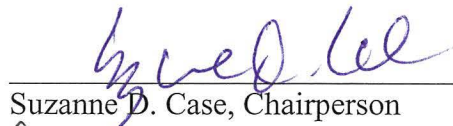
Respectfully Submitted,



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Alison Neustein  
Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

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 MAY 1 1961  
 NOV 21 1962  
 FEB 17 1963  
 AUG 2 1963

OCT 23 1947  
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 JAN 27 1947  
 MAR 5 1947  
 APR 25 1947  
 JUL 23 1947  
 JUL 29 1947  
 OCT 23 1947  
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Certificate of Boundaries

PARCEL 49:  
State of Hawaii  
(Solomon M. Kupihad, Jr.  
REV. Prmt. 5-2043  
120-408

32 State of Hawaii  
S.S. 40-601

59 Marie E. Valdes  
Shirley J. Young - J/T  
(Joseph P. Murtagh) A/S

60 Alfred Laurata & wf. E. Evelyn - T/H  
KEPANA HALE ESTATES

Owners of Parcel #7:  
John R. Barretta

Owners of Parcel 48:  
Hiroshi Miyashiro  
Shinji Miyashiro

State of Hawaii  
 (Mafine Medeiros)  
 Dec. 2nd 2011

~~TMK (4) 4-6-009:044~~

State of Hawaii  
(Julien Kanarek) Rev. Am. 9-8859  
13.10.001. 2.0 Act. 1 1 21.37 Act. 21

State of Hawaii  
07.08.001.

state of Hawaii  
(County of Kauai)  
Exec. Ord. 1503  
Valley House  
Waialeale, Kauai

Note: Parcels 26  
to 31 owned by  
Okada Trucking  
Ltd., unless oth-  
erwise noted.

(Daniel Melendez)  
Ref. Pmt. No.  
3-5351

NOTE: Parcels 5, 9, 13, 17, & 24 owned by the State of Hawaii and leased to (East Kona Water Co. Ltd) in per G.L. 3-3827 unless otherwise noted.

Parcels Dropped: 4, 7, 8, 12, 22, 23, 6.

SUBJECT TO CHANGE

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH		DIVISION
ZONE	SEC.	PLAT
4	6	09
CONTAINING		PARCELS
SCALE : 1 in. = 300 ft		

# EXHIBIT A







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**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

March 27, 2020

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

<b>Project Title:</b>	Issuance of Revocable Permit to Hawaii Land & Livestock, LLC for Land Maintenance Purposes, Portion of Government Land Situated at Kapaa Homesteads 4th Series, Kapaa, Kawaihau, Kauai, TMK Nos.: (4) 4-6-009:028, 044 and 045.
<b>Project / Reference No.:</b>	20KD-004
<b>Project Location:</b>	Government Land Situated at Kapaa Homesteads 4th Series, Kapaa, Kawaihau, Kauai, TMK Nos.: (4) 4-6-009:028, 044 and 045, as shown on the attached map labeled Exhibit A.
<b>Project Description:</b>	Issuance of Revocable Permit to Hawaii Land & Livestock, LLC for Land Maintenance Purposes.
<b>Chap. 343 Trigger(s):</b>	Use of State Land.
<b>Exemption Class No. and Description:</b>	In accordance with 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, which 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 Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

**EXHIBIT B**



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

No. The temporary use of the land for natural recreational purposes is compliant with county zoning requirements. Staff believes there are no cumulative impacts involved.

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

No. There are no sensitive environmental issues involved with the proposed use of the property.

**Analysis:**

The proposed exemption is appropriate because the applicant is requesting a revocable permit for natural recreational purposes. The property has been used for pasture since February 25, 1986 and the applicant is not proposing expansion or changing the current use. According to the Applicant, the proposed project maintains the existing topography and is a minor alteration of the condition of the land and vegetation and should result in no material change or significant impact to the environment.

**Consulted Parties:**

Comments from The State Historic Preservation Division, Office of Hawaiian Affairs, Department of Agriculture, County of Kauai (COK) Public Works and COK Planning were solicited.

**Recommendation:**

We recommend that the Land Board approve this project as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.