

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

April 23, 2021

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

PSF No.: 21KD-010

Kauai

Issuance of Revocable Permit to Seymour Resources Hawaii for Agriculture Purposes
Kapaa, Kawaihau (Puna), Kauai, Hawaii, Tax Map Key: (4) 4-6-004:013.

APPLICANT:

Seymour Resources Hawaii (SRH), a Hawaii profit corporation.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kapaa situated at Kapaa, Kawaihau (Puna), Kauai,
identified by Tax Map Key: (4) 4-6-004:013, as shown on the attached map labeled
Exhibit A.

AREA:

5.75 acres, more or less.

ZONING:

State Land Use District:	Agriculture
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: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Agriculture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$114.38

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, 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." 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:

At this time, staff believes that a month-to-month tenancy for agricultural purposes is the appropriate disposition since no other parties have expressed interest to utilize/lease the subject area. In addition, the potential revenue to be generated by a lease for agricultural uses may not be sufficient to justify the investment of staff time and resources required to conduct a public auction for a sale of lease of the property. Staff will contact the

Department of Agriculture to determine whether it has any interest a set-aside of the land pursuant to Act 90 Session Laws of Hawaii 2003.

REMARKS:

The subject property was originally leased to Lee Sandau on January 2, 1982 under General Lease S-4777 for general agriculture purposes. Lee Sandau defaulted on the lease and it was terminated on May 31, 1987.

From January 1, 1992 until December 31, 2017, Kauai Economic Opportunity, Inc. (KEO) leased the property for flower and foliage farm purposes under General Lease S-5221. The direct lease also allowed KEO to construct, operate, and maintain a shelter for the homeless, but KEO only ended up constructing the small covered shelter that is still present on the property. See Exhibit C.

In 2019, KDLO received complaints regarding the overgrown Albizia trees close to homes on adjacent private lands. KDLO hired a contractor for \$76,000 in January 2020 to cut the large trees. Granting a revocable permit will allow for Mr. Seymour to cut and maintain the Albizia trees before they get too large, thereby relieving the State of this maintenance obligation.

A monthly rental rate of \$114.38 was derived from the 2018 DLNR Revocable Permits Appraisal Report. Annual rent in 2018 for similar agriculture lands was \$225 per acre per year (\$18.75 per acre per month). The annual market rent was estimated by employing a bracketing analysis using direct market comparison with other leases to tenant farmers on the islands of Oahu and Kauai. Following the approach used for annual RP renewals in the relevant period, the rent was calculated by the Land Division by starting with \$18.75 per acre and increasing the 2019 rent by 3% over the 2018 rent, and the 2020 rent was increased by 3% over the 2019 rent. DLNR did not increase the rents for 2021 due to Covid19.

It is SRH's intent to develop an avocado orchard with some row crops between the rows of trees. They will be using regenerative practices to ensure the sustainability of the site. They plan on fencing the area for security and feral pig exclusion. They will also install an irrigation system. SRH is currently contracted with the DLNR to maintain the East Kauai Water Irrigation System and its manager, Brad Seymour, is a board member with the Kauai County Farm Bureau. Mr. Seymour's experience with irrigation systems and farm work qualifies him as being capable of successfully acquiring and maintaining a revocable permit for the subject land for agriculture purposes.

The proposed use is similar to the agriculture uses that had previously existed 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.

SRH has not had a lease, permit, easement, or other disposition of State lands terminated within the past five years due to non-compliance with such terms and conditions.

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
COK Department of Public Works	No response by suspense date
COK Planning Department	No response by suspense date

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 issuance of a revocable permit to Seymour Resources Hawaii covering the subject area for agriculture 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.

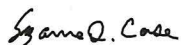
Respectfully Submitted,



Alison Neustein
Land Agent

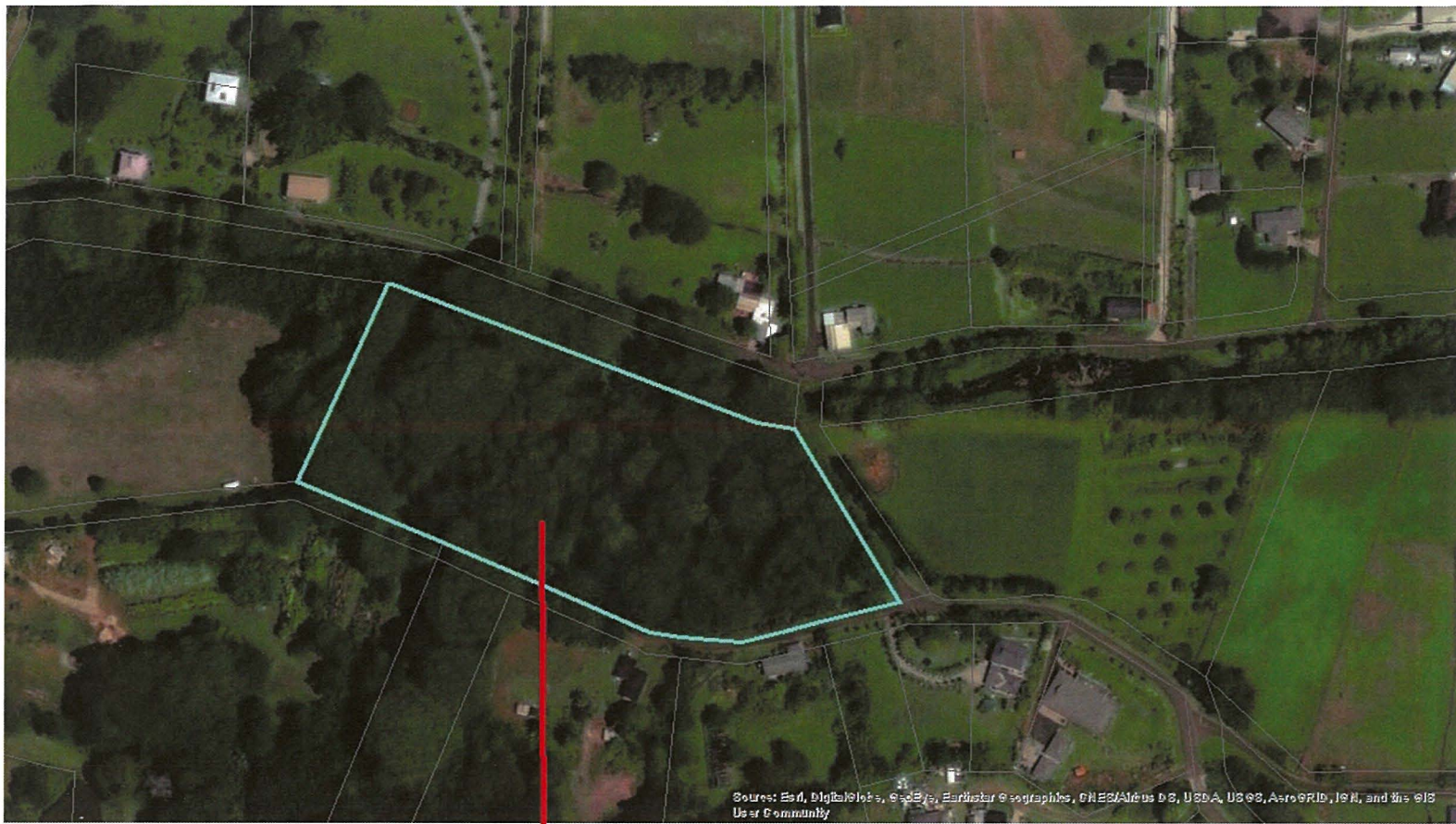


APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





SUBJECT TMK : (4) 4-6-004:013

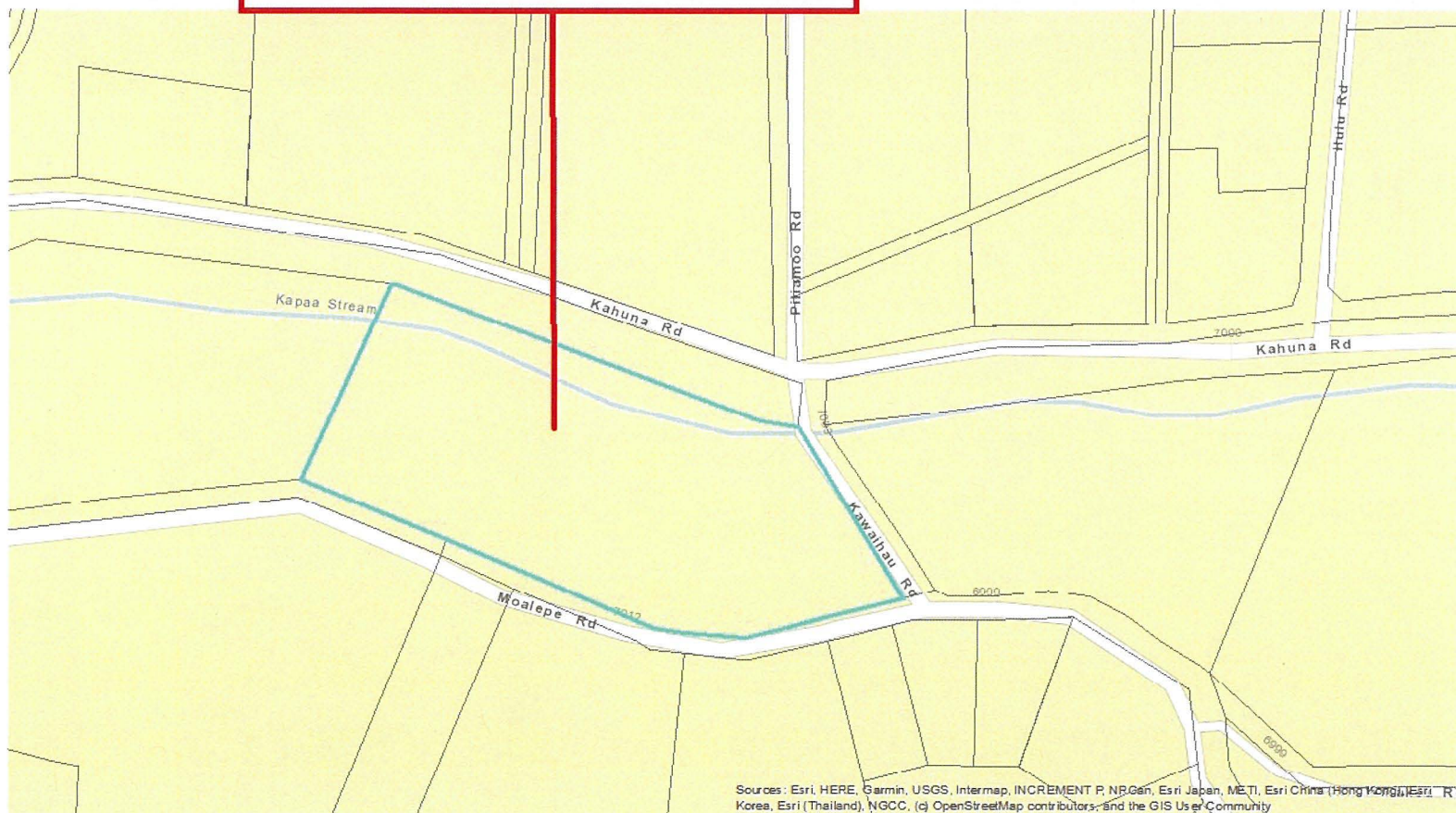
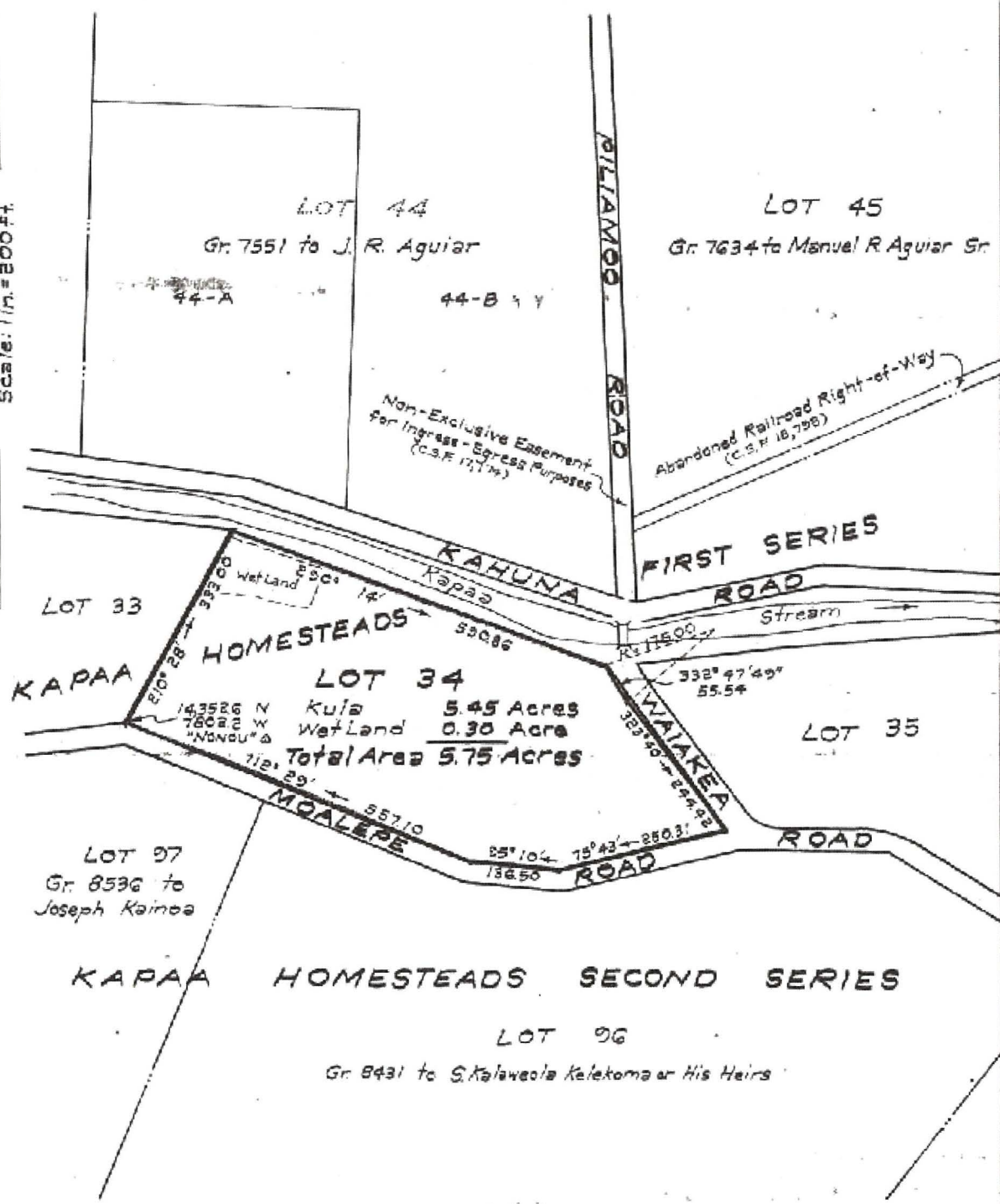


EXHIBIT A

TRUE NORTH
Scale: 1 in. = 200 ft.



LOT 34
KAPAA HOMESTEADS, FIRST SERIES
Kapaa, Kawaihau, (Puna), Kauai, Hawaii
Scale: 1 inch = 200 feet

JOB K-137(81)
C. BK Compared with Lot 34 dated March 9, 1981

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

April 23, 2021

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: Issuance of Revocable Permit to Seymour Resources Hawaii for Agriculture Purposes.

Project / Reference No.: PSF No. 21KD-010

Project Location: Portion of Government lands of Kapaa situated at Kapaa, Kawaihau (Puna), Kauai, identified by Tax Map Key: (4) 4-6-004:013.

Project Description: Issuance of Revocable Permit to Seymour Resources Hawaii for Agriculture Purposes.

Chap. 343 Trigger(s): Use of State land.

Exemption Class No. and Item No.: In accordance with HAR § 11-200.1-16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, 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"

EXHIBIT B

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

No, the request is a single occurrence in the area.

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

No, the action proposed will have no significant impact to any particularly sensitive environment.

Analysis:

Since 1982, the subject property has been used for general agriculture purposes. As such, staff believes that the requests would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties:

Comments from The State Historic Preservation Division, Office of Hawaiian Affairs, COK Public Works and COK Planning were solicited.

Recommendation:

It is anticipated this activity will probably have minimal or no significant effect on the environment. As a result, staff recommends the Board find the disposition to be exempt from the preparation of an environmental assessment.



EXHIBIT C