

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

May 14, 2021

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

PSF No.: 21KD-009

KAUAI

Set Aside to Department of Accounting and General Services for Cemetery Purpose; Issuance of Immediate Management Right-of-Entry Permit; Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-8-008:018.

APPLICANT:

Department of Accounting and General Services (DAGS).

LEGAL REFERENCE:

Sections 110-1, 171-11 and 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Hanapepe, Waimea, Kauai, identified by Tax Map Key: (4) 1-8-008:018, as shown on the attached map labeled Exhibit A.

AREA:

8.968 acres, more or less.

ZONING:

State Land Use District:	Urban
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:

Unencumbered, but land has been used as a cemetery for many years.

PURPOSE:

Cemetery purposes.

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." Item No. 36 that states "transfer of management authority over state-owned land, such as setting aside for state lands to or from other government agencies through a Governor's executive order." See Exhibit B.

APPLICANT REQUIREMENTS:

Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at applicant's own cost.

REMARKS:

In researching land jurisdiction on some lands in the Salt Pond area in Hanapepe, the Kauai District Land Office (KDLO) staff discovered that there is a Chinese, Filipino & Portuguese cemetery (HCFP Cemetery) that is not being managed by any particular government agency. The parcel is approximately 8.97 acres and approximately a third of the property contains gravesites (see attached Exhibit C photos). There were active burials taking place on the state parcel up until April 2020 at which time KDLO had requested the Department of Health (DOH) and a few of the mortuaries on island to cease any further burials. The mortuaries were under the impression that it was a County of Kauai (COK) regulated public cemetery, but the land was never set aside to the county and is still showing as unencumbered State land. These burials have been conducted on this property for well over 50 years.

When KDLO agents contacted the COK, COK responded that the cemetery was not COK property. The COK added that it does, however, maintain the site with its West Kauai Beautification crew who mows the grass and maintains garbage cans onsite. The COK stated that it does not take calls for appointments, make arrangements, coordinate, plan,

manage or record the burials.

KDLO agents then contacted the various mortuaries and DOH to inquire as to burial procedures. KDLO learned that the persons requesting the burial are first required to apply online with the DOH to obtain a burial permit for a particular cemetery. Upon receipt of the burial permit, the mortuary then transports the deceased to the designated cemetery for burial.

The DOH indicated that it has a List of “Public Cemeteries” on the island of Kauai, and the HCFP Cemetery is on that list. KDLO requested additional information from DOH regarding management and recordkeeping of burials but has not received a response to date.

Representative Dee Morikawa, who previously worked with the COK, became involved in the matter and stated that she recalled someone at the county was keeping records of the burials. She explained that person has since retired and no one took over the recordkeeping.

By letter dated July 23, 2020, the Department requested the County to accept an executive order setting the cemetery aside to it with no official response to date.

The Department then reached out to DAGS by memorandum dated January 20, 2021 and requested DAGS to assume management of the cemetery pursuant to Section 110-1, Hawaii Revised Statutes, which provides as follows:

**[§110-1] Responsibility for state-owned cemeteries.** The comptroller shall be responsible for the operation, maintenance, improvement, redevelopment, and disposal of state-owned cemeteries; for the determination of ownership of plots therein; and for the proper maintenance of records pertaining to the cemeteries, including cemetery plot plans, and records of plot ownership, interments, and disinterment. [L 1987, c 368, pt of §2].

On March 2, 2021, DAGS agreed to accept the transfer of jurisdiction of the cemetery (see attached Exhibit D). Staff believes that it is prudent that the subject cemetery be placed under the management jurisdiction of the DAGS pursuant to a Governor’s executive order.

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

Agency:	Comment:
Office of Hawaiian Affairs	No Response by suspense date
State Historic Preservation Division	No Objections
Department of Health	No Response by suspense date

COK Parks and Recreation	No Objections
COK Planning Department	No Objections
COK Public Works	No Response by suspense date
COK Department of Water	No Response by suspense date

Staff is recommending the issuance of an immediate management right-of-entry permit to DAGS pending the issuance of the executive order.

RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

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. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Accounting and General Services under the terms and conditions cited above, which are by this reference incorporated herein and subject further 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 next 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.
3. Grant an immediate management right-of-entry to the Department of Accounting and General Services, its consultants, contractors, and/or persons acting for or on its behalf, onto the subject property to secure, maintain and manage the property, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current management right-of-entry form, as may be amended from time to time;

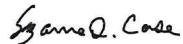
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- C. This management right-of-entry is effective upon Land Board approval and shall continue until the set-aside is complete.



Respectfully Submitted,

 WTM

Alison Neustein  
Land Agent

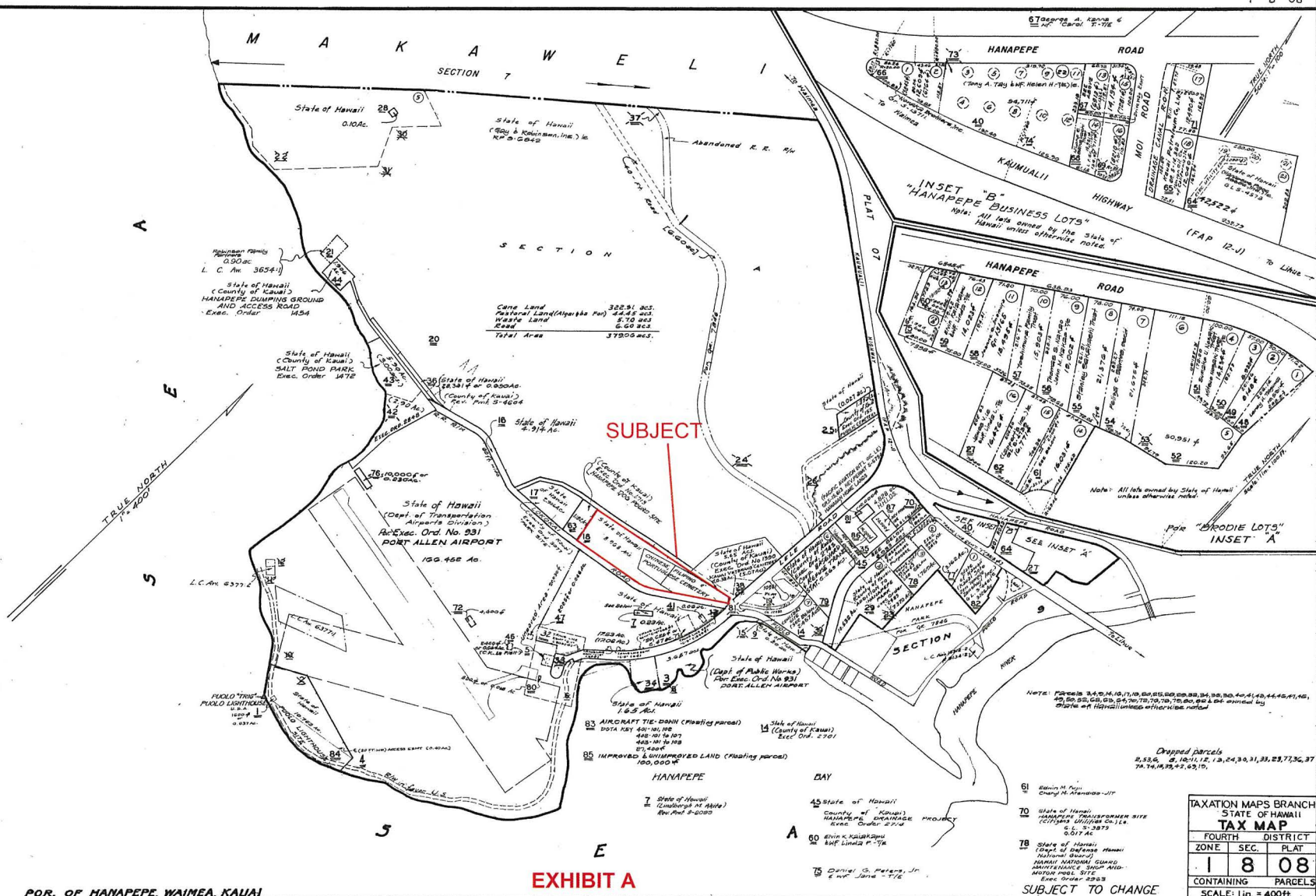
APPROVED FOR SUBMITTAL:



   
Suzanne D. Case, Chairperson



**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

May 14, 2021

**EXEMPTION NOTIFICATION**

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

**Project Title:** Set Aside to Department of Accounting and General Services for Cemetery Purposes; Issuance of Immediate Management Right-of-Entry Permit to Department of Accounting and General Services, Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-8-008:018.

**Project / Reference No.:** 21KD-009

**Project Location:** Portion of Government lands situated at Hanapepe, Waimea, Kauai, identified by Tax Map Key: (4) 1-8-008:018, as shown on the attached map labeled Exhibit A.

**Project Description:** Set Aside to Department of Accounting and General Services for Cemetery Purposes .

**Chap. 343 Trigger(s):** Use of State Land.

**Exemption Class No. and Description:** 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,

**EXHIBIT B**

facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing." Item No. 36 that states "transfer of management authority over state-owned land, such as setting aside for state lands to or from other government agencies through a Governor's 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 are no sensitive environmental issues involved with the proposed use of the property.

**Analysis:**

The proposed exemption is appropriate because the applicant is requesting to set aside State lands to another government agency for cemetery purposes. 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 County of Kauai Parks and Recreation, Planning Department, Division of Public Works, Department of Water, as well as the State of Hawaii Historic Preservation Division and the Office of Hawaiian Affairs were solicited.

**Recommendation:**

That the Board find that 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 C



EXHIBIT C

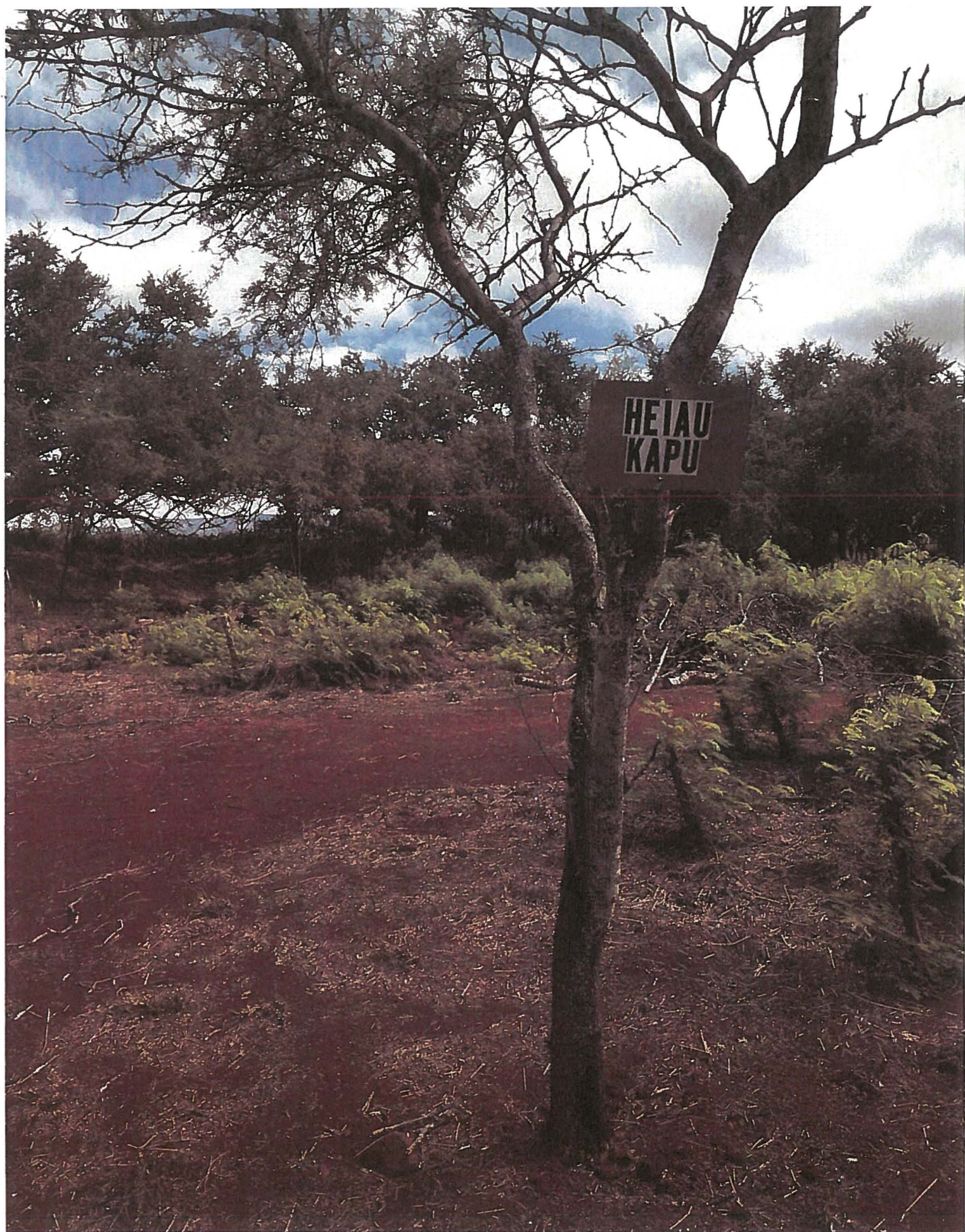


EXHIBIT C



EXHIBIT C

DAVID Y. IGE  
GOVERNOR



CURT T. OTAGURO  
COMPTROLLER

AUDREY HIDANO  
DEPUTY COMPTROLLER

**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

March 2, 2021

**VIA ELECTRONIC MAIL**

TO: Suzanne Case, Chairperson  
Board of Land and Natural Resources

FROM: Curt T. Otaguro, Comptroller  
Department of Accounting and General Services

SUBJECT: TMK: (4) 1-8-008:018 – Government (Crown) Land of Hanapepe

Thank you for your memorandum dated January 20, 2021 referencing the above property in Hanapepe, Kauai. We appreciate you bringing this to our attention and clarifying responsibilities between the Department of Accounting and General Services (DAGS), the Department of Land and Natural Resources (DLNR) and the County of Kauai.

Based on additional research and discussion with the County of Kauai, we concur with your request to transfer management of the subject cemetery to the DAGS – Kauai District Office. Pursuant to Chapter 110-1, Hawaii Revised Statutes, the Comptroller shall be responsible for the operation, maintenance, improvement, redevelopment, and disposal of state-owned cemeteries; for the determination of ownership of plots therein; and for the proper maintenance of records pertaining to the cemeteries, including cemetery plot plans, and records of plot ownership, interments and dis-interments.

DAGS will work with the County of Kauai and reconstruct records that may be available pertaining to the cemetery. Unfortunately, we have been advised that existing records still need to be located. In any case, DAGS accepts management of the Hanapepe Cemetery effective immediately.

**EXHIBIT D**