

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

July 28, 2023

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

PSF No.: 23KD-029

Kauai

Issuance of Revocable Permit to Bill DeCosta for Intensive Agriculture Purposes,
Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-9-012:005 and 037.

APPLICANT:

Bill DeCosta, a married man, Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Hanapepe situated at Hanapepe, Waimea, Kauai,
identified by Tax Map Key: (4) 1-9-012:005 and 037, as shown on the attached map
labeled **Exhibit A**.

AREA:

TMK: (4) 1-9-012:005: 3.08 acres, more or less

TMK: (4) 1-9-012:037: 2.43 acres, more or less

ZONING:

State Land Use District: Rural

County of Kauai CZO: R2

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:

Encumbered by Land Office Deed No. S-26909, Kauai Island Utility Cooperative, Grantee, for a Perpetual, Non-Exclusive Utility Easement.

Encumbered by Land Office Deed No. S-28661, Juan Wilson and Linda Pascatore, husband and wife, Grantees, for a Perpetual, Non-Exclusive Access and Utility Easement.

CHARACTER OF USE:

Intensive Agriculture Purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$40.00 per month

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached as **Exhibit B**.

DCCA VERIFICATION:

Applicant is not operating as a business and, as such, is not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT:

At this time, staff believes that a month-to-month tenancy for intensive agriculture purposes is an appropriate disposition since no other parties have expressed interest to utilize/lease the subject area. TMK: (4) 1-9-012:005 is used as an illegal dump site in the area, and a Revocable Permit (RP) could help mitigate the continued dumping and costs involved with cleaning and maintaining the parcel. In addition, the potential revenue to be generated by a long-term 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 in a set-aside of the land pursuant to Act 90 Session Laws of Hawaii 2003.

REMARKS:

State Parcel (4) 1-9-012:037 (Parcel 37) is currently vacant and unencumbered. Parcel 37 was previously encumbered under RP 7198 to Tatsuo and Elsie Nishi for intensive agriculture beginning November 15, 1999. General Lease (GL) 5616 was subsequently issued June 25, 2001, to Elsie Nishi, also for intensive agricultural purposes, and cancelled February 28, 2011. A request was recently made for an easement across Parcel 37 for access and utility purposes to an abutting landowner. Kauai District Land Office (KDLO) is currently processing this easement request and plans on bringing it to the Board sometime in the near future.

State Parcel (4) 1-9-012:005 (Parcel 25) is currently encumbered by perpetual easement Land Office Deed (LOD) 26909 to Kauai Island Utility Cooperative (KIUC) for utility purposes as well as LOD 28661 to Juan Wilson for access and utility purposes. Parcel 25 is currently being used as an illegal dump site and is overgrown. The parcel contains copious amounts of garbage and abandoned vehicles. KDLO is in the process of requesting bids for the clean-up of the parcel prior to issuance of any future leases. Parcel 25 was previously encumbered under grant of term, non-exclusive easement under GL-4576 to Wayne and Jan Royal for access and utility purposes from December 16, 1977, through July 11, 2001. Additionally, Parcel 25 was leased to Manuel Andrade Sr. and Manuel Andrade Jr. under GL-5120 for intensive agriculture purposes from March 27, 1986, to March 26, 2002.

A monthly rental rate of \$40.00 was derived from the 2018 DLNR Revocable Permits Appraisal Report. Average annual rent in 2018 for similar agriculture lands within a close vicinity of the subject was \$3.98 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 \$3.98 per acre and increasing the 2019 rent by 3% over the 2018 rent (\$4.10 per acre per month), and the 2020 rent was increased by 3% over the 2019 rent (\$4.22 per acre per month). DLNR did not increase the rents for 2021 due to Covid19, and the 2022 rent was increased by 3% over the 2021 rent (\$4.35 per acre per month) and then the 2023 rent was increased by 10% over the 2023 rent (4.78 per acre per month). Based on the 5.51 acres size of the two parcels, the total rent came out to 26.34 per month. On May 13, 2005, the Land Board established a Minimum Rent Policy that stated, among other things, that the minimum rent for new land dispositions be no less than \$480 per year.

Applicant DeCosta has worked for various companies as a farmer and cattleman. He

currently has 60 cows and is hoping to expand the heard once he is able to utilize the RP areas. He has raised animals and cultivated crops on Kauai Island for over 30 years.

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

Agency:	Comment:
State Agencies:	
Office of Hawaiian Affairs (OHA)	No response by suspense date
State Historic Preservation Division (SHPD)	No objections
Division of Forestry and Wildlife (DOFAW)	No response by suspense date
Department of Agriculture	No objections
County Agencies:	
COK Department of Public Works	No response by suspense date
COK Planning Department	No response by suspense date

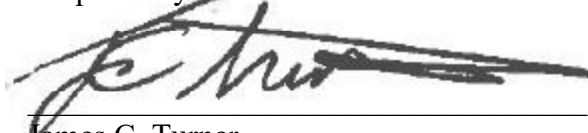
Historically, the State parcels have been used for agriculture. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion 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, 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. Based on the testimony and facts presented, find that approving the revocable permit, under the conditions and rent forth herein, would serve the best interest of the State.
3. Authorize the issuance of a revocable permit to Bill DeCosta covering the subject areas for intensive 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



James C. Turner
Land Agent

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson 

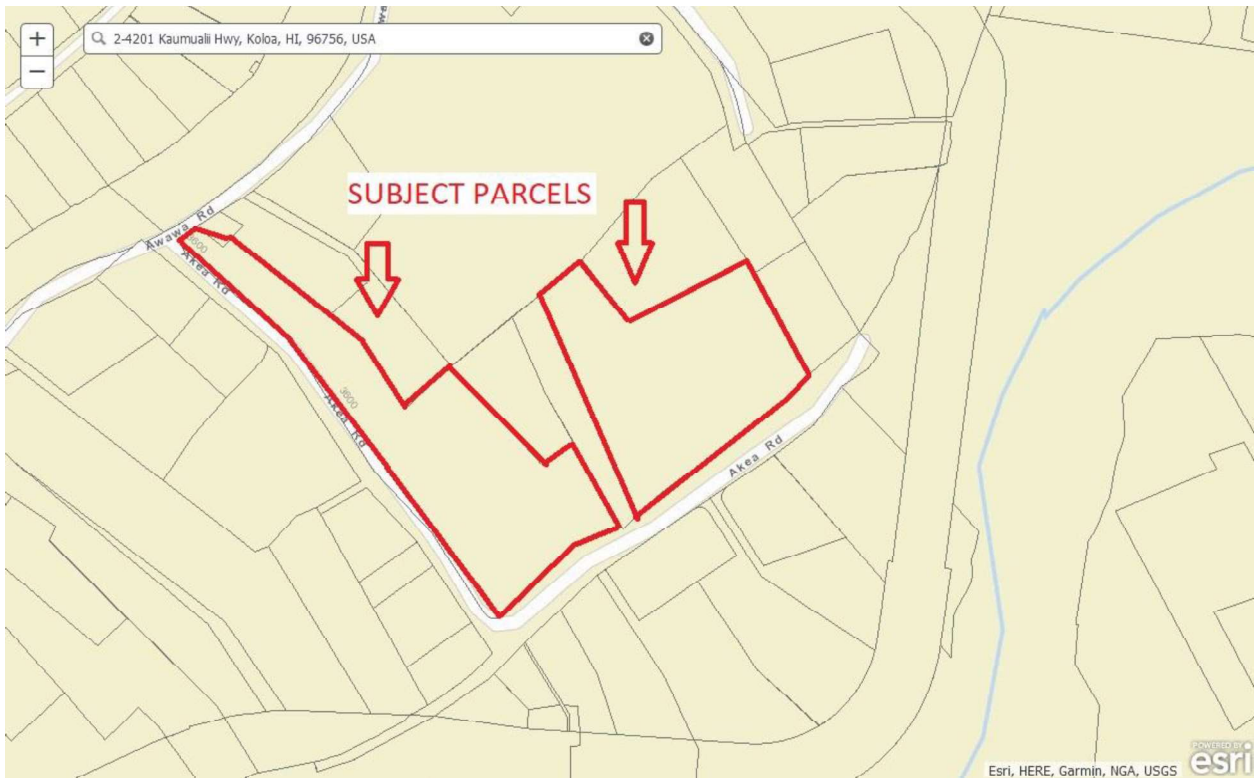
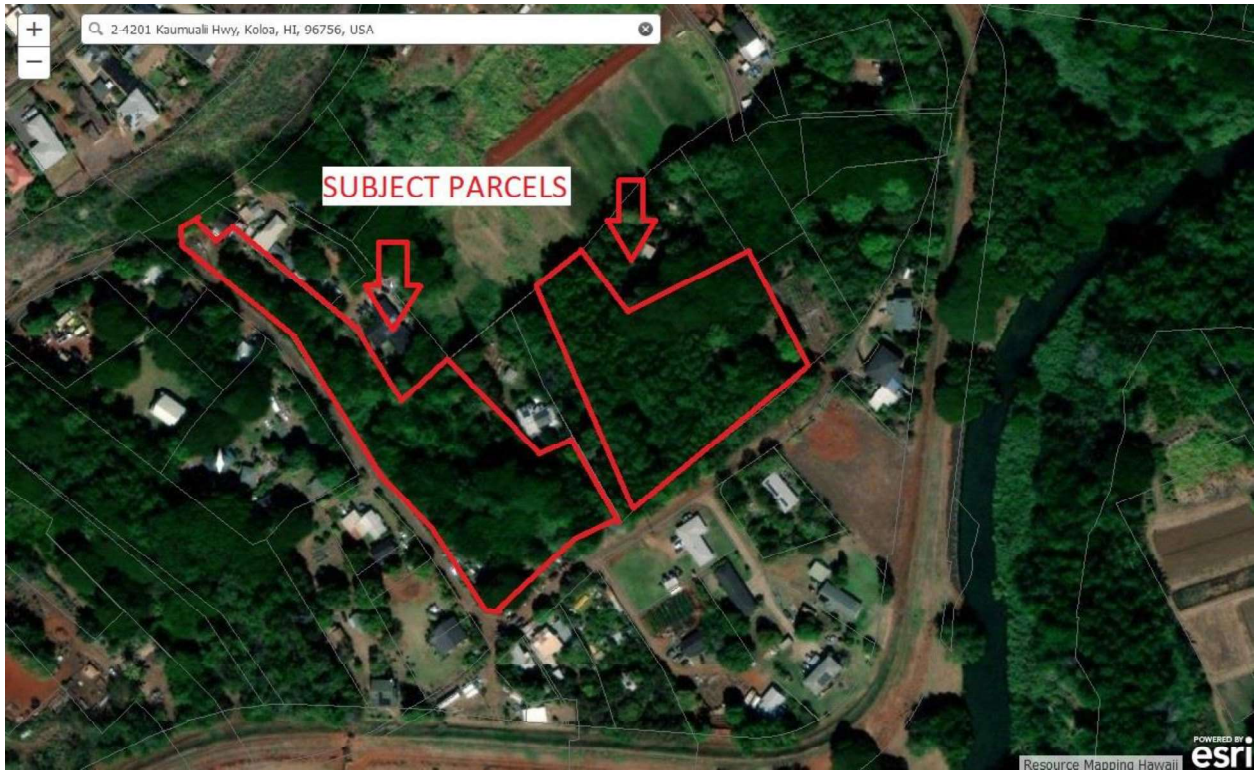
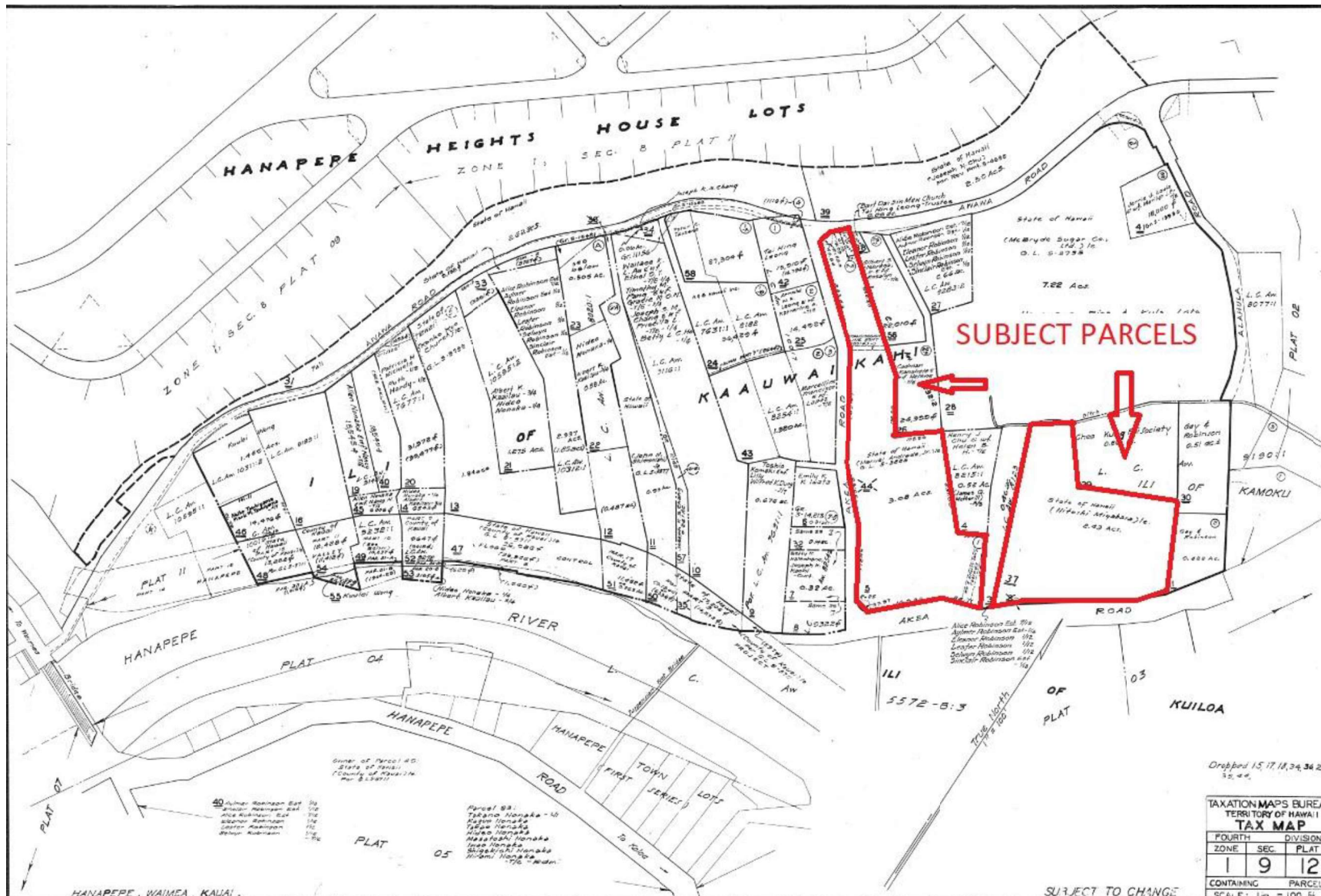


EXHIBIT A



Dropped 15, 17, 18, 34, 36 2

TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
FOURTH	SEC	DIVISION	
ZONE	PLAT	PLAT	
1	9	2	
CONTAINING PARCELS			
SCALE: 1 in. = 100 Ft.			

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

**STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION**

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

July 28, 2023

EXEMPTION NOTIFICATION

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

Project Title:	Issuance of Revocable Permit to Bill DeCosta, for Intensive Agriculture Purposes,
Project / Reference No.:	23KD-029
Project Location:	Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-9-012:005 & 037
Project Description:	Issuance of Revocable Permit for Intensive Agriculture Purposes
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No. and Description:	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 November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," and Part 1, Item 44 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."

EXHIBIT B

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

No. Staff believes there are no cumulative impacts involved with the proposed intensive agricultural use of the land under a revocable permit.

Action May Have Significant Impact on Particularly Sensitive Environment?:

No. There are no sensitive environmental issues involved with the proposed intensive agricultural use of the land under a revocable permit.

Analysis:

The proposed action is an issuance of a revocable permit for intensive agricultural purposes. Such dispositions have not resulted in known significant impacts to the natural and environmental resources in the area. As such, staff believes that the proposed disposition would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties:

Division of Forestry and Wildlife, Office of Hawaiian Affairs, County of Kauai Planning Department, County of Kauai Public Works, State Historic Preservation Division, Department of Agriculture.

Recommendation:

That the Board find 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.