

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

October 27, 2023

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

PSF No.: 23KD-092

Kauai

Issuance of Revocable Permit to Elmo J. Tafoya III and Natalie M. Kekuewa for Maintenance and Recreational Purposes, Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-9-002:003 and por. of 004.

APPLICANT:

Elmo J. Tafoya III and Natalie M. Kekuewa, Husband and Wife, as tenants by the entirety.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Hanapepe Valley situated at Hanapepe, Waimea, Kauai, identified by Tax Map Keys: (4) 1-9-002:003 and 004, as shown on the attached map labeled **Exhibit A**.

AREA:

Parcel 003: 0.43 acres, more or less.
Portion of Parcel 004: 0.5 acre, more or less.
Total Area: 0.93 acre, more or less.

ZONING:

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

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:

Maintenance and Recreational 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 **Exhibit B**.

DCCA VERIFICATION:

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

JUSTIFICATION FOR REVOCABLE PERMIT (IF APPLICABLE):

At this time, staff believes that a month-to-month tenancy for maintenance 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 in a set-aside of the land pursuant to Act 90 Session Laws of Hawaii 2003.

REMARKS:

Subject parcels have had no history of tenancy within the last century and are among the last remaining unencumbered parcels within Hanapepe Valley. Due to the unsuitability of the land for any commercial or agricultural use, Kauai District Land Office (KDLO) staff believe that there is no benefit in attempting to lease the parcels for agricultural use at this

time. The size and location of these parcels make them unsuitable for productive agricultural use due to their awkward configuration along the river. Subject parcels are bisected by one of two river crossings within Hanapepe Valley, and as such, constitute a meeting place for the residents of the valley to gather, relax and enjoy the river. Recently, however, the area along the riverbank has become a gathering place for people engaging in more illicit activities. Residents have complained of dumping of garbage, machinery, and vehicles, as well as drug use and squatting occurring on the subject properties. These activities have caused residents to stay away from the area, citing fears for their safety and the safety of the children in the valley. The remote nature of and difficult access to the parcels make security and enforcement of the area ineffective in controlling these activities.

Applicant Elmo Tafoya III has lived in Hanapepe for most of his life and is a fixture in the valley community. He and his wife, Natalie M. Kekuewa, have offered to lease the land so that they may clean, secure, and maintain the area to prevent squatters and drug users from taking over what once was a favorite gathering place for local families. They have no intention of closing off the area entirely, but instead returning the parcels to their previous use as a relaxing spot for local families to gather by the river. They have plans to invest \$2000-\$3000 to clear the rubbish from the parcels and to purchase picnic tables for use by local residents. Their plan has widespread support from neighbors and abutting landowners who have for years, borne the brunt of the abuse from the squatters on the parcels.

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

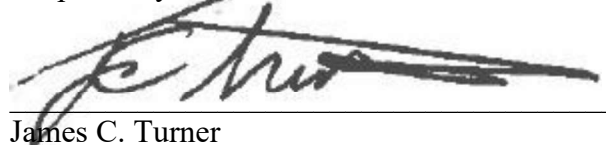
Agency:	Comment:
State Agencies:	
Office of Hawaiian Affairs (OHA)	No response by suspense date
State Historic Preservation Division (SHPD)	No response by suspense date
Division of Forestry and Wildlife (DOFAW)	No response by suspense date
County Agencies:	
COK Department of Public Works	No response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

It is the belief of the Land Division that the intended use would result 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 11-200.1-15, 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 interests of the State.
3. Authorize the issuance of a revocable permit to Elmo J. Tafoya III and Natalie M. Kekuewa, covering the subject area for maintenance and recreational 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



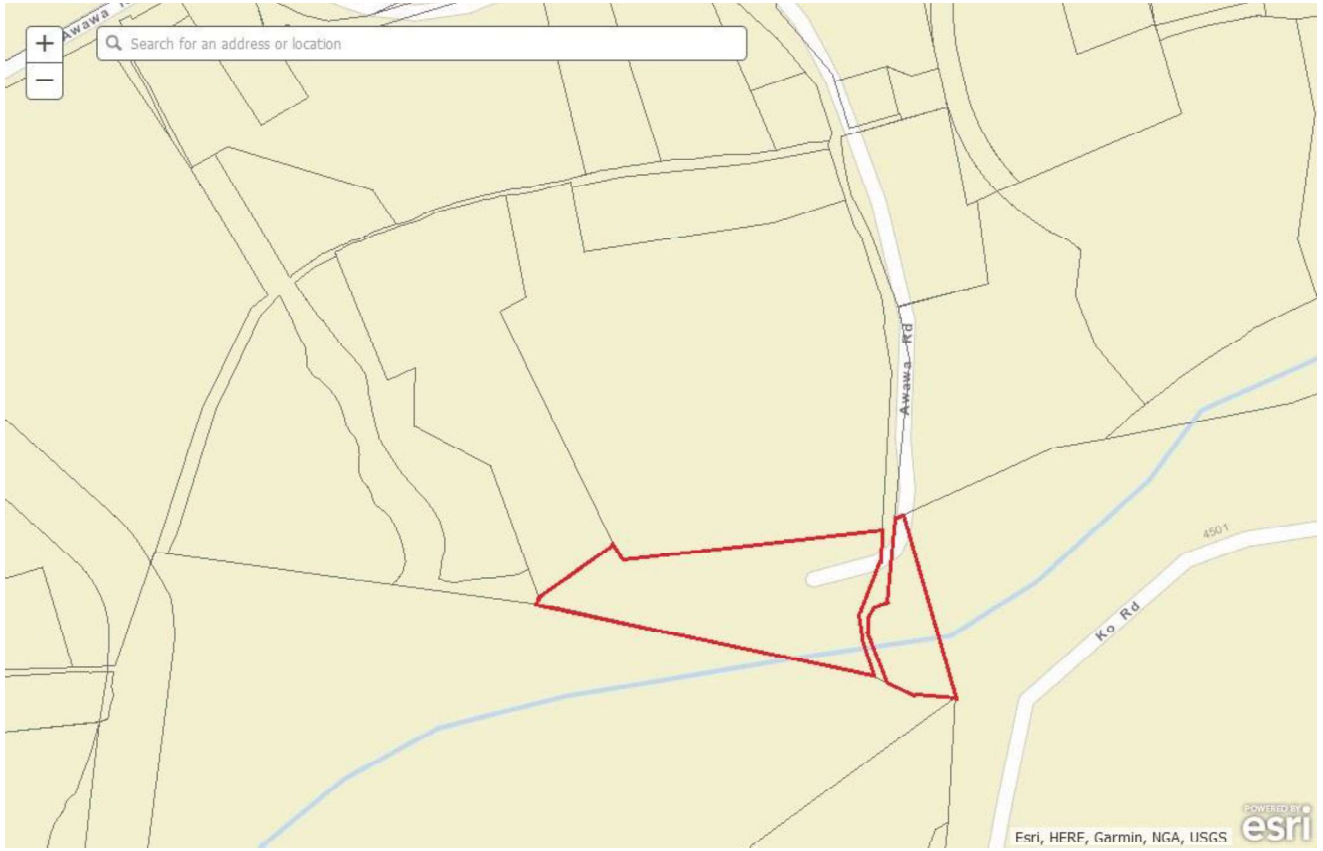
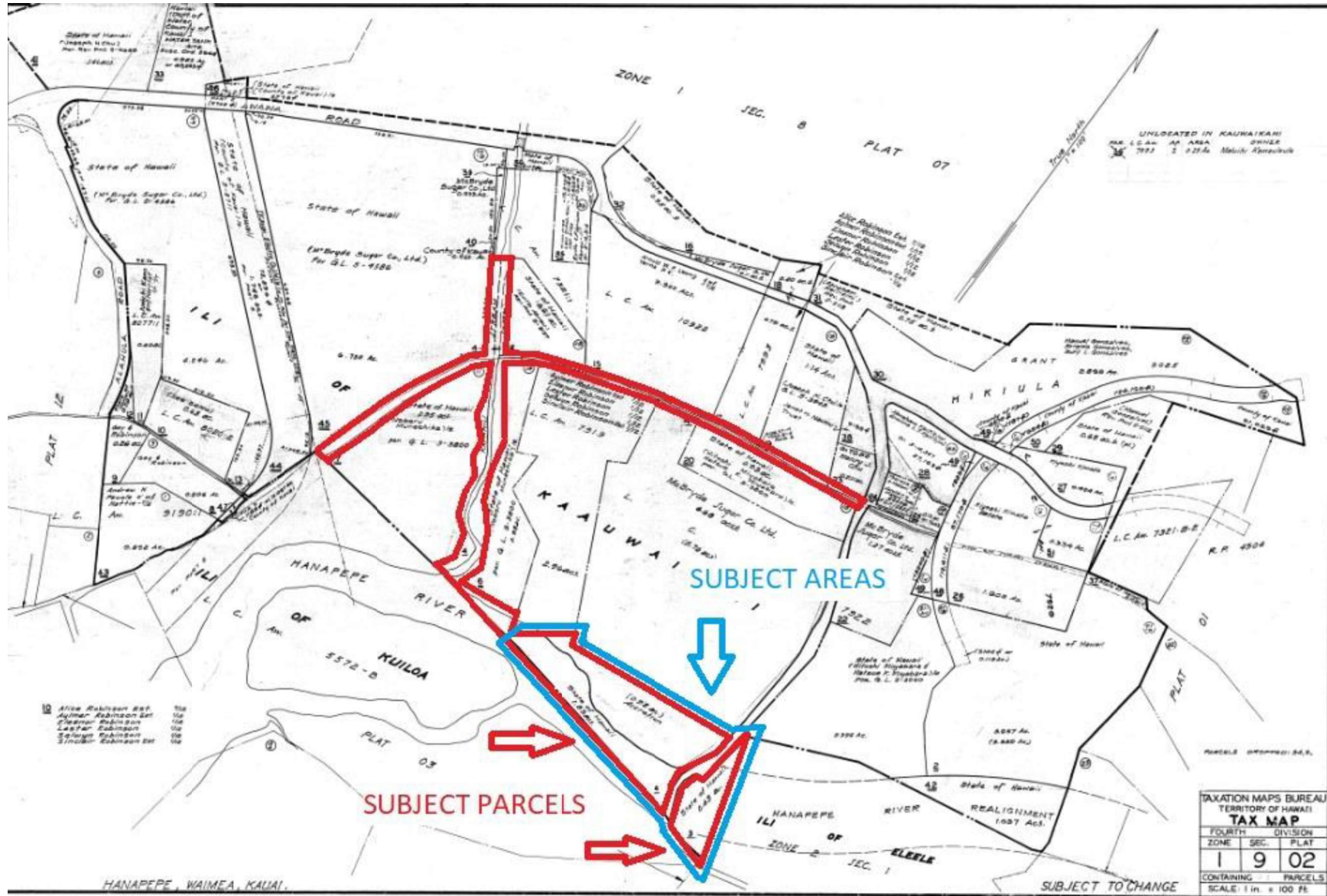


EXHIBIT A



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 HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

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October 27, 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 Elmo J. Tafoya III and Natalie M. Kekuewa for Maintenance and Recreational Purposes.
Project / Reference No.:	23KD-092.
Project Location:	Hanapepe, Waimea, Kauai, identified by Tax Map Keys: (4) 1-9-002:003 and portion of 004.
Project Description:	Issuance of Revocable Permit for Maintenance and Recreational Purposes.
Chap. 343 Trigger(s):	Use of State Land.
Exemption Class No. and Description:	In accordance with Hawaii Administrative Rule Section 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred 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, which 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 27, which states the "Maintenance of lands and waters to remove weeds, brushes, grass and other unwanted vegetation," and Item 44, which states, "Permits, licenses, registrations, and rights-of-entry issued by the department that are routine in nature,

EXHIBIT B

involving negligible impacts beyond that previously existing.”

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

No. Staff believes there are no cumulative impacts involved with the issuance of Revocable Permit.

Action May Have Significant Impact on Particularly Sensitive Environment?:

No. There are no sensitive environmental issues involved with the issuance or Revocable Permit.

Analysis:

The proposed action is an issuance of a Revocable Permit for maintenance and recreational purposes. Applicant has no intentions of altering the land in any way other than cutting back existing brush. 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:

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

Recommendation:

It is recommended 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.