

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

January 10, 2025

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

PSF No.: 24KD-137
Kauai

Cancellation of Governor’s Executive Order No. 4045 to the County of Kauai for Hawaiian Stewardship Program Purposes; Issuance of Direct Lease to the University of Hawaii for Avian Rescue and Research Purposes and Issuance of Immediate Management Right-of-Entry, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-8-008:063.

CONTROLLING AGENCY:

County of Kauai (COK).

APPLICANT:

University of Hawaii (UH).

LEGAL REFERENCE:

Sections 171-11, -55 and -95, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Hanapepe, Waimea, Kauai, identified by Tax Map Key: (4) 1-8-008:063, as shown on the attached map labeled Exhibit A.

AREA:

1.182 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:

Governor's Executive Order (EO) No. 4045 setting aside 1.182 acres to County of Kauai for Hawaiian Stewardship Program Purposes.

DIRECT LEASE CHARACTER OF USE:

Avian Rescue and Research Purposes.

LEASE TERM:

Twenty-five (25) years

COMMENCEMENT DATE:

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

ANNUAL RENT:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See attached Exhibit B.

DCCA VERIFICATION:

Not Applicable - Government agencies are not required to register with DCCA.

BACKGROUND:

EO 1713 was issued to the COK as the Hanapepe Dog Pound Site in December 1955. The Kauai Humane Society utilized the property from December 1955 to November 2001 when the new Humane Society facility was completed in Puhi.

In August 2003, then Mayor Bryan Baptiste requested the cancellation of EO 1713 and reset aside to the COK for use as an adolescent residential treatment facility. The Board

of Land and Natural Resources (Board) at its December 12, 2003, meeting under agenda item D-37 approved the cancellation of EO 1713 to the COK for Hanapepe Dog Pound purposes and reset aside to the COK for residential treatment facility purposes.

In a letter dated August 10, 2010, Mayor Bernard P. Carvalho requested the cancellation of EO 4045, due to both government and community opposition to the development of an adolescent residential treatment facility on the subject property. The Board on September 23, 2011, under agenda item D-1, approved the cancellation of EO 4045 to the COK for residential treatment facility purposes.

Upon reviewing the file for preparation of the cancellation of EO 4045, it was noted that a final inspection of the property should be conducted to verify its condition. A letter was sent to Mayor Carvalho requesting the property be cleaned and that an inspection be scheduled.

A response by the Mayor's Office dated December 2, 2014, requested reconsideration of the disposition of the premises. The COK asked to keep management jurisdiction of the property in order to promote Hawaiian Stewardship.

The Board on April 24, 2015, under agenda item D-1, amended its prior Board action and approved the reset aside of the premises to the COK for Hawaiian stewardship program purposes.

REMARKS:

The COK is not utilizing the site for Hawaiian stewardship purposes **and the COK's** current Mayor, Derek Kawakami, has requested cancellation of EO 4045. The COK has attempted to maintain the property and it is fenced it off, but squatters have moved in and are currently occupying the site. The COK shall remove the squatters along with their personal effects prior to the cancellation of EO 4045.

The University of Hawaii (UH) plans to use the subject parcel for the benefit of the **University of Hawai'i at Manoa, College of Natural Sciences, Pacific Cooperative Studies** on behalf of Unit: Kauai Forest Bird Recovery Program and Kauai Endangered Seabird Recovery Program and the Research Corporation of the University of Hawaii (RCUH).

The mission of the Pacific Cooperative Studies Unit (PCSU) is to *“protect and restore Hawai'i's native species, ecosystems, and cultural resources.”* PCSU has been working toward this mission across the state for the last 50 years. One of its projects, the Kauai Forest Bird Recovery Project (KFBRP), has focused on research and conservation of federally listed forest bird species on Kauai since 2003. **KFBRP's mission is to promote knowledge, appreciation, and conservation of Kauai's native forest birds. A second** project, the Kauai Endangered Seabird Project (KESRP), has also been working on Kauai

since 2003 to research and protect federally threatened seabirds on Kauai. Due to the recent dramatic declines in forest bird populations on Kauai and new advances in

technologies to address their primary threat, mosquito-borne diseases, KFBRP’s budget and staff have recently increased almost two-fold. KFBRP has outgrown the small commercial real estate property it has rented since 2011. Meanwhile, KESRP has been

occupying a small container at the DLNR Division of Forestry and Wildlife base yard but needs to find a permanent home. Given the prices of commercial real estate on Kauai it is not feasible to find suitable rental properties and PCSU wishes to secure land on which these two projects can establish a base yard with offices, storage, and parking. And there is no space at the Kauai College and the Hanapepe area is much central to all of the worksites for the projects.

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

Agency:	Comment:
State Department of Health	No response by suspense date
Office of Hawaiian Affairs	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 Department of Public Works	No response by suspense date
COK Planning Department	No response by suspense date
COK Department of Water	No response by suspense date

UH intends on utilizing the space for the entire lease term, but is requesting the right to **terminate at any time with at least 60 days’ notice to Department of Land and Natural Resources**, but the lease provision regarding removal of improvements shall survive any termination or expiration of lease.

Finally, staff is including a recommendation below for the issuance of an immediate management right-of-entry to the UH covering the area to be set-aside to it. The right-of-entry will continue for a period of one year or until the new direct lease is complete, whichever shall first occur. Staff is additionally recommending the Board authorize the Chairperson to extend the right-of-entry for additional one-year periods for good cause shown.

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.

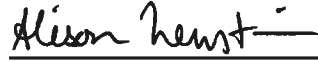
2. Approve of and recommend to the Governor issuance of an executive order canceling **Governor’s Executive Order No. 4045** and subject to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature 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.

2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to The University of Hawaii covering the subject area 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 lease form, as may be amended from time to time;
 - B. **Lessee has the right to terminate at any time with at least 60 days’ notice to Department of Land and Natural Resources, but the lease provision regarding removal of improvements shall survive any termination or expiration of lease;**
 - 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.

3. Grant an immediate management right-of-entry to the University of Hawaii, its consultants, contractors, and/or persons acting for or on its behalf, onto the subject property for the above-described project, 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 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 for a period of one year or until the set-aside is complete, whichever shall first occur, provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown.

Respectfully Submitted,



Alison Neustein

District Land Agent

APPROVED FOR SUBMITTAL:

RT



Dawn N. S. Chang, Chairperson



Subject



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
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

3060 Eiwa Street, Room 208
Lihue, Hawaii 96766

January 10, 2025

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1-15, Hawaii Administrative Rules (HAR):

Project Title:	Cancellation of Governor's Executive Order No. 4045 to the County of Kauai for Hawaiian Stewardship Program Purposes; Issuance of Direct Lease to the University of Hawaii for Avian Rescue and Research Purposes and Issuance of Immediate Management Right-of-Entry.
Project / Reference No.:	PSF No. 24KD-137/ EO-4045
Project Location:	Portion of Government (Crown) lands of Hanapepe, Waimea, Kauai, identified by Tax Map Key: (4) 1-8-008:063.
Project Description:	Cancellation of Governor's Executive Order No. 4045 to the County of Kauai for Hawaiian Stewardship Program Purposes; Issuance of Direct Lease to the University of Hawaii for Avian Rescue and Research Purposes and Issuance of Immediate Management Right-of-Entry.
Chap. 343 Trigger(s):	Use of State Lands.
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 General Exemption Type 1, that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor

EXHIBIT B

change of use beyond that previously existing,” and Part 1, Item 36 that states, “Transfer of management authority over state-owned land, such as setting aside of State lands,” and 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” and General Exemption Type 4, that states, “Minor alterations in the conditions of land, water, or vegetation,” and Part 1, Item 15 that states, “Captive propagation of birds, mammals, invertebrates, or aquatic organisms; cultivation of plants. Housing, care, feeding, veterinarian examination, breeding (pairing, hatching, brooding, fledgling, rearing), cross fostering, double clutching nests, and experimental studies of native species (including those which are rare, threatened or endangered), game birds and game mammals.” The proposed action will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR.

Cumulative Impact of Planned Successive Actions in Same Place Significant?

No. There will be no change to the current activities on the land.

Action May Have Significant Impact on Particularly Sensitive Environment:

No. There will be no change to the current activities on the land.

Analysis:

Based on the above mentioned, staff believes there would be no significant impact to the environment.

Consulted Parties:

Comments from the County of Kauai Planning Department, Division of Public Works, Department of Water, as well as the State of Hawaii Division of State Parks, Division of Forestry and Wildlife, Department of Health, and the Office of Hawaiian Affairs were solicited.

Recommendation:

It is recommended that the Board of Land and Natural Resources find that the proposed action 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 B