

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

November 14, 2025

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

PSF No.: 25HD-092

Hawai'i

Pursuant to Act 90, Session Laws of Hawaii 2003, as mutually agreed upon between Department of Land and Natural Resources and Department of Agriculture and Biosecurity, Approve the Set Aside to the Department of Agriculture and Biosecurity for Pasture Purposes, General Lease No. S-4472, Ernest De Luz Ranch, LLC, Lessee, Covering Parcel 6, Government Land of Ka'ohe, Hoesa-Kaao, Hamakua, Hawaii, Tax Map Key: (3) 4-2-008:002; and

Grant of Perpetual, Non-Exclusive Easement to Department of Agriculture and Biosecurity for Access Purposes Across a Portion of General Lease No. S-4473, Ernest De Luz Ranch, LLC, Lessee, Parcel 2, Government Land of Ka'ohe VI, Hamakua, Hawaii, Tax Map Key: (3) 4-1-006:007 (por.)

APPLICANT:

State of Hawaii, Department of Agriculture and Biosecurity.

LEGAL REFERENCE:

Sections 171-11, -95 and 166E-3, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Parcel 6, Ka'ohe, Hoesa-Kaao, Hamakua, Hawaii, identified by Tax Map Key: (3) 4-2-008:002, as shown on the attached map labeled Exhibit 1; and

Access Easement across a Portion of Government lands of Parcel 2, Ka'ohe VI, Hamakua, Hawaii, Tax Map Key: (3) 4-1-006:007 (por.), as shown on the attached map labeled Exhibit 1.

AREA:

Area of Set-Aside: 1,902 acres, more or less.
Access Easement Area: To be determined by survey

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: A-40a

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:

Tax Map Key: (3) 4-2-008:002 is encumbered by General Lease No. S-4472, Ernest De Luz Ranch, LLC, lessee, for pasture purposes.

Access easement across Tax Map Key: (3) 4-1-006:007, which is encumbered by General Lease No. S-4473, Ernest De Luz Ranch, LLC, lessee, for pasture purposes.

LEASE TERM:

Original term of 35 years, commencing on March 1, 1976, and expiring on February 28, 2011. At its meeting of February 22, 2002, agenda item D-16, the Board of Land and Natural Resources approved the extension of the lease for 20 years commencing on March 1, 2011, and expiring on February 28, 2031. Additionally, the Board consented to lessee's mortgage of its leasehold interest.

PURPOSE OF SET-ASIDE:

For pasture purposes.

EASEMENT CHARACTER OF USE:

Access purposes.

EASEMENT TERM:

Perpetual.

EASEMENT COMMENCEMENT DATE:

To be determined by the Chairperson.

EASEMENT CONSIDERATION:

Gratis disposition to State agency.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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 negligible or no expansion or change of use beyond that previously existing," Part 1, Item 36 that states, "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order," and Part 1, Item 39 that states, "Creation or termination of easement, covenants, or other rights in structures or land." The proposed use, set-aside and grant of easement to the Department of Agriculture and Biosecurity are de minimis actions that 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.

The proposed actions would not result in any changes to the current use of the land. The land has been in long term use for pasture purposes and those uses will continue under the set aside and grant of easement. There are no known impacts to the land that have resulted from the pasture use, therefore no such impacts are expected to occur as a result of the set aside and grant of easement. Furthermore, since this is a pasture area, it is not a sensitive environment.

APPLICANT REQUIREMENTS:

DAB shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost for the access easement over a portion of TMK: (3) 4-1-006:007.

PUBLIC TRUST ANALYSIS

The proposed actions require the Board to balance competing public trust uses. If the set-aside and easement were not approved, then the Department would

allow the lease to expire and upon the lands becoming vacant, use the land for forest reserve purposes. This would provide for public use, access and recreation on the land consistent with the provision of land for public use, a public trust purpose specified in Section 5(f) of the Admissions Act. Additionally, designating the land for forest reserve would also allow for watershed management to conserve water resources for public trust uses such as domestic use. These activities would also be in support of a clean, healthful environment.

However, the Board also has a duty to promote diversified agriculture pursuant to Article XI, Section 3 of the Hawaii State Constitution:

The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

Additionally, the use of public lands for the development of farm and home ownership on as widespread a basis as possible is also a public trust purpose under Section 5(f) of the Admissions Act. The proposed actions support the long-term viability and security of local agricultural operations. It also allows for the local production of food, supporting the goal of food sustainability and food security for Hawai'i. It may also translate into lower prices for consumers when meat and produce does not have to be shipped to Hawai'i from outside of the state.

Ultimately, staff defers to the Board to determine which public trust use should be prioritized in this instance, which is noted in the Recommendations section.

REMARKS:

Request:

The Department of Agriculture and Biosecurity (DAB) has identified General Lease No. S-4472 (GLS-4472) as being suitable for transfer from the inventory of the Department of Land and Natural Resources (DLNR). At its meeting of January 28, 2025, agenda Item IV.A.3, the Board of Agriculture, now known as the Board of Agriculture and Biosecurity (BAB), approved the transfer of GLS-4472 from DLNR to DAB. GLS-4472 is currently encumbered to Ernest De Luz Ranch, LLC (De Luz Ranch), lessee, for pasture purposes.

DAB is also requesting a 40-foot-wide access easement to provide access from Mana/Keanakolu Road to GLS-4472.

Background:

The set-aside of agriculture lands to DAB is pursuant to Act 90, Session Laws of Hawaii 2003 (Act 90), later codified at Chapter 166E, HRS. The purpose of Act

90 is to ensure the long-term productive use of public lands leased or available to be leased by the DLNR for agricultural purposes by allowing those lands to be transferred to and managed by DAB.

DLNR has transferred approximately 26,000 acres¹ to DAB over the years but, prior to 2023, retained large pasture leases adjacent to forest reserves, such as the subject lands, due to the important natural resource value these lands have. DLNR has reconsidered its position and is now recommending the transfer of certain pasture lease lands to DAB, including the land under GLS-4472. However, legal access from Mana/Keanakolu Road to GLS-4472 needs to be established over the premises of GLS-4473 before the transfer of GLS-4472 to DAB.

GLS-4472 was awarded to Antone S. Teixeira and Marjory Ann Teixeira as the highest bidder at a public auction held on August 28, 1975, in Hilo, Hawaii. The specific use for the property is pasture purposes and it is improved with stock watering systems.

By letter dated May 28, 1976, DLNR informed lessee that a 60-acre bluegum eucalyptus tree stand would be restricted from the lease pursuant to the lease terms. See Exhibit 2 attached. Staff has confirmed with the Division of Forestry and Wildlife (DOFAW) that the restriction placed on the lease regarding the bluegum eucalyptus tree stand is no longer needed.²

By mesne conveyances, GLS-4472 is currently leased to De Luz Ranch, with the intervening assignments, BLNR consents, and other relevant actions summarized below:

| Assignor | Assignee (Or Name Change*) | BLNR or Other Action |
|---------------------------|-----------------------------------|--------------------------------|
| Antone & Marjory Teixeira | Teixeira's Ranch, Inc. | 1/28/77, Item F-i-2 |
| Teixeira's Ranch, Inc. | *Hooulu Ranch, Inc. | 12/26/79 corporate name change |
| Hooulu Ranch, Inc. | Jack Ramos Ranch, Inc. | 10/26/84, Item F-i-i |
| Jack Ramos Ranch, Inc. | Kukaiau Cattle Corp. | 7/1 1/86, Item F-i-a |
| Kukaiau Cattle Corp. | Ernest & Marian De Luz | 3/11/88, Item F-i-e |

1 This figure represents acreage that has formally been transferred to DAB by a signed Governor's executive order. BLNR and BOA have approved additional transfers that are still pending survey, and in some cases subdivision, such as the transfer of 24,767 acres in Kau, Hawaii, under lease and revocable permit to Kapapala Ranch, that BLNR approved for transfer in 2023.

2 In the 1970s, DLNR had apparently planned to issue a timber license to Capitol Chip Company that would have allowed it to harvest the bluegum eucalyptus on GLS-4472 and other leases in the vicinity. It is not clear from the file whether a timber license was ever issued, but staff has confirmed with DOFAW that there are no plans to issue a timber license in the future on GLS-4472 or to develop a woodland management plan for bluegum eucalyptus on the land. However, even without the May 28, 1976 designation of bluegum eucalyptus timber stands on GLS-4472, the lessee cannot cut down trees on the premises without the State's prior written consent pursuant to lease paragraph 6. Accordingly, staff does not believe any BLNR action is required as to the May 28, 1976 designation.

| Assignor | Assignee (Or Name Change*) | BLNR or Other Action |
|------------------------|----------------------------|----------------------|
| Ernest & Marian De Luz | Ernest De Luz Ranch, LLC | 10/11/19, Item D-5 |

The aggregate term of the lease including the extension is 55 years. The last rental reopening occurred on March 1, 2022, and set the rent at \$13,440.00 per annum for the remaining lease term.

DLNR'S Proposed Conditions for Set-Aside of GLS-4472 to DAB Are Consistent with the Existing Lease Conditions:

As a condition to the set-aside of the lands under GLS-4472 to DAB, DLNR is recommending that certain exceptions and reservations contained in the lease be included as exceptions and reservations in favor of BLNR/DLNR in the executive order transferring the lands to DAB. The CSF description and map (last three pages of the lease attached as Exhibit 3) of the lease premises includes the following language after the metes and bounds description of the land:

Excepting and reserving therefrom all existing roads and trails within this tract of land together with such other roads, trails and other rights-of-way that may be required for public purposes.

The CSF description goes on to recite an appurtenant access right in favor of the lessee of GLS-4472 over the abutting parcel of State land:

Together with a road right-of-way, forty (40.00) feet wide over and across Parcel 2 Pasture Lease, the location of said road to be designated by the Department of Land and Natural Resources.

Refer to Exhibit 3, which is a copy of GLS-4472 as originally issued.

Paragraph 27(a) at page 9c of the lease references a 40-foot roadway in favor of GLS-4472 over "Parcel 2," which appears to be the same 40-foot right-of-way mentioned in the excerpt above from the CSF description. "Parcel 2" is the parcel immediately mauka of GLS-4472 designated as TMK: (3) 4-1-006:007 (Parcel 2), which is under lease to De Luz Ranch pursuant to GLS-4473. See Exhibit 1 attached, which shows the boundaries of GLS-4472 and GLS-4473 in relation to Mana Road.

Paragraph 27(b) of GLS-4472 goes on to require that the lessee of GLS-4472 be responsible for the cost of constructing and maintaining its roadway on Parcel 2, as well as the cost of fencing when deemed necessary by the lessor. The purpose of the road/right-of-way provision in GLS-4472 is apparently to ensure access from Mana Road to the GLS-4472 premises (also referred to as Parcel 6) across Parcel 2. Access is not an issue with both leases currently held by the same lessee. However, at the present time DLNR is retaining management of

the lands under GLS-4473.

Accordingly, in the future it is possible that the lands under GLS-4472 and GLS-4473 may not be held under a common tenancy. To preserve access rights in favor of GLS-4472 in such an event, staff is recommending that the BLNR exercise its reserved rights and grant a 40-foot-wide access easement over GLS-4473 extending from Mana/Keanakolu Road to the boundary of GLS-4472 along the general alignment shown in Exhibit 1 attached.³ The easement will be issued to DAB in connection with the set-aside of Parcel 6 (GLS-4472). The easement will need to allow for the subletting or sublicensing of easement rights from DAB to its lessee of Parcel 6 (GLS-4472) to be set aside to DAB as proposed in this submittal, and DAB's lessee should be required to provide liability insurance naming DLNR as an additional insured and indemnify DLNR for lessee's use of the easement area.

As mentioned above, the reservation in GLS-4472 regarding access over Parcel 2 (GLS-4473) includes the obligation of the user of the access to construct and maintain it, and to fence it if required by DLNR. In this case, the access already exists on the ground on Parcel 6 (GLS-4473) as a dirt track and the proposed easement will follow this alignment. There are no plans to pave or otherwise improve the right-of-way and, because GLS-4472 and GLS-4473 are currently held by the same lessee, there is no need to fence the easement at the present time. However, the obligation of the Parcel 6 (GLS-4472) lessee to construct and maintain the right-of-way over Parcel 2 and to fence the right-of-way if required in the future by DLNR, will continue to be requirements of the lease, the executive order to DAB, and any future disposition DAB may issue over Parcel 6 as set forth in recommendation 2 below.

Additionally, DLNR seeks to reserve all hunting and fishing rights in the event the BLNR should declare the whole or any portion of the demised premises as public shooting or fishing grounds as set forth at pages 3a to 3b, paragraph 4 of GLS-4472. See Exhibit 3.⁴

Reverter Clause:

DAB will assume management responsibilities for the premises under the current GLS-4472 upon the Governor's execution of the executive order making the set-aside. Once lands are set-aside to DAB, Chapter 166E, HRS, provides that DAB is not required to seek BLNR approval under Chapter 171, HRS, for any disposition of the land DAB makes thereafter.⁵ Notwithstanding Chapter 166E,

³ The precise alignment and square footage of the easement will be determined by field survey.

⁴ There are additional reservations and exceptions contained in the lease, but they pertain to parcels not included in the lease premises and do not need to be carried over to the set-aside to DAB. These include the easements referenced at lease paragraphs 27(a), (b), (c), (d) and 28. Paragraph 29 references a timber license in favor of Capitol Chip Company, but staff has confirmed with DOFAW that this timber license is no longer in effect.

⁵ See Sections 166E-8 and -12, HRS.

HRS, DAB and the current lessee agree, that should the land no longer be used for pasture purposes, the land will revert to BLNR, except with prior BLNR approval. This is to ensure that any future use of these public trust lands remains consistent with the set-aside.

RECOMMENDATION:

That the BLNR:

1. Determine whether the proposed set-aside and grant of an access easement are consistent with the public trust. If the Board determines that these actions are consistent with the public trust, then the Board is recommended to approve the following:
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, the proposed action will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside General Lease No. S-4472 to the Department of Agriculture and Biosecurity 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; provided, however, that the executive order shall be subject to the following exceptions and reservations and shall additionally provide that any amendment or extension of General Lease No. S-4472, or any new lease, permit or other disposition that DAB may issue over the land or any portion of it, shall expressly include the following exceptions and reservations in favor of the BLNR:
 - i. The exception and reservation of all existing roads and trails within this tract of land together with such other roads, trails and other rights-of-way that may be required for public purposes;
 - ii. The reservation of the right to require DAB and its lessee of the set-aside area to construct and maintain the right-of-way under the easement granted in recommendation 2 above at their cost, and to fence the road at their cost if deemed necessary by DLNR;

- iii. The reservation of all hunting and fishing rights in the event the BLNR should declare the whole or any portion of the demised premises as public shooting or fishing grounds as set forth at pages 3a to 3b, paragraph 4 of GLS-4472; and
 - iv. Additionally, in the event DAB ever seeks to change the allowed use of the subject lands from pasture to a different agricultural or non-agricultural use, DAB shall be required to seek prior BLNR approval for the change notwithstanding the provisions of Chapter 166E, HRS; and
 - v. In the event the land is no longer needed for pasture purposes, the executive order setting aside the lands to the DAB shall be canceled and the lands returned to the inventory of the DLNR, except with prior approval of BLNR.
 - 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 set-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.
4. Authorize the issuance of a 40-foot-wide perpetual, non-exclusive easement to the Department of Agriculture and Biosecurity covering a portion of Parcel 2 (TMK: (3) 4-1-006:007) for access 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 perpetual easement document form, as may be amended from time to time; provided that the document shall allow for the subletting or sublicensing of easement rights from DAB to its lessee of Parcel 6 (TMK: (3) 4-2-008:002) to be set aside to DAB; provided further that the easement shall require DAB's lessee to provide liability insurance naming DLNR as an additional insured and shall further require DAB's lessee to indemnify DLNR;
 - B. In the event Parcel 2 (TMK: (3)4-1-006:007) is returned to the DLNR inventory, this easement will also return to the DLNR;
 - 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.

Respectfully Submitted,

Signature: *Candace Martin*

Email: candace.m.martin@hawaii.gov

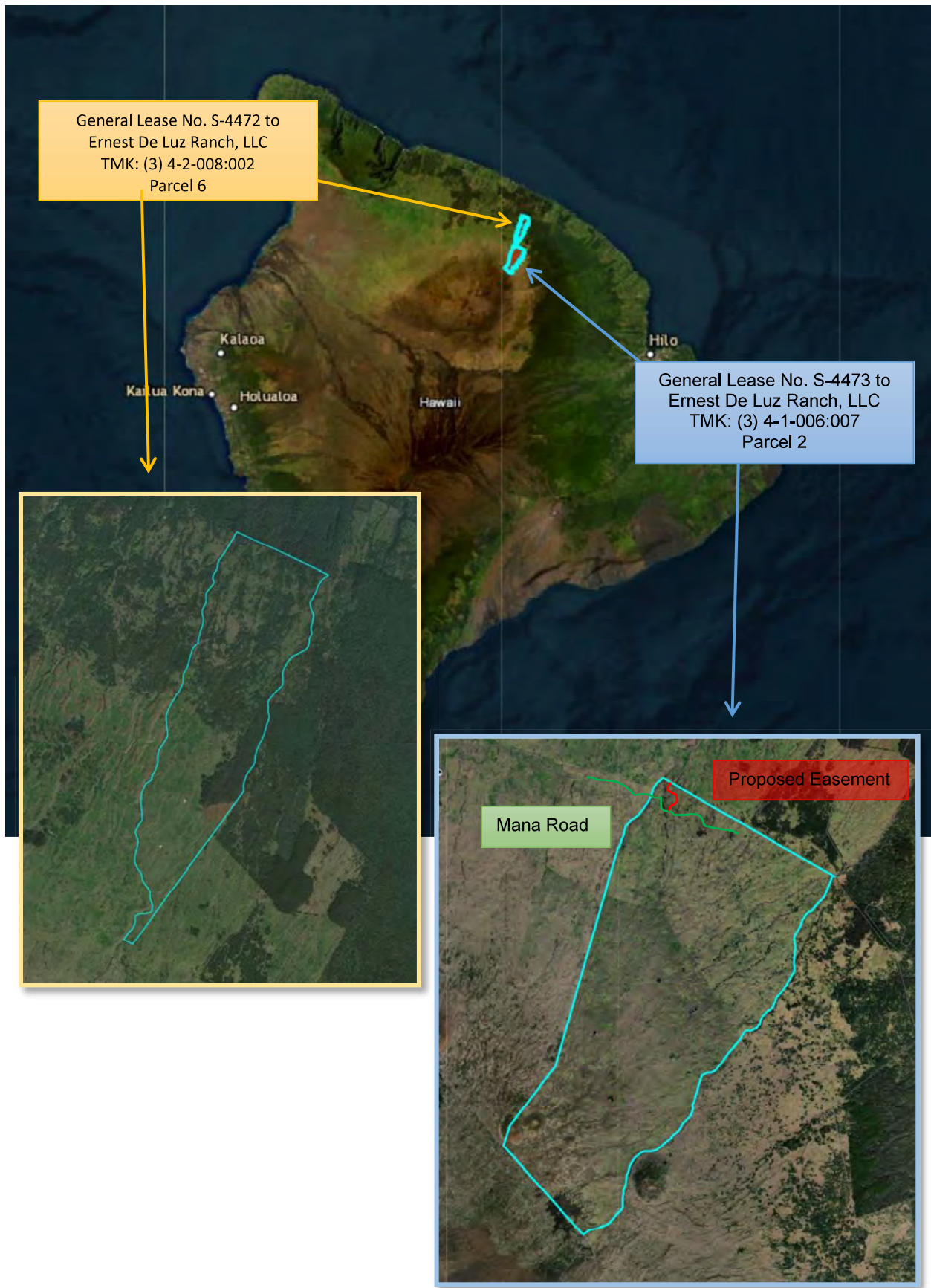
Candace Martin
Acting District Land Agent

APPROVED FOR SUBMITTAL:



— Dawn N. S. Chang, Chairperson

EXHIBIT 1



GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII



61 4472
EXHIBIT 2

DIVISIONS:
CONVEYANCES
FISH AND GAME
FORESTRY
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF LAND MANAGEMENT

P. O. BOX 621

HONOLULU, HAWAII 96809

May 28, 1976

Mr. Antone Teixeira
4050-F Keanu Street
Honolulu, Hawaii 96816

Dear Mr. Teixeira:

Re: General Lease No. S-4472

Pursuant to paragraphs 5, page 3b, and 29, page 9d, of subject lease document, I hereby designate as timber areas the following:

1. The stand of Bluegum Eucalyptus encompassing sixty (60) acres, more or less, with its approximate boundaries as shown delineated in green on the attached map.
2. The stands of koa (Acacia koa), the approximate boundaries for which to be delineated at a later date in cooperation with the Lessee.

Although the State (Lessor) has not as yet initiated development of a woodland management program, it is planned that the Bluegum area be utilized strictly for timber production and the koa areas for both grazing and perpetuation of the koa stands.

It should be clarified and emphasized that the stand of Bluegum Eucalyptus, although included within the boundaries of your lease, was not intended for grazing use during the term of the lease. In essence, this area should be regarded similarly with waste land such as gulches in terms of grazing use.

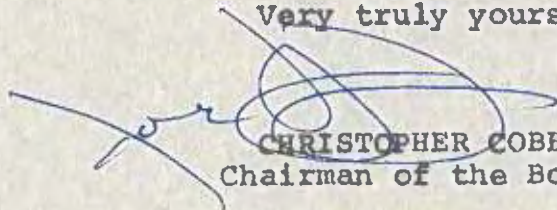
Mr. Antone Teixeira

-2-

May 28, 1976

It is our hope that a woodland management program mutually beneficial to you and the State can be worked out. If you have any questions on this matter, please let us know.

Very truly yours,



CHRISTOPHER COBB
Chairman of the Board

Encl.

cc: Mr. Larry Mehau
Mrs. Mildred K. Yamamoto
Mr. Tom Tagawa

6/2/76
WJ

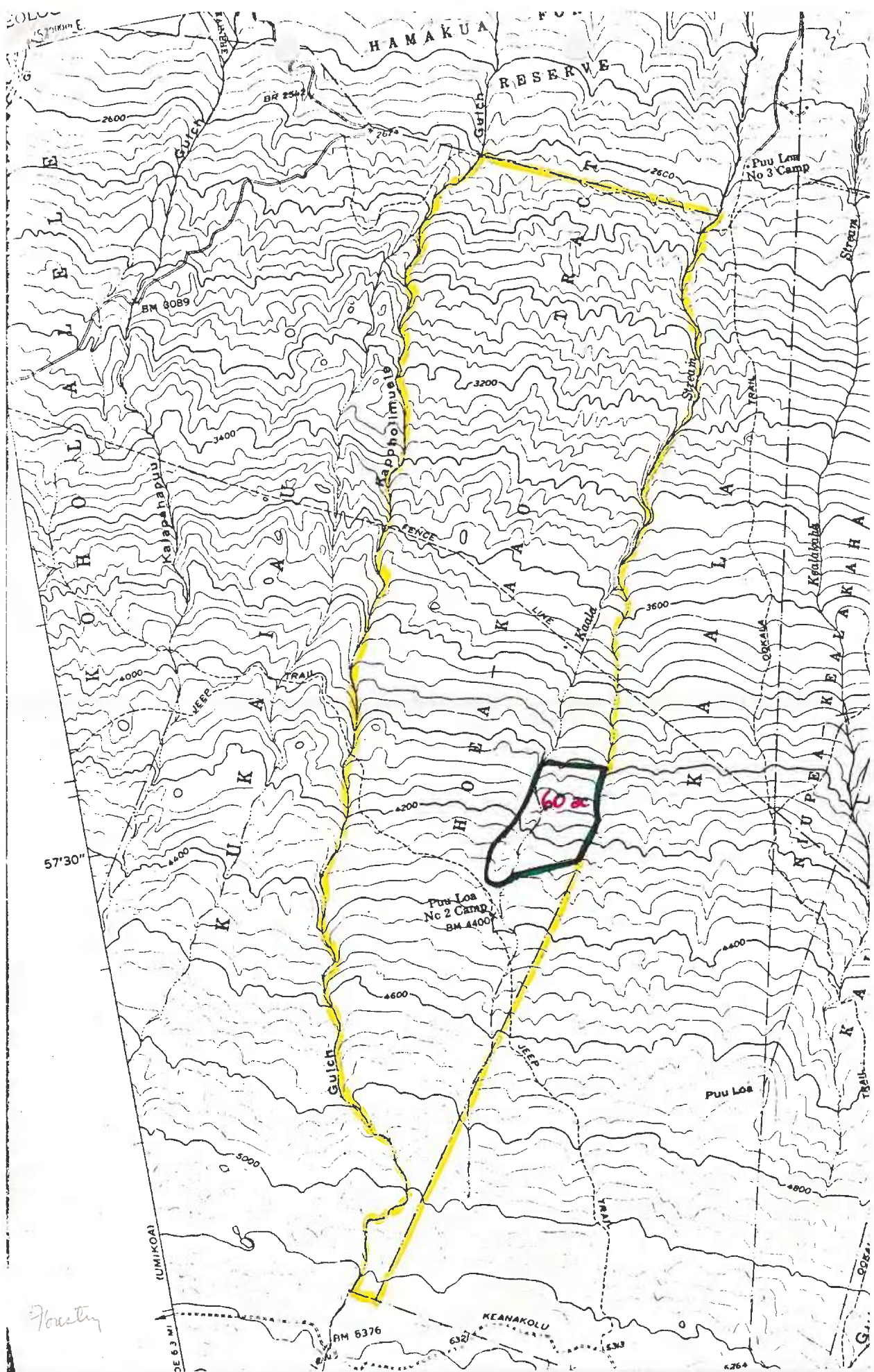


EXHIBIT 3

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. S-4472

between

STATE OF HAWAII

and

ANTONE S. TEIXEIRA and

MARJORY ANN TEIXEIRA,

covering

Parcel 6,

Government land of

Hoea-Kaao, Hamakua, Hawaii

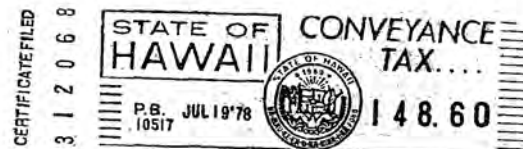


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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

GENERAL LEASE NO. S-4472

THIS INDENTURE OF LEASE, made this 28th day of
August, 1975, by and between the STATE OF HAWAII,
hereinafter referred to as the "LESSOR", by its Board of Land
and Natural Resources, called the "BOARD", and ANTONE S.
TEIXEIRA and MARJORY ANN TEIXEIRA, husband and wife, as
tenants by the entirety,
whose residence and post office address is 4050-F Keanu
Street, Honolulu, Hawaii 96816,
hereinafter referred to as the "LESSEE";

WITNESSETH:

THAT, the Lessor for and in consideration of the
rent to be paid and of the terms, covenants and conditions herein
contained, all on the part of the Lessee to be kept, observed
and performed, does hereby demise and lease unto the Lessee, and
the Lessee does hereby lease and hire from the Lessor the prem-
ises known as Parcel 6, Government land of Moea-Kaa, Hamakua,
Hawaii,
more particularly described in Exhibit "A" and shown on the map
marked Exhibit "B", hereto attached and made parts hereof.

TO HAVE AND TO HOLD the demised premises unto the Les-
see for the term of thirty-five (³⁵) years, commencing on the
1st day of March, 1976, up to and including
the 28th day of February, 2011, unless sooner
terminated as hereinafter provided, the Lessor reserving and
the Lessee yielding and paying to the Lessor at the Office of
the Department of Land and Natural Resources, Honolulu, Oahu,
State of Hawaii, a net annual rental as provided hereinbelow,

payable in advance, but not more than one year in advance, without notice or demand, in quarterly installments on June 1, September 1, December 1 and / ^{March 1} of each and every year during said term as follows:

A. For the first ten (10) years, the sum of TWENTY THOUSAND FIVE HUNDRED and 00/100 DOLLARS (\$20,500.00) per annum.

B. The annual rental hereinabove reserved shall be reopened and redetermined at the expiration of the 10th, 20th and 30th years of said term.

C. Determination of rental upon reopening of the annual rental. The rental and fees for any ensuing period shall be the rental for the immediately preceding period or the fair market rental at the time of reopening, whichever is higher. At the time of reopening, the fair market rental shall be determined by an appraiser whose services shall be contracted for by the Lessor; provided, that should the Lessee fail to agree upon the fair market rental as determined by Lessor's appraiser, the Lessee may appoint his own appraiser who shall prepare an appraisal report and the two appraisers shall then exchange their reports for review. The two appraisers shall make every effort to resolve whatever difference they may have. However, should difference still exist 14 days after the exchange, the two appraisers shall then appoint a third appraiser who shall also prepare an appraisal report and furnish copies thereof to the first two appraisers. After review, all three shall meet to determine the fair market rental in issue. The fair market rental as determined by a majority of the appraisers shall be final and binding upon both Lessor and Lessee. The Lessee shall pay for his own appraiser and the cost of the services of the third appraiser

shall be borne equally by the Lessor and the Lessee. In the event that the appraisers are unable to agree, then the fair market rental shall be determined by arbitration pursuant to Chapter 658, Hawaii Revised Statutes. All appraisal reports shall become part of the public record of the Lessor.

If the rental for any ensuing period has not been determined prior to the expiration of the preceding rental period, the Lessee shall continue to pay the rent effective for the previous rental period, but the Lessee shall, within thirty (30) days after the new rental has been so determined, make up the deficiency, if any.

RESERVING UNTO THE LESSOR THE FOLLOWING:

1. Minerals and waters. (a) All minerals as hereinafter defined, in, on or under the demised premises and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such minerals by any means whatsoever, including strip mining. "Minerals", as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, in, on, or under the land; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and when used in road construction in furtherance of the Lessee's permitted activities on the demised premises and not for sale to others. (b) All surface and ground waters appurtenant to the demised land and the right on its own behalf or through persons authorized by it, to capture, divert or

impound the same and to occupy and use so much of the demised premises as may be required in the exercise of this right reserved; provided, however, that as a condition precedent to the exercise by the Lessor of the rights reserved in this paragraph just compensation shall be paid to the Lessee for any of Lessee's improvements taken.

2. Prehistoric and historic remains. All prehistoric and historic remains found on said demised premises.

3. Withdrawal. The right to withdraw all or any portion of the demised land for any public purpose, (including but not limited to agricultural park development), and also reserves the right to withdraw any portion of the demised land for other than a public use, which land shall, at the time, of withdrawal, constitute an economic unit, provided, that, the portion not withdrawn shall also be an economic unit.

The Lessee will be entitled to compensation for those improvements made by the Lessee which have been approved by the Lessor, on any land withdrawn, in an amount equal to the fair market value thereof, less any credits which are to be or have been applied to the lease rental pursuant to paragraph 25 herein. The Board will give reasonable notice to the Lessee prior to any withdrawal. If only a portion of the demised land is withdrawn, the rental for the remaining portion will be reduced in proportion to the rental value of the land withdrawn.

4. Hunting and fishing rights. All hunting and fishing rights and, in the event the Board should declare the whole or any portion of the demised premises as a public shooting or fishing grounds, the right and privilege to issue

written permits to hunters and to fishermen, to hunt and fish on the demised lands, subject to rules and regulations issued by the Board; provided, however, that open seasons shall be coordinated with the activities of the Lessee on the demised premises.

5. Timber stands. The right to designate areas of timber stand on the premises to include all trees standing within said designated areas; and the right to enter upon said areas, or to authorize others to do so, for the purpose of performing woodland management activities, and the right to issue license for the harvest of said timber; provided, however, that said activities shall be in accordance with a woodland management plan developed by the Lessor in cooperation with the Lessee, and provided, that all such activities shall be coordinated with the activities of the Lessee on the demised premises.

6. Ownership of fixed improvements. The ownership of all fixed improvements including fences and stockwater system(s) located on the land on the commencement date of this lease as recorded by an agent of the Board in an inventory to be made within a reasonable period following said lease commencement date.

THE PARTIES HEREIN AGREE AS FOLLOWS:

1. Payment of rent. That the Lessee shall pay said rent to the Lessor at the times, in the manner and form aforesaid and at the place specified above, or at such other place as the Lessor may from time to time designate, in legal tender of the United States of America.

2. Taxes, assessments, etc. That the Lessee shall pay or cause to be paid, when due, the amount of all taxes, rates, assessments and other outgoings of every description as to which said demised premises or any part thereof, or any improvements thereon, or the Lessor or Lessee in respect thereof, are now or may be assessed or become liable by authority of law during the term of this lease; provided, however, that with respect to any assessment made under any betterment or improvement law which may be payable in installments, Lessee shall be required to pay only such installments, together with interest, as shall become due and payable during said term.

3. Utility services. That the Lessee shall pay when due all charges, duties and rates of every description, including water, sewer, gas, refuse collection or any other charges, as to which said demised premises, or any part thereof, or any improvements thereon or the Lessor or Lessee in respect thereof may during said term become liable, whether assessed to or payable by the Lessor or Lessee.

4. Covenant against discrimination. That the use and enjoyment of the premises shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color or national origin.

5. Sanitation, etc. That the Lessee shall keep the demised premises and improvements in a strictly clean, sanitary and orderly condition.

6. Waste and unlawful, improper or offensive use of premises. That the Lessee shall not commit, suffer or permit to be committed any waste, nuisance, strip or unlawful, improper or offensive use of the demised premises, or any part thereof, nor, without the prior written consent of the Lessor, cut down, remove or destroy, or suffer to be cut down, removed or destroyed, any trees now growing on said premises.

7. Compliance with laws. That the Lessee shall comply with all of the requirements of all municipal, state and federal authorities and observe all municipal ordinances and state and federal statutes, pertaining to the said premises, now in force or which may hereinafter be in force.

8. Inspection of premises. That the lessee will permit the Lessor and its agents, at all reasonable times during the said term, to enter the demised premises and examine the state of repair and condition thereof.

9. Improvements. That the Lessee shall not at any time during said term construct, place, maintain and install on said premises any building, structure or improvement of any kind and description whatsoever except with the prior approval of the Board and upon such conditions as the Board may impose, including any adjustment of rent, unless otherwise provided herein.

10. Repairs to improvements. That the Lessee shall, at its own expense, keep, repair and maintain all buildings and improvements now existing or hereafter constructed or installed on the demised premises in good order, condition and repair, reasonable wear and tear excepted.

11. Liens. That the Lessee will not commit or suffer any act or neglect whereby the demised premises or any improvement thereon or the estate of the Lessee in the same shall become subject to any attachment, lien, charge or encumbrance whatsoever, except as hereinafter provided, and shall indemnify and hold harmless the Lessor from and against all attachments, liens, charges and encumbrances and all expenses resulting therefrom.

12. Character of use. That the Lessee shall use the premises hereby demised solely for pasture purposes and the construction of any residential structure shall not be permitted.

13. Assignments, etc. That the Lessee shall not transfer, assign or permit any other person to occupy or use the said premises or any portion thereof, or transfer or assign this lease or any interest therein, either voluntarily or by operation of law, except by way of devise, bequest or intestate succession, and any transfer or assignment so made shall be null and void; provided, that with the prior written approval of the Board the assignment and transfer of this lease or unit thereof may be made if (1) the Lessee becomes mentally or physically disabled; (2) extreme economic hardship is demonstrated to the satisfaction of the Lessor; or (3) it is to the corporate successor of the Lessee.

14. Subletting. That the Lessee shall not rent or sublet the whole or any portion of the demised premises, without the prior written approval of the Board; provided, however,

that prior to such approval, the Board shall have the right to review and approve the rent to be charged to the proposed sublessee and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the said sublessee; provided, further, that the rent may not be revised downward.

15. Mortgage. That, except as provided herein, the Lessee shall not mortgage, hypothecate or pledge the said premises or any portion thereof of this lease or any interest therein without the prior written approval of the Board and any such mortgage, hypothecation or pledge without such approval shall be null and void.

16. Indemnity. That the Lessee will indemnify, defend and hold the Lessor harmless (1) from and against any claim or demand for loss, liability or damage, including claims for property damage, personal injury or death, arising out of any accident on the demised premises and sidewalks and roadways adjacent thereto or occasioned by any act or omission of the Lessee, or any nuisance made or suffered on the premises, or by any fire thereon, or growing out of or caused by any failure on the part of the Lessee to maintain the premises in a safe condition, or by any act or omission of the Lessee, and (2) from and against all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms, covenants and conditions herein or the rules, regulations, ordinances and laws of the federal, state, municipal or county governments.

17. Costs of litigation. That in case the Lessor shall, without any fault on its part, be made a party to any litigation commenced by or against the Lessee (other than condemnation proceedings), the Lessee shall and will pay all costs and expenses incurred by or imposed on the Lessor, furthermore, the Lessee shall and will pay all costs and expenses which may be incurred by or paid by the Lessor in enforcing the covenants and agreements of this lease, in recovering possession of the demised premises or in the collection of delinquent rental, taxes and any and all other charges.

18. Liability insurance. That the Lessee shall procure, at its own cost and expense, and maintain during the entire period of this lease, a policy or policies of comprehensive public liability insurance, with an insurance company or companies licensed to do business in the State, in an amount acceptable to the Chairman, insuring the Lessor and Lessee against all claims for personal injury, death and property damage; that said policy or policies shall cover the entire premises, including all buildings, improvements and grounds and all roadways or sidewalks on or adjacent to the demised premises in the control or use of the Lessee. The Lessee shall furnish the Lessor with a certificate showing such policy to be initially in force and shall furnish a like certificate upon each renewal of such policy, each such certificate to contain or be accompanied by an assurance of the insurer to notify the Lessor of any intention to cancel any such policy prior to actual cancellation. The procuring of this policy shall not release or relieve the Lessee of its responsibility under this lease as

set forth herein or limit the amount of its liability under this lease. The notice to cancel shall be sent to the Lessor sixty (60) days prior to the date of cancellation.

19. Bond, performance. That the Lessee shall, at its own cost and expense, within thirty (30) days after the date of receipt of this lease document, procure and deposit with the Lessor and thereafter keep in full force and effect during the term of this lease a good and sufficient surety bond, conditioned upon the full and faithful observance and performance by said Lessee of all of the terms, conditions and covenants of this lease, in an amount equal to two times the annual rental then payable. Said bond shall provide that in case of a breach or default of any of the terms, covenants, conditions and agreements contained herein, the full amount of the bond shall be paid to the Lessor as liquidated and ascertained damages and not as a penalty.

20. Lessor's lien. That the Lessor shall have a lien on all the buildings and improvements placed on the said premises by the Lessee, on all property kept or used on the demised premises, whether the same is exempt from execution or not and on the rents of all improvements and buildings situated on said premises for all such costs, attorney's fees, rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee and for the payment of all money as provided in this lease to be paid by the Lessee, and such lien shall continue until the amounts due are paid.

21. Full utilization of the land. That the Lessee shall, at its own cost and expense, within the first five (5) years of the lease term, clear the demised premises of noxious weeds, establish suitable pasture and forage plants, tend the premises in such manner as to reduce to a reasonable minimum the danger of erosion or other waste and utilize the land within practical limits for the purposes for which this lease is sold, all in accordance with a plan of development and utilization which shall be submitted to the Chairman within three (3) months after the date of receipt of this document and approved by him.

22. Good husbandry and conservation program. That the Lessee shall at all times practice good husbandry with regard to the use of the demised premises for the use herein permitted and shall carry out a program of conservation in accordance with standards set by the appropriate Soil and Water Conservation District, with which District the Lessee shall apply for and attain cooperative status. Said conservation program shall be developed and a copy of the plan submitted to the Chairman for his approval within six (6) months following the commencement of the lease. Said approval should not be unreasonably withheld; and that the Lessee may appeal to the Board upon disagreement with the Chairman's findings. The conservation program shall apply to the overall use and protection of the premises and shall include, where applicable but not limited to, such practices as clearing of land, establishing forage plants, tree planting, fertilizing, stockwater development, noxious weed control, grazing management, fencing and such other actions as are required to conserve and promote the improvement of the natural resources on the premises, and further, to prevent pollution of the environment. Said conservation plan shall also include a schedule for the implementation thereof within five (5) years of approval of the plan by the

Chairman, unless granted an extension of time by the Board.

Prior to implementing said conservation plan, the Lessee shall, submit the detailed plans for the following: reservoirs and tanks, catchments, roads, diversions, tree planting and cutting, pasture planting and well developments to the Chairman for his approval; provided, however, that should the Chairman fail to render a decision either for or against the Lessee's proposed action within sixty (60) days following receipt of said plans, the Lessee may proceed with the work.

23. Report of conservation and improvement work. That the Lessee shall, each year during the month of January, submit to the Chairman a report detailing the cost, kind, location and extent of conservation and improvement work performed during the calendar year immediately preceding. Said report shall be subject to verification by the Lessor through on-site inspection.

24. Required improvements. That the Lessee shall, within FIVE (5) years from the commencement of the lease, install the minimum required improvements consisting of stockwater system(s) and fencing to the satisfaction of the Chairman and that such installation shall be in accordance with Paragraph 22, Good husbandry and conservation program, above.

25. Cost of improvement and credit. The cost of all improvements required and approved by the Lessor, and incurred by the Lessee during the first five (5) years of the lease, when duly verified, shall be credited to the annual rental of the following year; provided, that the total amount of such credits for the costs incurred during this five-year period shall in no event exceed the amount of one (1) year lease rental. For Parcels 3, 4 and 6, the cost of all improvements required and approved by the Lessor and incurred by the Lessee, including the cost of firetree control, during the first five (5) years of the lease shall be credited to the rental for the following year in which it is incurred; provided, that

the total amount of such credits for the costs incurred during this five-year period shall in no event exceed twice the annual bid rental, i.e., the amount of the bid rental for two years.

26. Boundary fences. That the Lessee shall, install stockproof fence along the entire outside perimeter of the land encompassed under this lease where such fencing does not now exist, regardless of whether the Lessee has an interest or ownership in adjoining lands, and shall maintain in good order and condition throughout the term of this lease the fences so constructed and those now existing on the demised premises. The Lessee shall, wholly at its own cost and expense, stake out the boundaries wherever necessary in conformance with the legal descriptions provided herein. The cost of installing and maintaining such boundary fences shall be in accordance with Part II of Chapter 664, Hawaii Revised Statutes which provides generally for the sharing of such costs by adjacent land owners or lessees for the purpose of confining animals of each adjacent owner or lessee unless the adjacent land is owned and not leased by the government.

27. Roadway easements.

(a) Parcel 11 shall be subject to a 40-ft. roadway in favor of Parcels 9 and 10, Parcel 2 shall be subject to a 40-ft. roadway in favor of Parcel 6. Both roadway easements are described in the descriptions attached to the lease for Parcels 11 and 2 and may deviate, based on the actual ground conditions.

(b) The Lessee(s) of Parcels 9, 10 and 6 shall be responsible for the cost of constructing and maintaining their respective roadways as well as the cost of fencing in the roadways when deemed necessary by the Lessor. The Lessee(s) of Parcels 9 and 10 are to share equally in such costs for the roadways leading to their parcels of land and any necessary fencing of said roadway.

(c) Parcel 1 is subject to a 50-ft. roadway and utility easement in favor of Grant 8070 to W. H. Shipman, Ltd., as described and delineated on the exhibits attached to the lease for said Parcel 1.

(d) A 40-ft. roadway in favor of Grant 2046 to E. Van Houten is excluded from Parcel 3. Said exclusion is described and delineated on the exhibits attached to the lease of Parcel 3.

28. Parcel 7-A is subject to a revocable permit in favor of the U. S. Forest Service for forestry research purposes.

29. Parcels 3, 4 and 6 are subject to a timber license to Capitol Chip Company.

30. Exclusion of animals from forest lands. That the Lessee shall at all times during the term hereof keep its cattle, horses and other grazing animals out of any forest reserve land adjacent to the demised premises and shall take all reasonable precautions to prevent forest fires thereon, and in the event such fires shall occur, it shall use all reasonable means at its command or under its control to have such fires speedily extinguished.

31. Firetree control. That as to Parcels 3, 4 and 6, the Lessee shall reduce, to the satisfaction of the Chairman, the stand of Myrica faya, firetree, within FIVE (5) years from the commencement of the lease. Satisfactory control shall have been attained when the infested area has been reduced to less than one hundred (100) acres, excluding gulches and streams.

32. Woodland management. That as to Parcels 1, 2, 3, 4 and 6, the Lessee shall cooperate with the Lessor in the development and implementation of a management plan for the protection of koa (*Acacia koa*) and other timber species.

33. Termination. That at the end of or earlier termination of this lease, the Lessee shall, peaceably deliver unto the

Lessor possession of the demised premises, together with all boundary fences, paddock fences, all components of the stockwater system, sewers, drains, roads and bridges; it being understood that if the Lessee shall have faithfully observed and performed all of the terms, covenants and conditions herein, he shall have the right to remove from the demised land all other improvements thereon erected, placed by or belonging to him, including buildings, sheds, feed pens, and mechanical equipment. Said removal shall be made by the Lessee upon the termination of the lease or within such additional period as the Lessor may allow. Lessee shall also remove all the debris therefrom and restore said premises to good order and condition satisfactory to the Lessor. Any improvements remaining on the demised premises after the expiration or earlier termination of the lease, shall become the property of the Lessor; provided, however, that the Lessor, at its option, may require the Lessee to remove such improvements and restore the premises as provided herein.

34. Non-warranty. The Lessor does not warrant the conditions of the leased premises, as the same is being leased as is.

35. Incorporation by reference. References to various parcels of land herein are in accordance with those designated in the Notice of Sale and the Conduct of Sale which, together with the Special Notice to Bidders are incorporated herein and made a part hereof. The terms of this lease shall govern where there is any inconsistency between the terms thereof and the terms contained in the Special Notice to Bidders.

IT IS HEREBY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Mortgage. That upon due application and with the written consent of the Lessor, the Lessee may mortgage this lease or any interest therein or create a security interest in the public land hereby demised. If the mortgage or security interest is to a recognized lending institution in either the State of Hawaii or elsewhere in the United States, such consent may extend to foreclosure and sale of Lessee's interest at such foreclosure to any purchaser, including the mortgagee, without regard to whether or not the purchaser is qualified to lease, own or otherwise acquire and hold the land or any interest therein. The interest of the mortgagee or holder shall be freely assignable. The term "holder" shall include an insurer or guarantor of the obligation or condition of such mortgage, including the Department of Housing and Urban Development through the Federal Housing Administration, the Federal National Mortgage Association, the Veterans Administration, the Small Business Administration, Farmers Home Administration, or any other Federal agency and their respective successors and assigns or any lending institution authorized to do business in the State of Hawaii or elsewhere in the United States; provided, that the consent to mortgage to a non-governmental holder shall not confer any greater rights or powers in the holder than those which would be required by any of the aforementioned Federal agencies.

2. Breach. That time is of the essence of this agreement and if the Lessee shall fail to yield to pay such rent or any part thereof at the times and in the manner aforesaid, or shall become bankrupt, or shall abandon the said premises, or if this lease and said premises shall be attached or otherwise be taken by operation of law, or if any assignment be made of the Lessee's property for the benefit of creditors, or shall fail to observe and perform any of the covenants, terms and conditions

herein contained and on its part to be observed and performed, and such failure shall continue for a period of more than sixty (60) days after delivery by the Lessor of a written notice of such breach or default by personal service, registered mail or certified mail to the Lessee at its last known address and to each mortgagee or holder of record having a security interest in the demised premises, the Lessor may, subject to the provisions of Section 171-21, Hawaii Revised Statutes, at once re-enter such premises or any part thereof, and upon or without such entry, at its option, terminate this lease without prejudice to any other remedy or right of action for arrears of rent or for any preceding or other breach of contract; and in the event of such termination, all buildings and improvements thereon shall remain and become the property of the Lessor.

3. Right of holder of record of a security interest.

In the event the Lessor seeks to forfeit the interest created by this lease, each recorded holder of a security interest may, at its option, cure or remedy the default or breach within sixty (60) days from the date of receipt of the notice hereinabove set forth, or within such additional period as the Lessor may allow for good cause, and add the cost thereof to the mortgage debt and the lien of the mortgage. Upon failure of the holder to exercise its option, the Lessor may: (a) pay to the holder from any monies at its disposal, including the special land and development fund, the amount of the mortgage debt, together with interest and penalties, and secure an assignment of said debt and mortgage from said holder or if ownership of such interest or estate shall have vested in such holder by way of foreclosure, or action in lieu thereof, the Lessor shall be

entitled to the conveyance of said interest or estate upon payment to said holder of the amount of the mortgage debt, including interest and penalties, and all reasonable expenses incurred by the holder in connection with such foreclosure and preservation of its security interest, less appropriate credits, including income received from said interest or estate subsequent to such foreclosure; or (b) terminate the outstanding interest or estate subject to the lien of such mortgage, without prejudice to any other right or remedy for arrears of rent or for any preceding or other breach or default and thereupon use its best efforts to redispense of the land affected thereby to a qualified and responsible person who will assume the obligation of the mortgage and the debt thereby secured; provided, that a reasonable delay by the Lessor in instituting or prosecuting any right or remedy it may have hereunder shall not operate as a waiver of such right or to deprive it of such remedy when it may still hope otherwise to resolve the problems created by the breach or default. The proceeds of any disposition effected hereunder shall be applied first, to reimburse the Lessor for costs and expenses in connection with such disposition, second, to discharge in full any unpaid purchase price or other indebtedness owing the Lessor in connection with such interest or estate terminated as aforesaid, and the balance, if any, shall be paid to the owner of such interest or estate.

4. Condemnation. That, if at any time, during the term of this lease, or any portion of the demised premises should be condemned, or required for public purposes by any county or city and county, the rental shall be reduced in proportion to the value of the portion of the premises condemned. The Lessee shall

be entitled to receive from the condemning authority (a) the value of growing crops, if any, which he is not permitted to harvest and (b) the proportionate value of the Lessee's permanent improvements so taken in the proportion that it bears to the unexpired term of the lease; provided, that the Lessee may, in the alternative, remove and relocate its improvements to the remainder of the lands occupied by the Lessee. The Lessee shall not by reason of such condemnation be entitled to any claim against the Lessor for condemnation or indemnity for leasehold interest and all compensation payable or to be paid for or on account of said leasehold interest by reason of such condemnation shall be payable to and be the sole property of the Lessor. The foregoing rights of the Lessee shall not be exclusive of any other to which Lessee may be entitled by law. Where the portion so taken renders the remainder unsuitable for the use or uses for which the land was demised, the Lessee shall have the option to surrender this lease and be discharged and relieved from any further liability therefor; provided, that Lessee may remove the permanent improvements constructed, erected and placed by it within such reasonable period as may be allowed by the Lessor.

5. Right to enter. The Lessor or the County and the agents or representatives thereof shall have the right to enter and cross any portion of said demised land for the purpose of performing any public or official duties; provided, however, in the exercise of such rights, the Lessor or the County shall not interfere unreasonably with the Lessee or Lessee's use and enjoyment of the premises.

6. Inspection by prospective bidders. The Lessor shall have the right to authorize any person or persons to enter upon and inspect the demised premises at all reasonable times

following a published notice for the proposed disposition of the same for purposes of informing and apprising such person or persons of the condition of said land prior to such proposed disposition; provided, however, that any such entry and inspection shall be conducted during reasonable hours after notice to enter is first given to the Lessee, and shall, if the Lessee so requires, be made in the company of the Lessee or designated agents of the Lessee; provided, further, that no such authorization shall be given more than two years before the expiration or termination of this lease.

7. Acceptance of rent not a waiver. That the acceptance of rent by the Lessor shall not be deemed a waiver of any breach by the Lessee of any term, covenant or condition of this lease, nor of the Lessor's right to re-entry for breach of covenant, nor of the Lessor's right to declare and enforce a forfeiture for any such breach, and the failure of the Lessor to insist upon strict performance of any such term, covenant or condition, or to exercise any option herein conferred, in any one or more instances, shall not be construed as a waiver or relinquishment of any such term, covenant, condition or option.

8. Extension of time. That notwithstanding any provision contained herein to the contrary, wherever applicable, the Board may for good cause shown, allow additional time beyond the time or times specified herein to the Lessee, in which to comply, observe and perform any of the terms, conditions and covenants contained herein.

9. Justification of sureties. Such bonds as may be required herein shall be supported by the obligation of a corporate surety organized for the purpose of being a surety and

qualified to do business as such in the State of Hawaii, or by not less than two personal sureties, corporate or individual, for which justifications shall be filed as provided in Section 78-20, Hawaii Revised Statutes; provided, however, the Lessee may furnish a bond in like amount, conditioned as aforesaid, executed by it alone as obligor, if, in lieu of any surety or sureties, it shall also furnish and at all times thereafter keep and maintain on deposit with the Lessor security in certified checks, certificates of deposit (payable on demand or after such period as the Lessor may stipulate), bonds, stocks or other negotiable securities properly endorsed, or execute and deliver to said Lessor a deed or deeds of trust of real property, all of such character as shall be satisfactory to said Lessor and valued in the aggregate at not less than the principal amount of said bond. It is agreed that the value at which any securities may be accepted and at any time thereafter held by the Lessor under the foregoing proviso shall be determined by the Lessor, and that the Lessee may, with the approval of the Lessor, exchange other securities or money for any of the deposited securities if in the judgment of the Lessor the substitute securities or money shall be at least equal in value to those withdrawn. It is further agreed that substitution of sureties or the substitution of a deposit of security for the obligation of a surety or sureties may be made by the Lessee, but only upon the written consent of the Lessor and that until such consent be granted, which shall be discretionary with the Lessor, no surety shall be released or relieved from any obligation hereunder.

10. Waiver, modification, reimposition of bond provision. Upon substantial compliance by the Lessee of the

terms, covenants, and conditions herein contained on its part to be observed or performed, the Lessor at its discretion may waive or suspend the performance bond and/or improvement bond requirements or modify the same by reducing the amount thereof; provided, however, that the Lessor reserves the right to reactivate or reimpose said bond and/or bonds in and to their original tenor and form at any time throughout the term of this lease.

11. Quiet enjoyment. The Lessor hereby covenants and agrees with the Lessee that upon payment of said rent at the times and in the manner aforesaid and the observance and performance of the covenants, terms and conditions hereof on the part of the Lessee to be observed and performed, the Lessee shall and may have, hold, possess and enjoy the demised premises for the term hereby demised, without hindrance or interruption by the Lessor or any other person or persons lawfully claiming by, through or under it.

12. Definitions.

As used herein, unless clearly repugnant to the context:

(a) "Chairman" shall mean the Chairman of the Board of Land and Natural Resources of the State of Hawaii or his successor;

(b) "Lessee" shall mean and include the Lessee herein, its heirs, executors, administrators, successors or permitted assigns, according to the context hereof;

(c) "Holder of a record of a security interest" is a person who is the owner or possessor of a security interest in the land demised and who has filed with the Department of Land and Natural Resources and with the Bureau of Conveyances of the State of Hawaii a copy of such interest;

(d) "Premises" shall be deemed to include the land hereby demised and all buildings and improvements now or hereinafter constructed and installed thereon;

(e) The use of any gender shall include all genders, and if there be more than one lessee, then all words used in the singular shall extend to and include the plural;

(f) The paragraph headings throughout this lease are for the convenience of the Lessor and the Lessee and are not intended to construe the intent or meaning of any of the provisions thereof.

(g) "Waste" shall be deemed to include, but not limited to, (1) permitting the premises or any portion thereof to become unduly eroded and/or failure to take proper precautions or make reasonable effort to prevent or correct same; (2) permitting any material increase in noxious weeds in uncultivated portions thereof and (3) failure to employ all of the usable portions of the demised premises.

(h) "Noxious weed" shall mean any plant species which is injurious, harmful or deleterious or which may be likely to become so to the agricultural, horticultural and livestock industries of the State, as determined and so designated by the Department of Agriculture of the State of Hawaii from time to time, by rules and regulations.

(i) "Pasture" shall mean the conduct of livestock operation consisting of the keeping primarily of cattle, and others, in a minor role, such as horses and sheep wherein the animals graze the land for feed produced thereon. Permitted use shall include such compatible uses as woodland management, wildlife management and the cultivation of feed crops to be used strictly within the premises. Excluded will be the operation of commercial activities such as feedlots (excepting a private feedlot designed to feed the Lessee's own cattle), dairy milking parlors, or boarding of horses.

(j) "Timber" shall mean any tree standing within designated areas of the demised land which are covered by a woodland management plan.

IN WITNESS WHEREOF, the parties hereto have caused
these presents to be executed this 13th day of
November, 1975.

STATE OF HAWAII

By C Cobb
Chairman and Member
Board of Land and
Natural Resources

And By Shinichi Nakayama
Member
Board of Land and
Natural Resources

LESSOR

Antone S. Teixeira
ANTONE S. TEIXEIRA

Marjory Ann Teixeira
MARJORY ANN TEIXEIRA

LESSEE

APPROVED AS TO FORM
AND LEGALITY:

Johnson H. Long
Deputy Attorney General
Dated: SEP 22 1975

STATE OF HAWAII

COUNTY OF

)
:
) SS

On this 6th day of November, 1974,

before me personally appeared Antone S. Teixeira
& Maryann Ann Teixeira, to me known to be the
person(s) described in and who executed the foregoing instru-
ment and acknowledged that they executed the same as their
free act and deed.

Alan C. Teixeira
Notary Public, 1st Judicial
Circuit, State of Hawaii.

My Commission expires: April 30, 1979

STATE OF HAWAII

COUNTY OF

)
:
) SS

On this _____ day of _____, 19____,

before me appeared _____ and
_____, to me personally known,
who, being by me duly sworn, did say that they are the
_____ and _____,
respectively, of _____,
and that the seal affixed to the foregoing instrument is the
corporate seal of said corporation, and that said instrument
was signed and sealed on behalf of said corporation by au-
thority of its Board of Directors, and the said _____
_____ and _____ acknowledged
that they executed said instrument as the free act and deed of
said corporation.

Notary Public, _____ Judicial
Circuit, State of Hawaii.

My Commission expires: _____



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

January 24, 1975

C. S. F. No. 17,286

PASTURE LEASE

PARCEL 6

Hoea-Kaao, Hamakua, Island of Hawaii, Hawaii

Being portions of the Government Lands of Hoea and Kaao.

Beginning at a 1 1/2-inch pipe on the north boundary of this parcel of land and on the south boundary of Hamakua Forest Reserve near the west bank of Kaala Gulch, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHOLALELE" being 13606.00 feet South and 8448.00 feet East, thence running by azimuths measured clockwise from True South:-

1. 295° 16' 30" 116.00 feet along Hamakua Forest Reserve to the middle of Kaala Gulch;
2. Thence along the middle of Kaala Gulch, along R.P. 7735, L.C. Aw. 9971, Apana 6 to Leleiohoku, the direct azimuth and distance being: 21° 19' 30" 11,914.00 feet to a point above the Waipahoehoe Falls;
3. 36° 00' 9500.00 feet along R.P. 7735, L.C. Aw. 9971 Apana 6 to Leleiohoku to a rock marked "Kaala";
4. 120° 40' 500.00 feet along the Government Land of Kaohe VI to the middle of Poholimukele Gulch;

Thence along the middle of Poholimukele Gulch along Lot C (Map 1) of Land Court Application 1090 for the next seventeen (17) courses, the direct azimuths and distances between points in the middle of said gulch being:

5. 206° 35' 30" 1318.10 feet;
6. 256° 50' 800.00 feet;
7. 177° 50' 1000.00 feet;
8. 156° 10' 1900.00 feet;
9. 180° 30' 1300.00 feet;
10. 207° 40' 770.00 feet;
11. 179° 40' 1480.00 feet;
12. 214° 00' 900.00 feet;

EXHIBIT "A"

January 24, 1975

- | | | |
|-----|----------|---------------|
| 13. | 198° 20' | 1600.00 feet; |
| 14. | 188° 20' | 1600.00 feet; |
| 15. | 208° 00' | 1400.00 feet; |
| 16. | 193° 30' | 780.00 feet; |
| 17. | 205° 00' | 1800.00 feet; |
| 18. | 187° 20' | 1600.00 feet; |
| 19. | 201° 30' | 1600.00 feet; |
| 20. | 193° 20' | 1200.00 feet; |
| 21. | 214° 10' | 730.00 feet; |
22. 209° 45' 960.50 feet along Lot C (Map 1) of Land Court Application 1090;
23. 295° 16' 30" 5004.70 feet along Hamakua Forest Reserve to the point of beginning and containing an AREA OF 1902.00 ACRES.

Excepting and reserving therefrom all existing roads and trails within this tract of land together with such other roads, trails and other rights-of-way that may be required for public purposes.

Also, excepting and reserving therefrom rights-of-way for two telephone lines which crosses this tract of land.

Together with a road right-of-way, forty (40.00) feet wide over and across Parcel 2 of Pasture Lease, the location of said road to be designated by the Department of Land and Natural Resources.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Ichiro Sakamoto
Ichiro Sakamoto
Land Surveyor

cm

Compiled from
Gov't. Survey Records.

