

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

April 25, 2008

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

PSF No.:05KD-134

KAUAI

Re-submittal Set Aside to Agribusiness Development Corporation
for Agricultural and Related Purposes and Issuance of a Right-
of-Entry Permit to Agribusiness Development Corporation,
Wailua, Kauai, Tax Map Key: (4) 3-9-1:2 and 3-9-2: 1, 9, 20

APPLICANT:

Agribusiness Development Corporation

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION AND AREA:

Government lands of Wailua situated at Lihue, Kauai, identified by
Tax Map Keys: (4) 3-9-1:2 and 3-9-2:1, 9, 20, as shown on the
attached map labeled Exhibit A.

AREA:

- 847.605 acres, more or less.
- 3,059.413 acres, more or less.
- 5.430 acres, more or less.
- 2,180.790 acres, more or less.

ZONING:

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

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

Parcels 2, 1, 20

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES NO

Parcel 9

DHHL 30% entitlement lands pursuant to the Hawaii State

Constitution: YES ___ NO ___x

CURRENT USE STATUS:

Tmk:3-9-1:2	GL 3911	KIUC	26.42 ac	\$1,251/annum	Electrical transmission lines
	GL 3940	KIUC	74.38 ac	\$39,800/annum	Electrical transmission lines
	RP 7333*	Ching, Milton & Melanie	342 ac	\$912/annum	Ag/pasture
	RP 7336*	Rapozo, Derek	563 ac	\$1,032/annum	Pasture
Tmk:3-9-2:1	RP 7274	Saiva Siddhanta Church	406 ac	\$2,172/annum	Ag/pasture
	RP 7275	Milnes, Leslie	752.37 ac	\$1,860/annum	Pasture
	RP 7335	Bray, Kenneth	287 ac	\$576/annum	Ag/pasture
	RP 7334	G.E. Farms, Inc.	417 ac	\$1,440/annum	Pasture
	RP 7333*	Ching, Milton & Melanie	342 ac	\$912/annum	Ag/pasture
	RP 7336*	Rapozo, Derek	563 ac	\$1,032/annum	Pasture
	RP 7399*	Kapaa Banana Co.	733 ac	\$2,832/annum	Agriculture
Tmk:3-9-2:9	RP 7160	Calipjo, Elesther	5.43 ac	\$276/annum	Ag/pasture
Tmk:3-9- 2:20	RP 7278	Sanchez, William & Alison	769 ac	\$1,284/annum	Pasture
	RP 7282	Butler, Lara	156 ac	\$2,784/annum	Pasture
	RP 7280	Bunao, Rodolfo & Aurora	247 ac	\$1,932/annum	Ag/pasture
	RP 7279	Calipjo, Elesther	432 ac	\$1,476/annum	Ag/pasture
	RP 7289	Gooding, Kelly	19 ac	\$360/annum	Intensive agriculture
	RP 7341	Reis,	369.70	\$624/annum	Pasture

		Antone	ac		
	RP 7399*	Kapaa Banana Co.	733	\$2,832/annum	Agriculture

*RP document covers multiple parcels

PURPOSE:

Agricultural and related purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost

BACKGROUND:

At a public auction held on October 31, 1974, General Lease No. S-4412 was issued to Lihue Plantation Co., Ltd. The term was from October 31, 1974 to October 30, 1999. The character of use was sugar cane cultivation and harvesting, pasturing and other diversified agricultural uses; provided, however, that no more than 60 acres of the leased land shall be used for pasturing and no more than 10 acres for other diversified agricultural uses. The lease covered approximately 6,543.668 acres including lands suitable for cultivation of sugar cane, gulch land, waste and swamp lands. The annual rental at the time of expiration was \$56,250. The Land Board on January 14, 2000, under agenda item D-6 granted Lihue Plantation Co. a one (1) year holdover.

The Land Board at its meeting of February 23, 2001, under agenda item D-11, approved the issuance of 13 revocable permits to Godwin Esaki, Lara Butler, GE Farms, Inc., Leslie Milnes, Rodolfo and Aurora Bunao, Elesther Calipjo, Michael Fernandes, William and Alison Sanchez, Saiva Siddhanta Church, Manuel Andrade, Sr., Kenneth Bray, Robert Ferreira, Gerald Sanchez covering lands formerly leased to Lihue Plantation Co. Furthermore, the Board approved to recommend to the Governor set asides to (1) County of Kauai approximately 18 acres for recreational use; (2) Department of Land

and Natural Resources, Division of Aquatic Resources approximately 36.708 acres for freshwater fisheries development; (3) Department of Land and Natural Resources, Division of Forestry and Wildlife approximately 54 acres for addition to the Lihue-Koloa Forest Reserve and (4) Department of Land and Natural Resources, Division of State Parks approximately 10 acres for addition to the Wailua River State Park.

The Land Board at its meeting of August 24, 2001, under agenda item D-20, amended its prior approval of February 23, 2001 by eliminating Robert Ferreira and replacing it with Kelly Gooding.

The Land Board at its meeting of October 25, 2002, under agenda item D-4, approved the cancellation of revocable Permit Nos. S-7281 and 7273 and re-issuance of revocable permits to Kenneth Bray, G.E. Farms, Inc., Derek Rapozo, Milton and Melanie-Ann Ching.

The ADC Board at its meeting of March 18, 2005, agreed to accept the set aside of the Department of Land and Natural Resources Kalepa properties and the East Kauai water system.

The Land Board at its meeting of July 22, 2005, under agenda item D-1, deferred staff's request to recommend to the Governor a set aside to ADC for lands in Hanamaulu and Wailua; and waters and water distribution systems in the drainage basins of North Wailua, Kapaa, Anahola and Hanalei River. The Board decided to wait for the outcome of the contested case process on the Blue Hole diversion (KIUC).

Governor on August 11, 2006 signed Executive Order No. 4168 issued to the County of Kauai for 18.007 acres to be used for recreational purposes.

As of this writing still pending are set asides to the Department of Land and Natural Resources: Division of Aquatic Resources, Division of Forestry & Wildlife and Division of State Parks.

REMARKS:

This submittal covers only the State owned properties known as 'Kalepa' and does not cover the water or water distribution systems owned by the State in the drainage basins of North Wailua, Kapaa, Anahola and Hanalei. Unfortunately, that submittal will be presented to the Land Board in the near future. As of this writing, in January 2008 and April 2008, staff contacted KIUC and was told they have not completed the necessary studies (stream and cultural assessment). They anticipate completion at the end of 2008 or early 2009. In February 2008, KIUC met with OHA's staff attorney. At this meeting KIUC asked OHA if they could provide a listing of consultants OHA deems qualified to do a cultural assessment.

ADC is willing to accept the set aside subject to the existing

permittees.

In a separate Board submittal, staff will address the land areas for the Kalepa permittees and Green Energy Team LLC. The Land Board at its meeting of January 11, 2008, under agenda item D-1, approved in principle the issuance of a revocable permit to Green Energy Team LLC, subject to (1) a co-existence plan between the Applicant and any State permittees affected by the issuance of a revocable permit to Green Energy Team LLC and (2) this approval in principle shall not be deemed to be an approval of a revocable permit to the Green Energy as staff shall return to the Board at a later date for approval of the revocable permit disclosing the negotiated terms and conditions.

Comments were solicited from:

DHHL	Ensure ADC is responsible for 30% DHHL entitlement. Provide public surface water, free of charge to DHHL upon request.
OHA	Request Board defer action until KIUC completes stream and cultural assessment studies.

Still pending, the Division of Forestry & Wildlife (DOFAW) has not completed the subdivision for 52 acres to be added to the Lihue-Koloa Forest Reserve. Staff contacted the other 2 DLNR Divisions. Division of Aquatic Resources and the Division of State Parks are no longer interested.

Staff is requesting a management right-of-entry be issued to ADC. This will allow ADC the ability to work with the Kalepa permittee's and Green Energy Team LLC. The set aside cannot be completed until DOFAW completes the subdivision of 52 acres.

RECOMMENDATION:

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

1. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Agribusiness Development Corporation under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;

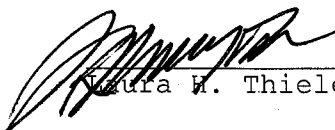
- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a management right-of-entry permit to Agribusiness Development Corporation covering the subject area, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Transfer Revocable Permit Nos. S-7333, S-7336, S-7274, S-7275, S-7335, S-7334, S-7399, S-7160, S-7278, S-7282, S-7280, S-7279, S-7289, and S-7341 to Agribusiness Development Corporation.
4. ADC will be responsible for 20% entitlement to Office of Hawaiian Affairs and 30% entitlement to the Department of Hawaiian Home Lands.


Respectfully Submitted,

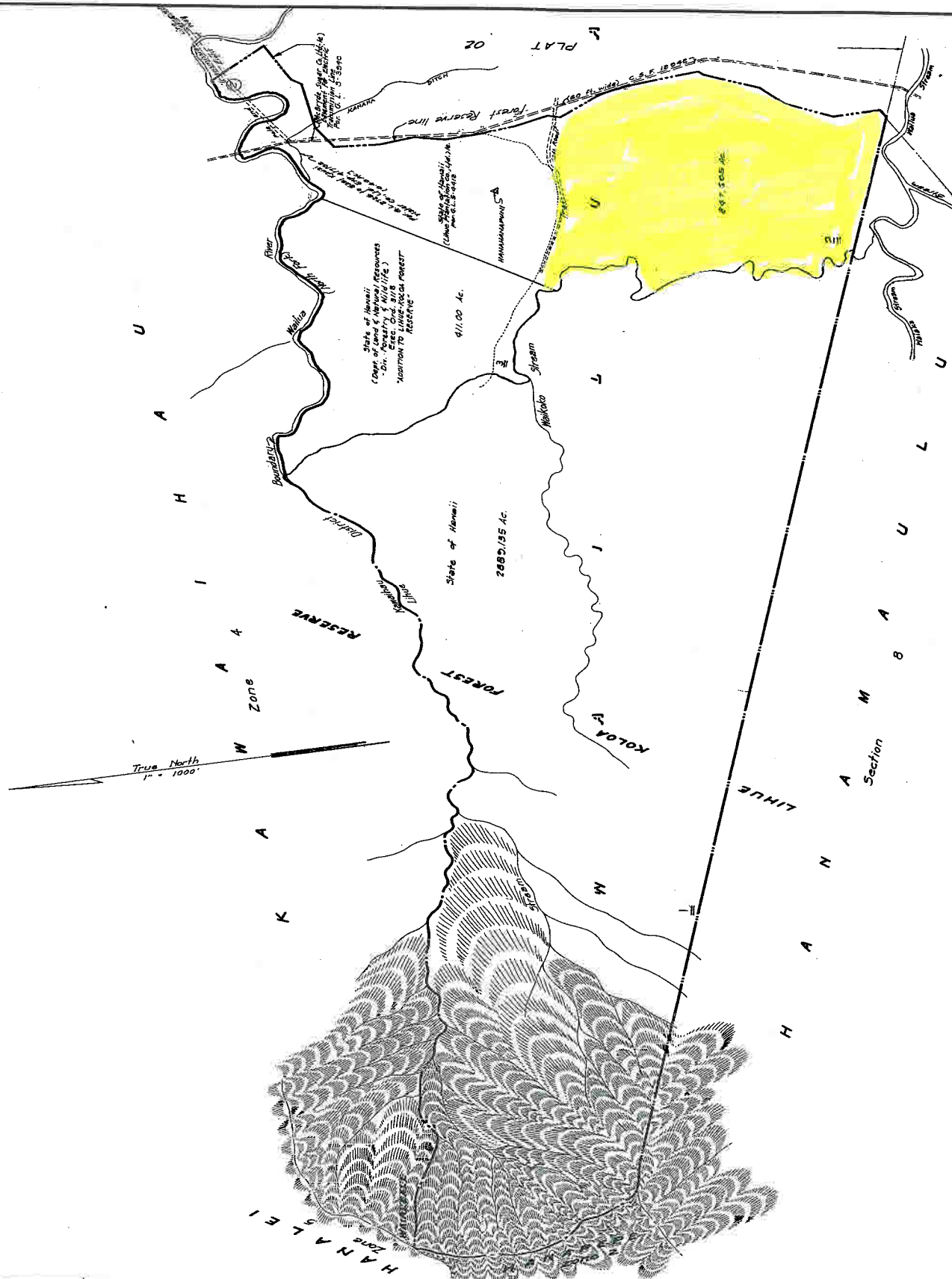


Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Laura W. Thielen, Chairperson 



TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
FOURTH DIVISION	ZONE	SEC.	PLAT
		3901	
CONTAINING PARCELS			SCALE: 1 in. = 1000 ft.

SUBJECT TO CHANGE

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Fig. of LINUE-KOLOA FOR. RES. (MILUA SEC.) HANALEI, LINUE, KAUAI.

Dwg. No. 2822
 Source: Tax Maps Bureau & Survey Dept.
 By: H.N. Sept. 1936

APR 15 1937
 JUL 10 1936
 1935 RE

