

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

November 22, 2010

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

PSF No.: 10HD-170

HAWAII

Issuance of Revocable Permit to David Kaawa III and Madeline Kaawa for pasture purposes at Kau, Hawaii, Tax Map Key: (3) 9-5-12: 19 & 20 and 9-5-13: portion of 1.

APPLICANT:

David Kaawa III and Madeline Kaawa, husband and wife, Tenants By Entirety.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kaunamano Homesteads situated at Kau, Hawaii, identified by Tax Map Key: (3) 9-5-12: 19 & 20 and 9-5-13: portion of 1 as shown on the attached map labeled Exhibit A.

TAX MAP KEY	DISTRICT	ZONING		ENCUMBRANCE	AREA (Acres)
		SLU	CZO		
3 <sup>rd</sup> / 9-5-12: 19	Kau	Agriculture	A-20A	Vacant	50.65
3 <sup>rd</sup> / 9-5-12: 20	Kau	Agriculture	A-20A	Vacant	39.35
3 <sup>rd</sup> / 9-5-13: 1	Kau	Agriculture	A-20A	Vacant/ 525.20 acres	1042.20 (525.20)
				RPS-7260; Kuahiwi Contracting/ 472 acres	(472.0)
				Kahua Ranch/ 45 acres	(45.0)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES   x   NO       

CURRENT USE STATUS:

TMK: (3) 9-5-13: portion of 1:

Encumbered by Revocable Permit No. S-7260, Kuahiwi Contracting for pasture purposes (472 acres).

In progress, revocable permit to Kahua Ranch Inc for pasture (45 acres).

In progress, revocable permit to David & Madeline Kaawa for pasture (60 acres).

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

To be determined by staff appraiser, subject to review and approval by the Chairperson.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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

DCCA VERIFICATION:

Not applicable.

Applicant is a sole proprietorship and as such, is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Pay for the costs of public notice pursuant to HRS Section 171-16, if applicable.

REMARKS:

Through public auction held on December 10, 1954, Hutchinson Sugar Company, Limited, was the successful bidder for a 15-year lease under General Lease No. S-3511. Purpose of the lease was for diversified agriculture and pasture purposes. The lease ended on 12/31/69.

On January 1, 1970, Revocable Permit No. S-4737 was issued to Hutchinson Sugar Company, Ltd. (subsequently Kau Sugar Company, Inc., then Kau Agribusiness Company, Inc.) for diversified-agriculture and pasture. The permit was cancelled on 12/31/99.

TMK (3) 9-5-13: 1 consists of 1,042 acres, but approximately 450 acres is primarily thick forest and would not be usable for pasture or other agricultural uses unless it was cleared. Of the 1,042 acres, an approximate 472-acre portion is currently encumbered under Revocable Permit No. S-7260 to Kuahiwi Contracting for pasture. Under separate submittal, a 45-acre portion of the same parcel is being recommended for a revocable permit to Kahua Ranch, Inc. for pasture purposes. The remaining areas considered usable for pasture, consists of approximately 60 acres and is the subject of this request.

On August 10, 2010, the Hawaii District Land Office received a revocable permit application from Mr. and Mrs. David Kaawa for pasture purposes. The Kaawas currently lease property from Bishop Estate in the South Point area, however, due to the excessively dry conditions on their current lease area, the ground is void of vegetation/grass and is now only bare ground. As a result, they have been forced to seek "greener pastures", which would enable them to sustain what cattle they have left.

The proposed use is allowable in the county zoning, which is agriculture.

Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Applicant has a current pasture lease with the Bernice Pauahi Bishop Estate in the South Point area. Mr. Kaawa has been raising cattle for over ten years.

Currently, Kahua Ranch has expressed interest to lease a 45-acre portion of the same

parcel, which was formerly under Revocable Permit No. S-7272 to Daleico Ranch. The Kahua Ranch request is being submitted under a separate recommendation. Another portion of the same parcel is currently under Revocable Permit No. S-7260 to Kuahiwi Contracting for pasture. Access is available to landowners of the area through a homestead road called "Mountain House Road."

A month-to-month tenancy is more appropriate than a long-term disposition because currently there is no water sources available to justify a lease though public auction and there may be issues concerning available accesses via government roads. The proposed use is consistent with the surrounding area. There are cattle grazing on adjacent properties in close proximity. The grazing of cattle on these parcels will aid in the control of noxious weeds and fire prevention.

The issue of legal access to some or all of the parcels is unclear and /or unsettled. There are many "roads in limbo" in the area. These are roads that may have been planned, laid out or even used at one time, but which are not maintained by the State or County of Hawaii. Some of these roads may be located partly on public land, and partly on private land. Their actual location on the ground may have shifted over the years, and they may not align with the routes shown on the tax maps. Staff consulted with the County Planning Department to confirm that the roads of interest are County roads and if they could provide maps indicating the alignment of those roads maintained by the County. To date, no responses have been received from the county. Staff additionally consulted with some private landowners in the area of the subject land who confirmed that the "Mountain House Road" or "Makino Junction Road", which is commonly believed to be a government road, likely traverses both public and private lands. It has been noted that through the years, the County of Hawaii has been maintaining Kaalaiki Road and portions of Mountain House Road, particularly those sections not paved. In any event, the private landowners have indicated that they do not object to the Applicant using the road to access Parcel 1 of TMK (3) 9-5-12. The unresolved access issues make these lands unsuitable for leasing through public auction at the present time.

It is recommended that the Land Board find that this request is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment. The subject lands were previously used to cultivate cane and pastured since 1956.

Various government agencies and interest groups have been solicited for comments. To date, only the Division of Forestry & Wildlife (DOFAW) and Na Ala Hele Trails responded.

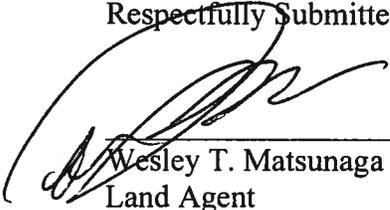
DOFAW and Na Ala Hele had no objections to the request, but asked that the Permittee be required to install and maintain a good cattle proof fence to minimize cattle trespass into the abutting forest reserve. DOFAW offered to inspect the forest reserve boundary prior to fence construction to remove any leaning or dead trees along the boundary.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirements listed above:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, 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. Authorize the issuance of a revocable permit to David Kaawa III and Madeline Kaawa covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - b. Permittee shall erect cattle-proof fencing along the perimeter of the permit area, and at Permittee's expense;
  - c. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

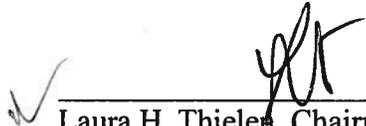
Respectfully Submitted,



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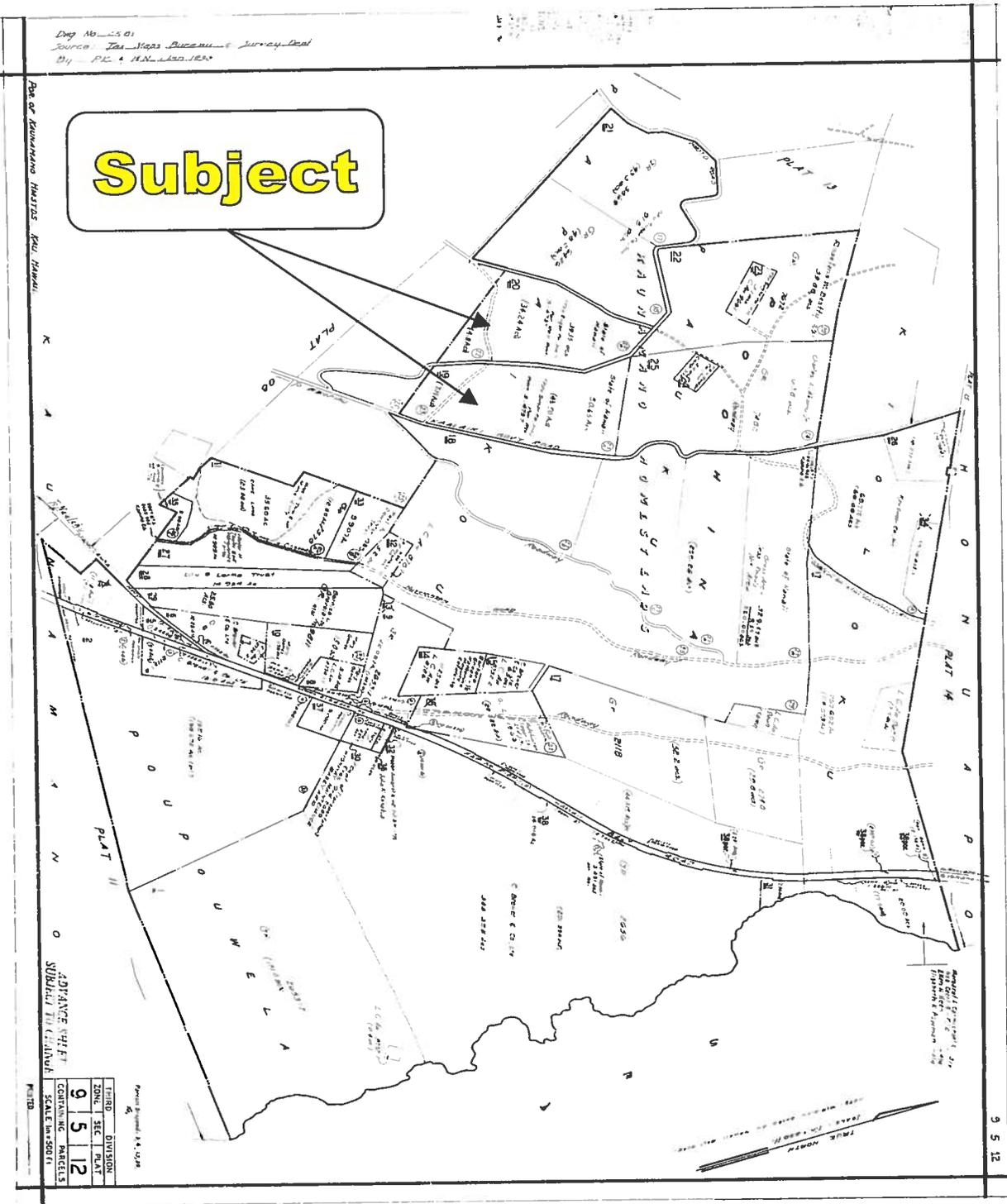
Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:



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Laura H. Thielen, Chairperson



# EXHIBIT A



LINDA LINGLE  
GOVERNOR OF HAWAII



LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

November 22, 2010

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Issuance of Revocable Permit to David Kaawa and Madeline Kaawa for pasture purposes.
Project / Reference No.:	PSF No.: 10HD-170
Project Location:	Papaikou, Poupouwela and Kowala, Kau, Hawaii, Tax Map Key: 3 <sup>rd</sup> / 9-5-12: 19 & 20 and 9-5-13: portion of 1.
Project Description:	Issuance of Revocable Permit for pasture.
Chap. 343 Trigger(s):	Use of State Lands.
Exemption Class No. and Description:	In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to:

**Exemption Class No. 1**, which 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." and **Exemption Class No. 4**, which states, "Minor alterations in the conditions of land, water or vegetation."

Exemption Item Description from Agency Exemption List:	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.
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**EXHIBIT "B"**

Consulted Parties:

Minor alterations in the conditions of land, water or vegetation. The County of Hawaii, Planning Department, the Division of Forestry & Wildlife (DOFAW), and Na Ala Hele Trails were solicited for comments on the matter as a source authority having jurisdiction or expertise in this matter. Only DOFAW and Na Ala Hele responded having no objections to the proposed issuance of a revocable permit.

Recommendation:

The subject area has been in use for diversified-agriculture and pasture since the 1950's. It is recommended that the Land Board find that the issuance of a revocable permit for pasture is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

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Laura H. Thielen, Chairperson

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Date