

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

November 10, 2011

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

Hawai'i

Consent to Assign General Lease No. S-5586, Island Dairy, Inc., Assignor, to Big Island Dairy, LLC, Assignee, and Consent to Mortgage, General Lease No. S-5586, Big Island Dairy, LLC, Manowaialee and Ookala, North Hilo and Hamakua, Humuula, Parcel B situate at Humuula, North Hilo, Hawaii, Tax Map Key: 3rd/3-9-01:01 & 02, 3-9-02:07 & 08, 4-1-01:06 and 4-1-05:01

APPLICANT:

ASSIGNMENT:

Island Dairy, Inc., as Assignor, to Big Island Dairy, LLC, a Hawai'i Limited Liability Company, as Assignee.

MORTGAGE:

Big Island Dairy, LLC, requesting consent to mortgage from Northwest Farm Credit Services, Mortgagee (1st mortgagee) and Island Dairy, Inc. (2nd mortgagee), in an amount not to exceed \$ 15,000,000.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.
Section 171-22, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Manowaialee and Ookala, situated at North Hilo and Hamakua and portion of Government (Crown) Land of Humuula, Parcel B situate at Humuula, North Hilo, Hawaii, identified by Tax Map Key: 3rd/3-9-01:01 & 02, 3-9-02:07 & 08, 4-1-01:06 and 4-1-05:01, consisting of approximately 2,081.08 acres, as shown on the attached map labeled Exhibit A.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CHARACTER OF USE:

Dairy and allied purposes.

TERM OF LEASE:

35 years, commencing on June 5, 1998 and expiring on June 4, 2033

ANNUAL RENTAL:

\$19,780.00 due in semi-annual payments.

CONSIDERATION:

\$ 13,150,000.00

RECOMMENDED PREMIUM:

\$0. (Refer to Exhibit B attached.)

DCCA VERIFICATION:

ASSIGNOR:

Place of business registration confirmed:	YES <u>X</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>__</u>
Good standing confirmed:	YES <u>X</u>	NO <u>__</u>

ASSIGNEE:

Place of business registration confirmed:	YES <u>X</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>__</u>
Good standing confirmed:	YES <u>X</u>	NO <u>__</u>

MORTGAGE:

USE OF LOAN PROCEEDS:

There are two (2) mortgages currently being prepared to purchase the assets of Island Dairy, Inc. Northwest Farm Credit Services will fund the first mortgage in the amount of approximately \$9,150,000. The Seller Island Dairy, Inc. will fund the second mortgage in the amount of \$4,000,000 by way of a purchase money mortgage.

The purchase of Island Dairy, Inc. includes all improvements to the lease land including land clearing, fencing, concrete walkways, construction of the milking facilities, offices, feeding barns, feed storage facilities, water well and irrigation as well as livestock and all inventory associated with the dairy operation including the milk quota.

REMARKS:

General Lease No. S-5586 was issued to Island Dairy, Inc. as a direct lease pursuant to Hawaii Revised Statutes, 171-59(b) for dairying purposes on June 5, 1998. The lease was issued for a period of thirty-five (35) years and encompasses approximately 2,081 acres of former sugar cane lands along the Hamakua coast of the island of Hawai'i.

The Lessee has made significant improvements to the property including the clearing and fencing of the land, construction of a processing facility as well as holding pens, storage barns and employee housing. The Lessee also installed a well necessary for a constant water source needed for milk production along with a reservoir system designed in accordance to USDA Natural Resource Conservation Service (NRCS) guidelines.

The Lessee also constructed a unique concrete walkway to allow the dairy herds to access pasture areas that would be difficult to reach during the rain season. This innovation allows for the maximum utilization of the property by bringing the cows to areas that would otherwise be out of reach.

This assignment is the result of the sale of Island Dairy, Inc. to Big Island Dairy, LLC. The Lessee is compliant with all lease terms and conditions with regards to rent, insurance, performance bond and conservation plan.

The Assignee has over thirty years of experience as owner operator of a family owned dairy operation in Rupert, Idaho. Their dairy farm consisted of over 6,300 head of cattle and approximately 100 employees. The business plan for Big Island Dairy, LLC consists primarily of the continuation of the current operation and expansion as necessary. The Assignee is projecting a production level of 5,500,000 gallons of milk annually.

As part of the sales agreement, they will be purchasing the milk quota established by the Department of Agriculture from Island Dairy, Inc. Their principal customer will be Meadow Gold Dairies, Hawaii.

The Assignee has 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.

The last rental reopening occurred on June 5, 2008. The next rental reopening is scheduled for June 4, 2018. There are no outstanding rental reopening issues.

At its meeting of July 22, 2011 under agenda item D-1, the Board of Land and Natural Resources has consented to set aside this lease to the Department of Agriculture pursuant to Section 171-11 Hawaii Revised Statutes and Act 90, Session Laws of Hawaii, 2003. The transfer of this lease is currently being processed. The DOA will be notified of this assignment and consent to mortgage and all information will be forwarded to them.

Staff is recommending the Board consent to the assignment of GL S-5586 from Island Dairy, Inc. to Big Island Dairy, LLC.

Staff is also recommending the Board Consent to the mortgage between Big Island Dairy, LLC, Mortgagor, and Northwest Farm Credit Services, Mortgagee (1st Mortgagee) and seller, Island Dairy, Inc. (2nd Mortgagee).

RECOMMENDATION:

ASSIGNMENT:

That the Board:

- A. Consent to the assignment of General Lease No. S-5586 from Island Dairy, Inc., as Assignor, to Big Island Dairy, LLC, as Assignee, subject to the following:
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

MORTGAGE:

That the Board:

- A. Consent to the mortgage between Big Island Dairy, LLC, Mortgagor, and Northwest Farm Credit Services, Mortgagee (1st Mortgagee) and Island Dairy, Inc. (2nd Mortgagee), subject to the following:
1. The loan proceeds shall be used for the purposes as stated in "Use of Loan Proceeds" above. The Lessee shall maintain records of loan expenditures, which may be inspected by the Department;
 2. The standard terms and conditions of the most current consent to mortgage form, as may be amended from time to time;
 3. Review and approval by the Department of the Attorney General; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

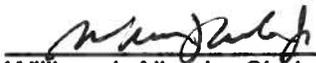
Respectfully Submitted,



Gordon C. Heit
Land Agent

KEM

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

W

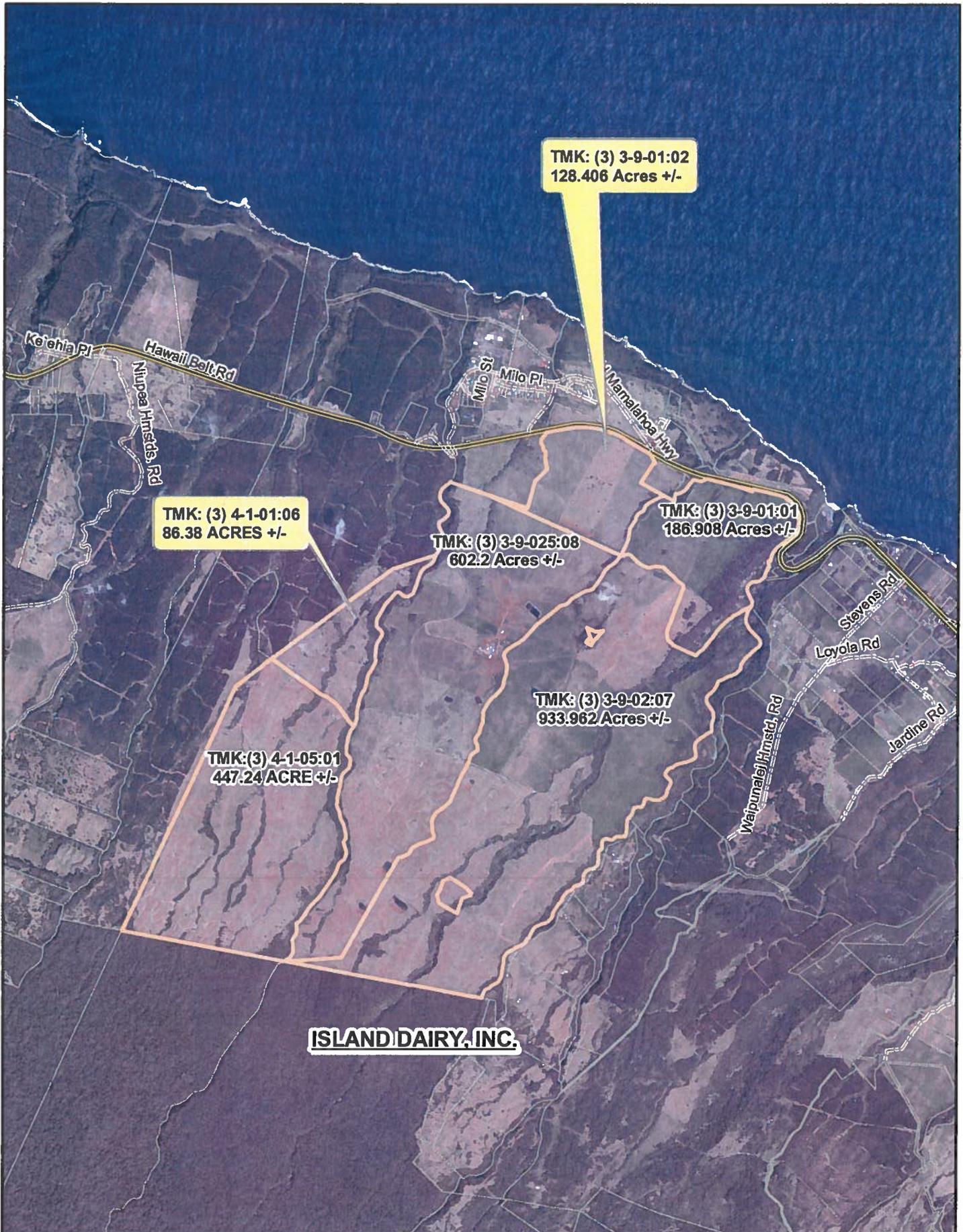


EXHIBIT A-2

TMK: 3rd/3-9-02:07, 08

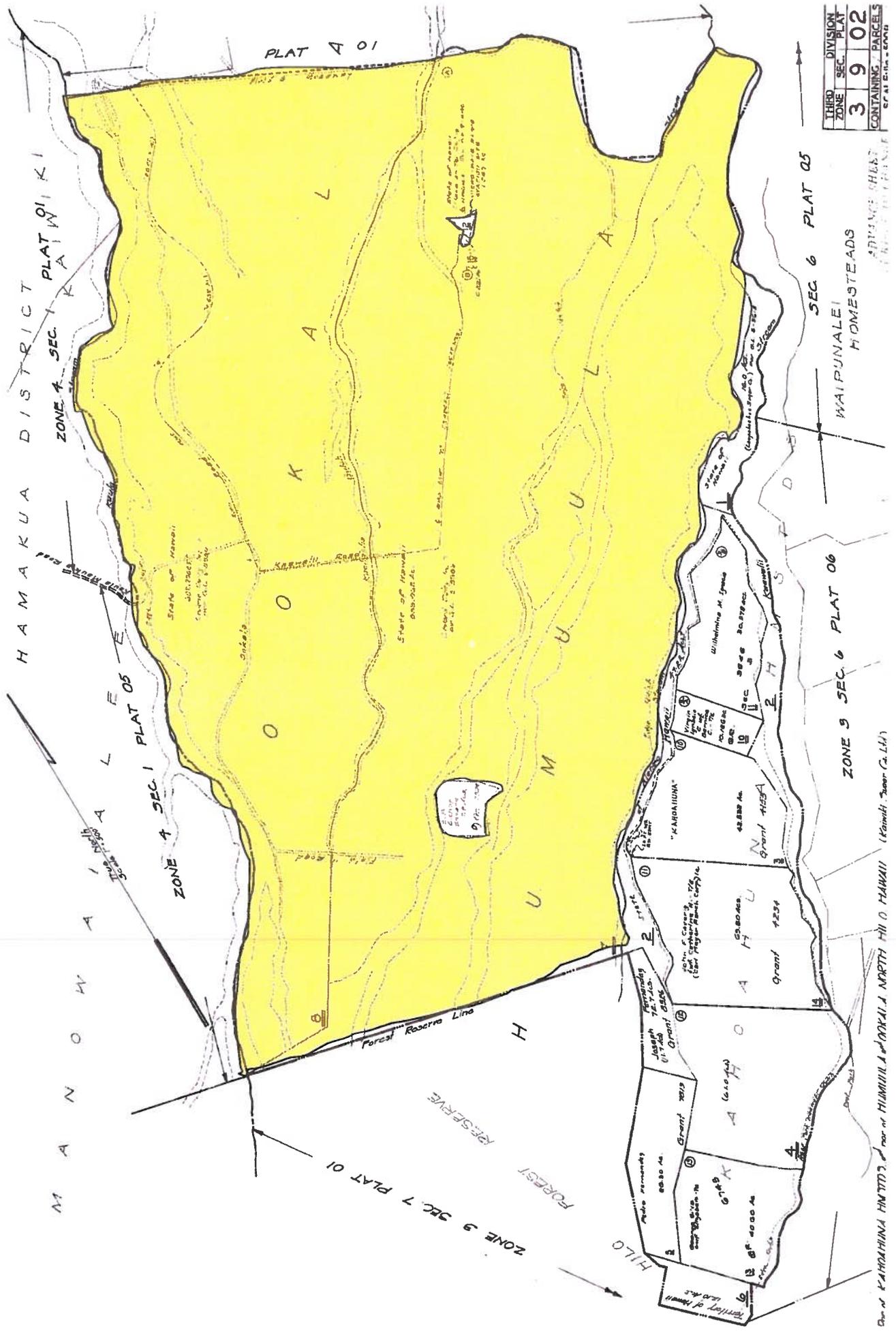
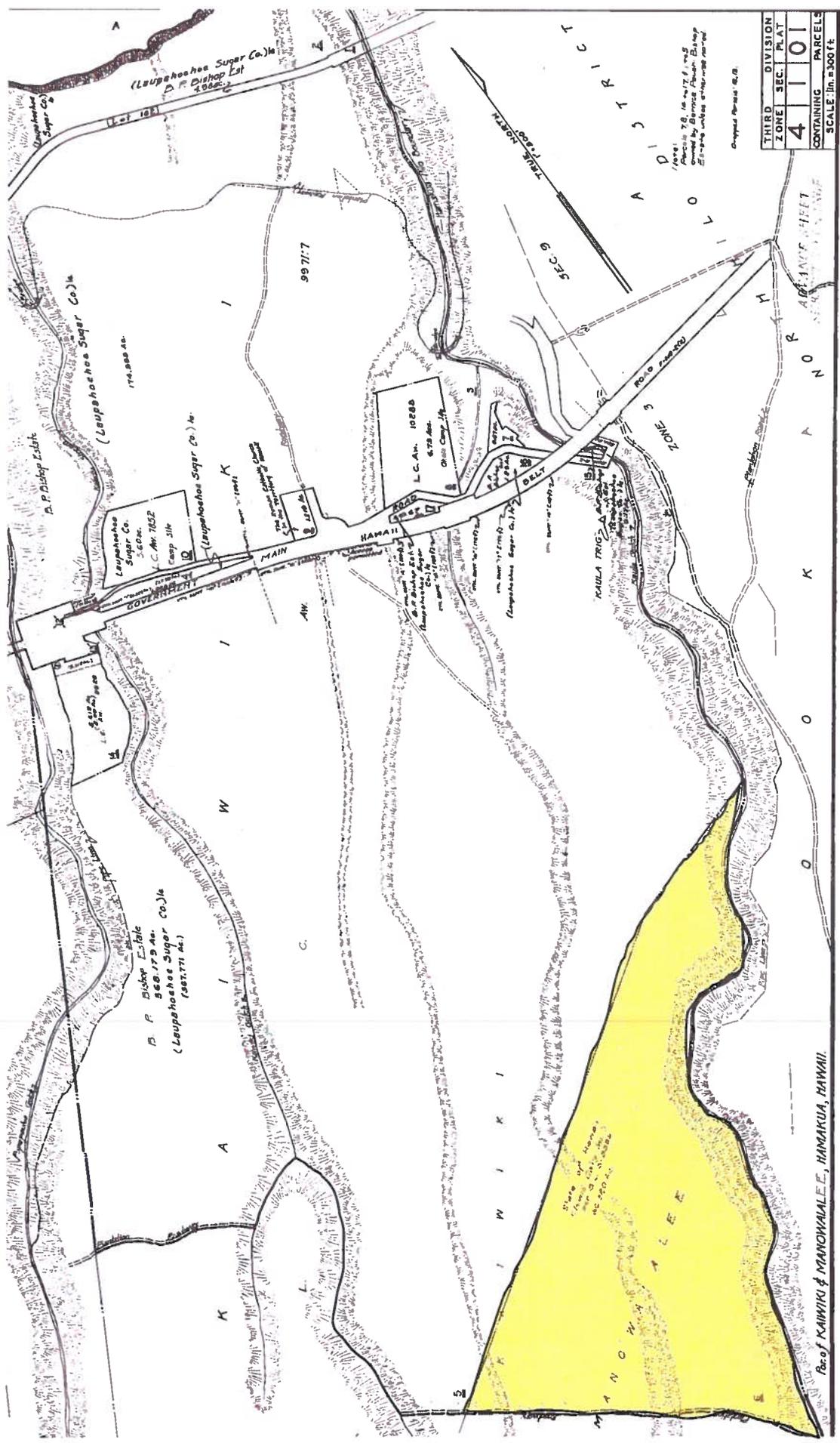


EXHIBIT A-3

TMK: 3rd/4-1-01:06



Part of KAIMUKI of MANOHALEE, MANAKUA, HAWAII.



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 12, 2011

MEMORANDUM

TO: William J. Aila, Jr., Chairperson
THROUGH: Russell Y. Tsuji, Division Administrator
FROM: Gordon C. Heit, Land Agent
SUBJECT: In-House Recommendation - Assignment of Lease Calculation

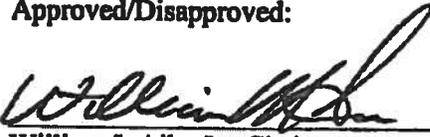
GL No.: S-5586
Lessee/Assignor: Island Dairy, Inc.
Assignee: Big Island Dairy, LLC
Location: Manowaialee and Ookala, North Hilo and Hamakua, Humuula, Parcel B situate at Humuula, North Hilo, Hawaii
Land Area: 2,081.08 acres more or less
Tax Map Key: 3rd/3-9-01:01 & 02, 3-9-02:07 & 08, 4-1-01:06 and 4-1-05:01
Char. of Use: Dairy and allied purposes

We have been requested to provide an in-house evaluation of the assignment premium due to the State for an assignment of GL S-5586 due to the acquisition of the assets of Island Dairy, Inc. by Big Island Dairy, LLC. A review of the lease documents and information provided by lessee was analyzed and staff applied the formula approved by the Land Board on December 15, 1989, agenda item F-10, comprising of the Assignment of Lease Evaluation Policy.

Net consideration		\$546,520
Actual improvement cost	\$1,653,480	
Adjusted improvement cost	\$2,258,822	
Trade fixture cost	\$0	
Total improvement and trade fixture cost	\$2,258,822	
Less depreciation (10 yr. lifespan)	(\$666,890)	
Depreciated value of improvements & fixtures	\$1,591,932	
Less adjusted improvement cost (inc. trade fixtures)		(\$1,591,932)
Excess		(\$1,045,412)
Premium % (11-15 years elapsed)		40%
Premium		(\$418,165)

Based on these calculations resulting in a negative premium calculation, the premium due the State is \$0.

Approved/Disapproved:

For


William J. Aila, Jr., Chairperson

10/21/11

Date

cc: District Branch Files
Central Files