

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

December 9, 2011

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

97HD-625

HAWAII

Amend Prior Board Action of October 23, 1981, Agenda Item F-3,
Direct Sale of Highway Remnants, Kaupulehu, North Kona,
Hawaii, Tax Map Key:(3) 7-2-05, 06, and 07: R-19, R-20, R-21,
R-23, R-24-A, R-24-B, R-26, R-27, R-28, R-29, and R-31.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes (HRS), as amended

BACKGROUND:

The subject Mamalahoa Highway remnants were created during the construction of the Honokohau to Kaupulehu portion of the Hawaii Belt Road (FAP No. F-10 (5)) in the late 1970s and early 1980s.

The Department of Transportation determined the remaining unused portions of Mamalahoa Highway were excess to its needs and available for sale as remnants to the owners of the abutting private properties.

Pursuant to Section 171-52(c), HRS, "...Any remnant or portion thereof shall be first offered for sale to the abutting owner..."

By letter dated May 29, 1981, Huehue Ranch aka Kona Coast Company and Foothill Land Corporation, et al (Huehue Ranch), through its attorney, indicated it was interested in acquiring the remnants that abut the Huehue Ranch lands. Huehue Ranch determined that its lands abutted eleven Mamalahoa Highway remnants. At its October 23, 1981, meeting, under agenda item F-3 (Exhibit A), the Board approved the sale of those eleven remnants to Huehue Ranch. It was later discovered that one of the remnants approved by the Board for sale to Huehue Ranch did not abut the ranch property, and therefore, was not available for purchase by Huehue Ranch.

Section 171-52(c), HRS, also requires that any remnant sold, when combined or consolidated with the abutting property, shall constitute a lot acceptable to the county in which the remnant is located. On May 14, 1984, and June 9, 1984, the County of Hawaii, Planning Department, granted final approval to the consolidation of the ten remnants with the abutting Huehue Ranch lands. Later, one of the remnants was subdivided into two lots.

The fair market value of the ten remnants, determined by independent appraisal to be \$8,323.00, was paid by Huehue Ranch on December 13, 1993.

Then on December 31, 1997, Kaloko Land Corporation (Kaloko), the successor to Huehue Ranch, sold to Makalei Hawaii Corp. (Makalei), a Hawaii corporation, portions of its ranch land that included five highway remnants previously consolidated with the ranch land but not yet conveyed to Kaloko by the State.

Kaloko requested the five remnants be conveyed by the State directly to Makalei. However, before the remnants could be conveyed Makalei was dissolved on January 26, 2005.

The north Kona land Makalei purchased from Kaloko is currently under the ownership of a company called GKK Makalei, LLC (GKK), a Delaware limited liability company.

By Quitclaim Deed dated June 23, 2011, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2011-10831, Kaloko conveyed all of its interest in the remaining six consolidated lots to Kukio Mauka, LLC (Kukio Mauka), a Hawaii limited liability company. Kaloko also conveyed to Kukio Mauka its adjoining lots by Warranty Deed also dated June 23, 2011, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2011-101830.

Thus, all six of the remaining consolidated lots are adjacent to lots now owned by Kukio Mauka. Kaloko has also requested the six remaining remnants be conveyed by the State directly to Kukio Mauka.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.

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

CHAPTER 343, HRS - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules Section 11-200-89(a)(1)(4), and Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the proposed action is exempt from the preparation of an environmental assessment, pursuant to Exemption Class No. 1, that states, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change beyond that previously existing." See Exhibit B.

REMARKS:

Since the Board's approval of the remnants sale on October 23, 1981, the following changes affecting the sale have occurred that require the Board's further approval.

1. The sale of land by Kaloko to Makalei resulted in remnant R-24 abutting both Kaloko and then owned Makalei lands. In order to accommodate both landowners R-24 was subdivided. Accordingly, R-24 should be deleted from agenda item F-3 and replaced with R-24-A and R-24-B.
2. Remnant R-26 acreage is incorrect and should be 0.489 acres.
3. Remnant R-30 does not abut Kukio Mauka-owned land, a requirement under Section 171-52, HRS, and should be deleted from agenda item F-3.
4. GKK is the current owner of the private lands abutting remnants R-19, R-20, R-21, R-23, and R-24-A, which have been legally consolidated with the private lands, a requirement under Section 171-52, HRS.

GKK is a Delaware limited liability company in good standing with the Department of Commerce and Consumer Affairs.

5. Kukio Mauka is the current owner of the private lands abutting remnants R-24-B, R-26, R-27, R-28, R-29, and R-31, which have been legally consolidated with the private lands, a requirement under Section 171-52, HRS.

Kukio Mauka is a Hawaii limited liability company in good standing with the Department of Commerce and Consumer Affairs.

All of the subject remnants are designated as Section 5(b) lands (ceded) in the Hawaii Admission Act. Section 10-3(1), HRS, provides for a pro-rata portion, presently 20%, of all funds derived from ceded lands by the State be held and used solely as a public trust for the betterment of conditions for native Hawaiians. It is the responsibility of the Office of Hawaiian Affairs (OHA) to address the needs of native Hawaiians. Accordingly, OHA's review of this agenda item was requested. OHA replied that it had no objection to the action proposed by this agenda item.

RECOMMENDATION:

That the Board amend its prior action of October 23, 1981, under agenda item F-3, as follows:

1. Delete R-24 and replace with R-24-A and R-24-B.
2. Change R-26 from 0.143 acres to 0.489 acres.
3. Delete R-30.
4. Change the Applicant and successor in interest for remnants R-19, R-20, R-21, R-23, and R-24-A to GKK Makalei, LLC, or its successor in interest to said remnants.

5. Change the Applicant and successor in interest for remnants R-24-B, R-26, R-27, R-28, R-29, and R-31 to Kukio Mauka, LLC.

Delete all under recommendation and replace with the following:

1. Find the subject highway remnants economically unsuitable for development as separate units by reason of their location, size and shape, and therefore, are remnants by definition, pursuant to Section 171-52, HRS.
2. Declare that, after considering the potential effects of the proposed disposition, as provided by Chapter 343, HRS, and Chapter 11-200, HAR, it will probably have minimal or no significant effect on the environment, and therefore, is exempt from the preparation of an environmental assessment.
3. Approve the direct sale of the subject remnants under the terms and conditions of agenda item F-3, as amended herein, of the Board's October 23, 1981, meeting.

Respectfully Submitted,



Gary Martin, Land Agent

APPROVED FOR SUBMITTAL:




William J. Aila, Jr., Chairperson



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P. O. BOX 621
HONOLULU, HAWAII 96809

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

October 23, 1981

Board of Land and
Natural Resources
Honolulu, Hawaii

Gentlemen: Direct Sale of Highway Remnants HAWAII
Situate North Kona, Hawaii

STATUTE: Chapter 171, Hawaii Revised Statutes

APPLICANT: Huehue Ranch (Kona Coast Co. & Foothill
Land Corporation), etal

FOR: The following listed remnants of the Hawaii
Belt Road, FAP No. F-10(5), Honokahau to
Kaupulehu, North Kona, Hawaii:

<u>Highway Parcel</u>	<u>Area</u>	<u>Tax Map Key</u>
R-19	0.538 acres	7-2-05:RW
R-20	0.710 acres	7-2-06:RW
R-21	0.113 acres	7-2-06:9
R-23	0.412 acres	7-2-06:RW
R-24	0.325 acres	7-2-07:RW
R-26	0.143 acres	7-2-07:RW
R-27	0.030 acres	7-2-07:RW
R-28	0.143 acres	7-2-07:RW
R-29	0.283 acres	7-2-07:RW
R-30	0.211 acres	7-2-07:RW
R-31	0.090 acres	7-2-07:RW

ZONING: County of Hawaii: Open/Agriculture
Land Use Commission: Conservation

APPRAISED VALUE: To be determined by an independent appraisal,
same subject to the review and approval of the
Chairman.

PRESENT USE: Abandoned Roadway

REMARKS: The Department of Transportation has determined
that the subject remnant parcels are surplus
to highway needs and available for purchase.

RECOMMENDATIONS: That the Board:

1. Find the mentioned parcels as unsuitable
for development as separate units because
of size and shape and are remnants by
definition.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
OCT 23 1981

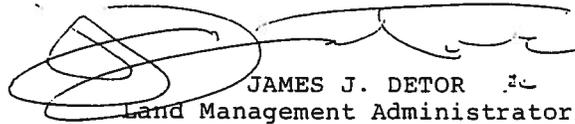
ITEM F-3

EXHIBIT " A "

October 23, 1981

2. Approve the direct sale of the subject remnants under the terms and conditions above listed which are by reference incorporated herein in addition to the following terms and conditions:
 - a. Payment to be in cash or under such payment plan as the Chairman may deem advisable.
 - b. That the purchaser shall consolidate the remnants with his abutting property and that the use and/or subdivision thereof, whether in combination, consolidation, or otherwise with other lands shall be in accordance with the appropriate zoning and subdivision ordinances of the County of Hawaii.
3. Other terms and conditions deemed necessary by the Chairman.

Respectfully submitted,



JAMES J. DETOR
Land Management Administrator

APPROVED FOR SUBMITTAL:



SUSUMU ONO, Chairman

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
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WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

December 9, 2011

EXEMPTION NOTIFICATION

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

Project Title: Amend Prior Board Action of October 23, 1981, Agenda Item F-3, Direct Sale of Highway Easements , Kaupulehu, North Kona, Hawaii, Tax Map Key: (3) 7-2-05, 06 and 07: R-19, R-20, R-21, R-23, R-24A, R-24B, R-26, R-27, R-28, R-29, and R-31.

Project Reference No.: 97HD-625

Project Location: Kaupulehu, North Kona, Hawaii

Project Description: Amend prior board action.

Chapter 343 Trigger(s): Sale of State-owned highway remnants.

Exemption Class No.: In accordance with Hawaii Administrative Rules, Section 11-200-8(A), the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No, 1, that states: "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change beyond that previously existing.

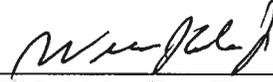
Consulted Parties: Department of Transportation, Highways Division

This proposed exemption applies, as this action is a transfer of the subject lands' title interest. The current use of the land is authorized and the consolidation of the remnants with the Applicant's private property is not expected to cause adverse environmental impacts. The transfer of the State's title interest in the subject lands are not part of a multi phase project and no significant cumulative impacts are expected.

EXHIBIT " B "

Recommendation:

It is anticipated this action will probably have minimal or no significant effect on the environment and the Board is recommended to declare this transfer of title interest to be exempt from the preparation of an environmental assessment.



WILLIAM J. AILA, JR.
Chairperson



11/25/11

Date