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

PSF No: 10MD-037
Maui

Rescind Prior Board Action of July 8, 2011, Item D-6, for the Issuance of a Revocable Permit to Eric Miller for Pasture Purposes, Waiohonu-Kakio, Hana, Maui, Tax Map Key: (2) 1-4-012:003.

BACKGROUND:

Eric Miller submitted an application for the use of the subject State land on April 22, 2009. He expressed an interest in pasturing a few horses on the property if it became available. However, at that time the parcel was already encumbered by Revocable Permit number S-7140 to Mrs. Margot Dippert for pasture purposes.

On February 12, 2010, Margot Dippert's permit was cancelled, due to failure to comply with the permit's designated character of use. Once the cancellation process was completed, Eric Miller was contacted and asked if he was still interested in obtaining a disposition with the State. Miller advised staff that he wanted to precede with the permit.

By Land Board action of July 8, 2011, under Item D-6, Eric Miller received approval for a revocable permit. After being informed of the Board's approval, Mr. Miller informed staff that it would not be feasible to move forward with his initial request due to insurance cost, rent and property upkeep considerations. Staff is therefore requesting a rescind action.

RECOMMENDATION: That the Board:

1. Rescind the prior Board action of July 8, 2011, under agenda item D-6.

Respectfully Submitted,

Larry Pacheco, Land Agent

APPROVED FOR SUBMITTAL:

William J. Aila, Jr., Chairperson

D-6

STATE OF HAWAII
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July 8, 2011

Board of Land and Natural Resources
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Issuance of Revocable Permit to Eric Miller for Pasture Purposes, Waiohonu –Kakio, Hana, Maui, Tax Map Key: (2) 1-4-012:003.

APPLICANT:

Eric Miller, Husband of Kalai K. Miller, as Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Waiohonu-Kakio situated at Hana, Maui identified by Tax Map Key: (2) 1-4-012:003, as shown on the attached map labeled Exhibit A.

AREA:

1.84 acres, more or less.

ZONING:

State Land Use District: Rural
County of Maui CZO: Interim

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES __ NO X

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
July 8, 2011

EXHIBIT A

D-6

CURRENT USE STATUS:

Vacant and unencumbered.

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:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request 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 of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

DCCA VERIFICATION:

Applicant is not operating a business and, as such, is not required to register with DCCA.

BACKGROUND:

The subject property was previously encumbered by General Lease No. 3518 to Mr. Decker McAllister for pasture purposes from April 25, 1955 to April 24, 1970. Subsequently, the Land Board at its meeting on May 22, 1970 authorized the issuance of Revocable Permit No. 4506 to Mr. McAllister from April 25, 1970 to September 30, 1995. Monthly rent was $10.00 The Land Board at its meeting on September 13, 1985, under agenda Item F-1-a, authorized the issuance of Revocable Permit No. S-6241 to Mrs. Martha R. McAllister, for pasture purposes from October 1, 1985 to September 30, 1996. Monthly rent was $30.00

The Land Board at its meeting on September 13, 1996, under agenda Item D-10, authorized the issuance of Revocable Permit No. S-7140 to Mrs. Margot Dippert for pasture purposes, commencing October 1, 1996. Mrs. McAllister passed away on December 13, 1993. Mrs. McAllister's granddaughter, Mrs. Margot Dippert, requested that the subject permit be cancelled and a new permit be issued to her for the continued use of the area. Monthly rent was $13.00

During a March 6, 2007 site inspection of the permit area, it was discovered that no animals were being pastured on the subject property. Mrs. Dippert was advised via letter dated September 11, 2007 of her non-compliance with her permit's requirement to pasture animals. Follow-up inspections were conducted which resulted in no change and also a grading and grubbing violation of the area, where no permits or authorizations from any government agency had been obtained. Due to Mrs. Dippert's failure to cure the deficiencies pointed out with regard to her permit, on February 12, 2010, Revocable Permit No. S-7140 was terminated.

REMARKS:

Historically the subject lands have been used for pasture purposes, which is allowable under both the State and County zoning. Staff confirms off of Hana Highway there is a dirt road leading to the State property.

Mr. Miller 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.

Mr. Miller has indicated that he has raised horses for over twenty years. He has also raised steers (beef) for family consumption. He and his family are longtime members of the 4-H program.

A month-to-month revocable permit is being requested at this time to allow for immediate occupancy of the State property to help with preventing it from overgrowth by pasture grasses or any other invasive weeds and trees. At this time a long-term disposition is not appropriate.

AGENCY COMMENTS:

Comments was solicited from the following agencies:

Agency	Comments
DLNR – Historic Preservation	No comment received
County of Maui – Planning	No comment response
County of Maui – Public Works	No comment response

Office of Hawaiian Affairs	No objections
Office of Conservation & Coastal Lands	No objections

The proposed use of this property has been continuous and will continue in this rural location. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

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 Eric Miller 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. 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,

Charlene E. Unoki

for Larry Pacheco, Land Agent

APPROVED FOR SUBMITTAL:

William J. Aila, Jr., Chairperson