

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

Issuance of Revocable Permit to Charles Gale for Pasture Purposes, Waiohonu-Kakio, Hana, Maui, Tax Map Key: (2) 1-4-012:003.

APPLICANT:

Charles Gale, Husband of Gretchen Gale, 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

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:

Staff is recommending a monthly rent of \$40.00 (minimum). Rent determination is based on similar existing month-to-month dispositions with the same character of use.

Revocable Permits:

S-7608	William Jacintho	25.077 acres	\$40.00 monthly rent
S-5285	Hana Ranch Inc.	26.07 acres	\$20.00 monthly rent
S-7730	Terrence Sullivan	2.3 acres	\$13.00 monthly rent

The above month-to-month revocable permits have been issued for pasture purposes and are all located within the Hana / Kipahulu areas of east Maui.

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.

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

REMARKS:

Historically the subject lands have been used for pasture purposes, which is allowable under both the State and County zoning. Staff confirmed that off of Hana Highway there is a dirt road leading to the State property, which could allow for additional access to the subject parcel if needed.

Mr. Gale recently purchased the adjacent property that borders the subject State parcel at TMK: (2) 1-4-012:005. Gale has expressed an interest in obtaining a disposition for the use of this area since purchasing his new property, but due to an earlier request by Mr. Eric Miller who had obtained Board approval but was never issued a permit, staff was unable to work towards a disposition for Mr. Gale. Upon being notified by Mr. Miller that he was no

longer interested in utilizing the property, staff contacted Mr. Gale to inquire if he was still interested in utilizing the area. Mr. Gale acknowledged that he still had an interest and would like to work towards obtaining a disposition.

Mr. Gale has indicated that he and his wife has some experience with raising and caring for horses and cattle. He also stated that he will be consulting with and utilizing the experience of Mr. Walt Yecknich, who is a very experienced cattle rancher in east Maui, to help with determining carrying capacity and any other concerns that may arise.

At this time Mr. Gale's intent is to place two Angus calves on the parcel for continuous grazing of both his property and the additional State parcel if allowed to do so.

Mr. Gale 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.

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 response
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 Charles Gale 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. Approve rental of \$40.00, (minimum rent) as recommended by staff.
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Larry Pacheco, Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 15, 2011

EXEMPTION NOTIFICATION

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

Project Title: Charles Gale

Project / Reference No.: PSF#11MD-037

Project Location: Waiohonu-Kakio, Hana, Maui

Project Description: Month-to-Month Revocable Permit for Pasture Purposes.

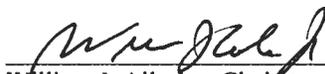
Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: In accordance with the Department of Land and Natural Resources Department-wide Exemption List, approved by the Environmental Council and dated December 4, 1991, 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 of use beyond that previously existing [HAR. 11-200-8-(a)(1)].

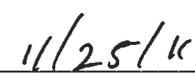
Consulted Parties: None

There will be no change in use from which previously existed. Pasturing of animals at this site has been taking place for over ten years.

Recommendation: It is anticipated this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



 William J. Aila Jr., Chairperson



 Date