

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

January 11, 2013

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

Kauai

Cancellation of Revocable Permit No. S-7671 to Jeannett Virginia Martins and Request for Waiver of Level One (1) Hazardous Waste Evaluation Requirement, Kapaa Homesteads, Kawaihau, Kauai, Tax Map Key: (4) 4-6-006:028 and 029.

PURPOSE:

Cancellation of Revocable Permit No. S-7671 to Jeannett Virginia Martins and Waiver of Level One (1) Hazardous Waste Evaluation Requirement.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kawaihau situated at por. Kapaa Homesteads, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-006:028 and 029, as shown on the attached map labeled Exhibit A.

AREA:

- (4) 4-6-006:028 – 5.670 acres, more or less.
- (4) 4-6-006:029 – 3.500 acres, more or less.

ZONING:

State Land Use District:	Agriculture
County of Kauai CZO:	Agriculture & Open District "O"

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Revocable Permit No. S-7671

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

June 1, 2011.

MONTHLY RENTAL:

\$146.00 per month.

REMARKS:

On February 1, 2004, Revocable Permit No. S-7300 was issued to Jeanett Virginia Martins for pasture purposes on Lot 62, Kapaa Homesteads, First Series, Kawaihau (Puna), Kauai, Tax Map Key: (4) 4-6-006: 28 and 29.

In 2011, Land Division, with the assistance of the Department of the Attorney General, revised its revocable permit template. As a result, Revocable Permit No. S-7300 was cancelled and a new revocable permit was prepared.

Revocable Permit No. S-7671 was issued to Jeannett Virginia Martins effective June 1, 2011, for pasture purposes. Included in the terms of this agreement was a requirement for execution of a Level One (1) Hazardous Waste Evaluation and complete abatement and disposal (if necessary) prior to termination of the subject permit under section B – additional conditions no. 14.

On October 1, 2012 the Kauai District Land office received a request from Ms. Martins to terminate Revocable Permit No. S-7671, labeled Exhibit 'B'. Staff notified the tenant of condition no. 14 requiring the waste evaluation. Ms. Martins expressed her concerns that due to economic constraints, she would not be able to afford the extremely high cost to conduct a

Level One (1) Evaluation and also stated that the property has only been used for pasture purposes and at no time was there any use of heavy equipment or chemicals on the property.

A final inspection of the property was conducted on November 13, 2012 at which time the premises was found to be clean with no trash or abandoned property. Refer to Exhibit 'C', inspection report.

Therefore, based on the pasture character of use in the revocable permit, the statements of the permittee, and findings at the time of the final inspection, staff agrees that the Level One (1) Hazard Waste Evaluation should be waived. Staff is also requesting the cancellation of the Permit effective November 1, 2012, which is 30 days after the date of Ms. Martins' termination request.

RECOMMENDATION: That the Board:

1. Authorize the cancellation of Revocable Permit No. S-7671 per the request of the permittee in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under Revocable Permit No. S-7671 to be applied to any past due amounts;
3. Terminate the permit and all rights of Permittee and all obligations of the Permittee effective as of November 1, 2012, provided that any and all obligations of the Permittee which have accrued up to said effective date or which are stated in the permit to survive cancellation shall endure past such cancellation date until duly fulfilled, and further provided that Permitter reserves all other rights and claims allowed by law;
4. Authorize the Department of Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Revocable Permit No. S-7671 and to pursue all other rights and remedies as appropriate; and

5. Waive requirement for a Level One (1) Hazardous Waste Evaluation.

Respectfully Submitted,



Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



October 1, 2012

DLNR
Kauai Land Division
3060 Ewa Street, room 208
Lihue, Hawaii 96766

Marvin Mikasa,

As per our phone conversation, I am requesting termination of my Revocable Permit #7671 on TMK: (4) 4-6-06:28 & 29.

This parcel has been in the family since 1995. Since my father passed away in 2000 and my brother gave up farming in 2004, I have been trying to raise cattle and teach and work my other part-time job, besides being a parent.

With the hard economic times and costs rising, it has come to the point where I have to cancel this particular parcel and concentrate on the lease portion only. I am also requesting that due to the economic constraints currently, I can't afford to conduct a Phase 1 Evaluation. I feel it not necessary as I never used any heavy equipment or fertilizers or pesticides on the property.

If I can recommend my helper and family friend - Lorrin Awohi to lease this property. He has the experience and passion to raising cattle.

Thank you for everything.

Mahalo,

A handwritten signature in cursive script, appearing to read "J. M. M.", written in black ink.

EXHIBIT "B"

INSPECTION REPORT
Pasture

FINAL INSPECTION

General Information

Document Number: RPS 7671

Character of Use Pasture

Inspection Date: November 13, 2012

Inspection Time: 2:00pm

Land Agent: Marvin Mikasa

TENANT INFORMATION

Name: Jeannett Virginia Martins

Home Phone: _____

Address: _____

Business Phone: _____

Kapaa, Hawaii 96746

Fax: _____

Contact Person: Jeannett Virginia Martins

Contact Phone: _____

SITE INFORMATION

TMK: (4) 4-6-006:028

Area: 5.670 acres

TMK: (4) 4-6-006:029

Area: 3.500 acres

Site Address: TMK: (4) 4-6-006:028 – cr Waiakea / Kahuna Road

TMK: (4) 4-6-006:029 – Kahuna Road

FISCAL INFORMATION

ITEM	NOT APPLICABLE	CURRENT = COMPLIANCE	DEFAULT = NON-COMPLIANCE
Rent		X	
Liability Insurance		X	
Fire Insurance	X		
Bond	X		
Mortgage	X		

ANNUAL INSPECTION REPORT
Intensive Ag/Special Livestock/Pasture/Commercial Timber

File Review

LICENSES/PERMITS/CONSENTS

ITEM	DLNR Approval Docs in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Removal of Minerals/Waters	X			
Prehistoric/Historic Remains	X			
Cutting/Removal of Trees	X			
Hazardous Material Storage/Use	X			
Subletting	X			attach list or map if applicable
Improvement Construction Buildings	X			note deadlines for % completion
Improvement Construction Other structures	X			note deadlines for % completion
Conservation Plan		X		review plan, using same master plan when assigned to GL S-5484.

Field Inspection

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Subletting	consents approved use adheres to lease purpose	X			
Buildings / Residences: roof, paint, exterior, interior	clean, sanitary, orderly suitable & well maintained DLNR construction consent adheres to completion schedule *check for hazardous materials	X			prior improvements need to be maintained by current tenant
Structures: roads, walkways, fence lines, pipelines, others	cross check w/ conservation plan clean, sanitary, orderly well maintained adheres to completion schedule *check for hazardous materials		X		Parcel fenced, well maintained. No hazardous materials.
Conservation Plan: conservation structures and plantings	adheres to plan map & schedule well maintained		X		refer to SWCD if plan application & maintenance not in compliance

Premises	clean, sanitary, orderly		X		
Hazardous Material Storage / Use	controlled and adheres to consent	X			
Character of Use	adheres to lease purpose		X		
Phase I Environmental Site Inspection	as required in General Lease or Revocable Permit	X			No equipment was stored on property and no storage buildings, etc. on-site. No fertilizers or pesticides were used.
Other					

Note: Parcels 7, 20, 31, 43, 47
shown on the Grant of Hawaii
under other-wise shown

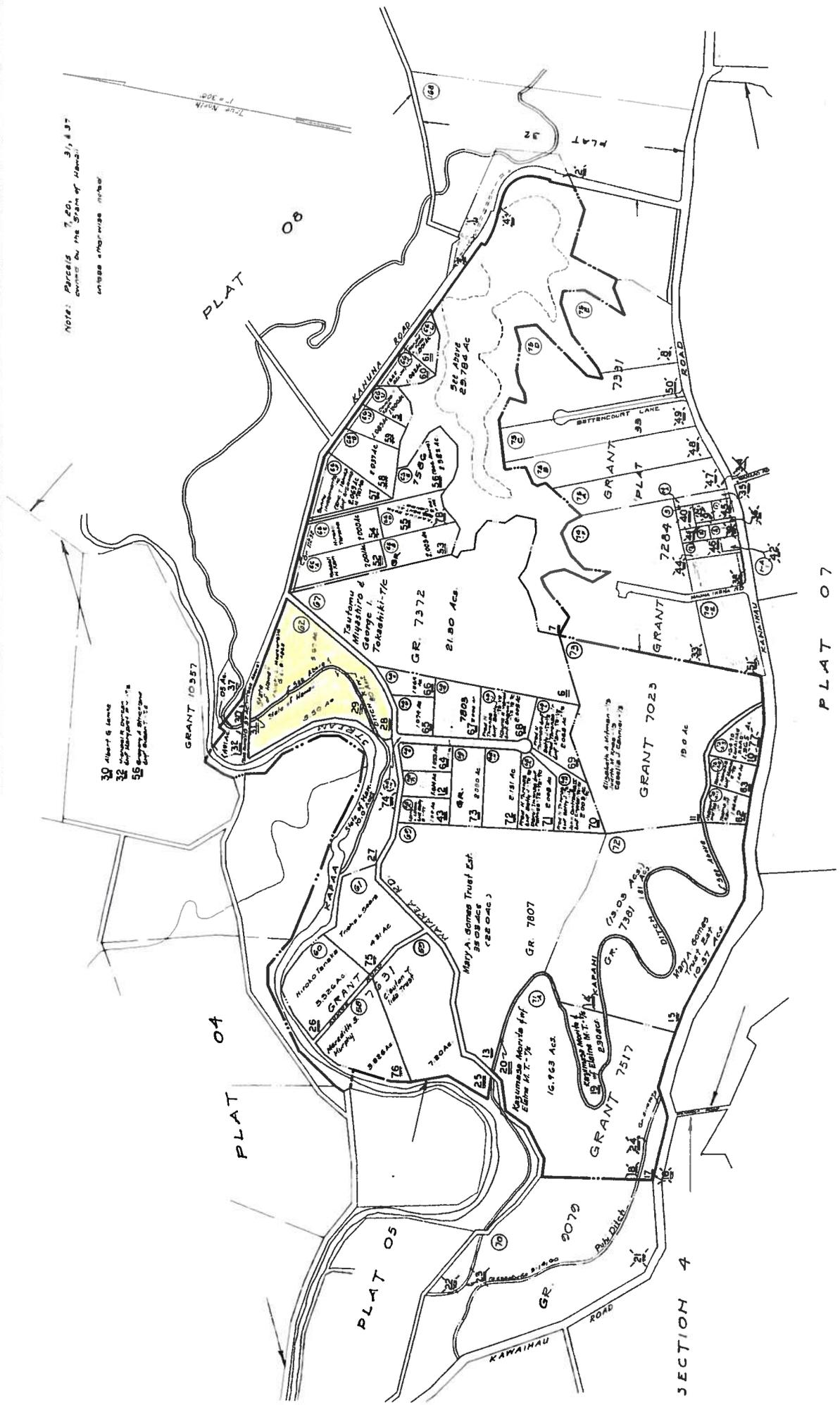
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TAXATION MAPS BUREAU
TERRITORY OF HAWAII
TAX MAP
FOURTH DIVISION
ZONE SEC. PLAT
4 6 06
CONTAINING PARCELS
Scale 1 in. = 300 Ft.

PRINTED

SUBJECT TO CHANGE

50
Estate of Alice F. Cannon
Eugene J. Cannon, Jr. & Co.



PLAT 07

PLAT 08

PLAT 04

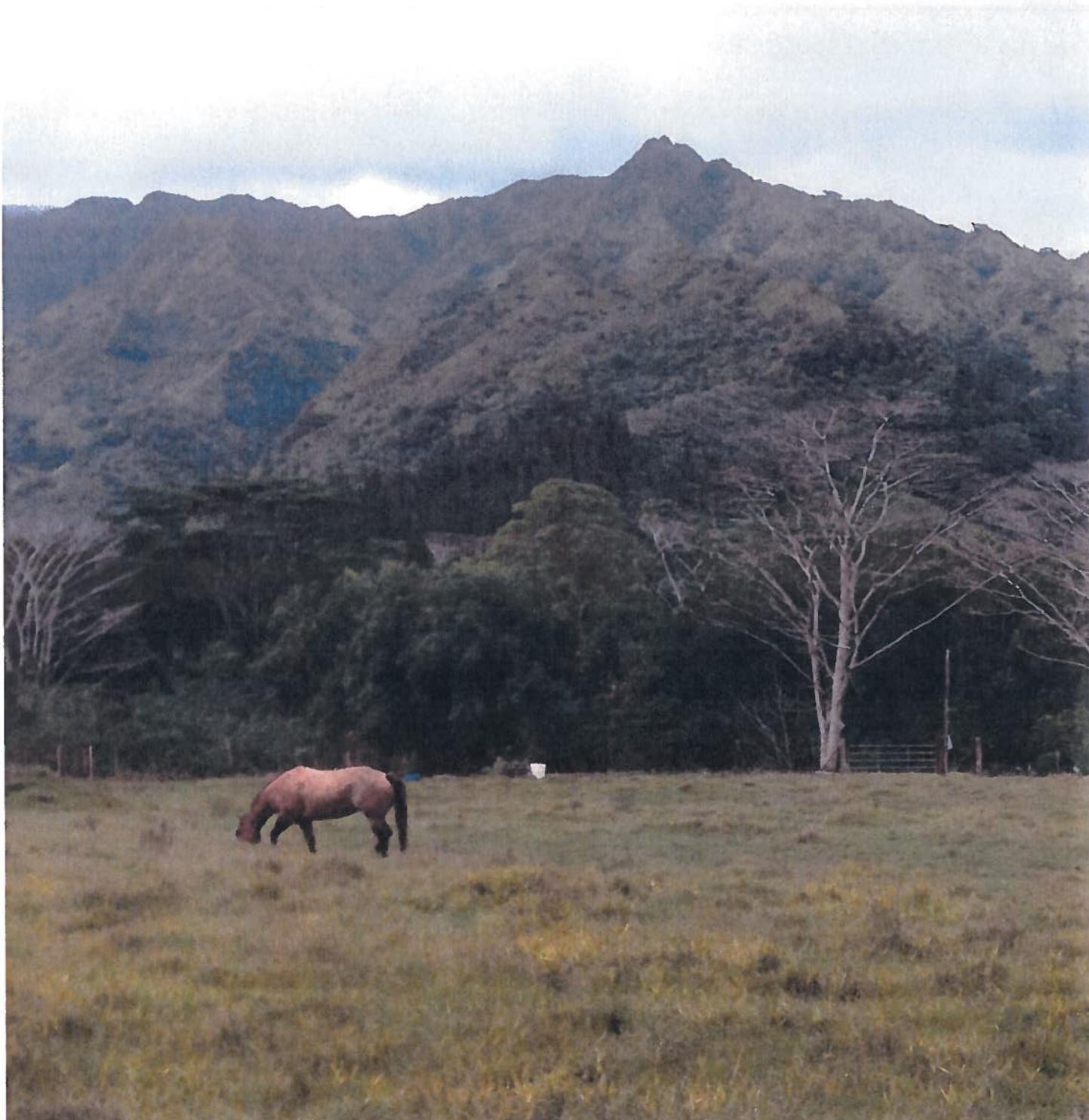
PLAT 05

SECTION 4

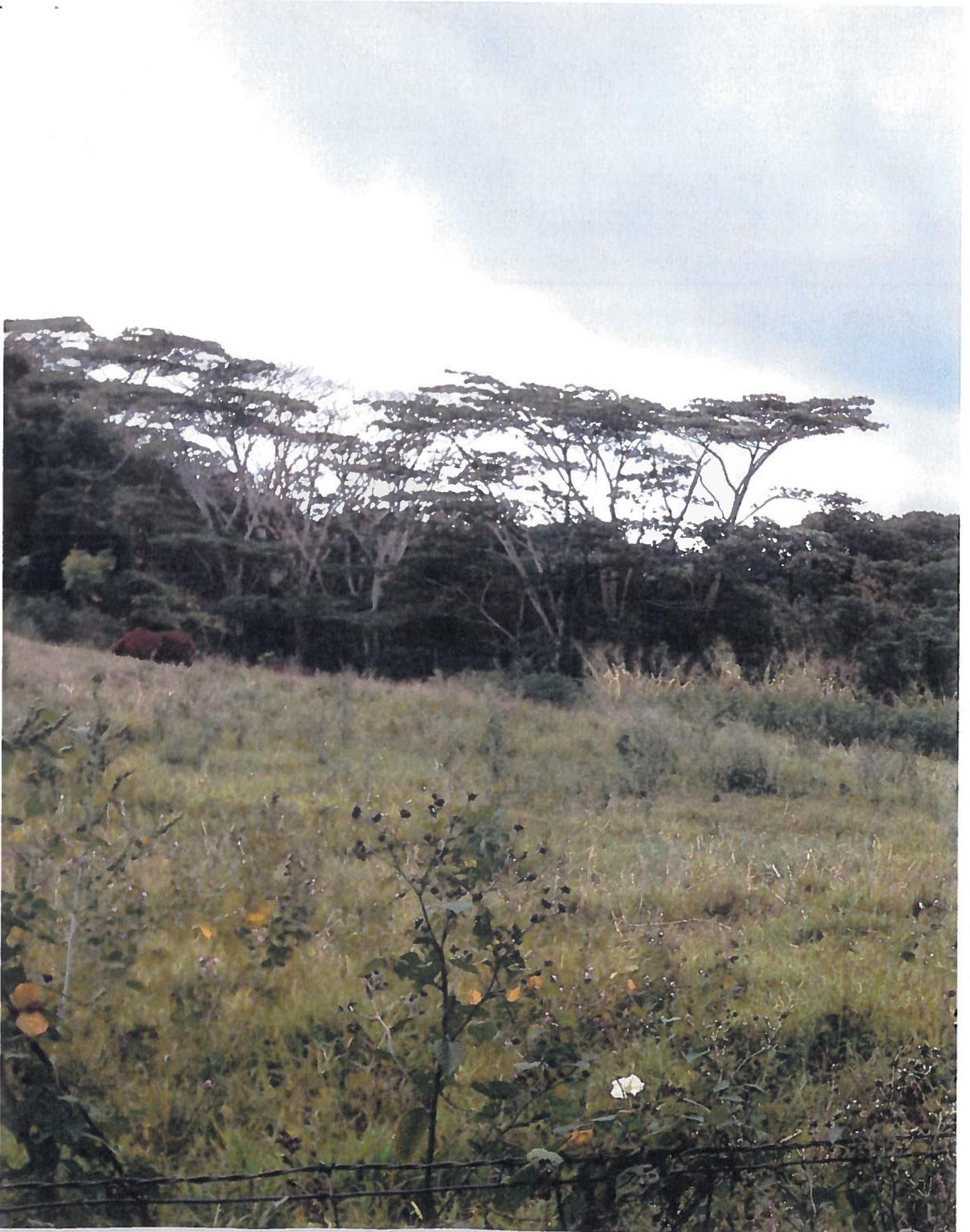
OMESTEADS, FIRST SERIES, KAWAIIHOU, KAUAI



TK: (4) 4-6-006:028



TMIK (A) 4-6-006:028



TMK: (A) 4-6-006: 029



Tmk! (4) 4-6-006:029