

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

February 22, 2012

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

PSF No: 10KD-008
11KD-003
Kauai

Amend Prior Board Action of October 28, 2011 Item D-7 (Authorize the Cancellation of Revocable Permit No. S-6842 for Sugar Cultivation and Pasture Purposes to Gay and Robinson, Inc., Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-8-006:2, (4) 1-8-006:3, (4) 1-8-007:10 and (4) 1-8-008:20 and Authorize Issuance of Revocable Permit for Diversified Agriculture and Pasture Purposes to Gay & Robinson, Inc., Hanapepe, Waimea, Kauai, Tax Map Keys:(4) 1-8-006:002, (4) 1-8-007: 010 and (4) 1-8-008:020.) The Purpose of the Amendment is to clarify that 6 acres have been removed from (4) 1-8-008:020 and change language regarding determination of monthly rental.

BACKGROUND:

At its meeting of April 8, 1994, Item F-6, Board of Land and Natural Resources approved the issuance of a revocable permit to Gay & Robinson, Inc. for sugar cultivation and pasture purposes. Revocable Permit No. S-6842 (RP S-6842) was thereafter issued on April 16, 1994. The permit covered four parcels: Tax Map Keys: (4) 1-8-006:2, (4) 1-8-006:3 (Parcel 3), (4) 1-8-007:10 and (4) 1-8-008:20 (Parcel 20).

At its meeting of October 28, 1994, Item H-6, the Board approved the conveyance of Parcel 3 to the Department of Hawaiian Home Lands (DHHL) as part of the State's 16,518 acre land settlement with that agency. Title to Parcel 3 was transferred to DHHL on January 2, 2002 by Land Patent Grant No. 15,951. However, the parcel continued to be encumbered by RP S-6842.

At its meeting of October 28, 2011, Item D-7, the Board authorized the cancellation of RP S-6842 and issuance of a new revocable permit to Gay & Robinson, Inc. deleting Parcel 3 from the permit premises. A copy of the submittal is attached as Exhibit A. The documentation of the cancellation and reissuance of the permit has not yet occurred.

On January 13, 2012 under Item D-1 the Board approved the set-aside of

a 6-acre portion of Parcel 20 to the County of Kauai as an addition to the County Veterans Cemetery managed under Governor's Executive Order 1390. A copy of the submittal is attached as Exhibit B. The Board required the County of Kauai to satisfy the subdivision requirements necessary for the set-aside and addition to Veterans Cemetery.

REMARKS:

In processing the documents for the set-aside of the 6-acre portion of Parcel 20 to the County of Kauai for the cemetery addition, the Department of the Attorney General has instructed staff to cancel RP S-6842 as to those 6 acres. The process to consolidate the 6 acres into the cemetery requires that the land be unencumbered.

As discussed above, the Board already approved the cancelation of RP S-6842 and issuance of a new revocable permit. Staff recommends below that the Board's prior action be amended to clarify that the new permit shall reflect that Parcel 20 has been reduced by 6 acres from 379.06 acres to 373.06 acres.

The Board submittal also recommends that Monthly Rental be determined by staff appraiser. At this time Land Division does not have a staff appraiser. Staff recommends that the Board amend the Monthly Rental provision to read as follows:

To be determined by independent appraisal or by staff,
subject to review and approval by the Chairperson.

The cancelation and issuance of a new Revocable Permit has been precipitated by the reduction of acreage at the request of DHHL and the County of Kauai. It may not be equitable to impose an appraisal fee on Gay & Robinson, Inc. for the issuance of the new Permit since its current permit was canceled for administrative purposes.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of October 28, 2011 under agenda item D-7 by:
 - a. clarifying that six (6) acres of TMK (4) 1-8-008:020 will be subdivided out of the parcel prior to the issuance of a new Revocable Permit to Gay & Robinson, Inc.
 - b. changing the Monthly Rental provision to read as

follows:

MONTHLY RENTAL

To be determined by independent appraisal or by
staff, subject to review and approval by the
Chairperson.

2. All terms and conditions listed in its October 28, 2011 approval to remain the same.

Respectfully Submitted,



Milo Spindt
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

D-7

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

October 28, 2011

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

Kauai

Authorize the Cancellation of Revocable Permit No. S-6842 for Sugar Cultivation and Pasture Purposes to Gay and Robinson, Inc., Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-8-006:002, (4) 1-8-007:003, (4) 1-8-007:010 and (4) 1-8-008:020 and Authorize Issuance of Revocable Permit for Diversified Agriculture and Pasture Purposes to Gay & Robinson, Inc., Hanapepe, Waimea, Kauai, Tax Map Key:(4) 1-8-006:002, (4) 1-8-007: 010 and (4) 1-8-008:020.

APPLICANT:

Gay & Robinson, Inc., a business corporation, whose business and mailing address is P.O. Box 156, Kaunakani, Hawaii, 96747.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Hanapepe, situated at Hanapepe, Kauai, Kauai, identified by Tax Map Keys:(4) 1-8-006:02, (4) 1-8-007:10 and (4) 1-8-008:20, as shown on the attached map, labeled Exhibit A.

SUBJECT AREA:

473.84 acres, more or less - TMK:(4) 1-8-006:002
576.91 acres, more or less - TMK:(4) 1-8-007: 010
379.060 acres, more or less - TMK:(4) 1-8-008: 020

Total Area: 1429.81 acres more or less

ZONING:

State Land Use District: Agriculture
County of Kauai CZO: Agriculture

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

DN
October 28, 2011

D-7
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

CURRENT USE STATUS:

Tax Map Key: (4) 1-8-006:002

Encumbered by Revocable Permit No. S-6842, Gay & Robinson, Inc., Lessee, for sugar cane cultivation and pasture purposes. Revocable Permit is a month to month lease.

Encumbered by Executive Order No. 973 to the Board of Supervisors of the County of Kauai for pipeline right-of-way and electric transmission line right-of-way for the Hanapepe Water Works System.

Tax Map Key: (4) 1-8-007:10

Encumbered by Revocable Permit No. S-6842, Gay & Robinson, Inc., Lessee, for sugar cane cultivation and pasture purposes. Revocable Permit is a month to month lease.

Encumbered by Executive Order No. 0973, Board of Water Supply, County of Kauai, for water line and electrical line purposes.

Tax Map Key: (4) 1-8-008:20

Encumbered by Revocable Permit No. S-6842, Gay & Robinson, Inc., Lessee, for sugar cane cultivation and pasture purposes. Revocable Permit is a month to month lease.

CURRENT CHARACTER OF USE:

Sugar cane cultivation and pasture purposes.

NEW CHARACTER OF USE:

Diversified agriculture and 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 the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, 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 4 that states "Minor alterations in the conditions of land, water or vegetation." Exemption Notice attached as Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed: YES
Registered business name confirmed: YES
Applicant in good standing confirmed: YES

REMARKS:

At its meeting on April 8th, 1994, under Agenda Item F-6, the Board of Land and Natural Resources approved the issuance of Revocable Permit S-6842 (attached as Exhibit C) to Gay and Robinson, Inc, for sugar cane cultivation and pasture purposes. RP S-6842 encumbers the parcels identified as Tax Map Key Nos. (4) 1-8-006:002, (4) 1-8-007:003 and 010 and (4) 1-8-008:020. These parcels were previously encumbered by RP S-6627 to Olokele Sugar Company Ltd for the same purposes. Olokele Sugar Company Ltd. was subsequently sold to Gay and Robinson, Inc., which necessitated the cancellation of RP S-6627 and the issuance of the new revocable permit to Gay and Robinson, Inc. as Olokele Sugar Company Ltd.'s successor in interest.

Revocable Permit S-6627 erroneously included Tax Map Key No.: (4) 1-8-006:003 under the permit rather than the intended parcel, Tax Map Key No.: (4) 1-8-007:003. This error was again repeated in the drafting of the current RP S-6842. The parcel identified as Tax Map Key No.: (4) 1-8-006:003 is currently encumbered by another revocable permit to a different tenant. However, in practice, both the Department and the permittee have considered Tax Map Key No.: (4) 1-8-007:003 to be included in RP S-6842.

Furthermore, Tax Map Key No.: (4) 1-8-007: 003, was included as part of the 16,518 acres approved for transfer and conveyance in fee simple title to Department of Hawaiian Homelands by the Board of land and Natural Resources on October 28, 1994. Title to the parcel was transferred to DHHL via Land Patent Grant 15951, executed on January 2, 2002. However, this parcel remains currently encumbered under Revocable Permit S-

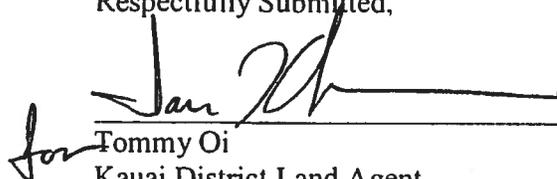
6842.

Given the factors referenced above, the Board is requested to authorize the cancellation of RP S-6842 and authorize the issuance of a new revocable permit to Gay and Robinson, Inc. for parcels identified as Tax Map Key Nos.: (4) 1-8-006:002, (4) 1-8-007:010 and (4) 1-8-008:020, for the purposes of diversified agriculture and pasture purposes, and exclude the parcel identified at Tax Map Key No.: (4) 1-8-007:003.

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 cancellation of Revocable Permit No. S-6842 to Gay and Robinson, Inc., for sugar cultivation and pasture purposes.
3. Authorize the issuance of a revocable permit to Gay and Robinson, Inc. covering the subject area for diversified agriculture and 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,



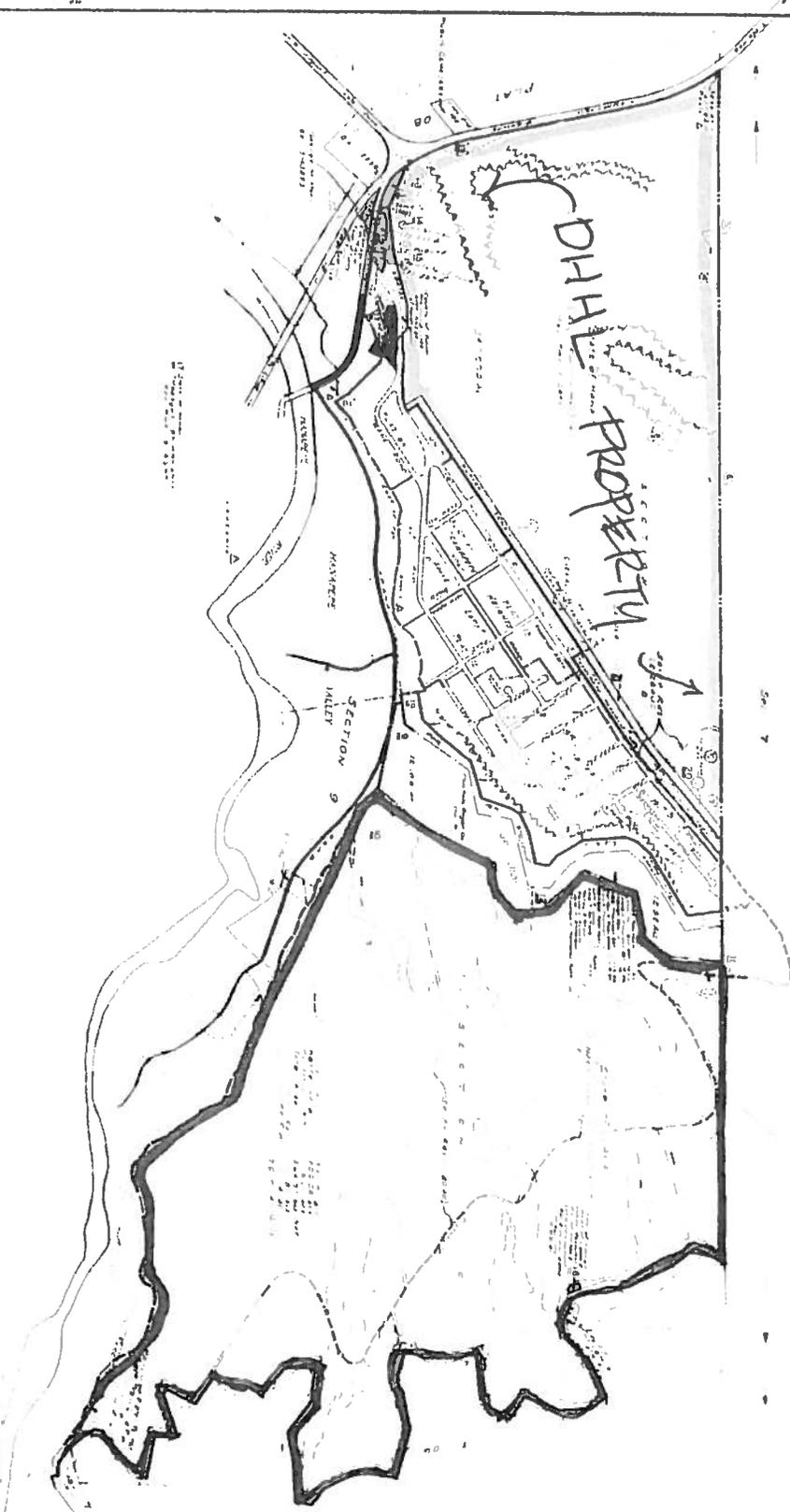
Tommy Oi
Kauai District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila Jr., Chairperson

POR. OF MANAHEPE, MAUNEA, KAUAI



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SECTION 9

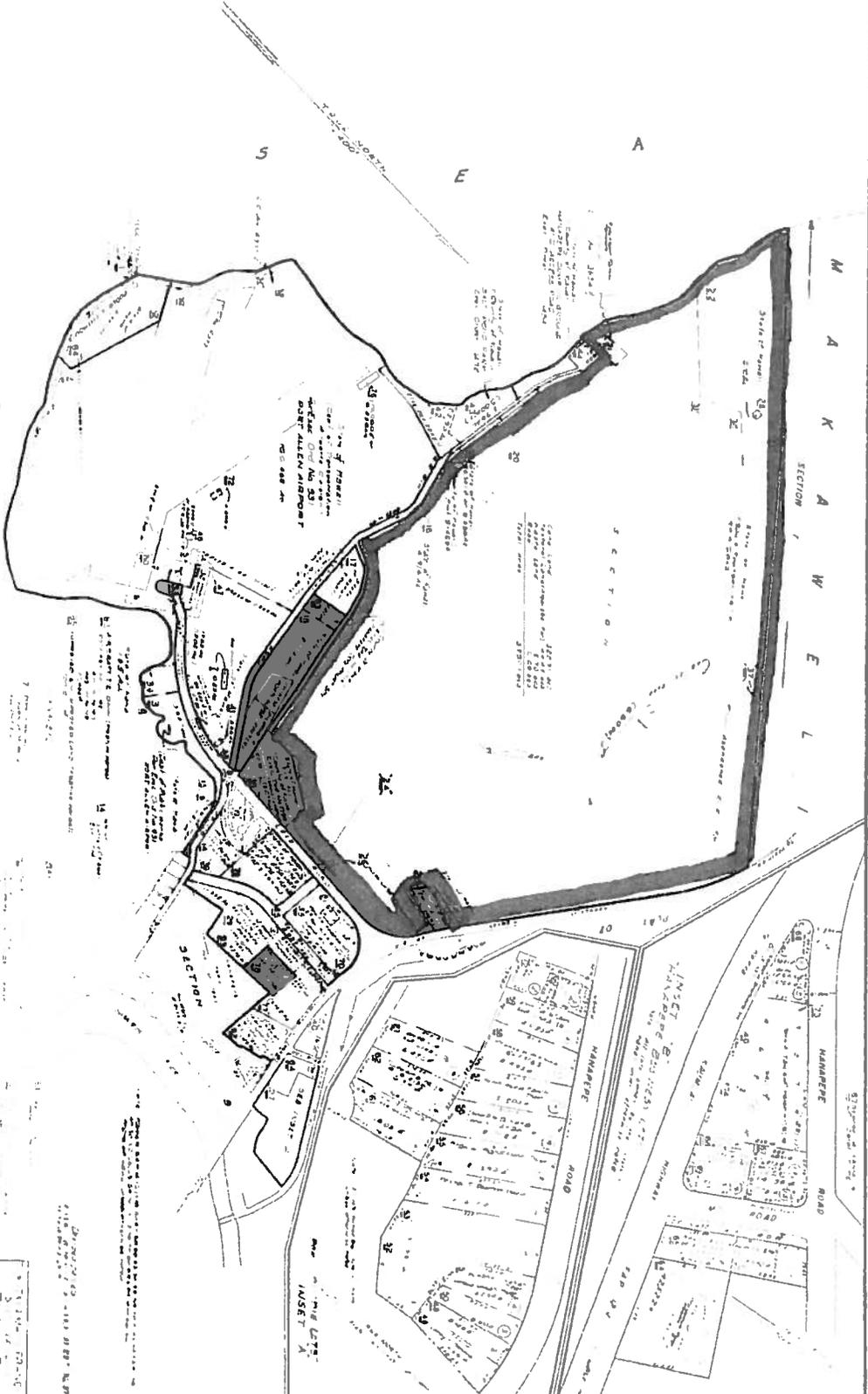
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POR. OF HANAPEPE, MAINEA, KAUAI

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D-1

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

January 13, 2012

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

PSF No.: 11KD-003

Kauai

Set Aside to County of Kauai for Cemetery and Public purposes, Addition to the Veterans Cemetery Governor's Executive Order 1390 to the County of Kauai, and Immediate Right-of-Entry for Planning, Maintenance and Construction Improvement to Governor's Executive Order 1390, Hanapepe, Waimea, Kauai; Tax Map Key: (4) 1-8-08: 20.

APPLICANT:

County of Kauai, Department of Parks and Recreation

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Hanapepe situated at Hanapepe, Waimea, Kauai, identified by Tax Map Key: (4) 1-8-08: 20, as shown on the attached map labeled Exhibit A.

AREA:

Revocable Permit S-6842, TMK:(4) 1-8-008: 020=379.060 acres, more or less

Addition to GEO 1390 = 6.00 acres, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Open

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

DN
January 13, 2012

D-1
EXHIBIT "B"

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Encumbered by Revocable Permit S-6842 to Gay and Robinson Inc.

PURPOSE:

County Cemetery and Public purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on May 8 1997 with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) The County of Kauai shall provide a written concurrence from Gay and Robinson Inc. acknowledging approval for the removal of the 6.00 Acres from RP S-6842.

REMARKS:

Revocable Permit S-6627 was issued to Olokele Sugar Company Ltd. The revocable permit document covered TMK: 1-8-06: 02, 1-8-07: 10 and 1-8-08: 20

Board at its April 8, 1994, meeting under Item F-6 approved the cancellation of Revocable Permit S-6627 to Olokele Sugar Company Ltd. and the issuance of a new Revocable Permit to Gay & Robinson, Inc. TMK: (4) 1-8-06: 02, (4) 1-8-007: 003 and 010 and (4) 1-8-008: 20.

Revocable Permit S-6842 was issued to Gay and Robinson Inc. for sugar cultivation and Pasture purposes

In a letter dated April 7, 2010 from Leonard Rapozo, Jr. Director of the Department of Parks and Recreation requesting an adjustment to the area and location of the land to be

set-aside to the County of Kauai for public cemetery purposes. The new 6.00 parcel is located on the west side of the existing Kauai Veterans Cemetery GEO 1390 and 1870. This parcel will be an addition to the existing Veterans Cemetery. (Exhibit B)

The additional 6.00 acres will be used for additional burial sites, support facilities, ceremonial memorial facility and parking.

This will involve subdividing the 6.00 acres parcel from Parcel 20, Revocable Permit S-6842 to Gay and Robinson Inc. The County of Kauai has informed Gay and Robinson Inc. their plan to utilize 6.00 Acres of Parcel 20, identified on TMK: (4) 1-8-008.

AGENCIES COMMENTS:

County Of Kauai:

Department of Water: We have no objection (See Exhibit C)

Department of Planning: No objection

Department of Recreation: No comments

Department of Public Works: (See Exhibit D)

State Of Hawaii:

The Following Agencies did not respond:

Department of Health
Department of Hawaiian Homes
DLNR-Historic Preservation
DLNR-Water Resource Management

Office Of Hawaiian Affairs: No Objection (See Exhibit E)

RECOMMENDATION:

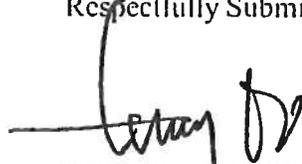
That the Board, subject to Applicant fulfilling the Applicant Requirements above:

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. Approve of and recommend to the Governor the issuance of an executive order setting

aside the subject lands to County Of Kauai under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

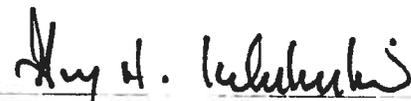
- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of an immediate right of entry to the County of Kauai for Planning, Maintenance and Construction Improvement to Governor's Executive Order 1390, subject 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 right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

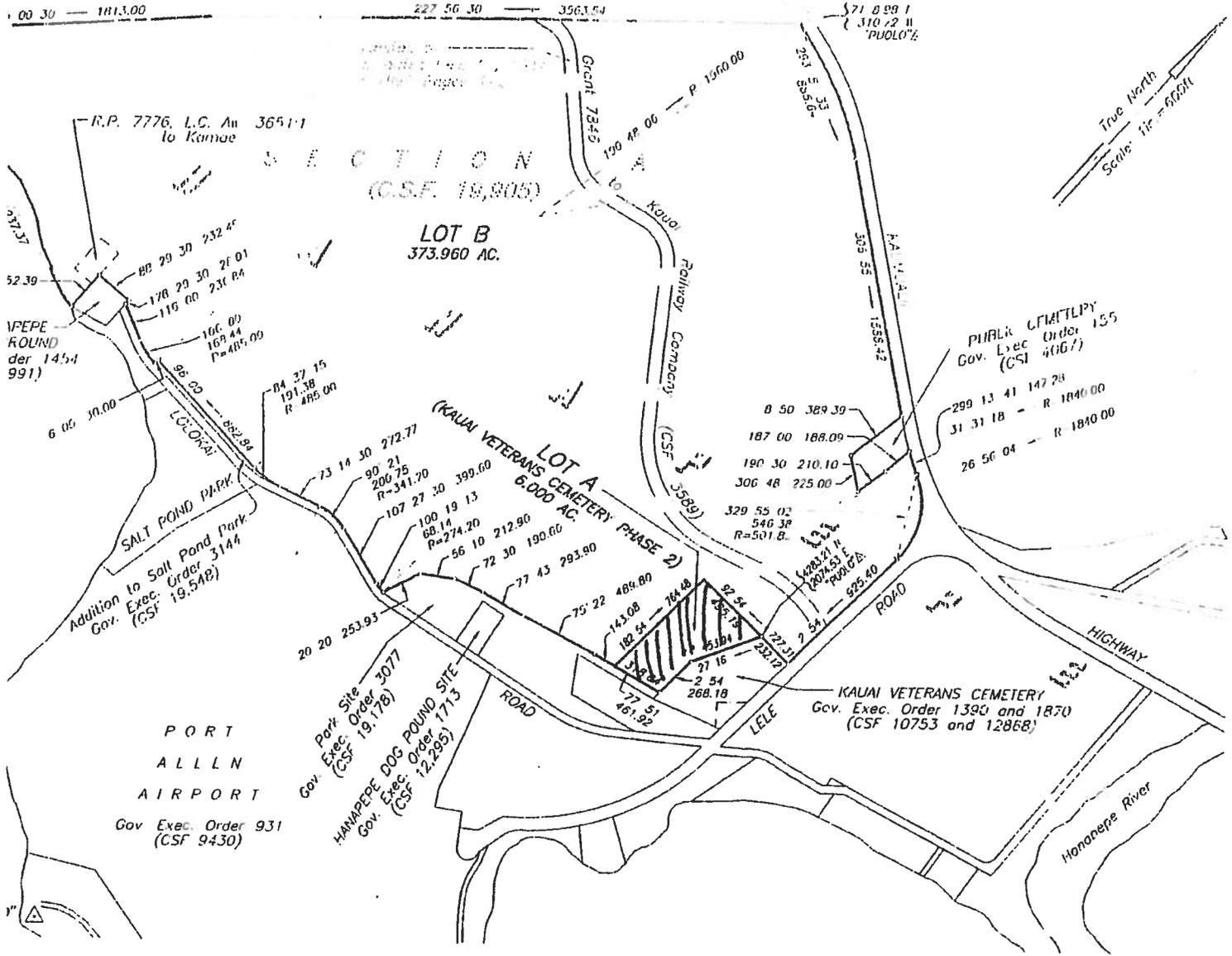


Tommy Oi
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



TMK:(4) 1-8-08:20