

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

March 8, 2013

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

PSF No.: 12KD-098

Kauai

Cancellation of Revocable Permit No. S-7339 and Request for Waiver of Level One (1) Hazardous Waste Evaluation Requirement, Issuance of New Revocable Permit to Mary Thronas, Trustee for Mary Thronas Trust for Pasture Purposes at por. of South Oloheha, Kapaa, Kawaihau (Puna), Kauai, Tax Map Key: (4) 4-4-001:001.

APPLICANT:

Mary Thronas, Trustee for Mary Thronas Trust.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Wailua, South Oloheha situated at Kapaa, Kawaihau (Puna), Kauai, identified by Tax Map Keys: (4) 4-2-001:001 and (4) 4-4-001:001, as shown on the attached map labeled Exhibit A.

AREA:

(4) 4-2-001:001 - 668.43 acres, more or less
(4) 4-4-001:001 - 1186.57 acres, more or less

ZONING:

State Land Use District: Agricultural
County of Kauai CZO: Agricultural and Open

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:

Encumbered by Revocable Permit No. S-7339, Mary Thronas, Trustee for Mary Thronas Trust, Lessee, for pasture purposes.

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 independent 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." (Exhibit B)

DCCA VERIFICATION:

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

REMARKS:

General Lease No. S-4092 was originally issued to Samuel K. Thronas and had a lease term from February 16, 1967 to February 15, 2002. The lease involves approximately 1,855 acres, and has a dual pasture use (by the lessee), and game management use (by the DLNR – Division of Forestry and Wildlife).

At its meeting on January 14, 1994 under Agenda Item F-1-e, the Board of Land and Natural Resources approved the Consent to Assign to Mary Thronas Trustee for Mary Thronas Trust upon the death of her husband Samuel K. Thronas.

At its meeting on September 22, 2000 under Agenda Item D-2, the Board of Land and Natural Resources approved the partial withdrawal of land to County of Kauai, Department of Water for Right-of-Entry, Set-Aside and Grant of Perpetual, Non-Exclusive Access Easement for Drill and Well Test, Wailua Homesteads Well No. 3, and withdrawal of land to Citizens Utilities Company, Ltd. for Grant of Perpetual, Non-Exclusive Easement for Electrical Transmission Line Purposes.

At its meeting on April 26, 2002, under Agenda Item D-12, the Board of Land and Natural Resources approved and amended the one-year hold-over term for General Lease No. S-4092, issuance of a revocable permit upon expiration of hold-over period, and sale of lease at public auction for pasture purposes.

Revocable Permit No. S-7339 was issued to Mary Thronas Trustee for Mary Thronas Trust effective April 27, 2003, 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 July 2, 2012, Kauai District Land Office received a request from Mary Thronas Trustee for Mary Thronas Trust to down-size the Revocable Permit No. S-7339 from 1,855 acres to 1,186.57 acres, by dropping Tax Map Key: (4) 4-2-001:001. Staff notified the tenant of condition no. 14 requiring the waste evaluation. Mary Thronas expressed her concerns that due to the size of the two parcels – 1,855 acres total, she would not be able to afford the extremely high cost to conduct a Level One (1) Evaluation. She stated that the property has only been used for pasture purposes by her family and at no time was there any use of heavy construction equipment or chemicals on the property.

A final inspection of the property was conducted on December 10, 2012 at which time the premises was found to be clean with no trash or abandoned property. Refer to Exhibit 'C'.

Applicant 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.

Month-to-Month tenancy is ok with tenant for now. She understands that sometime in the near future, this parcel will be going up for public auction for a long term lease.

Comments were solicited from:

State Agencies:

DOH	No environmental health concerns
Historic Preservation	No comments
OHA	No objections
OCCL	No response by suspense date

County Agencies

County Planning	No response by suspense date
Public Works	No response by suspense date
Dept. of Water	No response by suspense date

Staff has no objections to the subject request.

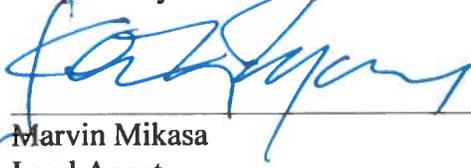
The proposed use has continued since 1967 and will continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion 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 cancellation of Revocable Permit No. S-7339 and the issuance of a new revocable permit to Mary Thronas Trustee for Mary Thronas Trust 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

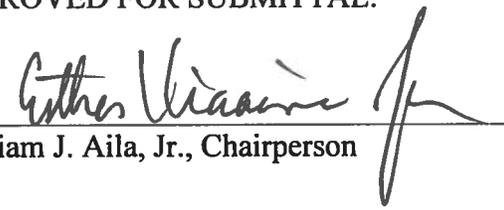
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 3. Waive requirement for a Level One (1) Hazardous Waste Evaluation for the cancellation of Revocable Permit No. S-7339.

Respectfully Submitted,



Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

2

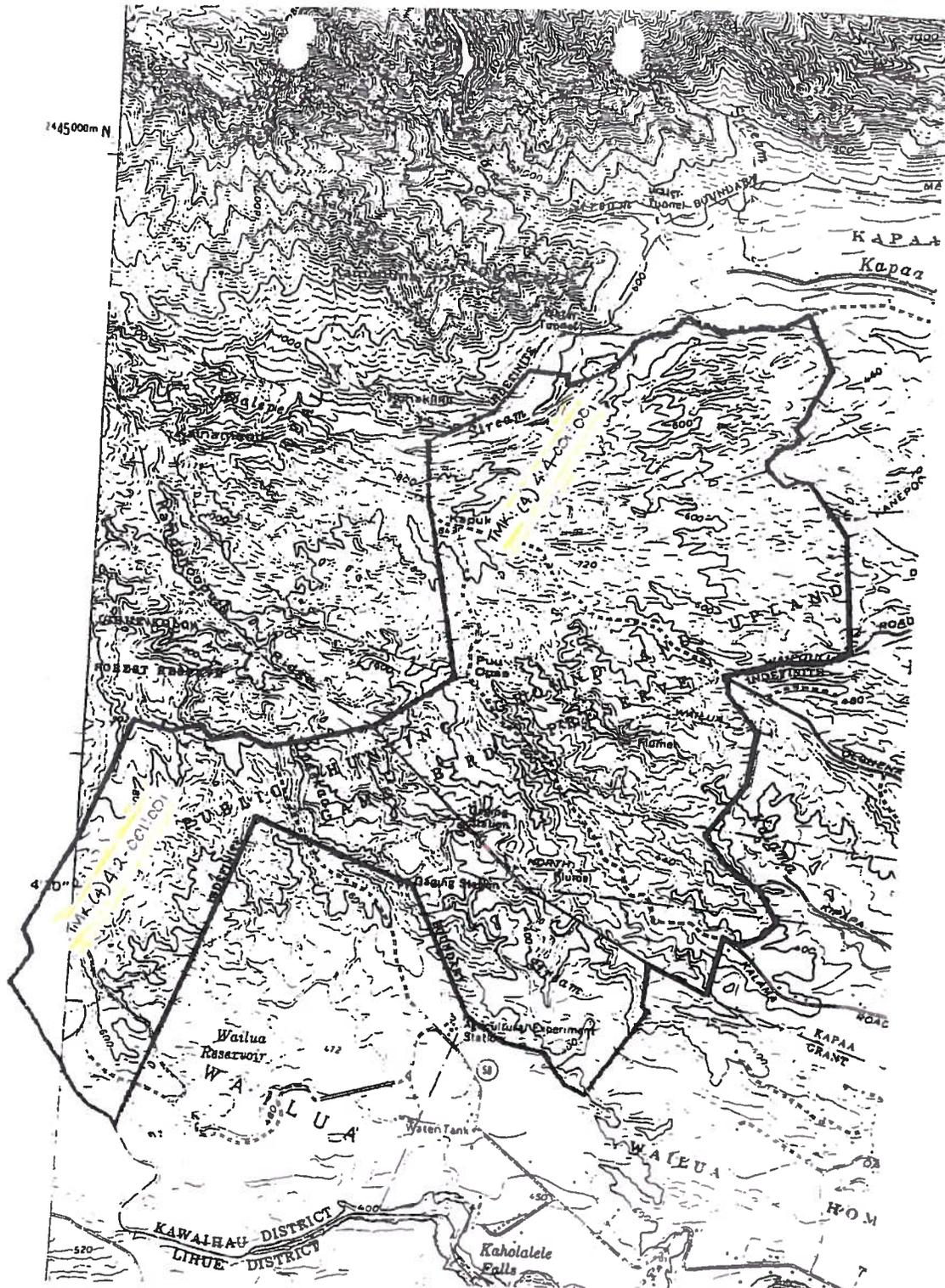


EXHIBIT 'A'



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

EXEMPTION NOTIFICATION

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

Project Title: Cancellation of Revocable Permit No. S-7339; Re-issuance of New Revocable Permit to Mary Thronas, Trustee for Mary Thronas Trust for Pasture Purposes

Project / Reference No.: PSF 12KD-098

Project Location: South Olohena situated at Kapaa, Kawaihau (Puna), Kauai

Project Description: Cancel existing Revocable Permit and Issuance of new Revocable Permit for Pasture Purposes

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

Exemption Class No. and Description: In accordance with Hawaii Administrative Rules, Section 11-200-8(a)(1)(4), 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."

The Division has granted similar permits on the past. The activity continues to occur on other areas across the state. Such activities have resulted in no know significant impacts, whether immediate or cumulative, to natural, environmental and/or cultural resources in the area. As such staff believes that the proposed permit would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

EXHIBIT 'B'

Consulted Parties:

USDA - NRCS was consulted as a source authority having jurisdiction or expertise in this matter, and concurs that the exemption identified above is applicable to and appropriate for the proposed project.

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

2/25/13

Date

INSPECTION REPORT
Pasture

FINAL INSPECTION

General Information

Document Number: RPS 7339

Character of Use Pasture

Inspection Date: December 18, 2012 Inspection Time: 10:30am

Land Agents: Marvin Mikasa, Milo Spindt
MS

TENANT INFORMATION

Name: Mary Thronas, Trustee of the Mary Thronas Trust

Home Phone: _____

Address: _____

Business Phone: _____

Contact Person: Sam Thronas, Jr.

Fax: _____

Contact Phone: _____

SITE INFORMATION

TMK: (4) 4-2-001:001

Area: 668.43 acres, more or less

TMK: (4) 4-4-001:001

Area: 1186.57 acres, more or less

Site Address: _____

FISCAL INFORMATION

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

EXHIBIT "C"

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

File Review

LICENSES/PERMITS/CONSENTS

ITEM	DLNR Approval Does 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 and schedule; make copy of plan map and text table for use during inspection

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		prior improvements need to be maintained by current tenant
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				No equipment was stored on property and no storage buildings, etc. on-site No fertilizers or pesticides were used. GMO free cattle.
Other					







