

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

April 12, 2013

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

PSF No. 12MD-165

MAUI

Amend Prior Board Action of December 14, 2012, Item D-8 (Attached): Cancel Revocable Permit No. S-7368 and Reissuance of a Revocable Permit to Alexander & Baldwin, Inc., Pulehunui, Wailuku, Maui, Tax Map Key: (2) 3-8-08: 1, 8, 35 and 38. Amendment Request: 1) Include Tax Map Key: (2) 3-8-08: 20 as a Portion of Revocable Permit No. S-7368, and 2) Waive Additional Condition No. 14 in Revocable Permit No. S-7368.

BACKGROUND:

The Department of Hawaiian Home Lands (DHHL) selected 104.359 acres of State land at Pulehunui, Maui, as partial settlement of an agreement between the State and DHHL in which the State, by its Board of Land and Natural Resources, would convey to DHHL, in fee simple, 16,518 acres of State lands selected by DHHL. All State lands selected by DHHL were subject to existing encumbrances such as leases, revocable permits, easements, rights-of-entry, etc.

The 16,518-acre total is the difference between the acreage mandated by the Hawaiian Homes Commission Act of 1920 as Hawaiian Home Lands and DHHL's actual inventory of Hawaiian Home Lands.

DHHL selected lands for homesteading purposes and revenue producing lands for raising capital to develop the infrastructure for its homestead lands.

DHHL selected the 104.359 acres of State land for revenue production. Title was transferred to DHHL by Land Office Deed No. S-29000 on February 1, 2011, subject to Revocable Permit No. S-7368 (RPS-7368) issued to Alexander & Baldwin, Inc. (A&B), for sugarcane cultivation. RPS-7368 covers 778.371 acres of State land which includes the 104.359 acres transferred to DHHL. The 104.359 acres are comprised of two lots of record identified as Tax Map Key: (2) 3-8-08: 8 and 35. The balance of 674.012 acres will be covered by a new permit issued to A&B by the Department. The 674.012 acres are comprised of three lots of record identified as Tax Map Key: (2) 3-8-08: 1, 20 and 38. Parcel 20, however, was, inadvertently, not included in agenda item D-8 of the Board's December 14, 2012 meeting.

REMARKS:

In another matter related to the conveyance of the 104.359 acres, additional condition no. 14 in RPS-7368 requires the permittee, prior to termination or revocation of the permit, to conduct a phase one hazardous waste evaluation, and if necessary, a complete abatement and disposal. This condition appears in agricultural permits and leases because such operations sometimes may rely on pesticides and herbicides to control destructive pests and noxious weeds. Typically, the evaluation would be conducted after the tenant's agricultural activities on the State land have ceased.

However, in this case the 104.359 acres encumbered by RPS-7368 and now owned by DHHL will continue to be used by A&B under a permit issued by DHHL when RPS-7368 is canceled. At the same time, the balance of 674.012 acres of State land encumbered by RPS-7368 will be reissued to A&B under a new permit. Although the cancellation of RPS-7368 should normally trigger the requirement to conduct a phase one hazardous waste evaluation, A&B's use of the 778.371 total acres encumbered by RPS-7368 will continue uninterrupted through the issuance of new permits to A&B by DHHL and the Department. Both permits will require the permittee to conduct a phase one hazardous waste evaluation prior to their termination or revocation.

To prevent A&B from unnecessarily being required to conduct two phase one hazardous waste evaluations covering the same land (one under RPS-7368 issued by the Department and another under the new permits issued by the Department and DHHL), a waiver of additional condition no. 14 in RPS-7368 by the Board would be in order.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of December 14, 2012, under agenda item D-8, by adding Tax Map Key: (2) 3-8-08: 20 to the title, and also under the "Location" subtitle.
2. Waive additional condition no. 14 in RPS-7368.
3. Except as amended herein, all terms and conditions listed in its December 14, 2012, approval to remain the same.

Respectfully Submitted,



Gary Martin
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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

December 14, 2012

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

PSF No.: 12MD-165

MAUI

Cancel Revocable Permit No. S-7368 and Reissuance of Revocable Permit to Alexander & Baldwin, Inc., Pulehunui, Wailuku, Maui, Tax Map Key:(2) 3-8-08:1,8,35 and 38.

APPLICANT:

State of Hawaii, Department of Land and Natural Resources, on behalf of Alexander & Baldwin, Inc. (A&B), a Hawaii corporation.

LEGAL REFERENCE:

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

LOCATION:

Portion of the Government lands of Pulehunui located at Pulehunui, Wailuku, Maui, identified by Tax Map Key: (2) 3-8-08:1,8,35 and 38, as shown on the attached map labeled Exhibit A.

AREA:

Currently, 778.371 acres, more or less, are under the operation of Revocable Permit (RP) No.S-7368 (Exhibit A). The new RP, when issued, will encumber 674.012 acres, more or less (Exhibit A).

ZONING:

State Land Use District: Agricultural
County of Maui CZO: Agricultural

APPROVED BY THE BOARD OF *DB*
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
December 14, 2012

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Encumbered by RP No. S-7368 to A&B.

CHARACTER OF USE:

Sugarcane cultivation purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

Currently \$4,630.00 per month, under the new RP \$4,010.00 per month. The new monthly rental is a proration of the current monthly rental based on acreage.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules, Section 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:

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

REMARKS:

Act 14, SPLH 1995, among other things, called upon the Board of Land and Natural Resources (BLNR) to provide the Department of Hawaiian Home Lands (DHHL) with sufficient State land to make up any difference between the 204,500 acres mandated by federal law as Hawaiian Home Lands through the Hawaiian Homes Commission Act of 1920 and DHHL's actual land trust inventory.

An inventory, taken prior to the passage of Act 14 and confirmed by a governor's task force, indicated that DHHL's land trust was 16,518 acres short of meeting the federal mandate.

In a settlement agreement between the State and DHHL the shortage would be made up by DHHL selecting government land statewide, subject to conditions. The first of DHHL's selections were approved by the BLNR at its October 28, 1994, meeting, under agenda item H-6. After several more selections over the years, on October 28, 2010, under agenda item D-12, the BLNR approved the final 817 acres selected by DHHL. A 104.359-acre portion of RP No. 7368 issued to A&B was included in DHHL's final selections.

The 104.359 acres are comprised of two lots of record, identified as Tax Map Key Nos.: (2) 3-8-08: all of 8 and 35. Accordingly, subdivision of the 104.359 acres is not required for the conveyance of the land to DHHL.

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 cancelation of Revocable Permit No. S-7368.
3. Authorize the issuance of a revocable permit to Alexander & Baldwin, Inc., covering a 674.012-acre portion of the canceled Revocable Permit No. S-7368 for sugarcane cultivation purposes 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 revocable permit form, as may be amended from time to time.
 - b. Review and approval by the Department of the Attorney General.

- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

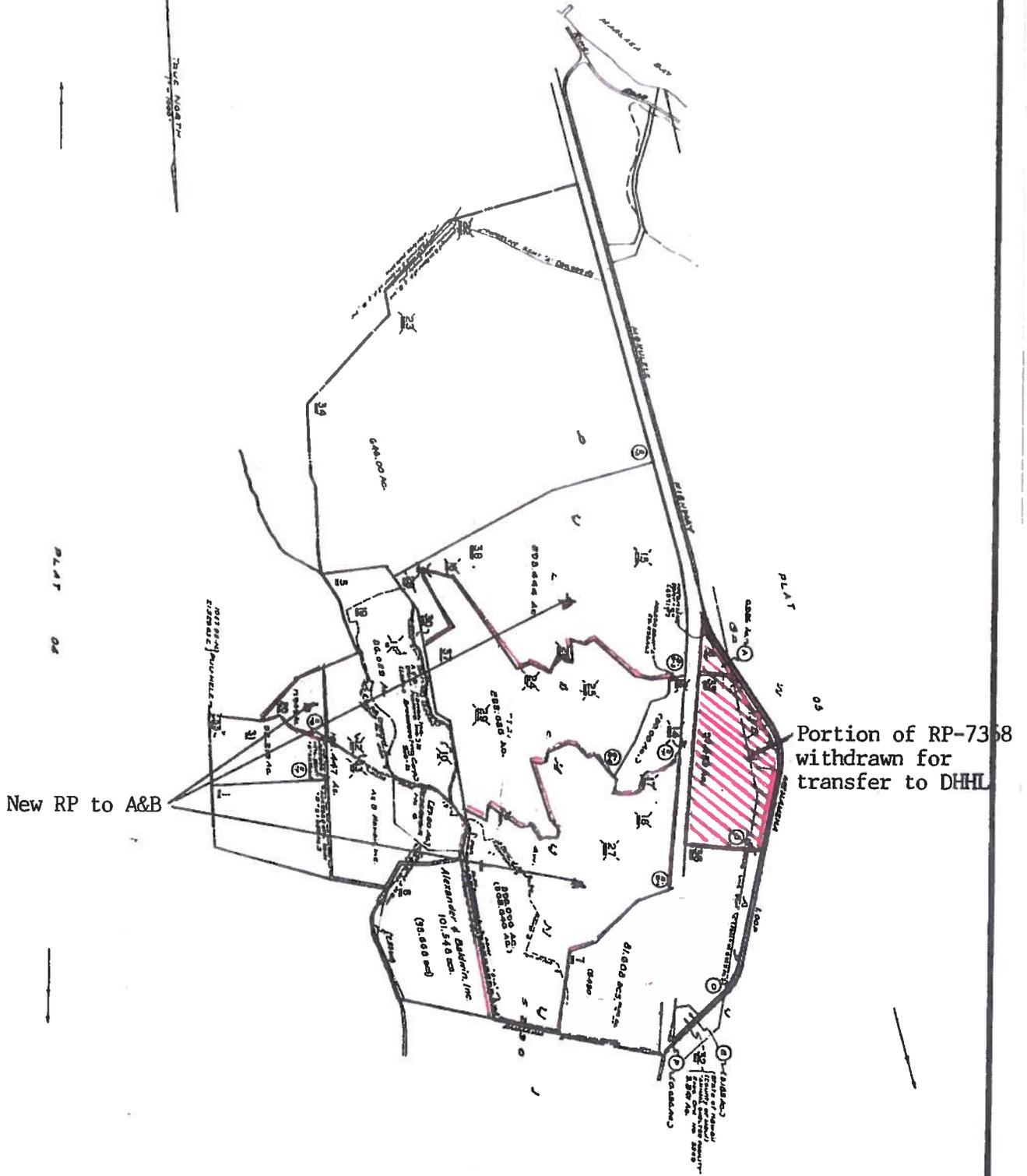


Gary Martin
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



Portion of RP-7368 withdrawn for transfer to DHHL

New RP to A&B

Note: All lots owned by the State of Hawaii

SUBJECT TO CHANGE

EXHIBIT "A"

Original Survey No. 61228

TAXATION MAPS BUREAU			
TERRITORY OF HAWAII			
TAX MAP			
SECOND DIVISION			
ZONE	SEC.	PLAT	
3	8	08	
CONTAINING PARCELS			
SCALE - 1 in. = 1000 ft.			

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AHI A, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KUMANA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONSERVATION
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCE ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

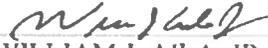
Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS, and Chapter 11-200, HAR.

- Project Title:** Cancel Revocable Permit No. S-7368 and reissuance of a revocable permit to Alexander & Baldwin, Inc. for a reduced area, situate at Pulehunui, Waikapu, Wailuku, Maui, Tax Map Key: (2) 3-8-08: 1, 8, 35 and 38.
- Project/Reference No.** Revocable Permit No. 7368/12MD-165
- Project Description:** Withdrawal of 104.359 acres from the operation of Revocable Permit No. S-7368 and conveyance of same to the Department of Hawaiian Home Lands. Reissue new revocable permit to Alexander & Baldwin, Inc. for the reduced area.
- Chapter 343 Triggers(s):** Use of State Lands.
- Exemption Class No.:** In accordance with Hawaii Administrative Rules, Section 11-200- 8(A), 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 beyond that previously existing," and Exemption Class No. 4, that states, "Minor alterations in the condition of land, water or vegetation."
- Consulted Parties:** Department of Hawaiian Home Lands and the Office of Hawaiian Affairs.

The above exemptions apply because the current use of the land is authorized and no significant cumulative impacts are expected after the transfer of the 104.359 acres to the Department of Hawaiian Home Lands on which it intends to allow Alexander & Baldwin, Inc. to continue sugarcane cultivation under its own permit.

Recommendation:

It is anticipated that this project will probably have minimal or no significant effect on the environment and the Board is recommended to declare the cancellation of Revocable Permit No. S-7368 and reissuance of a new revocable permit to be exempt from the preparation of an environmental assessment.


WILLIAM J. AILA, JR.



6/28/12
Date