

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

April 13, 2012

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

PSF No.: 06MD-166 & 167

Maui

Amend Prior Board Action of June 24, 1997, Item D-18, to Authorize the Inclusion of Three (3) Additional Parcels in the Sale of Leases at Public Auction for Pasture Purposes, Waiohuli-Keokea, Kula, Makawao, Maui, Tax Map Key: (2) 2-2-004: 001, 002, 029, 031, 066, and (2) 2-2-005: 047 & 053.

REQUEST:

Sale of leases at public auction for pasture purposes.

LEGAL REFERENCE:

Sections 171-14, -14.5, -16, -17, and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waiohuli-Keokea, Kula, Makawao, Maui, identified by Tax Map Key: (2) 2-2-004: 001, 002, 029, 031, 066, and (2) 2-2-005: 047 & 053 as shown on the attached maps labeled Exhibit A.

AREA:

- Tax Map Key: (2) 2-2-004:001 = 22 acres more or less
- (2) 2-2-004:002 = 13 acres more or less
- (2) 2-2-004:029 = 20.98 acres more or less
- (2) 2-2-004:031 = 139.28 acres more or less
- (2) 2-2-004:066 = 149.3 acres more or less
- (2) 2-2-005:047 = 19.1 acres more or less
- (2) 2-2-005:053 = 223.29 acres more or less

Total of 586.95 acres, more or less, subject to confirmation by the Department of Accounting and General Services, Survey Division.

ZONING:

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

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 and ENCUMBRANCES:

Parcel	Encumbrances
(2) 2-2-004:001, 002, 029, 031	Unencumbered
(2) 2-2-004:066	LOD-28192 to the Association of Owners of Views of Keokea for Access and Utility Purposes and GLS-5866 to Cang Bai Limited for Access and Utility Purposes.
(2) 2-2-005:047 and 053	Unencumbered

CHARACTER of USE:

Pasture purposes

LEASE TERM:

Twenty (20) years

COMMENCEMENT DATE:

Sixty (60) days after the date of sale provided that the Chairperson may amend this date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

METHOD of PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the 10th year of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

GENERAL PROPERTY CHARACTERISTICS:

Elevation: 2,800 feet to 4,000 feet (more or less)  
 Rainfall: 35 (thirty-five) inches annual average (more or less)  
 Slope: 20% to 50% (more or less)  
 Carrying Capacity: 1 (one) animal unit per 10 (ten) acres (more or less)

ACCESS and UTILITIES:

TMK (2) 2-2-004:	Access	Utilities
001	Kula Highway and Thompson Road	Water Meter Premises No. 1011531
002	Thompson Road	None
029	Polipoli and Waiohuli Road (portions undeveloped)	None
031	Polipoli and Waiohuli Road (portions undeveloped)	None
066	Kula Highway and Cross Road	Water Meter Premises No. 1011519 and 1014344

TMK (2) 2-2-005	Access	Utilities
047	Middle to Waiohuli Road (portions undeveloped)	None
053	Middle to Waiohuli Road (portions undeveloped)	Water Meter Premises No. 1032198

Subdivision – Staff has verified that the subject properties to be auctioned are legally subdivided lots and each lot has legal recorded access. Road access to 4 (four) of the lots are unimproved.

AGENCY COMMENTS:

A request for comment was solicited from the following agencies:

Agency	Comments
State of Hawaii- Department of Health	No comment
Department of Hawaiian Home Lands.	No comment

DLNR – DOFAW	No response
DLNR – Historic Preservation	No objections
DLNR – Commission on Water Resource Management	No response
County of Maui - Planning	Comment received – Requesting that the area be open for public hunting.
County of Maui – Public Works	No response
Office of Hawaiian Affairs	No response
State of Hawaii – Dept. of Transportation	Request that access remain the same.
County of Maui- Dept. of Water Supply	No response
Natural Resources Conservation Service (NRCS)	No response

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."

There will be no change in use from previous encumbrances. Historically the subject parcels have been used for pasture purposes.

BACKGROUND:

The proposed auction involves seven (7) separate TMK parcels totaling over 586 acres (more or less) all of which were at one time encumbered by lease to Mr. Charles S. Ota, Landmark Ranch (dba). Listed below are the TMK parcels being proposed for auction and its corresponding past lease disposition.

- Tax Map Key: (2) 2-2-004:001 = RPS-7092
- (2) 2-2-004:002 = RPS-7092
- (2) 2-2-004:029 = RPS-7092
- (2) 2-2-004:031 = GLS-4532

- (2) 2-2-004:066 = RPS-7092
- (2) 2-2-005:047 = GLS-4533
- (2) 2-2-005:053 = GLS-4533

General Lease (GL) S-4532 and S-4533 encumbered TMK (2) 2-2-004:031, (2) 2-2-005:047 & 053 and were issued to Mr. Charles S. Ota, Landmark Ranch (dba), for twenty-five years, which commenced on September 1, 1976 and expired on August 31, 2001. Upon expiration of GLS-4532 and GLS-4533, Mr. Ota discontinued use of the related areas and no other lease dispositions were issued for those parcels.

At its meeting of June 25, 1993, under agenda Item F-4, the State Board of Land and Natural Resources (Board), authorized the sale of lease, by public auction, four (4) government parcels identified as TMK (2) 2-2-004: 001, 002, 029 and 066 encumbered by GLS-4325.

On December 21, 1995, upon expiration of GLS-4325, Revocable Permit (RP) S-7092 was issued to Mr. Charles Ota for pasture purposes. RPS-7092 encumbered TMK parcels (2) 2-2-004: 001, 002, 029 and 066. On June 24, 1997, under agenda Item D-18, the Board approved to amend its prior approval for sale of lease by changing the acreage and rent terms and conditions of the proposed sale.

In 2005 the Maui District Land Office received a request to cancel RPS-7092 due to Mr. Ota's poor health. On October 13, 2006, under agenda Item D-11, the Board authorized cancellation of RPS-7092. Since 2006, the subject lands have been vacant and unencumbered except for pre-existing access and utility easements on parcel 066 as noted above.

REMARKS:

Due to the high demand for pasture lands on Maui, the Maui District Land Office proposes to amend the prior Board action of June 24, 1997, Item D-18 to include three (3) additional parcels (TMK (2) 2-2-004: 031 and (2) 2-2-005: 047 & 053) located within the region for sale of lease at public auction.

All of the subject parcels were at one time under the control of Charles Ota, either by lease or revocable permit. After his passing, the subject lands have sat idle, and today the site conditions are poor and shall require a significant investment by successful applicants to improve the parcels to a standard suitable for pasturing livestock. Improvements may include clearing of undesirable vegetation and replacing them with acceptable pasture grasses, installation of water storage and transmission systems, installation of stock proof perimeter fencing and road improvements as needed for access purposes. The proposed lease term is 20-years with a 10-year reopening to allow tenants the ability to plan and invest in improvements to the premises. All parcels have legal recorded access, however parcels 029, 031, 047 and 053 have roads that are unimproved. Furthermore, parcels 002, 029, 031 and 047 have no County water meter assigned to the lot. Future users of these parcels shall improve access at their cost and will either have to install a water meter or implement some other form of water storage and delivery system as needed.

Despite the challenges listed above, Maui District Land Office staff has determined that the subject parcels would be best utilized for pasture purposes. Pasture use is consistent with existing State Land Use and County of Maui Zoning designations. The subject lands have historically been used for pasturing livestock and the terrain, weather and the lack of infrastructure make grazing opportunities the highest and best use for the parcels at this time.

The County of Maui's Planning Department provided comments requesting that the area be open for public hunting. Staff does not believe that this is the highest and best use of the property, given that there is demand for pasture land. Also, not utilizing these parcels for pasture purposes would deny the DLNR much needed lease rent income.

Staff recommends that the following lease provision be included in each pasture lease: "Restriction on residential use. The premises, or any portion, shall not be utilized for residential purposes; except for one (1) employee dwelling as provided herein. The construction or placement of any other structure(s) on the premises for residential purposes is strictly prohibited.

The proposed pasture use has been conducted on the subject lands for most of the 20th century and will continue to be the highest and best use of the area given its rural location and lack of infrastructure that would be needed to support a more intense use of the subject lands. The pasture uses of the premises have 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.

#### SUMMARY of AUCTION PROCEDURES and METHODOLOGY:

Pursuant to approval of this proposal by the Board and establishment of the upset rent for each lot, the Maui District Land Office will then proceed with the public notification for the sale of lease by public auction via Statewide and local newspapers of general circulation. MDLO will also notify, by mail, all registered applicants on the public land register for pasture use within Maui District.

To be eligible to bid in an auction for pasture use, a potential bidder shall be a bona fide individual farmer or non-individual farm concern. Criteria to determine eligibility are codified in HRS 171-14.5(b). Deadlines will be established to allow for the submission of necessary applications. A screening committee shall be established to assist the Maui District Land Agent in the review of applications and to determine whether applicants are qualified to participate in the auction. All applicants will be notified whether or not they qualify to participate in the auction. Disqualified applicants will be advised of their right to appeal the decision.

The auction is to be held with bids starting at the amount of the upset minimum annual lease rent. Minimum bid increments shall be \$100 (one hundred) dollars. There are a

total of 7 parcels, which shall be auctioned off as 6 separate economic units. (Staff recommends parcels 047 and 053 be treated as a single economic unit since legal access to parcel 047 is over parcel 053; further, both parcels share similar property characteristics.) Given the high demand for pasture lands, this method provides more qualified bidders more opportunities to pasture public lands. The order in which parcels are to be auctioned is as follows:

1. Parcel 066
2. Parcel 001
3. Parcel 002
4. Parcel 029
5. Parcel 031
6. Parcel(s) 047 and 053

RECOMMENDATION: That the Board:

1. Find each subject area to be an economic unit in terms of the intended use.
2. Find that each subject area is not suitable for hunting, nor will it become so during the term of the lease.
3. 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.
4. Authorize the sale of leases at public auction covering the subject areas 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 pasture general lease form, as may be amended from time to time;
  - b. Within the first (1) year of each lease term, the land under lease shall be utilized for the purposes for which the lease is sold, all in accordance with a conservation plan approved by the Chairperson;
  - 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.

Respectfully Submitted,

  
for Daniel Ornellas  
District Land Agent

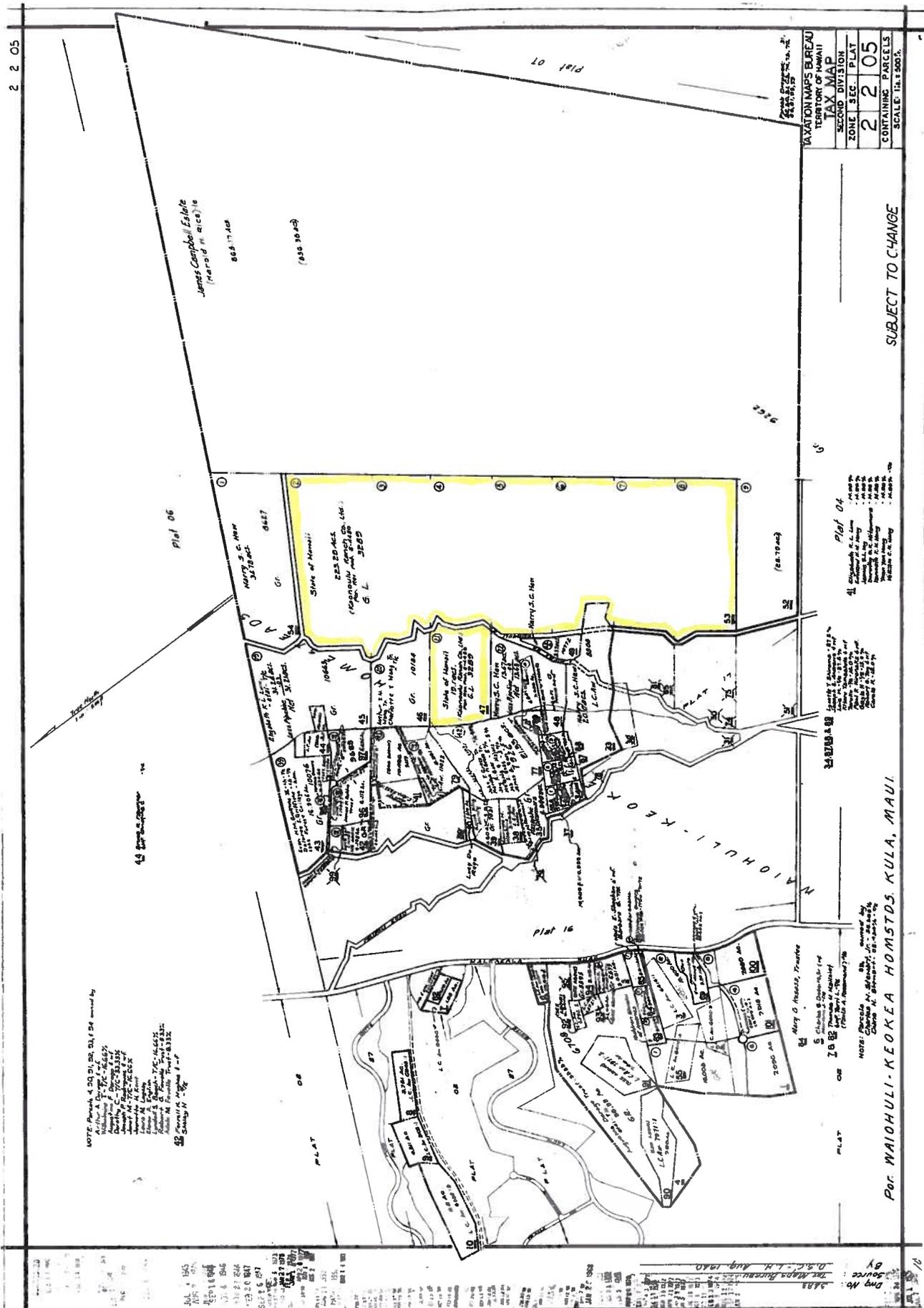
APPROVED FOR SUBMITTAL:

  
William J. Aila, Jr. Chairperson



EXHIBIT A

2 2 05



NOTE: Plots 4, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, prepared by [Name], [Address], [Phone].

TAXATION MAPS BUREAU	
TERRITORY OF HAWAII	
TAX MAP	
SECOND DIVISION	PLAT
ZONE SEC.	2 2 05
CONTAINING PARCELS	
SCALE: 1" = 100'	

SUBJECT TO CHANGE

For MAIOHULI-KEOKEA HOMSTDS. KULA, MAUI

By [Name], [Title], [Date]

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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

**GUY H. KAULUKUKUI**  
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BOATING AND OCEAN RECREATION  
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COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

## EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

**Project Title:** Amend Prior Board Action of June 24, 1997, Item D-18, to Authorize the Inclusion of Three (3) Additional Parcels in the Sale of Lease(s) at Public Auction for Pasture Purposes, Waiohuli-Keokea, Kula, Makawao, Maui, Tax Map Key: (2) 2-2-004: 001, 002, 029, 031, 066, and (2) 2-2-005: 047 & 053

**Project Number:** 06MD-166 & 167

**Project Location:** Portion of Government lands situated at Waiohuli-Keokea, Kula, Makawao, Maui, identified by Tax Map Key: (2) 2-2-004: 001, 002, 029, 031, 066, and (2) 2-2-005: 047 & 053

**Project Description:** Sale of lease(s) at public auction for pasture purposes.

**Consulted Parties:** State of Hawaii: Department of Health; Department of Hawaiian Home Lands; Department of Forestry and Wildlife; Historic Preservation; Commission on Water Resource Management; Office of Hawaiian Affairs; Department of Transportation. County of Maui: Department of Planning; Department of Public Works; Department of Water Supply. Natural Resources Conservation Service.

**Exemption Class No.:** 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 under the following:

Exemption Class No. 1, which 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."

**EXHIBIT B**

**Exemption Item No.  
And Description:**

Item 5 which states "Routine and emergency repair and restoration of existing structures and facilities on state lands involving negligible or no expansion or change in use beyond that previously existing."

This exemption is appropriate since there will be no change in use from previous encumbrances. The proposed pasture use has been conducted on the subject lands for most of the 20<sup>th</sup> century. The pasture uses of the premises have 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:**

The sale of leases at public auction for pasture purposes for the subject lands in itself will probably have minimal or no significant effect on the environment. It is recommended that the Board of Land and Natural Resources find that the disposition is exempt from the preparation of an environmental assessment. Inasmuch as the Chapter 343 environmental requirements apply to any future use of the lands, future lessees shall be responsible for compliance with Chapter 343, HRS, as amended.

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson

3/27/12  
\_\_\_\_\_  
Date