

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

June 8, 2012

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

PSF No.:12MD-082

Molokai

Approval of Land Exchange and Sale of Property Pursuant to the Stipulated Judgment on Partition in Napoleon, et al., v. State of Hawaii, et al., Civ. No. 92-0786 for Land Located at Ualapue - Kapualei, Kahananui, Molokai, Tax Map Keys: (2)5-6-006:014; (2)5-6-006:015; (2)5-6-003:012; (2)5-6-003:008; and (2)5-6-003:010

APPLICANT AGENCY:

Department of Land and Natural Resources.

PRIVATE LANDOWNERS:

Napoleon family, Kunuiakea family, Kailiwai family, and the Fountain family.

LEGAL REFERENCE:

Sections 171-13, 171-50, and 171-64.7, Hawaii Revised Statutes, as amended.

PROPERTIES TO BE EXCHANGED OR SOLD:

LOCATION:

Government lands of Ualapue - Kapualei and Kahananui situated on Molokai Island further identified by Tax Map Keys: (2)5-6-006:014; (2)5-6-006:015; (2)5-6-003:012; (2)5-6-003:008; and (2)5-6-003:010, as shown on the attached maps labeled Exhibit A.

AREA:

278.811 acres, more or less.

ZONING:

TMK No.	SLU Zoning	County Zoning
(2)5-6-06:14	Conservation	Conservation
(2)5-6-06:15	Agriculture	Agriculture
(2)5-6-03:08	Urban	Agriculture

(2)5-6-03:10	Urban	Residential
(2)5-6-03:12	Urban	Residential

TRUST STATUS: Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii
State Constitution: YES _____ NO X

CURRENT USE: RPS-0301 to Sagario for TMK (2) 5-6-003:012
All other parcels are vacant and unencumbered.
State-owned lands to be conveyed shall be subject
to all exceptions, exclusions, reservations and
easements of record.

PUBLIC PURPOSE OF EXCHANGE AND SALE:

To consolidate the State's interest in lands in which it retained
a one-half interest at the time of award.

PURPOSE OF SET ASIDE:

Forest reserve purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is a transfer of ownership and does not
constitute a use of State lands or funds, and therefore, this action
is exempt from the provisions of Chapter 343, HRS, relating to
environmental impact statements. Inasmuch as the Chapter 343
environmental requirements apply to Applicant's use of the lands,
the Applicant shall be responsible for compliance with Chapter 343,
HRS, as amended.

FAIR MARKET VALUE AND CONSIDERATION IF ANY:

As required by Subsection 171-50(b), HRS:

"The public land exchange shall be of substantially equal value to
that of the private land. In any exchange, the fair market value of
the private land and the public land shall be separately determined
by a disinterested qualified appraiser or appraisers and the cost
shall be borne equally between the owner and the board. No payment
by the State shall be required should the private land exceed the
value of the public land, but any difference in value of the public
land over the private land shall be paid to the State at the time of
the exchange; provided no exchange shall be made should public land
exceed 120 per cent of the value of the private land."

APPRAISED VALUES:

TMK No.	Area	Value
(2)5-6-06:14	168.04 acres	\$ 91,000
(2)5-6-06:15	109.014 acres	\$138,000
(2)5-6-03:08	1.018 acre	\$ 76,000
(2)5-6-03:10	.401 acre	\$ 65,000
(2)5-6-03:12	.338 acre	\$ 82,500
Total Value	278.811 acres	\$452,500

REMARKS:

The five parcels referenced above are portions of Mahele Award 48 to Kaeliwai, which granted a one-half (1/2) interest of the 5 parcels to Kaeliwai with the remaining one-half (1/2) interest being retained by the Kingdom of Hawaii, now the State of Hawaii. A suit was filed in the Second Circuit Court on November 12, 1992, to quiet title and partition the five parcels of real property.

The 1/2 interest in the five parcels, originally owned by Kaeliwai, is now owned by four Hawaiian families, the Napoleon, Kailiwai, Kunuiakea and Fountain families. The four Hawaiian families and the State of Hawaii have reached agreement on the ownership and on the division/partition of these properties among the Hawaiian families and the State of Hawaii.

A Stipulated Final Judgment on Title was filed on April 12, 1996, Exhibit A, which confirmed that the five parcels are owned 1/2 by the State and 1/2 by the Hawaiian families. A Stipulated Judgment on Partition was filed on April 1, 1997, Exhibit B, in which the parties agreed to partition the properties as follows:

TMK No.	Area	Disposition
(2)5-6-06:14	168.04 acres	Entire parcel to be conveyed to the State of Hawaii
(2)5-6-06:15	109.014 acres	Parcel to be conveyed to the four families
(2)5-6-03:08	1.018 acre	Parcel to be sold and proceeds divided amongst all parties - 39.89% to the State, 60.11% to the remaining parties
(2)5-6-03:10	.401 acre	Parcel to be sold and proceeds divided amongst all parties, 39.89% to the State, 60.11% to the remaining parties
(2)5-6-03:12	.338 acre	Entire parcel to be conveyed to the State of Hawaii

The partition of the parcels as set forth above will allow the State to consolidate its one-half interest in the five parcels

into two wholly owned parcels and to receive adequate consideration for its interest in the remaining parcels.

At the time of the proposed partition, Lawrence P. Swenson of Swenson Appraisal was hired to conduct the appraisal of the parcels. By his reports dated March 21, 1996, Mr. Swenson determined the value of the parcels to be as listed below. The State's interest and the interest of the other parties pursuant to the Stipulated Judgment on Partition are also indicated.

TMK No.	Area	Value	State Int.	Other Int.
(2)5-6-06:14	168.04 acres	\$ 91,000	\$ 91,000	\$ 0
(2)5-6-06:15	109.01 acres	\$138,000	\$ 0	\$138,000
(2)5-6-03:08	1.018 acre	\$ 76,000	\$ 30,316	\$ 45,684
(2)5-6-03:10	.401 acre	\$ 65,000	\$ 25,929	\$ 39,701
(2)5-6-03:12	.338 acre	\$ 82,500	\$ 82,500	\$ 0
Total Value		\$452,500	\$229,745	\$223,385

The combined value the State would receive is more than the one-half interest that the State has in all of the parcels. These values comply with section 171-50, HRS.

One of the parcels that is to be conveyed to the State, TMK No. (2)5-6-06:14, is intended to be set aside to DOFAW for inclusion as part of the Molokai Forest Reserve. The other parcel, TMK No. (2)5-6-03:12, will be administered by Land Division.

Under the Stipulated Judgment on Partition, TMK No. (2)5-6-06:15, which is to be conveyed to the families, will be encumbered by easements in favor of the other lots being created by the partition; the State parcel, (2)5-6-06:14; TMK: 5-6-06-16, LCA 4056 (Harold A. Cathcart, owner); and TMK: 5-6-06-30, Ualapua Cemetery (County of Maui, owner). In addition, TMK No. (2)5-6-03:12 may be encumbered by an access roadway easement if the access roadway into the makai area is located on the West, Kaunakakai side, of the Kahananui Stream.

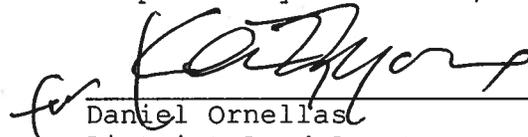
RECOMMENDATION: That the Board:

1. Grant its approval to the above-described land exchange between the State of Hawaii and Napoleon family, Kunuiakea family, Kailiwai family, and the Fountain family 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 exchange deed form and land patent grant or deed form, as may be applicable and 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 following the date of the Board's approval in principle and via resolution for the land exchange portion;

- C. Approval by the Legislature by concurrent resolution to be adopted by a two-thirds vote of each of the Senate and House of Representatives for the sale portion;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside TMK No. (2)5-6-06:14 to the Division of Forestry and Wildlife 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.

Respectfully Submitted,



Daniel Ornellas
District Land Agent

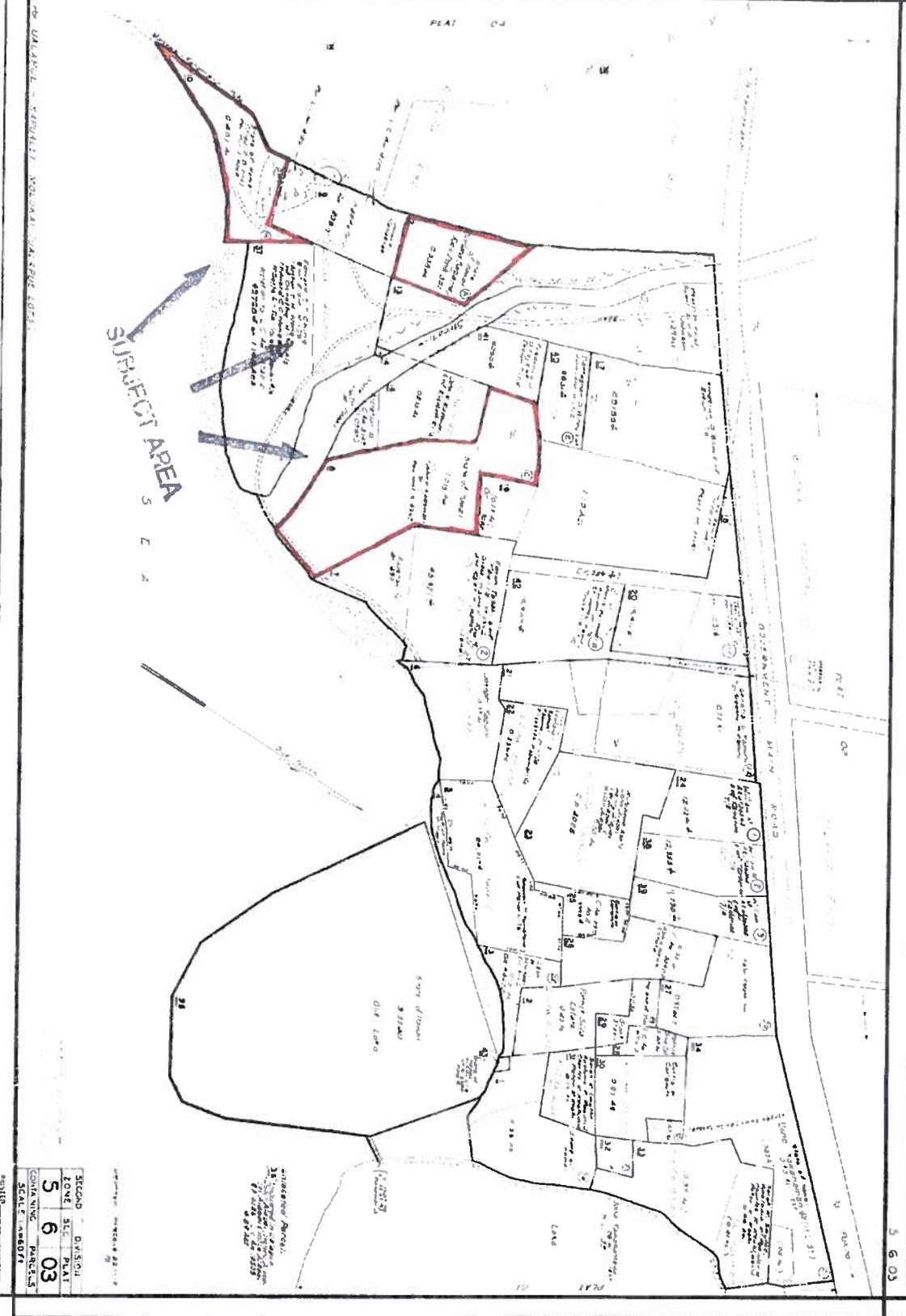
APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson
WJA

Dayfile 4001
 Pt. JAA 4 111 July 4, 1934
 Source: De Witt Records

PLAT 64
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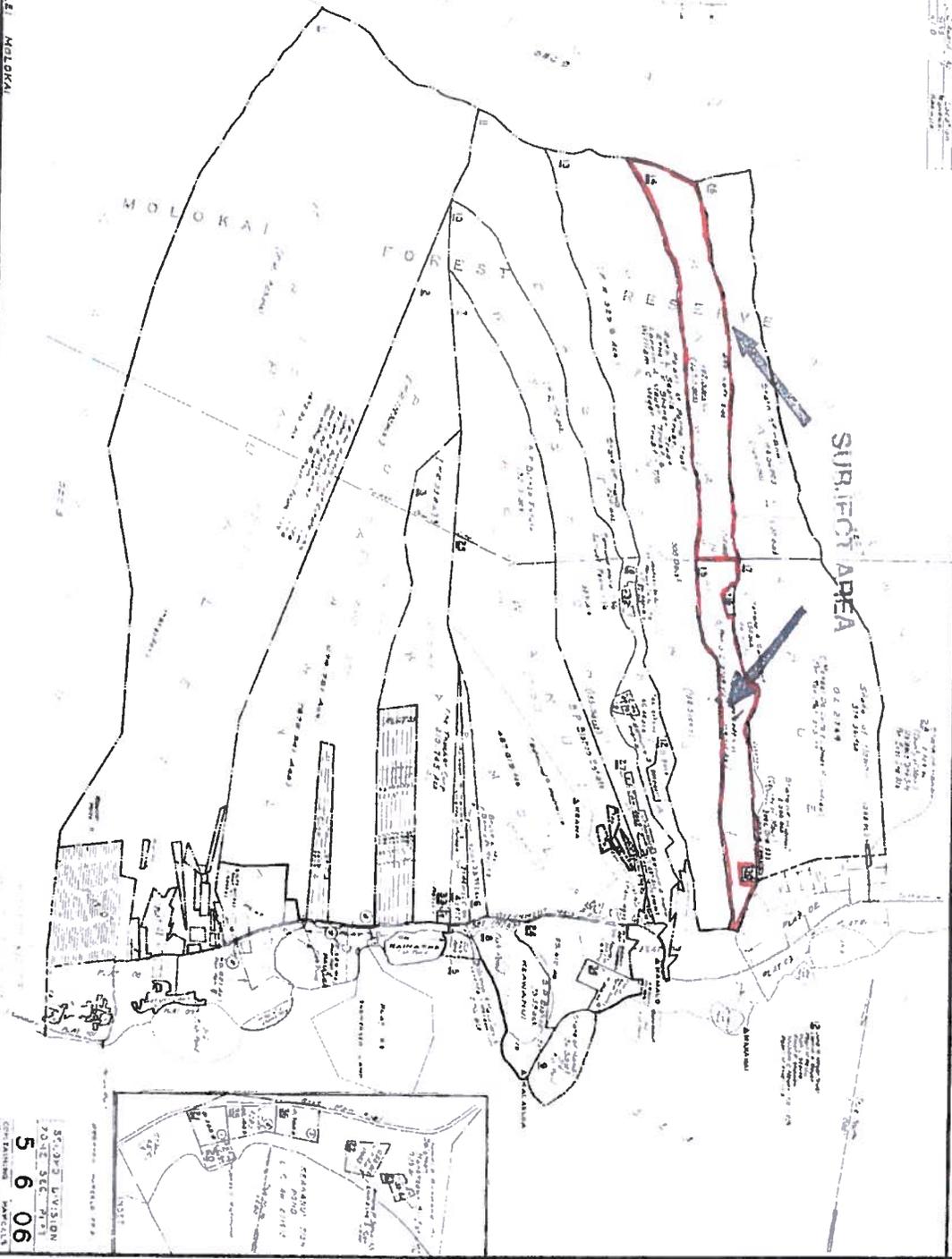


SECOND	DIRECTIONS
ZONE	SIC
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03	
CONTAINING PARTS	
SCALE 1" = 660 FT	

EXHIBIT A

Map No 2096
D.Y. P.K. July 1954
Source: Question Maps & Survey Dept

MALABAR - KAPULETE - MOLOKAI



SCALE DIVISION
FOUR DEC METS
5 6 06
PRINTED

EXHIBIT A