

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

Hawai'i

Amend General Lease No. S-5586, Big Island Dairy, LLC, to Increase Net Acreage From 2,081.084 acres to 2,324.01 acres, more or less, Manowaialee and Ookala, North Hilo and Hamakua, Humuula, Parcel B situate at Humuula, North Hilo, Hawaii, Tax Map Key: 3rd/3-9-01:01 & 02, 3-9-02:07 & 08, 4-1-01:06 and 4-1-05:01

LESSEE:

Big Island Dairy, LLC

LEGAL REFERENCE:

Section 171-36(b)(1), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Manowaialee and Ookala, situated at North Hilo and Hamakua and portion of Government (Crown) Land of Humuula, Parcel B situate at Humuula, North Hilo, Hawaii, identified by Tax Map Key: 3rd/3-9-01:01 & 02, 3-9-02:07 & 08, 4-1-01:06 and 4-1-05:01, consisting of approximately 2,324.01 acres, as shown on the attached map labeled 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

CHARACTER OF USE:

Dairy and allied purposes.

TERM OF LEASE:

35 years, commencing on June 5, 1998 and expiring on June 4, 2033

BACKGROUND:

General Lease No. S-5586 was issued to Island Dairy, Inc. as a direct lease pursuant to Hawaii Revised Statutes, 171-59(b) for dairying purposes on June 5, 1998. The lease was issued for a period of thirty-five (35) years and encompasses former sugar cane lands along the Hamakua coast of the island of Hawai'i.

At its meeting of November 11, 2011 under agenda item D-4, the Board of Land and Natural Resources approved as amended, the assignment of GL S-5586 from Island Dairy, Inc., Assignor to Big Island Dairy, LLC, Assignee. However, during the discussion, staff informed the Board of a discrepancy in the amount of acres identified in the written lease. The area described in the lease was short approximately 200 or so acres. In order to correct this problem, the lease would need to be amended to reflect the correct amount of acres. In an abundance of caution, the Land Board suggested that the amendment of the lease area to increase the acreage as indicated by staff should come up in a subsequent meeting.

REMARKS:

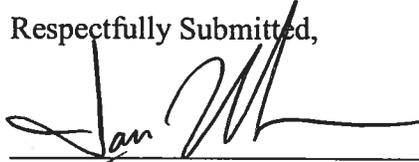
Staff studies the file and came to the conclusion that even if the lease were corrected to reflect the increase in acres, the correction would not impact the rent. Staff explained that the last rental reopening occurred in 2007-2008. The State's appraiser, Alan Conboy appraised the land using the animal unit carrying capacity in arriving at a value of \$28,475 per annum. This value was based on the expected amount of cattle that could be raised on the land, expected increase in size of the cattle and an expected rate of return. This value was not based on the fair market value of the land in the ordinary sense, but a special formula probably derived with the assistance of the Department of Agriculture specifically for pasture type operation, indicating generally a lower value than pure agriculture lease rents. The Lessee did not agree with the State's appraiser and elected to arbitrate. A two-panel arbitration/appraisal panel issued a decision that the value of the land for the pasture/dairy operation was \$19,780 per annum. This decision did not articulate a value per acre, or animal unit carrying capacity as the basis for the decision; the decision was simply the value of the land for the use specified in the subject pasture/dairy lease.

Staff is recommending the Board amend the Lease document to reflect an increase in the amount of acres from 2,090.54 gross acres (minus exclusion area; reservoir etc. of 9.454, for a net of 2,081.084 acres) to 2,333.461 gross acres (less 9.454 exclusion area, for a net of 2,324.01 acres), more or less.

RECOMMENDATION: That the Board:

1. Amend General Lease No. S-5586 by changing the acreage from 2,090.54 gross acres (minus exclusion area; reservoir etc. of 9.454, for a net of 2,081.084 acres) to 2,333.461 gross acres (less 9.454 exclusion area, for a net of 2,324.01 acres), more or less.
2. All terms and conditions listed in General Lease No. S-5586 to remain the same.

Respectfully Submitted,



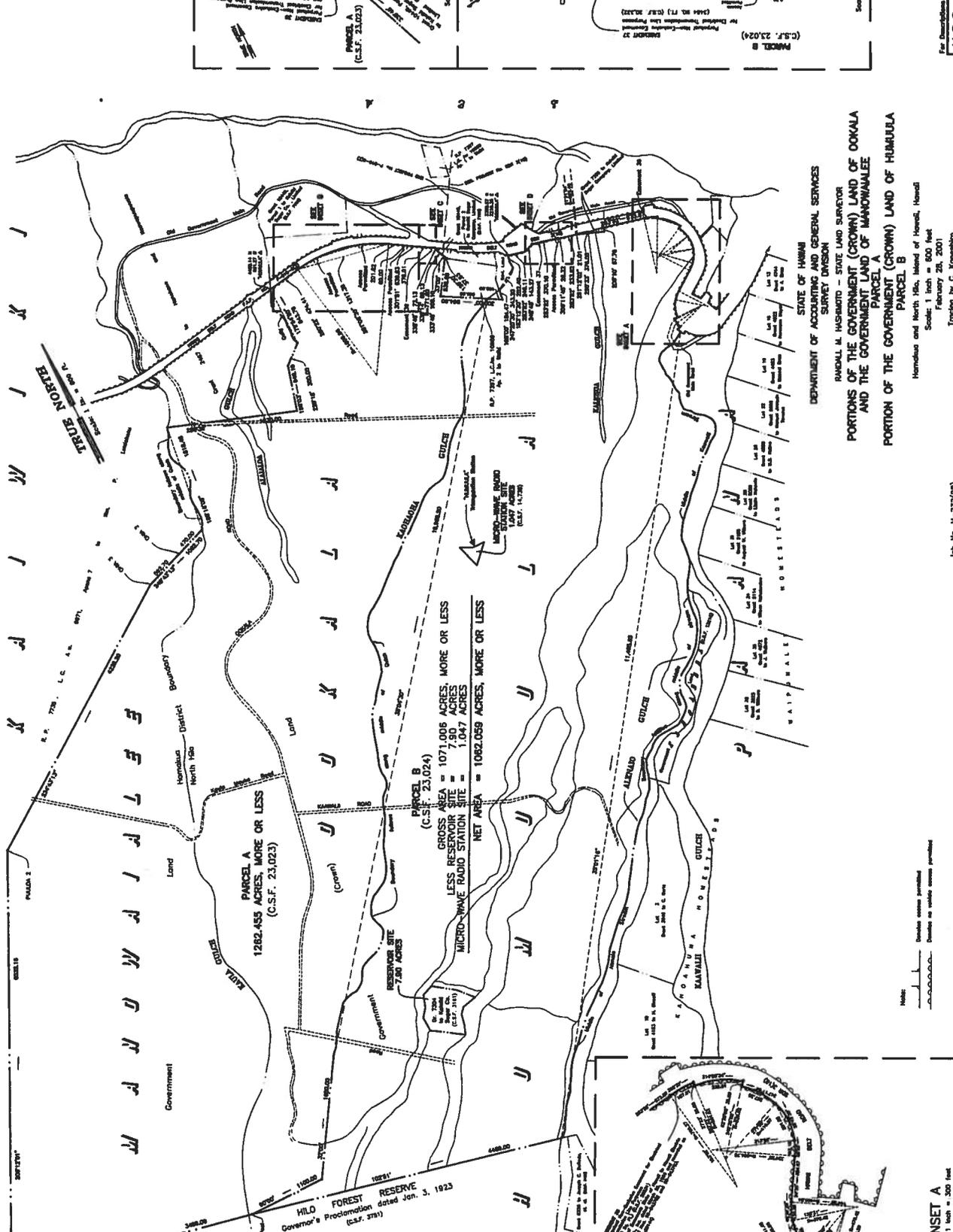
Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





PARCEL A
 1282.455 ACRES, MORE OR LESS
 (C.S.F. 23,023)

PARCEL B
 (C.S.F. 23,024)
 GROSS AREA = 1077,006 ACRES, MORE OR LESS
 LESS RESERVOIR SITE = 1,047 ACRES
 MICRO-WAVE RADIO STATION SITE = 1,047 ACRES
 NET AREA = 1082,059 ACRES, MORE OR LESS

INSET A
 Scale: 1 inch = 300 feet

INSET B
 Not to Scale

INSET C
 Scale: 1 inch = 25 feet

INSET D
 Scale: 1 inch = 25 feet

STATE OF HAWAII
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 SURVEY DIVISION
 RUSSELL M. HISHIMOTO - STATE LAND SURVEYOR
 PORTIONS OF THE GOVERNMENT (CROWN) LAND OF OKOKA
 AND THE GOVERNMENT LAND OF MANOWALEE
 PARCEL A
 PARCEL B
 PORTION OF THE GOVERNMENT (CROWN) LAND OF HONOAHU

Honolulu and North Hilo, Island of Hawaii, Hawaii
 Scale: 1 inch = 800 feet
 February 28, 2001
 Tracing by C. Kawaihilo

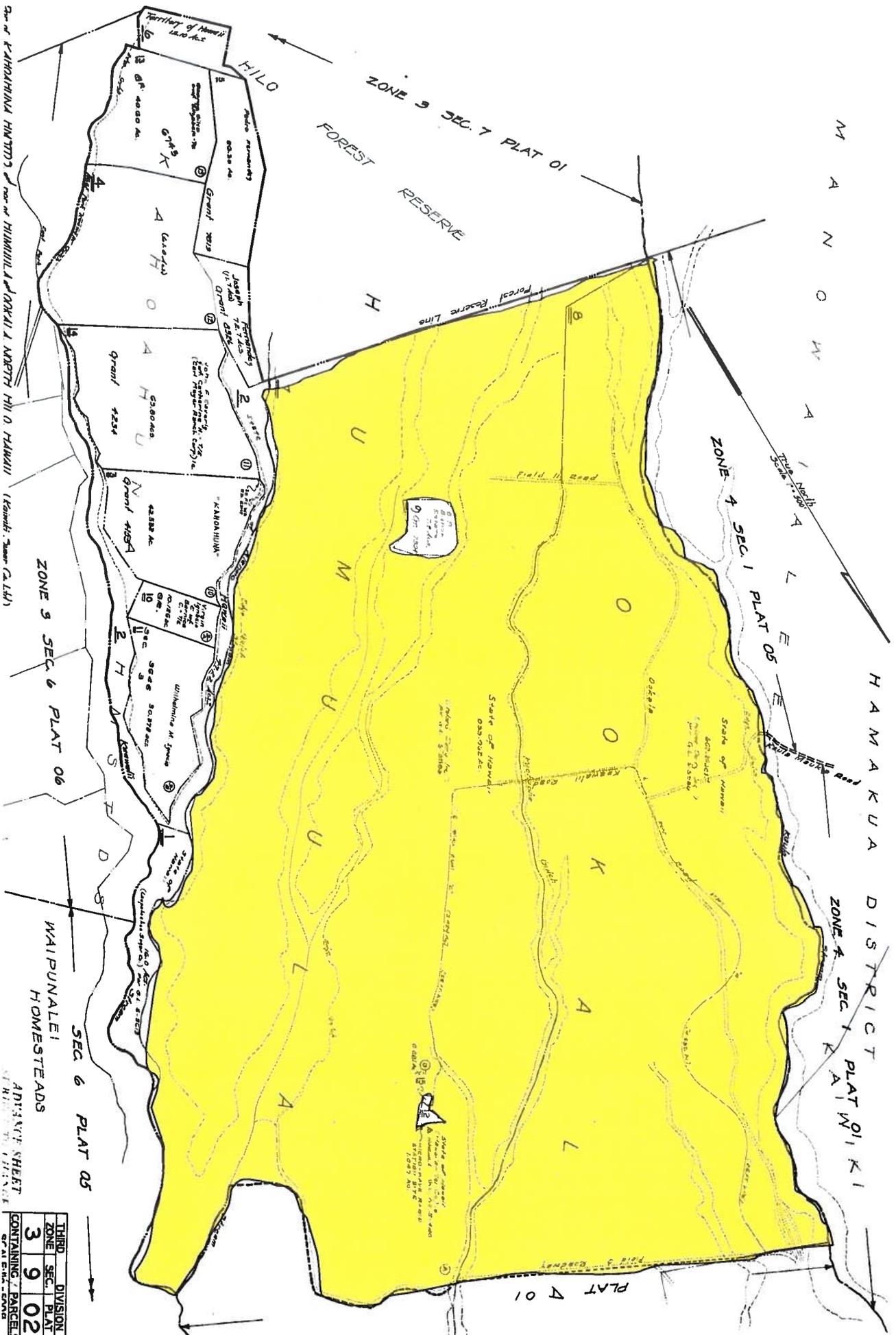
Job No. H-232(08)

For Description See C.S.F. Nos. 23,023 and 23,024
H.S.S. PLAT 702-B

24" x 36" = 6.0 Sq. Ft. V

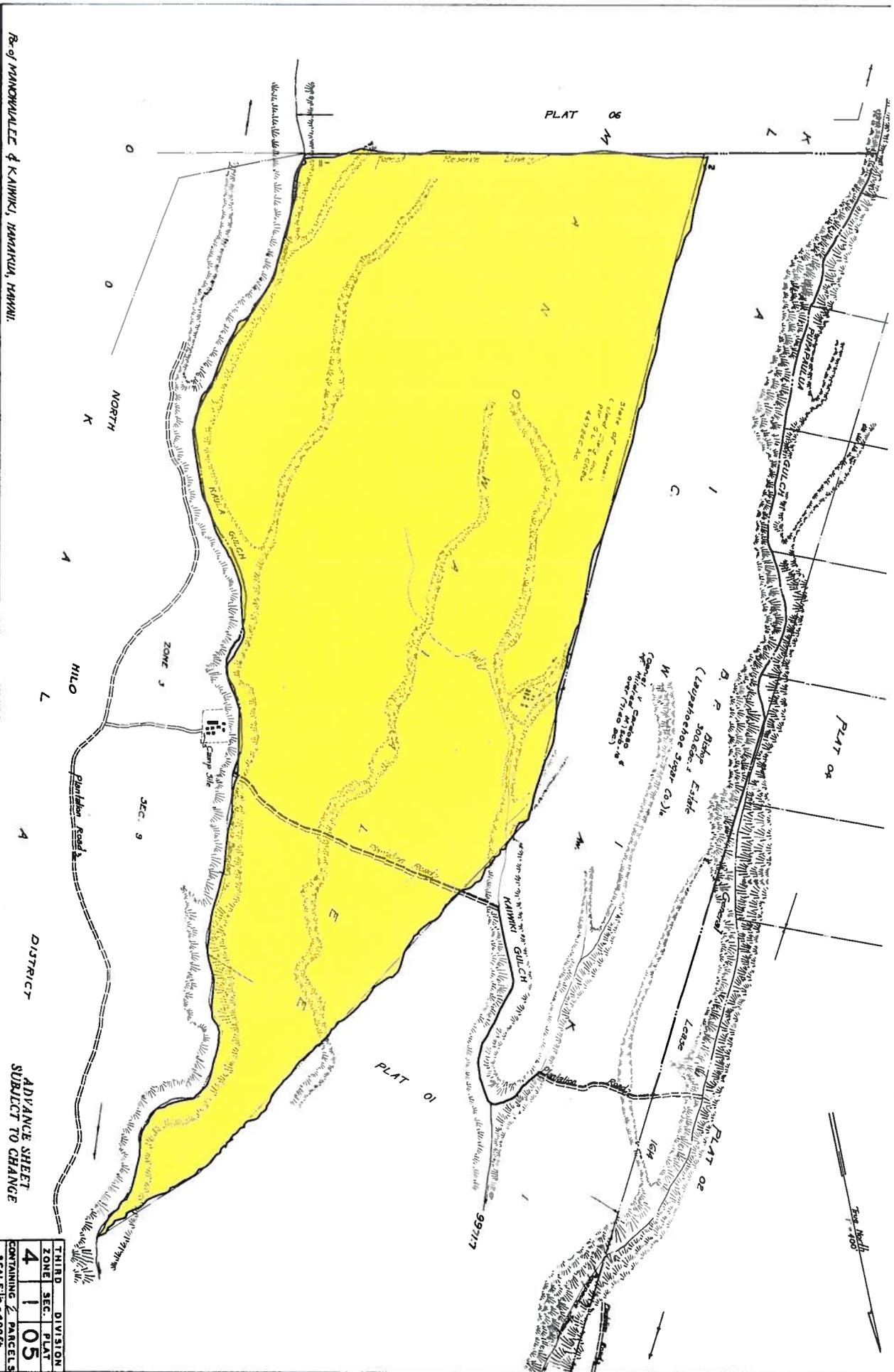
Title Map No. 3-9-0111 & 2 3-9-027 & B 4-1-018 4-1-021

EXHIBIT A



Map of Hamakua District, Plate 01, Kilauea, showing the Forest Reserve and various land parcels.

THIRD ZONE	DIVISION
3	9 02
CONTAINING 7 PARCELS	



Re: MANUWALE & KAIMUKI, MANUKU, HAWAII.

THIRD DIVISION	4
ZONE	1
SEC.	05
PLAT	
CONTAINING 2 PARCELS	
SCALE 1" = 400'	