

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

October 26, 2012

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

PSF No.: 12HD-147

Hawai'i

Cancellation of Governor's Executive Order No. 3706 to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation and Reset Aside to DLNR, Division of State Parks for park purposes, Ka'awaloa, Kealakekua, Kiloa, Waipunaula, Kalama 1, 3, 4 and 5, Liloa and Kahauloa 1, South Kona, Hawai'i; TMKs: (3) 8-2-04:15; and seaward of: 8-1-10 and 11; and 8-2-02, 04, 05 and 06

CONTROLLING AGENCY:

Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR)

APPLICANT:

Department of Land and Natural Resources, Division of State Parks (State Parks)

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Ka'awaloa, Kealakekua, Kiloa, Waipunaula, Kalama 1, 3, 4 and 5, Liloa and Kahauloa 1, South Kona, Hawai'i, identified by Tax Map Keys: (3) 8-2-04:15; and seaward of: 8-1-10 and 11; and 8-2-02, 04, 05 and 06, as shown on the attached map labeled Exhibit A.

AREA:

315.77 acres, more or less

ZONING:

State Land Use District:	TMK: (3) 8-2-04:15 is in the Urban District; all other subject parcels are in the Conservation District
County of Hawai'i Zoning:	TMK: (3) 8-2-04:15 is zoned RS-10; all other subject parcels are unplanned

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 Governor's Executive Order No. 3706 setting aside land for public purposes to the Department of Land and Natural Resources (Department), Division of Boating and Ocean Recreation.

PURPOSE OF SET ASIDE:

For addition to the Kealakekua Bay State Historical Park.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached hereto as Exhibit B.

APPLICANT REQUIREMENTS:

None.

REMARKS

In 1971, Governor's Executive Order No. 2550 designated the Kealakekua Bay Marine Life Conservation District for park purposes and transferred control and management to State Parks. Kealakekua Bay became the second state underwater park following Hanauma Bay on O'ahu in 1967.

In 1997, Governor's Executive Order No. 3706 transferred control and management of the Kealakekua Bay Marine Life Conservation District and the Nāpo'opo'o Landing site to DOBOR in effort to better control commercial kayak activities. Beginning in 2008, however, State Parks, having jurisdiction of the adjacent Ka'awaloa Flat area as part of the Kealakekua Bay State Historical Park, entered into four (4) revocable permits for commercial kayak activities which authorized launching/landing only at the Ka'awaloa Flat site. Pursuant to the terms of the revocable permits, the tours begin at the

Nāpo‘opo‘o Landing (currently under DOBOR jurisdiction), cross Kealakekua Bay (also under DOBOR jurisdiction), land at Ka‘awaloa Flat (under State Parks’ jurisdiction) and return to the Nāpo‘opo‘o Landing site after participants had the opportunity to swim and snorkel certain portions of the bay. This presented management challenges for DOBOR as well as State Parks. In effort to have more effective management and enforcement control, State Parks seeks the reset aside of the water areas of the bay and Nāpo‘opo‘o. The purpose of the single jurisdiction is to regulate the area under a single set of rules which the Department believes currently provides the most effective tool to manage and control any commercial activity and to prevent both unauthorized activity and damage to the resource.

During the initial period of State Parks’ operation and management of the area, commencing January 2, 2013, the Department will restrict all kayak use in the bay as well as the Nāpo‘opo‘o Landing. The purpose of this restriction is to prevent damage to the resource, enable better enforcement of unauthorized activity in the area and allow for the development of a plan to more effectively balance recreational demand with protection of Kealakekua Bay and Ka‘awaloa Flat.

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. Approve of and recommend to the Governor issuance of an executive order canceling Governor’s Executive Order No. 3706 and subject 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 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.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Land and Natural Resources, Division of State Parks 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,

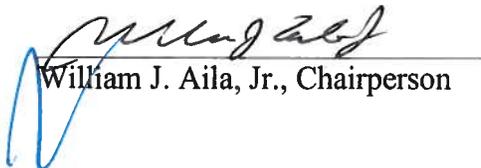
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the issuance of a management right-of-entry effective on January 2, 2013, to the Department of Land and Natural Resources, Division of State Parks for maintaining, operating and use of the subject property, 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 management right-of-entry form, as may be amended from time to time;
 - b. The term of this management right-of-entry shall commence on January 2, 2013, and shall expire upon the issuance of the subject set aside document; and,
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



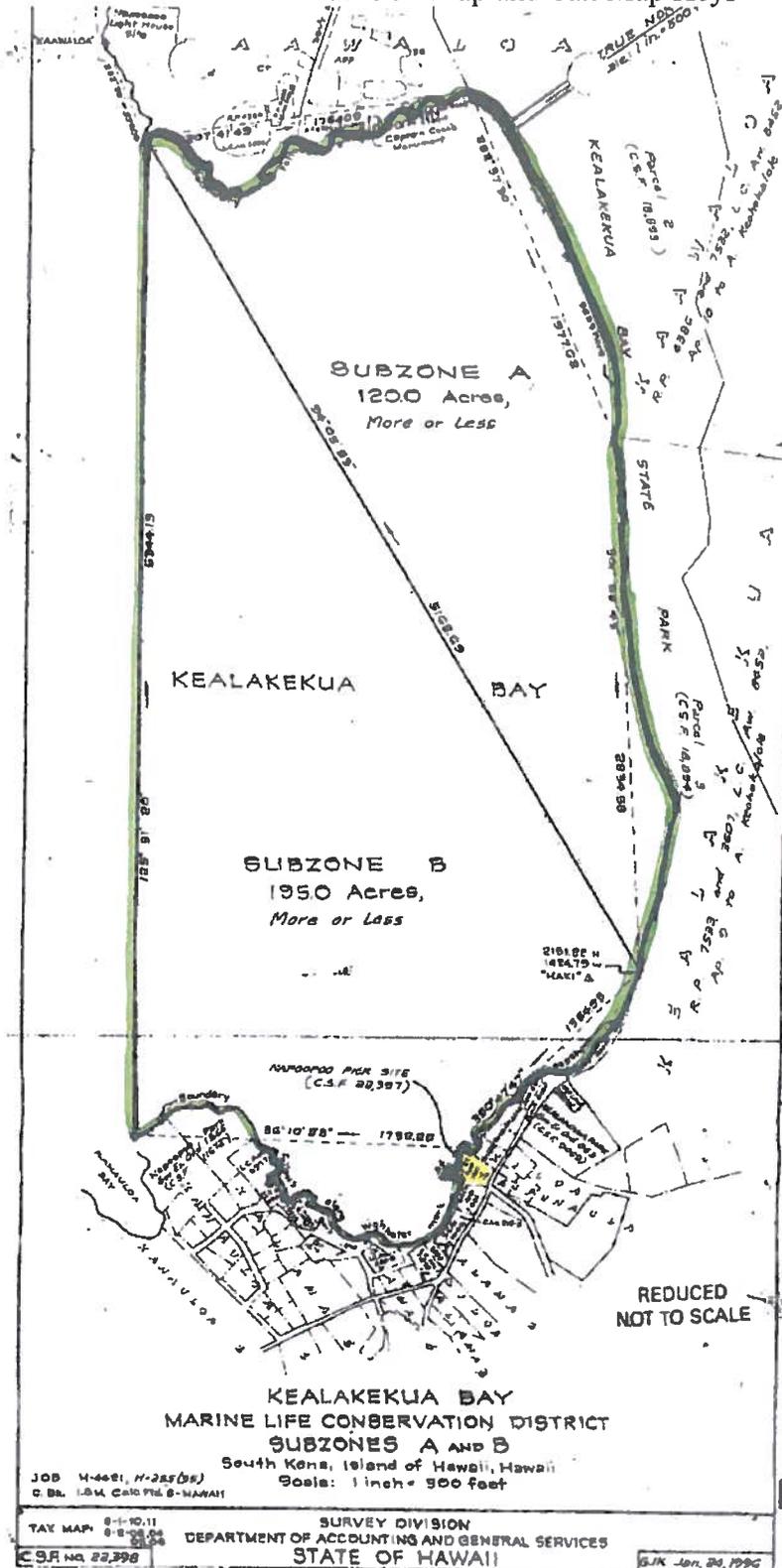
Kevin E. Moore
Assistant Administrator

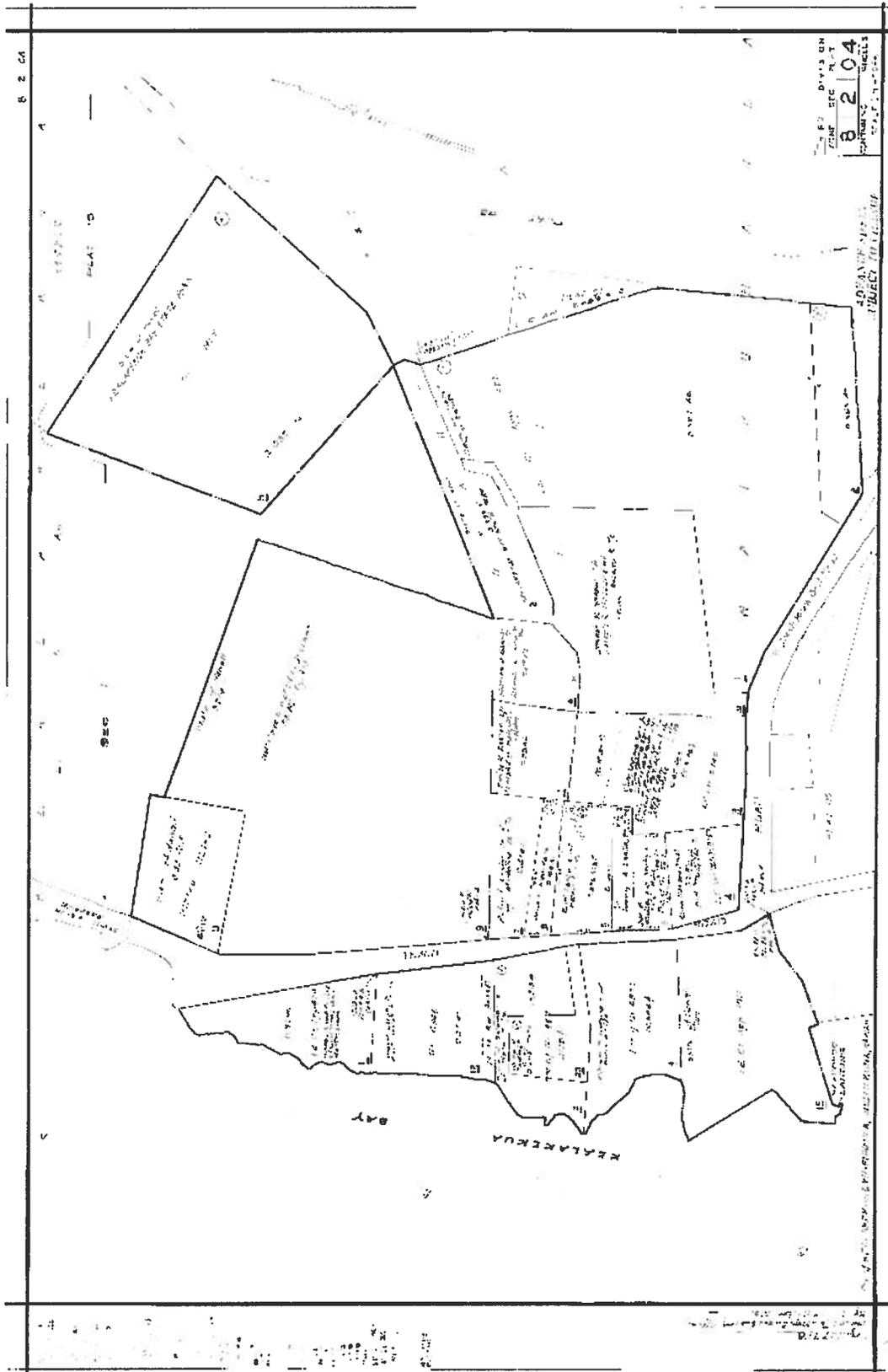
APPROVED FOR SUBMITTAL:

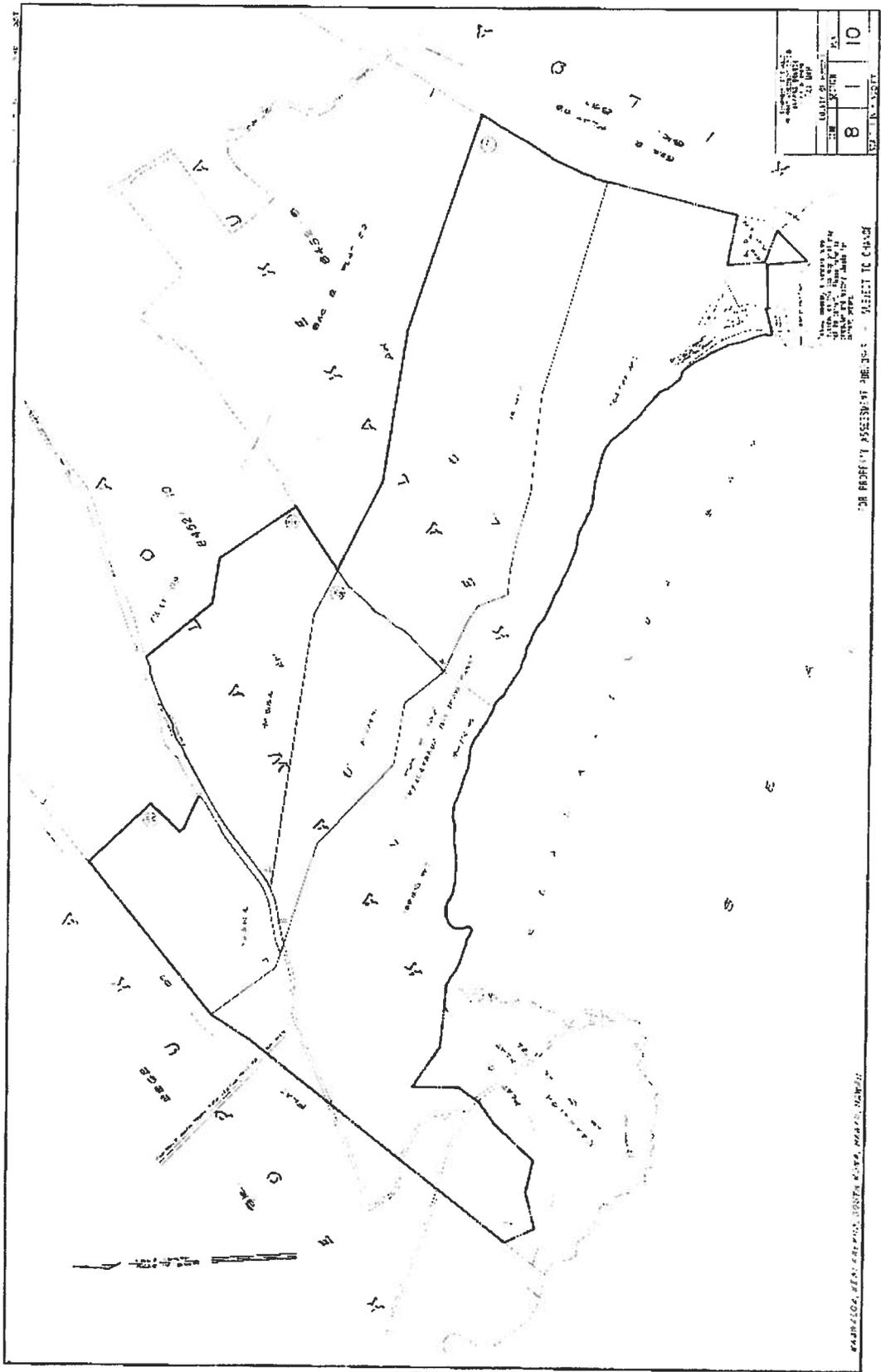


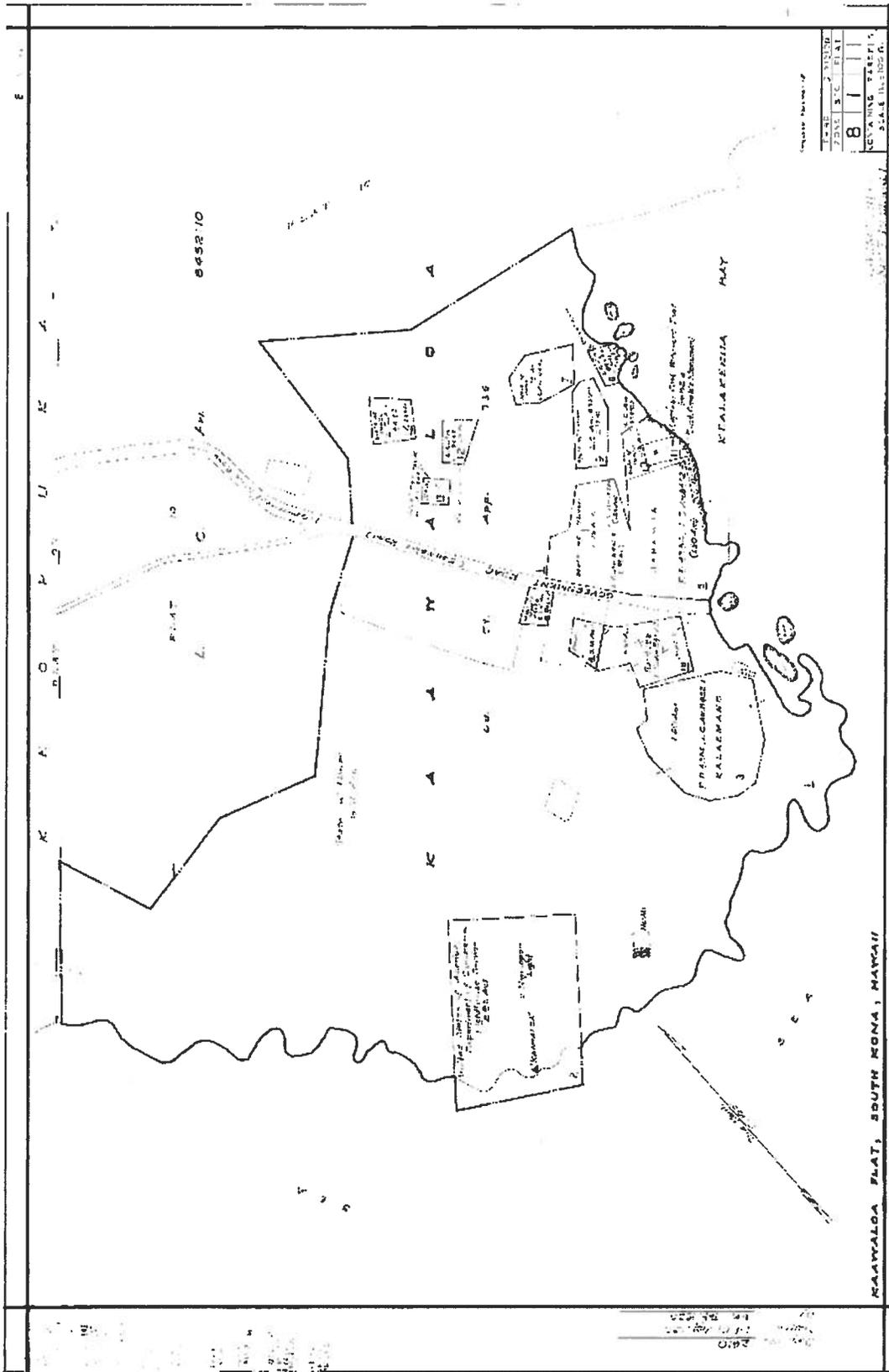
William J. Aila, Jr., Chairperson

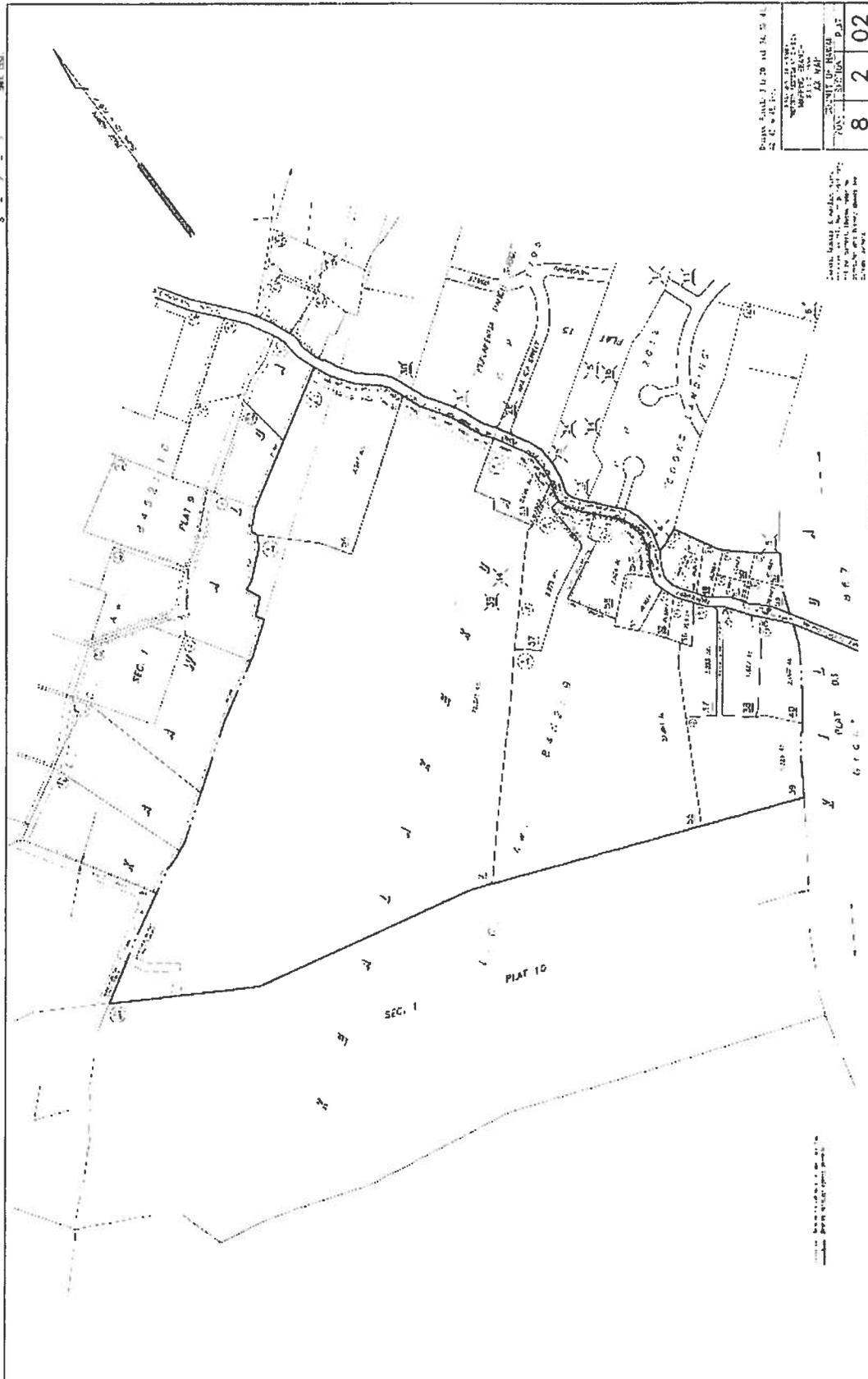
Exhibit A - Kealakekua CSF Map and Tax Map Keys











Kealakekua Bay MLCD
Map No. 10
Scale: 1" = 100'

DATE	10/26/12
BY	BLNR
FOR	BLNR
PROJECT	BLNR
NO.	10
SHEET	9
TOTAL SHEETS	10

8 2 02

Kealakekua Bay MLCD
Map No. 10
Scale: 1" = 100'

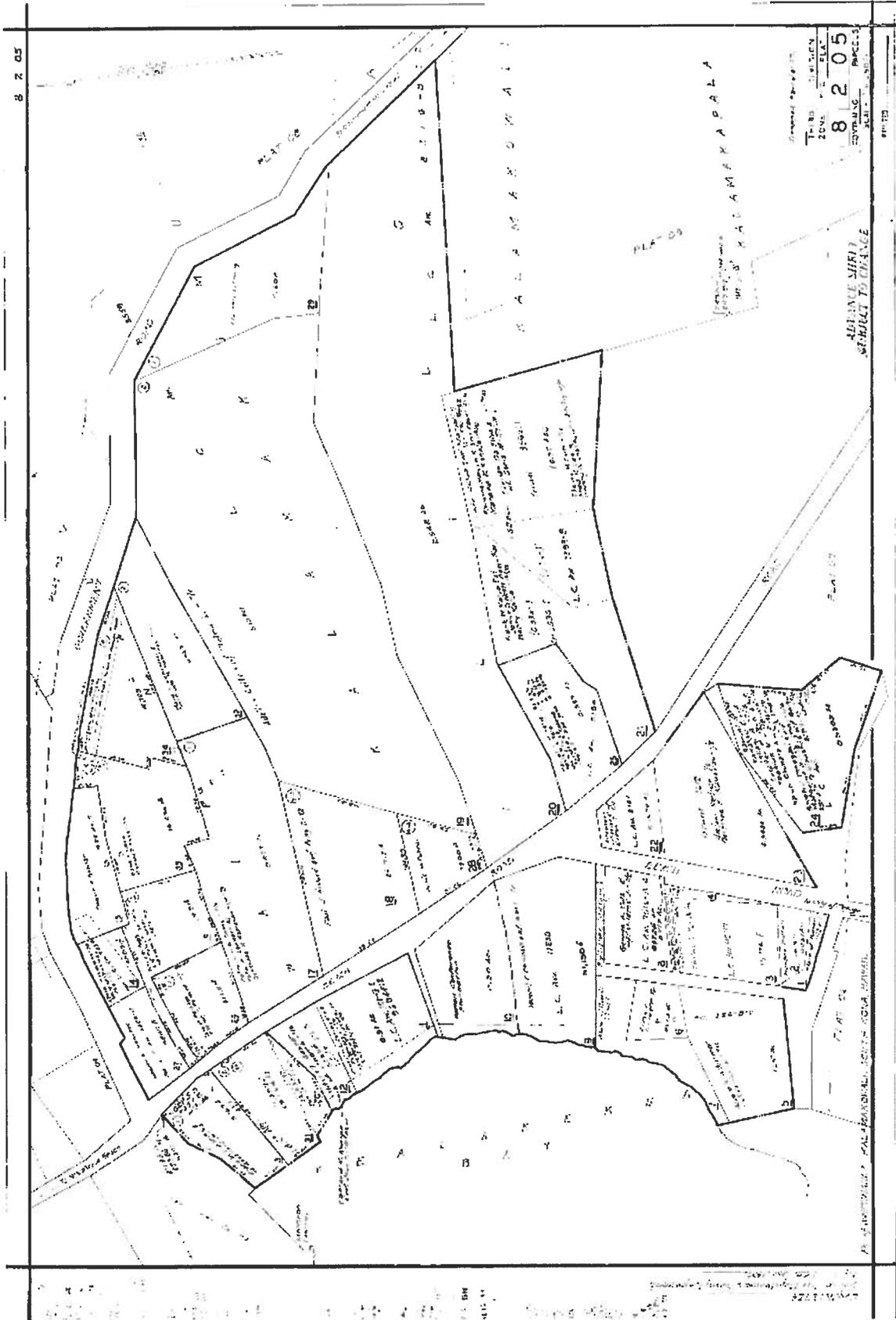


Exhibit B – Exemption Notification

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
CONSERVATION DIVISION RESOURCE MANAGEMENT

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 Governor's Executive Order No. 3706 to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation and Reser Aside to DLNR, Division of State Parks for park purposes

Project / Reference No.: PSF No.: 12HD-147

Project Location: Portion of Government lands situated at Ka'awaloa, Kealakekua, Kiloa, Waipuna'ula, Kalama 1, 3, 4 and 5, Liloa and Kahauloa 1, South Kona, Hawai'i, identified by Tax Map Keys: (3) 8-2-04:15; and seaward of: 8-1-10 and 11; and 8-2-02, 04, 05 and 06

Project Description: Cancel executive order to DLNR, Division of Boating and Ocean Recreation and reset aside to DLNR, Division of State Parks

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

Exemption Class No.: In accordance with Hawaii Administrative Rule 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".

Consulted Parties: Division of Boating and Ocean Recreation
Division of State Parks
Division of Aquatic Resources
Office of Conservation and Coastal Lands
Division of Conservation and Resources Enforcement
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The proposed exemption applies as this action is simply a transfer of management jurisdiction to the Division of State Parks. The current use of the land and waters is authorized and no long term expansion is expected as a result of this set aside. The set aside is not part of a multi phase project and no significant cumulative impacts are expected.

Recommendation:

That the Board find that this project will probably have minimal or no significant effect on the environment and therefore, is exempt from the preparation of an environmental assessment.



William J. Aila Jr., Chairperson



Date