

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

November 9, 2012

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

PSF No.: 12HD-138

Hawaii

**Issuance of Right-of-Entry Permit to B T Kuwahara LLC for the Purposes of
Conducting an Environmental Assessment, Keonepoko Homesteads, Puna,
Hawaii, Tax Map Key: 3rd/1-5-07:55.**

APPLICANT:

B T Kuwahara LLC, a domestic limited liability company

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Keonepoko Homesteads situated at Puna, Hawaii,
identified by Tax Map Key: 3rd/1-5-07:55, as shown on the attached Exhibit A.

AREA:

0.937 acres, more or less.

ZONING:

State Land Use District: Agricultural
County of Hawaii CZO: A-1a (agricultural – 1 acre lots)

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:

Vacant and unencumbered.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The right-of-entry issued to B T Kuwahara LLC to conduct an environmental assessment is exempt from the preparation of an environmental assessment pursuant to the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, Exemption Class No. 5. Refer to attached Exhibit B for details.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

REMARKS:

The subject parcel of land appears on Registered Map No. 2084, "Hawaii Territory Survey Plan of Keonepoko Homestead Lots Puna Hawaii" dated September 1903 (attached as Exhibit C), as a 50 foot "Road Reserve". Additionally, the subject parcel is referenced as a "Road Reserve" on subsequent subdivision maps submitted to the County of Hawaii in 1955 and 1972.

B T Kuwahara LLC (BTK) intends to establish a commercial retail center on the adjacent privately-owned land and desires to develop the subject property as the primary ingress/egress roadway for the commercial retail center (attached Exhibit D). After development of the roadway, the County of Hawaii, Department of Public Works, will assume ownership and maintenance of the land for public roadway purposes. Staff has verified the Department of Public Works is amenable to this action.

BTK has applied for a State Land Use District Boundary Amendment and Change of Zone for its private lands from the County of Hawaii, Planning Department. Since the project proposes to use government land for ingress/egress, Chapter 343, Hawaii Revised Statutes is triggered and an environmental assessment is required to proceed with the application process.

GK Environmental LLC has been contracted by BTK to perform the environmental assessment. BTK is requesting a right-of-entry permit for purposes of conducting the environmental assessment.

The dimensions of the subject property, approximately 50 feet in width and 820 feet in length, are consistent with the proposed use as a public roadway. The historical maps indicate this property was originally conceived to be used as access through Keonepoko Homesteads.

There is a longstanding disagreement between the State and the counties regarding ownership of certain roads deemed "roads in limbo". The Public Lands statute excludes "land being used for roads and streets" from description of the types of lands over which the Board of Land and Natural Resource has jurisdiction. HRS Section 171-2. Other statutes and acts provide that any public road that is not a State highway is a county highway. See HRS Sections 264-1, et seq.; Act 288 Session Laws of Hawaii 1993. Accordingly, the subject land may not be under the Board's jurisdiction, even though it is not presently developed as a public road. However, to prevent this jurisdictional issue from being an impediment to the proposed project, staff is including a recommendation below that the Board approve the issuance of the requested right-of-entry to the extent the Board has any right, title or interest in and to the land.

Staff did not solicit comments from government agencies, as no land disposition is contemplated at this time.

RECOMMENDATION:

That the Board, to the extent it has any right, title or interest in and to the subject land:

1. Issue a right-of-entry permit to BT Kuwahara LLC for the purposes of conducting an environmental assessment survey under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. The terms and conditions of the most current right-of-entry permit, as may be amended from time to time; and

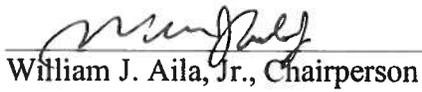
- b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



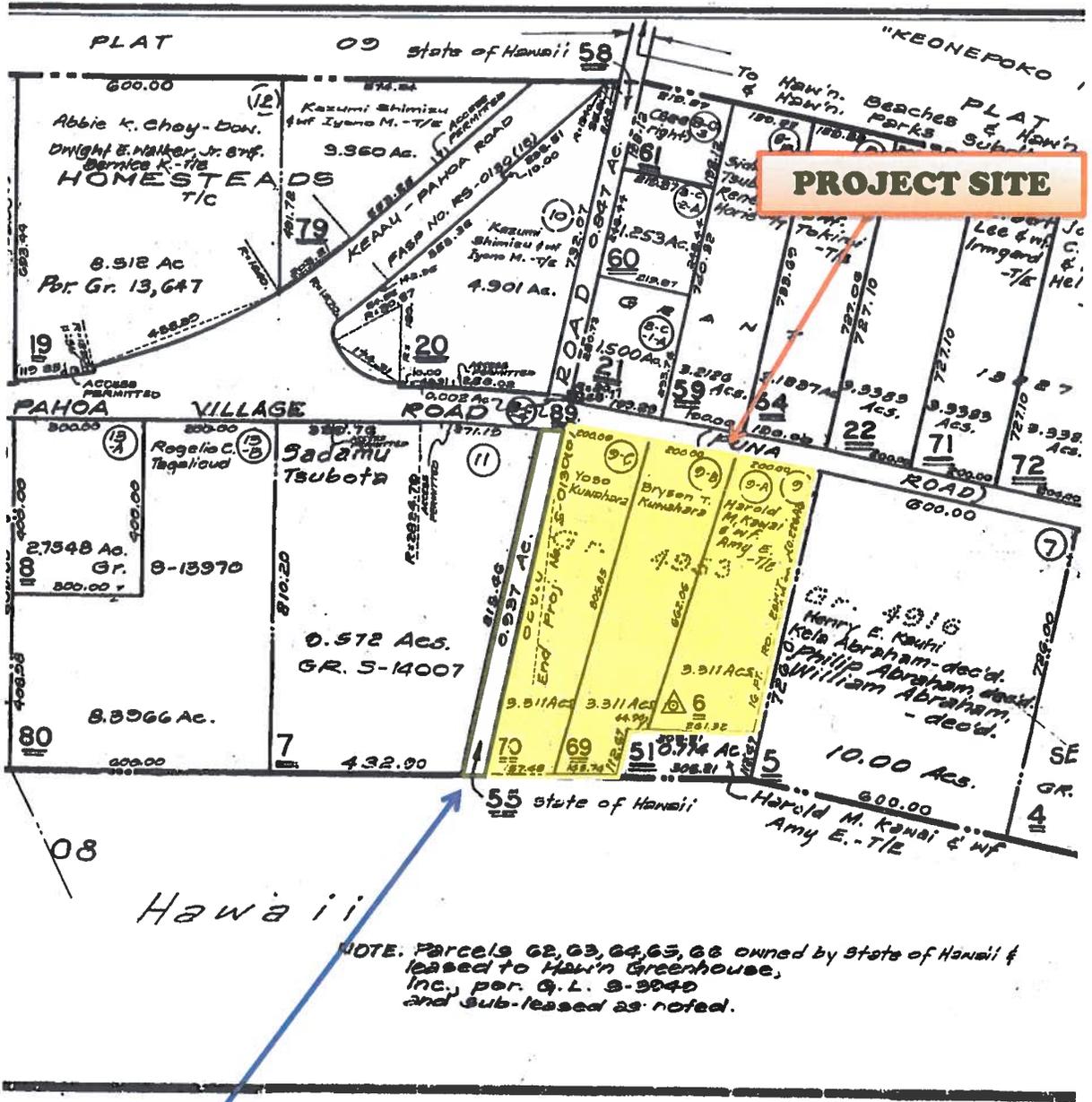
Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





PROJECT SITE

SUBJECT PROPERTY

Hawaii

NOTE. Parcels 62, 63, 64, 65, 66 owned by state of Hawaii & leased to Hawaii Greenhouse, Inc., per G.L. 9-3040 and sub-leased as noted.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



EXHIBIT B

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

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVIYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

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November 9, 2012

EXEMPTION NOTIFICATION

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

- Project Title:** Issuance of Right-of-Entry Permit to B T Kuwahara LLC for the Purposes of conducting and Environmental Assessment.
- Project / Reference No.:** PSF 12HD-138
- Project Location:** Keonepoko Homesteads, Puna Hawaii, Tax Map Key: 3rd/1-5-007:055.
- Project Description:** B T Kuwahara LLC (BTK) intends to establish a commercial retail center on privately-owned land adjacent to the subject property and desires to develop the subject property as the primary ingress/egress roadway for the commercial retail center. After development of the roadway, the subject property and all improvements are to be owned and maintained by the County of Hawaii, Department of Public Works for public roadway purposes.
- BTK has applied for a State Land Use District Boundary Amendment and Change of Zone from the County of Hawaii, Planning Department. Since the project proposes to use government land for ingress/egress, Chapter 343, Hawaii Revised Statutes is triggered and an Environmental Assessment is required to proceed with the application process.
- Chap. 343 Trigger(s):** Use of government land.
- 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:

Class 5: "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource."

Exemption Item No.: Item 1: Permission to enter state lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes.

Consulted Parties: None.

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson


10/30/12

Date

