

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

April 26, 2013

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

PSF 13HD-022

Hawaii

**Cancellation of Revocable Permit No. S-7535 to Margaret L. Loo and Issuance of Month-to-Month Revocable Permit to Ainslie A.N. Loo, Anita Loo and Nicole K. Loo for Diversified Agriculture Purposes; Ili of Kaohia, Waipio Valley, Hamakua, Hawaii, Tax Map Key: (3) 4-9-11:02.**

APPLICANT:

Ainslie A.N. Loo, husband, Anita Loo, wife, and Nicole K. Loo, daughter, as joint tenants.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waipio Valley, Hamakua, Hawaii identified by Tax Map Key: (3) 4-9-11:02, as shown on the attached map labeled Exhibit A & A-1.

AREA:

11.6 acres, more or less.

ZONING:

State Land Use District: Agricultural  
County of Hawaii CZO: Agricultural (A-40a)

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 Revocable Permit No. S-7535.

CHARACTER OF USE:

Diversified Agriculture.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$143.00 per month. No change to the rental rate is recommended based on the most current rent opening dated December 20, 2012.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The subject request 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. 1. Refer to attached Exhibit B for details.

DCCA VERIFICATION:

Not applicable. The Applicants as individuals are not required to register with DCCA.

REMARKS:

At its meeting of July 9, 1982, under agenda item F-1-a the Board consented to Revocable Permit No. S-5938 (RP S-5938) issued to Jon N. and Margaret L. Loo for diversified agriculture purposes.

Since that time, the permittees have sought, on two separate occasions, to take advantage of legislative action (Act 237, SLH 1988 & Act 211, SLH 1994) to convert the revocable permit to a general lease. However, the request was denied on both occasions because the subject property lacks legal access and is therefore not eligible as general lease lands.

At its meeting of October 23, 2009, under agenda item D-12, the Board consented to the cancellation of RP S-5938 and issued Revocable Permit No. S-7535 (RP S-7535) in order to address inadequate insurance provisions contained within the older revocable permit document.

The subject property has been let since 1932 and has been farmed continually since at least that time. Various members of the Loo Family have been cultivating taro and fern shoots on this land since 1966.

Margaret L. Loo's husband (Jon N. Loo) passed away in 2000 and her brother-in-law and his family (applicants) have been managing the taro and fern shoot farming operations since then and would like to take full responsibility for the land. As revocable permits are not assignable, staff is recommending the Board consent to the cancellation of RP S-7535 and issue a new permit to the applicants.

A final inspection of the property was conducted on March 6, 2013 at which time the property was found to be clean, well-kept and nicely managed with no signs of trash, rubbish or abandoned property. The permittee is current and in compliance with all the terms and conditions of the permit. The site inspection has been included as Exhibit C.

Margaret Loo has requested a waiver of the Phase (1) Environmental Site Assessment which is included in the terms of the revocable permit. Staff has considered the favorable results of the site inspection, the prohibition against assignment of the permit and the familial association between the permittee and the applicants. Ainslie, Anita and Nicole Loo are intimately familiar with the historic farm operations and are willing to assume full responsibility for the property. Therefore, staff is recommending a waiver of the requirement to perform the Phase (1) Environmental Site Assessment at this time.

The applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

There have been no other requests for use of this parcel.

Comments were solicited from:

<b>State Agencies</b>	<b>Response</b>
Dept. of Agriculture	No Comments
DLNR - Historic Preservation	No Response
DLNR - Aquatic Resources	No Objections
DLNR - Forestry and Wildlife	No Objections
DLNR - Engineering Division	No Response
DLNR - CWRM	No Response
Dept. of Hawaiian Homes Land	No Response
<b>Hawaii County Agencies</b>	<b>Response</b>
Planning Dept.	Use complies with zoning and SMA
<b>Other Agencies</b>	<b>Response</b>
Office of Hawaiian Affairs	No Response

The proposed use has continued since at least 1932. Such use has 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:** 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. Authorize the cancellation of Revocable Permit No. S-7535 to Margaret L. Loo and issuance of a new month-to-month revocable permit to Ainslie A.N. Loo, Anita Loo and Nicole K. Loo, covering the subject area for diversified agriculture 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 revocable permit form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and

- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Waive the requirement for a Phase (1) Environmental Site Assessment for the cancellation of Revocable Permit No. S-7535.

Respectfully Submitted,



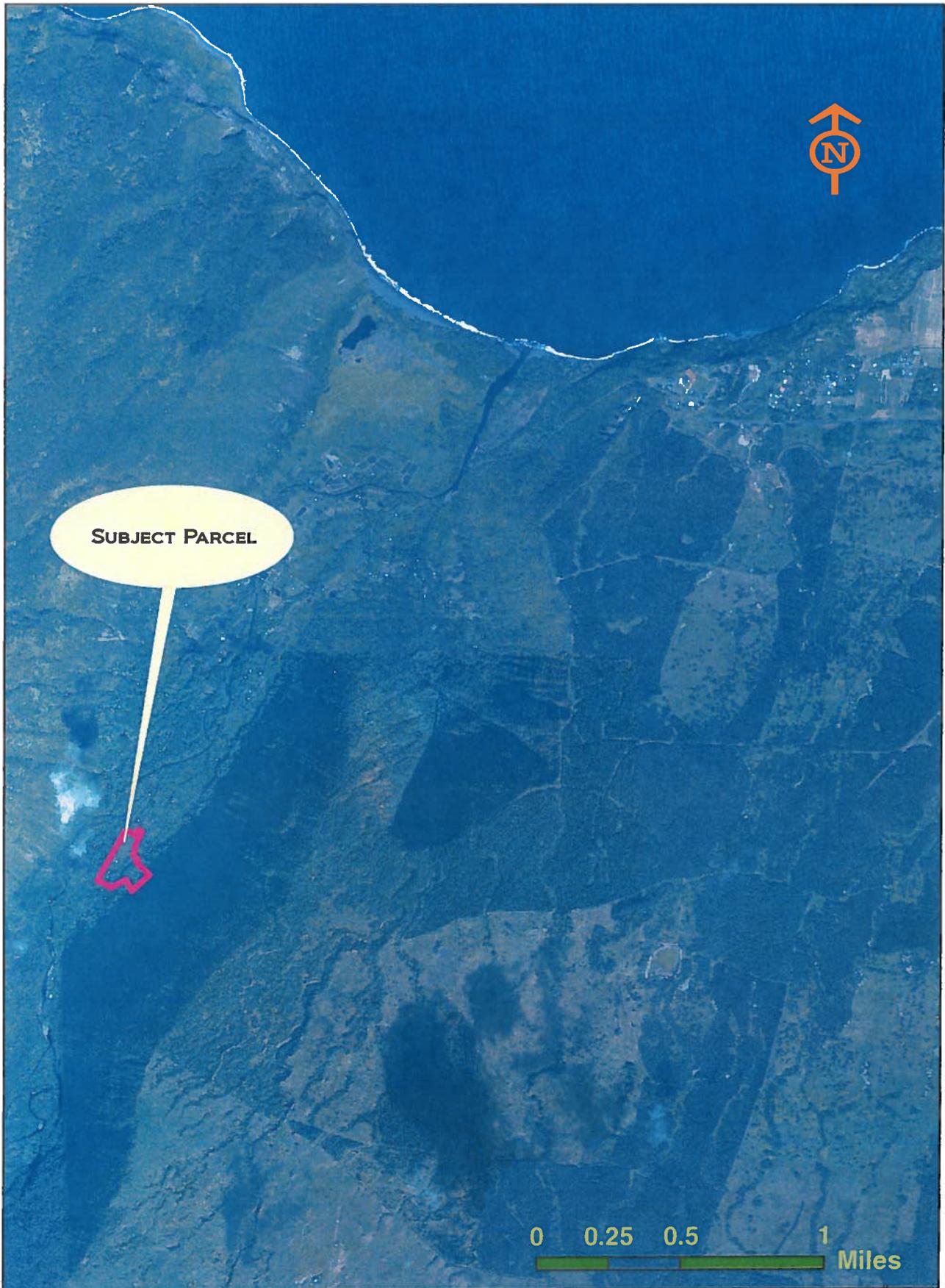
 Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

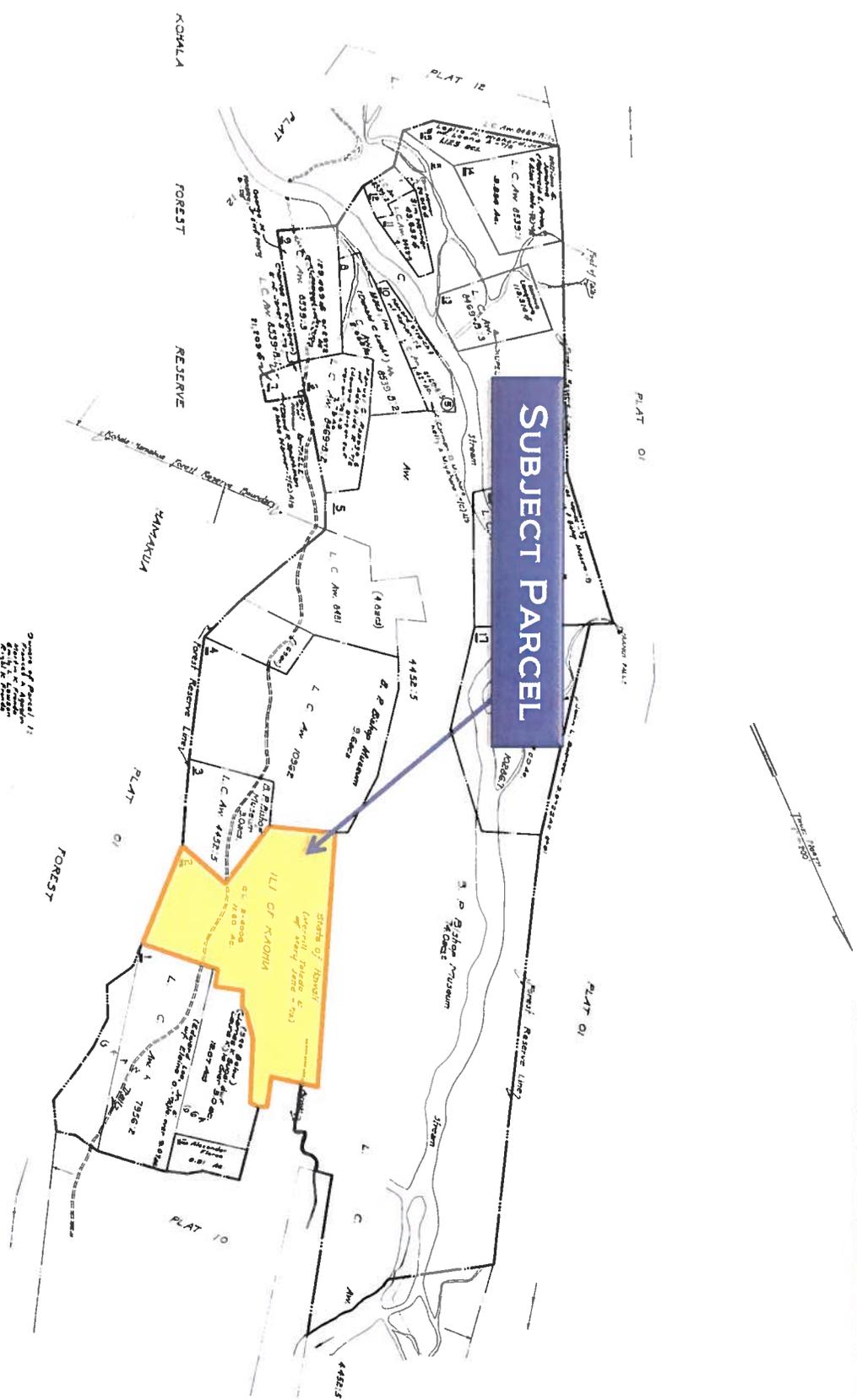


William J. Aila, Jr., Chairperson

**ILI OF KAOHIA, WAIPIO VALLEY**



# EXHIBIT A-1



1. Name of Parcel: 11  
 2. Area: 1.0000  
 3. Date of Survey: 11/11/11  
 4. Surveyor: [Name]  
 5. [Other details]

No. of MAPS SHEETS: 20/20 MAPS SHEETS

RESERVE

ADVANCE SHEET

SHEET NO. 10 OF 10 MAPS

TRIBE	DIVISION
4	9
11	11

CONTAINING 7 PARCELS

SCALE 1/4" = 100' ft.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



## EXHIBIT B

WILLIAM J. AHA, 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 CONVEYANCES  
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

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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

April 10, 2013

### EXEMPTION NOTIFICATION

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

**Project Title:** Cancellation of Revocable Permit No. S-7535 to Margaret L. Loo and Issuance of Month-to-Month Revocable Permit to Ainslie A.N. Loo, Anita Loo and Nicole K. Loo for Diversified Agriculture Purposes

**Project / Reference No.:** PSF 13HD-022

**Project Location:** Ili of Kaohia, Waipio Valley, Hamakua, Hawaii, Tax Map Key: (3) 4-9-11:02

**Project Description:** Cancellation and Reissuance of Revocable Permit on a taro and fern shoot farm in Waipio Valley.

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

**Exemption Class No.:** In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, 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."

The subject property has been let since 1932 and has been farmed continually since at least that time. Various members of the Loo Family have been cultivating taro and fern shoots on this land since 1966.

Margaret L. Loo's husband (Jon N. Loo) passed away in 2000 and her brother-in-law and his family (applicants) have been assisting her in maintaining the taro and fern shoot farming operations.

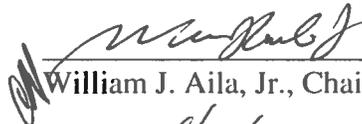
Margaret L. Loo is advanced in years and desires to ensure her family is able to continue the legacy of farming taro and fern shoots in Waipio Valley by allowing the applicants to acquire a permit for the subject property.

Consulted Parties

Not applicable

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

  
\_\_\_\_\_  
Date 8/8/13

# EXHIBIT C

State of Hawai'i  
DLNR, Land Division

## INSPECTION REPORT Intensive Ag/Special Livestock/Pasture/Commercial Timber

### FINAL INSPECTION

#### General Information

Document Number: GLS \_\_\_\_\_ or RPS 7535 Character of Use Taro/Fern Shoot Farm  
 Inspection Date: 3/6/2013 Inspection Time: 10:00 am Land Agent: Candace Martin

#### TENANT INFORMATION

Name: Margaret Loo Home Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Business Phone: \_\_\_\_\_  
Honokaa, Hawaii 96727 Fax: \_\_\_\_\_  
 Contact Person: Margaret Loo Contact Phone: \_\_\_\_\_

#### SITE INFORMATION

TMK: (3) 4-9-11:02 Area: 11.6 acres  
 Site Address: \_\_\_\_\_  
 \_\_\_\_\_

#### FISCAL INFORMATION

ITEM	NOT APPLICABLE	CURRENT = COMPLIANCE	DEFAULT = NON-COMPLIANCE
Rent		X	
Liability Insurance			X
Fire Insurance	X		
Tenant Deposit/ Bond		X	
Mortgage	X		

**ANNUAL INSPECTION REPORT**  
Intensive Ag/Special Livestock/Pasture/Commercial Timber

**File Review****LICENSES/PERMITS/CONSENTS**

ITEM	DLNR Approval Docs in File			COMMENTS/NOTES/LISTS
	N/A	YES	NO	
Removal of Minerals/Waters	X			
Prehistoric/Historic Remains	X			
Cutting/Removal of Trees	X			
Hazardous Material Storage/Use	X			
Subletting	X			attach list or map if applicable
Improvement Construction Buildings	X			Pre-existing storage/shade building of approximately 500sf.
Improvement Construction Other structures	X			note deadlines for % completion
Conservation Plan	X			review plan and schedule; make copy of plan map and text table for use during inspection

**Field Inspection**

ITEM	CRITERIA FOR COMPLIANCE	MEETS COMPLIANCE			COMMENTS/NOTES
		N/A	YES	NO	
Subletting	consents approved use adheres to lease purpose	X			
Buildings / Residences: roof, paint, exterior, interior	clean, sanitary, orderly suitable & well maintained DLNR construction consent adheres to completion schedule *check for hazardous materials		X		Pre-existing storage/shade building has been well-maintained and kept in good repair. No hazardous materials are stored on the premises.
Structures: roads, walkways, fence lines, pipelines, others	cross check w/ conservation plan clean, sanitary, orderly well maintained adheres to completion schedule *check for hazardous materials		X		Fencing is repaired/replaced as necessary. No hazardous materials are stored on the premises.
Conservation Plan: conservation structures and plantings	adheres to plan map & schedule well maintained	X			refer to SWCD if plan application & maintenance not in compliance

Premises	clean, sanitary, orderly		X		Patches are very well-kept. Grounds are mowed and maintained. No rubbish/trash accumulations.
Hazardous Material Storage / Use	controlled and adheres to consent	X			No hazardous materials are stored/used on the premises.
Character of Use	adheres to lease purpose		X		
Phase 1 Environmental Site Inspection	as required in General Lease or Revocable Permit	X			Recommend to waive the Phase 1 requirement. Property has been well cared for and new permittee is related to current permittee and has been assisting in farming operations for several years.
Other					

**NARRATIVE AND RECOMMENDATIONS:**

This property is located way in the back of Waipio Valley. No legal access exists for this property. Access is allowed to this permittee via various leases held by her and other family members that are utilized as access. Approximately 2 acres of the southeast portion of this parcel is sheer valley wall and not useable for cultivation. Of the remaining 9 acres, about 4 acres are for taro cultivation. There are 5 active taro patches and 2 patches are being prepared for cultivation. The remainder of the property consists of fern shoot production, Storage/shelter building, stream and rocky treed area about 100 feet from Waipio River. The property has been well-maintained and is being utilized for the intended purpose.

The permittee has asked for a waiver of the requirement to perform a Phase 1 Environmental Site Assessment due to the prohibitive price and she does not store/use hazardous materials on the property. Members of her immediate family have applied to for a newt permit for the property. They have been farming the land with her for many years and are intimately familiar with the operations. For all of the above reasons, I recommend a waiver of the Phase 1 Site Assessment.

*Carroll K. ... 3/20/2013*



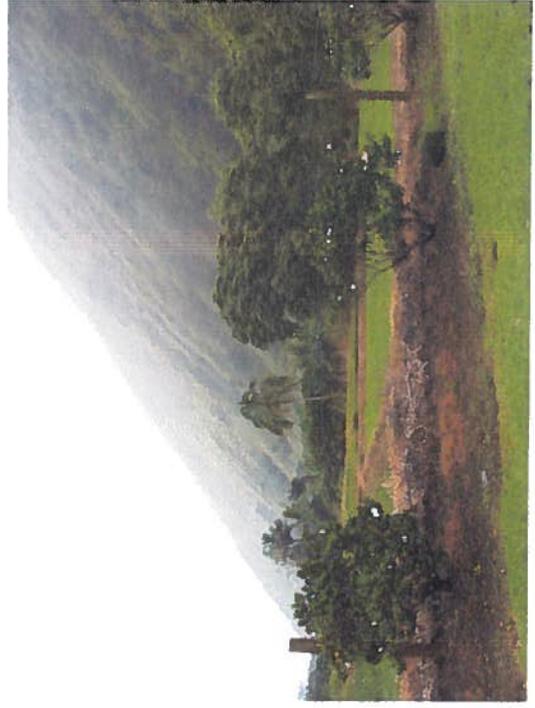
Storage shed with ferns in the background



Taro patches in various stages of production



Storage/Shelter area



Looking over taro patches from storage/shelter area



Patches 1, 2 & 3



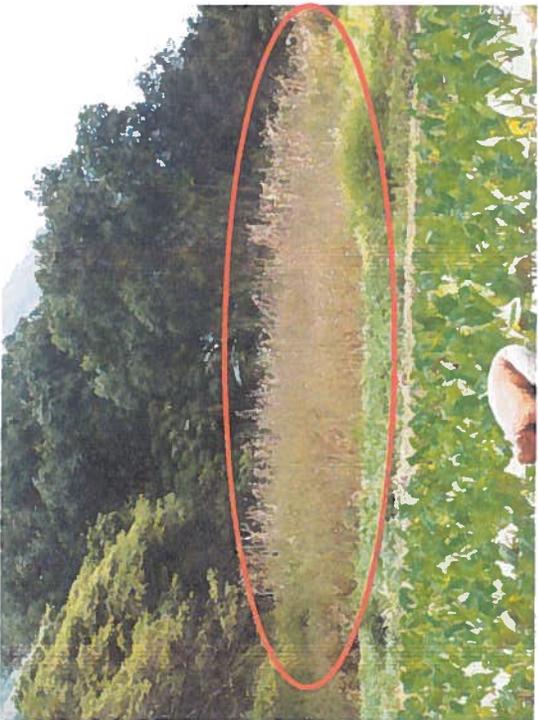
Taro patch 4



Taro patch 4



Taro patch 5



1<sup>st</sup> area planned for future cultivation



2<sup>nd</sup> area planned for future cultivation



Fresh product harvested from patch



Taro ready for market