

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

September 27, 2013

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

PSF No.: 13KD-155

Kauai

After-the-Fact Issuance of Right-of-Entry Permit to The Waipa Foundation on Unencumbered Lands for Cultural and Educational Purposes, portion of Hanalei (makai), Hanalei, Kauai, identified as the beach makai of TMK (4) 5-5-001:009

APPLICANT:

The Waipa Foundation, a Domestic Nonprofit Corporation.

LEGAL REFERENCE:

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

LOCATION:

Portion of Hanalei (makai), Hanalei, Kauai, identified as the beach makai of TMK (4) 5-5-001:009, as shown on the attached map labeled Exhibit A.

AREA:

1,200 sf, more or less.

ZONING:

State Land Use District: Conservation
County of Kauai: Conservation

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:

Unencumbered Beach

CHARACTER OF USE:

Cultural and Educational Purposes.

TERM OF RIGHT-OF-ENTRY:

Two Days

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(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. 4, that states "Minor alteration in the conditions of land, water, or vegetation." See exhibit "B"

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

REMARKS:

The Waipa Foundation is a 501(c)3 Domestic Nonprofit Corporation that serves as a Native Hawaiian learning center and community center where all who visit can renew ties to the 'aina (land and resources), and learn about traditional values and lifestyle through laulima (many hands working together). In conjunction with the Polynesian Voyaging Society and the arrival of the Hokule'a, The Waipa Foundation will be conducting cultural education for local students.

On August 23, 2013 The Waipa Foundation called the Kauai District Land Office (KDLO) to request a Right-of-Entry (ROE) to put up five shade tents on Hanalei Beach. The ROE was requested for September 5th and 6th, 2013. Due to the timing of the Board of Land and Natural Resources (Board) meetings, it was not possible to bring this request to the Board prior to the event dates. The dates were selected to coincide with the arrival

of the Hokule'a. The Waipa Foundation was late in contacting KDLO about the event because The Waipa Foundation itself received late notification of the event dates. The Waipa Foundation requested a ROE to put up two 20x20 tents and up to three 10x10 tents on the beach in front of TMK (4) 5-5-001:009.

In accordance with the Board action of June 14, 2013 item D-11, recommendation A, 5: The Chairperson is authorized to issue right-of-entry permits at his discretion without prior Board approval in cases where the request for a right-of-entry is routine and the Board has approved similar events at the same location within the twelve months preceding the date of the event, providing that Land Division staff shall request after-the-fact approval of the right-of-entry permit at the next available Board meeting following the event and that the Chairperson is authorized to waive or reduce the late fee surcharge at his discretion, for non-commercial events.

The Board approved the ROE for the Garden Island Canoe Racing Association on Unencumbered State Beach Land for Storage and Staging Areas, for the Hawaiian Canoe Racing Association Championships (HCRAC) and the NaPali Challenge at Hanalei Bay Beach, on August 2nd thru August 4th, 2013. Staff viewed this is a similar event approved by the Board within the last 12 months that fulfilled the requirements of the June 14, 2013 Board action.

Accordingly, staff prepared a ROE for the Chairperson's signature that was dated August 27, 2013 and delivered to the Waipa Foundation in advance of the event. The Waipa Foundation is a non-profit organization that does cultural education in North Kauai. The ROE was issued at gratis because the applicant was conducting a cultural education event for the benefit of the public.

Staff recommends below that the Board approve the issuance of the ROE after-the-fact for cultural and educational purposes.

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 after-the-fact issuance of a right-of-entry permit to The Waipa Foundation covering the subject area 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 right-of-entry permit form, as may be amended from time to time;

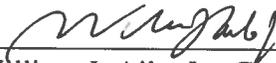
B. Such other terms and conditions as may be prescribed by the
Chairperson to best serve the interests of the State.

Respectfully Submitted,



Milo Spindt
District Land Agent

APPROVED FOR SUBMITTAL:



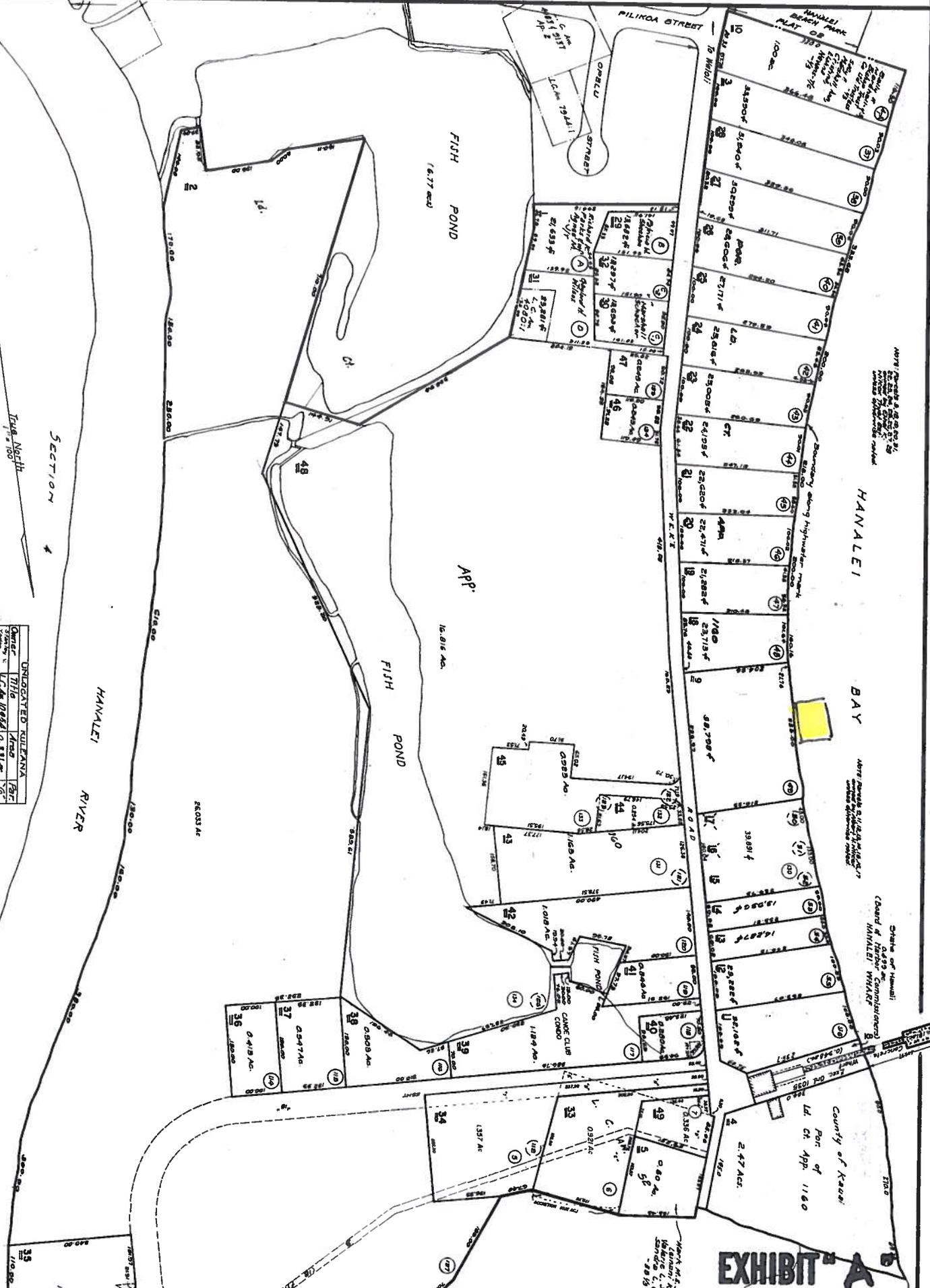
William J. Aila, Jr., Chairperson



Dwg. No. : 5109
 Source : Ld. Ct. App. 1180
 By : P.K. & S.L.C. Nov. 1956.

RECORDED
 IN 12 1945
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Part of HANAILEI (Makai) HANAILEI, KAUAI.



UNDIVIDED KULEANNA			
Owner	7116	Area	597
Volume	L.C. 10824	0.531 Ac.	78
Map/Plan	90811	0.21 Ac.	32

EXHIBIT A

NOTE: Details of this map are subject to change by order of the court.
 SUBJECT TO CHANGE



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 27, 2013

EXEMPTION NOTIFICATION

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

Project Title: After-the-Fact Issuance of Right-of-Entry Permit to The Waipa Foundation on Unencumbered Lands for Cultural and Educational Purposes, portion of Hanalei (makai), Hanalei, Kauai, identified as the beach makai of TMK (4) 5-5-001:009

Project / Reference No.: PSF No. 13KD-155

Project Location: Unencumbered Beach Makai of TMK (4) 5-5-001:009

Project Description: Issuance of Right-of-Entry Permit to The Waipa Foundation for Cultural and Educational Purposes. Erect tents for student activities.

Consulted Parties: NA

Exemption Class No. and Description: In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(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. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

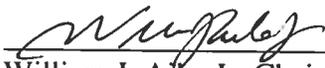
Exemption Item Description: The proposed exemption is appropriate because the Applicant is requesting a right-of-entry permit to erect two 20' x 20' tents and four 10' x 10' tents for cultural and educational activities related to the voyaging canoe Hokule'a. According to the Applicant, the proposed project maintains the existing topography and is a minor alteration of the condition of the

Exhibit B

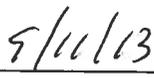
land and vegetation and should result in no material change or significant impact to the beach environment. If further actions are taken that result in a material change, Applicant will be required to be in compliance with Chapter 343

Recommendation:

It is recommended that the Board find that the issuance of an access easement to Applicant 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. Affa, Jr. Chairperson



Date