

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

July 24, 2015

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

PSF No.: 12HD-178

HAWAII

Issuance of Revocable Permit to Punaluu Ranch, LLC, for Pasture Purposes, Kaalaala Mauka, Kaalaala-Kapapala, Kau, Hawaii, Tax Map Key: (3) 9-6-011: portion of 002.

APPLICANT:

Punaluu Ranch, LLC, a Hawaii limited liability company, whose mailing address is P. O. Box 778, Pahala, HI 96777.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Kaalaala Mauka, Kaalaala-Makakupu Government Tract, Section A, Part 4, situated at Kaalaala-Kapapala, Kau, Hawaii, identified by Tax Map Key: (3) 9-6-011: portion of 002, as shown on the attached map labeled Exhibit A.

AREA:

843.796 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: Ag-20A

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES x NO

CURRENT USE STATUS:

843.796 acres	Vacant and unencumbered. (subject of request)
578.404 acres	Encumbered by Revocable Permit No. S-7758 to Kapapala Ranch for pasture purposes.
<u>1.739 acres</u>	Utilized as part of the Kau Belt Road
1,423.939 acres	Total

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$226 per month, based on an in-house valuation recommendation attached as Exhibit B.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification (Exhibit C)

DCCA VERIFICATION:

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

REMARKS:

The subject parcel was originally encumbered under General Lease No. S-3566 to Kau Agribusiness, formerly the Kau Sugar Company, between 10/25/1956 to 12/24/1977, for sugar cane cultivation.

At its meeting of October 28, 1977, Item F-4, the Land Board approved the issuance of Revocable Permit No. S-5491 to Kau Sugar Company, Inc., Richard Smart, dba: Parker

Ranch and Gordon Cran dba: Kapapala Ranch, as co-permittees, for sugar cane cultivation and pasture purposes. In 1978, Richard Smart sold his Kau ranching operations to Kawaihae Ranch, Limited. Revocable Permit S-5491 was cancelled on 6/30/96.

Upon closure of the sugar plantations, the same parcel was then put under Revocable Permit No. S-7057 to Kawaihae Ranch, commencing on July 1, 1996 for pasture, but was later terminated due to non-payment of rent on 12/11/1998.

At its meeting of July 8, 2005 (D-12), the Board of Land and Natural Resources approved Revocable Permit No. S-7758 to Kapapala Ranch, over a 578.404 acre portion of the subject property for pasture purposes.

Proposed use is allowable under county zoning, which is Agriculture-20A.

Punaluu Ranch, LLC, has 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.

Punaluu Ranch, LLC, previously known as BK Livestock Company, Inc., has been in operation for twenty (20) years. Mr. Kyle Soares, as its principal and owner/operator, has been in the cattle business for over thirty (30) years. As such, Mr. Soares qualifies as a bona fide farmer pursuant to §171-14.5, HRS.

Mr. Soares currently has a pasture lease from the Olson Trust, but was recently notified that all of the Olsen pasture leases will be discontinued as the properties will be sold. As a result, Mr. Soares is in urgent need of new pasture for his cattle. Due to the limited water sources in the Kau area, the availability of pasture lands is likewise limited.

To date, there were no other applicants requesting the same parcel.

Staff recommends a month-to-month tenancy for this parcel for pasture purposes as an appropriate interim usage until the Division is prepared to auction for a long-term disposition. Survey, mapping, and resolution of water issues need to be completed before considering this parcel for a long-term disposition. Tenancy on the State property is much needed to provide maintenance of the parcel to create and preserve its usable condition, for the control of noxious and invasive plant species. Most recently, in July 2012, a runaway brush fire scorched much of an adjacent property and threatening, but sparing the subject parcel.

Currently, Mr. Soares possesses two other revocable permits (RPS-7667 & S-7694) under BK Livestock Company, Inc., for pasture purposes. Through the years, Mr. Soares has demonstrated that he is a model steward of the State property.

The proposed use on the subject parcel has continued since the 1970s and is expected to continue. 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, and is therefore, exempt from the preparation of an environmental assessment.

On December 31, 2012, various government agencies and interest groups were solicited for comments.

AGENCIES	COMMENTS
County of Hawaii:	
Planning Department	No objections
Public Works	No response
State of Hawaii:	
DLNR - Historic Preservation	See comments below
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response

The State Historic Preservation Division indicated that no archaeological surveys have been conducted on the subject parcel. As a result, there is very little known about the distribution of archaeological resources in this area. Records indicate that there is a possible alignment of the historic Volcano Road that runs through this parcel. Over grazing of cattle in areas with archaeological resources has the potential to have an adverse effect on these resources. SHPD has requested it be given the opportunity to conduct a field inspection to better able to determine if adverse effects to historic properties have occurred or will occur. Following the field inspection, SHPD will be better able to make recommendations regarding the protection of archaeological sites that are being or could be impacted by cattle, and determine if conditions should be attached.

Staff delayed processing of the above request to allow SHPD to conduct the necessary field inspections as requested. It has now been three years since we started this recommendation and still no inspections have been conducted. As a result, staff is now recommending that we resume processing of this request. Mr. Soares has indicated that SHPD can contact him at any time to make arrangements for conducting the field inspections, if it still deems necessary.

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 issuance of a revocable permit to Punaluu Ranch, LLC, covering the subject area for pasture 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;
 - 1) Permittee shall use the Premises for Pasture purposes only;
 - 2) Pasture means the conduct of livestock operation consisting of keeping cattle, primarily, and others, in a minor role, such as horses, sheep, and goats, where animals graze the land for feed produced thereon;
 - 3) All construction and use of the Premises shall be in full compliance with all laws, rules, and regulations of the Federal, State and County government;
 - 4) The subject land shall be leased in an “as is” condition;
 - 5) Permittee shall be solely responsible for any survey and boundary stakeout of the demised premises;
 - 6) Permittee shall apply as a Cooperator with the Kau Soil and Water Conservation District within thirty (30) days from the effective date of this Permit;
 - 7) Permittee is required to erect and maintain perimeter fencing of stock-proof materials of areas actively being pastured, at Permittee’s own cost and expense;
 - 8) Permittee is prohibited from using the Premises for residential or employee dwelling purposes;
 - 9) No hunting will be allowed on the Premises;
 - 10) Permittee shall bear the cost of all utilities, if desired;
 - 11) Permittee shall be responsible for securing the necessary access to the Premises. Said access shall be obtained at Permittee’s own cost and expense;
 - 12) Permittee shall at all times practice good animal husbandry and shall be required to carry out a program of conservation in

cooperation with the appropriate Soil and Water Conservation District, with which district the Permittee shall maintain cooperative status. The conservation program shall be in accordance with a conservation plan that shall be submitted to the Chairperson of the Board of Land and Natural Resources (Chairperson) for acceptance, fifteen (15) days after the approval by the appropriate Soil and Water Conservation District. The conservation plan shall include, but not be limited to applicable practices of land clearing, range/pasture management, irrigation and drainage systems, noxious weed control, and others needed to protect the land against deterioration and prevent environmental degradation; provided however, that this requirement may be waived from the permit with little or no apparent conservation problems as verified by the appropriate Soil and Water Conservation District. In the event the activities of the Permittee in this regard shall be found to be unsatisfactory to the Chairperson, the Chairperson shall notify the Permittee and the Permittee shall be required, within thirty (30) days of the notice, to cure the fault and submit proof of satisfaction to the Chairperson. In the event an approved conservation plan cannot be obtained through the Soil and Water Conservation District, the Permittee shall submit a plan of development and utilization satisfactory to the local district land agent.

- 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.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

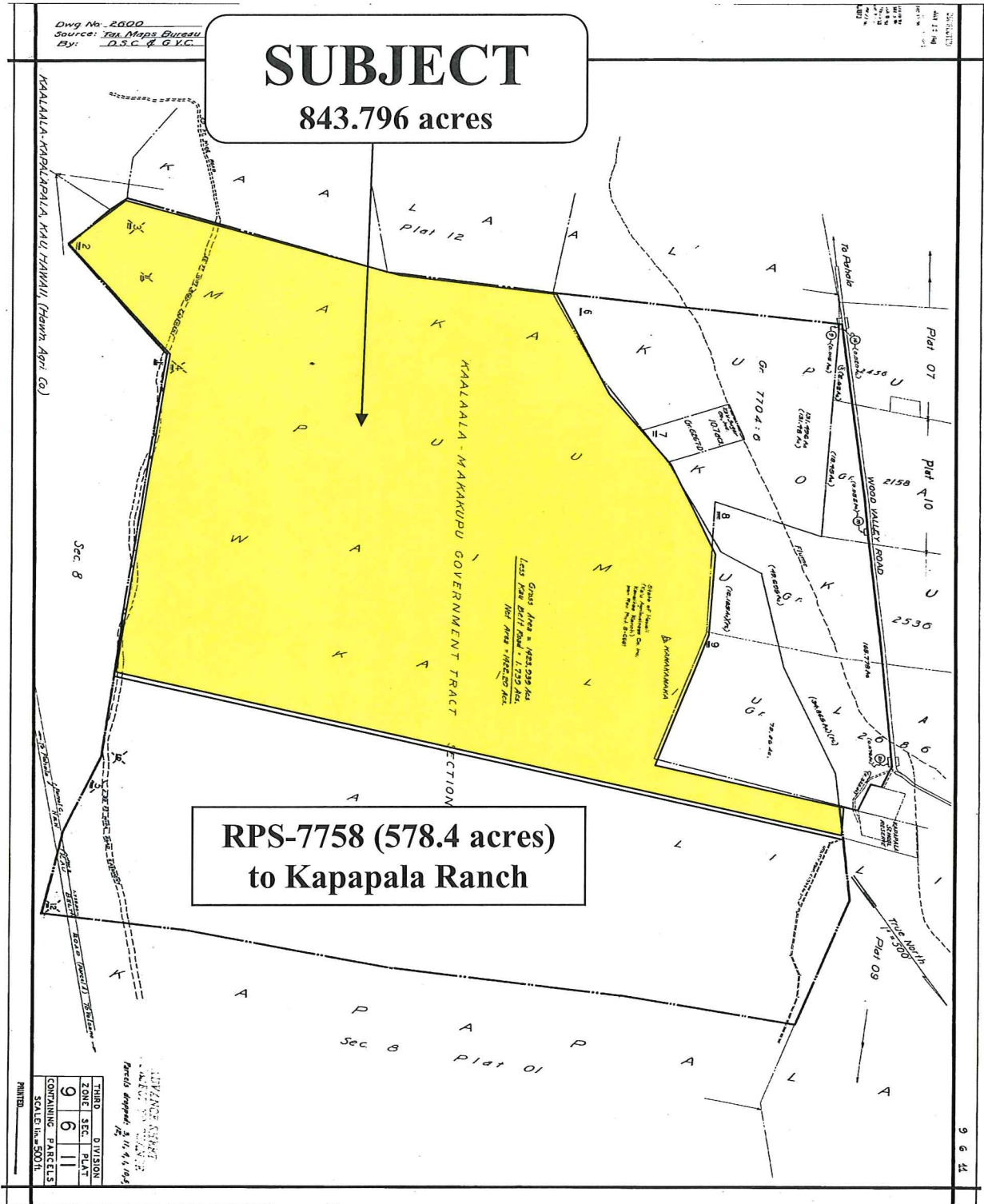
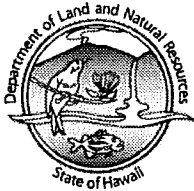


EXHIBIT A



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

75 Aupuni Street, Room 204
Hilo, Hawaii 96720
PHONE: (808) 961-9590
FAX: (808) 961-9599

July 1, 2015

MEMORANDUM

TO: Suzanne D. Case, Chairperson
THROUGH: Russell Y. Tsuji, Land Administrator
FROM: Wesley T. Matsunaga, Land Agent *Wesley T. Matsunaga*
SUBJECT: In-House Valuation Recommendation – Revocable Permit for Pasture Purposes

PSF No.: 12HD-178
Applicant: Punaluu Ranch, LLC
Location: Kaalaala Mauka, Kau, Hawaii
Tax Map Key: (3) 9-6-011: portion of 002
Char. Of Use: Pasture

We have been requested to provide a monthly rent amount for the issuance of a revocable permit for pasture purposes on the above-referenced property. This rent amount will be included in staff's submittal to the Board for approval of this permit and will not be effective unless such approval is received.

The subject consists of approximately 843.796-acres in Kaalaala Mauka, Kau. Based on discussions with applicant and land agent's knowledge of the area, it was determined that only 100% of the subject property or 843.796-acres is usable for Class D pasture purposes. The remaining lands consist of a gulch, rocky streambed and lava rocks, whereby pasture use is not possible. Staff inquired with the applicant and he estimated that a carrying capacity of 20-acres of animal unit is reasonable. After review by staff, this carrying capacity appears to be reasonable.

Based on an animal production formula for the subject acreage, we calculated the annual rent using a 42.19 AU capacity:

	<u>Usable Acreage</u>	<u>Capacity¹</u>	<u>AU</u>
Pasture Details:	843.796 acres	20 acres per cow	42.19
Average weight gain per animal per year in lbs.			x 300
Annual weight gain in lbs.			12,656.94
Average live weight price (3-yr. Average)²			x \$0.75
Gross value of beef			\$9,492.71

EXHIBIT B

Portion of gross profit to Lessor	<u>x</u> <u>%25</u>
Gross annual rent	\$2,373.18
Annual rent (rounded)	\$ 2,733
Monthly rent	\$ 226

¹Carrying capacity estimated by applicant.

²Average live weight price (cents per pound) for Big Island derived from the *Statistics of Hawaiian Agriculture* average for the period 2008 to 2010, the most recent data available.

<u>Year</u>	<u>Statewide</u>	<u>Big Island</u>
2006	\$0.767	\$0.795
2007	\$0.724	\$0.760
2008	<u>\$0.677</u>	<u>\$0.696</u>
Average (rounded)	\$0.723	\$0.750

Upon completing the above formula using the information available, it was found that the monthly rental amount calculated was above the Land Board's current minimum rent policy rate of \$480 per annum or \$40 per month.

Therefore, as of the date of this document, the monthly rent for the revocable permit to the applicant will not be \$40 per month, but is recommended to be at a rental rate of \$2,733 per annum, or \$226 per month as calculated.

Special Assumptions and Limiting Conditions

- 1) This rental valuation estimate is for internal purposes only. This document does not take the place of an appraisal and does not constitute an appraisal that adheres to the Uniform Standards of Professional Appraisal Practices.
- 2) The subject property was not inspected by the staff appraiser.

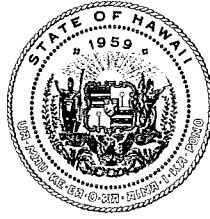
Approved/Disapproved:

	<u>7/16/2015</u>
Suzanne D. Case, Chairperson	Date

cc: District File
Central File

EXHIBIT B

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING 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

EXEMPTION NOTIFICATION

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

Project Title:	Issuance of Revocable Permit to Punaluu Ranch, LLC, for pasture purposes.
Project / Reference No.:	PSF No.: 12HD-178
Project Location:	Kaalaala Mauka, Kau, Hawaii, Tax Map Key: (3) 9-6-011: portion of 002.
Project Description:	Issuance of Revocable Permit to Punaluu Ranch, LLC, for pasture purposes.
Chap. 343 Trigger(s):	Use of State Lands.
Exemption Class No. and Description:	In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1 , "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 [HAR § 11-200-8(a)(1)]." Exemption Class No. 4 , which states, "Minor alterations in the conditions of land, water or vegetation [HAR § 11-200-8(a)(4)]".
Exemption Item Description from Agency Exemption List:	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.

Minor alterations in the conditions of land, water or vegetation.

EXHIBIT C

Recommendation:

The subject area has been in pasture use on the subject property since the 1970s. It is recommended that the Land Board find that issuance of a revocable permit for pasture purposes is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Suzanne D. Case, Chairperson



Date