

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

November 13, 2015

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

PSF No: 14KD-169
Kauai

Amend Prior Board Action of July 10, 2015, Item D-3, Sale of Old Government Road Remnant to Robinson Family Partners, por. of Makaweli, Waimea, Kauai, Tax Map Key: (4) 1-7-005:por. 001. The purpose of the amendment is to include the issuance of a right-of-entry permit to Robinson Family Partners, its consultants, contractors, and persons acting on its behalf, for site visit and survey purposes.

BACKGROUND:

At its meeting on July 10, 2015, under Item D-3, the board approved the sale of old government road remnant to Robinson Family Partners, por. of Makaweli, Waimea, Kauai. See Exhibit A.

As part of the applicant requirements, an appraisal is required to determine the one-time fair market value for the remnant. Since this process is taking longer than anticipated, applicant is requesting an immediate right-of-entry permit to conduct surveys on the remnant.

Applicant, its consultants and contractors would like to conduct a preliminary site visit and survey of the remnant. This will assist them in drafting a landscaping plan for entry points and a buffer zone between the current Kaunualii Highway and the proposed Kapalawai Resort, which will ultimately incorporate this remnant parcel. The right-of-entry permit will not allow any construction or site work on the remnant.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit B.

REMARKS:

Prior Board approval did not include a right-of-entry permit. Staff recommends an immediate right-of-entry permit over subject parcel for site visit and survey purposes, which will expire upon execution of sale of remnant parcel to Robinson Family Partners. No construction or site work will be permitted under the right-of-entry.

RECOMMENDATION: That the Board:

- I. Amend its prior Board action of July 10, 2015, under agenda item D-3, by adding a new paragraph 5 at the end of the Recommendation section:
 5. Authorize the issuance of an immediate right-of-entry permit to the Robinson Family Partners, its consultants, contractors and persons acting on its behalf, covering the subject lands 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. Right-of-entry permit will expire upon execution of sale of remnant parcel to Robinson Family Partners; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- II. All terms and conditions listed in its July 10, 2015 approval to remain the same.

Respectfully Submitted,



Marvin Mikasa
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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

July 10, 2015

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

PSF No.: 14KD-169

Kauai

Sale of Old Government Road Remnant to Robinson Family Partners, por. of Makaweli, Waimea, Kauai, Tax Map Key: (4) 1-7-005:por. 001.

APPLICANT:

Robinson Family Partners, a Hawaii general partnership.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at por. of Makaweli, Waimea, Kauai identified by Tax Map Key: (4) 1-7-005, as shown on the attached map labeled Exhibit A.

AREA:

1.23 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Kauai CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
July 10, 2015 Go

D-3
EXHIBIT "A"

CURRENT USE STATUS:

Vacant and unencumbered.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable. Subject lands are to be conveyed to abutting landowner(s) and will become privately owned land at that point.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine the one-time payment of fair market value for the remnant and;
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process; and
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Pursuant to section 171-52, HRS, a remnant is defined as "a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics." The subject parcel has been determined to be a remnant by this definition for the following reasons:

- 1) The parcel is a discontinued portion of an old government road.

Applicant in late 2012 applied to Department of Transportation, Highways Division (DOT-Highways), to purchase the road remnant assuming it was part of the old Kaumualii Highway before the highway was realigned.

On March 15, 2013, DOT-Highways wrote to the applicant explaining that a certificate of search was completed by DOT-Highways showing that the old government road remnant was acquired for the State of Hawaii through the Admissions Act. DOT-Highways determined that the remnant belongs to Department of Land and Natural Resources.¹ See Exhibits B & C.

Applicant is the owner of parcel (4) 1-7-005:006 (Parcel 6) as staff has confirmed by County of Kauai Real Property Tax Assessment website. Other abutting property to the subject remnant parcel includes parcel (4) 1-7-005:001 (Parcel 1), which is also owned by the applicant and is the planned future site of the Kapalawai Resort.

When the Kauai Belt Road project was completed, a portion of the new Kaumualii Highway dissected applicant's property, Parcel 6, and the adjoining property, Tax Map Key: (4) 1-7-005:002. This created an access situation for Parcel 1, which is separated from Kaumualii Highway by the highway remnant. See Exhibit D. Access to the planned Kapalawai Resort will need to cross the highway remnant.

Applicant Robinson Family Partners proposes to purchase the old government highway remnant and consolidate it into Parcel 6. This area will have two entrances to the resort and will landscape the remaining area between the highway and resort. See Exhibit E.

Kapalawai Resort is a planned 160-acre eco-tourist resort in Makaweli. Robinson Family Partners is leasing the land to Kapalawai Resort.

Robinson Family Partners 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.

Comments were solicited from the agencies identified below with the results indicated.

State Agencies:

| | |
|--------------------------|--|
| DOH | No environmental health concerns |
| DLNR - Historic Preserv. | No response by suspense date |
| OHA | Revenue reported in annual accounting of public land trust |
| DOT - Highways Div. | No objections |

¹ At its meeting of March 23, 1984, Item D-4, the Board authorized DOT-Highways to sell a number of road remnants statewide. Although the subject remnant was not included on the approved list, Land Division staff believes the remnant is under the jurisdiction of DOT-Highways pursuant to applicable law. Nevertheless, in order to facilitate a resolution of this matter, Land Division staff will process this disposition, if approved.

County Agencies

| | |
|-----------------|---------------|
| County Planning | No objections |
| Public Works | No comments |

Staff has no objections to the request.

RECOMMENDATION:

That the Board:

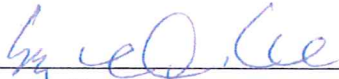
1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 1-7-005:001, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
4. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Robinson Family Partners 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 deed or grant (remnant) 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.

Respectfully Submitted,



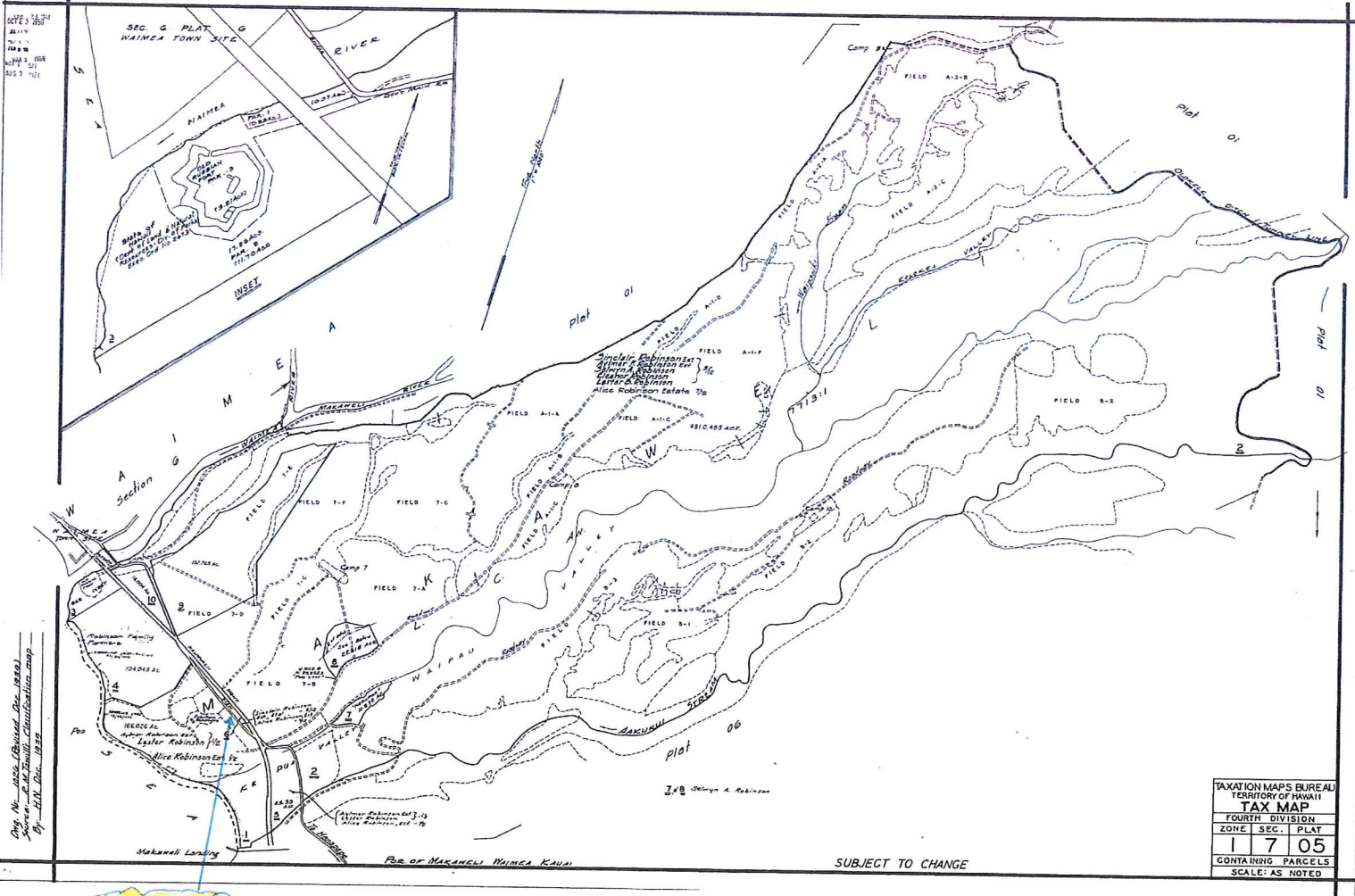
Marvin Mikasa
District Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





Orig. No. 1000 (Based on 1888)
 Surveyed by J. M. Smith, Classification map
 by - M. H. Dec. 1927

| | | | |
|----------------------|------|-------|--|
| TAXATION MAPS BUREAU | | | |
| TERRITORY OF HAWAII | | | |
| TAX MAP | | | |
| FOURTH DIVISION | | | |
| ZONE | SEC. | PLAT. | |
| 1 | 7 | 05 | |
| CONTAINING PARCELS | | | |
| SCALE: AS NOTED | | | |

SUBJECT TO CHANGE

OLD GOVERNMENT
ROAD REMNANT

EXHIBIT "A"

Kauai County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll.

EXHIBIT "A"

http://qpublic9.qpublic.net/qpmap4/map.php?county=hi_kauai&layers=parcels+ghybrid&mapmode

2/24/2015

NEIL ABU EICROMBI
GOVERNOR



CHARLES OKAMOTO
DIRECTOR

HIGHWAY DESIGN BRANCH, ROOM 688A
BRIDGE DESIGN SECTION, ROOM 611
CADASTRAL DESIGN SECTION, ROOM 600
HIGHWAY DESIGN SECTION, ROOM 609
HYDRAULIC DESIGN SECTION, ROOM 636
TECHNICAL DESIGN SERVICE, ROOM 688
LANDSCAPE DESIGN SECTION, ROOM 609

RIGHT-OF-WAY BRANCH, ROOM 691

TRAFFIC BRANCH, ROOM 602

MOTOR VEHICLE SAFETY OFFICE, ROOM 511

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION AT KAPOLEI
601 KAMOKILA BOULEVARD
KAPOLEI, HAWAII 96707

DEPUTY DIRECTORS
JADE T. BUTAY
TOSHIO FUCHIGAMI
RANDY GRUNE
JADINE UHASAKI

IN REPLY REFER TO
HWY-RM
3.90057

March 15, 2013

Mr. Charles Okamoto
Robinson Family Partners

Kaunakani, Hawaii 96747

Dear Mr. Okamoto:

Subject: Kaunakani Highway, Old Government Road
At Makaweli, Waimea, Kauai, Hawaii
TMKs: (4) 1-7-05:01, 02, 05, 06, 09 and 10, (4) 1-7-06:04, 06, 09 and 10
Request to Purchase Old Government Road

We regret to inform you that the processing of the sale of a portion of Old Government Road is being deferred to the Department of Land and Natural Resources. It was determined that the land belongs to DLNR and therefore would be the appropriate agency to process the sale.

Please contact Milo Spindt, Kauai District Land Agent at (808) 274-3491 for further information.

If you have any questions, please call me at (808) 692-7331 or you can email me at Katja.M.Jordan-King@Hawaii.Gov.

Very truly yours,

A handwritten signature in black ink that reads "Katja M. Jordan-King".

KATJA M. JORDAN-KING
Right-of-Way Agent
Property Management

EXHIBIT "B"

265-B

CERTIFICATE OF SEARCH

Dated February 22, 2012

FAP F-29(4)
KAUAI BELT ROAD
(Makaweli Section)

TAX KEYS: 1-7-05-portion of
Old Government Road and
1-7-06-portion of
Old Government Road

PORTIONS OF OLD GOVERNMENT ROAD RUNNING THROUGH
ROYAL PATENT NO. 4476, LAND COMMISSION AWARD NO. 7713,
APANA 1 TO V. KAMAMALU,
SITUATE AT MAKAWELI, DISTRICT OF WAIMEA,
ISLAND AND COUNTY OF KAUAI,
STATE OF HAWAII

STATE OF HAWAII

LIENS and/or ENCUMBRANCES: NONE

Request by K. Jordan-King dated 5/31/12 - Job No. 12-035-CS

EXHIBIT "c"

THIS IS TO CERTIFY that we have carefully examined the INDICES and RECORDS of the Public Lands Office and the Bureau of Conveyances of the Department of Land and Natural Resources, both at Honolulu, City and County of Honolulu, State of Hawaii, with reference to the title of

STATE OF HAWAII

All of that certain parcel of land situate at Makaweli, District of Waimea, Island and County of Kauai, State of Hawaii, described as follows:

PORTIONS OF AREA HIGHLIGHTED IN YELLOW AS SHOWN ON TAX MAPS 1-7-05 (Page 4) and 1-7-06 (Page 5)

(NOTE: As of July 5, 2012, no right-of-way map provided to HWY-RA. No area given for area highlighted in yellow. Search based on area highlighted in yellow as shown on pages 4-5, as provided by Katja Jordan-King, HWY-RM.)

Being portion of the government road running through Royal Patent Grant No. 4476, Land Commission Award No. 7713, Apana 1 to V. Kamamalu,

Being a portion of the land transferred to the STATE OF HAWAII by operation of Section 5(b) of the Admission Act (Act of March 18, 1959, Public Law 86-3, 73 Stat. 4).

NOTE: Registered Map 2246, dated 1891, "Map of Kauai Compiled from Government Surveys and Private Surveys of Lands belonging to Gay and Robinson", survey and map done by L. E. Imlay, shows said road in existence at that time.

No conveyance found of record to the City and County of Honolulu.

AND WE CERTIFY that there are no liens and/or encumbrances appearing of record of whatsoever kind or nature affecting the title at this time.

WE FURTHER CERTIFY that title to the premises herein described is in the said

STATE OF HAWAII

INDICES and RECORDS. all as shown by said

DATED at Honolulu, City and County of Honolulu, State of Hawaii, this 22nd day of January

A.D. 2012, at 3:29 o'clock p.m.

ABSTRACTING SECTION
STATE DEPARTMENT OF TRANSPORTATION

By Charles W. Sanchez

TK/k

The foregoing Certificate of Search and any further Continuation(s) thereto, are for the exclusive use of the State of Hawaii, its Department of Transportation, and shall not be relied upon by any person or corporation, individually or collectively.

Dwg. No. 1226 (Revised Dec. 1939)

Source: R. M. Jewell's Clarification map

By: H. N. Dec. 1939

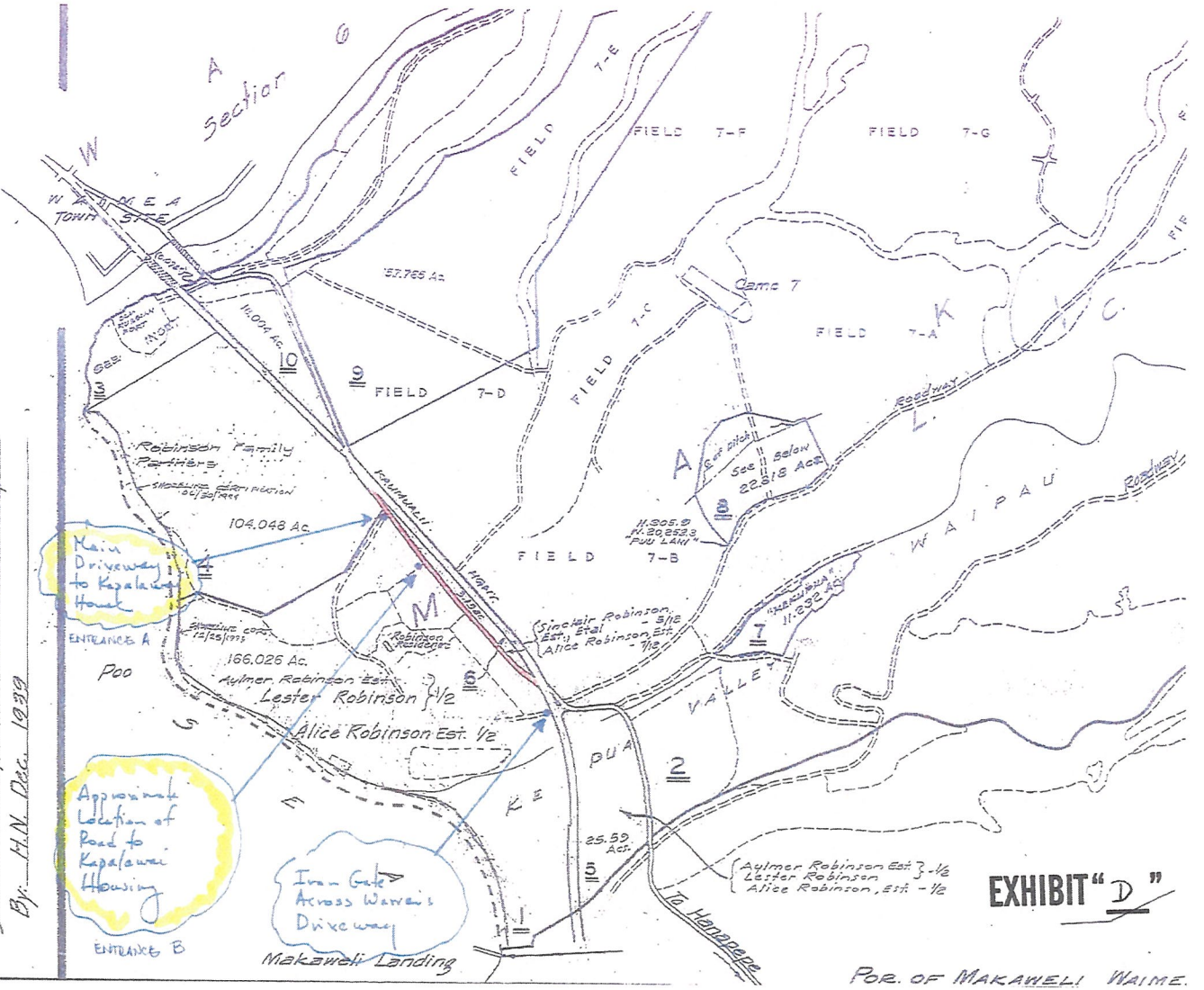
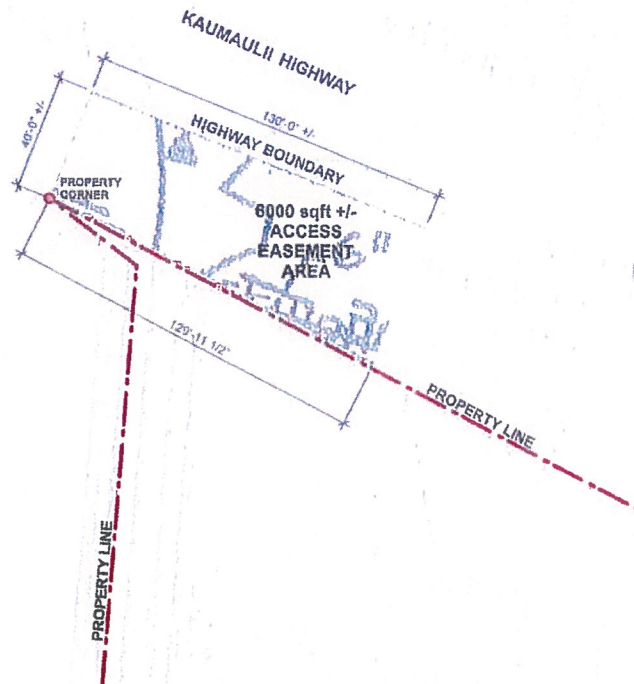
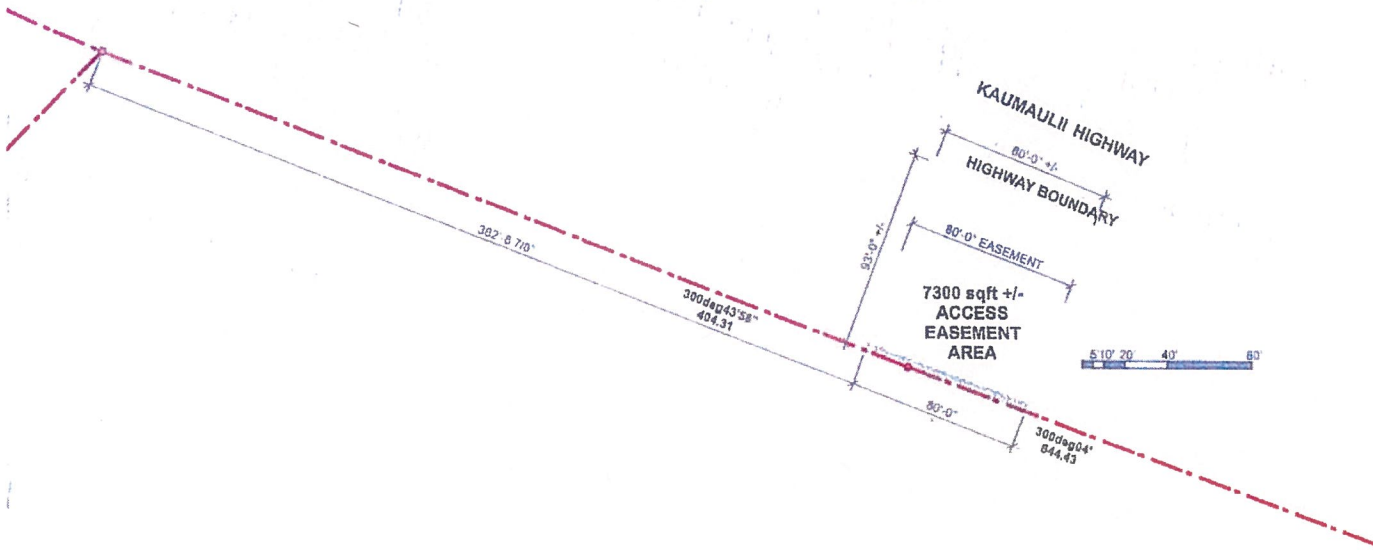


EXHIBIT "D"

FOR. OF MAKAWELI WAIME.

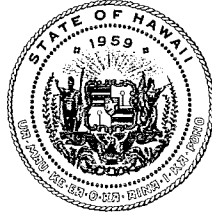
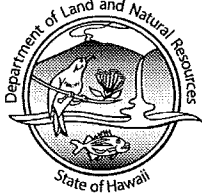


ENTRANCE A.



ENTRANCE 'B'

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 13, 2015

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

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
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

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR RIGHT-OF-ENTRY PERMIT TO ROBINSON FAMILY PARTNERS FOR ACCESS PURPOSES UNDER PSF No. 14KD-169

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Amend Prior Board Action of July 10, 2015, item D-3, Sale of Old Government Road Remnant to Robinson Family Partners. The purpose of the amendment is to include the issuance of a right-of-entry permit to Robinson Family Partners, its consultants, contractors, and persons acting on its behalf, for site visit and survey purposes.

PSF Number: 14KD-169

Project Description:

Applicant is the owner of parcel (4) 1-7-005:006 (Parcel 6) as staff has confirmed by County of Kauai Real Property Tax Assessment website. Other abutting property to the subject remnant parcel includes parcel (4) 1-7-005:001 (Parcel 1), which is also owned by the applicant and is the planned future site of the Kapalawai Resort.

When the Kauai Belt Road project was completed, a portion of the new Kaumualii Highway dissected applicant's property, Parcel 6, and the adjoining property, Tax Map Key: (4) 1-7-005:002. This created an access situation for Parcel 1, which is separated from Kaumualii Highway by the highway remnant. See Exhibit D. Access to the planned Kapalawai Resort will need to cross the highway remnant.

Applicant Robinson Family Partners proposes to purchase the old government highway remnant and consolidate it into Parcel 6. Applicant requests the issuance of a right-of-entry permit to Robinson Family Partners, its consultants, contractors, and persons acting on its behalf, for site visit and survey purposes. No construction or site work will be permitted under the right-of-entry.

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.

EXHIBIT B

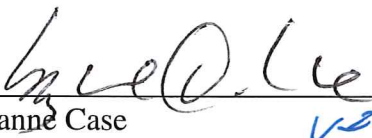
Exemption Determination:

After reviewing HAR § 11-200-(8), DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment.

According to the Exemption List for the Department of Land and Natural Resources, as Reviewed approved by the Environmental Council on June 5, 2015, 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)(46)]".

Conclusion:

It is recommended that the Board declare that 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.



Suzanne Case
Board of Land and Natural Resources

11/2/15

Date