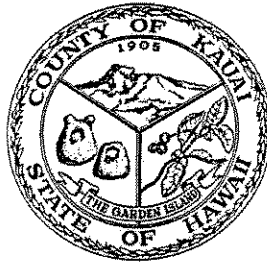


BRYAN J. BAPTISTE
MAYOR



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-6600

GARY K. HEU
ADMINISTRATIVE ASSISTANT

DEPUTY COUNTY ENGINEER
TELEPHONE 241-6600

**AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I**

DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUA'I, HAWAII 96766-1340

December 13, 2006

OFFICE OF ENVIRONMENTAL
QUALITY CONTROL

06 DEC 21 P2:24

RECEIVED

Ms. Genevieve Salmonson, Director
Office of Environmental Quality Control
State of Hawai'i
235 South Beretania Street, Suite 702
Honolulu, HI 96813

SUBJECT: Acquisition of Rail Road Right of Way (Portion) Tax Map Key (4) 4-4-04:03 Por
Waipouli, Kawaihau, Kaua'i, Hawai'i
Applicants: Patrick L. Ibbs and Stephanie A. Ibbs, Husband and Wife

PW 12.06.106

Dear Ms. Salmonson,

The County of Kaua'i, Department of Public Works has determined that this project will not have significant environmental effects and has issued a FONSI. The draft Environmental Assessment was published in the November 8, 2006 issue of the Environmental Bulletin. We have received no comments from any agencies or persons regarding the subject proposal. Please publish this notice in the next available Environmental Notice.

As required under Chapter 343, Hawai'i Revised Statutes, we are enclosing two (2) copies of the Final Environmental Assessment.

Very truly yours,

CONCUR:

Wallace Kudo, P.E.
Chief, Engineering Division

DONALD M. FUJIMOTO, P.E.
County Engineer

WK
attachment

cc: Lorna Nishimitsu
OP /attachment

Wkudo

apascual

mchan

BELLES GRAHAM PROUDFOOT & WILSON, LLP

LORNA A. NISHIMITSU (2291-0)
MAX W. J. GRAHAM, JR. (926-0)
4334 Rice Street, Suite 202
Lihue, Kauai, Hawaii 96766
Telephone: (808) 246-6962
Facsimile: (808) 245-3277

Attorneys for Applicant
PATRICK L. IBBS and STEPHANIE A. IBBS

DEPT. OF ENVIRONMENTAL
QUALITY CONTROL

06 DEC 21 P2:24

RECEIVED

DEPARTMENT OF PUBLIC WORKS
OF THE
COUNTY OF KAUAI

In the Matter of the Application)
)
 of) FINAL ENVIRONMENTAL ASSESSMENT;
) EXHIBITS "A" THROUGH "K "
)
 PATRICK L. IBBS and STEPHANIE A.)
 IBBS to purchase Portion 2 of Old Railroad)
 Right-of-Way, situated at Kapaa and)
 Waipouli, Kawaihau, Island and County of)
 Kauai, State of Hawaii, and further)
 identified as Kauai Tax Map Key No.)
 (4) 4-4-04-003:por.)
)

FINAL ENVIRONMENTAL ASSESSMENT

COME NOW PATRICK L. IBBS and STEPHANIE A. IBBS (hereinafter called the "Applicant"), by and through their attorneys, Belles Graham Proudfoot & Wilson, LLP, and hereby respectfully submit the following Final Environmental Assessment pursuant to the requirements contained in Chapters 343 and 344 of the Hawaii Revised Statutes ("HRS") and in Title 11, Chapter 20 of the Hawaii Administrative Rules ("HAR").

I. APPLICANT.

The Applicant is PATRICK L. IBBS and STEPHANIE A. IBBS, husband and wife.

II. APPLICANT'S ADDRESS AND TELEPHONE.

The Applicant's address and telephone number are:

4365 Kukui Grove Street, Suite 107
Lihue, Kauai, Hawaii 96766
Telephone No.: (808) 245-8901

All communications having to do with this Draft Environmental Assessment should be made to the Applicant's attorney at the following address:

Lorna A. Nishimitsu, Esq.
Max W. J. Graham, Jr., Esq.
Belles Graham Proudfoot & Wilson, LLP
4334 Rice Street, Suite 202
Lihue, Kauai, Hawaii 96766
Telephone: (808) 246-6962

III. APPROVING AGENCY.

The Approving Agency is as follows:

Department of Public Works
County of Kauai
Mo'ikeha Building
4444 Rice Street, Suite 275
Lihue, Kauai, Hawaii 96766

IV. CONSULTED AGENCIES.

The governmental agencies consulted with regard to the Applicant's proposal include the Planning Department of the County of Kauai, the U. S. Fish and Wildlife Service, and the Historic Preservation Office of the Department of Land and Natural Resources of the State of Hawaii. The Draft Environmental Assessment was published in the November 8, 2006

edition of The Environmental Notice, which is the Office of Environmental Quality Control's bulletin. No comments were received in response to the aforesaid publication.

By letter dated October 17, 2006, the Department of Public Works of the County of Kauai issued a letter advising that it anticipated a "finding of no significant impact" ("FONSI"), a copy of which is attached hereto and incorporated herewith as Exhibit "A". In light of the anticipated "FONSI", and there being no comments to the proposal, it was determined that no responses were necessary.

V. OWNERSHIP OF THE SUBJECT PROPERTY.

The owner of the real property which is the subject matter of this Draft Environmental Assessment (the "Subject Property") is the County of Kauai.

VI. DESCRIPTION OF SUBJECT PROPERTY.

The Subject Property is known as Portion 2 of Old Railroad Right-of-Way, is located at Kapaa and Waipouli, Kawaihau, Island and County of Kauai, State of Hawaii, is designated by Tax Key No. (4) 4-4-04-003:por. and contains 0.071 acre, more or less.

The general location of the Subject Property is shown on the Location Map attached hereto and incorporated herewith as Exhibit "B"; the more specific location is shown on the Tax Map attached hereto and incorporated herewith as Exhibit "C". This area is shown in greater detail on a copy of the Map attached hereto as Exhibit "D".

VII. LAND USE CLASSIFICATIONS.

1. The Subject Property has the following land use classifications:

a. State Land Use Classification. The Subject Property is located within the State Land Use Commission ("SLUC") Agricultural District.

b. County General Plan. The Subject Property is located within the Agriculture Land Use Designation of the General Plan for the County of Kauai ("General Plan").

c. Comprehensive Zoning Ordinance. The Subject Property is located within the County of Kauai Agriculture District (as that term is defined by the Comprehensive Zoning Ordinance, Chapter 8, Kauai County Code).

VIII. REQUESTED LAND USE PURCHASE.

The Applicant has filed a request with the Department of Public Works of the County of Kauai ("Public Works") to purchase the Subject Property as a remnant parcel that no longer serves any public use. Any such sale will need to be reviewed by Public Works. If Public Works is in agreement that a sale is appropriate, it must forward its recommendation in favor of the sale to the Council of the County of Kauai ("County Council"). The County Council will need to approve the sale of the Subject Property pursuant to a resolution duly adopted. However, Public Works has determined that in order to make its initial decision regarding the requested sale, the Applicant must first submit an Environmental Assessment.

A stated condition of the Public Works' acquiescence to the acquisition is that the Applicant provide a thirteen foot (13') strip of land along Hauiki Road along Tax Key Nos: (4) 4-4-04-053. (owned by Applicant), 4-4-04-003:por. (that part of the Old Railroad Right-of-Way that the Applicant seeks to acquire), 4-4-04-028:por. (part of Unit F of the "Dry Gulch Flats Condominium", which is owned by Applicant, and also part of Unit A of the said Condominium, which is owned by persons other than Applicant).

IX. PROPOSED DEVELOPMENT.

The Applicant is the owner of: Parcel 1-B (2,781 s.f./0.064 acres) identified by Kauai Tax Map Key No. (4) 4-4-04:53, which is located adjacent to and south of the Subject

Property ("Parcel 1-B") as shown on Exhibit "E"; and Unit F of the Dry Gulch Flats Condominium (1.735 acre limited common element), identified by Tax Key No. (4) 4-4-04-028 (CPR No. 6), which is located adjacent to and north of the Subject Property ("Unit F") as shown on Exhibit "F". The Dry Gulch Flats Condominium is a six (6) unit condominium property regime located on property known as Lot 1, Waipouli, Kapaa, Kawaihau, Kauai, Hawaii, identified by Tax Key No. (4) 4-4-04-028 (22.990 acres) ("Lot 1").

If the Applicant is able to acquire the Subject Property, then Applicant intends to develop the Subject Property, Unit F, and Parcel 1-B as shown on Exhibit "G" and as described as follows ("Development"):

1. The Subject Property, Lot 1 and Parcel 1-B will be consolidated into a single lot ("Consolidated Lot").
2. The Consolidated Lot will be subdivided into:
 - a. Lot 1-A;
 - b. Lot 1-B-1; and
 - c. A thirteen (13) foot wide road widening lot (running along the north side of Hauiki Road).
3. The Declaration of the Dry Gulch Flats Condominium will be amended so that Unit F is reduced in size so as to contain only Easement "AU-7" and Easement "E-1" and to reflect that new Lot 1-B-1 is not part of the Condominium Project.
4. The thirteen (13) foot wide road widening lot along Hauiki Road will be dedicated to the County of Kauai.
5. A farm dwelling will eventually be constructed on Lot 1-B-1.

X. SUBJECT PROPERTY ANALYSIS.

1. Location. The Subject Property is located at Kapaa and Waipouli, Kawaihau, Kauai, Hawaii. It is a vacant parcel.

2. Agricultural Use. The Subject Property is in an area in which the prevailing use is agriculture and farm dwellings. Its size and location do not make it suitable (by itself) for either agricultural or farm dwelling uses. The proposed purchase and Development of the Subject Property will have no negative impacts on its availability for future agricultural uses.

3. Technical Characteristics.

a. The Subject Property is currently partly landscaped with grassing, and partly overgrown with non-native species of plants and weeds. The landscape modifications to be done involve clearing of the area and removal of noxious plants.

b. The Subject Property is located approximately 360 feet above mean sea level, and consists of visually level, but gently sloping, land. The soil is a fine, sandy loam throughout. The soil classification is Kapaa series (KkB – Kapaa silty clay, 3% to 8% slopes), on which permeability is moderately rapid. Runoff is slow, and the erosion hazard is slight. Roots penetrate to depths of five feet (5') or more. This type of soil is typically used for sugarcane, pasture, pineapple, orchards, truck crops, wildlife habitat and woodland (according to the Soil Survey of Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii, prepared by the United States Department of Agriculture – Soil Conservation Service in cooperation with the University of Hawaii Agricultural Experiment Station (August 1972). Before the establishment of the Dry Gulch Flats Condominium, the Property (along with others) had been part of cattle pasturage.

c. The Subject Property is normally dry, but during heavy rains, serves as an area over which run-off flows, generally towards Hauiki Road. Run-off will not be affected by the Development.

d. The shoreline is located approximately three and one-half (3.5) miles from the Subject Property.

e. Any increase or effect on traffic, sanitation, waste disposal, refuse disposal, and water usage will be nominal, as Lot 1-B-1 will be used for agricultural and farm dwelling purposes only. Lot 1-B-1 will be sufficient in size to accommodate a septic system for wastewater disposal, and is a substantial distance from the shoreline (no risks of ocean pollution should result).

f. The Applicant is not aware of any historical or archaeologically significant sites, as none are visible. Nonetheless, Applicant is aware of the concerns of the State Historic Preservation Division ("SHPD") concerning subsurface cultural layers and human burials. Accordingly, the Applicant agrees that in the event, during construction, evidence of cultural deposits or burials on the Subject Property exist, the Applicant shall have a qualified archaeologist conduct an archaeological inventory survey of the Subject Property. If the inventory locates any significant historic sites, the Applicant shall have the archaeological consultant work with SHPD to determine what further requirements shall be necessary in relation to the deposits or burials that the inventory have located. The Applicant is aware, and agrees, that if any burials are discovered during such survey, a burial treatment plan shall be prepared, and coordination with the Kauai Island Burial Council shall determine the proper burial treatment of any persons found.

4. Economic Characteristics. The proposal of the Applicant is to use the newly configured Lot 1-B-1 for agricultural and farm dwelling purposes. There should be no more significant beneficial or adverse economic impacts that result from this action, than those that result from other similar uses in the area. The Subject Property is not intended to be used as a rental property, but will serve as the Kauai residence for the Applicant. There will be a short-term gain to the construction industry during the building of the farm dwelling, and a long-term gain from agricultural activities.

5. Social Characteristics. The area has a number of individual farm dwellings, some of which are occupied by local residents, some of which are occupied part-time by owners, and some of which are rented. It is a rural part of the island, and the addition of another home should not change the character or ambience of the area to any significant degree. The owner of Unit A of the Dry Gulch Flats Condominium project has begun building a garage structure on his property, and the owner of Unit B has completed a farm dwelling and garage. The Applicant will not expose the neighborhood to any measurable changes of any kind.

6. Drainage. The limited amount of additional drainage from the proposed Development will not appreciably increase run-off and is not likely to overburden the drainage patterns of the area.

7. Traffic Impacts. The increase in traffic that the Applicant will generate will be minimal. As with any other family with two adults, the two (2) cars added to the traffic mix will have a minimal and acceptable impact on existing traffic conditions along Hauiki Road in the vicinity of the Subject Property.

8. Availability of Public Services and Facilities. The addition of a farm dwelling will not unreasonably burden public agencies to provide additional and necessary urban amenities, services and/or facilities.

a. Schools. The Kapaa Middle School is located approximately two (2) miles from the Subject Property, and Kapaa Elementary School and Kapaa High School are approximately four (4) miles away. The Development will not significantly increase the number of students attending any of the public or private schools on the island.

b. Wastewater Disposal. There are no public sewage facilities in this area. The proposed farm dwelling on Lot 1-B-1 will be served by a private wastewater disposal system (septic system), as approved by the State Department of Health ("DOH") for the disposal of wastewater. The wastewater disposal system will meet the design and construction standards of DOH. There are currently other farm dwellings on adjacent parcels in the vicinity of the Subject Property, while some parcels remain vacant. Given the projected limited wastewater that will be generated by the Applicant, it is not foreseen that the septic system will have any harmful effects on the area.

9. Solid Waste Disposal. Refuse collection for the area is provided by the County of Kauai.

10. Potable Water. The Department of Water's water storage and transmission facilities are presently adequate to serve the proposed farm dwelling.

11. Electricity, Telephone and Cable service. Electric, telephone and cable television lines and facilities are located on Hauiki Road, and are capable of serving Lot 1-B-1. It shall be the Applicant's responsibility, at the Applicant's expense, to extend service from these utilities to his proposed home.

12. Police and Fire Protection. The Kapaa substation of the Kauai Police Department and the Kapaa station of the Kauai Fire Department serve this area, both of which are located approximately four (4) miles from the Subject Property. The Development will not, in and of itself, result in the need for an expansion of police or fire protection for the area.

XI. IMPACTS UPON RESOURCES OF THE AREA.

1. Flora and Fauna. The types of plants growing on or near, and the types of animals seen on or near, the Subject Property are neither threatened nor endangered. The Subject Property along with the surrounding lands were used for cattle pasturage until the development of the Dry Gulch Flats Condominium project. The types of plants the Applicant has seen on or near the Subject Property are predominantly pasture grasses, which has been periodically shredded by the developer of the condominium project. The only animals that have been seen on or near the Subject Property are birds, such as common doves, mynah birds, sparrows and cattle egrets. The Applicant, during the construction and post-construction phase, will be removing weeds, noxious growth, dead or dying trees, or trees which, because of how the farm dwelling will be sited, require removal, and will be engaging in on-going lawn and yard maintenance, including planting additional landscaping.

2. Historical and Archaeological. The Subject Property was formerly used as a railroad right of way, for the hauling of sugar cane by the sugar cane plantations in the area. This use was abandoned at least fifty (50) years ago. Since then, the Subject Property was used as part of the surrounding cattle pasturage.

3. Recreational Resources. The Subject Property shows no evidence of being or having been in the past a public recreational resource. Since it does not adjoin any public area and is of insufficient size to provide recreational opportunities, it does not appear that

allowing the Applicant to acquire the Subject Property will result in a critical loss of a recreational resource to the general public.

4. Scenic Resources. The Development that the Applicant is proposing is consistent with surrounding structures and uses on nearby parcels, and will be compatible with such other uses in that it is comparable to what is occurring and what exists along that stretch of Hauiki Road. Attached as Exhibits "H-1" through "H-7" are photographs taken from several different perspectives, showing the Subject Property and the adjoining lands.

5. Community Concerns. The Applicant issued written invitations to owners of properties and residents in the area to attend a meeting held at the Subject Property on Saturday, September 16, 2006 from 2:00 p.m. to 3:00 p.m. to provide information to any attendees about what the Applicant was planning to do, and to solicit comments and concerns about their proposal to acquire a portion of the Old Railroad Right-of-Way. The list of persons to whom the invitations were sent is attached hereto as Exhibit "I". No one attended the informational meeting. Letters of support from neighbors who own properties in the neighborhood are attached hereto as Exhibits "J-1" through "J-6".

6. Future Development/Cumulative Impacts. The proposed acquisition of a portion of the Old Railroad Right-of-Way will be followed by "merger" of part of the acquired land area with the other land areas owned by the Applicant, and giving a part of the acquired area back to the County of Kauai to be added to the Hauiki Road right-of-way. Eventually, the Applicant will seek to build a single family dwelling on the land area they retain. If the County's Additional Dwelling Unit ordinance is extended, a second farm dwelling could be constructed on Lot 1-B-1. Farm Dwellings already exist on those properties which are identified as Tax Key Nos.: (4) 4-4-04-028:CPR 1, 4-4-03-021 (four dwellings); 4-6-07-040 (one dwelling);

4-6-07-050 (two dwellings), 4-6-07-120 (three dwellings) and 4-6-07-041 (one dwelling). See Exhibit "K". In the immediate vicinity of the Applicant's property, then, there are a number of other farm dwelling units. The Applicant is not aware of the neighbors' plans for additional or future development of their properties.

XII. NATIVE HAWAIIAN ISSUES.

The Development will have no impact on any known traditional or customary practices of native Hawaiians. There are no known traditional or customary practices of native Hawaiians that are presently occurring within the Subject Property that will be affected. There are no special gathering practices taking place within the Subject Property that will be affected. The Development will not detrimentally affect: access to any streams; access to the shoreline or other adjacent shoreline areas; or gathering along any streams, the shoreline or in the ocean. There are no known religious practices taking place within the Subject Property. The Development will have no negative impact on any cultural or historic sites or resources located within the Subject Property.

XIII. JUSTIFICATION.

1. The Subject Property is surrounded by properties located within the SLUC Agricultural District and the CZO Agriculture District. Uses on the surrounding lands include residential uses, farm dwelling uses, and agricultural uses. The Subject Property is similar in topography, character and nature with adjacent and surrounding properties, and the Development activities are consistent with such surrounding uses.

2. The Development on the Subject Property will have no negative impact on the area. The Development is and will be compatible with existing uses in areas on or around the Subject Property. The Development will not impact scenic or open space resources within the

area. The Development will not increase runoff or otherwise endanger the coastal ecosystem. The Development on the Subject Property is not located in a coastal hazard area. The Development will have no detrimental impact on recreational, historic, economic or resources. The Development will not have detrimental impacts on beach or marine resources. Approval of the Development will not result in the foreclosure of future management options for development in the area.

XIV. COMPLIANCE WITH APPLICABLE LAND USE DESIGNATIONS.

1. The Development activities on the Subject Property are compatible with the SLUC Agricultural designation. Hawaii Revised Statutes Section 205-4.5.

2. The Development activities on the Subject Property are compatible with the General Plan Agricultural Land Use Designation. General Plan, Section 2.

3. The Development activities on the Subject Property are compatible with the CZO Agriculture District. CZO Section 8-7.2.

4. The Development will have no significant environmental effects, as follows:

a. The Development will have no affect on public access to publicly owned or used beaches and recreational areas.

b. No wildlife or endangered plant or animal species are located at this site.

c. Provisions for solid and liquid waste treatment, disposition and management will be developed, for the future construction, in order to minimize adverse effects on the area.

d. Alteration to existing land forms or vegetation and the construction of structures will cause minimum adverse effects to water resources and scenic and recreational amenities, and will minimize danger of floods, wind damage, storm surge, landslides, erosion, siltation, or failure in the event of earthquake.

e. The Development will not require dredging, filling, or altering any bay, estuary, salt marsh, river mouth, slough or lagoon.

f. The Development will not reduce the size of any beach or other area useable for public recreation.

g. The Development will not reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions or rivers or streams within the area.

h. The Development will not substantially interfere with or detract from views to the mountains or toward the sea.

i. The Development will not adversely affect water quality, existing areas of open water free of visible structures, existing and potential fisheries and fishing grounds, wildlife habitats, or potential or existing agriculture uses of land.

j. The Development will not have any substantial environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests.

XV. SIGNIFICANCE CRITERIA.

The Development of and on the Subject Property will comply with the following criteria as set forth in Title 11, Chapter 200, Section 11-200-12 of the EIS Administrative Rules of the Office of Environmental Quality Control:

1. Whether the proposed action involves an irrevocable commitment to, or loss or destruction of any natural or cultural resources.

At this juncture, no indication that the Subject Property contains any natural or cultural resources exists. If any cultural resources are detected or located during the course of construction activity (which will only occur during the future construction, and will not occur during the mere acquisition of a portion of the Old Railroad Right-of-Way), the Applicant will have the obligation to inventory the same, which means that the resource actually can be preserved for posterity.

2. Whether the proposed action curtails the range of beneficial uses of the environment.

Building a farm dwelling on Lot 1-B-1 will have a minimal impact on the Subject Property and its environs.

3. Whether the proposed action conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions or executive orders.

The size of the parcel, in an area in which the prevailing use is single-family dwellings, coupled with the limited impacts to the neighborhood or the district, which is not reasonably expected to result in any adverse effects on the public health, safety and welfare, establishes that the proposal does not conflict with the State's long-term policies or goals as articulated in Chapter 344, HRS, court decisions or executive orders.

4. Whether the proposed action substantially affects the economic or social welfare of the community or State.

The salient points are that the size of the lot, its location, and the surrounding uses by neighbors, support the fact that the proposed use will not substantially affect the economic or social welfare of the community, or of the State.

5. Whether the proposed action substantially affects public health.

The Development of Lot 1-B-1 with a farm dwelling and for agricultural purposes will have no negative impact on public health.

6. Whether the proposed action involves substantial secondary impacts, such as population changes, or affects public facilities.

There will be a nominal population change by the addition of a farm dwelling to the neighborhood, and a nominal increase in the use of public facilities, by the Applicant's future proposal to build a home on their property. However, these changes or increases cannot be equated with a substantial population increase, or an unacceptable rise in usage of the public facilities (i.e., roadways, domestic water usage, park usage, etc.).

7. Whether the proposed action involves a substantial degradation of environmental quality.

The addition of a new farm dwelling will not result in a substantial degradation of environmental quality. There will be impacts to the neighborhood during the period of construction, as construction work can be noisy (the sounds of hammering and electric saws), but those impacts are temporary in nature, and will take place during daylight hours when the ambient noise in the neighborhood is greater than during the night time hours.

8. Whether the proposed action is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.

The Applicant's proposal is limited to the construction of a farm dwelling and agricultural uses, and does not require a commitment to allow additional or greater actions on the Subject Property.

9. Whether the proposed action affects a rare, threatened or endangered species, or its habitat.

There are no known rare, threatened or endangered species, or such species habitat, on or near the Subject Property. As a result, the proposed Development will not have any effects on such species or habitat.

10. Whether the proposed action affects air or water quality or ambient noise levels.

As earlier noted, there will be a temporary change in the ambient noise levels during the period of future construction (which should not affect air or water quality). Construction, however, will be limited to day time hours, as previously noted. Once occupied, the change in ambient noise levels should not measurably increase.

11. Whether the proposed action substantially affects scenic vistas and view planes identified in County or State plans or studies.

The Subject Property is not identified in any County or State plans or studies, as part of a scenic vista, or within the view plane of any scenic vista.

12. Whether the proposed action requires substantial energy consumption.

Energy consumption by the Applicant for farm dwelling and agricultural uses will be consistent with average energy consumption levels in single-family dwellings

throughout the island. Typical appliances the Applicant plans to have include a stove/oven, refrigerator, washer, dryer, television and countertop appliances. None of these appliances, however, would require "substantial" energy consumption.

It is important to note that the proposal herein is for the acquisition of a portion of the Old Railroad Right-of-Way from the County of Kauai. The Applicant is submitting this Draft Environmental Assessment purely for that purpose, as it was a requirement of the Department of Public Works, County of Kauai, when it was first approached about the acquisition. The future construction of any farm dwellings for the Applicant, would not be subject to Chapter 343, Hawaii Revised Statutes.

XVI. COMMENTS.

Comments have been solicited from the owners of the properties in the "neighborhood", which are listed below. Except for letters of support, there were no comments received by the Applicant.

<u>Property (TMK No.)</u>	<u>Name of Owner</u>
4-4-04-028:CPR 1	Ryan and Jennifer Rutt
4-4-04-028:CPR 2	Kenneth and Melissa Barker
4-4-04-028:CPR 3	Harvey and Paula Cohen
4-4-04-028:CPR 4	Wayne L. Voight Family Unlimited
4-4-04-028:CPR 5	Wayne L. Voight
4-4-04-052:CPR 1, 4-4-04-052: CPR 2 and 4-4-04-052:C PR 3	Bruce P. Irons
4-4-04-002	Daniel R. Way
4-4-03-021	Albert, Jr. and Apryl Soares

<u>Property (TMK No.)</u>	<u>Name of Owner</u>
4-4-03-19	Lurline Stauber
4-4-03-155	Michael Lombardi, Trustee of the Michael Lombardi Revocable Living Trust
4-4-03-156	Douglas T. Cheeseman and Gail M. Cheeseman, Trustees of the Cheeseman Family Trust
4-6-07-010 and 4-6-07-040	William and Molly Cirksena
4-6-07-050	Mitsuo and Hiroko Wakumoto, Trustees of the Mitsuo and Hiroko Wakumoto Trust
4-6-07-120	Randy and Sharon Melendez
4-6-07-041	Dante Family Farm

XVII. CONCLUSION.

Applicant respectfully requests that Public Works, in conformity with its October 17, 2006 anticipated "FONSI", issue a "Negative Declaration" in this matter, as that term is defined by Title 11, Department of Health, Chapter 200, Environmental Impact Statement (EIS) Rules, Subchapter 2(11-200-2).

DATED: Lihue, Kauai, Hawaii, December 12, 2006

BELLES GRAHAM
PROUDFOOT & WILSON, LLP


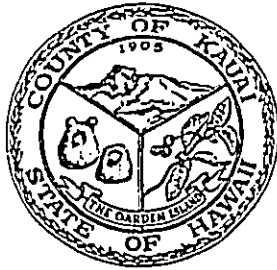
By 
LORNA A. NISHIMITSU
MAX W. J. GRAHAM, JR.
Attorneys for Applicant,
PATRICK L. IBBS and
STEPHANIE A. IBBS

EXHIBIT "A"

BRYAN J. BAPTISTE
MAYOR



DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-6600

GARY K. HEU
ADMINISTRATIVE ASSISTANT

DEPUTY COUNTY ENGINEER
TELEPHONE 241-6600

AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I

DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUA'I, HAWAII 96766-1340

RECEIVED
OCT 20 2006

October 17, 2006

Ms. Lorna A. Nishimitsu
Belles Graham Proudfoot & Wilson, LLP
4334 Rice Street, Suite 202
Lihu'e, HI 96766

BELLES GRAHAM
PROUDFOOT & WILSON, LLP

SUBJECT: NOTICE OF ACCEPTANCE AND PRELIMINARY ENVIRONMENTAL
DETERMINATION -ACQUISITION OF OLD RAILROAD RIGHT OF
WAY (PORTION) TAX MAP KEY NO: (4) 4-4-04: POR. 3
WAIPOULI, KAPA'A, KAUA'I, HAWAII

PW 9.06.212

Dear Ms. Nishimitsu,


This acknowledges receipt and acceptance of the Draft Environmental Assessment delivered by cover letter dated September 22, 2006, covering the proposed acquisition of a portion of an Old Railroad Right of Way (being Tax Map Key No.: (4) 4-4-04: Por. 3 from the County of Kaua'i, in exchange for which the County of Kaua'i has advised that it requests a 13' wide strip of land along Hauiki Road to enable the County to upgrade the roadway to a collector roadway with a 56 feet wide right of way.

Your clients have expressed an interest in acquiring this County owned property because they own properties identified as Tax Map Key No.: (4) 4-4-04-053 and (4) 4-4-04-028: por., which are separated by the Old Railroad Right of Way.


After reviewing the Draft Environmental Assessment, and acknowledging that the County has not used that portion of the Old Railroad Right of Way which your clients seek to acquire, we anticipate that, in conformity with Chapter 343, Hawai'i Revised Statutes, as amended, and Chapter 11-200, Hawai'i Administrative Rules, a finding of no significant impact ("FONSI") is anticipated for the proposed land exchange between the County of Kaua'i and your clients.

Please call me at (808) 241-6498 if you have any questions.

Very truly yours,


Wallace Kudo, P.E.
Chief, Engineering Division

CONCUR:


DONALD M. FUJIMOTO, P.E.
County Engineer

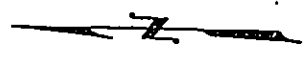
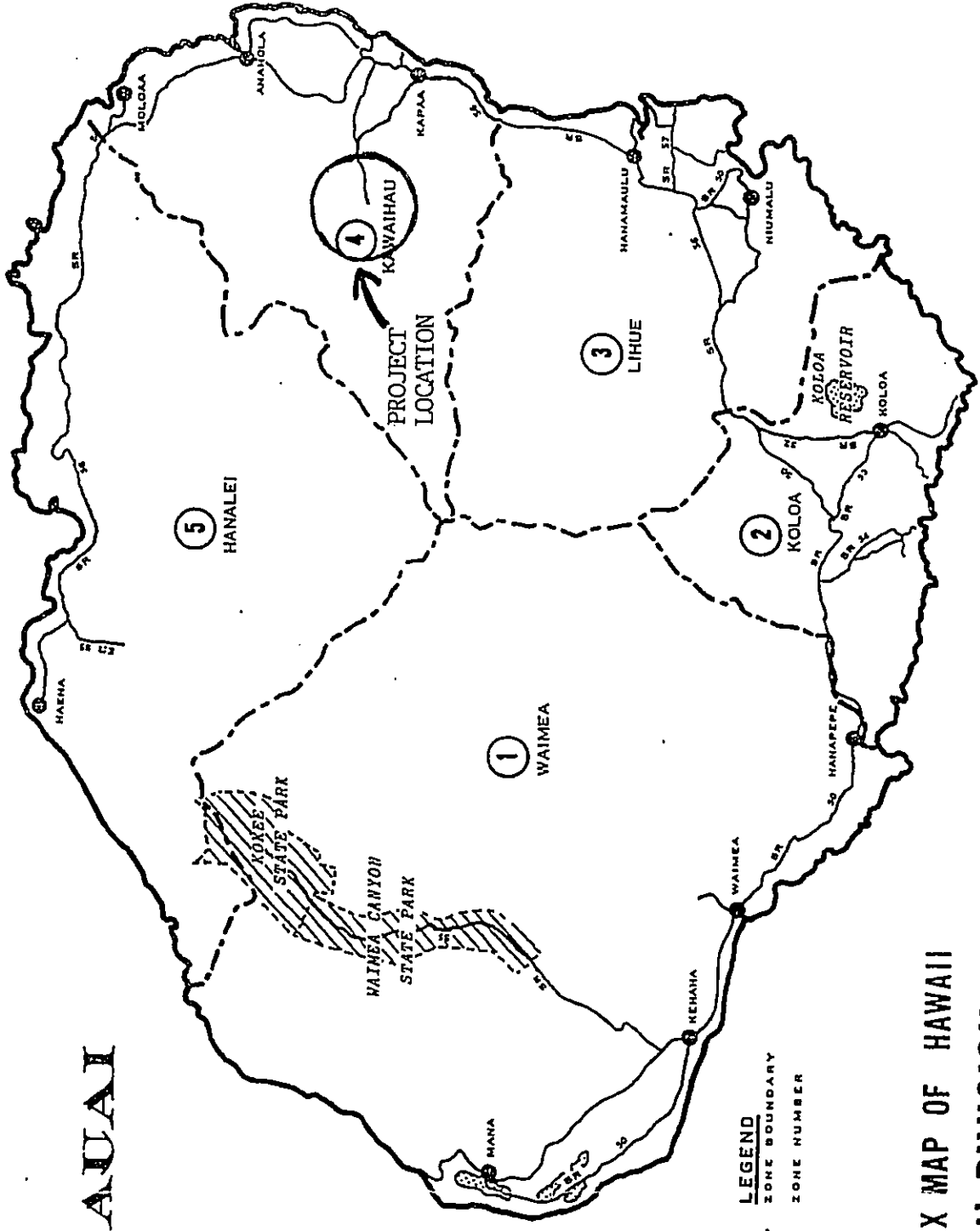
WK

cc: Oscar Portugal w/attachment
Planning Department w/attachment
Road Maintenance
Design & Permitting

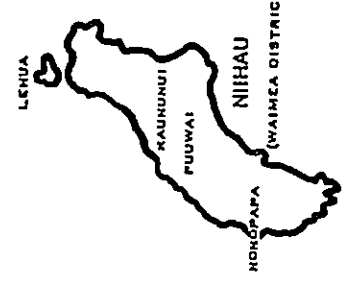
EXHIBIT "A"

EXHIBIT "B"

KAUAI



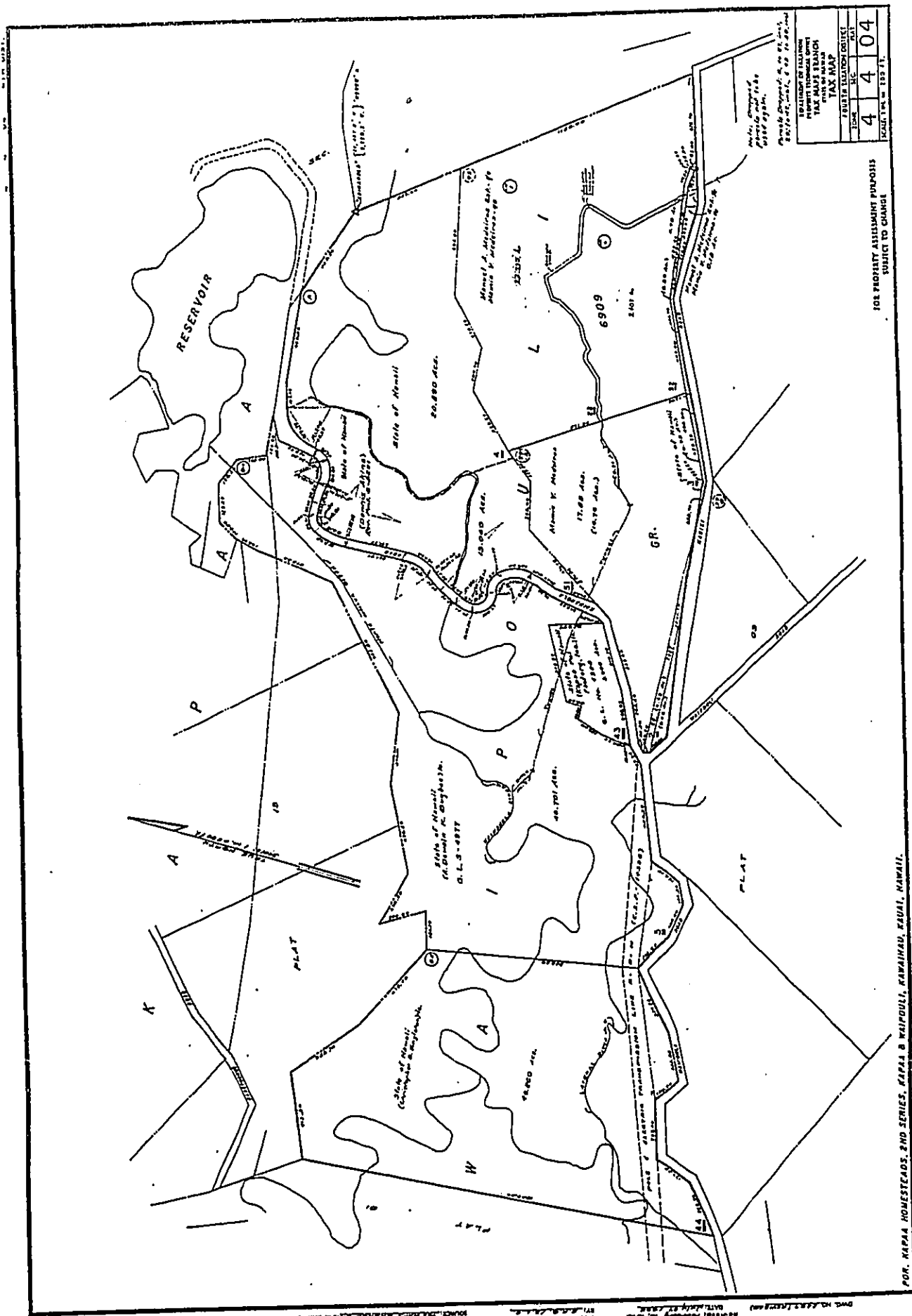
LEGEND
--- ZONE BOUNDARY
⑤ ZONE NUMBER



INDEX MAP OF HAWAII 4th DIVISION

EXHIBIT "B"

EXHIBIT "C"



REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	12/1/54	ORIGINAL SURVEY	W. H. HARRIS
2	1/1/55	TAX MAP STATION	W. H. HARRIS
3	1/1/55	TAX MAP	W. H. HARRIS
4	1/1/55	REVISIONS	W. H. HARRIS
5	1/1/55	REVISIONS	W. H. HARRIS
6	1/1/55	REVISIONS	W. H. HARRIS
7	1/1/55	REVISIONS	W. H. HARRIS
8	1/1/55	REVISIONS	W. H. HARRIS
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99	1/1/55	REVISIONS	W. H. HARRIS
100	1/1/55	REVISIONS	W. H. HARRIS

FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE

FOR KAPAA HOMESTEADS, 2ND SERIES, KAPAA & WAIPOULI, KAWAIHAU, KAUAI, HAWAII.

EXHIBIT "C"

W. H. HARRIS
SURVEYOR
1954

THIS MAP WAS PREPARED BY W. H. HARRIS, SURVEYOR, AND IS A TRUE AND CORRECT COPY OF THE ORIGINAL SURVEY MAP AS FILED IN THE OFFICE OF THE SURVEYOR, HONOLULU, HAWAII, ON JANUARY 1, 1955.

EXHIBIT "D"

EXHIBIT "E"

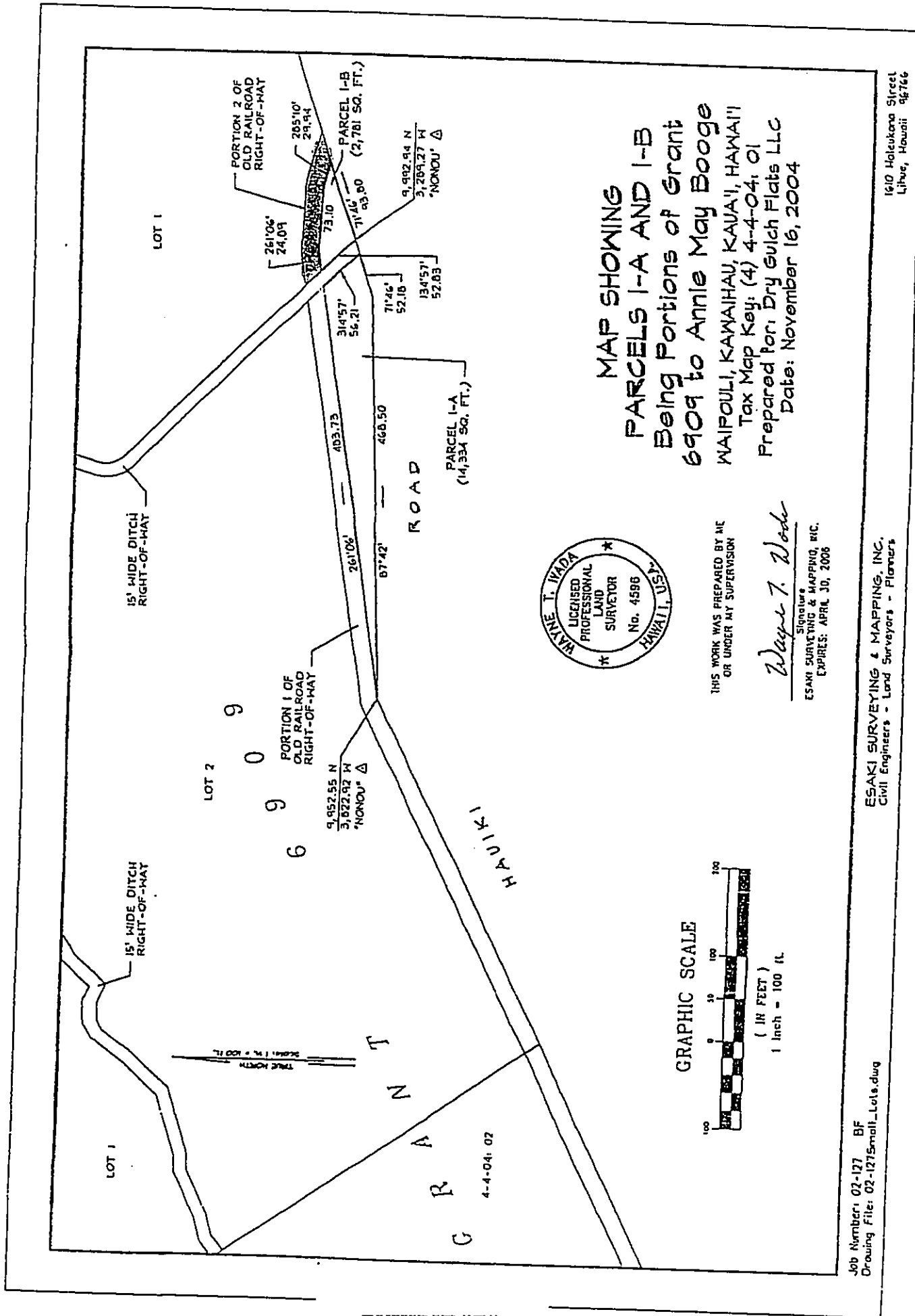


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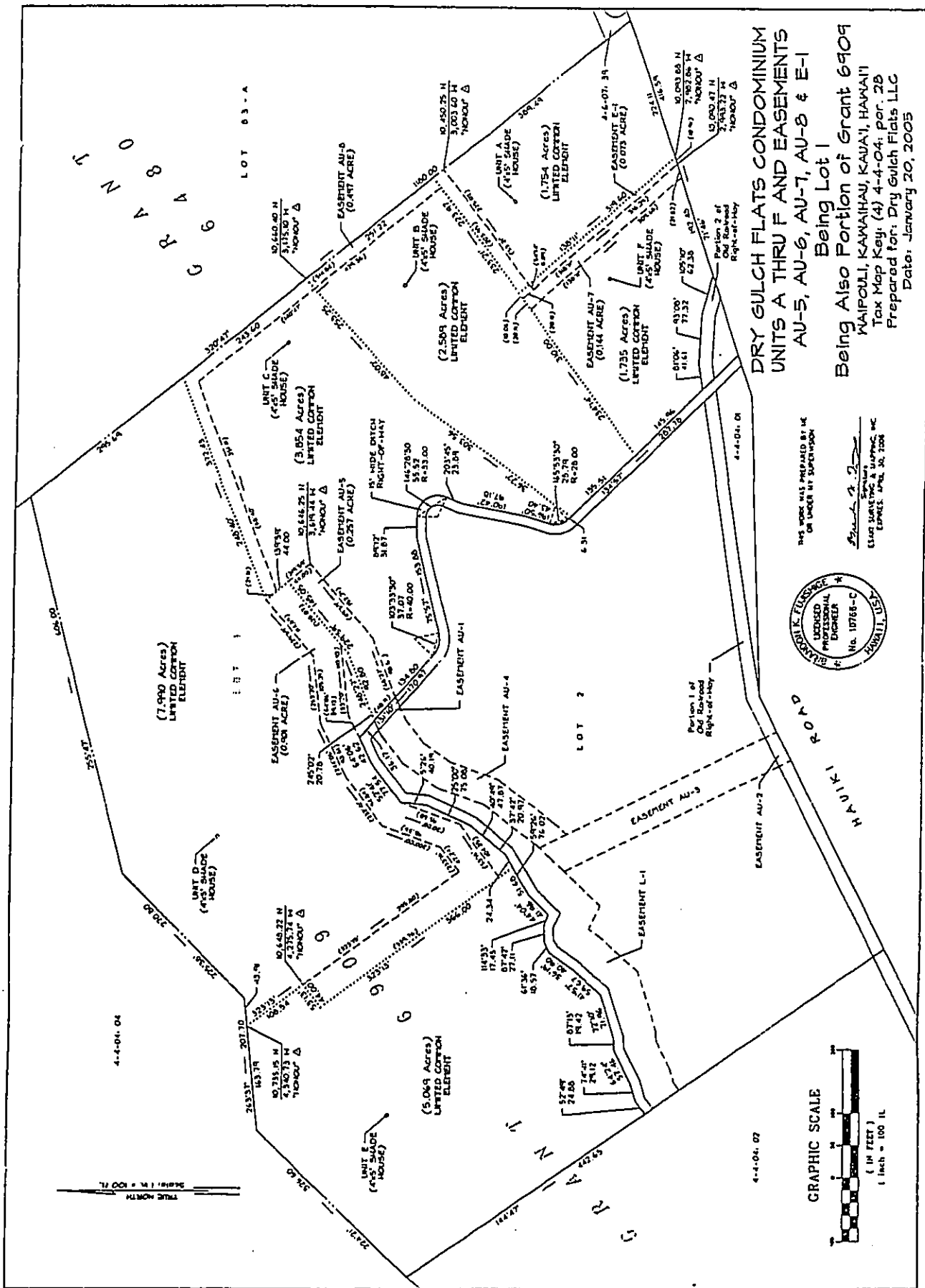
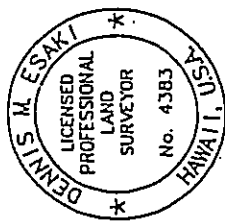
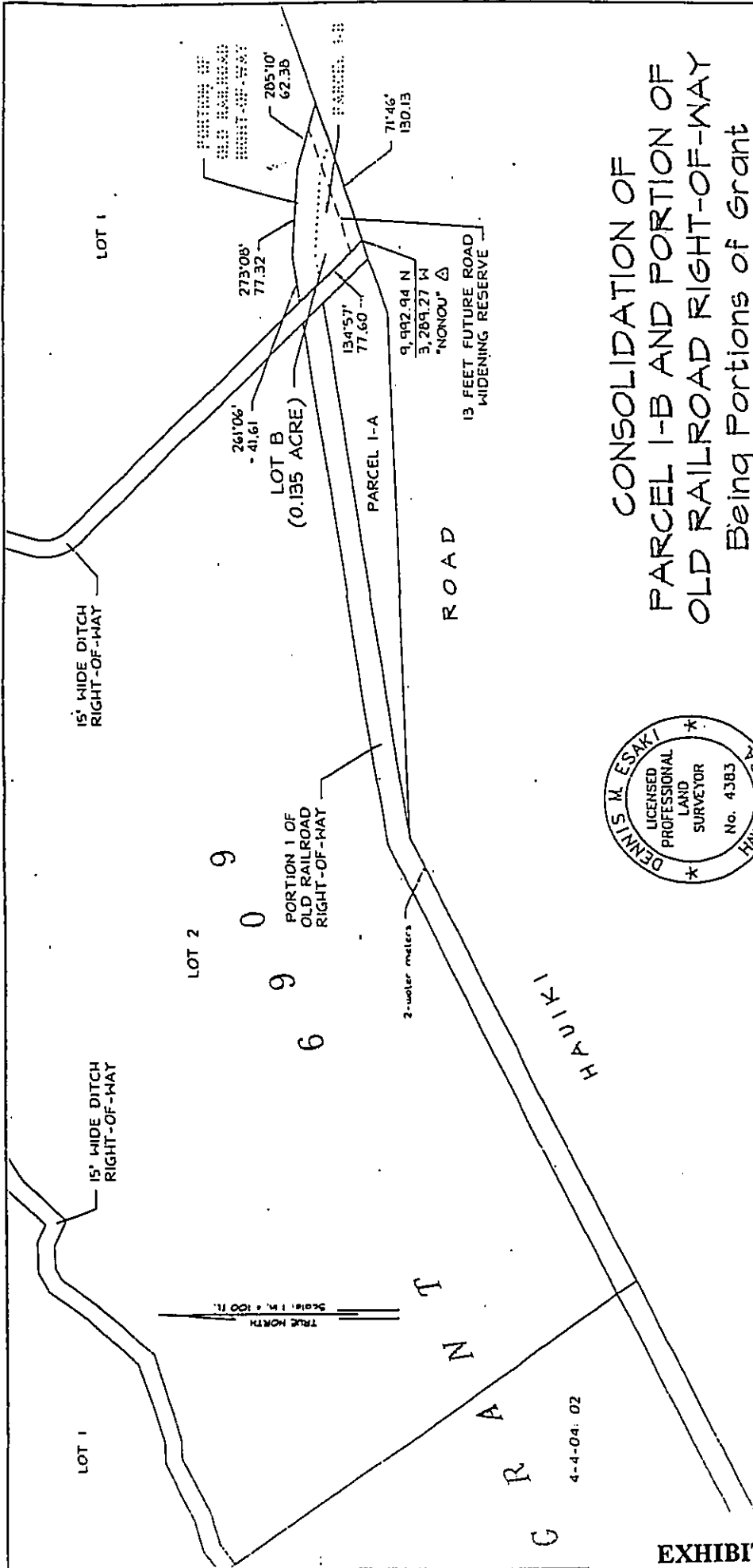


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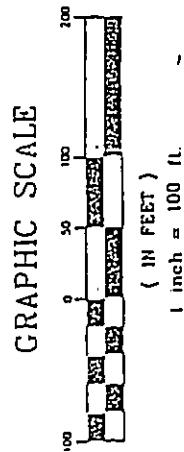
440 Hahaione Street
 ESACI SURVEYING & MAPPING, INC.
 01-127 DF

EXHIBIT "G"



THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION

[Signature]
Signature
ESAKI SURVEYING & MAPPING, INC.
EXPIRES: APRIL 30, 2006



**CONSOLIDATION OF
PARCEL 1-B AND PORTION OF
OLD RAILROAD RIGHT-OF-WAY
Being Portions of Grant
6909 to Annie May Booge
INTO LOT B**

WAIPOULI, KAWAIIHAU, KAUA'I, HAWAII
Tax Map Key: (4) 4-4-04: 53 & par. 03
Owners: William A. Lydgate (Parcel 1-B) and
County of Kauai (Old Railroad Right-of-Way)
Date: December 1, 2005

ESAKI SURVEYING & MAPPING, INC.
Civil Engineers - Land Surveyors - Planners

1610 Halekono Street
Lihue, Hawaii 96766

Job Number 05-220 BF
Drawing File: 05-220B.dwg

4-4-04: 02

EXHIBIT "G"

EXHIBIT "H"

EXHIBITS "H-1 THROUGH H-7"

PHOTOGRAPH

- | | |
|-----|--|
| H-1 | Aerial photograph showing the Dry Gulch Flats Condominium Project with a rough overlay of the condominium unit boundaries |
| H-2 | Photograph, looking mauka toward the common driveway to Dry Gulch Flats Condominium |
| H-3 | Photograph, from the Ibbs property looking down Hauiki Road |
| H-4 | Photograph of the Ibbs property and the Old Railroad Right of Way (which is marked by the two white poles), facing Hauiki Road |
| H-5 | Photograph, taken from the corner of the common driveway to Dry Gulch Flats Condominium at approximately its junction with Hauiki Road |
| H-6 | Photograph, looking down the common driveway of Dry Gulch Flats Condominium from Hauiki Road |
| H-7 | Photograph, taken from the corner of the Ibbs property (Hauiki Road to the left) |

EXHIBIT "H-1"



EXHIBIT "H-1"

EXHIBIT "H-2"

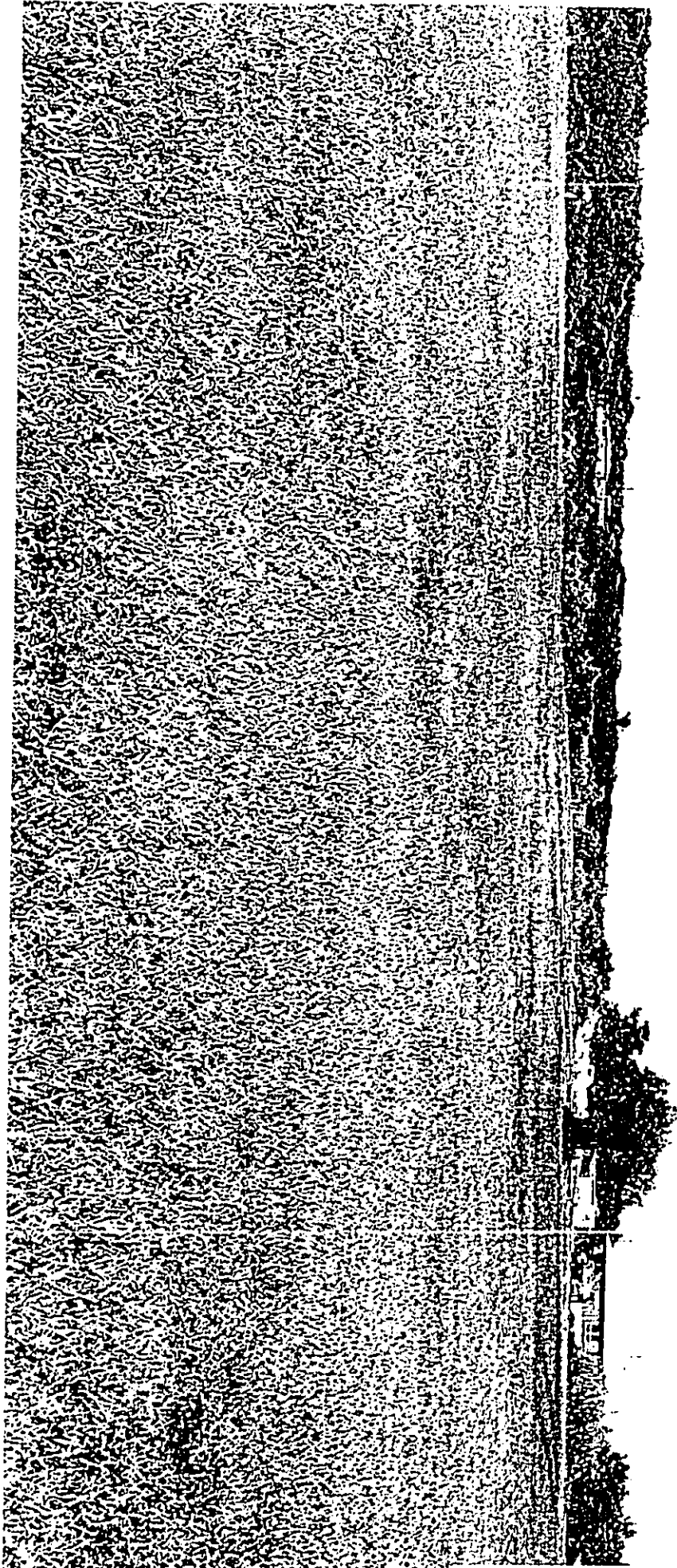


EXHIBIT "H-2"

EXHIBIT "H-3"



EXHIBIT "H-3"

EXHIBIT "H-4"



EXHIBIT "H-4"

EXHIBIT "H-5"



EXHIBIT "H-5"

EXHIBIT "H-6"

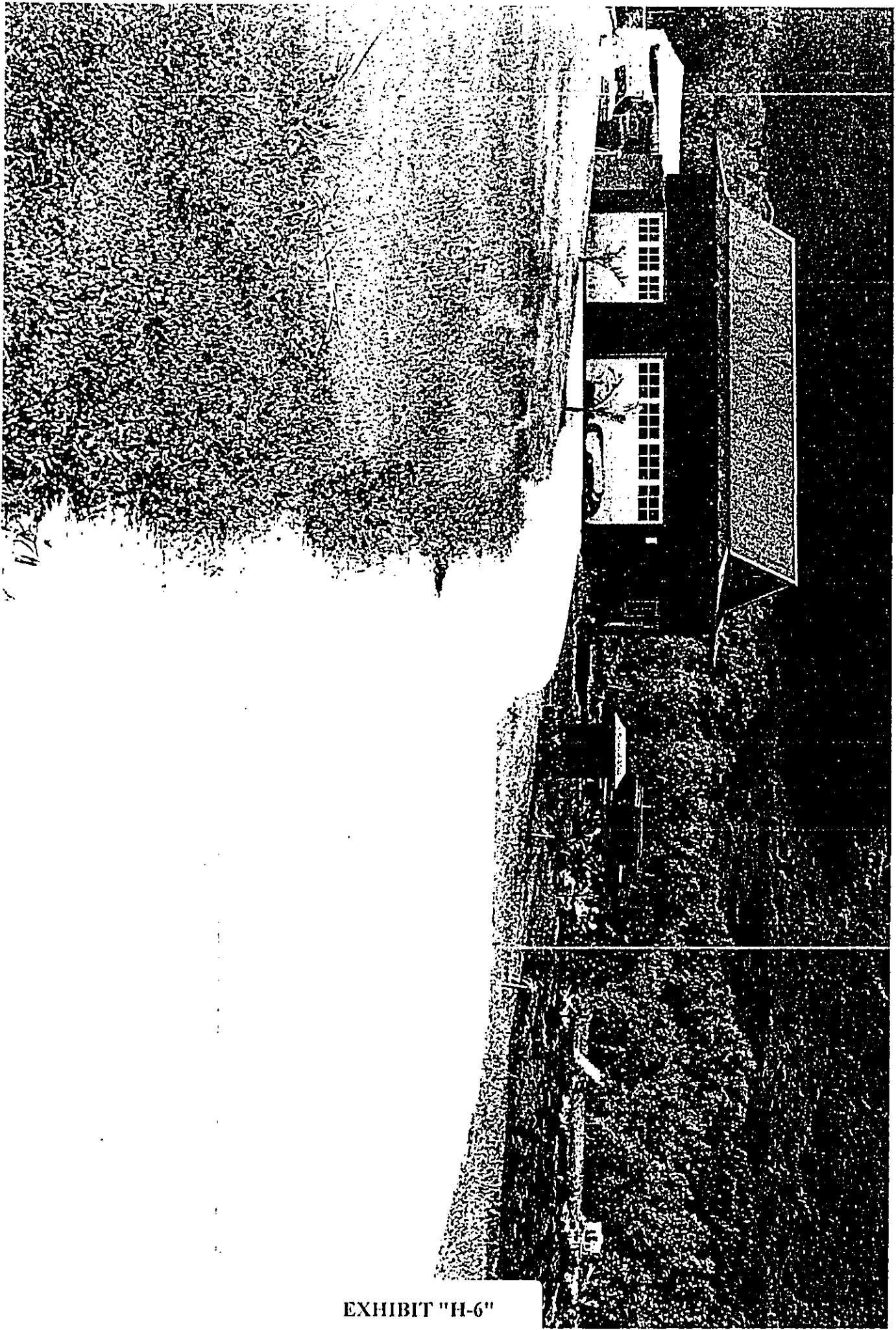


EXHIBIT "H-6"

EXHIBIT "H-7"

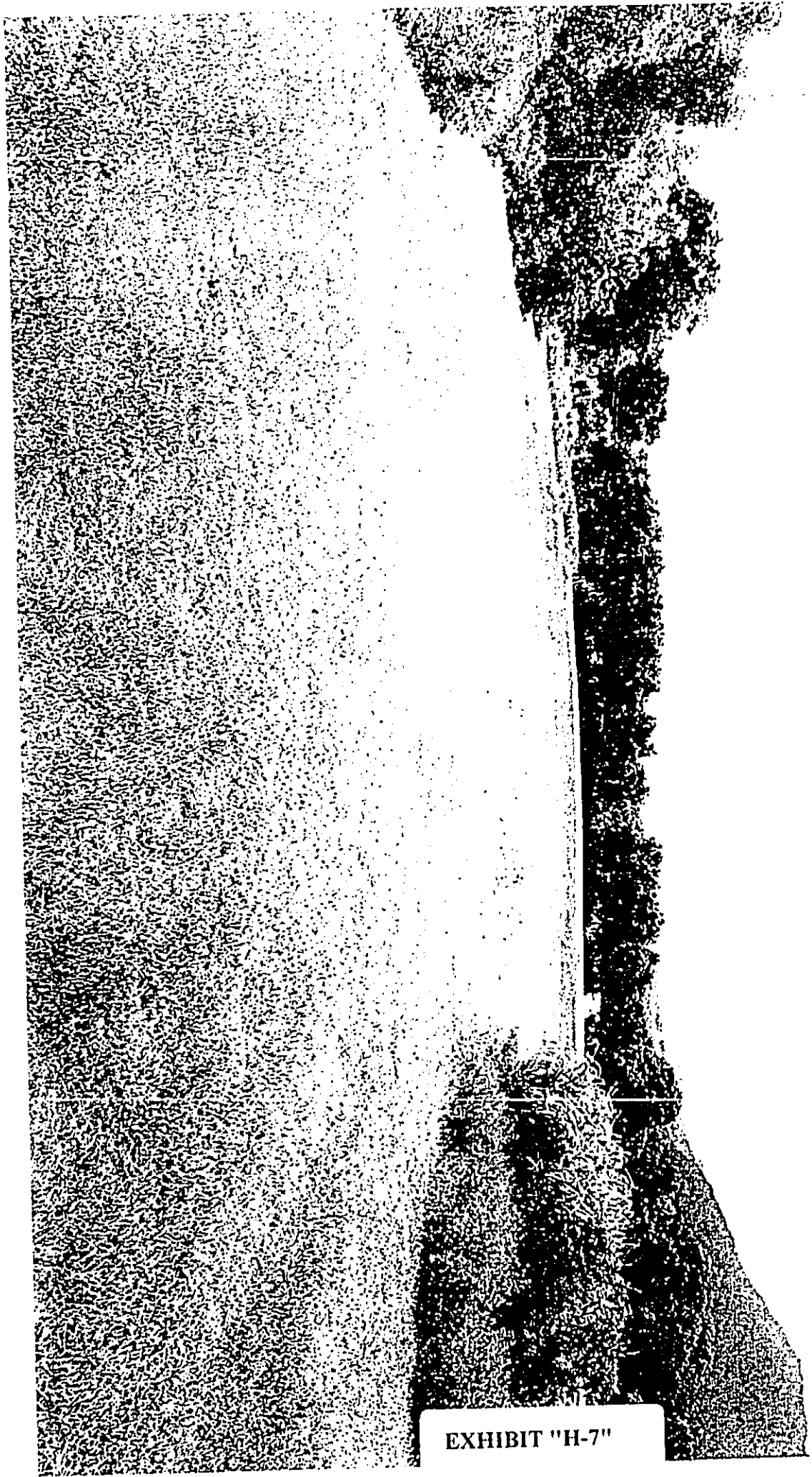


EXHIBIT "H-7"

EXHIBIT "I"

EXHIBIT "I"

COMMUNITY MEETING

DATE: Saturday, September 16, 2006

TIME: 2:00 p.m. – 3:00 p.m.

PERSONS INVITED/ADDRESS	ATTENDANCE	
	YES	NO
Ryan and Jennifer Rutt P. O. Box 1344 Kapaa, HI 96746		X
Kenneth and Melissa Barker P. O. Box 208 Kapaa, HI 96746		X
Harvey and Paula Cohen P. O. Box 223755 Princeville, HI 96722		X
Wayne L. Voight Family Unlimited 22701 Labrusca Road Mission Viejo, CA 92692		X
Wayne L. Voight 22701 Labrusca Road Mission Viejo, CA 92692		X
Bruce P. Irons P. O. Box 59 Hanalei, HI 96714		X
Daniel R. Way 25602 Alicia #101 Laguna Hills, CA 92653		X
Albert, Jr. and Apryl Soares P. O. Box 1713 Kapaa, HI 96746		X

PERSONS INVITED/ADDRESS	ATTENDANCE	
	YES	NO
Lurline Stauber 4510 Kawaihau Road Kapaa, HI 96746		X
Michael Lombardi, Trustee P. O. Box 12741 Lahaina, HI 96761		X
Douglas T. Cheeseman and Gail M. Cheeseman, Trustees 20800 Kittredge Road Saratoga, CA 95070		X
William and Molly Cirksena 813 Coachway Annapolis, MD 21401		X
Mitsuo and Hiroko Wakumoto, Trustees 6100 Hauiki Road Kapaa, HI 96746		X
Randy and Sharon Melendez 6170-F Hauiki Road Kapaa, HI 96746		X
Dante Democcutac Dante Family Farm 4878 Laipo Road Kapaa, HI 96746		X

EXHIBIT "J"

EXHIBIT "J"

LETTERS OF SUPPORT

William A. Lydgate
P. O. Box 66
Kapaa, HI 96746

Ken Barker
6230C Hauiki Road
Kapaa, HI 96746

Melissa Barker
6230C Hauiki Road
Kapaa, HI 96746

Jennifer and Ryan Rutt
6230 Hauiki road
Kapaa, HI 96746

Harvey L. Cohen
5-4280 Kuhio Highway, Suite B-202
P. O. Box 223755
Princeville, HI 96722

Wayne L. Voigt
22701 Labrusca
Mission Viejo, CA 92692-1331

EXHIBIT "J-1"

Date: August 30, 2006

To Whom it May Concern:

I am an owner of real property located in Kapaa and Waipouli, Kauai, Hawaii, which is identified as Tax Key No.: (4) 4-4-04:00. My property is in the neighborhood of the Old Railroad Right-of-Way owned by the County of Kauai (identified as Tax Key No.: (4) 4-4-04-003:por.) which Patrick and Stephanie Ibbes wish to purchase from the County.

I understand that the Ibbes own two lots which are bisected by part of this Old Railroad Right-of-Way, and wish to purchase the land from the County to eliminate the separation.

I support the application of the Ibbes to acquire part of the Old Railroad Right-of-Way.

Sincerely,

William A. Lydgate

Name: William A. Lydgate
Address: POB 68, Kapaa 96746

EXHIBIT "J-2"

Date: 8/28/06

To Whom it May Concern:

I am an owner of real property located in Kapaa and Waipouli, Kauai, Hawaii, which is identified as Tax Key No.: (4) 4-4-04:02. My property is in the neighborhood of the Old Railroad Right-of-Way owned by the County of Kauai (identified as Tax Key No.: (4) 4-4-04-003:por.) which Patrick and Stephanie Ibbs wish to purchase from the County.

I understand that the Ibbses own two lots which are bisected by part of this Old Railroad Right-of-Way, and wish to purchase the land from the County to eliminate the separation.

I support the application of the Ibbses to acquire part of the Old Railroad Right-of-Way.

Sincerely,



Name: Ken Barker
Address: 6230C Hauiki Rd.
Kapaa, HI 96746

{00 0:USERS:MELISSABARKER:LIBRARY:MAIL:POP-WYLIEMAE@POP-SER#2061F7.COM:INBOX.MBOX:LETTER_OF_SUPPORT.MIMEATTACH:LETTER OF SUPPORT (#22FB82.DOC)}

EXHIBIT J-2"

EXHIBIT "J-3"

Date: 8/28/06

To Whom it May Concern:

I am an owner of real property located in Kapaa and Waipouli, Kauai, Hawaii, which is identified as Tax Key No.: (4) 4-~~4~~-04-028. My property is in the neighborhood of the Old Railroad Right-of-Way owned by the County of Kauai (identified as Tax Key No.: (4) 4-4-04-003:por.) which Patrick and Stephanie Ibbs wish to purchase from the County.

I understand that the Ibbes own two lots which are bisected by part of this Old Railroad Right-of-Way, and wish to purchase the land from the County to eliminate the separation.

I support the application of the Ibbes to acquire part of the Old Railroad Right-of-Way.

Sincerely,

Melissa Barker
Name: Melissa Barker
Address: 6230C Hauiki St.
Kapaa, HI 96746

{00 0:USERS:MELISSABARKER:LIBRARY:MAIL:POP-WYLIEMAE@POP-SER#2061F7.COM:INBOX.MBOX:LETTER_OF_SUPPORT.MIMEATTACH:LETTER OF SUPPORT (#22FB82.DOC)

EXHIBIT "J-3"

EXHIBIT "J-4"

Date: 8/29/06

To Whom it May Concern:

I am an owner of real property located in Kapaa and Waipouli, Kauai, Hawaii, which is identified as Tax Key No.: (4) 4-4-004-028 ^{CPEO}. My property is in the neighborhood of the Old Railroad Right-of-Way owned by the County of Kauai (identified as Tax Key No.: (4) 4-4-04-003:por.) which Patrick and Stephanie Ibsbs wish to purchase from the County.

I understand that the Ibsbs own two lots which are bisected by part of this Old Railroad Right-of-Way, and wish to purchase the land from the County to eliminate the separation.

I support the application of the Ibsbs to acquire part of the Old Railroad Right-of-Way.

Sincerely,

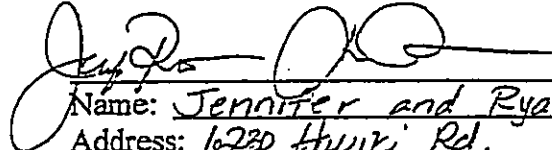

Name: Jennifer and Ryan Dutt
Address: 6230 Huiiki Rd.
Kapaa, HI 96746

EXHIBIT "J-5"

HARVEY L. COHEN
ATTORNEY AT LAW

Princeville Shopping Center
5-4280 Kuhio Highway, Suite B-202
P.O. Box 223755, Princeville, HI 96722
808.826.4226 phone
808.826.4227 fax
Hcohenattv@aol.com

August 28, 2006

To Whom it May Concern:

I am an owner of real property located in Kapaa and Waipouli, Kauai, Hawaii, which is identified as Tax Key No. (4) 4-4-028:0003. My property is in the neighborhood of the Old Railroad Right-of-Way owned by the County of Kauai (identified as Tax Key No. (4) 4-4-04-003:por.) which Patrick and Stephanie Ibbs wish to purchase from the County.

I understand that the Ibbses own two lots which are bisected by part of this Old Railroad Right-of-Way, and wish to purchase the land from the County to eliminate the separation.

I support the application of the Ibbses to acquire part of the Old Railroad Right-of-Way.

Sincerely,



Harvey L. Cohen

HLC/hs

EXHIBIT "J-5"

EXHIBIT "J-6"

DOCUMENT CAPTURED AS RECEIVED

Date: 8/25/06

To Whom it May Concern:

I am an owner of real property located in Kapaa and Waipouli, Kauai, Hawaii, which is identified as Tax Key No.: (4) 4-4-04-028-4 [unit D] and (4) 4-4-04-028-5 [unit E]. My property is in the neighborhood of the Old Railroad Right-of-Way owned by the County of Kauai (identified as Tax Key No.: (4) 4-4-04-003:por.) which Patrick and Stephanie Ibbes wish to purchase from the County.

I understand that the Ibbeses own two lots which are bisected by part of this Old Railroad Right-of-Way, and wish to purchase the land from the County to eliminate the separation.

I support the application of the Ibbeses to acquire part of the Old Railroad Right-of-Way.

Sincerely,



Name: Wayne L Voigt
Address: 22701 Labrusca
Mission Viejo, CA 92692-1331

(C:\DOCUMENTS AND SETTINGS\WAYNE\LOCAL SETTINGS\TEMPORARY INTERNET FILES\CONTENT.IE5\WLNHNLA\LETTER OF SUPPORT (W0086966){1}.DOC)

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EXHIBIT "J-6"

08/25/2006 09:16 FAX 19498516304

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E

EXHIBIT "K"

EXHIBIT "K"

FARM DWELLINGS/HOMES IN AREA

TAX KEY NO.:

4-4-03-021	four dwellings
4-6-07-40	one dwelling
4-6-07-50	two dwellings
4-6-07-120	three dwellings
4-6-07-041	one dwelling