

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

February 24, 2012

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

Land Board Members:

SUBJECT: AMEND PRIOR BOARD ACTION OF AUGUST 23, 2002 AND NOVEMBER 19, 2004 – DELEGATION OF AUTHORITY FOR THE ISSUANCE OF RIGHT-OF-ENTRIES FOR GRAZING PURPOSES IN PU‘U WA‘AWA‘A, NORTH KONA, HAWAI‘I, TO INCLUDE TAX MAP KEYS: (3) 7-1-003:016, AND (3) 7-1-004:018.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended

LOCATION:

Government lands situated at Pu‘u Wa‘awa‘a and Pu‘u Anahulu, North Kona, Hawai‘i, identified by Tax Map Keys: (3) 7-1-001:004 and 006, (3) 7-1-002:001 and 013, (3) 7-1-003:001 and 016, and (3) 7-1-004:001 and 018 as shown on the attached maps labeled Exhibit A1-A4.

AREA:

98,541 acres, more or less.

ZONING:

State Land Use District: Conservation and Agriculture
County of Hawaii CZO: Open

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CHARACTER OF USE:

Grazing purposes primarily for the reduction of fire fuels to mitigate fire hazard.

CONSIDERATION:

A one-time fee with each right-of-entry to be determined by staff appraiser, subject to review and approval by the Chairperson.

BACKGROUND:

At its meeting of January 25, 2002, the Board of Land and Natural Resources approved the set aside of large areas of Pu'u Wa'awa'a and portions of Pu'u Anahulu to the Division of Forestry and Wildlife (DOFAW) and Division of State Parks (SP). Additionally, the Board approved in principle certain resource management guidelines and priorities, requiring both Divisions to prepare and submit a Management Plan to the Board for their consideration and approval. On July 25, 2003, the Board approved the Management Plan for the Ahupua'a of Pu'u Wa'awa'a and the Makai Lands of Pu'u Anahulu.

Pu'u Wa'awa'a has been significantly modified by human activity. Subsequent invasion by non-native grass species has caused a significant increase in the fire fuel loads in the area, making wildland fires the primary threat for the remaining native natural resources. The Division has been working on a fire-fuels mitigation plan that utilizes grazing by cattle to reduce fuel loads, which is currently under review by DOFAW. In the interim, to reduce the risk of costly and destructive wildland fires, DOFAW has been issuing periodic right-of-entry permits for grazing to reduce fire fuel loads along Highway 190 in Pu'u Wa'awa'a and in portions of Pu'u Anahulu. The Board delegated authority to the Chairperson to issue these periodic right-of-entry permits for grazing within TMK (3) 7-1-002:001 and 013, (3) 7-1-003:001 and (3) 7-1-004:001, at its August 23, 2002 meeting (Exhibit B).

DISCUSSION:

At its meeting of November 19, 2004, the Board extended the delegation of authority of the Chairperson to issue periodic right-of-entry permits for grazing to additional areas mauka of Highway 190; TMK (3) 7-1-001:004 and 006 (Exhibit C). This allowed DOFAW to direct grazing in additional areas that needed fire fuel management. During this process two parcels TMK (3) 7-1-003:016 and (3) 7-1-004:018, that were originally supposed to be included were left out inadvertently. The Division now seeks to correct this oversight and extend the delegation of authority to the Chairperson to issue periodic right-of-entry permits for grazing within TMKs (3) 7-1-003:016 and (3) 7-1-004:018.

Summary of Board Action delegating authority to the Chairperson to issue ROE for grazing purposes.

Board Action Date	Tax Map Keys
August 23, 2002	(3) 7-1-002:001 (3) 7-1-002:013 (3) 7-1-003:001 (3) 7-1-004:001
November 19, 2004	(3) 7-1-001:004 (3) 7-1-001:006
February 24, 2012 (proposed amendment)	(3) 7-1-003:016 (3) 7-1-004:018

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT

In accordance with “Exemption List for the Division of Forestry and Wildlife of the Department of Land and Natural Resources, reviewed and concurred upon by the Environmental Council on June 12, 2008,” the proposed activities are exempt from the preparation of an environmental assessment. Specifically, the proposed activities fall under 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.” and Exemption Class No. 4, that states “Minor alteration in the conditions of land, water, or vegetation.”

Refer to attached Exemption Notification labeled Exhibit D

RECOMMENDATION:

That the Board:


1. Declare that, after considering the potential effects of the proposed dispositions provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Amend its prior actions taken at its August 23, 2002 meeting – Agenda Item D-16 and its November 19, 2004 meeting - Agenda Item D-22 as follows:
 - a. Amend the Title and Location sections of the submittals to include Tax Map Keys: (3) 7-1-002:013 and (3) 7-1-004:018; and
 - b. Amend the Area section to 98,541 acres, more or less.

Respectfully submitted,



PAUL J. CONRY, Administrator

APPROVED FOR SUBMITTAL:


WILLIAM J. AILA, JR., Chairperson

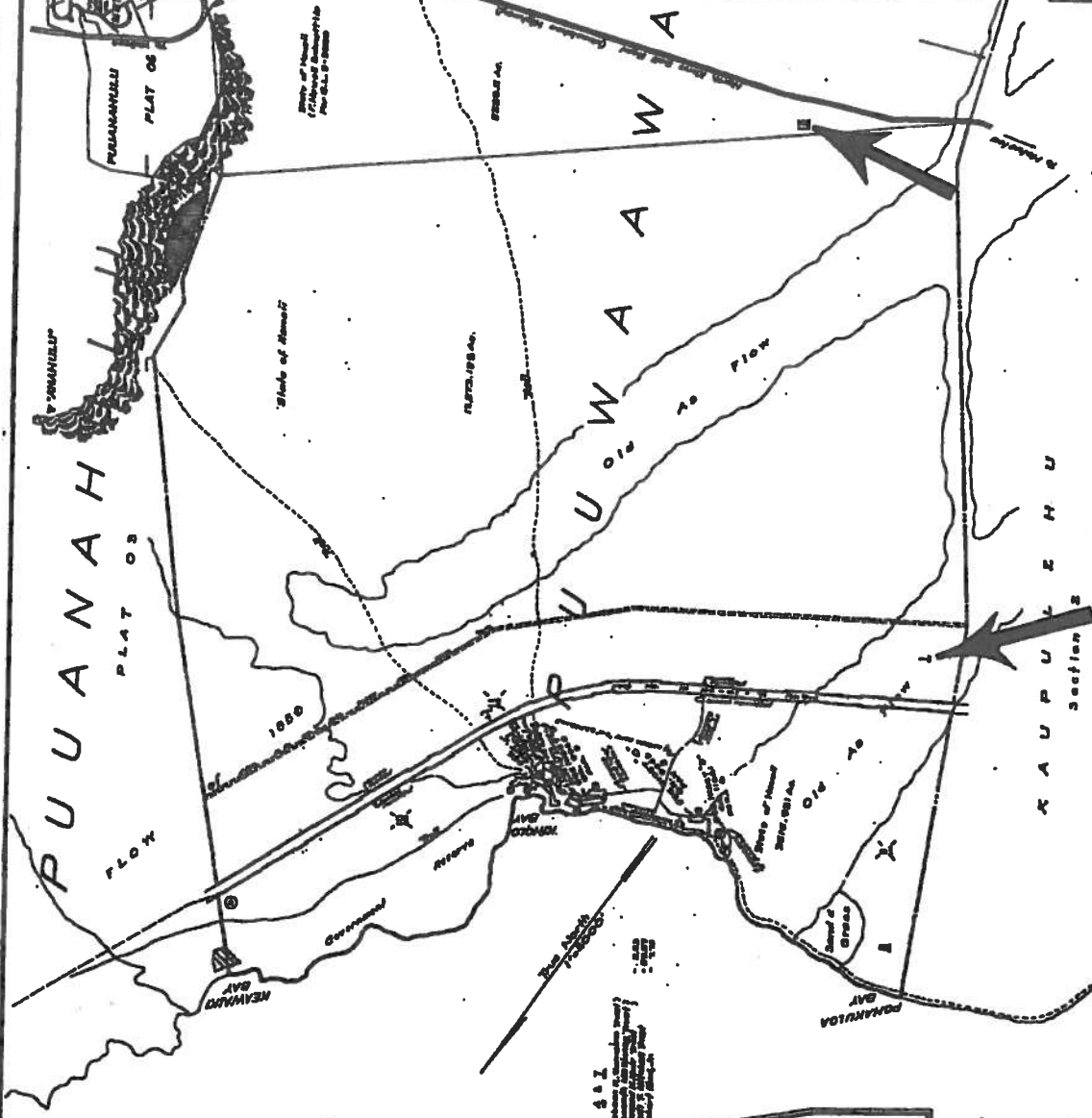
7 1 02

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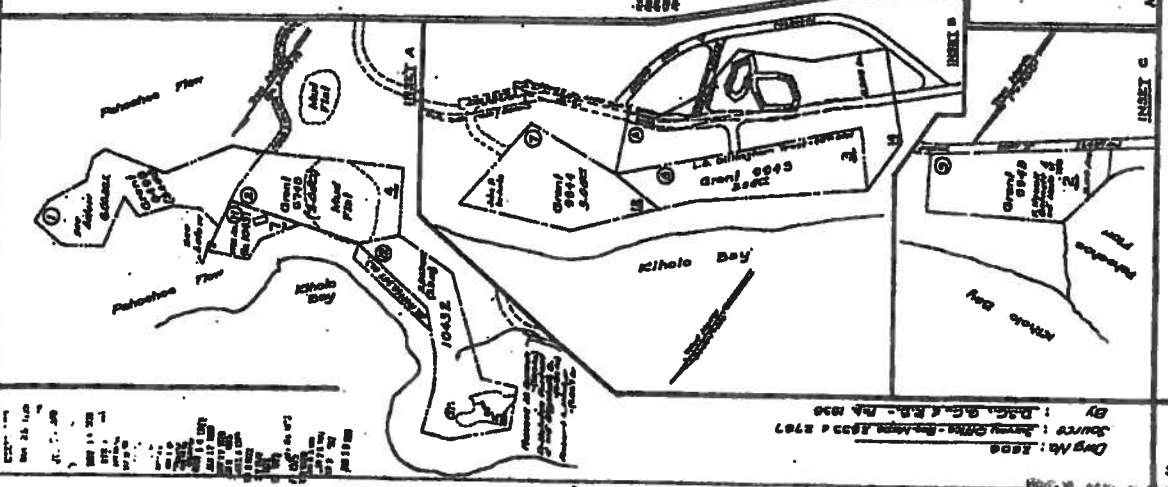


THIRD DIVISION	7 1 02
ZONE, SEC. PLAT	
ADVANCE SHEET CONTAINING PARCELS	
SCALE: 1" = 100'	

ADVANCE SHEET CONTAINING PARCELS



Map of Uuwa Awa, N. EONA, HAWAII



Date: 11/15/50
 By: [illegible]
 Scale: 1" = 100'
 Source: [illegible]
 Drawn by: [illegible]

REDUCED/NOT TO SCALE

THIS SHEET
 SHEET NO. 7103
 CONTAINS PARCELS
 SCALED IN 1/4"

ADVANCE SHEET
 "LIST" TO CHANGE

District zone 6, SECTION 8

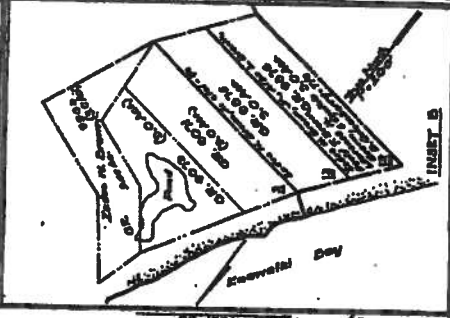
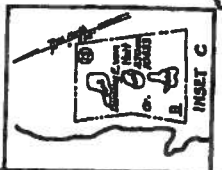
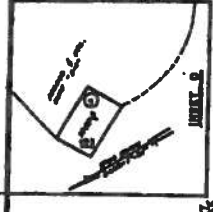
Kopala

South

U

P U W A A N A A

PERMANENTLY MARKED NORTH ECOM, NORTH



Map No. 2000
 Source: Aerial Photo - Topographic Map No. 1000
 Date: 1978-1979

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

August 23, 2002

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

Hawaii

Delegation of Authority for the Issuance of Right-of-Entries for Grazing Purposes,
Puuwaawaa and Puuanahulu, North Kona, Hawaii, Tax Map Key: 3rd/7-1-002:
001 & 013, 3rd/7-1-003: 01 and 3rd/7-1-004: 01

LEGAL REFERENCE:

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

LOCATION:

Government lands situated at Puuanahulu and Puuwaawaa, North Kona, Hawaii,
identified by Tax Map Key: 3rd/7-1-002: 001 & 013, 3rd/7-1-003: 01 and 3rd/7-1-004: 01
as shown on the attached map labeled Exhibit A.

AREA:

41,952 acres, more or less.

ZONING:

State Land Use District: Conservation and Agriculture
County of Hawaii CZO: Open

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:

Vacant and unencumbered. Prior Board approval for Game Management Area and set
aside to DOFAW for Resource Management Area.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

August 23, 2002. pa

CHARACTER OF USE:

Grazing purposes primarily for the reduction of fire fuels to mitigate fire hazard.

CONSIDERATION:

A one-time fee with each right-of-entry to be determined by staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

Although some of the areas are being considered for multiple uses in the future, the area has historically been grazed and the interim grazing is vital to mitigating the fire hazard.

REMARKS:

At its meeting of January 25, 2002, the Board of Land and Natural Resources approved the set aside of large areas of Puuwaawaa and portions of Puuanahulu to the Division of Forestry and Wildlife and Division of State Parks. Additionally, the Board approved in principle certain resource management guidelines and priorities, requiring both divisions to prepare and submit a Puuwaawaa Management Plan to the Board by August 2002 for their consideration and approval. The Board also approved the establishment of an Ahupuaa Advisory Council to act as an advisory capacity to the Department for the overall management within the lands of Puuwaawaa.

In the interim, DOFAW has expressed concerns that the fire fuel load in areas currently not under revocable permit have increased to a dangerous level. The last major brushfire in the area cost the State over \$1 million dollars in addition to significant damage to both plant and wildlife.

Staff received a request from DOFAW to allow for grazing in the areas immediately makai of Mamalahoa Highway that was burnt a few years ago and new growth has increased tremendously due to significant rains early in the year. The fencing in this area was recently repaired through cooperation between Land Division that provided the materials and DOFAW that found funding for the installation.

Although DOFAW and State Parks will be developing long term resource planning for these areas, everyone acknowledges that grazing is the only practical means of controlling the fire hazard during this interim period. Recognizing the need to be proactive and timely in this management of the fire hazard in these areas, staff is recommending that the Board delegate to the Chairperson, the authority to issue periodic grazing right-of-entries within the subject areas based on a one time fee to be determined by the staff appraiser and approved by the Chairperson. Staff is recommending that this delegation continue until such time as the Board approves the long term plan and implementation structure being developed by DOFAW and State Parks. This delegation will allow DOFAW to manage the fire fuel load in these areas through grazing subject to the concurrence of the Chairperson through the issuance of right-of-entries.

RECOMMENDATION: That the Board:

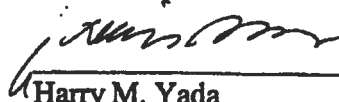
1. Declare that, after considering the potential effects of the proposed delegation and related dispositions as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment;
2. Delegate to the Chairperson the authority to issue periodic right-of-entry permits for the grazing of areas within the subject Tax Map Key parcels, subject to the following terms and conditions:
 - a. The issuance of the right-of-entries shall be in response to recommendations by DOFAW's assigned management team and concurrence by the Chairperson;
 - b. The right-of-entries shall include a one time fee to be determined by the staff appraiser and approved by the Chairperson;
 - c. The Chairperson is authorized to waive the one time fee when warranted, due to required improvements to an area such as additional waterlines, troughs, fencing, etc.;
 - d. The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time; and
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

BLNR - Delegation of Authority
To Issue Grazing ROEs within
Puuwaawaa and Puuanahulu,
North Kona, Hawaii

Page 4

Exhibit B
August 23, 2002

Respectfully Submitted,



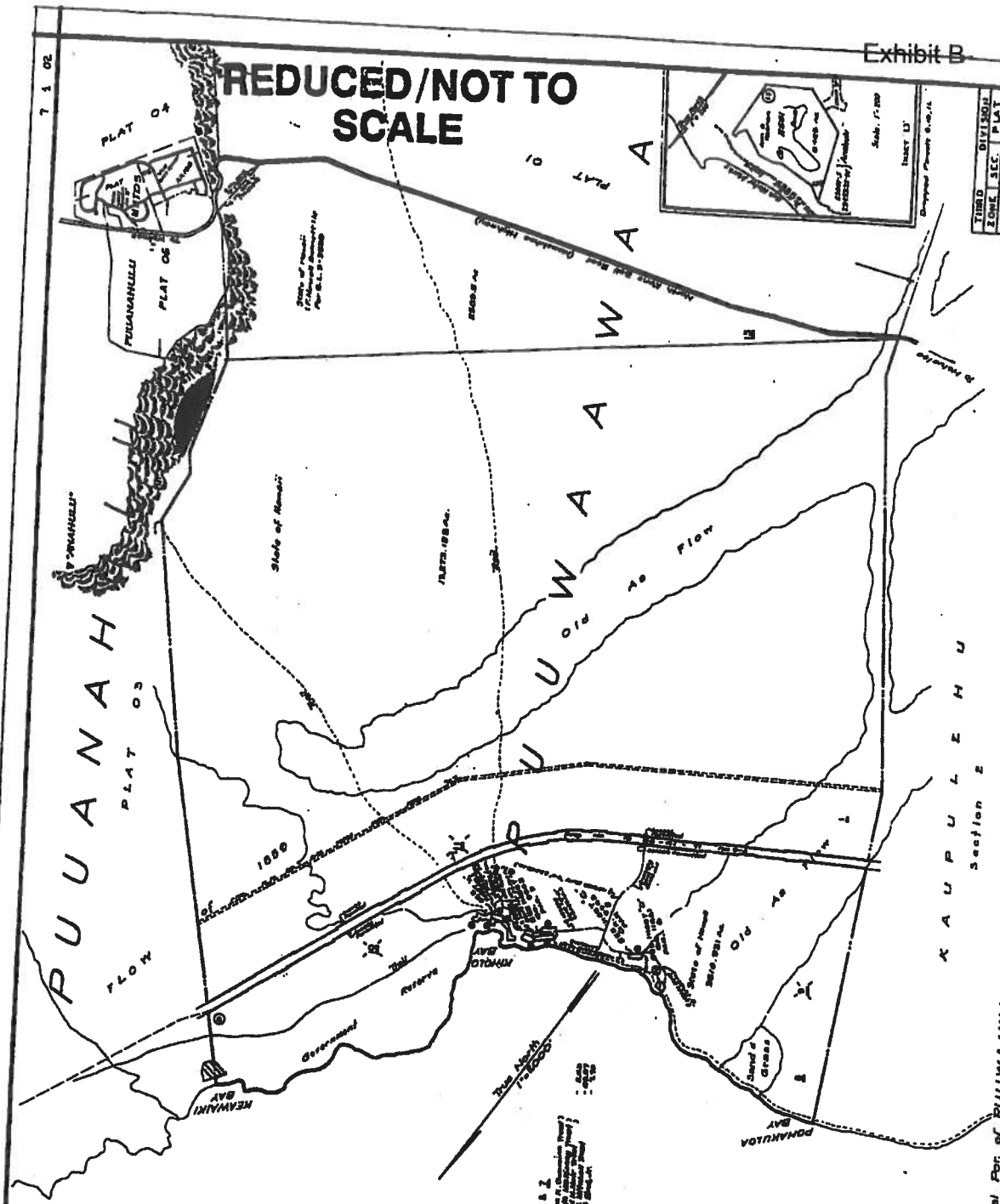
Harry M. Yada
District Land Agent

APPROVED FOR SUBMITTAL:



GILBERT S. COLOMA-AGARAN, Chairperson

REDUCED/NOT TO SCALE



TOWN	DIVISION	PLAT
7	1	02
CONTAINING PARCELS		
SCALE: 1:1000		

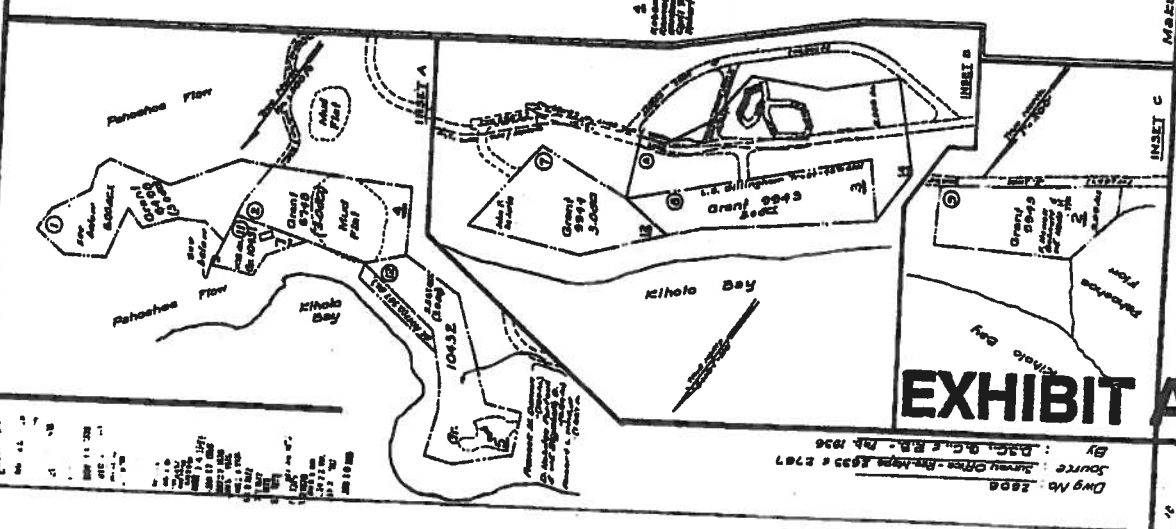


EXHIBIT A

Dwg No. 2228
 Source: Survey Office - Honolulu, 1955 & 1957
 By: D.C. & C.E.R. - Feb. 1956

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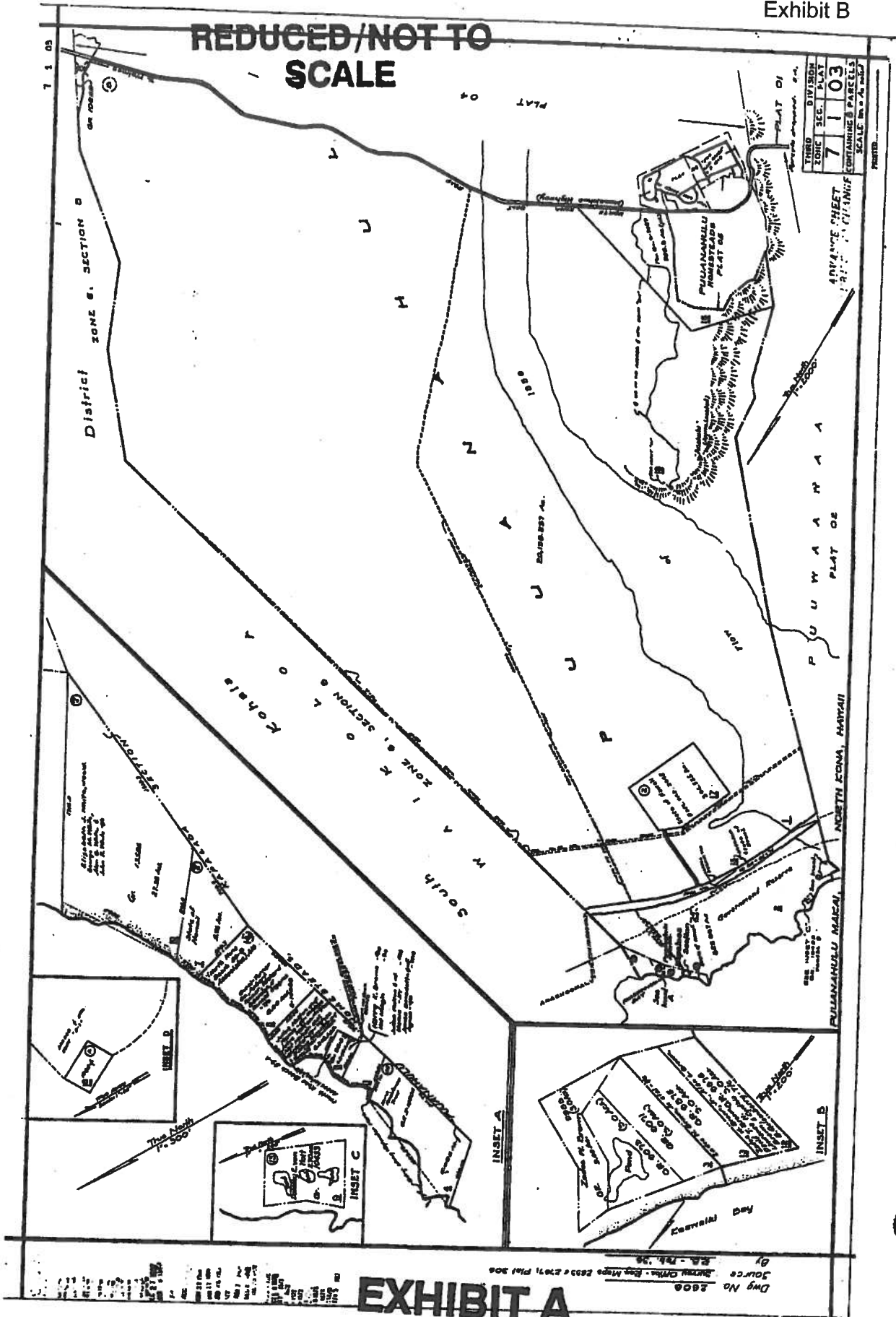


EXHIBIT A

Dwg No 2008
 Source: BUREAU OF LAND MANAGEMENT, HAWAII
 Date: 11/11/08

REDUCED/NOT TO
SCALE

HAMAKUA

DISTRICT

K A O H E

ZONE 4

STANDARD ZONE	DIVISION	PLAT
7	1104	
CONTAINING PARCELS		
SCALE: 1" = 2000'		

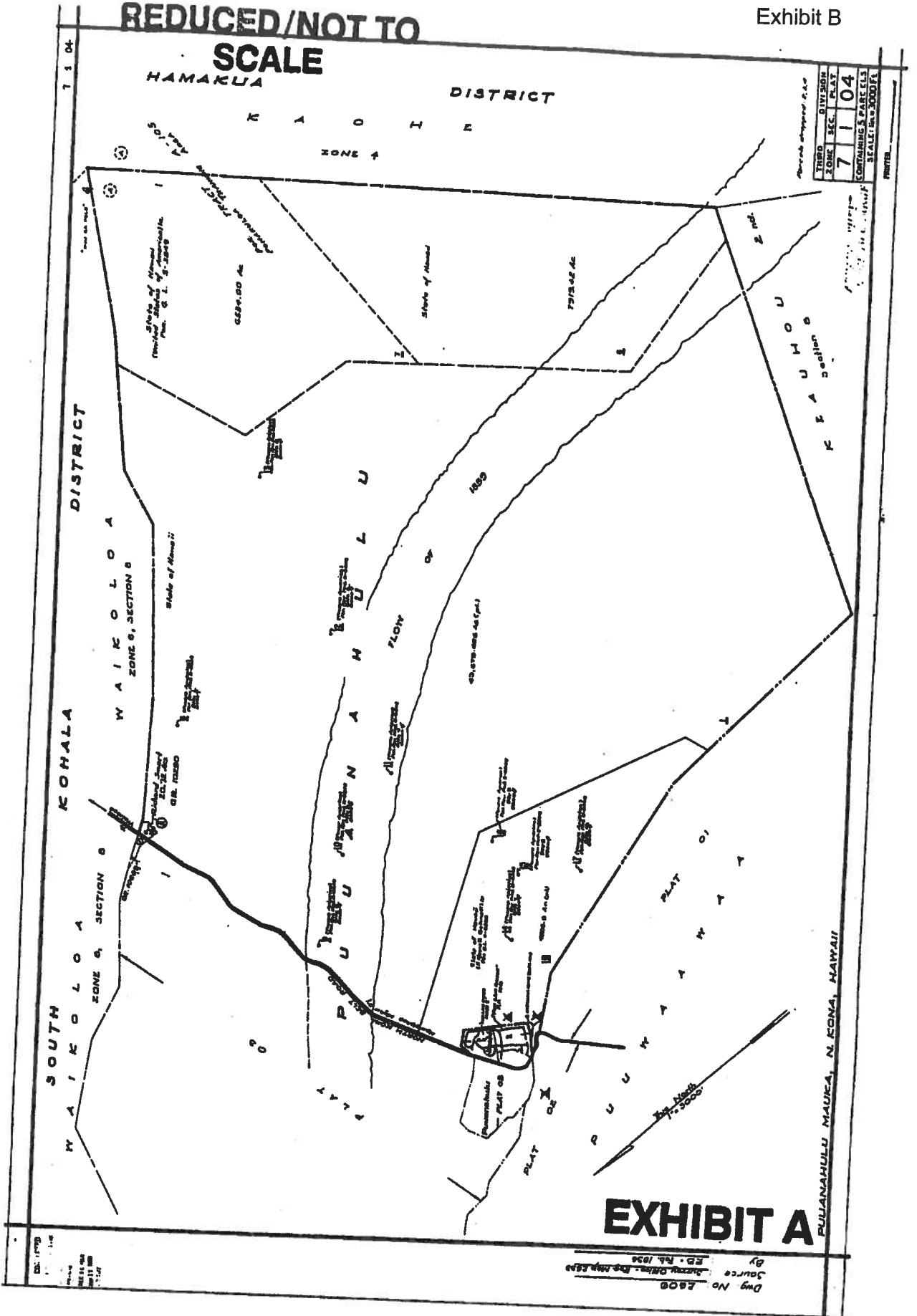


EXHIBIT A

PUUANAHU MAUKEA, N. KOHA, HAWAII

Dwg. No. E-608
By: Survey Data, Dept. of Land and Natural Resources
H.B. No. 1934

Scale: 1" = 2000'

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

November 19, 2004

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

Hawaii

Amend Prior Action - Delegation of Authority for the Issuance of Right-of-Entries for Grazing Purposes, Puuwaawaa and Puuanahulu, North Kona, Hawaii , Tax Map Key: 3rd/ 7-1-001: 006 & 004, 3rd/ 7-1-002: 001 & 013, 3rd/ 7-1-003: 01 and 3rd/ 7-1-004: 01

LEGAL REFERENCE:

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

LOCATION:

Government lands situated at Puuanahulu and Puuwaawaa, North Kona, Hawaii, identified by Tax Map Key: 3rd/ 7-1-001: 006 & 004, 3rd/ 7-1-002: 001 & 013, 3rd/ 7-1-003: 01 and 3rd/ 7-1-004: 01 as shown on the attached map labeled Exhibits A1-A4.

AREA:

55,504 acres, more or less.

ZONING:

State Land Use District: Conservation and Agriculture
County of Hawaii CZO: Open

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:

Vacant and unencumbered. Prior Board approval for Game Management Area and set aside to DOFAW for Resource Management Area.

CHARACTER OF USE:

Grazing purposes primarily for the reduction of fire fuels to mitigate fire hazard.

CONSIDERATION:

A one-time fee with each right-of-entry to be determined by staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

Although some of the areas are being considered for multiple uses in the future, the area has historically been grazed and the interim grazing is vital to mitigating the fire hazard.

REMARKS:

At its meeting of January 25, 2002, the Board of Land and Natural Resources approved the set aside of large areas of Puuwaawaa and portions of Puuanahulu to the Division of Forestry and Wildlife and Division of State Parks. Additionally, the Board approved in principle certain resource management guidelines and priorities, requiring both divisions to prepare and submit a Puuwaawaa Management Plan to the Board by August 2002 for their consideration and approval. The Board also approved the establishment of an Ahupuaa Advisory Council to act as an advisory capacity to the Department for the overall management within the lands of Puuwaawaa.

The Board has subsequently received a number of reports from DOFAW and State Parks with regard to the progress of the management plan and the Puuwaawaa Ahupuaa Advisory Council. Most recently, a new full-time Puuwaawaa Coordinator, Mike Donoho, has been hired to oversee the implementation of the management plan and interface with the Ahupuaa Advisory Council.

Under prior Board actions, a revocable permit for the grazing the areas above the Mamalahoa Highway and formerly under a grazing lease was issued to DeLuz/Kato. Since that time, Kato's interest has been bought out by DeLuz and most recently, DeLuz has sold the bulk of his cattle. As a result, DeLuz has requested a termination of the existing revocable permit as of October 31, 2004. DeLuz has requested to remain in areas below of Mamalahoa Highway with some cattle.

At its meeting of August 21, 2002, the Board formerly approved a delegation of authority to the Chairperson to issue periodic right-of-entry permits for grazing of areas below the highway. Any consideration for these right-of-entry permits would be determined by the staff appraiser and subject to approval by the Chairperson. The primary purpose of the right-of-entry permits would be to control fire fuels in the area in the prevention of wild brush fires.

The concept was to allow DOFAW to manage the fire fuel loads by the issuance of these right-of-entry permits in areas and durations as it deemed best to minimize the risk of brush fires. The last major brushfire in the area cost the State over \$1 million dollars in addition to significant damage to both plant and wildlife.

In working with the rancher over the last two years, it has become evident that the economic grazing interests of a rancher is not always consistent with the grazing priorities for the management of fire fuel loads in the area. Grazing priorities for the reduction of fire fuels often times may require the rancher to graze areas that do not provide adequate nutrition for cattle and may require expensive supplementation of minerals such as molasses to maintain healthy cattle. Such requirements may often make it uneconomical for the rancher to pay rent as well as pay for the high cost of water from the private water system and may eventually require subsidies by the State to control fire fuels.

For the foregoing reasons, staff is recommending that the right-of-entry concept for grazing be extended to the areas mauka of Mamalahoa Highway formerly under revocable permit to DeLuz. Such action will allow DOFAW to work with new and possible multiple ranchers for grazing purposes and minimizing risks of brushfires. DOFAW will then be able to direct grazing to areas that need it and adjust the term and rent accordingly. The grazing specialist with the Natural Resource Conservation Service has been an active partner with DOFAW and is willing to work with the staff appraiser on the determination of the consideration for each right-of-entry. It should be noted that some right-of-entry permits may not warrant any rent due to the lack of productivity of an area.

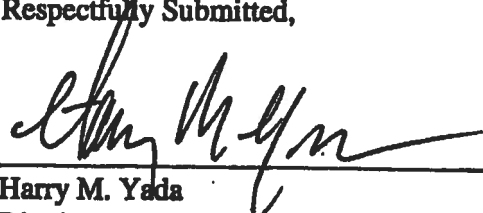
DOFAW is working on an overall grazing plan that could be put out for public bid or RFP to qualified parties but does not expect that to be completed until sometime next year. Such a proposal will first come to the Board for approval. This right-of-entry regime will be a way to manage the grazing and fire fuels in the interim.

Therefore, staff is recommending that the Board amend its prior action of delegating authority to the Chairperson for the issuance of periodic grazing right-of-entry permits by including those areas above Mamalahoa Highway formerly under revocable permit to DeLuz/Kato.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed delegation and related dispositions 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. Amend its prior action taken at its meeting of August 23, 2002, under Agenda Item D-16 as follows:
 - a. Add TMKs: 3rd/7-1-01: 006 and 004 to the Title and Location sections of the submittal;
 - b. Amend the "Area" section by changing 41, 952 acres to 55,504 acres;
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Harry M. Yada
District Land Agent

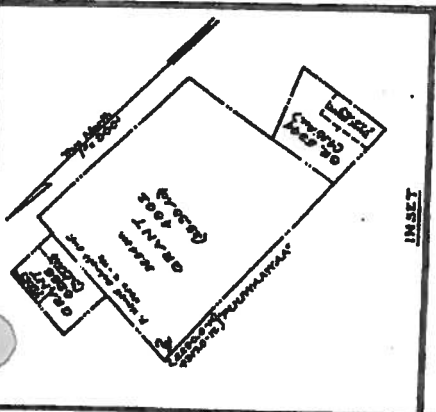
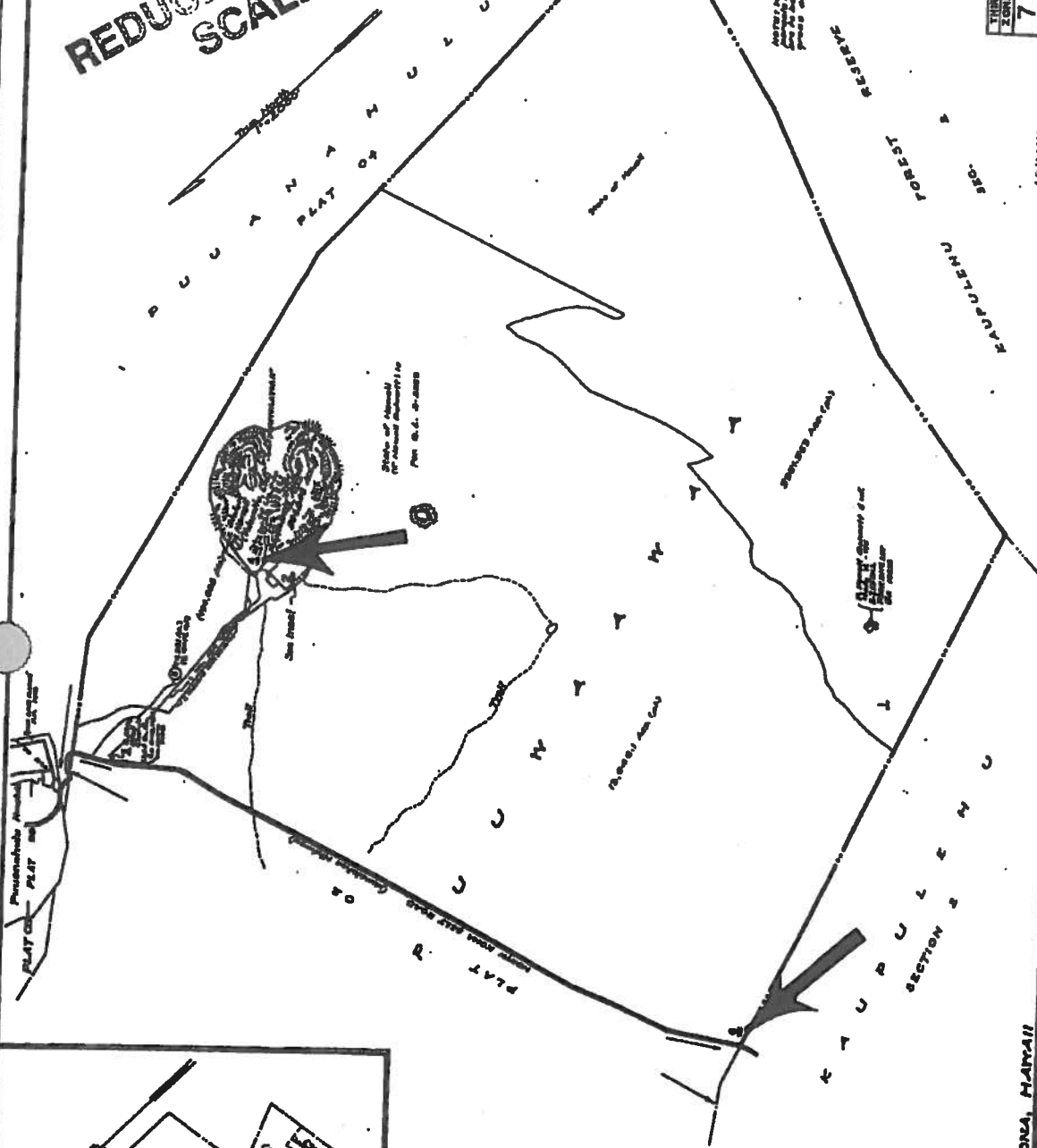
APPROVED FOR SUBMITTAL:



PETER T. YOUNG, Chairperson

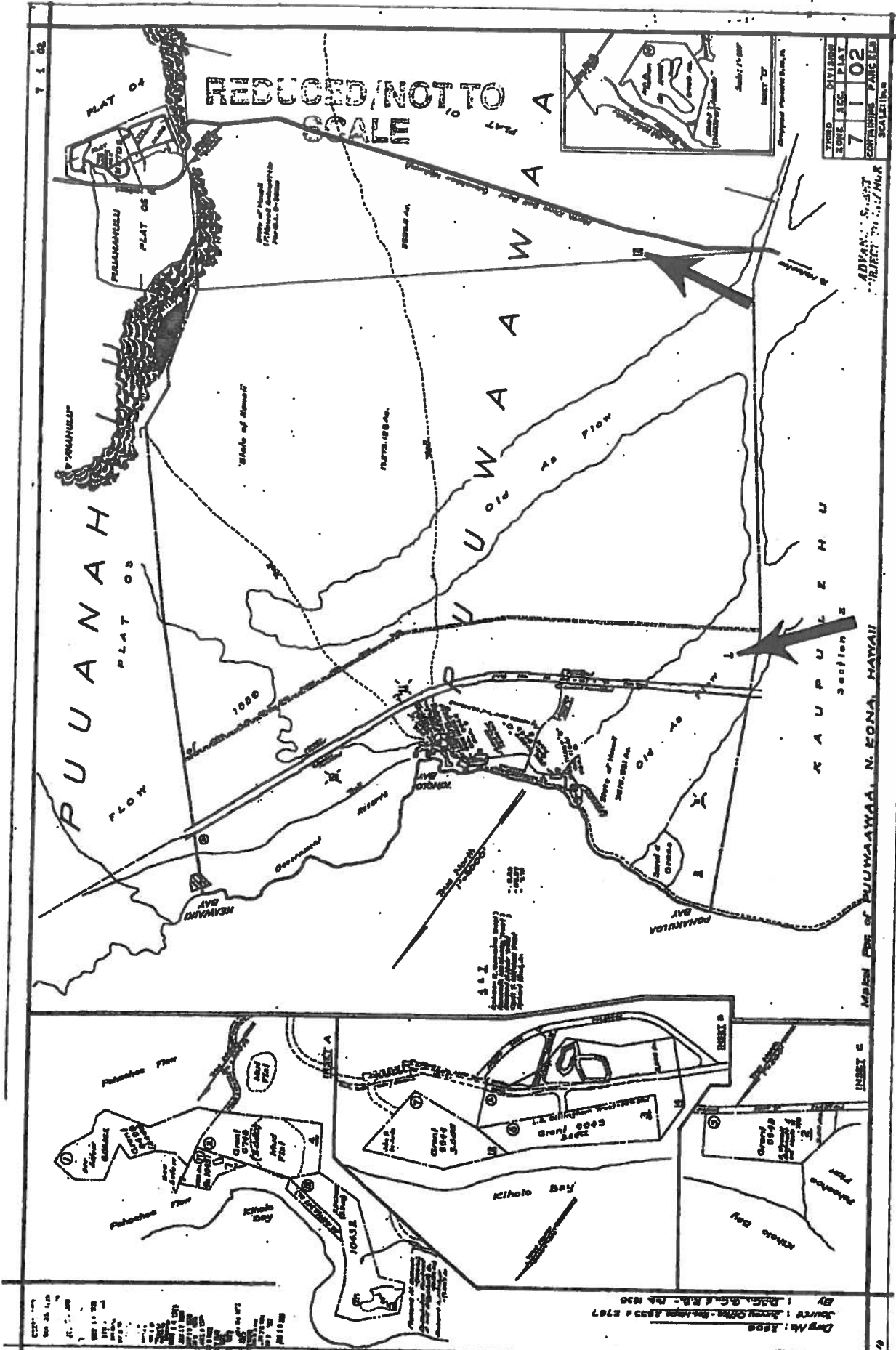
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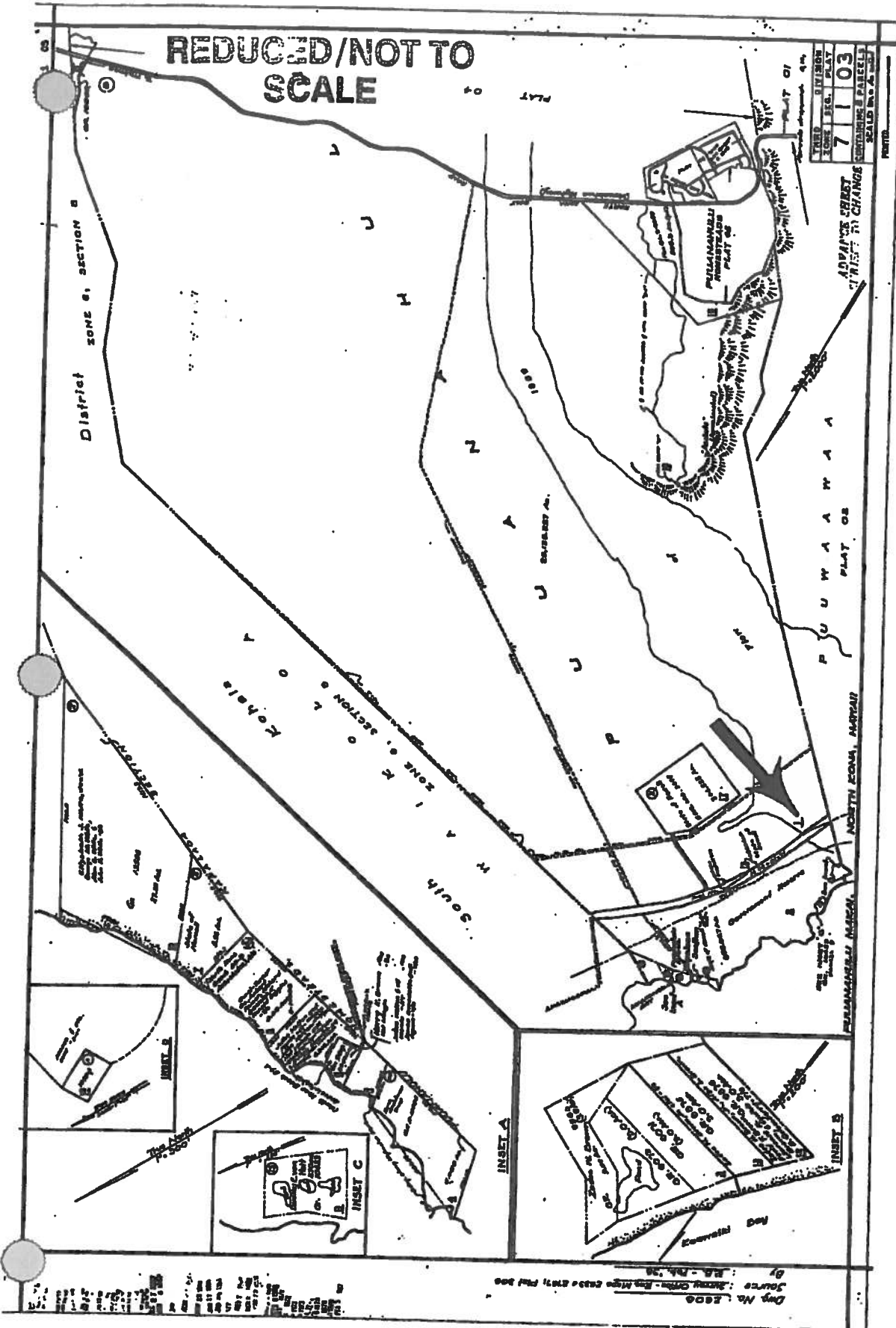
FIELD DIVISION	7101
ZONE SEC. PLAT	
CONTAINING PAPERS	
SCALE	



PUUNANU (MALIKA), N. KONA, HAWAII

Dwg. No. 2807
Source: Survey Office, Honolulu, Hawaii
By: E.D. Feb. 28



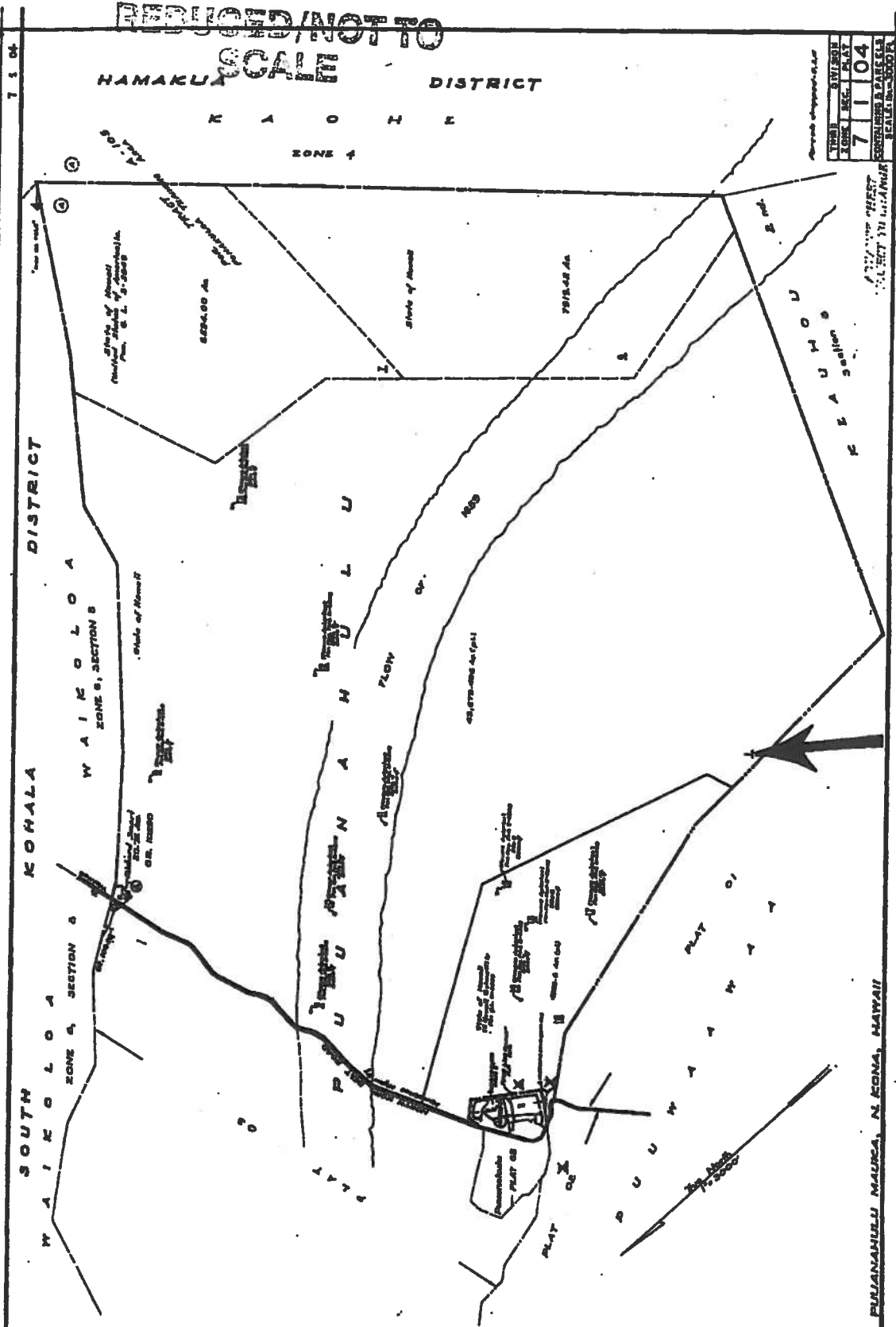


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HAMAKUA DISTRICT

K A O H E

ZONE 4



TOWN	WILSON
BOOK	103
PAGE	104
DATE	7 1 04
SURVEYED BY: [Name]	
DRAWN BY: [Name]	

11-11-04
 11-11-04
 11-11-04
 11-11-04
 11-11-04

Drawn by: [Name]
 Checked by: [Name]
 Date: 11-11-04

EXHIBIT A-4

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS.

Project Title:	Amend prior Board action of August 23, 2002 and November 19, 2004 - Delegation of authority for the issuance of right-of-entries for grazing purposes, Pu'u Wa'awa'a, North Kona, Hawai'i, to include tax map keys: (3) 7-1-002:013 and (3) 7-1-004:018.
Project Number:	N/A
Project Description	Division of Forestry and Wildlife seeks to correct a previous oversight and extend the delegation of authority of the Chairperson to issue periodic right-of-entry permits for grazing to reduce fire fuel loads in tax map keys: (3) 7-1-002:013 and (3) 7-1-004:018.
Chapter 343 Trigger(s)	Use of State Lands
Exemption Class & Description:	Exemption Class No. 1 of the Department of Land and Natural Resources, Division of Forestry and Wildlife. "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involve negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."
Recommendation:	It is anticipated that this project will have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

WILLIAM J. AILA, JR., Chairperson

Date

EXHIBIT D