

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

July 12, 2013

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

PSF No.: 13KD-032

Kauai

RESUBMITTAL: Request to Amend Prior Board Action of April 14, 2000, Agenda Item D-4, Set Aside to the DLNR - Division of Aquatic Resources, Freshwater and Marine Fisheries Development Program, and Issuance of Immediate Right-of-Entry; Request for a Revocable Permit to Darrell Horner for Aquaculture Purpose, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-007:046.

APPLICANT:

Darrell Horner, Married, Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Hanapepe, situated at Hanapepe, Waimea (Kona), Kauai identified by Tax Map Key: (4) 1-9-007:046, as shown on the attached map labeled Exhibit A.

AREA:

1.0 acres, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Open District

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.

CHARACTER OF USE:

Aquacultural purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$40.00 per month, calculation attached as Exhibit B.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as Exhibit C.

In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing [HAR § 11-200-8(a)(1)]." Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation [HAR § 11-200-8(a)(4)]". Exhibit C

DCCA VERIFICATION:

Not applicable. Applicant as an individual is not required to register with DCCA.

REMARKS:

The subject parcel, identified as TMK: (4) 1-9-007:046 was previously part of TMK: (4) 1-9-005, 007, 008, 009 and 028. These parcels were previously encumbered under Revocable Permit No. S-5513 and No. S-5446 to Kilauea Agronomics, Inc. for prawn hatchery and related uses. After Kilauea Agronomics, Kekaha Sugar Company, Limited, dba: Amfac Aquatech-Hawaii encumbered the parcel under Revocable Permit No. S-5804. They ceased operations in 1983.

In 1984, David Wellington encumbered these parcels under Revocable Permit No. S-6123. As part of the permit, the fish hatchery site was not included and was fenced-off.

In 1986, Mr. Wellington agreed to give-up one (1) acre surrounding the fish hatchery site to Darrell Horner for aquaculture purposes. On August 22 1986 under item F-13, the Board approved Revocable Permit No. S-6455 to Mr. Horner.

Mr. Horner's permit was cancelled on April 14, 2000 at the request of DLNR – Division of Aquatic Resources, Freshwater and Marine Fisheries Development Program to conduct a consolidation and re-subdivision masterplan for the State property. Due to lack of funding for the proposed project, the development was not conducted.

Mr. Horner is requesting a right-of-entry over Tax Map Keys: (4) 1-9-007:005, 028 and 030 to the subject parcel 46, which is landlocked. The proposed right-of-way will require the concurrence of Frank and Abigail Santos who encumber the existing gravel roadway under Revocable Permit No. S-7259. See attached map labeled Exhibit D.

Applicant understands that a month-to-month tenancy is more appropriate than a long-term disposition. The concept of re-subdivision might surface in the near future providing funding is available.

Applicant wants to restart his operation, raising top minnows for baitfish purposes. The scarce availability of wild baitfish (eg. Nehu) is a serious problem for commercial fishermen. Fishing with live baitfish generally produces better catches than dead baitfish and topminnows have shown to be an alternative (to Nehu) live baitfish suitable for catching aku and small ahi.

Staff recommends the Board authorize the issuance of the revocable permit at a monthly rent of \$40.00, as approved by the Chairperson. See Exhibit 'B'.

Comments were solicited from:

State Agencies:

DOH	No environmental health concerns
DLNR – Aquatic Resources	No response by suspense date
DLNR - Forestry	No response by suspense date
DLNR – Historic Preserv.	No response by suspense date
DLNR - DOCARE	No response by suspense date
OHA	No response by suspense date

County Agencies

County Planning	No response by suspense date
Public Works	No response by suspense date
Dept. of Water	No objections

RECOMMENDATION: That the Board:

- A. Rescind its prior action of April 14, 2000, agenda item D-4, Set-Aside to the DLNR – Division of Aquatic Resources, Freshwater and Marine Fisheries Development Program, and Issuance of Immediate Right-of-Entry.
- B. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- C. Authorize the issuance of a right-of-entry permit to Darrell Horner (Permittee) over Tax Map Keys: (4) 1-9-007:005, 028 and 030 which is encumbered by Revocable Permit No. S-7259 to Frank and Abigail Santos, with their concurrence, to access the subject area by limited use of the gravel road only for aquaculture purposes.
- D. Authorize the issuance of a revocable permit to Darrell Horner (Permittee) covering the subject area for aquaculture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 1. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - a. Permittee shall use the Premises for Aquaculture purposes only;
 - b. Aquaculture means baitfish rearing purposes only.


- c. No sale of product to other commercial or private fishermen.
 - d. The subject land shall be leased in an "as is" condition;
 - e. Permittee is prohibited from using the Premises for residential or employee dwelling purposes;
 - f. Permittee shall bear the cost of all utilities, if desired;
- 2. Review and approval by the Department of the Attorney General; and
 - 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,




Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



CONCURRENCE FROM:

Frank Santos

Abigail Santos

Revocable Permit No. S-7259

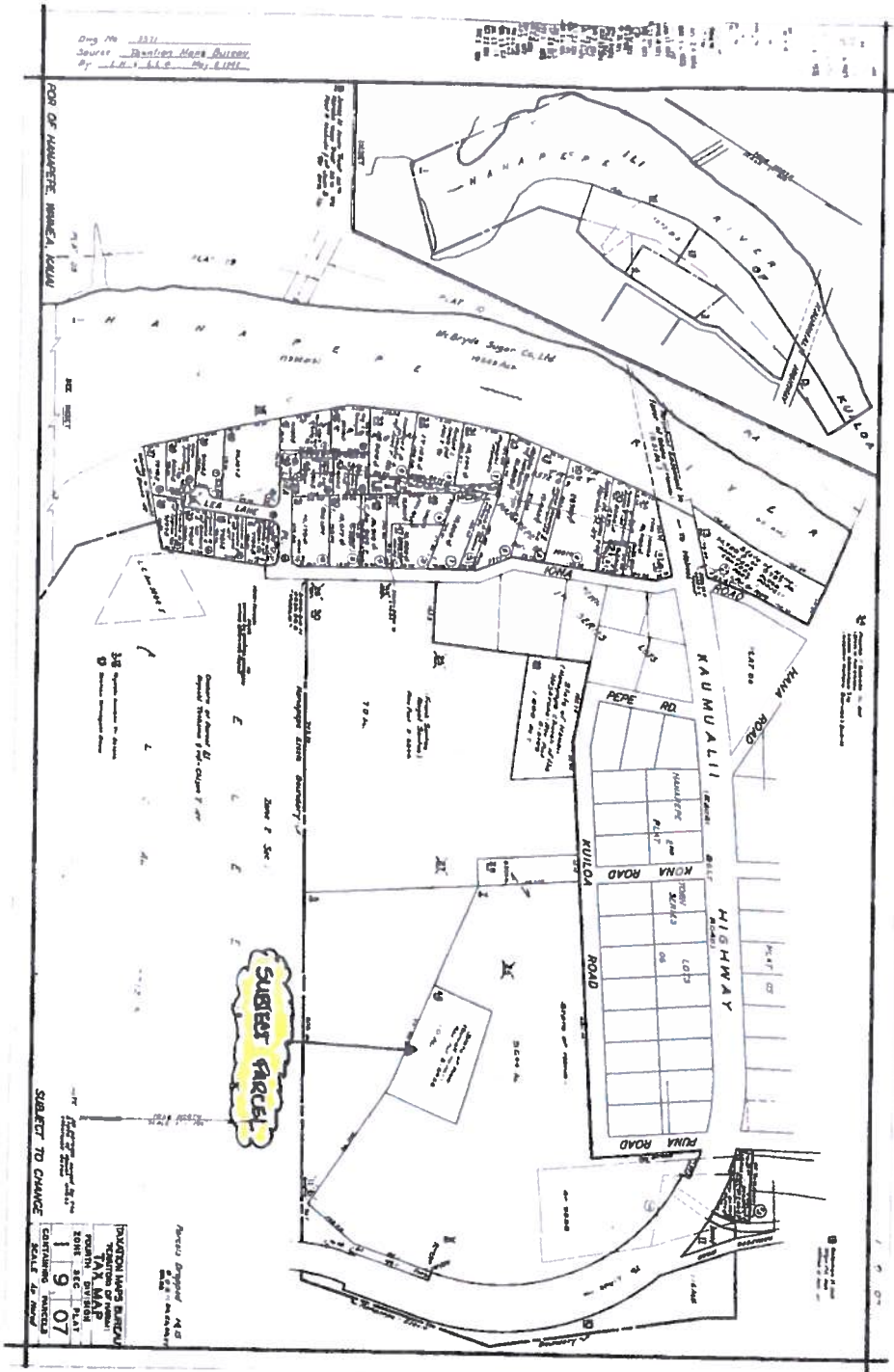


EXHIBIT "A"

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COORDINATOR OF WATER RESOURCES MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 13, 2013

SUBJECT: In-House Valuation Recommendation – Revocable Permit for Aquaculture Purposes

PSF No.: 13KD-032
Applicant: Darrell Horner
Location: Hanapepe, Waimea (Kona), Kauai
Tax Map Key: (4) 1-9-007:046
Char. Of Use: Aquaculture

We have been requested to provide a monthly rent amount for the issuance of a revocable permit for aquaculture purposes on the above-referenced property. This rent amount reflects Staff's recommendation to the Chair and approval is required for this permit to be drafted.

The subject consists of approximately 1 acre in Hanapepe, Waimea (Kona), Kauai. This parcel was last used as a prawn hatchery by the Applicant under Revocable Permit No. S-6455. Prior to cancellation in April of 2000 the rent was \$19.00 per month.

By using the last documented rental increase of RP S-6455 in 1991 (Exhibit "D") and the Consumer Price Index for Honolulu, all urban consumers, Staff calculated the following adjustments for inflation:

INDEX POINT CHANGE

CPI	248.646
Less previous index	148.000
Equals index point change	100.646

EXHIBIT B

PERCENTAGE CHANGE

Index point difference	100.646
Divided by the previous index	148.000
Equals	0.6800
Equals percent change	68.00%

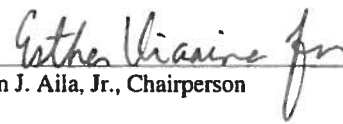
Inflation adjustment	$\$19.00 \times 68.00\% = \12.92
Added to previous rent	$\$19.00 + \$12.92 = \$31.92$
Rounded to:	\$32.00
Minimum Rent:	\$40.00

Therefore, as of the date of this document, the monthly rent for the revocable permit to the applicant will be \$40.00 per month, based on monthly minimum rent of \$40.00, in accordance with the Minimum Rent Policy for new Disposition approved by the Board on May 13, 2005, item D-19.

Special Assumptions and Limiting Conditions

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

Approved/Disapproved:



William J. Aila, Jr., Chairperson

Date

cc: District File
Central File

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
CHIEF, DIVISION OF WATER RESOURCES MANAGEMENT

FATHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAN
DEPUTY CHIEF OF WATER

AGRICULTURE
DEPARTMENT OF LAND RELATIONS
BUREAU OF SURVEYING
DEPARTMENT OF WATER RESOURCES MANAGEMENT
SURVEY AND WATER RESOURCES
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EXEMPTION NOTIFICATION

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

Project Title:	Issuance of Revocable Permit to Darrell Horner for aquaculture purposes.
Project / Reference No.:	PSF 13KD-032
Project Location:	Hanapepe, Waimea (Kona), Kauai
Project Description:	Issuance of Revocable Permit to Darrell Horner for aquaculture purposes.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing [HAR § 11-200-8(a)(1)]." Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation [HAR § 11-200-8(a)(4)]"
Exemption Item Description From Agency Exemption List:	Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.

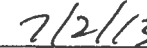
EXHIBIT C

Recommendation:

The subject area has been used for aquaculture purposes on the subject property from 1977 thru 1983 and 1986 thru 2000. It is recommended that the Land Board find that issuance of a Revocable Permit for aquaculture purposes is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson



Date



