

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

May 9, 2014

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

Ref. No: RPS-7838
PSF No: 11HD-200

HAWAII

Amend Prior Board Action of June 8, 2012, Item D-7, Issuance of Revocable Permit to Kimo I. Dacalio for pasture purposes, Kanaio, Kau, Hawaii, Tax Map Key: (3) 9-6-012: portion of 004.

Purpose of the amendment is to correct the TMK reference from TMK: (3) 9-6-012:004, to TMK: (3) 9-6-012: Portion of 004, to exclude the Mamalahoa Highway and drainage easements from the permit area.

BACKGROUND:

At its meeting of June 8, 2012, agenda item D-7, the Board of Land Natural Resources approved the issuance of a revocable permit to Kimo I. Dacalio for pasture purposes, situated at Kanaio, Kau, Hawaii, Tax Map Key: (3) 9-6-012:004. (Exhibit A)

REMARKS:

Upon reviewing the file for preparation of the revocable permit document, the Office of the Attorney General noted that only a portion of the entire parcel is actually being considered for the subject permit. As a result, AG is of the thought that the identification of the Tax Map Key Number being referenced should be changed to reflect its partial use. The Deputy AG is recommending that the TMK referenced be corrected to indicate that only a portion of the entire parcel is being utilized under the revocable permit, by replacing all references of Tax Map Key: (3) 9-6-012:004 to Tax Map Key: (3) 9-6-012: portion of 004.

Further, the AG asked that comments be obtained from the Department of Transportation, Highways Division, to indicate its concurrences to the issuance of the permit, as portions of Parcel 4 includes a highway and drainage easements under DOT Highway's jurisdiction.

The proposed revocable permit is excluding a streambed and drainage easements within the subject parcel as depicted in the map attached as "Exhibit A" of the original

submittal.


On December 13, 2013, staff sent a letter to DOT-Highways for concurrence to the issuance of a revocable permit to Kimo Dacalio for pasture purposes. Having no response to the letter sent to DOT-Highways, staff called by phone and left recorded messages. Having no reply/response to staff's attempts to communicate, staff is recommending that processing proceed as planned, after the Board action is amended to correct the TMK reference, exclude the highway and drainage easements from the permit area.

This section of the Mamalahoa Highway has existed for over fifty years at its current location, however, for reasons unknown, the highway was never subdivided out from the subject parcel.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of June 8, 2012, under agenda item D-7 by replacing the Tax Map Key number referenced from (3) 9-6-012:004 to (3) 9-6-012: portion of 004;
2. That permittee, at its own cost, shall secure the necessary accesses necessary to enter the subject premises;
3. That the Mamalahoa Highway and drainage easements under the Department of Transportation, Highways Division be excluded from the permit area;
4. That Permittee shall install, at its own cost, stock-proof fencing along the banks of the stream bank/bed, drainage easements, and highway, to restrict cattle from entering these areas; and
5. All terms and conditions listed in its June 8, 2012 approval to remain the same.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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

June 8, 2012

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

PSF No.: 11HD-200

HAWAII

Issuance of Revocable Permit to Kimo I. Dacalio for pasture purposes at Kanaio, Kau, Hawaii, Tax Map Key: 3rd/9-6-012: 004.

APPLICANT:

Kimo I. Dacalio, an individual, as a sole proprietor, Tenant in Severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Kanaio, Kau, Hawaii, identified by Tax Map Key: 3rd/9-6-012:004, as shown on the attached map labeled Exhibit A.

AREA:

150.61 acres, more or less.

ZONING:

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

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
June 8, 2012

EXHIBIT A

CURRENT USE STATUS:

Vacant/ unencumbered (144.67 acres)

Encumbered under Governor's Executive Order No. 4185 to Department of Transportation, Highways Division, 4.002 acres for the Mamalahoa Highway, dated 10/6/06.

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$40.00 (Approved by the Chairperson on February 24, 2012.)

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: 3rd/ 9-6-012:004, consists of 150.61 acres, was

previously encumbered under Revocable Permit No. S-7057, to Kawaihae Ranch, Ltd. for pasture purposes. The permit was cancelled on December 11, 1998 due to non-payment of lease rent. The parcel has remained vacant since 1998.

By letter dated October 18, 2011, Mr. Kimo Dacalio requested a revocable permit over the subject State parcel for pasture purposes. For the past seven years, Mr. Dacalio has been a Senior Ranch-hand with Kuahiwi Ranch and is now interested in starting his own cattle business with the support of Kuahiwi Ranch. The Dacalio family owns an adjacent fee property; therefore, Mr. Dacalio is very familiar with the state and condition of the permit area. He explained that only half (70-acres) of the State property is actually usable for pasture as the parcel consists primarily of lava rock with little or no soil, gulches on the east and west boundaries with rocky streambeds that flood in extreme stormy weather.

Mr. Dacalio, 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.

A month-to-month tenancy is more appropriate than a long-termed disposition because the subject parcel does not currently have a public water source.

In using the formula for calculating the in-house valuation for a revocable permit for pasture purposes, the rental amount was \$33 per month. However, based on current Department policy, the minimum monthly rental amount is to be no less than \$40 per month. As a result, staff is recommending a monthly rental rate of \$40 per month, instead of the \$33 per month as calculated. (Exhibit B)

On 4/30/12, various governmental agencies and interest groups were solicited for comments. To date, the only respondent was the County Planning Department and Police Department, which had no objections to the request.

RECOMMENDATION: That the Board:

- A. 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.
- B. Authorize the issuance of a revocable permit to Kimo I. Dacalio (Permittee), covering the subject area for pasture purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

- I. 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 Pasture purposes only;
 - b. Pasture means the conduct of livestock operation consisting of keeping cattle, primarily, and others, in a minor role, such as horses, sheep, and goats, where animals graze the land for feed produced thereon;
 - c. All construction and use of the Premises shall be in full compliance with all laws, rules, and regulations of the Federal, State and County government;
 - d. The subject land shall be leased in an "as is" condition;
 - e. Permittee shall be solely responsible for any survey and boundary stakeout of the demised premises;
 - f. Permittee shall apply as a Cooperator with the Kau Soil and Water Conservation District within thirty (30) days from the effective date of this Permit;
 - g. Permittee is required to erect and maintain perimeter fencing of stock-proof materials on the entire Permit area, at Permittee's own cost and expense;
 - h. Permittee is prohibited from using the Premises for residential or employee dwelling purposes;
 - i. No hunting will be allowed on the Premises;
 - j. Permittee shall bear the cost of all utilities, if desired;
 - k. Permittee shall be responsible for securing the necessary access to the Premises. Said access shall be obtained at Permittee's own cost and expense;
 - l. Permittee shall at all times practice good animal husbandry and shall be required to carry out a program of conservation in cooperation with the appropriate Soil and Water Conservation District, with which district the Permittee shall maintain cooperative status. The conservation program shall be in accordance with a conservation plan that shall be submitted to the Chairperson of the Board of Land and Natural Resources (Chairperson) for acceptance, fifteen (15) days after the approval by the appropriate Soil and Water Conservation District. The conservation plan shall include, but not be limited to

applicable practices of land clearing, range/pasture management, irrigation and drainage systems, noxious weed control, and others needed to protect the land against deterioration and prevent environmental degradation; provided however, that this requirement may be waived from the permit with little or no apparent conservation problems as verified by the appropriate Soil and Water Conservation District. In the event the activities of the Permittee in this regard shall be found to be unsatisfactory to the Chairperson, the Chairperson shall notify the Permittee and the Permittee shall be required, within thirty (30) days of the notice, to cure the fault and submit proof of satisfaction to the Chairperson. In the event an approved conservation plan cannot be obtained through the Soil and Water Conservation District, the Permittee shall submit a plan of development and utilization satisfactory to the local district land agent.

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,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

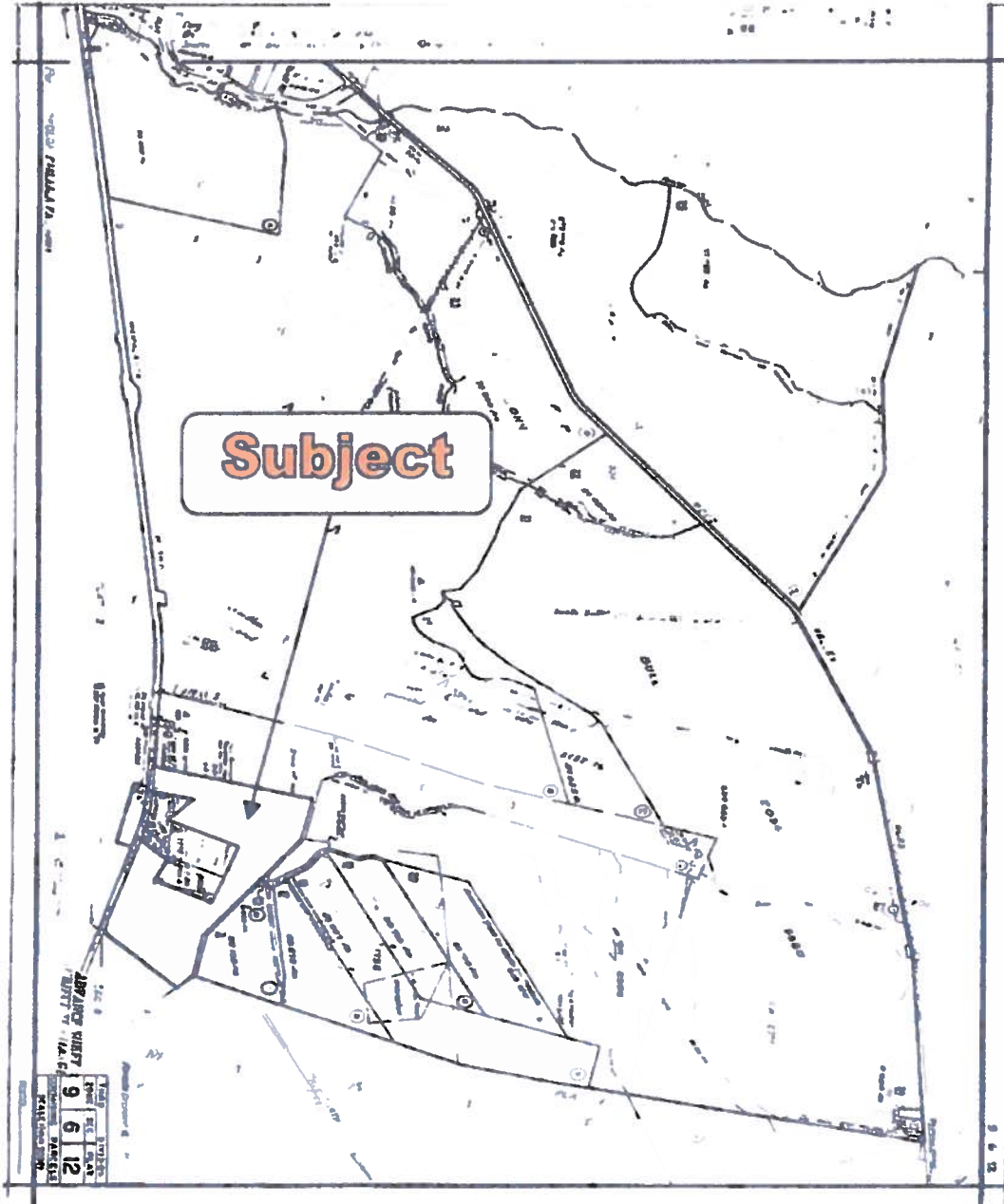


EXHIBIT A

KAUAI COUNTY
HONOLULU, HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
HONOLULU, HAWAII

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
POST OFFICE BOX 421
HONOLULU, HAWAII 96809

February 24, 2012

MEMORANDUM

TO: William J. Aila, Jr., Chairperson *WJA*
THROUGH: Russell Y. Iseji, Land Administrator
FROM: Wesley T. Matanaga, Land Agent
SUBJECT: In-House Valuation Recommendation - Reversible Permit for Pasture Purposes

PSP No.: 118D-200
Applicant: DACALIO, Kimo
Location: Kanaia, Kau, Hawaii
Tax Map Key: (3) 9-6-012: portion of 004
Char. Of Use: Pasture

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

The subject consists of approximately 144-acres in Kanaia, Kau. Based on discussions with applicant and land agent's knowledge of the area, it was determined that only 50% of the subject property or 70-acres is usable for Class D pasture purposes. The remaining lands consist of a gulch, rocky streambed and lava rocks, whereby pasture use is not possible. Staff inquired with the applicant and has estimated that a carrying capacity of 10-acres of animal unit is reasonable. After review by staff, this carrying capacity appears to be reasonable.

Based on an animal production formula for the subject acreage, we calculated the annual rent using a 10 AUU capacity.

EXHIBIT B

	<u>Lease Acres</u>	<u>Capacity*</u>	<u>AUY</u>
Pasture Details:	70 acres	10 acres per cow	70
Average weight gain per animal per year in lbs.			X 300
Annual weight gain in lbs.			2,100
Average live weight price (3-yr. Average) ²			X \$0.75
Gross value of beef			\$1,575.00
Portion of gross profit to Lessor			X 25%
Gross annual rent			\$479.06
Monthly rent (rounded)			\$33

*Carrying capacity estimated by applicant.

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

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

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

Therefore, as of the date of this document, the monthly rent for the revocable permit to the applicant will not be \$33 per month as calculated, but is recommended to be at the Land Board's minimum rental rate of \$40 per month.

Special Assumptions and Limiting Conditions

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

Approved: W. J. Aila, Jr.

William J. Aila, Jr., Chairperson

Date

cc District File
 Central File

EXHIBIT B

KAU I KAUPUNAHU
KAU I KAUPUNAHU (HAWAII)



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96819

WILKINS, M. L.
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HONOLULU, HAWAII 96813
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1000 KALANIAN'OLUHANA DRIVE
HONOLULU, HAWAII 96813
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DEPARTMENT OF LAND AND NATURAL RESOURCES
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AGRICULTURE AND FORESTRY
DEPARTMENT OF LAND AND NATURAL 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 Kimo I. Dacalio, for pasture purposes.
Project / Reference No.:	PSF No.: 11HD-200
Project Location:	Kanaio, Kau, Hawaii, Tax Map Key: (3) 9-6-012: portion of 004.
Project Description:	Issuance of Revocable Permit to Kimo I. Dacalio, for pasture purposes.
Chap. 343 Trigger(s):	Use of State Lands.
Exemption Class No. and Description:	In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1 , "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing [HAR § 11-200-8(a)(1)]." Exemption Class No. 4 , which states, "Minor alterations in the conditions of land, water or vegetation [HAR § 11-200-8(a)(4)]".
Exemption Item Description from Agency Exemption List:	Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.

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


EXHIBIT C

Recommendation:

The subject area has been in pasture use on the subject property since 2005. It is recommended that the Land Board find that issuance of a revocable permit for pasture purposes is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Aila, Jr., Chairperson



5/22/12
Date

EXHIBIT C