

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

July 24, 2014

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

PSF No.: 12HD-117

Hawaii

Issuance of Revocable Permit to Punaluu Ranch, LLC, for Pasture Purposes, Kaalaala Makai, Kau, Hawaii, Tax Map Key: (3) 9-6-013:002.

APPLICANT:

Punaluu Ranch, LLC, a Hawaii limited liability company, whose mailing address is P. O. Box 778, Pahala, HI 96777.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Kaalaala Makai, Kau, Hawaii, identified by Tax Map Key: (3) 9-6-013:002, as shown on the attached map labeled Exhibit A.

AREA:

1,777 acres, more or less.

ZONING:

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

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES ____ NO x

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Pasture purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$312 per month, based on an in-house valuation recommendation prepared by staff and attached as Exhibit B.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification (Exhibit C)

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO
Registered business name confirmed:	YES <u>x</u>	NO
Applicant in good standing confirmed:	YES <u>x</u>	NO

REMARKS:

A public auction was held on February 14, 1951 and the Hawaiian Agricultural Co., Ltd., dba C. Brewer & Company, Ltd. was the successful bidder. General Lease No. S-3360 (2/14/51-1/1/73) was issued to C. Brewer & Company, Ltd., (C. Brewer) and Kau Sugar Company, Inc. (Kau Sugar), for sugar cane cultivation and pasture purposes. The lease, for a term of 26 years expired on 1/1/73.

At its meeting of January 26, 1973, the Board of Land and Natural Resources approved the issuance of Revocable Permit No. S-4908 to C. Brewer, dba Hawaiian Ranch Company and Kau Sugar, for sugar cane cultivation and pasture purposes. The permit was cancelled on 6/5/75.

At its meeting of November 21, 1975, Item F-8, the Land Board approved the issuance of Revocable Permit No. S-5254 to Kau Sugar Company, Inc. and Richard Smart, dba: Parker Ranch, for sugar cane cultivation and pasture purposes. The permit was cancelled on 10/31/77.

At its meeting of October 28, 1977, Item F-4, the Land Board approved the issuance of Revocable Permit No. S-5491 to Kau Sugar, Richard Smart, dba: Parker Ranch and Gordon Cran dba: Kapapala Ranch, as co-permittees, for sugar cane cultivation and pasture purposes. In 1978, Richard Smart sold his Kau ranching operations to Kawaihae Ranch, Limited.

At its meeting of September 9, 1988, Item F-2, in an attempt to re-structure the existing permit, the Land Board approved the cancellation of Revocable Permit No. S-5491 and re-issued two separate revocable permits.

Revocable Permit No. S-6581 was issued to Kau Agribusiness, Inc. and Kawaihae Ranch, Limited, for sugar cane cultivation and pasture purposes, which was cancelled on 10/31/96, and Revocable Permit No. S-6582, to Gordon Cran for pasture and residential purposes. Permit was cancelled on 10/31/89.

At its meeting of October 27, 1989, Item F-1-k, the Land Board approved the cancellation of RPS-6582 and re-issued a new permit, Revocable Permit No. S-6695 to Kapapala Ranch.

Due to the vague and sometimes incomplete information available in the older lease/permit files, staff encountered much difficulty in researching the history of the subject parcel. Staff noted that in 1988, the subject parcel appeared to have been dropped/omitted when an earlier permit was cancelled and succeeding permit issued. At this time, it cannot be determined if the subject parcel was omitted/dropped intentionally or unintentionally, as there were no notes in the file to indicate either way. As a result, it can only be confirmed with certainty that the subject parcel was in use as a pasture since the 1970s.

The proposed use is allowable in the county zoning, which is Agriculture-20A.

Punaluu Ranch, LLC, 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.

Punaluu Ranch, LLC, previously known as BK Livestock Company, Inc., has been in operation for twenty (20) years. Mr. Kyle Soares, as its principal and owner/operator, has been in the cattle business for over thirty (30) years. As such, Mr. Soares qualifies as a bona fide farmer pursuant to §171-14.5, HRS.

Mr. Soares currently has a pasture lease from the Olson Trust, but was recently notified that all of the Olsen pasture leases will be discontinued as the properties will be sold. As a result, Mr. Soares is in urgent need of new pasture for his cattle. Due to the limited water sources in the Kau area, the availability of pasture lands is likewise limited.

To date, there were no other applicants requesting the same parcel.

Staff recommends a month-to-month tenancy for this parcel for pasture purposes as an appropriate interim usage until the Division is prepared to go to auction for a long-term disposition. Survey, mapping, and resolution of water issues need to be completed before considering this and other parcels for a long-termed disposition. Tenancy on the State property is much needed to provide maintenance of the parcel to create and preserve its usable condition, for the control of noxious and invasive plant species. Most recently, in July 2012, a runaway brush fire scorched much of the subject property.

Currently, Mr. Soares possesses two other revocable permits (RPS-7667 & S-7694) under BK Livestock Company, Inc., for pasture purposes. Through the years, Mr. Soares has demonstrated that he is a model steward of the State property.

The proposed use upon the subject parcel has continued since the 1970s and is expected to continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing, and is therefore, exempt from the preparation of an environmental assessment.

On December 21, 2012, various government agencies and interest groups were solicited for comments.

AGENCIES	COMMENTS
County of Hawaii:	
Planning Department	No objections
Public Works	No response
State of Hawaii:	
DLNR - DOFAW	No objections
DLNR - Historic Preservation	No response
DLNR - OCCL	No comments
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response

RECOMMENDATION: That the Board:

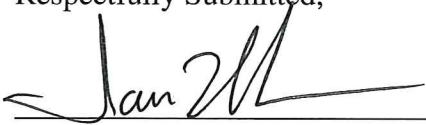
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will

probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Authorize the issuance of a revocable permit to Punaluu Ranch, LLC, 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:
 - A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - 1) Permittee shall use the Premises for Pasture purposes only;
 - 2) 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;
 - 3) 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;
 - 4) The subject land shall be leased in an "as is" condition;
 - 5) Permittee shall be solely responsible for any survey and boundary stakeout of the demised premises;
 - 6) 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;
 - 7) Permittee is required to erect and maintain perimeter fencing of stock-proof materials of areas actively being pastured, at Permittee's own cost and expense;
 - 8) Permittee is prohibited from using the Premises for residential or employee dwelling purposes;
 - 9) No hunting will be allowed on the Premises;
 - 10) Permittee shall bear the cost of all utilities, if desired;
 - 11) Permittee shall be responsible for securing the necessary access to the Premises. Said access shall be obtained at Permittee's own cost and expense;

- 12) 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.
- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



EXHIBIT A



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

75 Aupuni Street, Room 204
Hilo, Hawaii 96720
PHONE: (808) 961-9590
FAX: (808) 961-9599

July 1, 2015

MEMORANDUM

TO: Suzanne D. Case, Chairperson

THROUGH: Russell Y. Tsuji, Land Administrator

FROM: Wesley T. Matsunaga, Land Agent *W. Matsunaga*

SUBJECT: In-House Valuation Recommendation — Revocable Permit for Pasture Purposes

PSF No.: 12HD-117
Applicant: Punaluu Ranch, LLC
Location: Kaalaala Makai, Kau, Hawaii
Tax Map Key: (3) 9-6-013:002
Char. Of Use: Pasture

We have been requested to provide a monthly rent amount for the issuance of a revocable 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 1,777-acres in Kaalaala Makai, Kau. Based on discussions with applicant and land agent's knowledge of the area, it was determined that only 75% of the subject property or 1,333-acres is usable for Class D pasture purposes. The remaining lands consist primarily of lava, whereby pasture use is not possible. Staff inquired with the applicant and he estimated that a carrying capacity of 20-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 66.65 AU capacity:

	<u>Usable Acreage</u>	<u>Capacity¹</u>	<u>AU</u>
Pasture Details:	1,333 acres	20 acres per cow	66.65
Average weight gain per animal per year in lbs.			x 300
Annual weight gain in lbs.			19,995
Average live weight price (3-yr. Average) ²			x \$0.75
Gross value of beef			\$14,996.25

EXHIBIT B

Portion of gross profit to Lessor
Gross annual rent

x %25
\$3,749.06

Annual rent (rounded)
Monthly rent

\$ 3,749
\$ 312

¹Carrying 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	<u>\$0.677</u>	<u>\$0.696</u>
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 above 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 shall not be \$40 per month, but is recommended to be at a rental rate of \$3,749 per year, or \$312 per month as calculated.

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/Disapproved:

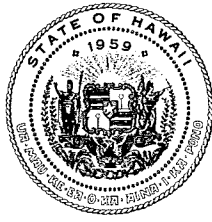
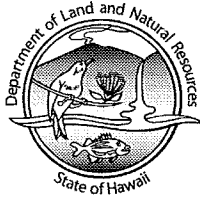

Suzanne D. Case, Chairperson


Date

cc: District File
Central File

EXHIBIT B

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING 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 and Chapter 11-200, HAR


Project Title:	Issuance of Revocable Permit to Punaluu Ranch, LLC, for pasture purposes.
Project / Reference No.:	PSF No.: 12HD-117
Project Location:	Kaalaala Makai, Kau, Hawaii, Tax Map Key: (3) 9-6-013: 002.
Project Description:	Issuance of Revocable Permit to Punaluu Ranch, LLC, 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 the 1970s. 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.



Suzanne D. Case, Chairperson



Date

