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

May 13, 2022

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

PSF No.: 22HD-012

Hawai'i

Sale of Remnant Flume Right-of-way to: (i) Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama, Trustees of the Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama Family Revocable Trust, dated April 11, 2006, and Sandy T. Sugiyama and Diane H. Kimura-Sugiyama, Trustees of that Certain Unrecorded Revocable Living Trust of Sandy T. Sugiyama and Diane H. Kimura-Sugiyama Dated January 17, 2002; (ii) Tomie Nishie, Trustee of the Tomie Nishie Revocable Living Trust dated June 23, 2000; and (iii) Aaron James Braud and Anna Marie Mackey; Manowaiopae Homesteads, North Hilo, Hawaii, Tax Map Key: (3) 3-6-007:022, portions.

APPLICANTS:

(i) Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama, Trustees of the Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama Family Revocable Trust, dated April 11, 2006, and Sandy T. Sugiyama and Diane H. Kimura-Sugiyama, Trustees of that Certain Unrecorded Revocable Living Trust of Sandy T. Sugiyama and Diane H. Kimura-Sugiyama Dated January 17, 2002, the whole being held as tenants in common; (ii) Tomie Nishie, Trustee of the Tomie Nishie Revocable Living Trust dated June 23, 2000 in trust; and (iii) Aaron James Braud and Anna Marie Mackey, husband and wife, as tenants by the entirety (collectively, "Applicants").

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Manowaiopae Homesteads, North Hilo, Hawaii, identified by Tax Map Key: (3) 3-6-007:022: portion, as shown on the attached map labeled Exhibit A.

AREA:

To be determined by survey.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Residential-RS 15

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.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR)§ 11-200.1-16 (a)(1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Type No. 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing," Part 1, Item 37, "Transfer of title to land." (Exhibit B)

DCCA VERIFICATION:

Not applicable. The Applicants, as landowners, are not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicants shall be required to:

1) Pay for a DLNR contracted appraisal to determine the one-time payment of fair market value for the remnant;
2) Consolidate the remnant with the Applicants' abutting property through the County subdivision process; and
3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Pursuant to section 171-52, HRS, a remnant is defined as "a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics." The subject parcel has been determined to be a remnant by this definition for the following reasons:

*The parcel is an abandoned flume right-of-way.*

The remnant State land was a flume right-of-way reservation used by the sugar companies for transporting cut sugarcane to the processing mills. The site does not show any evidence of a flume structure and appears to have been abandoned many years ago.

Applicants Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama, Trustees of the Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama Family Revocable Trust, dated April 11, 2006, and Sandy T. Sugiyama and Diane H. Kimura-Sugiyama, Trustees of that Certain Unrecorded Revocable Living Trust of Sandy T. Sugiyama and Diane H. Kimura-Sugiyama Dated January 17, 2002 ("Sugiyama Trusts") are the owners of parcel designated as Tax Map Key: (3) 3-6-007:003 as staff has confirmed by the Sugiyama Trusts providing a copy of their deed and by online research through the County of Hawaii Real Property Tax Office. The Sugiyama Trusts ordered a survey of their land that showed a portion of the residence on their property appears to be located on the remnant (Exhibit C). To correct this, the Sugiyama Trusts submitted an application to purchase the portion of the remnant fifteen-foot-wide flume right-of-way abutting their property.

According to HRS Section 171-52, if there is more than one abutting owner who is interested in purchasing the remnant, it shall be sold to the one submitting the highest sealed bid or if the remnant abuts more than one parcel, the Board may subdivide the remnant so that a portion may be sold to each abutting owner. The abutting property owners in this case were sent a notice offering them a portion of the remnant land.

Two additional abutting property owners then expressed an interest in purchasing the portions of State parcel adjacent their lands. These abutting landowners are Tomie Nishie, Trustee of the Tomie Nishie Revocable Living Trust dated June 23, 2000 ("Nishie Trust"), owner of the parcel designated as Tax Map Key: (3) 3-6-007:001, and Aaron James Braud and Anna Marie Mackey, husband and wife, ("Braud/Mackey"), owners of the parcel designate as Tax Map Key: (3) 3-6-007:009. Staff has verified the Nishie Trust's and Braud/Mackey's ownership of their respective parcels by reviewing copies of their deeds and by online research through the County of Hawaii Real Property Tax Office. Staff is seeking Board authorization to proceed with the sale of the remnant to all interested parties. All purchased remnant portions will be consolidated into the respective owners' properties as a condition of the sale.

Various governmental agencies were solicited for comments, and their responses to the request are indicated below:

| **County of Hawaii Agencies** | **Comments** |
|---|---|
| Environmental Management | No Response |
| Planning | No Comments |
| Public Works | No Response |
| Fire Department | No Comments |
| **State of Hawaii Agencies** | **Comments** |
| DOH–Environmental Management | No Response |
| DHHL | No Response |
| DLNR-Historic Preservation | No Response |
| DLNR-CWRM | No Response |

| DLNR-DOFAW | No Comments |
|---|---|
| **Other Agencies** | **Comments** |
| Office of Hawaiian Affairs | Comments Below |
| US Corps of Engineers | No Response |

The Office of Hawaiian Affairs (OHA) submits the following comments regarding the sale of a remnant land parcel at Manowaiopae Homesteads, North Hilo, TMK (3) 3-6-007:022:

> The parcel is classified as Section 5(b) lands of the Hawaii Admission Act. The submittal indicates that the parcel is an abandoned flume right of way that was previously used for the transportation of cut sugar cane. The parcel now sits in the back of a private parcel overlooking a gulch. Sale of the remnant would be to the abutting private landowners.
>
> From the review of the parcel at issue here, OHA acknowledges that the parcel was 1) formerly part of a flume right of way, and surplus or no longer used for such purposes, and 2) further, has little to no potential for development or use by the State due to their location fringing private land and a gulch. If the information presented is factual, then OHA would not object to the sale or argue that the sale must follow HRS Section 171-64.7.

The Applicants have 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.

RECOMMENDATION:

That the Board:

1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.

2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (3) 3-6-007:001, Tax Map Key: (3) 3-6-007:003, or Tax Map Key: (3) 3-6-007:009, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.

3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, 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.

4. Authorize the subdivision and consolidation of the subject remnant by the Applicants.

5. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the sale of portions of the subject remnant to: (i) Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama, Trustees of the Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama Family Revocable Trust, dated April 11, 2006, and, Sandy T. Sugiyama and Diane H. Kimura-Sugiyama, Trustees of that Certain Unrecorded Revocable Living Trust of Sandy T. Sugiyama and Diane H. Kimura-Sugiyama Dated January 17, 2002, as owners of parcel (3) 3-6-007:003; (ii) Tomie Nishie, Trustee of the Tomie Nishie Revocable Living Trust dated June 23, 2000, owner of parcel (3) 3-6-007:001; and (iii) Aaron James Braud and Anna Marie Mackey, husband and wife, as Tenants by the Entirety, owners of parcel (3) 3-6-007:009, covering the subject area 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 deed or grant (remnant) form, as may be amended from time to time;

   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,

Gordon C. Heit

KCM Gordon C Heit
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case

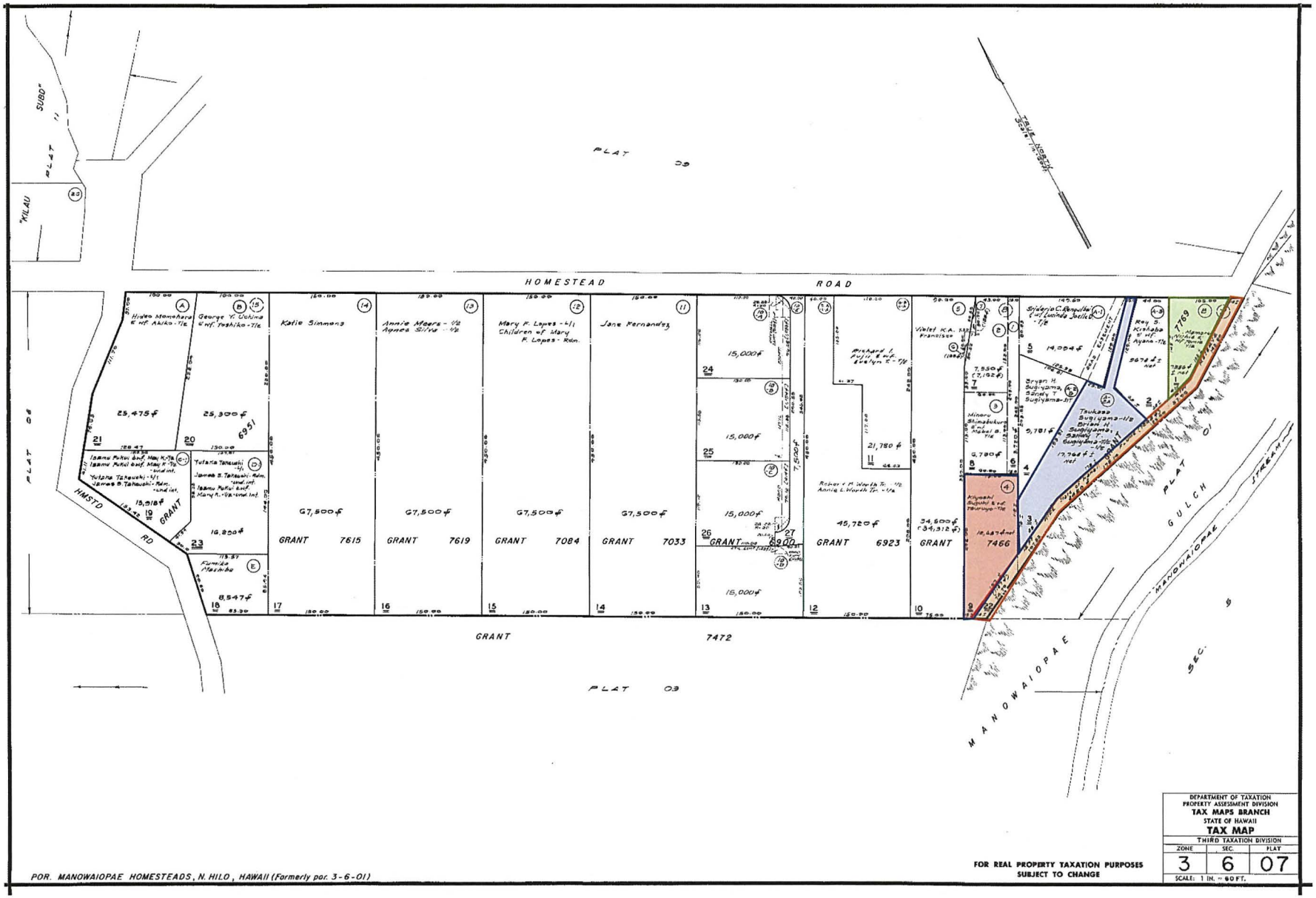
RT Suzanne D. Case, Chairperson

# EXHIBIT A

Flume Right-of-way ,
Laupāhoehoe, North Hilo, Hawaii

# EXHIBIT A

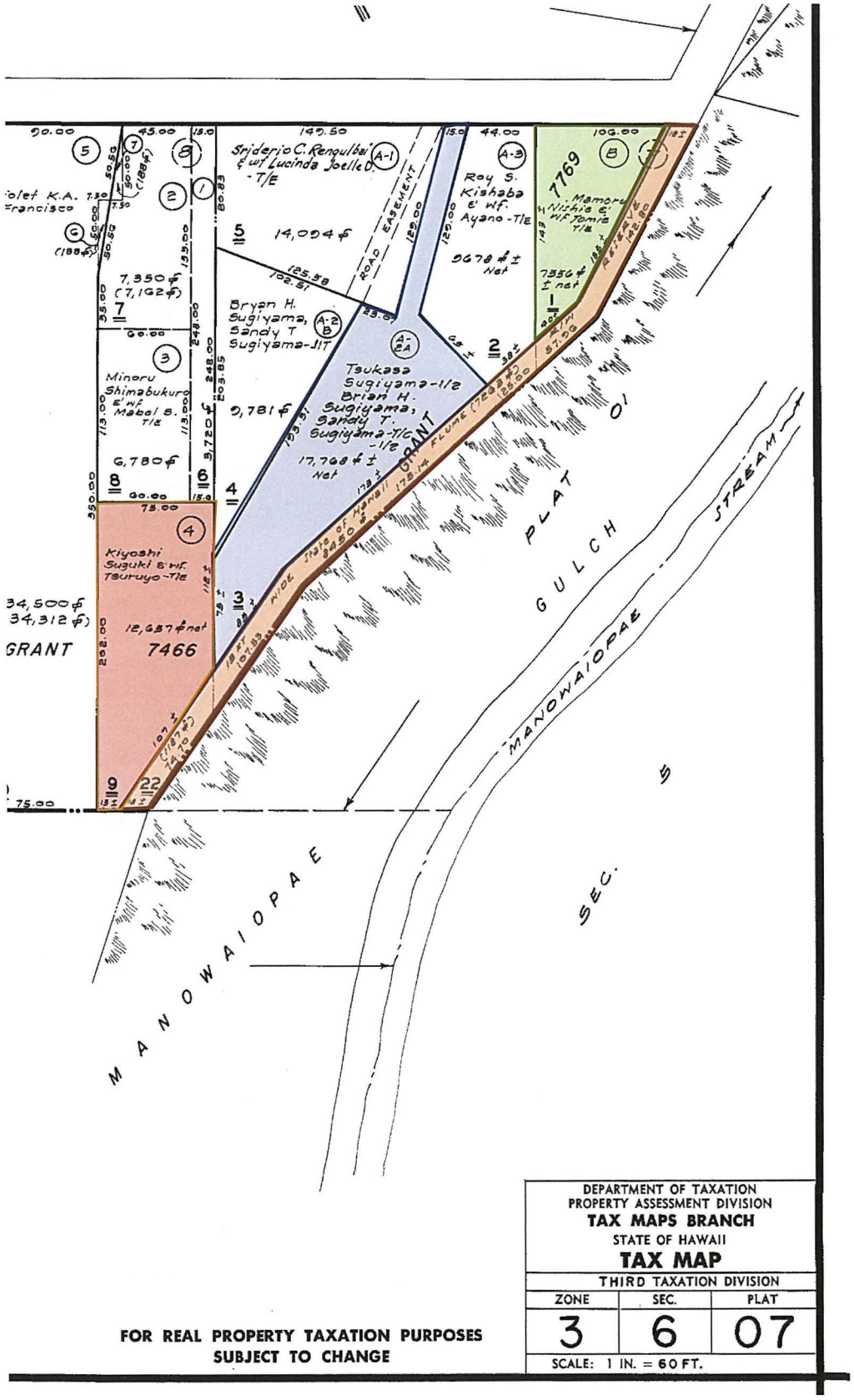
TMK: (3) 3-6-007:022 Remnant Flume Right-of-way




*Nishie* *Sugiyama* *Braud/Mackey*

# EXHIBIT A

TMK: (3) 3-6-007:022 Remnant Flume Right-of-way




Nishie Sugiyama Braud/Mackey

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

May 13, 2022

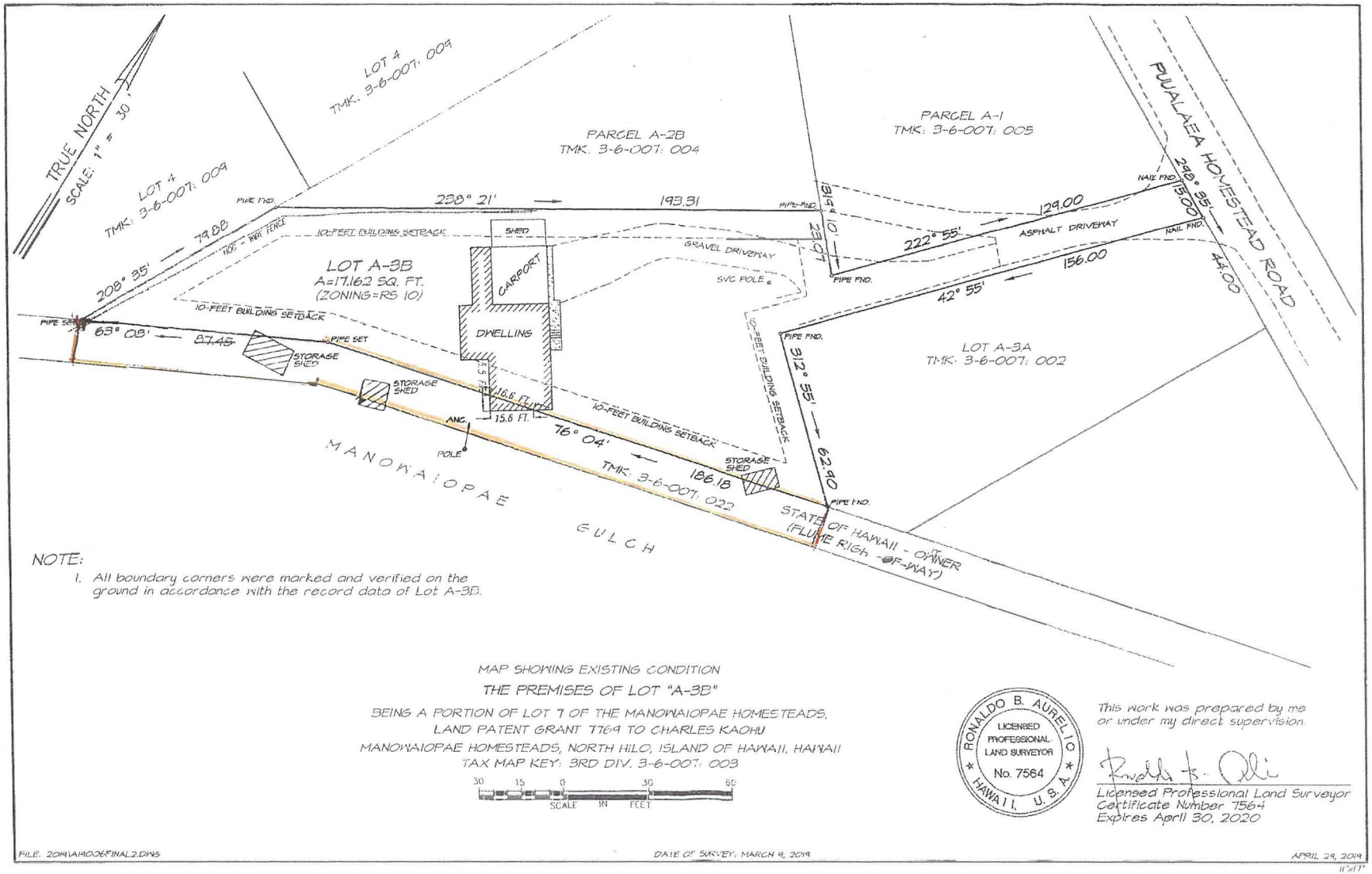
**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR):

| | |
|---|---|
| **Project Title:** | Sale of Remnant Flume Right-of-way to: (i) Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama, Trustees of the Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama Family Revocable Trust, dated April 11, 2006, and Sandy T. Sugiyama and Diane H. Kimura-Sugiyama, Trustees of that Certain Unrecorded Revocable Living Trust of Sandy T. Sugiyama and Diane H. Kimura-Sugiyama Dated January 17, 2002; (ii) Tomie Nishie, Trustee of the Tomie Nishie Revocable Living Trust dated June 23, 2000; and (iii) Aaron James Braud and Anna Marie Mackey. |
| **Project / Reference No.:** | 22HD-012 |
| **Project Location:** | Portions of Government lands of Manowaiopae Homesteads, North Hilo, Island of Hawaii, identified by Tax Map Key: (3) 3-6-007:022 |
| **Project Description:** | Proposed sale of a flume right-of-way to applicants who are owners of private properties adjacent to the flume right-of-way. The applicants wish to consolidate the remnant with their properties. |
| **Chap. 343 Trigger(s):** | Use of State Land |
| **Exemption Class No. and Description:** | In accordance with Hawaii Administrative Rules (HAR)§ 11-200.1-16 (a)(1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1, which 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." Part 1 and Item 37, "Transfer of title to land." |

# EXHIBIT B

| | |
|---|---|
| **Cumulative Impact of Planned Successive Actions in Same Place Significant?:** | No. Staff believes there are no cumulative impacts involved. |
| **Action May Have Significant Impact on Particularly Sensitive Environment?:** | No. There are no particularly sensitive environmental issues involved with the proposed use of the property. |
| **Analysis:** | Transfers of title to State lands are exempt from the preparation of an environmental assessment. In any event, none of the applicants intends to significantly change the existing use of the remnant. |
| **Consulted Parties:** | State and County of Hawaii agencies listed in the submittal. |
| **Recommendation:** | That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment. |




NOTE:

1. All boundary corners were marked and verified on the ground in accordance with the record data of Lot A-3B.

MAP SHOWING EXISTING CONDITION

THE PREMISES OF LOT "A-3B"

BEING A PORTION OF LOT 7 OF THE MANOWAIOPAE HOMESTEADS,
LAND PATENT GRANT 7769 TO CHARLES KAOHU
MANOWAIOPAE HOMESTEADS, NORTH HILO, ISLAND OF HAWAII, HAWAII
TAX MAP KEY: 3RD DIV. 3-6-007: 003

30 15 0 30 60
SCALE IN FEET

RONALDO B. AURELIO
LICENSED PROFESSIONAL LAND SURVEYOR
No. 7564
HAWAII, U.S.A.

This work was prepared by me or under my direct supervision.

Licensed Professional Land Surveyor
Certificate Number 7564
Expires April 30, 2020

FILE: 2019\A19006FINAL2.DWG

DATE OF SURVEY: MARCH 9, 2019

APRIL 29, 2019

11"x17"

# EXHIBIT C