

LAND USE COMMISSION
STATE OF HAWAII

2016 SEP 26 A 10:17

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII


In The Matter Of The Petition Of)	DOCKET NO. DR16-56
)	
ROBINSON FAMILY PARTNERS)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
For A Declaratory Order To Designate)	AND DECISION AND ORDER;
Important Agricultural Lands For)	CERTIFICATE OF SERVICE
Approximately 20,888 Acres Of Land)	
Situated At Makaweli, Kaua'i, Hawai'i)	
_____)	

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION AND ORDER

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE IN
THE OFFICE OF THE STATE LAND USE COMMISSION, HONOLULU, HAWAII

Date September 26, 2016

By 
Executive Officer



LAND USE COMMISSION
STATE OF HAWAII

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FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DECISION AND ORDER

ROBINSON FAMILY PARTNERS ("Petitioner") filed a Petition for Declaratory Order to Designate Important Agricultural Lands ("Petition") on June 27, 2016, pursuant to Hawai'i Revised Statutes ("HRS") §§205-44 and 45 and Hawai'i Administrative Rules ("HAR") chapter 15-15 to designate as Important Agricultural Lands ("IAL") approximately 20,888 acres of land situated at Makaweli, Kaua'i, Hawai'i, identified as Tax Map Key Numbers ("TMKs"): 1-7-001: 001 (por.), 1-7-001: 009, 1-7-005: 002 (por.), 1-7-005: 009 (por.), 1-7-006: 004 (por.), 1-7-006: 005, 1-7-006: 006 (por.), and 1-8-001: 001 (por.) (collectively "Petition Area").

The State of Hawai'i Land Use Commission ("Commission"), having heard and examined the testimony, evidence, and argument of counsel presented

during the hearings, along with the pleadings filed herein, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On June 27, 2016, Petitioner filed the Petition and Exhibits "A" through "C."
2. On July 12, 2016, Petitioner filed an Errata to the Petition and Exhibit "A."
3. On August 1, 2016, Petitioner filed a Second Errata to the Petition and Exhibit "A."
4. On August 8, 2016, the State of Hawai'i Office of Planning ("OP") submitted its comments on the Petition to the Commission and stated its support for the designation of the entire Petition Area as IAL.
5. On August 10, 2016, the County of Kaua'i Planning Department ("County") submitted its comments on the Petition to the Commission, and stated its support for the designation of the entire Petition Area as IAL.
6. On August 10, 2016, the State of Hawai'i Department of Agriculture ("DOA") submitted its comments on the Petition to the Commission, and stated its support for the designation of the Petition Area as IAL but expressed

reservations about designating approximately 3,260 acres located at the northernmost portion of the Petition Area.

7. On August 16, 2016, Petitioner submitted its response to the comments of the County, DOA, and OP on the Petition to the Commission.

8. On September 7, 2016, the Commission held a site visit to view the Petition Area in Makaweli, Kaua`i, Hawai`i.¹

9. On September 7, 2016, the Commission considered the Petition in Lihu`e, Kaua`i, Hawai`i.² Benjamin Matsubara, Esq., and Curtis Tabata, Esq., appeared on behalf of Petitioner. Also present at the proceeding were Dawn Takeuchi-Apuna, Esq., and Rodney Funakoshi on behalf of OP and Jodi Higuchi, Esq., and Leanora Kai`okamalie on behalf of the County. At the meeting, the Commission entered the Petition and the exhibits and written comments of Petitioner, the DOA, the County, and OP into the record of this proceeding.³ The Commission then heard public testimony on the Petition from Richard Ruiz, Roger Taniguchi, Collin Robinson-Ague, Randy

¹ An agenda giving written public notice of the site visit was provided pursuant to HRS §92-7, providing the community an opportunity to participate in the site visit.

² Written public notice of this meeting was also included in the notice of the site visit, providing the community an opportunity to participate in the meeting.

³ Prior to the receipt of public testimony, Commissioner Gary Okuda disclosed that he represented a party involved in litigation in which Petitioner's counsel is involved and is counsel. Commissioner Linda Estes disclosed that she was an acquaintance of a family member of Petitioner. There were no objections to the participation of Commissioners Okuda and Estes in the proceeding.

Uyehara, and Ronald D. Kouchi.⁴ Following the receipt of public testimony, the Commission heard testimony from Petitioner's witnesses, Bruce Robinson and Tom Witten. At the conclusion of Mr. Witten's testimony, the Commission recessed the meeting and continued the matter to the Commission's meeting on September 20, 2016.

10. On September 20, 2016, the Commission resumed consideration of the Petition in Līhu'e, Kaua'i, Hawai'i.⁵ Benjamin Matsubara, Esq., and Curtis Tabata, Esq., appeared on behalf of Petitioner. Dawn Takeuchi-Apuna, Esq., and Rodney Funakoshi were present on behalf of OP, and Jodi Higuchi, Esq., Michael Dahilig, and Leanora Kai'okamalie were present on behalf of the County. Earl Yamamoto was also present on behalf of the DOA.⁶ At the meeting, the Commission heard public testimony from Michael Dahilig, Leanora Kai'okamalie, Rodney Funakoshi, and Earl Yamamoto, and entered the County's Exhibit 1 as well as written testimony submitted by Joshua Uyehara into the record of this proceeding. During his testimony, Mr. Yamamoto stated that after review of the additional information provided by Petitioner in its August 16, 2016, response and consideration of the testimony provided at the September 7, 2016, proceeding, the DOA was no longer opposed to the IAL designation

⁴ Mr. Kouchi also submitted written testimony on the Petition, which was entered into the record of the proceeding.

⁵ An agenda giving written public notice of the continued meeting was provided pursuant to HRS §92-7, providing the community an opportunity to participate in the meeting.

⁶ Prior to the receipt of public testimony, Commissioner Dawn Chang disclosed that she does some work for Agrigenetics, Inc., a current lessee within the Petition Area, on a project on Moloka'i. There were no objections to the continued participation of Commissioner Chang in the proceeding.

for the approximately 3,260 acres located at the northernmost portion of the Petition Area. Following the public testimony of the state and county government representatives, the Commission heard public testimony from Randy Uyehara. After discussion, a motion was made and seconded to approve the Petition in its entirety. There being a vote tally of 5 ayes, 1 aye with reservation, 1 nay, and 2 excused, the motion carried.

DESCRIPTION OF THE PETITION AREA

11. The Petition Area consists of approximately 20,888 acres of land, situated at Makaweli, Kaua`i, Hawai`i, identified as TMKs: 1-7-001: 001 (por.), 1-7-001: 009, 1-7-005: 002 (por.), 1-7-005: 009 (por.), 1-7-006: 004 (por.), 1-7-006: 005, 1-7-006: 006 (por.), and 1-8-001: 001 (por.).

12. The Petition Area is owned in fee simple interest by Petitioner.

13. There are no trails within the Petition Area that provide access to native Hawaiian traditional customary practices, such as hunting and gathering.⁷ The only trails on the Petition Area are those used for ranching activities.

14. There are no kuleana lands within the Petition Area.

⁷ During the proceedings, there was no public testimony from anyone asserting the exercise of traditional customary practices on the Petition Area, including the growing of taro. During his testimony, Mr. Robinson stated that as long as his family has owned the Petition Area, there has been no taro cultivation or gathering of cultural or natural resources.

DESCRIPTION OF THE REQUEST

15. Petitioner seeks a determination from the Commission that the Petition Area should be designated as IAL pursuant to HRS §§205-44 and 45.

16. It is Petitioner's position that the Petition Area meets the qualifications for designation as IAL under HRS §205-44, meets the purposes of Article XI, section 3, of the Hawai'i State Constitution and the objectives and policies for IAL in HRS §§205-42 and 205-43, and that the Commission should issue a declaratory order designating the Petition Area as IAL pursuant to HRS §205-45.

17. Petitioner is not seeking to reclassify any agricultural lands to the State Land Use Urban, Rural, or Conservation Districts pursuant to HRS §205-45(b) in conjunction with its Petition.

18. Petitioner has represented that it is voluntarily waiving any and all rights to assert, claim, or exercise any credits described in HRS §205-45(h), as effective as of the date of its Petition, that may be earned by Petitioner in the event of and as a result of this Petition being granted. Petitioner further represented that this waiver is limited to the use of credits for the sole purpose of reclassifying other lands that are not the subject of this Petition to the State Land Use Urban, Rural, or Conservation Districts pursuant to HRS §205-45(h), as effective as of the date of this Petition, and shall not apply to any other credits, incentives, rights, or privileges that Petitioner may possess

now or in the future, whether known or unknown, which are hereby expressly reserved.

CONFORMANCE WITH THE STANDARDS AND CRITERIA
FOR THE IDENTIFICATION OF IAL

HRS §205-44(c)(1): Lands currently used for agricultural production.

19. The entire Petition Area currently includes approximately 18,700 acres in cattle ranching and approximately 2,188 acres in seed production.

20. Cattle ranching and seed production are agricultural activities.

21. The 18,700 acres consists of Upper Pasture (unirrigated) and Lower Pasture (partially irrigated) lands, which are separated by the Olokele Ditch system. The Upper Pasture lands have been used for cattle ranching from approximately 1865 to the present.

22. The 18,700 acres of land utilized for cattle ranching are leased to Gay & Robinson who operates the ranch under the tradename Makaweli Ranch.

23. Makaweli Ranch's herd consists of 3,500 to 4,000 head of cattle, and represents approximately 9 percent of Kaua'i's beef food production.

24. Makaweli Ranch's planned land management and pasture improvement program is expected to increase the ranch's herd to represent 12 percent of Kaua'i's beef food production.

25. Makaweli Ranch constitutes the largest portion of beef food production in West Kaua'i.

26. The 2,188 acres of land utilized for seed production are leased to Agrigenetics Inc. (subsidiary of Dow Chemical Co.) and DuPont Pioneer.

HRS §205-44(c)(2): Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel-and-energy-producing crops.

27. The University of Hawai'i, Land Study Bureau, developed the Overall Productivity Rating, which classified soils according to five levels, with "A" representing the class of highest productivity soils and "E" representing the lowest. Approximately 7 percent of the Petition Area is rated A, 7 percent is rated B, 3 percent is rated C, 6 percent is rated D, and 77 percent is rated E.

28. Approximately one-third of the Petition Area in the south receives an annual average of 220 to 235 watts of solar energy per square meter per hour. The remaining two-thirds of the Petition Area in the north receives an annual average of 205 to 220 watts per square meter per hour, except for the river banks on the steep slopes which receive a little less solar radiation. These levels of solar radiation, when combined with adequate rainfall and suitable soil types, support vigorous forage growth for cattle within the Petition Area.

HRS §205-44(c)(3): Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawai'i (ALISH) system adopted by the board of agriculture on January 28, 1977.

29. In 1977, the DOA developed a classification system to identify Agricultural Lands of Importance to the State of Hawai'i ("ALISH"). The classification system is based primarily, though not exclusively, upon the soil characteristics of the

lands. The three classes of ALISH lands are: "Prime," "Unique," and "Other," with all remaining lands termed "Unclassified." When utilized with modern farming methods, "Prime" agricultural lands have a soil quality, growing season, and moisture supply necessary to produce sustained crop yields economically. "Unique" agricultural lands possess a combination of soil quality, growing season, and moisture supply to produce sustained high yields of a specific crop. "Other" agricultural lands include those that have not been rated as "Prime" or "Unique." Approximately 27 percent of the Petition Area is classified in ALISH: 13 percent in Prime ALISH, less than 0.1 percent in Unique ALISH, and 14 percent in Other ALISH. The balance of the Petition Area is not classified under the ALISH classification, but the land has been historically used for ranching and the cattle ranch operation is active to date. The unclassified land includes essential elements of the active cattle ranch operation, such as grasslands, ditches, and streams.

HRS §205-44(c)(4): Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production.

30. The Petition Area shows potential for the development of other crops, including but not limited to energy production crops.

HRS §205-44(c)(5): Land with sufficient quantities of water to support viable agricultural production.

31. The Petition Area is primarily irrigated by two ditch systems to support the cattle ranch and seed production.

32. The Kō`ula Ditch System is approximately 13.5 miles long, and the ditch line starts at the base of Manawaiopuna Falls and ends at the Field 32 Reservoir. The water capacity of the Kō`ula Ditch System is approximately 55 millions of gallons per day ("MGD").

33. The Olokele Ditch System is approximately 20 miles long. Water from Olokele River is diverted at the 1,477-foot elevation and delivered to a 1.25-megawatt hydroelectric plant. At the hydroelectric plant, the water splits into two directions. One flow traverses southwest to Kepani Reservoir and down to Waikaia Reservoir. The other flow heads eastward across Petitioner's lands and ends at Kuhumu Reservoir. The water capacity of the Olokele Ditch System is approximately 70 MGD.

34. The Petition Area includes ten reservoirs with a total capacity of 275 million gallons. The water from the reservoirs is used by the seed operations to irrigate the fields and by Makaweli Ranch to irrigate the pastures.

35. The Petition Area receives an average of 25 to 30 inches of rain annually on the irrigated land below the east-west Olokele Ditch line and 50 to 80 inches of rain annually on the unirrigated *mauka* land above the same Olokele Ditch line.

36. Drinking water for cattle in approximately 40 percent of the Upper Pasture on the Waimea-side is provided from Olokele River, Kahana Stream, Mokuone Stream, and Makaweli River.

37. Drinking water for cattle in the large middle section of the Upper Pasture is primarily provided from the Olokele Ditch that runs west and east, and sometimes drinking water for cattle is provided by pockets of water leaking from the mountains or little freshets after rains.

38. On the Hanapēpē side of the Upper Pasture, drinking water for cattle is provided from Kōʻula River, Maunahi Stream, and the Olokele Ditch. From these various water sources, there is abundant drinking water for the cattle.

39. The Petition Area has adequate quantities of water and infrastructure to support the cattle ranch operations and seed production on the Petition Area.

HRS §205-44(c)(6): Land whose designation as important agricultural lands is consistent with general, development, and community plans of the county.

40. The Petition Area's agricultural classification is consistent with the Kauaʻi General Plan.

41. The Petition Area is situated within the State Land Use Agricultural District.

42. In August 2009, the County undertook a planning effort to define IAL on Kauaʻi. In August 2015, the County released a final report for the IAL study.

43. The County's IAL Study states that it is "important to note that lands for support of beef production does not require the best soils or topography (of "highest importance"). Thus, the county should still consider supporting landowner/farmer-led petitions for designation of lands for beef production, especially if sufficient water and necessary acreage are met to support the amount of cattle to be managed."

44. The Petition Area is generally consistent with the County's IAL assessment.

HRS §205-44(c)(7): Land that contributes to maintaining a critical land mass important to agricultural operating productivity.

45. Petitioner seeks to designate approximately 20,888 contiguous acres of land as IAL on Kaua'i.

46. Under the County of Kaua'i's IAL Study, it was estimated that "beef production to support the current diet of residents would require approximately 91,533.6 acres of land."

47. If the entire Petition Area by Petitioner was utilized for beef production, it would represent approximately 22 percent of the 91,533.6 acres required to support Kaua'i's beef needs, increasing the island's ability to become more self-sufficient.

HRS §205-44(c)(8): Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power.

48. Existing infrastructure servicing the Petition Area include extensive irrigation systems, roadways and transport systems, and markets along with the necessary facilities to support agriculture.

49. Makaweli Meat Company LLC ("MMC"), a wholly-owned subsidiary of Gay & Robinson, operates a 480,000-square-foot slaughter house near the Petition Area, which includes the kill floor, mobile slaughterhouse unit, hot box, chill room, processing room, freezer, locker room, shower, toilet, supply storage room, and offices for the manager, supervisor, and USDA inspector.

50. Makaweli Ranch sends beef to the MMC slaughterhouse and the beef is distributed to stores and restaurants primarily on Kaua'i but also throughout the State of Hawai'i.

ARTICLE XI, SECTION 3, OF THE HAWAII STATE CONSTITUTION

Conserving and Protecting Agricultural Lands

51. The Petition Area has been used by the Robinson Family for cattle ranching, crop cultivation, and conservation since they acquired the land over 150 years ago.

52. There are seven generations of Robinson Family members who have been dedicated to maintaining agriculture on the Petition Area.

53. The Robinson Family philosophy is to have their lands in better condition when the lands are passed on to the next generation.

54. The Robinson Family has always practiced stewardship of the land and animals, and has taken care of the families and the people who work for them, including families from Ni'ihau.

55. Petitioner proposes to continue ranching activities on the majority of the Petition Area, and is committed to long-term agriculture by providing good quality beef to an expanding Hawai'i market.

Promoting Diversified Agriculture

56. The last sugarcane harvest on the Petition Area was October 2009, and the Petition Area is currently being used for cattle ranching and seed production.

57. Makaweli Ranch is continuing its seed propagation and grass planting program to improve the carrying capacity of the Lower Pasture lands. The planning program involves the removal of invasive species and the planting of preferred species of pasture grass. Makaweli Ranch is working on producing its own seeds for planting to improve existing pastures.

Increasing Agricultural Self-Sufficiency

58. Makaweli beef has been and continues to be sold locally at Ishihara Market on Kaua'i.

59. Makaweli beef is also served at Street Burger across from Kintaro Restaurant on Kaua'i.

60. Makaweli Ranch has existing markets and is accepted in the marketplace. The designation of the Petition Area as IAL will help them continue to expand.

61. Land management activities to improve pasture areas include (1) irrigation of additional pastures; (2) grass seed production and planting programs; (3) fencing and paddocks repairs; (4) maintenance of and upgrading of roads; and (5) invasive species eradication to improve pastures.

62. The majority of Makaweli Ranch's pastures (Upper and Lower) relies on rainfall to support a stocking rate of approximately 1 head per 5 acres. Cattle are rotated to pastures where there is sufficient rainfall to support grazing. Currently, Makaweli Ranch has approximately 400 acres of irrigated pastures within the Petition Area. The total potential future acreage of irrigated pasture is 1,105 acres, which consists of former sugarcane fields below the ditch system.

63. The 5-year goal is to install approximately 1,000 additional acres of irrigated pasture within the Petition Area.

64. Makaweli Ranch is also continuing its seed propagation and grass planting program to improve the carrying capacity of the Lower Pastures. The planting program removes invasive species and plants preferred species of pasture grass.

65. The land management and pasture improvement program can be applied to approximately 8,000 to 9,000 acres of current pasture lands within the Petition Area. The 5-year goal for the planting program is to install an additional 500 acres of improved and managed pasture. These 500 additional acres would be in addition to the 1,000 additional irrigated acres of pasture. This combined additional 1,500 acres of land management improvement is expected to increase the herd capacity by at least one additional head per additional acre of land management improved pasture, or an additional 1,500 head of cattle.

66. Approximately 15,000 acres of Petition Area are fenced with a combination of cattle and/or pig fencing. The pig fencing is used to keep out wild pigs, and the fenced paddocks are used to corral the cattle, separate sexes, manage bulls, and effectively manage grass growth and maintenance.

67. The fence line in the area of the northernmost portion of the Petition Area is generally located along the border that separates Petitioner's lands from State lands, and is used to keep Makaweli Ranch cattle on Petitioner's lands.

68. Makaweli Ranch and MMC will continue to expand the marketing and distribution of its branded beef locally and contribute significantly towards providing food security and enhancing self-sufficiency for Kaua'i and the State of Hawai'i.

69. Makaweli Ranch will continue to contribute to and be a productive and vital component of Kaua'i's agricultural industry.

Assuring the Availability of Agriculturally Suitable Lands

70. The entire Petition Area is suitable for agricultural use.

71. The lower elevation lands have slopes ranging from 0 to 20 percent and are suitable for crops and cattle grazing.

72. The Upper Pasture lands are suitable for cattle grazing and have several valleys with streams. Within these valleys, there are steep slopes from 20 percent to slopes in excess of 60 percent. Within the lands of the Upper Pasture, cattle will normally graze in the flats of the valleys first and will search for food and graze on highly sloping lands if there is no food in the valley flats.

73. The Upper Pasture lands with slopes in excess of 60 percent are suitable for cattle grazing because cattle are sure-footed animals and will walk along a contour such that the maximum slope they have to traverse is approximately 10 percent regardless of what the site is.

74. The Upper Pasture lands are accessible by Makaweli Ranch cowboys on horseback.

75. The upper hillsides of the Upper Pasture are suitable agricultural lands because there is almost double the production of grazing lands compared to flat

lands. The upper hillsides also receive more rain and are not shaded by trees that are located down below in the valley bottoms.

76. The steeper slopes of the Upper Pasture are suitable agricultural lands because the shelves and basins contain green panic grass, which is drought tolerant. The steeper slopes also act as a natural border or fence to separate the heifers from the bulls.

77. Based upon the testimony and evidence presented, there does not appear to be any resources which will be adversely affected by the proposed designation of IAL for the Petition Area.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the Petition pursuant to HRS §§91-8, 205-44 and 205-45 and HAR §15-15-98.

2. Pursuant to HRS §205-44(a), the Commission has the authority to designate lands as IAL so long as any of the criteria in HRS §205-44(c) are met.

3. The Petition Area is currently used for agricultural production in accordance with HRS §205-44(c)(1).

4. The Petition Area has soil qualities and growing conditions that support agricultural production in accordance with HRS §205-44(c)(2).

5. The Petition Area constitutes lands identified under agricultural productivity rating systems, such as the ALISH system adopted by the Board of Agriculture on January 28, 1977, in accordance with HRS §205-44(c)(3).

6. The Petition Area shows potential for the development of other crops, including but not limited to energy production crops, in accordance with HRS §205-44(c)(4).

7. The Petition Area has sufficient quantities of water to support viable agricultural production in accordance with HRS §205-44(c)(5).

8. The Petition Area's designation as IAL is generally consistent with the General Plan of the County in accordance with HRS §205-44(c)(6).

9. The Petition Area contributes to maintaining a critical land mass that is important to agricultural operating productivity in accordance with HRS §205-44(c)(7).

10. The Petition Area is within close proximity to or is near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power in accordance with HRS §205-44(c)(8).

11. The designation of the Petition Area as IAL meets the purposes of Article XI, section 3, of the Hawai'i State Constitution by conserving and protecting agricultural lands, promoting diversified agriculture, increasing agricultural self-sufficiency, and assuring the availability of agriculturally suitable lands.

12. The Petition Area satisfies the definition of IAL under HRS §205-42(a)(2), where the Petition Area is capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology, contributes to the State's economic base and produce agricultural commodities for export or local consumption, and is needed to promote the expansion of agricultural activities and income for the future.

13. The designation of the Petition Area as IAL meets the objectives of HRS §205-42(b) by contributing to the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities and increase agricultural self-sufficiency for current and future generations.

14. The designation of the Petition Area as IAL meets the policies of HRS §205-43(1) by promoting the retention of IAL in blocks of contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management.

15. The designation of the Petition Area as IAL meets the policies of HRS §205-43(2) by discouraging the fragmentation of IAL and the conversion of these lands to nonagricultural uses.

16. The designation of the Petition Area as IAL meets the policies of HRS §205-43(3) by directing nonagricultural uses and activities from IAL to other areas and ensure that uses on IAL are actually agricultural uses.

17. The designation of the Petition Area as IAL meets the policies of HRS §205-43(5) by providing a basic level of infrastructure and services on IAL limited to the minimum necessary to support agricultural uses and activities.

18. The designation of the Petition Area as IAL meets the policies of HRS §205-43(6) by facilitating the long-term dedication of IAL for future agricultural use through the use of incentives.

19. The designation of the Petition Area as IAL meets the policies of HRS §205-43(8) by promoting the maintenance of essential agricultural infrastructure systems, including irrigation systems.

20. The Petition Area meets the requirements of HRS §205-44 and HRS §205-45 for designation as IAL.

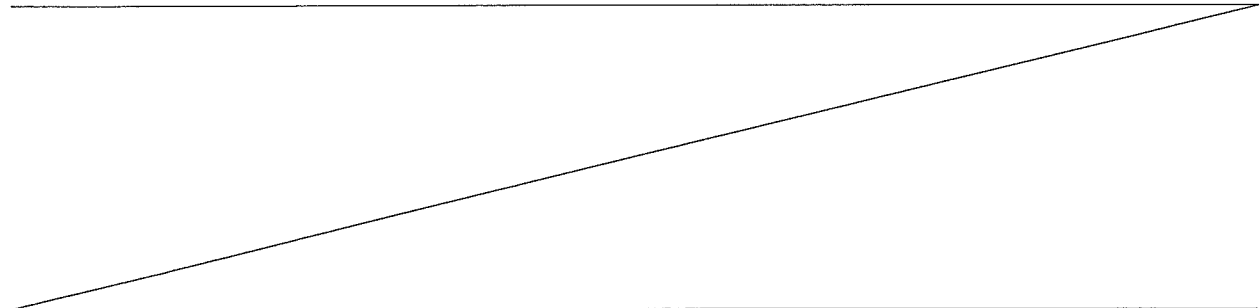
21. Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

DECISION AND ORDER

IT IS HEREBY ORDERED that the Petition Area, consisting of approximately 20,888 acres of land, situated at Makaweli, Kaua`i, Hawai`i, identified as TMKs: 1-7-001: 001 (por.), 1-7-001: 009, 1-7-005: 002 (por.), 1-7-005: 009 (por.), 1-7-006: 004 (por.), 1-7-006: 005, 1-7-006: 006 (por.), and 1-8-001: 001 (por.), and identified on Exhibit "A" and approximately shown in Figures 1, 2a, 2b, 2c, and 2d, attached hereto and incorporated by reference herein, shall be and is hereby designated as IAL as governed by HRS chapter 205.

IT IS HEREBY FURTHER ORDERED that the designation of the Petition Area as IAL shall be subject to the following conditions:

1. Petitioner shall comply with representations made to the Commission with respect to not claiming any credits described in HRS §205-45(h) with respect to the Petition Area.
2. Within seven days of the issuance of the Commission's Decision and Order, Petitioner shall record it with the Bureau of Conveyances and/or Land Court, State of Hawai`i.



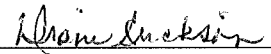
ADOPTION OF ORDER


This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 26th day of September 2016, per motion on September 20, 2016.

LAND USE COMMISSION
STATE OF HAWAII

APPROVED AS TO FORM


Deputy Attorney General

By 
Edmund Aczon
Chairperson and Commissioner

Filed and effective on:

September 26, 2016

Certified by:

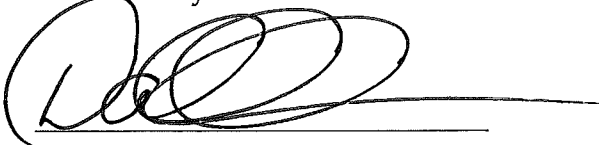


Exhibit "A"

Tax Map Key Description

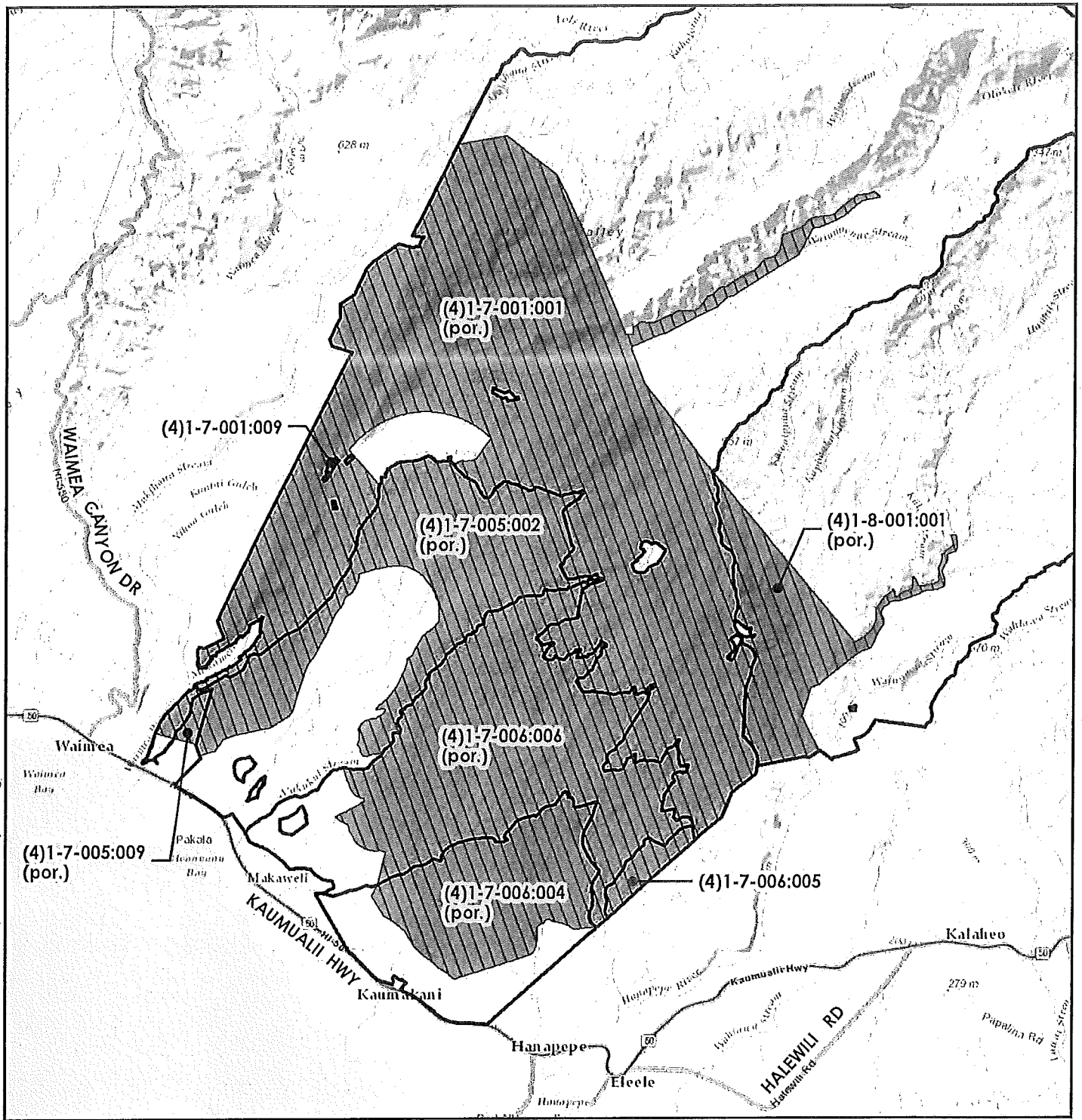
Approximately 20,888 acres of land owned by Robinson Family Partners on Kaua'i are proposed to be designated as IAL. The land is specifically described as TMK numbers: (4)1-7-001-001 (por.), (4)1-7-001-009, (4)1-7-005-002 (por.), (4)1-7-005-009 (por.), (4)1-7-005-002 (por.), (4)1-7-005-009 (por.), (4)1-7-006-004 (por.), (4)1-7-006:005, (4)1-7-006:006 (por.), and (4)1-8-001:001 (por.).

The following table shows a summary of TMK parcels and approximate acreage for the proposed IAL lands:

FIGURE NUMBER	TMK NUMBER	APPROXIMATE ACREAGE
2a	(4) 1-7-001:001 (por.)	10,678.16
	(4) 1-7-001:009	3.00
2b	(4) 1-7-005:002 (por.)	2,816.47
	(4) 1-7-005:009 (por.)	67.59
2c	(4) 1-7-006:004 (por.)	1,733.96
	(4) 1-7-006:005	192.48
	(4) 1-7-006:006 (por.)	3,983.07
2d	(4) 1-8-001:001 (por.)	1,413.11
TOTAL:		20,887.84

Figure 1 illustrates the proposed IAL lands and the related Tax Map Key parcels. To illustrate the individual TMK parcels, Figures 2a, 2b, 2c, and 2d are provided to identify the individual TMK parcels and portions thereof that are proposed to be designated IAL.

File: Q:\Kauai\Robinson Family IAL\GIS\Projects\Figures\FIG-TMK.mxd



DATE: 3/2/2016

LEGEND



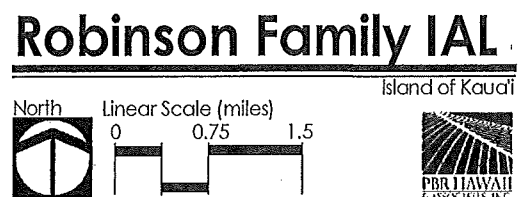
-  Proposed IAL Area
-  Subject TMK Parcels

Figure 1
TMK Parcels - Key Map



Source: County of Kauai (2012, 2016).
Disclaimer: This graphic has been prepared for general planning purposes only.

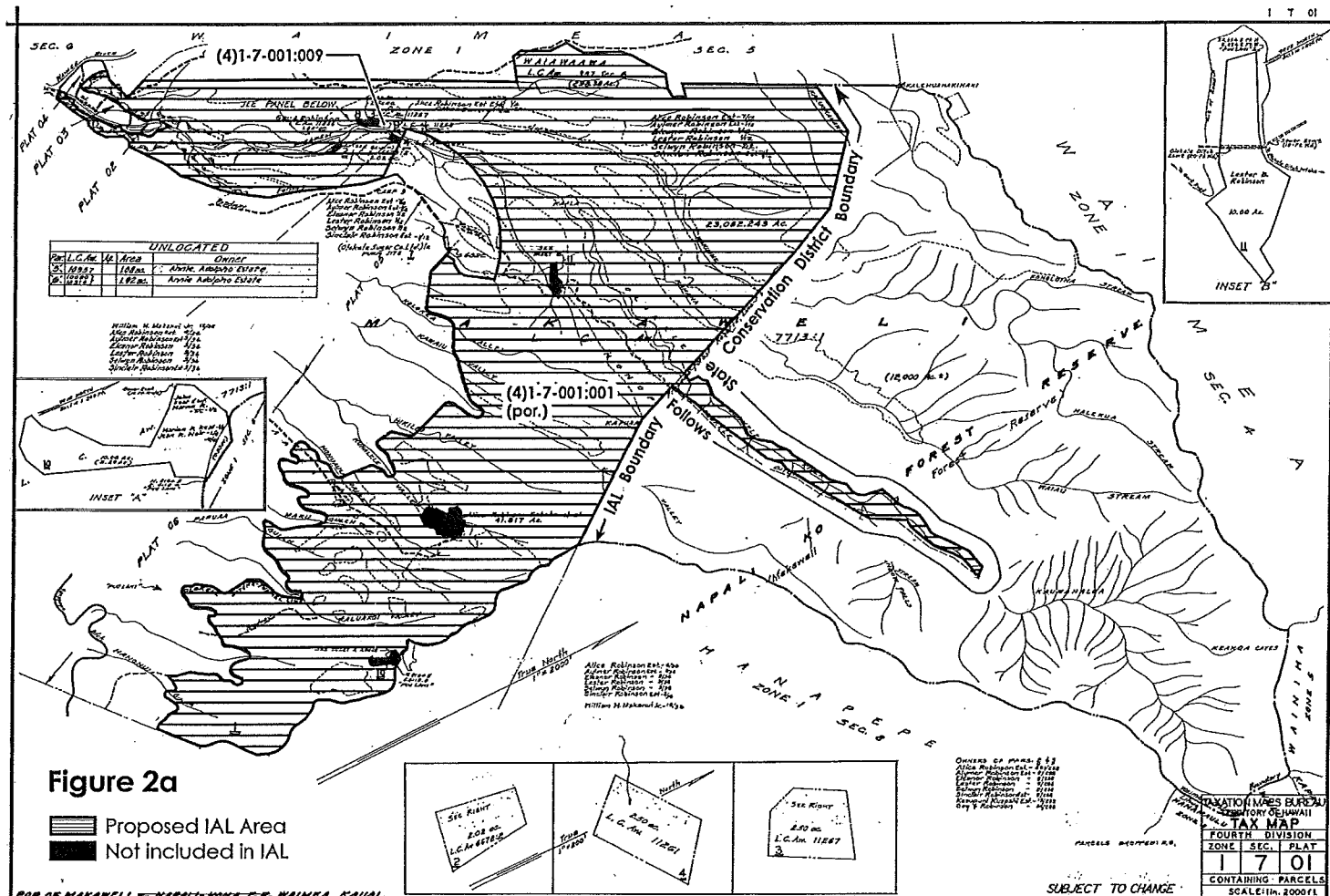
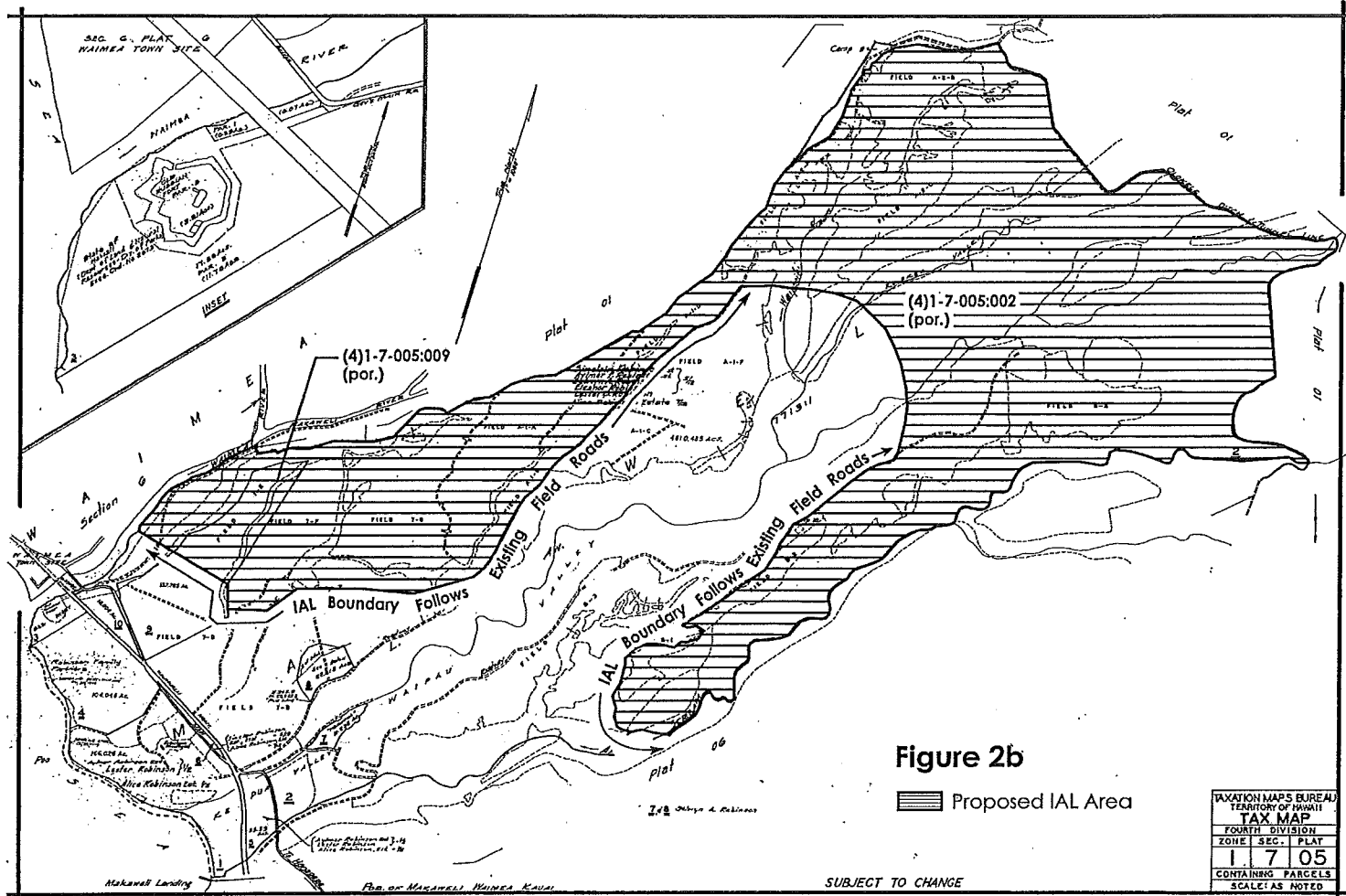


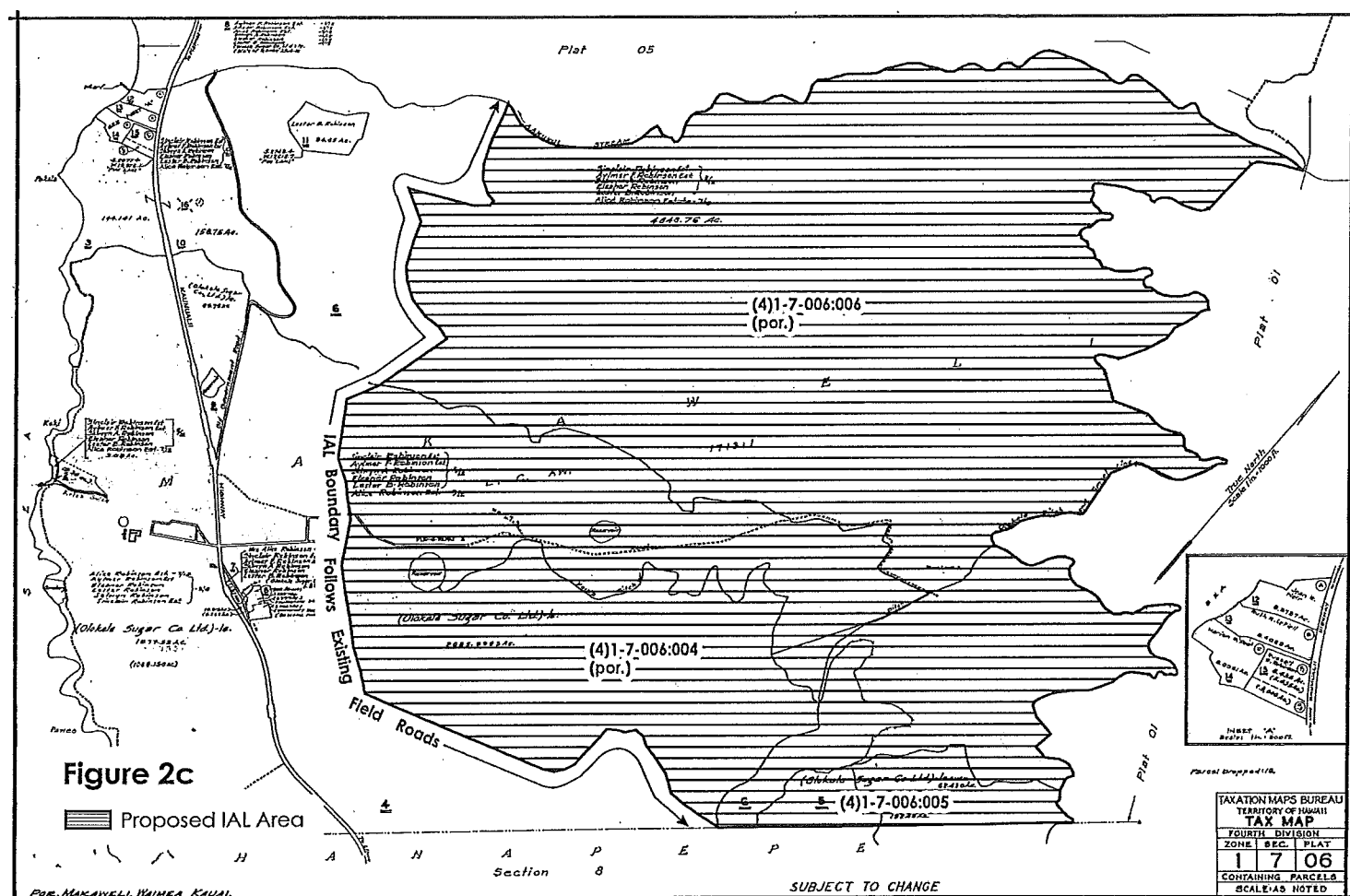
Figure 2a

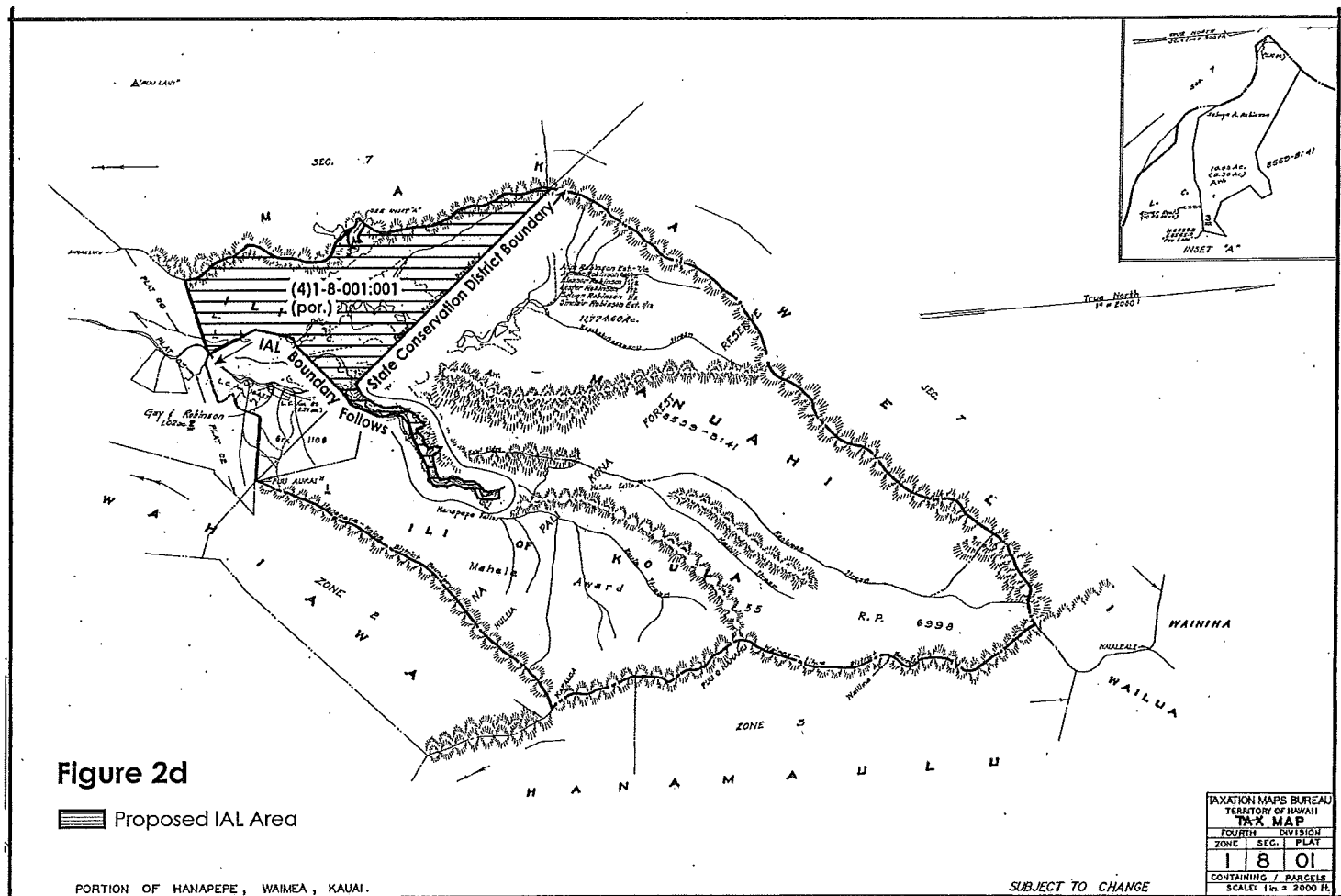
Proposed IAL Area
 Not included in IAL

POR. OF MAHANEI, MAHANEI-ANNA P.R. WAINA, MAHANEI.

SUBJECT TO CHANGE









BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of) DOCKET NO. DR16-56
)
ROBINSON FAMILY PARTNERS)
)
For A Declaratory Order To Designate)
Important Agricultural Lands For) CERTIFICATE OF SERVICE
Approximately 20,888 Acres Of Land)
Situated At Makaweli, Kaua'i, Hawai'i)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER** was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
LEO ASUNCION, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	X		
DAWN TAKEUCHI APUNA ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		X	

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
CURTIS T. TABATA, ESQ. Matsubara-Kotake 888 Mililani Street, 8 th Floor Honolulu, Hawai'i 96813			X
MAUNA KEA TRASK, ESQ. Office of the County Attorney, County of Kauai 4444 Rice Street, Suite 220 Lihue, Hawai'i, 96766			X
MICHAEL A. DAHILIG Director of Planning 4444 Rice St. Suite 453 Lihue, Hawai'i, 96766		X	
SCOTT ENRIGHT Chairperson State Department of Agriculture 1428 South King Street Honolulu, Hawai'i 96814-9613		X	

Dated: Honolulu, Hawai'i, 9/26/2016.



DANIEL ORODENKER
Executive Officer