

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
COOKE LAND COMPANY, INC.) DOCKET NO. A81-520
To Amend the Agricultural Land Use)
District Boundary to Reclassify)
Approximately 91 Acres, Tax Map)
Key 5-2-11: 29, at Naiwa, Molokai,)
County of Maui, into the Urban)
Land Use District)

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
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COOKE LAND COMPANY, INC.) DOCKET NO. A81-520
)
To Amend the Agricultural Land Use) FINDINGS OF FACT,
District Boundary to Reclassify) CONCLUSIONS OF LAW,
Approximately 91 Acres, Tax Map) DECISION AND ORDER
Key 5-2-11: 29, at Naiwa, Molokai,)
County of Maui, into the Urban)
Land Use District)
)
)

FINDINGS OF FACT, CONCLUSIONS OF LAW,
DECISION AND ORDER

This proceeding was initiated by the petition of Cooke Land Company, Inc., pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure of the Land Use Commission, State of Hawaii, to amend the Land Use District Boundary of the above-captioned lands (hereinafter referred to as "subject property") situated at Naiwa, Island of Molokai, County of Maui, from the Agricultural Land Use District to the Urban Land Use District and the Land Use Commission, having heard and examined the testimony and evidence presented during the hearing held on March 31, 1982 and April 1, 1982, in Hoolehua, Molokai, Hawaii, hereby makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. Cooke Land Company, Inc. (hereinafter referred to as "Petitioner") filed its petition on October 21, 1981 to amend the Agricultural Land Use District Boundary at Naiwa, Molokai, County of Maui, to reclassify approximately 91 acres into the Urban District.

2. The Land Use Commission (hereinafter, the "Commission")

held a hearing on March 31, and April 1, 1982 at Hoolehua Community Center, Hoolehua, Molokai, pursuant to a notice published in the Maui News and the Honolulu Advertiser on February 19, 1982.

3. No petitions for intervention were received.

4. An untimely request to appear as a public witness was received from Elizabeth Ann Stone. Elizabeth Ann Stone did not appear as a witness at the hearing, but her written statement was included as part of the record.

5. Untimely requests to appear as public witnesses were received from Mr. Glenn Nanod, Mr. Glenn Tevis and Mr. Walter Ritte. The Commission allowed Mr. Nanod, Mr. Tevis and Mr. Ritte to testify as public witnesses.

DESCRIPTION OF THE SUBJECT PROPERTY

6. The subject property consists of approximately 91 acres and is situated at Naiwa, approximately 2.5 miles West of Kaunakakai along the Southern Molokai coastline. The Tax Map Key of the subject property is 5-2-11: 29. The site borders Maunaloa Highway on the east and a portion of unimproved Palaa Road on the south. Molokai Electric Company's biomass generating plant is located near the southwest corner of the property. Holden Seedcorn Processing Facility is situated at the southeasterly corner of the property. The northerly and westerly boundaries abut grazing lands owned by Cooke Land Company.

7. The subject property is approximately 3.1 miles from Kaunakakai Wharf, 5.5 miles from Molokai Airport, and 17 miles from the Kalua Koi Visitor Destination Area.

8. Cooke Land Company, Inc. (a wholly owned subsidiary of Molokai Ranch, Limited), holds fee simple title to the subject property.

9. The subject property is T-shaped in configuration and is presently unused open space except for a 13-acre portion which is planted in seed corn.

10. The subject property slopes between 5 and 12 percent in a north-south direction toward Palaau Road with elevations ranging from 130 feet to 10 feet at Palaau Road.

11. The Detailed Land Classification prepared by the Land Study Bureau of the University of Hawaii has classified the subject property as E47 with an overall rating of E. The Soil Conservation Service's Soil Survey classifies the lands as very stony land, eroded (rVT2), and about 50 to 75 percent of the surface is covered with stones and boulders.

12. The subject property is not located in a designated flood or tsunami hazard area. Annual rainfall in the subject area varies between 10 to 25 inches.

13. Vegetation on the subject property consists primarily of haole koa, kiawe, and shrub grasses, along with corn and milo which are under cultivation.

14. The subject property is not classified under the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) classification system.

PROPOSAL FOR DEVELOPMENT

15. The proposed reclassification is being requested to permit the development of an industrial park. The Petitioner proposes to develop approximately 60 industrial lots on the 91 acre site. The lots would range between 0.5 acres and 2.2 acres in size.

16. Total onsite and offsite improvement costs are estimated at approximately \$6 million based upon April, 1981 prices. This amounts to approximately \$1.65 per square foot. This estimate includes the cost of clearing land and grubbing, roadway, drainage, water system, electrical and telephone improvements.

17. Sales prices of the finished lots in today's dollars are estimated at between \$2-\$5 per square foot. For a

one half-acre lot prices would range between \$40,000 and \$100,000.

18. The Petitioner has proposed to develop the project in several phases. These are indicated below:

Phase I: 24.10 acres
Phase II-A: 20.62 acres
Phase II-B: 22.41 acres
Phase III: 16.91 acres

19. The development of Phase I is expected to take 30 months to complete. Phases II-A and II-B are expected to take an additional 18-24 months for completion. These three phases are expected to take a total of approximately five years to complete. There was no timetable defined for the last phase of development.

20. The proposed lots would either be sold in fee or leased.

21. The Petitioner intends to include restrictive covenants in all conveyance documents to limit purchasers of the proposed industrial lots to certain uses and to protect other lot owners and the public from any exposure to industrial waste or toxic chemicals.

STATE AND COUNTY PLANS

22. The subject property is situated within the State Land Use Agricultural District as reflected on Land Use District Boundary Map MO-3 (Kaunakakai). Adjacent lands are also classified Agricultural.

23. The subject property is not classified under the State Department of Agriculture's ALISH classification system, so is not considered as being agriculturally important land.

24. In February 1981, the Commission granted a State Land Use Special Permit (SP80-350) to Molokai Electric Company for development of its alternate-energy electric generating plant on approximately 50 acres within the Agricultural District,

adjacent on the southwest side of the subject property.

25. The subject property is currently designated for Agricultural use on the Molokai General Plan. However, the County of Maui is in the process of reviewing and revising its general plan map through the formulation of community plans, and the proposed Molokai Community Plan designates the subject property for "heavy industrial" (HI) use.

26. The subject property is not situated within the County's Special Management Area.

NEED FOR THE PROPOSED DEVELOPMENT

27. The Petitioner's market study for the proposed development dated October 1980 and prepared by the consultant firm of Hastings, Martin, Hallstrom and Chew, Ltd., indicates that the need for industrial land on Molokai from 1990 to 1995 will range from 33 to 56 acres.

28. There is currently no vacant private land on the Island of Molokai zoned for heavy industrial use. Petitioner's affiliates, Molokai Ranch and Molokai Meat Company are in need of up to ten acres of industrial-zoned land.

29. At the present time, industrial activities on Molokai are mixed in with residential and commercial uses on lands in the Urban District at Kaunakakai, or are located on low-productivity lands within the Agricultural District under special use permits. Several baseyard operators now located within Kaunakakai have expressed a desire for industrial-zoned property to relocate and expand their operations.

30. A primary intent of the land use allocation proposed under the Molokai Community Plan is to remove potentially noxious heavy industrial uses from Kaunakakai Town to the area of the subject property.

31. The Petitioner proposes to isolate heavy industrial uses in one area of the proposed development, adjacent to the

site of the Molokai Electric Company power plant. This will allow joint use of fuel-holding facilities and exhaust steam from the power plant, as well as efficient regulation and control of industrial wastes.

32. Of the total acreage proposed for reclassification to the Urban District, approximately seven (7) acres of the gulch area will be a drainage reserve, and another four (4) acres is needed for a sediment retention basin.

IMPACTS UPON RESOURCES OF THE AREA

Agriculture

33. Hawaiian Research Limited, a privately-owned seed research and production operation, cultivates seed corn on approximately 13 acres of the subject property under a lease from the Petitioner's parent company, Molokai Ranch, Ltd. Petitioner is providing Hawaiian Research Limited with alternate agricultural lands for cultivation, and has proposed to phase development of the subject property to avoid adverse impacts on the seed corn operation.

Archaeological and Historical Resources

34. The subject property is not listed, nor has it been determined to be eligible for inclusion, on the Hawaii Register or the National Register of Historic Places.

35. Petitioner's consultant, Environment Impact Study Corp., conducted an archaeological reconnaissance survey of the subject property which identified two new minor sites that were not deemed worthy of preservation. The survey was unable to locate the Naiwa petroglyph site (#106) reported by Catherine C. Summers in 1971.

36. Petitioner is willing to conduct a more comprehensive archaeological survey of the subject property in conjunction

with Bishop Museum archaeologists or the Historic Sites Section of the Department of Land and Natural Resources, and is willing to take whatever measures necessary to preserve significant archaeological or historic sites that might be found.

Air Quality and Noise

37. The proposed development is not expected to produce significant adverse noise or air pollution impacts. There are no residential areas in the vicinity of the subject property.

Scenic Resources

38. The visual impact of the proposed industrial park from the Maunaloa Highway can be controlled through design constraints, landscaping, and by setting the larger buildings furthest to the rear of the subject property.

Flora and Fauna

39. There are no rare, threatened, or endangered species of plant or animal on the subject property.

Coastal Resources

40. The subject property is located just inland of the Kalaniana'ole-Pakanaka Fishpond wetland area which extends six miles along Molokai's southern coastline. Petitioner plans to screen potential industrial occupants of the proposed development, and intends to design and construct drainage facilities to preclude contamination of the wetland area by runoff from the subject property.

Recreational Resources

41. The subject property is located adjacent to the new Molokai Electric power plant and has little value as a recreational resource. Its development to the uses proposed

will not adversely impact recreational resources in the area.

ADEQUACY OF PUBLIC SERVICES AND FACILITIES

Police and Fire Protection Services

42. Police and fire protection services for the subject property will be provided from the Kaunakakai stations located approximately 2.8 miles away.

Telephone and Electrical Services

43. Telephone and electrical services can be made available to the industrial park site.

Roadways and Highways

44. Main access to the proposed development will be off of Maunaloa Highway which abuts the eastern border of the subject property. Improvements at the access intersection will be provided in accordance with State Highway Standards to assure that additional traffic generated by the proposed industrial park will not adversely impact vehicular movement on Maunaloa Highway. The vehicular capacity of Maunaloa Highway can absorb the additional traffic expected from the proposed development.

45. The one through-roadway in the proposed development will connect to Palaau Road along the southern boundary of the subject property. Palaau Road will serve as an unimproved emergency access to the proposed development.

46. Internal street right-of-ways will be 56 feet wide and curb-to-curb pavement will be 40 feet wide.

Water

47. Water for the proposed development must be supplied from a private system because the County's public water system is currently at capacity, and the nearest available connection is approximately 2.5 miles away at Kaunakakai.

48. The potable water need for the proposed development is calculated at 1,500 gallons per day per industrial lot, or 90,000 gallons per day for the 60 lots proposed by the Petitioner. Petitioner has access to ample potable water from Molokai Ranch Company's private water system to supply the proposed development. A six-inch water line will transmit potable water to the proposed industrial park from a 100,000 gallon steel storage tank located approximately 4,000 feet north of the subject property.

49. The groundwater flow through the Naiwa area where the subject property is located is sufficient to permit substantial withdrawals for non-potable uses. Water for fire-fighting and irrigation requirements will be provided from an existing brackish well also owned by Molokai Ranch Company and located below Palaau Road southwest of the subject property. The water from this well will be pumped into an open reservoir to be constructed at an elevation of 300 feet, next to the 100,000-gallon potable water storage tank. This open reservoir will have a minimum storage capacity of 300,000 gallons to deliver fire flow of 2,500 gallons per minute for a two hour duration as required in an industrial zone.

Sewage

50. A public sewerage system is not available in the vicinity of the subject property. The Petitioner proposes the use of private cesspools for sewage disposal in the proposed industrial park.

51. The Petitioner is willing to consult with appropriate State and County agencies and obtain their prior approval to implement measures necessary to prevent the degradation of coastal wetlands and receiving waters from sewage seepage and industrial wastewater disposal. The Petitioner is willing to treat and remove all industrial wastewater and toxic chemicals which may be generated on the subject property.

Waste Control and Drainage

52. Petitioner plans to control the types and quantities of industrial waste that will be generated on the subject property by screening prospective occupants, and monitoring to assure that accepted operators follow material-use and waste-disposal programs approved by appropriate government regulatory agencies.

53. A silting basin will be constructed as part of the drainage system to assure removal of eroded soil and industrial contaminants from surface runoff before it is allowed to pass into the natural drainage gulch which feeds into the coastal wetlands.

Schools

54. The proposed reclassification for industrial uses will not have a significant impact on Molokai schools.

INCREMENTAL REDISTRICTING

55. Petitioner anticipates completion of development within five years, so incremental redistricting of the subject property is unnecessary.

COMPLIANCE WITH STANDARDS FOR DETERMINING DISTRICT BOUNDARIES

56. The need for the reclassification of 91 acres for the proposed industrial park is unsubstantiated at this time. Petitioner's own market study estimates a need for only between 34 and 56 acres of additional industrial land. Based on the evidence adduced, reclassification of a total of 67 acres of the subject property is reasonably necessary at this time to support desired industrial growth and development: 56 acres for industrial lots, 7 acres for a drainage reserve area, and 4 acres for a runoff catchment and siltation basin.

57. After reclassification and development, the subject property will be a part of a new center of employment,

production, and trading together with industrial activities that exist on other properties immediately adjacent and in the near vicinity. The reclassified area will not be contiguous to an existing Urban District, but will not contribute to scattered, spot urban development because of the land use pattern already established in the area.

58. The proposed reclassification and industrial development will complement the Urban District at Kaunakakai Town approximately 2.5 miles away and the Molokai Airport complex approximately 5.5 miles away. The proposed Molokai Community Plan designates the subject property and adjacent lands for industrial use. The MCP goal is to provide for new industrial development outside of Kaunakakai, and to allow for relocation of existing incompatible industrial uses from Kaunakakai Town to lessen adverse impacts and free lands for needed commercial expansion.

59. The proposed reclassification will not significantly affect agricultural resources of the area, although it will remove 13 acres of seed corn being cultivated by Hawaiian Research on a portion of the subject property. Petitioner has arranged to make replacement acreage available, and Hawaiian Research has expressed support of the proposed reclassification.

60. The proposed development will have no significant adverse effects upon natural, environmental, recreational, scenic, historic, or other resources of the area, as established in previous findings and assured by protective conditions incorporated in this decision and order.

61. The subject property is free from dangers of unstable soil conditions, floods, tsunami, and other adverse environmental effects. Potential detrimental impacts of the proposed development on coastal wetlands can be mitigated by conditions requiring protective improvements and programs, to be approved and monitored by appropriate government regulatory agencies.

RULINGS ON PROPOSED FINDINGS

Any of the proposed findings of fact submitted by Petitioner or other parties to this proceeding not already ruled upon by the Land Use Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes, and the Rules of Practice and Procedure and District Regulations of the State Land Use Commission, the Commission finds upon the clear preponderance of the evidence that the reclassification of approximately 67 acres of the petition area from the Agricultural District to the Urban District conforms to the standards established in the State Land Use District Regulations; is reasonable, is not violative of Section 205-2, Hawaii Revised Statutes, as amended; and is consistent with the Hawaii State Plan, as set forth in Chapter 226, Hawaii Revised Statutes, as amended.

The Commission further concludes that reclassification of the remaining 24 acres of the petition area from the Agricultural District to the Urban District has not been shown to be reasonably necessary, would not conform to the standards established by the State Land Use District Regulations, and would be violative of Section 205-2 and Chapter 226, Hawaii Revised Statutes.

DECISION AND ORDER

IT IS HEREBY ORDERED that approximately 67 acres of land, representing a portion of the area in the petition by Cooke Land Company, Inc., in Docket No. A81-520, more particularly

identified by Second Division Tax Map Key 5-2-11: Portion of 29, and further described in Exhibit A attached hereto and incorporated by reference herein, situated at Naiwa, Island of Molokai, County of Maui, State of Hawaii, shall be and hereby is reclassified from the Agricultural District to the Urban District, and the Land Use District Boundaries are hereby amended accordingly; subject, however, to the following conditions:

(1) The Petitioner shall, as initial priority of the development, take appropriate measures to prevent the degradation of coastal wetlands and receiving waters from sewage seepage, runoff of non-domestic wastewater, and soil erosion arising at the subject property. These measures shall be developed in consultation with, and subject to prior approval of appropriate State and County agencies.

(2) The Petitioner shall be responsible for treatment and removal of all industrial wastewater and toxic chemicals which may be generated by industrial use. The Petitioner shall take appropriate protective measures in consultation with, and subject to prior approval of appropriate State and County agencies, to accomplish the same.

(3) The Petitioner shall make a complete archaeological survey of the subject property and areas to be developed relative to the project in conjunction with Bishop Museum archaeologists or DLNR officials and shall take appropriate measures to preserve areas to be developed relative to the project area, and the significant archaeological sites, including Naiwa petroglyph (Site 106).

These conditions may be fully or partially released by the Commission as to all or any portion of the subject property upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.

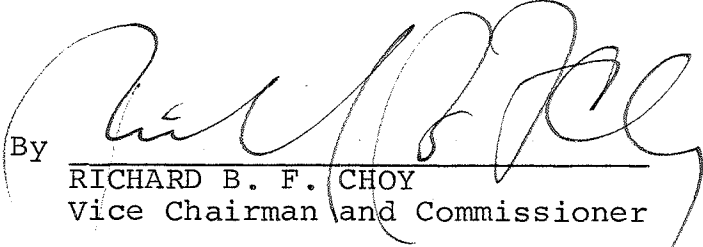
BE IT FURTHER ORDERED that the balance of the petition area in Docket No. A81-520 consisting of approximately 24 acres

is hereby denied reclassification from the Agricultural District to the Urban District, and therefore, remains in the Agricultural District.

DOCKET NO. A81-520 - COOKE LAND COMPANY, INC.

Done at Honolulu, Hawaii, this 10th day of September
1982, per motions on July 8, 1982 and September 10, 1982.

LAND USE COMMISSION
STATE OF HAWAII

By 
RICHARD B. F. CHOY
Vice Chairman and Commissioner

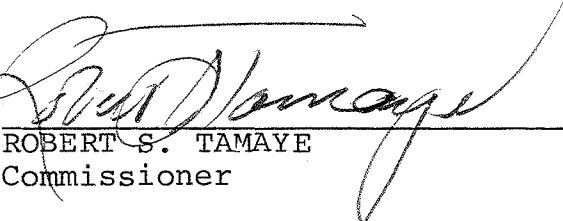
By 
LAWRENCE F. CHUN
Commissioner

By _____
EVERETT CUSKADEN
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
WINONA E. RUBIN
Commissioner

By 
TEOFILO PHIL TACBIAN
Commissioner

By 
ROBERT S. TAMAYE
Commissioner


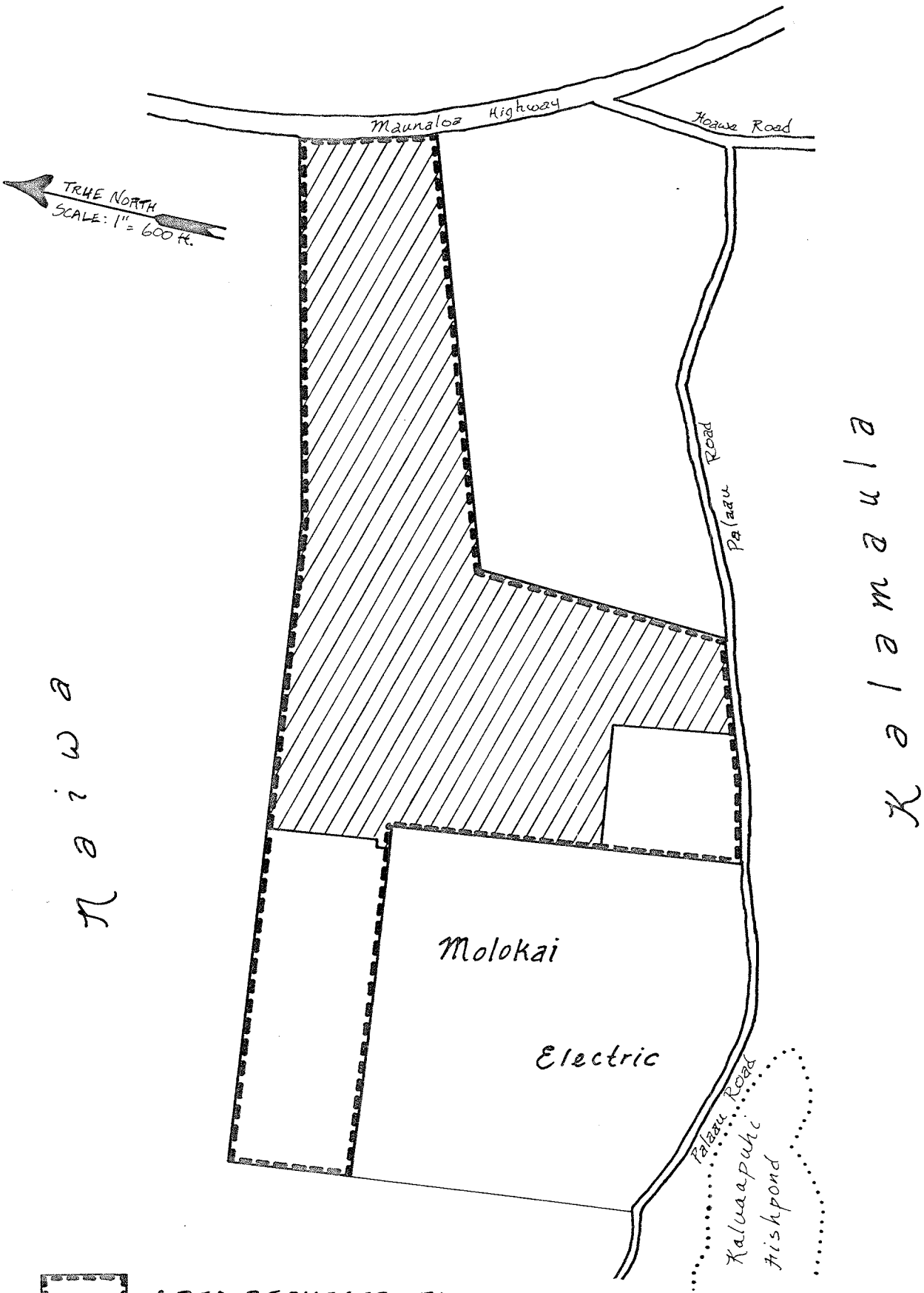
By 
FREDERICK WHITTEMORE
Commissioner


Exhibit A

A 81-570 COOKE LAND CO., INC.

TMK 5-2-11: PORTION OF PARCEL 29



 AREA REQUESTED FOR AMENDMENT

 AGRICULTURAL TO URBAN

PROJECT SITE

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
COOKE LAND COMPANY, INC.) DOCKET NO. A81-520
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County of Maui, into the Urban)
Land Use District)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's Decision and Order was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

HIDETO KONO, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

ANNETTE CHOCK, Deputy Attorney General
Department of Attorney General
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Maui County Planning Department
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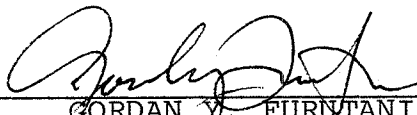
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HAWAIIAN RESEARCH, LTD.
P. O. Box D
Kaunakakai, Hawaii 96748

DATED: Honolulu, Hawaii this 15th day of September, 1982.



GORDAN Y. FURUTANI
Executive Officer