

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

October 25, 2019

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

PSF No.:18HD-012

Hawaii

Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii for Waterline Purposes, Onouli 1st, South Kona, Hawaii, Tax Map Key: (3) 8-1-005:013.

APPLICANTS:

Karen Y. Wakata, Trustee of the Leighton H. Wakata Trust (Wakata Trust); and
Water Board of the County of Hawaii

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government land located at Onouli 1st, South Kona, Hawaii identified by Tax Map Key: (3) 8-1-005:013, as shown on the attached map labeled Exhibit A.

AREA:

19,794 square feet, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: ML-20, Light Industrial minimum 20,000 sf.

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:

Encumbered by Governor's Executive Order No. 2993 to the Department of Education for educational purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair and replace a waterline over, under and across State-owned land for utility purposes.

TERM:

Perpetual.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Exemption List for the Department of Land and Natural Resources, reviewed and concurred upon by the Environmental Council on June 5, 2015," the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 46, which states "Creation or termination of easement, covenants, or other rights in structures or land." Refer to attached Exhibit B.

DCCA VERIFICATION:

Applicant Wakata Trust as a trust is not required to register with the DCCA.
Applicant Water Board of the County of Hawaii as a governmental agency is not required to register with the DCCA.

APPLICANT REQUIREMENTS:

Applicant Wakata Trust shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Pay all associated costs for effectuating the easement.

REMARKS:

The subject property is a portion of lands sold to the State of Hawaii on October 27, 1978 by Jack B. Greenwell, et al. and recorded as Land Office Deed S-26,979 for addition to Konawaena High & Intermediate School. By Governor's Executive Order No. 2993 (EO2993) dated December 12, 1979, the lands were set-aside to the Department of Education for educational purposes.

Both the deed and EO2993 were executed subject to an easement for road and utility purposes granted by Jack B. Greenwell, et al. to Henry A. Greenwell across the subject area prior to transfer of lands to the State of Hawaii (Grant of Easement dated February 9, 1976). Wakata Trust is now the owner of the private lands served by the easement.

Wakata Trust has subdivided its private 5.287 acre parcel (served by the easement) into 4 separate lots. The County of Hawaii Department of Water Supply (DWS) required Wakata Trust to provide a water system meeting its dedicable standards to the subdivided lots. As a result, in 2016, Wakata Trust installed an acceptable waterline within the easement area.

Wakata Trust now chooses to dedicate the waterline to DWS through its Water Board of the County of Hawaii. In order for DWS to accept the dedication, it requires an easement be granted to DWS. Wakata Trust cannot deed the easement to DWS because it needs to retain the easement for access purposes. Therefore, Wakata Trust is requesting that the State grant an easement for the waterline directly to DWS with the Wakata Trust paying all costs associated with the creation of the easement.

The easement area has been used as an access driveway to the Wakata Trust property and will not adversely encumber the use of the State land. The Department of Education has been consulted and concurs with the subject action.

The submittal was sent out to various agencies and interested parties for comments. The following table lists the agencies and results:

State Agencies	Response
DHHL	No Response
DOE	Concurrence
Hawaii County Agencies	Response
Planning	No Objections/Comments
Public Works	No Response
Water Supply	No Objections
Other Agencies & Interested Parties	Response
Office of Hawaiian Affairs	No Response

Neither applicant has 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. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, Hawaii Administrative Rules, 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. Subject to Applicant Wakata Trust fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the Water Board of the County of Hawaii covering the subject area for waterline 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 perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and

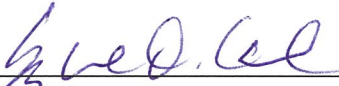
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



for
Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

v

EXHIBIT A



DAVID Y. IGE
GOVERNOR OF HAWAII

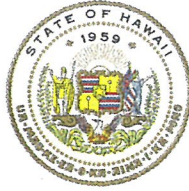


EXHIBIT B

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 4, 2019

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:** Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii for Waterline Purposes.
- Project / Reference No.:** PSF No.: 18HD-012.
- Project Location:** Onouli 1st, South Kona, Hawaii, Tax Map Key: (3) 8-1-005:013.
- Project Description:** Grant of waterline easement over an existing easement area across lands set-aside by Governor's Executive Order No. 2993 to the Department of Education for addition to Konawaena High & Intermediate School.
- Chap. 343 Trigger(s):** Use of State Land
- Exemption Class No. and Description:** In accordance with HAR § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 46, which states "Creation or termination of easement, covenants, or other rights in structures or land."
- Cumulative Impact of Planned Successive Actions in Same Place Significant?:** No. The subject action is a transfer of ownership of the utility portion of an easement for access and utility and not a part of planned successive actions that would be considered significant.
- 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. The proposed use will involve negligible or no expansion or change of use beyond that previously existing.

Consulted Parties:

State agencies: Department of Hawaiian Home Lands, Department of Education and Office of Hawaiian Affairs.

County agencies: Planning Department, Public Works and Water Supply

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.