

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

February 12, 2021

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

LOD No. S-29,229

MAUI

Cancellation of Two Easements for Waterline Purposes to State of Hawaii Department of Agriculture; and Grant of Two Term, Non-Exclusive Easements to the State of Hawaii Department of Agriculture for Waterline Purposes, Kamehamenui and Kealahou 3 & 4, Kula, Makawao, Maui, Tax Map Key: (2) 2-3-005:002.

APPLICANT:

State of Hawaii Department of Agriculture

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government land located at Kamehamenui and Kealahou 3 & 4, Kula, Makawao, Maui identified by Tax Map Key: (2) 2-3-005:002, as shown on the attached map labeled Exhibit A.

AREA:

Easement 1 (designated as 2R): Approximately 1.161 acres, more or less
Easement 2 (designated as W-8R): Approximately 0.0388 acre, more or less

Total: Approximately 1.1998 acres, more or less.

ZONING:

State Land Use District: Agriculture/Conservation
County of Maui CZO: Agriculture

TRUST LAND STATUS:

Acquired after 8/59.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Pending Set Aside to the Division of Forestry and Wildlife for Forest Reserve Purposes

CHARACTER OF USE:

Right, privilege, and authority to operate, maintain, construct, rehabilitate, renovate, and repair the pipeline of the Upcountry Maui Watershed Project, Pulehuiki Road Lateral and its related facilities, pursuant to sections 167-5 and 167-6, Hawaii Revised Statutes.

TERM:

Commencement date through October 22, 2050.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (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 November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class 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," and Item 39 that states, "Creation or termination of easement, covenants, or other rights in structures or land."

DCCA VERIFICATION:

Not applicable, Applicant is a State agency.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

At its meeting on May 8, 2020 under agenda item C-1, the Board approved the acquisition of the subject parcel by the Division of Forestry and Wildlife (DOFAW) for addition to the Forest Reserve system. The property was ultimately acquired on August 31, 2020. While conducting due diligence, an updated property survey revealed discrepancies with the property boundary as previously surveyed. With the assistance of the State Surveyor, the boundary discrepancies were corrected prior to acquisition by the State. The adjustment to the property boundary also impacted the measurements of five utility and waterline easements encumbering the property, consisting of three access and utility easements to Maui Electric Company, Limited (MECO) and Hawaiian Telcom, Inc. (HT) and two waterline easements held by the State Department of Agriculture (DOA). Although the measurements to the easements were revised, the actual easement areas were only minimally altered.

The appraisal factored the revised easements in the valuation of property, and the measurements of the MECO and HT easements were amended prior to acquisition. In discussions with DOA to amend the two waterline easements, DOFAW and Land Division staff concurred that it would be preferable to defer action on the easements until after the State acquired the property, and seek approval to mutually cancel the two existing waterline easements and re-execute the two new waterline easements with the corrected areas. The previous waterline easements were executed between DOA and the private landowner. It would be preferable to have two new easements that contain terms and conditions agreed upon between the respective State agencies rather than the two departments bound by an agreement between DOA and the private landowner. The term, purpose and scope of the new waterline easements will remain the same as the previous easements, with only minimal change to the easement area from the revised measurements. Additionally, there was a concern that the revisions of the waterline easements could not have been completed in time to meet the deadline for acquiring the property. DOFAW has consulted with the funding partners of the acquisition to confirm that this proposed action would not present any issue with funding or management agreements. Upon the execution of the new easements, DOFAW and Land Division will work with the State Surveyor to complete survey map and description for the Executive Order to set aside the property to DOFAW.

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, 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. Approve the cancellation of the two existing waterline easements to the State of Hawaii, Department of Agriculture, subject to:
 - A. The standard terms and conditions of the most current cancellation of 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.

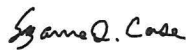
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to the State of Hawaii, Department of Agriculture covering the subject area for waterline purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term 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,



Ian Hirokawa
Special Projects Coordinator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

RT

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
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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

February 12, 2021

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 Two Term, Non-Exclusive Easements to the State of Hawaii Department of Agriculture for Waterline Purposes
- Project Location:** Kamehamehenui and Kealahou 3 & 4, Kula, Makawao, Maui, Tax Map Key: (2) 2-3-005:002
- Project Description:** Grant to two waterline easements to Department of Agriculture
- 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 November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class 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," and Item 39 that states, "Creation or termination of easement, covenants, or other rights in structures or land."
- Cumulative Impact of Planned Successive Actions in Same Place Significant:** There are no successive actions planned for the same area.
- Action May Have Significant Impact on Particularly Sensitive Environment:** No significant impact expected.
- Analysis:** This action is to replace two pre-existing waterline easements with corrected easement areas. There is no change or expansion of the scope of the easements or the current use of the affected area.

Consulted Parties: DLNR Division of Forestry and Wildlife, Department of Agriculture

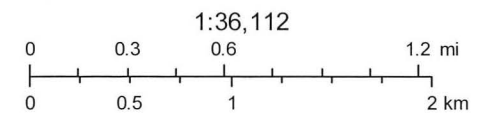
Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

Public Land Trust Information System



January 21, 2021

EXHIBIT A



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

The content within the PLTIS, including maps and data, has been collected from multiple city, county, and state sources, and may not have been prepared for legal, engineering, or surveying purposes. Users of this content should consult the primary data sources to ascertain the accuracy and usability of the data.

