

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii 96819

February 14, 2025

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

Land Board Members:

Subject: Authorize a Twenty-Year Extension of Harbor Lease No. H-89-13 to Pacific-West Fuels, Inc., Lahaina Small Boat Harbor, Paunau, Lahaina, Island of Maui, Hawaii, Tax Map Key: (2) 4-6-001: 014, and 017 (por.).

And

Declare project exempt from requirements of Chapter 343, Hawaii Revised Statutes and Title 11, Chapter 200.1, Hawaii Administrative Rules.

APPLICANT:

Pacific-West Fuels, Inc., a foreign profit corporation whose mailing address is Post Office Box 2670, Napa, California 94558.

LEGAL REFERENCE:

Sections 171-36 (b) (3), Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Lahaina Small Boat Harbor, Lahaina, Island of Maui, identified by Tax Map Key: (2) 4-6-001:014 and 017 (por.), see attached **Exhibit A-1 and A-2**.

AREA:

1,335 square feet, more or less; approximately 146.5 sq. ft. for fuel dispensers and a non-exclusive easement of approximately 1,188 sq. ft. for subsurface fuel storage tanks and related equipment,

ZONING:

State Land Use District: Urban  
County of Maui: HD-1 Historic District

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Lease No. H-89-13 to Pacific-West Fuels, Inc. for a marine fueling facility open 24 hours per day, seven days per week, 365 days per year.

TERM OF LEASE:

Original term of 30 years, commencing November 21, 1989.

Request extension of 15 years granted by the Board of Land and Natural Resources commencing November 21, 2019, and ending November 30, 2034

Request extension of 20-years commencing December 1, 2034, and ending November 30, 2054, for a total of 35 years.

ANNUAL RENTAL:

\$3,540.00 per annum plus 5.25% of the annual gross receipts

RENTAL REOPENINGS:

Rental reopening in the original term were at the end of the 15<sup>th</sup>, 20<sup>th</sup> and 25<sup>th</sup> years of the term.

Rental reopening for the 15-year lease extension occurs following the 5<sup>th</sup> (November 21, 2024) and 10<sup>th</sup> year (November 21, 2029).

The rent for the extended term shall be determined by appraisal effective December 1, 2034, with rental reopening following the 5<sup>th</sup>, 10<sup>th</sup> and 15<sup>th</sup> years.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u>___</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>___</u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>___</u>

CALIFORNIA SECRETARY OF STATE STATUS:

Registered business name confirmed: YES X NO      
Certificate of Status showing active: YES X NO    

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawai'i 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 Exemption Type 1: "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 Part 1, Item No. 40, which states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing."

IMPROVEMENTS AND COSTS:

2024 Replacement of fuel dock at Lahaina SBH \$ 967,000.00  
(Due to fire on August 8, 2023, see attached **Exhibit B**)  
Clean-up of burn site  
Rebuild fuel dock  
Rebuild shed  
Replace fuel pump & dispensing system  
Replace payment system  
Replace other equipment & supplies necessary for operations

BACKGROUND:

In 1989, Valley Automated Fuels, Inc. received a 30-year lease and built the original fuel dock at the Lahaina Small Boat Harbor. In 2010, Valley Automated Fuels, Inc. assigned the lease to Pacific-West Fuels, Inc. (PWF).

In 2017, PWF invested \$250,000 to repair equipment and replace corroded valves, connectors, and manhole covers that had been damaged by wear and tear, for which the Board granted a 15-year lease extension, pushing the lease end date to November 30, 2034

In April of 2020 a Covid-19 pandemic caused a world-wide lockdown and affected many businesses who were not able to open or operate.

On August 8, 2023, Lahaina Town and Lahaina Small Boat Harbor were both destroyed by fire. PWF's fuel dock was destroyed, and they were unable to operate their business for over a year. These two events caused PWF to lose 90-100% of their revenue and caused them to incur substantial losses during the first five years of their lease extension.

REMARKS:

Following the Lahaina wildfire, PWF spent \$957,000 to rebuild the fuel dock at the

Lahaina Small Boat Harbor, replacing everything except the underground storage tanks that fortunately survived the fire. As a result of the pandemic and fire, PWF is expecting to have little or no revenue for the first five years of its 15-year lease extension.

PWF is requesting a twenty (20) year lease extension to amortize the cost of completed improvements from 2017 (\$250,000), the loss of revenue during the 2020-2022 lockdown, the loss of their fuel dock and revenue in 2023 due to the fire, the cost of rebuilding the fuel dock (\$967,000), and the projected loss of revenue while DOBOR is rebuilding the Lahaina Small Boat Harbor. This extension would begin on December 1, 2034, and would end on November 30, 2054, for a total of 35 years, giving PWF sufficient time to recover from their losses and investments. PWF's record of rebuilding expenses is attached as **Exhibit B**.

As there is currently limited access to the area and no utilities available, most boaters are choosing to get their fuel at the Maalaea Small Boat Harbor where they can refill fresh-water tanks, wash down their boats, and get fuel for their boats in the same location. PWF has also lost their largest customer, the Lahaina ferry, who has temporarily moved its operations to the Maalaea Small Boat Harbor.

DOBOR is working closely with Maui County to restore water service and electricity back to the Lahaina Small Boat Harbor area in the coming months as well as allowing the loading and offloading of passengers in the harbor once the County reopens the roadway to the harbor.

DOBOR supports the continued use of the premises for the stated purpose, allowing activities to slowly resume in and around the harbor area and foresee the return to normal functions at the Lahaina Small Boat Harbor during and after the rebuilding. Also, PWF has successfully and safely operated this fueling facility since 1989 with minimal interruptions in service except for maintenance repairs.

The applicant has 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 of Land and Natural Resources:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and chapter 11-200.1, Hawai'i 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. Approve the extension of Harbor Lease No. H-89-13 for 20-years, with rental reopening's scheduled every five years, covering the subject area for the purpose of a marine fueling facility at Lahaina Small Boat Harbor, 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 lease form, as may be amended from time to time;
- b. Should Applicant propose any future improvements upon the leasehold property that triggers Hawai'i Revised Statutes (HRS) Chapter 343 review, Applicant shall be responsible for compliance with HRS Chapter 343, as amended;
- c. Review and approval by the Department of the Attorney General, and
- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



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MEGHAN L. STATTS, Administrator  
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:



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DAWN N.S. CHANG, Chairperson  
Board of Land and Natural Resources

Attachment:

Exhibit A-1 & A-2 – Site Location

Exhibit B – PWF Rebuilding Expenses

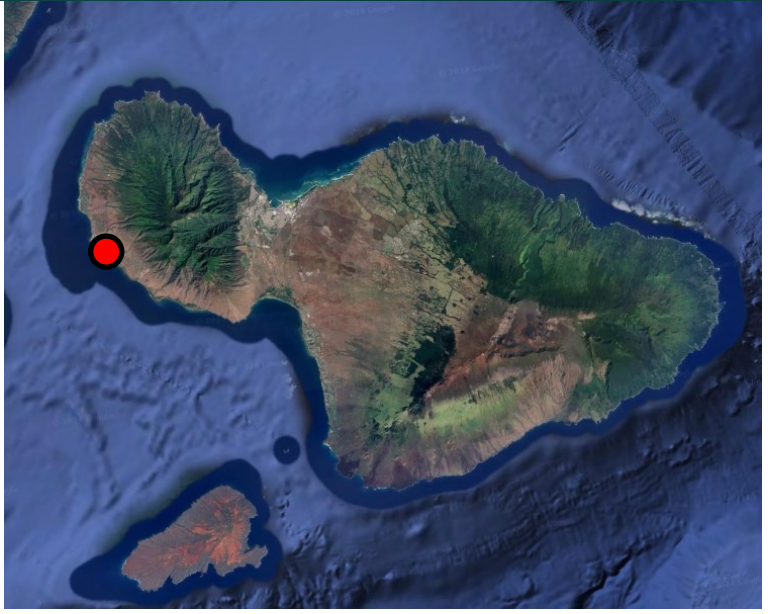
Exhibit C – Extension of Harbor Lease No. H-89-13 (dated 08-03-2019)

## EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	Request for extension of Lease H-89-13 to Pacific-West Fuels, Inc. for twenty (20) years to amortize the cost of losses and the rebuilding of their facilities, situated at Lahaina Small Boat Harbor, Lahaina, Island of Maui, Hawaii, Tax Map Key: (2) 4-6-001: 014, and 017 (por.).
Project / Reference No.:	N/A
Project Location:	Lahaina Small Boat Harbor, Lahaina, Island of Maui, Hawaii, Tax Map Key: (2) 4-6-001: 014, and 017 (por.).
Project Description:	Request for extension of Lease H-89-13 to Pacific-West Fuels, Inc. for twenty (20) years to amortize the cost of losses and the rebuilding of their facilities
Chap. 343 Trigger(s):	Use of State lands
Exemption Class No(s).:	In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred 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, "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 No. 40, which states, "leases of state land involving negligible or no expansion or change of use beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	Activities in the subject area have resulted in no known significant impact to the natural and environmental resources in the area.
Action May have Significant Impact on Particularly Sensitive Environment?	Staff believes there would be no significant impact to sensitive environmental or ecological receptors.
Analysis:	Based on the above mentioned, staff believes there would be no significant impact to the environment.
Consulted Parties:	None
Declaration:	The Board find that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.

**Exhibit A-1**  
**Lahaina Small Boat Harbor**  
**Site Location**



**Exhibit A-2**  
**Lahaina Small Boat Harbor**  
**Site Location**



## Exhibit B

Pacific-West Fuels, Inc.

Rebuilding Expenses 08/09/23 - 09/30/24

Date	Description	Cost
08/2023	County of Maui - property tax	300.00
09/2023	Hawaiian Telcom - internet service	391.51
01/2024	DLNR, DOBOR - annual rent	3,540.00
01/2024	Hukilau Wison Contracting LLC - burnt site cleanup	1,570.68
02/2024	Hanney Reels - SST Spring Reels	14,314.38
03/2024	Haggith's Structural Scan & Inspection LLC - geophysical services - surveyed and mapped buried obstructions	1,949.21
03/2024	Nicholls Construction - shed drawings , misc. parts	4,377.00
04/2024	State of Hawaii Dept of Health - underground tank storage fee	200.00
05/2024	DLNR, DOBOR - security deposit	885.00
05/2024	USI Insurance Services NW - liability insurance	1,000.00
06/2024	Gary Strutz - Travel Expenses	8,378.00
06/2024	Keystone Electric, Inc. - Bennet Support	1,200.00
07/2024	Wilmont K. Kehalalii - re-opening blessing	1,000.00
08/2024	Maui Technology consulting LLC - onsite IT services	1,254.00
01/2024 - 08/2024	HEMIC - workers comp insurance	6,039.10
03/2024 - 05/2024	The Site Controller LLC - site controller, card system	9,020.74
04/2024 - 08/2024	King Power Systems Inc. - generator, battery pack, hybrid inverter, weather enclosure & LPG tank locker -	42,331.92
04/2024 - 08/2024	M. Nakai Repairs Services, Ltd. - direct bury cable, pulser, control box, tax, labor, materials, equipment rentals, and subcontractors	273,330.79
04/2024 - 09/2024	James G. Ward Contracting LLC - contractor services	232,933.00
05/2024 - 07/2024	Elite Concrete LLC - concrete work	46,719.41
05/2024	Have4Kings - fueling/safety signs	3,558.23
06/2023-09/2024	ATT - "800" number	316.66

07/2024 - 08/2024	Northwest Pump & Equipment Co. - deposit, card reader, veeder root TL5, TLS-450, spill pads, misc. parts, GB upgrade parts, swivels, hoses, terminal cabinets, arc suppressor, breakaways, diesel hose, filters, hip hose, junction box, freight & tax	39,332.00
07/2024 - 08/2024	Northwest Electric, Inc. - electrical work	108,600.86
09/2023 - 08/2024	ADP - payroll	89,462.57
09/2023 - 09/2024	Wisetech Global (US) Inc. - accounting software	11,694.96
09/2023 - 11/2023	Western Alliance Bank - storage unit	1,698.67
10/2023 - 09/2024	Storek, Carlson & Strutz - CPA Fees	7,653.74
10/2023 - 09/2024	Western Alliance Bank - miscellaneous supplies	1,740.00
11/2023 - 08/2024	PSI - liability insurance	14,415.74
12/2023 - 09/2024	Western Alliance Bank - scanner, office supplies, fuel tank dipstick, tool box, misc tools, safety vest, hats, etc. , storage unit, Slim's power tools, extension cords, gift cards, fuel cards, tarps, cement blocks, solar panel, recessed lights, antenna mount, memory card, air conditioning cover, Haggit travel expenses, project photos, paint, caution tape, dust pan, equipment rental, food for workers, steel vent, decals, camera system, flag pole, lighting, safety cones, grand opening t-shirts, internet, decals, hose whips, sealant, screws, canopy, air hose fan, gas for pender, LPG for generator, fire extinguishers, propane, Hawaiian Telcom, cylinder cage, postage, tent & chairs for opening, floating booms, spill bucket materials, safety signs, DCCA fees, CA secretary of state fee, flag & extension poles, & gas for Johnny	37,985.62
	Total	967,193.79



WHEREAS, the LESSEE has requested an extension of the lease for an additional fifteen (15) years in order to amortize improvements in the amount of TWO HUNDRED NINETEEN THOUSAND SEVEN HUNDRED THIRTY FOUR AND 79/100 DOLLARS (\$219,734.79) to be used for leasehold improvements; and

WHEREAS, the Board of Land and Natural Resources is authorized under the provisions of section 171-36(b), Hawaii Revised Statutes, to extend a lease to the extent necessary to amortize the cost of substantial improvements to the demised premises that are paid for by the LESSEE; and

WHEREAS, the Board of Land and Natural Resources at its meeting held on October 12, 2018, agreed to the extension of the lease based on amortization of costs for substantial improvements to the demised premises, and with the additional provisions as hereinafter contained.

NOW, THEREFORE, in consideration of the rents, covenants and conditions contained herein and in the lease, the LESSOR hereby extends the term of the lease from November 21, 2019 up to and including November 30, 2034, upon the following terms and conditions:

1. The terms, conditions, and covenants contained in the lease, shall continue to remain in full force and effect until the termination date of this Extension of Harbor Lease No. H-89-13, and provided, further, that where any of the provisions of this Extension of Harbor Lease No. H-89-13 conflict with the provisions of the lease, this extension of lease shall govern and control.

At pages 3 and 4 of the lease, paragraph 8, Annual Rental, the following additional terms and conditions shall apply to the extension period:

a. "The LESSEE shall pay to the LESSOR at the Office of the Department of Land and Natural Resources, Honolulu, Oahu, State of Hawaii, an annual minimum rent, without notice or demand, of THREE THOUSAND FIVE HUNDRED FORTY AND NO/100 DOLLARS (\$3,540.00) per annum on November 21, 2019, up to and including November 20, 2024, and the percentage rent of FIVE AND A QUARTER per cent (5.25%) of gross receipts, whichever is greater, in the time and method of payment as provided on page 8 of the lease at paragraph 12, TIME AND METHOD OF PAYMENT. Furthermore, reference to "five percent (5%)" in said paragraph 12, TIME AND METHOD OF PAYMENT, shall be deleted and replaced with "five and a quarter per cent (5.25%), as may be amended at each subsequent

reopening."

b. The annual rental reserved thereafter shall be reopened and redetermined every five (5) years on November 21, 2024 and November 21, 2029. The last reopening of November 21, 2029 will cover the remaining term.

2. At page 4 of the lease, paragraph 9 (b) Determination of rental upon reopening of the annual rental is hereby deleted in its entirety and replaced with the following:

"(b). Determination of base rent and percentage rent upon reopening. The base rent and percentage rent for any ensuing period shall be the fair market rental at the time of reopening. At least six months prior to the time of reopening, the fair market rental, which must include both base rent and percentage rent, shall be determined by:

(1) An employee of the Department of Land and Natural Resources qualified to appraise lands; or

(2) A disinterested appraiser whose services shall be contracted for by the Board of Land and Natural Resources ("Board"). LESSEE shall be promptly notified of the determination by certified mail, return receipt requested, and provided with the complete appraisal prepared by the Board or the Board's appraiser. The determination shall be deemed received by LESSEE on the date the LESSEE signs the return receipt or three (3) days after mailing, whichever occurs first. Provided that if the LESSEE does not agree upon the fair market rental as determined by the Board's appraiser, the LESSEE must notify the LESSOR in writing within thirty (30) days after receipt of the determination, and the LESSEE shall appoint the LESSEE's own appraiser whose name and address shall be stated in the notice. The LESSEE shall provide the Board with the complete appraisal prepared by the LESSEE's appraiser. Each party shall pay for its own appraiser. If the Board's and the LESSEE's appraisers do not agree upon the lease rental, the LESSEE and the Board shall, subject to section 171-17, Hawaii Revised Statutes, as may be amended from time to time, resolve the matter. The costs of mediation and arbitration shall be borne equally by the LESSEE and the Board.

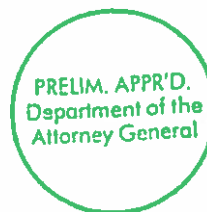
In the event that the fair market rental is not finally determined before the reopening date, the LESSEE shall pay the rental as determined by the Board's appraiser until the new rent is determined, and the rental paid by LESSEE shall then be subject to retroactive adjustments as appropriate.

Should the LESSEE fail to notify LESSOR in writing within thirty (30) days after receipt of the determination that LESSEE disagrees with the fair market rental as determined by the Board's appraiser and that LESSEE has appointed its own appraiser, then the fair market rental as determined by the Board's appraiser shall be deemed to have been accepted by LESSEE and shall be the fair market rental as of the date of reopening."

3. "Paragraph 42, WAIVER, MODIFICATION, REIMPOSITION OF BOND PROVISION." allows that upon substantial compliance by the LESSEE of the terms, covenants, and conditions of the lease to be observed and performed, that the Lessor at its discretion may waive or suspend the performance bond and/or improvement bond requirements or modify the same by reducing the amount thereof. The performance bond and/or improvement bond requirement shall be suspended, provided, however, that the LESSOR reserves the right to reactive or reimpose said bond and/or bonds in and to their original tenor and form at any time throughout the term of the lease extension period.

IN CONSIDERATION THEREOF, the LESSOR and LESSEE further agree that this Extension of Harbor Lease No. H-89-13 is subject to all the covenants and conditions in the lease, except as herein provided.

This Extension of Harbor Lease No. H-89-13, read in conjunction with the lease sets forth the entire Agreement between the LESSOR and LESSEE; and the lease as extended and modified hereby shall not be altered or modified in any particular manner except by a memorandum in writing signed by the LESSOR and LESSEE.



IN WITNESS WHEREOF, the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused these presents to be executed the day, month, and year first above written.

STATE OF HAWAII

Approved by the Board of Land and Natural Resources at its meeting held on October 12, 2018.

By *Suzanne D. Case*  
SUZANNE D. CASE  
Chairperson  
Board of Land and Natural Resources

APPROVED AS TO FORM:

LESSOR

*Daniel A. Morris*  
DANIEL A. MORRIS  
Deputy Attorney General

Dated: JUL 18 2019

PACIFIC-WEST FUELS, INC., a California corporation

By *[Signature]* 7/30/2019  
Its President

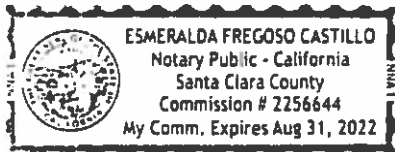
By \_\_\_\_\_  
Its \_\_\_\_\_

LESSEE



STATE OF California )  
 ) SS.  
COUNTY OF Santa Clara )

On this 30 day of July, 2019, before me  
appeared N/A Gary Strutz and  
N/A, to me personally  
known, who, being by me duly sworn, did say that they are the  
President and N/A,  
respectively of PACIFIC-WEST FUELS, INC., a California  
corporation, and that said instrument was signed in behalf of  
said corporation by authority of its Board of Directors, and the  
said President and NA acknowledged  
said instrument to be the free act and deed of said corporation.



[Signature]  
Notary Public, State of  
California

My commission expires: Aug 31, 2022

