

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

October 28, 2010

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

PSF No.: 08od-181

OAHU

Amend Prior Board Action of November 14, 2008, Item D-18; Issuance of Direct Lease for Air Quality Monitoring Station and Access and Utility Easement to Hawaiian Electric Company, Inc., Nanakuli, Waianae, Oahu, Tax Map Key: (1) 8-7-006:029 and portions of 002 & 008.

BACKGROUND:

On November 14, 2008, under agenda item D-18, the Board authorized the issuance of a 10-year direct lease to Hawaiian Electric Company, Inc. (HECO) for air monitoring station together with access and utility easements. The disposition is subject to a one-time payment of consideration, and HECO paid the amount (\$2,300). A copy of the 2008 is attached as Exhibit A.

REMARKS:

The standard lease form document contains a provision requiring the lessee provide performance bond, which, normally, is two times the annual rent. Staff recommends the Board remove this requirement for the subject disposition since the consideration is paid, and the ongoing performance issue during the term of the lease would be insurance.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of November 14, 2008, under agenda item D-18 by removing the performance bond provision in the lease.
2. All terms and conditions listed in its November 14, 2008 approval to remain the same.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

080D-181



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

November 14, 2008

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

PSF No.:08od-181

OAHU

Issuance of Direct Lease for Air Quality Monitoring Station and Access and
Utility Easement to Hawaiian Electric Company, Inc., Nanakuli, Waianae, Oahu,
Tax Map Key: (1) 8-7-006:029 and portions of 002 & 008.

APPLICANT:

Hawaiian Electric Company, Inc., a Hawaii corporation, whose mailing address is P.O.
Box 2750, Honolulu, Hawaii 96840-0001.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Nanakuli, Waianae, Oahu, identified by Tax Map
Key: (1) 8-7-006:002, 008 & 029, as shown on the attached map labeled Exhibit A.

AREA:

- (1) 8-7-006:029-Air Quality Monitoring Station (3,500 square feet);
- (1) 8-7-006:002-Access easement (14,987 square feet);
- (1) 8-7-006:008-Utility easement (7,000 square feet);

more or less, to be determined by the Department of Accounting and General Services,
Survey Division.

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: P-1 Restricted Preservation

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

November 14, 2008

D-18
EXHIBIT "A"

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

(1) 8-7-006:029

Vacant and unencumbered.

(1) 8-7-006:008

Encumbered by General Lease No. S-5192, City and County of Honolulu, Lessee, for City and County of Honolulu Civil Defense Agency's Leeward Coast Emergency Operating Center. Lease to expire on December 31, 2010.

(1) 8-7-006:002

Access easement in favor of the City and County of Honolulu pursuant to GL 5192.

CHARACTER OF USE:

Air quality monitoring station, together with access and utility easement.

TERM:

Ten (10) years

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

CDUA OA-3467 was published in OEQC's Environmental Notice on June 23, 2008, and CDUA was approved on September 22, 2008. (Exhibit B)

DCCA VERIFICATION:

Place of business registration confirmed: YES X NO ___

Registered business name confirmed: YES X NO ___
Applicant in good standing confirmed: YES X NO ___

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from the City and County of Honolulu;
- 2) Pay for an appraisal to determine one-time payment; and
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The requested Air Quality Monitoring Station (AQMS) is one of the three stations that HECO promised to construct in leeward Oahu for its CIP Generating Station Community Benefits Package. The station will monitor Department of Health criteria air pollutants and meteorological parameters which will be available to the public.

The AQMS will occupy an area of about 3,500 square feet in a fenced area, which will be located on parcel 29. An access easement over a portion of parcel 2 is required to connect the AQMS site to Farrington Highway. HECO will provide power to the AQMS site by extending an existing utility line situated on the adjacent parcel 8.

To facilitate the construction of the AQMS, HECO requests an immediate construction and management right-of-entry.

Various governmental agencies, including the Office of Hawaiian Affairs, were requested to provide comment on the proposed AQMS site during the CDUA stage. Issues or concerns raised by those agencies have been addressed in the CDUA approving stage. Staff did not solicit any comments from today's submittal. However, the County Civil Defense did not comment on the CDUA application. Staff includes the concurrence from the City and County of Honolulu as one of the Applicant's requirements.

HECO plans to operate the AQMS for ten (10) years, therefore a 10 years term is proposed for the lease. However, HECO asks if a perpetual easement for the utility line over portion of parcel 8 is acceptable to the Board. Staff responds that the utility line is to serve the AQMS site only, and there is no imminent plan to expand the service area of such utility line. Therefore, staff does not feel a perpetual utility easement is appropriate.

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:

- A. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease together with access and utility easement to Hawaiian Electric Company, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. The standard terms and conditions of the most current lease document form, as may be amended from time to time;
 2. Terms and conditions of Conservation District Use Permit No. OA-3467;
 3. Review and approval by the Department of the Attorney General; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Issuance of an immediate and construction right-of-entry to Hawaiian Electric Company, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
1. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
 2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



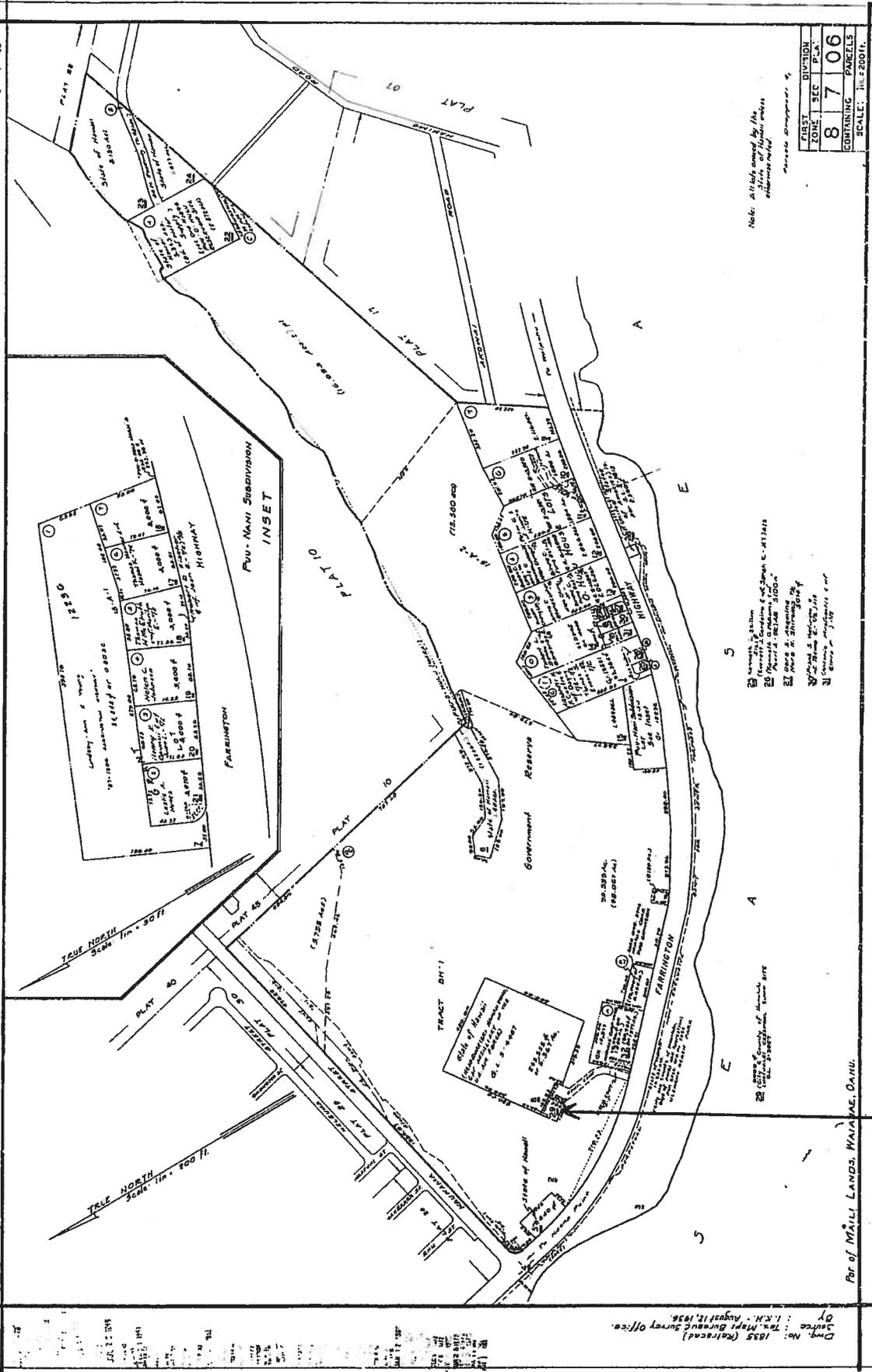
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thiesen, Chairperson





Note: All lots owned by the State of Hawaii were administered
 pursuant to Chapter 9.

FIRST ZONE	DIVISION	SECTION	PARCELS
8	7	06	
CONTAINING PARCELS			
SCALE: 1" = 200 FT.			

PRINTED

Tract 10, 11, 12, 13, 14, 15, 16, 17, 18
 (Total Area 1,234.56 Ac.)
 (See Map of Maui, Hawaii, 1938)
 (See Map of Maui, Hawaii, 1938)

Port of MAUI LANDS, HAWAII, OAHU.

Subject Location

Eng. No. 1835 (Revised)
 Date: 11/11/1938
 Office: Tax. Maps Bureau Survey Office

EXHIBIT "A"

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

Office of Conservation and Coastal Lands
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

ALLAN A. SMITH
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONSERVANCIES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOUAWE ISLAND RESERVE COMMISSION
LAND
STATISTICS

REF:OCCL:DH

CDUA: OA-3467

Acceptance Date: May 22, 2008
180 Exp. Date: November 18, 2008

OCT - 1 2008

Perry White
Planning Solutions
210 Ward Avenue, Suite 330
Honolulu, Hawaii 96814

Dear Mr. White,

This letter is to inform you that on September 22, 2008, the Chairperson of the Board of Land and Natural Resources, pursuant to Chapter 13-5, Hawaii Administrative Rules (HAR) approved Conservation District Use Application (CDUA) OA-3467, for Hawaiian Electric Company Inc. (HECO) Air Quality Monitoring Station (AQMS), subject to the following terms and conditions:

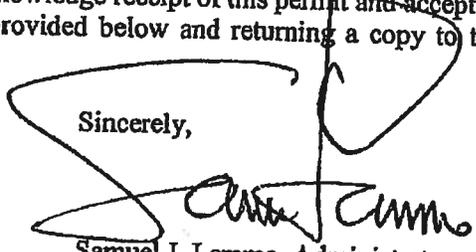
1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this of HAR 13-5;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
4. That a qualified archeological monitor should be present during all ground altering activities constructed in the area to document any historic properties, and to provide mitigation measures if required. HECO will also submit an acceptable Archeological Monitoring Plan to the Historic Preservation Division prior to construction;
5. That HECO will obtain prior Land Division approval prior to using Subject Parcels TMK's: (1) 8-7-006:008, (1) 8-7-006:029, and (1) 8-7-006:002;

EXHIBIT "B"

- 6. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
- 7. In issuing this permit, the Department and Chairperson have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 8. Other terms and conditions as prescribed by the Chairperson; and
- 9. Failure to comply with any of these conditions shall render a permit void under the chapter.

Should you have any questions, please contact Dawn Hegger of the Office of Conservation and Coastal Lands at 587-0380. Please acknowledge receipt of this permit and acceptance of the above conditions by signing in the space provided below and returning a copy to the OCCL within thirty (30) days.

Sincerely,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

acknowledged:

Stanton Oshiro 10/3/08

Date:

STANTON OSHIRO HECO - Environmental Department

Attachments

c: Oahu District Land Office
City & County of Honolulu
Department of Planning and Permitting