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

October 28, 2011

PSF No.: 11HD-124

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

**HAWAII**

Amendment and Restatement of Grant of Easement No. S-27,613 to Napuu Water, Inc. for Water Transmission and Storage Purposes, Puuwaawaa, North Kona, Hawaii, Tax Map Key: (3) 7-1-001: portion of 006.

APPLICANT:

Napuu Water, Inc., a Hawaii non-profit corporation.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Puuwaawaa, North Kona, Hawaii, identified by Tax Map Key: (3) 7-1-001: portion of 006, as shown on the attached map labeled Exhibit A.

AREA:

| | |
|---|---|
| Tank "Coffee patch" site: | 0.0689 acres, or 3,000 square feet, more or less. |
| Pipeline A: | 0.2525 acres or 11,000 square feet, more or less. (10 feet width by 1,100 linear feet length) |
| Pipeline B: | 0.1837 acres or 8,000 square feet, more or less. (10 feet width by 800 linear feet length) |

ZONING:

| | |
|---|---|
| State Land Use District: | Agriculture |
| County of Hawaii CZO: | Ag-20A |

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:

Encumbered by Governor's Executive Order No. 4203 to Division of Forestry and Wildlife for Multi-Use Resource, Cultural, Recreational, and Game Management Area purposes.

CHARACTER OF USE:

For water storage and pipelines:
Right, privilege and authority to construct, use, maintain, repair, replace and remove water tanks and water transmission pipeline over, under and across State-owned land.

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.

ANNUAL RENT:

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

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as **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:

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

2) Pay for an appraisal to determine one-time payment; and

REMARKS:

Departmental files show that the most recent lease, General Lease No. S-3589 was the latest of six earlier pasture leases, each of which affected all or portions of the subject lands. Effective from September 27, 1917 were General Lease Nos. 971, 1038, and 1039, which were then succeeded by General Lease Nos. 2533 and 2621, the latter of which was assigned by Robert Hind, Ltd. to Dillingham Ranch, Inc.

Awards and assignments of various general leases were as follows:

| Lessor/Lessee/Assignor | Assignee | Effective date/ Bd Action |
|---|---|---|
| State of Hawaii | Robert Hind, Ltd | 9/27/1917: Auction |
| Robert Hind, Ltd | Dillingham Ranch, Inc. | 10/12/1937 |
| State of Hawaii | Dillingham Ranch, Inc. | 8/15/1960: Auction |
| Dillingham Ranch, Inc. | Dillingham Investment Corporation | 12/30/1961 |
| Dillingham Investment Corporation | Puuwaawaa Ranch, Inc | 9/13/1968 |
| Puuwaawaa Ranch, Inc | F. Newell Bohnett | 9/15/1972 |
| F. Newell Bohnett | Ernest De Luz, Stephen De Luz & Mikio Kato | 7/14/2000 Expired: 8/14/2000 |
| Ernest De Luz, Stephen De Luz & Mikio Kato | | Holdover: RP- 8/15/2000 |

At its meeting of November 16, 1984, the Land Board approved a perpetual, non-exclusive easement to F. Newell Bohnett dba Puuwaawaa Ranch. The easement was issued as Land Office Deed (LOD) No. S-27,613. Subsequently, at its meeting of January 25, 1991, the Board approved the assignment of the easement from F. Newell Bohnett to Puuwaawaa Waterworks, Inc. Records indicate that the well, tanks and pipelines were constructed sometime in 1985.

At its meeting of January 25, 2002 the Board of Land and Natural Resources approved

Governor's Executive Order No. 4203 to the Division of Forestry for addition to its Puuwaawaa Forest Reserve. The set aside is subject to various easements traversing the subject property, issued to various entities, for access and utility purposes.

At its meeting of April 28, 2006, Item D-6, the Land Board approved consent to assignment of LOD S-27,613, Puuwaawaa Waterworks, Inc., Assignor, to Napuu Water, Inc., Assignee.

For reasons unknown, the entire water system previously under Puuwaawaa Waterworks, Inc., which is now managed and operated by Napuu Water, Inc., did not include the "Coffee Patch" tank site and portions of the existing pipelines currently in use. As a result, by letter dated November 24, 2010, Michael Donoho, Napuu Water, Inc. Projects Coordinator, requested an easement over sections of the pipeline and tank site not previously included under easement LOD S-27,613. To properly and effectively operate the water system, the tank site and pipelines must all be contiguous, intact, and inclusive under the various easements for the water system's continued use. The water system is critical in providing potable water to the adjacent residential subdivision, which consists of approximately 35 lots, known as "Puu Lani Estates, " and to a few other adjacent private properties.

Napuu Water, Inc., 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.

On August 12, 2011, various government agencies and interest groups were solicited for comments. The only respondents were the County Planning Department, Division of Forestry & Wildlife, and State Historic Preservation.

The County of Hawaii, Planning Department, had no objections to the request.

The State Historic Preservation Division commented that the Puuwaawaa Ranch has been assessed as a Historic Landscape and is recorded as site number 50-10-20-26170 on the State Inventory of Historic Places (SIHP). There are multiple water catchment features around the area that have been recorded as SIHP #-26171 (SHPD Rpt. No. H-2348). Because this project will not involve new construction, it will not physically alter any aspect of this sites integrity. Therefore, we believe that there will be no historic properties affected. However, if the need arises to alter any of the water infrastructure in the future, we would appreciate the opportunity to review those alterations for prior impacts to the Puuwaawaa Ranch Historic Landscape.

The Division of Forestry is supportive of the request, but requests that the Napuu Water, LLC., allow them to tap into their pipeline for use with its existing standpipe, which is currently serviced by the adjacent reservoir. The reservoir is currently in repair, therefore, no water is available for emergency uses. The Division of Forestry is willing to pay for installation of a water meter and the water they use, at an agreeable rate. The standpipe will be secured with a Forestry & Wildlife CBB lock.

Staff has no objections to amend grant of easement No. S-27,613 as the water system has been in place for several decades now, with no incident or problems experienced with its operations.

Staff noted that the existing Grant of Easement document does not include provisions for liability insurance. As a result, staff recommends that inserting of updated easement provisions as necessary to further amend Grant of Easement No. S-27,613.

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, 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. Subject to the Applicant fulfilling all of the Applicant requirements listed above authorize the Amendment and Restatement of Grant of Easement No. S-27,613 covering the subject area for water storage and pipeline 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 amendment document form, as may be amended from time to time;

   B. To include the "Coffee Patch" tank site and pipeline alignments depicted as Pipeline A & Pipeline B;

   C. Prior to commencing with any work activities upon the State property relating to the Puuwaawaa water system, Grantee shall contact and coordinate its planned activities with the Division of Forestry and Wildlife;

   D. Napuu Water, LLC., shall allow the Division of Forestry & Wildlife to tap into its pipeline to service an existing standpipe, located in the vicinity of the Hunter Check-in Station, for fire suppression and/or other official uses;

      1) The Division of Forestry 7 Wildlife shall pay for installation of a water meter at the subject site, when funds are available;

      2) The Division of Forestry & Wildlife shall pay for the use of water from the Napuu Water, LLC, water system, at an agreed upon rate;

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3) The standpipe shall be secured with a Division of Forestry & Wildlife CBB lock.

D. Authorize the Department of the Attorney General to update and restate the existing Grant of Easement document to include the current provisions used in such instruments;

E. Review and approval by the Department of the Attorney General; and

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

Respectfully Submitted,

Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:

William J. Aila, Jr., Chairperson

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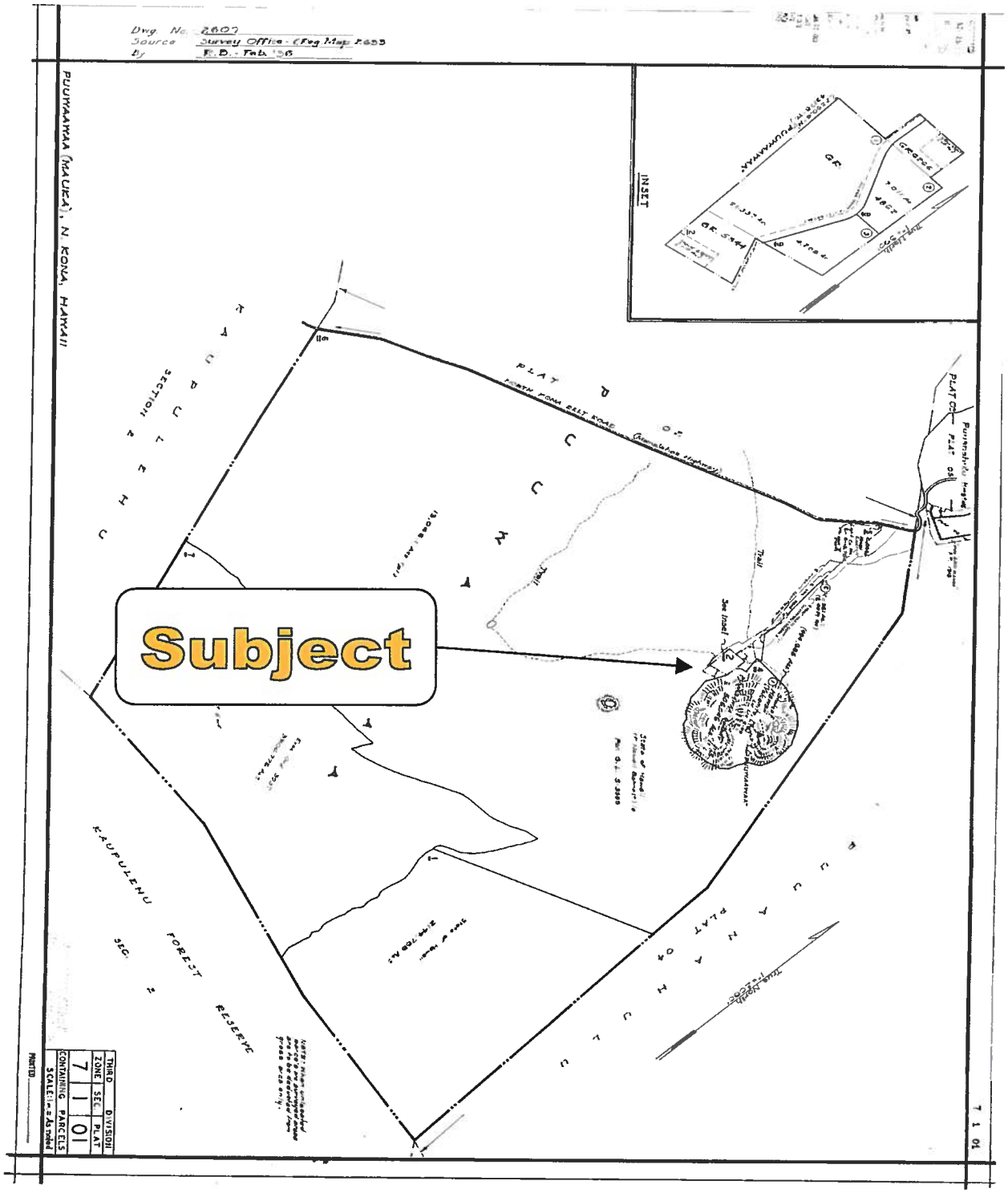


# EXHIBIT A

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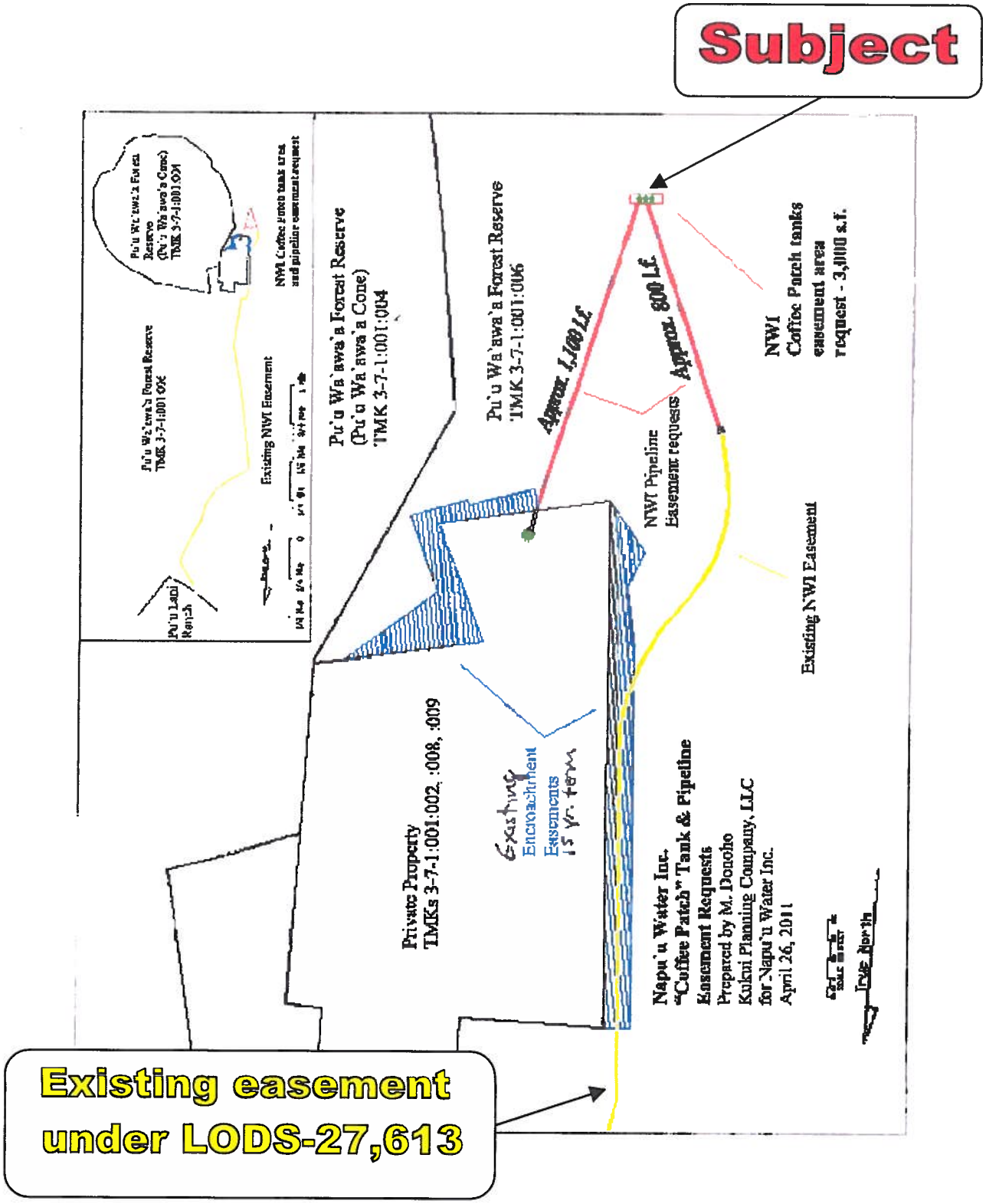


# EXHIBIT A

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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

## EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

| | |
|---|---|
| Project Title: | Amend Grant of Easement No. S-27,613 to Napuu Water, Inc., for water storage and pipeline purposes. |
| Project / Reference No.: | PSF No.: 11HD-124 |
| Project Location: | Puuwaawaa, North Kona, Hawaii, Tax Map Key: (3) 7-1-001: portion of 006. |
| Project Description: | Amend Grant of Easement No. S-27,613 for water tank site and pipelines at Puuwaawaa, North Kona, Hawaii. |
| Chap. 343 Trigger(s): | Use of State Lands. |
| Exemption Class No. and Description: | In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to:<br><br>**Exemption Class No. 1,** which states, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing." and<br>**Exemption Class No. 4**, which states, "Minor alterations in the conditions of land, water or vegetation." |
| Exemption Item Description from Agency Exemption List: | Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.<br><br>Minor alterations in the conditions of land, water or vegetation. |

**EXHIBIT "B"**

Consulted Parties: The Division of Forestry and Office of Conservation and Coastal Lands were consulted, as a source authority having jurisdiction or expertise in this matter.

Recommendation: The subject pipeline has been in use on the subject property since the 1980's. It is recommended that the Land Board find that amendment of grant of easement for water tank and pipeline purposes is exempt from Chapter 343, HRS, as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

William J. Aila, Jr., Chairperson

9/19/11
Date