

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

May 11, 2012

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

PSF: 97HD-055

Hawai'i

Grant of Perpetual, Non-Exclusive Easement to County of Hawaii for Sewer Line Purposes and Grant of Perpetual Easement to the Water Board of the County of Hawaii, for Water Line Purposes, Keopu-Honuaua, North Kona, Hawaii, Tax Map Key: 3rd/7-5-22:175 Portion.

APPLICANT:

- 1) County of Hawaii
- 2) Water Board of the County of Hawaii, (WBCOH)

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Keopu-Honuaua, North Kona, Hawaii, identified by Tax Map Key: 3rd/7-5-22:175 portion, as shown on the attached map labeled Exhibit A.

AREA:

Sewer Line Easement S-5, 3,426 square feet. (C.S.F. 22,089) Exhibit B

Water Line Easement; to be determined by applicant WBCOH, subject to confirmation by the Survey Division, Department of Accounting and General Services.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: Village Commercial - CV 7.5

TRUST LAND STATUS:

Section 5(a) – 7,739 square feet acquired by the Territory of Hawaii by warranty deed from Norton B. and Rachael Y. McQuerrey dated December 1, 1953 (Land Office Deed No. 12,158) and recorded in Liber 2834, pages 344 to 346.

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

- 1) Right, privilege and authority to construct, use, maintain, repair, replace and remove sewer lines over, under and across State-owned land.
- 2) Right, privilege and authority to construct, use, maintain, repair, replace and remove water transmission pipeline over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

ANNUAL RENT:

Gratis. Disposition involves a government agency.

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

For Sewer Line Easement :

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on December 8, 1993 with a finding of no significant impact (FONSI).

For Water Line Easement:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, 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 negligible or no expansion or change of use beyond that previously existing"

Exemption notification attached; Exhibit C

DCCA VERIFICATION:

Not applicable, applicant is a government agency.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

The WBCOH shall provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;

REMARKS:

The State has received a request from Willum, Ltd. for the purchase of remnant government lands adjacent to private property in the Kailua-Kona area on the Island of Hawaii. The remnant parcel is an abandoned road right-of-way conveyed to the Territory of Hawaii in 1953 as part of the development of an adjacent subdivision. Roadways in the development were laid out and conveyed to the county. However, the subject parcel was deemed unnecessary and thus, never utilized. The property was previously encumbered under Revocable Permit No. S-6069 for landscaping purposes and Willum, Ltd. wishes to incorporate the remnant parcel as part of their property and continue to keep it open and landscaped. However, before the State can proceed with the sale of the remnant, there are two outstanding utility easements placed on the parcel by the County of Hawaii and WBCOH that require action.

WATER LINE EASEMENT:

Records on file indicate the WBCOH planned and installed the current water line through the property prior to the subject parcel being transferred to the Territory of Hawaii. Research has found no request or application submitted by the WBCOH for an easement after the conveyance of the land. Staff will be requesting the WBCOH to provide maps indicating the location of the water line in preparation for an easement across the State owned land.

SEWER LINE EASEMENT:

At its meeting of January 13, 1984, under agenda item F-6, the Board of Land and Natural Resources authorized the direct sale of a sewer line easement and construction right of entry to the County of Hawaii subject to certain terms and conditions. The conditions

stipulated that the developers of the condominium project that required the sewer line easement construct all improvements to standards acceptable for dedication to the County of Hawaii and that all costs involved in the granting of the easement including the value as determined by an independent appraiser, would be borne by the developer. The condominium as originally proposed, was never built, and the transaction was never consummated and the file was closed.

Then in 1992, Laniakea Joint Ventures (LJV) requested an easement over the same alignment as previously approved. However, due to the length of time between the original request and this one, staff recommended an Environmental Assessment be completed to comply with Chapter 343, Hawaii Revised Statutes¹. At its meeting of December 17, 1993, under agenda item F-5, The Board of Land and Natural Resources rescinded the prior Board action and approved the grant of perpetual, non-exclusive easement for sewer line purposes along with a construction right-of-entry to the developer, LJV. The approval was given with certain conditions, one of which was that the developer of the condominium project who required the sewer line easement be responsible for all improvements and costs involved in the granting of the easement.

The developer completed the installation of the sewer line and had it dedicated to the County of Hawaii soon after. A certified C.S.F. map and description prepared by DAGS Survey Office was finalized and submitted along with the appraisal report, which was reviewed and approved by the Chairperson. Although the developer paid the appraisal fee of \$1,000, the consideration amount of \$3,430 was never collected. In March 1997, a letter was sent to the County Department of Public Works (DPW) requesting payment with no reply. A follow-up letter was sent in June, 2004 at which time, the County DPW asked that the easement be dedicated to the County for gratis. There has been no further action to date.

Before the State proceeds with the sale of the remnant lands, staff is recommending the Board consent to the grant of perpetual easement to the County of Hawaii for both the sewer line to the Division of Environmental Management and the water line to the WBCOH. Upon approval by the Board, staff will proceed with the sale of the remnant State lands.

RECOMMENDATION: That the Board:

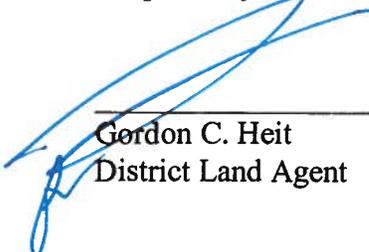
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

¹ A final notice was published in the Office of Environmental and Quality control (OEQC) on December 8, 1993

2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to County of Hawaii covering the subject area for sewer line 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 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.

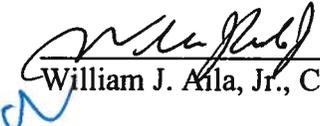
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Water Board of the County of Hawaii covering the subject area for water transmission line purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current 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,



Gordon C. Heit
District Land Agent

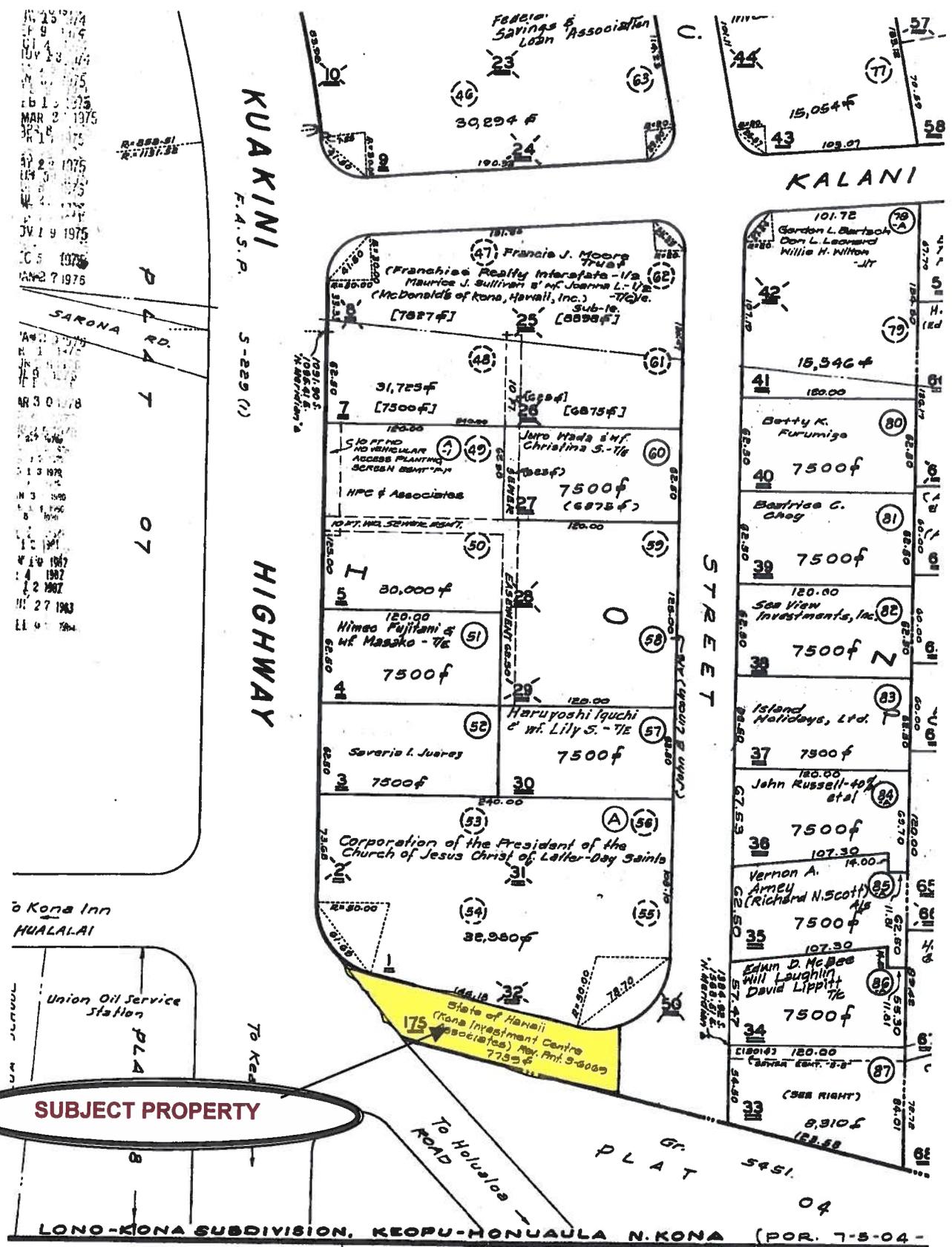
APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

EXHIBIT A

TMK: 3RD/7-5-22:175



SUBJECT PROPERTY

LONO-KONA SUBDIVISION, KEOPU-HONUULA N.KONA (POR. 7-5-04-

Willum Request





STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULUC.S.F. No. 22,089

March 22, 1994

PERPETUAL NON-EXCLUSIVE SEWER LINE EASEMENT

EASEMENT S-5

Honuaula, North Kona, Island of Hawaii, Hawaii

Being a portion of Grant 3148, Apana 4 to W. P. Leleiohoku conveyed to the Territory of Hawaii by Norton Bradford McQuerrey and Rachael Yamaguchi McQuerrey by deed dated December 1, 1953 and recorded in Liber 2834, Page 344 (Land Office Deed 12158).

Beginning at the northwest corner of this easement, at the southwest corner of Lot A of Lono Kona Subdivision and on the northeast side of Kuakini Highway, Federal Aid Secondary Project S-229(1), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA" (NORTH MERIDIAN)-being 1432.82 feet South and 1276.80 feet East, thence running by azimuths measured clockwise from True South:-

1. Along Lot A of Lono Kona Subdivision on a curve to the left with a radius of 50.00 feet, the chord azimuth and distance being:
295° 21' 55" 59.65 feet;
2. 288° 59' 45.80 feet along the remainder of Grant 3148, Ap. 4 to W. P. Leleiohoku;
3. 255° 48' 150.53 feet along the remainder of Grant 3148, Ap. 4 to W. P. Leleiohoku;
4. 331° 59' 15.45 feet along the southwest side of Kalawa Street;
5. 75° 48' 158.69 feet along Grant 5451 to Charles Meinecke;
6. 108° 59' 66.65 feet along the northeast side of Kuakini Highway, F.A.S.P. S-229(1);

March 22, 1994

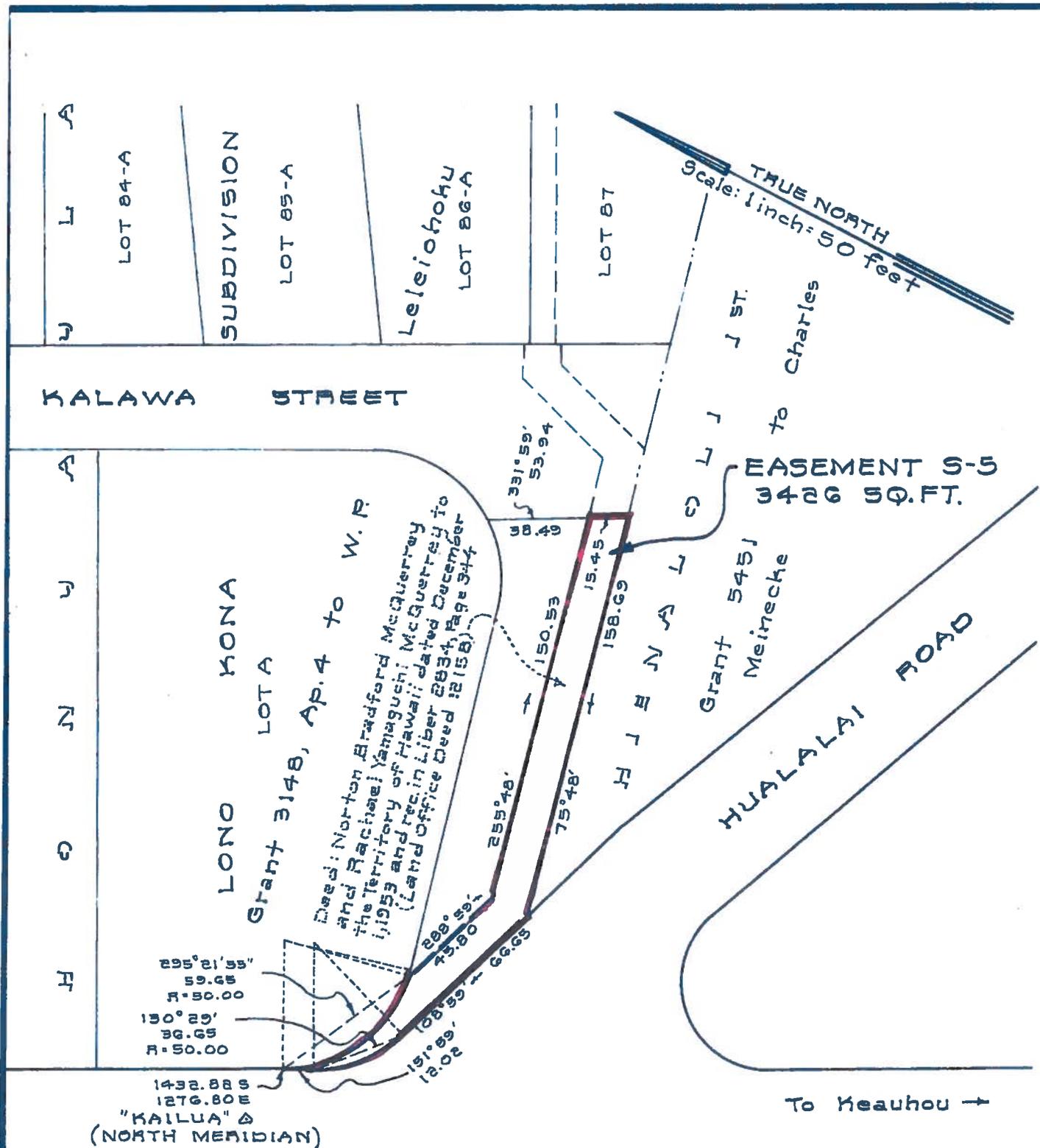
7. Thence along the northeast side of Kuakini Highway, F.A.S.P. S-229(1) on a curve to the right with a radius of 50.00 feet, the chord azimuth and distance being:
130° 29' 36.65 feet;

8. 151° 59' 12.02 feet along the northeast side of Kuakini Highway, F.A.S.P. S-229(1) to the point of beginning and containing an AREA OF 3426 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Raymond S. Nakamura
Raymond S. Nakamura
Land Surveyor gm

Compiled from data furn. by
Wes Thomas & Assoc., Inc.
and Govt. Survey Records.



KUAKINI HIGHWAY
Federal Aid Secondary Project 9-229(1)

PERPETUAL NON-EXCLUSIVE SEWER LINE EASEMENT
EASEMENT S-5
Honuaula, North Kona, Island of Hawaii, Hawaii
Scale: 1 inch = 50 feet

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 LANES
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Grant of Perpetual, Non-Exclusive Easement to County of Hawaii for Sewer Line Purposes and Grant of Perpetual Easement to the Water Board of the County of Hawaii, for Water Line Purposes.

Project Number: PSF: 97HD-055

Project Location: Portion of Government lands of Keopu-Honuaula, North Kona, Hawaii, Tax Map Key: 3rd/7-5-22:175

Project Description: For Sewer Line Easement :

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on December 8, 1993 with a finding of no significant impact (FONSI)

For the Water Line Easement:

Records on file indicate the Water Board of the County of Hawaii (WBCOH) planned and installed the current water line through the property prior to the subject parcel being transferred to the Territory of Hawaii. Research has found no request or application submitted by the WBCOH for an easement after the conveyance of the land. Staff will be requesting the WBCOH to provide maps indicating the location of the water line in preparation for an easement across the State owned land

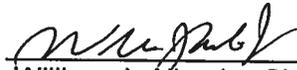
EXHIBIT C

Consulted Parties: None

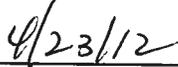
Exemption Class No.: In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request for a water line easement is exempt from the preparation of an environmental assessment under the following:

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."

Recommendation: It is anticipated 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.



William J. Alla, Jr., Chairperson



Date

