

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

February 22, 2013

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

PSF No.: 12OD-084

OAHU

Issuance of Right-of-Entry to Maunalua Fishpond Heritage Center for Scientific Study, Educational, and Conservation Purposes, Honolulu, Oahu, Tax Map Key: (1) 3-7-002:018 & 077.

APPLICANT:

Maunalua Fishpond Heritage Center, a domestic non-profit corporation and 501(c)(3) organization.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Honolulu, Oahu, identified by Tax Map Key: (1) 3-7-002:018 & 077, as shown on the attached map labeled **Exhibit A**.

AREA:

Parcel 18 5,407 square feet;
Parcel 77 5,497 square feet.
Total 10,904 square feet, more or less.

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: R-10

TRUST LAND STATUS:

Acquired after Statehood, i.e. non-ceded
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Scientific study, educational, and conservation purposes.

CONSIDERATION:

Gratis. Non-profit organization.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, 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" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation." See Exemption Notification at **Exhibit B**.

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>
Good standing confirmed:	YES <u> x </u>	NO <u> </u>

APPLICANT REQUIREMENTS:

None

REMARKS:

Parcel 18 & 77 were acquired through condemnation by the Department of Transportation ("DOT") in the 1990s as part of the federal funded highway improvement project. It is staff's understanding that since the acquisition, DOT has been keeping both parcels vacant. There are improvements (house and garage) on each parcel, and a fish pond straddles the two parcels. A site layout provided by the Applicant is attached as **Exhibit C**.

In May 2012, Director of DOT and the Chairperson signed a memorandum (**Exhibit D**) regarding the transfer of "the ownership, jurisdiction, maintenance, liability and operation" of the subject parcels from DOT to this Department.

The Division has discussed with the Department of the Attorney General the leasing below fair market value of a federally funded acquisition property. Subsequently, staff obtained a

letter dated October 4, 2011 from the Federal Highway Administration (**Exhibit E**) approving the DOT's request for leasing at less than fair market value to MFHC.

In November 2012, Maunalua Fishpond Heritage Center ("MFHC") requested a right-of-entry to conduct activities on the fishpond, which include biological and hydrological monitoring, weed and graffiti control, free public education program regarding the cultural and biological values of the fishpond and ongoing maintenance of the fishpond. MFHC does not plan to use the improvements on the property. Nevertheless, MFHC is formulating a long term plan for the fishpond, which may require a long term disposition, for example, a lease. Staff will bring the request for long term disposition to the Board for consideration when the long term plan from MFHC becomes available.

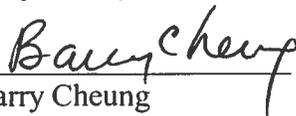
Staff did not solicit comments from other government agencies on the requested right-of-entry as the request will not involve in any change of use or condition of the subject parcels.

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.

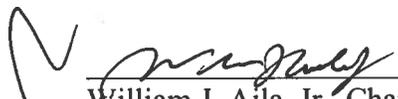
RECOMMENDATION: That the Board:

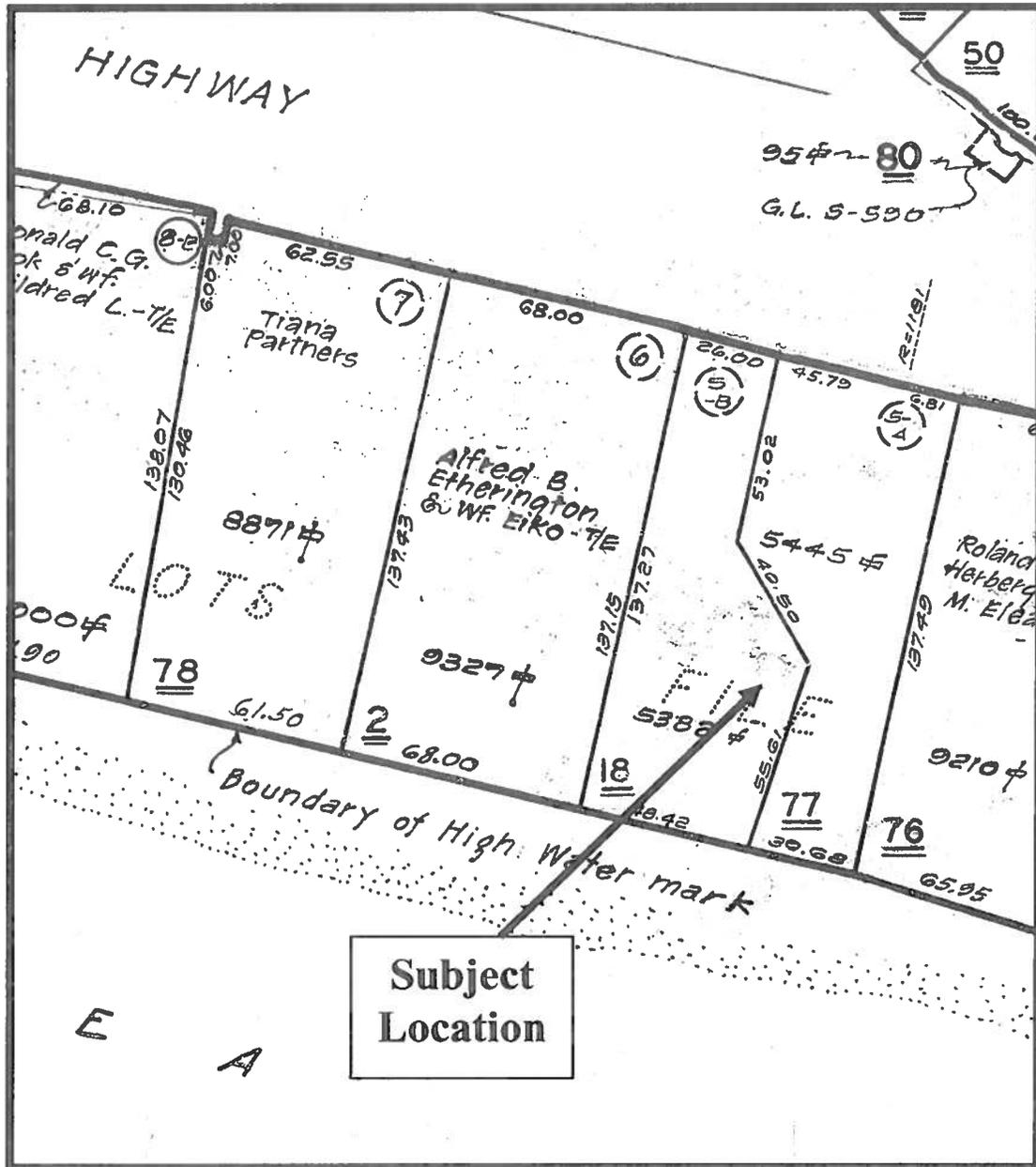
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to Maunalua Fishpond Heritage Center covering the subject area for scientific study, education, and conservation 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 right-of-entry permit document form, as may be amended from time to time; and
 - B. 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:


William J. Aila, Jr., Chairperson



TMK (1) 3-7-002:018 & 077

EXHIBIT A

EXEMPTION NOTIFICATION

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

Project Title: Right-of-Entry for Scientific Study, Educational, and Conservation Purposes

Project / Reference No.: PSF 12OD-084

Project Location: Honolulu, Oahu, Tax Map Key: (1) 3-7-002:018 & 077.

Project Description: Conduct scientific study, weed and graffiti control, public education regarding the cultural and biological values of fishpond.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1), (4), and (5), 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"; Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."; and Class No. 5, that states "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource."

The applicant is not planning on conducting major change to the existing topographical and vegetation condition of the property. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties Not applicable

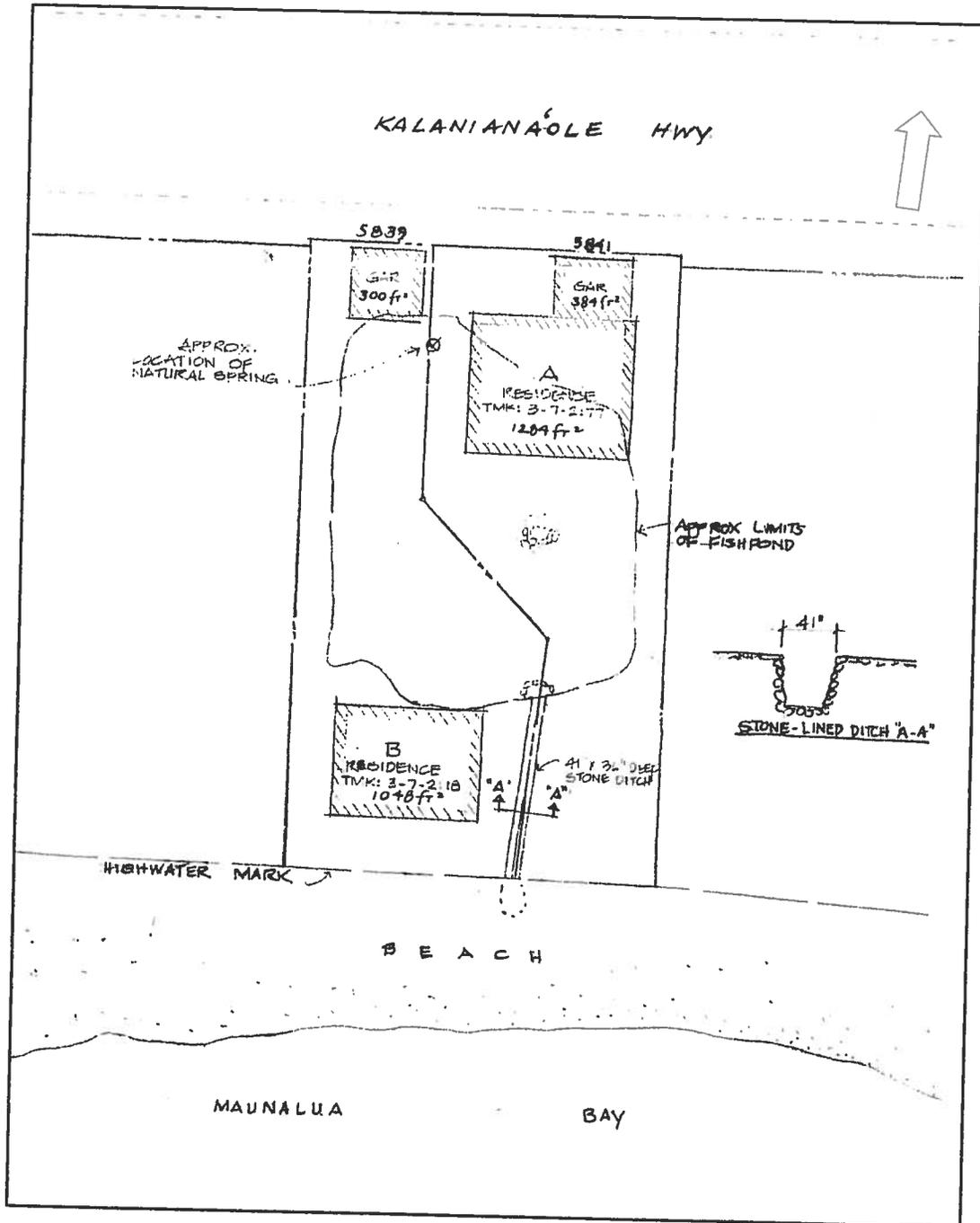
Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



William J. Alla Jr., Chairperson
Date

EXHIBIT B

Site Diagram:
 Layout of the Kalauha'iha'i Fishpond and facilities
 5839/5841 Kalaniana'ole Hwy



TMK 3-7-2-18 Lot 5B - 5,407 ft²
 TMK 3-7-2-77 Lot 5A - 5,497 ft²
 Fishpond area is approximately 4,320 ft²

EXHIBIT "C"

8415

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:
HWY-RM
3.89214

MAY 17 2012

**TO: THE HONORABLE WILLIAM J. AILA, JR., DIRECTOR
DEPARTMENT OF LAND AND NATURAL RESOURCES**

**FROM: GLENN M. OKIMOTO, Ph.D.
DIRECTOR OF TRANSPORTATION** *Glenn M. Okimoto*

**SUBJECT: KALANIANAOLE HIGHWAY, FAP NO. F-072-1 (39)
EAST HALEMAUMAU TO KEAHOLE STREET, ISLAND OF
OAHU, HAWAII, TMK: (1) 3-7-02:018 & 077
TRANSFER OF JURISDICTION OF PROPERTIES LOCATED AT 5839
AND 5841 KALANIANAOLE HIGHWAY**

This letter is to memorialize the decision and to transfer the jurisdiction of the two properties located at 5839 and 5841 Kalanianaole Highway from the Department of Transportation (DOT) to the Department of Land and Natural Resources (DLNR).

Pursuant to the agreement made between the two Directors, William J. Aila, Jr., DLNR and Glenn M. Okimoto, Ph.D., DOT has agreed to transfer the ownership, jurisdiction, maintenance, liability and operation of the subject properties effective as of the date of this memo.

No water restoration shall be required from DOT while the properties are under DLNR's jurisdiction. Pursuant to the Code of Federal Regulations (CFR) 23, 710-409 d, should the properties no longer be used for public purposes the properties will revert back to DOT.

Please sign below and return original for our files.

By *Glenn M. Okimoto*

GLENN M. OKIMOTO, Ph.D.
Its DIRECTOR OF TRANSPORTATION

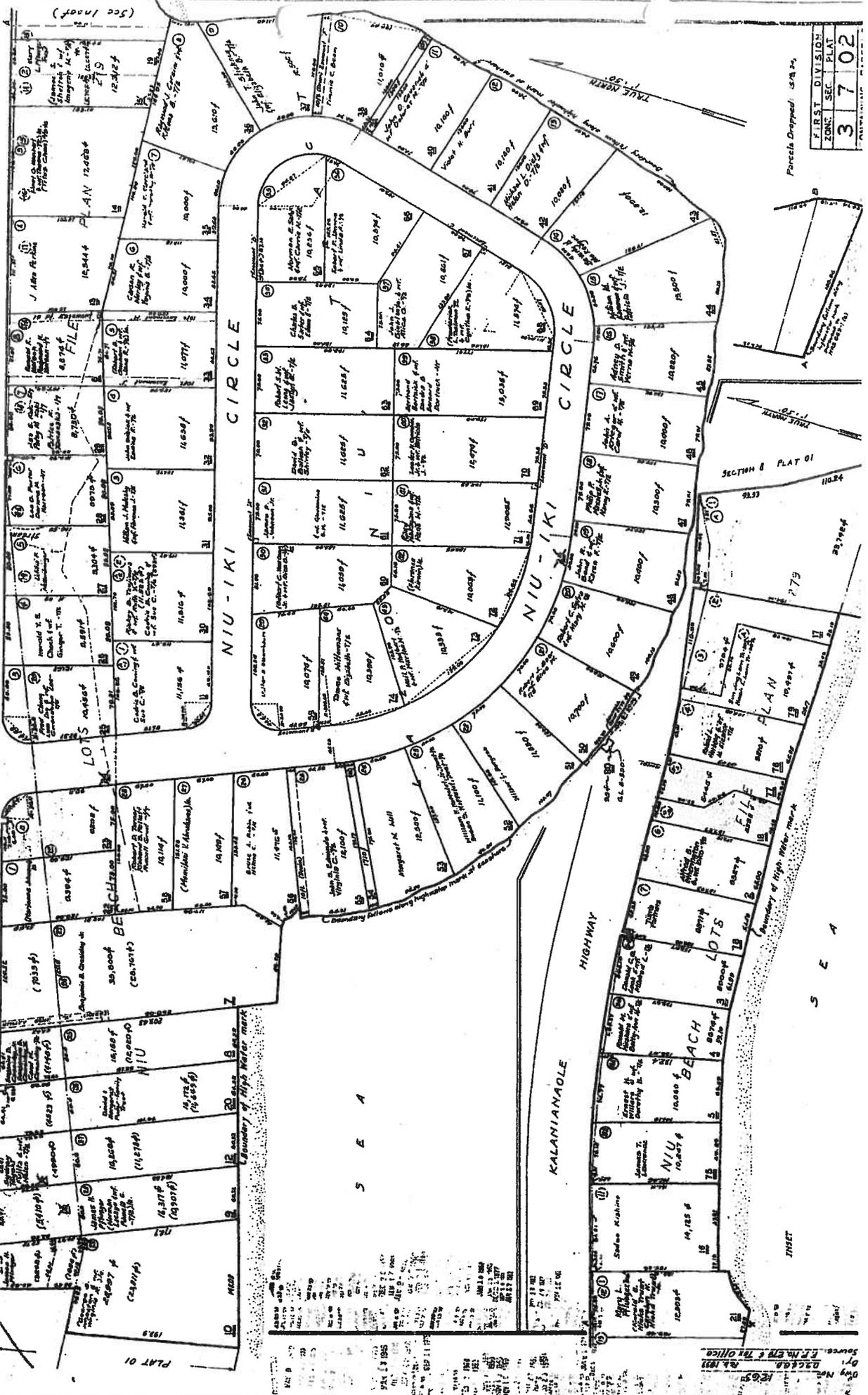
By *William J. Aila, Jr.*

WILLIAM J. AILA, JR.
Its DIRECTOR OF LAND AND
NATURAL RESOURCES

Enclosure

EXHIBIT "D"

FIRST DIVISION
 ZONE SEC. PLAT
 3 7 02



Parcels Dropped 12/19/75

SECTION 8 PLAT 01

S E A

INSET

Only Noted
 By: [Signature]
 Date: [Date]
 Source: [Source]
 Office: [Office]



U.S. Department
of Transportation
**Federal Highway
Administration**

Hawaii Federal-Aid Division

October 4, 2011

300 Ala Moana Blvd, Rm 3-306
Box 50206
Honolulu, Hawaii 96850
Phone: (808) 541-2700
Fax: (808) 541-2704

READING BLUES

In Reply Refer To:
HDA-HI

Glenn M. Okimoto, Ph.D.
Director
Hawaii Department of Transportation
869 Punchbowl Street
Honolulu, HI 96813

Dear Dr. Okimoto:

Thank you for your letter dated May 12, requesting our approval to lease Surplus Properties and Kalauha'iha'i Pond at less than fair market value to the Maunalua Fishpond Heritage Center, a non-profit organization. We are also in receipt of your September 14 letter requesting approval of a Public Interest Determination for this action. In accordance with 23 CFR 710.403(d)(1) and 710.409 (d), we concur with your public determination and approve your request.

Please note we have been contacted by another party with an interest in the surplus property and fishpond. Dean Yogi of your staff is familiar with this additional interest that you may wish to consider.

Sincerely Yours,

Abraham Wong
Division Administrator

Enclosures

EXHIBIT "E"