

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.:09KD-150

Kauai

Rescind Prior Board Action of January 9, 1987, item F-10, Granting a Perpetual, Non-Exclusive Easement for Electrical Transmission Line Purposes to Citizens Utilities Company, Cancellation of Revocable Permit No. S-1384 to Waiahi Electric Company, Limited for Utility Right-of-Way for the Erection, Operation, Maintenance and Repair of Poles and Transmission Lines, Issuance of Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative for Utility Right-of-Way for the Erection, Operation, Maintenance and Repair of Poles and Transmission Lines Purposes, and Issuance of Immediate Right-of-Entry for Utility Purposes, North and South Olohena, Kawaihau, Kauai, Tax Map Key: (4) 4-4-01, 02.

APPLICANT:

Kauai Island Utility Cooperative, a business co-operative, whose business and mailing address is 4463 Pahee Street, Suite 1, Lihue, Hawaii, 96766.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of North and South Olohena situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-4-01 and 4-4-02, as shown on the attached map labeled Exhibit A.

AREA:

0.23 acres, more or less.

ZONING:

State Land Use District: Agricultural
County of Kauai CZO: Agricultural

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-1384, Waiahi Electric Company, Limited, Lessee, for utility purposes. Revocable Permit is a month to month rent.

Revocable Permit No. S-1384 crosses over portions of Executive Order No. 1389 to DLNR – Forestry Division for Public Hunting Ground and Upland Game Bird Reserve and the same area also being covered by Revocable Permit No. S-7339 to Mary K. Thronas for pasture purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove electrical transmission lines, poles, guy wires and anchors 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:

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."

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>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

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

REMARKS:

The subject right-of-way has been in active use for electrical transmission line purposes and has been in place and operational since 1952, coinciding with the date Revocable Permit No. S-1384 was issued.

This transmission line is an integral part of their power grid system feeding primarily the north shore of Kauai.

The subject land is currently encumbered under Revocable Permit No. S-1384 to Waiahi Electric Company, Limited.

Waiahi Electric Company, Limited and Kauai Electric merged into Kauai Electric Company, Limited in the early 1960's. Kauai Electric Co. Ltd. was sold in 1968, becoming a division of Citizens Utilities. In 2002, the sale of Kauai Electric Co., Ltd. was finalized to Kauai Island Utility Cooperative.

The easement crosses over a portion of Executive Order No. 1384 which sets aside the area to Division of Forestry and Wildlife for Public Hunting Ground and Upland Game Bird Reserve purposes.

This area is also covered by Revocable Permit No. 7339 to Mary K. Thronas, Trustee for pasture purposes.

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.

On December 14, 2009, staff solicited comments from various State and County agencies with the following results:

State Agencies	Comments
DOH	No environmental health concerns
DHHL	No response by suspense date
Historic Preservation	No response by suspense date
OCCL	No response by suspense date
DOT - Highways	Recommend approval
OHA	Requesting that a term easement be granted instead of a perpetual easement

County Agencies	Comments
Planning Dept.	No objections
Parks & Recreation	No response by suspense date
Public Works	No comments
Dept. of Water	No comments

Once Land Board approval is received for the issuance of a grant of easement to KIUC, staff will in turn obtain Governor's concurrence for the utilization of lands encumbered under Governor's Executive Order No. 1389.

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 issuance of a perpetual non-exclusive easement to Kauai Island Utility Cooperative covering the subject area for electric utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

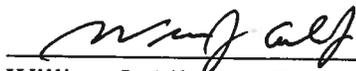
- A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Grant an immediate right-of-entry to Kauai Island Utility Cooperative, its consultants, contractors and/or persons acting for or on its behalf, subject to the following 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 document form, as may be amended from time to time;
 - B. This right-of-entry is effective upon the full execution of the right-of-entry permit and Applicant's submission of required insurance, and shall continue until the grant of easement document is issued; and
 - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

Respectfully Submitted,



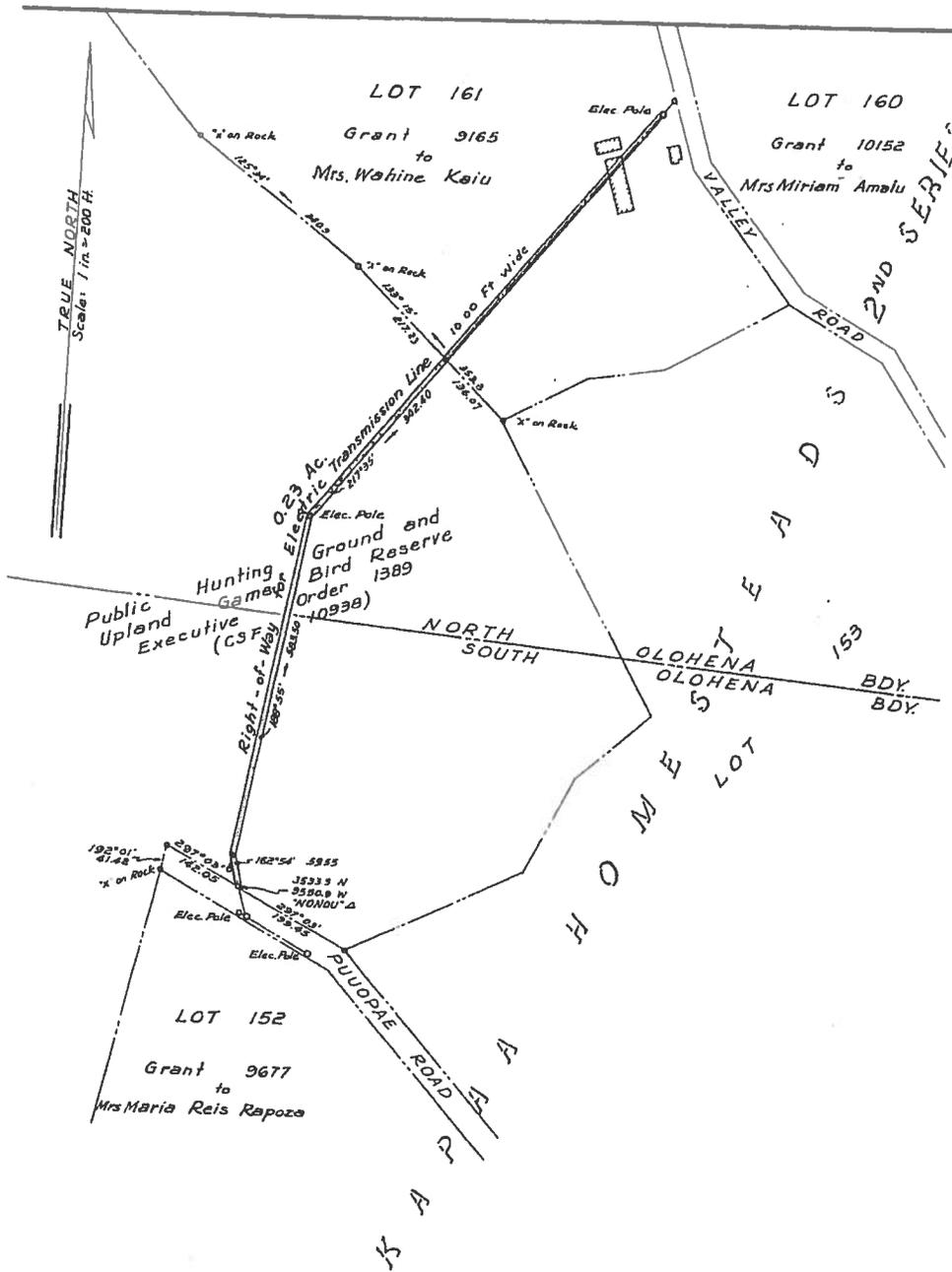
Marvin Mikasa
Land Agent *MS*

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

N



Right-of-Way for Electric Transmission Line
 Over and across the land set aside for a
 Public Hunting Ground and Upland Game
 Bird Reserve by Executive Order 1389
 North and South Olohena, Kawaihau, Kauai, T.H. **EXHIBIT "A"**
 Scale: 1 inch = 200 feet

Tab. No. 1217
 U.S. Calc. Bk. 46

ax Map Key: 4-4-01, 02
 C. S. F. No. 11786

SURVEY DEPARTMENT
 TERRITORY OF HAWAII

Tracing by:
 A. Fukuda 12-7-5



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 22, 2013

EXEMPTION NOTIFICATION

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

Project Title: Issuance of a Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative.

Project / Reference No.: 09KD-150

Project Location: North and South Olohena, Kawaihau, Kauai

Project Description: Issuance of a Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative.

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

Exemption Class No. and Description: 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."

Recommendation: This request is for an existing power transmission line currently in use. There are no plans for construction or any upgrades at this time. The land disposition is changing from a Revocable Permit in favor of Waiahi Electric Company, Ltd. to a perpetual easement in favor of Kauai Island Utility Cooperative.

It is anticipated that 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. Aila, Jr., Chairperson

2/1/13

Date