

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

March 31, 2017

Chairperson and Members
Natural Area Reserves System Commission
State of Hawaii
Honolulu, Hawaii

PSF No.:14OD-194

OAHU

NARS Commission Members:

Grant of Term, Non-Exclusive Easement to United States of America, Department of Navy for Communication Facility Purposes; Kamananui, Waialua, Oahu, Tax Map Key: (1) 6-7-003:portion of 025.

APPLICANTS:

United States of America, by its Department of the Navy.

LOCATION:

Portion of Government lands situated at Kamananui Waialua, Oahu, identified by Tax Map Key: (1) 6-7-003:portion of 025, as shown on the attached map labeled **Exhibit A**.

REQUESTED AREA:

1,493 square feet, more or less.

ZONING:

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

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 3099 setting aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife for Mount Kaala Natural Area Reserve purposes.

Item 4. d.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove communication facility over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson, Board of Land and Natural Resources.

ANNUAL RENT:

Gratis

EASEMENT TERM:

Expire on April 18, 2028.

BACKGROUND

The subject State lands, TMK (1) 6-7-003:025 is located at Mt. Kaala in Wailua, Oahu. Due to its elevation, the site is suitable for installation of communication facilities. Currently, there are two (2) leases for such purposes, GLs 3747 and 3748, issued in 1963 to the Army Corps of Engineers (ACOE) and the Federal Aviation Administration (FAA) respectively. Both leases expire on April 18, 2028.

Under GL 3748, FAA has control of the access road off Farrington Highway to both facilities. The State and utility companies can access the site for official purposes, further subject to the traffic control imposed by FAA over the winding access road.

In 1990, the Department of the Navy was planning to construct a communication facility within the leased area under GL 3747. Eventually, the Board, at its meeting of April 27, 1990, under agenda item F-14, approved the amendment of the character of use provision in GL 3747 which would allow the Navy to use a portion of the leased premises for its project.

Encroachment noted

Around 2008, the federal agencies involved in the subject location noticed from their records that the Navy's facilities might not be entirely within the GL 3747 area, as believed previously. A field survey subsequently conducted by the State Surveyor's office found out that the majority of the Navy's facilities were actually outside the GL 3747 area and they did not have any authorization from the State, i.e. they were encroaching. In September 2014, the Navy submitted a request for land disposition to resolve the situation.

Respective areas

For illustration purposes, staff divides the entire Navy facility into three (3) portions as depicted on Exhibit A. Out of the total Navy facility, about 1,493 square feet (Easement

Area, shown cross-hatched on Exhibit A) fall within the Mount Kaala Natural Area Reserve, whereas 2,917 square feet (Permit Area, shown hatched on Exhibit A) is within the 100-foot access road maintained by FAA under GL 3748. The remaining portions of the Navy facility [square footage not available] are within the GL 3747 leased area under the management jurisdiction of ACOE.

At a meeting coordinated by FAA and attended by all users of the access road (both public and private entities) on July 7, 2016, FAA announced a new process of handling the use of the access roads through its Outgrant Permit. FAA anticipates its documentation process can be completed before the end of 2016, and will request, at a later date, the Board consent to such agreements subsequently pursuant to the lease condition of GL 3748. Therefore, the Navy's use of the Permit Area will be covered by the forthcoming request to be initiated by FAA, and not under today's request.

As noted above, the Board amended the character of use provision for GL 3747 in 1990 to account for the Navy's occupation of a portion of GL 3747 leased land. There is no action outstanding regarding the remaining portion of the Navy facility pertaining to GL 3747.

Request

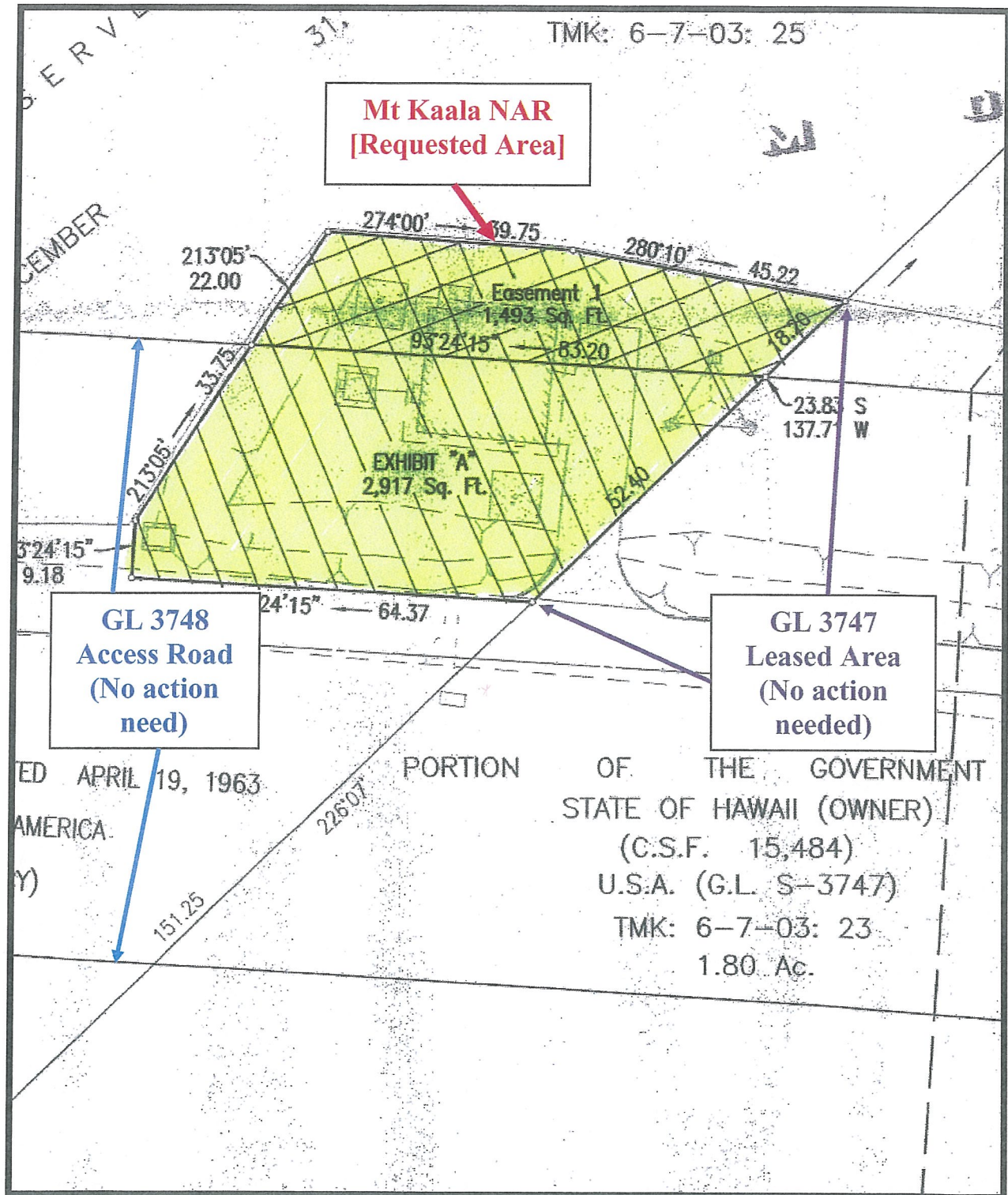
Today's request is for housekeeping purposes to correct the geographical discrepancy of the Navy facility, which was wrongly believed to be inside GL 3747 area in 1990.

RECOMMENDATION: That the NARS Commission approve and recommend, to the Board of Land and Natural Resources, approval for a non-exclusive easement in the manner described above until the expiration dates of GL 3747 and 3748, i.e. April 18, 2028.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Barry Cheung".

Barry Cheung, District Land Agent
Land Division



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EXHIBIT A