

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

July 22, 2016

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

PSF No.: 16HD-095

HAWAII

Grant of Perpetual Non-Exclusive Easement to Department of Transportation, Highways Division, for Drainage Improvement Purposes; Issuance of Immediate Construction and Management Right-of-Entry to Department of Transportation, Highways Division, at Puuwaawaa, North Kona, Hawaii, Tax Map Key: (3) 7-1-002: Portion of 013

APPLICANT:

Department of Transportation, Highways Division

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Puuwaawaa, North Kona, Hawaii, identified by Tax Map Key: (3) 7-1-002: portion of 013, as shown on the attached map labeled Exhibit A.

AREA:

1.290 acres (56,210 square feet), more or less.

ZONING:

State Land Use District:	Agriculture
County of Hawaii CZO:	Agriculture

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 under Governor's Executive Order No. 4203 dated October 23, 2007 to the Division of Forestry and Wildlife for Puuwaawaa Forest Reserve.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a perpetual, non-exclusive easement for drainage improvements.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification (Exhibit B)

DOT-Highway's Declaration of Exemption, Class 2, B2, Facilities, states, "Upgrade or replace utility and drainage systems to maintain a consistent level of service. Drainage improvements will generally consist of installation of pipe culverts, construction of gutters where minor flooding occurs."

On May 13, 2105, a categorical exclusion was approved by the Federal Highways Administration under the National Environmental Policy Act.

DCCA VERIFICATION:

Not applicable. As a government agency, Applicant is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required:

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

REMARKS:

By memorandum dated June 29, 2016, the Department of Transportation, Highways Division (DOT-Highways), requested a perpetual, non-exclusive easement and issuance of a construction right-of-entry at Puuwaawaa, North Kona, Hawaii. The purpose of the easement is to construct drainage improvements that will keep rainwater runoff from flowing across the roadway travel lanes and improve the overall safety for passing motorists on Mamalahoa Highway. Other improvements involve reconstructing the shoulder swales to accommodate the drainage improvements and constructing retaining walls adjacent to the reconstructed shoulder swales.

Portions of the drainage easement will be on State lands encumbered under Governor's Executive Order No. 4203 to the Division of Forestry and Wildlife (DOFAW) for the Puuwaawaa Forest Reserve. Mr. David G. Smith, DOFAW Administrator, was contacted and is in agreement with the granting of the easement and right-of-entry.

Construction is anticipated to commence in February 2017 and continue for ten (10) months.

DOT-Highways 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.

Various governmental agencies and interest groups were solicited for comments. Upon receipt of those responses, the comments will be included in the final submittal.

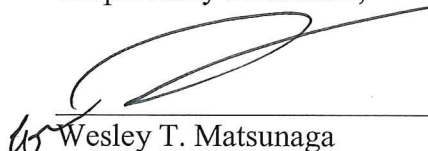
AGENCIES	COMMENTS
County of Hawaii:	
Planning Department	Pending
Public Works	Pending
State of Hawaii:	
DLNR - DOFAW	No objection
DLNR - Historic Preservation	No objection
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	pending

DOT-Highways has been working with DOFAW and State Historic Preservation Division in the planning of this project. DOT-Highways has a July 2016 deadline to request a federal construction funding appropriation. As a result, this request is a rush. Comments from other agencies are forthcoming, and will be forwarded to the board for review prior to the Land Board Meeting of July 22nd. Requests for comments have been sent to the Office of Hawaiian Affairs, County Planning Department, and Department of Public Works.

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 the Department of Transportation, Highways Division covering the subject area for drainage improvement 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. Authorize the issuance of an immediate management and construction right-of-entry to the Department of Transportation, Highways Division, its consultants, contractors and/or persons acting for or on its behalf, over portions of the Mamalahoa Highway, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current construction and management right-of-entry permit form, as may be amended from time to time;
 - B. This right-of-entry shall terminate upon issuance of the grant of easement document; and
 - C. 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

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

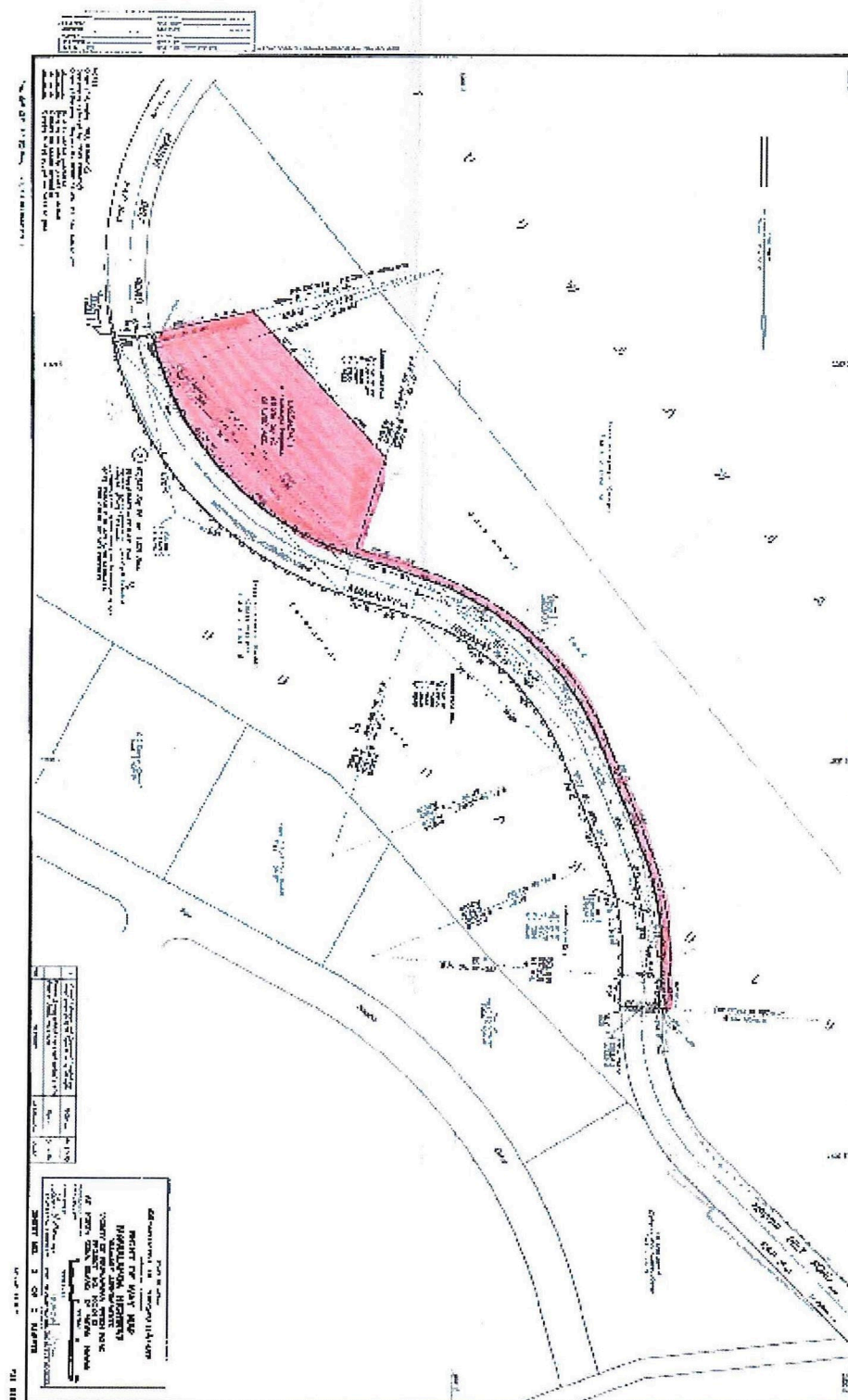


EXHIBIT A

EXEMPTION NOTIFICATION

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

Project Title: Grant of Perpetual Non-Exclusive Easement to Department of Transportation, Highways Division, for Drainage Improvement Purposes; Issuance of Immediate Construction and Management Right-of-Entry to Department of Transportation, Highways Division

Project / Reference No.: 16HD-095

Project Location: Puuwaawaa, North Kona, Hawaii, Tax Map Key: (3) 7-1-002: Portion of 013.

Project Description: Grant of perpetual non-exclusive easement for and construction of drainage improvements by the Department of Transportation, Highways Division.

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

Exemption Class No. and Description: In accordance with Hawai'i Administrative Rules Section 11-200-8 and the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1, Item 46, which states "Creation or termination of easement, covenants, or other rights in structures or land."

Additionally, the Department of Transportation, Highways Division, has determined the construction of the drainage improvements to be exempt under the Exemption List for the Department of Transportation, review and concurred with by the Environmental Council on November 15, 2000, under Exempt Class 3(14), which states, "Construction of drainage swales and structures and other similar surface runoff management techniques with minimal or no effect on the environment."

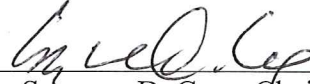
Consulted Parties: Parties listed in attached submittal.

Recommendation: It is recommended that the Board find that the issuance of an easement and immediate construction and management right-of-entry to the Department of Transportation, Highways Division, for the construction of the drainage improvements

EXHIBIT B

will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment





Suzanne D. Case, Chairperson

7/12/16

Date