

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

October 14, 2016

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

PSF No: 14KD-022

Kauai

Amend Prior Board Action of September 25, 2015, Agenda Item D-3, Approval for Acquisition of Perpetual Easements and Authorization of the Chairperson to Negotiate and Execute Rights-of-Entry on Private Lands for the Menehune Road Rockfall Mitigation Project, Waimea Valley, Waimea, Kauai, Tax Map Keys: (4) 1-6-010: 001, 002 & 003 (portions).

The purpose of this amendment is to provide updated information regarding the owners of the parcels identified as TMK Nos. (4) 1-6-010:002 and TMK No. (4) 1-6-010:003, and to correct a Tax Map Key reference in the prior Board action.

BACKGROUND:

At its meeting of September 25, 2015, under agenda item D-3, the Board approved the above subject matter regarding the acquisition of perpetual easements from, and negotiation of rights-of-entry with three private landowners. A copy of the approved submittal is attached as **Exhibit 1**.

Since the board approval, staff learned the following:

- 1) The owner of TMK No. (4) 1-6-010:002 ("Parcel 2") was the Waimea Foreign Church ("WFC"), a dissolved Hawaii non-profit corporation formerly known as the Trustees of the Waimea Foreign Church as indicated in the title report staff ordered for this parcel. The Department of the Attorney General advised staff that it would not allow the State to acquire an easement from a dissolved entity. To resolve this situation, WFC has quitclaimed its interest in Parcel 2 to the Waimea United Church of Christ ("WUCC"), a Hawaii nonprofit corporation.
- 2) The owners of TMK No. (4) 1-6-010:003 ("Parcel 3") are two trusts whose initial trustees have passed away. Staff has learned that the current trustees of the trusts are the decedents' sons, George K. Crowell, Robert I. Crowell, and Dee M. Crowell.

REMARKS:

With respect to Parcel 2, after learning that the Department of the Attorney General would not approve the acquisition of an easement from WFC because it was a dissolved corporation, staff contacted WFC and asked whether it was possible for the corporation to resume good standing. WFC explained that after Hurricane Iniki in 1992, WFC and a number of other churches on Kauai were reorganized under WUCC. However, no formal conveyance of WFC's interest in Parcel 2 had ever been effected. Staff then contacted WUCC whose attorney prepared the quitclaim deed attached as **Exhibit 2**. Under applicable corporations law, the remaining directors of WFC, formerly known as the Trustees of the Waimea Foreign Church,<sup>1</sup> have quitclaimed WFC's interest in Parcel 2 to WUCC. Staff has confirmed that WUCC is in good standing:

DCCA VERIFICATION FOR WAIMEA UNITED CHURCH OF CHRIST:

Place of business registration confirmed:	YES <u>X</u>	NO
Registered business name confirmed:	YES <u>X</u>	NO
Applicant in good standing confirmed:	YES <u>X</u>	NO

Accordingly, staff requests that the prior Board action be amended to indicate that the owner of Parcel 2 is WUCC.

With respect to Parcel 3, the two trusts identified as the owners of the property have not changed, but their trustees have based on information provided by the attorney for the trusts. Accordingly, staff seeks to amend the prior Board action to show the owners of Parcel 3 as George K. Crowell, Robert I. Crowell, and Dee M. Crowell, Co-Trustees of the George I. Crowell Revocable Living Trust Agreement dated October 17, 1980 and the Doris F. Crowell Revocable Living Trust Agreement dated October 17, 1980 (together, the "Crowell Trusts"). Staff additionally seeks authorization to complete the acquisition of the easement from the Crowell Trusts in the event of any future changes in the trustees as may be established by trust records to the satisfaction of the Department of the Attorney General.

Finally, on page 1 of the prior Board action under the heading "Private Landowner", there was a transposition of the tax map key number for Parcel 2. The correct number for Parcel 2 is TMK: (4) 1-6-010:002.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of September 25, 2015, under agenda item D-3 to show

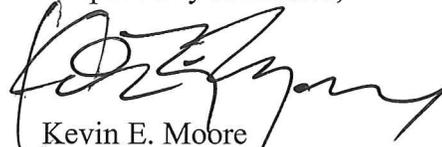
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<sup>1</sup> The attorney for WUCC explained that when WFC acquired Parcel 2 by devise from Aubrey Robinson in 1937, the Trustees of the Waimea Foreign Church were an unincorporated association. The Trustees of the Waimea Foreign Church incorporated WFC in 1982.

the owners of Parcel 2 and Parcel 3 respectively as:

- A. TMK No. (4) 1-6-010:002: Waimea United Church of Christ, a Hawaii nonprofit corporation.
  - B. TMK No. (4) 1-6-010:003: George K. Crowell, Robert I. Crowell, and Dee M. Crowell, Co-Trustees of the George I. Crowell Revocable Living Trust Agreement dated October 17, 1980 and the Doris F. Crowell Revocable Living Trust Agreement dated October 17, 1980.
2. Authorize staff to complete the acquisition of the easement from the Crowell Trusts in the event of any future changes in the trustees as may be established by trust records to the satisfaction of the Department of the Attorney General.
  3. Confirm that the correct tax map key for Parcel 2 is TMK: (4) 1-6-010:002.
  4. Except as amended hereby, all terms and conditions listed in the Board's action of September 25, 2015 shall remain the same.

Respectfully submitted,



Kevin E. Moore  
Assistant Administrator

APPROVED FOR SUBMITTAL:



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Suzanne D. Case, Chairperson

Attachment

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

September 25, 2015

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

PSF No: 14KD-022

Kauai

Approval for Acquisition of Perpetual Easements and Authorization of the Chairperson to Negotiate and Execute Rights-of-Entry on Private Lands for the Menehune Road Rockfall Mitigation Project, Waimea Valley, Waimea, Kauai, Tax Map Keys: (4) 1-6-010:001, 002 & 003 (portions).

APPLICANT AGENCY:

Department of Land and Natural Resources, Land Division.

PRIVATE LANDOWNER:

George I. Crowell Trust and Doris F. Crowell Trust, Tenants in common, TMK (4) 1-6-010:003 (portion)  
Waimea Foreign Church Trust, Tenant in severalty, TKM (4) 1-6-010:020 (portion)  
Easter Seals Hawaii, a domestic non-profit corporation, Tenant in severalty, TMK (4) 1-6-010:001 (portion)

LEGAL REFERENCE:

Sections 107-10, 171-11, 171-30, and 171-55, Hawaii Revised Statutes ("HRS"), as amended, and Chapter 101, HRS, as may be necessary.

LOCATION:

Privately-owned lands of George I. Crowell Trust and Doris F. Crowell Trust, Waimea Foreign Church Trust, and Easter Seals Hawaii, situated at Waimea Valley, Waimea, Kauai, identified by Tax Map Key: (4) 1-6-010: portions of 001, 002 and 003, as shown on the attached map labeled **Exhibit I**.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

September 25, 2015 uo

**Exhibit 1**

AREA:

TMK NOS.	AREA	APPRAISED VALUE	OWNER
(4) 1-6-010:003	0.106 acres	\$700.00	George I. Crowell Trust and Doris F. Crowell Trust
(4) 1-6-010:002	0.11 acres	\$2,300.00	Waimea Foreign Church
(4) 1-6-010:001	0.142 acres	\$3,400.00	Easter Seals Hawaii
<b>TOTAL:</b>	<b>0.358 acres</b>	<b>\$6,400.00</b>	

ZONING:

State Land Use District: Urban, Conservation  
County of Kauai CZO: Commercial and Residential

CURRENT USE:

The easements that are being purchased are located on private lands used for commercial and residential purposes. The easements will affect unimproved portions of the parcels.

CONSIDERATION:

One-time payment of \$3,400.00 to Easter Seals, \$2,300.00 to Waimea Foreign Church Trust, and \$700.00 to George I. Crowell Trust and Doris F. Crowell Trust, for a total of \$6,400.00, as determined by an independent appraiser, and approved by the Chairperson on February 3, 2015.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove rockfall mitigation mesh and anchor system over, under and across portions of private lands.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Hawaii Administrative Rules Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council dated June 5, 2015, the subject request is exempt from the preparation of the environmental assessment pursuant to Exemption Class 1, No.1 that states: "Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources."

REMARKS:

On March 28, 2014, under agenda item D-1, the Land Board granted approval in concept the acquisition of these easements on private lands for the Menehune Road Rockfall Mitigation Project (see **Exhibit II**).

AECOM was contracted by the DLNR, Engineering Division to prepare a mitigation plan for potential rockfall along the cliff above Menehune Road in Waimea Valley, Waimea, Kauai. Sixty-six hazardous rockfall features along the slopes of the roadside and adjacent to private residential properties were identified. Based on the information provided by AECOM, the risk level appeared to be higher than the recommended tolerable level. Based on the high risk level and number of hazardous features, the health, safety and welfare of the public may be compromised and mitigating this matter is urgent. A photograph of a portion of the project area is attached as **Exhibit III**.

The project is planned on State land. To accommodate the draped mesh foundation, however, portions of private property will be utilized for the anchor dowel system. The acquisition amount is \$6,400.00 for easements on three parcels as noted above. The acquisition costs were determined by independent appraisal contracted for by DLNR. The funding source of the acquisition is authorized by Act 134, Session Laws of Hawaii (“SLH”) 2013, as amended by Act 122, SLH 2014, Item A-28.03.

In March and April 2015, staff received status title reports for the three parcels confirming ownership in the persons/entities identified above. If the Board approves of the acquisition, staff will next contact the private owners to negotiate the acquisition of the easements.

Comments from various government agencies and interest groups were solicited during the approval in concept request in March 2014, and there were no objections or comments to the subject request or no response by the suspense date. On March 30, 2015, the State Historic Preservation Division (SHPD) recommended that DLNR consult with the Kauai Niihau Island Burial Council (“KNIBC”) regarding the effects of the project and the proposed mitigation of four (4) burial caves within the project site (see **Exhibit IV**). By letter dated September 1, 2015, SHPD reported the draft burial treatment plan for the project would be considered at KNIBC’s September 16, 2015 meeting (see **Exhibit V**). A copy of the KNIBC agenda for September 16, 2015 is attached as **Exhibit VI**. At the meeting, KNIBC approved the preserve-in-place treatment plan for the burials in the project area. DLNR’s Engineering Division and its contractor are ready to start this project with the Land Board’s approval, once the necessary rights-of-entry from the private landowners are secured.

Today’s request is for final approval of acquisition, so staff did not solicit any further comments from government agencies or interest groups. Also, staff is requesting the authorization of the Chairperson to negotiate and execute rights-of-entry with the private

landowners to allow the DLNR to enter their properties for this public health and safety project.

RECOMMENDATION: That the Board:

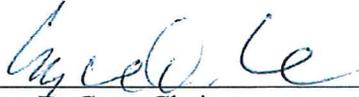
1. Declare that, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the acquisition of the subject easements 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 on private property document form, as may be amended from time to time;
  - B. Eminent domain proceedings, as may be necessary for the acquisition, pursuant to Chapter 101, HRS;
  - C. Review and approval by the Department of the Attorney General; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the Chairperson to negotiate and execute rights-of-entry with private landowners to allow DLNR and its contractors to install and maintain the rockfall mitigation system until the easements are executed, under the terms and conditions cited above, which are by this reference incorporated herein, and further subject to the following:
  - A. Standard terms and conditions of the most current right-of-entry onto private land form, if any; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Marvin Mikasa  
District Land Agent

APPROVED FOR SUBMITTAL:



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Suzanne D. Case, Chairperson

Attachments



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

March 28, 2014

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

PSF No.: 14KD-022

Kauai

Approval in Concept of Acquisition of Easement on Private Lands for Menehune Road Rockfall Mitigation Project, Waimea Valley, Waimea, Kauai, Tax Map Key: (4) 1-6-003:056 and (4) 1-6-010:001, 002 & 003 (portions)

APPLICANT AGENCY:

Department of Land and Natural Resources, Land Division ("Land Division").

PRIVATE LANDOWNER:

George I. Crowell Trust and Doris F. Crowell Trust, Tenants in common, TMK (4) 1-6-010:003 (portion)  
Waimea Foreign Church Trust, Tenant in severalty, TMK (4) 1-6-010:002 (portion)  
Easter Seals Hawaii, a domestic non-profit corporation, Tenant in severalty, TMK (4) 1-6-010:001 (portion)

LEGAL REFERENCE:

Sections 107-10 and 171-30, Hawaii Revised Statutes ("HRS"), as amended, and Chapter 101, HRS, as may be necessary.

LOCATION:

Privately-owned lands of George I. Crowell Trust, Doris F. Crowell Trust, Waimea Foreign Church Trust, and Easter Seals Hawaii, situated at Waimea Valley, Waimea, Kauai, identified by Tax Map Key: (4) 1-6-010: portions of 001, 002 and 003, as shown on the attached map labeled **Exhibit A1 and A2.**

AREA:

0.60 acre, more or less.

ZONING:

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

March 28, 2014 Go.

**Exhibit "II"**

D-1

State Land Use District: Urban, Conservation  
County of Kauai CZO: Commercial and Residential

CURRENT USE:

The easements that are being proposed for purchase are located on private lands used for commercial and residential purposes. The easements will affect unimproved portions of the parcels.

CONSIDERATION:

One-time payment to be determined by an independent appraiser, subject to review and approval by the Chairperson.

PURPOSE:

Easement purposes for the installation and maintenance of a rockfall mitigation system.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 343-5(a)(1), HRS, an environmental assessment (EA) is not required where State or county funds are being used for the acquisition of unimproved real property. As the subject lands are unimproved, an EA is not required. The rockfall mitigation project itself is exempt from the requirements of HRS Chapter 343, exemption class 1, that states: "Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director that are necessary to protect public health, safety, welfare, or public trust resources." (see **Exhibit B**).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for the appraisal cost to determine the value of the easements to be acquired;
- 2) Provide survey maps and descriptions for the easements according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

AECOM has been contracted by the DLNR, Engineering Division ("Engineering Division") to prepare a mitigation plan for potential rockfall along the cliff above Menehune Road in Waimea Valley, Waimea, Kauai. 66 hazardous rockfall features along the slopes of the roadside and adjacent to private residential properties were

identified. Based on the information provided by AECOM, the risk level appears to be higher than the recommended tolerable level. Based on the higher risk level and number of hazardous features, the public health, safety and welfare may be compromised and mitigating this matter has become urgent.

AECOM has recommended a sequence of work including:

1. Shotcrete the red clay layer for the entire project length (aprox. 75 cubic yards);
2. Scale the entire project area in one pass;
3. Mitigate rockfall sites by removal or by dowel placement; and
4. Install draped mesh over the steep slopes.

The project is proposed upon State land, however, to accommodate the draped mesh foundation, portions of private property will be utilized for the anchor dowel system.

The proposed easement area runs along the top of the cliff face where the State land abuts private property. The easement size will be determined by the Engineering Division based on the recommendations from AECOM, and will be used for the installation and maintenance of the draped mesh foundation. Land Division will have jurisdiction of the lands acquired and funding for the purchase of the easements and costs for the mitigation project will be allocated from the Engineering Division.

Land Division is seeking conceptual approval for the purchase of the easement area. AECOM is in the process of determining the specific area that will be needed for the draped mesh foundation.

AECOM has filed an emergency Conservation District Use Application with DLNR, Office of Conservation and Costal Lands ("OCCL"). OCCL has no objections to granting the emergency permit, subject to the requirements of HAR 13-5-35 Emergency Permits and the conditions set forth within the permit.

AECOM has requested a Historic Preservation Review by DLNR, Historic Preservation Division ("SHPD"). Based on the information that was provided by AECOM, SHPD is recommending that all ground-disturbing activities associated with the rockfall mitigation be monitored by a qualified archaeologist.

AECOM, Engineering Division, and Land Division staff have met with representatives from all three private property owners and have their concurrence in concept. Details regarding the size, location, improvements and compensation will be determined based on a survey, recommendations from AECOM and Engineering Division, and certified appraisals of the final easement areas.

Various government agencies and interest groups were solicited for comments.

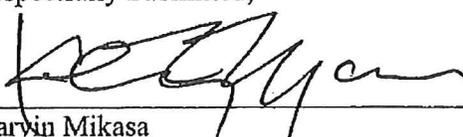
AGENCIES	COMMENTS
<b>State of Hawaii:</b>	
DOH	No comments
DHHL	No response by suspense date
DOT	No comments
DLNR – Historic Preservation	No response by suspense date
DLNR – Conservation and Coastal Lands	No response by suspense date
<b>County of Kauai</b>	
Planning Department	No response by suspense date
Public Works	No comments
<b>Other Agencies / Interest Groups:</b>	
Office of Hawaiian Affairs	No response by suspense date

RECOMMENDATION: That the Board:

Authorize the acquisition of easements on the subject private lands 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 on private property document form, as may be amended from time to time;
- B. Eminent domain proceedings, as may be necessary for the acquisition, pursuant to Chapter 101, HRS;
- C. Review and approval by the Department of the Attorney General;
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

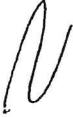
  
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Marvin Mikasa  
Acting District Land Agent

APPROVED FOR SUBMITTAL:



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William J. Aila, Jr., Chairperson



MADE 1/16 - 1975  
 PHOTODUPLICATION OF  
 ORIGINAL MAP OF  
 1975

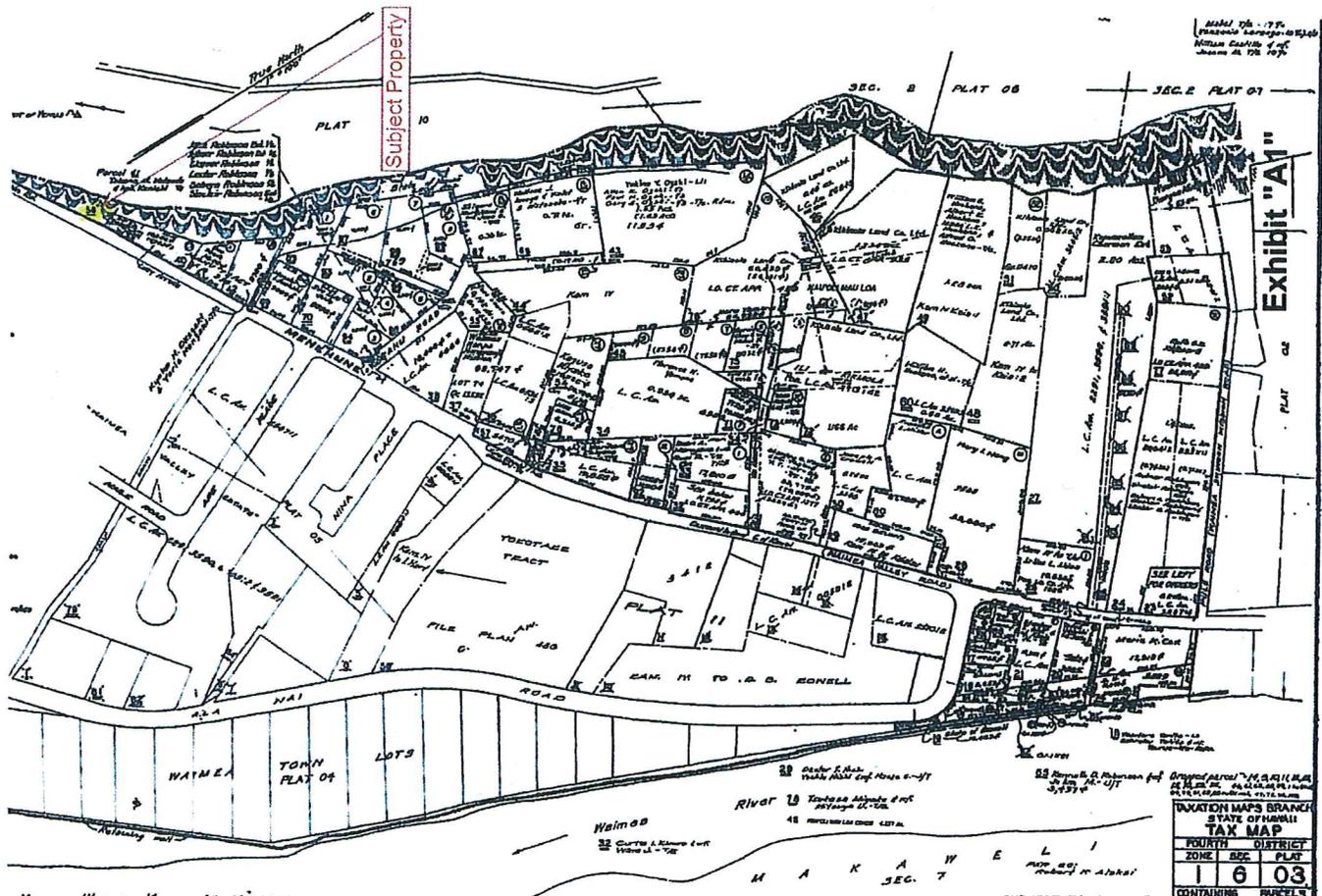


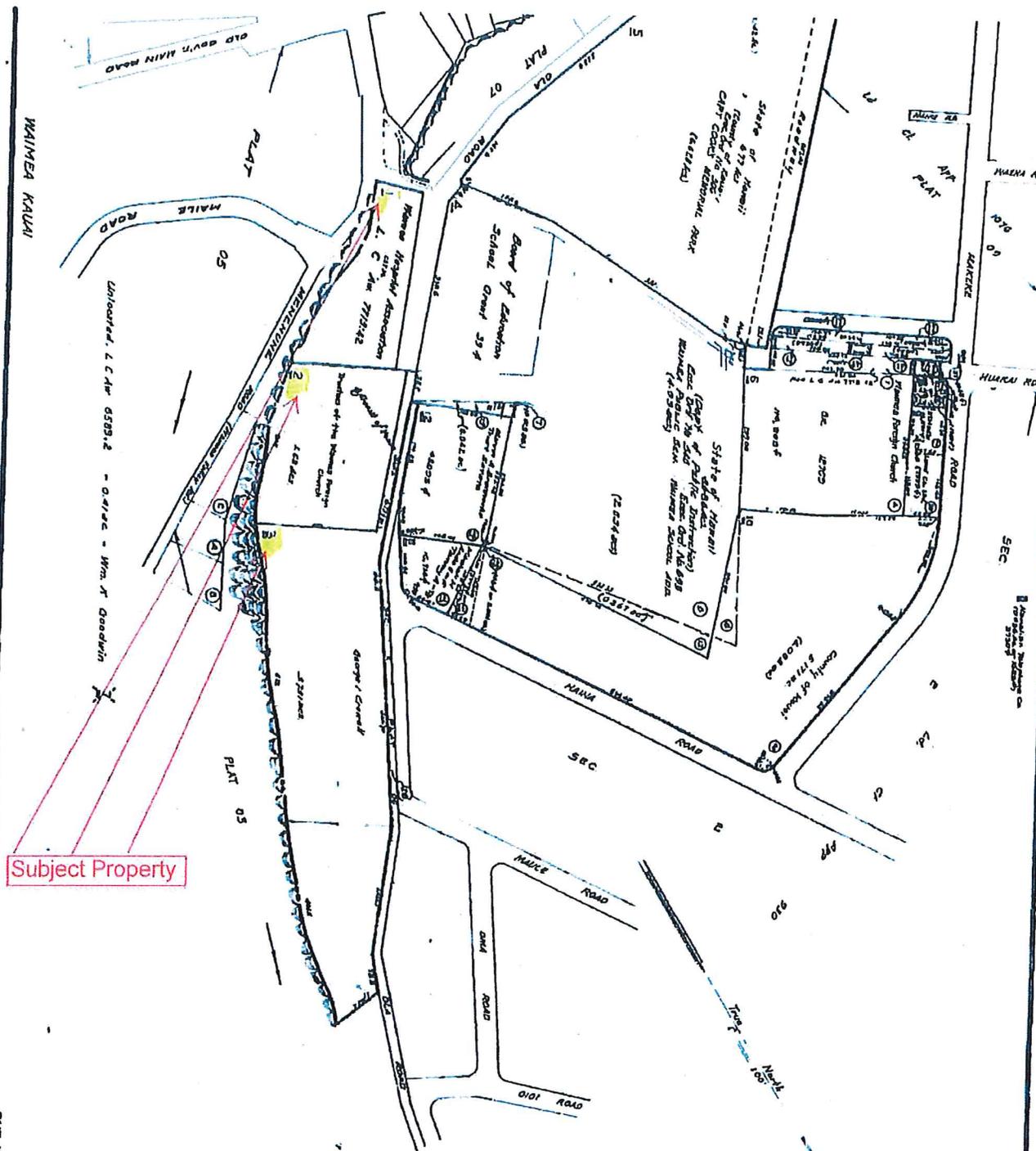
Exhibit "A1"

VALLEY, WAIMEA KAUAI (See Map 2500)

SUBJECT TO CHANGE

TAXATION MAPS BRANCH	
STATE OF HAWAII	
TAX MAP	
FOURTH DISTRICT	PLAT
ZONE 1 SEC 7	1603
CONTAINING PARCELS	
SCALE 1" = 100 FT	

PRINTED



Subject Property

Exhibit "A2"

SUBJECT TO CHANGE

Deposited per 11770

TERRITORY MAPS BUREAU			
TERRITORY TAX MAP			
FORMER	ZONE	SEC.	PLAT
1	6	10	
CONTAINING PARCELS			
SCALE 1/2" = 100'			

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

March 28, 2014

WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KADJUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVIYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENHANCING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**EXEMPTION NOTIFICATION**

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

**Project Title:** Approval in Concept of Acquisition of Easement on Private Lands for Menhune Road Rockfall Mitigation Project

**Project / Reference No.:** 14KD-022

**Project Location:** Waimea Valley, Waimea, Kauai, Tax Map Key (4) 1-6-003:056 and (4) 1-6-010:001, 002 & 003 (portions)

**Project Description:** Easement purposes for the installation and maintenance of a rockfall mitigation system above Menhune Road.

**Chap. 343 Trigger(s):** Use of State Funds

**Exemption Class No.:** 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 July 13, 2011, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare or public trust resources."

AECOM has been contracted by the DLNR, Engineering Division to prepare a mitigation plan for potential rockfall along the cliff above Menhune Road in Waimea Valley, Waimea, Kauai. 66 hazardous rockfall features along the slopes of the roadside and adjacent to private residential properties were identified. Based on the information provided by AECOM, the risk level appears to be higher than the recommended tolerable level. Based on the higher risk level and number of hazardous features, the public health, safety and welfare may be compromised and mitigating this matter has become urgent.

**Exhibit "B"**

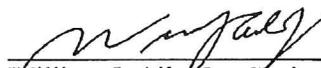
The project is proposed upon State land, however, to accommodate the draped mesh foundation, portions of private property will be utilized for the anchor dowel system.

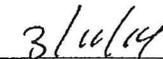
Consulted Parties

State Departments of Health, Transportation, Hawaiian Home Lands; Land and Natural Resources – Historic Preservation & Conservation and Coastal Lands; Kauai County of Planning and Public Works, and the Office of Hawaiian Affairs.

Recommendation:

That the Board finds 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

  
\_\_\_\_\_  
Date

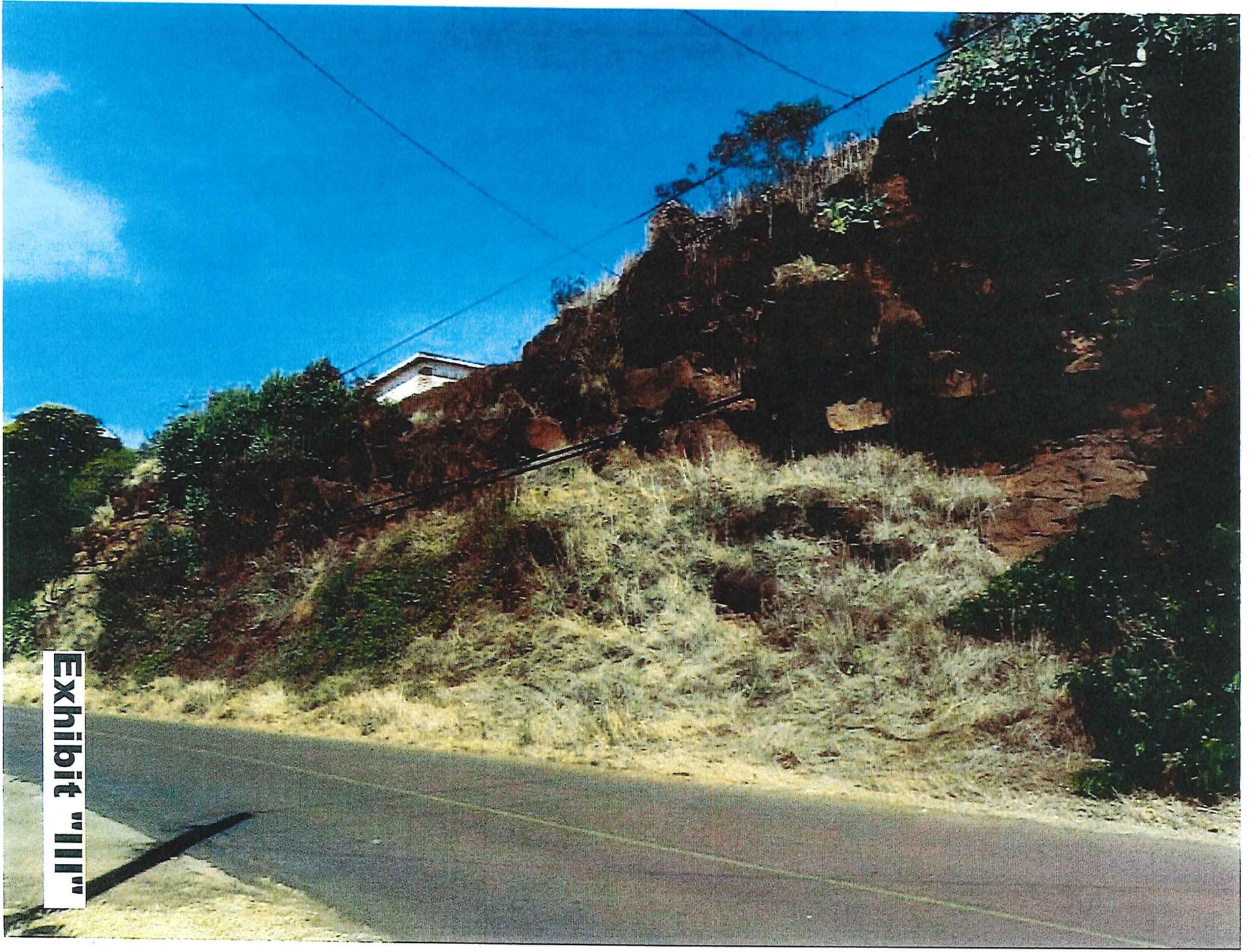


Exhibit "111"

DAVID Y. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD, STE 555  
KAPOLEI, HAWAII 96707

CARTY S. CHANG  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN  
INTERIM FIRST DEPUTY

W. ROY HARDY  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

March 30, 2015

Brian Chang, P.E.  
Department of Land and Natural Resources  
1151 Punchbowl St. Room 221  
Honolulu, HI 96813

LOG NO: 2015.00667  
DOC NO: 1503MN02  
Archaeology

Aloha Mr. Chang,

**SUBJECT: Chapter 6E-8 Historic Preservation Review–  
Archaeological Inventory Survey for the Menehune Road Rockfall Mitigation Project  
Waimea Ahupua'a, Waimea District, Kaua'i  
TMK: (4) 1-6-003:056, 1-6-005:017, 1-6-010:001-003**

Thank you for the opportunity to review the revised report titled *Archaeological Inventory Survey for the Menehune Road Rockfall Mitigation Project, Waimea Ahupua'a, Waimea District, Kaua'i TMKs [4]1-6-003:056; 1-6-005:017; 1-6-010:001-003* (O'Hare et al., January 2015). We received the revised submittal via email on January 26, 2015, and apologize for the delay in review.

The survey was undertaken in preparation for rockfall mitigation along Menehune Road in Waimea, a project area of approximately 1.41 acres which is owned by the County of Kaua'i. The project is state funded and the lead agency is the Department of Land and Natural Resources (DLNR). AECOM was contracted by DLNR to conduct the project, and in turn subcontracted Cultural Surveys Hawaii, Inc. (CSH) to conduct the archaeological work. The report states that the work includes: (1) shotcrete coverage of the red clay layer for the entire project length, (2) mitigation of 66 rockfall features at the 22 mitigation sites, and (3) installation of draped mesh over the steep sides.

The project area extends along the Kana'ana/Poki'i Ridge from Kaumuali'i Highway inland, near Menehune Road, to near the end of 'Ape Place. Twelve historic properties were identified within the project area and one was identified outside. They were assigned State Inventory of Historic Properties (SIHP) site numbers 50-30-06-2222 through 50-30-06-2234. The 12 sites within the project area are six historic walls or wall remnants (Sites 2222, 2223, 2225, 2228, 2229, and 2230), historic building foundations (Site 2224 and 2227), an historic incinerator (Site 2226), a low mound (Site 2234), and two burial caves (Sites 2232 and 2233). Site 2231 is a burial cave located outside the project area. Each of the twelve historic properties is assessed as significant per HAR §13-275-6 under Criterion "d" (information potential) and as eligible for listing on the Hawaii Register per HAR §13-198-8 under Criterion D. Sites 2231, 2232, and 2233 (burial caves), as well as 2234 (possible burial mound) are also assessed as significant per HAR §13-276-6 under Criterion "e" (importance to a particular ethnic group).

The report contains a thorough background of the project area. We concur with the assessment that the proposed rockfall mitigation project will have an effect on the twelve historic properties within the project area (Sites 2222 through 2230 and 2232 through 2234). The report indicates that the rockfall mitigation project will result in partial or complete destruction to the following historic properties: Sites 2222, 2225, 2228 and 2229 (walls); 2226 (incinerator); and 2227 (remnant building foundation); and recommends no mitigations for these sites, stating that the data potential of these sites has been realized. Sites 2223 and 2230 (retaining walls), 2224 (remnant building foundation), 2232 and 2233 (burial caves) and 2234 (mound) will be "completely covered" by the mesh netting, which the report refers to as preservation.

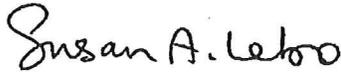
**Exhibit "IV"**

The attachment identifies the issues and concerns that need to be addressed prior to acceptance of the AIS pursuant to HAR §13-276. In addition, we requested in our earlier additional documentation of the sites, including interpretation of their function based on a review of historical data, including maps (*Log No. 2014.02982, Doc. No. 1409MN16*). The revised report includes an historic map overlaid with the sites, and interpretative text indicating that some of the historic walls served as house lot boundaries. However, we seek additional interpretation for all of the sites, particularly for sites which are described as “data potential has been realized.” We also remain concerned about the loss of these significant sites, and request suggestions for mitigations in addition to archaeological monitoring. Also, in accordance with HAR §13-275-8(d), please consult the Kaua‘i Island Burial Council regarding the effects of the project and proposed mitigations to the burial caves, which will inform SHPD’s concurrence with mitigation recommendations.

To aid in rapid review of the revised draft please include a cover letter that specifies the changes made to this document and their page numbers. Please contact Kaua‘i Lead Archaeologist Mary Jane Naone at (808) 271-4940 or at [Maryjane.Naone@hawaii.gov](mailto:Maryjane.Naone@hawaii.gov) if you have any questions regarding this letter.

Mahalo for your cooperation in preserving significant historic and cultural properties.

Aloha,



Susan A. Lebo, PhD  
Oahu Lead Archaeologist  
Acting Archaeology Branch Chief

cc: Hallett H. Hammatt, Ph.D., Principal Investigator  
Cultural Surveys Hawai‘i, Inc.  
[hhammatt@culturalsurveys.com](mailto:hhammatt@culturalsurveys.com)

Ardalan Nikou, AECOM Engineering Department Manager  
[Ardalan.Nikou@aecom.com](mailto:Ardalan.Nikou@aecom.com)

#### ATTACHMENT

Comments and Questions: *Archaeological Inventory Survey for the Menehune Road Rockfall Mitigation Project, Waimea Ahupua‘a, Waimea District, Kaua‘i TMKs [4]1-6-003:056; 1-6-005:017; 1-6-010:001-003*  
(O‘Hare et al., January 2015)

#### Management Summary

1. The management summary includes terminology indicating the project is subject to the National Historic Preservation Act. We have contacted the lead agency, the Department of Land and Natural Resources (DLNR) and understand that NHPA does not apply to this project. Please remove references to “adverse effect”, “APE”, and federal legislation. Hawaii Administrative Rules (HAR) language refers to an “effect” and the “project area.” Also, sites should be assessed for significance to the Hawaii State Register, not the National Register.
2. The management summary does not include the effect recommendation for SIHP Site 2228.
3. The management summary includes a preservation plan in the “mitigation recommendations” section, but does not specify which sites will be included in the preservation plan.
4. Site 2231 is included in the archaeological inventory survey based on its proximity to Sites 2232 and 2233 and its potential for inclusion within a preservation plan for the two burials (Sites 2232 and 2233) within the project area. Who owns the land where Site 2231 is located? Has the landowner agreed to inclusion of this site in the preservation plan?

#### Results of Fieldwork and Site Interpretation

5. Please provide rationale for the functional interpretation of Site 2234 (mound), as a “possible burial”.

6. Many site descriptions state “the functional use of the site is unknown” but later in the text, Section 5.1.5. suggests several of the walls were boundary walls. Please state in the site description “possible boundary wall”, where applicable.
7. Section 5.1.5. provides one possible interpretation for the rock walls, as overlaying the features with historic maps revealed that they likely served as boundary markers. A single reference to the term “adobe” is made in the leading paragraph, and then referenced as “possibly adobe” walls in the final paragraph of this section, yet adobe is not mentioned in the site descriptions. Please clarify the use of the term “adobe”. Are any of the walls built of clay bricks or faced with clay? How would this construction style relate to the greater historic district or the time of the wall construction?
8. A shovel test was conducted at Site 2226, and terminated at approximately 4 centimeters below the surface in a concrete slab, possibly a “sidewalk”, but this information does not contribute to the site description. Please include results from the shovel test pits within the site descriptions, where the data collected contributes to the understanding of the function and use of the site. Also, where artifact dating provided a range of dates for use of the site, please also include this information in the site description.
9. We seek additional interpretation for all of the sites, particularly the incinerator (Site 2226) containing historic artifacts, the historic building remnant (Site 2227), and the adjoining rock wall (Site 2225), which lack sufficient interpretation for sites for whom “data potential has been realized.” The sites are in proximity to several significant historical sites in Waimea. Please frame interpretation of all of the sites within the historical district of Waimea and indicate whether use of the rock walls boundaries was contemporaneous, who the residents were, the time of occupation, etc.

#### **Project Effect and Mitigation Recommendations**

10. The report states that Sites 2223, 2224, 2232, 2233, and 2234 will be “completely covered” by the steel mesh drapery resulting in “preservation”. Please provide rationale for how covering the sites with heavy steel drapery contributes to their preservation, and what data we have to support this assertion. Does the slope continue to erode beneath the drapery? Has this method been used to preserve other sites within Hawaii? Please also describe how the drapery will be maintained, and the estimated life of the material used.
11. The report details the methodology used to consult with local community members regarding the project and the historic properties within the project area, but fails to present the findings from these interviews and public meetings as it relates to identification efforts, according to HAR§13-276-5(g). The information summarized in the table primarily reference whether or not the interviewee/community member “agrees” with the premise of the project, rather than what the individuals contributed to the identification and understanding of the historic properties within the project area. If knowledge gained from these interviews is referenced in the text, please provide proper reference (Example: “quote disclosing historic information” (Athea Kaohi, personal communication, December 14, 2014). Please summarize in the consultation section how the interviews, meetings, and other communication contributed to the identification and interpretation of the sites, and provide the respective findings within the site descriptions, in accordance with HAR§13-276-5(g) 2.
12. We request suggestions for mitigations in addition to archaeological monitoring.
13. In accordance with §13-275-8(d), please consult the Kaua‘i Island Burial Council regarding the mitigation commitments for native Hawaiian burials, following section 6E-42, HRS, and section 13-300-3. Please schedule a meeting with the Kaua‘i Island Burial Council to discuss the effects of the project and proposed mitigations to the burial caves, which will inform SHPD’s concurrence with mitigation recommendations.



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD. STE 555  
KAPOLEI, HAWAII 96707

September 1, 2015

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Ms. Missy Kamai  
Ms. Constance O`Hare  
Mr. Hal Hammatt  
Cultural Surveys Hawaii, Inc.  
P.O. Box 114  
Kailua, HI 96734

LOG NO: 2015.01386  
DOC NO: 1509.RKH01

Aloha mai kākou,

**Subject: DRAFT Burial Treatment Plan for SIHP #'s 50-30-06-2231, -2232, and -2234, for the Menehune Road Rockfall Mitigation Project, Waimea Ahupuaa, Waimea District, Kauai Island, TMK: [4] 1-6-003:056; 1-6-005:017; and 1-6-010:001-003**

The above draft plan has been reviewed and is in compliance with HAR §13-300-33 such that you may address the Kauai Niihau Island Burial Council (KNIBC) for a determination on whether to preserve-in-place or relocate the human skeletal remains identified above. Per your request, this item has been placed on the KNIBC's September 16, 2015 agenda.

If you have any questions or concerns, please contact the Oahu Burial Sites Specialist, Regina K. Hilo, at (808) 436-4801 or via email at [Regina.Hilo@hawaii.gov](mailto:Regina.Hilo@hawaii.gov).

Ke aloha,

Mr. Hinano Rodrigues  
History and Culture Branch Chief

CC: Mary Jane Naone, Kauai Lead Archaeologist

**Exhibit "V"**

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

STATE HISTORIC PRESERVATION DIVISION  
KAKUHIHEWA BUILDING  
601 KAMOKILA BLVD, STE 555  
KAPOLEI, HAWAII 96707

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKO A KALUHIWA  
FIRST DEPUTY

W. ROY HARDY  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**AGENDA**  
**KAUA'I & N'IIHAU ISLANDS BURIAL COUNCIL MEETING**

**DATE:** Wednesday, September 16th, 2015  
**TIME:** 9:00 am  
**PLACE:** Kauai DOT Building  
Conference Room  
1720 Haleukana Street  
Lihue, Hawaii 96766

**I. CALL TO ORDER**

**II. ROLL CALL/PULE**

**III. MINUTES**

A. July 15, 2015

**IV. BUSINESS**

A. Draft Environmental Assessment (DEA) for Kumu Camp, Anahola Ahupua'a, Ko'olau District, Island of Kaua'i, TMK: [4] 4-8-001:001  
Information/Discussion: Update on the above area.

B. The Native American Graves Protection and Repatriation Act (NAGPRA)  
Information/Discussion: Discussion on NAGPRA process.

C. Draft Burial Treatment Plan for SIHP #'s 50-30-06-2231, -2232, -2233, and -2234, for the Menehune Road Rockfall Mitigation Project, Waimea Ahupua'a, Waimea District, Kaua'i Island, TMK: [4] 1-6-003:056, 1-6-005:017, and 1-6-010:001-003  
Discussion/Determination: Discussion and determination whether to preserve in place or relocate human skeletal remains at the above location.

Council discussion and recommendation to SHPD on the proposed burial treatment plan.

**V. SHPD INADVERTENT DISCOVERIES/OTHER CORRESPONDENCE**

A. Inadvertent Discovery of Human Skeletal Remains (Burials #11 and #12) at the Coconut Marketplace, South Olohena Ahupua'a, Puna District, Island of Kaua'i, TMK: (4) 4-3-002:018.

**Exhibit "VI"**

**Information/Discussion:** Discussion on the above find.

- B. Inadvertent Discovery of Human Skeletal Remains at Kauai Sands Hotel, South Olohena Ahupua'a, Puna District, Kaua'i Island, TMK: [4] 4-3-02:012**

**Information/Discussion:** Discussion on the above find.

- C. Emergency Access Road from Coastal Path to Beach at Palikū Beach (Donkey Beach), SIHP # 50-30-08-1899, Keālia Ahupua'a, Kawaihau District, Kaua'i Island, TMK: [4] 4-7-004:006**

**Information/Discussion:** Discussion on the above project.

## **VI. ANNOUNCEMENT**

- A. Next meeting date is scheduled for Wednesday, October 21, 2015**

## **VII. ADJOURNMENT**

Pursuant to §92-3 HRS, all interested persons shall be afforded an opportunity to present oral testimony or submit data, views, or arguments, in writing on any agenda item. Additionally, pursuant to a policy adopted by the Oahu Island Burial Council at its September 14, 2005 meeting, oral testimony for items listed on the agenda is limited to three minutes per person, per agenda item.

Pursuant to sections §92-4, §92-5(a)(8), and §6E-43.5, Hawaii Revised Statutes (HRS), and upon compliance with the procedures set forth in section 92-4, HRS, the council may go into a closed meeting to consider information that involves the location or description of a burial site.

A request to be placed on a burial council meeting agenda must be made with the Burial Sites Program staff at least two weeks preceding the scheduled meeting date. In addition, the request must be accompanied by all related documents. Failure to comply with this procedure will delay the item to the following month's agenda.

Materials related to items on the agenda are available for review at the State Historic Preservation Division in room 555 of the Kakuhihewa Building located at 601 Kamokila Boulevard, Kapolei, Hawaii 96707. Persons with disabilities requiring special assistance should contact the division in advance at (808) 692-8015.

THE ORIGINAL OF THE DOCUMENT  
RECORDED AS FOLLOWS:  
STATE OF HAWAII  
BUREAU OF CONVEYANCES  
Doc A - 60960689  
DA1  
DC September 09, 2016 10:45 AM

LAND COURT

REGULAR SYSTEM

AFTER RECORDATION, RETURN BY MAIL  PICK-UP  RS

Waimea United Church of Christ  
P. O. Box 457  
Waimea, Hawaii 96796  
Ph. No.: (808) 338-9962

Total No. of Pages: 12

TITLE OF DOCUMENT:

TMK: (4) 1-6-010-002

### QUITCLAIM DEED

PARTIES TO DOCUMENT:

Grantor: **WAIMEA FOREIGN CHURCH**, a dissolved Hawaii nonprofit corporation,  
formerly known as TRUSTEES OF THE WAIMEA FOREIGN CHURCH

Grantee: **WAIMEA UNITED CHURCH OF CHRIST**,  
a Hawaii nonprofit corporation

Address: P. O. Box 457, Waimea, Hawaii 96796

**QUITCLAIM DEED**

THIS DEED made this 26<sup>th</sup> day of August, 20 16, by

**WAIMEA FOREIGN CHURCH**, a dissolved Hawaii nonprofit corporation, formerly known as  
TRUSTEES OF THE WAIMEA FOREIGN CHURCH, hereinafter called the "Grantor", to  
**WAIMEA UNITED CHURCH OF CHRIST**, a Hawaii nonprofit corporation, whose mailing  
address is P. O. Box 457, Waimea, Hawaii 96796, hereinafter called the "Grantee".

**WITNESSETH:**

That in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable  
consideration paid by the Grantee, the receipt of which is hereby acknowledged, the Grantor does  
hereby remise, release, quitclaim and convey unto the Grantee, as **TENANT IN SEVERALTY**,  
its successors and assigns, that certain parcel of land more particularly described in EXHIBIT  
"A", attached hereto and by reference made a part hereof.

AND all of the estate, right, title and interest of the Grantor, both at law and in equity,  
therein and thereto;

THE property is conveyed by the Grantor "AS IS" "WHERE IS" and specifically and  
expressly without any warranties, representations, or guarantees, either express or implied, of any  
kind, nature or type whatsoever from or on behalf of the Grantor.

THE terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine, feminine or neuter, the singular or plural number, individuals, partnerships, trustees or corporations and their and each of their respective successors, heirs, personal representatives, successors in trust and assigns, according to the context thereof. All covenants and obligations undertaken by two or more persons shall be deemed to be joint and several unless a contrary intention is clearly expressed elsewhere herein.

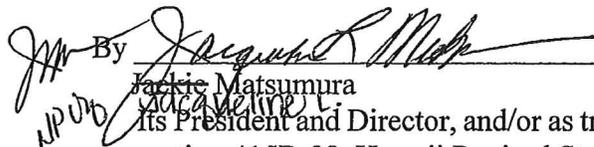
THIS instrument may be executed in counterparts, each of which shall be deemed an original, and said counterparts shall together constitute one and the same agreement, binding upon all of the parties hereto, notwithstanding that all of the parties are not signatory to the original or the same counterparts. For all purposes, including, without limitation, recordation, filing and delivery of this instrument, duplicate unexecuted and unacknowledged pages of the counterparts may be discarded and the remaining pages assembled as one document.

[No further text on this page – Signature page follows]

IN WITNESS WHEREOF, the Grantor has executed these presents on the day  
and year first above written.

"Grantor"

WAIMEA FOREIGN CHURCH,  
a dissolved Hawaii nonprofit corporation,  
formerly known as TRUSTEES OF THE WAIMEA  
FOREIGN CHURCH

By  \_\_\_\_\_  
Jackie Matsumura  
Its President and Director, and/or as trustee under  
section 415B-98, Hawaii Revised Statutes

By \_\_\_\_\_  
Susan Somers  
Its Secretary and Director, and/or as trustee under  
section 415B-98, Hawaii Revised Statutes

By \_\_\_\_\_  
Allan Kennett  
Its Director, and/or as trustee under section 415B-  
98, Hawaii Revised Statutes

By \_\_\_\_\_  
Irene Kennett  
Its Director, and/or as trustee under section 415B-  
98, Hawaii Revised Statutes

IN WITNESS WHEREOF, the Grantor has executed these presents on the day  
and year first above written.

"Grantor"

WAIMEA FOREIGN CHURCH,  
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FOREIGN CHURCH

By \_\_\_\_\_  
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Its President and Director, and/or as trustee under  
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By Susan Somers  
Susan Somers  
Its Secretary and Director, and/or as trustee under  
section 415B-98, Hawaii Revised Statutes

By \_\_\_\_\_  
Allan Kennett  
Its Director, and/or as trustee under section 415B-  
98, Hawaii Revised Statutes

By \_\_\_\_\_  
Irene Kennett  
Its Director, and/or as trustee under section 415B-  
98, Hawaii Revised Statutes

IN WITNESS WHEREOF, the Grantor has executed these presents on the day  
and year first above written.

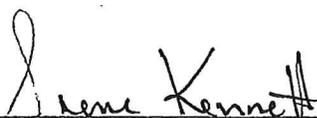
"Grantor"

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section 415B-98, Hawaii Revised Statutes

By   
Allan Kennett  
Its Director, and/or as trustee under section 415B-  
98, Hawaii Revised Statutes

By   
Irene Kennett  
Its Director, and/or as trustee under section 415B-  
98, Hawaii Revised Statutes

STATE OF HAWAII

)

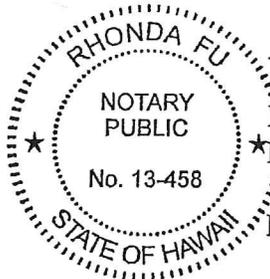
) SS.

COUNTY OF KAUAI

)

On APR 21 2016, before me appeared <sup>NP 370</sup> *Jacqueline L. Fu* Jackie Matsumura, to me

personally known, who being by me duly sworn or affirmed, did say that such person executed this 10 page *Quitclaim Deed*, dated undated, in the Fifth Circuit of the State of Hawaii, as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



*JFu*

(Signature of Notary)

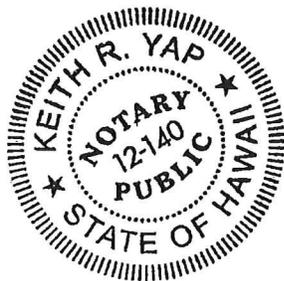
Print Name of Notary: RHONDA FU

NOTARY PUBLIC, State of Hawaii

My commission expires: DEC 29 2017

STATE OF HAWAII )  
 ) SS.  
COUNTY OF KAUAI )

On April 27, 2016, before me appeared **Susan Somers**, to me personally known, who being by me duly sworn or affirmed, did say that such person executed this 10 page *Quitclaim Deed*, dated Undated, in the Fifth Circuit of the State of Hawaii, as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



*Keith R. Yap*

(Signature of Notary)

Print Name of Notary: Keith R. Yap  
NOTARY PUBLIC, State of Hawaii

My commission expires: April 8, 2020

*Undated at time*  
Doc Date: of signing # Pages: 10  
Name: Keith R. Yap 5th Circuit  
Doc. Description: Quitclaim Deed for  
TMK (4) 1-6-010-002  
*Keith R. Yap* 4/27/2016  
Signature Date

NOTARY CERTIFICATION

STATE OF WASHINGTON )  
 ) SS.  
COUNTY OF Whatcom )

On this 26<sup>th</sup> day of August, 2016, before me appeared **Allan Kennett**, to me personally known (or proved to me to be such person on the basis of satisfactory evidence), who being by me duly sworn or affirmed, did say that he/she executed this instrument as his/her free act and deed, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

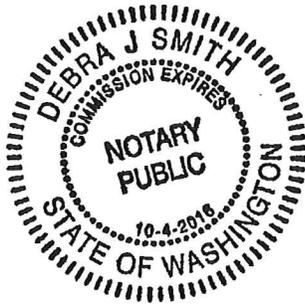


Debra J. Smith  
Notary Public, in and for said County and State  
Print Name: Debra J. Smith

My commission expires: 10-4-2016

STATE OF WASHINGTON )  
 ) SS.  
COUNTY OF Whatcom )

On this 26<sup>th</sup> day of August, 2016, before me appeared **Irene Kennett**, to me personally known (or proved to me to be such person on the basis of satisfactory evidence), who being by me duly sworn or affirmed, did say that he/she executed this instrument as his/her free act and deed, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Debra J Smith  
Notary Public, in and for said County and State  
Print Name: Debra J. Smith

My commission expires: 10-4-2016

EXHIBIT "A"

TMK# (4) 1-6-010:002  
Parcel size 112,408 sq. ft

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4475, Land Commission Award Number 7713, Apana 42 to V. Kamamalu) situate, lying and being at Kanaana, Kikiaola, District of Waimea, Island and County of Kauai, State of Hawaii, bearing Tax Key designation (4) 1-6-010-002, and containing an area of 1.62 acres, more or less.

Said above described parcel of land having been devised under the Last Will and Testament of AUBREY ROBINSON, deceased, filed in Probate No. 1200, Circuit Court of the Fifth Circuit, State of Hawaii, unto the TRUSTEES OF THE WAIMEA FOREIGN CHURCH.

SUBJECT, HOWEVER, to the following:

1. Any and all real property taxes assessed for the current tax year but not yet due and payable.
2. Mineral and water rights of any nature in favor of the State of Hawaii.
4. Triangulation Survey Station "TRANSIT OF VENUS" located within the land described herein, referenced on the Tax Map. Attention is invited to the provisions of Section 172-13 of the Hawaii Revised Statutes, relative to destruction, defacing or removal of survey monuments.

5. UNRECORDED LICENSE AGREEMENT

LICENSOR : WAIMEA FOREIGN CHURCH, a dissolved Hawaii nonprofit corporation, by and through the remaining directors of the last board of directors, in their capacities as trustees for the creditors and members of such dissolved corporation pursuant to Section 415B-98, Hawaii Revised Statutes, as amended

LICENSEE : CELLCO PARTNERSHIP, a Delaware general partnership d/b/a Verizon Wireless

DATED : February 17, 2004

TERM : five years commencing on December 1, 2002, which term is subject to certain rights to extend in accordance with the Agreement

A Memorandum of Agreement dated February 17, 2004 is recorded as Document No. 2004-038593.

**END OF EXHIBIT "A"**