

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

January 27, 2017

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

PSF No.: 16HD-153

Hawaii

Grant of Perpetual, Non-Exclusive Easement to Harold I. and Jane F. Uyeno for Access  
Purposes, Kaiaakea, North Hilo, Hawaii, Tax Map Key: (3) 3-4-003:011.

APPLICANT:

State of Hawaii, Department of Transportation – Highways Division, on behalf of  
Harold I. and Jane F. Uyeno, husband and wife, as Tenants by the entirety

LEGAL REFERENCE:

Section 171-13 & 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kaiaakea, North Hilo, Hawaii, identified by Tax Map Key:  
(3) 3-4-003:011, as shown on the attached map labeled Exhibit A.

AREA:

0.364 acres, more or less.

ZONING:

State Land Use District:	Agricultural
County of Hawaii CZO:	A-20a (agricultural 20 acre min.)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

CURRENT USE STATUS:

Encumbered by General Lease No. S-6090, Maulua Homesteads Owners' Association, Lessee, for access purposes. Lease to expire on April 24, 2063.

Encumbered by Land Office Deed No. S-29,035, James A. Scanlon and Sarah N. Scanlon, tenants by the entirety, easement for access purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis.

EASEMENT TERM:

Perpetual.

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 June 5, 2015, 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", Item No. 46 "Creation or termination of easement, covenants, or other rights in structures or land." See attached Exhibit B.

DCCA VERIFICATION:

Not applicable. The Applicant is a government entity acting on behalf of a private landowner, which neither are required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide proof of current ownership of dominant tenement parcel being served by the easement.

REMARKS:

The State of Hawaii, Department of Transportation – Highways Division (DOT) is requesting that the Board of Land and Natural Resources grant an access easement over lands under the control of DLNR-Land Division to correct a past oversight during a land exchange that benefitted DOT.

The subject State parcel identified as Tax Map Key: (3) 3-4-003:011 is former sugar cane lands. Sometime prior to 1936, the Laupahoehoe Sugar Company under former General Lease No. 2388 (followed by General Lease No. S-3616) paved and maintained a cane haul road from the Hawaii Belt Road to the mauka cane fields. This cane haul road is delineated on C.S.F. map #7103, dated 6/13/34, as a “field road”. The general lease maps indicate this “road” was 30 feet wide and approximately 528 feet long. It functioned to allow access from the Hawaii Belt Road to the cane fields above. Refer to attached Exhibit C for above referenced maps.

During the Hawaii Belt Road Project SDR-3(15), the “Old Government Road” was widened and ingress and egress was systematically restricted to accommodate the higher traffic volume and speeds anticipated on the improved highway. Vehicular access was permitted only at designated places; the 30 foot wide cane haul road was the only permitted access on the mauka side of the new highway for the entire distance between gulches.

At its meeting on March 9, 1951, in furtherance of the Hawaii Belt Road Project, the Board of Public Lands authorized a land exchange between Mr. & Mrs. Uyeno and the Territory of Hawaii. The transaction provided a 2.00 acre parcel subdivided from the subject parcel to Mr. & Mrs. Uyeno in exchange for four (4) parcels of land totaling 2.302 acres owned by Mr. & Mrs. Uyeno.

Due to the existence of this “30 foot road reserve” (cane haul road) on the maps of the day and physically on the ground, it was assumed this road would provide access to the newly created parcel given to Mr. & Mrs. Uyeno. This is plainly clear in reviewing Land Patent Deed No. 12,187 which includes a provision to prohibit vehicle access directly from the highway but does not include a provision for access over the “30’ foot road”. Refer to attached Exhibit D.

Staff is recommending the easement be granted for gratis as a fair and equitable resolution to this situation. The original intent was to exchange parcels of “equal” value. Without access, the transaction was not an equal value exchange.

The Board has previously granted two access easements over this same corridor, one to a neighboring property that was acquired by Laupahoehoe Sugar Company through an exchange with the Territory of Hawaii (during the Hawaii Belt Road Project) and one to Maulua Homesteads Owners’ Association to allow direct and timely access to upper homestead roads.

The County of Hawaii, Department of Public Works does not recognize this “30 foot road reserve” as a public road. Currently, it serves as a driveway for access to the subject parcel which Land Division is planning to offer for lease at public auction in the near future. Granting of this easement would not further impact the subject parcel as there two



other prior easements over this driveway.

The Uyenos have 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.

Request for comments were sent to the agencies listed in the following table with responses as indicated:

<b>State Agencies</b>	<b>Response</b>
DHHL	No Response
DLNR - Forestry & Wildlife	No Response
DOT - Highways	No Response
<b>Hawaii County Agencies</b>	<b>Response</b>
Planning Dept.	No Objections
<b>Other Agencies &amp; Interested Parties</b>	<b>Response</b>
Office of Hawaiian Affairs	No Response

The proposed use has continued since the 1930's and two other easements are currently in place over the same land area. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

**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 subject request to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (3) 3-4-003:045, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Harold I. and Jane F. Uyeno covering the subject area for access 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. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (3) 3-4-003:045, provided however: (1) it is specifically understood and agreed that the easement



shall immediately cease to run with the land upon the termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;

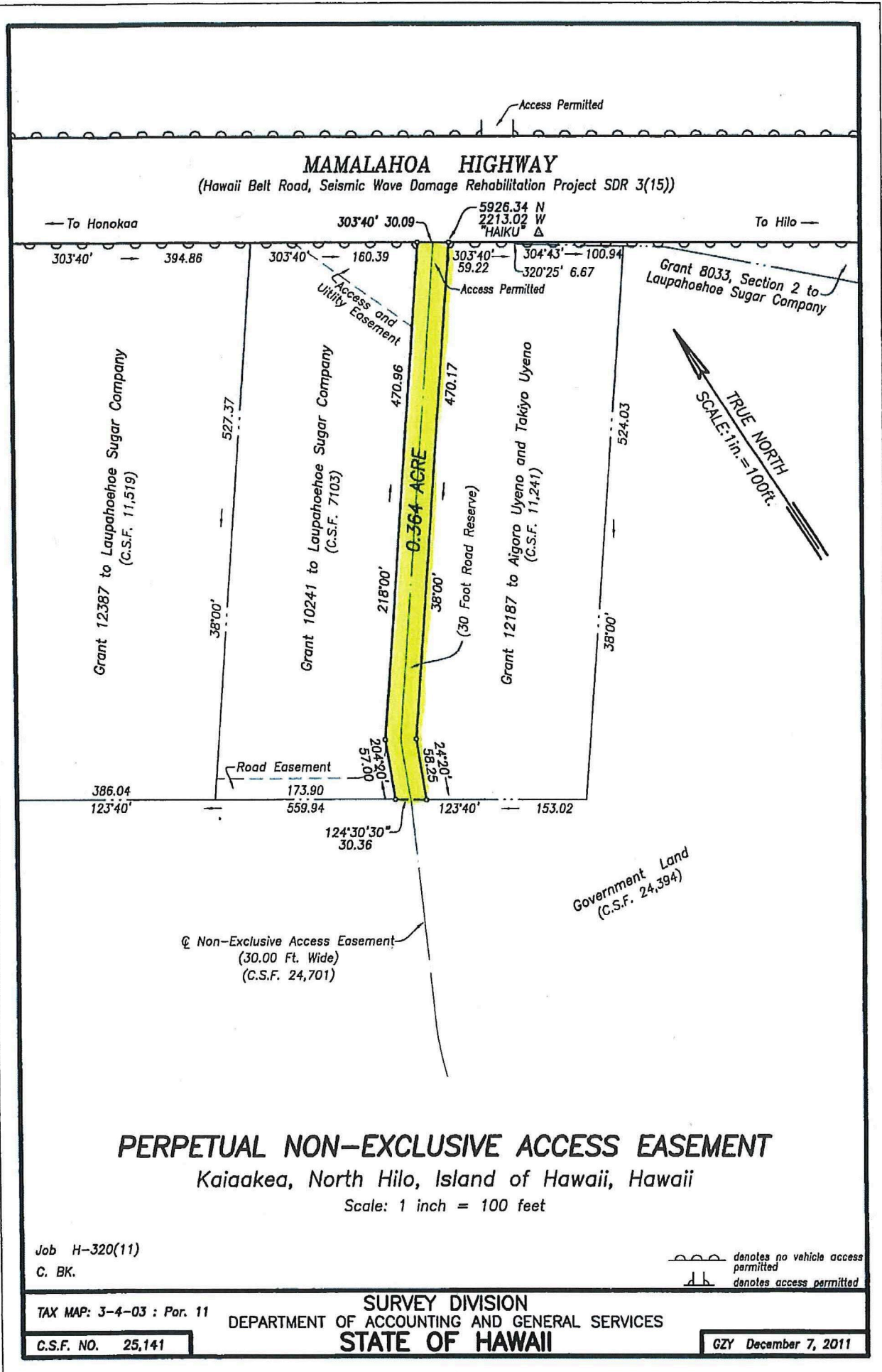
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson



DAVID Y. IGE  
GOVERNOR OF  
HAWAII



## EXHIBIT B

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

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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

June 22, 2016

#### 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 Harold I. and Jane F. Uyeno for Access Purposes.

Project / Reference No.: PSF 16HD-153

Project Location: Kaiaakea, North Hilo, Hawaii, Tax Map Key: (3) 3-4-003:011.

Project Description: The Hawaii State Department of Transportation (DOT) – Highways Division is requesting an access easement be issued to the above parties over a portion (0.364 acres) of State land encumbered by General Lease No. S-6090 to Maulua Homesteads Owner's Association and by Land Office Deed No. S-29,035 to James A. and Sarah N. Scanlon; both encumbrances are for access purposes.

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

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 June 5, 2015, 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", Item No. 46 "Creation or termination of easement, covenants, or other rights in structures or land."

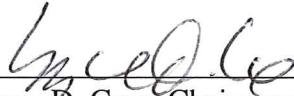
Consulted Parties: State of Hawaii:  
Department of Hawaiian Homelands  
DLNR – Forestry and Wildlife  
DOT – Highways



County of Hawaii – Department of Planning  
Office of Hawaiian Affairs

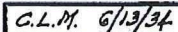
Recommendation:

That the Chairperson 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.

  
\_\_\_\_\_  
Suzanne D. Case, Chairperson  
\_\_\_\_\_  
Date

1/12/11

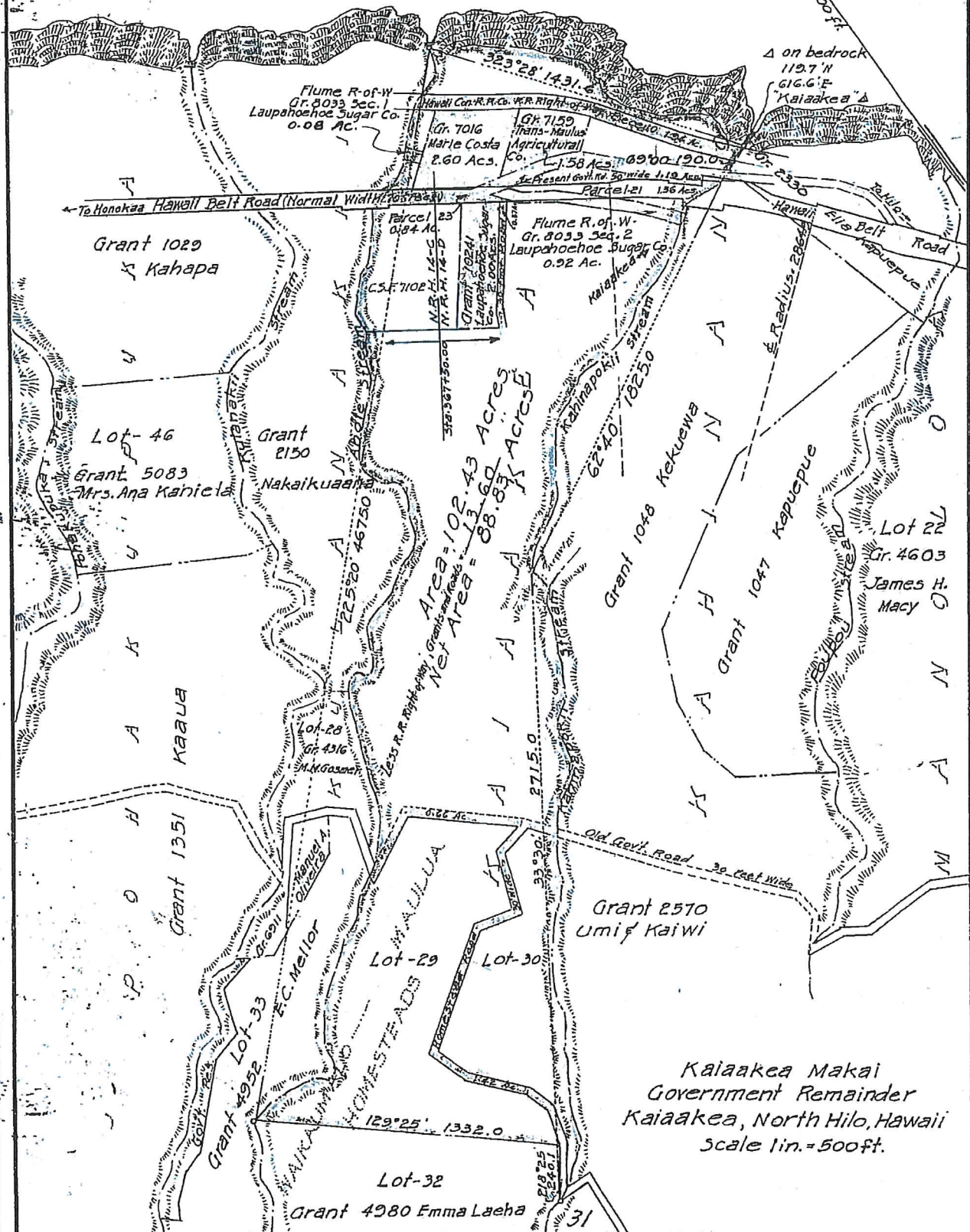
Q.S.F. 7103





SEA

True North  
Scale 1 in. = 500 ft.



Tap Map 3-4-0  
C. S. F. No. 7506

SURVEY DEPARTMENT  
TERRITORY OF HAWAII

H.B.C. 6/15/35

GL 2388





# Land Patent No. 12,187

**EXHIBIT D**

(Grant)

 Issued On  
EXCHANGE DEED

*By* THIS PATENT the Acting Governor of the Territory of Hawaii, in conformity with the laws of the United States of America and of the Territory of Hawaii,

and in accordance with the provisions of Section 73 of the Hawaiian Organic Act and the laws of Hawaii relating to public lands,

*makes known to all men that he has this day granted and confirmed unto*

—— AIGORO UYENO AND TAKIYO UYENO, ——  
 Husband and Wife, as tenants by the entirety,

*for the consideration of the conveyance of four (4) parcels of land required by the Territory of Hawaii for public use, to wit: for the Hawaii Belt Road, Seismic Wave Damage Rehabilitation Project No. SDR3(15), situate at Kabinano, North Hilo, Hawaii, and more particularly described in Deed and Agreement for Exchange No. 9780, dated October 9, 1951, between Aigoro Uyeno and Takiyo Uyeno and the Territory of Hawaii, and for the further consideration of the payment by Aigoro Uyeno and Takiyo Uyeno to the Territory of Eighty-Four and 65/100 Dollars (\$84.65), to equalize the exchange,*

*all of the land situate at* —— KAIAAKEA ——

*in the District of* —— NORTH HILO —— *Island of* —— HAWAII —— *bounded and described as follows:*

—— Portion of the ——  
Government Land of Kaiaakea

BEGINNING at the north corner of this parcel of land, on the south side of the Hawaii Belt Road (Project SDR 3 (15) ), the coordinates of said point of beginning referred to Government Survey Triangulation Station "HAIKU" being 5926.34 feet North and 2213.02 feet West, as shown on Government Survey Registered Map 2968, and running by azimuths measured clockwise from True South:-

1. 303° 40' 59.22 feet along the south side of the Hawaii Belt Road, Project SDR 3 (15);
2. 320° 25' 6.67 feet along Grant 8033, Section 2 to Laupahoehoe Sugar Company;
3. 304° 43' 100.94 feet along Grant 8033, Section 2 to Laupahoehoe Sugar Company;
4. 38° 00' 524.03 feet along remainder of the Government Land of Kaiaakea;
5. 123° 40' 153.02 feet along remainder of the Government Land of Kaiaakea;
6. 204° 20' 58.25 feet along the east side of 30-Foot Road Reserve;

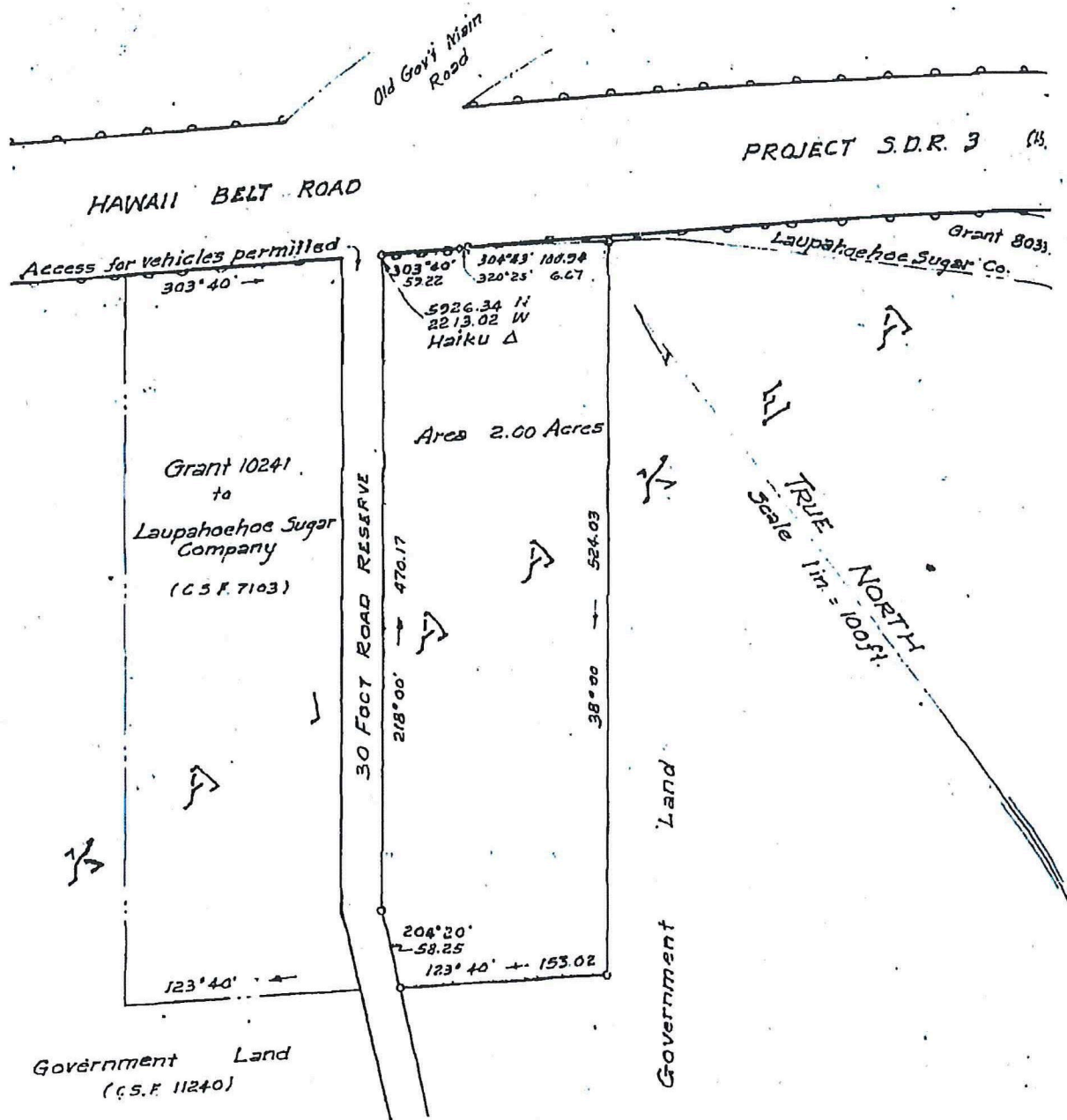
7. 218° 00' 470.17 feet along the east side of 30-Foot Road Reserve  
to the point of beginning, and containing  
—— an AREA OF 2.00 ACRES ——

Reserving unto the Territory of Hawaii the right to prohibit  
vehicle access into or from Hawaii Belt Road, Project SDR 3 (15) over  
and across Course 1 of the above described parcel of land.



**EXHIBIT A**

**ATTACHED TO AND MADE PART OF GRANT NO. 12,187**



### EXCHANGE

Territory of Hawaii to A. Uyeno  
 Portion of the Government Land of Kaiaakea  
 Kaiaakea, North Hilo, Hawaii

Scale. 1 in. = 100 ft.

Demotes no Access by Vehicles Permitted

Tax Map 3-4-93

C. S. F. No. 11241

SURVEY DEPARTMENT  
 TERRITORY OF HAWAII

Tracing by

H.K.A. C-28-51

Containing

— 2.00 —

Acres, more or less.

TO HAVE AND TO HOLD the above granted Land unto the said

— AIGORO UYENO AND TAKIYO UYENO, —  
Husband and Wife, as tenants by the entirety,

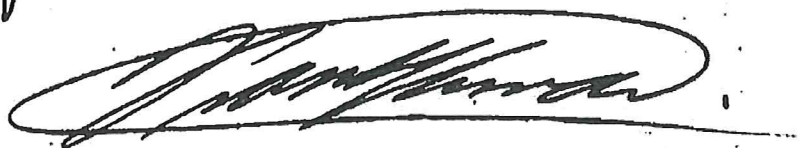
and ~~their~~ heirs and assigns forever.

IN WITNESS WHEREOF, The <sup>Acting</sup> Governor of the Territory of  
Hawaii has hereto set his hand and caused the Great  
Seal of the Territory to be hereunto affixed, this

twenty-fifth day of October, A. D. 1951.

ACTING  
BY THE GOVERNOR:

  
Commissioner of Public Lands.



The above exchange was approved by the  
Board of Public Lands, March 9, 1951

  
Member, Board of Public Lands,  
Territory of Hawaii.

Approved as to form:

  
Deputy Attorney General.

Written by hlb

Checked by lh