

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

February 24, 2017

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

PSF No: 16SD-160

HAWAII

Amend Prior Board Action of January 27, 2017, Item D-12, *Issuance of Right-of-Entry Permit to the United States to Perform Remedial Investigation/Feasibility Studies on Unencumbered Government Lands in Waimea, District of South Kohala, Island of Hawaii, at Puu Kawaiwai, Panoluukia, and Kapia, Tax Map Key: (3) 6-2-001:015 (por.), and at Ouli, Tax Map Key: (3) 6-2-005:022.* The purpose of the amendment is to delete the word “unencumbered” from the agenda item title, add requirement of written concurrence from Lessee to Recommendations section, revise information in Exhibit A to include the lease encumbrance, and replace legal reference of Section 171-55, HRS, with Section 171-95, HRS.

BACKGROUND:

At its meeting of January 27, 2017, the Board of Land and Natural Resources (BLNR) approved Agenda Item D-12, the issuance of a right-of-entry to the United States to perform remedial investigation/feasibility studies on unencumbered government lands in Waimea, District of South Kohala, Island of Hawaii, at Puu Kawaiwai, Panoluukia, and Kapia, Tax Map Key: (3) 6-2-001:015 (por.), and at Ouli, TaxMap Key: (3) 6-2-005:022. Due to a “rush” request from the applicant, the United States through its Army Corps of Engineers (USACE), Honolulu District, Department of the Army, the terms and conditions of the right-of-entry (ROE) were being negotiated until the date and time of the final BLNR approval, and staff used the readily available public land trust information system (PLTIS) database to research land use for the subject property.

REMARKS:

The portion of TMK (3) 6-2-001:015 cited as unencumbered is actually encumbered by an extension of General Lease S-4474 that is not yet executed, but current on authority of BLNR approval of February 25, 2011, Agenda Item D-5, and a mediated lease rental rate by BLNR approval of December 09, 2016, Agenda Item D-8. The execution of lease extension was

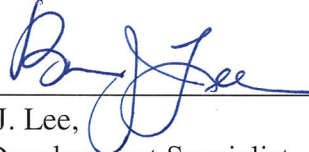
delayed by a rental rate dispute with the Lessee and other factors, as explained in the BLNR submittal for December 09, 2016, Agenda Item D-8, when the final mediated rental rate was approved. However, the lease extension information was missing from the PLTIS database, leading to the erroneous conclusion that the portion of (3) 6-2-001:015 cited above was unencumbered. This fact was discovered before execution of the ROE, so relevant corrections were made which this submittal now addresses for the previously cited Board action of January 27, 2017.

In addition, the United States has required a one year irrevocable right-of-entry, normally not granted to permits issued under Section 171-55, Hawaii Revised Statutes (HRS), the legal reference originally cited in the January 27, 2017 submittal for this right-of-entry. Therefore, Section 171-55 should be deleted, and replaced with the legal reference of Section 171-95, HRS for the right-of-entry granted as a government disposition.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of January 27, 2017, under agenda item D-12 by deleting the word “unencumbered” and correcting the subject line to read:  
*Issuance of Right-of-Entry Permit to the United States to Perform Remedial Investigation/Feasibility Studies on Government Lands in Waimea, District of South Kohala, Island of Hawaii, at Puu Kawaiwai, Panoluukia, and Kapia, Tax Map Key: (3) 6-2-001:015 (por.), and at Ouli, TaxMap Key: (3) 6-2-005:022.*
2. Add to the Recommendations section:
  - E. Require written concurrence from the Lessee for right-of-entry to the subject property, to allow the USACE to conduct its RI/FS activities in the interest of public safety, prior to execution of the right-of-entry.
3. Add reference information to Exhibit A to reflect the current encumbrance of TMK (3) 6-2-001:015 by General Lease S-4474. The corrected exhibit is attached hereto as Exhibit A and incorporated by reference.
4. Delete the legal reference to Section 171-55, HRS and replace it with Section 171-95, HRS.
5. All terms and conditions listed in its January 27, 2017 approval to remain the same.

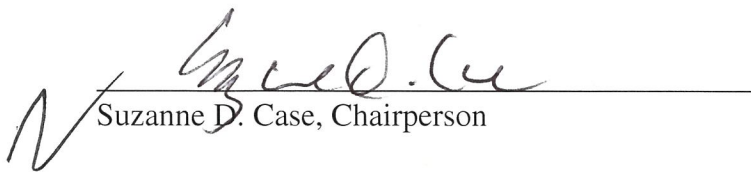
Respectfully Submitted,



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Barbara J. Lee,  
Project Development Specialist

APPROVED FOR SUBMITTAL:



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Suzanne D. Case, Chairperson

**WAIKOLOA MANEUVER AREA PROJECT NUMBER H09H1035920  
TMK PARCELS SCHEDULED FOR FY16**

TMK	TOTAL AREA (ACRES)	ROE SUBJECT PROPERTY (ACRES)*	ENCUMBERED AREA (ACRES)	ENCUMBRANCE**	PURPOSE (PERMITTEE)	LOCATION WITHIN WAIMEA, DISTRICT OF SOUTH KOHALA, ISLAND OF HAWAII (AHUPUAA)	TRUST LAND STATUS	COUNTY ZONING	STATE LAND USE DISTRICT
(3) 6-2-001:015	1930.64	1928.0623	1930.64	GL 4474***	Pasture lease (Parcel 14-B)	Puu Kawaiwai, Panoluukia, and Kapia	5(b)	A-40a, Road	Agriculture, Urban
			0.1889	LOD28306	water easement (COH)	Puu Kawaiwai			
			1.6	RP7475	baseyard/ storage (DOT)	Panoluukua			
			0.7888	LOD27886	electrical easement (HELCO)	Puu Kawaiwai, Panoluukia, and Kapia			
(3) 6-2-005-022	0.035	0.035	N/A	N/A	N/A	Ouli	5(a)	A-3a	Agriculture
<b>TOTALS:</b>	1930.675	1928.097	2.5777						

\* Subject property (1928.0623 acres) is exclusive of easement areas within parcel TMK (3) 6-2-001:015 listed above.

\*\* Abbreviations: N/A = not applicable; RP = Revocable Permit; LOD = Land Office Deed;

COH = County of Hawaii; DOT = Department of Transportation; HELCO = Hawaii Electric Light Company

\*\*\* Execution of GL-4474 lease extension was still in progress as of 01/27/2017. Reference documents:

- 1) 1976--Original pasture lease of 1931.00 acres (TMK (3) 6-2-001:015 or Parcel 14-B) to Richard Smart
- 2) 1997--Assignment of Lease to Parker Ranch, Inc.
- 3) 1981--Withdrawal of 0.36 acres for public utility sub-station
- 4) 2011--BLNR approval for 20-year Extension of GL-4474 for 1930.64 acres of TMK (3) 6-2-001:015
- 5) 2016--BLNR approval of mediated rental rate.

**EXHIBIT A**