

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

March 10, 2017

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

Ref: 17OD-001

OAHU

Grant of Perpetual, Non-Exclusive Easement to United States of America, by the Department of the Army, for Security Chain Link Fencing Purposes, Waikele, Ewa, Oahu, Tax Map Key: (1) 9-4-012:portions of 003 and 011.

APPLICANT:

United States of America, by the Department of the Army ("Applicant")

LEGAL REFERENCE:

Section 171-55 and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waikele, Ewa, Oahu, identified by Tax Map Key: (1) 9-4-012:portions of 003 and 011, as shown on the maps attached as **Exhibits A1 to A3**.

AREA:

B-1 1.978 acres over (1) 9-4-012:portion of 011  
B-2 4.457 acres over (1) 9-4-012:portion of 003, more or less.

ZONING:

State Land Use District: Agriculture and Urban  
City & County of Honolulu LUO: AG-1 and F-1

TRUST LAND STATUS:

Section 5(b) and 5(e) lands of the Hawaii Admission Act, i.e. ceded lands.  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

(1) 9-4-012:003 is set aside to the Agribusiness Development Corporation (ADC) pursuant to Governor's Executive Order No. 4480 for agricultural purposes.

(1) 9-4-012:011 is vacant and unencumbered.

CHARACTER OF USE:

For non-exclusive easement to construct and maintain security chain link fence.

COMMENCEMENT DATE:

January 1, 2016 [Previous lease expired on December 31, 2015. See Remarks Section.]

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on 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 46 that states, "creation or termination of easement, covenants, or other rights in structures or land." See **Exhibit B**.

DCCA VERIFICATION:

Not applicable. Government agency.

APPLICANT REQUIREMENTS:

None

REMARKS:

The Applicant had a 30-year non-exclusive easement [GL 5105] for security chain link fencing purposes encumbering the subject State lands, which expired on December 31, 2015.

Applicant now requests a perpetual easement for the same purpose. Applicant also plans to

carry out erosion control improvements over portions of the requested area. Therefore, the Applicant requests that the Board authorize the issuance of an immediate construction and management right-of-entry, which will expire upon the issuance of the requested easement.

Applicant 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.

Department of Facility Maintenance, Department of Health, Board of Water Supply, and Department of Planning Permitting have no objections/comments to the request. State Historic Preservation Division and Office of Hawaiian Affairs have not responded to the solicitation for comment before the deadline.

Applicant also confirmed that no access over lands under ADC's jurisdiction is required by the Applicant. If such access is needed in the future, the Applicant will seek ADC's authorization. See ADC's concurrence to the issuance of easement at **Exhibit C**.

There are no other pertinent issues or concerns, and staff has no objection to the request described above.

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 issuance of a perpetual non-exclusive easement to the United State of America, by the Department of the Army covering the subject area for security chain link fencing 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. Concurrence of Agribusiness Development Corporation and the Governor;
  - 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. Issuance of a construction and management right-of-entry permit to the United States of America, by the Department of the Army covering the subject area for security chain link fencing purposes under the terms and conditions cited above, which are by

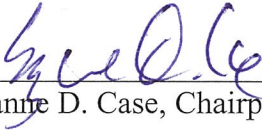
this reference incorporated herein and further subject to the following:

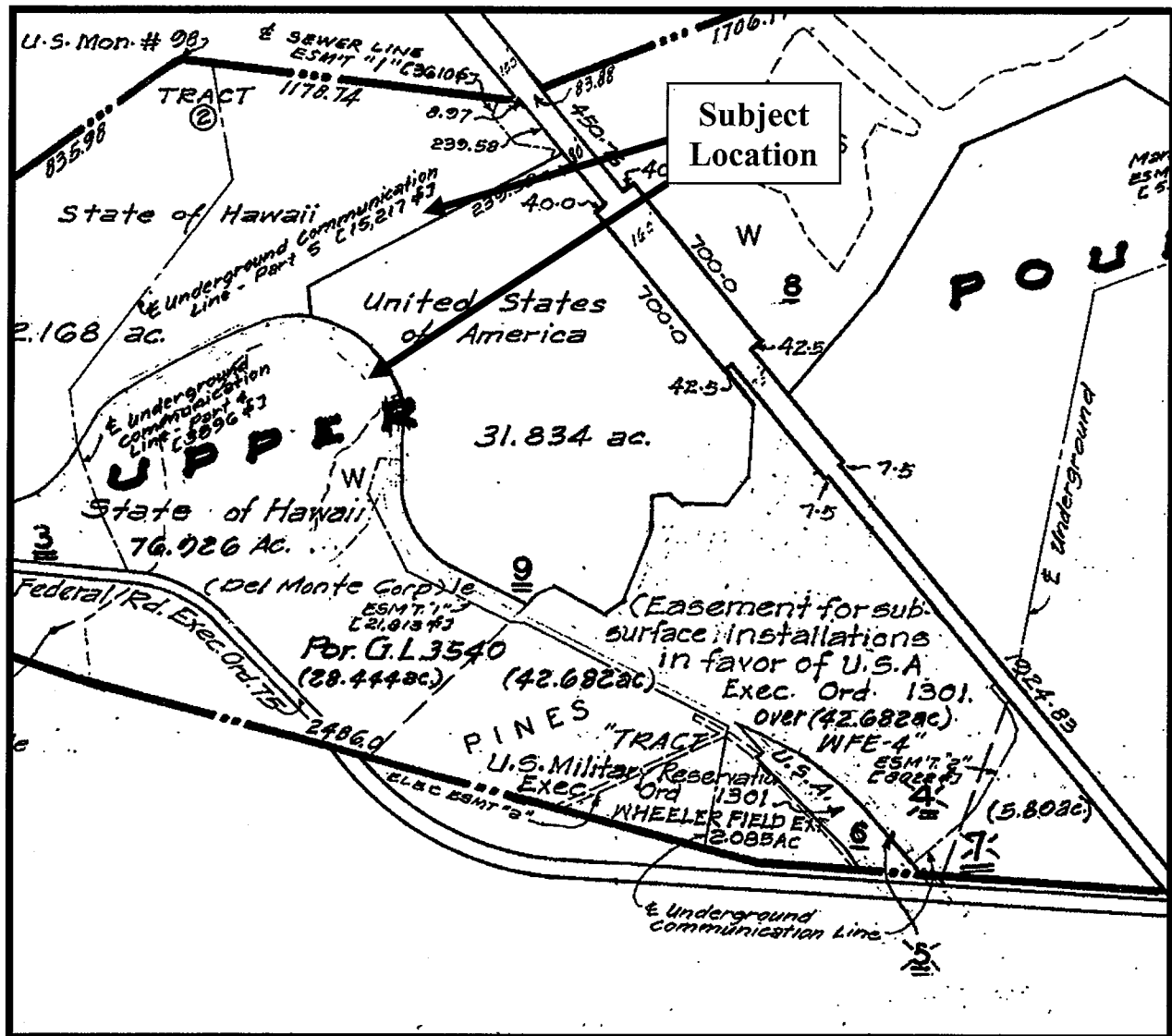
- A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

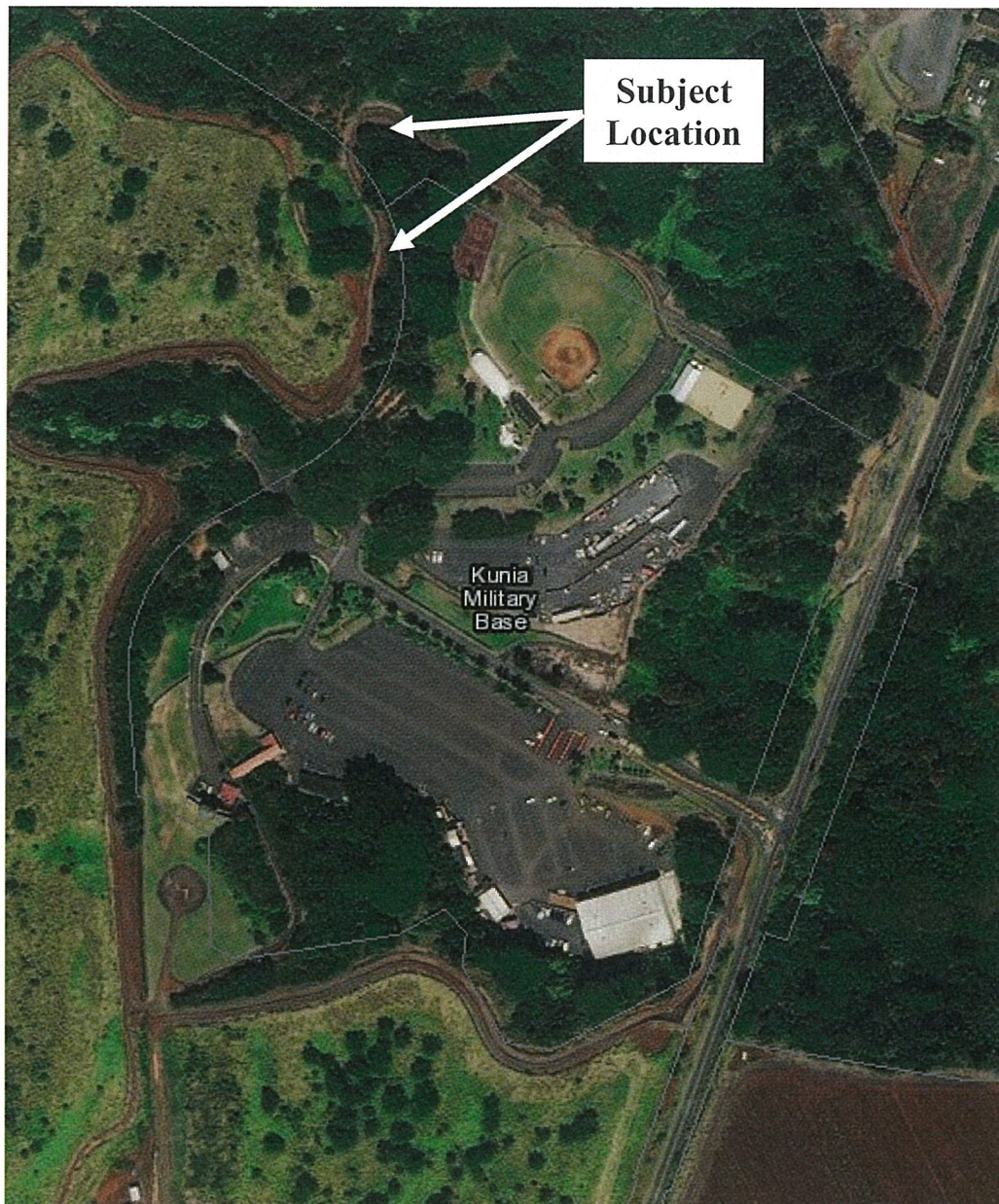


TMK (1) 9-4-012:portions of 003 and 011

EXHIBIT A1







**TMK (1) 9-4-012:portions of 003 and 011**

**EXHIBIT A3**

### EXEMPTION NOTIFICATION

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

Project Title: Issuance of Perpetual, Non-Exclusive Easement and Immediate Right-of-Entry Permit for Security Chain Link Fencing Purposes

Project / Reference No.: 17OD-001.

Project Location: Waikele, Ewa, Oahu, TMK (1) 9-4-012;portions of 003 and 011.

Project Description: Issuance of perpetual, non-exclusive easement for security chain link fencing purposes.

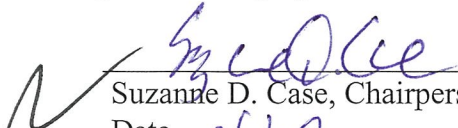
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on 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 46 that states, "creation or termination of easement, covenants, or other rights in structures or land."

The request is triggered by the expiration of a term easement at the same location. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Agencies as noted in the submittal.

Recommendation: It is recommended that the Board find that 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 3/1/17

**EXHIBIT B**



March 10, 2017

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
Phone: (808) 586-0186 Fax: (808) 586-0189

January 19, 2017

JAMES J. NAKATANI  
Executive Director

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LAND DIVISION  
2017 JAN 23 AM 10:58  
DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

Mr. Barry Cheung  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 96809

Subject: Request for Grant of Perpetual, Non-Exclusive Easement for  
Security Chain Link Fence Purposes

Dear Mr. Cheung:

I write in response to your request for comments regarding the Army's request for grant of perpetual, non-exclusive easement for the Kunia Erosion Control Project and security chain link fence in Kunia, Oahu.

The Agribusiness Development Corporation (ADC) is granting the Army a term Right of Entry (ROE) to Parcel B-2 to allow for the immediate erosion control project to proceed. The ADC has been advised that the Army does not need access over lands under the ADC's jurisdiction to access Parcel B-2. The ROE is specifically to perform construction work. Any request made by the Army, or its contractors to access Parcel B-2 through ADC lands would require further discussions between the Parties.

Thank you for the opportunity to comment on the request. If you have any questions, please call Ken Nakamoto at 586-0087.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Nakatani".

James J. Nakatani  
Executive Director

**EXHIBIT C**