

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

PSF No.: 16OD-174

OAHU

Withdrawal from Governor's Executive Order No. 3518 and Reset Aside to Department of Transportation for Highway Purposes, Issuance of Right-of-Entry Permit for Construction Parcels; Kahana, Koolauloa, Oahu, Tax Map Key: (1) 5-2-002:Portions of 001, (1) 5-2-005:Portions of 001, 021, 022, and 023, and portions of Kahana Stream.

CONTROLLING AGENCY (of subject executive order):

Department of Land and Natural Resources, Division of State Parks

APPLICANT (requesting set aside):

Department of Transportation, Highways Division

LEGAL REFERENCE:

Section 171-11 and 55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kahana, Koolauloa, Oahu, Tax Map Key: (1) 5-2-002:Portions of 001, 5-2-005:Portions of 001, 021, 022, 023, and portions of Kahana Stream, as shown on the attached maps labeled **Exhibit A1** and **A2**.

AREA:

Parcel No.	Tax Map Key	Area (sq. ft.)	Purposes
1	5-2-002:por. 001	10,054	Set aside
2	5-2-005:por. 001	1,180	Set aside
3	5-2-002:Kahana Stream*	30,180	Set aside
4	5-2-005:por. 021	362	Set aside
C1	5-2-002:por. 001	37,379	Construction ROE
C2	5-2-002:por. 001	15,620	Construction ROE
C3	5-2-002:por. 001	18,870	Construction ROE

C4	5-2-002:por. 001	2,041	Construction ROE
C5	5-2-002:por. 001	41,133	Construction ROE
C5A	5-2-005:por. 001	2,098	Construction ROE
C6	5-2-005:por. 022	3,196	Construction ROE
C7	5-2-005:por. 023	12,249	Construction ROE
C8	5-2-005:Kahana Stream*	29,885	Construction ROE

\*Portions of Kahana Stream not encumbered by EO 3518

Proposed Set aside	41,776 square feet
Construction ROE	162,471 square feet

ZONING:

State Land Use District: Conservation  
City and County of Honolulu LUO: P-1

TRUST LAND STATUS:

Acquired after Statehood, i.e. non-trust lands (for parcels noted above); and  
Section 5(b) lands of the Hawaii Admission Act (for Kahana Stream)

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Other than the portions of Kahana Stream, the rest of the requested parcels are  
encumbered by Governor's Executive Order No. 3518 setting aside to Department of  
Land and Natural Resources, Division of State Parks for Kahana Valley State Park  
purposes.

PURPOSE OF SET ASIDE:

Highway purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Act 218, Session Laws of Hawaii 2012 (**Exhibit B**) exempts the project from State  
requirements under Chapter 343, Hawaii Revised Statutes.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost;
- 2) Conservation District Use Permit; and

- 3) Provide survey maps and descriptions according to State DAGS standards, including Land Court maps and at Applicant's own cost.

REMARKS:

The requested parcels have been set aside to Division of State Parks under EO 3518 for Kahana Bay State Parks purposes since 1991.

Department of Transportation, Highways Division (DOT), in relation to the Federal Aid Project No. BR-083-1(55) for the replacement of South Kahana Stream Bridge, requests the withdrawal of certain portions of the State Parks area and re-set aside for highway purposes. In addition, other portions of the same State Parks will be required during the construction stage. Therefore, a right-of-entry permit during the construction period for parcels is also required.

For the Board's information, the utility company will send in separate request pertaining to the proposed easement area on Exhibits A1 and A2 at a later date.

Department of Planning and Permitting (DPP) recommend a subdivision application be filed in addition to a Conservation District Use Application required by the Office of Conservation and Coastal Lands. Furthermore, DOT will also provide certification of "no-rise" determination indicating that there will be no increase in the base flood elevation as required by DPP.

State Parks Division (see **Exhibit C**), Department of Health, Department of Forestry and Wildlife, and Department of Parks and Recreation have no objections/comments to the subject request. State Historic Preservation Division, Division of Aquatic Resources, Commission on Water Resource Management, Department of Hawaiian Homelands, Office of Hawaiian Affairs, Department of Facility Maintenance, and Board of Water Supply have not responded to solicitation for comments before the response deadline.

There are no other pertinent issues or concerns and staff does not have any objection to the request.

RECOMMENDATION: That the Board, subject to the Applicant fulfilling all of the Applicant Requirements listed above:

1. Approve of and recommend to the Governor issuance of an executive order withdrawing 41,776 square feet, more or less from the Governor's Executive Order No. 3518 and subject to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular

or special session next following the date of the setting aside;

- 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.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Transportation 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 executive order form, as may be amended from time to time;
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
  - 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 an immediate right-of-entry permit to Department of Transportation 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 right-of-entry permit form, as may be amended from time to time;
  - B. The right-of-entry permit shall expire upon issuance of the executive order;
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

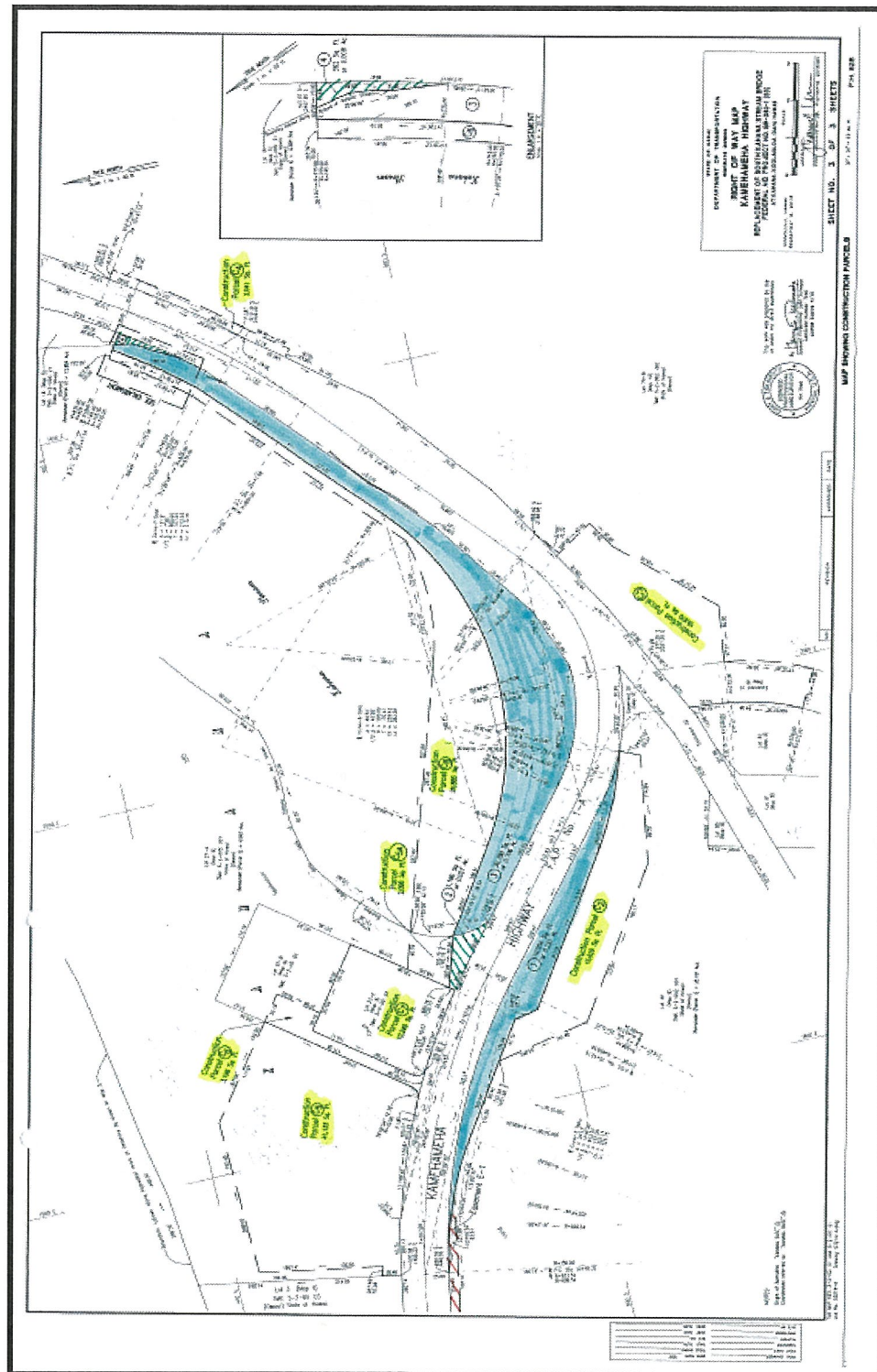
Respectfully Submitted,

  
Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson





TMK (1) 5-2-002 and (1) 5-2-005

EXHIBIT A2



Approved by the Governor

on JUL 5 2012

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

ACT 218

S.B. NO. 3010  
S.D. 2  
H.D. 1

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## A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that the department of  
2 transportation is charged with the implementation of the bridge  
3 rehabilitation and replacement program for bridges with a  
4 sufficiency rating of less than eighty to be designed and  
5 constructed. There are currently seven hundred fifty-six state-  
6 owned bridges, of which two hundred fifty-six are functionally  
7 obsolete and thirty-nine are structurally deficient.  
8 Functionally obsolete bridges are defined as bridges with  
9 geometric deficiencies such as being too narrow. Structurally  
10 deficient bridges are defined as bridges with a poor assessment  
11 of the structural condition of the bridge, including the  
12 waterway opening adequacy.

13       There are currently thirty bridges under the jurisdiction  
14 of the department of transportation that are either functionally  
15 obsolete or structurally deficient and that are in the design  
16 phase that are planned for rehabilitation and replacement, in  
17 addition to the Hana highway bridge preservation plan, which  
18 needs to move forward for construction.

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**EXHIBIT B**

Page 2

S.B. NO. 3010  
S.D. 2  
H.D. 1

1       The purpose of this Act is to expedite construction  
2 projects for the bridge rehabilitation and replacement program  
3 by providing temporary exemptions from certain state and county  
4 requirements.

5       SECTION 2. Beginning July 1, 2012, and ending June 30,  
6 2017, the department of transportation and any of its  
7 contractors shall be exempt from state requirements under the  
8 following, but only to the extent necessary to expedite the  
9 projects enumerated under section 3 of this Act:

- 10       (1) Chapter 6E, Hawaii Revised Statutes, historic  
11       preservation;
- 12       (2) Part II of chapter 171, Hawaii Revised Statutes,  
13       public lands;
- 14       (3) Chapter 174C, Hawaii Revised Statutes, state water  
15       code;
- 16       (4) Chapter 180, Hawaii Revised Statutes, soil and water  
17       conservation districts;
- 18       (5) Chapter 180C, Hawaii Revised Statutes, soil erosion  
19       and sediment control;
- 20       (6) Chapter 183, Hawaii Revised Statutes, forest reserves,  
21       water development, and zoning;
- 22       (7) Chapter 183D, Hawaii Revised Statutes, wildlife;

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Page 3

**S.B. NO.** 3010  
S.D. 2  
H.D. 1

- 1       (8) Chapter 184, Hawaii Revised Statutes, state parks and  
2       recreation areas;
- 3       (9) Chapter 195, Hawaii Revised Statutes, natural area  
4       reserves system;
- 5       (10) Chapter 195D, Hawaii Revised Statutes, conservation of  
6       aquatic life, wildlife, and land plants;
- 7       (11) Chapter 198D, Hawaii Revised Statutes, Hawaii  
8       statewide trail and access system;
- 9       (12) Chapter 205, Hawaii Revised Statutes, land use  
10      commission;
- 11      (13) Chapter 205A, Hawaii Revised Statutes, coastal zone  
12      management;
- 13      (14) Chapter 341, Hawaii Revised Statutes, environmental  
14      quality control;
- 15      (15) Chapter 342B, Hawaii Revised Statutes, air pollution;
- 16      (16) Chapter 342D, Hawaii Revised Statutes, water  
17      pollution;
- 18      (17) Chapter 342E, Hawaii Revised Statutes, nonpoint source  
19      pollution management and control;
- 20      (18) Chapter 342F, Hawaii Revised Statutes, noise  
21      pollution;

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S.B. NO. 3010  
S.D. 2  
H.D. 1

1 (19) Chapter 343, Hawaii Revised Statutes, environmental  
2 impact statements; and

3 (20) Chapter 344, Hawaii Revised Statutes, state  
4 environmental policy.

5 SECTION 3. The following bridges and projects shall be  
6 exempt from the requirements specified under section 2 of this  
7 Act:

- 8 (1) Farrington highway, replacement of Maipalaoa bridge,  
9 on Oahu;
- 10 (2) Farrington highway, replacement of Makaha bridges  
11 numbers 3 and 3A, on Oahu;
- 12 (3) Kalanianaʻole highway, Inoaole stream bridge  
13 replacement, in Waimanalo, Oahu;
- 14 (4) Kamehameha highway, Kaipapau stream bridge, on Oahu;
- 15 (5) Hawaii belt road, Umauma stream bridge, on Hawaii;
- 16 (6) Waiehu beach road, Iao stream bridge rehabilitation,  
17 vicinity of Wailuku, on Maui;
- 18 (7) Kaunualii highway, Omao bridge rehabilitation, on  
19 Kauai;
- 20 (8) Kuhio highway, Kapaia bridge replacement, on Kauai;
- 21 (9) Kamehameha highway, south Kahana stream bridge  
22 replacement, on Oahu;

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**S.B. NO.** 3010  
S.D. 2  
H.D. 1

1 (10) Hana highway bridge preservation plan and projects, on  
2 Maui; and

3 (11) Kamehameha Highway, Franklin D. Roosevelt Bridge  
4 rehabilitation, on Oahu.

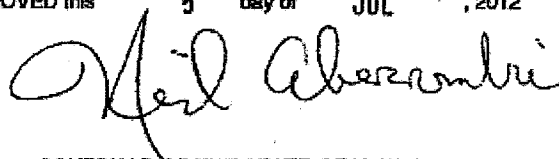
5 SECTION 4. If the construction of a project granted an  
6 exemption under this Act is not completed by June 30, 2017, the  
7 governor may authorize in writing before that date the  
8 continuation of construction of the project until completion.  
9 If so authorized, the project shall continue to be exempt as  
10 provided under this Act.

11 SECTION 5. If any part of this Act is found to be in  
12 conflict with federal requirements that are a prescribed  
13 condition for the allocation of federal funds to the State, the  
14 conflicting part of this Act is inoperative solely to the extent  
15 of the conflict and with respect to the agencies directly  
16 affected, and this finding shall not affect the operation of the  
17 remainder of this Act in its application to the agencies  
18 concerned. The rules under this Act shall meet federal  
19 requirements that are a necessary condition to the receipt of  
20 federal funds by the State.

21 SECTION 6. This Act shall take effect on July 1, 2012.

**S.B. NO.** 3010  
S.D. 2  
H.D. 1

APPROVED this 5 day of JUL, 2012

A handwritten signature in black ink, appearing to read "Neil Abernethy", is written over the printed name.

GOVERNOR OF THE STATE OF HAWAII

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

January 10, 2017

Ref. No.: 16OD-174

MEMORANDUM

TO:

**State Agencies:**

- ☒ DOH (Environmental Planning)
- ☒ DHHL
- ☒ DLNR-Aquatic Resources
- ☒ DLNR-Forestry & Wildlife
- ☒ DLNR-Historic Preservation
- ☒ DLNR-State Parks
- ☒ DLNR-Conservation and Coastal Lands
- ☒ DLNR-Water Resource Management
- ☒ Office of Hawaiian Affairs

**City Agencies:**

- ☒ Planning & Permitting
- ☒ Parks & Recreation
- ☒ Facility Maintenance
- ☒ Board of Water Supply

FROM:

Barry Cheung, District Land Agent

SUBJECT:

Withdrawal from Governor's Executive Order No. 3518 and Reset Aside to for Highway Purposes, Issuance of Right-of-Entry Permit for Construction Parcels.

LOCATION:

Kahana, Koolauloa, Oahu, Tax Map Key: (1) 5-2-002: portions of 001, (1) 5-2-005: portions of 001, 021, 022, and 023, and portions of Kahana Stream.

APPLICANT:

Department of Transportation, Highways Division.

Transmitted for your review and comment is a copy of the draft Land Board submittal for the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by **February 10, 2017**. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0430. Thank you.

Enclosure

- ( ) We have no objections.
- ☒ We have no comments.
- ( ) Comments are attached.

Signed:

Date:

*[Signature]*  
1-18-17

RECEIVED  
LAND DIVISION  
2017 FEB - 8 AM 11:04  
DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

EXHIBIT C