

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

August 11, 2017

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

PSF No.: 16HD-133

HAWAII

**Set-Aside to the Water Board of the County of Hawaii for the Waikoloa Reservoir #1 and Grant of Perpetual, Non-exclusive Easement to the Water Board of the County of Hawaii for Access and Appurtenant Waterline Purposes; Issuance of Construction and Management Right-of-Entry to the Water Board of the County of Hawaii, Waimea, South Kohala, Hawaii; Tax Map Keys: (3) 6-5-001: 020 portion and 047.**

APPLICANT:

Water Board of the County of Hawaii ("Applicant"), whose business and mailing address is 345 Kekuanaoa Street, Suite 20, Hilo, HI 96720.

LEGAL REFERENCE:

Section 171-11, 95, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Waimea, South Kohala, Hawaii, identified by Tax Map Keys: 3<sup>rd</sup>/ 6-5-001:020 and 047, as shown on the attached map labeled Exhibit A.

TMK/ ZONING/ ENCUMBRANCE/ AREA:

TMK	ZONE		AREA	ENCUMBRANCE
	LUC	CZO		
3 <sup>rd</sup> / 6-5-001:020	Agriculture	Ag-40	420.17	GL S-4465-Parker Ranch
3 <sup>rd</sup> / 6-5-001:047	Agriculture	Ag-40	16.07	None of record, but used as DWS reservoir

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

PURPOSE OF SET-ASIDE:

Reservoir site and appurtenant waterlines.

PURPOSE OF EASEMENT:

Right, privilege and authority to access, construct, use, maintain, repair, replace and remove water transmission pipeline over, under and across State-owned land.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached as Exhibit B.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from Parker Ranch, Inc. and any other users of the subject land.
- 2) Provide survey maps and descriptions of easement area according to State DAGS standards and at Applicant's own cost.

TERM OF RIGHT-OF-ENTRY:

The right-of-entry is for the period beginning the date of Land Board meeting and expiring upon completion of the set-aside.

REMARKS:

By two separate letters, both dated September 26, 2016, Keith Okamoto, Chief Engineer for the Department of Water Supply (DWS) requested a set-aside of government lands and a grant of perpetual easement for waterline purposes in the South Kohala District on the Island of Hawaii to DWS' managing board, the Water Board of the County of Hawaii (Applicant).

The set-aside of government lands is for the Waikoloa Reservoir No. 1 and appurtenant waterline system facilities. The existing water system facilities, consisting of the reservoir, roadways, pipelines, water system appurtenances and encroachments, were constructed in the early 1970's by the Department of Land and Natural Resources to enhance the municipal water system in the area. However, a formal set-aside to Applicant was never completed.

At its meeting of August 22, 2008, under agenda item D-10, the Board of Land and Natural Resources approved a right-of-entry to the Applicant for the purpose of moving equipment and materials to repair damage to the existing facilities caused by the October 15, 2006 earthquake. This project is currently ongoing.

There are three parcels of land involved in the Applicant's proposed earthquake repairs, but only two are under the jurisdiction of the Board of Land and Natural Resources. The parcel upon which Waikoloa Reservoir #2 ("Reservoir #2") is located, TMK (3) 6-5-001:011, is under the management and control of the Department of Hawaiian Home Lands (DHHL). Applicant operates Reservoir #2 on this land pursuant to License Easement No. 234 from DHHL.

Adjoining the southern boundary of the license easement area for Reservoir #2 is TMK (3) 6-5-001:047, which is the site of Waikoloa Reservoir #1 ("Reservoir #1"). Applicant operates and maintains Reservoir #1 on this State-owned parcel. However, there appears to be no written agreement between the State and the County with respect to the operation and maintenance of Reservoir #1.

Adjoining the southern boundaries of both reservoir sites is TMK (3) 6-5-001:020 (Parcel 20), which is State land currently leased to Parker Ranch, Inc. under General Lease No. S-4465 and expiring on February 28, 2031. See map attached hereto as Exhibit A.

The pipeline transporting water from Reservoir #1 was built around the same time as the reservoir in the 1970's and crosses Parcel 20. The exact location of the pipeline and access road servicing it will need to be surveyed, and staff has included an Applicant Requirement above to this effect.

Applicant will need to grade portions of the road and lay aggregate base course on it to accommodate heavy equipment and other vehicles. Applicant indicates that it will also need to grade a portion of the site of Reservoir #1 to create a temporary staging area. Applicant proposes to re-seed and restore the staging area when construction is complete. Applicant is working with Parker Ranch to gain its concurrence to the proposed uses of the lease land.

#### RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

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. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Water Board of the County of Hawaii 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. Authorize the issuance of a perpetual non-exclusive easement to the Water Board of the County of Hawaii covering the subject area for water pipeline and 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. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the issuance of a right-of-entry permit to the Water Board of the County of Hawaii, its contractors, consultants, and persons acting for or on its behalf. The purpose of the right-of-entry is to allow Applicant to continue construction and management of the reservoir site and appurtenances and access roadways. This permit, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein, is further subject 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. This right-of-entry is for the period beginning June 9, 2017 (date of Board meeting) and expiring upon completion of the repair work, whichever is sooner. Extensions may be granted by the Chairperson, as required; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gordon C. Heit  
District Land Agent

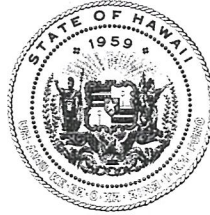
APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



DAVID Y. IGE  
GOVERNOR OF HAWAII



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

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

JEFFREY T. PEARSON, P.E.  
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

## EXEMPTION NOTIFICATION

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

**Project Title:** Set Aside and Grant of Perpetual Easement to the Water Board of the County of Hawaii, for Reservoir and Waterline Transmission Purposes; Issuance of a Right-of-Entry Permit to County of Hawaii, Water Board and or its Agents.

**Project Number:** PSF No. 16HD-133

**Project Location:** Waimea, South Kohala, Hawaii, TMK: (3) 6-5-001:020, 047.

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

**Project Description:** Set aside of improved State land to the Water Board Water Board of the County of Hawaii for reservoir and waterline Purposes. Issuance of Immediate Management Right-of-entry to the Water Board and/or its agents for repair and maintenance purposes.

**Consulted Parties:** Various County, State and Federal agencies listed in submittal

**Exemption Class No.:** In accordance with 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, Item No. 43 that states "Transfer of management authority over State-owned lands, such as setting aside of State lands to or from other government agencies through a Governor's Executive Order"; No. 46 that states "Creation or termination of

**EXHIBIT B**

easement, covenants, or other rights in structures or land." and No. 51 that states "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

Recommendation:

It is anticipated 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.