

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.: 00MD-552
Maui

Amend Prior Board Action of April 27, 2001, Item D-1, Resubmittal - Set Aside to the Department of Transportation, Airports Division for Airport Purposes, Kahana and Mahinahina 1, 2, and 3, Lahaina, Maui, Tax Map Key: 4-3-01: 68 and Por. 31.

The purpose of the amendment is to authorize the issuance of a management right-of-entry permit to Department of Transportation - Airports Division pending the issuance of an executive order effecting the set-aside and to update the Tax Map Key numbers of the subject lands; Kahana and Mahinahina 1, 2, and 3, Lahaina, Maui, Tax Map Keys: (2) 4-3-001:031, 068, 073, 074 and 075.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR"), Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources ("Department") 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 51. See **Exhibit 1**.

BACKGROUND:

At its meeting of April 27, 2001, under agenda Item D-1, the Board of Land and Natural Resources ("Board") approved the set-aside of the subject lands to the Department of Transportation-Airports Division ("DOT-Airports") for the Kapalua-West Maui Airport and allied purposes. The Board additionally authorized the issuance of a management right-of-entry ("ROE") to DOT-Airports that was to expire upon the issuance of the executive order effecting the set-aside or within one year of issuance, whichever occurred first. A copy of the approved Board action is attached hereto as **Exhibit 2**.

REMARKS:

The completion of the set-aside of the subject lands to DOT-Airports has been

delayed due to several factors, including a mapping discrepancy.¹ As a result, the ROE the Board approved at its April 27, 2001 meeting expired on April 26, 2002. Staff recommends a new ROE be issued retroactively to April 26, 2002 to eliminate any gap in the DOT-Airports' management jurisdiction of the lands, and that the ROE remain in effect until issuance of the executive order setting aside the lands to DOT-Airports.

Since the original board submittal of April 27, 2001, the County of Maui has assigned new Tax Map Key numbers to portions of the Kapalua-West Maui Airport lands: Tax Map Keys: (2) 4-3-001:073, 074 & 075,² and parcel 031 is now the road leading to the terminal. See **Exhibits 3a – 3c**.

A draft of this submittal was disseminated to agencies listed below with the results indicated:

Agency	Comment
DLNR – Engineering	No comments.
DLNR – DOFAW	No response by suspense date.
DLNR – Historic Preservation	No response by suspense date.
DLNR – DOCARE	No response by suspense date.
Dept. of Transportation – Airports Division	No objections.
County of Maui – Planning	No response by suspense date.
County of Maui – Public Works	No response by suspense date.
Office of Hawaiian Affairs	No response by suspense date.

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. Amend its prior action of April 27, 2001, under agenda Item D-1, by:
 - A. Deleting Recommendation B in its entirety and replacing it with a new Recommendation B to read as follows:

“B. Authorize an immediate management right-of-entry permit to the Department of Transportation–Airports Division over

1 The mapping discrepancy is now resolved and staff believes the executive order can be completed within the next few months.

2 Tax Map Keys: (2) 4-3-001:073, 074 & 075 were added for tax assessment purposes; no change to the total acreage to the Kapalua-West Maui Airport of 57.3 acres, more or less.

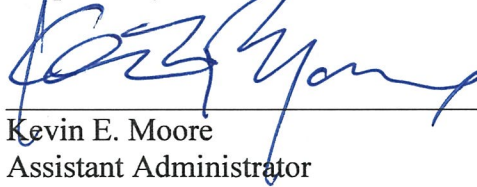
the subject lands for the Kapalua-West Maui Airport under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
2. This management right-of-entry permit is effective upon Board approval and shall continue until the executive order is issued; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.”

B. Updating the Tax Map Key numbers for the Kapalua-West Maui Airport to Tax Map Keys: (2) 4-3-001:031, 068, 073, 074 and 075.

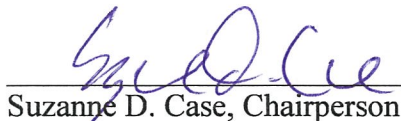
3. Except as amended hereby, all terms and conditions listed in the Board’s action of April 27, 2001 shall remain the same.

Respectfully Submitted,



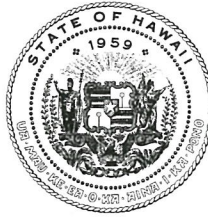
Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 11, 2017

EXEMPTION NOTIFICATION

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

Project Title:	Issuance of Immediate Management Right-of-Entry Permit to the Department of Transportation–Airports Division for the Kapalua–West Maui Airport
Project / Reference No.:	PSF No. 00MD-552
Project Location;	Kahana and Mahinahina 1,2, & 3, Lahaina, Maui; Tax Map Keys: (2) 4-3-001:031, 068, 073, 074 and 075
Project Description:	Issuance of Immediate Management Right-of-Entry Permit to the Department of Transportation–Airports Division for the Kapalua–West Maui Airport
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Hawaii Administrative Rules, Section 11-200-8 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. 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.”
Consulted Parties:	As noted in the submittal

Exhibit 1

Recommendation:

That the Board finds 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.

D-1

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

April 27, 2001

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii 96813

MAUI

RESUBMITTAL
SET ASIDE TO THE DEPARTMENT OF TRANSPORTATION,
AIRPORTS DIVISION FOR AIRPORT PURPOSES, KAHANA AND
MAHINAHINA 1,2 AND 3, LAHAINA, MAUI, TAX MAP KEY: 4-3-
01: 68 AND POR. 31

APPLICANT:

DEPARTMENT OF TRANSPORTATION, AIRPORTS DIVISION

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended

LOCATION:

Kahana and Mahinahina 1, 2 and 3, Lahaina, Maui, identified by Tax Map Key: 4-3-01: 68 and Por. 31, as shown on the attached map labeled Exhibit A.

AREA:

57.3 acres, more or less

ZONING:

State Land Use District: Urban
County of Maui CZO: Airport

LAND TITLE STATUS:

The subject lands were acquired after Statehood, and therefore, are not ceded lands.

CURRENT USE STATUS:

Operated and maintained as the Kapalua-West Maui Airport.

PURPOSE:

Airport and allied purposes

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

April 27, 2001. *AM*

ITEM D-1

Exhibit 2

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, Hawaii Revised Statutes, as amended, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to the Applicant's use of the lands, the Applicant shall be responsible for compliance.

APPLICANT' REQUIREMENTS:

Provide a metes and bounds survey map according to the Department of Accounting and General Services, Survey Division standards at Applicant's own cost.

REMARKS:

This request was originally brought before the Board at its September 22, 2000 meeting (agenda item D-6). However, it was deferred so that the matter of the FAA's position on charging fair market rent for non-airport uses on state-owned land set aside to DOT, Airports Division, could be discussed with the Department of the Attorney General. After discussing the matter, DLNR was advised by the Department of the Attorney General that only those airports acquired with non-public funds could be set aside to DOT, Airports Division, at this time.

The 57.3-acre Kapalua-West Maui Airport was acquired by the State from Hawaiian Airlines, Inc.; successor by merger to West Maui Airport, Inc., under a Final Judgment of Condemnation dated September 11, 1995 (Civil No. 92-0701-2). Consideration in the amount of \$18.5 million was paid by the State, using airport funds, to Hawaiian Airlines, Inc. The said sum was determined pursuant to Section 101-23, Hawaii Revised Statutes, as amended, relating to the fixing of compensation or damages to be paid for the condemnation of any property.

Hawaiian Airlines, Inc. began developing the Kapalua-West Maui Airport in the early 1980s. Hawaiian Dredging and Construction Company, its contractor, constructed the facility completing it in April 1987. Initially, Hawaiian Airlines, Inc. held a leasehold interest in the land underlying the airport and eventually acquired the fee simple title to the site from Maui Land and Pineapple Company.

By deed dated August 15, 1995, Hawaiian Airlines, Inc., as the grantor, quitclaimed unto the State, the grantee, all of the estate, right, title, and interest of the grantor in and to any buildings, improvements, or fixtures located on the property, and in, to, or respecting any easements, privileges, licenses, strips, or other real property appurtenant to, adjacent to, encumbering, or related to the subject property, together with the reversions, remainders, rents, issues and profits.

Accordingly, the set aside of the Kapalua-West Maui Airport to the Department of Transportation, Airports Division, would be in order.

RECOMMENDATION:

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

- A. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject land to the Department of Transportation, Airports Division under the terms and conditions cited above, which are by this reference incorporated herein, and subject further to the following:
1. The standard terms and conditions of the most current executive order document form, as may be amended from time to time;
 2. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote of both in any regular or special session next following the date of the set aside;
 3. Review and approval by the Department of the Attorney General; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Authorize the issuance of a management right-of-entry to the Department of Transportation (DOT), Airports Division, and/or its consultant(s), covering the Kapalua-West Maui Airport, subject to the following:
1. DOT, Airports shall cause its consultant(s), if any, to indemnify, defend and hold the State of Hawaii, harmless from and against any loss, liability, claim or demand for property damage, personal injury, or death arising out of any act or omission of DOT's consultant(s) under this approval or relating to or connected with the granting of this approval;
 2. DOT, Airports Division shall insure that its consultant(s), if any, procure, at its (their) own expense, and maintain during the entire period of this right-of-entry, from any insurance company or companies licensed to do business in the State of Hawaii, a policy or policies of comprehensive public liability insurance, in an amount acceptable to the Department (\$500,000 per incident/\$1,000,000 aggregate) insuring the State of Hawaii against all claims for personal injury, death, and property damage; that said policy shall cover the entire right-of-entry area in the control or use of DOT, Airports Division and/or its consultant;
 3. This right-of-entry is effective upon Land Board approval and shall expire on the issuance date of the set aside document or one (1) year, whichever occurs first; and

April 27, 2001

4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



GARY MARTIN
Land Agent

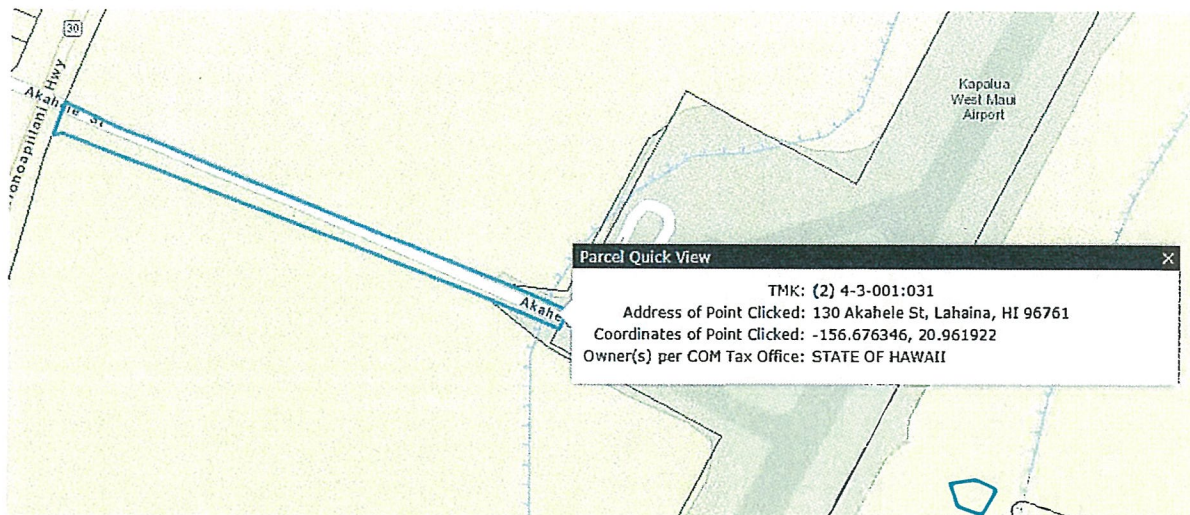


APPROVED FOR SUBMITTAL:


GILBERT S. COLOMA-AGARAN, Chairperson

Exhibit 3a

TMK No. (2) 4-3-001:031



TMK No. (2) 4-3-001:073

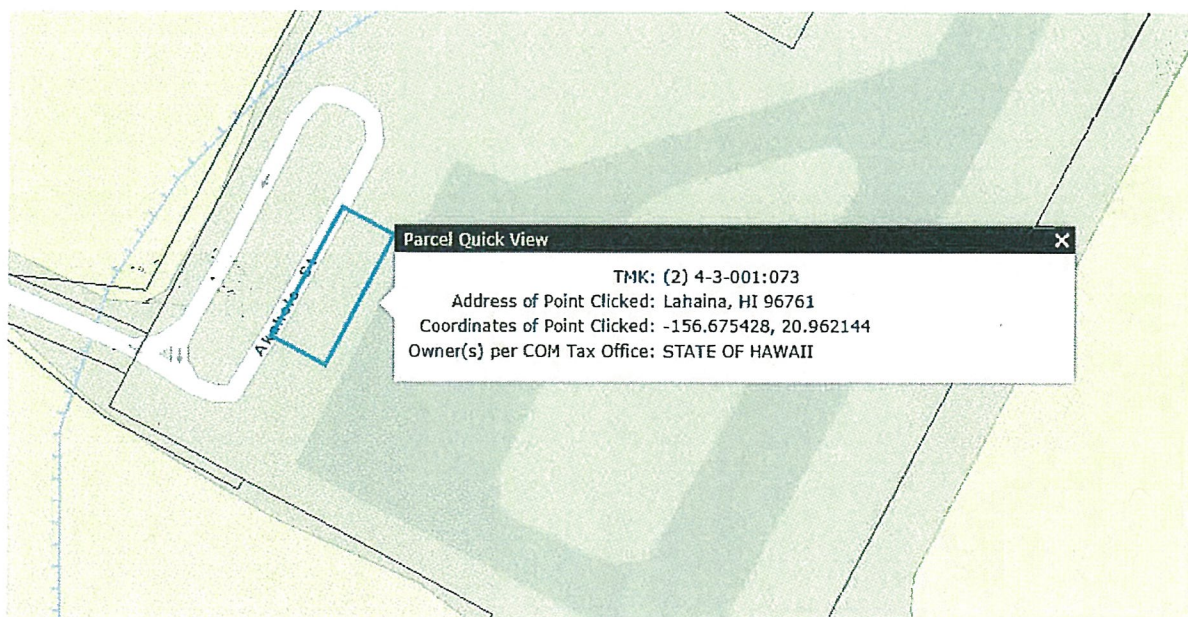
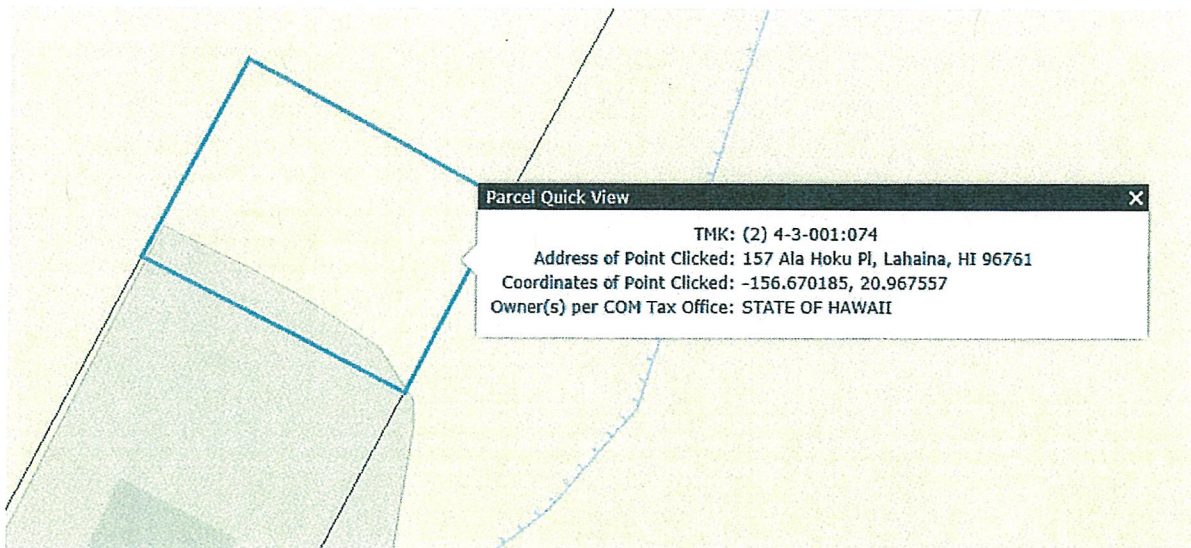


Exhibit 3b

TMK No.: (2) 4-3-001:074



TMK No.: (2) 5-3-001:075

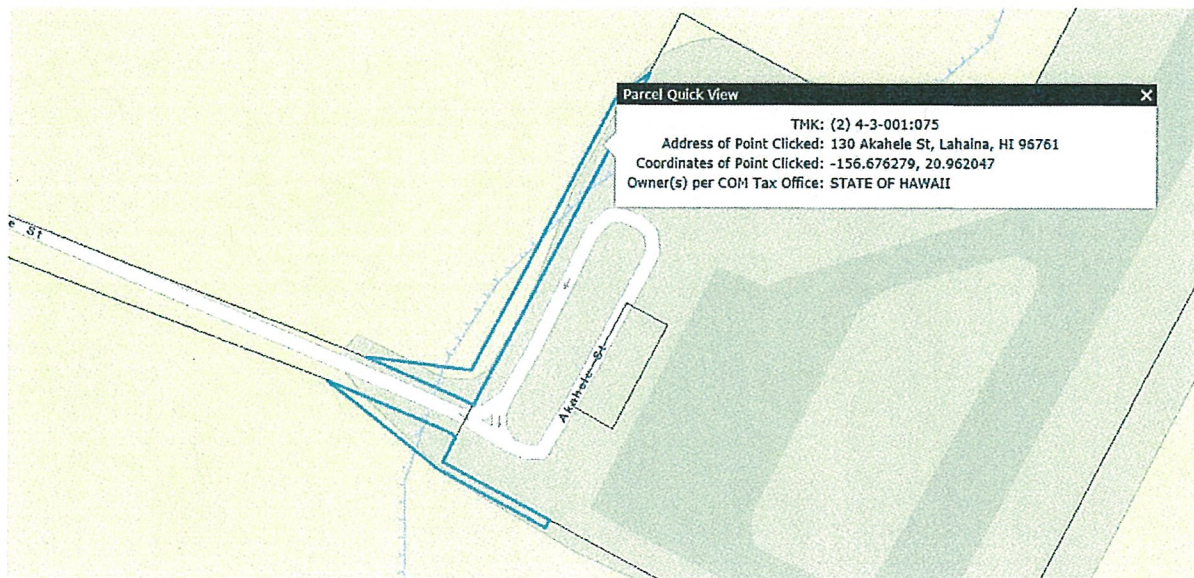


Exhibit 3c