

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.: 17OD-074

Oahu

Set Aside of State Lands to Department of Agriculture for Agricultural Purposes  
Pursuant to Act 90, Session Laws of Hawaii 2003; Issuance of Immediate  
Management Right-of-Entry to DOA, Honouliuli, Ewa, Oahu, Tax Map Key: (1)  
9-1-031:001.

APPLICANT:

Department of Agriculture

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Honouliuli, Ewa, Oahu, identified by Tax  
Map Key: (1) 9-1-031:001, as shown on the attached map labeled Exhibits 1 and  
1-A.

AREA:

110.106 acres, more or less.

ZONING:

State Land Use District: Urban  
County of Honolulu CZO: I-2 Intensive Industrial District

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES \_\_\_\_\_ NO  
  X  

CURRENT USE STATUS:

Vacant and unencumbered.

PURPOSE:

Agricultural purposes.

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, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended. See Exhibit 2 attached.

BACKGROUND:

At its meeting of August 25, 2006, under agenda item D-12, the Board of Land and Natural Resources found that the public interest demanded that a lease for the property be disposed of through negotiation pursuant to Section 171-59(a) of the Hawaii Revised Statutes, as amended, and delegated the authority to the Chairperson to issue a Request for Qualifications/Request for Proposals (RFQ/RFP).

On November 8, 2009, DLNR issued an RFQ/RFP to select a developer for the Subject Property. As a result of the RFQ/RFP process, the State of Hawaii, by its Chairperson of the Board of Land and Natural Resources (Chairperson) entered into a Development Agreement with West Wind Works, LLC (3W) made effective November 24, 2011 for the development of the Oahu Renewable Energy Park and terminating on December 31, 2013 or sooner.

Following 3W's default on its monetary and non-monetary obligations, staff requested the Board cancel the Development Agreement at its meeting on May 25, 2012. After deferring action on the cancellation, the Board approved the assignment of the Development Agreement to International Electric Power, LLC.

Through subsequent assignments of and amendments to the Development Agreement, PSP III, LLC assumed the role of Developer, and the termination date of the Development Agreement was amended to December 31, 2016 or sooner.

Unable to negotiate a power purchase agreement with Hawaiian Electric Company, PSP III, LLC exercised its option to cancel the Development Agreement in a letter dated December 5, 2016.

REMARKS:

The Subject Property is located at Honouliuli, Ewa, Oahu within the Campbell Industrial Park. The Subject Property was acquired by the State by condemnation in 1997 for the purposes of “land banking, protection and preservation of agricultural land, and for providing for various public uses.” Prior to condemnation, the Subject Property was used as a livestock feedlot. Since termination of feedlot operations, the property has remained vacant and underutilized, in large part due to the lack of roadways and utility infrastructure.

In a letter dated April 12, 2016, the Department of Agriculture (DOA) inquired about the possibility of setting aside approximately 35 acres to the DOA for water credits. The Chairperson responded in a letter dated May 20, 2016 that a set aside was not possible at that time, as the property was encumbered through December 31, 2016.

Following the Developer’s cancellation of the Development Agreement, the DOA has again requested this property be set aside to it pursuant to Act 90, Session Laws of Hawaii 2003, which provides for the transfer of non-agricultural park lands to DOA from the Department of Land and Natural Resources.<sup>1</sup> The DOA seeks to return the use of this parcel to its original purpose as a cattle feed lot, which is permitted under the zoning, and to provide it with the needed water allocation for an adjacent property. The set-aside furthers the State’s goals of greater food security by increasing local food production.

In the event staff receives proposals in the future to lease portions of this property for renewable energy projects, staff is recommending that the Board reserve the right to withdraw appropriate acreage or use rights from the set-aside for leasing to renewable energy producers, provided such leases will not unreasonably interfere with DOA’s use of the land.

A draft of this submittal was sent to the agencies below:

Agency	Comments
Department of Agriculture	No response receive by suspense date
Office of Hawaiian Affairs	No comment
Board of Water Supply	No response received by suspense date
C&C Department of Facility Maintenance	No response received by suspense date

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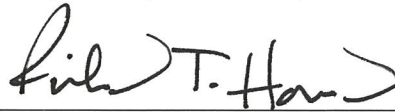
<sup>1</sup> The Director of the DOA indicated a willingness to also accept the remaining Oahu agricultural leases and permits previously approved for transfer under Act 90.



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. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Agriculture 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; provided, however, that the set-aside shall reserve to the Board the right to issue leases for renewable energy projects on the land to the extent such leases will not unreasonable interfere with DOA's used of the land;
  - 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. Grant an immediate management right-of-entry to the Department of Agriculture over the subject lands, 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 management and construction right-of-entry form, as may be amended from time to time;
  - B. The right-of-entry shall be effective upon acceptance and shall terminate upon issuance of the executive order; and
  - C. The Department of Land and Natural Resources reserves the right to impose additional terms and conditions at any time if it deems necessary while this right-of-entry is in force.

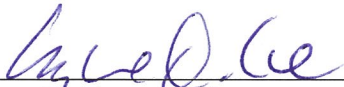
Respectfully Submitted,



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Richard T. Howard  
Land Agent

APPROVED FOR SUBMITTAL:



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Suzanne D. Case, Chairperson





Katzenbach Building  
1155 Pennsylvania St.  
Room 210  
Harrisburg, Penna.  
July 17, 1935



STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING  
AND GENERAL SERVICES  
SURVEY INSTRUMENT

*Randall W. Schmitt*  
Licenses: Professional Land Surveyor  
Certificate No. 7549  
Registered Land Court Surveyor  
Certificate No. 205

OWNER: TRUSTEES UNDER THE WILL AND OF THE  
ESTATE OF JAMES CAMPBELL, DECEASED  
TRANSFER CERTIFICATE OF TITLE: 410,853

AUTHORIZED AND APPROVED BY ORDER OF THE JUDGE  
OF THE LAND COURT DATED FEBRUARY 10, 1907  
BY ORDER OF THE COURT

*William S. Lawrence*  
ACTING REGISTRAR OF THE LAND COURT

Filed January 20, 1911  
12:50 P.M.





Subject



# EXEMPTION NOTIFICATION

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

Project Title:	Set aside of State lands to Department of Agriculture (DOA) and issuance of immediate management right-of-entry.
Project / Reference No.:	PSF 17OD-074
Project Location:	Honouliuli, Ewa, Oahu, identified by Tax Map Key: (1) 9-1-031:001
Project Description:	Set aside to DOA for agricultural purposes and issuance of interim right-of-entry.
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, "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 43, which states the "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order," and Item 51, "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	Agencies listed in submittal.
Recommendation:	It is recommended that the Board find 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.

## EXHIBIT 2