

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.:06od-096

OAHU

Rescind Prior Board Actions of April 15, 1966, Item F-41, Request for Immediate Right-of-Entry and Related Perpetual Non-Exclusive Easements for Pole Lines and for Petition to Land Court for Designation of Easements, Halawa, Oahu; and June 16, 1967, Item F-27, Request to Amend Previous Board Action Covering Application of Hawaiian Electric Company, Inc., Island of Oahu.

Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. for Utility Purposes, Issuance of Right-of-Entry Permit, at Halawa, Ewa, Oahu, Tax Map Key: (1) 9-9-010:054 portion.

APPLICANT:

Hawaiian Electric Company, Inc. ("HECO") and Hawaiian Telcom, Inc. ("HTI").

LEGAL REFERENCE:

Section 171-13, 17, 55 and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Halawa, Ewa, Oahu, identified by Tax Map Key: (1) 9-9-010:054 portions, as shown on the attached maps labeled Exhibits **A1** and **A2**.

AREA:

Easement 1	101 square feet	-joint overhead utility lines
Easement 2	354 square feet	-guy wires and anchors
Easement 3	264 square feet	-guy wires and anchors
Easement 4	15 square feet	-guy wires and anchors
Easement 5	50 square feet	-steel utility pole

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: I-2 Intensive Industrial District

TRUST LAND STATUS:

Acquired after Statehood, i.e. non-ceded.

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

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 4396, setting aside to the Department of Agriculture for animal quarantine, animal welfare and agriculture related purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, reconstruct, use, maintain, and repair electrical and communication equipment, utility poles, and wires, and anchors over, under and across State-owned land, including the right to trim and keep trimmed any trees in the way of their appliances and equipment.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, concurred and reviewed 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" and item 46, which states, "Creation or termination of easement, covenants, or other rights in structures or land." See **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed: YES x NO

Registered business name confirmed: YES x NO
Applicant in good standing confirmed: YES x NO

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Process and obtain designation of easement approval from the Department of Planning and Permitting at Applicant's own cost.

REMARKS:

At its meeting on April 15, 1966, under agenda item F-41, (**Exhibit C**), the Board authorized the issuance of easements to HECO over Lots 29-B and 43 of Map 19 and Map 20 respectively of Land Court Application 966.

At its meeting on June 16, 1967, under agenda item F-27, (**Exhibit D**), the Board amended the 1966 approval by relocating the proposed easement over Lot 43 to the present location, i.e. the animal quarantine and vector control facility. The easement request was never followed-up until HECO wrote to the Department again in 2011. Due to staffing issues, the subject request was never picked up until recently staff became aware of this outstanding request.

By reviewing the map provided by HECO on the location of the proposed easement at Lot 29-B, staff notes that Lot 29-B is currently a portion of the freeway system managed by the Department of Transportation. Therefore, it is not under the jurisdiction of the Board pursuant to the definition of public lands described in the statutes, and the pertinent 1966 approval should be rescinded by the Board, for housekeeping purposes.

Staff discussed the current situation with HECO, and noted that the subject easements are serving the customers in the Halawa Valley, including the State animal quarantine and vector control facility and the cement quarry.

Because of the time that has lapsed since the 1966 and 1967 submittals were approved, staff asks the Board to rescind its prior actions of April 15, 1966 and June 16, 1967, in favor of a new grant of easement, subject to prevailing terms and conditions of a typical utility easement.

Department of Agriculture indicates its concurrence to the proposed easements (**Exhibit E**). Upon approval of today's request, staff will request the Governor's concurrence to the requested easement.

HECO requests a management right-of-entry prior to the issuance of the easement

document and staff has no objection to the request.

Department of Planning and Permitting noted a possible conflict with an existing 15-inch City sewer line. Staff has confirmed with HECO that the construction is complete. Therefore, the possible conflict becomes a moot issue.

Department of Health, Division of Aquatic Resources, State Historic Preservation Division, Commission on Water Resource Management, Department of Facility Maintenance, Board of Water Supply, and the Office of Hawaiian Affairs have not responded to solicitation for comments before the response deadline.

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

RECOMMENDATION: That the Board:

1. Rescind prior Board actions of April 15, 1966, item F-41, and June 6, 1967, item F-27.
2. 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.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. covering the subject area for utility 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 an immediate management right-of-entry permit to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. covering the subject area 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 permit form, as may be amended from time to time; and

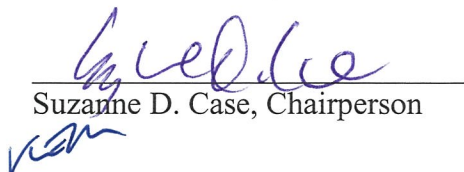
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

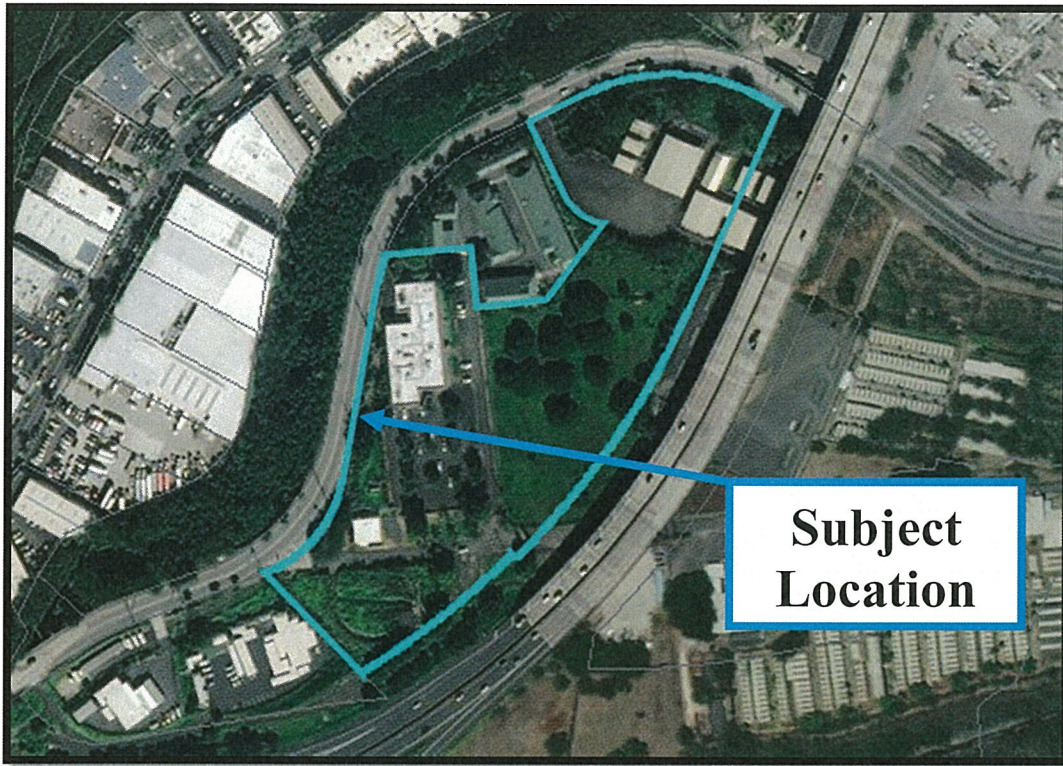
Respectfully Submitted,



Darlene Bryant-Takamatsu
Land Agent

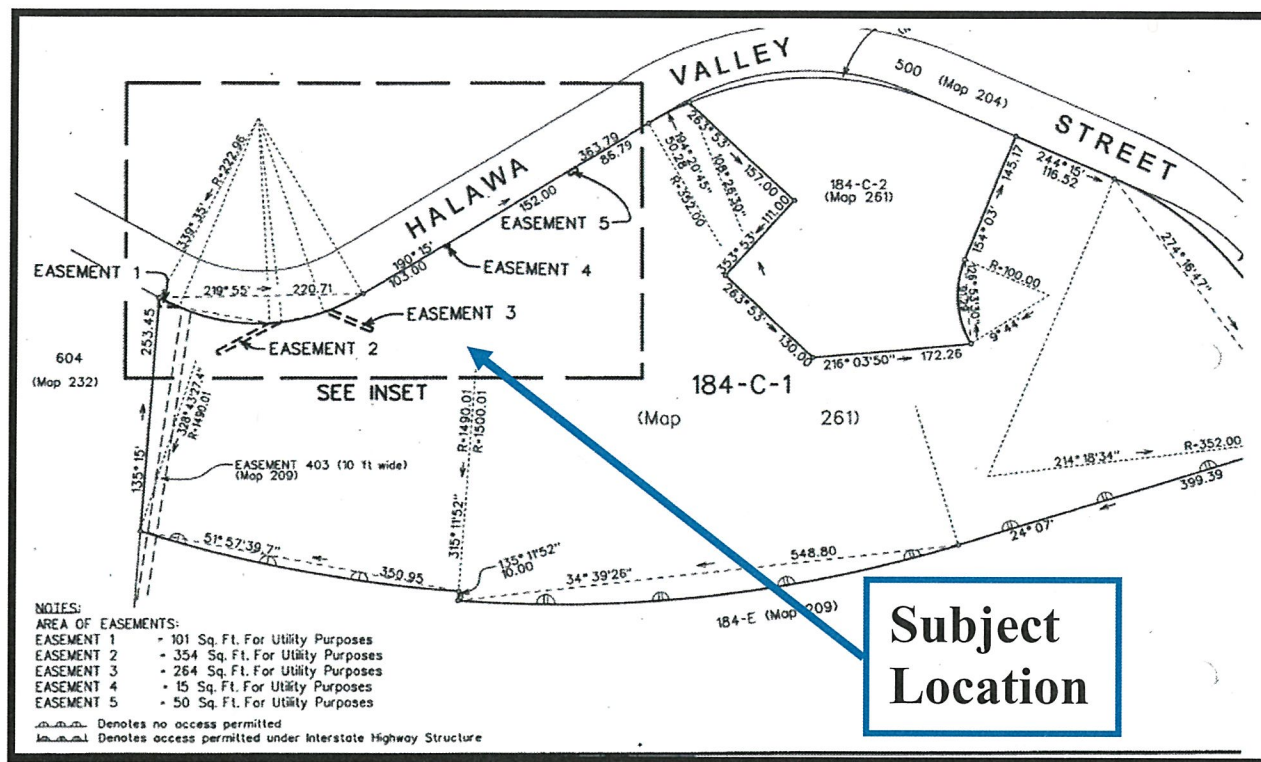
APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK (1) 9-9-010:054 portions

EXHIBIT A1



TMK (1) 9-9-010:054 portions

EXHIBIT A2

EXEMPTION NOTIFICATION

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

Project Title: Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. for Utility Purposes.

Project / Reference No.: PSF 06OD-096

Project Location: Halawa, Ewa, Oahu, Tax Map Key: (1) 9-9-010:054 portions

Project Description: Easement for Utility Purposes

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

Exemption Class No.: In accordance with the Exemption List for the Department of Land and Natural Resources, concurred and reviewed 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" and item 46, which states, "Creation or termination of easement, covenants, or other rights in structures or land."

The improvements were constructed in 1960s. Today's request is to document the easement. 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 noted in the submittal.

Recommendation: 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 B

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
HONOLULU, HAWAII
Division of Land Management

April 15, 1966

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

Gentlemen: REQUEST FOR IMMEDIATE RIGHT-OF-ENTRY AND RELATED PERPETUAL NON-EXCLUSIVE EASEMENTS FOR POLE LINES AND FOR PETITION TO LAND COURT FOR DESIGNATION OF EASEMENTS, HALAWA, OAHU OAHU

STATUTE: Chapter 103A-90, R.L.H. 1955, as amended.

APPLICANT: HAWAIIAN ELECTRIC COMPANY, INC.

FOR: For power line purposes over and across Government land situate at Halawa, Ewa, Oahu, being further described and shown in red on Hawaiian Electric Map No. 1006-586E appended to the basic file, as follows:

- A. Right-of-entry and non-exclusive perpetual easement, 25 feet wide, covering portion of Lot 29-B, Map 19, Land Court Application 966, T.C.T. No. 58,075, being 3926 square feet, T.M.K. 9-9-02:19.
- B. Non-exclusive perpetual easement, 25 feet wide, covering a portion of Lot 43, Map 20, Land Court Application 966, T.C.T. 56,360, T.M.K. 9-9-10:2.
- C. Designation of easements over and across foregoing Lots 29-B and 43.

REMARKS: Hawaiian Electric is preparing to service the Animal Quarantine Station at Halawa. In order to proceed with installation on schedule, Hawaiian Electric has requested an immediate right-of-entry over land given in Paragraph A above. Over the land given in Paragraph B above is an already existing power line. Easements are to be processed as early as possible.

RECOMMENDATION: That the Board:

- A. Approve granting to the Hawaiian Electric Company, Inc. of an:

ITEM F-41

Approved by the Board
at its meeting held on

APR 15 1966

EXHIBIT "C"

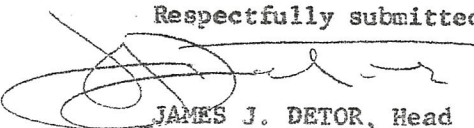
Board of Land and
Natural Resources

- 2 -

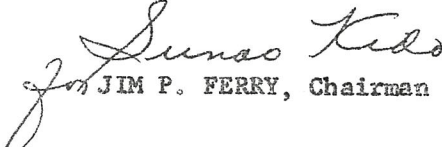
April 15, 1966

1. Right-of-entry for installation of a power line.
2. Non-exclusive perpetual easements for power line purpose, subject to:
 - (a) Review and acceptance of appraisal by the Chairman.
 - (b) The provisions of Section 103A-90, R.L.H. 1955, as amended, dealing with public utilities.
 - (c) Standard indemnity and hold harmless clause.
 - (d) Other terms and conditions recommended by the Chairman.
- B. Approve a petition to the Land Court to designate the easements above described.

Respectfully submitted,


JAMES J. DETOR, Head
Division of Land Management

RECOMMENDED FOR APPROVAL:


JIM P. FERRY, Chairman

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
HONOLULU, HAWAII
Division of Land Management

June 16, 1967

OFFICE COPY

DO NOT TAKE

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

Gentlemen: REQUEST TO AMEND PREVIOUS BOARD ACTION OAHU
COVERING APPLICATION OF HAWAIIAN ELECTRIC
COMPANY, INC., ISLAND OF OAHU

On April 15, 1966, the Board approved Item F-41 relating to an application by Hawaiian Electric Company, Inc. for a right-of-entry, easements and a petition to the Land Court covering State land at Halawa, Ewa, Oahu. Said application involved Lot 29-B of Map 19 and Lot 43 of Map 20 of Land Court Application No. 966.

By letter dated May 25, 1967, the applicant has informed the staff that because of "impending residential development in the area, it will be necessary to relocate this existing line serving the Halawa Quarry". This will require removal of the portion crossing said Lot 43. Instead, the applicant will then require a right-of-entry and a non-exclusive, perpetual easement for installation of a power line, pole and anchors in, over and across Lot 5-A-1-A-1 of Land Court Application No. 966, as shown on Insets "B" and "C" of Hawaiian Electric Print No. 67-29, appended to the basic file.

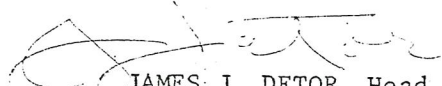
In addition, as a result of the foregoing, petitions will have to be filed with the Land Court to (1) deletion of the designation of Easement 206 over and across said Lot 43 (covered by T.C.T. No. 56,360) and (2) designation of easements for power line, pole and anchors over and across said Lot 5-A-1-A-1 (covered by T.C.T. No. 100,514).

Furthermore, said Lot 5-A-1-A-1 is encumbered by Executive Order No. 2210 to the Department of Agriculture for the Animal Quarantine Station. Said grant of easement, therefore, is subject to approval of the Governor and the Department of Agriculture.

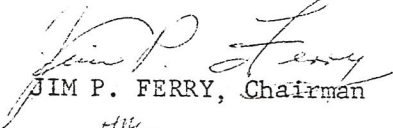
The request for the easement over and across said Lot 29-B remains in effect.

RECOMMENDATION: That the Board revise its previous action as recommended.

Respectfully submitted,


JAMES J. DETOR, Head
Division of Land Management

RECOMMENDED FOR APPROVAL:


JIM P. FERRY, Chairman
HPC

Approved by the Board
at its meeting held on

JUN 16 1967

EXHIBIT "D"

ITEM F-27

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

July 17, 2017

Ref. No.: PSF 06OD-096

MEMORANDUM

TO: Raquel Wong, DVM, Administrator
Animal Industry Division, Department of Agriculture

FROM: Barry Cheung, District Land Agent *Barry Cheung*

SUBJECT: Request for Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. for Utility Purposes, Issuance of Right-of-Entry Permit, and Rescind Prior Board Action of June 16, 1967, Item F-27 at Halawa, Ewa, Oahu, Tax Map Key: (1) 9-9-010:054 portions

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 if you could indicate your comments at the space provided below and return a copy of this memorandum to us. If you have any questions about this request, please contact my office at 587-0430. Thank you.

Enclosure

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

Signed: *Raquel Wong*
Date: *7/19/17*

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

2017 JUL 19 PM 4:54

RECEIVED
LAND DIVISION

EXHIBIT "E"