

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

September 22, 2017

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

PSF No. 15KD-209
Kauai

Approval of Acquisition of Perpetual Easements and Authorization for the Chairperson to Negotiate and Execute Rights-of-Entry on Private Lands for the Ko Road Rockfall Mitigation Project –Makai Section, Part Two; Eleele, Koloa, Kauai; Tax Map Key Nos.: (4) 2-1-007:150, 151, 156, 157, 158, 159, 160 & 161 (portions)

Amend prior Board Action of March 24, 2016, Agenda Item D-3, *Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road Rockfall Mitigation Project – Makai Section, Part Two, Eleele, Koloa, Kauai, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions).*

The purpose of this amendment is to correct one of the names of the private landowners of TMK No. (4) 2-1-007:151 (por.) - Lot 82, from Michelle M. Lomongo to Michelle T.M. Lomongo.

APPLICANT AGENCY:

Department of Land and Natural Resources, Land Division (“Land Division”).

PRIVATE LANDOWNERS:

- 1) Teresa A. Makinney; Tenant in Severalty; TMK (4) 2-1-007:150 (por.) – Lot 81
- 2) Mayumi M. Lomongo, life estate, Michelle T.M. Lomongo, remainder; TMK (4) 2-1-007:151 (por.) – Lot 82
- 3) Perry Jonn Shoji Morita and Taryn Lei Mariko Siu Lan Morita; Tenants by the Entirety; TMK (4) 2-1-007:156 (por.) – Lot 87
- 4) Ernesto S. Nacapuy and Annie Fe Nacapuy; Tenants by the Entirety; TMK (4) 2-1-007:157 (por.) – Lot 88
- 5) Kirk Armand Marois; Tenant in Severalty; TMK (4) 2-1-007:158 (por.) – Lot 89
- 6) Kiana Rose Kazuko Pigao; Tenant in Severalty, TMK (4) 2-1-007:159 (por.) – Lot 90
- 7) Miles H. Hashimoto and Claire S. Shibuya; Joint Tenants with Right of Survivorship; TMK (4) 2-1-007:160 (por.) – Lot 91
- 8) Anson A. Lee and Frances L. Lee, Trustees, under the Anson A. and Frances L. Lee Living Trust, dated March 16, 2010, and any amendments thereto, TMK: (4) 2-1-007:161 (por.) – Lot 92

LEGAL REFERENCE:

Sections 107-10 and 171-30, Hawaii Revised Statutes (“HRS”), as amended, and Chapter 101, HRS, as may be necessary.

LOCATION:

Privately-owned lands of Teresa A. Makinney; Mayumi M. Lomongo and Michelle T.M. Lomongo; Perry Jonn Shoji Morita and Taryn Lei Mariko Siu Lan Morita; Ernesto S. Nacapuy and Annie Fe Nacapuy; Kirk Armand Marois; Kiana Rose Kazuko Pigao; Miles H. Hashimoto and Claire S. Shibuya; and Anson A. Lee and Frances L. Lee, Trustees, situated at Eleele, Koloa, Kauai, identified by Tax Map Key Nos. (4) 2-1-007:150, 151, 156, 157, 158, 159, 160 & 161 (portions) as shown on the attached map labeled **Exhibit A**.

TABLE 1: AREA:

TMK Nos.	AREA	APPRAISED VALUE	OWNER
(4) 2-1-007:150 (por.)	482 sq. ft.	\$2,600	Teresa A. Makinny
(4) 2-1-007:151 (por.)	894 sq. ft.	\$4,700	Mayumi M. Lomongo and Michelle T.M. Lomongo
(4) 2-1-007:156 (por.)	864 sq. ft.	\$4,600	Perry Jonn Shoji Morita and Taryn Lei Mariko Siu Lan Morita
(4) 2-1-007:157 (por.)	346 sq. ft.	\$1,800	Ernesto S. Nacapuy and Annie Fe Nacapuy
(4) 2-1-007:158 (por.)	744 sq. ft.	\$3,900	Kirk Armand Marois
(4) 2-1-007:159 (por.)	759 sq. ft.	\$4,000	Kiana Rose Kazuko Pigao
(4) 2-1-007:160 (por.)	741 sq. ft.	\$3,900	Miles H. Hashimoto and Claire S. Shibuya
(4) 2-1-007:161 (por.)	99 sq.ft	\$500	Anson A. Lee and Frances L. Lee, Trustees, under the Anson A. and Frances L. Lee Living Trust, dated March 16, 2010, and any amendments thereto
TOTAL:	4,949 sq. ft.	\$26,000	

ZONING:

State Land Use District: Urban
 County of Kauai CZO: Residential (R-6)

CURRENT USE:

The easements that are being proposed for purchase are located on private lands used for residential purposes. The easements will affect unimproved portions of the parcels.

CONSIDERATION:

One-time payment in the amount shown for each private landowner in Table 1 above, which was determined by an independent appraisal and approved by the Chairperson on August 10, 2017.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove rockfall mitigation mesh and anchor system over, under and across portions of private lands.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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 dated June 5, 2015, the subject project is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 1, that states: “Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director that are necessary to protect public health, safety, welfare, or public trust resources,” and Item No. 46 “Creation or termination of easement, covenants, or other rights in structures or land.” (See **Exhibit B**).

REMARKS:

On March 24, 2016, under agenda item D-3, the Board granted preliminary approval for acquisition of easements on private lands for the Ko Road Rockfall Mitigation Project – Makai Section, Part Two (“Project”).

Hart Crower, Inc. (“Consultant”) has been contracted by the Department of Land and Natural Resources, Engineering Division, for the Project. The Consultant has recommended the installation of a rockfall drape and anchored wired netting which requires supporting ground anchors. Photographs of a project site are attached as **Exhibit C1 & C2**. The Project is planned on State land; however, to accommodate the supporting ground anchors, portions of private properties need to be utilized. (See **Exhibit D – Netting Plans**). The acquisition amount of \$26,000 for eight (8) easements was determined by an independent appraisal contracted by the Land Division.

In November, 2016, staff received title reports for the eight (8) parcels confirming

ownership in the persons/entities identified above. If the Board approves of the acquisition, staff will next contact the private owners to negotiate the acquisition of the easements.

Staff is seeking an amendment of the Board's action of March 24, 2016, under agenda item D-3 to correct one of the names of the private landowners of TMK No. (4) 2-1-007:151 (por.) - Lot 82, from Michelle M. Lomongo to Michelle T.M. Lomongo.

Today's request is for final approval of acquisition, so staff did not solicit any further comments from government agencies or interested groups. Also, staff is requesting the authorization of the Chairperson to negotiate and execute right-of-entry with the private landowners to allow the DLNR to enter their properties for this public health and safety project.

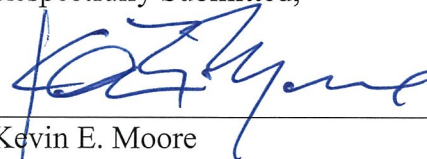
RECOMMENDATION: That the Board:

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 Board action of March 24, 2016, Agenda Item D-3, to confirm that the correct name of one of the owners of Lot 82, TMK No. (4) 2-1-007:151 (por.) is Michele T.M. Lomongo.
3. Authorize the acquisition of the subject easements 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 easement on private property document form, as may be amended from time to time;
 - B. Eminent domain proceedings, as may be necessary for the acquisition, pursuant to Chapter 101, HRS;
 - 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.
4. Authorize the Chairperson to negotiate and execute rights-of-entry with private landowners to allow DLNR and its contractors to install and maintain the rockfall mitigation system until the easements are executed, under the terms and

conditions cited above, which are by this reference incorporated herein, and further subject to the following:

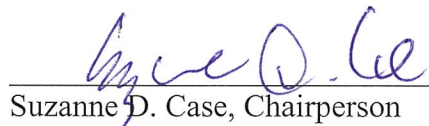
- A. Standard terms and conditions of the most current right-of-entry onto private land form, if any; and
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

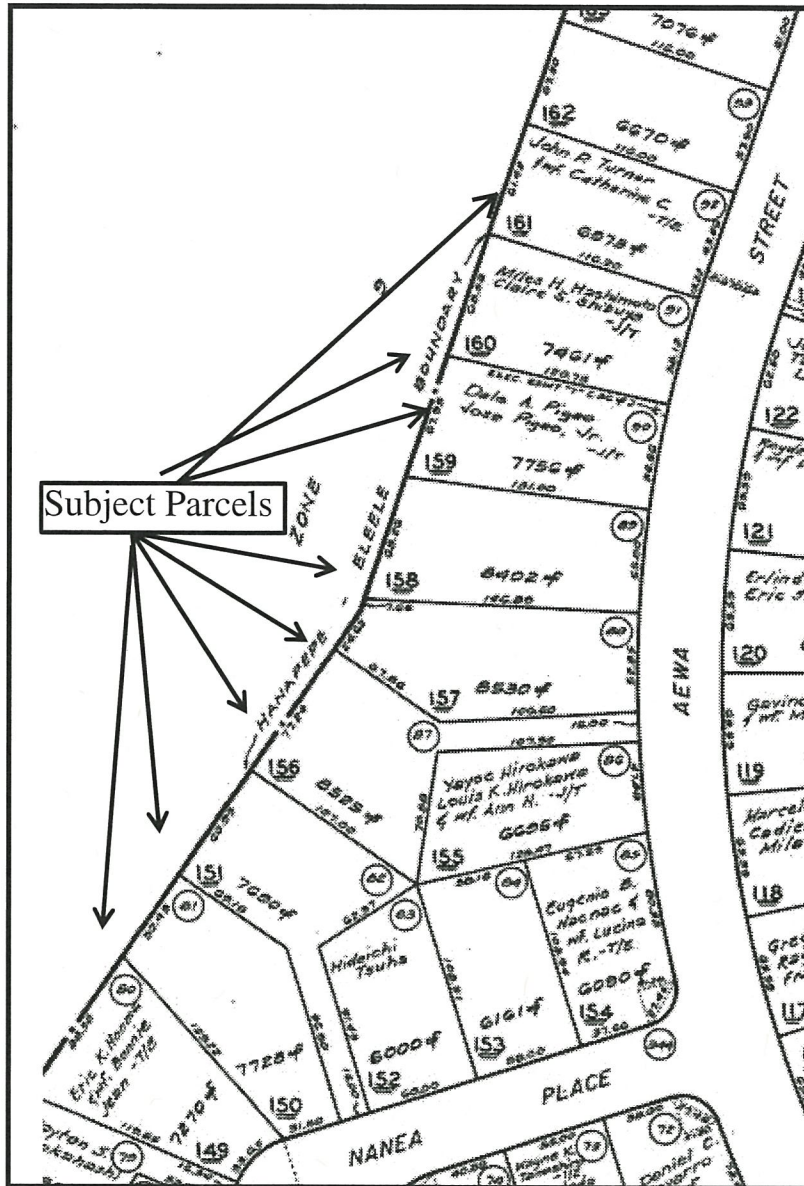


Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



TMK Nos. (4) 2-1-007:150, 151, 156, 157, 158, 159, 160 & 161 (pors.)

Exhibit A

EXEMPTION NOTIFICATION

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

Project Title: Approval of Acquisition of Perpetual Easements and Authorization for the Chairperson to Negotiation and Execute Right-of-Entry on Private Lands for the Ko Road Rockfall Mitigation Project –Makai Section, Part Two

Project / Reference No.: PFS No. 15KD - 209

Project Location; Eleele, Koloa, Kauai, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158, 159, 160 & 161 (portions)

Project Description: The Ko Road Rockfall Mitigation Project consists of the installation of a rockfall drape and anchored wire netting along the cliff above Ko Road. Portions of the cliff have limited anchoring space and the easements are required to properly install the anchors in or near adjacent private properties.

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

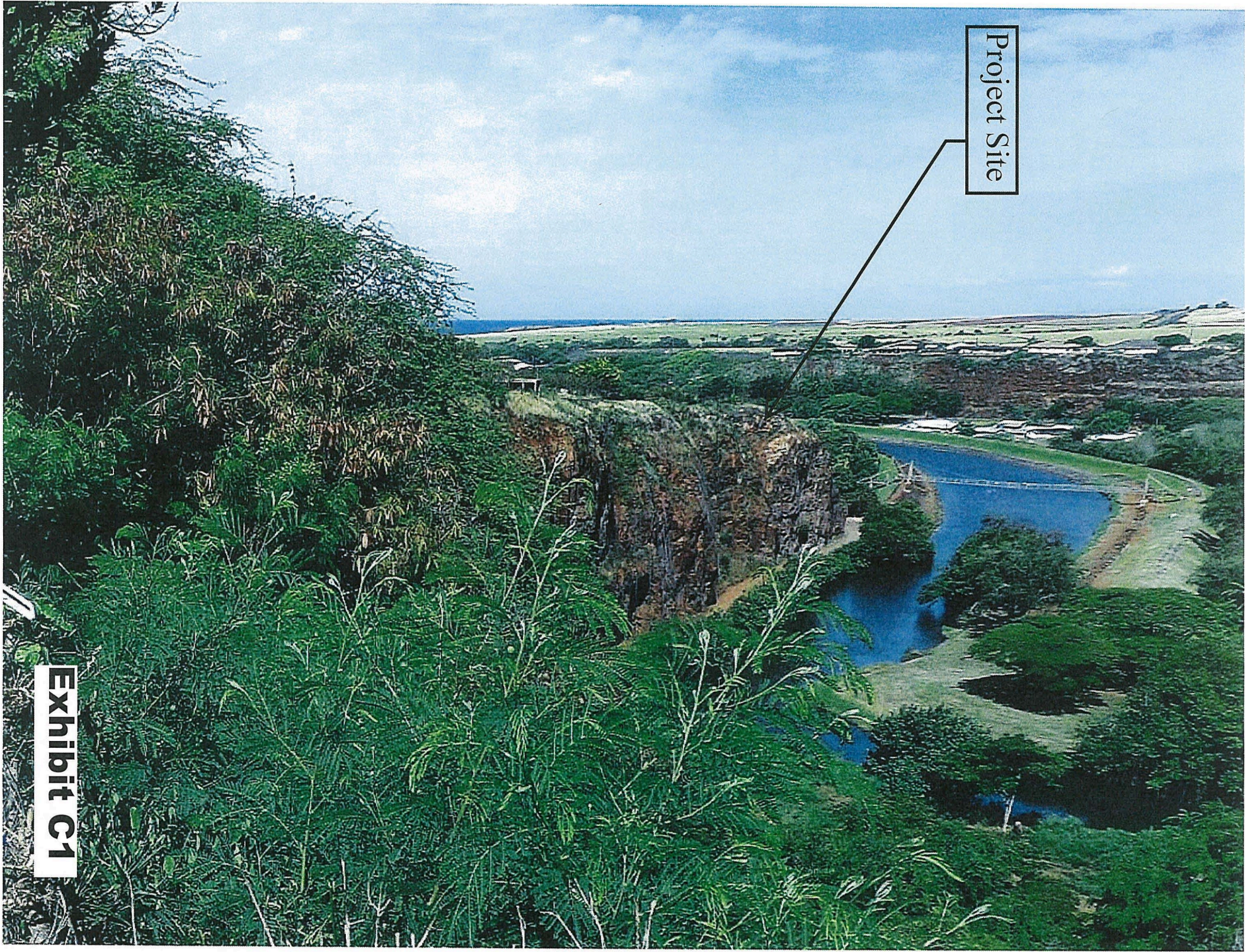
Exemption Class No.: In accordance with Hawaii Administrative Rules Section 11-200-8(a)(1) and (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to the Exemption Class No. 1, Item No. 1, that states “Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare or public trust resources”, and Item No. 46, that states “Creation or termination of easement, covenants, or other rights in structures or land.”

Consulted Parties: DLNR – Engineering Division and the State Historic Preservation Division and the State Department of Health.

Exhibit B

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.



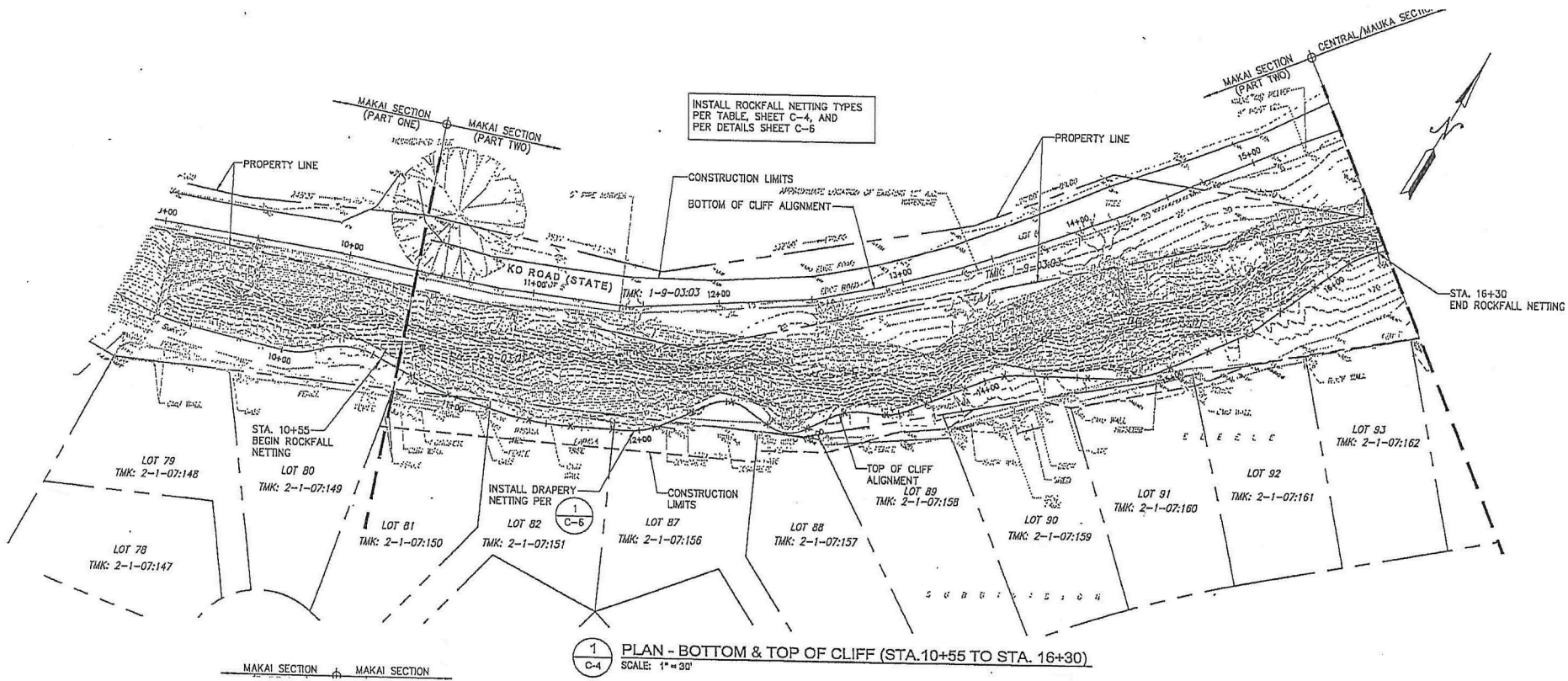
Project Site

Exhibit C1



Project Site

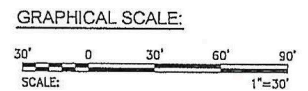
Exhibit C2



1
C-4
PLAN - BOTTOM & TOP OF CLIFF (STA. 10+55 TO STA. 16+30)
SCALE: 1"=30'

ROCKFALL NETTING TABLE	
STATION	TYPE
10+55 - 16+30	DRAPERY

- LEGENDS:**
- x — x — ROCKFALL DRAPERY NETTING
 - PROPERTY LINE
 - CONSTRUCTION LIMITS
 - EXISTING CONTOUR MINOR
 - EXISTING CONTOUR MAJOR



STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES ENGINEERING DIVISION	
* KO ROAD ROCKFALL MITIGATION (MAKAI SECTION PART TWO) TMK(4) 1-9-03: 01, 02, 03 & 04 Hanalei, Kauai County, Hawaii	
NETTING PLAN & BOTTOM & TOP OF CLIFF PROFILE	
RJS	03-18-2015
	1:30

THIS WORK WAS PREPARED BY ME
AND I AM A LICENSED PROFESSIONAL ENGINEER