

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

October 27, 2017

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

PSF No.: 09KD-095

KAUAI

Grant of Two Perpetual Non-Exclusive Easements to: (1) Kauai Island Utility Cooperative and Hawaiian Telcom, Inc.; and (2) Oceanic Time Warner Cable, LLC; Immediate Construction Right-of-Entry for Utility Purposes, South Oloheha, Kapaa, Kawaihau (Puna), Kauai, Tax Map Key: (4) 4-3-003:009.

APPLICANTS:

Kauai Island Utility Cooperative, a consumer cooperative association formed pursuant to the provisions of Chapter 421C; and Hawaiian Telcom, Inc., a Hawaii corporation, as tenants in common as to the first easement.

Oceanic Time Warner Cable, LLC, as tenant in severalty, as to the second easement.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of South Oloheha situated at Kapaa, Kawaihau (Puna), Kauai, identified by Tax Map Key: (4) 4-3-003:009, as shown on the attached map labeled Exhibit A.

AREA:

Easement:

To be determined by professional survey, including a map and metes and bounds description, reviewed and verified by the Department of Accounting and General Services, Survey Division.

Right-of-Entry:

0.653 acres, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Agricultural

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Unencumbered.

CHARACTER OF USE:

Easement 1: Right, privilege and authority to construct, use, maintain, repair, replace and remove telecommunication/electrical transmission lines, poles, guywires and anchors over, under and across State-owned land, including the right to trim and keep trimmed any trees in the way of its appliances and equipment.

Easement 2: Right, privilege and authority to construct, use, maintain, repair, replace and remove telecommunication lines, poles, guywires and anchors over, under and across State-owned land, including the right to trim and keep trimmed any trees in the way of its appliances and equipment.

COMMENCEMENT DATE:

To be determined by the Chairperson.

TERM:

Perpetual.

CONSIDERATION:

One-time payment for each grant of easement to be determined by independent or staff appraisal establishing fair market value, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit C.

DCCA VERIFICATION:

Kauai Island Utility Cooperative:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

Hawaiian Telcom, Inc.:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

Oceanic Time Warner Cable, LLC:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Applicants shall be required to:

- 1) Pay for an appraisal to determine initial one-time payment;¹
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost.

REMARKS:

Kauai Island Utility Cooperative (KIUC), Hawaiian Telcom, Inc. (HTI), and Oceanic Time Warner Cable, LLC (OTWC) are requesting right-of-entry permits and easements in connection with the provision of their respective utility services to the recently completed Kulana Subdivision located on Tax Map Key: (4) 4-3-011:001. The utility services will cross over the unencumbered State parcel located off of Kaapuni Road in Kapaa, Kauai, and identified as Tax Map Key: (4) 4-3-003:009 (the State Parcel).

Under the requested right-of-entry, KIUC will relocate three (3) overhead utility poles to bring the electrical lines closer to Kaapuni Road for safety reasons.² The relocation will also

¹ As explained below, there are two grants of easement involved in this request. However, to reduce appraisal costs, one appraisal report can be conducted for the two valuations as a cost saving measure if the applicants agree.

² The poles are currently located in the County of Kauai right-of-way and on Kulana Subdivision property, and will continue to remain outside of the State Parcel after the relocation.

allow new equipment installation for Kulana Subdivision. Once the poles are relocated, the utility lines will cross over portions of the State land. Approximate locations are furnished in Exhibit B.

KIUC and HTI are requesting the issuance of a single easement to them to be held as tenants in common, while OTWC is requesting a separate easement to itself as tenant in severalty.

Upon completion of the installation, the exact location and dimensions of the required overhead power easement will be determined by survey.

Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Staff solicited comments from various State and County agencies with the following results:

State Agencies	Comments
DOH	Applicant(s), its consultants, contractors and/or agents will act in accordance to the Hawaii Administrative Rules on "Community Noise Control", "Air Pollution Control" and "Solid Waste Management".
Historic Preservation	No comment by response date.
OHA	No comment by response date.

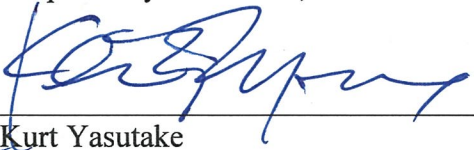
County Agencies	Comments
Planning Dept.	No comment by response date.
Public Works	"DPW has no comments on the subject Grant of Easement Request."
Dept. of Water	No comment by response date.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed dispositions 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. Subject to the Applicants fulfilling all of the Applicant requirements listed above, authorize the issuance of two perpetual non-exclusive easements to: (1) Kauai Island Utility Cooperative and Hawaiian Telcom, Inc., as tenants in common, and (2) Oceanic Time Warner Cable, LLC, as tenant in severalty, 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.
3. Grant immediate rights-of-entry to Kauai Island Utility Cooperative, Hawaiian Telcom, Inc., Oceanic Time Warner Cable, LLC, their consultants, contractors and/or persons acting for or on their behalf, subject to the following 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 document form, as may be amended from time to time;
 - B. The rights-of-entry will be effective upon the full execution of the right-of-entry permit and Applicants' submission of required insurance, and shall continue until the grant of easement document is issued; 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,



Kurt Yasutake
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

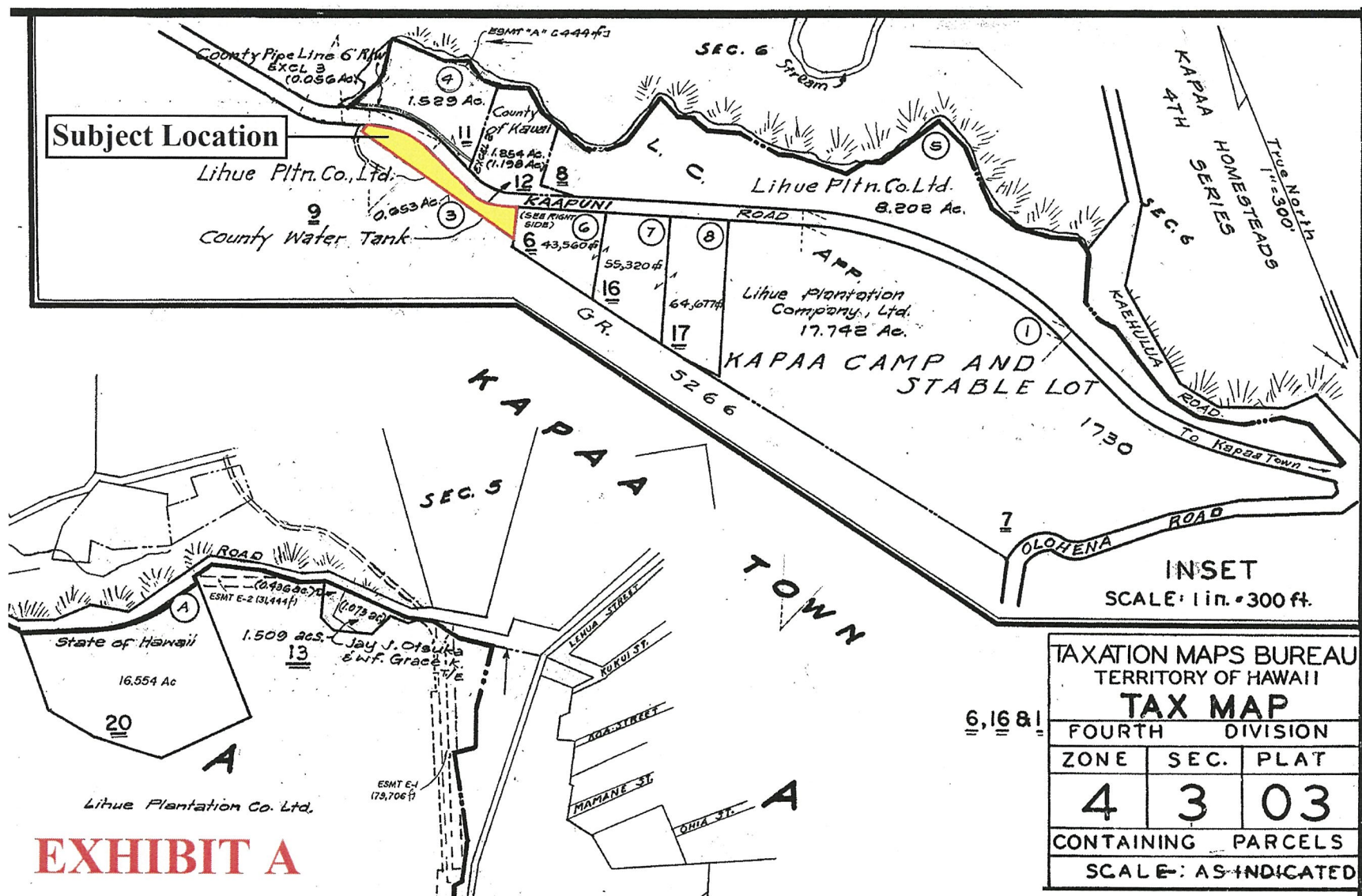
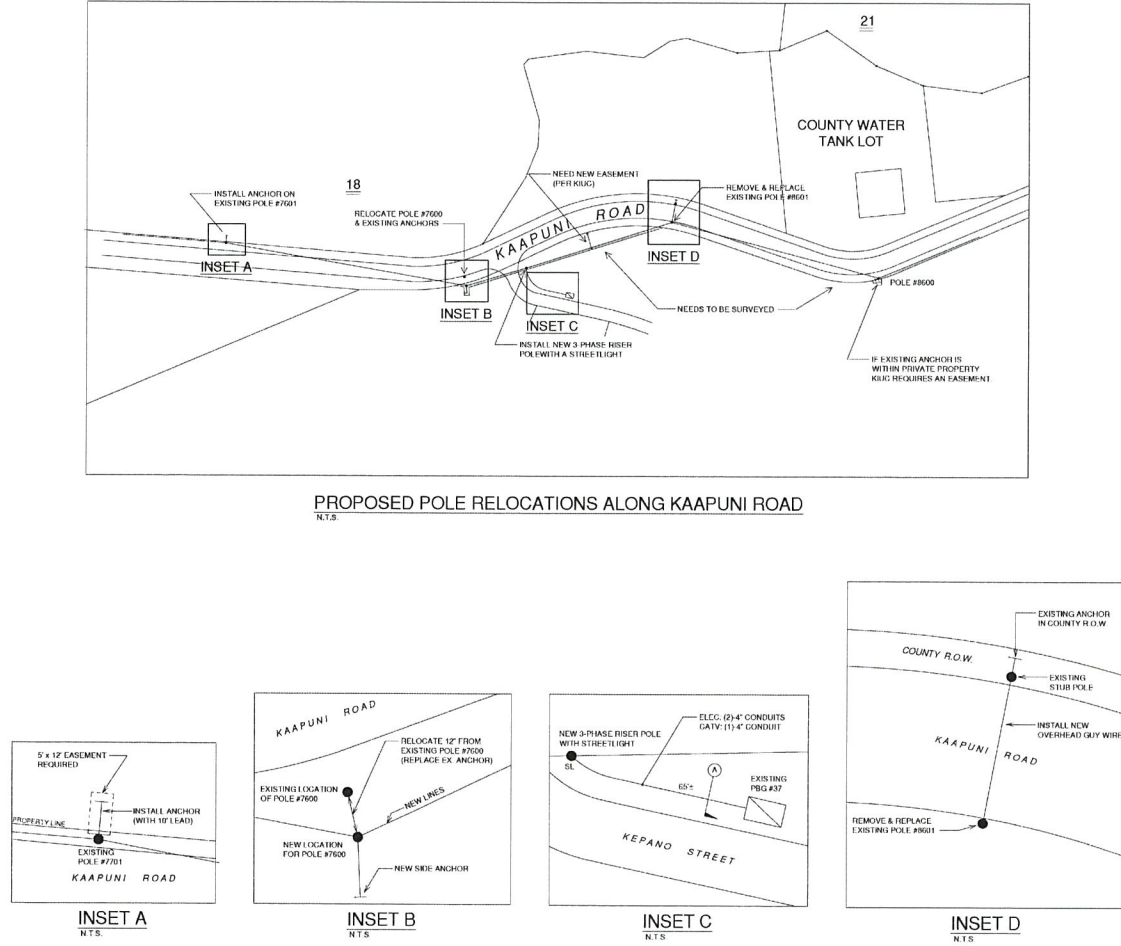


EXHIBIT B



REVISIONS	BY

APPROVALS		
Drawn: [Signature]	Date: [Date]	Date: [Date]
Checked: [Signature]	Date: [Date]	Date: [Date]
Contract: [Signature]	Date: [Date]	Date: [Date]

PROPOSED POLE RELOCATIONS ALONG KAAPUNI ROAD

KULANA SUBDIVISION
PROPOSED UTILITY DESIGNS ALONG
KAAPUNI AND HAUUKU ROADS
KAPAA, KAUAI, HAWAII
TMK# (4) 4-3-003:009

DATE	07/18/17
BY	AS NOTED
FOR	2008-02, 2009-10
PROJECT	UR-2.1
SHEET	4

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

EXEMPTION NOTIFICATION

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

Project Title: Grant of Two Perpetual Non-Exclusive Easements to (1) Kauai Island Utility Cooperative and Hawaiian Telcom, Inc.; and (2) Oceanic Time Warner Cable, LLC; Immediate Construction Right-of-Entry for Utility Purposes.

Project / Reference No.: 09KD-095

Project Location: South Olohena, Kapaa, Kawaihau (Puna), Kauai, Tax Map Key: (4) 4-3-003:009.

Project Description: Grant of two perpetual non-exclusive easements to Kauai Island Utility Cooperative, Hawaiian Telcom, Inc. and Oceanic Time Warner Cable, LLC; Immediate Construction Right-of-Entry for Utility Purposes.

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

Exemption Class No. and Description: In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated June 5, 2015, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 3, "Construction and location of single new, small, equipment and facilities and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same including but not limited to: (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities".

Also Exemption Class No. 6, which states "Construction or placement of minor structures accessory to existing facilities".

EXHIBIT C

Exemption Item Description
from Agency Exemption List:

Exemption Class No. 3, Item 15, which states "Utility service connection and installation".

Also Exemption Class No. 6, Item 5, which states "Construction or placement of utilities (telecommunications, electrical, solar panels, drainage, waterlines, sewers) and related equipment (such as transformers, poles, cable, wires, pipes) accessory to existing facilities on state land.

Consulted Parties:

Department of Health, Historical Preservation Division, The Office of Hawaiian Affairs, Kauai County Planning Department, Kauai County Public Works Department and Kauai County Department of Water.

Recommendation:

We recommend that the Land Board approve this project as it will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.