

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

December 8, 2017

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

PSF No.: 17HD-044

Hawaii

**Set Aside to the County of Hawaii, Department of Public Works for  
Roadway Purposes, Piihonua, South Hilo, Hawaii, Tax Map Keys: (3) 2-3-  
030:002 por., 2-3-031:005 por. & 006 por.; and**

**Issuance of an Immediate Construction and Management Right-of-Entry to  
the County of Hawaii, Department of Public Works, Piihonua, South Hilo,  
Hawaii, Tax Map Keys: (3) 2-3-030:002 and 2-3-031:005 & 006.**

APPLICANT:

County of Hawaii, Department of Public Works, a municipal corporation of the State of  
Hawaii

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Piihonua, South Hilo, Hawaii identified by Tax  
Map Key: (3) 2-3-030:002, 2-3-031:005 & 006, as shown on the attached map labeled  
Exhibit A.

AREA:

Approximately 45,000 square feet or 1 acre, more or less. Actual area to be determined  
by survey.

ZONING:

State Land Use District: Parcel 002 = Conservation    Parcels 005 & 006 = Urban  
County of Hawaii CZO: Parcel 002 = Open    Parcels 005 & 006 = Residential

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:

Portion of parcel 002 encumbered by Land Office Deed No. 27,251 to County of Hawaii for drainage easement purposes.

Parcels 005 & 006 are vacant and unencumbered. Parcel 005 is an abandoned flume right-of-way.

PURPOSE OF SET ASIDE:

Roadway purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (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 Exemption Class No. 1, Item No. 43, "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."

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Submit a Conservation District Use Application pursuant to Hawaii Administrative Rules (HAR), 13-5-22, P-10 SUBDIVISION OR CONSOLIDATION OF PROPERTY, subsection (D-1);
- 4) Consult with the Office of Conservation and Coastal Resources before any land use activity on the subject parcels, whether during the right-of-entry period or after an executive order has been issued.

REMARKS:

The County of Hawaii (CoH) is requesting the set aside of a 30 foot wide strip of the subject parcels adjacent to Waianuenue Avenue. Portions of the existing roadway encroach up to seven (7) feet onto the subject State lands along this section of Waianuenue Avenue. The roadway is very narrow with drop offs along the road's edge. Trees and brush growing along the roadside create dangerous limited lines of sight. Due to the roadway encroachments, the CoH is prevented from cutting trees and brush back from the roadway to provide a safe clear zone without entering onto the adjacent State lands.

Parcels 005 & 006 are vacant. Parcel 002 is encumbered by a perpetual easement to the CoH for a flood control diversion ditch. The 80 foot wide easement adjoins the edge of the road and runs east at an approximate 45 degree angle. A portion of the easement is located within the requested set aside area. Consultation with CoH, Department of Public Works determined the diversion ditch is still necessary and will be incorporated into any planned roadway improvements.

The CoH is also requesting an immediate right-of-entry for management and construction purposes. Staff recommends that the right-of-entry cover the time period between approval of the set aside and execution of the Governor's Executive Order.

Request for comments were sent to various agencies with the results summarized in the table below:

State Agencies	Response
Dept. of Hawaiian Homes Land	No Response
DLNR - Conservation & Coastal Lands	*See Below
DLNR - Forestry & Wildlife	No Comments
Hawaii County Agencies	Response
Planning Dept.	No Objections/Comments
Dept. of Public Works	No Response
Dept. of Water Supply	No Response
Federal Agencies	Response
Army Corps of Engineers	No Response
Other Agencies	Response
Office of Hawaiian Affairs	No Response

\*See discussion below for further details

The Office of Conservation and Coastal Lands (OCCL) noted that parcel 002 is located within the General Subzone of the State Land Use Conservation District. As such, any subdivision of this parcel would require submission of a Conservation District Use



Application along with any required attachments.

Further, OCCL requests that the CoH consult with its office prior to conducting any land uses within the Conservation District. However, OCCL recognizes the need for trimming and cutting back trees and brush that are creating dangerous limited lines of site and acknowledges there may be exemptions for this type of work.

Additionally, OCCL requests that the CoH adhere to the following general conditions while conducting maintenance activities on the property:

- 1. That the CoH shall comply with all applicable statutes, ordinances, rules and regulations of the federal, state and county governments, and all applicable parts of HAR Chapter 13-5;*
- 2. If the scope of the project changes or the cumulative impacts is perceived to be moderate or major, the department may require additional authorizations or approvals for the proposed land use; and*
- 3. That the CoH shall implement typical Best Management Practices while conducting any land use in the Conservation District.*

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 County of Hawaii 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;
  - 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. Authorize the issuance of a right-of-entry permit to the County of Hawaii for management and construction purposes 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;
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

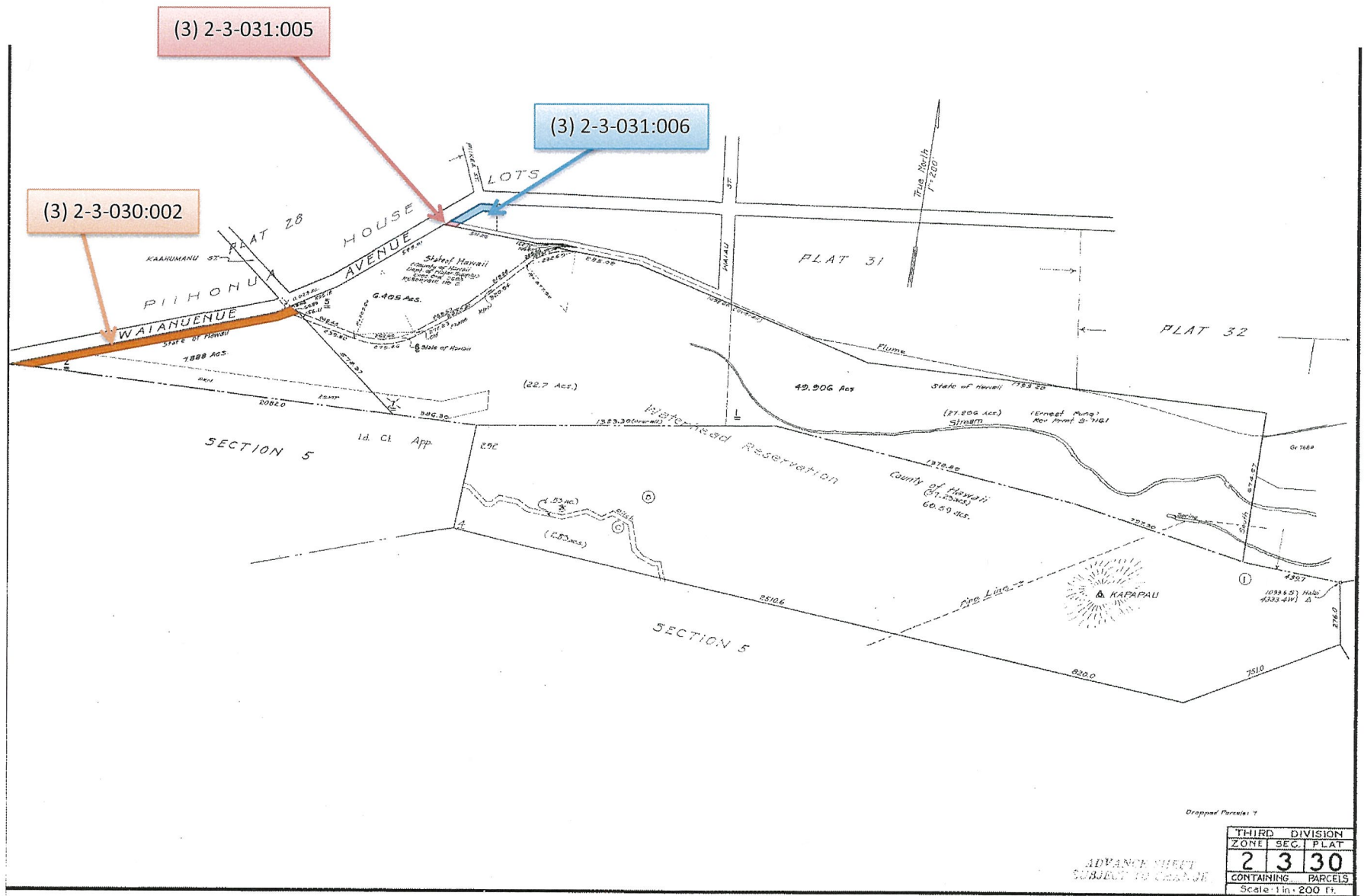
  
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Candace M. Martin  
Land Agent

APPROVED FOR SUBMITTAL:

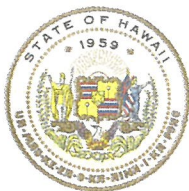
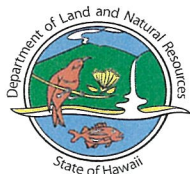
  
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Suzanne D. Case, Chairperson



# EXHIBIT A



DAVID Y. IGE  
GOVERNOR OF HAWAII



## EXHIBIT B

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

JEFFREY. T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

### STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

October 11, 2017

#### EXEMPTION NOTIFICATION

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

Project Title: Set Aside to the County of Hawaii, Department of Public Works for Roadway Purposes with Issuance of an Immediate Right-of-Entry for Management and Construction Purposes.

Project / Reference No.: PSF 17HD-044

Project Location: Piihonua, South Hilo, Hawaii; TMKs: (3) 2-3-030:002, 2-3-031:005 & 006 portions.

Project Description: Transfer of management and control of the subject parcel portions to the County of Hawaii for the purpose of establishing clear lines of site, widening of the roadway and to cure existing road encroachment onto the subject lands.

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 concurred with 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 43, "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."

Authorization: The Board, at its meeting of September 25, 2015, under agenda item D-17, delegated authority to the Chairperson to declare exempt those actions that are included in the Department-wide exemption list.

Consulted Parties: State of Hawaii:  
DHHL, DLNR – Conservation and Coastal Lands, DLNR – Forestry and Wildlife,

Set Aside to County of Hawaii For Roadway Purposes, Piihonua,  
South Hilo, Hawaii, TMK: (3) 2-3-030:002, 2-3-031:005 & 006.

County of Hawaii:

Planning Dept., Public Works, Water Supply

Federal Agencies:

Army Corps of Engineers

Other Agencies:

Office of Hawaiian Affairs

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.