

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

April 13, 2018

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

PSF No: 14KD-022  
Kauai

Amend Prior Board action of September 25, 2015, Agenda Item D-3 as amended by Board action of October 14, 2016, Agenda Item D-3, *Approval for Acquisition of Perpetual Easements and Authorization of the Chairperson to Negotiate and Execute Rights-of-Entry on Private Lands for the Menehune Road Rockfall Mitigation Project, Waimea Valley, Waimea, Kauai, Tax Map Keys: (4) 1-6-010:001, 002 & 003 (portions).*

The purpose of the amendment is to expand the area and the character of use of the perpetual easement on TMK (4) 1-6-010:003 (portion), to include a 4-foot high chain-link fence with gate for safety purposes.

REMARKS:

At its meeting of September 25, 2015, under agenda item D-3, the Board of Land and Natural Resources ("Board") approved the acquisition of perpetual easements over a portion of three (3) parcels of private lands for a rock fall mitigation mesh and anchor system, TMKs (4) 1-6-010:001 002 & 003 (portions). At its meeting of October 14, 2016, under agenda item D-3, the Board acknowledged a change in the current landowner of TMK (4) 1-6-010:003 (portion) since the initial trustees had passed away. The current trustees of the Crowell Trusts are the decedents' sons, George K. Crowell, Robert I. Crowell, and Dee M. Crowell. (See **Exhibit I** attached, less lengthy exhibits 1 and 2 referenced therein).

On January 19, 2017, a Grant of Non-Exclusive Easement under Land Office Deed ("LOD") No. 29,153 was approved by the Department of the Attorney General ("DAG") for the Crowell Trusts' property. However, on March 14, 2017 during a site visit with one the landowners, their attorney and the Department of Land and Natural Resources' ("DLNR") Engineering Division's representatives, it became evident that the character of use of the easement would need to be expanded to include a larger area than previously planned and a new 4-foot high chain-link fence and gate would need to be installed on the property for safety purposes.

The easement character of use approved by the Board and included in the easement grant does not contemplate the installation of a safety fence. Grant of Non-Exclusive Easement, LOD No. 29,153 gives the State the “[r]ight, privilege and authority to construct, use, maintain, repair, replace and remove rock fall mitigation mesh and anchor system” over a portion of the Crowell Trusts’ land. A copy of LOD No. S-29,153 is attached as **Exhibit II**.

After consulting with the DAG, on August 1, 2017, DLNR sent a letter the Crowell Trusts proposing that the Grant of Easement, LOD No. 29,153 not be executed. Instead, a new easement document including the larger area and consent for the installation of the fencing and gate would need to be prepared. The letter also explained that the fence would include a gate to allow access to the area, although DLNR recommended that the owners keep the gate locked to prevent unauthorized access. The reason for including the gate in the fence is to maintain the non-exclusivity of the easement.

On February 15, 2018, the Crowell Trusts provided their consent to allow the fencing and gate on their property. A copy of the approved letter is attached as **Exhibit III**. Since the easement area is larger than originally planned, from 0.106 acre to 0.130 acre and includes an expanded character of use, DLNR will need to pay for an independent appraisal to determine the difference in value between the easement described in unexecuted LOD No. 29,153 and the value of the expanded character of use and area, subject to review and approval by the Chairperson. The date of valuation will be the same as the date used for the initial appraisal, December 26, 2014. The value so determined will be paid to the Crowell Trusts as additional consideration for the easement.<sup>1</sup>

Under the proposed amended easement, DLNR will maintain and repair the fence and gate, as well as the rock fall mitigation mesh and anchor system as needed.

Various government agencies and interest groups were solicited for comments, and below are their responses:

AGENCIES	COMMENTS
<b>State of Hawaii:</b>	
DOH - EPO	No response by suspense date.
DHHL	No comments.
DOT - Highways	No comments.
DLNR – Historic Preservation	No objections.
DLNR – Engineering Division	No objections.
DLNR – Conservation and Coastal Lands	No response by suspense date.
<b>County of Kauai</b>	

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<sup>1</sup> The fair market value of the easement under LOD No. S-29,153 was determined to be \$700.00.

Planning Department	No objections.
Public Works	No comments.
<b>Other Agencies / Interest Groups:</b>	
Office of Hawaiian Affairs	No response by suspense date.

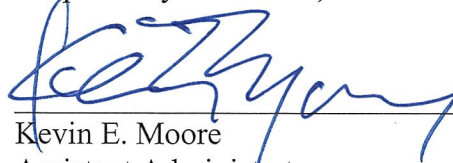
The Board previously determined this project was exempt from the preparation of an environmental assessment at its meeting of September 15, 2015, Item D-3. Out of an abundance of caution, staff is including an updated exemption notification attached as **Exhibit IV** to address the expanded easement area and construction of the safety fence with gate.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, the 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 September 25, 2015, under agenda item D-3 as amended by its action of October 14, 2016, agenda item D-3 increase the area of the easement to 0.130 acre, more or less, and to expand the character of use as below:

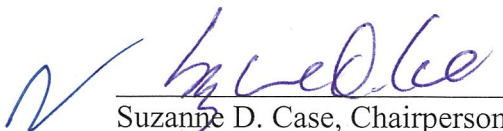
“Right, privilege and authority to construct, use, maintain, repair, replace and remove rock fall mitigation mesh, anchor system, and chain-link fencing up to four (4) feet in height with gate, in, over, under and across that certain parcel of land.”
3. Except as amended hereby, all terms and conditions listed in the Board actions of September 25, 2015 and October 14, 2016 shall remain the same.

Respectfully Submitted,



Kevin E. Moore  
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



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

October 14, 2016

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

PSF No: 14KD-022

Kauai

Amend Prior Board Action of September 25, 2015, Agenda Item D-3, Approval for Acquisition of Perpetual Easements and Authorization of the Chairperson to Negotiate and Execute Rights-of-Entry on Private Lands for the Menhune Road Rockfall Mitigation Project, Waimea Valley, Waimea, Kauai, Tax Map Keys: (4) 1-6-010: 001, 002 & 003 (portions).

The purpose of this amendment is to provide updated information regarding the owners of the parcels identified as TMK Nos. (4) 1-6-010:002 and TMK No. (4) 1-6-010:003, and to correct a Tax Map Key reference in the prior Board action.

BACKGROUND:

At its meeting of September 25, 2015, under agenda item D-3, the Board approved the above subject matter regarding the acquisition of perpetual easements from, and negotiation of rights-of-entry with three private landowners. A copy of the approved submittal is attached as **Exhibit 1**.

Since the board approval, staff learned the following:

- 1) The owner of TMK No. (4) 1-6-010:002 ("Parcel 2") was the Waimea Foreign Church ("WFC"), a dissolved Hawaii non-profit corporation formerly known as the Trustees of the Waimea Foreign Church as indicated in the title report staff ordered for this parcel. The Department of the Attorney General advised staff that it would not allow the State to acquire an easement from a dissolved entity. To resolve this situation, WFC has quitclaimed its interest in Parcel 2 to the Waimea United Church of Christ ("WUCC"), a Hawaii nonprofit corporation.
- 2) The owners of TMK No. (4) 1-6-010:003 ("Parcel 3") are two trusts whose initial trustees have passed away. Staff has learned that the current trustees of the trusts are the decedents' sons, George K. Crowell, Robert I. Crowell, and Dee M. Crowell.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
October 14, 2016 *wp*

**Exhibit I**  
D-3



REMARKS:

With respect to Parcel 2, after learning that the Department of the Attorney General would not approve the acquisition of an easement from WFC because it was a dissolved corporation, staff contacted WFC and asked whether it was possible for the corporation to resume good standing. WFC explained that after Hurricane Iniki in 1992, WFC and a number of other churches on Kauai were reorganized under WUCC. However, no formal conveyance of WFC's interest in Parcel 2 had ever been effected. Staff then contacted WUCC whose attorney prepared the quitclaim deed attached as **Exhibit 2**. Under applicable corporations law, the remaining directors of WFC, formerly known as the Trustees of the Waimea Foreign Church,<sup>1</sup> have quitclaimed WFC's interest in Parcel 2 to WUCC. Staff has confirmed that WUCC is in good standing:

DCCA VERIFICATION FOR WAIMEA UNITED CHURCH OF CHRIST:

Place of business registration confirmed:	YES <u>X</u>	NO
Registered business name confirmed:	YES <u>X</u>	NO
Applicant in good standing confirmed:	YES <u>X</u>	NO

Accordingly, staff requests that the prior Board action be amended to indicate that the owner of Parcel 2 is WUCC.

With respect to Parcel 3, the two trusts identified as the owners of the property have not changed, but their trustees have based on information provided by the attorney for the trusts. Accordingly, staff seeks to amend the prior Board action to show the owners of Parcel 3 as George K. Crowell, Robert I. Crowell, and Dee M. Crowell, Co-Trustees of the George I. Crowell Revocable Living Trust Agreement dated October 17, 1980 and the Doris F. Crowell Revocable Living Trust Agreement dated October 17, 1980 (together, the "Crowell Trusts"). Staff additionally seeks authorization to complete the acquisition of the easement from the Crowell Trusts in the event of any future changes in the trustees as may be established by trust records to the satisfaction of the Department of the Attorney General.

Finally, on page 1 of the prior Board action under the heading "Private Landowner", there was a transposition of the tax map key number for Parcel 2. The correct number for Parcel 2 is TMK: (4) 1-6-010:002.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of September 25, 2015, under agenda item D-3 to show

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<sup>1</sup> The attorney for WUCC explained that when WFC acquired Parcel 2 by devise from Aubrey Robinson in 1937, the Trustees of the Waimea Foreign Church were an unincorporated association. The Trustees of the Waimea Foreign Church incorporated WFC in 1982.

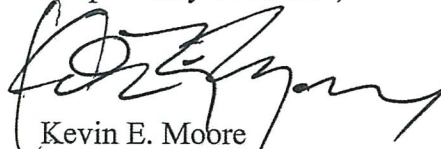
the owners of Parcel 2 and Parcel 3 respectively as:

A. TMK No. (4) 1-6-010:002: Waimea United Church of Christ, a Hawaii nonprofit corporation.

B. TMK No. (4) 1-6-010:003: George K. Crowell, Robert I. Crowell, and Dee M. Crowell, Co-Trustees of the George I. Crowell Revocable Living Trust Agreement dated October 17, 1980 and the Doris F. Crowell Revocable Living Trust Agreement dated October 17, 1980.

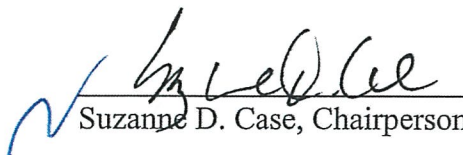
2. Authorize staff to complete the acquisition of the easement from the Crowell Trusts in the event of any future changes in the trustees as may be established by trust records to the satisfaction of the Department of the Attorney General.
3. Confirm that the correct tax map key for Parcel 2 is TMK: (4) 1-6-010:002.
4. Except as amended hereby, all terms and conditions listed in the Board's action of September 25, 2015 shall remain the same.

Respectfully submitted,



Kevin E. Moore  
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

Attachment

Total Number of Pages:

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LOD No. S-29,153      Tax Map Key No. (4) 1-6-010:Portion of 003

THIS INDENTURE, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between GEORGE K. CROWELL, ROBERT I. CROWELL, and DEE M. CROWELL, Co-Trustees of the George I. Crowell unrecorded Revocable Living Trust Agreement dated October 17, 1980, with full powers to sell, mortgage, lease or otherwise deal with the land, as to an undivided ½ interest, and GEORGE K. CROWELL, ROBERT I. CROWELL, and DEE M. CROWELL, Co-Trustees of the Doris F. Crowell unrecorded Revocable Living Trust Agreement dated October 17, 1980, with full powers to sell, mortgage, lease or otherwise deal with the land, as to an undivided ½ interest, whose address is c/o Mr. Sherman Shiraishi, Esq., 2970 Kress Street, Lihue, Hawaii 96766, hereinafter referred to as the "Grantor," and the STATE OF HAWAII, by its Board of Land and Natural Resources, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, hereinafter referred to as the "Grantee."

The Grantor, for and in consideration of the sum of SEVEN HUNDRED AND NO/100 DOLLARS (\$700.00), the receipt of which



is hereby acknowledged, and of the terms, conditions, and covenants herein contained, and on the part of the Grantee to be observed and performed, does hereby grant unto the Grantee, the following non-exclusive and perpetual easement rights:

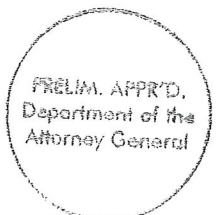
Right, privilege and authority to construct, use, maintain, repair, replace and remove rock fall mitigation mesh and anchor system,

in, over, under and across that certain parcel of land ("easement area") situate at Kikiaola, Waimea, Kauai, Hawaii, being identified as "Perpetual Non-Exclusive Slope Stabilization Easement, Easement S-3," containing an area of 0.106 acre, more particularly described in Exhibit "A" and delineated on Exhibit "B", both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated C.S.F. No. 25,374 and dated June 10, 2014, TOGETHER WITH the rights of ingress and egress to and from the easement area for all purposes in connection with the rights hereby granted. Said easement area is covered by Deed of George I. Crowell, also known as George Ikuwa Crowell, husband of Doris Fukuda Crowell, also known as Doris F. Crowell, dated October 17, 1980, recorded in the State of Hawaii, Bureau of Conveyances in Liber 15131, Page 753, and Deed of Doris F. Crowell, wife of George I. Crowell, dated October 17, 1980, recorded aforesaid in Liber 15131, Page 758.

TO HAVE AND TO HOLD the easement rights unto the Grantee, its successors and assigns, in perpetuity, SUBJECT, HOWEVER, to the following terms, conditions and covenants:

1. The State shall be responsible for injury caused by the State's officers and employees in the course and scope of their employment to the extent that the State's liability for such damage or injury has been determined by a court or otherwise agreed to by the State. The State shall pay for such damage and injury to the extent permitted by law provided that an appropriation is enacted for that purpose.

2. The Grantor reserves unto itself, its successors and assigns, the full use and enjoyment of the easement area and to grant to others rights and privileges for any and all purposes affecting the easement area, provided, however, that the rights herein reserved shall not be exercised by the Grantor in a manner which interferes unreasonably with the Grantee in the use of the easement area for the purposes for which this easement is granted.

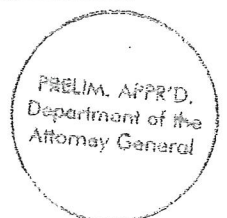


3. All improvements placed in or upon the easement area by the Grantee shall be done without cost or expense to the Grantor and shall remain the property of the Grantee and may be removed or otherwise disposed of by the Grantee at any time; provided, that the removal shall be accomplished with minimum disturbance to the easement area which shall be restored to its original condition, or as close thereto as possible, within a reasonable time after removal.

4. Upon completion of any work performed in or upon the easement area, the Grantee shall remove therefrom all equipment and unused or surplus materials, if any, and shall leave the easement area in a clean and sanitary condition satisfactory to the Grantor.

5. The Grantee shall keep the improvements placed in or on the easement area in a safe, clean, sanitary, and orderly condition.

6. Upon termination of the use, the easement area shall be restored to its original state, or as close thereto as possible, within a reasonable time and at the expense of the Grantee.



IN WITNESS WHEREOF, the Grantor, and the STATE OF HAWAII, by its Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and the parties hereto have caused this Indenture to be executed as of the day, month, and year first above written.

GEORGE K. CROWELL, ROBERT I.  
CROWELL, DEE M. CROWELL,  
Co-Trustees of the George I.  
Crowell unrecorded Revocable Living  
Trust Agreement dated October 17,  
1980

Approved by the Board  
of Land and Natural  
Resources at its  
meetings held on  
September 25, 2015 and  
October 14, 2016.

\_\_\_\_\_  
GEORGE K. CROWELL, Co-Trustee  
aforesaid

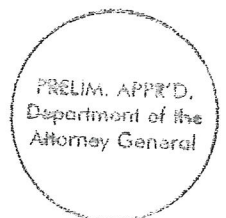
\_\_\_\_\_  
ROBERT I. CROWELL, Co-Trustee  
aforesaid

\_\_\_\_\_  
DEE M. CROWELL, Co-Trustee  
aforesaid

GEORGE K. CROWELL, ROBERT I.  
CROWELL, and DEE M. CROWELL,  
Co-Trustees of the Doris F. Crowell  
unrecorded Revocable Living Trust  
Agreement dated October 17, 1980

\_\_\_\_\_  
GEORGE K. CROWELL, Co-Trustee  
aforesaid

\_\_\_\_\_  
ROBERT I. CROWELL, Co-Trustee  
aforesaid





DEE M. CROWELL, Co-Trustee  
aforesaid

GRANTOR

STATE OF HAWAII

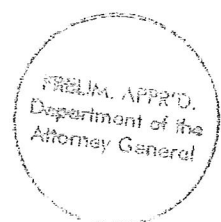
By  
SUZANNE D. CASE  
Chairperson  
Board of Land and Natural  
Resources

GRANTEE

APPROVED AS TO LEGALITY, FORM,  
EXCEPTIONS, AND RESERVATIONS:

  
CINDY Y. YOUNG  
Deputy Attorney General

Dated: January 11, 2017



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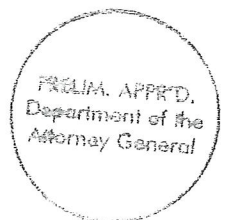
PRELIM. APPRD.  
Department of the  
Attorney General

STATE OF HAWAII )  
 ) SS.  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
before me personally appeared ROBERT I. CROWELL, to me personally  
known, who, being by me duly sworn or affirmed, did say that such  
person executed the foregoing instrument as the free act and deed  
of such person, and if applicable in the capacities shown, having  
been duly authorized to execute such instrument in such  
capacities.

Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_





STATE OF HAWAII                                 )  
  ) SS.  
COUNTY OF   )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
before me personally appeared DEE M. CROWELL, to me personally  
known, who, being by me duly sworn or affirmed, did say that such  
person executed the foregoing instrument as the free act and deed  
of such person, and if applicable in the capacities shown, having  
been duly authorized to execute such instrument in such  
capacities.

\_\_\_\_\_  
Notary Public, State of Hawaii

\_\_\_\_\_  
My commission expires: \_\_\_\_\_

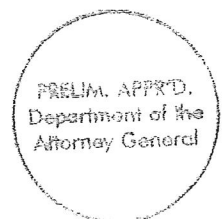


STATE OF HAWAII )  
 ) SS.  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
before me personally appeared GEORGE K. CROWELL, to me personally  
known, who, being by me duly sworn or affirmed, did say that such  
person executed the foregoing instrument as the free act and deed  
of such person, and if applicable in the capacities shown, having  
been duly authorized to execute such instrument in such  
capacities.

Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_

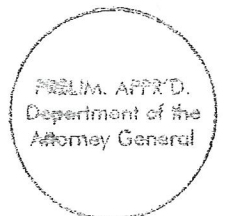


STATE OF HAWAII )  
 ) SS.  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
before me personally appeared ROBERT I. CROWELL, to me personally  
known, who, being by me duly sworn or affirmed, did say that such  
person executed the foregoing instrument as the free act and deed  
of such person, and if applicable in the capacities shown, having  
been duly authorized to execute such instrument in such  
capacities.

Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_



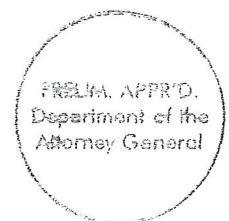


STATE OF HAWAII )  
 ) SS.  
COUNTY OF )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,  
before me personally appeared DEE M. CROWELL, to me personally  
known, who, being by me duly sworn or affirmed, did say that such  
person executed the foregoing instrument as the free act and deed  
of such person, and if applicable in the capacities shown, having  
been duly authorized to execute such instrument in such  
capacities.

Notary Public, State of Hawaii

My commission expires: \_\_\_\_\_





STATE OF HAWAI'I  
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 25,374

June 10, 2014

PERPETUAL NON-EXCLUSIVE  
SLOPE STABILIZATION EASEMENT  
EASEMENT S-3

Being a portion of Royal Patent 4475,  
Land Commission Award 7713, Apana 42 to V. Kamamalu

Kikiaola, Waimea, Kauai, Hawaii

Beginning at the southeast corner of this easement, the coordinates of said point of beginning referred to Government Survey Triangulation Station "TRANSIT OF VENUS" being 113.50 feet North and 305.92 feet East, thence running by azimuths measured clockwise from True South:-

- |    |      |     |     |  |
|----|------|-----|-----|--|
| 1. | 125° | 13' | 30" | 19.06 feet along the remainder of R.P. 4475, L.C. Aw. 7713, Ap. 42 to V. Kamamalu; |
| 2. | 252° | 36' |     | 12.76 feet along the remainder of R.P. 4475, L.C. Aw. 7713, Ap. 2 to V. Kamamalu;  |
| 3. | 223° | 53' |     | 51.59 feet along the remainder of R.P. 4475, L.C. Aw. 7713, Ap. 2 to V. Kamamalu;  |
| 4. | 190° | 34' |     | 58.29 feet along the remainder of R.P. 4475, L.C. Aw. 7713, Ap. 2 to V. Kamamalu;  |
| 5. | 196° | 28' |     | 41.17 feet along the remainder of R.P. 4475, L.C. Aw. 7713, Ap. 2 to V. Kamamalu;  |
| 6. | 186° | 31' |     | 28.82 feet along the remainder of R.P. 4475, L.C. Aw. 7713, Ap. 2 to V. Kamamalu;  |

-1-

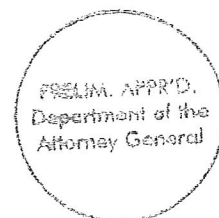


**EXHIBIT "A"**

- |    |      |     |  |
|----|------|-----|--|
| 7. | 192° | 51' | 77.72 feet along the remainder of R.P. 4475, L.C. Aw.<br>7713, Ap. 2 to V. Kamamalu; |
| 8. | 201° | 12' | 37.47 feet along the remainder of R.P. 4475, L.C. Aw.<br>7713, Ap. 2 to V. Kamamalu; |
| 9. | 291° | 12' | 15.00 feet along the remainder of R.P. 4475, L.C. Aw.<br>7713, Ap. 2 to V. Kamamalu; |

Thence along the top of cliff along the Government (Crown) Land of Waimea for the next seven (7) courses, the direct azimuths and distances between points along said top of cliff being:

- |     |     |     |             |
|-----|-----|-----|-------------|
| 10. | 21° | 12' | 36.37 feet; |
| 11. | 12° | 51' | 75.80 feet; |
| 12. | 6°  | 31' | 29.30 feet; |
| 13. | 16° | 28' | 41.70 feet; |
| 14. | 10° | 34' | 62.00 feet; |
| 15. | 43° | 53' | 59.28 feet; |



June 10, 2014

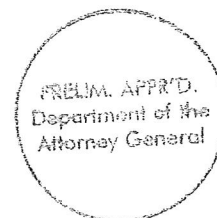
16. 67° 56'

5.61 feet to the point of beginning and  
containing an AREA OF 0.106  
ACRE, MORE OR LESS.

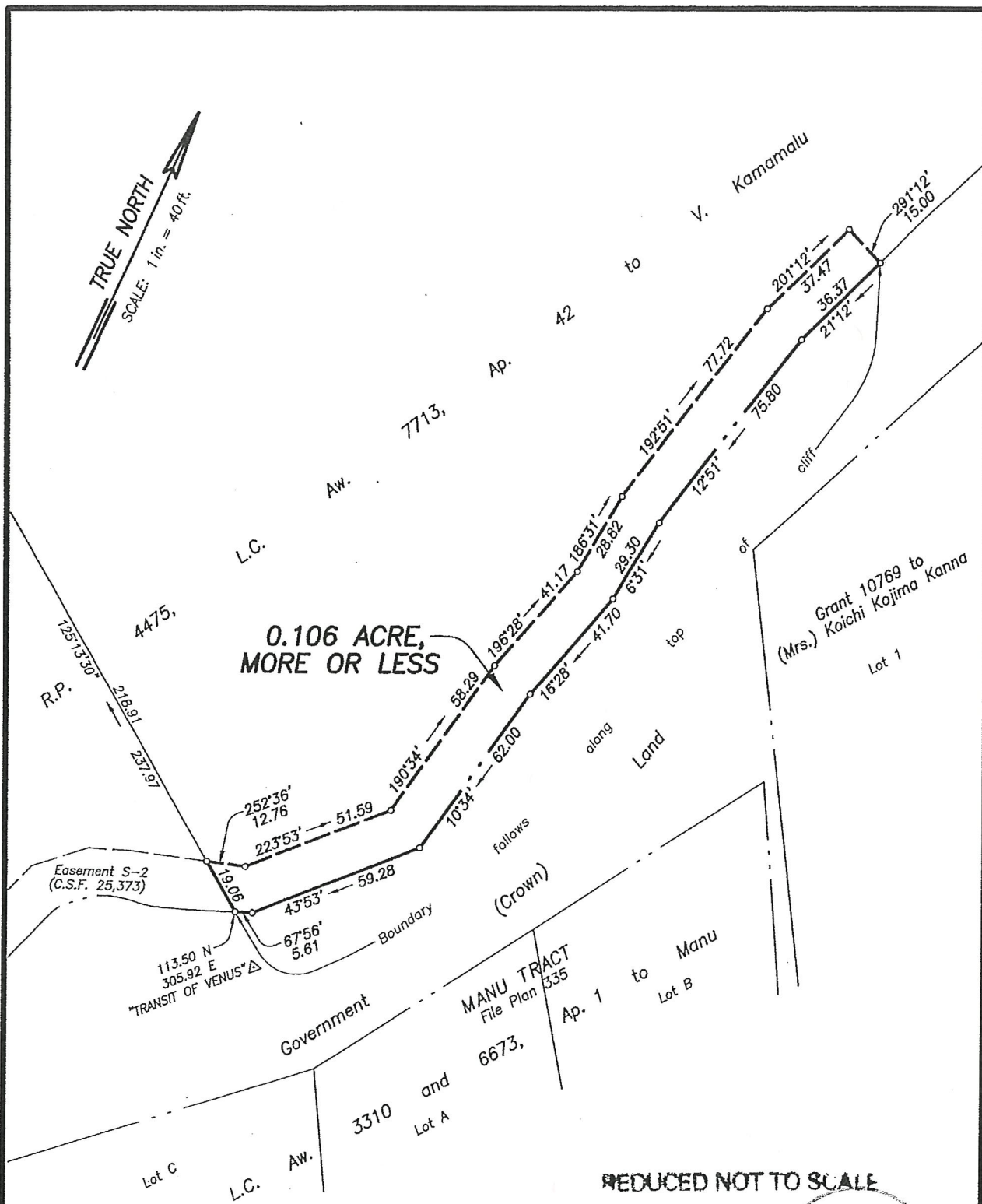
SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: *Gerald Z. Yonashiro*  
Gerald Z. Yonashiro  
Land Surveyor tkt

Compiled from map and desc. furn.  
by AECOM. Said map and desc.  
have been examined and checked  
as to form and mathematical  
correctness but not on the ground  
by the Survey Division.







REDUCED NOT TO SCALE

# PERPETUAL NON-EXCLUSIVE SLOPE STABILIZATION EASEMENT EASEMENT S-3

Being a portion of Royal Patent 4475,  
Land Commission Award 7713, Apana 42 to V. Kamamalu

Kikiaola, Waimea, Kauai, Hawaii

Scale: 1 inch = 40 feet

JOB K-081(14)  
C. BK.

**EXHIBIT "B"**

FREELIM. APPR'D.  
Department of the  
Attorney General

TAX MAP 1-6-10: por. 03

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
**STATE OF HAWAII**

C.S.F. NO. 25,374

DM June 10, 2014

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

ENGINEERING DIVISION  
POST OFFICE BOX 373  
HONOLULU, HAWAII 96809

**AUG 01 2017**

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

CARTY S. CHANG  
INTERIM DEPUTY DIRECTOR

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  
KAIKOOAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Mr. George K. Crowell, Trustee  
Robert I. Crowell, Trustee  
Dee M. Crowell, Trustee

Dear Trustees:

**Proposed Amendment of Grant of Easement to the  
Department of Land and Natural Resources for the Menehune Road Rockfall Mitigation,  
Waimea, Kauai, Hawaii  
Tax Map Key: (4) 1-6-010:003 (portion)**

As you will recall, you granted the State of Hawaii, Board of Land and Natural Resources (BLNR), a right-of-entry over a portion of the above-referenced land for installation of a rock fall mitigation mesh and anchor system. Although the grant of easement document was sent to you on January 19, 2017, Land Division has not yet received the signed document from you. During a site visit with Mr. George Crowell and Mr. Shiraishi at your property on March 14, 2017, it became evident that the character of use of the easement would need to be expanded to include a larger area than previously planned and a new 4-foot high chain-link fence would need to be located on your property. The attached site plans C-3 and C-4 present the approximate alignment of the chain-link fence.

Accordingly, we are proposing that the grant of easement document we sent you in January not be executed. Instead, a new easement document including the larger area and allowing for the installation of the fence will need to be prepared. In the meantime, we are requesting that you allow the BLNR, through the Department of Land and Natural Resources (Department), to construct and maintain the fence on your property. The chain-link fence will include a gate to allow access into the easement area, although we recommend that you keep the gate locked to prevent unauthorized access. The Department would maintain and repair the fence and gate as needed. Under the revised easement, you would agree to allow BLNR to maintain the fence, together with the rock fall mitigation mesh and anchor system on your property in perpetuity.

**Exhibit III**

George K. Crowell, Trustee  
Robert I. Crowell, Trustee  
Dee M. Crowell, Trustee  
Page 2

Please sign where indicated below, if you approve the fence installation on your property and return the signed page to us. The Department will then approach the BLNR for approval to increase the land area of the easement and expand its character of use to include the fence and Division of State Parks, gate. The Department will also need to procure a supplemental appraisal report to determine whether the additional easement area and expanded character of use require the payment of additional compensation to you. Should you have questions, please contact Brian Chang at (808) 587-0250 or email at [brian.k.chang@hawaii.gov](mailto:brian.k.chang@hawaii.gov).

Sincerely,

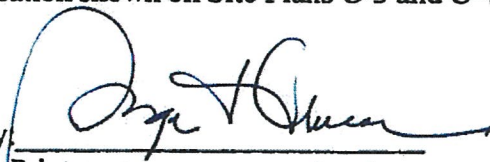


ALYSON K. YIM  
Acting Chief Engineer

Enclosure

c: Land Division, Kevin Moore

We approve and authorize the installation of a 4-foot high chain link fence on our property in the location shown on Site Plans C-3 and C-4 attached.

By:   
Print name: George K. Crowell  
Its: \_\_\_\_\_

Date: 17 October 2017

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Its: \_\_\_\_\_

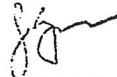
Date: \_\_\_\_\_



George K. Crowell, Trustee  
Robert I. Crowell, Trustee  
Dee M. Crowell, Trustee  
Page 2

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Sincerely,



ALYSON K. YIM

Acting Chief Engineer

Enclosure

c: Land Division, Kevin Moore

We approve and authorize the installation of a 4-foot high chain link fence on our property in the location shown on Site Plans C-3 and C-4 attached.

By:   
Print name: Robert I. Crowell  
Its: \_\_\_\_\_

Date: Oct 9, 2017

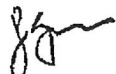
By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

George K. Crowell, Trustee  
Robert I. Crowell, Trustee  
Dee M. Crowell, Trustee  
Page 2

Please sign where indicated below, if you approve the fence installation on your property and return the signed page to us. The Department will then approach the BLNR for approval to increase the land area of the easement and expand its character of use to include the fence and Division of State Parks, gate. The Department will also need to procure a supplemental appraisal report to determine whether the additional easement area and expanded character of use require the payment of additional compensation to you. Should you have questions, please contact Brian Chang at (808) 587-0250 or email at [brian.k.chang@hawaii.gov](mailto:brian.k.chang@hawaii.gov).


Sincerely,

  
ALYSON K. YIM  
Acting Chief Engineer

Enclosure

c: Land Division, Kevin Moore

We approve and authorize the installation of a 4-foot high chain link fence on our property in the location shown on Site Plans C-3 and C-4 attached.

By:   
Print name: DEE M. CROWELL  
Its: OWNER Trustee

Date: 2-15-18

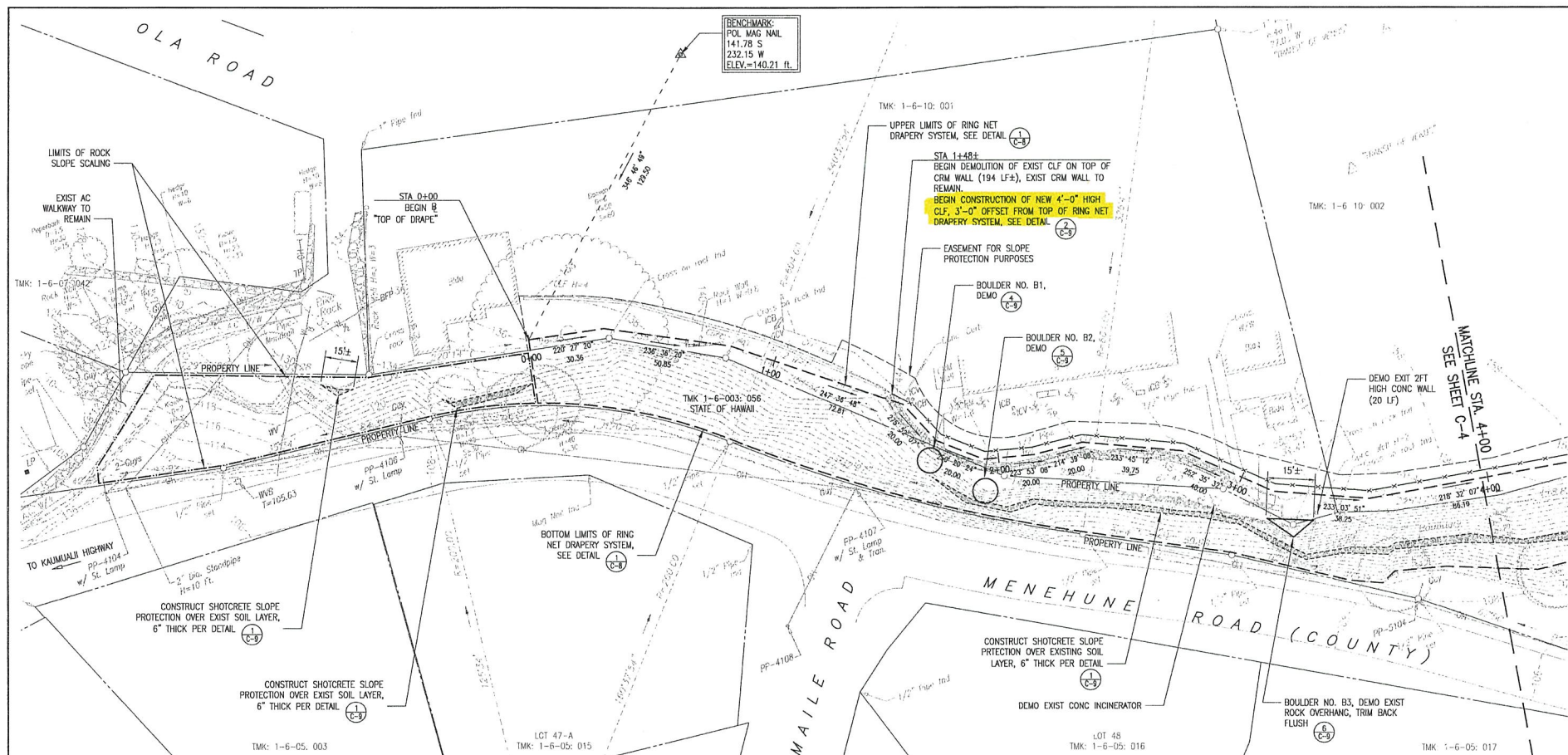
By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_





# NOTES:

- CONTRACTOR SHALL BE RESPONSIBLE FOR ALL SAFETY MEASURES NECESSARY TO PERFORM THE WORK, INCLUDING SCALING OF LOOSE ROCKS AS NEEDED FOR WORKERS SAFETY. THE COST OF SUCH ADDITIONAL SAFETY MEASURES USED FOR WORKERS PROTECTION SHALL BE INCIDENTAL TO THE PROJECT AND WILL NOT BE PAID SEPARATELY.
- BOULDER LOCATIONS AS SHOWN ON PLAN ARE APPROXIMATE AND MAY NOT REFLECT THE EXACT BOULDER LOCATIONS IN THE FIELD. CONTRACTOR SHALL IDENTIFY AND MARK THE SPECIFIED BOULDERS IN THE FIELD AND HAVE THEM APPROVED BY THE ENGINEER PRIOR TO THE START OF BOULDER REMOVAL WORK.
- LIMITS OF ROCK SCALING AS SHOWN ON PLAN IS APPROXIMATE. CONTRACTOR SHALL MARK THE SCALING LIMITS IN THE FIELD FOR REVIEW AND APPROVAL BY THE ENGINEER PRIOR TO THE START OF ROCK SCALING WORK. CONTRACTOR SHALL SCALE AND REMOVE ANY HAZARDOUS ROCKS AND/OR OUTCROPS FROM THE SLOPE WITHIN THE MARKED LIMITS IN ACCORDANCE WITH THE CONTRACT DOCUMENTS AND AS DIRECTED BY THE ENGINEER.
- SHOTCRETE LIMITS AS SHOWN ON PLAN ARE APPROXIMATE AND MAY NOT REFLECT THE EXACT LIMITS OF SHOTCRETE REQUIRED FOR THIS PROJECT. THE CONTRACTOR SHALL MARK THE SHOTCRETE LIMITS IN THE FIELD AND REQUEST REVIEW AND APPROVAL BY THE ENGINEER PRIOR TO CONSTRUCTION.
- RING NET DRAPERY LIMITS AS SHOWN ON PLAN ARE APPROXIMATE AND MAY NOT REFLECT THE EXACT LIMITS OF DRAPERY REQUIRED FOR THIS PROJECT. THE CONTRACTOR SHALL MARK THE DRAPERY LIMITS IN THE FIELD AND REQUEST REVIEW AND APPROVAL BY THE ENGINEER PRIOR TO CONSTRUCTION.

## SITE PLAN 1

SCALE: 1" = 20'



## LEGEND

- PROPERTY LINE
- ROCK SCALING LIMITS
- DRAPED WIRE MESH & RING NET SYSTEM LIMITS
- SHOTCRETE

BOULDER MITIGATION SCHEDULE				
BOULDER ID	APPROXIMATE SIZE			MITIGATION METHOD
	LENGTH (FT)	HEIGHT (FT)	DEPTH (FT)	
B1	8.0	5.0	3.0	TRIM/DEMO
B2	9.0	8.0	4.0	TRIM/DEMO
B3	15.0	7.0	6.0	TRIM/DEMO

REVISION NO.	DATE	DESCRIPTION	BY/APP	DATE	APPROVED
<div style="display: flex; justify-content: space-between;"> <div> <p>BRANDON C. WEAR</p> <p>LICENSED PROFESSIONAL ENGINEER</p> <p>No. 14285-C</p> <p>HAWAII, U.S.A.</p> </div> <div> <p>THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY OBSERVATION.</p> <p>Signature: <i>[Signature]</i> 4/20/16 Expiration Date of the License</p> </div> </div>					
<p>STATE OF HAWAII</p> <p>DEPARTMENT OF LAND AND NATURAL RESOURCES</p> <p>ENGINEERING DIVISION</p> <p>MENEHUNE ROAD ROCKFALL MITIGATION</p> <p>MENEHUNE ROAD</p> <p>WAIKAE, KAUAI, HAWAII</p>					
<p>SITE PLAN 1</p>					
DESIGNED: DCW		J.N.: INFO			
DRAWN: [Signature]		DATE: [Date]			
CHECKED: ARN		SCALE: 1" = 20'			
APPROVED: [Signature]		DATE: MAY 15 2016		DRAWING NO. C-3	
<p>JOB NO. J45CK41B SHEET NO. 4 OF 13 SHEETS</p>					







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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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  
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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

April 13, 2018

**EXEMPTION NOTIFICATION**

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

Project Title: Amend Prior Board action of September 25, 2015, Agenda Item D-3 as amended by Board action of October 14, 2016, Agenda Item D-3, Approval for Acquisition of Perpetual Easements and Authorization of the Chairperson to Negotiate and Execute Rights-of-Entry on Private Lands for the Menehune Road Rockfall Mitigation Project

The purpose of the amendment is to expand the character of use of the easement to include a 4-foot high chain-link fence with gate for safety purposes.

Project / Reference No.: PSF No. 14KD-022

Project Location: Waimea Valley, Waimea, Kauai; Tax Map Key (4) 1-6-010:0031 (por.)

Project Description: Amend Prior Board action of September 25, 2015, Agenda Item D-3, as amended by Board action of October 14, 2016, Agenda Item D-3, to expand the character of use of the easement to include a 4-foot high chair-link fence with gate for safety purposes.

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

Exemption Class No. and Description: In accordance with Hawaii Administrative Rule Section 11-200-8 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 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," Item 1, "Mitigation of any hazardous conditions that present imminent danger as determined

**Exhibit IV**

by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources”, and Exemption Class 3 that states in part “Construction and location of single new, small facilities or structures and the alteration and modification of same and installation of new small, equipment and facilities and the alteration and modification of same . . .,” Item 9 that states: “Construction of security features, including fencing, gates, cameras, lighting, and other similar items.”

Expanding the area and character of use of the previously approved easement to include a 4-foot chain-link fence and gate for the safety of the public presents a negligible expansion of the existing scope of this rock fall mitigation project. Therefore, staff believes that this expanded use would result in no significant impact to the natural, environmental and/or cultural resources in the area, and that it should be found to be exempt from the preparation of an environmental assessment.

Consulted Parties: Agencies as 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.