

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

December 14, 2018

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

PSF No.: 18OD-096

OAHU

Withdrawal of a Portion of State Lands from Governor's Executive Order No. 3708 issued to the Department of Transportation, Harbors Division and a Reset-Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) for Public Purposes. Issuance of an Immediate Management Right-of-Entry to DOBOR, Kalihi-Kai, Honolulu, Oahu, Tax Map Key Numbers: (1) 1-2-023: 053, 057, 054, 037 and 059. Grant of Perpetual Non-Exclusive Easement to DOBOR for Roadway Access Purposes, Kalihi-Kai, Honolulu, Oahu, Tax Map Key Number: (1) 1-2-023:033 (portion).

CONTROLLING AGENCY:

Department of Transportation, Harbors Division (DOT-Harbors)

APPLICANT:

Division of Boating and Ocean Recreation (DOBOR)

LEGAL REFERENCE:

Sections 171-11 and -95 Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Kalihi-Kai, Honolulu, Oahu, identified by Tax Map Keys: (1) 1-2-023: 053, 057, 054, 037 and 059, as shown on the following exhibits labeled as: **EXHIBIT 1-A** (Tax Map Exhibit) and **EXHIBIT 1-B** (Aerial Exhibit).

EASEMENT LOCATION:

Portion of Government lands of Kalihi-Kai, Honolulu, Oahu, identified by Tax Map Key: (1) 1-2-023: 033 (portion). Note: The location of the easement follows along the path of

the three (3) large arrows, as shown upon the **EXHIBIT 1-A**.

AREAS:

1.205 acres, more or less, to be withdrawn and reset-aside. See **EXHIBIT 1-C**.  
A portion of 14.2267 acres, more or less, with area to be surveyed for grant of easement.

ZONING:

State Land Use District: Urban  
County of Honolulu CZO: I-2, Intensive Industrial Use  
I-2, Intensive Industrial Use and IMX-1 Industrial Mixed  
Use District (easement portion)

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act  
Section 5(b) lands of the Admission Act (easement portion)  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Governor's Executive Order No. 3708 setting aside 15.809 acres to the Department of  
Transportation, Harbors Division for purposes of an industrial park.

PURPOSE OF SET ASIDE:

Public purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

With respect to the withdrawal and reset-aside, the action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, pursuant to Exemption Class No. 1, items 43 and 46, relating to the preparation of an environmental assessment. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

With respect to the grant of easement for roadway access purposes, the proposed easement corridor has been used as a road for many years. There will be negligible or no expansion or change of the use of road as a result of the granting of the easement to DOBOR. See **EXHIBIT 2**.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.
- 2) Obtain consent of Department of Transportation, Harbors Division, to the grant of a perpetual easement over a portion of Tax Map Key Number: (1) 1-2-023:033 (portion).

BACKGROUND:

The subject request includes a withdrawal of a portion of State lands from the Department of Transportation, Harbors Division (DOT-Harbors) for the purpose of resetting-aside those lands to the Division of Boating and Ocean Recreation (DOBOR) to serve public purposes. The subject State lands were formerly set-aside to serve the Keehi Industrial Park Association (KIPA), pursuant to Governor's Executive Order No. 3558 dated November 27, 1972. Prior to and after Executive Order 3558, four (4) other Executive Orders and Board approvals impacted the jurisdiction over the subject lands.

Starting on February 14, 1931, pursuant to Governor's Executive Order No. 454, the subject parcels of State lands were included within a set-aside to the Board of Commissioners, dated on February 14, 1931.

Pursuant to Governor's Executive Order No. 2636, dated November 27, 1972, the subject parcels of State land were included within a set-aside to DOT-Harbors, to serve harbor purposes.

At its meeting of March 8, 1991, the Land Board approved of the withdrawal of a portion of State lands to serve the Keehi Industrial Park Association (KIPA).

Pursuant to Governor's Executive Order No. 3558, dated July 10, 1992, 15.809 acres of the subject State parcels were withdrawn from Governor's Executive Order No. 2636, to serve industrial park purposes (KIPA).

Pursuant to Governor's Executive Order No. 3708, dated October 1, 1997, the subject 15.809 acres were subsequently set-aside to the DOT-Harbors, to serve harbor purposes. See **EXHIBIT 3**.



REMARKS:

DOBOR requests the withdrawal of a portion of land from Executive Order No. 3708, shown as **EXHIBIT 3**, to serve public purposes.

Based upon staff's research and conversations with DOBOR, the area of State lands to be withdrawn from DOT-Harbors and to be reset-aside to DOBOR consists of approximately 52,464 square feet, or 1.205 acres, more or less, of formerly submerged lands. See **EXHIBIT 1-C**, following in this report, for a map depicting each of the five (5) subject parcels of land, (including parcel number 37, for which a former revocable permit was once issued). The subject State lands consist of five (5) industrial parcels, zoned I-2, (Intensive Industrial use), that together, form a triangular-shaped configuration. The subject parcels have roadside frontages that are located *mauka* and across the roadway from the La Mariana Sailing Club.

DOT-Harbors has issued Revocable Permit No. H-02-2339 to Paul N. Fukunaga, dba P. F. Marine (P.F. Marine), for steel boat construction purposes which includes approximately ten thousand (10,000) square feet of land area, further identified as Tax Map Key Number: (1) 1-2-023: 059. The effective date of the revocable permit is July 1, 2002. The current monthly rental income amount is \$1,800.00. The term of the revocable permit is fixed from month to month, for up to one (1) year, and can be renewed annually. According to DOT, the current revocable permit will be terminated upon the withdrawal of the subject lands from its jurisdiction. As such, following the proposed set-aside, DOBOR will be able to issue a new disposition for the parcel. The remaining subject parcels are currently vacant and unencumbered.

Most of the subject parcels include a minimal amount of building/warehouse improvements that are now in poor condition. Currently, there is no existing power, water or sewer connection. Further, there are no curbs, gutters or sidewalks fronting the roadside of the subject parcels.

In summary, DOBOR requests the Board's approval to allow for a portion of the subject State lands, consisting of approximately 52,464 square feet, or 1.205 acres, more or less, to be withdrawn from Governor's Executive Order No. 3708 so that it may then be reset-aside to DOBOR to serve public purposes. According to DOBOR, a portion of the subject lands will provide additional operating space for the use of its future tenant. The current lease for the La Marina Sailing Club, (whose business is located across the roadway), is expected to expire soon in the year 2019. Further uses include parking and other proposed maritime-related uses of the lands.

Staff recommends that the Board issue a perpetual non-exclusive easement to DOBOR to serve roadway access purposes over a portion of Tax Map Key Number: (1) 1-2-23:033, which is presently encumbered by DOT. The instrument shall later be amended to reflect



the easement.

Staff also recommends that the Board issue an immediate management right-of-entry to DOBOR pending the issuance of the requested executive order.

Comments have been requested from the following governmental agencies, and were then noted accordingly, as of the time of this writing:

<b><u>State Agencies:</u></b>	
Division of Boating and Ocean Recreation	No objections to the subject request
Department of Transportation-Harbors Division	No response received
Department of Health	No response received
Department of Hawaiian Homelands	No response received
Division of Aquatic Resources	No comments to the subject request
Historic Preservation Division	No objections
Division of Conservation and Coastal Lands	No response received
Office of Hawaiian Affairs	No response received

<b><u>County Agencies:</u></b>	
Department of Planning and Permitting	No objections, no comments
Department of Facility Maintenance	No response received
Board of Water Supply	No objections, no comments

There are no other pertinent issues or concerns.

**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 issuance of an executive order withdrawing approximately 52,464 square feet, or 1.205 acres, more or less, from the Governor's Executive Order No. 3708, and subject 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. Approve of and recommend to the Governor the issuance of an executive order resetting-aside the subject lands to the Division of Boating and Ocean Recreation, 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.
4. Approve the issuance of an immediate management right-of-entry to the Division of Boating and Ocean Recreation, 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 document 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.
5. Approve the issuance of a perpetual non-exclusive easement to the Division of Boating and Ocean Recreation over a portion of Tax Map Key Number: (1) 1-2-023:033 for roadway access 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.

Respectfully Submitted,

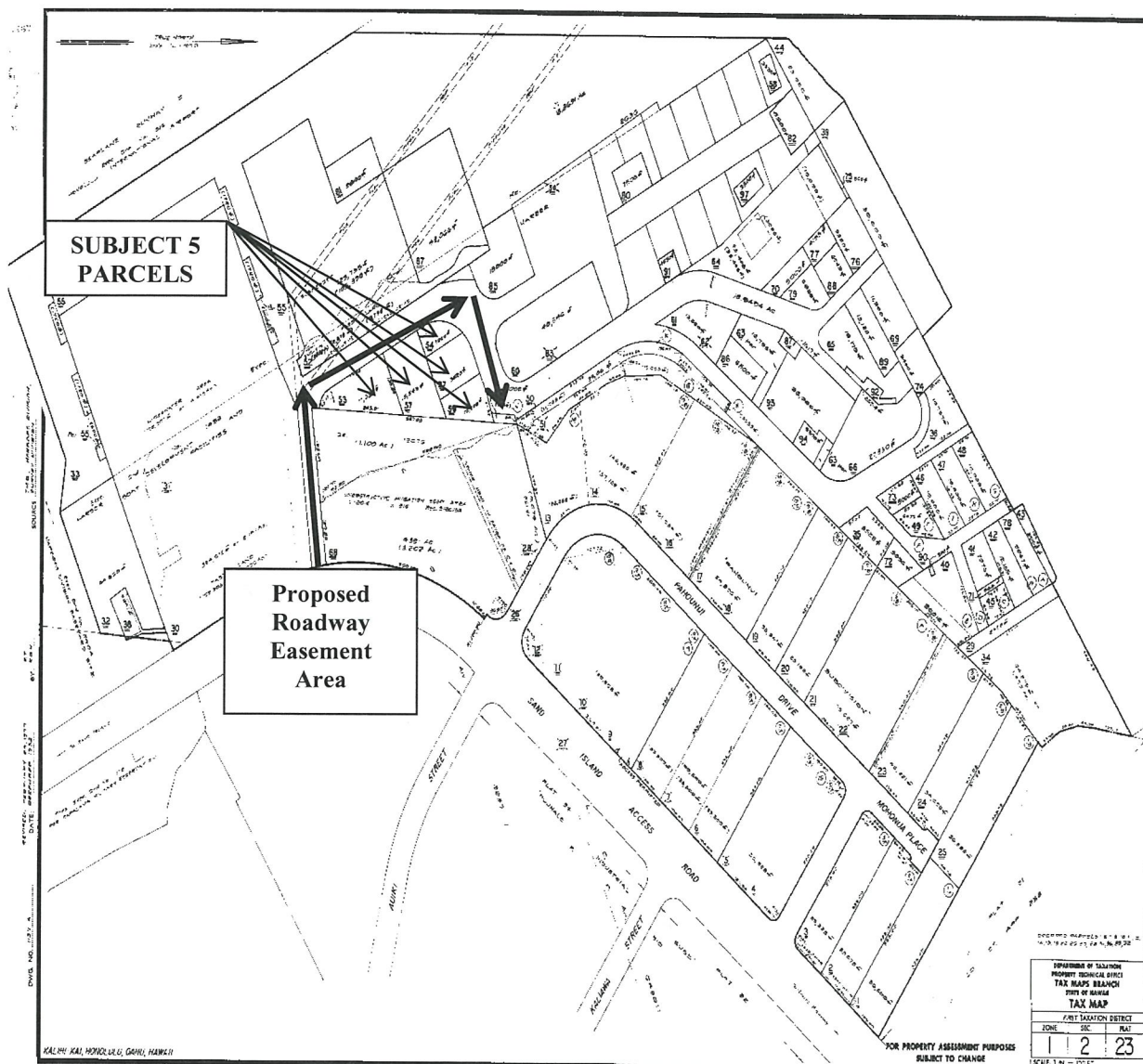
  
\_\_\_\_\_  
Timmy Chee  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Suzanne B. Case, Chairperson







**TAX MAP EXHIBIT**

**EXHIBIT 1-A**

BLNR – Withdrawal  
from GEO No. 3708  
for Reset-Aside to DOBOR  
and Grant of Easement

December 14, 2018

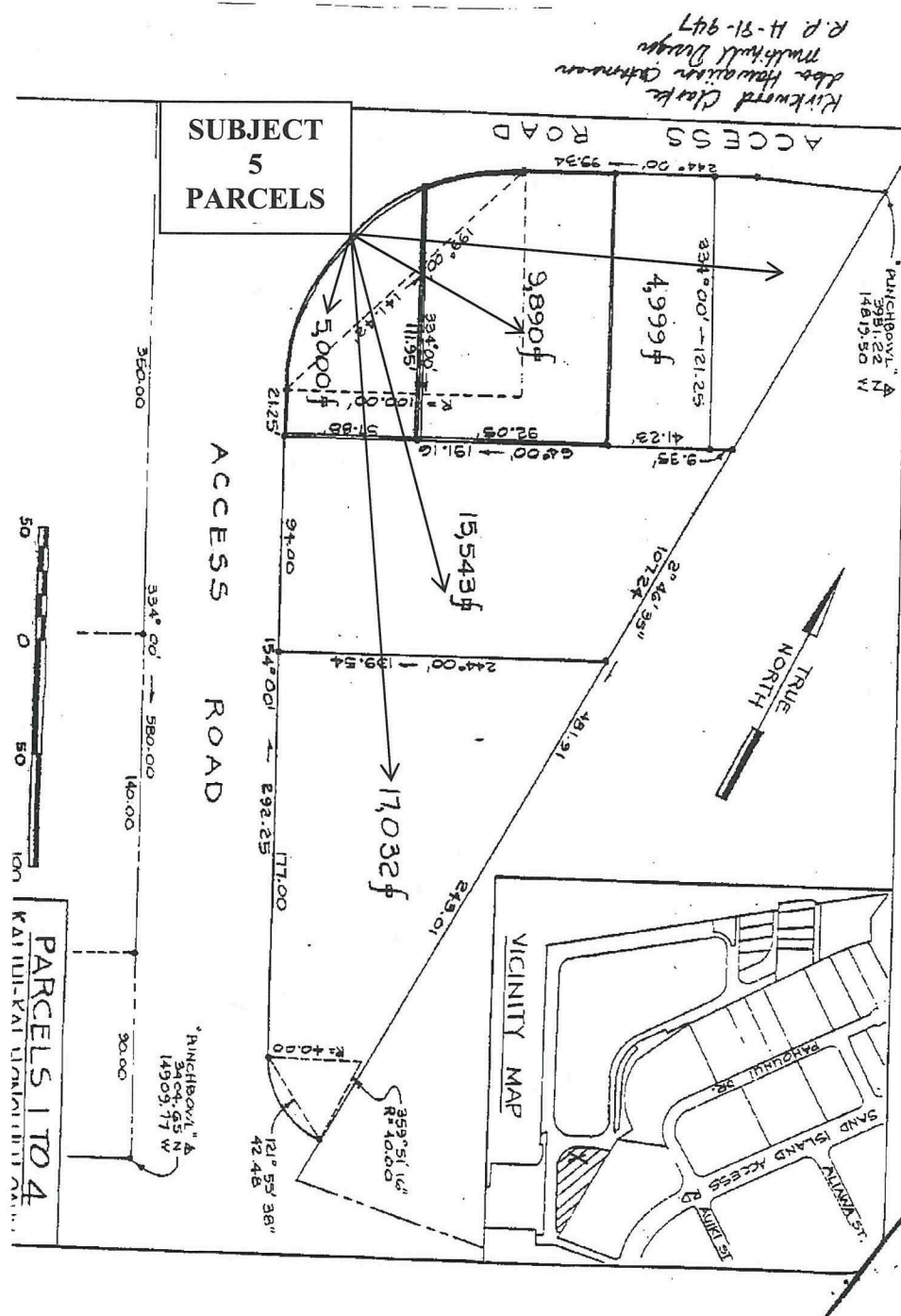


**AERIAL EXHIBIT**

**EXHIBIT 1-B**



December 14, 2018



## EXHIBIT 1-C



## EXEMPTION NOTIFICATION

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

Project Title:	Withdrawal of a Portion of State Lands from Governor's Executive Order No. 3708 issued to the Department of Transportation, Harbors Division and a Reset-Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) for Public Purposes. Issuance of an Immediate Management Right-of-Entry to DOBOR, Kalihi-Kai, Honolulu, Oahu, Tax Map Key Numbers: (1) 1-2-023: 053, 057, 054, 037 and 059. Grant of Perpetual Non-Exclusive Easement to DOBOR for Roadway Access Purposes, Kalihi-Kai, Honolulu, Oahu, Tax Map Key Number: (1) 1-2-023:033 (portion).
Project / Reference No.:	PSF 18OD-096
Project Location:	Kalihi-Kai, Honolulu, Oahu, Tax Map Key Numbers: (1) 1-2-023: 053, 057, 054, 037 and 059, and 033 (portion).
Project Description:	A Withdrawal and a Resetting Aside of State Lands to serve Public 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 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 43, that states "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," and Exemption Class No. 1, item 46, that states "Creation or termination of easement, covenants, or other rights in structures or land."
Cumulative Impact of Planned Successive Action in Same Place Significant?:	No, there is no significant cumulative impact since there are no successive actions in the same place.

Action May Have  
Significant Impact on  
Particularly Sensitive  
Environment?:

No, there is no particularly sensitive environment in this location.  
that would be significantly impacted.

Analysis:

No plans for the project are known that will have a significant effect upon the environment. The lands are already developed with a roadway and improvements, and the withdrawal and reset-aside of the lands to DOBOR and the granting of a roadway access easement to DOBOR will result in negligible or no expansion or change of the use of area.

Consulted Parties:

State Agencies:

The Division of Boating and Ocean Recreation, Department of Transportation-Harbors Division, Department of Health, Department of Hawaiian Homelands, Division of Aquatic Resources, Division of Historic Preservation, Division of Conservation and Coastal Lands and the Office of Hawaiian Affairs.

County Agencies:

Department of Planning and Permitting, Department of Facility Maintenance and the Board of Water Supply.

Recommendation:

It is recommended that the Board find that this project will probably have minimal or no significant effect upon the environment and is presumed to be exempt from the preparation of an environmental assessment.

BLNR – Withdrawal  
from GEO No. 3708  
for Reset-Aside to DOBOR  
and Grant of Easement

December 14, 2018

LAND COURT SYSTEM      REGULAR SYSTEM  
Return by Mail ( ) Pickup ( ) To:

Tax Map Key No. (1) 1-2-023:

FROM: STATE OF HAWAII  
TO: DEPARTMENT OF TRANSPORTATION  
HARBORS DIVISION  
79 S. Nimitz Highway  
Honolulu, Hawaii 96813

EXECUTIVE ORDER NO. 3708

SETTING ASIDE LAND FOR PUBLIC PURPOSES

BY THIS EXECUTIVE ORDER, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, and every other authority me hereunto enabling, effective October 1, 1997, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR HARBORS PURPOSES, to be under the control and management of the Department of Transportation, Harbors Division, being that parcel of land situate at Kalihi, Honolulu, Oahu, Hawaii, identified as "Portion of the Former Kaliawa Fishery," being a portion of the former Kaliawa Fishery covered by the following:

DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF LAND MANAGEMENT  
P. O. BOX 521  
HONOLULU, HAWAII 96809

**EXHIBIT 3**



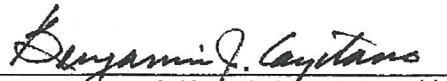
1. FINAL ORDER OF CONDEMNATION, Law No. 16653 acquired by the Territory of Hawaii dated July 18, 1946 and recorded in Liber 1981, Pages 79-94 (Land Office Deed 7993), and
2. Deed: Trustees under the Will of the Estate of S. M. Damon, deceased, to the Territory of Hawaii dated June 20, 1946 and recorded in Liber 2914, Page 438 (Land Office Deed 7993),

containing an area of 15.809 acres, more or less, Subject, However, to avigation easements, and Reserving, However, to the Department of Transportation, its successors and assigns Easements K-2, K-3 and K-4 of Section III of the Energy Corridor, 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, both being designated C.S.F. No. 22,592 and dated April 3, 1997; and

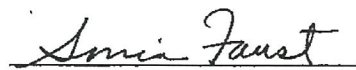
SUBJECT, HOWEVER, that upon cancellation of this executive order and/or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the Department of Transportation, Harbors Division, shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, FURTHER, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed.  
Done at the Capitol at Honolulu this 11th day  
of July, Nineteen Hundred and 97.

  
Governor of the State of Hawaii

APPROVED AS TO FORM:

  
Deputy Attorney General

Dated: 6/19/1997

2608(3)

BLNR – Withdrawal  
from GEO No. 3708  
for Reset-Aside to DOBOR  
and Grant of Easement

December 14, 2018

STATE OF HAWAII  
Office of the Lieutenant Governor

THIS IS TO CERTIFY That the within is a true copy of  
Executive Order No. 3708 setting aside land for public  
purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant  
Governor of the State of Hawaii, has  
hereunto subscribed her name and caused  
the Great Seal of the State to be affixed.

*Margi K. Simon*

DONE in Honolulu, this 15TH day of

July, A.D. 1997



**STATE OF HAWAII**  
SURVEY DIVISION  
DEPT. OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 22,592

April 3, 1997

**PORTION OF  
THE FORMER KALIWA FISHERY**

Kalihi, Honolulu, Oahu, Hawaii

Being a portion of the former Kaliwa Fishery covered by the following:

1. FINAL ORDER OF CONDEMNATION, Law No. 16653 acquired by the Territory of Hawaii dated July 18, 1946 and recorded in Liber 1981, Pages 79-94 (Land Office Deed 7993).
2. Deed: Trustees under the Will of the Estate of S. M. Damon, deceased, to the Territory of Hawaii dated June 20, 1946 and recorded in Liber 2914, Page 438 (Land Office Deed 7993).

Beginning at the south corner of this parcel of land and on the west boundary of Grant 12076 to the Trustees under the Will and of the Estate of S. M. Damon, deceased, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUNCHBOWL" being 3450.25 feet North and 14,841.54 feet West, thence running by azimuths measured clockwise from True South:-

1. Along Harbor Purposes, Governor's Executive Order 2636 on a curve to the right with a radius of 40.00 feet, the chord azimuth and distance being:  
122° 54' 30" 41.31 feet;
2. 154° 00' 450.17 feet along Harbor Purposes, Governor's Executive Order 2636;
3. 244° 00' 166.31 feet along Harbor Purposes, Governor's Executive Order 2636;



22,592

C.S.P. No. \_\_\_\_\_

April 3, 1997

4. Thence along Harbor Purposes, Governor's Executive Order 2636 on a curve to the left with a radius of 50.00, the chord azimuth and distance being:  
199° 00' 22.5" 70.70 feet;
5. 154° 00' 45" 231.37 feet along Harbor Purposes, Governor's Executive Order 2636;
6. 145° 28' 44" 202.24 feet along Harbor Purposes, Governor's Executive Order 2636;
7. 154° 00' 35" 167.75 feet along Harbor Purposes, Governor's Executive Order 2636;
8. 142° 22' 338.97 feet along Harbor Purposes, Governor's Executive Order 2636;
9. 233° 00' 1474.69 feet along Part 2 of Honolulu International Airport and Harbor Facilities, Governor's Executive Order 3202;
10. 8° 20' 107.17 feet along Lot 41 as shown on Map 58 of Land Court Application 258;
11. 4° 38' 44.00 feet along Lot 41 as shown on Map 58 of Land Court Application 258;
12. 346° 35' 50.00 feet along Lot 41 as shown on Map 58 of Land Court Application 258;
13. 327° 30' 59.00 feet along Lot 41 as shown on Map 58 of Land Court Application 258 to the outer edge of the former Pahounui Fish Pond wall;

Thence along the outer edge of the former Pahounui Fish Pond wall, along L.P. 8194 issued on a portion of L.C.Aw. 6450, Ap. 1 to Kaunuoehua for W. L. Moehonua for the next five (5) courses, the direct azimuths and distances between points on said outer edge of the Former Pahounui Fish Pond wall being:

14. 44° 10' 156.00 feet;
15. 34° 50' 400.00 feet;
16. 35° 20' 430.00 feet;
17. 26° 30' 300.00 feet;

22,592  
C.S.F. No. \_\_\_\_\_

April 3, 1997

18. 358° 03' 100.74 feet to the highwater mark at  
seashore as of February 9, 1948,  
being also the outer edge of the  
former Pahounui Fish Pond;

Thence along the highwater mark at seashore as of February 9, 1948, being also the  
outer edge of the former Pahounui Fish Pond for the next four (4) courses, the  
direct azimuths and distances between points on said highwater mark at seashore as  
of February 9, 1948, being also the outer edge of the former Pahounui Fish Pond  
being:

19. 341° 40' 50.00 feet;  
20. 333° 30' 115.00 feet;  
21. 313° 00' 90.00 feet;  
22. 23° 47' 30" 89.39 feet;  
23. 2° 46' 546.71 feet along Grant 12076 to the  
Trustees under the Will and of the  
Estate of S. M. Damon, deceased,  
to the point of beginning and  
containing an AREA OF 15.809  
ACRES, MORE OR LESS.

SUBJECT, HOWEVER, to avigation easements as shown on plan  
attached hereto and made a part hereof.

RESERVING, HOWEVER, to the Department of Transportation, its  
successors and assigns Easements K-2, K-3 and K-4 of Section III of the Energy  
Corridor as shown on plan attached hereto and made a part hereof.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Joseph M. Matsuno  
Joseph M. Matsuno  
Land Surveyor gm

Compiled from CSFs 16711,  
21707, 22472 and other Govt.  
Survey Records.  
TMK: 1-2-23

