

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

April 26, 2019

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

PSF No.: 19KD-027

**KAUAI**

Issuance of Right-of-Entry Permit to the County of Kauai, Department of Public Works, onto Unencumbered State Lands, Portions of the Kapahi Stream, Kapaa Homesteads, 1st Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-004: 015 por. and (4) 4-6-005:006 por.

**APPLICANT:**

County of Kauai, Department of Public Works.

**LEGAL REFERENCE:**

Section 171-55, Hawaii Revised Statutes (HRS), as amended.

**LOCATION:**

Portion of Government lands of the Kapahi Stream situated at Kapaa Homesteads, 1st Series, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-004: 015 por. and (4) 4-6-005:006 por., as shown on the attached maps labeled **Exhibits A-1 to A-3**.

**AREA:**

0.0847 acres, or 3,689 square feet, more or less, identified as:  
A-2 Location A, approximately 533 square feet. (**Exhibit A-4**)  
A-3 Location B, approximately 1,102 square feet. (**Exhibit A-5**)  
A-4 Location C, approximately 2,010 square feet. (**Exhibit A-6**)  
A-5 Location D, approximately 44 square feet. (**Exhibit A-7**)

**ZONING:**

State Land Use District:	Agriculture
County of Kauai CZO:	Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES \_\_\_\_ NO x

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

For road shoulder, stream embankment, and inlet/outlet headwall repair purposes.

TERM OF RIGHT-OF-ENTRY:

6 months (180 days).

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Department of Land and Natural Resources' Exemption List, 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 1, " 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 31, which states, "Repair and maintenance of existing roadways, roadway shoulders, road structures and signage, parking areas, walkways, bikeways, multi-use pathways, driveways, and boat launch ramps (including grading, resurfacing, infilling, sealing, grooving, cleaning, chipping, painting and patching)." See **Exhibit E**.

DCCA VERIFICATION:

Not applicable.      The Applicant is a government entity and is not required to register with DCCA.

APPLICANT REQUIREMENTS:

None.

REMARKS:

The subject area is a portion of the Kapahi Stream which runs parallel to the Kahuna Road in Kapaa Homesteads with portions being identified as Tax Map Keys: (4) 4-6-004:015 and 4-6-005:006. The County of Kauai, Department of Public Works is requesting a right-of-entry permit to enter portions of the Kapahi Stream to repair damage to the Kapahi Stream embankment, inlet and outlet of the headwalls, and shoulders of Kapuna Road. The damage was sustained during the April 13-14, 2018 flood. This right-of-entry is for the 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. The project is expected to be completed within 6-months (180-days).

The Governor's Proclamation of April 15, 2018 declared the County of Kauai to be a disaster area due to flooding and suspended a number of State laws, including Chapter 171, HRS, to the extent necessary to provide emergency relief as a result of the event. A copy of the Proclamation of April 15, 2018 is attached as **Exhibit B**. The Sixth Supplemental Proclamation signed by the Governor on February 12, 2019 extended the disaster relief period to April 13, 2019 as **Exhibit C**. There have been no further supplementary proclamations extending the disaster relief period. Accordingly, staff is recommending that the Board grant the right-of-entry to the County to allow its efforts to repair the damages to the Kapahi Stream embankment and inlet/outlet of the headwalls sustained in the April 2018 flood.

The County of Kauai contacted the Commission on Water Resource Management and the U.S. Army Corps of Engineers and it was determined that no special permits are required to conduct the proposed work activities. **Exhibit D**

This right-of-entry permit shall be issued *gratis* as it is for a government-sponsored project.

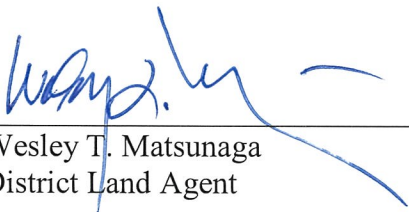
Staff solicited the County Planning Department, Office of Hawaiian Affairs, DLNR-Aquatic Resources, DLNR-CWRM, and DLNR-Historic Preservation for comments. No objections were received by the suspense date.

RECOMMENDATION: That the Board

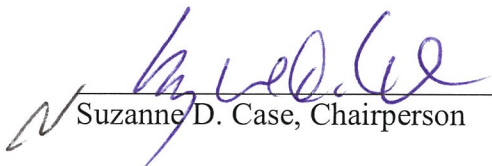
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Authorize the issuance of a right-of-entry permit to the County of Kauai, 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.
  - C. Authorize the Chairperson to issue future right-of-entries to the Applicant in relation to its project to repair the Kapahi Stream embankment, inlet and outlet of the headwalls.

Respectfully Submitted,

  
\_\_\_\_\_  
Wesley T. Matsunaga  
District Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Suzanne D. Case, Chairperson





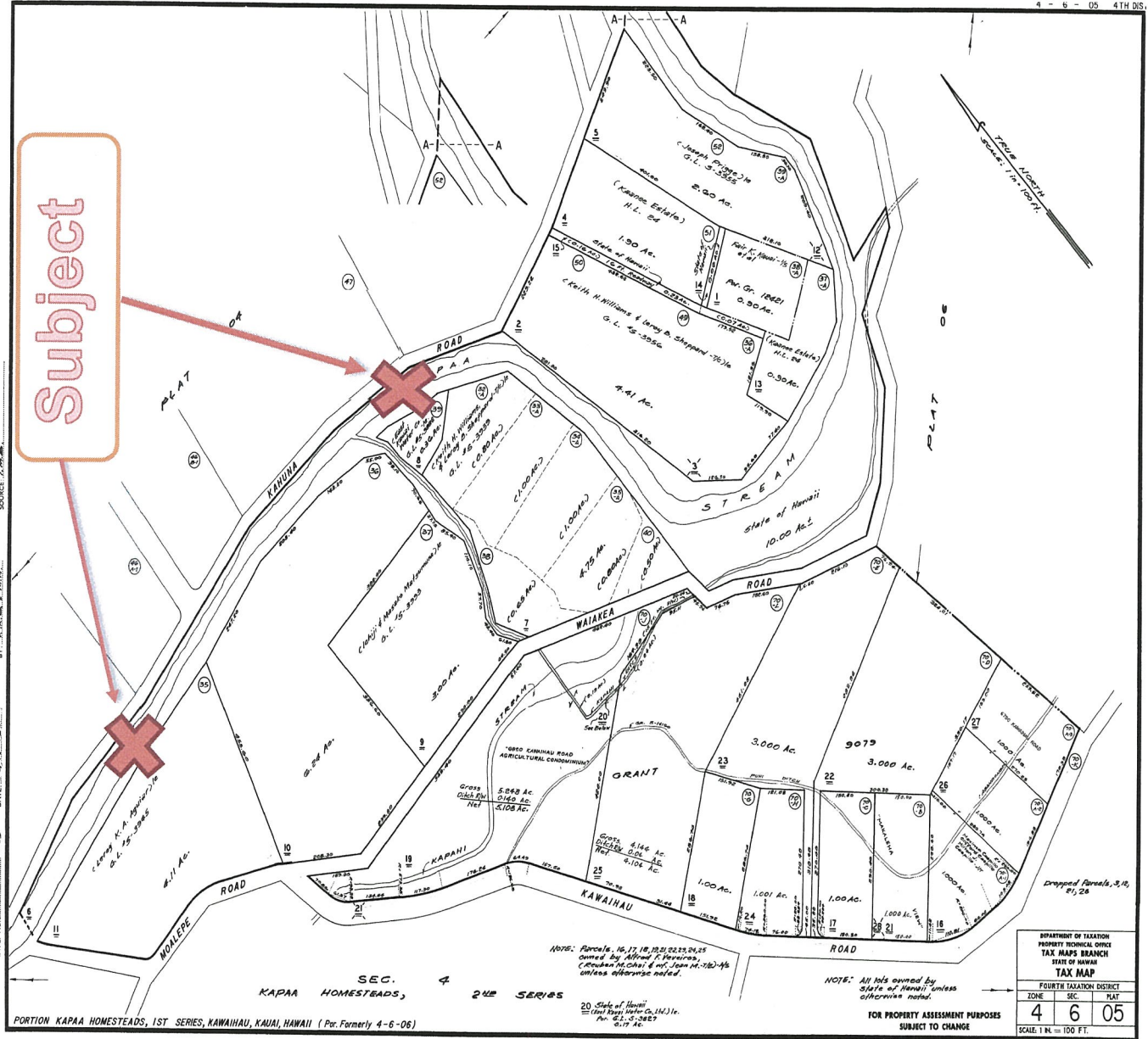
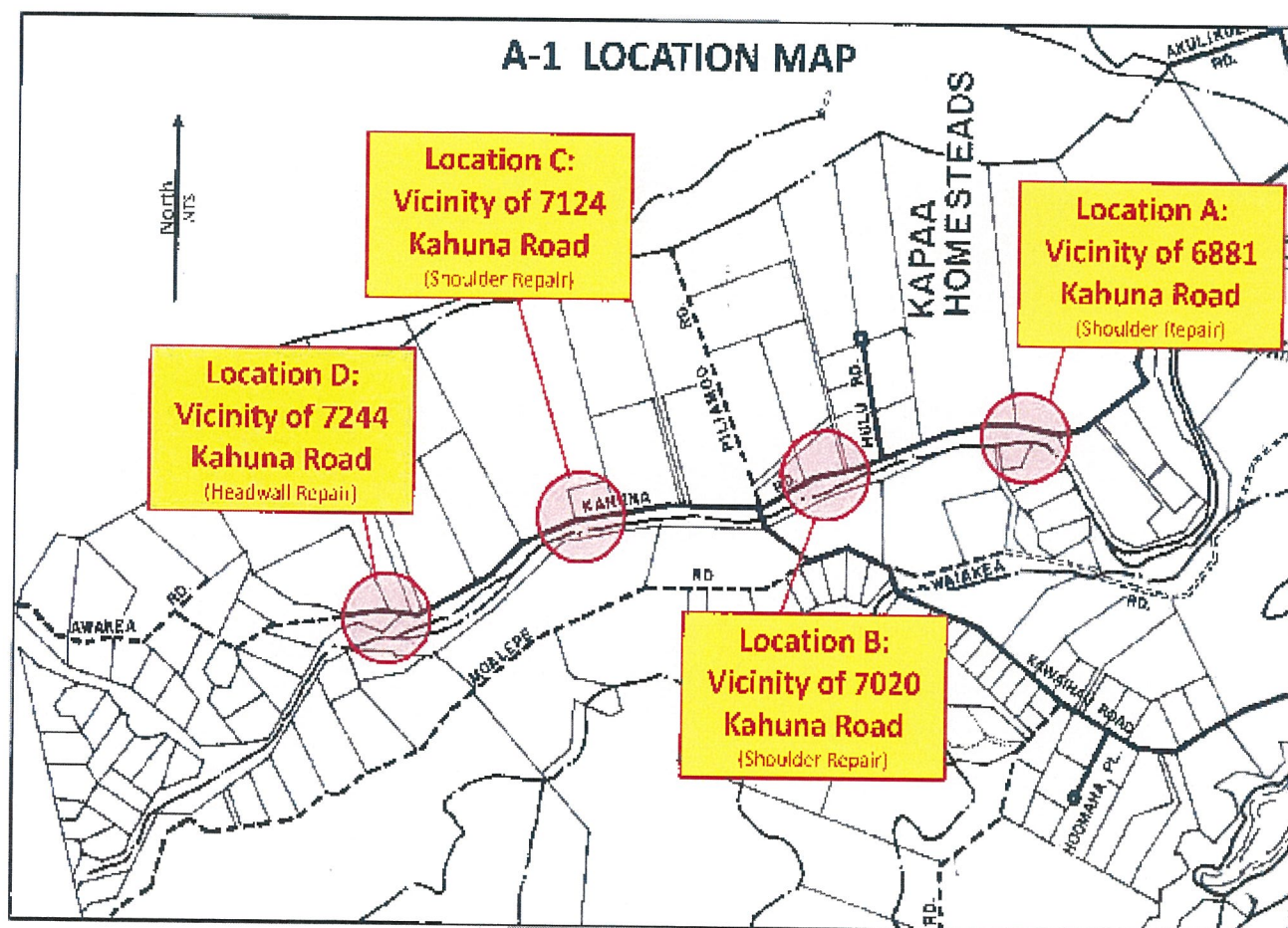


EXHIBIT A-2





#### A-2 Location A - Vicinity of 6881 Kahuna Road

Place boulders ranging from 1' -3' in diameter at 3 locations of stream bank. Dimensions are as follows: (35'L, 4.5'W, 2'H), (28'L, 10'W, 2'H) and (16'L, 6'W, 2'H). No dredging and/or discharge will take place.

Boulders will be placed at edge of stream of the stream and laid onto existing stream bank.

- (3'L, S'W) portion of boulders "adjacent to wingwall area" shall be CRM construction.

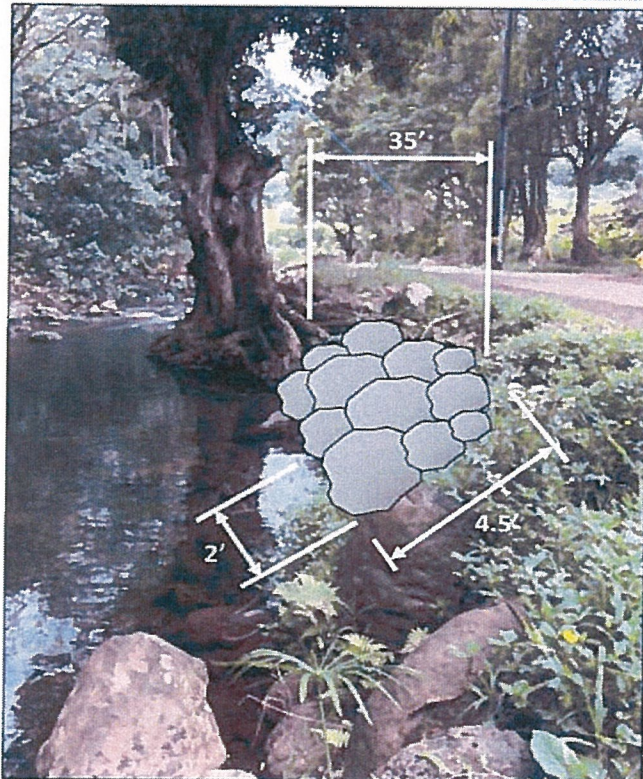
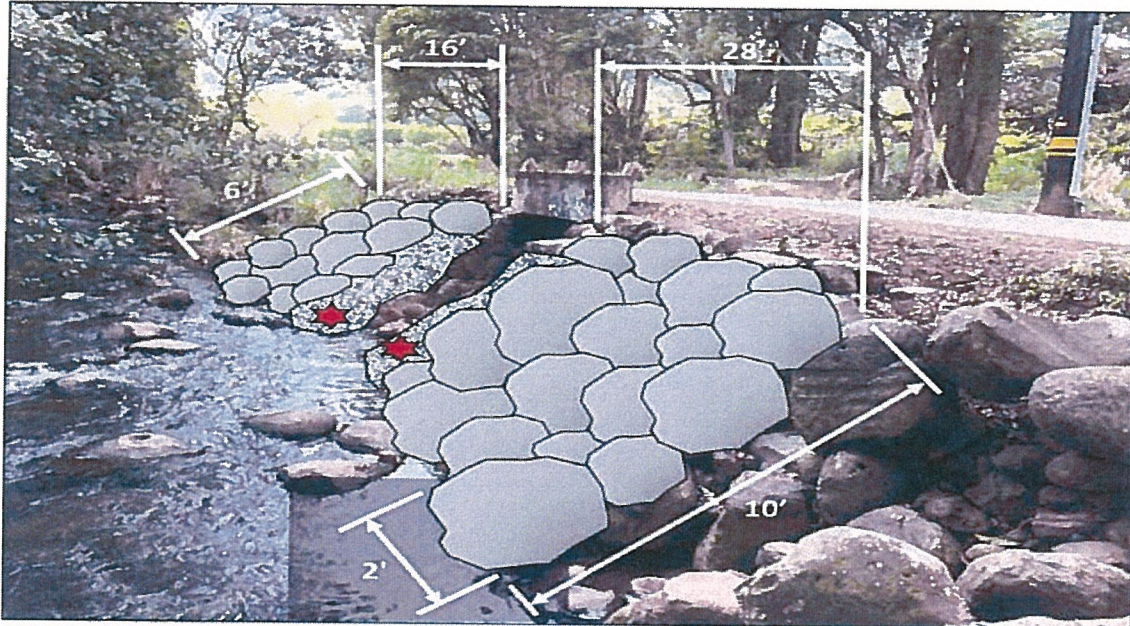


EXHIBIT A-4

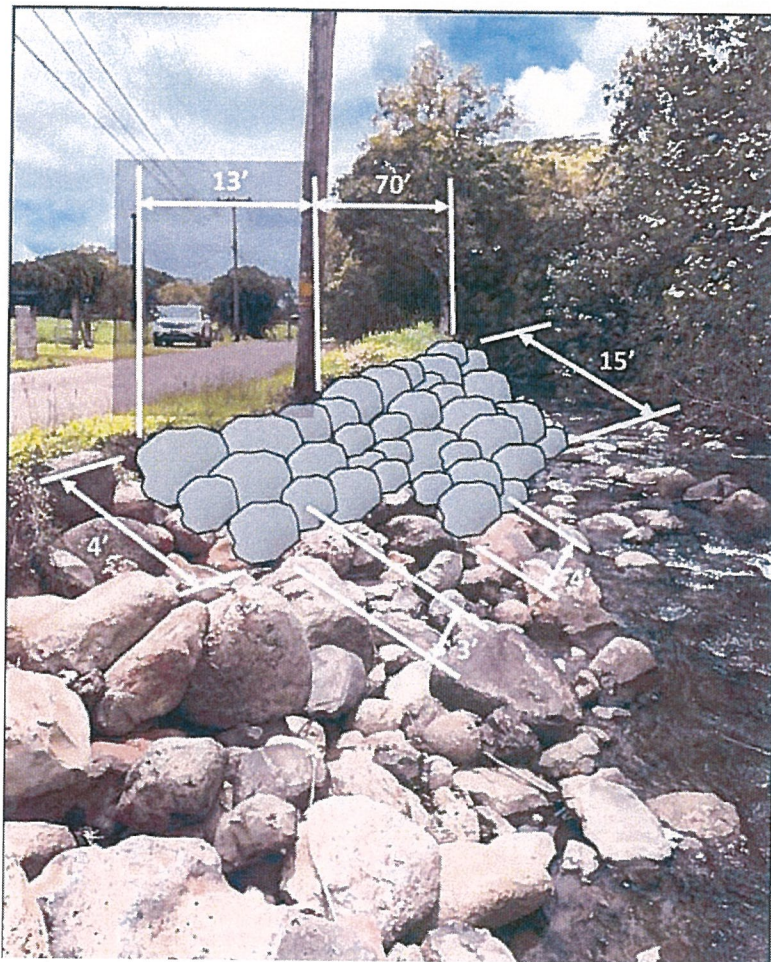


## **A-3 Location B**

### **Vicinity of 7020 Kahuna Road**

Place boulders ranging from 1'-3' in diameter at 2 locations of stream bank. Dimensions are as follows: (70'L, 15'W, 4'H) and (13'L, 4'W, 3'H). No dredging and/or discharge will take place.

Boulders will be placed at edge of stream of the stream and laid onto existing stream bank.



**EXHIBIT A-5**



## A-4 Location C - Vicinity of 7124 Kahuna Road

Place boulders ranging from 1'-3' in diameter at 2 locations of stream bank. Dimensions are as follows: (110'L, S'W, 9'H) and (120'L, 8.5'W, 3'H). No dredging and/or discharge will take place. Along Work Area-A, boulders will be placed into the stream to rebuild the boulder wall protecting the stream bank. Along Work Area-B, boulders will be placed at edge of stream of the stream and laid onto existing stream bank.

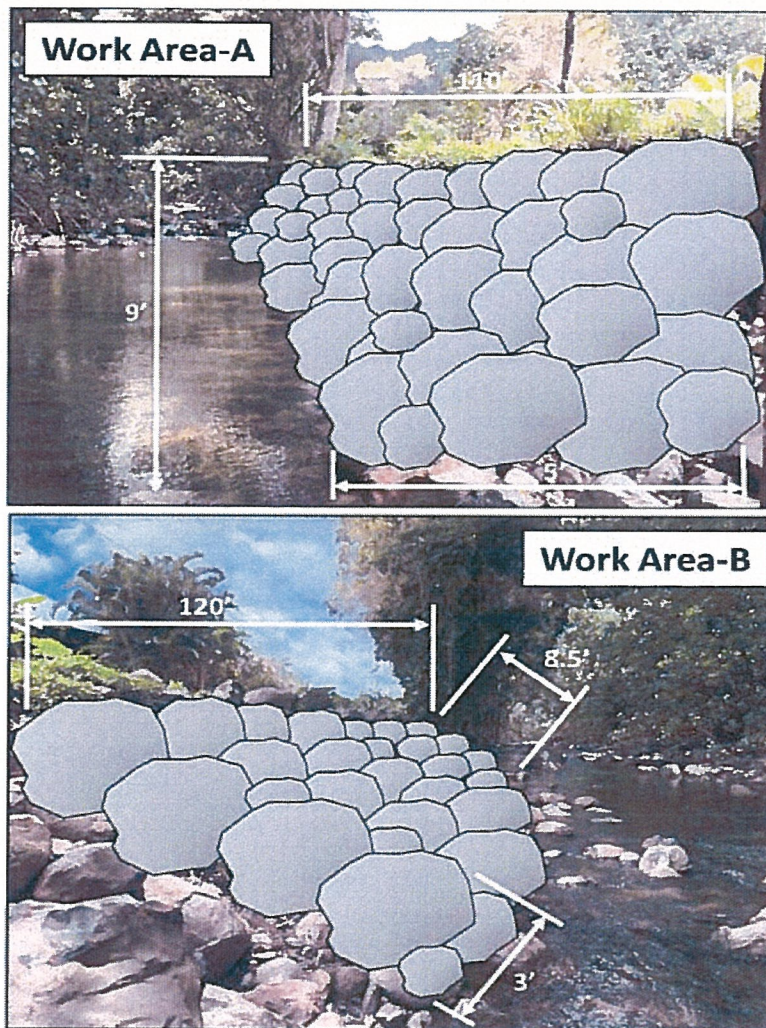
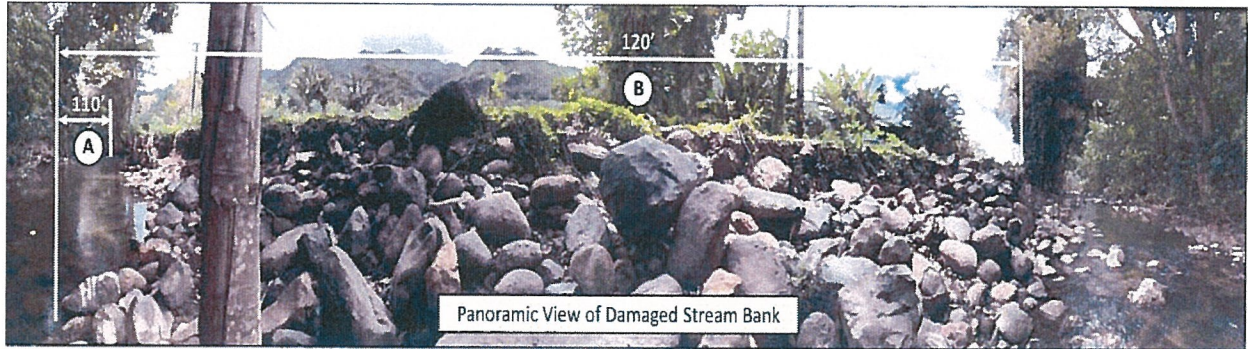
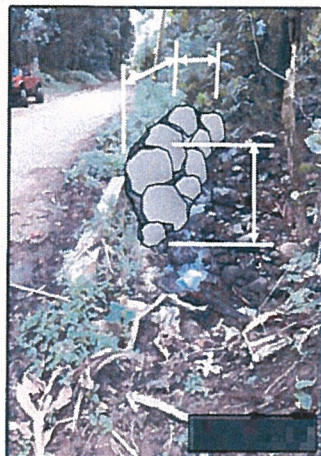
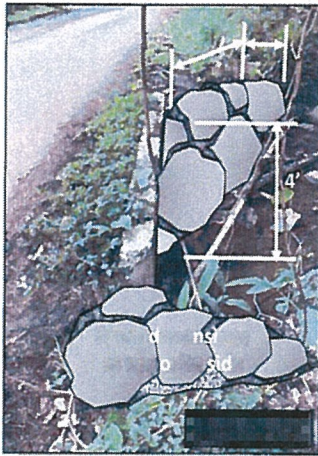


EXHIBIT A-6





### **A-5 Location D** **Vicinity of 7244 Kahuna Road**

CRM construction for all new wingwalls.  
Place boulders ranging from 1'-2' in diameter at 3 locations of drainage culvert. Wingwall dimensions are as follows: (3'L, 2.5'W, 4'H), (3'L, 2.5'W, 4'H) and (8'L, 2'W, 4'H). No dredging and/or discharge will take place. Boulders will be place at the bottom of the stream bed and laid onto existing stream bank.

EXHIBIT A-7

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**PROCLAMATION**

By the authority vested in me as Governor by the Constitution and laws of the State of Hawai'i, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

**WHEREAS**, Hawai'i is suffering a disaster occurrence of heavy rains and flooding beginning April 14, 2018 and continuing, that has caused, and continues to cause, extensive damage to private and public property impacting the County of Kauai, State of Hawai'i, thereby endangering the health, safety, and welfare of the people; and

**WHEREAS**, this occurrence of a severe, sudden, and extraordinary event of heavy rains and flooding has caused damages, losses, and suffering of such character and magnitude to affect the health, welfare, and living conditions of a substantial number of persons, and to affect the economy of the State, and is expected to be of such a nature as to warrant rehabilitative assistance from the State; and

**WHEREAS**, the Mayor of the County of Kauai, declared an emergency for the County of Kauai on April 15, 2018 as a result of damage to private and public property and roadways, the saturation and threats of additional damage and injuries from continuing rains and flooding; and

**WHEREAS**, the Legislature of the State of Hawai'i has appropriated from the general revenues of the State, monies as may be necessary for expenditure by or under the direction of the Governor for the immediate relief of the conditions created by the disaster; and

**WHEREAS**, in expending such monies, the Governor may allot any portion to any agency, office, or employee of the state or a county for the most expeditious and efficient relief of the conditions created by the disaster; and

**WHEREAS**, pursuant to sections 127A-14 and 127A-16, Hawaii Revised Statutes, the Governor is authorized to determine whether an emergency or disaster



has occurred, or there is an imminent danger or threat of an emergency or disaster and authorize actions under chapter 127A, Hawaii Revised Statutes, and the expenditure of funds thereunder; and

**WHEREAS**, pursuant to section 127A-13(a)(3), Hawaii Revised Statutes, the Governor is authorized to suspend any law which impedes or tends to impede or is detrimental to the expeditious and efficient execution of, or to conflict with, emergency functions, including laws specifically made applicable to emergency personnel; and

**WHEREAS**, pursuant to section 127A-13(a)(2), Hawaii Revised Statutes, the Governor is further authorized to relieve hardship and inequities or obstructions to the public health, safety, and welfare found by the Governor to exist in the laws and to result from the operation of federal programs or measures taken under chapter 127A, Hawaii Revised Statutes, by suspending laws in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose; and

**WHEREAS**, pursuant to section 127A-12(b)(8), Hawaii Revised Statutes, the Governor may suspend chapter 103D and sections 103-50, 103-53, 103-55, 105-1 to 105-10, and 464-4, Hawaii Revised Statutes, and I find that these provisions, in whole or in part, impede or tend to impede the expeditious discharge of emergency disaster relief functions for this occurrence and that compliance therewith is impracticable due to existing conditions; and

**WHEREAS**, pursuant to section 127A-12(b)(13), Hawaii Revised Statutes, the Governor may require each public utility, or any person owning, controlling, or operating a critical infrastructure facility as identified by the Governor, to protect and safeguard its or the person's property, or to provide for the protection and safeguarding thereof; and provide for the protection and safeguarding of all critical infrastructure and key resources, including the regulation or prohibition of public entry thereon, or the permission of the entry upon such terms and conditions as the Governor may prescribe; and

**WHEREAS**, pursuant to section 127A-12(a)(5), Hawaii Revised Statutes, the Governor may direct or control, as may be necessary for emergency management alerts, warnings, notifications, and activations; warnings and signals for alerts and any

type or warning device, system, or method to be used in connection therewith; partial or full mobilization of personnel in advance of or in response to an actual emergency or disaster; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after alerts, emergencies, or disasters; and

**WHEREAS**, pursuant to section 127A-13(a)(5), Hawaii Revised Statutes, the Governor may shut off water mains, gas mains, electric power connections, or suspension of other services; and

**WHEREAS**, pursuant to section 127A-13(a)(6), Hawaii Revised Statutes, the Governor may direct and control the mandatory evacuation of the civilian population; and

**WHEREAS**, pursuant to section 127A-12(b)(16), Hawaii Revised Statutes, the Governor is further authorized to order and direct government agencies, officials, officers, and employees of the State, to take such action and employ such measures for law enforcement, medical, health, firefighting, traffic control, warnings and signals, engineering, rescue, construction, emergency housing, other welfare, hospitalization, transportation, water supply, public information, training, and other emergency functions as may be necessary, and utilize the services, materials, and facilities of the agencies and officers; and

**WHEREAS**, pursuant to section 127A-12(b)(9), Hawaii Revised Statutes, the Governor may appoint, employ, train, equip, and maintain, with compensation, or on a volunteer basis without compensation and without regard to chapters 76, 78, and 88, such agencies, officers, and other persons as the Governor deems necessary to carry out emergency management functions; determine to what extent any law prohibiting the holding of more than one office or employment applies to the agencies, officers, and other persons; and subject to the provisions of chapter 127A, Hawaii Revised Statutes, provide for the interchange of personnel, by detail, transfer, or otherwise, between agencies or departments of the State; and

**WHEREAS**, pursuant to section 127A-12(b)(19), Hawaii Revised Statutes, the Governor may take any and all steps necessary or appropriate to carry out the purposes

of chapter 127A, Hawaii Revised Statutes notwithstanding that powers in section 127A-13(a) may only be exercised during an emergency period; and

**NOW, THEREFORE**, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by section 127A-14, Hawaii Revised Statutes has occurred in the above areas in the State of Hawai'i, and do hereby proclaim the County of Kauai, State of Hawai'i, to be a disaster area for the purpose of implementing the emergency management functions as allowed by law, authorizing the expenditure of State monies as appropriated for the speedy and efficient relief of the damages, losses, and suffering resulting from the emergency or disaster, and hereby authorize and invoke the following measures under the Hawaii Revised Statutes:

1. Section 127A-16, Hawaii Revised Statutes, by the activation of the Major Disaster Fund.
2. Sections 127A-13 and 127A-12, Hawaii Revised Statutes, I hereby suspend as allowed by federal law and to the extent necessary to provide emergency relief as a result of this event, the following statutes:
  - a. Chapter 6E, Hawaii Revised Statutes, **historic preservation**.
  - b. Section 37-41, Hawaii Revised Statutes, **appropriations to revert to state treasury**.
  - c. Section 37-74(d), Hawaii Revised Statutes, **program execution**, except for sub-sections 37-74(d)(2) and 37-74(d)(3), Hawaii Revised Statutes, and any such transfers or changes shall be considered authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements.
  - d. Section 40-66, Hawaii Revised Statutes, **lapsing of appropriations**.
  - e. Chapter 46, Hawaii Revised Statutes, **county organization and Administration** as any county ordinance, rule, regulation, law, or provision in any form applies to any county permitting, licensing, zoning, variance, processes, procedures, fees, or any other

requirements that hinder, delay, or impede the purpose of this Proclamation.

- f. Chapter 89, Hawaii Revised Statutes, **collective bargaining in public employment.**
- g. Chapter 89C, Hawaii Revised Statutes, **public officers and employees excluded from collective bargaining.**
- h. Section 102-2, Hawaii Revised Statutes, **contracts for concessions in government buildings; bid requirements.**
- i. Section 103-2, Hawaii Revised Statutes, **general fund.**
- j. Section 103-50, Hawaii Revised Statutes, **building design to consider needs of persons with disabilities.**
- k. Section 103-53, Hawaii Revised Statutes, **contracts with the State or counties; tax clearances, assignments.**
- l. Section 103-55, Hawaii Revised Statutes, **wages, hours, and working conditions of employees of contractors performing services.**
- m. Chapter 103D, Hawaii Revised Statutes, **Hawai'i public procurement code.**
- n. Chapter 104, Hawaii Revised Statutes, **wages and hours of employees on public works.**
- o. Sections 105-1 to 105-10, Hawaii Revised Statutes, **use of government vehicles, limitations.**
- p. Chapter 171, Hawaii Revised Statutes, **public lands, management and disposition of.**
- q. Chapter 174C, Hawaii Revised Statutes, **state water code.**
- r. Chapter 180, Hawaii Revised Statutes, **soil and water conservation districts.**

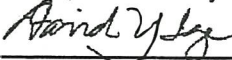


- s. Chapter 180C, Hawaii Revised Statutes, **soil erosion and sediment control.**
- t. Chapter 183, Hawaii Revised Statutes, **forest reserves, water development, zoning.**
- u. Chapter 183C, Hawaii Revised Statutes, **conservation district.**
- v. Chapter 183D, Hawaii Revised Statutes, **wildlife.**
- w. Chapter 184, Hawaii Revised Statutes, **state parks and recreation areas.**
- x. Chapter 195, Hawaii Revised Statutes, **natural areas reserves system.**
- y. Chapter 195D, Hawaii Revised Statutes, **conservation of aquatic life, wildlife, and land plants.**
- z. Chapter 198D, Hawaii Revised Statutes, **Hawai'i statewide trail and access system.**
- aa. Chapter 205, Hawaii Revised Statutes, **land use commission.**
- ab. Chapter 205A, Hawaii Revised Statutes, **coastal zone management.**
- ac. Chapter 264, Hawaii Revised Statutes, **highways.**
- ad. Chapter 269, Hawaii Revised Statutes, **public utilities commission.**
- ae. Chapter 286, Hawaii Revised Statutes, **highway safety.**
- af. Chapter 341, Hawaii Revised Statutes, **environmental quality control.**
- ag. Chapter 342B, Hawaii Revised Statutes, **air pollution.**
- ah. Chapter 342D, Hawaii Revised Statutes, **water pollution.**
- ai. Chapter 342E, Hawaii Revised Statutes, **non-point source pollution management and control.**

- aj. Chapter 342F, Hawaii Revised Statutes, **noise pollution.**
  - ak. Chapter 343, Hawaii Revised Statutes, **environmental impact statements.**
  - al. Chapter 343D, Hawaii Revised Statutes, **environmental disclosure.**
  - am. Chapter 344, Hawaii Revised Statutes, **state environmental policy.**
  - an. Section 464-4, Hawaii Revised Statutes, **public works required to be supervised by certain professionals.**
3. Section 127A-12(b), Hawaii Revised Statutes, and in order to provide emergency disaster relief, I hereby direct all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to eliminate the danger.

I FURTHER DECLARE that a disaster emergency relief period shall commence April 15, 2018, and shall continue until terminated automatically pursuant to section 127A-14, Hawaii Revised Statutes, or by a separate proclamation, whichever occurs first and which period shall also apply to the provisions and applicability of section 127A-30, Hawaii Revised Statutes. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into by reason of the provisions of this proclamation relating to his emergency shall continue.

Done at the State Emergency Operating Center, this 15<sup>th</sup> day of April, 2018.



DAVID Y. IGE,  
Governor of Hawai'i

APPROVED:  


RUSSEL SUZUKI  
Attorney General  
State of Hawai'i

OFFICE OF THE GOVERNOR  
STATE OF HAWAII

**SIXTH SUPPLEMENTARY PROCLAMATION**

By the authority vested in me as Governor by the Constitution and laws of the State of Hawai'i, in order to provide relief for disaster damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine, designate and proclaim as follows:

**WHEREAS**, pursuant to Chapter 127A, Hawaii Revised Statutes, emergency powers are conferred on the Governor of the State of Hawai'i to deal with disasters or emergencies, to maintain the strength, resources, and economic life of the community, and to protect the public health, safety, and welfare; and

**WHEREAS**, it has become necessary to supplement my Proclamation of April 15, 2018, my Supplementary Proclamation of April 18, 2018, my Second Supplementary Proclamation of June 17, 2018, Acting Governor Douglas S. Chin's Third Supplementary Proclamation of August 16, 2018, my Fourth Supplementary Proclamation of October 15, 2018, and my Fifth Supplementary Proclamation of December 14, 2018, relating to heavy rains and flooding; and

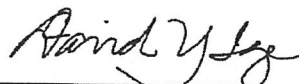
**WHEREAS**, the conditions giving rise to the emergency continue in the County of Kaua'i, State of Hawai'i and are adversely impacting efforts to repair, reconstruct, improve, and otherwise perform work on various roadways, bridges, infrastructure, and streams;

**NOW, THEREFORE**, I, DAVID Y. IGE, Governor of the State of Hawai'i, hereby determine that an emergency or disaster contemplated by sections 127A-14, 171-85, 209-2, Hawaii Revised Statutes continues only in the County of Kaua'i, State of Hawai'i. I do hereby continue and extend my Proclamation of April 15, 2018, my Supplementary Proclamation of April 18, 2018, my Second Supplementary Proclamation of June 17, 2018, Acting Governor Douglas S. Chin's Third Supplementary Proclamation of August 16, 2018, my Fourth Supplementary Proclamation of October 15, 2018, and my Fifth Supplementary Proclamation of December 14, 2018, relating to heavy rains and flooding shall remain in full force and effect, and are hereby included in the provisions of

this Proclamation to the extent necessary for those engaged in emergency management functions to repair, reconstruct, improve, and otherwise perform work on various roadways, bridges, infrastructure, and streams.

**I FURTHER DECLARE** that the disaster emergency relief period shall continue until April 13, 2019, unless terminated by a separate proclamation, whichever shall occur first. Notwithstanding the termination of a disaster emergency relief period, any contracts, agreements, procurements, programs, or employment of personnel entered into, started, amended, or continued by reason of the provisions of the proclamations relating to this emergency shall continue in full force and effect.

Done at the State Capitol, this 12<sup>th</sup> day  
of February, 2019.



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DAVID Y. IGE,  
Governor of Hawai'i

APPROVED:



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CLARE E. CONNORS  
Attorney General  
State of Hawai'i





**DEPARTMENT OF THE ARMY**  
HONOLULU DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
FORT SHAFTER, HAWAII 96858-5440

September 17, 2018

**SUBJECT: No Permit Required for Kahuna Road Shoulder Repairs, Along Kapaa Stream, Kauai, Hawaii, DA File No. POH-2018-00164**

County of Kauai  
Department of Public Works  
Attention: Mr. Lyle Tabata  
4444 Rice Street, Suite 275  
Lihue, Island of Kauai, Hawaii 96766

Dear Mr. Tabata:

The Honolulu District, U.S. Army Corps of Engineers Regulatory Office (Corps) is in receipt of your letter dated July 6, 2018 requesting a determination of permitting requirements for the proposed Kahuna Road Shoulder Repairs located at four separate sites all within Kapaa, Island of Kauai, Hawaii as follows: Site A, 6881 Kahuna Road, 22.100902, -159.370703; Site B, 7020 Kahuna Road, 22.101188, -159.374212; Site C, 7124 Kahuna Road, 22.101854, -159.378860; and Site D, 7244 Kahuna Road, 22.101616, -159.382379. We have assigned your project Department of the Army (DA) file number POH-2018-00164. Please reference this number in all future correspondence concerning this project.

We have reviewed your submittal pursuant to Section 10 of the Rivers and Harbors Act of 1899 (Section 10) and Section 404 of the Clean Water Act (Section 404). Section 10 requires that a DA permit be obtained for certain structures or work in or affecting navigable waters of the United States, prior to conducting the work (33 U.S.C. 403). Section 404 requires that a DA permit be obtained for the discharge of dredged and/or fill material into waters of the U.S., including wetlands and navigable waters of the U.S., prior to conducting the work (33 U.S.C. 1344).

Based on our review of the information you furnished, and assuming your project is conducted in accordance with the project plans (Enclosure 1), this office has determined that although your proposed activity would result in the discharge of dredged or fill material into a water of the U.S., the resulting discharges you have proposed are not prohibited by or otherwise subject to regulation under Section 404 in accordance with 33 CFR 323.4. Therefore, a DA permit will not be required. This determination is made based on the circumstances of the proposed activity and not on the geographic basis of Corps regulatory jurisdiction.

Although a permit is not required from this office, we recommend use of Best Management Practices to avoid and minimize adverse impacts to the aquatic resource.

**EXHIBIT D**

It is your responsibility to ensure that your project complies with all other Federal, State, or local statutes, ordinances and regulations.

Thank you for your cooperation with the Honolulu District Regulatory Program. Should you have any questions related to this determination, please contact me at (808) 835-4056 or via e-mail at [albert.p.williams@usace.army.mil](mailto:albert.p.williams@usace.army.mil). You are encouraged to provide comments on your experience with the Honolulu District Regulatory Branch by accessing our web-based customer survey form at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=136:4:0](http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0).

Sincerely,

**WILLIAMS.ALBERT.P**  
**ATRICK.1269068040**

Digitally signed by  
WILLIAMS.ALBERT.PATRICK.1269068040  
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,  
ou=USA, cn=WILLIAMS.ALBERT.PATRICK.1269068040  
Date: 2018.09.17 13:57:48 -10'00'

Albert Williams  
Regulatory Specialist

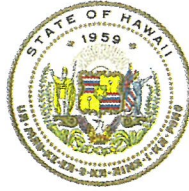
Enclosures

cc:

State of Hawaii DOH-CWB (Darryl Lum)

County of Kauai, Department of Public Works (Mr. Stanford Iwamoto)

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**

3060 Eiwa Street, Room 208  
Lihue, Hawaii 96766  
PHONE: (808) 274-3491  
FAX: (808) 241-3535

April 26, 2019

**EXEMPTION NOTIFICATION**

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

Project Title:	Issuance of Right-of-Entry Permit to the County of Kauai, Department of Public Works, onto Unencumbered State Lands, Portions of Kapahi Stream, Kapaa Homesteads, 1st Series, Kawaihau, Kauai, Tax Map Keys: (4) 4-6-004:015 por. and (4) 4-6-005:006 por.
Project / Reference No.:	PSF No.: 19KD-027
Project Location:	Kapaa Homesteads, 1st Series, Kawaihau, Kauai, Tax Map Keys: (4) 4-6-004:015 por. and (4) 4-6-005:006 por.
Project Description:	Right-of-Entry to County of Kauai, Department of Public Works of Kapahi Stream, Kapaa.
Chap. 343 Trigger(s):	Use of State land.
Exemption Class No. and Item No.:	In accordance with Hawaii Administrative Rule Sections 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, "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 51, which states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

**EXHIBIT E**

Cumulative Impact of  
Planned Successive  
Actions in Same Place  
Significant:

No, the request is a single occurrence in the area.

Action May Have  
Significant Impact on  
Particularly Sensitive  
Environment:

No, the action proposed will have no significant impact to any particularly sensitive environment.

Analysis:

The proposed Kapahi Stream work project is not expected to involve only minimum or no significant effect on the environment. All precautions will be taken to minimize sediments from entering the stream.

Consulted Parties:

The Commission on Water Resource Management and the U.S. Army Corps of Engineers were consulted.

Recommendation:

It is anticipated this activity will probably have minimal or no significant effect on the environment as all precautions will be taken to minimize sediments from entering the stream. As a result, it will involve minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.