

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

July 26, 2019

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

Ref No. 19OD-050
19OD-053

OAHU

Cancellation of Governor's Executive Order No. 3488 and Re-set Aside a Portion to Department of Public Safety for Correctional Institution and Related Purposes and a Portion to City and County of Honolulu for Reservoir Purposes; Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu, Board of Water Supply for Access and Drainage Purposes; Issuance of Management Right-of-Entry; Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-2-003:004, 024, 025, 026.

APPLICANT:

Department of Public Safety ("DPS"); and
City and County of Honolulu, for use by the Board of Water Supply ("BWS")

LEGAL REFERENCE:

Sections 171-11 and 55, and 95, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Government lands of Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-2-003:004, 024, 025, 026 (**Exhibit 1**).

AREA:

DPS

121.056 acres, more or less.

BWS

Reservoir 1.101 acres.

Access Easement A 0.412 acres.

Drainage Easement B 0.145 acres.

TOTAL 1.658 acres, more or less.

ZONING:

State Land Use District: Urban, Conservation
City and County of Honolulu LUO: P-1 and AG-2

TRUST LAND STATUS:

Section 5 (b) lands of the Hawaii Admission Act.

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

CURRENT USE STATUS:

Governor's Executive Order No. 3488 ("EO 3488") setting aside to the DPS for Hawaii Youth Correctional Facility.

PURPOSES OF SET-ASIDE:

DPS - Correctional Institution and Related Purposes.

BWS - Reservoir Purposes.

CHAPTER 343- ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on 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 No. 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". Item No. 46 that states, "creation or termination of easement, covenants, or other rights in structures or land." See **Exhibit 2**.

The Supplemental Final Environmental Impact Statement for the reservoir described below was accepted by Governor Cayetano on July 17, 2000.

APPLICANT REQUIREMENTS:

None. According to DAGS Survey Division there are documents on file sufficient to prepare a map and legal description for the City and County re-set aside and the grant of perpetual non-exclusive easements for BWS.

REMARKS:

DPS

As part of the due diligence for the proposed improvement at the Women's Community Correctional Center ("WCCC") at the subject location, it was discovered that EO3488 was issued to the Department of Public Safety for the purpose of a Youth Correctional Facility. The subject area at some unknown point became the current site for the Women's Community Correctional Center. To facilitate the future expansion planning of the WCCC correctional facility and corresponding supportive infrastructure, the DPS is requesting that the purpose of the set aside be changed to correctional institution and related purposes.

BWS

In the early 1990s, BWS realized there was a need for more water capacity to service the Kailua area since the total storage capacity was slightly less than one day's water supply for the area. The BWS proposed and build a 4.0 million gallon concrete reservoir that began service in early 2004, designated as Kailua 272 Reservoir. BWS has supplied maps and legal description for the project with the Department of Planning and Permitting subdivision approval stamp dated June 8, 2001.

The Kailua 272 Reservoir site straddles the Puu O Ehu ridge, of which the Western side (1.101 acres) is within the area under EO3488 (TMK: (1) 4-2-003:004) while the remaining portion is over land owned by BWS. Our records indicate there were no dispositions issued for either the reservoir site or the access and drainage easements. BWS requests setting aside the reservoir site and asks for perpetual, non-exclusive easements for access and drainage as shown on **Exhibit 1B**.

Staff recommends the Board authorize the issuance of a management right-of-entry permit to BWS which shall expire upon the issuance of the requested executive order and grant of easement for access and drainage purposes.

In response for comments from other Government agencies, the Division of Conservation and Coastal Lands commented that changes in management do not require Conservation District Use Permits and had no objection/comment to the request and concurs with the proposed EA exemption. Division of Forestry and Wildlife had no objections/comments. The Department of Transportation-Highways Division, Department of Education, City and County Facilities Maintenance, Department of Planning and Permitting, and the Office of Hawaiian Affairs have not responded to solicitation for comment before the response deadline. The Department of Public Safety did not indicate any negative comments to either the proposed Reservoir set aside or the access and drainage easements to the Board of Water Supply.

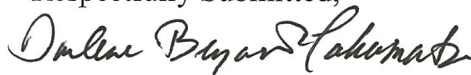
RECOMMENDATION: That the Board:

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 canceling Governor's Executive Order No. 3488 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 setting aside TMK: (1) 4-2-003:024, 025, 026, and a portion of 004 to the Department of Public Safety, 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 of and recommend to the Governor the issuance of an executive order setting aside a portion of Tax Map Key: (1) 4-2-003:004 to the City and County of Honolulu 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.
- 5. Authorize the issuance of perpetual, non-exclusive easements to the City and County of Honolulu covering the subject areas for access and drainage 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.

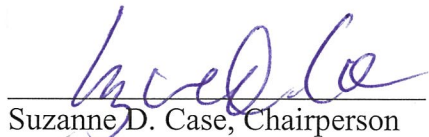
6. Authorize the issuance of a management right-of-entry permit to the City and County of Honolulu covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry 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.

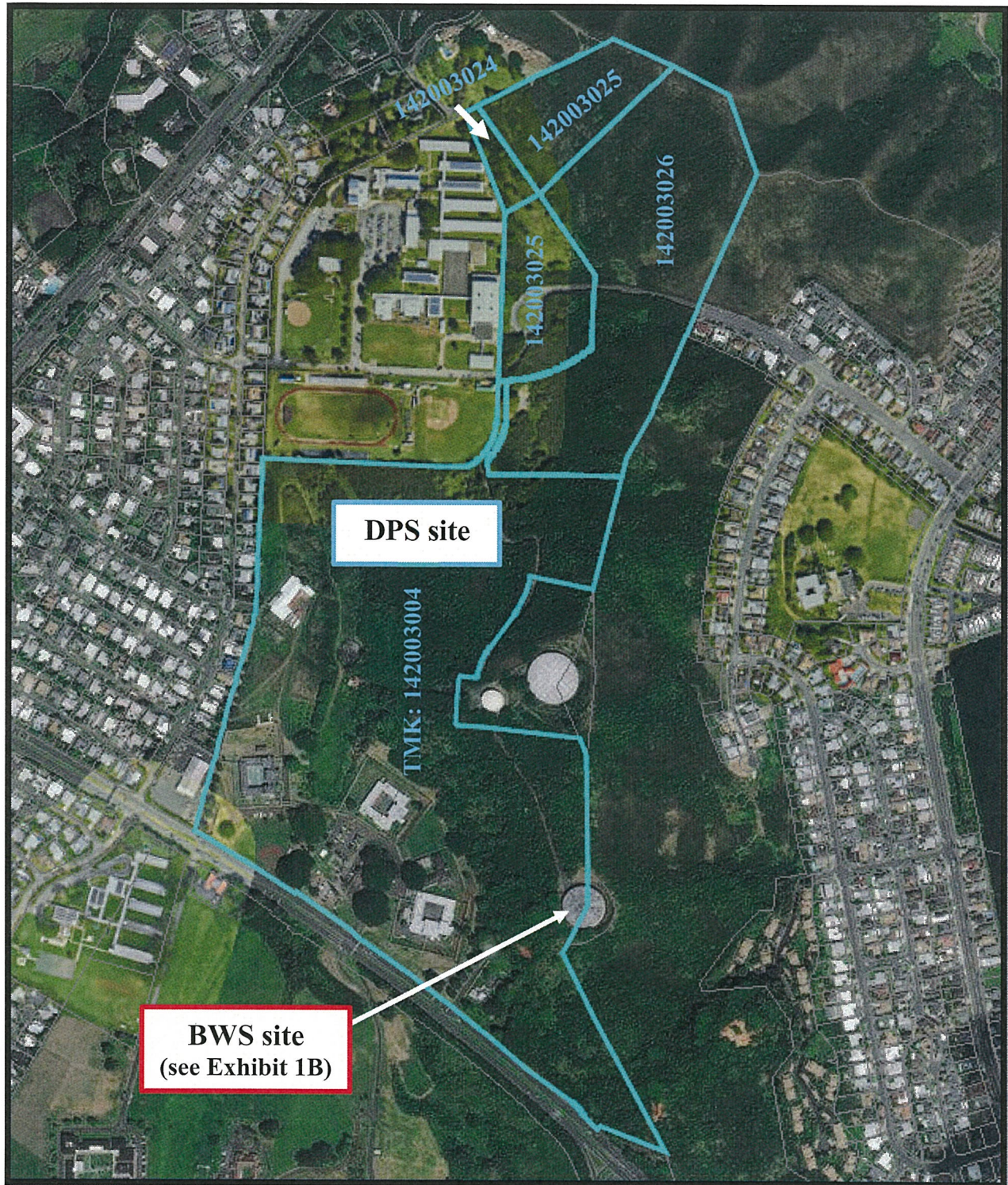
Respectfully Submitted,



Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK: (1) 4-2-003:004, 024, 025, 026

EXHIBIT 1A



EXEMPTION NOTIFICATION

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

Project Title:	Re-set aside of State land to the Department of Public Safety and the City and County of Honolulu and Perpetual, Non-Exclusive Easement to the City and County of Honolulu.
Project / Reference No.:	PSF 19OD-050 and 19OD-053
Project Location:	Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-2-003:004, 024, 025, and 026.
Project Description:	Re-set aside land to Department of Public Safety for Correctional Institution and Related Purposes and the City and County of Honolulu for Reservoir Purposes, and Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Access and Drainage Purposes.
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No.:	In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on 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 No. 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". Item No. 46 that states, "creation or termination of easement, covenants, or other rights in structures or land."
Cumulative Impact of Planned Successive Actions in Same Place Significant:	No, staff believes the change of managerial purpose and authority, including the existing easement area, would involve negligible expansion or change in use of the subject area beyond previously existing.

EXHIBIT 2

Action May Have
Significant Impact on
Environment:

Staff is not aware of any particularly sensitive environmental issues and use of the area would involve negligible change from what is existing.

Consulted Parties

Agencies as noted in the submittal.

Analysis:

The analysis factors are the proposed change of management purpose and negligible expansion or change in use of the subject area beyond previously existing. Taking these two factors into consideration staff believes there would be no significant impact to sensitive environmental or ecological receptors.

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.