

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

September 13, 2019

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

PSF No. 17MD-061

MAUI

Consent to Assign Land Office Deed (LOD) Nos. S-27293 and S-27477, Hana Water Company, Inc., Assignor, to Hana Water Systems, LLC, Assignee, Honomaele, Hana, Maui, Tax Map Key: (2) 1-3-003: portions of 017.

APPLICANT:

Hana Water Company, Inc., a Hawaii profit corporation incorporated in Hawaii, as Assignor, to Hana Water Systems, LLC, a Delaware limited liability company, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of the State of Hawaii situated at Honomaele, Hana, Maui, identified by Tax Map Key: (2) 1-3-003: portions of 017, as shown on the attached map labeled Exhibit 1.

AREA:

4,084 square feet, more or less, for LOD S-27293.  
13,072 square feet, more or less, for LOD S-27477.

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

ENCUMBRANCES:

Encumbered by:

LOD S-26878, recorded January 26, 1978, for non-exclusive and perpetual access and utility easements; and subject LODs S-27293, recorded May 20, 1982, and S-27477, recorded March 7, 1985, for non-exclusive and perpetual water pipeline easements.

CHARACTER OF USE:

LOD S-27293: For water pipeline purposes.

LOD S-27477: For construction, use, maintenance and repair of a two (2)-inch water pipeline.

DCCA VERIFICATION:

ASSIGNOR:

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

ASSIGNEE:

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

REMARKS:

Background

The Board of Land and Natural Resources (Board), at its October 28, 1977 meeting, agenda item F-5, approved the direct sale of a ten-foot wide, perpetual non-exclusive easement to Hana Ranch, Inc. (HRI) over a portion of the subject parcel for the construction, use, maintenance and repair of a two-inch water pipeline. At its meeting of September 28, 1984, under agenda item F-7, the Board amended its October 28, 1977 action by changing the grantee under the easement (which had not been issued yet) from HRI to Hana Water Company, Inc. (HWC). HWC made a one-time payment of \$300 as consideration for the appraised value of the easement, and LOD S-27477 was thereafter issued to HWC effective as of January 22, 1985.

At the Board's April 12, 1979 meeting, agenda item F-12, the Board approved the public auction or direct sale to HWC of a ten-foot wide, perpetual non-exclusive easement over and across portions of the subject parcel for water pipeline purposes. HWC

made a one-time payment of \$100 as consideration for the appraised value of the easement, and LOD S-27293 was thereafter issued to HWC effective as of May 20, 1982.

Reason for Assignment Request

HWC is a public utility company that held a Certificate of Public Convenience and Necessity (CPCN) from the Hawaii Public Utilities Commission. On July 7, 2016, HWC sold its assets to Hana Water Systems, LLC (HWS), a Delaware limited liability company, whose investment manager is Bio-Logical Capital, LLC, a Delaware limited liability company.

HWC operated a water system and provided water to customers on Maui. The water is sourced from three wells, registered with the State Commission on Water Resource Management, State Well Numbers 4701-01 (Kaeleku-Hana), 4600-01 (Wakiu-Hana), and 4559-01 (Wananalua-Hana). Since the close of the asset sale to HWS, HWC no longer provides any potable water services. A CPCN was issued to HWS, and HWS now provides all the potable water services formerly provided by HWC.

As part of its water operations, HWC was granted the two subject easements from the State of Hawaii. The easements are required to operate the water system and provide water services on the island of Maui. HWC is requesting the Board's consent to the assignment of the easements to HWS for use in connection with operation of the water system.

Assignee has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The following agencies have been solicited for comments:

Agency	Comment
Office of Hawaiian Affairs	No response.
State Dept of Health	No comments.
DLNR - Forestry & Wildlife (DOFAW)	Comments attached as <b>Exhibit 2</b>
DLNR - Conservation and Coastal Lands	No response.
DLNR - Water Resource Management	No comments.
County of Maui - Planning Dept.	No comments.
County of Maui - Water Dept.	No comments.

With regard to DOFAW's comments regarding the subject parcel's value as a potential access route from the Hana Highway to the Hana Forest Reserve, the existing easements are non-exclusive and

the existing use of the parcel does not block public access over or across all portions of the subject state lands.

RECOMMENDATION:

That the Board consent to the assignment of Land Office Deed Numbers S-27293 and S-27477 from Hana Water Company, Inc., as Assignor, to Hana Water Systems, LLC, as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

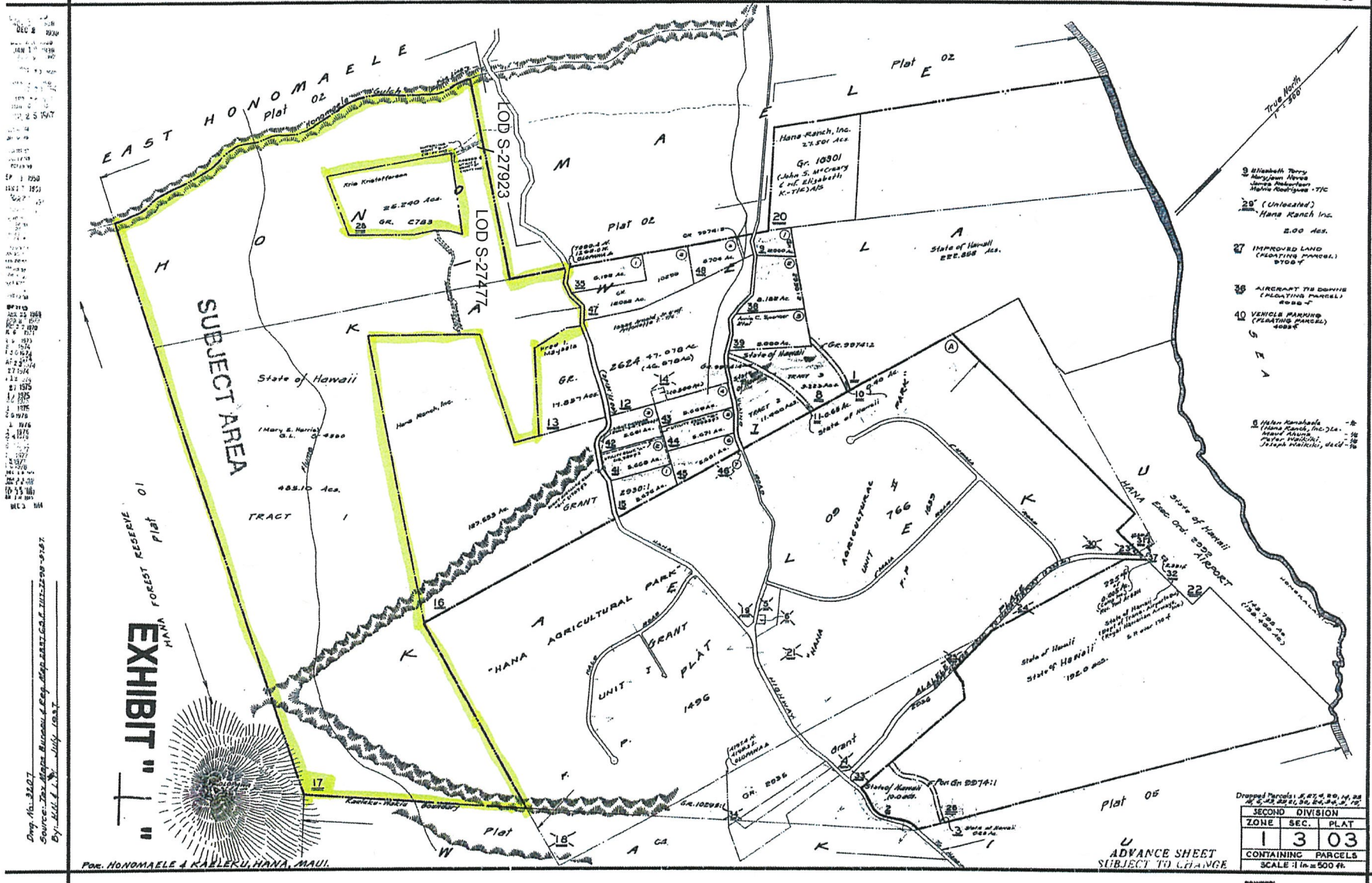
Respectfully Submitted,

  
\_\_\_\_\_  
Seiko Machida  
Land Agent

APPROVED FOR SUBMITTAL:

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





POK. HONOMAELE & KAELEKU, HANA, MAUI

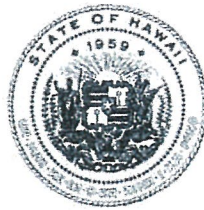
ADVANCE SHEET  
SUBJECT TO CHANGE

Dropped Parcels: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

SECOND DIVISION		
ZONE	SEC.	PLAT
1	3	03
CONTAINING PARCELS		
SCALE: 1 in. = 500 ft.		

PRINTED

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET, ROOM 325  
HONOLULU, HAWAII 96813

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

ROBERT K. MASUDA  
FIRST DEPUTY

KALEO L. MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

August 6, 2019

TO: Seiko Machida, Maui Land Agent  
Land Division

FROM: Scott Fretz, Maui Branch Manager  
Division of Forestry and Wildlife

A handwritten signature in blue ink, appearing to read "Scott Fretz", is written over the "FROM:" line.

SUBJECT: Request for comments regarding application for Land Office Deeds (LOD) Nos. S-27293 and S-27477 to Hana Water Systems, LLC., TMK (2) 1-3-003:017. Reference No. 17MD-061.

Thank you for the opportunity to comment on this application. The subject land parcel is currently unencumbered, except for the subject easements, and has potential value for forestry and wildlife management. We have been in discussions with your office to scope set aside of that parcel to the Division and expect to move forward in coordination with Land Division to seek board approval for that. The subject parcel has particular significance as a potential access route from the Hana Hwy to the Hana Forest Reserve in an area where access to those public trust lands is very limited.

We have no objections to the proposed LODs, provided that any easements granted are non-exclusive, and that any uses or activities authorized do not obstruct public access over or across all portions of the subject state lands. Please do not hesitate to contact me if I can provide additional information.