

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

November 8, 2019

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

PSF No.: 19OD-097

OAHU

Issuance of Two (2) Perpetual, Non-Exclusive Easements to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. for Utility Purposes and Cancellation of Revocable Permits Nos. S-7602, S-7604, and S-7607; Waimanalo, Koolaupoko, Oahu; Tax Map Keys: (1) 4-1-010:various, (1) 4-1-25:various, (1) 4-1-035:various; and Pupukea, Koolauloa, Oahu; Tax Map Keys (1) 5-9-006:portions of 006 and 026.

APPLICANTS:

Hawaiian Electric Company, Inc. ("HECO") and
Hawaiian Telcom, Inc. ("HTI")

LEGAL REFERENCE:

Sections 171-13, -17, -55 and -95, Hawaii Revised Statutes ("HRS"), as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolaupoko, Oahu; Tax Map Keys (1) 4-1-010:various, 4-1-025:various, (1) 4-1-035:various, and Pupukea, Koolauloa, Oahu; Tax Map Keys (1) 5-9-006:portions of 006 and 026 as shown on the attached maps labeled **Exhibit A1 to A5**.

AREA:

One easement each in Waimanalo and Pupukea as described below, with its areas subject to review and approval by the Department of Accounting and General Services, Survey Division. See Remarks section.

ZONING:

State Land Use District:

TMK:	(1) 4-1-010:various	Agriculture District
	(1) 4-1-025:various	
	(1) 4-1-035:various	
	(1) 5-9-006:portions of 006 and 026	Conservation

City & County of
Honolulu LUO:

TMK:	(1) 4-1-010:various	AG-2, General Agriculture
	(1) 4-1-025:various	
	(1) 4-1-035:various	
	(1) 5-9-006:portions of 006 and 026	P-1, Preservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaiian Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

See **Exhibit B** for a list of encumbrances per tax map key ("TMK").

CHARACTER OF USE:

Right, privilege and authority to construct, reconstruct, use, maintain, and repair electrical and communication equipment, utility poles, and wires, and anchors over, under and across State-owned land, including the right to trim and keep trimmed any trees in the way of their appliances and equipment.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Each easement is subject to a one-time payment to be determined by an independent appraisal under one procurement of appraisal services, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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" and item 46, which states, "Creation or termination of easement, covenants, or other rights in structures or land." See **Exhibit C**.

DCCA VERIFICATION:

Place of business registration confirmed: YES x NO __

Registered business name confirmed: YES x NO __
Applicant in good standing confirmed: YES x NO __

APPLICANT REQUIREMENTS: Applicants shall be required to:

- 1) Provide survey maps and description according to State of Hawaii survey mapping standards and at Applicants' own cost;
- 2) Pay for an appraisal to determine the one-time payments for the easements; and
- 3) Process and obtain designation of easement approval from the Department of Planning and Permitting, City and County of Honolulu, at Applicants' own cost.

REMARKS:

Following the Board of Land and Natural Resources' directive to convert revocable permits into long-term dispositions, staff received agreement from both HECO and HTI to convert RP7602, RP7604, and RP7607 into long-term dispositions.

Revocable Permits Nos. S-7602 and S-7604

On January 17, 1950, Hawaiian Electric Company, Inc. ("HECO") and the Mutual Telephone Company, Ltd., now known as Hawaiian Telcom, Inc. ("HTI") were granted Revocable Permit S-416 situated on Government lands of Waimanalo to supply utility services to the Lessee, the Waimanalo Agricultural Development Co., Ltd. The Revocable Permit was then re-issued with updated wording and requirements on October 23, 2009 under agenda item D-12 to Revocable Permit S-7602 ("RP7602"). Similarly, on April 27, 1950, Revocable Permit S-444 was granted to HECO and HTI for nearby areas of Waimanalo for utility services and later updated in the same submittal to Revocable Permit S-7604 ("RP7604").

For this submittal the areas shown on the map for RP7602, drafted in 1949, and the maps for RP7604, drafted in 1950, will be used as reference but the proposed requested areas and the configuration for the utility easements may have changed over the years to what is currently installed and in use. Some of the lands requested in the original easements have undergone title changes through the years. Also, the configuration of the utility lines may have changed to accommodate utility use as areas became populated. Staff reviewed the requested areas and found that some of the easements are over lots that have been sold in fee simple. Also, some of the easements run along roads that come under Executive Order 2411 ("EO2411"), that transferred various roads in fee simple to the City and County of Honolulu for county highway.

Revocable Permit No. S-7607

On August 14, 1961, HECO and Hawaiian Telephone Company were granted Revocable Permit S-2959 situated on Government lands at Pupukea (Old Girl Scouts Camp) and across forest reserve lands at Paumalu. The Revocable Permit was then re-issued to the current permit holder, HECO, as Revocable Permit S-7607 ("RP7607") with updated wording and requirements consistent with the Board's action of October 23, 2009 under agenda item D-12. The map that will be used for reference for this easement was drafted in 1961 and may have changed over the years.

Staff will work with the Applicants for a current accounting of State lands being used for utility easements but recommends that the Chairperson be delegated the authority to approve the deletion or addition of TMKs for the utility easement areas once the current utility maps are supplied by HECO or HTI, which will be further subject to the review and approval by the Department of Accounting and General Services, Survey Division.

HECO and HTI plan to continue using the respective areas without change of use beyond that previously existing and request the requirement of a Phase 1 environmental site assessment be waived referring to no. 14 of additional conditions in Revocable Permits stating:

“Prior to termination or revocation of the subject Permit, Permittee shall conduct a Phase I environmental site assessment and conduct a complete abatement and disposal, if necessary, satisfactory to the standards required by the Federal Environmental Protection Agency, the Department of Health, and the DLNR. Failure to comply with the provisions of this paragraph shall not extend the term of this Permit or automatically prevent termination or revocation of the Permit. The Board, at its sole option, may refuse to approve termination or revocation unless this evaluation and abatement provision has been performed. In addition of in the alternative, the Board may, at its sole option if Permittee does not do so, arrange for performance of the provisions of this paragraph, all costs and expenses of such performance to be charged to and paid by Permittee.”

The Division of Forestry and Wildlife and the Department of Agriculture have no objections/comments and concur with the proposed environmental assessment exemption. (See **Exhibits D and E**) The Department of Hawaiian Home Lands and the Department of Facilities Maintenance have no objections/comments. The Historic Preservation Division, Department of Planning and Permitting, Board of Water Supply, and the Office of Hawaiian Affairs have not responded to the solicitation for comments before the deadline.

HECO and HTI have 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. There are no other pertinent issues or concerns.

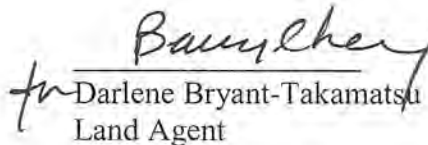
RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, Hawaii Administrative Rules, 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. Upon issuance of the requested easements, waive the requirement of conducting a Phase 1 environmental site assessment as stated in the revocable permits.
3. Delegate the authority to the Chairperson to approve the deletion or addition of Tax

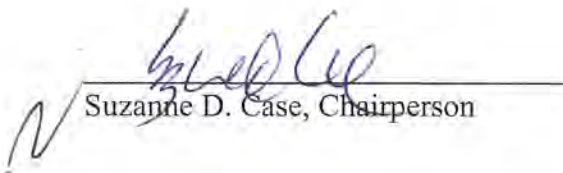
Map Keys for the subject perpetual, non-exclusive utility easement areas.

4. Subject to the Applicants fulfilling all the Applicant Requirements listed above, authorize the issuance of two (2) perpetual, non-exclusive easements to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. covering the respective subject areas for utility 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.
5. Upon issuance of the requested easements, cancel Revocable Permits No. S-7602, S-7604, and S-7607.

Respectfully Submitted,


for Darlene Bryant-Takamatsu
Land Agent

APPROVED FOR SUBMITTAL:

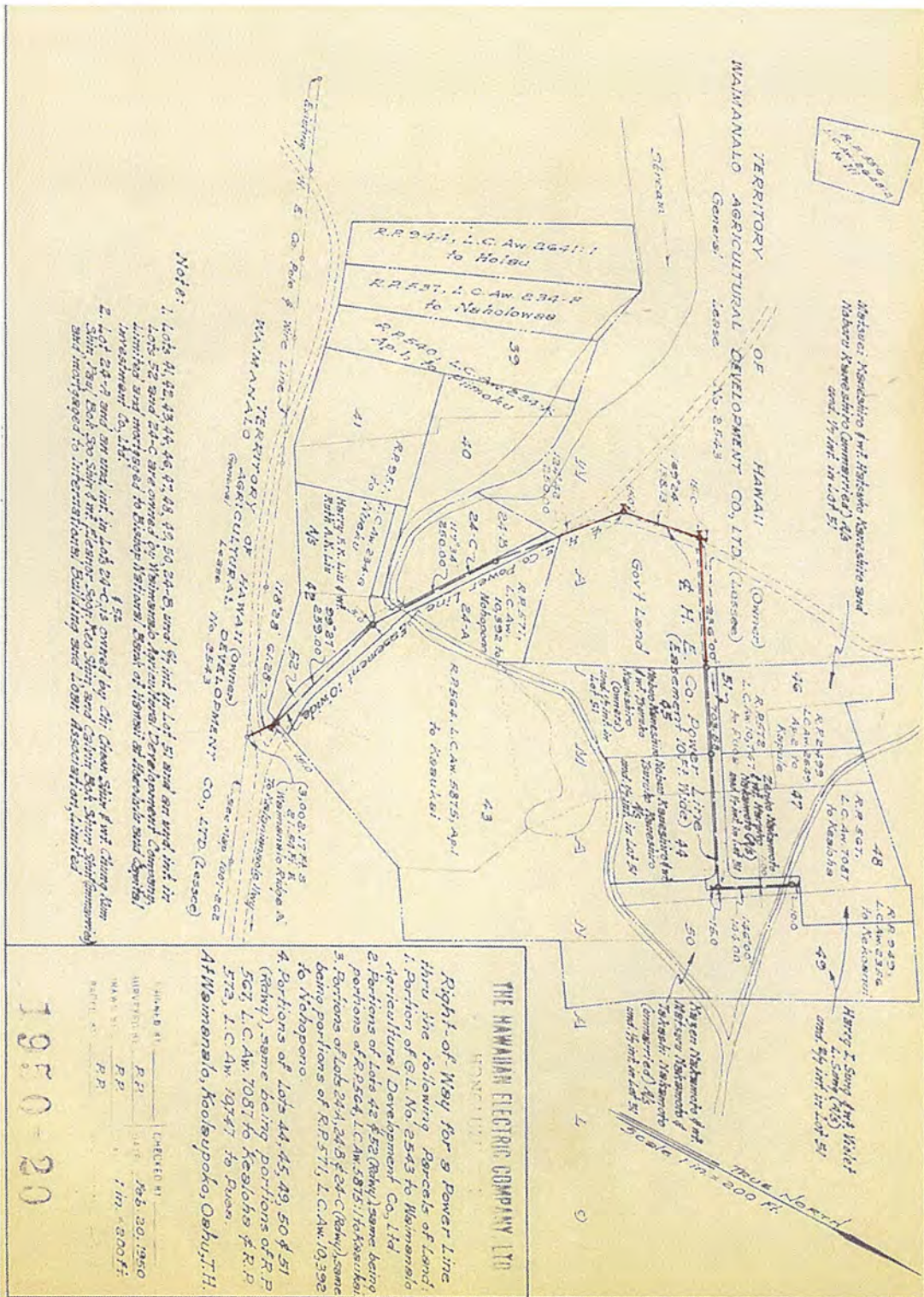

Suzanne D. Case, Chairperson



RP7602

TMK: (1) 4-1-010:various
 (1) 4-1-025:various
 (1) 4-1-035:001

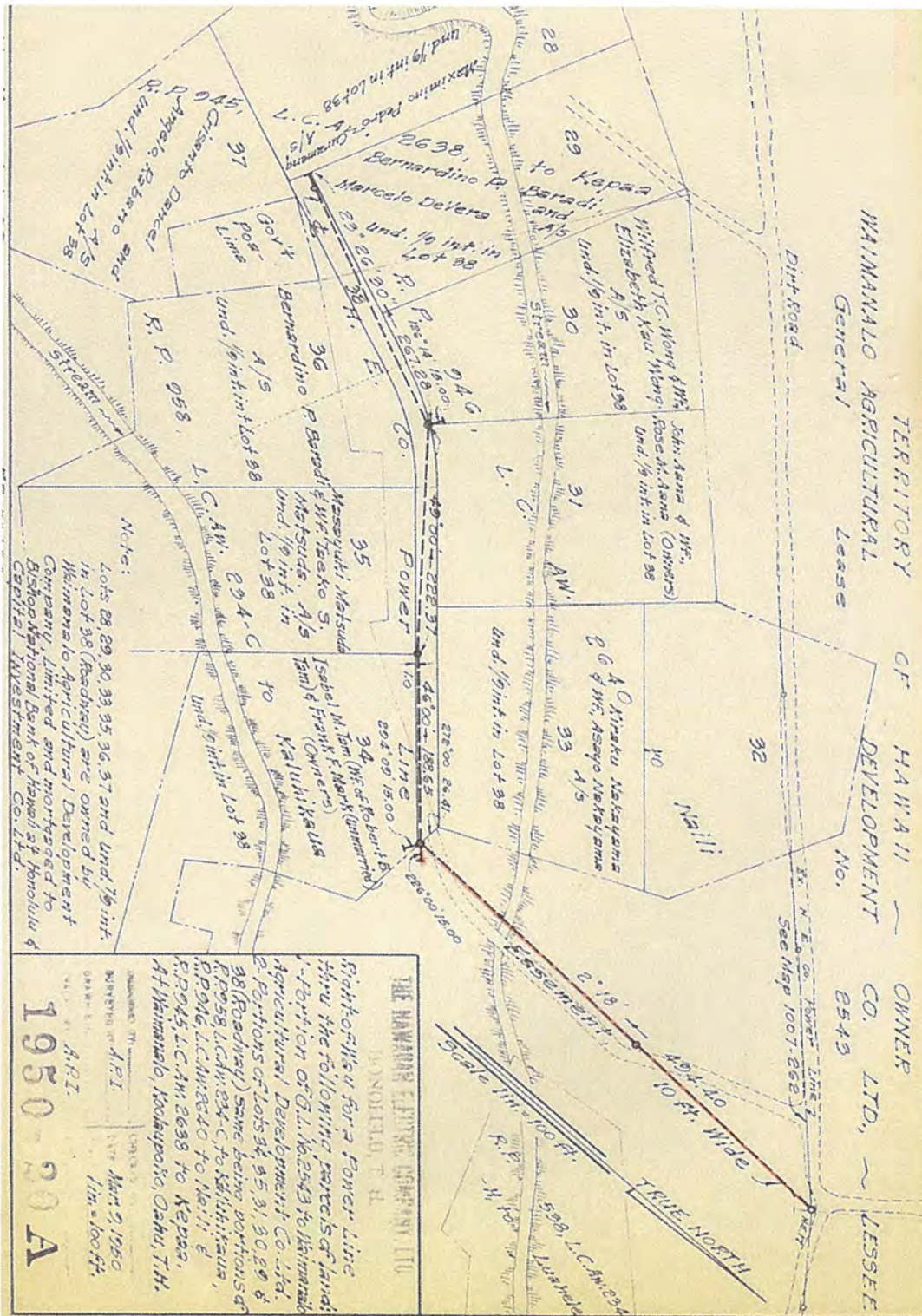
EXHIBIT A2



RP7604

TMK (1) 4-1-010:various
(1) 4-1-035:011

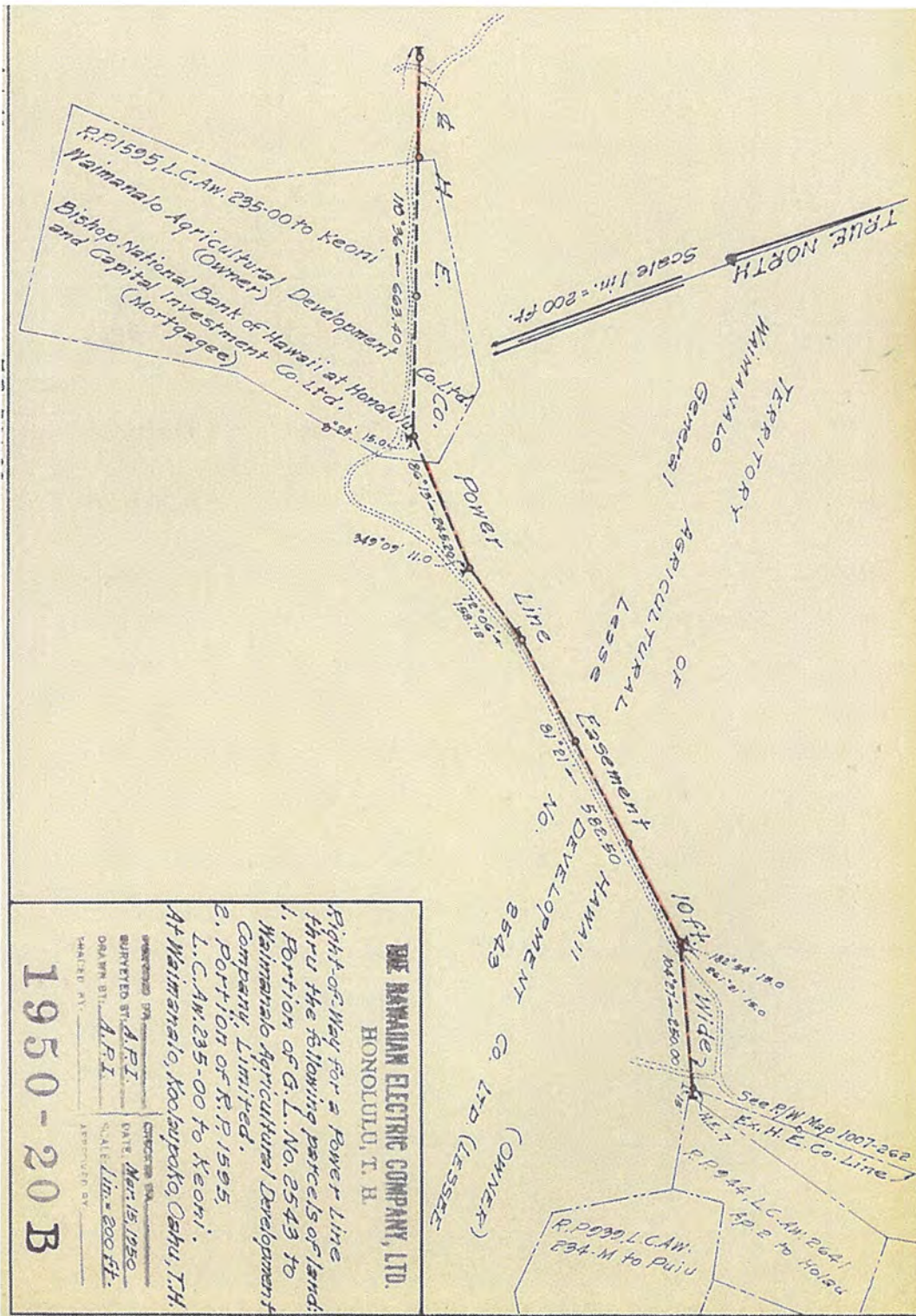
EXHIBIT A3



RP7604

TMK (1) 4-1-010:various
(1) 4-1-035:011

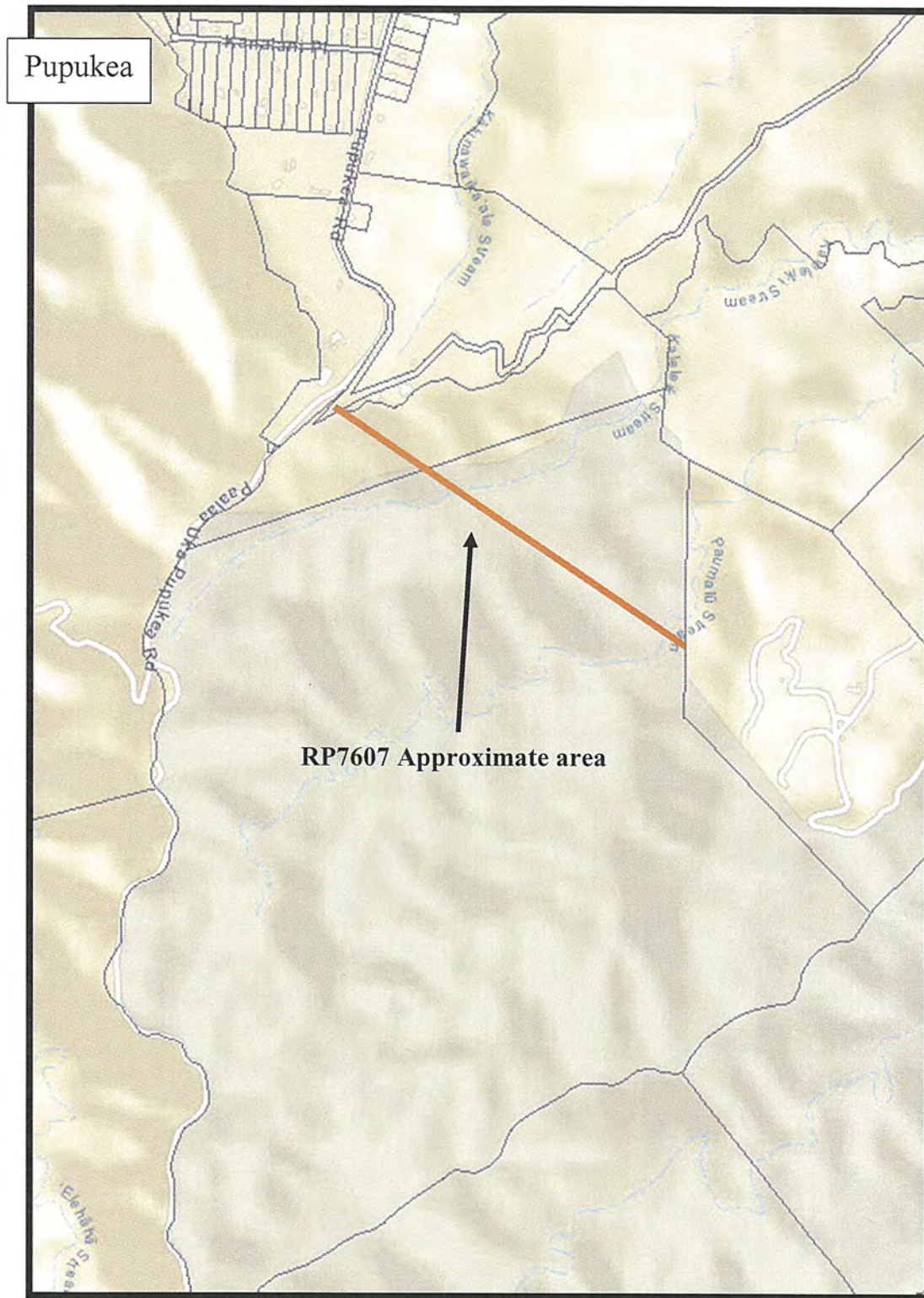
EXHIBIT A4



RP7604

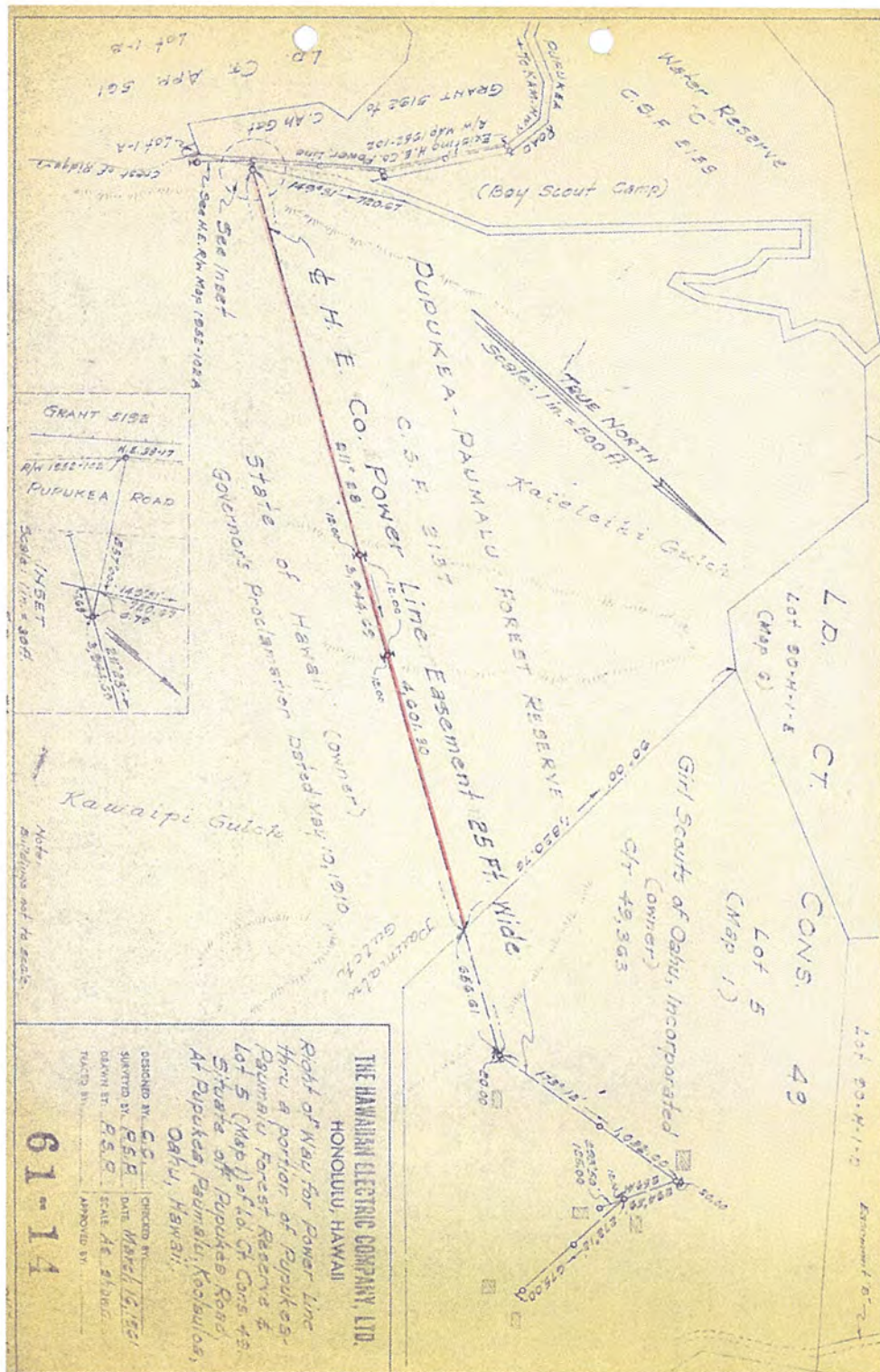
TMK (1) 4-1-010:various
(1) 4-1-035:011

EXHIBIT A5



RP7607 TMK: (1) 5-9-006: portions of 006 and 026

EXHIBIT A6



RP7607 TMK: (1) 5-9-006: portions of 006 and 026

EXHIBIT A7

Current Use Status:

Note: General Lease agreements for the areas under Executive Order (“EO”) to the Department of Agriculture (“DOA”) are not included in the list of encumbrances.

Permittees	TMKs	Encumbrances	Purposes
RP7602 Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc.	(1) 4-1-010:041, 042, 043, 044, 048, 088 (1) 4-1-018:040	EO4239 DOA	Agriculture
	(1) 4-1-025:036	EO1598 DOA	Irrigation System
	(1) 4-1-025:055	EO4535 DOA	Agriculture
	(1) 4-1-025:057	EO4268 DOA	Agriculture
	(1) 4-1-010:040	EO4253 DOA	Agriculture
	(1) 4-1-025:023	EO4243 DOA	Agriculture
	(1) 4-1-035:001	EO3464 DOA	Agriculture
	(1) 4-1-010:106, 107	EO4390 Div. of Forestry and Wildlife	Addition to Waimanalo Forest Reserve
RP7604 Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc.	(1) 4-1-035:011	EO3464 DOA	Agricultural Park
	(1) 4-1-010:008	EO4257 DOA	Agriculture
	(1) 4-1-010:026 (1) 4-1-010:029	EO4268 DOA	Agriculture
	(1) 4-1-010:078 (1) 4-1-010:001	EO3709 Board of Water Supply	Chlorinator Station Site and Water Pipeline
	(1) 4-1-010:028	LOD11369 Hawaii Irrigation Authority	Maunawili Reservoir
	(1) 4-1-010:027	EO1651 DOA	Addition to Maunawili Reservoir
	(1) 4-1-010:081	EO4239 DOA	Agriculture
RP7607 Hawaiian Electric Company, Inc.	(1) 5-9-006:006, 026	Governor’s Proclamation May 10, 1910 Div. of Forestry and Wildlife	Pupukea-Paumalu Forest Reserve
	(1) 5-9-006:026	GL 3850 United States of America	Military

EXHIBIT B

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

- Project Title:** Issuance of Perpetual, Non-Exclusive Easements to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. for Utility Purposes and Cancellation of Revocable Permits Nos. S-7602, S-7604, and S-7607.
- Project / Reference No.:** PSF 19OD-097
- Project Location:** Waimanalo, Koolaupoko, Oahu; Tax Map Keys: (1) 4-1-010:various, 4-1-25:various, (1) 4-1-035:various, and Pupukea, Koolauloa, Oahu; Tax Map Keys (1) 5-9-006:portions of 006 and 026.
- Project Description:** Cancellation of Revocable Permits and the Issuance of Perpetual Non-Exclusive Easements for Utility Purposes
- Chapter 343 Trigger(s):** Use of State Land
- Exemption Class No. and Description:** In accordance with HAR § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on 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" and item 46, which 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. This request is pertaining to an issuance of perpetual, non-exclusive easements to replace the current revocable permits serving utility purposes, staff believes that the request would involve negligible expansion or change in use of the subject areas beyond previously existing.
- Action May Have Significant Impact on Particularly Sensitive Environment?:** No. Staff is not aware of any particularly sensitive environmental issues and use of the areas would involve negligible change from what is existing.

Analysis:

The analysis factors are the proposed change of disposition 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.

Consulted Parties:

Agencies as noted in submittal.

Recommendation:

It is anticipated that the change in disposition will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment



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

M. KALEO 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 20, 2019

Ref. No.: 19OD-097

MEMORANDUM

TO:

State Agencies:

- Department of Agriculture
- DHHL
- DLNR-Aquatic Resources
- DLNR-Historic Preservation
- DLNR-DOFAW

County Agencies:

- Planning & Permitting
- Parks & Recreation
- Facility Maintenance
- Board of Water Supply

Federal Agencies:

- Corps of Engineers

Other Agencies:

- Office of Hawaiian Affairs

FROM:

Darlene Bryant-Takamatsu, Land Agent

SUBJECT:

Issuance of Perpetual, Non-Exclusive Easements for Utility Purposes and Cancellation of Revocable Permits No. S-7602, S-7604, and S-7607

LOCATION:

Waimanalo, Koolaupoko, Oahu; Tax Map Keys: (1) 4-1-010:various, (1) 4-1-25:various, (1) 4-1-035:various and Pupukea, Koolauloa, Oahu; Tax Map Keys (1) 5-9-006:006 and 026 portions.

APPLICANTS: Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc.

Transmitted for your review and comment is a copy of the draft Land Board submittal of the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by **September 20, 2019**. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Darlene Bryant-Takamatsu at (808) 587-0447. Thank you.

Attachments

- () We have no objections/ comments and Concur to the proposed EA exemption.
- () Comments are attached.

Signed: Marigold Zoll

Print Name: Marigold Zoll

Date: 10/14/19

EXHIBIT "D"

DAVID Y. IGE
GOVERNOR OF HAWAII



RECEIVED
LAND DIVISION

2019 SEP -4 AM 11:00

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 20, 2019

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO 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

Ref. No.: 19OD-097

MEMORANDUM

TO:

State Agencies:

- Department of Agriculture
- DHHL
- DLNR-Aquatic Resources
- DLNR-Water Resource Management
- DLNR-Historic Preservation

County Agencies:

- Planning & Permitting
- Parks & Recreation
- Facility Maintenance
- Board of Water Supply

Federal Agencies:

- Corps of Engineers

Other Agencies:

- Office of Hawaiian Affairs

FROM:

DB Darlene Bryant-Takamatsu, Land Agent

SUBJECT:

Grant of Perpetual, Non-Exclusive Easements for Utility Purposes and Cancellation of Revocable Permits No. S-7602, S-7604, and S-7607

LOCATION:

Waimanalo, Koolaupoko, Oahu; Tax Map Keys: (1) 4-1-010:various, (1) 4-1-25:various and Pupukea, Koolauloa, Oahu; Tax Map Keys (1) 5-9-006:006 and 026 portions.

APPLICANTS:

~~Irene I. Chung, Lawrence Y. Ito, Mary Y.I. Gehrke, David D. K. Ito, and Paul T. Ito, as Joint Tenants.~~ Hawaiian Electric Company, Inc. & Hawaiian Telcom, Inc.

Transmitted for your review and comment is a copy of the draft Land Board submittal of the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by **September 20, 2019**. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Darlene Bryant-Takamatsu at (808) 587-0447. Thank you.

Attachments

- We have no objections/ comments and Concur to the proposed EA exemption.
- Comments are attached.

Signed:

Print Name:

BRIAN KAU

Date:

AUG 30 2019

EXHIBIT "E"

RECEIVED

AUG 26 2019