

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

June 12, 2020

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

PSF No: 04HD-225 & 226

Hawaii

Amend Prior Board Action of August 13, 2004, Item D-6, Cancellation of Governor's Executive Order No. 1965; Issuance of Term, Non-Exclusive Easement for Temporary Underground Sewer Line; Grant of Perpetual, Non-Exclusive Easement to Waimea Wastewater Company, Inc. for Sewer Line Purposes, Lalamilo, South Kohala, Hawaii; Tax Map Key: (3) 6-7-003:020

The Purpose of the Amendment is to Change the Term, Non-Exclusive Easement for Temporary Underground Sewer Line to a Perpetual, Non-Exclusive Easement for Sewer Line Purposes.

BACKGROUND:

Waimea Wastewater Company, Inc. (WWCI) is a wholly owned subsidiary of Parker Ranch, Inc. (PRI). At the time of the original approval (see Exhibit 1) for the term sewer line easement, PRI was working with Schuler Homes on an adjacent private residential development. The term, temporary sewer line easement was needed to service this existing development.

The plan was to do an exchange with the State of Hawaii to acquire the subject parcel at which time the private residential development would be expanded onto the subject property and the temporary sewer line would be moved to the street sides of the expanded development.

REMARKS:

Despite years of negotiations on potential exchanges, to date no private lands have been identified to exchange for the subject State parcel. Without the exchange, the expansion of the residential development cannot occur, and the sewer line needs to stay in the current location permanently to service the existing adjacent residential development. Therefore, WWCI is requesting a perpetual, non-exclusive easement for the sewer line. The alignment of easement is the same as delineated in the original request (see Exhibit 2).

RECOMMENDATION: That the Board:

1. Amend its prior Board action of August 13, 2004, under agenda item D-6 by changing “Term, Non-Exclusive Easement for Temporary Underground Sewer Line” to “Perpetual, Non-Exclusive Easement for Underground Sewer Line Purposes”.
2. All terms and conditions listed in its August 13, 2004 approval to remain the same.

Respectfully Submitted,

*Candace Martin*

*GCH*

\_\_\_\_\_  
Candace Martin

*KEM*

Land Agent

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

*RT*

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

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

August 13, 2004

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

PSF No.: 04HD-225 & 04HD-226

Island of Hawaii

Cancellation of Governor's Executive Order No. 1965; Issuance of Term, Non-Exclusive Easement for Temporary Underground Sewer Line; Grant of Perpetual, Non-Exclusive Easement to Waimea Wastewater Company, Inc. for Sewer Line Purposes, Lalamilo, South Kohala, Hawaii; Tax Map Key: 3<sup>rd</sup>/6-7-03:020

**APPLICANT:**

Waimea Wastewater Company, Inc. (WWCI), a Hawaii corporation, a PUC regulated public utility company and a wholly owned subsidiary of Parker Ranch, Inc. (PRI), a Hawaii corporation, whose business and mailing address is 67-1435 Mamalahoa Highway, Kamuela, Hawaii 96743.

**LEGAL REFERENCE:**

Section 171- 95, Hawaii Revised Statutes, as amended.

**LOCATION:**

Portion of Government lands situated at Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/6-7-03:020, as shown on the attached map labeled Exhibit A.

**AREA:**

Overall Reservoir Lot                      3.866 acres, more or less.

Proposed Perpetual, Non-Exclusive  
Easement A                                      680 square feet, more or less.

Proposed Term, Non-Exclusive  
Temporary Easement B                      4,250 square feet, more or less.

*as amended*  
APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON *Kule*  
*August 13, 2004*

**ITEM D-6**

BLNR – Cancellation of Governor's  
Executive Order No. 1965;  
Issuance of Easement to  
Waimea Wastewater Company, Inc.

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**ZONING:**

State Land Use District: Urban  
County of Hawaii CZO: Agriculture 40 acres (A-40a)

**TRUST LAND STATUS:**

Section 5(b) lands of the Hawaii Admission Act

Note: The reservoir lot was obtained by way of land exchange with Parker Ranch in 1961. Since the exchange involved ceded land, the land obtained by the State from Parker Ranch takes on the ceded status.

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

**CURRENT USE STATUS:**

Encumbered by Governor's Executive Order No. 1965 to the Department of Land and Natural Resources, Division of Water and Land Development for the Lalamilo Reservoir Site and Roadway. Reservoir is no longer in use and has been abandoned for some time.

**CHARACTER OF USE:**

Right, privilege and authority to construct, use, maintain, repair, replace and remove sewer transmission pipeline over, under and across State-owned land.

**COMMENCEMENT DATE:**

Commencement date as to both the perpetual and term easements shall be determined by the Chairperson.

**TERM:**

The term, non-exclusive easement shall be for a period of 5 years.

**CONSIDERATION:**

Consideration for both the term and perpetual easements will be one-time payments to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.



**CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

**Proposed Perpetual Easement A:**

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, Item No. 4 that states "Minor cut, fill and grading of State property of less than 50 cubic yards of rock and/or soil where the vertical height of cut or fill does not exceed three feet."

**Proposed Term, Non-Exclusive Easement B:**

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 4, Item No. 4 that states "Minor cut, fill and grading of State property of less than 50 cubic yards of rock and/or soil where the vertical height of cut or fill does not exceed three feet."

**Proposed Cleaning, Grading and Grassing of Abandoned Reservoir Lot:**

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, 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."

**DCCA VERIFICATION:**

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

**APPLICANT REQUIREMENTS:**

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;

**REMARKS:**

The subject property is a former reservoir lot that is still currently set aside to the Department of Land and Natural Resources, Division of Water and Land Development for the Lalamilo Reservoir Site and Roadway under Governor Executive Order No. 1965.

The former reservoir used to be part of Department of Agriculture's Lalamilo Irrigation District system. The Lalamilo Reservoir was abandoned after the development of the large Lakeland Reservoir and a related high pressure transmission line years ago. As a result, Governor's Executive Order No. 1965 should be canceled accordingly.

Waimea Wastewater Company, Inc. (WWCI) is a wholly owned subsidiary of Parker Ranch, Inc. and is a public utility company regulated by the Public Utilities Commission. It currently operates the private wastewater system that services the two main shopping centers, the North Hawaii Community Hospital, the County's elderly housing complex and other properties within the town of Kamuela. Parker Ranch Inc. has also offered possible service to the DOE's existing elementary and middle school complex in the future, subject to the necessary PUC approvals for expanding service areas. WWCI's main wastewater treatment plant located in the proximity of the industrial lots near the Kamuela Airport.

WWCI is currently requesting a perpetual, non-exclusive easement for a sewer transmission line in connection with their private sewer system. WWCI is also requesting a 5-year, term, non-exclusive easement for a temporary underground sewer line that would traverse the reservoir lot and be replaced upon the completion of the next phase of their residential development project that is being developed through a joint venture between PRI and Schuler Homes. The attached diagram labeled as Exhibit B, illustrates the development plan for their residential project showing the alignment of the permanent sewer line that will traverse the roadway to the reservoir lot labeled as Easement A and the proposed temporary Easement B that will contain an underground temporary line that will be removed upon completion of the permanent line to be located within the roadways of their next phase of residential development.

The abandoned reservoir is currently surrounded by deteriorating chain link fencing with the remaining reservoir improvements left in place. This situation represents a significant liability for the State and should be cleaned up as soon as possible. This liability concern will increase significantly with PRI's residential development adjacent to the site. PRI/WWCI is willing to mitigate the hazardous conditions by cleaning, grading and grassing the reservoir lot.

PRI has expressed interest in acquiring the reservoir lot as it is surrounded by its residential development and could be developed into additional residential lots in connection with its next phase of homes. PRI has proposed a land exchange of this reservoir lot for lands near the entrance to the Kamuela Airport that have industrial



potential. The area is already designated as industrial under the County's General Plan but would require rezoning in order to accommodate industrial development. The proposed land exchange will be brought to the Board under separate submittal and is not part of this action.

However, PRI is requesting that the Board approve that any appraisal done in the future for the purposes of such a land exchange take into consideration their cost of clearing, grading and grassing the abandoned reservoir site. Should a land exchange be approved in the future, PRI's request is that, they do not bear a higher value for the acquisition of the reservoir lot as a result of their agreement to clear, grade and grass the reservoir at their own cost.

WWCI 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.

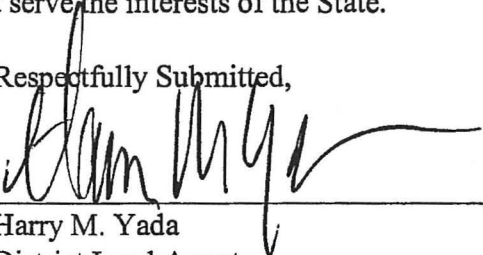
Any agency or community comments will be discussed in the final submittal to the Board of Land and Natural Resources.

**RECOMMENDATION:** That the Board:

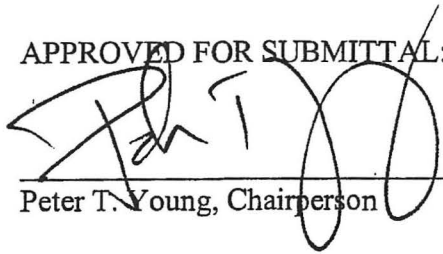
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Subject to the Applicant fulfilling all of the Applicant requirements listed above:
  - a. Authorize the issuance of a term, non-exclusive easement for sewer transmission line purposes to Waimea Wastewater Company, Inc. covering the area labeled Easement B, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
    - i. The standard terms and conditions of the most current term, non-exclusive easement form, as may be amended from time to time;
    - ii. The term of the easement shall be for a period of five (5) years commencing upon the issuance of the construction right-of-entry;
    - iii. WWCI shall remove all abandoned reservoir improvements, clean, grade and grass the entire reservoir lot at no cost to the State;

- iv. Review and approval by the Department of the Attorney General; and
  - v. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- b. Authorize the issuance of a perpetual, non-exclusive easement for sewer transmission line purposes to Waimea Wastewater Company, Inc. covering the area labeled Easement A, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- i. The standard terms and conditions of the most current perpetual, non-exclusive easement form, as may be amended from time to time;
  - ii. Review and approval by the Department of the Attorney General; and
  - iii. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- c. Authorize the issuance of an immediate construction right-of-entry to the easement areas subject to the following:
- i. The standard terms and conditions of the most current construction right-of-entry form, as may be amended from time to time;
  - ii. Review and approval by the Department of the Attorney General; and
  - iii. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
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Harry M. Yada  
District Land Agent

APPROVED FOR SUBMITTAL:

  
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Peter T. Young, Chairperson

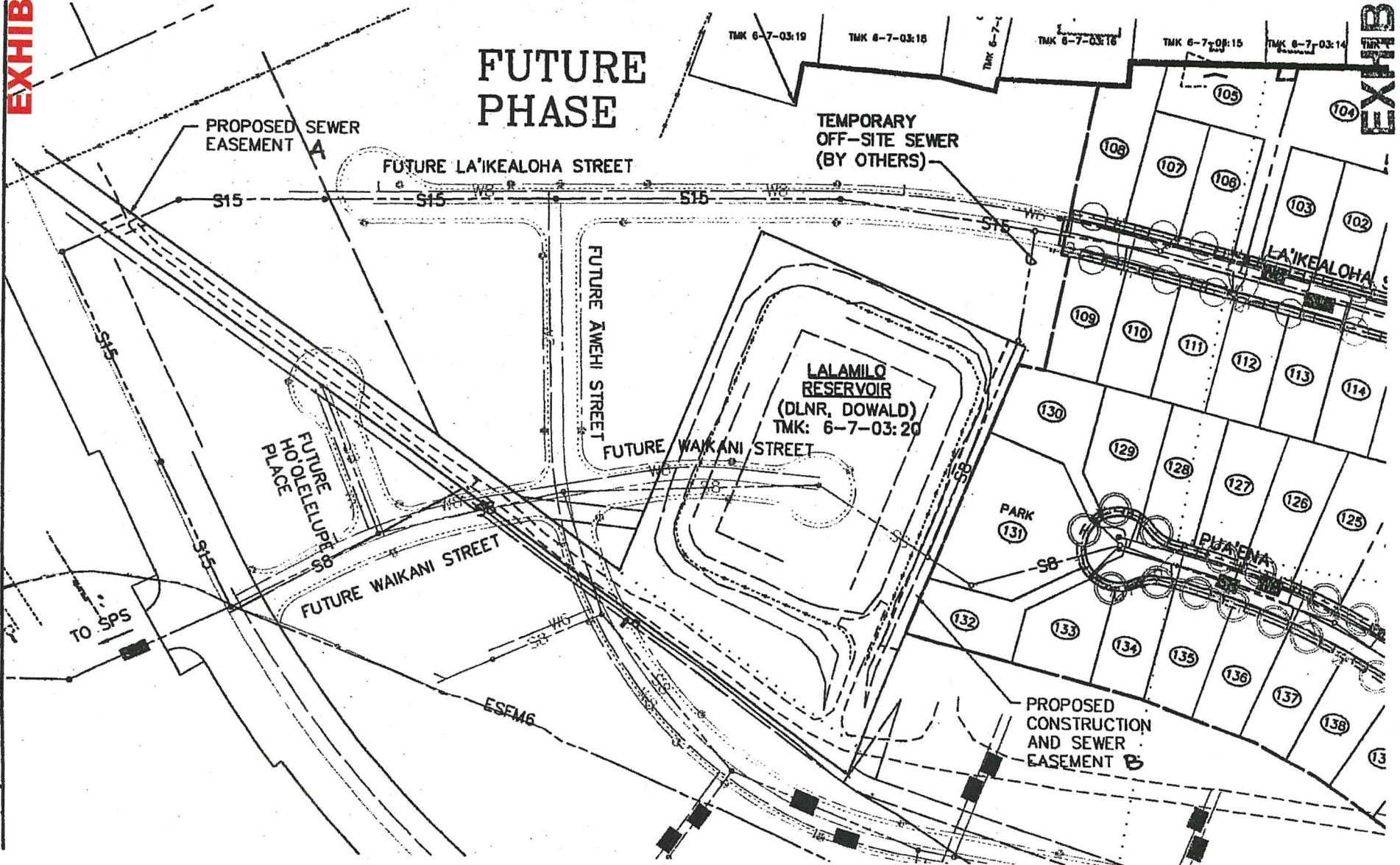
Approved as amended. The Board amended the Recommendation Section by adding a new paragraph 3 to read as follows:

"3. Authorize the cancellation of Governor's Executive Order No. 1965."

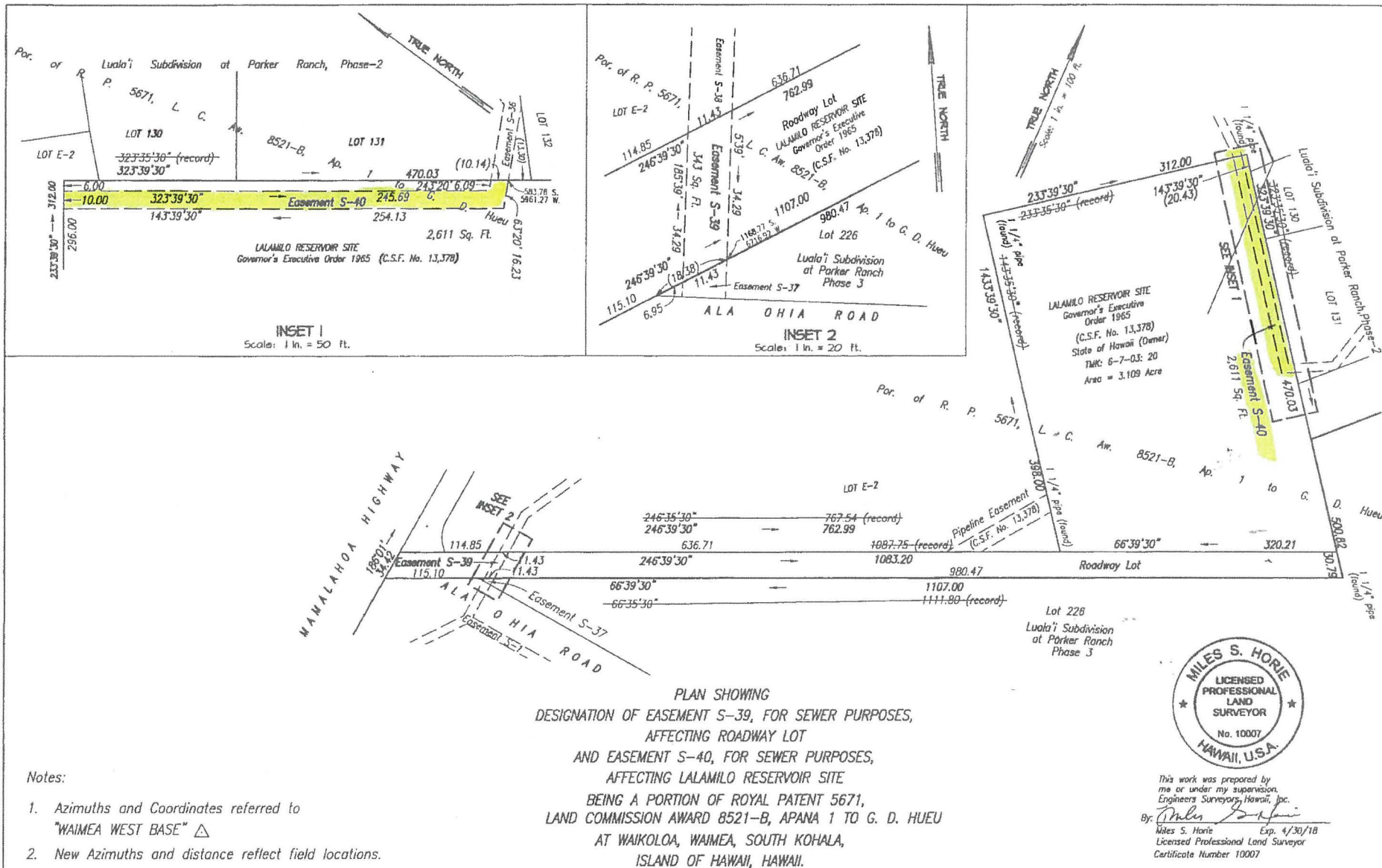




# FUTURE PHASE







Honolulu, Hawaii  
12-16

ENGINEERS SURVEYORS HAWAII, INC.  
CIVIL ENGINEERS - SURVEYORS - CONSTRUCTION MANAGERS

1320 North School Street  
February 14, 2018

EXHIBIT 2