

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

July 10, 2020

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

Ref No.: 97OD-137

OAHU

Third Amendment of Prior Board Action dated October 10, 1986, Item F-9, as amended by October 25, 2019, Item D-9, and January 10, 2020, Item D-8, *Request of the City and County of Honolulu, Board of Water Supply, for Executive Order Setting aside 6 MG Reservoir Site Together with Electrical Transmission line, Waterline and Roadway Easement at Kahana Valley, Kahana, Koolauloa Oahu*, Tax Map Key: Portions of (1) 5-2-001 & 5-2-002.

The purpose of this amendment is to seek Board's authorization to issue the City and County of Honolulu, Board of Water Supply 1) a separate perpetual non-exclusive easement for access and utility purposes in addition to the proposed set-aside; and 2) a right-of-entry permit.

BACKGROUND:

On October 10, 1986, under Item F-9, the Board authorized the issuance of a Governor's Executive Order (GEO) for a 6 MG reservoir site together with electrical transmission line, waterline and roadway easement to the City and County of Honolulu, Board of Water Supply ("BWS") covering an area of 71,627 square feet together with a 25-foot wide easement.

The Board-approved Item F-9 included Recommendation B.2 that required BWS to provide a water meter to the State of Hawaii for Kahana State Park. While the State and BWS had discussions in 2012 regarding the provision of the water meter, no resolution was achieved. Thus, the issuance of the GEO was delayed.

At its meeting on October 25, 2019, under Item D-9 the Board amended its October 10, 1986 action by removing in its entirety recommendation B.2 regarding the provision of the water meter.

While preparing the request to the Department of the Attorney General ("AG") to prepare the GEO, staff discovered that the reservoir site was inadvertently included in GEO 3518 for the Kahana Valley State Park. Withdrawal of 1.644 acres from GEO 3518 for the 6 MG reservoir site was authorized by the Board at its meeting held on January 10, 2020,

under Item D-8. A copy of the January 10, 2020 Board submittal (including the October 10, 1986 and October 25, 2019 actions) is attached as **Exhibit A**. Through another similar request for a set-aside with easement, staff understands from the AG that the easements should be handled as a separate disposition and not as part of the GEO.

Therefore, this third amendment is being brought to the Board to authorize the issuance of a perpetual, non-exclusive easement at gratis, as highlighted in yellow on **Exhibit B**. For housekeeping purposes, staff also requests the Board remove relevant language in Recommendation B of the 1986 approval regarding the inclusion of the easement in the set-aside. In addition, since BWS crews need to be able to access the 6 MG reservoir, waterline and access road, BWS will be requesting a right-of-entry until the execution of the grant of easement document.

Applicant 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.

BWS has no objections to the subject disposition. At the time of finalizing this submittal, the Division of State Parks had not responded to our request for comments. No other agency was solicited for comments as the subject easement request was originally covered in the 1986 Board action.

There are no other pertinent issues or concern and staff does not have any objections to the request.

**RECOMMENDATION:** That the Board amend its prior action of October 10, 1986, Item F-9 by:

1. Removing language in Recommendation B regarding the inclusion of the easements in the set-aside.
2. Authorizing the issuance of a perpetual, non-exclusive easement for access and utility purposes to the City and County of Honolulu, Board of Water Supply, 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. Conditions set forth under agenda item H-10 dated August 24, 1984 pertaining to CDUA OA-1/24/84-1636;
  - 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 the best serve the interests of the State.

3. Authorizing the issuance of a right-of-entry permit to the City and County of Honolulu, Board of Water Supply, 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; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

*Patti E. Miyashiro*

Patti E. Miyashiro, Land Agent

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

Suzanne D. Case, Chairperson

*RT*



D-8

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

January 10, 2020

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

Ref No.: 97OD-137

OAHU

Second Amendment of Prior Board Action dated October 10, 1986, Item F-9, as amended by October 25, 2019, Item D-9; *Request of the City and County of Honolulu, Board of Water Supply, for Executive Order Setting aside 6MG Reservoir Site Together with Electrical Transmission Line, Waterline and Roadway Easement at Kahana Valley, Kahana, Koolauloa, Oahu, Tax Map Key: Portions of (1) 5-2-001 & 5-2-002*

The purpose of this amendment is to seek Board's Authorization for Issuance of an Executive Order to Withdraw 1.644 acres for the 6MG Reservoir Site from Governor's Executive Order No. 3518.

BACKGROUND:

On October 10, 1986, under Item F-9, the Board authorized the issuance of a Governor's Executive Order for the set aside of a 6-MG reservoir site together with electrical transmission line, waterline and roadway easement to the City and County of Honolulu, Board of Water Supply ("BWS") covering an area of 71,627 square feet together with a 25-foot wide easement. At its meeting of October 25, 2019, Item D-9, the Board amended its 1986 action by removing Recommendation B.2 in its entirety. A copy of the October 25, 2019 submittal (including the October 10, 1986 action) is attached as **Exhibit A-1**.

The Land Board's 1986 action of setting aside to BWS predated the issuance of Governor's Executive Order ("EO") 3518 dated July 2, 1991 for the Kahana Valley State Park. However, the BWS' area was inadvertently included in EO 3518. During the preparation for the setting aside document to BWS, it was determined that a withdrawal of the BWS' site from EO 3518 was prudent. Upon approval of today's request, staff will finalize the set aside process.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

January 10, 2020 (10)

D-8

**EXHIBIT A**

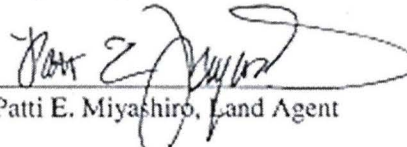
BLNR – C&amp;C, Board of Water Supply Page 2

January 10, 2020

RECOMMENDATION: That the Board amend its prior action of October 10, 1986, Item F-9, as amended by October 25, 2019, Item D-9 by approving and recommending to the Governor issuance of an executive order withdrawing 1.644 acres from Governor's Executive Order No. 3518, subject to:

- 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.

Respectfully Submitted,

  
Patti E. Miyashiro, Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

D-9

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

October 25, 2019

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

Ref No.: 970D-137

OAHU

Amend Prior Board Action dated October 10, 1986, Item F-9, *Request of the City and County of Honolulu, Board of Water Supply, for Executive Order Setting aside 6MG Reservoir Site Together with Electrical Transmission Line, Waterline and Roadway Easement at Kahana Valley, Kahana, Koolauloa, Oahu, Tax Map Key: Portions of (1) 5-2-001 & 5-2-002*

The purpose of this amendment is to remove prior Recommendation B.2 regarding the provision of a water meter to the Division of State Parks at the cost of the City and County of Honolulu, Board of Water Supply.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
October 25, 2019 *See*

BACKGROUND:

On October 10, 1986, under Item F-9 (Exhibit 1), the Board authorized the issuance of a Governor's Executive Order for the set aside of a 6-MG reservoir site together with electrical transmission line, waterline and roadway easement to the City and County of Honolulu, Board of Water Supply ("BWS") covering an area of 71,627 square feet together with a 25-foot wide easement shown on Exhibits 2a, 2b and 2c.

In the 1986 approval, as amended, Recommendation B.2 required that the Kahana State Park shall be provided with a water meter with the size to be determined by the Division of State Parks at no cost to the State of Hawaii.<sup>1</sup>

The preparation of map and legal description and petition to the Land Court for subdivision and designation of easement were not completed until November 2009.

Around August 2010, BWS and the Division of State Parks had discussions regarding the resolution of the water meter requirement, possibly in the manner of a memorandum of agreement ("MOA"). To date, there is no executed MOA.

Recently, staff suggested to both agencies that they proceed with the documentation of the 1986 approval notwithstanding Recommendation B.2 therein. The parties agreed to the proposed approach and staff now brings the request to the Board. Both the Division of

<sup>1</sup> At its September 27, 1986 meeting, item F-9, the Board already amended the staff recommendation by removing "water from the reservoir and" from Recommendation B.2. Today's request only pertains to the water meter.

D-9

**EXHIBIT A-1**

State Parks and BWS have both indicated their no objections as shown on Exhibits 3a and 3b. Upon approval of today's request, staff will finalize the documentation of the 1986 approval.

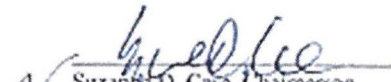
RECOMMENDATION: That the Board:

- A. Amend its prior action of October 10, 1986, Item F-9 by removing Recommendation B.2 in its entirety.
- B. All terms and conditions listed in its October 10, 1986 approval to remain the same.

Respectfully Submitted,

  
Patti E. Miyashiro, Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF LAND MANAGEMENT  
1115 KALANIANAʻOHE AVENUE  
HONOLULU, HAWAII 96813

DIVISION OF LAND MANAGEMENT  
1115 KALANIANAʻOHE AVENUE  
HONOLULU, HAWAII 96813  
PHONE: (808) 586-1234

October 10, 1986

Board of Land and  
Natural Resources  
Honolulu, Hawaii

OKAYS

Gentlemen:

Subject: Request of the City and County of Honolulu, Board of Water Supply, for Executive Order Setting Aside 6MG Reservoir Site Together with Electrical Transmission Line, Waterline and Roadway Easement at Mahana Valley, Mahana, Koolauloa, Oahu

At its meeting of August 24, 1986, under agenda item W-10, the Board approved CDUA OA-1/24/86-1616 filed by the City and County of Honolulu, Board of Water Supply, for a 6.6 MG concrete reservoir, 42-inch influent-effluent water main and access road in Mahana Valley, Mahana, Koolauloa, Oahu, subject to the following terms and conditions:

1. That the applicant comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and City and County governments and applicable parts of Section 11-2-21 of Title 11, Chapter 2, Administrative Rules, as amended;
2. The applicant, its successors and assigns shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. Other terms and conditions as prescribed by the Chairperson;
4. In that this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
5. An archaeologist shall be on site to monitor this project during ground disturbance, trenching, and slope grading;
6. The applicant shall notify the Division of State Parks of the commencement of construction for field inspection scheduling.

as provided 10/10/86

ITEM F-9

Handwritten: Approved to waive subdivision subject to verification as to whether work included in prior subdivision and preconstruction B.I., provided to date requirement that the State be furnished with notice of no cost.

EXHIBIT 1



1

Board of Land and  
Natural Resources

October 10, 1986

7. In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered during construction, the applicant shall stop work and contact the Historic Preservation Office at 545-7460 or 546-6408;
8. That the applicant comply with all applicable Public Health Regulations;
9. The applicant shall post signs informing hunters that construction equipment and people are in the vicinity;
10. Installation of culverts in streambeds shall be subject to permit requirement according to Administrative Rule 11-163; Permit to Alter Stream Channel.
11. The applicant shall observe a moratorium on testing, development and construction in Kahana Valley to last until December 31, 1985, or sooner if the Board shall decide.
12. After the expiration of the moratorium, any work of construction to be done on the land shall be initiated within one (1) year of the termination of the moratorium, and, all work and construction must be completed within three (3) years of the termination of the moratorium. Failure to comply with this condition shall render this application null and void.
13. Four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson, or his authorized representative for approval of which three (3) copies will be returned;
14. That the applicant may be required by the Chairperson to backfill to 300 feet elevation or otherwise visually screen the reservoir so that only the top 15 feet of the reservoir will be exposed;
15. Appropriate landscaping shall be instituted to mitigate adverse aesthetic impact; and
16. If, by December 31, 1985, there are changes to the Board's plans for Kahana, the Board reserves the right to change the conditions of this approval.

Subsequent to the foregoing, the City and County of Honolulu, Board of Water Supply, under Job No. 86-14, Kahana 315 Reservoir System requests the lot aside of the reservoir together with an easement for electrical transmission line, waterline and roadway plus right of entry to commence with construction of the facilities.

The reservoir and easement are shown outlined in red on the map labeled Land Board Exhibit "A" appended to the basic file.

Board of Land and  
Natural Resources

October 10, 1986

## RECOMMENDATION:

## The Board:

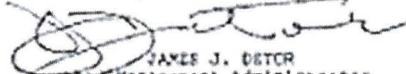
- A. Authorize the subdivision of Parcel 1 of Tax Map Key: 5-2-01 into two (2) lots for purposes of establishing the reservoir lot. The exact metes and bounds description for the subdivision to be determined by the State Survey Division, Department of Accounting and General Services.
- B. Approve recommending to the Governor of Hawaii issuance of an executive order placing the reservoir site and easement for electrical transmission line, waterline and roadway as shown on Land Board Exhibit "A" under the management and jurisdiction of the City and County of Honolulu, Board of Water Supply, subject to the following conditions:
  1. Conditions 1., 7., 8., and 10. under agenda item H-10 dated August 24, 1984 pertaining to CDUA OA-1/24-1636
  2. The Kahana State Park shall be provided at no cost to the State of Hawaii with ~~water from the reservoir~~ a water meter with the size to be determined by the Division of State Parks.
  3. Upon cancellation of the executive order and/or abandonment of the premises, the City and County of Honolulu, Board of Water Supply, shall restore the premises to a condition acceptable to the Department of Land and Natural Resources.
- C. Grant the City and County of Honolulu, Board of Water Supply, right of entry to the subject area shown on Land Board Exhibit "A" and permission to install and construct the reservoir, electrical transmission line, waterline, and roadway, subject to the following terms and conditions:
  1. Conditions 1., 2., 5., 6., 7., 8., 9., 10., 13., 14., and 15., under agenda item H-10 dated August 24, 1984 pertaining to CDUA OA-1/24-1636.
  2. The grantee shall submit three (3) sets of the survey parcel maps and descriptions covering the reservoir site and easement for electrical transmission lines, waterline and roadway.
  3. Standard indemnity and hold-harmless clause

Board of Land and  
Natural Resources

October 10, 1981

4. The site for depositing of the landfill (spoil) resulting from the excavation of the reservoir shall be approved by the Chairperson prior to removal from the site.
5. Other terms and conditions the Chairperson may prescribe.

Respectfully submitted,

  
JAMES J. DETOR  
Water Management Administrator

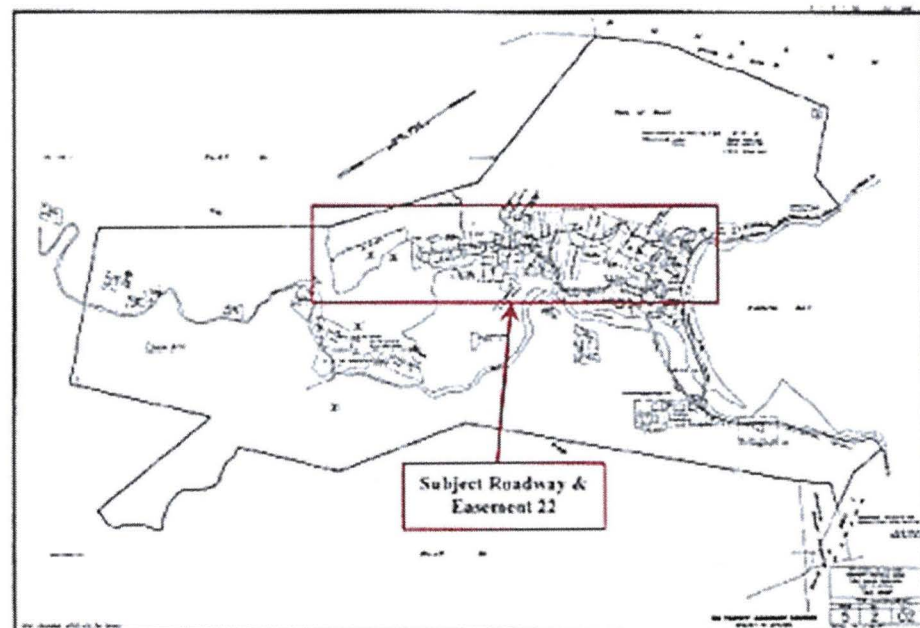
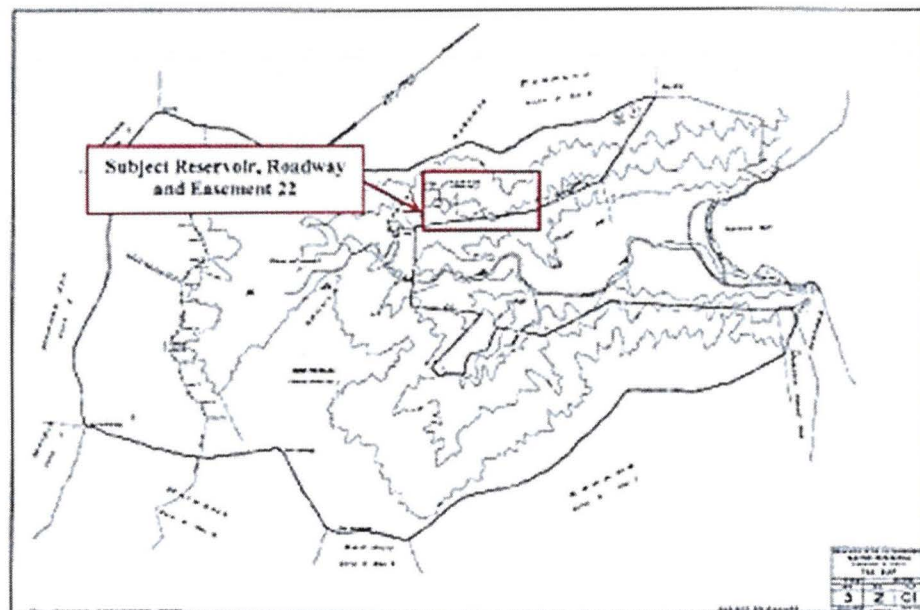
APPROVED FOR SUBMITTAL:

  
SUSUMU ONO, Chairperson



Tax Map Key: Portions of (1) 5-2-001 and 5-2-002



**EXHIBIT 2b**

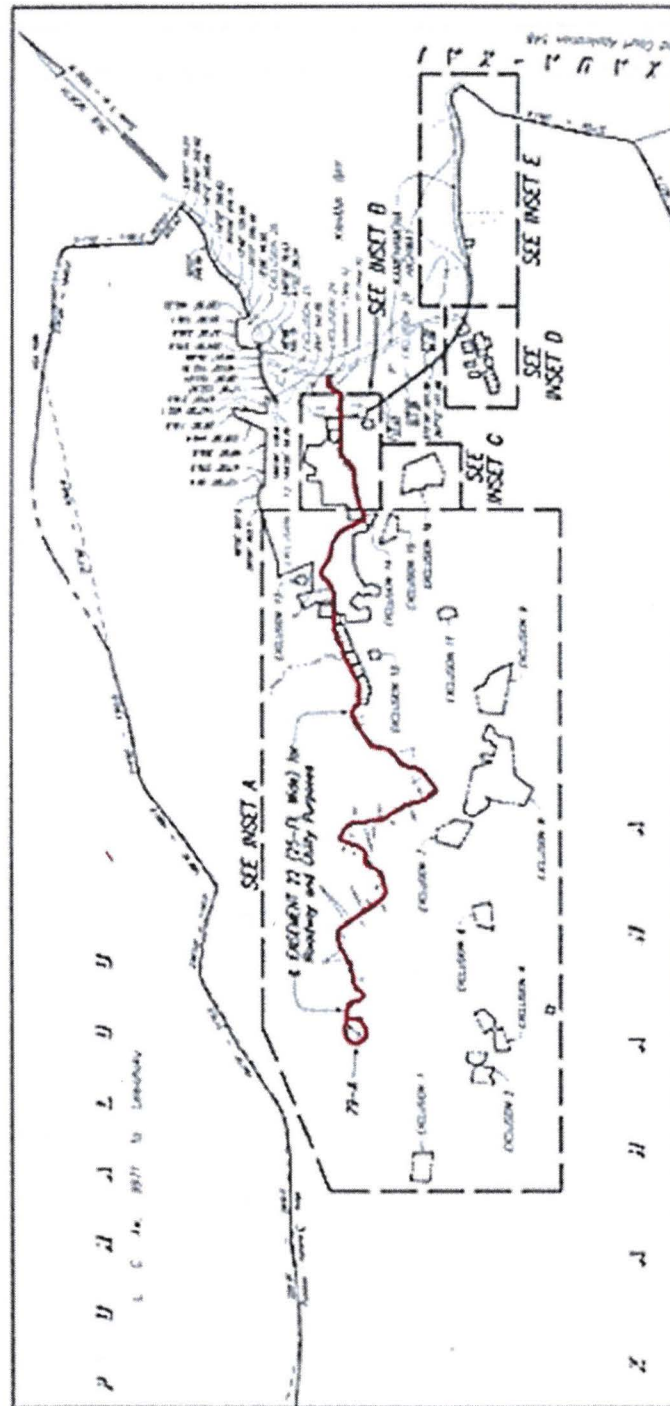


EXHIBIT 2c



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION  
POST OFFICE BOX 651  
HONOLULU, HAWAII 96808

July 8, 2019

Ref. No.: PSF 970D-137  
Author: LD-PEM

MEMORANDUM

TO: State Agencies  
☒ DLNR State Parks  
☐ DLNR Conservation & Coastal Lands

County Agencies  
☐ Board of Water Supply

FROM: Patti E. Miyashiro, Land Agent *Patti E. Miyashiro*

SUBJECT: Amend Prior Board Action dated October 10, 1986, Item F-9, Request of the City and County of Honolulu, Board of Water Supply, for Executive Order Setting aside GMG Reserve Site Together with Electrical Transmission Line, Waterline and Roadway Easement

LOCATION: Kahana Valley, Kahana, Koolauloa, Oahu, Tax Map Key: Portions of (1) 5-2-001 & 5-2-002

APPLICANT: City and County of Honolulu, Board of Water Supply

Transmitted for your review and comment is a copy of the above referenced amendment to previous Land Board action involving State lands. We would appreciate your comments on this application. Please submit any comments by Monday, July 22, 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 my office at 587-0408. Thank you.

Attachments

- (X) We have no objections.  
( ) We have no comments.  
( ) Comments are attached.

Signed: *Patti E. Miyashiro*  
Date: *7/9/19*

**EXHIBIT 3a**



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
LAND DIVISION

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

July 8, 2019

190898

LN-1303  
Mike - 7/15/19  
Duc - 7/22/19

DEPARTMENT OF LAND AND NATURAL RESOURCES  
CHIEF ENGINEER  
MANAGEMENT

mg  
Duke  
Land

Ref. No.: PSP 970D-137  
Author: LD-PEM

#### MEMORANDUM

TO: State Agencies: \_\_\_\_\_  
DLNR-State Parks  
DLNR-Conservation & Coastal Lands

County Agencies: ☒ Board of Water Supply

FROM: Patti E. Miyashiro, Land Agent *Patti E. Miyashiro*

SUBJECT: Amend Prior Board Action dated October 10, 1986, Item T-9, Request of the City and County of Honolulu, Board of Water Supply, for Executive Order Setting aside 6MG Reservoir Site Together with Electrical Transmission Line, Waterline and Roadway Easement

LOCATION: Kahana Valley, Kahana, Koolauloa, Oahu, Tax Map Key: Portions of (1) S-2-001 & S-2-002

APPLICANT: City and County of Honolulu, Board of Water Supply

Transmitted for your review and comment is a copy of the above referenced amendment to previous Land Board action involving State lands. We would appreciate your comments on this application. Please submit any comments by **Monday, July 22, 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 my office at 587-0408. Thank you.

#### Attachments

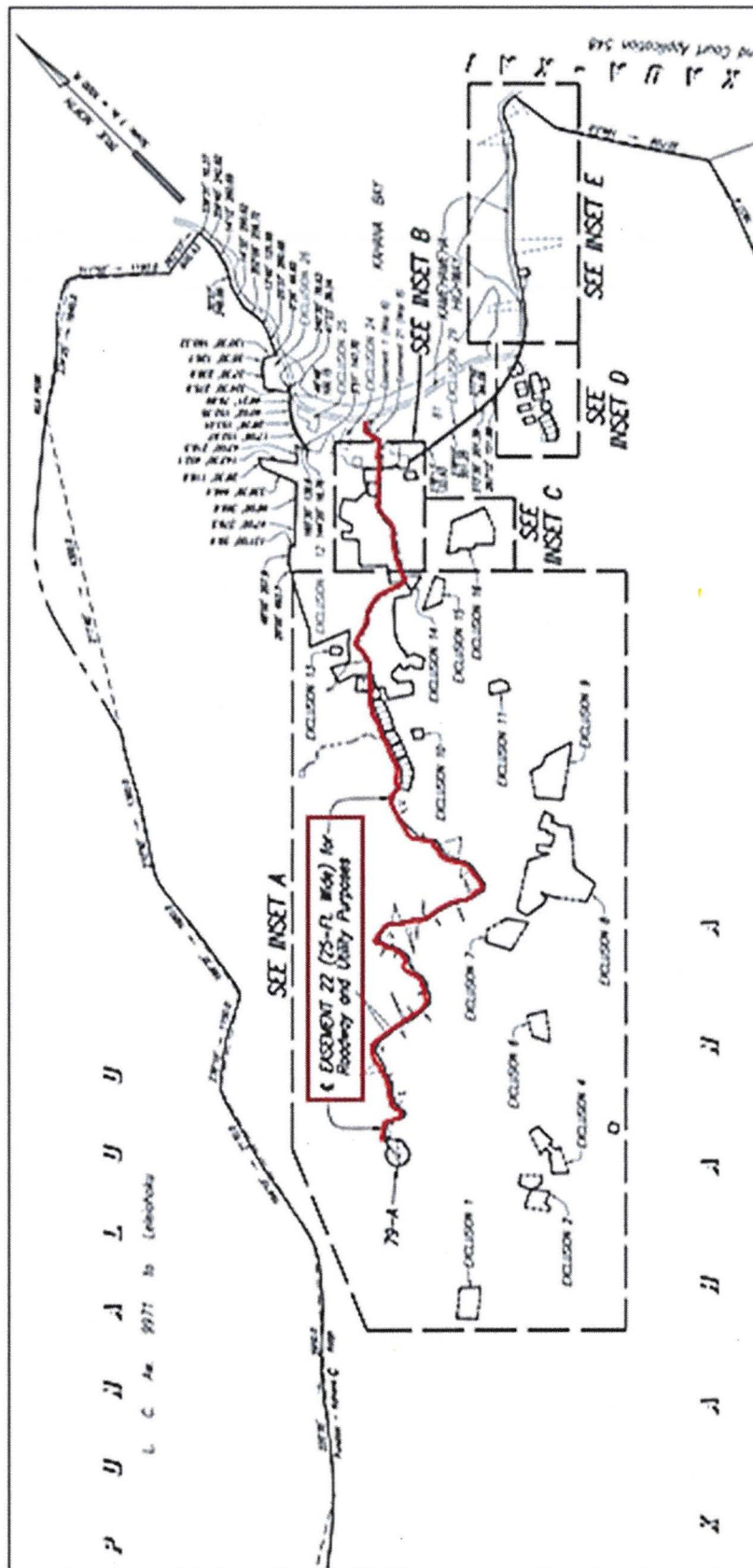
- (X) We have no objections.  
(X) We have no comments.  
( ) Comments are attached.

Signed: *Ernest Y. W. Lau*  
Date: *7/8/19*

ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer  
Board of Water Supply

**EXHIBIT 3b**





25 ft wide Easement – Roadway and Utility

**Exhibit B**