

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

August 28, 2020

PSF No: 09KD-032
EO 3449

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

Amend Prior Board Action of August 28, 2009, Item D-1, Cancellation of Governor's Executive Order No. 3449 to County of Kauai, Department of Water; Reset Aside to Division of Forestry and Wildlife for Remote Automatic Weather Station Site (RAWS); Issuance of Construction and Management Right-of-Entry, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-8-012:032.

The purpose of the amendment is to replace the reset aside to the Division of Forestry and Wildlife for a RAWS with a reset aside to the Kauai County Housing Agency for affordable housing purposes.

BACKGROUND:

At its meeting of August 28, 2009, Item D-1, the Board of Land and Natural Resources approved the cancellation of Governor's Executive Order No. 3449 to the County of Kauai and reset aside to the Division of Forestry and Wildlife for RAWS, together with Easements 1, 2, and 3 for water pipeline purposes. (Exhibit 1)

REMARKS:

In the process of completing the set-aside documents, the Division of Forestry and Wildlife notified the Kauai District Land Office staff that it no longer had intentions of developing a RAWS and, therefore, did not need the set-aside. (Exhibit 2)

Recalling that the County of Kauai was in need of available State lands for affordable housing purposes, staff contacted the County Housing Agency to inquire if it was interested in acquiring the property. By letter dated July 7, 2020, Adam Roversi, Director, Kauai County Housing Agency, on behalf of the County of Kauai, requested the acquisition of the State parcel identified as Tax Map Key: (4) 1-8-012:032 for affordable housing purposes. (Exhibit 3)

In accordance with Hawaii Administrative Rules (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 No. 36, that states " Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through Governor's executive order." (Exhibit 4)

On July 24, 2020, various government agencies and interest groups were solicited for comments relating to the proposed amendments to the original request. To date, the County Department of Planning, Board of Water Supply, and DLNR Division of Forestry and Wildlife had no objections to the request. The other agencies solicited did not provide any response by the suspense date.

AGENCIES	COMMENTS
County of Kauai:	
Planning Department	No comments/objections
Public Works	No response
Water Supply	No objections
State of Hawaii:	
DLNR - DOFAW	No objections
DLNR - Historic Preservation	No response
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15, 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. Amend its prior Board action of August 28, 2009, under agenda item D-1 by changing the reset aside of the subject parcel from the Division of Forestry and Wildlife for RAWs site, to the Kauai County Housing Agency for affordable housing purposes.
2. Except as amended hereby, all terms and conditions listed in its August 28, 2009 approval to remain the same.

Respectfully Submitted,

W. T. Matsunaga

KEM

Wesley T. Matsunaga
District 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 28, 2009

Board of Land and Natural Resources
State of Hawaii

PSF No.: 09KD-032

Kauai

Cancellation of Governor's Executive Order No. 3449 to the Department of Water, County of Kauai and Reset Aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife for Remote Automatic Weather Station (RAWS), Together With Easements 1, 2, and 3 For Water Pipeline Purposes and Issuance of Construction and Management Right-of-Entry, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-8-12: 32.

CONTROLLING AGENCY (of subject executive order):

Department of Water, County of Kauai

APPLICANT (requesting set aside):

Department of Land and Natural Resources, Division Of Forestry and Wildlife

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Hanapepe situated at Hanapepe, Waimea, Kauai, identified by Tax Map Key: (4) 1-8-12: 32, as shown on the attached map labeled Exhibit A & B.

AREA:

14,516 Square Feet, more or less.

Together with:

Easement 1 = 538 Sq.Ft.

Easement 2 = 662 Sq.Ft.

Easement 3 = 1392 Sq.Ft.

ZONING:

State Land Use District: Urban

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

August 28, 2009

EXHIBIT-1

D-1

County of Kauai CZO: Residential R-6

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:

Encumbered by Governor's Executive Order No. S-3449 to Department
of Water, County of Kauai for Water Tank Site, together with
Easements 1, 2 and 3 for water pipeline purposes.

PURPOSE OF SET ASIDE:

Remote Automatic Weather Station purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management
jurisdiction and does not constitute a use of State lands or funds,
and therefore, this action is exempt from the provisions of Chapter
343, HRS, relating to environmental impact statements. Inasmuch as
the Chapter 343 environmental requirements apply to Applicant's use
of the lands, the Applicant shall be responsible for compliance with
Chapter 343, HRS, as amended.

REMARKS:

Governor's Executive Order 3449 was issued on March 7, 1990 to the
Department of Water County of Kauai for a Water Tank Site.
The elevated water tank was built in 1946 for the Hanapepe
Heights House Lots Subdivision by the County of Kauai was
undocumented and unauthorized.

In a letter dated March 11, 2009 acting Manager and Chief Engineer
Wynne Ushigome requested canceling Executive Order No. 3449.
(Exhibit C)

The Department of Water Supply has no plans for the site due to
construction of a 0.5 million gallon water tank located on Parcel
05, of TMK: (4) 1-7-06 and is willing to return this parcel to be
set-aside to the Department of Land and Natural Resources, division
of Forestry and Wildlife for there Remote Automated Weather Stations
(RAWS).

The Division of Forestry & Wildlife has secured Draught Mitigation
Funds to purchase five (5) Remote Automatic Weather Stations (RAWS).
These (RAWS) are free standing weather stations that provide data
through satellite from centralized locations.

The weather data from these RAWs will be utilized for the Hawaii Fire Danger Rating System as well as general weather information. Most importantly it will help predict possible weather conditions and changes when fighting wild land fires.

This Hanapepe site will be the last of the five site necessary to complete RAWs strategic location on the Island of Kauai.

Division of Forestry & Wildlife will accept the former water tank site, together with Easements 1, 2, and 3 formerly for water pipeline purpose in "as is" condition.

State and County of Kauai agencies were solicited for comments

State Agencies:

Department of Health:

"Noise will be generated during the demolition and Construction phase of this project. The applicable maximum permissible sound levels as stated in Title 11, Hawaii Administrative, Chapter 11-46, entitled Community Noise Control shall not be exceeded unless a noise permit is obtained from the Department of Health."

Office of Hawaiian Affairs: No comments at this time.

Historic Preservation: No response received as of 6/1/2009

County of Kauai Agencies:

Planning Department- No comments

Public Works- No response received as of 6/1/2009

We received a letter from Mr. David R. Craddick, Manager and Chief Engineer of the Department of Water, County of Kauai having no comment at this time.

Memorandum from Mr. Alvin Kyono, Kauai Branch Manager for Division of Forestry & Wildlife response to Department of Health's concern of noise during construction. (Exhibit D)

Division of Forestry & Wildlife is requesting a construction and management right-of-entry so they can install the RAWs equipment and install fencing (estimated 20' x 20'). The fencing is needed to protect the RAWs equipment.

RECOMMENDATION: That the Board:

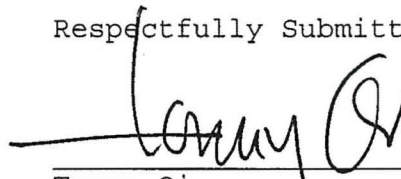
1. Approve of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order No. 3449 subject to the following:
 - A. Division of Forestry and Wildlife will accept the former water tank site, together with Easements 1, 2 and 3 formerly for water pipeline purpose in "as is" condition.

- B. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - C. 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;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Land and Natural Resources, Division Of Forestry and Wildlife 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.
3. Authorize the issuance of a construction and management right-of-entry to the Department of Land and Natural Resources, Division of Forestry and Wildlife (Kauai Branch) for the subject area under the terms

and conditions cited above, which are by this reference incorporated herein and further subject to the following:

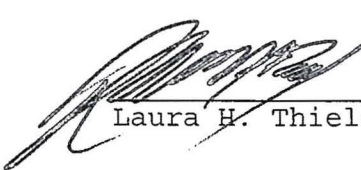
- A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Tommy Oi
Kauai District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH DIVISION		
ZONE	SEC.	PLAT
1	8	12
CONTAINING PARCELS		
SCALE: 1 IN. = 50 FT.		

SUBJECT TO CHANGE

KOKO

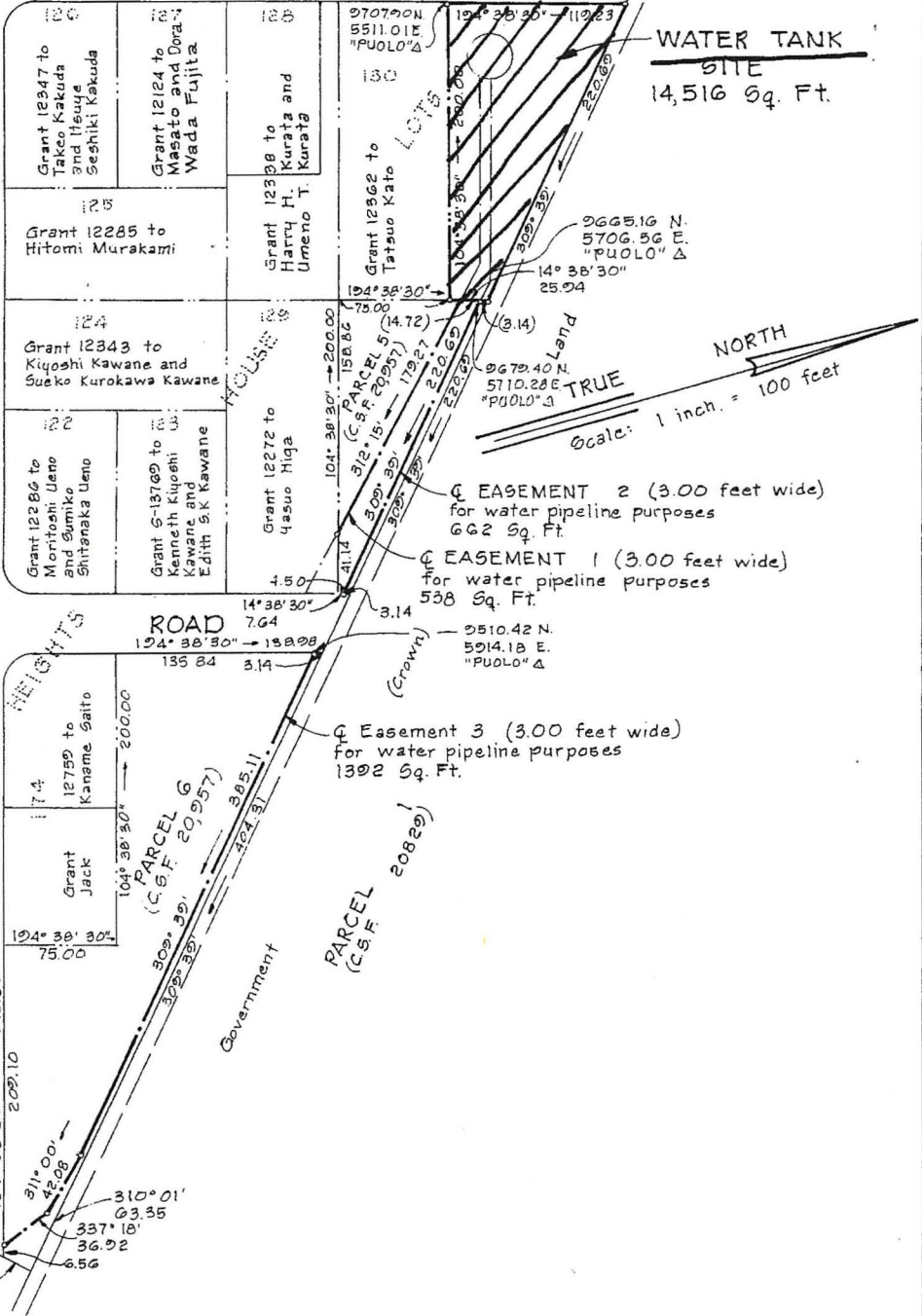
ROAD

ROAD

ALII

HAPEPE

AHI



WATER TANK SITE
Hanapepe, Waimea, Kauai, Hawaii
Scale: 1 inch=100 feet

K-25(82)
BK. 5, p. 81; D. Oqama

MAP 1-8-12-1, 32

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

F. NO. 20,960

W. A. Jr. May 26, 1962

EXHIBIT "B"



Water has no substitute.....Conserve it

March 11, 2009

Mr. Thomas Oi
Kaua'i District Land Agent
Department of Land and Natural Resources
3060 Eiwa Street
Lihu'e, Hawai'i 96766

Dear Mr. Oi:

Subject: Governor's Executive Order No. 3449
Tax map key: 1-8-12: 32, Hanapepe, Kaua'i

The Department of Water is requesting to cancel Governor's Executive Order No. 3449 which set aside land for public purposes. The State Department of Land and Natural Resources, Division of Forestry, has expressed a desire to use the former tank site as a rain gauge station. Since the site is no longer being used by the Department, we request to transfer the use and assignment of this property back to the State. In turn, the Division of Forestry has agreed to accept the transfer of control and management of this parcel on an "as-is" basis.

Thank you for your consideration and attention on this matter. If you have any questions or need further clarification, please feel free to contact me at (808) 245-5409.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wynne M Ushigome".

Wynne M Ushigome
Acting Manager & Chief Engineer

WU:emi

c: Alvin Kyono, State Forestry

PM2:12:48

EXHIBIT "C"

MAR 12 '09

DLNR KDLO RCV

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF FORESTRY AND WILDLIFE
KAUAI DISTRICT
3060 EIWA STREET, ROOM 306
LIHUE, KAUAI, HAWAII 96766

June 1, 2009

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT


RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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

MEMORANDUM

TO: Thomas Oi, Kauai District Land Agent

FROM: Alvin Kyono, Branch Manager 

SUBJECT: Reference No. 09KD-032; Request for Cancellation of Governor's Executive Order No. 3449 to the Department of Water, County of Kauai and the Set-Aside to Department of Land and Natural Resources, Division of Forestry and Wildlife for Remote Automatic Weather Station (RAWS) and Departmental Purposes.

The installation of the Remote Automatic Weather Station (RAWS) will not generate any excess noise during the construction phase. The work will consist of erecting a protective fence and installation of the station, which consists of modular pipe frames which will require bolting together and anchoring to the ground with metal stakes. No other groundwork will occur other than weed-wacking the existing grass.

EXHIBIT "D"



DAVID Y. IGE
GOVERNOR OF
HAWAII



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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
* 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
KAIKOLAWE ISLAND RESTORATION COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 24, 2020

MEMORANDUM

TO: Wesley Matsunaga, Land Agent
Land Divisions, Kauai

FROM: Sheri Mann, Kauai District Manager
Division of Forestry and Wildlife

SUBJECT: Hanapepe Heights parcel, TMK: (4) 1-8-012:032

We are requesting the cancellation of the Reset Aside of the property from the County to DOFAW.

TMK Parcel (4) 1-8-012:032 is located in a residential neighborhood in Hanapepe Heights. Initially DOFAW had plans to utilize the land for a RAWS, Remote Automatic Weather Station. However, we no longer need the RAWS at this location.

Should you have any questions, please contact Sheri Mann at (808) 274-3433 or by email at Sheri.S.Mann@hawaii.gov.

Thank you.

SHERI S. MANN

EXHIBIT-2



KAUA'I COUNTY HOUSING AGENCY
THE COUNTY OF KAUAI

DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

ADAM P. ROVERSI
HOUSING DIRECTOR

July 7, 2020

Wesley T. Matsunaga
Kauai District Land Agent
3060 Eiwa Street, Room 208
Lihue, HI 96766

Re: Transfer of State Parcel in Hanapepe Heights to the Kauai County Housing Agency
for Affordable Housing Purposes; TMK (4) 1-8-012:032

Aloha Wesley,

The County of Kauai is currently working with the DLNR Land Division to finalize the transfer of a collection of state owned scattered residential lots on Kauai for the purpose of developing affordable housing. I am writing to request that the above referenced approximately .33 acre parcel located in Hanapepe Heights be added to the list of lots proposed for transfer.

This vacant lot in a residential neighborhood was previously slated for transfer to the Kauai County Department of Water (DOW) under Executive Order No. 3449. The DOW, however, determined the lot was not required for planned water infrastructure and opted to cancel the proposed transfer.

We believe the parcel would be well suited to residential development for the purposes of affordable housing.

Sincerely,

Adam P. Roversi
Director, Kauai County Housing Agency

PH1:51:58

JUL 14 '20

DLNR KDLO RCL

www.kauai.gov

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EXHIBIT 3





**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
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

August 28, 2020

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR):

Project Title:	Amend Prior Board Action of August 28, 2009, Item D-1, Cancellation of GEO #3449; Reset Aside from DOFAW for RAWs to County of Kauai for Affordable Housing purposes.
Project / Reference No.:	09KD-032
Project Location:	Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-8-012:032.
Project Description:	Amend Bd Action of 8/28/09, D-1, to change reset aside from DOFAW to COK for affordable housing purposes.
Chap. 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 36 that states, "Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through Governor's executive order."
Cumulative Impact of Planned Successive Actions in Same Place Significant?:	<i>No. There will be no successive actions in same place or no significant cumulative impact.</i>

EXHIBIT-4

***Action May Have
Significant Impact on
Particularly Sensitive
Environment?:***

No. There are no particularly sensitive environmental issues involved with the proposed use of the property.

Analysis:

This action before the Board is merely a transfer of management jurisdiction and does not constitute an "action" that triggers the need for an environmental assessment.

Consulted Parties:

County Department of Water Supply, Division of Forestry and Wildlife, and Land Division.

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.