

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

November 13, 2020

PSF No.: 13KD-162

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

KAUAI

Set Aside Unencumbered State Land (0.524 acre) to the Department of Transportation, Highways Division, for Addition to Proposed Vehicular Contra-Flow Lane Purposes, Wailua House Lots, Second Series, Wailua River Lots, Kawaihau, Kauai, Tax Map Key: (4) 4-1-004:020 por.

APPLICANT:

State of Hawaii, Department of Transportation, Highways Division (DOT).

LEGAL REFERENCE:

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

LOCATION:

Portion of Government (Crown) lands of Wailua, a former cane haul road right-of-way, situated at Wailua House Lots, Second Series, Wailua River Lots, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-1-004:020 por. as shown on the attached map labeled as Exhibit 1.

AREA:

0.524 acre, more or less.
(Portion of a former cane haul road right-of-way, referenced as Part 8.)

ZONING:

State Land Use District: Urban
County of Kauai CZO: Open

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:

Vacant and unencumbered

PURPOSE OF SET ASIDE:

For addition to proposed Vehicular Contra-Flow Traffic Lane Improvement purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on August 8, 2007 with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost, if necessary; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

At its meeting on June 12, 1992, item F-14, the Board of Land and Natural Resources authorized the withdrawal of land from General Lease No. S-4413 and issued a right-of-entry permit to DOT for Contra-Flow Road purposes. (**Exhibit 2**)

At its meeting of February 9, 2007, item D-4, the Land Board approved to amend its prior actions of June 12, 1992, item F-14, to include additional areas to the Contra-Flow Lane for a total of 1.844 acres, identified as Parcels 1 through 7, combined, which included a 0.094-acre portion of the subject land. (**Exhibit 3**)

The 1.844 acres previously referenced as Parcels 1 through 7 have been set aside to the DOT under Governor's Executive Order No. 4285, dated July 15, 2009. (**Exhibit 4**)

DOT is now requesting an additional 0.524 acre be set aside to DOT for its Contra-Flow Lane Project. The subject land is the remainder of a Cane Haul Road Right-of-Way that was formerly encumbered under General Lease No. S-4413 to Lihue Plantation Co., Ltd.,

now referenced as a portion of Part 8, under C.S.F No. 17,004 and identified as TMK: (4) 4-1-004:020 por.

Various governmental agencies and interest groups were solicited for comments during the Environmental Assessment process and their respective concerns, if any, were addressed at that time. As a result, comments were not solicited for this request.

Staff has no objections to the requested action.

RECOMMENDATION: That the Board:

1. Approve of and recommend to the Governor the issuance of an Executive Order setting aside 0.524 acre, more or less, being a portion of Part 8 (CSF 17,004) to the Department of Transportation, Highways Division 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.

Respectfully Submitted,

Wesley Matsunaga

Wesley T. Matsunaga
District Land Agent

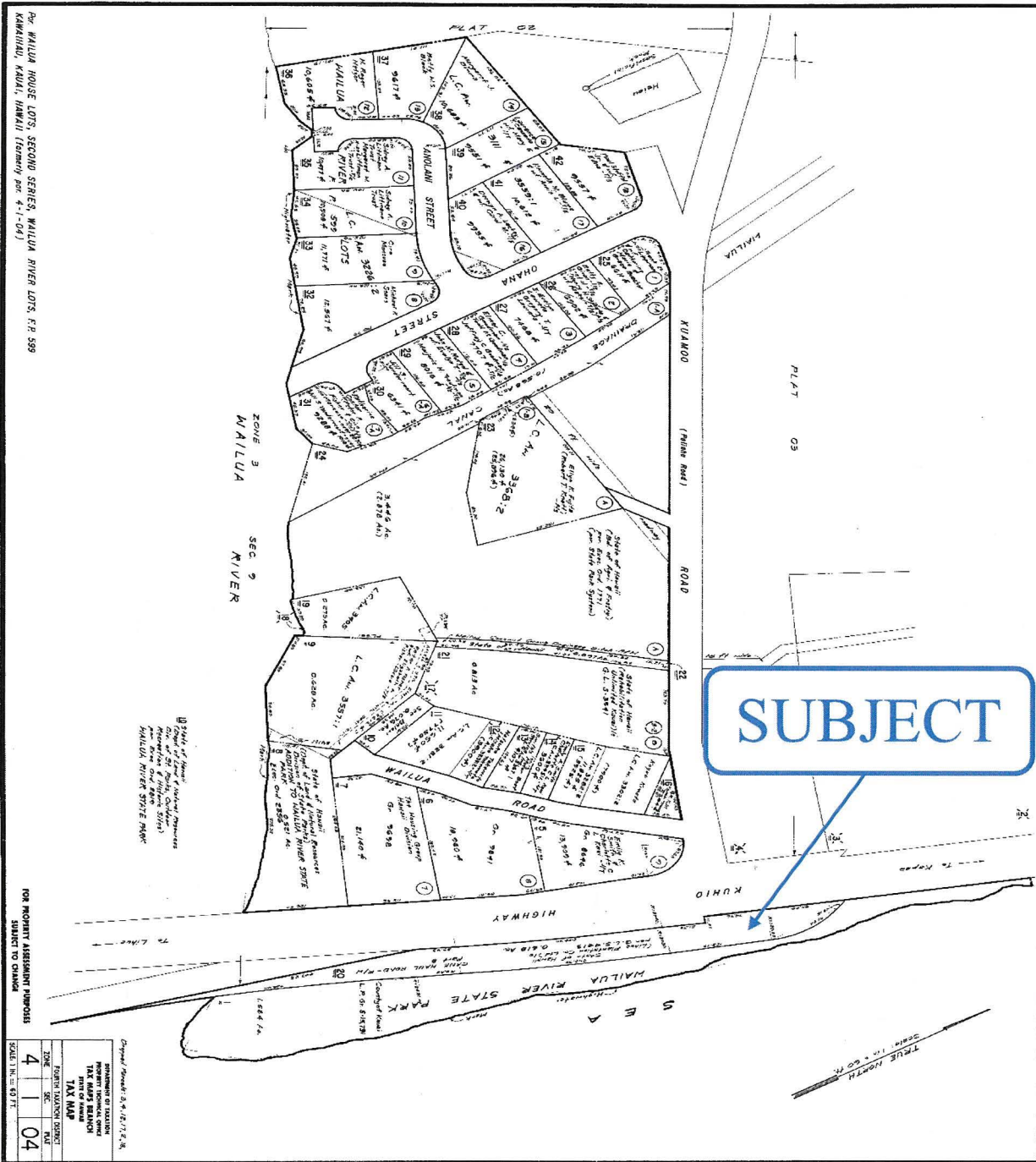
— KEM

APPROVED FOR SUBMITTAL:

RT *Suzanne D. Case*

Suzanne D. Case, Chairperson

FOR WAIIUA HOUSE LOTS, SECOND SERIES, WAIIUA RIVER LOTS, F.P. 599
 KAHANUIA, KAUAI, HAWAII (FORMERLY P.C. 4-1-04)



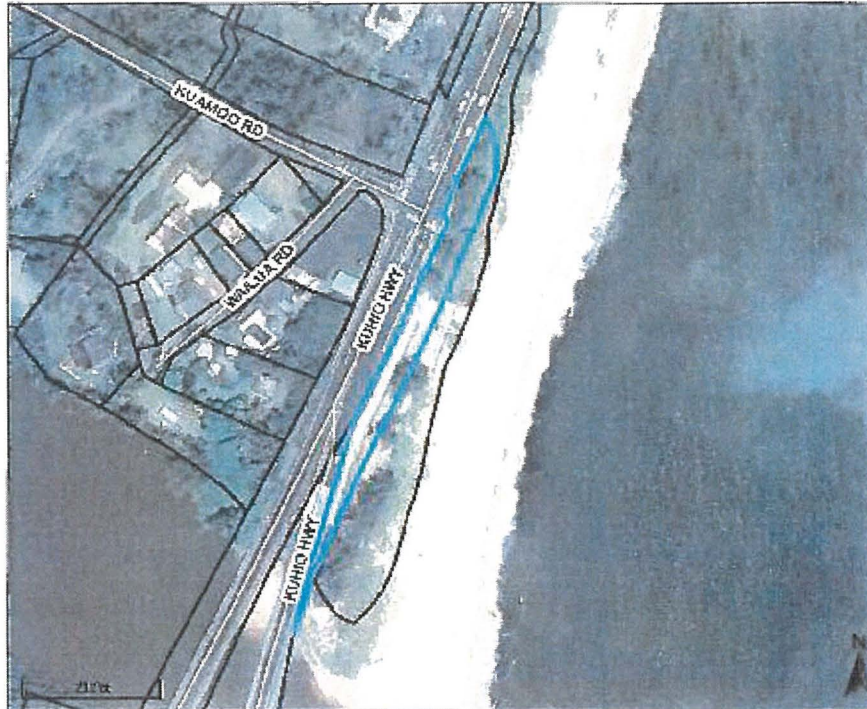
SUBJECT

FOR PROPERTY ASSESSMENT PURPOSES
 SUBJECT TO CHANGE

Original Plat No. 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

PROPERTY OF TAXATION	4
PROPERTY TAXATION DISTRICT	04
TAX MAP	
SCALE: 1" = 60 FT.	

EXHIBIT 1



Parcel ID	41004020000	Site/Physical Address	KUHIO HWY	Total Market Value	\$240,000
Acres	0.618	Mailing Address	STATE OF HAWAII	Total Assessed Value	\$240,000
Class	RESIDENTIAL			Total Exemptions	\$240,000
Brief Tax Description	PARTS WAILUA CANE HAUL BRIDGE WIDENING			Total Net Taxable Value	\$0

EXHIBIT 1

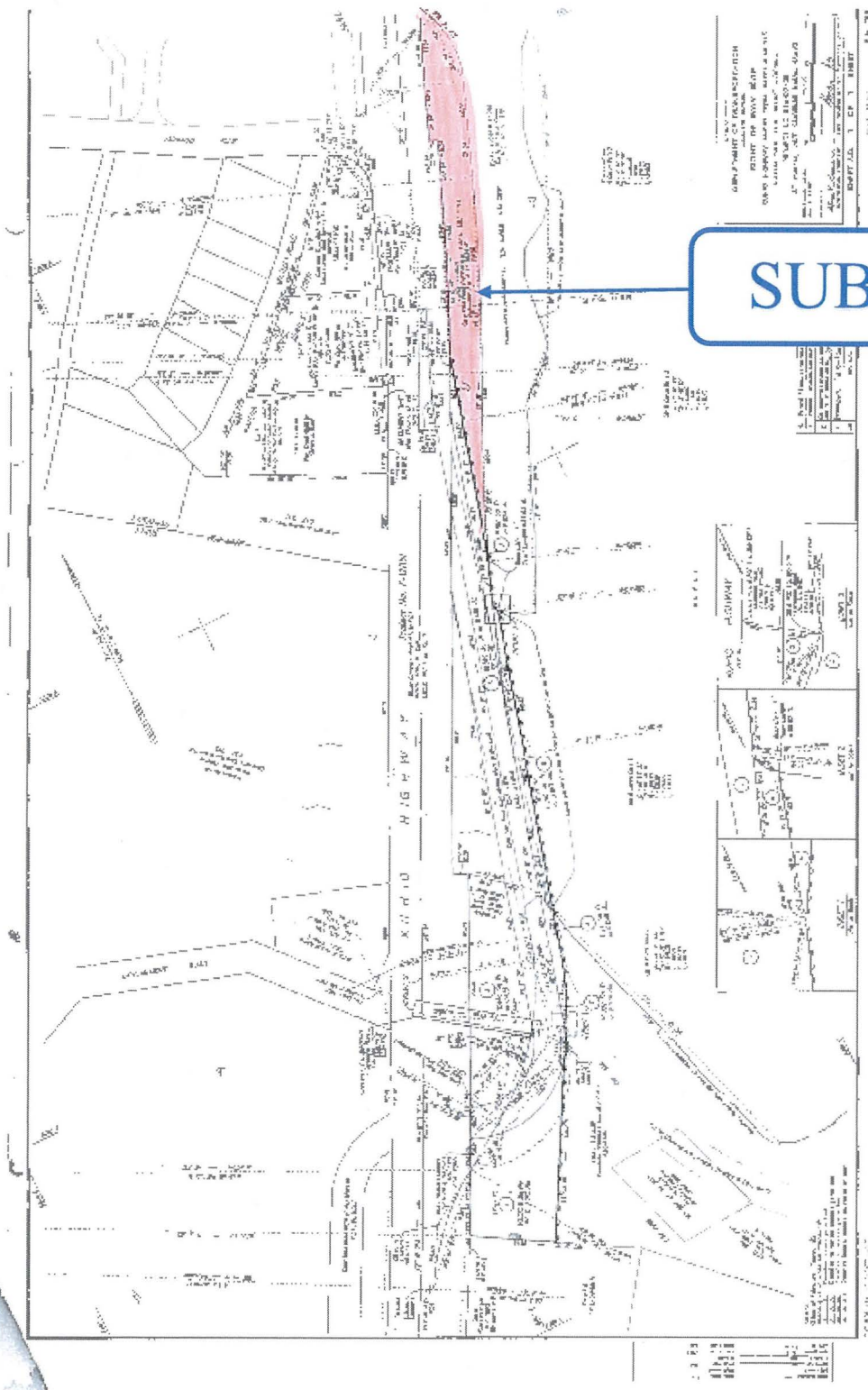


EXHIBIT 1

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P. O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT PROGRAM
AQUATIC RESOURCES CONSERVATION AND ENVIRONMENTAL AFFAIRS
CONSERVATION AND RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

June 12, 1992

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii 96813

KAUAI

Subject: Authorization to Withdraw Land from the Operation of General Lease No. S-4413 and Right-of-Entry to the Department of Transportation, Highways Division for Contra-Flow Road Purposes, Wailua, Kawaihau, Lihue (Puna), Kauai, Tax Map Key: 3-9-06:1(Por.) and 12

STATUTE:

Chapter 171, Hawaii Revised Statutes, as amended.

APPLICANT:

DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION

FOR:

Portion of the Government (Crown) Land of Wailua, also being Cane Haul Road Right-of-Way Part 9 and Part 10 (Revised March 1961), Wailua, Lihue (Puna), Kauai, Tax Map Key: 3-9-06:1(Por) and 12 as shown outlined in red on map labeled Land Board Exhibit A, appended to the basic file.

PURPOSE:

Vehicular contra-flow traffic lane

LAND TITLE STATUS:

Subsection 5(b) lands, Admissions Act

AREA:

0.788 acres, subject to confirmation by the State Land Surveyor.

STATUS:

Encumbered by Governor's Executive Order No. 2429 to the Division of State Parks and by General Lease No. S-4413 to the Lihue Plantation Company, Limited.

ITEM F-14

proved as amended. Amendment:

DOT shall obtain subdivision approval from the County of Kauai for the withdrawn area and, submit to DLNR the aforesaid approval together with survey parcel map and description of said area.

Under RECOMMENDATION B.B. add: -- "if required by DLNR, the DOT shall demolish the Wailua River Cane haul bridge."

EXHIBIT 2

ZONING:

State Land Use Commission - Urban
County of Kauai CZO - Open

ENVIRONMENTAL IMPACT STATEMENT:

The subject disposition is exempt from the provision of Chapter 343, Hawaii Revised Statutes, as amended because it represents no change beyond that previously existing.

REMARKS:

The Department of Transportation, Highways Division has requested use of the subject area for a vehicular contra-flow lane during peak traffic hours until completion of the Kapaa By-Pass Road, which is expected to take approximately 10 years.

The Lihue Plantation Company, Limited has no objections to the proposed withdrawal from General Lease No. S-4413, provided, that the annual lease rental amount is reduced to reflect the portion of land withdrawn.

Also, the Division of State Parks has no objections to the proposed use by the Department of Transportation, Highways Division.

RECOMMENDATION: That the Board:

- A. Authorize the withdrawal of 0.788 acres from the operation of General Lease No. S-4413, subject to a proportionate reduction in the annual lease rental.

Subsequent to the above withdrawal,
- B. Grant a right-of-entry to the Department of Transportation, Highways Division to the subject property for vehicular contra-flow traffic lane purposes, subject to the following conditions:
 1. The Department of Transportation, Highways Division, its contractor and/or its agent shall indemnify, defend and hold the State of Hawaii harmless for any loss, liability, claims or demand for property loss or personal loss or personal injury or death cause by or resulting from any act or omission of the contractor and/or agent in connection with the right granted herein;
 2. Applicable requirements of the federal, state and county governments shall be complied with and satisfied;
 3. The Department of Transportation, Highways Division shall provide the Department of Land and Natural Resources, Division of Land Management a site plan showing all design modifications to the old railroad bridge across the Wailua River and its approach roads. Said modifications are subject to the Chairperson's approval;

4. In the event burial sites, archeological or historical sites or artifacts are uncovered during the course of construction, work shall cease immediately and the Historic Preservation Office contacted in Honolulu;
5. Upon completion of any modifications, the hours of use as a vehicular contra-flow traffic lane by the Department of Transportation, Highways Division shall be from 6:00 a.m. to 8:00 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday. Any changes to the above hours of operation of the subject road as a vehicular contra-flow traffic lane shall require the Chairperson's approval;
6. This right-of-entry shall be effective from the date the subject area is withdrawn from General Lease No. S-4413 and continue until the planned by-pass road is completed;
7. During the effective period of the right-of-entry, the Department of Transportation, Highways Division shall maintain the bridge across the Wailua River and its approach roads from Kuhio Highway in a condition that will effectuate the safe public passage of vehicular traffic;
8. Upon the expiration or cancellation of this right-of-entry, and/or abandonment of the premises for vehicular contra-flow traffic lane purposes, the Department of Transportation shall restore the premises to a condition acceptable to the Department of Land and Natural Resources;
9. Such other conditions as may be prescribed by the Chairperson.

Respectfully submitted,


W. MASON YOUNG
for Land Management Administrator

APPROVED FOR SUBMITTAL:

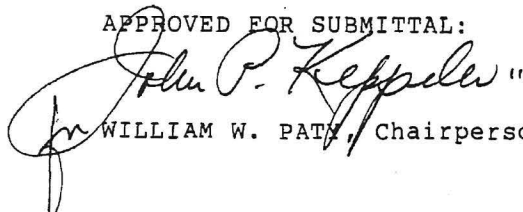

WILLIAM W. PATY, Chairperson

EXHIBIT 2

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

February 9, 2007

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

PSF No: 07od-012

KAUAI

Amend Prior Board Action of June 12, 1992, Item F-14,
Authorization to Withdraw Land from the Operation of General
Lease No. S-4413 and Right-of-Entry to the Department of
Transportation, Highways Division for Contra-Flow Road
Purposes, Wailua, Kawaihau, Lihue (Puna), Kauai; Tax Map
Key: (4) 3-9-006:001 (por) and 012

BACKGROUND:

In 1992, the Department of Transportation, Highways Division (DOT) requested the use of the subject lands, namely, Parcel 9 (0.458 acre), TMK (4) 3-9-6:12, and Parcel 10 (0.33 acre), TMK (4) 3-9-6:portion of 1 for contra-flow road purposes during peak hours until the completion of Kapaa By-Pass Road, which was expected to take approximately ten years.

The subject lands were encumbered by Governor's Executive Order (EO) No. 2429 to the Division of State Parks (State Parks) and General Lease (GL) No. S-4413 to Lihue Plantation Company, Limited (Lessee). State Parks had no objections to the use proposed by DOT, and the Lessee agreed to the same request provided the rental under GL 4431 was reduced accordingly.

On June 12, 1992, under agenda item F-14, the Board authorized the subject request. A copy of the approved submittal is attached as Exhibit A. The approved right-of-entry (ROE) was to start from the date the subject area was withdrawn from GL 4413 and continue until the planned by-pass road was completed.

The document relating to the withdrawal of Parcels 9 & 10 was executed between the State and the Lessee on May 27, 1994.

Today's request is to amend the Board's prior action by authorizing a set aside of the subject lands, and extending the ROE until the requested EO is issued. A copy of the tax map is attached as Exhibit B for reference.

REMARKS:

Due to the changes in the traffic situation on Kauai and the need to improve the area, DOT requests setting aside the yellow and yellow-

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

February 9, 2007

EXHIBIT 3

hatched red areas as shown on Exhibit C which consists of Parcels 9 & 10 mentioned above and some additional area, for a total of 1.841 acres ("subject area").

A portion of the subject area, (red-hatched yellow area shown on Exhibit C and identified by tax map key (4) 3-9-006:029 portion), is now encumbered by EO 3703, a set aside to State Parks for Wailua River State Park. DOT has discussed with State Parks and obtained State Parks' verbal agreement to the request. An EO withdrawing the red-hatched yellow area from EO 3703 is necessary before the set aside of the same area to DOT can proceed.

To facilitate the construction, DOT requests a ROE to some State lands, as outlined in blue on Exhibit C, for construction staging areas (blue areas). The blue areas are either under the jurisdiction of State Parks under EO 3703 or under Land Division. This ROE shall be scheduled to expire upon the completion of the construction.

Funding for the construction project is authorized by Act 160 SLH 2006, Item C-130. Invitation for bids and notice to proceed for the project are scheduled for August 2007 and February 2008 respectively. The construction will last approximately 30 months.

DOT will submit the legal description and survey map, and process any subdivision requirement (if necessary) for the subject request.

Further, pending the issuance of the requested EO, DOT requests an immediate ROE for the subject area. A copy of DOT's request is attached as Exhibit D.

Staff recommends the Board include language in the EO requiring DOT to repair and maintain all pre-existing and future infrastructure constructed on or servicing the subject area.

In view of DOT's current request, staff recommends the Board amend its prior action by:

- 1) Adding authorization for withdrawing red-hatched yellow area, the exact area to be determined by the Department of Accounting and General Services, Survey Division, from EO 3703;
- 2) Adding authorization to set aside the subject area to DOT for highway and related purposes;
- 3) Extending the term of the ROE for the subject area to expire three (3) years from today's Board meeting, or the issuance of the EO, whichever is earlier.
- 4) Granting an immediate construction ROE to DOT for the blue areas for a construction staging area, and the subject ROE to expire upon completion of construction.

RECOMMENDATION: That the Board:

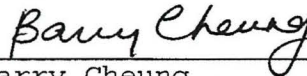
1. Amend its prior Board action of June 12, 1992, under agenda item F-14 by adding the following Sections C, D and E to the

Recommendation Section:

- C. Approve of and recommend to the Governor the issuance of an Executive Order withdrawing the red-hatched yellow area mentioned in the "Remarks" section above from Governor's Executive Order No. 3703, subject to:
1. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 2. 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;
 3. Review and approval by the Department of the Attorney General; and
 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- D. Approve of and recommend to the Governor the issuance of an Executive Order setting aside the subject area to Department of Transportation, Highways Division, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
1. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 2. The Department of Transportation, Highways Division (DOT) shall repair and maintain all pre-existing and future infrastructure improvements constructed on or servicing the subject area. If any portion of the subject area is ever returned to the Department of Land and Natural Resources ("DLNR") (upon any withdrawal or cancellation of this Executive Order), then at the request of DLNR, DOT shall remove all such pre-existing and future infrastructure improvements hereafter constructed, or alternatively, shall remain responsible for repair and maintenance of all such pre-existing and future infrastructure improvements, hereafter constructed, to perpetuity.
 3. 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

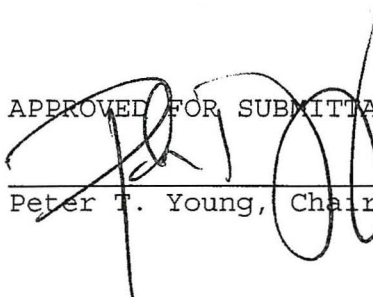
- regular or special session next following the date of the set aside;
4. Review and approval by the Department of the Attorney General; and
 5. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- E. Authorize the issuance of a right-of-entry for the blue areas shown on Exhibit C to Department of Transportation for Kuhio Highway Short Term Improvements, Wailua Cane Haul Bridge Widening Project, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
1. The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time;
 2. Written concurrence by the Division of State Parks; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State."
2. Amend its prior Board action of June 12, 1992, under agenda item F-14 by replacing Section B.6 with the following:
 - "6. This right-of-entry shall be effective from the date the subject area is withdrawn from General Lease No. S-4413 and continue until February 8, 2010, or the issuance of the Governor's Executive Order mentioned in Section D of the Recommendation Section, whichever is the earlier."
 3. All other terms and conditions listed in its approval dated June 12, 1992, agenda item F-14, to remain the same.

Respectfully Submitted,



Barry Cheung
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson

JOHN WAIHEE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P. O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT PROGRAM
AQUATIC RESOURCES CONSERVATION AND ENVIRONMENTAL AFFAIRS
CONSERVATION AND RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

June 12, 1992

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii 96813

KAUAI

Subject: Authorization to Withdraw Land from the Operation of General Lease No. S-4413 and Right-of-Entry to the Department of Transportation, Highways Division for Contra-Flow Road Purposes, Wailua, Kawaihau, Lihue (Puna), Kauai, Tax Map Key: 3-9-06:1(Por.) and 12

STATUTE:

Chapter 171, Hawaii Revised Statutes, as amended.

APPLICANT:

DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION

FOR:

Portion of the Government (Crown) Land of Wailua, also being Cane Haul Road Right-of-Way Part 9 and Part 10 (Revised March 1961), Wailua, Lihue (Puna), Kauai, Tax Map Key: 3-9-06:1(Por) and 12 as shown outlined in red on map labeled Land Board Exhibit A, appended to the basic file.

PURPOSE:

Vehicular contra-flow traffic lane

LAND TITLE STATUS:

Subsection 5(b) lands, Admissions Act

AREA:

0.788 acres, subject to confirmation by the State Land Surveyor.

STATUS:

Encumbered by Governor's Executive Order No. 2429 to the Division of State Parks and by General Lease No. S-4413 to the Lihue Plantation Company, Limited.

approved as amended. Amendment:

1. DOT shall obtain subdivision approval from the County of Kauai for the withdrawn area and submit to DLNR the aforesaid approval together with survey parcel map and description of said area.
2. Under RECOMMENDATION B. B. add: -- "if required by DLNR, the DOT shall demolish the Wailua River Cane haul bridge."

ITEM F-14

EXHIBIT "A"

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii 96813
June 12, 1992

KAUAI

ZONING:

State Land Use Commission - Urban
County of Kauai CZO - Open

ENVIRONMENTAL IMPACT STATEMENT:

The subject disposition is exempt from the provision of Chapter 343, Hawaii Revised Statutes, as amended because it represents no change beyond that previously existing.

REMARKS:

The Department of Transportation, Highways Division has requested use of the subject area for a vehicular contra-flow lane during peak traffic hours until completion of the Kapaa By-Pass Road, which is expected to take approximately 10 years.

The Lihue Plantation Company, Limited has no objections to the proposed withdrawal from General Lease No. S-4413, provided, that the annual lease rental amount is reduced to reflect the portion of land withdrawn.

Also, the Division of State Parks has no objections to the proposed use by the Department of Transportation, Highways Division.


RECOMMENDATION: That the Board:

- A. Authorize the withdrawal of 0.788 acres from the operation of General Lease No. S-4413, subject to a proportionate reduction in the annual lease rental.

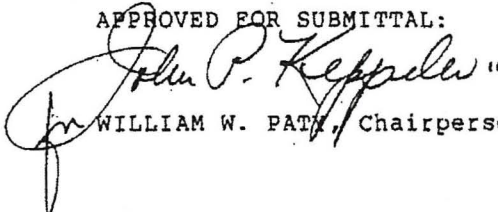
Subsequent to the above withdrawal,
- B. Grant a right-of-entry to the Department of Transportation, Highways Division to the subject property for vehicular contra-flow traffic lane purposes, subject to the following conditions:
 1. The Department of Transportation, Highways Division, its contractor and/or its agent shall indemnify, defend and hold the State of Hawaii harmless for any loss, liability, claims or demand for property loss or personal loss or personal injury or death cause by or resulting from any act or omission of the contractor and/or agent in connection with the right granted herein;
 2. Applicable requirements of the federal, state and county governments shall be complied with and satisfied;
 3. The Department of Transportation, Highways Division shall provide the Department of Land and Natural Resources, Division of Land Management a site plan showing all design modifications to the old railroad bridge across the Wailua River and its approach roads. Said modifications are subject to the Chairperson's approval;

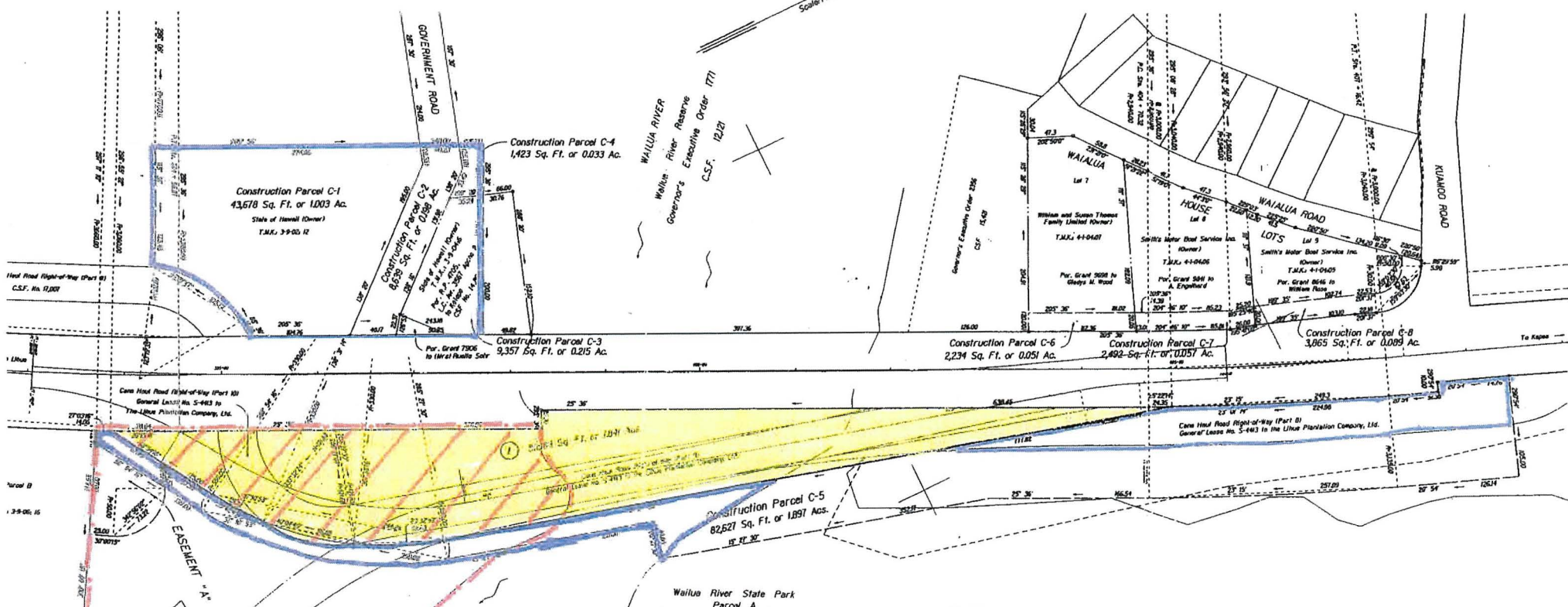
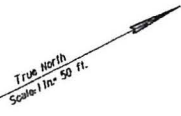
4. In the event burial sites, archeological or historical sites or artifacts are uncovered during the course of construction, work shall cease immediately and the Historic Preservation Office contacted in Honolulu;
5. Upon completion of any modifications, the hours of use as a vehicular contra-flow traffic lane by the Department of Transportation, Highways Division shall be from 6:00 a.m. to 8:00 a.m. and 3:30 p.m. to 5:30 p.m., Monday through Friday. Any changes to the above hours of operation of the subject road as a vehicular contra-flow traffic lane shall require the Chairperson's approval;
6. This right-of-entry shall be effective from the date the subject area is withdrawn from General Lease No. S-4413 and continue until the planned by-pass road is completed;
7. During the effective period of the right-of-entry, the Department of Transportation, Highways Division shall maintain the bridge across the Wailua River and its approach roads from Kuhio Highway in a condition that will effectuate the safe public passage of vehicular traffic;
8. Upon the expiration or cancellation of this right-of-entry, and/or abandonment of the premises for vehicular contra-flow traffic lane purposes, the Department of Transportation shall restore the premises to a condition acceptable to the Department of Land and Natural Resources;
9. Such other conditions as may be prescribed by the Chairperson.

Respectfully submitted,


W. MASON YOUNG
Land Management Administrator

APPROVED FOR SUBMITTAL:


WILLIAM W. PATY, Chairperson



- KEY**
- Subject Area
 - To be withdrawn from EO 3703
 - EO 3703 boundary
 - ROE Area

As shown:
 a. Denotes access permitted
 b. Denotes no access permitted
 c. Denotes no vehicle access permitted
 d. Denotes no access permitted

HBT & C

STATE OF HAWAII
 DEPARTMENT OF TRANSPORTATION
 HIGHWAYS DIVISION
RIGHT OF WAY MAP
 KUHIO HIGHWAY SHORT TERM IMPROVEMENTS
 WAILUA CANE HALL BRIDGE WIDENING
 FEDERAL AID PROJECT NO. CMAQ-07001(4-9)
 AT WAILUA, LILUKE, KAWAHAI, KAUAI, HAWAII

HONOLULU, HAWAII

APPROVED: _____ APPROVED: _____
 CHIEF ENGINEER FOR ADMINISTRATOR, HIGHWAYS DIVISION

LINDA LINGLE
GOVERNOR



BARRY FUKUNAGA
INTERIM DIRECTOR

DEPUTY DIRECTORS
FRANCIS PAUL KEENO
BRENNON T. MORIOKA
BRIAN H. SEKIGUCHI

HIGHWAY DESIGN BRANCH, ROOM 688A
BRIDGE DESIGN SECTION, ROOM 611
CADASTRAL DESIGN SECTION, ROOM 600
HIGHWAY DESIGN SECTION, ROOM 609
HYDRAULIC DESIGN SECTION, ROOM 636
TECHNICAL DESIGN SERVICE, ROOM 688

RIGHT-OF-WAY BRANCH, ROOM 691

TRAFFIC BRANCH, ROOM 602

MOTOR VEHICLE SAFETY OFFICE, ROOM 511


STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HIGHWAYS DIVISION AT KAPOLEI
601 KAMOKILA BOULEVARD, ROOM 691
KAPOLEI, HAWAII 96707

IN REPLY REFER TO:
HWY-R
3.84597

January 23, 2007

RECEIVED
LAND DIVISION
2007 JAN 25 P 3:06
MAIL ROOM

TO: RUSSELL TSUJI, ADMINISTRATOR
DEPARTMENT OF LAND AND NATURAL RESOURCES-
LAND DIVISION

FROM: DEAN K. YOGI 
RIGHT-OF-WAY MANAGER

SUBJECT: KUHIO HIGHWAY SHORT TERM IMPROVEMENTS, WAILUA CANE
HAUL BRIDGE WIDENING, TMK: (4) 3-9-06: POR. 1 AND 12,
PROJECT NO. CMAQ-0700(49) AT WAILUA, LIHUE, KAWAIHAU, KAUAI,
HAWAII

We request to amend a prior Board of Land and Natural Resources (BLNR) action dated June 12, 1992, authorizing withdrawal of lands from the operations of General Lease No. S-4413 and grant a Right-of-Entry to the Department of Transportation, Highways Division (DOT), for Contra-Flow Road Purposes. Due to changes in the traffic situation on Kauai and the need to improve the area, we request a formal withdrawal and set aside of Parcel 1 to DOT, by issuance of Governor's Executive Order, as shown on attached map, having an approximate area of 1.841 acres, and more particularly identified as being a portion of Tax Map Key No. (4) 3-9-06.

A copy of the final Right-of-Way Map will be forwarded to you upon completion, including metes and bounds description of the parcel. During the interim, pending issuance of the requested GEO, we request BLNR grant DOT immediate Right-of-Entry and possession of Parcel 1 in order that construction of the project can proceed without delay. If our request meets with your approval, please sign, date and return to us the Consent portion of the duplicate copy of this Memorandum within forty-five (45) days of the date of this letter.

Funding for the construction of the project is authorized by Act 160 SLH 2006, Item C-130.

A Final Environmental Assessment and Finding of No Significant Impact (FEA/FONSI) is currently being completed for this project.

EXHIBIT "D"

Russell Tsuji, Administrator
Page 2
January 23, 2007

HWY-R
3.84597

Estimated scheduling for the construction of the project is as follows:

Ready to Advertise: August 2007
Bid Opening: September 2007
Notice to Proceed: February 2008
Duration of Construction: Approximately 30 months

We request your expeditious efforts in approving our request. Thank you for your cooperation and attention to this request.

If there are any questions, please call me at 692-7325.

2 Enclosures

1. Preliminary Right-of-Way Map
2. Duplicate Copy of this Memorandum

c: ✓ DLNR - Kauai (Tommy Oi) w/ enclosure #1

Project No. 56A-02-06, Parcels 1, 2, 3, 4, 5, 6 and 7 (Combined)," containing an area of 80,296 square feet or 1.844 acres, more or less, TOGETHER WITH, any and all abutter's rights of access appurtenant to the remainder of the land of which Parcels 1, 2, 4, 6 and 7 is a part, into and from Kuhio Highway Short Term Improvements, Wailua Cane Haul Bridge Widening, Project No. 56A-02-06, over and across Courses 7 to 14, inclusive, of Parcels 1, 2, 3, 4, 5, 6 and 7 (combined), more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, both being designated C.S.F. No. 24,642 and dated June 27, 2008.

SUBJECT, HOWEVER, to the condition that the State of Hawaii, Department of Transportation, Highways Division, shall repair and maintain all pre-existing and future infrastructure improvements constructed on or servicing this parcel. If any portion of the parcel is ever returned to the State of Hawaii, Department of Land and Natural Resources upon any withdrawal or cancellation of this executive order, then at the request of the State of Hawaii, Department of Land and Natural Resources, the State of Hawaii, Department of Transportation shall remove all such pre-existing and future infrastructure improvements hereafter constructed, or alternatively, shall remain responsible for repair and maintenance of all such pre-existing and future infrastructure improvements, hereafter constructed, to perpetuity.

SUBJECT, FURTHER, to:

1. The condition that upon cancellation of this executive order or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or for any reason whatsoever, the State of Hawaii, Department of Transportation shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

2. Disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

3. The land being set aside shall retain its designation as a 6(f) protected property and is subject to all the terms and requirements of the Land and Water Conservation



Fund Act of 1965 and the Land and Water Conservation Fund Grants Manual.

4. As a 6(f) property, the land must be retained in outdoor recreation and any other use is subject to conversion and approval by the National Park Service.

5. The connector road must be used solely for ingress/egress to the Marina as part of Wailua River State Park. It cannot be used for other highway purposes without a conversion per the Land and Water Conservation Fund requirements.

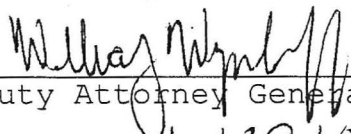
6. The State of Hawaii, Department of Transportation must become a co-sponsor for the two Land and Water Conservation Fund projects within Wailua River State Park upon the transfer.

This executive order does not authorize the recipient of the set aside to sell or exchange or otherwise relinquish the State of Hawaii's title to the subject public land.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed. Done at the Capitol at Honolulu this 15th day of JULY, 2009.


Governor of the State of Hawaii

APPROVED AS TO FORM:


Deputy Attorney General
Dated: 6/29/09



STATE OF HAWAII

Office of the Lieutenant Governor

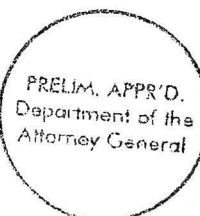
THIS IS TO CERTIFY That the within is a true copy of Executive Order No. 4285 setting aside land for public purposes, the original of which is on file in this office.

IN TESTIMONY WHEREOF, the Lieutenant Governor of the State of Hawaii, has hereunto subscribed his name and caused the Great Seal of the State to be affixed.



Lieutenant Governor of the State of Hawaii

DONE in Honolulu, this JUL 16 2009 day of
JUL 16 2009, A.D. 2009





STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

C.S.F. No. 24,642

June 27, 2008

KUHIO HIGHWAY SHORT TERM IMPROVEMENTS
WAILUA CANE HAUL BRIDGE WIDENING
Project No. 56A-02-06

PARCELS 1, 2, 3, 4, 5, 6 AND 7 (COMBINED)

Wailua, Lihue and Kawaihau, Kauai, Hawaii

Comprising the following:

- A. Portions of the Government (Crown) Land of Wailua, including a portion of Wailua River and portion of Parts 8, 9 and 10 of Cane Haul Road Right-of-Way.
- B. Portion of Grant 7563 to Ahukini Terminal and Railway Company, Ltd. conveyed to the Territory of Hawaii by Ahukini Terminal and Railway Company, Ltd. by deed dated October 5, 1934 and recorded in Liber 1256, Pages 9-11 (Land Office Deed 5020), being also portion of Parts 9 and 10 of Cane Haul Road Right-of-Way.

Beginning at the southwest corner of this parcel of land and on the southeast side of Kuhio Highway, Project No. F-12(15), the coordinates of said point of beginning referred to Government Survey Triangulation Station "NONOU" being 6347.86 feet South and 5965.86 feet East, thence running by azimuths measured clockwise from True South:-



1. Along the southeast side of Kuhio Highway, Project No. F-12(15) on a curve to the left with a radius of 3060.00 feet, the chord azimuth and distance being:
206° 23' 35" 84.71 feet;
2. 205° 36' 376.00 feet along the southeast side of Kuhio Highway, Project No. F-12(15);
3. Thence along the top of south bank of Wailua River, the direct azimuth and distance being:
309° 22' 47.99 feet;
4. 195° 27' 30" 378.31 feet along the remainder of Wailua River and the remainder of Cane Haul Road Right-of-Way (Part 9);
5. 205° 36' 277.50 feet along the southeast side of Kuhio Highway, Project No. F-12(15);
6. Thence along the southeast side of Kuhio Highway, Project No. F-12(15) on a curve to the left with a radius of 3040.00 feet, the chord azimuth and distance being:
205° 22' 14" 24.35 feet;
7. 15° 27' 30" 266.65 feet along the remainder of Cane Haul Road Right-of-Way (Part 8);
8. Thence along Parcel 1 of Wailua River Park on a curve to the left with a radius of 2480.00 feet, the chord azimuth and distance being:
20° 38' 09" 60.86 feet;
9. Thence along highwater mark at seashore along Parcel 1 of Wailua River Park, the direct azimuth and distance being:
302° 52' 42" 5.76 feet;
10. 15° 27' 30" 388.28 feet across Wailua River;
11. 15° 27' 30" 60.54 feet along Wailua River State Park (Lydgate Area), Governor's Executive Order 3703;



12. Thence along Wailua River State Park (Lydgate Area), Governor's Executive Order 3703 on a curve to the right with a radius of 330.00 feet, the chord azimuth and distance being:
23° 32' 53" 92.88 feet;
13. Thence along Wailua River State Park (Lydgate Area), Governor's Executive Order 3703 on a curve to right with a radius of 121.68 feet, the chord azimuth and distance being:
28° 02' 52" 48.22 feet;
14. 28° 02' 51" 225.48 feet along Wailua River State Park (Lydgate Area), Governor's Executive Order 3703;
15. 120° 00' 15" 110.00 feet along the remainder of the Government (Crown) Land of Wailua to the point of beginning and containing an AREA OF 80,296 SQUARE FEET OR 1.844 ACRES, MORE OR LESS.

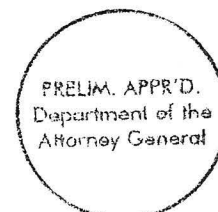


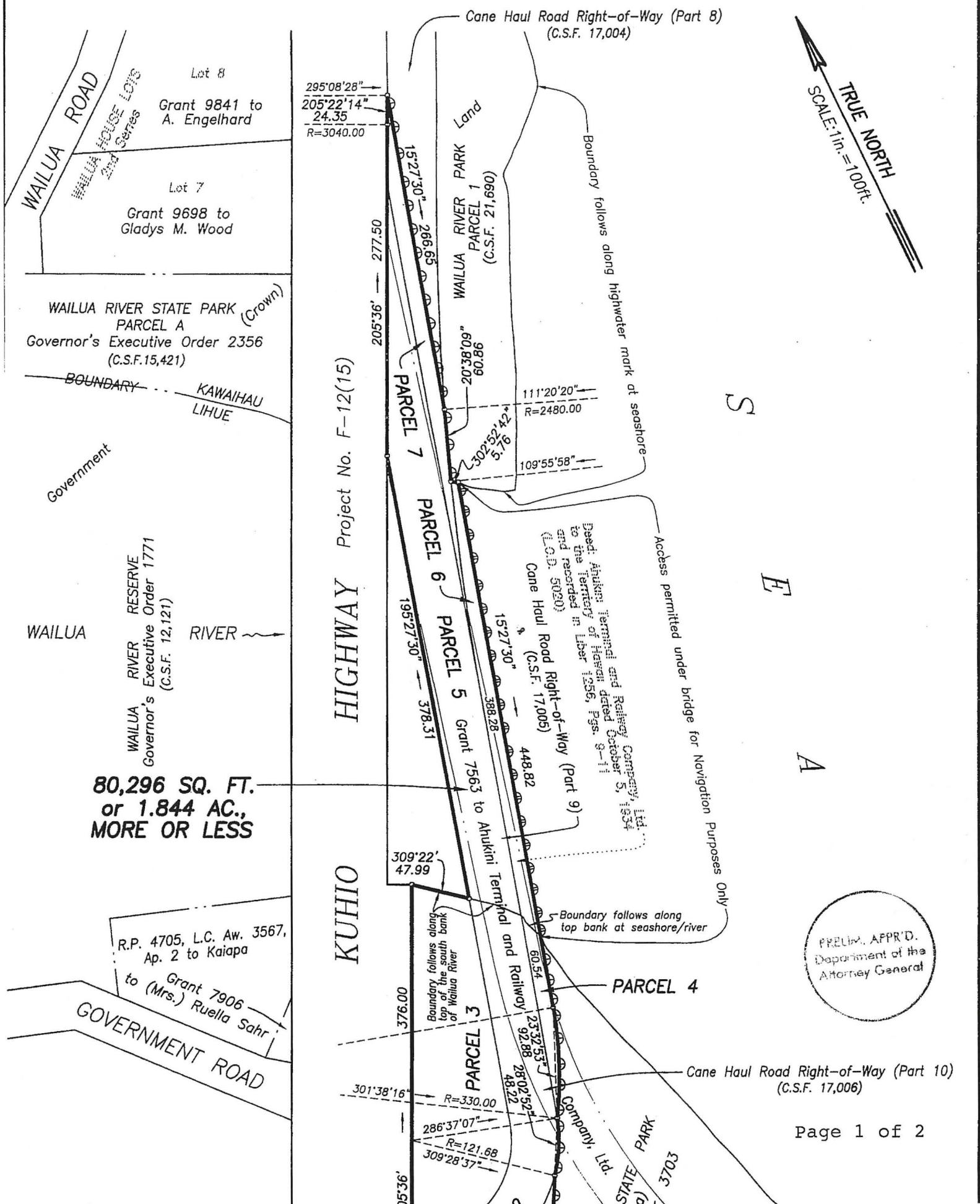
TOGETHER WITH, any and all abutter's rights of access appurtenant to the remainder of the land of which Parcels 1, 2, 4, 6 and 7 is a part, into and from Kuhio Highway Short Term Improvements, Wailua Cane Haul Bridge Widening, Project No. 56A-02-06, over and across Courses 7 to 14, inclusive, of the above-described Parcels 1, 2, 3, 4, 5, 6 and 7 (Combined).

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: *Glenn J. Kodani*
Glenn J. Kodani
Land Surveyor ml

Compiled from Kuhio Highway Short
Term Improvements, Wailua Cane Haul
Bridge Widening, Project No. 56A-02-06
and other Govt. Survey Records.





S
E
A

PRELIM. APPR'D.
Department of the
Attorney General

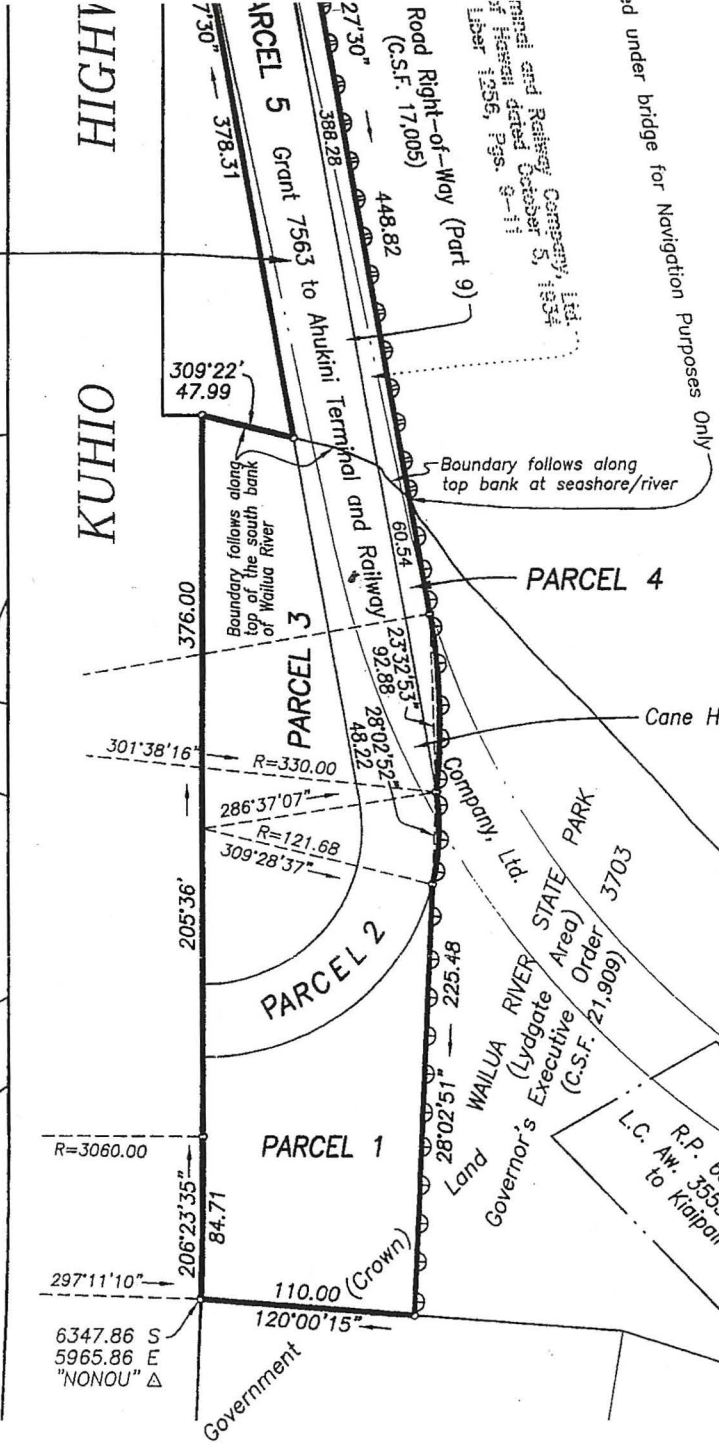
WAILUA RIVER
 WAILUA RIVER Governor's Executive (C.S.F. 12)

80,296 SQ. FT.
 or 1.844 AC.,
 MORE OR LESS

R.P. 4705, L.C. Aw. 3567,
 Ap. 2 to Kaiapa
 Grant 7906
 to (Mrs.) Ruella Sahr

GOVERNMENT ROAD

Cane Haul Road Right-of-Way (Part 11)
 (C.S.F. 17,007)



A

id under bridge for Navigation Purposes Only

Boundary follows along top bank at seashore/river

Boundary follows along top of the south bank of Wailua River

Cane Haul Road Right-of-Way (Part 10) (C.S.F. 17,006)

R.P. 8945, Ap. 2
 to Kaiapa

Deed: County of Kauai to the State of Hawaii dated November 15, 1872 and recorded in Liber 8788, Pg. 138 (L.C.D. S-25753)

**KUHIO HIGHWAY SHORT TERM IMPROVEMENTS
 WAILUA CANE HAUL BRIDGE WIDENING
 Project No. 56A-02-06**

PREPARED
 Department of the
 Attorney General

PARCELS 1, 2, 3, 4, 5, 6 AND 7 (COMBINED)

Wailua, Lihue and Kawaihau, Kauai, Hawaii Page 2 of 2

Scale: 1 inch = 100 feet

EXHIBIT "B"

Job K-147(08)

C. BK.

Denotes no access permitted
 Denotes limited access as noted on plan

TAX MAP 3-9-06 : Pors. 12 and 29

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

STATE OF HAWAII

C.S.F. NO. 24,642

JGL June 27, 2008