

State of Hawai'i  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of State Parks  
Honolulu, Hawai'i

October 22, 2021

Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

O'AHU

AMEND PRIOR BOARD ACTION OF JUNE 26, 2020, ITEM E-1, LICENSE OF FEDERAL PROPERTY FROM THE UNITED STATES OF AMERICA TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF STATE PARKS FOR STATE PARK PURPOSES, AT MAKUA, WAIANAE, O'AHU, TAX MAP KEY NOS.: (1) 8-1-001: 001, 002, 009, 010 AND (1) 8-2, 001: 002, 009, 010 IN ORDER TO:

(1) AUTHORIZE THE CONTINUED USE OF THE SUBJECT AREA FOR STATE PARK PURPOSES FROM MARCH 1, 2011 TO DECEMBER 31, 2019; AND

(2) AUTHORIZE A DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT PURSUANT TO CHAPTER 343, HAWAII REVISED STATUTES.

**BACKGROUND:**

The initial term for Contract No. DACA84-1-01-20 was five years, effective March 1, 2001. Supplemental Agreement No. 1, dated August 15, 2005, extended the Lease for an additional five years—until February 28, 2011. An initial submittal to the Board of Land and Natural Resources (“Board”) was submitted for a continued five-year license—from March 1, 2011 to February 29, 2016—and approved by the Board as Item E-1 at the Board’s meeting on September 28, 2018. See URL <https://dlnr.hawaii.gov/wp-content/uploads/2018/09/E-1.pdf>. However, the continued license was never executed.

At its June 26, 2020 meeting, the Board authorized License No. DACA84-3-17-0187 (the “License”) with the United States of America, which supersedes Contract No. DACA84-1-01-20, and leases the subject federal property from the United States of America, *gratis*, for another five-year term—from January 1, 2020-to-December 31, 2025—for State Park purposes. See URL, <https://dlnr.hawaii.gov/wp-content/uploads/2020/06/E-1-1.pdf>.

Inadvertently omitted from the submittal and June 26, 2020 Board action was (1) authorization of the State’s continued use of the subject federal property from March 1, 2011 to December 31, 2019; and (2) a declaration that the license to be exempt from the

**ITEM E-1**

preparation of an Environmental Assessment pursuant to Chapter 343, Hawaii Revised Statutes (“HRS”). The purpose of the current Board submittal is to correct these two omissions.

#### **DESCRIPTION OF SUBJECT FEDERAL LANDS**

The subject federal lands are located along the shoreline at Makua, Waianae, O’ahu; they are identified by the City and County of Honolulu as Tax Map Key Nos.: (1) 8-1-001: 001, 002, 009, 010 and (1) 8-2, 001: 002, 009, 010, attached as **EXHIBIT A**.

Some of the subject federal lands are within or adjacent to state lands currently encumbered by Governor’s Executive Order No. 3338 issued to the Department of Land and Natural Resources, Division of State Parks on May 12, 1986 for outdoor recreation and historic site purposes. The agreement would optimize the overall management at Ka’ena Point State Park, Makua Beach Section by the Division of State Parks.

These shoreline lands fall within the conservation district, and therefore trigger the environmental provisions in Chapter 343, HRS.

#### **CHAPTER 343 ENVIRONMENTAL ASSESSMENT:**

In accordance with Hawai’i Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources concurred by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Class No. 1, “Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing”; Part 1; Item 40, which applies to “Leases of State land involving negligible or no expansion or change of use beyond that previously existing.”

The requested Exemption Notification is attached as **EXHIBIT B**.

#### **AGENCY COMMENTS**

DAR	None
DOFAW	None
OCCL	None
OHA	None
LAND	Response is incorporated above.

**RECOMMENDATIONS:**

That the Board:

1. Approve the State's continued of the federal lands located at Makua, Waianae, O'ahu and identified as Tax Map Key Nos.: (1) 8-1-001: 001, 002, 009, 010 and (1) 8-2, 001: 002, 009, 010 for State Park purposes from March 1, 2011 to December 31, 2019;
2. Determine that in accordance with Hawaii Administrative Rule Section 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated November 10, 2020, the subject request is exempt from the preparation of an environmental assessment, and further authorize the execution of the attached exemption notification to that effect.
3. Authorize the Chairperson or her representative to negotiate and approve terms of the license, subject to review and approval by the Department of the Attorney General; and
4. Authorize the Chairperson to prescribe other terms and conditions as may serve the best interests of the State.

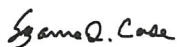
Respectfully submitted,

: 

---

CURT A. COTTRELL  
Administrator  
Division of State Parks

APPROVED FOR SUBMITTAL:



---

SUZANNE D. CASE  
Chairperson  
Board of Land and Natural Resources

ATTACHMENTS:

Exhibit A – Location

Exhibit B – Exemption Notification

9/28/2018 BLNR Submittal URL link - <https://dlnr.hawaii.gov/wp-content/uploads/2018/09/E-1.pdf>

6/26/2020 BLNR Submittal URL link - <https://dlnr.hawaii.gov/wp-content/uploads/2020/06/E-1-1.pdf>

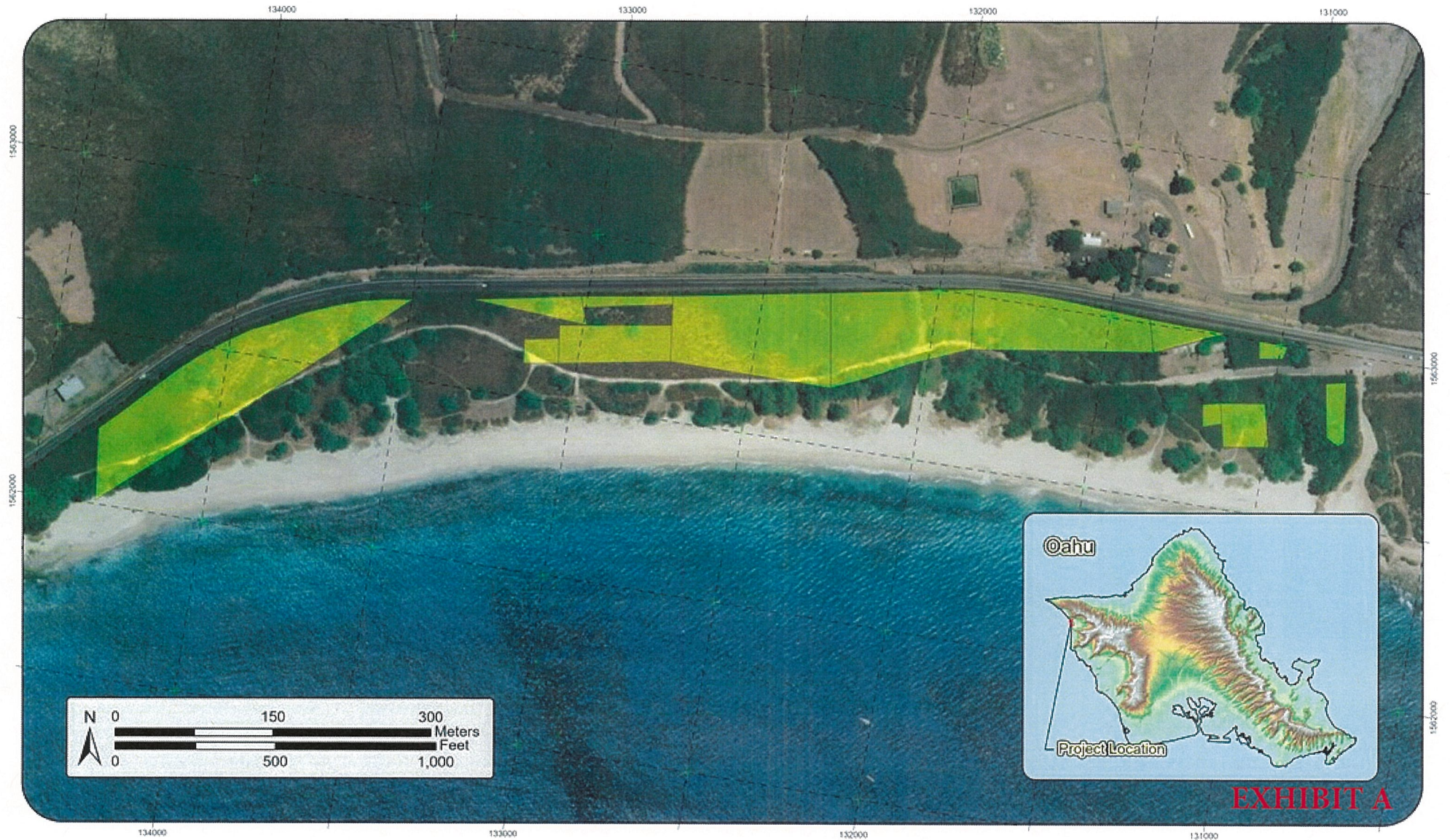






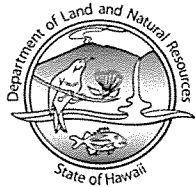
US Army Corps  
of Engineers

DACA84-3-17-187  
DLNR Makua Beach





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  
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  
KAHOOLEWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

DIVISION OF STATE PARKS  
1151 PUNCHBOWL STREET, SUITE 310  
HONOLULU, HAWAII 96813

**EXEMPTION NOTIFICATION**

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

Project Title:	LICENSE OF FEDERAL PROPERTY FROM USA
Project / Reference No.:	License No. DACA84-3-17-0187 (S/S no. DACA84-1-01-20)
Project Location:	MAKUA, WAIANAE, AND O'AHU, TAX MAP KEY: (1) 8-1-1:1, 2, 9, 10 AND 8-2, 1:2, 9, 10
Project Description:	State Parks for State Park Purposes
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No(s).:	<p>In accordance with Hawai'i Administrative Rule Chapter 11-200.1 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred in by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to:</p> <p>HAR § 11-200.1-15: "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing."</p> <p>Exemption List, Exemption Class 1, Exemption 40: "Leases of State land involving negligible or no expansion or change of use beyond that previously existing."</p>
Cumulative Impact of Planned Successive Actions in Same Place, Over Time, Significant?	No. The proposed permitted area is already used as a beach and park to support that purpose.
Action May Have Significant Impact on Particularly Sensitive Environment?	No. The proposed permitted area is not a particularly sensitive environment.
Analysis:	The proposed permitted area was developed as a beach park area, unpaved. It is still used as such. The action in question merely permits the applicant to manage and does not change the use beyond that previously existing.
Consulted Parties:	Division of Forestry and Wildlife, Office of Conservation and Coastal Lands, Office of Hawaiian Affairs, Division of Aquatic Resources. Land (Oahu District) with comments as noted.
Declaration	The Board determines, through its judgment and experience, that the action will individually and cumulatively probably have minimal or no significant effects, and that the action is declared exempt from the preparation of an environmental assessment.

**EXHIBIT B**

