

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

November 12, 2021

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

PSF No. 21HD-022

Hawaii

Amend Prior Board Action of July 23, 2021, Item D-2, Issuance of Right-of-Entry-Permit to the Division of Forestry and Wildlife (DOFAW) on Unencumbered State Lands for Lowland Dry Forest Management Purposes; Authorize Memorandum of Understanding (MOU) between the University of Hawaii and DOFAW to Collaboratively Steward and Manage Lands; Request Delegation of Authority to the Chairperson to Negotiate, Finalize and Execute the MOU Subject to Approval as to Form by The Department of the Attorney General at Palamanui, North Kona, Hawaii, Tax Map Key Numbers: (3)7-3-010:032, (3) 7-3-010: Portion of 046, and (3) 7-3-010: Portion of 062.

The purpose of the amendment is to change the initial term of the right-of-entry permit to one year, and authorize the Chairperson to continue the right-of-entry permit annually for good cause shown.

BACKGROUND:

At its meeting on July 23, 2021, under agenda Item D-2, the Board of Land and Natural Resources (Board) approved, as amended, a staff submittal authorizing the issuance of a Right-of-Entry (ROE) permit to DOFAW and further authorizing DOFAW to enter into a Memorandum of Understanding with the University of Hawaii to collaboratively steward and manage unencumbered State lands near the Palamanui Community College in North Kona, Hawaii within TMKs: (3)7-3-010:032, (3) 7-3-010: Portion of 046, and (3) 7-3-010: Portion of 062. A copy of the Board action of July 23, 2021, Item D-2, approved as amended, is attached as Exhibit A.

The original board submittal requested that a one-year ROE permit be issued to DOFAW. Upon deliberation, the Board amended the staff submittal to authorize an ROE permit with an initial term of three years. The Board amendment also replaced Recommendation 1.B of the submittal with the following:

1. B “The Chairperson is authorized to extend or renew the right-of-entry [~~annually~~] for good cause shown; and”

A copy of the relevant portion of the approved minutes of the July 23, 2021 meeting is attached as Exhibit B.

Upon further discussion with the Attorney General's office, staff understands that Section 171-55, Hawaii Revised Statutes, limits ROE permits to one-year periods that may be continued for additional one year periods.

REMARKS:

Based upon consultation with the Attorney General's office, staff now requests that the term of the ROE permit be restored to the original request period of one year. Further, staff requests that Recommendation 1.B be amended to read as follows:

1. B. The Chairperson is authorized to [~~extend~~] continue the right-of-entry annually for good cause shown; and

RECOMMENDATION:

That the Board:

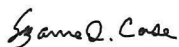
1. Amend its prior Board action of July 23, 2021, under agenda item D-2, as amended, by:
 - a. Changing the initial term of the Right-of-Entry to DOFAW from three years to one year; and
 - b. Amending Recommendation 1.B to read as follows: "The Chairperson is authorized to continue the right-of-entry annually for good cause shown; and"
2. Affirm that, except as amended hereby, all other terms and conditions listed in its July 23, 2021 approval shall remain the same.

Respectfully submitted,



Michael H. Ferreira, Land Agent V

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

RT

EXHIBIT A

Exhibit A

D-2

AMENDED

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

July 23, 2021

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

PSF No.21HD-022

Hawaii

Issuance of Right-of-Entry-Permit to the Division of Forestry and Wildlife (DOFAW) on Unencumbered State Lands for Lowland Dry Forest Management Purposes; Authorize Memorandum of Understanding (MOU) between the University of Hawaii and DOFAW to Collaboratively Steward and Manage Lands; Request Delegation of Authority to the Chairperson to Negotiate, Finalize and Execute the MOU Subject to Approval as to Form by The Department of the Attorney General, at Palamanui, North Kona, Hawaii, Tax Map Key Numbers: (3) 7-3-010:032, (3) 7-3-010: Portion of 046, and (3) 7-3-010: Portion of 062

APPLICANT

University of Hawaii and State of Hawaii Department of Land and Natural Resources, Division of Forestry and Wildlife.

LEGAL REFERENCE

Sections 171-6 and -55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at North Kona, Hawaii, identified by Tax Map Keys: (3) 7-3-010:032, (3) 7-3-010: portion of 046, and (3) 7-3-010: portion of 062, as shown on the attached map labeled as **Exhibit 1**.

AREA:

Combined Parcel Area: Approximately 837 acres, more or less.

Right-of-Entry Area: 706 acres, more or less.

Consisting of:

- 1) TMK 7-3-010:062 (portion of ~414 acre parcel), = ~285 acres
- 2) TMK 7-3-010:046 (portion of ~11 acre parcel), = ~9 acres
- 3) TMK 7-3-010:032 (entire ~412 acre parcel).

Total = 706.

as amended

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

July 23, 2021 *uo*

D-2

ZONING:

State Land Use District: Agriculture and Urban
County of Hawaii CZO: A-5a (Agriculture, 5 acre minimum)

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:

Unencumbered.

CHARACTER OF USE:

For lowland dry forest management purposes in collaboration with the University of Hawaii.

TERM OF RIGHT OF ENTRY:

One year, subject to annual renewals with Chairperson approval.

CONSIDERATION:

Gratis

HRS CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on November 10, 2020, the subject action is exempt from the preparation of an environmental assessment pursuant to General Exemption Types 4 and 5. See **Exhibit 2** attached for more information.

DCCA VERIFICATION:

Not applicable. UH and DOFAW are both State agencies or divisions thereof and are not required to register with DCCA.

REMARKS:

The subject lands comprise approximately 706 acres of unencumbered lands adjacent to the University of Hawaii (UH) Hawaii Community College Palamanui Campus. The area contains existing and remnant lowland dry forest, which is a critically endangered

ecosystem with less than 5% of its original extent remaining in the Hawaiian Islands. Among the most diverse ecosystems in the state and home to many rare and endangered plant and animal species, the remaining lowland dry forests in Hawai‘i face threats such as wildfire, grazing, invasive species, and land development.

Over the past several years, faculty, staff, and students of the UH Palamanui Campus have been identifying rare native trees surrounding the campus and working towards protection of the forest resources of the area. In 2018, the Division of Forestry and Wildlife (DOFAW) and UH Palamanui Campus and Office of Sustainability conducted a site visit to discuss options for protecting the area from natural resource threats, primarily feral goats and wildfire, and the ultimate restoration of this tropical dryland forest. During this meeting and in following discussions with Land Division, the parties identified the need for collaborative management of the forest, as well as recognized the opportunity to build and support knowledge transfer between the Department of Land and Natural Resources (Department), UH faculty and students, and the surrounding community.

DOFAW seeks to form a partnership with UH to help protect, conserve, and manage the existing and remnant native lowland dry forest and the unique endemic species surrounding the UH Palamanui Campus from threats such as grazing from feral animals and wildfire. DOFAW will provide support and technical expertise in stewarding the lands for these purposes. The subject lands are currently unencumbered and under the Land Division’s management.

The purpose of the MOU is to establish a cooperative agreement to steward the subject lands and support the parties to pursue additional funding and resources to help meet both the conservation and education goals for the Department and UH. The parties intend to collaboratively steward and manage the subject lands to protect the unique and sensitive natural and cultural resources while providing educational and service-learning opportunities for UH students and other groups ranging from school children to continuing education for land managers, natural resource professionals, surrounding community, and the general public. UH seeks to develop and utilize the subject lands as a learning laboratory and place where applied research and vocational learning can occur in the areas of tropical forestry, ecology, hydrology, conservation biology, and natural resource management.

The parties have worked together to draft an MOU, attached as **Exhibit 3**. The Land Division has no objection to the execution of the MOU, subject to review and approval by the Department of the Attorney General.

Land Division is therefore recommending the issuance of a right-of-entry permit, to DOFAW over the subject lands for lowland dry forest management purposes in collaboration with UH through the MOU. DOFAW and UH will collaboratively steward these significant resources and support each other in building knowledge on the restoration and conservation of this rare forest type.

The following State and County of Hawaii agencies were consulted on this action with the results indicated:

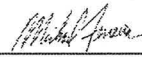
Agency:	Comment:
Division of Forestry and Wildlife (DOFAW)	DOFAW is the applicant
Office of Conservation and Coastal Lands	No comments
Historic Preservation	No response by suspense date
Hawaii District Land Office	No response by suspense date
University of Hawaii	No response by suspense date
Department of Agriculture	No response by suspense date
Department of Hawaiian Home Lands	No response by suspense date
Office of Hawaiian Affairs	No response by suspense date
County of Hawaii Planning Department	No objections. Comments attached as Exhibit 4 .

RECOMMENDATION: That the Board:

1. Authorize the issuance of a right-of-entry permit to the Department of Land and Natural Resources, Division of Forestry and Wildlife 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;
 - B. The Chairperson is authorized to extend the right-of-entry annually for good cause shown; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the Division of Forestry and Wildlife to enter into a Memorandum of Understanding with the University of Hawaii to collaboratively steward and manage the lands 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 memorandum of understanding form, as may be amended from time to time;
 - B. Authorize the Chairperson to negotiate, finalize and execute, or delegate authority to the Administrator of the Division of Forestry and Wildlife to execute, the Memorandum of Understanding, subject to approval as to form by the Department of Attorney General; and

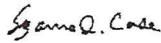
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Michael H. Ferreira, Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson *RT*

ATTACHMENTS:

- Exhibit 1. Palamanui Area Map
- Exhibit 2. Exemption Notification
- Exhibit 3. Draft Memorandum of Understanding
- Exhibit 4. Response from County of Hawaii Planning Dept.

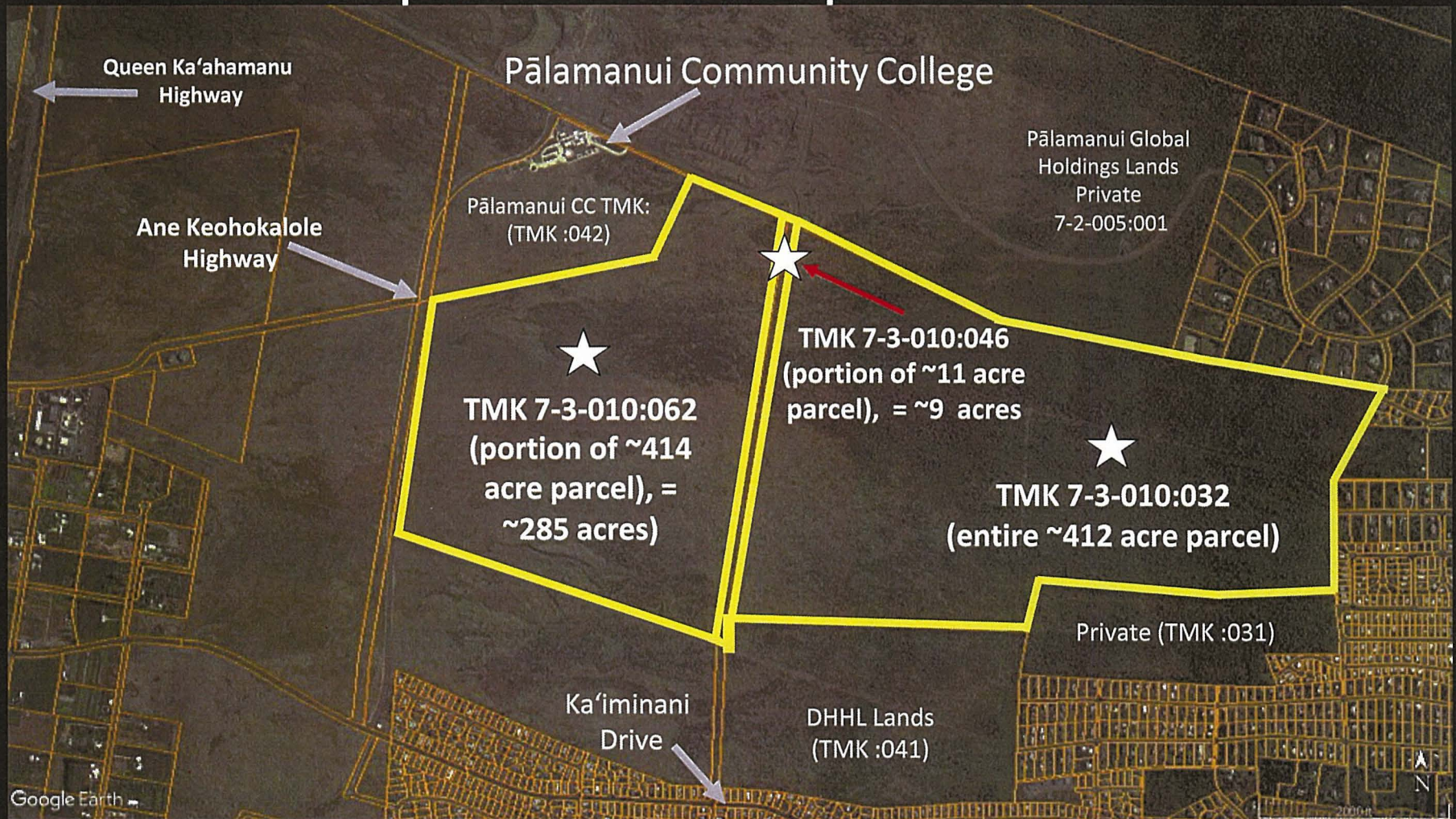
Land Board Meeting: July 23, 2021, D-2: Approved as amended.

Approved as amended. The Board favored a Right of Entry to DOFAW for 3 years instead of only 1 year. Accordingly, the Board amended the term of the Right of Entry to Three (3) years, subject to renewals by the Chairperson on page 2 of the submittal, and replaced Recommendation 1.B with the following:

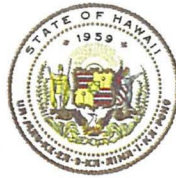
1. B. “The Chairperson is authorized to extend or renew the right-of-entry [annually] for good cause shown; and”

Proposed Pālanuanui Campus Reserve

EXHIBIT 1



DAVID Y. IGE
GOVERNOR OF HAWAII



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
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

July 23, 2021

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:	Issuance of Right-of-Entry-Permit to the Division of Forestry and Wildlife (DOFAW) on Unencumbered State Lands for Lowland Dry Forest Management Purposes; Authorize Memorandum of Understanding (MOU) between the University of Hawaii and DOFAW to Collaboratively Steward and Manage Lands; Request Delegation of Authority to the Chairperson to Negotiate, Finalize and Execute the MOU Subject to Approval as to Form by the Department of the Attorney General
Project / Reference No.:	PSF No. 21HD-022.
Project Location:	At Palamanui, North Kona, Hawaii.
Project Description:	TMKs: (3)7-3-010:32, (3) 7-3-10: Por of 046, and (3) 7-3-010: Por of 062
Chap. 343 Trigger(s):	Use of State Land
Exemption Class No. and Description:	<p>In accordance with HAR § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on November 10, 2020, the subject request for approval of an MOU is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 4.</p> <p>Minor alterations in the conditions of land, water, or vegetation. PART 1</p> <p>2. Removal of invasive vegetation utilizing cutting, mowing, application of federal and state approved herbicides in conformance with label instructions, distribution of biocontrol agents already approved and permitted by the State of Hawaii, and other approved methods. This exemption would not apply to issuing permits for initial releases of biocontrol of invasive species which are regulated and permitted by the Department of Agriculture or commercial logging.</p>

	<p>5. Gathering plant seed, cuttings, or other vegetative matter for propagation.</p> <p>6. Minor ground adjustments (e.g., grading, grubbing, cutting, clearing, or filling) that do not require grading permits.</p> <p>General Exemption Type 5</p> <p>Basic data collection, research, experimental management, and resource and infrastructure testing and evaluation activities that do not result in a serious or major disturbance to an environmental resource.</p> <p>PART 1</p> <ol style="list-style-type: none"> 1. Conduct surveys or collect data on existing environmental conditions (e.g, noise, air quality, water flow, water quality, etc.). 2. Non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping. 12. Conduct terrestrial and marine archaeological surveys. 15. Game and non-game wildlife surveys, vegetation and rare plant surveys, aquatic life surveys, inventory studies, new transect lines, photographing, recording, sampling, collection, culture, and captive propagation. 16. Research to identify, monitor, control, or eradicate introduced species.
<p>Cumulative Impact of Planned Successive Actions in Same Place Significant?</p> <p>Action May Have Significant Impact on Particularly Sensitive Environment?: Analysis:</p>	<p>No, the requested locations will be used for same uses upon approval of the MOU.</p> <p>No. The project is intended to protect a sensitive environment and its rare and endangered plant and animal species through lowland dry forest management.</p>
Analysis:	<p>The request involves the issuance of a management right-of-entry to DOFAW and an MOU between DOFAW and UH for lowland dry forest management purposes. Staff believes that the request would involve negligible or no expansion or change in use of the subject land</p>

Exhibit 2

	beyond that previously existing. The ROE and MOU are intended to protect this rare ecosystem and its rare and endangered plant and animal species.
Consulted Parties	Agencies listed in submittal.
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.

Exhibit 2

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE UNIVERSITY OF HAWAI‘I
AND
STATE OF HAWAI‘I
DEPARTMENT OF LAND AND NATURAL RESOURCES,
DIVISION OF FORESTRY AND WILDLIFE**

This Memorandum of Understanding (“Agreement”) is made this _____ day of _____, 2021, by and between the University of Hawai‘i, whose principal place of business is 2444 Dole Street, Honolulu, Hawai‘i 96822 (hereinafter “UH”), and the State of Hawai‘i (“State”), Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife, a public agency of the State whose principal place of business is 1151 Punchbowl Street, Rm 325, Honolulu, HI 96813 (hereinafter “DOFAW”). UH and DOFAW are each referred to herein individually as a “party” and collectively as the “parties.”

BACKGROUND

The UH Hawai‘i Community College Pālananui Campus (“Pālananui”) is located in an area with native lowland tropical dry forest on or nearby lands that are owned by the State and under the management of the DLNR (“Pālananui Lands”), which in Hawai‘i is a critically endangered ecosystem with less than 5% of its original area remaining since human settlement of the Hawaiian Islands.

As part of the UH’s commitment to promoting lifelong learning while emphasizing knowledge and experience necessary for its students to pursue academic achievement and workforce readiness, faculty and students have been partnering with various community organizations on trail restoration, protective fencing and outplanting of native species since the campus opened in Fall 2015.

DOFAW seeks to form partnerships to help protect and conserve the native lowland dry forest and its unique endemic species to fulfill the agency’s mission to enhance, conserve and manage Hawai‘i’s unique and limited natural, cultural, and historic resources held in public trust for current and future generations of the people of Hawai‘i nei, and its visitors, in partnership with others from the public and private sectors.

UH is uniquely situated to partner with DOFAW to promote conservation actions in the state lands surrounding Pālananui as the Pālananui Lands may serve as a place for students to learn about natural resource management, conservation, natural history, biology, and the threats Hawai‘i’s unique ecosystems face.

PURPOSE AND SCOPE

The purpose of this Agreement is to support the parties to pursue additional funding and resources to help meet both the conservation and education goals for DOFAW and UH.

The parties agree to cooperate and pursue the following objectives:

- A. Collaboratively steward and manage the Pālanui Lands to protect the unique and sensitive natural and cultural resources while providing educational and service opportunities for UH students and other groups ranging from school children to continuing education for land managers, natural resource professionals, and the general public.
- B. Utilize the Pālanui Lands as a learning laboratory and place where applied research and vocational learning can occur in the areas of tropical forestry, ecology, hydrology, conservation biology, and natural resource management. This will advance our understanding of and ability to protect and restore tropical dry forests in the Pacific and native ecosystems and cultural sites.
- C. Unite UH students, faculty and staff and members of the community by exploring, learning about, and protecting the Pālanui Lands together.
- D. Provide greenspace and a place for appropriate recreational opportunities.
- E. Protect and restore native lowland tropical dry forest and archaeological and culturally significant sites and reduce the harmful effects of threats to the Pālanui Lands.
 - a. Threats include wildfire, non-native and/or invasive species including non-native grasses, herbs, shrubs, and trees; insects; and ungulates including sheep, goats, pigs and cattle.
 - b. Efforts may include developing a multi-resource management plan; non-native species reduction and removal; managed public hunting opportunities; native plant species seed collection for propagation and seed bank storage; reintroduction of native plant species; collaboration with other agencies; and construction and maintenance of infrastructure including fences, access roads and trails, fire mitigation measures, and other structures to facilitate conservation or restoration activities.

TERMS & CONDITIONS

In furtherance of the purpose and objectives listed above, the parties agree to the following:

- A. The parties shall establish an Advisory Committee consisting of at least one UH representative and one DOFAW representative who will advise on management, education, research, and demonstration activities on the Pālanui Lands.
- B. The parties shall freely exchange information and findings and consult with each other to coordinate activities and develop land management plans and/or policies that advance the objectives above.
- C. This Agreement is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds, transfer of property, services or

EXHIBIT 3

MEMORANDUM OF UNDERSTANDING
BETWEEN THE UNIVERSITY OF HAWAII
AND STATE OF HAWAI'I, DIVISION OF FORESTRY AND WILDLIFE

anything of value between the parties will be handled in accordance with applicable laws, rules, regulations, and procedures. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by the appropriate statutory authority. Nothing in this Agreement shall be interpreted as obligating unappropriated funds by either entity.

- D. This Agreement shall be effective upon full execution of this Agreement and may be terminated by either party at any time by providing sixty (60) days' prior written notice.

SIGNATURES

I hereby agree to the terms of this Agreement:

STATE OF HAWAI'I DEPARTMENT OF LAND AND NATURAL RESOURCES,
DIVISION OF FORESTRY AND WILDLIFE

David Smith, Division of Forestry and Wildlife Administrator

Date

Approved as to Form: _____

UNIVERSITY OF HAWAI'I

Rachel Solemsaas, Chancellor, Hawai'i Community College

Date

Erika Lacro, Vice President for Community Colleges

Date

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 26, 2021

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
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

PSF No.21HD-022

MEMORANDUM

TO:

State Agencies:

- ☒ DLNR-Forestry & Wildlife
- ☐ DLNR-State Parks
- ☐ DLNR-Engineering
- ☒ DLNR-Historic Preservation
- ☒ DLNR-Conservation and Coastal Lands
- ☐ DLNR-Commission on Water Resource Management
- ☒ DLNR-Hawaii District Land Office
- ☒ Department of Hawaiian Home Lands
- ☒ Office of Hawaiian Affairs
- ☒ Department of Agriculture
- ☒ University of Hawaii

County of Hawaii Agencies:

- ☒ Planning Department
- ☐ Department of Public Parks
- ☐ Department of Water Supply

FROM:

Michael Ferreira, Land Agent V

A handwritten signature in blue ink, appearing to read "M Ferreira", is written over the name "Michael Ferreira".

SUBJECT:

Issuance of Right-of-Entry-Permit to the Division of Forestry and Wildlife (DOFAW) on Unencumbered State Lands for Lowland Dry Forest Management Purposes; Authorize Memorandum of Understanding (MOU) between the University of Hawaii and DOFAW to Collaboratively Steward and Manage Lands; Request Delegation of Authority to the Chairperson to Negotiate, Finalize and Execute the MOU Subject to Approval as to Form by the Department of the Attorney General.

LOCATION: Palamanui, North Kona Hawaii, TMKs: (3)7-3-010:32, (3) 7-3-10:Por of 046, and (3) 7-3-010: Por of 062.

APPLICANT: University of Hawaii and Department of Land and Natural Resources, Division of Forestry and Wildlife

EXHIBIT 4

Transmitted for your review and comment is a draft Board submittal of the above referenced request involving State lands. We would appreciate your comments on this application. Please submit any comments by June 16, 2021. If no response is received by this date, we will assume that you have no comments. If you have any questions about this request, please contact me at my office at 587-0421, or email Michael.H.Ferreira@hawaii.gov. Thank you.

Enclosure

- ☒ We have no objections.
- ☐ We have no comments.
- ☒ Comments are attached.

Signed: _____

A handwritten signature in purple ink, consisting of a stylized 'Z' or 'N' shape followed by a horizontal line.

EXHIBIT 4

Mitchell D. Roth
Mayor

Lee E. Lord
Managing Director

West Hawai'i Office
74-5044 Ane Keohokālole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563



County of Hawai'i
PLANNING DEPARTMENT

Zendo Kern
Director

Jeffrey W. Darrow
Deputy Director

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

June 4, 2021

Michael Ferreira, Land Agent
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Dear Mr. Ferreira,

Subject: Issuance of Right -of -Entry -Permit to the Division of Forestry and Wildlife (DOFAW) on Unencumbered State Lands for Lowland Dry Forest Management Purposes; Authorize Memorandum of Understanding (MOU) between the University of Hawaii and DOFAW to Collaboratively Steward and Manage Lands; Request Delegation of Authority to the Chairperson to Negotiate, Finalize and Execute the MOU Subject to Approval as to Form by the Department of the Attorney General.

Applicant: University of Hawaii and Department of Land and Natural Resources, Division of Forestry and Wildlife

TMK: (3) 7-3-010:032, (3) 7-3-010: Por of 046, and (3) 7-3-010: Por of 062. Palamanui, North Kona Hawaii, Island of Hawai'i

Thank you for including us in consultation for this draft Board submittal. The County of Hawaii is supportive of the MOU objectives A - E and we have no objections overall.

It is notable that the Land Use Pattern Allocation Guide (LUPAG) of the County's 2005 General Plan denotes these parcels for 'Urban Expansion'. Obviously, this may be inconsistent with public trust duties to preserve critical or endangered habitats. Potentially confounding this may be that the associated Zoning is Agriculture, with minimum 5 acre lot size.

The proposal also underscores the synergistic nature of the Kona Community Development Plan (KCDP) which calls for masterplans to be developed collaboratively in this area, partially through formal agreements¹.

¹ Kona Community Development Plan, Page 4-124. Policy ECON-1.4: Actions ECON-1.4a

Michael Ferreira, Land Agent
Department of Land and Natural Resources
June 4, 2021
Page 2

Finally, a comprehensive review of the General Plan is underway; providing an opportunity to modify future land uses to create better consistency with long-term stewardship visions that “protect, conserve and manage the existing and remnant native lowland forests and unique endemic species”.

Sincerely,

A handwritten signature in purple ink, appearing to be 'ZENDO KERN', with a long horizontal flourish extending to the right.

ZENDO KERN
Planning Director

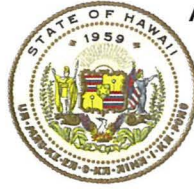
KKS:kvs
\\coh01\planning\public\USERS\Kevin Sullivan\PalamanuiDryForestComments

EXHIBIT B

DAVID Y. IGE
GOVERNOR OF HAWAII



Exhibit B



APPROVED BY THE BOARD

AT ITS MEETING HELD ON

SEPTEMBER 10, 2021

dar

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
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII BOARD OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

MINUTES FOR THE MEETING OF THE BOARD OF LAND AND NATURAL RESOURCES

DATE: JULY 23, 2021, 9:00 A.M.
LOCATION: Online via ZOOM, Livestream via YouTube

MEMBERS

Suzanne Case
Sam Gon
Chris Yuen
Kaiwi Yoon

Tommy Oi
Vernon Char
Doreen Canto

STAFF

Russell Tsuji-Land
Carty Chang-ENG
David Smith-DOFAW
Robert Hauff-DOFAW
Candace Martin (Land)
Blue Kaanehe -Land

Kevin Moore-Land
Edwin Matsuda-ENG
Marigold Zoll-DOFAW
Cathy Gewecke-DAR
Tanya Rubenstein-DOFAW

OTHERS

Dan Morris/AG
Carty Chang-ENG
Abby Lareau/DOT AIR
Avery Matro/M16
Rebecca Allen/L1
H. Kapua Kawelo/C1
Alan Nagakura/D1
Elliot Parsons/D2

Morris Atta/DOA
Edwin Matsuda-ENG
Cory Harden/M1
Tom McCary/M16
Dan Sargent/L1
Jin (Hyun) Fisher/C1
Roland Kim/D1
Ken Kaleiwahea/D2

07.23.2021/00:00:59

Chair Case called the meeting to order and noted that due to Covid-19 pandemic, the meeting is being held via Zoom and live-streamed on YouTube. Those who requested to provide oral and written testimony have done so in advance of the meeting and members of the public may watch the meeting live streaming on YouTube.

ITEM A-3

07.23.2021/00:01:55

Member Gon read the standard contested case statement.

07.23.2021/00:02:59

ITEM A-1 Approval of the May 14, 2021, Meeting Minutes.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) 6-Ayes (Canto did not vote)

07.23.2021/00:04:10

ITEM M-1 Issuance of a Revocable Permit for a Commercial T-Hangar for storage and maintenance of Aircraft, Flying Mermaid, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 021.

Abby Lareau, DOT Airports presented the submittal

Board Discussion

Lareau clarified that the T-hanger is to be used for repair and maintenance of their helicopters. There are rules and regulations regarding towing their helicopters to the location.

Public Testimony

Cory Harden, representing Sierra Club, provided testimony regarding State's Public Trust responsibility, outdated Environmental Assessment and the safety of the company's helicopters. Michelle Matson stands by her written testimony.

MOTION

Approved as submitted (Char, Oi) 6-Ayes, 1-Abstain (Yoon)

ITEM M-2 Issuance of a Revocable Permit for the Installation of Twenty-Two (22) CCTV Cameras on the ground level, second level and roof level of the Inter-Island Mauka Terminal, Hawaiian Airlines, Inc., Daniel K. Inouye International Airport, Tax Map Key (1) 1-1-003: Portion of 001.

ITEM M-3 Issuance of a Revocable Permit for Construction Staging Area for materials and to store a rubbish bin, Nan, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.

ITEM M-4 Issuance of a Revocable Permit for Passenger Check-in Kiosks Diamond Head Extension Terminal, Southwest Airlines Co., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 042.

ITEM M-5 Issuance of a Revocable Permit for an Office Space for Administration purposes at the Inter-Island Mauka Terminal, United States of America, Department of Homeland

Russell Tsuji, Land Division presented the submittal. Candace Martin (Land), Alan Nagakura and Ronald Kim are available to answer any question. There were concerns regarding the amount of the loan. Kim replied based on the real cost of improvements versus the estimate of the cost.

Board Discussion

The Deputy AG confirmed that the policy of Board could approve the after the fact holder as long it is less than 1-year, the holdover period is treated like an extension, so the Board could approve the holdover period and then the extension period as two separate items.

Public Testimony

Ronald Kim pointed out that they did turn in their application in mid-June of last year and appreciate the efforts made during this time.

MOTION

Approved as submitted (Yuen, Oi) 6-Ayes 1-Abstain (Char)

07.23.2021/01:04:14

ITEM D-2 Issuance of Right-of-Entry-Permit to the Division of Forestry and Wildlife (DOFAW) on Unencumbered State Lands for Lowland Dry Forest Management Purposes; Authorize Memorandum of Understanding (MOU) between the University of Hawaii and DOFAW to Collaboratively Steward and Manage Lands; Request Delegation of Authority to the Chairperson to Negotiate, Finalize and Execute the MOU Subject to Approval as to Form by The Department of the Attorney General, at Palamanui, North Kona, Hawaii, Tax Map Key Numbers: (3)7-3-010:032, (3) 7-3-010: Portion of 046, and (3) 7-3-010: Portion of 062.

Russell Tsuji, Land Division presented the submittal. Blue Kaanehe (Land), Elliot Parsons and Ken Kaleiwahea available to answer questions.

Board Discussion

The Board asked if the extension can be extended for up to 3 years. Tsuji, replied, yes.

Public Testimony-None

Amendment:

The Board favored a Right-of-Entry to DOFAW for (3) years instead of only (1) year. Accordingly, the Board amended the term of the Right-of-Entry to Three (3) years, subject to renewals by the Chairperson on page 2 of the submittal, and replaced Recommendation 1.B with the following:

1. B. "The Chairperson is authorized to extend or renew the right-of-entry [~~annually~~] for good cause shown; and"

MOTION

Approved as amended (Canto, Gon) unanimous.

Respectfully Submitted:

Darlene Ferreira

Darlene S. Ferreira
Land Board Secretary

Approved for Submittal:

Suzanne D. Case

Suzanne D. Case, Chairperson
Board of Land and Natural Resources
Department of Land and Natural Resources