

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

December 8, 2023

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

**Request authorization for the Chairperson to
1) Enter into a Use and Occupancy Agreement with
the Department of Transportation, Highways Division;
2) Declare subject project exempt from the preparation
of an Environmental Assessment and approve the Chapter 343,
Hawaii Revised Statutes, Exemption Notice; and
3) Procure, award, and enter into the construction contract,
supplemental agreements and execute any other
necessary documents or agreements
for Job No. J40CO30A, Kalauhahai (Lucas Spring)
Fishpond Restoration, Phase 3, Niu Valley, Oahu, Hawaii,
Tax Map Key: (1) 3-7-002: 018, 077 and
(1)3-7-011: Kalaniana'ole Highway right-of-way**

BACKGROUND/USE AND OCCUPANCY AGREEMENT

The Department of Land and Natural Resources (DLNR) desires to enter into a Use and Occupancy Agreement (UOA) with the Department of Transportation (DOT) for the portion of Division of Aquatic Resources' (DAR's) new trench collection system and conveyance pipe that will be installed within DOT's right-of way.

On May 17, 2012, Director of DOT and the Chairperson signed a memorandum (**Exhibit 1**) regarding the transfer of "the ownership, jurisdiction, maintenance, liability and operation" of the Parcels 18 and 77 from DOT to the DLNR.

DAR's goal with the Kalauhahai Fishpond Restoration project is to restore the freshwater flow into Kalauhahai Fishpond and out through the historic auwai into Maunaloa Bay. DAR's staff have learned from Maunaloa historians and kupuna that Kalauhahai Fishpond was historically fed by an underground lava tube that was damaged years back when Kalaniana'ole Highway was widened. Waterflow to Kalauhahai Fishpond since that time has been drastically less, and there is no flow at all into Maunaloa Bay. DAR's project supports the Maunaloa

community's vision to restore a healthy estuary which is necessary for the life cycle of many native species, improving the fishery of Maunalua Bay, and restore Hawaiian cultural practices of Maunalua, such as limu gathering, that are dependent on a healthy estuary. DAR's Kalauhaihai Fishpond Restoration project consists of installing a trench collection system which would operate by collecting artesian water in an approximately 120-ft long, 6-inch perforated drain line wrapped in filter fabric installed underground on the mauka margin of Kalaniana'ole Highway, parallel to the highway. An approximately 120-ft long, 6-inch conveyance pipe under Kalaniana'ole Highway would connect with an access port on the makai side of Kalaniana'ole Highway in the fishpond property with waterflow restored through a 24-ft long 8-inch diameter connection pipe to the northwest corner of the fishpond. See **Exhibit 2** for site plan and profile of system. DLNR's Engineering Division is supporting DAR's Kalauhaihai Fishpond Restoration project by serving as the project manager, including contract supervision and technical expertise.

DLNR is currently working with DOT to finalize the draft UOA which will be reviewed as to form by the Department of Attorney General. DOT requires UOAs for all improvements within State DOT's right of way.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT

In accordance with Hawaii Administrative Rules ("HAR") § 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred on by the Environmental Council on November 10, 2020, the subject project is exempt from the preparation of an environmental assessment pursuant to:

General Exemption Type 2

Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced.

Part 1

No. 16. Rehabilitation and restoration of existing structures and features at historic and archaeological sites in compliance with Chapter 13-275, Hawai'i Administrative Rules, "Rules Governing Procedures for Historic Preservation Review for Governmental Projects Covered Under Section 6E-7 and 6E-8, Hawai'i Revised Statutes" which requires review by the State Historic Preservation Division for agency actions that may affect historic properties.

General Exemption Type 3

Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment and facilities and the alteration and modification of the equipment or facilities, including but not limited to: (A) Single family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if not in conjunction with the building of two or more such units;

(B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty individuals or fewer per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.

Part 2

No 2. Construction and location of new, small facilities or structures necessary to support or enhance safe and effective management of lands and waters, such as baseyards, caretaker's residences, work cabins and shelters, sanitation facilities, and other similar structures.

It is expected that the subject project will have minimal or no significant effect on the environment and therefore should be declared exempt from the preparation of an environmental assessment. **(Exhibit 3).**

RECOMMENDATION

That the Board:

1. Authorize the Chairperson to sign the Use and Occupancy Agreement, any amendments to the Use and Occupancy Agreement, and any other necessary documents pertaining to the Use and Occupancy Agreement, subject to the Deputy Attorney General's approval as to form.
2. Declare that, after considering the potential effects of the proposed project as provided by Chapter 343, Hawaii Revised Statutes, and Section 11-200.1, Hawaii Administrative Rules, this activity will likely have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment, and authorize the Chairperson to approve the Chapter 343, Hawaii Revised Statutes, Exemption Notice.
3. Authorize the Chairperson to procure, award, and enter into the construction contract, supplemental agreements and execute any other necessary documents or agreements, related to the implementation of the project subject to review and approval as to form by the Department of Attorney General.

Respectfully submitted,



CARTY S. CHANG
Chief Engineer

REQUESTED BY:



BRIAN J. NEILSON, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG, Chairperson
Board of Land and Natural Resources

Exhibit 1 – DOT and DLNR Signed Memorandum, dated May 17, 2012

Exhibit 2 – Project Site Plan and Profile

Exhibit 3 – Chapter 343 Exemption Notice

M. H. ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOULULU, HAWAII 96813-5097

GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD H. FLECHAM
RANDY ORLINE
JACOB IRIKASANI

IN REPLY REFER TO:
HWY-RM
3.89214

MAY 17 2012

TO: THE HONORABLE WILLIAM J. AILA, JR., DIRECTOR
DEPARTMENT OF LAND AND NATURAL RESOURCES

FROM: GLENN M. OKIMOTO, Ph.D.
DIRECTOR OF TRANSPORTATION *Glenn M. Okimoto*

SUBJECT: KALANIANA'OLE HIGHWAY, FAP NO. F-072-1 (39)
EAST HALEMAUMAU TO KEAHOLE STREET, ISLAND OF
OAHU, HAWAII. TMK: (1) 3-7-02:018 & 077
TRANSFER OF JURISDICTION OF PROPERTIES LOCATED AT 5839
AND 5841 KALANIANA'OLE HIGHWAY

This letter is to memorialize the decision and to transfer the jurisdiction of the two properties located at 5839 and 5841 Kalaniana'ole Highway from the Department of Transportation (DOT) to the Department of Land and Natural Resources (DLNR).

Pursuant to the agreement made between the two Directors, William J. Aila, Jr., DLNR and Glenn M. Okimoto, Ph.D., DOT has agreed to transfer the ownership, jurisdiction, maintenance, liability and operation of the subject properties effective as of the date of this memo.

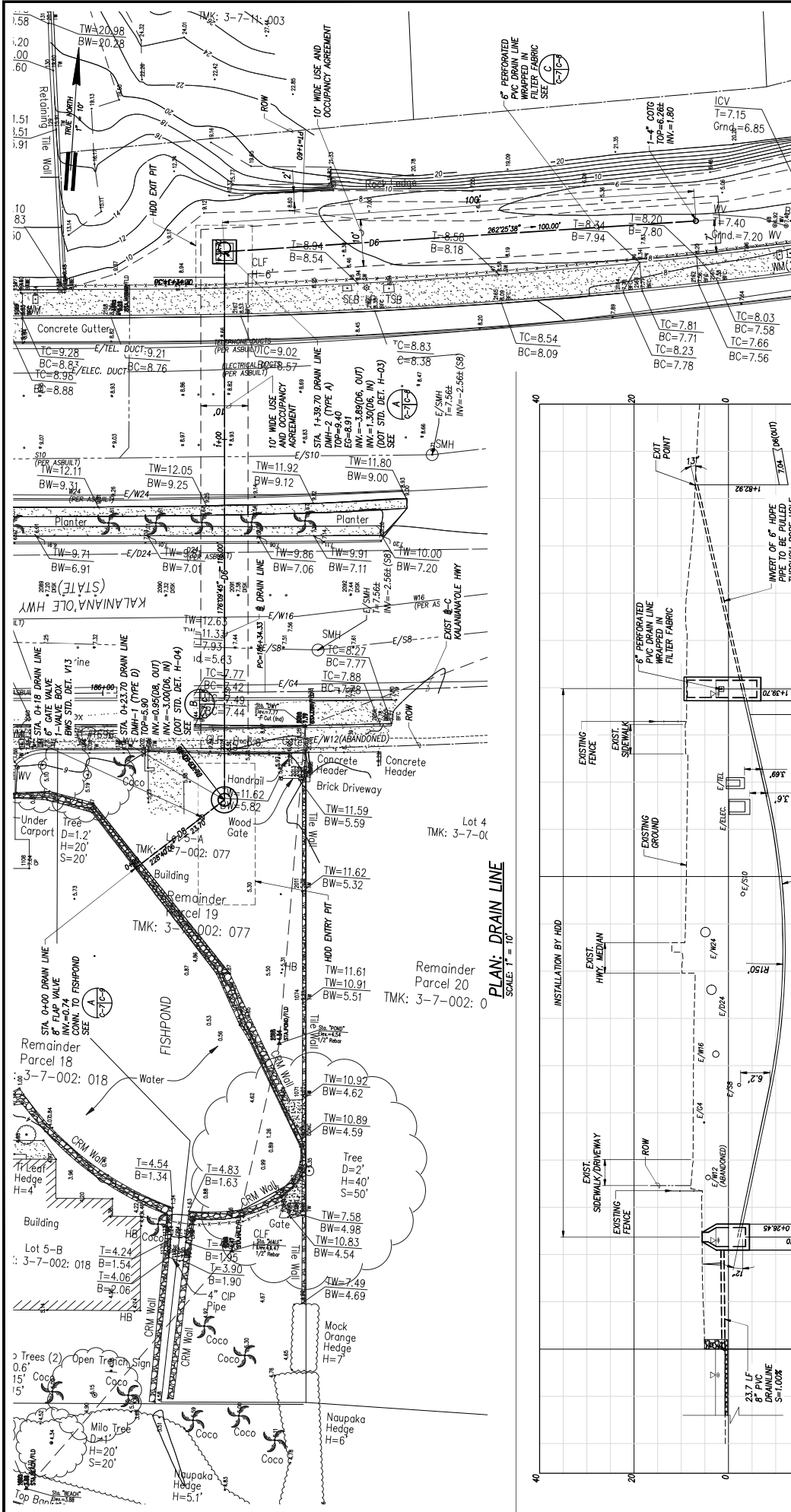
No water restoration shall be required from DOT while the properties are under DLNR's jurisdiction. Pursuant to the Code of Federal Regulations (CFR) 23, 710-409 d, should the properties no longer be used for public purposes the properties will revert back to DOT.

Please sign below and return original for our files.

By *Glenn M. Okimoto*
GLENN M. OKIMOTO, Ph.D.
Its DIRECTOR OF TRANSPORTATION

By *William J. Aila, Jr.*
WILLIAM J. AILA, JR.
Its DIRECTOR OF LAND AND
NATURAL RESOURCES

Enclosure



DESIGNER: GR	DATE: APPROVED
DRAWN: GR	DATE: JUNE 2023
CHECKED: GR	SCALE: AS SHOWN
APPROVED:	DRAWING NO. C-7
CHIEF ENGINEER	

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION

KALAUHA'IHA FISHPOND (LUCAS SPRING)
RESTORATION, PHASE 3

NU VALLEY, OAHU, HAWAII

DESIGNED: GR
DRAWN: GR
CHECKED: GR
APPROVED:

DRAIN LINE PLAN & PROFILE

DESIGNED: GR
DATE: APPROVED

DRAWN: GR
DATE: JUNE 2023

CHECKED: GR
SCALE: AS SHOWN

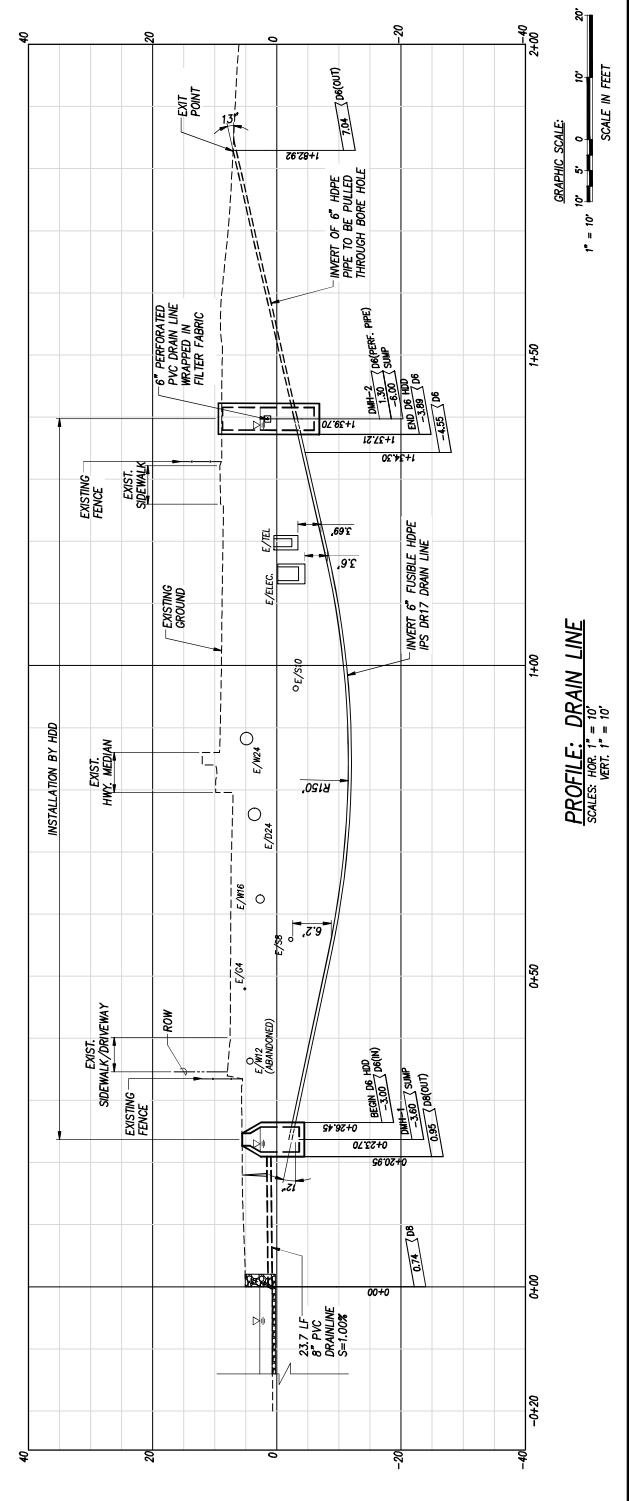
APPROVED:

DRAWING NO. C-7

DATE:

CHIEF ENGINEER

JOB NO. JA00030A



GRAPHIC SCALE:
1" = 10'
0 5' 10'

PROFILE: DRAIN LINE
SCALE: HOR. 1" = 10'
VERT. 1" = 10'

EXEMPTION NOTIFICATION

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

DLNR Job No.	J40CO30A
DLNR Title:	Kalauhahai Fishpond (Lucas Spring) Restoration, Phase 3 Niu Valley, Oahu, Hawaii
File Number:	ENG. J40CO30A
Island:	Oahu
Location: Street Address/ City/ Zipcode:	5839/5841 Kalaniana'ole Highway, Honolulu, Hawaii 96821
TMK Number:	(1) 3-7-002:018; 077 and Kalaniana'ole Highway Right of Way (1)3-7-011:999
Applicant/Agency:	Department of Land and Natural Resources (DLNR) and the Maunalua Fishpond Heritage Center
Project Description:	This project restores groundwater flows to the historic Hawaiian Kalauhahai Fishpond by installing a trench collection system.
Chapter 343 Trigger(s):	Use of State Funds and Lands
Exemption Type # per HAR Chapter 11-200.1- 15(c)	<p>Exemption Type 2 <i>Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced.</i></p> <p>Exemption Type 3 <i>Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment and facilities and the alteration and modification of the equipment or facilities, including but not limited to: (A) Single family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty individuals or fewer per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.</i></p>

<p>Exemption Type #, Part, Item# per DLNR Exemption List (approved by OEQC on 11/10/2020):</p>	<p>Exemption Type 2 <i>Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced.</i></p> <p>PART 1 <i>“16. Rehabilitation and restoration of existing structures and features at historic and archaeological sites in compliance with Chapter 13-275, Hawai‘i Administrative Rules, “Rules Governing Procedures for Historic Preservation Review for Governmental Projects Covered Under Section 6E-7 and 6E-8, Hawai‘i Revised Statutes” which requires review by the State Historic Preservation Division for agency actions that may affect historic properties.”</i></p> <p>Exemption Type 3 <i>Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment and facilities and the alteration and modification of the equipment or facilities, including but not limited to: (A) Single family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty individuals or fewer per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.</i></p> <p>PART 2 <i>“2. Construction and location of new, small facilities or structures necessary to support or enhance safe and effective management of lands and waters, such as baseyards, caretaker's residences, work cabins and shelters, sanitation facilities, and other similar structures.”</i></p>
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Cumulative Impact of Planned Successive Actions in Same Place Significant?	No. There will be no cumulative impact on the project site as there are no planned successive actions in this area.
Action May Have Significant Impact on Particularly Sensitive Environment?	No. The project will not have a significant impact on a particularly sensitive environment.
Analysis:	The proposed project would have a positive impact on both cultural resources and practices by restoring artesian groundwater flows to the historic Hawaiian Kalauhaihai Fishpond.
Consulted Parties:	<p>U.S. Environmental Protection Agency, Region 9 - Pacific Islands Contact Office</p> <p>U.S. Army Corps of Engineers, Honolulu District</p> <p>State of Hawaii BLNR</p> <p>State of Hawaii DLNR, Engineering Division</p> <p>State of Hawaii DLNR, Division of Boating and Ocean Recreation</p> <p>State of Hawaii DLNR, Division of Forestry and Wildlife</p> <p>State of Hawaii DLNR, Office of Conservation and Coastal Lands</p> <p>State of Hawaii DLNR, State Historic Preservation Division</p> <p>State of Hawaii DLNR, Groundwater Regulation Branch</p> <p>State of Hawaii DLNR, Commission on Water Resource Management</p> <p>State of Hawaii DLNR, Division of Aquatic Resources</p> <p>State of Hawaii DLNR, Office of Conservation & Coastal Lands</p> <p>State of Hawaii DLNR, Land Division</p> <p>State of Hawaii Department of Transportation</p> <p>State of Hawaii Department of Transportation, Right of Ways Branch</p> <p>State of Hawaii Department of Transportation Highways Division</p> <p>State of Hawaii Disability and Communication Access Board</p> <p>State of Hawaii Office of Planning and Sustainable Development</p> <p>State of Hawaii Department of Health Clean Water Branch</p> <p>City and County of Honolulu Board of Water Supply</p> <p>City and County of Honolulu Department of Transportation Services</p> <p>City and County of Honolulu Department of Planning and Permitting</p> <p>Office of Hawaiian Affairs</p> <p>Historic Hawai'i Foundation</p> <p>Charter Communications/Spectrum Hawai'i</p> <p>Hawaiian Telcom Inc.</p> <p>Hawaiian Electric Company, Inc.</p> <p>Lucas, Charles Residuary Trust</p> <p>Maunalua Fishpond Heritage Center</p> <p>Connie and Yung Chang</p> <p>Julian Browne</p> <p>Lucas Highway Property LLC</p> <p>Neale and Litan Rath</p> <p>Yuki Hamada</p> <p>Robin Maibals/ Christopher Lo for Connie & Yung Chih Chang</p> <p>Christopher Lo forwarded from Representative Gene Ward</p> <p>A number of letters in support of the project were also received:</p> <p>Kimo Franklin, Kupa of Niu & Kuli'ou'ou</p> <p>Wally Ito, Ewa Limu Project</p>

	<p> Jeff Gregory Former Resident Doug Harper, Mālama Maunalua Laura Margulies, Asst. Prof. Of Animation School of Cinematic Arts, University of Hawaii at Mānoa Dennis H. Fujii & Pamela Lota Fujii Alyssa Miller Jesse Yonover & Austin Kino-Huli John Correa Kahikina Kaae-Whittle Karen Kimbrell Liloa Dunn Rabbi Natan Margalit, Ph.D. Pohai Olomua, Kupa 'aina o Kuli'ou'ou Roy N. Morioka Waipākawi-wo'ole Parker, Kupa'āina o Kuli'ou'ou Ann Marie N. Kirk Kamaka Parker Vicky Morin Milika'a Vierra </p> <p> A list of the comments received for the Exemption Notice pre-assessment consultation is provided in the table in Appendix A. </p>
<p>Declaration:</p>	<p>The Department finds that 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.</p>

 DAWN N.S. CHANG, Chairperson

 Date

Appendix A

Pre-Assessment Comments and Proposed Draft Responses for
Exemption Notice from Hawai'i Revised Statutes, Chapter 343 Environmental Assessment
for Project No. J40CO30A Kalauhaihai Fishpond (Lucas Spring) Restoration, Phase 3

OneDrive Link: https://hawaiiomt-my.sharepoint.com/:b:/g/personal/melissa_m_agbayani_hawaii_gov/EZ9dPsg_IFAI1CUe6MFe_UBfPI8QXGn8K_pBrJISlj_4A?e=GLdZCz