

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

November 8, 2024

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

PSF No.: 23HD-095

Hawaii

Issuance of Right-of-Entry Permit to National Park Service (NPS) over Unencumbered State Lands, to Manage Historical and Cultural Sites and to Access NPS Lands through Southeast Section of Such Lands at Kawaihae, Kohala, Hawaii, Tax Map Keys: (3) 6-1-003:025, (3) 6-1-003:030, and (3) 6-1-003:031.

APPLICANT:

National Park Service
Puukohola Heiau National Historic Site

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kawaihae, Kohala, Hawaii, TMKs: (3) 6-1-003:025, (3) 6-1-003:030, and (3) 6-1-003:031, as shown on the attached maps labeled **Exhibit A.**

AREA & ZONING:

TMK (3) 6-1-003:025	20.694 acres, more or less
State Land Use District:	Conservation, Urban
County of Hawaii CZO:	MG-1a, OPEN, RM-15
TMK (3) 6-1-003:030	1.916 acres, more or less
State Land Use District:	Conservation
County of Hawaii CZO:	OPEN
TMK (3) 6-1-003:031	1 acre, more or less
State Land Use District:	Conservation
County of Hawaii CZO:	OPEN

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to Hawaii State Constitution: NO

CURRENT USE STATUS:

Unencumbered State Lands.

CHARACTER OF USE:

To manage historical and cultural sites and to access NPS lands
through the southeast section of subject property

TERM OF RIGHT-OF-ENTRY:

One year from date of approval. However, the term may be extended by
the Chairperson for good cause shown.

CONSIDERATION:

No fee charged, applicant (NPS) is a federal agency managing cultural sites on
State lands.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200.1-16 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 pursuant to General Exemption Type 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 44, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing." The proposed request will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR. Exemption notification attached as **Exhibit B**.

DCCA VERIFICATION

Applicant is a federal agency and therefore is not required to register with the DCCA.

REMARKS:

Request

Issuance of a right-of-entry (ROE) permit to National Park Service (NPS) over unencumbered state lands at Kawaihae, Kohala, Hawaii.

Purpose

To manage historical and cultural sites and to access NPS lands through southeast section of subject property.

Benefits of Project

ROE will allow NPS continued access to subject property for conservation, preservation, and educational purposes of historical and cultural sites that are components of the primary features of Puukohola Heiau National Historic Site (PUHE). The access route over NPS intends to use over the ROE area is shown in **Exhibit A**.

Archaeological Significance

According to NPS archaeological surveys done in FY22 thru FY24, working with UH-Manoa/Dept. of Anthropology, there are approximately 50 archaeological sites and features located within subject property, as shown on the attached map labeled **Exhibit C**. However, the actual number of archaeological sites and features remain unknown due to heavy kiawe and vegetation that limit physical and visual access to subject property.

Some of the work NPS conducts on subject property includes archaeological surveys and inventories of sites and features (especially after fires, flooding or high wind events when features are exposed and/or disturbed), condition assessments, and updating archaeological base maps; mitigate immediate threats to features (e.g. - removing invasive non-native vegetation infringing on cultural sites and features) in addition to human (e.g. - illegal camping / homeless, etc.), or animal (feral ungulates) caused impacts; cutting and removing fallen trees that impact or threaten these features and sites; develop preservation strategies for longer term stabilization and stewardship, and continue research information (including ethnographic resources) on sites and features to better understand, protect and interpret these important sites and features.

History of Subject Property

1956:

Subject property becomes jurisdiction of Department of the Army in 1956 (EO 1759) for the purpose of developing the Kawaihae Harbor.

1961:

Subject property becomes jurisdiction of Hawaii Department of Transportation (DOT) in 1961(EO 1988) for the purpose of receiving and discharging passengers.

1972:

Subject property was identified to be part of Puukohola Heiau National Historic Site (PUHE), established by U.S. Congress Public Law 92-388. Aug. 17, 1972 (86 Stat., 562).

1990:

Applicant (NPS) and DOT enter into a Cooperative Agreement (H-89-8) in 1990 giving NPS access to subject property to manage historical and cultural sites. This agreement remained in effect until 2016 when subject property reverted to DLNR (EO 4521).

Today:

NPS has continued to access subject property, without authorization from DLNR, since subject property reverted to DLNR from DOT in 2016.

EO to NPS

NPS staff would ultimately prefer an executive order to set-aside subject property to NPS and requests an ROE in the interim. The request for an executive order is not presently before the Board. Staff will evaluate whether a longer-term disposition to NPS is appropriate.¹

Request for Comments

This submittal was sent to the following agencies for comments, with the following results.

Agency	Response/Comments
State of Hawaii	
Department of Hawaiian Home Lands (DHHL)	No Comment
Division of Boating and Ocean Recreation (DOBOR)	No Objection
Department of Transportation (DOT)	No Comment
Office of conservation and Coastal Lands (OCCL)	No Objection. Requests that any proposed land uses in the Conservation District be reviewed by its Office.
Office of Hawaiian Affairs (OHA)	No Comment
State Historic Preservation Division (SHPD)	No Comment

¹ Staff notes that an executive order to the federal government removes the land so set-aside from the definition of public lands under Section 171-2, HRS. Accordingly, a lease to NPS under Section 171-95, HRS, may be more appropriate than an executive order.

County of Hawaii	
County of Hawaii Planning Department	No Comment
County of Hawaii Parks and Recreation	No Comment

RECOMMENDATION:

That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to NPS covering the subject areas under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



GCH

Pua Ishibashi
Land Agent

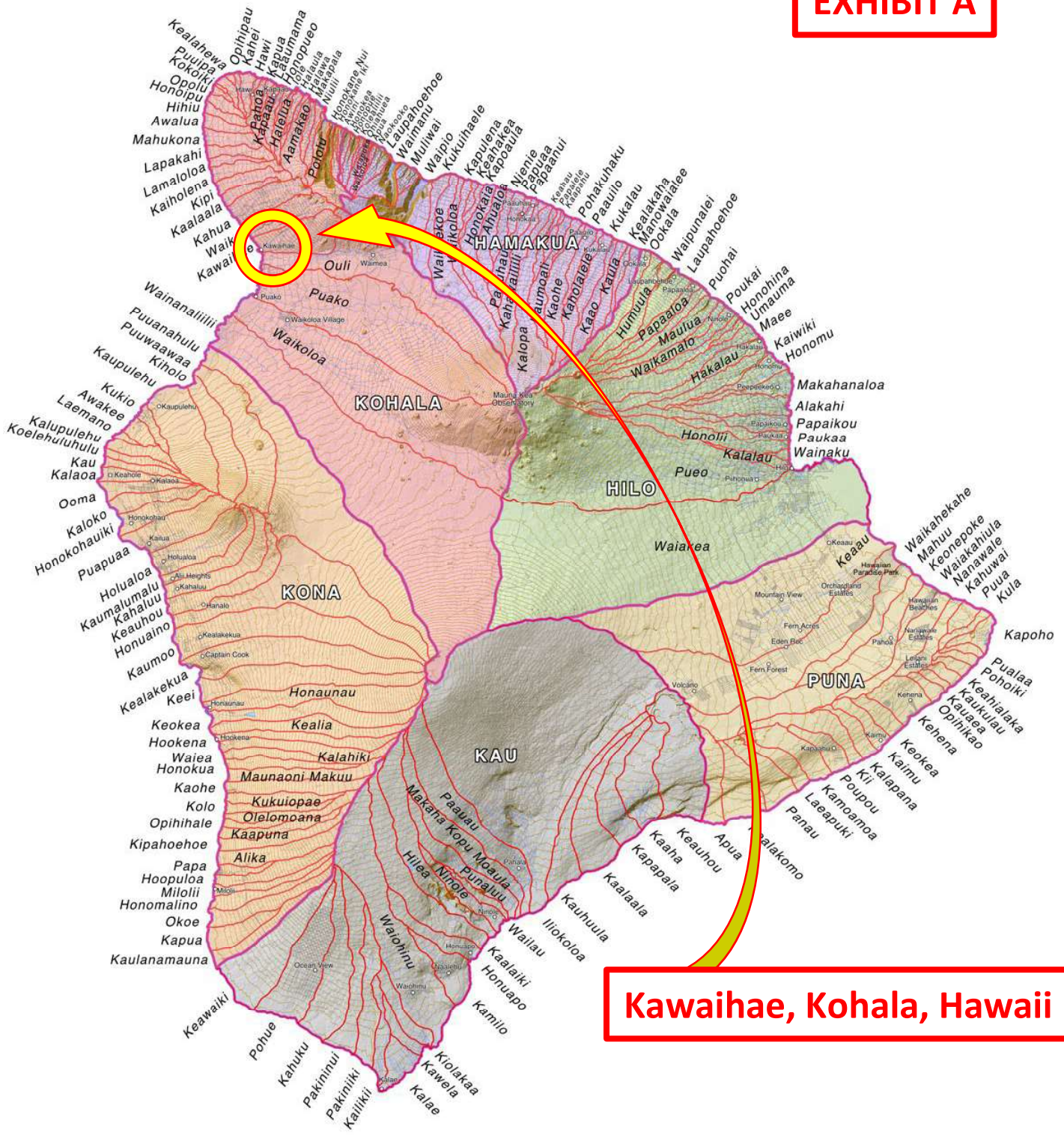
APPROVED FOR SUBMITTAL:

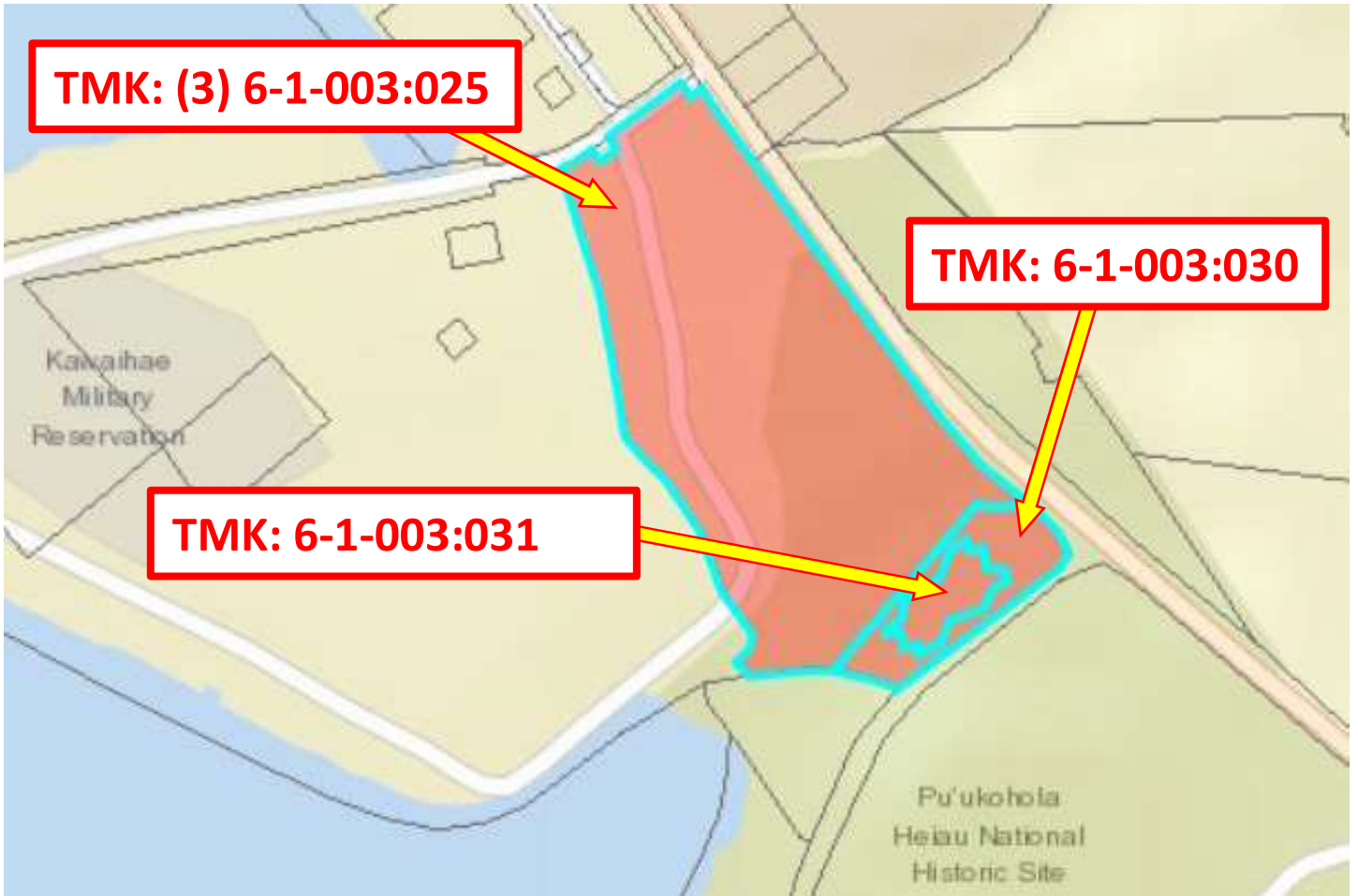


Dawn N. S. Chang
Chairperson

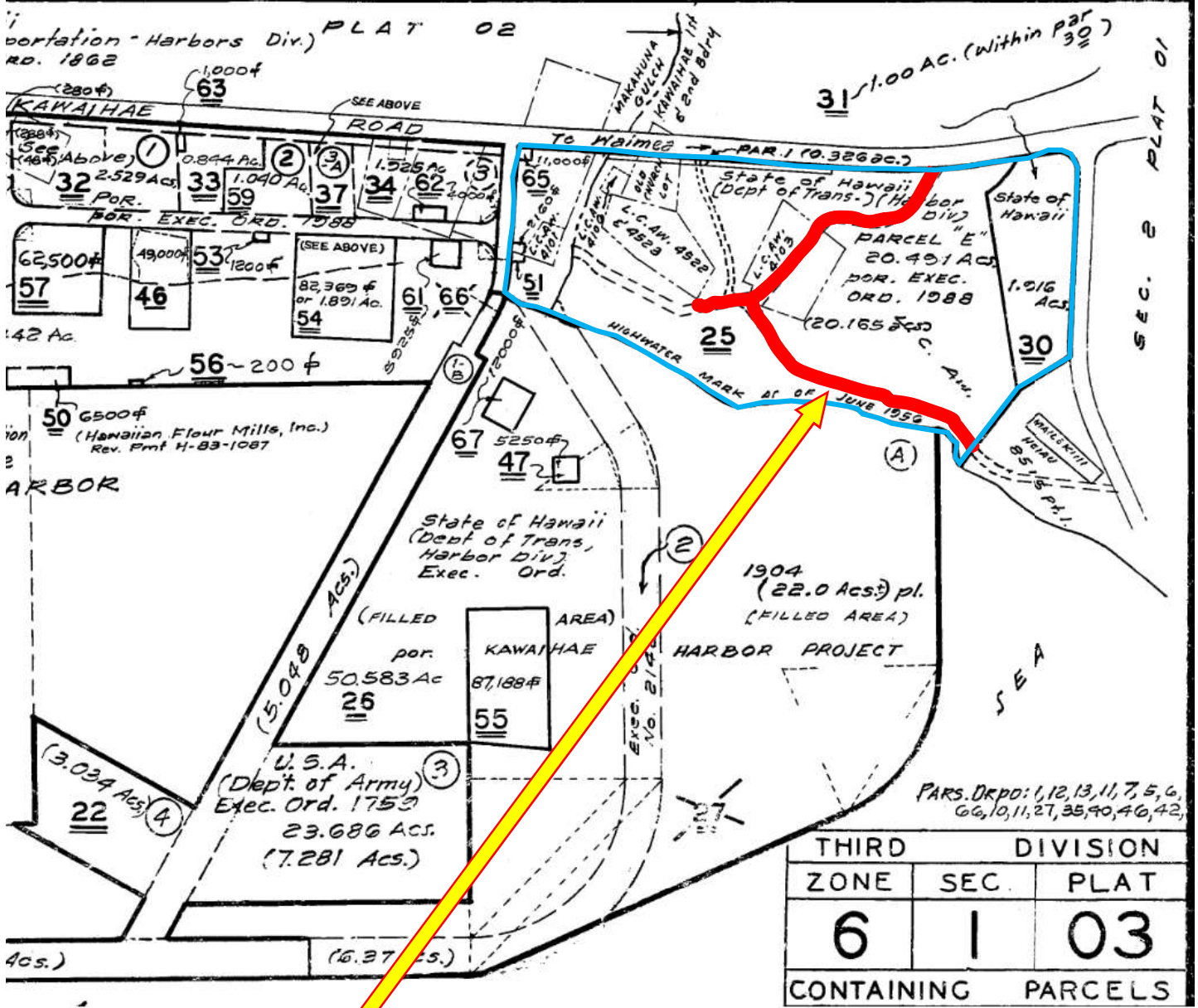
RT

EXHIBIT A





TMK: (3) 6-1-003:025, (3) 6-1-003:030, and (3) 6-1-003:031



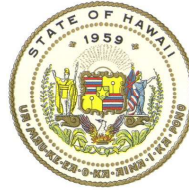
Right-of-Entry (ROE) over existing unpaved road. ROE will be used to manage historical and cultural sites and to access NPS Lands through southeast section of subject properties.



Approximate path of ROE dips into northwest corner of conservation subzone (in red).

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

EXHIBIT B

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

75 Aupuni Street, Room 204
Hilo, Hawaii 96720
PHONE: (808) 961-9590
FAX: (808) 961-9599

November 8, 2024

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1-16, Hawaii Administrative Rules (HAR):

- Project Title:** Issuance of Right-of-Entry (ROE) to National Park Service (NPS) over unencumbered State lands, to manage historical and cultural sites and to access NPS Lands through southeast section of subject property.
- Project/Reference No.:** 23HD-095
- Project Location:** Portion of Government lands situated at Kawaihae, Kohala, Hawaii, TMK: (3) 6-1-003:025, (3) 6-1-003:030, and (3) 6-1-003:031.
- Project Description:** Issuance of Right-of-Entry (ROE) to National Park Service (NPS) over unencumbered State lands. Project is a part of an ongoing effort by NPS to manage important historical and cultural sites on subject property and to continue to access NPS lands through the southeast section of subject property.
- HRS, Chap. 343 Trigger(s):** Use of State Land, Conservation District.
- Exemption Type, Part, Item, and Description:** In accordance with Hawaii Administrative Rule Sections 11-200.1-16 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 pursuant to General Exemption Type 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 44, "Permits, licenses,

registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.”

Cumulative Impact of Planned Successive Actions in Same Place Significant?:

No successive actions at same location are presently planned. It is Staff’s position that there will be no significant cumulative impact involved.

Action May Have Significant Impact on Particularly Sensitive Environment?:

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

Analysis:

Subject property is currently unencumbered and zoned conservation, urban. Proposed use will probably have minimal or no significant effect on the environment.

Consulted Parties:

DHHL, DOT, OHA, SHPD, County of Hawaii Planning Dept. and Parks and Recreation – No Comments. The Office of Conservation and Coastal Lands (OCCL) concurs with the proposed HRS Chapter 343 exemption. Response from DOBOR pending.

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.

Pu'ukoholā Heiau National Historic Site
Map of Cultural Resources located in State Owned Parcel (DLNR)

EXHIBIT C

Legend

- ArchFeat_pt
- HistoricSites_pt
- ArchFeat_In
- TRANS_RoadsTrails_In
- CULT_NHL_Boundary_M
- StateLands
- ArchFeat_py
- LandClaims

