

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

May 23, 2025

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

PSF No.: 25HD-007

HAWAII

Approve the Issuance of a Governor's Executive Order Setting Aside Land and Grant of Non-Exclusive Easement No. S-6135, Hoku Kai Biofuels LLC, Grantee, to the State of Hawaii Department of Transportation, Harbors Division, for Addition to Hilo Harbor; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-009:031.

APPLICANT:

Department of Transportation, Harbors Division

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Waiakea situated at South Hilo, Hawaii identified by Tax Map Key: (3) 2-1-009:031, as shown on the attached map labeled Exhibit A.

AREA:

0.3337 acre (14,538 sq. ft.), more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: MG-1a

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:

Encumbered by Grant of Non-Exclusive Easement No. S-6135, a 65-year term easement to Hoku Kai Biofuels LLC for an underground transmission pipeline commencing on August 26, 2019, and expiring on August 25, 2084.

PURPOSE:

Addition to Hilo Harbor for commercial maritime, marine and associated purposes.

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 reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type No. 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," and Part 1, Item 36 that states, "Transfer of management authority over state-owned land, such as setting aside of state lands to or property removal, and other administrative measures." This executive order set-aside is a de minimis action that would 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, as a de minimis action.

BACKGROUND

The subject State parcel is currently encumbered by a sixty-five (65) year non-exclusive term easement, identified by Grant of Non-Exclusive Easement No. S-6135 (GLS-6135), to Hoku Kai Biofuels LLC for the purpose of an underground transmission pipeline.

At its meeting of December 12, 2014, under agenda item D-7, the Board approved the sale of a non-exclusive easement across State land to Summit Biofuel LLC for purposes of utilizing an existing underground pipeline to transport biofuel from cargo ships to a privately-owned storage facility.

At its meeting of February 27, 2015, under agenda item D-8, the Board approved the Amendment to Prior Board Action of December 12, 2014, Item D-7, Grant a 65-Year Non-Exclusive Term Easement to Summit Biofuel LLC for Underground Transmission Pipeline Purposes. The purpose of the amendment was to change the name of the Grantee from Summit Biofuel LLC to Hoku Kai Biofuels LLC. Also, part of the amendment was to add the standard condition that the subject easement shall run with the land and shall inure to the benefit of the real property described as TMK: (3) 2-1-010:043.

On March 17, 2016, the Chairperson approved the appraisal report conducted by Medusky & Co., Inc., dated February 27, 2016 (retrospective effective date of 2/27/2015). The appraised market value of the subject easement was calculated at \$42,000.00. The Grantee, Hoku Kai Biofuels LLC, made two lump sum payments, one on September 27, 2016, in the amount of \$20,000.00, and one on June 1, 2018, in the amount of \$22,000.00. The Department of Land and Natural Resources shall retain all rents paid for the subject easement notwithstanding the transfer to Department of Transportation, Harbors Division (DOTH).

REMARKS:

On May 30, 2023, the Department of Transportation Harbors Division (DOTH) requested the subject State parcel be set aside by executive order to DOTH along with the pipeline easement (GLS-6135).

The subject parcel is a narrow strip of land (approximately 325' x 45') that runs along the eastern side of Kuhio St. ending at the entrance to Hilo Harbor. US Customs and Border Protection sits on the western side of the entrance. The parcel is primarily grassy areas, small paved areas and an access locker for the pipeline easement. A majority of the surrounding area consists of the Hilo Harbor managed by DOTH. Other adjacent and nearby surrounding properties are Matson (under DOTH), several private petroleum companies, Conen's Freight Transport, Ambrosio's Auto Glass, a tour bus company and an auto repair shop. The last four businesses are all located on the adjacent privately owned parcel. Although DOTH has no immediate plans to make improvements if the EO set-aside is approved, having jurisdiction over the subject parcel would allow DOTH to have better management and control of the harbor entrance at Kuhio St.

GLS-6135 is a non-exclusive, 65-year term easement for an underground biofuel

transmission pipeline. However, only an approximately 325 foot portion of the pipeline is located on the subject parcel, the longer portion (~1200 feet) of the easement traverses Hilo Harbor docks. This section of the pipeline was excluded from the Governor's Executive Order that set-aside the harbor to DOTH and therefor retained by DLNR-Land Division. This Board action would transfer the entire easement area to DOTH..

The pipeline is used to transport biofuels offshore from ships to tanks located on private land across from the harbor entrance. Pursuant to GLS-5162, at the end of the easement term, the Board is to determine if the pipeline will remain in place or if the grantee will be required to remove the pipeline. If the subject parcel is set-aside to DOTH, it is impractical for the Board to determine whether the pipeline remains in place or is removed as it most affects DOTH harbor operations. As part of its request, DOTH is willing to accept the underground transmission pipeline easement known as GLS-6135. With that said, staff is recommending that the Board approve the transfer of GLS-6135 along with the set-aside of the subject parcel.

DOT Harbors Division, DLNR Division of Conservation and Resource Enforcement, DOT Highways Division, HPD, Hoku Kai Biofuels LLC and Sparks & Boschetti LLC were solicited for comments or objections via memo, dated February 28, 2025. Comments that were received by March 21, 2025, are summarized below.

Five responses were received. DOT Harbors, Hoku Kai Biofuels LLC and DOCARE replied with no objections. DOT Highways and HPD replied with comments. All other entities did not respond.

DOT Highways comments:

The easement should have a description with metes and bounds along with all identified surface and subsurface utilities and improvements. The owner of the pipeline should be identified and be perpetually responsible for the removal and any remediation due to the line. If the line should not be used for its intended purpose the owner shall remove the line and restore the ground to its original state. The owner shall be responsible to apply for and obtain all approved permits for the work.

The location of the pipeline within the Kalaniana'ole Avenue right of way should be provided with metes and bounds location and depth. Our Rights of Way Branch should be contacted to determine if an existing Use and Occupancy Agreement exists for the pipeline within the right of way. If none exists, the applicant shall make a request for this agreement and comply with all conditions required for acceptance.

HPD comments:

Upon reviewing the documents available, staff noted issues related to parking violations and vending disputes associated with the proposed parcel. Should the Grantee, State of Hawaii Department of Transportation Harbors Division, not properly enforce and address these concerns, it may pose an impact to traffic and public safety.

In response to DOT Highways comments, the easement document includes metes and bounds of the subject easement. It also addresses DOT Highways concerns regarding conditions of removal. In response to DOT Highways comments regarding a Use and Occupancy Agreement for the pipeline crossing Kalanianaʻole Avenue, DLNR has no authority or ownership for that section of the pipeline. The present request is not for the issuance of an easement (which was approved in 2014), but for a transfer of management authority over the existing easement area only. The Use and Occupancy Agreement should be addressed to Hoku Kai Biofuels LLC directly.

In response to HPD comments, the set-aside of the subject parcel will allow DOTH to have better management and control of the area and more efficiently deal with parking and traffic safety issues.

RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

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 as a de minimis action.
2. Approve the Issuance of a Governor's Executive Order Setting Aside Land and Grant of Non-Exclusive Easement No. S-6135, Hoku Kai Biofuels LLC, Grantee, to the State of Hawaii Department of Transportation, Harbors Division for Industrial Purposes 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,

Dan Gushiken

Dan K. Gushiken
Land Agent

CMM

[Signature]

APPROVED FOR SUBMITTAL:

[Signature]

Dawn N. S. Chang, Chairperson

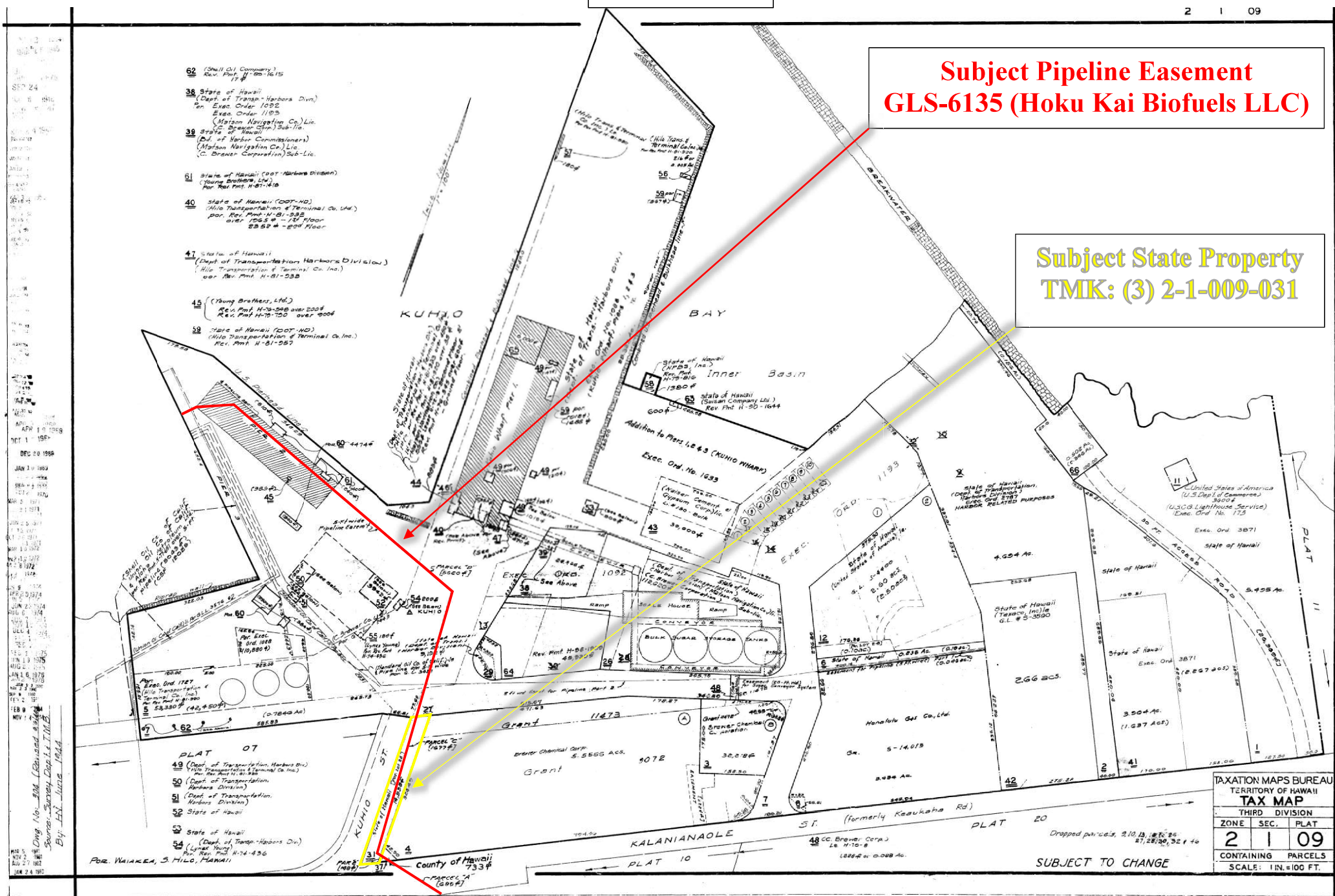
Exhibit A

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2 1 09

**Subject Pipeline Easement
GLS-6135 (Hoku Kai Biofuels LLC)**

**Subject State Property
TMK: (3) 2-1-009-031**



TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
THIRD DIVISION		
ZONE	SEC.	PLAT
2	1	09
CONTAINING PARCELS		
SCALE: 1 IN. = 100 FT.		

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DOTH



US Customs and Border Protection

Subject DLNR LD Parcel to be Set-Aside



Kuhio St. (Entrance to the harbor)



Sparks & Boschetti LLC

Hoku Kai Biofuels LLC