

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

November 14, 2025

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

Hawaii

*Amend Prior Board Action of January 27, 2017, Item D-7, After-the-Fact Consent to Assignment of Perpetual, Non-Exclusive Easements, Land Office Deed Nos. S-27,467 and S-28,277, John J. Lowrey and Catherine W. Lowrey, Assignors, to Bruce A. Meyer, Nancy P. Meyer, and Naupaka Limited Partnership, Assignees; Declaration of Exemption from the Preparation of an Environmental Assessment for Installation of Water Pipeline Within the Existing Easement Corridor of Land Office Deed No. s-28,277; Lalamilo, South Kohala, Hawaii, Tax Map Key: (3) 6-6-002: portions of 002.*

The purpose of this amendment is to seek authorization to remove the signature block for the assignors in the standard consent to assignment document regarding the assignments of Land Office Deed Nos. S-27,467 and S-28,277.

APPLICANTS:

The Bruce and Nancy Meyer Honu Hawaii Family Trust; and  
Oyster Property, LLC, a Hawaii limited liability company.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

This request is simply to amend a prior Board Action that is meant to resolve the issue of pending previous consent documents as related to Land Office Deed Nos. S-27,467 and S-28,277 that were granted by the Board on January 13, 1984, item F-4 and December 28, 1984, item F-2 respectively. The proposed action does not constitute a trigger under Hawaii Revised Statutes (HRS) Chapter 343 and therefore compliance under HRS Chapter 343 and Hawaii Administrative Rules (HAR) Chapter 11-200.1 is not applicable.

REMARKS:

Land Office Deed No. 27,467:

At its meeting of January 13, 1984, item F-4, the Board of Land and Natural Resources (Board) approved issuance of four (4) non-exclusive, perpetual easements for waterline purposes. Those 4 easements (W-1, W-2, W-3 & W-4) were issued as Land Office Deed No. S-27,467 (LOD S-27467) to John J. & Catherine W. Lowrey (Lowreys). The 4 easements served several private properties owned by the Lowreys at that time. See attached Exhibit 1.

At its meeting of March 14, 1986, item F-1-g, the Board approved a partial assignment of LOD S-27,467, from the Lowreys to John Shigeyuki Tanaka and Amy Yaeko Tanaka (Tanakas) and George Humphreys Robertson (Robertson). The Tanakas were assigned waterline easement W-2 and Robertson was assigned waterline easement W-3.

Since then, two (2) of the waterline easements (W-1 & W-4) have been dedicated to the County of Hawaii, as authorized by the Board at the above meeting. Refer to attached Exhibit 2.

Land Office Deed No. 28,277:

At its meeting of December 28, 1984, item F-2, the Board approved the sale of a non-exclusive, perpetual easement across TMK: (3) 6-6-002:002 for ingress/egress and utility purposes. The easement was issued to the Lowreys as Land Office Deed No. S-28,277 (LOD S-28,277). Refer to attached Exhibit 3.

In 1994, the Lowreys declared a two-unit condominium property regime, known as the Ilima Condominium (Unit A & B), on TMK: (3) 6-6-002:029 (Parcel 29) and subsequently sold Unit A to Bruce Alan Meyer and Nancy Peterson Meyer (Meyers) and unit B to Naupaka Limited Partnership (Naupaka), each with an undivided 50% interest in Parcel 29. However, the Lowreys failed to receive Board consent to assign the easement.

Request for Amendment:

Both LODs contain verbiage requiring Board approval for any assignments of the easements. Since the time LOD S-27,467 and LOD S-28,277 were issued, the properties served by the easements have been sold to various individuals. Not all easements serve the same properties, but in general one property will be served by 2 or more of the easements under LOD S-27,467 and LOD S-28,277.

At its meeting of January 27, 2017, agenda item D-7, the Board approved an after-the-fact consent to assignment of perpetual, non-exclusive easements LOD

S-27,467 and LOD S-28,277 from the Lowreys to the Meyers and Naupaka (attached Exhibit 4). The Board also approved amending the easements to run with the land so that ownership of the easement would transfer with the benefited parcels.

For reasons that are unclear, neither the assignment documents nor the easement amendment was drafted, and the easements are still listed as owned by the Lowreys, who have both passed away.

Since the Board's consent to assign and amend the easement was not memorialized in document form, the easement was not specifically mentioned in the Exhibit A legal description of the subsequent apartment deeds that transferred ownership of the condominium units. However, all the apartment deeds include similar verbiage stating, 'together with all the rights, easements, privileges and appurtenances thereunto belonging or appertaining', which can be argued to include the subject easement as it 'appertains' to the property units being transferred. Further, the Board's intent was clear that the easement should run with the lands that are benefited by the easements.

Currently, Unit A of the Ilima Condominium is owned by the Meyers in their trust, The Bruce and Nancy Meyer Honu Hawaii Family Trust (the Meyers Trust), and Unit B was sold in November of 2018 by Naupaka to Oyster Property, LLC, a Hawaii Limited Liability Company (Oyster).

Staff is seeking to clean-up the ownership records for these easements by requesting that the Board authorize removal of the signature block of the Lowreys (assignors) in the standard consent to assignment document to be prepared pursuant to the terms approved in the Board Action of January 27, 2017, Item D-7, including the provision to allow the easements to "run with the land".

Allowing these perpetual easements to "run with the land" will provide a chain of title pathway to determine who current owns and is responsible for compliance with the terms and conditions of the easements without the need to return to the Board each time there is a change in ownership of the benefited properties.

#### RECOMMENDATION:

That the Board amend its prior action of January 27, 2017, item D-7, by adding the following to the end of Recommendation 3.A.:

"provided, however that the consent instrument shall not require the signature of any of Applicant's predecessors-in-interest, and the standard assignor acknowledgment provision identified above shall not be included in the consent"

All other Recommendations approved by the Board action of January 27, 2017, item D-7, shall remain as approved.

Respectfully Submitted,

*Candace Martin*

---

Candace Martin  
Acting District Land Agent

APPROVED FOR SUBMITTAL:



---

✓ Dawn N. S. Chang, Chairperson

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



## EXHIBIT 1

DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF LAND MANAGEMENT  
P. O. BOX 821  
HONOLULU, HAWAII 96809

January 13, 1984

Board of Land and  
Natural Resources  
Honolulu, HI 96813

Gentlemen:

HAWAII

Subject: Grant of Easements for Waterline Purposes at  
Lalamilo, South Kohala, Hawaii

STATUTE: Chapter 171, Hawaii Revised Statutes as  
amended

APPLICANT: DR. and MRS. JOHN J. LOWREY (NEE  
CATHERINE W.)

FOR: Perpetual, non-exclusive easements over and  
across portions of State lands at Lalamilo,  
South Kohala, Hawaii, as shown on maps  
furnished by the applicant, copies of which  
are appended to the basic file, described as  
follows:

- W-1 Easement, ten feet wide, for  
water-pipeline purposes over and across  
a forty-foot road reserve on  
TMK 6-6-02:2 consisting of 865 square  
feet;
- W-2 Easement, five feet wide, for  
water-pipeline purposes over and across  
a forty-foot road reserve on  
TMK 6-6-02:2 consisting of 577 square  
feet;
- W-3 Easement, five feet wide, for  
water-pipeline purposes over and across  
a forty-foot road reserve on  
TMK 6-6-02:2 consisting of 1,078 square  
feet;
- W-4 Easement, ten feet wide, for  
water-pipeline purposes over and across  
a portion of TMK 6-6-02:31 consisting of  
10,743 square feet.

Note: Maps and descriptions for each of the  
foregoing easements subject to verification  
by the Survey Division, Department of  
Accounting and General Services.

LAND TITLE STATUS: Subsection 5(b)

ITEM F-4

Board of Land and  
Natural Resources

January 13, 1984

**STATUS:** TMK 6-6-02:2 is a beach reserve which includes a forty-foot-wide road reserve situated between two tiers of private property (Wailea Beach Lots) along Wailea Bay. TMK 6-6-02:31, except for various road and utility easements, is presently unencumbered but has been the focus for future park development (Hapuna Beach State Park) by the Division of State Parks.

**ZONING:** State Land Use Commission--Conservation and Urban  
County of Hawaii--Open, Village Commercial, Resort-Hotel, Residential

**PURPOSE:** Right, privilege, authority to construct, use repair and maintain water pipelines and corresponding easement areas

**CONSIDERATION:** To be based on one payment for the full term of the easements as determined by independent appraisal subject to review and acceptance by the Chairman.

**REMARKS:** As owners of private property identified as TMK 6-6-02:27, the applicants are requesting authorization to replace an existing four-inch pipeline and three-foot-wide easement (depicted as Parcel 1 on CSF No. 17150) with a six-inch waterline and ten-foot-wide easement. The larger waterline and wider easement have been required by the County of Hawaii for fire-suppression purposes in connection with a three-lot subdivision of TMK 6-6-02:27. The existing easement and water pipeline is currently demised to Leslie W. Wishard by Grant of Easement No. S-4483 for a term of thirty years, from January 1, 1976, to December 31, 2005. Mr. Leslie W. Wishard on April 27, 1983, concurred to cancellation of said grant of easement to the new waterlines and easements, identified as W-1 and W-4 to the control and management of the Department of Water Supply, County of Hawaii.

By letter dated March 28, 1983, the Department of Water Supply indicated that their acceptance of the new six-inch waterline and ten-foot-wide easements must include ingress and egress rights from the State of Hawaii over adjoining State-owned lands (TMKS 6-6-02:2 and 31). Moreover, access to the Wailea Beach Lots Subdivision must also be provided by way of an existing twenty-foot road easement. This easement, described by CSF No. 17725, is currently demised to the following individuals, for a term of twenty years expiring on January 8, 1995:

January 13, 1984

Leslie W. Wishard, Sr.  
Eleanor W. Sexton  
Catherine W. Lowrey  
Leslie W. Wishard, Jr.

An application for conservation district use, bearing File No. HA-7/6/83-1589, was submitted by the Lowreys since W-4 of the above-listed easements affects conservation-district-classed land. (As stated previously, W-4, the new ten-foot-wide easement for six-inch waterline, is to replace Parcel 1 of Grant of Easement No. S-4483, being a portion of the existing three-foot-wide easement and four-inch waterline.) On December 16, 1983, the Land Board, under agenda Item H-1 approved said application with the following conditions:

1. That the applicant comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and City and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2, Administrative Rules, as amended;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. Other terms and conditions as prescribed by the Chairman;
4. In that this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources, for the occupancy of State lands;
5. In the event that any unanticipated sites or remains such as shell, bone or charcoal deposits human burials, rock or coral alignments, pavings, or walls are encountered during construction, the applicant shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408;
6. That the applicant comply with all applicable Public Health Regulations;



January 13, 1984

7. A fire contingency plan, acceptable to the Division of Forestry and Wildlife shall be implemented during and after the construction of the waterline;
8. Proper precaution should be exercised during construction to prevent any possible degradation of aquatic resources of Wailea Bay;
9. That four (4) sets of final construction plans shall be submitted to the Department for review and approval; and
10. Upon approval of a particular use by the Board, any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use.

RECOMMENDATION: That the Board:

- A. Pursuant to Section 171-13, Hawaii Revised Statutes as amended, authorize the direct sale of Easements W-1, W-2, W-3 and W-4 to the applicant subject to the foregoing terms and conditions which are by reference incorporated herein and subject further to the following:
  1. Applicable conditions imposed by the Land Board under agenda Item H-1, dated December 16, 1983;
  2. Such terms and conditions of the standard grant of easement form including, but not limited to, the following:
    - a. Standard hold-harmless clause;
    - b. Standard compliance with applicable governmental requirements clause;
    - c. Standard one-year abandonment and reverter clause;
    - d. Standard relocation clause;
    - e. Standard liability insurance requirement clause naming the State of Hawaii as co-insured;
  3. That the construction of all water pipelines and appurtenant improvements shall be in accordance with applicable standards of the Department of Water Supply, County of Hawaii;



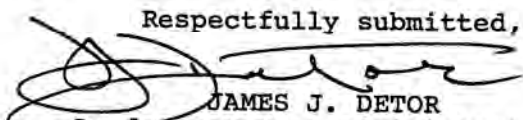
January 13, 1984

4. That the applicant shall submit a performance bond in the amount of \$5,000 for faithful compliance of the terms and conditions listed herein, said bond to be released following the dedication of Easements W-1 and W-4 to the County of Hawaii, Department of Water Supply;
  5. Such other terms and conditions as may be prescribed by the Chairman;
- B. Pursuant to Section 171-95, Hawaii Revised Statutes, authorize the eventual dedication, by assignment, of Easements W-1 and W-4 to the control and management of the Department of Water Supply, County of Hawaii, together with rights of ingress and egress over adjoining State land (TMKs 6-6-01:2 and 31) subject to the following terms and conditions:
1. Such conveyance shall be at gratis consideration;
  2. Both easements, including waterline improvements, shall be employed in the interest of public health, safety and welfare;
  3. For Easement W-4, the County of Hawaii (Department of Water Supply) shall comply with applicable conditions of agenda Item H-1, dated December 16, 1983;
  4. Standard hold-harmless clause;
  5. Standard one-year abandonment and reverter to-the-State-of-Hawaii clause;
  6. Standard relocation clause;
  7. Such other terms and conditions as may be prescribed by the Chairman;
- C. Pursuant to Section 171-95, Hawaii Revised Statutes, authorize the granting of a perpetual, non-exclusive easement to the County of Hawaii for access-road purposes over and across the existing twenty-foot road described on CSF No. 17725 subject to the following conditions:
1. Standard hold-harmless clause;
  2. Standard abandonment and reverter clause;


January 13, 1984

3. Standard relocation clause;
  4. That the County of Hawaii share the costs of maintaining the roadway in question equally with other authorized users;
  5. Such other terms and conditions as may be prescribed by the Chairman;
- D. Subject to the concurrence of Leslie W. Wishard, cancel Grant of Easement No. S-4483 with the condition that all properties now serviced with water from the existing four-inch water pipeline and three-foot-wide easement be supplied with water from the new six-inch water system;
- E. Authorize immediate right of entry to Dr. and Mrs. John J. Lowrey or their assigns to construct the six-inch waterline on State land identified as portions of TMKs 6-6-01:2 and 31 subject to the following terms and conditions:
1. Standard hold-harmless clause;
  2. Standard compliance with applicable governmental requirements clause;
  3. The applicant shall give the Hawaii District Land Agent advance notice of 48 hours before commencing construction;
  4. Work activities shall be confined to areas as necessary with precautions taken to prevent damage to adjoining real property and to minimize inconveniences to neighboring residents and general public;
  5. All disturbed grounds shall be restored to conditions acceptable to the Chairman as advised by the Hawaii District Land Agent;
  6. All rubbish, construction debris and litter shall be removed to existing County disposal sites;
  7. Such other terms and conditions as may be prescribed by the Chairman.

Respectfully submitted,

  
JAMES J. DETOR  
Land Management Administrator

APPROVED FOR SUBMITTAL:

  
SUSUMU ONO, Chairperson

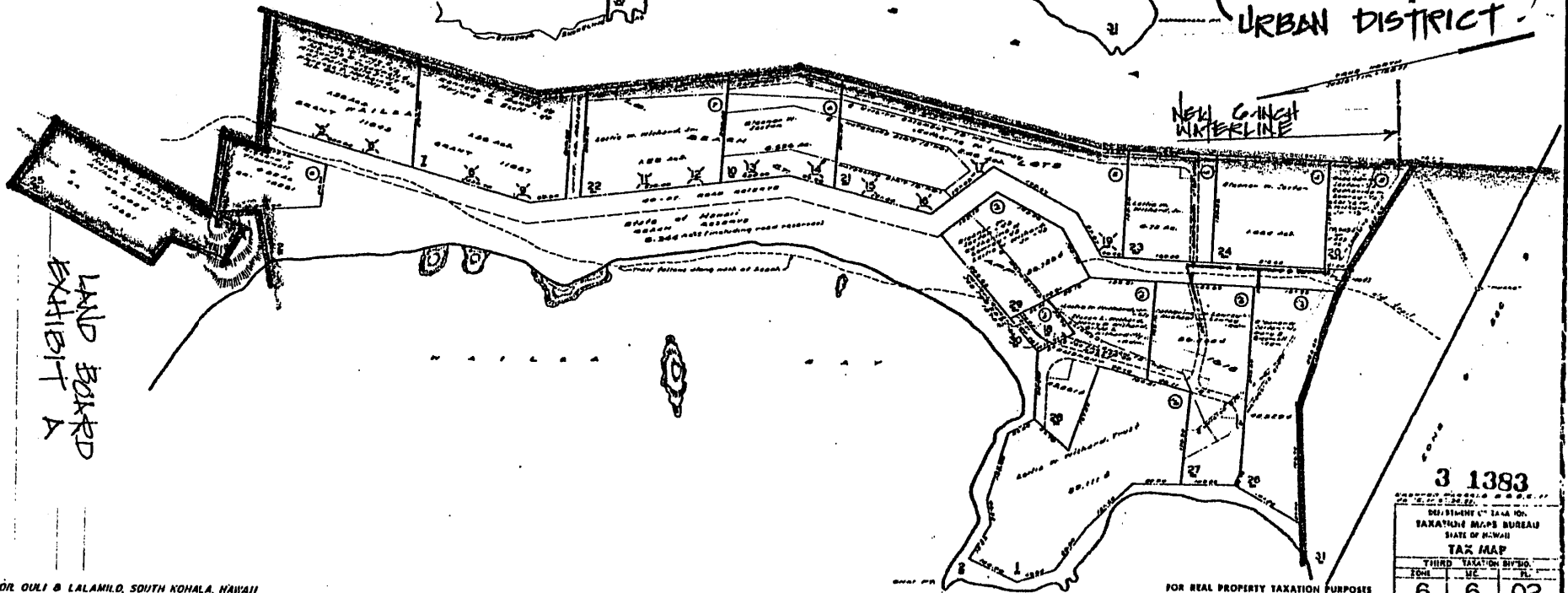
AGRICULTURE DISTRICT

CONSERVATION DISTRICT

URBAN DISTRICT

URBAN DISTRICT

NEW GUINCH WATERLINE



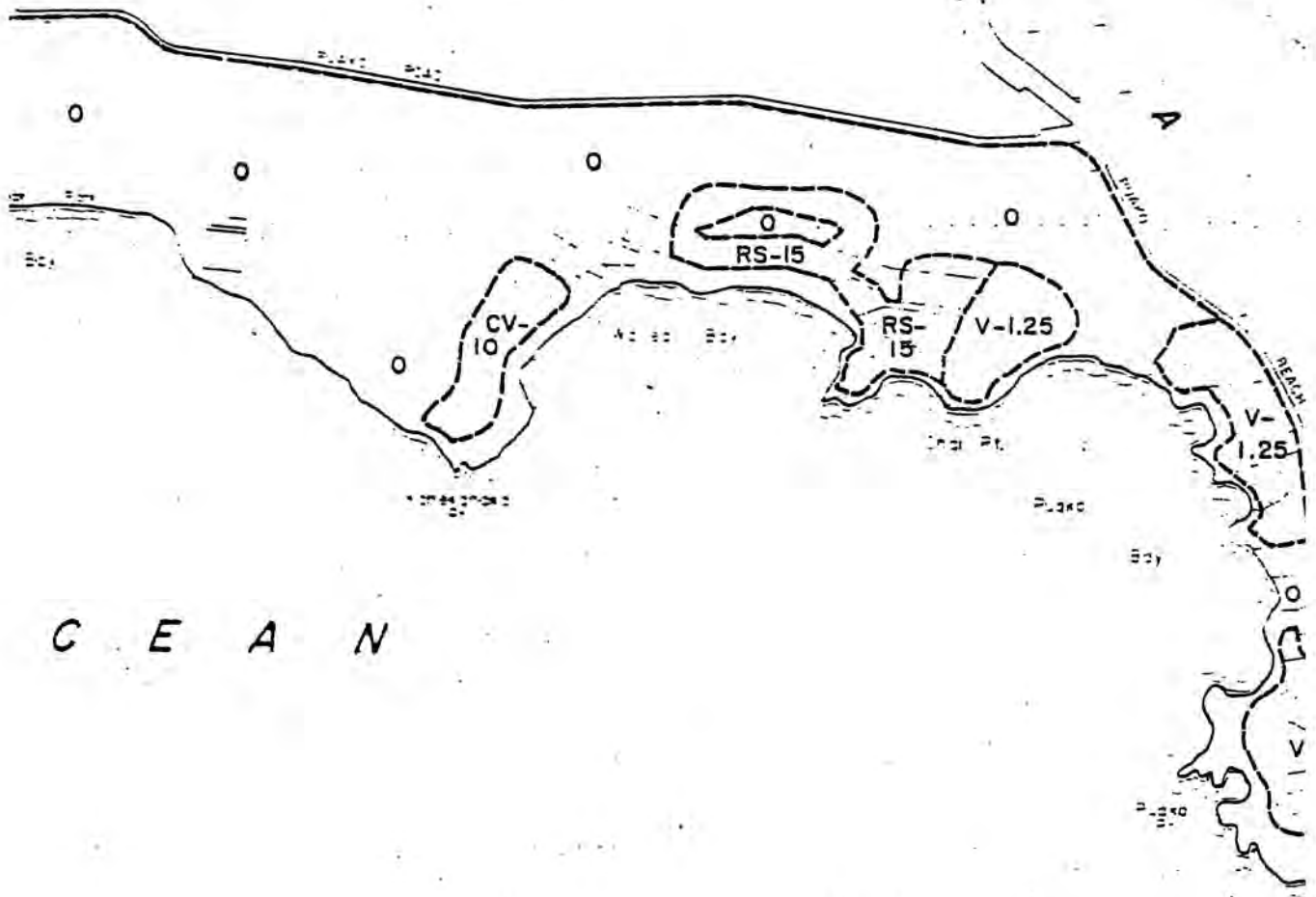
LAND BOARD  
EXHIBIT A

3 1383

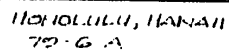
TAXATION MAPS BUREAU		
STATE OF HAWAII		
TAX MAP		
THIRD TAXATION DIVISION	DATE	FILE
6	6	02

QUEEN KAAHUMANU HIGHWAY

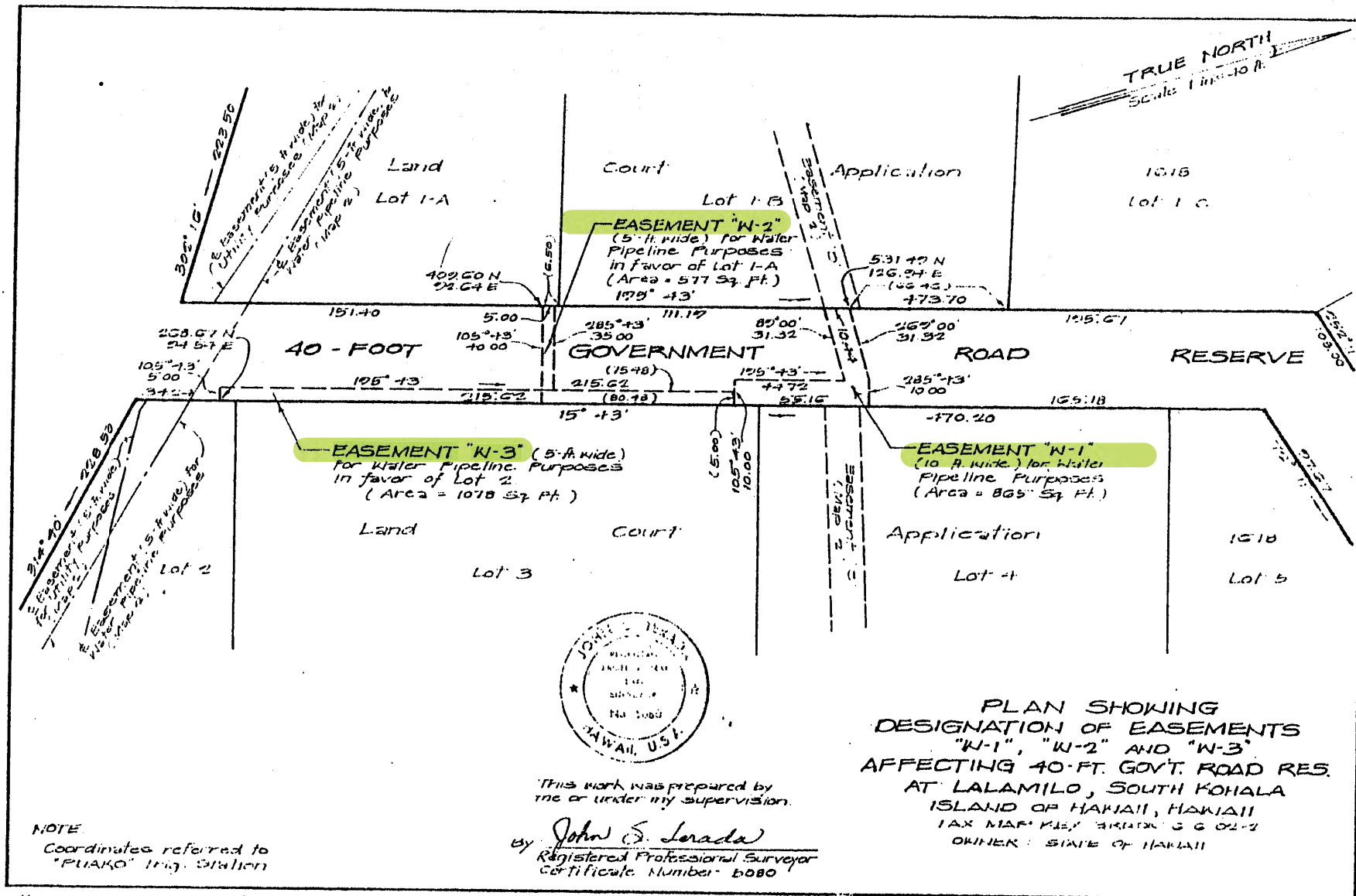
UNPLANNED



LAND BOARD  
EXHIBIT B



1020 ALAM ST.  
FEB. 23, 1983



## EXHIBIT 2

DOCUMENT FOR APPROVAL BY THE BOARD OF LAND AND NATURAL RESOURCES

CONSENT

March 14, 1986

PARTIAL ASSIGNMENT OF GRANT OF EASEMENT

HAWAII

DR. JOHN J. LOWREY and CATHERINE W. LOWREY, husband and wife, Assignor, to JOHN SHIGEYUKI TANAKA and AMY YAEKO TANAKA, husband and wife, Assignee, and GEORGE HUMPHREYS ROBERTSON, unmarried, Assignee

Grant of Easement dated January 13, 1984--perpetual, non-exclusive easement rights for the construction, use, maintenance and repair of water pipelines together with rights of ingress and egress to and from the easement areas (filed under Land Office Deed No. S-27,467)

### LOCATION

Portion of Government lands at Lalamilo, South Kohala, Hawaii, Tax Map Key: 3rd/6-6-02:2

### AREA:

- A. Easement W-2: 577 square feet
  - 1. Five feet wide, for water-pipeline purposes over and across a forty foot Government road reserve
- B. Easement W-3: 1,078 square feet
  - 1. Five feet wide, for water-pipeline purposes over and across a forty foot Government road reserve

### CONSIDERATION:

None

### REMARKS:

Grant of perpetual, non-exclusive easements over and across portions of State lands dated January 13, 1984, was approved by the Board of Land and Natural Resources under agenda Item F-4 and filed under Land Office Deed No. S-27,467, consists of the following designated easements:

- W-1 Easement, ten feet wide, for water-pipeline purposes over and across a forty-foot road reserve on Tax Map Key: 3rd/6-6-02:2 consisting of 865 square feet (Dedication to the Department of Water Supply, County of Hawaii);

ITEM F-1- g



Partial Assignment of  
Grant of Easement

March 14, 1986

- W-2 Easement, five feet wide, for water-pipeline purposes over and across a forty-foot road reserve on Tax Map Key: 3rd/6-6-02:2 consisting of 577 square feet (Assignment to Mr. and Mrs. John S. Tanaka);
- W-3 Easement, five feet wide, for water-pipeline purposes over and across a forty-foot road reserve on Tax Map Key: 3rd/6-6-02:2 consisting of 1,078 square feet (Assignment to Mr. George H. Robertson);
- W-4 Easement, ten feet wide, for water-pipeline purposes over and across a portion of Tax Map Key: 3rd/6-6-02:31 consisting of 10,672 square feet (Dedication to the Department of Water Supply, County of Hawaii).

Tax Map Key: 6-6-02:2 is a beach reserve which includes a forty-foot-wide road reserve situated between two tiers of private property (Wailea Beach Lots) along Wailea Bay;

Tax Map Key: 6-6-02:31, except for various road and utility easements, is presently unencumbered but has been the focus for future park development (Hapuna Beach State Park) by the Division of State Parks;

As owners of private property identified as Tax Map Key: 6-6-02:27, the applicants replaced an existing four-inch pipeline and three-foot-wide easement with a six-inch waterline and ten-foot-wide easement. The larger waterline and wider easements (W-1 and W-4) have been required by the County of Hawaii for fire-suppression purposes in connection with a three-lot subdivision of Parcel 27. Both easements are now in the process of dedication to the County of Hawaii, Department of Water Supply.

RECOMMENDATION:

That the Board consent to the Partial Assignments of Grant of Easement (filed under Land Office Deed No. S-27,467) from Dr. John J. Lowrey and Catherine W. Lowrey, husband and wife, Assignors, to:

- A. Mr. John Shigeyuki Tanaka and Amy Yaeko Tanaka, husband and wife, Assignee, for Easement W-2;
- B. Mr. George Humphreys Robertson, unmarried, Assignee, for Easement W-3.

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF LAND MANAGEMENT  
P. O. BOX 521  
HONOLULU, HAWAII 96802

EXHIBIT 3

DIVISIONS:  
CONVEYANCES  
FISH AND GAME  
FORESTRY  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

December 28, 1984

Board of Land and  
Natural Resources  
Honolulu, Hawaii

Gentlemen:

HAWAII

SUBJECT: Direct Sale of Easement

STATUTE: Chapter 171, Hawaii Revised Statutes

APPLICANT: CATHERINE W. LOWREY, ET AL

FOR: Perpetual, non-exclusive easement, over and across a Government road reserve at Wailea, South Kohala, Hawaii, Tax Map Key 6-6-02:02.

STATUS: Unencumbered (Government Beach Reserve and road reserve)

SPECIFIC USE: Right, privilege and authority to construct, use, maintain and repair a roadway for ingress/egress and utility purposes.

ZONING: State Land Use Commission: Urban  
County of Hawaii CZO: RS-15

AREA: To be determined by the applicant, subject to confirmation by the Survey Division, Department of Accounting and General Services.

CONSIDERATION: To be determined by independent appraisal, same subject to review and approval by the Chairperson.

LAND TITLE STATUS: Subsection 5(b) land

REMARKS: The applicants own Parcel 29 of Tax Map Key 6-6-02 and wish to construct a permanent easement over the road reserve to get to their property. The applicants will be paving a portion of the roadway to prevent erosion from traffic and the elements.

ITEM F-2

RECOMMENDATION: That the Board:

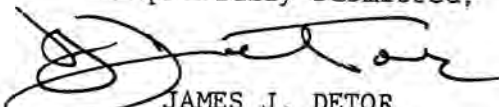
- A. Authorize the direct sale of the above-described easement to the applicants under the foregoing terms and conditions which are by this reference incorporated herein, in addition to the following:
  1. All improvements shall be done by the applicants at no cost or expense to the State of Hawaii.
  2. Maintenance and repair of the easement area shall be performed by the applicants, their heirs, assigns or devisees at no cost or expense to the State of Hawaii nor to the County of Hawaii, including periods of emergency, until such time that the road improvements are constructed to County standards and dedicated to the County.
  3. The applicants shall include the above "maintenance and repair" provision in a covenant in all conveyance documents affecting their properties as they exist now, or should they be eventually subdivided and sold.
  4. The applicants, their successors and permitted assigns, shall procure, at their own cost and expense, and maintain during the entire period of this grant, from an insurance company or companies licensed to do business in the State, a policy or policies of comprehensive public liability insurance, in an amount acceptable to the Board, insuring the Grantor and Grantee against all claims for personal injury, death and property damage; that said policy shall cover the entire easement area, including all improvements and grounds and all roadways or sidewalks on or adjacent to the said easement area in the control or use of the Grantee. The Grantee shall furnish a like certificate upon each renewal of such policy, each such certificate to contain or be accompanied by an assurance of the insurer to notify the Grantor of any intention to cancel any such policy sixty (60) days prior to actual cancellation.
  5. Reverter clause upon sooner termination or abandonment of the specific purposes for which granted.
  6. Standard relocation clause.

December 28, 1984

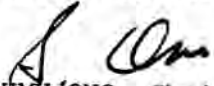
RECOMMENDATION:  
(continued)

7. Standard indemnity and hold-harmless clause.
  8. Proper precaution should be exercised during construction to prevent any possible degradation of the aquatic resources of Wailea Bay.
  9. In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered during construction, the Grantee shall stop work and contact the Historic Preservation Office in Honolulu at 548-7460 or 548-6408.
  10. No gates, barricades or the like shall be erected across the easement area which could interfere with the public's right to use the road reserve as a public access.
  11. Such other terms and conditions as may be imposed by the Chairperson.
- B. Authorize the issuance of an immediate construction right-of-entry to the applicant subject to the standard indemnity and hold-harmless clause.

Respectfully submitted,

  
JAMES J. DETOR  
Land Management Administrator

APPROVED FOR SUBMITTAL:

  
SUSUMU 'ONO, Chairperson

**EXHIBIT 4**

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

January 27, 2017

Ref. No.: LODS-27,467  
Ref. No.: LODS-28,277  
PSF No.: 16HD-060  
PSF No.: 16HD-061

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

**HAWAII**

After-the-Fact Consent to Assignment of Perpetual, Non-Exclusive Easements, Land Office Deed Nos. S-27,467 and S-28,277, John J. Lowrey and Catherine W. Lowrey, Assignors, to Bruce A. Meyer, Nancy P. Meyer, and Naupaka Limited Partnership, Assignees; Declaration of Exemption from the Preparation of an Environmental Assessment for Installation of Water Pipeline Within the Existing Easement Corridor of Land Office Deed No. S-28,277; Lalamilo, South Kohala, Hawaii, Tax Map Key: (3) 6-6-002: portions of 002.

Amend Land Office Deed Nos. S-27,467 and S-28,277 to Allow the Easements to "Run with the Land" and to be assignable without the prior written consent from the Board of Land and Natural Resources.

APPLICANT:

John J. Lowrey and Catherine W. Lowrey, as Assignor, to Bruce A. Meyer and Nancy P. Meyer, husband and wife, tenants by the entirety as to an undivided 50% interest, and Naupaka Limited Partnership, tenant in severalty as to an undivided 50% interest, the whole being held as tenants in common, Assignee.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Wailea Bay Estates situated at Lalamilo, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-6-002:002, a beach & road reserve (Ala Kahakai), as shown on the attached map labeled Exhibit A.

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

January 27, 2017 cto



AREA:

6.344 acres, more or less.

ZONING:

State Land Use District: Urban  
County of Hawaii CZO: RS-15

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES \_\_\_\_ NO x

CURRENT USE STATUS:

Encumbered under Governor's Executive Order No. 4333 to State Parks for Addition to Hapuna State Park.

Encumbered by Land Office Deed No. S-27,467 to John J. Lowrey and Catherine W. Lowrey for water-pipeline purposes.

Encumbered by Land Office Deed No. S-28,277 to John J. Lowrey and Catherine W. Lowrey for a roadway for ingress/egress and utility purposes.

Encumbered by Land Office Deed No. S-28,586 to County of Hawaii for road and water-pipeline purposes.

CHARACTER OF USE:

LOD S-27,467; for waterlines:

Right, privilege and authority to construct, use, maintain, repair, replace and remove water transmission pipeline over, under and across State-owned land.

LOD S-28,277; for access and utility:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See **Exhibit D**.

DCCA VERIFICATION:

John J. Lowrey & Catherine W. Lowrey:

Not applicable. As natural persons, the Lowreys are not required to register with DCCA.

Bruce A. & Nancy P. Meyer:

Not applicable. As natural persons, the Meyers are not required to register with DCCA.

Naupaka Limited Partnership:

Place of business registration confirmed: YES x NO

Registered business name confirmed: YES x NO

Applicant in good standing confirmed: YES x NO

REMARKS:

As noted above, Land Office Deed No. S-27,467 (LOD S-27,467) was issued to John J. Lowrey and Catherine W. Lowrey (the Lowreys) on January 21, 1985 for water pipeline purposes. Land Office Deed No. S-28,277 (LOD S-28,277) was issued to the Lowreys on October 28, 1987 for a roadway for ingress/egress and utility purposes. Both easements served the Lowreys' private property designated as TMK: (3) 6-6-002:029 (Parcel 29).

By letter dated February 2, 2016, Mr. Roy Vitousek III, Cades Schutte LLP, on behalf of Bruce and Nancy Meyer (the Meyers), current owners of TMK: (3) 6-6-002:029-0001, and John J. Lowrey, Jr., principal of Naupaka Limited Partnership ("Naupaka"), owner of TMK (3) 6-6-002:029-0002, explains that his clients intend to install a water pipeline within the corridor of the existing access and utility easement under LOD S-28,277 that already serves his clients' properties in Wailea Bay Estates.

The water supply to Parcel 29 currently follows an easement corridor over private and public lands and connects to Parcel 29 on its makai side. The portion of the easement crossing State lands is documented under LOD S-27,467 and is shown in blue on **Exhibit**



**B** attached. The portion of the water pipeline easement over private properties on the makai side of Parcel 18 (Lot 1-E/formerly Parcel 30) is located very close to the shoreline, where there has been significant erosion over the years. Due to the erosion by the wave action, the concrete conduit that contains the water pipeline has cracked, exposing the pipe and creating a hazard to the public. The eroded area (Easement F), is located along the seaward boundary of Lot-1E, private property identified as TMK: (3) 6-6-002: portion of 018, which was formerly Parcel 30. (**Exhibit C**)

The new water pipeline will run underground in an existing conduit from Easement 3 along the eastern boundary of the 40-Foot Government Road (Ala Kahakai Road) northward to Parcel 29 (Lot 1-F) within Easement LOD S-28,277 to service Parcel 29, which consists of CPR 0001 (Meyers) and CPR 0002 (Naupaka). The portion of this alignment located on State land is indicated in yellow on the map attached as **Exhibit B**. The installation of the water pipeline in the corridor of easement LOD S-28,277 will not require significant ground disturbance and staff is therefore recommending that the Board find the installation to be exempt from the preparation of an environmental assessment. See **Exhibit D** attached.

Declaration of Condominium property regime for "Ilima" Condominium Project

In preparing the recommendation regarding the easements, staff noted that the Lowreys' Parcel 29 had been converted to a two-unit condominium property regime ("CPR") with one unit being conveyed to the Meyers and the other unit being conveyed to Naupaka, an entity created by the Lowreys' son, John J. Lowrey, Jr. However, Land Board consent was not sought for the assignment of the two easements. As a result, the applicants are now requesting an after-the-fact consent to assignment of LODs S-27,467 and S-28,277 from John J. Lowrey and Catherine W. Lowrey, as assignor, to Bruce A. Meyer and Nancy P. Meyer, husband and wife, tenants by the entirety as to an undivided 50% interest, and Naupaka Limited Partnership, tenant in severalty as to an undivided 50% interest, the whole being held as tenants in common, as assignee. Staff proposes to amend the easements by inserting a provision to have the easements "run with the land," to be assignable without the prior written consent from the Board.

Staff reviewed the file and can report that the Lowreys are in compliance with all terms and conditions of the easements. Liability insurance is current, with an expiration date of 11/28/2017. The performance bond was waived. The Lowreys have never been cited for any illegal or unlawful activity on the State property.

The Meyers and Naupaka have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The Office of Conservation and Coastal Lands was consulted on the installation of the new water pipeline in the easement corridor of LOD S-28,277 and had no objection. No other agency or community comments were solicited, as there will be no change in disposition or use of the land.

RECOMMENDATION: That the Board:

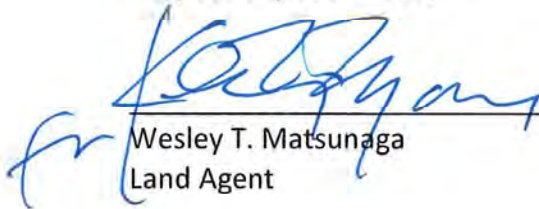
1. Declare that, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (3) 6-6-002:029-0001 & 0002, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling the Applicant requirements listed above, authorize the after-the-fact, consent to the assignment of Land Office Deed Nos. S-27,467 and S-28,277 from John J. Lowrey and Catherine W. Lowrey, as Assignor, to Bruce A. Meyer and Nancy P. Meyer, husband and wife, tenants by the entirety as to an undivided 50% interest, and Naupaka Limited Partnership, tenant in severalty as to an undivided 50% interest, the whole being held as tenants in common, as Assignees, subject to the following:
  - A. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Authorize the Amendment of Land Office Deed Nos. S- 27,467 and S-28,277 by:
  - A. Inserting a "run with the land" provision as stated below:

"This easement shall run with the land and shall inure to the benefit of the real property described as tax map key no. (3) 6-6-002:029-001 & 002, providing that the Grantee shall be required to carry liability

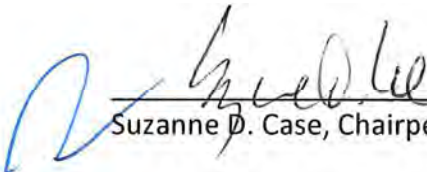
insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee's estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document."

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

Respectfully Submitted,

  
\_\_\_\_\_  
Wesley T. Matsunaga  
Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Suzanne D. Case, Chairperson



**Subject State  
Road Reserve**

# EXHIBIT A

FOR ETL, PROPERTY TAXATION PURPOSES  
SALES TO CHANGE

6 6 02

EDUC - 43 INOTED

Meyer/ Naupaka Ltd property  
TMK: (3) 6-6-002:029

Section of existing utility easement over private property that is being eroded by the surf, relating to LODS-27,467.

Existing utility easement over private properties relating to LODS-27,467

Existing access/utility easement under LODS-28,277

Existing pipeline easement under LODS-27,467

- Enjoining Unlawful Enforcement
- 1987 Court of En Banc
- Enjoining Enforcement on Federal NLRB
- Next Where Unlawful Lines Cross Court Remedy Reserve in Matter of 1987 En Banc
- New Enforcement Case Louay Post Co (Alternative One)
- Three Varieties of Enjoining Enforcement (Alternative Two)

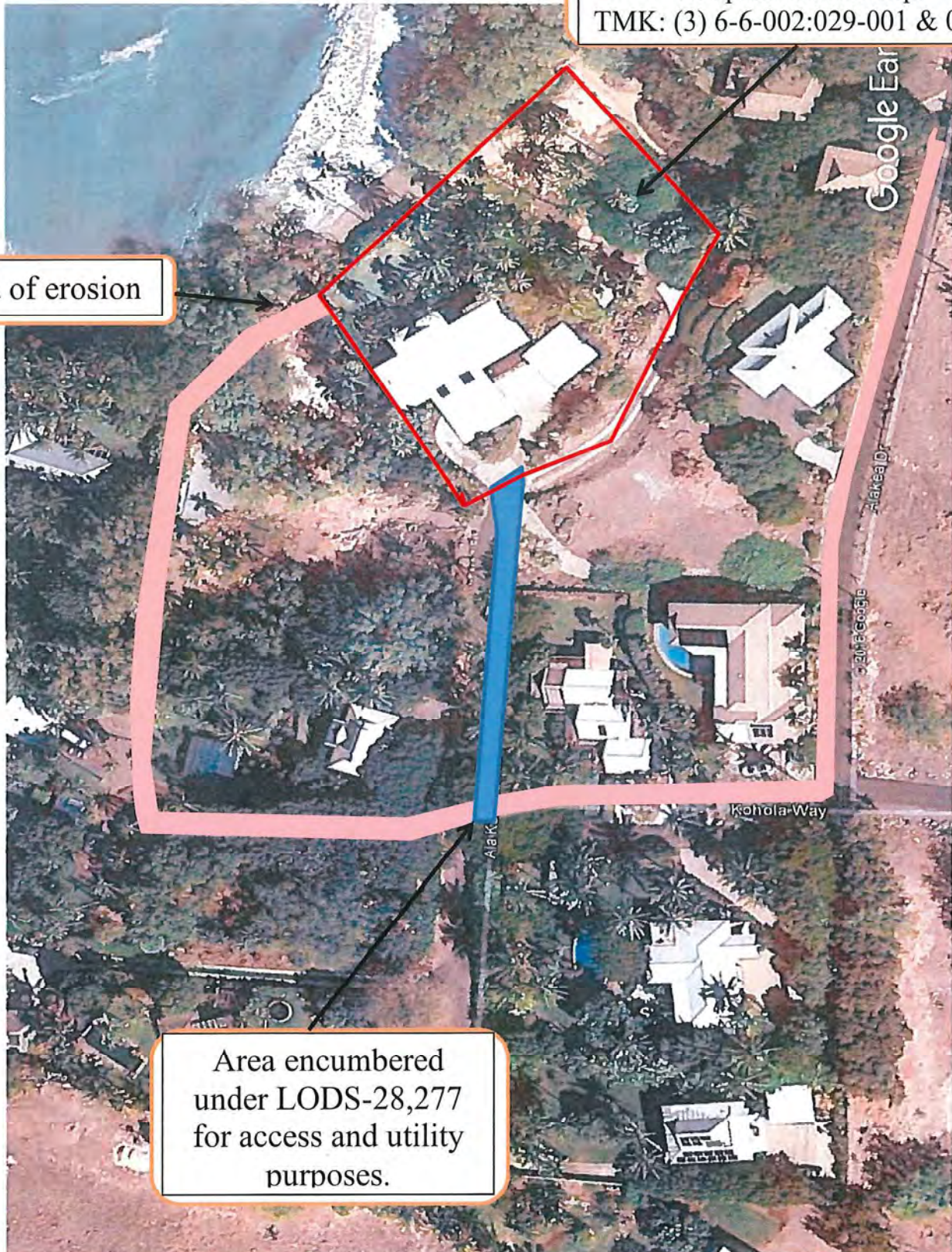
## EXHIBIT B



Private property under Meyer and  
Naupaka Partnership.  
TMK: (3) 6-6-002:029-001 & 002

Area of erosion

Area encumbered  
under LODS-28,277  
for access and utility  
purposes.



**EXHIBIT B**





**EXHIBIT C**





**EXHIBIT C**



DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809  
January 27, 2017

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR.

**Project Title:**

After-the-Fact Consent to Assignment of Perpetual, Non-Exclusive Easements, Land Office Deed Nos. S-27,467 and S-28,277, John J. Lowrey and Catherine W. Lowrey, Assignors, to Bruce A. Meyer, Nancy P. Meyer, and Naupaka Limited Partnership, Assignees; Declaration of Exemption from the Preparation of an Environmental Assessment for Installation of Water Pipeline Within the Existing Easement Corridor of Land Office Deed No. S-28,277; Lalamilo, South Kohala, Hawaii, Tax Map Key: (3) 6-6-002: portions of 002.

Amend Land Office Deed Nos. S-27,467 and S-28,277 to Allow the Easements to "Run with the Land" and to be assignable without the prior written consent from the Board of Land and Natural Resources.

**Project / Reference No.:**

PSF No.: 16HD-060 & 16HD-061

**Project Location:**

Lalamilo, South Kohala, Hawaii, Tax Map Key: (3) 6-6-002: portion of 002.

**Project Description:**

Installation of water pipeline in corridor of access and utility easement under Land Office Deed No. S-28,277.

**Chap. 343 Trigger(s):**

Use of State land.

**Exemption Class No.  
and Item No.:**

In accordance with Hawaii Administrative Rule Sections 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the

**EXHIBIT D**

preparation of an environmental assessment pursuant to Exemption Class 1, which 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 Class 2 "Replacement or reconstruction of existing structure 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."

Exemption Item Description  
from Dept. Exemption List:

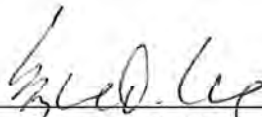
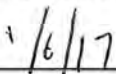
Class 1, Item No. 17, "Repair and maintenance of existing utilities and drainage systems." Class 2, Item No. 9 "Minor upgrades or replacement of existing utilities and drainage systems on state lands. Drainage improvements will generally consist of the installation of culverts, pipes, and construction of gutters or other similar infrastructure where minor flooding occurs."

Consulted Parties:

The Office of Conservation and Coastal Lands.

Recommendation:

It is anticipated this project will probably have minimal or no significant effect on the environment as the relocation of the water pipeline will be to another existing utility easement corridor. The water line will be installed in an existing conduit and no significant ground disturbance is anticipated. As a result, the will involve only minor alterations in the condition of land, water or vegetation, and is presumed to be exempt from the preparation of an environmental assessment.

  
\_\_\_\_\_  
Suzanne D. Case, Chairperson  
  
\_\_\_\_\_  
Date