

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

August 10, 2012

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

PSF No.: 12HD-089

HAWAII

Grant of Perpetual, Non-Exclusive Easement to Scott Cirimeli and Constance E. Cirimeli for Access and Utility Purposes, Kailiula and Ahulili, Kau, Hawaii, Tax Map Key: (3) 9-6-009: portion of 004.

APPLICANT:

Scott Cirimeli and Constance E. Cirimeli, husband and wife, Tenants by the Entirety.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of the former Kapapala School Lot, situated at Kailiula and Ahulili, Kau, Hawaii, identified by Tax Map Key: (3) 9-6-009: portion of 004, as shown on the attached map labeled Exhibit A.

AREA:

Kapapala School Lot: 5.589 acres, more or less.
Connector Road: .135 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Hawaii CZO: Agriculture

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:

Vacant and unencumbered.

CHARACTER OF USE:

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.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market value, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as **Exhibit C**.

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class 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."

DCCA VERIFICATION:

Not applicable. Applicants, as individuals, are not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Pay for an appraisal to determine one-time payment;

2. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
3. Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

On January 24, 2012, the Hawaii District Land Office received an application from a Scott Cirimeli, request for an access and utility easement over State lands of the former Kapapala School Lot, identified as Tax Map Key: (3) 9-6-009:004. The Cirimeli property, a landlocked parcel, is located north of the School Lot, identified as Tax Map Key: (3) 9-6-009: 009.

Through the years, access to the Cirimeli property was through a graveled roadway, which traverses a private property located east of the Kapapala School Lot, currently belonging to a Whitney H. Coffman, identified as Tax Map Key: (3) 9-6-011:008. Mr. Cirimeli explains that for reasons unknown, Ms. Coffman began restricting use of the graveled roadway, therefore an alternate access is now required. The alignment of the proposed easement is for the most part, over the original driveway and internal roadways of the school lot.

The original Kapapala School Lot, which was landlocked, consisted of 8.02 acres. The school was built on a 2.375-acre portion of the lot, with the remaining 5.647 acres abandoned. To resolve the landlocked situation, a land exchange under Deed No. 8652, dated December 28, 1948 (Exhibit B), was made and entered into, by and between the Territory of Hawaii (State) and Hawaiian Agricultural Company (HAC). HAC conveyed the State a 3.214-acre parcel for addition to the Kapapala School Lot and a 0.135-acre connecting road lot, together with an easement providing an additional access from Wood Valley Road to the School Lot. The State in turn gave up the 5.647-acre portion of the School Lot it abandoned. The 5.647-acre parcel was later identified as TMK: 9-6-009:009, which was then sold a couple of times and is now the Cirimeli property.

At its meeting of September 13, 1985, Item F-3, the Board of Land and Natural Resources approved for public auction the subject property for a thirty-five year lease for diversified agriculture. The above submittal did not contain any information documenting the history of the subject State parcel, but did mention that the property was the site of the former Kapapala School Lot. That the foundations were apparently bulldozed; the parcel was fenced, and for several years thereafter, was used for grazing purposes.

At its meeting of February 12, 1999, Item D-4, the Land Board approved for public

auction, the subject property for intensive agriculture purposes. To date, no new leases have been issued, and the land remains vacant and unencumbered.

Scott and Constance Cirimeli has not had a lease, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

On June 21, 2012, various government agencies and interest groups were solicited for comments. The only respondents were the County Planning Department and Police Department. Both agencies had no objections to the request.

Staff believes that the proposed use should be exempt from preparation of an environmental assessment as the proposed use would have no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. The subject property was previously disturbed in the construction of the Kapapala School and years following, as a pasture, after the school was abandoned.

Further, staff is recommending that the grant of easement require the Cirimelis to notify the department in writing in the event of any change in ownership of the private property. This will facilitate the department's subsequent management of the easement.

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, 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 parcel described as Tax Map Key: (3) 9-6-009:009, 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 all of the Applicant requirements listed above, authorize the issuance of a perpetual, non-exclusive easement to Scott Cirimeli and Constance E. Cirimeli, covering the subject area for access and utility purposes 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 perpetual easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (3) 9-6-009:009, provided

however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document. Additionally, the Grantee shall notify the department in writing in the event of any change in ownership of the real property described as Tax Map Key: (3) 9-6-009:009;

- 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,



for Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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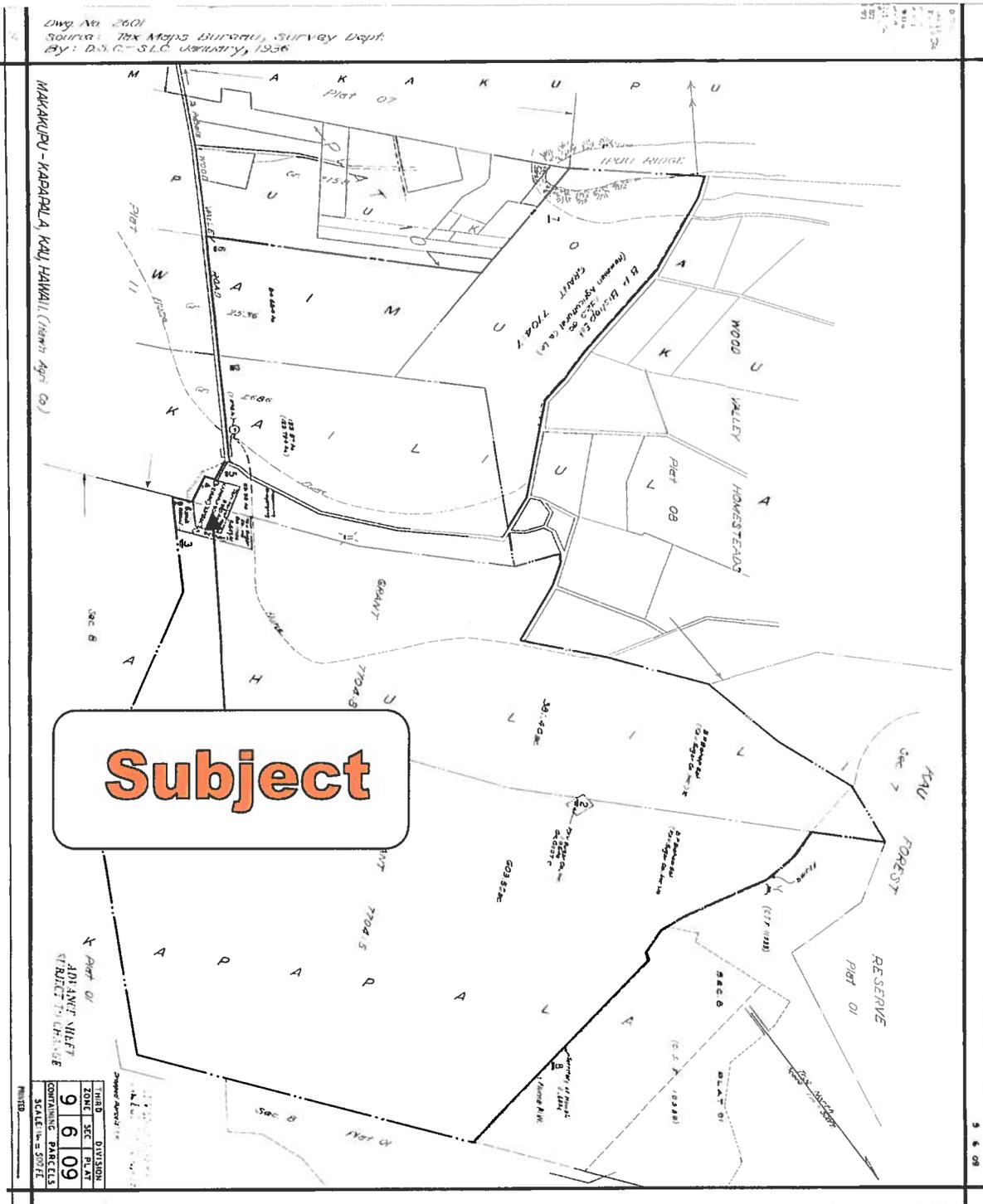
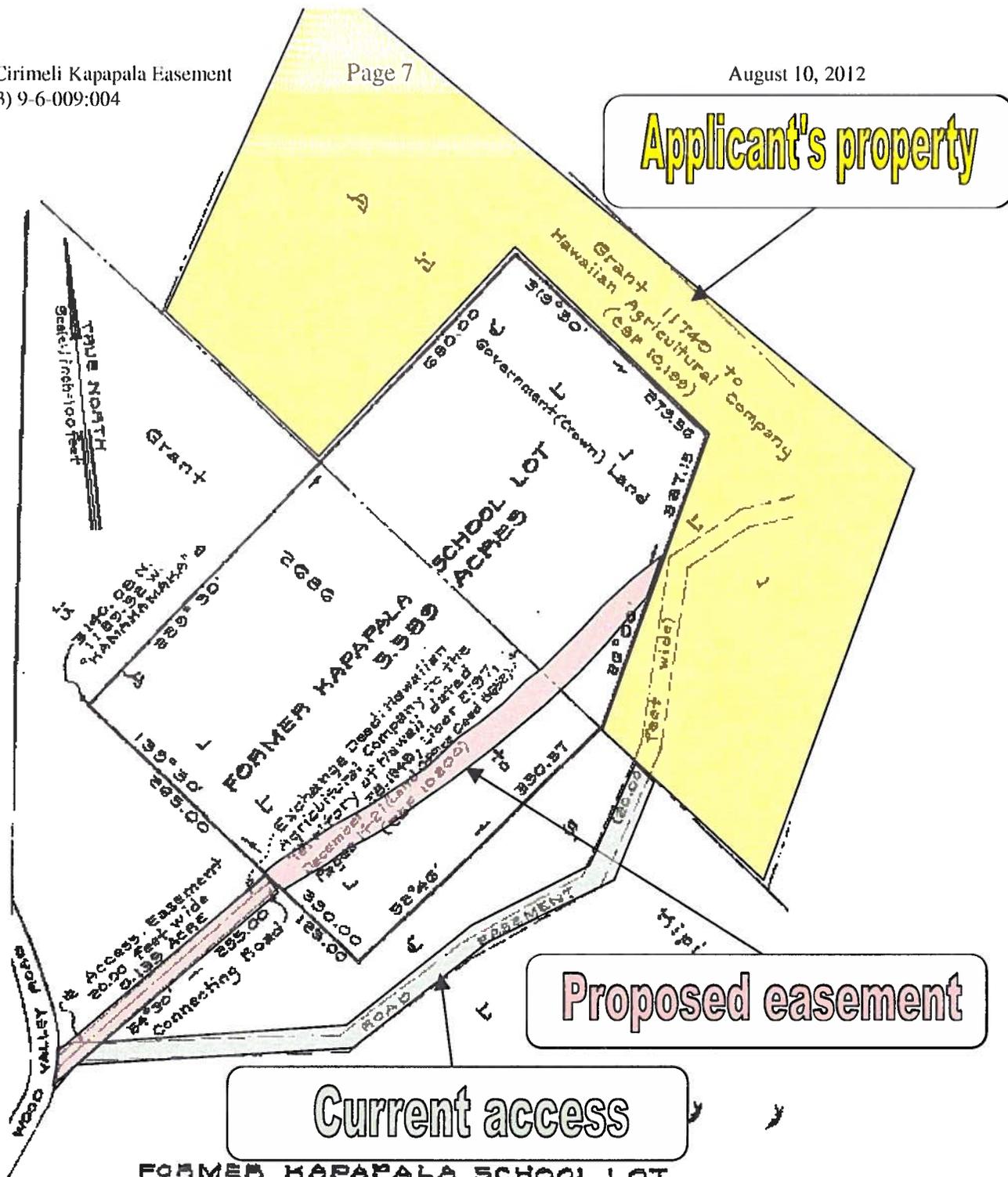


EXHIBIT A

Applicant's property



FORMER KAPAPALA SCHOOL LOT
Kailiua and Ahulili, Maui, Island of Hawaii, Hawaii
Scale: 1 inch = 100 feet

JOB H-504(BB)
C.BK

TAX MAP 9-6-09

C. S. F. No. 20,908

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

RSN Feb. 29, 1989

EXHIBIT A

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EXCHANGE DEED

THIS INDENTURE OF EXCHANGE, made and entered into, by and between HAWAIIAN AGRICULTURAL COMPANY, an Hawaiian corporation, the address of which is P. O. Box 3470, c/o C. Brewer and Co., Ltd., Honolulu, Territory of Hawaii, hereinafter referred to as the "GRANTOR", and the TERRITORY OF HAWAII, hereinafter referred to as the "GRANTEE";

W I T N E S S E T H:

WHEREAS, the Grantee owns the following described real property, to-wit:

Portion of the Present Kapapala School Lot
Abandoned as no longer required for school purposes
Being portion of the Government (Crown) Land of Ahulili
Being portion of the eight-acre school lot reserved in
Grant 7704, Parcel 8 to the Trustees of the
B.P. Bishop Estate

Ahulili, Kau, Hawaii

Beginning at the south corner of this parcel of land and on the boundary between the lands of Ahulili and Kailiula, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KANAKAMAKA" being 2872.0 feet North and 498.0 feet West, as shown on Government Survey Registered Map 3076, and running by azimuths measured clockwise from True South:-

1. 138° 02' 30" 68.00 feet along Grant 2686 to S. Kipi;
2. 139° 30' 175.00 feet along same to a 2-inch pipe at the south corner of the remaining portion of Kapapala School Lot;
3. 206° 00' 327.13 feet along the remaining portion of Kapapala School Lot to a 2-inch pipe;

OFFICE OF THE
COMMISSIONER OF PUBLIC LANDS
HONOLULU, T. H.

EXHIBIT B

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- 4. 139° 30' 279.56 feet along same to a 2-inch pipe;
- 5. 49° 30' 300.00 feet along same to a + cut in pahoehoe on the boundary between the lands of Ahulili and Kailiula;
- 6. 139° 30' 227.00 feet along Grant 2686 to S. Kipi to a pipe in concrete marked 4;
- 7. 208° 30' 430.00 feet along Grant 7704, Parcel 8 to B.P. Bishop Estate to a pipe in concrete marked 3;
- 8. 319° 30' 860.30 feet along same to a pipe in concrete marked 2;
- 9. 26° 00' 435.90 feet along fence along government land to the point of beginning.

AREA 5.647 ACRES

Subject to easements (20 feet wide) in favor of those entitled thereto over the roads which cross this lot, as shown on the plan attached hereto and made a part hereof.

which said real property has been appraised at FIFTY AND NO/100 DOLLARS (\$50.00) per acre, or the total sum of TWO HUNDRED EIGHTY-TWO AND 35/100 DOLLARS (\$282.35); and

WHEREAS, the Grantor owns certain real property located at Kailiula, Kau, Hawaii, Territory of Hawaii, hereinafter described, which said real property has been appraised at TWO HUNDRED AND NO/100 DOLLARS (\$200.00) per acre, or the total sum of SIX HUNDRED FORTY-TWO AND 80/100 DOLLARS (\$642.80), and which the Grantee is desirous of acquiring directly for a public purpose, to-wit: for an Addition to Kapapala School Lot; and

WHEREAS, the said Grantor and Grantee have mutually agreed to exchange said properties, the areas of which have been adjusted to conform to the report of the Survey Department of the Territory of Hawaii and as agreed upon, and the Grantor has agreed to waive the payment of the sum of THREE HUNDRED SIXTY AND 45/100 DOLLARS (\$360.45) due to it from the

EXHIBIT B

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Grantee in order to equalize said exchange; and

WHEREAS, the real property to be conveyed to said Grantor by the Territory of Hawaii, said Grantee, does not exceed either Forty (40) acres in area or the sum of Five Thousand and No/100 Dollars (\$5,000.00) in value, and said exchange has been approved by two-thirds of the members of the Board of Public Lands of the Territory of Hawaii at its meeting held April 30, 1945 (L. H. No. 2639), as requested by the Board of Supervisors of the County of Hawaii under Resolution No. 885, adopted at its meeting held November 1, 1944, all in accordance with the provisions of Section 73 of the Organic Act of the Territory of Hawaii.

NOW, THEREFORE, the said Grantor, for and in consideration of the conveyance to be made to it by the Grantee, by Land Patent, in exchange as aforesaid, has granted and conveyed unto the said Grantee, its successors and assigns, all those certain parcels of land required by the Grantee for an Addition to Kapapala School Lot, which parcels of land, situate at Kailiula, Kau, Hawaii, Territory of Hawaii, are more particularly described as follows:

Addition to Kapapala School Lot
and Connecting Road 20 feet wide
Portions of Grant 2686 to S. Kipi
Kailiula, Kau, Hawaii

ADDITION TO KAPAPALA SCHOOL LOT

Beginning at a 2-inch pipe at the east corner of this parcel of land, the south corner of the remaining portion of Kapapala School Lot and on the boundary between the lands of Ahulili and Kailiula, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAWAKAWAKA" being 3055.64 feet North and 657.12 feet

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West, as shown on Government Survey Registered Map 3076,
and running by azimuths measured clockwise from True South:-

1. 52° 46' 350.57 feet along the remaining portion of Grant 2686 to S. Kipi to a 2-inch pipe;
2. 139° 30' 390.00 feet along same to a 2-inch pipe;
3. 229° 30' 350.00 feet along same to a + cut in pa-hoehoa on the boundary between the lands of Ahulili and Kailiula and also marking the west corner of the remaining portion of Kapapala School Lot;
4. 319° 30' 410.00 feet along the boundary between the lands of Ahulili and Kailiula, along the remaining portion of Kapapala School Lot to the point of beginning.

AREA 3.214 ACRES

CONNECTING ROAD - Being a strip of land 20 feet wide and extending from the southwest boundary (course 2) of the parcel of land described above to the easterly side of Pahala-Wood Valley Road, the centerline of said strip of land being described as follows:

Beginning at the easterly end of this centerline and on the southwest boundary (course 2) of the parcel of land described above, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAMAKAMAKA" being 2938.58 feet North and 1017.42 feet West, as shown on Government Survey Registered Map 3076, and running by azimuths measured clockwise from True South:-

1. 54° 30' 295.0 feet to the easterly side of Pahala-Wood Valley Road.

AREA 0.135 ACRES

Together with a road easement 20 feet wide to be used in common with the Grantor and all other persons entitled thereto over and across Grant 2686 to S. Kipi and extending from the southwest boundary of the present Kapapala School Lot to the south side of the connecting road from Pahala-Wood Valley Road to Kapapala School Lot Addition

Kailiula, Kau, Hawaii

Being a strip of land extending for 10 feet on each side of the center line which is described as follows:

Beginning at the east end of this center line, on the boundary between the lands of Ahulili and Kailiula, and

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copy showing ground

-6-

EXHIBIT B

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also on the southwest boundary of the present Kapapala School Lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAMA-KAMA" being 3010.02 feet North, and 618.15 feet West, as shown on Government Survey Registered Map 3076 and running by azimuths measured clockwise from True South:-

1. 30° 30' 128.00 feet;
2. 67° 20' 155.00 feet;
3. 58° 30' 154.00 feet;
4. 94° 42' 264.28 feet to the south side of the connecting road to Kapapala School Lot Addition.

AREA 0.322 ACRE

TO HAVE AND TO HOLD the same, together with all the rights, easements, and appurtenances, thereunto belonging, and all the right, title and interest, of the said Grantor, whether at law or in equity, in and to said addition to the Kapapala School Lot and connecting road, unto the said Grantee, its successors and assigns, to its and their own use and behoof forever.

AND, the said Grantor, for itself, its successors and assigns, does hereby covenant with the said Grantee, its successors and assigns, that it is lawfully seised of the granted premises in fee simple; that it has good right to grant and convey the same as aforesaid; that it will, and its successors and assigns, shall, WARRANT AND DEFEND the same unto the said Grantee, its successors and assigns, forever against the lawful claims and demands of all persons whatsoever, except as aforesaid.

IN WITNESS WHEREOF, the said HAWAIIAN AGRICULTURAL COMPANY, an Hawaiian corporation, the Grantor herein, has caused its corporate seal to be affixed and its corporate name to be signed by its proper officers, thereto duly authorized by its Board of Directors, this 23rd day of December

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A.D. 1948, and the TERRITORY OF HAWAII, the Grantee herein,
has hereto caused the Great Seal of the Territory of Hawaii
to be affixed and has caused these presents to be duly execu-
ted by the Governor of the Territory of Hawaii, and counter-
signed by its Commissioner of Public Lands, under his official
seal, this 17th day of October A.D. 1948, as of the day
and year next above written.

HAWAIIAN AGRICULTURAL COMPANY

By [Signature]
Its President

And By [Signature]
Its Treasurer

TERRITORY OF HAWAII

[Signature]
INGRAM H. STAINBACK
Governor of Hawaii.

COUNTERSIGNED:

[Signature]
Commissioner of Public Lands

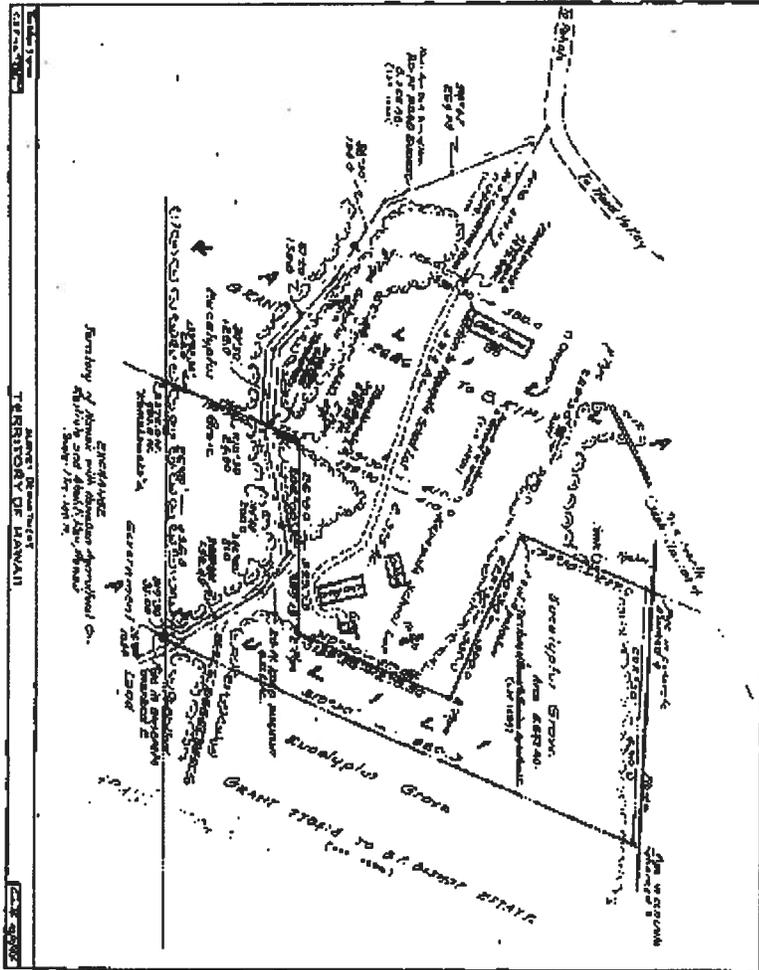
The above exchange was approved
by the Board of Public Lands at
its meeting held April 30, 1945.

[Signature]
Member, Board of Public Lands
of the Territory of Hawaii

APPROVED AS TO FORM:

[Signature]
Deputy Attorney General

EXHIBIT B PAGE 21



Entered of Record this 5th day of January A. D. 1949 at 12:20
o'clock P. M. and compared. Mark N. Hickenstein, Registrar of Conveyances.

BY [REDACTED] Clerk

EXHIBIT B

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AHLI, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

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

EXEMPTION NOTIFICATION

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

Project Title: Grant of Perpetual, Non-Exclusive Easement to Scott Cirimeli and Constance E. Cirimeli for Access and Utility Purposes, Kailiula and Ahulili, Kau, Hawaii, Tax Map Key: (3) 9-6-009: portion of 004.

Project / Reference No.: PSF No.: 12HD-089

Project Location: Kailiula and Ahulili, Kau, Hawaii, Tax Map Key: (3) 9-6-009: portion of 004.

Project Description: Grant of Perpetual, Non-Exclusive Access and Utility Easement.

Chap. 343 Trigger(s): Use of State land.

Exemption Class No. and Description: In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to:
Exemption Class No. 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
Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation."

Exemption Item Description from Agency Exemption List: 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.

Minor alterations in the conditions of land, water or vegetation.

Recommendation:

It is anticipated 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.



William J. Aila, Jr., Chairperson



7/30/12

Date

EXHIBIT C