

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

May 22, 2015

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

PSF No.: 15HD-086

Hawaii

Approval in Concept of the Set-Aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife, of 337.741 Acres for Addition to the Mauna Kea Forest Reserve, Parcel 5, Government Lands of Kaohe III, Hamakua, Hawaii, Tax Map Key: (3)4-4-015:002 (por.)

APPLICANTS AND REQUESTS:

Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW).

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Parcel 5, Government Land of Kaohe III, Hamakua, Hawaii, identified by Tax Map Key: (3)4-4-015:002, as shown on the attached map labeled Exhibit A.

AREA:

337.741 acres, more or less

ZONING:

State Land Use District:     Agriculture  
County of Hawaii CZO:       A-40a

TRUST LAND STATUS:

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

ENCUMBRANCES:

Encumbered by General Lease No. S-4471 to Parker Ranch, Inc. for pasture purposes, and alternate agriculture on 10% of lands not affected by the Palila Critical Habitat Mitigation easement. The lease is scheduled to expire on February 28, 2016.

PURPOSE OF SET-ASIDE:

For addition to Mauna Kea Forest Reserve.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Refer to Exhibit B attached.

APPLICANT REQUIREMENTS:

DOFAW shall be required to provide survey maps and descriptions according to State DAGS standards for the lands to be included in the Mauna Kea Forest Reserve.

REMARKS:

General Lease No. S-4471 was sold at public auction on August 28, 1975 to Theresa B. Lau (Lau) for a period of 35 years commencing March 1, 1976. At its meeting of October 7, 1983, Item F-1-e, the Board of Land and Natural Resources approved the withdrawal of 23.736 acres from the lease and the issuance of a two-year land license to Allied Aggregates Corp. over the withdrawn portion for sand mining and quarrying purposes. The formal withdrawal document was executed by the Chairperson and Lau with an effective date of November 29, 1984.<sup>1</sup>

By mesne assignments with consent of the Board, the lease was assigned to Parker Ranch, Inc. (Lessee) by Board action of March 27, 1997, Item D-2, and June 13, 1997, Item D-29. The Chairperson executed the consent to assignment on September 5, 2003.

At its meetings of December 14, 2001, Item D-37, and November 15, 2002, Item D-19, the Board approved, as amended, the grant of a 10-year term, non-exclusive easement to

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<sup>1</sup> The withdrawn area is located on the south side of Saddle Road and is indicated on Exhibit A Attached. The withdrawn area is now designated by its own Tax Map Key number: 3<sup>rd</sup>/4-4-15:13. However, the area was likely never legally subdivided out of TMK: 3<sup>rd</sup>/4-4-15:02 pursuant to County of Hawaii law and may therefore still be a part of the larger parcel.

the State Department of Transportation (SDOT) in connection with the Saddle Road improvement project for Palila Critical Habitat (PCH) Mitigation purposes. As a condition to granting the PCH Mitigation easement, the Board agreed in principle to extend the terms of General Lease No. S-4471 and other affected leases in accordance with the provisions of Section 171-36(b), HRS, as amended, to assist in compensating the lessees for the lands made subject to the easement.

The Board and SDOT thereafter executed Grant of Non-Exclusive Easement No. S-5665 with an effective date of November 27, 2002 (the PCH Mitigation Easement). The PCH Mitigation Easement restricted Lessee's grazing rights and use of approximately 1,401.91 acres of mauka pasturelands leased under General Lease No. S-4471.<sup>2</sup> The easement area was fenced using United States Department of Transportation, Federal Highway Administration (FHWA) and/or United States Department of Defense funds, and domestic and feral ungulates, including cattle and sheep, were removed from the area.

At its meeting of February 25, 2011, Item D-4, the Board approved with withdrawal of the 1,401.91-acre PCH Mitigation Easement area from General Lease No. S-4471, approved in concept the set-aside to DOFAW of such acreage for addition to the Mauna Kea Forest Reserve, and approved a five-year extension of General Lease No. S-4471 for the remaining land under the lease, totaling approximately 337.741 acres. The February 25, 2011 action additionally contemplated the 337.741 acres under General Lease No. S-4471 being set aside to DOFAW at the expiration of the lease term. As the extended lease nears its expiration date of February 28, 2016, DOFAW would like to begin the public hearing process necessary to add the remaining 337.741 acres of the lease to the Mauna Kea Forest Reserve, so that the addition can be effected soon after the lease expires.

Agency comments were sought on the eventual set-aside of the land to DOFAW when this matter was before the Board on February 25, 2011. There were no objections to the proposed action. Staff has no objection to the request.

#### RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirements listed above:

1. Declare that, after considering the potential effects of the proposed disposition as

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<sup>2</sup> An Amendment of General Lease No. S-4471 entered into on February 5, 2004 stated that the area of the Palila mitigation easement was 1,399.339 acres, which is 2.571 acres less than the 1,401.91 acres set forth in General Lease No. S-5665, the PCH Mitigation Easement. The 1,399.339-acre figure was an estimate that was made prior to the survey of the easement area. As set forth in the PCH Mitigation Easement, the actual area of the easement affecting the Lessee's lands is 1,401.91 acres. It is not clear why the estimated figure was incorporated into the lease amendment. The PCH Mitigation Easement figure controls.



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.

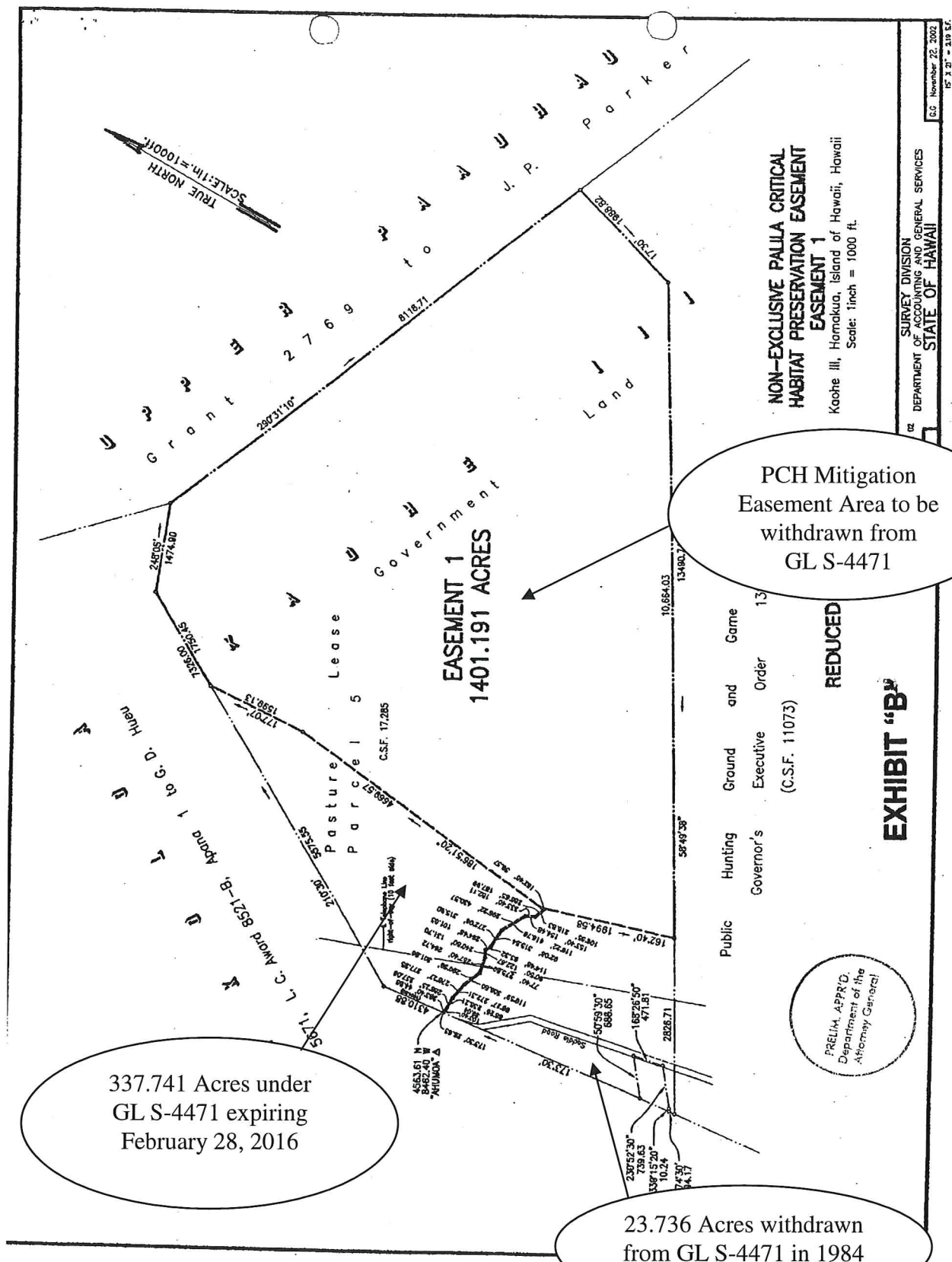
2. Approve in concept the set-aside of 337.741 acres of General Lease No. S-4471, upon expiration of the lease, to the Department of Land and Natural Resources, Division of Forestry and Wildlife, under the terms and conditions cited above, which are by this reference incorporated herein. The set-aside to Division of Forestry and Wildlife for addition to the forest reserve shall be subject to staff returning to the Board at a later date to report the results of the public hearing held pursuant to recommendation number 3 below.
3. Pursuant to HRS Section 183-11, as amended, authorize the Division of Forestry and Wildlife to conduct a public hearing on the Island of Hawaii regarding the proposed addition of approximately 337.741 acres to Mauna Kea Forest Reserve at Kaohe III, Hamakua, Hawaii, Tax Map Key: (3)4-4-015:002 (por.), and further, pursuant to HRS Section 183-12, as amended, authorize the Chairperson to:
  - A. Set the date, location and time of the public hearing; and
  - B. Appoint a hearing master(s) for the public hearing.

Respectfully Submitted,

  
for Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson



**EXHIBIT A**

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**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**EXEMPTION NOTIFICATION**

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

**Project Title:** Approval in Concept of the Set-Aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife, of 337.741 Acres for Addition to the Mauna Kea Forest Reserve

**Project Number:** PSF No. 15HD-0086

**Project Location:** Parcel 5, Government Lands of Kaohe III, Hamakua, Hawaii, Tax Map Key: 3<sup>rd</sup>/4-4-15:02 (por.)

**Project Description:** Approve in concept the set-aside of approximately 337.741 acres of land to DOFAW for inclusion the Mauna Kea Forest Reserve upon the expiration of General Lease No. S-4471, Parker Ranch, Inc., Lessee

**Consulted Parties:** State Department of Transportation – Highways; U.S. Department of Transportation, Federal Highway Administration; U.S. Fish and Wildlife Service; and others

**Exemption Class No.:** 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 under the following:

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."

**EXHIBIT B**

The action is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements.

**Recommendation:** The subject land is currently under lease to Parker Ranch, Inc. for pasture purposes pursuant to General Lease No. S-4471, but the lease will expire on February 28, 2016. The purpose of the set-aside of the land to DOFAW (upon lease expiration) is to add the land to the Mauna Kea Forest Reserve. As such, the proposed set-aside would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

The approval in concept of the set-aside to DOFAW will probably have minimal or no significant effect on the environment. It is recommended that the Board of Land and Natural Resources find that the proposed action is exempt from the preparation of an environmental assessment. Inasmuch as the Chapter 343 environmental requirements apply to DOFAW's proposed use of a portion of the lands for an addition to the Mauna Kea Forest Reserve, DOFAW shall be responsible for compliance with Chapter 343, HRS, as amended.

  
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Suzanne D. Case, Chairperson  
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Date