

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.: 08HD-103  
14HD-134

**HAWAII**

Rescind prior Board Action of August 22, 2014, D-17, *Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii (WBCOH) for Water Pipeline Purposes, Makaula-Kalaoa 1<sup>st</sup>-4<sup>th</sup>, North Kona, Hawaii, Tax Map Key: (3) 7-3-010: 042 & 044.*

Amend Prior Board Action of August 22, 2008, D-4, *Set Aside to County of Hawaii, Department of Water Supply for Waterline and Reservoir Purposes and the Department of Public Works for Roadway Purposes; Issuance of Construction and Management Right-of-Entry, Makaula-Ooma 1<sup>st</sup>, North Kona, Hawaii, Tax Map Key: (3) 7-3-010: Portions of 033, 042, 044 & 045.*

The purpose of the amendment is to change the title of the Board action of August 22, 2008, D-4, to read: *Set Aside to the Water Board of the County of Hawaii for Reservoir Purposes; Set Aside to the County of Hawaii, Department of Public Works, for Roadway Purposes; Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii for Water Pipeline Purposes; Issuance of a Construction and Management Right-of-Entry, North Kona, Hawaii, Tax Map Keys: (3) 7-3-10: portions of 033, 042, 044 & 045.* The amendment will further authorize the issuance of an easement for the water pipeline, instead of including it in the set aside for the reservoir site.

**BACKGROUND:**

At its meeting of August 22, 2008, Item D-4, the Board of Land and Natural Resources approved, 1) a set aside to the County of Hawaii, Department of Water Supply for waterline and reservoir purposes, 2) a set aside to the Department of Public Works for roadway purposes, 3) issuance of a construction and management right-of-entry, Makaula-Ooma 1<sup>st</sup>, North Kona, Hawaii, Tax Map Key: (3) 7-3-010: Portion of 033, 042, 044 & 045. Reference maps are attached as **Exhibit 1**, and a copy of the August 22, 2008 Board action (D-4) is attached as **Exhibit 2**.

A Memorandum of Understanding between the University of Hawaii and Palamanui LLC (Palamanui) was prepared, which consisted of a joint development plan for the West Hawaii Campus and adjacent properties, with Palamanui constructing the initial infrastructure.

The proposed project will consist of a new permanent facility for the West Hawaii Campus, which will include a Library/Learning Resource Center, Food Service Building, Operations and Maintenance Building, Instructional Support/Director Building, Student Services Building, Continuing Education Building and General Instruction Classrooms. It was agreed that Palamanui would construct the various infrastructure, which includes, 1) the mid-level connector road (Ane Keohokalole Street) for accesses to the university and its development, 2) construction of a 16-inch underground waterline, and 3) a 343-foot elevation reservoir upon the abutting State property. The waterline will start at the existing County of Hawaii Keahole water tanks, extend mauka through open State land, where it will intersect Ane Keohokalole Street, then connect to existing mauka/makai waterlines to service the university and adjacent properties.

At its meeting of August 22, 2014, Item D-17, the Board of Land and Natural Resources approved the issuance of a grant of easement to the Water Board of the County of Hawaii, for water pipeline purposes, Makaula-Kalaoa 1<sup>st</sup> -4<sup>th</sup>, North Kona, Hawaii, Tax Map Key: (3) 7-3-010:042 & 044. See **Exhibit 3** attached.

REMARKS:

In the processing of the 2014 request for a grant of easement for water pipeline purposes, Hawaii District Land Office staff discovered that the Land Board had already approved a similar request in 2008. The 2008 request had been prepared by support staff in Land Division's Honolulu office who has since retired. It is not clear as to why two requests for the same pipeline alignment were submitted in 2008 and again in 2014.

Palamanui and the County of Hawaii (COH) are parties to a water agreement which contemplates an easement in favor of the Water Board of the County of Hawaii (WBCOH) for a water pipeline over parcels at Makaula-Kalaoa 1<sup>st</sup>-4<sup>th</sup>, North Kona, Hawaii, identified as Tax Map Keys: (3) 7-3-010:042, 044, and 045, which are under the State of Hawaii, Tax Map Key: (3) 7-3-010:039, which is under the Department of Hawaiian Home Lands (DHHL), and other parcels not owned by the State or DHHL. DHHL has approved an easement for this pipeline in favor of the County over lands under DHHL's jurisdiction. Palamanui has completed the water line, and WBCOH is in the process of finishing its inspections and approvals for its takeover. As of the date of this memorandum, Palamanui is in the process of dedicating the water system to WBCOH, which Palamanui anticipates completing within the next few weeks.

To eliminate the duplicate requests for the water pipeline, staff is recommending that the Board action of August 22, 2014 (D-17) be rescinded.



Staff is further recommending that the Board amend its prior action of August 22, 2008 (D-4) to authorize the issuance an easement to WBCOH for water pipeline purposes. The 2008 Board action sought to include the pipeline as part of the set-aside for the reservoir site. However, staff believes an easement for the water pipeline is the preferred disposition because an easement is non-exclusive, whereas a set-aside technically requires COH subdivision approval and placement of the set-aside parcel(s) under the management jurisdiction of the receiving agency.

RECOMMENDATION: That the Board:

- A. Rescind its prior Board action of August 22, 2014, Item D-17.
- B. Amend the title of the prior Board action of August 22, 2008, Item D-4, to read as follows:

Set Aside to the Water Board of the County of Hawaii for Reservoir Purposes; Set Aside to the County of Hawaii, Department of Public Works, for Roadway Purposes; Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii for Water Pipeline Purposes; Issuance of a Construction and Management Right-of-Entry, North Kona, Hawaii, Tax Map Keys: (3) 7-3-10: portions of 033, 042, 044 & 045.
- C. Amend its prior Board action of August 22, 2008, Item D-4, by replacing the paragraph numbered 1 in the recommendation section with two new numbered paragraphs to read as follows:
  1. Approve of and recommend to the Governor the issuance of executive orders setting aside the subject reservoir site to the Water Board of the County of Hawaii, and setting aside Ane Keohokalole Street located within the subject premises to the County of Hawaii, Department of Public Works, 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.

2. Authorize the issuance of a perpetual non-exclusive easement to the Water Board of the County of Hawaii covering the subject area for water pipeline 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. 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.

The remaining paragraph (paragraph number 2) in the 2008 Board action shall be renumbered as paragraph number 3;

- D. Except as amended hereby, all terms and conditions listed in its August 22, 2008 approval to remain the same.

Respectfully Submitted,

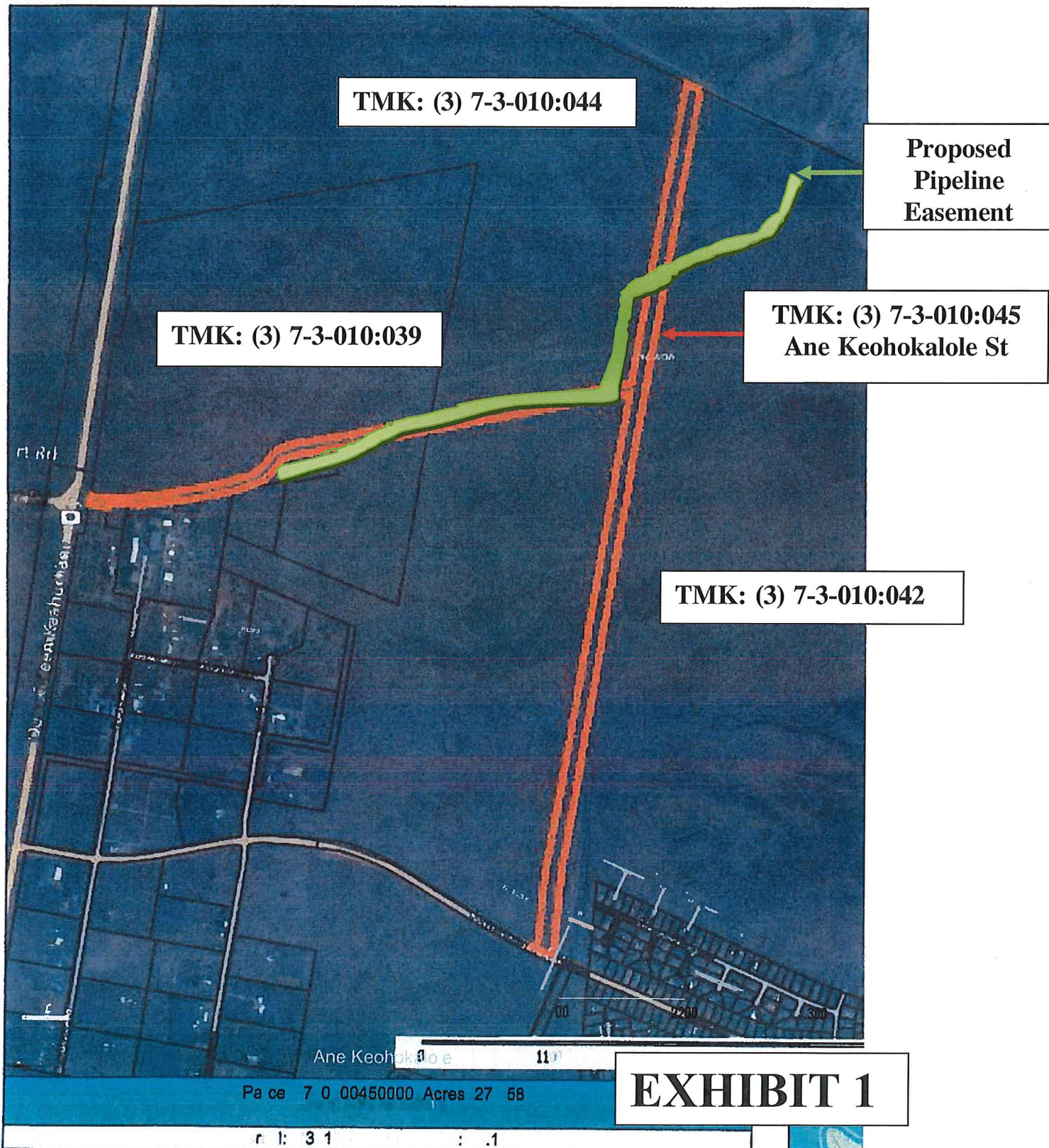
  
\_\_\_\_\_  
Wesley T. Matsunaga  
Land Agent

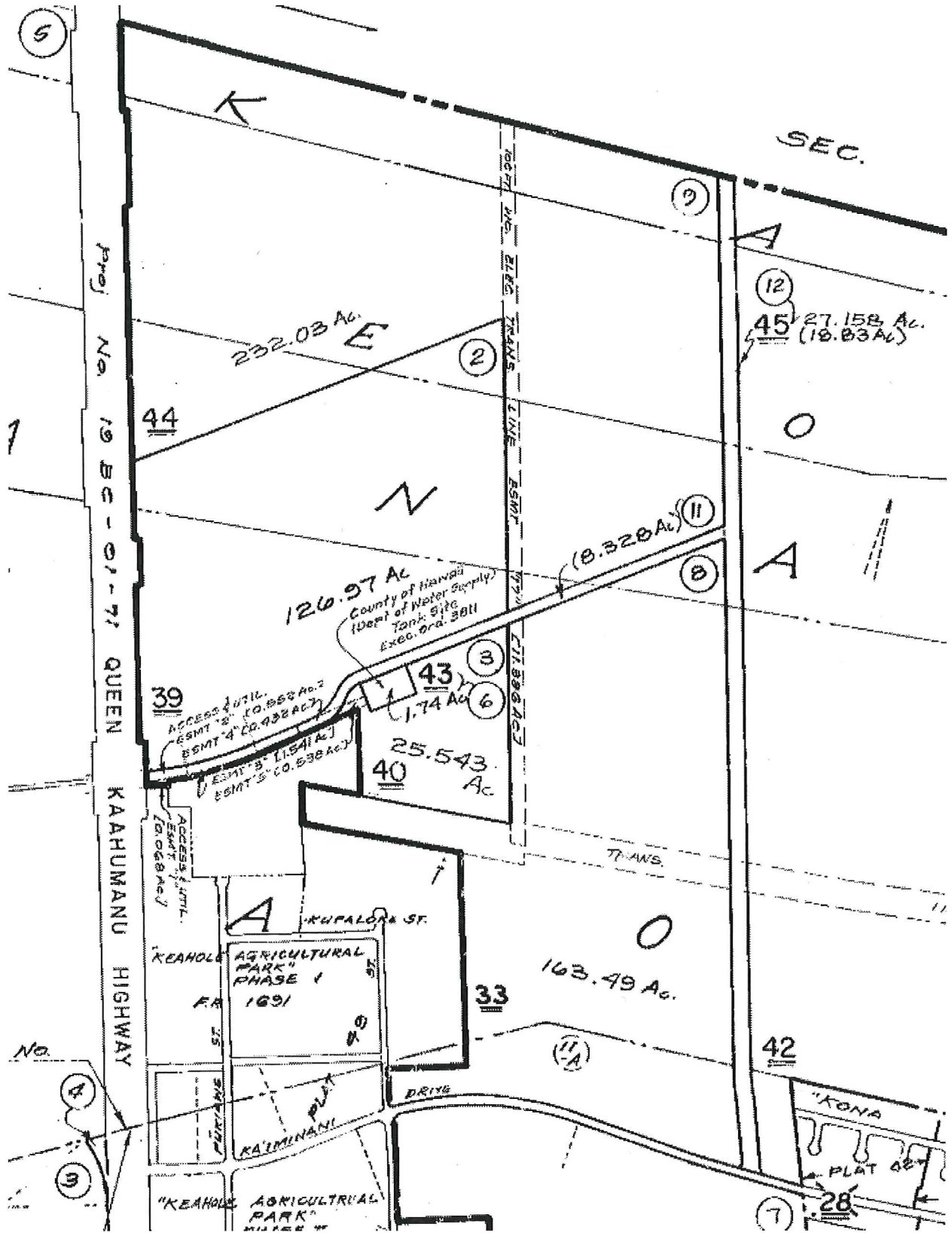
APPROVED FOR SUBMITTAL:

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









Proj. No. 19 BC-01-71 QUEEN KA'IMINANI HIGHWAY

SEC.

232.03 Ac E

45 27.158 Ac. (19.83 Ac)

126.97 Ac  
County of Hawaii  
Dept of Water Supply  
Tank Site  
Exec. Ord. 5011

39  
ACCESS & UTIL.  
ESMT 2 CO. 852 AC.  
ESMT 4 CO. 932 AC.  
ESMT 5 [1.54 AC]  
ESMT 5 CO. 838 AC.

43 1.74 Ac

40 25.543 Ac

(8.320 Ac)

163.49 Ac.

KEAHOLE AGRICULTURAL PARK PHASE I  
P.A. 1691

"KEAHOLE AGRICULTURAL PARK"

"KONA PLAT 28"

5

9

12

44

2

11

8

3

6

33

11A

42

4

9

7

28



ELECTRIC TRANS LINE ESMT 77

TRANS.

DRIVE

KUPALONA ST.

ST.

MURRAY ST.

KA'IMINANI PLAZA

A

O

A

O

42

"KONA

PLAT 28



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

August 22, 2008

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

PSF No.:08HD-103  
104  
HAWAII

Set Aside to County of Hawaii, Department of Water Supply for Waterline and Reservoir Purposes and the Department of Public Works for Roadway Purposes; Issuance of a Construction and Management Right-of-Entry, Makaula-Ooma-1st, North Kona, Hawaii, Tax Map Keys:(3)7-3-10: Portions of 33, 42, 44 and 45

APPLICANT:

County of Hawaii, Department of Water Supply and the Department of Public Works.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Makaula-Ooma-1st, North Kona, Hawaii, identified by Tax Map Keys: (3) 7-3-10: Portion of 33, 42, 44 and 45, as shown on the attached map labeled Exhibit A.

AREA:

30 acres, more or less.

ZONING:

State Land Use District: Urban  
County of Hawaii CZO: AG-5a

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act.

DHHL entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON *OK*  
August 22, 2008

**EXHIBIT 2**

D-4

PURPOSE:

Roadway, waterline and reservoir purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC Environmental Notice on August 8, 2008 with a finding of no significant impact (FONSI).

REMARKS:

A new permanent facility for the University of Hawaii Center at West Hawaii (UHCWH) has been proposed on a portion of State land (TMK: 7-3-10:42) consisting of approximately 73 acres. The facility will include a Library/Learning Resource Center, Food Service Building, Operations and Maintenance Building, Instructional Support/Director Building, Student Services Building, Continuing Education Building and General Instruction classrooms.

Located adjacent to the future UHCWH site is the Palamanui, LLC (Palamanui), Development. Palamanui is in the process of developing its 725-acre parcel (TMK: 7-2-5:1). The Palamanui Development will consist of single and multi-family residential units, University residential facilities, health facilities, research and development facilities, mixed commercial development, a small hotel, archaeological preserves, cave and lava tube preserves, a dry forest preserve, passive and active parks, open space and parking areas.

Palamanui will develop and provide some of the infrastructure and a 20,000 square-foot building complex for UHCWH. The Board of Regents approved a Memorandum of Understanding between UHCWH and Palamanui to consult and discuss joint development opportunities for the adjacent properties with Palamanui providing initial infrastructure for UHCWH.

The same infrastructure will also allow the Department of Hawaiian Homes Lands to develop its lands that are in close proximity to the proposed infrastructure.

Palamanui is proposing to construct a 16-inch underground waterline and a 343-foot elevation reservoir. The waterline will start at the existing County of Hawaii Keahole water tanks, extend mauka through open land, where it will intersect and run within the future Main Street Collector Road right-of-way, then connect to existing mauka and makai waterlines. The waterline will initially provide water to UHCWH and Palamanui. Palamanui will construct a 10-foot wide service/access road for use by the Department of Water Supply. The proposed reservoir will be constructed along the proposed alignment for the waterline and mauka of the existing Keahole water tanks. Capacity is 1 million gallons. Upon completion the waterline and reservoir will be set aside to the County of Hawaii, Department of Water Supply by governor's executive order.

Palamanui is also proposing to construct the Main Street Collector



Road. It will provide an access and utility corridor to Palamanui and UHCWH. The Road will run from Kaiminani Drive to Palamanui. Due to archaeological sites, the Road had to be realigned. The Road will consist of two (2) 12-foot lanes with the possibility to expand to four (4) lanes in the future. Upon completion the Road will be set aside to the County of Hawaii, Department of Public Works by governor's executive order.

Staff notes that the original 120-foot wide road right-of-way was created only on paper and not laid out. No field survey was done.

The cost of the waterline, 343-foot elevation reservoir and Main Street Collector Road is approximately \$6 million. Construction will start at the end of 2008 and should be completed within eighteen (18) months.

The proposed use of State lands will not only benefit the UHCWH, but later other users of adjacent State-owned lands.

Comments on this project were included in the Final Environmental Assessment.

There are no pertinent issues or concerns.

Staff is also recommending the issuance of a construction and management right-of-entry permit to Palamanui.

RECOMMENDATION: That the Board

1. Approve of and recommend to the Governor the issuance of governor's executive orders setting aside the subject lands to the County of Hawaii, Department of Water Supply and the Department of Public Works 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.
  - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

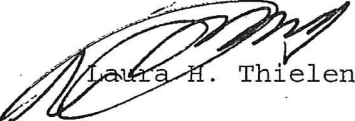
2. Authorize the issuance of a right-of-entry permit to Palamanui to enter upon the subject State lands at Makaula-Ooma, North Kona, Hawaii, for construction and management of the Main Street Collector Road, 16-inch underground water pipeline, one million gallon 343-foot elevation reservoir and 20,000 square-foot UHCWH complex and additional lands for access and staging areas as necessary identified by Tax Map Keys: (3) 7-3-10: Portions of 33, 42, 44 and 45, subject to the following:
  - a. Palamanui shall act on behalf of the State in processing the Main Street Collector Road, the 16-inch underground water pipeline, the one million gallon 343-foot elevation reservoir, and the 20,000 square-foot UHCWH complex for final subdivision approval with the County of Hawaii at its own cost and expense.
  - b. Palamanui shall construct the Main Street Collector Road, the 16-inch underground water pipeline, the one million gallon 343-foot elevation reservoir, and the 20,000 square-foot UHCWH complex at its own cost and expense.
  - c. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time.
  - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gary Martin  
Land Agent

APPROVED FOR SUBMITTAL:






Laura H. Thielen, Chairperson





Disclaimer: This graphic has been prepared for general planning purposes only.

**LEGEND**

-  Proposed New Water Tank
-  Proposed 16" Waterline
-  Proposed Road and Utility Alignment

Source: Google Earth :2004:  
 Lynch Hawai'i Development, LLC  
 Mitsunaga & Associates, Inc.  
 Riehm Ownsby Planners Architects  
 SWA

**EXHIBIT "A"**

**FIGURE 3**  
 Aerial Photograph  
**Pālanuanui Waterline,  
 343-foot Elevation Reservoir, and  
 Main Street Collector Road Extension**

Palamanui, LLC Island of Hawai'i



NOT TO SCALE





**AMENDED**

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

August 22, 2014

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

PSF No.: 14HD-134

HAWAII

Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii (WBCOH) for Water Pipeline Purposes; Authorize the Issuance of a Management and Construction Right-of-Entry to WBCOH, Makaula-Kalaoa 1<sup>st</sup>-4<sup>th</sup>, North Kona, Hawaii, Tax Map Key: (3) 7-3-010: 042 & 044.

APPLICANT:

Water Board of the County of Hawaii, whose business and mailing address is 345 Kekuanaoa Street, Hilo, HI 96720.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Makaula-Kalaoa 1<sup>st</sup>-4<sup>th</sup>, North Kona, Hawaii, identified by Tax Map Key: (3) 7-3-010: 042 & 044, as shown on the attached map labeled Exhibit A.

AREA:

12.42 acres, more or less.

ZONING:

State Land Use District: Urban  
County of Hawaii CZO: A-5A

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

*as amended*

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

August 22, 2014 *uo*

D-17  
EXHIBIT 3



CURRENT USE STATUS:

Vacant.

CHARACTER OF USE:

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

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

Gratis

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on August 8, 2014 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Not applicable to a government agency.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

At its meeting of January 28, 2000, Item D-3, the Board of Land and Natural Resources approved the issuance of a revocable permit to the Kona Palisades Estates Community Association (KPECA) for parking lot purposes. Revocable Permit No. S-7207 is contained in an area of one-half acre, portions of Parcel 42 of TMK: 3<sup>rd</sup>/ 7-3-10.

At its meeting of February 22, 2002, Item D-1, the Land Board approved the cancellation of Revocable Permit No. S-7207 and reissuance of a new revocable permit to KPECA for parking with temporary fire station.

At its meeting of February 13, 2004, D-16, the Board approved to amend its prior Board actions of February 22, 2002, D-1, to change the permittee from KPECA to County of Hawaii.

On May 11, 2007, the Chairperson of the Board of Land and Natural Resources approved a right-of-entry to Hiluhilu Development, LLC, for conducting surveys and other studies necessary to prepare an environmental assessment, for the construction of a connector road along the boundaries of the abutting State parcels. Plans were to extend the Ane Keohokalole Street (formerly known as the Mid-Level Road) from Kaiminani Drive to the Palamanui Subdivision to the north. This roadway was constructed using private funds, with the intent of later dedicating it to the County of Hawaii.

By letter dated June 4, 2014, Mr. Bart W. Howk, Bays Lung Rose & Holma, representing Palamanui Global Holdings LLC (PGH), on behalf of the County of Hawaii (County), is requesting an easement for water pipeline purposes through parcels that are owned by the State of Hawaii. PGH and the County are parties to a water agreement which contemplates an easement in favor of the Water Board of the County of Hawaii (WBCOH) for a water pipeline over parcels at Makaula-Kalaoa 1<sup>st</sup>-4<sup>th</sup>, North Kona, Hawaii, identified as Tax Map Keys: (3) 7-3-010:042 and 044, which are under the State of Hawaii, and Tax Map Key: (3) 7-3-010:039, which is under the Department of Hawaiian Home Lands (DHHL). The County is working on a separate request to DHHL for an easement over lands under its jurisdiction.

PGH will be constructing the pipelines using private funds. Upon completed construction of the water pipelines by PGH, satisfactory inspection and acceptance of the system by WBCOH, PGH will dedicate the system to WBCOH.

The County of Hawaii has 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.

No comments were solicited as comments were already obtained in the processing of the Final Environmental Assessment dated August 2014.


**RECOMMENDATION:** That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual non-exclusive easement to the Water Board of the County of Hawaii, covering the subject area for Pipeline 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. 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.
2. Authorize the issuance of an immediate management and construction right-of-entry to the Water Board of the County of Hawaii for the purposes of operating and maintaining the subject water transmission lines and related improvements, subject to the following terms and conditions:
- A. The standard terms and conditions of the most current management right-of-entry document form, as may be amended from time to time;
  - B. The term of the right-of-entry shall commence immediately and end upon the issuance of the easement document;
  - C. Review and approval as to form 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,

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

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson 

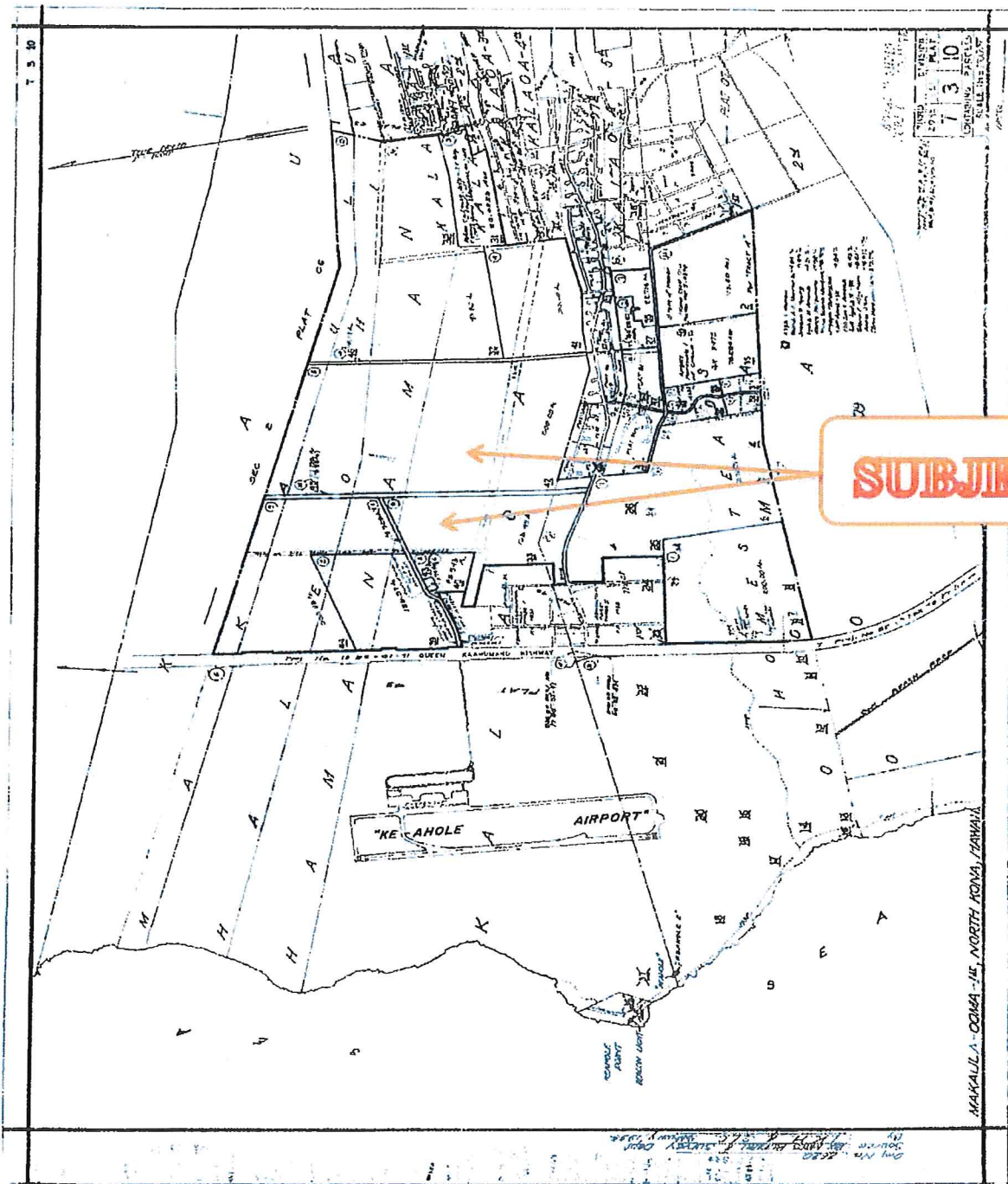
Land Board Meeting: August 22, 2014; D-17: Approved as amended.

Approved as amended. See attached page.

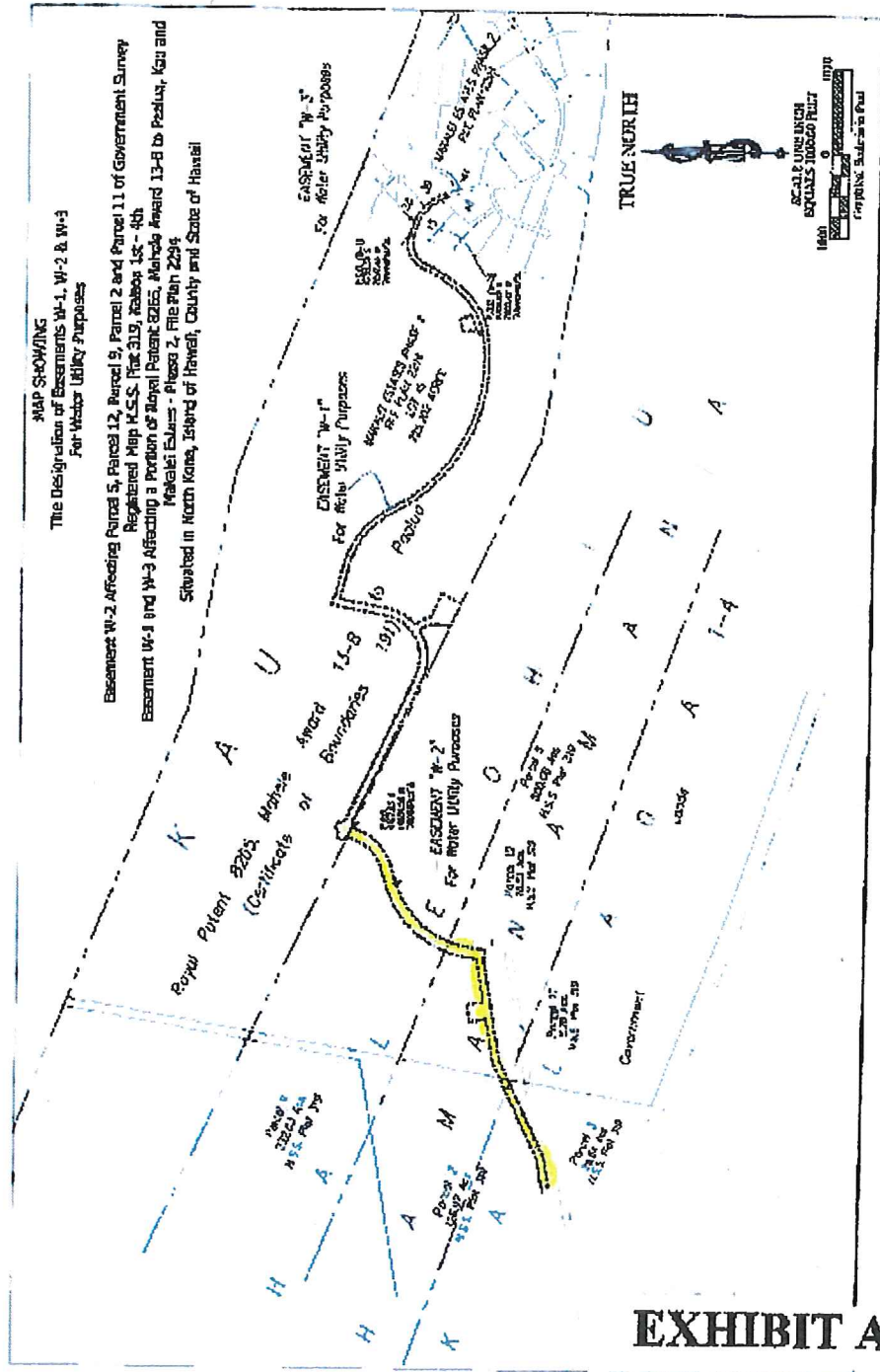
Land Board Meeting: August 22, 2014; D-17: Approved as amended.

**Approved as amended. The Board approved the staff recommendation, but added a condition that the legal effect of the Board action approving the grant of easement shall precede the Water Board of the County of Hawaii's acceptance of the water line.**





**EXHIBIT A**



**EXHIBIT A**