

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

September 25, 2015

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

PSF No.:15HD-127

Hawaii

Grant of Perpetual, Non-Exclusive Easement to the County of Hawaii for Waterline Purposes, Lalamilo, Waimea, South Kohala, Hawaii, Tax Map Key: (3) 6-7-003: por. 020 with Issuance of an Immediate Right-of-Entry for Construction and Management Purposes.

APPLICANT:

County of Hawaii, Department of Parks and Recreation, a governmental agency.

LEGAL REFERENCE:

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

LOCATION:

Portion of Encumbered Government lands of Lalamilo, situated at Waimea, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-7-003:020, as shown on the attached map labeled Exhibit A.

AREA:

400 square feet, more or less, to be more accurately determined by survey.

ZONING:

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

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

Note: This property was obtained by way of land exchange with Parker Ranch in 1961. Since the exchange involved ceded land, the land obtained by the State from Parker Ranch took on the ceded land status.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and Unencumbered.

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.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The waterline will be part of the larger project for development of the Waimea District Park. At that time, the County of Hawaii will include the easement area in its environmental assessment and be responsible for compliance with Chapter 343, HRS.

DCCA VERIFICATION:

Not applicable. The Applicant as a governmental agency is not required to register with DCCA.

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:

The subject parcel was acquired June 5, 1961 by way of land exchange with Parker Ranch. The parcel was set aside to the Department of Land and Natural Resources, Division of Water and Land Resources¹ by Governor's Executive Order No. 1965 (EO1965) for the Lalamilo Reservoir Site and Roadway.

The 500,000 gallon, in-ground reservoir became a part of the Department of Agriculture's Lalamilo Irrigation District system until it was abandoned after development of the much larger Lakeland Reservoir.

At its meeting of August 13, 2004, agenda item D-6, the Board authorized the cancellation of EO1965 and approved the issuance of a term easement for a temporary sewerline across the reservoir site and the grant of a perpetual sewerline easement across the roadway portion of the parcel to Parker Ranch, Inc. (PRI).

The subject parcel is a 3.8 acre flag lot zoned agriculture, which abuts the new Lualai subdivision being developed by PRI and is otherwise surrounded by PRI land slated for future phases of the development.

In 2012, PRI completed construction of Ala Ohia Road, which provides alternate access to Lualai Subdivision and the Waimea Town Center, as well as being a part of the future Waimea downtown bypass road. The new road encroaches on the subject property where it meets Mamalahoa Highway, effectively cutting off any useable access to the State parcel.

Upon discovery of the encroachment, PRI requested an exchange of land with the State for the entire 3.8 acre parcel to resolve the encroachment situation and to provide continuity to the Lualai community.

At its meeting of April 11, 2014 under agenda item D-6, the Board approved in principle a land exchange between PRI and the State of Hawaii with the subject parcel as the identified State land to be exchanged (refer to Exhibit B). In the event an exchange does not occur, new access to the parcel will be negotiated between PRI and the State.

PRI has dedicated a 23.944 acre parcel of land adjacent to Ala Ohia Road to the County of Hawaii (County) for the development of Waimea District Park. Ala Ohia Road is slated to be dedicated to the County by PRI upon the resolution of the existing encroachment. Due to funding deadlines, the County must begin the waterline

¹ During the 1990's, the Division of Water and Land Resources was reorganized into several other divisions. The file does not indicate how the parcel was transferred to the Department of Agriculture. However, in 2004 when the Executive Order was cancelled, the property became the responsibility of Land Division.

construction to service the park now or be subject to loss of funding. The proposed waterline will be located within the shoulder of the road and cross a small section of the subject parcel (refer to Exhibit C).

Responses from various agencies to the request for comments are in the following table:

State Agencies	Response
Dept. of Health - Environmental Health	No Response
DHHL	See comments below
DLNR - Water Resource Management	No Response
Hawaii County Agencies	Response
Planning Dept.	No Comments
Public Works	No Comments
Dept. of Water Supply	No Comments
Other Agencies & Interested Parties	Response
Office of Hawaiian Affairs	No Response
Parker Ranch, Inc.	See comments below

The Department of Hawaiian Homelands commented regarding the location of the subject parcel on a Formerly Used Defense Site (FUDS) and the need to use unexploded ordnance (UXO) mitigation measures during ground disturbing activities. The Waimea District Park Project as a whole is located on a FUDS and as such the contractor will be responsible for clearing the project area using UXO mitigation measures.

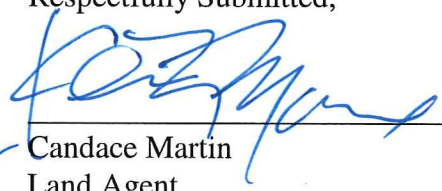
PRI was consulted on this disposition because of the pending land exchange between PRI and the State. PRI has no objections or concerns with the issuance of an easement for waterline purposes to the County of Hawaii. PRI notes the area of the requested waterline easement is within the boundary of Ala Ohia Road which will be dedicated to the County upon resolution of the encroachment upon State land.

RECOMMENDATION: That the Board:

1. Authorize the subject request to be applicable in the event of a change in the ownership of the parcel described as Tax Map Key: (3) 6-7-003:020.
2. Authorize the issuance of a perpetual non-exclusive easement to the County of Hawaii covering the subject area for waterline purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

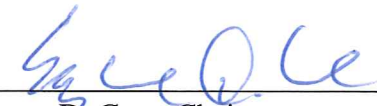
- A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Issue an immediate right-of-entry permit to the County of Hawaii for the purposes of construction and management 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 right-of-entry permit form, as may be amended from time to time;
 - B. County of Hawaii will be responsible for any unexploded ordnance mitigation measures and compliance with Chapter 343, HRS;
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



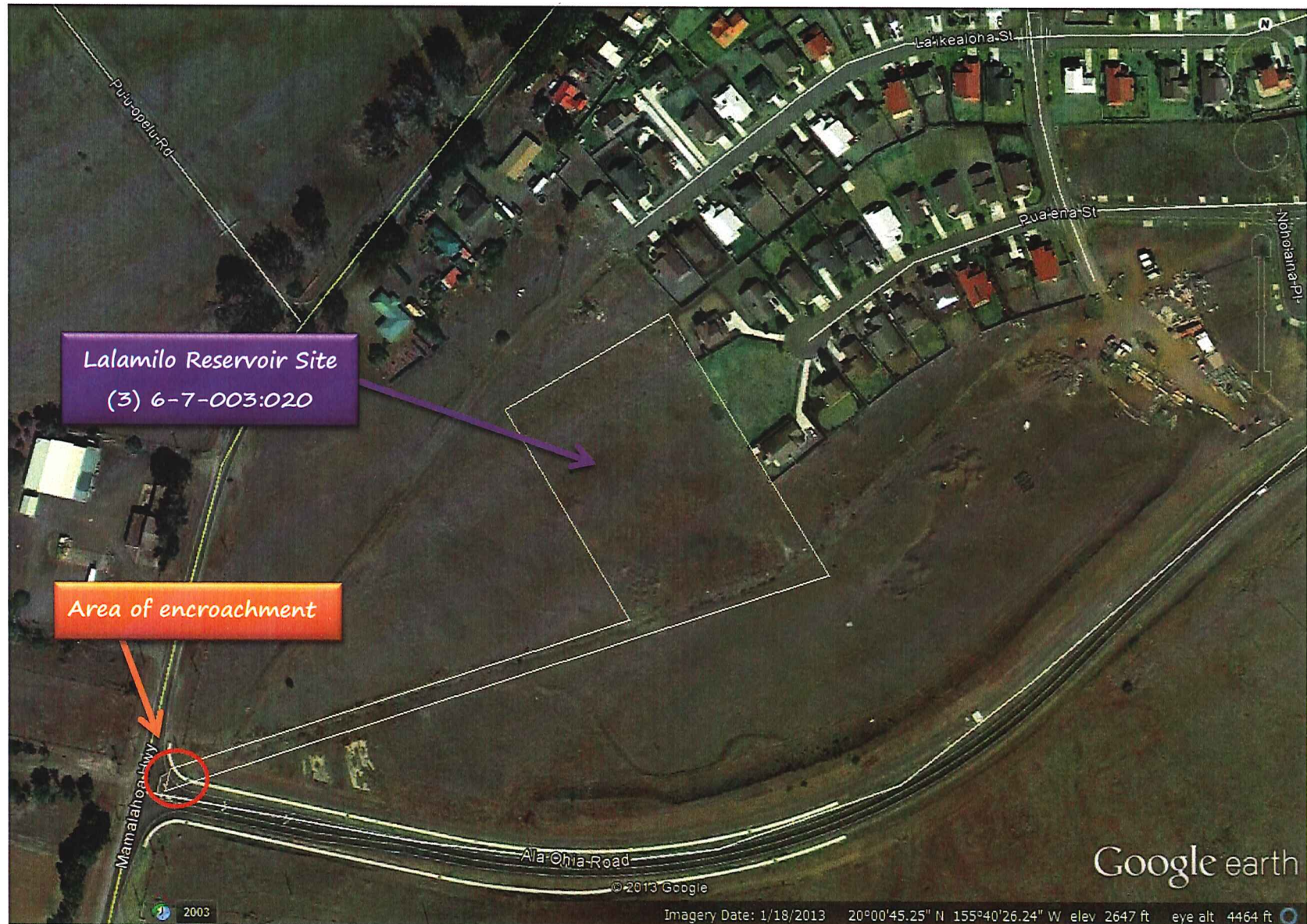
Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXHIBIT A



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

April 11, 2014

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

03HD-365

Hawaii

Approval in Principle of Land Exchange between the State of Hawaii and Parker Ranch, Inc. for State-Owned Land at Waimea, South Kohala, Hawaii Tax Map Key: (3) 6-7-003:020 with Privately-Owned Commercial/Industrial Land of Equal or Greater Value to be Identified at a Later Date and Issuance of an Immediate Right-of-Entry to Parker Ranch, Inc. for the Purpose of Conducting an Environmental Assessment on the subject State lands.

APPLICANT AGENCY:

Department of Land and Natural Resources

PRIVATE LANDOWNER:

Parker Ranch, Inc., a Hawaii corporation.

LEGAL REFERENCE:

Sections 171-6 and -50, Hawaii Revised Statutes, as amended.

PROPERTIES TO BE EXCHANGED:

State-Owned Property:

LOCATION: Portion of Government lands of Lalamilo situated at Waimea, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-7-003:020, as shown on the attached map labeled Exhibit A.

AREA: 3.866 acres, more or less.

ZONING: State Land Use District: Urban
County of Hawaii CZO: Agriculture (A-40a)

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

April 11, 2014 Go

TRUST STATUS: Section 5(b) lands of the Hawaii Admission Act

Note: This property was obtained by way of land exchange with Parker Ranch in 1961. Since the exchange involved ceded land, the land obtained by the State from Parker Ranch took on the ceded land status.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE: Vacant and unencumbered.

Privately-Owned Property:

LOCATION: To be determined.

AREA: Undetermined.

ZONING: State Land Use District: Urban
County of Hawaii CZO: Commercial/Industrial

CURRENT USE: Undetermined.

PUBLIC PURPOSE:

Acquire income-producing property.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is a transfer of ownership 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. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

However, an environmental assessment/environmental impact statement is needs to be performed in conjunction with the Waimea Town Center Development Project and the subject State lands will be included in those environmental reports.

Regarding the issuance of a right-of-entry to conduct an environmental assessment, 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. 5. Refer to attached Exhibit B.

FAIR MARKET VALUE AND CONSIDERATION IF ANY:

As required by Subsection 171-50(b), HRS:

"The public land exchange shall be of substantially equal value to that of the private land. In any exchange, the fair market value of the private land and the public land shall be separately determined by a disinterested qualified appraiser or appraisers and the cost shall be borne equally between the owner and the board. No payment by the State shall be required should the private land exceed the value of the public land, but any difference in value of the public land over the private land shall be paid to the State at the time of the exchange; provided no exchange shall be made should public land exceed 120 per cent of the value of the private land."

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for half of the appraisal costs to determine the current value of the properties to be exchanged;
- 2) Pay for the costs of public notice pursuant to section 171-16;
- 3) Provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at Applicant's own cost;
- 4) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department;
- 5) Pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

REMARKS:

The subject parcel was acquired June 5, 1961 by way of land exchange with Parker Ranch. The parcel was set aside to the Department of Land and Natural Resources, Division of Water and Land Resources by Governor's Executive Order No. 1965 (eol965) for the Lalamilo Reservoir Site and Roadway.

The 500,000 gallon, in-ground reservoir became a part of the Department of Agriculture's Lalamilo Irrigation District system until it was abandoned after development of the much larger Lakeland Reservoir.

At its meeting of August 13, 2004, agenda item D-6, the Board approved the issuance of

a term easement for a temporary sewerline across the reservoir site and the grant of a perpetual sewerline easement across the roadway portion of the parcel to Parker Ranch. The Board also authorized the cancellation of eo1965.

The subject parcel is a 3.8 acre flag lot zoned agriculture, which abuts the new Luaia'i subdivision (phase 2) being developed by Parker Ranch and is otherwise surrounded by Parker Ranch land slated for phase 4 of the development (refer to Exhibit C).

In 2012, Parker Ranch completed construction of Ala Ohia Road, which provides alternate access to Luaia'i Subdivision and the Waimea Town Center, as well as being a part of the future Waimea downtown bypass road. The new road encroaches on the subject property where it meets Mamalahoa Highway, effectively cutting off any useable access to the State parcel. During the design phase, Parker Ranch believed the Department of Agriculture (DOA) had jurisdiction over the subject land and thus obtained written authority from DOA to locate the intersection upon the subject parcel.

Although Parker Ranch began the road project believing the property was under the jurisdiction of DOA, during the project they became aware that DLNR had management authority and did not attempt to obtain authorization for the encroachment. They have acknowledged the error and are willing to work out the access issue in the event the land exchange is not approved. Therefore, staff is recommending a \$1,000 administrative fine for the unauthorized encroachment on State land.

The exchange of land would increase the continuity of the developing community by grouping uniform land use and allowing well planned infrastructure installations (ie. roads, water, and sewer). The State would benefit by exchanging a low-income potential agriculture property for a commercial/industrial income-producing property.

This is an approval in-principle because the dollar value of the State-owned land must be determined by appraisal before an exchange parcel can be identified. Once the parameters are determined and an acceptable exchange property has been identified, staff will return with the details to the Board for approval.

The State land exchanged for the reservoir parcel in 1961 held ceded land trust status, therefore the subject land took on ceded land trust status. The land to be acquired in exchange for the subject parcel will also take on the ceded land trust status.

Responses from various agencies to the request for comments are in the following table. The Department of Transportation – Airports Division had no objections, however, they requested the applicant be notified, that due to its close proximity to the Airport, any future development should be compatible to the Airport's land use. In particular, no attractants to wildlife should be developed. Federal Aviation Administration Advisory Circular recommends a distance of 5 miles between the farthest edge of the airport's air operations area and the hazardous wildlife attractant if the attractant could cause hazardous wildlife movement into or across the approach or departure airspace.

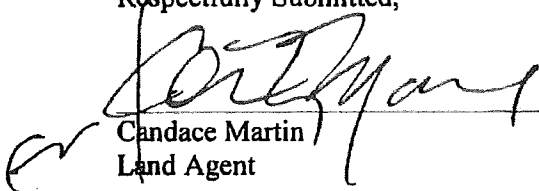
State Agencies	Response
Dept. of Health - Environmental Health	No Response
Dept. of Hawaiian Homes Land	No Response
DLNR - Engineering	No Response
DLNR - Historic Preservation	No Response
DOT - Highways Division	No Response
DOT - Airports Division	No Objections*
Hawaii County Agencies	Response
Planning Dept.	No Comments
Parks & Recreation	No Response
Dept. of Public Works	No Response
Dept. of Water Supply	No Objections
Fire Department	No Comments
Police Department	No Comments
Environmental Management	No Comments
Other Agencies	Response
Office of Hawaiian Affairs	No Response

RECOMMENDATION: That the Board:

1. Approve in principle the above-described land exchange between the State of Hawaii and Parker Ranch, Inc. for State-Owned land at Lalamilo, Waimea, South Kohala, Hawaii, and privately-owned commercial/industrial land of equal or greater value to be identified at a later date, provided that the approval in principle shall not be deemed to be an approval of the proposed exchange as staff shall return to the Board at a later date for approval of the land exchange identifying the exchange parcel and the details of the exchange, subject to the terms and conditions cited above, which are by this reference incorporated herein and subject to the following:
 - a. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Issue an immediate right-of-entry permit to Parker Ranch, Inc. for the purposes of conducting an environmental assessment on the subject property under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. The terms and conditions of the most current right-of-entry permit, as may be amended from time to time; and

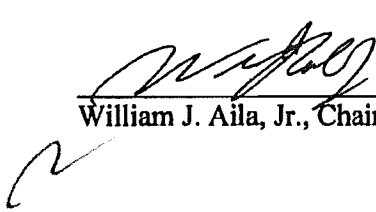
- b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 3. With respect to the right-of-entry, declare that, after considering the potential effects of the issuance of an immediate right-of-entry as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this action will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
- 4. Impose a \$1,000.00 administrative fine for the willful encroachment on State land identified by Tax Map Key: (3) 6-7-003:020 by constructing a public road upon the land without authorization from the responsible authority.

Respectfully Submitted,



Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

EXHIBIT A



NEIL ABERCROMBIE
GOVERNOR OF HAWAII

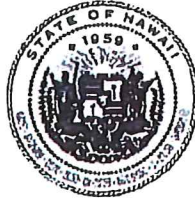


EXHIBIT B

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

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
REGULATING AND OR ZONING RELATION
BUREAU OF CONSERVATION
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCE MANAGEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKULAWI ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

April 11, 2014

EXEMPTION NOTIFICATION

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

Project Title: Issuance of an Immediate Right-of-Entry to Parker Ranch, Inc.

Project / Reference No.: PSF 03HD-365

Project Location: Portion of Government lands of situated at Waimea, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-7-003:020.

Project Description: Preparation of an environmental assessment in accordance with the requirements of Hawaii Revised Statutes (HRS) Chapter 343 and Chapter 11-200, Hawaii Administrative Rules (HAR) as it relates to the Waimea Town Center Development Project.

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

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. 5, which states "Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource".

Recommendation: That the Board find 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.

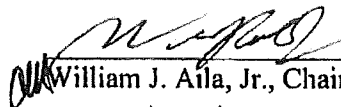
Agencies consulted: State Agencies: Department of Health – Environmental Health, Department of Land and Natural Resources – Engineering Division

Agencies consulted:

State Agencies: Department of Health – Environmental Health,
Department of Land and Natural Resources – Engineering Division
and Historic Preservation, Department of Transportation – Airports
and Highways Divisions, Department of Hawaiian Homes Lands.

County of Hawaii Agencies: Planning Department, Parks &
Recreation, Public Works, Department of Water Supply, Fire
Department, Police Department, Environmental Management.

Other Agencies: Office of Hawaiian Affairs.


William J. Aila, Jr., Chairperson



3/31/14
Date

EXHIBIT C

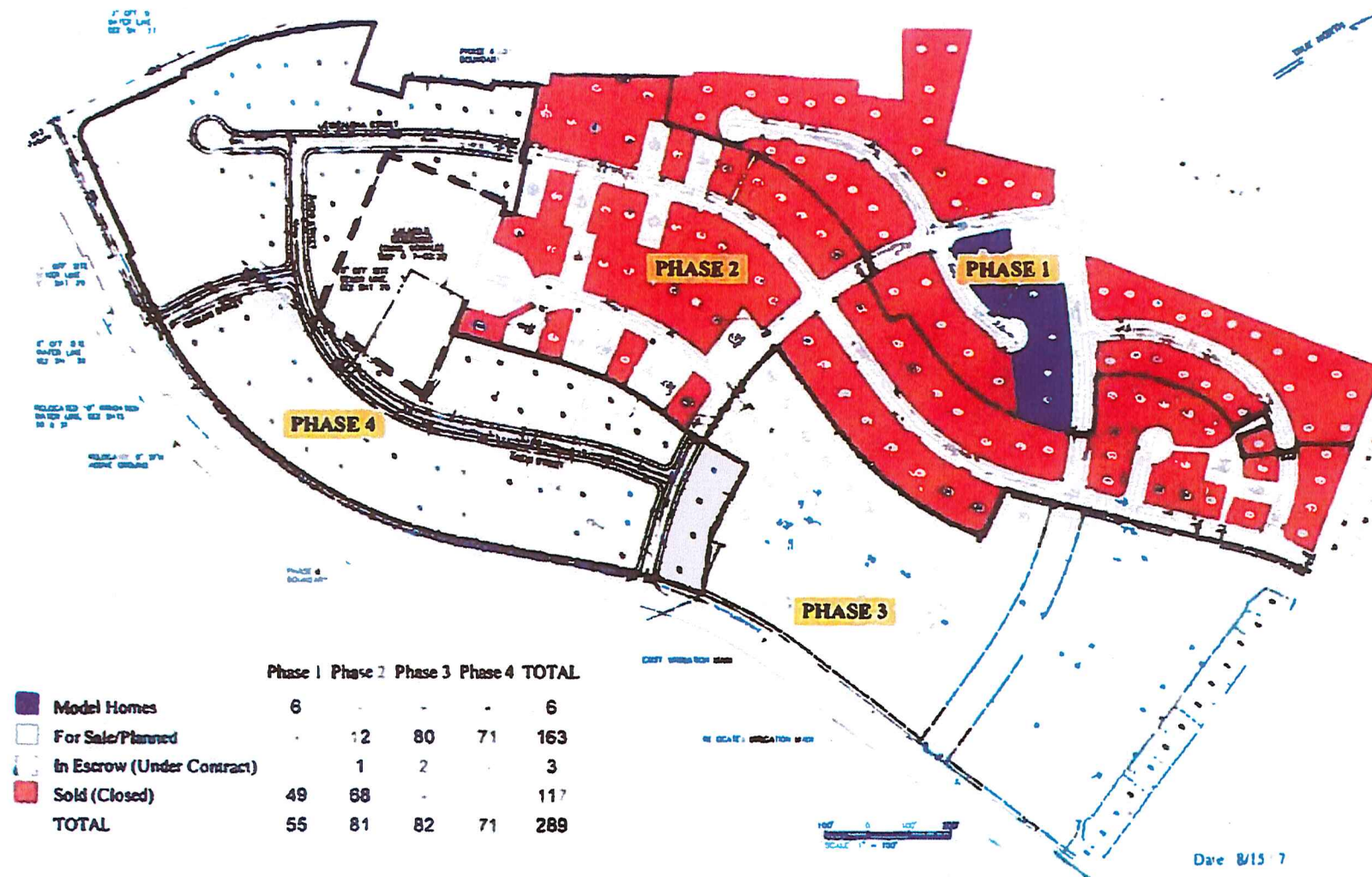


EXHIBIT C

