

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

January 27, 2012

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

Ref: 99od-258

OAHU

Amend Prior Board Actions of November 18, 1994, (Item F-9), October 22, 1999, (Item D-5), March 10, 2000, (Item D-5), July 8, 2010, (Item D-17); Perpetual, Non-Exclusive Easement to Hawaiian Telcom, Inc. for Utility Purposes; Keawaula, Waianae, Kuaokala, Kaena, Mokuleia, and Waialua, Oahu, TMK (1) 6-9-003:por.002 and 005, 6-9-001:004, 6-9-005:001, and 8-1-001:007

REMARKS:

The subject easement request has undergone numerous changes in the past. The changes included tax map key of parcels involved, tenure of the easement. The consideration payable for the easement was finally determined by arbitration process. The last Board action occurred in July 2010.

Subsequently, the Department of the Attorney General (AG) was requested to prepare the easement document. During its review process, AG spotted some issues and advised the staff bringing the issues to the Board's attention. Staff responds to the issues/questions raised by AG in the following paragraphs.

Chapter 343, HRS Environmental Assessment

AG noted that there was no analysis pursuant to Chapter 343, HRS mentioned in the prior submittals.

Staff response: Negative Declaration for the entire project pursuant to Chapter 343 was published on the OEQC Bulletin dated March 23, 1994.

Tax map keys for parcels involved

At its meeting on March 10, 2000 (item D-5), the Board authorized the removal of two tax map keys originally covered in the 1994 submittal, and adding a new tax map key to the subject request. AG noted that the submittal subsequently to the 1994 Board action kept using the old tax map keys and the applicant's name in the subject line. AG advised staff bring the request back to the Board to clear any issue pertaining to the State's sunshine law.

Staff response: The final set of tax map keys and current name of the applicant involved in the easement request is now represented in the subject line of today's agenda.

Consideration

AG advised the Board be informed of the final consideration payable for the easement.

Staff response: *In most cases, the consideration of the disposition request will be determined, after the Board approval, by an appraiser, and further subject to review and approval by the Chairperson. In the subject case, the appraisal process actually went into arbitration and the arbitration panel decided the one-time payment consideration for the easement at \$1,656. After the Board authorized the inclusion of the additional area at its Board meeting in 2010, the then staff appraiser determined the one-time payment consideration for the additional area is \$45.*

Governor's Executive Order (EO) affected by the easement

AG queried the absence of the EOs in the subject line and the content of the prior submittals

Staff response: *The subject easement runs over lands set aside under EOs 1716 ("public shooting ground and game reserve purposes"), 3574 ("park purposes"), and 4141 ("park reserve purposes"). Staff notes that only EO 4141 was mentioned in the submittal dated July 8, 2010 submittal, the other two EOs were missing from any prior Board submittal. Subsequently, staff has obtained the concurrences from the Governor and the agencies regarding the issuance of the subject easement over respective portions of lands under the above mentioned EOs. Therefore, staff does not believe including the EOs in the subject line is necessary.*

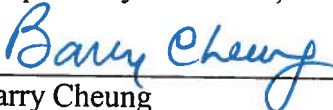
Review of CDUP

AG suggests, in view of the changes over the years, the CDUP approved for the subject easement be reviewed and revised, if appropriate.

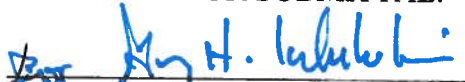
Staff response: *Staff has obtained a memo (**Exhibit A**) from the Office of Conservation and Coastal Lands stating that there is no need to amend the previously approved CDUP (#2704) for the subject request.*

There is no action required from the Board on this item. As explained above, the intent of this agenda is to clear any potential issues, as raised by the Department of the Attorney General.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson



TM Curp 6A 12-141

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



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

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2011 NOV 23 P 3: 05

November 23, 2011

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2011 NOV 23 P 3:

Ref: 99od-258

MEMORANDUM

TO: Sam Lemmo, Administrator
Office of Conservation and Coastal Lands

FROM: Barry Cheung, Oahu District Land Agent
Land Division

Barry Cheung

SUBJECT: Perpetual, Non-Exclusive Utility Easement for Hawaiian Telcom, Inc.; Waianae, Waialua, Oahu; TMK (1) 6-9-001:004, 6-9-003:002, 005, 8-1-001:007

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2011 DEC 5 P
CONSERVATION

Pursuant to CDUP (OA-2704) approved by the Board on September 9, 1994, Hawaiian Telcom, Inc. has installed communication lines at the subject tax map keys. Under various Board approvals in the past years, we have submitted a request to the Department of the Attorney General (AG) for the easement document. Meanwhile, please also note the tax map keys encumbered by the easement has been changed since the first Board meeting, and the final area is shown on the attached map (Plat 2191-B).

In view of those changes in tax map keys, by a memorandum dated October 6, 2010, AG advised this office to consult with you if there is any need for an amendment to the CDUP mentioned above.

Please indicate below if further amendment for the CDUP is required. If you have any questions, please feel free to contact us at 587-0430. We look forward to hearing from you. Thank you.

Enclosure

Yes, amendment to CDUP 2704 is required.

No, amendment to CDUP 2704 is not required.

[Signature]
Sign and Date

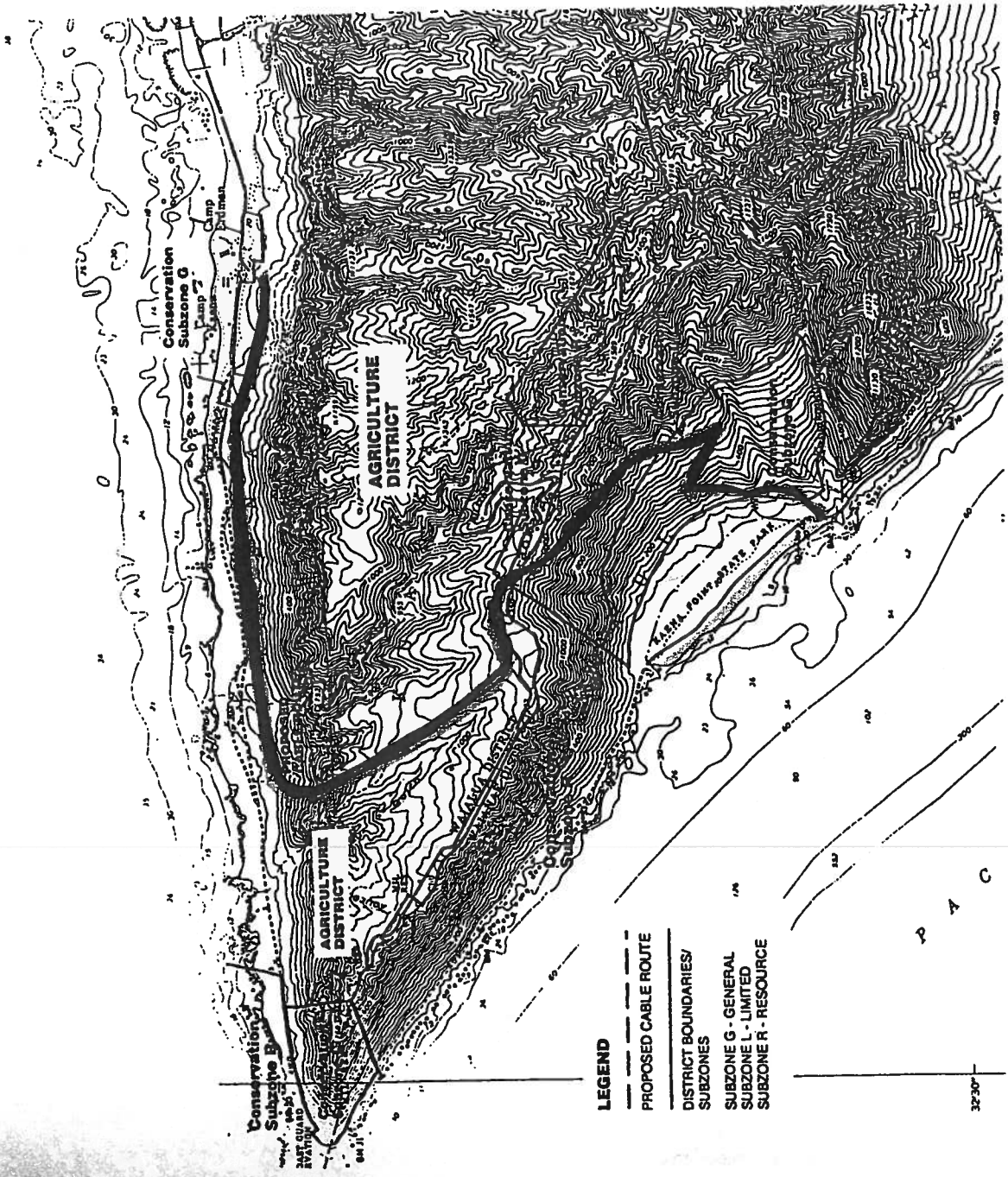
Attached is the 'proposed' pathway that was part of the exhibit in the Board submittal. EXHIBIT "A"
TMK: (1) 6-9-003:002 is NOT in the Conservation District



STATE LAND USE DISTRICT
GTE HAWAIIAN TEL
Fiber Optic Telecommunications Cable Route



R. M. TOWILL & CO., INC.
1987



FIBER OPTIC TELECOMMUNICATIONS CABLE FROM KEAWAULA TO MOKULEIA
TMKs: 8-1-01: 07; 6-9-03: 05; 6-9-2: 13; 6-9-04: 04, 08, 11, 21

Applicant: GTE Hawaiian Tel
Subzone: Limited/Resource/General

CDUA No.: OA-2704
Exhibit