

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

April 27, 2012

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

PSF No.: 12HD-040
Ref. No.: GLS-4602

HAWAII

Mutual Cancellation of General Lease No. S-4602; Re-Issuance of Direct Geothermal Resources Mining Lease to the Natural Energy Laboratory of Hawaii Authority for Geothermal Well Facility Purposes, Kapoho, Puna, Hawaii, Tax Map Key: (3) 1-4-001:082.

APPLICANT:

Natural Energy Laboratory of Hawaii Authority (NELHA), a body corporate and politic and an instrumentality and agency of the State of Hawaii.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands at Kapoho, Puna, Hawaii, Tax Map Key: (3) 1-4-001:082, as shown on the attached map labeled Exhibit A.

AREA:

4.10 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:

Encumbered under Geothermal Resources Mining Lease No. S-4602 to NELHA for Geothermal development, operation, utilization, and research purposes. A 35- year lease effective 1/19/1979 and expiring on 1/18/2014.

CHARACTER OF USE:

For Geothermal development, operation, utilization, and research purposes.

LEASE TERM:

Sixty-five (65) years

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

\$480.00 per annum (Minimum Rent Policy for New Dispositions, May 13, 2005)

METHOD OF PAYMENT:

Annual payments, in advance.

RENTAL REOPENINGS:

At the 10th, 20th, 30th, 40th, 50th and 60th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

PROPERTY CHARACTERISTICS:

Utilities – All utilities available.

Slope - moderate, 0 to 20%

Elevation - 200 feet

Rainfall – 120 to 175 inches +/- annually

SCS Soil Series – limited soil, dark gray to black A'a and volcanic ash, well drained.

Land Study Bureau – University of Hawaii

Legal access to property – Staff has verified that there is legal access to the property off of Pohoiki Road.

Subdivision – Staff has verified that the subject property is a legally subdivided lot.

Encumbrances – Staff has verified that the following encumbrances exist on the property:
Geothermal Resources Mining Lease No. S-4602 to NELHA, for
Geothermal Lease and Mining Rights Purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

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

Final Environmental Impact Statement for the original project was approved on April 12, 1978.

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." Should Applicant propose any future use of the land that triggers Hawaii Revised Statutes (HRS) Chapter 343 review, Applicant shall be responsible for compliance with HRS Chapter 343, as amended.

DCCA VERIFICATION:

Applicant, as a government agency, is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Pay for the costs of public notice pursuant to section 171-16, if applicable.

REMARKS:

At its meeting of October 13, 1978, agenda item F-5, the Board of Land and Natural Resources approved the issuance of a direct lease of land and geothermal rights to the Research Corporation of the University of Hawaii (RCUH).

At its meeting of February 14, 1986, agenda item F-1-c, the Land Board approved consent to assignment of Geothermal Resources Mining Lease No. S-4602, RCUH, Assignor, to NELHA, as Assignee.

By letter dated August 18, 2011, Mr. Greg Barbour, Executive Director, NELHA, requested a thirty-year term extension for General Lease No. S-4602. If approved, the total term would then be sixty-five years.

Upon reviewing the terms and conditions of General Lease No. S-4602, staff found that the lease prohibited a term beyond thirty-five (35) years. As a result, staff determined that the best way to handle this matter would be to first perform a mutual cancellation of the existing lease, then to reissue a new direct lease to NELHA for the same use for a term of sixty-five (65) years.

To date there are no alternatives for higher and best uses of the subject site. At this time, NELHA is the appropriate agency to manage and utilize the subject geothermal site as it has been doing so for the past thirty (30) years. The lands requested will be fully utilized for the proposed use.

NELHA qualifies for a direct lease as a government entity and for its proposed use concerning renewable energy, pursuant to Act 42, SLH 1985, which was enacted to permit NELHA to establish, manage, and operate additional facilities which are involved in natural energy research, development, demonstration and commercialization.

NELHA 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.

On March 22, 2012 various governmental agencies and interest groups were solicited for comments. Respondents had no objections to the request.

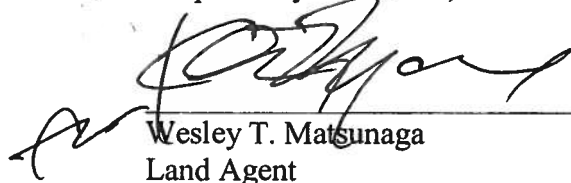
AGENCIES	COMMENTS
County of Hawaii:	
Planning Department	No response
Police Department	No objections
Public Works	No response
Department of Water Supply	No objections
State of Hawaii:	
DLNR - DOFAW	No response
DLNR - Engineering	No response
DLNR - Historic Preservation	No response
Other Agencies/ Interest Groups:	
Office of Hawaiian Affairs	No response

The proposed use has continued since 1986. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

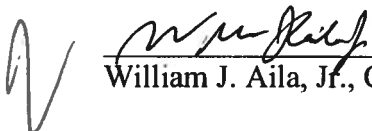
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Find that the public interest demands the issuance of this direct lease to the Natural Energy Laboratory of Hawaii Authority for Geothermal Facility purposes.
3. Authorize the Mutual Cancellation of General Lease No. S-4602 to the Natural Energy Laboratory of Hawaii Authority.
4. Subject to the Applicant fulfilling all of the Applicant requirements listed above, Authorize the Issuance of a Direct Lease to the Natural Energy Laboratory of Hawaii Authority covering the subject area 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 direct geothermal lease 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.

Respectfully Submitted,



Wesley T. Matsunaga
Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

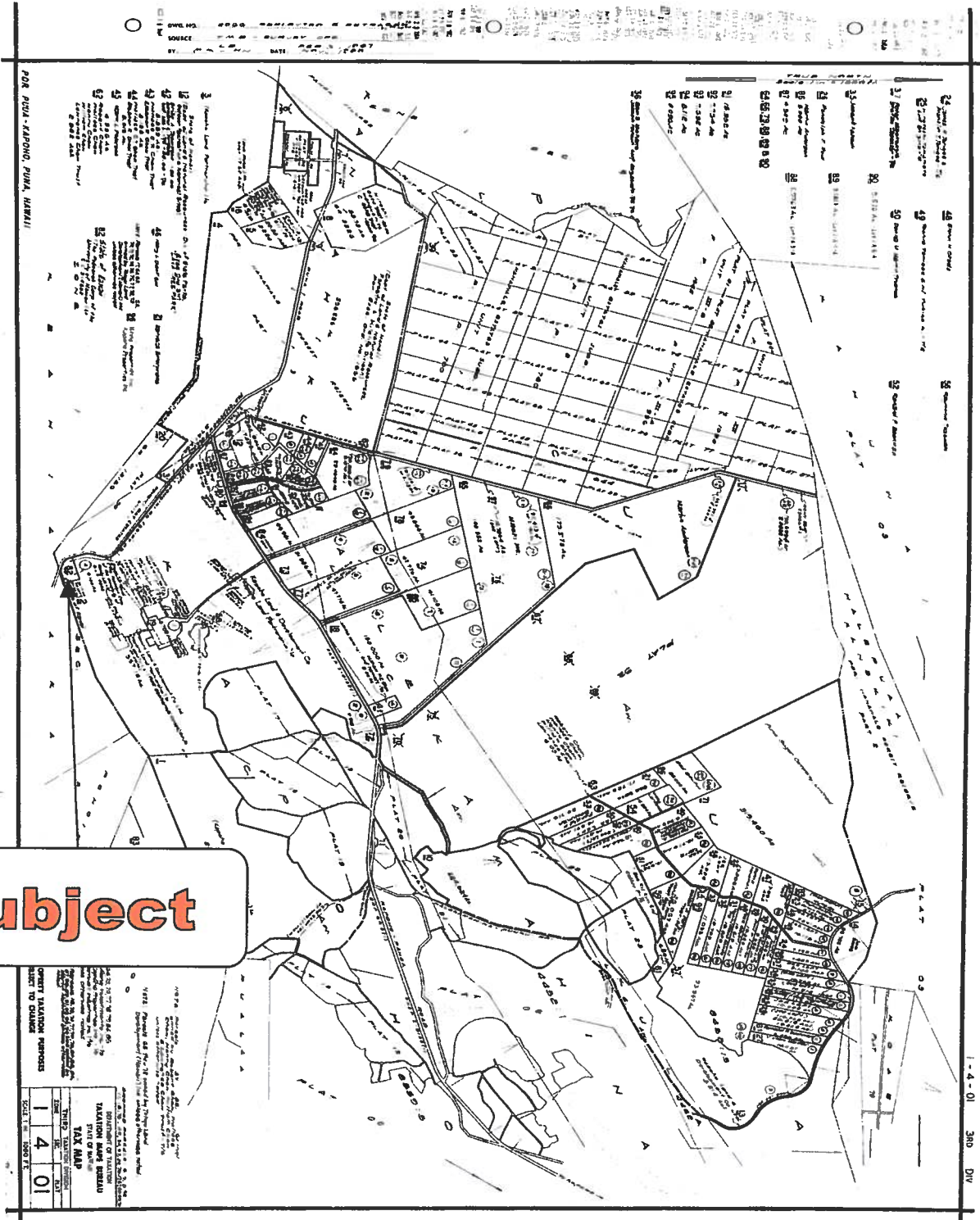


EXHIBIT A

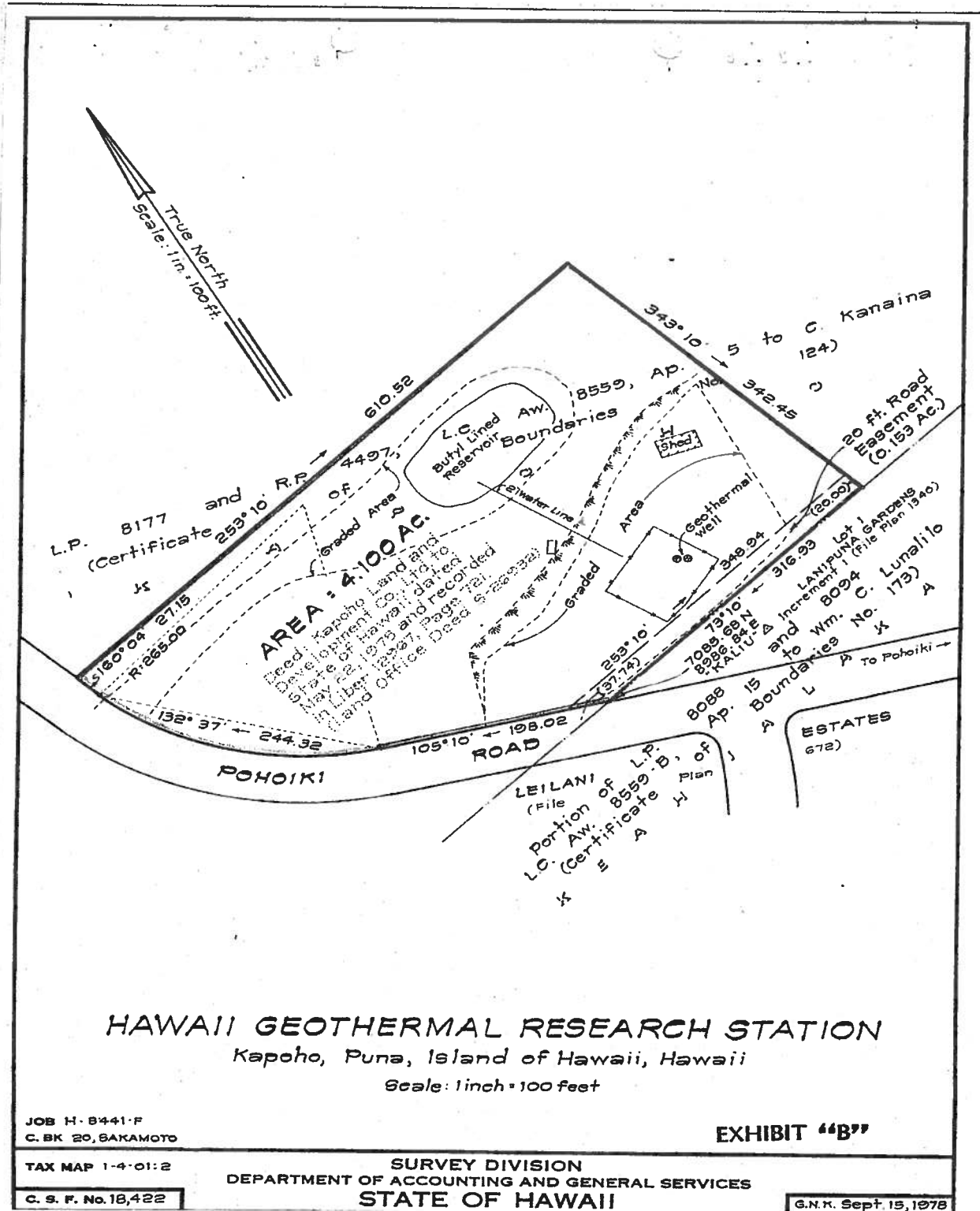
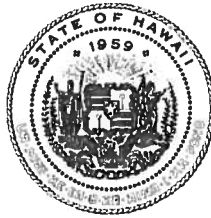


EXHIBIT A

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

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

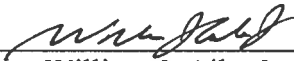
Project Title:	Mutual Cancellation of GLS-4602; Re-issuance of New Direct Lease to Natural Energy Laboratory of Hawaii Authority for Geothermal purposes.
Project / Reference No.:	PSF No.: 12HD-040
Project Location:	Kapoho, Puna, Hawaii.
Project Description:	Mutual Cancellation of GLS-4602; Re-issuance of New Direct Lease to Natural Energy Laboratory of Hawaii Authority for Geothermal purposes.
Chap. 343 Trigger(s):	Use of State Lands.
Exemption Class No. and Description:	In accordance with the "Exemption List for the State of Hawaii, Department of Land and Natural Resources, as Reviewed and Concurred Upon by the Environmental Council (Docket 91-EX-2, December 4, 1991), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No.1 , "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 [HAR § 11-200-8(a)(1)]." Exemption Class No. 4 , which states, "Minor alterations in the conditions of land, water or vegetation [HAR § 11-200-8(a)(4)]".
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.


EXHIBIT B

Recommendation:

The subject area has been in geothermal use on the subject property since 1978. It is recommended that the Land Board find that issuance of a direct lease for geothermal purposes is exempt from Chapter 343, HRS, as it 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



4/17/12
Date

EXHIBIT B