

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

May 25, 2012

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

PSF No: 09MD-129
Maui

Amend Prior Board Action of May 13, 2010 (Item D-12), By Correcting the Owned Parcel's Tax Map Key Number from (2) 2-4-013:028 to (2) 2-4-014:028; for the Cancellation of Non-Exclusive Easement Bearing Land Office Deed No. S-28038 to Christian C. and Julia C. Low and Grant of a Term, Non-Exclusive Easement to Anthony and Christine Riecke-Gonzales for Waterline Purposes, Hamakuapoko, Makawao, Maui, Tax Map Key: (2) 2-4-013:Por. 078.

BACKGROUND:

The Land Board at its May 13, 2010 meeting, under agenda item D-12, consented to the cancellation of Grant of Easement LOD S-28038 to Christian C. and Julia C. Low and grant of a term, non-exclusive easement to Anthony and Christine Riecke-Gonzales for waterline purposes. Mr. and Mrs. Riecke-Gonzales had purchased by means of Warranty Deed, the benefiting or owned property at Tax Map Key: (2) 2-4-014:028 from the Low's.

REMARKS:


Maui Land Division staff has been informed by the Attorney General's office that the May 13, 2010 board submittal contained an error on the owned parcel's tax map key number. Therefore, request is being made to amend and correct the Tax Map Key number from (2) 2-4-013:028 to Tax Map Key: (2) 2-4-014:028.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of March 13, 2010, under agenda Item D-12 by replacing Tax Map Key: (2) 2-4-013:028 with Tax Map Key: (2) 2-4-014:028 at Page 4, paragraph 3 B. Also, at page 4, at paragraph 2, replace Tax Map Key: (2) 2-4-013:por. 28 with (2) 2-4-014:028.
2. All terms and conditions listed in its March 13, 2010 approval to remain the same.

May 25, 2012

Respectfully Submitted,



Daniel Ornellas,
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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

May 13, 2010

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

PSF No.: 09MD-129
Maui

Cancellation of Grant of Non-Exclusive Easement Bearing Land Office Deed No. S-28038 to Christian C. and Julia C. Low and Grant of a Term, Non-Exclusive Easement to Anthony and Christine Riecke-Gonzales for Waterline Purposes, Hamakuapoko, Makawao, Maui, Tax Map Key: (2) 2-4-013: Por. 078.

APPLICANT:

Anthony A. Riecke-Gonzales and Christine A. Riecke-Gonzales,
Married, Tenants in Common.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of situated at Hamakuapoko, Makawao, Maui, identified by Tax Map Key: (2) 2-4-013: Por. 078, as shown on the attached meets and bound description Exhibits (A) and (B), map labeled Exhibit(C), and photo report of the subject area Exhibit (D).

AREA:

26,186 Square Feet, more or less.

ZONING:

State Land Use District: Agriculture
County of Maui 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 by Grant of Non-Exclusive Easement bearing Land Office Deed No. S-28038, Christian C. and Julia C. Low, for waterline purposes. This disposition is to be cancelled upon issuance of new easement to Applicant.

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

May 17, 2010

D-12

Other encumbrances on the State parcel include waterline easements LOD S-27041 to the County of Maui, LOD S-27996 to Walter Victor Weber, Jr., LOD S-27493 to Deyll and Margey Christen, and LOD S-28485 to Beatrice Neilson, Trustee. The Hawaiian Telephone Co. and Maui Electric Co., Ltd also has a utility easement LOD S-27292 at the subject location.

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:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

ANNUAL RENT:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - 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. 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."

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine a one-time payment.

REMARKS:

Prior to the installation of the existing and upgraded waterline, the area was serviced by an old, substandard water distribution system. Funds were not available to upgrade this system so the applicants were required by the Department of Water Supply to connect their domestic system to adequately sized pipes located some distance from their property.

Adjacent private landowners were reluctant to grant easements across their properties to the applicants'. Therefore, an alternate route had to be found. The State, as landowner of the deep, steep gulch to the rear of the subject property was able to provide an adequate area for the purposes of locating the existing water meter and lines.

On June 2, 1991, Christian and Julie Low (husband and wife) and Anthony and Christine Riecke-Gonzales (also husband and wife) purchased the property at Tax Map Key: (2) 2-4-014:028. Each couple possessed an undivided one-half (1/2) interest.

Pursuant to board action of December 20, 1991, item F-7, approval was given for the issuance of a perpetual, non-exclusive waterline easement to the Low's and Reicke-Gonzales'. An intended sale from Mr. and Mrs. Riecke-Gonzales to the Low's resulted in a board amendment of September 10, 1993, item F-3. The amended action provided for correction to the Low's first names and change from applicant names to only the Lows. The waterline easement LOD S-28038 was then issued on July 13, 1994. However, the sale was never consummated, rather, on September 24, 1999 the Lows sold their share of the property interest to Anthony and Christine Riecke-Gonzales.

Maui Land Division and the applicants have been unsuccessful in attempts to contact Mr. and Mrs. Low for assignment of LOD S-28038. The Low's are divorced and due to the time that has passed since the sale of the parcel 28, it is unknown where each party is now residing. Anthony and Christine Riecke-Gonzales are therefore requesting a new grant of easement for waterline purposes under their name.

The applicants have 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. Agency comments for this easement request were not solicited. There will be no change in use or to the size of the area that is currently being utilized.

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. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (2) 2-4-013: por. 028, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions;
3. Authorize the cancellation of Grant of Non-Exclusive Easement bearing Land Office Deed No. S-28038;
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to Anthony A. and Christine A. Riecke-Gonzales 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 term easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 2-4-013:028, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 - 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.

Respectfully Submitted,

for 

Larry Pacheco
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C.S.F. No. 21.789

October 20, 1992

PERPETUAL NON-EXCLUSIVE
WATERLINE EASEMENTS

EASEMENT A

Makawao, Maui, Hawaii

Being portion of the Government Land of Makawao.

Beginning at the south corner of this easement and on the north side of Ehu Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 13,676.76 feet South and 5011.74 feet East, thence running by azimuths measured clockwise from True South:-

1. 152° 53' 161.00 feet along the east side of Ehu Road;
2. 163° 15' 77.82 feet along the east side of Ehu Road;
3. Thence along the top edge of gulch along the east side of Grant 8073 to Mrs. Sophia Abreu, the direct azimuth and distance being:
154° 38' 793.00 feet;

Thence along the top edge of gulch along Grant 8522 to Alfred Souza for the next twenty-one (21) courses, the direct azimuths and distances between points on said top edge of gulch being:

4. 147° 47' 118.79 feet;
5. 90° 56' 65.21 feet;
6. 129° 37' 116.21 feet;
7. 161° 17' 92.90 feet;
8. 154° 32' 133.13 feet;
9. 170° 03' 54.17 feet;

10.	201° 02' 30"	80.00 feet;
11.	244° 05'	59.01 feet;
12.	268° 04'	52.43 feet;
13.	186° 25'	42.19 feet;
14.	171° 02'	68.33 feet;
15.	158° 16'	38.67 feet;
16.	126° 31'	90.40 feet;
17.	139° 24'	119.66 feet;
18.	126° 05'	140.95 feet;
19.	138° 18'	38.40 feet;
20.	164° 19'	53.27 feet;
21.	188° 59'	97.81 feet;
22.	161° 11'	51.20 feet;
23.	146° 54'	47.20 feet;
24.	127° 33'	116.90 feet;

25. Thence along the top edge of gulch along Grant 7938 to John Boteilho, the direct azimuth and distance being:
149° 28' 1454.70 feet;

Thence along the top edge of gulch along Grant 7937 to Christina Silva, for the next nine (9) courses, the direct azimuths and distances between points on said top edge of gulch being:

26.	151° 07'	92.90 feet;
27.	128° 07'	108.35 feet;
28.	160° 45'	63.20 feet;
29.	192° 34'	140.30 feet;
30.	153° 08'	182.20 feet;
31.	182° 39'	120.20 feet;
32.	214° 27'	144.00 feet;

21,789

C.S.F. No. _____

October 20, 1992

33. 191° 48' 117.80 feet;
 34. 163° 45' 60.00 feet;

35. 253° 00' 5.00 feet along the remainder of the Government
 Land of Makawao;

Thence along a line 5-feet easterly and parallel to the top edge of gulch
 along the remainder of the Government Land of Makawao for the next
 thirty-two (32) courses, the direct azimuths and distances being:

36.	343° 45'	61.31 feet;
37.	11° 48'	120.05 feet;
38.	34° 27'	143.58 feet;
39.	2° 39'	117.46 feet;
40.	333° 08'	182.68 feet;
41.	12° 34'	140.67 feet;
42.	340° 45'	60.31 feet;
43.	308° 07'	107.91 feet;
44.	331° 07'	93.85 feet;
45.	329° 28'	1453.66 feet;
46.	307° 33'	116.78 feet;
47.	326° 54'	48.68 feet;
48.	341° 11'	53.06 feet;
49.	8° 59'	97.96 feet;
50.	344° 19'	51.02 feet;
51.	318° 18'	36.70 feet;
52.	306° 05'	141.00 feet;
53.	319° 24'	119.68 feet;
54.	306° 31'	91.26 feet;
55.	338° 16'	40.65 feet;

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56.	351° 02'	69.56 feet;
57.	6° 25'	47.19 feet;
58.	88° 04'	55.69 feet;
59.	64° 05'	55.98 feet;
60.	21° 02' 30"	76.64 feet;
61.	350° 03'	52.10 feet;
62.	334° 32'	132.74 feet;
63.	341° 17'	91.78 feet;
64.	309° 37'	113.04 feet;
65.	270° 56'	66.16 feet;
66.	327° 47'	121.79 feet;
67.	334° 38'	793.68 feet;
68.	343° 15'	77.74 feet along the remainder of the Government Land of Makawao;
69.	332° 53'	162.77 feet along the remainder of the Government Land of Makawao;
70.	86° 51'	5.47 feet along the north side of Ehu Road to the point of beginning and containing an AREA OF 25,936 SQUARE FEET OR 0.595 ACRE.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Stanley T. Nakamura
Stanley T. Nakamura
Land Surveyor gm

Compiled from map by
Sherman DePonte, HSS Plat
1031-C, CSF 19769 and other
Govt. Survey Records



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES
HONOLULU

C. S. F. No 21,790

October 20, 1992

PERPETUAL NON-EXCLUSIVE
WATERLINE EASEMENTS

EASEMENT B

Makawao, Maui, Hawaii

Being portion of the Government Land of Makawao.

Beginning on the top edge of gulch at the south corner of this easement, being also on the east boundary of Grant 7937 to Christina Silva, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PIIHOLO" being 9322.07 feet South and 3104.11 feet East, thence running by azimuths measured clockwise from True South:-

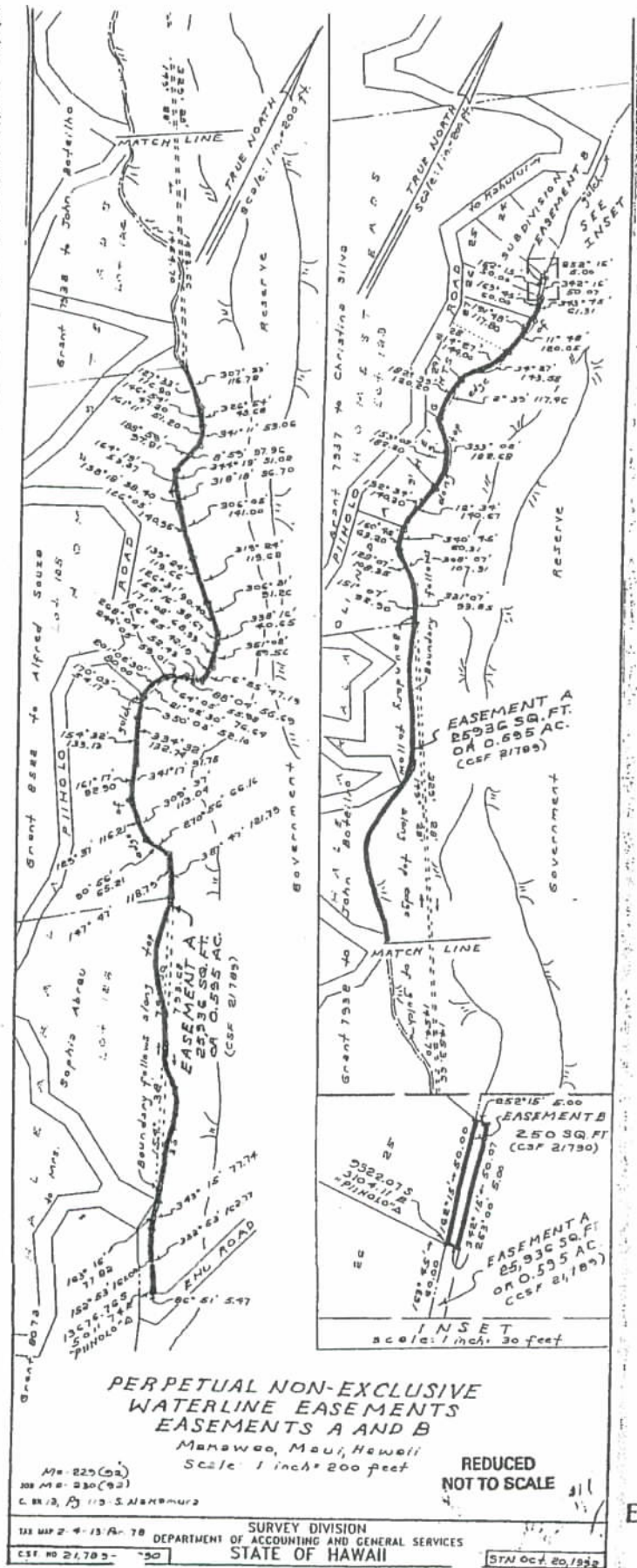
1. Along the top edge of gulch along Grant 7937 to Christina Silva, the direct azimuth and distance being:
162° 15' 50.00 feet;
2. 252° 15' 5.00 feet along the remainder of the Government Land of Makawao;
3. 342° 15' 50.07 feet along the remainder of the Government Land of Makawao;
4. 73° 00' 5.00 feet along the remainder of the Government Land of Makawao to the point of beginning and containing an AREA OF 250 SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Stanley T. Nakamura
Stanley T. Nakamura
Land Surveyor gm

Compiled from map by
Sherman DePonte, HSS Plat
1031-C, CSF 19679 and other
Govt. Survey Records.

RECEIVED OCT 21 1992



Photos taken: 1/20/2010



Front view of the Riecke-Gonzales residence.

Riecke-Gonzales (Waterline Easement)



Back view of the Riecke-Gonzales residence.



Drisco waterline belonging to Riecke-Gonzales currently on State land.



Photo of County water meter belonging to Riecke-Gonzales.

EXHIBIT "D"