

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

April 26, 2013

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

Ref No.: GL 3846

Oahu

Amend General Lease No. 3846 to Allow Lessee to Conduct Activities that are Consistent with the Administrative Rules Governing the Natural Reserve Area System, United States of America, Lessee, Poamoho, Wahiawa, Oahu, Tax Map Key: (1) 7-2-001:006.

BACKGROUND:

General Lease No. 3846 was issued to the United States of America for military purposes for a term of 65 years commencing from August 17, 1964. The leased area consists of 4,309 acres, which is a portion of the Ewa Forest Reserve pursuant to the Governor's Proclamation dated March 9, 1906.

Around 2005, the Natural Area Reserve System of the Division of Forestry and Wildlife ("DOFAW") planned to withdraw about 1,300 acres of the leased area from the Ewa Forest Reserve and designate such area as the Poamoho Natural Area Reserve ("NAR"). In October 2005, the Board authorized the holding of a public hearing regarding the proposed NAR, and the hearing was conducted in April 2008. Under separate cover in today's agenda, the DOFAW will be seeking Board authorization for the withdrawal of this area from forest reserve and setting aside for NAR as described above.

In view of the forthcoming NAR, DOFAW started discussion with the Lessee regarding the possible conflicts between the Lessee's activities under the lease and the governing administrative rules for the NAR. Subsequently, both parties agreed to request the Board to revise the lease conditions of GL 3846, with the intent to conform the Lessee's activities to the pertinent administrative rules. Additionally, the proposed lease revisions provide DOFAW with more flexibility to provide public access to the area.

By its letter dated November 1, 2012, DOFAW proposed the revised lease language, and the Lessee indicated its agreement in its response dated February 8, 2013. DOFAW advised the staff that the Department of the Attorney General has also participated in the discussion and formulation of the revised lease conditions. Both letters are attached as **Exhibit A** and **B** for the Board's reference.

A comparison of the current conditions versus the revised conditions is attached as **Exhibit C<sup>1</sup>**, and the proposed Poamoho NAR is outlined in blue on the map attached to Exhibit A. Staff has no objection to the request.

RECOMMENDATION: That the Board authorize the amendment of General Lease No. 3846 as described in Exhibit C under the terms and conditions cited above, and further subject to the following:

1. Review and approval by the Department of the Attorney General; and
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

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

<sup>1</sup> Revised language for conditions 5, 15, 16, and 22 is provided immediately below the respective original conditions on Exhibit C. Condition 9 is to be deleted in its entirety.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

November 1, 2012

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  
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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Col. Douglas Mulbury  
Commander, U.S. Army Garrison-Hawaii  
851 Wright Ave, WAAF  
Schofield Barracks, 96857

Subject: Proposed Modifications to the Ewa Forest Reserve Lease

The Department of Land and Natural Resources (DLNR) is in the process of changing the land management jurisdiction of a portion of the Ewa Forest Reserve to a Natural Area Reserve (NAR) which requires revisions to State General Lease No. S-3846, U.S. Lease Contract No. DA-94-626-ENG-78. This lease encompasses the Ewa Forest Reserve on Oahu for use by the United States of America for military purposes (see attached lease). The lease expires August 16, 2029. Another goal of the lease modification is to remove certain restrictions for public use of the area.

On September 13, 2011, representatives from the Army and the DLNR met to discuss proposed lease revisions. Army representatives included Kapua Kawelo, Supervisory Natural Resource Management Specialist, staff from the Environmental Division, and Range Control staff. The parties agreed that training use in this area has changed over time and is very limited and specialized. The Army requested the ability to continue conducting beneficial natural resource management, and agreed to limit military training to overflights. Staff agreed in concept to the proposed revisions listed below. Please indicate your approval of these revisions and our staff will proceed with the lease modification process. The lease revision process in the DLNR includes approval from the NAR System Commission and the Board of Land and Natural Resources.

**State General Lease No. S-3846 Proposed Revisions**

Replace condition 9 with: 9. Reserved.

Replace condition 5 with:

The Government shall have the right, during the existence of this lease, to conduct beneficial natural resource management actions, subject to Hawaii Revised Statutes chapters 195D and 183C, as applicable. During periods that the Government is conducting these actions, the Government shall provide the Lessor written monthly and annual reports containing summaries of activities conducted and scheduled future activities.

Replace condition 15 with:



EXHIBIT "A"

The Government shall not use any portion of the demised premises for training exercises on the ground (firing and non-firing) or the construction of any structures or roads without prior written consent of the Lessor. The Government will limit training in the demised premises for aviation training, including low elevation technical operations.

Replace condition 16 with:

The said premises shall be available to the Lessor which may open them to the general public who shall be subject to the laws of the State of Hawaii during their presence on the premises which shall be for such limited or unlimited purposes as may be designated by the Lessor. The Government shall not be responsible for the control or safety of the general public, nor shall the Government be responsible for the correction of unsanitary conditions due to general public use of the demised premises.

Replace condition 22 with:

The Lessor reserves unto itself all ground and surface water, ores, minerals and mineral rights of every description on, in or under the demised premises.

Thank you for considering this request to allow DLNR to meet its management objectives of this high-priority area. For more information, please contact Emma Yuen, NARS Enhancement Coordinator at [Emma.Yuen@hawaii.gov](mailto:Emma.Yuen@hawaii.gov) or (808) 587-4170.

Sincerely,



William J. Aila, Jr., Chairperson  
Department of Land and Natural Resources

Attachments



REPLY TO  
ATTENTION OF:

**DEPARTMENT OF THE ARMY**  
US ARMY INSTALLATION MANAGEMENT COMMAND, PACIFIC REGION  
HEADQUARTERS, UNITED STATES ARMY GARRISON, HAWAII  
851 WRIGHT AVENUE, WHEELER ARMY AIRFIELD  
SCHOFIELD BARRACKS, HAWAII 96857-5000

IMPC-HAW-ZA

08 FEB 2013

MEMORANDUM FOR Commander, US Army Engineer District, Honolulu District,  
(CEPOH-RE), Bldg 230, Fort Shafter, Hawaii 96858-5440

SUBJECT: Proposed Modifications to the Ewa Forest Reserve Lease

1. Reference letter, State of Hawaii, Department of Land and Natural Resources (DLNR), dated 1 November 2012, subject as above, encl.
2. This headquarters approves the proposed modifications to the Ewa Forest Reserve lease. The modifications apply to 1,311 acres of the 4,390 acres granted to the Army in Kawaihoa Training Area.
3. The change in the land management jurisdiction of the upper portion of the Ewa Forest Reserve to a Natural Area Reserve Modification requires that the State General Lease No. S-3846, Army contract no. DA-94-626-ENG-78, be modified.
4. Request you coordinate modified lease with State DLNR, Emma Yuen, NARS Enhancement Coordinator, (808) 587-4170, Emma.Yuen@hawaii.gov.

Encl


  
DANIEL W. WHITNEY  
COL, SF  
Commanding

EXHIBIT "B"

5. The Government shall have the right, during the existence of this lease, to attach fixtures, and erect structures or signs, in or upon the premises hereby leased, which fixtures and structures or signs, so placed in, upon or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. In addition, the Government shall post and maintain signs on roads and trails entering dangerous areas to provide a warning of any dangerous or hazardous activities; provided, that the information placed on the posted signs anywhere within the demised premises shall not be incompatible with the terms of this lease and, in those instances where joint use of an area is permitted, the information placed on the signs may include the permitted joint activities.

Replace condition 5 with:

The Government shall have the right, during the existence of this lease, to conduct beneficial natural resource management actions, subject to Hawaii Revised Statutes chapters 195D and 183C, as applicable. During periods that the Government is conducting these actions, the Government shall provide the Lessor written monthly and annual reports containing summaries of activities conducted and scheduled future activities.

15. The Government shall not use any portion of the demised premises as an impact area for explosive or incendiary munitions of any type and shall limit firing on the premises to weapons not larger than .50 caliber provided, however, the Government may also fire inert 3.5-inch rockets or weapons of similar size or purpose as long as such training will not cause fires.

Replace condition 15 with:

The Government shall not use any portion of the demised premises for training exercises on the ground (firing and non-firing) or the construction of any structures or roads without prior written consent of the Lessor. The Government will limit training in the demised premises for aviation training, including low elevation technical operations.

EXHIBIT "C"

16. When the demised premises or any part thereof is not scheduled for Government training purposes from dusk Friday to midnight Sunday and from dawn to midnight on national holidays, the said premises shall be available to the Lessor which may open them to the general public who shall be subject to the laws of the State of Hawaii during their presence on the premises which shall be for such limited or unlimited purposes as may be designated by the Lessor; provided, that the Lessor may declare the whole or any portion of the demised premises during such open periods as a public shooting or fishing ground, and the Lessor shall have the right to issue written permits to hunters and fishermen, subject to rules and regulations issued by the said Lessor; and, provided further, however, that permitted hunting and fishing activities shall be coordinated with the training activities of the Government on the demised premises and the Lessor shall obtain from such permittees written releases which will hold the Government and the Lessor harmless from any accidental injuries or deaths suffered by the holders of such permits; and, provided still further, that the Government shall make an effort to schedule its training exercises in such a manner as to enable the general public to use the subject area during the periods hereinabove mentioned and shall publish a notice in two papers of general circulation at least three (3) days prior to each said weekend or holiday on which the premises or any portion thereof will be used for training exercises except when prohibited therefrom by overriding military contingencies. The Government shall not be responsible for the control or safety of the general public, nor shall the Government be responsible for the correction of unsanitary conditions due to general public use of the demised premises.

Replace condition 16 with:

The said premises shall be available to the Lessor which may open them to the general public who shall be subject to the laws of the State of Hawaii during their presence on the premises which shall be for such limited or unlimited purposes as may be designated by the Lessor. The Government shall not be responsible for the control or safety of the general public, nor shall the Government be responsible for the correction of unsanitary conditions due to general public use of the demised premises.

22. The Lessor reserves unto itself all ground and surface water, ores, minerals and mineral rights of every description on, in or under the demised premises but shall exploit or permit others to exploit the said ores, minerals and mineral rights only with the consent of the Government. Notwithstanding the foregoing reservation, the Government shall have the right to develop and use for road construction projects on the demised premises sources of coral, rock and similar materials occurring naturally on the said premises and to use said ground and surface waters for purposes incident to the rights granted by this lease.

Replace condition 22 with:

The Lessor reserves unto itself all ground and surface water, ores, minerals and mineral rights of every description on, in or under the demised premises.

9. In recognition of public use of the demised premises, the Government shall make every reasonable effort to stockpile supplies and equipment in an orderly fashion and away from established roads and hiking trails and to remove or deactivate all live or blank ammunition upon completion of a training exercise or prior to entry by the said public, whichever is sooner.