

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

May 10, 2013

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

PSF No.: 11MD-093

Maui

Grant of 55-Year Term, Non-Exclusive Easement to Huelo Hui, LP for Access and Utility Purposes, TMK: (2) 2-9-002: 017 por., Hoolawa, Hamakualoa, Maui.

APPLICANT:

Huelo Hui, LP, a Foreign Limited Partnership.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Hoolawa, Hamakualoa, Maui identified by Tax Map Key: (2) 2-9-002: Portion of 017, as shown on the attached map labeled Exhibit 1.

AREA:

0.24 acres, 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: NO

CURRENT USE STATUS:

Encumbered by Land Office Deed No. S-28542, Kahui Pono, LLC, Lessee, for Access and Utility purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

EASEMENT TERM:

Fifty-five (55) years.

EXHIBITS:

- Exhibit #1- Tax Map Key (2) 2-9-002: Por. of 017
- Exhibit #2- Easement map prepared by Valera Inc. dated August 24, 2012
- Exhibit #3 – CSF Map No. 23,316 for Land Office Deed (LOD) No. S-28542

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, 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" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>x</u>	NO <u>__</u>

Applicant in good standing confirmed: YES x NO __

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at applicant's own cost;
- 2) Pay for an appraisal to determine one-time payment;
- 3) Applicant shall not obstruct pasturing operations on State lands. If deemed necessary, the applicant may install, on government lands, pursuant to consultation with and consent from the Maui District Land Office, cattle proof fencing, gates, cattle guards, and / or other acceptable measures, at applicant's own cost, to facilitate unfettered pasture uses upon parcel 017 while restricting entry of pasturing animals onto adjacent private properties.

REMARKS:

The applicant is requesting authorization to utilize the easement area currently encumbered by LOD S-28542 to Kahui Pono LLC for access and utility purposes over State land identified by TMK: (2) 2-9-002: 017. See Exhibit 3. This existing easement consists of an approximately 24' x 400' dirt road. An additional 641 square feet will be added on to the current roadway in order to account for additional land area needed to access the applicant's private property at TMK: (2) 2-9-002:020.

The applicant has obtained access agreements over two private parcels situated between the State parcel (017) and Honokala Road. Edward Modestini and Nicole Doane, Grantors, have authorized an access easement over TMK: (2) 2-9-002:035, pursuant to a September 12, 2011 recorded as Document No. 2011-167305. Also, Charlotte Ann O'Brien, Elysia Rose Etta Semmerling, Josi Rebecca Hanson, and Cachia Carol Charlotte Hanson (Grantors), have also granted an access easement over their private parcel at TMK: (2) 2-9-002:011, by means of a December 30, 2011 agreement, recorded as Document A-43950962.

Applicant requirements listed above includes a provision that refers to improvements that may be necessary in order to allow for active pasturing of state lands as has been past practice for the area. Past practice has included free range of animals across LOD S-28542 whereby adjacent private property owners have installed cattle guards and unlocked gates that allow unfettered access for grazing purposes upon parcel 017 while preserving the integrity of adjacent private properties.

Comments were solicited from the following agencies:

Agency	Comments
County of Maui – Planning Dept.	No objections
Office of Hawaiian Affairs	No response received
Historic Preservations	No response received

The ongoing use of an access easement over parcel 017 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.

The applicant 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.

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) 2-9-002:020, 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. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to Huelo Hui, LP covering the subject area for access and utility 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) 2-9-002:020, 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 Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the 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,



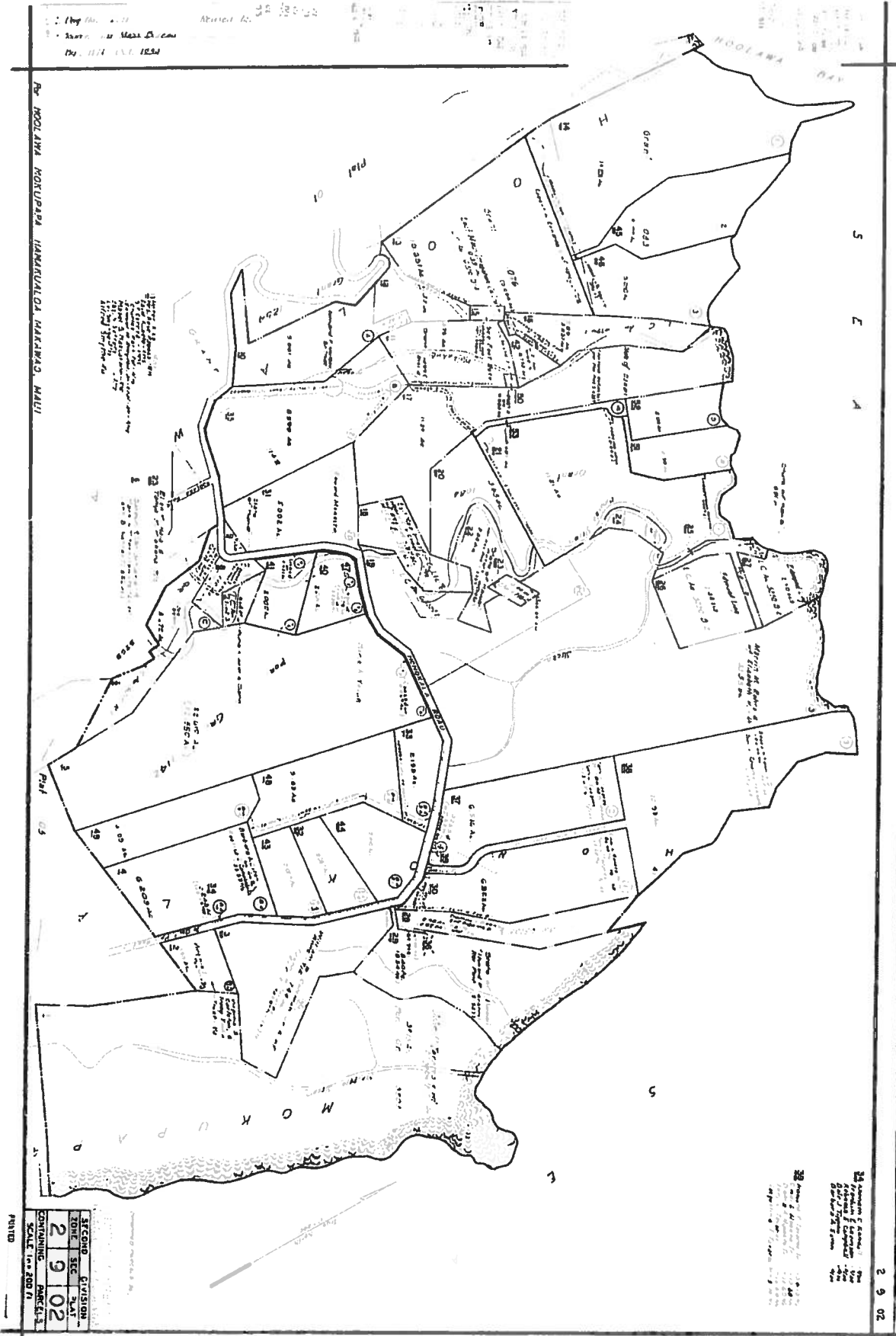
Daniel Ornellas,
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson



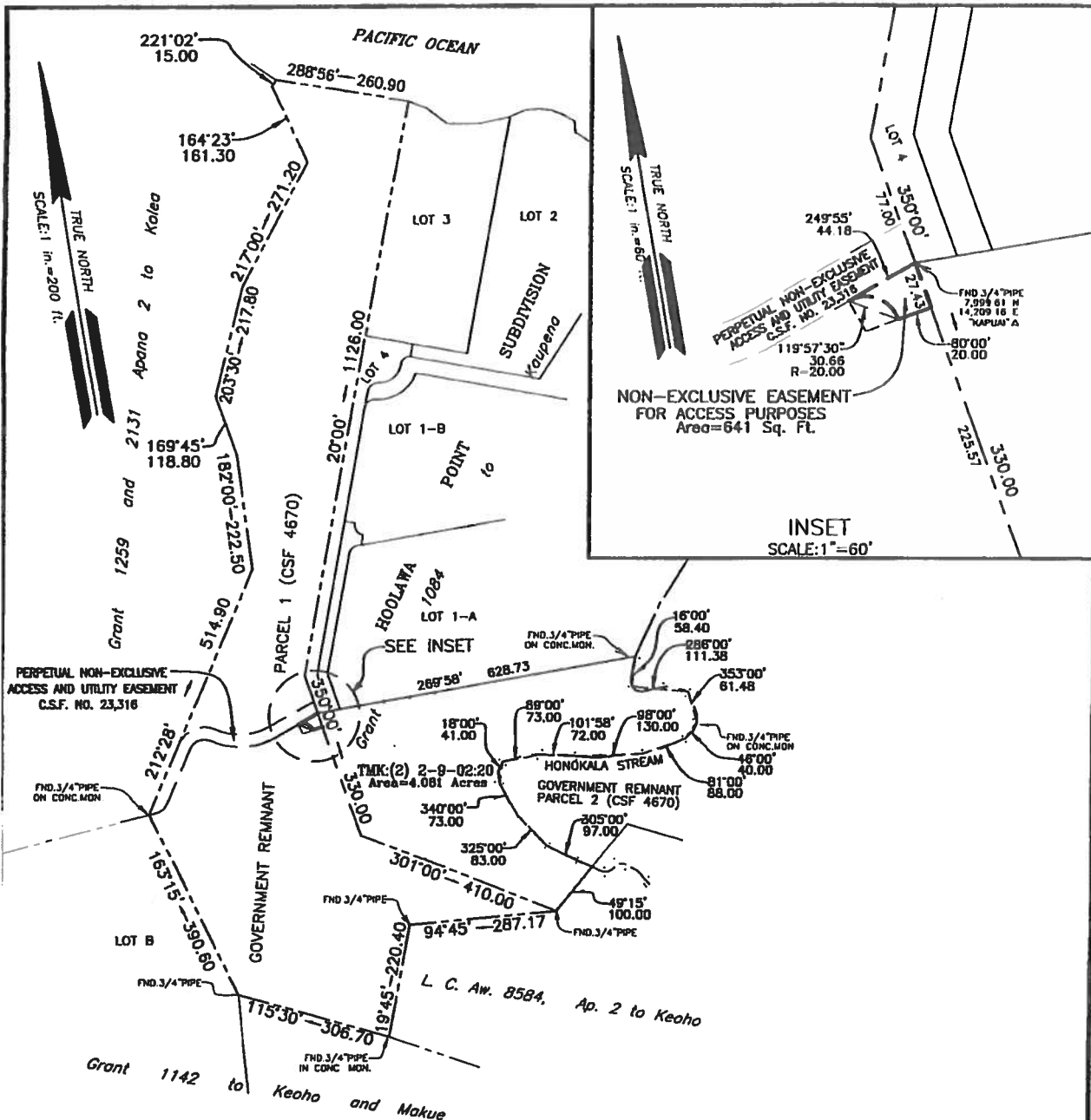


1. Map No. 10
 2. State of Hawaii
 3. 1911 A.D. 1851

MOOKUPA MOOLAWA BAY MOOLAWA BAY

SECOND DIVISION	2
ZONE SEC	9
SCALE 1 in 200 ft	02

1. 1911 A.D. 1851
 2. 1911 A.D. 1851
 3. 1911 A.D. 1851
 4. 1911 A.D. 1851
 5. 1911 A.D. 1851




**MAP SHOWING
 DESIGNATION OF NON-EXCLUSIVE EASEMENT
 FOR ACCESS PURPOSES
 AFFECTING GOVERNMENT REMNANT IDENTIFIED AS TMK:(2) 2-9-002:017
 IN FAVOR OF PORTION OF GRANT 1084 TO KAUPENA, TMK:(2) 2-9-002:020
 HONOKALA, HAMAKUALOA, MAKAWAO, MAUI , HAWAII**

PREPARED BY:
VALERA, INC.
 1867 VINEYARD STREET, STE. A
 WAILUKU, MAUI, HAWAII 96793
 TEL.NO. (808) 244-0985

NOTES:

1. Azimuths and coordinates are referred to Government Survey Triangulation Station "KAPUAI".
2. Record boundary information based from Map No. 2 of East Maui Irrigation Company showing Original Titles and Holdings of Hoouana-Hoolawa Honokala surveyed between 1823-1825 and C.S.F. Maps 4,670 and 23,316 furnished by the present owner of Grant 1084 to Kaupena
3. Boundaries determined from the existing found boundary corners of Grant 1143 to Kaupena and Government Remnant, identified by Tax Map Key No. (2) 2-9-05 : 20.
4. This map is based from a survey performed on May 8, June 8, 10, 16 and 22, 2010.

This work was prepared by me or under my direct supervision.
 VALERA, INC.


 Edgardo V. Valera Exp. 4/14
 Licensed Professional Land Surveyor
 State of Hawaii Certificate No. 5076
 Land Court Surveyor Certificate No.216

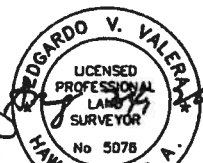
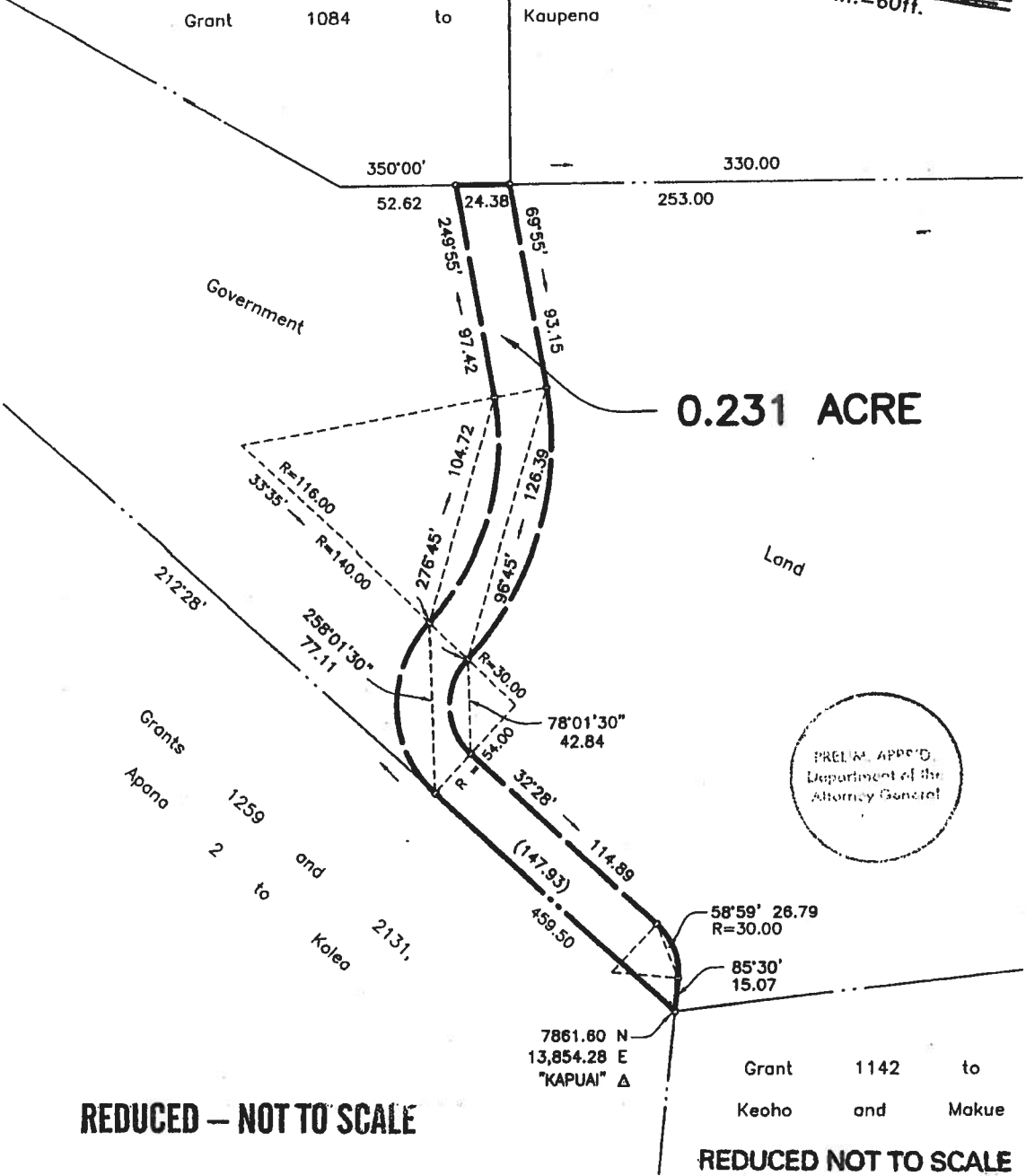


EXHIBIT "2"

TRUE NORTH
SCALE: 1 in. = 60 ft.



0.231 ACRE

REDUCED - NOT TO SCALE

REDUCED NOT TO SCALE

**PERPETUAL NON-EXCLUSIVE
ACCESS AND UTILITY EASEMENT**

Hoolawa, Makawao, Maui, Hawaii

JOB Ma-465(2001)
C. BK.

Scale: 1 inch = 60 feet

EXHIBIT 3

TAX MAP 2-9-02: Por. 17

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

C.S.F. NO. 23,316

FDR June 24, 2002



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 10, 2013

EXEMPTION NOTIFICATION

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

Project Title: Issuance of a Term, Non-Exclusive Access and Utility Easement to Huelo Hui, LP.

Project / Reference No.: PSF No. 11MD-093

Project Location: Hoolawa-Mokupapa, Hamakualoa, Makawao, Maui, Hawaii. TMK: (2) 2-9-002:017.

Project Description: Issuance of a Term, Non-Exclusive Easement for Access and Utility Purposes.

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

Exemption Class No. and Description: In accordance with the Department of Land and Natural Resources Department-wide Exemption List, approved by the Environmental Council and dated December 4, 1991, the subject project is considered to be 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 [HAR 11-200-8 (a)(1)].

Recommendation: It is anticipated 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.



William J. Aila Jr., Chairperson



Date