

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

May 24, 2013

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

PSF Nos.: 11KD-137  
11KD-138  
KAUAI

Cancellation of Governor’s Executive Order Nos. 3134 and 3371 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Nawiliwili Small Boat Harbor Purposes at Nawiliwili, Lihue, Kauai, Tax Map Key: (4) 3-2-03.

Cancellation of Governor's Executive Order (GEO) Nos. 1747, 2419 and 3114 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Kukuiula Small Boat Harbor Purposes at Kukuiula, Koloa, Kauai, Tax Map Key: (4) 2-6-03: 61 and (4) 2-6-11: 12 and 18.

CONTROLLING AGENCY (of subject executive order):

Department of Transportation (DOT), Harbors Division

APPLICANT (requesting set aside):

Department of Land and Natural Resources (DLNR), Division of Boating and Ocean Recreation

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended, and Act 272, SLH 1991.

LOCATION:

Nawiliwili Small Boat Harbor: Portion of the filled and submerged Government lands of Nawiliwili Bay situated at Nawiliwili, Lihue, Kauai, identified by Tax Map Key: (4) 3-2-03, as shown on the attached map labeled Exhibit A.

Kukuiula Small Boat Harbor: Portion of the fast, filled, and submerged Government lands of Kukuiula Bay situated at Kukuiula, Koloa, Kauai, identified by Tax Map Key: (4) 2-6-03: 61 and (4) 2-6-11: 12 and 18, as shown on the attached map labeled Exhibit B.

AREA:

Nawiliwili Small Boat Harbor:	GEO No. 3134	7.934 acres, more or less.
	GEO No. 3371	<u>23.990</u> acres, more or less.
	Total	<u>31.924</u> acres, more or less.
Kukuiula Small Boat Harbor:	GEO No. 1747	0.760 acres, more or less.
	GEO No. 2419	0.137 acres, more or less.
	GEO No. 3114	<u>6.893</u> acres, more or less.
	Total	<u>7.790</u> acres, more or less.

ZONING:

State Land Use District:	Urban and Conservation
County of Kauai CZO:	Residential, Open Space and General Industrial

TRUST LAND STATUS:

Section 5(a) and 5(b) lands of the Hawaii Admission Act.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Nawiliwili Small Boat Harbor: GEO Nos. 3134 and 3371 setting aside 31.924 acres to the Department of Transportation, Harbors Division, for small boat harbor purposes.

Kukuiula Small Boat Harbor: GEO Nos. 1747, 2419, and 3114 setting aside 7.790 acres to the Department of Transportation, Harbors Division, for small boat harbor purposes.

PURPOSE OF SET ASIDES:

Small boat harbor purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules Sections 11-200-89(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 proposed action 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 beyond that previously existing," and Exemption Class No. 4, which exempts, "Minor alterations in the

condition of land, water, or vegetation." The proposed action is an existing authorized use of State land, structures, and facilities that will continue without interruption or change in use (see Exhibit C).

Inasmuch as the Chapter 343 environmental requirements apply to the Applicant's future use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

REMARKS:

Both the Nawiliwili Small Boat Harbor and Kukuiula Small Boat Harbor are among the fifty-four (54) small boat harbors, launching ramps, jetties, wharves and landings in the State transferred from DOT to DLNR by Act 272, SLH 1991.

Currently, twenty-four (24) of those facilities have been either set aside or approved by the Board for set aside to DLNR, Division of Boating and Ocean Recreation.

Nawiliwili Small Boat Harbor is located in Nawiliwili Bay about two (2) miles southeast of Lihue. Its construction began in 1973 with the dredging of the harbor. The construction of various improvements continued to 1981.

Kauai's major deep draft harbor is also located in Nawiliwili Bay making the area the ocean transportation and shipping focus for the island.

Nawiliwili Small Boat Harbor is within a double breakwater. It contains two main piers and a large mooring area, which can accommodate about sixty (60) commercial, charter and recreational boats. Other facilities include a two lane thirty (30) foot wide small boat launching ramp, a harbor agent's office, a coast guard office, comfort station and parking. Water and electricity are also available.

Kukuiula Small Boat Harbor is located on the southern coast of Kauai about twelve (12) miles southeast of Lihue. In 1960 its small boat launching ramp was constructed. In 1961 improvements were made to its protective breakwater.

Facilities at Kukuiula Small Boat Harbor include a single lane fifteen (15) foot wide small boat launching ramp, a concrete wharf, ten (10) mooring spots and parking. Water is also available.

The subject actions were legislatively mandated, accordingly, except for the Office of Hawaiian Affairs (OHA), agency comments were not solicited. To date, OHA has had no objections to any of the Act 272, SLH 1991 transfers from DOT to DLNR.

The Board's approval of the following recommendations will bring the documentation status

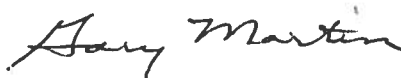
current for the Nawiliwili Small Boat Harbor and the Kukuiula Small Boat Harbor.

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. Approve of and recommend to the Governor the issuance of an executive order canceling Governor's Executive Order Nos. 1747, 2419, 3114, 3134 and 3371, subject to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time.
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside.
  - C. Review and approval by the Department of the Attorney General.
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Approve of and recommend to the Governor the issuance of executive orders setting aside the subject lands formerly encumbered by Governor's Executive Order Nos. 1747, 2419, and 3114 for Kukuiula Small Boat Harbor purposes and Governor's Executive Order Nos. 3134 and 3371 for Nawiliwili Small Boat Harbor purposes to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time.
  - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside.
  - C. Review and approval by the Department of the Attorney General.


- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Gary Martin, Land Agent

APPROVED FOR SUBMITTAL:

  
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William J. Aila, Jr., Chairperson











**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**LAND DIVISION**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

April 16, 2013

## EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Section 11-200-8(a), HAR.

- Project Title:**
1. Cancellation of Governor's Executive Order Nos. 3134 and 3371 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, for Nawiliwili Small Boat Harbor Purposes at Nawiliwili, Lihue, Kauai, Tax Map Key: (4) 3-2-03.
  2. Cancellation of Governor's Executive Order Nos. 1747, 2419 and 3114 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, for Kukuiula Small Boat Harbor Purposes at Kukuiula, Koloa, Kauai, Tax Map Key: (4) 2-6-11: 12 and 18.
- Project Reference Nos.:**
1. 11KD-137
  2. 11KD-138
- Project Location:**
1. Nawiliwili, Lihue, Kauai
  2. Kukuiula, Koloa, Kauai
- Project Description:** Cancel governor's executive orders and reissue governor's executive orders.
- Exemption Class Nos.:** In accordance with Hawaii Administrative Rules, Section 11-200-8(a), the subject projects are considered exempt from the preparation of environmental assessments 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 beyond that previously existing," and No. 4, that states, "Minor alterations in the condition of land, water or vegetation."

The proposed exemptions apply as these actions are transfers of management jurisdiction from the Department of Transportation, Harbors Division to the Department of Land and Natural


Resources, Division of Boating and Ocean Recreation. The current uses of the land are authorized and no changes are expected as a result of these set asides. These actions are not part of a multi phased project and no significant impacts are expected.

Consulted Parties:

Division of Boating and Ocean Recreation.

Recommendation:

That the Board find that these projects will probably have minimal or no effect on the environment and, therefore, are exempt from the preparation of environmental assessments.

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