

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

March 28, 2014

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

PSF No.: 14KD-022

Kauai

Approval in Concept of Acquisition of Easement on Private Lands for Menehune Road Rockfall Mitigation Project, Waimea Valley, Waimea, Kauai, Tax Map Key: (4) 1-6-003:056 and (4) 1-6-010:001, 002 & 003 (portions)

APPLICANT AGENCY:

Department of Land and Natural Resources, Land Division (“Land Division”).

PRIVATE LANDOWNER:

George I. Crowell Trust and Doris F. Crowell Trust, Tenants in common, TMK (4) 1-6-010:003 (portion)
Waimea Foreign Church Trust, Tenant in severalty, TMK (4) 1-6-010:002 (portion)
Easter Seals Hawaii, a domestic non-profit corporation, Tenant in severalty, TMK (4) 1-6-010:001 (portion)

LEGAL REFERENCE:

Sections 107-10 and 171-30, Hawaii Revised Statutes (“HRS”), as amended, and Chapter 101, HRS, as may be necessary.

LOCATION:

Privately-owned lands of George I. Crowell Trust, Doris F. Crowell Trust, Waimea Foreign Church Trust, and Easter Seals Hawaii, situated at Waimea Valley, Waimea, Kauai, identified by Tax Map Key: (4) 1-6-010: portions of 001, 002 and 003, as shown on the attached map labeled **Exhibit A1 and A2**.

AREA:

0.60 acre, more or less.

ZONING:

State Land Use District: Urban, Conservation
County of Kauai CZO: Commercial and Residential

CURRENT USE:

The easements that are being proposed for purchase are located on private lands used for commercial and residential purposes. The easements will affect unimproved portions of the parcels.

CONSIDERATION:

One-time payment to be determined by an independent appraiser, subject to review and approval by the Chairperson.

PURPOSE:

Easement purposes for the installation and maintenance of a rockfall mitigation system.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 343-5(a)(1), HRS, an environmental assessment (EA) is not required where State or county funds are being used for the acquisition of unimproved real property. As the subject lands are unimproved, an EA is not required. The rockfall mitigation project itself is exempt from the requirements of HRS Chapter 343, exemption class 1, that states: "Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director that are necessary to protect public health, safety, welfare, or public trust resources." (see **Exhibit B**).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for the appraisal cost to determine the value of the easements to be acquired;
- 2) Provide survey maps and descriptions for the easements according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

AECOM has been contracted by the DLNR, Engineering Division ("Engineering Division") to prepare a mitigation plan for potential rockfall along the cliff above Menehune Road in Waimea Valley, Waimea, Kauai. 66 hazardous rockfall features along the slopes of the roadside and adjacent to private residential properties were

identified. Based on the information provided by AECOM, the risk level appears to be higher than the recommended tolerable level. Based on the higher risk level and number of hazardous features, the public health, safety and welfare may be compromised and mitigating this matter has become urgent.

AECOM has recommended a sequence of work including:

1. Shotcrete the red clay layer for the entire project length (aprox. 75 cubic yards);
2. Scale the entire project area in one pass;
3. Mitigate rockfall sites by removal or by dowel placement; and
4. Install draped mesh over the steep slopes.

The project is proposed upon State land, however, to accommodate the draped mesh foundation, portions of private property will be utilized for the anchor dowel system.

The proposed easement area runs along the top of the cliff face where the State land abuts private property. The easement size will be determined by the Engineering Division based on the recommendations from AECOM, and will be used for the installation and maintenance of the draped mesh foundation. Land Division will have jurisdiction of the lands acquired and funding for the purchase of the easements and costs for the mitigation project will be allocated from the Engineering Division.

Land Division is seeking conceptual approval for the purchase of the easement area. AECOM is in the process of determining the specific area that will be needed for the draped mesh foundation.

AECOM has filed an emergency Conservation District Use Application with DLNR, Office of Conservation and Costal Lands (“OCCL”). OCCL has no objections to granting the emergency permit, subject to the requirements of HAR 13-5-35 Emergency Permits and the conditions set forth within the permit.

AECOM has requested a Historic Preservation Review by DLNR, Historic Preservation Division. (“SHPD”). Based on the information that was provided by AECOM, SHPD is recommending that all ground-disturbing activities associated with the rockfall mitigation be monitored by a qualified archaeologist.

AECOM, Engineering Division. and Land Division staff have met with representatives from all three private property owners and have their concurrence in concept. Details regarding the size, location, improvements and compensation will be determined based on a survey, recommendations from AECOM and Engineering Division, and certified appraisals of the final easement areas.

Various government agencies and interest groups were solicited for comments.

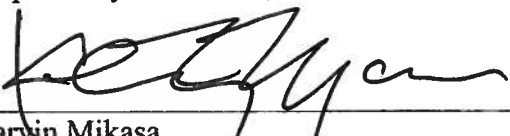
AGENCIES	COMMENTS
State of Hawaii:	
DOH	No comments
DHHL	No response by suspense date
DOT	No comments
DLNR – Historic Preservation	No response by suspense date
DLNR – Conservation and Coastal Lands	No response by suspense date
County of Kauai	
Planning Department	No response by suspense date
Public Works	No comments
Other Agencies / Interest Groups:	
Office of Hawaiian Affairs	No response by suspense date

RECOMMENDATION: That the Board:

Authorize the acquisition of easements on the subject private lands 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 easement on private property document form, as may be amended from time to time;
- B. Eminent domain proceedings, as may be necessary for the acquisition, pursuant to Chapter 101, HRS;
- 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,



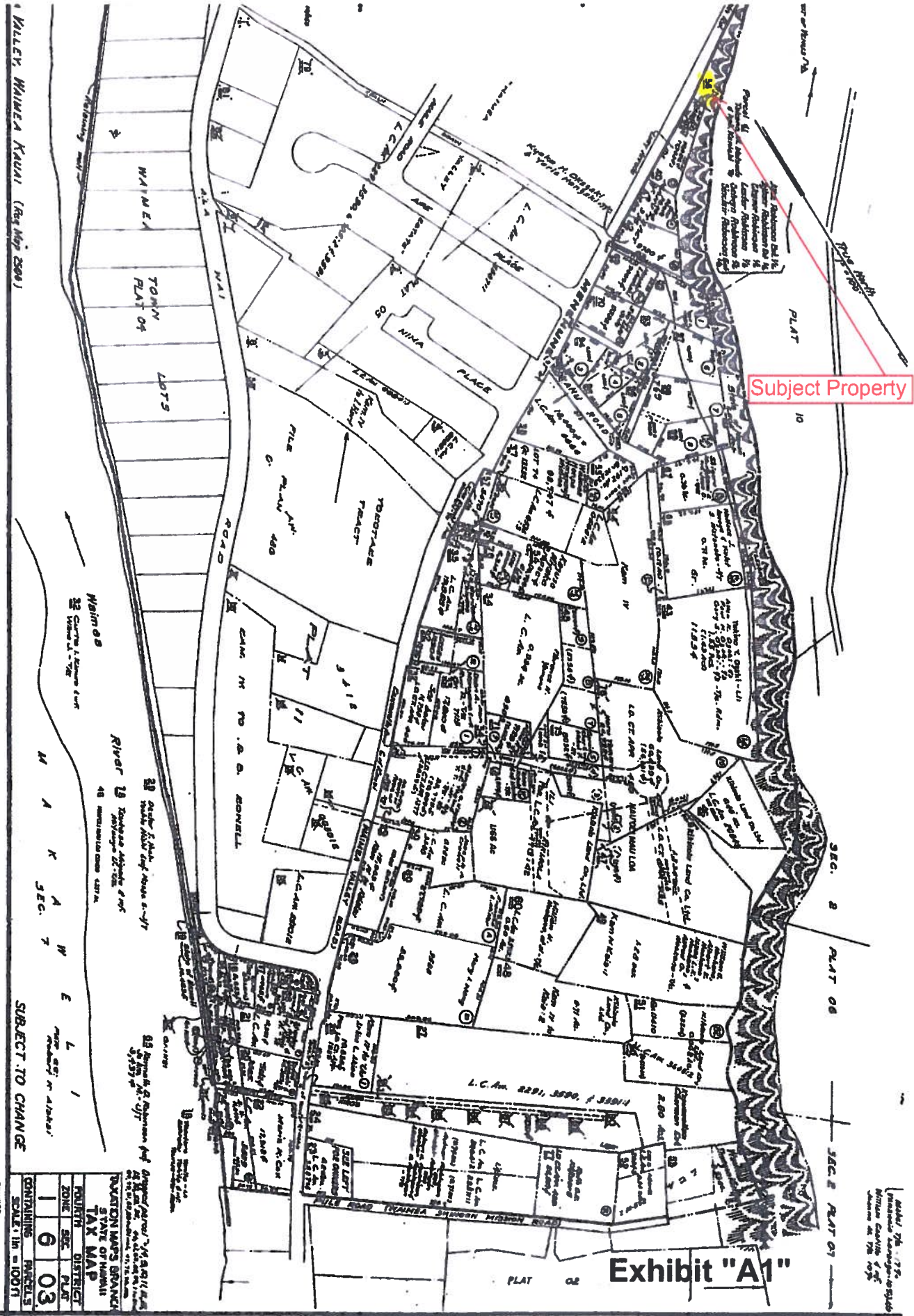
Marvin Mikasa
Acting District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





Subject Property

Exhibit "A1"

Waiwaea, Hawaii (Res Map 2504)

SUBJECT TO CHANGE

CONTAINING	PARCELS
SCALE: 1" = 100'	
PLAT	6 03
DISTRICT	
ZONE	
PLAT	
SECTION	
TOWN	
MAP	
BRANCH	
OFFICE	
DATE	
BY	
FOR	

Map No. 175
 Planning Commission
 Office of the Mayor
 Honolulu, Hawaii

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 28, 2014

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

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FIRST DEPUTY

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DEPUTY DIRECTOR - WATER

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BOATING AND OCEAN RECREATION
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HISTORIC PRESERVATION
KAIHOOLAWE 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: Approval in Concept of Acquisition of Easement on Private Lands for Menehune Road Rockfall Mitigation Project

Project / Reference No.: 14KD-022

Project Location: Waimea Valley, Waimea, Kauai, Tax Map Key (4) 1-6-003:056 and (4) 1-6-010:001, 002 & 003 (portions)

Project Description: Easement purposes for the installation and maintenance of a rockfall mitigation system above Menehune Road.

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

Exemption Class No.: 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 July 13, 2011, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare or public trust resources."

AECOM has been contracted by the DLNR, Engineering Division to prepare a mitigation plan for potential rockfall along the cliff above Menehune Road in Waimea Valley, Waimea, Kauai. 66 hazardous rockfall features along the slopes of the roadside and adjacent to private residential properties were identified. Based on the information provided by AECOM, the risk level appears to be higher than the recommended tolerable level. Based on the higher risk level and number of hazardous features, the public health, safety and welfare may be compromised and mitigating this matter has become urgent.

Exhibit "B"


The project is proposed upon State land, however, to accommodate the draped mesh foundation, portions of private property will be utilized for the anchor dowel system.

Consulted Parties

State Departments of Health, Transportation, Hawaiian Home Lands; Land and Natural Resources – Historic Preservation & Conservation and Coastal Lands; Kauai County of Planning and Public Works, and the Office of Hawaiian Affairs.

Recommendation:

That the Board finds 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