

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

February 13, 2015

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

PSF No: 13HD-151
Hawaii

Amend Prior Board Action of June 13, 2014, Item D- 7, Sale of Flume Right-of-Way Reservation to Charles K. Novogradac and Deborah A. Milks, Papaaloa Homesteads, North Hilo, Hawaii, Tax Map Key: (3) 3-5-001:053.

The purpose of the amendment is to remove the word “undesigned” from page 2 of the prior Board approval under “Chapter 343 – Environmental Assessment” and from within the third paragraph of the “Remarks” section.

BACKGROUND:

At its meeting of June 13, 2014, under agenda item D-7, the Board approved the subject matter regarding the sale of a reservation for a flume right-of-way across private land to the landowner. A copy of the approved submittal is attached as Exhibit 1.

Within the submittal the flume reservation is referred to as “undesigned”. Refer to page 2 of Exhibit 1, under “Chapter 343 – Environmental Assessment” and the third paragraph of the “Remarks” section.

REMARKS:

After further review it has been determined that the original Land Patent Grant No. 8987, refers to Registered Map No. 2582, which uses a line to designate a ditch/flume system across the map, including the servient parcel. Based on this line, it has been determined that the flume right-of-way is a “designated” reservation.


RECOMMENDATION: That the Board:

1. Amend its prior Board action of June 13, 2014, under agenda item D-7 by removing the word “undesigned” from page 2 of the prior Board approval under “Chapter 343 – Environmental Assessment” and from within the third paragraph of the “Remarks” section.

2. All terms and conditions listed in its June 13, 2014 approval to remain the same.

Respectfully Submitted,



 Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:



Carty S. Chang, Acting Chairperson



EXHIBIT 1

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

June 13, 2014

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

13HD-151

Hawaii

Sale of Flume Right-of-Way Reservation to Charles K. Novogradac and Deborah A. Milks, Papaaloa Homesteads, North Hilo, Hawaii, Tax Map Key: (3) 3-5-001:053.

APPLICANT:

Charles K. Novogradac and Deborah A. Milks a married couple, Tenants by the Entirety

LEGAL REFERENCE:

Section 171-57 and 171-16(d), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Papaaloa Homesteads, North Hilo, Hawaii, identified by Tax Map Key: (3) 3-5-001:053, as shown on the attached map labeled Exhibit A.

AREA:

0.11 acres, more or less.

ZONING:

State Land Use District: Agricultural
County of Hawaii CZO: A-20a

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:

Reservation for Flume Right-of-Way

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

June 13, 2014 jo.

CONSIDERATION:

One-time lump sum payment of the difference in fair market value with and without the reservation, to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The reservation is an undesignated flume right-of-way within privately owned land. Chapter 343, HRS, would not apply to any future development on the parcel as no State lands would be involved. Refer to attached Exhibit B.

DCCA VERIFICATION:

Not applicable. The Applicants as individuals are not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine the one-time payment of the difference in fair market value with and without the reservation;
- 2) Pay for the costs of public notice pursuant to section 171-16(d).

REMARKS:

The servient parcel was granted to Emalia Hapenuia on April 6, 1926, via Land Patent No. 8987 by the Governor of the Territory of Hawaii. The Land Patent contains a reservation for a flume right-of-way 10 feet wide.

At the time the grant was written, the most effective means of transporting sugar from the fields to the mills was by water flumes. The reservation was intended to allow for a flume structure to transport sugar down slope to a processing mill. There is no indication that a flume structure was constructed on the applicant's property and advancements in sugar cane harvesting and machinery made the use of flumes obsolete. Accordingly, the applicant is requesting a release of the reservation.

No agency or community comments were solicited as this is a waiver of an undesignated flume reservation and has no impact beyond the limits of the boundaries of the privately owned property.

Pursuant to section 171-57, HRS, as provided, if the Board finds that a disposition of a reserved right or easement is not prejudicial to the best interest of the State, community or area in which the land is situated, it may, after giving public notice of the intended disposition as provided in section 171-16(d), dispose of the reserved right or easement to the owner of the land by direct sale or by lease without public auction.

Applicants are the owners of parcel (3) 3-5-001:053 which staff has confirmed through research of the County of Hawaii, Real Property Tax Office website and the Bureau of Conveyances, LandShark database.

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.


RECOMMENDATION:

That the Board:

1. Find that a disposition of a reserved right or easement is not prejudicial to the best interest of the State, Community or area in which the land is situated;
2. 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;
3. Subject to the applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of a waiver of the reservation for a flume right-of-way contained within Land Patent Grant No. 8987, 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 waiver of reservation form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



 Candace Martin
Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

EXHIBIT A

