

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

February 27, 2015

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

PSF No.: 14HD-196

**HAWAII**

Grant of Term, Non-Exclusive Easement to Kuahiwi Contractors, Inc., dba: Kuahiwi Ranch for Water Pipeline Purposes, Kaiholena, Kau, Hawaii, Tax Map Key: (3) 9-7-001:001 & 021.

**APPLICANT:**

Kuahiwi Contractors, Inc., dba: Kuahiwi Ranch, a Hawaii corporation.

**LEGAL REFERENCE:**

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

**LOCATION:**

Portion of Government lands of Old Plantation Spring situated at Kaiholena, Kau, Hawaii, identified by Tax Map Key: (3) 9-7-001: 001 & 016, as shown on the attached map labeled Exhibit A.

**TRUST LAND STATUS:**

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES \_\_\_ NO   x  

**TMK/ DISTRICT/ ZONING/ENCUMBRANCE/AREA:**

TAX MAP KEY:	DISTRICT	ZONING		ENCUMBRANCE	AREA (Acres)
		SLU	CZO		
(3) 9-7-001:001	Kaiholena, Kau	Cons	Open	Proclamation dated October 17, 1930; Division of Forestry & Wildlife (DOFAW) - Kau Forest Reserve.	55,442.998

				Revocable Permit No. S-7054: Kapapala Ranch, for use of water from Makakupu Tunnel purposes.	
				Revocable Permit No. S-7234: Wood Valley Water & Farm CO-OP, for use of water from Weda Tunnel purposes.	
				Revocable Permit No. S-7267: Wood Valley Water & Farm CO-OP, for use of water from Noguchi Tunnel purposes.	
				Revocable Permit No. S-7426: Kuahuiwi Contractor, Inc., for use of water from Mountain House purposes.	
				Revocable Permit No. S-7432: Edmund Olsen Trust, for use of water from Noguchi Tunnel and Keaiwa Reservoir purposes.	
(3) 9-7-001:021	Kaiholena, Kau	Cons	Open	Governor's Executive Order No. 4156: DOFAW – Addition to Kau Forest Reserve.	319.182

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove water transmission pipeline over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

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

EASEMENT TERM:

Fifty-five (55) years.

ANNUAL RENT:

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

RENTAL REOPENINGS:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached below as Exhibit B.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO
Registered business name confirmed:	YES <u>x</u>	NO
Applicant in good standing confirmed:	YES <u>x</u>	NO

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine initial one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

Subject parcel, pursuant to Governor's Proclamation dated October 17, 1930, was set aside to the Division of Forestry & Wildlife for the Kau Forest Reserve.

At its meeting of November 8, 2013, the Board of Land and Natural Resources approved a Conservation District Use Permit (HA-3674) to Kuahiwi Contractors, Inc., as the alignment of the proposed water pipeline will traverse lands within the Conservation District, Protected Subzone.

By letter dated November 12, 2013, Ms. Michelle Galimba, Kuahiwi Contractors, Inc., dba: Kuahiwi Ranch, requested an easement over State lands for proposed water pipeline purposes. The pipeline would commence at the Old Plantation Spring, located on TMK: (3) 9-7-001:004, which is owned by the Nature Conservancy. The Nature Conservancy granted Kuahiwi Contractors, Inc. permission to lay the pipeline over their property. The pipeline would then traverse over the State parcels identified as TMK: (3) 9-7-01:001 & 021, and ending at the Kuahiwi's private property identified as TMK: (3) 9-5-015:003. The total length of pipeline required would be approximately 16,400 linear feet. To minimize potential impacts to the forest reserve, the pipeline will be laid above ground, with majority being along existing roads and trails within the forest reserve.

Kuahiwi Contractors, Inc. 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.

On December 29, 2014, various governmental agencies and interest groups were solicited for comments. There were no objections to the project.

AGENCIES	COMMENTS
<b>County of Hawaii:</b>	
Planning Department	No objections, see comments below
Public Works	No comments
Water Supply	No objections
<b>State of Hawaii:</b>	
DLNR - DOFAW	No objections, see comments below
DLNR - Historic Preservation	No response
DLNR - OCCL	No objections, see comments below
<b>Other Agencies/ Interest Groups:</b>	
Office of Hawaiian Affairs	No response
Nature Conservancy	No objections

Hawaii Branch Manager, Steve Bergfeld, Division of Forestry & Wildlife, indicated that he is supportive of the project as he walked the alignment with Kuahiwi Ranch and Nature Conservancy representatives. It is clear that minimal damage to native vegetation will occur in the installation of the pipeline which serves to better assist agriculture endeavors in the region.

The Office of Conservation and Coastal Lands had no objections to the request. At its meeting of November 8, 2013 the Land Board approved CDUP #HA-3674 for the Old Plantation Springs pipeline at Kaiholena, Kau. (Exhibit C)

The County Planning Department has no objections to the project, but mentioned that the subject property is zoned Agricultural. As a result, applicant would be required to submit a plan approval application to the Planning Department prior to the construction of the proposed water pipeline, which would be considered a "private utility" per Section 25-4-11(b) of the Zoning Code.


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

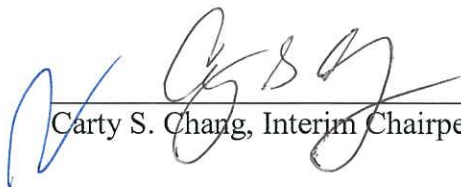
probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

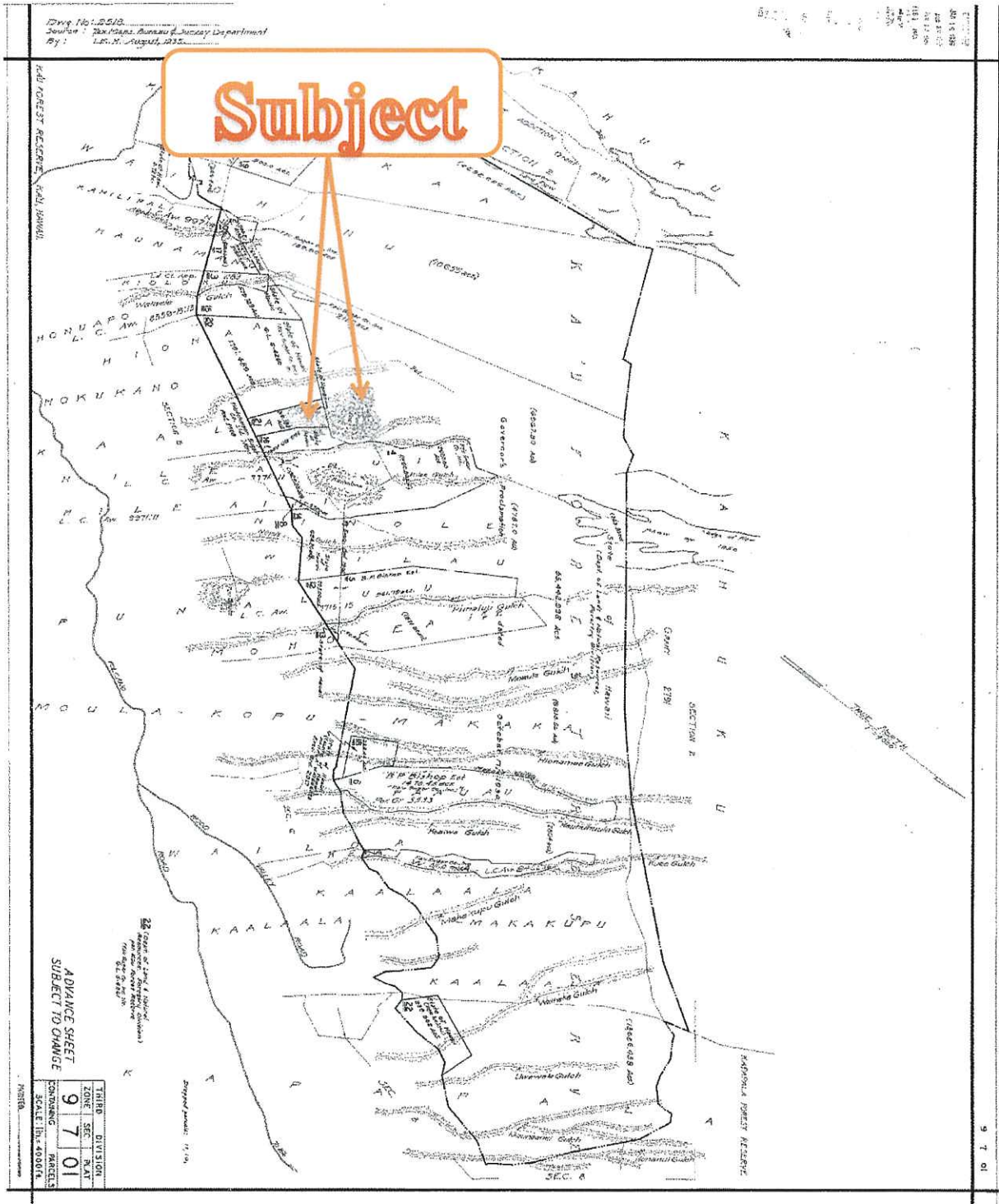
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (3) 9-5-015:003, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years 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 Kuahiwi Contractors, Inc., dba Kuahiwi Ranch covering the subject area for water pipeline 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: (3) 9-5-015:003, 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,

  
\_\_\_\_\_  
Wesley T. Matsunaga  
Land Agent

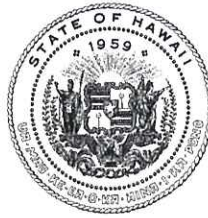
APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Carty S. Chang, Interim Chairperson



# EXHIBIT A

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

CARTY S. CHANG  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN  
INTERIM FIRST DEPUTY

W. ROY HARDY  
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**EXEMPTION NOTIFICATION**

From the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

**Project Title:** Grant of Term, Non-Exclusive Easement to Kuahiwi Contractors, Inc., dba Kuahiwi Ranch, for Water Pipeline Purposes.

**Project Number:** PSF No.: 14HD-196

**Project Location:** Kaiholena, Kau, Hawaii; Tax Map Keys: (3) 9-7-001:001 & 021.

**Project Description:** Grant of term, non-exclusive easement to Kuahiwi Contractors, Inc., dba: Kuahiwi Ranch.

**Chap. 343 Trigger(s):** Use of State lands

**Exemption Class No.:** In accordance with the Division of Land Management Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject project is considered to be exempt from the preparation of an environmental assessment pursuant to:

Exemption Class No. 3, which states, "Construction and location of single, new, small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same including but not limited to: (A) single family residence not in conjunction with the building of two or more such units; (B) multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) stores, offices and restaurants designed for total occupant load of twenty persons or less, if not in conjunction with the building of two or more such structures; and (D) water, sewage, electrical, gas, telephone, and other essential public utility service extensions to serve such structures including garages, carports, patios, swimming pools, and fences [HAR-200-8(a)(3)]."

Exemption Class No. 4, which states, "Minor alterations in the conditions of land, water or vegetation."

**Exemption Description from**

**Agency Exemption List:**

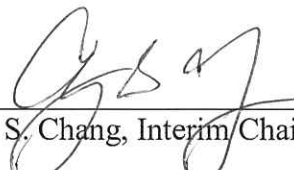
Construction and location of single, new, small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same including but not limited to: (A) single family residence not in conjunction with the building of two or more such units; (B) multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) stores, offices and restaurants designed for total occupant load of twenty persons or less, if not in conjunction with the building of two or more such structures; and (D) water, sewage, electrical, gas, telephone, and other essential public utility service extensions to serve such structures including garages, carports, patios, swimming pools, and fences [HAR-200-8(a)(3)].

**Consulted Parties:**

Minor alterations in the conditions of land, water or vegetation. DLNR-Office of Conservation and Coastal Lands, DLNR-Historic Preservation, DLNR- Division of Forestry & Wildlife, County of Hawaii Planning Department, and County Public Works.

**Recommendation:**

The issuance of a term, non-exclusive easement for pipeline purposes over the described parcel in itself will probably have minimal or no significant effect on the environment. The pipeline will be laid above ground along existing roads and trails to minimize impacts to the land. It is recommended that the Board of Land and Natural Resources find that the action is exempt from the preparation of an environmental assessment. 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.

  
\_\_\_\_\_  
Carty S. Chang, Interim Chairperson

  
\_\_\_\_\_  
Date

2/13/15

**EXHIBIT B**



NEE AHI RO KUMUHI  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

WILLIAM K. MEYER JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON LAND AND NATURAL RESOURCES

ESHER KAVANA  
CHAIRPERSON

WILLIAM TAM  
CHAIRPERSON

CHIEF OF BUREAU  
BUREAU OF LAND MANAGEMENT  
1555 KALANOA AVENUE  
HONOLULU, HAWAII 96813  
TELEPHONE (808) 586-4111  
FAX (808) 586-4112  
WWW.DLNRS.HAWAII.GOV

REF:OCCL:MC

Michelle Galimba  
Kuahiwi Ranch

Nā'ālehu, HI 96772

CDUP HA-3674

NOV 20 2013

Dear Ms. Galimba,

SUBJECT: Conservation District Use Permit (CDUP) HA-3674  
Old Plantation Spring Pipeline  
Kaiholena, Ka'ū, Hawai'i  
TMKs (3) 9-7-001:001, 004, and 016

This is to inform you that on November 8, 2013, the Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) HA-3674 for the Old Plantation Spring Pipeline in Kaiholena, Ka'ū, Hawai'i, TMKs (3) 9-7-001:001, 004, and 016, subject to the following conditions:

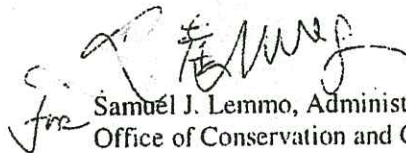
1. The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The permittee shall obtain appropriate authorization from the department for the occupancy of state lands, if applicable;
4. The permittee shall comply with all applicable department of health administrative rules;
5. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
6. Before proceeding with any work authorized by the department or the board, the permittee shall submit a copy of the final route and construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Plan approval by the chairperson does not constitute approval required from other agencies;
7. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;

**EXHIBIT C**

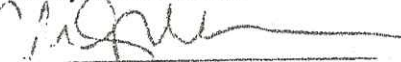
8. All representations relative to mitigation set forth in the application for the proposed use are incorporated as conditions of the permit;
9. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
10. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
11. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
12. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
13. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
14. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
15. The permittee will follow the Invasive Species Prevention Protocol established by The Nature Conservancy;
16. Other terms and conditions as may be prescribed by the Chairperson; and
17. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty days. Should you have any questions feel free to contact Michael Cain at 587-0048.

Sincerely,

  
 Samuel J. Lemmo, Administrator  
 Office of Conservation and Coastal Lands

Receipt acknowledged:

  
 Permittee's Signature

6.10.14  
 Date

**EXHIBIT C**