

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Boating and Ocean Recreation  
Honolulu, Hawaii 96813

August 14, 2015

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

Issuance of Right-of-Entry Permit to Hawaii Fueling Facilities Corporation for Construction, Access, and Maintenance of Monitoring/Recovery Wells and Interceptor Trench at the Keehi Small Boat Harbor, Tax Map Key No. (1) 1-2-025:024.

APPLICANT:

Hawaii Fueling Facilities Corporation (“HFFC”), a Hawaii corporation who’s mailing address is Hawaii Fueling Facilities Corporation, 3201 Aolele Street, Honolulu, Hawaii 96819.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes.

LOCATION:

Portion of Government land at Keehi Small Boat Harbor (KSBH), situated at Honolulu, Island of Oahu, Identified by Tax Map Key: (1) 1-2-025:024, as shown on the attached map in Exhibit “B”.

AREA:

2.49 acres, more or less.

ZONING:

State Land Use District: Industrial.

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES\_\_ NO X

CURRENT USE STATUS:

The areas where monitoring/recovery wells are located are currently used for storage and roadway shoulders. The area where the interceptor trench will be installed is currently used for parking DOBOR’s use of these areas will not be negatively impacted by the proposed monitoring/recovery wells and interceptor trench.

CHARACTER OF USE:

For construction, access, and maintenance of monitoring/recovery wells and interceptor trench to be used to monitor and capture potential releases of fuel from the HFFC facility adjacent to Keehi Small Boat Harbor.

COMMENCEMENT DATE:

The commencement date shall be determined by the Chairperson. The tentative construction start date for the installation of the interceptor trench is September 1, 2015. This date is subject to change depending on the readiness of HFFC's contractor to begin construction or other conditions not within HFFC's control. HFFC will coordinate the actual commencement date with DOBOR.

TERM OF RIGHT-OF-ENTRY:

The term of the Right-of-Entry agreement shall be in perpetuity or until either or both parties agree to terminate the agreement.

RENTAL:

Gratis.

COLLATERAL SECURITY DEPOSIT:

None.

DCCA VERIFICATION:

Place of business registration confirmed:	Yes
Registered business name confirmed:	Yes
Applicant in good standing confirmed:	Yes

HRS CHAPTER 343 and HAR CHAPTER 11-200:

In accordance with the "Exemption List for the Department of Land and Natural Resources, Approved by the Environmental Council, on June 5, 2015," the subject request is exempt from the preparation of an Environmental Assessment pursuant to Exemption Class No. 1, Item No.1: 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.

REMARKS:

The U.S. Environmental Protection Agency is requiring HFFC to construct monitoring/recovery wells and an interceptor trench in response to recent fuel releases from the HFFC facility.

The purpose of the monitoring/recovery wells is to determine, through routine monitoring, whether a fuel release is occurring. In the event of a fuel release, the wells are used to extract released fuel within the soil.

The purpose of the interceptor trench is to provide a means to isolate future fuel releases and prevent the released fuel from entering harbor waters. Extraction wells within the interceptor trench provide a means to extract and capture fuel travelling through the soil.

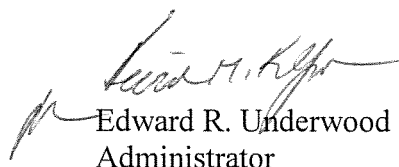
CONDITIONS:

HFFC shall comply with the conditions set forth in the Draft Right-of-Entry Agreement attached as Exhibit “C”.


RECOMMENDATION:

1. That the Board approve the issuance of a Right-of-Entry permit to Hawaii Fueling Facilities Corporation and delegate authority to execute the Right-of-Entry Agreement (“Agreement”) to the Chairperson, subject to the terms and conditions of the Agreement.
2. Declare that, after considering the potential effects of the proposed project as provided by HRS Chapter 343, and HAR Chapter 11-200, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

Respectfully Submitted,

  
Edward R. Underwood  
Administrator

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

Attachments: Exhibit “A” – Right-of-Entry Request Letter from Hawaii Fueling Facilities Corporation  
Exhibit “B” – Interceptor Trench Layout, Schematic, and Utility Cross Schematic  
Exhibit “C” – Draft Right-of-Entry Agreement

EXHIBIT A



Honolulu International Airport  
3201 Aolele St.  
Honolulu, HI 96819  
Phone (808) 833-3291  
Fax (808) 833-3295

May 8, 2015

Department of Land and Natural Resources  
Division of Boating and Ocean Recreation  
333 Queen Street, Suite 300  
Honolulu, HI 96813  
**Attn:** Mr. Finn McCall

**Request for Right of Entry Agreement**

Dear Mr. McCall:

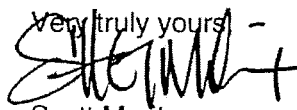
As you and the Department of Land and Natural Resources ("DLNR") are aware, Hawaii Fueling Facilities Corporation ("HFFC") has been working with the U.S. Environmental Protection Agency ("EPA") to cleanup a release at HFFC's Sand Island Facility. In connection with the cleanup, the EPA is requiring HFFC to install various recovery and monitoring wells and to construct a below grade interceptor trench on the DLNR property adjacent to HFFC's facility.

By this letter, HFFC requests a Right of Entry agreement that will allow HFFC and its contractors to access the DLNR property to install and maintain the wells and interceptor trench. Enclosed for your information and review are the following documents, which provide the general locations and brief description of these items:

1. Interceptor Trench Conceptual Design and Location (please note that only Segment 1 is planned for installation at this time and there is no immediate requirement to install Segment 2.).
2. HFFC Sand Island Facility Site Map with Well Locations.
3. HFFC Well Boring Logs, which includes a diagram.

We expect that construction of the interceptor trench may begin in late-June or July. Therefore, we would like to get the agreement worked out with DLNR by mid-June, if possible. By then, our environmental consultant will have completed a more formal design and determined the specific location of the interceptor trench.

If you have any questions or need additional information, please do not hesitate to contact me at (808) 523-6031 or [smorita@schlackito.com](mailto:smorita@schlackito.com).

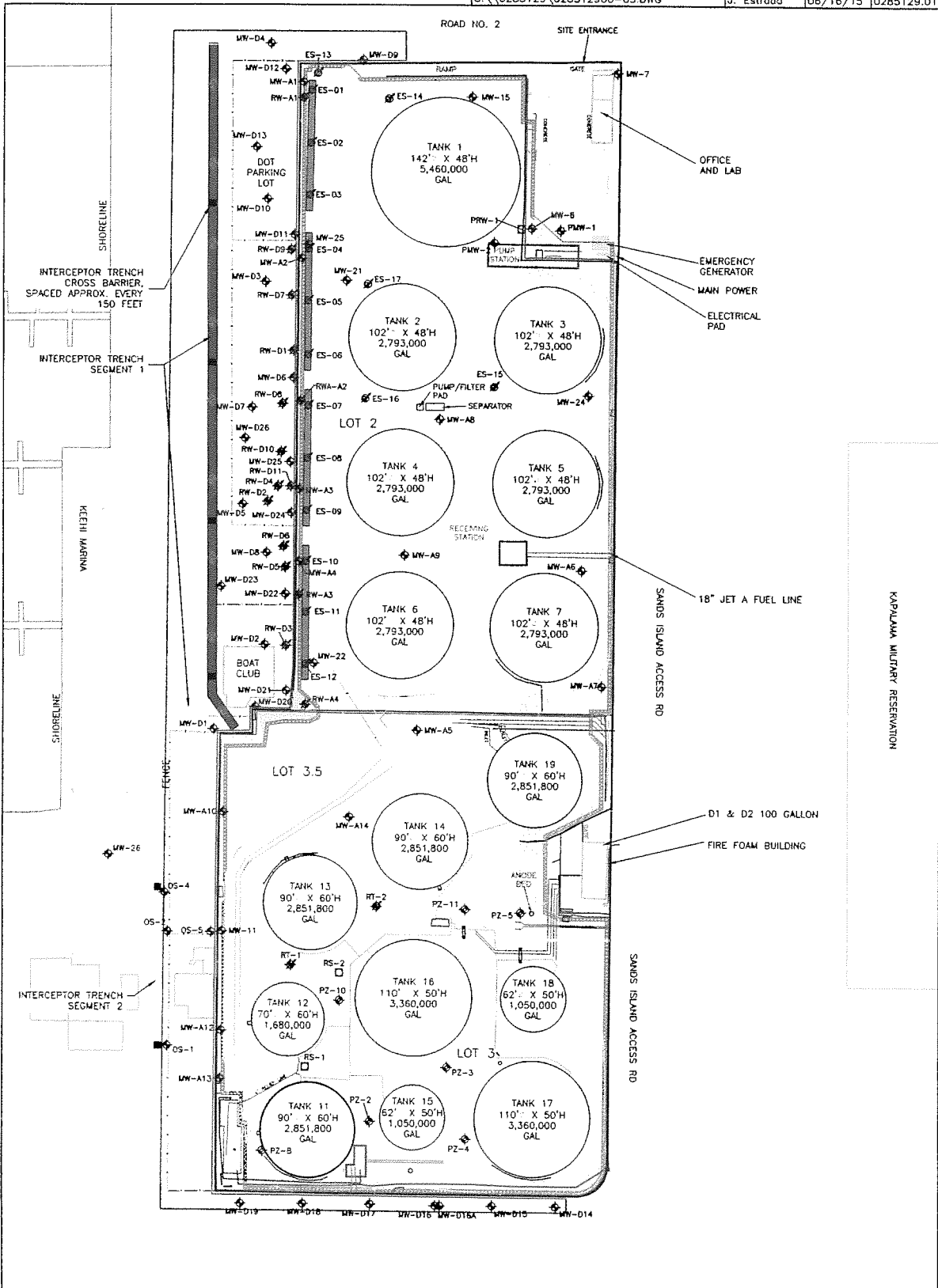
Very truly yours -  
  
Scott Morita  
Secretary

SGM:mar  
Enclosures

cc: Mr. Jason Maga (w-encls. – **via email only**)

EXHIBIT B

CAD File: G:\0285129\028512900-03.DWG Drawn By: J. Estrada Date: 06/16/15 Project No: 0285129.01



**LEGEND**

— (dashed)	ACCESS ROAD (ASPHALT)	▬	INTERCEPTOR TRENCH
— (dotted)	ACCESS ROAD (GRAVEL)	▬ (thick)	INTERCEPTOR TRENCH CEMENT BARRIER OR SLURRY OR EQUIVALENT
— (solid)	EXISTING CONCRETE BARRIER	⊕	GROUNDWATER MONITORING WELL
— (dashed)	EXISTING BUILDING	⊕	PIEZOMETER
— (dotted)	EXISTING FENCE	⊕	RECOVERY WELL
— (solid)	WATER LINE	⊕	RECOVERY SUMP
— (dashed)	PIPE LINE	⊕	EXTRACTION TRENCH SUMP
— (dotted)	SLURRY WALL	⊕	PROPOSED MONITORING WELL
— (solid)	EXTRACTION TRENCH		

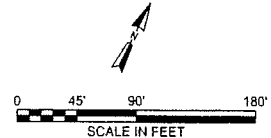
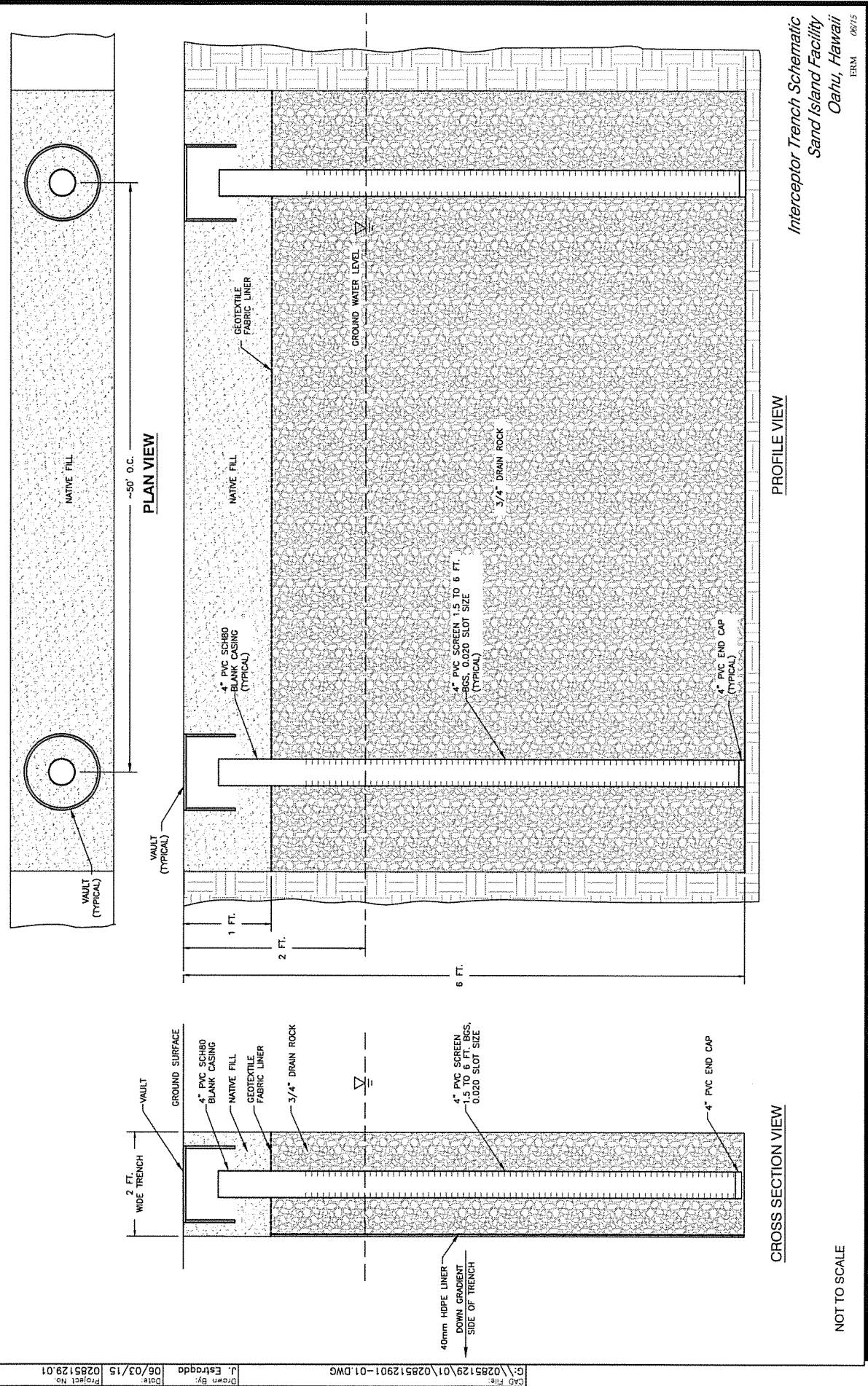


Figure 2  
 Interceptor Trench Layout  
 Hawaii Fueling Facilities Corp.  
 Sand Island Facility  
 6 Sand Island Access Road  
 Honolulu, Hawaii  
 ERM 06/15

EXHIBIT B



CAD File: G:\0285129\01\028512901-01.DWG  
 Drawn By: J. Estrada  
 Date: 06/03/15  
 Project No. 0285129.01

Interceptor Trench Schematic  
 Sand Island Facility  
 Oahu, Hawaii

IRAM 06/15

PROFILE VIEW

CROSS SECTION VIEW

NOT TO SCALE

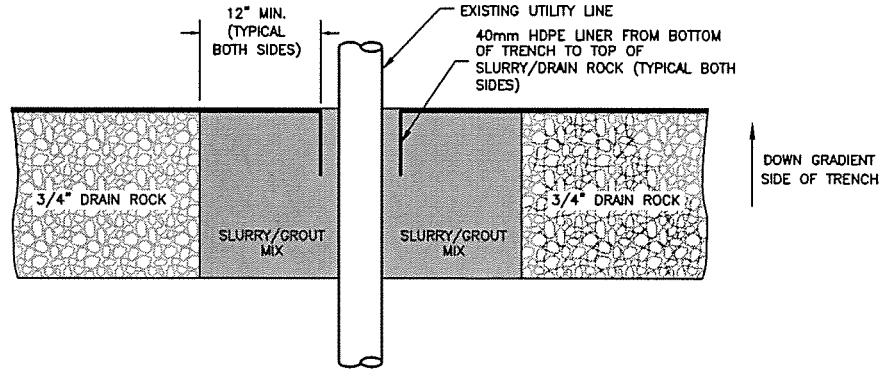
# EXHIBIT B

Project No:  
0285129.01

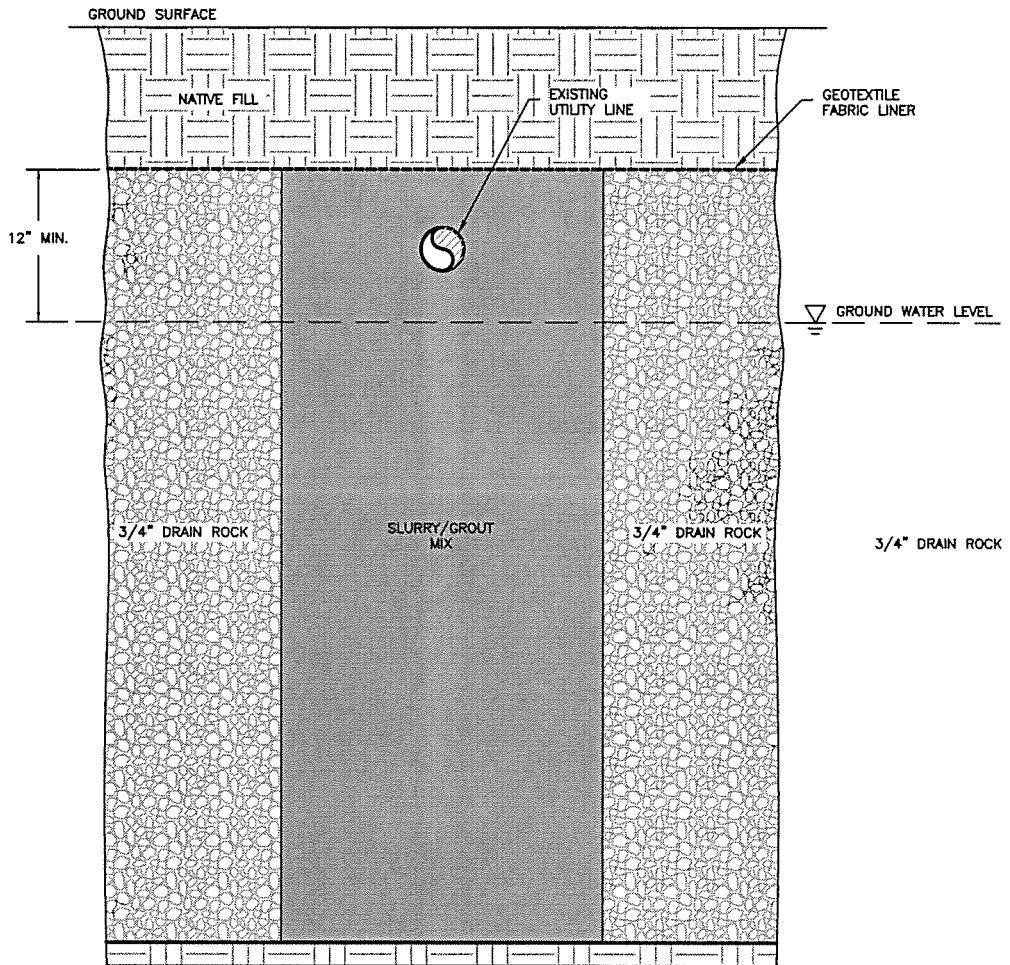
Date:  
06/03/15

Drawn By:  
J. Estrada

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PLAN VIEW



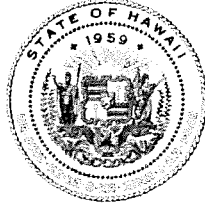
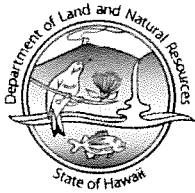
PROFILE VIEW

*Utility Crossing Schematic  
Sand Island Facility  
Oahu, Hawaii*

ERM 06/15

EXHIBIT C

DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

W. ROY HARDY  
ACTING DEPUTY DIRECTOR - WATER

EDWARD R. UNDERWOOD  
ADMINISTRATOR  
DIVISION OF BOATING AND OCEAN RECREATION

**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**DIVISION OF BOATING AND OCEAN RECREATION**  
333 QUEEN STREET, SUITE 300  
HONOLULU, HAWAII 96813

DRAFT

MEMORANDUM

TO: Mr. Scott Morita, Secretary  
Hawaii Fueling Facilities Corporation  
3201 Aolele Street  
Honolulu, HI 96819

FROM: Edward R. Underwood, Administrator

SUBJECT: Issuance of Right-of-Entry Permit for Construction, Access, and Maintenance purposes to Hawaii Fueling Facilities Corporation Relating to Installation and Maintenance of Monitoring/Recovery Wells and Interceptor Trench at Keehi Small Boat Harbor, Kalihi-Kai, Honolulu, Oahu, TMK: (1) 1-2-025:024 and 027

The Hawaii Fueling Facilities Corporation ("HFFC") is requesting approval for the installation of monitoring/recovery wells and an interceptor trench within the Division of Boating and Ocean Recreation's ("DOBOR") Keehi Small Boat Harbor ("KSBH"). HFFC's right of entry request letter is attached as Exhibit A. The purpose of the monitoring/recovery wells and interceptor trench are to provide a means to monitor, isolate, and remove fuel released from HFFC's fuel tank facility, located adjacent to KSBH on TMK: (1) 1-2-025:020 and 021, and prevent escaped fuel from entering KSBH and surrounding waters.

Pursuant to the authority granted by the Board of Land and Natural Resources at its meeting of August 14, 2015, Item X-XX, as amended, HFFC, its consultants, contractors and/or persons acting for or on its behalf, are hereby granted a right-of-entry permit to install, access, and maintain the aforementioned monitoring/recovery wells and interceptor trench as shown in Exhibit B attached hereto, subject to the following terms and conditions:

1. The right-of-entry shall be effective upon acceptance of terms and conditions herein and expire upon written and agreed upon termination of this agreement.



2. HFFC shall ensure its consultants, contractors and/or persons acting for or on its behalf shall procure, at their own cost and expense, and maintain during the entire period of this right-of-entry, from an insurance company or companies licensed or authorized to do business in the State of Hawaii with an AM Best rating of not less than "A-" or other comparable and equivalent industry rating, a policy or policies of comprehensive public liability insurance or its equivalent, in an amount of at least \$1,000,000 for each occurrence and \$2,000,000 aggregate, and with coverage terms acceptable to the Chairperson of the Board. The policy or policies of insurance shall name the State of Hawaii as an additional insured and a copy shall be filed with the State of Hawaii, Department of Land and Natural Resources. The insurance shall cover the entire premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or adjacent to the premises in the use or control of HFFC and its consultants, contractors and/or persons acting for or on its behalf. HFFC shall ensure that its consultants, contractors and/or persons acting for or on its behalf shall furnish the Department with a certificate(s) showing the policy(s) to be initially in force, keep certificate(s) on deposit during the entire period and furnish a like certificate(s) upon each renewal of the policy(s). This insurance shall not be cancelled, limited to scope of coverage, or nonrenewed until written notice has been given to the DOBOR. DOBOR shall retain the right at any time to review the coverage, form, and amount of the insurance required. If, in the opinion of DOBOR, the insurance provisions in this right-of-entry do not provide adequate protection for DOBOR, DOBOR may require HFFC's consultants, contractors and/or persons acting for or on its behalf to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. DOBOR's requirements shall be reasonable but be designed to assure protection for and against the kind and extent of the risks which exist at the time a change in insurance is required. DOBOR shall notify HFFC in writing of changes in the insurance requirements and HFFC's consultants, contractors and/or persons acting for or on its behalf shall deposit copies of acceptable insurance policy(s) or certificate(s) thereof, with DOBOR incorporating the changes within receipt of the notice. The procuring of the required policy(s) of insurance shall not be construed to limit HFFC's consultants, contractors and/or persons acting for or on its behalf, liability under this right-of-entry nor to release or relieve the HFFC consultants, contractors and/or persons acting for or on its behalf of the indemnification provisions and requirements of this right-of-entry. Notwithstanding the policy(s) of insurance, HFFC's consultants, contractors and/or persons acting for or on its behalf shall be obligated for the full and total amount of any damage, injury, or loss caused by HFFC's consultants, contractors and/or persons acting for or on its behalf negligence or neglect connected with this right-of-entry.
3. At all times herein, HFFC, its consultants, contractors and/or persons acting for or on its behalf shall keep the right-of-entry area or premises in a strictly clean, sanitary and orderly condition.

4. HFFC, its consultants, contractors and/or persons acting for or on its behalf shall be responsible for cleaning and restoring the area or premises to its original condition or a condition satisfactory to DOBOR upon termination of the right-of-entry permit. All trash shall be removed from the area or premises.
5. HFFC, its consultants, contractors and/or persons acting for or on its behalf comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws applicable to the right-of-entry area or premises, now in force or which may be in force.
6. HFFC shall ensure its consultants, contractors and/or persons acting for or on its behalf shall indemnify, defend, and hold the State of Hawaii, Department of Land and Natural Resources harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: (1) any act or omission on the part of HFFC, its consultants, contractors and/or persons acting for or on its behalf relating to HFFC, its consultants, contractors and/or persons acting for or on its behalf use, occupancy, maintenance, or enjoyment of the right-of-entry area or premises; (2) any failure on the part of HFFC, its consultants, contractors and/or persons acting for or on its behalf to maintain the right-of-entry area or premises and areas adjacent thereto in HFFC, its consultants, contractors and/or persons acting for or on its behalf use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of HFFC, its consultants, contractors and/or persons acting for or on its behalf to maintain the area or premises in a safe condition; and (3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of HFFC, its consultants, contractors and/or persons acting for or on its behalf non-observance or non-performance of any of the terms, covenants, and conditions of this right-of-entry or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments.
7. HFFC, its consultants, contractors and/or persons acting for or on its behalf shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. HFFC and its consultants, contractors and/or persons acting for or on its behalf shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the right-of-entry area or premises any such materials except to use in the ordinary course of HFFC, its consultants, contractors and/or persons acting for or on its behalf business, and then only after written notice is given to the State of Hawaii, Department of Land and Natural Resources of the identity of such materials and upon the Department's consent which consent may be withheld at the Department's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by HFFC, its consultants, contractors and/or

persons acting for or on its behalf, then the HFFC, its consultants, contractors and/or persons acting for or on its behalf shall be responsible for the cost thereof. In addition, HFFC, its consultants, contractors and/or persons acting for or on its behalf shall execute affidavits, representations and the like from time to time at the Department's request concerning HFFC, its consultants, contractors and/or persons acting for or on its behalf best knowledge and belief regarding the presence of hazardous materials on the right-of-entry area or premises placed or released by HFFC, its consultants, contractors and/or persons acting for or on its behalf.

8. DOBOR shall ensure its consultants, contractors and/or persons acting for or on its behalf agree to indemnify, defend and hold the State of Hawaii, Department of Land and Natural Resources harmless, from any damages and claims resulting from the release of hazardous materials on the right-of-entry area or premises occurring while DOBOR, its consultants, contractors and/or persons acting for or on its behalf is/are in possession, or elsewhere if caused by DOBOR, its consultants, contractors and/or persons acting for or on its behalf. These covenants shall survive the expiration or earlier termination of this right-of-entry.

For purposes of this right-of-entry, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

9. HFFC, its consultants, contractors and/or persons acting for or on its behalf in the exercise of this right-of-entry shall use appropriate precautions and measures to minimize inconveniences to surrounding residents, landowners, and the public in general.
10. All costs associated with the construction within the right-of-entry area or premises shall be the sole responsibility of HFFC, its consultants, contractors and/or persons acting for or on its behalf
11. HFFC, its consultants, contractors and/or persons acting for or on its behalf shall maintain and employ debris, pollution and contamination control measures, safeguards and techniques to prevent debris, pollution or contamination to the ocean waters, streams or waterways resulting from HFFC, its consultants, contractors and/or persons acting for or on its behalf use, maintenance, repair and operation of the right-of-entry area or premises, and shall take immediate corrective action in the event of such pollution or contamination to immediately remove the cause of such pollution or contamination, and shall immediately clean the right-of-entry area or premises and its surrounding waters of such pollutant or

contaminant and restore to the State of Hawaii, Department of Land and Natural Resources satisfaction the areas affected by such pollution or contamination, all at HFFC, its consultants, contractors and/or persons acting for or on its behalf own cost and expense.

12. Excavated material shall be placed at a location within KSBH approved by DOBOR prior to placement or hauled to an appropriate disposal facility.
13. Best management practices shall be employed to avoid having silt, dirt, or other contaminants enter the ocean.
14. In the event any unanticipated sites or remains such as bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered, HFFC, its consultants, contractors, and/or persons acting for or on its behalf shall stop work and contact the State Historic Preservations Division in Kapolei at (808) 692-8015 immediately.
15. This right-of-entry or any rights hereunder shall not be sold, assigned, conveyed, leased, let, mortgaged or otherwise transferred or disposed.
16. The parties acknowledge that reference made to persons acting for or on DOBOR's behalf does not include public officers and employees.

Should you have no objections to the above terms and conditions, kindly submit a copy of the signed acceptance page to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation's Honolulu Office. If you have any questions, please contact Finn McCall of our Engineering Branch at 587-3250.

ACCEPTED:

AGREED:

\_\_\_\_\_  
Hawaii Fueling Facilities Corporation

\_\_\_\_\_  
DLNR - DOBOR

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_