

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

October 12, 2007

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

PSF No.: 07od-071

Oahu

Issuance of Right-of-Entry Permit to Hawaiian Electric Company, Inc. on Lands Encumbered by General Lease No. S-3850, United States of America by the Department of Army, Kahuku, Koolauloa, Oahu, Map Key: (1) 5-9-006:026.

APPLICANT:

Hawaiian Electric Company, Inc. (HECO), a Hawaii corporation, whose business and mailing address is P.O. Box 2750, Honolulu, Hawaii 96840-0001.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kahuku situated at Kahuku, Koolauloa, Oahu, identified by Tax Map Key: 5-9-06:26, as shown on the attached map labeled Exhibit A.

AREA:

480 sq. ft., more or less.

ZONING:

State Land Use District: Conservation  
City & County of Honolulu CZO: Preservation

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

CURRENT USE STATUS:

Encumbered by General Lease No. S-3850, United States of America, by the Department of Army, Lessee, for military purposes. Lease to expire on August 16, 2029.

CHARACTER OF USE:

Military purposes.

TERM OF RIGHT-OF-ENTRY:

Commencing October 15, 2007 to September 13, 2008.

CONSIDERATION:

\$16,032.00 (480 sq. ft. x \$0.10/sq.ft. x 334 days).

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Chairperson of the Board of Land and Natural Resources, pursuant to Chapter 13-5, Hawaii Administrative Rules, approved Conservation District Use Application OA-3402. See Exhibit C.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

None. The Army has already executed a license agreement with HECO, reviewed by staff, consenting to this use of its leased property. See Exhibit B.

REMARKS:

Condition 27 of GL 3850, provides;

"Subject to obtaining the prior approval of the Government, the Lessor reserves the right to grant rights or privileges to others not inconsistent with the terms of this lease affecting the whole or any portions of the demised premises."

HECO approached the Army regarding the use of a portion of the Kahuku Army Training Area for the purpose of establishing a wind farm. HECO had a wind farm in this general vicinity in the early 1980s and the Army now directed HECO to the subject area for further investigation (see Exhibit B). This investigative phase will consist of construction of a meteorological monitoring tower and placement of a mobile sonic detection and ranging (SODAR)

On May 10, 2007, HECO obtained a Conservation District Use Permit (CDUA) OA-3402 for the subject meteorological tower.

Agency comments were solicited during the Conservation District Use Application process that included the Oahu District Land Office, Engineering Division, Division of Forestry and Wildlife, State Parks Division, Division of Conservation and Resources Enforcement, Office of Hawaiian Affairs, the Department of Health and the City and County of Honolulu Department and Planning and Permitting.

The Lessee is in compliance with all lease terms and conditions.

HECO will not be paying any rent to the Army other than "in kind" maintenance in the subject area.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant Requirements above, authorize the issuance of a right-of-entry permit to Hawaiian Electric Company, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

1. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
2. Compliance with the Office of Conservation and Coastal Lands CDUP OA-3402; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



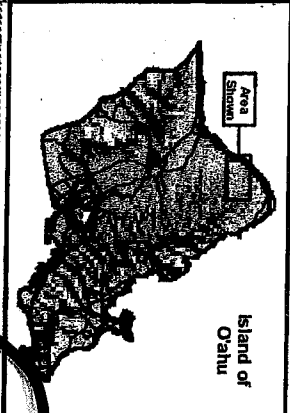
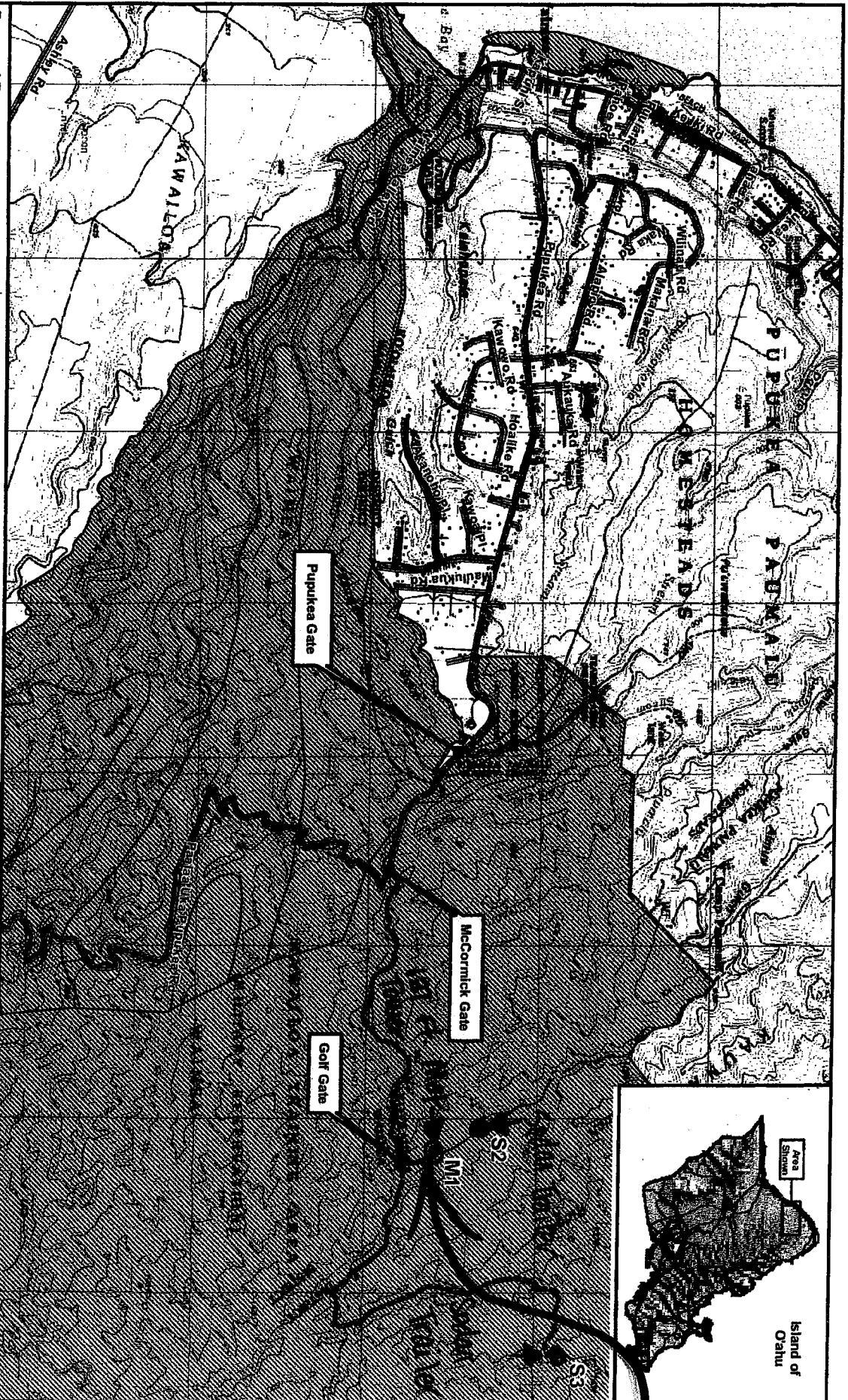
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Al Jodar  
Land Agent

APPROVED FOR SUBMITTAL:

*for*   
Laura H. Thielen, Chairperson



Subject Tower

Prepared For:  
Hawaiian Electric Co., Inc.

Prepared By:  

 PLANNING  
SOLUTIONS

Sources:  
 Hawaiian Electric Co., Inc.  
 City & County of Honolulu GIS  
 State of Hawaii GIS

Legend:

- Monitoring Stations
- ▨ Conservation District
- Access to Monitoring Stations



Attachment K:

### Site Access

HECO Kahuku Wind Farm Project

EXHIBIT "A"



HAND DELIVERED

RECEIVED  
LAND DIVISION

2007 SEP 25 A 9:37

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

September 24, 2007

Mr. Steve Molmen  
Supervising Land Agent—Land Division  
Department of Land & Natural Resources  
P. O. Box 621  
Honolulu, Hawaii 96809

Request for Right of Entry for Wind Monitoring Equipment,  
Pupukea-Paumalu Forest Reserve, TMK 5-9-06:26 por., State Lease S-3805

Dear Mr. Molmen:

Pursuant to our telephone conversations on September 21, 2007, Hawaiian Electric Company (HECO) has reviewed the State of Hawaii's lease to the United States Army for the Pupukea-Paumalu Forest Reserve (Lease S-3805), TMK 5-9-06:26 por., and is respectfully withdrawing its request dated September 13 for State consent to the Army's License to Access to HECO for wind testing facilities. HECO has concluded that since it is not a government agency or a contractor of the Army, paragraph 27, rather than paragraph 26, of Lease S-3805 is the controlling provision regarding the installation of wind testing facilities by HECO in the subject parcel. This paragraph allows the State to grant "rights or privileges to others not inconsistent with the terms of this lease" provided the prior approval of the Army has been obtained. Inasmuch as the Army has issued a license to HECO for wind testing (DACA84-3-07-170) covering the subject area (and other areas not on State land), HECO is of the opinion that the Army's prior approval has been obtained. Therefore, HECO is respectfully requesting the issuance of a right of entry for the purpose of conducting wind testing in the Pupukea-Paumalu Forest Reserve, TMK 5-9-06:26 por., covering sites M1 and S2 and access thereto as shown on the enclosed exhibit, for the period of October 15, 2007 to September 13, 2008. This term would be co-terminus with the Army license.

Also enclosed for your review is HECO's Conservation District Use Permit dated May 10, 2007 (CDUA OA-3402) and supporting materials, which on page 4 of the staff report summarizes the comments of the Office of Hawaiian Affairs on the proposed wind testing program in Kahuku and HECO's response. Hopefully, this will facilitate an expedited review by OHA of our right of entry request.

Mr. Steve Molmen  
September 24, 2007  
Page 2

If you have any questions, or require additional information, you can reach me at 543-4735, or at [phil.hauret@heco.com](mailto:phil.hauret@heco.com). We appreciate your attention to this matter.

Sincerely yours,



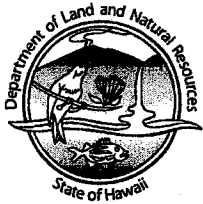
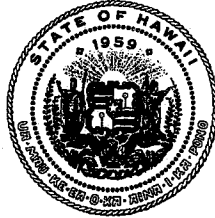
Philip Hauret  
Senior Land Agent

Enclosures—CDU Permit and exhibit

Cc: Perry White, Planning Solutions, Inc.  
David W. Martin, HECO



LINDA LINGLE  
GOVERNOR OF HAWAII



PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
DEPUTY DIRECTOR

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

RECEIVED  
OFFICE OF CONSERVATION  
AND COASTAL LANDS

2007 MAY 11 P 3:08

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

REF:OCCL:DH

FILE NO.: CDUA OA-3402

Acceptance Date: February 9, 2007  
180-Day Exp. Date: August 8, 2007

MAY - 2 2007

070d-071

David Martin  
Senior Environmental Scientist  
Hawaiian Electric Company  
P.O. Box 2750  
Honolulu, Hawaii 96840

Dear Mr. Martin,

This letter is to inform you that on May 1, 2007, the Chairperson of the Board of Land and Natural Resources, pursuant to Chapter 13-5, Hawaii Administrative Rules (HAR) approved Conservation District Use Application (CDUA) OA-3402, subject to the following terms and conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this of HAR 13-5;
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 applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
4. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement fort he proposed use are incorporated as conditions of the permit;
5. In issuing this permit, the Department and Chairperson have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified,

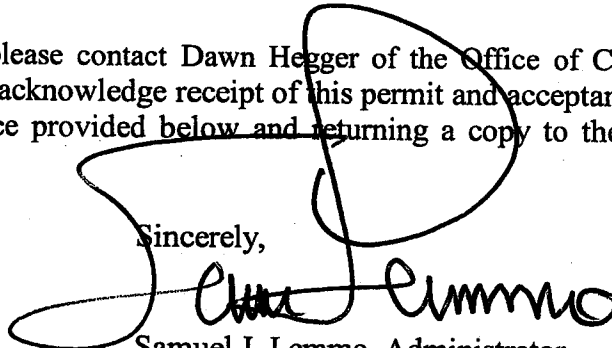
**EXHIBIT "C"**

suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;

- 6. That approval of CDUA OA-3402 is subject the following approval from the Division of Forestry and Wildlife and Oahu District Land Division:
  - A. The Oahu District Land Office will determine if an Execution of Consent Document and/or a Right-Of-Entry is required; and 2) HECO will receive Board of Land and Natural Resources (BLNR) approval for either the Execution of Consent Document and/or Right-Of-Entry; and
  - B. HECO will work with the Division of Forestry and Wildlife regarding data results. Should data show the risk of collision with the meteorological tower is one or greater; HECO will work with DOFAW to: 1) develop an on-ground monitoring program; 2) submit and receive approval for a Habitat Conservation Plan; and 3) get an Incidental Take License;
- 9. That HECO will: 1) place bird diverters on the guy wires; and 2) place FAA blinking lights on the tower;
- 10. Other terms and conditions as prescribed by the Chairperson; and
- 11. Failure to comply with any of these conditions shall render a permit void under the chapter.

Should you have any questions, please contact Dawn Hegger of the Office of Conservation and Coastal Lands at 587-0380. Please acknowledge receipt of this permit and acceptance of the above conditions by signing in the space provided below and returning a copy to the OCCL within thirty (30) days.

Sincerely,



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

Receipt acknowledged:

Daniel W. Martin

Date: 5-10-2007

Attachments

c: Oahu District Land Office  
City & County of Honolulu  
Department of Planning and Permitting