

Addition to Lease:

The Navy's additional request to lease 270 acres along PMRF's eastern boundary (red portion on Exhibit C) is necessary to: 1) comply with Federal ATFP guidelines regarding the setback distance around military bases, 2) to relocate the existing guard shack and Pass and ID Office to comply with ATFP guidelines; 3) to secure an existing potable water source, and 4) facilitate the operation and maintenance of the ditches and drainage pumps that prevent flooding to portions of PMRF. The 270 acres would be an addition to the Navy held General Lease No. S-3852.

Due in part to the events of 9/11 the ATFP guidelines established a greater setback distance between base improvements and non-Navy controlled lands. As a result many existing buildings at PMRF are now located within the new setback distance. The additional lease area would bring those buildings into compliance with the new ATFP guidelines for setback distance. Also, the additional lease area would allow a proposed visitor center, for issuing base visitor passes, and a guard shack to be located outside of PMRF's main gate nearer to Kaumualii Highway for the convenience of base visitors.

Most importantly, the Navy will assume a substantial portion of the costs of operating and maintaining the drainage pumps ditches, and related infrastructure located within the added lease area. Generally, applicable Federal fiscal law does not allow Federal funds to be spent for maintaining property in which the Federal government has less than a long-term leasehold interest or for non-Federal purposes. The additional lease area the Navy is requesting includes the Mana shaft, which is the potable water source for PMRF, and the ditches and drainage pumps that keep the Mana Plain viable for agricultural purposes. Leasing these areas to the Navy would allow it to spend regularly appropriated funds to operate and maintain (O & M) the pumps to the extent necessary to protect PMRF. This would in turn serve to protect Kekaha Town and our prime agricultural lands in the Mana Plain. Because of the massive size and old age of the pumps, the maintenance cost is high. Having PMRF assume that significant portion of maintenance costs is a major benefit to the State.

The Navy's contribution of O & M funds would represent a substantial portion of the funds required to support the continuance of agriculture on the Mana Plain. A Kekaha Infrastructure study, dated April 17, 2000, prepared for the Department of Land and Natural Resources by Bow Engineering and Development, Inc., estimated the annual O & M cost for the ditches and pumps after needed capital improvements to be about \$700,000. This cost was previously borne entirely by the Kekaha Sugar Company until its closure in February 2001. In addition, pursuant to special congressional authority, the Navy has already spent approximately \$4.5 million in capital improvements, repairs and contributions to the operation and maintenance of the systems since the closure of Kekaha Sugar.

Beach Access:

The events of 9/11 resulted in tighter security measures being taken at U.S. military bases worldwide. PMRF initially responded to those events by enforcing the standard security operating procedures for military installations. This meant that public access onto the base would now require sponsorship by base personnel who must accompany those members of the public at all times while on base. This requirement essentially eliminated public access to miles of West Kauai's coastline and sandy beaches located within PMRF's boundaries.

PMRF has, over time, responded to community concerns and has increased beach access to

the general public. PMRF requires that persons wishing to access the beach obtain a local agency check by the Kauai Police Department, have a photo identification card and execute a Memorandum of Agreement which outlines the rules. As mentioned earlier, PMRF recently broadened access to fishing spots and the hours of access in response to public sentiment expressed at the public informational meeting.

Staff understands that completely free beach access to anyone on the PMRF base is not a reality in the current world conditions. Staff believes that PMRF has made good faith efforts to provide for public beach access and that the accommodations made are reasonable and comply with the conditions in the Governor's Executive Orders setting aside most of the PMRF base to the U.S.A. that require public access to the coastline and beaches for fishing purposes.

Given the above history of events and the movement shown by the Navy and PMRF to address concerns and issues raised by the Kauai community, staff is recommending the Board approve the Navy's request for a restrictive use easement and the additional 270 acres to its lease. Staff is recommending gratis rent for both dispositions in recognition of the fact that the Navy's use of the lands are a public use, one of the Public Land Trust purposes authorized under the Admission Act. While individuals may object to the military, the fact remains that national security and defense are basic functions of our government and the State historically does not charge rent for government uses. Additionally, the State is realizing much benefit and cost savings from the Navy taking on a substantial portion of the operations and maintenance cost of the drainage pumps, ditches, and related infrastructure.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, Hawaii Revised Statutes, as amended, 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. Approve of and recommend to the Governor issuance of an executive order withdrawing 64 acres from Governor's Executive Order No. 4007, subject to:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time.
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside.
 - 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.
3. Amend General Lease No. S-3852 to include the addition of 270 acres to its operation for purposes of 1) compliance with Federal Anti-Terrorism/Force Protection guidelines regarding setback distance around military bases, 2) relocate the existing guard shack and Pass and ID Office to comply with ATFP guidelines; 3) to secure an existing potable water source, and 4) facilitating the operation and maintenance of the ditches and