Quitclaim Deed

N6274294RP00101

R-1043

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

MAY 09 1994 02:13 PM

Doc No(s) 94-076277

/s/ S. FURUKAWA
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: $0.00

I hereby certify that this is a true copy from the records of the Bureau of Conveyances.

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail ( ) Pickup (X) To:

Kaho'olawe Island Reserve
586-0761

QUITCLAIM DEED
FROM THE UNITED STATES OF AMERICA
TO THE STATE OF HAWAII
FOR THE ISLAND OF KAHO'OLAWE, HAWAII

THIS DEED is made this seventh day of May, 1994, by the UNITED STATES OF AMERICA, hereinafter referred to as the "UNITED STATES", acting by and under authority delegated by the Secretary of the Navy, in furtherance of and under the authority contained in Title X of Public Law 103-139, 107 Stat. 1418, 1479-1484. Two versions of this deed have been prepared and recorded; one in English and one in Hawaiian. If any question in interpretation arises from translation or useage of terms in the Hawaiian language version, the English language version of the deed shall govern.

WHEREAS, the island of Kaho'olawe is a portion of public lands, formerly government lands of the Kingdom of Hawaii, which were ceded and transferred to the UNITED STATES by the Republic of Hawaii under the Joint Resolution Of Annexation of July 7, 1898, 30 Stat. 750, and pursuant to the Hawaii Organic Act of April 30, 1900, 31 Stat. 141; and

WHEREAS, under Hawaii's Admission Act, Public Law 86-3, 73 Stat. 4, and Public Law 88-233, 77 Stat. 472, public lands that are determined by the UNITED STATES to be surplus are to be conveyed to the State of Hawaii, hereinafter referred to as the "STATE"; and

WHEREAS, Executive Order 10436 of February 20, 1953, set aside and reserved the island of Kaho'olawe for the use of the UNITED STATES for naval purposes and placed the island under the jurisdiction of the Secretary of the Navy; and

WHEREAS, from 1941 to 1990, the island of Kaho'olawe and waters surrounding the island were used by the UNITED STATES as a live ordnance impact training area, which resulted in the island being rendered unsafe due to the presence of surface and subsurface unexploded ordnance; and

WHEREAS, on November 11, 1993, Title X of Public Law 103-139, 107 Stat. 1418, 1479-1484, was enacted into law, directing the UNITED STATES, through the Secretary of the Navy, to convey and return to the STATE all right, title and interest of the UNITED STATES (except certain interests set forth in Title X) in and to the island of Kaho'olawe, State of Hawaii; and

WHEREAS, Title X of Public Law 103-139, 107 Stat. 1418, 1479-1484, further directs the Secretary of the Navy to enter into a Memorandum of Understanding (MOU) with the STATE regarding the clearance or removal of unexploded ordnance from the island and environmental restoration of the island; and

WHEREAS, the MOU was executed on May 6, 1994, and was recorded in the State Bureau of Conveyances as Document No. 94-075038; and

WHEREAS, the MOU establishes the process by which the STATE will develop a use plan for the island, in consultation with the UNITED STATES, with the use plan then providing the basis from which the UNITED STATES will develop a cleanup plan that will set forth the nature and extent of ordnance clearance or removal, or environmental restoration actions to be performed by the UNITED STATES under Title X; and

WHEREAS, the MOU requires any subsequent deed or any other document for the conveyance, transfer, or use of all or any part of the island to contain such conditions as are necessary to ensure that future uses remain consistent with uses considered by the UNITED STATES to be reasonably safe; and

WHEREAS, any party considering the acquisition or use of any part of the island of Kaho'olawe is hereby provided NOTICE that, until such time as the UNITED STATES, in accordance with provisions of the MOU, certifies in one or more documents to the STATE that ordnance clearance or removal or environmental restoration actions under Title X and the MOU have been completed, areas that are not so certified to the STATE through documents recorded in the State Bureau of Conveyances remain DANGEROUS TO THE PUBLIC AND ARE NOT SAFE; and

WHEREAS, any party considering acquisition or use of any part of the island of Kaho'olawe is hereby provided NOTICE that any use inconsistent with those uses considered by the UNITED STATES to be reasonably safe are DANGEROUS TO THE PUBLIC AND NOT SAFE; and

WHEREAS, any party considering acquisition or use of any part of the island of Kaho'olawe is hereby provided NOTICE that documentation regarding the ordnance clearance or removal and environmental restoration actions undertaken by the UNITED STATES is on file with the Real Estate Division, Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, Oahu, Hawaii, and the Kaho'olawe Island Reserve Commission, Department of Land and Natural Resources, State of Hawaii, Honolulu, Oahu, Hawaii; and

WHEREAS, Section 10001(d)(2) of Title X provides that notwithstanding any other provision of law, the UNITED STATES shall retain control of access to the island, in consultation with the STATE, prior to and following the effective date of the MOU until either clearance, removal, or environmental restoration are completed or ten years after November 11, 1993, whichever comes first, when control of access will be transferred to the STATE; and

WHEREAS, Section 10002(a)(2) of Title X states that the UNITED STATES shall be provided full and necessary access to the island and its surrounding waters to carry out any obligations of the UNITED STATES arising out of any responsibilities and liabilities under Title X; and

WHEREAS, Section 10002(a)(4) of Title X states that the STATE shall not be liable or responsible for the conduct of any cleanup and response actions arising from and relating to the use, environmental cleanup and ordnance removal and remediation of the island of Kaho'olawe and its adjacent waters.

NOW, THEREFORE, pursuant to Title X of Public Law 103-139, 107 Stat. 1418, 1479-1484, the UNITED STATES does hereby remise, release and forever quitclaim unto the STATE, its successors and assigns, that certain land, with improvements thereon, described as follows:

> All of the Island of Kaho'olawe, State of Hawaii, which comprises an area of approximately forty-five square miles, and which forms a part of the public lands ceded and transfered to the United States by the Republic of Hawaii under the Joint Resolution Of Annexation of July 7, 1898, 30 Stat. 750.

RESERVING, HOWEVER, to the UNITED STATES:

1. The right to retain control of access to the island in consultation with the STATE until either clearance or environmental restoration is completed and control of access is transferred to the STATE in accordance with the terms of the MOU, or ten years after November 11, 1993, whichever comes first.

2. The right in perpetuity of access to the island for the purpose of ordnance clearance, removal or environmental restoration activities involving newly discovered previously undetected ordnance and to carry out any obligations arising out of any responsibilities and liabilities of the UNITED STATES under the MOU and Title X of Public Law 103-139.

3. That thirty-foot high wood and fiberglass tower and associated navigation light facility used by the United States Coast Guard as a lighted aid to navigation and the right to operate, maintain, repair and replace such facility.

AND, FURTHERMORE, that the provisions of the MOU, and agreements or protocols established pursuant to the MOU, remain in full force and effect and binding upon any party that acquires fee title to the island or any part thereof, and upon any transferee that acquires a right to use the island or any part thereof, except to the extent otherwise provided through the written consent of the UNITED STATES and the STATE or its successors and assigns.

TO HAVE AND TO HOLD the said premises, together with the appurtenances, unto the said STATE and its successors and assigns forever, without possibility of reversion.

IN WITNESS WHEREOF, the UNITED STATES has caused these presents to be executed as of the day and year first above written.

UNITED STATES OF AMERICA

BY: _____

WILLIAM J. CASSIDY, JR.
DEPUTY ASSISTANT SECRETARY OF THE NAVY
FOR
THE SECRETARY OF THE NAVY
JOHN H. DALTON