

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

October 27, 2017

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

17HD-111

Hawaii

Issuance of Right-of-Entry Permit to Division of Forestry and Wildlife for the Purpose of Detection and Treatment of Rapid Ohia Death on All Unencumbered State Lands on Hawaii Island.

APPLICANT:

Division of Forestry and Wildlife (DOFAW), Department of Land and Natural Resources, State of Hawaii.

LEGAL REFERENCE:

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

LOCATION:

All unencumbered State lands on Hawaii Island.

AREA:

200,000 acres, more or less.

ZONING:

State Land Use District:	Agriculture, Rural, Urban, Conservation
County of Hawaii CZO:	Any County Zonings

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to Hawaii State Constitution: (there is no monetary component to this disposition)

CURRENT USE STATUS:

Unencumbered State lands.

CHARACTER OF USE:

For detection and treatment of Rapid Ohia Death (ROD) purposes.

TERM OF RIGHT-OF-ENTRY:

Three years

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class 5, No. 1, that states " Permission to enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes" and Item No. 13 "Research or experimental management actions that the Department declares are designed specifically to monitor, conserve, or enhance native species or native species' habitat." Refer to attached Exhibit A.

DCCA VERIFICATION:

Applicant as a governmental agency is not required to register with the DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to coordinate all access through the Hawaii District Land Office adhering to the following access protocol:

- If ROD-infected trees are reported, DOFAW staff will ascertain the TMK parcel number;
- If the State of Hawaii is identified as the landowner, and no lessee or other agency identification is provided on the County of Hawaii Real Property Tax Office database, DOFAW staff will consult the Public Land Trust Information System database to identify the responsible land managing entity;
- If the land is leased, or is under management by a separate agency, DOFAW and/or Big Island Invasive Species Committee (BIISC) will pursue access approval accordingly;
- If indications remain that it is unencumbered state lands, final verification will be sought from Land Division staff in Hilo via phone or email;
- While BIISC staff may be the responding entity on the ground, it will be DOFAW staff responsibility to see to it that the above access protocol is being followed.

REMARKS:

The Division of Forestry and Wildlife, in cooperation with Big Island Invasive Species Committee (BIISC), is working on mitigation of the continued spread of ROD across Hawaii Island. Because of the fast rate which ROD is spreading and the vast extent of affected areas, quick detection and response are paramount to addressing this threat to our native forests and watersheds.

Processing time to obtain a right-of-entry permit varies from 2 weeks to 2 months depending on available staff resources, complexity and document transit time. The lag time and added staff workload to obtain a right-of-entry for each individual property potentially affected, increases the ability of ROD to spread and decreases our effectiveness in combatting this menace.

Land Division and DOFAW are committed to working together to streamline DLNR's ability to quickly identify, treat and monitor ROD affected areas. The requested "blanket" right-of-entry onto all unencumbered State lands would effectively reduce the time in identifying and treating these effected areas, thus increasing the efficiency of DLNR's response to this very real threat to our island's natural resources.

Request for comments were sent to various agencies and are summarized in the table below.

Federal Agencies	Response
USDA - Forest Service	No Objections
State Agencies	Response
DOA	No Objections/No Comments

DHHL	No Response
DLNR - Conservation & Coastal Lands	No Objections/No Comments*
DLNR - Forestry & Wildlife	In full support
DLNR - Historic Preservation	No Response
DLNR - State Parks	No Response
Hawaii County Agencies	Response
Planning	No Response
Parks & Recreation	No Objections/No Comments
Public Works	No Response
Other Agencies & Interested Parties	Response
Office of Hawaiian Affairs	No Response

*The Office of Conservation and Coastal Lands concurs with the Department Exemption to Chapter 343, HRS as detailed in the attached Exhibit A – Exemption Notification.

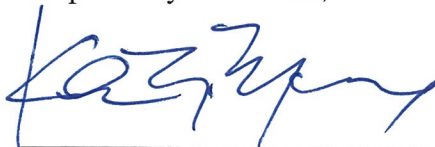
Because this project will most probably be long term, staff is recommending an initial 3 year term for the right-of-entry. Staff also recommends that the Chairperson be authorized to extend the term for additional years as deemed necessary.


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 issuance of a right-of-entry permit to Division of Forestry and Wildlife covering the subject area 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 right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;

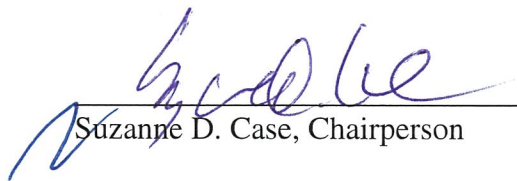
- C. Authorize the Chairperson to issue future right-of-entries to the Applicant in relation to its detection and treatment of Rapid Ohia Death.

Respectfully Submitted,



 Candace M. Martin

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

DAVID Y. IGE
GOVERNOR OF HAWAII

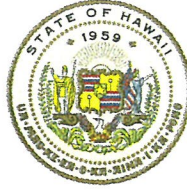


EXHIBIT A

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

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
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

STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 21, 2017

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Issuance of Right-of-Entry Permit to Division of Forestry and Wildlife for the Purpose of Detection and Treatment of Rapid Ohia Death on All Unencumbered State Lands on Hawaii Island.
Project / Reference No.:	PSF 17HD-111
Project Location:	All unencumbered State lands on Hawaii Island.
Project Description:	Division of Forestry and Wildlife in cooperation with Big Island Invasive Species Committee are gathering samples from existing stands of Ohia Lehua (<i>Metrosideros polymrpha</i>) to test for the presence of the fungal organism (<i>ceratocystis sp.</i>) thought to be the cause of Rapid Ohia Death (ROD). Once the presence of ROD has been confirmed, treatment protocols, up to and including removal of the affected tree, will be followed. Follow up monitoring for spread of the fungal organism to neighboring trees is conducted periodically.
Chap. 343 Trigger(s):	Use of State Land.
Exemption Class No.:	In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class 5, No. 1, that states " Permission to enter State lands for the purpose of basic data collection, research, experimental management and resources evaluation activities such as archaeological survey, topographic survey, test borings for soil test, ground cover survey inspection of property for appraisal and development feasibility study purposes" and Item No. 13 "Research or experimental management actions that the Department declares are designed specifically to monitor, conserve, or enhance native species or native species' habitat."

Authorization: The Board, at its meeting of September 25, 2015, under agenda item D-17, delegated authority to the Chairperson to declare exempt those actions that are included in the Department-wide exemption list.

Consulted Parties: State of Hawaii:
DOA, DHHL, DLNR – Conservation and Coastal Lands,
DLNR – Forestry and Wildlife, DLNR – Historic
Preservation, DLNR – State Parks

County of Hawaii:
Planning Dept., Parks & Recreation, Public Works

Federal Agencies:
USDA Forest Service

Other Agencies:
Office of Hawaiian Affairs

Recommendation: That the Board find 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.