

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

July 10, 2020

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

MAUI

Issuance of Construction Right-of-Entry to the State of Hawaii Department of Agriculture for Emergency Auwai Stabilization Purposes; Cancellation of Revocable Permit S-7846 to Lurlyn Scott and Sanford Kekahuna; and Issuance of Revocable Permit to Lurlyn Scott and Sanford Kekahuna for Intensive Agriculture and Auwai Maintenance Purposes; Honopou, Hamakualoa, Makawao, Maui, Tax Map Key: (2) 2-9-001:018.

APPLICANT:

State of Hawaii, Department of Agriculture, for the right-of-entry.

Lurlyn Scott and Sanford Kekahuna, as joint tenants, for the revocable permit.

LEGAL REFERENCE:

Sections 171-13 and -55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Honopou situated at Hamakualoa, Makawao, Maui identified by Tax Map Key: (2) 2-9-001:018, as shown on the attached map labeled **Exhibit A.**

AREA:

5.0 acres, more or less.

ZONING:

State Land Use District:	Agriculture
County of Maui CZO:	Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-7846 to Lurlyn Scott and Sanford Kekahuna, Permittees, for intensive agriculture purposes.

CHARACTER OF USE:

Intensive agriculture and auwai maintenance purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

\$45.00 per month for the revocable permit, gratis for right-of-entry.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," Part 1, Item 45 that states, "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

DCCA VERIFICATION:

Not applicable, applicants are a State agency and individuals.

REMARKS:

Revocable permit applicants Lurlyn Scott and Sanford Kekahuna ("Applicants") currently hold Revocable Permit No, S-7846 covering the subject parcel for intensive

agricultural purposes. Applicants utilizes the subject parcel and their privately-owned adjacent lands for taro and other crop cultivation. Applicants have extensive experience in taro farming and have been engaged in the activity in excess of fifty years. Additionally, applicants are compliant with the terms and conditions of the current revocable permit, and have not had any disposition of State lands terminated in the five years due to non-compliance.

During the 2018 Session, the Legislature appropriated \$4.5 million in capital improvement project (CIP) funds for planning, design and construction projects for irrigation and water delivery systems in East Maui to support agricultural activities, primarily focused on small farmers in East Maui to further the State's goals of food security and self-sufficiency. The Hawaii Department of Agriculture ("DOA") is responsible for project selection and CIP fund administration. One of the projects selected is the emergency stabilization of the bank of an auwai located adjacent to Honopou stream and located on the subject parcel. The project proposes to stabilize 15 feet of the existing earthen and stone auwai through the application of shotcrete with 10-foot grouted anchors to prevent the bank from collapsing and maintain water flow through the auwai to actively cultivated taro fields located downstream. The applicants are one of the farmers served by the auwai, but not the only farmers served by the auwai. Photos of the project area are attached as **Exhibit B**.

Although DOA will manage the stabilization project, DOA will not assume responsibility for the long-term maintenance of the auwai. As the Applicants currently have a revocable permit for the subject parcel and benefit from the auwai, they have agreed to accept responsibility for maintaining the auwai after the completion of the stabilization project. Therefore, staff is recommending the Board to approve the cancellation of the current revocable permit and the issuance of a new revocable permit to include both the pre-existing intensive agriculture and auwai maintenance purposes. The current revocable permit will be cancelled upon execution of the new revocable permit. The Board is also requested to approve a construction right-of-entry to the DOA, including their representatives and contractors, for the subject parcel to conduct the auwai stabilization project.

Normally, a long-term disposition, such as an easement or long-term lease, would be required under such circumstances, but staff believes that an exception is appropriate in this specific case. Applicants have a long history of engaging in taro cultivation in the area, as well as maintaining the subject parcel through a revocable permit, and have committed to do both for the long term. Applicants have also complied with the terms and conditions of the revocable permit. Given the foregoing, and in consideration of the Applicants' contribution to the State's local food production objectives, staff believes that a revocable permit would be a satisfactory alternative to the burden and cost of an easement or long-term lease. Staff also recommends that the Board approve a monthly rent of \$45, which is the same rent as the current revocable permit.

RECOMMENDATION: That the Board:



1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, 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 construction right-of-entry permit to the State of Hawaii, Department of Agriculture 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.
3. Approve the cancellation of Revocable Permit No. S-7846.
4. Authorize the issuance of a revocable permit to Lurlyn Scott and Sanford Kekahuna, covering the subject area for intensive agriculture and auwai maintenance purposes 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 revocable permit form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

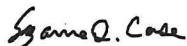
Respectfully Submitted,



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Ian Hirokawa  
Special Projects Coordinator

APPROVED FOR SUBMITTAL:

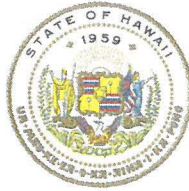


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Suzanne D. Case, Chairperson

RT

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
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

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title:	Issuance of Construction Right-of-Entry to the State of Hawaii Department of Agriculture for Emergency Auwai Stabilization Purposes; Cancellation of Revocable Permit S-7846 to Lurlyn Scott and Sanford Kekahuna; and Issuance of Revocable Permit to Lurlyn Scott and Sanford Kekahuna for Intensive Agriculture and Auwai Maintenance Purposes; Honopou, Hamakualoa, Makawao, Maui, Tax Map Key: (2) 2-9-001:018.
Reference No.:	Not applicable.
Project Location:	Honopou, Hamakualoa, Makawao, Maui, Tax Map Key: (2) 2-9-001:018.
Project Description:	Right-of-entry and revocable permit for auwai stabilization project and continued maintenance.
Chap. 343 Trigger(s):	Use of State Land.
Exemption Class No.:	In accordance with Section 11-200.1-16, Hawaii Administrative Rules (HAR), and the Exemption List for the Department of Land and Natural Resources reviewed and concurred by the Environmental Council on March 3, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing", Item 44, "Permits, licenses, registrations, and rights-of-entry issues by the Department that are routine in nature, involving negligible impacts beyond that previously existing."
Cumulative Impact of Planned Successive Actions in Same Place	No, proposed action involves a one-time stabilization and continued maintenance of a traditional auwai to support long standing taro and other crop cultivation in the area. An

Significant?

exemption for the auwai stabilization project was published in the OEQC Environmental Notice on February 8, 2020.

Action May Have  
Significant Impact on  
Particularly Sensitive  
Environment?

No, actions are intended to support traditional taro and other crop cultivation in the area.

Consulted Parties:

State of Hawaii Department of Agriculture

Analysis:

Based on the above mentioned, the actions are intended to restore the functionality of a pre-existing traditional auwai to support long-standing taro and other crop cultivation in the area.

Recommendation:

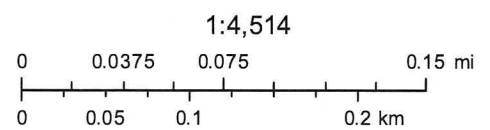
That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



# Public Land Trust Information System



June 24, 2020



## EXHIBIT A

Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



**Job No. DOAM02B, East Maui Irrigation System Improvements at Honopou, Honopou, Maui, Hawaii**



1. Existing 'auwai wall.



2. View from access roadway.

EXHIBIT B