

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

October 27, 2023

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

PSF No.: 23MD-110

Maui

Issuance of Immediate Management Right-of-Entry and Revocable Permit to County of Maui for the Lahaina Wildfire Final Disposition Project; Olowalu, Maui, Tax Map Key No. (2) 4-8-003:008 por.

APPLICANT:

County of Maui, Department of Environmental Management, Solid Waste Division.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government Lands situated at Olowalu, Maui, Tax Map Key Nos. (2) 4-8-003:008 por., as shown on the attached map labeled Exhibit A.

AREA:

0.7 acre (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:

LOD 18671 to Maui Electric Company (MECO)
LOD 27700 to MECO

LOD 28518 to MECO
RP S-7639 to DLNR DOFAW

The encumbered portions of Parcel 008, listed above, are outside of the area applicant seeks to enter under the subject right of entry (ROE) and revocable permit (RP).

CHARACTER OF USE:

Access and Utility Purposes related to the Lahaina Wildfire Final Disposition Project. Applicant intends to repurpose a scale and weigh station left over from the former cinder quarry operations. County of Maui will be responsible for all costs to repair and maintain the facility.

TERM OF RIGHT-OF-ENTRY:

Commencing upon Chairperson's execution of a Board-approved immediate management right-of-entry permit (ROE) to the County of Maui that shall expire in one year or upon approval and issuance of a revocable permit (RP) to the County of Maui, whichever shall first occur. The Chairperson will be authorized to continue the ROE for additional one-year periods for good cause shown.

COMMENCEMENT DATE for REVOCABLE PERMIT:

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

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 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 1, that states, "Conduct surveys or collect data on existing environmental conditions (e.g., noise, air quality, water flow, water quality, etc.)," and Part 2, that states, "Non-destructive data collection and inventory, including field, aerial and satellite surveying and mapping."

Part 1 Item 4, that states "Operation, repair and maintenance, of existing structures and facilities, including base-yards, offices, cabins, sheds and fencing."

Part 1, Item 30, that states “Repair and maintenance of existing machinery, equipment, vessels and vehicles used to support departmental operations.”

The subject request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR, as a de minimis action. The County of Maui shall be responsible for compliance with Chapter 343, HRS, to the extent applicable to its project.

REMARKS:

Maui County sustained a catastrophic disaster on August 8, 2023, known as the Lahaina Wildfires that devastated Lahaina town on the west side of the island. The County of Maui is in the process of developing Temporary Debris Staging and Reduction (TDSR) sites that include the long-term disposition of debris from the wildfire. By letter dated September 20, 2023, from Mayor Bissen to Governor Green, the County of Maui made a formal request to set aside lands for the proposed Lahaina Wildfire Final Disposition Project to be located at Tax Map Key (TMK) (2) 4-8-003:007. The total area required to develop the debris disposal facility is approximately 19.4 acres and will include both the Temporary Debris Staging and Reduction (TDSR) site, long-term disposition of debris from the wildfire and a future memorial site to honor the remains of wildfire victims that may be comingled with debris to be disposed.

TMK: 4-8-003:007 is a former cinder quarry owned by the State of Hawaii and is recommended to be conveyed to the County of Maui via Executive Order under a separate board recommendation. The subject request involves a 0.7-acre portion of the abutting parcel 008. There is a small portion of land that contains a scale and former weigh station that was operated in coordination with use of the former cinder quarry. The County of Maui has expressed interest in repurposing this facility for uses related to the proposed TDSR and final disposition of wildfire debris at parcel 007.

JUSTIFICATION FOR REVOCABLE PERMIT:

The reason for issuing a Revocable Permit (RP) to the County of Maui rather than setting aside the land by Executive Order is that the use is temporary in nature. Staff anticipates that landfill closure may occur in less than 5 years. Furthermore, staff anticipates changes in the area pursuant to the proposed relocation of Honoapiilani highway by the State Department of Transportation (HDOT). Exhibit E suggests that the proposed realignment of the highway will directly impact the weigh station. Staff anticipates that the timeframe for use of parcel 008 by the County for the Lahaina Wildfire Final Disposition project will have ended by the time HDOT is needing the area for highway relocation purposes. At that time, staff will recommend to the Board that the RP be terminated and the area set aside to the HDOT as needed.

RECOMMENDATION: That the Board,

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15, 11-200.1-16, 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 as a de minimis activity.
2. Authorize the issuance of an immediate right-of-entry permit to the County of Maui, 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. Based on the testimony and facts presented, find that approving the revocable permit, under the conditions and rent forth herein, would serve the best interests of the State.
4. Authorize the issuance of a revocable permit to County of Maui covering the subject area for access and utility 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,



Daniel Ornellas
District Land Agent

 RT

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson



EXHIBIT B

Revocable Permit to County of Maui for Access and Utility Purposes

TMK (2) 4-8-003: portion of 008

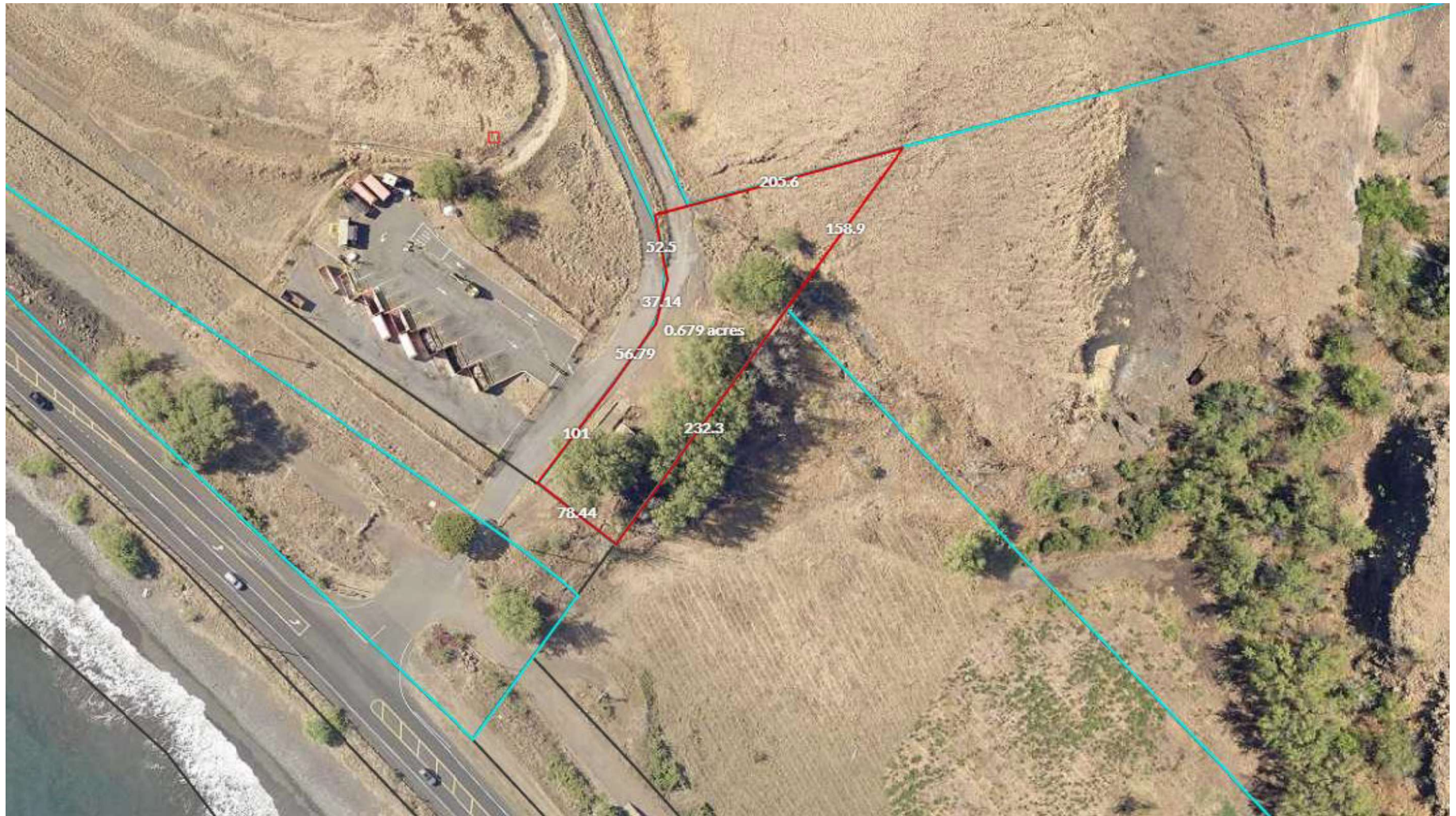


Exhibit C

Lahaina Wildfire Final Disposition Project: Revocable Permit for Access and Utility Purposes

- Use of Scale and Weigh Station at TMK (2) 4-8-003:008 por.



Exhibit D

Revocable Permit to County of Maui for Access and Utility Purposes (green) with Proposed Honoapiilani Highway realignment corridor (yellow) overlay - TMK (2) 4-8-003: portion of 008

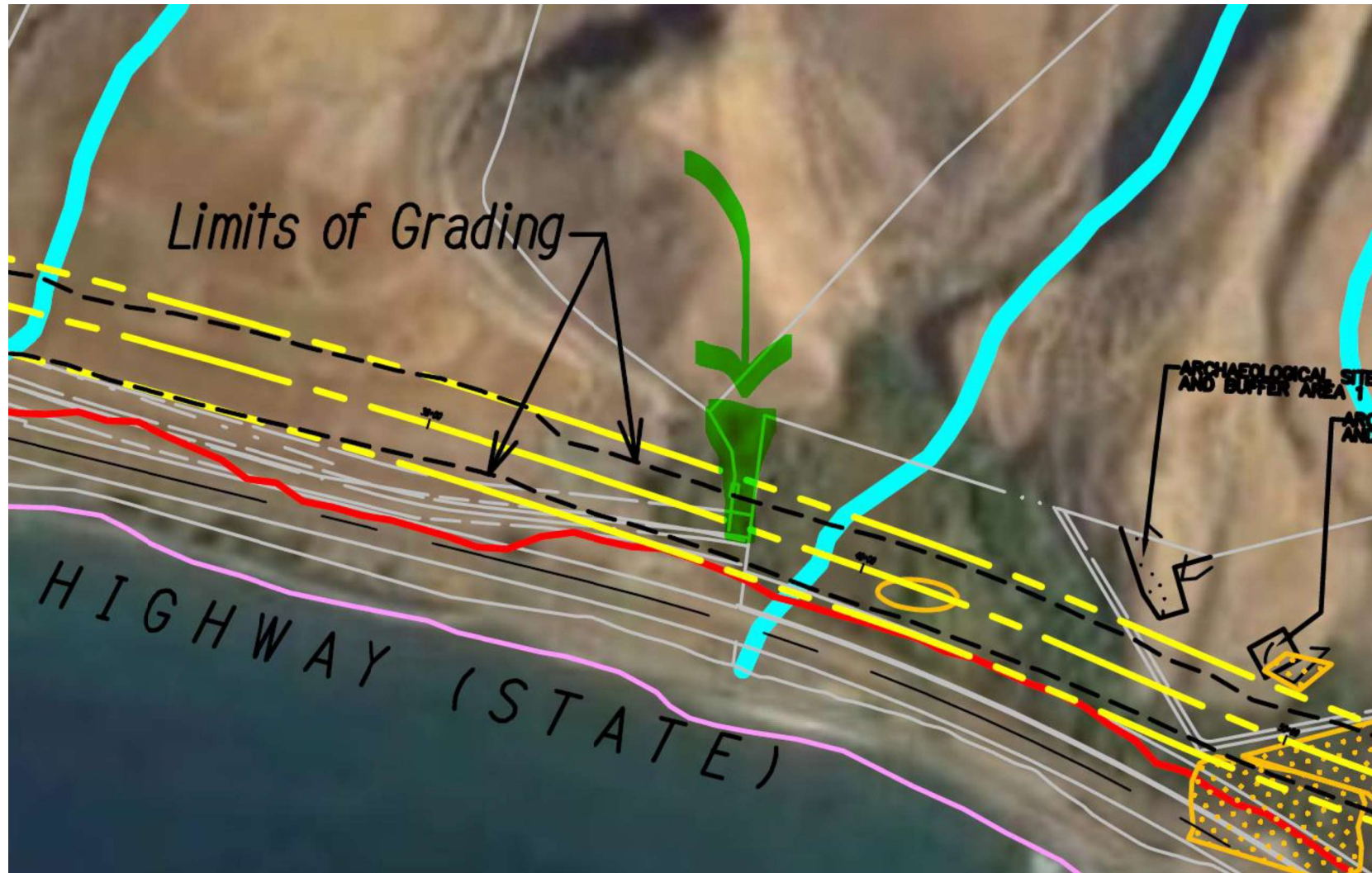


EXHIBIT E