

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.: 23KD-104

KAUAI

Partial Withdrawal from Governor’s Executive Order No. 1509 and Reset Aside to the Division of Forestry and Wildlife for Conservation and Operations Purposes; Issuance of Immediate Management Right-of-Entry Permit, Waimea, Kauai, Tax Map Key: (4) 5-9-001: por. of 016.

CONTROLLING AGENCY :

Division of State Parks (DSP).

APPLICANT:

Division of Forestry and Wildlife (DOFAW).

LEGAL REFERENCE:

Section 171-11 and -55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Kokee, Waimea, Kauai, identified by Tax Map Key: (4) 5-9-001: por. of 016, as shown on the attached map labeled Exhibit A.

AREA:

Area under Executive Order No. 1509: 4,640 acres, more or less  
Area to be withdrawn: 28 acres, more or less.

ZONING:

State Land Use District: Conservation  
County of Kauai CZO: Open

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:

Governor's Executive Order No. 1509 setting aside 4,640 acres to the Department of Land and Natural Resources, Division of State Parks for park purposes.

PURPOSE OF SET ASIDE:

It is important that DOFAW have this parcel set aside to obtain future funding to manage the Mid Elevation Nursery (using Federal and other funding), in order to protect existing endangered plants in the vicinity and utilize the cabin and associated lands for wildfire suppression and equipment staging purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 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 minor expansion or minor change of use beyond that previously existing," Part 1, and Item 36 that states "Transfer of management authority over state-owned land, such as setting aside of state lands." See attached Exhibit B.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Process and obtain subdivision at Applicant's own cost, if required; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost, if required.

REMARKS:

DOFAW has been managing and utilizing the Kokee Mid-Elevation Nursery (KMEN) for approximately 27 years. In 1996 DOFAW took over management of the current 1.5 acre site pursuant to a memorandum of understanding by the DSP to DOFAW.

Previously used as a US Army communications facility dating back to WWII, by 1996 the parcel had long been abandoned and overgrown with weedy shrubs and grasses, and a 1,000 square foot, one-story concrete building remained in need of repairs to walls and roof before it could be used.

DOFAW's original intent for the site was to establish a field station that could temporarily house equipment, staff and volunteers working in the remote conservation lands of the Koke'e region, as well as a nursery facility and outplanting site for rare and endangered plant species. Over the past 27 years that the facility has been managed by DOFAW, it has become essential for perpetuation, management and protection of the rare and endangered plant species propagated within the KMEN nursery and found within the surrounding areas. It is estimated that around seventy-five percent of all of Hawaii's threatened and endangered plant species occur at middle to high elevations (e.g. above 1000 ft.) and are only cultivated at low elevations with great difficulty. Because of the specialized growing needs of these rare species, beginning in the early 1990s DOFAW created and has continuously maintained a network of Mid-Elevation Nurseries across four islands which are vital to the conservation and recovery of these imperiled plants.

KMEN, at an elevation of 4,080 ft., is the only facility of its type on the island of Kauai, and thus essential to the propagation and cultivation of the endangered native species of this island. Additionally, the approximate 22-acre area around the current site will allow for the safe out planting and recovery of many of the rare species of the area, in line with the original intent for the site.

The KMEN facility and surrounding forest land is mostly intact closed-canopy 'Ōhi'a (*Metrosideros polymorpha*) dominated wet-mesic forest. Several other native trees, shrubs, ferns and herbs remain scattered throughout, with the majority of the area containing multilayered native-dominant forest. The area faces threats from invasive plants, particularly Kahili ginger (*Hedychium gardnerianum*), strawberry guava (*Psidium cattleianum*), and blackberry (*Rubus argutus*), as well as rooting by feral pigs and browsing from black-tailed deer. Two endangered plant species have been recorded within the proposed 22-acre withdrawal area: makou (*Ranunculus mauianus*) and kōpiko (*Psychotria grandiflora*). Makou is a multi-island species that was officially listed as endangered under the Endangered Species Act as well as mirrored designation under HRS 195D, in 2016. It is a small perennial herb with yellow flowers that is typically dormant during part of the year and used to be quite common throughout much of Koke'e State Park, including the KMEN area. The plant has disappeared from much of its former habitat across the island, but the possibility remains that seeds may persist in the soil seed bank (it is believed to have long-lived orthodox seeds), and/or that plants

survive in the area but were dormant during past surveys.

Kōpiko is an evergreen shrub to small tree in the coffee family, with curved white flowers that were once pollinated by native honeycreepers. It is included on the Kauaʻi

Plant Extinction Prevention Program (KPEPP) target list and on the Federal and State Endangered Species lists and known from only a handful of scattered locations within Kokeʻe State Park. The plants are gynodioecious, meaning some plants are female (make fruit, but no pollen) while others are both male and female (produce pollen and can make fruit). However, they require a bird pollinator to transfer pollen from male parts on one flower to female parts on another– they cannot pollinate themselves. Due to the precipitous decline of native forest birds in Hawaiian forests, the kōpiko plants have similarly declined, and today are able to successfully reproduce only with the assistance of KPEPP botanists who painstakingly transfer pollen from male plants to receptive female plants during their flowering season. Although around 80 plants are thought to remain in the wild, pollen has only ever been observed on flowers of 14 individuals. Approximately 15 kōpiko plants have been monitored and tagged by KPEPP around the KMEN site within the approximate 22-acre proposed withdrawal boundary, two of which may be pollen producers. One of them is perhaps the most prolific pollen-producer currently known and vital to the recovery of the species.

The primary public use of the site is for plum picking and hunter access, both of which will not change. Additionally, in consultation with DSP, there is a significant cultural site above KMEN in a prominent location named Pohakuwaʻawaʻa. There is an access road to the right of the site that leads up to the micro-reflector site and facilitates access to Pohakuwaʻawaʻa, but again, access that will not be changed as a result of DOFAW taking these lands or managing the fence that will enclose the upper acres that will protect the endangered plants from ungulate predators.

Finally, staff is including a recommendation below for the issuance of an immediate management right-of-entry to DOFAW covering the area to be withdrawn and reset-aside to it. The right-of-entry will continue for a period of one year or until the set-aside is complete, whichever shall first occur. Staff is additionally recommending the Board authorize the Chairperson to extend the right-of-entry for additional one-year periods for good cause shown.

**RECOMMENDATION:** That the Board:

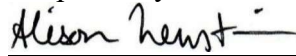
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

2. Approve of and recommend to the Governor issuance of an executive order withdrawing approximately 28 acres from the Governor’s Executive Order No. 1509 and subject to the following:
  - 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; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands and existing improvements to Division of Forestry and Wildlife\_ under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - 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; and
  - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Grant an immediate management right-of-entry to the Division of Forestry and Wildlife, its consultants, contractors, and/or persons acting for or on its behalf, onto the subject property to secure, maintain and manage the property, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
  - A. The standard terms and conditions of the most current management right-of-entry 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; and

- C. This management right-of-entry is effective upon Land Board approval and shall continue for a period of one year or until the set-aside is complete, whichever shall first occur; provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown.

Respectfully Submitted,



Alison Neustein  
District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson

RT











**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA

**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**DAWN N. S. CHANG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA  
LAND DIVISION**

3060 Eiwa Street, Room 208  
Lihue, Hawaii 96766

October 27, 2023

**EXEMPTION NOTIFICATION**

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1-16, Hawaii Administrative Rules (HAR):

<b>Project Title:</b>	Partial Withdrawal from Governor's Executive Order No. 1509 and Reset Aside to the Division of Forestry and Wildlife for Conservation and Operations Purposes; Issuance of Immediate Management Right-of-Entry Permit, Waimea, Kauai, Tax Map Key: (4) 5-9-001: por. of 016.
<b>Project / Reference No.:</b>	PSF No.: 23KD-104
<b>Project Location:</b>	Kokee, Waimea, Kauai, identified by Tax Map Key: (4) 5-9-001: por. of 016.
<b>Project Description:</b>	Partial Withdrawal from Governor's Executive Order No. 1509 and Reset Aside to the Division of Forestry and Wildlife for Conservation and Operations Purposes and Issuance of Immediate Management Right-of-Entry Permit.
<b>Chap. 343 Trigger(s):</b>	Use of State land.
<b>Exemption Class No. and Item No.:</b>	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 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 minor expansion or minor change of use beyond that previously existing," Part 1, and Item 36 that states "Transfer of management authority over state-owned land, such as setting aside of state lands."

**EXHIBIT B**

**Cumulative Impact of Planned Successive Actions in Same Place Significant:**

No. There will be no successive actions in same place or no significant cumulative impact.

**Action May Have Significant Impact on Particularly Sensitive Environment:**

No. There will be no particularly sensitive environments involved or no significant impact.

**Analysis:**

The proposed use will involve negligible or no expansion or change of use beyond that previously existing.

**Recommendation:**

It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.