

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

May 24, 2024

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

-

Land Board Members:

SUBJECT: Issuance of Revocable Permit to Zoological Society of San Diego,
Makawao, Maui, Tax Map Key: (2) 2-4-016: 001.

APPLICANT:

Zoological Society of San Diego, a California Nonprofit Corporation (Internal
Revenue Code Section 501(c)(3))

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands situated at Makawao, Maui, identified by Tax Map
Key: (2) 2-4-016: 001, as shown on the attached map labeled Exhibit A.

AREA:

25.04 acres, more or less.

ZONING:

State Land Use District: Agricultural
County of Maui CZO: Interim

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Construction and Operation of aviaries and related infrastructure to support

conservation breeding of endangered Hawaiian birds.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Chairperson signed an exemption notice on February 13, 2024 (Exhibit B), declaring this project exempt from the requirement to prepare an Environmental Assessment in accordance with Chapter 343, HRS, and Chapter 11-200-8, Hawaii Administrative Rules, under the Department's exemption classes (Exemption List for the Department of Land and Natural Resources, Reviewed and Concurred on by the Environmental Council on November 10, 2020). The exemption notice is appended below (Exhibit B).

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

JUSTIFICATION FOR REVOCABLE PERMIT (IF APPLICABLE):

A. Government uses.

1. Pending set-aside to the Division of Forestry and Wildlife by executive order (see below).

REMARKS:

In the March 24, 2023, BLNR meeting, the set aside of the parcel as Forest Reserve was approved and was recommended to the Governor the issuance of an executive order setting aside this parcel as a forest reserve. The completion of the executive order is still pending but is expected in 2024. Therefore, the Division of Forestry and Wildlife (DOFAW) is awaiting issuance of the executive order before pursuing a long-term lease to the applicant. Haleakala Ranch previously held a Revocable Permit (RP) for this parcel, which was terminated on December 31, 2023. Staff therefore proposes an RP as a means for allowing the Zoological Society of San Diego (ZSSD) immediate access to the site to begin site improvements and infrastructure construction.

An RP is advantageous because this project will support efforts to prevent extinction of Hawaiian honeycreepers, which are biologically and culturally important resources and are endemic to Hawai'i. The current conservation breeding facilities at the Maui Bird Conservation Center are at capacity and therefore additional aviary space is urgently needed. ZSSD prefers a long-term lease and once the parcel is set aside as a forest reserve, DOFAW will seek

Board approval to issue a 20-year lease to support the long-term operation of this facility to benefit endangered Hawaiian honeycreepers. The purpose of this project is to provide long-term care and conservation breeding for species that are threatened by extinction.

A portion of the parcel, as shown in Exhibit A, is planned to be used for aviaries to support conservation breeding of Hawaiian honeycreepers such as 'akikiki (which is extinct in the wild), 'akeke'e, kiwikiu and 'anianiau. The aviaries (Exhibit B) will be dispersed across the site to provide spacing conducive to the natural territorial behavior of the birds, with native plants interspersed between the aviaries. Prompt access to the site by the permittee is critical for timely initiation of aviary construction and therefore the success of this project. Construction of these aviaries needs to commence as soon as possible to avoid conservation actions for these species being delayed by space constraints at the current breeding facilities. Concurrently, DOFAW and ZSSD are starting the process of establishing a long-term lease for a portion of the parcel (Exhibit A), however that process may take several months. Therefore, ZSSD is requesting an RP while staff works on establishing a long-term lease.

The applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions. There is no known pending litigation involving this applicant.

The applicant has an existing long-term lease (General Lease # FW-001, issued in 2016) for TMKs (2) 2-4-013:004 and (2) 2-4-013:053 and has successfully managed those lands. There were no other applicants requesting the same parcel. DOFAW endorses this application, provided that the conditions listed in the recommendations below are included in the revocable permit.

RECOMMENDATION: That the Board:

1. 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.
2. Authorize the issuance of a revocable permit to Zoological Society of San Diego covering the subject area for the purpose of constructing and operating aviaries and related infrastructure to support conservation breeding of endangered Hawaiian birds 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.
- d. Impose the following conditions recommended by DOFAW:
 - 1. Hunting, open fires, and littering are prohibited.
 - 2. Taking off or landing of any aircraft is not permitted within fenced unit.
 - 3. All drone use must be approved by the Forest Management Supervisor prior to operation.
 - 4. The removal, injury, killing, or any unnecessary disturbance of native flora and fauna is prohibited.
 - 5. All precautions and protocol pertaining to RAPID OHIA DEATH (ROD) must be followed. NO EXCEPTIONS. The use of any field gear, equipment, and vehicles previously used on Hawaii Island, Oahu Island, and Kauai Island is prohibited on Maui Island.
 - 6. Early Detection Rapid Response (EDRR) for all gorse and blackberry species within the fenced area under this permit shall be implemented to prevent ingress of those species and maintain their numbers at zero.
 - 7. All grass vegetation shall be maintained at a height no greater than 12" above ground level.
 - 8. Any plans of chemical, mechanical, and/or manual control of weed species must be reviewed and approved by the Forest Management Supervisor. All herbicide use shall follow the recommended label and all usage shall be recorded, maintained, and provided to DOFAW upon request.
 - 9. Report inappropriate activities to DOFAW and DOCARE.
 - 10. Use of loud or excessive audio devices are prohibited.
 - 11. Drugs and alcohol prohibited on premises.

Respectfully Submitted,

for



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson
Department of Land and Natural Resource

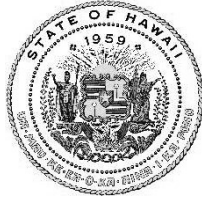
Exhibit A: Map showing the portion of TMK (2) 2-4-016:001 that will be used by the applicant. Note that DOFAW already has a long-term lease with the applicant for TMKs (2) 2-4-013:004 and (2) 2-4-013:053 as shown in the map below.



Exhibit B. Exemption notice dated February 13, 2024, declaring this project exempt from the requirement to prepare an Environmental Assessment in accordance with Chapter 343, HRS, and Chapter 11-200-8, Hawaii Administrative Rules, under the Department's exemption classes (Exemption List for the Department of Land and Natural Resources, Reviewed and Concurred on by the Environmental Council on November 10, 2020).

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

P.O. BOX 621
HONOLULU, HAWAII 96809

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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
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MANAGEMENT
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CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTICE

Regarding the preparation of an environmental assessment under the authority of
Chapter 343, HRS and Section 11-200.1-17, HAR

Project Title:	Maui Aviary and Fence Construction
Project Location:	Maui (2) 2-4-016:001
Chapter 343 Trigger(s):	Use of State Lands
Project Description:	Proposed are forty modular aviaries, a perimeter ungulate-proof fence, water catchment, prefabricated office building and road improvements for the conservation breeding of critically endangered honeycreepers.
Consulted Parties:	Board of Land and Natural Resources; The Nature Conservancy
Exemption Class & Description:	<p>Exemption Classes for aviaries and perimeter fence: General Exemption Type 3 <i>Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment and facilities and the alteration and modification of the equipment or facilities, including but not limited to: (A) Single family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty individuals or fewer per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.</i></p> <p>PART 2 1. Natural resource management actions that the Department declares are designed specifically to monitor, conserve, or enhance the status of native species or native species' habitats, such as fences</p>

around or to manage rare, threatened or endangered plants. Fences shall contain step-overs or other features that permit pedestrian access for cultural and recreational use.

General Exemption Type 4

Minor alterations in the conditions of land, water, or vegetation.

Part 1

7. Minor ground adjustments (e.g., grading, grubbing, cutting, clearing, or filling) that do not require grading permits

Exemption Classes for water catchment:

General Exemption Type 3

Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment and facilities and the alteration and modification of the equipment or facilities, including but not limited to: (A) Single family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty individuals or fewer per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.

Part 1

18. Installation of water catchment systems, lines, and faucets.

General Exemption Type 4

Minor alterations in the conditions of land, water, or vegetation.

Part 1

7. Minor ground adjustments (e.g., grading, grubbing, cutting, clearing, or filling) that do not require grading permits

Exemption Classes for prefabricated building:

General Exemption Type 3

Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment and facilities and the alteration and modification of the equipment or facilities, including but not limited to: (A) Single family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction

with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty individuals or fewer per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.

PART 2

2. Construction and location of new, small facilities or structures necessary to support or enhance safe and effective management of lands and waters, such as baseyards, caretaker's residences, work cabins and shelters, sanitation facilities, and other similar structures.

General Exemption Type 4

Minor alterations in the conditions of land, water, or vegetation.

Part 1

7. Minor ground adjustments (e.g., grading, grubbing, cutting, clearing, or filling) that do not require grading permits

Exemption Classes for road improvements:

General Exemption Type 3

Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment and facilities and the alteration and modification of the equipment or facilities, including but not limited to: (A) Single family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty individuals or fewer per structure, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.

PART 2

4. Construction of roadways with distances less than 1,000 yards (excluding access roads) and walkways.

General Exemption Type 4

Minor alterations in the conditions of land, water, or vegetation.

Part 1

7. Minor ground adjustments (e.g., grading, grubbing, cutting, clearing, or filling) that do not require grading permits

	Date of Agency Exemption List: November 10, 2020.
Determination:	The Board of Land and Natural Resources declares that this project will likely have minimal or no significant impact on the environment and is therefore exempt from the preparation of an environmental assessment under the above exemption classes.



Feb 13, 2024

RH
Dawn N. S. Chang, Chairperson
Board of Land and Natural Resources

Date



Figure 1. Map showing the proposed project site (blue polygon) within TMK (2) 2-4-016:001 (green polygon).

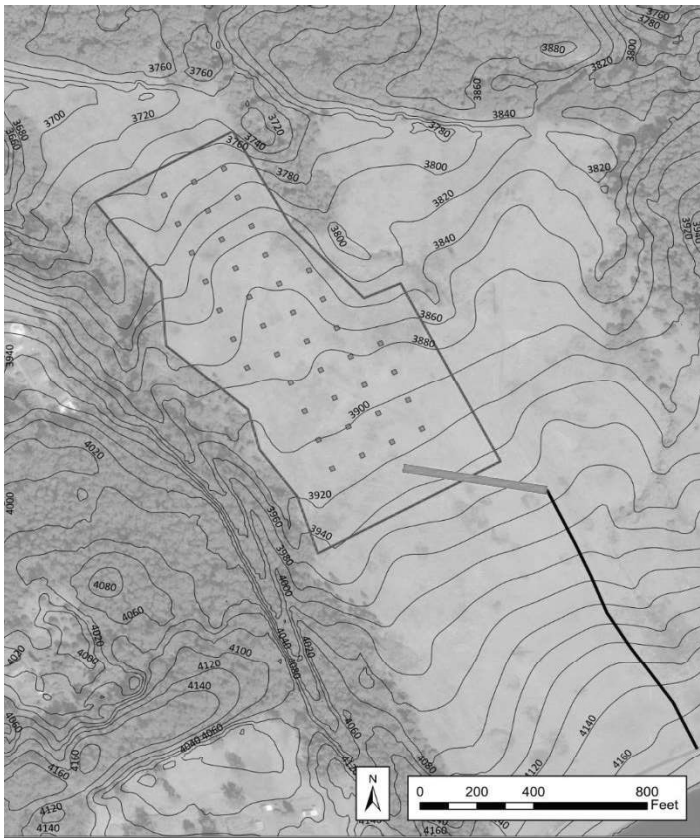


Figure 2. Site plan for aviary construction project. Red polygon shows location of proposed fence enclosing the 40 dispersed aviaries (orange points). Black line shows roadway that will be enhanced by addition of gravel (1,100 feet) and green line shows new gravel roadway (500 feet) that will be created. Prefabricated building and water catchment will be placed near the end of the new roadway.

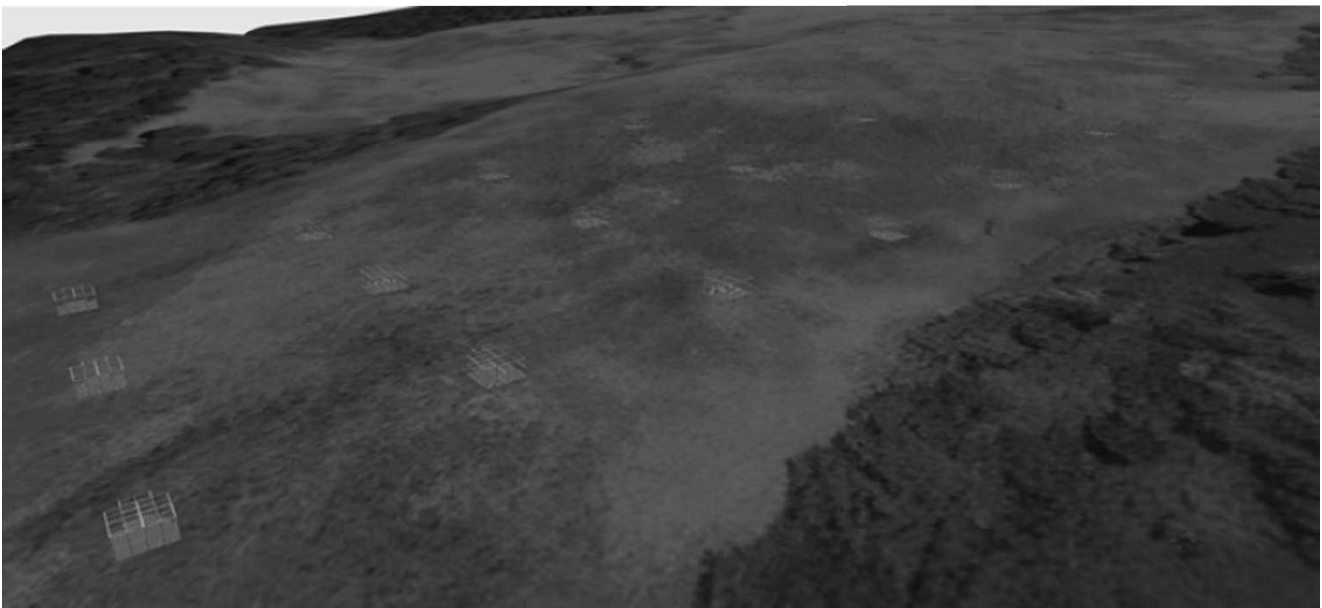
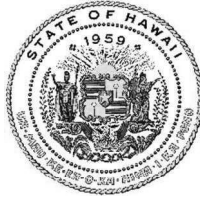


Figure 3. Aviary prototype for the project (top left) anchored to the ground with cable and stakes (top right). Aviaries will be spaced across the site as shown in the bottom schematic and native vegetation will be planted surrounding each aviary.

JOSH GREEN, M.D.
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DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

January 31, 2024

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

TO: Division Administrators, Heads of Offices, DOFAW Staff

FROM: David G. Smith, DOFAW Administrator *DGS*

SUBJECT: Acting Administrator, Division of Forestry and Wildlife

I will be on vacation leave from February 8-16, 2024. In my absence, Protection Forester, Robert Hauff will be Acting Administrator.

Your usual courtesy and cooperation to Mr. Hauff will be greatly appreciated.

Acting Administrator - Feb 8-16, 2024

Final Audit Report

2024-01-31

Created:	2024-01-31 (Hawaii-Aleutian Standard Time)
By:	Sharleen Lee (sharleen.y.lee@hawaii.gov)
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-  Document created by Sharleen Lee (sharleen.y.lee@hawaii.gov)
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-  Agreement viewed by David Smith (david.g.smith@hawaii.gov)
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-  Document e-signed by David Smith (david.g.smith@hawaii.gov)
Signature Date: 2024-01-31 - 8:48:41 AM HST - Time Source: server
-  Agreement completed.
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Signature: *Robert Hauff*

Email: robert.d.hauff@hawaii.gov