

**From:** [Mavis Oliveira-Medeiros](#)  
**To:** [Ornellas, Daniel L](#); [DLNR.BLNR.Testimony](#)  
**Subject:** [EXTERNAL] Re: Not allowed to testify, D.3 July 24, 2020  
**Date:** Tuesday, January 21, 2025 4:34:02 PM

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Found this old email that apparently never sent. Which now makes me wonder if the lease was for 5 years, might be up soon.

Re D-3 in today's testimony. The Makaalae road (easement) was overgrown & impassable. The bouldered beach below where Tracy owns is a place where Native Hawaiians gather opihi. The fact that it's hard to get to, makes it the ideal place to go when you need a lot of opihi because hardly anyone else goes there. It is difficult, but not impossible. People who grew up there knows where to go. Of course it looks hard to your testifiers, They don't gather opihi. We tried to testify.

It's a huge smoke screen:

Chris, Tracey's Realtor, Acting Attorney, does NOT speak for the Hana community. When he says everybody, he means his few friends & Tracry. When Cindy Day says "it's a high cliff & no one can go down to pick opihi or fish (both she & Chris works for or with Tracey), what she means is, "not her nor any of her friends would dare go down there to fish or opihi." She cannot & should not speak for Hawaiians. I've seen many climb down that cliff to pick opihi, knowing they only need that one spot & they're good to go.

Mahalo nui,  
Mavis Oliveira-Medeiros  
(808)866-7409

On Fri, Jul 24, 2020 at 11:33 AM Mavis Oliveira-Medeiros <[mavisoliveira@gmail.com](mailto:mavisoliveira@gmail.com)> wrote:

We didn't know that you have to write in 24 hours ahead to testify in person.  
Wanted to be able to rebut what Chris is saying. We aren't only concerned about access.  
We Hawaiian, we know we have access. By access, we mean clearing the caned grass that's blocking and unlocking the gate to us.

**AMENDED**

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

July 24, 2020

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

PSF No.: 20MD-041

Maui

Issuance of Revocable Permit to Tracy Hayward for Invasive Species Control Purposes,  
Waiohonu-Kakio, Hana, Maui, Tax Map Key: (2) 1-4-012:003.

APPLICANT:

Tracy Hayward, Tenant in severalty.

LEGAL REFERENCE:

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

LOCATION:

Portion of Government lands of Waiohonu-Kakio situated at Hana, Maui, identified by  
Tax Map Key: (2) 1-4-012:003, as shown on the attached maps labeled Exhibits A-1 and  
A-2.

AREA:

1.84 acres, more or less

ZONING:

State Land Use District: Agriculture, Rural  
County of Maui CZO: Interim

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
*as amended*

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
July 24, 2020 00

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

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Invasive species control using mechanical and animal forage methods.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

Staff is recommending a monthly rent of \$40.00. Rent determination is based on Applicant performing invasive species control on State lands.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with 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 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," and 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." (Exhibit B)

DCCA VERIFICATION:

Applicant is not operating a business and, as such, is not required to register with DCCA.

JUSTIFICATION FOR REVOCABLE PERMIT:

A revocable permit is appropriate at this time to allow Applicant to access the subject parcel to undertake invasive species control measures. Subject parcel has been unoccupied for over two years and is rapidly becoming overgrown.

REMARKS:

The subject property was previously encumbered by General Lease No. 3518 to Mr. Decker McAllister for pasture purposes from April 25, 1955 to April 24, 1970. Subsequently, the Land Board at its meeting on May 22, 1970 authorized the issuance of Revocable Permit No. S-4506 to Mr. McAllister commencing on April 25, 1970 and continuing to September 30, 1985. Monthly rent was \$10.00. The Land Board at its meeting on September 13, 1985, under agenda Item F-1-a, authorized the issuance of Revocable Permit No. S-6241 to Ms. Martha McAllister, for pasture purposes commencing on October 1, 1985 and continuing to September 30, 1996. Monthly rent was \$30.00. The Land Board at its meeting on September 13, 1996, under agenda Item D-10, authorized the issuance of Revocable Permit S-7140 to Ms. Margot Dippert for pasture purposes, commencing October 1, 1996. Ms. McAllister passed away on December 13, 1993. Ms. McAllister's granddaughter, Ms. Margot Dippert, requested that the subject permit be canceled and a new permit be issued to her for the continued use of the area. Monthly rent was \$13.00.

During a March 6, 2007 site inspection of the permit area, it was discovered that no animals were being pastured on the subject property. Ms. Dippert was advised via letter dated September 11, 2007 of her non-compliance with her permit's requirement to pasture animals. Follow-up inspections were conducted which resulted in no change and also a grading and grubbing violation of the area, where no permits or authorizations from any government agency had been obtained. Due to Ms. Dippert's failure to cure the deficiencies pointed out with regard to her permit, on February 12, 2010, Revocable Permit No. S-7140 was terminated.

By Land Board action of July 8, 2011, under Item D-6, Eric Miller received approval for the use of the subject property via a revocable permit for pasture purposes. After being informed of the Board's approval, Mr. Miller informed staff that it would not be feasible to move forward with his request due to insurance cost, rent, and property upkeep considerations. Per his request, staff moved forward to rescind the approved Board action.

At its meeting on December 9, 2011, under agenda Item D-8, the Land Board authorized the issuance of Revocable Permit No. S-7823 to Charles Gale for pasture purposes beginning April 9, 2012. Monthly rent was \$40.00. By February 26, 2018 letter, Mr. Gale informed the Board that he had sold his property in Hana to Tracy Hayward (Applicant) and wished to relinquish Revocable Permit No. S-7823.



Applicant submitted her Request for State Lands on January 29, 2020. Applicant is requesting a revocable permit for the subject parcel, which abuts her property, to perform invasive species removal and control. Subject parcel has been unoccupied and unmaintained for over two years and is rapidly becoming overgrown. Given the remote location of the area, having a responsible tenant maintaining the land eases the Department's management burden while generating revenue to support the Department's mission.

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.

Removal and control of invasive species will have no significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible expansion or change in use of the subject area beyond that previously existing.

Staff circulated a draft of this submittal to the state, and County of Maui (COM) agencies listed in the table below with the results indicated:

Per recommendations provided by the Division of Forestry and Wildlife (DOFAW), Applicant is required to contact the Maui DOFAW office regarding the possible presence of Blackburn's Sphynx Moth on the subject parcel and conduct a vegetation survey should DOFAW recommend doing so. Furthermore, Applicant is required to abide by the attached DOFAW guidance to protect Hawaiian Hoary Bat habitat.

<b>Agency</b>	<b>Comment</b>
DLNR-Office of Conservation and Coastal Lands	No Objections
DLNR-Division of Forestry and Wildlife	See Attached Comments
DLNR-State Historic Preservation Division	No Comment Response
Office of Hawaiian Affairs	No Comment Response
COM-Planning Department	No Objections
COM-Department of Public Works	No Comment Response

**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 revocable permit to Tracy Hayward covering the subject area for invasive species control 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,

*Luke Sarvis*

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Luke J. Sarvis  
Project Development Specialist

APPROVED FOR SUBMITTAL:

*Suzanne D. Case*

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Suzanne D. Case, Chairperson

Land Board Meeting: July 24, 2020; D-3: Approved as amended.

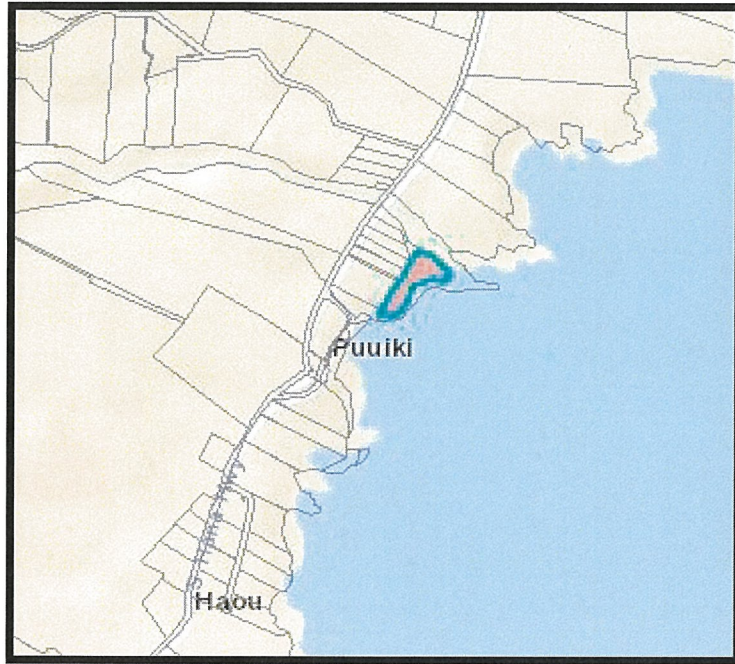
Approved as amended. See attached page.

Land Board Meeting: July 24, 2020; D-3: Approved as amended.

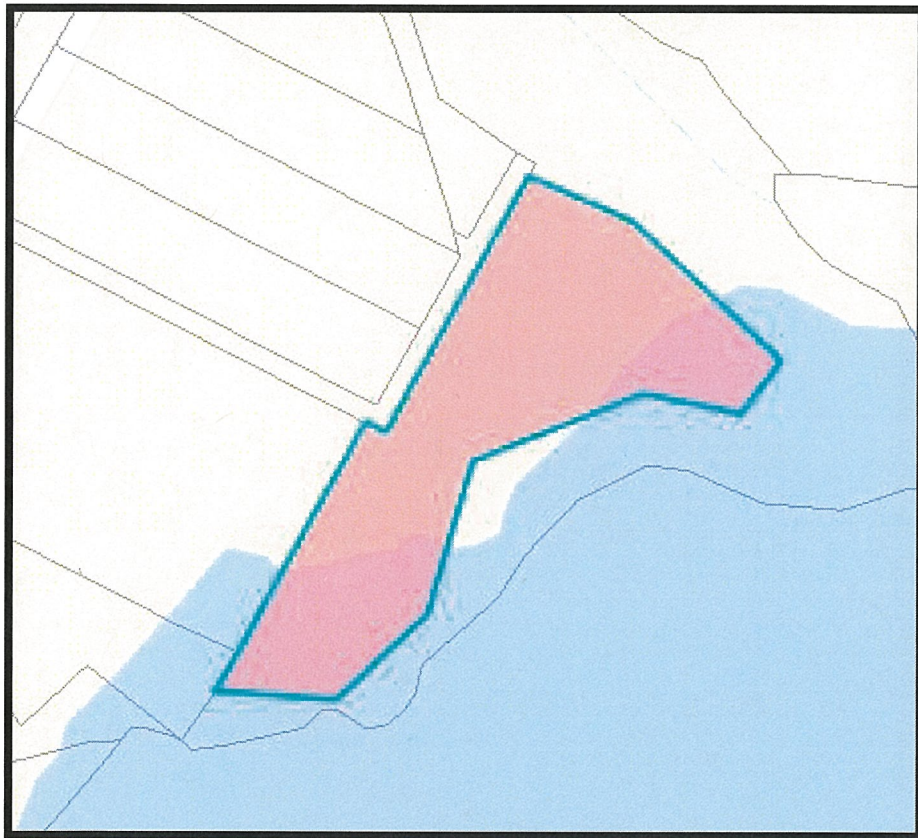
**Approved as amended.** The Board added a 3<sup>rd</sup> condition in the Recommendation section, as follows:

*“3. The Permittee shall allow reasonable public access toward the sea for traditional and customary practices, recreation, fishing and gathering purposes.”*

**EXHIBIT A-1**

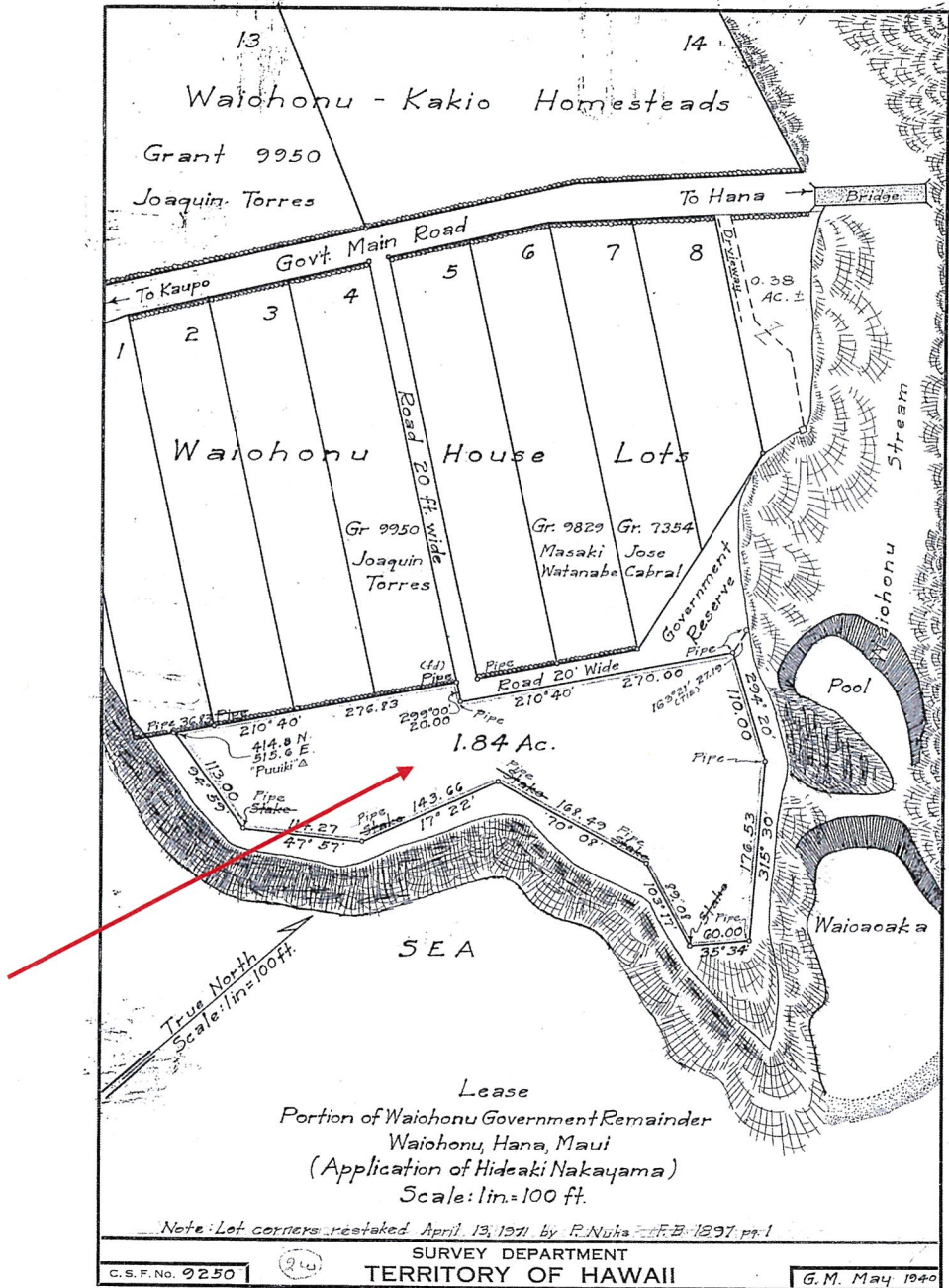


**TMK: (2) 1-4-012:003**

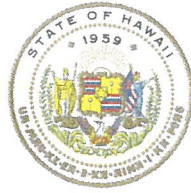




# EXHIBIT A-2



DAVID Y. IGE  
GOVERNOR OF HAWAII



**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

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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

# EXHIBIT B

July 24, 2020

## EXEMPTION NOTIFICATION

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

<b>Project Title:</b>	Issuance of Revocable Permit to Tracy Hayward for Invasive Species Control Purposes.
<b>Project / Reference No.:</b>	PSF No. 20MD-041.
<b>Project Location:</b>	Waiohonu-Kakio, Hana, Maui, Tax Map Key: (2) 1-4-012:003.
<b>Project Description:</b>	Issuance of Revocable Permit to Tracy Hayward for Invasive Species Control Purposes.
<b>Chap. 343 Trigger(s):</b>	Use of State Land
<b>Exemption Class No. and Description:</b>	In accordance with 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 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," and 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."
<b>Cumulative Impact of Planned Successive Actions in Same Place Significant?:</b>	No.
<b>Action May Have</b>	No.

**Significant Impact on  
Particularly Sensitive  
Environment?:**

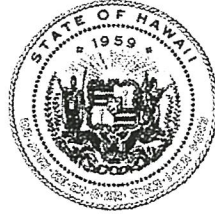
**Analysis:** The proposed use will involve negligible or no expansion or change of use beyond that previously existing.

**Consulted Parties:** Agencies listed in the submittal.

**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.



DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
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LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF FORESTRY AND WILDLIFE  
1151 PUNCHBOWL STREET, ROOM 325  
HONOLULU, HAWAII 96813

June 26, 2020

MEMORANDUM

Log no. 2679

**TO:** RUSSELL Y. TSUJI, Administrator  
Land Division

**FROM:** DAVID G. SMITH, Administrator  
Division of Forestry and Wildlife

**SUBJECT: Division of Forestry and Wildlife Comments on Issuance of Revocable Permit to Tracy Hayward for Invasive Species Control Purposes**

The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) has received your inquiry regarding issuance of a revocable permit for invasive species control in Hana on Maui, Hawai'i, TMK: (2) 1-4-012:003. The proposed project consists of performing invasive species removal and control on an abutting state property that has been unoccupied and maintained and has become overgrown.

The State listed Blackburn's Sphinx Moth (BSM; *Manduca blackburni*) has a historic range that encompasses the project area. Larvae of BSM feed on many non-native hostplants that include tree tobacco (*Nicotiana glauca*) which grows in disturbed soil. We recommend contacting our Maui DOFAW office at (808) 984-8100 for further information about where BSM may be present and whether a vegetation survey should be conducted to determine the presence of plants preferred by BSM. To avoid harm to BSM, DOFAW recommends removing plants less than one meter in height or during the dry time of the year. If you remove tree tobacco over one meter in height or disturb the ground around or within several meters of these plants they must be checked thoroughly for the presence of eggs and larvae.

The State listed Hawaiian Hoary Bat or 'Ōpe'ape'a (*Lasiurus cinereus semotus*) has the potential to occur in the vicinity of the project area and may roost in nearby trees. If any trees must be removed for the project during the bat breeding season there is a risk of injury or mortality to juvenile bats. If any site clearing is required this should be timed to avoid disturbance during the bat birthing and pup rearing season (June 1 through September 15). If this cannot be avoided, woody plants greater than 15 feet (4.6 meters) tall should not be disturbed, removed, or trimmed without consulting DOFAW.

We appreciate your efforts to work with our office for the conservation of our native species. Should the scope of the project change significantly, or should it become apparent that threatened or endangered species may be impacted, please contact our staff as soon as possible.



If you have any questions, please contact Lauren Taylor, Protected Species Habitat Conservation Planning Coordinator at (808) 587-0010 or [lauren.taylor@hawaii.gov](mailto:lauren.taylor@hawaii.gov).

Sincerely,

DAVID G. SMITH  
Administrator