

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

March 27, 2026

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

PSF No.: 25MD-064

Maui

Issuance of Revocable Permit to Andrew J. Baker for Gardening, Landscape, and Maintenance, Honokala, Hamakualua, Makawao, Maui, Tax Map Key: (2) 2-9-002-022.

APPLICANT:

Andrew J. Baker, spouse of Jenifer Baker, tenant in severalty.

LEGAL REFERENCE:

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

LOCATION:

Government lands situated at Honokala, Hamakualoa, Maui, identified by Tax Map Key: (2) 2-9-002:022. A map of the subject parcel can be found on the County of Maui's site<sup>1</sup>.

AREA:

2.84 acres, more or less.

ZONING:

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

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

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<sup>1</sup> [Link for a map found on the County of Maui's site.](#)

CURRENT USE STATUS:

Encumbered by LOD No. S-29258, grant of non-exclusive easement for access purposes.

CHARACTER OF USE:

Gardening, landscape and maintenance purposes.

COMMENCEMENT DATE:

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

MONTHLY RENTAL:

\$40 per month, or \$480 per annum. The recommended rent is the minimum rent for RPs. Staff reviewed other revocable permits (RP) in the area with similar landscape and maintenance purposes, the rent is consistent with other parcels of similar size and constraints that include being landlocked.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

DCCA VERIFICATION:

The applicant is applying as an individual, is not operating as a business and, as such, is not required to register with DCCA.

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:** 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 I, Item 26:** Maintenance of existing landscaping, including planting, trimming, mowing, and irrigation.

**Part I, Item 27:** Maintenance of state lands and waters to remove weeds,

brushes, grass and other unwanted vegetation.

**Part I, Item 28:** Routine pruning, trimming, thinning, and removal of trees, excluding commercial logging.

**Part I, Item 31:** Removal and disposal of rubbish and debris from lands and waters.

**Part 1, Item 44:** Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.

An RP for gardening, landscaping and maintenance is a minimal change from the existing overgrown vegetation. Also, the removal and disposal of rubbish and unwanted vehicles should produce beneficial impacts to the environment.

The proposed action is no more intense than general agriculture. Proper management of such areas should produce beneficial impacts to the environment in the long-term. No adverse cumulative impacts are anticipated as a result of the proposed management actions.

In the past, similar RPs were issued, which have resulted in no known adverse significant impacts to the natural and environmental resources. The management of the area by the applicant would ensure no unauthorized activities occur and the management activities proposed are anticipated to have a positive, beneficial impact on the environment.

The subject request is not anticipated to have significant adverse effects on the environment and therefore it is recommended that this action be declared exempt from the preparation of an environmental assessment and the requirements of 11-200.1-17, HAR.

#### PUBLIC TRUST LAND ANALYSIS:

The State land at issue in the present submittal is ceded land subject to Section 5(b) of The Admission Act (P.L. 83-3, 73 Stat 4). These lands and revenues derived therefrom constitute the public land trust, which shall be used only for the purposes of support for public schools and public educational institutions, the betterment of the conditions of native Hawaiians, development of farm and home ownership, public improvements, and provision of land for public use according to section 5(f) of The Admission Act.

A presumption in favor of public use would appear to require that the subject lands remain vacant to provide for public use and recreation. As revocable permits are limited to month-to-month tenancies, as opposed to a long-term lease, the

practicable alternative to a disposition that would favor public use would be to forego a disposition altogether, leaving the property vacant. However, staff does not believe that would be reasonable or beneficial. Leaving the subject parcel vacant and open is not ideal. There is no public access, the topography is steep, and a stream runs along the northern portion of the property. It would be unsafe for public use and recreation.

The presently requested use of ceded land conforms to the purpose of The Admission Act because the purpose of the requested use is to remove overgrown vegetation and trash from the subject ceded land. Furthermore, shifting management responsibilities over these lands to another party through the revocable permit allows the Department to allocate its limited resources to better manage other public lands. Therefore, Staff believes that this disposition is consistent with the Board's public trust obligations.

#### JUSTIFICATION FOR REVOCABLE PERMIT:

Revocable permit is most appropriate. The steep topography and existing stream, referred to as Honokala Stream, along the northern boundary further decrease the usable area.

1. Site issues make property unsuitable for public auction lease:
  - a. Landlocked.
  - b. Irregular shape.
2. Staff is unaware of interest in a long-term disposition.

#### APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Supply Certificate of Insurance naming the State of Hawaii as additional insured and meeting State minimum coverage standards.
2. Follow all recommendations received by agencies in the request for comments.

#### BACKGROUND:

The subject property had two previous RPs, S-6588 and S-7354, both to Steven DeCoite, for pasture purposes from 1988 to 2008. They were both considered as de minimis actions where no EA was required.

The subject property is landlocked and encumbered by LOD No. S-29258, a grant of non-exclusive easement for access purposes. The access easement benefits the abutting parcel, TMK (2) 2-9-002:023 (parcel 023) and the easement runs with

the land. The applicant is the current owner of parcel 023 and has uninhibited access from the nearest road right-of-way over adjacent private property to the subject property.

REMARKS:

The subject property has been neglected for many years. The vegetation is overgrown, and the property has been used for illegal dumping of rubbish and unwanted vehicles. The applicant will remove and dispose of the rubbish and scrap abandoned vehicles, trim the trees, plant gardens and mow the rest. The applicant will not impede the access easement. The applicant will maintain the property after the clean up.

The proposed use is allowable in the county zoning. The applicant grew up on a farm and possess above average property maintenance skills. The applicant has also submitted reference letters attesting to his experience in stewarding the land. 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.

Various government agencies were solicited for comments.

- MDLO: No objections for landscape and maintenance.
- DOFAW (Maui): No objections or comments.
- SHPD: No response.
- CWRM: See below.
- DAR: No response.
- DAB: no objections.
- OHA: Requested copies of any comments from SHPD.
- County Planning Department: No response.
- County Department of Water Supply: See below.

County of Maui, Department of Water Supply (DWS), Water Resource & Planning Division submitted comments. The proposed land uses can affect the quality of the ground and surface water, which in turn can impact users downstream. They commented that:

The project is not served by our systems. It is located on the Honokala Gulch, in the Honopou aquifer. The property is in the Special Management Area and is listed as sensitive land in the Maui Island Plan. An active stream diversion is noted on the property, with one listed as abandoned slightly makai. There are also two private domestic wells listed as active that are further downgradient of

the property. While we have no objections to the proposal, we encourage the applicant to be sensitive to the fact that both stream and groundwater in the area are used and that the quality of these can affect drinking water quality for those using downgradient wells, as well as stream habitat and nearshore ecosystems. Avoid spills of gas, oil, pesticides or other chemicals used in maintenance. Make sure that any heavy equipment such as tractors or mowers are parked on non-permeable surfaces and well-maintained, and that stored fuels, solvents, oils or chemicals are properly contained.

The Commission on Water Resource Management (CWRM) recommended the use of best management practices (BMP) for stormwater management to minimize the impact of the project on the existing area's hydrology while maintaining on-site infiltration and preventing polluted runoff from storm events. CWRM also recommended the use of alternative water sources wherever practicable and adopting landscape irrigation conservation best management practices endorsed by the Landscape Industry Council of Hawai'i.

CWRM stated that permits are required before any alteration can be made to the bed and/or banks of a stream channel and before any stream diversion works is constructed or altered.

In response to the comments received, the applicant provided details clarifying the proposed activities and measures that will be implemented to protect water resources, stream systems, groundwater, and downstream users. A summary of his response is as follows:

### **Existing Site Conditions**

The subject parcel has been previously disturbed. The land was historically bulldozed and re-graded, and debris, including abandoned vehicles and refuse, has been present on site for decades.

The current proposal is limited to maintenance, debris removal, and small-scale gardening activities intended to improve site conditions and reduce potential long-term contamination risks.

No native forest clearing, stream modification, or structural development is proposed.

### **Proposed Activities**

The proposed use is limited to:

- Removal of remaining debris and refuse
- Non-commercial gardening and landscape maintenance
- Soil improvement through organic amendments

- Routine vegetation maintenance

No new structures, impervious surfaces, stream diversion, or stream channel alteration are proposed as part of this request. If any work were to require a Stream Channel Alteration Permit or Stream Diversion Works Permit, the applicant will coordinate with CWRM and obtain all required approvals prior to undertaking such work.

### **Stormwater & Erosion Control (BMP Implementation)**

Consistent with CWRM recommendation, the following Best Management Practices will be implemented:

- Maintain on-site infiltration to preserve natural hydrology
- Stabilize exposed soils promptly through mulching and vegetative cover
- Maintain vegetated buffers near drainage areas
- Avoid stockpiling soil near gulch or drainage features
- Prevent concentrated runoff discharge

These measures will minimize sediment transport and protect both stream and groundwater quality.

### **Water Source & Demand**

The proposed use is small-scale, non-commercial gardening and landscape maintenance.

- No new wells are proposed.
- No groundwater withdrawal is proposed.
- No stream diversion is proposed.
- No increase in potable water demand beyond minor manual irrigation typical of small garden use.

Water use will be minimal and consistent with residential-scale gardening practices.

### **Irrigation & Water Conservation**

In response to Items 6 and 8, the applicant will:

- Utilize drip irrigation where practicable
- Water during low evaporation periods (early morning/evening)
- Avoid over-watering and runoff

- Incorporate mulch to retain soil moisture
- Consider rainwater capture for non-potable irrigation use where feasible

These practices align with Landscape Irrigation Conservation BMPs endorsed by the Landscape Industry Council of Hawai'i.

### **Heavy Equipment & Fuel Handling**

Limited use of small equipment (e.g., compact tractor or mower) may occur for debris removal and maintenance.

To address County comments  
25MD-065 Baker RP R4C\_FOR\_SIGNA....:

- No long-term on-site fuel storage is planned.
- Refueling will occur off-site where practicable.
- Equipment will be inspected regularly for leaks.
- Equipment will be parked on stable, non-permeable or contained surfaces when not in use.
- A spill response kit will be maintained on site during equipment operation.

### **Chemicals & Soil Amendments**

- No bulk pesticide or hazardous chemical storage is proposed.
- Weed control will primarily be manual.
- Organic soil amendments will be used where practicable.

All activities will avoid contamination of groundwater, downgradient domestic wells, and stream resources.

### **Protection of Streams & Groundwater**

The applicant acknowledges:

- The property lies within the Honopou aquifer area.
- There are downgradient wells in the vicinity.
- There is a noted stream diversion on or near the property.

The proposed activities do not involve stream channel modification, diversion, or groundwater extraction. All work will be conducted with sensitivity to protecting stream habitat, nearshore ecosystems, and groundwater quality.

### **In Conclusion**

The proposed use is limited, non-commercial, and confined to previously disturbed areas. The project:

- Does not propose new water withdrawals
- Does not propose stream alteration
- Does not increase impervious surface area
- Implements stormwater BMPs
- Minimizes water demand
- Includes spill prevention measures
- Improves site conditions by removing legacy debris

Based on the limited scope and implementation of BMPs described above, the proposed activities are expected to have minimal environmental impact. The applicant remains willing to coordinate further with CWRM, DOH, DWS, and DLNR as necessary to ensure full compliance with applicable requirements.

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. Based on staff's testimony and facts presented, find that approving the revocable permit under conditions and rent set forth here in will serve the best interest of the State.
3. For the reasons stated herein, find that the issuing of the subject revocable permit is consistent with the public trust.
4. Authorize the issuance of a revocable permit to Andrew J. Baker, covering the subject area for gardening, landscape and 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,

*Steven Domingo Jr*

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Steven Domingo  
Supervising Land Agent

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APPROVED FOR SUBMITTAL:

*R.K.P.*

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Ryan K. P. Kanaka'ole, Acting Chairperson

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