

MAR 08 2024

SENATE CONCURRENT RESOLUTION

AUTHORIZING THE CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER NO. 3006 AND RESET ASIDE TO THE COUNTY OF MAUI, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, FOR SEWAGE TREATMENT PLANT PURPOSES, KAHULUI, WAILUKU, MAUI, TAX MAP KEY NUMBER: (2) 3-8-001:188 AND SEAWARD OF 188 AND THE ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO THE COUNTY OF MAUI, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, FOR WASTEWATER FORCE MAIN PURPOSES, KAHULUI, WAILUKU, MAUI, TAX MAP KEY NUMBER: (2) 3-8-001: PORTION OF 119.

1 WHEREAS, the Wailuku-Kahului Wastewater Reclamation
2 Facility in Kahului, Maui, is the County of Maui's main sewage
3 treatment plant that services the central Maui region; and
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5 WHEREAS, the land beneath the Wailuku-Kahului Wastewater
6 Reclamation Facility was granted to the County of Maui by
7 Executive Order No. 3006 in 1980; and
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9 WHEREAS, Executive Order No. 3006 covers a total of 18.755
10 acres; and
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12 WHEREAS, a requirement for Executive Order No. 3006 to be
13 amended was triggered by a 2014 shoreline certification process
14 that was completed during permitting for certain shoreline
15 protection improvements at the sewage treatment plant facility;
16 and
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18 WHEREAS, construction of these shoreline protection
19 improvements was completed by the County of Maui in 2015; and
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21 WHEREAS, during the 2014 shoreline certification process, a
22 small 0.534-acre area of an existing shoreline revetment was
23 identified as extending beyond the seaward boundary of the
24 limits of Executive Order No. 3006; and
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1 WHEREAS, the encroaching portion of the revetment has
2 existed and remained intact since its construction by the United
3 States Army Corps of Engineers in 1979; and
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5 WHEREAS, the County of Maui agreed to resolve the
6 encroachment and submitted a request for state lands application
7 to the Department of Land and Natural Resources to amend
8 Executive Order No. 3006 in July 2016; and
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10 WHEREAS, the Department of Land and Natural Resources has
11 indicated that it considers this action to be a housekeeping
12 measure to correct the oversight of not including the
13 outstanding encroachment area in the survey for the initial set
14 aside (Executive Order No. 3006); and
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16 WHEREAS, as advised by the Department of the Attorney
17 General, instead of amending Executive Order No. 3006, the
18 Department of Land and Natural Resources is now proceeding to
19 cancel Executive Order No. 3006 and will be issuing a new
20 executive order (via cancellation of Executive Order No. 3006
21 and reset aside) for the slightly larger land area totaling
22 19.289 acres (18.755 acres plus the additional area of 0.534
23 acres); and
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25 WHEREAS, the reason for this action is that Executive Order
26 No. 3006 was originally issued to the County of Maui, Department
27 of Public Works, but the County of Maui, Department of
28 Environmental Management is now requesting an update to the
29 executive order; and
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31 WHEREAS, the new Executive Order will be issued to the
32 County of Maui, Department of Environmental Management as the
33 agency responsible for the operation and maintenance of the
34 Wailuku-Kahului Wastewater Reclamation Facility; and
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36 WHEREAS, as part of this housekeeping action, the
37 Department of Land and Natural Resources has also determined
38 that a new perpetual non-exclusive easement (approximately 8,666
39 square feet) will be issued to the County of Maui, Department of
40 Environmental Management for wastewater force main purposes; and
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1 WHEREAS, with respect to the grant of easement, this action
2 is required because the Department of the Attorney General has
3 further advised that the State of Hawaii no longer creates
4 easements through executive orders; and

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6 WHEREAS, rather, easements must be established by a
7 separate grant of easement document; and

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9 WHEREAS, the perpetual easement will be appurtenant to the
10 site of the sewage treatment plant; and

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12 WHEREAS, the easement is appropriate as it is located on a
13 separate parcel (along Amala Place) from the Wailuku-Kahului
14 Wastewater Reclamation Facility itself, Tax Map Key Number:
15 (2) 3-8-001:119, that is already encumbered by Governor's
16 Executive Order No. 2358 to the County of Maui for public beach
17 park purposes (Kanaha Beach Park); and

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19 WHEREAS, the processing of a new executive order (via
20 cancellation of Executive Order No. 3006 and reset aside) and
21 new perpetual non-exclusive easement were approved by the Board
22 of Land and Natural Resources on January 8, 2021 (PSF No.:
23 12MD-139); and

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25 WHEREAS, the original request to amend Executive Order
26 No. 3006 was initially approved by the Board of Land and Natural
27 Resources in 2017; and

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29 WHEREAS, it is the opinion of the Department of Land and
30 Natural Resources that this request requires prior approval of
31 the Governor and the prior authorization of the Legislature by
32 concurrent resolution; now therefore

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34 BE IT RESOLVED by the Senate of the Thirty-second
35 Legislature of the State of Hawaii, Regular Session of 2024, the
36 House of Representatives concurring, that the Board of Land and
37 Natural Resources is hereby authorized to issue a new executive
38 order (via cancellation of Executive Order No. 3006 and reset
39 aside), and the perpetual non-exclusive easement as described by
40 this Concurrent Resolution, pursuant to sections 171-11 and
41 171-95, Hawaii Revised Statutes; and
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1 BE IT FURTHER RESOLVED that a certified copy of this
2 Concurrent Resolution be transmitted to the Chairperson of the
3 Board of Land and Natural Resources.

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OFFERED BY:



