

MAR 08 2024

SENATE 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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26 WHEREAS, the encroaching portion of the revetment has
27 existed and remained intact since its construction by the United
28 States Army Corps of Engineers in 1979; and
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1 WHEREAS, the County of Maui agreed to resolve the
2 encroachment and submitted a request for state lands application
3 to the Department of Land and Natural Resources to amend
4 Executive Order No. 3006 in July 2016; and
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6 WHEREAS, the Department of Land and Natural Resources has
7 indicated that it considers this action to be a housekeeping
8 measure to correct the oversight of not including the
9 outstanding encroachment area in the survey for the initial set
10 aside (Executive Order No. 3006); and
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12 WHEREAS, as advised by the Department of the Attorney
13 General, instead of amending Executive Order No. 3006, the
14 Department of Land and Natural Resources is now proceeding to
15 cancel Executive Order No. 3006 and will be issuing a new
16 executive order (via cancellation of Executive Order No. 3006
17 and reset aside) for the slightly larger land area totaling
18 19.289 acres (18.755 acres plus the additional area of 0.534
19 acres); and
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21 WHEREAS, the reason for this action is that Executive Order
22 No. 3006 was originally issued to the County of Maui, Department
23 of Public Works, but the County of Maui, Department of
24 Environmental Management is now requesting an update to the
25 executive order; and
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27 WHEREAS, the new Executive Order will be issued to the
28 County of Maui, Department of Environmental Management as the
29 agency responsible for the operation and maintenance of the
30 Wailuku-Kahului Wastewater Reclamation Facility; and
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32 WHEREAS, as part of this housekeeping action, the
33 Department of Land and Natural Resources has also determined
34 that a new perpetual non-exclusive easement (approximately 8,666
35 square feet) will be issued to the County of Maui, Department of
36 Environmental Management for wastewater force main purposes; and
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38 WHEREAS, with respect to the grant of easement, this action
39 is required because the Department of the Attorney General has
40 further advised that the State of Hawaii no longer creates
41 easements through executive orders; and
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S.R. NO. 11

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

3
4 WHEREAS, the perpetual easement will be appurtenant to the
5 site of the sewage treatment plant; and

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7 WHEREAS, the easement is appropriate as it is located on a
8 separate parcel (along Amala Place) from the Wailuku-Kahului
9 Wastewater Reclamation Facility itself, Tax Map Key Number:
10 (2) 3-8-001:119, that is already encumbered by Governor's
11 Executive Order No. 2358 to the County of Maui for public beach
12 park purposes (Kanaha Beach Park); and

13
14 WHEREAS, the processing of a new executive order (via
15 cancellation of Executive Order No. 3006 and reset aside) and
16 new perpetual non-exclusive easement were approved by the Board
17 of Land and Natural Resources on January 8, 2021 (PSF No.:
18 12MD-139); and

19
20 WHEREAS, the original request to amend Executive Order
21 No. 3006 was initially approved by the Board of Land and Natural
22 Resources in 2017; and

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24 WHEREAS, it is the opinion of the Department of Land and
25 Natural Resources that this request requires prior approval of
26 the Governor and the prior authorization of the Legislature by
27 concurrent resolution; now therefore

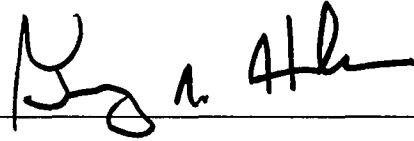
28
29 BE IT RESOLVED by the Senate of the Thirty-second
30 Legislature of the State of Hawaii, Regular Session of 2024,
31 that the Board of Land and Natural Resources is hereby
32 authorized to issue a new executive order (via cancellation of
33 Executive Order No. 3006 and reset aside), and the perpetual
34 non-exclusive easement as described by this Concurrent
35 Resolution, pursuant to sections 171-11 and 171-95, Hawaii
36 Revised Statutes; and



S.R. NO. 77

1 BE IT FURTHER RESOLVED that a certified copy of this
2 Resolution be transmitted to the Chairperson of the Board of
3 Land and Natural Resources.
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OFFERED BY: _____

A handwritten signature in black ink, appearing to be "B. A. H.", written over a horizontal line.