

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

June 4, 2012

Chairperson and Members
Natural Area Reserves System Commission
State of Hawai'i
Honolulu, Hawai'i

Commission Members:

**SUBJECT: Item 6. e. REQUEST TO DENY COMMERCIAL TOURS TO
KA'ENA POINT NATURAL AREA RESERVE, ISLAND OF O'AHU.**

BACKGROUND:

In 1983, Ka'ena Point Natural Area Reserve was designated as a Natural Area Reserve (NAR), making it one of the most highly protected lands under state jurisdiction. By law, all resources within the Reserve are protected from harm or disturbance. The NAR includes rare and endangered natural and cultural resources, including coastal dune ecosystems and talus slopes, and occupies the tip of Ka'ena Point; the remainder of surrounding lands falling under the Division of State Parks and the Land Division.

The entire area of Ka'ena has been heavily used primarily by residents; however by the mid-1990's; guidebooks and the ever-expanding access to websites attracted increasing numbers of visitors to the area. Torrential rains contributed to further deterioration of the road on the Waialua side of the point, prompting a series of public meetings between DLNR staff, island-wide members of the fishing community who use the area, as well as the communities of Waialua and Wai'anae, which serve as gateways to the point. One of the unifying concerns of residents was commercial use; particularly guided commercial tours in vans or buses, and residents on both sides of the point have been consistent in their stance that commercial tours **not** be allowed specifically at Ka'ena; and in fact any requests for such have been denied by the NARS Commission and staff.

Based on concerns in a number of areas, not just Natural Area Reserves, the Department of Land and Natural Resources (DLNR) developed a Hierarchy of Use Policy, which the Board of Land and Natural Resources approved in 1998, which directs DLNR to: 1) protect the resources under its charge first; 2) allow for public use if the resources are not affected; and 3) only allow commercial use if it does not conflict or interfere with resource protection and public use.

RECOMMENDATION:

That the NARS Commission deny approval of proposed commercial tours to Ka'ena by the applicant.

Respectfully submitted,



BETSY HARRISON GAGNÉ , Executive Secretary
Natural Area Reserves System Commission

Attachments: 1

Department of Land and Natural Resources
Division of Forestry and Wildlife
1151 Punchbowl St., Room 325; Honolulu, HI 96813
(808) 587-0063, (808) 587-0064 (Fax)
Application for NARS Special Use Permit



Name: Michael Walther/Oahu Nature Tours

Title of Proposed Activity: Guided eco-tour to Kaena Point

The following activities require a Special Use Permit under HAR §13-209-5. If your work in the Natural Area Reserve (NAR) will involve one or more of the following, please indicate with an 'X' below:

- remove, injure, or kill any form of plant or animal life, except game mammals and birds hunted according to department rules*
- introduce any form of plant or animal life*
- remove, damage, or disturb any geological or paleontological features or substances*
- remove, damage or disturb any historic or prehistoric remains*
- engage in any construction or improvement*
- engage in any camping activity
- establish a temporary or permanent residence
- start or maintain a fire
- litter, or to deposit refuse or any other substance
- operate any motorized or nonmotorized land vehicle or air conveyance in any area (including roads and trails) not designated for its use
- operate any motorized water vehicle of any shape or form in freshwater environments or marine waters, except as otherwise provided by DLNR's boating rules
- enter into, place any vessel or material on, or otherwise disturb a lake or pond
- engage in commercial activities, defined as "the use of or activity on state lands for which compensation is received by any person for goods or services or both rendered to customers or participants in that use or activity"
- have or possess the following tools, equipments or implements: fishing gear or devices (in `Ahihi-Kina`u NAR), cutting or harvesting gear (in any NAR), and hunting gear or tools (except as permitted by the hunting rules of the department)
- hike or conduct nature study **with a group larger than 10**
- presence in an area closed pursuant to HAR §13-209-4.5 or after visiting hours established by §13-209-4.6
- anchor any motorized or non-motorized water vehicle in the marine waters of `Ahihi-Kina`u NAR
- other (please explain): _____

* May require additional State or Federal permits. Applicants are responsible for identifying and securing all approvals that may be required.

** The NARS rules and recent rule amendments can be viewed on-line at <http://www.state.hi.us/dlnr/dofaw/Unofficial%20compilation%20HAR%2013.209.pdf>

***** Please allow for a minimum permit processing time of three months*****

All permits will have the following standard conditions, pursuant to HAR § 13-209-5. Additional conditions may apply.

- 1) The permittee shall adhere to the specifications given in the permit application
- 2) Disturbance of vegetation and wildlife shall be avoided as much as possible
- 3) Precautions shall be taken to prevent introductions of plants or animals not naturally present in the area. The permittee is responsible for making sure that participants' clothing, equipment, and vehicles are free of seeds or dirt to lessen the chance of introducing any non-native plants or soil animals. Should an infestation develop attributable to the permittee, the permittee is responsible for eradication by methods specified by the department
- 4) Once approved, the permit is not transferable
- 5) Once approved, the permit does not exempt the permittee from complying with any other applicable rule or statute
- 6) The State of Hawaii shall be released and held harmless from any and all liability for injuries or death, or damage or loss of property however occurring during any activity related to the permit

I certify that the information contained in this application is true and correct.

Michael Walther
Applicant's Signature

If approved, copies of the permit will be provided to:

- Applicant
- NARS Commission Executive Secretary
- NARS Branch staff
- DLNR-DOCARE

For internal use only:

Application received on: _____

Distributed to District staff for review on: _____

Approval () recommended () not recommended by NARS Commission or authorized representative on: _____ () with the attached special conditions.

() Approved

() Not Approved

Chairperson, DLNR

Date

Applicant Contact Information

You may either enter the information directly onto this form; if you need more space or need to attach additional pages, please indicate that there are attachments.

Name: Michael Walther 551-0258

If you are applying on behalf of an organization, the organization and your title: Oahu Nature Tours-President

Title of Proposed Activity: Ecotour to Kaena Point

Primary contact person for this permit application: Michael Walther

Mailing Address: 1649 Kalakaua Ave. #201, Honolulu, Hawaii 96826

Phone: 551-0258

Fax:

E-mail: natureguide@oahunaturetours.com

Principal local contact, reference, or collaborator: Same as above

Mailing Address:

Phone:

Fax:

E-mail:

Supporting Information

Please provide the following information about your proposed activity that requires a special-use permit ("proposed special-use"). Failure to provide responses to the following questions may result in your application being rejected or taking longer to review and process.

- 1. What is the period of time for which the permit is requested (e.g., the date of a proposed single event or an ongoing research project, from beginning time or date until end of the event or project)?**

One year with renewal. The ecotour would be offered every Sunday only from 8AM-12PM .

** Please note: research permits are limited to one year in length, except where waived for permits to other governmental agencies where the board determines the waiver to be in the best interest of the State. Proposals for multi-year projects are advised of the need to apply for a new permit EACH year.*

2. **List the individual Natural Area Reserve(s) involved:** *Please note that Laupahoehoe is now has an overlay under the jurisdiction of the US Forest Service as part of the Hawai`i Experimental Tropical Forest (HETF). Applicants wishing to work in this Natural Area Reserve will need to apply for a separate permit by going to http://www.hetf.us/page/conducting_research/ You will **not** need to submit an additional application fee, but you will have to have it pass thorough the HETF review process. Permits are issued off of the Big Island DOFAW Branch.*

Kahauale`a is currently closed due to continuing volcanic activity; entry is prohibited, but may be granted under special use request made directly to the Big Island NARS Manager an disused off of the Big Island DOFAW Branch (also subject to approval of Hawaiian Volcano Observatory to insure safety).

*The majority of `Ahihi-Kina`u is closed to public access; entry for research or other purposes may be made under a Special Use Permit.
Kaena Point NAR.*

3. **Attach a map that illustrates where in the Natural Area Reserve(s) you propose to conduct your special-use.** *The map should be legible and reproducible in black and white. The map should also be at the appropriate scale for the type of activity proposed and of sufficient detail to allow the Division to identify activity sites within 10 meters. For any activity off established trails, entry and exit routes should be marked. Our group of 12 or less would follow the established trails inside the NAR.*

4. **Provide a thorough and detailed description of the proposed special use, including field assistants and other collaborators.** *The description should be detailed enough so that those reviewing your application understand what you propose to do and the scope of your proposal. As part of your description, please include: a) a description of the planned method of transportation to and within the Natural Area Reserve, and b) if other people than you will participate in the proposed special-use, please note how many people, and whether they are volunteers, students, research assistants, paying customers, etc.*

To provide a educational eco-tour for up to 12 guests every Sunday from 8AM-12PM. Guests would be instructed about the ecology of the Kaena Point area and learn all about the native birds, plants and animals found there. Guests wouls also be informed of the restoration efforts taking place to help conserve native species.

For research proposals,

- a) please explain your objectives, your methods, and why the proposed special-use is necessary to your research;*
- b) if the research is part of your undergraduate or graduate studies, please include the name and affiliation of your major professor;*
- c) if you are seeking permission to remove or introduce any form of plant or animal life, please list all species involved and specifically identify which are threatened, endangered, or candidate species.*

- d) *if you are seeking permission for the collection of any specimens, please note type of specimen (species and parts collected, if less than entire specimen), quantities to be collected, storage methods, and ultimate disposition.*

Failure to provide sufficient information may result in your application being returned for additional information or rejected. Please feel free to attach additional sheets as necessary.

5. Please answer the following questions about your proposed special use:

- a. Can your proposed special use be conducted elsewhere? If not, why not?**

No. Kaena Point NAR has the best remaining native coastal plant community and the only Laysan albatross colony on Oahu. The restoration efforts at this reserve are unmatched on Oahu.

- b. Is your proposed special-use consistent with the purpose and objectives of the Natural Area Reserves System (the purpose and objective of the NARS is to protect in perpetuity specific land and water areas which support communities, as relatively unmodified as possible, of the natural flora and fauna of Hawai`i)? If so, how?**

Yes. Our guide educational ecotour is meant to inform both visitors and residents about the very special flora and Fauna found at Kaena NAR. We are no different in our approach than the Sierra Club or Audubon Society except that we are a for profit entity. Our mission is environmental education and protection.

- c. Is your proposed special-use consistent with the management plan developed for the individual Reserve(s) (*Management plans are available for review at www.dofaw.net/nars or by contacting the NARS office*)?**

Yes.

- d. Does your proposed special-use provide a benefit (direct or indirect) to the Natural Area Reserves System or to the individual Reserve(s) or both? (*For research, please note whether any studies have previously been made similar to the one proposed and how you will convey your research findings to the Department*).**

Yes. By allowing one ecotour per week into the Kaena Point NAR both residents and visitors to Hawaii will be informed about the NAR program and Kaena Point NAR in particular. I propose a \$5.00 per person fee to be paid to the NAR

program that would be used by DLNR NAR to help further conserve Kaena Point's fragile ecosystem. We currently pay Na ala Hele \$5.00 per person to use the state trails. Please contact Mr. Aaron Lowe at Na Ala Hele for further information.

- e. Will the proposed special-use damage or threaten to damage the integrity or condition of the natural, geological, or cultural resources in the individual Natural Area Reserve(s) and adjacent area or region? If so, how? If not, why not?**

No. all guests would receive a thorough education re the NAR fragile flora and fauna and be under continuous supervision at all times with all NAR rules strictly enforced.

- f. Does the proposed special-use comply with the provisions and guidelines contained in HRS Chapter 205A, entitled 'Coastal Zone Management,' where applicable? HRS Chapter 205A can be accessed at: http://www.capitol.hawaii.gov/hrscurrent/Vol04_Ch0201-0257/HRS0205A/ Yes.**

- g. Have you (the applicant) previously received a NARS Special Use Permit? If so, did you comply with the conditions of any previously approved permit (including providing a final report as requested)?**

No.

- h. Do you (the applicant) have any other current NARS special-use permits? If so, please list and state whether you are currently in compliance with the conditions of those permits.**

No.

- 6. Is the proposed special-use expected to have an environmental impact on the Natural Area Reserve(s) or the surrounding area? If, so please elaborate. If not, why not? Please include discussion of any off-trail work, such as mist-netting, setting of traps, removal of vegetation, etc. and any measures planned to mitigate any short and long-term damage.**

No. all guests will enter and exit on established NAR trail only and be supervised at all times.

- 7. There is an application fee of \$50 to cover the cost of processing; please attach a check made out to: *Department of Land and Natural Resources*. Please mail a hard copy of the application with original signature (students must also have the signature of their Advisor. This should be mailed to the attention of: Executive Secretary, Natural Area Reserves System Commission, Division of Forestry and Wildlife, Department of Land and Natural Resources, 1151 Punchbowl Street, Room 325, Honolulu, HI 96813. An electronic version of the application (signed or unsigned) may be e-mailed to betsy.h.gagne@hawaii.gov so that it may be sent out for review to appropriate staff and others.**

- 8. For research proposals, please list any local collaborators or contacts (if any).**

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