

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

October 16, 2018

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

NARS Commission Members:

SUBJECT: REQUEST TO RECOMMEND TO THE BOARD OF LAND AND NATURAL RESOURCES APPROVAL TO RESTRICT ACCESS TO PORTIONS OF THE 'ĀHIHI-KĪNA'U NATURAL AREA RESERVE, MAUI, FOR A PERIOD OF UP TO TWO YEARS, PURSUANT TO HAWAII ADMINISTRATIVE RULES § 13.209-4.5, TAX MAP KEYS: 2-1-4:073 (PORTION) AND 2-1-004:113.

BACKGROUND:

In 1973, 'Āhihi-Kīna'u was designated 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 anchialine pool ecosystems, near-shore marine ecosystems, lava flow formations and their associated habitats, extensive intact Hawaiian cultural and historic sites, as well as remnant native coastal dry shrublands and forests. At the time the area had little or no visitation.

By April 2004, growing numbers of people in the area led to user conflicts between the public and commercial activity, in particular, commercial kayak tours. Responding to concerns about unregulated commercial activity, and apparent over use by the public of sensitive natural and cultural resources found there, the Department of Land and Natural Resources (DLNR) formed the 'Āhihi-Kīna'u Natural Area Reserve/ Keone'ō'io Advisory Group (AKNAR/KAG) to act as a public forum and to provide advice to management decision-making. After meeting with the AKNAR/KAG, the Natural Area Reserves System Commission (NARSC), and the public, the DLNR in 2004 prohibited all commercial activity in the NAR and neighboring Keone'ō'io (La Perouse Bay). This decision was based on a DLNR Hierarchy of Use Policy (1998) which directs DLNR to protect the resources first, allow public use second, and allow commercial use third, and only if it does not conflict or interfere with public use and resource protection.

Later in 2004, DOFAW secured a grant from the Hawai'i Tourism Authority (HTA) to increase management capacity at 'Āhihi-Kīna'u. This grant funded two Rangers to support a dedicated on-site presence. A separate grant to the Hawai'i Wildlife Fund supported the presence of naturalists to provide information for visitors to the Reserve. During this time, human use studies, a cultural resources study, and natural resources surveys were conducted in order to document the health and status of the resources and any changes that may have occurred after the ban on commercial activity. These studies showed that user numbers did not significantly decrease after the ban and negative impacts to protected resources were still occurring.

In order to address the continuing concerns about resource damage and negative impacts by visitors, the AKNAR/KAG then recommended restricting all public access to Cape Kīna'u because natural and

cultural resources were being trampled and degraded by misguided users who were hiking out on unmarked trails to go snorkeling. The NARSC approved the Advisory Group's recommendation, and voted unanimously in 2005 to recommend to the BLNR an immediate restriction of public access to this area. Before the recommendation was forwarded to the BLNR, however, the Attorney General advised that the Department did not have the legal authority to take such action.

The NARS Administrative Rules were then amended, effective January 2007, and, among other things, specifically authorized the Department to close areas or restrict access to protect natural, geological or cultural resources or public safety to portions of, or an entire NAR, for a period of up to two years at a time.

On August 1, 2008, with approval from the NARSC and BLNR, staff restricted access to portions of 'Āhihi-Kīna'u NAR. During those two years, the 2008 Action Plan was implemented resulting in the successful execution of baseline surveys for geological, coastal, marine, anchialine, and cultural resources. Human activity was also monitored by rangers.

After analyzing the data from the resource surveys, it became clear that some of the resources in the restricted areas were showing improvement. Endangered birds were utilizing areas of the Reserve that they had never been recorded in, most likely due to impacts of the high human use before the restrictions. Breeding success showed improvement and new species of migratory birds appeared in the Reserve for the first time. Green sea turtles were also recorded basking on beaches in one of the restricted areas on a consistent basis. Previous to the 2008 restrictions, turtles had never been recorded in these popular recreational areas. Hawaiian Monk Seals have also hauled ashore to rest in the same areas.

In addition to conducting resource and human surveys, staff also worked with The Nature Conservancy of Hawai'i to develop a management plan for the Reserve to guide conservation efforts and to communicate management goals and objectives to constituents and partners. Ten community meetings were held to gather expert input and suggestions. The management plan includes long term goals as well as an implementation plan, to guide short term management. The management plan was recommended by the NARSC and subsequently approved by the BLNR in 2012.

In addition to addressing the threats posed by human activity to the natural resources of the Reserve, the management plan also recognized that resources and public safety may be impacted by the possible presence of unexploded ordnance (UXO) in the Reserve. In fact, staff did find UXO, resulting in a U.S. Army Corps of Engineers (USACE) Site Investigation (SI) in 2008, that concluded there was sufficient justification to have USACE proceed with a more detailed Remedial Investigation (RI) across the Reserve to determine the hazard level in this area. The Reserve was formerly part of the Kanahena bombing range used for target practice during World War II and is officially referred to by USACE as the Maui Bombing Targets-Kanahena project site.

The RI field survey was completed in 2011, with reports and meetings with staff and others in 2012. The Final RI report was presented in a meeting in early 2013 and concluded that significant hazards still exist, rated at a Hazard Level 2 due to historical findings of UXO in portions of the Reserve, and need to be addressed through the follow on Feasibility Study (FS) process, necessitating this request for continued closure of the area, with restricted access, until long term solutions can be identified. The FS is evaluating potential future courses of action for the project site such as a UXO removal plan, institutional controls, and/or other suitable remedies based on what was learned during the RI. The FS will be ongoing through the next two years; until an agreement between DLNR and USACE is reached that will provide long term remedies to both protect the resources and address any remaining safety concerns for staff and the public. USACE remediation projects follow CERCLA (Comprehensive Environmental Response, Compensation and Liability Act) guidelines used by the U.S. Environmental Protection

Agency. These include Phase 1: Site Investigation (completed in 2008); Phase 2: Remedial Investigation/Feasibility Study (Completed June 2018); and Phase 3: Remedial Action to complete the process (Completion planned for September 2018).

ANALYSIS:

The Division of Forestry and Wildlife (DOFAW) requests continued closure of portions of 'Āhihi-Kina'u NAR to allow time for addressing how to continue to protect the natural resources of the NAR now that the UXO removal work has been accomplished. Actions outlined and described are deemed essential to ensure the long-term viability of the unique high-quality ecosystems, geologic landscape and cultural sites found there, as mandated by HRS §195-1. The UXO removal resulted in the recommendation of possible remedies that will help DOFAW determine how much and what types of human use can be allowed in the Reserve that will not negatively impact the natural or cultural resources, put anyone at risk from possible undetected UXO found there, or diminish the overall value of the Reserve. The public will have the opportunity to review and offer in-put as part of the considerations for how and where to protect the NAR resources and allow for public use, being certain that negative impacts will not accrue. Some proposed actions may necessitate UXO training for staff, or clearing of specific trails and other areas, particularly cultural sites, during this next requested closure period.

The 'Āhihi-Kina'u NAR/Keone'ō'io Advisory Group has endorsed this process, and members present had no objections to the continued closure of the portion of Reserve at its March 24, 2016 meeting on Maui. While this process is ongoing, staff continues to follow the Implementation Plan and Management Plan approved by the Board of Land and Natural Resources October 12, 2012.

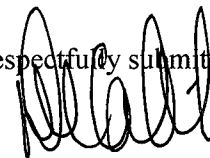
The Natural Area reserves System Commission approved the continued closure at its April 6, 2016 meeting and recommended that the Board of Land and Natural Resources approve the proposed closure extension of up to two years of access restriction to portions of 'Āhihi-Kina'u Natural Area Reserve, Maui, from August 1, 2016 through July 31, 2018. The date of the renewed closure will be determined by the Board of Land and Natural Resources. The Division is enacting temporary closures during the interim period while the Commission and Board review this proposal.

The most popular and easily accessed portions of the Reserve would continue to remain open for public use during current visiting hours (5:30 a.m. – 7:30 p.m.) as they have for the previous two years, but other more remote and sensitive areas would continue to remain closed to the general public for reasons cited above.

RECOMMENDATION:

That the Commission recommend to the Board of Land and Natural Resources approval to restrict access to portions of the 'Āhihi-Kina'u Natural Area Reserve, Maui, for a period of up to two years, pursuant to Hawaii Administrative Rules § 13.209-4.5, Tax Map Keys: 2-1-004:073 (portion) and 2-1-004:113.

Respectfully submitted,



DAVID G. SMITH, Administrator

Attachments: Maps

AHIHI-KINAU
 NATURAL AREA RESERVE

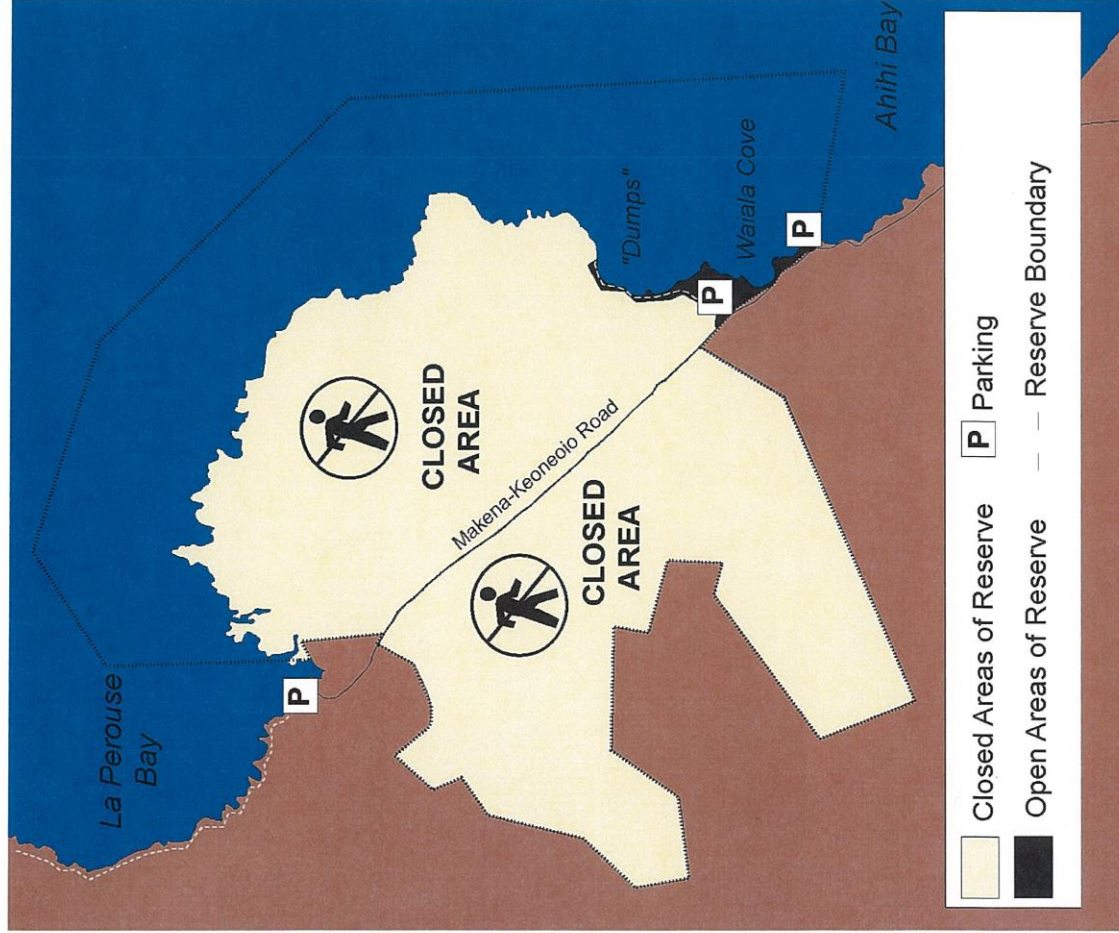
NOTICE
 Areas Closed

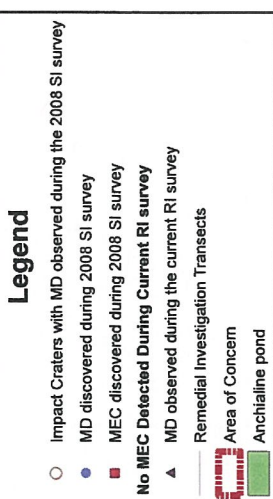
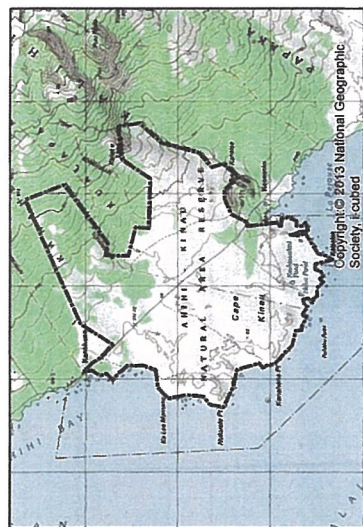
Public access to portions of
 Ahihi-Kinau Natural Area Reserve
 has been restricted to address
 impacts occurring to the resource;

Please *Kokua* and
 do not enter closed areas.

HRS §13-209-4(16) If present in closed area,
 violators may be cited and/or arrested.
 Convictions shall result in a misdemeanor
 and fines up to \$1,000 and/or up to a year in jail.

STATE OF HAWAII - DLNR
 DIVISION OF FORESTRY AND WILDLIFE (984-810)





Area of Concern

Figure 7-1

