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GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

ref:OCCL:RB

File No: Loko I'a: KA-22-1

Sara Bowen, Executive Director
Hui Malama Hule'ia
PO Box 662092
Līhu'e, Kaua'i HI 96766

Jun 17, 2022

Dear Ms. Bowen,

SUBJECT: LOKO I'A PERMIT KA-22-1: 'ĀLAKOKO
Hulē'ia, Puna, Kaua'i
Tax Map Key (4) 3-2-001:001

The Office of Conservation and Coastal Lands (OCCL) has reviewed your application regarding proposed restoration work at the Alakoko Fishpond on the above subject parcel. The pond is in the Resource and Limited subzones of the State Land Use Conservation District.

The 40-acre fishpond is on private land owned by Hui Malama Hule'ia and managed by the same entity.

Alakoko fishpond is a kuapā style loko i'a on the Hulē'ia River in Kaua'i, approximately 1,000 meters upstream from Nāwiliwili Small Boat Harbor in Līhu'e, Kaua'i. Permit KA-18-01 removed 26 acres of mangroves; currently, the pond is closer to its original size of 40 acres except for sediment that is being proposed to be removed and the wetlands that will be kept in place as a bird habitat.

The fishpond sits in a historic geomorphic bend in the Hulē'ia River with an ancient Hawaiian rock wall creating the pond. There is a stone-faced dirt wall of over 2,700 lineal feet which cuts off a large bend in the river. The pond is surrounded by estuarine intertidal wetlands; the water level is tidally influenced and brackish. There are two known mākāhā: a smaller one at the downstream end of the wall, and a larger one towards the center.

Mangrove removal has stopped further destruction of the rock wall; however, the wall is vulnerable to further damage by erosion and needs to be repaired and adapted to sea level rise along with elemental and human erosion.

The current application proposes to clear organic debris and sedimentation that accumulated over decades of mangrove invasion and to stabilize and restore the historical kuapā (fishpond wall).

The steps involved for wall stabilization are as follows:

1. Collect fallen rocks from the wall/existing sites. Original rock material will be given priority for use.
2. Obtain additional rock material from sources with collaborative 'aina based organizations and the rock quarry at Halfway Bridge.
3. Stabilization will start downstream from the rock wall; original stones will be reset using traditional Hawaiian dry-set masonry. Additional rocks will be brought to the site with via an ATV until highwater mark level is reached. Dry-set stone building will continue along the length of the wall moving upstream with the exception of the two wall breaches; these will be filled and finished last to accommodate the interior work.
4. Simultaneously, sediment will be placed along the interior wall. Approximately 1,800cy of sediment will be scooped from the mangrove removal area in the fishpond and placed on the earthen slope of the kuaauna portion of the wall, ~2,700 lineal feet to dry. Once earthen material has reached optimal moisture content, it will be shaped and compacted with a mini-excavator and bucket attachment.

The steps involved to clear and manage organic debris and sedimentation are as follows:

1. Establish elevations; mark the cut/fill transitions/boundaries with stakes.
2. Set silt curtains.
3. Sediment portion to be used for wall stabilization will be scooped and placed along the wall.
4. Sediment/debris in the area clogging downstream fishpond end will be scooped and hauled to an upland area to be dried and incorporated into an upland native plant restoration project.
5. Some sediment mounds will be left in place (elevations slightly higher than high water mark) and planted with native vegetation for bird habitat and in-pond shading, as a test methodology.
6. Approximately 1,300cy of sediment will be redistributed to reinforce the kuaauna that separates the 'auwai (freshwater ditch) from the fishpond.

Mechanized equipment is proposed for the current project. An all-terrain vehicle (ATV) with a dump bed is proposed to haul pōhaku (rocks) along the length of the wall. An amphibious excavator (JD 160G) will be used to scoop sediment (excess accumulation from mangrove overgrowth) from the pond and will place it along the kuaauna (earthen bank, fishpond wall side) to dry out. Lastly, a mini-excavator (T-740 – 10,000 lb. w/18ft boom and 78-inch outside track

width) will sit on top of the kuaauna to spread and shape the sediment material once it has reached optimal moisture content.

Best management practices will be followed throughout the project. An archaeological survey was completed, and a protection plan was developed for the fishpond wall and the proposed stabilization work. Proposed work will be timed for optimal tidal conditions: optimal conditions are when the tide is low, and sediment is exposed. Silk curtains will be used at all fishpond openings to contain any potential sedimentation in the water; turbidity will be monitored at fishpond openings. Additionally, the Endangered Species Act, Section 7 guidelines developed for the first phase of the fishpond restoration (mangrove removal) project will be followed, including monitoring for waterbirds.

OCCL requested comments on the proposal from the DLNR's Land Division, Division of Aquatic Resources, Division of Forestry; the Office of Hawaiian Affairs; Kua'āina Ulu 'Auamo; Kaua'i Planning Department; USACE; NOAA Fisheries, Pacific Islands Regional Office; Department of Health, Environmental Planning Office; and United States Fish and Wildlife Services (USFWS).

Comments received are as follows:

United States Fish and Wildlife Services (USFWS)

- **Left in place sediment mounds (test sites):** recommend re-planting of native vegetation for stabilization and general habitat restoration as a key component in reducing the loss of sediment damage from stormwater runoff as the mangroves are removed.
- **Hawaiian hoary bat:** may occur or transit in the proposed project's vicinity, the following is proposed: do not disturb, remove, or trim woody plants greater than 15 feet tall during the bat birthing and pup rearing season (June 1 through September 15); and do not use barbed wire for fencing.
- **Hawaiian seabirds:** the following may occur or transit in the proposed project's vicinity, endangered Hawaiian petrel; threatened Newell's shearwater; and endangered Hawaii district population segment (DPS) of band-rumped storm-petrel. The following is proposed: fully shield all outdoor light bulbs so the bulb can only be seen from below bulb height and only use when necessary; install automatic motion sensor switches and controls on all outdoor lights or turn off lights when human activity is not occurring in the lighted area; and avoid nighttime construction during the seabird fledging period, September through December.
- **Hawaiian waterbirds:** the following may occur or transit in the proposed project's vicinity, endangered Hawaiian stilt, Hawaiian coot, Hawaiian gallinule, and Hawaiian duck. The following is proposed: in areas where waterbirds are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site; if

water resources are located within or adjacent to the project site, incorporate applicable best management practices regarding work in aquatic environments into the project design; and have a biological monitor, that is familiar with the species' biology, conduct Hawaiian waterbird nest surveys where appropriate habitat occurs within the vicinity of the proposed project site prior to project initiation. Repeat surveys again within 3 days of project initiation and after any subsequent delay of work of 3 or more days.

State of Hawaii, Department of Land and Natural Resources, Division of Forestry and Wildlife

- **Hawaiian hoary bat**: could potentially occur in the project area's vicinity. Any required site clearing should be timed to avoid disturbance to bats between June 1 through September 15. Additionally, during this period woody plants greater than 15 feet tall should not be disturbed, removed, or trimmed. Barbed wire should be avoided for any construction.
- **Artificial lighting**: can adversely impact seabirds. For nighttime work, DOFAW recommends that all lights used be fully shielded to minimize impacts. Nighttime work that requires outdoor lighting should be avoided during the seabird fledging season from September 15 through December 15.
- **Waterbirds**: the Hawaiian duck, Hawaiian Stilt, Hawaiian Coot, Hawaiian Common Gallinule, and Hawaiian Goose could potentially occur in the proposed project area vicinity. It is against State law to harm or harass these species. If any of these species are present during construction activities, then all activities within 100 feet should cease, and the bird should not be approached. Work may continue after the bird leaves the area of its own accord.
- **Plant or soil material movement**: it is recommended that movement of plants and soil be minimized between work sites, such as fill. Soil and plant material may contain invasive fungal pathogens, vertebrate and invertebrate pests, or invasive plant parts that could harm the native species and ecosystems. All equipment, materials, and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species. Gear that may contain soil, such as work boots and vehicles, should be thoroughly cleaned with water and sprayed with 70% alcohol solution to prevent the spread of Rapid 'Ōhi'a Death and other harmful pathogens.
- **Rapid 'Ōhi'a Death**: if 'ōhi'a trees are present and will be removed, trimmed, or potentially injured DOFAW requests that the information and guidance at the following website be reviewed/followed: <https://cms.ctahr.hawaii.edu/rod> .

After reviewing the information, the OCCL finds that:

1. The proposed work at the Alakoko Fishpond is consistent with the statewide programmatic general permit for restoration, repair, maintenance, and operation of loko i'a (Conservation District Use Permit ST-3703:Ho'āla Loko I'a), as approved by the Board of Land and Natural Resources on June 27, 2014;
2. The activities described were covered in the Final Environmental Assessment (FEA) and Finding of No Significant Impact (FONSI) for the Ho'āla Loko I'a program, which was published on October 23, 2013;
3. The proposal requires the need for a Tier 3 Loko I'a permit signed by the Chair of the Board of Land and Natural Resources;
4. The State Department of Health water quality certifications are waived pursuant to Hawai'i Revised Statutes (HRS) Chapter 342D WATER POLLUTION §6.5 Hawaiian loko i'a (b) *The department shall waive the requirement to obtain water quality certification under this chapter for any person that has received notice of authorization to proceed from the Department of Land and Natural Resources Office of Conservation and Coastal Lands under the statewide programmatic general permit for the restoration, repair, maintenance, and operation of loko i'a;* and
5. That the permit conditions found in Hawai'i Administrative Rules (HAR) §13-5-42 and Loko I'a Permit KA-18-01 continue to apply, and do not require further amendment.

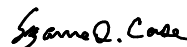
After review of the proposed project, the Department finds that the proposed work will not negatively impact water quality, endangered or threatened species, archaeological and cultural resources, provided that the permittee implement appropriate mitigation measures, and therefore, authorizes a Tier 3 Loko I'a permit for organic debris and sedimentation clearing and historical kuapā stabilization and restoration at Alakoko Fishpond Hule'ia, Puna, Kaua'i, TMK (4) 3-2-001:001, subject to the following standard conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee shall implement and sustain throughout the duration of the work all applicable best management practices described in the Ho'āla Loko I'a Permit Application Guidebook as well as those mitigation measures outlined in the permittee's application;
3. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act of omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
4. All best management practices outlined in the permit application shall be incorporated as conditions of the permit;

5. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
6. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
7. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
8. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawai'i, and by Hawai'i statutory and case law;
9. Should historic remains such as artifacts, burials or concentration of charcoal be encountered, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD (808-692-8015) which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
10. Other terms and conditions as prescribed by the chairperson; and
11. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty days. Should you have any questions feel free to contact Rachel Beasley at (808) 798-6481.

Sincerely,



Suzanne D. Case, Chairperson
Board of Land and Natural Resources



Receipt acknowledged:

Permittee's Signature

Date _____