

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

180-Day Exp. Date: February 20, 2021

February 12, 2021

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Conservation District Use Application (CDUA) MA-3870
For After the Fact Public Purpose Recreational Land Use

APPLICANT Kīhei Canoe Club
LANDOWNER: MP West LLC.
AGENT: Rory Frampton

LOCATION: Kalepolepo, Kīhei, Waikapu, Maui
Tax Map Key: Portion of (2) 3-8-005:003

Area of Use: 26,485 ft²
SUBZONE: Protective

BACKGROUND:

Kīhei Canoe Club (KCC), a nonprofit corporation under HRS 414D, obtained a license agreement with landowner, MP West LLC. to use the site for recreational canoe paddling purposes. In 2010, the KCC began to clean and clear the property of debris, invasive plants and weeds and began to make minor improvements to the land. Native vegetation such milo and naupaka were introduced and ‘aki’aki grass and pohuehue naturally flourished after invasive plants were removed. The cleanup was mostly by hand or using handheld tools.

A gate was installed, and boulders were placed along the mauka/highway side of the property to block entry of vehicles to the site. A pathway to the ocean was designated and a hula mound was constructed utilizing rocks to form a low stacked wall with fill and grass planted interior. A large pohaku was brought to the site to be placed near the hula mound and a portable canoe hale [26’ long x 6’ wide x 8’4” high] on posts were also introduced to the site.

Upon realizing that authorization for land uses were required, the Kihei Canoe Club notified the Department to resolve matters and requested to apply for after the fact land uses in the Conservation District. KCC was fined \$500.00 and was required to remove the improvements or obtain an After the Fact Conservation District Use Permit.

ITEM K-1

DESCRIPTION OF AREA (EXHIBITS 1, 2, & 3)

The project area noted as Kalepolepo, exists on the south Maui coast along Mā‘alaea Bay, on the shores of Keālia Beach adjacent to North Kīhei Road. Keālia Pond National Wildlife Refuge is across the road to the north with central Maui beyond, Haleakala to the east, Keālia Resort is down the road to the south, Mā‘alaea Bay to the west.

Parking is available along the road. There are no utilities servicing the property. The site is made up of beach sand and the topography is relatively flat with a elevation of 8-9 feet above sea level. There are no wetlands on the property.

The property’s location adjacent to the ocean offers ease of access for canoes and other light watercrafts. The site may be subject to coastal processes. Shoreline erosion maps developed by the University of Hawai‘i suggests that erosion along the shoreline is moderate with a estimation of 0.7-ft/year. The site is within Zone VE, a coastal flood zone with velocity hazard (wave action). The applicant is aware the project area is subject to coastal hazards.

There are no rare or endangered flora or fauna on site. Sea turtles are known to occasionally rest along the shoreline. Native pohuehue and ‘aki‘aki grass have rejuvenated since the area has been cleared of invasive species. Native shoreline plants have been introduced to the site. Common coastal plants found along this shoreline include Kiawe, Naupaka, Pōhuehue and ‘Aki‘aki grass. It is expected that common urban mammals (dog, cat, rat) and avifauna (mynah bird, doves, sparrows) may visit the site. Endangered, threatened, or listed marine animals such as the Monk Seal, Hawksbill and Green Sea Turtle may also visit the site and endangered, threatened, or protected avifauna (Shearwaters, Petrels) may fly over the site.

Based upon studies by the Keālia Pond National Wildlife Refuge, no archaeological items or sites have been encountered in the area. Suitable areas of habitation or cultural activities may have been eliminated or impacted by amphibious landings during World War II.

AFTER the FACT and PROPOSED USES (Exhibit 4)

The existing site improvements previously noted are the subject of this after the fact request along with additional improvements. According to the applicant, more secure storage space is needed. Proposed additional storage facilities would consist of 2 storage containers 40’ x 8’ side by side near the existing storage hale. Miscellaneous equipment and canoe related items would be stored in the containers.

The application states the containers will have sufficient holes in them to allow the container to sink in the event of a tsunami as per County of Maui recommendation. Solar powered lights and closed-circuit cameras will be installed for security purposes. Camouflage painting and landscape plantings will minimize visual impacts from the road or from the beach. A portable water tank will be brought to the site as necessary to assist with on-site irrigation for newly planted areas. Two new gates will be installed to allow vehicles to drive into the site to load and off-load canoes.

An on-grade landscape feature referred to as a ‘House of stars’ that will be used to teach celestial navigation and will consist of flat rocks and stones. A sea turtle fence is proposed

to be extended along the border with North Kihei Road. The fence will be an extension of the fence installed by Maui Canoe Club on the adjacent site to the north. The fence will be designed in consultation with the USF&WS.

According to applicant, the site will be used by KCC to promote outrigger canoe paddling. KCC has over 500 members and has outgrown its primary site down the road. The club needs more space to store canoes and other watercrafts and to accommodate community programs. By shifting some activities and storage needs to this site will allow KCC to expand their programs and balance the uses at their exiting site.

The primary proposed use of the site is for storage of outrigger canoes to be used daily by members. The canoes will be stored inland of the high-water mark on portable cradles or used car tires. Canoes are to be transported from their resting area to the shore by hand or by means of "Big Foot" dollies to minimize the contact of the canoe and ground.

The site would also be utilized as an open-air learning center for KCC and the public. Other programs at the site would include practicing oli, hula, paddling, star gazing and navigation, stand up paddling, surfing and over-night camping.

Dune Preservation and Maintenance Plan (Exhibit 5)

A Dune Preservation Plan has been developed with Sea Grant's Coastal Dune Restoration and Management Coordinator. The main goal of the plan would be education in addition to dune preservation and maintenance. There are five components of the Plan:

- Remove invasive species;
- Protect/encourage native coastal plants: 'aki'aki and pōhuehue;
- Manage access over dune area by identifying pathways for canoe transport;
- Store canoes on mauka portion of property away from coastal dune; and
- Member education-page on website regarding importance of the dune preservation and best management practices.

A site plan has been developed identifying public access and canoe access ways to minimize vegetation disturbance. Other practices would include bringing in canoes single file for storage and no storage on coastal vegetation. Signs regarding dune and coastal plants developed with Sea Grant are also proposed.

Landscaping consists of coastal varieties adapted to the area that require minimal or no irrigation or fertilizer. As previously stated, members of KCC have planted some native plants in the area including milo and naupaka. The existing coastal plants along the shoreline consist of mostly pōhuehue and are well established.

SUMMARY OF COMMENTS

The Office of Conservation and Coastal Lands referred this application to the following agencies for review and comment: the Federal- US Fish & Wildlife Service; the State-Office of Hawaiian Affairs; the Office of Environmental Quality Control; the Department of Land and Natural Resources Divisions of: Aquatic Resources, Conservation and Resource Enforcement, and the Maui District Land Office; the County of Maui Department of Planning. In addition, the CDUA was also sent to the nearest public library, the Kīhei

Public Library to make this information readily available to those who may wish to review it. Further the CDUA and HRS, 6E Form was forwarded to the Historic Preservation Division for their review.

Comments were received by the following agencies and summarized by Staff as follows:

FEDERAL

US Department of the Interior-Fish and Wildlife Services

Our comments are provided under the authorities of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*).

There are sixteen listed species in the immediate vicinity of the project area: The federally endangered Hawaiian hoary bat; the threatened Nene; the threatened green sea turtle; the endangered hawksbill sea turtle; the endangered Blackburn's sphinx moth; the endangered Hawaiian yellow-faced bee; the endangered Hawaiian coot; the endangered Hawaiian duck. Additionally, the endangered Hawaiian petrel, the endangered band-rump storm petrel, and the threatened Newell's shearwater may transit the area flying to the uplands breeding colonies. Wedge-tailed shearwaters, a non-listed species that is protected under the Migratory Bird Treaty Act, may also occur in the coastal area adjacent to the project.

Staff notes: The US Fish & Wildlife Services has identified recommended measures to avoid and minimize potential impacts to listed species and recommended standard Best Management Practices that has been included as **Exhibit 6**.

Applicant's response

Given the limited scope of improvements and ground altering activities many of the comments and suggested mitigation measures are not applicable since they appear to be intended for project with significant construction activities.

Regarding the Hawaiian hoary bat, no trees over 15-feet will be cut down during the bat birthing and pup rearing season. No barbed wire or fencing is proposed.

Regarding the Hawaiian goose, individuals will not approach, feed, or disturb the Nene. Work will be delayed if Nene are within the project site until they leave.

Regarding the green and hawksbill sea turtles, there will be no construction on, or in the vicinity of, beaches that alter the natural beach profile or vehicle use on or modification of the beach/dune environment. Native dune vegetation will not be removed. There will be no nighttime work and lighting will be automated and not directed towards the beach. A turtle fence or barriers will be placed alongside the mauka portion of the leased area to prevent turtles from going onto the road.

Regarding the wedge-tailed shearwater, no wedge-tailed shearwaters nests appear to be in the small footprint of the shipping containers and there will be very limited ground disturbance. Security lighting will be automated and not directed towards the beach.

Regarding the Blackburn's sphinx moth. There is no presence of the non-native tree tobacco or the native 'aiea plant within the site.

Regarding the Hawaiian petrel., Newell's shearwater, and band-rumped storm petrel. Security lighting will be automated and not directed towards the beach or sky.

Regarding the Hawaiian yellow-faced bees, the project site is located on a sandy beach and your letter indicates that this is not habitat for the bees.

Regarding the Hawaiian stilt, Hawaiian coot, and Hawaiian duck, there are no wetland habitats within the site that is approximately .5 -acre in size. There will be very little new landscape plantings. Irrigation will be minimal and would only occur as needed as plants will be coastal varieties adapted to the area. For the last 10 years, there has been no evidence of ponding due to rainfall events on the site.

The project will not receive federal funding, federal permits, or any federal authorization, therefore it is our understanding there will be no need for Section 7 consultation.

STATE

DEPARTMENT OF LAND AND NATURAL RESOURCES

Division of Aquatic Resources

Hawksbill turtle (*Eretmochelys imbricata*) nesting has been occurring from 1996-2015. There have been no nesting by the shoreline used by Kihei Canoe Club. The club and beach users have helped keep the shoreline clean and clear of debris.

They and community volunteers have helped during times of whale stranding's. Working with the Maui Ocean Center, stranded animals have been transported from Kealia to the Ocean Center (October 2019). We fully support organized canoe paddling, open public access, and responsible maintenance of the beach and shoreline.

Applicant's response

Thank you for noting that while the Hawksbill turtle nesting has been occurring from 1996-2015, there have been no nesting by the shoreline used by KCC. The club has consulted with USFWSW and will be constructing turtle barriers to prevent turtles from getting onto North Kihei Road.

The Club appreciates DAR's support of canoe paddling, open public access, and responsible maintenance of the beach and shoreline. The site will include a Dune Preservation and Management Plan and public access to the beach will also be provided.

Office of Conservation and Coastal Land

Please discuss the turtle fencing and mitigative efforts that would be undertaken should endangered, threatened, or listed species visit or utilize the site. Describe the vegetation proposed to be planted on the site.

Applicant's response

The existing large boulders are large enough to provide an effective barrier. Gaps between boulders are less than 24". If any boulders get pushed or moved by members of the public, the Club will reposition the boulders so that the gaps are less than 24". Trex recycled material will be used for the remaining areas. Fencing will match the existing fence details along portions of North Kihei Road north of the project site.

Please see our response to the Department of Interior Fish and Wildlife Services regarding mitigation for endangered, threatened, or listed species as applicable.

Regarding your question on vegetative plantings, most of the plantings previously occurred, as noted in the application. The Club has not proposed any new major plantings, except for possibly a few coconut palms and maybe a native pandanus. Only temporary watering will be required at start up since the plants are adapted to the area.

GENERAL PUBLIC

Vernon K. Kalanikau

Kihei Canoe Club was created in 1973-74 and the Club's purpose and vision was to provide the youths of Kihei with another activity. While a tax-exempt nonprofit, the club does sell seats to visitors for canoe tours to Ko'ie'ie Fishpond where Club members share the Hawaiian culture with their guest. Many turtles have made their home in the LokoI'a. On occasions, Club members and their guest must be reminded to not handle the Honu.

KCC also offers whale watching tours that concerns me as the whales and their calves may be crowded and we should consider ocean activities be limited during the whale season.

KCC wants to expand because they need more space to store additional canoes and equipment related to water sport activities. This is an example of "over population" of recreational canoes on the shores of Kalepolepo. Owners looking to store their personal watercrafts and equipment. Sand dunes should not be a place to store personal and private watercrafts and equipment.

My recommendation is to stop the application and have the KCC work with me as a consultant. I suggest that the applicant be given a 1-year approval to show good faith to what they say they will do.

Applicant's response

We appreciate the history and contributions your family has made towards Kihei Canoe Club and appreciate our offer to provide insight and guidance to the club. The request for a new site is in large part based on the need to relieve pressure on the traditional cub house site at Kalaepohaku.

Regarding our visitor/guest program, we ask visitors and guest for a donation, but it is not required. If someone does not make a donation, they are still treated to the experience of outrigger canoe paddling. These tours will not be based out of this proposed site.

Regarding trips in the fishpond, the club stopped this practice when concerns were raised. It is a valid concern regarding the crowding of whales. The club has regular training

sessions with its members and steersman on the rules regarding whales. We have a working relationship with DLNR/DOCARE staff to help educate individuals who violate the rules and report those who don't abide. We would be happy to participate in collaborative discussions to address these concerns.

Our license agreement with Mahi Pono tightly controls the types of activities that are allowed on the property. Commercial activities are not permitted.

The storage area we propose is beyond the beach dune and near the highway. It is important to note that the project site is deep enough to allow storage of canoes outside of the beach dune area. There will be controlled access lanes to move canoes through the dunes to and from the water. These lanes were created with the help of the Dune Restoration staff from UH and are shown on the site plan. In addition, we have created a Dune Management Plan to help mitigate potential impacts to the coastal plants and dunes. As part of the Dune Management Plan, we will provide signage to help educate club members on the importance of dune preservation. The message focuses on the importance of the dunes from a beach dynamic perspective. We will also be providing information on the cultural importance of the dune plants that you raised in your letter.

We appreciate your offer to discuss your concerns with the club and your offer to help educate the club on the historical and cultural resources of the Kalepolepo area and would appreciate any further input you can provide.

Others

In addition, the OCCL was in receipt of many correspondences of support via electronic mail for the CDUA. Letters described the canoe club organizations as good stewards of the land, the clean-up involved of the parcel, participation in community activities and the need to expand from the Keālia site. Others shared how the presence of the canoe club has helped mitigate environmental and public safety concerns in the immediate area. Many comments discussed the multi-generational programs for beginners, recreational, racers and the adaptive paddling program for individuals with disabilities.

As the site is adjacent to the Maui Canoe Club, it is believed that the Clubs will be complimentary and synergistic in promoting the Hawaiian canoe club culture. Most correspondences shared how canoe club organizations support each other and encourages health and fitness and perpetuating native Hawaiian culture thru paddling and taking care of the land, ocean and cultural resources. Comments of support were received by the following:

| | | |
|--------------------|-----------------|---------------------|
| Mary Dungans | Steven Matthews | Howard Jones |
| Gloria Lee Jones | Hugh Brenner | Coral Yap |
| Polly Arnold-Lorge | Lisa J. Cano | Audrey Quinn |
| Tori Takayesu | Beth Montalvo | Philip Brown |
| Dan Deknis | Mary Ann Castro | Alton J. Sanders |
| Margie Bowman | Linda Farison | Bill Saufler |
| Doris Osenni | Janet Everett | Victor Levchenko |
| Victoria Fatula | Adele Rugg | John Vogel |
| Paula Kalanikau | Rene Riley | Kimokeo Kapahulehua |

Joy Nelson
Deanna Salse
Diane Wetzell

Allison Lee
Marty Martins
Stan Walerczyk

Kathy Fleming
Sandy Bell
Judy Epstein

‘Ao‘ao O Nā Loko I‘a O Maui
Hui O Wa‘a Kaulu
Maui County Hawaiian Canoe Association

ANALYSIS

After reviewing the application, by correspondence dated August 25, 2020, the Department has found that:

1. The After the Fact use is an identified land use in the Protective subzone of the Conservation District, pursuant to the Hawaii Administrative Rules (HAR) §13-5-22, P-6 PUBLIC PURPOSE USES (D-1) Not for profit land uses undertaken in support of a public service by an agency of the county, state, or federal government, or by an independent non-governmental entity, except that an independent non-governmental regulated public utility may be considered to be engaged in a public purpose use. Examples of public purpose uses may include but are not limited to public roads, marinas, harbors, airports, trails, water systems and other utilities, energy generation from renewable sources, communication systems, flood or erosion control projects, **recreational facilities**, community centers, and other public purpose uses, intended to benefit the public in accordance with public policy and the purpose of the conservation district;
2. As the land lies within the Protective subzone, pursuant to HAR, §13-5-40 (3), a Public Hearing shall be required;
3. In conformance with Hawaii Revised Statutes (HRS) Chapter 343, as amended, and HAR, 11-200.1-15 (4) Minor alterations in the conditions of land, water, or vegetation, the use is exempt;

Special Management Area Minor Permit (SM2 2021/0004) was issued via letter dated January 15, 2021 by the County of Maui’s Planning Department.

Notice of CDUA MA-3870 was published in the September 23, 2020 issue of the Environmental Notice.

PUBLIC HEARING

A Public Hearing was held on October 22, 2020 at 5:00 pm via a Zoom Webinar, a cloud-based platform for live video and audio conferencing. 3 members of the public attended. No testimony against the project was presented.

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in HAR §13-5-30:

- 1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

Cleaning and restoring the land to create a space for recreational purposes appear to be conducive to protecting and preserving the resources of the land. Native plants have rejuvenated in the area after invasive plants were removed, that will help protect the beach dunes. Users of the recreational space will help to manage the land and offer a presence that may contribute to public safety. The continuation of these actions should promote long-term sustainability of the resources of the area and public health, safety and welfare.

- 2) *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.*

The objective of the Protective Subzone is to protect valuable natural and cultural resources in designated areas such as restricted watersheds, marine, plant, and wildlife sanctuaries, significant historic, archaeological, geological, and volcanological features and sites, and other designated unique areas.

The storage of canoes on the beach is a traditional use in Hawai'i. The recreational use of land for canoe paddling perpetuates the native Hawaiian culture. The uses upon the land are low intensity. The reintroduction of native seashore plants may help to restore the land and protect the sand dunes. Proper management of the reintroduced landscape should suffice to keep the beach transit corridor open. The Club members are cognizant that they are the stewards of the land and sea of this area.

- 3) *The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.*

The County of Maui Planning Department has issued a Special Management Area Minor Permit and has determined that the use is consistent with the objectives, policies, and SMA guidelines set forth in HRS Chapter 205A and is consistent with the County General Plan and Zoning.

Staff believes the proposed use is consistent with Coastal Zone Management as the site is a recreational resource that promotes a traditional use. The debris removal, clearing and reintroducing native landscaping has contributed to making this area a scenic and open space resource. The native vegetation will hopefully protect the coastal ecosystem and beach. The low-key use of the site and small mitigation measures taken [drilling holes into container] will reduce coastal hazards to property and the ocean.

- 4) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

The improvements to the site have been minimal. Vegetative clearing was manually done and consisted of removing weeds and kiawe. No mechanical equipment was utilized. Only native coastal landscaping [naupaka and milo] was introduced to the site. All structures on the site can be easily removed and requires no grubbing or grading.

Staff believes the improvements to the site will have positive impacts to the existing natural resources within the surrounding area and community.

- 5) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

None of the structures on site are permanent. The recreational use of the site for canoe storage is appropriate given the proximity to the ocean. Staff believes the land use is compatible with the surrounding areas and appropriate to the physical conditions and capabilities of the parcel.

- 6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

Prior to the leasing of the site, the area was utilized as an illegal dump site. According to the applicant, trash, car parts, drug paraphernalia was abundant on the site. The use of the land as a recreational area will open up views of the ocean from the road.

- 7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

No subdivision of land is proposed in this application.

- 8) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff believes the recreational use of the land has contributed to the public health, safety and welfare. Canoe paddling, working with the land, recreating and reflecting at the beach has health benefits. The Club's presence on the land will deter dumping and undesirable uses of the area.

CULTURAL IMPACT ANALYSIS

The site will be utilized for canoe paddling, a traditional and customary use. The teaching of celestial navigation is also proposed on the site. Other traditional cultural practices that may take place in the vicinity would include gathering, fishing, diving, ocean recreational activities and contemplation.

According to the Keālia Pond National Wildlife Refuge Comprehensive Conservation Plan (2012) "several archaeological surveys and literature reviews have been conducted

for Keālia Pond NWR and additional projects in the vicinity. These studies show that Keālia Pond was an important site for gathering salt and may have been used as a fishpond. Apart from the pond itself, no archaeological items or sites have been encountered in the area. Any areas that may have been suitable for habitation and/or cultural activities were most likely eliminated or modified by amphibious landings during World War II.

Traditional or customary activities in the area would have been focused on marine and coastal resources and as such the site may have served as an access to the coastline or a site for temporary habitation in the past. However, there is no evidence of this particular area having any unique feature that would have distinguished it from the bordering coastal lands on either side of the property. The coastline and marine resources fronting the site are not unique. Prior to the arrival of KCC, the area served primarily as a dumping ground for garbage and abandoned vehicles. It was also frequently used as a homeless encampment.

During the processing of this application, no objections to the use of the site were received. The Office of Hawaiian Affairs did not provide comments and the Historic Preservation Division had no objections to the use. A cultural practitioner has worked with the Canoe Club. To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action does not appear to affect traditional Hawaiian rights; it is believed that no action is necessary to protect these rights.

DISCUSSION

Canoe paddling is a traditional Hawaiian use that promotes teamwork, health and fitness. The cleaning, clearing and caring of the site has improved view planes to the ocean and has created a safer atmosphere for the general public. Native plants have been re-introduced and has rejuvenated on site and mitigation to support the survival of endangered turtles will be maintained.

The improvements to and proposed to the site will most likely have a positive effect on public access. This area previously would not have been used by many people due to the presence of invasive plants, trash, broken glass, drug paraphernalia, rusty metal that was strewn throughout the leased area. The property was cleaned by the Club and is intended to be used on a daily basis by club members, residents and visitors. The Club has committed to maintain the coastal plants so that lateral access along the shoreline is not impeded. There will be no permanent structures constructed as part of the proposed use. The storage structures are temporary and can be moved in the event the structures may be threatened by long term shoreline erosion. The storage structures will be located over 60-ft of the apparent shoreline. The containers shall have sufficient holes to allow the containers to sink in the event of a tsunami as per County of Maui recommendation. No major ground disturbance activities have been or will be undertaken as part of the use.

Ground cover will remain as is or be enhanced with additional native plantings or through simple care and maintenance. A Dune Preservation and Maintenance Plan has been developed with Sea Grant's Coastal Dune Restoration and Management Coordinator. The main goal of the plan would be education in addition to dune preservation and maintenance. Signs regarding dune and coastal plants developed with Sea Grant are also proposed.

The presence of the Canoe Club will help to maintain and manage the site. The Club members are aware that they are the stewards of the land and sea of this area. The maintenance of the site will further the objective of the Conservation District to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

It is not uncommon to have canoes stored near shore within State or County parks. Hawai'i Revised Statutes §200-20 entitled **Hawaiian outrigger canoes on state shoreline areas** allows for outrigger canoes on state shoreline areas provided all beach users are appropriately accommodated and as permitted where required.

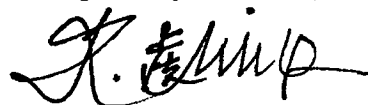
RECOMMENDATION

Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources APPROVE the Kihei Canoe Club's application for the After the Fact Public Purpose Recreational Use located at Kalepolepo, Kihei, Waikapu, Maui, portion of Tax Map Key (2) 3-8-005:003 subject to the following 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 HAR Chapter 13-5;
- 2) The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or 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;
- 3) The permittee shall comply with all applicable Department of Health administrative rules;
- 4) The permittee understands and agrees that this permit does not convey any vested rights or exclusive privilege;
- 5) Signs, including safety signs, danger signs, and other informational signs shall not exceed twelve square feet in area and shall be non-illuminated, self-supporting and less than or equal to eight feet above finished grade. Signs shall be reviewed by the Department prior to implementation;
- 6) In issuing this 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 this 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) When provided or required, potable water supply and sanitation facilities shall have the approval of the Department of Health and the County Department of Water Supply;
- 8) Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
- 9) Use of the property shall not interfere with shoreline littoral processes. Removal or relocation of improvements including canoe storage may be required by the Department to accommodate shoreline erosion;
- 10) The permittee acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- 11) Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The Historic Preservation Division shall be contacted (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
- 12) Additional improvements and land uses shall be reviewed by the Department prior to initiation;
- 13) Shoreline vegetation shall be maintained in compliance with HRS, §115;
- 14) Other terms and conditions as may be prescribed by the Chairperson; and
- 15) Failure to comply with any of these conditions shall render a permit void under HAR, Chapter 13-5, as determined by the chairperson or board.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Suzanne D. Case

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

EXHIBITS

- 1 Regional Location Map
- 2 Location Map
- 3a-e Site Photos
- 4 Site Plan of Proposed Uses
- 5a-c Dune Preservation and Management Plan
- 6 US Department of the Interior-Fish & Wildlife Services Comments



Figure 1 – Regional Location Map
Kihei Canoe Club

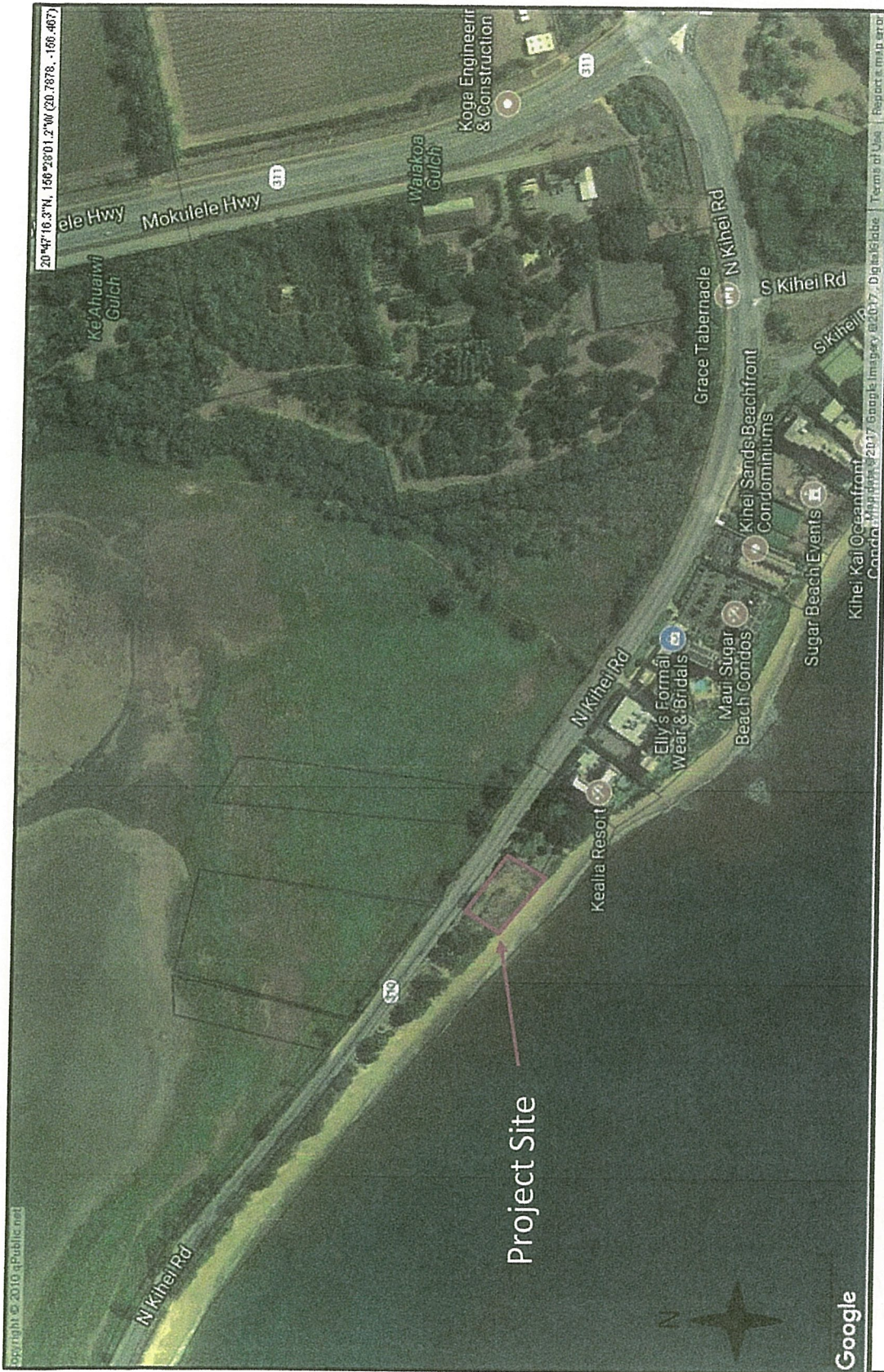


Figure 2 – Location Map
Kihei Canoe Club

Kihei Canoe Club - Photographs



Photo 3: North Kihei Road – north west along highway frontage



Photo 4: North Kihei Road – south west view through existing entry gate

EXHIBIT 3a

Kihei Canoe Club - Photographs



Photo 5: North Kihei Road – South east along highway frontage

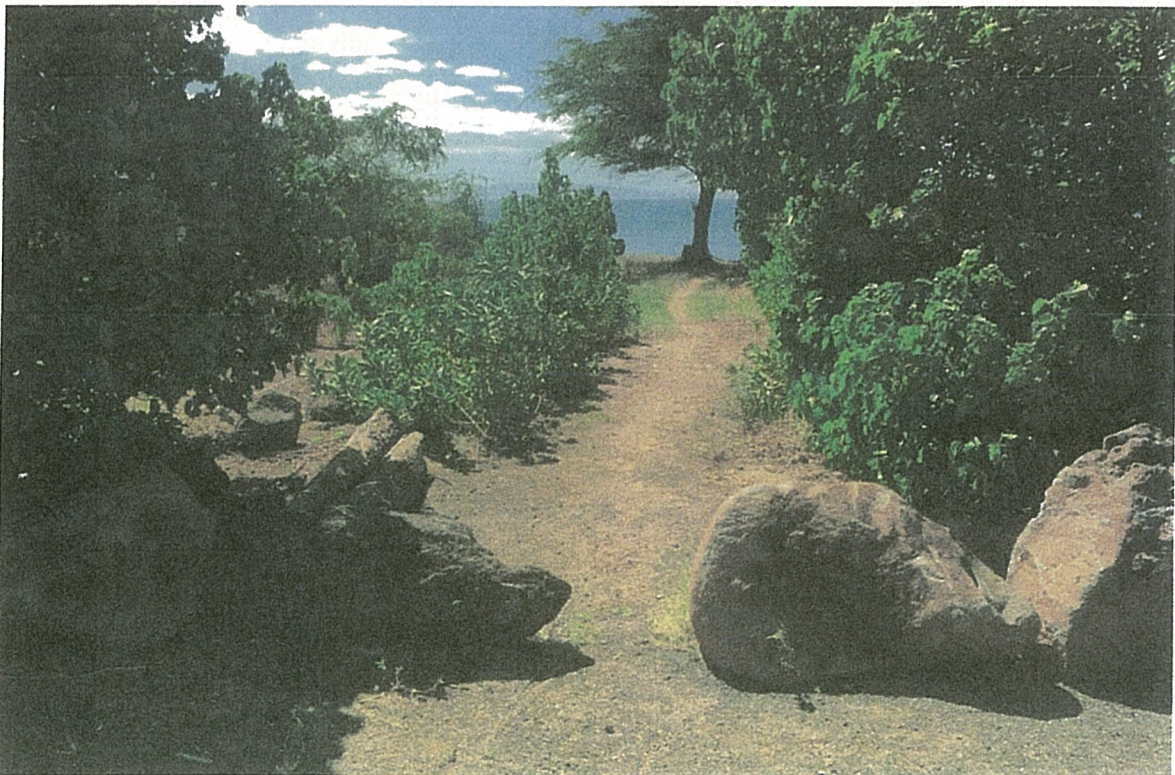


Photo 6: North Kihei Road – south west view along public access to the shoreline

Kihei Canoe Club - Photographs



Photo 7: South view along shoreline



Photo 8: View milo plantings near north portion of project site

Kihei Canoe Club - Photographs



Photo 9: Portable Canoe Hale



Photo 10: Portable Canoe Hale

EXHIBIT 3d

Kihei Canoe Club - Photographs



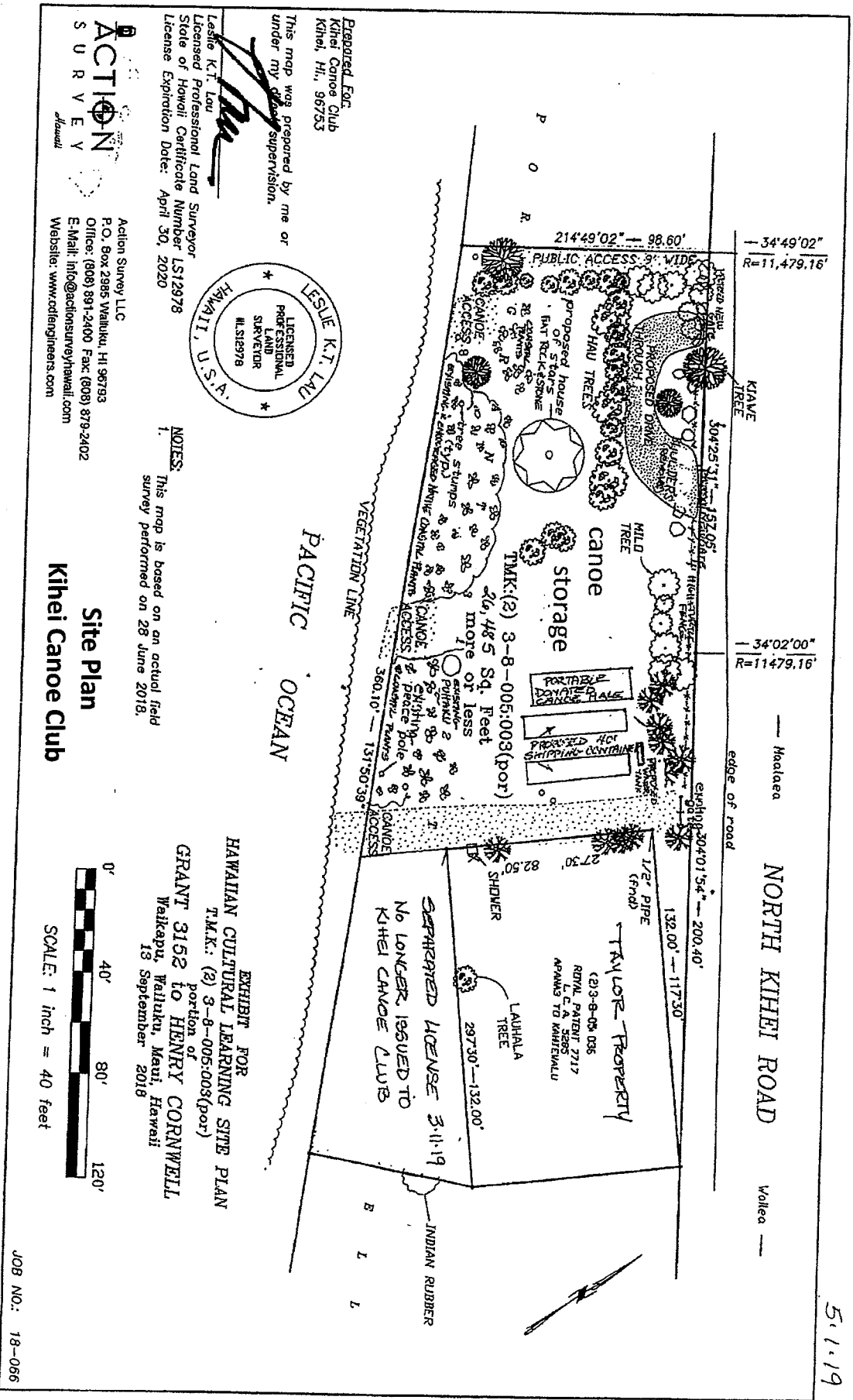
Photo 1: West view across middle of project site



Photo 2: East view across middle of project site

EXHIBIT 3e

5.1.19



Prepared For:
Kihai Canoe Club
Kihai, HI, 96753

This map was prepared by me or under my direct supervision.

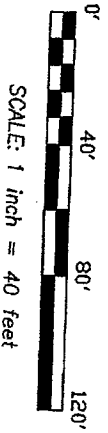
Leslie K.T. Lau
Licensed Professional Land Surveyor
State of Hawaii Certificate Number LLS12978
License Expiration Date: April 30, 2020

ACTION SURVEY
Action Survey LLC
P.O. Box 2985 Waiuku, HI 96793
Office: (808) 891-2400 Fax: (808) 879-2402
E-Mail: info@actionssurveyhawaii.com
Website: www.actionssurveyhawaii.com

NOTES:
1. This map is based on an actual field survey performed on 28 June 2018.

Site Plan
Kihai Canoe Club

EXHIBIT FOR
HAWAIIAN CULTURAL LEARNING SITE PLAN
T.M.K.: (2) 3-8-005:003(part)
GRANT 3152 to HENRY CORNWELL
Waikapu, Waialuku, Maui, Hawaii
13 September 2018



JOB NO.: 18-066

Kihei Canoe Club – Dune Preservation and Management Plan
October 20, 2020

Purpose. Kihei Canoe Club (KCC) is proposing site improvements to a 26,485 square feet portion of parcel 3-8-005:003 to create an auxiliary site primarily for the storage of canoes and other activities related to Hawaiian Outrigger Canoe paddling. This Dune Preservation and Management Plan (DPMP) will outline steps the club will take in order to preserve and manage the coastal dune resources on the property.

Background. KCC began clearing trees and rubbish from the property around 2010. Prior to the club's actions, the site was overgrown with invasive species, mostly keawe trees and plucia shrubs, and was littered with rubbish, car parts, etc. Members of KCC worked to clear the site of rubbish and vegetation using hand held equipment as necessary (chain saw and weed eaters). After clearing the site, some minor landscape planting occurred using coastal adapted plant (milo and naupaka). Once the invasive plants were removed, coastal plants including Pohuehue and Aki aki grass flourished naturally along the coastal frontage.

The DPMP will consist of the following components:

Removal of invasive species. As noted above, KCC has previously worked to remove invasive vegetation from the property and coastal plants have emerged and flourished along the coastal areas. Since then a few kiawe trees and plucia shrubs have started to grow back. KCC will remove these invasive species from the coastal areas and provide continual maintenance to keep invasive species from re-emerging.

Protect and encourage native coastal plants. The native coastal plant preservation areas are shown conceptually on the attached site plan. The preferred coastal plants along the primary dune area will be Aki aki grass and Pohuehue. These plants have naturally established themselves along the dune face. There are a few existing Naupaka plants close to the dune face, these will be removed. Naupaka plants are ok on more mauka portions of the property but not within the primary dune face area. The club will maintain the coastal vegetation so that it does not impede lateral coastal access along the shoreline.

Manage and control access over dune area. Uncontrolled foot traffic over the dunes could damage or destroy the coastal plants. In order to protect as much of the dune area as possible, club members will be directed to use designated access pathways for transporting canoes in and out of the water. There will be up to 3 designated coastal access pathways and they will be only wide enough to allow transport of one canoe at a time (rigged single or double hull). The pathways will be marked with wood posts and rope. See attached concept site plan for location of the pathways.

Canoe storage. Canoes will not be stored on the coastal dune area. They will be stored in the areas shown on the site plan, in the vicinity of the proposed storage containers. Canoes that are not in active use will be stored on the more mauka portions of the property.

Member education. KCC will work with UH-Sea Grant coastal experts to develop educational signage that will be placed on the property to educate members about the purpose and importance of coastal dune preservation. The attached sample signage is proposed and will be finalized after consultation with Sea Grant experts.

Attachments: Site Plan
Sample Signage

-end-

FAQ: Why trim back the dune plants?



Photo: Beach Naupaka

Plants alone do not safeguard the land, it is the buildup of sand in dunes that protect us.

The native Pohuehue (Beach Morning Glory) and the 'Aki'aki grass are champion dune-builders and are valued on the dune face because they constantly capture blowing sand and grow the dunes. Without them, much sand would be lost or absorbed by the surf swash line.

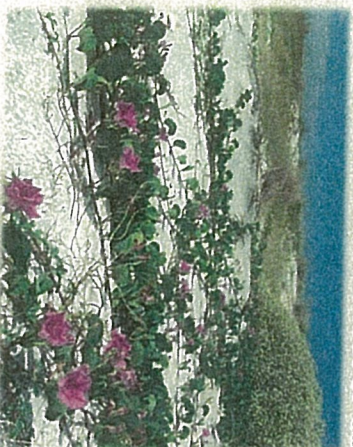


Photo: Pohuehue, Beach Morning Glory

By trimming back the naupaka, the native dune-building plants (specifically the pohuehue and 'aki'aki plants) will grow unrestricted on the dune face, collecting sand and building the dunes. A healthy protective dune system will be achieved.

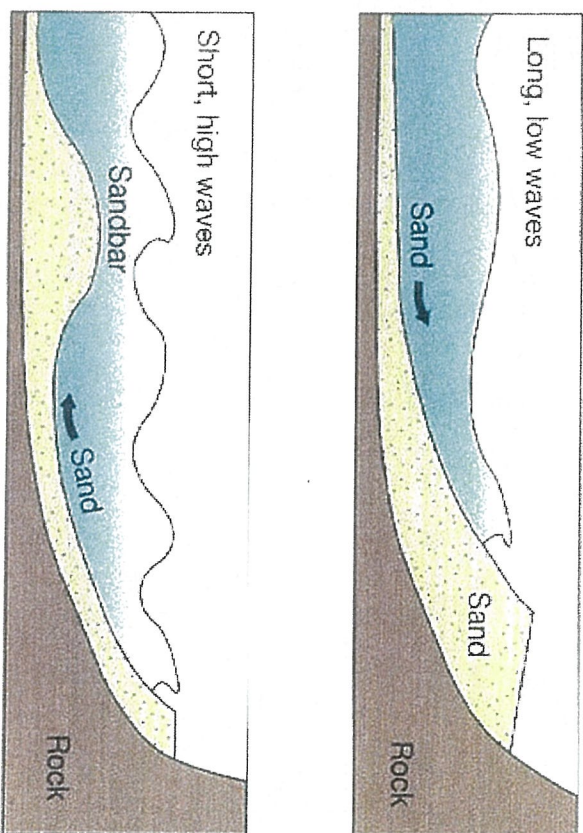


Photo: Aki'aki Grass

Beach Naupaka, the taller native plants usually nearest the park, can help protect the back dune areas from blowing sand but they do not capture sand and grow the dune. These plants often grow well beyond their native size due to park irrigation. If left untrimmed, the naupaka will continue to overgrow on the dune face and onto the beach areas, limiting beach access and displacing sand-capturing native plants. Dunes are important to help protect the inland infrastructures in the case of ocean swells or storm surge.

FAQ: How does sand protect us and the inland infrastructure?

Prior to a storm— Nature uses wave action to take sand from the dunes into the near-shore waters. That action causes storm waves to break further off shore, lessening the impact on the near-shore areas.



A few days after the storm Nature returns that sand back to the beach where it dries and is blown back onto the dunes. This is Nature's way of protecting our shoreline from storm damage.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
Honolulu, Hawaii 96850

In Reply Refer to:
01EPIF00-2020-TA-0477

September 21, 2020

Mr. Samuel J. Lemmo
Administrator
State of Hawaii, Department of Land and Natural Resources
Office of Conservation and Coastal Lands
Post Office Box 621
Honolulu, Hawaii 96809

Subject: Technical Assistance for the Conservation District Use Permit MA-3870 for the Public Purpose Recreational Facility for Canoe Storage in Kihei, Island and County of Maui

Dear Mr. Samuel J. Lemmo:

The U.S. Fish and Wildlife Service (Service) received your correspondence on August 31, 2020, requesting comments for the Conservation District Use Application: MA-3870 for the Public Purpose Recreational Facility for Canoe Storage in Kihei, Maui [TMK: (2) 3-8-005:003]. The Service offers the following comments to assist you in your planning process so that impacts to trust resources can be avoided through site preparation, construction, and operation. Our comments are provided under the authorities of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C 1531 *et seq.*).

Project Description

The Kihei Canoe Club (KCC), a nonprofit corporation under HRS, Chapter 414D and has obtained a license agreement with the landowner, Mahi Pono, to use the site for paddling purposes. The KCC began maintaining the site by removing rubbish and cutting back brush and weeds. A gate was also installed and boulders were moved to prevent vehicular access, a post on pier canoe hale was brought in and some minor landscaping was done. In 2019, the KCC was issued a Civil Resource Violation Notice for the land uses mentioned above. The KCC was fined and required to apply for an After-the-Fact permit or remove the land uses.

Existing site improvements that are subject of this request include a 26-foot long by 8-foot 4-inches tall by 6-foot wide canoe hale, an access gate, the placement of boulders, minor landscaping and partially improved pathways. In addition, the applicant is proposing to site two 40-foot by 8-foot storage containers to secure recreational equipment. The solar powered lights and cameras will be installed for security purposes. Two new gates are proposed to allow

INTERIOR REGION 9
COLUMBIA-PACIFIC NORTHWEST

INTERIOR REGION 12
PACIFIC ISLANDS

IDAHO, MONTANA*, OREGON*, WASHINGTON

AMERICAN SAMOA, GUAM, HAWAII, NORTHERN
MARIANA ISLANDS

*PARTIAL

EXHIBIT 6

vehicles to drive into the site to load and off-load canoes and equipment. A landscape feature consisting of rocks and stones to teach celestial navigation is proposed. A continuation of a turtle fence will be extended along the border of North Kihei Road and will be designed in consultation with the Service. Also, to help maintain the site, a portable water tank will be brought in to assist with irrigation of existing vegetation and proposed vegetation.

Based on information you provided and pertinent information in our files, including data compiled by the Hawaii Biodiversity and Mapping Project, there are sixteen listed species in the immediate vicinity of the project area: the federally endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), the threatened nene (Hawaiian goose, *Branta (Nesochen) sandvicensis*), the threatened green sea turtle (*Chelonia mydas*), the endangered hawksbill sea turtle (*Eretmochelys imbricata*), the endangered Blackburn's sphinx moth (*Manduca blackburni*), the endangered Hawaiian yellow-faced bees (*Hylaeus anthracinus*, *H. assimulans*, *H. facilis*, *H. hilaris*, and *H. longiceps*), the endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), the endangered Hawaiian coot (*Fulica alai*), and the endangered Hawaiian duck (*Anas wyvilliana*). Additionally, the endangered Hawaiian petrel (*Pterodroma sandwichensis*), the endangered band-rumped storm-petrel (*Oceanodroma castro*), and the threatened Newell's shearwater (*Puffinus auricularis newelli*) may transit the project area flying to upland breeding colonies. Wedge-tailed shearwaters (*Ardenna pacificus*), a non-listed species that is protected under the Migratory Bird Treaty Act, may also occur in the coastal area adjacent to the project.

To avoid and minimize potential project impacts to listed species, the following measures are recommended:

Hawaiian hoary bat

The federally endangered Hawaiian hoary bat roosts in both exotic and native woody vegetation across all islands and will leave young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet or taller are cleared during the pupping season, there is a risk that young bats could inadvertently be harmed or killed since they are too young to fly or may not move away. Additionally, Hawaiian hoary bats forage for insects from as low as 3 feet to higher than 500 feet above the ground and can become entangled in barbed wire used for fencing.

To avoid and minimize impacts to the endangered Hawaiian hoary bat we recommend you incorporate the following applicable measures into your project description:

- 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).
- Do not use barbed wire for fencing.

e. Hawaiian goose

The federally threatened Hawaiian goose is found on the islands of Hawaii, Maui, Molokai, and Kauai. They are observed in a variety of habitats, but prefer open areas, such as pastures, golf courses, wetlands, natural grasslands and shrublands, and lava flows. Threats to the species include introduced mammalian and avian predators, wind facilities, and vehicle strikes.

To avoid and minimize potential project impacts to Hawaiian geese we recommend you incorporate the following applicable measures into your project description:

- Do not approach, feed, or disturb Hawaiian geese.
- If Hawaiian geese are observed loafing or foraging within the project area during the breeding season (September through April), have a biologist familiar with the nesting behavior of Hawaiian geese survey for nests in and around the project area prior to the resumption of any work. Repeat surveys after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest).
 - Cease all work immediately and contact the Service for further guidance if a nest is discovered within a radius of 150 feet of proposed work, or a previously undiscovered nest is found within said radius after work begins.
- In areas where Hawaiian geese 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.

Green and Hawksbill sea turtles

The Service consults on sea turtles and their use of terrestrial habitats (beaches where nesting and/or basking is known to occur), whereas the National Marine Fisheries Service (NMFS) consults on sea turtles and their use of off-shore and open ocean habitats. We recommend that you consult with NMFS regarding the potential impacts from the proposed project to sea turtles in off-shore and open ocean habitats.

Green sea turtles may nest on any sandy beach area in the Pacific Islands. Hawksbill sea turtles exhibit a wide tolerance for nesting substrate (ranging from sandy beach to crushed coral) with nests typically placed under vegetation. Both species exhibit strong nesting site fidelity. Nesting occurs on beaches from May through September, peaking in June and July, with hatchlings emerging through November and December.

Construction on, or in the vicinity of, beaches can result in sand and sediment compaction, sea turtle nest destruction, beach erosion, contaminant and nutrient runoff, and an increase in direct and ambient light pollution which may disorient hatchlings or deter nesting females. Off-road vehicle traffic may result in direct impacts to sea turtles and nests, and also contributes to habitat degradation through erosion and compaction.

Projects that alter the natural beach profile, such as nourishment and hardening, including the placement of seawalls, jetties, sandbags, and other structures, are known to reduce the suitability of on-shore habitat for sea turtles. These types of projects often result in sand compaction, erosion, and additional sedimentation in nearshore habitats, resulting in adverse effects to the ecological community and future sea turtle nests. The hardening of a shoreline increases the potential for erosion in adjacent areas, resulting in subsequent requests to install stabilization structures or conduct beach nourishment in adjacent areas. Given projected sea level rise estimates, the likelihood of increase in storm surge intensity, and other factors associated with climate change, we anticipate that beach erosion will continue and likely increase.

Where possible, projects should consider alternatives that avoid the modification or hardening of coastlines. Beach nourishment or beach hardening projects should evaluate the long-term effect to sea turtle nesting habitat and consider the cumulative effects.

Based on the best available information, sea turtle nesting, basking, and strandings have occurred within the project area within the last several years. Given the presence of sea turtles in the immediate area and a documented history of nesting, we recommend you incorporate the following applicable measures into your project description:

- No vehicle use on or modification of the beach/dune environment during the sea turtle nesting or hatching season (May to December).
- We recommend you consult with the Service three weeks prior to project commencement to obtain the latest information on sea turtle activity in the area. Should there be any sea turtle activity occurring in the area, we recommend monitoring timeline and plan be discussed with the Service.
- Do not remove native dune vegetation.
 - Incorporate applicable best management practices regarding Work in Aquatic Environments (see enclosed) into the project design.
 - Have a biologist familiar with sea turtles conduct a visual survey of the project site to ensure no basking sea turtles are present.
 - If a basking sea turtle is found within the project area, cease all mechanical or construction activities within 100 feet until the animal voluntarily leaves the area.
 - Cease all activities between the basking turtle and the ocean.
 - Remove any project-related debris, trash, or equipment from the beach or dune if not actively being used.
 - Do not stockpile project-related materials in the intertidal zone, reef flats, or stream channels.
 - Create a designated staging area for land equipment off of the sand/beach at the end of each work day.

Lighting: Optimal nesting habitat is a dark beach free of barriers that restrict sea turtle movement. Nesting turtles may be deterred from approaching or laying successful nests on lighted or disturbed beaches. They may become disoriented by artificial lighting, leading to exhaustion and placement of a nest in an inappropriate location (such as at or below the high tide line). Hatchlings that emerge from nests may also be disoriented by artificial lighting. Inland areas visible from the beach should be sufficiently dark to allow for successful navigation to the ocean.

To avoid and minimize project impacts to sea turtles from lighting we recommend incorporating the following applicable measures into your project description:

- Avoid nighttime work during the nesting and hatching season (May to December).
- Minimize the use of lighting and shield all project-related lights so the light is not visible from any beach.
 - If lights can't be fully shielded or if headlights must be used, fully enclose the light source with light filtering tape or filters.

- Incorporate design measures into the construction or operation of buildings adjacent to the beach to reduce ambient outdoor lighting such as:
 - Tinting or using automatic window shades for exterior windows that face the beach;
 - Reducing the height of exterior lighting to below 3 feet and pointed downward or away from the beach; and
 - Minimize light intensity to the lowest level feasible and, when possible, include timers and motion sensors.

Wedge-tailed shearwater

Unlike other Hawaiian seabird species, wedge-tailed shearwaters nest in littoral vegetation along coastlines. Nesting adults, eggs, and chicks are particularly susceptible to impacts from human disturbance and predators.

To avoid and minimize potential project impacts to wedge-tailed shearwaters we recommend you incorporate the following applicable measures into your project description:

- Conduct surveys throughout the project area during the species' breeding season (March through November) to determine the presence and location of nesting areas. The Maui Nui Seabird Project (<https://www.mauinuis seabirds.org/>) can provide additional guidance on the presence of wedge-tailed shearwaters in the vicinity of the project area.
- If wedge-tailed shearwaters nest within the proposed project area and ground disturbance is expected to occur, time project construction outside of the breeding season.
- If outdoor lighting is used, use light shields that are completely opaque, appropriately sized, and positioned so that the bulb is only visible from below and that light from the shielded source cannot be seen from the beach;
- 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.

Blackburn's sphinx moth

The adult Blackburn's sphinx moth feeds on nectar from native plants, including beach morning glory (*Ipomoea pes-caprae*), iliee (*Plumbago zeylanica*), and maiapilo (*Capparis sandwichiana*). Blackburn's sphinx moth larvae feed on non-native tree tobacco (*Nicotiana glauca*) and native aiea (*Nothocestrum* sp.). To pupate, the larvae burrow into the soil and can remain in a state of torpor for a year or more before emerging from the soil. Soil disturbance can result in death of the pupae.

We offer the following survey recommendations to assess whether the Blackburn's sphinx moth occurs within the project area:

- A biologist familiar with the species should survey areas of proposed activities for Blackburn's sphinx moth and its larval host plants prior to work initiation.
 - Surveys should be conducted during the wettest portion of the year (usually November-April or several weeks after a significant rain) and within 4-6 weeks prior to construction.

- Surveys should include searches for adults, eggs, larvae, and signs of larval feeding (chewed stems, frass, or leaf damage).
- If moths, eggs, or larvae, or native aiea or tree tobacco over 3 feet tall, are found during the survey, please contact the Service for additional guidance to avoid impacts to this species.

If no Blackburn's sphinx moth, aiea, or tree tobacco are found during surveys, it is imperative that measures be taken to avoid attraction of Blackburn's sphinx moth to the project location and prohibit tree tobacco from entering the site. Tree tobacco can grow greater than 3 feet tall in approximately 6 weeks. If it grows over 3 feet, the plants may become a host plant for Blackburn's sphinx moth. We therefore recommend that you:

- Remove any tree tobacco less than 3 feet tall.
- Monitor the site every 4-6 weeks for new tree tobacco growth before, during, and after the proposed ground-disturbing activity.
 - Monitoring for tree tobacco can be completed by any staff, such as groundskeeper or regular maintenance crew, provided with picture placards of tree tobacco at different life stages.

Hawaiian petrel, Newell's shearwater, and band-rumped storm petrel

Hawaiian seabirds may traverse the project area at night during the breeding, nesting and fledging seasons (March 1 to December 15). Outdoor lighting could result in seabird disorientation, fallout, and injury or mortality. Seabirds are attracted to lights and after circling the lights they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators. Young birds (fledglings) traversing the project area between September 15 and December 15, in their first flights from their mountain nests to the sea, are particularly vulnerable.

To avoid and minimize potential project impacts to seabirds, the project:

- Fully shield all outdoor lights 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.
- Avoid nighttime construction during the seabird fledging period, September 15 through December 15.

Hawaiian yellow-faced bees

Table 1. General species information (bold islands are known populations):

| Species | Island(s) | Habitat |
|-----------------------|--|--|
| <i>H. anthracinus</i> | Hawaii, Maui, Kahoolawe, Lanai, Molokai, Oahu | Coastal and lowland dry forests |
| <i>H. assimulans</i> | Maui, Kahoolawe, Lanai, Oahu | Coastal and lowland dry forests |
| <i>H. facilis</i> | Maui, Lanai, Molokai, Oahu | Coastal and dry and mesic shrublands and forests |

| | | |
|---------------------|-----------------------------------|--|
| <i>H. hiliaris</i> | Maui, Lanai, Molokai | Coastal to dry forest; obligate parasite on <i>H. anthracinus</i> , <i>H. longiceps</i> , and <i>H. assimulans</i> . |
| <i>H. longiceps</i> | Maui, Lanai, Molokai, Oahu | Coastal and dry shrubland |

Coastal populations of yellow-faced bees occur in habitat along rocky shorelines with *Scaevola taccada* (naupaka) and *Heliotropium foertherianum* (tree heliotrope) with either landscaped vegetation, alien kiawe (*Prosopis pallida*), or bare rock inland. Bees are restricted to an extremely narrow corridor, typically 10–20 meters wide, and do not occur on sandy beaches or inland, or on landscaped native plants on hotel grounds. Documented nectar plants include naupaka, *Sida fallax* (ilima), *Chamaesyce* spp. (akoko), *Argemone glauca* (pua kala), *Myoporum sandwicense* (naio), and tree heliotrope.

Threats to yellow-faced bees include habitat destruction and modification from land use change, nonnative plants, ungulates, and fire, along with predation by nonnative ants and wasps.

To avoid and minimize project impacts to yellow-faced bees and their nests, we recommend you incorporate the following applicable measures into your project description:

- If an action will occur in or adjacent to known occupied habitat, a buffer area around the habitat may be required and can be worked out on a site-specific basis through consultation with the Service.
- For coastal species, protect all coastal strand habitat from human disturbance, including:
 - No fires or wood collecting
 - Leave woody debris in place
 - Restrict vehicles to existing roads and trails
 - Post educational signs to inform people of the presence of sensitive species.

Hawaiian stilt, Hawaiian coot, and Hawaiian duck

Hawaiian waterbirds are currently found in a variety of wetland habitats including freshwater marshes and ponds, coastal estuaries and ponds, artificial reservoirs, kalo or taro (*Colocasia esculenta*) loi or patches, irrigation ditches, sewage treatment ponds, and in the case of the Hawaiian duck, montane streams and marshlands. Hawaiian stilts may also be found wherever ephemeral or persistent standing water may occur. Threats to these species include non-native predators, habitat loss, and habitat degradation. Hawaiian ducks are also subject to threats from hybridization with introduced mallards.

Based on the project details provided, your project may result in the creation of standing water or open water that could attract Hawaiian waterbirds to the project site. In particular, the Hawaiian stilt is known to nest in sub-optimal locations (e.g. any ponding water), if water is present. Hawaiian waterbirds attracted to sub-optimal habitat may suffer adverse impacts, such as predation and reduced reproductive success, and thus the project may create an attractive nuisance. Therefore, we recommend you work with our office during project planning so that we may assist you in developing measures to avoid impacts to listed species (e.g., fencing, vegetation control, predator management).

To avoid and minimize potential project impacts to Hawaiian waterbirds we recommend you incorporate the following measures into your project description:

- 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 (see enclosure).
- 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 (during which the birds may attempt to nest). If a nest or active brood is found:
 - Contact the Service within 48 hours for further guidance.
 - Establish and maintain a 100-foot buffer around all active nests and/or broods until the chicks/ducklings have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.

Have a biological monitor that is familiar with the species' biology present on the project site during all construction or earth moving activities until the chicks/ducklings fledge to ensure that Hawaiian waterbirds and nests are not adversely impacted.

If this potential project should receive federal funding, federal permits, or any federal authorization, it will require a Section 7 consultation with the Service. The Service only conducts Section 7 consultations with the federal action agency or their designated representative.

Thank you for participating with us in the protection of our endangered species. If you have any further questions or concerns regarding this consultation, please contact Eldridge Naboa, Fish and Wildlife Biologist, 808-933-6964, e-mail: eldridge_naboa@fws.gov. When referring to this project, please include this reference numbers: **01EPIF00-2020-TA-0477**.

Sincerely,

MICHELLE
BOGARDUS

Digitally signed by
MICHELLE BOGARDUS
Date: 2020.09.21
21:27:26 -10'00'

Michelle Bogardus
Island Team Manager
Maui Nui and Hawaii Island

Cc;

Ms. Kimberly T. Mills, State of Hawaii, Department of Land and Natural Resources, Office of Conservation and Coastal Lands

**U.S. Fish and Wildlife Service
Recommended Standard Best Management Practices**

The U.S. Fish and Wildlife Service (USFWS) recommends the following measures to be incorporated into project planning to avoid or minimize impacts to fish and wildlife resources. Best Management Practices (BMPs) include the incorporation of procedures or materials that may be used to reduce either direct or indirect negative impacts to aquatic habitats that result from project construction-related activities. These BMPs are recommended in addition to, and do not over-ride any terms, conditions, or other recommendations prepared by the USFWS, other federal, state or local agencies. If you have questions concerning these BMPs, please contact the USFWS Aquatic Ecosystems Conservation Program at 808-792-9400.

1. Authorized dredging and filling-related activities that may result in the temporary or permanent loss of aquatic habitats should be designed to avoid indirect, negative impacts to aquatic habitats beyond the planned project area.
2. Dredging/filling in the marine environment should be scheduled to avoid coral spawning and recruitment periods, and sea turtle nesting and hatching periods. Because these periods are variable throughout the Pacific islands, we recommend contacting the relevant local, state, or federal fish and wildlife resource agency for site specific guidance.
3. Turbidity and siltation from project-related work should be minimized and contained within the project area by silt containment devices and curtailing work during flooding or adverse tidal and weather conditions. BMPs should be maintained for the life of the construction period until turbidity and siltation within the project area is stabilized. All project construction-related debris and sediment containment devices should be removed and disposed of at an approved site.
4. All project construction-related materials and equipment (dredges, vessels, backhoes, silt curtains, etc.) to be placed in an aquatic environment should be inspected for pollutants including, but not limited to; marine fouling organisms, grease, oil, etc., and cleaned to remove pollutants prior to use. Project related activities should not result in any debris disposal, non-native species introductions, or attraction of non-native pests to the affected or adjacent aquatic or terrestrial habitats. Implementing both a litter-control plan and a Hazard Analysis and Critical Control Point plan (HACCP – see <http://www.haccp-nrm.org/Wizard/default.asp>) can help to prevent attraction and introduction of non-native species.
5. Project construction-related materials (fill, revetment rock, pipe, etc.) should not be stockpiled in, or in close proximity to aquatic habitats and should be protected from erosion (e.g., with filter fabric, etc.), to prevent materials from being carried into waters by wind, rain, or high surf.
6. Fueling of project-related vehicles and equipment should take place away from the aquatic environment and a contingency plan to control petroleum products accidentally spilled during the project should be developed. The plan should be retained on site with the person responsible for compliance with the plan. Absorbent pads and containment booms should be stored on-site to facilitate the clean-up of accidental petroleum releases.

7. All deliberately exposed soil or under-layer materials used in the project near water should be protected from erosion and stabilized as soon as possible with geotextile, filter fabric or native or non-invasive vegetation matting, hydro-seeding, etc.