

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

February 24, 2023

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Land Board Members:

SUBJECT: REQUEST TO RESTRICT ACCESS TO PORTIONS OF THE
'ĀHIHI-KINA'U NATURAL AREA RESERVE, MAUI, FOR A
PERIOD OF UP TO TWO YEARS (JANUARY 28, 2023-JANUARY
27, 2025), PURSUANT TO HAWAII ADMINISTRATIVE RULES §
13.209-4.5, TAX MAP KEYS: 2-1-4:073 (PORTION) AND 2-1-
004:113.

SUMMARY

This submittal would extend the closure of remote and sensitive portions of 'Āhihi-Kīna'u Natural Area Reserve that have been closed almost continuously since 2008. The most popular and easily accessed portions of the Reserve would continue to remain open during visiting hours (5:30 a.m. – 7:30 p.m.).

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 overuse 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.

Surveys were conducted in 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.

To address the continuing concerns about resource damage and negative impacts by visitors, the AKNAR/KAG then recommended restricting all public access to Cape Kina‘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, and subsequently the Board has enacted continued closures of this area.

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 were recorded in the Reserve for the first time. Green sea turtles were also seen basking on beaches in one of the restricted areas on a consistent basis. Prior 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. The Reserve was formerly part of the Kanahena bombing range used for target practice during World War II. Staff found UXO, resulting in a U.S. Army Corps of Engineers (USACE) Site Investigation 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.

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 (completed September 2018). The Remedial Action phase cleared Maonakala village and surrounding kipuka, the coastline, three major trails, and a buffer around all anchialine ponds (see map). However, this leaves the majority of the NAR makai (southwest) of the highway uncleared and per the USACE and Department of Health un-fit for open public access.

The most recent closure extension was approved by the Board on January 8, 2021, as item C-1. While the closure authorized by that submittal has expired, DOFAW has issued a temporary closure pending Board review of the two-year closure. DOFAW has been authorized by the Board to issue temporary closures of Natural Area Reserves for periods of up to 60 days, per item C-2 on July 14, 2017.

On November 10, 2022, item C-2, the Board approved DOFAW's request to conduct public hearings on rule revisions that would make these closures permanent. Public hearings are scheduled statewide throughout January and February 2023.

ANALYSIS:

The Division of Forestry and Wildlife (DOFAW) requests continued closure of portions of 'Āhihi-Kina'u NAR. While the CERCLA process has identified potential for future access, unfettered access now would result in resource damage and UXO liability for the State. 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 location of the proposed closed area is the same as what has been closed since 2008. The Kanahena ("Dumps") parking area and a trail that includes the first 1.5 miles of coastline would remain open. After the 1.5 miles of trail, a fence barrier and signs discourage further access. The remainder of the NAR would be closed (see map).

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 Reserve at its March 24, 2016 meeting on Maui, and the NARS Commission also discussed the long-term closure needed for this area at various meetings, most recently on October 16, 2018.

RECOMMENDATION:

That the Board of Land and Natural Resources approve the proposed access restriction to portions of the 'Āhihi-Kina'u Natural Area Reserve, Maui, for a period of up to two years (January 28, 2023-January 27, 2025), 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
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



DAWN N. S. CHANG, Chairperson
Board of Land and Natural Resources

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:

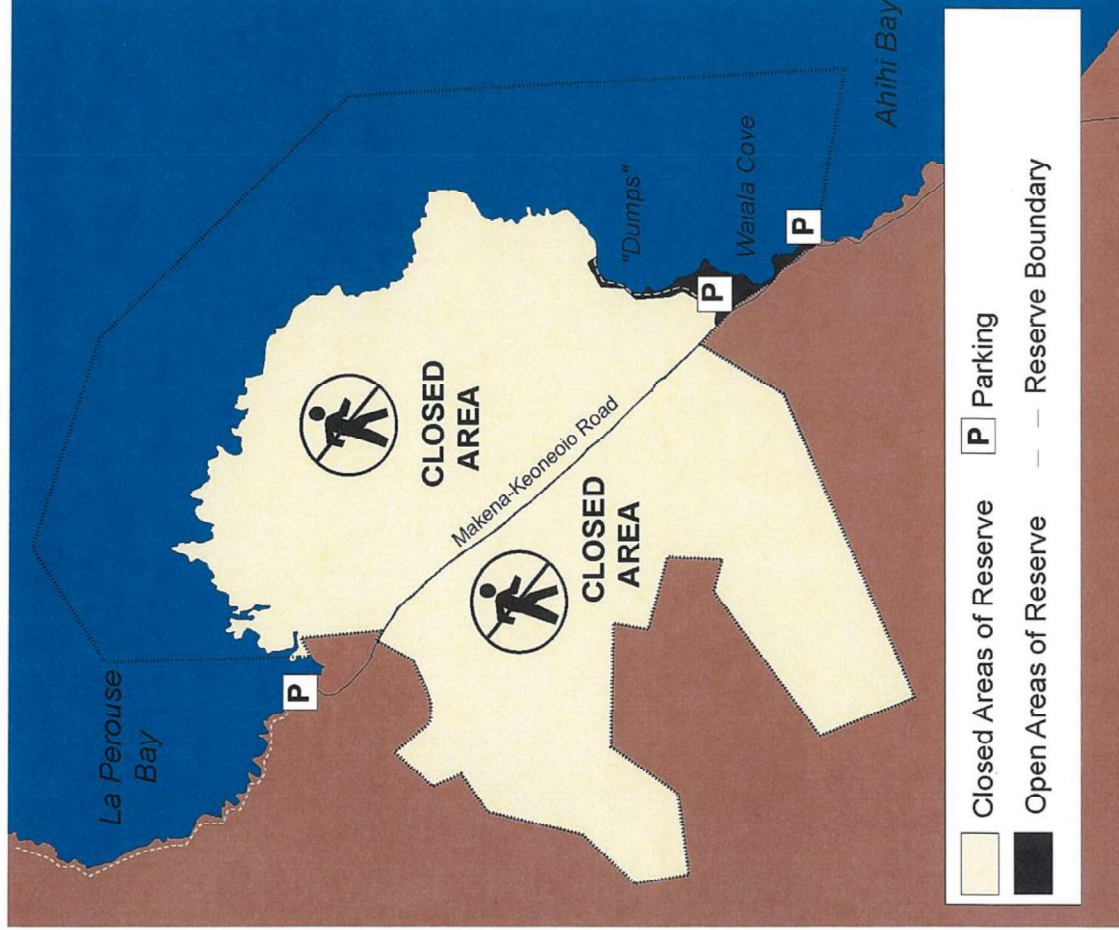
**Please *Kokua* and
do not enter closed areas.**

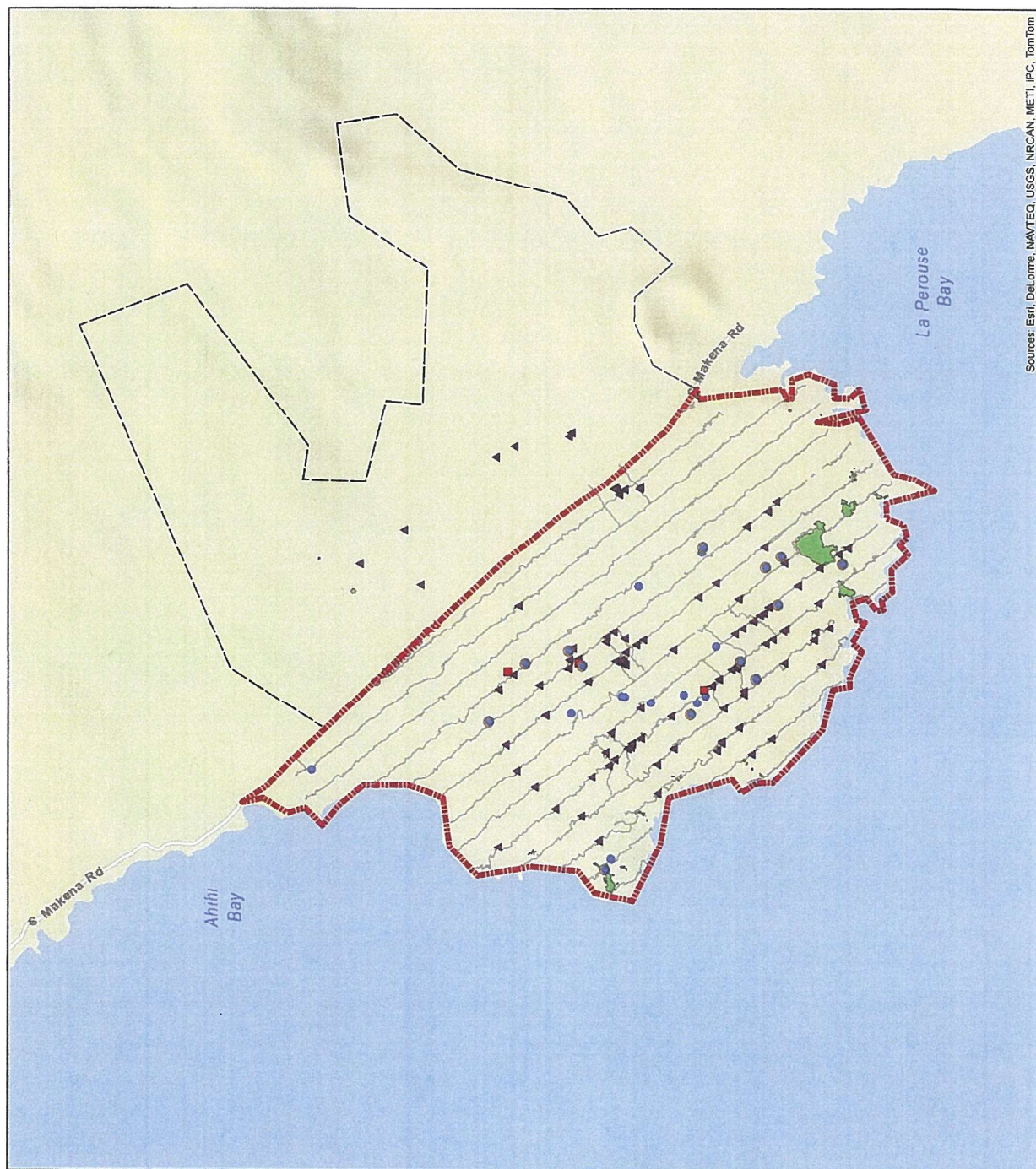
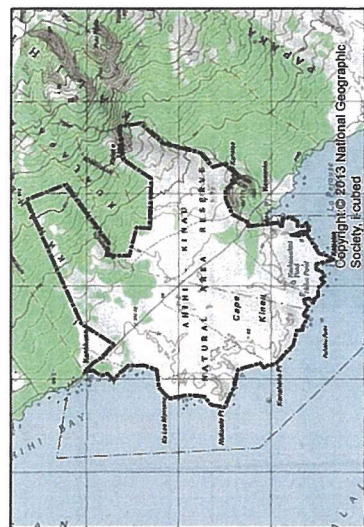
HRS §13-209-4(16) If present in closed area,
violators may be cited and/or arrested.

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 (984-8101)





Legend

- Impact Craters with MD observed during the 2008 SI survey
- MD discovered during 2008 SI survey
- MEC discovered during 2008 SI survey
- No MEC Detected During Current RI survey
- ▲ MD observed during the current RI survey
- Remedial Investigation Transects
- Area of Concern
- Anchialine pond



340 170 0 340
Meters

Area of Concern

Figure 7-1

Sources: Esri, DeLorme, NAVTEQ, USGS, NRCAN, METI, IPC, TomTom
A-16

Kanahena Munitions Response Site (MRS)

