

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 24, 2023

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

PSF No.: 12OD-084

OAHU

Issuance of Direct Lease to Maunalua Fishpond Heritage Center for Conservation, Biological and Cultural Revitalization, Education and Scientific Research Purposes, Honolulu, Oahu, Tax Map Key: (1) 3-7-002:018 and 077.

APPLICANT:

Maunalua Fishpond Heritage Center, a Hawaii non-profit corporation and an Internal Revenue Code Section 501 (c)(3) organization.¹ ("MFHC") See determination letter from Internal Revenue Services. **Exhibit A.**

LEGAL REFERENCE:

Sections 171-6 and 43.1, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands situated at Honolulu, Oahu, identified by Tax Map Key: (1) 3-7-002:018 ("Parcel 18") and 077 ("Parcel 77"), as shown on **Exhibits B-1** and **B-2**.

AREA:

Parcel 18 5,382 square feet
Parcel 77 5,445 square feet
Total: 10,827 square feet, more or less.

ZONING:

State Land Use District: Urban
City and County of Honolulu LUO: R-10

¹ Determination Letter dated November 24, 2014 currently found on the IRS website.
<https://apps.irs.gov/app/eos/details/#main-content>

TRUST LAND STATUS:

Acquired after Statehood, i.e., non-ceded

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Right-of-Entry permit No 4021 dated July 9, 2013 issued to MFHC for Scientific Study, Education, and Conservation Purposes.

CHARACTER OF USE:

Conservation, biological and cultural revitalization, education and scientific research purposes.

LEASE TERM:

Thirty (30) years.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

\$480 per year, pursuant to the Board policy adopted on May 13, 2005 under agenda item D-19 on minimum rent for new disposition.

METHOD OF PAYMENT:

Due annually, in advance.

RENTAL REOPENINGS:

At the 10th and 20th years of the lease term, based on the Board's then prevailing Minimum Rent Policy for eleemosynary organizations.

PERFORMANCE BOND:

Twice the annual rental amount.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the Office of

Environmental Quality Control's The Environmental Notice on June 8, 2021 with a finding of no significant impact (FONSI).²

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO <u> </u>
Registered business name confirmed:	YES <u>x</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>x</u>	NO <u> </u>

APPLICANT REQUIREMENTS:

None.

REMARKS:

Both Parcels 18 and 77 were acquired through condemnation by the Department of Transportation (“DOT”) in the 1990s as part of the federally funded highway improvement project. Staff understands that since the acquisition, DOT has been keeping both parcels vacant. There were improvements on each parcel with a fishpond covering a large area of both parcels. Through funding appropriated by the Legislature, the Department removed the two houses on the subject parcels in 2017. MFHC provided site plans showing the condition before and after the demolition, which are attached as **Exhibits C-1** and **C-2**, respectively.

The Federal Highway Administration, by its letter dated October 4, 2011 (**Exhibit D**), approved DOT’s request for leasing at less than fair market value to MFHC. In May 2012, Director of DOT and the Chairperson signed a memorandum (**Exhibit E**) regarding the transfer of “the ownership, jurisdiction, maintenance, liability and operation” of the subject parcels from DOT to the Department.

In November 2012, MFHC requested a right-of-entry permit to conduct biological and hydrological monitoring, weed and graffiti control, free public education program regarding the cultural and biological values of the fishpond and ongoing maintenance of the fishpond. MFHC was also formulating a long term management plan which would require a long term lease for its planned purposes.

At its meeting of February 22, 2013, under agenda item D-11, the Board authorized the issuance of a right-of-entry permit to MFHC for scientific study, educational and conservation purposes. The right-of-entry permit has been extended on an annual basis. In the meantime, MFHC was working on the environmental assessment process until the FONSI was finally published on June 8, 2021.

The following is from the Introduction in the FONSI which summarizes the background

² https://files.hawaii.gov/dbedt/erp/Doc_Library/2021-06-08-OA-FEA-Kalauhaihai-Fishpond-Management-Plan.pdf

and objective of MFHC:

Established in 2007, MFHC is a community-based organization committed to environmental conservation and the historic and cultural revitalization of Maunaloa's remaining fishponds. The Kalauha'iha'i Fishpond may be considered a historic property and cultural resource as it is the only intact shoreline fishpond in urban Honolulu, besides nearby Kānewai Fishpond. The pond also is an important example of a Hawaiian groundwater-dependent ecosystem. The potential for the fishpond to yield information important for research is high, and its accessible location in urban Honolulu makes it an especially valuable educational resource. The proposed management actions are essential for the continuing revitalization, preservation and long-term use of the fishpond. The Kalauha'iha'i site will be managed as a Hawaiian fishpond and cultural learning site, using science and 'āina-based hands-on education to steward resources and restore traditional fishpond values.

For the Board's information, MFHC owns the private property adjacent to Kanewai Fishpond and also received a right-of-entry permit from DOT for maintenance purposes over the DOT parcel immediately abutting Kanewai Fishpond.

On January 2, 2008,³ the State Historic Preservation Division ("SHPD") advised DOT to require in any lease issued pursuant to auction to include the following terms:

- Prior to the commencement of ground disturbing activities on the subject parcels, SHPD will be provided the opportunity to review the activities and determine the appropriate form of mitigation (e.g. archaeological inventory survey) that may be required prior to commencing any ground disturbing activities.
- Should any cultural properties and/or human remains/burials be identified on the subject parcels, these cultural properties and/or human remains/burials will be preserved in place, unless otherwise specified by SHPD.
- Prior to commencing ground disturbing activities that may affect the pond located on the subject parcels, a historic assessment and a literature review will be conducted to determine the eligibility of the pond as a historic site and the eligibility of the pond for inclusion on the Hawaii Register. Should the pond retain significance as per §13-275-6, Hawaii Administrative Rules ("HAR"), the pond will be preserved.

³ The subject parcels were under DOT's management until 2011 when the transfer of the subject parcels from DOT to DLNR was done. See Exhibit C. It was staff understanding that DOT was trying to sell a lease at auction.

During the comment stage for the draft environmental assessment, the Division of Aquatic Resources (“DAR”) noted that they support the restoration of fishponds and associated structures as they pertain to the propagation of native species and the role that fishponds can provide in developing concepts of stewardship for aquatic resources. In MFHC’s response to DAR’s comments (**Exhibit F**), MFHC agreed to work with DAR if there are any changes to the management plan in the future. In addition, MFHC will also seek input and suggestions from DAR to identify benefits from fishpond restoration on its associated bio-cultural system, like wai, marine aquatic systems.

To achieve this objective, staff recommends conditions be included in the lease requiring MFHC to share any research results with the DAR and the Division of Forestry and Wildlife upon request; and further requiring MFHC to notify researchers of responsibility for reporting of scientific findings to the Divisions on any research, study, or assessment relating to the natural resources of the subject fishpond, and to share any research result with the Divisions, upon request.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

There are no other pertinent issues or concerns, and staff recommends the Board authorize the issuance of a direct lease, based on the terms and conditions described above.

RECOMMENDATION: That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct lease to Maunalua Fishpond Heritage Center covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current (non-profit) lease document form, as may be amended from time to time;
- B. Prior to the commencement of ground disturbing activities on the subject parcels, SHPD will be provided the opportunity to review the activities and determine the appropriate form of mitigation, e.g. archaeological inventory survey, that may be required prior to commencing any ground disturbing activities;
- C. Should any cultural properties and/or human remains/burials be identified on the subject parcels, these cultural properties and/or human remains/burials will be preserved in place, unless otherwise specified by State Historic Preservation Division;
- D. Prior to commencing ground disturbing activities that may affect the pond located on the subject parcels, a historic assessment and a literature review shall be conducted to determine the eligibility of the pond as a historic site and the eligibility of the pond for inclusion on the Hawaii Register. Should the pond retain significance as per §13-275-6, Hawaii Administrative Rules, the pond will be preserved;

- E. The Lessee shall share any research result with the Division of Aquatic Resources and the Division of Forestry and Wildlife upon request; and shall additionally inform researchers of the responsibility for reporting of scientific findings to the Divisions;
- F. Review and approval by the Department of the Attorney General; and
- G. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson *KCM*

RT

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: FEB 13 2025

MAUNALUA FISHPOND HERITAGE CENTER
C/O MR. CHRIS CRAMER
P.O. BOX 240204
HONOLULU, HI 96824-0204

Employer Identification Number:
26-1349087
DLN:
17053332317034
Contact Person:
MIKE M KERR ID# 31611
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
170(b)(1)(A)(vi)
Form 990 Required:
Yes
Effective Date of Exemption:
May 15, 2014
Contribution Deductibility:
Yes
Addendum Applies:
Yes

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,



Director, Exempt Organizations

Letter 947

EXHIBIT A

-2-

MAUNALUA FISHPOND HERITAGE CENTER

ADDENDUM

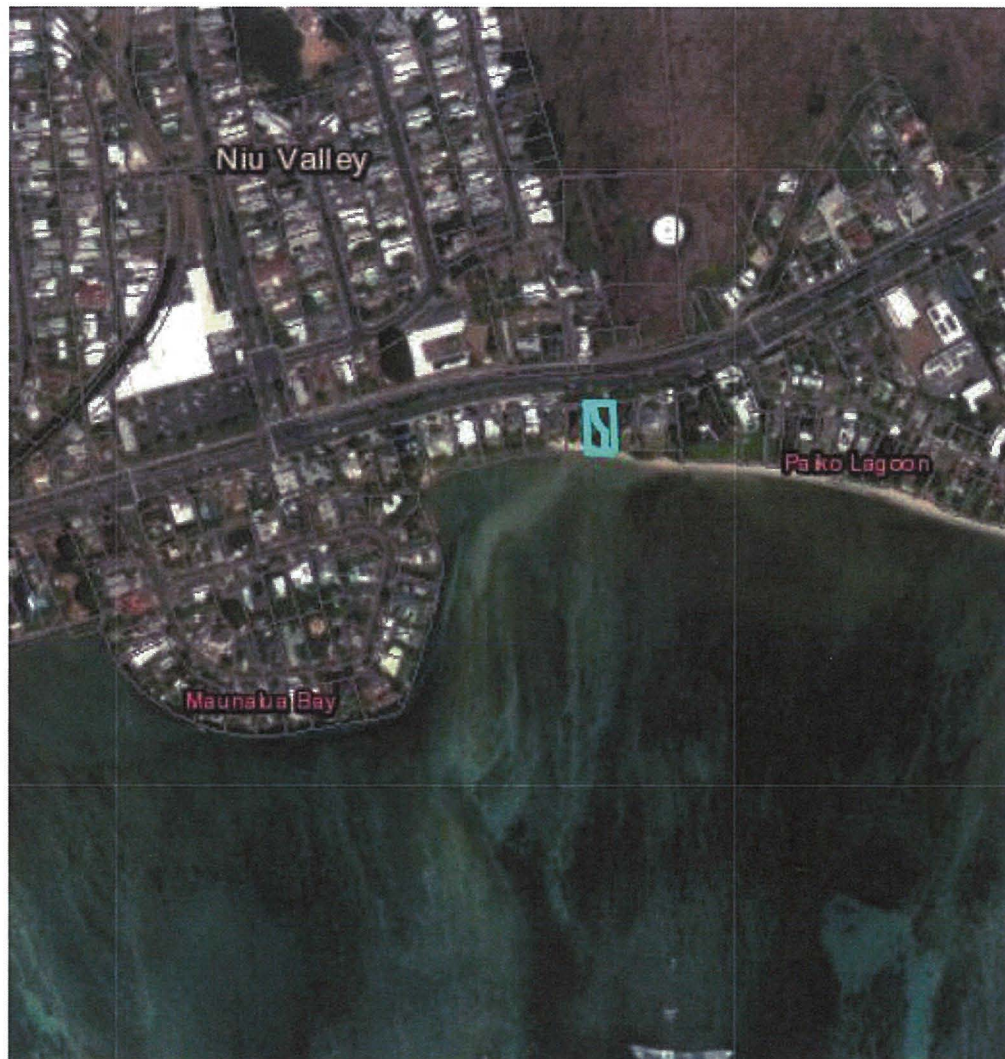
Based on the information submitted with your application, we approved your request for reinstatement under Revenue Procedure 2014-11. Your effective date of exemption, as shown in the heading of this letter, is retroactive to the date of revocation.

Letter 947



TMK (1) 3-7-002:018 and 077

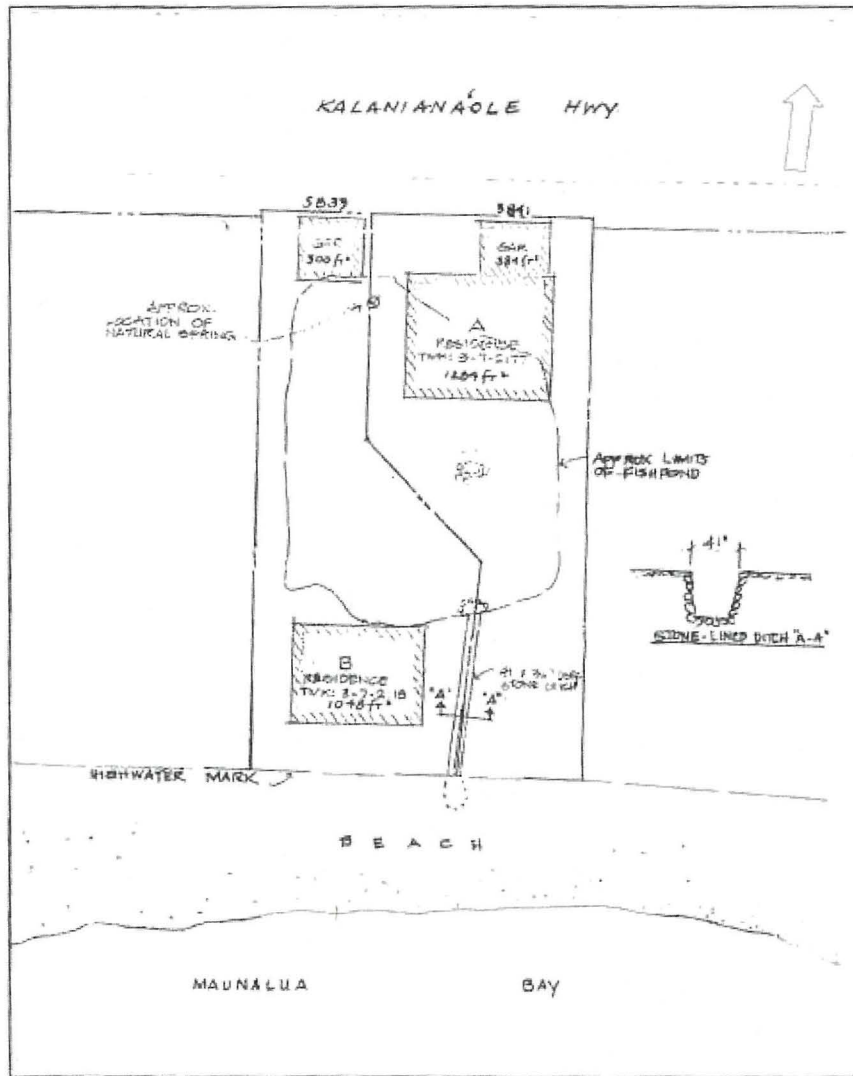
EXHIBIT B-1



TMK (1) 3-7-002:018 and 077

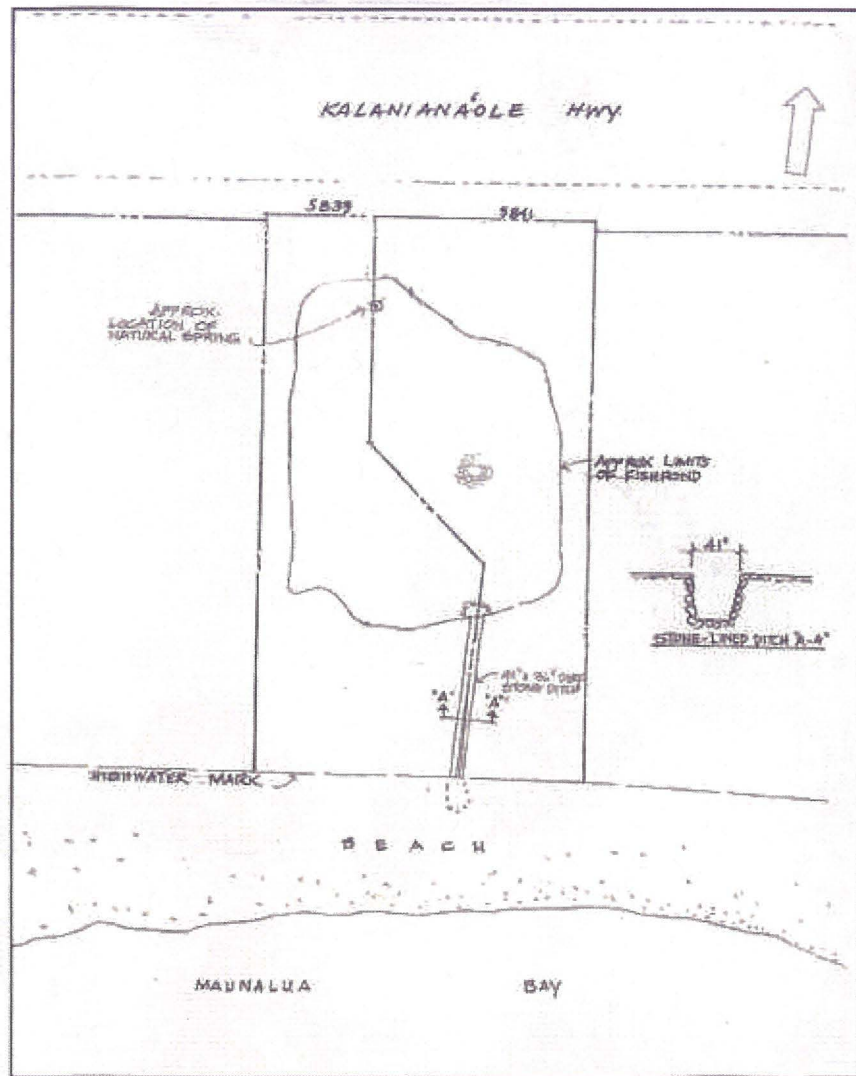
EXHIBIT B-2

Site Diagram:
Layout of the Kalauha'iha'i Fishpond and facilities
5839/5841 Kalaniana'ole Hwy



TMK (1) 3-7-002:018 and 077

EXHIBIT C-1



Kalauha'iha'i Fishpond Site Diagram
Source: CWRM

TMK (1) 3-7-002:018 and 077

EXHIBIT C-2



U.S. Department
of Transportation
Federal Highway
Administration

Hawaii Federal-Aid Division

October 4, 2011

300 Ala Moana Blvd, Rm 3-308
Box 50206
Honolulu, Hawaii 96850
Phone: (808) 541-2700
Fax: (808) 541-2704

In Reply Refer To:
HDA-HI

Glenn M. Okimoto, Ph.D.
Director
Hawaii Department of Transportation
869 Punchbowl Street
Honolulu, HI 96813

Dear Dr. Okimoto:

Thank you for your letter dated May 12, requesting our approval to lease Surplus Properties and Kalauha'iha'i Pond at less than fair market value to the Maunaloa Fishpond Heritage Center, a non-profit organization. We are also in receipt of your September 14 letter requesting approval of a Public Interest Determination for this action. In accordance with 23 CFR 710.403(d)(1) and 710.409 (d), we concur with your public determination and approve your request.

Please note we have been contacted by another party with an interest in the surplus property and fishpond. Dean Yogi of your staff is familiar with this additional interest that you may wish to consider.

Sincerely Yours,

Abraham Wong
Division Administrator

Enclosures

EXHIBIT D

NEIL ADERCRUMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE T. BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:
HWY-RM
3.89214

MAY 17 2012

TO: THE HONORABLE WILLIAM J. AILA, JR., DIRECTOR
DEPARTMENT OF LAND AND NATURAL RESOURCES

FROM: GLENN M. OKIMOTO, Ph.D.
DIRECTOR OF TRANSPORTATION *Glenn M. Okimoto*

SUBJECT: KALANIANA'OLE HIGHWAY, FAP NO. F-072-1 (39)
EAST HALEMAUMAU TO KEAHOLE STREET, ISLAND OF
OAHU, HAWAII, TMK: (1) 3-7-02:018 & 077
TRANSFER OF JURISDICTION OF PROPERTIES LOCATED AT 5839
AND 5841 KALANIANA'OLE HIGHWAY

This letter is to memorialize the decision and to transfer the jurisdiction of the two properties located at 5839 and 5841 Kalaniana'ole Highway from the Department of Transportation (DOT) to the Department of Land and Natural Resources (DLNR).

Pursuant to the agreement made between the two Directors, William J. Aila, Jr., DLNR and Glenn M. Okimoto, Ph.D., DOT has agreed to transfer the ownership, jurisdiction, maintenance, liability and operation of the subject properties effective as of the date of this memo.

No water restoration shall be required from DOT while the properties are under DLNR's jurisdiction. Pursuant to the Code of Federal Regulations (CFR) 23, 710-409 d, should the properties no longer be used for public purposes the properties will revert back to DOT.

Please sign below and return original for our files.

By *Glenn M. Okimoto*
GLENN M. OKIMOTO, Ph.D.
Its DIRECTOR OF TRANSPORTATION

By *William J. Aila, Jr.*
WILLIAM J. AILA, JR.
Its DIRECTOR OF LAND AND
NATURAL RESOURCES

Enclosure

EXHIBIT E



February 15, 2020

Mr. Brian Neilson, Administrator
State of Hawai'i
Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl St #330, Honolulu, HI 96813

Dear Mr. Neilson,
Mahalo for DAR's comment letter of 9/ 4/19 regarding the Draft Environmental Assessment (DEA)
for Kalauha'iha'i Fishpond Management Plan. We have reviewed your comments on the DEA and
offer the following responses:

1. **Comment:** DAR would like to emphasize that propagation of native species be adhered to, unless
the appropriate review and permits have been obtained.

Response: MFHC is sensitive to the issues of introduction and propagation of non-native species in
Hawai'i, and appreciates DAR's comments regarding the conservation of native aquatic species and
the potential role of fishponds in restocking native species. MFHC is committed to preventing
negative effects of non-native species. Management objectives in the Kalauha'iha'i Management
Plan include removing invasive non-indigenous plants and animals (including tilapia) and propagating
native species. MFHC currently has no plans to conduct aquaculture of non-native species at
Kalauha'iha'i Fishpond. However should such action be contemplated in the future, MFHC will
consult with DAR and fully adhere to all applicable regulations, including seeking appropriate
permits.

2. **Comment:** DAR requests to review and comment on any future changes to the Kalauha'iha'i
Management Plan.

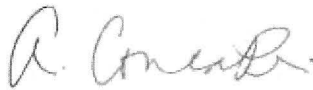
Response: MFHC welcomes DAR's input in the future management of Kalauha'iha'i Fishpond, and
will seek DAR's review and input on subsequent versions of the Kalauha'iha'i Management Plan.
MFHC also would like to acknowledge the prior assistance of DAR staff who have conducted site
visits to Kalauha'iha'i Fishpond and who have provided valuable advice.

3. **Comment:** DAR has conducted an assessment of Kalauha'iha'i Fishpond and acknowledged that the potential benefits from restoration efforts planned at the pond may extend to the aquatic resources in adjacent waters.

Response: MFHC appreciates DAR's recognition of the biological and hydrological connectivity between fishponds and nearshore aquatic resources; and the potential benefits that Hawaiian fishponds may provide to these nearshore systems. MFHC is dedicated to the preservation and stewardship of fishponds and their associated bio-cultural systems, including wai, ahupua'a and marine aquatic systems. MFHC will be seeking to identify indicators of benefits conferred by fishpond restoration on these associated systems, and we welcome DAR's input and suggestions in this regard.

Thank you again for taking the time to review and respond. Your comment letter will be included in the final Environmental Assessment. Please contact the undersigned if you have questions about this document or Kalauha'iha'i Fishpond.

Sincerely,



Angela Correa-Pei, Esq.

President, Maunalua Fishpond Heritage Center

P.S. Maunalua Fishpond Heritage Center would additionally like to thank DAR for their strong support for management of Hawaiian fishponds, including their active participation in the statewide Fishpond Manager's Hui.