

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

May 24, 2024

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

PSF No.: 16SD-160

Statewide

Amend Prior Board Action of October 13, 2023, under agenda Item D-7, Issuance of Right-of-Entry Permit to the United States through its Army Corps of Engineers, Honolulu District, Department of the Army, to Conduct Defense Environmental Restoration Program Activities on State Lands Including Submerged Lands on the Islands of Oahu and Hawaii.

The current amendment is at the request of the United States Army Corps of Engineers (USACE) who requires that USACE's right-of-entry (ROE) form be used for projects on Formerly Used Defense Sites (FUDS) instead of the State's ROE form that USACE agreed to in the past for environmental remediation projects on State lands. Accordingly, the purpose of the amendment is to change the Board's prior action approving the use of the State ROE form and instead approve the use of the USACE ROE form.

BACKGROUND:

At its meeting of October 13, 2023, under agenda Item D-7, the Board of Land and Natural Resources (Board) approved a right-of-entry permit to the United States Army Corps of Engineers (USACE) for environmental remediation purposes and authorized the right-of-entry (ROE) permit to be continued on a month-to-month basis for additional one-year periods at the discretion of the Chairperson. The ROE was intended to allow USACE to enter onto State lands for remediation of unexploded ordnance (UXO) and other hazardous materials left on State land by United States military. The prior Board action involved 105 tax map key (TMK) parcels covering 29,769.343 acres on Oahu and the Big Island. A copy of the prior Board action is attached hereto as **Exhibit I**.

REMARKS:

After the Board meeting of October 13, 2023, Land Division sent USACE an ROE for review in the same form that had been used in previous years since about 2010. See **Exhibit II**. This was consistent with the Board's approval of the USACE request as evidenced by recommendation 2.A. on page 7 of the submittal:

2. Authorize the issuance of a right-of-entry permit to United States through its Army Corps of Engineers, Honolulu District, Department of the Army, covering the subject properties identified in Exhibit B attached hereto 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 right-of-entry permit form, as may be amended from time to time;

See **Exhibit I** attached at page 7 (emphasis added).

USACE responded that it was unable to sign the State's ROE due to "policy changes" within USACE and instead presented a new ROE of its own. See **Exhibit III** attached. USACE advised Land Division that going forward all new ROEs for UXO / hazardous material remediation on Formerly Used Defense Sites (FUDS)¹ on State lands would need to be on the USACE form rather than the form the parties used previously.² Staff has verified that all of the sites listed in the October 13, 2023 staff submittal are FUDS.

A comparison of **Exhibits II** and **III** shows the Land Division ROE form contains protections in favor of the State including insurance coverage to be provided by USACE's contractors and consultants and a type of indemnity tailored to fit the context of a federal permittee. Specifically, any claims asserted against the State by third parties under the ROE are the responsibility of the federal government, subject to appropriation of funds by Congress. Land Division believes these protections are necessary, especially since USACE engages in hazardous activities on the permitted lands, including detonation of UXO in place under some circumstances. In contrast, the USACE form affords no protections to the State and even imposes liability on the State if the ROE is terminated short of the agreed term (see **Exhibit III**, paragraph 5). Furthermore, the USACE form requires the ROE to remain effective until USACE has completed its work on the relevant parcel (which could take several years in some cases), while State law limits the term of ROEs to one year, subject to continuance by the Board (or Chairperson if authority is delegated to her) on a month-to-month basis for additional one-year periods.³

A deputy Attorney General was assigned to assist Land Division on this matter. USACE,

¹ FUDS are properties that were formerly owned by, leased to or otherwise possessed by the Department of Defense and transferred from DOD control prior to October 17, 1986.

² In contrast, USACE staff has advised Land Division that the existing Land Division ROE form is acceptable for cleanups on non-FUDS lands.

³ In many cases, the Board delegates authority to the Chairperson to continue ROEs for additional one-year periods for good cause shown. Accordingly, in the last one or two months of a one-year ROE, the permittee will request a continuance from staff. Staff will then prepare an extension letter for the Chairperson's signature with the letter indicating whether the continuance is for a full year or for some other period as requested by the permittee. A continuance can be approved in writing within one or two business days from receipt of the request.

Land Division and their counsel met several times in 2024 to discuss their concerns. However, at each meeting USACE reiterated its position that it is required to use its ROE form and no exceptions are allowed. USACE additionally expressed the urgency of the need to resolve this matter as it has contractors ready to start remediation projects at various locations. In one instance, USACE relied on an ROE (using the USACE form) signed by the Department of Education (DOE) for the Makalapa Elementary School site on Oahu, which is set aside to DOE by Governor's Executive Order. To expedite its entry onto the site in March 2024, USACE took the view that the signature of the legal landowner of the property, i.e., the Board, was not required on the ROE.

USACE has contractors lined up to start work on State lands in the former Waikoloa Maneuver Area on the Big Island, which is a FUDS, in June 2024 and therefore requested an additional meeting with Land Division and its counsel on May 1, 2024 to explain the importance and urgency of its work and reiterate that its ROE form must be used. The Department of Land and Natural Resources' (DLNR) First Deputy also attended this meeting. At the meeting, USACE offered to have its contractors add DLNR as an additional insured on their insurance policies, which would allow DLNR to look to USACE's contractors for relief if claims were asserted against the State for cleanup related incidents under the ROEs. Further, USACE wants project-specific ROEs signed while the DLNR believes blanket approvals for one-year periods present a workable approach with less paperwork.

Also at the May 1, 2024 meeting, USACE explained that if the State refuses USACE entry onto lands contaminated by the United States military, the State will assume liability for the contamination under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Land Division staff requested USACE to provide a citation to the U.S. Code or Code of Federal Regulations as authority for this proposition, but USACE had not done so by the date of writing this submittal. Staff understands CERCLA imposes liability on any owner of contaminated land or any person who caused the contamination, which in this case is the United States military. It is not clear to staff that liability and be transferred solely to the State if the State does not allow USACE entry onto its lands using the one-sided USACE ROE form.⁴

USACE reports that in addition to DOE, the Department of Hawaiian Home Lands and many private landowners in Hawaii have authorized entry onto their lands using USACE's

⁴ "Under CERCLA covered persons include: (1) the owner and operator of a vessel or a facility, (2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of (3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances, and (4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance CERCLA § 107(a), 42 U.S.C. § 9607(a) (1988)." Jill D. Neiman, "Easement Holder Liability Under CERCLA: The Right Way to Deal with Rights-of-Way," *Michigan Law Review*, Vol. 89, Issue 5, 1991.

ROE form.

Staff considered the option of recommending to the Board that it require a bond of the USACE to cover (i) any claims for personal injury or property damage resulting from ordnance or other contaminants remaining on State land after USACE completes its cleanup, and (ii) the cost of any potential additional cleanup required to remove ordnance or other contaminants USACE may have missed.⁵ This would be in line with recent Board decisions on new leases and lease extensions to require the lessee to post a removal bond to cover the cost of the State removing improvements at the end of the lease term should lessee fail to do so. However, staff knows the USACE would not agree to such a requirement and therefore did not include a recommendation regarding that item in this submittal.

In any event, USACE has made abundantly clear that its ROE form must be used for the project. Accordingly, with grave reservations, Land Division recommends below that the Board amend its prior approval by authorizing the use of the USACE ROE form instead of the form previously used for USACE's environmental remediation of FUDS on State lands, provided that USACE require its contractors and consultants to list the State of Hawaii, Department of Land and Natural Resources, as an additional insured on all insurance policies required under the cleanup contracts with USACE.⁶

RECOMMENDATION:

That the Board:

- I. Amend recommendation 2.A. of its October 13, 2023 approval as follows:⁷
 2. Authorize the issuance of a right-of-entry permit to United States through its Army Corps of Engineers, Honolulu District, Department of the Army, covering the subject properties identified in Exhibit B attached hereto 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]~~ United States Army Corps of Engineers' right-of-entry permit substantially in the form attached hereto as Exhibit ___; ~~[-as may be amended from time to time]~~ provided, however, that USACE shall require its contractors and consultants to list the State of Hawaii, Department

⁵ The bond amount could be determined as a percentage of the USACE's project cost for cleanup of a particular parcel of land or area.

⁶ Staff will bring a separate submittal to the Board in the future for UACE remediation projects on non-FUDS lands, and will recommend that the DLNR's standard ROE form used for past USACE projects be used for non-FUDS locations.

⁷ Deletions are indicated by bracketed strikethrough and additions are indicated by underscoring.

of Land and Natural Resources, as an additional insured on all insurance policies required under the cleanup contracts with USACE involving State lands; provided further that the right-of-entry shall be on a month-to-month basis for a period not to exceed one year from the date of its issuance, subject to continuance on a month-to-month basis for additional one-year periods by the Chairperson for good cause shown, as previously approved by the Board on October 13, 2023, under agenda Item D-7;

II. Affirm that, except as amended hereby, all the terms and conditions of its prior approval of October 13, 2023 shall remain the same.

Respectfully Submitted,



May 9, 2024

Michael Ferreira
Land Agent *MF*

APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson *RT* *RC*

EXHIBIT I

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813
October 13, 2023

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

PSF No. 16SD-160

STATEWIDE

Issuance of a Right-of-Entry Permit to the United States through its Army Corps of Engineers, Honolulu District, Department of the Army, to Conduct Defense Environmental Restoration Program Activities on State Lands Including Submerged Lands on the Islands of Oahu and Hawaii. See **Exhibit 2** for List of Subject Properties.

APPLICANT:

The United States through its Army Corps of Engineers, Honolulu District, Department of the Army (USACE).

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portions of Government lands on the islands of Oahu and Hawaii, as identified in the attachments labeled **Exhibit 2, 4, 5** attached hereto.

AREA:

29,769.343 acres, more or less.

ZONING:

State Land Use District: Various (refer to **Exhibit 2**)
County of Hawaii / Honolulu CZO: Various (refer to **Exhibit 2**)

TRUST LAND STATUS:

The Trust Land Status of the various parcels is indicated in **Exhibit 2** attached.

CURRENT USE STATUS:

The vast majority of the parcels are encumbered as indicated in **Exhibit 2** attached.

CHARACTER OF USE:

Environmental remediation purposes.

COMMENCEMENT DATE OF ROE:

Following approval of the Board, upon execution of a new ROE.

TERM OF RIGHT-OF-ENTRY:

One year from date of execution. The Chairperson is authorized to continue the right-of-entry for additional one-year periods for good cause shown.

CONSIDERATION

Gratis to government agency.

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

In accordance with HAR § 11-200.1-15 and the exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on November 10, 2020 the subject request for issuance of a right of entry is exempt from the preparation of an environmental assessment pursuant to:

General Exemption Type 1: Operation, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing.

PART 1, Item 44: Permits, licenses, registrations, and rights of entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing;

PART 2, Item 1: Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources.”

General Exemption Type 4: Minor alteration in the conditions of land, water, or vegetation;

PART 2, Item 5: Conduct removal of unexploded ordnance.

General Exemption Type 5: Basic data collection, research, experimental management,

and resource and infrastructure testing and evaluation activities that do not result in a serious or major disturbance to an environmental resource.

PART 1 Item 17: Conduct assessment and survey of unexploded ordnance.

PART 1 Item 19: Conduct planning and feasibility studies.

The annual renewal of existing Rights of Entry permits and new TMK's added on State lands involves the continuation of existing uses on the lands. No change of use is authorized by the Right of Entry, new or renewal.

These exemptions and relevant class items are summarized in more detail in Land Division's Exemption Notification form, attached hereto as **Exhibit 1.2**, and incorporated herein.

REMARKS:

The current request from the Department of the Army, U.S. Army Corps of Engineers, Honolulu District (USACE), through its Real Estate Branch, asks for "Rights-of-Entry to investigate further and to clear unexploded ordnance (UXO) on State lands located within Oahu and the Island of Hawaii, used by the U.S. Military in the 1940's for training during World War II". USACE is the executing agency for the Defense Environmental Restoration Program/Formerly Used Defense Sites (DERP/FUDS) Program and also handles right-of-entry requests for the U.S. Army Garrison (USAG) which is the executing agency for the DERP Military Munitions Response Program (MMRP). Administered by the U.S. Department of Defense, both programs assess and evaluate the presence of munitions and explosives of concern (MEC) (commonly referred to as unexploded ordnance, or UXO), discarded military munitions (DMM), and munitions constituents (MC) in the environment, left from previous military use, and provide appropriate remediation, response and mitigation of hazardous conditions.

In Hawaii and Oahu, many DERP/FUDS and MMRP projects are located on public lands managed by the Department. Federal program protocols require right-of-entry (ROE) to those lands before site-specific project contract funding can be encumbered and work can begin.

BLANKET ROE REQUEST.

A request for right-of-entry to a list of State lands identified by Tax Map Key (TMK) parcel numbers was submitted by USACE to the Department June 13, 2023 (**See Exhibit 1**) for DERP projects funded for execution between 2023 through 2025 (referenced hereinafter as "blanket ROE request"). The list of properties, updated and expanded in April 2023, is being brought to the Board according to USACE project planning constraints, and to allow sufficient time for staff to complete land data research on each TMK parcel. The properties being addressed in this submittal are those DERP/FUDS and MMRP projects planned to commence during 2023, and are identified in a table attached hereto as Exhibit 3.

Since USACE handles all ROE requests for both FUDS and USAG MMRP projects, projects from both programs were included in the blanket ROE request. Commencement of project site work is contingent upon availability of both federal funding and landowner consent to right-of-entry. FUDS/MMRP are voluntary programs, so a FUDS/MMRP-eligible site could become ineligible if the landowner does not grant access to the property. Pursuant to USACE guidelines ER 200-3-1 dated May 2004, should a landowner refuse a request for right-of-entry, the USACE is directed to reclassify the subject property as an ineligible project, and notify the appropriate authorities.

NEED FOR MUNITIONS CLEANUP PROGRAMS.

To attain the level of readiness necessary to deter adversaries and defend our nation, the Department of Defense (DoD) must develop, test, and deploy weapon systems and military munitions, and then train its personnel to use and maintain these systems. Since World War II, large areas both onshore and offshore in Hawaii have been used for such military training involving live ammunition. As a result, some properties are known or suspected to still contain DMM, MEC, and MC remaining from previous DoD use, and are the subject of a massive, long-term remediation effort carried out by the DoD today.

VALUE TO THE STATE OF HAWAII.

Right-of-entry is being provided gratis to USACE, as the State of Hawaii is benefiting from the expenditure of federal dollars to remediate long standing munitions-related environmental contamination left by past military use, all at no cost to the State. Consequently, in order to protect the health, safety and welfare of the general public, it is in the State's best interests to support and facilitate the USACE's investigation and remediation efforts under its various programs. The inability to address these hazards prior to the advent of the DERP/FUDS program previously resulted in injuries and as well as fatalities when unsuspecting members of the public inadvertently encountered UXOs in the environment.

REGULATORY FRAMEWORK

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on December 11, 1980 to address releases or threatened releases of hazardous substances that may endanger public health or the environment. In 1986, Congress passed the Superfund Amendments and Reauthorization Act (SARA), which amended and strengthened CERCLA.

SARA also renamed its Installation Restoration Program (IRP) as the Defense Environmental Restoration Program (DERP) and expanded the IRP with programs to address environmental cleanup on various types of DoD-used properties. These included Formerly Used Defense Sites (FUDS), real property formerly owned, leased, possessed by, or otherwise under the jurisdiction of the Secretary of Defense prior to 1986. The USACE was designated as the executing agency for the DERP/FUDS Program. In

September 2001, DoD established the Military Munitions Response Program (MMRP) and designated the USAG as its executing agency to manage environmental responses specifically related to MEC, DMM, and MC on FUDS sites.

Response actions today are authorized under DERP and SARA Section 211. CERCLA provides the regulatory framework for environmental restoration. The State of Hawaii Department of Health, Office of Hazard Evaluation and Emergency Response (DOH HEER) plays an important role to assure the DoD of State coordination and support for regulatory matters, however, cooperation by other State agencies to allow access to lands under their control must also be provided.

FUDS and MMRP sites currently owned by the State of Hawaii include both unencumbered and encumbered lands which may be in park, forestry, agricultural, conservation, urban or submerged areas. Remediation work at each project site is conducted in steps following a well-established CERCLA process.

SCOPE AND RANGE OF PROJECTS

USACE Honolulu District, which includes Hawaii, American Samoa, CNMI (Commonwealth of the Northern Mariana Islands), Guam and the Republic of Palau, has 505 FUDS (including MMRP) properties. Annual funding levels from FY 11 through FY 17 have averaged about \$16M per year, with each year subject to possible "plus-up" funding by Congress to supplement existing annual budgets, though no year is guaranteed such a boost (plus-ups were received in each year of this period, except for FY16).

FUDS and MMRP projects on public and private lands in Hawaii involve thousands of acres. For example, on the island of Hawaii, the former Waikoloa Training Area project site (WTA) comprises 101,055 acres, three times bigger than the island of Kahoolawe.

A training area for the 2nd Marine Division, dubbed Camp Tarawa, was located there from 1943-1946, and was WWII's largest single staging area for military training. Today it remains the single largest U.S. site contaminated with military munitions and UXO.

An estimated 10% of the military munitions used during live-fire training in the WTA may have failed to detonate, and remaining MEC, DMM, and MC were widespread. In the years following closure of the WT A in 1946, MEC contamination caused three deaths and five serious injuries, highlighting the high risk of hazards and prompting establishment of these environmental remediation programs. Under the DERP programs, by 2016 remediation work over a 29,000 acre portion of the WTA had been completed at a total cost of \$217.7M. It is anticipated that the remaining 71,000 acres will likely take decades more to finish. The projected cost to complete environmental remediation of the entire site is \$720M.

TIME-CRITICAL ROE REQUESTS

The federal DERP/FUDS/MMRP programs are currently the State's sole means to

address military munitions remediation efforts on a statewide scale. Experience has shown that, with so many moving parts to be coordinated in each project, the USACE cannot always submit ROE requests far in advance of annual funding opportunities, and delays to ROE issuance can result in loss of funding.

In addition, plus-up funding, when received, not only means more work can be planned for a given year, but also that additional contracting must be initiated within a critically short time period. This is the case for the current batch of projects addressed herein, slated to commence in 2023. Therefore, it is important that the Department be able to issue appropriate right-of-entry access to State lands to the USACE in a timely manner to help streamline the approval process to support this important work.

ROE CONDITIONS

A set of standard ROE conditions appropriate to the DERP/FUDS and MMRP projects were negotiated with assistance of the Department of Attorney General in January 2017. Two ROE documents under the Applicant's blanket ROE request have already been executed previously to address time-critical project sites:

- 1) ROE executed January 31, 2017 for: Government Lands in Waimea, District of South Kohala, Island of Hawaii, at Puu Kawaiwai, Panoluukia, and Kapia, Tax Map Key: (3) 6-2-001:015 (por.), and at Ouli, Tax Map Key: (3) 6-2-005:022. Board approval granted on January 27, 2017, Item D-12, and amended on February 24, 2017, Item D-6.
- 2) ROE executed September 7, 2017 for: Encumbered Land Onshore at Makua Beach and Unencumbered Submerged Lands Offshore of Makua Beach at Kahanahaiki, Waianae, Island of Oahu, Tax Map Key: (1) 8-1-001:portion of 008 and seaward of 008. Board approval, as amended, granted on June 23, 2017, Item D-9.
- 3) At its meeting on June 28, 2019, under Agenda Item D-9, the Board had also approved a first amendment of its prior action of October 27, 2017, under its Agenda Item D-11, by adding nine additional tax map key parcels located in the former Waikoloa Maneuver Area on the Island of Hawaii.
- 4) On April 8, 2022, Item D-5 a second amendment of the Board's October 27, 2017 approval under Agenda Item D-11 added ten parcels in South Kohala. To facilitate the USACE's ability to continue its remediation work uninterrupted on the State properties described in Exhibits 1, 2, and 4 going forward, we also request this second amendment to include the Board's approval to allow the right-of-entry permit to be continued on a month-to-month basis for additional one-year periods, pursuant to § 171-55, HRS, by the Chairperson for good cause shown.

Since the lists of TMK's in the prior Board approvals are now outdated / incomplete, staff is recommending a new blanket ROE covering all the parcels identified in Exhibit 2 attached instead of attempting an amendment of the prior actions. This will facilitate

management of USACE's entry onto the parcels as there will be a single ROE commencement and expiration date for all parcels and the Chairperson will have the authority to continue the ROE annually for good cause shown.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by HRS Chapter 343, and HAR Chapter 11-200.1, this project will probably have minimal or no significant effect on the environment and is there exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to United States through its Army Corps of Engineers, Honolulu District, Department of the Army, covering the subject properties identified in Exhibit B attached hereto 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 right-of-entry permit form, as may be amended from time to time;
 - B. The right-of-entry is for a term of one year; however, the Chairperson is authorized to continue the right-of-entry for additional one-year periods for good cause shown; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Sep 7, 2023

Michael H. Ferreira
Land Agent V

APPROVED FOR SUBMITTAL;



Sep 7, 2023

Dawn N.S. Chang

RT



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, HONOLULU DISTRICT
230 OTAKE STREET, BUILDING 230
FORT SHAFTER, HAWAII 96858-5440

June 13, 2023

Real Estate Division

Via Email/Certified Mail

dlnr@hawaii.gov; dlnr.land@hawaii.gov

Subject: DLNR Board Approval Request
USACE - Department of Defense "DoD"
Rights-Of-Entry "ROE"
Formerly Used Defense Sites "FUDS"

Ms. Dawn Chang
Chairperson
Department of Land and Natural Resources
State of Hawaii
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96813

Dear Ms. Chang,

The U.S. Army Corps of Engineers (USACE), is requesting Board Approval for access onto state owned lands for both newly identified TMK parcels and expiring TMK parcels previously approved by the Board for Rights-of-Entry. USACE continues to focus its ongoing efforts to reduce the risk of exposure, by investigating and disposing of remaining live ordnances, and various contaminants in surface/shallow subsurface soils used during military training exercises.

Our request is to continue to investigate, survey and identify unexploded ordnance, and any subsurface soil contaminants that may remain on Hawaii State owned Lands.

USACE has current and on-going contracts to provide these services; and is respectfully requesting Board Approval by August 2023, whereby giving us continued permission to access and enter State owned property to conduct this necessary work. Our Environmental Project Managers will work closely to provide advance notice to all parties, including any Co-Ownerships, and/or Lessee's the State has leased land contracts with.

The attached list of TMK Parcels are located on the Islands of Hawaii and Oahu. At this time, we are unable to specify the exact dates for performing the work. Our attached spreadsheet reflects our best estimates of start and completion dates, and further describes the projects in Exhibits A-E Fact Sheets attached hereto.

EXHIBIT 1

After performing the investigative work, should any hazards be found or present requiring additional remedial work, USACE will advise you of their findings. We would submit another DLNR Board Approval Request with further action, and what the next steps that may be required on each identified TMK parcel to remediate it.

If you have any questions regarding our Board Approval Request for ROE's, please contact Ms. Teresa Bryant at 808-835-4002 or email teresa.bryant@usace.army.mil. We greatly appreciate your support in this very important USACE endeavor.

Sincerely,

LABESTE.ERICA
.A.1286957435

Digitally signed by
LABESTE.ERICA.A.1286957435
Date: 2023.06.13 14:14:01
-10'00'

Erica A. Labeste
Chief, Real Estate Division
Real Estate Contracting Officer
U.S. Army Corps of Engineers

Cc: Barbara J Lee

Encls
TMK Parcel Spreadsheet
Exhibits A-E Fact Sheets

EXHIBIT 1

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS, and Chapter 11-200.1, HAR:

Project Title: *Issuance of a Right-of-Entry Permit to the United States through its Army Corps of Engineers, Honolulu District, Department of the Army, to Conduct Defense Environmental Restoration Program Activities on State Lands Including Submerged Lands on the Islands of Oahu and Hawaii. See Exhibit 2 for List of Subject Properties.*

The purpose of this submittal is to list all tax map key parcels of State lands to be approved for right-of-entry as requested by the United States Army Corps of Engineers, and to allow the right-of-entry permit to be continued on a month-to-month basis for additional one-year periods at the discretion of the Chairperson for good cause benefiting the State of Hawaii. The public lands are located on Oahu and the island of Hawaii. See Exhibit 2 for a list of the subject properties.

Project/Reference No.: PSF 16SD-160

Project Location: Various public lands on the island Hawaii. Refer to preceding Exhibits 2, 3, 4, and 5 for location information.

Project Description: Removal Activities conducted in accordance with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) guidelines through the Defense Environmental Restoration Program for Formerly Used Defense Sites (FUDS).

Ch 343 Trigger(s): Use of state lands (§343-5(a)(1), HRS)

Exemption Class No.: In accordance with the Chapter 343, HRS, Exemption List for the Department of Land and Natural Resources, reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request and previous requests, as approved by the Board on October 27, 2018, under Agenda Item D-11, and June 28, 2019, under Agenda Item D-9, are currently exempt from preparation of an environmental assessment pursuant to:

EXHIBIT 1.2

General Exemption Type 1: *Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing.*

PART 2, Item 1: Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources.

General Exemption Type 4: *Minor alterations in the conditions of land, water, or vegetation.*

PART 2, Item 5: Conduct removal of unexploded ordnance.

General Exemption Type 5: *Basic data collection, research, experimental management, and resource and infrastructure testing and evaluation activities that do not result in a serious or major disturbance to an environmental resource.*

PART 1, Item 17: Conduct assessment and survey of unexploded ordnance.

PART 1, Item 19: Conduct planning and feasibility studies.

Cumulative Impact of Planned Successive Actions in Same Place Significant:

The proposed actions at the subject properties are planned as one-time actions, so there would be no significant cumulative impacts from planned successive actions in the same place.

Action May Have Significant Impact on Particularly Sensitive Environment:

Staff is not aware of any particularly sensitive environments in the subject areas, so the proposed actions should not have any significant impacts on any particularly sensitive environments.

Consulted Parties:

Staff at the Land Division were previously consulted as source authorities having jurisdiction or expertise in this matter.

Recommendation:

That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

USACE RIGHT-OF-ENTRY REQUEST TMK EXHIBIT 2023

DLNR BOARD APPROVAL FUDS REQUEST TMK NUMBERS	ISLAND LOCATION	TRUST LAND STATUS	Acres	STATE LAND USE DISTRICT	COUNTY ZONING	PROPERTY SHOWING LESSEE AND/OR ADDITIONAL OWNERS	ANTICIPATED WORK START DATE	DLNR PRIOR Approved Date Expired/Expiring	PROJECT INFO. EXHIBIT FACT SHEET	Comments
OAHU										
(1) 9-9-075-028	Oahu	Post 8/59	8,182	Conservation, Urban	R-5	DOE	11/1/2023	N/A	Exhibit 4 Makalapa	School and former burn pit / munitions dump
(1) 4-2-005:001	Oahu	5(b)	209,237	Agriculture, Conservation	AG-2,P-1,P-2	DLNR	2025	10/27/2022	Exhibit 4 Pali	Preservation land
(1) 4-2-006:002	Oahu	5(b)	437,000	AG Conservation Urban	AG-2,P-1,P-3	DHS, DPS, DOT	2025	10/27/2022	Exhibit 4 Pali	Preservation, Agricultural
(1) 4-2-010:001	Oahu	5(b)	1934,540	AG Conservation	P-1	State of Hawaii	2025	10/27/2022	Exhibit 4 Pali	Preservation
(1) 4-2-010:004	Oahu	Post 8/59	80,350	AG, Conservation	P-1	Hawaii Agricultural Research CTR	2025	10/27/2022	Exhibit 4 Pali	Preservation, Agricultural
(1) 4-2-010:005	Oahu	Post 8/59	190,000	Conservation	P-1	Luluku Banana Growers Co-Operative	2025	10/27/2022	Exhibit 4 Pali	Agricultural
(1) 5-2-001:001	Oahu	Post 8/59	3881,940	Conservation	P-1	Luluku Banana Growers Co-Operative rp7242	2025	10/27/2022	Exhibit 4 Pacific Jungle	Preservation
(1) 5-2-002:001	Oahu	Post 8/59	1338,666	AG, Conservation	AG-2,P-1,P-2	US Fish & Wildlife Svs.	2025	10/27/2022	Exhibit 4 Pacific Jungle	Agricultural
(1) 5-6-001:001	Oahu	5(b)	3,300	Conservation	UNKNOWN	DLNR	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:002	Oahu	5(b)	12,500	Conservation	UNKNOWN	DLNR	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:003	Oahu	5(b)	1,000	Unknown	UNKNOWN	DLNR	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:004	Oahu	5(b)	73,711	AG Urban	P-2	DLNR State Parks	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:024	Oahu	Post 59	2,313	Urban	R-5	Lanihuli Community Dev. Corp.	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:025	Oahu	Post 8/59	5,850	Urban	AG-2	Iod28605 DOT	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:045	Oahu	5(b)	1,624	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit E4OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:046	Oahu	Post 8/59	0,205	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:047	Oahu	Post 8/59	5,850	Urban	P-2	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:053	Oahu	Post 8/59	2,030	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:054	Oahu	Post 8/59	0,045	AG Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel

USACE RIGHT-OF-ENTRY REQUEST TMK EXHIBIT 2023

DLNR BOARD APPROVAL FUDS REQUEST TMK NUMBERS	ISLAND LOCATION	TRUST LAND STATUS	ACRES	STATE LAND USE DISTRICT		PROPERTY SHOWING LESSEE AND/OR ADDITIONAL OWNERS	ANTICIPATED WORK START DATE	DLNR PRIOR Approved Date Expired/Expiring	PROJECT INFO. EXHIBIT FACT SHEET	Comments
(1) 5-6-001:056	Oahu	Post 59	1.248	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:057	Oahu	Post 59	1.433	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:058	Oahu	Post 59	0.080	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:059	Oahu	Post 59	2.739	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:060	Oahu	Post 59	1.104	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:061	Oahu	Post 59	1.000	Urban	R-5	rp7356 James Reynolds, SP0406 Lanihuli Community Dev Corp.	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:062	Oahu	Post 59	1.350	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:063	Oahu	Post 59	1.122	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
(1) 5-6-001:064	Oahu	Post 59	3.232	Urban	R-5	SP0406 Lanihuli Community Dev Corp	2025	3/14/2023	Exhibit 4 OIT	including nearshore submerged lands seaward of parcel
Hawaii Island										
(3) 6-5-001:006	Big Island	5(b)	135.000	AG Urban	A-1a,A-40A,RS-10	Parker Ranch Inc	ongoing	3/14/2023	Exhibit 5 WMA	approved in March 2022
(3) 6-5-009:102	Big Island	Unknown	0.000	Unknown	UNKNOWN	Parker Ranch Inc	ongoing	3/14/2023	Exhibit 5 WMA	approved in March 2022
(3) 6-6-001:011	Big Island	5(b)	2.330	AG Urban	A-1a,RS-10	DHHL	ongoing	3/14/2023	Exhibit 5WMA	approved in March 2022
(3) 6-6-003:007	Big Island	5(b)	10.561	AG Urban	A-1a,CV-7.5,RS-10	The Outdoor Circle DBA Waimea Outdoor Circle	ongoing	3/14/2023	Exhibit 5 WMA	approved in March 2022
(3) 6-6-004:141	Big Island	Unknown	0.000	Unknown	A-5a	Department of Hawaiian Home Lands	ongoing	3/14/2023	Exhibit A5WMA	approved in March 2022
(3) 6-7-002:011	Big Island	Post 59	14.797	Urban	A-40a	DAGS, Parker Ranch Inc	ongoing	3/14/2023	Exhibit A5WMA	approved in March 2022
(3) 6-7-002:015	Big Island	5(b)	25.796	Urban	RS-7.5, A40a, RM-5	Department of Education	ongoing	3/14/2023	Exhibit 5 WMA	approved in March 2022

USACE RIGHT-OF-ENTRY REQUEST TMK EXHIBIT 2023

DLNR BOARD APPROVAL FUDS REQUEST TMK NUMBERS	ISLAND LOCATION	TRUST LAND STATUS	ACRES	STATE LAND USE DISTRICT		PROPERTY SHOWING LESSEE AND/OR ADDITIONAL OWNERS	ANTICIPATED WORK START DATE	DLNR PRIOR Approved Date Expired/Expiring	PROJECT INFO. EXHIBIT FACT SHEET	Comments
(3) 6-7-002:025	Big Island	5(b)	0.727	Urban	RS-705	County of Hawaii Executive Order	ongoing	3/14/2023	Exhibit 5 WMA	approved in March 2022
(3) 6-2-001:014	Big Island	5(b)	0.370	Agriculture	A5-a	DLNR road	ongoing	3/14/2023	Exhibit 5 WMA	approved in March 2022
(3) 6-7-001:008	Big Island	5(a)	87.297	Agriculture	A-40a	DOT, Various sub leases	ongoing	3/14/2023	Exhibit 5 WMA	approved in March 2022
(3) 6-6-001:005	Big Island	5(b)	2.135	Urban	RS-10,A-1a	Joseph Florendo Trust	ongoing	3/14/2023	Exhibit 5 WMA	approved in June 2019
(3) 6-6-001:040	Big Island	5(b)	2.410	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit A5WMA	approved in June 2019
(3) 6-6-001:050	Big Island	5(b)	8.896	Agriculture	A-5a	County of Hawaii Executive Order	ongoing	3/14/2023	Exhibit 5 WMA	approved in June 2019
(3) 6-6-001:056	Big Island	5(b)	1.848	Agriculture	A-5A	County of Hawaii Executive Order	ongoing	3/14/2023	Exhibit 5WMA	approved in June 2019
(3) 6-6-001:070	Big Island	Undetermined	0.865	Urban	(road) RS-10	County of Hawaii Water Commission Executive Order	ongoing	3/14/2023	Exhibit 5 WMA	approved in June 2019
(3) 6-6-005:001	Big Island	5(b)	15.209	Agriculture	RS-10	DLNR	ongoing	3/14/2023	Exhibit 5 WMA	approved in June 2019
(3) 6-6-005:021	Big Island	5(b)	16.958	Agriculture	A-5a	Penovaroff, Alexander Jr Penovaroff, Karoll	ongoing	3/14/2023	Exhibit 5 WMA	approved in June 2019
(3) 6-6-005:026	Big Island	5(b)	35.818	Agriculture	A-5a	Hirako Farms Inc	ongoing	3/14/2023	Exhibit 5 WMA	approved in June 2019
(3) 6-6-005:028	Big Island	5(b)	3.675	Agriculture	A-1a, A-5a	Kamuela, Vacuum Cool Coop	ongoing	3/14/2023	Exhibit 5 WMA	approved in June 2019
(3) 6-1-003:030	Big Island	5(a)	1.916	Conservation	OPEN	DOT	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-1-003:031	Big Island	5(a)	1.000	Conservation	OPEN	DOT	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-1-003:047	Big Island	Undermined	0.121	Urban	MG-1a	Brewer Chemical Corp / DOT	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-1-003:055	Big Island	Undetermined	2.002	Urban	MG-1a	DOT	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-2-001:011	Big Island	5(b)	144.000	AG Urban	A-40a	Parker Ranch Inc	7/15/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-2-001:015	Big Island	5(b)	19306.400	AG Rural	A-40a	Parker Ranch Inc	7/15/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-2-001:065	Big Island	Post 8/59	0.227	Agriculture	A-40a	DOT HARBORS- WHC LTD WEST HAWAII CONCRETE	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-2-001:066	Big Island	5(b)	0.190	Agriculture	A-40a	DLNR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-2-002:001	Big Island	5(b)	31.279	Conservation	A-1a	Hawaii Electric Light Inc.	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-2-002:008	Big Island	5(a)	13.365	Conservation	OPEN	County of Hawaii Executive Order	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-1-003:058	Big Island	5(b)	0.046	Urban	MG-1A	Hawaii Stevedores Inc	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018

USACE RIGHT-OF-ENTRY REQUEST TMK EXHIBIT 2023

DLNR BOARD APPROVAL FUDS REQUEST	ISLAND LOCATION	TRUST LAND STATUS	ACRES	STATE LAND USE DISTRICT		PROPERTY SHOWING LESSEE AND/OR ADDITIONAL OWNERS	ANTICIPATED WORK START DATE	DLNR PRIOR Approved Date Expired/Expiring	PROJECT INFO. EXHIBIT FACT SHEET	Comments
(3) 6-6-001:009	Big Island	5(b)	1.120	Urban	RS-10	DLNR (road)	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:010	Big Island	5(b)	17.600	Agriculture	A-5a	County of Hawaii Executive Order	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:063	Big Island	Undetermined	1.093	Agriculture	A-5a	Hawaii Electric Light Co Inc	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:064	Big Island	5(b)	2.529	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:066	Big Island	5(b)	0.882	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:067	Big Island	5(b)	0.284	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:068	Big Island	5(b)	0.744	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:069	Big Island	Undetermined	0.230	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:071	Big Island	5(b)	78.081	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:072	Big Island	Undetermined	0.861	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:073	Big Island	Undetermined	5.000	Agriculture	A-5a	State of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:075	Big Island	Undetermined	0.479	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-001:076	Big Island	Undetermined	0.174	Agriculture	A-5a	County of Hawaii	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-002:002	Big Island	5(b)	6.344	Conservation	A-5a	DLNR Beach Weddings	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-002:006	Big Island	Post 59	0.450	Urban	RS-20	DLNR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-002:007	Big Island	Undetermined	1.350	Conservation	RS-15	DLNR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-002:031	Big Island	5(b)	158.719	Conservation	CV-10, OPEN, RS-15, RS-20, V-1.25	DLNR-Waialea Property Owners Assoc., Verizon Hawaii, Inc., County of Hawaii. DLNR State Parks- Lalamilo Property Owners Assoc., Republic Parking Northwest Inc.	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-002:032	Big Island	Post 59	1.331	Conservation	OPEN	DLNR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-002:034	Big Island	Post 59	0.170	Conservation	OPEN	DLNR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-002:040	Big Island	5(b)	144.207	Conservation	A-5a	DLNR, Verizon Hawaii	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-002:042	Big Island	5(b)	3.140	Conservation	OPEN	DLNR, County of Hawaii	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018

USACE RIGHT-OF-ENTRY REQUEST TMK EXHIBIT 2023

DLNR BOARD APPROVAL FUDS REQUEST	ISLAND LOCATION	TRUST LAND STATUS	ACRES	STATE LAND USE DISTRICT		PROPERTY SHOWING LESSEE AND/OR ADDITIONAL OWNERS	ANTICIPATED WORK START DATE	DLNR PRIOR Approved Date Expired/Expiring	PROJECT INFO. EXHIBIT FACT SHEET	Comments
(3) 6-6-002:045	Big Island	5(b)	5.000	Conservation	OPEN	University of Hawaii	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-003:006	Big Island	5(b)	15.855	Agriculture	A-1a	DLNR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-004:021	Big Island	5(b)	0.247	Urban	RS-10	DLNR	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-006:002	Big Island	5(b)	1.096	Urban	RS-10	Ednie, Richard D	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-006:003	Big Island	5(b)	1.004	Urban	RS-10, A-5a	Ednie, Richard D	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-006:004	Big Island	5(b)	1.005	Urban	RS-10, A-5a	Ednie, Richard D	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-6-006:005	Big Island	5(b)	0.005	Urban	RS-10, A-5a	Ednie, Richard D	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-7-003:020	Big Island	5(b)	3.866	Urban	A-40a	DLNR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-001:001	Big Island	5(b)	0.045	Conservation	A-5a	DLNR Land Div. Conservation	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-001:002	Big Island	5(b)	50.501	Conservation	OPEN, V-1.25	DLNR LD Volcano Island Honey Co LLC	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-001:015	Big Island	5(b)	545.025	Conservation	A-5a	One Puako Bay Associates LLC	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-001:017	Big Island	5(b)	230.067	Conservation	A-5a	DHL Mahi Opco LLC	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-002:006	Big Island	5(b)	0.527	Urban	V-1.25	Sullivan Family Trust	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-002:007	Big Island	5(b)	0.820	Conservation, Urban	OPEN	George Zimmer Trust	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-002:008	Big Island	5(b)	0.840	Conservation, Urban	OPEN	UNEMCUMBERED	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-002:009	Big Island	5(b)	0.654	Conservation	OPEN	DLNR LD-Jospeh Pickering, AOA of the Whales' Tail, Hoku Loa Church His Foundation	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-002:010	Big Island	5(b)	.0.390	Conservation	(ROAD)	Easement AOA Whale's Tail	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-002:020	Big Island	5(b)	4.773	Conservation	OPEN	DLNR DOBOR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-004:001	Big Island	5(b)	0.425	Urban	RS-10	DLNR DOBOR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-005:019	Big Island	5(b)	0.643	Urban	RS-11	Roman Catholic Church	7/1/2023	3/14/2023	Exhibit 5WMA	Approved in 14 March 2018
(3) 6-9-006:002	Big Island	5(b)	0.313	Urban	OPEN	DLNR	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-006:003	Big Island	5(b)	0.346	Urban	OPEN	Easement-Puako Community Assoc.	7/1/2023	3/14/2023	Exhibit 5WMA	Approved in 14 March 2018
(3) 6-9-006:049	Big Island	5(b)	0.310	Conservation	OPEN	DLNR Conservation	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018

USACE RIGHT-OF-ENTRY REQUEST TMK EXHIBIT 2023

6

DLNR BOARD APPROVAL FUDS REQUEST	ISLAND LOCATION	TRUST LAND STATUS	ACRES	STATE LAND USE DISTRICT		PROPERTY SHOWING LESSEE AND/OR ADDITIONAL OWNERS	ANTICIPATED WORK START DATE	DLNR PRIOR Approved Date Expired/Expiring	PROJECT INFO. EXHIBIT FACT SHEET	Comments
(3) 6-9-006:051	Big Island	5(b)	1.063	Conservation	OPEN	DLNR Conservation	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-006:052	Big Island	5(b)	1.406	Urban	OPEN	DLNR	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 6-9-006:053	Big Island	Undetermined	1.063	Conservation	OPEN	DLNR Conservation	ongoing	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018
(3) 7-1-003:002	Big Island	5(b)	825.067	Conservation	OPEN	DLNR-Allen Israel Trustee, Conservation	7/1/2023	3/14/2023	Exhibit 5 WMA	Approved in 14 March 2018

USACE RIGHT-OF-ENTRY REQUEST TMK EXHIBIT 2023

7

Total acres	29358.576
5(b) land	5371.237
Unencumbered	10.068

_____ 2023

EXHIBIT KEY TO ABBREVIATIONS

Trust Land Status: S(a) = Section S(a) of the Hawaii Admissions Act S(b) = Section S(b) of the Hawaii Admissions Act Post-8/59 = Acquired after August 1959 (Statehood admissions date) PL-88-233 = Public Law-88-233 Undet. = Undetermined (to date)

Encumbrances:

BWS = Board of Water Supply
CA= Community Association
CE = Conservation easement
DOA= State Department of Agriculture
DOBOR = DLNR Division of Boating & Ocean Recreation DOFAW = DLNR Division of Forestry & Wildlife
DOH = State Department of Health
DOT= State Department of Transportation
EO = Governor's Executive Order
FR = Forest Reserve GL = General Lease
LOD = Land Office Document
NAR = Natural Area Reserve
RE = Right of Entry
RP= Revocable Permit
SP= DLNR Division of State Parks

State Land Use District:

Conserv. = Conservation Ag= Agriculture

Other:

COH = County of Hawaii COK = County of Kauai
CCH = City & County of Honolulu
NB= nota bene (Latin), "note well"

County Zoning: A-la= COH Agricultural district (minimum building site of 1 acre)
AG-2 = CCH General agricultural district
A-Sa= COH Agricultural district (minimum building site of 5 acres) A-40a = COH Agricultural district (minimum building site of 40 acres)
CV-10 = COH Village commercial district (minimum land area of 10,000 square feet, required for each building site)
F-1 = CCH Military & federal preservation district
MG-la= COH General industrial district (minimum 1 acre for each building site)
Open = COH Open district
P-1 = CCH Restricted preservation district
P-2 = CCH General preservation district.
R-5 = CCH Residential district (5,000 square feet (sf) minimum lot area one family dwelling, 7,500 sf for two family dwelling, or 3,750 sf for duplex)
S-10 = COH Single-family residential district (minimum building site area of 10,000 square feet)
RS-15 = COH Single-family residential district (minimum building site area of 15,000 square feet)
RS-20 = COH Single-family residential district (minimum one family building site area of 20,000 square feet)
V-1.25 = COH Resort-hotel district (required land area of 1,250 square feet for each dwelling unit, or for each separate rentable unit, or other similar rentable units.

DERP Program: FUDS = Formerly Used Defense Sites

MMRP = Military Munitions Response Program

CERCLA Phase:

BD/DR = Building Demolition/Debris Removal

LTM = Long Term Maintenance

SI = Site Investigation

RA-C = Remedial Action-Construction (Environmental Clean Up)

RI/FS = Remedial Investigation/Feasibility Studies

TC= Time Critical



MAKALAPA CRATER FORMER NAVY SALVAGE YARD

Property Number: H09HI0484

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG[®]

Fact Sheet 01

April 2023

Introduction

The Makalapa Crater Former Navy Salvage Yard (NSY) is a formerly used defense site (FUDS) located in Honolulu, Island of Oahu, Hawaii. The NSY Site is currently occupied by portions of two public schools: Admiral Arthur W. Radford High School (RHS) and Makalapa Elementary School (MES), as well as a portion of the H-1 Interstate Freeway adjacent to the northwest corner of RHS and a portion of Bougainville Drive adjacent to the south RHS boundary (Figure 1). Portions of the site are owned by the State of Hawaii Department of Land and Natural Resources (MES) and the City and County of Honolulu (RHS).

Site Background

The Makalapa Crater NSY site was used as a salvage yard and for open burning and disposal of trash from the 1930s to the late 1950s. In the 1950s, the property was subsequently conveyed to the City and County of Honolulu and the State for use as public schools. In December 2013, the Hawaii Department of Education encountered buried debris, including munitions debris (i.e., cartridges, cartridge cases, fuses, igniter/flash tubes, practice bombs, practice grenades, small arms projectiles, and munitions packaging) during excavation work to replace the RHS running track and field. Beginning in August 2014, Naval Facilities Engineering Command (NAVFAC) Hawaii conducted a Time Critical Removal Action (TCRA) to address potential explosive hazards at the site. The items found were determined to be primarily expended, empty, or inert. All of the recovered items found during the Navy's TCRA field efforts were deemed to have "no explosive hazard," including two items turned over to Navy Explosive-Ordnance Disposal (EOD) for confirmation.



Figure 1: Site Boundary for Makalapa Crater Former Navy Salvage Yard

After the completion of the TCRA, a remedial investigation (RI) was conducted from 2017 to 2021 to characterize soil up to 2 feet (ft) below ground surface within the remainder of the NSY Site. The 2 ft depth was established as the depth considered relevant to potential threats to human health and the environment during normal daily activities and routine maintenance activities at the site. During this investigation, glass and metal debris from the former salvage operations was visually observed in bare soil areas of RHS (between the soccer/practice field and the physical education buildings) and the MES playground. This debris is reportedly observed more often after rainfall events. The RI also included subsurface geophysical mapping to identify areas of potential buried debris. Although a large portion of the NSY was remediated during the TCRA, glass and metal debris in surface soils as well as various contaminants in surface and shallow subsurface soil may need to be investigated further.

Project Overview

During review of the RI Report, the Hawaii Department of Health (HDOH) suggested that additional data collection to further characterize the conditions in sub slab soil vapor and soil gas would help support further evaluation given the historic waste disposal activities at the site. In addition, a portion of the MES school property that was inaccessible at the time of the initial remedial investigation will have soils sampled as part of the current project. A field investigation will be conducted in order to fill these identified data gaps, as further described below. Following the fieldwork, a revised RI report will be prepared. Based on the conclusions of the report, a Feasibility Study will be conducted to determine if hazards remain at the site and explore various methods of mitigating the site risks identified. A summary of this evaluation will be compiled in a Proposed Plan which will be shared with stakeholders as well as the community for further input. The selected future actions, also known as the preferred remedy, will be documented in a Decision Document for the Administrative Record.

Onsite Activities

Additional data collection will be comprised of sub-slab vapor samples, soil vapor samples, and soil samples. Sampling at RHS will be conducted at the gymnasium, soccer field, tennis court, baseball field, and basketball court areas. At MES, the outdoor field and the uninvestigated portion at the northern end of the project site will be sampled. No activities in the classroom areas, at the football field, or outside the red boundary (see Figure 1) are planned. Sampling will entail the use of a drill rig (see Photograph 1) and will be conducted while school is not in session. Onsite activities are expected to be completed within two weeks.



Photograph 1: Sample collection using direct push drill rig at Radford High School

Next Steps

A work plan is being developed to describe the proposed sample locations and approach used to characterize the extent of potential environmental impacts at the site. This will be reviewed and approved by stakeholders, including HDOH, prior to the commencement of any onsite activities. The resulting data collection at RHS and MES will be used to revise the RI Report and develop subsequent project plans for site cleanup.

Public meetings will be held to provide updates on the site status. A public meeting is being planned to disseminate information regarding the onsite activities and schedule to the community once the scope of work and planning documents have been approved.

What is a formerly used defense site (FUDS)?

FUDS are properties that were formerly owned by, leased to or otherwise possessed by the Department of Defense (DOD) and transferred from DOD control prior to October 17, 1986. The U.S. Army Corps of Engineers is the organization responsible for environmental remediation of these properties.



US Army Corps
of Engineers
Honolulu District

For More Information
Contact the U.S. Army Corps of Engineers, Honolulu District Office at
CEPOH-PA@usace.army.mil.
To learn more about the FUDS Program, visit www.fuds.mil.



CERCLA PROCESS

C
E
R
C
L
A

F
A
C
T

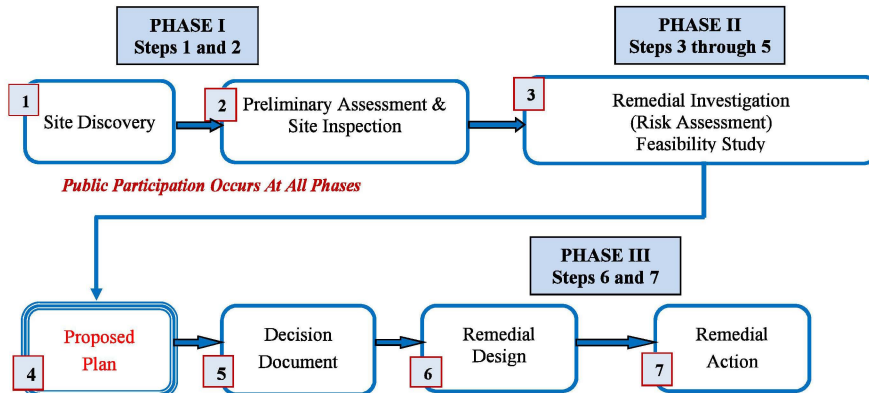
S
H
E
E
T

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) remedial process begins when a site is discovered. Once a site is discovered, the next step is a **Preliminary Assessment and a Site Inspection (PA/SI)**. This involves historical records reviews, field visits, and limited sampling to determine the likelihood of contamination and to identify possible contamination sources. If contamination exists or a source is identified, then the project team conducts a **Remedial Investigation (RI)**. The remedial investigation involves more intensive sampling and analysis to determine the nature and extent of contamination at the site. Once data is collected, a Risk Assessment is conducted as part of the RI to determine the significance of the contamination in terms of human health and ecological impact. The results of the risk assessment assist in the development of remedial alternatives.

Following the Remedial Investigation, a **Feasibility Study (FS)** is conducted to evaluate remedial alternatives, new technologies, and ultimately identify the most suitable solution. When evaluating remedial alternatives, project managers consider risk, compliance with federal and state regulations, ability to reduce the toxicity, mobility and volume of the contaminant(s), implementability of a remedial alternative, long-term effectiveness, short-term effectiveness, cost, state acceptance, and community acceptance. Project managers plan strategies to reduce or prevent risk by limiting or stopping exposure to contaminants.

Once the project team determines a recommended remedial alternative, a public notice is placed in a local paper and public comments are solicited at a public meeting presenting the **Proposed Plan (PP)**. Following a public comment period, the U.S. Army Corps of Engineers (USACE) will publish a **Decision Document (DD)** that includes a description of the selected remedial alternative. If appropriate, the project team will prepare a **Remedial Design (RD)**, including engineering specifications for the remedial alternative, and conduct the **Remedial Action (RA)**, which involves construction and operation of the selected remedy.

The Pali Training Camp project is currently in the **Proposed Plan** phase of the CERCLA Process.



The U.S. Army Corps of Engineers (USACE) conducted a Remedial Investigation/Feasibility Study (RI/FS) at Pali Training Camp (PTC) (FUDS Project Number H09HI027701). The investigation is being addressed under the Military Munitions Response Program (MMRP) initiative of the Defense Environmental Restoration Program for Formerly Used Defense Sites (DERP-FUDS). The Remedial Investigation portion of the project has been completed. The primary objectives of the Remedial Investigation were to determine 1) if munitions are present at the site and if so, where are they located and 2) if there is contamination from the munitions at the site. Data was gathered between July 2013 and March 2014 to meet these objectives and assess the potential risks to both humans and ecological receptors. A Feasibility Study was also completed to evaluate a range of potential actions for this site, called alternatives, in order to determine the best path forward.

Project Location. The former PTC site is located in Kailua at the foot of the Koolau Mountain range, near the southeast end of the island of Oahu (Figure 1). It consists of four noncontiguous parcels situated in portions of the Maunawili and Makalii Valleys: Maunawili Valley Impact Area, (3,432 acres), Maunawili Site (400 acres), Makalii Valley (46 acres), and Ulumawao (500 acres). The former PTC site is mostly undeveloped, rugged, and densely forested land with limited residential, agricultural, and recreational uses.

Project Property History. The PTC was opened in 1943 on property then belonging to Harold K.L. Castle. It was used from 1943 to 1945 as a regimental combat team training center emphasizing the use of and familiarity with modern arms and field weapons in a rugged terrain and jungle environment. In addition, the PTC provided rugged terrain for jungle and Ranger training. An artillery impact area was also established in the rear of Maunawili Valley. In 1945, the U.S. Army released PTC and the encampment was abandoned by the end of 1945. All on-site buildings were sold for scrap in 1946 and the land reverted back to the previous owner. Currently, the ownership of the former PTC is split between the State of Hawaii and various private landowners.

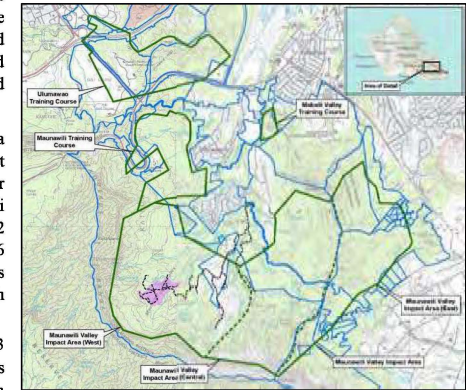


Figure 1 - Project Location



Figure 2 - 105-mm Projectile

The USACE conducted an Inventory Project Report (1994), an Engineering Evaluation/Cost Analysis (2008), a Site Investigation (SI) (2009), and a Non-Time Critical Removal Action (2012) for the former PTC. Munitions and Explosives of Concern (MEC) and munitions debris (MD) were reported during the INPR, SI, and SSFR site activities. MEC or MD detected or observed at the site included 81-mm high explosive (HE) mortars; 75-millimeter (mm) HE projectiles; 75-mm shrapnel projectiles; 2.36-inch rocket motor; 60-mm HE mortar, M49A2; 57-mm APT projectile, M70; 37-mm projectiles; 20-mm ball cartridge, MK1 (unfired); and small arms.

Description of Remedial Investigation (RI) / Feasibility Study (FS) Investigation. The RI field work was performed in one of the four parcels comprising the former PTC, the Maunawili Valley Impact Area (MVIA) munitions response site (MRS). Right-of-entry was not granted to the Maunawili Training Course (MTC) MRS and no explosive hazards have been identified at the Makalii Valley Training Course (MVTC) or the Ulumawao Training Course (UTC) MRSs. RI activities involved records reviews; surveying the site to identify subsurface anomalies; exposing the anomalies to determine the potential presence of munitions; collecting environmental samples where munitions were found; and analyzing the samples for explosives and metals. The surveys took

place along 1-meter wide paths, called transects, and within areas, called grids, that were typically between 0.1 and 0.4 acres in size. Approximately 46.42 miles of transects were investigated, including well-used public trails. Seven MEC items and 1,346 MD items were found, primarily in the western portion of the MVIA MRS. Three of the seven items were 37-mm projectiles found approximately 400 feet northwest of the Maunawili Falls. The data gathered confirms that western portion of the MVIA MRS was used as an impact area by the military. The RI Report documents the data collected, presents the results of the investigation, and assesses the risk to receptors.

Using the data collected from the RI, the FS Report was prepared to develop and screen remedial alternatives to address potential explosive hazards posed to humans from MEC identified during the RI and previous investigations. Each remedial alternative was then evaluated using the nine criteria established in the National Oil and Hazardous Substances Pollution Contingency Plan.

Proposed Plan/Decision Document. A Proposed Plan has been prepared to provide a brief summary of all alternatives studied in the RI/FS and present a Preferred Alternative. The Proposed Plan highlights the key factors that led to the selection of the Preferred Alternative. The Proposed Plan does not select the remedial action; it presents the Preferred Alternative. A public comment period is a required part of the Proposed Plan so that the public can participate in the remedy selection process. After the Proposed Plan has been issued for public review and comment, any changes, revisions, or modifications will be appropriately addressed, and USACE will present the selected remedy in a Decision Document.

Cultural and Natural Resources. USACE is committed to protecting the precious cultural and nature resources at the site. To enable the avoidance and minimization of any potential impacts to these resources, an archaeologist and a qualified biologist accompanied the field teams during the transect/grid investigation, rerouting, or relocating the team when appropriate. The archaeologist and qualified biologist also monitored munitions disposal activities that were required during the investigation.

Public Involvement. Public involvement is an important part of the FUDS Program. USACE has hosted public meetings, printed public notices, distributed fact sheets and may issue news releases, or mail other information to interested citizens. USACE continually gauges interest for the addition of new members to the existing Restoration Advisory Board which is composed of various stakeholders, including community members and government representatives.

Information Repository. The information repositories for this project are the Kaneohe and Kailua Public Libraries and the USACE Honolulu District Office at Ft. Shafter, Honolulu, Hawaii. Public documents related to restoration efforts are located in these repositories for public review.

Questions. If you have questions about the FUDS Program and/or media queries, contact the Honolulu District's Public Affairs Office at (808) 835-4004. For technical questions, please contact Project Manager, Kevin Pien at (808) 835-4091.

Ordnance Finds. If you find any item you suspect might be ordnance – **RECOGNIZE**, leave the area immediately warning others in the vicinity – **RETREAT**, leave the area but note the location of the suspicious item – **REPORT**, notify local law enforcement officials. Never touch, move, or disturb the item. Ordnance, regardless of age, or physical shape, can be dangerous. The USACE encourages communities to educate children about ordnance hazards including proper procedures to follow if they find a suspected ordnance item. **Remember the 3Rs –**



RECOGNIZE
Military Items can be
DANGEROUS.

RETREAT
DO NOT TOUCH IT!
Move away from the area.

REPORT
CALL 911

Kaneohe Public Library
45-829 Kamehameha Hwy.
Kaneohe, HI 96744
Telephone: (808) 233-5676

Kailua Public Library
239 Kuulei Rd.
Kailua, HI 96734
Telephone: (808) 266-9911



US Army Corps of Engineers

Honolulu District

BUILDING STRONG®

DERP – FUDS FACT SHEET

DERP FUDS Program

- The Department of Defense (DoD) is committed to correcting environmental damage caused by its activities. The Defense Environmental Restoration Program (DERP) is the vehicle to accomplish this. The cleanup of Formerly Used Defense Sites (FUDS) is a part of this program (DERP-FUDS).
- FUDS are properties that the DoD once owned or used, but no longer controls. These properties can range from privately-owned residences to National parks, schools, colleges, and industrial areas.
- The DERP-FUDS program includes property formerly owned or used by the Army, Navy, Air Force, or any other DoD agency.
- The Army is the Executive Agent for the program and the U.S. Army Corps of Engineers is the agency that manages and directs the program's administration.
- The objective of the DERP-FUDS program is to reduce, in a timely, cost-effective manner, the risk to human health, safety, and the environment resulting from past DoD activities.
- The goals of DERP-FUDS cleanup are:
- Identification, investigation, and cleanup of contamination from DoD-related hazardous, toxic, and radioactive waste (HTRW);
- Detection and disposal of munitions and explosives of concern (MEC); and
- Demolition and removal of unsafe buildings and structures located on formerly-owned DoD properties that are currently owned by private parties, States, or municipalities.

Telephone:

Please call the US Army Corps of Engineers,
Telephone Number: (808) 835-4004

Mail:

US Army Corps of Engineers,
Honolulu District
Attn: CEPOH-PP-E, Building 230
Fort Shafter, Hawaii 96858-5440

DERP, CERCLA, and SARA

The Defense Environmental Restoration Program (DERP) was established by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and the Superfund Amendments and Reauthorization Act of 1986 (SARA). This legislation provides the authority for certain remedial activities at former Department of Defense sites in the United States and its territories.



MAKALAPA CRATER FORMER NAVY SALVAGE YARD, OAHU, HAWAII



CERCLA CLEANUP PROCESS

C
E
R
C
L
A

F
A
C
T

S
H
E
E
T

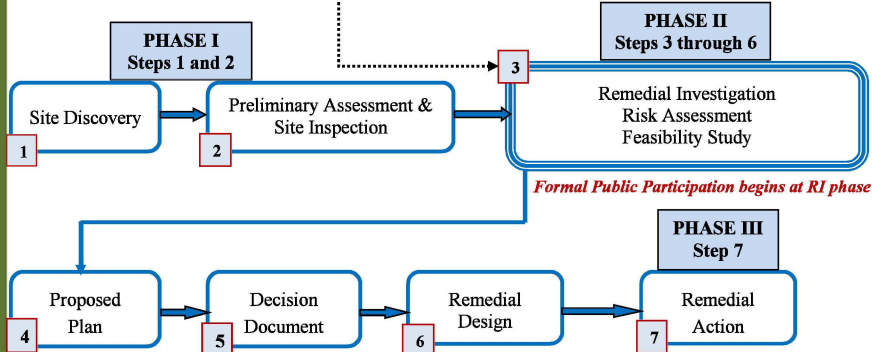
The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) cleanup process begins when a site is discovered. Once a site is discovered, the first step is a **Preliminary Assessment and a Site Inspection** (PA/SI). This involves historical records reviews, field visits, and limited sampling to determine the likelihood of contamination and to identify possible contamination sources. If contamination exists or a source is identified, then the project team conducts a **Remedial Investigation** (RI). The RI involves more intensive sampling and analysis to determine the nature and extent of contamination at the site. Once data is collected, as a part of RI, a Risk Assessment is conducted to determine the significance of the contamination in terms of human health and ecological impact. The results of the risk assessment determine what needs to be cleaned up, if any.

Following the risk assessment, a **Feasibility Study** (FS) is conducted to evaluate cleanup options, new technologies, and ultimately identify the most suitable solution. When evaluating cleanup options, project managers consider risk, compliance with federal and state regulations, ability to reduce the toxicity, mobility and volume of the contaminant(s), implementation of a cleanup alternative, long and short-term effectiveness, cost, state regulatory and community acceptance. Plan strategies to reduce or prevent risk by limiting or stopping exposure to contaminants.

Once the project team determines a recommended cleanup alternative, a public notice is placed in a local paper and public comments are solicited. Following a public comment period, the U.S. Army Corps of Engineers (USACE) will publish a **Decision Document** (DD) that includes a description of the selected cleanup alternative.

Next step of the project is **Remedial Design** (RD), including engineering specifications for the cleanup, and conducting the **Remedial Action** (RA), which involves construction and operation of the selected remedy.

The Oahu Target Island, Hawaii project is currently in the RI/FS phase of the CERCLA Cleanup Process.



The U.S. Army Corps of Engineers (USACE) is conducting a Remedial Action at the Oahu Island Target Formerly Used Defense Site (FUDS) Munitions Response Area (MRA) - Target Islands and Surrounding Waters Munitions Response Site (MRS) in Honolulu County, Oahu Island, Hawaii (FUDS Property No. H09HI026401), under the Defense Environmental Restoration Program for Formerly Used Defense Sites (DERP-FUDS). The Remedial Action Objective for the Target Islands and Surrounding Waters MRS is to "Provide protection to human health by mitigating the potential hazards posed by MEC." So far as a result of survey efforts 171 materials potentially presenting an explosive hazard (MPPEH) items have been identified. Once field conditions improve in spring 2020, survey and disposal operations will recommence.

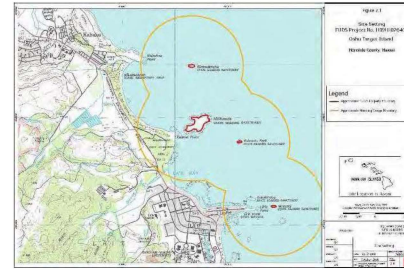


Figure 1 Oahu Target Island RI/FS Project Site

Project Location. The former Oahu Island Target MRA consists of four islands (Kihewamoku, Mokuauia, Pulemoku and Mokuulai) located in a two-mile stretch off the northeastern (windward) coast of Oahu, between the communities of Kahuku and Laie in the county of Honolulu. The Oahu Island Target MRA is 2,018 acres in size and is divided into two MRS: (1) Target Islands and Surrounding Waters MRS, FUDS Project No. H09HI026401; and (2) Mokuauia Island (also known as Goat Island) and Surrounding Waters, FUDS Project No. H09HI026402. The 57.3-acre Target Islands and Surrounding Waters MRS consists of three islands (Kihewamoku, Mokuulai, and Pulemoku) and 55.79 acres of range fan in the waters

immediately surrounding each island. The size and shape of the water portion of the Target Islands and Surrounding Waters MRS was determined by the location of the munitions and explosives of concern and munitions debris discovered during the Remedial Investigation. The Mokuauia Islands and Surrounding Waters MRS, Project No. H09HI026402, is addressed in a No Action Decision Document.

Project Property History. In May 1943, the Army acquired the 12.5-acre Mokuauia Island under a use permit issued by the Territory of Hawaii Board of Agriculture and Forestry. Mokuauia Island was used as an Army Air Corps and Air Force bombing target. The adjacent islands of Kihewamoku, Mokuulai, and Pulemoku Island were also used as bombing targets under a separate use permit. The Army Air Corps and Air Force used these islands as bombing targets from 1943 to 1952. The surface of Mokuauia Island was searched/investigated for unexploded ordnance before being returned to the Territory of Hawaii in June 1952. All four islands were formally transferred back to the Board of Agriculture and Forestry in February 1953. Currently, the islands are managed by the State of Hawaii, Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife as seabird sanctuaries. No munitions-related incidents have been documented to date.

In 1982 and 1983, a US Navy Explosives Ordnance Disposal team identified and disposed of unexploded ordnance in the waters surrounding all four islands. No ordnance was found on the islands themselves. In the water surrounding the islands, the Navy Explosives Ordnance Disposal team found and disposed of over 70 unexploded World War II vintage bombs.

The USACE conducted both an Inventory Project Report (CERCLA equivalent of Preliminary Assessment in 1991 and a Site Inspection in 2008 for the Target Islands and Surrounding Waters MRS. Through soil sampling and visual reconnaissance, the SI evaluated the risk to humans and the environment posed by MEC and munitions constituents in the MRA. The SI determined there was no unacceptable risk to either humans or the environment from munitions constituents within the Oahu Island Target MRA; however, the Site Inspection concluded an unacceptable risk exists related to MEC, as humans could come into contact with MEC hazards. Based on this conclusion, the Site Inspection recommended that the Oahu Island Target MRA undergo further investigation.



US Army Corps of Engineers

Honolulu District

BUILDING STRONG®

Defense Environmental Restoration Program- Formerly Used Defense Site (DERP FUDS)

FACT SHEET

DERP FUDS Program

- The Department of Defense (DoD) is committed to correcting environmental damage caused by its activities. The Defense Environmental Restoration Program (DERP) is the vehicle to accomplish this. The cleanup of Formerly Used Defense Sites (FUDS) is a part of this program (DERP-FUDS).
 - FUDS are properties that the DoD once owned or used, but no longer controls. These properties can range from privately-owned residences to National parks, schools, colleges, and industrial areas.
 - The DERP-FUDS program includes property formerly owned or used by the Army, Navy, Air Force, or any other DoD agency.
 - The Army is the Executive Agent for the program and the U.S. Army Corps of Engineers is the agency that manages and directs the program's administration.
 - The objective of the DERP-FUDS program is to reduce, in a timely, cost-effective manner, the risk to human health, safety, and the environment resulting from past DoD activities.
- The goals of DERP-FUDS cleanup are:*
- Identification, investigation, and cleanup of contamination from DoD-related hazardous, toxic, and radioactive waste substances (HTRW);
 - Detection and disposal of munitions and explosives of concern (MEC); and
 - Demolition and removal of unsafe buildings and structures located on formerly-owned DoD properties that are currently owned by private parties, States, or municipalities.

Telephone:

Please call the US Army Corps of Engineers, Telephone Number: 808-835-4079/4091

Mail:

US Army Corps of Engineers,
Honolulu District
Attn: CEPOH-PP-E, Building 230
Fort Shafter, Hawaii 96858-5440

DERP, CERCLA, and SARA

The Defense Environmental Restoration Program (DERP) was established by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and the Superfund Amendments and Reauthorization Act of 1986 (SARA). This legislation provides the authority for certain cleanup activities at former Department of Defense sites in the United States and its territories.

Remedial Investigation (RI)/ Feasibility Study (FS) Investigation. The Remedial Investigation/Feasibility Study characterized the nature and extent of MEC, evaluated risk and hazards, determined the need for further action, and developed/evaluated remedial alternatives for the Target Islands and Surrounding Waters MRS. Field activities included a comprehensive survey of the waters surrounding the four islands, with MEC found during the survey being properly disposed. Surveying technology platforms and field approaches utilized a combination of: Side Scan Sonar, Remotely Operated Vehicle, Self-Contained Underwater Breathing Apparatus Diving System employed with underwater ordnance locators as necessary (in sandy bottoms), and Snorkeling. During field activities, 13 MEC items were located and destroyed, including 5-inch and 6-inch projectiles, 20-pound fragment bombs, and 3.5-inch rocket warheads. The MRA was divided into 2 separate MRSs, based on the differing characteristics of those areas.

Proposed Plan /Decision Document. After the Feasibility Study was completed, a Proposed Plan was prepared. The Proposed Plan provided a summary of each alternative studied in the Feasibility Study and highlighted the key factors leading to the selection of the preferred remedial alternative. The Proposed Plan was made available for public review and comment to allow public participation in the remedy selection process. Then, a Decision Document was issued, presenting the selected remedial alternative and addressing regulatory and public comments submitted during the Proposed Plan public comment period.

Natural Resources. USACE is committed to protecting Hawaii's cultural and natural resources. No significant cultural resources have been identified within the boundaries of this site; however, threatened and endangered species such as the Newell's Shearwater, Hawaiian Stilt, Ohai, Hawaiian Monk Seal, Humpback Whale and Green Sea Turtle have been documented within the site boundaries. To minimize potential impacts to these species, a qualified site biologist will work closely with US Fish and Wildlife, National Oceanic and Atmospheric Administration, and DLNR to train project personnel to recognize and avoid natural resources, and to employ best management practices for natural resource protection. For example, during demolition activities, a low-order detonation technology, bubble curtain, and/or sand bags will be employed to minimize blast wave and fragmentation effects to the surroundings. Each MEC item will be reviewed by the entire project delivery team prior to disposal/detonations to ensure protection of natural resources.

Public Involvement. Public involvement is an important part of the FUDS Program. The USACE may host public meetings, distribute news releases, print public notices, and mail fact sheets and other information to interested citizens.

Information Repository. The information repositories for this project are the Kahuku Public Library, Hawaii State Library, and the USACE Honolulu District Office at Ft. Shafter, Honolulu, Hawaii.

Questions. If you have questions about the site, FUDS Program and/or media queries, contact the Honolulu District's Public Affairs Office at (808) 835-4079/4091.

Ordnance Finds. If you find any item you suspect might be ordnance – **RECOGNIZE**, leave the area immediately warning others in the vicinity – **RETREAT**, and notify local law enforcement officials – **REPORT**, note the location of the suspicious item, but never touch, move, or disturb the item. Ordnance, regardless of age, or physical shape, can be dangerous. The USACE encourages communities to educate children about ordnance hazards including proper procedures to follow if they find a suspected ordnance item.

Remember the **3Rs** –



RECOGNIZE
Military Items can be
DANGEROUS.

RETREAT
DO NOT TOUCH IT!
Move away from the area.

REPORT
CALL 911

Kahuku Public Library
56-490 Kamehameha Hwy.
Kahuku, HI 96731
Mon, Wed – Fri - 9:00 am - 5:00 pm
Tues - 12:00 pm – 8:00 pm
Telephone: 808.293.8935



US Army Corps of Engineers

Honolulu District

BUILDING STRONG®

EXHIBIT 3

Pali Training Camp, Oahu, Hawaii

USACE Honolulu District

Fact Sheet

October 2015



US Army Corps of Engineers®

CERCLA PROCESS

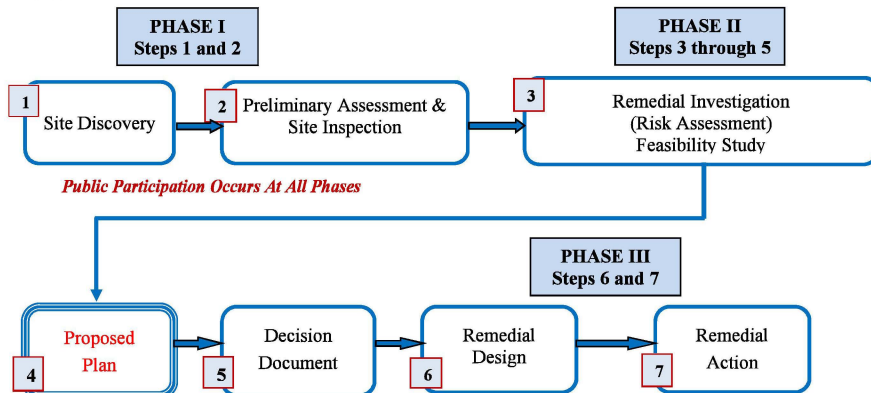
CERCLA FACT SHEET

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) remedial process begins when a site is discovered. Once a site is discovered, the next step is a Preliminary Assessment and a Site Inspection (PA/SI). This involves historical records reviews, field visits, and limited sampling to determine the likelihood of contamination and to identify possible contamination sources. If contamination exists or a source is identified, then the project team conducts a Remedial Investigation (RI). The remedial investigation involves more intensive sampling and analysis to determine the nature and extent of contamination at the site. Once data is collected, a Risk Assessment is conducted as part of the RI to determine the significance of the contamination in terms of human health and ecological impact. The results of the risk assessment assist in the development of remedial alternatives.

Following the Remedial Investigation, a Feasibility Study (FS) is conducted to evaluate remedial alternatives, new technologies, and ultimately identify the most suitable solution. When evaluating remedial alternatives, project managers consider risk, compliance with federal and state regulations, ability to reduce the toxicity, mobility and volume of the contaminant(s), implementability of a remedial alternative, long-term effectiveness, short-term effectiveness, cost, state acceptance, and community acceptance. Project managers plan strategies to reduce or prevent risk by limiting or stopping exposure to contaminants.

Once the project team determines a recommended remedial alternative, a public notice is placed in a local paper and public comments are solicited at a public meeting presenting the Proposed Plan (PP). Following a public comment period, the U.S. Army Corps of Engineers (USACE) will publish a Decision Document (DD) that includes a description of the selected remedial alternative. If appropriate, the project team will prepare a Remedial Design (RD), including engineering specifications for the remedial alternative, and conduct the Remedial Action (RA), which involves construction and operation of the selected remedy.

The Pali Training Camp project is currently in the Proposed Plan phase of the CERCLA Process.



The U.S. Army Corps of Engineers (USACE) conducted a Remedial Investigation/Feasibility Study (RI/FS) at Pali Training Camp (PTC) (FUDS Project Number H09HI027701). The investigation is being addressed under the Military Munitions Response Program (MMRP) initiative of the Defense Environmental Restoration Program for Formerly Used Defense Sites (DERP-FUDS). The Remedial Investigation portion of the project has been completed. The primary objectives of the Remedial Investigation were to determine 1) if munitions are present at the site and if so, where are they located and 2) if there is contamination from the munitions at the site. Data was gathered between July 2013 and March 2014 to meet these objectives and assess the potential risks to both humans and ecological receptors. A Feasibility Study was also completed to evaluate a range of potential actions for this site, called alternatives, in order to determine the best path forward.

Project Location. The former PTC site is located in Kailua at the foot of the Koolau Mountain range, near the southeast end of the island of Oahu (Figure 1). It consists of four noncontiguous parcels situated in portions of the Maunawili and Makalii Valleys: Maunawili Valley Impact Area, (3,432 acres), Maunawili Site (400 acres), Makalii Valley (46 acres), and Ulumawao (500 acres). The former PTC site is mostly undeveloped, rugged, and densely forested land with limited residential, agricultural, and recreational uses.

Project Property History. The PTC was opened in 1943 on property then belonging to Harold K.L. Castle. It was used from 1943 to 1945 as a regimental combat team training center emphasizing the use of and familiarity with modern arms and field weapons in a rugged terrain and jungle environment. In addition, the PTC provided rugged terrain for jungle and Ranger training. An artillery impact area was also established in the rear of Maunawili Valley. In 1945, the U.S. Army released PTC and the encampment was abandoned by the end of 1945. All on-site buildings were sold for scrap in 1946 and the land reverted back to the previous owner. Currently, the ownership of the former PTC is split between the State of Hawaii and various private landowners.

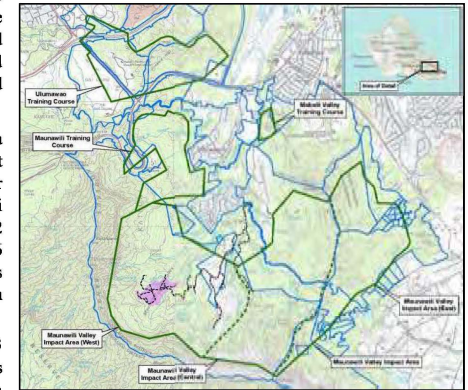


Figure 1 - Project Location



Figure 2 - 105-mm Projectile

The USACE conducted an Inventory Project Report (1994), an Engineering Evaluation/Cost Analysis (2008), a Site Investigation (SI) (2009), and a Non-Time Critical Removal Action (2012) for the former PTC. Munitions and Explosives of Concern (MEC) and munitions debris (MD) were reported during the INPR, SI, and SSFR site activities. MEC or MD detected or observed at the site included 81-mm high explosive (HE) mortars; 75-millimeter (mm) HE projectiles; 75-mm shrapnel projectiles; 2.36-inch rocket motor; 60-mm HE mortar, M49A2; 57-mm APT projectile, M70; 37-mm projectiles; 20-mm ball cartridge, MK1 (unfired); and small arms.

Description of Remedial Investigation (RI) / Feasibility Study (FS) Investigation. The RI field work was performed in one of the four parcels comprising the former PTC, the Maunawili Valley Impact Area (MVIA) munitions response site (MRS). Right-of-entry was not granted to the Maunawili Training Course (MTC) MRS and no explosive hazards have been identified at the Makalii Valley Training Course (MVTVC) or the Ulumawao Training Course (UTC) MRSs. RI activities involved records reviews; surveying the site to identify subsurface anomalies; exposing the anomalies to determine the potential presence of munitions; collecting environmental samples where munitions were found; and analyzing the samples for explosives and metals. The surveys took

place along 1-meter wide paths, called transects, and within areas, called grids, that were typically between 0.1 and 0.4 acres in size. Approximately 46.42 miles of transects were investigated, including well-used public trails. Seven MEC items and 1,346 MD items were found, primarily in the western portion of the MVIA MRS. Three of the seven items were 37-mm projectiles found approximately 400 feet northwest of the Maunawili Falls. The data gathered confirms that western portion of the MVIA MRS was used as an impact area by the military. The RI Report documents the data collected, presents the results of the investigation, and assesses the risk to receptors.

Using the data collected from the RI, the FS Report was prepared to develop and screen remedial alternatives to address potential explosive hazards posed to humans from MEC identified during the RI and previous investigations. Each remedial alternative was then evaluated using the nine criteria established in the National Oil and Hazardous Substances Pollution Contingency Plan.

Proposed Plan/Decision Document. A Proposed Plan has been prepared to provide a brief summary of all alternatives studied in the RI/FS and present a Preferred Alternative. The Proposed Plan highlights the key factors that led to the selection of the Preferred Alternative. The Proposed Plan does not select the remedial action; it presents the Preferred Alternative. A public comment period is a required part of the Proposed Plan so that the public can participate in the remedy selection process. After the Proposed Plan has been issued for public review and comment, any changes, revisions, or modifications will be appropriately addressed, and USACE will present the selected remedy in a Decision Document.

Cultural and Natural Resources. USACE is committed to protecting the precious cultural and nature resources at the site. To enable the avoidance and minimization of any potential impacts to these resources, an archaeologist and a qualified biologist accompanied the field teams during the transect/grid investigation, rerouting, or relocating the team when appropriate. The archaeologist and qualified biologist also monitored munitions disposal activities that were required during the investigation.

Public Involvement. Public involvement is an important part of the FUDS Program. USACE has hosted public meetings, printed public notices, distributed fact sheets and may issue news releases, or mail other information to interested citizens. USACE continually gauges interest for the addition of new members to the existing Restoration Advisory Board which is composed of various stakeholders, including community members and government representatives.

Information Repository. The information repositories for this project are the Kaneohe and Kailua Public Libraries and the USACE Honolulu District Office at Ft. Shafter, Honolulu, Hawaii. Public documents related to restoration efforts are located in these repositories for public review.

Questions. If you have questions about the FUDS Program and/or media queries, contact the Honolulu District's Public Affairs Office at (808) 835-4004. For technical questions, please contact Project Manager, Kevin Pien at (808) 835-4091.

Ordnance Finds. If you find any item you suspect might be ordnance – **RECOGNIZE**, leave the area immediately warning others in the vicinity – **RETREAT**, leave the area but note the location of the suspicious item – **REPORT**, notify local law enforcement officials. Never touch, move, or disturb the item. Ordnance, regardless of age, or physical shape, can be dangerous. The USACE encourages communities to educate children about ordnance hazards including proper procedures to follow if they find a suspected ordnance item. **Remember the 3Rs –**



RECOGNIZE
Military Items can be
DANGEROUS.

RETREAT
DO NOT TOUCH IT!
Move away from the area.

REPORT
CALL 911

Kaneohe Public Library
45-829 Kamehameha Hwy.
Kaneohe, HI 96744
Telephone: (808) 233-5676

Kailua Public Library
239 Kuulei Rd.
Kailua, HI 96734
Telephone: (808) 266-9911



US Army Corps of Engineers

Honolulu District

BUILDING STRONG®

DERP – FUDS FACT SHEET

DERP FUDS Program

- The Department of Defense (DoD) is committed to correcting environmental damage caused by its activities. The Defense Environmental Restoration Program (DERP) is the vehicle to accomplish this. The cleanup of Formerly Used Defense Sites (FUDS) is a part of this program (DERP-FUDS).
- FUDS are properties that the DoD once owned or used, but no longer controls. These properties can range from privately-owned residences to National parks, schools, colleges, and industrial areas.
- The DERP-FUDS program includes property formerly owned or used by the Army, Navy, Air Force, or any other DoD agency.
- The Army is the Executive Agent for the program and the U.S. Army Corps of Engineers is the agency that manages and directs the program's administration.
- The objective of the DERP-FUDS program is to reduce, in a timely, cost-effective manner, the risk to human health, safety, and the environment resulting from past DoD activities.
- The goals of DERP-FUDS cleanup are:
- Identification, investigation, and cleanup of contamination from DoD-related hazardous, toxic, and radioactive waste (HTRW);
- Detection and disposal of munitions and explosives of concern (MEC); and
- Demolition and removal of unsafe buildings and structures located on formerly-owned DoD properties that are currently owned by private parties, States, or municipalities.

Telephone:

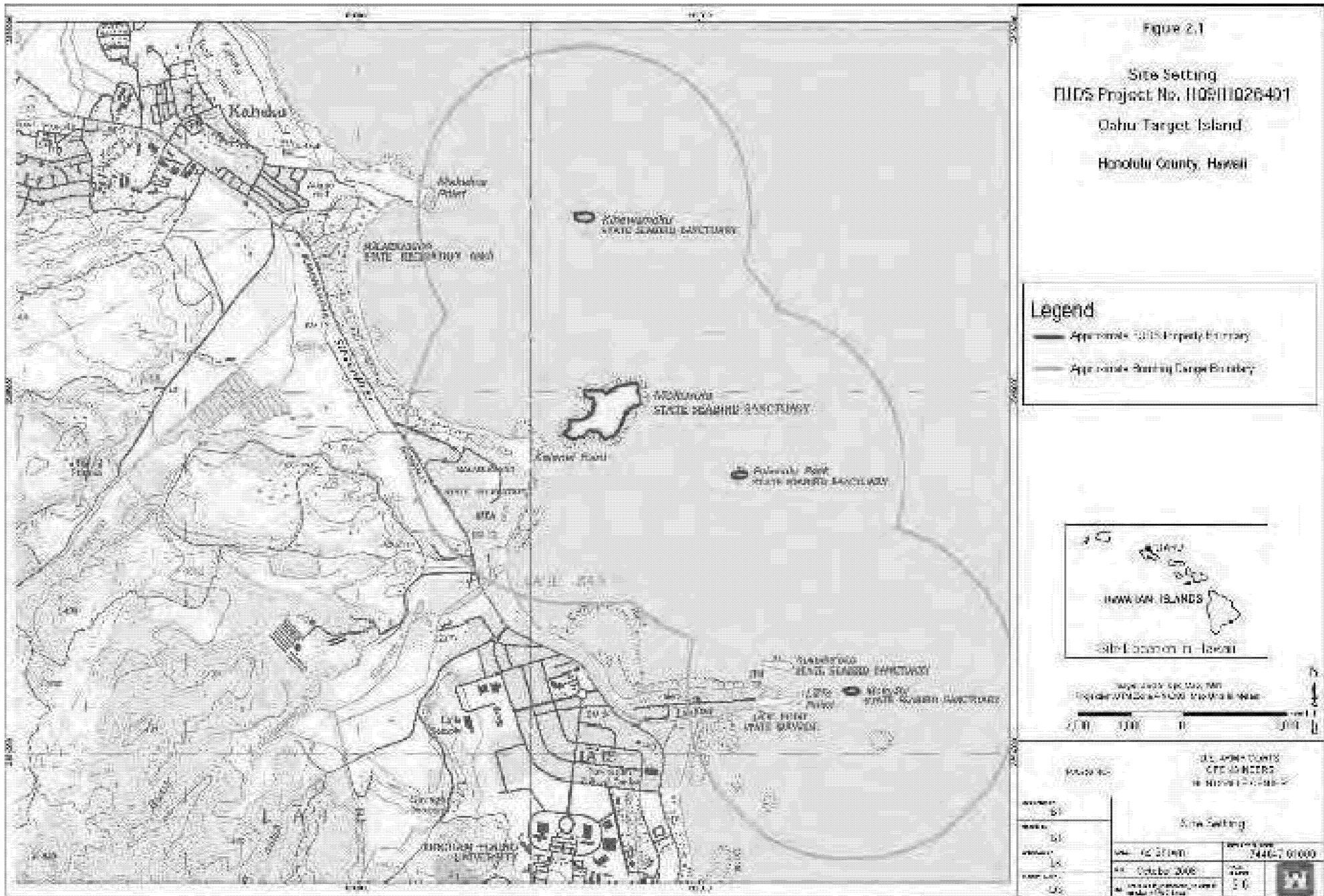
Please call the US Army Corps of Engineers,
Telephone Number: (808) 835-4004

Mail:

US Army Corps of Engineers,
Honolulu District
Attn: CEPOH-PP-E, Building 230
Fort Shafter, Hawaii 96858-5440

DERP, CERCLA, and SARA

The Defense Environmental Restoration Program (DERP) was established by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and the Superfund Amendments and Reauthorization Act of 1986 (SARA). This legislation provides the authority for certain remedial activities at former Department of Defense sites in the United States and its territories.



Oahu Target Island

EXHIBIT 3



CERCLA PROCESS

C
E
R
C
L
A

F
A
C
T

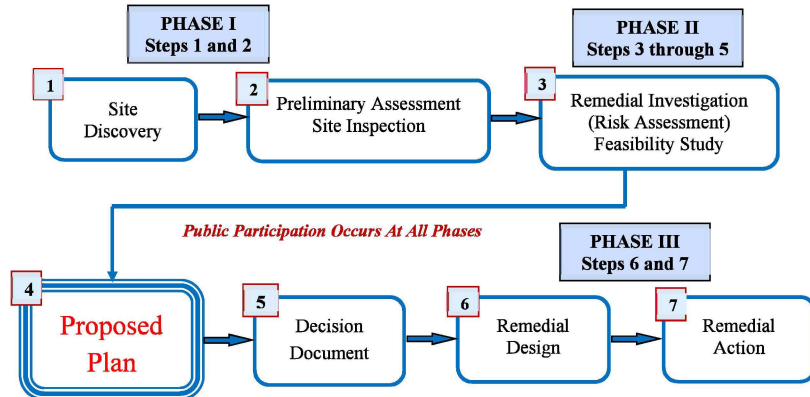
S
H
E
E
T

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) remedial process begins when a site is discovered. Once a site is discovered, the next step is a **Preliminary Assessment and a Site Inspection** (PA/SI). This involves historical records reviews, field visits, and limited sampling to determine the likelihood of contamination and to identify possible contamination sources. If contamination exists or a source is identified, then the project team conducts a **Remedial Investigation** (RI). The remedial investigation involves more intensive sampling and analysis to determine the nature and extent of contamination at the site. Once data is collected, a Risk Assessment is conducted as part of the RI to determine the significance of the contamination in terms of human health and ecological impact. The results of the risk assessment assist in the development of remedial alternatives.

Following the Remedial Investigation, a **Feasibility Study** (FS) is conducted to evaluate remedial alternatives, new technologies, and ultimately identify the most suitable solution. When evaluating remedial alternatives, project managers consider risk, compliance with federal and state regulations, ability to reduce the toxicity, mobility and volume of the contaminant(s), implementability of a remedial alternative, long-term effectiveness, short-term effectiveness, cost, state acceptance, and community acceptance. Project managers plan strategies to reduce or prevent risk by limiting or stopping exposure to contaminants.

Once the project team determines a recommended remedial alternative, a public notice is placed in a local paper and public comments are solicited at a public meeting presenting the **Proposed Plan** (PP). Following a public comment period, the U.S. Army Corps of Engineers (USACE) will publish a **Decision Document** (DD) that includes a description of the selected remedial alternative. If appropriate, the project team will prepare a **Remedial Design** (RD), including engineering specifications for the remedial alternative, and conduct the **Remedial Action** (RA), which involves construction and operation of the selected remedy.

The Pacific Jungle Combat Training Center project is currently in the **Proposed Plan** phase of the CERCLA Process.



The U.S. Army Corps of Engineers (USACE) is conducting a Remedial Investigation/Feasibility Study (RI/FS) at Pacific Jungle Combat Training Center (FUDS Project No. H09HI027401). The investigation is being addressed under the Military Munitions Response Program (MMRP) initiative of the Defense Environmental Restoration Program for Formerly Used Defense Sites (DERP-FUDS). The Remedial Investigation portion of the project has been completed. The primary objectives of the Remedial Investigation were to determine 1) if munitions are present and if so, where they are located and 2) if there is contamination from the munitions at the site. Data was gathered between October 2013 and March 2014 and in September 2014 to meet these objectives and assess the potential risks to both humans and ecological receptors. A Feasibility Study was also completed to evaluate a range of potential actions for this site, called alternatives, in order to determine the best path forward.

Project Location. The former training site is located on the northeast coast of Oahu within the Punaluu Valley and Kahana Valley State Park. (Figure 1). The former training site consists of several non-contiguous parcels within the adjacent Kahana and Punaluu Valleys. Kahana Valley was designated a state park in 1960 and is currently under the purview of the State of Hawaii and managed by the State Department of Land and Natural Resources (DLNR). Punaluu Valley is owned by several private owners.

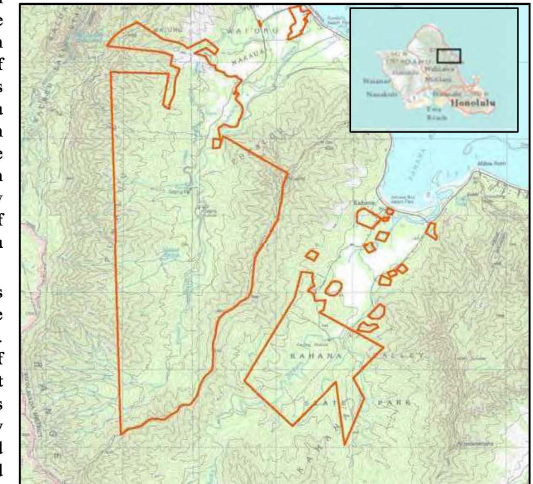


Figure 1 - Project Location

Project Property History. The U.S. Army acquired 2,545 acres in Kahana and Punaluu Valleys between 1943 and 1947. The Pacific Jungle Combat Training Center was established and used as a unit level jungle combat center to supplement Department Ranger and Combat School Training. The Center was divided into three courses: Red, Blue, and Green. Basic jungle warfare was conducted at the Red and Blue courses. Advanced jungle warfare training and Instructor Jungle Training School were conducted at the Green course. Munitions known to have been used or recovered include 75-millimeter (mm) armor piercing (AP) rounds, 105-mm high explosive (HE) rounds, 81-mm HE and practice mortar rounds, and small arms. In 1946, parcels in Kahana Valley were returned to its landowner. Leases and licenses for parcels in Punaluu Valley were terminated between 1945 and 1950. De-dudging efforts were conducted in Punaluu Valley in 1949.

The USACE conducted an Inventory Project Report (INPR) (December 1993), an INPR Supplement (November 2004), and a Site Inspection (SI) (December 2008) for this Munitions Response Site (MRS). Munitions and Explosives of Concern (MEC) and munitions debris (MD) were reported during the INPR and SI site visits. The unexploded munitions, small arms ammunition, and munitions debris observed at the site included an expended 105-mm AP projectile; unexpended .30-caliber bullets; .30-caliber casings; expended M1 and M2 cartridges; a 75-mm HE or AP projectile; an unexpended smoke grenade; a 2.36-inch bazooka round; an expended MK28 sea marker; and a live 81-mm mortar round (Figure 2).



Figure 2 - 81-mm Mortar

The USACE conducted an Inventory Project Report (INPR) (December 1993), an INPR Supplement (November 2004), and a Site Inspection (SI) (December 2008) for this Munitions Response Site (MRS). Munitions and Explosives of Concern (MEC) and munitions debris (MD) were reported during the INPR and SI site visits. The unexploded munitions, small arms ammunition, and munitions debris observed at the site included an expended 105-mm AP projectile; unexpended .30-caliber bullets; .30-caliber casings; expended M1 and M2 cartridges; a 75-mm HE or AP projectile; an unexpended smoke grenade; a 2.36-inch bazooka round; an expended MK28 sea marker; and a live 81-mm mortar round (Figure 2).

Remedial Investigation (RI)/ Feasibility Study (FS) Investigation. The RI was performed in the Kahana Valley and Punaluu Valley MRS. RI activities involved records reviews; surveying the site to identify subsurface anomalies; exposing the anomalies to determine the potential presence of munitions; collecting environmental samples where any munitions were found; and analyzing the samples for explosives and metals. The surveys took place along 1-meter wide paths called transects and within areas called grids that were typically between 0.02 and 0.85 acres in size. Approximately 33.02 miles of land-based transects and 0.56 miles of underwater transects (in Kahana Stream) were investigated. Fifty-one grids totaling 11.51 acres were also investigated. Two MEC and 120 MD items were found in Kahana Valley. The data gathered confirms that Kahana Valley was used as a maneuver area with a target area in the west, southwest corner of the valley. Thirty MEC and 114 MD items were found in Punaluu Valley. Three target areas were identified in Punaluu Valley using the data gathered. The RI Report documents the data collected, presents the results of the investigation, and assesses the risk to receptors.

Using the data collected from the RI, the FS Report was prepared to develop and screen remedial alternatives to address potential explosive hazards posed to humans from MEC identified during the RI and previous investigations. Each remedial alternative was then evaluated using the nine criteria established in the National Oil and Hazardous Substances Pollution Contingency Plan.

Proposed Plan/Decision Document. A Proposed Plan has been prepared to provide a brief summary of all alternatives studied in the RI/FS and present a Preferred Alternative. The Proposed Plan highlights the key factors that led to the selection of the Preferred Alternative. The Proposed Plan does not select the remedial action; it presents the Preferred Alternative. A public comment period is a required part of the Proposed Plan so that the public can participate in the remedy selection process. After the Proposed Plan has been issued for public review and comment, any changes, revisions, or modifications will be appropriately addressed, and USACE will present the selected remedy in a Decision Document.

Cultural and Natural Resources. USACE is committed to protecting the precious cultural and nature resources at the site. To enable the avoidance and minimization of any potential impacts to these resources, an archaeologist and a qualified biologist accompanied the field teams during the transect/grid investigation, rerouting, or relocating the team when appropriate. The archaeologist and qualified biologist also monitored munitions disposal activities that were required during the investigation.

Public Involvement. Public involvement is an important part of the FUDS Program. USACE has hosted public meetings, printed public notices, distributed fact sheets and may issue news releases, or mail other information to interested citizens.

Information Repository. The information repositories for this project are the Kaneohe and Kahuku Public Libraries, the Kahana Valley State Park, and the USACE Honolulu District Office at Ft. Shafter, Honolulu, Hawaii.

Questions. If you have questions about the FUDS Program and/or media queries, contact the Honolulu District's Public Affairs Office at (808) 835-4004. For technical questions, please contact Project Manager, Kevin Pien at (808) 835-4091.

Ordnance Finds. If you find any item you suspect might be ordnance – **RECOGNIZE**, leave the area immediately warning others in the vicinity – **RETREAT**, leave the area but note the location of the suspicious item – **REPORT**, notify local law enforcement officials. Never touch, move, or disturb the item. Ordnance, regardless of age, or physical shape, can be dangerous. The USACE encourages communities to educate children about ordnance hazards including proper procedures to follow if they find a suspected ordnance item. **Remember the 3Rs –**



RECOGNIZE
Military Items can be
DANGEROUS.

RETREAT
DO NOT TOUCH IT!
Move away from the area.

REPORT
CALL 911

Kaneohe Public Library
45-829 Kamehameha Hwy.
Kaneohe, HI 96744
Telephone: (808) 233-5676

Kahuku Public Library
56-490 Kamehameha Hwy.
Kahuku, HI 96731
Telephone: (808) 293-8935

Kahana Valley State Park
Renee Kamisugi, Park Coordinator
Renee.Y.Kamisugi@hawaii.gov
(808) 237-7767



US Army Corps of Engineers

Honolulu District

BUILDING STRONG®

DERP – FUDS FACT SHEET

DERP FUDS Program

- The Department of Defense (DOD) is committed to correcting environmental damage caused by its activities. The Defense Environmental Restoration Program (DERP) is the vehicle to accomplish this. The cleanup of Formerly Used Defense Sites (FUDS) is a part of this program (DERP-FUDS).
- FUDS are properties that the DOD once owned or used, but no longer controls. These properties can range from privately-owned residences to National parks, schools, colleges, and industrial areas.
- The DERP-FUDS program includes property formerly owned or used by the Army, Navy, Air Force, or any other DOD agency.
- The Army is the Executive Agent for the program and the U.S. Army Corps of Engineers is the agency that manages and directs the program's administration.
- The objective of the DERP-FUDS program is to reduce, in a timely, cost-effective manner, the risk to human health, safety, and the environment resulting from past DOD activities.
- The goals of DERP-FUDS cleanup are:
- Identification, investigation, and cleanup of contamination from DoD-related hazardous, toxic, and radioactive waste substances (HTRW);
- Detection and disposal of munitions and explosives of concern (MEC); and
- Demolition and removal of unsafe buildings and structures located on formerly-owned DOD properties that are currently owned by private parties, States, or municipalities.

Telephone:

Please call the US Army Corps of Engineers,
Telephone Number: (808) 835-4004

Mail:

US Army Corps of Engineers,
Honolulu District
Attn: CEPOH-PP-E, Building 230
Fort Shafter, Hawaii 96858-5440

DERP, CERCLA, and SARA

The Defense Environmental Restoration Program (DERP) was established by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and the Superfund Amendments and Reauthorization Act of 1986 (SARA). This legislation provides the authority for certain remedial activities at former Department of Defense sites in the United States and its territories.



Defense Environmental Restoration Program- Formerly Used Defense Site (DERP FUDS)

FACT SHEET

DERP FUDS Program

- The Department of Defense (DoD) is committed to correcting environmental damage caused by its activities. The Defense Environmental Restoration Program (DERP) is the vehicle to accomplish this. The cleanup of Formerly Used Defense Sites (FUDS) is a part of this program (DERP-FUDS).
FUDS are properties that the DoD once owned or used, but no longer controls. These properties can range from privately-owned residences to National parks, schools, colleges, and industrial areas.
The DERP-FUDS program includes property formerly owned or used by the Army, Navy, Air Force, or any other DoD agency.
The Army is the Executive Agent for the program and the U.S. Army Corps of Engineers is the agency that manages and directs the program's administration.
The objective of the DERP-FUDS program is to reduce, in a timely, cost-effective manner, the risk to human health, safety, and the environment resulting from past DoD activities.
The goals of DERP-FUDS cleanup are:
Identification, investigation, and cleanup of contamination from DoD-related hazardous, toxic, and radioactive waste substances (HTRW);
Detection and disposal of munitions and explosives of concern (MEC); and
Demolition and removal of unsafe buildings and structures located on formerly-owned DoD properties that are currently owned by private parties, States, or municipalities.

Telephone:

Please call the US Army Corps of Engineers, Telephone Number: 808-835-4079/4091

Mail:

US Army Corps of Engineers, Honolulu District Attn: CEPOH-PP-E, Building 230 Fort Shafter, Hawaii 96858-5440

DERP, CERCLA, and SARA

The Defense Environmental Restoration Program (DERP) was established by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and the Superfund Amendments and Reauthorization Act of 1986 (SARA). This legislation provides the authority for certain cleanup activities at former Department of Defense sites in the United States and its territories.

Remedial Investigation (RI)/ Feasibility Study (FS) Investigation. The Remedial Investigation/Feasibility Study characterized the nature and extent of MEC, evaluated risk and hazards, determined the need for further action, and developed/evaluated remedial alternatives for the Target Islands and Surrounding Waters MRS. Field activities included a comprehensive survey of the waters surrounding the four islands, with MEC found during the survey being properly disposed. Surveying technology platforms and field approaches utilized a combination of: Side Scan Sonar, Remotely Operated Vehicle, Self-Contained Underwater Breathing Apparatus Diving System employed with underwater ordnance locators as necessary (in sandy bottoms), and Snorkeling. During field activities, 13 MEC items were located and destroyed, including 5-inch and 6-inch projectiles, 20-pound fragment bombs, and 3.5-inch rocket warheads. The MRA was divided into 2 separate MRSs, based on the differing characteristics of those areas.

Proposed Plan /Decision Document. After the Feasibility Study was completed, a Proposed Plan was prepared. The Proposed Plan provided a summary of each alternative studied in the Feasibility Study and highlighted the key factors leading to the selection of the preferred remedial alternative. The Proposed Plan was made available for public review and comment to allow public participation in the remedy selection process. Then, a Decision Document was issued, presenting the selected remedial alternative and addressing regulatory and public comments submitted during the Proposed Plan public comment period.

Natural Resources. USACE is committed to protecting Hawaii's cultural and natural resources. No significant cultural resources have been identified within the boundaries of this site; however, threatened and endangered species such as the Newell's Shearwater, Hawaiian Stilt, Ohai, Hawaiian Monk Seal, Humpback Whale and Green Sea Turtle have been documented within the site boundaries. To minimize potential impacts to these species, a qualified site biologist will work closely with US Fish and Wildlife, National Oceanic and Atmospheric Administration, and DLNR to train project personnel to recognize and avoid natural resources, and to employ best management practices for natural resource protection. For example, during demolition activities, a low-order detonation technology, bubble curtain, and/or sand bags will be employed to minimize blast wave and fragmentation effects to the surroundings. Each MEC item will be reviewed by the entire project delivery team prior to disposal/detonations to ensure protection of natural resources.

Public Involvement. Public involvement is an important part of the FUDS Program. The USACE may host public meetings, distribute news releases, print public notices, and mail fact sheets and other information to interested citizens.

Information Repository. The information repositories for this project are the Kahuku Public Library, Hawaii State Library, and the USACE Honolulu District Office at Ft. Shafter, Honolulu, Hawaii.

Questions. If you have questions about the site, FUDS Program and/or media queries, contact the Honolulu District's Public Affairs Office at (808) 835-4079/4091.

Ordnance Finds. If you find any item you suspect might be ordnance - RECOGNIZE, leave the area immediately warning others in the vicinity - RETREAT, and notify local law enforcement officials - REPORT, note the location of the suspicious item, but never touch, move, or disturb the item. Ordnance, regardless of age, or physical shape, can be dangerous. The USACE encourages communities to educate children about ordnance hazards including proper procedures to follow if they find a suspected ordnance item.

Remember the 3Rs -



Kahuku Public Library 56-490 Kamehameha Hwy. Kahuku, HI 96731 Mon, Wed - Fri - 9:00 am - 5:00 pm Tues - 12:00 pm - 8:00 pm Telephone: 808.293.8935

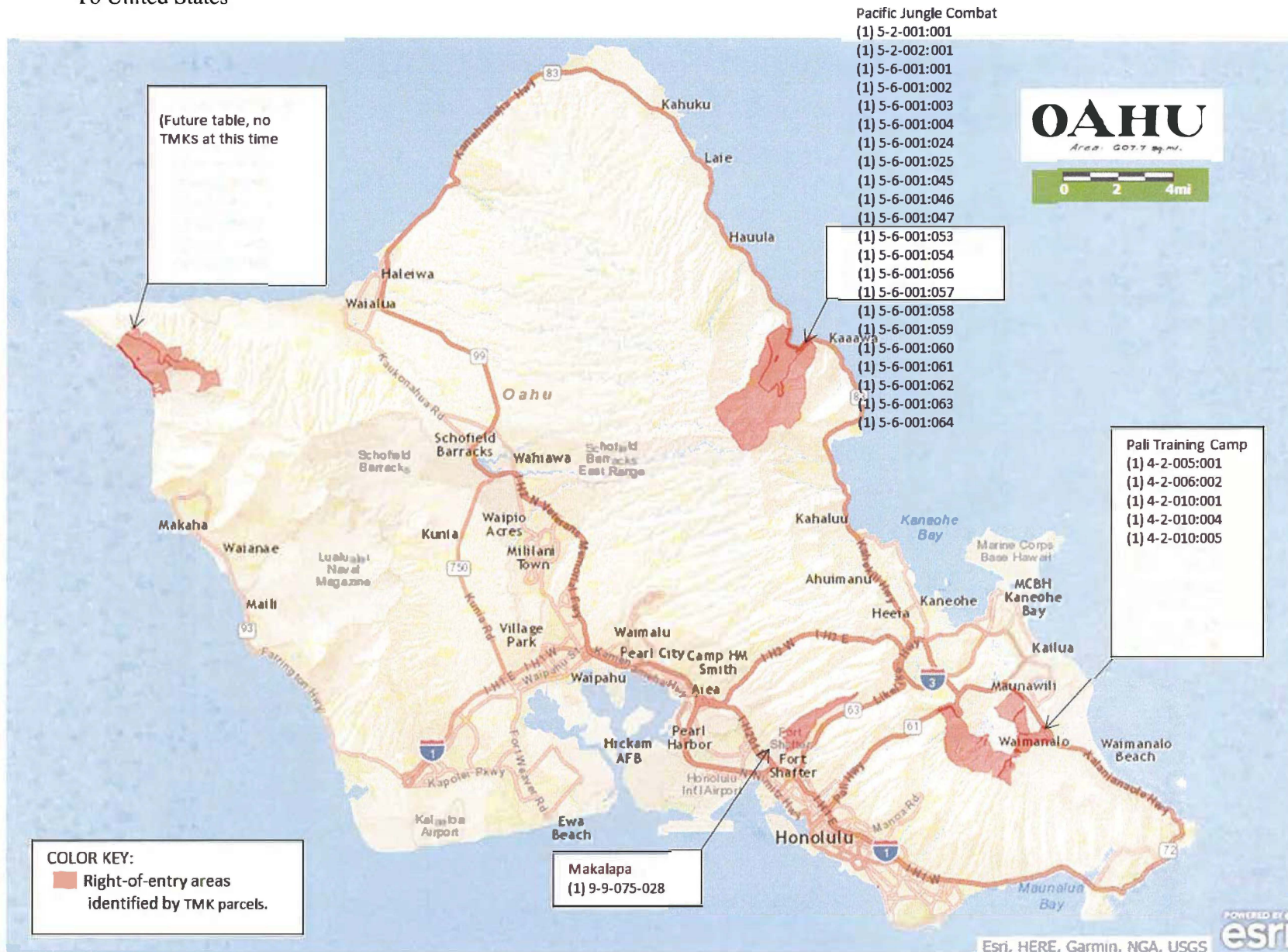
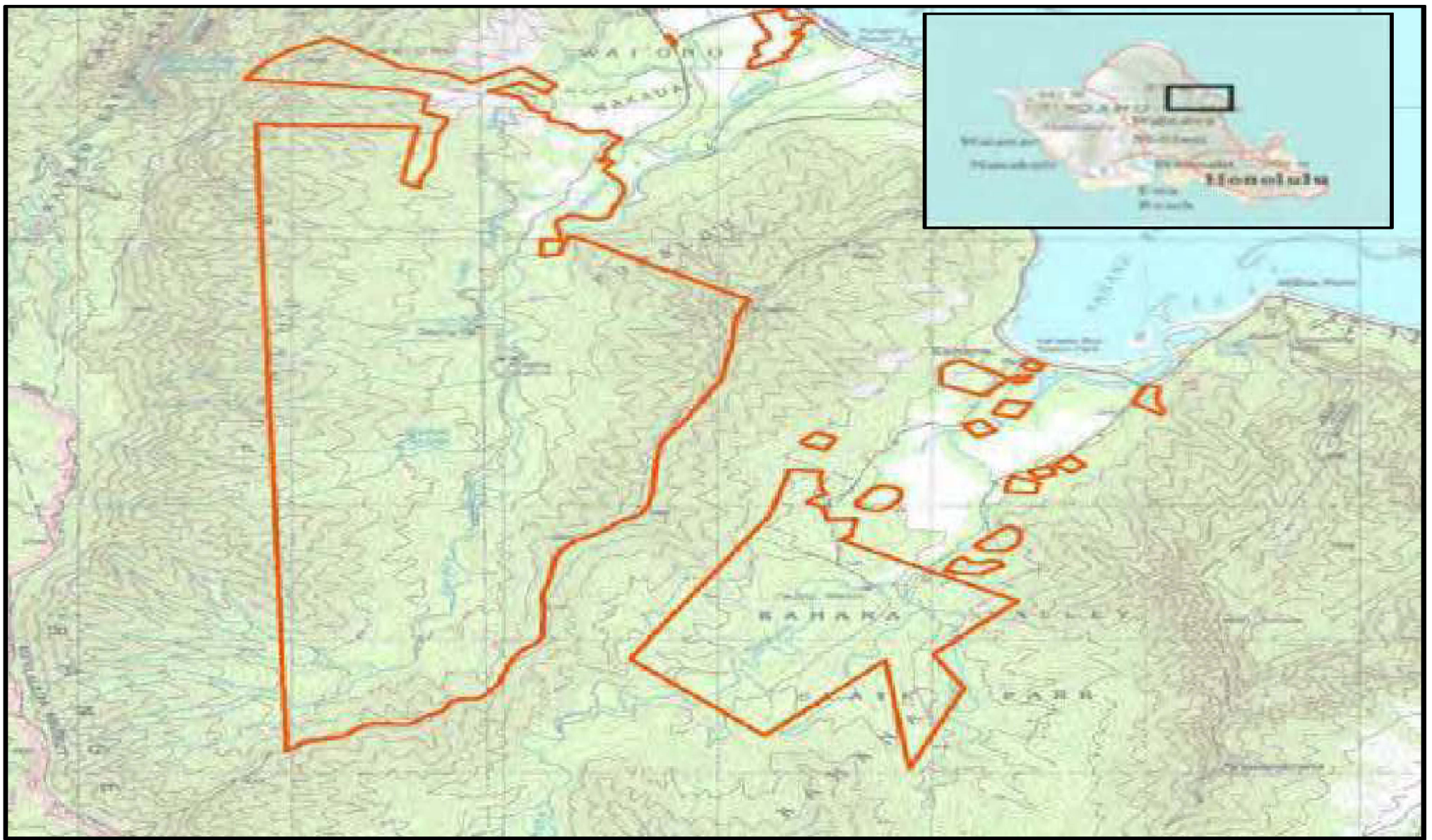
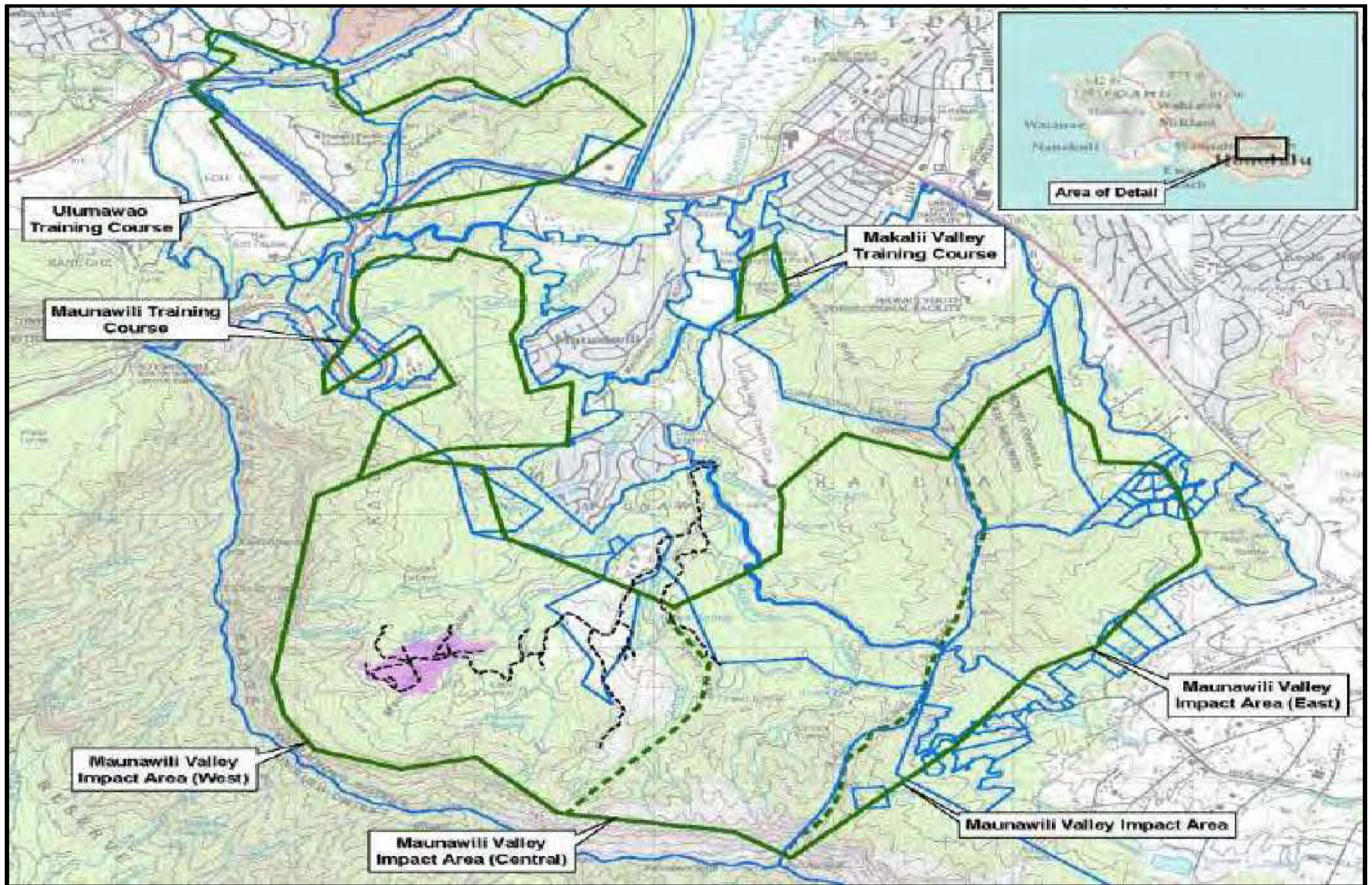


EXHIBIT 4



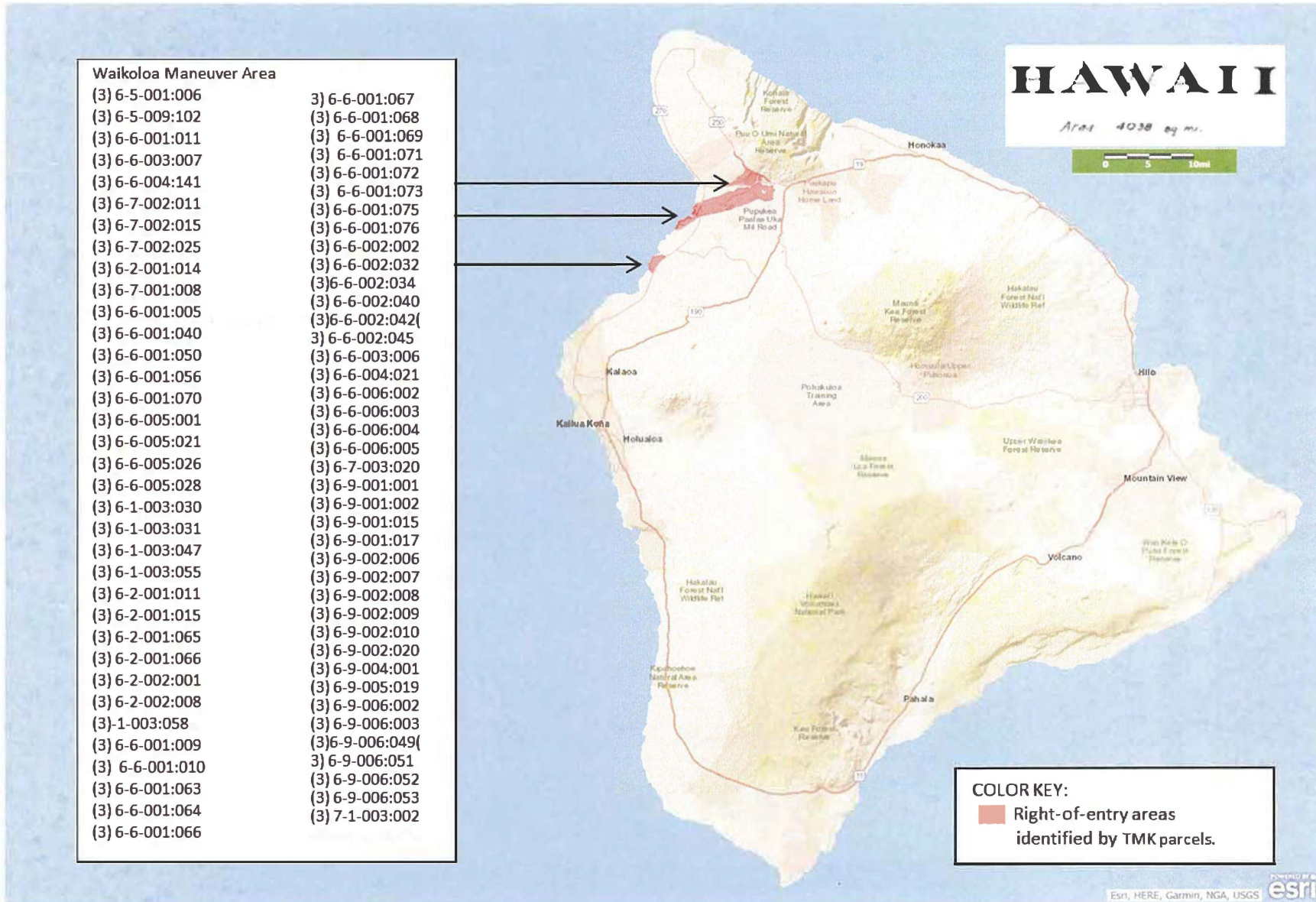
PACIFIC JUNGLE COMBAT TRAINING CENTER, OAHU, HAWAII

EXHIBIT 4



Pali Training Camp, Oahu, Hawaii

EXHIBIT 4





Overview

In 1993, the approximately 100,000 acre Waikoloa Maneuver Area (WMA) was designated eligible for the Formerly Used Defense Site (FUDS) Program. Since then, the U.S. Army Corps of Engineers (USACE) has conducted numerous investigations and munitions clearance activities throughout South Kohala.

Because these activities are ongoing in and around the area of your property, USACE is seeking rights of entry (ROEs) to allow continued investigations as well as munitions clearance activities, if warranted.

The WMA FUDS is located on the western side of the Big Island of Hawaii in South Kohala. The WMA has been divided into 22 smaller projects. This fact sheet provides information for the overall Former WMA FUDS Property. More specific information is available by visiting www.fuds.mil.

What is FUDS

FUDS are properties that were formerly owned by, leased to or otherwise possessed by the Department of Defense (DOD) and transferred from DOD control prior to October 17, 1986. USACE is the organization responsible for environmental remediation of these properties.

History

In 1943, the U.S. Navy acquired property from Parker Ranch to use for various military training activities. The 2nd and 5th Marine Division used the land for an encampment, artillery firing ranges and troop maneuver areas.

WMA was the largest encampment on the Island of Hawaii and served 50,000 troops between 1943 and 1946. Prior to the departure of the 5th Marine Division in 1946, a munitions surface clearance was conducted at WMA. In September 1946, the property was returned to Parker Ranch.

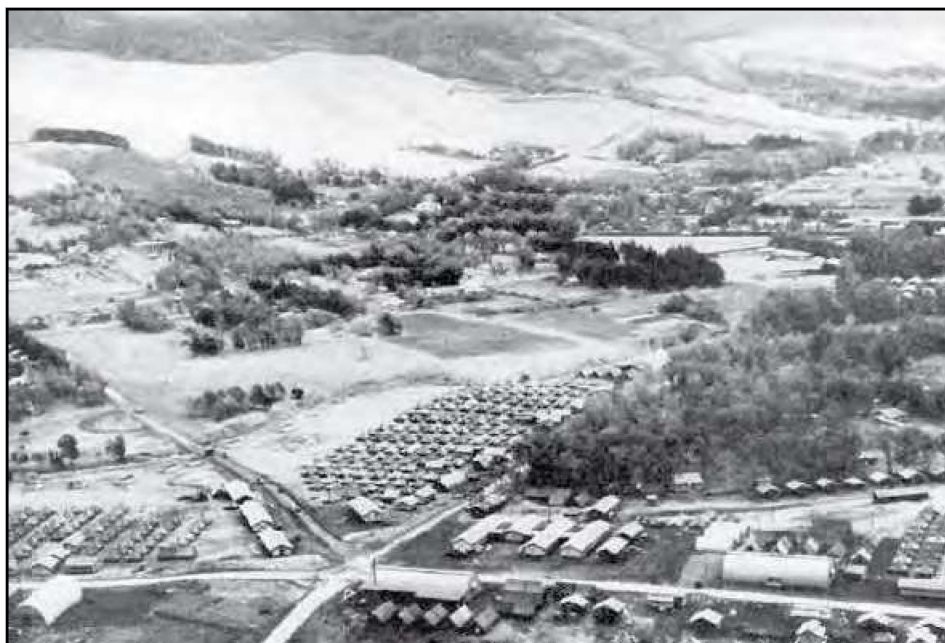
A second munitions surface clearance was conducted in 1954 following an accidental detonation of a munition, and approximately 400 munitions were cleared from WMA.

Since hazards from military munitions may remain at the WMA FUDS, USACE encourages you to follow the **3Rs of Explosives Safety**:

Recognize – when you may have come across a munition, and that munitions are dangerous.

Retreat – do not approach, touch, move or disturb it, but carefully leave the area.

Report – call 911 and advise police of what you saw and where you saw it.



Bird's eye view of the former Camp Tarawa.

Source: Waimea Gazette

Right of Entry Frequently Asked Questions

What is an ROE agreement and why should I sign it?

An ROE is a legal agreement that gives USACE and its contractors permission to go onto your property for a specified amount of time and for specific purposes, such as testing or conducting clean up actions. By signing this agreement, the landowner protects their rights and establishes the limits and responsibilities of USACE.

What if I already received and signed an ROE?

If you previously received and signed an ROE, the agreement is due to expire or has already expired. USACE would like to obtain ROE for your property to ensure continued access over the next five (5) years.

What if I don't sign the ROE?

It is the landowner's decision to sign or not sign the ROE. However, if the ROE is not signed, USACE will not be able to determine if there are any

military munitions on the property. USACE will coordinate with the landowner so its work causes as little disruption as possible.

If potential munitions are encountered, please follow the 3Rs of Explosives Safety - Recognize, Retreat, and Report.

What happens after I sign the ROE?

USACE will schedule a date and time with the landowner to visit the property.

Can USACE come on my property at any time without notifying me?

USACE will contact the landowner to coordinate access to the property.

Do I have to be home to let USACE on my property?

Not necessarily. If the work to be performed is in an easily accessible area or if prior arrangements are made, then it would not be necessary for the landowner or resident to be present. However, if you only want

work done when you are present, those arrangements will be made. Sometimes, because of the nature of the work being done and for safety reasons, USACE may require that a landowner or resident not be present.

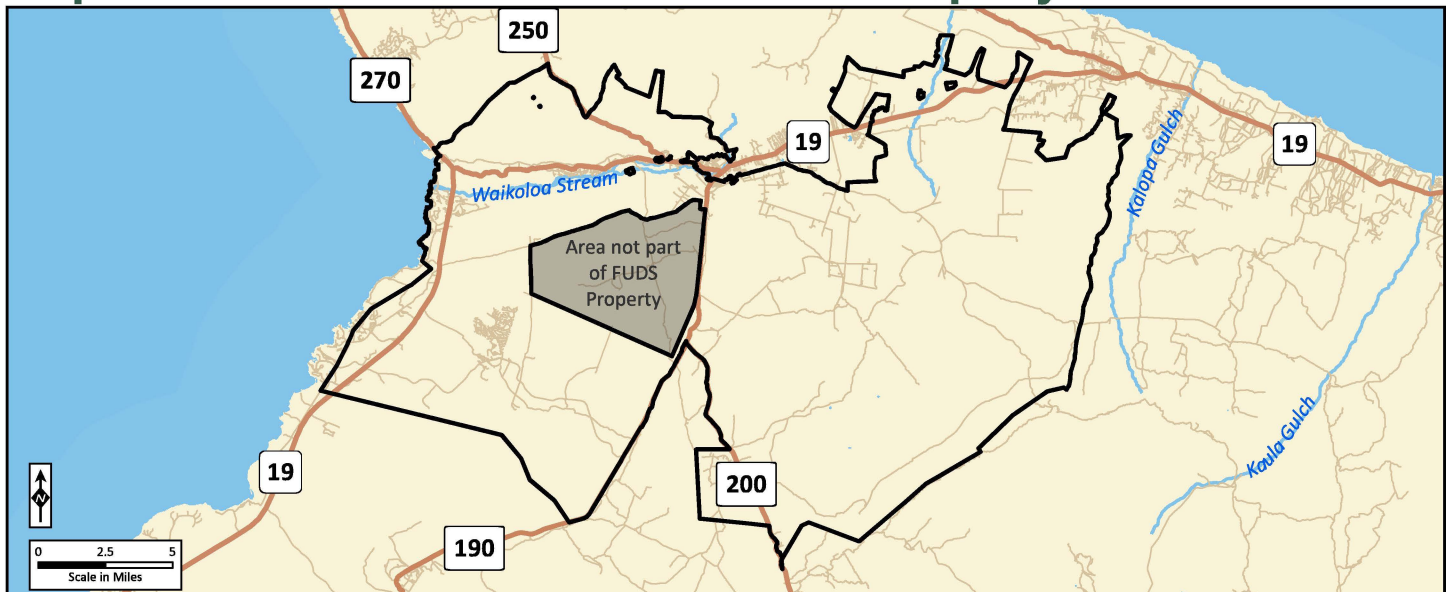
How long will it take for work to be completed on my property?

The dates and duration can not be predicted because the work is dependent on a number of factors, such as getting the required ROEs in the area, weather, etc.

What happens if I sign the ROE and then change my mind?


The landowner should contact USACE Honolulu District Environmental Office to verify if an agreement/change can be made. The ROE is a legal agreement upon which USACE and the landowner rely, and it's important that as taxpayer dollars are spent, both parties live up to their agreement. USACE is committed to trying to resolve these types of problems as quickly as possible.

Map of Waikoloa Maneuver Area FUDS Property



Legend

Project Numbers:

 FUDS Property Boundary

Waikoloa Maneuver Area

State: Hawaii

County: Hawaii

Sources: USACE, 2023; USCB, 2023; Esri, 2022



US Army Corps
of Engineers.
Honolulu District

FOR MORE INFORMATION

Contact the U.S. Army Corps of Engineers, Honolulu District Office at
CEPOH-PA@usace.army.mil.

To learn more about the FUDS Program, visit www.fuds.mil.

EXHIBIT 5



WAIKOLOA MANEUVER AREA- HAWAII ISLAND

EXHIBIT 5

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
VĀINA

RECEIVED
LAND DIVISION



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT



2023 AUG 25 PM 2: 25

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2023 AUG 16 A 8: 46

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

P.O. BOX 621
HONOLULU, HAWAII 96809

August 15th 2023

TO: State Agencies:

- DLNR-Forestry & Wildlife
- DLNR-State Parks
- DLNR-Engineering
- DLNR-Historic Preservation
- DLNR-Cons. & Coastal Lands
- DLNR-Comm. on Water Res. Mgt.
- DLNR-Aquatics
- Dept. of Hawaiian Home Lands

Honolulu & Hawaii County Agencies:

- Planning Department.
- Department of Public Parks.
- Department of Water Supply

- Dept. of Agriculture
- Office of Hawaiian Affairs
- DLNR-Oahu District Land Office

MEMORANDUM

FROM: Michael Ferreira, Land Agent.

SUBJECT: Request for Comments, Right of Entry Request from United States Army Corps of Engineers for the Islands of Oahu and Hawaii.

LOCATION: Oahu and Hawaii Islands County Tax Map Key: Various parcels of State Land.

APPLICANT: U.S. Army Corps of Engineers.

Transmitted for your review and comment is a draft Board submittal of the above referenced request involving State lands. We would appreciate your comments on this application. Please highlight your agency above and submit any comments by Thursday, October 5th, 2023. If no response is received by this date, we will assume that you have no comments. If you have any questions about this request, please contact me at my office at 587-0421, or email Michael.H.Ferreira@hawaii.gov. Thank you.

Enclosure

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: Michael Ferreira
08-24-23

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE

VA'INA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809

August 15th 2023

FROM: ~~TO:~~ State Agencies:

- DLNR-Forestry & Wildlife
- DLNR-State Parks
- DLNR-Engineering
- DLNR-Historic Preservation
- DLNR-Cons. & Coastal Lands
- DLNR-Comm. on Water Res. Mgt.
- DLNR-Aquatics
- Dept. of Hawaiian Home Lands

Honolulu & Hawaii County Agencies:

- Planning Department.
- Department of Public Parks.
- Department of Water Supply

- Dept. of Agriculture
- Office of Hawaiian Affairs
- DLNR-Oahu District Land Office

MEMORANDUM

TO: ~~FROM:~~ Michael Ferreira, Land Agent.

SUBJECT: Request for Comments, Right of Entry Request from United States Army Corps of Engineers for the Islands of Oahu and Hawaii.

LOCATION: Oahu and Hawaii Islands County Tax Map Key: Various parcels of State Land.

APPLICANT: U.S. Army Corps of Engineers.

Transmitted for your review and comment is a draft Board submittal of the above referenced request involving State lands. We would appreciate your comments on this application. Please highlight your agency above and submit any comments by Thursday, October 5th, 2023. If no response is received by this date, we will assume that you have no comments. If you have any questions about this request, please contact me at my office at 587-0421, or email Michael.H.Ferreira@hawaii.gov. Thank you.

Enclosure

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: _____

Carty S. Chang, Chief Engineer

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE

KA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809

August 15th 2023

TO: **State Agencies:**

- DLNR-Forestry & Wildlife
- DLNR-State Parks
- DLNR-Engineering
- DLNR-Historic Preservation
- DLNR-Cons. & Coastal Lands
- DLNR-Comm. on Water Res. Mgt.
- DLNR-Aquatics
- Dept. of Hawaiian Home Lands

Honolulu & Hawaii County Agencies:

- Planning Department.
- Department of Public Parks.
- Department of Water Supply

- Dept. of Agriculture
- Office of Hawaiian Affairs
- DLNR-Oahu District Land Office

MEMORANDUM

FROM: Michael Ferreira, Land Agent.

SUBJECT: Request for Comments, Right of Entry Request from United States Army Corps of Engineers for the Islands of Oahu and Hawaii.


LOCATION: Oahu and Hawaii Islands County Tax Map Key: Various parcels of State Land.

APPLICANT: U.S. Army Corps of Engineers.

Transmitted for your review and comment is a draft Board submittal of the above referenced request involving State lands. We would appreciate your comments on this application. **Please highlight your agency above** and submit any comments by Thursday, October 5th, 2023. If no response is received by this date, we will assume that you have no comments. If you have any questions about this request, please contact me at my office at 587-0421, or email Michael.H.Ferreira@hawaii.gov. Thank you.

Enclosure

- () We have no objections.
- () We have no comments.
- (X) Comments are attached.

Signed: 

Aug 16, 2023

On Exhibit 2 – Property showing Lessee and/or additional owners:
TMK: (1) 4-2-005:001; (1) 5-2-001:001; (1) 5-6-001:001; (1) 5-6-001:002 (1) 5-6-001:003 – Amend to DLNR-Div of Forestry & Wildlife
(1) 5-2-002:001 – Amend to DLNR-Division of State Parks

EXHIBIT II

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
LAND DIVISION

P.O. BOX 621
HONOLULU, HAWAII 96809

October __, 2023

Erica A. Labeste
Chief, Real Estate Division
U.S. Army Corps of Engineers
Honolulu District
230 Otake Street
Fort Shafter, Hawaii 96858-5440

PSF No. 16SD-160
DACA84-9-24-0010

STATEWIDE

Dear Ms. Labeste:

SUBJECT: Issuance of a Right-of-Entry Permit to the United States through its Army Corps of Engineers, Honolulu District, Department of the Army, to Conduct Defense Environmental Restoration Program Activities on State Lands Including Submerged Lands on the Islands of Oahu and Hawaii. See **Exhibit 1** for List of Subject Properties.

By correspondence dated June 13, 2023, the United States Army Corps of Engineers Honolulu District (USACE) of the Department of the Army, United States of America, requested right-of-entry onto various State of Hawaii lands under management of the Department of Land and Natural Resources ("Department" or "Owner") to continue its Defense Environmental Restoration Program (DERP) activities following the protocols of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process, including Site Investigation (SI), Remedial Investigation / Feasibility Studies (RI/FS), Remedial Action - Construction, Long Term Monitoring and related activities for Formerly Used Defense Sites (FUDS) and Military Munitions Response Program (MMRP) sites. The subject properties referenced herein are described in more detail in **Exhibit 1**, attached hereto.

Pursuant to the authority granted by the Board of Land and Natural Resources at its meeting of October 13, 2023 (Item D-7), and in consideration of the mutual benefits of the work described below, this right-of-entry is issued to the United States of America, hereinafter called the "Government," by the Chairperson on behalf of the Department, to grant right-of-entry to those State lands referenced herein, subject to the following terms and conditions:

GENERAL CONDITIONS

1. The purpose of this right-of-entry is limited to allow the Government to conduct DERP activities to evaluate the presence of munitions and explosives of concern (MEC) and munitions constituents (MC), including, where necessary, conducting

appropriate actions to respond to and mitigate hazardous conditions from unexploded ordnance (UXO) on the subject properties.

2. This right-of-entry shall be effective upon execution, subject to acceptance of the terms and conditions stated herein, beginning with the date of the signing of this instrument and continuing for a period not to exceed one year (12 months), or terminating with the earlier of the completion of the planned DERP activities or the filing of a notice of termination in the local land records by a representative of the United States in charge of the planned FUDS projects, whichever is sooner. The Chairperson is authorized to continue this right-of-entry for additional one-year periods for good cause shown. USACE shall submit any request for continuation or extension of this right-of-entry at least 60 days prior to its scheduled expiration date.
3. The Owner hereby grants to the Government an irrevocable right to enter in, on, over, and across those State lands included within the project areas identified by Tax Map Key numbers summarized in **Exhibit 1** of this right-of-entry, for use by the Government, its representatives, agents and contractors and assigns as a work area for environmental investigation and response; including the right to store, move, and remove equipment and supplies; erect and remove temporary structures on the land; investigate and collect samples; excavate and remove ordnance and explosive waste, pollutants, hazardous substances, contaminated soils, containerized waste, and replace with uncontaminated soil; dispose of ordnance and explosive waste by detonation; and perform any other such work which may be necessary and incident to the Government's use for the investigation and response on said lands; subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowner(s), their heirs, executors, administrators, successors and assigns all such right, title, interest, and privilege as may be used and enjoyed without interfering with or abridging the rights and right-of-entry hereby acquired.
4. The Government shall not store any personal belongings on the right-of-entry area during the effective period of this right-of -entry.
5. All tools, equipment, and other property taken upon or placed upon the right-of-entry are by the Government shall remain the property of the Government and may be removed by the Government at any time within a reasonable period after the expiration of this right-of entry.
6. If any action of the Government's employees or agents in the exercise of this right-of-entry results in damage to the real property, the Government will, in its sole discretion, either repair such damage or make an appropriate settlement with the Owner. In no event shall such repair or settlement exceed fair market value of the fee title to the real property at the time immediately preceding such damage. The Government's liability under this clause is subject to the availability of appropriation for such payment, and nothing contained in this agreement may be considered as implying the Congress will at a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice

to any rights the Owner may have to make a claim under applicable laws for any damages other than those provided herein.

7. The Owner will not be responsible for any damage or loss, including but not limited to personal injury or death, caused by or arising from the Government's exercise of the rights granted by this right-of-entry, and not caused by the negligence or willful misconduct of the Owner. In accordance with the Anti-Deficiency Act, 31 USC 1341 (the Act), the Government is prohibited from entering into a contract to indemnify against a future contingent liability without specific statutory authority. Such authority does not exist for this right-of-entry. However, nothing in the Act or in this right of entry shall operate to prohibit or foreclose the Owner or anyone else from presenting a claim and / or seeking any other relief under the Federal Tort Claims Act or under any other statutory remedy that may be available to the Owner and applicable to the Government.
8. The Government, its contractors, consultants and / or persons acting for or on its behalf, acknowledges and agrees that portions of such lands are raw and unimproved, that the Owner has made no effort to determine or remedy possible hazards located thereon, and the Government, its contractors, consultants and / or persons acting for or on its behalf enters such lands at its own risk.
9. The Government, its contractors, consultants and / or persons acting for or on its behalf shall comply with all applicable laws, statutes, ordinances, rules, and regulations of the Federal, State, and Count government affecting the right-of-entry area to the extent that compliance is consistent with Federal law.
10. Any action taken by the Government, its contractors, consultants and / or persons acting for or on its behalf pursuant to this right-of-entry shall be conducted in accordance with CERCLA and applicable Federal, Department of Defense and Army guidance.
11. Other than in the ordinary course of business, no open fire or burning of any kind shall be allowed on the right-of-entry area and / or the surrounding State property.
12. For each project site within the scope of this right-of-entry, the Government shall ensure that its contractors, consultants and / or persons acting for or on its behalf shall procure, at their own cost and expense, and maintain during the entire period of this right-of-entry, from an insurance company or companies licensed or authorized to do business in the State of Hawaii with an A.M. Best rating of not less than "A- VIII" or other comparable and equivalent industry rating, a policy or policies of general liability insurance or its equivalent, in an amount of at least \$1,000,000.00 for each occurrence / \$2,000,000.00 aggregate, and with coverage terms acceptable to the Chairperson of the Board. The policy or policies of insurance shall name the State of Hawaii as an additional insured and, as proof of its procurement, a certificate of insurance for the same shall be filed with the State of Hawaii, Department of Land and Natural Resources. The procuring of the required policy(s) of insurance shall not be construed to limit the liability of the Government's contractors, consultants and/or persons acting for or on its behalf

under this right-of-entry, nor to release or relieve the Government's contractors, consultants and/or persons acting for or on its behalf of the requirements of this right-of-entry.

Should you accept the above terms and condition, please sign in the space provided below and return a signed copy of this letter to the Land Division Office at P.O. Box 621, Honolulu, HI, 96809.

Thank You.

Sincerely,

Dawn N.S. Chang
BLNR Chairperson

ACCEPTED:

Erica A. Labeste
Chief, Real Estate Division
Real Estate Contracting Officer
U.S. Army Corps of Engineers

Dated: _____

cc: Chairperson's Office
Land Board Members
Division of Conservation & Resource Enforcement
State Historic Preservation Division

EXHIBIT III

**DEPARTMENT OF THE ARMY
RIGHT OF ENTRY (ROE) FOR FORMERLY USED DEFENSE SITES
PROGRAM**

Waikoloa Maneuver Area
Formerly Used Defense Sites (FUDS)

FUDS ID: H09HI035921

The undersigned, hereby grants to the Department of the Army, its employees, contractors, and subcontractors a Right-of-Entry on the property located in: Waikoloa Maneuver Area and described as:

Tax Map Key (TMK) (3) 6-8-001:049

1. This Right-of-Entry is granted upon the following terms and conditions:

This Right-of-Entry may be exercised only for the purposes of:

Investigation of the property for chemical contamination, containerized regulated substances, or Munitions or Explosives of Concern, which may involve soil sampling, installation of groundwater monitoring wells, geophysical surveys, and clearance of surface vegetation.

All proposed activities will be coordinated with the Owner 15 days prior to the start of work.

2. This Right-of-Entry may be exercised at any time after the notice and is anticipated to end in or around June 2028 for the current phase of work; given consideration to potential delays in the document review schedule and multiple fieldwork mobilizations but may be exercised until the work described above is complete.

3. This Right-of-Entry does not grant any right to enter into any structure or building located on the property described above.

4. If any action of the Government's employees or agents in the exercise of this Right-of-Entry results in damage to the real property, the Government will, in its sole discretion, either repair such damage or make an appropriate settlement with the Owner. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage. The Government's liability under this clause is subject to the availability of appropriations for such payment, and nothing contained in this agreement may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice to any rights the Owner may have to make a claim under applicable laws for any damages other than those provided for herein.

5. This Right-of-Entry may be revoked in writing by the undersigned upon no less than 30 days prior notice delivered to the Department of the Army at:

U.S. Army Corps of Engineers- Environmental Branch
Attn: David Griffin
Bldg. 230 Otake Street Room 104
Fort Shafter, HI 96858

If the undersigned attempts to terminate or revoke this Right-of-Entry before the end of the period provided in paragraph 2, above, without the required notice period stated in this paragraph, the Government will be entitled to recover from the undersigned all damages incurred as a result of the early termination of access to the property, including all contractor costs and any other expenses of the Government incurred because of the unanticipated early termination.

Dated this _____ day of _____, 20_____.

(Signature – Owner or Lessee)

Name(s) (Print Name and Title)

Mailing Address

Phone/Cellular Nos.

E-mail Address

END