



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

22 May 2024

Board of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawai'i 96809

Dear Land Board Secretary,

The Honolulu District, U.S. Army Corps of Engineers (USACE), respectfully requests the Board's approval of rights of entry for two projects on the Island of Hawai'i within the Waikoloa Maneuver Area Formerly Used Defense Site. These 2 forms can be found as enclosures 1 and 2 attached to this written testimony.

Congress tasked USACE with environmental cleanup and remediation of Formerly Used Defense Sites (FUDS) transferred from the Department of Defense prior to October 17, 1986. In executing this mission, USACE routinely requests rights of entry (ROEs) from the appropriate individual or entity who can authorize access onto the property whether it be the owner, land manager, or other role with proper interest in the land.

In December 2022, USACE released a supplement to Engineering Regulation 200-3-1 requiring a standard right of entry form to be used on all FUDS properties nationwide. This is the only form which USACE has the authority to accept and use to gain access to affected properties. Since the implementation of this form, USACE, has had success in obtaining ROEs from state agencies, local governments, commercial entities, and individual landowners which allows USACE to continue with environmental cleanup and remediation throughout the country.

Honolulu District values its relationship with the Department of Land and Natural Resources and shares in the passion for "Making Hawai'i a Great Place to Live!" We believe our two agencies are working toward a common purpose on these two projects within the Waikoloa Maneuver Area Formerly Used Defense Site and remain hopeful that the Board will approve our ROEs so that we may continue our efforts toward that purpose.

Mahalo for your time and consideration.

Sincerely,

Lisa Scott PG, PHG  
Chief Environmental Branch

# ENCLOSURE 1

**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 U.S. Department of the Army (hereinafter: the "Government"), its employees, contractors, and subcontractors a Right-of-Entry on the property located in: State of Hawaii, County of Hawaii, Waikoloa Maneuver Area and described as:

TMKs	
(3) 6-1-003:030	(3) 6-9-005:019
(3) 6-1-003:031	(3) 6-9-005:046
(3) 6-1-003:047	(3) 6-9-006:001
(3) 6-1-003:055	(3) 6-9-006:002
(3) 6-2-002:008	(3) 6-9-006:003
(3) 6-9-001:002	(3) 7-1-003:002
(3) 6-9-001:015	
(3) 6-9-001:017	
(3) 6-9-002:006	
(3) 6-9-002:007	
(3) 6-9-002:009	
(3) 6-9-002:010	
(3) 6-9-004:001	

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 Munitions of Explosives of Concern, which may involve soil sampling, 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 15 June 2024 and is anticipated to end in or around 1 April 2027 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 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 access to the property, including all contractor costs and any other expenses of the Government incurred because of the anticipated early termination.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

By: \_\_\_\_\_  
 Signature – State of Hawaii  
 Department of Land and Natural  
 Resources

## CERTIFICATE OF SIGNATURE AUTHORITY

I, \_\_\_\_\_, certify that I am the  
(CERTIFIER)

\_\_\_\_\_ of \_\_\_\_\_,  
(TITLE) (COMPANY)

named as "Owner" herein; that \_\_\_\_\_, who signed  
(SIGNATURE AUTHORITY'S NAME)

this Right-of-Entry on behalf of said entity was then

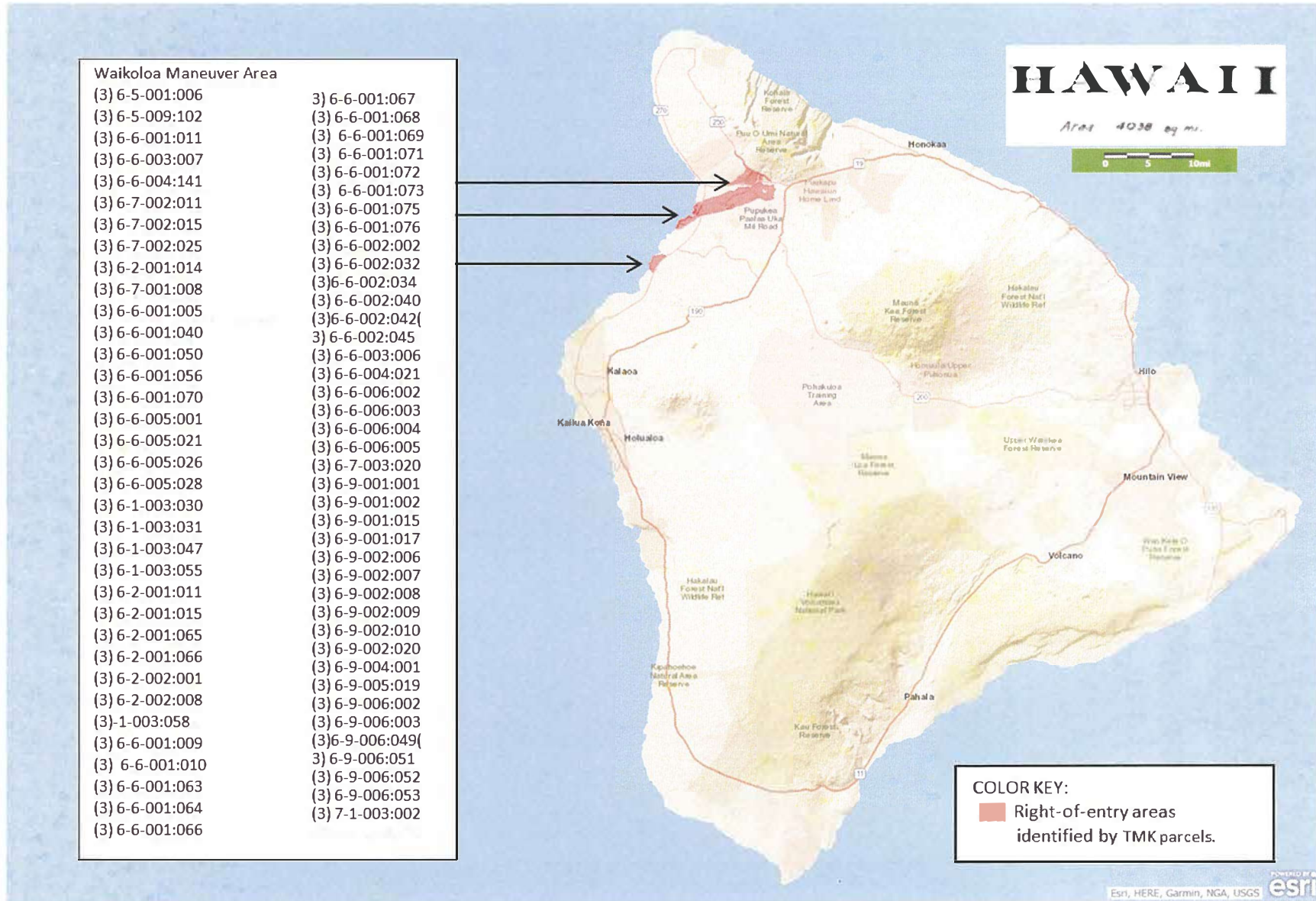
\_\_\_\_\_ for said entity. I further certify that said  
(SIGNATURE AUTHORITY'S TITLE)

instrument was duly signed for, and in behalf of \_\_\_\_\_,  
(COMPANY)  
by authority of its governing body, and is within the scope of its governing powers.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\* Note: the person signing this document **must not** be the same person signing the right-of-entry.



**EXHIBIT 5**

# ENCLOSURE 2

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

Waikoloa Maneuver Area

**Formerly Used Defense Sites (FUDS)**

FUDS ID: H09HI035910

The undersigned, hereby grants to the U.S. Department of the Army (hereinafter: the "Government"), its employees, contractors, and subcontractors a Right-of-Entry on the property located in: State of Hawaii, County of Hawaii, Waikoloa Maneuver Area and described as:

TMKs	
(3) 6-2-001:065	(3) 6-6-002:043
(3) 6-2-001:066	(3) 6-6-002:045
(3) 6-2-002:001	(3) 6-9-001:001
(3) 6-6-002:002	(3) 6-9-002:020
(3) 6-6-002:006	
(3) 6-6-002:007	
(3) 6-6-002:031	
(3) 6-6-002:032	
(3) 6-6-002:034	
(3) 6-6-002:035	
(3) 6-6-002:040	
(3) 6-6-002:041	
(3) 6-6-002:042	

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 Munitions of Explosives of Concern, which may involve soil sampling, 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 15 June 2024 and is anticipated to end in or around 31 August 2025 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 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  
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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 access to the property, including all contractor costs and any other expenses of the Government incurred because of the anticipated early termination.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

By: \_\_\_\_\_  
 Signature – State of Hawaii  
 Department of Land and Natural  
 Resources

## CERTIFICATE OF SIGNATURE AUTHORITY

I, \_\_\_\_\_, certify that I am the  
(CERTIFIER)

\_\_\_\_\_ of \_\_\_\_\_,  
(TITLE) (COMPANY)

named as "Owner" herein; that \_\_\_\_\_, who signed  
(SIGNATURE AUTHORITY'S NAME)

this Right-of-Entry on behalf of said entity was then

\_\_\_\_\_ for said entity. I further certify that said  
(SIGNATURE AUTHORITY'S TITLE)

instrument was duly signed for, and in behalf of \_\_\_\_\_,  
(COMPANY)  
by authority of its governing body, and is within the scope of its governing powers.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\* Note: the person signing this document **must not** be the same person signing the right-of-entry.

