

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawai'i 96813

May 9, 2025

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

Hawai'i

Decision Making Regarding the Acceptance or Non-Acceptance of the Final Environmental Impact Statement (EIS) for the Army Training Land Retention at Pōhakuloa Training Area, Island of Hawai'i, Tax Map Keys (TMKs) (3): 4-4-015:008; 4-4-016:005; and 7-1-004:007

The final EIS is available for review through the following links:

https://files.hawaii.gov/dbedt/erp/Doc_Library/2025-04-23-HA-FEIS-Army-Training-Land-Retention-at-Pohakuloa-Training-Area-Vol-1.pdf

https://files.hawaii.gov/dbedt/erp/Doc_Library/2025-04-23-HA-FEIS-Army-Training-Land-Retention-at-Pohakuloa-Training-Area-Vol-2.pdf

https://files.hawaii.gov/dbedt/erp/Doc_Library/2025-04-23-HA-FEIS-Army-Training-Land-Retention-at-Pohakuloa-Training-Area-Vol-3.pdf

Pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes (HRS), the Board may go into Executive Session in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

APPLICANT:

United States (U.S.) Army Garrison-Hawaii (USAG-HI) and U.S. Army Installation Management Command (IMCOM)

LEGAL REFERENCE:

Hawai'i Revised Statutes (HRS) Section 343-5(a)

Hawai'i Administrative Rules (HAR) Chapter 11-200.1, Subchapter 10

LOCATION:

Pōhakuloa Training Area (PTA)

Ka‘ohe, Hāmākua, and Pu‘uanahulu, North Kona, Island of Hawai‘i

Identified by Tax Map Keys (TMKs): (3): 4-4-015:008; 4-4-016:005; and 7-1-004:007

AREA:

Approximately 22,700 acres, more or less

ZONING:

State Land Use District: Conservation

County of Hawai‘i Zoning Open District and Forest Reserve

CHARACTER OF USE:

Military purposes

EXECUTIVE SUMMARY

The Board is being asked to make a decision regarding the acceptance or non-acceptance on the Applicant’s (herein referred to as USAG-HI) final Environmental Impact Statement (EIS) which contemplates a long-term land disposition for the current State-leased lands portion of PTA.

Determining the acceptance or the non-acceptance of a final EIS is based on the satisfaction of three (3) criteria as prescribed in HAR 11-200.1-28(b) which are as follows:

- (1) The procedures for assessment, consultation process, review, and the preparation and submission of the EIS, from proposal of the action to publication of the final EIS, have all been completed satisfactorily as specified in this chapter;***
- (2) The content requirements described in this chapter have been satisfied; and***
- (3) Comments submitted during the review process have received responses satisfactory to the accepting authority, including properly identifying comments as substantive and responding in a way commensurate to the comment, and have been appropriately incorporated into the final EIS.***

Summary of Staff’s analysis is as follows:

1. PROCEDURE:

Staff found an unintentional omission of the inclusion of the “*reasons supporting the determination to prepare and EIS*” (HAR Section 11-200.1-23(5)) in the EISPN. While Staff notes that this could be construed as a procedural error, we

believe that it is not a critical error and all other requirements regarding procedures for assessment, consultation process, review, and the preparation and submission of the final EIS appears to have been satisfactorily complied with.

2. CONTENT REQUIREMENTS:

Content requirements fall within two (2) categories; the content requirements of a draft EIS and the content requirements of a final EIS. The content requirements of the draft EIS should be reflective in the final EIS and therefore any issues in the draft that were not properly addressed in the final would still be considered to be outstanding.

Throughout the EIS process, Staff had and continues to have concerns with the following:

1. That the contents of the draft/final EIS do not fully declare the environmental implications of the proposed action and does not discuss all reasonably foreseeable consequences; and
2. The data and analysis do not commensurate with the importance of the impacts.

Staff's main concerns are as follows:

1. Lack of evaluation of impacts in the Federally owned impact area which is the main receiving area for live rounds being fired during training activities. USAG-HI has stated that under the "*Under the No Action Alternative...the Army would have no land access to the impact area...which would cease or severely limit Army activities in those areas.*" According to the State Historic Preservation Division (SHPD) and numerous commenters on the draft EISs, the impact zone is home to numerous historic and cultural properties, including 'iwi kupuna. USAG-HI also states that the 2018 Section 106 Programmatic Agreement for PTA determined that "*previously military training and related activities have had adverse impacts on historic properties at PTA, primarily within the impact area.*" Thus, by USAG-HI retaining the State lands through a long-term land disposition, any impacts to the impact area are expected to continue.

Refer to Volume I, Section 3.4, page 3-71 or page 179 of the electronic file for USAG-HI's discussion on Historic and Cultural Resources and Cultural Practices.

2. Staff and SHPD have concerns that the inventory of archaeological sites is incomplete. It became recently known to the Department that a number of artifacts were taken from State lands into USAG-HI possession and that USAG-HI believes NAGPRA to be the controlling authority. The Department disagrees as historic properties located on State lands are the property of the State and by

allowing NAGPRA to prevail, the Department would no longer have rights as HRS, Chapter 6E would no longer be the controlling authority.

3. Lack of current studies and/or robust summaries to provide data and analysis regarding endangered biological resources. Most concerning is that USAG-HI is proposing to conduct studies after the EIS is completed (a 2025 Programmatic Biological Opinion (BO) and an invertebrate survey) when those studies should have been done beforehand in order to provide the most current information in the EIS document. Further the 2025 BO is anticipated to include two species, the anthracinan yellow-faced bee and the Blackburn's sphinx moth that Staff had previously noted was lacking data and analysis to determine impacts.

Refer to Volume I, Section 3.3, page 3-27 or page 135 of the electronic file for USAG-HI's discussion on Biological Resources.

4. That military use is neither consistent with the overall objective nor the allowable uses in the Conservation District and that a rule amendment to allow such use may not be a likely scenario. USAG-HI did not include any other alternatives in which they could comply with the Conservation District, i.e. applying for a Land Use District Boundary Amendment to move PTA out of the Conservation District into a more appropriate district designation that would allow for military use.

Refer to Volume I, Section 5.3.2, page 5-16 or page 482 of the electronic file for USAG-HI's discussion on the consistency of their proposed action with the Conservation District.

3. COMENTS AND RESPONSES:

Staff recognizes that the issue of whether comments have been satisfactorily responded to can be subjective. Nevertheless, Staff's feedback is that our comments as they related to noise impacts on wildlife and birds, the incompleteness of the archaeological surveys, and the breadth and appropriateness of those who were interviewed for Cultural Impact Assessment (CIA) received responses that cannot necessarily be viewed as "satisfactory." Nevertheless, Staff believes the Board should take into account all testimony before determining whether this criterion has satisfactorily been met.

The Department's comments can be found in Volume III, Appendix N. Comments on the first draft EIS begin on page HI-24 under the Draft EIS Comments section which is page 487 of the electronic file and comments on the second draft EIS begin on page HI-13 under the Second Draft EIS Comments section which is page 1195 of the electronic file.

USAG-HI's responses to our comments on the first draft EIS can be found in Volume II, Appendix D, Responses to Draft EIS Comments Section, starting on page D-35 or page 205 of the electronic file.

USAG-HI's responses to our comments on the first draft EIS can be found in Volume II, Appendix D, Responses to Second Draft EIS Comments Section, starting on page D-217 or page 391 of the electronic file.

DESCRIPTION OF THE PROPOSED ACTION:

The proposed action contemplated by USAG-HI is to retain use of the current State-owned leased lands through a long-term land disposition that would allow USAG-HI to continue military training at PTA.

The subject of this agenda item on the Board's May 9, 2025 meeting agenda is the sufficiency of the final Environmental Impact Statement (EIS), which is available to the public online at:

https://files.hawaii.gov/dbedt/erp/Doc_Library/2025-04-23-HA-FEIS-Army-Training-Land-Retention-at-Pohakuloa-Training-Area-Vol-1.pdf

https://files.hawaii.gov/dbedt/erp/Doc_Library/2025-04-23-HA-FEIS-Army-Training-Land-Retention-at-Pohakuloa-Training-Area-Vol-2.pdf

https://files.hawaii.gov/dbedt/erp/Doc_Library/2025-04-23-HA-FEIS-Army-Training-Land-Retention-at-Pohakuloa-Training-Area-Vol-3.pdf

STANDARD EVALUATION OF THE FINAL EIS:

Pursuant to HAR Section 11-220.1-28(a), *“Acceptability of a final EIS shall be evaluated on the basis of whether the final EIS in its completed form, represents an informational instrument that fulfills the intent and provisions of chapter 343, HRS, and adequately discloses and describes all identifiable environmental impacts and satisfactorily responds to review comments.”*

Further, HAR Section 11-200.1-28(b) states that *“A final EIS shall be deemed to be an acceptable document by the accepting authority only if all of the following criteria are satisfied:*

- (1) The procedures for assessment, consultation process, review, and the preparation and submission of the EIS, from proposal of the action to publication of the final EIS, have all been completed satisfactorily as specified in this chapter;*
- (2) The content requirements described in this chapter have been satisfied; and*

(3) Comments submitted during the review process have received responses satisfactory to the accepting authority, including properly identifying comments as substantive and responding in a way commensurate to the comment, and have been appropriately incorporated into the final EIS.

Pursuant to HAR Section 11-200.1-2:

“Acceptance means a formal determination that the document required to be filed pursuant to chapter 343, HRS, fulfills the requirements of an EIS, as prescribed by section 11-200.1-28. Acceptance does not mean that the action is environmentally sound or unsound, but only that the document complies with chapter 343, HRS, and this chapter.”

Accordingly, the Board’s decision regarding the acceptability of this final EIS is distinct from any management decisions that the Board may make in the future regarding the issuance of any long-term land disposition requested by this final EIS.

Acceptability of the final EIS is based on the three criteria listed above. An EIS is not intended to resolve conflicts of opinion on the impacts of a proposed action. Rather, an EIS only intends to provide the relevant information to the deciding agency.

“[W]hether or not the parties disagree, or even whether there is authority which conflicts with the agency’s decision is not the yardstick by which the sufficiency of an EIS is to be measured. Rather it is whether the EIS as prepared permitted informed decision making by the agency.”

Price v. Obayashi Hawaii Corp., 81 Haw. 171, 181-182, 914 P.2d 1364, 1375 (1996).

In other words, an EIS need not be exhaustive to the

Point of discussing all possible details bearing on the proposed action but will be upheld as adequate if it has been compiled in good faith and sets forth sufficient information to enable the decision-maker to consider fully the environmental factors involved and to make a reasonable decision after balancing the risks of harm to the environment against the benefits to be derived from the proposed action, as well as to make a reasoned choice between alternatives.

Id. at 183 (citing *Life of the Land v. Ariyoshi*, 59 Haw. 156, 164-65, 577 P.2d 1116, 1121 (1978)).

DISCUSSION:

Pursuant to HAR Section 11-200.1-28(e)(2)(B), for applicant actions, the accepting authority shall “*Notify the applicant and the office [The Environmental Review Program]*

of the acceptance or non-acceptance of the final EIS within thirty days of the final EIS submission to the agency...”

The Department and the Environmental Review Program (ERP) received the submission of the final EIS on April 14, 2025. This grants the Board until May 14, 2025 to either accept or not accept the final EIS.

It should be noted that while HAR Section 11-200.1-28(e)(2)(B) allows the applicant to request an extension period not to exceed 15 days, it specifically states that an extension shall not be granted merely for the convenience of the accepting authority.

Further, HAR Section 11-200.1-28(e)(2)(B) states that *“If the accepting authority fails to make a determination of acceptance or non-acceptance of the EIS within thirty days of receipt of the final EIS, then the statement shall be deemed accepted.”* Therefore, decision making on this agenda item cannot be deferred unless a special meeting of the Board is called on or before the May 14, 2025 deadline.

As stated earlier, HAR Section 11-200.1-28(b), states that *“A final EIS shall be deemed to be an acceptable document by the accepting authority only if all of the following criteria are satisfied:*

- (1) The procedures for assessment, consultation process, review, and the preparation and submission of the EIS, from proposal of the action to publication of the final EIS, have all been completed satisfactorily as specified in this chapter;*
- (2) The content requirements described in this chapter have been satisfied; and*
- (3) Comments submitted during the review process have received responses satisfactory to the accepting authority, including properly identifying comments as substantive and responding in a way commensurate to the comment, and have been appropriately incorporated into the final EIS.*

Below is Staff’s analysis regarding the acceptability of the final EIS:

1. THE PROCEDURES FOR ASSESSMENT, CONSULTATION PROCESS, REVIEW AND THE PREPARATION AND SUBMISSION OF THE EIS, FROM PROPOSAL OF THE ACTION TO PUBLICATION OF THE FINAL EIS, HAVE ALL BEEN COMPLETED SATISFACTORILY AS SPECIFIED IN THIS CHAPTER.

USAG-HI prepared and submitted an Environmental Impact Statement Preparation Notice (EISPN) which was published in the September 8, 2020 edition of the ERP’s *The Environmental Notice*. An electronic version of the EISPN can be found at: https://files.hawaii.gov/dbedt/erp/Doc_Library/2020-09-08-HA-EISPN-Army-Training-Land-Retention-at-Pohakuloa-Training-Area.pdf

Staff reviewed the EISPN to determine if the document was prepared in accordance with HAR Section 11-200.1-23. Staff found the following:

- (1) *Identification of the proposing agency or applicant;*
 - Refer to Section 1.1 of the EISPN
- (2) *Identification of the accepting authority;*
 - Refer to Section 1.1 of the EISPN
- (3) *List of all required permits and approvals;*
 - Refer to Table 1-1 of the EISPN
- (4) *The determination to prepare an EIS;*
 - Refer to Chapter 5 of the EISPN
- (5) *Reasons supporting the determination to prepare an EIS;*
 - Staff could not find supporting reasons
- (6) *A description of the proposed action and its location;*
 - Refer to Sections 2.1 and 2.2 of the EISPN
- (7) *A description of the affected environment, including regional, location, and site maps;*
 - Refer to Chapter 3 and figures found throughout the EISPN
- (8) *Possible alternatives to the proposed action;*
 - Refer to Section 2.3 of the EISPN
- (9) *The proposing agency's or applicant's proposed scoping process, including when and where any EIS public scoping meeting will be held; and*
 - Refer to Chapter 6 of the EISPN
Note that the USAG-HI provided a link for scoping meeting dates
<https://home.army.mil/hawaii/index.php/PTAEIS>)
- (10) *The name, title, email address, physical address, and phone number of an individual representative of the proposing agency or applicant who may be contacted for further information.*
 - Refer to Section 1.1 of the EISPN. Staff notes that no title was provided for the contact individual).

Pursuant to HAR Section 11-200.1-5(e)(4), hard copies of the EISPN were distributed to Hilo Public Library, Kailua-Kona Public Library, Thelma Parker Memorial Public and School Library, and the Hawai'i Documents Center.

The EISPN was circulated for public review and comment and public comments were accepted during a 40-day period following publication. Approximately 36 verbal

comments and 240 written responses were received. Comments received during the comment period were considered in assessing the impacts of the proposed action.

A draft EIS for the proposed action was published in the April 8, 2022 edition of ERP's *The Environmental Notice*. Pursuant to HAR Section 11-200.1-5(e)(5), Staff has confirmed that:

1. The draft EIS was signed and dated;
2. The required attestation that *“the draft EIS and all ancillary documents were prepared under the signatory’s direction or supervision and that the information submitted, to the best of the signatory’s knowledge fully addresses document content requirements as set forth in [HAR Chapter 11-200.1] subchapter 10”* was included.

Staff notes that in their attestation, USAG-HI references HAR Section 11-200.1-24 rather than subchapter 10 per the rules;

3. The draft EIS was filed simultaneously with the Department and ERP on April 1, 2022;
4. Hard copies of the draft EIS were distributed to Hilo Public Library, Kailua-Kona Public Library, Thelma Parker Memorial Public and School Library, and the Hawai‘i Documents Center; and
5. USAG-HI submitted a copy of the original audio file of *“all oral comments received at the time designated within any EIS public scoping meeting for receiving oral comments.”*

The draft EIS included copies of all written comments received during the 40-day public comment period following the publication of the EISPN, as well as USAG-HI’s written responses. The draft EIS was circulated for public review and comment and comments were accepted during a 60-day public comment period following publication. Approximately 58 verbal comments and 669 written comments were received.

Due to substantive comments received during the draft EIS public comment period, the Army, at the Department’s recommendation, decided to publish a second draft EIS that was published in the April 23, 2024 edition of *The Environmental Notice*. Pursuant to HAR Section 11-200.1-5(e)(5) Staff has confirmed that:

1. The second draft EIS was signed and dated;
2. The required attestation that *“the draft EIS and all ancillary documents were prepared under the signatory’s direction or supervision and that the information submitted, to the best of the signatory’s knowledge fully addresses document*

content requirements as set forth in [HAR Chapter 11-200.1] subchapter 10” was included.

Staff notes that in their attestation, USAG-HI referenced HAR Section 11-200.1-24 rather than subchapter 10 per the rules;

3. The draft EIS was filed simultaneously with the Department and ERP on April 12, 2024;
4. Hard copies of the draft EIS were distributed to Hilo Public Library, Kailua-Kona Public Library, Thelma Parker Memorial Public and School Library, and the Hawai‘i Documents Center; and
5. USAG-HI submitted a copy of the original audio file of “*all oral comments received at the time designated within any EIS public scoping meeting for receiving oral comments.*”

The second draft EIS included copies of all written comments received during the first draft EIS public comment period, as well as the Applicant’s responses. The second draft EIS was circulated for public review and comments and comments were accepted during a 45-day public comment period following publication. Approximately 63 oral comment and 882 written comments were received.

The final EIS for the proposed action was published in the April 23, 2025 edition of ERP’s *The Environmental Notice*. Pursuant to HAR Section 11-200.1-5(e)(6), Staff has confirmed that:

1. The final EIS was signed and dated;
2. The required attestation that “*the final EIS and all ancillary documents were prepared under the signatory’s direction or supervision and that the information submitted, to the best of the signatory’s knowledge fully addresses document content requirements as set forth in [HAR Chapter 11-200.1] subchapter 10*” was included.

Staff notes that Applicant corrected the prior attestation error as noted for the two draft EIS documents;

3. The final EIS was filed concurrently with the Department and ERP on April 14, 2025

Volume III, Appendix N of the final EIS includes reproductions of the comments received during the EIS process including the scoping comments, draft EIS comments, and second

draft EIS comments. The Applicant's responses to the comments can be found in Volume II, Appendix D.

Based on the above analysis, it appears there was an unintentional omission of the inclusion of the "*reasons supporting the determination to prepare and EIS*" (HAR Section 11-200.1-23(5)) in the EISPN. While Staff notes that this could be construed as a procedural error, we believe that it is not a critical error and all other requirements regarding procedures for assessment, consultation process, review, and the preparation and submission of the final EIS appears to have been satisfactorily complied with.

2. THE CONTENT REQUIREMENTS DESCRIBED IN THIS CHAPTER HAVE BEEN SATISFIED

The content requirements of an EIS are outlined in two separate sections of HAR Chapter 11-200.1. The first is HAR Section 11-200.1-24 which establishes the content requirements for a draft EIS. The second is HAR Section 11-200.1-27 which establishes the content requirement of a final EIS. Staff has reviewed the final EIS for compliance with these two sections and offers the following analysis:

Draft EIS Content Requirements:

Pursuant to HAR Section 11-200.1-24:

- (a) *The draft EIS, at minimum shall contain the information required in this section. The contents shall fully declare the environmental implications of the proposed action and shall discuss all reasonable foreseeable consequences of the action. In order that the public can be fully informed and that the accepting authority can make a sound decision based upon the full range of responsible opinion on environmental effects, an EIS shall include responsible opposing views, if any, on significant environmental issues raised by the proposal.*

Discussion:

Staff has concerns that the second draft EIS did not, and therefore the final EIS does not, "*fully declare the environmental implications of the proposed action*" and that the Board has not been given the "*full range of responsible opinion on environmental effects.*" It should be noted that this issue has been consistently raised since the publication of the first draft EIS. Please refer to Volume III of the final EIS for Staff's and the Department's comments on the first and second draft EISs. Comments on the first draft EIS begin on page HI-24 under the Draft EIS Comments section which is page 487 of the electronic file and comments on the second draft EIS begin on page HI-13 under the Second Draft EIS Comments section which is page 1195 of the electronic file. We have included the link to Volume III here for ease of reference:

https://files.hawaii.gov/dbedt/erp/Doc_Library/2025-04-23-HA-FEIS-Army-Training-Land-Retention-at-Pohakuloa-Training-Area-Vol-3.pdf

One main concern that Staff has is the lack of the evaluation of impacts due to activities that occur outside of the State-owned lands but would be allowed to continue because of the retention of the State-owned lands¹. One area of particular concern is the impact area which located on Federally owned lands.

The impact area is approximately 51,000 acres extending from central PTA to the southern boundary of the installation and is the main receiving area for live rounds being fired during training activities at the live-fire ranges and firing points (FPs), as well as from aviation live-fire training.

It should be noted that the USAG-HI has stated that “*Under the No Action Alternative, the Army would have... (2) limited to no ability to train in or access the impact area and training ranges south of the State owned land, ...and (5) no ability to fire indirect-fire weapons from three FPs within U.S. Government-owned portions of PTA northwest of the State-owned land into the impact area.*”

USAG-HI was directed early on in this process that the expectation of the EIS, at least from the Hawai‘i Environmental Policy Act (HEPA) perspective, would require the analysis of impacts of those uses that would continue as a result of the retention of the State-owned lands, even if occurring outside the State lease area on lands owned by the Federal government, i.e. the impact area.

Staff is particularly concerned with impacts within the impact area as both the State Historic Preservation Division (SHPD) as well as numerous comments from the general public during the draft EIS review periods have acknowledged the presence of historic and cultural properties, including ‘iwi kupuna, within the impact area. Moreso, the Army states in Section 3.4.4.4 of their final EIS that “*The 2018 Section 106 PA [Programmatic Agreement] for PTA determined that previous military training and related activities had adverse impacts on historic properties at PTA, primarily within the impact area on U.S. Government-owned land.*”

Nevertheless, the USAG-HI believes that the impact area is outside of the region of influence (ROI) for the proposed action. This sentiment is confirmed both within their response to Land Division comments on the second draft EIS and the final EIS in Section 3.4.3 where USAG-HI states that “*The ROI for historic and cultural resources includes the State-owned lands within PTA.*” Staff continues to disagree with this perspective as impacts within the impact area would either cease to exist or diminish greatly if a long-term land disposition is not granted. Further, the true range of impacts cannot be known without the proper surveys.

¹ The Board should also be aware that on March 27, 2025, Maunakea was listed on the National Register of Historic Places and is now identified as a Traditional Cultural Property (TCP) and District by the federal government. PTA is located between Maunakea, Mauna Loa, and Hualālai.

Source: <https://mauinow.com/2025/04/10/maunakea-listed-on-national-register-of-historic-places/>

There are also additional concerns regarding impacts to historic and cultural resources as it relates directly to the State-owned leased lands. As pointed out in Staff's comment letter, as well as SHPD's comment letter on the second draft EIS, the inventory of archaeological sites still appears to be incomplete. The Archaeological Literature Review was updated since the first draft EIS to give explanation on why certain areas could not be surveyed (i.e. areas being inaccessible due to recent lava flows which create hazardous conditions), but there are still other areas that were indicated as not being surveyed (refer to Figure 3-8 of the final EIS). The reasons for not doing surveys included not utilizing an area for training and an area being fenced off for the protection of natural resources. Staff disagrees that these reasons preclude the USAG-HI from doing proper due diligence on lands they are requesting a long-term land disposition for.

Moreso, SHPD's comments on the second draft EIS noted that

“As expressed in comments previously provided by SHPD in consultation meetings with the U.S. Army, SHPD requested that archaeological inventory surveys be completed for the entirety of the State-owned portion of PTA in accordance with the [HRS Chapter 6E] historic preservation review process as part of the development of a draft EIS. The draft as proposed fails to set forth sufficient information to enable SHPD, DLNR, and the public to fully consider the potential impacts of the proposed action and preferred alternative, as required per HRS Chapter 343. SHPD notified the U.S. Army in consultation meetings that the process proposed in the draft EIS, which would involve conduction of cultural inventory surveys following the EIS process, would result in a draft deficient per Chapter 343 standards and Chapter 6E standards. As a result of this lack of sufficient information, SHPD is unable to adequately assess the potential environmental impacts to cultural resources within each of the proposed retention areas.”

Staff notes that Section 3.4 of the final EIS which discusses Historic and Cultural Resources and Cultural Practices does not reflect any effort to address SHPD's concerns nor provide any additional data and/or analysis. Rather, the final EIS includes the following:

“This EIS complies with the requirements of NEPA and HEPA. Because the Proposed Action of this EIS is an administrative action, which is not the type of undertaking that has the potential to cause an effect on historic properties, Section 106 consultation regarding the Proposed Action is not required.”

Staff disagrees with USAG-HI's characterization of the proposed action as merely “an administrative action”. The Department and Board are tasked with the protection of natural and cultural resources on behalf of the State of Hawai'i. Notwithstanding USAG-HI's view of the proposed action as an administrative action of a real estate transaction that may not impact historic properties and thus would not require Section 106 consultation (which is a Federal process of complying with the National Historic

Preservation Act), it does not preclude them from providing data and analysis on the impacts of historic properties as the issuance of a new long-term land disposition, regardless of the method of retention (i.e. by fee or lease), allows impacts to historic properties and other archaeological and cultural resources to continue. Such data and analysis should be as robust as possible to satisfy the purpose and intent of HRS Chapter 343 and HAR Chapter 11.200-1, Subchapter 10.

Moreso, Staff recently learned that when historic and cultural artifacts are discovered on the State-owned lands at PTA, the procedures followed by USAG-HI may compromise the State's ownership interests in such artifacts as defined in statute.

It should be noted that pursuant to HRS Section 6E-7, *“All historic property located on lands or under waters owned or controlled by the State shall be the property of the State. The control and management of the historic property shall be vested in the department.”* Further, according to HRS Section 171-36.1 *“The board of land and natural resources shall, in leases of public lands retain the rights to all prehistoric and historic remains found on such lands.”*

From what Staff has learned, dating as far back as 1997, USAG-HI has been removing artifacts found on the State-leased lands and storing them in the PTA curation facility. According to the final EIS, on-going best management practices and mitigation for archaeological and cultural artifacts are guided by an Integrated Cultural Resources Management Plan (ICRMP) and a Section 106 Programmatic Agreement (PA), both which were finalized in 2018. Staff notes that the 2018 PA was signed off by Chairperson of the Department at time of completion.

Staff is concerned that, 1. Removing the artifacts may in and of itself cause damage to the artifacts, and 2. By removing the artifacts and placing them within the PTA curation facility, the State's rights to the artifacts are impacted as USAG-HI believes that the National American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. Chapter 32 and the implementing regulations provided in 43 CFR Part 10 is the controlling authority over those artifacts not HRS Chapter 6E. This impact, nor the inventory of artifacts found on State lands that are in USAG-HI's possession have been disclosed to the Board in this final EIS document.

Staff, along with SHPD (per their comments on the second draft EIS), also believes that the final EIS should have disclosed that there was a significant incident regarding the removal of artifacts/cultural items from State-owned land that occurred in 2022. Cultural Resources Staff at PTA found significant traditional Hawaiian artifacts in a lava tube located on TMK (3) 7-1-004:007 and at the request of Native Hawaiian Consulting parties, removed them as there was concern that the items were subjected to potential damage. Native Hawaiian Consulting parties identified the artifacts as moepū (funerary objects) and SHPD staff further clarified that the artifacts appeared to be wooden ki'i. According to SHPD Staff, this find could be one of the most significant finds in the last 100 years. However, because the artifacts were taken into USAG-HI

possession, USAG-HI has begun the NAGPRA process for repatriation. This is a concern for the Department because if NAGPRA prevails, the State may no longer have any rights to these artifacts/cultural items and thus there exists an impact to historic and cultural resources that should rightfully belong to the State.

Staff is also concerned that not all the impacts to biological resources have been fully declared/disclosed. This is another issue that Staff had previously flagged during the draft EIS phase.

Particularly, Staff finds it unusual that the Army is anticipating completing a Programmatic Biological Opinion (BO) by the end of 2025. Staff feels that this Programmatic BO would most likely have addressed concerns that the Department had during the draft EIS phase and would have provided current data, including take limits for protected species, thus providing better information for the Board to understand the full breadth of impacts to biological resources. Moreso, Staff believes that having access to, or at least a well written summary of this Programmatic BO is important as it is supposed to cover “*all protected species analyzed under previous BOs as well as Schiedea hawaiiensis (mā‘oli‘oli), Exocarpos menziesii (Menzie’s ballart, heau), Festuca hawaiiensis (Hawaiian fescue), Portulaca villosa (hairy purslane, ‘ihi), Sicyos macrophyllus (Alpine bur cucumber, ‘ānunu), Hydrobates castro (band-rumped storm petrel, ‘akē ‘akē), Hylaeus anthracinus (anthracinan yellow-faced bee), and Manduca blackburni (Blackburn’s sphinx moth).*”

The biological resource information provided in the final EIS relies on information from BOs completed in 2003, 2008, and 2013. Staff notes that the Land Division had requested that the BOs be provided so that the Department (DOFAW specifically) could properly review the effects of the proposed action on protected species, especially as both the 2003 and 2008 BOs contained incidental take statements for the Hawaiian hoary bat and the nēnē (Hawaiian goose).

It should be noted that a summary of the BOs is provided in Appendix E and links to the documents were provided in Chapter 6, but the links provided were either broken (error message) or inaccessible for some unknown reason (internet browser session times out). In consultation with DOFAW, Staff confirmed that DOFAW was able to obtain the documents either from the U.S. Fish and Wildlife Service or by doing a deep dive Google search. DOFAW confirmed that the additional information and data found within the BOs would have been helpful/more informative especially as it provided more specificities about the take provisions for the nēnē and the Hawaiian hoary bat.

Understanding the incidental take of the Hawaiian hoary bat is important as wildfires in 2018 and 2022 exceeded the annual take limit (118.5 acres per year) of potential available tree land roosting habitat. The 2022 fire also exceeded the cumulative allowance of 3,324 acres. However, Staff is unable to determine what is the equivalent take of the species on a per acre basis and if mitigation credits (or something similar) are required to offset the incidental take of the species.

This also holds true for the nēnē as USAG-HI has an incidental take statement for the species, but Staff could not find the take limit, regardless of the fact that USAG-HI states that no take was documented for the 2022-2023 reporting period. Staff does note that Appendix E included a statement that *“The Army may benefit the Hawaiian goose by funding an off-site project at Hakalau Forest National Wildlife Refuge, as recommended in the 2013 Biological Opinion, in a phased approach as the Refuge allows/permits work to progress. The project may include the construction and maintenance of two 20-acre predator-proof fences as well as personnel (one full-time equivalent) to maintain the fences, control predators, improve vegetation, and encourage the use of the fenced areas by the Hawaiian goose both passively and aggressively. The goal is to produce 21 adults from 26 fledglings per year over a 20-year period starting by year five.”* However, it is unclear what the status or success rate of the project is.

Staff further notes that unlike other projects (non-Federal projects) involving the take of endangered species (i.e. Kaheawa Wind Farm), PTA does not have State issued incidental take license (ITL) or habitat conservation plan (HCP) that would normally help to inform the Board of impacts to endangered species as well as provide appropriate mitigation measures that have been vetted by the U.S. Fish and Wildlife Service and DOFAW through the HCP. Staff does wish to mention that in our comments on the second draft EIS, we had requested that USAG-HI provide how they are/will comply with HRS Chapter 195D in an effort to verify if USAG-HI would indicate any willingness to apply for a State ITL and HCP. However, the response from USAG-HI did not provide any indication that they have intentions to pursue such approvals.

Staff is also confused as to why one of the mitigation measures proposed by the USAG-HI is to *“conduct an installation invertebrate study to identify the presence and types of invertebrates located within PTA.”* For context, Section 3.3.4.4 discusses invertebrates and the last survey done of terrestrial arthropods was conducted between 1996 and 1998. In Staff’s comments on the second draft EIS, we noted that the survey could be considered stale (over 10 years old) and should be updated as appropriate. In addition, Staff had concerns that surveys to determine the presence of the anthracinan yellow-faced bee or the Blackburn’s sphinx moth were not prepared as there have been documented occurrences at PTA (though supposedly not on the State-owned leased lands). Moreso, the Army is now preparing a programmatic BO that will cover these two species.

Without complete information/data/analysis, the Board may find they do not have enough information to make *“a sound decision based upon the full range of responsible opinion on environmental effects”* when a long-term land disposition is brought before them for decision making.

- (b) *The scope of the draft EIS may vary with the scope of the proposed action and its impact, taking into consideration whether the action is a project or a program. Data and analyses in a draft EIS shall commensurate with the importance of the impact, and*

less important material may be summarized, consolidated, or simply referenced. A draft EIS shall indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered in preparing the draft EIS, including cost-benefit analyses and reports required under other legal authorities.

Discussion:

Staff notes that the EIS does not distinguish the proposed action as either a “project” or a “program.”

Pursuant to HAR §11-200.1-2, a “*project*” is defined as “*a discrete, planned undertaking that is site and time specific, has a specific goal or purpose and has potential impact to the environment.*”

A “*program*” is defined as “*a series of one or more projects to be carried out concurrently or in phases within a general timeline, that may include multiple sites or geographic areas, and is undertaken for a broad goal or purpose. A program may include: a number of separate projects in a given geographical area which, if considered singly, may have minor impacts, but if considered together, may have significant impacts; separate projects having generic or common impacts; an entire plan having wide application or restricting the range of future alternative policies or actions, including new significant changes to existing land use plans, development plans, zoning regulations, or agency comprehensive resource management plans; implementation of multiple projects over a long time frame; or implementation of a single project over a large geographic area.*”

Staff also has concerns that the data and analyses as presented in the final EIS does not commensurate with the importance of the impacts as it relates to biological, historical, and cultural resources for the reasons that are discussed in the above section.

- (c) *The level of detail in a draft EIS may be more broad for programs or components of a program for which site-specific impacts are not discernable, and shall be more specific for components of the program for which site-specific, project level impacts are discernable. A draft EIS for a program may, where necessary, omit evaluating issues that are not yet ready for decision at the project level. Analysis of the program may discuss in general terms the constraints and sequences of events likely to result in any narrowing of future options. It may present and analyze in general terms hypothetical scenarios that are likely to occur.*

Discussion:

Staff notes that there are two issues in which distinguishing the proposed action as either a “program” versus as “project” may be important (please refer to the above discussion regarding the definitions of a “program” and “project.”)

The first issue is the use of Conservation District lands for military training. The final EIS uses the “hypothetical scenario” that the “*BLNR would establish a new subzone*

through a rule amendment that would allow military uses in the conservation district...” OCCL, however, disagrees that this scenario could be contemplated as “likely to occur” as military use is not consistent with the overall purpose of the Conservation District. In addition, another option would be for USAG-HI to apply for a Land Use District Boundary Amendment with the State Land Use Commission to remove PTA from the State Conservation District to a more appropriate district designation that would allow for military use. Nevertheless, should the Board take the position that the proposed action is a program, then the Board could find that this content requirement is satisfactorily complied with given that this requirement allows for the analysis of hypothetical scenarios.

The second issue is that comments from agencies and the public have requested that the Army provide more information and analyses regarding clean-up activities should the State-leased lands be returned to the State public trust. The final EIS states that “...after expiration of the current lease, the Army would follow federal law and regulations to determine how and when cleanup and restoration activities for hazardous substances and munitions and explosives of concern (MEC), within the State-owned land not retained would occur under the Comprehensive Environmental Responses, Compensations, and Liability Act (CERCLA), which is outside of this EIS process.” If the Board should take the position that the proposed action is considered a program, then this content requirement could be considered satisfactorily complied with as it allows for omission of “evaluating issues that are not yet ready for decision at the project level.”

(d) *The draft EIS shall contain a summary that concisely discusses the following:*

- (1) *Brief description of the action (see ES.6)*
- (2) *Significant beneficial and adverse impacts (see ES.9);*
- (3) *Proposed mitigation measures (see ES.11);*
- (4) *Alternatives considered (see ES.8);*
- (5) *Unresolved issues (see ES.12);*
- (6) *Compatibility with land use plans and policies (see ES.13); and*
- (7) *A list of relevant EAs and EISs considered in the analysis of the preparation of the EIS (see Table ES-2).*

Discussion:

The required summary can be found in Volume 1 of the final EIS as the Executive Summary which starts on page ES-1 and the specific section references have been provided above.

(e) The draft EIS shall contain a separate table of contents.

Discussion:

The table of contents can be found starting on page i of Volume I of the final EIS.

(f) The draft EIS shall contain a separate and distinct section that includes the purpose and need for the proposed action.

Discussion:

The purpose and need for the proposed action can be found in Chapter 1 of the final EIS.

(g) The draft EIS shall contain a description of the action that shall include the following information, but need not supply extensive detail beyond that needed for evaluation and review of the environmental impact:

- (1) A detailed map (such as a United States Geological Survey topographic map, Flood Insurance Rate Maps, Floodway Boundary Maps, or state sea level rise exposure area maps, as applicable) and a related regional map;*
- (2) Objectives of the proposed action;*
- (3) General description of the action's technical economic, social, cultural, and environmental characteristics;*
- (4) Use of state or county funds or lands for the action;*
- (5) Phasing and timing of the action;*
- (6) Summary of technical data, diagrams, and other information necessary to enable an evaluation of potential environmental impact by commenting agencies and the public; and*
- (7) Historic perspective.*

Discussion:

1. Detailed maps can be found throughout the document. A list of figures can be found starting on page x as a part of the Table of Contents in Volume I.
2. Objectives of the proposed action can be found in Sections 1.3.2 and 1.3.3.
3. Chapter 3 provides the general description of the action's technical economic, social, cultural and environmental characteristics.
4. Section 1.1 states that “*the Army's Proposed Action involves retention of State-owned land*” which indicates the use of state lands for the action.
5. Section 2.1 includes a discussion on the phasing and timing of the proposed action.

6. Summary of technical data, diagrams, and other information is found throughout the final EIS though as noted earlier, Staff has concerns regarding the quality of the data provided.

(h) The draft EIS shall describe in a separate and distinct section discussion of the alternative of no action as well as reasonable alternatives that could attain the objectives of the action. The section shall include a rigorous exploration and objective evaluation of the environmental impacts of all such alternative actions. Particular attention shall be given to alternatives that might enhance environmental quality or avoid, reduce, or minimize some or all of the adverse environmental effects, costs, and risks of the action. Examples of alternatives include:

- (1) Alternatives requiring actions of a significantly different nature that would provide similar benefits with different environmental impacts;*
- (2) Alternatives related to different designs or details of the proposed action that would present different environmental impacts; and*
- (3) Alternative locations for the proposed action.*

In each case, the analysis shall be sufficiently detailed to allow the comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative. For alternatives that were eliminated from detailed study, the section shall contain a brief discussion of the reasons for not studying those alternatives in detail. For any agency actions, the discussion of alternatives shall include, where relevant, those alternatives not within the existing authority of the agency.

Discussion:

Section 2.2 of the final EIS discusses the alternatives for the proposed action. Alternatives considered included:

1. Maximum retention: USAG-HI would retain approximately 22,750 acres of the State-owned lands;
2. Modified retention: USAG-HI would retain approximately 19,700 acres of the State-owned lands;
3. Minimum retention: USAG-HI would retain approximately 10,100 acres of the State-owned lands; and
4. The no action alternative.

In all scenarios, USAG-HI has stated that the 250 acres of State lands under the jurisdiction of the Department of Hawaiian Homelands will not be retained.

Alternatives that were considered, but ultimately dismissed as they did not meet the objectives of the proposed action are discussed in Section 2.2.5.

Chapter 3 of the final EIS includes analyses and evaluation of the environmental impacts for each of the above listed alternatives.

- (i) *The draft EIS shall include a description of the environment setting including a description of the environment in the vicinity of the action, as it exists before commencement of the action, from both a local and regional perspective. Special emphasis shall be placed on environmental resources that are rare or unique to the region and the action site (including natural or human-made resources of historic, cultural, archaeological, or aesthetic significance); specific reference to related actions, public and private, existent or planned in the region shall also be included for purposes of examining the possible overall cumulative impacts of such actions. Proposing agencies and applicants shall also identify, where appropriate, population and growth characteristics of the affected area, any population and growth assumptions used to justify the proposed action, and any secondary population and growth impacts resulting from the proposed action and its alternatives. The draft EIS shall expressly note the sources of data used to identify, qualify, or evaluate any and all environmental consequences.*

Discussion:

Please refer to the discussion starting on page 8 of this submittal regarding Staff's concerns.

- (j) *The draft EIS shall include a description of the relationship of the proposed action to land use and natural or cultural resource plans, policies, and controls for the affected area. Discussion of how the proposed action may conform or conflict with objectives and specific terms of the approved or proposed land use and resource plans, policies, and controls, if any, for the affected area shall be included. Where a conflict or inconsistency exists, the draft EIS shall describe the extent to which the agency or applicant has reconciled its proposed action with the plan, policy, or control, and the reasons why the agency or applicant has decided to proceed, notwithstanding the absence of full reconciliation.*

Discussion:

Section 5.3 of the final EIS discusses the proposed action's consistency with Federal, State, and County land use plans, policies, and controls.

As discussed earlier, OCCL would disagree that a rule amendment to allow for military use in the Conservation District would be a likely scenario. Therefore, a more robust discussion regarding other options including, but not limited to a State Land Use Boundary Amendment, could have been included in the analysis to make for a more well rounded discussion.

- (k) *The draft EIS shall also contain a list of necessary approvals required for the action from governmental agencies, boards, or commissions or other similar groups having jurisdiction. The status of each identified approval shall also be described.*

Discussion:

Table 1-1 of the final EIS contains a list of necessary approvals as well as their status.

- (l) *The draft EIS shall include an analysis of the probable impact of the proposed action on the environment, and impacts of the natural or human environment on the action. This analysis shall include consideration of all consequences on the environment, including direct and indirect effects. The interrelationships and cumulative environmental impacts of the proposed action and other related actions shall be discussed in the draft EIS. The draft EIS should recognize that several actions, in particular those that involve the construction of public facilities or structures (e.g., highways, airports, sewer systems, water resource actions, etc.) may well stimulate or induce secondary effects. These secondary effects may be equally important as, or more important than, primary effects, and shall be thoroughly discussed to fully describe the probable impact of the proposed action on the environment. The population and growth impacts of an action shall be estimated if expected to be significant, and an evaluation shall be made of the effects of any possible change in population patterns or growth upon the resource base, including but not limited to land use, water, and public services, of the area in question. Also, if the proposed action constitutes a direct or indirect source of pollution as determined by any governmental agency, necessary data regarding these impacts shall be incorporated into the EIS. The significance of the impacts shall be discussed in terms of subsections (m), (n), (o), and (p).*

Discussion:

Cumulative impacts are discussed in Volume I, Chapter 4 of the final EIS.

Please see discussion sections below regarding subsections (m), (n), (o), and (p) respectively.

- (m) *The draft EIS shall include in a separate and distinct section a description of the relationship between local short-term uses of humanity's environment and the maintenance and enhancement of long-term productivity. The extent to which the proposed action involves trade-offs among short-term and long-term gains and losses shall be discussed. The discussion shall include the extent to which the proposed action forecloses future options, narrows the range of beneficial uses of the environment, or poses long-term risks to health and safety. In this context, short-term and long-term do not necessarily refer to any fixed time periods, but shall be viewed in terms of the environmentally significant consequences of the proposed action.*

Discussion:

The relationship between short-term use of the environment and long-term productivity is discussed in Section 5.6 of the final EIS.

While this section discusses the fact that fee ownership by USAG-HI would foreclose on any future use of the lands, Staff believes that this is also true for a lease scenario as a lease would foreclose on any future uses for the term of the lease. While a lease may allow for provisions to ensure that the range of beneficial uses of the environment is

preserved, without including a discussion of what beneficial uses of the environment would be narrowed otherwise, does not provide any helpful information that could be used to craft any potential lease.

In addition, an EIS is supposed to include opposing views. Staff believes that this section should have included a discussion that the issuance of a long-term land disposition, whether via lease or fee ownership, would foreclose on the use of public trust lands for uses that would benefit the public such as for recreation and cultural practice purposes.

- (n) The draft EIS shall include in a separate and distinct section a description of all irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. Identification of unavoidable impacts and the extent to which the action makes use of non-renewable resources during the phases of the action, or irreversibly curtails the range of potential uses of the environment, shall also be included. The possibility of environmental accidents resulting from any phase of the action shall also be considered.*

Discussion:

Irreversible and irretrievable commitments of resources are discussed in Section 5.5, of the final EIS.

The final EIS states that while the proposed action does not involve non-renewable resources, the analysis of irreversible and irretrievable commitment of resources does pertain to historic and cultural resources, as well as cultural practices. However, USAG-HI claims that existing CRM programs and actions would continue to preserve and protect historic cultural resources.

For reasons discussed earlier (refer back to the discussion starting on page 8 of this submittal), Staff disagrees that the current CRM programs and actions protects State-owned archaeological and cultural resources. Further, while wildfires and their impacts are discussed within Chapter 3, it would have been prudent for the Applicant to include it in this section as it could be classified as a possible “*environmental accident*” resulting from the proposed action.

- (o) The draft EIS shall address all probable adverse environmental effects that cannot be avoided. Any adverse effects such as water or air pollution, urban congestion, threats to public health, or other consequences adverse to environmental goals and guidelines established by environmental response law, coastal zone management laws, pollution control and abatement laws, and environmental policy including those found in chapters 128D (Environmental Response Law), 205A (Coastal Zone Management), 342B (Air Pollution Control), 342C (Ozone Layer Protection), 342D (Water Pollution), 342E (Nonpoint Source Pollution Management and Control), 342F (Noise Pollution), 342G (Integrated Solid Waste Management Plan), 342H (Solid Waste Recycling), 342I (Special Wastes Recycling), 342J (Hazardous Waste, including Used Oil), 342L*

(Underground Storage Tanks), 342P (Asbestos and Lead), and 344 (State Environmental Policy), HRS, and those effects discussed in this section that are adverse and unavoidable under the proposed action must be addressed in the draft EIS. Also, the rationale for proceeding with a proposed action, notwithstanding unavoidable effects, shall be clearly set forth in this section. The draft EIS shall indicate what other interests and considerations of governmental policies are thought to offset the adverse environmental effects of the proposed action. The draft EIS shall also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse environmental effects.

Discussion:

Section 5.4 of the draft EIS discusses unavoidable significant impacts.

The adverse impacts determined are as follows:

1. Adverse impacts to land use as it relates to the fact that the land in question should be held in the public trust for the use and benefit to Native Hawaiians and the public;
2. Continued adverse impacts to Hawaiian hoary bat habitat due to the potential of training-related wildland fires;
3. Continued adverse impacts to access for cultural practices; and
4. Continued adverse impacts to communities with environmental justice concerns as a long-term land disposition would alienate these ceded lands from the public trust that is intended to benefit Native Hawaiians, limit access for cultural practices, and impact biological resources that are important to the cultural practices of Native Hawaiians.

USAG-HI provides the rationale that land retention at PTA supports the Army's mission and thus national defense. Continued use of these lands is "*paramount to the Army's readiness in Hawai'i; the maneuver area and training and support facilities and features on the State-owned lands at PTA are need for USARHAW to fulfill its mission.*"

Staff notes that this content requirement states that "*the draft EIS shall also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse environmental effects.*" Per Appendix A of the final EIS, the Applicant indicates that the references back to specific sections in Chapter 3 is meant to fulfill this particular requirement.

- (p) The draft EIS shall consider mitigation measures proposed to avoid, minimize, rectify, or reduce impacts including provisions for compensation for losses of cultural, community, historical, archaeological, and fish and wildlife resources, including the*

acquisition of land, waters, and interests therein. Description of any mitigation measures included in the action plan to reduce significant, unavoidable, adverse impacts to insignificant levels, and the basis for considering these levels acceptable shall be included. Where a particular mitigation measure has been chosen from among several alternatives, the measures shall be discussed and reasons given for the choice made. The draft EIS shall include, where possible, specific reference to the timing of each step to be taken in any mitigation process, what performance bonds, if any, may be posted, and what other provisions are proposed to ensure that the mitigation measures will in fact be taken in the event the action is implemented.

Discussion:

Mitigation measures are discussed throughout Chapter 3 of the final EIS. A summary of mitigation measures is provided in Section 3.17.2 as Table 3-39 and the timing for the mitigation measures is provided in Table ES-4.

- (q) The draft EIS shall include a separate and distinct section that summarizes unresolved issues and contains either a discussion of how such issues will be resolved prior to commencement of the action, or what overriding reasons there are for proceeding without resolving the issue.*

Discussion:

Section 5.2 discusses unresolved issues. Issues include:

- Land retention estates and methods (i.e. lease vs fee (which could include a land exchange));
- Conditions of a new lease and/or easement;
- Lease compliance actions and cleanup and restoration activities; and
- Greenhouse gas emissions (GHGs) – Staff notes that USAG-HI states that they do not have emission data specifically for ongoing activities on the State-owned land and cannot reasonably estimate such data.

Given that as OCCL believes that military use within the Conservation District is not consistent with the overall purpose of the Conservation District, Staff believes that this topic should have been included as an unresolved issue.

In addition, the statements regarding GHGs are questionable as they could have been analyzed as a cumulative impact as the retention of the State-owned lands allows for much of the military training to occur at PTA.

- (r) The draft EIS shall include a separate and distinct section that contains a list identifying all governmental agencies, other organizations and private individuals*

consulted in preparing the draft EIS, and shall disclose the identity of the persons, firms, or agency preparing the draft EIS, by contract or other authorization.

Discussion:

Chapter 7 of the final EIS provides “*the identity of the persons, firms, or agency preparing the draft EIS, by contract or other authorization.*”

Table 8-1 contains the list of “*all governmental agencies, other organizations and private individuals consulted in preparing the draft EIS.*” This list is inclusive of those who were consulted on the initial draft EIS as well as the second draft EIS.

(s) The draft EIS shall include a separate and distinct section that contains:

- (1) Reproductions of all written comments submitted during the consultation period required in section 11-200.1-23;*

Discussion:

Reproductions of all comments can be found in Volume III of the final EIS.

- (2) Responses to all substantive written comments made during the consultation period required in section 11-200.1-23. Proposing agencies and applicants shall respond in the draft EIS to all substantive written comments in one of two ways, or a combination of both, so long as each substantive comment has clearly received a response:*

- (A) By grouping comment responses under topic headings and addressing each substantive comment raised by an individual commenter under that topic heading by issue. When grouping comments by topic and issue, the names of commenters who raised an issue under a topic heading shall be clearly identified in a distinctly labeled section with that topic heading. All substantive comments within a single comment letter must be addressed, but may be addressed throughout the applicable different topic area with the commenter identified in each applicable topic area. All comments, except those described in paragraph (3), must be appended in full to the final document; or*

- (B) By providing a separate and distinct response to each comment clearly identifying the commenter and the comment receiving a response being responded to for each comment letter submitted. All comments, except those described in paragraph (3), must either be included with the response, or appended in full to the final document;*

Discussion:

Responses to comments can be found in Appendix D of final EIS (see Volume II).

- (3) *For comments that are form letters or petitions, that contain identical or near-identical language, and that raise the same issues on the same topic:*
- (A) *The response may be grouped under paragraph (2)(A) with the response to other comments under the same topic and issue with all commenters identified in the distinctly labeled section identifying commenters by topic; or*
 - (B) *A single response may be provided that addresses all substantive comments within the form letter or petition and that includes a distinct section listing the individual commenters who submitted the form letter or petition. At least one representative sample of the form letter or petition shall be appended to the final document; and*
 - (C) *Provided that, if a commenter adds a distinct substantive comment to a form letter or petition, then that comment must be responded to pursuant to paragraph (2);*

Discussion:

Form letters and responses were reproduced pursuant to 11-200.1-24(s)(3)(B) in Appendix D of the final EIS.

- (4) *A summary of any EIS public scoping meetings, including a written general summary of the oral comments made, and a representative sample of any handout provided by the proposing agency or applicant related to the action provided at any EIS public scoping meeting;*

Discussion:

Summary and samples of handouts at the EIS public scoping meeting are included as Appendix C in Volume II of the final EIS.

- (5) *A list of those persons or agencies who were consulted and had no comment in a manner indicating that no comment was provided; and*

Discussion:

Table 8-1 provides the list of consulted persons or agencies and indicates whether or not comments were received accordingly.

- (6) *A representative sample of the consultation request letter.*

Discussion:

Applicant indicated that this can be found in Appendix C. Staff believes it is the Direct Mail Postcard.

- (t) *An addendum to a draft EIS shall reference the original draft EIS to which it attaches and comply with all applicable filing, public review, and comment requirements set forth in subchapter 10.*

Discussion:
Not Applicable.

Final EIS Content Requirements

HAR Section 11-200.1-27 establishes the content requirements of a final EIS. The content requirements are as follows:

- (a) *The final EIS, at a minimum, shall contain the information required in this section. The contents shall fully declare the environmental implications of the proposed action and shall discuss all reasonably foreseeable consequences of the action. In order that the public can be fully informed and the accepting authority can make a sound decision based upon the full range of responsible opinion of environmental effects², an EIS shall include reasonable opposing; views, if any, on significant environmental issues raised by the proposal.*

- (b) *The final EIS shall consist of:*

- (1) *The draft EIS prepared in compliance with this subchapter, as revised to incorporate substantive comments received during the review process in conformity with section 11-200.1-26, including reproduction of all comments and responses to substantive written comments;*

Discussion:

Please refer to the discussion on the contents of the draft EIS regarding's Staff's concern on whether the draft EIS was prepared in compliance with HAR Chapter 11-200.1, Subchapter 10.

² HAR § 11-200.1-2 provides in relevant part:

“Effects” or “impacts” as used in this chapter are synonymous. Effects may include ecological effects (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic effects, historic effects, cultural effects, economic effects, social effects, or health effects, whether primary, secondary, or cumulative. Effects may also include those effects resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

“Environment” means humanity’s surroundings, inclusive of all the physical, economic, cultural, and social conditions that exist within the area affected by a proposed action, including land, human and animal communities, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

Staff acknowledges that substantive comments received during the review process were incorporated into the final EIS and reproductions of all comments and responses are provided in Appendix N and D, respectively.

- (2) *A list of persons, organizations, and public agencies commenting on the draft EIS;*

Discussion:

Appendix N contains a list of persons, organizations, and public agencies commenting on both the initial and second draft EIS.

- (3) *A list of those persons or agencies who were consulted in preparing the final EIS and those who had no comment shall be included in a manner indicating that no comment was provided;*

Discussion:

Table 8-1 provides the list of consulted persons or agencies and indicates whether or not comments were received accordingly.

- (4) *A written general summary of oral comments made at any EIS public scoping meeting; and*

Discussion:

The summary of oral comments can be found in Appendix C of the final EIS (see Volume II)

- (5) *The text of the final EIS written in a format that allows the reader to easily distinguish changes made to the text of the draft EIS.*

Discussion:

Applicant uses redline format which allows the reader to easily distinguish changes.

3. Comments submitted during the review process have received responses satisfactory to the accepting authority, including properly identifying comments as substantive and responding in a way commensurate to the comment, and have been appropriately incorporated into the final EIS.

Given that there are hundreds of comments on the first and second draft EIS, Staff does not feel that it is appropriate that they alone determine whether or not the responses are “satisfactory.” Rather, Staff believes that the individual divisions, agencies, organizations, and members of the public who commented on the draft EIS and second draft EIS and have attended this May 9, 2025, Board meeting can attest to whether they feel their comments have received satisfactory responses.

Staff, however, provides the following feedback and insight regarding examples of the responses given to some of our more significant comments on the second draft EIS:

- Staff had concerns regarding how USAG-HI came to certain conclusions as they related to impacts to biological resources as Staff felt that necessary data and robust summaries of studies were not properly included.

Specifically, there was a concern regarding the impacts to birds and other wildlife as a result of the noise levels from military training. In the second draft EIS, USAG-HI states that they have reviewed “*multiple studies*” including a monarch flycatcher study done on Schofield Barracks and Makua Military Reservation to draw the conclusion that “*most wildlife in vicinity are expected to be habituated to noise associated with training activities.*” Given that the study was not included nor was summary data provided, Staff questioned the validity of the statement.

The Applicant’s response was to refer to Section 3.3.4.4, 3.3.6, 3.7.4. and 3.7.6 of the final EIS where additional wildlife and noise study information was added.

Upon review of these sections, Staff was appreciative that the Army included the opposing view that there have been documented impacts to birds and wildlife and that “*multiple studies have documented that birds and other wildlife are bothered by traffic and human generated noises and may not become habituated to external noise stimuli, impacting foraging, normal behaviors, and responses.*” Staff also notes that USAG-HI provided additional references to studies and sources of data as it pertained to impacts of military training on surrogate species as “*very little noise impact research has been done of PTA species.*”

Nevertheless, the conclusion on impacts from noise is that “*Limited research has been conducted to ascertain noise impacts on invertebrates; however, there is evidence that anthropogenic noise may impact invertebrate communication and increase heartrates (Raboin & Elias, 2019; Davis et al., 2018). The Army natural resources staff have documented wildlife habituation over time to noise associated with training activities.*”

Overall, the additional information presented in the final EIS on noise impacts to wildlife and birds appears to be disjointed and unclear. Staff questions how the statement that “*The Army natural resources staff have documented wildlife habituation over time to noise associated with training activities*” reflects data and analysis being commensurate with the importance of an impact.

Staff notes that the Center for Biological Diversity, Sierra Club Hawai‘i Island Group had similar comments regarding the noise impacts and provided many study references in their letter indicating potential impacts to wildlife from noise.

- Staff had continued concerns that the inventory of archaeological sites appeared to be incomplete. This was a concern that was expressed on the first draft EIS. Staff noted that note utilizing an area for training or because it is a part of a fenced area for protection of a natural resource does not preclude the Army from doing proper due diligence, especially as they are requesting a long-term land disposition on State-owned lands regardless of being done by fee or lease methods.

The response from the Applicant was to refer us to review Section 3.4.4.3 which was not updated to provide any further explanation as to justify why areas were not studied nor was it updated to include a supplemental survey to close the data gaps.

As mentioned in the discussion beginning on page 8 of this submittal, SHPD has similar and greater concerns regarding the data gaps and received a similar response.

- Staff expressed concerns regarding the individuals that were consulted with on the Cultural Impact Assessment (CIA). Staff reviewed the CIA participant list with the Executive Director of the State Aha Moku in which she noted that there were several kūpuna from Waimea that are active practitioners at PTA that should have been consulted. In addition, the Executive Director herself holds knowledge of the area and would have been a valuable resource for the CIA. We noted that the Army was strongly encouraged numerous times to reach out to the Aha Moku at the direction of the Department's Chairperson.

The response from the Applicant was to reference Section 2.2 of the CIA which included the outreach methods used to “*identify those with expertise and knowledge of cultural resources, practices, and beliefs relevant to the project area and broad geographical area.*” In other words, by omission, it appears that no effort was made to consult with the State Aha Moku Council. Staff further notes that one of the outreach methods included direct outreach to specific organizations and individuals as shown in Appendix A of the CIA. Staff reviewed the list and neither the State Aha Moku nor the Executive Director by name was listed.

Staff also wishes to note that SHPD had a similar comment on the CIA in which they found the CIA to be insufficient and encouraged USAG-HI to “*undertake an effort to individually interview a larger number of knowledgeable persons with strong cultural connections to PTA.*” USAG-HI's response to SHPD was along the same lines of those provided to Land Division's comment.

Based on this discussion, Staff is hesitant to consider the responses to our comments as being “satisfactory.” Thus, Staff asks the Board take into account all testimony on this matter prior to determining whether this particular criteria on whether comments were responded to “satisfactorily” has been satisfied.

Staff notes that the final EIS was shared with other divisions of the Department for assistance with the analysis regarding the acceptability of the final EIS. Comments received from the other divisions are attached as Exhibit A.

Staff acknowledges that the Board will ultimately determine whether the final EIS satisfactorily meets the criteria for acceptance. Given the high level of public interest and involvement in this matter, Staff defers on a formal recommendation and instead recommends that the Board consider all testimony on this matter in addition to Staff's analysis prior to determining whether the criteria for acceptance has been satisfied. Staff instead presents two options to the Board as noted below.

RECOMMENDATION:

Recognizing that *no decision or recommendation* on a long-term land disposition is being made at this time³, the Land Division recommends that the Board either:

1. Determines that the final EIS complies with applicable law and adequately discloses the environmental impacts of the proposed action, and thus accepts the final EIS as submitted by USAG-HI and IMCOM.

OR

2. Determines that the final EIS does not comply with applicable law and does not adequately disclose the environmental impacts of the proposed action, and thus rejects the final EIS as submitted by USAG-HI and IMCOM.

Respectfully submitted,



Lauren Yasaka, Staff Planner

And



Ian Hirokawa, Acting Administrator

³ The Board will need to make a separate determination at a later date regarding whether to approve a long-term land disposition and any terms and conditions that may be appropriate.

APPROVED FOR SUBMITTAL:

A handwritten signature in black ink, appearing to be 'Dawn N.S. Chang', written above a horizontal line.

Dawn N.S. Chang, Chairperson

Department Comments on Final EIS

Yasaka, Lauren E

From: Gomes, Noah J
Sent: Monday, April 28, 2025 10:46 AM
To: Yasaka, Lauren E
Cc: Calpito, Jordan V; Puff, Jessica L
Subject: SHPD Comments Regarding the FEIS for the Army Training Land Retention at Pōhakuloa Training Area

Aloha Lauren,

On April 11, 2025 a memorandum was distributed to the administrators of the divisions of Department of Land and Natural Resources (DLNR) from DLNR Chair Dawn Chang requesting comments on the Final Environmental Impact Statement (FEIS) for the Army Training Land Retention at Pōhakuloa Training Area (PTA).

Comments from the History and Culture Branch of the State Historic Preservation Division (SHPD) regarding the FEIS are as follows:

1. SHPD requests that PTA develop formal mitigation protocols for possible inadvertent impacts to native Hawaiian cultural sites through routine military training activities, such as wildfires.

In the CIA of the FEIS (Appendix I), community members expressed concerns about wildfires in PTA. The Army has also proposed increased mitigation measures for wildfire control under Alternative 1, and it would be appropriate to also include mitigation of wildfire impacts to cultural and historic sites as a part of this effort. Additionally, live-fire training activities carry an inherent risk of negative impacts on cultural and historic sites. Page 3-76 of the FEIS notes that previous military training and activities have had negative impacts on historic properties at PTA. Careful consideration of possible impacts and plans to mitigate those potential impacts is pertinent.

2. SHPD requests that formal access for both cultural and lineal descendants of native Hawaiian burials located in PTA are included under the formalized access plan proposed as a mitigation measure for Alternative 1.

In section 3.4.6.1 of the FEIS, potential mitigation measures to reduce adverse impacts to cultural practices are listed. The Army has proposed developing a formalized access plan for "Native Hawaiian organizations, individuals, consulting parties, 'ohana, lineal descendants, and cultural practitioners." Both lineal and cultural descendants of native Hawaiian burials should also be included in this formalized access plan.

3. SHPD requests an archaeological survey of the unsurveyed state lands that may be retained by the army under a renewed lease to better understand the potential impacts to cultural and archaeological sites in those areas of PTA.

In section 3.4.4.3 (page 3-75) of the FEIS, it is noted that there are unsurveyed portions of state-owned land currently leased by the Army. While the Army does continue to assess and document historic

properties at PTA, it is difficult to estimate the potential impact of the renewal of this lease without sufficient information on any potential historic or cultural sites in these unsurveyed areas.

4. SHPD requests the development of regular communication procedures between SHPD and the army to better monitor impacts, discoveries, and documentation of cultural and historic sites in PTA.

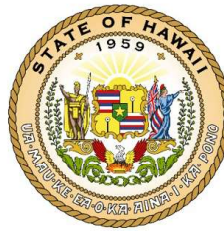
While this comment is not directly related to the FEIS, there have been previous issues with timely communication between the Army and SHPD regarding impacts to cultural and historic properties. We would like to address these concerns by creating a better standard of communication between the Army and SHPD.

Mahalo for the opportunity to comment on this FEIS. If there are any questions regarding these comments, please contact Noah Gomes, SHPD Ethnographer.

Noah J. Gomes

Ethnographer

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DAWN N.S. CHANG
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

April 29, 2025

Memorandum

To: Ian Hirokawa, Acting Administrator
Land Division

From: David G. Smith, Administrator 
Division of Forestry and Wildlife

Subject: Comments on Pōhakuloa Training Area Final Environmental Impact Statement

Dear Acting Administrator Hirokawa,

The Division of Forestry and Wildlife (DOFAW) provides the following comments to the Land Division regarding the Pōhakuloa Training Area Final Environmental Impact Statement (PTA FEIS). The PTA FEIS is necessary for compliance with Chapter 343, Hawai'i Revised Statutes, for the leasing of up to 22,750 acres of state-owned land by the United States Army (Army) for continued military training activities for at least 25 years. Army's current lease of PTA expires in 2029. PTA is located on Hawai'i Island within tax map keys (TMKs) (3) 4-4-015:008, (3) 4-4-016:005, and (3) 7-1-004:007. Army does not propose any new construction or changes to ongoing activities.

Proposed Action

Army proposes retaining up to 22,750 acres of the 23,000 acres of state-owned land at PTA to support continued military training. DOFAW prefers support for Alternative 2, the exclusion of 3,300 acres north of Daniel K. Inouye Highway (DKI) from the lease renewal, because those lands would be returned to DLNR and managed by DOFAW as part of the Mauna Kea Forest Reserve and Ka'ohe Game Management Area. This alternative meets all five screening criteria for the Army. Excluding this area from the lease would allow the public access to these areas for cultural use, hunting, recreation, and sheep and goat removal to protect Palila's critical habitat (required under federal court mandate). This would also allow DOFAW to mitigate fire fuels between DKI Highway and Palila Critical Habitat to help protect it from wildfire caused by roadside ignitions.

DOFAW also supports a modified version of Alternative 3, which means all of Training Areas 1, 2, and 21 on the Eastern side of PTA are returned to DLNR. This area still has remaining native forest/Palila Critical Habitat that can be better managed by opening it up to public hunting to reduce feral ungulate numbers. Additional staff trapping and fencing will occur to reduce ungulate populations and collisions on DK1 Highway in cooperation with the State Department of Transportation.

Public Access and Natural Resource Management Access

According to the PTA FEIS, the PTA 2019-2023 Integrated Natural Resource Management Plan allows for recreational activities consistent with the use of the land and subject to military training schedules to occur on PTA, including hunting game animals and game birds. Public hunting is allowed in Units A, E, and G. Public hunting in Unit A is not subject to the PTA training schedule. DOFAW recommends adding this unit to the PTA FEIS.

PTA hunting is open to the public within Training Areas (TAs) 1 through 4, and 9 through 16, on weekends and national holidays when the PTA Commander opens it for hunting. DOFAW requests that the Army provide increased hunting days and bag limits for game mammals due to high ungulate populations, overgrazing of native vegetation, and increased recreational game bird hunting when there is no training. DOFAW and DOCARE are willing to assist in staffing the hunts to alleviate PTA's limited staffing concerns. Details for coordination should be more clearly defined. Lease terms now leave it to the PTA Commander, and there's a need for more available open hunting days in the unit E lease land area.

DOFAW requests access to the quarry's rock and gravel in TAs 5, 9, 13, and 21 for DOFAW projects on adjoining managed lands to maintain roads and firebreaks.

PTA and its contractors should not use roads, including Old Saddle Road, within the Mauna Kea Forest Reserve South of DK1.

DOFAW would like public and management access to Pu'u Anahulu Game Management Area from DK1 through the Army's fee simple land (Keamuku) in two locations.

Historic Trails

DOFAW requests Army coordinate with Nā Ala Hele program.

Signage

The PTA FEIS did not include language about adding boundary trespass signs (see page ES-14, 3-24, 3-320). DOFAW requests that this language be added back in.

Fire Suppression

PTA has 13 dip tanks, 7 of which are on state-leased land. The PTA FEIS does not discuss the locations of dip tanks. DOFAW requests the maintenance/filling schedule of the dip tanks and their shared use during fire response. DOFAW suggests adding four additional tanks below Pu‘u Ke‘ekee, near the bottom of DKI in Keamuku, near Kilohana Girl Scout Camp, and on the eastern side of TA 1.

Threatened and Endangered Plants and Wildlife

In 2003, 2008, and 2013, the United States Fish and Wildlife Service issued Biological Opinions (BOs) to the Army assessing the impacts of the Army’s activities on the property on federally listed species under the Endangered Species Act. DOFAW found these BOs through Google searches and contact with the USFWS. The links provided in the PTA FEIS did not work.

In the 2013 BO, the Army formally consulted with USFWS about impacts from proposed actions on the property to five federally listed plants (*Asplenium peruvianum* var. *Insulare*, *Kadua coriacea*, *Silene hawaiiensis*, *Spermolepis hawaiiensis*, and *Zanthoxylum hawaiiense*); and Hawaiian goose, or nēnē; and informally consulted with the Army about impacts to Hawaiian hoary bats, or ‘ōpe‘ape‘a, and Hawaiian petrels, or ‘u‘au. Through formal consultation, the USFWS required the Army to undertake conservation measures for the five federally listed plant species and nēnē. Take avoidance measures for plants include controlling the introduction of invasive plants, surveys for plants before and after any construction activities, creating buffer zones around listed plants, fencing to reduce damage from construction, ungulate control, and education for personnel and contractors on avoiding fenced plant enclosures. USFWS also provided take-avoidance measures for nēnē, including best management practices for driving and live fire training on the property. The Army may haze nēnē to reduce the risk of mortality or injury. To benefit nēnē offsite of the property, the Army funded the construction and maintenance of two 20-acre predator-proof fences at Hakalau Forest National Wildlife Refuge. The goal is to produce 21 adult nēnē per year over the 20-year term of the 2013 BO (until 2033), to offset the potential loss of 20 adult nēnē per year. Refuge personnel funded by the Army may move and attract nēnē into these enclosures to enhance survivorship. Through informal consultation, USFWS provided best management practices to avoid incidental take of ‘ōpe‘ape‘a and ‘u‘au and concurred with the Army that activities are not likely to adversely impact ‘ōpe‘ape‘a or ‘u‘au.

A. Threatened and Endangered Plants

Section 3.3.4.3 of the PTA FEIS discusses annual monitoring of federally listed plant species. DOFAW requests that all state-listed plants or plant clusters have a 50-foot managed fuel break maintained for the lease and include signs so that active-duty personnel, contractors, and anyone else can avoid those areas. DOFAW requests access to all state-listed plants on state lease land for propagule collection. DOFAW requests the Army maintain ungulate-free conservation units within PTA and on federal land.

B. Threatened and Endangered Wildlife

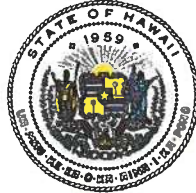
DOFAW provides the following comments for state-listed threatened and endangered wildlife:

1. DOFAW recommends consultation with DOFAW for any unavoidable take of state-listed species.
2. 'Ōpe'ape'a
 - a. The 2008 Biological Opinion assessed 'ōpe'ape'a best management practices based on the finding of one 'ōpe'ape'a on a barbed wire fence. The Army promised to upgrade all existing Natural Resource Program fences with barbed wire and replace those fences with two-meter fences without barbed wire. The expected completion of the project was by 2018. Approximately 8.6 km (5.4 miles) of security fences would still have barbed wire, which would be checked for 'ōpe'ape'a quarterly. DOFAW recommends that checks increase to monthly.
 - b. DOFAW requests updates to 'ōpe'ape'a studies completed as required in 2013 Biological Opinion.
3. Nēnē
 - a. 2008 Biological Opinion requires USFWS to be notified of nest or nest failures within 48 hours. DOFAW requests contact as well.
 - b. 2008 Biological Opinion requires the USFWS to know who will translocate hatched broods. DOFAW requests contact as well.
 - c. DOFAW requests a briefing on current avoidance and minimization measures to avoid nēnē take and requests no hazing of nēnē that are nesting. If nesting nēnē are found, a 100-ft buffer should be kept around the nest to prevent disturbance until the nēnē have vacated the area.
 - d. DOFAW requests an update on the two 20-acre predator-proof fences and annual reports on the reproductive success of nēnē within these predator-proof fences at Hakalau Forest National Wildlife Refuge, discussed in the 2013 BO.
4. 'Io (Hawaiian hawk)
 - a. DOFAW recommends vegetation clearing activities in areas with trees over five meters to be cleared by surveying for active 'io nests 10 days before the start of vegetation clearing from March to September (breeding season). Contact DOFAW if active nests are found and follow DOFAW's best management practices provided in the comments on the Draft EIS.
 - b. DOFAW notes that although the USFWS delisted 'io, this species is still listed as endangered by the State of Hawaii and is protected by state laws. Therefore, it requests consultation on the impacts on this species.
5. Palila
 - a. Humu'ula section is in palilia critical habitat and needs ungulate management. Returning TAs 1,2 and 21 to DLNR will allow DOFAW to reduce the ungulate population to allow the forest to recover.
6. 'Akē'akē (Band-rumped storm petrel)

- a. DOFAW requests consultation on ‘akē‘akē. The Army is currently consulting with the USFWS on a programmatic biological opinion that would include this species.
- 7. ‘U‘au
 - a. DOFAW requests consultation and updates to studies completed as required in the 2013 Biological Opinion.
- 8. Invertebrates
 - a. Starting in 2028, the Army proposes to conduct an invertebrate survey to determine the presence and types of invertebrates within PTA at three locations within five habitat types. DOFAW requests that this type of survey occur more than once over the life of the lease and requests the report findings from these surveys.

JOSH GREEN, M.D.
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

Correspondence: HA 25-173

TO: Lauren Yasaka, Staff Planner
Land Division

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

APR 30 2025

SUBJECT: Comments on the Final EIS for the Army Training Land Retention at Pōhakuloa Training Area, Ka'ōhe, Hāmākua, and Pu'uānāhulu, North Kona, Hawai'i, Tax Map Keys: (3): 4-4-015:008; 4-4-016:005; and 7-1-004:007

The subject EIS most likely is the final document for an evaluation of the land and the natural and cultural resources, should the military proposal to retain the majority of the existing lease lands move forward based upon statements made in the EIS.

"The Army anticipates the EIS and ROD to cover the range of impacts that would occur under any selected land retention estate and method, and any associated State terms would only decrease adverse impacts or increase beneficial impacts."

"Selection of the land retention estate(s) and method(s) and any associated State terms, would occur after completion of the Record of Decision and would not be subject to public involvement."

The EIS does not establish a baseline for evaluation of what existed previously. "Military training is discussed only in the context of ongoing activities and their impacts because of land retention, and no changes in training are proposed" and "The proposed action is an administrative action that does not propose new land uses. Therefore, the EIS relies on existing studies."

The current land uses of Pohakuloa were never reviewed or regulated by the State therefore to state that "no changes in training are proposed," and not disclosing how the land was previously used leaves a large gap as to what was the true baseline to make evaluations on what the existing impact of training was to the land and resources; and what future impacts there shall be. Especially when alternative 1 and 2 and 3 are expected to result in unavoidable significant adverse impacts regarding land use, biological resources, cultural practices, and environmental justice.

In addition, comments from communities affected by the noise, vibrations, and tremors caused by warfare training, a potential health hazard must be discussed more fully. More information

should be disclosed about blast exposure and the effects of the training on nearby communities. While training may be temporary for military staff as soldiers train and leave; the residents (Waimea, Waikaloa, Humu'ula, Waiki'i) are permanent and are subject to these sensations. Recent studies have shown repeated low-level blast exposure can lead to brain injuries and other psychological disorders. The response to comments were: "Because the proposed action does not include construction, modernization, or changes to ongoing activities...noise modeling is beyond the scope of the EIS."

The speculation in the EIS regarding the proposed subzone amendment, "For analysis purposes, this EIS assumes that the BLNR would approve a rule amendment for a new subzone that allows military uses in the conservation district per HAR Chapter 13-5 under a new lease or easement." The assumption that the BLNR would approve a rule amendment is inappropriate as the use is not consistent with the Conservation District. The EIS is to retain the military leasing of State lands to continue the bombing of Hawai'i that shall result in unavoidable significant adverse impacts to land use, biological resources, cultural practices, and environmental justice.

As previously stated, "The incompatibility of military training with the cultural and traditional practices of the Hawaiian people, the incompatibility of military training with the cultural beliefs of the Hawaiian people, mālama 'aina, and potentially with Hawai'i State law are **unresolved issues and should be stated in the EIS** with a broader discussion and information regarding resolution prior to commencement or what overriding reasons there are for proceeding without resolution.

Additional information the EIS should include are:

- The draft Programmatic Biological Opinion that was recently commissioned as existing information used for the EIS is over 10 years old
- A complete inventory of archeological sites that have been or may be impacted by training
- A discussion of the NAGPRA process vs. HRS 6E regarding artifacts
- A response to the Hawaii County Council regarding Resolution 639-08 based upon comments
- Additional discussion of the rare environmental setting as a high-elevation sub-alpine tropical dryland ecosystem
- Wastewater compliance and cesspool closure information as the document notes noncompliance

The retention of the leased land appears to defer land clean-up.

An EIS is a disclosure document that discloses the environmental setting of a proposed action, analyzes the effects of the proposed action on the environment in terms of direct, indirect and cumulative impacts, discusses alternative methods, modes or designs of the proposed action, and formulates mitigation to eliminate, reduce, rectify adverse impacts of the proposed action. Public consultation must be sought and incorporated into the document. An EIS must provide sufficient information for decision makers in considering the environmental effects of a proposed action. The subject document appears to be insufficient based upon the comments above.

Yasaka, Lauren E

From: Okano, Ryan LY
Sent: Tuesday, April 29, 2025 12:42 PM
To: Yasaka, Lauren E
Cc: Neilson, Brian J; Teague, Christopher H
Subject: Pohakuloa Comments

Dear Lauren

Below you will find Pohakuloa comments from the Division of Aquatic Resources.

Aloha

Ryan

Although Pōhakuloa is land locked with no shoreline aspect, many in Hawai'i believe what happens on land does have an influence on the nearshore resources. The connector in this case being groundwater. It is highly likely that waters contained in aquifers residing under Pōhakuloa eventually make its way down to the shoreline and often presents itself as shoreline springs. A common phenomenon on the Hawaiian islands. While we at the Division of Aquatic Resources (DAR) do not have jurisdiction over groundwater resources, some of the species that we do manage are highly dependent on shoreline springs. These places are known as groundwater dependent ecosystems, estuaries, a place of mixing and productivity, and key ecological hotspots to the overall nearshore environment contributing to total biodiversity. There are a number of culturally significant algae that often persist in these estuarine habitats. These include pālahalaha (*Ulva lactuca*), 'ele'ele (*Ulva prolifera*), huluhuluwaena (*Grateloupia filicina*), and others. Additionally, there is a number of cultural significant fish connected to these groundwater dependent systems. These include 'ama'ama (*Mugil cephalus*), āholehole (*Kuhlia xenura*), moi (*Polydactylus sexfilis*), and others. Any deterioration of the quality and quantity of the groundwater that feeds such systems may influence the abundance of these species. Which would not only alter the nearshore ecosystem, but threaten cultural practices associated with these places and species. Due to the uncertainties that comes with groundwater management relative to surface water management, DAR asks the military to be vigilant in managing the groundwater resources associated with Pōhakuloa. Best management practices should be adhered to. Activities that pose a threat to the quality of groundwater should be avoided. If those activities are deemed necessary, threats of polluting the groundwater should be mitigated to the fullest extent possible. Additionally, the taking of water from aquifers associated with Pōhakuloa should be curtailed or limited, until the influence that this take has on aquatic resources such as algae and fish is better understood. In the mean time water conservation best practices should be reviewed, updated, and adhered to in an effort to limit detrimental impacts to nearshore groundwater dependent ecosystems.