A portion of Kamehameha Highway collapsed in Hauula Friday night

by: Nikki Schenfeld

Posted: Jan 4, 2020 / 12:30 PM HST **/ Updated:** Jan 5, 2020 / 11:48 AM HSTHONOLULU (KHON2) — The collapse, which included a portion of the makai lane, happened north of Pokiwai Bridge.

Thankfully, no one was hurt in the collapse, but it has nearby residents concerned.

Crews from the Department of Transportation were sent to the scene last night, but because of the darkness, they weren't able to tell if the road was stable at the time.

Contraflow lasted until 2 p.m. Saturday.

The DOT said they will begin emergency repairs to that stretch of highway on Sunday.

However, this isn't the first time this portion of highway has needed emergency repairs.

In April, crews fixed up a portion of the highway just 200 yards away near Hulahula Place.

Some Hauula residents are happy that new guardrails went up near Hulahula Place but after last night's collapse they say more needs to be done to ensure safety when driving through the area.

"Personally, when I drive down I'm keeping a really sharp eye on the right side of the roadway near that white line because I don't want to fall off into the ocean," said Hauula resident Derrick Pressley.

He points out the amount of traffic that passes through the area daily.

"We're very concerned about safety," he said.

"The roadway fell last night in the middle of the evening. Simple. Somebody could have gotten hurt," he said.

The DOT said the emergency contractor will spend the next week making emergency repairs to the area.

"We're going to do this stretch out here, and we're going to hit areas about 300 feet behind it to make sure we can stabilize it as much as possible," said Ed Sniffen, Deputy Director of Highways.

However, a long term solution to fix the erosion issue has not yet been decided on.

"The long term solution is to determine what we can afford, that's the big thing. The great thing about Hawaii is that we have these great beachside roads we have belts that make it work, but because of it they're so close to the ocean that they're affected by the shoreline daily," Sniffen said.

"As we continue to stabilize there are going to be areas that destabilize and we'll fix those too and while we're doing that we're planning with other agencies to determine where this road will go in the future. Will it be here? Will it be elevated? Will it move mauka? If so, where? So we have to work with other agencies to make that determination because it can't just be a DOT thing," he said.

The DOT believes heavy rains are what caused the collapse.

Repairs to approximately 270-feet of undermined shoulder will begin at 7 a.m. Sunday, Jan. 5, and will continue through the week of Jan. 6-10. Work hours will be from 7 a.m. to 6:30 p.m., daily. During work hours, the makai lane will be closed and traffic in both directions will be maintained through contraflow.

Outside of work hours, the makai (oceanside) lane will be reopened.

Crews will stabilize the highway by placing filter fabric, filling in the undermined area with cobblestones, topping off the cobble with controlled low-strength material (CLSM) cement, and repaving the highway.

Previously scheduled permit work in Hauula at Hulahula Place and Kaipapau Loop will be canceled.

The Maui News

Lawsuit filed over Lahaina injection wells case before Supreme Court

Residents and Maui Tomorrow sue mayor and county attorney

Angus McKelvey

A lawsuit filed Monday by state Rep. Angus McKelvey, Maui Tomorrow and others seeks to clarify whether Maui County Mayor Michael Victorino has the authority to ignore a resolution by the County Council calling for the settlement of the Lahaina injection wells case currently before the U.S. Supreme Court.

Victorino announced his intention to move forward with the injection wells case about a week ago with oral arguments set for Nov. 6 before the high court.

The County Council called for the mayor to settle the case, which has U.S. Clean Water Act implications, on Sept. 20 in a resolution.

The lawsuit, filed late Monday evening in 2nd Circuit Court, asks the court to decide if Victorino must honor the council's resolution. Plaintiffs include Maui Tomorrow; McKelvey, who represents West Maui; former Maui County Council Member Joanne Johnson Winer; former Maui County Ocean Safety captain and waterman Archie Kalepa; and Native Hawaiian rights activist Ke`eaumoku Kapu.

The defendants are Victorino and Corporation Counsel Moana Lutey.

MICHAEL VICTORINO – Wants Supreme Court ruling

"We are reviewing the complaint, and have no further comment at this time," said Maui County Communications Director Brian Perry on Tuesday.

The County Council has been grappling with the same issue of authority over the injection wells case. Council members are considering a resolution to hire special counsel to get the same legal question answered.

But the resolution was referred back to committee at Tuesday's council meeting. An effort to waive council rules to bring the resolution directly to the floor and bypassing committee review, which required a supermajority of six votes of the nine member council, failed.

The resolution to hire a special counsel was discussed in the Governance, Ethics and Transparency Committee earlier this month, and was sent to the full council without a vote.

Council Member Alice Lee said she did not support the resolution being discharged from the committee earlier this month because she felt it

should have stayed there for more discussion.

"I didn't support it then, and I don't support it now," she said at Tuesday's meeting.

Council Member Shane Sinenci said the council and the mayor are at an *"impasse"* and *"we should seek special counsel so we can clear the air, so to speak."*

The Department of Corporation Counsel has said that the move to settle the injection wells commingles council and mayoral authority, and requires approvals from both entities.

As oral arguments before the U.S. Supreme Court near, the plaintiffs believe there still is time for a withdrawal of the case.

Wailuku attorney Anthony Ranken, who filed the suit for the plaintiffs, said Tuesday that the high court takes months to issue a decision after oral arguments are made. Under the court's rules, an appeal can be withdrawn at any time.

Ranken believes that the earliest he could get a hearing on a summary judgment in 2nd Circuit Court probably would be before Christmas.

The lawsuit says that the authority to adopt a legal settlement rests exclusively with the County Council. Ranken quoted a County Code provision, which says *"the decision to accept a settlement offer shall be binding on the county and on legal counsel."*

"It's very clear, and our lawsuit is quite simple, we are merely asking the court to implement that provision of the law," Ranken said.

In 2012, the Hawaii Wildlife Fund, Surfrider Foundation, West Maui Preservation Association and Sierra Club sued the county over its use of injection wells at the Lahaina Wastewater Reclamation Facility and seepage of the treated water into ocean.

In 2014, the U.S. District Court in Hawaii ruled that the county's use of injection wells was a violation of the federal Clean Water Act. The county

appealed to the 9th U.S. Circuit Court of Appeals and lost, and the court denied the county's request to reconsider the ruling.

However, in February, the U.S. Supreme Court agreed to hear the case.

Since then, a majority of the council has fought to have the county withdraw from the case, fearing that a victory in the case would weaken the Clean Water Act. The issue that the high court will decide is whether the Clean Water Act only applies to direct flows into a river, lake or the ocean or whether it covers groundwater flows as well.

Victorino feels the Supreme Court hearing is necessary to help clarify the reach of the federal Clean Water Act. He also has argued that withdrawal from the case would require millions of dollars in upgrades even as his administration tries to find alternatives for the treated sewage water.

McKelvey disagrees with the mayor.

"I, like many others in the community, view the mayor's refusal to implement the County Council's final resolution to settle this contentious lawsuit as outside the scope of the executive authority in the County Charter," he said. *"There is no question that resolving these issues at home on Maui is preferable to allowing a volatile Supreme Court — roughly 5,000 miles away from our island shores in Washington, D.C., — to render a decision."*

Maui Tomorrow Executive Director Albert Perez said the organization feels Victorino is getting bad advice from county attorneys and the Department of Environmental Management.

"We disagree with the mayor's decision to go forward with an appeal to the United States Supreme Court, which could result in continued contamination of Maui's ocean environment, and would set a terrible precedent, much to the delight of polluters across the United States."

In addition to ordering the mayor to settle the case, the suit also seeks to halt the Department of Corporation Counsel from representing Maui

County in the injection well case, and attorneys fees and costs. No specific monetary damages are noted.

In other council matters Tuesday, a bill that would add a chapter to the County Code governing the retention and termination of special counsel was referred to committee. The hiring of special counsel is briefly addressed in the County Charter, but not in the County Code.

Earlier this month, Keani Rawlins-Fernandez, who transmitted the bill, said the injection wells issue had brought to light some gaps in the law regarding special counsel that *"can be fine tuned."*

* Staff Writer Kehau Cerizo contributed to this report. Melissa Tanji can be reached at mtanji@mauinews.com.

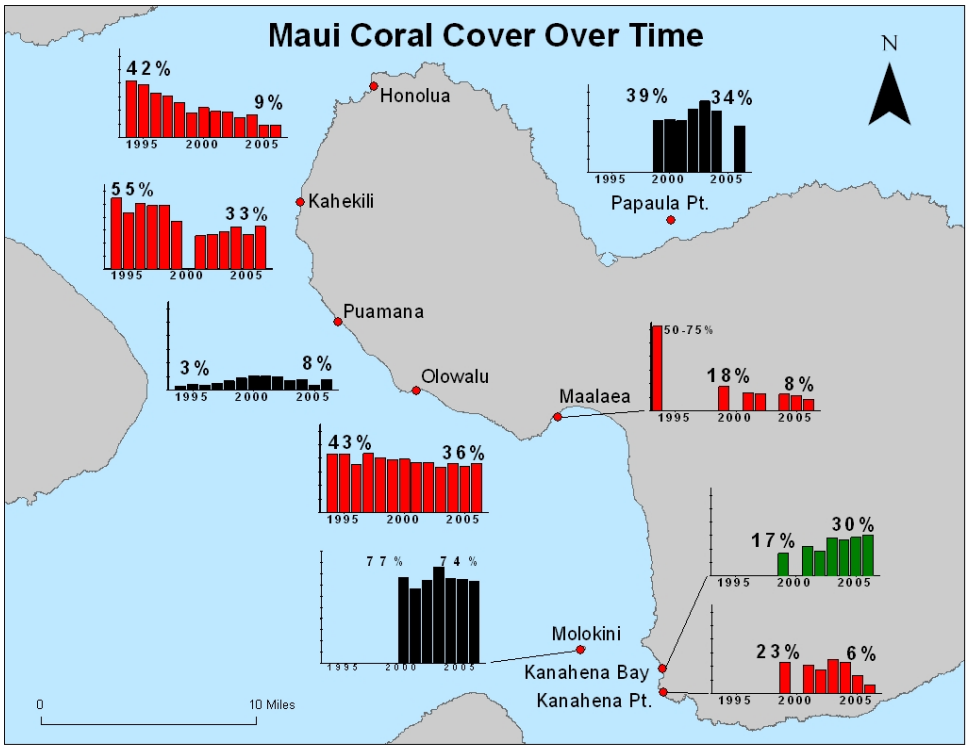
Status of Maui's Coral Reefs

In 1999, The Hawaii Division of Aquatic Resources (DAR) in partnership with the Coral Reef Assessment and Monitoring Program began annual surveys of coral condition at 9 reef areas in Maui County (see map ↓). The 4 West Maui stations had been previously monitored by the Pacific Whale Foundation since 1994. Those long-term monitoring programs provide an opportunity to assess the status and trends of Maui's coral reefs over the last 7 to 13 years.

Coral Status and Trends:

- Coral cover in 2006 ranged from 74% at Molokini to <10% at 4 sites: Honolua (9%), Puamana (8%), Maalaea (8%), and Kanahena Pt (6%).
- Coral cover increased at only 1 reef (Kanahena Bay, 17% to 30%), remained stable (<5% change), at 3 reefs (Molokini, Papaula Point, and Puamana), and declined at 5 reefs, most dramatically at Honolua (42% to 9%) and at Kahekili (55% to 33%).
- Mean coral cover of the 9 reefs declined from 35% when sites were first surveyed (1994 for West Maui, 1999 elsewhere) to 27% in 2006. Thus, nearly ¼ of all living coral was lost over that period.

Given the strong likelihood that several of the sites were already somewhat degraded when monitoring began, recent trends almost certainly underestimate declines over longer timeframes. For example, coral cover at the Maalaea site declined from 18% to 8% between 1999 and 2006, but a 1993 Fish & Wildlife Service study estimated coral cover there as being between 50% and 75%.



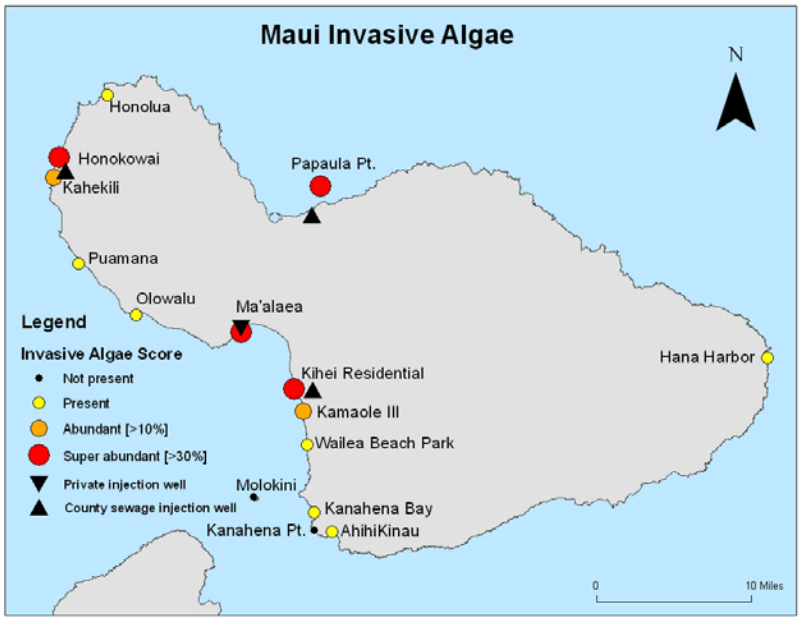
Trends in coral cover at 9 long-term monitoring stations. **Red** indicates >5% decline over monitoring period, **green** indicates >5% increase, **black** = no change (<5%)

The causes of coral reef decline around Maui are complex and vary among locations, but there are strong indications that human impacts have been very important. Notably, cover has declined at several West Maui sites: Honolua Bay, Kahekili, shallow reefs of Olowalu, and at Maalaea, where anthropogenic impacts from shoreline development and human use are likely greatest. Conversely, sites which have experienced increases or sustained high coral cover are remote or offshore (Kanahena Bay and Molokini). The one observed decline on a relatively remote reef (at Kanahena Point since 2004) was due to a local outbreak of the coral-eating crown-of-thorns starfish.

The Growing Problem of Invasive Algae

A significant and growing concern is the increasing overgrowth of reefs by invasive seaweeds, particularly *Acanthophora spicifera*, *Hypnea musciformis and Ulva* spp.. Shallow reefs in Kihei and Maalaea are now almost totally overgrown by those species and *A. spicifera* has become much more abundant in recent years at other locations including Honokowai/Kahekili and Papaula Point. Algal blooms are indicative of a loss of balance between factors which promote algal growth (e.g. nutrient availability) and those which control algal abundance (e.g. grazing). It is likely that both high nutrients & low grazing have been important:

- Studies by researchers from University of Hawaii (UH, next page), together with the evident correspondence between reefs with severe algal blooms and coastal areas with high human population density (see →), strongly suggest that elevated nutrients from wastewater or fertilizers are fueling accelerated algal growth.
- Reefs with abundant herbivorous fishes, such as those in the Honolua and Molokini MLCDs, have little or no invasive algae present, whereas reefs with depleted herbivore populations (e.g. Maalaea) are severely overgrown by algae.



Distribution of invasive algae around Maui: 'present' means invasive species found only in low abundance & in limited habitats, 'abundant' indicates cover of 10-30% on extensive portions of reef; 'super-abundant' means >30% algal cover in multiple reef zones

Invasive algae are by no means the only problems affecting Maui's coral reefs, In fact the greatest decline in coral cover observed on any surveyed reef was at Honolua Bay, where invasive algae are scarce, It is, therefore, important not to discount other potential factors such as increased sedimentation, chemical run-off and other pollution. However, the causes and consequences of invasive algal blooms are relatively well understood and therefore worth considering in some detail.

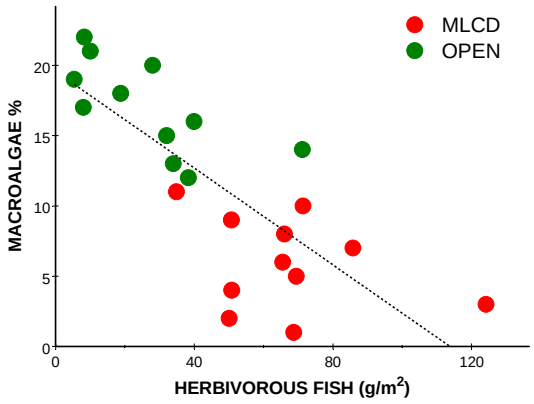
Sources and Consequences of Elevated Nutrients in Maui's Nearshore Waters

Recent research by UH scientists which has focused on shallow Kihei reefs which are currently overgrown by *Hypnea* and *Ulva*, strongly suggests that terrestrial, likely anthropogenic, nutrients are driving algal blooms there:

- Concentrations of nutrients (Nitrogen and Phosphorus) are highly elevated in nearshore areas where algal blooms are found.
- Stable isotope ratios (δ15N ‰) in algal tissue are indicative of animal waste (presumably sewage) being their primary source.
- Growth rates of algae on shallow reefs are extraordinarily high (*Hypnea* is able to double its biomass in just 2 days). Such growth rates are so high that the estimated productivity of shallow Kihei reefs is among the highest ever recorded for any ecosystem on the planet.

The Role of Grazing Fishes in Controlling Invasive Algae

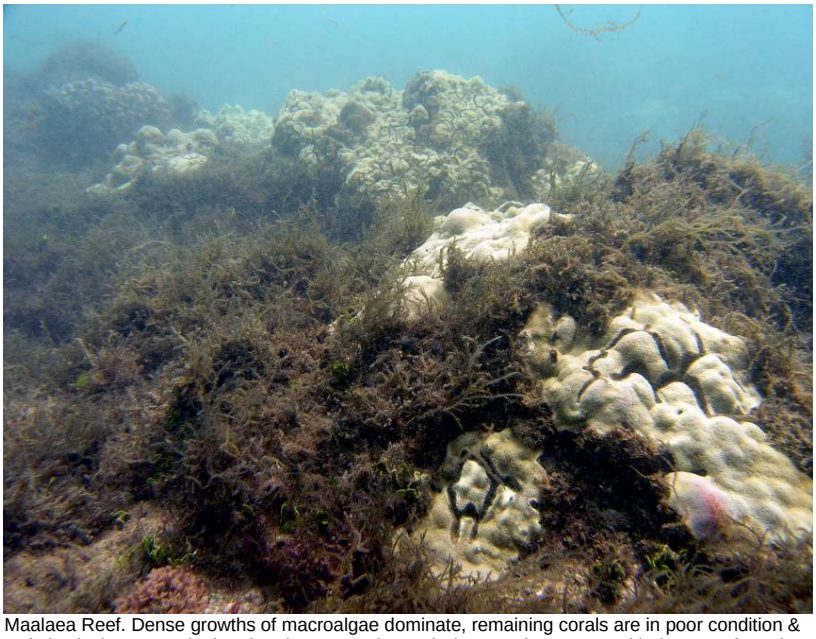
Clear evidence of the ability of grazing fishes (parrotfishes and surgeonfishes) to control the abundance of problem algae comes from the "Fish Habitat Utilization Study", a cooperative study by the National Oceanographic and Atmospheric Administration and Hawaii DAR. For that study, fish and habitat were surveyed in all of Hawaii's MLCDs plus comparable 'control' areas open to fishing. Among the findings were that, statewide, reefs with large stocks of herbivorous fishes tended to have much less macroalgae than reefs with low stocks of grazing fishes (see →). Supporting evidence for the capacity of grazing fishes to control the invasive seaweeds which are currently abundant on several Maui reefs comes from diet preference studies. Both *Acanthophora* and *Hypnea* are highly preferred foods for grazing fishes. In fact, *Acanthophora* has repeatedly been found to be among the most preferred foods for grazing fishes in studies both in Hawaii and elsewhere in the world. Therefore increases in stocks of grazing fishes would almost certainly lead to reductions in the spread and prevalence of invasive algae.



Relationship between biomass of grazing fish and macroalgal cover on 22 Hawaiian coral reefs. Red dots represents reefs closed to fishing (Marine Life Conservation Districts); **green** dots represent areas open to fishing

Case Study: Total System Collapse at Maalaea

The end result of reef degradation is evident at Maalaea Bay. In 1972, Maalaea coral reefs were described as being 'striking in their diversity and in the presence of rare corals species'. As late as 1993, estimated coral cover was 50-75% close to the site where cover is now 8%. Therefore, in just a few decades, the Maalaea reef has transformed from a healthy and diverse ecosystem into a badly degraded habitat overgrown by algae and with little surviving coral. One consequence of severe loss of living coral is that degrading reefs change from being actively-growing and structurally-complex habitats, into eroding and relatively flat areas which do not support abundant marine life. That process is well advanced at Maalaea, where fish stocks are now in very poor condition, being dominated by small wrasse, triggerfish and puffers. Given that the Maalaea reef is now a poor habitat for most grazing fishes, and that existing blooms of algae will continue to inhibit new coral growth, even in the best of circumstances (without water quality or fishing impacts), recovery of Maalaea would likely take many years.



Maalaea Reef. Dense growths of macroalgae dominate, remaining corals are in poor condition & reef physical structure is deteriorating as coral growth does not keep pace with the rate of erosion

Summary

It is very important to recognize that the kind of degradation which has occurred at Maalaea and elsewhere is not just a matter of loss of coral cover. Reductions in associated habitat quality and topographical complexity mean that once degradation is well established, affected reefs will have lower recreational and commercial value, and will support limited fish stocks, to the detriment of all resource users. The goal of those charged with the protection and restoration of Hawaii's natural resources must be to prevent such severe degradation from further affecting Maui's reefs. Given the trajectories of decline over the last 7-13 years, it is evident that substantial deterioration can occur rapidly. If steps are not taken to return conditions to those in which corals can thrive, it is nearly certain that additional reefs will reach the state of Maalaea. Recovery of herbivore stocks may be part of the solution at some locations, but without other steps to reduce land-based impacts there is unlikely to be substantial recovery across the island's reefs.

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The Maui News

2019 was Maui's year of fire

Weather, fallow fields contributed to blazes across 25,000 acres

Maui firefighters douse hot spots along the Piilani Highway edge of a July 22 brushfire in Kihei. The fire broke out in the morning and burned 80 acres about a quarter-mile north of the Maui Meadows subdivision in Kihei. By sundown the Fire Department had declared it 100 percent contained. -- The Maui News / MATTHEW THAYER photo

KAHULUI — More than five times as many acres were blackened by Maui County wildfires this year compared to 2018, fueled in part by fallow former sugar cane fields and weather, including record-breaking heat, fire officials said Friday.

The 25,000 acres that burned in *"a very active fire season this year"* is the most acreage in recent years, said Fire Services Chief Rylan Yatsushiro.

In comparison, he said 3,900 acres burned last year, 14,000 acres burned in 2016, and 8,000 acres burned in 2010.

In 2005, the burned acreage totaled 1,300.

"What compounded things this past year was the weather," Yatsushiro said. *"It's been hotter than usual, windier, drier."*

A pilot makes a water drop near Piilani Highway on July 22. -- The Maui News / MATTHEW THAYER photo

Since April, more than 90 heat records have been broken or tied at Kahului Airport.

“I would hope this year’s weather pattern will be just an anomaly,” Yatsushiro said.

In some large fires, *“very dry weather, very low humidity, very high winds”* made for challenging conditions for firefighters, said Deputy Chief Brad Ventura.

The causes of the fires have varied.

“For most of our wildfires, it’s very difficult to determine location or place of origin, let alone the actual cause,” Ventura said. *“Because we’re not there when it happens.”*

A helicopter pilot carr\es a load of water during an October brush fire high in the West Maui Mountains above Maalaea. Parched conditions and whipping winds fueled the fast-moving blaze, which started high on the mountain and closed Honoapiilani Highway on the pali. The fire had burned 4,000 acres by nightfall. -- The Maui News / MATTHEW THAYER photo

Yatsushiro said a burned vehicle was found upwind near the suspected origin of a brush fire that burned about 600 acres in Paia this month, threatening Doris Todd Christian Academy and Skill Village homes. It

hasn't been determined whether the brush fire burned the car or a car fire ignited the brush, Yatsushiro said.

Ventura noted that some of the larger wildfires were purposefully set.

Police arrested a 28-year-old homeless man as a suspect in a wildfire in July that scorched 9,000 acres after starting in Waikapu and spreading to Maalaea and north Kihei. Another man was arrested as a suspect in another brush fire that burned 5 acres near Hana Highway and Airport Access Road in July.

A fire that burned about 80 acres in Kihei in July was started by an 18-year-old man who told police he had been smoking marijuana when embers from his pipe ignited the brush, police said.

Malfunctioning machinery was the cause of some fires, including one in August on 5,300 acres of former sugar cane fields below Pukalani.

Helicopter pilots battle an Oct. 2 brush fire. Four helicopters were called in to battle the blaze located in the West Maui Mountains above Maalaea. -- The Maui News / MATTHEW THAYER photo

In July and August, firefighters battled about 60 brush fires a month, Ventura said.

"And nobody sees the small ones" that are quickly extinguished, he said.

"We're very fortunate with the equipment and training that our guys have, they're able to do good things and prevent most of them from becoming large," Ventura said.

Fire officials have talked with some large landowners to help clear critical areas to mitigate the fire hazard.

The planting of crops by Mahi Pono, which owns 41,000 acres of former Hawaiian Commercial & Sugar Co. cane fields, *"will definitely help us with the fire problems,"* Ventura said.

But he said there are factors beyond the Fire Department's control.

"A lot of the open land is private and we don't dictate what's done," Ventura said. *"We don't know what the landscape's going to look like in one or two years."*

"We always preach that fire prevention is everybody's effort," he said. *"Even though we work with certain people to cut firebreaks and maintain land, it's everyone's responsibility to keep the area around their homes neat and tidy and not have vegetation up against homes so fire can't carry."*

Added Assistant Chief Rick Kawasaki, *"Don't throw yard waste around property or over the fence."*

With much open land burned or planted, *"I think we'll be in much better shape next year,"* Kawasaki said. *"I don't think it will be as bad."*

But he said if forecasts for a wet winter hold, there could be more fuel to burn in the new year.

As New Year's Eve approaches, officials are reminding people to use caution in setting off fireworks and to stay away from structures, dry grass

and brush or other readily ignitable materials.

“Be smart about fireworks,” Ventura said.

While wet weather could help firefighters, they still battled a brush fire Christmas Day that burned 1.5 acres near Firebreak Road in Puunene.

“It’s December and it’s raining, and we still had a Christmas brush fire,” Ventura said.

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