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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

DEC 10 2015

MEMORANDUM

To: Scott Glenn, Interim Director
Office of Environmental Quality Control

From: Suzanne D. Case, Chairperson
Board of Land and Natural Resources

Subject: Draft Environmental Assessment (DEA) for Catamaran Landings Located at Maluaka Beach, Makawao, Maui, makai of Tax Map Key: (2) 2-1-006:059 [submerged land]

The Department of Land and Natural Resources has reviewed the DEA for the subject project, and anticipates a Finding of No Significant Impact (FONSI) determination. Please publish notice of availability for this draft EA in the December 23, 2015 issue of the *Environmental Notice*. We have enclosed 1 hard copy of the DEA and OEQC publication form, as well as one 1 USB Flash Drive of the same in pdf format. A separate e-mail shall be sent with the OEQC publication form in word document format for publication purposes.

Please contact Tiger Mills at 587-0386 should you have any questions regarding this matter.

Attachments: *Draft EA, OEQC Pub Form, USB*

July 2015 Revision

APPLICANT ACTION SECTION 343-5(e), HRS PUBLICATION FORM

Project Name: Catamaran Landings, Maluaka Beach, Makawao District, Maui
HRS §343-5 Trigger(s): Use of State Lands
Island: Maui
District: Makawao
TMK: Offshore ocean waters, adjacent to (2)2-1-006:59 (ATC Makena Hotel LLC)
Permits: Land Disposition
Approving Agency: Board of Land of Land and Natural Resources P.O. Box 621 Honolulu, HI 96809. Tiger Mills, (808) 587-0382.
Applicant: Sidney J. Akiona, President, Kai Kanani, Inc., a general partner of Makena Boat Partners (MBP), 170 Ulana Street, Makawao, Hawaii 96768, 808-879-7218
Consultant: Eugene Dashiell, AICP, 728 Nunu Street, Kailua, Hawaii 96734, 808-254-4522, dashiellplanning@outlook.com

Status (check one only):

X_DEA-AFNSI	Submit the approving agency notice of determination/transmittal on agency letterhead, a hard copy of DEA, a completed OEQC publication form, along with an electronic word processing summary and a PDF copy (you may send both summary and PDF to oeqchawaii@doh.hawaii.gov; a 30-day comment period ensues upon publication in the periodic bulletin.
__FEA-FONSI	Submit the approving agency notice of determination/transmittal on agency letterhead, a hard copy of the FEA, an OEQC publication form, along with an electronic word processing summary and a PDF copy (send both summary and PDF to oeqchawaii@doh.hawaii.gov; no comment period ensues upon publication in the periodic bulletin.
__FEA-EISPN	Submit the approving agency notice of determination/transmittal on agency letterhead, a hard copy of the FEA, an OEQC publication form, along with an electronic word processing summary and PDF copy (you may send both summary and PDF to oeqchawaii@doh.hawaii.gov; a 30-day consultation period ensues upon publication in the periodic bulletin.
__Act 172-12 EISPN	Submit the approving agency notice of determination on agency letterhead, an OEQC publication form, and an electronic word processing summary (you may send the summary to oeqchawaii@doh.hawaii.gov. NO environmental assessment is required and a 30-day consultation period upon publication in the periodic bulletin.
__DEIS	The applicant simultaneously transmits to both the OEQC and the approving agency, a hard copy of the DEIS, a completed OEQC publication form, a distribution list, along with an electronic word processing summary and PDF copy of the DEIS (you may send both the summary and PDF to oeqc@doh.hawaii.gov); a 45-day comment period ensues upon publication in the periodic bulletin.
__FEIS	The applicant simultaneously transmits to both the OEQC and the approving agency, a hard copy of the FEIS, a completed OEQC publication form, a distribution list, along with an electronic word processing summary and PDF copy of the FEIS (you may send both the summary and PDF to oeqc@doh.hawaii.gov); no comment period ensues upon publication in the periodic bulletin.
__ Section 11-200-23 Determination	The approving agency simultaneous transmits its determination of acceptance or nonacceptance (pursuant to Section 11-200-23, HAR) of the FEIS to both OEQC and the applicant. No comment period ensues upon publication in the periodic bulletin.
__Statutory hammer Acceptance	The approving agency simultaneously transmits its notice to both the applicant and the OEQC that it failed to timely make a determination on the acceptance or nonacceptance of the applicant's FEIS under Section 343-5(c), HRS, and that the applicant's FEIS is deemed accepted as a matter of law.
__Section 11-200-27 Determination	The approving agency simultaneously transmits its notice to both the applicant and the OEQC that it has reviewed (pursuant to Section 11-200-27, HAR) the previously accepted FEIS and determines that a supplemental EIS is not required. No EA is required and no comment period ensues upon publication in the periodic bulletin.
__Withdrawal (explain)	

Summary (Provide proposed action and purpose/need in less than 200 words. Please keep the summary brief and on this one page):

Proposed Action: This Environmental Assessment addresses continued use of Maluaka Beach by Makena Boat Partners ("MBP") to board and disembark passengers and crew of the catamaran Kai Kanani II (the "Vessel"). Passengers and crew access the Vessel by walking across the public beach into shallow water and board by means of a retractable ladder. The process is repeated on the Vessel's return. Boarding or disembarking requires no more than ten minutes. The Vessel remains afloat and under power throughout each cycle. These cycles, or "Landings," may be repeated up to four times a day. The first excursion begins at 6:30 and returns two hours later; the second begins at 9:00 AM and returns at 1:00 PM. Seasonal whale watch, sunset and special charters are also offered but the Vessel is never present more than 90 minutes on even the busiest days of the year.

MBP has made Landings at Maluka Beach continuously since the 1980s. In 1986, the U.S. Army Corps of Engineers authorized MBP to install the mooring from which the Vessel operates today. A special condition of the federal permit required MBP to "acquire a Conservation District Use Permit from the State Department of Land and Natural Resources."

In 1988, the Board of Land and Natural Resources granted "after-the-fact" approval of the use of conservation lands for the subject vessel mooring. As for the use of the public beach for loading/offloading of passengers, MBP was directed to obtain "appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State Lands." This Environmental Assessment is prepared in conjunction with an Application for Use of Government Lands through which MBP shall seek a non-exclusive easement for the occupancy of State lands at Maluaka Beach for the limited purpose of Landings.

DRAFT
ENVIRONMENTAL ASSESSMENT

Catamaran Landings

Maluaka Beach
Makawao District, Maui

State of Hawaii

November 2015

Submitted by:

Eugene P. Dashiell, AICP
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728 Nunu Street
Kailua, Hawai'i 96734
Telephone/Fax: 254-4522
dashiellplanning@outlook.com

General Information & Summary Sheet

Proposed Action: This Environmental Assessment addresses continued use of Maluaka Beach by Makena Boat Partners ("MBP") to board and disembark passengers and crew of the catamaran Kai Kanani II (the "Vessel"). Passengers and crew access the Vessel by walking across the public beach into shallow water and board by means of a retractable ladder. The process is repeated on the Vessel's return. Boarding or disembarking requires no more than ten minutes. The Vessel remains afloat and under power throughout each cycle. These cycles, or "Landings," may be repeated up to four times a day. The first excursion begins at 6:30 and returns two hours later; the second begins at 9:00 and returns at 1:00. Seasonal whale watch, sunset and special charters are also offered but the Vessel is never present more than 90 minutes on even the busiest days of the year.

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Location	Makawao District, Maui, Hawai'i. County of Maui.
Tax Map Key	Offshore ocean waters, adjacent to (2)2-1-006:59 (ATC Makena Hotel LLC)
Site	Proposed disposition (Landing Zone) is 1.43 acres.
State Land Use District & Zoning	State Land Use Conservation District (offshore); no County zoning.
Ownership	State of Hawaii.
Council Residency Area.	South Maui.
Approving Agency	Department of Land and Natural Resources
Proposing Agency	Makena Boat Partners
Attorney	Dennis Niles, P.O, Box 2594, Olympia, WA 98507 Telephone (808) 283-3208; Email djn@dennyniles.com Gilbert Keith-Agaran, 24 North Church St., Ste 409, Wailuku, Hawai'i 96793; Telephone 808-242-4049; Email gilagaran@gmail.com
Consultant	Eugene P. Dashiell, AICP, Environmental Planning, 728 Nunu Street, Kailua, Hawai'i 96734; Telephone/Fax: 808-254-4522; dashiellplanning@outlook.com.
Required Permits and Approvals	Non-exclusive easement or other disposition allowing continued Landings at Maluaka Beach.

Contents

References

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Appendices

A. Biological Evaluation and Essential Fish Habitat Assessment

B. Archaeological and Cultural Impact Assessment

C. Beach Activity Measurement

D. Regulatory Approvals

- Mooring Permit (Letter of Permission), U.S. Army Corps of Engineers
- Conservation District Use Permit, Board of Land and Natural Resources
- Mooring Permit, Division of Boating and Ocean Recreation
- Commercial Permit, Division of Boating and Ocean Recreation
- Certificate of Inspection, U.S. Coast Guard

E. Correspondence

F. Request for State Lands (Form LD-1)

G. Pre-trip Briefing (Makena Boat Partners)

H. Photographs of MBP Passenger Access Route

I. MBP 2014 Vessel Schedule

1 Description of the Proposed Action

1.1 **Technical characteristics.** This section describes the location and purpose of the proposed action and how it would be accomplished.

1.1.1 **Proposed Action.** MBP seeks authorization in the form of a non-exclusive easement (the "disposition") for occupancy of State lands to continue Vessel landings at Maluaka Beach (Figure 1). The specific area of the proposed disposition is depicted in Figures 2 and 5 and is referred to as the "Landing Zone." The "Landing Zone" is a 250 by 250 foot area makai and adjacent to TMK (2)2-1-006:59 (ATC Makena Hotel LLC).

1.1.2 **Background.** In 1986, the U.S. Army Corps of Engineers (USACE) authorized MBP to install three commercial moorings at Makena, Maui, Hawai'i (Appendix D). A special condition of the federal permit was the requirement that MBP "acquire a Conservation District Use Permit (CDUP) from the State Department of Land and Natural Resources."

In 1988, the Board of Land and Natural Resources granted "after-the-fact" approval of a CDUP for use of conservation lands for two moorings. The Harbors Division of the Department of Transportation thereupon began issuing MBP renewable annual permits for the moorings. In 1992 jurisdiction over small boat moorings passed to DLNR. DLNR began administering mooring permits and has renewed MBP's mooring permit every year since. The permitted mooring is located within a DLNR designated mooring area (see Figure 3). The 2014 renewal of the mooring permit is attached as Appendix D.

As for use of the public beach for loading/offloading of passengers, MBP was directed to obtain "appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State Lands."

In 2013, MBP was notified it had not yet obtained the required authorization for the occupancy of state lands. MBP was advised to submit an "Application for Use of Government Lands", and that the "…disposition of government lands for landing and mooring purposes via an easement or revocable permit is considered a 'trigger' under Chapter 343, Hawaii Revised Statutes, requiring compliance by the applicant." Approval of the application attached as Appendix E shall satisfy this unmet condition and will be referred to herein as the "Disposition."

1.1.3 **Location and purpose of the Disposition**. The site of the Disposition is at Makena, Maui (See Figures 1 & 2) and involves a portion of submerged lands and beach adjacent to Lot 5 of the Maui Prince Hotel Subdivision, TMK 2-1-06-59 (See Figures 4, 5, 6 & 7).

1.1.4 **Requested Disposition of State Lands**. MBP seeks the Disposition in order to continue Landings at the beach. See Appendix F.

1.1.5 **Description of the Vessel**. The Vessel is a 64 foot auxiliary powered sailing catamaran. Figure 8 depicts the Vessel with dagger boards (basically stabilizing fins) extended. The Vessel draws five (5) feet of water and does not operate with dagger boards extended while conducting excursions from Maluaka. The Vessel is inspected by the U.S. Coast Guard at 18 month intervals and is certified to carry up to 80 passengers with a crew of three. The current Certificate of Inspection is in Appendix D.

1.1.6 **Description of Continued Landings.** The Vessel initiates a Landing by slowly approaching Maluaka Beach. Under power, the vessel remains afloat and seaward of the

"wrack line"[1] for the few minutes passengers require to walk from the beach through the water (approximately knee-deep) to the Vessel for boarding. Passengers return to shore via the same process. The captain maintains the position of the Vessel by applying power to one or both engines. Landings do not require the Vessel to make contact with the bottom although a hull may make momentary contact in response to wave action. Such physical contact while rare does not involve beach mauka of the wrack line.

Conditions in the Landing Zone and on the beach within the Landing Zone were recorded daily during two week long periods (Appendix C). Figure 9 depicts the beach user count area. Appendix C includes photographs of Vessel Landing cycles during the two weeklong periods, and during a summer week, MBP counted persons present in the Landing Zone. The count showed that very few persons were present who were not hotel guests or MBP passengers or crew. The photographs also give a visual indication of the level of use on the beach during landings.

There are up to four Vessel trips or cycles (a cycle consists of two actual "Landings" (embarking and disembarking) per day. Each landing generally does not exceed 10 minutes, a total of 20 minutes per cycle. The first trip begins at 6:30 AM and returns at 8:30 AM. The second begins at 9:00 AM and returns at 1:00 PM. Sunset dinner cruises are not daily, but typically on Monday, Wednesday and Friday. Also, there are seasonal whale watch cruises for five months (December through April) and there may be an occasional "special" tour. Also, landings may not occur during times or days with unfavorable weather. The Vessel is unlikely to be present at the landing more than 90 minutes (4 cycles X 20 minutes per cycle plus a 10 minute "margin" equals 90 minutes) on even the busiest days of the year. A MBP 2014 schedule is included in Appendix I. The landing process can be observed in real time from via a web camera at the following link.

http://www.kaikanani.com/makena-maui-web-cam-2/

1.1.7 **Schedule.** MBP desires to conclude the Disposition by November 1, 2016.

1.1.8 **Cost.** There is no public cost to the Landings. MBP maintains the mooring at its sole cost and expense. It pays a temporary mooring fee whenever it uses the loading dock at Maalaea Small Boat Harbor.

1.2. **Socio-economic characteristics**. This section discusses the impacts of the proposed action on the community in terms of both social and economic effects.

1.2.1 **Economic impacts on the community at large**. Landings have a beneficial economic impact on the community at large by providing continued employment for residents and ocean-based activities for residents and visitors. MBP also pays rent for its retail store and business offices, and purchases a variety of goods and services consumed in conducting tour boat excursions and maintaining the Vessel.

[1] The wrack line is the line of debris left on the beach by the action of tides and waves.

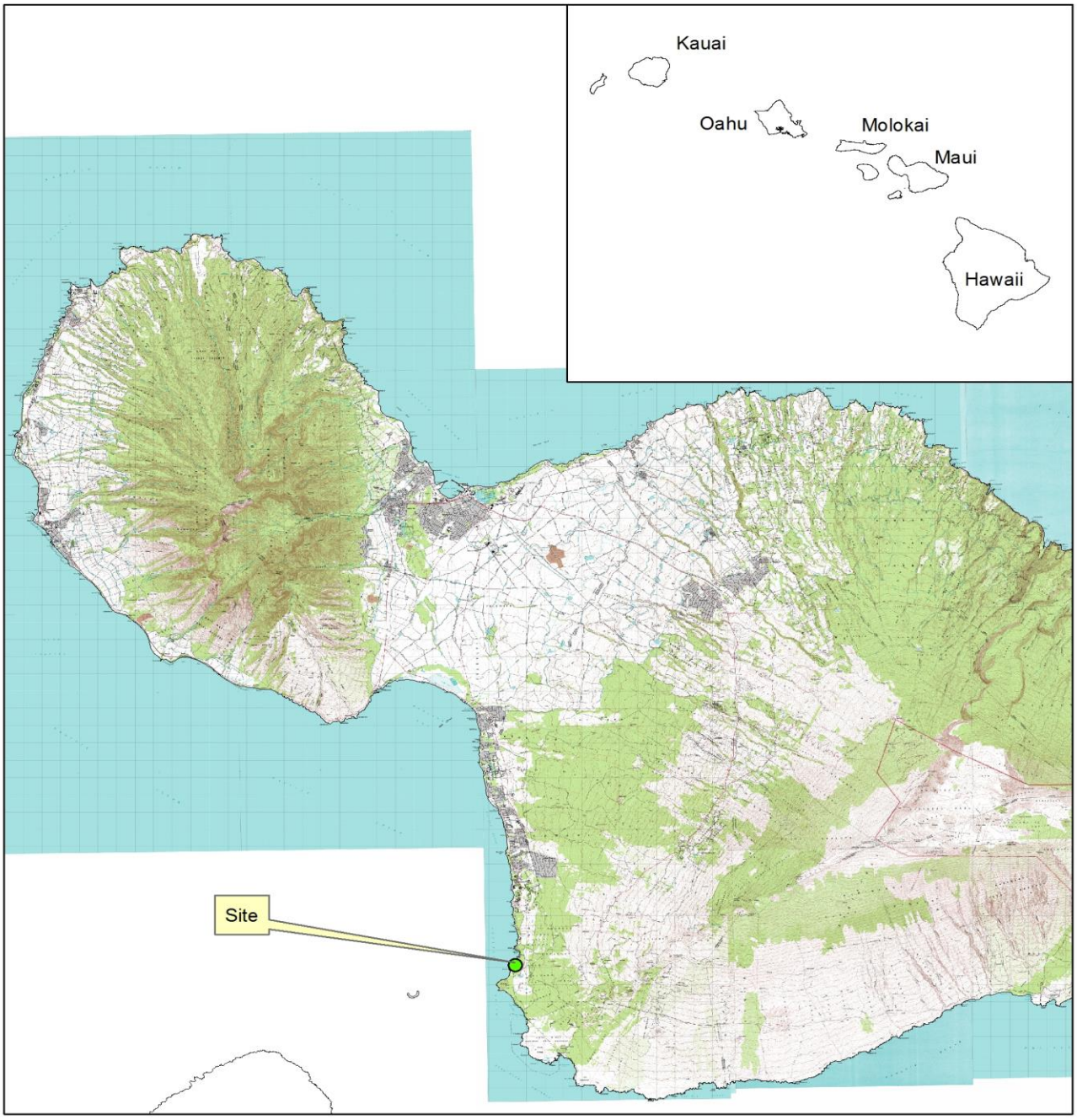


Figure 1. Location of proposed disposition.

50 25 0 50 Meters

200 100 0 200 Feet

Dotted red line bounds proposed non-exclusive use area (Landing Zone) which is 250 feet by 250 feet (approximately)

Catamaran Landing
Maluaka Beach
Makena, Maui

NORTH

Base map imagery, BING
E. Dashiell, AICP, 10/8/15

Figure 2. Landing Zone.

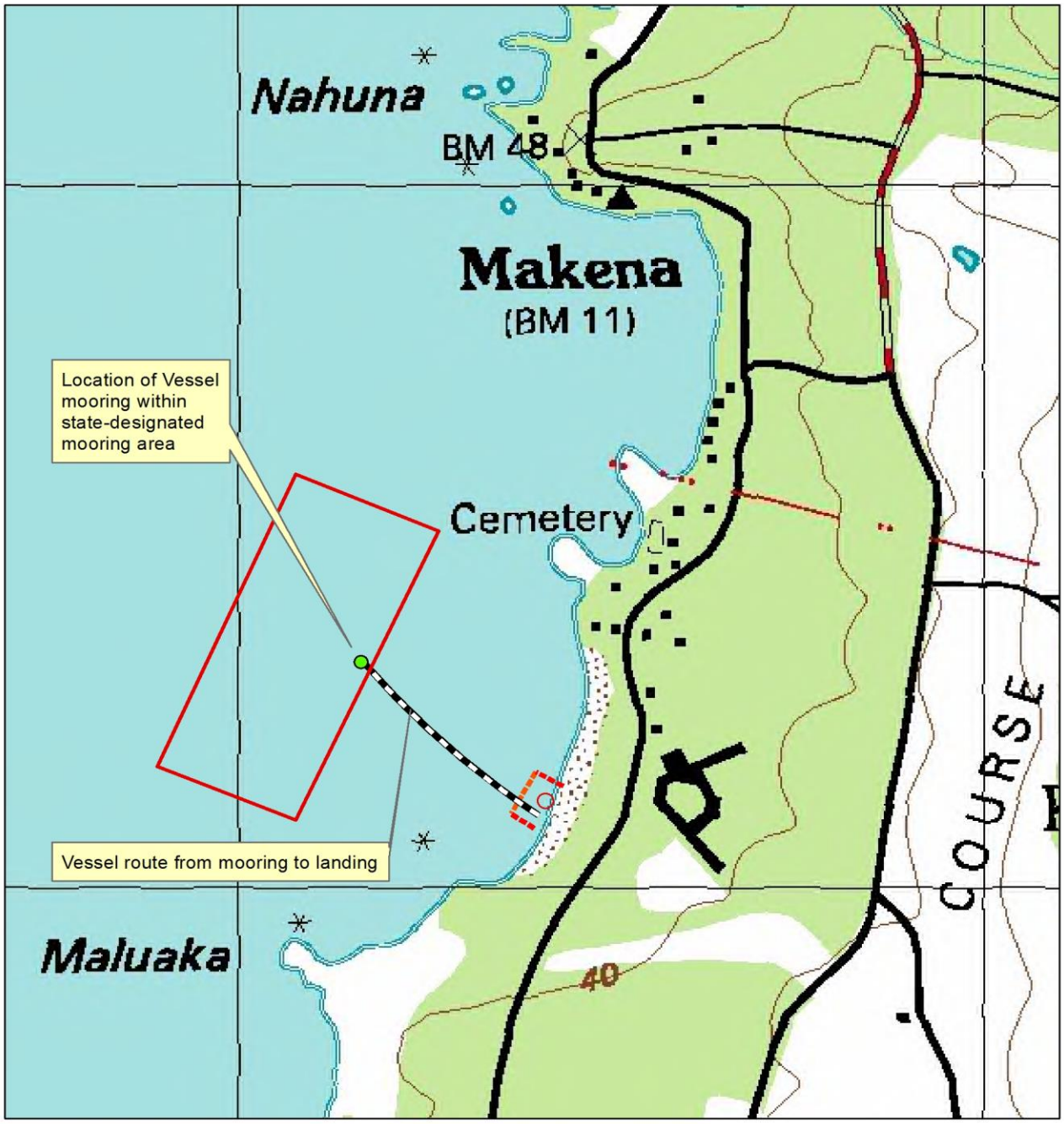


Figure 3. Location of Vessel Mooring Within State Designated Mooring Area.

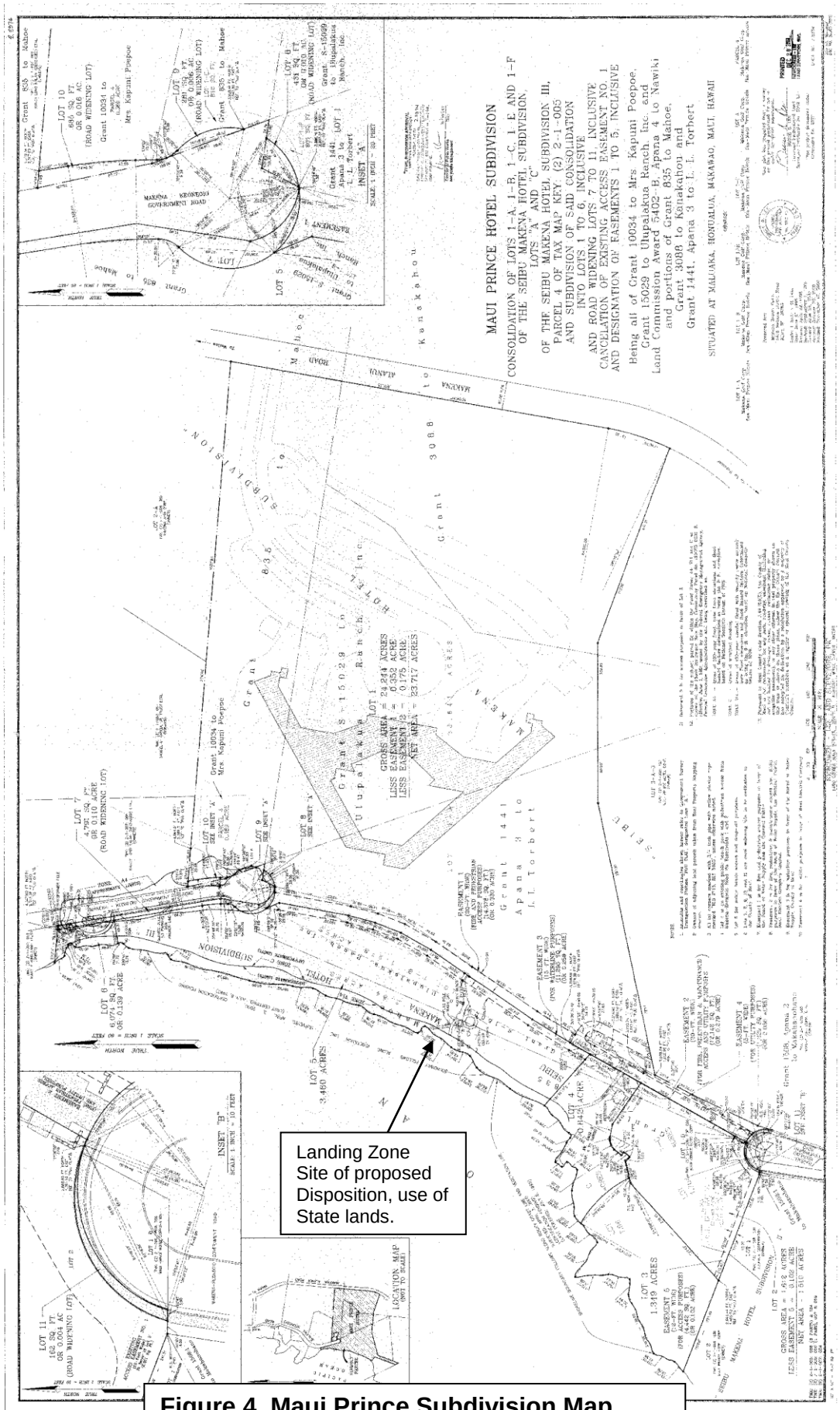
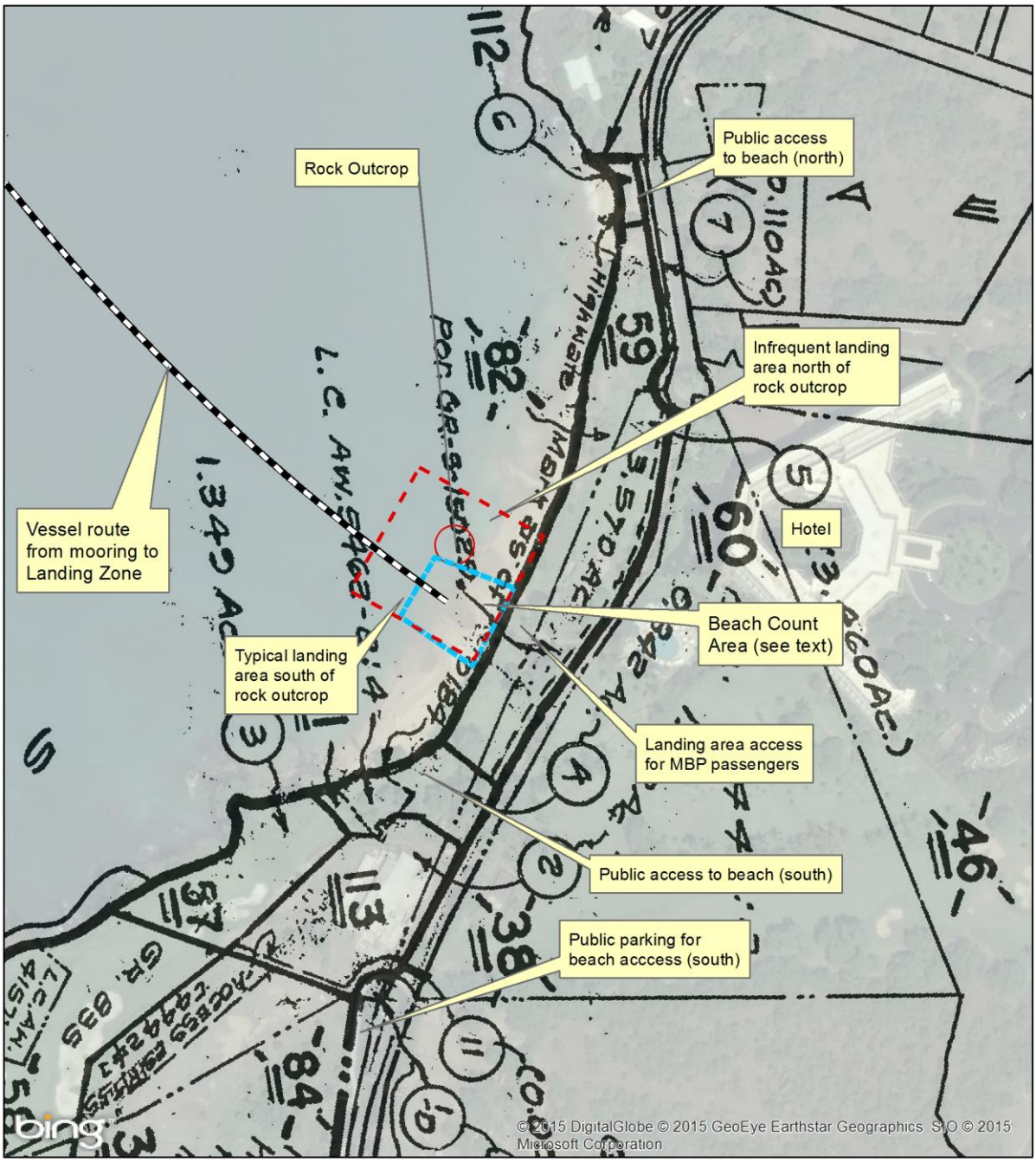


Figure 4. Maui Prince Subdivision Map.



50 25 0 50 Meters

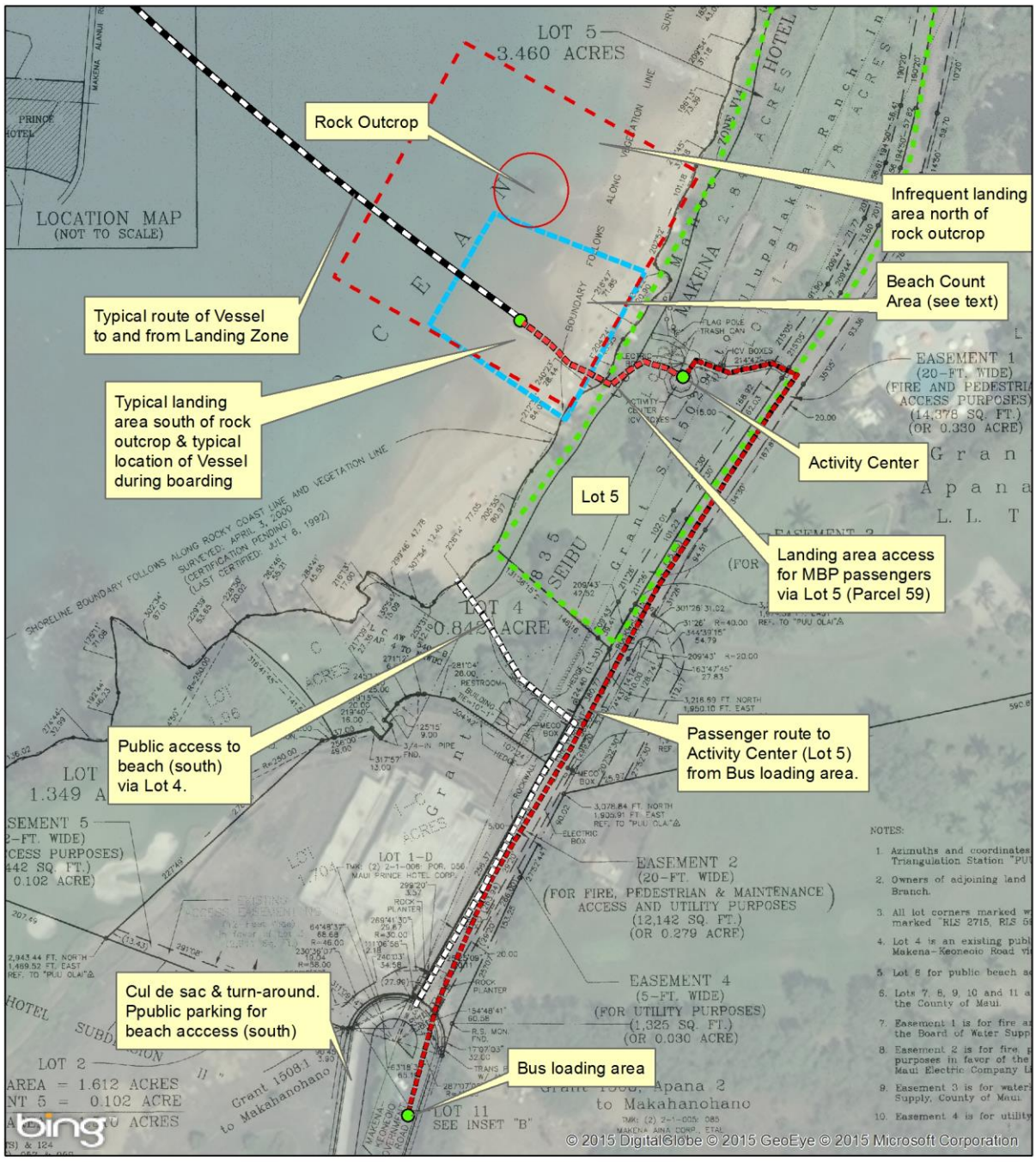
200 100 0 200 Feet

NORTH

Base map imagery, BING
E. Dashiell, AICP, 10/29/15

Catamaran Landing
Maluaka Beach
Makena, Maui

Figure 5. Lot 5, Maui Prince Subdivision, and TMK (2)2-1-006:59.



25 12.5 0 25 Meters

100 50 0 100 Feet

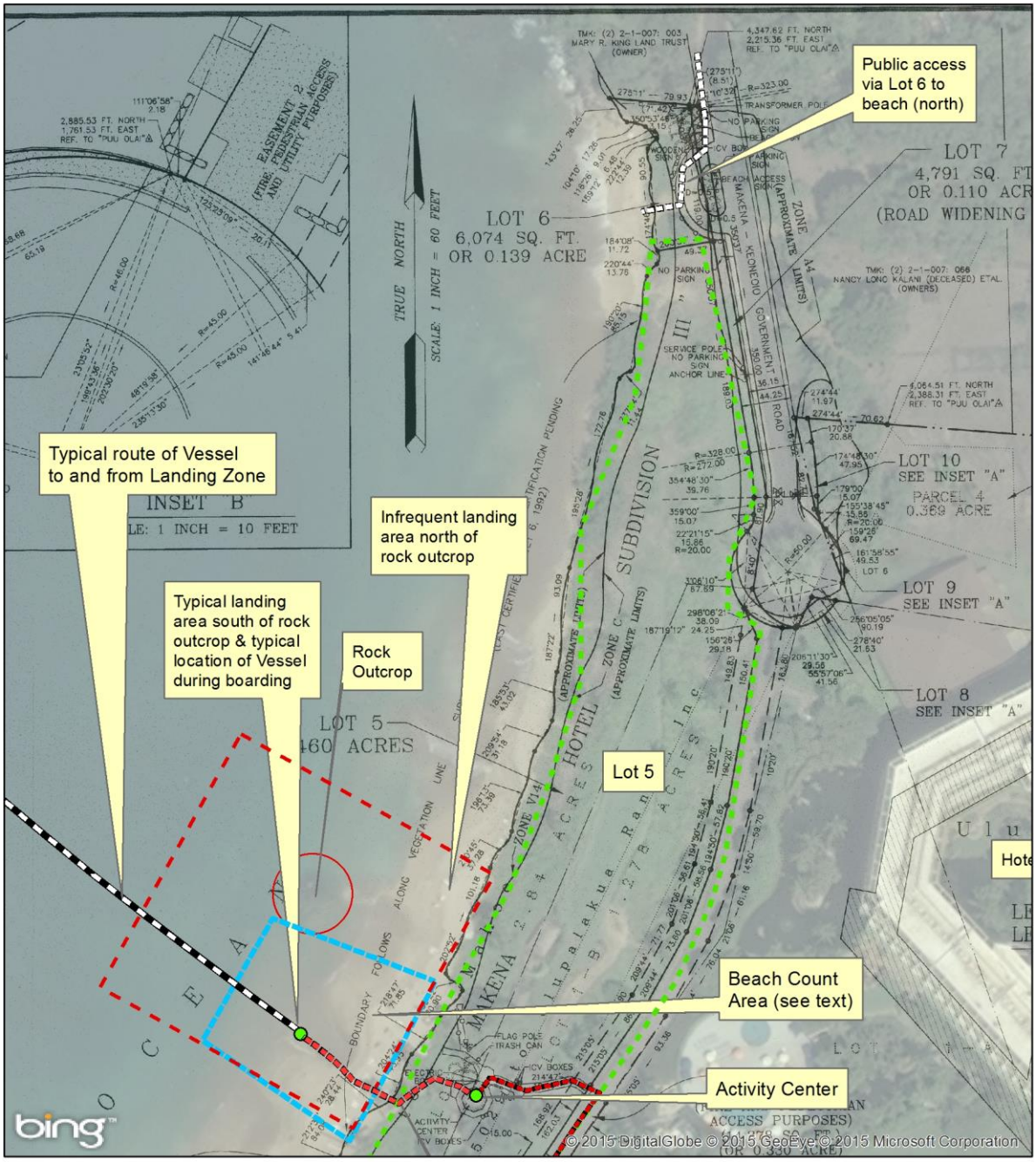
NORTH

Base map imagery, BING,
Sub-division Map
E. Dashiell, AICP, 10/29/15

White dashed line is public access route to beach (south).
Red and black dashed line is MBP passenger route to Activity Center.
Blue dashed line is beach count area.

Catamaran Landing
Maluaka Beach
Makena, Maui

Figure 6. Lot 4, Maui Prince Subdivision.



25 12.5 0 25 Meters

100 50 0 100 Feet

NORTH

Base map imagery, BING,
Sub-division Map
E. Dashiell, AICP, 10/29/15

Black & red dashed line is MBP passenger route to Vessel.
Blue dashed line is "beach count" area (see text).
Red dashed line is proposed area for non-exclusive easement (Landing Zone).
White dashed line is public access route to beach (north).

Catamaran Landing
Maluaka Beach
Makena, Maui

Figure 7. Lot 6, Maui Prince Subdivision.

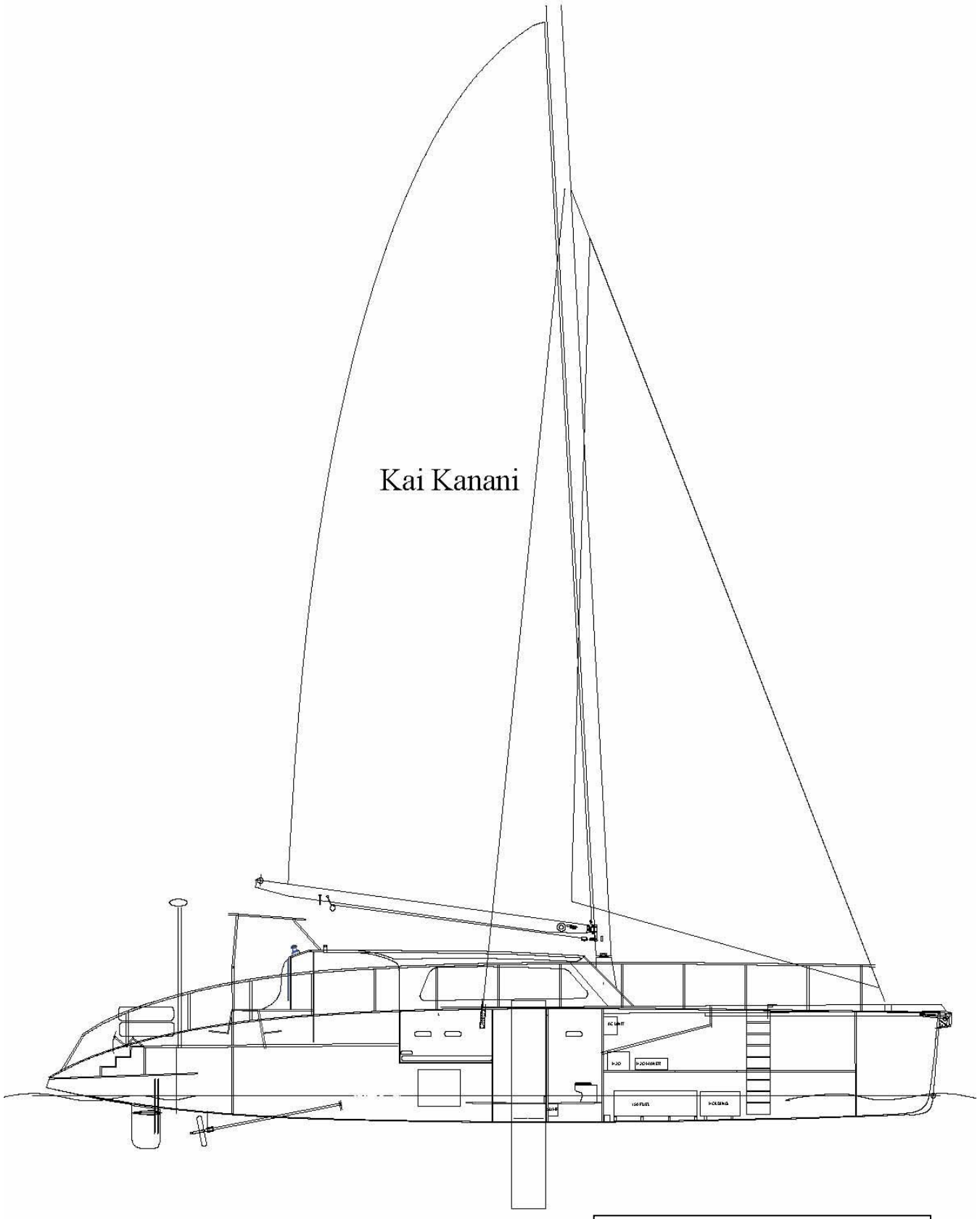
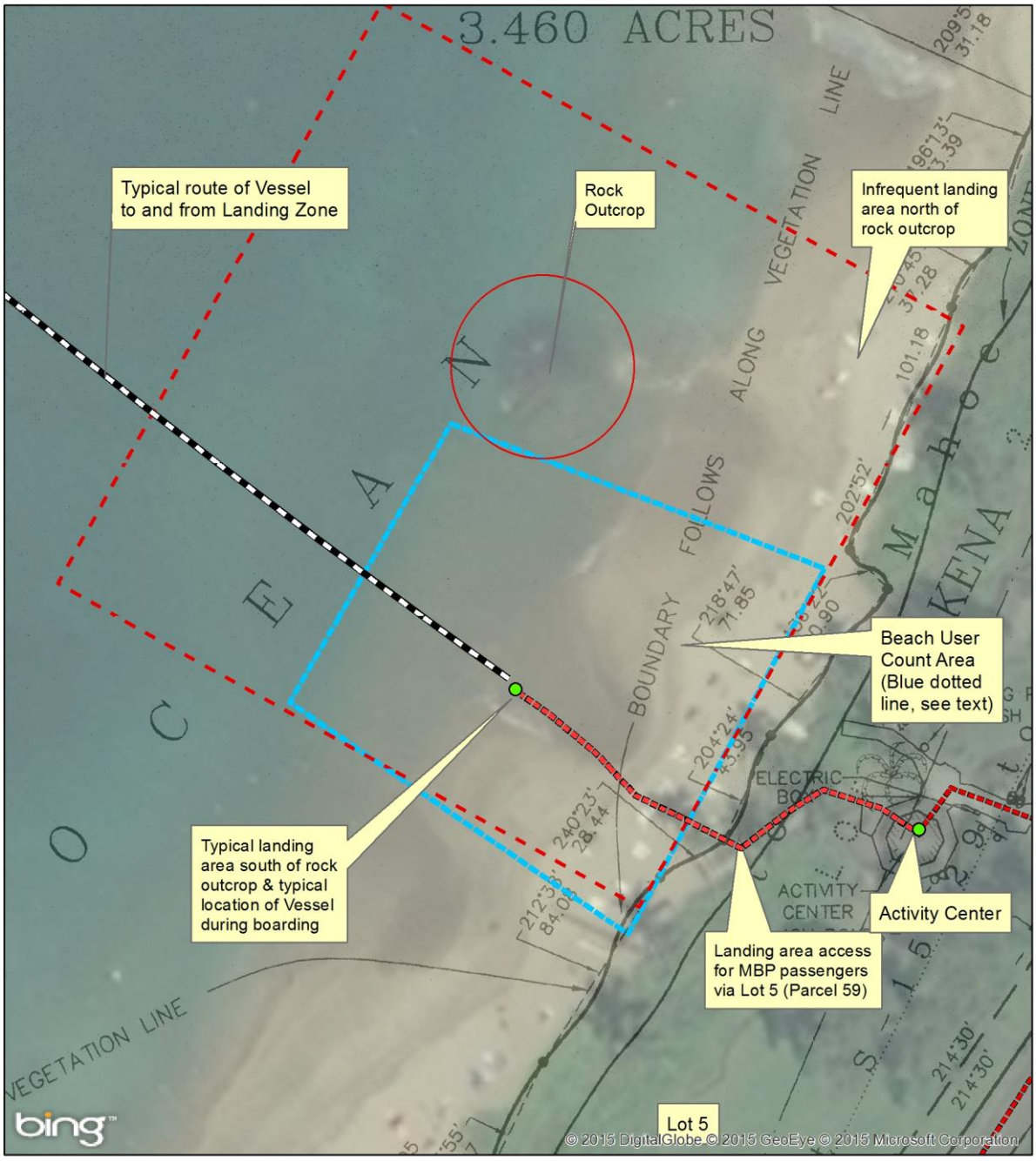


Figure 8. Vessel Side View.



10 5 0 10 Meters

50 25 0 50 Feet

NORTH

Base map imagery, BING,
Sub-division Map
E. Dashiell, AICP, 10/29/15

Blue dashed line is "beach count" area.
Red dashed line is proposed area for non-exclusive easement (Landing Zone).
Red & black dashed line is passenger access via Lot 5

Catamaran Landing
Maluaka Beach
Makena, Maui

Figure 9. Beach User Count Area. See Text & Appendix C.

1.2.2 **Provision of income for the county or state and creation of employment opportunities in areas with high unemployment rates**. The gross earnings of the Vessel are subject to General Excise Taxation and commercial vessel use fees, currently 4% and 3% respectively. The incomes of MBP's owners and employees are subject to state income taxation. Approval of the Disposition will ensure continued full-time employment of MBP's employees.

1.2.3 **Targeted segment of the population**. No specific segment of the population is targeted because continued Landings will have general public benefit.

1.2.4 **Population density**. The Disposition will have no effect on population density because no added housing is proposed.

1.2.5 **Recreational facilities**. The proposed action benefits residents and visitors alike who choose this type of ocean activity.

1.2.6 **Child care provisions**. There are no child care provisions in relation to the Disposition although life-saving equipment suitable for children is on board the Vessel.

1.2.7 **Relocation of residences**. No relocation of residences would occur.

1.2.8 **Costs of the proposed action and economic analysis**. There is no public economic cost to the proposed action. There are economic benefits in terms of employment, income and general excise taxes, and commercial use fees paid to DLNR, and the contribution to Maui's (and the State's) tourism opportunities.

1.3 **Environmental characteristics**. This section discusses the potential effects of the proposed action on the physical environment.

1.3.1 **Aesthetics and viewplanes.** Continued Landings will not adversely affect aesthetics or view planes. The Disposition does not involve construction of structures. The presence of the Vessel near the wrack line during Landings may have a negative visual effect on some beachgoers but any such effect would be temporary lasting between 7 and 10 minutes.

1.3.2 **Air pollution**. The Disposition will not have a material effect on air quality. The Vessel's engines meet federal emission standards for marine compression ignition engines. There is no applicable state standard.

1.3.3 **Traffic congestion & bus stops**. The Disposition will not add to the volume of traffic in the Kihei-Makena area. Passengers may travel to the site by shuttle vans operated by MBP or nearby hotels or resort condominiums, taxis, or private automobile. There is no public transportation to the area.

1.3.4 **Noise levels**. The Vessel is powered by two diesel engines. Engine exhaust gases and cooling seawater are discharged through ports located inboard on each hull. There is no known standard applicable to sound emanating from the Vessel's machinery. It is not believed to reach a level that would be offensive to someone standing or swimming nearby during the few minutes of a Landing cycle.

1.3.5. **Effects on water quality and the marine environment.** Continued Landings are not expected to negatively impact water quality or the marine environment. Engine exhaust gases and cooling seawater discharged by the Vessel quickly dissipate. Such discharges while the Vessel is within the Landing Zone do not have a deleterious effect on beachgoers or swimmers. The Vessel and its machinery are operated to ensure any release does not violate applicable federal standards.

The Disposition does not involve use of State lands to moor the Vessel. The Department of Transportation commenced issuing renewable annual permits for the mooring following Land Board approval of a CDUP in 1988. In 2008, the DLNR Division of Boating and Ocean Recreation authorized mooring of the Vessel within the designated mooring area "on owner's own buoy or anchor." [2] The mooring permit has been renewed every year since. The 2014 renewal stipulates the permit is subject to "all rules promulgated by the Department of Land and Natural Resources." See Appendix D. DLNR has not set standards for the design of offshore mooring systems or standards by which to assess the impact of an offshore mooring system on benthic habitat. The Disposition MBP seeks for continued Landings does not require further action concerning the use of submerged lands to moor the Vessel.

1.3.6 **Other environmental effects**. While the diesel fuel consumed by the Vessel is carbon-based, continued Landings are not expected to materially affect long term atmospheric conditions. The effect on marine mammals is addressed in Section 2.7 and Appendix A. Landings are suspended in the event of a hurricane, tsunami or severe flooding.

1.3.7. **Drainage.** The Disposition will not result in construction of structures, alteration of topography, or other changes affecting drainage.

[2] In 2007, DLNR-DOBOR issued MBP a Commercial Operating Area Use authorizing "the loading and offloading of [the Vessel's] passengers at the public beach fronting the Maui Prince Hotel as stipulated by the CDUA issued by the Board of Land & Natural Resources on August 14, 1987." The commercial permit has also been renewed every year since.

2 Description of the Affected Environment

2.1 **Location**. The Landing Zone is within Makena Bay and involves a portion of Maluaka Beach seaward of the wrack line (see below). The surface area of the Landing Zone (a rectangle with dimensions of 250 feet by 250 feet) is 62,500 square feet (1.43 acres). Maluaka Beach adjoins Lots 4, 5 and 6 of the Maui Prince Hotel Subdivision. See Maui Prince Hotel Subdivision Map (Figure 4) and TMK map (Figure 5).

2.2 **Land ownership and tenancy**. The affected lands are owned by the State of Hawaii and administered by the Department of Land and Natural Resources. Lot 5 is owned by ATC Makena Hotel LLC. A twenty foot wide public access easement connects cul-de-sacs at the ends of Makena-Keoneoio Road and separates Lot 5 and the adjoining hotel property. A photograph of the southern cul-de-sac is attached as Appendix H, Figure 1.

MBP passengers access Maluaka Beach through Lot 5 with the consent of ATC Makena Services, LLC, the lessee of the properties that comprise the hotel resort known as Makena Beach & Golf Resort. The route MBP passengers walk to the Landing Zone is shown in Figure 6. A photograph of the shower and top of the south path from the beach activity center across Lot 5 to the beach is attached as Appendix H, Figure 2. Appendix H, Figure 3 is a photograph of the path as it crosses the property line to the beach. .

ATC Makena and Golf Resort LLC is majority owner of Lot 4 which provides amenities and public access to the south end of Maluaka Beach (See Figure 6). A photograph of the paved path leading to the beach across Lot 4 is attached as Appendix H, Figure 4. Public access to the north end of Maluaka Beach is available across Lot 6 (See Figure 7).

2.3 **County Zoning, State Land Use District**. The proposed action is in a State Conservation district seaward of the shoreline. The land mauka of the shoreline is in a State Urban District and is subject to zoning by Maui County.

2.4 **Special Management Area, Coastal Zone Management Consistency, Shoreline Setback Area**. The site of the proposed action is seaward of the wrack line. Passengers cross a public beach to board the Vessel. Maui County has advised that a special management area (SMA) permit is not required for continued Landings. The requested disposition does not require a federal permit thus a CZM consistency declaration is not required. No structure or construction is proposed within the shoreline setback area.

2.5 **Land, beach and water use**. The land uses adjacent to Maluaka Beach are hotel-resort. Maluaka Beach has two public access points (north and south, Figures 2, 4, 5, 6, 7). MBP passengers access the Landing Zone via Lot 5 with the consent of ATC Makena Services, LLC, the lessee of the properties that comprise the hotel resort known as Makena Beach & Golf Resort, ATC Makena Hotel LLC. (Figures 2, 4, 5, 6, 8).

In order to address potential effects of the private and commercial use by MBP of the public land and water which comprise the Landing Zone, the level of beach use in and near the Landing Zone was documented on two separate occasions preceding and during the summer of 2015. MBP staff photographed the immediate Landing Zone and during the summer counted persons on the beach or in the water during specific landing events. The counts show the immediate Landing Zone area during the landing events was populated predominantly by guests and staff of the Makena Beach & Golf Resort (former Maui Prince Hotel). The photographs show light beach use in the area of the Landing Zone during both pre-summer and summer periods. It was expected that the summer period would have a higher use than the pre-summer period due to school summer vacation, but there seemed to less of an increase, at least not in the Landing

Zone itself. (See Appendix C). These photographs and counts seem consistent with the CORA report (See 2.6.1, below).

The portion of the Landing Zone typically used by MBP is closest to the public access and amenities of Lot 4 to the south. The access includes a 20 foot wide pedestrian walkway from the nearby cul-de-sac and parking area. The amenities include a restroom, outdoor showers and paved access to the shoreline. See Photographs (Appendix H). Due to these amenities, and the short walk from the parking area, beach goers tend to congregate on the south side of Maluaka Beach away from the Landing Zone. This degree of separation coupled with the short duration of Landings has minimized the risk of user conflict. As noted, Vessel passengers share use of Lot 5 and a narrow stretch of beach with hotel guests as they walk to and from the Landing Zone. MBP has not received reports of conflict with guests using the Landing Zone or the mauka stretch of beach lying between the wrack line and certified shoreline.

Respondents to the pre-consultation letters discussed the potential need for "carrying-capacity study" (Appendix E). Study of social impacts such as crowding might be appropriate if there were significant conflicts presently occurring at the Landing Zone. Evidence of such conflict is lacking. This is attributable to the amenities and convenient access to the north and south ends of Maluaka Beach provided by the owners of Lots 4 and 6, areas well away from the Landing Zone and the hotel activity center on Lot 5. Respondents voiced concern that other vessels might want to use the "non-exclusive" easement or Landing Zone sought by MBP. The speculative nature of this fear defies study.

As to crowding, a recent study used questionnaires to evaluate "crowding and encounters" at six coastal and marine areas on Oahu. (Needham, 2013). Respondents reported a "normative standard for the maximum use density they felt should be allowed at each site" to be 206 to 381 people per 500 yard by 200 yard section of beach. This is equivalent to 14 to 26 people on a beach and water area the same size as the proposed disposition of 62,500 square feet (250 feet X 250 feet). The beach count reported in Appendix C found only 1 or 3 people on occasion who were not hotel guests or staff, or MBP passengers or personnel. The implication of these figures is that current levels of public use do not pose a risk of significant adverse social impact in the form of crowding. As for any future increase in the number of vessels allowed to operate from Maluaka Beach, Needham's observation seems to apply, "It remains an issue for managers and researchers to specify clear objectives for a site and then collaborate to determine and monitor indicators and standards of quality that met these objections." (Needham, p.32.[3]

Needham also wrote about the importance of ocean recreation to a healthy economy noting "[m]arine areas attract more than 80% of the annual visitors to Hawai'i." (Needham, p.9).

[3] The study was supported by DLNR's Division of Aquatic Resources and the Hawaii Coral Reef Initiative Research Program.

2.6 **Land and related water use plans**. Following is a discussion of land and water use plans which are related to the proposed action.

2.6.1 **County of Maui.**

Kihei-Makena Community Plan (1998)
The proposed action is consonant with the Kihei–Makena Community which states:

> Kihei-Makena's shoreline resources require protection. They not only benefit Kihei-Makena's residents but also serve as an attraction for visitors and residents from other areas of Maui. (p. 16)

The above statement illustrates the intention of Maui County to offer use of shoreline resources to visitors as well as to residents.

> Permit recreational activities in the shoreline zone which respond to shoreline characteristics and principles of sound resource management. Activities which damage or deplete shoreline resources, or are incompatible with ecological systems, shall not be permitted. (p. 21)

Continued Landings do not damage or deplete shoreline resources and are compatible with ecological systems. They require a few minutes and are limited to walking a narrow path to and from the Vessel. Passengers have no difficulty avoiding other beachgoers.

Commercial Ocean Recreational Study (2006)
CORA is a comprehensive effort by Maui County to manage "…Commercial Ocean Recreation Activities…on County property, including both beach parks and beach access points." The purpose of CORA is to ensure County beach parks and other County property "…are utilized for the community's maximum recreational, environmental and economic benefit." (CORA, p. 1) MBP does not conduct ocean recreational activity in or on County property. Passengers assemble on Lot 5 at the hotel activity center. There they complete the form required by DLNR of visitors to Molokini and a 3" X 5" card which is handed to the Vessel crew on boarding. The card has the name of the passenger. The crew uses the card to keep track of passengers throughout the excursion such as when they return from snorkeling.

The CORA report notes that "…the primary beach park users during the week are mainly guests of the Maui Prince Resort and a few other tourists, while local residents were observed to utilize the beach park mainly during weekend and holidays." At the time there were five businesses which held CORA permits for Lot 4; subsequently the County suspended issuing CORA permits for this lot and nearby Makena Landing.

Maui Island Plan (2012)
The Plan includes adoption of a Directed Growth Plan and provides for Protection of Watersheds and Coastal Resources and includes Economic Diversification (including "niche tourism"). Makena (including the Landing Zone) is within the "Urban Growth Boundary Area" and is designated as a "Directed Growth" area. A focus of the Plan is diversification to reduce the reliance on tourism and to foster "sustainability". In this context, the proposed action, even though a tourism component, is also an educational tool which, by providing transport to marine resource areas, aids in education of visitors and residents to the value of these natural resources. The Disposition by allowing continued Landings will support a sustainable business.

Furthermore, the Disposition involves activity in a designated "Directed Growth" area, and is adjacent to a major hotel. As such, the proposed action accords with the Plan.

2.6.2 State of Hawai'i.

State Conservation Lands Plan – Technical Reference Document (November 1981)
The Disposition complies with objectives and policies established by the Department of Land and Natural Resources as part of the Hawaii State Plan:

> Relationship to Objectives and Policies of the State Plan - Ocean Habitat:
> 1. Planning for the State's economy be directed towards potential growth activities which increased and diversify Hawaii's economic base. Nature of relationship – Complementary (significant);
> 2. Prudent use of Hawaii's land-based, shoreline and marine resources. Nature of relationship – To be implemented (highly significant). (p. 11, Table A)

Hawaii State Plan
Tourism Functional Plan (1991)
The Hawaii State Plan originated in legislation in 1978 (Act 100, Ninth State Legislature) and it emphasized the importance of the State's economy and in particular, the visitor industry. Economic growth in the visitor industry was to be encouraged, but is was to be balanced by protection and preservation of natural, human and cultural resources. The State Plan required preparation of "Functional Plans" which were to detail objectives and specify implementation actions. In this context, the proposed action of MBP with its benefits of tax revenues, employment and education about the marine environment which is available both to visitors and residents appears to meet the specifications of the Hawaii State Plan and in particular the Tourism Functional Plan. This plan notes:

> - A major theme of the functional plans is the "…promotion of a balanced growth approach in the use of our limited resources." (p. 3)
> - Tourism is the primary engine driving the State's economic development (p. 6)
> - Optimum growth rate of tourism "….must be a rate which balances the economic, social and environmental objectives of the State. (p. 12)
> - "Ensure that visitor industry growth maximizes benefits to the residents of the State in general and revenues to State and County governments specifically" (p. 13)
> - "Ensure that the benefits of tourism development are spread evenly throughout the State, to the extent desired by the counties, by making special efforts to distribute growth to the neighbor islands." (p.17)
> - "Acquire beaches….Maui, Makena…" and "It must be noted that acquisition of these beaches will assist in addressing the problem of saturation of the capacity of beach parks and nearshore waters as a result of high volume of use by both residents and visitors." (p. 25)

Recreation Functional Plan (1991)
As part of the Hawaii State Plan, the Recreation Function Plan addressed concerns over potential user conflicts (between residents and the visitor industry) at popular beach and ocean areas. The Plan recommended acquisition of beach parks in crowded areas including Makena (P. 15, 16) and specifically recommended that the State, "Work with the appropriate government agencies, private landowners, business interests and communi-

ty organizations to implement and update the Statewide Ocean Recreation Management Plan" (P. 19, now known as HORMP, see following section). The risk of user conflict is minimal. Vessel passengers typically walk a more or less direct line across the Landing Zone going to and returning from the Vessel. While awaiting commencement of boarding, they may gather on the beach for a few minutes. But their doing so in an area fronting the beach activity center has not impaired beach use by others. The vast majority of beachgoers who are not hotel guests reach the beach from the north or south parking and walkways, and tend to congregate nearby.

Report to the Hawaii Department of Land and Natural Resources: Recommended Strategies for Addressing Ocean Recreation User Conflicts, Appendix 4, South Maui (Island of Maui) Focus Site Report (March 1, 2007)
This report does not mention any specific user conflicts or issues at Maluaka Beach. It notes that there is a designated mooring area offshore. The South Maui Focus group was composed of the following: State Government (Office of Hawaiian Affairs, DLNR (Office of the Chairperson, DAR, DOBOR, DOCARE, DOFAW, Division of State Parks); Maui County (Ocean Safety, Parks and Recreation); Non-profits (Ocean Tourism Coalition, Maui Hawaiian Civic Club, Maui Tomorrow, Maui Reef Fund, HWF, Project S.E.A.-Link, Kihei Community Assoc. (Parks Committee), Activities and Attractions Assoc.; Businesses (Kite School of Maui, Maui Dreams Dive Shop, Octopus Reef Dive Shop, Maui Thrills Eco Tours, Maui Hotel Assoc., Maui Beach Services, Kayak Association of Maui); Others (NOAA (Hawaiian Islands Humpback Whale NMS), Governor's Liaison for Maui, MACZAC, fishermen, concerned citizens)

Hawaii Ocean Resources Management Plan (1991, 2013). HORMP is concerned with marine wastes. The Vessel is subject to inspection by the U.S. Coast Guard and holds a Certificate of Inspection issued by the US Coast Guard. HORMP is also concerned about potential user conflicts at beaches especially between visitors, residents, or hotel guests. Based on CORA and the two week period of photographs and observations (see Appendix C), and the South Maui Focus Site Report, conflict between users or impediments to public access does not seem present at Maluaka Beach. The public access points differ from the access to the Landing Zone. As previously noted, responses to the pre-consultation letter asked about a "carrying-capacity study" for Maluaka Beach. Such study is beyond the scope of this EA. HORMP tasks DLNR with this activity.

> Action 8: Provide appropriate waste management infrastructure to support commercial and recreational marine facilities.
>
> Action 9: Strengthen and expand marine protected area management and conservation, develop ecosystem-based approaches for nearshore fisheries management, and establish and institutionalize approaches for restoration of ancient Hawaiian coastal fishponds and salt ponds. [*Note; DLNR is tasked with conducting "…carrying-capacity analyses for priority marine protected areas and identify limits of acceptable change with local stakeholder involvement."]*
>
> Strategy 2.5: Promote appropriate and responsible ocean recreation and tourism that provide culturally informed and environmentally sustainable uses for visitors and residents.
>
> (HORMP, 2013, Appendix B)

The Hawai'i 2050 Sustainability Plan notes that tourism generates a quarter of the state's tax revenue. The Sustainability Plan also notes that the State must provide incentives for industries to operate in more sustainable ways, recognizing that the visitor industry is a strong component of the state's economy.

2.6.3 **Federal.** There are no federal plans for this location and the proposed action does not require federal funds, lands or permits.

2.7 **Flora and Fauna**. Humpback whales, monk seals, green and hawksbill turtles are known to frequent these waters and Maluaka Beach is within the Critical Habitat designated by the National Marine Fisheries Service. Monk seals have not been observed resting on Maluaka Beach but on one occasion a seal was reported in the designated mooring area. Turtles, although they are occasionally observed in the bay and may feed in or near the Landing Zone, have not been known to use Maluaka Beach for nesting. Should these animals be present on the beach or nearshore, the Vessel has a set of best management practices it follows to avoid contact and to maintain required distances. Effects on Essential Fish Habitat are considered minor. Such effects could occur during the Vessel's propeller movements within the Landing Zone when propeller wash may create a small plume off the stern. No fish were observed at the Landing Zone during a biological survey. It is likely that fish would move away from the Vessel and its propeller wash. (See Appendix A)

2.8 **Coastal Setting and Beach Stability**. According to a report by the Coastal Geology Group, School of Ocean and Earth Science and Technology, University of Hawaii at Manoa (www.soesthawaii.edu/coasts), Maluaka Beach has experienced the highest erosion rates in the Kihei-Makena area with an average annual erosion hazard rate of -1.1 feet per year and the average beach width (the average horizontal distance from the vegetation line to the low water mark) at Maluaka Beach has decreased 31% between 1949 and 1997. The implication of this report is that Maluaka Beach appears to have experienced a decrease in its width during the last 48 years of record. Given long-term prognostications of sea level rise, further narrowing of this beach may occur. The Disposition will not cause geologic or climactic change.

2.9 **Water Quality**. Water quality within the Landing Zone is generally good in this area. "High count" alerts for bacteria are uncommon.

2.10 **Historical, archeological, traditional and cultural sites**. There are no listed sites at the Landing Zone. Historic, archeological, traditional and cultural sites may be found mauka of the shoreline. It is likely that fishing and boating took place in Makena Bay with canoes launched from Maluaka Beach during prehistoric times. Continued Landings are not expected to interfere with traditional or cultural practices such as fishing or gathering of marine life. (See Appendix B)

2.11 **Sensitive habitats or bodies of water adjacent to the proposed action**. The waters of Makena Bay are classified as "A" (embayment) by the State of Hawaii. Activities by motorized vessels in this area of Maui are common. Maluaka Beach is subject to classification as "sensitive" due to human uses and the potential for seals or turtles to be present.

2.12 **Flooding and Tsunami.** The Landing Zone is in a tsunami inundation zone, but not a flood (land origin) zone. No structure is proposed. Landings are suspended whenever unreasonable wind or sea conditions are present or forecast. The Vessel's mobility allows it to the threat of tsunami.

2.13 **Soils.** The proposed action site which is seaward of the wrack line consists of beach sand and some coral rubble.

2.14 **Drainage.** The proposed action has no effect on drainage because the site and the vessel are seaward of the shoreline, and not on the land.

2.15 **Traffic and Access**. MBP provides a shuttle service for passengers who book the daily four hour Deluxe Excursion, the seasonal whale watch trip or the sunset "champagne" cruise. MBP operates four, 11 passenger vans for this purpose. Passengers may board a shuttle van at the MBP retail store located at Wailea Gateway Plaza, or may be picked up at a south Maui hotel or condominium. Passengers are offloaded at the south cul-de-sac at the end of the public road off Makena Alanui Road (Figure 1, Appendix H). They then follow the walkway to the hotel beach activity center. There they join other passengers, including guests of the hotel, to receive instructions about the boarding process. After the briefing and delivering their foot ware to MBP staff, barefoot passengers walk the few paces to the beach (Figures 2 & 3, Appendix H).

Passengers may also travel to the grounds of the hotel by third-party shuttle van, taxi or private automobile. These passengers walk from the hotel entrance to the beach activity center. Passengers traveling by private automobile may park using the hotel's valet service. Passengers are discouraged from using the public parking areas adjacent to the north and south of the cul-de-sacs. The route passengers walk from the cul–de-sac to the Landing Zone is shown in Figure 6.

3 Major Impacts and Alternatives Considered

3.1 **Positive impacts**. The proposed action provides jobs, tax and commercial use fee revenues, contributes to the local economy, and adds to Maui's ocean activity venues.

3.2 **Negative impacts**. Continued Landings at Maluaka do not threaten significant negative impact. The Vessel is present during Landings for a few minutes no more than four times a day. Occupancy of state lands for this purpose typically does not exceed 90[4] minutes total during the busiest days. The success MBP has enjoyed for decades testifies to public acceptance of the Vessel and continued Landings. The Disposition will not result in any significant effect on listed, threatened or endangered species.

3.3 **Alternatives considered.** There is no alternative to a disposition that allows continued Landings. DLNR mooring and commercial use permits that MBP would require to operate elsewhere are unavailable and subject to lengthy waiting lists. Maui County stopped issuing CORA permits for Lot 4 and Makena Landing years ago.

3.3.1 **Alternative 1 - No-Action Alternative.** Operators of commercial vessels must hold a commercial use permit issued by DLNR-DOBOR[5]. The applicant for such permit must be in compliance with the applicable provisions of Hawaii Administrative Rules, Ocean Waters, Navigable Streams and Beaches, Sections 13-251-1 through 13-251- 20. These provisions in turn require the applicant to comply with all other applicable state law. DOBOR permits are generally subject to annual renewal. Failure to secure the Disposition could be deemed a violation of the 1988 CDUP and result in denial of renewal of MBP's current commercial use permit and revocation of the federal mooring permit. Without these permits MBP could not lawfully carry passengers for hire. The result would be a loss of 12 to 15 full-time and 2 to 4 part-time jobs for Maui residents, and the loss to the State of more than $200,000 in annual general excise taxes and commercial use fees, as well as the Hawai'i personal income tax paid by MBP's employees and owners.

3.3.2 **Alternative 2 – Grant the Disposition.** The Disposition will allow continuation of the business with its attendant beneficial effects. The effects on the physical environment are slight. There are no significant adverse effects on listed, threatened or endangered species and no significant conflicts with other users of the public beach and park. The effects on traffic are slight.

[4] Boarding (10 minutes) plus disembarking (10 minutes) equals 20 minutes per tour cycle. Maximum of 4 tour cycles per day equals 80 minutes (20 minutes per cycle X 4 cycles plus 10 minutes contingency = 90 minutes).

[5] DOBOR (Division of Boating and Ocean Recreation, Department of Land and Natural Resources).

Table 1 – Comparison of Alternatives					
Alternative	**Listed, threatened or endangered species**	**Jobs**	**Taxes**	**Beneficial Effects**	**Adverse Effects**
1. No Action	No significant effect	Lost jobs	Lost tax revenues and commercial use fees	None	Loss of jobs, taxes and fee, and loss of an attractive ocean activity and educational experience it provides
2. Continued non-exclusive use	No significant effect	Jobs remain	Tax revenue continues	Jobs, tax revenue, tourism component	None

3.3.3 **Preferred Alternative.** Alternative 2 is the preferred alternative. It has no significant adverse effects and continues to provide benefits in the form of local employment and tourism opportunities and tax revenues.

3.4 Impacts Relative to the CZM Objectives & Policies and the SMA Guidelines (Maui County). The following table displays the review guidelines in relation to the potential impacts of the proposed action (Table 4).

Table 2 -- Impacts Relative to Maui County CZM Goals and Objectives		
Resource Amenity	**Goals & Objectives**	**Impact of Proposed action**
Recreational Resources	Provides coastal recreation to the public and protects coastal resources uniquely suited for recreational activities that cannot be provided elsewhere	The proposed action does not impair or deter public recreation and there is no adverse effect on wildlife or habitat. There is no effect on beaches or reduction of public recreation areas. There are brief periods when passenger boarding takes place.
Historic Resources	Protects, preserves, and restores Hawaiian and American cultural or historical resources	There is no effect on cultural or historic resources. There are no archaeological sites impacted by the proposed action.
Marine Resources	Implements the State's Ocean Resources Management Plan (ORMP)	The proposed action is consonant with the ORMP
Scenic & Open Space Resources	Protects, preserves, restores, and improves the quality of coastal scenic and open spaces	There is no change to landforms or vegetation and the only effect on scenic values is the brief presence of the vessel in nearshore waters during boarding.

Table 2 -- Impacts Relative to Maui County CZM Goals and Objectives		
Resource Amenity	**Goals & Objectives**	**Impact of Proposed action**
Beach Protection & Accessibility	Conserves open space, minimizes beach loss due to erosion, preserves public beach access, and protects beaches for public use	Continued Landings will not hinder public access because the Landing Zone is away from the public access available at the north and south ends of the beach.
Coastal Ecosystems	Minimizes adverse impacts and protects coastal ecosystems	The proposed action does not include any construction or structural changes and consists of the short-term presence of a vessel seaward of the shoreline and the crossing of a public beach by passengers as they board.
Economic Uses	Provides for coastal dependent facilities and minimizes their negative impacts	Continued Landings provide a coastal dependent activity (not a constructed facility) with a presence of less than 90 minutes total throughout the day. Any negative impact on the beach and adjacent shore waters that may be attributed to the activity is insignificant.
Managing Development	Enhances & streamlines Permitting & decision-making Processes	The proposed action is a regulated activity and by this environmental assessment seeks to fulfill the permitting and decision-making processes.
Public Participation	Stimulates public awareness, education, and participation	MBP excursions provide education, awareness and participation involving the marine and coastal environment to residents and visitors alike.

3.5 **Impacts Relative to the Coastal Zone Management Objectives & Policies per Act 205A-2 (Table 3) and 205A (Table 5).** The following table displays the objectives and policies of the State's CZM program, and provides comments concerning the proposed action in relation to those objectives and policies.

Table 3 – Coastal Zone Management Objectives (205A-2)		
	Objective	**Comment**
1	Recreational resources; (A) Provide coastal recreational opportunities accessible to the public.	MBP provides ocean recreational opportunities via its ocean tours which are open to the public
2	Historic resources; (A) Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.	No historic or prehistoric features are impacted by the proposed action.

Table 3 – Coastal Zone Management Objectives (205A-2)		
3	Scenic and open space resources; (A) Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources	The Vessel's transient presence in the Landing Zone does not detract from scenic or open space resources given the hotel-resort context.
4	Coastal ecosystems; (A) Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.	MBP values these resources, and conducts the Vessel's operations to protect, preserve and display them to the public.
5	Economic uses; (A) Provide public or private facilities and improvements important to the State's economy in suitable locations.	The proposed action provides jobs, tax revenues, and is a valuable component of the State's visitor industry.
6	Coastal hazards; (A) Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.	The proposed action does not cause any of these hazards.
7	Managing development; (A) Improve the development review process, communication, and public participation in the management of coastal resources and hazards	Pre-consultation letters (Appendix E) were sent to individuals, groups and agencies to solicit their input in the drafting of this EA.
8	Public participation; (A) Stimulate public awareness, education, and participation in coastal management.	The pre-consultation process included correspondence with interested individuals and groups asking for comment.
9	Beach protection; (A) Protect beaches for public use and recreation	Although continued Landings involve limited occupancy of Maluaka Beach, public use and access to the shoreline is unhindered.
10	Marine resources; (A) Promote the protection, use, and development of marine and coastal resources to assure their sustainability.	The proposed action provides for educational tours which promote and enhance public knowledge of marine and coastal resources and which encourage sustainability.

Table 4 – Coastal Zone Management Policies (205A)		
	Policy	**Comment**
1	Recreational resources; (A) Improve coordination and funding of coastal recreational planning and management;	The proposed action contributes to coordination of coastal recreational planning and management by adding to opportunities for public education and access to offshore coastal natural resources.
1B	Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:	The proposed action contributes to coordination of coastal recreational planning and management by adding to opportunities for public education and access to offshore coastal natural resources.
i	Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;	Continued Landings at Maluaka provides a unique opportunity for visitors and residents of the Makena-Wailea area to participate in ocean activities aboard a modern large and stable catamaran. The nearest alternative access to such vessels is Maalaea Small Boat Harbor.

Table 4 – Coastal Zone Management Policies (205A)		
	Policy	**Comment**
ii	Requiring replacement of coastal resources having significant recreational value including, but not limited to surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the State for recreation when replacement is not feasible or desirable;	The proposed action does not damage, develop or displace valuable coastal resources. Fees are paid to the State for use of Maluaka Beach and the brief boarding activity.
iii	Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;	Continued Landings will not interfere or detract from public use or access to Maluaka Beach.
iv	Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;	Continued Landings will not interfere or detract from public use or access to Maluaka Beach.
v	Ensuring public recreational uses of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;	The proposed disposition contributes to this objective by contributing to the opportunities available to visitors and residents to visit offshore coastal resources and by meeting safety and conservation standards of the U. S. government.
vi	Adopting water quality standards and regulating point and nonpoint sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;	The proposed action contributes to the recreational value of coastal waters by providing opportunities for learning about offshore coastal resources for visitors and residents. The proposed action is not a source of pollution.
vii	Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing;	The proposed action does not involve new artificial recreational opportunities.
vii	Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, and county authorities; and crediting such dedication against the requirements of section 46-6;	This policy applies because continued Landings will not take away shoreline areas from public use, rather the Disposition will ensure continued opportunity on Maui for visitors and residents to experience coastal offshore natural resources; it will not hinder public use of Maluaka Beach.
2	Historic resources; (A) Identify and analyze significant archaeological resources;	The environmental assessment for the proposed action includes an archaeological report which identifies and analyzes the historic resources. No effects are anticipated.
	(B) Maximize information retention through preservation of remains and artifacts or salvage operations;	The proposed action has no effect on historic resources.
	(C) Support state goals for protection, restoration, interpretation, and display of historic resources	There are no historic resources present at the site of the proposed action.

Table 4 – Coastal Zone Management Policies (205A)		
	Policy	**Comment**
3	Scenic and open space resources; (A) Identify valued scenic resources in the coastal zone management area;	The proposed action does not include any structures or impediments to scenes or open space other than the brief presence of the vessel at Maluaka Beach.
	(B) Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;	The proposed action is not a "new" development, rather it would allow an existing activity to continue. MBP is not aware of complaints about the visual presence of the vessel.
	(C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources;	The proposed action does not include construction of any structures at the shoreline. The proposed action consists only of the brief presence of the vessel.
	(D) Encourage those developments that are not coastal dependent to locate in inland areas;	It is not possible to relocate inland activities occurring aboard the Vessel. Tour boat activities are marine dependent.
4	Coastal ecosystems; (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;	The proposed action has a minimal effect on coastal ecosystems and uses the existing storm drain system.
	(B) Improve the technical basis for natural resource management;	The proposed action follows rules and guidelines to avoid listed species and provides educational opportunities onboard for visitors and residents.
	(C) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;	The proposed action does not damage reefs. Rather it provides a learning experience for passengers to understand the reef ecosystem.
	(D) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs;	The proposed action is not land-based and has no effect on coastal ecosystems from stream diversions or other land-based activities.
	(E) Promote water quantity and quality planning and management practices that reflect the tolerance of fresh water and marine ecosystems and maintain and enhance water quality through the development and implementation of point and nonpoint source water pollution control measures;	The proposed action is not a source of pollution.
5	Economic uses; (A) Concentrate coastal dependent development in appropriate areas;	The proposed action is not a "development", rather it is a coastal dependent economic activity which provides benefits to the community in the form of employment and taxes.

Table 4 – Coastal Zone Management Policies (205A)		
	Policy	**Comment**
	(B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor industry facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area;	The proposed action has been in operation for nearly two decades, the boarding process requires only a few minutes, no damage is incurred to the beach. Beach use seems slight at the boarding location based on two weeks of data collection, probably because the activity takes place away from the designated public access points to the beach.
	(C) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:	The proposed action occurs adjacent to a major hotel resort and is compatible with that land use and in an appropriate context of Maui's tourism economic sector.
5C	(i) Use of presently designated locations is not feasible;	Use of the present location appears feasible and is a consistent and compatible with adjacent land uses.
	(ii) Adverse environmental effects are minimized;	The adverse environmental effects of the proposed action are minimal.
	(iii) The development is important to the State's economy	The proposed action is important to the State's economy via the provision of employment, taxes and a component of the visitor industry.
6	Coastal hazards; (A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;	The proposed action takes place for a few minutes in a coastal hazard (tsunami) area. The vessel can retreat from the shoreline in the event of a tsunami alert and it can choose to remain offshore during such an event.
	(B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint source pollution hazards;	The proposed action does not "add" development to this area, rather it continues a long-term activity.
	(C) Ensure that developments comply with requirements of the Federal Flood Insurance Program;	The proposed action is not bound by flood insurance requirements because it consists of vessel access at the shoreline.
	(D) Prevent coastal flooding from inland proposed actions;	The proposed action does not alter the flood plain at this location because the vessel is offshore.
7	Managing development; (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;	The proposed action does not involve development, but rather an existing activity.
	(B) Facilitate timely processing of applications for development permits and resolve overlapping or conflicting permit requirements;	The proposed action involves a term of a previously issued Conservation District Use Permit. The Disposition will establish a non-exclusive Landing Zone in areas subject to regulation by two DLNR divisions; comparable Landing Zones at Kaanapali Beach are subject to regulation by DOBOR alone.

Table 4 – Coastal Zone Management Policies (205A)		
	Policy	**Comment**
	(C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life cycle and in terms understandable to the public to facilitate public participation in the planning and review process;	The environmental assessment and permit process for the proposed action includes public information and review opportunities (pre-consultation correspondence, circulation of this draft EA, and formal review and approval of a final EA).
8	Public participation; (A) Promote public involvement in coastal zone management processes;	The environmental assessment and permit process for the proposed action includes public information and review opportunities (pre-consultation letters, draft EA review process).
	(B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal issues, developments, and government activities;	The environmental assessment and permit process for the proposed action includes public information and review opportunities (pre-consultation letters, draft EA review process).
	(C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts;	The environmental assessment and permit process for the proposed action includes public information and review opportunities (pre-consultation letters, draft EA review process).
9	Beach protection; (A) Locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion;	The proposed action does not involve structures and does not affect natural shoreline processes.
	(B) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities;	No such private erosion-protection structure is proposed as part of the proposed action.
	(C) Minimize the construction of public erosion-protection structures seaward of the shoreline;	No such private erosion-protection structure is proposed as part of the proposed action.
	(D) Prohibit private property owners from creating a public nuisance by inducing or cultivating the private property owner's vegetation in a beach transit corridor;	Does not apply.
	(E) Prohibit private property owners from creating a public nuisance by allowing the private property owner's unmaintained vegetation to interfere or encroach upon a beach transit corridor;	Does not apply.

Table 4 – Coastal Zone Management Policies (205A)		
	Policy	**Comment**
10	Marine resources; (A) Ensure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;	The proposed action makes beneficial use of marine and coastal resources through the operation of the Vessel in an environmentally sensitive manner, and by including education as a component of its excursions, and by promoting the educational efforts of the Hawaii Wildlife Fund.
	(B) Coordinate the management of marine and coastal resources and activities to improve effectiveness and efficiency;	The environmental assessment and permit process for the proposed action includes public review opportunities.
	(C) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;	In this situation, the interests of the State, as well as those of Maui County, including residents and visitors are promoted and benefit from the educational opportunities offered by the MBP tours.
	(D) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources;	The tours provided via the proposed action incorporate marine environmental education and foster respect for endangered species and corals.
	(E) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.	MBP via the proposed action encourages learning experiences which aid in exploring, using and protecting marine and coastal resources.

3.6 **Stormwater Impacts.**[6] The Office of State Planning has published guidance to assist reviewers of environmental assessments with regard to the primary, secondary and cumulative effects of a proposed action. The guidance evolved as a reaction to the environmental impact documentation accompanying State Land Use redistricting proposals for large developments such as subdivisions, malls, visitor facilities (hotels, golf courses) and other changes in land use from agriculture or conservation to urban.

There are no primary effects of the proposed action because the vessel is offshore and the Vessel itself captures very little rainfall due to its small surface area. The proposed disposition involves a Landing Zone of 1.43 acres seaward of the vegetation line. The Landing Zone consists of a sandy beach and ocean water. No structures, paving or physical modification to these surfaces is proposed.

Minor secondary effects may occur as the result of the use of existing paved roadways by vehicles transporting Vessel passengers. Such effects are typical of the use of roadways by vehicles generally.

[6] Office of State Planning, *Stormwater Impact Assessments*, May 2013.

Proposed Mitigation Measures

4.1 **Potential problems and appropriate mitigation including best management practices**. Continued Landings involve an inherent risk of contact with marine mammals, swimmers and other beachgoers. MBP has successfully mitigated such risks through adherence to Best Management Practices and compliance with federal marine mammal approach limits and the requirement of prudence in the operation of the Vessel.

4.2 **Best Management Practices (BMP)**. Best management practices are followed by the Captain and crew of the Vessel at all times. During approach and departures from the Landing Zone, crew are stationed to observe areas fore and aft of the Vessel to watch for humans as well as for monk seals and turtles. Vigilant lookout ensures compliance with the federal[7] "100 yard humpback whale approach" rule and the "50 yard monk seal approach" rule. MBP staff on the beach also maintain vigilant watch for swimmers or beachgoers in proximity to the Landing Zone so that Vessel crew may be warned of their presence. The Vessel will abort an approach whenever necessary to avoid swimmers and other beach users. Risk of collision is reduced further by limiting the speed of the Vessel to 5 knots while traversing the area between the permanent mooring buoy and Landing Zone. There is no evidence of the Vessel having contact with an ocean user. See Appendix A for additional details of BMPs related to the preservation and protection of endangered species.

[7] The Vessel's Certificate of Inspection requires adherence to the 100 yard and 50 yard separation minimums, and requires further, "[p]rudent course and/or speed alterations shall be made to minimize contact with marine mammals." See Appendix D.

5 Expected Determination

5.1 **Finding of No Significant Impact (FONSI)**. The Disposition and continued Landings will not have a significant effect on the environment and therefore preparation of an environmental impact statement is not required. This document constitutes Notice of Negative Declaration/Finding of No Significant Impact for the proposed action. This determination was based on review and analysis of the "Significance Criteria" in Section 11-200-12, Hawai'i Administrative Rules, as documented below.

5.2 **Findings and reasons supporting the determination including justifying evidence.**

5.2.1 *No irrevocable commitment to loss or destruction of any natural or cultural resource would result.* Continued Landings will not entail an irrevocable commitment, loss or destruction at the Landing Zone or elsewhere. Landings are few in number (never more than eight in a day) and short in duration (typically 7 to 10 minutes).

5.2.2 *The proposed action would not curtail the range of beneficial uses of the environment.* Continued Landings will not curtail other beneficial uses of Maluaka Beach generally or the Landing Zone specifically. Existing public access to the beach and adjoining shore waters will not be affected by the transient presence of the Vessel or its passengers.

5.2.3 *The proposed action would not conflict with the state's long-term environmental policies or goals and guidelines.* The State's environmental policies and guidelines as set forth in Chapter 344, Hawai'i Revised Statutes, "State Environmental Policy", encompass two broad policies: conservation of natural resources, and enhancement of the quality of life. Continued Landings will not degrade the quality of life as related to the public's enjoyment of Maluaka Beach. The Disposition may enhance conservation of natural resources through MBP educational initiatives which are designed to inform passengers about natural resources and listed, threatened or endangered species. In effect, tours on the boat are "nature" tours which serve to inform passengers of the importance of preserving and protecting natural resources and the quality of life on Maui.

5.2.4 *The proposed action will improve the economic and social welfare of the community and the state.* The proposed disposition will continue the benefits available to residents and visitors to Maui alike. By enhancing visitor experience, the general welfare of the state is improved. Tourism is a major component of the state's economy. Residents of Maui who are employed by MBP benefit directly through their employment. The State benefits through the collection of taxes and use fees.

5.2.5 *The proposed action would not substantially affect public health*. Continued Landings will have no effect on public health. The Vessel equipment and machinery meet federal standards. No Vessel crewmember or passenger may dispose of plastic, paper goods, rags, glass, metal, crockery, dunnage or food, or similar wastes from the Vessel. When generated during an excursion these waste materials are bagged and taken ashore by crew for disposal at the conclusion of the day's final excursion. The Vessel has Coast Guard approved holding tanks for waste water. Otherwise permissible discharge of dishwater or graywater does not occur within one mile of Makena Bay. Blackwater (water from toilets and urinals) may be discharged from time to time but only outside of the three mile limit as permitted by federal law.

5.2.6 *No substantial secondary impacts, such as population changes or effects on public facilities, are expected.* Continued Landings will not burden public facilities and is not expected to result in the issuance of additional commercial permits for Maluaka Beach. A potential competitor would be required first to obtain an offshore mooring permit from the U.S. Army Corps of Engineers. The effectiveness of that permit would be conditioned on the applicant obtaining a State commercial operating area use permit and mooring per-

mit. No law obligates DLNR to issue additional permits. Before issuing an additional permit DLNR would be required to investigate and set standards of quality (i.e., crowding). The permit applicant would be then required to demonstrate that Maluaka Beach could accommodate another passenger vessel in light of those standards. The applicant would be required also to present an engineered plan for the proposed mooring system that addresses the potential impact on benthic habitat. Only if those conditions were met could DLNR consider issuing a second commercial permit for the area. MBP deems that possibility to be remote.

5.2.7 *No substantial degradation of environmental quality is expected due to the proposed action.* The proposed disposition does not involve construction or alterations to the environment. Degradation of the environment does not occur now and is not likely to occur in the future.

5.2.8 *No cumulative effect on the environment or commitment to larger actions will be involved.* The proposed activity is not part of any other proposed action or larger action. MBP's permits are limited to one vessel. The burden of obtaining a second set of permit precludes consideration of expansion. Vessel Landings have been ongoing for nearly three decades without manifestations of adverse impact; MBP's business model is fixed. The effect of continued Landings is deemed insignificant and will not require commitment to any larger actions.

5.2.9 *No rare, threatened or endangered species or their habitats are affected.* No impacts are anticipated on any candidate, proposed or listed endangered species or their habitats. MBP follows best management practices including lookouts and slow speeds in the Landing Zone and areas where the Vessel may encounter turtles, seals or whales. Green sea turtles frequent the area but the Vessel has been successful avoiding them through BMPs and adherence to the requirements of the Vessel's Certificate of Inspection. Monk seals have not been observed on Maluaka Beach nor have turtle nests. In the unlikely event of the presence on the beach of a monk seal or turtle nesting, MBP does not expect difficulty controlling passengers and avoiding disturbance.

5.2.10 *The proposed action will not detrimentally affect air or water quality or ambient noise levels.* Continued Landings will not detrimentally affect ambient air, water quality or noise levels. It is an ongoing activity which meets applicable standards.

5.2.11 *The proposed action will not detrimentally affect environmentally sensitive areas such as flood plains, tsunami zones, beaches, erosion-prone areas, geologically hazardous lands, estuaries, fresh waters or coastal waters.* Continued Landings will not detrimentally affect Maluaka Beach or nearby coastal waters. The engines are cooled by centrifugal fresh water pump and rubber impeller seawater pump. Exhaust gas and seawater pumped through a heat exchanger (a "wet" exhaust system) are discharged through ports on each hull positioned above the water line on the inboard side of each hull. This heated water quickly dissipates and does not affect water quality. As noted each engine drives a four blade propeller located just forward of the transom. The rotation of the propeller disturbs the substrate material resulting in a transient plume. The plume quickly dissipates and is easily avoided by marine life without lasting effect.

5.2.12 *The proposed action will improve scenic vistas and view planes identified in county or state plans or studies.* The proposed activity may not improve, nor may it detract from scenic vistas or view planes.

5.2.13 *There will be no requirement for substantial energy consumption.* Continued Landings will not result in an increase in consumption of diesel fuel. The close proximity of the Landing Zone to Molokini Islet affords MBP a fuel consumption advantage over the many similar vessels that must travel from Maalaea Small Boat Harbor at higher speeds resulting in increased fuel consumption. If the requested Disposition is denied, passengers who might prefer to travel with MBP would be forced to depart from Maalaea resulting in increased fleet fuel consumption.

6 Identification of Agencies, Organizations and Individuals Consulted and Permits or Approvals Required

The following narrative summarizes the coordination with elected officials, individuals, agencies, groups based on their responses to pre-consultation letters. Not all recipients of those letters responded (see list in Appendix F). Copies of letters from those who commented on the pre-environmental assessment communication are in Appendix F. Following is a summary of the "pre-EA" comments and responses. Please note that the comments and responses are abbreviated from the actual letters. Also provided is a discussion of the permit required for this proposed action to proceed.

6.1 State of Hawai'i

6.1.1 Office of Planning.

Comment: The DEA should discuss the proposed action in the context of the Hawaii State Plan.

Response: The DEA includes this.

Comment: The DEA should include an assessment as to how the proposed action conforms to the State's Coastal Zone Policies.

Response: The DEA includes this.

Comment: The DEA should include assessment as to how the proposed action conforms to CZM objective and policies.

Response: The DEA includes such discussions.

Comment: The DEA should include a list of permits required.

Response: The DEA includes a permit list.

6.1.2 Department of Health, Environmental Planning Office.

Comment: Suggest use of the Hawaii Health Portal.

Response: The Portal was used in preparation of the DEA.

Comment: Suggest review of the revised Water Quality Standards Maps.

Response: The Maps were consulted during preparation of the DEA.

6.1.4 Department of Land and Natural Resources (DLNR): Office of Conservation and Coastal Lands.

Comment: Conservation District rules do not provide for regulating landings. Beach landings fall under Land or DOBOR's purview. Makena Boat Partners has Board authorization for moorings and non-exclusive use of public beach for loading/offloading.

Response: Thank you for your comment.

6.1.5 Department of Land and Natural Resources (DLNR): State Historic Preservation Division.

Comment: There is no record of human skeletal remains at the boarding spot. The ship does not reach the land and passengers wade out to the ship to a retractable ladder that does not reach the surface.

Response: Thank you for your comments.

6.1.6 Department of Land and Natural Resources (DLNR): Division of Aquatic Resources.

Comment: Maluaka is a heavily used public beach, the vessel poses a safety hazard, and may displace the public.

Response: The Maui County CORA report does not characterize this as a heavily used beach. Our two weeks of photographs of the immediate area on the beach fronting the landing show light use as well. Five businesses which held beach CORA permits no longer hold permits. Please provide data you have to show the heavy use, safety hazards or "displacement".

Comment: A biological assessment appears to have been hastily prepared. An assessment of the potential impact to listed species is needed.

Response: The suggested assessment has been added to the DEA.

Comment: Approval of the proposed action may lead to unlimited amount of other operators accessing this beach.

Response: MBP disagrees, numerous regulatory permissions and business arrangements are required for the proposed action.

6.1.7 Department of Land and Natural Resources (DLNR): Land Division, Maui District Land Office.

Comment: A non-exclusive "easement" is contemplated, how many other operators could operate of the same disposed area?

Response: This is a hypothetical question requiring assumptions about vessels, modes of operation, economic conditions, regulatory model which is beyond the scope of the proposed disposition.

Comment: What are the specifics of the landing operation in terms of duration and number of passengers?

Response: MBP limits the number of passengers to 70 although the vessel is approved for 88. The boarding process requires approximately 7 to 10 minutes.

Comment: What are unsafe conditions and how are they dealt with?

Response: Unsafe conditions could include the presence of a marine mammal or human individuals, or adverse wind and sea conditions. If marine mammals or humans are present, the vessel will stand off until the Landing Zone clears. If adverse weather pertains, MBP may disembark passengers at Maalaea Harbor.

Comment: How do staff advise public beach users of an upcoming landing?

Response: MBP avoids landing in an area where hotel guests and other members of the public may be present. The slowly approaching vessel and crew members on shore provide notice of an impending arrival.

Comment: What is the use of the "emergency mooring"?

Response: MBP discontinued use of the non-exclusive emergency mooring referenced in the CDUP years ago. MBP has accessed Makena Landing when passengers required emergency medical treatment because that location offers ready access of EMT vehicles to the shoreline. This is a private mooring, and such use is permitted under the DOBOR permit.

6.1.8 Department of Transportation, Harbors Division.

Comment: The proposed action is not within the Harbors Division jurisdiction and it does not affect commercial operations.

Response: Thank you for your comments.

6.2 Maui County

6.2.1 Planning Department.

Comment: A Special Management Area permit for the loading activity is not required. Please assess other activities related to boarding such as transport and use of the beach park.

Response: The DEA includes a discussion of other potential effects.

6.3 Elected Officials. No comments received.

6.4 Business Organizations.

6.4.1 *Maui News*.

The Maui News published an article about the proposed DEA for public information purposes.

Response: None required.

6.5 Federal.

6.5.1 U.S. Fish and Wildlife Service (USFWS).

Comment: There are 3 listed species (hawksbill turtle, Hawaiian monk seal and green sea turtle) which may be swimming, basking, or nesting in the area. The environmental assessment should address possible impacts to these species and best management practices (BMP) to avoid and minimize impacts. Please contact us if you wish to discuss BMPs.

Response: MBP takes its responsibilities for protection of listed species very seriously and has for years carried out a set of BMPs. This EA includes an appendix prepared by AECOS which discusses listed species and contacts with USFWS to discuss BMPs.

Comment: The National Marine Fisheries Service (NMFS) has responsibilities for listed species as well, please consult with them.

Response: AECOS has consulted with NMFS.

6.5.2 U.S. Army Corps of Engineers.

Comment: The Corps does not require a permit for the proposed action.

Response: Thank you for your comment.

6.6 **Organizations, Individuals and Groups**

6.6.1 Hawaii Wildlife Fund.

Comment: Makena Boat Partners work with naturalists and provide opportunities for education not only for passengers but also for interns. The captain and crew are careful during approaches to the Landing Zone. The company has high regard for the marine environment and should be allowed to continue their operations.

Response: Thank you for your comments.

6.6.2 Hui Alanaui o Makena & Dana Naone Hall, from Isaac Davis Hall, attorney.

Comment: An EIS may be required. What fast lands are involved?

Response: An EA is prepared when there do not appear to be obvious significant effects. The purpose of the EA is to identify significant effects if there are any. The use of the words “fast lands” was an error, the proposed action does not include fast lands.

Comment: The proposed action may include portions of a sandy beach.

Response: The requested disposition is for an area seaward of the shoreline. Passengers do cross the public beach to board.

Comment: Please provide copies of relevant permits.

Response: Relevant permits are included in an appendix to the EA.

Comment: What permits does MBP have and do they cover all its activities? Is Maluaka Beach within an ocean recreation management area (ORMA)?

Response: Copies of the permits are in the appendix of the DEA and they cover all its activities. Mooring is permitted by federal and state agencies now, and is not the subject of this EA. Maluaka Beach is in the South Maui ORMA administered by the Division of Boating and Ocean Recreation which has issued a permit to MBP for its operation.

Comment: Maluaka Beach is well-used, the proposed action might formalize conflicts between visitors and residents and MBP passengers. A capacity study should be done in the EA.

Response: The beach has public entrances at the South and North ends, the MBP entrance is located between these two. Conflicts were not reported at this location in 2007 per a report commissioned by the State Office of Planning, or in Maui County’s CORA report. The capacity of a beach is not the subject of this EA.

Comment: Explain “non-exclusive” use, right to moor, “non-exclusivity” of the proposed boarding area.

Response: MBP’s right to moor the Vessel is secured by the Land Board approval in 1988 of the mooring permit issued by the U.S. Army Corps of Engineers. DLNR has issued a mooring permit for the Vessel every year since assuming responsibility for the small boat program in the early 1990’s. MBP does not have or require exclusivity in conducting landings. It has safely shared use of the beach with others for several decades and does not anticipate difficulty doing so in the future. Note that the present environmental assessment not discusses the frequency of landings to be as many as four per day. The 2014 schedule is attached (Appendix I).

6.6.3 Patricia Stillwell.

Comment: I support the proposed action. There is little or no impact from this use.

Response: Thank you for your comments.

6.6.4 Bill & Sylvia Sales.

Comment: The Kai Kanai II boarding is a crime, have they paid the $650,000 to $700,000 fine for destroying coral reefs?

Response: The incident to which you refer involved temporary mooring of another vessel in 2007. MBP and the State fully settled their differences regarding it through payment of a lesser sum without any admission or fault on the part of MBP.

6.6.5 Phillip Schultz.

Comment: Why is an EA required? MBP has operated this vessel at Maluaka for several decades would not problems have emerged by now? There is no environmental impact over what any other beach users have had or will have on the state land sand beach.

Response: Thank you for your comment.

6.7 Environmental Permits and Approvals

This environmental assessment supports a disposition of state lands that will enable MBP to continue vessel landings at Maluaka Beach.

Table 5 – Environmental Permits and Approvals

Agency	Permit	Action
Department of Land and Natural Resources	Easement	Agency approval of the appropriate disposition.

References

County of Maui, *Kihei-Makena Community Plan*, 1998

Commercial Ocean Recreational Study (CORA), August 2006.

Maui Island Plan, December 28, 2012.

Parcel maps, online.

Hawaii Revised Statutes, Chapter 205A, *Coastal Zone Management Act.*

Makena Boat Partners, website, http://www.kaikanani.com/

Needham, Mark D., *Encounters, Norms, and Crowding at Six Coastal and Marine Areas in Hawai'i,* Tourism in Marine Environments, Vol. 9, No. 1–2, pp. 19–34, 2013.

State of Hawaii, Department of Land and Natural Resources*, State Conservation Lands Plan – Technical Reference Document – The Hawaii State Plan*, November 1981.

Recommended Strategies for Addressing Ocean Recreation User Conflicts, Appendix 4, South Maui (Island of Maui) Focus Site Report (2007)

State of Hawaii, Department of Planning and Economic Development (now Department of Business, Economic Development and Tourism - Office of State Planning), *The Hawaii State Plan,* 1978.

Tourism Functional Plan, 1991.

Recreation Functional Plan, 1991.

Hawaii Ocean Resources Management Plan, 1991, 2013

State of Hawaii, Office of State Planning (OSP), Geographic Information System Data Online.

Appendices

A. Biological Report
B. Archaeological and Cultural Report
C. Beach Activity
D. Regulatory Approvals & Letters
E. Correspondence
F. Request for State Lands (Form LD-01)
G. Pre-trip Briefing (MBP to Passengers)
H. Photographs: Passenger Route to Vessel from MBP Transport
I. MBP 2014 Vessel Schedule

APPENDIX A
Biological Report

Biological Evaluation and Essential Fish Habitat Assessment, Maluaka Beach, Mākena, Maui

Prepared for:
Makena Boat Partners

Prepared by:
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October 24. 2015

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1.0 Background/History

1.1 Purpose

Makena Boat Partners (MBP) owns and operates the 65 foot catamaran *Kai Kanani II* (the "Vessel") under permits issued by the Department of Land and Natural Resources. Passengers and crew board and disembark the Vessel from Maluaka Beach. They access the Vessel by walking from the beach into shallow water and board using a retractable ladder. The process is repeated on the Vessel's return as seen in the cover photo. Landing or disembarking requires no more than 10 minutes; the Vessel remains afloat and under power throughout. These cycles, or "Landings," may be repeated up to four times a day. This combined Biological Evaluation (BE) and Essential Fish Habitat addresses the impact of continued Landings on Endangered Species Act (ESA) listed species and designated critical habitats. This use of the shoreline has the potential to impact the following endangered species: green sea turtle (*Chelonia mydas*), hawksbill turtle (*Eretmochelys imbricata*), Hawaiian monk seal (*Monachus schauinslandii*), and humpback whale (*Megaptera novaeangliae*), and their habitats. In March 2014, a marine biological survey of the Landing zone was conducted (included as Attachment A; *AECOS*, 2014). This combined BE and EFHA provides supplemental information to the 2014 report.

1.2 Early coordination and preconsultation

Early coordination and preconsultation with the National Oceanographic and Atmospheric Administration, National Marine Fisheries Service (NOAA-NMFS) and U. S. Fish and Wildlife Service (USFWS) was conducted through a series of email/mail communications and a response letter from USFWS (July 30, 2015).

This BE/EFHA addresses the proposed action in compliance with Section 7(c) of the ESA of 1973, as amended, for species under the jurisdiction of the NMFS. Section 7 of the ESA assures that, through consultation with NMFS and the USFWS, federal actions do not jeopardize the continued existence of any threatened, endangered, or proposed for listing species, or result in the destruction or adverse modifications to critical habitat. MBP has submitted an Application for Use of State Lands through which it seeks authorization in the form of a non-exclusive easement to continue Vessel Landings at Maluaka Beach. Approval of that application will be referred to herein as the "Disposition." The area affected by the Disposition is depicted in Figure 1-1, referred to as the "Landing Zone." The Disposition is not a federal action, but this BE/EFHA addresses whether approval will jeopardize ESA species or critical habitat.

2.0 Description of the Action

2.1 Description

MBP moors the Vessel at offshore Maluaka Beach, pursuant to a permit issued by the U.S. Army Corps of Engineers in the 1980s. Since assuming jurisdiction over the state boating program in the early 1990s, the Department of Land and Natural Resources, through the Division of Boating and Ocean Recreation, has issued MBP permits to operate its Vessel for commercial purposes.

Passengers access the Vessel by wading through shallow (approximately or 3 ft or 1 m deep) water. Upon reaching the Vessel, they board by means of a retractable ladder positioned between the two hulls of the Vessel. Passengers are assisted by crewmembers standing on submerged land at the foot of the ladder. This cycle repeats on the return of the Vessel. The first excursion boards at 6:30 am and returns to the shoreline two hours later. The second trip of the day departs at 9:00 am and return at 1:00 pm. MBP also offers an afternoon whale watch or other short duration excursions during winter months. Operations conclude with provisioning and trash removal immediately following the last excursion of the day. Figure 1-1 presents the Vessel Landing zone and Landing area and general features of Maluaka Beach.

2.2 Potential impacts

Potential impacts to ESA-listed species associated with the Vessel Landing zone include:

- physical injury from Vessel contact ;
- behavioral changes in response to the presence of Vessel
- behavioral changes in response to presence of passengers and crew;
- physical and behavioral changes in response to elevated turbidity;
- effects of exposure to wastes and discharges;
- compromise of monk seal critical habitat

2.3 Best Management Practices (BMPs)

MBP adheres to the NOAA Fisheries Hawai'i Viewing Guidelines: For Boat Operators[1] and Hawaiian Islands Humpback Whale National Marine Sanctuary Guidelines for Whale Protection and Human Safety[2]. The Vessel also follows the requirements of the United States Coast Guard Certificate of Inspection that

[1] http://www.nmfs.noaa.gov/pr/education/hawaii/boat.htm)
[2] http://hawaiihumpbackwhale.noaa.gov/explore/whale_guidelines.html

"…the vessel remain at least 100 yards from humpback whales, and at least 50 yards from other marine mammals. Prudent course and/or speed alterations shall be made to minimize contact with marine mammals."

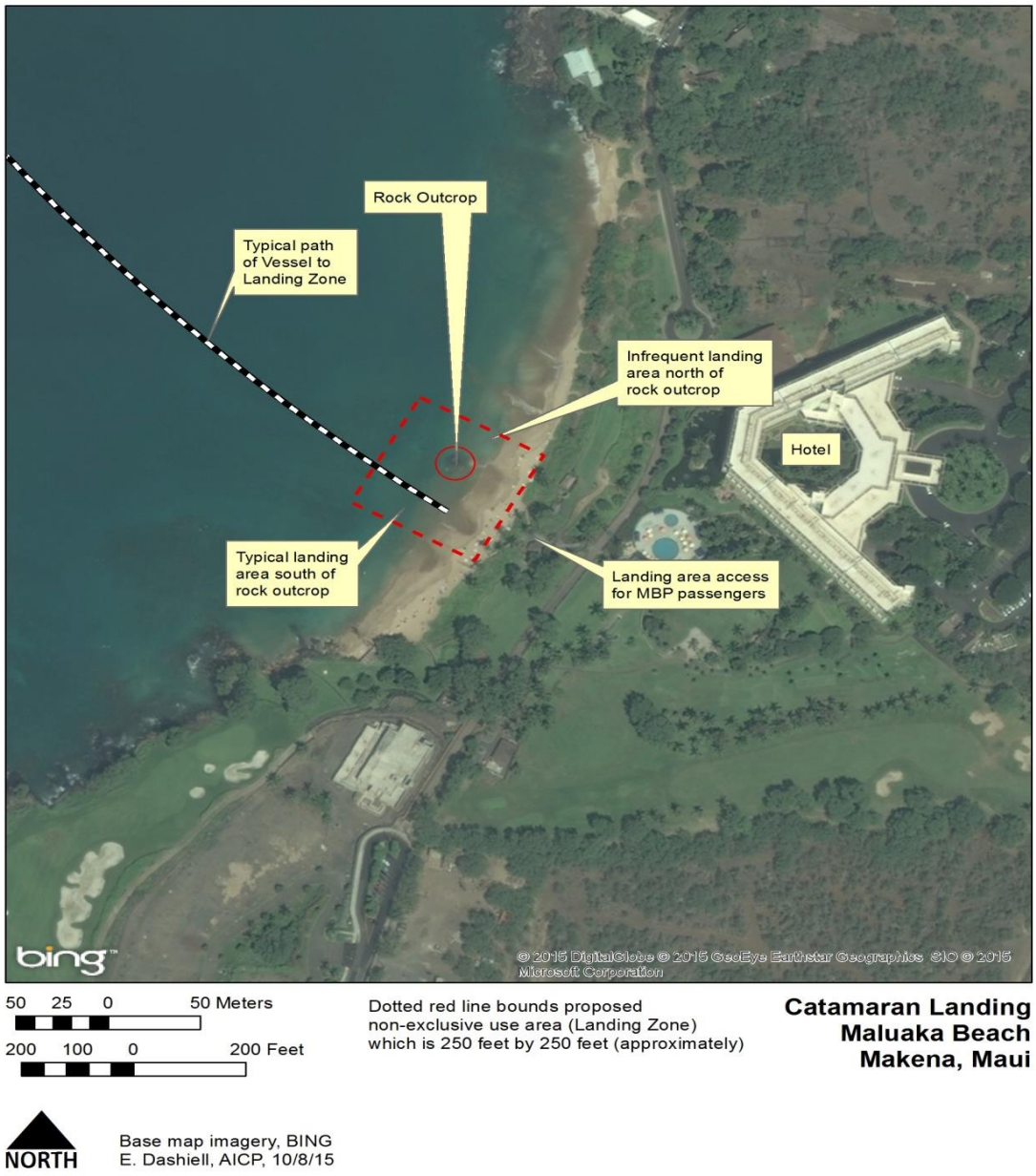

Figure 1-1. Catamaran Landing zone and Maluaka Beach features.

Because daily excursions may include a visit to Molokini Islet, every Vessel passenger is required to review and sign the Molokini Shoal Marine Life Conservation District Use Permit Pre-Trip Briefing and Acknowledgment Form required by DLNR[3]. The briefing form includes standards of conduct applicable to passenger use of Maluaka Beach to board or disembark the Vessel.

These measures are enhanced by the following Best Management Practices (BMPs):

- All excursions include on-board naturalist who educates the passengers in wildlife viewing protocols;
- A designated lookout is maintained on the bow to watch for turtles (or other marine species and humans) when approaching or leaving the loading area;
- Passengers are instructed to keep a 10-ft (3-m) distance from all marine species when in the water and a 15-ft (4.5-m) distance from all marine species when on land (basking turtles).
- Vessel speed does not exceed 5 knots in the loading zone (see Fig. 1-1).

3.0 Listed Species and Critical Habitat in the Landing Zone

The following ESA-listed marine species may occur within the action area and may be affected by the Landings:

- Green sea turtle or *honu* (*Chelonia mydas*) – threatened
- Hawksbill sea turtle or *honu* (*Eretmochelys imbricata*) – endangered
- Hawaiian monk seal (*Monachus schauinslandi*) – endangered
- Humpback whale or *koholā* (*Megaptera novaeangliae*) – endangered
- Hawaiian monk seal (*M. schauinslandi*) critical habitat

3.1 Green Sea Turtle

Although rare, the green sea turtle was observed in the water at the Vessel Landing vicinity in the 2014 survey (*AECOS*, 2014). Green turtles are known to "graze" around the rock obstruction (see Fig. 1 of uses at beach area). Additionally, green sea turtle basking sites at Makena Landing and Mokuha have been recorded (NOAA-NMFS, 2010). Over the course of 10 years, an estimated 6 basking green sea turtles have been observed on Maluaka Beach, approximately 50 m (164 ft) from the Vessel Landing area (H. Bernard, pers. comm., 2015). Postrecruitment juvenile and adult green turtles sheltering and foraging in and near Maluaka beach are the life stages most likely to be affected

[3] http://dlnr.hawaii.gov/dar/files/2014/05/Pre-trip.pdf

by the Vessel Landing. Although the number of green sea turtles around the MHI appears to be increasing, and resident juveniles and adults are considered ubiquitous in local waters, data are insufficient to estimate their density within the Vessel Landing area.

Green sea turtles are distributed across the Pacific, Indian, and Atlantic oceans as well as in the Mediterranean Sea. All green turtle populations are listed as threatened under the ESA in 1978, except for the breeding populations in Florida and on the Pacific Coast of Mexico, which are listed as endangered (USFWS, 1978, 2001). On February 16, 2012, NMFS and the USFWS received a petition from the Association of Hawaiian Civic Clubs to identify the Hawaiian green turtle population as a distinct population segment (DPS) and delist the Hawai'i DPS under the ESA, as amended (ESA; 16 U.S.C. 1531 et seq.). In March, 2015, NOAA-NMFS published a proposed rule to reclassify the green sea turtle into 11 DPS, and continue protection of the Hawai'i DPS as a threatened species under the ESA (NOAA & USFWS, 2015a). The public comment period for this proposal ended September 25, 2015 (NOAA & USFWS, 2015b).

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Following hatching at their natal beaches, green turtle hatchlings spend several years of early development in the pelagic zone followed by recruitment to coastal areas where postrecruitment juveniles and adults forage and mature in shallow coastal waters, feeding primarily on algae and seagrasses. While in nearshore waters, the majority of sea turtles spend their time at depths less than 16 ft (5 m) below the surface (Schofield et al., 2010; Hazel et al., 2009). When on foraging grounds, postrecruitment green turtles are often referred to as residents. Most green turtles show strong long-term site fidelity (over years) to preferred nearshore foraging and sheltering habitats, often until the habitat can no longer support their increasing size (Balazs and Chaloupka, 2004; Balazs et al., 1987, 1998; Chaloupka and Limpus, 2001; Godley et al., 2003; Grant et al., 1997; Seminoff et al., 2003). Upon reaching sexual maturity, adult green sea turtles typically undertake long migrations between their resident foraging grounds and their natal nesting areas, where they mate and females nest. Nesting females are referred to as "nesters," which distinguishes them from "resident" turtles that regularly forage in an area. Males making mating migrations do not haul out on a beach as the females do and are nearly impossible to distinguish from resident males.

Unlike most other green turtle populations, greens that forage within the Hawaiian Archipelago nest exclusively within the Hawaiian Archipelago, with over 90% of the nesting occurring at French Frigate Shoals (FFS) in the Northwestern Hawaiian Islands (NWHI). Adults migrate more than 621 miles (1,000 km) between foraging areas in the Main Hawaiian Islands (MHI) and the

FFS nesting area (Balazs et al., 1994). Long-term monitoring and tagging studies show that green turtles in Hawai'i reside with a strong degree of island fidelity (Balazs, 1976, 1980, 1983; Dutton et al., 2008). No green sea turtle nesting activity has been documented at the Vessel Landing zone (NOAA-NMFS, 2010).

The major global threats to the species are alteration of nesting and foraging habitat, fishing bycatch, and direct harvest. Climate change also appears to be a growing threat to this species. Destruction and alteration of green turtle nesting and foraging habitats is occurring throughout the species' global range, especially by coastal development, beach armoring, beachfront lighting, vehicular/pedestrian traffic, invasive species, and pollution from discharges and runoff. Coastal development increases artificial lighting, which may disorient emerging hatchlings, causing them to crawl inland towards lights instead of seaward. Coastal development improves beach access for humans, resulting in more vehicular and foot traffic on beaches, causing compaction of nests and reducing emergence success. Adult green turtles forage in shallow nearshore areas and coral reefs. Contamination from effluent discharges and runoff has degraded these habitats, and invasive species may reduce native algae species preferred by green turtles or could exacerbate susceptibility to, or development of disease (NMFS & USFWS, 2007a; Guimaraes dos Santos et al., 2010). Fibropapillomatosis, a disease characterized by the presence of internal and/or external tumors that may grow large enough to hamper swimming, vision, feeding, and potential escape from predators continues to be a major threat to green sea turtles. Extremely high incidence has been reported in Hawai'i, where affliction rates peaked at 47-69% in some foraging areas (Murakawa et al., 2000).

3.2 Hawksbill Sea Turtle

Hawksbill sea turtles are much less common than green sea turtles. Hawksbill turtles are distributed across the Pacific, Indian, and Atlantic oceans. All hawksbill turtles were listed as endangered under the ESA in 1978. The global population has declined by more than 80% over the last 30 years. Hawksbill turtles face many of the same threats affecting green sea turtles. In addition, there remains a commercial market for hawksbill shell products, despite protections afforded this species under U.S. law and international conventions (NMFS and USFWS, 2007b).

Similar to green turtles, hawksbills hatch at natal beaches, and spend several years of early development in the oceanic zone. At about 14 in (35 cm) carapace length, juveniles recruit to coastal waters where postrecruitment

juveniles and adults forage and mature, feeding primarily on sponges, but also on other benthic invertebrates, coral, and algae. Hawksbill turtles in Hawai‘i have been documented feeding on a variety of prey, including octopus, various algal species, fire worms, black sponges, fish roe, and urchins (King, 2011). Upon reaching sexual maturity, adult hawksbills typically undertake long migrations between their resident foraging grounds and their natal nesting areas, where they mate and females nest. Males also make mating migrations, but because they do not crawl out on the beach as the females do, males are nearly impossible to distinguish from resident males.

As with green turtles, hawksbill forage grounds and natal nesting areas are frequently located in different island groups, and residents at a given island group may originate from multiple natal nesting areas (NMFS & USFWS, 2007b). However, tagging studies suggest that hawksbills nesting in Hawai‘i remain within the MHI. Genetic samples collected and analyzed suggest that Hawai‘i’s hawksbill sea turtles may be genetically and geographically distinct from other populations in the Pacific (Dutton and Leroux, 2008). Parker et al. (2009) report that the tracks of nine postnesting tagged females have all remained within the MHI, further supporting the possibility that Hawai‘i’s hawksbill sea turtles may be a discrete central Pacific population.

Nearly all hawksbill nesting and foraging in Hawai‘i occurs in the MHI, although the full extent of hawksbill nesting in Hawai‘i is undetermined. Females nest in a variety of habitats including black and white sand beaches, small pocket coves covered in cobbles or rugged lava, and up in beach vegetation. Since monitoring began in 1989, hawksbill nesting activity has been confirmed at 22 sites in the MHI; 13 on the Island of Hawai‘i, 8 on Maui, and 1 on Moloka‘i. There also may be occasional nesting on the windward coast of O‘ahu. Over 90% of the documented hawksbill nesting activity in Hawai‘i occurs along the Ka‘ū Coast of the Island of Hawai‘i. Regular nesting also occurs on Maui and Moloka‘i. According to satellite tracking, the Hamakua Coast of the Island of Hawai‘i appears to be an important foraging area for hawksbill sea turtles.

Hawksbill nesting activities were first documented on Maui in 1991 at Kealia (King, 2015). No nesting activity has been documented at Maluaka Beach (King, 2015). Hawksbill turtle nesting has been documented southwest of the Vessel Landing area, at Little Beach (approximately 4,500 ft or 1372 m from the Vessel Landing area) and Oneloa (approximately 5,000 ft or 1524 m from the Vessel Landing area; King, 2015). Post-recruitment juvenile and adult hawksbills sheltering and foraging in and near Maluaka beach are the life stages most likely to be affected by the continued Landings. Data are insufficient to estimate hawksbill density in Hawaiian waters and within the Vessel Landing zone.

As with green turtles, destruction and alteration of habitat, as well as direct harvest are considered the major threats to hawksbills. Climate change also appears to be a growing threat. Destruction and alteration of hawksbill nesting and foraging habitats is occurring throughout the species' global range, especially through coastal development, beach armoring, beachfront lighting, vehicular/pedestrian traffic, invasive species, and pollution from discharges and runoff. The adverse impacts of these threats described for green sea turtles are the same for hawksbill sea turtles (NMFS & USFWS, 2007b). Although hawksbills interact with some fisheries, the bycatch rates are much lower than for the other sea turtle species. Harvest of hawksbill shells and eggs continues to be a major threat. Due to the beauty of their shells, hawksbill adults may be harvested more heavily than other sea turtle species. Despite protections under CITES, the "tortoise shell" trade continues in many areas. As with other sea turtle species, egg harvest continues unabated in parts of the Pacific, including Southeast Asia, Melanesia, and Polynesia (NMFS & USFWS, 2007b).

3.3 Hawaiian Monk Seal

Hawaiian monk seals consist of a single population that is distributed throughout the Hawaiian Archipelago and Johnston Atoll (NMFS-NOAA, 2011a). They are found primarily in the NWHI, but sightings are becoming increasingly common in the MHI, and births have been documented on most of the major islands (NMFS, 2007). Hawaiian monk seals were listed as endangered under the ESA in 1976. The Hawaiian monk seal population has been in decline for more than 20 years. The 2007 recovery plan estimated the population at about 1,200 individuals, and stated that there is concern for the long term maintenance of genetic diversity (NMFS, 2007). The recovery plan further reported the annual rate of decline at 3.9%. In 2008, the population was estimated at 1,161 seals, with minimum population estimates of 913 seals in the NWHI and 113 seals in the MHI (NMFS, 2009).

Hawaiian monk seals spend the majority of their time in the ocean, and may remain at sea for several consecutive days or more. They utilize the marine aquatic environment to forage, socialize, mate, rest, and travel. They can travel hundreds of miles in a few days (Littnan et al., 2006) and can dive to depths of more than 1,600 feet (500 m; Parrish et al., 2002). They also rely on terrestrial habitats to rest, avoid predators, molt, give birth (pup), and nurse young. Unlike many other pinnipeds that often haul out in large groups, Hawaiian monk seals are considered solitary, both on land and in the water, most often hauling out singly or in small groups. Their life span in the wild is about 30 years. Adults can reach a length of 7.5 feet (2.3 m) and weigh up to 600 pounds (273 kg), with males typically smaller than females (NMFS, 2007). Adult monk seals undergo

annual catastrophic molts, where the entire pelage layer (skin and hair) is shed. They stay ashore for 10 to 14 days during molting. The first molt occurs for pups at about the same time as weaning.

Hawaiian monk seals mate at sea, and gestation lasts about 11 months. Females give birth on land, bearing single pups, most commonly between February and August, but pupping has been documented during all times of the year. Pups are able to swim at birth, but normally stay on land for the first few days. Mothers stay in close proximity to their pups during nursing, which occurs on land. Mothers and pups gradually begin swimming together in protected shallows, and mothers are protective of their young. Mother-pup pairs spend increasing amounts of time swimming and venturing farther from shore as weaning approaches. After about 6 weeks, mothers leave their pups and return to the sea to forage. Pups typically spend several more weeks near the nursing area before they venture out into deeper forage areas. Weaned pups live off their fat stores while they learn to forage for themselves, during which time they experience considerable weight loss. Juveniles in the NWHI are typically 2 years old before they regain their post-weaning weight (Johanos et al., 1994).

Hawaiian monk seals consume a wide range of prey species, including small eels, wrasses, cephalopods, and other benthic species that are usually less than 8 inches (20 cm) long. They forage at depths up to 1640 ft (500 m), but a large portion of their effort is spent in bank and slope habitats between 164 and 984 ft (50 and 300 m). Preferred forage habitat appears to be low relief substrates such as sand and talus areas where prey are afforded limited shelter once flushed (Parrish and Littnan, 2007). Juveniles appear to feed in shallow atoll lagoons at 30 to 100 ft (10 to 30 m), as well as on sandy deep reef slopes between 160 and 325 ft (50 to 100 m). Juveniles are capable of similar dive depths as adults, but seem to lack the strength and experience to successfully engage in the large talus forage behaviors of adults (Parrish et al., 2005).

The main sites for reproduction are in the NWHI, where the population is declining at an annual rate of 4.5% (NMFS, 2009). The current population decline in the NWHI seems to be driven by food limitation and other sources of mortality that disproportionately impact the survivorship of juvenile seals. This in turn affects recruitment to the breeding age classes, and is expected to result in NWHI declines for at least the next decade (Baker et al., 2010). Sightings confirm at least occasional monk seal presence in the MHI since 1900, and a small naturally occurring population has been confirmed in the MHI since the mid-1990s. Since then, documented sightings and annual births continue to rise as the MHI portion of the population increases (Baker and Johanos, 2004). Based on systematic surveys or sightings of uniquely identified individuals, the

estimated seal population within the MHI was 45 in 2000, 77 in 2005, and 113 in 2008 (NMFS, 2007, 2009), suggesting an annual increase of about 5.6%. Unpublished NMFS data for 2011, estimates the MHI population at about 150 monk seals.

Recent tagging studies have shown individuals sometimes travel between breeding populations in the NWHI, between islands in the MHI, and on rare occasions, between the NWHI and the MHI (NMFS, 2009; Littnan et al., 2006). However, since regular tagging was started in the 1980s, only 5 seals have been documented to migrate to the MHI from the NWHI (Baker et al., 2010). This supports the understanding that increases in the MHI population is mostly the result of increased births and dispersal of individuals from under-documented areas, such as Niʻihau (Baker and Johanos, 2004). In general, monk seals in the MHI are in better physical condition than those in the NWHI; with earlier years of first birth and higher birth rates (Baker et al., 2010), more robust pups (Baker and Johanos, 2004; Baker et al., 2006), and a higher estimated rate of survival from weaning to age 1 (77% in the MHI vs. 42-57% in the NWHI; Baker et al., 2010).

No specific information is available to quantify the number of monk seals in the Vessel Landing area. The majority of Hawaiian monk seal sighting information collected in the main Hawaiian Islands is reported by the general public and is highly biased by location and reporting effort. The only truly systematic monk seal count data available are from aerial surveys conducted by the Pacific Islands Fisheries Science Center (PIFSC) in 2000-2001 and 2008.

Aerial surveys of all the main Hawaiian Islands were conducted in 2000, 2001 and in 2008 (Baker and Johanos 20042, PIFSC unpublished data). One complete survey of Maui was conducted for each of these years. No Hawaiian monk seals were sighted in the area from Makena Landing to Makena State Beach during these three aerial surveys (PIFSC, 2015).

Reports by the general public, which are non-systematic and not representative of overall seal use of main Hawaiian Island shorelines, have been collected in the main Hawaiian Islands since the early 1980s. For the purposes of this report, a sighting is defined as a calendar day during which an individual seal is documented as present at a specific location. There have been 145 reported sightings of monk seals between Makena Landing and Big Beach at Makena State Park from 2005 to 2014, with 6 reported sightings at Maluaka Beach (Table 3-1). Of these sightings, 39 reports can be attributed to 9 uniquely identifiable seals (Table 3-2). No monk seal births have been documented in the area from Makena Landing to Makena State Park.

Table 3-1. Number of reported Hawaiian monk seal sightings from Makena Landing to Big Beach, Makena State Park on the island of Maui (2005 to 2014).

Location	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Big Beach, Makena State Park	1	7	9	5	3	2	4	3	4	7	**45**
Little Beach, Makena State Park	0	8	9	4	1	0	1	0	0	2	**25**
Makena Landing	0	0	3	3	3	3	8	8	2	20	**50**
Maluaka Beach Park	0	0	0	0	0	0	3	1	0	2	**6**
Oneuli Beach	0	0	0	0	0	0	12	0	0	1	**13**
Puuolai	0	0	1	0	0	0	0	0	0	5	**6**
Total	**1**	**15**	**22**	**12**	**7**	**5**	**28**	**12**	**6**	**37**	**145**

Table 3-2. Number of reported Hawaiian monk seal sightings from Makena Landing to Big Beach, Makena State Park on the island of Maui (2005 to 2014).

Seal ID	Size	Sex	Sightings
R304	Adult	Male	2
R305	Adult	Female	6
R308	Adult	Female	2
RA20	Immature	Female	2
RH44	Adult	Female	13
RK66	Immature	Male	1
RW34	Adult	Female	11
RV16	Adult	Female	1
T990	Adult	Male	1
Total			**39**

Food limitation plays a primary role in the failure of sufficient numbers of pups in the NWHI to survive and recruit into the reproductive age classes. Monk seals also have one of the highest rates of entanglement Derelict fishing gear, such as nets, lines, straps, and rings are the material most commonly involved with monk seal entanglement, but many other sources of marine debris also

cause entanglement. Proportionally, newly weaned pups are the age class most commonly observed entangled (NMFS, 2007). Injuries and scars of past shark attacks have been observed on seals of all age classes, and occasionally, active predation has been observed directly. Most of the attacks have been attributed to tiger sharks. In recent years, there has been a marked increase in the observed targeting of preweaned pups by Galapagos sharks at French Frigate Shoals (FFS). This may be a "learned behavior", and appears to be limited to FFS (NMFS, 2007). Pup mortality peaked between 1997 and 1999, at 18 to 28 probable annual mortalities.

Disease effects on Hawaiian monk seal demographic trends are uncertain, and no infectious disease epidemics have yet been documented. However, there is concern that monk seals may be vulnerable to infectious diseases for which they may have no natural resistance. Diseases of most concern include leptospirosis, toxoplasmosis, and West Nile virus, all of which may be spread by domestic and feral animals, and by humans (NMFS, 2007).

Loss of terrestrial habitat is another concern. Many of the islands, atolls, and sand bars used by monk seals are low-lying and vulnerable to erosion. Recent loss of Whaleskate Island ("Islet") in FFS reduced available parturition sites, dramatically increasing the density of mother-pup pairs at Trig Island ("Islet"). Environmental factors such as storms and sea level rise could further exacerbate this problem (NMFS, 2007). Most of the MHI beaches that would be used by monk seals are now used to some degree by humans for recreational purposes. Additionally, many coastal areas are being developed or are under consideration for development. Although a small number of monk seals have successfully pupped at popular MHI beaches, Hawaiian monk seals tend to avoid areas where human disturbance occurs regularly. This could limit available preferred habitat for monk seals in the MHI, and displace them to less optimal areas (NMFS, 2007).

Monk seals are injured and killed as the result of direct interactions with fisheries, predominantly in the MHI. Between 1982 and 2006, 48 hookings, 5 gillnet entanglements, 1 entanglement with a lobster pot, and 1 bait stealing were recorded in the Hawaiian archipelago. Thirty-eight hookings and all 5 gillnet entanglements occurred in the MHI; since the creation of the Papahānaumokuākea Marine National Monument in 2006, virtually all commercial and recreational fishing has been eliminated in the NWHI. A response system is in place to respond to hooked and entangled seals in the MHI. However, injury and mortality due to hooking and net entanglement continues to occur in the MHI (NMFS, 2007).

Male aggression has caused the injury and death of adult females and pups of both sexes in the NWHI. Multiple-male-aggression or "mobbing" is thought to result from the imbalance in the adult sex ratio, where males outnumber females. The attacks involve a number of males repeatedly attempting to mount and mate with a single seal (an adult female or a juvenile of either sex), often resulting in the death of the assaulted animal. Attacks by single adult males range from normal adult male pinniped harassment of younger animals to aberrant levels of focused aggression directed toward weaned pups, and have resulted in several mortalities, most notably at FFS (NMFS, 2007).

Human interactions have ranged from unintentional disturbances at haul-out sites, to the deliberate injuring and killing of Hawaiian monk seals. As mentioned above, monk seals are prone to abandon or avoid preferred haul-out or pupping areas if sufficiently disturbed (NMFS, 2007). In the MHI, unintentional disturbance is increasingly common due to co-occurrence at beaches used as haul-out or pupping habitat, and numerous malicious interactions including shootings have been documented and continue. Vessel strikes of monk seals are uncommon, but have also been documented in the MHI. Biotoxin-induced mortality has not been confirmed in monk seals, and is considered a less serious threat. However, both ciguatoxin and maitotoxin have been detected in the tissues of dead monk seals (NMFS, 2007).

3.4 Humpback Whale

Humpback whales are distributed in all ocean basins of the world. All humpback whales were listed as endangered under the ESA in 1970. Humpback whales in the North Pacific migrate seasonally between warmer, tropical or sub-tropical waters in winter months (where they socialize, give birth, and mate) and cooler, temperate or sub-Arctic waters in summer months (where they feed on small crustaceans and small fish). In their summer foraging areas and winter calving areas, humpback whales tend to occupy shallow, coastal waters; during their seasonal migrations, humpback whales disperse widely in deep, pelagic waters. Breeding areas in the North Pacific Ocean include regions offshore of mainland Central America, Baja California, and Mexico; Hawai'i; and Asia. About half of the humpback whales in the North Pacific Ocean breed and calve in the U.S. territorial waters off Hawai'i, and more than half feed in U.S. territorial waters (NMFS, 2011a). In the North Pacific Ocean, population structure is complex with mixing between feeding grounds and breeding grounds.

Stock structure of humpback whales is defined based on feeding areas, and at least three stocks make up the north Pacific population(s). These stocks are: 1) the California, Oregon, Washington, and Mexico stock, consisting of

winter/spring populations in coastal Central America and Mexico which migrate to California and British Columbia; 2) the central North Pacific (CNP) stock that migrates between the Hawaiian Islands and northern British Columbia/Southeast Alaska, Gulf of Alaska, and the Bering Sea/Aleutian Islands; and 3) the western North Pacific stock, consisting of winter/spring populations off Asia which migrate primarily to Russia and the Bering Sea/Aleutian Islands (NMFS, 2011b). The annual growth rate for the North Pacific population over the last several decades is estimated at 4.9 to 6.8 percent, depending on which area and time frame are considered (Calambokidis et al., 2008). In 2010, the North Pacific population was estimated at about 21,000 individuals, with 7,500 to 10,100 humpback whales in the central North Pacific stock (NMFS, 2011a).
In Hawai‘i, humpback whales have been sighted as early in the season as October and as late as June, with most mating and calving occurring from December to April. They are generally found in water less than 600 ft (182 m) deep, and cow-calf pairs appear to prefer even shallower water. The waters of Maluaka beach are within the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS, 2012). However, due to the shallow water depths present at the Landing zone and nearby areas, the occurrence of humpback whales at the Landing zone is highly unlikely.

Current threats include fishing interactions, ship strikes, tourism, noise, and potentially the effects of anthropogenic climate change. Humpback whales are likely hooked or entangled by fishing gear throughout their global range, but data are scarce outside the U.S., especially in the Pacific. Reports of entangled humpback whales found swimming, floating, or stranded with fishing gear attached have increased in recent years in both Alaskan and Hawaiian waters. A total of 95 entanglement reports were confirmed in Hawai‘i from 2002 to 2011. Thirty-eight confirmed reports occurred during the 2008-2009 and 2009-2010 field seasons alone (Lyman, 2011). Many of the entangled whales that are reported in Hawaiian waters most likely brought the gear with them from higher latitude feeding grounds.

While the whales are not typically at risk from drowning or immediate death, they are at increased risk of starvation, infection, physical trauma from the gear, and ship strikes as a result of entanglement. Available evidence from entangled humpback whales indicates that many are able to extricate themselves from the gear. A study of the CNP humpback whale stock in southeast Alaska estimated that about 71% showed evidence of past entanglement that was survived, which exceeds the number of reported disentanglements (Neilson et al., 2009). However, from 2003 through 2007, a total of 17 confirmed serious injuries and mortalities (16 in Alaska, 1 in Hawai‘i) resulted from interactions between commercial fishing operations and the CNP stock, resulting in an annual average

take of 3.6 animals. Nine whales were observed entangled in Hawaiian waters with injuries that could be serious. The gear entangling these whales did not originate in Hawaiian waters, so some of these whales may be included among the entangled humpback whales seen and documented in Alaska. Based on this information it is estimated that there were 5.6 commercial fishery-caused mortalities or serious injuries of CNP humpback whales per year over the period 2003-2007 (NMFS, 2010). Interactions with humpback whales in the Hawai'i-based shallow-set fishery accounted for 0.2 of the 5.6 mortalities during that time period (NMFS, 2011b).

Many humpback whales are killed by ship strikes throughout the world, including along both coasts of the U.S. On the Pacific coast, one humpback whale is killed about every other year by ship strikes. Worldwide records of Vessel collisions and stranding information indicate that humpback whales are one of the species more commonly struck by ships (Jensen and Silber, 2003; Laist et al., 2001). Humpback whales, especially calves and juveniles, are highly vulnerable to ship strikes and other interactions with non-fishing Vessels. Younger whales tend to be closer to shore, spend more time at the surface, and are less visible than adults, thereby making them more susceptible to collisions. Humpback whale distribution overlaps significantly with the transit routes of large commercial Vessels in Alaskan waters. Records of Vessel collisions with large whales in Alaska indicate that strikes have involved cruise ships, recreational cruisers, whale watching catamarans, fishing Vessels, and skiffs. Vessel lengths associated with these records ranged from approximately 20 ft (6 m) to over 250 ft (76 m), indicating that all types and sizes of watercraft pose a threat of collision for whales. Between 2001 and 2005, reports of Vessel collisions with humpback whales indicate an average of five whales struck per year in Alaska, whereas in Hawai'i three to four Vessel collisions with humpback whales were reported per year for 2001 through 2006. Reported Vessel collisions with humpback whales in Hawai'i between 2007 and 2011 increased to an average of 6.8 whales struck annually. During the 2009 humpback whale season in Hawai'i, 13 ship-strikes with humpbacks were reported; ten of these reports were confirmed (Lyman, 2011).

Several other threats affect humpback whales throughout their range. For example, the CNP stock is the focus of a large whale watching industry in both Hawai'i and Alaska. The growth of the whale watching industry is a concern because harassment may occur, preferred habitats may be abandoned, and fitness or survivability may be compromised if disturbance levels become too high. Also humpback whales seem to respond to moving sound sources, such as whale-watching Vessels, fishing Vessels, recreational Vessels, and low-flying aircraft. Their responses to noise are variable and have been correlated with

the size and behavior of the whales when the noise occurs. Anthropogenic sound has increased in all oceans over the last 50 years and it is thought to have doubled each decade in some areas of the ocean over the last 30 years. Low-frequency sound comprises a significant portion of this and stems from a variety of sources including shipping, hydrographic research, naval activities, and oil and gas exploration (NMFS, 2006; NMFS, 2008; NMFS, 2011a).

3.5 Critical Habitat

Critical habitat for Hawaiian monk seals has been designated (NOAA-NMFS, 2015c). Hawaiian monk seal critical habitat includes the seafloor and marine habitat to 10 m above the seafloor from the 200 m depth contour through the shoreline and extending into terrestrial habitat 5 m inland from the shoreline between identified boundary points. These boundary points define preferred pupping areas and significant haul-out areas. Maluaka Beach falls within boundary points MA101 to MA102: South of Kihei Boat Ramp through ʻAhihi Bay; 20°42′27″ N to 20°37′39″ N (NOAA-NMFS, 2015c), and is therefore designated monk seal critical habitat.

4.0 Environmental Baseline Conditions

The coastline from Wailea to Makena is part of the dry lower slopes of East Maui Mountain, and one of the driest in the Hawaiian Islands (Giambelluca et al, 2013). There are no perennial streams, although episodic flooding can occur during infrequent heavy rains. In Wailea and Makena, the sheltering of the coastal waters afforded by West Maui Mountain ends, and the shore faces the open ocean. Maluaka Beach faces west and is situated a half mile north of Puʻu Ōlaʻi cinder cone. The beach is a quarter mile long and composed of medium and coarse grain sand of both remnant limestone reef and volcanic origin. This brown sand beach is bordered to the north and south by lava rock shorelines.

In March, 2014, a marine biological survey was conducted (*AECOS*, 2014). During the survey, *AECOS* biologists were able to observe the Vessel approach the shoreline and land to offload passengers, motor offshore for a few minutes while the crew prepared the Vessel for another voyage, approach and land to board passengers, and finally motor offshore towards the islet of Molokini. Figures 4-1 and 4-2 depict the survey area along with published benthic habitat and benthic biotic coverage at Maluaka Beach (NOS, 2007).

The Vessel Landing zone comprises sand substratum and a rock feature. The sand appears to be highly migratory and no macroinvertebrates were present in

the Landing area during the March 11, 2014 survey. The area is exposed to swell and surge and these factors create ripple features in the sand bottom. The only invertebrate observed near the Landing zone in the 2014 survey was a ghost crab (*Ocypode pallidula; AECOS*, 2014). A rock feature (see Fig.1-1), not present on NOS benthic habitat maps (Figures 4-1 and 4-2), is colonized by algae and a few invertebrates. The rocks attract several species of fishes but are not colonized by any hard corals. The closest coral colonies to the Landing zone are located on limestone outcrop located approximately 130 ft (40 m) offshore from the Landing zone.

A group of small rocks (See Fig. 1-1) approximately 33 ft (10 m) wide is located a few meters seaward of the shoreline near the center (north to south, alongshore) of the beach. The rocks are located in the tidal and sub-tidal zones and are colonized by red algae (primarily *Pterocladiella capillacea*) and purple shingle urchin (*Colobocentrotus atratus*). Schools of *ʻāholehole* (*Kuhlia sandvicensis*), *kūpīpī* (*Abudefduf sordidus*), *manini* (*Acanthurus triostegus*) and a few other surgeonfish congregate over the boulder field. The rocks are not colonized by any hard corals.

Further offshore, near the seaward terminus of the sand bottom, mollusks inhabit the sand. A few auger shells are present, including *Hasutla inconstans* and *Triplostephanus elliscrossi,* and a spitelful cone (*Conus livdius*) was spotted on the sand adjacent to a limestone platform that begins 130 ft (40 m) from the shore.

The limestone outcrop is intermittent, with sand channels extending seaward in several locations. The reef is host to several species of hard coral. Lobe coral (*Porites lobata*), finger coral (*Porites compressa*), and mound coral (*Porites evermanni*) colonies are most common with massive colonies greater than 160 cm (>5 ft). Cauliflower coral (*Pocillopora meadrina*) and sandpaper rice coral (*Montipora patula*) are sighted regularly, the latter forming spreading crusts on the limestone bedrock or over dead massive *Porites* spp. skeletons. As is typical in Hawaiian waters, cauliflower corals on the reef comprise an assemblage of symbionts among the coral branches: common coral guard crab (*Trapezia intermedia*), arc-eye hawkfish (*Paracirrhites arcatus*), and Hawaiian orbicular velvetfish (*Caracanthus typicus*). Herbivorous collector urchins (*Tripneustes gratilla*) are seen in small numbers on the reef, despite the area appearing nearly devoid of macroalgae during the survey.

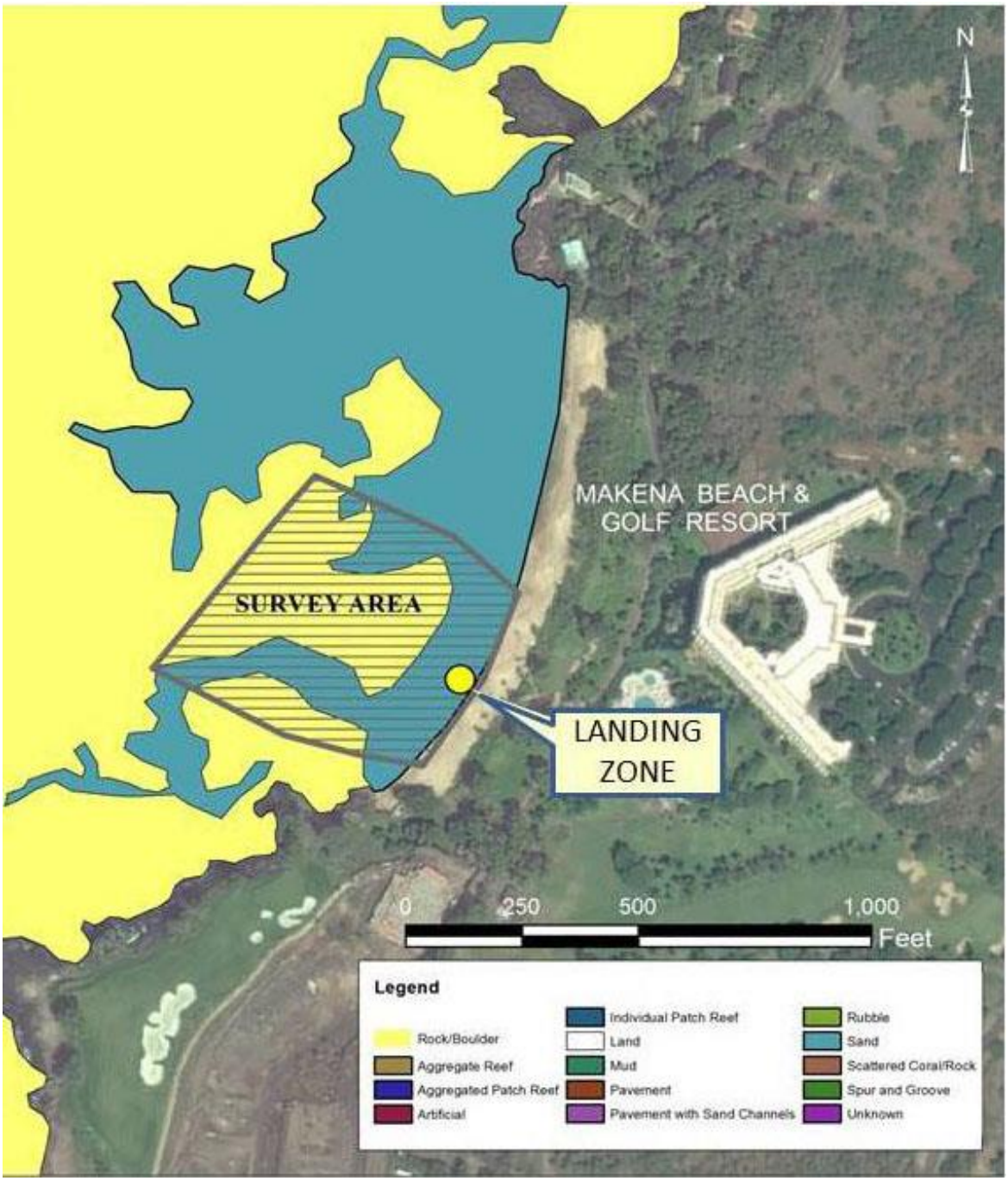

Figure 4-1. The locations of the Landing zone and survey area with reported benthic habitat type (NOS, 2007) at Maluaka Beach.

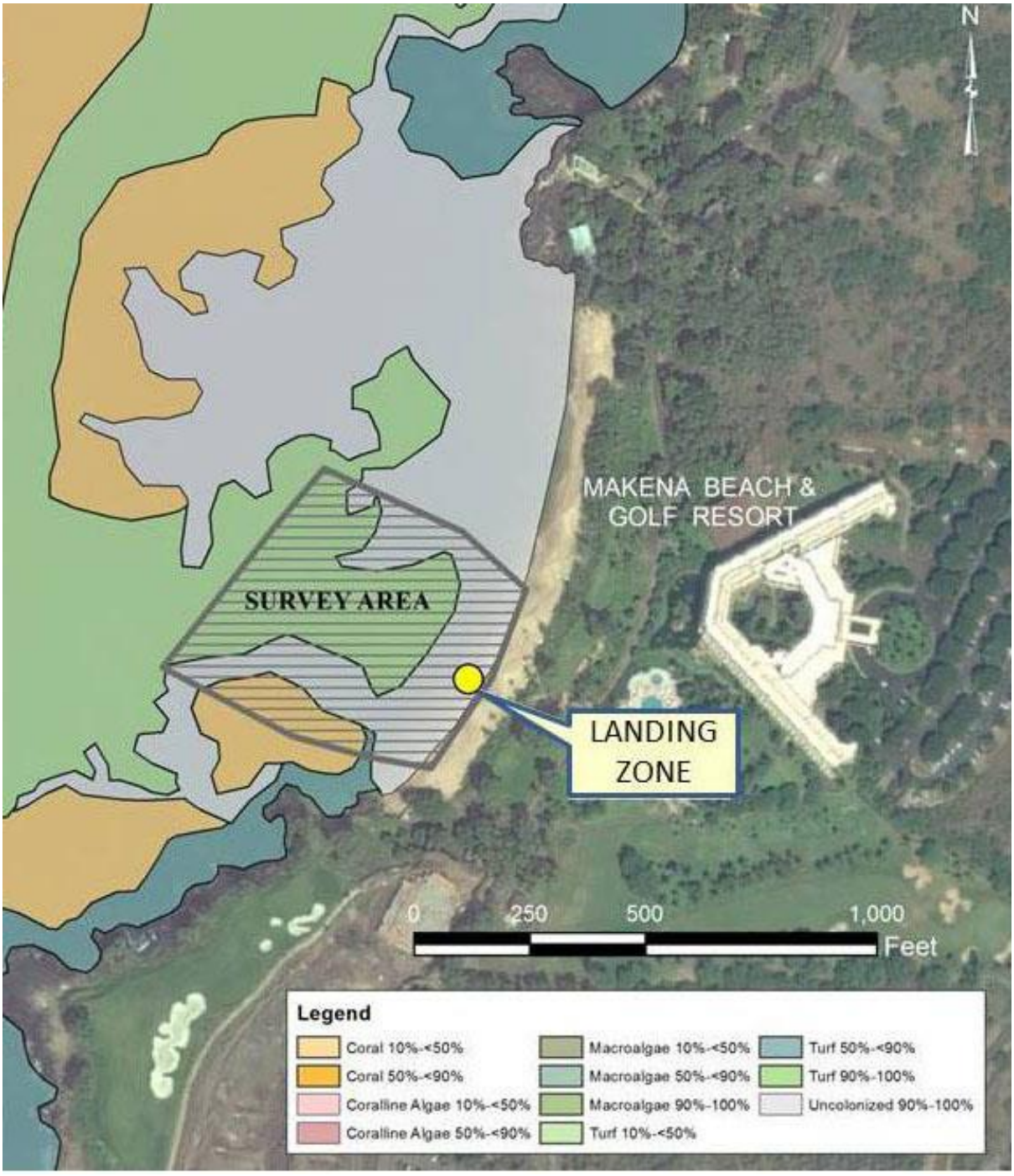

Figure 4-2. The locations of the Landing zone and survey area with reported benthic biotic cover type (NOS, 2007) at Maluaka Beach.

A large sand channel extends seaward from the shore near the south end of Maluaka Beach. The channel is inhabited by a small white auger (unid. Terebridae) and yellow-stripe goatfish (*Mulloidicthys flavolineatus*) forage for polychaetes and small crustaceans in the sand. South of the channel, an extensive limestone bottom is present. This substratum is not interrupted by sand channels, and corals cover nearly the entire bottom on the seaward half of the reef. The landward half of the reef is home to large numbers of sea urchins, including red pencil urchins (*Heterocentrotus mammilatus*), banded urchins (*Echinothrix calamaris*), and collector urchins. A typical assemblage of reef fishes inhabit the offshore area of this reef, with yellow stripe goatfish, saddle wrasse (*Thalassoma duperrey)*, blackfin chromis (*Chromis vanderbilti*), and brown surgeonfish (*Acanthurus nigrofuscus*) most common.

5.0 Essential Fish Habitat Assessment

The 1996 Sustainable Fishery Act amendments to the Magnuson-Stevens Fishery Conservation and Management Act and subsequent Essential Fish Habitat (EFH) Regulatory Guidelines (NOAA, 2002) describe provisions to identify and protect habitats of federally-managed marine and anadromous fish species. Under the various provisions, federal agencies that fund, permit, or undertake activities that may adversely affect EFH are required to consult with the National Marine Fisheries Service (NMFS).

Congress defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." EFH is further defined by the existing regulations (MSFCMA, 1996; NOAA, 2002). "Waters" include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; "substrate" includes sediment, hard bottom, structures underlying the waters, and associated biological communities; "necessary" is defined as required to support a sustainable fishery and the managed species contribution to a healthy ecosystem; and "spawning, breeding, feeding, or growth to maturity" covers a species life cycle.

5.1 EFH and Federally Managed Fish Species

EFH provisions in MSFCMA designate that species harvested in sufficient quantities to require fisheries management may be subdivided into similar Management Unit Species (MUS). Five MUS groups are currently managed in Hawaiian waters: bottomfish, pelagics, precious corals, crustaceans, and coral reef ecosystem (Table 5-1).

Table 5-1. EFH Designations for Hawai'i Archipelago FEP Management Unit

Management Unit	Species Complex	EFH
Pelagic	Temperate species Tropical species Sharks Squid	**Eggs and larvae:** the water column extending from the shoreline to the outer limit of the EEZ down to a depth of 656 ft. (200 m) **Juvenile/adults:** the water column extending from the shoreline to a depth of 3,280 ft. (1,000 m)
Bottomfish and Seamount Groundfish	Shallow-water species (0 to 50 fm)	**Eggs and larvae:** the water column extending from the shoreline to the outer limit of the EEZ down to a depth of 1,310 ft. (400 m) **Juvenile/adults:** the water column and all bottom habitat extending from the shoreline to a depth of 1,310 ft. (400 m)
Bottomfish and Seamount Groundfish	Deep-water species (50 to 200 fm)	**Eggs and larvae:** the water column extending from the shoreline to the outer limit of the EEZ down to a depth of 1,310 ft. (400 m) **Juvenile/adults:** the water column and all bottom habitat extending from the shoreline to a depth of 1,310 ft. (400 m)
Crustacean	Spiny and slipper lobster complex Kona crab	**Eggs and larvae:** the water column from the shoreline to the outer limit of the EEZ down to a depth of 490 ft. (150 m) **Juvenile/adults:** all of the bottom habitat from the shoreline to a depth of 330 ft. (100 m)
Coral Reef Ecosystem	All Currently Harvested Coral Reef Taxa (CHCRT) All Potentially Harvested Coral Reef Taxa (PHCRT)	EFH for the Coral Reef Ecosystem MUS includes the water column and all benthic substrate to a depth of 330 ft. (100 m) from the shoreline to the outer limit of the EEZ for eggs, larvae, juveniles and adults

The Western Pacific Regional Fishery Management Council (WPRFMC) is moving towards an ecosystem-based approach to fisheries management and has restructured its management framework from species-based fishery management plans (FMPs) to place-based fishery ecosystem plans (FEPs). The Hawaii Archipelago FEP establishes the framework under which the WPRFMC will manage fishery resources, and begin the integration and implementation of

ecosystem approaches to management in the Hawaii Archipelago. This FEP does not establish any new fishery management regulations, but rather consolidates existing fishery regulations for demersal species. Specifically, this FEP identifies as MUS those species known to be present in waters around the Hawaii Archipelago and incorporates all of the management provisions of the Bottomfish and Seamount Groundfish FMP, the Crustaceans FMP, the Precious Corals FMP, and the Coral Reef Ecosystems FMP that are applicable to the area.

In addition to EFH, the WPRFMC identifies Habitat Areas of Particular Concern (HAPCs) within EFH for all FEPs. Specific subsets of EFH, HAPCs are areas within EFH that are essential to the life cycle of federally managed coral reef species. In determining whether a type or area of EFH should be designated as a HAPC, one or more of the following criteria established by NMFS should be met: (a) the ecological function provided by the habitat is important; (b) the habitat is sensitive to human-induced environmental degradation; (c) development activities are, or will be, stressing the habitat type; or (d) the habitat type is rare.

The Vessel Landing zone is located within waters designated as EFH (including water column and all bottom areas) for coral reef ecosystem, bottomfish, pelagic and crustacean MUS. Of the thousands of species which are federally managed under the coral reef FMP, at least 50 (specifically adult life stages) are known to occur in the general vicinity of Maluaka Beach (*AECOS*, 2014).

5.2 Fishes and Habitats in the Vessel Landing Area

The seafloor and water column of the loading zone are considered EFH for coral reef, bottomfish, pelagics, and crustaceans (see Table 5-1). The fishes and habitats around Maluaka Beach are described in previous survey report of the area (*AECOS*, 2014). The report is summarized here. Section 4, above, provides environmental baseline conditions. Fish and habitat resource conditions are reiterated here for EFH analysis. Table 5-2 provides a listing of fish species observed in the Vessel Landing vicinity.

Vessel Landing zone – The Vessel Landing zone is comprised entirely of sand bottom, with the exception of the rock outcrop. The sand body extends offshore for over 130 ft (40 m). The area is exposed to swell and surge and these factors create ripple features in the sand bottom. The rock outcrop is approximately 33 ft (10 m) wide and located a few meters seaward of the wrack line[4] near the center (north to south, alongshore) of the beach. The rock outcrop is located in

[4] wrack line is part of the shore just above the mean high tide line where algae and debris are deposited on the sand.

the tidal and sub-tidal zones and is colonized by red algae (primarily *Pterocladiella capillacea*) and purple shingle urchin (*Colobocentrotus atratus*). Schools of *'āholehole* (*Kuhlia sandvicensis*), *kūpīpī* (*Abudefduf sordidus*), *manini* (*Acanthurus triostegus*) and a few other surgeonfish congregate over the rock outcrop. The outcrop is colonized by any hard corals (*AECOS*, 2014).

Offshore reef – The 2014 survey (*AECOS*, 2014) observed a typical assemblage of reef fishes inhabit the offshore area of this reef, with yellow stripe goatfish, saddle wrasse (*Thalassoma duperrey)*, blackfin chromis (*Chromis vanderbilti*), and brown surgeonfish (*Acanthurus nigrofuscus*) most common.

Table 5-2. Fisheries management plan (FMP) and managed species observed in the Vessel Landing vicinity (*AECOS*, 2014).

PHYLUM, CLASS, ORDER, FAMILY *Genus species*	Common name	Abundance	Status
CHORDATA, ACTINOPTERYGII			
ENGRAULIDAE			
Encrasicholina purpurea Fowler	Hawaiian anchovy; *nehu*	R	End
AULUSTOMIDAE			
Aulstomus chinensis Linnaeus	trumpetfish; *nūnū*	R	Ind
CARACANTHIDAE			
Caracanthus typicus Kroyer	Hawaiian orbicular velvetfish	R	End
KUHLIIDAE			
Kuhlia sandvicensis Steindachner	Hawaiian flagtail, *āholehole*	U	End
CIRRHITIDAE			
Paracirrhites arcatus Cuvier	arc-eye hawkfish *pilikoʻa*	R	Ind
MULLIDAE			
Mulloidichthys flavolineatus Lacepede	yellow stripe goatfish *wekeʻ ā*	C	Ind
Parupeneus cyclosotmus Lacepede	blue goatfish *moana ukali ulua*	R	Ind
Parupeneus insularis Randall & Myers	island goatfish; *munu*	U	Ind
Upeneus arge Jordan & Evermann	bandtail goatfsh	O	Ind
KYPHOSIDAE			
Kyphosus vagiensis Quoy & Gaimard	brassy chub; *nenue*	R	Ind.
CHAETODONTIDAE			
Chaetodon lunula Lacepede	racoon butterfly *kīkākapu*	O	Ind
Chaetodon lunulatus Quoy & Gaimard	oval butterfly fish *kapuhili*	O	Ind

Table 5-2 (cont.)

PHYLUM, CLASS, ORDER, FAMILY *Genus species*	Common name	Abundance	Status
Chaetodon ornatissimus Cuvier	ornate butterflyfish *kikākapu*	O	Ind
Chaetodon quadrimaculatus Gray	four spot butterflyfish *lauhau*	O	Ind
POMOCENTRIDAE			
Abudefduf abdominalis Quoy & Gaimard	Hwn. seargent; *mamo*	R	End
Abudefduf sordidus Forsskal	blackspot seargent, *kūpīpī*	O	Ind
Abudefduf vaigiensis Quoy & Gaimard	Indo-Pacific seargent; *mamo*	R	Ind
Chromis vanderbilti Fowler	blackfin chromis	C	Ind
Dascyllus albisella Gill	Hawaiian damselfish *ʻālo'ilo'i*	R	End
Plectroglyphidodon imparipennis Vaillant & Savage	brighteye damselfish	R	Ind
Plectroglyphidodon johnstonianus Fowler & Ball	blue-eyed damselfish	R	Ind
Stegastes marginatus Jenkins	Hwn. gregory	R	End
LABRIDAE			
Coris gaimard Quoy & Gaimard	yellow tail coris *hinālea ʻakilolo*	R	Ind
Gomphosus varius Lacepede	bird wrasse; *hināleai'iwi*	R	Ind
Haliocheres ornatissmis Garrett	ornate wrasse; ʻ*ōhua*	R	Ind
Labroides phthirophagus Randall	Hwn. cleaner wrasse	O	End
Stethojulis baleata Quoy & Gaimard	belted wrasse; *ʻomaka*	R	End
Thalassoma duperrey Quoy & Gaimard	saddle wrasse *hinalea lauwili*	C	End
SCARIDAE			
Scarus psittacus Forsskal	palenose parrotfish; *uhu*	O	Ind
Scarus rubroviolaceus Bleeker	red lip parrotfish *pālukaluka*	R	Ind
BLENNIDAE			
Exallias brevis Kner	shortbodied blenny *pao'o kauila*	R	Ind
ZANCLIDAE			
Zanclus cornutus Linnaeus	Moorish idol; *kihikihi*	R	Ind
ACANTHURIDAE			
Acanthurus blochii Valenciennes	ringtail surgeonfish *pualu*	O	Ind
Acanthurus leucopareius Jenkins	whitebar surgeonfish *māikoiko*	U	Ind
Acanthurus nigrofuscus Forsskal	brown surgeonfish *mā ʻiʻiʻi*	C	Ind

Table 5-2 (cont.)

PHYLUM, CLASS, ORDER, FAMILY *Genus species*	Common name	Abundance	Status
Acanthurus olivaceus Forster	orangeband surgeonfish, *naʻenaʻe*	R	Ind
Acanthurus triostegus sandvicensis Linnaeus	convict surgeonfish *manini*	O	End
Acanthurus xanthopterus Valenciennes	yellowfin surgeonfish, *pualu*	O	Ind
Ctenchaetus strigosus Bennett	goldring surgeonfish *kole*	R	Ind
Naso brevirostris Cuvier	paletail unicornfish *kala lōlō*	R	Ind
ACANTHURIDAE continued			
Naso lituratus Forster	orange spine unicornfish, *umaumalei*	U	Ind
Naso unicornis Forsskal	bluespine unicornfish, *kala*	R	Ind
Zebrasoma flavescens Bennett	yellow tang, *lauʻipala*	R	Ind
BALISTIDAE			
Melichthys vidua Richardson	pinktail triggerfish *humuhumu hiʻu kole*	U	Ind
Rhinecanthus aculeatus Linnaeus	lagoon triggerfish *humuhumu nukunuku apuaʻa*	U	Ind
Rhinecanthus rectangulus Bloch & Schneider	reef triggerfish *humuhumu nukunuku apuaʻa*	U	Ind
Sufflamen bursa Bloch & Schneider	lei triggerfish *humhumu lei*	O	Ind
HEMIRAMPHIDAE			
unid.	indet. halfbeak	U	Ind
TETRADONTIDAE			
Canthigaster amboinensis Bleeker	ambon toby	U	Ind
Canthigaster jactator Jenkins	white spotted toby	R	End

KEY TO SYMBOLS USED IN TABLE 2:

Abundance categories:

R – Rare – only one or two individuals observed.
U – Uncommon – several to a dozen individuals observed.
O – Occasional – seen irregularly in small numbers
C – Common – observed everywhere, although generally not in large numbers.
A – Abundant – observed in large numbers and widely distributed.

Status categories:

End – Endemic – species found only in Hawaiʻi
Ind. – Indigenous – species found in Hawaiʻi and elsewhere
Nat. – Naturalized – species were introduced to Hawaiʻi intentionally, or accidentally.

5.3 Assessment of Potential EFH Impacts

The following section discusses potential impacts resulting of continued Landings on EFH. Direct impacts to EFH resources may result when propeller wash creates a small plume off the stern of the Vessel, suspending sediments. No indirect impacts are expected.

No fishes were observed at the Vessel Landing zone (*AECOS*, 2015). Any fishes that may traverse the Vessel Landing zone would actively avoid the Vessel activities, including sediments suspended in the immediate vicinity of the Vessel Landing. Some impairment of ability of EFH managed species to find prey items could occur, but any adverse effects of Landings would be temporary and spatially limited to the immediate vicinity of the Vessel Landing operations. For these reasons and those elaborated on further below, the adverse effects created by the Vessel Landing would be temporary and minimal.

Potential impacts to fish populations from Vessel Landing operations may occur from temporary degradation of water quality. As the Vessel loads and offloads passengers, surge at the site requires the captain to engage the engine at times to hold the Vessel safely in place. During these instances, the wash from the propeller creates a small plume off the stern of the Vessel. Due to the absence of particles smaller than sand at the site, the plume settles out quickly. This causes a very brief increase in the amount of suspended sediment in the water column. In the unlikely event that fishes are present during Landings, it is anticipated that most demersal and pelagic fishes will avoid the instances when propeller wash creates a small plume. As such, the potential impact would be temporary and minor, resulting in minimal (if any) displacement of fishes.

5.4 Conclusion

Impacts of continued beach Landings would be minimal localized and temporary. Vessel operation BMPs are expected to minimize and avoid impacts to EFH, and with effective implementation, will ensure minimal adverse impacts to EFH. As such, the proposed action is not expected to result in significant adverse effects to EFH.

6.0 Effects of the Action on ESA-listed Species

This section analyzes the potential impacts of continued Landings on green and hawksbill sea turtle, Hawaiian monk seal, and humpback whale. Each subsection addresses the potential individual stressors specific to the Vessel.

The analyses are based on Vessel Landings, required permit conditions and BMPs, and the biology and life history characteristics of the protected species.

During Landings, the Vessel is not expected to interact directly or indirectly with ESA-listed species. The following are potential stressors that the Vessel may have on ESA-listed species:

- physical injury from Vessel contact ;
- behavioral changes in response to the presence of Vessel
- behavioral changes in response to presence of passengers and crew;
- physical and behavioral changes in response to elevated turbidity;
- exposure to wastes and discharges;
- compromise of monk seal critical habitat

6.1 Collision with the Vessel

The Vessel operates in nearshore waters and loads and offloads passengers at Maluaka Beach. Sea turtles and marine mammals must surface to breathe and they are known to rest or bask at the surface. Therefore, when at or near the surface of the water, these animals are at risk of being struck by vessels or their propellers as the vessel transits to and from as well as in and around the Vessel Landing zone. No strikes or Vessel collisions have been documented to date (H. Bernard, pers. comm., 2015). Potential injuries and their severity would depend on a number of factors: the size and speed of the vessel, the part of the vessel which strikes the animal, and the body part impacted. Injuries may include bruising, broken bones or carapaces, and lacerations. In the case of smaller animals, such as sea turtles and seals, collisions with even small vessels could result in death.

The recovery plan for green sea turtles indicates that boat collision is a major threat to these turtles in the main Hawaiian Islands (NMFS & USFWS 1998). Boat collision is not identified as a significant risk for hawksbills, monk seals, or humpback whales. However, the recovery plans for all of these ESA-listed animals suggests that the incidence of collision is expected to increase as Vessel size, speed, traffic density, and animal density increase.

Existing information about sea turtle sensory biology suggests that sea turtles rely more heavily on visual cues, rather than auditory, to initiate threat avoidance. Research also suggests that sea turtles cannot be expected to consistently notice and avoid vessels that are traveling faster than 2 knots (Hazel et al., 2007). Vanderlaan and Taggart (2007) report that the severity of injury to large whales is directly related to vessel speed. They found that the probability of lethal injury increased from 21% (for vessels traveling at 8.6

knots) to over 79% (for vessels traveling at 15 knots or more). Additionally, since collisions with whales have been reported for both slow and fast moving vessels, it appears that, in at least some situations, whales may either be unaware of a vessel's presence or are unable to determine the vessel's proximity and/or vector of approach based on available acoustic cues. Consequently, vessel operators are responsible to actively watch for and avoid sea turtles and marine mammals, and to adjust their speed based on expected animal density and on lighting and turbidity conditions to allow adequate reaction time to avoid marine mammals.

Continuation of the Vessel Landings at Maluaka Beach is not expected to increase the risk of adverse interaction with humpback whales. The Vessel is one of many commercial vessels that are permitted to operate within the Molokini Shoal Marine Life Conservation District (MLCD)[5], a principal destination of tour boats operating, within the South Maui Ocean Recreation Management Area. There is nothing unique about the Vessel's design or means of propulsion. However, the risk of interaction would appear to be significantly less than that for competing vessels operating from Ma'alaea Small Boat Harbor. These vessels must travel at higher speeds over a larger portion of the Maui humpback whale protected waters in traveling to and from Molokini Islet. In contrast, close proximity of Maluaka to Molokini MLCD allows the Vessel to travel at slower speeds.

Based on the current operations and the expectation that the Vessel will be operated in accordance with state and federal law, as well as USFWS and NMFS/PRD-recommended BMP, we consider the risk of collision between the Vessel and protected species to be discountable.

6.3 Disturbance from Human Activity and Vessel Operation

As detailed above, Landings occur in and above marine waters where ESA-listed species may be present. These animals may experience a startle reaction and resulting stress if they encounter certain activities. The reaction could range from an animal approaching to investigate the activity, to panicked flight when an animal injures itself in an attempt to flee. Because sea turtles and marine mammals typically avoid human activity, the expected effect of this interaction would be an avoidance behavior leading to an exposed animal rapidly but temporarily leaving the Vessel Landing zone without injury.

[5] In 2010, according to DLNR- DAR, there were more than 40 permits issued to commercial boats for mooring use at Molokini Crater.

The BMPs reduce the likelihood of this interaction by, among other things, watching for and staying clear of protected marine life. The Vessel maintains a designated lookout on the bow to spot wildlife and assist in maneuvering around them. As such, we have determined that disturbances due to exposure to human activity and continued Landings would be infrequent and non-injurious, and would result in insignificant effects on the ESA-listed marine species.

6.5 Exposure to Elevated Turbidity

Continued Landings are expected to result in small-scale, short-term in-water substrate disturbances. As the Vessel loads and offloads passengers, wave action at the site requires the captain to engage one or both engines to maintain position. Doing so creates a small plume off the stern of the Vessel, and these activities could result in sediments becoming mobilized in the water column. Given that sea turtles and marine mammals breathe air instead of water, increased turbidity should not adversely affect their respiration or other biological functions. Although these animals may be found in turbid waters, they are not expected to be found in dense turbidity plumes. As such, the potential effect of Vessel related turbidity on ESA-listed sea turtles and marine mammals is not expected to be significant.

6.6 Exposure to Wastes and Discharges

Vessel wastes may include plastic trash bags that may be ingested and cause digestive blockage or suffocation, or if large enough, along with discarded sections of rope or lines, may entangle marine life. Local and federal regulations prohibit the intentional discharge of toxic wastes and plastics into the marine environment. MBP is diligent in preventing the release of wastes and toxicants within the Landing zone. Based on this information, we expect that discharges and spills are unlikely, or would be small, infrequent, and quickly cleaned. Therefore, exposure to accidental wastes and discharges that may result from continued Landings is not expected to result in significant effects on ESA-listed sea turtles and marine mammals.

6.7 Effects on Hawaiian Monk Seal Critical Habitat

Continued Landings are not expected to have long-term effect on the foraging characteristics of monk seals or upon the quality or quantity of monk seal prey. Hawaiian monk seal critical habitat includes the seafloor and marine habitat to 10 m above the seafloor from the 200 m depth contour through the shoreline and extending into terrestrial habitat 5 m inland from the shoreline, including

Maluaka Beach. The terrestrial habitat is defined for preferred pupping areas and significant haul-out areas (NOAA-NMFS, 2015c). Since 2005, a total of six monk seals have been reported at Maluaka Beach (PIFSC, 2015).

Landings are not anticipated to affect the characteristics of any pupping, nursing, or haul-out areas. Terrestrial areas 5m inland from the shoreline are the only essential feature of proposed monk seal critical habitat that may be impacted by the continued Landings. The area that might be avoided is not known to provide significant monk seal forage resources, and the continued Landings are not expected to have any impact on monk seal forage resources. Therefore, because the only impact on monk seals would be the possible short term avoidance of an area with no known significant resource value, the impacts of the proposed action on the accessibility of the area for Hawaiian monk seals would be insignificant.

7.0 Conclusions

Based on the analysis of the possible impacts on ESA-listed species and critical habitat provided above, the potential stressors posed by continued Landing operations at Maluaka Beach are not expected to result in significant, discountable impacts on ESA-listed sea turtles and marine mammals or on critical habitat for Hawaiian monk seals. As such, it has been determined that the proposed action may affect, but is not likely to adversely affect, any ESA-listed marine species under NMFS jurisdiction.

8.0 References

AECOS, Inc. (*AECOS*). 2014. Water quality and biological surveys of Kahana Stream and nearshore waters for a bridge replacement in windward O‘ahu. Prep. for Wilson Okamoto Corporation. *AECOS* No. 1093C: 41 pp.

Baker J. D. and T.C. Johanos. 2004. Abundance of the Hawaiianmonk seal in the main HawaiianIslands. *Biological Conservation*, 116: 103-110.

_____, C. L. Littnan, D.W. Johnston. 2006. Potential effects of sea level rise on the terrestrial habitats of endangered and endemic megafauna in the Northwestern Hawaiian Islands. *Endangered Species Research* 2: 21-30.

_____, A.L. Harting, T.A. Wurth, T.C. Johanos. 2011. Dramatic shifts in Hawaiian monk seal distribution predicted from divergent regional trends. *Marine Mammal Science*, 27(1): 78-93.

Balazs, G. H. 1976. Green turtle migrations in the Hawaiian archipelago. *Biological Conservation*, 9: 125-140.

_____. 1980. Synopsis of biological data on the green turtle in the Hawaiian Islands. U.S. Dep. Comm., NOAA Tech. Memo. NOAA-TM-NMFS-SWFC-7.

_____. 1983. Recovery records of adult green turtles observed or originally tagged at French Frigate Shoals, Northwestern Hawaiian Islands. U.S. Dep. Comm., NOAA Tech. Memo. NOAA-TM-NMFS-SWFC-36, pp. 42.

_____. 1996. Behavioral changes within the recovering Hawaiian green turtle population. In: Proceedings of the 15th Annual Symposium on sea turtle biology and conservation. NOAA Tech Memo NMFS-SEFSC 387:16-20.

_____ and M. Chaloupka. 2004. Thirty year recovery trend in the once depleted Hawaiian green turtle stock. *Biological Conservation*, 117: 491-498.

_____ and G. C. Whittow. 1982. Basking behavior of the Hawaiian green turtle *Chelonia mydas*. *Pacific Science*, 36(2): 129-139.

_____, R. G. Forsyth, and A.K.H. Kam. 1987. Preliminary Assessment of Habitat Utilization by Hawaiian Green Turtles in their Resident Foraging Pastures. NOAA Technical Memorandum NMFS SWFSC 71.

_____, P. Craig, B. R. Winston, and R. K. Miya. 1994. Satellite Telemetry of Green Turtles Nesting at French Frigate Shoals, Hawai‘i, and Rose Atoll, American Samoa. From Proceedings of 14th Annual Sea Turtle Symposium. pp. 184-187.

Bernard, H. 2015. President Hawai'i Wildlife Fund. Pers. communication (phone and email).

Calambokidis, J. and 21 others. 2008. SPLASH: Structure of populations, levels of abundance and status of humpback whales in the North Pacific. Final report for contract AB133F-03-RP-00078. Cascadia Research, Olympia, WA. Available online at URL http://www.cascadiaresearch.org.

Chaloupka, M. and C. Limpus. 2001. Trends in the abundance of sea turtles resident in southern Great Barrier Reef waters. *Biological Conservation*, 102: 235-249.

_____, K. A. Bjorndal, G. H. Balazs, A. B. Bolten, L. M. Ehrhart, C. J. Limpus, H. Suganuma, S. Troeng, and M. Yamaguchi. 2008. Encouraging outlook for recovery of a once severely exploited marine megaherbivore. *Global Ecology and Biogeography*, 17: 297-304.

Dutton, P. and R. Leroux. 2008. Progress Summary of Genetic Analysis of Hawksbill Samples from the Hawaiian Islands. Unpublished report prepared for the 2008 Hawksbill Recovery Group Meeting. Marine Turtle Molecular Ecology Laboratory NOAA-Fisheries Southwest Fisheries Science Center-La Jolla.

Dutton, P., G. H. Balazs, R. A. LeRoux, S. K. K. Murakawa, P. Zarate, and L. S. Martinez. 2008. Composition of Hawaiian green turtle foraging aggregations: mtDNA evidence for a distinct regional population. *Endangered Species Research*, 5: 37-44.

Giambelluca, T.W., Q. Chen, A.G. Frazier, J.P. Price, Y.-L. Chen, P.-S. Chu, J.K. Eischeid, and D.M. Delparte, 2013: Online Rainfall Atlas of Hawai'i. *Bull. Amer. Meteor. Soc*. 94, 313-316, doi: 10.1175/BAMS-D-11-00228.1.

Godley B. J., E. H. S. M. Lima., S. Akesson, A. C. Broderick, and four others. 2003. Movement patterns of green turtles in Brazilian coastal waters described by satellite tracking and flipper tagging. *Mar. Ecol. Prog. Ser*., 253: 279–288.

Grant, G. S., P. Craig, and G. H. Balazs. 1997. Notes on juvenile hawksbill and green turtles in American Samoa. *Pac. Sci.*, 1: 48-53.

Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS). 2012. HIHWNMS website – Resource Protection. Available online at URL: http://hawaiihumpbackwhale.noaa.gov/; last accessed April 23, 2014.

Hazel, J., I. R. Lawler, and M. Hamann. 2009. Diving at the shallow end: Green turtle behaviour in near-shore foraging habitat. *J. of Exp. Mar. Biology and Ecology*, 371 (2009): 84–92.

Jensen, A. S. and G. K. Silber. 2003. Large whale ship strike database. U.S. Department of Commerce. NOAA Technical Memorandum NMFS-OPR-January 2004. 37 pp.

Johanos T. C., B. L. Becker, T. J. Ragen. 1994. Annual reproductive cycle of the female Hawaiian monk seal (*Monachus schauislandi*). *Marine Mammal Science*, 10: 13-30.

King, C. 2011. An Assessment of Maui Hawksbill Sea Turtle (*Eretmochelys imbricata*) Characteristics and Habitat Utilizations from In-Water Surveys and Incidental Observations (1998-2011). Hawai'i Wildlife Fund Hawksbill Recovery Project report to NOAA Fisheries. 48pp.

King, C. 2015. Hawai'i Wildlife Fund's Hawksbill Recovery Project Maui Nest Monitoring and Research Report (1991---2014). Hawai'i Wildlife Fund report to NOAA Fisheries. 66 pp.

Laist, D.W., A.R. Knowlton, J. G. Mead, A. S. Collet, and M. Podesta. 2001. Collisions between ships and whales. *Marine Mammal Science*, 17(1): 35-75.

Littnan, C. L., B. S. Stewart, P. K. Yochem, and R. Braun. 2006. Survey for selected pathogens and evaluation of disease risk factors for endangered Hawaiian monk seals in the main HawaiianIslands. *EcoHealth*, 3: 232-244.

Lyman, E. 2011. Large Whale Entanglement 2010-2011 Season Summary. Hawaiian Islands Humpback National Marine Sanctuary.

Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). 1996. MSFCMA as amended through October 11, 1996. 16 U.S.C. §1801-1883. Available online at URL: http://www.nmfs.noaa.gov/sfa/magact.

Murakawa, S.K.K., Balazs, G.H., Ellis, D.M., Hau, S., Eames, S.M., 2000. Trends in fibropapillomatosis among green turtles stranded in the Hawaiian Islands, 1982-98. In: Nineteenth Annual Symposium on Sea Turtle Biology and Conservation.

National Marine Fisheries Service (NMFS). 2004. Final Report on the National Oceanic and Atmospheric Administration "Shipping Noise and Marine Mammals: A forum for science, management, and technology". Presented 18-19 May 2004. Arlington, Virginia. 40 pp.

_____. 2006. Biological Opinion on the U.S. Western and Central Pacific Purse Seine Fishery as authorized by the South Pacific Tuna Act and the High Seas Fishing Compliance Act. Pacific Islands Region, 185 p.

_____. 2007. Recovery Plan for the Hawaiian Monk Seal (*Monachus schauinslandi*). Second Revision. NMFS, Silver Spring, MD. 165 pp.

_____. 2009. Stock Assessment Report for the HawaiianMonk Seal (*Monachus schauinslandi*). Available online at URL: http://www.nmfs.noaa.gov/pr/sars/species.htm.

_____. 2010. Marine Mammal Protection Act Section 101(a)(5)(E)- Negligible Impact Determination, Central North Pacific Humpback Whale.

_____. 2011a. Global Review of Humpback Whales (*Megaptera novaeangliae*). NOAA-TM-NMFS-SWFSC-474 (By A. Fleming and J. Jackson). 209p.

_____. 2011b. Stock Assessment Report for Humpback Whale (*Megaptera novaeangliae*), Central North Pacific. NOAA-TM-AFSC-234 (B. M. Allen and R. P. Angliss). Revised 1/28/2011. 181-194.

National Oceanic and Atmospheric Administration (NOAA). 2005. Department of Commerce, National Oceanic and Atmospheric Administration. Small Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Seismic Survey in the Southwest Pacific Ocean. *Federal Register*, 70 (35; February 10, 2005): 8768 - 8783.

National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA-NMFS). 2006. Protection of Marine Mammals; Notice of Intent to Prepare and Environmental Impact Statement. *Federal Register*, 70 (190; October 2, 2006): 57923-57926.

_____. 2010a. Department of Commerce. 50 CFR 75. Endangered and Threatened Wildlife: Notice of 90-Day Finding on a Petition to List 83 Species of Corals as Threatened or Endangered Under the Endangered Species Act (ESA). *Federal Register*, 75 (27; February 10, 2010): 6616-6621.

National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA-NMFS). 2010b. Pacific Islands Fisheries Science Center (PIFSC). 2010. Draft map guide to marine turtle nesting and basking in the Hawaiian Islands. 29 pp.

_____. 2011a. 50 CFR 226. Endangered and threatened wildlife and plants: proposed rulemaking to revise critical habitat for Hawaiian Monk Seals. *Federal Register*, 76 (106; June 2, 2011): 32026-32063.

_____. 2011b. Spinner Dolphin (*Stenella longirostris longirostris*). Available

online at URL: http://www.fpir.noaa.gov/PRD/prd_spinner.html; last accessed May 4, 2015.

_____. 2012. Department of Commerce. 50 CFR Parts 223 and 224. Endangered and Threatened Wildlife and Plants: Proposed Listing Determination for 82 Reef-building Coral Species; Proposed Reclassification of *Acropora palmata* and *Acropora cervicornis* from Threatened to Endangered. *Federal Register*, 77 (236; December 7, 2012): 73220-73262.

_____. 2013a. Corals proposed for listing under the ESA. NOAA proposes listing 66 reef-building coral species under the Endangered Species Act. Available online at URL: http://www.nmfs.noaa.gov/pr/species/invertebrates/corals.htm; last accessed May 6, 2015.

_____. 2013b. 50 CFR 223 and 224. Endangered and Threatened Wildlife and Plants; Notice of 6-Month Extension of the Final Rulemaking To List 66 Species of Coral as Threatened or Endangered Under the Endangered Species Act and Reclassify *Acropora cervicornis* and *Acropora palmata* From Threatened to Endangered *Federal Register*, 7*8* (183; September 20, 2013): 57835- 57836 Available online at URL: http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/pdf/2013-22944.pdf; last accessed January 18, 2014.

National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA-NMFS) and U.S. Fish and Wildlife Service (USFWS). 1998. Recovery Plan for U.S. Pacific Populations of the Green Turtle (*Chelonia mydas*). NMFS, Silver Spring, MD. 97 pp. Available online at URL: http://www.nmfs.noaa.gov/pr/pdfs/recovery/turtle_green_pacific.pdf; last accessed April 24, 2014.

National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA-NMFS) and U.S. Fish and Wildlife Service (USFWS). 2007a. Green Sea Turtle (*Chelonia mydas*). 5-Year Review: Summary and Evaluation. 105 pp. Available online at URL: http://www.nmfs.noaa.gov/pr/pdfs/species/greenturtle_5yearreview.pdf.

National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA-NMFS) and U.S. Fish and Wildlife Service (USFWS). 2007b. Hawksbill Sea Turtle (*Eretmochelys imbricata*). 5-Year Review. 93 pp. Available online at URL: http://www.nmfs.noaa.gov/pr/pdfs/species/hawksbill_5yearreview.pdf; last accessed May 6, 2015.

_____. 2015a. Endangered and Threatened Species; Identification and Proposed Listing of Eleven Distinct Population Segments of Green Sea Turtles (Chelonia mydas) as Endangered or Threatened and Revision of Current Listings. *Federal Register*, *80* (55; March 23, 2015): 15272-15337.

_____. 2015b. Endangered and Threatened Wildlife: Response to a Petition to Identify Green Sea Turtle Distinct Population Segments under the Endangered Species Act. Available online at URL: http://www.fpir.noaa.gov/Library/PAO/Media%20Releases/FINAL_release_greenturtle_PCextenstion_8_24_15.pdf

_____. 2015c. Endangered and Threatened Species: Final Rulemaking To Revise Critical Habitat for Hawaiian Monk Seals. *Federal Register*, *80* (162; August 21, 2015): 50925-50988.

Neilson J. L., J. M. Straley, C. M. Gabriele, and S. Hills. 2009. Non-lethal entanglement of humpback whales (*Megaptera novaeangliae*) in fishing gear in northern Southeast Alaska*. J. Biogeography,* 36 (2009): 452-464.

National Ocean Service, Biogeography Branch, 2007. Shallow-Water Benthic Habitats of the Main Hawaiian Islands. Available online at URL: http: http://ccma.nos.noaa.gov/products/biogeography/hawaii_cd_07/maps/maps_maui.aspx.

Pacific Islands Fishery Science Center (PIFSC). 2015. Internal Report IR-15-030. Issued 2 October 2015.

Parker, D. M. and G. H. Balazs, 2011 [unpublished]. Draft Map Guide to Marine Turtle Nesting and Basking in the Hawaiian Islands. Marine Turtle Research Program, NOAA, National Marine Fisheries Service, Pacific Islands Fisheries Science Center.

_____, _____, C. S. King, L. Katahira, and W. Gilmartin. 2009. Short-Range Movements of Hawksbill Turtles (*Eretmochelys imbricata*) from Nesting to Foraging Areas within the Hawaiian Islands. *Pacific Science*, 63(3): 371–382.

Parrish, F. A. and C. L. Littnan. 2007. Changing perspectives in Hawaiianmonk seal research using animal-borne imaging. *Marine Technology Society Journal*, 41: 30-34.

Parrish, F. A., M. P. Craig, T. J. Ragen, G. J. Marshall, and B. M. Buhleier. 2000. Identifying diurnal foraging habitat of endangered Hawaiianmonk seals using a seal-mounted video camera. *Marine Mammal Science*, 16: 392-412.

_____, G. J. Marshall, C. L. Littnan, M. Heithaus, S. Canja, B. Becker, R. Braun, and G. A. Antonelis. 2005. Foraging of juvenile monk seals at French Frigate Shoals, Hawai'i. *Marine Mammal Science*, 21: 93-107.

Schofield, G., V. J. Hobson, M. K. S. Lilley, K. A. Katselidis, C. M. Bishop, P. Brown, and G. C. Hays. 2010. Inter-annual variability in the home range of breeding turtles: Implications for current and future conservation management. *Biological Conservation*, 143 (2010): 722–730.

Seminoff, J., A. Jones, T. T. Resendiz, A. Nichols, W. J. Chaloupka, and M. Y. Chaloupka. 2003. Monitoring green turtles (*Chelonia mydas*) at a coastal foraging area in Baja California, Mexico: Multiple indices describe population status. *J. Mar. Biol. Assn*., 83: 1355-1362.

Van Houtan, K. S., J. K. Kittinger, A. L. Lawrence, C. Yoshinaga, R. Born, and A. Fox. 2012. Hawksbill sea turtles in the Northwest Hawaiian Islands. Endangered Species Research. *In Press*.

Veron, J. E. N. 2000. Corals of the World. Australian Institute of Marine Science. Townsville, Australia. 3 volumes.

Western Pacific Regional Fishery Management Council (WPRFMC). 2001. Final Coral Reef Ecosystem Fishery Management Plan. Available online at URL: http://www.wpcouncil.org/Hawai'i/coralreef.htm#Coral_FMP.

_____. 2005. Fishery Ecosystem Plan for the Hawaiian Archipelago. 279 pp. Available online at URL: http://www.wpcouncil.org/fishery-plans-policies-reports/hawaii-fishery-ecosystem-plan.

Attachment A

AECOS, Inc. (*AECOS*). 2014. Marine biological survey for a vessel Landing site at

Maluaka Beach, - ÁËÅÎÁ, Maui. *AECOS* No. 1387. 16 pp.

AECOS No. 1387

Marine biological survey for a vessel landing site at Maluaka Beach, Makena, Maui

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April 9, 2014

Marine biological survey for a vessel landing site Maluaka Beach, Makena, Maui

April 9, 2014 *AECOS* No. 1387

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Introduction

The *Kai Kanani II* sailing vessel, operated by Makena Boat Partners, offers snorkeling, whale watching, and dinner cruises in the coastal waters of southwest Maui and Molokini. The commercial vessel departs from Maluaka Beach and has an offshore mooring permit in Mākena Bay. Passenger loading and offloading is achieved via a staircase lowered from the front of the catamaran, as there is no pier or similar structure. A marine biological survey of the landing area has been requested to facilitate permitting of the vessel's "land use" at Maluaka Beach.

AECOS Inc. was contracted by Denis Niles Consulting to investigate biological resources at the landing site and on March 11, 2014, *AECOS* biologists conducted field surveys in the area. Roger Gildersleeve, general manager for Kai Kanani, met *AECOS* personnel on site to discuss vessel operations at Maluaka Beach. This report details the findings of that survey.

Maluaka Beach

The coastline from Wailea to Mākena is part of the dry lower slopes of East Maui Mountain, and one of the driest in the Hawaiian Islands (Giambelluca et al, 2013). There are no perennial streams, although episodic flooding can occur during infrequent heavy rains. In Wailea and Mākena, the sheltering of the coastal waters afforded by West Maui Mountain ends, and the shore faces the open ocean. Maluaka Beach faces west and is situated a half mile north of Pu'u

Ōlaʻi cinder cone. The beach is a quarter mile long and composed of medium and coarse grain sand of both remnant limestone reef and volcanic origin. This brown sand beach is bordered to the north and south by lava rock shorelines.

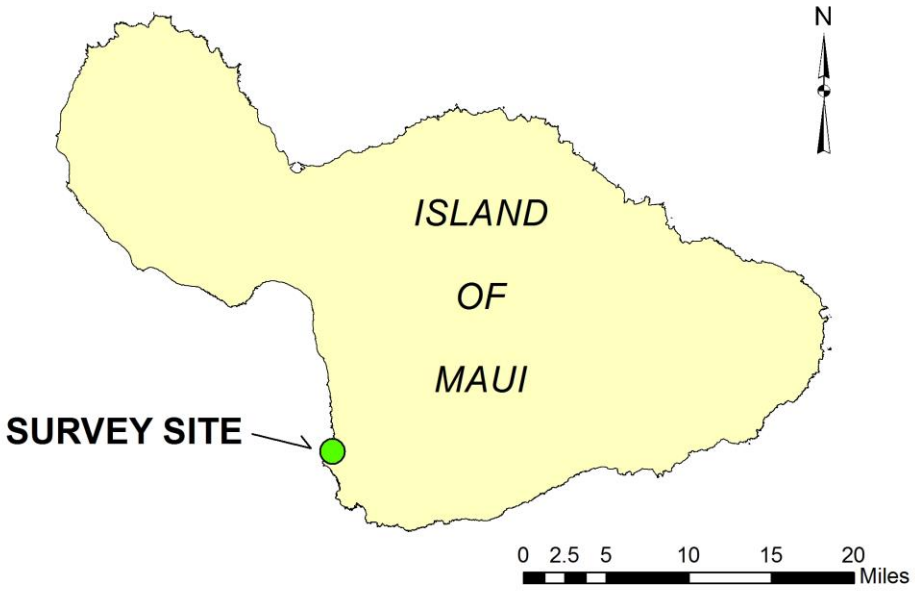

Figure 1. General location of the project on the Island of Maui.

Methods

The marine biological survey was conducted on March 11, 2014 from 0700 to 1100 hrs coinciding with a morning low tide of +0'4" at 0825 hrs. Light northeast winds ("Trades") and 1 to 2-ft waves resulted in excellent underwater visibility (≈50 ft) during the survey. Due to the shallow water depths present at the landing site and nearby areas, the survey was conducted using mask and snorkel. During the survey, *AECOS* biologists were able to observe the *Kai Kanani II* approach the shoreline and land to offload passengers, motor offshore for a few minutes while the crew prepared the vessel for another voyage, approach and land to board passengers, and finally motor offshore towards the islet of Molokini. Figures 2 and 3 depict the survey area along with published benthic habitat and benthic biotic coverage at Maluaka Beach (NOS, 2007).

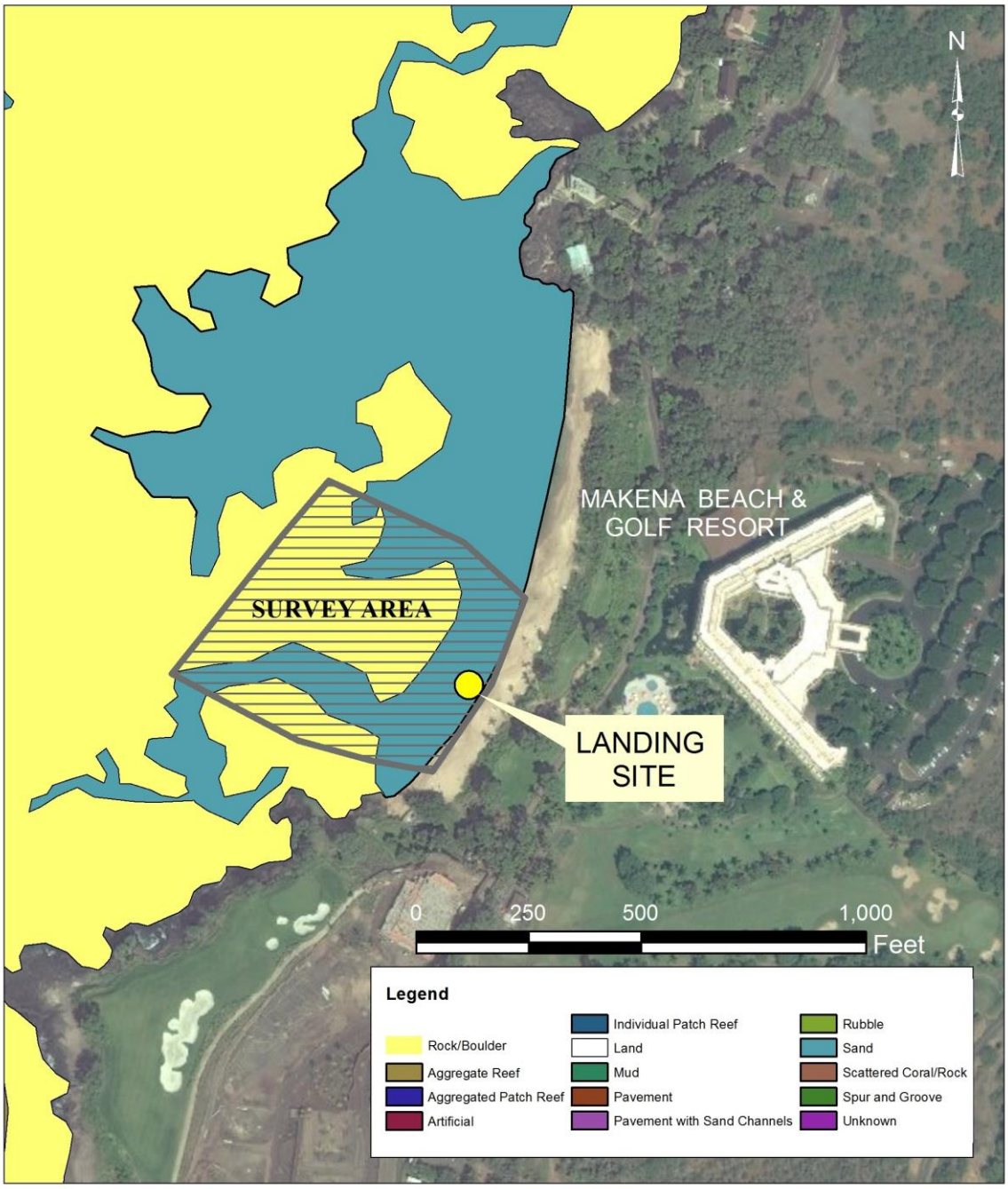

Figure 2. The locations of the landing site and survey area with reported benthic habitat type (NOS, 2007) at Maluaka Beach.

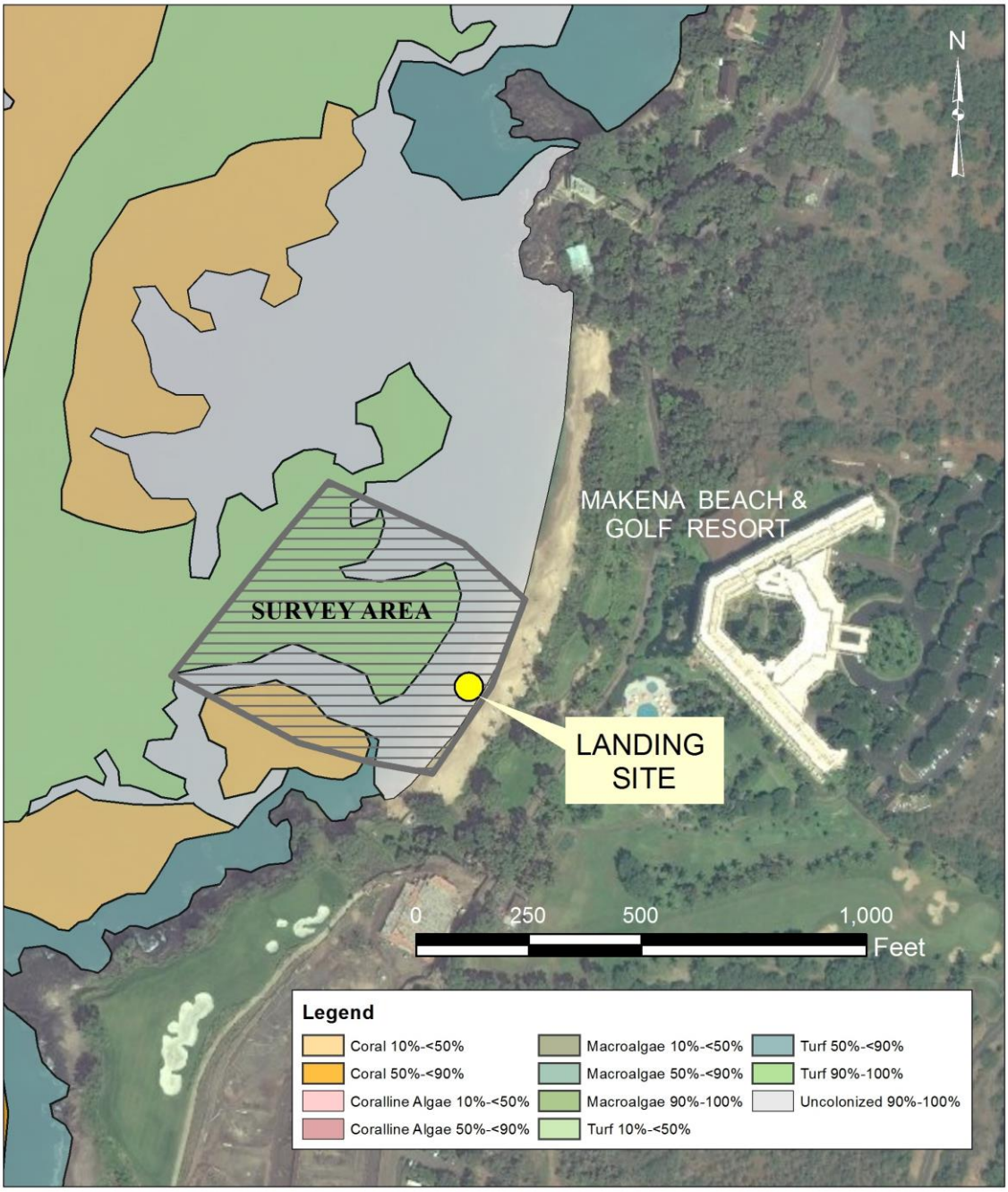

Figure 3. The locations of the landing site and survey area with reported benthic biotic cover type (NOS, 2007) at Maluaka Beach.

All species identifications were conducted in the field and verified with various resource texts: algae (Huisman et al., 2007), corals and macroinvertebrates (Hoover, 1999), and fishes (Hoover, 2008; Randall, 1996). A list of species observed in the survey area is presented in Appendix A.

Survey Results

The vessel landing site and surrounding area is comprised entirely of sand bottom and this sand body extends offshore for over 130 ft (40 m). The area is exposed to swell and surge and these factors create ripple features in the sand bottom (Figure 4, bottom). Numerous attempts to hand comb the sand in search of mollusks or other invertebrates living the sand at the landing did not produce results. The only invertebrate observed near the landing site was a ghost crab (*Ocypode pallidula*), whose burrow is situated near the waterline.

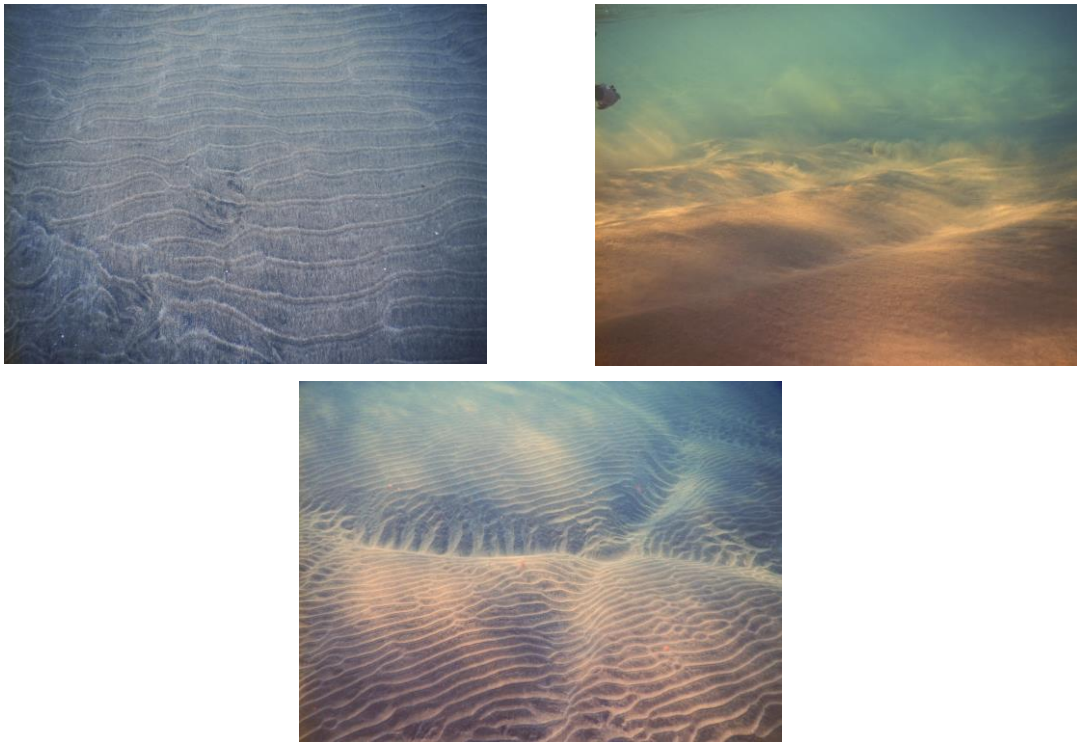

Figure 4. The sand substratum at the landing site photographed on March 11, 2014.

A grouping of small boulders some 33 ft (10 m) wide is located a few meters seaward of the shoreline near the center (north to south, alongshore) of the beach. The boulders are located in the tidal and sub-tidal zones and are colonized by red algae (primarily *Pterocladiella capillacea*) and purple shingle urchin (*Colobocentrotus atratus*). Schools of *ʻāholehole* (*Kuhlia sandvicensis*), *kūpīpī* (*Abudefduf sordidus*), *manini* (*Acanthurus triostegus*) and a few other surgeonfish congregate just off the shore over the boulder field.

Further offshore, near the seaward terminus of the sand bottom, mollusks inhabit the sand. A few auger shells are present, including *Hasutla inconstans* and *Triplostephanus elliscrossi,* and a spitelful cone (*Conus livdius*) was spotted on the sand adjacent to a limestone platform that begins 130 ft (40 m) from the shore.

The limestone outcrop is intermittent, with sand channels extending seaward in several locations (Fig. 5., top). The reef is host to several species of hard coral. Lobe coral (*Porites lobata*), finger coral (*Porites compressa*), and mound coral (*Porites evermanni*) colonies are most common with massive colonies greater than 160 cm (>5 ft). Cauliflower coral (*Pocillopora meadrina*) and sandpaper rice coral (*Montipora patula*) are sighted regularly, the latter forming spreading crusts on the limestone bedrock or over dead massive *Porites* spp. skeletons. As is typical in Hawaiian waters, cauliflower corals on the reef comprise an assemblage of symbionts among the coral branches: common coral guard crab (*Trapezia intermedia*), arc-eye hawkfish (*Paracirrhites arcatus*), and Hawaiian orbicular velvetfish (*Caracanthus typicus*). Herbivorous collector urchins (*Tripneustes gratilla*) are seen in small numbers on the reef, despite the area appearing nearly devoid of macroalgae during the survey.

A large sand channel extends seaward from the shore near the south end of Maluaka Beach. The channel is inhabited by a small white auger (unid. Terebridae) and yellow-stripe goatfish (*Mulloidicthys flavolineatus*) forage for polychaetes and small crustaceans in the sand. South of the channel, an extensive limestone bottom is present (Fig 5., bottom). This substratum is not interrupted by sand channels, and corals cover nearly the entire bottom on the seaward half of the reef. The landward half of the reef is home to conspicuously large numbers of sea urchins, including red pencil urchins (*Heterocentrotus mammilatus*), banded urchins (*Echinothrix calamaris*), and collector urchins.

A typical assemblage of reef fishes inhabit the offshore area of this reef, with yellow stripe goatfish, saddle wrasse (*Thalassoma duperrey)*, blackfin chromis (*Chromis vanderbilti*), and brown surgeonfish (*Acanthurus nigrofuscus*) most common. A listing of all species identified in the survey attached in Appendix A.

Figure 5. Interupted limestone substratum with large coral colonies seaward of the landing site (top) and extensive coral bottom off the south end of Maluaka Beach (bottom).

Assessment

The *Kai Kanani II* vessel landing area comprises only sand substratum. The sand appears to be highly migratory and no macroinvertebrates were present in the landing area during the March 11, 2014 survey. A boulder feature, not present on NOS benthic habitat maps (Figures 2 and 3), is colonized by algae and a few invertebrates. The boulders attract several species of fishes but are not colonized by any hard corals. The closest coral colonies to the landing area (pictured in Fig. 5., top), are located on limestone outcrop located approximately 130 ft (40 m) offshore from the landing site.

As the *Kai Kanani II* loads and offloads passengers, surge at the site requires the captain to engage the engine at times to hold the vessel safely in place. During these instances, the propeller wash creates a small plume off the stern of the vessel. Due to the absence of particles smaller than sand at the site, the plume created settles out immediately.

On rare occasions the *Kai Kanani II*, due to shoreline morphology or crowds of people at the landing site, will land north of the boulder structure near the center of Maluaka Beach (Roger Gildersleeve pers. comm.). The area is very similar to the normal landing site, consisting entirely of sand. Offshore from this alternate landing site, hard substratum, and hence corals and invertebrates, are less abundant than off of the regular landing site.

Vessel operations appear to have no impact on the marine resources at or near the landing sites. No coral colonies are present in the vicinity of the landing areas. The landings are not located in any State of Hawai‘i natural preserve or any critical habitat as designated by U.S. Fish and Wildlife Service. With the exception of a solitary green sea turtle or *honu* (*Chelonia mydas*) sighted offshore, no threatened or endangered species (USFWS, 2014) were encountered during our survey. One species of coral (*M. patula*) located on the reef offshore from the landing site is proposed for listing under the federal Endangered Species Act (NOAA-NMFS, 2010).

References

Giambelluca, T.W., Q. Chen, A.G. Frazier, J.P. Price, Y.-L. Chen, P.-S. Chu, J.K. Eischeid, and D.M. Delparte, 2013: Online Rainfall Atlas of Hawai'i. *Bull. Amer. Meteor. Soc*. 94, 313-316, doi: 10.1175/BAMS-D-11-00228.1.

Hoover, J. P. 1999. *Hawai'i's Sea Creatures: A Guide to Hawai'i's Marine Invertebrates*. Mutual Publishing, Honolulu, Hawai'i. 366 pp.

_____. 2009. *The Ultimate Guide to Hawaiian Reef Fishes, Sea Turtles, Dolphins, Whales, and Seals*. Revised Edition. Mutual Publishing Honolulu HI. 388pp.

Huisman, J. M., I. A. Abbott, and C. M. Smith. 2007. *Hawaiian Reef Plants.* Hawai'i Sea Grant College Program, Honolulu, Hawai'i. 264 pp.

National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA-NMFS). 2010. 50 CFR 75. Endangered and Threatened Wildlife: Notice of 90-Day Finding on a Petition to List 83 Species of Corals as Threatened or Endangered Under the Endangered Species Act (ESA). Federal Register, 75 (27; February 10, 2010): 6616-6621.

National Ocean Service, Biogeography Branch, 2007. Shallow-Water Benthic Habitats of the Main Hawaiian Islands. Available online at URL: http: http://ccma.nos.noaa.gov/products/biogeography/hawaii_cd_07/maps/maps_maui.aspx; last accessed March 25, 2014.

Randall, J. E. 2010. *Shore Fishes of Hawai'i*. Revised Edition. Univ. of Hawai'i Press. 234pp.

U.S. Fish and Wildlife Service. 2014. USFWS Threatened and Endangered Species System (TESS). Available online at URL: http://ecos.fws.gov/tess_public/pub/stateListingIndividual.jsp?state=HI&status=listed; last accessed March 25, 2014.

Attachment A

Marine Species identified in the survey area

PHYLUM, CLASS, ORDER, FAMILY *Genus species*	Common name	Abundance	Status
	ALGAE		
RHODOPHYTA			
Coelothrix irregularis(Harvey) Borgesen		O	Ind
Hydrolithon onkodes (Heydrich) Penrsoe & Chamberlain		R	Ind
Hydrolithon reinboldii (Weber-van Bosse) Foslie		R	Ind
Pterocladiella capillacea (Gmelin) Snatelices & Hommersand		R	Ind
CHLOROPHYTA			
Ulva compressa Linnaeus		R	Ind
Neomeris annulata Dickie		R	Ind
PHAEOPHTYA			
Colpomenia sinuosa (Mertens Ex Roth) Derbes and Solier		R	Ind
Ralfsia expansa (J Agardh) J Agardh		R	Ind
	INVERTEBRATES		
PORIFERA, DEMOSPONGIA			
HADROMERIDA			
SPIRASTRELLIDAE			
Spirastrella vagabunda Ridley	vagabond boring sponge	R	Ind?
CNIDARIA, ANTHOZOA, ACTINARIA			
ZOONTHIDAE			
Palythoa caesia Dana	blue-grey zooanthid	C	Ind
Zooanthus pacifcus Walsh & Bowers	zooanthid	R	Ind
CNIDARIA, ANTHOZOA, SCLERACTINIA			
POCILLOPORIDAE			
Pocillopora eydouxi Milne-Edwards & Haime	antler coral	R	Ind
Pocillopora meandrina Dana	cauliflower coral	C	Ind
ACROPORIDAE			
Montipora capitata Dana	rice coral	O	Ind
Montipora flabellata Studer	blue rice coral	U	End
Montipora patula Verrill	sandpaper rice coral	C	End
PORITIDAE			
Porites compressa Dana	finger coral	C	Ind
Porites lobata Dana	lobe coral, *pohaku puna*	C	Ind
Porites evermanni Vaughn	mound coral	O	Ind
AGARICIIDAE			
Pavona duerdeni Vaughn	porkchop coral	O	Ind
Pavona varians Verrill	corrugated coral	R	Ind
ANNELIDA, POLYCHAETA			
SERPULIDAE			
Spirobranchus giganteus Grube	Christmas tree worm; *kio*	R	Ind

PHYLUM, CLASS, ORDER, FAMILY *Genus species*	Common name	Abundance	Status
TEREBELLIDAE			
Loimia medusa Savigny	medusa spaghetti worm, *kauna'oa*	R	Ind.
MOLLUSCA, GASTROPODA			
NERITIDAE			
Nerita picea Recluz	nerite snail; pipipi	R	Ind.
ARCIDAE			
Arca ventricosa Lamarck	winged arc	R	Ind
VERMETIDAE			
Serpulorbis variabilis Hadfield&Kay	variable worm snail *kauna'oa*	R	End
CYPRAEIDAE			
Cypraea caputserpentis Linnaeus	snakehead cowry *leho kupa*	R	Ind
CONIDAE			
Conus ebraeus Linneaus	Hebrew cone	R	Ind
Conus lividus Hwass	spiteful cone	R	Ind
TEREBRIDAE			
Hastula inconstans Hinds	marbled auger	R	End
Triplostephanus elliscrossi Bratcher	auger	R	Ind
indet.	unid. auger	R	--
MOLLUSCA, GASTROPODA NUDIBRANCHIA			
PHYLLIDIDAE			
indet.	unid. phyllidia	O	--
MOLLUSCA, BIVALVIA MYTILOIDA			
MYTILIDAE			
Branchiodontes crebristriatus Conran	Hawaiian. mussel *nahawele li'i li'i*	R	End
ARTHROPODA, CRUSTACEA, DECAPODA			
ALPHEIDAE			
Alpheus deuteropus Hilgendorf	petroglyph shrimp	R	Ind
DIOGENIDAE			
indet.	unid. hermit crab	R	Ind
TRAPEZIIDAE			
Trapezia intermedia Miers	common guard crab	R	Ind
GRAPSIDAE			
Perconon planissinum Herbst	flat rock crab; *pāpā*	R	Ind
OCYPODIDAE			
Ocypode pallidula Jacquinot	pallid ghost crab; *ōhiki*	R	Ind
ECHINODERMATA, ASTEROIDEA VALVATIDA			
OPHIODASTERIDA			
Culcita novaeguineae Muller & Troschel	cushion star	R	Ind
Linckia guildingi Gray	green linkia	R	Ind
Linckia multifora Lamarck	spotted linkia	R	Ind

PHYLUM, CLASS, ORDER, FAMILY *Genus species*	Common name	Abundance	Status
ECHINODERMATA, OPHIUROIDEA, OPHIURIDA			
OPHIOCOMIDAE			
Ophiocoma erinaceus Muller & Troschel	spiny brittle star	R	Ind
ECHINODERMATA, ECHINOIDEA			
DIADEMATIDAE			
Echinothrix calamaris Pallas	banded urchin, *wana*	O	Ind
ECHINOMETRIDAE			
Colobocentrotus atratus Linnaeus	helmet urchin; *hāʻukeʻuke kaupali*	R	Ind
Echinometra mathaei de Blainville	rock boring urchin, *ʻina kea*	C	Ind
Echinometra oblonga de Blainville	oblong boring urchin, *ʻina*	R	Ind
Heterocentrotus mammillatus Linnaeus	red pencil urchin; hāʻukeʻukeʻulaʻula	O	Ind
TOXOPNEUSTIDAE			
Tripneustes gratilla Linnaeus	collector urchin, *ʻhāwaʻe maoli*	O	Ind
	FISHES		
CHORDATA, ACTINOPTERYGII			
ENGRAULIDAE			
Encrasicholina purpurea Fowler	Hawaiian anchovy; *nehu*	R	End
AULUSTOMIDAE			
Aulstomus chinensis Linnaeus	trumpetfish; *nūnū*	R	Ind
CARACANTHIDAE			
Caracanthus typicus Kroyer	Hawaiian orbicular velvetfish	R	End
KUHLIIDAE			
Kuhlia sandvicensis Steindachner	Hawaiian flagtail, *āholehole*	U	End
CIRRHITIDAE			
Paracirrhites arcatus Cuvier	arc-eye hawkfish *pilikoʻa*	R	Ind
MULLIDAE			
Mulloidichthys flavolineatus Lacepede	yellow stripe goatfish *wekeʻā*	C	Ind
Parupeneus cyclosotmus Lacepede	blue goatfish *moana ukali ulua*	R	Ind
Parupeneus insularis Randall & Myers	island goatfish; *munu*	U	Ind
Upeneus arge Jordan & Evermann	bandtail goatfsh	O	Ind
KYPHOSIDAE			
Kyphosus vagiensis Quoy & Gaimard	brassy chub; *nenue*	R	Ind.
CHAETODONTIDAE			
Chaetodon lunula Lacepede	racoon butterfly *kīkākapu*	O	Ind
Chaetodon lunulatus Quoy & Gaimard	oval butterfly fish *kapuhili*	O	Ind
Chaetodon ornatissimus Cuvier	ornate butterflyfish *kikākapu*	O	Ind
Chaetodon quadrimaculatus Gray	four spot butterflyfish *lauhau*	O	Ind

PHYLUM, CLASS, ORDER, FAMILY *Genus species*	Common name	Abundance	Status
POMOCENTRIDAE			
Abudefduf abdominalis Quoy & Gaimard	Hwn. seargent; *mamo*	R	End
Abudefduf sordidus Forsskal	blackspot seargent, *kūpīpī*	O	Ind
Abudefduf vaigiensis Quoy & Gaimard	Indo-Pacific seargent; *mamo*	R	Ind
Chromis vanderbilti Fowler	blackfin chromis	C	Ind
Dascyllus albisella Gill	Hawaiian damselfish *ʻālo ʻilo ʻi*	R	End
Plectroglyphidodon imparipennis Vaillant & Savage	brighteye damselfish	R	Ind
Plectroglyphidodon johnstonianus Fowler & Ball	blue-eyed damselfish	R	Ind
Stegastes marginatus Jenkins	Hwn. gregory	R	End
LABRIDAE			
Coris gaimard Quoy & Gaimard	yellow tail coris *hināleaʻakilolo*	R	Ind
Gomphosus varius Lacepede	bird wrasse; *hināleai ʻiwi*	R	Ind
Haliocheres ornatissmis Garrett	ornate wrasse; *ʻōhua*	R	Ind
Labroides phthirophagus Randall	Hwn. cleaner wrasse	O	End
Stethojulis baleata Quoy & Gaimard	belted wrasse; *ʻomaka*	R	End
Thalassoma duperrey Quoy & Gaimard	saddle wrasse *hinalea lauwili*	C	End
SCARIDAE			
Scarus psittacus Forsskal	palenose parrotfish; *uhu*	O	Ind
Scarus rubroviolaceus Bleeker	red lip parrotfish *pālukaluka*	R	Ind
BLENNIDAE			
Exallias brevis Kner	shortbodied blenny *paoʻo kauila*	R	Ind
ZANCLIDAE			
Zanclus cornutus Linnaeus	Moorish idol; *kihikihi*	R	Ind
ACANTHURIDAE			
Acanthurus blochii Valenciennes	ringtail surgeonfish *pualu*	O	Ind
Acanthurus leucopareius Jenkins	whitebar surgeonfish *māikoiko*	U	Ind
Acanthurus nigrofuscus Forsskal	brown surgeonfish *mā ʻiʻiʻi*	C	Ind
Acanthurus olivaceus Forster	orangeband surgeonfish, *naʻenaʻe*	R	Ind
Acanthurus triostegus sandvicensis Linnaeus	convict surgeonfish *manini*	O	End
Acanthurus xanthopterus Valenciennes	yellowfin surgeonfish, *pualu*	O	Ind
Ctenchaetus strigosus Bennett	goldring surgeonfish *kole*	R	Ind
Naso brevirostris Cuvier	paletail unicornfish *kala lōlō*	R	Ind

PHYLUM, CLASS, ORDER, FAMILY *Genus species*	Common name	Abundance	Status
ACANTHURIDAE continued			
Naso lituratus Forster	orange spine unicornfish, *umaumalei*	U	Ind
Naso unicornis Forsskal	bluespine unicornfish, *kala*	R	Ind
Zebrasoma flavescens Bennett	yellow tang, *lau'ipala*	R	Ind
BALISTIDAE			
Melichthys vidua Richardson	pinktail triggerfish *humuhumu hi'u kole*	U	Ind
Rhinecanthus aculeatus Linnaeus	lagoon triggerfish *humuhumu nukunuku apua'a*	U	Ind
Rhinecanthus rectangulus Bloch & Schneider	reef triggerfish *humuhumu nukunuku apua'a*	U	Ind
Sufflamen bursa Bloch & Schneider	lei triggerfish *humhumu lei*	O	Ind
HEMIRAMPHIDAE			
unid.	indet. halfbeak	U	Ind
TETRADONTIDAE			
Canthigaster amboinensis Bleeker	ambon toby	U	Ind
Canthigaster jactator Jenkins	white spotted toby	R	End
	REPTILES		
CHORDATA, REPTILIA			
CHELONIIDAE			
Chelonia mydas Linnaeus	green sea turtle, *honu*	R	Ind

KEY TO SYMBOLS USED:

Abundance categories:

R – Rare – only one or two individuals observed.
U – Uncommon – several to a dozen individuals observed.
O – Occasional – seen irregularly in small numbers
C – Common -observed everywhere, although generally not in large numbers.
A – Abundant – observed in large numbers and widely distributed.

Status categories:

End. – Endemic – species found only in Hawaii
Ind. – Indigenous – species found in Hawaii and elsewhere
Nat. – Naturalized – species were introduced to Hawaii intentionally or accidentally.

APPENDIX B

Archaeological Assessment
Cultural Impact Assessment

ASC102415

Archaeological Assessment:
Surface Assessment of Adjoining Lands for Continued Passenger Loading and Unloading of Kai Kanani II Catamaran at Maluaka Beach, Ka`eo and Maluaka *ahupua`a,* Makawao District, Maui Island
TMK: (2) 2-1-008: 59 por.

October 2015

Aki Sinoto Consulting
2333 Kapiolani Blvd., No. 2704
Honolulu, Hawai`i 96826

ASC10242015

Archaeological Assessment:
Surface Assessment of Adjoining Lands
for Continued Passenger Loading and Unloading
of Kai Kanani II Catamaran at Maluaka Beach,
Ka`eo and Maluaka *ahupua`a*, Makawao District, Maui Island
TMK: (2) 2-1-008: 59 por.

For:

Makena Boat Partners
34 Wailea Gateway Place
Suite A105
Wailea, Hawaii 96753

By:

Aki Sinoto

and

Eugene Dashiell

October 2008

Aki Sinoto Consulting
2333 Kapiolani Blvd. No. 2704
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ABSTRACT

On Wednesday, February 9, 2015, archaeological surface assessment was conducted in the land area (TMK: (2) 2-1-006:059 por.) immediately adjoining Maluaka Beach in Makena, Ka`eo and Maluaka *ahupua`a*, Makawao District, Maui Island. The field task was followed by literature review of reports from previous archaeological investigations in the vicinity of the current project area. The subject project area is located in the ocean fronting Maluaka Beach in shallow near-shore waters. The client, Makena Boat Partners, is seeking to obtain a permit to continue passenger loading and off-loading of the Kai Kanani II catamaran.

Both the surface assessment and literature review resulted in negative findings. No previous discoveries of significant archaeological or historic remains have been documented in the land areas immediately adjoining the in-shore area fronting Maluaka Beach. In addition, the current proposal does not involve any alteration either on land or in the sea. The continuation of the activities that have been taking place for at least three decades will not involve any changes or new developments shoreside or in the shallow waters.

No further archaeological procedures are warranted.

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INTRODUCTION

At the request of Makena Boat Partners of Wailea, Aki Sinoto Consulting of Honolulu undertook archaeological inventory-level procedures in conjunction with a permit application for continued passenger boarding of the catamaran, Kai Kanani II, at Maluaka Beach in Makena, Maui Island. The State Historic Preservation Division in their letter of July 15, 2015 (Log No:2015.02588/Doc No:1507MD20 Archaeology) stated that although archaeological inventory survey has not been conducted within the immediately adjacent land parcel, "We found no records that the past decades' use as a boarding spot has resulted in exposure of any remains however. The ship does not reach the land and passengers wade out to the ship to a retractable ladder that does not reach the surface." The negative results of the current AIS procedures warranted the preparation of this archaeological assessment survey report in accordance to HAR 13-284-5(A).

PROJECT AREA

The project area is located in the shallow, near-shore waters of Maluaka Beach (Figs. 1 & 2), Makena, Ka`eo and Maluaka *ahupua`a*, Makawao District, Maui Island (adjacent to TMK: (2) 2-1-006:059 por.). The boarding area is a rectangular area measuring 225 ft. (68.6 m) NE to SW by 150 ft. (45.7 m) NW to SE immediately off shore of the central section of the sandy beach (Fig. 3) fronting the Makena Beach Golf and Resort Hotel (formerly the Maui Prince Hotel).

ENVIRONMENTAL SETTING

The environment of Makena is similar to arid leeward regions of the other Hawaiian Islands. The project area receives approximately 20 inches of annual rainfall with January being the wettest month and July the driest (Armstrong 1973). The project area is in the near-shore waters with the immediately adjacent beach and berm areas ranging from about 0 to about 10 feet above mean-sea-level. The topography of the adjacent land area varies from gently-sloping sandy beach in the *makai* portions to a sand berm area between the beach and the pedestrian path section of the Makena-Keone`o`io (Old Makena) Road. Evidence of previous land modifications in the form of clearing, grading for road building, and resort landscaping are evident within this adjacent land parcel. The current use of the area is primarily marine recreation and sun bathing. The soils in the area consist exclusively of beach sand which are light-colored sands derived from coral and seashells and are washed and rewashed by wave action (Foote et al. 1972:28).

Vegetation in the project area consists largely of lowland shrubs (Armstrong 1973:64). The majority of the vegetation is xerophytic; consisting of common exotics such as *kiawe* (*Prosopis*

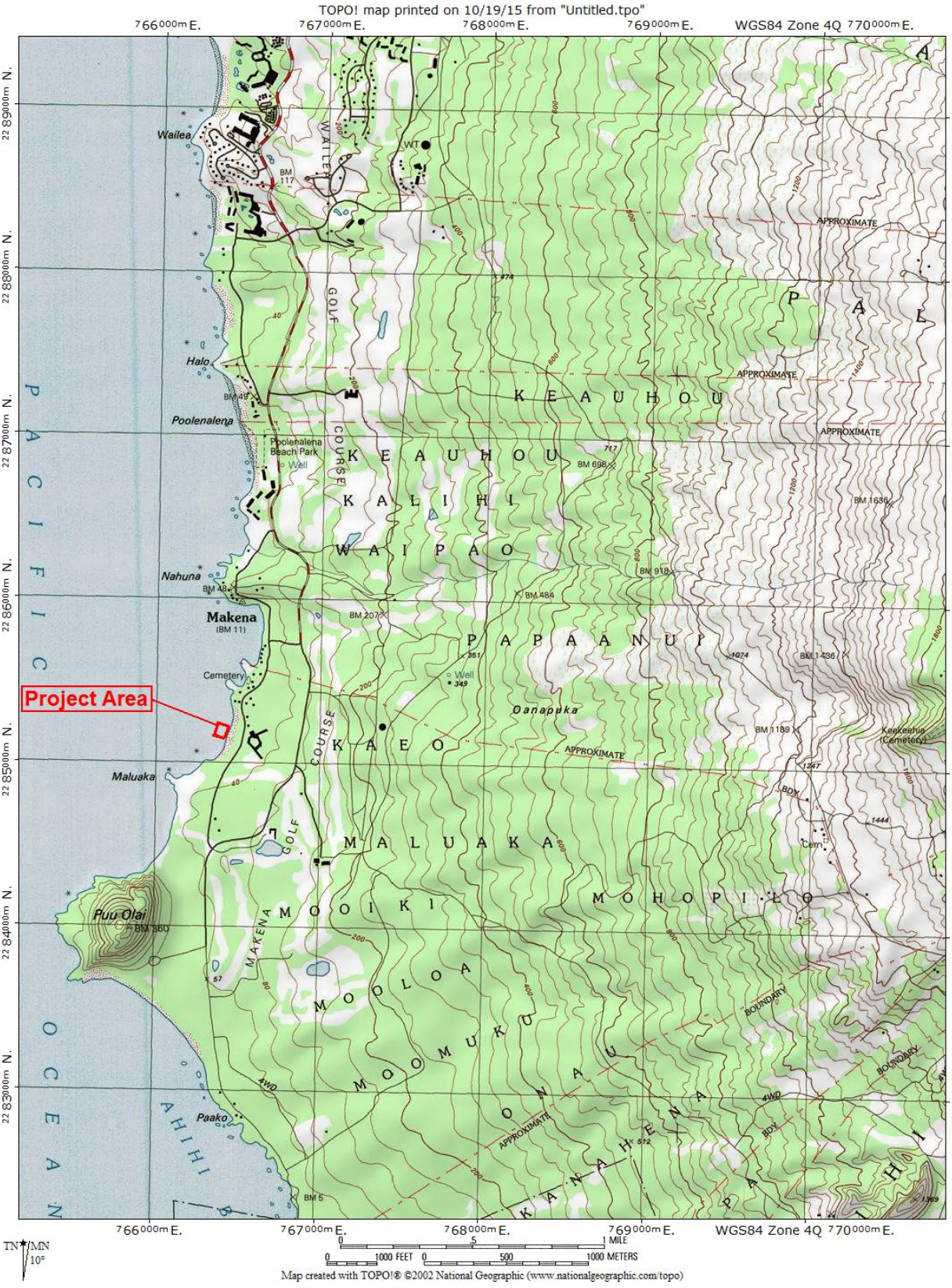

Figure 1. Location of Project Area on USGS Makena Quadrangle

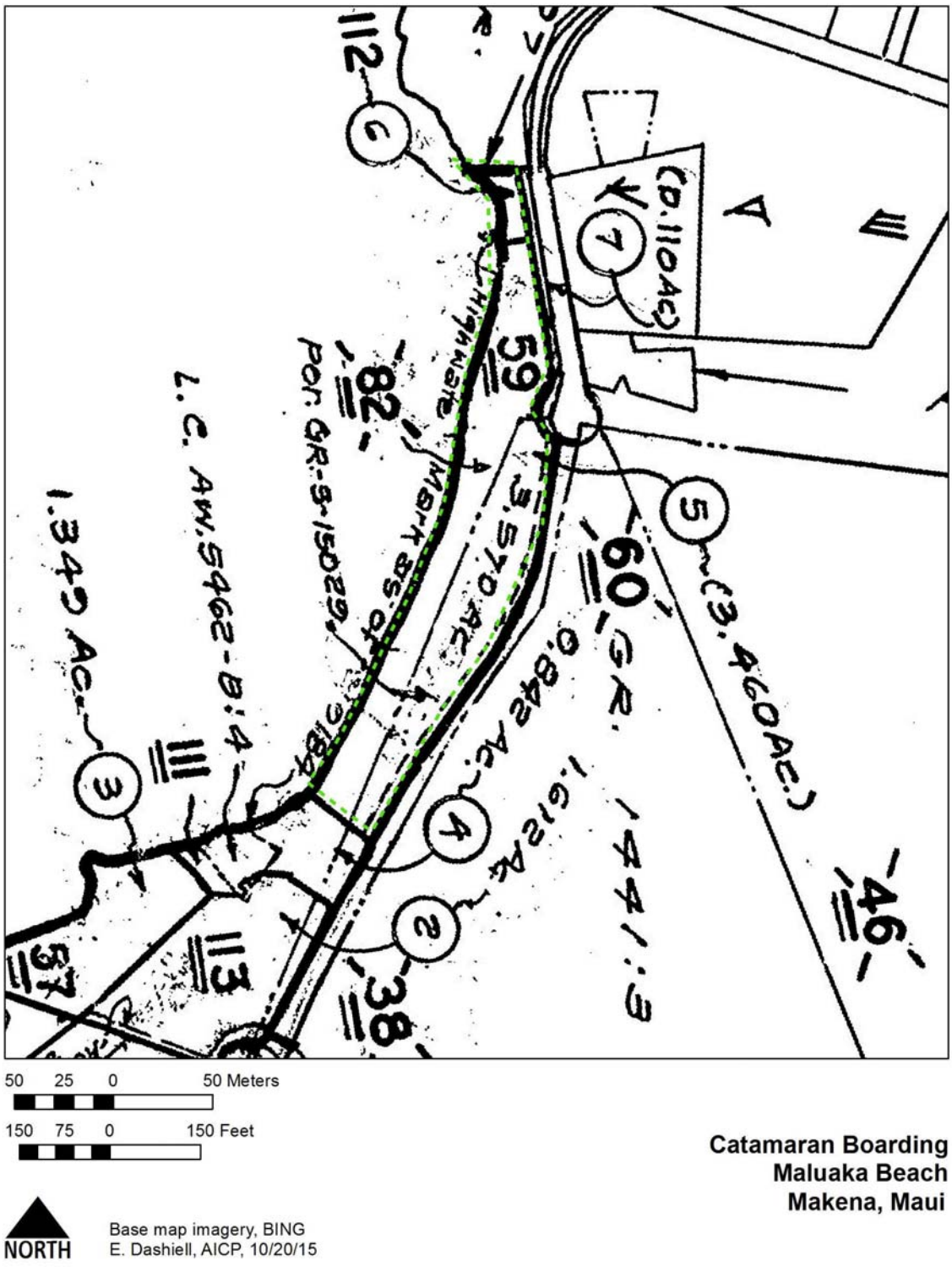

Figure 2. Tax Map of Land Parcel Adjacent to Project Area
TMK: (2) 2-1-006:059 (por.) outlined in green

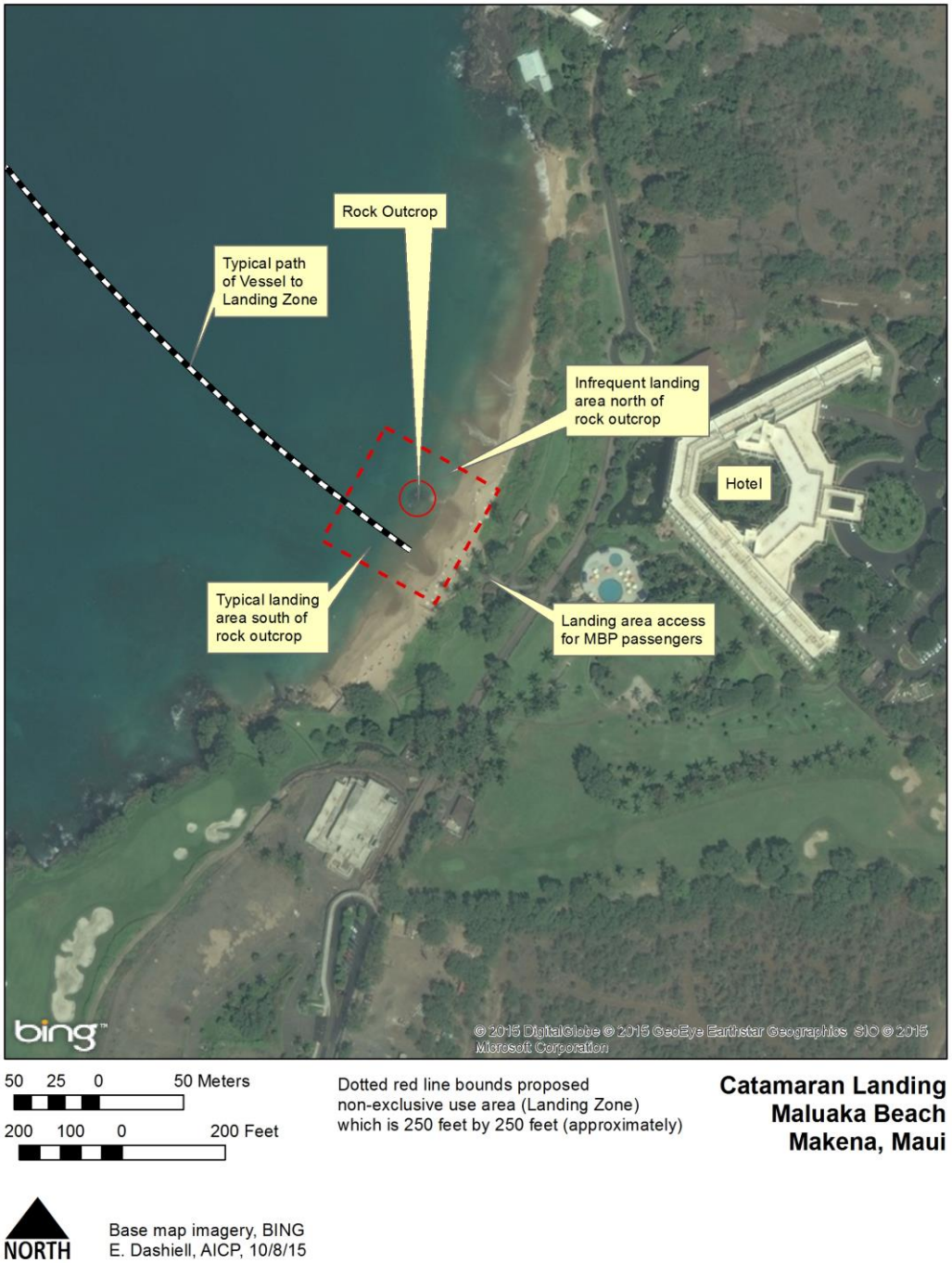

Figure 3. Project Area Depicted (red dashed line) on Bing Image.

pallida) as the dominant high cover with *koa haole* (*Leucaena leucocephala*) with intermittent, isolated stands of endemic *wiliwili* (*Erythrina sandwichensis*) trees. Common ground cover includes endemic *`ilima* (*Sida fallax*), exotics such as basil (*Ocimum basilicum*), lantana (*Lantana camara*), the ubiquitous beggar's tick (*Bidens pilosa*), castor bean (*Ricinus communis*), and various dry grasses. Some of the other vegetation, including those planted as landscaping consists of the usual beach fringe flora with coconut (*Cocos nucifera*), *milo* (*Thespesia populnea*), *naupaka kahakai* (*Scaevola sericea*), and ground cover of turf grass.

BRIEF SUMMARY OF HISTORIC BACKGROUND

Historical background data regarding the Wailea/Makena region has been well-summarized in previous studies such as Barrere (1975), Clark and Kelly (1985), Cordy and Athens (1988), Schilt (1988), Gosser et al. (1993 & 1996), Maly and Maly (2005), Donham (2006), and most recently by Lee-Grieg (2013). The reader is thus referred to these studies for detailed information and a brief summary of selected topics shall be discussed here.

Land Use in Makena

The earliest prehistoric settlement on Maui Island is postulated to have occurred between A.D. 300-600 along the windward regions where abundant rainfall and fertile soil supported crop cultivation and human populations (Kirch 1985, Cordy and Athens 1988, Gosser et al. 1996). Population expansion into the drier, leeward areas of Kihei, Wailea, and Makena, likely took place by A.D. 1000-1200 (Cordy 1978, Kirch 1985). Seasonal settlements occurred along the coastal areas to exploit marine resources, while permanent settlements occupied the upland areas to utilize forest products and cultivate agricultural resources. Between these settlement loci was an arid area used for cultivating sweet potatoes and during transit on *mauka-makai* trails. Upland populations exchanged taro, bananas, and sweet potatoes with the coastal populations for ocean resources (Handy 1940). Although a number of scenarios regarding the prehistoric chronology of the coastal Honuaula region have previously been suggested (Cordy and Athens 1988, Gosser et al. 1996, and Donham 2006), the number of dated sites is still too limited to permit the establishment of conclusive intra-regional chronological benchmarks. The inhabitants of Makena are said to have subsisted mainly on fish and sweet potatoes, a common diet of those who lived in the leeward areas of Maui (Barrere 1975:41). The early French navigator La Perouse noted, while anchored at Keoneoio Bay, that "this part of the coast was altogether destitute of running water. The inhabitants had no drinking water but a brackish water obtained from shallow wells" (1798:350).

Captain George Vancouver introduced cattle to Hawaii in 1793 and Kamehameha placed a decade long *kapu* on them and wild cattle roamed throughout northern Hawaii Island. Around this time, cattle was also introduced to Maui and by 1845 proliferated rapidly that numerous complaints of the cattle destroying crops and lands were raised by the people. Many Hawaiians were driven from their homes and lands by marauding wild cattle. Forced abandonment of lands by families that occupied the area for generations took place in Makena and elsewhere on Maui leading to forfeiture of later claims to these lands.

Land Tenure During the Historic Period

Due to the lack of running water, agricultural production in leeward Maui Island was limited to dry-land taro in the upland areas in pockets of moist soil where rainfall was greater, while sweet potatoes were grown at the lower elevations (Handy 1940:113-114). Irish potatoes became an important cash crop in East Maui, for provisioning whaling ships and supplying the west coast of North America during the Gold Rush of 1848. By 1846, the cultivation of Irish potatoes had spread from Kula to Honua'ula. Sweet potatoes were also grown for export, and sugarcane was being commercially cultivated by 1841. M.J. Nowlein and S.D. Burrows leased lands from Kamehameha III at Ulupalakua to grow sugarcane and Irish potatoes. In 1845, Nowlein and Burrows transferred their lease and interests to Linton L. Torbert, who extended sugarcane cultivation to adjoining lands and started cattle ranching. In 1856, Captain James Makee bought the Torbert Plantation and it was later referred to as the "Rose Ranch." By 1862, sugarcane was being extensively cultivated, and a steam mill was built for processing sugar. A severe drought in 1878 forced the end of sugarcane production, and cattle ranching became the dominant commercial enterprise of Honua'ula. By the 1880s, `Ulupalakua Plantation was basically a cattle ranch utilizing the road and landing at Makena in Papa`anui. Ranching continued to be practiced into the 1970s. However, the dominant economic and land-use theme since then has focused on tourism. The past three decades have seen the intensification of golf course, resort, and luxury residential developments in the Wailea and Makena regions.

PREVIOUS ARCHAEOLOGY

Winslow M. Walker, who conducted his fieldwork during 1929-30, provided the first modern archaeological descriptions of surface remains, mainly *heiau* and other prominent structural features, on the island of Maui. However, much of the remains of daily life, the house-sites and other small associated features were not documented until several decades later, especially in the remote Makena region.

The first modern, systematic documentation of surface remains on Maui occurred in 1973 during the Statewide Inventory of Historic Places implemented by the State Department of Land and Natural Resources. Over the years, a large number of archaeological procedures have been undertaken within the former Makena Resort holdings in conjunction with golf course and hotel development and expansion during the period between 1970 and 1992, the installation of a wastewater treatment facility and infrastructural improvements during 1992 to 2006, and most recently for multi-family residential and resort developments which are still currently on-going under new ownership.

Previous Archaeology In The Vicinity

In 1979, two surveys were undertaken in the proposed hotel and residential areas (Denison 1979 and Rogers-Jourdane 1979). These surveys resulted in the mitigation of several site areas and the *in situ* preservation of Site 2258, a pahoehoe bubble shelter located 120 m to the east of Keawalai Church. This site is located in back of the public parking lot and *makai* wastewater pumping facility in the vicinity of the north cul-de-sac and public beach access onto Maluaka Beach.

In 1985 (Clark and Kelly) and 1986 (Joesting), Bishop Museum conducted historic archival research and archaeological testing along the alignment of the Makena-Keone`oi`o Road behind the beach berm at Maluaka Beach to determine whether any subsurface traces of the former "King's Road" was evident. No evidence of any formally built Hawaiian trail was found, but informant testimony and physical evidence showed ample evidence of compounded prior distubances including military clearing and widening of the existing "Old Makena Road." These studies concluded that the purported "King's Trail" occurred more inland and that a fisherman's trail would have traversed the top of the berm or the beach, enabling a view of the ocean rather than behind a high berm. However, soon thereafter, at the urging of Native Hawaiian groups, the Seibu Corp., the former owners of the Maui Prince property agreed to close off the section of the roadway to vehicular traffic and make it into a pedestrian walkway following completion of the more inland Makena Alanui.

In 1988, a survey was conducted for the public beach parking lot (TMK 2-1-05:84) and the south cul-de-sac (TMK 2-1-06:37) for the Makena-Keoneoio Road (Cleghorn, Kawachi, & Sinoto 1988). A complex of five surface features consisting of 2 walls (Fe. 1 and 2), 2 platforms/privies (Fe. 3 and 4), and a cement lined cistern (Fe. 5) with two curvilinear stone alignments around the base were documented and designated Site 50-50-14-1007. The structural features were thought to be associated with the Old Makena School, formerly present in that location. The cistern, was

filled and preserved *in situ* in an area adjoining the parking lot to the south. Later, the cul-de-sac area was monitored during construction and installation of landscaping and irrigation with negative results (Sinoto and Rotunno 1992 letter to Makena Resort). No significant remains were encountered during the construction activities. The adjacent South Golf Course area south of Maluaka Beach was included in Donham's (2006) recent study which revisited Haun's (1978) previous survey. Subsequent mitigation of newly identified sites in the area resulted in the preservation of human remains (Rotunno-Hazuka 2006). These are the "human skeletal remains" mentioned in SHPD's July 15, 2015 correspondence commenting on the current catamaran boarding permit application. Worth noting, however, is that the current project area is in the water and not on land and also, the skeletal remains originated from the land parcel to the south (TMK: (2) 2-1-006:037) in a location roughly 500 ft (150 m) away from the south end of Maluaka Beach.

GENERAL SETTLEMENT PATTERN

The general pattern of extant archaeological remains in the Makena area appears to consist of prehistoric and historic permanent habitation along the coastal areas with isolated pockets of agricultural activity transformed into more extensive clusters of *kula* type features in the inland areas around the 200-foot elevation. Limited permanent and some temporary or seasonal occupation sites occur in the inland areas in association with agricultural complexes. Site densities and complex features focus around Ka`eo *ahupua`a*, owing to the variable rainfall in the area. The variety of available archaeological data as well as historic documentation indicate a traditional subsistence base dependent on marine exploitation and limited dryland cultivation for the Makena region.

METHODS

The current archaeological procedure was conducted on Wednesday, February 11, 2015. No systematic surface survey of the adjacent land area was warranted since the project area was within the shallow, near-shore waters of Maluaka Beach. Literature review of previous archaeology and historical summaries was conducted at the SHPD Library in Kapolei, O`ahu.

Based on the total absence of any significant remains or other indications of prehistoric or historic period cultural activities, an assessment report was prepared. Eugene Dashiell, M.A. was principal investigator and Aki Sinoto was project director for the current undertaking. A cultural impact assessment is being prepared by Kimokeo Kapahulehua of Hana Pono, LLC under separate cover.

RESULTS OF CURRENT PROCEDURES

A walk-through, surface survey of the adjacent land area of the current project area within the shallow nearshore waters of the bay fronting Maluaka Beach determined that the area was absent of any subsurface exposures of significant archaeological or cultural remains. As mentioned in the SHPD letter, there have been no reports of human skeletal remains exposed along the shoreline of Maluaka Beach during or following high wave or storm surf action. The authors, having worked in the area since the original owner, beginning in 1974 are intimately familiar with the Maluaka Beach area as well as the whole region and also have no knowledge of any exposures of archaeological or cultural significance ever eroding out of Maluaka Beach. Mr. Kimokeo Kapahulehua, the cultural consultant is also unaware of any such inadvertent exposures of cultural remains over the years.

The review of previous archaeological investigationx also yielded negative results for the beach and berm areas immediately adjoining the subject project area in the water.

Figure 4. Overview of Passenger Loading onto Kai Kanani II, View North
(photograph courtesy of Makena Boat Partners)

DISCUSSION AND CONCLUSION

The archaeological procedures described in this report resulted in completely negative results in terms of encountering any significant archaeological or historic remains within the immediately adjoining land areas of Maluaka Beach. This absence of remains coupled with the nature of the proposed activities within the shallow, near-shore waters of the bay fronting Maluaka Beach warrants no further archaeological procedures in conjunction with the subject Environmental Assessment. Furthermore, the previous archaeological procedures cited in this report, including the testing (Clark and Kelly 1985) for the "King's trail" and, monitoring during cul-de-sac construction and installation of landscaping irrigation (Sinoto and Rotunno-Hazuka 1992), encountered no significant subsurface deposition or other evidence of any archaeological or cultural remains. No new clearing or any other modifications are proposed for the land-based access and gathering localities for the passengers. Existing public access corridors are employed and will continued to be used for this purpose near the southern terminus of Maluaka Beach.

Thus, this study concludes that the proposed continuation of loading and off-loading of passengers onto and from the Kai Kanani II catamaran poses no adverse effect on any potential archaeological or historic resources in the immediate adjoining land areas.

BIBLIOGRAPHY

Armstrong, R.W., J.A. Bier, and S. Chang
1973 *Atlas of Hawaii*. University of Hawaii Press, Honolulu.

Barrere, Dorothy B.
1975 *Waile`a: Waters Pleasure for the Children of Kama*. Department of Anthropology, Bishop Museum. Honolulu.

Bordner, Richard M.
1977 "Appendix: Archaeological and Historical Sites." *Environmental Impact Statement for Makena Road, Makena, Maui, Hawaii.* For County of Maui-Department of Public Works. EISC. Wailuku.

Clark, Stephan D.
1974 *Archaeological Reconnaissance Survey of Makena Properties, Makawao, Maui.* For Seibu Hawaii, Inc. Bishop Museum. Honolulu.

Clark, Stephan D. and Marion Kelly
1985 *Archaeological Testing and Historic Research for the "King's Trail" in a Section of the Old Makena Road fronting the Maui Prince Hotel.* Department of Anthropology, Bishop Museum. Honolulu.

Cleghorn, Paul; Carol Kawachi, and Aki Sinoto
1988 Archaeological Reconnaissance Survey of the Makena Road South Cul-de-sac Area and the Old Makena School Site, Makena, Maluaka, Makawao, Maui Island. For Seibu Hawaii, Inc. Bishop Museum. Honolulu.

Cordy, Ross
1978 *Archaeological Survey and Excavations at Makena, Maui: Third Increment, Seibu Golf Course: Fairways 1, 7 through 18.* For Seibu Hawaii, Inc. Bishop Museum. Honolulu.

Cordy, Ross, and J. Stephen Athens
1983 *Maui.* J. Stephen Athens, Ph.D., Archaeology Consultant, *Archaeological Survey and Excavations, Makena, Honua'ula,* Honolulu.

Davis, Bertell D. and Richard M. Bordner
1978 *Archaeological Reconnaissance of the Proposed Realignment of the Makena Coast Road – Mauka Alternate, Honua`ula, Maui Island.* For EISC. Archaeological Research Center Hawaii, Inc. Lawai, Kaua`i.

Denison, David
1979 *Archaeological Phase I Testing and Phase II Salvage of Area Designated for Hotel Construction of Seibu Land, Makena, Makawao, Maui.* For Seibu Hawaii, Inc. Bishop Museum. Honolulu.

Donham, Theresa
2006 *Archaeological Inventory Survey of Development Parcel H-1 (TMK: (2) 2-1-005:84 & 2-1-006:37 and 56) Maluaka* ahupua`a, *Honuaula, Maui.* Akahele Archaeology and Archaeological Services Hawaii, LLC. Wailuku.

Foote, D., E.L. Hill, S. Nakamura, and F. Stephens
1972 *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai*. U.S.D.A. Soil Conservation Service, U.S. Government Printing Office, Washington, D.C.

Gosser, Dennis; Stephan Clark; and Boyd Dixon
1993 *Na Lawai`a O `Ao`ao Kona Ka Moku: Excavations at the Southern Acreage and Lot 15, Wailea, Maui.* For the Wailea Resort Company. Bishop Museum. Honolulu.

Handy, E.S.C.
1940 *The Hawaiian Planter*. BPBM Bulletin 161. BP Bishop Museum Honolulu.

Haun, Alan
1978 *Archaeological Survey and Salvage Excavations in Mooiki and Maluaka, Makawao District, Maui.* For Seibu Hawaii, Inc. Bishop Museum. Honolulu

Joesting, Ann
1986 *Historical Research for the Makena-Keone'o'io Road in Makena, Maui.* Ms. in Dept. of Anthropology, BPBM, Honolulu.

Kirch, Patrick V.
1985 *Feathered Gods and Fishhooks.* University of Hawaii Press. Honolulu.

La Perouse, J.F.G. de
1798 *A Voyage Round the World, performed in the years 1785…1788, by the Boussole and Astrolabe*. 2 Volumes, A. Hamilton, London.

Lee-Grieg, Tanya L.
2013 *Cultural Historic Background for Keauhou, Kalihi, Waipao, Papa`anui, Ka`eo, Maluaka, Mo`oiki, Mo`oloa, and Mo`omuku* ahupua`a, *Honua`ula Moku, Maui Island (TMK:(2) 2-1-05 & 08: multiple parcels).* For MTC Makena Holdings, LLC. Cultural Surveys Hawai`i, Inc. Wailuku.

Neal, Marie C.
1965 *In Gardens of Hawaii*. Bishop Museum Special Publication No.50. Bishop Museum Press. Honolulu.

Pratt, H. Douglas
1998 *A Pocket Guide to Hawai`i's Trees and Shrubs.* Museum of Natural Science, Louisiana State University. Mutual Publishing. Honolulu.

Rogers-Jourdane, Elaine
1980 *Archaeological Reconnaissance and Partial Phase I Surveys: Proposed Hotel and Residential Areas, Makena, Makawao, Maui.* For Seibu Hawaii, Inc. Bishop Museum. Honolulu.

Rotunno-Hazuka, Lisa; Jeffrey Pantaleo, and Aki Sinoto
Draft *Archaeological Inventory Survey of theProposed Four Seasons Hotel, Makena, Makawao, Maui Island.* For the Dowling Company. ASH, Wailuku. ASC, Honolulu.

Rotunno-Hazuka, Lisa and Jeffrey Pantaleo
2006 *Burial Treatment and Preservation Plan for a Native Hawaiian Burial Site, Site 50-50-14-5706 Feature 11 Located at Parcel H-1 (TMK:(2)2-1-006:037) Maluaka* ahupua`a, *Makawao District, Island of Maui.* For: Keaka LLC. Archaeological Services Hawaii, LLC. Wailuku.

Sinoto, Akihiko and Lisa Rotunno-Hazuka
1992 *Archaeological Monitoring during Construction of North and South Cul-de-sac Areas of the Old Makena Road and Installation of Landscape Irrigation along the Beach Berm, Kaeo and Maluaka* ahupua`a, *Makawao District, Maui Island.* For the Makena Resort Corp. Aki Sinoto Consulting. Honolulu.

State of Hawaii Inventory of Historic Places (SIHP)
1974 Various Archaeological and Historic Site Data on file at the Kapolei Office of the State Historic Preservation Division (SHPD) of DLNR and currently available SHPD GIS historic sites database.

Sterling, Elspeth P
1998 *Sites of Maui*. Bishop Museum Press. Honolulu.

Walker, Winslow
1931 *Archaeology of Maui.* Ms. in Dept. Anthropology. BPBM, Honolulu.

MALUAKA BEACH

Cultural Impact Assessment:
for Continued Passenger Loading and Unloading
of Kai Kanani II Catamaran at Maluaka Beach,
Ka`eo and Maluaka *ahupua`a*, Makawao District, Maui Island
TMK: (2) 2-1-008: 059 por.

For:

Makena Boat Partners
34 Wailea Gateway Place
Suite A105
Wailea, Hawaii 96753

By:

Keli`i Tau`a
Kimokeo Kapahulehua

Hana Pono LLC 2275 Apala Place Haiku, Maui, HI 96708

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INTRODUCTION

This cultural impact assessment was prepared by Hana Pono LLC of Pukalani, in conjunction with a draft Environmental Assessment being prepared for permit application for continued loading and off-loading of the Kai Kanani II catamaran within the shallow, in-shore waters of Maluaka Beach at Makena, Makawao, Maui Island. This activity has been on-going in the same location for over two decades. Archaeological assessment procedures were undertaken by Aki Sinoto Consulting of Honolulu and is included in the EA document as an appendix. Both procedures were conducted at the request of Makena Boat Partners of Wailea, Maui.

PROJECT AREA

The project area is located in the shallow, near-shore waters of Maluaka Beach (Figs. 1 & 2) in Makena, Ka`eo and Maluaka *ahupua`a*, Makawao District, Maui Island (adjacent to TMK: (2) 2-1-006:059 por.). The boarding area is a rectangular area measuring 225 ft. (68.6 m) NE to SW by 150 ft. (45.7 m) NW to SE, located immediately off-shore, just south of the central section of Maluaka Beach, the crescent-shaped, sandy beach (Fig. 3) fronting the Makena Beach Golf and Resort Hotel (formerly the Maui Prince Hotel).

For summary of natural and archaeological backgrounds, the reader is referred to the introductory section of the Archaeological Assessment report (Sinoto and Dashiell 2015).

CURRENT SCOPE AND METHODS

The current scope involved compiling of excerpts from previous cultural assessment documents (for Honua`ula and Makena Resort) prepared by Hana Pono LLC for the region together with current observations made at the specific location and neighboring shoreline areas. Although the current document is limited in scope and the subject area limited in extent, the original cited assessments followed methodology and protocol set forth by the OEQC's *Guidelines for Assessing Cultural Impacts* (November 19, 1997) in meeting Section 343-2 (recently amended by Act 50) of the Hawaii Revised Statutes. This and other laws mandate the promotion and preservation of cultural beliefs, practices, and resources of native Hawaiians as well as other ethnic groups. Information obtained through informal conversations, observations, personal experience, and other pertinent research was used to gauge the levels of contemporary use of the area and to assess the potential impact of continuing the to-be-permitted activity to existing cultural practices and beliefs.

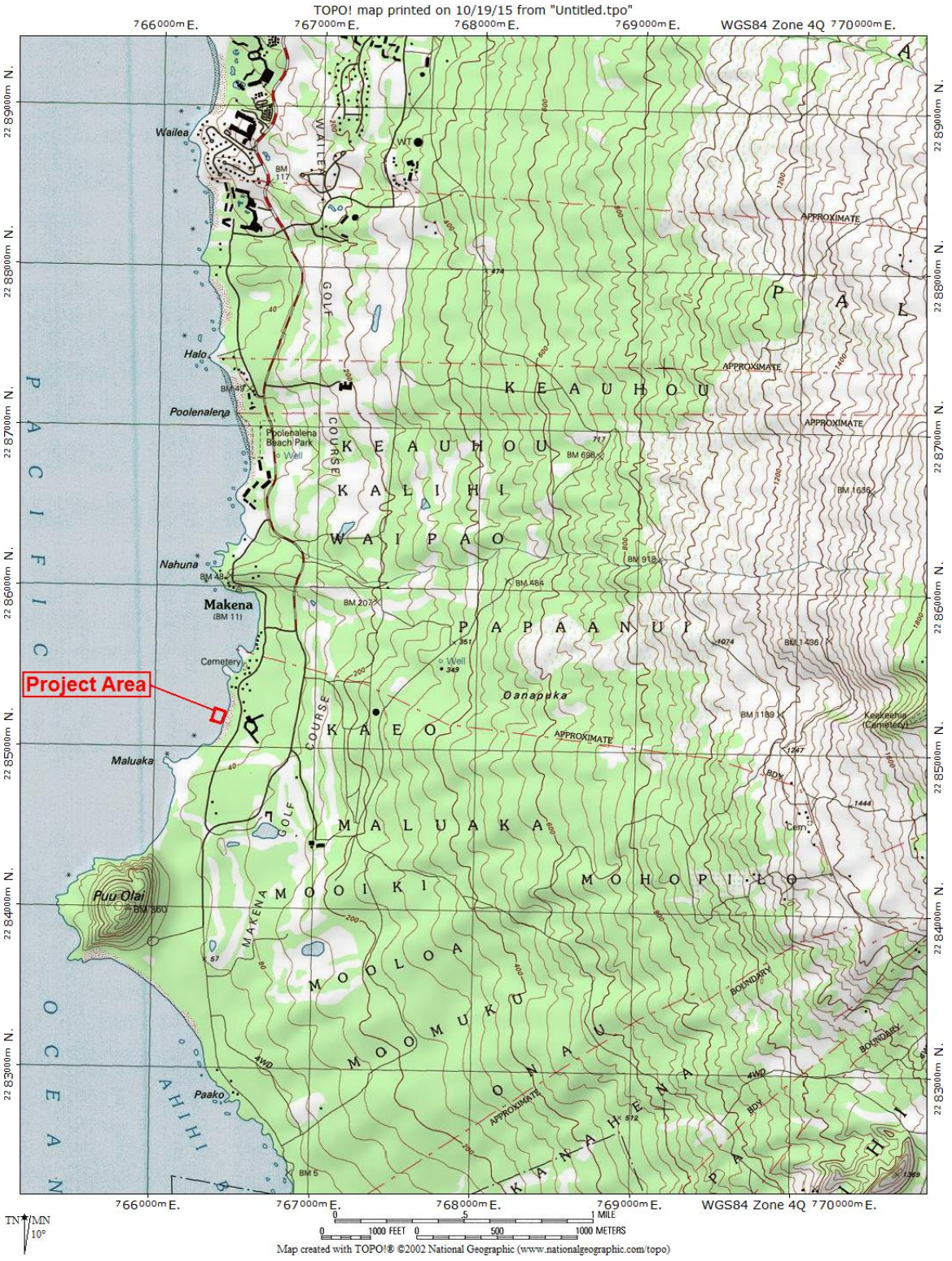


Figure 1. Location of Project Area on USGS Makena Quadrangle

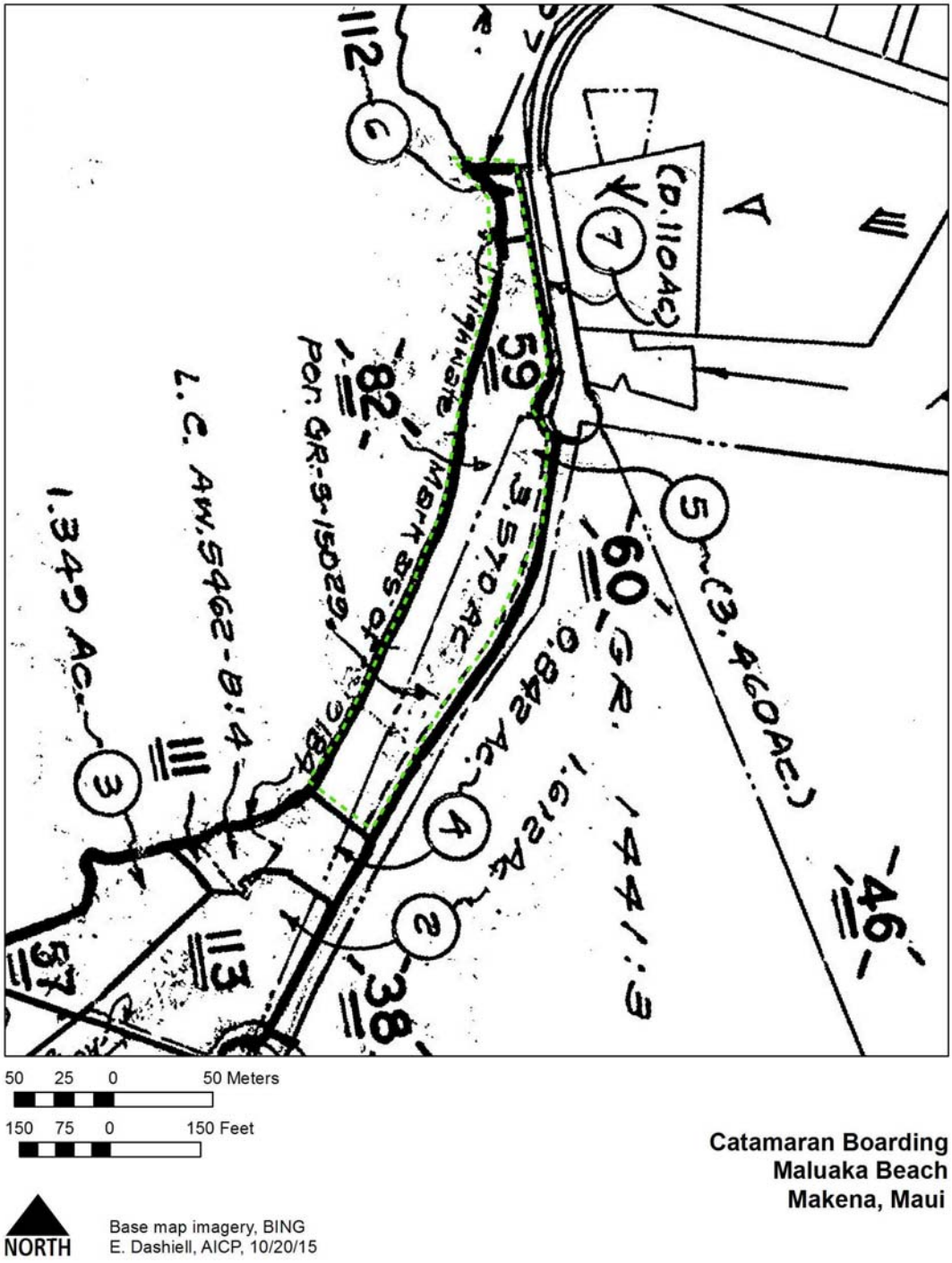


Figure 2. Tax Map of Land Parcel Adjacent to Project Area
TMK: (2) 2-1-006:059 (por.) outlined in green

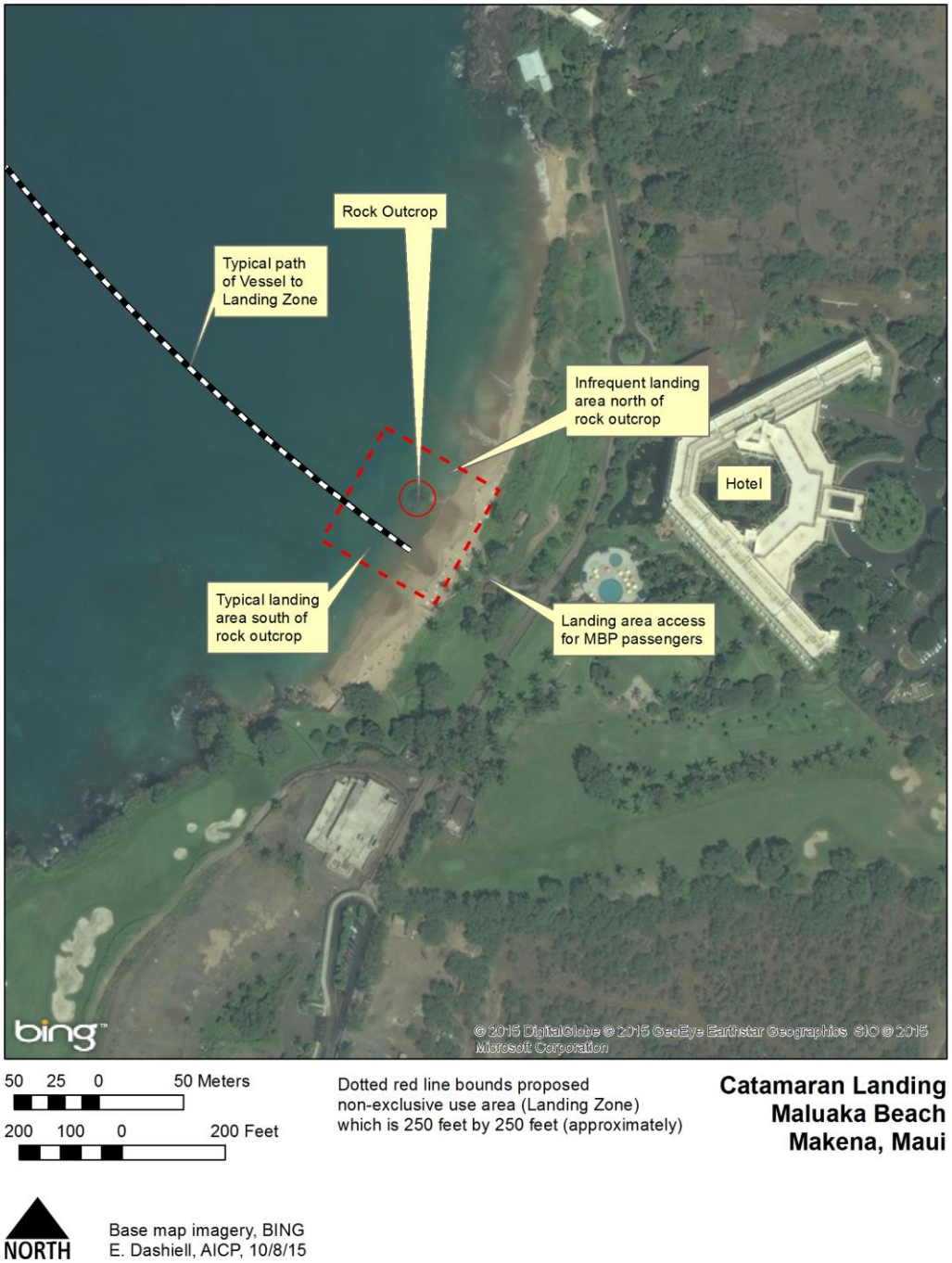


Figure 3. Project Area Depicted (red dashed line) on Bing Image.

PLACE NAMES

Traditional Hawaiian place names, prior to Western contact, were often given for a prominent natural feature, a characteristic of the area, or based on mythological references. Such names described various localities including land areas, political divisions, villages or hamlets, fisheries, ceremonial and sacred places, and prominent topographical or geological features. The name of the traditional district or *moku* is Honua`ula or "red land," from the color of the earth in this leeward area of East Maui. The name given to the coastal area is Makena, literally meaning, "abundance," but could also mean, "mourning, wailing, lamentation" or "calm, of sea, atmosphere" (Pukui et al. 1974:142 and Pukui and Elbert 1981:211). The two *ahupua`a,* Ka`eo literally means full (as a calabash full of food) or figuratively as "full of knowledge;" and Maluaka, literally means "peaceful shadow," but as explained by one of the oral informants, describes the long cloud that comes over this particular area from Haleakala which provides a favorable microclimate both on land and sea within these two *ahupua`a*.

Two *`olelo* or traditional sayings that refer to Honua`ula, recorded by Mary Kawena Pukui (1983:113) state:

Honua`ula, e paluku ia ana na kihi po`ohiwi e na `ale o ka Moa`e
Honua'ula whose shoulders are pummelled by the Mo`ae wind.
A poetical expression for a person being buffeted by the wind. Honua`ula, Maui is a windy place. (1058)

Honua`ula kua la`ola`o
Callous-backed Honua`ula
Said of the people of Honua`ula, Maui who were hard workers. The loads they carried often caused callouses on their backs. (1059)

For a more detailed treatment of *mo`olelo* pertaining to Honua`ula, the reader is referred to the Cultural Historical Background Study undertaken for ATC Makena Holdings LLC (new owners of the former Makena Resort property) by Cultural Surveys Hawaii, Inc. (Lee-Grieg et al. 2013, revised draft) and *A Cultural-Historical Study of Ka`eo and Other Lands in Honua`ula, Island of Maui* (Maly and Maly 2005) by Kumu Pono Associates.

CHRONOLOGY OF HONUA`ULA

A brief summary of seven time periods, 5 prehistoric eras followed by the advent of the historic period following Western contact, and the modern era, shall be presented here with a general overview discussed for each period.

Mythical Creation

Besides the Kumulipo's account of the Creation or birth of the Hawaiian Islands, several other creation myths involving the Fire Goddess, Pele, can be found in oral traditions. There are many stories of Pele's travels from Tahiti to the islands of Hawai'i but here just the accounts involving Maui Island and Honua'ula *ahupua`a* are discussed.

Pele lived a very long time at Pu'u Keka'a on Maui but the people living on the island saw her only as fire. The whisper of the natives who lived at Honua'ula spoke of Pele as their woman chief who was greater than all of the other chiefs.

In "Sites of Maui", Sterling recounts a mo'olelo (story) about Pele's position in the community leading a man named Paea who lived at Wahane, Honua'ula to dedicate his new home to Pele saying that it should not be occupied until she had entered it. Sadly, he did not keep his word and ate all the ho'okupu (ceremonial food) which he had left for her. His unfaithfulness caused Pele to chase Paea to the ocean and her curse changed him into Pohaku Paea (Rock of Paea);which is located north of La Perouse Bay standing tall at the ocean front as a symbol of her prowess of yesterday, today and forevermore. (Sterling 1998:228)

The latest and last physical appearance of Pele occurred as late as the mid-1800 when the Fire Goddess flowed from the top of the southern slopes of Haleakala down through Honua'ula and reached the coast of Makena and Wailea.

In the Hawaiian Annual published by Thomas Thrum and James Dana's "Characteristics of Volcanoes", they report Father Bailey's statements of his oral interviews explaining that the last flow had occurred in 1750 (Sterling 1998: 228). Many of the lava flows in the summit depression and in the Ulupalakua to Nu'u area were dark black and bare 'a'a (rough, jagged type of lava landscape). The two freshest lava flows run near La Perouse Bay.

About two centuries ago, Tutu Pele completed her Lalanipu'u (row of foot hills) in Honua'ula such as Pu'u Naio, Pu'u Kalu, Pu'u 'Ola'i, Pu'u Lua Palani and Pu'u Pimoe. In 1736, Pele was still at Pimoe as she welcomed the birth of Kamehameha the Great.

Although Haleakala remains dormant, there is still a lot of seismic activity from Pu'u Pimoe and over to Pu'u Ola'i (Earthquake hill) at Ku-Makena. At Pu'u Ola'i, Pele was jealous of the mo'o maiden of Kaho'olawe, lnaina, whose parents were Hele and Kali. Pele accused Inaina of trying to steal her lover Lohi'au from her. In a fit of anger, Pele transformed the

three into hills named after them. Her older brother Kamohoali'i scolded her and pronounced the Kanawai Inaina there, meaning, "you must not say or do unkind things to others." From that time the people of Honua'ula observed that law. They named the area Ku-Makena meaning "stand courageously, accepting the joys and sorrows of life bravely, even while mourning or rejoicing."

While Pele was carving her niche on the islands from below the earth's surface, her counterpart demi-god Maui-akamai had taken an ocean approach to presenting the islands. He paddled out into the sea of Po'o from Kipahulu and in line with the hill Ka- iwi-o-Pele near Hana with his brothers Maui-mua, Maui-waena and Maui-iki-iki to fish up the islands from beneath the deep ocean with the magical fishhook Manaiakalani. It is only because his brothers looked back which prevented the islands from all rising to the top. Today, we can be reminded of Maui-akamai's works by enjoying his fishhook, Manaiakalani, which is the constellation Scorpio stretched out in the Southern sky from Honua'ula.

Pre-contact Migration - 0 to 1,100 AD

After the mythical creation of the islands was completed, pre-contact migratory periods in five distinct eras started in the year 0 to 600 A.D. Migrations from Polynesia, particularly the Marquesas, continued through the second era.

Between A.D. 600 and 1100 the population in the Hawaiian islands primarily expanded from natural internal growth on all of the islands. Through the course of this period the inhabitants of the Hawaiian islands grew to share common ancestors and a common heritage. More significantly, they had developed a Hawaiian culture and language uniquely adapted to the islands of Hawai'i which was distinct from that of other Polynesian peoples (Fornander 1919: 222).

During these periods, the social system was communal and organized around subsistence production to sustain the *'ohana* (large extended families). Hawaiian spiritual beliefs and customs focused on maintaining harmonious and nurturing relationships with the various life forces, elements and beings of nature. Ancestral spirits were honored as deities.

Land and natural resources were not privately owned; rather, the Hawaiian people maintained a communal stewardship over the land, ocean and other natural resources of the

islands. The kupuna (elders) provided leadership and guidance to the makua (adults) who performed most of the daily productive work of fishing, cultivation, and gathering.

Among the islands of Hawai'i, there was some variation of language dialect and names for plants, animals, rains and winds. There were also variations in physical structures, subsistence techniques and art forms. Origin myths varied according to the particular migration and genealogical line from which families descended. The prominence of *akua* (gods) and *kupuna* (elders) also varied by island. For example, as discussed above, the volcanic deity Pele was more prominent in Puna and Ka'u. Qualitatively, the language, culture, social system, spiritual beliefs, and customs were relatively similar among all the inhabitants of the islands. Oral traditions indicate frequent transmigration and even intermarriage among families from different islands.

Era 3: Early Tahitian Migration - AD 1100 to 1400

This third period, between A.D. 1100 and 1400, marks the era of the long voyages between Hawai'i and Tahiti and the introduction of major changes in the social system of the Hawaii. The chants, myths, and legends record the voyages of great Polynesian chiefs and priests, such as the high priest Pa'ao, the *ali'inui* (Head Chief) Mo'ikeha and his sons Kiha and La'amaikahiki, and high chief Hawai'iloa.

Oral traditions describe how these new Polynesian chiefs and their sons and daughters gradually appropriated the rule over the land from the original inhabitants through intermarriage, battles, and ritual sacrifices. The high priest Pa'ao introduced a new religious system that used human sacrifices, feathered images, and enclosed heiau for their sacred religious practices. The migration coincided also with a period of rapid internal population growth. Remnant structures and artifacts dating to this time suggest that previously uninhabited leeward and other marginal areas were settled during this period.

Honua'ula is an ancient name that was introduced to Hawai'i by Chief Mo'ikeha of Tahiti. The reason Chief Mo'ikeha decided to depart from Tahiti was to separate himself from his lover Lu'ukia who originally came from Hawai'i with her husband Olopana. Lu'ukia had created turmoil in Mo'ikeha's life and therefore the Chief felt that his separation from her would heal his wounds. (Sterling 1998: 214)

Chief Mo'ikeha's departure was not simply moving to another section of his island and beloved home of Lanikeha. Instead, he ordered Mo'okini, his *kahuna nui* (influential priest) to prepare their large *wa'a kaulua* (double-hull canoe) to set sail to the distant land of Hawai'i. On this voyage, he would take his foster son Kamahualele to help him on this voyage. Mo'ikeha also took his sisters Makapu'u and Makaaoa, and his two younger brothers, Kumukahi and Ha'eha'e.

On his inaugural sail, Chief Mo'ikeha stops at the first landfall at South Point, Hawai'i. There, the Kalae family on Mo'ikeha's first migratory journey asks the Chief if they could reside there. He grants them permission and today, one of South Point's community names is the town of Kalae.

After Kalae, the remaining families on the wa'a kaulua (double-hull vessel) followed in line by requesting to get off as they came to a place in the Hawaiian Islands that attracted them. The Chief sailed north to drop the Hilo family at the town of Hilo. He took kahuna nui (powerful priest) Mo'okini up along the North-western part of the island to Kawaihae where the famous Mo'okini Heiau was eventually built after his popular priest.

From north Kohala, Hawai'i, Chief Mo'ikeha could dearly see the beauty of Haleakala which enticed him to set sail and island hop from Kawaihae onto the deep rough channel of 'Alenuihaha to Hana, Maui. There, the Hana family asked and were granted permission to reside at Hana. After, he sailed around the Kaupo coastline until he arrived at Honua'ula.

The Honua'ula family was granted permission to take up residence there. Still to this day Maui is the home for Honua'ula's descendants. The rest of the voyagers along with the Chief sailed on to Lahaina, then Moloka 'i, O'ahu and eventually Kaua 'i where he decided to take up permanent residency.

Era 4: `Ohana A.D. 1400 to 1600

The fourth period dates from A.D. 1400 through 1600. Voyaging between Hawai'i and Tahiti ended. The external influences of the migrating Polynesian chiefs along with internal developments within the culture resulted in sophisticated innovations in cultivation, irrigation, aquaculture, and fishing. These innovations were manifested in the construction of major fishponds, irrigation systems, and field cultivation systems. Such advances resulted in the production of a food surplus which sustained the developing stratification of Hawaiian society into three basic classes, ali'i (the chiefs), kahuna (the priests), and maka'ainana (the commoners). Oral traditions relate stories of warring chiefs, battles, and conquest resulting in the emergence

of the great ruling chiefs who controlled entire islands, rather than portions of islands. These ruling chiefs organized great public works projects which are still evident today. For example, 'Umi-A-Liloa constructed taro terraces, irrigation systems, and heiau throughout Hawai'i island, including the Pu'uhonua at Kealakekua . King Pi'ilani on the other hand was inspired to construct the King's Highway that passed through Honua'ula as it encircled the entire island of Maui.

Although the common people provided food, bark cloth, and household implements to the chiefs, Hawaiian society remained predominantly a subsistence agricultural economy. There is no evidence of a money system or commodity production. A system of barter of essential goods between fishermen, mountain dwellers, and taro cultivators existed within the framework of the extended family unit called 'ohana. In general, this exchange within the 'ohana functioned primarily to facilitate the sharing of what had been gathered or produced in different parts of the *ahupua`a*.

Within the *'ohana* unit there was constant sharing and exchange of foods, utilitarian articles, and services. It was not an organized barter system but a voluntary (sometimes obligatory) giving. 'Ohana living inland raised taro, bananas, wauke (for tapa, or bark cloth making) and *olona* (for its fiber). The inlanders had need of gourds, coconuts and marine foods; they would take a gift to some '*ohana* living near the shore and in return would receive fish or whatever was needed. When the fishermen needed poi or *'awa* they took fish, squid or lobster upland to a household known to have taro, and would return with his *kalo* (taro) or *pa'i'ai* (hard poi, the steamed and pounded taro corm).... In other words, it was the *'ohana* that constituted the community around which the economy was based.

Cultivation of taro and fishing were the centerpieces of the material culture. The system of irrigation, fishing and aquaculture was highly developed and produced a surplus that sustained a relatively developed and unified social structure that was embraced throughout the whole archipelago. All the basic necessities came from plants. Even fishing relied on plants; the canoe was made from a hardwood tree; the net was woven out of olona or some other vine; spears were carved out of a hardwood tree; ropes were woven from the coconut husk or a vine;the sails were usually made of lauhala (pandanus leaves). Hawaiians could not have survived without plants and Hawaiians were expert planters and cultivators.

Era 5: Chiefly Rule of the *ahupua`a* - A.D. 1600 to 1700

In the fifth period, during the century preceding the opening of Hawai'i to European contact in 1778, the Hawaiian economy expanded to support a population between 400,000 and 800,000 people. The social system consisted of the 'ohana who lived and worked upon communally held portions of land called *'iii* within the *ahupua'a* natural resource system. These families- the building blocks of the Hawaiian social system--were ruled over by the stewards of the land, the chiefs along with their retainers andpriests. The history books are filled with tales of battles among the chiefs from all islands.

The earliest war between the island of Maui and the island of Hawai'i is attributed to Hua'akapuaimanaku, high chief of Maui, probably a descendent of the southerner Hua family from which Paumakaua and Haho came. Hua'akapuaimanaku resided at Hana. He built a heiau at Honua'ula. After his successful war on Hawai'i, he returned and built the Kuawalu heiau.

Kiha-Pi'ilani who reigned in the last half of the 16th century connected the entire island with a network of trails to aide his people in their travels and gave the king quick access to all parts of his kingdom. Even today, the original trails still exists from Keone'oi'o to Nu'u. Branching trails extended from the Pi'ilani trail in the Honua'ula area, Keawakapu to Nu'u, up to Pu'u Ninole and Pu'u Palani, through Kanaio and up through Pu'u Pane. A trail name Kekua-waha'ula derives its meaning from Pele Smiting Red Mouth. She smites people who speak evil from her listening "blow hole" in the waiting hill Pu'uokali in the Keokea *'iii* (land division) in Honua'ula. Near the church in Kanaio, the trail entered the area known as Ma'ahi and into the forest of Auwahi where such plants as the *'akalea* grew. The old trail is located *mauka* of the government road of Kahikinui. Two trails crossed from Kanaio to Keone'o'io. The upper, or *mauka* one, was through Pu'u Pane down towards Luala'ilua hills and across to Kaupo. The *makai* trail went along the sea connecting the coastal villages.

Honua'ula was the residence of Queen Kalola, a daughter of high chief Kekaulike who ruled Maui till 1736. She was the last ali'i to pronounce the kapu (taboo) of the Burning Sun. Only the Maui chiefs had this Kapu which was Maui in the Pathway of the Sun.

In Honua'ula, high chief Kahekili gave permission to a chief named Ku-Keawe to run pigs in the upland. This chief abused his power and was killed with his body placed propped up facing the sea as an example to others who might consider abusing their powers.

Even during this period of chiefly rule, land in Hawai'i was still not privately owned. The chiefly class which provided stewardship over the land divided and re- divided control over the districts of the islands among themselves through war and succession. A single chief could control a major section of an island, a whole island or several islands depending upon his military power. Up until the time of Kamehameha I, however, no one chief was ever paramount over all the islands.

During the time of Captain Cook's first visit, King Kalaniopu'u and uncle of Kamehameha the Great ruled Hawai'i island and King Kahekili of the Valley Isle controlled Maui as well as Moloka'i, Lana'i, Kaho'olawe, Kaua'i and Ni'ihau. The chief divided his landholdings among lesser ranking chiefs who were called *konohiki*. The *konohiki* functioned as supervisors on behalf of the chief over the people that lived on the lands and cultivated them. The tenure of a *konohiki* was dependent upon his benefactor, the chief. *Konohiki* were often related to the chief and were allocated land in recognition of loyal or outstanding service to him. However, unlike elsewhere in Polynesia, the *konohiki* were rarely related to the *maka'ainana* or commoners on the land under his supervision. Thus, the *konohiki* represented the collective interest of the *ali'i* class over the *maka'ainana* as well as the individual interest of his patron chief.

The lands allocated to the *konohiki* were called *ahupua'a*. *Ahupua'a* boundaries coincided with the geographic features of a valley. They usually ran from the mountain to the ocean, were watered by a stream, and were bounded on both sides by mountain ridges. It afforded the *'ohana* who lived in the *ahupua'a* access to the basic necessities of life-- marine foods from ocean reefs and streams, low-lying wetlands for taro, fresh water, timber, and medicinal plants from the forest. The use rights of the *konohiki* included fishing rights over shoreline fishponds and reefs.

The *konohiki* supervised all productive communal labor within the *ahupua'a* month- to-month and season-to-season. He collected the annual tribute and determined if it was sufficient in relation to the productivity of the land. He regulated the use of land and ocean resources, administering the *kanawai* (law) applying to the use of irrigated water as well as to fishing rights in the ocean. The *konohiki* was responsible for organizing communal labor for public works projects such as roads, fishponds, and irrigation systems.

The *ahupua'a* of the *konohiki* was further divided into strips of land called *'iii* which were allocated to the *maka'ainana* (commoner Hawaiians). These land grants were given to specific extended family units of *maka'ainana* called *'ohana*. The *'iii* either extended continuously from the mountain to the ocean or was comprised of separate plots of land located in each of the distinct

resource zones of the *ahupua'a*. In this way an *'ohana* was provided access to all of the resources necessary for survival (Handy, Handy, Handy & Pukui 1972: 49).

Western Contact and the Ensuing Historic Period

Early western contact on Maui include Cook in 1779, LaPerouse in 1786, and Vancouver in 1793. From first contact to the inception of commercial activities took place over a short period of time. Portions of the island transitioned rapidly from a traditional subsistence economy to providing supplies for ships, supporting whaling, and large scale agriculture on a global commercial scale. Cattle introduced to Hawaii Island by Vancouver, found their way to Maui by the late 1700s or early 1800s proliferated with Kamehameha's kapu. that by 1845 marauding herds of wild cattle were wreaking havoc over the countryside especially on homesteads and farms. Many Hawaiian families were driven from their homes and properties, never to be able to reclaim those lands. Many such occurrences took place in Honua`ula.

By 1795, Maui was a part of the newly established Kingdom of Hawaii. The new politics and foreign influences brought gread changes to traditional demographics, religion, and land use. Christianity was introduced by Protestant missionaries which eventually led to the abolishment of traditional religious practices. On Maui Lahaina became the focus of political and commercial power serving as the Kingdom's capitol and residence of Kamehameha III from A.D. 1836 to 1844 (Kamakau 1961). Whaling, the trading of goods, sandalwood, and the cultivation of introduced crops. such as Irish potatoes became mainstays of the local economy. Disease epidemics decimated the native Hawaiian population. The decline in the native population drove the government and commercial entities to import labor from abroad. Thus, an influx of foreign laborers took place from the mid-1800 to the early 1900s. The Hawaiian monarchy was overthrown and the islands were annexed to the United States.

Cattle ranching, sugar cane and pineapple plantations, grew to drive the economic engine of first the Kingdom followed by the Territory of Hawaii.

Post-WWII Modern Era

Following the end of WWII, the growth of tourism as another source of economy was becoming realized. Modern hotel and resort development starting in the late 1960s and 1970s was flourishing on all of the major islands. Population growth also drove the development of new residential subdivisions and more recently, luxury homes and beach estates.

HONUA`ULA DISTRICT

The Honua`ula District was one of twelve ancient *moku* or districts of Maui Island (Fig. 4). In the years following the Great Mahele in 1848, various configurations of these districts were implemented and revised. In 1901 and 1932, the current district divisions with Honua`ula subsumed into Makawao was established.

The traditional Honua`ula District, located between Kula to the north and Kahikinui to the east and south, included the following 18 known *ahupua`a* from north to east; Paeahu, Palauea, Keauhou, Kalihi, Waipao, Papa`anui, **Ka`eo**, **Maluaka**, Mo`oiki, Mo`oloa, Mo`omuku, Onau, Kanahena, Kualapa, Kalihi, Papaka-kai, Kaunuahane, Kalo`i, and Kanaio. Honua`ula has 18.5 miles of coastline and at Papa`anui *ahupua`a* reaches the summit of Haleakala.

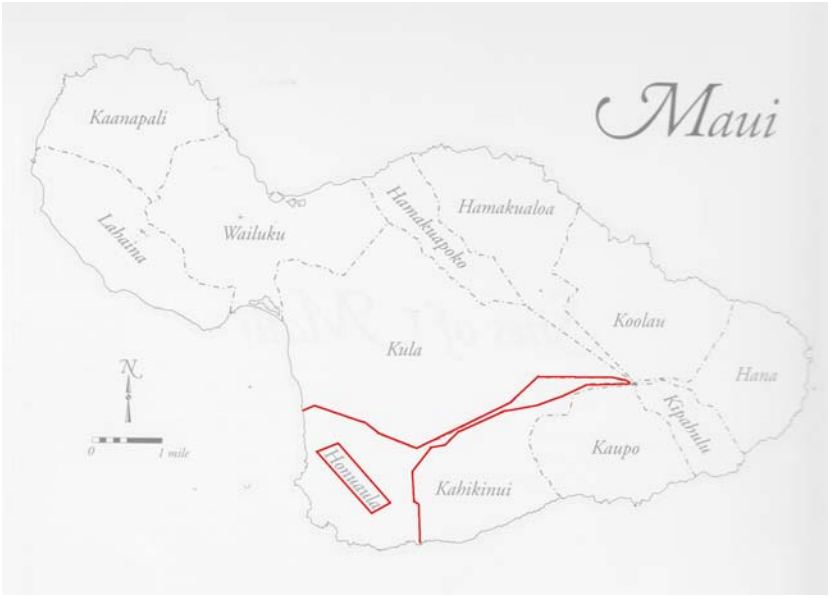
Handy and Handy describes the Honuaula region thus:

> "On the south coast of East Maui, from Kula to `Ulupalakua, a consistently dry and lava-strewn country, Makena and Ke`oneo`io were notable for good fishing; this brought many people to live by the shore and inland. There were some patches of upland taro, not irrigated; but this was a notable area for sweet potato, which, combined with the fishing, must have supported a sizable population although it cannot be counted as one of the chief centers (1972:272)."

Human settlement of the Honua`ula region dates back to pre-historic times and continues today.

The following pertinent information is noted in *Sites of Maui* (Sterling 1998), *Hawaiian Planter* (Handy 1940), and *Native Planters of Old Hawaii* (Handy & Handy 1972).

> "In Honuaula, as in Kaupo and Kahikinui, the forest zone was much lower and rain more abundant before the introduction of cattle. The usual forest-zone plants were cultivated in the lower upland above the inhabited area (Handy 1940:13).
>
> Makena is today a small community of native fishermen who from time to time cultivate small patches of potatoes when rain favors them. Formerly, before deforestation of the uplands, it is said that there was ample rain in favorable season for planting the sweet potato, which was the staple here. A large population must have lived at Makena in ancient times for it is an excellent fishing locality, flanked by an extensive area along shore and inland that was formerly very good for sweet potato planting and even now is fairly good, despite frequent droughts.
>
> Between Makena and the lava-covered terrain of Keoneoio (another famous fishing locality) the coastal region includes the small *ahupua`a* of Onau, Moomuku, Mooloa, Mooiki, Maluaka, Kaeo. According to an old *Kamaaina*, these *ahupua`a* had in former times a continuous population of fisher folk who cultivated potatoes and exchanged their



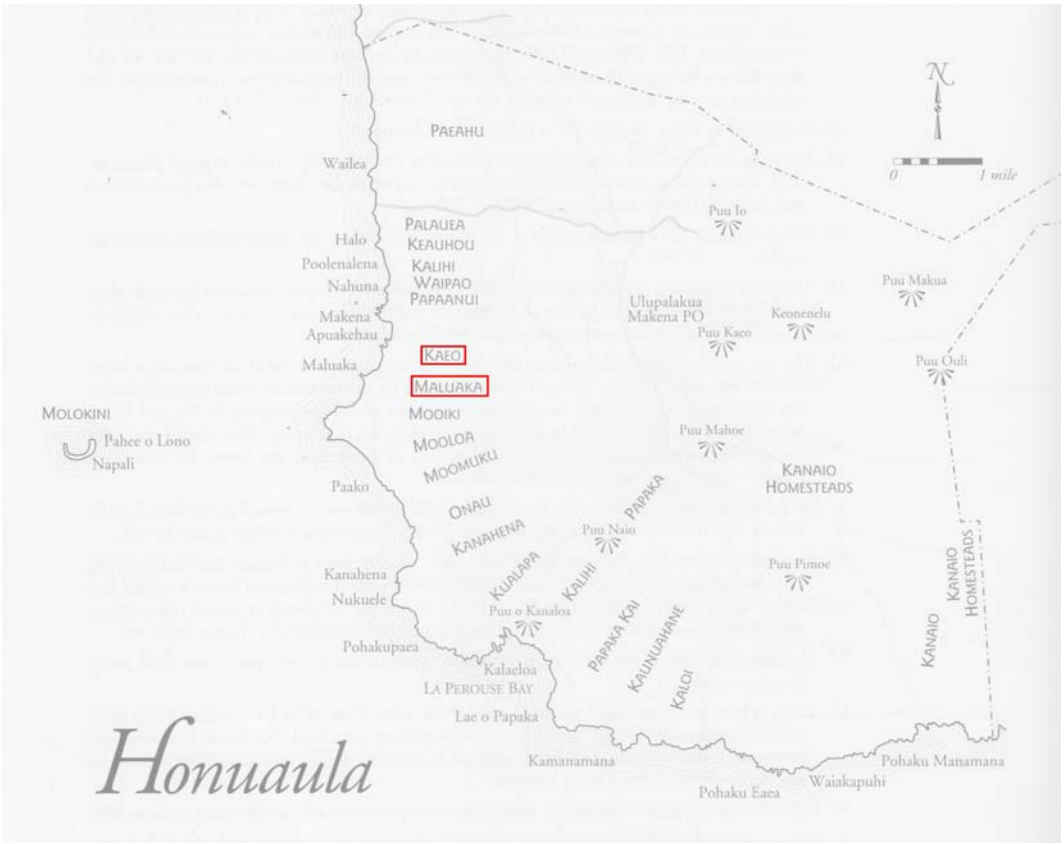


Figure 4. Two Maps Showing Honua`ula *moku* and Two *ahupua`a*
(from Sterling 1998:2 & 214)

> fish for taro, bananas, and sweet potatoes grown by the upland residents of the Ulupalakua section. A few Hawaiians still live here. One living near Puu Olai has a sizable sweet potato patch in the dusty soil near the shore; another raises fine potatoes in a low flatland of white sand near the abandoned schoolhouse of Makena (Handy 1940:159)."

Sterling names the following ten fishing grounds for Honua`ula and 8-10 are closest to the Maluaka Beach project area (1998:215-216):

1. Pahua is first and is located at Kanaio.
2. Hiu is another fishing ground.
3. Keahua is another.
4. Kalawa is another fishing ground.
5. Pohaku-ula is another fishing ground.
6. Kiele is another, it is situated at Lualailua.
7. Papuaa is another fishing ground. In Kahikinui.
8. Koa-hau is another. When the hill of Keoneoio appears above Puu-olai that is its upper landmark.
9. Na-ia-a-Kamahalu is another one. When Hoaka, which is in the upland of Kahoolawe on the western side appear to be in line with the cape of Ke-ala-i-kahiki that is the upper land mark. When the hill of Keoneoio appears to be in line of the seaward side of Puu-olai, that is the lower landmark.
10. Na-ia-a-Kamalii is anther one. When the cave on Makena appears to be close to the point of Paopao at Puu-olai, that is the upper landmark. The cave at Pali ku in Keoneoio is the other landmark. When it appears between the two stones at Mokuha and Kanahena, that is the lower landmark.

Sterling also lists two fishponds, a fishing shrine or *ko`a*, and Pohakunahaha heiau in coastal Makena, in Ka`eo and Keauhou *ahupua`a* (1998:231).

Fishing and ocean gathering occurred along the coastal areas throughout the region (from Makena to Kaupo). The techniques used to catch fish differed according to the particular locality. For example, fish traps were found in Makena and Kanahena where *moi* and *weke* were caught.

The Honua'ula shoreline has abundant marine life that still serves as a source of sustenance for many people. The fresh water seeping into the ocean at the shoreline attracts a large array of sea life. Both subsistence and recreational fishing and diving are practiced in the coastal area of Honua`ula *moku*.

RESULTS OF CURRENT OBSERVATIONS

Both recreational and subsistence fishing is conducted along the shoreline in the Honua`ula region together with sport and recreational diving.

Attempts were made to interview some fishermen for this study, but none agreed to be interviewed for oral testimony. The majority of the fishing takes place from the rocky shoreline area and during the current observation period, no individuals were seen fishing from Maluaka Beach during the day. Some night fishing does take place, but infrequently. During winter and spring months, the high waves and rough water hinders shore fishing.

Observations made by the author follows below:

1) snorkeling in the central portions of the embayment near the anchoring locality, often a green turtle is observed. Also, *nenue* or rudder fish are present in this locality.

2) Along the rocky point at the left edge of the bay is populated with 10 - 20 green turtles. They can be regularly observed.

3) The exposed bedrock fronting the beach appears to be a habitat for the leopard cowrie, a mollusk favored as food,

4) *limu kohu, limu pepe*, and *kala limu* seldom seen in Makena area. Limu kala, being more invasive, would be the most likely to be found in area.

5) *Uhu, omilu, papio, and mo`i* used to be present during certain tides near the shore, but not so frequent as it was in the 1970s and 1980s.

6) No impact to coral from either the anchor or chain was observed. The anchorage is in a wholly sandy area.

7) When Kai Kanani II boards passengers, it stays afloat in shallow water and does not touch the bottom or the shore unless a big surge occurs. Also, the time is limited and no fuel is loaded while at Maluaka Beach.

8) During whale watching season, a volunteer naturalist docent is aboard the catamaran talking about whales and the marine environment. These volunteers are required to undergo NOAA-designed training and ensure accuracy and consistency with the subject matter as well as the traditional mo`olelo.

9) During planned ocean events, such as swims and canoe regattas, arrangements are made in advance so the catamaran and event schedules do not conflict.

10) Current observations indicate that the long term activity of passenger loading and off-loading have not had any negative impacts to the natural environment nor hinder or adversely affect any traditional cultural practices and the continuation of this activity will also not pose any such negative impacts.

BIBLIOGRAPHY

Barrere, Dorothy B.

1975 Wailea: Waters of Pleasure for the Children of Kama. Ms. in Library, Bishop Museum. Honolulu.

Foote, Donald E.; Elmer L. Hill; Sakuichi Nakamura; and Floyd Stephens

1972 *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai, State of Hawaii*. Soil Conservation Service, USDA. US Government Printing Office. Washington D.C.

Gosser, Dennis C. et al.

1993 *Na Lawai`a O `Ao`ao Kona O Ka Moku: Excavations at the Southern Acreage and Lot 15, Wailea, Maui*. Prepared for the Wailea Resort Company, Ltd. Dept. of Anthropology, Bishop Museum, Honolulu.

1997 *Data Recovery Procedures in Parcels III and IV, Makena Resort Corporation, Makena, Makawao, Maui*. Prepared for the Makena Resort Corporation. Dept. of Anthropology, Bishop Musuem, Honolulu.

Hammett, Hallett

1979 *Archaeological Reconnaissance of the Proposed Wailea View Estates Subdivision and Other Lands in a 700 Acre Parcel at Paeahu and Palauea, Honuaula, Maui Island*. Letter Report. Archaeological Research Center Hawaii, Lawai, Kaua`i.

Handy, E. S. Craighill

1940 *The Hawaiian Planter, Vol. I: His Plants, Methods and Areas of Cultivation.* Bishop Museum Bulletin 161. The Bishop Museum Press. Honolulu.

Handy, E. S. Craighill and Elizabeth Green Handy

1972 *Native Planters in Old Hawaii: Their Life, Lore, and Environment.* Bishop Museum Bulletin 233. The Bishop Museum Press. Honolulu.

Kirch, Patrick V.

1985 *Feathered Gods and Fishhooks.* University of Hawaii Press. Honolulu.

Klieger, Paul Christiaan with Terry Stocker, Margaret Newman, and Cathy McConnell

1992 *Archaeological Data Recovery Report for Parcel SF-7, Wailea, Paeahu Ahupua`a, Makawao District, Island of Maui.* For the Wailea Resort Co. Ltd. Applied Research Group, Bishop Museum. Honolulu.

Kolb, Michael

1991 *Social Power, Chiefly Authority, and Ceremonial Architecture, in an Island Polity, Maui, Hawaii*. Ph.D. Dissertation, UCLA.

La Perouse, J.F.G. de

1798 *A Voyage Round the World, performed in the years 1785…1788, by the Boussole and Astrolabe*. 2 Volumes, A. Hamilton, London.

Lee-Grieg, Tanya L.
2013 *Cultural Historic Background for Keauhou, Kalihi, Waipao, Papa`anui, Ka`eo, Maluaka, Mo`oiki, Mo`oloa, and Mo`omuku* ahupua`a, *Honua`ula Moku, Maui Island (TMK:(2) 2-1-05 & 08: multiple parcels).* For MTC Makena Holdings, LLC. Cultural Surveys Hawai`i, Inc. Wailuku.

.

Maly, Kepa and Onaona Maly
2005 *He Mo`olelo `ASiona No Ka`eo Me Kahi`ASina E A`e Ma Honua`ula O Maui. A Cultural-Historical Studyt of Ka`eo and Other Lands in Honua`ula, Island of Maui (TMK: (2)2-007:067).* For Sam and Jon Garcia. By: Kumu Pono Associates LLC. Hilo.

Munekiyo & Hiraga, Inc. et al.
2009 *Comprehensive Cultural Resources Preservation/Mitigation Plan for Makena Resort.* For: Honua LLC. By: Munekiyo & Hiraga, Inc., Wailuku.

Pukui, Mary Kawena
1983 *`Olelo no`eau: Hawaiian Proverbs & Poetical Sayings.* Bernice P. Bishop Museum Special Publication No. 71. Bishop Museum Press. Honolulu.

Pukui, Mary Kawena and Samuel H. Elbert
1971 *Hawaiian Dictionary.* University of Hawaii Press. Honolulu.

Pukui, Mary Kawena, Samuel H. Elbert and Esther K. Mookini
1974 *Place Names of Hawaii.* University Press of Hawaii. Honolulu.

Sinoto, Akihiko and Eugene Dashiell
2015 *Archaeological Assessment: Surface Assessment of Adjoining Lands for Continued Passenger Loading and Unloading of Kai Kanani II Catamaran at Maluaka Beach, Ka`eo and Maluaka* ahupua`a, *Makawao District, Maui Island, TMK:(2)2-1-008:59 por.* For Makena Boat Partners. By: Aki Sinoto Consulting. Honolulu.

Sinoto, Aki and Jeffrey Pantaleo et. al.
2010 Cultural Resources Preservation Plan: Proposed Honua`ula Development, Paeahu, Palauea, and Keauhou ahupua`a, Makawao District, Maui Island (TMK: (2)2-1-008:por 056 and 071)

Sterling, Elspeth P
1998 *Sites of Maui.* BPBM Press. Honolulu.

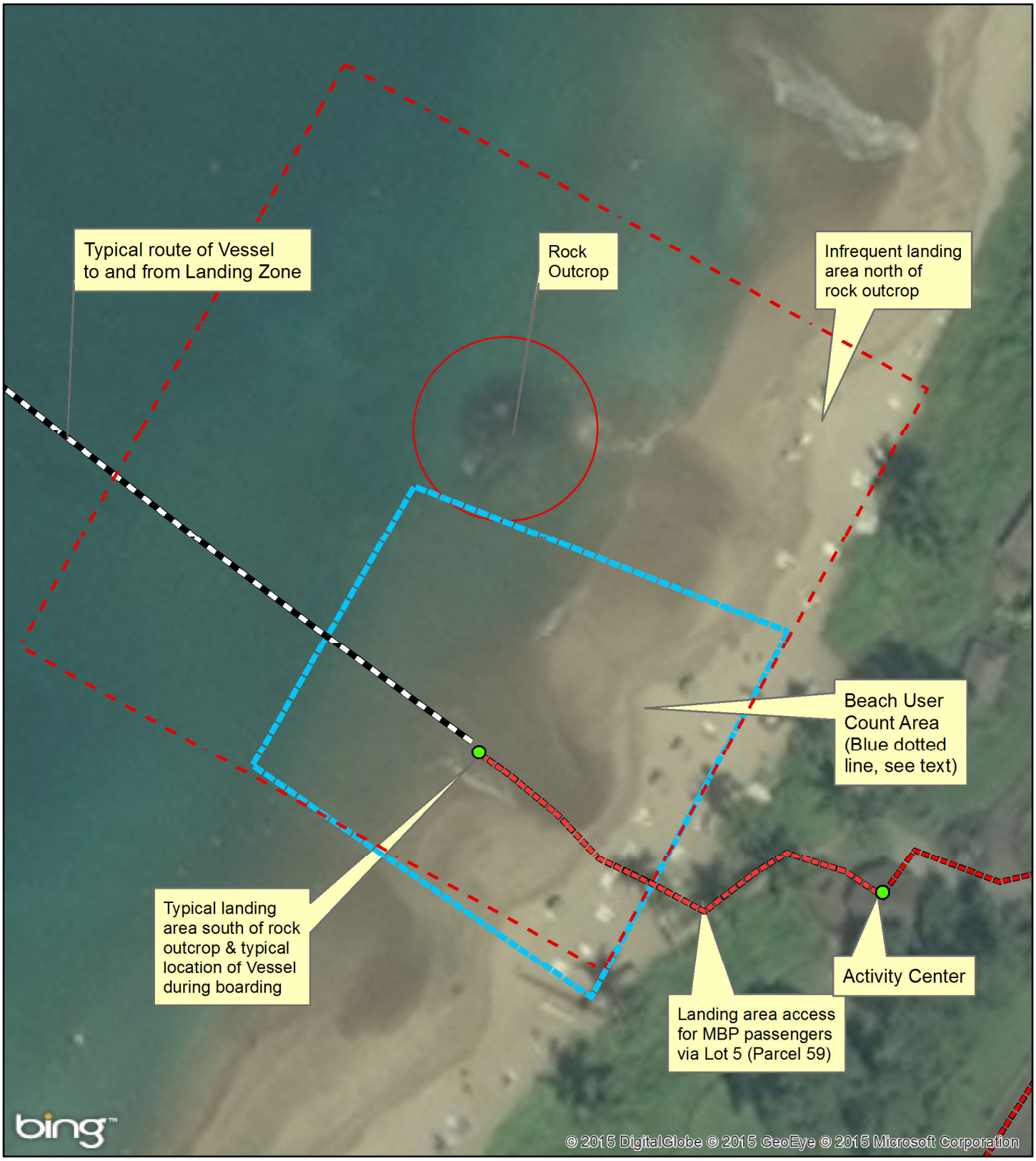
Stocker, Terry; Paul Klieger, and Stephan Clark
1992 Archaeological Inventory Survey of a Portion of Parcel MF-12 (TMK 2-1-08:42) Wailea, Maui Island, State of Hawaii. For Wailea Resort Co. Ltd. Applied Research Group, Bishop Museum. Honolulu.

Walker, Winslow
1931 *Archaeology of Maui.* Ms. in Dept. Anthropology. BPBM, Honolulu.

APPENDIX C
Beach Activity

The Beach Activity appendix consists of two sets (Summer and Pre-summer) of photographs taken in 2015 of the Kai Kanai II and Maluaka Beach during the boarding or disembarking cycles at the landing area. The photograph series are divided into “Summer and “Pre-summer” because of the “summer vacation” experience where beaches in some locations of Hawaii experience greater levels of use. Based on a review of the two sets of photographs, there did not appear to be much difference in beach use in the vicinity of the landing area during or before the summer break.

The table displays actual counts of beach users in the direct vicinity of the landing area (see map, following page) of the Kai Kanani II during the “Summer” period. Rarely were beach users other than those most likely to be guests of Makena Beach and Golf Resort seen at the landing area.



10 5 0 10 Meters

50 25 0 50 Feet

NORTH

Base map imagery, BING,
Sub-division Map
E. Dashiell, AICP, 10/29/15

Blue dashed line is "beach count" area (see text).
Red dashed line is proposed area for non-exclusive easement (Landing Zone).
Red & black dashed line is passenger access via Lot 5 (private, MB&GR)

Catamaran Landing
Maluaka Beach
Makena, Maui

Maluaka Beach Users in Landing Area Vicinity - July 23 through August 2				
(On beach and at shoreline)				
Date	**Total Beach Users**	**MB&GR Beach Users**	**Other Users**	**Photo**
23 Jul Express	15	15	0	N
23 Jul Deluxe	17	17	0	Y
24 Jul Express	13	13	0	Y
24 Jul Deluxe	30	29	1	Y
25 Jul Express	10	10	0	Y
25 Jul Deluxe	33	33	0	Y
26 Jul Express	11	11	0	Y
26 Jul Deluxe	18	18	0	Y
27 Jul Express	11	11	0	Y
27 Jul Deluxe	21	6	3	Y
28 Jul Express	11	11	0	N
28 Jul Deluxe	15	15	0	Y
29 Jul Express	5	5	0	Y
29 Jul Deluxe	22	22	0	Y
30 Jul Express	6	6	0	Y
30 Jul Deluxe	11	11	0	Y
31 Jul Express	10	10	0	N
31 Jul Deluxe	23	23	0	Y
1 Aug Express	12	12	0	Y
1 Aug Deluxe	4	4	0	Y
2 Aug Express	29	29	0	Y
2 Aug Deluxe	13	13	0	Y
Notes:				
1) These are the number of beach users in the "landing area" itself,				
not the entire Maluaka Beach. See map.				
2) These counts were made during a landing or a departure, which is usually				
between a 7 and 10 minute period.				
3) Refer to "Summer" series of photos, by date, to see an image of the landing				
area during the 7 to 10 minute period.				

1 Entrance from public park to south end of Maluaka Beach. 8/26/15

2North end of Maluaka Beach, facing south. 8/26/15, 9:12 AM

3South end of Maluaka Beach, facing north. 8/26/15, 9:20 AM

4Deluxe disembarking. 7/23/15

5Deluxe at conclusion. 7/23/15

6Express disembarking. 7/24/15

7Deluxe boarding. 7/24/15

8Deluxe approaching, note lookout on left (port) bow. 7/25/15

9Deluxe approaching, note lookout on (starboard) right bow. 7/25/15

10Deluxe approaching, closer to beach. 7/25/15

11Deluxe at conclusion. 7/25/15

12Deluxe boarding. 7/26/15

13Deluxe disembarking. 7/26/15

14Deluxe disembarking. 7/27/15

15Deluxe approaching landing. 7/28/15

16Deluxe departing. 7/28/15

17Deluxe approaching landing. 7/29/15

18Deluxe boarding. 7/29/15

19Deluxe disembarking. 7/29/15

20Deluxe boarding. 7/30/15

21Deluxe disembarking. 7/30/15

22Deluxe approaching landing. Note kayak to left of image. 7/31/15

23Deluxe approaching. Note kayak. 7/31/15

24Deluxe boarding. 7/31/15

25Deluxe disembarking. 7/31/15

26Express approaching. 8/1/15

27Express disembarking. 8/1/15

28Deluxe boarding. 8/2/15

29Deluxe disembarking. 8/2/15

1 Express approaching landing. 5/15/55. Note semi-submerged rock obstacle on right. This location is most frequently used for landings.

2 Deluxe disembarking. 5/15/15

3 Deluxe approaching. 5/15/15

4 Deluxe at conclusion. 5/15/15

5 Deluxe departing. 5/16/15

6 Deluxe approaching. 5/16/15

7 Express approaching. 5/17/15

8 Deluxe boarding, 5/17/15

9 Deluxe disembarking. 5/17/15

10 Express approaching. 5/18/15

11 Deluxe boarding. 5/18/15

12 Deluxe disembarking. 5/18, 1:09.

13 Express approaching. 5/19/15

14 Deluxe boarding. 5/19/15

15 Deluxe approaching. 5/19/15

16 Deluxe departing. 5/19/15

17 Express approaching. 5/20/15

18 Express disembarking. 5/20/15

19 Deluxe disembarking. 5/20/15

20 Deluxe approaching.

21 Deluxe boarding, 5/21/15. Note presence of small craft in distance on left and paddle board on right.

22 Deluxe approaching. 5/21/15

23 Deluxe at conclusion, about to depart. 5/21/15

24 Deluxe boarding. 5/22/15

25 Deluxe approaching. 5/22/15

26 Deluxe disembarking. 5/22/15

27 Express disembarking. 5/25/15

28 Deluxe boarding. 5/25/15

29 Deluxe approaching. 5/25/15

30 Deluxe disembarking. 5/25/15

31 Deluxe at conclusion. 5/25/15

32 Express approaching. 5/26/15.

33 Express disembarking. 5/26/15

34 Deluxe disembarking. 5/26/15

35 Express approaching. 5/27/15

36 Express disembarking. 5/27/15

37 Deluxe disembarking. 5/27/30

38 Deluxe at conclusion. 5/27/15

39 Express disembarking. 5/28/15

40 Deluxe departing. 5/28/15

41 Deluxe approaching. 5/28/15

42 Deluxe departing. 5/28/15

43 Express disembarking. 5/30/15

44 Deluxe departing. 5/30/15

Appendix D

Regulatory Approvals & Letters

DLNR Letter March 11, 2013
Conservation District Use Permit, for beach landing

Certificate of Inspection, US Coast Guard

Mooring Permit, Division of Boating and Ocean Recreation

Mooring Permit (Letter of Permission), US Army Corps of Engineers

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 13, 2013

Mr. Sidney J. Akiona
Makena Boat Partners
34 Wailea Gateway Place
Kihei, HI 96753

Dear Mr. Akiona,

SUBJECT: Disposition of Public Lands for Commercial Beach Landings of the Kai Kanani; Maluaka, Honuaula, Maui; Seaward of TMK (2) 2-1-006:059

We understand a Conservation District Use Permit (CDUP), dated December 28, 1988, was issued to Makena Boat Partners for three moorings located seaward of TMK (2) 2-1-006:059, fronting the Makena Beach and Golf Resort (formerly the Maui Prince Hotel). It has recently come to our attention that Condition No. 3 of the attached CDUP states, "[s]ince this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State Lands".

To date, there has been no disposition, and the aforementioned condition remains unfulfilled. In order to begin the process to resolve issues related to proper disposition and use of government lands, please complete the attached Application for Use of Government Lands and return to us as soon as possible. Furthermore please be advised that disposition of government lands for landing and mooring purposes via an easement or revocable permit is considered a "trigger" under Chapter 343, Hawaii Revised Statutes, requiring compliance by the applicant. If you have any questions, please contact District Land Agent, Daniel Ornellas, at the Maui District Land Office at (808) 984-8103.

Sincerely,

Russell Y. Tsuji
Administrator

Enc.
CC: Maui DOBOR
Maui DOCARE
Maui DAR
OCCL
Central / District Files
Mr. Dennis Niles

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621
HONOLULU, HAWAII 96809

Conservation District Use Permit, Beach Landing, Department of Land and Natural Resources

DEC 28 1988

FILE NO.: MA-3/24/87-1965
180-Day Exp. Date: 9/21/87
DOCUMENT NO.: 4646E

RECEIVED
12/30/87

Mr. Warren Akiona
Makena Boat Partners
c/o Maui Prince Hotel
5400 Makena Alanui
Makena, Hawaii 96753

Dear Mr. Akiona:

The Department has reviewed your request for reconsideration and after informal discussion with the Board, the Board has decided not to reconsider its earlier decision.

As such, we wish to inform you that your Conservation District Use Application for three (3) moorings (2 After-the-Fact) for commercial Use and a Beach Use Permit Fronting the Maui Prince Hotel, Makena, Maui at TMK 2-1-06 and 2-1-07 (offshore) was approved on August 14, 1987 subject to the following:

A. Violation

1. That the Board find that applicant Makena Boat Partners, a private partnership, comprised in part of Kai Kanani Inc., consisting of Warren and Sidney Akiona among others is responsible for:

   a. A mooring in place at Makena Landing,

   b. A second mooring in place in front of the Maui Prince, and,

   c. The use of public-owned beach in front of the Maui Prince Hotel for the loading/offloading of passengers on a regular basis.

With required Board/Departmental approval

2. That these three separate land uses/actions are violations of Chapter 183-41, Hawaii Revised Statutes, as amended, and Title 13, Chapter 2, Administrative Rules;

3. That the applicant be fined $500.00 for the violations for a total financial sanction of $500.00; and

Conservation District Use Permit, Beach Landing, Department of Land and Natural Resources

4. That failure to comply with this section within thirty (30) days after the date of this letter the matter be turned over to the Department of Attorney General for appropriate action to include

   a. removal of the existing moorings at the applicant's expense

   b. all administrative costs by the State.

B. Land Use

That upon compliance with Section A, Staff recommends approval of the following:

1. The existing mooring in front of Maui Prince as the primary mooring;

2. The existing mooring at Makena Landing as a non-exclusive emergency mooring only; and

3. The non-exclusive use of public beach in front of the Maui Prince Hotel for the loading/offloading of passengers on a regular basis.

Subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21, Administrative Rules, as amended;

2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;

3. Since this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;

4. The applicant shall comply with all applicable Public Health Regulations;

Conservation District Use Permit, Beach Landing, Department of Land and Natural Resources

5. Any construction, alteration, moving, demolition and repair of any building or other improvement on lands within the Conservation District, authorized by the Board, shall be subject to the building and grading codes of the respective counties in which the lands are located; provided that prior to the commencement of any construction, alteration, or repair of any building or other improvement, four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson, or his authorized representative, for approval of which three (3) copies will be returned;

6. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use. Failure to comply with this condition shall render this application null and void; and

7. Other terms and conditions as prescribed by the Chairperson.

C. On the Primary Mooring

1. That within sixty (60) days the applicant shall receive approval from the Department of Health, in consultation with the Department of Transportation, as to the location, if any, in which sewage may be disposed.

D. On the Non-Exclusive Emergency Mooring in Makena Bay

1. That the applicant shall document and maintain written records for each use of the emergency mooring to include:

   a. the nature of the emergency
   b. the duration of the emergency
   c. the duration of the use of the emergency mooring

2. That the written record be of such a nature that it may be verified by the U.S. Coast Guard.

E. On the Non-Exclusive Use of Public Beach in front of the Maui Prince Hotel for the Loading/Offloading of Passengers on a Regular Basis

1. That no physical markings be placed on the beach; and

2. That the beach area to be used be an area devoid of other beach users including hotel guests and other members of the public.

Conservation District Use Permit, Beach Landing, Department of Land and Natural Resources

F. That failure to comply with any of these conditions be cause for the Board to require the immediate cessation of these activities and the removal of the moorings at the applicant's expense.

Please acknowledge receipt of this permit with the above noted conditions in the space provided below. Please sign two copies. Retain one and return the other.

Should you have questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 548-7837.

Very truly yours,

WILLIAM W. PATY

Receipt acknowledged:

Warren E. Akiona — Applicant's Signature

12/30/88 — Date

cc: Maui Board Member
Maui Land Agent
Maui Dept. of Planning
DOH/OEQC/EC/DBED/OHA

RECEIVED
'89 JAN 6 A8:48
DLNR
OCEA

United States of America
Department of Homeland Security
United States Coast Guard

Certification Date:	05 Jun 2012
Expiration Date:	05 Jun 2017
IMO Number:	

DHS/US Coast Guard, Certificate of Inspection

Certificate of Inspection

For ships on international voyages this certificate fulfills the requirements of SOLAS 74 as amended, regulation V/14, for a SAFE MANNING DOCUMENT.

Ex.Name NEW CONSTRUCTION

Vessel Name	Official Number	Call Sign	Service
KAI KANANI	1194318	WDD6048	Passenger (Uninspected)

Hailing Port	Hull Material	Horsepower	Propulsion
MAUI HI	FRP (Fiberglass)	740	Auxiliary Sail

Place Built	Delivery Date	Date Keel Laid	Gross Tons	Net Tons	DWT	Length
ST CROIX, VI UNITED STATES	30Mar2007	15Dec2006	R-36 I-	R-28 I-		R-64 I-

Owner	Operator
MAKENA BOAT PARTNERS 34 WAILEA GATEWAY CTR A105 KIHEI, HI 96753 UNITED STATES	PATRICK H DE VAULT PO BOX 10284 LAHAINA, HI 96761 UNITED STATES

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.

1 Master	0 Master & 1st Class pilot	0 Radio Officer(s)	0 Chief Engineer	0 QMED/Rating
0 Chief Mate	0 Mate & 1st Class Pilot	0 Able Seamen/ROANW	0 1st Asst. Engr/2nd Engr.	0 Oilers
0 2nd Mate/OICNW	0 Lic. Mate/OICNW	0 Ordinary Seamen	0 2nd Asst. Engr/3rd Engr.	
0 3rd Mate/OICNW	0 1st Class Pilot	2 Deckhands	0 3rd Asst. Engr.	
			0 Lic. Engr.	

In addition, this vessel may carry 80 passengers, 5 other persons in crew, 0 persons in addition to crew, and no others.
Total persons allowed: 88

Route Permitted and Conditions of Operation:

---Lakes, Bays, and Sounds plus Limited Coastwise---

PACIFIC OCEAN, STATE OF HAWAII, SOUTHERN AND WESTERN COASTS OF THE ISLAND OF MAUI BETWEEN A LINE EXTENDING NORTH BY NORTHWEST FROM LIPOA POINT TO A LINE EXTENDING SOUTHWEST FROM CAPE HANAMANIOA, NOT MORE THAN 20 MILES FROM A HARBOR OF SAFE REFUGE. ISLAND OF LANAI, NOT MORE THAN 20 MILES FROM A HARBOR OF SAFE REFUGE. SOUTHERN COAST OF THE ISLAND OF MOLOKAI BETWEEN A LINE EXTENDING DUE SOUTH FROM LAAU POINT TO A LINE EXTENDING SOUTH BY SOUTHEAST FROM CAPE HALAWA, NOT MORE THAN 20 MILES FROM A HARBOR OF SAFE REFUGE.

IF THE VESSEL IS AWAY FROM THE DOCK OR PASSENGERS ARE ON BOARD OR HAVE ACCESS TO THE VESSEL FOR A PERIOD EXCEEDING 12 HOURS IN ANY 24 HOUR PERIOD, AN ALTERNATE MASTER AND CREW SHALL BE PROVIDED.

SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION

With this Inspection for Certification having been completed at Maui, HI, the Officer in Charge, Marine Inspection, HONOLULU certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections

Date	Zone	A/P/Q	Signature
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-

This certificate issued by:

J. M. NUNAN CAPT, USCG
Officer in Charge, Marine Inspection

HONOLULU
Inspection Zone

Department of Homeland Security
United States Coast Guard

DHS/US Coast Guard, Certificate of Inspection

Certificate of Inspection

Certification Date: 05Jun2012

KAI KANANI

Lifeboats(Port)*	0	0	Ring Buoys(Total)	1
Lifeboats(Starbd)*	0	0	With Lights*	1
Motor Lifeboats*	0	0	With Line Attached*	1
Lifeboats W/Radio*	0	0	Other*	0
Rescue Boats/Platforms	0	0	Immersion Suits	0
Inflatable Rafts	0	0	Portable Lifeboat Radios	0
Life Floats/Buoyant App	2	44	Equipped with EPIRB?	Yes
Inflatable Bouyant App(IBA)	0	0	(* Included in totals)	

---Fire Fighting Equipment---

Number of Fireman Outfits/ 0

Number of Fire Pumps/ 1

Hose information

Qty	Diameter	Length
1	1.5	50

Fixed Extinguishing Systems

Capacity	Agent	Space Protected
500	Halocarbon (Formerly: FM 200, FE241)	Port Engine Romm
500	Halocarbon (Formerly: FM 200, FE241)	Stdb Engine Room

Fire Extinguishers - Hand portable and semi-portable

Qty	Class Type
1	B-I
4	B-II

---Certificate Amendments---

Current Amendment

Port Amending/ Sector Honolulu

Date Amended/ 01Nov2012

-Remarks-

1. Port Amending/ SEC Hono

Date Amended/ 18Oct2012

-Remarks-

Completed credit hull and ISE.

END

Department of Homeland Security
United States Coast Guard

DHS/US Coast Guard, Certificate of Inspection

Certificate of Inspection

KAI KANANI

Certification Date: 05Jun2012

THE MASTER MUST REMAIN ON BOARD THE VESSEL AT ALL TIMES WHILE UNDERWAY OR AT ANCHOR WHEN CARRING PASSENGERS FOR HIRE.

ONE CHILD SIZE LIFE PRESERVER SHALL BE PROVIDED FOR EACH PERSON WEIGHING LESS THAN 90 POUNDS.

MASTERS/MATES/ LICENSE (S) MUST HAVE AUXILIARY SAIL ENDORSEMENT.

ONE CHILD SIZE LIFE PRESERVER SHALL BE PROVIDED FOR EACH PERSON WEIGHING LESS THAN 90 POUNDS.

THE MASTER SHALL ENSURE THAT THE VESSEL REMAINS AT LEAST 100 YARDS FROM HUMPBACK WHALES, AND AT LEAST 50 YARDS FROM OTHER MARINE MAMMALS. PRUDENT COURSE AND/OR SPEED ALTERATIONS SHALL BE MADE TO MINIMIZE CONTACT WITH MARINE MAMMALS.

THE MASTER MUST OBTAIN CURRENT WEATHER DATA FROM A RECOGNIZED WEATHER SERVICE PRIOR TO COMMENCING ANY TRIP TO ENSURE THE FOLLOWING PARAMETERS ARE NOT EXCEEDED DURING THE VOYAGE:

SIGNIFICANT WAVE HEIGHT(ft)	MAXIMUM ALLOWABLE SPEED(kts)
0-5	20
5-6	19
6-7	15
7-8	11
8-9	10
9-10	9
10-11	8
11-12	7

IF GREATER THAN 12' SEEK SHELTER AT SLOW SPEED

FAILURE TO LOAD AND OPERATE THE VESSEL IN ACCORDANCE WITH THIS OPERATIONAL ENVELOPE MAY RESULT IN EXCESSIVE HULL STRESSES NOT CONTEMPLATED BY THIS APPROVAL.

THE SPAR MUST BE UN-STEPPED AND PRESENTED FOR INSPECTION AT THE 2018 CREDIT DRYDOCK PER SECTOR HONOLULU WORK INSTRUCTION 13.

---Hull Exams---

Exam Type	Next Exam	Last Exam	Prior Exam
Drydock	31Oct2014	18Oct2012	07Dec2010
Internal Structure	31Oct2014	18Oct2012	07Dec2010

---Stability---

Letter Approval Date / 04Dec2007 Office/ CG MSC

---Lifesaving Equipment---

	Number	Persons		Required
Total Equipment for		88	Life Preservers(Adult)	88
Lifeboats(Total)	0	0	Life Preservers(Child)	9

DIVISION OF BOATING AND OCEAN RECREATION

Department of Land and Natural Resources, State of Hawaii
Maalaea Harbor
101 Maalaea Boat Harbor Road, Wailuku, HI 96793
Phone: (808) 243-5818 • Fax: (808) 243-5820

Effective Date: 10/10/2014 Permit Number: RM018668 Account Number: 00014089

PERMIT
MOORING
Makena Bay, Maui

Permittee: MAKENA BOAT PARTNERS, .

Vessel Name: Kai Kanani II

Vessel Type: Sailing Vessel

Vessel Doc Type: Coast Guard Documentation

Vessel Doc #: 1194318

Vessel Use Type: Commercial Passenger

Vessel Length Overall: 64 feet 0 inches

Mooring Type: Offshore mooring and anchoring on Owner's own Buoy, or anchor

Berth Mooring #:

Hull Multiplier: 1

Barge Rate: no

Initial Issuance Date: 08/12/2013

Permit Expiration Date: 11/30/2015

Mooring Permit, State of Hawaii, Department of Land and Natural Resources

APPROVED:
STATE OF HAWAI'I
DEPARTMENT OF LAND & NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION

KIMO W. NEEDHAM - HARBOR AGENT II
Stacy C. Masuda
HARBOR MANAGER
Ph: (808) 243-5818
Fx: (808) 243-5820

Permittee Signature

SIDNEY J. AKIONA - GENERAL PARTNER

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION

101 Maalaea Boat Harbor Road
Wailuku, Hawaii 96793

Permit # RM 018668

Rules and Regulations

I agree to the following terms, conditions and charges:

1. I agree to abide by all rules promulgated by the Department of Land and Natural Resources and conditions of this permit. Rules are available online at http://hawaii.gov/dlnr/dbor/borrules.htm.
2. The vessel will be moored at the location designated by the official representative of the Department of Land and Natural Resources and tied up in a manner approved by the representative.
3. The PERMITTEE will pay the STATE fees and charges in advance or before the first day of each month for the use of the berth and any additional facilities or services assigned or provided to the PERMITTEE by the STATE, in such sums as are prescribed by the HAWAII ADMINISTRATIVE RULES, SMALL BOAT HARBORS, DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE OF HAWAII, in effect on the date of issuance of this permit, and in the future as prescribed by any amendments thereto. The fees in effect are as follows:

☑ Mooring	$ 95.36	Initials
☐ Electricity	$	
☐ Gear Locker	$	
☐ Security Deposit	$	
☐ Other	$	
☐ Other	$	
Monthly Payment	$ 95.36	Initials

Mooring Permit, State of Hawaii, Department of Land and Natural Resources

4. A mooring permit may be cancelled by a boat owner upon thirty (30) days written notification as prescribed in Section 13-231-9, and charges will be made in accordance with Section 13-234-2(d) of the Small Boat Harbor Rules. The Security Deposit will be applied to any outstanding balance. The remaining will be returned via mail within a reasonable time.
5. This mooring privilege may be terminated by the Department of Land and Natural Resources by written order of the said representative and the boat will be moved from the mooring at any time on order of the said representative should necessity arise. Failure to do so may result in the impoundment of the vessel.
6. This mooring permit and related use permits will AUTOMATICALLY EXPIRE if the vessel is absent from its assigned berth, mooring, and/or assigned offshore anchorage area for more than fourteen (14) days unless the holder of the permit applies for and receives permission from the Department to retain the use of the assigned berth and related permits upon the vessel's return (Sec. 13-231-11 of the Small Boat Harbors Rules)

7. The Department of Land and Natural Resources, its members, officers, agents and employees shall not be liable to me or any other person for damages to the boat or any other property or for injury to any person arising out of or incident to the mooring of said boat. And I hereby covenant and agree that I will indemnify and save harmless said Department, its members, officers, agents, and employees from any and all manner of actions, liability and claims arising out of or incident to said mooring; including acts incurred while attempting to save the vessel from sinking or preventing a pollution incident from occurring.

8. This mooring permit shall not exceed (1) year from 12/01/2014 *(date) and the mooring privilege under this permit terminates on* 11/30/2015 (date). A new mooring permit may be obtained within ninety (90) days prior to the termination date listed above only if all fees and charges due, per Hawaii Administrative Rules, have been paid and upon completion of a satisfactory vessel inspection. Failure to obtain a new mooring permit prior to the termination date listed above shall result in the vessel owner being charged the rate for vessels moored without a permit, and may result in the vessel being required to vacate the harbor, offshore mooring area, and/or ramp facility.

9. A new mooring permit may be obtained within ninety (90) days prior to the termination dated listed above only if all fees and charges due, per Hawaii Administrative Rules, have been paid and upon completion of a satisfactory vessel inspection and buoy run. Failure to obtain a new mooring permit prior to the termination date listed on the permit, shall result in the owner being charged the rate for vessels moored without a permit and a one-time payment of $250.00 shall be paid as long as it is within 30 days from the date of the expiration. Failure to comply with the 30 day extension shall result in the vessels being required to vacate the harbor, offshore mooring area, and/or ramp facility.

10. The department retains the right to not issue a new permit after the termination date of this permit.

11. I shall obtain and continue to secure a Certificate of Insurance policy for General Liability insurance in the amount of $500,000 and name the State of Hawaii as an additional insured, for as long as my permits is valid. Commercial Permittees shall refer t HAR-13-231-65 on minimum insurance requirements.

    Vessel owners will be required to show proof of insurance when applying or reapplying for mooring permits. Acceptable coverage would include a minimum of $500,000 in boat liability insurance (protection and indemnity) that names the State of Hawaii, Division of Boating and Ocean Recreation as additional insured.

Permittee Signature 10/10/2015 Date

SIDNEY J. AKIONA - GENERAL PARTNER
Printed Name of Permittee

Address 34 WAILEA GATEWAY PLACE

City, State, Zip KIHEI, HAWAII, 96753

808-879-1218 and/or 808-280-8126
Home Phone Work Phone

Approved by: _____
Department of Land and Natural Resources
Division of Boating and Ocean Recreation

Mooring Permit, State of Hawaii, Department of Land and Natural Resources

DLNR 3-137OM (8/08)

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION

ADDENDUM TO MOORING REQUEST
(OFFSHORE MOORING FACILITY)

OFFSHORE MOORING #: MAKENA - O/S #:01

LOCATION: MAKENA VESSEL NAME: KAI KANANI II DOC.NO.:1194318

LENGTH: 64 ' 11 "/BEAM: 31 ' 0 "/DRAFT: 7 ' 00 "/PROPULSION: AUXILARY

LATITUDE: 20 38 ' 901 " N / LONGTITUDE: 156 26 ' 731 " W

TENDER HA No.: N/A LENGTH: 00 ' 0 " PROPULSION: N/A

INSURANCE COMPANY: NATIONAL UNION FIRE INSURANCE POLICY No.: 015918210

COVERAGE: $ 1,000,000.00 EXPIRATION DATE: 03 / 01 / 2015

I agree to the following terms and conditions:

1. The PERMITTEE SHALL be responsible for obtaining a permit for the installation of an offshore mooring from the Army Corps of Engineers. The PERMITTEE SHALL be responsible for the cost of the installation and maintenance of the mooring authorized by the Army Corps of Engineers and this permit. The mooring shall be equal or superior to the design approved by the Department and the Army Corps of Engineers.

2. This permit is non-transferable. Upon cancellation or expiration of this permit, the permittee shall remove the mooring at no cost to the State, unless prior permission is received from the Department to abandon the mooring in place, at which time all equipment associated with the mooring shall become the property of the State.

3. No vessel shall be utilized as a Houseboat, Living Aboard Quarters, Place of Abode, Dwelling, or Living Residence, including but not limited to, the regular use of such purposes during weekends, without a permit from the Department and in compliance with the requirements for Marine Sanitation Devices, Section 13-243-2 Hawaii Administrative Rules.

APPROVED:

BY: _____
DLNR - BOATING & OCEAN RECREATION

RECEIPT #: BARS-ONLINE

MOORING PERMIT #: RM 018668

EXPIRATION DATE: 11 / 30 / 2015

DATED: 10 / 10 / 2014

_____
PERMITTEE SIGNATURE

SIDNEY J. AKIONA - GENERAL PARTNER
PRINT PERMITTE NAME

34 WAILEA GATEWAY PLACE
ADDRESS

KIHEI HI 96753
CITY; STATE; ZIPCODE

808-879-1218 / 808-280-8126
BUSINESS PHONE HOME PHONE

Mooring Permit, State of Hawaii, Department of Land and Natural Resources

STATE OF HAWAII
DEPT. OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
SMALL BOAT HARBORS

COMMERCIAL OPERATING AREA USE PERMIT

Date: 11/21/2014 **Permit #:** OR 019203 **Account #:** 00009283

This permit authorizes MAKENA BOAT PARTNERS **(hereinafter referred to as the Permittee) to conduct (describe commercial activities)** COMMERCIAL PASSENGER CHARTERS **on the ocean waters of the State of Hawaii located on the island of** MAUI**, in the** SOUTH **ocean recreation management area or non-designated management area, to commence on** 12/01/2014 **and expires on** 11/30/2015 **unless terminated for cause.**

Copies of the exhibits are submitted for review and the record (if applicable):

[x] Vessel Documentation and/or Vessel Registration
[x] Vessel Certificate of Inspection
[x] General Excise Tax License
[x] Certificate of Business Liability Insurance, naming State of Hawaii as additional insured.
[x] Certificate of Insurance covering all commercial vessels and water sports equipment.
[x] Certificate of Good Standing from Dept. of Commerce and Consumer Affairs
[x] Partnership, Joint Venture, Corporate Exhibits
[x] Tax Clearance Certificate, Department of Taxation, State of Hawaii

1. The Permittee agrees to abide by all applicable Federal, State, and County laws and all boating and shore water rules promulgated by the Department of Land and Natural Resources (referred to as the Department). Any violation(s) of the provisions of the aforementioned laws or rules, in addition to any fines or penalties a court of law may impose, may cause this permit to be terminated by the Department by written order of its Representative, and the vessel or operation shall immediately cease commercial activity.

2. The Permittee agrees to operate the vessel or equipment described in this permit in accordance with all applicable rules and regulations regarding passenger-carrying and commercial vessel activities.

3. When applicable, the Permittee agrees to present proof, upon request, of Coast Guard certification for the vessel(s) registered with the Department, its officers or agents.

4. The fee for this commercial operating area use permit will be the fee of $200.00 per month or 3% of the vessel's or operations gross receipts, whichever is the greater. This amount is subject to change based upon amendments made to Hawaii Revised Statutes and/or Hawaii Administrative Rules.

Mooring Permit, State of Hawaii, Department of Land and Natural Resources

5. The fee stated above is due and payable in advance of the first day of the month to the Division of Boating and Ocean Recreation (DOBOR). Not later than 30 days following the end of the month, the Permittee shall submit to the Division a report of gross receipts for the month plus payment of any additional amount required by the percentage of the gross receipts specified in paragraph 4. Failure to submit the report of gross receipts as required shall be cause for termination of the commercial use permit.

6. During scheduled events, as evidenced by a marine events permit authorized by the State or U.S. Coast Guard, vessel(s) or operations issued commercial use permits may be required to adjust their schedules or temporarily cease activity as directed by the Department.

7. The Permittee agrees to notify the Department in writing of any changes concerning ownership, address, vessel inventory or operator(s) of a vessel(s) within 7 days of the date of change. Failure to promptly notify the Department of any changes may cause this permit to be terminated by the Department.

8. The Permittee shall at all-time use due care for public safety and shall defend, hold harmless and indemnify the State of Hawaii, its officers, agents and employees from and against all claims or demands, including claims for property damage, personal injury or death arising out of or incident to the operation of said vessel or operation.

9. The permit charges are for the privilege of operating a commercial vessel or operation in state navigable waters in the manner stated above. Any other use of harbor/ramp facilities or services must be requested and approved separately.

10. The duration of this commercial operating area use permit shall not exceed the period of 1 year from the date of commencement.

11. The Department may immediately revoke a commercial use permit without a hearing for activity that endangers or may endanger the health or safety of passengers or the public, and may suspend or revoke a commercial use permit for violation of any rules of the Department, if, after 72 hours' notice by the Department of the violation, provided that the permit holder shall have ten days from receipt of the notice of suspension or revocation to request in writing an administrative hearing. The administrative hearing is solely for the purpose of allowing the permit holder to contest the basis for suspension or revocation of the permit.

12. This commercial use permit shall be kept in the immediate possession or at a place for safekeeping in the immediate vicinity at all times when operating under this commercial use permit and shall display the same upon the demand of a Federal, State, or County Enforcement Officer, or representative of the department.

13. Gross Receipts Defined: Gross receipts shall include all receipts, whether by coin or currency, on account, by check or credit card, derived or received by the Permittee as a result of its operation herein granted and shall include the sales prices received or billed by the Permittee from the sale or rental of its equipment/or services of 3% of gross or $200 per month, whichever is greater. The Permittee shall not be credited with, nor allowed to have any reduction in the amount of the gross receipts, as hereinabove defined, which results from any arrangements for illegal rebates or kickbacks or hidden credits given or allowed to customers.

Mooring Permit, State of Hawaii, Department of Land and Natural Resources

14. Business Practices and Records: In connection with the obligations of the Permittee, the Permittee hereby agrees to:

1. Prepare and keep for a period of not less than three (3) years following the end of each permit year adequate records which shall show daily receipts from all sales and other transactions by the Permittee. The Permittee shall record at the time of sale, in the presence of the customer, all receipts from sales or other transactions, whether for cash or credit. The Permittee shall issue to each customer a receipt or sales slip for each transaction, and must be recorded on serially-numbered receipts or sales slips. The Permittee further agrees to keep in storage for at least one (1) year following the termination, suspension, or revocation of the permit, all pertinent original sales records, serially-numbered sales slips and such other sales records, as would normally be examined by an independent accountant pursuant to accepted auditing standards in performing an audit of the Permittee's sales and gross receipts.

2. Submit to the Department on or before the 30th day of each and every month following each permit month (including the 30th day of the month following the end of the term) at the place fixed for payment of permit fees, a written statement using forms prescribed by the Chairperson of the Department of Land and Natural Resources to be certified as correct by the Permittee or by a person duly authorized by the Permittee to so certify showing in accurate detail, the amount of gross receipts for the preceding month and shall further submit to the Department on or before the 60th day following the end of each permit year at the place fixed for payment of fees, a written statement certified as correct by the Permittee or by a person duly authorized by the Permittee to so certify showing in accurate detail the amount of gross receipts during the preceding year duly verified by an independent Certified Public Accountant. The statements referred to herein shall be in such a form and style and contain such detail and breakdowns as the Department may require. Without any prejudice to any remedies herein provided for such default, if the Permittee shall fail to promptly furnish any such monthly report or Certified Public Accountants Annual Verification report, the Department may have such report prepared on the Permittee's behalf by an accountant to be selected by the Department, at the expense of the Permittee. The Permittee shall furnish to such accountant all records requested for the purpose of preparing such reports, and the Permittee shall pay to the Department all expenses incurred by the Permittee in securing such reports. Furthermore, the Department may make assessments upon the Permittee by recourse to such procedures selected by the Department which would produce reasonable gross receipts expectation upon which percentage charges may be computed. In the event that records have not been prepared and kept in accordance with the provisions set forth herein, the Department shall, in addition to all other payments required herein be entitled to demand and receive an additional payment of ten percent (10%) of the applicable fee if the Permittee is paying fees based on percentage for the period of periods involved. Grant unto the Department at all reasonable times access to all books, accounts, records and reports, including gross income tax reports, showing daily sales and at any reasonable times on twenty-four (24) hours notice will permit a complete audit to be made by the Department's Account or by a Certified Public Accountant of the Permittee's entire business affairs and records relating to the business authorized by this permit for the term of this permit. The Permittee will cooperate fully in the making of any inspection, examination or audit. Should such audit by the Department's Accountant or by a Certified Public Accountant discloses that rental has been underpaid by two percent (2%) or more for any period under examination, the Department shall, in addition to the remedies provided in the above, be entitled to reimbursement of the reasonable cost of any such audit in addition to the deficiency. If such audit by the Department's Accountant or by a Certified Public Account shall disclose that rent has been underpaid by five percent (5%) or more for the period under examination, the Department shall have the right, upon ten (10) days written notice to terminate this permit.

15. Time of Payment: The minimum monthly guaranteed fee required herein, shall be paid monthly, in advance, without notice, on the first day of each and every month of each and every year of the term hereof.

Mooring Permit, State of Hawaii, Department of Land and Natural Resources

16. The Department reserves the right to impose further restrictions

17. Restrictions:

I AGREE TO THE TERMS, CONDITIONS AND CHARGES:

MAKENA BOAT PARTNERS
VESSEL OWNER

MAKENA BOAT PARTNERS
SIDNEY J. AKIONA - GENERAL PARTNERS

34 WAILEA GATEWAY PLACE
ADDRESS

KIHEI	**HI**	**96753**
CITY	STATE	ZIPCODE

808-879-7218	**808-280-8126**
BUS. PHONE	CELLPHONE

DATED: **11/21/14**
PAYMENT RECEIVED **$15.00**
RECEIPT NO.: **BARS**

APPROVED:

DEPARTMENT OF LAND & NATURAL RESOURCES
DIVISION OF BOATING & OCEAN RECREATION

Account #: **9283**

BY: _____
PAUL K. SENSANO - MAUI DISTRICT MANAGER

NOTE: ON OR BEFORE THE EXPIRATION OF ANY REQUIRED DOCUMENTS, THE PERMITTEE IS REQUIRED TO FURNISH ALL UPDATED/ RENEWED DOCUMENTS TO THE MA'ALAEA BOAT HARBOR OFFICE.

Mooring Permit, State of Hawaii, Department of Land and Natural Resources

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

REPLY TO
ATTENTION OF:

August 5, 2009

Mooring Permit, US Army Corps of Engineers

Office of Counsel

SUBJECT: Freedom of Information Act (FOIA) Request No. 09-71 from Dennis Niles of Paul, Johnson, Park & Niles

Dennis Niles
Paul Johnson Park & Niles
Suite 1300, American Savings Bank Tower
1001 Bishop Street
Honolulu, Hawaii 96813

Dear Mr. Niles:

This responds to your letter dated July 27, 2009, in which you requested under FOIA a true and complete copy of the permit issued for mooring at Makena, Maui, Hawaii. Enclosed is a copy of the permit issued, along with an affidavit signed by George Young, Chief of the Regulatory Branch of the Honolulu District attesting that it is a true, accurate and complete copy of the permit.

In accordance with Army Regulation AR 25-55a, there will be no charge for the material provided to you under this FOIA request. We hope we have satisfied your request. If you have any questions, please contact Donna Kanetake at (808) 438-0620.

Sincerely,

Shivaun White
District Counsel

Enclosure

Mooring Permit, US Army Corps of Engineers

AFFIDAVIT OF GEORGE YOUNG

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

George Young, being duly sworn, deposes and says:

1. I am the Chief of the Regulatory Branch for the Honolulu District, U.S. Army Corps of Engineers and the record keeper of all records kept within the Regulatory Branch.

2. Enclosed is a true, accurate and complete copy of the Letter of Permission, PCDCO-O 1985-S, dated March 13, 1987, consisting of 11 pages for commercial moorings at Makena, Maui, Hawaii.

Further affiant sayeth naught.

GEORGE YOUNG

Subscribed and sworn to before me
this 4th day of August, 2009

Donna H. Kanetake
Notary Public, State of Hawaii (*seal*)
My Commission Expires: July 22, 2010

Mooring Permit, US Army Corps of Engineers

Doc. Date: August 4, 2009 # Pages: 12

Notary Name: Donna H. Kanetake First Circuit

Doc. Description: Affidavit of George Young + 11 pages- Letter of Permission, PCOCO-0 1985-S, dated March 13, 1987

Donna H Kanetake Aug 4, 2009

Notary Signature Date

NOTARY CERTIFICATION SEAL

DEPARTMENT OF THE ARMY
U. S. ARMY ENGINEER DISTRICT, HONOLULU
FT. SHAFTER, HAWAII 96858-5440

"signed copy do not remove from file"

Mooring Permit, US Army Corps of Engineers

REPLY TO
ATTENTION OF
Operations Branch

LETTER OF PERMISSION
POCO-O 1958-S

Mr. Warren E. Akiona
Executive Director
Makena Boat Partners
5400 Makena Alanui
Kihei, Hawaii 96753

Dear Mr. Akiona:

Your written request dated October 6, 1986 for a permit to perform work in navigable waters of the United States, State of Hawaii, pursuant to Section 10 of the River and Harbor Act of March 3, 1899 (33 U.S.C. 403), is hereby approved.

You are hereby authorized to install three commercial moorings at Makena, Maui, Hawaii, in accordance with the plans and drawings attached hereto, which are incorporated in and made a part of this permit, subject to the General and Special Conditions (copy attached). Notice of Authorization, Eng Form 4331, must be displayed at the work site (copy attached).

You must notify the Chief, Operations Branch, 72 hours in advance of the time the work will begin and when it is completed. The work must be completed on or before December 31, 1988. This permission, if not previously revoked or specifically extended, shall be null and void if the work is not done within this time limit.

Please note the special condition to this permit which requires you to acquire the Conservation District Use Permit from the State Department of Land and Natural Resources. This permit process will allow the State Harbors Division, which has expressed objections to your multiple moorings, to comment on your proposal again. In addition, we expect the Harbors Division to submit an application soon for a General Permit (GP) to establish mooring areas in the State of Hawaii. If this GP application is authorized, you may be required to relocate your moorings to the proposed mooring areas, as expressed in special condition (c).

Mooring Permit, US Army Corps of Engineers

Attachments

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Warren S. Kanai for JOHN G. EMMERSON — 13 March 1987
DATE

Chief, Operations Branch
Construction-Operations Division
For and in behalf of District Engineer
F. W. WANNER, Colonel, CE
U.S. Army, Corps of Engineers

Transferee hereby agrees to comply with the terms and conditions of this permit.

TRANSFEREE — DATE

Copies Furnished: (with Attachments)

US Fish & Wildlife Service, Honolulu, HI
Natl Marine Fisheries Service, Honolulu, HI
Cdr, Fourteenth Coast Guard District, Honolulu, HI
State Dept. of Land and Natural Resources, Honolulu, HI
State Dept. of Planning & Economic Development, ATTN: CZM Program, Honolulu, HI
State Harbors Division, Dept. of Transportation, Honolulu, HI
Dept. of Land Utilization, City & County of Honolulu, Honolulu, HI
Dept. of Planning, County of Maui, Wailuku, HI

Mooring Permit, US Army Corps of Engineers

I. GENERAL CONDITIONS:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions h or i hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That the permittee agrees to make every reasonable effort to prosecute the construction or work authorized herein in a manner so as to minimize any adverse impact of the construction or work on fish, wildlife and natural environmental values.

c. That the permittee agrees that it will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

d. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

e. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

f. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

g. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

Mooring Permit, US Army Corps of Engineers

h. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

i. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

j. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

Mooring Permit, US Army Corps of Engineers

k. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

l. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

m. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

n. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

o. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition r hereof, he must restore the area to a condition satisfactory to the District Engineer.

p. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

q. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

r. That this permit may not be transferred to a third party without prior written notice to the District Engineer by the transferee's written agreement to comply with all terms and conditions of this permit and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

Mooring Permit,
US Army Corps of
Engineers

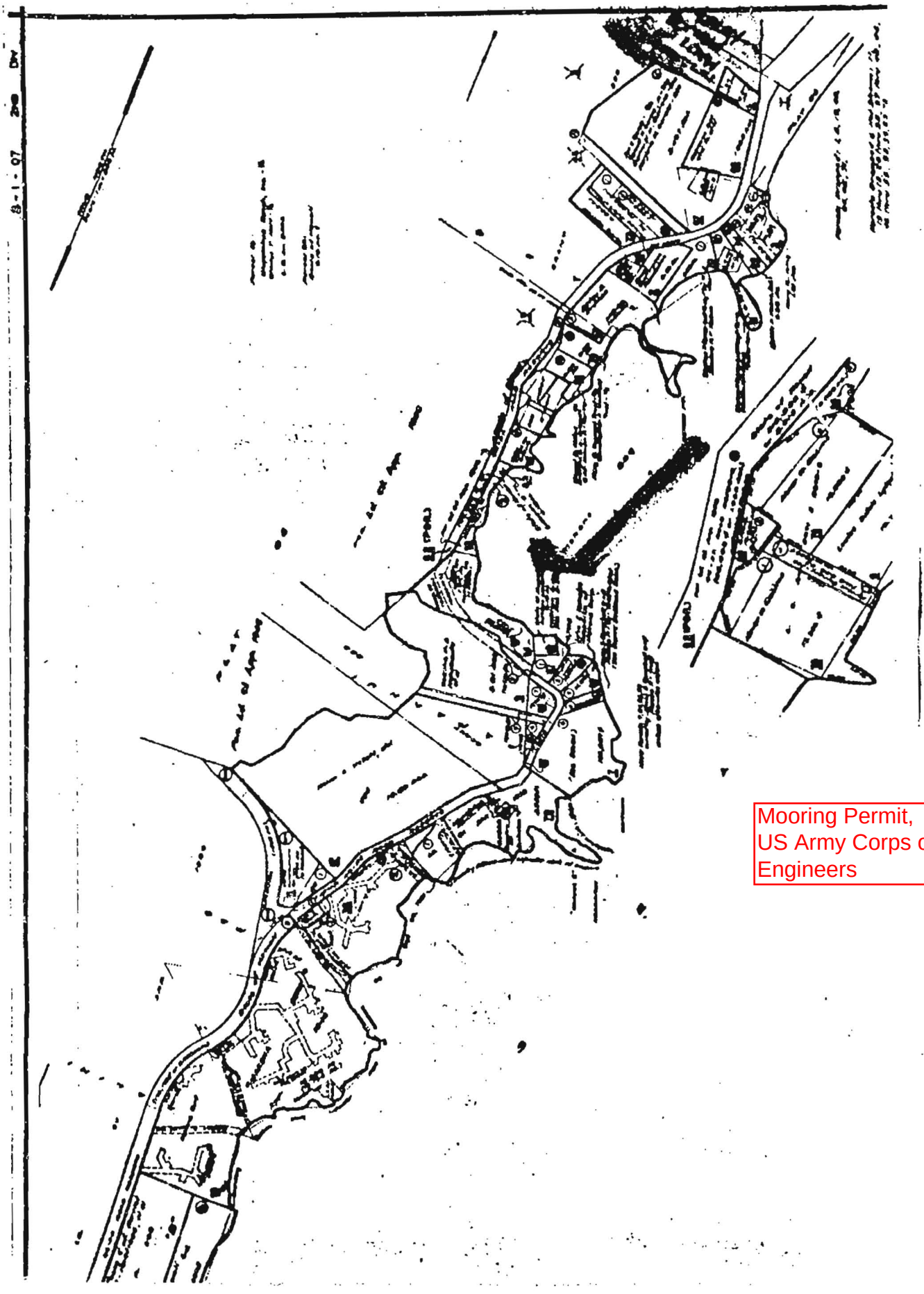
II. SPECIAL CONDITIONS

a. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

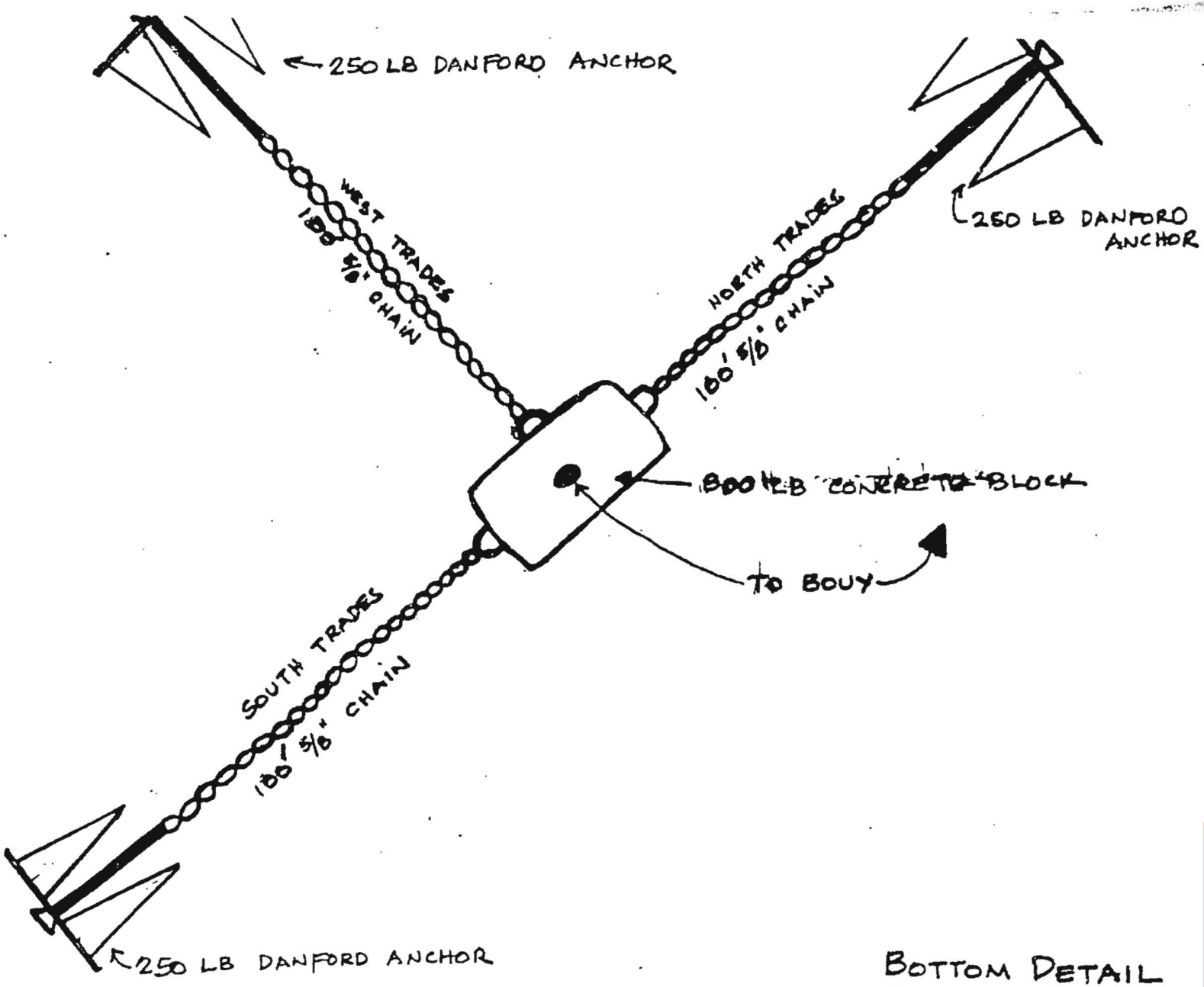
b. That this permit shall not become effective until all State and local approvals are acquired.

c. That the moorings authorized by this permit shall be relocated to the mooring areas, to be defined and established by the State of Hawaii Harbors Division, if it is deemed necessary.

Mooring Permit, US Army Corps of Engineers

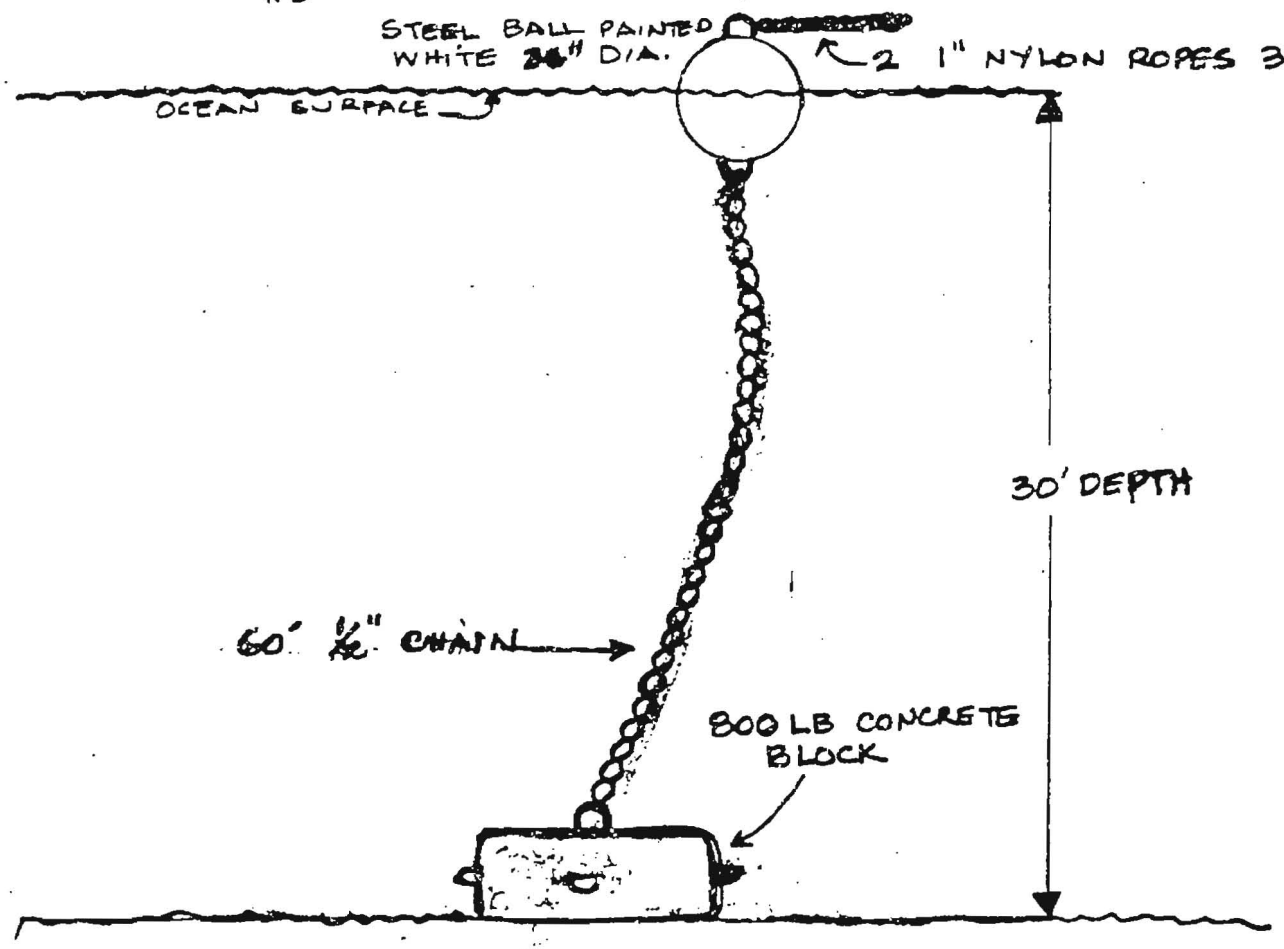


Mooring Permit,
US Army Corps of
Engineers



BOTTOM DETAIL
#1 AND #3

SIMILIAR MOORINGS #1 AND #3 PERMANENT MOORINGS
LOCATIONS: #1 - IN FRONT MAUI PRINCE HOTEL 200 YDS OFFSHORE
#3 IN MAKENA LANDING BAY 200 YDS OFFSHORE

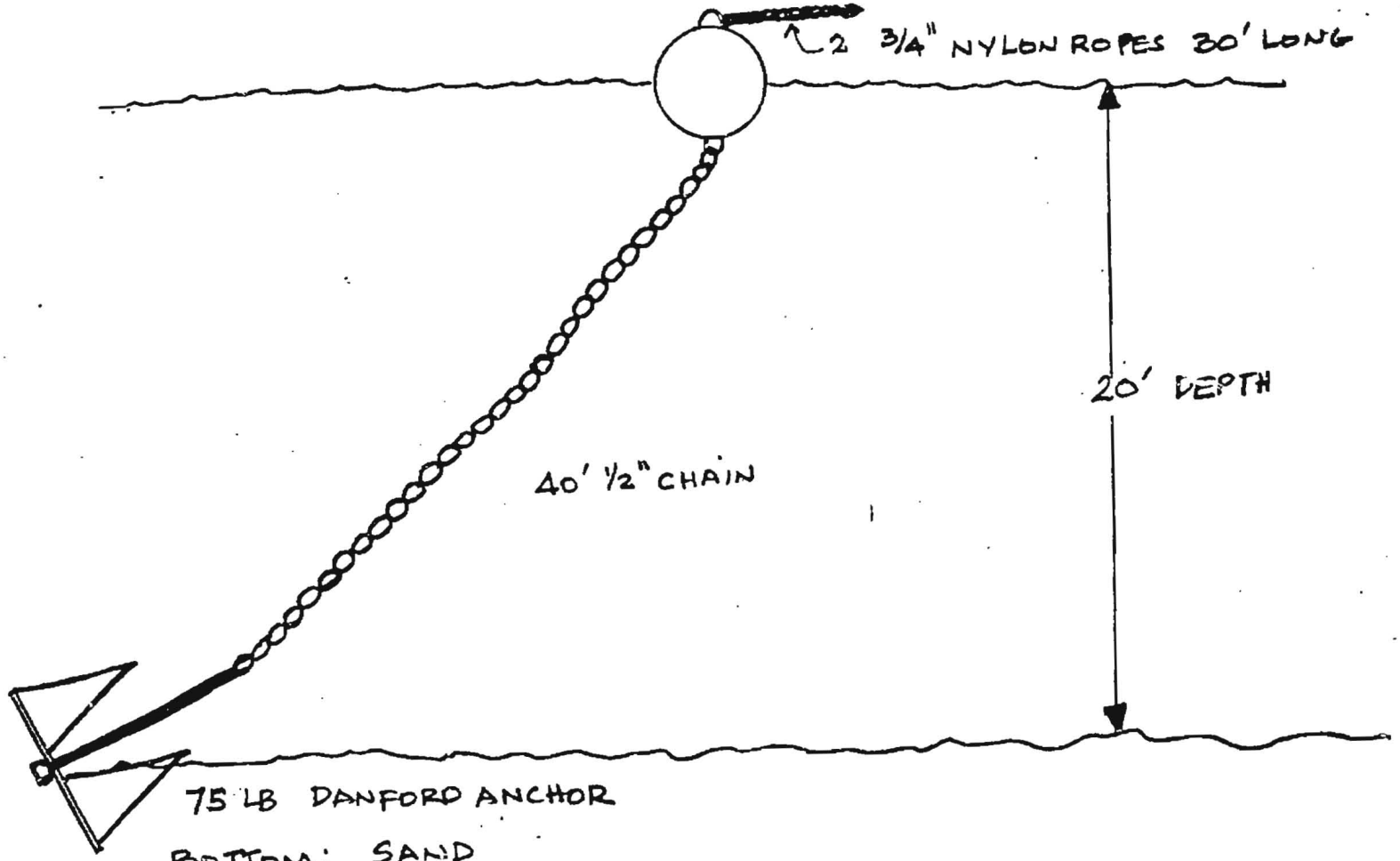


TOP DETAIL #1 AND #3

BOTTOM: SAND AND CORAL RUBBLE

DETAIL OF MOORING #2 (INSIDE MOORING)

LOCATION: IN FRONT OF THE MAUI PRINCE HOTEL 100 YDS OFFSHORE



Appendix E
Correspondence

Federal
State
County
Other

To: See attached mailing list Date: July 2, 2015

Subject: Preliminary Consultation concerning ENVIRONMENTAL ASSESSMENT of a proposed disposition of State lands allowing continued catamaran passenger boarding at Maluaka Beach, Wailea, Maui, Hawaii

Purpose of this letter: The purpose of this letter is to invite comment by members of the public and governmental agencies as to the potential effects of the proposed action prior to preparation of an Environmental Assessment

Your comments are requested: Please submit your comments by July 20, 2015 via letter or email to:

Eugene Dashiell, AICP
Environmental Planning Services
728 Nunu Street
Kailua, Hawaii 96734
dashiellplanning@outlook.com

Proposed Action: The proposed action is establishment, by the State Department of Land and Natural Resources, of a non-exclusive use area for catamaran boarding. Makena Boat Partners (MBP) operates Kai Kanani II, a 65 by 31 foot catamaran, to provide commercial tours and ocean activities in the near shore waters of Makena Bay in accordance with a Conservation District Use Permit (CDUP) issued in 1988. Passengers embark the vessel directly from Maluaka Beach as may be seen in the following photograph. Boarding occurs in the southern portion of the beach fronting the Makena Beach Golf and Resort (formerly the Maui Prince Hotel). Annual permits received by MBP from the Division of Boating and Ocean Recreation of the Department of Land and Natural Resources through 2014 expressly authorized “loading & offloading passengers at the public beach fronting the Makena Beach Resort (Maui Prince Hotel).”

The 1988 CDUP was conditioned on MBP securing authorization from DLNR’s Division of Land Management for the occupancy of state lands. MBP seeks to satisfy that condition through this action.

Kai Kanani II boarding at Maluaka Beach.

Description: The Environmental Assessment will assess the impact on Maluaka Beach of the boarding of passengers. Passengers access the vessel by wading through shallow (approximately knee-deep) water. On reaching the vessel they board by means of a retractable ladder positioned between the vessel's two hulls. Passengers are assisted by crewmembers standing on submerged land at the foot of the ladder. This cycle repeats on the return of the vessel following an excursion. Provisioning and trash removal comprise the final daily cycle. These cycles begin each day early in the morning (typically 5:30 AM HST) and conclude immediately following the last excursion of the day. Each cycle typically requires less than seven (7) minutes.

No more than forty-five (45) feet of shoreline is affected by the vessel during any given boarding cycle. The affected submerged lands are sandy substrate. The vessel remains afloat throughout each cycle. Positioning of the vessel is maintained through the application of power to one or both of the vessels' propellers. Contact with the sandy substrate due to wave action is infrequent and momentary, and limited to the forward-most part of a hull and, rarely, the tip of a rudder. Operations are suspended whenever condition renders boarding unsafe.

Members of the vessel's crew (and other shore-side personnel) assist passengers in crossing the beach directly to the vessel from a public access point mauka of state property. They also guide beachgoers and swimmers away from the boarding area while the vessel approaches or is in the process of boarding passengers or disembarking passengers. Operations are suspended whenever conditions render boarding unsafe.

The Applicant (MBP) desires formal disposition of the affected state lands to eliminate question whether a condition of the 1988 CDUP remains unmet.

Background and chronology. In 1988, the Department of Land and Natural Resources (DLNR) issued a Conservation District Use Permit (CDUP) to Makena Boat Partners for a mooring (commercial use) in a designated mooring location offshore of the (then) Maui Prince Hotel. The CDUP included "...a Beach Use Permit Fronting the Maui Prince Hotel, Makena, Maui at TMK 2-1-06 and 2-1-07 (offshore)…".

In 2013, Applicant (MBP) was notified that it lacked "…appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State Lands." Applicant was invited to submit an "Application for Use of Government Lands," and advised that the "…disposition of government lands for landing and mooring purposes via an easement or revocable permit is considered a "trigger" under Chapter 343, Hawaii Revised Statutes, requiring compliance by the applicant."

The proposed Environmental Assessment is intended to satisfy the requirements of Chapter 343 of the Hawai'i Revised Statutes.

Location and purpose of the project or activity. The activity site involves a portion of shoreline waters and fast and submerged lands (the "Site") comprising Maluaka Beach as depicted in the map included in this letter. Applicant (MBP) proposes to use the Site to board and disembark passengers to and from Kai Kanani II.

Description of the project or activity. On reaching the shoreline the vessel is slowed to a stop. Passenger boarding requires a relatively stationary vessel. This is achieved and maintained throughout boarding by judicious application of power to one or both of the vessel's propellers. There is no anchoring or other fixed connection with the sandy substrate. The vessel remains stationary for the few minutes required to board or offload passengers.

Environmental effects. The transient boarding of passengers does not cause a significant impact on the shoreline environment. Operation of the vessel brings positive economic and recreational effects to the community at large by providing employment for local residents and ocean-based activity options for residents and visitors. A marine biological survey concluded that vessel operations appear to have no adverse effect on marine resources at or near the landing sites. There appear to be no adverse effects on beachgoers, swimmers and other water-users.

50 25 0 50 Meters

150 75 0 150 Feet

NORTH

Base map imagery, ESRI
E. Dashiell, AICP, 4/27/15

Dotted red line bounds non-exclusive use area. Seaward extent is about 150 feet from the shoreline. The shoreline elevation varies between mean lower low water and mean higher high water because of changes in sea level (tides, winds, swell, season).

Catamaran Boarding
Maluaka Beach
Wailea, Maui

Mailing List

State of Hawai‘i
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu HI 96804

State of Hawai‘i
Department of Business, Economic Development & Tourism
Strategic Industries Division
235 S. Beretania St., 5th Flr.
Honolulu HI 96813

State of Hawai‘i
Department of Business, Economic Development & Tourism
Office of Planning
235 S. Beretania St., 6th Floor
Honolulu HI 96813

State of Hawai‘i, Department of Education,
Hawaii State Library
Hawai‘i Documents Center
478 S. King Street
Honolulu HI 96813

State of Hawai‘I
Department of Education
Hawai‘i State Library
Kahului Regional Library
90 School Street
Kahului HI 96732

State of Hawai‘I
Department of Education
Kihei-Makena Library
131 South Kihei Rd
Kihei HI 96753

State of Hawai‘I
Department of Health,
Environmental Health Administration
P.O. Box 3378
Honolulu HI 96801

State of Hawai‘i,
Department of Land & Natural Resources
Office of Conservation & Coastal Lands
1151 Punchbowl St RM 131
Honolulu HI 96813

State of Hawai‘i,
Department of Land & Natural Resources
Land Division1
151 Punchbowl St RM 220
Honolulu HI 96813

State of Hawai‘i
Department of Land & Natural Resources
Division of Boating & Outdoor Recreation
P.O. Box 621
Honolulu, HI 96809

State of Hawai‘i
Department of Land & Natural Resources
State Historic Preservation Division
601 Kamokila Blvd., Rm. 555
Kapolei HI 96707

State of Hawai‘i
Department of Land & Natural Resources
Division of Aquatic Resources
1151 Punchbowl St RM 330
Honolulu HI 96813

State of Hawai‘i
Department of Land & Natural Resources
Land Divison
Maui District Branch
ATTN: Mr Daniel L. Ornellas
54 High St RM 101
Wailuku HI 96793

State of Hawai‘i
Department of Transportation
Division of Harbors
869 Punchbowl Street
Honolulu HI 96813

University of Hawai‘i
Maui College Library
310 Ka‘ahumanu Avenue
Kahului HI 96732

State of Hawaii
Office of Hawaiian Affairs
711 Kapi‘olani Blvd., Suite 500
Honolulu HI 96813

County of Maui
Department of Parks and Recreation
700 Hali‘a Nakoa Street
War Memorial Complex
Wailuku HI 96793

County of Maui
Department of Planning
250 S. High Street
Kalana Pakui Bldg., Ste. 200
Wailuku HI 96793

Department of the Interior
Fish and Wildlife Service
300 Ala Moana Boulevard,
Room 3-122,
Honolulu HI 96850-0056

Department of Commerce
National Marine Fisheries Service
Pacific Islands Regional
Office, 1611 Kapi‘olani
Boulevard, Suite 1110,
Honolulu HI 96814

Mailing List

Department of the Army
Corps of Engineers
Pacific Ocean Division,
Building 525, Suite 300,
Fort Shafter HI 96858-5440

Department of Homeland Security
Coast Guard Commander14th Coast Guard District
300 Ala Moana Boulevard
Room 9-204
Honolulu HI 96850-4982

Honolulu Star Advertiser
Restaurant Row 7,
Waterfront Plaza
Suite 210
500 Ala Moana Boulevard
Honolulu, HI 96813

Maui News
100 Mahalani Street,
Wailuku, HI 96793

Sen Rosalyn H. Baker
State Senator Dist 6
Hawaii State Capitol
Room 230
Honolulu HI 96813

Rep Kaniela Ing
State Representative Dist 11
Hawaii State Capitol
Room 311
Honolulu HI 9681

Donald G Couch Jr
Maui County Council Member
200 South High Street
Wailuku HI 96793-2155

Doug Rice
2726 Kalanilani Circle
Makawao HI, 96768

Maui Masters Swim Club
c/o Doug Rice
2726 Kalanilani Circle
Makawao HI, 96768

Malama Kahakai
c/o Dana Naone Hall
2087 Well Street
Wailuku HI 96793

Christine Andrews
2726 Kalanilani Circle
Makawao HI, 96768

Maui Tomorrow Foundation, Inc.
55 N. Church St., Suite A4
Wailuku HI 96793

Surfrider Foundation
Maui Chapter
PO Box 790549
Paia Maui HI 96779

ATC Makena Holding, LLC
c/o Mark Alexander Roy
Munekiyo and Hiraga, Inc.
305 High Street, Suite 104
Wailuku HI 96793

ATC Makena Hotel, LLC
c/o Declan McCarthy,
General Manager, Makena Prince Hotel,
5400 Makena Ala Nui
Kihei HI 96753

Don Bloom
4950 Makena Road
Kihei, HI 96753

Play Pacific, LLC
Attn. Kip Larson
5400 Makena Alanui
Makena HI 96753

Pre-consultation Comments & Responses		
	Comments	Response
FEDERAL		
Department of the Interior Fish and Wildlife Service	7/30/15	10/8/15
Department of Commerce National Marine Fisheries Service		
Department of the Army US Army Corps of Engineers, Pacific Ocean Division	8/03/15	8/03/15
Department of Homeland Security Coast Guard Commander14th Coast Guard District		
STATE		
Department of Business, Economic Development & Tourism		
Department of Business, Economic Development & Tourism Strategic Industries Division		
Department of Business, Economic Development & Tourism, Office of Planning-Hawaii Coastal Zone Management Program	7/16/15	10/8/15
Department of Education, Hawaii State Library, Hawai'i Documents Center		
Department of Education Hawai'i State Library, Kahului Regional Library		
Department of Education Kihei-Makena Library		
Department of Health, Environmental Health Administration, Environmental Planning Office	7/13/15	10/8/15
Department of Land & Natural Resources Office of Conservation & Coastal Lands	7/20/15	None required
Department of Land & Natural Resources Land Division	See Maui District Branch, 7/23/15	
Department of Land & Natural Resources Division of Boating & Outdoor Recreation		
Department of Land & Natural Resources State Historic Preservation Division	7/15/15	7/15/15
Department of Land & Natural Resources Division of Aquatic Resources	7/14/15 10/20/15	10/13/15
Department of Land & Natural Resources Land Division, Maui District Branch ATTN: Mr. Daniel L. Ornellas	7/23/15	10/20/15
Department of Transportation Division of Harbors	7/15/15	7/15/15
University of Hawai'i Maui College Library		
State of Hawaii Office of Hawaiian Affairs		

MAUI COUNTY		
County of Maui Department of Parks and Recreation		
County of Maui Department of Planning	7/15/15, 8/11/15	8/11/15
ELECTED		
Sen Rosalyn H. Baker State Senator Dist 6		
Rep Kaniela Ing State Representative Dist 11		
Donald G Couch Jr Maui County Council Member		
OTHER		
Honolulu Star Advertiser		
Maui News	7/13/15	None required
Doug Rice		
Maui Masters Swim Club c/o Doug Rice		
Malama Kahakai c/o Dana Naone Hall	See Isaac Hall, 7/20/15	
Christine Andrews		
Maui Tomorrow Foundation, Inc.		
Surfrider Foundation Maui Chapter		
ATC Makena Holding, LLC c/o Mark Alexander Roy, Munekiyo and Hiraga, Inc		
ATC Makena Hotel, LLC c/o Declan McCarthy		
Hannah Bernard, President Hawai'i Wildlife Fund	7/19/15	7/20/15
Isaac Hall, Esq, for Hui Alanui o Makena & Dana Naone Hall	7/20/15	10/13/15
Patricia Stillwell, Kihei Resident	7/17/15	9/25/15
Bill & Sylvia Sales, So Maui Residents	7/15/15	7/15/15
Phillip Schultz	7/14/15	7/15/15

Federal

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
Honolulu, Hawaii 96850

In Reply Refer To:
01EPIF00-2015-TA-0341

JUL 30 2015

Mr. Eugene Dashiell, AICP
Environmental Planning Services
728 Nunu Street
Kailua, Hawaii 96734

Subject: Technical Assistance for the Proposed Environmental Assessment for Continued Catamaran Landing (Kai Kanai II) at Makena Beach, Maui

Dear Mr. Dashiell:

The U.S. Fish and Wildlife Service (Service) received your correspondence on July 06, 2015 inviting comment on potential effects of continuing to land the catamaran Kai Kanai II at Makena Beach, Maui to embark passengers. The proposed action includes establishing a non-exclusive use area where the boat can be drawn in close enough for passengers embark and disembark by walking from the beach through shallow water.

Based on information you provided and pertinent information in our files, there are three listed species possibly in the vicinity of the project area that are of concern: the endangered hawksbill turtle (*Eretmochelys imbricata*) and Hawaiian monk seal (*Monachus schauinslandi*), and the threatened green sea turtle (*Chelonia mydas*). Given that your proposal includes routinely transiting to and from areas where these species may be swimming, basking, or nesting, the Service recommends that your environmental assessment address possible impacts to these species and best management practices to avoid and minimize project impacts.

Sea Turtles

The proposed project is within the vicinity of nesting habitat for the endangered hawksbill turtle and threatened green turtle, collectively referred to as sea turtles. Sea turtles come ashore to nest on beaches from May through September, peaking in June and July. Optimal nesting habitat is a dark beach free of barriers that restrict movement. Given that there is no boat landings proposed to occur at night, the most likely impact would be to animals near or in the water as the boat approaches shore, and to the nests themselves as people walk to and from the boat. We recommend that your staff look for signs of nesting including tracks on the beach to and from the ocean, and shallow depressions. Please contact the Service for further guidance if you observe signs of nesting. Green sea turtles may also use the beach to haul up and bask. This is an important behavior that puts the turtles at increased risk of disturbance from beach goers. We recommend that you educate passengers to avoid approaching turtles within 10 feet, not to surround the turtles or prevent them from moving, not touch them, and never attempt to feed

them. Turtles may also be in the shallow water between the boat and the beach while the boat is approaching shore, and therefore at risk of being hit. We recommend that the boat have a designated lookout on the bow to spot turtles and assist in maneuvering around them.

An important note: the Service consults on sea turtles and their use of terrestrial habitats (beaches where nesting and/or basking is known to occur), whereas the National Marine Fisheries Service (NMFS) consults on sea turtles and their use of off-shore and open ocean habitats. We recommend that you consult with NMFS regarding the potential impacts from the proposed project to sea turtles in off-shore and open ocean habitats.

Monk Seals

Hawaiian monk seals may be in the waters around the beach or on the beach itself. Monk seals do not fall under the regulatory authority of the Service, but of NMFS. We recommend that you consult with NMFS on potential impacts that your project could have on monk seals.

Implementation of these measures will minimize but does not ensure that take of listed species associated with this proposed action will be fully avoided. Thank you for your efforts to conserve listed species and native habitats. Please contact Fish and Wildlife Biologist Jon Sprague (808-792-9573) if you have any questions or for further guidance.

Sincerely,

Michelle Bogardus
Island Team Leader
Maui Nui and Hawaii Island

Eugene P. Dashiell AICP
ENVIRONMENTAL PLANNING SERVICES
728 Nunu Street
Kailua, Hawai`i 96734

Telephone/FAX: 808.254.4522
Cell Phone/Voice Mail: 808.371.0745
email: dashiellplanning@outlook.com
Member, American Institute of Certified Planners

October 8, 2015

MICHELLE BOGARDUS
ISLAND TEAM LEADER MAUI NUI AND HAWAII ISLAND
US Fish and Wildlife Service
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
HONOLULU HAWAII 96850

Dear Ms. Bogardus:

Subject: 01EP1F00-2015-TA-0341 -- Pre-Assessment Consultation for the Proposed Disposition of State Lands Allowing Continued Catamaran Passenger Boarding at Maluaka Beach, Wailea, Maui, Hawaii

Thank you for your comments (letter, July 30). I will address them in the subject EA. Specifically, the draft EA will:

- Discuss the effects on listed species in the vicinity of the project area, including the endangered hawksbill turtle and Hawaiian monk seal, and the threatened green sea turtle. AECOS, which is consultant to the client, previously prepared an aquatic survey of the project area, and is in the process of preparing a supplement to that document which will discuss listed species. I understand a representative will be contacting you and also NOAA;

- Regarding sea turtles we are aware of their presence in the area but believe the vessel has been successful in avoiding them. We will provide more information in the draft environmental assessment;

- Regarding monk seals and other marine mammals (humpback whales), the vessel is required by the US Coast Guard (see enclosure) to maintain distances of at least 50 yards or more from monk seals and 100 yards or more from humpback whales. We will provide more information in the draft EA.

If you have questions please call me (254-4522 or 371-0745) or e-mail me (dashiellplanning@outlook.com).

Sincerely yours,

Eugene P. Dashiell

Eugene P. Dashiell, AICP

Enclosure

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

August 3, 2015

SUBJECT: No Permit Required for Makena Boat Partners; File No. POH-2015-00140; located in Wailea, Island of Maui, Hawaii

Pacific Environmental Planning
728 Nunu Street
Kailua, Hawaii 96734
Attn: Eugene P. Dashiell, AICP

Dear Mr. Dashiell:

On July 22, 2015, the Corps received a submittal from Pacific Environmental Planning on behalf of Makena Boat Partners, requesting the Corps' comments prior to the development of an Environmental Assessment for the loading and unloading of passengers from a public beach to a catamaran idling in shallow offshore waters. The project has been assigned DA file number 2015-00140. Please reference this number in all future correspondence concerning this project.

The submittal indicated that the catamaran does not drop anchor, is not moored during the activity, and there is no other structure that would be lowered into the ocean bottom to facilitate passengers boarding and disembarking. A retractable ladder is submerged and passengers are helped on and off the vessel in this manner. This activity is conducted in Wailea, at the beach fronting the Makena Beach Resort (formerly the Maui Prince Hotel), Maui, Hawaii.

Note that a mooring permit was issued to Makena Boat Partners as a Letter of Permission on March 13, 1987 under DA Permit No. PGDCO-O 1958-S. The mooring is needed during times when the boat is not in use.

Your submittal has been reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 (Section 10) and Section 404 of the Clean Water Act (Section 404). Section 10 requires that a DA permit be obtained for certain structures or work conducted in, over, or under navigable waters of the United States (WOUS), prior to conducting the work (33 U.S.C. 403). Section 404 requires that a DA permit be obtained for the discharge of dredged and/or fill material into WOUS, including wetlands and WOUS that are navigable-in-fact, prior to conducting the work (33 U.S.C. 1344).

Based on our review of the submitted information, this office has determined the proposed activities do not affect the course, capacity, condition, or location of a navigable WOUS as defined by Section 10 and would not result in the discharge of dredged or fill material into WOUS as defined by Section 404. Therefore, a DA permit is not required for the proposed work activities.

It is your responsibility to ensure that your project complies with all other Federal, State, or local statutes, ordinances and regulations.

Thank you for your cooperation with the Honolulu District Regulatory Program. Should you have any questions related to this determination, please contact our office at 808-835-4303 or by mail at U.S. Army Corps of Engineers, Building 252, CEPOH-RO, Fort Shafter, Hawaii 96858-5440.

You are encouraged to provide comments on your experience with the Honolulu District Regulatory Office by accessing our web-based customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0.

Sincerely,

Michelle R. Lynch
Chief, Regulatory Office

cc:
State of Hawaii DBEDT Office of Planning (John Nakagawa)
Makena Boat Partners (Sidney J. Akiona and Roger Gildersleeve)
Department of Land Management, Division of Boating and Ocean Recreation (Edward Underwood)

Eugene dashiell

From: Gene Dashiell <dashiellplanning@outlook.com>
Sent: Monday, August 3, 2015 3:41 PM
To: Robinson, Judy A LRB; sida@hawaii.rr.com; JNakagaw@dbedt.hawaii.gov; ed.r.underwood@hawaii.gov
Subject: Re: No Permit Required for Makena Boat Partners; File No. POH-2015-00140; located in Wailea, Island of Maui, Hawaii (UNCLASSIFIED)

Thanks Judy,
Appreciate this.
Gene Dashiell

On 8/3/15, 3:35 PM, "Robinson, Judy A LRB"
<Judy.A.Robinson@usace.army.mil> wrote:

>Classification: UNCLASSIFIED
>Caveats: NONE
>
>Dear Mr. Akiona, Mr. Gildersleeve, Mr. Dashiell; Mr. Nakagawa, and Mr.
>Underwood:
>
>I have revised the No Permit Required letter to reflect the error found
>in the original NPR letter. I have no idea where I came up with "Kailua"
>as the location. Your map indicates that the location for the
>catamaran boarding is Wailea, Maui and that is what it was changed to.
>
>Please disregard (destroy) my first e-mail and attachment an replace it
>with this one.
>
>Thank you for your patience.
>
>Sincerely,
>
>Judy Robinson
>
>
>Temporary Duty Address
>Judy A. Robinson, Biologist
>U.S. Army Corps of Engineers
>Honolulu District
>Fort Shafter, Hawaii 96858-5440
>808-835-4310
>judy.a.robinson@usace.army.mil
>
>
>Judy A. Robinson, MS
>Biologist
>U.S. Army Corps of Engineers
>Auburn Field Office

State

OFFICE OF PLANNING
STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
ACTING DIRECTOR
OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax. (808) 587-2824
Web http://planning.hawaii.gov/

Ref. No. P-14825

July 16, 2015

Mr. Eugene Dashiell, AICP
Environmental Planning Services
728 Nunu Street
Kailua, Hawaii 96734

Dear Mr. Dashiell:

Subject: Pre-Assessment Consultation for the Proposed Disposition of State Lands Allowing Continued Catamaran Passenger Boarding at Maluaka Beach, Wailea, Maui

Thank you for the opportunity to provide comments on the pre-consultation request for a Draft Environmental Assessment (Draft EA) on the disposition of State Lands along Maluaka Beach for the continued use of commercial catamaran passenger boarding proposed by the Makena Boat Partners. The pre-consultation review material was transmitted to our office by letter, dated July 2, 2015.

It is our understanding that this proposed action seeks to establish a non-exclusive use area for catamaran boarding from the Department of Land and Natural Resources – Division of Land Management. Makena Boat Partners operates a 65' by 31' catamaran that provides commercial tours and ocean activities in the near shore waters of Makena Bay in accordance with a Conservation District Use Permit (CDUP) issued in 1988. Passengers embark and disembark directly from Maluaka Beach. Boarding occurs in the southern portion of the beach fronting Makena Beach Golf and Resort. The 1988 CDUP was conditioned on Makena Boat Partners securing authorization from DLNR. Makena Boat Partners seeks to satisfy this condition through this action.

The Office of Planning (OP) has reviewed the transmitted material and has the following comments to offer:

1. Pursuant to the Hawaii Administrative Rules § 11-200-17(h) – land use plans, policies, and controls – gaining approval for the disposition of land so as to facilitate the daily presence of catamaran passengers boarding and disembarking from the shoreline may have an adverse environmental impact on the nearby marine environment. The Draft EA, therefore, should consider and evaluate this action based upon the statewide planning system in Hawaii Revised Statutes (HRS) Chapter 226, the Hawaii State Plan. The Hawaii State Plan provides goals, objectives, policies,

and priority guidelines for growth, development, and the allocation of resources throughout the State. The Hawaii State Plan includes diverse objectives and policies of state interest including but not limited to the economy, agriculture, the visitor industry, federal expenditure, the physical environment, facility systems, socio-cultural advancement, climate change adaptation, and sustainability.

The Draft EA should include an analysis that addresses whether the proposed project conforms or is in conflict with the goals, objectives, policies, and priority guidelines listed in the Hawaii State Plan.

2. The coastal zone management area is defined as "all lands of the State and the area extending seaward from the shoreline to the limit of the State's police power and management authority, including the U.S. territorial sea" see HRS § 205A-1 (definition of "coastal zone management area").

   HRS Chapter 205A requires all State and county agencies to enforce the coastal zone management (CZM) objectives and policies. The Draft EA should include an assessment as to how the proposed project conforms to the CZM objectives and its supporting policies set forth in HRS § 205A-2. The assessment on compliance with HRS Chapter 205A is an important component for satisfying the requirements of HRS Chapter 343. These objectives and policies include: recreational resources, historic resources, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards, managing development, public participation, beach protection, and marine resources.

3. The area in question lies within the Special Management Area (SMA) and the shoreline setback area delineated by the County of Maui, Department of Planning. It may require an SMA permit as well as a shoreline setback variance. Please consult with said department on the procedures and requirements for SMA use and the shoreline setback requirements.

4. The Draft EA, should provide a list of any federal, state, or county permits required for this project. A listing of required permits will allow OP to verify the necessity of conducting a Coastal Zone Management Federal Consistency evaluation.

   The national Coastal Zone Management Act requires activities that need federal permits to be consistent with approved state coastal programs to the maximum extent practicable. This project may need to be evaluated on Federal Consistency requirements if this action requires a United States Army Corps of Engineers Clean Water Act approval. OP is the lead state agency to conduct this evaluation.

If you have any questions regarding this comment letter, please contact Josh Hekekia of our office at (808) 587-2845.

Sincerely,

Leo R. Asuncion
Acting Director

Eugene P. Dashiell AICP
ENVIRONMENTAL PLANNING SERVICES
728 Nunu Street
Kailua, Hawai`i 96734

Telephone/FAX: 808.254.4522
Cell Phone/Voice Mail: 808.371.0745
email: dashiellplanning@outlook.com
Member, American Institute of Certified Planners

October 8, 2015 D R A F T

MR LEO ASUNCION
ACTING DIRECTOR
OFFICE OF STATE PLANNING
PO BOX 2359
HONOLULU HAWAII 96804

Dear Mr. Asuncion:

Subject: Pre-Assessment Consultation for the Proposed Disposition of State Lands Allowing Continued Catamaran Passenger Boarding at Maluaka Beach, Wailea, Maui, Hawaii

Thank you for your comments (letter, July 16). I will address them in the subject EA. Among other things, the draft EA will:

- Discuss the potential effects of the proposed action within the context of the State Plans;

- Consider the potential effects of the proposed action upon the State's coastal zone management area;

- Upon consulting Maui County's Department of Planning, I was informed a Special Management Area Permit is not required. I have attached a copy of their email for your information and use.

- Include a list and a discussion of the permits that relate to the proposed action.

If you have questions please call me (254-4522 or 371-0745) or e-mail me (dashiellplanning@outlook.com).

Sincerely yours,

Eugene P. Dashiell, AICP

Enclosure

Eugene dashiell

From: Keith Scott <Keith.Scott@co.maui.hi.us>
Sent: Tuesday, August 11, 2015 12:04 PM
To: dashiellplanning@outlook.com
Subject: Re: Preliminary Consultation Maluaka Beach Catamaran Passenger Boarding

Eugene - -

After further consultation, it appears that an SMA permit for the loading activity itself is not necessary. However, your client needs to assess the mauka activity related to the loading. As an example, are the passengers driving to the beach to load? If so, where are they parking? How does it impact the use of the beach park?

If you have any questions, please let me know.

Mahalo,

Keith Scott
Staff Planner
keith.scott@co.maui.hi.us
(808) 463-3867
>>> Keith Scott 7/15/2015 8:50 AM >>>
Thank you for the opportunity to comment during the Preliminary Consultation period for the subject Environmental Assessment. Maui County Planning has the following comment:

Special Management Area clearance is required for using the beach for access to the in-water boarding area, and should have been obtained prior to initiating activities.

Mahalo,

Keith Scott
Staff Planner
keith.scott@co.maui.hi.us
(808) 463-3867

DAVID Y. IGE
GOVERNOR OF HAWAII

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

EPO 15-173

July 13, 2015

Mr. Eugene Dashiell, AICP
Environmental Planning Services
728 Nunu Street
Kailua, Hawaii 96734
Via email: dashiellplanning@outlook.com

Dear Mr. Dashiell:

SUBJECT: Preliminary Consultation for Draft Environmental Assessment (PC DEA) for Maluaka Beach, Wailea, Maui

The Department of Health (DOH), Environmental Planning Office (EPO), acknowledges receipt of your PC DEA to our office on July 13, 2015. Thank you for allowing us to review and comment on the proposed project. The PC DEA was routed to the District Health Office on Maui and the Clean Water Branch. They will provide specific comments to you if necessary. EPO recommends that you review the standard comments and available strategies to support sustainable and healthy design provided at: http://health.hawaii.gov/epo/home/landuse-planning-review-program. Projects are required to adhere to all applicable standard comments.

We encourage you to examine and utilize the Hawaii Environmental Health Portal. The portal provides links to our e-Permitting Portal, Environmental Health Warehouse, Groundwater Contamination Viewer, Hawaii Emergency Response Exchange, Hawaii State and Local Emission Inventory System, Water Pollution Control Viewer, Water Quality Data, Warnings, Advisories and Postings. The Portal is continually updated. Please visit it regularly at: https://eha-cloud.doh.hawaii.gov

You may also wish to review the revised Water Quality Standards Maps that have been updated for all islands. The Water Quality Standards Maps can be found at:
http://health.hawaii.gov/cwb/site-map/clean-water-branch-home-page/water-quality-standards

We request that you utilize all of this information on your proposed project to increase sustainable, innovative, inspirational, transparent and healthy design.

Mahalo nui loa,

Laura Leialoha Phillips McIntyre, AICP
Program Manager, Environmental Planning Office

c: DBEDT/OP, DLNR/OCCL, DPP Maui, OEQC
DHO Maui, CWB (via email only)

Eugene P. Dashiell AICP
ENVIRONMENTAL PLANNING SERVICES
728 Nunu Street
Kailua, Hawai`i 96734

Telephone/FAX: 808.254.4522
Cell Phone/Voice Mail: 808.371.0745
email: dashiellplanning@outlook.com
Member, American Institute of Certified Planners

October 8, 2015

MS LAURA LEIALOHA PHILLIPS MCINTYRE, AICP
PROGRAM MANAGER
ENVIRONMENTAL PLANNING OFFICE
DEPARTMENT OF HEALTH
PO BOX 3378
HONOLULU HAWAII 96801-3378

Dear Ms. McIntyre:

Subject: Pre-Assessment Consultation for the Proposed Disposition of State Lands Allowing Continued Catamaran Passenger Boarding at Maluaka Beach, Wailea, Maui, Hawaii

Thank you for your comments (letter, July 16). I will address them in the subject EA. Specifically, the draft EA will:

- Include a review of the "standard comments and available strategies to support sustainable and health design" and discuss these in relation to the proposed action;

- Consider the resources available within the "Hawaii Environmental Health Portal" and the EA will make reference to it;

- Include a discussion of State Water Quality Standards and the referenced map.

If you have questions please call me (254-4522 or 371-0745) or e-mail me (dashiellplanning@outlook.com).

Sincerely yours,

Eugene P. Dashiell, AICP

Enclosures

MA-16-1

DAVID Y. IGE
GOVERNOR OF HAWAII

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2015 JUL -8 P 12:29

DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

July 7, 2015

MEMORANDUM

TO: **DLNR Agencies:**
X Div. of Aquatic Resources
X Div. of Boating & Ocean Recreation
___Engineering Division
___Div. of Forestry & Wildlife
___Div. of State Parks
___Commission on Water Resource Management
X Office of Conservation & Coastal Lands
X Land Division – Maui District
X Historic Preservation
X LD Admin – J. Morikawa & K. Moore

FROM: Russell Y. Tsuji, Land Administrator
SUBJECT: Environmental Assessment of the Proposed Disposition of State Lands Allowing Continued Catamaran Passengers Boarding at Maluaka Beach.
LOCATION: Wailea, Island of Maui; TMK: (2) 2-1-006:059
APPLICANT: Makena Boat Partners

Transmitted for your review and comment on the above referenced document. We would appreciate your comments on this document. Please submit any comments by **July 16, 2015.**

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Lydia Morikawa at 587-0410. Thank you.

Attachments

Please see attached Correspondence from 2012

( ) We have no objections.
(✓) We have no comments.
( ) Comments are attached

Signed:
Print Name:
Date: 20/Jul/15

cc: Central Files

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:TM

ENF: MA 12-32

MEMORANDUM

JUN 13 2012

TO: Russ Tsuji, Administrator
Land Division

Ed Underwood, Administrator
Boating and Ocean Recreation

Randy Awo, Administrator
Conservation and Resource Enforcement

FROM: Samuel J.Lemmo, Administrator
Office of Conservation and Coastal Lands

SUBJECT: Catamaran Kai Kanani Landing at Makena, Maui

The Office of Conservation and Coastal Lands (OCCL) is in receipt of a DOCARE Investigation Report regarding an observed landing of Catamaran Kai Kanani at Makena beach. According to the report, it was "*noted Kai Kanani using Papaanui (Makena Landing) as a loading site. Also noted that their normal loading area at Maluaka was blown out windy & rough.*" From the information gathered by the reporting Officer from the Land Office and Boating in Maui, it was apparent that a Conservation District Use Permit (CDUP) was authorized in 1987 to land at Makena. However it was believed that the CDUP was outdated or expired.

Upon reviewing the file, Makena Boat Partners, owners of Kai Kanani, does have a valid CDUP that authorized the siting and use of the mooring in front of the former Maui Prince as the primary mooring; the siting and use of the mooring at Makena landing as a non-exclusive emergency mooring only; and non-exclusive use of public beach in front of the former Maui Prince Hotel for the loading/offloading of passengers on a regular basis. Use of the Makena mooring requires the applicant to document and maintain written records for each use of the emergency mooring.

The OCCL wishes to make this known to our fellow Divisions as Chapter 13-5, HAR-Conservation District rules and regulations have been amended and no longer provides for regulating activities such as landings. Although beach landings fall under Land or DOBOR's purview, Makena Boat Partners does have Board authorization to use the noted moorings and non-exclusive use of public beach for loading/offloading. Should you have any questions regarding this correspondence, contact Tiger Mills of our Office at 587-0382.

DAVID Y. IGE
GOVERNOR OF HAWAII

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

July 15, 2015

Eugene Dashiell, AICP
Environmental Planning Services
728 Nunu Street
Kailua, Hawaii 96734
dashiellplanning@outlook.com

Log No: 2015.02588
Doc No: 1507MD20
Archaeology

Aloha Mr. Dashiell:

SUBJECT: **Chapter 6E-8 Historic Preservation Review – Maui County**
Early Consultation for an EA on State Lands
Ka'eo Ahupua'a, Makawao District, Island of Maui
TMK (2) 2-1-006:059 (por.)

Thank you for the opportunity to comment on the subject project, which we received on July 6, 2015. The Makena Boat Partners (MBP) is conducting an environmental assessment for the landing of a catamaran along the near shore waters of Makena Bay. MBP has held an annual permit from DLNR's Division of Boating and Ocean Recreation authorizing "loading & offloading passengers at the public beach fronting the Makena Beach Resort (Maui Prince Hotel)." This permission has been based on the issuance of a Conservation District Use Permit (CDUP) issued for the Kai Kanani II, MBP's 65 by 31 foot catamaran. The Kai Kanani II provides commercial tours and ocean activities in the near shore waters of Makena Bay under this CDUP. There are no pier, harbor structure or other man-made structures at this location; passengers embark directly from the beach.

Your firm has requested comments from the State Historic Preservation Division in support for an upcoming environmental assessment. According to our records, an archaeological inventory survey has not been conducted on any portions of this parcel. Based upon archaeological survey work from nearby locations we expect that human skeletal remains (burials) are present in some locations within this parcel. We found no records that the past decades' use as a boarding spot has resulted in exposure of any remains however. The ship does not reach the land and passengers wade out to the ship to a retractable ladder that does not reach the surface.

Please contact me at (808) 243-4641 or Morgan.E.Davis@hawaii.gov if you have any questions or concerns regarding this letter.

Mahalo,

Morgan E. Davis
Lead Archaeologist, Maui Section

cc: County of Maui
Department of Planning
(Planning@co.maui.hi.us)

County of Maui
Department of Public Works – DSA
(Renee.Segundo@co.maui.hi.us)

County of Maui
Cultural Resources Commission
(Annulise.Kehler@co.maui.hi.us)

Eugene dashiell

From: Eugene Dashiell <dashiellplanning@outlook.com>
Sent: Wednesday, July 15, 2015 4:11 PM
To: Morgan.E.Davis@hawaii.gov
Cc: djn@dennyniles.com; Gil Keith-Agaran
Subject: Fwd: SHPD review letter
Attachments: (2) 2-1-006 059por L2015 02588 D1507MD20 6E8 EC for EA Maluaka Beach Wailea_ Comments.pdf; Untitled attachment 02374.htm

Dear Ms. Davis,

Thank you for forwarding this email to me and I will include it in the draft environmental assessment. I am copying this email and your email to the attorneys for Makena Boat Partners, Dennis Niles and Gill Keith-Agaran.

Begin forwarded message:

From: Morgan.E.Davis@hawaii.gov
Subject: SHPD review letter
Date: July 15, 2015 at 3:08:55 PM HST
To: dashiellplanning@outlook.com
Cc: planning@co.maui.hi.us, "Renee Segundo" <Renee.Segundo@co.maui.hi.us>, "Annalise Kehler" <Annalise.Kehler@co.maui.hi.us>

DAVID Y. IGE
GOVERNOR OF HAWAII

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Date: 7/14/2015
DAR # 5146

MEMORANDUM

TO: Suzanne D. Case, DLNR Chairperson

DATE: July 14, 2015

FROM: Russell Sparks, Aquatic Biologist

SUBJECT: Environmental Assessment of the Proposed Disposition of State Lands Allowing Continued Catamaran Passengers Boarding at Maluaka Beach.

Comment	Date Request (7/07/2015)	Receipt (7/09/2015)	Referral (7/10/2015)	Due Date (7/16/2015)

Requested by: Russell Y. Tsuji, Land Administrator

Summary of Proposed Project

Title: Preliminary Consultation concerning Environmental Assessment of proposed disposition of State lands allowing continued catamaran passenger boarding at Maluaka Beach, Wailea, Maui, Hawaii.

Project by: Makena Boat Partners

Location: Wailea, Island of Maui, TMK(2)2-1-006:059

Brief Description: This project involves preliminary consultation for an environmental assessment of the proposed non-exclusive use area for beach loading and unloading of passengers and supplies onto and off of the vessel Kai Kanani II.

Comments: The current use of Maluaka Beach for the loading and unloading of passengers from commercial catamarans owned and run by Makena Boat Partners has been ongoing since before the CDUP was issued in 1988. Maluaka Beach is a small

heavily utilized public beach. There is extensive coral reef habitat on both ends of this beach and therefore snorkeling, SCUBA diving, fishing and other recreational activities are common practices in the area. The continued navigation of a 65' vessel into this small beach area presents an ongoing safety hazard for ocean users in the area, and potentially displaces the public from freely enjoying the beach and nearshore waters. The safety issues and potential displacement of the public are not, however, the only concerns with this operation. There is a history of impacts to the offshore coral reef habitat from the mooring and/or anchoring of vessels operated by Makena Boat Partners, and future potential impacts could occur to threatened and endangered sea turtles and monk seals.

Previous inspections on the mooring system for the Kai Kanani II have documented two large ship anchors connected by large chains to a center mooring consisting of a large concrete filled tire. This mooring system, not only created an eyesore to anyone enjoying the reef habitat in the area, but also resulted in impacts to the hard bottom habitat around the mooring. The center concrete filled tire would move back and forth with the chains scraping the bottom resulting in a fairly large area of continuously disturbed bottom habitat. Past inspections found that this mooring system was directly damaging coral colonies and other living benthic marine resources. The vessel operators were notified of the department's concerns with this mooring system, but it is unclear if any modifications have been conducted to mitigate these impacts. The past and potential future impacts from this and possibly new offshore moorings is directly related to the use of the beach for loading and unloading since vessel operators will want to have their vessels secured near the beach loading site.

In the past, Makena Boat Partners contracted a biological assessment of the area, but this assessment appeared to have been hastily prepared. This assessment did a decent job of describing the general biological resources in and/or around the beach landing location, but failed to note the regular use of the rocks in the middle of the site as foraging habitat by threatened green sea turtles. Furthermore, although not yet observed on this beach, many beaches in the general area have been used a nesting habitat for both green and hawksbill sea turtles. It is not unreasonable to expect future turtle nesting activity to occur on this beach. A careful assessment of how this loading and unloading operation would deal with turtle nests needs to be presented. Although turtle nests are unlikely to be directly impacted by the vessel's hulls, the movement of people and gear over the beach could negatively impact the nests overall viability. Other biological uses of the beach could include endangered monk seal haul outs. Monk Seals are known to utilize the Makena area, and the beach loading and unloading of large commercial catamarans would certainly disturb any monk seals hauled out on this sandy beach environment.

Perhaps the biggest concern with this proposed action is that it would result in non-exclusive use of the beach for loading and unloading. If approved, it is very likely, that other commercial boating operations could seek permission to use this beach for loading and unloading. There are already concerns with the environmental impacts from the current operation but this action appears to open the door for an unlimited amount of other

operators to begin using this beach for loading and unloading activities. If it is decided to allow the current activity to continue, I would strongly recommend a careful carrying capacity study be conducted to outline what level of vessel loading and unloading activity can safely be allowed on this small heavily utilized public beach. It may be more appropriate, however, to work towards an exclusive use agreement rather than the currently planned non-exclusive use.

Thank you for providing DAR the opportunity to review and comment on the proposed project. Should there be any changes to the project plans, DAR requests the opportunity to review and comment on those changes.

Eugene P. Dashiell AICP
ENVIRONMENTAL PLANNING SERVICES
728 Nunu Street
Kailua, Hawai`i 96734

Telephone/FAX: 808.254.4522
Cell Phone/Voice Mail: 808.371.0745
email: dashiellplanning@outlook.com
Member, American Institute of Certified Planners

October 13, 2015

RUSSEL SPARKS
AQUATIC BIOLOGIST
DIVISION OF AQUATIC RESOURCES
DEPARTMENT OF LAND AND NATURAL RESOURCES
PO BOX 621
HONOLULU HAWAII 96809

Dear Mr. Sparks:

Subject: DAR # 5146 -- Pre-Assessment Consultation for the Proposed Disposition of State Lands Allowing Continued Catamaran Passenger Boarding at Maluaka Beach, Wailea, Maui, Hawaii

Thank you for your comments (letter-memorandum, July 14, copy enclosed for your reference).

You begin by characterizing Maluaka Beach "as a small heavily utilized beach." In 2006, Maui County obtained a detailed assessment of the beach and adjoining park amenities. Commercial Ocean Recreational Study (Munekiyo & Hiraga 2006) (Hereinafter "CORA Study), at 172. The beach is not described as either "small" or "heavily used." As to the level of use, the study notes "the primary beach park users during the week are mainly guests of the Maui Prince Resort and a few other tourists, while local residents were observed to utilize the beach park mainly during weekends and holidays." (CORA Study, p. 179).

The five businesses that held CORA permits for Maluaka Beach for scuba, snorkeling and kayak activities at the time of the study no longer hold permits. In addition, the adjoining hotel is undergoing a reduction in the number of available rooms. I would be most interested in reviewing the factual basis for your belief the beach is "heavily utilized." Access to that information will assist me in addressing your concern that presence of the vessel poses an "ongoing safety hazard" and "potentially displaces the public.

Similarly, I wish to see documentation of incidents involving marine mammals, turtle nesting, or seal use of Maluaka Beach. This information would be very helpful in addressing the potential for impact on these species.

In summary, the draft EA will discuss:

- The visual and habitat impacts of the mooring system;

- Listed, threatened or endangered species and potential effects of the proposed action upon them. AECOS, who prepared the biological assessment of the area, is preparing a supplement to that report which will specifically address listed species.

- Regarding sea turtles we are aware of their presence and aware also of the vessel's success in avoiding them. We will provide more information in the draft environmental assessment;

- Regarding monk seals and other marine mammals (humpback whales), the vessel is required by the US Coast Guard (see enclosure) to maintain distances of at least 50 yards or more from monk seals and 100 yards or more from humpback whales. We will provide more information in the draft EA.

Lastly, you voice concern that the proposed disposition would "open the door for an unlimited amount of other operators." We believe this possibility is remote and beyond the scope of the subject EA. MBP questions whether a unique disposition resolving an open condition of the1988 CDUP will lead other operators to seek a U.S. Army Corps of Engineers permit for a new mooring, comply with Chapter 343, secure a DOBOR ocean recreation management area commercial permit, and obtain every other agreement and permit that would be required in order to conduct similar operations at Maluaka.

If you have questions please call me (254-4522 or 371-0745) or e-mail me (dashiellplanning@outlook.com).

Sincerely yours,

Eugene P. Dashiell, AICP

Enclosure

Copies: AECOS, Niles, Makena Boat Partners, Ornellas, Case, Agaran

DAVID Y. IGE
GOVERNOR OF HAWAII

SUZANNE D. CASE

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

54 High Street, Room 101
Wailuku, Hawaii 96793
PHONE: (808) 984-8103
FAX: (808) 984-8111

July 23, 2015

13MD-078

Mr. Eugene Dashiell, AICP
Environmental Planning Services
728 Nunu Street
Kailua, HI 96734

Dear Mr. Dashiell,

SUBJECT: Preliminary Consultation, Environmental Assessment of a State Lands Disposition to Allow Catamaran Boarding at Maluaka Beach, Wailea, Maui, TMK (2) 2-1-006: Seaward of 059

This letter serves to suggest areas that need further clarification and/or analysis in regards to direct, indirect and/or cumulative impacts and related mitigating actions in order to properly assess and protect natural resources and its users.

1. A non-exclusive easement is contemplated. How many beach landings can occur at the subject location before user conflicts occur? How many operators could operate off of the same disposed area on any given day?
2. You state that a typical landing requires 7 minutes. How many passengers constitute a "typical" landing? What is the maximum carrying capacity of the Catamaran? What is the amount of time necessary to unload a full boat?
3. What constitutes an unsafe landing condition? When conditions render a landing unsafe, where is the alternate landing site or what is the off-loading plan to get passengers to shore?
4. How do staff members advise the public beach users of an upcoming landing?
5. Pursuant to Item D on page 3 of the CDUP identified as MA-1965, issued to Makena Boat Partners, dated 12/18/88, in regards to the non-exclusive emergency mooring in Makena Bay; the user was to "maintain written records for each use of the emergency mooring." I have seen the Kai Kanani use the mooring at Makena Bay many times. What was the nature of the situation that warranted the use of the emergency mooring? Please describe the use of the mooring for emergency purposes.

Thank you for the opportunity to provide comments related to the subject project. If you have any questions, please contact me at the Maui District Land Office at (808) 984-8103.

Aloha,

Daniel Ornellas
District Land Agent

Cc: Board Member
District Files

Eugene P. Dashiell AICP
ENVIRONMENTAL PLANNING SERVICES
728 Nunu Street
Kailua, Hawai'i 96734

Telephone/FAX: 808.254.4522
Cell Phone/Voice Mail: 808.371.0745
email: dashiellplanning@outlook.com
Member, American Institute of Certified Planners

October 13, 2015

DANIEL ORNELLAS
DISTRICT AGENT
LAND DIVISION
DEPARTMENT OF LAND AND NATURAL RESOURCES
54 HIGH ST RM 101
WAILUKU HAWAII 96793

Dear Mr. Ornellas:

Subject: 13MD-078 -- Pre-Assessment Consultation for the Proposed Disposition of State Lands Allowing Continued Catamaran Passenger Boarding at Maluaka Beach, Wailea, Maui, Hawaii

Thank you for your suggestions for clarification and further analysis of the impacts of the disposition sought by MBP. For your convenience, a copy of your July 23, 2015 letter is attached. I will address each numbered point seriatim.

1. You correctly note that the disposition sought by MBP is "non-exclusive." At issue is the use of the water column and underlying submerged lands by a single vessel to board and disembark passengers. The use is transient and lasting minutes. For the limited duration of active boarding, the physical presence of the vessel does not prevent others from using the water column and submerged lands the vessel occupies. This does not constitute "user conflict," however, because for the few minutes the vessel is present other users have safe and unfettered access to the shoreline and shore waters a few yards either side of the vessel.

The disposition is unique to MBP and is intended to meet a condition of CDUP MA1965 issued in 1988. As such, there is no need to study the hypothetical capacity of Maluaka Beach to accommodate "other operators." Moreover, any such study would require assumptions regarding vessels, operating modes, economic conditions, regulatory model, and the like that are well beyond the scope of the proposed disposition.

2. You note also that the duration of non-exclusive use will be a function of passenger load. The greater the number of passengers the more time that will be required to safely board or disembark. MBP limits to 70 the number of passengers to enhance passenger experience. This is below the US Coast Guard capacity of 88 passengers. Taking hold of the hand rail or the hand of a crew member and stepping on or off the vessel takes only seconds As a result, at a passenger load of 70, boarding or disembarking is not expected to take longer than approximately 10 minutes (or less than 10 seconds per passenger). The DEA will assume every cycle will require approximately 10 minutes but actual passenger counts and thus the duration of a given cycle will typically be less.

3. Conditions may be deemed "unsafe" for boarding or disembarking for three reasons: the presence of a marine mammal, one or more human individuals, or adverse wind and sea conditions. In the case of a marine mammal, the vessel will stand offshore until the area is clear or the observed species can be kept

at a distance that avoids any risk of contact. The same holds for human users. See item 4 below. In the unlikely event a change in weather conditions prevents the safe return of the vessel, MBP may disembark passengers at Maalaea Small Boat Harbor.

4. MBP avoids landing in an area where hotel guests and other members of the public may be present. The slowly approaching vessel and crew members on shore provide notice of an impending arrival so that the area can be avoided for the few minutes the vessel will be present.

5. MBP discontinued use of the non-exclusive emergency mooring referenced in the CDUP years ago. From time to time in the past MBP has accessed Makena Landing when passengers required emergency medical treatment. Makena Landing affords EMT vehicles ready access to the shoreline. There is a private mooring that MBP and other commercial operators have used at Makena Bay with the permission of the owner. Such use, while infrequent, is permissible under the DOBOR commercial permit. Incidental use of the private mooring is outside the scope of the subject DEA.

If you have questions please call me (254-4522 or 371-0745) or e-mail me (dashiellplanning@outlook.com).

Sincerely yours,

Eugene P. Dashiell, AICP

Enclosure

Copies: AECOS, Niles, Makena Boat Partners, Board Member, Land Div Deputy Dir, Agaran

Eugene Dashiell

From: Sandra.C.Rossetter@hawaii.gov

Sent: Wednesday, July 15, 2015 9:36 AM

To: dashiellplanning@outlook.com

Cc: Dean.Watase@hawaii.gov; Carter.Luke@hawaii.gov; Arnold.Liu@hawaii.gov; Duane.SS.Kim@hawaii.gov

Subject: Preliminary Consultation concerning Environmental Assessment of a proposed disposition of State lands allowing continued catamaran passenger boarding at Maluaka Beach, Wailea, Maui, Hawaii, Log. No. 16.0010

Thank you for the opportunity to provide comments early. The subject project is not within our jurisdiction and does not affect commercial harbor operations.
Mahalo

Sandra Rossetter

Harbors Division | Planning Office
79 S. Nimitz Highway
Honolulu, Hawaii 96813
(808) 587- 1886

Eugene dashiell

From: Eugene Dashiell <kapaia@msn.com>
Sent: Wednesday, July 15, 2015 9:45 AM
To: Sandra.C.Rossetter@hawaii.gov
Cc: Dean.Watase@hawaii.gov; Carter.Luke@hawaii.gov; Arnold.Liu@hawaii.gov; Duane.SS.Kim@hawaii.gov; djn@dennyniles.com; Gil Keith-Agaran
Subject: Re: Preliminary Consultation concerning Environmental Assessment of a proposed disposition of State lands allowing continued catamaran passenger boarding at Maluaka Beach, Wailea, Maui, Hawaii, Log. No. 16.0010

Dear Ms. Rossetter,

Thank you for you email. I will include a copy of it in the draft environmental assessment and I am copying Mr. Niles and Mr. Keith-Agaran, attorneys for Makena Boat Partners.

> On Jul 15, 2015, at 9:36 AM, Sandra.C.Rossetter@hawaii.gov wrote:
>
> Thank you for the opportunity to provide comments early. The subject project is not within our jurisdiction and does not affect commercial harbor operations.
> Mahalo
>
> Sandra Rossetter
>
> Harbors Division | Planning Office
> 79 S. Nimitz Highway
> Honolulu, Hawaii 96813
> (808) 587- 1886
>
> ---
> CONFIDENTIAL NOTICE: This communication and any attachments may contain confidential information for the sole use of the intended recipient. Any unauthorized use, disclosure, viewing, copying, alteration, dissemination, or reliance on this message is strictly prohibited. If you receive this message in error, or you are not an authorized recipient, please notify the sender immediately by replying to the message, delete this message immediately and all copies from your e-mail system and destroy printed copies.

Eugene Dashiell, AICP
Environmental Planning Services
728 Nunu Street
Kailua, Hawaii 96734
808-254-4522 (FAX & landline)
808-371-0745 (Cell)
dashiellplanning@outlook.com

County

From: **Keith Scott** Keith.Scott@co.maui.hi.us
Subject: Preliminary Consultation Maluaka Beach Catamaran Passenger Boarding
Date: July 15, 2015 at 8:50 AM
To: dashelliplanning@outlook.com

Thank you for the opportunity to comment during the Preliminary Consultation period for the subject Environmental Assessment. Maui County Planning has the following comment:

Special Management Area clearance is required for using the beach for access to the in-water boarding area, and should have been obtained prior to initiating activities.

Mahalo,

Keith Scott
Staff Planner
keith.scott@co.maui.hi.us
(808) 463-3867

Eugene dashiell

From: Keith Scott <Keith.Scott@co.maui.hi.us>
Sent: Tuesday, August 11, 2015 12:04 PM
To: dashiellplanning@outlook.com
Subject: Re: Preliminary Consultation Maluaka Beach Catamaran Passenger Boarding

Eugene - -

After further consultation, it appears that an SMA permit for the loading activity itself is not necessary. However, your client needs to assess the mauka activity related to the loading. As an example, are the passengers driving to the beach to load? If so, where are they parking? How does it impact the use of the beach park?

If you have any questions, please let me know.

Mahalo,

Keith Scott
Staff Planner
keith.scott@co.maui.hi.us
(808) 463-3867
>>> Keith Scott 7/15/2015 8:50 AM >>>
Thank you for the opportunity to comment during the Preliminary Consultation period for the subject Environmental Assessment. Maui County Planning has the following comment:

Special Management Area clearance is required for using the beach for access to the in-water boarding area, and should have been obtained prior to initiating activities.

Mahalo,

Keith Scott
Staff Planner
keith.scott@co.maui.hi.us
(808) 463-3867

Eugene dashiell

From: Eugene Dashiell <dashiellplanning@outlook.com>
Sent: Tuesday, August 11, 2015 2:51 PM
To: Keith Scott
Cc: djn@dennyniles.com
Subject: Re: Preliminary Consultation Maluaka Beach Catamaran Passenger Boarding

Hi Keith,

Thank you for the clarification and we will discuss, in the DEA, the transport of passengers to the area, and potential effects.

Gene

On Aug 11, 2015, at 12:04 PM, Keith Scott <Keith.Scott@co.maui.hi.us> wrote:

Eugene - -

After further consultation, it appears that an SMA permit for the loading activity itself is not necessary. However, your client needs to assess the mauka activity related to the loading. As an example, are the passengers driving to the beach to load? If so, where are they parking? How does it impact the use of the beach park?

If you have any questions, please let me know.

Mahalo,

Keith Scott
Staff Planner
keith.scott@co.maui.hi.us
(808) 463-3867
>>> Keith Scott 7/15/2015 8:50 AM >>>
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Special Management Area clearance is required for using the beach for access to the in-water boarding area, and should have been obtained prior to initiating activities.

Mahalo,

Keith Scott
Staff Planner
keith.scott@co.maui.hi.us
(808) 463-3867

Other

Comments sought on Makena boat boarding

July 13, 2015
The Maui News

Save | Comments (1) | Post a comment

Public comments are being solicited for a proposal to continue allowing catamaran boarding at Maluaka Beach fronting the Makena Beach & Golf Resort.

The deadline to submit comments is July 20.

Makena Boat Partners operates the Kai Kanani II, a 65-foot catamaran, using state land at the beach under a conservation district use permit since 1988.

Passengers board and disembark from the Kai Kanani at the southern portion of the beach. However, the 1988 permit required Makena Boat Partners to secure occupancy of the state land from the Department of Land and Natural Resources.

An environmental assessment is being prepared as part of the catamaran operator's application to the land board to use state land at the beach to load and unload catamaran passengers. The study will assess the environmental impact on Maluaka Beach of the loading and unloading of the passengers who wade through shallow water to get to and from the boat.

They climb aboard the vessel from a retractable ladder positioned between the catamaran's two hulls. It takes about seven minutes to load and unload passengers, according to an announcement. No more than 45 feet of shoreline is used by the catamaran during any one boarding cycle.

The boat's contact with the beach's sandy bottom is "infrequent and momentary," the announcement says. The use of government land for boarding triggered the state's environmental review process.

Public comments may be submitted by mail or email to Eugene Dashiell, Environmental Planning Services, 728 Nunu St., Kailua 96734. His email address is dashiellplanning@outlook.com.

Save | Comments (1) | Post a comment

Hawai'i Wildlife Fund

July 19, 2015

Eugene Dashiell
Environmental Planning Services
728 Nunu St., Kailua 96734
dashiellplanning@outlook.com

SUBJECT: Letter of Support submitted to Department of Land & Natural Resources on behalf of Kai Kanani Catamaran Beach Loading at Maluaka, Maui

Aloha Mr. Dashiell,

I am writing on behalf of Hawai'i Wildlife Fund, a Hawai'i-based marine conservation organization, to support the continuance of the Kai Kanani II catamaran loading on Maluaka Beach in south Maui.

We founded our non-profit in 1996 to assist in the conservation of Hawai'i's native wildlife with a focus on the marine environment. With programs on both Hawai'i Island and Maui, we have succeeded in working closely with our communities to initiate significant projects including the statewide Makai Watch, Maui Reef Fund, Wild Hawai'i, Hawksbill Recovery Project, Ho'okipa Honu Watch, Maui Monk Seal Watch, Marine Naturalist Training through UH Maui College, and Marine Debris Recovery Projects on both Maui and Hawai'i Islands (recovering more than 225 tons in 10 years).

For more than a decade, we have partnered with Makena Boat Partners to educate their passengers onboard Kai Kanani and to teach the highest standard for wildlife viewing. Every day, Kai Kanani passengers are taught to respect and protect green and hawksbill sea turtles and actively requested, reminded and guided to keep a distance of at least 10 feet from them. In addition, Makena Boat Partners is the only commercial tour company that supports an independent non-profit organization by hosting a marine naturalist on their vessel to both train their crew and to teach visitors the highest wildlife viewing standards. They are also the only commercial tour company that has contributed financially to conservation for this length of time. Through our partnership, they also host student interns from all over the world. This vessel has truly served as a model for teaching about the marine ecosystem in Hawai'i.

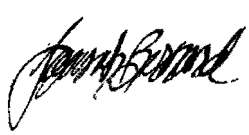
Also as important, the crew and captains of Kai Kanani are world-class professionals who love their jobs and excel at what they do. The captains are exceedingly careful when approaching and leaving Maluaka beach and when boarding passengers. All

crew are helpful and polite to beachgoers and passengers alike, with safety as their top priority. The landing site for beach loading where the front edges of the catamaran make contact is on sand, no coral reef habitat is there.

I am on this vessel myself approximately twice weekly, and it has been a pleasure to work with this company. Perhaps because this is a family-owned business, it really feels like you are with 'ohana when onboard Kai Kanani. Two families own this company, the Akionas from Hawai'i, and the Gildersleeves from Alaska. Both families are deeply engaged in the business and our community and care deeply about the health of the marine environment.

I urge you to allow this vessel to continue to load passengers from the beach at Maluaka. I believe this company has operated with the highest regard for the marine environment and serves as a significant platform to educate passengers and inspire the entire marine tourism industry to give back.

Please don't hesitate to contact me if you have any questions.
Mahalo for your kind consideration,



Hannah Bernard
President
Hawai'i Wildlife Fund

Eugene dashiell

From: Hannah Bernard <bernardhannah@me.com>
Sent: Tuesday, July 21, 2015 10:44 AM
To: Eugene Dashiell
Cc: djn@dennyniles.com; Gil Keith-Agaran
Subject: Re: Checking on the email

Mahalo for the reply!
Hannah
Hannah Bernard
President
Hawai'i Wildlife Fund
P.O. Box 790637
Paia, HI 96779
wild@aloha.net
www.wildhawaii.org
(808) 280-8124
bernardhannah@me.com

On Jul 21, 2015, at 7:59 AM, Eugene Dashiell <dashiellplanning@outlook.com> wrote:

Dear Ms. Bernard,

Thank you for your email and I will include your comments in the draft environmental assessment.

I have provided the attorneys for Makena Boat Partners with a copy of your comments.

Thanks and Aloha,

Gene

Eugene P. Dashiell, AICP
Pacific Environmental Planning
728 Nunu Street
Kailua, Hawaii 96734
808-254-4522 (tel/fax)
808-371-0745 (cell)
dashiellplanning@outlook.com

From: Hannah Bernard [mailto:bernardhannah@me.com]
Sent: Monday, July 20, 2015 5:05 PM
To: dashiellplanning@outlook.com
Subject: Checking on the email

Aloha Mr. Dashiell,
Just checking to be sure you received my letter regarding Kai Kanani on Maui?

ISAAC DAVIS HALL
ATTORNEY AT LAW
2087 WELLS STREET
WAILUKU, MAUI, HAWAII 96793
(808) 244-9017
FAX (808) 244-6775

July 20, 2015

Via Email and U. S. Mail
dashiellplanning@outlook.com
Mr. Eugene Dashiell, AICP
Environmental Planning Services
728 Nunu Street
Kailua, Hawaii 96734

Re: Preliminary Consultation on Environmental Assessment on Proposed Disposition of State Lands Allowing continued catamaran passenger boarding at Maluaka Beach, Wailea, Maui, Hawaii

Dear Mr. Dashiell:

This letter is written on behalf of Hui Alanui o Makena and Dana Naone Hall. You are preparing an Environmental Assessment ("EA") pursuant to HRS Chapter 343 regarding an application that Kai Kanani II has submitted to the Board of Land and Natural Resources ("BLNR") requesting the disposition of state lands, in the form of a Grant of Non-Exclusive Easement over and across state beach lands and state waters, more than 300 feet by 150 feet by and on Maluaka Beach, allowing the mooring and presence of the Kai Kanani II 24 hours a day, 7days a week, in a particular location, and the boarding and unboarding of passengers on Maluaka Beach.

Your claim that your proposed uses do not cause significant impacts – even before an EA has been prepared – is unlikely to be supported. Instead, the uses that you propose "may" have significant adverse impacts on the environment such that a full Environmental Impact Statement ("EIS") should be prepared. See *Unite Here! Local 5 v. City and County of Honolulu*, 123 Haw. 150, 231 P.3d 423 (2010).

Kindly address the following issues in the EA or EIS:

1. The depiction of the bounds of the easement area is misleading. You allege that the purpose of the easement is for "landing and mooring purposes." You state that the activity site includes "fast" lands. You further state that the CDUP included a "beach use permit" allowing "loading and offloading passengers at the public beach..." however you explain that only the Division of Land Management had the authority to approve the use of state lands. In your depiction of the easement area you fail to disclose that portion of

Maluaka public beach that is subject to this proposed disposition. This failure obscures the fact that what is being proposed, in part, is the disposition of a portion of a public, sandy beach. This, in turn, obscures the types of conflicts among the users of this public, sandy beach that arise with a proposed disposition of this type.

2. You allege that you possess a CDUP issued in 1988. Is this permit still in effect? Please attach to the EA a full copy of this CDUP.

3. Please explain why there has been no compliance with a term contained in a CDUP issued in 1988 until now – 27 years later. Has MBP been embarking and disembarking passengers on state land from 1988 until the present without any permit or approval from the Division of Land Management as required by the 1988 CDUP? Have any penalties been assessed? Have any enforcement actions been taken by DLNR or BLNR?

4. Does the Kai Kanani II possess a permit or approval to moor off of Maluaka Beach. Please attach to the EA a full copy of any mooring permit or approval. How long has the Kai Kanani II moored off of Maluaka Beach with or without a mooring permit? Have any penalties been assessed? Has any enforcement action taken place?

5. Is Maluaka Beach within an "Ocean Recreation Management Area" pursuant to HAR 13-256-1 et seq.? Have any regulations been implemented to manage Maluaka Beach as an "Ocean Recreation Management Area"? Do any regulations permit Kai Kanani II to use Maluaka Beach in the manners proposed? Do any regulations permit BLNR to grant an easement to use ocean waters and this sandy beach for the uses proposed by Kai Kanani II?

6. Maluaka Beach is well-used by local residents and visitors. Formalizing these proposed uses formalizes the conflicts among uses of the beach by local residents and visitors, and those using the beach to board and disembark from the Kai Kanani II.

7. A study of the capacity of Maluaka Beach and its ability to support existing and future uses should be included in the EA or EIS.

8. Please explain how the proposed uses are "non-exclusive" in the EA or EIS. Please explain how being granted the right to moor the Kai Kanani II in the same place 24/7 is "non-exclusive"? Please explain how the use of the 300-foot by 150-foot area is "non-exclusive"?

Please send us your EA or EIS for review. We reserve the right to comment on the adequacy of your EA and on whether an EIS is required before any disposition.

Sincerely,

Isaac Hall

Cc: Clients

Eugene P. Dashiell AICP
ENVIRONMENTAL PLANNING SERVICES
728 Nunu Street
Kailua, Hawai`i 96734

Telephone/FAX: 808.254.4522
Cell Phone/Voice Mail: 808.371.0745
email: dashiellplanning@outlook.com
Member, American Institute of Certified Planners

October 13, 2015

MR ISAAC HALL
ATTORNEY AT LAW
2087 WELLS STREET
WAILUKU, HAWAII 96793

Subject: Preliminary Consultation on Environmental Assessment on Proposed Disposition of State Lands Allowing continued catamaran passenger boarding at Maluaka Beach, Wailea, Maui, Hawaii

Dear Mr. Hall:

This letter will serve as a preliminary response to yours dated July 20, 2015. Please note the following:

1. Applicant is Makena Boat Partners ("MBP"), a Hawaii general partnership.

2. Applicant does not seek authority to moor a vessel. The purpose of the requested disposition is to resolve any question that may exist regarding the transient use of Maluaka Beach by Applicant's vessel to board and disembark passengers. This activity is incident to excursions the vessel provides under DLNR permits for the South Maui Ocean Recreation Management Area (see Hi Admin Rules § 13-235-116) and the Molokini Marine Life Conservation District. MBP has held these permits for decades and been in continuous operation at Maluaka Beach since 1988.

3. The reference to "fast" lands was in error.

4. The description of the disposition area includes the slice of shoreline where the forward portion of a hull make momentary contact with the sand bottom during the few minutes required to board or disembark passengers.

5. The CDUP remains in effect. A complete copy will be attached to the DEA as requested.

6. The current owners of MBP were informed in 2013 of concern that a term of the 1988 approval remained open. The subject DEA is a step towards resolving any issue concerning compliance with the CDUP.

7. MBP's vessel operates from a private mooring within the designated Makena Bay mooring zone. See Hi Admin Rules § 13-235-70. Makena Bay Mooring Zone. The mooring is authorized by U. S. Army Corps of Engineers permit and also permitted by DLNR's Division of Boating and Ocean Recreation. Kai Kanani II has moored off Maluaka Beach since 2009 and has not been the subject of enforcement action.

8. The impact of MBP's transient use of the shoreline does not bring conflict with beach goers to the degree that would warrant formal study of beach carrying capacity.

9. The EA will address the non-exclusivity of the proposed disposition. That disposition does not involve moorage of the vessel which occurs well offshore as noted. MBP has safely shared use of Maluaka Beach with other users for decades. Given its success in avoiding conflict, there is no need for exclusivity in formalizing authorization of MBP's continued transient use of the beach.

We look forward to your comments in response to the draft Environmental Assessment.

If you have questions please call me (254-4522 or 371-0745) or e-mail me (dashiellplanning@outlook.com).

Sincerely yours,

Eugene P. Dashiell, AICP

Eugene Dashiell

From: Stillwell [stillys@hawaii.rr.com]
Sent: Friday, July 17, 2015 10:57 AM
To: dashiellplanning@outlook.com
Subject: Makena Boat Partners EA - Support usage

Regarding Makena Boat Partners use of Maluaka Beach, I am in full support of their obtaining a permit from DLNR. The Kai Kanani II catamaran offers a unique and beautiful experience for residents and guests alike as it is the only full service boating trip for snorkeling, whale watching and sunset dinner cruises from South Maui. The amount of time the boat is actually near the beach to load and unload, taking appx. 7 minutes is nominal. This does not interfere with any other beach or ocean activities. As a frequent user of this beach and a passenger on the Kai Kanani, and as an volunteer ocean steward, I can speak from experience that there little to no impact from this use. Thank you for your time and concern. Patricia Stillwell, Kihei

Eugene Dashiell

From: Eugene Dashiell [dashiellplanning@outlook.com]
Sent: Sunday, September 27, 2015 5:23 PM
To: 'Stillwell'
Cc: 'djn@dennyniles.com'
Subject: RE: Makena Boat Partners EA - Support usage

Ms. Stillwell,

In looking through my emails it appears I did not acknowledge your email of July 17, or inadvertently I deleted my response to you!! Please accept this email as recognition that I did receive your email, and that you will receive a copy of the DEA when it is available. Thank you for your comments.

Thanks and Aloha,

Gene

Eugene P. Dashiell, AICP
Pacific Environmental Planning
728 Nunu Street
Kailua, Hawaii 96734
808-254-4522 (tel/fax)
808-371-0745 (cell)
dashiellplanning@outlook.com

From: Stillwell [mailto:stillys@hawaii.rr.com]
Sent: Friday, July 17, 2015 10:57 AM
To: dashiellplanning@outlook.com
Subject: Makena Boat Partners EA - Support usage

Regarding Makena Boat Partners use of Maluaka Beach, I am in full support of their obtaining a permit from DLNR. The Kai Kanani II catamaran offers a unique and beautiful experience for residents and guests alike as it is the only full service boating trip for snorkeling, whale watching and sunset dinner cruises from South Maui. The amount of time the boat is actually near the beach to load and unload, taking appx. 7 minutes is nominal. This does not interfere with any other beach or ocean activities. As a frequent user of this beach and a passenger on the Kai Kanani, and as an volunteer ocean steward, I can speak from experience that there little to no impact from this use. Thank you for your time and concern. Patricia Stillwell, Kihei

---

Eugene Dashiell

From: Bill & Sylvia Sales [mitt@hawaii.rr.com]
Sent: Wednesday, July 15, 2015 12:15 PM
To: dashiellplanning@outlook.com
Subject: Makena Boat Boarding

The Kai Kanani II Boat owned by Makena Boat Charters boarding Maluaka Beach fronting the Makena Beach & Gold Resort is a crime!! Have they paid the $650,000 - $700,000 fine for destroying the beautiful coral reefs? Please have the Department of Land and Natural Resources research this fact. These reefs were among the most beautiful reefs in South Maui. The natural beauty of the Makena area waters are being destroyed. What about senior citizens who have to board through the waves or the children? Makena Boat Charters is risking some heavy lawsuits should an accident occur. Go down and watch the loading and off-loading before you make a decision. The boat needs to be slipped at Ma'alaea Harbor for safety purposes and the preservation of what reefs and natural beauty still remain.

Our entire family is insulted that you would even consider renewing this permit. God help you.

Bill and Sylvia Sales
35 years of residency in South Maui.

Eugene dashiell

From: Eugene Dashiell <dashiellplanning@outlook.com>
Sent: Wednesday, July 15, 2015 12:25 PM
To: 'Bill & Sylvia Sales'
Cc: 'Dennis Niles'; 'Gil Keith-Agaran'
Subject: RE: Makena Boat Boarding

Dear Mr. and Mrs. Sales:

Thank your for your email and it will be part of the comments section in the draft EA. I have forwarded your comments to the attorneys for Makena Boat Partners, Dennis Niles and Gil Keith-Agaran.
When we file the public draft Environmental Assessment, I will send you a copy.

Thanks and Aloha,

Gene

Eugene P. Dashiell, AICP
Pacific Environmental Planning
728 Nunu Street
Kailua, Hawaii 96734
808-254-4522 (tel/fax)
808-371-0745 (cell)
dashiellplanning@outlook.com

From: Bill & Sylvia Sales [mailto:mitt@hawaii.rr.com]
Sent: Wednesday, July 15, 2015 12:15 PM
To: dashiellplanning@outlook.com
Subject: Makena Boat Boarding

The Kai Kanani II Boat owned by Makena Boat Charters boarding Maluaka Beach fronting the Makena Beach & Gold Resort is a crime!! Have they paid the $650,000 - $700,000 fine for destroying the beautiful coral reefs? Please have the Department of Land and Natural Resources research this fact. These reefs were among the most beautiful reefs in South Maui. The natural beauty of the Makena area waters are being destroyed. What about senior citizens who have to board through the waves or the children? Makena Boat Charters is risking some heavy lawsuits should an accident occur. Go down and watch the loading and off-loading before you make a decision. The boat needs to be slipped at Ma'alaea Harbor for safety purposes and the preservation of what reefs and natural beauty still remain.

Our entire family is insulted that you would even consider renewing this permit. God help you.

Bill and Sylvia Sales
35 years of residency in South Maui.

From: **Phillip Schultz** pas444@gmail.com
Subject: Environmental impact of loading boat on beach
Date: July 14, 2015 at 5:49 PM
To: dashelfplanning@outlook.com

Aloha Eugene; .
If I understand this correctly, Makena Boat Partners have been doing this on this beach for most of three decades with no notable environmental impact on the beach; However, for some reason an environmental impact assessment is now being done. It makes me wonder why this was requested to be done at this time, as I hate to see money wasted on a study if it is not for a valid reason. Clearly if there was a problem, I would have thought it would have come up well before this.
Bottom line, I have no issue whatsoever with them loading/unloading from the beach, and I see no environmental impact over what any other beach users have had or will have on the state land sand beach.
Phil Schultz

Eugene dashiell

From: Eugene Dashiell <dashiellplanning@outlook.com>
Sent: Wednesday, July 15, 2015 6:13 AM
To: gene NEW ;
Subject: Re: Environmental impact of loading boat on beach

Dear Mr. Schultz,

Thank your for your email. I will include your email in the draft environmental assessment. I am forwarding your email to Mr. Dennis Niles, attorney for Makena Boat Partners.

In the draft environmental assessment, I will provide more detail as to the background and rationale for the decision to prepare an environmental assessment.

I will send you a copy of the draft environmental assessment when we publish it.

Please do not hesitate to contact me or Mr. Niles if you have questions or comments.

> On Jul 14, 2015, at 5:49 PM, Phillip Schultz <pas444@gmail.com> wrote:
>
> Aloha Eugene;
> If I understand this correctly, Makena Boat Partners have been doing this on this beach for most of three decades with no notable environmental impact on the beach; However, for some reason an environmental impact assessment is now being done. It makes me wonder why this was requested to be done at this time, as I hate to see money wasted on a study if it is not for a valid reason. Clearly if there was a problem, I would have thought it would have come up well before this.
> Bottom line, I have no issue whatsoever with them loading/unloading from the beach, and I see no environmental impact over what any other beach users have had or will have on the state land sand beach.
> Phil Schultz

APPENDIX F

Request for State Lands (Form LD-01)

State of Hawaii
Department of Land and Natural Resources
Land Division

REQUEST FOR STATE LANDS (Direct Negotiation) – APPLICATION FORM

This Application Form is for persons requesting State lands for the following categories:

- Right to temporarily enter onto State lands for a specific purposes
- Access, utility or other easements to private property
- Month-to-month revocable permit where an auction is prohibited
- Direct lease to eleemosynary organizations, public utilities, etc.
- Purchase of remnant
- Land patent in confirmation of Land Commission Award
- Land license

Please note the following important points:

1) Statutorily, directly negotiated leases and permits can only be issued in certain situations. In most cases, you must compete for the use of State lands through the public auction process. If you are interested in bidding on State leases through the auction process, please contact the District Branch staff in your county to obtain further information.

2) Persons who have had, during the five years preceding a previous sale, lease, license, permit or easement cancelled for failure to satisfy the terms and conditions are not eligible to purchase or lease public lands.

3) The use of State lands triggers the environmental assessment requirements of Chapter 343, HRS. Please contact the Office of Environmental Quality Control for their opinion of whether an environmental assessment is required and the process to be followed. Phone number: (808) 586-4185. Website: http://hawaii.gov/health/environmental/oeqc/index.html

4) You are responsible for contacting the appropriate agencies to verify that your proposed project has complied with all applicable zoning and permitting laws and regulations (e.g., State Land Use classification, Special Management Area, County General Plan, etc.).

5) You will be responsible for paying processing fees. If you are granted a disposition, you will be required to obtain insurance, among other requirements.

All applications must be complete to be considered for processing. Please submit two copies of the completed application form to the District Branch office in your county:

Oahu District Branch
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96813
Phone: (808) 587-0433; Fax: (808) 587-0455

Maui District Branch
54 High Street, Room 101
Wailuku, Hawaii 96793
Phone: (808) 984-8103; Fax: (808) 984-8111

Hawaii District Branch
75 Aupuni Street, Room 204
Hilo, Hawaii 96720
Phone: (808) 974-6203; Fax: (808) 974-6222

Kauai District Branch
3060 Eiwa Street, Room 205A
Lihue, Hawaii 96766
Phone: (808) 274-3491; Fax: (808) 241-3537

STATE OF HAWAII
DEPARTMENT OF LAND & NATURAL RESOURCES

REQUEST FOR STATE LANDS
APPLICATION FORM

For DLNR use only:
Date of request: _____
Date request recvd: _____
Date request no. issued _____
Request number _____
Land Code: _____
Unit Code: _____
Status: Future
Type of Request: _____
Assigned Land Agent: _____

I. APPLICANT

Should a land disposition result from your application, the following information will be used in the preparation of the legal documents. Therefore, please include all applicable, full legal names and addresses, one for each person/entity (attach additional sheets as necessary). If title is held by a trust, please include the trustee(s) name(s) and full description of the trust (e.g., George D. Smith, Trustee of the George D. Smith Revocable Living Trust dated June 1, 2001).

Applicant name(s): Akiona (Last name) Sidney J. (First Name)

Mailing address: 170 Ulana Street (No. and Street)

Makawao (City) Hawaii (State) 96768 (Zip Code)

Phone numbers: (808) 879-7218 (Work) ( ) (Home) (808) 280-8126 (Cellular)

( ) (Pager) (808) 879-7218 (Fax) sida@hawaii.rr.com (E-mail address)

Signature: _____ Date: _____
President, Kai Kanani, Inc., a general partner of Makena Boat Partners ("MBP)

Applicant intends to hold title as:

( ) Individual ( ) Corporation (X) Partnership
( ) Husband and Wife ( ) Limited Liability Corporation ( ) Limited Partnership
( ) Trust ( ) Non-Profit Corporation ( ) Association
( ) Joint Venture ( ) Limited Liability Partnership
( ) Other (specify): _____

For individual or husband and wife, type of tenancy:
( ) Tenant in Severalty ( ) Tenants in Common ( ) Joint Tenants ( ) Tenants by the Entirety

For individual, marital status:
( ) Single ( ) Widow/widower ( ) Married – spouse of: _____

For partnership or corporation, state of incorporation: Hawaii

II. AGENT

If you have an attorney, consultant or other person processing this request for you, please include the following information.

Agent name: See Attachment "C"
Last name First Name

Agent address: _____
No. and Street

_____
City State Zip Code

Phone numbers: (___) _____ (___) _____ (___) _____
Work Home Cellular

(___) _____ (___) _____
Pager Fax E-mail address

III. TYPE OF REQUEST

( ) Right-of-entry (right to temporarily enter onto State lands for a specific purpose)
(X) Grant of easement (access, utility, seawall, etc.)
( ) Month-to-month revocable permit
( ) Direct lease (eleemosynary organizations, public utilities, government, renewable energy producers, etc.)
( ) Purchase of remnant
( ) Land patent in confirmation of a Land Commission Award
( ) Land license

Is this request being made to resolve an encroachment or other violation? (X) Yes ( ) No

If yes, explain: See Attachment "A" Paragraph 1

_____

IV. LOCATION AND AREA

If your request pertains to a specific parcel, please specify below.

Island: ( ) Oahu ( ) Kauai ( ) Molokai
( ) Hawaii (X) Maui

Town: Makena Tax Map Key: _____

Area: Approximately 250'x250' or 62,500 sq. ft. acres/sq.ft. (circle one)

County Zoning: H-M Hotel District

State Land Use: ( ) Agricultural ( ) Rural
(X) Conservation ( ) Urban

Is property located in a Special Management Area?
(X) Yes ( ) No

V. USE

Identify the specific uses intended.

( ) Agriculture
( ) Business/Commercial
( ) Industrial
( ) Pasture
( ) Other (specify): _____
(X) Easement - Access
( ) Easement - Utility
( ) Easement – Seawall

A. Fully describe your proposed use of the public lands: See Attachment "A", paragraph 2

B. Attach a location map showing a preliminary sketch or plot plan of your proposed project in relation to the tax maps. See Attachment "B"

C. Describe any improvements you intend to place on the land and their approximate value:

None

D. If constructing improvements, attach a Plan of Development showing improvements to be constructed and their location on the public lands including a timeframe for construction.

E. Is it your opinion that an environmental assessment is required? (X) Yes ( ) No

If no, identify exemption: _____

If yes, describe completion of EA: A draft environment assessment is attached

F. Describe what other permits or approvals are required for this use and whether you have obtained such permits or approvals:
See attachment "A", paragraph 3

VI. OTHER

A. If you are applying for a revocable permit for any type of use, you are required to provide the following information:

1) Describe your qualifications and experience in running this type of operation; and

2) Describe your long-term intentions for this operation. (Note: Revocable permits are temporary and may be revoked at any time.)

B. **If you are applying for a revocable permit for pasture or agricultural use, you are required to complete Attachment A.**

VII. CERTIFICATION

I/We hereby certify that the statements and information contained in this application, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, this application may be rejected or my/our lease/permit/agreement may be cancelled.

SIDNEY J. ALCONA
Printed Name

X Sidney J Alcona
Signature

Printed Name

X
Signature

Date

For DLNR Use Only: **TO CLOSE FUTURE TENANT:**

Reason for closing: _____

_____

_____

_____

Approved by DLA: _____

Date request closed: _____

Attachment A
Qualification Questionnaire

Qualifications and Experience

1. Indicate experience to qualify as a bona fide farmer pursuant to Section 171-14.5, HRS. For husband and wife, at least one individual shall qualify. For partnerships, joint ventures and corporations, "Applicant" in the following questions refers to the entity itself, and, therefore, only 1.A, 1.B, 1.G and 1.J below will apply.

   A. Has the Applicant spent not less than two years, full-time, in farming operations? If yes, explain in Question 3. ( ) Yes ( ) No

   B. Is the Applicant an owner-operator of an established farm conducting a substantial farming operation? If yes, explain in Question 3. ( ) Yes ( ) No

   C. Has the Applicant, for a substantial period of the individual's adult life, resided on a farm and depended on farm income for a livelihood? If yes, explain (number of years, location, income, etc): ( ) Yes ( ) No

   _____

   _____

   _____

   D. Is the Applicant an individual who has been a farm tenant or farm laborer or other individual, who has for the last two years obtained the major portion of their income from farming operations? If yes, explain in Question 3. ( ) Yes ( ) No

   E. Does the Applicant have a college degree in agriculture? If yes, explain in Question 2. ( ) Yes ( ) No

   F. Is the Applicant an individual who, by reason of ability, experience, and training as a vocational trainee, is likely to successfully operate a farm? If yes, explain in Question 2. ( ) Yes ( ) No

   G. Has the Applicant received a commitment for a loan under the Bankhead-Jones Farm Tenant Act for the acquisition of a farm? If yes, attach copy of executed loan document or notification letter. ( ) Yes ( ) No

   H. Is the Applicant an individual who is displaced from employment in an agricultural production enterprise? If yes, explain in Question 3. ( ) Yes ( ) No

   I. Is the Applicant a member of the Hawaii Young Farmer Association or a Future Farmer of America graduate with two years of training with farming projects? If yes, attach letter ( ) Yes ( ) No

confirming membership and training and explain in Question 2.

J. Does the Applicant possess the qualifications under the new farmer program pursuant to section 155-1(3), HRS? If yes, explain: ( ) Yes ( ) No

_____

_____

_____

_____

K. Does the Applicant possess such other qualifications? If yes, briefly describe any other information which you may consider pertinent to assessing your qualifications and experience and which is not contained in your responses to Questions 2 & 3: ( ) Yes ( ) No

_____

_____

_____

_____

2. Education and Training

A. List all vocational training, business, trade, college or university, graduate or professional schools:

Name & Location of School (and Name of Person, if applicable)	Field of Study	Degree Type	Date Received

B. Attach evidence of your graduation from college (copy of transcripts or diploma).

C. Describe any vocational or other training you have received which relates to your qualifications and experience to successfully operate your farm/ranch:

_____

_____

_____

3. In chronological order starting with the Applicant's most current experience, briefly describe Applicant's farming/ranching experience and business experience (management, financial and marketing) as it relates to the land intended to be bid on. For partnerships, joint ventures and corporations, include both experience of business entity itself as well as experience of principals or managers. **Copy and attach additional sheets as needed.**

Business Name _____ Address _____ Name & Title of Supervisor _____ Your Position _____ Commodity Produced _____ Size of Operations (no. of employees , acres) _____ Duties & Responsibilities _____ _____ _____ _____	From: _____ Month Year To: _____ Month Year Full-time ( ) Part-time ( ) Average hours worked per week: _____
Business Name _____ Address _____ Name & Title of Supervisor _____ Your Position _____ Commodity Produced _____ Size of Operations (no. of employees , acres) _____ Duties & Responsibilities _____ _____ _____ _____	From: _____ Month Year To: _____ Month Year Full-time ( ) Part-time ( ) Average hours worked per week: _____
Business Name _____ Address _____ Name & Title of Supervisor _____ Your Position _____ Commodity Produced _____ Size of Operations (no. of employees , acres) _____ Duties & Responsibilities _____ _____ _____ _____	From: _____ Month Year To: _____ Month Year Full-time ( ) Part-time ( ) Average hours worked per week: _____

4. For any experience listed above which the Applicant would like to be considered in order to qualify as a bona fide farmer pursuant to Section 171-14.5, HRS, under Question 1, attach verification, including but not limited to: 1) pay stubs or W-2 forms where Applicant was employed as an individual or 2) Schedule F of federal income tax returns or General Excise tax returns where Applicant was a self-employed individual or a corporation.

5. Attach at least two (2) reference letters from people, who are not related to you, verifying agricultural background (applies to farm laborer or previous farm experience).

ATTACHMENT "A"
REQUEST FOR STATE LANDS
APPLICATION FORM
(November 11, 2015)

¶1. In 1988, MBP was granted a CDUP for the use of conservation lands for the mooring of its vessel at Makena Bay and the loading/offloading of passengers at Maluaka Beach. As to the latter, MBP was directed to obtain "appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State Land." In 2013, MBP was notified it had not yet obtained a disposition of the state lands used to load and offload passengers. MBP seeks to satisfy this unmet condition.

¶2. Applicant seeks a non-exclusive easement allowing use of the 250' x 250' loading zone depicted in Figure 2, Attachment "B," for up to ninety (90) minutes daily. This disposition will allow Applicant to continue boarding and disembarking passengers as it has since 1988. Applicant conducts four (4) or fewer excursions daily. The vessel is afloat in the landing zone for less than 20 minutes during an excursion.

¶3. MBP holds the two permits required to moor its vessel at Makena Bay and carry paying passengers on the ocean waters of the South Maui Ocean Recreation Management Area. The Division of Boating and Ocean Recreation, DLNR, renewed both permits in November 2014. The 2015 renewal is pending.

50 25 0 50 Meters

200 100 0 200 Feet

Dashed red line is the proposed Landing Zone disposition, 250 x 250 feet approx.

Catamaran Landing
Maluaka Beach
Makena, Maui

Attachment "B"

NORTH

Base map imagery, BING
E. Dashiell, AICP, 10/29/15

LD-01

ATTACHMENT "C"

II. AGENT

Agent name: NILES, DENNIS J.

Agent address: P.O. Box 2594

Olympia, WA 98507

Phone numbers: Cell: (808) 283-3208

Email: djn@dennyniles.com

Agent name: KEITH-AGARAN, GILBERT S.C.

Agent address: 24 N. Church St., Ste. 409

Wailuku, HI 96793

Phone numbers: Work: (808) 242-4049

Work Fax: (808) 244-4021

Email: gilagaran@gmail.com

APPENDIX G
Pre-trip Briefing

ATTACHMENT B

PRE-TRIP BRIEFING AND ACKNOWLEDGEMENT FORM

Molokini Shoal Marine Life Conservation District Use Permit*

Molokini Islet is the southern rim of an extinct volcanic crater. The shallow inner cove is the crater's submerged floor which is covered by sand patches, coral and boulders. The coral reefs within the crater support abundant marine life which is among the most diverse and impressive in Hawaii. The waters in and around Molokini are designated as a Marine Life Conservation District (MLCD), which makes it a strictly protected marine reserve. While enjoying your visit to Molokini, please help us to protect this precious area by following these rules and guidelines:

1. The taking, injuring or disturbing of any living material (fishes, turtles, eggs, shells, corals, seaweed, etc.) or non-living habitat (sand, rocks, coral skeletons, etc.) is strictly prohibited. Sea turtles may not be approached or harassed at any time.

2. Make sure you avoid contacting the bottom at all times and stay out of the shallow water immediately next to shore. Keep hands and feet well away from any rock or coral, and use a floatation device if you need help swimming or if it is required by your guides.

3. Feeding fish or introducing any material into the water that could attract marine life is strictly prohibited. Fish feeding can change the type of fish in the reserve, stimulate aggressive behavior, and reduce normal grazing patterns that maintain a healthy reef.

4. Stay away from shore and do not attempt to climb onto the island. Molokini is a seabird sanctuary and entry is strictly prohibited.

5. Avoid excessive splashing and creating loud noises that can disturb both protected marine life and seabirds.

6. It is illegal to pollute or introduce human waste into the MLCD waters.

7. Listen to your guides, follow their instructions, and do not venture too far away from your tour vessel. Weather and current conditions at Molokini can change very quickly, and this can create dangerous situations if you get separated from your boat.

I certify that I have read and will comply with all of the rules and guidelines listed above.

Signature **Print (name)** **Date**

(*Operators: Please have each passenger sign a copy of this form prior to each commercial trip to the Molokini Shoal MLCD, and retain signed all signed copies for no less than one year following each trip.)

APPENDIX H
Photographs of MBP Passenger Access Route

Figure 1. South cul-de-sac.

Figure 2. Paved path and shower adjacent to hotel activity center, Lot 5.

Appendix H

Figure 3. End of south path from activity center seen in Figure 2, above.

Figure 4. Path to Maluaka Beach (south) across Lot 4.

Appendix I
MBP 2014 Vessel Schedule

Makena Boat Partners-Kai Kanani Charters
34 Wailea Gateway Place A105
Kihei, HI 96753

808-879-7218 phone
808-879-1850 Fax

Trip Name	Cost		Includes	Check In	Check In Place	Return	Bring	CXL	Policy
Molokini Sunrise Express		Adult	Continental Breakfast;	6:00 AM	Beach Activity Center at the	8:45 AM	Towels	2+	24 hours
Snorkel Trip		with tax	Fresh Fruit / Pastries / Muffins		Makena Beach and Golf Resort			4+	48 hours
2014 Price			Coffee / Juice	6:30AM	in Makena - located	2 hour	Bag for	6+	72 hours
Join us early in the morning and be the first ones		Child (2-12yr)		Prompt	behind the pool	trip	stow able	10+	2 weeks
out to the Molokini Crater & Turtle Town!		with tax	Snorkel Equipment & Instruction	Departure			items		
The calmest water of the day		Infant	Flotation Devices		Complimentary parking				
will provide excellent					at the hotel or in the				
snorkeling conditions.					auxiliary parking area				
Daily					south of the hotel				
Early Whale Watching Adventure		Adult	Continental Breakfast	6:00 AM	Beach Activity Center at the	8:45 AM	Towels	2+	24 hours
2014 Price		with tax	Fresh Fruit/ Pastires/ Muffins		Makena Beach and Golf Resort			4+	48 hours
Kick back and relax while we sail or motor			Coffee / Juice	6:30AM	in Makena - located	2 hour	Bag for	6+	72 hours
through the south Maui waters on a		Child (2-12yr)	Hydrophone	Prompt	behind the pool	trip	stow able	10+	2 weeks
whale watching adventure.		with tax	Naturalist on Board	Departure	Complimentary parking		items		
Don't forget your cameras!		Infant	Guarantee: Go out again on us		at the hotel or in the				
			if whales are not sited.		auxiliary parking area				
Seasonal Replaces the Express on Thursdays					south of the hotel				
Ultimate Deluxe		Adult	Continental Breakfast;	8:30 AM	Beach Activity Center at the	1:00 PM	Towels	2+	24 hours
Snorkel Trip		with tax	Fresh Fruit / Pastries / Muffins		Makena Beach and Golf Resort			4+	48 hours
2014 Price			Coffee / Juice	9:00:00 AM	in Makena - located	4 hour	Bag for	6+	72 hours
Try an alternative to the busy harbors and enjoy		Child (2-12yr)	Deli-Style Buffet Lunch;	Prompt	behind the pool	trip	stow able	10+	2 weeks
an intimate snorkel excursion.		with tax	Assorted Salads/ Chips / Dips	Departure			items		
Your two snorkel sites could		Infant	deli meats / Cookies / Bakery		Complimentary parking				
include the Molokini Crater,			Soft Drinks / Beer / Mai Tai's		at the hotel or in the				
La Perouse Bay, Kanaio Coast					auxiliary parking area				
and Turtle Town.			Snorkel Equipment & Instruction		south of the hotel				
Sleep in then let us entertain									
you for the early part of your day.			Flotation Devices						
Daily									
Whale Watching Adventure		Adult	Light Snacks	12:45 PM	Beach Activity Center at the	3:15 PM	Towels	2+	24 hours
2014 Price		with tax	Soft Drinks and Water		Makena Beach and Golf Resort			4+	48 hours
Kick back and relax while we sail or motor			2 Drinks pp / cash bar after	1:15	in Makena - located	2 hour	Bag for	6+	72 hours
through the south Maui waters on a		Child (2-12yr)	Hydrophone	Prompt	behind the pool	trip	stow able	10+	2 weeks
whale watching adventure.		with tax	Naturalist on Board	Departure	Complimentary parking		items		
Don't forget your cameras!		Infant	Guarantee: Go out again on us		at the hotel or in the				
			if whales are not sited.		auxiliary parking area				
Daily Seasonal					south of the hotel				
Sunset Champagne Cruise		Adult	Heavy Appetizers	Varies	Beach Activity Center at the		Towels	2+	24 hours
2014 Price		with tax	Soft Drinks / Beer / Mai Tai's		Makena Beach and Golf Resort			4+	48 hours
Kick back and relax while we sail through					in Makena - located	2 hour	Bag for	6+	72 hours
the south Maui waters to watch a		Child (2-12yr)		Prompt	behind the pool	trip	stow able	10+	2 weeks
spectacular sunset!		with tax		Departure	Complimentary parking		items		
Don't forget your cameras!		Infant			at the hotel or in the				
					auxiliary parking area				
M-W-F					south of the hotel				

Note: We reserve the right to cancel due to weather/safety issues at any time - Guests may reschedule or refund in these instances.

Note: We recommend Guests wear beach attire for ALL activities due to our beach loading.

Note: Guests may reschedule or refund as long as it is done within cancellation policy. A reschedule fee will apply for any reservations rescheduled day of the excursion.

Note: We suggest stating only check in & return times to ensure maximum activity time.