

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

July 11, 2014

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

Land Board Members:

SUBJECT: REQUEST FOR APPROVAL TO EXTEND ACCESS RESTRICTIONS TO PORTIONS OF 'ĀHIHI-KĪNA'U NATURAL AREA RESERVE, MAUI, FOR A PERIOD OF UP TO TWO YEARS (AUGUST 1, 2014 – JULY 31, 2016)

BACKGROUND:

In 1973, 'Āhihi-KĪna'u was designated a Natural Area Reserve (NAR), making it one of the most highly protected lands under state jurisdiction. By law, all resources within this NAR are protected from harm or disturbance. These resources include rare, endangered, or threatened species of plants and animals, including unique anchialine pool ecosystems, near-shore marine ecosystems, lava flow formations and their associated habitats, extensive intact Hawaiian cultural and historic sites, as well as remnant native coastal dry shrublands and forests.

Whereas in 1973 the area had little or no visitation over the rough, unpaved access road, by April 2004, growing numbers of people attracted to the area by a paved road and guidebooks extolling the area led to user conflicts between the public and commercial activity; in particular, commercial kayak tours. Responding to concerns about the unregulated commercial activity and apparent accompanying over use of sensitive natural and cultural resources found there, the Department of Land and Natural Resources (DLNR) formed the 'Āhihi-KĪna'u Natural Area Reserve/ Keone'ō'io Advisory Group (AKNAR/KAG) to provide advice on these issues, to act as a public forum, and to provide advice regarding management decisions. After meeting with the AKNAR/KAG, the Natural Area Reserves System Commission (NARSC) and the public, the DLNR in 2004 prohibited all commercial activity within the NAR and operating out of the neighboring Keone'ō'io (La Perouse Bay) area and parking lot. This decision was based on a DLNR Hierarchy of Use Policy (1998) which directs DLNR to protect the resources first, allow public use second, and allow commercial use third, and only if it does not conflict or interfere with public use and resource protection.

To support these new rules banning commercial activity in the NAR, the Division of Forestry and Wildlife (DOFAW) secured a grant from the Hawai'i Tourism Authority (HTA) later in 2004 to increase its management capacity at the NAR, allowing it to hire two full-time Rangers

to support a dedicated on-site presence. A separate grant to the Hawai'i Wildlife Fund supported the additional presence of naturalists to provide interpretive information for visitors to the NAR. After the ban on commercial activity was put into effect, however, human use studies, a cultural resources study, and natural resources surveys conducted at the NAR showed that user numbers did not significantly decrease and negative impacts to the NAR resources were still occurring.

Marked trails in the NAR confine user impacts to specific, acceptable areas of the environment. However, many visitors were hiking off of marked trails to access the shoreline of the NAR for snorkeling activities and were causing additional and unnecessary environmental damage, trampling and degrading vulnerable natural and cultural resources. In 2005, to address the continuing concerns about resource damage and negative impacts by visitors, the A-KNAR/KAG recommended restricting all public access to the Cape Kīna'u section of the NAR. However, although the NARSC approved these recommendations, and voting unanimously to recommend to the BLNR an immediate restriction of public access to this area, the Attorney General advised that the NARS Administrative Rules did not provide the Department with the legal authority to take such action.

To address this lack of essential authority, the NARS Administrative Rules were then amended, effective January 2007, specifically authorizing the Department to close areas or restrict access to protect natural, geological or cultural resources or public safety to portions of *or* an entire NAR for a period of up to 2 years at a time.

On August 1, 2008, with approval from the NARSC, the BLNR authorized restricted access to portions of 'Āhihi-Kīna'u NAR for a period of two years. During those two years, the 2008 Action Plan was implemented resulting in the successful execution of baseline surveys by Department staff and volunteers for geological, coastal, marine, anchialine, and cultural resources. Human activity was also monitored by on the ground Rangers.

It soon became clear from the results of these resource surveys that some of the resources in the restricted areas were finally showing improvement. Endangered birds were observed utilizing areas of the NAR in which they had never been previously reported, most likely due to absence of impacts of the high human use before the restrictions. Breeding success showed improvement and new species of migratory birds appeared in the Reserve for the first time. Green sea turtles were also recorded basking on beaches in one of the restricted areas on a consistent basis, a sharp contrast to previous records which showed that turtles had never been reported in these popular recreational areas prior to 2008. Hawaiian Monk Seals had also begun to haul ashore to rest in the same areas.

Staff also worked with The Nature Conservancy (TNC) to develop a management plan for the NAR to guide conservation efforts and to communicate management goals and objectives to constituents and partners. Ten community meetings were held to gather expert input and suggestions. The management plan, which includes long term goals as well as an implementation plan to guide short term management, was recommended by the NARSC and subsequently approved by the BLNR in 2012.

In addition to addressing the threats posed by human activity to the natural resources of the NAR, the management plan also recognized that resources and public safety may be impacted by the possible presence of unexploded ordnance (UXO) in the NAR. The Reserve was formerly part of the Kanahena bombing range used for target practice during World War II and is officially referred to by the United State Army Corps of Engineers (USACE) as the Maui Bombing Targets-Kanahena project site. In fact, staff did find UXO at the NAR, resulting in a USACE Site Investigation (SI) in 2008 that concluded there was sufficient justification to have USACE proceed with a more detailed Remedial Investigation (RI) across the Reserve to determine the hazard level in this area.

The RI field survey was completed in 2011, followed by reports and meetings with staff and others in 2012. The Final RI report was presented in a meeting in early 2013 and concluded that significant hazards still exist, rating the area at a Hazard Level 2 due to historical findings of UXO in portions of the NAR, and need to be addressed through the follow on Feasibility Study (FS) process.

The currently ongoing FS necessitates this request for continued closure of the area, with restricted access, until long term solutions to the UXO risks can be identified. The FS is evaluating potential future courses of action for the project site such as a UXO removal plan, institutional controls, and/or other suitable remedies based on what was learned during the RI. The FS will continue through the next two years, until an agreement between DLNR and USACE can be reached that will provide long term remedies to both protect the resources and address any remaining safety concerns for staff and the public. USACE remediation projects follow CERCLA (Comprehensive Environmental Response, Compensation and Liability Act) guidelines used by the U.S. Environmental Protection Agency. These include Phase 1: Site Investigation (completed in 2008); Phase 2: Remedial Investigation/Feasibility Study (currently in the FS portion); and Phase 3: Remedial Action to complete the process (yet to be completed).

ANALYSIS:

The Division of Forestry and Wildlife (DOFAW) supports the request for continued closure to portions of 'Āhihi-Kīna'u NAR to allow time for the U.S. Army Corps of Engineers (USACE) to complete a Feasibility Study (FS) for its Maui Bombing Targets-Kanahena project site to address public safety and long term protection of natural and cultural resources of the area in relation to any possible unexploded ordnance (UXO) that might still remain in this NAR, based on results of a recent Remedial Investigation (RI) conducted by the USACE.

The FS should be completed within the closure extension being sought. Actions outlined and described are deemed essential to ensure the long-term viability of the unique high-quality ecosystems, geologic landscape and cultural sites found there, as mandated by HRS §195-1. The FS will result in the recommendation of possible remedies that will help DOFAW determine how much and what types of human use can be allowed in the NAR that will not negatively impact the natural or cultural resources, put anyone at risk from possible undetected UXO found there, or diminish the overall value of the NAR. The public will have the opportunity to review and offer in-pu as part of the FS process, once USACE has completed its analysis.


Threats posed to public safety by UXO notwithstanding, threats to natural resources due to overuse and damage by the public still persist and remain a primary concern. While it is the long term goal of the Division to allow public access to the restricted areas to enjoy the natural resources, the Division does not now currently have sufficient staff and infrastructure to effectively manage large numbers of visitors in a manner that will ensure protection of the highly sensitive natural and cultural resources in this NAR. Therefore, DOFAW further supports this request for continued closure of portions of 'Āhihi-Kīna'u NAR in order to provide additional time to build capacity to manage visitors to sensitive areas of the NAR.

The 'Āhihi-Kīna'u NAR/Keone'ō'io Advisory Group has endorsed this process, and approved continued closure of the NAR at its February 27, 2014 meeting on Maui, and also recommended further similar action by the NARS Commission. While this process is ongoing, staff continues to follow the Implementation Plan and Management Plan approved by the Board of Land and Natural Resources on October 12, 2012. At its June 9, 2014 meeting, the Natural Area Reserves System Commission approved continued closure from August 1, 2014 – July 31, 2016 and recommended final approval by the Board of Land and Natural Resources.

RECOMMENDATION:


That the Board of Land and Natural Resources approve the proposed extension of up to two years of access restriction to portions of the 'Āhihi-Kīna'u Natural Area Reserve, Maui, pursuant to HAR § 13.209-4.5, August 1, 2014 through July 31, 2016. The most popular and easily accessed portions of the Reserve would continue to remain open for public use during current visiting hours (5:30 a.m. – 7:30 p.m.) as they have for the previous two years, but other more remote and sensitive areas would continue to remain closed to the general public for reasons cited above.

Respectfully Submitted,



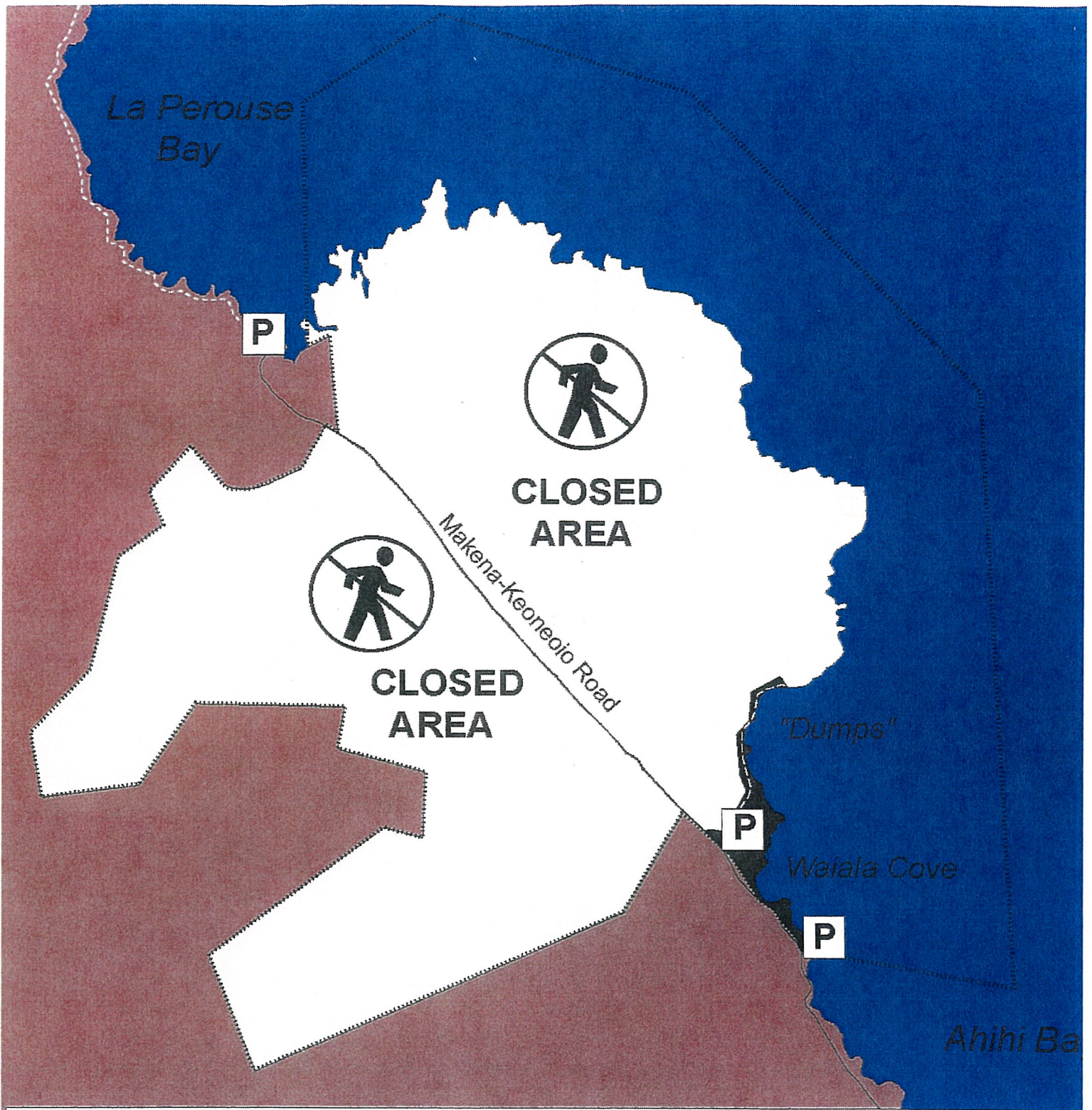
for LISA J. HADWAY, Administrator
Division of Forestry and Wildlife

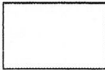


APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson
Board of Land and Natural Resources

- Attachments: 1. Munitions and Explosives of Concern (MEC) Map
2. Reserve Map showing open and closed areas



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|------------------------------------------------------------------------------------|-------------------------|-------------------------------------------------------------------------------------|------------------|
|  | Closed Areas of Reserve |  | Parking |
|  | Open Areas of Reserve | - - | Reserve Boundary |

