

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
Office of Conservation and Coastal Lands
P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
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COMMISSION ON WATER RESOURCE
MANAGEMENT

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ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:MK

SPA MA 26-22

Nov 12, 2025

Dawn Hegger Nordblom
Ke Kai Planning LLC
PO Box 791001
Paia, HI 96779

SUBJECT: Site Plan Approval (SPA) for Tree Removal and Native Plant Replacement
Project at the Hawai'i Land Trust's Nu'u Refuge
Located at Kaupō, Hana, Island of Maui
Tax Map Key (TMK): (2) 1-8-001:001

Dear Dawn Hegger-Nordblom:

The Office of Conservation and Coastal Lands (OCCL) is in receipt of your Site Plan Approval (SPA) application for the subject project. According to the information you have provided, the Hawai'i Land Trust (HILT), represented by Ke Kai Planning LLC, is proposing to remove 25 invasive kiawe trees at Nu'u Refuge for the purposes of habitat restoration for endangered Hawaiian waterbird species. The coastal portion of the subject parcel lies within the Protective, Resource, and General Subzones of the State Land Use Conservation District.

The proposed project will affect an area of approximately 250 feet², in specific areas located around Nu'u Pond at the refuge. A tree removal company will be hired to remove 25 kiawe trees, ranging in size from 5-12 feet in circumference and 30-60 feet tall (**Exhibit 1**). Tree removal involves cutting the trees to a height of 3-4 feet tall, the branches and trunks chipped, and a wetland approved herbicide will be applied after the trees have been stumped. The company will utilize an Excavator CAT305 CR outfitted with rubber tracks to limit the potential for ground disturbance and will only be used to remove the trunks and tree branches.

The proposed project will be conducted with Best Management Practices (BMPs) in place to prevent the spread of invasive species, to prevent erosion and water contamination, and to control the spread of pollutants.

The HILT believes that the project will not hinder or restrict traditional or customary Native Hawaiian rights and will not impede on public access, fishing and gathering, or other recreational activities such as swimming, surfing, or canoe.

The HILT intends to replace the removed trees with native, endemic, or Polynesian introduced trees such as keahi, hala, milo, 'a'ali'i, hau, alahe'e, and 'iliahi 'alo'e.

On August 28, 2009, the Board of Land and Natural Resources (BLNR) granted Conservation District Use Permit (CDUP) MA-3515 for habitat restoration at Nu'u Refuge, subject to 13 conditions. As per request by the OCCL, the HILT provided evidence of compliance Conditions #3 and #6 of CDUP MA-3515, and was informed on April 24, 2025, that they may proceed with the permitting process. All other terms and conditions of the CDUP remain in effect.

The HILT received a Special Management Area assessment/exemption approval from the County of Maui on June 1, 2009 (SM52009/0160), and confirmed its continued validity on May 12, 2025, as the project remains within similar scope.

The Division of Forestry and Wildlife was consulted regarding this project and provided recommendations on May 1, 2024 (**Exhibit 2**). The recommendations and comments have been incorporated into the conditions of this permit (See **Conditions 14-23**).

Additionally, in reference to the proposed removal of 25 trees, the OCCL has incorporated **Conditions 24 and 25** into the permit as required mitigation for the project.

It should be noted that mulch is a breeding ground for invasive Coconut Rhinoceros Beetles and the placement of mulch within the Conservation District is prohibited.

ANALYSIS:

After reviewing the application, the OCCL has determined that the proposed project is consistent with Hawai'i Administrative Rules (HAR) §13-5-22, P-11 TREE REMOVAL (B-1) *Selective removal of individual trees for non-commercial purposes provided that each tree is replaced on a one-to-one basis with trees that are appropriate to the site location with preference to trees that are endemic or indigenous to Hawai'i*. This requires the filing of a Site Plan Approval application.

The OCCL finds that the proposed tree removal and native plant replacement project appears to be eligible for a Hawai'i Revised Statutes (HRS) Chapter 343 exemption action, pursuant to, The "EXEMPTION LIST FOR THE DEPARTMENT OF LAND AND NATURAL RESOURCES" **General Exemption Type 4**, Minor alterations in the conditions of land, water, or vegetation. PART 1:

#3. Removal of invasive species utilizing cutting, mowing, application of federal and state approved herbicides in conformance with label instructions, distribution of biocontrol agents already approved and permitted by the State of Hawaii, and other approved methods; and

#5. Establish temporary or permanent vegetative cover including trees, shrubs, grasses, and sod for landscaping, reforestation, soil stabilization, watershed protection, native wildlife habitat, native ecosystem restoration, and rare plant preservation; provided, however, that this exemption shall not apply to vegetation that is likely to be invasive or for tree plantings for which harvesting is planned or is reasonably foreseeable.

Therefore, authorization is hereby granted to the HILT for the proposed invasive tree removal and native plant replacement project at the Nu'u Refuge, located at Kaupō, Hana, Island of Maui, TMK: (2) 1-8-001:001, and is subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i 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. The permittee shall comply with all applicable department of health administrative rules;
4. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
5. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
6. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the 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 the department may, in addition, institute appropriate legal proceedings;
7. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
8. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
9. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
10. Cleared areas shall be revegetated, in accordance with landscaping guidelines provided in this chapter, within thirty days unless otherwise provided for in a plan on file with and approved by the department;
11. Use of the area shall conform with the program of appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;

12. For all landscaped areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in section 205A-1, HRS;
13. Where applicable, provisions for protection of beaches and the primary coastal dune shall be established by the permittee, to the satisfaction of the department, including but not limited to avoidance, relocation, or other best management practices;
14. The permittee shall time site clearing to avoid disturbance to the Hawaiian hoary bat during their birthing and pup rearing season, between June 1- September 15. During this time, woody plants greater than 15 feet shall not be disturbed, removed, or trimmed;
15. The use of barbed wire shall be avoided in construction to prevent injury or death to the Hawaiian hoary bat;
16. Artificial light from exterior lighting fixtures, including but not limited to floodlights, up lights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
17. The permittee shall avoid night work during the seabird fledging season between September 15 to December 15. If night work is necessary, all lights shall be fully shielded to minimize seabird attraction, and a qualified biologist shall be present to monitor seabird risks;
18. If State-listed waterbirds are present during construction, all activities within 100 feet (30 meters) shall cease and not continue until the birds have departed the area of their own accord. If a nest is discovered at any point, the permittee shall notify DOFAW at (808) 984-8100 and establish a buffer around the nest;
19. Prior to vegetation alteration, the permittee shall conduct line transect surveys during crepuscular hours through the project area. If a pueo nest is discovered, a minimum buffer distance of 100 meters from the nest shall be established, until chicks are capable of flight;
20. Should either the Hawaiian monk seal or Green Sea Turtle be detected within 100 feet (30 meters) of the project area, all nearby construction operations shall cease and not continue until the focal animal has departed the area on its own accord;
21. The permittee shall contact the Maui Branch DOFAW Office for further information on the Blackburn Sphinx Moth's possible presence, and if a vegetation survey should be conducted;
22. The permittee shall coordinate with the Hawai'i Wildfire Management Organization to help with wildfire prevention within the project area;
23. The permittee shall consult with the Maui Invasive Species Committee to help plan, design, and construct the project, learn of any high-risk invasive species in the area, and ways to mitigate their spread;

24. The permittee shall submit an updated landscape plan to OCCL for the replacement of the 25 trees, identifying the species of replacement trees on a one-to-one basis with trees that are appropriate to the site location with preference to trees that are endemic or indigenous to Hawai'i and their proposed location on the subject property prior to project initiation;
25. The permittee shall replant the replacement trees prior to the project completion deadline, and shall submit evidence of their survival to OCCL at intervals of one year and two years after construction completion;
26. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
27. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact SHPD ((808) 692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
28. Other terms and conditions as prescribed by the chairperson.
29. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other copy to our office within 30 days.

Should you have any questions, please contact Mari Kurosawa of our office at mari.i.kurosawa@hawaii.gov or at (808) 587-0381.

Sincerely,

S. Michael Cain

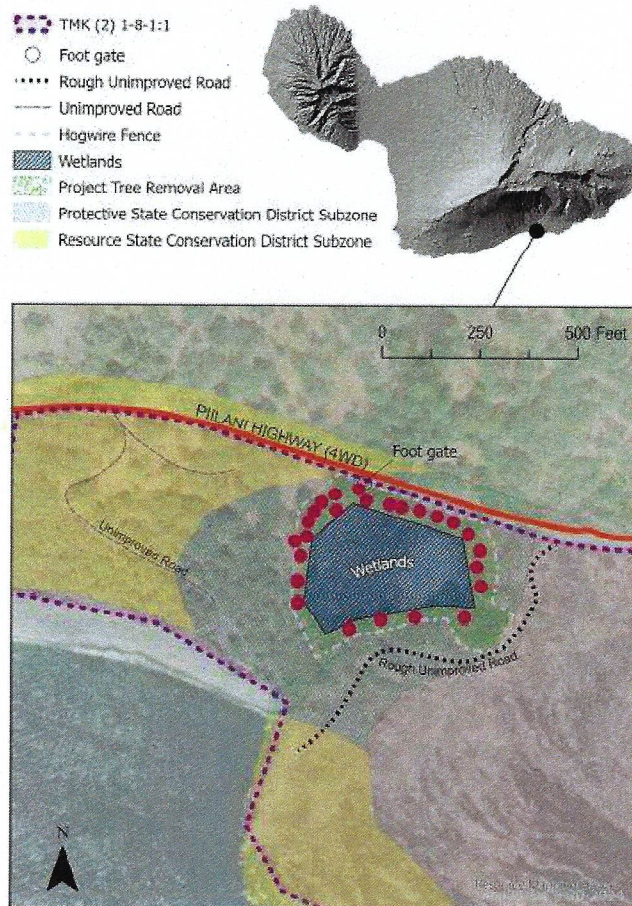
S. Michael Cain, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:

Applicant's signature

Date: _____

CC: Maui District Land Office
County of Maui- Department of Planning
Division of Forestry and Wildlife- Maui Nui Branch



SOURCE HILT: Map of Nu'u (Pūpuka) pond in Kaupō, Island of Maui identifying the individual kiawe trees to be removed.

Exhibit 1

JOSEPH GREEN, M.D.
GOVERNOR | KŌKOA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KĀHOKE KŌKOA



STATE OF HAWAII | KŌKOA
DEPARTMENT OF LAND AND NATURAL RESOURCES
KŌKOA KUMUWAIWAI KŌKOA

DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL STREET, ROOM 325
HONOLULU, HAWAII 96813

May 1, 2024

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
RYAN K.P. KANAKA'OLE
FIRST DEPUTY
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ACTING DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
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ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KŌKOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Log no. 4501

Dawn Hegger-Nordblom, Principal
Ke Kai Planning LLC
PO Box 1 175 Lahaina, Hawai'i 96767
(808) 282-2141
kekaiplanning@icloud.com

Dear Dawn Hegger-Nordblom,

The Department of Land and Natural Resources Division of Forestry and Wildlife (DOFAW) has received your consultation request regarding the removal of trees at the Hawai'i Land Trust (HILT) in the Nu'u Refuge in Kaupo, on the island of Maui; TMK: (2) 1-8-001:001. The subject parcel is 81.447 acres or 3,547,831.21 square feet and is located in the State Land Use (SLU) Conservation District, General Subzone, and SLU Agricultural District. The proposed project will affect an area of 150-250 square feet located around the pond. Ten trees will be removed which range in size from 5 feet to 12 feet in circumference. The trees are 30 feet to 60 feet in height. The HILT will use an excavator from outside of the area zoned conservation to bring the kiawe down. The tree trunks will remain in place at a height no lower than 12 or 15 feet after killing them with an approved herbicide.

The State listed 'ōpe'ape'a or Hawaiian Hoary Bat (*Lasiurus cinereus semotus*) could potentially occur at or in the vicinity of the project and may roost in nearby trees. Any required site clearing should be timed to avoid disturbance to bats during their birthing and pup-rearing season (June 1 through September 15). During this period woody plants greater than 15 feet (4.6 meters) tall should not be disturbed, removed, or trimmed. Barbed wire should also be avoided in any construction as bats can become ensnared and killed by such fencing material during flight.

Artificial lighting can adversely impact seabirds that may pass through the area at night by causing them to become disoriented. This disorientation can result in their collision with manmade structures or the grounding of birds. For nighttime work that might be required, DOFAW recommends that all lights used be fully shielded to minimize the attraction of seabirds. Nighttime work that requires outdoor lighting should be avoided during the seabird fledging season, from September 15 through December 15, when young seabirds make their maiden voyage to sea.

If nighttime construction is required during the seabird fledgling season (September 15 to December 15), we recommend that a qualified biologist be present at the project site to monitor and assess the risk of seabirds being attracted or grounded due to the lighting. If seabirds are seen circling the area, lights should then be turned off. If a downed seabird is detected, please follow DOFAW's recommended response protocol by visiting <https://dlnr.hawaii.gov/wildlife/seabird-fallout-season/>.

Permanent lighting also poses a risk of seabird attraction, and as such should be minimized or eliminated to protect seabird flyways and preserve the night sky. For illustrations and guidance related to seabird-friendly light styles that also protect seabirds and the dark starry skies of Hawai'i please visit <https://dlnr.hawaii.gov/wildlife/files/2016/03/DOC439.pdf>.

The State endangered 'ilio holo i ka uaua or Hawaiian Monk Seal (*Monachus schauinslandi*) and threatened honu or Green Sea Turtle (*Chelonia mydas*) could potentially occur or haul out onshore within the vicinity of the proposed project site. Nesting season for honu is April through December and 'ilio holo i ka uaua can give birth to pups all year round. If either species is detected within 100 feet (30 meters) of the project area, all nearby construction operations should cease and not continue until the focal animal has departed the area on its own accord.

The state endangered honu'ea or Hawksbill Sea Turtle (*Eretmochelys imbricata*) can nest on the island during the months of May through December and could potentially occur or haul out onshore within the vicinity of the proposed project site. If the species is detected within 100 feet of the project area, all nearby construction operations should cease and not continue until the focal animal has departed the area on its own accord.

State-listed waterbirds such as ae'o or Hawaiian stilt (*Himantopus mexicanus knudseni*), 'alae ke'oke'o or Hawaiian coot (*Fulica alai*), and nēnē or Hawaiian Goose (*Branta sandvicensis*) could potentially occur at or in the vicinity of the proposed project site. It is against State law to harm or harass these species. If any of these species are present during construction, all activities within 100 feet (30 meters) should cease and the bird or birds should not be approached. Work may continue after the bird or birds leave the area of their own accord. If a nest is discovered at any point, please contact the Maui Branch DOFAW Office at (808) 984-8100 and establish a buffer zone around the nest.

The endemic pueo or Hawaiian Short-Eared Owl (*Asio flammeus sandwichensis*) could potentially nest in the project area. Pueo nests on the ground and active nests have been found year-round. Before any potential vegetative alteration, especially ground-based disturbance, we recommend that line transect surveys are conducted during crepuscular hours through the project area. If a pueo nest is discovered, a minimum buffer distance of 100 meters from the nest should be established until chicks are capable of flight.

The project area is within the range of the state-listed Blackburn's Sphinx Moth (*Manduca blackburni*) or BSM. Larvae of BSM feed on many nonnative hostplants, which include tree tobacco (*Nicotiana glauca*), that grow in disturbed soil. We recommend contacting the Maui Island Branch DOFAW office at (808) 984-8100 for

further information about where BSM may be present and whether a vegetation survey should be conducted to determine the presence of plants preferred by BSM. DOFAW recommends removing plants less than one meter in height or during the dry season to avoid harm to BSM. If you intend to either remove tree tobacco over one meter in height or to disturb the ground around or within several meters of these plants, they must be thoroughly inspected by a qualified entomologist for the presence of BSM eggs and larvae.

DOFAW recommends using native plant species for landscaping that are appropriate for the area; i.e., plants for which climate conditions are suitable for them to thrive, plants that historically occurred there, etc. Please do not plant invasive species. DOFAW also recommends referring to www.plantpono.org for guidance on the selection and evaluation of landscaping plants and to determine the potential invasiveness of plants proposed for use in the project.

DOFAW recommends minimizing the movement of plant or soil material between worksites. Soil and plant material may contain detrimental fungal pathogens (e.g., Rapid 'Ōhi'a Death), vertebrate and invertebrate pests (e.g., Coqui Frogs, Little Fire Ants, etc.), or invasive plant parts (e.g., Miconia, Mullein, etc.) that could harm our native species and ecosystems. We recommend consulting the Maui Invasive Species Committee (MISC) at (808) 573-6472 to help plan, design, and construct the project, learn of any high-risk invasive species in the area, and ways to mitigate their spread. All equipment, materials, and personnel should be cleaned of excess soil and debris to minimize the risk of spreading invasive species.

To prevent the spread of Rapid 'Ōhi'a Death (ROD), DOFAW requests that the information and guidance at the following website be reviewed and followed if 'ōhi'a trees are present at the project site that will be removed, trimmed, or potentially injured: <https://cms.ctahr.hawaii.edu/rod>.

The invasive Coconut Rhinoceros Beetle (CRB) or *Oryctes rhinoceros* is found on the islands of Oahu, Hawaii Island, Maui, and Kaua'i. On July 1, 2022, the Hawai'i Department of Agriculture (HDOA) approved Plant Quarantine Interim Rule 22-1. This rule restricts the movement of CRB-host material within or to and from the island of Oahu, which is defined as the Quarantine Area. Regulated material (host material or host plants) is considered a risk for potential CRB infestation. Host material for the beetle specifically includes a) entire dead trees, b) mulch, compost, trimmings, fruit, and vegetative scraps, and c) decaying stumps. CRB host plants include the live palm plants in the following genera: *Washingtonia*, *Livistona*, and *Pritchardia* (all commonly known as fan palms), *Cocos* (coconut palms), *Phoenix* (date palms), and *Roystonea* (royal palms). When such material or these specific plants are moved there is a risk of spreading CRB because they may contain CRB in any life stage. For more information regarding CRB, please visit <https://dlnr.hawaii.gov/hisc/info/invasive-species-profiles/coconut-rhinoceros-beetle/>.

Due to the arid climate and risks of wildfire to listed species, we recommend coordinating with the Hawaii Wildfire Management Organization at (808) 850-0900 or admin@hawaiiwildfire.org, on how wildfire prevention can be addressed in the project

area. When engaging in activities that have a high risk of starting a wildfire (i.e. welding in grass), it is recommended that you:

- Wet down the area before starting your task,
- Continuously wet down the area as needed,
- Have a fire extinguisher on hand, and
- In the event that your vision is impaired, (i.e., welding goggles) have a spotter to watch for fire starts.

We recommend that Best Management Practices are employed during and after construction to contain any soils and sediment with the purpose of preventing damage to near-shore waters and marine ecosystems.

We appreciate your efforts to work with our office for the conservation of our native species. These comments are general guidelines and should not be considered comprehensive for this site or project. It is the responsibility of the applicant to do their own due diligence to avoid any negative environmental impacts. Should the scope of the project change significantly, or should it become apparent that threatened or endangered species may be impacted, please contact our staff as soon as possible. If you have any questions, please contact Katherine Cullison, Protected Species Habitat Conservation Planning Coordinator, at Katherine.cullison@hawaii.gov.

Sincerely,

Lindsey Nietmann

Lindsey Nietmann
Acting Wildlife Program Manager