



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): [5/28/2021](#)

ORM Number: [POH-2006-00106](#)

Associated JDs: [None](#)

Review Area Location¹: State/Territory: [Hawaii](#) City: [Holualoa](#) County/Parish/Borough: [Island of Hawaii](#)

Center Coordinates of Review Area: Latitude [19.615289](#) Longitude [-155.98143](#)

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: According to an Archaeological Inventory Survey (AIS) of the AOR provided by the agent, the AOR was part of a larger area that was historically “heavily populated, with vast agricultural tracts laid out with boundary walls, burial areas, and habitation structures”. According to the January 2018 State of Hawaii Land Use District Boundaries mapping application (<https://histategis.maps.arcgis.com/apps/webappviewer/index.html?id=b843c728b4cb4333b1df015fdaa84104>), the AOR is within a large area zoned as urban. According to the State of Hawaii Land Use Commission’s State Land Use Districts website, “The Urban District generally includes lands characterized by “city-like” concentrations of people, structures and services. This District also includes vacant areas for future development”. The 10.09-acre AOR is located along Alii Drive, the primary roadway through the commercial district of Kailua-Kona and continuing south to Holualoa. The AOR is surrounded by other existing and proposed residential and commercial development, including the existing Alii Lani Townhomes to the north, Alii Gardens Marketplace to the south, and Kona Isle Condominiums and Aston Kona by the Sea to the west along the shoreline.

From the east edge of the AOR at 45 feet above sea level to the west edge of the AOR at 17 feet above sea level, the AOR slope changes approximately 4%. Precipitation landing in the AOR sheet flows toward the existing box culvert at the western edge of the project site under Alii Drive. The AOR is located approximately 0.1 miles northeast from the shoreline. FEMA Flood Insurance Rate Maps categorize the AOR as being within Zone X, a zone outside the 0.2 percent annual chance (i.e. the 500-year flood) floodplain. There are no active or historic USGS stream gauges within the AOR. The nearest USGS stream gauge is located approximately 2.37 miles northeast of the AOR on Waiaha Stream, which does not overlap with any part of the AOR.

The Corps reviewed the ORM database for prior projects within and in the vicinity of the AOR. In a letter dated 14 March 2006, under the same Corps permit name and number, the Corps determined that the project “would not involve work in and/or placement of dredged and/or fill material into waters of the U.S.” and made a determination of no permit required. In a letter dated 08 October 2020 for another project POH-2008-00115 (Royal Alli Planned Unit Development, Holualoa, Island of Hawai’i, Hawaii) in the ORM database, located 1.1 miles southeast of the AOR, the Corps determined that no waters of the U.S. were present within the project area and made a determination of no permit required. The USFWS National Wetland Inventory data layer for Google Earth Pro, the Earth Point USGS topographic data layer for Google Earth Pro, the EPA Waters GeoViewer website, the USGS StreamStats website do not show any streams or other linear features or other aquatic features in the AOR. No visible notation in multiple desktop references may indicate the absence of any aquatic features.

As shown in the SSURGO data layer for Google Earth Pro, approximately 75% of the AOR is comprised of the Punaluu highly decomposed plant material soil complex. The majority (90%) of the complex is composed of the Punaluu series of Lithic Ustifolists which are approximately 15-inch deep highly decomposed organic soils over rock. The remainder of the complex consists of lava flows (5%), the Waiaha series of Lithic Haplustands (3%), and the Kainaliu series of Andic Haplustolls (2%). The Waiaha series is also shallow, ending at 38 inches below the surface, and consists of Andisols, soils formed by volcanic

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

parent material. The remaining 25% of the AOR is comprised of the Waiaha-Punaluu-Lava flows complex which is similar to the rest of the AOR: dominated by the Waiaha series (50%) and the Punaluu series (30%) with lava flows (15%) and Kainaliu series (5%). The Kainaliu series consists of deeper soils in the Mollisol soil order, typically deep soils found in grasslands and used for agriculture. All three soil series are listed as well drained and non-hydric. Additionally, the soil layers as shown in the NRCS SSURGO data layer for all three soil series in the AOR do not indicate gleying. The lack of gleying in soils profiles indicates the lack of long-term presence of water needed to achieve anaerobic conditions. The NRCS SSURGO data layer lists both soil series as well drained with a Hydric Rating of “No”, indicating that these two soil series do not tend to include known hydric soils. Both soil series are shown on the NRCS Web Soil Survey application as the category of “Not Hydric”.

An onsite aquatic resource delineation was not conducted in the AOR. The vegetation in the AOR was characterized in the September 2004 AIS report as Kiawe (*Prosopis pallida*, FACU), ‘opiuma (*Pithecellobium dulce*, FAC), African tulip (*Spathodea campanulata*, FACU), Koa-haole (*Leucaena glauca*, UPL), Monkeypod (*Samanea saman*, UPL), Lantana (*Lantana camara*, UPL), Guinea grass (*Panicum maximum*, FAC), Bitter yam (*Discorea bulbifera*, UPL), and Ilima (*Sida fallax*, UPL). Photographs provided with the delineation report are consistent with the vegetation list and show predominantly Kiawe (*Prosopis pallida*, FACU), Koa-haole (*Leucaena glauca*, UPL) and potentially ‘opiuma (*Pithecellobium dulce*, FAC) dominating the tree stratum and Guinea grass (*Panicum maximum*, FAC) dominating the herbaceous stratum. Aerial photos of the AOR from January 2010, 2012, and 2013, during the wet season in Hawaii, show the AOR as predominantly brown with scattered trees. Conversely, aerial photos of the AOR taken in July 2011 and especially in June 2019, during the dry season, show the AOR with abundant green undergrowth and scattered trees. The vegetation dominating the photos and the extent of growth relative to the wet season as shown on the aerial photos suggests that the vegetative community in the AOR is not water-dependent and is unlikely to support wetland vegetation.

Based on the information described above the AOR does not satisfy all three wetland factors (i.e., hydrology, hydrophytic vegetation, hydric soils) and does not lie below the ordinary high water mark or the high tide line of a jurisdictional water. The Corps has determined that in accordance with 33 CFR 328 the AOR is comprised entirely of uplands and does not contain waters of the U.S..

- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
N/A.	N/A.	N/A.	N/A.	

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
N/A.	N/A.	N/A.	N/A.	

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: [vicinity map](#)
This information **is** sufficient for purposes of this AJD.
Rationale: [The Area of Review is clearly shown.](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Aerial photographs acquired from Google Earth Pro from January 2010, 2012, and 2013, July 2011, and June 2019. Photographs are included in the agent’s September 2004 AIS report.](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [No prior AJDs or PJDs were conducted on this feature within, above, or below the AOR.](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [SSURGO data layer for Google Earth Pro and NRCS Web Soil Survey](#)
- USFWS NWI maps: [data layer for Google Earth Pro](#)
- USGS topographic maps: [Earth Point Topo Map data layer for Google Earth Pro](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS StreamStats web application
USDA Sources	N/A.
NOAA Sources	NOAA Daily Summaries precipitation web application.
USACE Sources	N/A.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Data Source (select)	Name and/or date and other relevant information
State/Local/Tribal Sources	N/A.
FEMA/FIRM maps	FEMA Flood Insurance Rate Maps categorize the AOR as being within Zone X, a zone outside the 0.2 percent annual chance (i.e. the 500-year flood) floodplain.

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: The Corps reviewed the ORM database for prior projects within and in the vicinity of the AOR. In a letter dated 14 March 2006, under the same Corps permit name and number, the Corps determined that the project “would not involve work in and/or placement of dredged and/or fill material into waters of the U.S.” and made a determination of no permit required. An AJD was not referenced in the letter.