



**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-2021-00083](#)

Associated JDs: [None](#)

Review Area Location<sup>1</sup>: State/Territory: [Hawaii](#) City: [Hilo](#) County/Parish/Borough: [Island of Hawaii](#)

Center Coordinates of Review Area: Latitude [19.711389](#) Longitude [-155.115389](#)

**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 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 1.1-acre AOR is located north of Ainako Avenue, the primary roadway through a residential community west of Hilo. The AOR is located between the existing E.B. DeSilva Elementary School to the south and forest and residential development along Waianuenue Avenue to the north. The AOR has a 15-foot decline from the west edge to the east edge of the AOR, with a center elevation of 501 feet above sea level. The AOR is located approximately 2.18 miles west of the shoreline of the Pacific Ocean. FEMA Flood Insurance Rate Maps categorize the AOR as being partially within Zone AE, a zone within the 1 percent annual chance (i.e. the 100-year flood) floodplain, and partially within Zone X, areas with 0.2% annual chance flood (i.e. the 500-year flood). There are no active or historic USGS stream gauges within the AOR. The nearest USGS stream gauge is located on the Wailuku River approximately 0.57 miles north outside of the AOR. The Wailuku River runs parallel to the AOR and 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. There are no prior Corps projects recorded within the AOR. The project closest in proximity, POH-2015-00191 (Punahoa Development, Hilo, Hawaii, Hawaii) was pre-application coordination for a residential development approximately 0.18 miles northwest of the subject AOR. In a letter dated 02 November 2015, the Corps stated that a permit would be required for the proposed project due to the discharge of fill from grading the site impacting a channel shown in desktop references. The channel that appears to run through the property for POH-2015-00191 also appears to intersect with the larger TMK (3)2-5-008:021 for the Tam Ainako Subdivision, north outside the limits of the subject AOR. 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 National Hydrography Dataset layer in ORM2 do not show any streams or other linear features or other aquatic features in the AOR. The absence of visible notation in multiple desktop references may indicate the absence of an aquatic feature in an area of review. All of the desktop references listed above show the channel that appears to run through the larger TMK (3)2-5-008:021 for the Tam Ainako Subdivision, north outside the limits of the subject AOR.

As shown in the SSURGO data layer for Google Earth Pro, approximately 90% of the AOR is comprised of the Hilo soil series of Acrudoxic Hydruids. The Udands suborder are a well-drained type of the Andisol soil order, soils formed from volcanic parent material, that are typically formed under forest vegetation. While the great group Hydruids are characterized in the Illustrated Guide to Soil Taxonomy as having a very high water-holding capacity within the upper 100cm, the Hilo series mapped in the SSURGO data layer in the AOR is listed as well-drained and not hydric. The Hilo series description includes a plow layer to approximately 18 inches below the soil surface and does not include any gleyed horizons. The remaining 10% in the southeast corner of the AOR is primarily composed of the Panaewa series of Lithic Hydruids. The Panaewa series is

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



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the same order, suborder, and great group as the Hilo series, but is shallower than the Hilo series at approximately 15 inches deep beneath the soil surface above rock. Similar to the Hilo series, the Panaewa series in the AOR is in the SSURGO data layer as moderately well drained and not hydric and none of the horizons are characterized as gleyed. The lack of gleyed horizons in soils profiles indicates the lack of long-term presence of water needed to achieve anaerobic conditions. The NRCS SSURGO data layer listing both soil series as a Hydric Rating of “No” indicates that these two soil series do not tend to include known hydric soils.

The vegetation in the AOR was cleared above the ground surface (i.e. no grading, grubbing, or disturbance of the substrate was conducted) at the end of January 2021 and aerial and on-ground photos showing the cleared AOR were provided to the Corps. An onsite aquatic resource delineation was not conducted in the AOR prior to or following clearing of the vegetation. Although it is possible to identify several plants along the areas neighboring the AOR from the photos, including ti (Cordyline fruticosa, FAC) and African tulip (Spathodea campanulata, FACU), the photos do not provide sufficient detail to characterize all of the vegetation typical of the area surrounding the AOR. Prior to the clearing of the AOR in January 2021, historic aerial photos of the AOR from July 2019 and 2016, August 2015, January 2013, and December 2010, during both the wet and dry seasons in Hawaii, show the AOR as completely green with scattered trees.

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)<sup>2</sup>**

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

**C. Clean Water Act Section 404**

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

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.

<sup>2</sup> 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.

<sup>3</sup> 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.



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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)): <sup>4</sup>			
Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	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. Aerial and on-ground photographs were also provided by the agent.](#)
- 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
<a href="#">USGS Sources</a>	<a href="#">USGS StreamStats web application</a>
<a href="#">USDA Sources</a>	N/A.
<a href="#">NOAA Sources</a>	N/A
<a href="#">USACE Sources</a>	N/A.
<a href="#">State/Local/Tribal Sources</a>	N/A.
<a href="#">FEMA/FIRM maps</a>	<a href="#">FEMA Flood Insurance Rate Maps</a>

**B. Typical year assessment(s):** [N/A](#)

**C. Additional comments to support AJD:** [N/A or provide additional discussion as appropriate.](#)

<sup>4</sup> 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.

<sup>5</sup> 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.