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): 5/12/2021

ORM Number: POH-2021-00065 (Approved Jurisdictional Determination, Kanaha Beach Park, Kahului, Maui Island, HI)

Associated JDs: N/A

Review Area Location[1]: State/Territory: Island of Maui, Hawaii City: Kahului County/Parish/Borough: Maui

Center Coordinates of Review Area: Latitude 20.899294 Longitude -156.442204

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: N/A
- ☒ 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	RHA Tidal water is subject to the ebb and flow of the tide	The Pacific Ocean

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
Pacific Ocean	6,800	linear feet	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	The Pacific Ocean adjacent to the coastal wetlands and (a)(2) Waters.

[1] Map(s)/figure(s) are attached to the AJD provided to the requestor.
[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
Kalialinui Stream	470	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	A concrete lined channel 470-ft by 60-ft with constant flow based on onsite observations being contributed from the Kanaha watershed, just above Alahao street. The Kalialinui stream outlet is adjacent to a shoreline dune created by wave action. Tilapia nests were observed below the OHWM. The Corps has determined Kalialinui is a perennial stream with surface water flowing continuously year-round. The OHWM was determined based on field observation of discoloration on the concrete lined channel. The stream is an (a)(2) tributary and therefore a jurisdictional waters of the U.S.
Unnamed Stream	3,000	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	A perennial 3,000-ft by 20-ft tributary that is located and flows through the northeast corner of Kanaha Beach Park where it is abutted with the 0.5 acre wetland described in transect 7 (T7). It flows outside of the review area to the coastline where it is separated from the ocean by 90-ft of natural berm. The ordinary high water mark was determined based on field observation of the earthen lined, sandy substrate channel with a clearly defined change of vegetation as the line of demarcation on the bed and bank. The Corps has determined this is a jurisdictional waters of the US (a)(2) tributary.

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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 1	0.5 acres	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.	Wetland 1 contained a 0.05 acre area that qualified as a wetland. This wetland is inundated by flooding by an (a)(1), (2), or (3) water in a typical year separated only by a berm, bank, dune or other natural feature. This area is a small steep sided depression on a concave land surface. Hydrophytic vegetation was found described in the consultant provided sampling point 1 and cross referenced by USACE. Hydrology was observed present 4 inches under the surface. The wetland boundary was determined by a clearly defined change of elevation and vegetation. The Corps has determined the wetland, indicated on the map as wetland 1, is a jurisdictional waters of the US.
Wetland 2	0.5 acres	N/A.	(a)(4) Wetland separated from	Wetland 2 is a 0.5 acre area located on the eastern edge of the project site adjacent to an unnamed

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
			an (a)(1)-(a)(3) water only by a natural feature.	gully and is referenced as sample point 14 provided by the consultant. This wetland is inundated by flooding by an (a)(1), (2), or (3) water in a typical year separated only by a berm, bank, dune or other natural feature. Hydrophytic vegetation was identified as described in sample point 14 and cross referenced by USACE. Hydrology was verified as water was present at the surface over a 0.5 acre area. The water was found to be conveyed to an A(1) water via the unnamed gully. The wetland boundary was determined by a clearly defined change in elevation and vegetation. The Corps has determined this is a jurisdictional eaters of the US.
Wetland 3	0.1 Acres	N/A.	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.	Wetland 3 is a 0.1 acre steep sided, permanently ponded feature. The pond is indicated as sampling point 11 provided by the consultant. This wetland is inundated by flooding by an (a)(1), (2), or (3) water in a typical year separated only by a berm, bank, dune or other natural feature. The pond had obligate hydrophytic vegetation and fish living in the pond. The pond is inundated by the tide of an (a)(1) water separated only by a natural berm, bank, dune, or similar natural feature. This wetland is indicated by Wetland 3 on the map. The Corps has determined this wetland is a jurisdictional waters of the US.
Wetland 4 & 5	2.5 Acres	N/A.	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.	Wetland 4 and 5 is a 2.5 acre natural depression indicated by sample points 8 and 9 provided by the consultant with a 0.5 acre natural depression indicated by sample point 10 provided by the consultant. This wetland is inundated by flooding by an (a)(1), (2), or (3) water in a typical year separated only by a berm, bank, dune or other natural feature. This feature had a secondary indicator of sparsely vegetated concave surfaces due to long duration ponding. Hydrophytic vegetation was present as indicated on the data sheet for sample point 8 provided by the consultant and cross referenced by USACE. Primary indicators of a hydric soil were present as provided by the applicant and cross referenced by USACE. Wetland hydrology was found to be present as provided by the applicant and cross referenced by USACE. The wetland boundary was determined by clearly defined change in elevation and vegetation. This wetland is indicated as wetland 4 on the map. The Corps has determined this to be a jurisdictional waters of the US.
Wetland 6	2.2 Acres	N/A.	(a)(4) Wetland separated from	Wetland 6 is a 2.2 acre natural depression that is periodically inundated by flooding by an (a)(1), (2),

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
			an (a)(1)-(a)(3) water only by a natural feature.	or (3) water in a typical year separated only by a berm, bank, dune or other natural feature. This transect is indicated by sampling points 6 and 7 provided by the consultant. This feature had a secondary indicator of sparsely vegetated concave surfaces due to long duration ponding. Hydrophytic vegetation was present as indicated on the data sheet for sample point 8 provided by the consultant and cross referenced by USACE. Primary indicators of a hydric soil were present as provided by the applicant and cross referenced by USACE. The wetland boundary was determined by clearly defined change in elevation and vegetation. This wetland is a indicated by wetland 5 on the map. The Corps has determined this is a jurisdictional waters of the U.S.
Wetland 7	0.2 Acres	N/A.	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.	Wetland 7 is a 0.5 acre natural depression just inland of the coastal dune indicated by wetland 7 on the map and sampling point 4 provided by the applicant. This wetland is inundated by flooding by an (a)(1), (2), or (3) water in a typical year separated only by a berm, bank, dune or other natural feature. This feature had a secondary indicator of sparsely vegetated concave surfaces due to ponding. Primary indicators of a hydric soil were present as provided by the consultant and cross referenced by USACE. Primary indicators of a hydric soil were present as provided by the applicant and cross referenced by USACE. The wetland boundary was determined by clearly defined change in elevation and vegetation. The Corps has determined this is a jurisdictional wetland
Wetland 8	0.2 Acres	N/A.	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.	Wetland 8 is a 0.2 acre natural depression indicated by Wetland 8 on the map and sampling point 5 provided by the consultant. The area is vegetated by a mat of Sesuviam portulacastrum (FAC). This wetland is inundated by flooding by an (a)(1), (2), or (3) water in a typical year separated only by a berm, bank, dune or other natural feature. This feature had a secondary indicator of sparsely vegetated concave surfaces due to ponding. Primary indicators of a hydric soil were present as provided by the consultant and cross referenced by USACE. Primary indicators of a hydric soil were present as provided by the applicant and cross referenced by USACE. The wetland boundary was determined by clearly defined change in elevation and vegetation. This feature is a jurisdictional wetland..

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 9	0.1 Acres	N/A.	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.	Wetland 9 is a 0.1 acre manmade depression with a small steep sided pond with standing water indicated by wetland 9 on the map and sampling point 3 provided by the consultant. This wetland is inundated by flooding by an (a)(1), (2), or (3) water in a typical year separated only by a berm, bank, dune or other natural feature. This wetland is frequently inundated by flooding from an (a)(1) water separated only by a natural berm, dune, bank, or other similar natural feature. Hydrophytic vegetation was present indicated by sampling point 3 and cross reference by USACE. The vegetation within the depression was matted and bent over. The Corps has determined this is a jurisdictional wetland.

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.	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: Wetlands and Waters of the U.S. Study January 2021

This information is and is not sufficient for purposes of this AJD.
Rationale: The applicants information was sufficient and enhanced by USACE with additional transects per the 1987 wetland delineation manual.

☒ Data sheets prepared by the Corps: Transect 1-12 4/21/2021
☒ Photographs: Other: MFR 5/7/2021, Consultant provided
☒ Corps site visit(s) conducted on: 4/21/2021
☐ Previous Jurisdictional Determinations (AJDs or PJDs): N/A
☐ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*.
☒ USDA NRCS Soil Survey: Island of Maui USDA NRCS Soil Survey 5/11/2021
☒ USFWS NWI maps: USFWS NWI Map 5/11/2021
☐ USGS topographic maps: Title(s) and/or date(s).

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS 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.

Data Source (select)	Name and/or date and other relevant information
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

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

C. Additional comments to support AJD: OHWM methods and wetland delineation methods (1987 wetland delineation manual and February 2012 regional supplement, Hawaii and Pacific Islands) were used to determine the lateral limits of each water.

Inundation of the coastal wetlands is achieved by daily horizontal tidal currents from an (a)(1) water (the Pacific Ocean) separated by a berm, bank, dune or other natural feature.