



In reply, please refer to:
File:204312 SL

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

October 31, 2023

Mr. Kali Watson
Chairman
Department of Hawaiian Home Lands
P.O. Box 1879
Honolulu, Hawai'i 96805

Facility/Site: FUDS Waikoloa Maneuver Area, Area Q, Lalamilo Phase 2

**Subject: Conditional No Further Action with Institutional Controls
Determination for 180.49-acre Portion of the PROPERTY Located at:
Lalamilo Parcel, Phase 2A, Increments 1 and 2, Phase 2B, and
Phase 2C, in Waimea (Kamuela), Hawai'i; TMK # (3) 6-6-001: Parcel
077 (partial)**

Dear Mr. Watson,

The State of Hawaii Department of Health (HDOH) has reviewed the *Final Remedial Action Report* [RAR] for the *Remedial Action at Former Waikoloa Maneuver Area, Lalamilo Parcel of Areas B, O, Q, and J – Cleared, FUDS Project No. H09HI035902* prepared by the United States Army Corps of Engineers (USACE), dated September 2023, and confirmed that the 180.49 acres of the property located at Tax Map Key (TMK) # (3) 6-6-001: Parcel 077 (partial), as depicted on the enclosed figure, were included in USACE's investigation and cleanup activities. Based on the conclusion of the RAR, the residual risk of unexploded ordnance (UXO) at that portion of the above-referenced property has been reduced to negligible, provided USACE's Land Use Controls (LUCs), stated in the RAR, remain in place. "Negligible" is defined by the USACE as "so small or unimportant as to deserve little or no attention." However, USACE further stated that "USACE cannot state it is impossible for Munitions and Explosives of Concern (MEC) to be present anywhere on the Lalamilo parcel, but it is highly improbable."

The stated LUCs require USACE to educate property owners and users within the Waikoloa Maneuver Area of the potential presence of undiscovered UXO at the property, how to recognize UXO, and the steps to take if a suspect UXO is encountered. USACE has also agreed to provide UXO warning signage, as needed to the Department of Hawaiian Home Lands (DHHL), as well informational brochures, fact sheets, and training. The purpose of this letter is to inform you that, based on the completion of the RAR inclusive of the portion of the property described above and below, and the agreement of the property owner to follow the Institutional Controls (ICs) described below, the HDOH has assigned a Conditional No Further Action with Institutional Controls (CNFA w/ICs) status to the PROPERTY located at:

Address: The PROPERTY is a 180.49-acre portion of the Lalamilo parcel Phase 2A, Increments 1 and 2, Phase 2B, and Phase 2C (collectively referred to as Lalamilo Phase 2), located between Kohakohau Stream and Waikoloa Stream, just south of Kawaihae Road and west of the Waimea Transfer Station at the western end of Waimea (Kamuela) Town on Hawai'i Island, Hawai'i; **TMK # (3) 6-6-001: Parcel 077** (partial), as depicted on the enclosed figure. Because the remedial activities of USACE, as described in the RAR, only included the 180.49 acres depicted on the enclosed figure, this CNFA w/ICs only applies to those areas of the parcel. The remaining areas of the Lalamilo Phase 2 parcel are still in the process of being investigated and remediated by USACE under separate projects.

The specific acreage that was included in USACE's investigation and cleanup activities is depicted on the enclosed *Figure 1. Remediated areas in Lalamilo Parcel* and includes the following "Project 02 - B, O, Q, and J – Cleared Areas" as depicted in that figure:

1. Developed Area with Infrastructure in Place (34.45 acres); No Clearance within this Area
2. Remediated Area (145.95 acres); which includes 1.33 acres of Undeveloped Native Ground within the Developed Area

Although no clearance was conducted in the "Developed Area" as part of the most recent remedial action, the remedial action included an inspection and evaluation of the developed area and USACE determined that the potential to encounter hazards related to munitions remaining within the area is low, and therefore no further investigation was required.

The explanation and implications of this CNFA w/ICs determination follow. The information below is very important and you should take the time to read it very carefully.

What is the Former Waikoloa Maneuver Area?

The PROPERTY is located within the former Department of Defense Waikoloa Maneuver Area (WMA). From 1943-1946, the WMA was used as a military maneuver area where armed forces used live explosive munitions to simulate realistic battle conditions. In some cases, the munitions did not explode resulting in UXO that were left behind. As a result, live munitions which are still capable of exploding if disturbed may be present within the WMA. For your safety, if you encounter an object that may be a munition, please do not touch or disturb it in any way. Keep your distance from the object and call 911 to report its location.

What This “Conditional No Further Action (NFA) with ICs” Determination Means

This Conditional NFA w/ICs determination means that the HDOH Hazard Evaluation and Emergency Response (HEER) Office has accepted the Remedial Action Report (RAR) that has been prepared by the USACE documenting the munitions clearance work performed on the PROPERTY. The HEER Office has reviewed the RAR and concurs that the risk of encountering UXO has been significantly reduced and that there is a low probability that UXO remain at the PROPERTY. However, during the cleanup process, some UXO may have gone undetected due to the limitations in the technologies employed. It is important to understand that this determination does not mean the PROPERTY is 100% free of residual risk from UXO.

Therefore, the HEER Office has determined that a **Conditional** No Further Action with Institutional Controls (CNFA w/ICs) determination is appropriate for the PROPERTY. The four **Conditions** listed below constitute the ICs associated with this NFA status:

1. The use of the PROPERTY must be accompanied by an ongoing safety awareness program to assure that occupants and visitors are informed about the possible presence of UXO and the proper safety precautions to take should they encounter a suspicious object.
2. All future subsurface activities at the PROPERTY must be conducted following the guidance and conditions stated in the *Areawide Environmental Hazard Management Plan, Waikoloa Maneuver Area, Island of Hawaii* (AEHMP). The purpose of this AEHMP is to advise the public about the possible presence of UXO in the WMA and to present measures the landowner can take that will help mitigate the remaining residual risk related to UXO.
3. All subsurface activities at the PROPERTY that may encounter UXO must be conducted with UXO Construction Support provided by a Department of Defense Explosives Safety Board (DDESB) certified UXO Contractor, as described in the AEHMP.
4. For Large-scale developments (as described in the AEHMP), a Site-Specific Environmental Hazard Management Plan (SSEHMP) must be submitted by the landowner and approved by the HEER Office prior to construction. Following redevelopment, the SSEHMP may need to be revised to address long-term management of the remaining environmental hazards and ICs at the site.

The AEHMP is a living document that was originally prepared by the HDOH in March 2019. The most current version of the AEHMP is available online at <https://health.hawaii.gov/heer/files/2019/11/WMAAEHMP.pdf> or by calling 808-586-4249. Any HDOH-approved SSEHMP for the PROPERTY will also be placed on file with the HDOH and made available to the public upon request.

It is important to note that at any former military munition training area the potential for exposure to UXO hazards will always remain. Due to technological and physical limitations, even sites that have received a “clearance” from the USACE will have a “residual” UXO risk. Therefore, the HEER Office has set forth the above **Conditions**/ICs as prudent and reasonable steps to further reduce the potential for exposure to UXO hazards during the development and use of the PROPERTY.

This CNFA w/ICs determination is valid as long as the PROPERTY owner adheres to the **Conditions** stated above. Should the HEER Office determine that a violation of these **Conditions** has occurred, the CNFA with ICs determination will be revoked immediately. Should new information become available regarding the contamination on site, the HEER Office and USACE must be notified immediately and a response action may be required to mitigate potential hazards.

Given the foregoing considerations, the HDOH believes it is unreasonable to interfere with the beneficial reuse of this PROPERTY. However, the recipients of this CNFA w/ICs determination have been notified of, and confirmed that they acknowledge and agree to, the following statements:

1. Have carefully read, understand, and agree to abide by the contents of the *Areawide Environmental Hazard Management Plan, Former Waikoloa Maneuver Area, Island of Hawaii* (AEHMP).
2. Agree that HDOH has disclosed and explained the residual risk from UXO remaining on the PROPERTY.
3. Fully accept the risk of harm related to UXO on the PROPERTY.
4. Will assure that anyone purchasing, leasing, or otherwise using the PROPERTY will be informed of the potential risk present and will be made aware of the Department of Defense’s “3Rs” Explosive Safety Program referenced in the AEHMP.
5. Agree to hold the HDOH completely harmless in the event of injury or property damage from any remaining UXO that results from the use and/or development of the property.

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6. In the event of sale, lease, or transfer of the PROPERTY, the new owner(s) and/or lessee(s) must notify the HEER Office that they have been informed of the **Conditions** set forth in this CNFA w/ICs and agree to follow the guidelines described in the AEHMP. Failure to notify the HEER Office of the sale, lease, or transfer of the PROPERTY may result in revocation of this CNFA w/ICs status.

Civil penalties for failure to comply with the requirements of the Hawaii Environmental Response Law as described in the Hawaii Revised Statutes Chapter 128D, Subsection 8, may apply. Failure to follow the **Conditions** set forth in this Conditional NFA w/ICs letter will result in the immediate revocation of this Conditional NFA w/ICs status and may result in additional penalties.

If you have any questions regarding the information in this letter, please contact the HEER Office at 808-586-4249.

Sincerely,

Kathleen Ho

KATHLEEN HO
Deputy Director for Environmental Health

Enclosure: USACE *Figure 1. Remediated Areas in Lalamilo Parcel*

ACKNOWLEDGEMENT OF RECEIPT

By signing below, the PROPERTY owner:

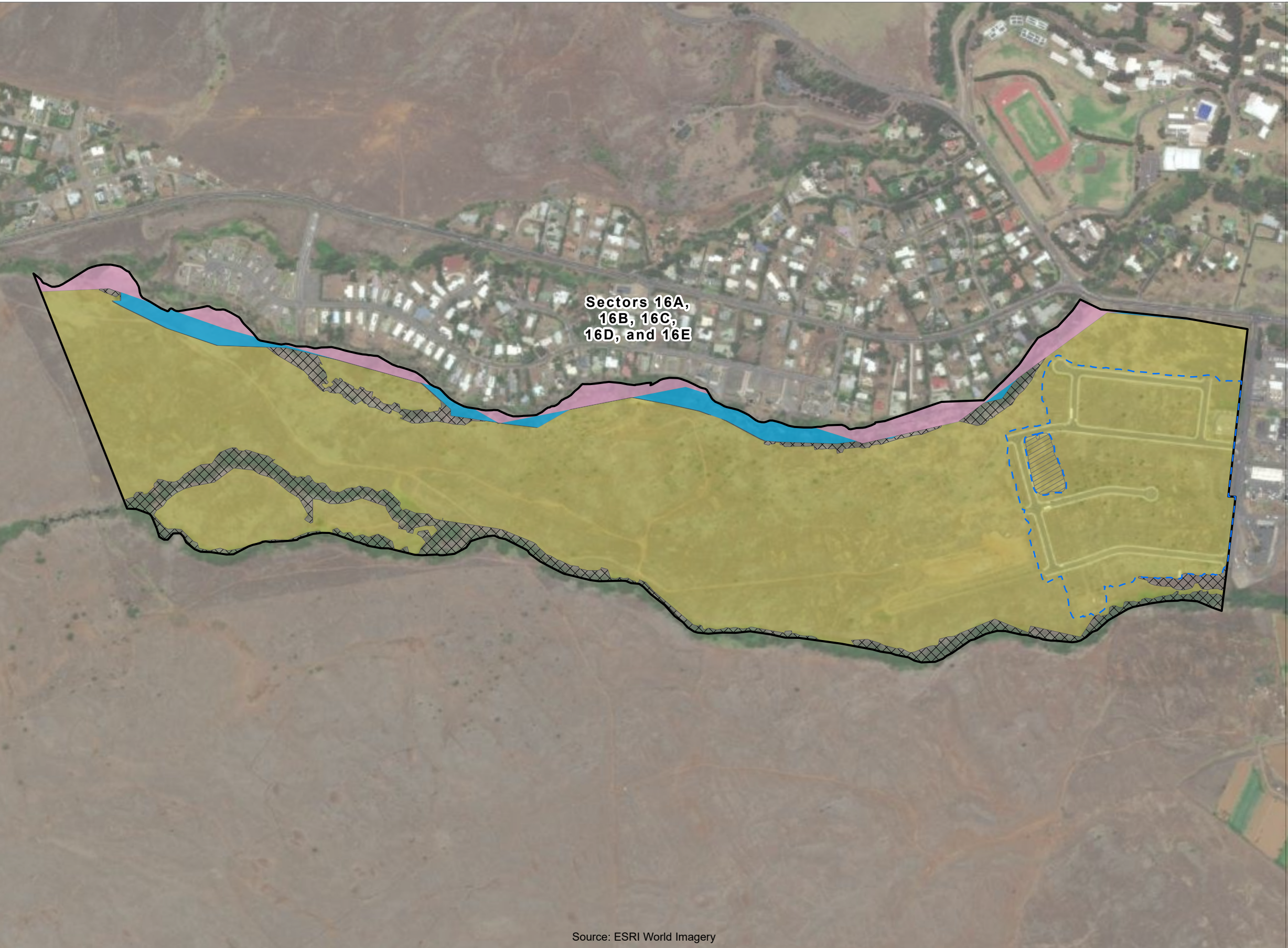
1. agrees to abide by all terms and conditions of this CNFA w/ICs as described above;
2. acknowledges receipt of a copy of the AEHMP;
3. understands that the AEHMP may be updated occasionally and that it is the PROPERTY owner's responsibility to abide by the guidance in the most current version of the AEHMP available by calling 808-586-4249 or available online at <https://health.hawaii.gov/heer/files/2019/11/WMAAEHMP.pdf>;
4. agrees to notify the HEER Office in the event of sale, lease, or transfer of the PROPERTY; and,
5. in the event of sale, lease, or transfer of the PROPERTY, the PROPERTY owner agrees to notify the new owner(s) and/or lessee(s) of the conditions of this NFA w/ICs and the required guidance provided in the AEHMP.








I, _____, hereby acknowledge the above statements and agree that failure to comply with any of the above statements may result in the immediate revocation of this Conditional NFA w/ICs.

PROPERTY Owner
Kali Watson, Chairman
Department of Hawaiian Home Lands

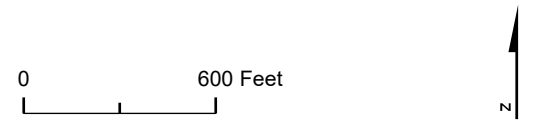
Date

2023-10-23 W:\2018\20180074_USACE_Waikoloa\16_RAR_2023\30\Lalamilo_RAR.aprx CNFA_Rmd_Trim ERRG azhuk



-  Lalamilo Parcel Boundary (211.41 Acres, TMK #366001077)
-  Project 20 Area (9.11 Acres)
-  Project 04 Area (5.61 Acres)
-  Project 02 - Area Uninvestigated in this Project (16.20 Acres)
-  Project 02 - B, O, Q, and J – Cleared Areas (180.49 Acres), which includes:
 -  Developed Area (34.54 Acres), excludes Undeveloped Native Ground
 - Remediated Area (145.95 Acres), which includes:
 -  Undeveloped Native Ground (1.33 Acres) within the Developed Area

Notes:
 MRS munitions response site
 TMK Tax Map Key
 (<https://www.planning.hawaiicounty.gov/resources/tax-maps-tmk-maps/>)



Source: ESRI World Imagery

Figure 1. Remediated Areas in Lalamilo Parcel
 Former Waikoloa Maneuver Area
 Lalamilo Parcel of Areas B, O, Q, and J

