

Draft Compatibility Determination for Right of Access for Mālama Hulē‘ia Community Workday

Title

Draft Compatibility Determination for Right of Access for the E Kū Ana Ka Paia Community Workday on October 21, 2023, through the Hulē‘ia National Wildlife Refuge, Couny of Kaua‘i, Hawai‘i.

Refuge Use Category

Rights-of-way and Rights to Access

Refuge Use Type(s)

Rights to Access (private rights)

Refuge

Hulē‘ia National Wildlife Refuge (Refuge)

Refuge Purpose and Establishing and Acquisition Authority

Refuge Purpose:

“... to conserve (A) fish or wildlife which are listed as endangered species or threatened species...or (B) plants...” (Endangered Species Act of 1973, as amended [16 U.S.C. 1531-1544]))

Establishing and Acquisition Authority:

Endangered Species Conservation Act of 1969, as amended (16 U.S.C. 668aa)

National Wildlife Refuge System Mission

The mission of the National Wildlife Refuge System, otherwise known as Refuge System, is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (Pub. L. 105-57; 111 Stat. 1252).

Description of Use

Is this an existing use?

No. This compatibility determination analyzes the effects of allowing Refuge partner Mālama Hulē‘ia access to their lands through the Refuge for a community workday.

What is the use?

Right to access (private rights). The Service proposes to allow the Refuge partner Mālama Hulē‘ia access through the Refuge for their “E Kū Ana Ka Paia Community Workday” at the ‘Alakoko Fishpond on October 21, 2023.

Is the use a priority public use?

No

Where would the use be conducted?

The use is to allow access through the Refuge to ‘Alekoko Fishpond, which borders the east side of the Refuge (Figure 1). There is heavily sloped terrain from Hulemalu Road down to Hulē‘ia valley and ‘Alekoko Fishpond, where the “E Kū Ana Ka Paia Community Workday” will occur. Access through Refuge areas is needed for volunteers to assist with restoration efforts at ‘Alekoko Fishpond. Known locally as Menehune Fishpond, ‘Alekoko Fishpond is listed on the National Register of Historic Places for its cultural, ecological, and historic significance.

When would the use be conducted?

This use would occur on Saturday, October 21, 2023 from 7am to 4pm for the E Kū Ana Ka Paia Community 5-year workday anniversary event, hosted by Mālama Hulē‘ia. The event will occur during daylight hours and this compatibility determination analyzes effects of allowing access for a single day only.

How would the use be conducted?

The Service would issue a Special Use Permit (SUP) to Mālama Hulē‘ia to allow between 600-800 people to access their property through the Refuge on foot on existing roads/trails. Another 400-600 volunteers would access via a separate private access trail off Refuge. The event would take place on October 21, 2023. Refuge staff familiar with the nesting behavior of nēnē and waterbirds will examine the access area within 3-days of the event and one day prior to ensure that there are no nests present. Prior to the start of the event the day of the event, Authorized agents will assess the path to ‘Alekoko Fishpond to ensure that it is free from obstruction, and that there are no hazards that may pose a risk to wildlife or event attendees. Authorized agent previously identified to Refuge Staff would also assess the presence

of listed waterbird species along the access route that day, that are known to utilize nearby wetland habitat, to minimize effects from the presence of attendees as they cross the Refuge. This use is dependent upon weather. If it rains on the day of the event to make refuge roads/trails unsafe for participants, Mālama Hulē‘ia will use an alternative access route for the event, which exists and is being used for emergency and limited-mobility individuals, off of the Refuge. If it rains during the event, attendees will exit the work site using the alternative access route. Attendees of the “E Kū Ana Ka Paia Community Workday” will arrive by shuttles from Kaua‘i Community College to privately owned Grove Farm property, located on Hulemanu Road above the Refuge. At approximately 8:00 am, community members will be guided down the slope on an unpaved access road that crosses through Refuge property to ‘Alekoko Fishpond where the restoration event will occur. They will be escorted in groups of 20-25 by authorized agents previously identified to Refuge Staff, who will ensure safety of visitors, and safety of wildlife along the access route. The event is anticipated to end at 1:00 pm, when attendees of the workday event would ascend from the ‘Alekoko Fishpond to the Hulemanu Road shuttle pickup location for transport back to Kaua‘i Community College. Mālama Hulē‘ia anticipates up to 1,200 attendees for this one-time event (approximately 600 children and 600 adults).

Why is this use being proposed or reevaluated?

This use is being proposed in support of our partner, Mālama Hulē‘ia, and their five years of restoration efforts to improve waterbird habitat and cultural resources in the area. Mālama Hulē‘ia’s access to their property is not contingent on access through the Refuge. However, this community event, due to its scope, requires consideration of additional access routes to their property. This community event will focus on restoration of a culturally important loko i‘a (traditional Hawaiian fishpond) which allows the community to build a sense of stewardship for the fishpond and adjacent wetlands. The restoration of wetland areas adjacent to the Refuge is expected to provide long-term positive benefits for wetland habitat utilized by waterbird species in the area as well as strengthen community partnerships. The restoration of the ‘Alekoko Fishpond has been approved and permitted by the State of Hawai‘i Department of Land and Natural Resources (DLNR) since the pond is in the Resource and Limited subzones of the State Land Use Conservation District (DLNR 2022). The standard conditions and best management practices outlined in the DLNR permit would reduce impacts to listed species and improve the integrity of the loko i‘a.

Availability of Resources

The estimated cost for administering and managing this use is \$2,700. Costs consist of staff time to survey the area prior to the event; and the preparation of the CD, NEPA documentation, an ESA Section 7 consultation, and preparation of the Special Use Permit.

Anticipated Impacts of the Use

Potential impacts of a proposed use on the refuge's purpose(s) and the Refuge System mission

A large group of people travelling through the Refuge has the potential to disturb listed waterbird species, and associated habitat, for which the Refuge was established to protect (see short-term impacts below). However, we propose measures to monitor the use and minimize impacts to listed species. These restoration actions assist in fulfilling the Refuge purpose of protecting listed species by creating suitable habitat for nēnē and waterbird species adjacent to the Refuge.

Short-term impacts

The sloped area where people will walk through the Refuge is below Hulemanu Road and approximately 0.14 miles (669 feet) above 'Alekoko Fishpond. The total distance attendees will walk is approximately 0.28 miles (1478 feet) each way (Figure 2). Short term effects resulting from this use may include unintentional introduction of invasive species, noise associated with attendees accessing 'Alekoko Fishpond, and flushing or disturbance to listed waterbirds or nēnē which may be present in the area.

Invasive species may be unintentionally transported onto the Refuge through soiled clothing or work tools that are carried onto the Refuge. Mālama Hulē'ia will ensure attendees are aware of these concerns and address ways to avoid introductions.

Four waterbird species are known to forage and nest in the Hulē'ia area including the endangered 'alae ke'oke'o (Hawaiian coot, *Fulica alai*), the endangered koloa maoli (Hawaiian duck, *Anas wyvilliana*), the endangered 'alae 'ula (Hawaiian gallinule, *Gallinula galeata sandvicensis*), and the endangered ae'o (Hawaiian stilt, *Himantopus mexicanus knudseni*), hereafter collectively referred to as waterbirds. No critical habitat has been designated for these species. There are specializations within the wetland habitat for each waterbird species with 'alae 'ula utilizing predominantly freshwater areas nearshore while 'alae ke'oke'o utilize fresh or brackish open water areas. Ae'o utilize coastal, brackish, either fresh or saltwater habitats, mud flats, agricultural wetlands, and fishponds. Koloa maoli are generalists, utilizing diverse wetland habitats. Nēnē (Hawaiian goose, *Branta sandvicensis*) are threatened geese that are found on the islands of Hawai'i, Maui, Moloka'i, and Kaua'i. No critical habitat has been designated for this species. Nēnē are found in a variety of habitats but prefer open areas such as pastures, golf courses, wetlands, natural grasslands and shrublands, and lava flows. Noise from attendees who are crossing the Refuge on their way to 'Alekoko Fishpond could impact listed nēnē or waterbird species who utilize nearby wetland habitat for nesting. Loud noise may cause nēnē and waterbirds that are nesting in the area to be disturbed, and actions that occur close to nests may cause the bird to flush from the nest, exposing eggs or chicks to predation or causing the bird to abandon the nest completely. Since Service staff will assess the road for

safety and do a visual inspection for nēnē and waterbird species prior to arrival of attendees the day before, we do not anticipate effects to these species. Additionally, authorized agent the day of the event will also be assessing existing road/trails to be utilized. Listed birds may transit through the area, but are not likely to be nesting near areas that will be accessed by attendees as it is not the preferred nesting habitat for these species. Nesting is more probable in other areas of the Refuge that are closer to waterways, making interactions with event attendees unlikely (USFWS 2021).

Long-term impacts

Impacts from invasive species are not expected to cause long-term impacts to habitat or listed species. The Hulē‘ia stream has been overgrown with invasive mangrove plants for decades, and has only recently undergone restoration activities by partners such as Mālama Hulē‘ia. Malama Hulē‘ia is also versed in invasive species management and concerns of spreading invasives species and will address as part of their event ways to minimize potential transport of invasives. This will minimize the likelihood of new invasive species introduction to the habitat.

Noise from attendees crossing the Refuge is not likely to have long-term impacts to the habitat or species. Since this event will only take place for one day, a total of five hours total duration, it is unlikely that there will be any effects that extend beyond the day of the event.

Public Review and Comment

The draft compatibility determination will be available for public review and comment for 2 calendar days, from Wednesday October 18th to Thursday October 19th. The public will be made aware of this comment opportunity through posting on the Refuge Web site. A hard copy of this document will be posted at the Kauai National Wildlife Refuge Complex headquarters at Kilauea Point NWR. It will be made available electronically on the refuge website ([Hulē‘ia National Wildlife Refuge | U.S. Fish & Wildlife Service \(fws.gov\)](https://www.fws.gov/kauai)). Please let us know if you need the documents in an alternative format. Concerns expressed during the public comment period will be addressed in the final.

Determination

Is the use compatible?

Yes

Stipulations Necessary to Ensure Compatibility

The following stipulations will be implemented to ensure compatibility:

1. Access provided is for foot traffic only and participants will stay on existing refuge roads/trails.
2. To ensure access safety for both people and wildlife, Malama Hulē'ia will provide staff for the event that have expertise in biology, archaeology, safety, and medical procedures. Examples of such staff are biologists, archaeologists, medics, safety volunteers, and county fire department officials that can help guide access through the Refuge and provide on-site first aid and medical care if needed.
3. Malama Hulē'ia will take measures to minimize invasives species transport and spread.
4. Participants will not approach, feed, or disturb nēnē or waterbirds.
5. A Service biologist familiar with nēnē and waterbird nesting behavior will visually inspect the access route for the presence of nests within 3-days of the event and one day prior to the event.
6. On the day of the event Authorized agents would assess the path to 'Alekoko Fishpond to ensure that it is free from obstruction, and that there are no hazards that may pose a risk to wildlife or event attendees. Authorized agent would also assess the presence of listed waterbird species along the access route to ensure that no interactions with listed wildlife will occur.
7. Activities will occur during daylight hours only.
8. No littering, dumping refuse, abandoning equipment or materials, or otherwise discarding any items on the Refuge.
9. Dogs, cats, or other pets are prohibited, except for a service animal, as defined under Title II and Title III of the American Disabilities Act (1990). In order to reduce harassment, disease, and death of native wildlife, or transport of exotic or pest plant parts, insects, parasites, other undesirable species, or diseases, visitors are prohibited from bringing dogs, cats, or other pets with them to the Refuge, except as follows: Legitimate, leashed service guide animals could accompany people to open areas at open times on the Refuge. Attempting to control dogs with voice commands or allowing them to run free is prohibited on the Refuge.
10. All other areas of the Refuge are closed except by prior approval for access by the Refuge Manager.
11. Collecting or removing or disturbing any archaeological or historical artifacts, abiotic or biological specimens or samples, or mementos from any Refuge is prohibited.
12. In the event cultural resources are inadvertently disturbed and/or iwi (skeletal human remains) are discovered, the activity will cease and the Refuge manager will be notified. For iwi, the Refuge Manager, police, and Hawai'i Department of Land and Natural Resources should be notified as soon as possible and within 24 hours.
13. This use is weather dependent. If it rains on the day of the event to make Refuge roads/trails unsafe, Mālama Hulē'ia will use an alternative off Refuge

access route for the event. If it rains during the event to make Refuge roads/trails unsafe, attendees will exit the work site using the alternative off Refuge access route.

Justification

The Refuge is supportive of our partners and our collective efforts to conserve, manage, and restore fish, wildlife, plants, and their habitats. This event will not only help to restore important waterbird and wetland habitat, but also creates an opportunity for partnerships that foster wildlife conservation and stewardship of natural resources. The stipulations outlined above would help ensure that the use is compatible at Hulē‘ia National Wildlife Refuge. Providing access through the Refuge for a community workday on adjacent property, as outlined in this compatibility determination, would not conflict with the national policy to maintain the biological diversity, integrity, and environmental health of the refuge. Based on available science and best professional judgement, the Service has determined that right of access through Hulē‘ia National Wildlife Refuge, in accordance with the stipulations provided here, would not materially interfere with, or detract from the fulfillment of the National Wildlife Refuge System mission or the purpose of the Hulē‘ia National Wildlife Refuge. Rather, providing appropriate access would be the use of the Hulē‘ia National Wildlife Refuge through which habitat can be provided for listed species in the Refuge area.

Signature of Determination

Refuge Manager Signature and Date

Signature of Concurrence

Assistant Regional Director Signature and Date

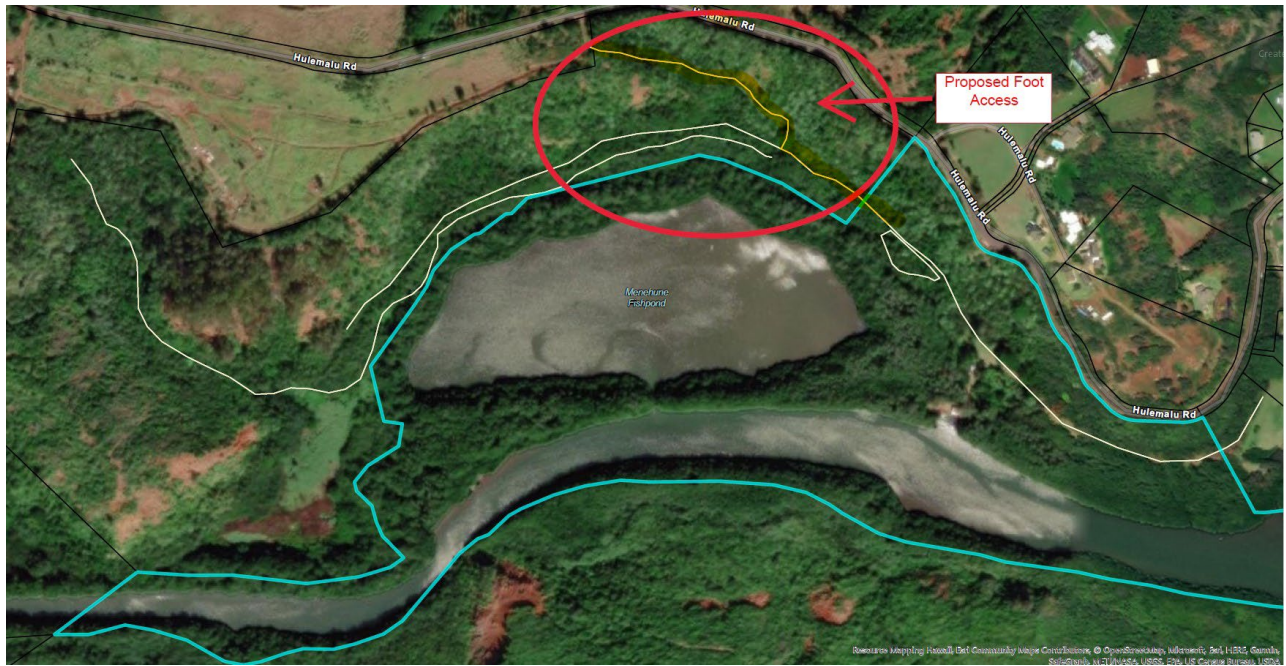


Figure 2. This map shows Mālama Hulē'ia property boundaries outlined in blue. White lines show existing roads that traverse the area. The portion of road highlighted in yellow and circled in red shows the proposed route of entry that attendees will walk to access 'Aleko Fishpond (Menehune Fishpond).