



DEPARTMENT OF THE ARMY
US ARMY INSTALLATION MANAGEMENT COMMAND, PACIFIC REGION
HEADQUARTERS, UNITED STATES ARMY GARRISON, HAWAII
851 WRIGHT AVENUE, WHEELER ARMY AIRFIELD
SCHOFIELD BARRACKS, HAWAII 96857-5000

REPLY TO
ATTENTION OF:

Office of the Garrison Commander

William J. Aila Jr., Chairperson
State of Hawaii
Department of Land and Natural Resources
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Aila:

Concerning Right of Entry (ROE) number FW-2011-H-02, the 25th Combat Aviation Brigade requests the ROE effective/expiration dates of October 3, 2011/October 31, 2011 be changed to October 11, 2011 and November 7, 2011, respectively.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug S. Mulbury", is written above the typed name.

Douglas S. Mulbury
Colonel, US Army
Commanding

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. ADA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM AL TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONSULTANCIES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

RIGHT OF ENTRY
FOREST RESERVE SYSTEM

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL STREET # 325, HONOLULU, HI 96813

Right of Entry No. FW-2011-H-02

EFFECTIVE: October 1, 2011

EXPIRATION: October 31, 2011

RESERVE: Portion of Mauna Kea Forest Reserve, Hamakua, Hawaii, TMK (3)4-4-015:001 portion and Mauna Loa Forest Reserve, North Hilo, Hawaii, TMK (3)3-8-001:001 portion

TO: Lt. Col. Rolland Niles
PTA Commander
United States Army Garrison Pohakuloa
Tel. (808) 969-2400
Fax. (808) 438-1643
E-mail: Rolland.niles@us.army.mil

The United States Army Garrison Pohakuloa, request dated July 12, 2011, seeks high altitude mountainous environment training within a portion of the Mauna Kea and Mauna Loa Forest Reserves.

Pursuant to the authority granted by Chapter 183 Hawaii Revised Statutes and Section 13-104-4(5), Hawaii Administrative Rules, and approved by the Board of Land and Natural Resources at their meeting on September 9, 2011, the United States Army Garrison Pohakuloa (Army) is hereby granted a Right of Entry to enter and occupy the Mauna Kea Forest Reserve, TMK (3)4-4-015:001, portion, and Mauna Loa Forest Reserve, TMK (3)3-8-001:001, portion, for the period of October 1, 2011 to October 31, 2011 to conduct high altitude mountainous environment training. The period of this Right of Entry may be extended by the Chairperson of the Board of Land and Natural Resources for good cause, such as delays due to inclement weather. In no event shall this Right of Entry be extended for more than an additional thirty (30) day period. All activities are to occur within TMKs (3)4-4-015:001 and (3)3-8-001:001 consisting of six landing zone (LZ) sites shown on the attached map.

**THIS RIGHT OF ENTRY IS GRANTED SUBJECT TO
THE FOLLOWING TERMS AND CONDITIONS**

SPECIAL CONDITIONS:

1. The Army shall have an exclusive right to occupy and use the landing zone areas during the period specified above. The Army and the State have agreed that the Army will not be charged a fee to enter the landing zone areas to conduct High Altitude Mountainous Environment Training exercises.
2. The Army shall disseminate proper notice to the public via news releases and postings at the Kilohana Hunter Check Station bulletin board, of the time, date and area (maps) to be affected by their training activities three (3) days prior to training. Notification will be maintained during the training period and removal on completion of training is required.
3. Flight avoidance area near Pu'u Mali: the Army will keep all flights at least 1 kilometer away from Pu'u Mali and 2000 feet above ground level to mitigate helicopter disturbance to the Palila release project in the Pu'u Mali area.
4. The Army will keep flight paths over forested areas and shall be at least 2,000 feet above ground level under normal flight conditions (adverse weather conditions may reduce this, as needed, for flight safety). Flight elevations in transition to and from Pohakuloa Training Area (PTA) and during high altitude touch-and-go training will be at lower elevations.
5. The natural and cultural resources staff at the PTA shall prepare and present briefs for all personnel participating in the high altitude training exercise prior to the commencement of training. The briefings shall characterize the natural and cultural resources of Mauna Kea and Mauna Loa, their distribution and their significance. The general content of these briefings will be discussed with appropriate staff of the State prior to the briefing sessions.
6. All aircraft participating in training will be equipped with operational GPS units and provided a list of GPS points defining the approved landing areas. Included on the list will be areas to avoid including, but not limited to, the Mauna Kea Ice Age Natural Area Reserve, Kipuka 'Āinahou Nene Sanctuary, and Pu'u Mali.
7. The Army shall notify the Office of Mauna Kea Management at (808) 933-0734 prior to training.
8. Helicopter training on these sites are not allowed during weekends and holidays.
9. Overnight helicopter training is allowed on weekdays.
10. Motor vehicles shall be used only on established roadways.

11. The Army shall put measures in place to eliminate the potential transfer of ants from the United States Army Garrison Pohakuloa Airfield on helicopters to the Mauna Kea and Mauna Loa Forest Reserve landing sites.
12. The Army shall put measures in place to apply pesticides and herbicides, as needed, to the helicopter landing pads located at the PTA to reduce the potential for spread of invasive species.

GENERAL CONDITIONS:

1. The Army shall provide briefings and procedures to all participants in the training exercise to emphasize the importance of the natural and cultural resources of Mauna Kea and Mauna Loa. The Army shall include a description of flight lines or corridors to be followed and Department of Land and Natural Resources (DLNR) reserves the right to restrict or limit the flight paths based on neighboring natural and/or cultural resources.
2. The Army shall use due care for public safety, and shall take every precaution to avoid damaging the landing zone areas and any improvements located thereon.
3. All tools, equipment, improvements and other property taken onto or placed upon the landing zone areas by the Army shall remain the property of the Army and shall be removed by the Army when the training exercise is completed prior to the expiration of this Right of Entry.
4. The Army will be prohibited from damaging any vegetation for any reason, and shall be confined to existing roads and trails should ground access be required. No ground disturbance or modification will occur other than that resulting from the landing and lifting off of the helicopters.
5. The Army agrees to be responsible for damages arising from the activity of the Army, its officers, employees, or representatives in the exercise of the right and privileges hereunder, either by repairing such damage or, at the option of the Army, by making the appropriate cash settlement with the DLNR in lieu thereof.
6. The Army shall indemnify, defend, and hold harmless the State of Hawaii, its officers, agents, and employees from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the Army, its employees, agents, or officers under this Right of Entry. The provisions of this paragraph shall remain in full force and effect notwithstanding the revocation, expiration, or termination of this Right of Entry. The purchase of liability insurance shall not relieve the Army of the obligations described herein.
7. The Army shall pay all costs, including reasonable attorney's fees, and expenses which may be incurred by or paid by the State in enforcing the covenants and agreements of this Right of Entry, in recovering possession of the Premises, or in the collection of delinquent rental, taxes, and any and all other charges.

8. No ordinance or training ammunition will be used. Prior to vacating the area, the Army shall leave the area in a clean and orderly condition similar to that existing at the time of entry. The Army shall be responsible for any damage to roads or infrastructure. The Army shall provide immediate fire suppression and incur any costs associated with such activity, as agreed to under General Condition "5" of this Right of Entry, if the training mission causes a wildfire.
9. DLNR may file a claim with the Army for reimbursement for use of staff and resources should potential violations of State laws warrant investigation or if staff and/or resources are required for any fire control or debris removal efforts resulting from the training exercise.
10. The Army shall conduct all landings above the tree line to avoid active hunting.
11. The Army will conduct a detailed crew briefing daily for all crew members to emphasize the need to land only in approved areas and to remain only in designated flight paths.
12. The Army, its consultants, contractors and/or persons acting for or on its behalf, shall obtain the appropriate Right of Entry, if any are required, for the work from applicable government agencies.
13. At all times herein, the Army, its consultants, contractors and/or persons acting for or on its behalf shall keep the Right of Entry area or premises in a strictly clean, sanitary and orderly condition.
14. No alcoholic beverages are permitted in Mauna Kea and Mauna Loa Forest Reserve or allowed in conjunction with this Right of Entry.
15. No open fires or burning of any kind are permitted in Mauna Kea and Mauna Loa Forest Reserve or allowed in conjunction with this Right of Entry.
16. The Army shall employ best management practices to avoid soil erosion.
17. The Army, its consultants, contractors and/or persons acting for or on its behalf shall not cause the escape, disposal or release of any hazardous materials except as permitted by law. The Army, its consultants, contractors and/or persons acting for or on its behalf shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the Right of Entry area or premises any such materials except to use in the ordinary course of business of the Army, its consultants, contractors and/or persons acting for or on its behalf, and then only after written notice is given to DLNR of the identity of such materials and upon DLNR's consent which consent may be withheld at the DLNR's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by the Army, its consultants, contractors and/or persons acting for or on its behalf, then the Grantee, its consultants, contractors and/or persons acting for or on its behalf shall be responsible for the cost thereof. In addition, the Army, its consultants, contractors and/or persons acting for or on its behalf shall execute affidavits, representations and the like from time to time at the DLNR's request concerning the best knowledge and belief of the Army, its consultants,

contractors and/or persons acting for or on its behalf regarding the presence of hazardous materials on the Right of Entry area or premises placed or released by the Army, its consultants, contractors and/or persons acting for or on its behalf.

For purposes of this Right of Entry, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

18. The Army, its consultants, contractors and/or persons acting for or on its behalf in the exercise of this Right of Entry shall use appropriate precautions and measures to minimize inconveniences to surrounding residents, landowners, and the public in general.
19. In the event any unanticipated sites, historic properties, burial sites as defined in section 6E-2, Hawaii Revised Statutes, or remains such as bone or charcoal deposits, rock or coral alignments, paving or walls are encountered, the Army, its consultants, contractors and/or persons acting for or on its behalf in the exercise of this Right of Entry shall stop work and contact the State Historic Preservation Division in Kapolei at (808) 692-8015 immediately.
20. The Army, its consultants, contractors and/or persons acting for or on its behalf, in the exercise of the rights granted herein, shall comply with all of the requirements of the federal, state, and Army authorities and shall observe all Army ordinances and state and federal laws, rules and regulations, now in force or which may hereinafter be in force.
21. The Army, its consultants, contractors and/or persons acting for or on its behalf shall maintain and employ debris, pollution and contamination control measures, safeguards and techniques to prevent debris, pollution or contamination to the ocean waters, streams or waterways resulting from the use, maintenance, repair and operation of the Right of Entry area or premises by the Army, its consultants, contractors and/or persons acting for or on its behalf, and shall take immediate corrective action in the event of such pollution or contamination to immediately remove the cause of such pollution or contamination, and shall immediately clean the Right of Entry area or premises and its surrounding waters of such pollutant or contaminant and restore to DLNR satisfaction the areas affected by such pollution or contamination, all at the cost and expense of the Army, its consultants, contractors and/or persons acting for or on its behalf.
22. All disputes or questions arising under the Right of Entry shall be referred to the Chairperson of the Board of Land and Natural Resources for a determination and resolution of the dispute or question. The Chairperson's decision shall be final and binding on the parties herein.
23. This Right of Entry is revocable and terminable at anytime for any reason in the sole and absolute discretion of the DLNR Chairperson.
24. This Right of Entry or any rights hereunder shall not be sold, assigned, conveyed, leased, let, mortgaged or otherwise transferred or disposed.

25. The Department of Land and Natural Resources reserves the right to impose additional, but responsible terms and conditions, as it deems necessary while this Right of Entry is in force.
26. Persons in violation of the terms and conditions of this Right of Entry and /or related or appropriate laws may be subject to criminal and or administrative penalty under Hawaii Revised Statutes §171-6.4 §171-31.6, §183C-7, §183D-5, §183D-12, §195-8, §195D-8, §195D-9, §195D-27, §195D-28, Hawaii Administrative Rules §13-107-8, §13-124-8, §13-209-6, or as otherwise provided by law.

DEPARTMENT OF LAND AND NATURAL RESOURCES

_____ Date: _____, 2011
William J. Aila, Jr.
Chairperson
Board of Land and Natural Resources

ACCEPTED:

_____ Date: _____, 2011
Lt. Col. Rolland Niles
PTA Commander
United States Army Garrison Pohakuloa

cc: Mr. Paul J. Conry, DOFAW
Mr. Roger H. Imoto, DOFAW
DOCARE Hawaii

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. A.H.A., JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

GUY H. KAI LUKU KU
DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCES MANAGEMENT
CONSERVATION AND CULTURAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORY, PRESERVATION
KAIKOLA WILDLIFE RESERVE COMMISSION
LAND
STATE PARKS

RIGHT OF ENTRY
FOREST RESERVE SYSTEM

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL STREET # 325, HONOLULU, HI 96813

Right of Entry No. FW-2011-H-02

EFFECTIVE: October 1, 2011

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RESERVE: Portion of Mauna Kea Forest Reserve, Hamakua, Hawaii, TMK (3)4-4-015:001 portion and Mauna Loa Forest Reserve, North Hilo, Hawaii, TMK (3)3-8-001:001 portion

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6. The Army shall indemnify, defend, and hold harmless the State of Hawaii, its officers, agents, and employees from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the Army, its employees, agents, or officers under this Right of Entry. The provisions of this paragraph shall remain in full force and effect notwithstanding the revocation, expiration, or termination of this Right of Entry. The purchase of liability insurance shall not relieve the Army of the obligations described herein.
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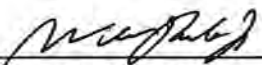
contractors and/or persons acting for or on its behalf regarding the presence of hazardous materials on the Right of Entry area or premises placed or released by the Army, its consultants, contractors and/or persons acting for or on its behalf.

For purposes of this Right of Entry, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

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20. The Army, its consultants, contractors and/or persons acting for or on its behalf, in the exercise of the rights granted herein, shall comply with all of the requirements of the federal, state, and Army authorities and shall observe all Army ordinances and state and federal laws, rules and regulations, now in force or which may hereinafter be in force.
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DEPARTMENT OF LAND AND NATURAL RESOURCES



William J. Aila, Jr.
Chairperson
Board of Land and Natural Resources

Date: 9/15/11, 2011

ACCEPTED



Lt. Col. Rolland Niles
PTA Commander
United States Army Garrison Pohakuloa

Date: 9/23/11, 2011

cc: Mr. Paul J. Conry, DOFAW
Mr. Roger H. Imoto, DOFAW
DOCARE Hawaii