June 2, 2022

Michael Donnelly  
ATLR PTA EIS Comments  
P.O. Box 3444  
Honolulu, Hawaii 96801-3444

Subject: Draft Environmental Impact Statement for the Army Training Land Retention at Pōhakuloa Training Area, Hawaii (EIS No. 20220046)

Dear Mr. Donnelly:

The U.S. Environmental Protection Agency has reviewed the above-referenced document pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The Army proposes to retain up to approximately 23,000 acres of State-owned land at Pōhakuloa Training Area (PTA) in support of continued military training. Retention would occur through attainment of a land interest (i.e. real estate action) prior to the August 16, 2029 expiration of the 1964 lease, so the Army could continue ongoing activities on the retained State-owned land. The Draft Environmental Impact Statement evaluates the potential environmental impacts of 3 alternatives: Alternative 1- Full retention of 23,000 acres; Alternative 2 – modified retention of 19,700 acres; and Alternative 3 -Minimum retention of approximately 10,100 acres and 11 miles of select roads and training trails. The Army does not identify a preferred alternative.

The DEIS emphasizes that the Proposed Action is a real estate action that would enable continuation of ongoing activities on the retained State-owned land; however, the DEIS does not evaluate or specify how impacts would differ among the potential land retention estates (title, lease, easement, and license). The decision on the type of land retention estate to be used is deferred to the period after the Record of Decision is signed when the Army negotiates with the State regarding this decision. The impact assessment is based on land retention via title (ownership through fee simple title) only, reasoning that this option would have the most impacts because it would not include potential conditions associated with the other land retention estates.

The impact assessment requirement under the National Environmental Policy Act is meant to inform decision-makers of impacts prior to decision-making. The DEIS evaluates the question of how much land would be retained, but not how the land would be retained. Both questions will be the subject of decision-making; therefore, we recommend both questions be considered in the impact assessment, particularly because it is not clear whether the post-ROD negotiation and decision-making process would include the opportunity to compare impacts or allow for public involvement. We recommend the final EIS include discussions for those resources where important impact differences exist among land retention methods. We suggest this occur for environmental justice, and for impacts from munitions and explosives of concern (MEC), which includes unexploded ordinance, discarded military munitions, and
munitions constituents, but other resource areas may also call for such evaluation. Please see our attached detailed comments for additional discussion of our suggestions on this and other topics, including cultural resources and climate change effects.

The EPA appreciates the opportunity to review this DEIS. When the FEIS is released for public review, please provide an electronic copy to Karen Vitulano, the lead reviewer for this project, at vitulano.karen@epa.gov. If you have any questions, please contact me at (415) 947-4167, or contact Karen at 415-947-4178 or via email.

Sincerely,

JEAN PRIJATEL

Jean Prijatel
Manager, Environmental Review Branch

Enclosure: EPA’s Detailed Comments

cc: Sina Pruder, Hawaii Department of Health
    Russell Tsuji, Hawaii Department of Land and Natural Resources
Impacts from Land Retention Methods
We note that the DEIS is a joint federal and state impact assessment and the Hawaii EIS Preparation Notice in 2020 indicated that the DEIS would only evaluate title (full ownership), because that land retention method would result in the greatest impacts. Our scoping comments (October 8, 2020) suggested that alternatives could be created to compare impacts of the different possible retention methods; however, the DEIS states that the appropriate land retention estate and method would be determined after the EIS process during negotiations with the State of Hawaii. It is not clear whether any impact assessment would be part of the post-EIS negotiations and decision-making, nor whether the public would be invited to comment.

There are important differences in potential impacts from different land retention methods for at least two impact areas: environmental justice and MEC (munitions and explosives of concern, which includes unexploded ordinance, discarded military munitions, and munitions constituents). We recommend these impacts be disclosed and compared in the FEIS, even if not evaluated as full NEPA alternatives. Our concerns and recommendations are discussed below.

Environmental Justice
We appreciate the discussion in the DEIS regarding the history of land tenure, documented in the Land Use section. There are continuing effects from this history that weigh on members of the Native Hawaiian community, expressed through comments during scoping, that are not captured in the EIS; these remarks were reiterated during public meetings for the DEIS.¹ These comments reference cultural attachment to the land, distress that their native lands were wrongly taken, and a general sense of historical inequity. The comments specifically describe the $1.00 fee paid by the Army in 1964 for the 65-year lease as an example of inequity. While the post-EIS negotiations could offer the opportunity to remedy historical injustices, without a clear documentation of differing impacts among land retention options in the EIS, some impacts may not be fully considered.

Recent Executive Orders direct the entire Federal Government to advance equity and racial justice for underserved communities including Native Hawaiian/Pacific Islander communities. Executive Order 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021) directs federal agencies to evaluate whether their policies produce racially inequitable results when implemented, and to make the necessary changes to ensure underserved communities are properly supported. Executive Order 14031: Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders (May 28, 2021) seeks to eliminate barriers to equity and justice for these populations. We also note that the Department of Defense’s Equity Action Plan, pursuant to EO 13985, includes a strategy “to advance equity and rectify past harms” resulting from environmental and other impacts from defense activities on ancestral lands.² These directives and DoD’s Equity Action Plan should be considered in the context of the project to help guide decision-making.

Additionally, the guidance document *Promising Practices for EJ Methodologies in NEPA Reviews*3 may be helpful to consult when determining how non-chemical stressors (e.g., chronic stress related to environmental or socio-economic impacts) amplify impacts. “The cumulative ecological, aesthetic, historic (emphasis added), cultural, economic, social, or health effects of a proposed action can arise from and also include non-chemical stressors” (Promising Practices, p. 32).

**Recommendations:** In the FEIS, consider how the permanent loss of State land through fee simple retention differs from retention through non-permanent mechanisms such as leases, etc. and discuss impacts related to these land retention mechanisms. Consider how these mechanisms could be received by the public, including communities with environmental justice concerns, in the unique historic context of the affected environment. We recommend that conclusions regarding environmental justice impacts attempt to reflect the mental and emotional health impacts and the larger cumulative sense of loss and injustice, and not only the impacts to specific resources (e.g., transportation, recreation/hunting, or to cultural resource access). After reviewing comments on the DEIS and identifying these additional military land use impacts on environmental justice, identify mitigation measures in the FEIS. Examples could be establishing regular communication channels to strengthen relationships with the Native Hawaiian community, and in consultation, exploring other State-owned military lands that may be underutilized and could be repurposed for community use.

**Munitions and Explosives of Concern**
It appears that lease conditions could offer some resource protections regarding MEC that would be absent under fee simple retention. The DEIS does not include a discussion of the differences in management of MEC under fee simple ownership by the Army – pursuant to the Resource Conservation and Recovery Act (RCRA) Military Munitions Rule – and under a lease with the State that could contain conditions to address contamination while the range is still active. While future negotiated lease conditions are not known, some reasonable assumptions can be made for the purposes of the assessment. The DEIS includes such assumptions, for example on page 3-83 it states, “If the State-owned land were to be retained via lease, it is assumed a lease compliance monitoring plan would be implemented by [Department of Land and Natural Resources] to confirm lease compliance, particularly with respect to military munitions and MEC.” Statements like these in the DEIS allude to possible differences in environmental impacts from MEC under different land retention methods, but the impacts are not assessed nor presented in a manner that evaluates their comparative merits.

**Recommendation:** Include a table or discussion in the FEIS that presents a comparison of impacts from managing unexploded ordnance, discarded military munitions, and munitions constituents for the different land retention methods. Identify assumptions as applicable.

**Cultural Resource Impacts**
The DEIS identifies long-term, adverse impacts associated with ongoing training activities (p. 128),4 but concludes that these impacts would be moderate but less than significant under its current management and mitigations via Army cultural resource programs and the 2018 Programmatic Agreement pursuant to the National Historic Preservation Act. Impacts to traditional and customary practices and cultural access were evaluated for the first time in the DEIS and determined to be long-term, adverse and significant due to current access restrictions (p. 3-63). The DEIS conclusion is “significant but

---


4 Including damage to sites from subsurface excavations related to troop training, damage from maneuvers and ground troops, possible damage from live fire, cleanup of UXO, and accidental damage or vandalism.
mitigable” with mitigation being consultation with Native Hawaiians and providing access to promote and protect cultural beliefs, practices, and resources.

While the cultural resources section does not state whether this mitigation would reduce impacts to less than significant, the environmental justice section of the DEIS concludes that providing access for traditional and customary practice would reduce impacts for cultural resources to less than significant (p. 3-152). It is unclear whether this conclusion is supported by the Native Hawaiian community. For example, for Makahiki, a ceremonial practice, the Cultural Impact Assessment reveals that Native Hawaiian practitioners have continuously sought access within the project area, and in recent years, practitioners have been allowed limited day access with escorts to conduct the ceremony (App. E p. 310).

**Recommendation:** Disclose in the FEIS whether the impacted Native Hawaiian community agrees that proposed mitigation is sufficient to conclude impacts to access are less than significant. We recommend continued coordination with Native Hawaiian practitioners to ensure mitigation measures allow for the most authentic practice during access opportunities, and a commitment to such measures in the Record of Decision.

**Climate Change**
According to the Army Climate Assessment Tool, drought is by far one of the greatest climate change threats to PTA and is predicted to be the greatest threat by 2050 (p. 3-91). The DEIS also states that wildfire risk at PTA is relatively low, despite other statements that “wildfires at PTA are considered frequent and the average yearly wildfire occurrence from 2012 through 2017 was 37 per year” (p. 3-205). The DEIS acknowledges the connection between fires and military activity; however, the climate change analysis does not mention increased wildfire risk, nor its connection with predicted increased drought at PTA.

The DEIS also states that unlike the criteria pollutants, greenhouse gases (GHGs) are global pollutants that have no impact on local and regional air quality (p. 3-89). While it’s true that GHGs are pollutants with global impacts, the sentence as written implies GHG emissions are not a local or regional concern, despite indirect air quality impacts from climate change caused by GHGs. We note that the 2018 Intergovernmental Panel on Climate Change Report\(^5\) indicates that regions that experience excessive periods of drought and higher temperatures will have increased frequency of wildfires and more windblown dust from soils. It also states there is robust evidence from models and observations that climate change is worsening ozone pollution.

The criterion used to assess whether an alternative would result in potential significant impacts on GHG emissions is the “extent or degree to which an alternative would meaningfully (measurably) contribute to the potential impacts of global climate change” (p. 3-92). This is not a reasonable methodology for a cumulative impact such as climate change and does not appear to be consistent with the 2016 CEQ climate change guidance (“CEQ recognizes that the totality of climate change impacts is not attributable to any single action, but are exacerbated by a series of actions”).\(^6\)

**Recommendation:** Include a discussion of wildfire risk, and its relation to drought and air quality in the climate change impact analysis in the FEIS. Clarify the statement regarding GHGs and how they relate to local air quality impacts to include the indirect impacts to local air quality

\(^5\) See [https://nca2018.globalchange.gov/chapter/13/](https://nca2018.globalchange.gov/chapter/13/)
identified above and in the IPCC Report. We recommend improving the impact assessment and conclusions by discussing GHG emissions relative to State GHG emission reduction targets, consistent with CEQ Guidance, and how current training can reduce emissions going forward.

**Utilities - Wastewater**

The DEIS states that portable latrine facilities are permanently sited at the Battle Area Complex (p. 3-195). We understand that State of Hawaii regulations generally prohibit the use of portable toilets in permanent situations (See section 11-62-06(e) of Hawaii Administrative Rules).⁷

**Recommendation:** Work with the Hawaii Department of Health to confirm approval of the permanent portable latrines and include this information in the FEIS.

---