# Hale Hālāwai Force Main Replacement Project

## Supporting Documentaion for State Revolving Fund Enviromental Compliance

## Hawaii Revised Statutes Chapter 343 and Federal Environmental Cross-Cutter Compliance Documentation

# 1

HRS Chapter 343 Exemption Declatation

**Mitchell D. Roth**
*Mayor*

**Deanna Sako**
*Managing Director*

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*Deputy Director*

# County of Hawai'i

## DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

345 Kekūanāo'a Street, Suite 41 · Hilo, Hawai'i 96720 · cohdem@hawaiicounty.gov
Ph: (808) 961-8083 · Fax: (808) 961-8086

TO: 1. Department of Environmental Management - Maintained Public Files for Chapter 343 HRS Exemption Determinations, Hawai'i Revised Statutes
2. Office of Planning and Sustainable Development (Environmental Review Program)

SUBJECT: Exemption Declaration for Hale Hālāwai Force Main Replacement

DATE: 1/9/2024

AGENCY OR APPLICANT ACTION

Check applicable box

☒ This exempted action is an agency action as defined by Section 343-5(b), Hawai'i Revised Statutes (HRS), and Section 11-200.1-8, Hawai'i Administrative Rules (HAR),

☐ This exempted action is an applicant action as defined by Section 343-5(e), HRS, and Section 11-200.1-9, HAR

EXEMPTION TYPE:

The Exemption Notice for the action described below is based on the general types enumerated in Section 11-200.1-15(c), Hawai'i Administrative Rules (HAR), Exemption Type **2**.

As applicable, the exemption for the action described below is also supported by the Exemption List for the Department of Environmental Management, reviewed and concurred to by the Environmental Council on 1/8/2019.

- Exemption List Class **2**.
- Item Number **26**.
- Applicable language from the exemption list: Sanitary sewer line modification or replacement in generally the same alignment, or an adjacent parallel alignment, and with the same diameter pipe.
- Item Number **31**.
- Applicable language from the exemption list: Sanitary sewer temporary bypass incidental to sewer line rehabilitation, modification, or replacement.

DESCRIPTION OF ACTION

Brief Description of the Action:

Replacement of the existing Hale Hālāwai sewer force main located under the Hualālai Road from Ali'i Road to Kuakini Highway. The project will construct approximately 900 linear feet of new 12-inch diameter PVC pipe to serve as the new primary force main, replacing the existing line. The

existing 12-inch diameter force main will be rehabilitated and serve as a back up to the proposed replacement. The new force main will run parallel to the existing at approximately the same depth. A sanitary sewer temporary flow bypass will be used during the installation of the force main.

Anticipated Start Date: 11/3/2024

Anticipated End Date: 2/1/2027

Project Name & Address/Location: Hale Hālāwai Force Main Replacement
Hualālai Road from Ali'i Road to Kuakini Highway

Island and District: Hawai`i, North Kona

Tax Map Key(s): (3) 7-5-007:999 (Road Right-of-Way), (3) 7-5-008:010 and 999 (Road Right-of-Way) and (3) 7-5-022:175

CONSULTATION

The following agencies have been consulted about this declaration exemption or potential effects of the action:

Federal Agencies

United States Fish and Wildlife Service (USFWS)

State Agencies

Department of Land and Natural Resources, State Historic Preservation Division (SHPD)

County of Hawai'i

Department of Public Works

Planning Department

Department of Water Supply

CONCERNS/POTENTIAL IMPACTS

I have considered the potential effects of the proposed project and all related activities against the criteria checked below:

| | Not Applicable |
|---|---|
| ☒ Land Use and Zoning Conformance | ☐ |
| ☒ Traffic (Vehicles, Bicycles, Pedestrian) | ☐ |
| ☒ Infrastructure (Roads, Buildings, Utilities) | ☐ |
| ☒ Air Quality Pollutant Emissions | ☐ |
| ☒ Noise Emissions | ☐ |
| ☒ Solid, Hazardous, and Liquid Waste Management | ☐ |
| ☐ Social | ☒ |
| ☒ Economic | ☐ |
| ☒ Health and Safety | ☐ |
| ☒ Recreation | ☐ |
| ☒ Public Beach Access | ☐ |

| | |
|---|---|
| ☒ Historic, Cultural, and Archaeological Resources and Practices | ☐ |
| ☒ Visual/Aesthetic | ☐ |
| ☒ Environmental Justice | ☐ |
| ☒ Rare, Threatened, and/or Endangered Species | ☐ |
| ☒ Surface and Ground Water Resources | ☐ |
| ☒ Wetlands | ☐ |
| ☐ Floodplains | ☒ |
| ☐ Riparian/Coastal Resources | ☒ |
| ☐ Other | ☒ |

Briefly describe concerns and potential adverse environmental, social, and cultural impacts relating to the action, and/or exemption, and remediation (mitigation) measures, and basis for exempting the action from further environmental review:

Land Use and Zoning
The proposed project does not include any changes to existing land use and does not involve any construction or modification of buildings or above ground structures.

Traffic
Design drawings will include traffic control plans for lane closures, detours, and other traffic management.

Infrastructure (Roads, Buildings, Utilities)
To avoid potential impact to other subsurface utilities, the design for the new force main will comply with all County of Hawai'i utility clearance requirements. All trenches will be backfilled, and the roadway will be restored to existing conditions or better.

Air Quality Pollutant Emissions
The proposed project does not include grading or significant ground disturbance, only minor trenching for utility installation and pavement restoration. Therefore, impacts to air quality from fugitive dust are not anticipated. However, standard requirements for the control of visible fugitive dust will be incorporated into the project plans and specifications, including compliance with HAR Section 11-60.1-33, Fugitive Dust.

Noise Emissions
Construction activities will result in a short-term increase in noise levels in the surrounding area. The type of construction activities proposed are not anticipated to result in significant noise impacts. Any potential impacts would be mitigated through compliance with HAR Section 11-46, Community Noise Controls. The Contractor will be required to secure a noise permit and/or noise variance based on their operations and the requirements specified HAR Section 11-46.

Solid, Hazardous, and Liquid Waste Management
The project is not anticipated to result in the generation of significant quantities of solid, hazardous, or liquid waste. The existing force main will be rehabilitated in place. Excavated material will be reused for backfill. All concrete and asphalt waste and other construction debris will be disposed of at an approved Department of Health (DOH) permitted facility in compliance with HAR 11-58.1, Solid Waste Management Control.

Economic
The construction activities are not anticipated to have a significant impact on the adjacent businesses. There will be roadway detours, but pedestrian access to these businesses will be maintained.

Health and Safety
The Contractor will implement appropriate health and safety protocol and requirements, including the use of personal protective equipment. Measures will be taken to prevent the public from entering the active work area and all trenches and excavation will be securely covered and marked when not in use.

Recreation and Public Beach Access
Hale Hālāwai Park will remain open during construction. Public access to the beach / rocky shoreline will not be impacted. A small section of the park near the intersection of Hualālai Road and Ali'i Road will be temporarily affected by construction activities and the temporary sewer bypass. The noise from the construction activities may have a temporary impact on recreational experience and activities at Hale Hālāwai Park.

Historic, Cultural, and Archaeological Resources and Practices
The project has been reviewed by the SHPD in accordance with HRS Chapter 6E-8 and SHPD has concurred with a determination of no historic properties affected. Consultations under the National Historic Preservation Act (NHPA) Section 106 are in progress. Based on a literature review there are no previously identified historic properties in the Area of Potential Effect (APE) from the proposed undertaking. Six historic properties listed or potentially eligible for listing on the Hawai'i or National Register of Historic Places (NRHP) were identified within 300 to 1,000 feet of the project area. These include Moku'aikaua Church (SIHP No. 50-10-28-7231 / NRHP No. 78001015); Hulihe'e Palace (SIHP No. 50-10-28-7001 / NRHP No. 73000653); Saint Michael the Archangel Catholic Church (SIHP No. 50-10-37-7232); Thurston House Ruins (SIHP No. 50-10-28-7248); Springer House (SIHP No. 50-10-37-7233); unnamed site consisting of mortared stone structures and a complex of boundary walls (SIHP No. 50-10-28-24184 and -24185). All of these properties are located over 300 feet from the project area and will not be affected. The project area was previously disturbed during the original construction of the existing force main and roadway. Based on review of prior archaeological literature there have not been any significant subsurface archaeological finds in the project vicinity. Soil types in the project area are Waiaha-Punalu'u-Lava flows complex on 2 to 10 percent slopes and Kainaliu-Waiaha complex on 10 to 20 percent slopes, which are not generally associated with the discovery of *iwi kupuna*. The project area may overlap with former habitation and agricultural area, such as the Kona Field System. In the event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes are identified during the construction, work will cease in the immediate vicinity of the find, the find will be protected from additional disturbance, and the SHPD will be contracted. With the implementation of this measure and based on the information presented above, impacts to historic, cultural, and archaeological resources are not anticipated.

Visual and Aesthetic
The project will not construct any permanent above ground buildings or structures that could result in visual impacts or obstruct existing views. All disturbed areas will be restored to existing conditions or better.

Environmental Justice
The proposed force main replacement will not disproportionately impact any disadvantaged communities.

Rare, Threatened, and/or Endangered Species

The USFWS online Information for Planning and Consultation (IPaC) tool was used to obtain an official species list for the project area and USFWS general design guideline for the avoidance and minimization of impacts to listed species. Based on the information provided by USFWS the following listed wildlife species have the potential to be found in or transit through the project area, the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*), the endangered band-rumped storm-petrel (*Oceanodroma castro*), the endangered Hawaiian petrel (*Pterodroma sandwichensis*), the threatened Newell's Townsend's shearwater (*Puffinus auricularis newelli*), the endangered Hawaiian duck (*Anas wyvilliana*), the endangered Hawaiian coot (*Fulica americana alai*), the endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), the threatened Hawaiian goose (*Branta sandvicensis*), the threatened green sea turtle (Chelonia mydas), the endangered Blackburn's sphinx moth (*Manduca blackburni*).

The Hawaiian hoary bat roosts in both exotic and native woody vegetation across all islands and will leave young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet or taller are cleared during the pupping season, there is a risk that young bats could inadvertently be harmed or killed. Additionally, Hawaiian hoary bats can become entangled in barbed wire used for fencing. The project does not involve any disturbance, removal or trimming of trees or shrubs greater than 15 feet tall and does not include the installation of any barbed wire fencing, therefore the project is not likely to adversely affect Hawaiian hoary bats.

Threatened and endangered Hawaiian seabirds including the band-rumped storm-petrel, Hawaiian petrel, and Newell's Townsend's shearwater may fly over the project area at night during the breeding, nesting and fledging seasons (March 1 to December 15). Outdoor lighting could result in seabird disorientation, fallout, and injury or mortality. Seabirds are attracted to lights and after circling the lights they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators. Young birds (fledglings) flying over the project area between September 15 and December 15, in their first flights from their mountain nests to the sea, are particularly vulnerable to light attraction. To avoid and minimize potential project impacts to seabirds all construction activities will take place during daylight hours. In the unlikely event that night construction is required all lighting will be downward facing and fully shielded so the light of the bulb can only be seen from below. Further nighttime construction will be avoided during the seabird fledging period from September 15 to December 15. The project does not include an installation of new permanent outdoor lighting. With implementation of the measures described above the project is not likely to adversely affect Hawaiian seabirds.

Endangered Hawaiian waterbirds including the Hawaiian duck, Hawaiian coot, and Hawaiian stilt are found in fresh and brackish-water marshes and natural or manmade ponds. Hawaiian stilts may also be found wherever ephemeral or persistent standing water may occur. The creation of standing or open water may result in the attraction of Hawaiian waterbirds to a site. There is no fresh or brackish water habitat in the project area that would be anticipated to be used by Hawaiian waterbirds. The proposed construction activities are also not likely to result in the creation of standing water that could be attractive to Hawaiian waterbirds. Therefore, the project is not likely to adversely affect Hawaiian waterbirds.

Hawaiian geese are found in a variety of habitats, but prefer open areas, such as pastures, golf courses, wetlands, natural grasslands and shrublands, and lava flows. Nēnē are not anticipated to be present in the project area but could potentially visit Hale Hālāwai Park or the small lawn area near the intersection of Hualālai Road and Kuakini Highway. To avoid and minimize potential impacts to Hawaiian geese the contractor will be directed not to approach, feed, or disturb nēnē. Should a Hawaiian goose nest be discovered within 150 feet of the project area, all work within the radius will cease and the USFWS will

be notified. With implementation of the measures described above the project is not likely to adversely affect the Hawaiian goose.

Green sea turtles may nest on any sandy beach area in the Pacific Islands. Construction in the vicinity of beaches can result in contaminant and nutrient runoff and an increase in direct and ambient light pollution which may disorient hatchlings or deter nesting females. The shoreline adjacent to Hale Hālāwai Park is rocky with little to no beach. Appropriate perimeter and sediment control best management practices (BMPs) will be used during construction to prevent the discharge of sediment to the marine environment. Construction activities will take place during daylight hours. In the unlikely event that night construction is required all lighting will be fully shielded and directed away from the shoreline. With the implementation of the measures described above the project is not likely to adversely affect the green sea turtle. The proposed project and replacement of the force main is needed to reduce the potential for failure of the sewer line which would result in significant impacts to the marine environment.

Adult Blackburn's sphinx moths feed on nectar from native plants, including beach morning glory (*Ipomoea pes-caprae*), iliee (*Plumbago zeylanica*), and maiapilo (*Capparis sandwichiana*); larvae feed upon non-native tree tobacco (*Nicotiana glauca*) and native aiea (*Nothocestrum* sp.). To pupate, the larvae burrow into the soil and can remain in a state of torpor for a year or more before emerging from the soil. Soil disturbance can result in death of the pupae. The project area will be restricted to paved roadway right-of-way and maintained landscape lawn areas. Therefore, Blackburn's sphinx moths are not anticipated to be present in the project area and the project is not likely to adversely affect this species.

The USFWS species list also identifies five endangered plant species with the potential to occur in the project vicinity: Carter's panicgrass (*Panicum fauriei var. carteri*), ihi (*Portulaca villosa*), Ko`oko`olau (*Bidens micrantha ssp. ctenophylla*), Loulu (*Pritchardia maideniana*), Ohai (*Sesbania tomentosa*). The project area will be restricted to paved roadway right-of-way and maintained landscape lawn areas; therefore, the project is not likely to adversely affect any of these listed plant species.

The project has been reviewed by the USFWS in accordance with Section 7 of the Endangered Species Act (ESA). The USFWS has concurred with a determination that the project may affect but is not likely to adversely affect federally listed species.

Surface and Ground Water Resources
The proposed project and replacement of the force main is needed to reduce the potential for failure of the sewer line which would result in significant impacts to the nearby marine waters of Kailua Bay. Appropriate perimeter and sediment control BMPs will be used during construction to prevent the discharge of sediment to the marine environment. The proposed action would have no affect to ground water resources.

Wetlands
There are no wetlands in the project area or vicinity that would be affected by the proposed action.

SENSITIVE ENVIRONMENTS
Describe any sensitive environments related to the exempted action: The proposed project and replacement of the force main is needed to reduce the potential for failure of the sewer line which would result in significant impacts to the nearby marine waters of Kailua Bay.

CUMULATIVE IMPACTS
Briefly describe any cumulative impacts by the action described above. "Cumulative impact" is the impact on the environment, which results from the incremental impact of the action when added to other

past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Section 11-200-2: The project is not anticipated to result in any impacts to the environment and therefore would also not result in any cumulative impacts. Replacement of the force main is needed to reduce the potential for failure of the sewer line which would result in significant impacts to the nearby marine waters of Kailua Bay.

APPROVAL OF EXEMPTION
I have considered the direct, cumulative, and potential impacts of the action described above pursuant to provided by Chapter 343, Hawai'i Revised Statutes and Chapter 11-200, Hawai'i Administrative Rules. I declare that the action described above will have minimal or no significant impact on the environment and is therefore exempt from the preparation of an environmental assessment.

This document is on file in our office and is available for public review.

Signature of Director or Delegate

1-9-2024
Date

This document is to be kept on file in the agency's records and made available for public review.

☐ Please check here if this document is being submitted to the Office of Planning and Sustainable Development, Environmental Review Program for voluntary publication in *The Environmental Notice*

# 2

National Historic Preservation Act Section 106 Determination Concurrence

**STATE OF HAWAII | KA MOKUʻĀINA ʻO HAWAIʻI**
**DEPARTMENT OF LAND AND NATURAL RESOURCES**
**KA ʻOIHANA KUMUWAIWAI ʻĀINA**

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

May 31, 2024

IN REPLY REFER TO:
Project No. 2023PR01051
Doc. No. 2403JG16
Archaeology

Jonathan Nagato, Acting Chief
Department of Health
Wastewater Branch
2827 Waimano Road, Rm 207
Pearl City, HI 96782
c/o Chane Hayashida
chane.hayashida@doh.hawaii.gov

Chris Sparber, Project Coordinator
Department of Environmental Management
Wastewater Division
County of Hawaii
345 Kekuanaoʻa Street, Suite 41
Hilo, HI 96720
chris.sparber@hawaiicounty.gov

Dear Jonathan Nagato and Chris Sparber:

SUBJECT: **National Historic Preservation Act (NHPA) Section 106 Review – Revised**
**County of Hawaii, Department of Environmental Management (DEM)**
**Hale Hālāwai Force Main Replacement Project**
**Request for Concurrence with Project Effect Determination**
**Lanihau 1-2, Moeauo Ahupuaʻa, North Kona District, Island of Hawaiʻi**
**TMK: (3) 7-5-007:999 (Hualālai Road and Kuakini Highway), (3) 7-5-008:999 (Aliʻi Drive), (3) 7-5-008:010 por., and (3) 7-5-022:175**

This letter provides the State Historic Preservation Division's (SHPD's) updated review of the subject County of Hawaiʻi DEM and the State of Hawaiʻi Department of Health (DOH) project originally received by our office on September 1, 2023. The initial submittal included a cover letter, construction plans, and photos of the project area. The project has been determined to be a federal undertaking as defined in 36 CFR 800.16(y) and subject to Section 106 of NHPA and, as a joint County and State project, is also subject to HRS § 6E-8 historic preservation review. SHPD received a cover letter initiating NHPA Section 106 consultation on November 3, 2023 from the State of Hawaiʻi Department of Health (DOH), on behalf of the Environmental Protection Agency, indicating the project will involve federal funds via the Clean Water State Revolving Fund (CWSRF). On March 18, 2024, the SHPD received a second letter from the DOH requesting concurrence with a "no historic properties affected" project effect determination pursuant to 36 CFR 800.4(d)(1). The letter states that the U.S. Environmental Protection Agency (EPA) has authorized the DOH to act on their behalf. See the attachment below for a description of the project and summary of the current review.

SHPD previously reviewed the project pursuant to HAR §13-275-7(a)(1) and concurred with the DEM's project effect determination of "No historic properties affected" in a letter dated September 7, 2023 (Doc. No. 2309JG02). See the submittal materials provided in HICRIS (Doc. No. 2309JG02 and Doc. No. 2311JG04) for a summary of the HRS §6E project review history.

The letter from the DOH dated March 18, 2024 summarizes the NHPA Section 106 consultation effort and requests the State Historic Preservation Officer's (SHPO's) concurrence with the DOH's project effect determination of *no historic properties affected* pursuant to 36 CFR 800.4(d)(1). **The SHPO concurs.**

The County of Hawaii DEM and the DOH are the offices of record for this undertaking. Please maintain a copy of this letter with your environmental review record for this undertaking.

Please contact Joshua Gastilo at joshua.gastilo@hawaii.gov for any questions or concerns regarding this letter.

Aloha,

Dawn N.S. Chang
DLNR Chairperson
State Historic Preservation Officer

cc: Courtney Hymes, courtney.cacace@aecom.com
Domciely Oda, domciely.oda@doh.hawaii.gov
Adrienne Fung, adrienne.fung@aecom.com
Megan Laurance, megan.laurance@aecom.com

Attachment

The undertaking involves the replacement of the Hale Hālāwai sewer force main under Hualālai Road [TMK: (3) 7-5-007:999], from Ali'i Drive to Kuakini Highway [TMK: (3) 7-5-008:999], a small portion of Hale Halawai Park [TMK: (3) 7-5-008:010], and a small portion of an open lawn area owned by the State of Hawai'i [TMK: (3) 7-5-022:175]. Approximately 900 ft. of the existing iron force main will be replaced with 12-inch-diameter PVC pipe at a depth between 4 to 7 ft. below the current grade. The federal Area of Potential Effects (APE) consists of a 1.42-acrearea within the subject parcels and is synonymous with the HRS 6E-8 project area (Doc. No. 2309JG02).

All proposed trenching will be conducted within the road rights-of-way. Additional work may include the following:

- Flow monitoring to design flow bypassing;
- Construction of a new sewer discharge manhole at the Hualālai Road;
- Rehabilitation of existing force main discharge manhole at the Hualālai Road/Kuakini Highway intersection; and
- Replacement of valves, fittings, and piping in Hale Hālāwai Sewage Pump Station (SPS) valve vault

The letter requesting SHPD's concurrence for a project effect determination indicates that the proposed APE has not been included as part of any previous archaeological studies and that no historic properties have been previously identified therein. The letter also indicates that consultation letters were sent on November 13th and 15th to Native Hawaiian organizations (NHOs), consulting parties, and other organizations/individuals likely to have knowledge of, or concerns with, historic properties in the area. No response to the consultation request letters were received. See the letter requesting SHPD's concurrence for a project effect determination in t he HICRIS project materials for a list of the organizations/parties/individuals that were contacted for consultation regarding the subject project.

SHPD records also indicate that the APE has not been subjected to any previous archaeological inventory surveys, nor have any historic properties been previously identified therein. Aerial imagery indicates that the project area has been previously impacted by the development of the existing road, infrastructure, and commercial developments in the immediate vicinity. Low potential exists for the project to encounter historic properties.

# 3

United States Fish and Wildlife Services Section 7 Determination Concurrence

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
Honolulu, Hawai‘i 96850

In Reply Refer To:
2023-0091597-S7-001

November 9, 2023

Sina Pruder, P.E., Chief
Department of Health, Wastewater Branch
County of Hawai‘i
2827 Waimano Home Road, Room 207
Pearl City, HI 96782

Subject: Hale Hālāwai Wastewater Pump Station Force Main Replacement, Hawai‘i County

Dear Sina Pruder, P.E., Chief:

The U.S. Fish and Wildlife Service (Service) received your letter dated October 16, 2023, requesting our concurrence with your determination that the proposed Hale Hālāwai Wastewater Pump Station Force Main Replacement project may affect, but is not likely to adversely affect the following species:

- ‘Ōpe‘ape‘a or Hawaiian hoary bat (*Lasiurus cinereus semotus*),
- Nēnē or Hawaiian goose (*Branta sandvicensis*),
- Hawaiian waterbirds, including koloa or Hawaiian duck (*Anas wyvilliana*), ae‘o or Hawaiian stilt (*Himantopus mexicanus knudseni*), and ‘alae ke‘oke‘o or Hawaiian coot (*Fulica alai*),
- Hawaiian seabirds, including ‘ua‘u or Hawaiian petrel (*Pterodroma sandwichensis*), ‘a‘o or Newell’s shearwater (*Puffinus newelli*), and ‘akē‘akē or Hawai‘i distinct population segment of band-rumped storm-petrel (*Hydrobates castro*),
- Honu or green sea turtle (*Chelonia mydas*),
- Blackburn’s sphinx moth (*Manduca blackburni*),
- Federally listed flowering plants, including Carter’s panicgrass (*Panicum fauriei var. carteri*), ‘ihi (*Portulaca villosa*), ko‘oko‘olau (*Bidens micrantha ssp. ctenophylla*), loulu (*Pritchardia maideniana*), and ‘ōhai (*Sesbania tomentosa*).

The project is funded by the Clean Water State Revolving Fund Program, and the U.S. Environmental Protection Agency (EPA) has designated the State of Hawai‘i Department of Health as its nonfederal representative. This letter has been prepared under the authority of, and in accordance with, section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq*.) as amended (ESA).

**Project Description**

The County of Hawai‘i Department of Environmental Management is proposing to replace the existing Hale Hālāwai sewer force main located under Hualālai Road from Ali‘i Road to Kuakini

Highway, in Kailua-Kona, Hawai‘i (Figure 1). The project will construct approximately 900 linear feet of new 12-inch diameter PVC pipe along Hualālai Road to serve as the new primary force main, replacing the existing corroded cast-iron pipe force main. The existing force main will be rehabilitated and serve as a back up to the new proposed replacement. The new force main will be installed near the same depth as the existing line, approximately 5 to 9 feet (ft) below grade. A sanitary sewer temporary flow bypass will be used during the installation of the force main. Construction is expected to commence in late 2023 or early 2024 and take approximately seven (7) months to complete. The project does not include any night work.

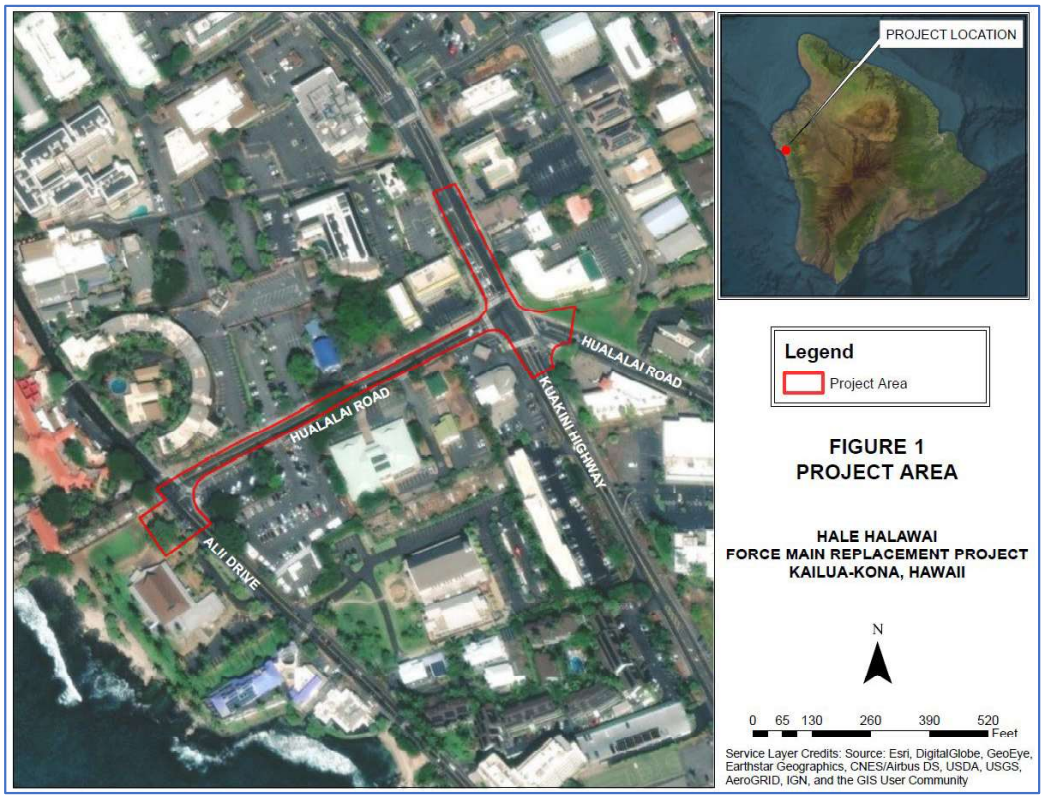

Figure 1. Proposed Hale Hālāwai Force Main replacement project outlined in red.

## Effects to Listed Species

*‘Ōpe‘ape‘a*

Woody vegetation may be used by ‘ōpe‘ape‘a for roosting, potentially year around. The ‘ōpe‘ape‘a roosts in woody vegetation across all islands and will leave their young unattended in trees and shrubs when they forage. If trees or shrubs 15 ft or taller are cleared during the pupping season, June 1 through September 15, there is a risk that young bats could inadvertently be harmed or killed, since they are too young to fly or move away from disturbance. However, woody vegetation 15 ft or taller at the project sites will be avoided during the ‘ōpe‘ape‘a pupping season (June 1 through September 15) and no barbed wire will be used.

Human presence and project activities may cause temporary disruptions to the normal behaviors of ʻōpeʻapeʻa nearby the project area. If bats are present during the construction, we expect the disturbance may cause them to leave the site. We expect that these disturbances will be short term and intermittent and will not result in measurable disruptions of their normal behaviors, nor will there be reductions in the reproductive success or fitness of the bats. The high mobility of adult bats enables them to relocate to suitable vegetation nearby. No nonvolant young would be injured or killed because trees and vegetation taller than 15 ft will not be removed during the pupping season when the young cannot fly.

Avoidance and minimization measures will be implemented to avoid adverse effects to ʻōpeʻapeʻa. ʻŌpeʻapeʻa are not expected to be injured, killed, or to experience a measurable disruption to their normal behaviors. Therefore, effects to the ʻōpeʻapeʻa are insignificant.

*Nēnē*

Nēnē may be observed in a variety of habitats, but prefer open areas, such as pastures, golf courses, wetlands, natural grasslands and shrublands, and lava flows. Nēnē presence is unlikely at the project site but nēnē may occasionally loaf or be attracted to areas during construction activities, especially if clearings are made or standing water is created. Nēnē are vulnerable to vehicular strikes, human presence, and construction activities because nēnē enter roadways, and foot traffic and equipment can crush nests hidden in vegetation. Human presence and disturbance can keep adults from protecting and provisioning vulnerable young in nests. Adverse effects to nēnē will be avoided because the following avoidance and minimization measures will be implemented:

- Project personnel will not approach, feed, or disturb nēnē.
- If nēnē are observed loafing or foraging within the project area during the breeding season (September through April), a biologist familiar with nesting behavior will survey for nests in and around the project area prior to the resumption of any work. A biologist will repeat surveys after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest).
- If a nest is discovered within a radius of 150 ft of proposed project, or a previously undiscovered nest is found within the 150-ft radius after work begins the work will cease immediately, and project proponents will contact the Service for further guidance.
- In areas where nēnē are known to be present, reduced speed limits will be posted and enforced, and project personnel and contractors will be informed of the presence of federally listed species on-site.

If nēnē are present during construction, we expect human presence and disturbance may cause them to leave the site before nesting can occur. Nēnē that are displaced from loafing and foraging areas are expected to relocate to other areas of suitable habitat. We do not expect any nesting nēnē will be affected by this project.

We expect that project-related disturbances will be short term and intermittent and would not result in measurable disruptions to their normal behaviors or a measurable reduction in their reproductive success and fitness. Therefore, effects to nēnē are insignificant.

*Hawaiian waterbirds*

Hawaiian waterbirds are found in a variety of wetland habitats including freshwater marshes and ponds, coastal estuaries and ponds, artificial reservoirs, *Colocasia esculenta* (kalo or taro) loʻi or patches, irrigation ditches, and sewage treatment ponds. Aeʻo may also be found wherever ephemeral or persistent standing water may occur, such as sediment basins. The project area currently does not provide these types of suitable habitats. However, Hawaiian waterbirds may be attracted to areas of standing water that are inadvertently created during construction activities. Hawaiian waterbirds are vulnerable to vehicular strikes, human presence, and construction activities because the birds enter roadways, and foot traffic and equipment can crush nests hidden in vegetation. Human presence and disturbance can keep adults from protecting and provisioning vulnerable young in nests. Adverse effects to Hawaiian waterbirds will be avoided because the following avoidance and minimization measures will be implemented:

- In areas where waterbirds are known to be present, the project will post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on site.
- A biological monitor that is familiar with the species' biology will conduct Hawaiian waterbird nest surveys where appropriate habitat occurs within the vicinity of the proposed project site prior to project initiation. The monitor will repeat surveys again within 3 days of project initiation and after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest). If a nest or active brood is found, the project will:
    - Contact the Service within 48 hours for further guidance.
    - Establish and maintain a 100-ft buffer around all active nests and/or broods until the chicks have fledged where potentially disruptive activities or habitat alteration would be avoided within this buffer.
    - A biological monitor that is familiar with the species' biology will be present on the project site during all construction or earth-moving activities until the chicks fledge to ensure that Hawaiian waterbirds and nests are not adversely affected (i.e., mortality of young, or parents kept from the nest).

If Hawaiian waterbirds are present during construction, we expect human presence and disturbance may cause them to leave the site before nesting can occur. Hawaiian waterbirds that are displaced are expected to relocate to other areas of suitable habitat. We do not expect any nesting Hawaiian waterbirds will be affected by this project.

We expect that project-related disturbances will be short term and intermittent and would not result in measurable disruptions to their normal behaviors or a measurable reduction in their reproductive success and fitness. Therefore, effects to Hawaiian waterbirds are insignificant.

*Hawaiian seabirds*

Hawaiian seabirds may traverse the project area at night during the breeding, nesting, and fledging seasons (March 1 to December 15). No night construction will occur, but in the unlikely event that night construction is required, all outdoor lighting will be fully shielded, directed towards the ground, and equipped with automatic sensors. Night construction will be avoided

during the seabird fledging period, September 15 through December 15. No new permanent outdoor lighting will be installed. Additionally, any construction fencing extending above vegetation or roof lines will be equipped with polytape of other measures to increase visibility.

When outdoor lighting is used seabird disorientation, fallout, and injury or mortality may occur because seabirds are attracted to lights and after circling the lights, they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Fledglings are particularly vulnerable to light attraction when they are traversing the project area between September 15 and December 15, as they are making their first flights from their mountain nests to the sea. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators.

No night work or night lighting will be used for this project and no work occurs within nesting habitat for Hawaiian seabirds. Any seabirds traversing the area at night are extremely unlikely to be exposed to any project-related activities because they only occur during daytime hours. We do not expect injury, mortality, or measurable disruptions to the normal behaviors of Hawaiian seabirds. Therefore, effects to Hawaiian seabirds are considered insignificant.

*Honu*

Honu may nest or be present on any sandy beach in the Pacific Islands. Nesting occurs on beaches from May through September, peaking in June and July, with hatchlings emerging through November and December. The project will implement several measures to avoid any adverse effects to honu, including avoiding nighttime work during the nesting and hatching season (May to December), minimizing the use of lighting on or near beaches and shield all project-related lights so the light is not visible from any beach (if lights can't be fully shielded or if headlights must be used the light will fully enclose the light source with light filtering tape or filters) and incorporating best management practices for Work in Aquatic Environments (see enclosed) into the project design. The proposed project is located approximately 400 ft from the shoreline (where any potentially suitable habitat may occur) and avoidance and minimization measures will be implemented to avoid any adverse effects to the honu. Therefore, project-related effects to honu are extremely unlikely to occur and are considered discountable.

*Blackburn's sphinx moth*

The adult Blackburn's sphinx moth feeds on nectar from native plants, including beach morning glory (*Ipomoea pes-caprae*), ʻilieʻe (*Plumbago zeylanica*), maiapilo (*Capparis sandwichiana*), and others, larvae feed on non-native tree tobacco (*Nicotiana glauca*) and native ʻaiea (*Nothocestrum* sp.). Due to the highly developed condition of the construction site it is extremely unlikely that any host plants or Blackburn's sphinx moth would be present at the construction site.

However, pre-construction surveys will occur for larval host plants. If moths, eggs, larvae, or native ʻaiea or tree tobacco over 3-ft tall are found, the Service will be contacted for additional guidance to avoid any adverse effects to the species. If no Blackburn's sphinx moth, ʻaiea, or tree tobacco are found during surveys, measures will be taken to avoid attraction of Blackburn's sphinx moth to the project location and prohibit tree tobacco from entering the site.

Based on the current habitat conditions of the construction site, lack of suitable habitat, and because pre-construction surveys would occur, the Blackburn sphinx moth are unlikely to be exposed and effects to the species are extremely unlikely to occur. Therefore, effects are discountable.

*Plant Species*

Service records indicate that the project location occurs within the historic range of the following federally listed plants; Carter's panicgrass, ʻihi, koʻokoʻolau, loulu, and ʻōhai. Because the project will implement the avoidance, minimization, and conservation measures for the listed plants, we do not expect these plants would be present or exposed to project-related activities. Therefore, effects to federally listed plants are discountable.

**Summary**

Based on the information provided, implementation of Service-recommended avoidance and minimization measures, and our assessment of potential project impacts, we anticipate that the potential for adverse effects to federally listed species are insignificant or discountable. We concur with your determination that this project may affect but is not likely to adversely affect these federally listed species. Re-initiation of consultation is required and shall be requested:

- If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the written concurrence; or,
- If a new species is listed or critical habitat designated that may be affected by the identified actions.

Thank you for protecting federally listed species. If you have any questions, please contact Colleen Cole at colleen_cole@fws.gov or Lindsy Asman at lindsy_asman@fws.gov. When referring to this project, please include this reference number: 2023-0091597-S7-001.

Sincerely,

LINDSY ASMAN Digitally signed by LINDSY ASMAN Date: 2023.11.09 14:01:45 -10'00'

Lindsy Asman
Island Team Manager
Maui Nui and Hawai'i Island

Encl.

Attachment A: Best Management Practices for Work in Aquatic Areas
Attachment B: Avoidance, Minimization, and Conservation Measures for listed plants in the Pacific Islands

## Attachment A: Best Management Practices for Work in Aquatic Areas

### U.S. Fish and Wildlife Service

### Recommended Standard Best Management Practices (BMPs)

The U.S. Fish and Wildlife Service (Service) recommends the following measures are incorporated into project planning to avoid or minimize impacts to fish and wildlife resources. Incorporation of these BMPs may reduce negative impacts to aquatic habitats from project construction-related activities. These BMPs are recommended in addition to, and do not over-ride any terms, conditions, or other recommendations prepared by the Service, other Federal, state, or local agencies. Please contact the Service Aquatic Ecosystems Conservation Program at 808-792-9400 with any questions.

1. Authorized dredging and filling-related activities that may result in the temporary or permanent loss of aquatic habitats should be designed to avoid indirect, negative impacts to aquatic habitats that extend beyond the planned project area.
2. Dredging/filling in the marine environment should be scheduled to avoid coral spawning and recruitment periods, and sea turtle nesting and hatching periods. Because these periods vary throughout the Pacific islands, we recommend contacting the relevant local, state, or Federal fish and wildlife resource agency for site specific guidance.
3. Turbidity and siltation from project-related work should be minimized and contained within the project area by silt containment devices and curtailing work during flooding or adverse tidal and weather conditions. The BMPs should occur for the life of the construction period until turbidity and siltation within the project area is stabilized. All project construction-related debris and sediment containment devices should be removed and disposed of at an approved site.
4. All project construction-related materials and equipment (i.e., dredges, vessels, backhoes, silt curtains, etc.) to be placed in an aquatic environment should be inspected for pollutants including, but not limited to; marine fouling organisms, grease, oil, etc., and cleaned to remove pollutants prior to use. Project related activities should not result in any debris disposal, non-native species introductions, or attraction of non-native pests to the affected or adjacent aquatic or terrestrial habitats. Implementing both a litter-control plan and a Hazard Analysis and Critical Control Point plan (HACCP – see https://www.fws.gov/policy/A1750fw1.html) can prevent attraction and introduction of non-native species.
5. Project construction-related materials (i.e., fill, revetment rock, pipe, etc.) should not be stockpiled in, or in close proximity to aquatic habitats and should be protected from erosion (e.g., with filter fabric, etc.), to prevent materials from being carried into waters by wind, rain, or high surf.
6. Fueling of project-related vehicles and equipment should occur away from the aquatic environment and a contingency plan to control petroleum products accidentally spilled during the project should be developed. The plan should be retained on site with the person responsible for compliance with the plan. Absorbent pads and containment booms should be stored on-site to facilitate the clean-up of accidental petroleum releases.
7. All deliberately exposed soil or under-layer materials used in the project near water should be protected from erosion and stabilized as soon as possible with geotextile, filter fabric or native or non-invasive vegetation matting, hydro-seeding, etc.

**Attachment B: Avoidance, Minimization, and Conservation Measures for listed plants in the Pacific Islands**

Project activities may affect listed plant species by causing physical damage to plant parts (roots, stems, flowers, fruits, seeds, etc.) as well as impacts to other life requisite features of their habitat, which may result in reduction of germination, growth and/or reproduction. Cutting and removal of vegetation surrounding listed plants has the potential to alter microsite conditions (e.g., light, moisture, temperature), damaging or destroying the listed plants and also increasing the risk of invasion by nonnative plants, which can result in higher incidence or intensity of fire. Activities such as grazing, use of construction equipment and vehicles, and increased human traffic (i.e., trails, visitation, monitoring), can cause ground disturbance, erosion, and/or soil compaction, which decrease absorption of water and nutrients and damage plant root systems and may result in reduced growth and/or mortality of listed plants. Soil disturbance or removal has the potential to negatively impact the soil seed bank of listed plant species if such species are present or historically occurred in the project area.

In order to avoid or minimize potential adverse effects to listed plants that may occur on the proposed project site, we recommend minimizing disturbance outside of existing developed or otherwise modified areas. When disturbance outside existing developed or modified sites is proposed, conduct a botanical survey for listed plant species within the project action area, defined as the area where direct and indirect effects are likely to occur. Surveys should be conducted by a knowledgeable botanist with documented experience in identifying native Hawaiian and Pacific Islands plants, including listed plant species. Botanical surveys should optimally be conducted during the wettest part of the year (typically October to April) when plants and identifying features are more likely to be visible, especially in drier areas. If surveys are conducted outside of the wet season, the Service may assume plant presence.

The boundary of the area occupied by listed plants should be marked with flagging by the surveyor. To avoid or minimize potential adverse effects to listed plants, we recommend adherence to buffer distances for the activities in the **Table below**. Where disturbed areas do not need to be maintained as an open area, restore disturbed areas using native plants as appropriate for the location. Whenever possible we recommend using native plants for landscaping purposes. The following websites are good resources to use when choosing landscaping plants: Landscape Industry Council of Hawai‘i Native Plant Poster (https://hawaiiscape.com/Publications), Native Hawaiian Plants for Landscaping, Conservation, and Reforestation (https://www.ctahr.hawaii.edu/oc/freepubs/pdf/of-30.pdf), and Best Native Plants for Landscapes (https://www.ctahr.hawaii.edu/oc/freepubs/pdf/OF-40.pdf).

If listed plants occur in a project area, the avoidance buffers are recommended to reduce direct and indirect impacts to listed plants from project activities. However, where project activities will occur within the recommended buffer distances, additional consultation is required. The impacts to the plants of concern within the buffer area may be reduced by placing temporary fencing or other barriers at the boundary of the disturbance, as far from the affected plants as practicable.

The above guidelines apply to areas outside of designated critical habitat. If project activities occur within designated critical habitat unit boundaries, additional consultation is required.

All activities, including site surveys, risk introducing nonnative species into project areas. Specific attention needs to be made to ensure that all equipment, personnel, and supplies are properly checked and are free of contamination (weed seeds, organic matter, or other contaminants) before entering project areas. Quarantines and or management activities occurring on specific priority invasive species proximal to project areas need to be considered or adequately addressed. This information can be acquired by contacting local experts such as those on local invasive species committees (Kauaʻi: https://www.kauaiisc.org/; Oʻahu: https://www.oahuisc.org/; Maui Nui: https://mauiinvasive.org/; and Hawaiʻi: https://www.biisc.org/

Table 1. Recommended buffer distances to minimize and avoid potential adverse impacts to listed plants from activities listed below.

| **Action** | | **Buffer Distance (feet (meters)) – Keep Project Activity This Far Away from Listed Plant** | |
|---|---|---|---|
| | | **Grasses/Herbs/Shrubs and Terrestrial Orchids** | **Trees and Arboreal Orchids** |
| **Walking, hiking, surveys** | | 3 ft (1 m) | 3 ft (1 m) |
| **Cutting and Removing Vegetation By Hand or Hand Tools (e.g., weeding)** | | 3 ft (1 m) | 3 ft (1 m) |
| **Mechanical Removal of Individual Plants or Woody Vegetation (e.g., chainsaw, weed eater)** | | 3 ft up to height of removed vegetation (whichever greater) | 3 ft up to height of removed vegetation (whichever greater) |
| **Removal of Vegetation with Heavy Equipment (e.g., bulldozer, tractor, "bush hog")** | | 2x width equipment + height of vegetation | 820 ft (250 m) |
| **Use of Approved Herbicides (following label)** | **Ground-based Spray Application; hand application (no wand applicator; spot treatment)** | 10 ft (3 m) | Crown diameter |
| | **Ground-based Spray Application; manual pump with wand, backpack** | 50 ft (15 m) | Crown diameter |
| | **Ground-based Spray Application; vehicle-mounted tank sprayer** | 50 ft (15 m) | Crown diameter |
| | **Aerial Spray (ball applicator)** | 250 ft (76 m) | 250 ft (76 m) |
| | **Aerial Application – herbicide ballistic technology (individual plant treatment)** | 100 ft (30 m) | Crown diameter |
| | **Aerial Spray (boom)** | Further consultation required | Further consultation required |
| **Use of Insecticides (pollinators, seed dispersers)** | | Further consultation required | Further consultation required |

| Action | | Buffer Distance (feet (meters)) – Keep Project Activity This Far Away from Listed Plant | |
|---|---|---|---|
| | | **Grasses/Herbs/Shrubs and Terrestrial Orchids** | **Trees and Arboreal Orchids** |
| **Ground/Soil Disturbance/Outplanting/Fencing (Hand tools, e.g., shovel, ʻōʻō; Small mechanized tools, e.g., auger)** | | 20 ft (6 m) | 2x crown diameter |
| **Ground/Soil Disturbance (Heavy Equipment)** | | 328 ft (100 m) | 820 ft (250 m) |
| **Surface Hardening/Soil compaction** | **Trails (e.g., human, ungulates)** | 20 ft (6 m) | 2x crown diameter |
| | **Roads/Utility Corridors, Buildings/Structures** | 328 ft (100 m) | 820 ft (250 m) |
| **Prescribed Burns** | | Further consultation required | Further consultation required |
| **Farming/Ranching/Silviculture** | | 820 ft (250 m) | 820 ft (250 m) |

**Definitions** (Wagner *et al*. 1999)

**Crown**: The leafy top of a tree.
**Herb**: A plant, either annual, biennial, or perennial, with the non-woody stems dying back to the ground at the end of the growing season.
**Shrub**: A perennial woody plant with usually several to numerous primary stems arising from or relatively near the ground.
**Tree**: A woody perennial that usually has a single trunk

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# 4

Compliance with Federal Environmental Cross-Cutting Authorities Memorandum

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# MEMORANDUM

**July 18, 2024**

**Subject: Compliance with Federal Environmental Cross-Cutting Authorities**
**Hale Hālāwai Force Main Replacement Project**

The State of Hawai'i Department of Health (DOH) is providing funding under the Hawai'i Clean Water State Revolving Fund (CWSRF) to the County of Hawai'i, Department of Environmental Management Wastewater Division (WWD) for the Hale Hālāwai Force Main Replacement Project. The use of this federal funding is considered a federal action requiring compliance with Federal environmental laws and regulations.

This memorandum has been prepared to document project compliance with the Federal cross-cutting authorities set forth in 40 CFR §35.3145 for the CWSRF; and specifically, to document project compliance with the following Federal environmental laws and regulations:

- Archeological and Historic Preservation Act (16 U.S.C § 469a-1)
- Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668-668c)
- Clean Air Act (42 U.S.C. § 7401)
- Coastal Barriers Resources Act (16 U.S.C. § 3501)
- Coastal Zone Management Act (16 U.S.C. §1451)
- Environmental Justice (Executive Order 12898)
- Farmland Protection Policy Act (7 U.S.C. § 4201)
- Fish and Wildlife Coordination Act (16 U.S.C. § 661)
- Floodplain Management (Executive Order 11988, as amended by Executive Orders 12148 and 13690)
- Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §§ 1801 et seq.)
- Marine Mammal Protection Act (16 U.S.C. §§ 703 et seq.)
- Protection of Wetlands (Executive Order 11990 (1977), as amended by Executive Order 12608 (1997))
- Rivers and Harbors Act (33 U.S.C. § 403)
- Safe Drinking Water Act (42 U.S.C. § 300f)
- Wild and Scenic Rivers Act (16 U.S.C. § 1271)

**Project Description**

The project will replace the existing Hale Hālāwai sewer force main located under Hualālai Road from Ali'i Road to Kuakini Highway, in Kailua-Kona, Hawai'i.

The existing 12-inch diameter, 900-foot-long cast iron force main was originally constructed in 1971. Replacement is needed due to the age and condition of the force main. The cast iron pipe material

has deteriorated from likely both internal corrosion from sewage flow as well as external corrosion from the environment the pipe is buried in. The consequences of failure for the Hale Hālāwai force main are substantial, considering the high indirect cost associated with damage to the environment and closure of the popular tourist destination of Kailua Bay.

The Hale Hālāwai force main connects to a discharge manhole at the intersection of Hualālai Road and Kuakini Highway. The connection to the existing force main discharge manhole does not conform to current design standards. The existing force main discharge opening is higher than the downstream crown. Ideally, the force main would discharge at the bottom of the manhole trough so that the pipe is always full. Having the force main full helps prevent air from entering it. Also, having the force main discharge invert above the sewer water level may lead to turbulent conditions in the manhole, which could cause the buildup of corrosive hydrogen sulfide gas.

The project will construct approximately 900 linear feet of new 12-inch diameter PVC pipe along Hualālai Road to serve as the new primary force main, replacing the existing line. The existing force main will be rehabilitated and serve as a back up to the proposed replacement. The new force main will be installed near the same depth as the existing line, approximately 4 to 7 feet below grade.

The planned work includes:

- Installation of a new force main line from the Hale Hālāwai Sewage Pump Station (SPS) to replace the 12-inch cast iron force main (the existing force main is intended to serve as a backup line).
- Flow bypass during the installation to the new force main.
- Connection of the new force main to the existing discharge piping inside the Hale Hālāwai SPS valve vault.
- Connection of the new force main to a discharge manhole at the Hualālai Road and Kuakini Highway intersection.
- Temporary work zone traffic control.
- Additional work may include:
    - Flow monitoring to design flow bypassing
    - Construction of a new sewer discharge manhole at the Hualālai Road – Kuakini Highway intersection
    - Rehabilitation of existing force main discharge manhole at the Hualālai Road – Kuakini Highway intersection
    - Replacement of valves, fittings, and piping in Hale Hālāwai SPS valve vault

**Federal Cross-Cutting Compliance**

***Archeological and Historical Preservation Act (16 U.S.C. § 469a-1)***

Requires federal agenecies the preservation of historic and archaeological objects, material, and data that would otherwise be lost or destroyed as a result of their projects or licensed activities or programs. The Hale Hālāwai Force Main Replacement Project has been reviewed by the State Historic Preservation Officer (SHPO), in accordance with Section 106 of the National Historic Preservation Act, and the SHPO has concurred with the Departments of Health's project effect determination of *no historic properties affected* pursuant to 36 CFR 800.4(d)(1). The State Historic Preservation Division (SHPD) noted in their review that the Area of Potential Effect "(APE) has not been subjected to any previous archaeological inventory surveys, nor have any historic properties been previously identified therein. Aerial imagery indicates that the project area has been previously

impacted by the development of the existing road, infrastructure, and commercial developments in the immediate vicinity. Low potential exists for the project to encounter historic properties."

***Bald and Golden Eagle Protection Act (16 U.S.C §§ 668-668c)***
The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) of 1940 prohibits anyone, without a permit issued by the Secretary of the Interior, from "taking" bald or golden eagles, including their parts (including feathers), nests, or eggs. Bald and Golden Eagles are not present in Hawai'i;. Therefore, there is no potential for the proposed project to result in the take of bald or golden eagles.

***Clean Air Act (42 U.S.C. § 7401)***
The Clean Air Act (CAA) is the comprehensive federal law that regulates air emissions from stationery and mobile sources. Among other things, this law authorizes the Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants.

The proposed project does not involve the use of stationery or mobile sources that would emit hazardous air pollutants; therefore, no general conformity analysis is required.

***Coastal Barriers Resources Act (16 U.S.C. § 3501)***
The Coastal Barrier Resources Act (CBRA) of 1982 prohibits Federal funding for building and development in undeveloped portions of designated Coastal Barrier Resource System. The Coastal Barrier Resource System includes 3.5 million acres along the Atlantic, Gulf of Mexico, Great Lakes, U.S. Vergin Islands, and Puerto Rico coasts. There are no designated Coastal Barrier Resources in Hawai'i. Therefore, the CBRA is not applicable to this project.

***Coastal Zone Management Act (16 U.S.C. § 1451)***
The national Coastal Zone Management (CZM) Act requires federal agency actions affecting any coastal use or resource be undertaken in a manner consistent to the maximum extent practicable with the State's CZM Program. The National Oceanic and Atmospheric Administration (NOAA) maintains the *State Federal Consistency Lists* that identify the federal agency actions, federal licenses or permits, and federal financial assistance activities that are subject to federal consistency review, in each respective State. The CWSRF is not on the list of federal financial assistance activities subject to federal consistency review in Hawai'i, by the State of Hawai'i Office of Planning CZM Program; nor are any other EPA financial assistance activities.

Hawai'i Coastal Zone Management Program objectives and policies are defined in Hawai'i Revised Statutes Chapter 205A. The objectives for the program are as follows:

1. Provide coastal recreational opportunities accessible to the public.
2. Protect, preserve, and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
3. Protect, preserve, and, where desirable, restore or improve the quality of coastal scenic and open space resources.
4. Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.

5. Provide public or private facilities and improvements important to the State's economy in suitable locations.
6. Reduce hazards to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution.
7. Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
8. Stimulate public awareness, education, and participation in coastal management.
9. Protect beaches for public use and recreation.
10. Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

While not subject to federal consistency review by the State Office of Planning CZM Program the project is consistent with State CZM Program objectives. The purpose and need for the project are to reduce the hazard of pollution by replacing a deteriorated sewer force main; to avoid a future rupture that would result in the release of untreated wastewater into Kailua Bay. The accidental release of untreated wastewater into Kailua Bay would impact marine life, coastal ecosystems, coastal recreation, and the State's economy.

***Environmental Justice (Executive Order 12898)***

Executive Order 12898 requires Federal actions to address environmental justice and disproportionately high and adverse human health or environmental effects of the project activities on minority and low-income population, as well as indigenous populations and tribes with the goal of achieving environmental protection for all communities. The EPA defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies."

The proposed project is not located within a minority or low-income community. There will be no actual or potential lack of fair treatment of minority and low-income populations, indigenous populations, or tribes resulting from this project. Native Hawaiian Organizations were consulted as part of the National Historic Preservation Act Section 106 process and no objections or concerns were received by the consulted parties.

***Farmland Protection Policy Act (7 U.S.C. § 4201)***

The Farmland Protection Policy Act (FPPA) is intended to minimize the impact federal programs have on the unnecessary and irreversible conversion of farmland to nonagricultural uses. It assures that to the extent possible federal programs are administered to be compatible with state, local government, and private programs and policies for the protection of farmland. For the purpose of FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance. Farmland subject to FPPA requirements does not have to be currently used for cropland. It can be forest land, pastureland, cropland, or other land, but not water or urban built-up land.

The proposed project is located in an urban area, primarily in urban roadway right-of-way. The project would have no effect on farmlands protected under the FPPA. Therefore, the FPPA is not applicable to this project.

***Fish and Wildlife Coordination Act (16 U.S.C. § 661)***

The Fish and Wildlife Coordination Act was enacted to protect fish and wildlife when federal actions result in the control or modification of a natural stream or body of water. The Act provides the authority for the involvement of the United States Fish and Wildlife Service in evaluating impacts to fish and wildlife from proposed water resource development projects. The proposed project does not involve any in water work. Therefore, the Fish and Wildlife Coordination Act is not applicable to the project. The USFWS was consulted in accordance with Section 7 of the Endangered Species Act and no comments were provided in regards to the Fish and Wildlife Coordination Act.

***Floodplain Management (Executive Order 11988, as amended by Executive Orders 12148 and 13690)***

The purpose of the Executive Order 11988, as amended by Executive Orders 12148 and 13690 is to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. These Executive Orders are in place to ensure agencies will take the necessary actions to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplain.

The proposed project is not located within a designated floodplain and will not result in the occupancy or modification of a floodplain. Therefore, Executive Orders 119088, 12148, and 13690 are not applicable to this project.

***Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §§ 1801 et seq.)***

Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires federal agencies to consult with NOAA Fisheries on any action or proposed action that may adversely affect Essential Fish Habitat (EFH). (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity. The proposed project does not involve in-water work and will not have an adverse effect to EFH. Therefore, EFH consultation with NOAA Fisheries is not required.

***Marine Mammal Protection Act (16 U.S.C. §§ 703 et seq.)***

The Marine Mammal Protection Act (MMPA) prohibits, with certain exceptions, the "take" of marine mammals – including harassment, hunting, capturing, collecting, or killing – in U.S. waters and by U.S. citizens on the high seas, without a permit. The act also makes it illegal to import marine mammals and marine mammal products to the U.S., without a permit.

The proposed project does not involve in-water work and would not result in the to “take” marine mammals. Therefore, consultation and permits under the MMPA are not required.

***Protection of Wetlands (Executive Order 11990 (1977), as amended by Executive Order 12608 (1997)***

The purpose of Executive Order 11990, as amended by Executive Order 12608 is to avoid, to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. These Executive Orders are in place to ensure agencies will take the necessary measures to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities.

The proposed project is not located in or near a wetland and would not result in any impacts to or the destruction or modification of wetlands. Therefore, Executive Orders 11990 and 12608 are not applicable to this project.

***Rivers and Harbors Act, (33 U.S.C. § 403)***
Section 10 of the Rivers and Harbors Act of 1899 prohibits the unauthorized obstruction or alteration of any navigable water of the United States. This section provides that the construction of any structure in or over any navigable water of the United States, or the accomplishment of any other work of which would affect the course, location, condition, or the physical capacity of such waters is unlawful unless authorized by the Army Corps of Engineers.

The project is located on land; primarily in a roadway right-of-way. The project does not involve any in water work or the construction or placement of any structures in or over a navigable water of the United States. Therefore, the provision of the Rivers and Harbors Act are not applicable to this project.

***Safe Drinking Water Act (42 U.S.C. § 300f)***
The Safe Drinking Water Act (SDWA) was established to protect the quality of drinking water in the U.S. This law focuses on all waters actually or potentially designed for drinking use, whether from above ground or underground sources. The proposed project will have no effect on the quality of drinking water from above ground or underground sources. Therefore, the SDWA is not applicable to the project.

***Wild and Scenic Rivers Act (16 U.S.C. § 1271)***
The Wild and Scenic Rivers Act (WSRA), also known as Public Law 90-542, is a congressional declaration of policy in Title 16, Chapter 28 of the United States Code that was passed in 1968. The act's purpose is to protect and preserve certain rivers and their environments for the benefit of current and future generations. There are no designated wild and scenic rivers in the State of Hawai‘i. Therefore, the proposed project will have not effect on wild and scenic rivers.