

APPENDIX A

ACCESS BY MEMBERS OF MALAMA MAKUA AND/OR MEMBERS OF THE WAI'ANAE COAST TO OBSERVE TRAINING AT MAKUA MILITARY RESERVATION

1. REQUIRED ADVANCE NOTICE OF LIVE-FIRE TRAINING EXERCISE.

A. The 25<sup>th</sup> Infantry Division (Light) & USARHAW will provide written notice (by U.S. mail or facsimile transmission) to Malama Makua, through its counsel Earthjustice Legal Defense Fund (at 223 South King Street, Suite 400, Honolulu, Hawaii 96813; fax: (808) 521-6841), so that notice is received at least five (5) working days prior to each live-fire training iteration (including any artillery or mortar registration) at Makua Military Reservation (MMR).

B. The notice shall also include a schedule for the planned live-fire training iteration, including expected start and end times for the artillery or mortar registration, blank fire, and the live-fire exercise, unexploded ordinance (UXO) clean-up, and cultural site evaluation. It is understood that actual start times for the training events may slip for various reasons. An updated schedule will be made available on a daily basis to Malama Makua.

C. If, for any reason, training times and events must be rescheduled following notice described in paragraph 1.A., supra, the 25<sup>th</sup> Infantry Division (Light) & USARHAW will promptly notify Malama Makua, through its counsel, Earthjustice Legal Defense Fund. Finally, whenever the schedule is updated or modified, a copy will be faxed to Earthjustice Legal Defense Fund at (808) 521-6841. In addition, if Malama Makua has already provided a list of observers pursuant to paragraph 4.A., infra, the 25<sup>th</sup> Infantry Division (Light) & USARHAW will make good faith efforts to notify those observers of the need to reschedule.

2. NUMBER OF OBSERVERS FOR MALAMA MAKUA.

A. The total number of observers from Malama Makua will not exceed five (5) persons at any one time. This number does not include invited members of the media or other invited guests by the 25<sup>th</sup> Infantry Division (Light) & USARHAW, including any members of the Wai'anae Coast community observing pursuant to paragraph 3, infra.. No minors (under the age of 18) are allowed. Malama Makua may invite individuals who are not members of Malama Makua to participate as observers, and any such individuals will count against Malama Makua's total number of observers. Malama Makua may arrange for observers to substitute for one another during the day of observation, provided that Malama Makua provides advance notice, pursuant to paragraph 4.A., infra, of all individuals who will observe on that day.

B. In the event of an unusual occurrence or situation, Malama Makua may request permission from the 25<sup>th</sup> Infantry Division (Light) & USARHAW to have more than five observers. The request will set forth the reason for the additional observers. The 25<sup>th</sup> Infantry Division (Light) & USARHAW will consider each request and decide whether to grant permission for the additional observers.

3. NUMBER OF OBSERVERS FOR MEMBERS OF WAI'ANAE COAST. The total number of observers for members of the Wai'anae Coast who are not affiliated with Malama Makua will not exceed five (5) persons at any one time. This number does not include invited members of the media or other invited guests by the 25<sup>th</sup> Infantry Division (Light) & USARHAW. No minors (under the age of 18) are allowed.

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4. REQUIRED ADVANCE NOTICE OF ATTENDANCE.

A. When notice is provided in accordance with paragraph 1.A, supra, Malama Makua will provide written notice (email is considered written notice) to the 25<sup>th</sup> Infantry Division (Light) & USARHAW, (Attn: Staff Judge Advocate), Bldg. 580, Room 100, Schofield Barracks, HI, 96857-6000 (Fax: (808) 655-8740)(email: [sjaadmin@schofield.army.mil](mailto:sjaadmin@schofield.army.mil) or [firstname.lastname@schofield.army.mil](mailto:firstname.lastname@schofield.army.mil)), with the names and phone numbers of the observers no later than 48 hours prior to the start of the day of the training-related event the observers want to see. The phone number is requested in case the scheduled training is delayed or rescheduled on short notice due to weather or other event. If the scheduled training is delayed or rescheduled due to weather or other conditions, Malama Makua will provide written notice of observer attendance as soon as possible after receiving notice of the new training schedule.

B. Members of the Wai'anae Coast, who are not affiliated with Malama Makua, will submit a written request (email is considered written notice) to the 25<sup>th</sup> Infantry Division (Light) & USARHAW, (Attn: Public Affairs Office, Community Relations), Bldg. 580, Schofield Barracks, HI 96857 (Fax: 655-9290)(email: [Amy.Lutey@schofield.army.mil](mailto:Amy.Lutey@schofield.army.mil) or [firstname.lastname@schofield.army.mil](mailto:firstname.lastname@schofield.army.mil)). The request will include the names and phone numbers of the observers, as well as a point of contact no later than 48 hours prior to the start of the training the observers want to see. The Public Affairs Office will notify the point of contact upon receipt and coordinate for observation of training with the point of contact.

C. Escorts. The 25th Infantry Division (Light) & USARHAW will provide one escort for every five (5) observers. Any personnel designated, as an escort will receive a briefing from Range Control Personnel prior to assuming escort duties.

5. REQUIRED ACTIONS UPON ARRIVAL AT MAKUA MILITARY RESERVATION.

A. Upon arrival at MMR, the observers will be required to provide at least one form of picture identification prior to entry. Additionally, consistent with current force protection measures, each observer, and any of their bags, may be subject to search. Upon arrival, the observers will log in at the Makua Range Control office. Any observer who arrives to substitute for an observer as described in para. 2.A., supra, must also log in at Makua Range Control office.

B. At the time of arrival, each observer will be required to sign the waiver of liability (Enclosure).

C. Range Control personnel will give a safety brief to each observer prior to their observation of training. The presentation of the safety brief will, to the extent possible, be timed to allow observers to observe the entirety of each training-related event (generally, they will be scheduled approximately 15 minutes prior to the start of the scheduled event). However, no training-related event will be held up or suspended because the safety brief is not complete.

D. The Army will provide an escort to stay with observers and answer questions as appropriate. To the extent practicable, observers will be provided an overview of the training events that are occurring during their visit.

E. If requested, a copy of the burn index worksheet will be provided to Malama Makua when its observer(s) sign in. At the conclusion of the training exercise, if requested, another copy will be provided to Malama Makua.

F. All observers must comply with specified Army guidelines described herein or specified in the safety briefing. The Army reserves the right to take any appropriate action, to include removal of any observer from MMR who is acting in a disruptive manner. Disruptive behavior includes, but is not limited to, acts that endanger themselves or others, failure to abide by guidance from the escorts, or attempting to enter unauthorized areas of MMR.

## 6. LOCATION FOR OBSERVATION OF TRAINING.

### A. LOCATION OF OBSERVATION FOR DRY, BLANK, AND LIVE-FIRE TRAINING.

1. The authorized area for observation of dry, blank, and live-fire exercise is the Range Control area from the fenced area around the Range Control buildings and the Observation Tower. The primary location for observation of training during the live-fire exercise will be the Range Control Tower.
2. Those observers who for any reason are unable to climb the Range Control Tower will be provided an alternate location to observe training, such as the ground level at the base of the Tower.
3. No more than eight (8) personnel, to include the training unit's three (3) fire-watchers, will observe training from the Tower Deck at one time. An escort will also be present during any observation. Accordingly, a maximum of four (4) observers will be able to observe from the Tower Deck at any one time. Other observers must remain at the lower level. To the extent both members of Malama Makua and other members of the Wai'anae Coast community are present for training, the number of observers on the Tower Deck will be, to the extent practicable, evenly split between the various groups. At least one member of Malama Makua observer, to the extent possible, will be allowed on the Tower Deck during the dry, blank and live-fire training. The Range OIC, consistent with safety considerations, is the final authority on personnel in the Range Tower.

### B. LOCATION OF OBSERVERS FOR UXO CLEARANCE.

1. During the survey phase of UXO clearance, observers will be taken, with an escort, to an area, such as the fire-break road, for observation of the UXO sweep by EOD personnel. The actual location will be determined in accordance with the minimum safe distance requirements as determined by 25<sup>th</sup> Infantry Division (Light) & USARHAW.
2. If UXO from the live-fire exercise is found during the survey, EOD will mark the location of the UXO. Then, one Malama Makua observer will be escorted to observe the location where the UXO was found. The location will be determined in accordance with the minimum safe distance requirements as determined by 25<sup>th</sup> Infantry Division (Light) & USARHAW.
3. Upon discovery of UXO from the live-fire exercise, EOD will either remove the UXO to a central location on MMR for demilitarization at a later time or will demilitarize the UXO at that site. During any demilitarization, for the safety reasons, all observation will be done from Range Control area, including the Range Control Tower, subject to restrictions set forth in paragraph 6.A.3, supra. At no time will observers be allowed onto the range until cleared to do so by Range Control personnel.
4. If the decision is made to conduct demilitarization of UXO from the live-fire exercise at a later time, the 25<sup>th</sup> Infantry Division (Light) & USARHAW shall ensure that Malama Makua has the opportunity to observe the demilitarization. The 25<sup>th</sup> Infantry Division (Light) & USARHAW will



notify Malama Makua, through its counsel, Earthjustice Legal Defense Fund, of the date and time for such observation.

5. After EOD has completed the demilitarization and declared the range safe, observers will be allowed to go, with escorts, to view the site of the demilitarization.

#### C. LOCATION OF OBSERVERS FOR OBSERVATION OF POST-TRAINING EVALUATION OF DAMAGE TO CULTURAL SITES.

1. Following each live-fire training iteration, Malama Makua observers shall be allowed access to observe the post-training evaluation of cultural sites. Range Control personnel and DPW Cultural Resources office will determine the schedule for visits to the cultural sites.

2. The 25<sup>th</sup> Infantry Division (Light) & USARHAW will, to the extent practicable, make a vehicle available to facilitate the observance of the Army's post-training evaluation of the cultural sites. If a specific concern about one or more cultural sites arose during the live-fire training, Malama Makua may identify the site(s) and ask the 25<sup>th</sup> Infantry Division (Light) & USARHAW to conduct the post-training evaluation of any such site(s) first. The 25<sup>th</sup> Infantry Division (Light) & USARHAW shall accommodate such requests to the maximum extent practicable.

3. Observers, for safety reasons, will not be allowed to roam freely. They must remain with escorts at all times and will be allowed access to specific sites using specific routes outlined by Range Control Personnel, DPW Cultural Resources Office, and their escorts. Observers will not touch or pick up any brass, ammunition, or any other item found on the ground. If observers find any item on the ground, they should bring this to the attention of the escort, Range Control personnel or the DPW Cultural Resource office personnel.

4. If needed, the 25<sup>th</sup> Infantry Division (Light) & USARHAW will provide Malama Makua or other observers with appropriate protective gear, such as Kevlar helmets and/or body armor, to allow them to observe post-training evaluation of cultural sites.

5. Entry into any improved conventional munitions (ICM) area is strictly prohibited unless a properly issued waiver is obtained.

#### 7. PROCEDURE FOR SUBMITTING CONCERNS ABOUT TRAINING.

A. If during any training-related event, an incident occurs that causes concern to Malama Makua or other observers, such as an errant round, suspected fire, or other incident, the observer will use the following method to bring this to the attention of the 25<sup>th</sup> Infantry Division (Light) & USARHAW:

1. At the end of each training-related event, any concerned observer, shall submit, in writing, his or her concern about any event that occurred during the training. As completely as possible, the observer will describe what occurred that caused them concern.

2. A computer and printer will be made available at Range Control to allow the observer to write their concerns. The statement will be signed by the observer and submitted to Range Control personnel. A copy will be provided to the observer.

3. The 25<sup>th</sup> Infantry Division (Light) & USARHAW will provide a written response to Malama Makua, through Earthjustice Legal Defense Fund, addressing the concern(s) raised by the observer as expeditiously as possible.

4. Observers are strongly encouraged to submit their concerns prior to leaving the Makua Military Reservation at the end of the day. If observers submit their concerns at any other time, the failure to timely submit the concern may prevent the 25<sup>th</sup> Infantry Division (Light) & USARHAW from being able to properly respond to the concern raised by the observer.

#### 8. USE OF RANGE CONTROL FACILITIES.

A. No personal vehicles will be allowed onto the range. Observers will park their vehicle in designated parking locations. The 25<sup>th</sup> Infantry Division will provide the necessary vehicles for use on the range during UXO clearance and post-training examination of cultural sites. To the extent necessary, and subject to safety considerations, the Department of the Army will provide any appropriate protective gear, such as kevlar helmets and/or body armor, if needed.

B. Access to the Range Control buildings during range operations is limited to the latrine area to include the watercooler. Observers may also use the conference room when invited Range Control personnel. Observers may not enter the working area of the building unless invited by Range Control. If, during range operations, Malama Makua observers would like to check the burn index, Range Control personnel will either bring it outside to the observer or it will be posted outside.

C. There is no photography or videotaping allowed inside the Range Control Building.

D. The Range Control telephone is for official business only. To the extent that observers need to make a phone call, it will be brought outside the Range Control Building. Observers should limit their calls to a maximum of five (5) minutes.

#### 9. MISCELLANEOUS.

A. The use of alcohol on MMR is strictly prohibited.

B. Observers are encouraged to bring any food or drinks they will desire with them. The 25<sup>th</sup> Infantry Division (Light) & USARHAW will have water available.

C. Smoking is allowed in the vicinity of the Range Control Building and Tower, but it is discouraged due to the area fire hazard. Smoking is strictly prohibited on the range east of the red range gate.

D. There will be medical personnel on the range. However, Army Regulations provide that medical care may be provided only in emergency situations. It is requested that observers notify their escorts of any special medical needs in the event an emergency occurs, to allow for proper treatment.

E. Observers are free to use binoculars, take any photos or video they desire while viewing training-related events, subject to the following restrictions:

1. During the hours of darkness, no flash photography;

2. Observers are encouraged to ask questions of the escorts, but not allowed to conduct any formal interviews with any soldiers;

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3. If an observer is a member of the media or broadcasting a media event, the observer will coordinate with the Public Affairs Office just as all other media outlets are required to do; and,
4. As set forth above, photos and video are prohibited inside the Range Control building.

F. It is recommended that observers wear flat shoes and comfortable clothing to facilitate the climb to observation tower as well as their movements during the post-training phases. For safety reasons, covered shoes are required while on MMR, except the area around Range Control and the Range Control Tower.

10. This guidance will remain in effect until such time as modified by the Commander, 25<sup>th</sup> Infantry Division (Light) & USARHAW, in consultation with Malama Makua. Modifications to this guidance may occur due to changes on requirements for training, safety, national security and compliance with applicable laws and regulations.

Executed this \_\_\_\_ Day of \_\_\_\_\_, 2001.

JAMES M. DUBIK  
Major General, USA  
Commanding

Enclosure

**WAIVER OF LIABILITY**

I have been informed of the risks and hazards involved in participating in as an observer of the training at Makua Military Reservation, 25th Infantry Division (Light), Schofield Barracks, Hawaii. In consideration of permission given to me to participate as an observer, I hereby agree to the following in the event of death, personal injury, property damage or property loss occurring to me incident to such participation:

a. I will not institute any claim or bring any suit against the United States and its officers, employees, and agents because of said death, personal injury, property damage, or property loss.

b. I hereby agree to save harmless the United States and its officers, employees, and agents due to any award based on a suit or claim presented against it.

c. I hereby release and discharge the United States and its officers, employees, and agents from any and all claims based on said death, personal injury, property damage, or property loss.

d. I understand that nothing in this agreement limits the ability to bring a claim against the United States under the Federal Tort's Claims Act (FTCA) to the extent that said death, personal injury, property damage, or property loss is caused by the negligence on the part of the United States and its officers, employees and agents.

The provisions of this document are binding not only on me, but my agents, heirs, assignees, or any other persons or entities claiming on my behalf.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

DATE: \_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name of Witness