

MACZAC Hotspots 6/2015

East Hawaii - Craig

- **Hilo Bay** congestion is intensifying with an increasing number of fishing boats, jet skiers, canoe paddlers, single man outriggers, kayakers, stand-up paddle boarders and sailboats. The potential for user conflicts is increasing and the “Myth of Multiple Use” may well develop. We are at the height of the cruise ship season, paddling practice is increasing and fishing is picking up. The potential for accident and injury is intensifying especially since people are out at dawn and dusk and only powerboats and powered sailboats are being enforced to carry lights. The main issue is near the entrance to the Wailoa Estuary, especially since boats going out on an outgoing tide have difficulty stopping or maneuvering around canoes and paddle boarders. DOCARE was out in force on Memorial Day and has started checking and enforcing the state regulations that powerboat operators have a certificate of completion of an approved boating safety class. The new Coast Guard requirements for a safety gear certificate of inspection for commercial fishing vessels will come into play by October 2015. The Coast Guard may require help from the auxiliary to conduct those inspections, since there is only one regular Coast Guard person in Kona who is certified as an inspector! The crunch may come on the 4th of July, as there will be the largest boat fishing tournament (the Suisan Ho‘olaule‘a) with 60+ boats, a canoe regatta, and a fireworks display from a barge in the bay.
- **Hilo Bayfront Trails Project** is hoping to break ground in September. The nonprofit organizing group expects to receive an initial grant of 345K from NPS and has already received 25K from the County. They will need to raise an additional 3-5 million to complete the project as planned.
www.hawaiicountycdp.info/bayfront-trails

Kauai - Shaylyn

- **County of Kauai, Hanalei Parks** (Waioli and Hanalei) peddlers and concessionaires SMA permit: Compliance and enforcement is inconsistent; County attorney, KPD, Parks and DLNR DOCARE are working on training of staff; Hanalei Makai Watch is coordinating agency meetings and volunteer training.
- **Blackpot Park Master Plan (Hanalei)** process has begun with Community Advisory Committee in selection process.
- Many unpermitted activities are occurring both on the land and in the River and Bay including: illegal use of thrill craft in River and Bay; unpermitted tour boats originating from Hanalei River and illegal use of the beach for automobile traffic and parking. There are no DOBOR rules to support the County SMA rules for commercial uses in the **Hanalei River and Bay** at this time although all DOBOR permits do say that all other permits (County) must be followed.
- **Shoreline certifications** are in process for four properties on Hanalei Bay. OCCL and State surveyor site visits occurred on 4/27/15. Evidence of illegal planting on the State beach was collected.
- **Haena (North Kauai)** Haena’s “temporary” sandbag revetment (see attached document).

Kauai - Phil

- **Moloa'a Bay Ranch (Northeast Kauai)** Cattle damage to coastal trail (see attached document).

Kauai – Rhoda

- **Kona Moku-** reef decimation, habitat n species degradation, spills, dumping, commercial ocean activities creating infringement of practices, stocks, coral reef pollution n illegal buoys n over capacity n over fishing, n water, air n run off pollution
- **Salt pond n puolo point**
- **Kekaha**
- **Hanapepe River**
- **Kaumakani reefs**
- **Wahiawa bay**
- **Waimea River**

Maui – Rich/Donna

- **Honoapiilani Highway/Olowalu**

Haena's “Temporary” Sandbag Revetment

The sandbag revetment is located seaward of five (5) contiguous lots in the Conservation District in Ha’ena, Kauai; TMK 5-9-5: 23, 24, 25, 26, and 27. Temporary emergency erosion control measures were issued to protect habitable structures that were in jeopardy of being destroyed by erosion forces in the winter of 1996.

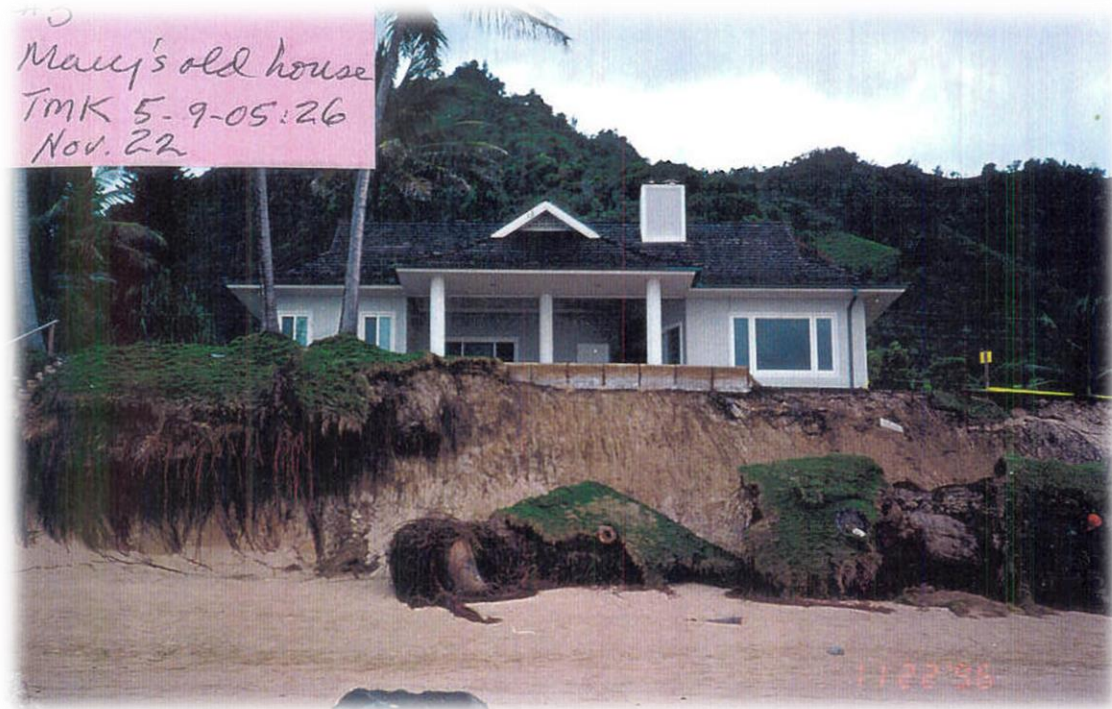


The “temporary” sandbag revetment diminishes the public beach, and has prevented the natural littoral processes from establishing the natural shoreline for over 18 years adversely affecting the surrounding public beach. The “temporary” structures are causing harm to the public beach, have exceeded the timeframe allowed in the Emergency permit, are degrading into beach trash and should be required to be removed.

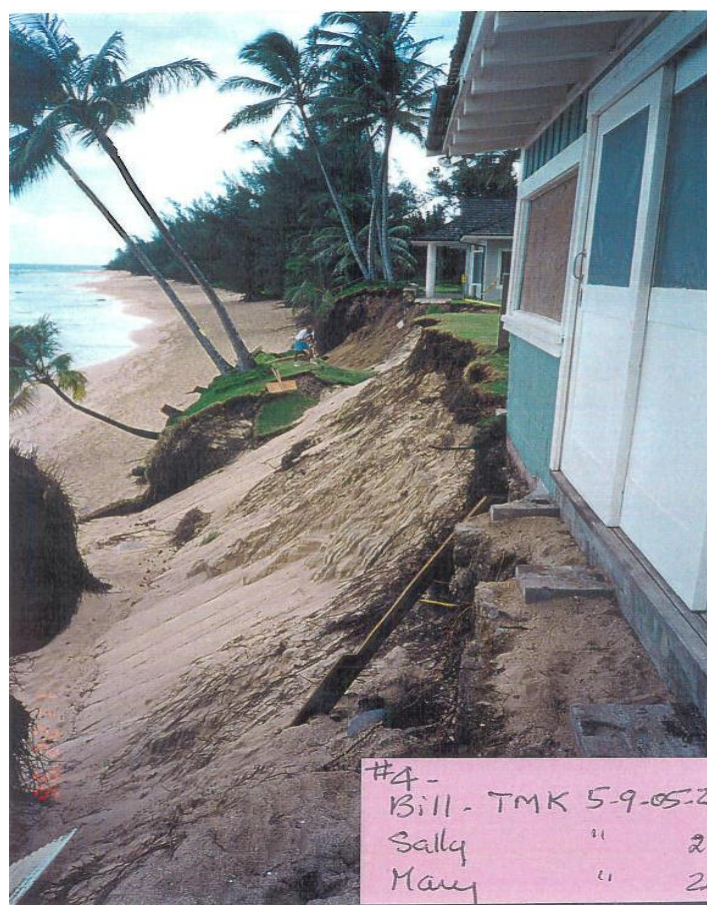
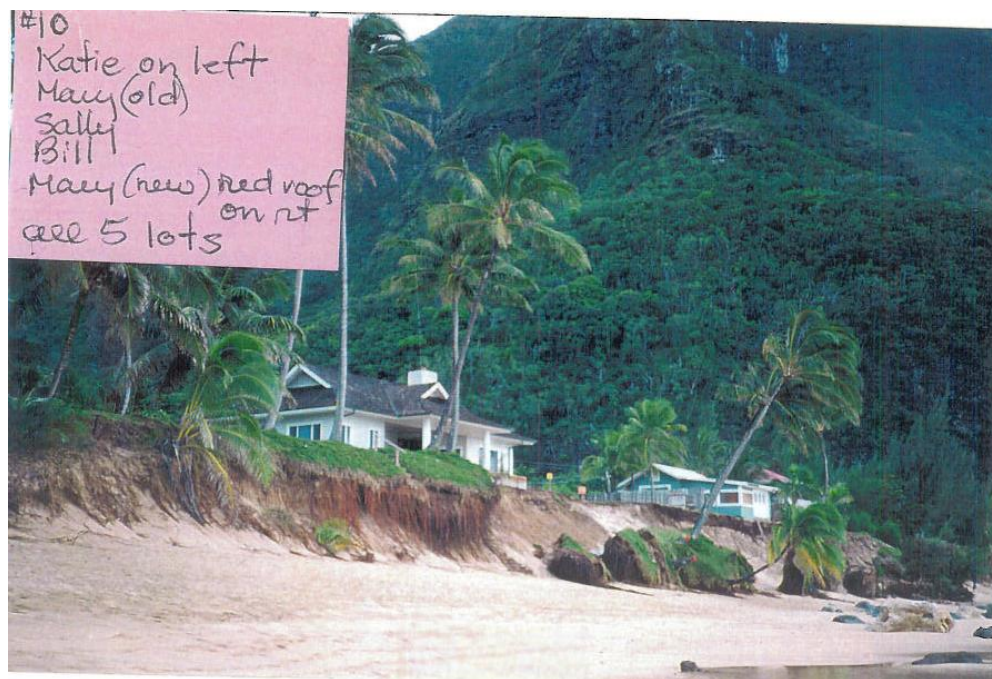


Haena's "Temporary" Sandbag Revetment

NOTE: Below photos with post-it notes were submitted in the County SMA Application.



Haena's "Temporary" Sandbag Revetment

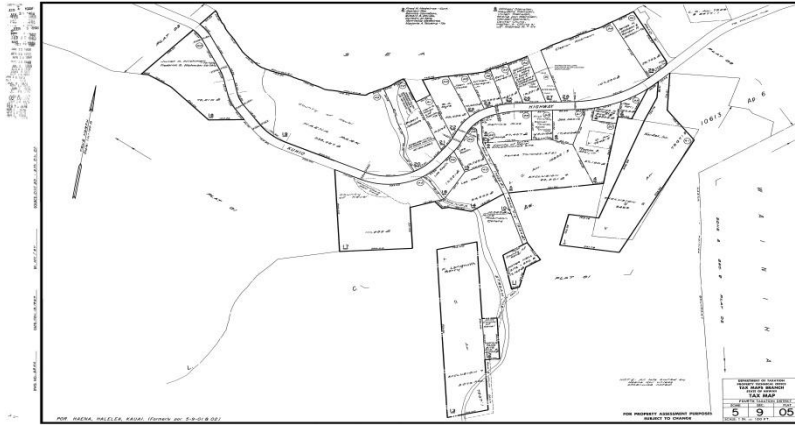


Haena's "Temporary" Sandbag Revetment

The 1980 North Shore Development Plan Update specifies "*maintenance of the natural beauty and ecological systems that characterize the North Shore must take priority over any new development.*" Beach preservation is a priority in Ha'ena, which has been identified as having a "high statewide significance." Its scenic beauty is unsurpassed. This is one of the most heavily frequented beaches on Kauai by visitors and an important cultural resource for residents. It is located between Makua (Tunnels) and the Ha'ena County Beach Park.



Haena's “Temporary” Sandbag Revetment



Regulatory Background

The County of Kauai issued a SMA Emergency Permit (SMA (E)-97-03) on December 5, 1996 for the installation of a sandbag revetment at parcels (4) 5-9-005: 023-027 in the State Conservation District of Ha'ena.

Condition #5 of the permit states that ***“[t]he emergency shoreline protection measures shall be temporary [emphasis added] until acceptable permanent measures, which may include relocation of the structures, are approved through normal permitting procedures...”***



The State of Hawaii issued a permit one week later, on December 12, 1996, for the same parcels. The pertinent condition of that permit states that...

Haena's "Temporary" Sandbag Revetment

"[t]he expiration date shall be December 12, 1997; and the permittee during the one year timeframe for this authorization shall prepare a shoreline survey and work to resolve the shoreline emergency through the appropriate permitting process."

Condition # 1 a. ... "Sand used for the measure shall not be obtained from adjacent or nearby beaches or dunes".

Condition# 1 b. *Biodegradable materials that do not pose a threat to marine life or the environment shall be used for the temporary protective measures.* Condition #2 *"The emergency shoreline protection structure shall be located as far mauka as possible, but in no case shall the structure extend beyond the shoreline as defined by HRS205A"*

Condition #5 *"The emergency shoreline protection measures shall be temporary until acceptable permanent measures, which may include relocation of structures, are approved through normal permitting procedures by the planning commission/department and other appropriate agencies."*

Condition #8 *"Within one year of the date of this approval, the applicant shall submit a report prepared by a qualified professional, containing an assessment of the projects effectiveness, impacts on the shoreline, and recommendations for additional action. Should the measures be found to adversely impact the shoreline or other SMA resources, corrective action shall be identified and implemented, which may involve the removal or destruction of the sea bags."*

18 years later, the shoreline is still armored with this temporary, degrading sandbag permit.

In May of 2006, a huge amount of pristine white sand was taken from the stretch of beach between the county park and Access #3B, Road E and pushed up to cover the sandbags.

DLNR recognized the problem created by this temporary, emergency revetment. In its July 28, 2008 correspondence (CORR: KA-08-248) to neighboring property owners Carroll and Downs, the DLNR denied the request for another round of sand pushing for this revetment. The DLNR noted that *"sand pushing/scraping can destabilize the beach profile and actually increase beach loss and coastal land loss. This can, in some cases increase the steepness of the beach profile and accelerate erosion processes. In March 30, 2009, Sam Lemmo, Administrator of the DLNR, writes "OCCL notes you should remove the temporary structure, or apply for a CDUA for permanent shore protection so this matter can be resolved."*



8/15/06 the sand on the public beach was taken and pushed mauka with a bulldozer to cover the sandbag revetment across 5 Conservation District lots.

Haena's “Temporary” Sandbag Revetment



Sand pushing in the summer of 2006, the bulldozer tracks in the sand show the sand that was taken from the beach and pushed mauka to cover the sandbags.



Haena's “Temporary” Sandbag Revetment

In the last 7 years, adverse impacts have occurred as the sandbags have deteriorated, broken apart and lodged in the pristine reef and rocks here in the Class AA waters.



Over the years, the sandbags break apart, littering the beach, reef and rocks, get repaired and replaced and fail again.

Haena's "Temporary" Sandbag Revetment



Each winter for the last 7 years, parts of the revetment broke up during winter swells, with sandbags dislodged from the revetment and trapped within the reef and rocks and in the ocean resulting in environmental degradation of Haena's Conservation District.

Haena's “Temporary” Sandbag Revetment

Habitat Loss

The project area is critical habitat for endangered Hawaiian Monk Seals that rely on this area for survival. The “temporary “sand bag revetment” here interferes with this critical habitat. The beach fronting the revetment has diminished since the sandbag revetment has been in place, with the beach profile becoming steeper and steeper, making it harder for Monk seals to haul out and rest.



Haena's "Temporary" Sandbag Revetment

Two (2) new houses have been recently permitted:

TMK 5-9-5:25 Malerich CDUP

Construction of the Malerich house is valued at \$1,023,400. For the new construction in the Malerich CDUP approval, the state imposed a condition on October 23, 2009 that prohibits long term or permanent armoring.

Condition #16 *"This action by the board in no way legitimizes the sand bag groin on the seaward side of the property and the DLNR has the right to ask for removal of the structure should the landowner fail to comply with the County of Kauai Emergency permit (E)-97-03 declarations; or if it is determined that the structure is causing harm to the public beach."*

Condition #19 *"No shoreline hardening, sandbags or other structures be allowed to artificially fix the shoreline for the life of the development. This condition shall be incorporated into the conditions for approval and filed with the Bureau of Conveyances."*

TMK 5-9-5:27 Bartmess CDUP KA 3460

Bartmess had similar conditions

"This action by the board in no way legitimizes the sand bag groin on the seaward side of the property and the DLNR has the right to ask for removal of the structure should the landowner fail to comply with the County of Kauai Emergency permit (E)-97-03 declarations; or if it is determined that the structure is causing harm to the public beach."

Kauai Planning Department Concerns:

The County also expressed its concerns on March 24, 2009. The Planning Director, Ian Costa responded to the SMA Request for Exemption of SMA Rules for parcel 5-9-5:25 in part...

Be advised that in accordance with procedure we will be commenting on the CDUA to the DLNR and we feel strongly that the existing SMA (E) 97-3 permit issues need to be addressed; due to the outstanding issues on this emergency permit we will suggest that these issues be resolved prior to considering review of further action on this property. Please call Lisa Ellen Smith, our assigned project planner to discuss any questions.

The landowners hired EKNA to do a study on the sandbags for the 5 landowners. The interim report of June 2009 acknowledged, *"Sand pushing/scraping activities, used to cover the exposed sandbags, occurred in 2000, 2002, 2003, and 2006. The exposed sandbags were covered with sand by using a dozer to push sand from the fronting beach to the shoreline embankment in order to bury the revetment."*

In 2009, the County of Kauai granted the landowners time to conduct professional assessments in order to meet the conditions of the emergency permit issued in 1997 and granted an extension until June 30, 2009.

The July 6, 2010 Beach Monitoring Report by EKNA Services, Inc. summarized the results of the beach profile surveys conducted in 2009 and 2010.

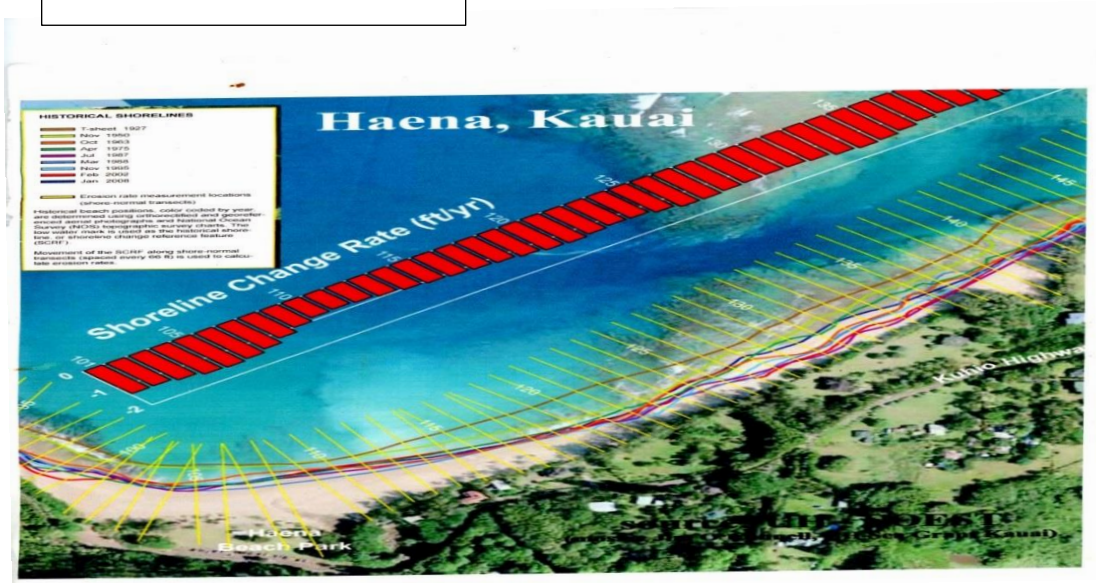
Haena's "Temporary" Sandbag Revetment

Sea Grant Comments

Jim O'Connell, Coastal Processes/Coastal Land Use Specialist with the University of Hawai'i Sea Grant Program, also made comments on the EKNA study including the beach profile, public access, potential impacts, erosion and beach scraping, wave uprush/swash vs. shoreline access, and long term shoreline changes. Specific comments include:

- *Armoring of this particular dune prohibits some volume of sand from feeding the beach which otherwise would be a continual source of sand to the beach. Furthermore, as the land on either side of the armored area continues to erode, flanking or end scour may eventually result in accelerated erosion to adjacent property in close proximity to the end of the structure.*
- *The University of Hawaii's Coastal Geology Group recently provided long-term shoreline change data to the County of Kauai for all sandy shores around Kauai (Dr. Chip Fletcher, 2009).*
- *The long-term average annual rate of change shows an erosion rate of approximately 1 foot per year fronting the property. As the shoreline continues to erode and move mauka toward the revetment, the beach will narrow and along-shore public access will be adversely affected more frequently by wave uprush, and eventually access will be prohibited (or unsafe) when the high (and low) water line reaches the structures.*
- *It is clear that the temporary revetment also causes impacts to the beach, such as steepening the sandy beach area.*
- *Landward relocation could provide a measure of longevity to the buildings and continuing enjoyment of this outstanding coastal environment.*

SOEST Shoreline Change Rate
is 1 foot a year



Haena's "Temporary" Sandbag Revetment

The properties continue to change ownership, with none of the original owners who were impacted by the erosion still retaining ownership. The Kauai County Property tax office lists the following sales in the sandbag lots.

<u>Parcel Number</u>	<u>Owner Name</u>	<u>Grantor</u>	<u>Grantee</u>	<u>Property Class</u>	<u>Sale Date</u>	<u>Sale Price</u>	<u>Location Address</u>
590050260000	ZIBO LLC	ECKERT,TROY	COURY,TIMOTHY J	Vacation Rental	2011-07-28	\$ 2,570,000	05-7826 A KUHIO HWY
590050270000	OHANAHAE LLC	BARTMESS,CATHERINE TRUSTEE	M OHANAHAE LLC	Conservation	2010-12-30	\$ 1,200,000	05-7820 KUHIO HWY
590050230000	NORMAN,NEAL 2004 TRUST	IVE REVOCABLE TRUST	NORMAN,NEAL 2004 TRUST	Homestead	2008-12-30	\$ 3,500,000	05-7848 KUHIO HWY
590050230000	NORMAN,NEAL 2004 TRUST			Homestead	2000-04-17	\$ 1,350,000	05-7848 KUHIO HWY
590050250000	MALERICH,MATTHEW & JUDITH E TRUST	MIST,SALLY A M TRUST	MALERICH,MATTHEW & JUDITH E TRUST	Conservation	2008-10-31	\$ 1,250,000	05-7834 KUHIO HWY
590050260000	ZIBO LLC	KUALI'I FOUNDATION	ECKERT,TROY	Vacation Rental	2007-03-13	\$ 3,500,000	05-7826 A KUHIO HWY

Note: Parcel 26 was sold 2 times since 2007; Lot 23 was acquired by Real Estate broker Neil Norman of Koa Properties for \$1,350,000 in 2000, and sold to the Norman Trust for \$3,500,000 at the end of 2008. Only parcel 24 has been under the same ownership since 1999.

590050240000	CARROLL-DOWNS FAMILY TRUST	Residential	1999-02-03	\$ 860,000	05-7840 KUHIO HWY
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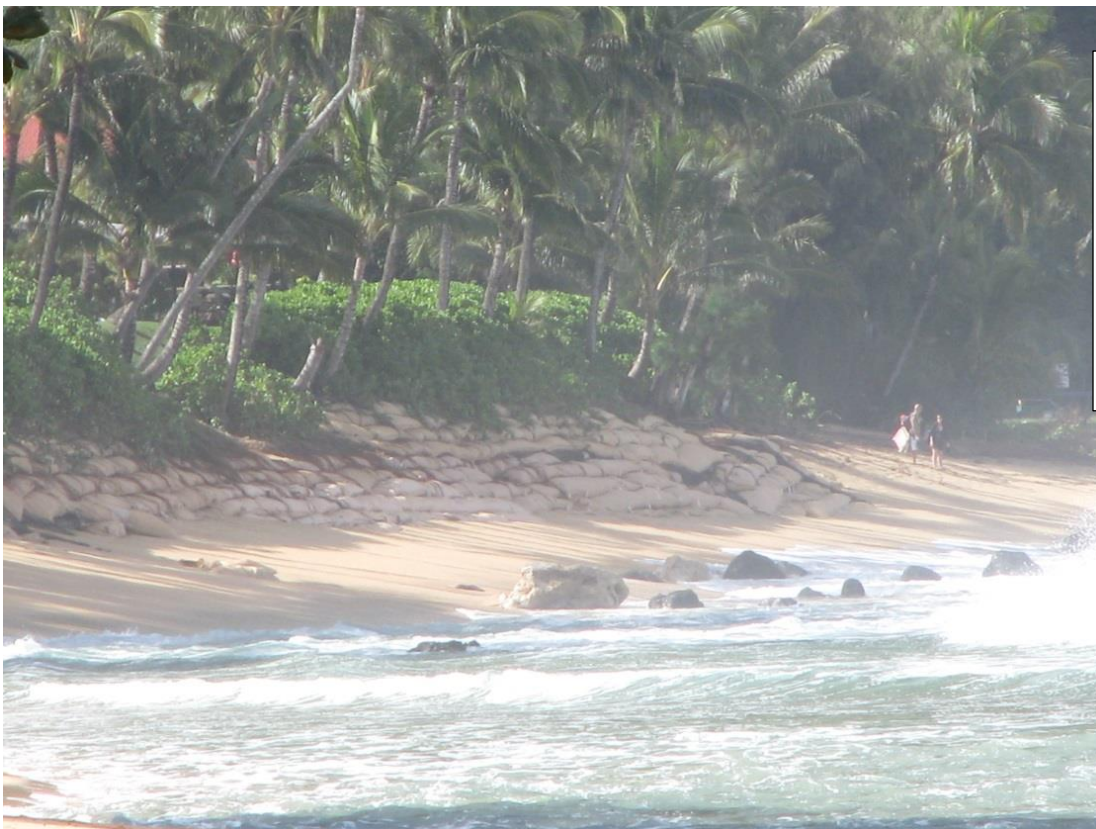
All lots protected by the temporary emergency permit have changed ownership since the temporary revetment was installed. How much of the increasing land value is due to the protective sandbag revetment and loss of public beach?

Haena's "Temporary" Sandbag Revetment



Photo taken January 22, 2014 at 6:19 AM

Sandbags covered with Naupaka. No lateral access.



Same place, January 22, 2014 at 10:44 AM, all the naupaka has been washed away by the waves, exposing the sandbag revetment.

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In the 1990's, according to the County's Kauai Shoreline Erosion Management Study, the beach width at nearby Ha'ena County Park was 200 feet, and was significantly wider than anywhere else along this reach. The width of the beach park has diminished greatly in recent years. The sandbags have altered the natural sand movement of this area and contributed to the diminished public beach. The five (5) properties with the temporary sandbag revetment have increased in value; all the while being protected by a temporary emergency revetment that has adversely impacted the public beach in Haena's conservation district.

We are advocating for the temporary revetment to be removed before additional degradation to Haena's beaches, coastal waters and reef occurs from the sandbags. The sandbag revetment that fronts these properties has exceeded its authorized life, is detrimental to the public interest and should be removed. After 18 years, the temporary emergency sandbag revetment should be removed and the natural beach processes be allowed to restore the beach.

This stretch of beachfront is an invaluable, irreplaceable public resource. Restore the beach.

2015 May 22

Hope Kallai
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Suzanne Case, Chairwoman
Department of Land and Natural Resources
1151 Punchbowl Street, Room 325
Honolulu, HI 96813
dlnr@hawaii.gov

RE: Cattle Damage to Conservation District and Shoreline Management Area,
Moloa`a Bay Ranch, TMK (4) 4-9-011: 001, Kaua`i

Aloha e Chairperson Case

We have recently observed evidence of cattle on the beach and bluffs at Moloa`a Bay Ranch. In 2005, this area was previously considered under an Environmental Assessment and Conservation District Use Application (CDUA) KA-3190 to resolve a violation of Chapter 13-5, HAR Chapter 183C HRS, for failing to obtain permits. The reforestation plan was designed to prevent erosion and protect Moloa`a Bay from erosion and soil runoff.

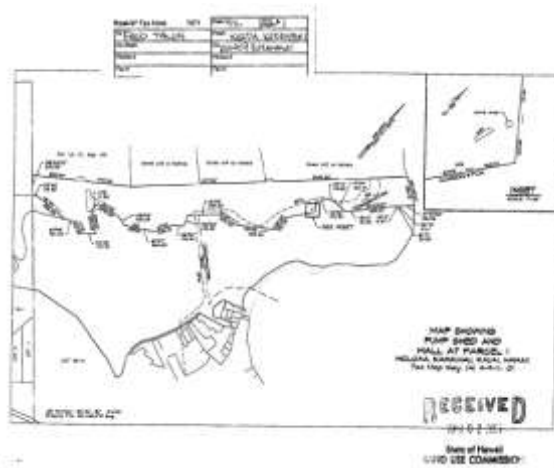


Right now, there are nesting albatross and wedge-tailed shearwaters that are imminently threatened by being trampled by cattle. There is a dead albatross in the CD. There is cattle feces on the Na Ala Hele alaloa segment of Moloa`a Bay Ranch Coastal Trail, creating a public nuisance and impacting the water quality of a popular sustenance fishing and limu gathering area.

1 Dead Laysan Albatross on Moloa`a Bay Ranch Conservatin District Lands.



The green area is Conservation District lands



The Conservation District lands at Moloa`a Bay Ranch abut Moloa`a Bay. The slopes are very steep Badlands (BL) and Rough Broken Lands (rRR), not suitable for grazing. There is a colony of wedge- tailed shearwaters that has been having a tough time with dog predation. Now, current management practices include dropping ironwood slash on the colony while birds are present on nest.



I do not believe cattle grazing is an authorized use of the Limited Sub-zone of the Conservation District, under HAR Title 13-5. I do not believe a variance has been obtained for cattle grazing in seabird nesting habitat in the steep slopes of the Conservation District at Moloa`a Bay Ranch.

The 2005 CDUA considered 4' high, 3 split rail fence on the mauka side of the alaloa trail and protecting the trail with wood chips, not the grazing of cattle. Native vegetation is denuded by cattle grazing and there are more patches of bare dirt every day. There is no fencing preventing cattle from the steep slopes or beach.



Note the grazed vegetation.

The coastal alaloa trail is culturally significant. From the Archaeological and Cultural Impact Assessment of the 2005 FEA:

State Site 50-30-04-1034 is the aforementioned trail that traverses the project between Moloa'a Bay and Ka'aka'aniu to the northwest. The trail is unmodified and consists of a well-worn trodden path that allows for public access to the Moloa'a Bay from Larsen's Beach in Ka'aka'aniu. The fringing reef adjacent to the eastern side of the trail is one of the few places where *limu kohu* is still available for gathering. Access via this trail has played a critical role in the subsistence of the Moloa'a people in historic, and presumably in pre-contact times.

C. RECOMMENDATIONS

The two sites, 50-30-04-1033 and -1034 are recommended for preservation as is. No ground disturbing activities such as bulldozing, mechanized vegetation clearing or construction activity should occur on these sites.

The trail segment, Site 1034, allows for access to and from Moloa'a Bay and Larsen's Beach in the adjoining (northwest) *Ahupua'a* of Ka'aka'aniu. Traditional and historical accounts (including local informant) indicate that the fringing reef fronting Larsen's beach is renown for its *limu kohu* (Clark 1990, Wickman 1998, Bill Wong per. Comm. 1999). Based on these accounts and the well-worn path, it is presumed that the trail segment represents an access route older than 50 years. The trail itself is a narrow shallow unmodified trodden path utilized both by tourists and *kama'aina*.

The applicant plans to follow the recommendations of the archaeological assessment and plans no activity near site 50-30-04-1033. The only activity planned at site 50-30-04-1033 will be the use of wood chips to provide a better surface for the trail and to delineate the trail.

The beach at Moloa'a Bay is supports the endangered Hawai'ian monk seal and the threatened green sea turtle. Both of these protected species are potentially impacted by the presence of cattle manure on the beach. The EA erroneously states:

- **No rare, threatened or endangered species or their habitats would be affected.**

As detailed in our horticultural survey and fauna survey, no rare, threatened, or endangered species or their habitats would be affected in the proposed development.

B. RECOMMENDATIONS

The following recommendations are suggested to mitigate cultural concerns identified during the preparation of this cultural impact assessment.

Open public access along the shoreline of the project area should be maintained at all times. Individuals should have the right to access these areas for traditional cultural practices, which include the gathering of marine resources. It is important that the landowner observe and maintain the State shoreline setback for public access.



Open access was recommended, but a contiguous property owner has created a bird sanctuary for the migratory Laysan albatross.

There is a barbed wire fence blocking access to the reef resources at Ka`aka`aniu.



This “Trail to Nowhere” is an insult to cultural practitioners and creates a public safety hazard. The coastal alaloa does not end; it circumnavigates the entire island of Kaua`i. Please address the blockage of this cultural trail before someone gets hurt.

The EA also states:

1. Access along the shoreline will be maintained and no improvements are planned within the State or County shoreline setback.

The public beach, within the State and County setback area is being systematically reduced by vegetative plantings. There is a row of newly planted coco palms planted in the sand.



There are many problems with the management of this property that need immediate attention. Please let me know if you have any questions or need further information.

Mahalo,

Hope Kallai

CC: Lisa Hadway, Administrator, Division of Forestry and Wildlife, Sam Lemmo, OCCL, Les Milnes, County of Kauai, DOCARE, OHA