

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 27, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 13MD-159

Maui

Issuance of Right-of-Entry Permit to T.J. Gomes Trucking Co., Inc. for the Installation of Temporary Shoreline Erosion Protection Measures at Kaanapali, Lahaina, Maui, Tax Map Key: (2) 4-4-013:008.

APPLICANT:

T.J. Gomes Trucking Co., Inc. a Domestic Profit Corporation.

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kaanapali situated at Lahaina, Maui, Hawaii, identified by Tax Map Key: (2) 4-4-013:008, as shown on the attached map labeled Exhibit A.

AREA:

300 sq. ft., more or less.

ZONING:

State Land Use District: Conservation
County of Maui CZO: Special Management Area

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by Governor's Executive Order No. 4230 to Division of Boating and Ocean Recreation for regulation of ocean recreational boating and coastal activities purposes.

CHARACTER OF USE:

Temporary shoreline erosion control purposes using biodegradable sandbags.

TERM OF RIGHT-OF-ENTRY:

Three years

EXHIBITS:

- Exhibit A – Tax Map of the subject area.
- Exhibit B – Overview of the project site.
- Exhibit C - Notice of Site Plan Approval No. SPA MA-14-5, from the Office of Conservation and Coastal Lands.
- Exhibit D - Photos (3) of areas where undermining areas where work will be conducted.
- Exhibit E - Diagram of proposed action.

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Division of Land Management's Environmental Impact Statement Exemption List, approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing," and Exemption Class No. 2, that states "Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO ___
Registered business name confirmed:	YES <u>x</u>	NO ___
Applicant in good standing confirmed:	YES <u>x</u>	NO ___

APPLICANT REQUIREMENTS:

Concurrence with terms and conditions of site plan as approved by the Office of Conservation and Coastal Lands (OCCL) on August 13, 2013, further identified as SPA MA-14-5.

REMARKS:

The Hyatt Kaanapali Resort, Maui, has acquired the services of T.J. Gomes Trucking Co. Inc., to place biodegradable sandbags for temporary erosion control in spot locations fronting its property in the shoreline at Kaanapali Beach, which is further identified by TMK: (2) 4-4-013:008. The purpose of the project is to provide temporary erosion control to prevent further undermining of the alongshore walkway. The concrete sidewalk and landscaping along the shoreline in the vicinity is undermined, creating minor safety issues alongside the walkway. The walkway is open to the public and provides alongshore access fronting the Kaanapali resort area.

Site Plan Approval (SPA) for the proposed work was issued by OCCL on August 13, 2013, (SPA MA-14-5). The proposed activities are intended to provide temporary relief to seasonal wave run up erosion. Temporary erosion control will help to maintain safe alongshore public access in this area while a more sustainable long-term erosion management solution is devised, which may involve alternatives such as beach nourishment.

Plans indicate that bags will be placed in two areas, each approximately 20 feet in length and 5 feet wide, where the sidewalk has been undermined. Bags will also be placed in a third site of similar size where an erosion scarp has approached within a few feet of the walkway, and undermining of the sidewalk is likely with continued erosion.

Kaanapali Beach is currently encumbered by the Division of Boating and Ocean Recreation (DOBOR) via Governor's Executive Order No. 4230 for regulation of ocean recreational boating and coastal activities purposes. The Land Division has been in communication with DOBOR and has received its concurrence relating to the subject actions.

Furthermore, the Office of Conservation and Coastal Lands and Maui County's Planning Department have been involved with the permitting process and are in support of the proposed work.

RECOMMENDATION: That the Board

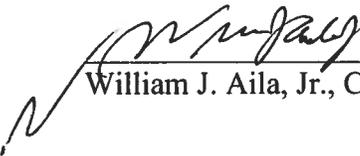
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a right-of-entry permit to T.J. Gomes Trucking Co., Inc., covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Daniel Ornellas
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

September 27, 2013

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

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIKOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: T.J. Gomes Trucking Co., Inc.

Project / Reference No.: PSF#13MD-159 and SPA MA-14-5

Project Location: Kaanapali, Lahaina, Maui, TMK: (2) 4-4-013:008, fronting the Hyatt Kaanapali Resort.

Project Description: Temporary shoreline erosion control through the use of biodegradable sandbags.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that state "Operations, repairs or maintenance of existing structures, facilities equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 2, that states "Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced."

Consulted Agencies: DLNR Office of Conservation and Coastal Lands, Division of Boating and Ocean Recreation and the County of Maui Planning Department.

Recommendation:

It is anticipated this event will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

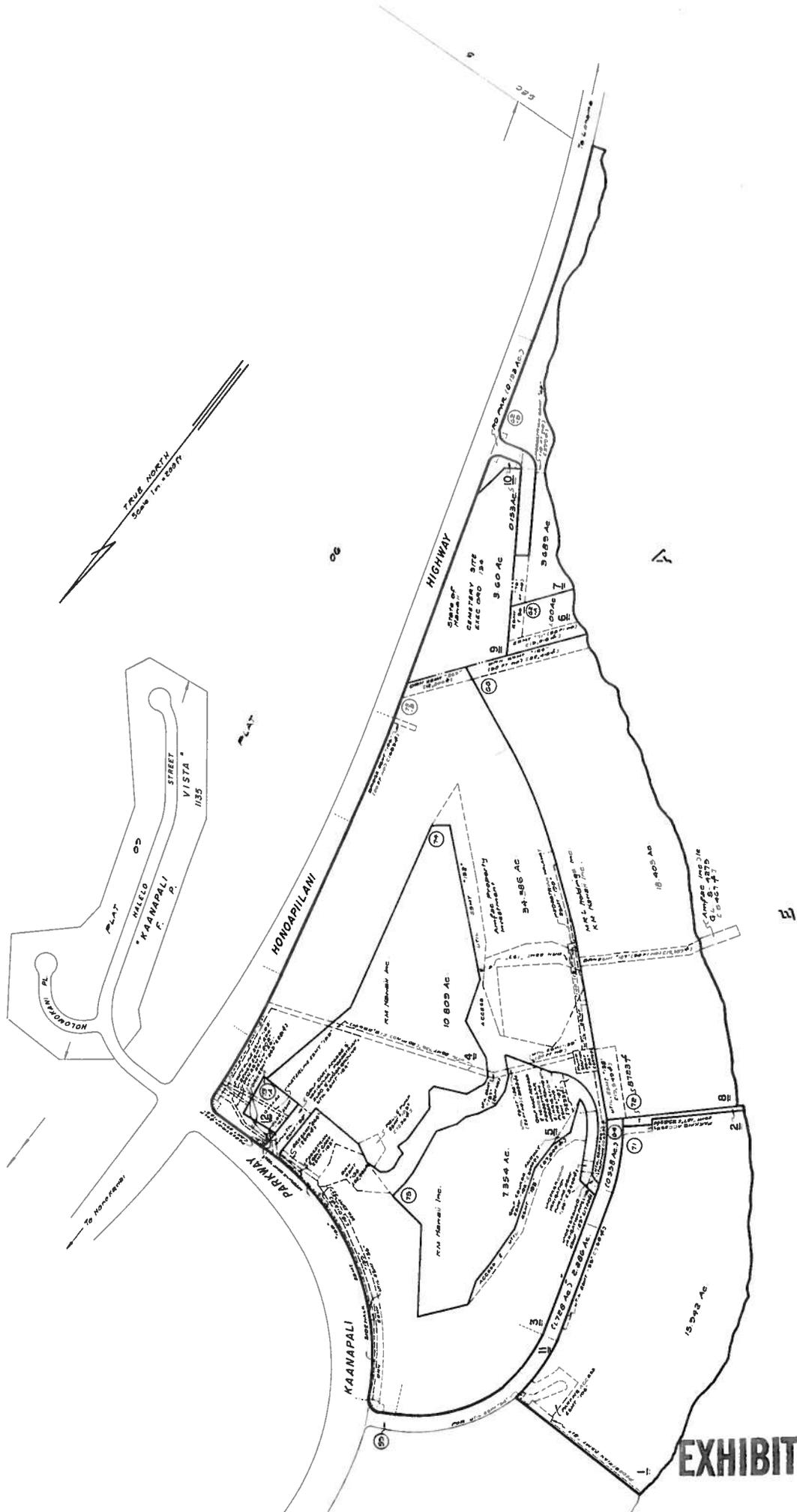


William J. Aila Jr., Chairperson



Date





NOTE: Parcel 2, 3, 4 owned by County of Maui, unless otherwise noted.

DEPARTMENT OF FINANCE PROPERTY ASSESSMENT DIVISION TAX MAP SECTION STATE OF HAWAII			
TAX MAP			
COUNTY OF MAUI	ZONE	SEC.	PLAT
	4	4	13
SCALE 1" = 200'			

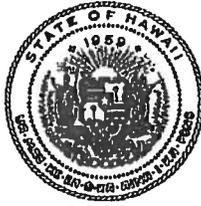
FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE

EXHIBIT "A"



Figure 7

NELL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

DLNR:OCCL:BR

File : SPA MA-14-5

Mr. David A Smith, PhD, PE
Sea Engineering, Inc.
Makai Research Pier

AUG 13 2013

Waimanalo, HI 96795-1820

Dear Mr. Smith,

Subject: **Notice of Site Plan Approval (MA-14-5)
Temporary Shoreline Erosion Control Using Biodegradable Sandbags
Hyatt Regency Maui Resort and Spa, Kaanapali, Maui
TMK (2) 4-4-013:008.**

The DLNR, Office of Conservation and Coastal Lands (OCCL) has reviewed your August 1, 2012 letter requesting a Site Plan Approval (SPA) to place biodegradable sandbags for temporary erosion control in spot locations at the Hyatt Kaanapali Resort, Maui, in the shoreline area of TMK (2) 4-4-013:008. The purpose of the proposed project is to provide temporary erosion control preventing further undermining of the alongshore walkway. The concrete sidewalk and landscaping along the shoreline in the vicinity of the 'Grotto' is undermined, creating minor safety issues alongside the walkway. The walkway is open to the public and provides alongshore access fronting the Kaanapali resort area.

An SPA for the proposed work was approved on July 28, 2012 (SPA MA-13-1). However, the SPA expired prior to project initiation due to delays in getting materials. The applicant is requesting a new SPA for the work authorized under expired SPA MA-13-1. It is OCCL's understanding that proper materials have been procured.

The request was evaluated for potential negative impact to the local nearshore ecosystem and recreational uses of the beach and dune area. It appears the area has experienced localized seasonal and chronic (long-term) erosion to the dune (over-steepened bank) fronting the property. The proposed activities are intended to provide temporary relief to seasonal wave run up erosion. Temporary erosion control will help to maintain safe alongshore public access in this area of economic importance while a more sustainable long-term erosion management solution is devised.

The OCCL understands the proposed activities will occur on state land, makai of where the shoreline would likely be determined based on Hawaii Administrative Rule 13-222 (Shoreline

EXHIBIT " C "

Certification). According to the submitted plans, the bags will be placed in two areas, each approximately 20 feet long, where the sidewalk has been undermined. Bags will also be placed in a third site of similar length where an erosion scarp has approached within a few feet of the walkway, and undermining of the sidewalk is likely with continued erosion. The work will be performed by the Hyatt's selected contractor.

It is the OCCL's understanding that a long-term erosion-control plan is being developed to assess various alternatives including beach nourishment. The development of a long-term plan is critical since the acceptance of repeated site plan approvals for temporary erosion control is limited to episodic events (rather than annual requests) and is justified as a means to provide temporary relief while a long-term plan is being developed.

The sequence of events shall be as proposed in the submitted work plan, which includes:

1. Access shall be provided through one of the beach right-of-ways adjacent to the subject property. A right of entry permit may be required by Maui County for this access.
2. The bags will be filled with manual labor or small equipment using approximately 7.5 cubic yards of native beach sand at a location where the backbeach is sufficiently wide that the work area will remain out of the recent upper wash of the waves.
3. The bags will be transported along the beach or walkway using small equipment, such as bobcats, in a manner ensuring public safety with equipment such as construction fencing, signage, and pylons. Equipment shall not be used in the water at any time. Best management practices shall be followed at all times.
4. Debris, dead vegetation, and roots will be cleared from the sandbag placement area as needed.
5. The sand bag placement area under the walkway will be graded only to an extent to provide a level base for the bags.
6. A biodegradable filter fabric blanket may be draped over the seaward face of the erosion scarp and sand bag placement area to aid in stability of the scarp and sandbag structure. The toe of the filter fabric may be buried up to two feet at the makai edge of the structure to assist in slope stability.
7. Bags shall be placed within the undermined areas using manpower or small equipment in a general configuration as shown in the enclosed Figure 5, provided by the applicant. The number of bags and stacking scheme may vary with each site. It is anticipated that the bags will generally be placed within the undermined areas. The bags may protrude slightly from the undermined areas as necessary to achieve stability.
8. The sandbags and all proposed materials will consist of 100% biodegradable material (e.g., coir coconut fiber). It is expected this material will naturally degrade but may provide temporary erosion protection for up to a year.
9. The contractor will submit a brief report to OCCL within 30 days of work completion including a summary of work performed and before and after photographs of the work.
10. The sandbags may be periodically maintained in the event of damage or displacement. Any alterations to the structure beyond maintenance of the original structure design will require previous written authorization from DLNR.
11. The contractor will notify DLNR with 30 days of completion of any maintenance activities.

Authorization Expiration

It is understood that the sand bags are a temporary response to prevent the loss of the sidewalk, which is part of the existing coastal access infrastructure, and is threatened by both chronic and seasonal wave run-up and erosion. If DLNR staff is satisfied with the installation, the project will be authorized as a temporary erosion control measure for three (3) years from the date of acceptance of this authorization by the landowner. Subsequent erosion control efforts that call for modification, other than maintenance of the proposed structure will require a new application. At the end of three years the materials shall be removed.

Mitigation Measures (Best Management Practices)

Typical Best Management Practices shall be implemented to ensure that water quality and marine resources are protected and preserved. Mitigation measures involve the use of sand that is free of contaminants and low in silt content. Excessive silt and turbidity shall be contained or otherwise minimized through the use of silt containment devices and barriers (as necessary). Silt and dust containment should be practiced for the duration of construction activities. Visual monitoring of the nearshore water quality condition should be practiced during sandbag placement; and if excessive turbidity occurs, work shall stop and more effective silt containment measures utilized.

The applicant will prepare a completion report for the project. It will summarize the construction and detail any deviation from the proposed plans within 30 days of completion of the project. The report will also include a photo summary of the bank and beach conditions after the project is completed.

Sand Quality

Due to the use of native beach sand from an adjacent section of beach and best management practices, potential turbidity impacts from the proposed activities are expected to be negligible. Near-shore turbidity associated with the use of this sand is not expected to impact marine life and is not expected to exceed existing background levels.

Your request for temporary placement of biodegradable sand bags in spot locations fronting the subject property is approved as a site plan approval (SPA MA-14-5). We have determined that this project constitutes a Site Plan Approval pursuant to Section 13-5-22, *Structures and Land Uses, Existing (B-1)*, "Demolition, removal, or minor alteration of existing structures, facilities, land, and equipment" and is in accordance with Section 13-5-38 *Site Plan Approvals*.

The proposed work is minor in scope and may be considered an exempt action under State environmental laws under Hawaii Administrative Rules (HAR), §11-200-8 *Exempt Classes of Action*. The following list represents the exempt classes of actions for this project based on the information provided:

1. "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing;"
2. "Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced;"
3. "Minor alterations in the conditions of land, water, or vegetation."

TERMS AND CONDITIONS:

After careful review of the proposed project, DLNR gives Site Plan Approval for temporary biodegradable sand bag placement at the Hyatt Regency Maui Resort and Spa, Kaanapali, Maui, in the shoreline area of TMK (2) 4-4-013:008, subject but not limited to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the Federal, State, and County governments for projects approved under this authorization and applicable parts of Chapter 13-5, HAR including obtaining an appropriate land disposition such as a right of entry. Department authorization of the proposed project does not eliminate this responsibility;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. In issuing this approval, the Department has relied on the information and data that the applicant has provided in connection with this approval application. If, subsequent to the issuance of the approval such information and data prove to be false, incomplete, or inaccurate, this approval may be modified, suspended, or revoked, in whole, or in part, and the department may, in addition, institute appropriate legal proceedings;
4. All activities authorized shall be initiated within 6 months of this authorization and completed within 12 months of this authorization;
5. The applicant shall comply with all applicable Department of Health administrative rules;
6. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
7. The applicant shall obtain the appropriate authorization for the work; this may include a Right of Entry from the Division of Boating and Ocean Recreation, Maui District Office (808) 243-5824;

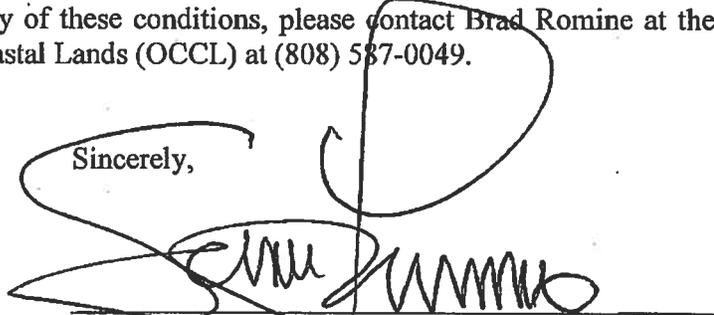
8. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project. All barriers shall be removed once the project is complete to allow full public access laterally along the beach and above the dune;
9. To avoid encroachments upon the area, the applicant shall not use artificially accreted areas due to nourishment or hardening as indicators of the shoreline. To facilitate any future applications for shoreline certifications, the applicant should conduct a shoreline survey for state certification;
10. The applicant shall submit a summary report to the DLNR within 30 days of the completion of the project describing what maintenance actions took place and include photographic or other quantitative evidence (beach profiles or volume calculations) of the beach condition;
11. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
12. The applicant shall take measures to ensure that the public is adequately informed of the project work once it is initiated and the need to avoid the project area during the operation and shall notify all abutting property owners and community organizations that may be affected by the proposed action;
13. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and minimize silt in nearshore waters and clean up fuel; fluid or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;
14. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;
15. Where any interference, nuisance, or harm may be caused, or hazard established by the proposed measures, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm or hazard;
16. The activity shall not adversely affect a Federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
17. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;

18. When the Chairperson is notified by the applicant or the public that an individual activity deviates from the scope of an application approved by this letter, or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
19. When the Chairperson is notified by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service or the State DLNR that an individual activity or activities authorized by this letter is adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
20. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this letter;
21. No motorized construction equipment is to be operated in the water at any time;
22. In the event that historic sites, including human burials are uncovered during construction activities, all work in the vicinity must stop immediately and contact the State Historic Preservation Division at (808) 692-8015;
23. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;
24. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;
25. Failure on the part of the applicant to comply with any conditions imposed under this letter shall render the letter null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Please notify the OCCL in advance of the anticipated construction dates and notify the OCCL immediately if any changes to the scope or schedule are anticipated.

Should you have any questions on any of these conditions, please contact Brad Romine at the DLNR Office of Conservation and Coastal Lands (OCCL) at (808) 587-0049.

Sincerely,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

I concur with the conditions of this letter:

Applicant's Name (Print)

Applicant's Signature

Date _____

Cc: Chairperson
Maui Co Planning Dept
Tara Owens (Hawaii Sea Grant, c/o Maui Co Planning Dept)
DLNR, DOBOR Maui



Figure 2 Undermining opposite the Grotto (western site)



Figure 3 Undermining opposite the Grotto (central site)



Figure 4 Undermining opposite the Grotto (eastern site)

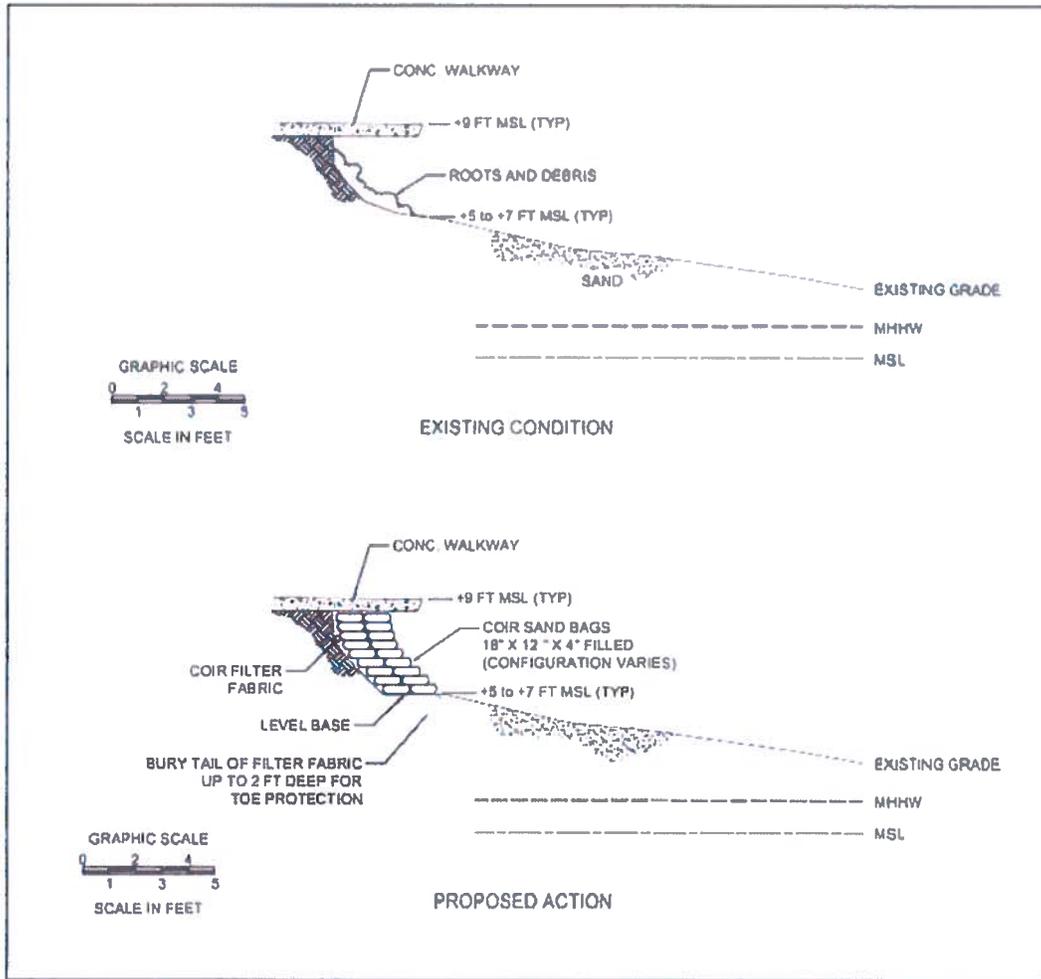


Figure 5 Typical section views (top—Existing Condition; bottom—Proposed Action)