

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

September 26, 2014

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

RP No. S-7618

Maui

Cancellation of Revocable Permit No. S-7618 to Stable Road Beach Restoration Foundation, Inc., Grant of Four Term, Non-Exclusive Easements to: (1) the Association of Apartment Owners of Ainalani Lot 6, (2) David B. Lim and Jan D. Lim, Trustees of The D & J Family Trust Dated August 30, 2006, (3) Cortland K. Larned III, Elizabeth M. Larned, and Ian Horswill, and (4) James C. Riley, Trustee under Declaration of Revocable Trust of James C. Riley dated November 21, 1989, Jeanne A. Riley, Trustee under Declaration of Revocable Trust of Jeanne A. Riley dated November 21, 1989, and Peter Klint Martin, Trustee of the Peter Klint Martin Revocable Trust dated April 11, 1995, as amended, for Rock Groins Purposes; Issuance of Immediate Construction Right-of-Entry to Stable Road Beach Restoration Foundation, Inc. for Rock Groins Purposes, Sprecklesville, Wailuku, Maui, Seaward of Tax Map Keys: (2) 3-8-002:071, 074, 077, 078 & 094.

APPLICANTS:

Name	Property Ownership Interest
Stable Road Beach Restoration Foundation, Inc., a domestic nonprofit corporation	None
Association of Apartment Owners of Ainalani Lot 6	TMK: (2) 3-8-002:074
David B. Lim and Jan D. Lim, Trustees of The D & J Family Trust Dated August 30, 2006	TMK: (2) 3-8-002:077
Cortland K. Larned III and Elizabeth M. Larned, husband and wife, as tenants by the entirety	Undivided one-half interest in TMK: (2) 3-8-002:078
Ian Horswill, single	Undivided one-half interest in TMK: (2) 3-8-002:078
James C. Riley, Trustee under Declaration of Revocable Trust of James C. Riley dated November 21, 1989 and Jeanne A. Riley, Trustee under Declaration of Revocable Trust of Jeanne A. Riley dated November 21, 1989	Undivided one-half interest in TMK: (2) 3-8-002:094
Peter Klint Martin, Trustee of the Peter Klint Martin Revocable Trust dated April 11, 1995, as amended	Undivided one-half interest in TMK: (2) 3-8-002:094

LEGAL REFERENCE:

Sections 171-13, 171-53(c) and 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands located seaward of parcels 071, 074, 077, 078 & 094 situated at Sprecklesville, Wailuku, Maui, identified by Tax Map Key No: (2) 3-8-002, as shown on the attached map labeled **Exhibit A**.

AREA:

7,324.70 sq. ft., more or less, subject to survey.

ZONING:

State Land Use District: Conservation

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 Revocable Permit No. S-7618 to Stable Road Beach Restoration Foundation, Inc., for small-scale beach nourishment purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove rock groins over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson. It is anticipated that the commencement date of the easements will be the date that Revocable Permit No. S-7618 is cancelled.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson. Applicants are requesting that they be credited for the value of benefits inuring to the community from this project. Staff is proposing that the appraisal be completed and the result shared with Applicants prior to discussion of any

adjustment to consideration. Staff will bring this matter back to the Board at a later date for final determination.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on January 23, 2013 with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

Stable Road Beach Restoration Foundation, Inc.

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

The other Applicants are natural persons, trusts, or unincorporated associations and are not required to register with the DCCA.

APPLICANT REQUIREMENTS:

Applicants shall be required to:

- 1) Pay for an appraisal to determine one-time payment;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
- 3) Comply with the terms and conditions of the permits identified below;
- 4) Obtain concurrent resolutions from the Legislature pursuant to HRS 171-53(c);
- 5) Provide a single security deposit in the amount of \$100,000 for the cost of removing the rock groins if the easements are not approved by the Legislature;
- 6) Provide title reports to determine ownership, if necessary.

REMARKS:

Applicant Stable Road Beach Restoration Foundation, Inc. ("SRBRFI") was formed by seven Stable Road neighborhood homeowners in 2007 for the sole purpose of restoring a portion of beach along Stable Road that was experiencing chronic beach erosion. Applicants Association of Apartment Owners of Ainalani Lot 6, David B. Lim and Jan D. Lim, Trustees of The D & J Family Trust Dated August 30, 2006, Cortland K. Larned III, Elizabeth M. Larned, Ian Horswill, James C. Riley, Trustee under Declaration of Revocable Trust of James C. Riley dated November 21, 1989, Jeanne A. Riley, Trustee under Declaration of Revocable Trust of

Jeanne A. Riley dated November 21, 1989, and Peter Klint Martin, Trustee of the Peter Klint Martin Revocable Trust dated April 11, 1995, as amended (sometimes referred to hereinafter collectively as the “Landowner Applicants”) are all members of SRBRFI.

On April 8, 2010, the Board of Land and Natural Resources (“Land Board”), under item D-15, authorized the issuance of a revocable permit (RP No. S-7618 dated December 22, 2010) and immediate construction right-of-way to SRBRFI for Category II Small-Scale Beach Nourishment (“SSBN”) purposes. The objective of the project was to restore and stabilize the beach along Stable Road, by placing up to 10,000 cubic yards of compatible beach sand along the shoreline and installing a series of four temporary geo-tube groins to minimize sand loss during seasonal changes in sediment transport caused by wind, waves, and currents. If the beach and environmental performance objectives were met, a more permanent engineered solution was to be implemented at a later date.

On March 8, 2013, the Land Board under item K-3, authorized a Conservation District Use Application (“CDUA”) MA-3633 to the SRBRFI after its fulfillment of all the requirements in the SSBN application. It appears that the temporary groins performed successfully during the subsequent seasons retaining naturally accreted beach sand with the continuation of long shore sand transport to down drift beaches. The SSBN project was authorized with a condition that the proposed geo-tube groins were temporary and would need to be removed or approval sought for a permanent retention through the permitting process.

Based upon the successful performance of the SSBN project, the SRBRFI is proposing to replace the existing temporary geo-tube groins with four 100’ long by 20’ wide rock groins perpendicular to the shoreline extending into the ocean within an approximately 600-foot long area of beach fronting the subject parcels. The proposed permanent groins will be placed in generally the same location as the SSBN project. (see **Exhibit B**). The Groin Replacement Project is necessary to protect and preserve a highly used, public beach that has had decades of chronic beach erosion. The implementation of the Groin Replacement Project must occur in October 2014 due to seasonal weather constraints, such as too much surf during the winter and too much wind in the summer.

All of the required permits have been obtained:

1. County of Maui Special Flood Hazard Area Development Permit
2. County of Maui Special Management Area Minor Permit
3. County of Maui Shoreline Setback Approval
4. County of Maui Environmental Assessment Exemption for the Proposed Construction Staging Area
5. State of Hawaii, Department of Land and Natural Resources’ Conservation and Coastal Lands, Conservations District Use Permit MA-3633
6. State of Hawaii Department of Health Section 401 Water Quality Certification
7. State of Hawaii, Office of Planning’s Coastal Zone Management Federal Consistency Permit

8. U.S. Army Corps of Engineering POH Permit

The Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Governor's approval and Legislative Concurrent Resolution will have to be obtained after obtaining Land Board approval for this disposition. Upon approval of today's request, the Applicants are reminded of the requirement for a concurrent resolution from both houses of the Legislature under Section 171-53(c), HRS. Since the Applicants want to begin construction prior to legislative approval, Staff is recommending that SRBRFI post a single security deposit or bond in the amount of \$100,000, which is the estimated cost of removing the rock groins if the easements are not approved by the Legislature. SRBRFI proposed a bond of \$40,900.00, but staff understands that SRBRFI's estimated removal costs exclude some labor costs that are being provided to SRBRFI at no charge. Staff believes \$100,000 is more appropriate in the event SRBRFI is unable or unwilling to remove the groins if legislative approval is not obtained. Additionally, if the easement is approved, the \$100,000 can be used as security for the payment of the required easement consideration.

There will be no separate charge for the early placement of the rock groins under the construction right-of-entry recommended below. Rather, consideration will be collected if and when the easement is issued.

RECOMMENDATION: That the Board:

1. Authorize cancellation of Revocable Permit No. S-7518 upon satisfactory removal of the geo-tubes.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Keys: (2) 3-8-002:071, 074, 077, 078 & 094 provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicants fulfilling all of the Applicant requirements listed above, authorize the issuance of four term, non-exclusive easements to the Landowner Applicants covering the subject area for rock groins purposes 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 term easement document form, as may be amended from time to time;
 - B. Each easement shall run with the respective land and shall inure to the benefit of

the real property described as Tax Map Keys: (2) 3-8-002:074, 077, 078 & 094 provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;

- C. Review and approval by the Department of the Attorney General;
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
 - E. Any shoreline hardening policy that may be adopted by the Board prior to executive of the grant of easement.
4. Authorize the issuance of an immediate right-of-entry permit to Stable Road Beach Restoration Foundation, Inc. for construction purposes, 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; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to the best serve the interest of the State.
5. Authorize the Department to accept a security deposit in the amount of one hundred thousand dollars (\$100,000) from the Applicants to guarantee removal of the rock groins in the event the Legislature does not approve the easement.

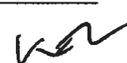
Respectfully Submitted,



Kevin E. Moore
Acting Land Administrator

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson 

TMKs: (2) 3-8-002:071, 074, 077, 078 & 094

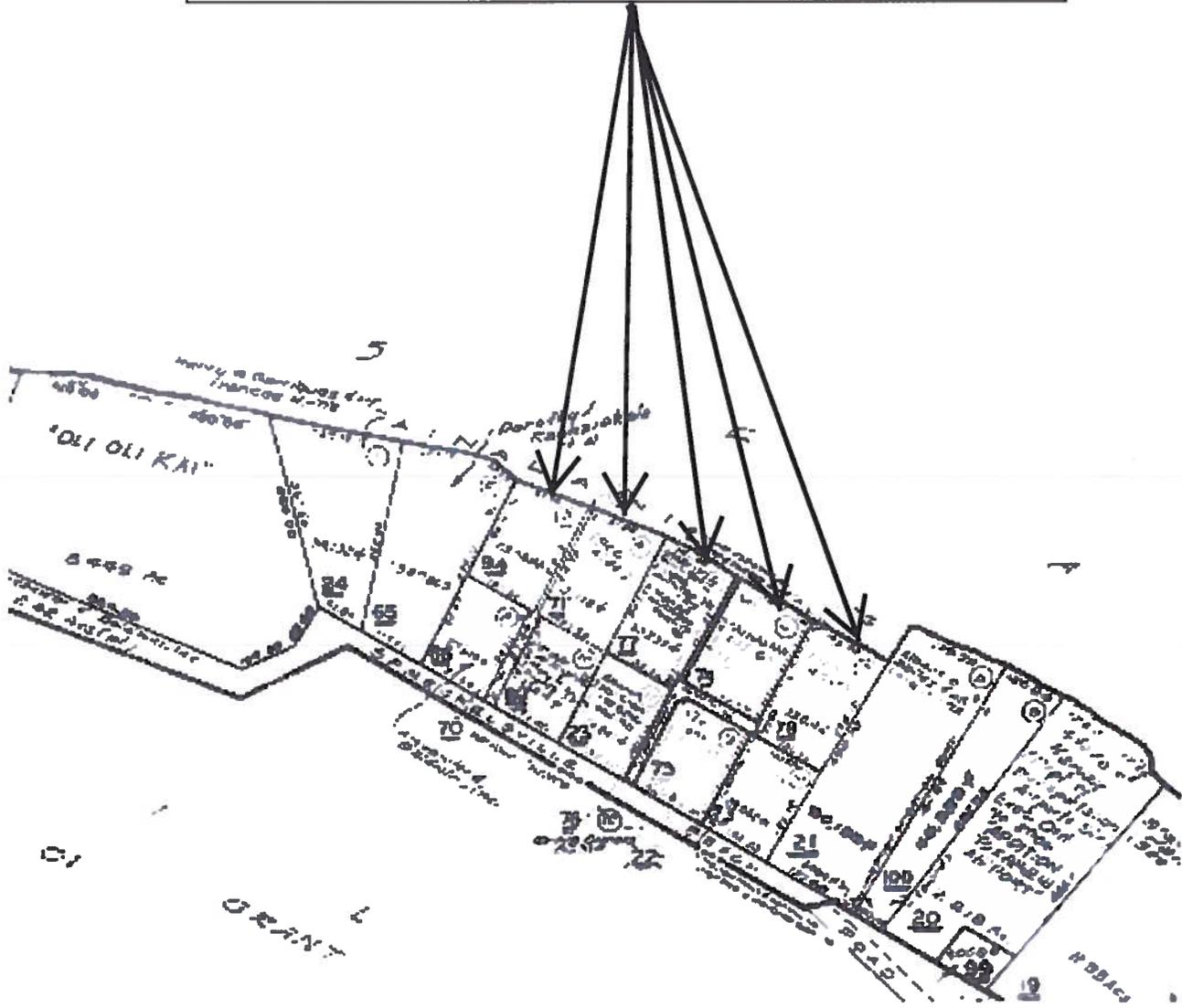


Exhibit A

Stable Road Beach--Rock Groins Project

55 Year Easement Area	groin	square feet
1	2,240.5	
2	1,776.8	
3	1,821.9	
4	1,485.5	

Total 7,324.7

P A C I F I C O C E A N

- Notes:
- The pink grid overlay shows the 55 year easement area
 - Grid cells are 5' squares
 - Each cell covers 25 square feet
 - Seaward property boundaries are shown in blue
 - Certified shoreline is shown in green

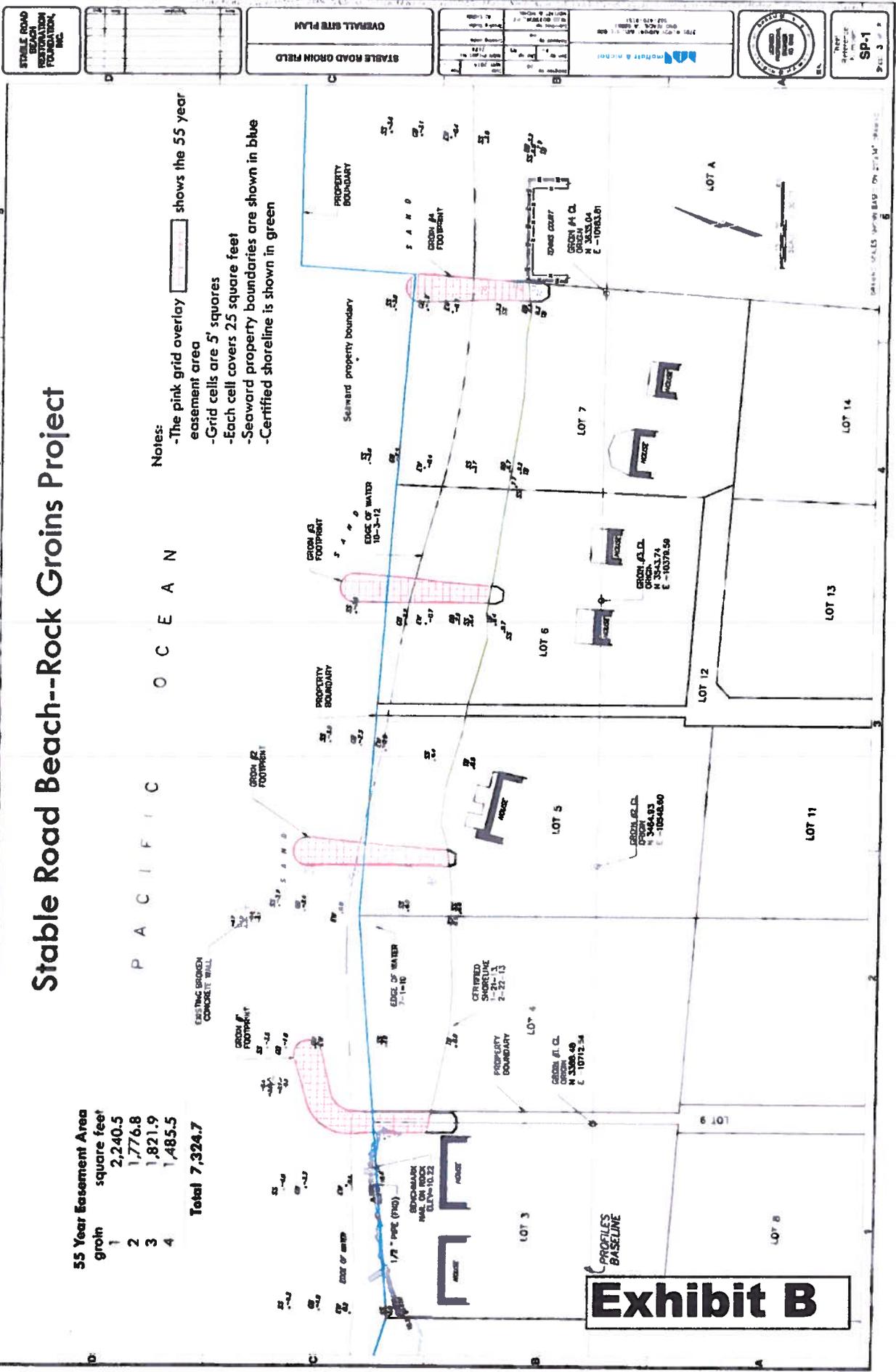


Exhibit B