1176

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GOVERNOR OF HAWAII

KEITH W. AHUE, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
P. O. BOX 621
HONOLULU, HAWAII 96809

'95 JAN -4

OFC. QUALITY

Ref: LM-GYT

DEC 30 1994

Office of Environmental Quality Control
220 South King Street, 4th Floor
Honolulu, HI 96813

Subject: **Direct Sale of Easement, to Blue Chip Corporation, Keauhou 1st North Kona, Hawai'i, Tax Map Key: 3rd/7-8-12: Shoreline Abutting Parcels 40, 41, and 51**

In accordance with the requirements of Chapter 343, Hawai'i Revised Statues, and Chapter 200 of Title 11, Administrative Rules, a Final Assessment has been prepared for the Subject Property.

Notice of availabiility of the Draft Environmental Assessment for the project was published in the September 8, 1994 OEQC Bulletin. Comments to the direct sale of easement were received by the department and addressed by the consultant, Gregg R. Kashiwa of Project Planners Hawaii. Copies of the comments and responses are included in the Final Environmental Assessment.

As the proposing agency, we are forwarding herewith, one of the OEQC Bulletin Publication form, and four copies of the Final Environmental Assessment. We have determined that there will be no significant impacts as a result of the project and, therefore, are filing the Final Environmental Assessment as a negative declaration. We respectfully request that public notice of the Final Environmental Assessment be published in the next scheduled OEQC Bulletin.

Should you have any questions, please call Mr. Glenn Taguchi of our Hawaii District Land Office at 1(808)933-4317.

Very truly yours,

KEITH W. AHUE

cc: Hawai'i Land Board Member
Land Management Administrator
Hawai'i District Land Office
Planning Department, county of Hawai'i
John T. Harrison, Environmental Coordinator

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1995-01-23-HI-FEA- Direct Sale of Easement to Blue Chip Corp.

JAN 23 1995

ENVIRONMENTAL ASSESSMENT

Final

Prepared For: Blue Chip Corporation
1188 Bishop Street
Suite 903
Honolulu, Hawaii 96813

Prepared By: Gregg R. Kashiwa
Project Planners Hawaii
76-117 Kamehamalu Street
Kailua-Kona, Hawaii 96740

Dated: September 22, 1994

This environmental assessment has been prepared for the Blue Chip Corporation (BCC) whose mailing address is 1188 Bishop Street, Suite 903, Honolulu, Hawaii 96813. BCC is the fee simple owner of those certain parcels of land identified as Tax Map Keys: 3rd Division, 7-8-12: 40, 41 and 51 located and being on Keauhou and Heeia Bays, Keauhou 1st, North Kona, County and State of Hawaii. The subject properties lie at the end of Holua Road which services homes located on the North side of Keauhou Bay. The three (3) subject properties form a point of land that separates Keauhou Bay from Heeia Bay to the North. There are three single family residences on the lots of various ages. All improvements are in good condition, and the grounds are landscaped and well maintained.

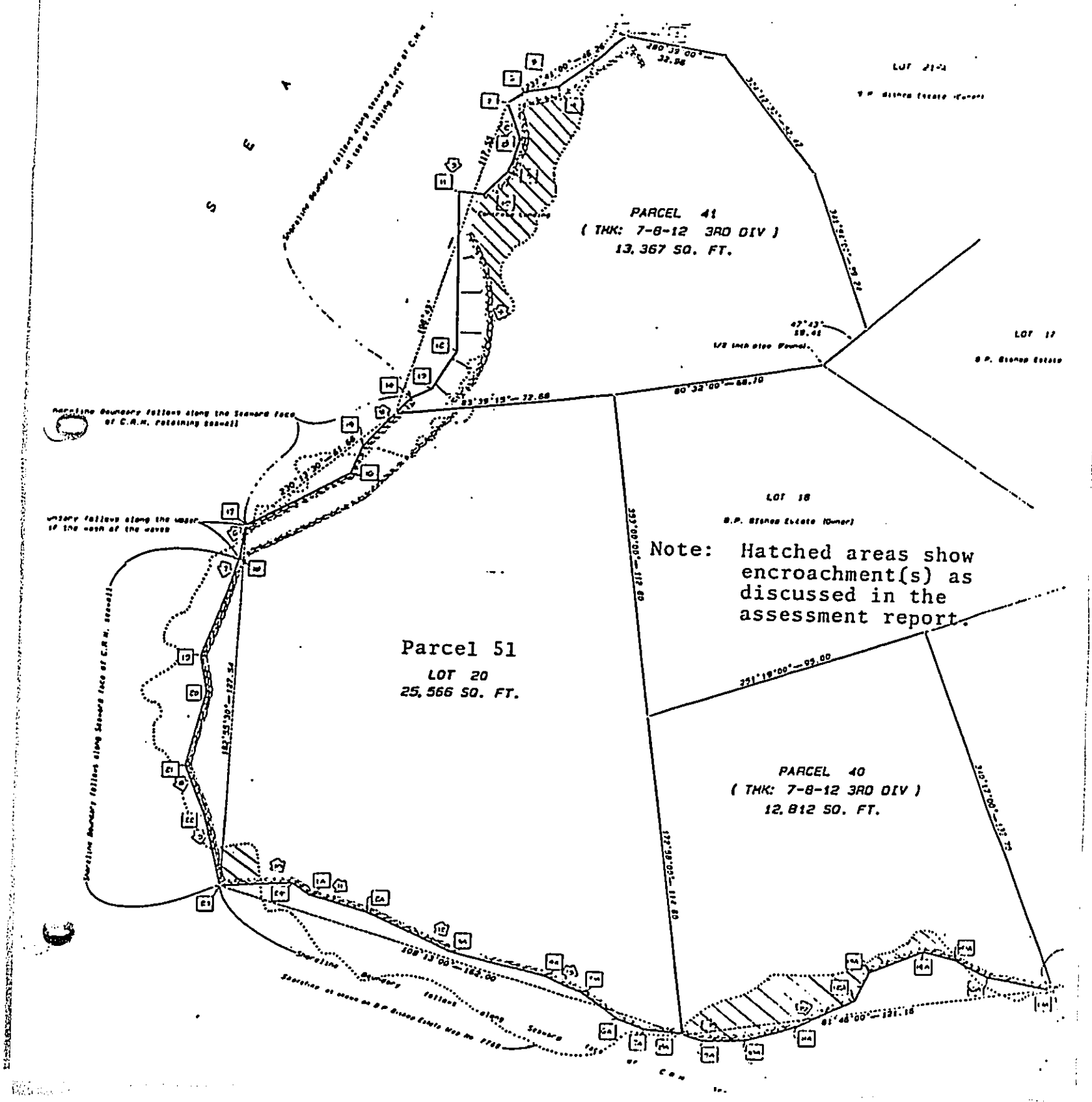
The seaward boundaries of all three lots are defined by rock (CRM) walls built on basaltic rock which forms the shoreline. The walls vary in height from five feet to over fifteen feet. All surrounding properties have similar CRM walls along the shoreline which are interconnected with the subject walls. Exhibit A shows the location of the subject CRM walls. Additionally a copy of the Tax Map (Exhibit B) is also enclosed which shows the overall location of the subject properties in relation to Keauhou Bay.

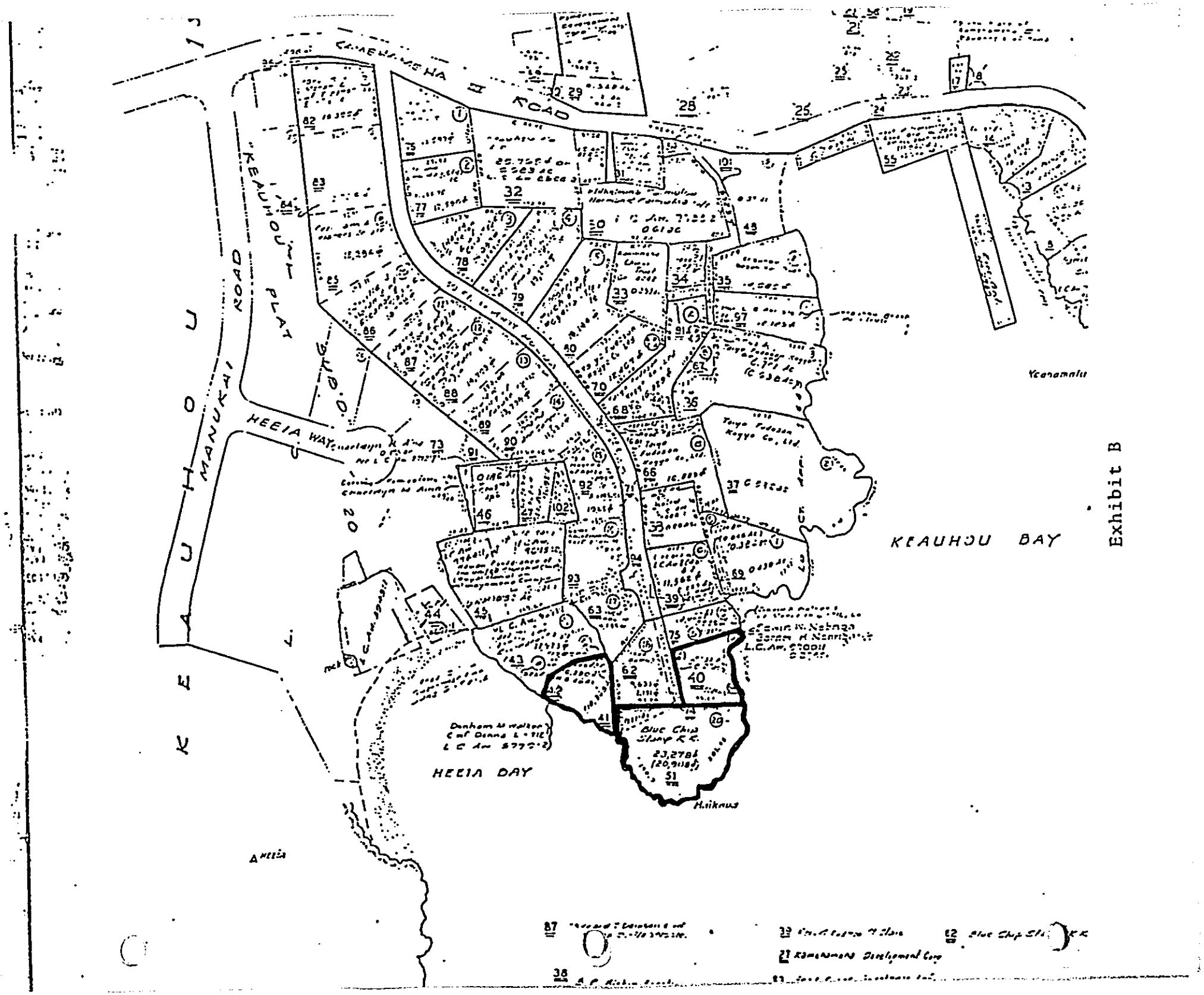
There are no sandy beaches along the seawalls. The shoreline is typical of the area being fractured basaltic rock outcrops with loose boulders of various sizes scattered about. The rocks are exposed during low tides and wave action hits the base and lower portions of the walls at high tides.

Affidavits and signed statements have been supplied to the Department of Land and Natural Resources (DLNR), State of Hawaii and the Planning Department, County of Hawaii, establishing that the seawalls were constructed prior to the effective date of the laws governing shoreline improvements and were already constructed when BCC purchased the properties.

The shoreline violation presently pending against BCC with the Planning Department and DLNR resulted from the unauthorized application of gunnite to the exterior faces of the subject seawalls. The application was done by BCC's representative in an effort to stabilize and protect the walls from storm surf that periodically hits West Hawaii during winter months. A topographic map (Exhibit C) prepared by Imata & Associates, Inc. shows all improvements,

Exhibit A


PARCEL 41
(THK: 7-8-12 3RD DIV)
13,367 SQ. FT.
LOT 17
LOT 18
B.P. Bishop Estate (Owner)
Parcel 51
LOT 20
25,566 SQ. FT.
PARCEL 40
(THK: 7-8-12 3RD DIV)
12,812 SQ. FT.
Note: Hatched areas show encroachment(s) as discussed in the assessment report.



locations and heights of the walls in question.

During the course of the violation process, it was further discovered that there were three encroachments of the existent seawalls onto State property. There are encroachments on each parcel which are shown by the hatched areas on Exhibit A. BCC was unaware of these encroachments until they were discovered, and furthermore had assumed that the seawall was the boundary of the properties. Imata & Associates, Inc. has surveyed these encroachment areas and is in the process of producing legal descriptions for them. BCC is desirous of leasing these parcels of encroached land from the State of Hawaii.

A site inspection was conducted on September 15, 1993, by Mr. Gregg R. Kashiwa of Project Planners Hawaii. The following observations and tests were made:

A. The properties are accessed via a security gate at the end of Holua Road. They are maintained by a staff of cleaning and maintenance personnel. All the grounds were landscaped and irrigated by timed and manual irrigation systems. No signs of erosion of fill materials were evidenced.

B. The seawall was inspected from within the property. The top of seawall along its entire length is in good condition and varies in width from twelve inches to thirty-four inches. Portions of the wall are capped with concrete and others with concrete and iliili stones. These variations suggest that different portions of the wall(s) were built at different times, by different people. The land behind the walls has been backfilled with soil to varying levels from two inches to two feet below the cap. The filled areas contain landscape material including grass and a variety of trees and shrubs.

C. The seaward side of the wall has been gunnited. Gunnite was applied from the top of the wall down its entire face. There are areas where the gunnite was either applied and slurried down onto the basaltic bedrock or applied to the base of the wall(s) and onto the bedrock. This does not occur along the entire wall, but does occur periodically along its entire length. Areas of bedrock

covered by gunnite range from 0 to 6 feet from the base of the seawall. This appears to have been done to keep wave action from peeling the gunnite off the wall. Since the gunnite has been applied, there are several areas where wave action has undermined the wall(s). These areas need repair to prevent undermining of the wall and filled areas behind it. Due to the tide, it was impossible to determine the extent of the undermining.

D. The gunnite was applied in various thicknesses. Five small holes were made in the gunnite until rock or concrete from the original CRM wall were reached. These holes were made periodically along the face of the wall(s) to determine the thickness of the gunnite. The holes varied in depth from one-half inch to three inches. The gunnite is light gray in color, and contrasts with the black shoreline and adjacent CRM walls.

E. The sea water clarity surrounding the properties was extremely clear. Gunniting of the walls does not appear to have adversely affected marine life and eco-systems. Since the walls were built on the upper reaches of the shoreline, there is little or no marine life on it. There were four areas with small clusters of pipipi noted on the walls near the baseline. Aside from these isolated cases, no marine life was evidenced on the wa-ls.

F. Marine life abounds on the shoreline outside the walls, and due to water clarity was easily seen from the shoreline. Marine algie, crustaceans, shellfish, fish and reptiles teem on the rocks and offshore waters.

G. There is a stairway built into the face of the seawall on the Northwest boundary on Heeia Bay leading from the top of wall down to a concrete landing at its base.

H. One throw net fisherman was observed walking along the rocky shoreline on the West Boundary of the property. No other human activity was seen. Fishing boats entering and leaving Keauhou Bay periodically passed the property. The site inspection date appeared to be a normal weekday for the area and was reflective of normal activity along the shoreline

Several mitigative measures have been suggested for the subject violation. They include the following:

1. Removal of the entire seawall (s).

2. Removal of the gunnite from the face of the seawalls leaving it in its previous state.

3. Leaving the existing situation intact and staining the gunnite a dark color similar to the natural rock.

Examination of these alternatives above produce various environmental considerations and impacts. In April of 1992, BCC asked Dr. Steven Dollar, Ph. D. of Marine Research Consultants to conduct a site inspection and a study of the above mentioned mitigative measures. That study is included herewith as Exhibit D. This environmental assessment examines the alternatives herein in an attempt to determine which mitigative measure would have the least negative impacts on the shoreline and marine environment.

REMOVAL OF THE ENTIRE SEAWALL: Removal of the entire CRM wall should be followed by alternate retention methods. This assessment does not examine the alternates due to the lack of suggested models. Total removal of the seawalls would cause erosion of the shoreline and existing landscaped areas. Soil and other fill material would be introduced into the marine environment during high tides and storm generated surf. Additionally erosion would occur on abutting properties presently retained by existent CRM walls.

This erosive condition would cause a chain reaction of erosion and collapsing seawalls. It is conceivable that removal of the seawalls on the subject properties which represent the "point" of the peninsula or the prow of the canoe, so to speak, could lead to the demise of all other seawalls on the neighboring properties along Keauhou and Heeia Bays. This would add many thousands of cubic yards of material into the sea. Continued siltation of living coral and shoreline waters has been evidenced in many areas of Hawaii with adverse environmental results. The pristine waters within the area would be severely compromised. The existing shoreline in and around the subject seawalls are stable sanctuaries for marine life. To alter this environment could cause more harm than good.

MARINE
RESEARCH
CONSULTANTS

RECEIVED APR 15 1992

Exhibit D

April 9, 1992

Mr. Robyn Christenson
Gamlon Corporation
1188 Bishop St., Suite 903
Honolulu, HI 96813

Dear Mr. Christenson:

On March 28, 1992 I conducted a site inspection of the seawall near the Blue Chip Corporation property bordering Keauhou and Heeia Bays in North Kona Hawaii. Following this inspection, I am providing an opinion on environmental impacts associated with several mitigative measures concerning violations of State and County regulations regarding improper permitting for the construction of the seawall. Please be advised that my conclusions are in regard to environmental impacts only, and do not consider the various legal and regulatory aspects of the situation.

Inspection of the seawall reveals that it forms a buffer between a basalt rock intertidal shelf that comprises the shoreline in the area and the grassy lawns of the subject property. At low tide the base of the wall is fully exposed to the atmosphere, while at high tide the base of the wall is partially submerged. As I understand the issue, gunnite was used to repair the seawall following storm damage in 1988. Presently the gunnite extends over the entire length and width of the wall to the level where the wall meets the rock shelf. It does not appear that the present structure is inducing any negative impacts on the marine environment.

Several mitigative measures have been suggested. One involves leaving the existing wall in place and staining it to a dark color similar to that of the natural rock. A suggested material for this application is Schofield Lithochrome chemical stain. This stain is a water solution of metallic salts that penetrate and react to produce insoluble color deposits in pores in the concrete. The stains contain dilute acid to etch the concrete surface lightly so that the staining ingredient can penetrate more deeply and react more uniformly. Material Safety Data Sheets for the product list no dangers to wildlife. Inquiries with Mr. Bruce Qumove of Bonded Materials Co., who has experience with the product has stated that it is commonly

used to color cement ponds where ornamental fish and plants are raised. The only potential health hazard listed appears to be from exposure of acid components when in contact with living tissue. Presumably such contact can only take place during the application phase prior to reaction of acid and concrete. Once the reaction has taken place, it does not appear that the material has any negative aspects in terms of environmental impacts. When used to stain the seawall, it does not appear that the stain will present a hazard to the marine environment adjacent to the site. It is suggested that application of the stain to the gunnite on the lower sections of the wall be conducted during periods of low tide so that there is minimal or no contact with the liquid material and the ocean. In addition, plastic sheeting should be used to line the boundary between the gunnite and the lava rock at the base of the wall to prevent spillage of stain into the marine environment.

Another mitigative measure that has been suggested is removal of the gunnite. Such a procedure would likely involve chipping and collecting the hardened material. Regardless of the methods used, it is likely that some of the chipped material will escape collection and enter the ocean. Scouring by chipped material kept in suspension by wave action may result in damage to marine organisms in the vicinity. If the process results in the production of large quantities of very fine (silt and clay size) particulates, water clarity may be temporarily affected. Such impacts, however, would be temporary and would probably not represent permanent alteration to water quality or marine community structure.

If, however, removal of the gunnite or the entire seawall is mandated, alternate methods of shoreline retention should be implemented. While rainfall in the area is low, it is nevertheless possible for runoff to cause erosion of the shoreline without a retaining structure to hold soil in place. Removal of the seawall approximately 20 feet mauka to the boundary of the public shoreline would likely result in addition of some soil and other terrestrial material to the marine environment. While the potential for permanent environmental impacts is probably low for all of the mitigative measures, it appears to be least with the scenario of leaving the seawall in its present configuration.

Sincerely,

Steven Dollar, Ph.D.

MATERIAL SAFETY DATA SHEET

L.M. SCOFIELD COMPANY

DATE May 1, 1989

Section I — Identification

Product Name: LITHOCHROME Chemical Stain

Chemical Name: Inorganic Acid

Chemical Family: Inorganic Salts/Acid

Chemical Formula: Black

Emergency Telephone Number: CHEMTREC (800) 424-9300

Telephone Number for Information: L.M. SCOFIELD COMPANY (213) 723-6266

DOT Hazard Class: Corrosive Material

HAZARD RATING
4 = EXTREME
3 = HIGH
2 = MODERATE
1 = SLIGHT
0 = INSIGNIFICANT
* = SEE SECTION IV

FIRE 0 REAC 3 1 TOXICITY SPECIAL

Section II — Hazardous Ingredients/Identity Information

COMPOSITION	% WT.	OSHA PEL	ACGIH TLV	CAS NO.	OTHER LIMITS
Hydrogen Chloride	<5	5 PPM	5 PPM	7647-01-0	
Sodium Dichromate	14.16	0.1 mg/m^3	0.05 mg/m^3	10588-01-9	

Section III — Physical/Chemical Characteristics

Boiling Point	230°F	Specific Gravity (H_2O 1)	1.10-1.25
Vapor Pressure (mm Hg.)	23	Melting Point	NA

LITHOCHROME® CHEMICAL STAIN

L.M. SCOFIELD COMPANY
MANUFACTURER & MARKETER OF BUILDING SPECIALTIES SINCE 1905
5630 BANDINI BOULEVARD • LOS ANGELES, CA 90040 • (213) 723-9566

REGIONAL OFFICES
DALLAS, TX • (214) 823-5080 NEW YORK, NY • (212) 867-0405
HOUSTON, TX • (713) 933-9119 ORLANDO, FL • (305) 298-0545
PHOENIX, AZ • (602) 272-6882 FT. LAUDERDALE, FL • (305) 491-2100
SAN DIEGO, CA • (619) 571-1555 SAN FRANCISCO, CA • (415) 885-8712
FAX: (213) 728-8029 TELEX: 910580 LMSC UR

APPLICATION INSTRUCTIONS A-403.03

A penetrating, acid stain for coloring new or old concrete.

1. Basic Use: LITHOCHROME Chemical Stain is used to color cured concrete, cement masonry, concrete tile, terrazzo, natural limestone, and marble surfaces, new or old. Typical applications are tennis courts, patios, pool decks, walks, public areas, decorative vertical elements and architectural screens, and for landscape effects.

2. Limitations: Although the applied material will not chip, crack, or peel, it will wear as the concrete surface wears away. The color produced is not a surface coating but, because the depth of penetration is limited, stained surfaces subjected to heavy foot traffic require more frequent maintenance. It will not hide defects or discoloration in the concrete, but makes the natural variations in texture less noticeable and reduces surface glare. The colors of the stained surfaces vary in shade as do the colors of stones and other natural materials, unless the surfaces are subsequently treated with LITHOCHROME Colorwax. For weathered, badly worn concrete, Padre Brown or Black usually give the best results.

3. Composition and Materials: LITHOCHROME Chemical Stains are water solutions of metallic salts that penetrate and react with the concrete to produce insoluble, abrasion-resistant color deposits in the pores. They contain dilute acid to etch the concrete surface lightly so that the staining ingredients can penetrate deeper and react more uniformly.

4. Sizes: LITHOCHROME Chemical Stains are available in one quart (except black), one gallon, and five

5. Colors: Seven colors are available: Black, Charcoal Brown, Padre Brown, Patio Tile, Mission Tan, Avocado and Palm Green. Scofield Color Chart A-402 shows these colors and color variations obtained by using LITHOCHROME Colorwax or Scofield's color-matched sealers as a supplemental surface treatments. Additional color effects may be achieved by applying one color over another, by intermixing two colors of stain, or by using on integrally-colored concrete or concrete made with white cement. Field tests should be made to assure desired color results. Expect variation in appearance.

6. Applicable Standards: LITHOCHROME Chemical Stains comply with all applicable air quality management regulations.

7. Coverage: Material usage is approximately one gallon of LITHOCHROME Chemical Stain for two coats over 125-200 square feet, depending on surface texture and porosity.

8. Drying Time: Eight hours between coats is preferred.

9. Precautions: Danger. Harmful or fatal if swallowed. Corrosive. Can cause burns. Contains hydrochloric (muriatic) acid and soluble salts of heavy metals. Avoid contact with skin or eyes. Avoid breathing vapors. Do not drink. After handling or exposure, wash thoroughly. Protect shoes and clothing from spillage. When container is empty, rinse well with water. Use with adequate ventilation. Keep out of the reach of children.

10. Antidotes: External — Flood with water, then water containing sodium bicarbonate. Call a physician. Internal — Give water, milk, or milk of magnesia. Give egg whites

11. Preparatory Work: Concrete should be at least one month old, dry, free from dark alkali spots, and clean from plaster, paint, grease, oil, soap, and all other foreign matter which would prevent necessary penetration and subsequent reaction of the stain solution with the concrete surface to be colored.

Plaster stains cannot be colored and will show through the completed work. However, they can usually be removed from concrete with medium grit sandpaper or a steel wire brush. Oil, wax, and grease may be removed by using a solution of one pound of tri-sodium-phosphate dissolved in one gallon of water and rinsing well. Paint spots should be removed with a scraper and a paint remover that does not have a wax or acid base. Painted concrete can be chemically stained only if all traces of paint and paint vehicle have been removed with appropriate removers which do not contain wax. Vertical surfaces are often sandblasted before staining.

12. Application: When treating horizontal surfaces, stain should be transferred to glass, wood, or plastic containers, making certain that they do not leak and leave acid-etched rings on the floor. The stain is applied with a broom-type, medium-stiff bristle brush, being careful to avoid excessive puddling. Brush in a circular or figure-eight motion until all fizzing action ceases. The stain solution should not be spread on new areas after fizzing stops. Rather, the remaining liquid should be brushed back over the area just treated. When applying additional stain, it should be brushed back into wet areas previ-

times. If the total area being treated is large, breaks should be made at doorways or tooled joints. Before the stain commences to dry, pools, foot marks, and other irregularities should be brushed out, permitting stained work to dry evenly.

On vertical surfaces, the stain may be applied with acid-resistant spray equipment, starting at the bottom, working upward and avoiding excessive rundown. Scofield should be contacted for more detailed recommendations.

After the first coat has dried, or even though not dry if at least eight hours have elapsed since application, the second coat is applied in the same manner as the first coat. Additional coats might be required, particularly on weathered concrete. After the last coat of stain has dried, all residue and salts must be removed by wet scrubbing with a stiff brush and flushing with clean water until rinse water runs clear. Runoff of flushing water must be controlled to prevent damage to surrounding area.

13. Supplemental Surface Treatment: LITHOCHROME Colorwax may be applied for additional protection, color sharpness, beauty, and durability after allowing at least 24 hours drying time after final scrubbing of the stain coats, depending on whether a natural or coated appearance is desired. CEMENTONE Clear Sealer should be used for additional protection when it is desired to maintain or accentuate the variegated color tones of the stained concrete. Instructions for applying these products are covered in other Scofield Application Instructions and Spec-Data sheets.

14. Caulking: Existing expansion joints can be recaulked in the same color as the surrounding concrete by using LITHOCHROME Colorcalk in the appropriate color. Flow and Non-Sag Grades are available. All material within the joint must be removed to a depth sufficient to permit installation of both the polyethylene backer rod and the LITHOCHROME Colorcalk, normally at least 1½" in total. The use of a mechanical router is often necessary. To assure adhesion of the new sealant, both sides of the joint should be sandblasted and must be primed with the appropriate LITHOCALK Primer. The backer rod is installed and LITHOCHROME Colorcalk is mixed and applied in accordance with Scofield's Application Instructions A-803.

15. Availability: LITHOCHROME Chemical Stain is marketed by Scofield directly to the user and through strategically located distributors and dealers. Scofield should be contacted for its nearest representative.

16. Costs: The material cost, f.o.b. Los Angeles warehouse, is approximately 8¢—12¢ per square foot. In addition if desired, the total material cost for two coats of LITHOCHROME Colorwax over the stain would be 3¢—5¢ per square foot.

17. Maintenance: If no coating or additional surface treatment had been applied over the stain and the stain has worn in heavier traffic areas, the concrete should be cleaned thoroughly and two additional coats of stain applied. If desired, LITHOCHROME Colorwax may then be applied for additional protection and color sharpness.

If the stained concrete had been covered with LITHOCHROME Colorwax and it is desired to restain a portion of the floor, the coating must be removed completely. If a test area of the cleaned floor will react with dilute muriatic acid, it is ready for restaining.

18. Warranty: This product is warranted to be of uniform quality within manufacturing tolerances. Since no control is exercised over its use, no warranty, express or implied, is made as to the effects of such use. Seller's and manufacturer's obligation under this warranty shall be limited to refunding the purchase price of that portion of the material proven to be defective.

Suggested Short Form Specification for concrete: All concrete flatwork designated as stained in the plans or specifications shall be stained with LITHOCHROME Chemical Stain, _____ color, a penetrating, acid stain for coloring new or old concrete manufactured by L. M. Scofield Company, Los Angeles, CA 90040. The concrete shall be at least one month old, dry, clean, and free of dust, paint, plaster, oils and waxes, curing compounds, and other marks and discolorations. Two coats of LITHOCHROME Chemical Stain shall be applied in accordance with Scofield's Application Instructions A-403. *For alternative supplemental surface treatments:* The concrete shall be cleaned thoroughly of stain-residue and other surface contaminants and two coats of LITHOCHROME Colorwax _____ color, applied in accordance with Scofield's Application Instructions A-503. *For color-caulking expansion joints:* All concrete joints so designated shall be caulked and sealed with LITHOCHROME Colorcalk, _____ color (the same color as the stain or sealer). The joints shall be prepared and primed, and the backer rod and sealant shall be installed in accordance with Scofield's Application Instructions A-803.

MATERIAL SAFETY DATA SHEET -- LITHOCHROME Chemical Stain, Black

Section VI -- Health Hazard Data, Continued

Emergency and First Aid Procedures
Eyes: Immediate and continuous irrigation with flowing water for at least 30 minutes. Call a physician IMMEDIATELY.
Skin: Immediately flush with flowing water. Remove clothing and shoes immediately if contaminated.
Inhalation: Remove to fresh air if effects occur. Call a physician.
Ingestion: DO NOT INDUCE VOMITING. Give large amounts of water or milk. Call a physician IMMEDIATELY.

Section VII -- Precautions for Safe Handling and Use

Steps to be Taken During Application and Cleanup Process
Do not permit any material to run off during application or final rinsing and cleanup. It must be absorbed or vacuumed and disposed of in accordance with all federal, state and local laws.

Steps to be Taken in Case Material is Released or Spilled
Wear protective clothing. Spilled material must be absorbed or vacuumed and disposed of in accordance with all federal, state and local laws.

Waste Disposal Method
Follow all federal, state and local regulations pertaining to the disposal of an oxidizing acid.

Precautions to be Taken in Handling and Storing
Store and handle as a strong oxidizing acid.

Section VIII -- Control Measures

Respiratory Protection (Specify Type)
If TVL exceeded, use NIOSH/MSHA air supplied respirator.

Ventilation
Local Exhaust: Ventilation to maintain exposure below TLV.

Protective Gloves
Rubber suggested.

Eye Protection
Adequate goggles or face shield suggested.

Other Protective Clothing or Equipment
Rubber apron, boots and gloves suggested.

Work/Hygienic Practices
Minimize exposure in accordance with good hygiene practice. Wash with soap and water.

Demolition of the seawall in its entirety would have to be done carefully, under supervision of qualified experts. Even under close supervision, certain amounts of material would enter the marine environment at low tide and even greater amounts would be washed away at high tides. Water clarity during demolition may be affected. Erosion would continue until a permanent high water mark is naturally established. This natural determination of the high water mark and its resultant erosion could take place for over a year. This could cause permanent damage to the surrounding marine environment.

REMOVAL OF THE GUNNITE FROM THE CRM SEAWALL: This mitigative measure assumes that all the gunnite will be chipped off the CRM walls to restore the walls to their original condition prior to the violation. Collection of pieces of gunnite chipped off the wall would have to be implemented. The collection system at the base of the wall would not collect all debris. Work on the walls would more than likely be limited to low tides. The collection system itself may have to be temporarily placed on the shoreline where marine life exists. Tidal action would require the collection system be laid out and removed daily.

Intensive use of the shoreline areas immediately seaward of the walls would have a negative impact on marine life. Its impact should not be permanent. Abrasive material from the chipping would enter the environment and cause temporary damage to air and water quality. Noise from the chipping should be limited to working hours only, and banned entirely on weekends.

STAINING THE GUNNITE BLACK: Staining the gunnite a color (black) so that it would match the surrounding shore line and existent CRM walls has also been suggested as a mitigative measure. The stain applied should be carefully selected. Since the gunnite applied has no premixed coloration in it, it presently is a light gray. Staining of the gunnite would only color the outer layer of the material. Periodic restaining would be required in order to keep the dark color in harmony with its surroundings.

There are many concrete stains available. The stain suggested by Dr. Steven Dollar in his enclosed study appears to be the best selection. It is called Schofield Lithochrome Chemical Stain. This type of stain etches the concrete surface and produces the deepest penetration of color. It is commonly used in concrete driveways and patios in Hawaii. Exposed to direct sunlight and the elements, it lasts for eight to ten years before reapplication is required. Of interest to note, this stain is used in many of the koi ponds in Hawaii to achieve the black coloration preferred by pond owners without any negative impacts to the koi and plant life in the ponds.

The only health hazard in this material is the reaction caused by the acid upon application to the gunnite. Once the reaction has taken place, no negative impacts to the environment result. Careful handling of the stain and placement of plastic sheeting at the base of the walls during application should insure that no lithochrome enters the sea or splashes onto the rocks seaward of the gunnite. Work on the walls should only take place during low tide.

Of the three mitigative measures suggested, this measure of staining the walls black so they blend in with the shoreline and other seawalls appears to be the best solution. It creates the least amount of dust, abrasive materials and noise, and takes the shortest period of time to complete. Distrubance to the environment is thereby shortened. All shellfish should be gently removed from the walls and placed outside the work area prior to application of the stain.

ENCROACHMENTS: As mentioned earlier, those areas where the seawall has been built on State lands requires resolution. BCC purchased the properties with the encroachments in place. It was not aware of this problem until notified by DLNR. To move the walls at this time would create financial hardships on BCC. The wall movement would also create some negative impacts on the marine environment during removal and reconstruction. DLNR has informed the U. S. Department of the Army, District Engineer, of these encroachments as well as the Planning Department, County of Hawaii. Under the circumstances of when the walls were built, BCC requests that easement rights be entered into with the State of Hawaii with appropriate

documentation and rents. Reference is made to Exhibit A herein for the encroached lands.

PROPOSED DETERMINATION: The proposed remedial work along the shoreline and the disposition of an easement area to correct the encroachments onto State lands will not significantly alter the environment and impacts will be minimal. Therefore, it is anticipated that a Negative Declaration will be filed, and that the preparation of an Environmental Impact Statement is not warranted.

PROPOSED FINDINGS AND REASONS:

1. The proposed shoreline work and disposition of easement will not involve an irrevocable commitment or loss or destruction of any natural or cultural resources.

2. The proposed shoreline work and disposition of easement will not curtail the range of beneficial uses of the environment.

3. The proposed shoreline work and disposition of easement will not conflict with the State's long term environmental policies.

4. The proposed shoreline work and disposition of easement will not involve substantial secondary impacts, such as population changes or effects on public facilities.

5. The proposed shoreline work and disposition of easement will not substantially affect the economic or social welfare of the community or State.

6. The proposed shoreline work and disposition of easement will not involve a substantial degradation of environmental quality.

7. The proposed shoreline work and disposition of easement will not substantially affect any rare, threatened or endangered species of flora or fauna or habitat. No endangered species of flora or fauna are known to exist on the project site.

8. The proposed shoreline work and disposition of easement will not detrimentally affect air or water quality or ambient noise levels.

For the reasons above, the proposed shoreline work and disposition of easement will not have any significant effect in the context of Chapter 343, Hawaii Revised Statutes and Section 11-200-12 of the State Administrative Rules.

Respectfully submitted,

Project Planners Hawaii

Gregg R. Kashiwa
President

Notation for Exhibit C:

Please note that Exhibit C herein remains unchanged from the draft environmental assessment prepared for Blue Chip Corporation dated June 22, 1994. Exhibit C is a topographic map prepared by Mr. Clyde Matsunaga of Imata & Associates, Inc. showing the location and heights of the seawalls discussed herein.

Since there is no change to the map(s) nor the locations of the seawalls and related structures and landscaping the topographic map being Exhibit C is not included in this report. Reference is made to the June 22, 1994, draft assessment which has been duly filed with the Department of Land and Natural Resources.

ADDENDUM TO FINAL ENVIRONMENTAL ASSESSMENT

Prepared For:	Blue Chip Corporation 1188 Bishop Street Suite 903 Honolulu, Hawaii 96813
Prepared By:	Gregg R. Kashiwa Project Planners Hawaii 76-117 Kamehamalu Street Kailua-Kona, Hawaii 96740
Dated:	October 14, 1994
Regarding:	Comments to Draft Environmental Assessment submitted by the Environmental Center at the University of Hawaii at Manoa. (Mr. John T. Harrison)
Contents:	Correspondence and response to comments by Blue Chip Corp. and Project Planners Hawaii.

Comments submitted by John T. Harrison Environmental Coorinator at the Environmental Center at the University of Hawaii at Manoa dated September 21, 1994, were received from Mr. Glenn Y. Taguchi, Hawaii District Land Agent, Division of Land Management in Hilo. Copies of the correspondence is attached as Exhibit 1. Upon receipt of the comments Mr. Harrison was contected by phone on October 4, 1994. A meeting was requested by Gregg Kashiwa of Project Planners Hawaii so that the concerns voiced by Mr. Harrison could be discussed and any questions clarified and resolved.

Additionally a letter was sent to Mr. Harrison on October 6, 1994, which is attached hereto as Exhibit 2. This letter attempted to address each concern voiced in Mr. Harrison's comments.

To date no response for a meeting date has been received from the Environmental Center. It is assumed that their concerns have been answered in the letter of October 6, 1994.

In response to these comments expressed in Exhibit 1 herein, the following responses are submitted:

EASEMENT OR LEASE: Blue Chip Corporation (BCC) wishes to clarify the fact that it wishes to lease the encroached areas of the seawall. Mr. Glenn Taguchi has always made it clear that a lease of these areas and not a grant of permanent easement would be in keeping with his office's position on encroached lands. BCC is willing to abide by that preference.

APPROVING AFTER-THE-FACT-STRUCTURES: BCC does not have control over State policy over "after-the-fact-structures". It is merely attempting to provide all relevant information regarding its particular case so that prudent and insightful decisions can be made as to its disposition. Over the years almost every property on Keauhou Bay has constructed seawalls on the basaltic bedrock. The nature of the shoreline is rocky cliffs varying in height from several feet to over thirty feet. No sandy beaches are present.

University of Hawai'i at Mānoa

Environmental Center
A Unit of Water Resources Research Center
Crawford 317 • 2550 Campus Road • Honolulu, Hawai'i 96822
Telephone: (808) 956-7361 • Facsimile: (808) 956-3980

September 21, 1994
EA:0087

EXHIBIT 1

Mr. Glenn Taguchi
Department of Land and Natural Resources
Division of Land Management
P.O. Box 936
Hilo, Hawaii 96721-0936

Dear Mr. Taguchi:

Draft Environmental Assessment (EA)
After-The-Fact Seawall - Keauhou and Heeia Bays
TMK:7-8-12:40,41,51
North Kona, Hawaii

The above Draft EA refers to certain property in North Kona, Hawaii purchased by Blue Chip Corporation (BCC). Prior to purchase, a seawall encroaching onto State land was constructed by previous owners. With regard to this encroachment, BCC seeks to secure an easement over the State property or lease it. As a mitigation measure, BCC also proposes to stain the gunnite applied to the seawall without authorization with Schofield Lithochrome Chemical Stain to a color similar to that of the shoreline.

We have reviewed this Draft EA with the assistance of Charles Fletcher, Geology and Geophysics; Casey Jarman, Richardson School of Law; and Malia Akutagawa of the Environmental Center.

Our reviewers are particularly concerned about the legal aspects of BCC's proposal and the fact that approval of this project and like projects involving seawalls will set precedent condoning inappropriate application of the EIS process and of land use procedures.

Easement or Lease

It is unclear as to whether BCC desires to purchase outright the portions of State land where the seawall encroaches or to lease it. Page 2 of the Draft EA indicates that

BCC wants to lease the land; however, the OEQC Bulletin states that BCC wants to purchase an easement. We assume that the former is true; however, we have stated our interpretation clearly on this matter to avoid any misunderstanding.

If the State is to grant anything, then at the most, it should allow BCC to lease the land, and not acquire an easement. An easement is akin to buying a right. In Hawaii, submerged lands, including the shoreline, are subject to the Public Trust Doctrine and thus, the State is to manage these trust lands. Granting an easement of public trust lands to private interests is bad public policy. In Hawaii, where private ownership of the shoreline is not permitted and the beaches are to be made accessible to all people, the allowance of easements for intrusive seawalls poses a serious threat to the public trust.

Approving After-the-Fact Structures

The State should exercise caution in granting automatic approvals of after-the-fact structures (in this instance, an illegal seawall built on State property). As is the case here, the tension lies in the fact that once these structures are built, it may be more detrimental to the environment to tear them down. But, non-enforcement of EIS laws sends out a message to other applicants that these laws are mere fluff. The State, in its laxity, runs the risk of encouraging further abuses of the system. The State must develop a consistent, predictable policy regarding this matter.

Part of the underlying problem is that the State has allowed construction too close to the ocean. When erosion occurs, private landowners are compelled to build illegal seawalls that temporarily protect their property but contribute to beach loss. A more appropriate course would be for the State to change its setback requirements.

Beach Erosion

Page 1 of the document states that the seawalls stand on "basaltic rock which forms the shoreline," and that, "there are no sandy beaches along the seawalls." It was also mentioned that there are many neighboring seawalls along the shore. We are well aware that vertical seawalls cause significant beach erosion. As the waves hit the steep seawall face, sand is resuspended and carried offshore and a deep sand pocket is made; wave energy increases and more energy is reflected, thus causing greater turbulence and increased beach erosion. Consequently, recreational and subsistence resources of the public are sacrificed, and coastal ecological systems are disturbed. Prior to seawall construction on BCC's property and neighboring properties, was the beach sandy, or was it always dominated by basaltic rock?

Staining the Gunnite Black with Schofield Lithochrome

Is the purpose of staining the gunnite for purely aesthetic reasons, or is it also to mitigate negative impact to certain marine species who may be sensitive to the lighter

colored surface? The Material Safety Data Sheet (MSDS) revealed that the Schofield Lithochrome Chemical Stain contains hydrochloric acid and soluble salts of heavy metals. If the potential negative effects to marine life far outweigh the aesthetics of this aspect of the project, then it is better to leave the natural color of the gunnite as an eyesore.

On page 6, it was mentioned that the Lithochrome Stain was applied to koi ponds. Was the stain applied before or during the time the ponds were filled with water and in full operation? What is the drying time of this chemical? Will the time for application and drying be enough to accommodate tidal fluctuations?

Reptiles

On page 3 of the Draft EA, it was mentioned that "reptiles teem on the rocks and offshore waters." The only notable reptile present in Hawaiian waters is the threatened green sea turtle, and this marine animal should have been mentioned more specifically and possible project impacts assessed properly.

Conclusion

Overall, we agree with the consultant's assessment that the destruction of the seawall will pose more of a hazard to the environment, by way of increasing erosion, than if it was left in place. However, we are concerned about the possible overreaching effects of approval of this project with regards to similar future projects. There is a strong potential for abuse of the system and disabling the effect of Hawaii's EIS rules.

Thank you for the opportunity to review this Draft EA.

Sincerely,

John T. Harrison
Environmental Coordinator

cc: OEQC
Blue Chip Corporation
Roger Fujioka
Charles Fletcher
Casey Jarman
Malia Akutagawa

called John Harrison 10/5/94 to schedule a meeting @ U.H. with environment center staff. - 10/6/94 called again, they will get back to me.

JOHN WAIHEE
GOVERNOR OF HAWAII

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF LAND MANAGEMENT
P.O. BOX 936
HILO, HAWAII 96721-0936

AQUACULTURE DEVELOPMENT PROGRAM
AQUATIC RESOURCES
CONSERVATION AND ENVIRONMENTAL AFFAIRS
CONSERVATION AND RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

September 28, 1994

Mr. Gregg R. Kashiwa, President
Project Planners Hawaii
76-117 Kamehameha Street
Kailua-Kona, HI 96740

Dear Mr. Kashiwa:

Subject: **Final Environmental Assessment for Blue Chip Corporation**
Tax Map Key:3rd/7-8-12:40, 41 and 51

Reference is made to your correspondence of September 22, 1994 which included eight (8) copies of a Final Environmental Assessment for your client's project.

We are in receipt of a September 21, 1994 correspondence (copy enclosed) from Mr. John T. Harrison, Environmental Coordinator, Environmental Center, University of Hawaii at Manoa. These comments need to be addressed and together with your response, made a part of the final environment assessment.

Consequently, we are returning all copies of your Final Environmental Assessment for the necessary response, additions, etc.

Should there be any questions, please call me at 933-4245.

Very truly yours,

Glenn Y. Taguchi
Hawai'i District Land Agent

c: Hawai'i Land Board Member
Land Management Administrator
Planning Dept. County of Hawai'i
Imata & Associates
John T. Harrison

Project Planners Hawaii
75-127 Lunapule Road, Suite 14
Kailua-Kona, Hawaii 96740
Telephone: (808) 326-7204
FAX: (808) 329-1202

October 6, 1994

EXHIBIT 2

Mr. John T. Harrison
Environmental Coordinator
University of Hawaii at Manoa
Environmental Center
Crawford 317
2550 Campus Road
Honolulu, Hawaii 96822

Re: Blue Chip Corp.
Draft Environmental Assessment
Tax Map Keys: 7-8-12:40, 41 & 51
Third Division
Keauhou I, North Kona, Hawaii

Dear John:

Thank you for your time on the phone the other day. I am hopeful that we can schedule a meeting with your staff members in the near future so we may go over any concerns they may have. I would like to clarify several points now so we may have a meeting that will positive in nature.

Easement or Lease: Blue Chip Corp. (BCC) has in the past discussed the leasing of the encroached areas in question with Mr. Glenn Taguchi, Hawaii District Land Agent, Division of Land Management, D.L.N.R. BCC is open to any settlement of the encroached areas that is satisfactory to the State whether it be a lease or easement.

Beach Erosion: The lands along the North side of Keauhou Bay and the South side of Heeia Bay are typical of the North Kona coast. They are basaltic rock with boulders and smaller rocks strewn along the faces of the shoreline. The rock faces of the coastline vary in height from a foot to more than thirty feet in height. The particular shoreline has never contained any sandy beach and none has been mentioned in any previous historical publications. The closest natural sandy beach would be at the Kahaluu beach park located near the Keauhou Beach Hotel.

As you know, there are very few sand beaches in North Kona. The geological and shoreline makeup is quite different from Oahu. It is my estimate that 95% of all the shoreline in North Kona is much like a natural wall which creates the very increases in wave energy and reflection you have mentioned on page two of your letter.

Approving After-the-Fact Structures: As mentioned in the draft E.A., the subject seawalls were constructed prior to laws regulating such were enacted. All of the properties along the North side of Keauhou Bay have seawalls which are joined from one property to next. These wall were all built many years ago. BCC did not build any of the walls covered in the E.A. As you know, each County has enacted new shoreline setback rules as mandated by the State and Federal governments. These setback regulations were reviewed at great length at public hearings and it is the opinion of Project Planners Hawaii that Hawaii County has the most restrictive regulations of all the Counties. Seawalls on the Island of Hawaii must be looked at within the confines of the site location and the natural shoreline. Unlike most of the other islands, Hawaii has the most unique shoreline(s).

Staining the Gunnite Black with Schofield Lithochrome: The staining of the seawall was recommended for aesthetic reasons. The natural color of gunnite is light gray. All of the other seawalls on the bay are C.R.M. and are black in color. The gunnited walls stand out. Lithochrome stain is applied to the koi ponds prior to putting the water in. It is applied and allowed to cure for 6 to 8 hours. A sealant is then applied and the ponds filled with water. The same application is applied to driveways and patios. It should be also noted that approximately 85 to 90% of the walls in questions are not affected by the normal tides. Only during storm surf are the larger areas in contact with the sea. The areas that come in daily contact with the rise and fall of the tides are becoming discolored naturally (a darker tone). Should there be any question about the affects on the marine environment of the stain, these portions of the wall may be left "as is" and remainder stained to ease the contrast

of colors along the shoreline. In this way, no stain will be released into the water. Application of the stain can be done during the time window of low tide to insure safety. Marking of the areas to be left stain free by a member of D.L.N.R. is welcomed.

Reptiles: On the day of the inspection by Gregg Kashiwa, two (2) green sea turtles were seen swimming past the South shoreline of the subject property. They were headed into bay towards the boatramp and pier area. It could be assumed that they were moving inshore to feed or be fed near the pier.

Conclusion: The case of BCC does not lead for abuse of the system by other applicants in the future. It is difficult to establish a policy that covers every case. Each approval needs to be evaluated on its own merits and special circumstances. It is hoped that in the case of BCC, these circumstances and natural settings do not conflict with the policies and guidelines of the Environmental Center, University of Hawaii at Manoa.

As mentioned, I look forward to personally meeting with you and your staff in regard to the BCC draft E.A. I am also hoping to move forward with the entire process. It is a long and cumbersome one. The local newspaper in Kona, West Hawaii Today, is of the impression that BCC is deliberately trying to drag the process out and not resolve the situation. This is untrue. You will also note that you are the only organization that commented to the draft E.A. I have personally gone over the entire E.A. and its recommendations with Mr. Jerry Rothstein of Public Access to the Shorelines Hawaii (PASH), the Kona Conservation Group (KCG) and TORCH. They do not oppose nor have comment to the draft E.A. These groups are very active in Kona and receive the OEQC Bulletin(s). I am hopeful we may resolve any problems we may have and clarify all of your concerns and questions in the very near future. I will also add that BCC must also resolve its violation with County of Hawaii once the State violation is resolved (SMA).

I hope that this letter clarifies some of your concerns outlined in your comment to Mr. Taguchi. Please contact me with a meeting time and date. I will make myself available to you at any time. Thank you very much for your attention to this matter.

Sincerely,

Gregg R. Kashiwa

cc: Division of Land Management
Planning Department
BCC
PASH

BEACH EROSION: As mentioned, there are no sandy beaches on the subject property and by the nature of the shoreline, it is doubtful that there will ever be. The natural shoreline creates much the same wave action as a seawall would and thereby displaces any sand from accumulating. Geological differences along the Kona coastline from those of older islands account for this condition. Please refer to Exhibit 1 for the response to the Environmental Center's concerns of beach erosion.

STAINING THE GUNNITE BLACK WITH SCHOFIELD LITHOCHROME: The suggestion of staining the gunnited surfaces black was for aesthetic reasons. The present contrast between the light gray gunnite and the remainder of the shoreline is stark. As mentioned in the letter to Mr. Harrison, about 85 to 90% of the seawall(s) in question do not get wet during a typical day between high and low tides. The areas that do get wet are darkening naturally. It is suggested that those portions not affected by tidal action be lithochromed with application taking place only during low tides.

The curing time for the lithochrome is approximately eight (8) hours prior to a sealant being applied. In koi ponds this process is done prior to filling it with water.

REPTILES: On the day the inspection was made by Gregg Kashiwa two green sea turtles were observed swimming into the bay towards the pier and boat ramp. They were off the South shoreline of the property. It should be noted that people feed the turtles near the pier area of the bay.

Respectfully submitted,

Project Planners Hawaii

Gregg R. Kashiwa
President