



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

AQUACULTURE DEVELOPMENT
 PROGRAM
 AQUATIC RESOURCES
 BOATING AND OCEAN RECREATION
 CONSERVATION AND
 RESOURCES ENFORCEMENT
 CONVEYANCES
 FORESTRY AND WILDLIFE
 HISTORIC PRESERVATION
 LAND DIVISION
 STATE PARKS
 WATER RESOURCE MANAGEMENT

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MEMORANDUM

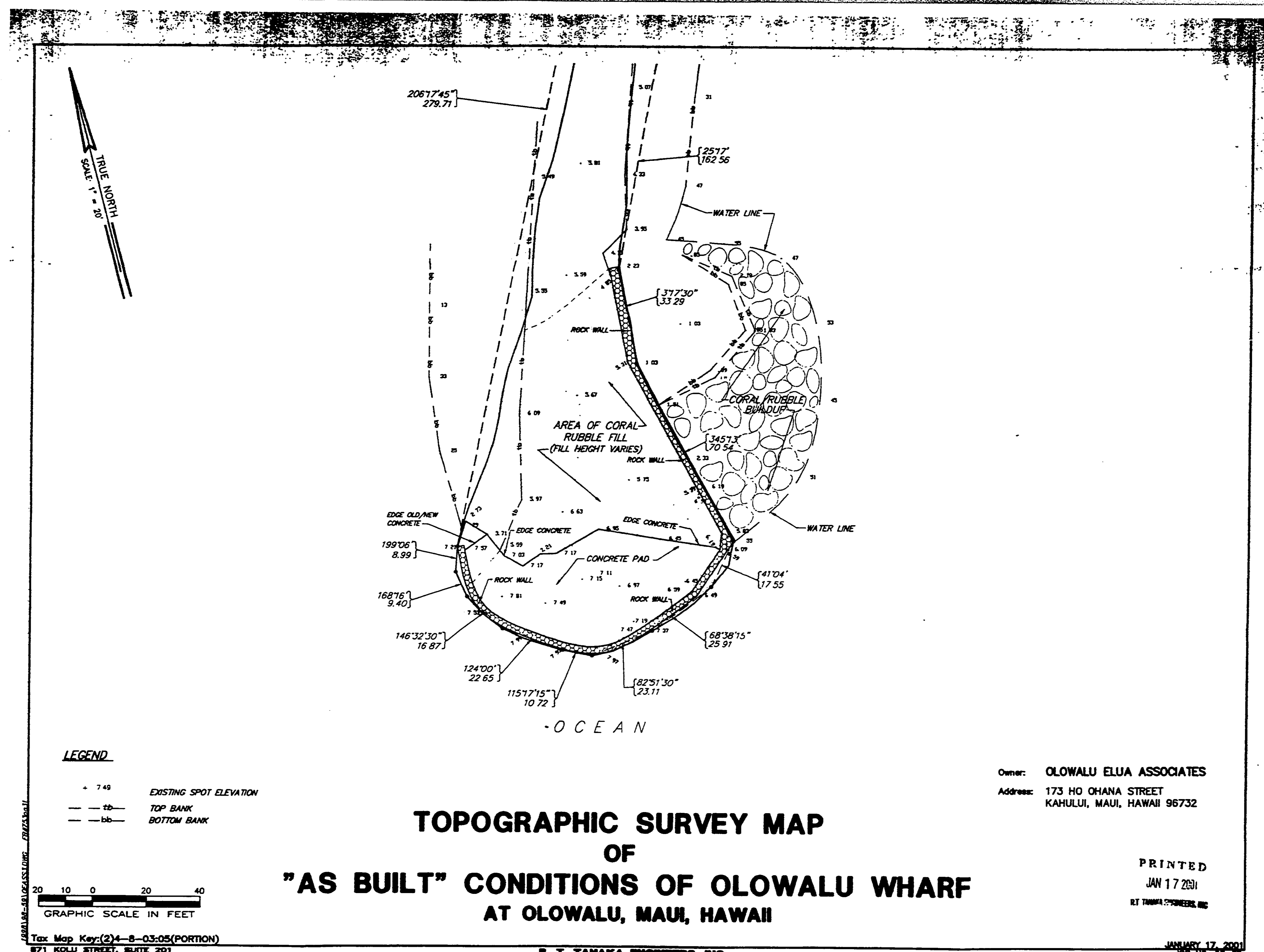
TO: Genevieve Salmonson, Director
 Office of Environmental Quality Control

FROM: Harry Yada, Acting Administrator *Harry Yada*

Subject: FINAL ENVIRONMENTAL ASSESSMENT by Olowalu Elua Associates, LLC for
 After-The-Fact Approval for Landscaping, Dredging and Wharf Construction at
 Olowalu, Lahaina, Maui, TMKs 2nd 4-8-03: por. 43 and por. 06

The Department of Land and Natural Resources has reviewed the Final Environmental Assessment for the subject project, and hereby issues a Finding of No Significant Impact (FONSI) determination. Please publish notice for this project in next available issue of The Environmental Notice. Enclosed are four copies of the final EA. My staff will e-mail a completed OEQC Bulletin Publication Form with the project description shortly.

Should you have any questions, please contact Sam Lemmo of our planning staff at 587-0381.



LEGEND

- 7.45 EXISTING SPOT ELEVATION
- — — — — TOP BANK
- — — — — BOTTOM BANK

20 10 0 20 40
 GRAPHIC SCALE IN FEET

Top Map Key (24-S-03-05) (PORTION)
 871 OLOWALU STREET, SUITE 203
 WAILUKU, MAUI, HAWAII 96793

**TOPOGRAPHIC SURVEY MAP
 OF
 "AS BUILT" CONDITIONS OF OLOWALU WHARF
 AT OLOWALU, MAUI, HAWAII**

R. T. TANAKA ENGINEERING, INC.

Owner: OLOWALU ELUA ASSOCIATES
 Address: 173 HO OHANA STREET
 KAHULUI, MAUI, HAWAII 96732

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 JAN 17 2001
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Final Environmental Assessment

**(AFTER-THE-FACT APPROVALS
FOR WORK PERFORMED AT
LOWALU, MAUI, HAWAII**

Prepared for:

June 2001

Olowalu Elua Associates, LLC


MUNEKIYO HIRAGA, INC.

***Final Environmental
Assessment***

**AFTER-THE-FACT APPROVALS
FOR WORK PERFORMED AT
OLOWALU, MAUI, HAWAII**

Prepared for:

June 2001

Olowalu Elua Associates, LLC


MUNEKIYO & HIRAGA, INC.

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LIST OF EXHIBITS

A	Board of Land and Natural Resources Actions on April 14, 2000 and July 14, 2000
B	Department of Land and Natural Resources Letter Dated August 29, 2000
C	Letter Dated February 25, 2000 from Don Hibbard (Administrator, State Historic Preservation Division) to Robert Horcajo
D	Letter Dated May 8, 2000 from Robert Horcajo to Department of Land and Natural Resources Land Division
E	Plan Showing Extent of Work on Olowalu Wharf
F	Report of Architect
G	Report of Structural Engineer

olowalu/mekaisub/feacdua.rpt

Chapter 1

Overview

I. OVERVIEW

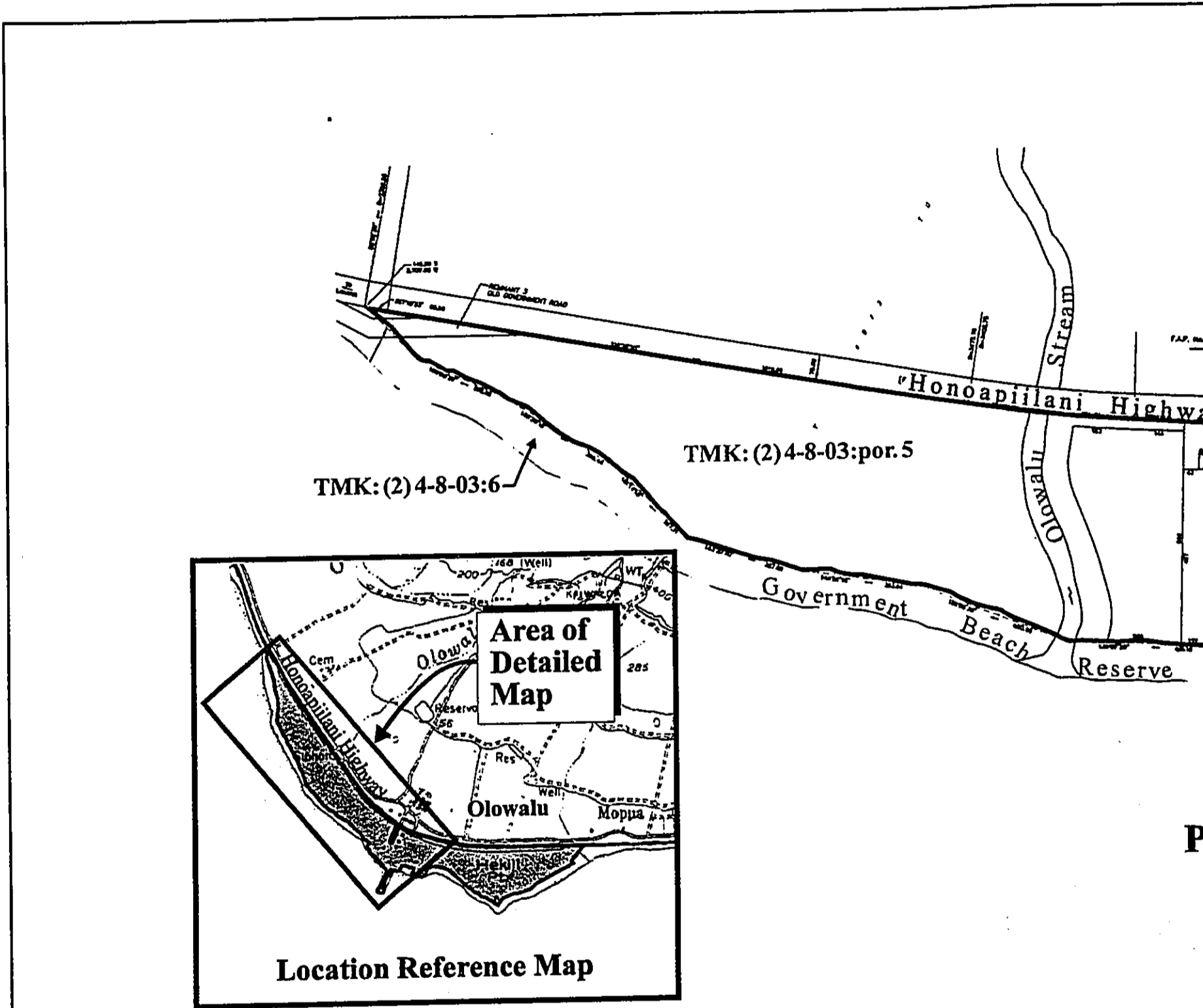
A. BACKGROUND

Olowalu Elua Associates, LLC (OEA) is seeking after-the-fact approvals for activities conducted at TMK 4-8-03:43 and 4-8-03:06, Olowalu, Maui, Hawaii. See Figure 1. In particular, an after-the-fact Conservation District Use Application addressing the following actions within the Conservation District has been filed with the Department of Land and Natural Resources (DLNR):

1. Removal of coral rubble from an area adjacent to the Olowalu Wharf for use as fill material to level the wharf platform;
2. Filling of the wharf platform with coral fill and placing poured cement to provide a smooth walking surface; and
3. Removal of vegetation (remnant sugar cane) and damage to *hau* trees within the Government Beach Reserve (TMK 4-8-03:06).

At its meeting of April 14, 2000, the Board of Land and Natural Resources (BLNR) found OEA to be in violation of the Conservation District Rules with the foregoing unauthorized activities. The Board's action, as confirmed by letters dated April 25, 2000 and July 5, 2000 (see Exhibit A), resulted in the following compliance requirements:

1. Through consultation and concurrence of community groups and the department's Land Division and Historic Preservation Division, remove cement applied during recent construction at Olowalu Wharf and any extant encroaching cement on State land to the side of Olowalu Wharf within 90 days;
2. Nurture the growth of the still living remnants of one *hau* tree;
3. Through consultation and concurrence of community groups and the department's Land Division, plant and nurture the retention of two adult *hau* trees within 90 days; and



Source: R.T. Tanaka Engineers, Inc.

Figure 1

After-the-Fact Approvals for Work Performance
Location Map



Prepared for: Olowalu Elua Associates, LLC

-
4. Through consultation with community groups and the department, file a Conservation District Use Application (CDUA) containing a restoration plan. This plan would include what the applicant would do to restore areas of the beach reserve that are not in the conservation district.

Towards addressing the foregoing requirements, OEA, on July 6, 2000, filed a Conservation District Use Application and accompanying restoration plans with the Department of Land and Natural Resources. At its meeting of July 14, 2000, the Board amended the conditions of their April 14th action by:

1. Requiring OEA to plant and nurture the retention of two local hau trees; and
2. Allowing for a stay on the restoration of the wharf.

By facsimile transmittal of August 29, 2000, the Department informed OEA that the application was incomplete. See Exhibit B.

This document addresses the Board's initial requirements of April 14, 2000, as well as the Department's request for additional information and clarification of August 29, 2000. Inasmuch as the subject actions involved Conservation District lands, this Environmental Assessment (EA) has been prepared pursuant to Chapter 343, Hawaii Revised Statutes.

B. CONSERVATION DISTRICT REQUESTS

The applicant is seeking the following approvals from the BLNR:

1. **Coral Removal**
 - a. After-the-fact Conservation District Use approval for the removal of coral from the side of the Olowalu Wharf.

2. Wharf Filling and Cementing

- a. After-the-fact Conservation District Use approval for the filling and cementing of the Wharf.
- b. Approval to retain the cemented area, as is.

3. Vegetative Clearing

- a. After-the-fact Conservation District Use approval for damaging the *hau* trees and removal of vegetation within the State beach reserve (TMK 4-8-03:06).

In seeking the foregoing approvals, the applicant has incorporated herein, documentation regarding its effort to comply with the orders of the BLNR.

Chapter II

***Work Performed Within
the Conservation District***

II. WORK PERFORMED WITHIN THE CONSERVATION DISTRICT

This assessment addresses three (3) specific actions for which the BLNR found OEA to be in violation of Chapter 13-5, Hawaii Administrative Rules entitled "Conservation District".

1. **Removal of vegetation within the Government Beach Reserve (TMK 4-8-03:06)**

Vegetation within the State's beach reserve was removed without authorization. This work resulted in damage to *hau* trees which lined a section of the shoreline area. This work was undertaken in February 2000.

2. **Removal of coral rubble from an area adjacent to the Olowalu Wharf for use as fill material to level the wharf "platform".**

Coral rubble deposited at the southeast end of the wharf, makai of the certified shoreline, was removed and placed on the wharf platform. Prior to the filling of the wharf, the platform surface was uneven, presenting difficult conditions for pedestrian access to the makai end of the wharf. This action was undertaken to address safety and liability issues relating to the public's use of the wharf. Approximately 12 cubic yards of rubble was removed and placed on the wharf. This work was conducted in December of 1999.

3. **Filling of wharf platform with coral fill and placing poured cement to provide a smooth walking surface and to stabilize the wharf structure.**

As previously noted, approximately 12 cubic yards of coral fill was placed onto the wharf platform for use as fill material to provide a smooth walking surface on the wharf itself. The makai extent of the wharf, portions of which were previously cemented, was capped with additional poured

cement to provide a finished surface, while at the same time providing greater structural stability to the wharf. This work was conducted in December of 1999.

The BLNR, by order, required the applicant to consult with community groups and the DLNR's Land Division and Historic Preservation Division, and remove the cement applied to the wharf. Based on consultation with community groups and the DLNR's Land and Historic Preservation Divisions, the applicant seeks the BLNR's approval to retain the wharf in its "as is" cemented condition.

Chapter III

***Description of Pertinent
Environment Parameters***

III. DESCRIPTION OF PERTINENT ENVIRONMENT PARAMETERS

A. PHYSICAL SETTING

1. Land Use

The properties upon which the violations occurred are within the Olowalu region on the Island of Maui. In recent history, lands at Olowalu were used for sugar cane cultivation by Pioneer Mill Company, Inc. (PMCO). With the closure of sugar operations by PMCO, the last cane harvest at Olowalu was undertaken in late 1998. OEA acquired lands at Olowalu from PMCO during that year.

It is in the context of the historical sugar cane use of the area that the Olowalu Wharf was constructed in the late 1800's, along with an adjacent sugar mill operated by the Olowalu Sugar Company. The mill site remnants are located in the immediate vicinity of the wharf.

In addition to the agricultural land areas, present day land uses at Olowalu include the Olowalu General Store, Chez Paul Restaurant, the Mopua residential subdivision, and Camp Pecusa. Four (4) former plantation residential dwellings, including the former manager's house, are located makai of Honoapiilani Highway, in the vicinity of the wharf.

2. Topography and Landform

The violation areas are within the Conservation District at the shoreline extent of the makai Olowalu lands. The areas fronting the wharf and shoreline are relatively level and flat. The coral rubble removal site is characterized as a rocky shallow-water area.

3. **Soils**

Underlying the vegetation clearing area are soils of the Pulehu-Ewa-Jaucas association. This series consists of well-drained soils on alluvial fans and stream terraces and in basins. These soils were developed in alluvium washed from basic igneous rock. The soil type specific to the vegetative clearing area consists of Pulehu clay loam, 0 to 3 percent slopes (PsA). Pulehu clay loam (PsA) is a dark brown loam underlain by dark brown, dark grayish brown, massive and single grain, stratified loam, loamy sand, fine sandy loam, and silt loam.

4. **Flood and Tsunami Hazards**

The beach reserve clearing area, as well as the Olowalu Wharf, are designated Zone A4. These areas are subject to flooding with a base flood elevation of 8 feet.

5. **Shoreline Area Characteristics**

The shoreline in the vicinity of the vegetative clearing consists of rounded coral rubble, cobbles and rock material. The Olowalu Wharf is primarily surrounded by rocks and coral rubble.

6. **Flora and Fauna**

Based on a 1999 botanical survey of the subject area, it was found that coastal vegetation occurs as a narrow band along the seaward edge of the makai Olowalu lands (Char, 1999). Immediately behind this narrow band of vegetation are former sugar cane fields which were cultivated by PMCO. It is noted that a portion of the beach reserve parcel (TMK 4-8-03:06) was also cultivated in sugar.

Since the makai lands were previously cultivated in sugar cane,

other weedy species are not dominant in this area. *Hau* (*Hibiscus tiliaceus*), portions of which were removed by the applicant, are found along portions of the beach area.

7. **Archaeological and Historic Resources**

An archaeological inventory survey of the makai Olowalu lands was conducted in 1999 by Xamanek Researches. The results of this work was reported in Xamanek Researches' report dated January 28, 2000. The report has been reviewed and accepted by the State Historic Preservation Division. See Exhibit C. There were no archaeological resources identified in the area of vegetative clearing within the beach reserve.

The other violation area, the Olowalu Wharf, is a historic site. While information on the wharf is sketchy, there are references to repairs being made to the wharf in 1884. The wharf is shown in the 1881 map of Olowalu Sugar Plantation.

8. **Cultural Impact Considerations**

The geographic and physical attributes of the Olowalu coastline, as well as documented history of the area, provide a basis for assessing cultural impacts. In particular, the Olowalu shoreline has historically provided opportunities for subsistence gathering of fish, limu, shellfish and other ocean resources. As noted by the State Historic Preservation Division in its letter dated February 24, 2000 (Exhibit C of this report):

Although many precontact and early 1800s habitation sites may have been along the shoreline in this project area, sugarcane cultivation has apparently destroyed most of these sites. A fishpond to the east

seems to be under the highway today, and it appears not to be in the project area.

Four (4) pre-contact to early 1800's sites, including a burial site are found on Olowalu lands makai of Honoapiilani Highway.

In this context, opportunities for spiritual or religious practices must also be recognized for the Olowalu area.

The land clearing action conducted at the shoreline and work performed on the wharf does not limit nor does it adversely affect cultural practice opportunities.

9. **Air and Noise Parameters**

There are no point sources of airborne emissions within close proximity of the violation areas. Since there has been a significant reduction in agricultural operations with the closing of PMCO's sugar operations, air and noise impacts associated with agriculture has been reduced. However, dust from fallow agricultural lands may be generated during periods of high winds. Fugitive dust problems are being addressed through land management programs being coordinated through the Natural Resources Conservation Service, including application of irrigation waters to fallow field areas.

Vehicular noise from traffic traveling along Honoapiilani Highway is the primary source of noise in proximity to the subject properties. Other ambient noise conditions are generally attributable to natural conditions such as ocean waves and wind.

10. Scenic and Open Space Resources

The State beach reserve provides an open space lateral corridor along the Olowalu coastline. From the beach reserve, as well as the wharf, the neighboring islands of Kahoolawe, Lanai and Molokai can be viewed.

B. PERTINENT PUBLIC SERVICE AND INFRASTRUCTURE CONSIDERATIONS

1. Recreation

Both the Olowalu Wharf and the State beach reserve serve as recreational areas for local residents. The beach reserve area is open to the public and therefore is used for fishing, passive recreational activities, as well as for ocean access. The Olowalu Wharf and adjoining area are owned by OEA, but is made available for public use such as fishing and picnicking activities.

2. Police and Fire Protection

The Olowalu region is within the Lahaina Police Station service area, which serves the entire Lahaina District. The Lahaina Station is located in the Lahaina Civic Center complex at Wahikuli, approximately 7.5 miles from Olowalu. Fire prevention, suppression and protection services for the Lahaina District are provided by the Lahaina Fire Station, also located in the Lahaina Civic Center and the Napili Fire Station located in Napili.

3. Roadways and Access

Honoapiilani Highway is a two-lane major State highway linking Central Maui with West Maui. In the vicinity of the subject properties, Honoapiilani Highway has a posted speed limit of 35

miles per hour. Access to the Olowalu Wharf is provided via an existing driveway off of Honoapiilani Highway (across the Olowalu General Store) which leads to an unpaved parking area provided by OEA. A pedestrian path is provided from the parking area to the wharf. This access from Honoapiilani Highway to the wharf is provided in accordance with a 1906 government grant which reserved a "right of way, 50 feet in width (or so much of said 50 feet as may be deemed necessary for public use), extending from Government Belt Road to Olowalu landing."

4. **Water System**

The County of Maui Department of Water Supply presently does not service the Olowalu area. Water supply for the limited number of residential and commercial uses in the Olowalu area, both mauka and makai of Honoapiilani Highway is provided by a private water system consisting of a well, storage reservoir and distribution lines.

5. **Wastewater System**

Individual wastewater disposal needs in the Olowalu area currently are addressed either by cesspools or septic tanks. There are no County operated wastewater collection, treatment and disposal facilities in Olowalu.

6. **Drainage**

Other than existing culverts which convey runoff beneath Honoapiilani Highway, the subject property contains no other drainage improvements. Runoff generally sheet flows from the northeast to southwest collecting in various swales and gullies.

7. **Electrical and Telephone Considerations**

Electrical power is provided to the area by Maui Electric Company, Ltd. (MECO), via overhead poles. MECO's 69 kilovolt overhead transmission lines from Central Maui to the Lahaina-Kapalua area extend through the mauka portion of the property. Telephone hookup is available through Verizon Hawaii.

Chapter IV

***Impacts and Restoration
(Mitigation) Measures***

IV. IMPACTS AND RESTORATION (MITIGATION) MEASURES

The impacts associated with the clearing of vegetation within the State beach reserve, removal of coral rubble from along the wharf and filling and cementing of the wharf platform are addressed in this section.

A. VEGETATIVE CLEARING

1. Impacts of Vegetative Clearing

The clearing of vegetation on State lands resulted in the damage to most of the above grade portion of a long-standing growth of *hau* (*Hibiscus tiliaceus*), a Polynesian introduced plant. In addition, areas within the beach reserve which were occupied by sugar cane regrowth and introduced grasses and weeds were cleared. This damage to the *hau* and removal of vegetative growth resulted in the alteration of the area's coastal landscape. This clearing activity created the potential for wind and water erosion. However, during the period following the clearing, there were no major storms which created erosion-related problems.

2. Restoration Plan for Vegetative Clearing on State Lands

In response to the violation relating to clearing work performed in the State beach reserve, the BLNR required the applicant to:

- a. Nurture the growth of the still living remnants of one hau tree;
- b. Through consultation and concurrence of community groups and the department's Land Division, plant and nurture the retention of two adult hau trees within 90 days; and
- c. Through consultation with community groups and the department, file a Conservation District Use Application (CDUA) containing a restoration plan. This plan would include what the applicant would do to restore areas of the beach reserve that are not in the conservation district.

Towards addressing this impact and the conditions of the BLNR, OEA has completed the following restoration actions:

- a. During the third week of April, 2000, a temporary waterline from the OEA's parcel (TMK 4-8-03:05) was extended to the damaged *hau* plant. This line provides an irrigation source for the tree which involves a single daily watering cycle for approximately 90 minutes. Ongoing oversight and maintenance of the tree is being undertaken by OEA. However, Ho'olawa Farms has been retained to provide technical consulting services to ensure that plant health and growth is properly maintained.
- b. Consultation was conducted with several members of Na Kupuna 'O Maui, including Mr. Renee Sylva, a respected native plant specialist. See Exhibit D (Letter to DLNR from Bob Horcajo and acknowledged by Ed Lindsey, dated May 8, 2000).
- c. On July 20, 2000, ten (10) mature *hau* limbs were planted. See Photographs 1 and 2. The irrigation system was adjusted to ensure that the new plantings will be established as a healthy stand. As with the damaged *hau* plant, OEA will be responsible for the maintenance of the new plantings. Technical input will be provided by Ho'olawa Farms.
- d. OEA has completed re-vegetation for the remaining area of the beach reserve which was cleared (except for that portion which was previously used as a plantation roadway). The re-establishment of the beach reserve's vegetative cover involved the installation of temporary irrigation lines within the reserve to promote the emergence of plant seedlings. Once the area's natural grass and shrub population had been reestablished, irrigation was terminated. The vegetative growth has been stable, providing a solid ground cover to prevent loss of soil attributed to wind and rain. See Photographs 3 and 4. Those areas mauka of the beach reserve has similarly been irrigated, with regrowth of grasses and shrubs providing ground cover needed for soil loss management.



Photograph 1
Hau Tree Plantings (October 4, 2000)



Photograph 2
Hau Tree Planting (October 4, 2000)



Photograph 3
Revegetated Beach Reserve Area (October 4, 2000)



Photograph 4
Revegetated Beach Reserve Area (October 4, 2000)

B. CORAL REMOVAL

1. Impacts of Coral Removal

The coral material removed from the south side of the Olowalu Wharf was likely deposited at that location through high wave action associated with large storm events (e.g., Hurricane Iniki). The affected coral and rubble mound encompassed an approximately 40-ft. by 50-ft. area. Approximately 12 cubic yards of material were removed. The material removed is of a rubble nature, and includes broken pieces of coral, cobbles and rocks which are found in the areas surrounding the wharf. See Photographs 5 and 6. No live coral was removed and the work did not extend beyond the physical limits of the coral mound itself.

The work did not involve the deepening of the ocean bottom as work was limited to removing the upper layer of the rubble pile. In this regard, there were no adverse impacts to navigation, marine life and water circulation.

2. Restoration of Coral Dredging

It is proposed that no re-filling of the rubble mound be done. The existing post-removal condition of the rubble mound does not create any adverse environmental or public safety impacts. No further removal of rubble material is proposed. Should a re-accumulation of coral and rock debris occur in this area which creates problems relative to wharf structural integrity or user safety, a new CDUA will be filed with the DLNR.

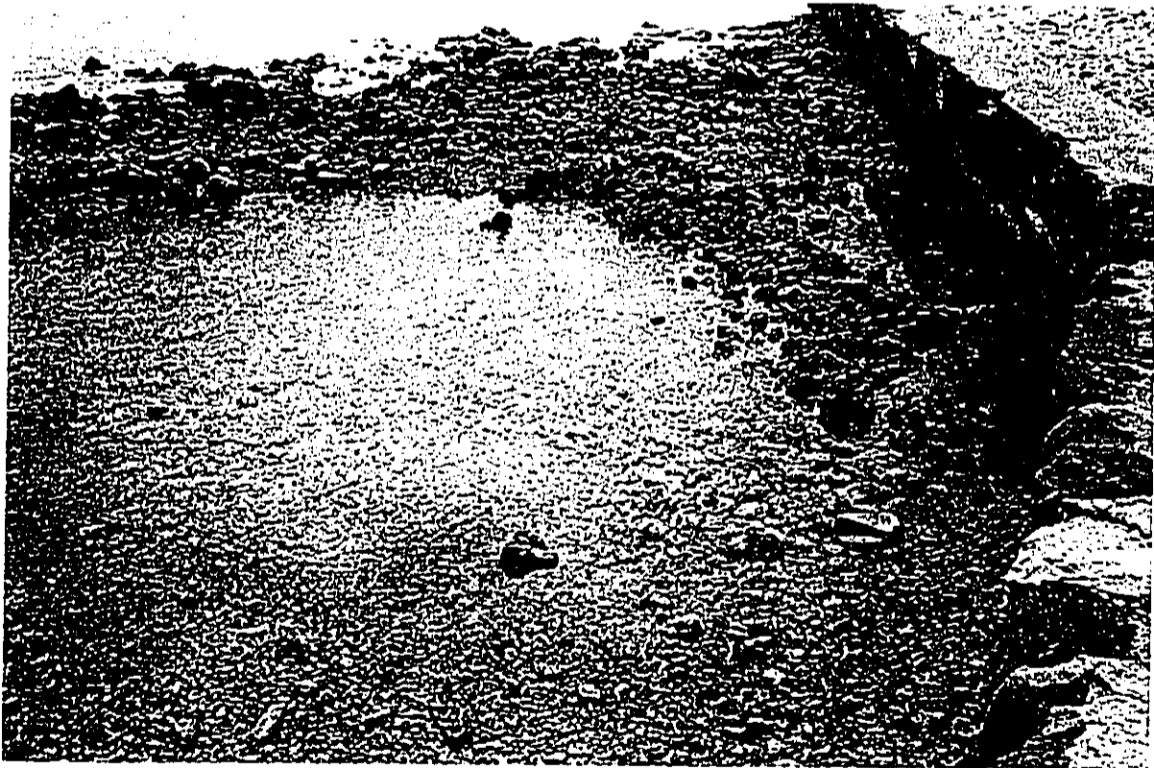
C. WORK PERFORMED ON OLOWALU WHARF

1. Impacts of Work Performed on Olowalu Wharf

The work performed on Olowalu Wharf included the filling of the



Photograph 5
Coral Removal Area (October 4, 2000)



Photograph 6
Coral Removal Area (October 4, 2000)

wharf platform with coral and rubble material, and capping portions of the platform with cement. The applicant's intent in undertaking this work was to provide safer pedestrian access along the wharf, as well as to improve the functional value of the wharf for recreational activities such as fishing, walking and sightseeing. The extent of work performed on the wharf is depicted in Exhibit E.

The impacts associated with this activity relate to its effect on the *structural and historic quality of the wharf*. A structural engineering analysis and architectural analysis have been completed for the wharf. See Exhibit F and Exhibit G.

2. **Restoration Proposed**

Based on the analyses presented by the structural engineer and architect, it is proposed that the work performed on the wharf remain as is. Refer to Exhibit F and Exhibit G. It is further recommended by the structural engineer that monitoring of a partially collapsed section along the north side of the wharf be undertaken. Should further deterioration at this location occur, specific measures for repair will be developed and a separate application for Conservation District Use filed with the Department of Land and Natural Resources.

Chapter V

***Relationship to Governmental
Plans, Policies and Controls***

V. RELATIONSHIP TO GOVERNMENTAL PLANS, POLICIES AND CONTROLS

A. STATE LAND USE DISTRICTS

Chapter 205, Hawaii Revised Statutes, relating to the Land Use Commission, establishes four (4) major land use districts in which all lands in the State are placed. These districts are designated "Urban", "Rural", "Agriculture" and "Conservation". The work described herein was performed within the "Conservation" district's "Limited" subzone. Appropriate reviews and approvals were required pursuant to Chapter 13-5, Hawaii Administrative Rules entitled "Conservation District". However, since the work was performed without proper reviews and approvals, the actions were deemed to be in violation of Chapter 13-5. Accordingly, an after-the-fact application for a Conservation District Use Permit is being filed for processing with the DLNR.

In evaluating the completed actions, the following criteria shall apply.

1. **The proposed land use is consistent with the purpose of the conservation district.**

The vegetative clearing of the beach reserve, removal of the coral material and work performed on the wharf are not contrary to the purpose of the conservation district. No permanent adverse impacts to Conservation lands were created as a result of the activities.

2. **The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur.**

The objective of the Limited subzone is to limit uses where natural conditions suggest constraints on human activities. The completed actions did not result in an intensification of human activities, which would otherwise be contrary to the subzone objective.

-
3. **The proposed land use complies with provisions and guidelines contained in chapter 205A, HRS, entitled "Coastal Zone Management", where applicable.**

Restoration measures have been implemented to ensure compliance of the completed actions with the provisions of Chapter 205A, HRS. Refer to Section V.D.

4. **The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.**

The damage to the *hau* stand affected the natural landscape of the shoreline. However, with the replanting and nurturing of new *hau* trees, this impact is being mitigated. The restoration program for the beach reserve will ensure that the area's natural resources are not adversely affected from a long-term perspective.

5. **The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.**

The completed actions did not involve work which adversely detracts from the existing man-made environment of Olowalu.

6. **The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.**

The revegetation effort for the beach reserve will ensure that its natural environment and open space characteristics is preserved and enhanced. The work performed on the wharf was done to provide a safer environment for pedestrian access and recreational use along the wharf. As noted by the structural engineer (Exhibit F), the filling and cementing of the wharf platform served to

strengthen the structural integrity of the wharf.

7. **Subdivision of land will not be utilized to increase the intensity of land uses in the conservation district.**

The completed work did not include a subdivision action.

8. **The proposed land use will not be materially detrimental to the public health, safety and welfare.**

The completed actions are not detrimental to public health, safety and welfare. As previously noted, the work performed on the wharf platform was intended to address safety issues on the wharf.

B. MAUI COUNTY GENERAL PLAN

The Maui County General Plan (1990 Update) sets forth broad objectives and policies to help guide the long-range development of the County. As stated in the Maui County Charter:

The purpose of the General Plan is to recognize and state the major problems and opportunities concerning the needs and the development of the County and the social, economic and environmental effects of such development and set forth the desired sequence, patterns and characteristics of future development.

Restoration measures have been identified and implemented for the completed actions. With these steps taken, the objectives and policies of the Maui County General Plan have been respected.

C. WEST MAUI COMMUNITY PLAN

The Olowalu region is within the West Maui Community Plan region. The West Maui Community Plan reflects current and anticipated conditions in West Maui and advances planning goals, objectives, policies and

implementation considerations to guide decision-making in the region through the year 2010. The completed actions, when considered with the restoration measures proposed and implemented, are not contrary to the intent of the West Maui Community Plan.

D. SPECIAL MANAGEMENT AREA OBJECTIVES AND POLICIES

Pursuant to Chapter 205A, Hawaii Revised Statutes, and the Rules and Regulations of the Planning Commission of the County of Maui, actions located within the Special Management Area (SMA) are evaluated with respect to coastal zone management objectives, policies and guidelines. The completed actions are located on properties situated in the SMA. Accordingly, this section addresses the project's relationship to applicable coastal zone management considerations as set forth in Chapter 205A and the Rules and Regulations of the Maui Planning Commission.

(1) Recreational Resources

Objective:

Provide coastal recreational opportunities accessible to the public.

Policies:

- (A) Improve coordination and funding of coastal recreational planning and management; and
- (B) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area by:
 - (i) Protecting coastal resources uniquely suited for recreational activities that cannot be provided in other areas;
 - (ii) Requiring replacement of coastal resources having significant recreational value, including but not limited to surfing sites, fishponds, and sand beaches, when such resources will be unavoidably damaged by development; or requiring reasonable monetary compensation to the state for recreation when

-
- replacement is not feasible or desirable;
- (iii) Providing and managing adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value;
 - (iv) Providing an adequate supply of shoreline parks and other recreational facilities suitable for public recreation;
 - (v) Ensuring public recreational use of county, state, and federally owned or controlled shoreline lands and waters having recreational value consistent with public safety standards and conservation of natural resources;
 - (vi) Adopting water quality standards and regulating point and non-point sources of pollution to protect, and where feasible, restore the recreational value of coastal waters;
 - (vii) Developing new shoreline recreational opportunities, where appropriate, such as artificial lagoons, artificial beaches, and artificial reefs for surfing and fishing; and
 - (viii) Encouraging reasonable dedication of shoreline areas with recreational value for public use as part of discretionary approvals or permits by the land use commission, board of land and natural resources, county planning commissions; and crediting such dedication against the requirements of Section 46-6, HRS.

Response: The subject actions did not adversely impact coastal recreational opportunities. Improvements made to the wharf were done in the context of improving access along the wharf.

(2) **Historic Resources**

Objective:

Protect, preserve and, where desirable, restore those natural and manmade historic and prehistoric resources in the coastal zone management area that are significant in Hawaiian and American history and culture.

Policies:

- (A) Identify and analyze significant archeological resources;
- (B) Maximize information retention through preservation of remains and artifacts or salvage operations; and
- (C) Support state goals for protection, restoration, interpretation, and display of historic resources.

Response: The Olowalu Wharf is considered a historic structure, having been built in the late 1800's. Following the closure of sugar operations at the Olowalu Mill, there has not been any organized or formal maintenance program for the wharf. As a result, repairs have been undertaken on an incremental, "as needed" basis which defines its current physical condition and appearance. In this context, the work involving the filling and cementing of the wharf is not deemed adverse. Refer to Exhibit E and Exhibit F.

(3) **Scenic and Open Space Resources**

Objectives:

Protect, preserve and, where desirable, restore or improve the quality of coastal scenic and open space resources.

Policies:

- (A) Identify valued scenic resources in the coastal zone management area;
- (B) Ensure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alteration of natural landforms and existing public views to and along the shoreline;
- (C) Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources; and
- (D) Encourage those developments which are not coastal dependent to locate in inland areas.

Response: The implementation of revegetation measures to

address the vegetative clearing within the beach reserve ensures that the shoreline landscape is established. In this regard, there will be no long-term adverse impacts to scenic and open space resources as a result of the completed actions.

(4) **Coastal Ecosystems**

Objective:

Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems.

Policies:

- (A) Improve the technical basis for natural resource management;
- (B) Preserve valuable coastal ecosystems, including reefs, of significant biological or economic importance;
- (C) Minimize disruption or degradation of coastal water ecosystems by effective regulation of stream diversions, channelization, and similar land and water uses, recognizing competing water needs; and
- (D) Promote water quantity and quality planning and management practices which reflect the tolerance of fresh water and marine ecosystems and prohibit land and water uses which violate state water quality standards.

Response: Coral debris and rubble were removed from an area adjacent to the Olowalu Wharf. The material removed accumulated in this area over a period of years. No live coral was affected by this action. The removal of the material involved the top layer of the mound and did not involve the deepening of the ocean bottom (below the extent of the rubble layer). No adverse impacts to coastal resources resulted from this activity.

(5) **Economic Uses**

Objectives:

Provide public or private facilities and improvements important to the State's economy in suitable locations.

Policies:

- (A) Concentrate coastal dependent development in appropriate areas;
- (B) Ensure that coastal dependent development such as harbors and ports, and coastal related development such as visitor facilities and energy generating facilities, are located, designed, and constructed to minimize adverse social, visual, and environmental impacts in the coastal zone management area; and
- (C) Direct the location and expansion of coastal dependent developments to areas presently designated and used for such developments and permit reasonable long-term growth at such areas, and permit coastal dependent development outside of presently designated areas when:
 - (i) Use of presently designated locations is not feasible;
 - (ii) Adverse environmental effects are minimized; and
 - (iii) The development is important to the State's economy.

Response: The completed actions are not contrary to the objectives and policies for economic use.

(6) **Coastal Hazards**

Objectives:

Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.

Policies:

- (A) Develop and communicate adequate information about storm wave, tsunami, flood, erosion, subsidence, and point and nonpoint source pollution hazards;
- (B) Control development in areas subject to storm wave, tsunami, flood, erosion, hurricane, wind, subsidence, and point and nonpoint pollution hazards;
- (C) Ensure that developments comply with requirements of the Federal Flood Insurance Program;
- (D) Prevent coastal flooding from inland projects; and
- (E) Develop a coastal point and nonpoint source pollution control program.

Response: The beach reserve area affected by the clearing activity has been fully re-vegetated. No adverse impacts relating to coastal erosion resulted from the clearing activity.

(7) **Managing Development**

Objectives:

Improve the development review process, communication, and public participation in the management of coastal resources and hazards.

Policies:

- (A) Use, implement, and enforce existing law effectively to the maximum extent possible in managing present and future coastal zone development;
- (B) Facilitate timely processing of applications for development permits and resolve overlapping of conflicting permit requirements; and
- (C) Communicate the potential short and long-term impacts of proposed significant coastal developments early in their life-cycle and in terms understandable to the public to facilitate public participation in the planning and review process.

Response: The completed actions are deemed violations of

Chapter 13-5, Hawaii Administrative Rules. Accordingly, hearings before the BLNR were conducted to address issues relating to the actions and to advance proper remedies for mitigation. In addition, an after-the-fact application for a Conservation District Use Permit is being processed by the DLNR. Through these processes, it is anticipated that the coastal resource management requirements will be properly addressed.

(8) **Public Participation**

Objectives:

Stimulate public awareness, education, and participation in coastal management.

Policies:

- (A) Maintain a public advisory body to identify coastal management problems and to provide policy advice and assistance to the coastal zone management program;
- (B) Disseminate information on coastal management issues by means of educational materials, published reports, staff contact, and public workshops for persons and organizations concerned with coastal-related issues, developments, and government activities; and
- (C) Organize workshops, policy dialogues, and site-specific mediations to respond to coastal issues and conflicts.

Response: Avenues for public participation are being provided through the corrective actions set forth by the BLNR.

(9) **Beach Protection**

Objectives:

Protect beaches for public use and recreation.

Policies:

- (A) Locate new structures inland from the shoreline setback to conserve open space and to minimize loss of improvements due to erosion;
- (B) Prohibit construction of private erosion-protection structures seaward of the shoreline, except when they result in improved aesthetic and engineering solutions to erosion at the sites and do not interfere with existing recreational and waterline activities; and
- (C) Minimize the construction of public erosion-protection structures seaward of the shoreline.

Response: The completed actions did not affect beach processes. The shoreline fronting the beach reserve and wharf area are rocky and/or characterized by coral and rock beaches. Restoration measures implemented provide for the continued maintenance of the beach character in this area.

(10) **Marine Resources**

Objectives:

Implement the State's ocean resources management plan.

Policies:

- (A) Exercise an overall conservation ethic, and practice stewardship in the protection, use, and development of marine and coastal resources;
- (B) Assure that the use and development of marine and coastal resources are ecologically and environmentally sound and economically beneficial;
- (C) Coordinate the management of marine and coastal resources and activities management to improve effectiveness and efficiency;
- (D) Assert and articulate the interests of the State as a partner with federal agencies in the sound management of ocean resources within the United States exclusive economic zone;
- (E) Promote research, study, and understanding of ocean processes, marine life, and other ocean resources in order

-
- to acquire and inventory information necessary to understand how ocean development activities relate to and impact upon ocean and coastal resources; and
- (F) Encourage research and development of new, innovative technologies for exploring, using, or protecting marine and coastal resources.

Response: As previously noted, marine resources were not adversely impacted as a result of the completed actions.

Chapter VI

***Summary of Adverse
Environmental Effects***

VI. SUMMARY OF ADVERSE ENVIRONMENTAL EFFECTS

The vegetative clearing activity resulted in the removal of vegetative cover, including damage to a *hau* stand along the shoreline. The impact of this action included the alteration of the shoreline landscape, as well as creating the potential for increased soil erosion. The restoration measures implemented are intended to mitigate the impacts of that action. At this point in time, vegetation along the shoreline has been re-established and new *hau* plants have been planted and are being maintained to facilitate its re-establishment.

The removal of the coral rubble to fill the wharf platform did not result in any adverse impacts to marine life, navigation, or water quality. There was no deepening of the marine floor, beyond the depth of the rubble deposit, and there was no dredging beyond the limits of the approximately 40-ft. by 50-ft. rubble deposit area.

The filling of the wharf with the coral rubble material and the cementing of the seaward extent of the wharf altered the surface character of the wharf. While this action is considered to be a long-term improvement, it did not adversely affect the functional or historic character of the wharf. Refer to Exhibit F and Exhibit G.

Chapter VII

Alternatives Analysis

VII. ALTERNATIVES ANALYSIS

The actions undertaken on State-owned lands and within the Conservation District were completed without appropriate approvals. Accordingly, an after-the-fact application for a Conservation District Use Permit has been filed and is being processed by the DLNR. In this context, consideration of alternatives were not part of a formal project planning process.

Chapter VIII

***Irreversible and Irretrievable
Commitments of Resources***

VIII. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

The vegetative clearing action was mitigated through implementation of revegetation measures. Through these measures, the *hau* and related shoreline vegetation has been restored and continues to be nurtured to ensure full re-establishment. The coral removal involved the use of a coral and rubble material which had accumulated over time. The deposits typically occur during storm wave events. It is anticipated that deposition of coral material with future storm events will not be hampered by the removal action. Finally, the filling and cementing of the wharf is a semi-permanent improvement. However, the functional value and structural integrity of the wharf has not been diminished.

Chapter IX

Findings and Conclusions

IX. FINDINGS AND CONCLUSIONS

The significance criteria of Section 12, of the Administrative Rules of Title 11, Chapter 200, "Environmental Impact Statement Rules", were reviewed and analyzed to determine whether the assessment action will have significant impacts to the environment.

1. **No Irrevocable Commitment to Loss or Destruction of any Natural or Cultural Resources Would Occur as a Result of the Project**

Although the actions undertaken resulted in short-term impacts, restoration actions required by the BLNR ensure that there are no long-term losses or adverse impacts to the environment.

2. **The Proposed Action Would Not Curtail the Range of Beneficial Uses of the Environment**

The completed actions do not curtail the range of beneficial uses of the environment. The wharf improvements provide for its enhanced structural integrity and provide for a safer functional environment for users.

3. **The Proposed Action Does Not Conflict with the State's Long-Term Environmental Policies or Goals or Guidelines as Expressed in Chapter 344, Hawaii Revised Statutes**

With the mitigation required by the BLNR (as implemented through the restoration plans), the completed actions are not contrary to the provisions of Chapter 344, Hawaii Revised Statutes.

4. **The Economic or Social Welfare of the Community or State Would Not Be Substantially Affected**

The actions, as mitigated, have not had a substantial impact upon the economic or social welfare of the community.

5. **The Proposed Action Does Not Affect Public Health**

The completed actions did not adversely impact public health.

6. **No Substantial Secondary Impacts, Such as Population Changes or Effects on Public Facilities are Anticipated**

The completed actions did not have substantial secondary impacts, including effects to public facilities.

7. **No Substantial Degradation of Environmental Quality is Anticipated**

The impacts associated with the completed actions are considered temporary in nature. With the mitigation actions required of the applicant, the overall effect upon environmental quality is not considered substantial.

8. **The Proposed Action Does Not Involve a Commitment to Larger Actions, Nor Would Cumulative Impacts Result in Considerable Effects on the Environment**

The actions undertaken were not part of a larger action which would result in cumulative impacts upon the environment.

9. **No Rare, Threatened or Endangered Species or Their Habitats Would Be Adversely Affected By the Proposed Action**

With the implementation of restoration measures, no rare, threatened or endangered species or their habitats have been affected.

10. **Air Quality, Water Quality or Ambient Noise Levels Would Not Be Detrimentially Affected by the Action**

Temporary effects on noise, air and water quality were likely encountered during the performance of the actions. Noise and air quality was temporarily affected with the equipment used to clear vegetation and remove the coral rubble. Water quality in the area immediately around the coral mound may have increased in turbidity due to the agitation and

loosening of sediments which may have accumulated within the rubble mound. The impacts were temporary in nature and are not considered detrimental from a long-term perspective.

11. **The Proposed Project Would Not Affect Environmentally Sensitive Areas, Such as Flood Plains, Tsunami Zones, Erosion-prone Areas, Geologically Hazardous Lands, Estuaries, Fresh Waters or Coastal Waters**

The subject property is within a flood hazard area as defined by the Flood Insurance Rate Maps. The completed actions do not affect sensitive environmental areas.

12. **The Proposed Action Would Not Substantially Affect Scenic Views and Viewplanes Identified in County Plans or Studies**

The completed action does not adversely affect scenic views and viewplanes.

13. **The Proposed Action Would Not Require Substantial Energy Consumption**

The completed action does not require substantial energy consumption.

Based on the foregoing findings, it is concluded that with the implementation of restoration measures, the completed actions did not result in any significant impacts.

Chapter X

***Letters Received During
the Draft Environmental
Assessment Public Comment
Period and Responses to
Substantive Comments***

X. LETTERS RECEIVED DURING THE DRAFT ENVIRONMENTAL ASSESSMENT PUBLIC COMMENT PERIOD AND RESPONSES TO SUBSTANTIVE COMMENTS

This section incorporates comments received during the 30-day public comment period for the Draft Environmental Assessment. Responses to substantive comments are also incorporated herein.

MAY 09 01 10:218

BENJAMIN J. CAYETANO
GOVERNOR



GENEVIEVE SALMONSON
DIRECTOR

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL
236 SOUTH BERETANIA STREET
SUITE 702
HONOLULU, HAWAII 96813
TELEPHONE (808) 588-4185
FACSIMILE (808) 588-4186

May 9, 2001

Dean Uchida, Administrator
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Attention: Eric Hill

Dear Mr. Uchida:

Subject: Draft Environmental Assessment (EA) for After-the-fact CDUA for Olowalu Wharf, Dredging & Landscaping

We have the following comments to offer:

Irrigation: The draft EA notes temporary irrigation lines in the revegetated beach area.

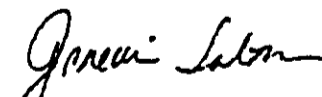
- A. When will the lines be removed?
- B. Is the growth shown in photos 3 and 4 all new growth?
- C. What kind of plants are they?
- D. Has there been an increase in runoff since the revegetation and irrigation began?

Archeology survey: In the final EA include the State Historic Preservation Division's concurrence letter on Xamanek's 1999 survey.

Historic Wharf: Is this wharf on either the National or State Historic Register? Is it eligible?

If you have any questions, call Nancy Heinrich at 586-4185.

Sincerely,


GENEVIEVE SALMONSON
Director

c: Michael Munekiyo
Bob Horcajo, Olowalu Elua Associates



June 5, 2001

Genevieve Salmonson, Director
State of Hawaii
Office of Environmental Quality Control
235 S. Beretania Street #702
Honolulu, Hawaii 96813

SUBJECT: Draft Environmental Assessment for After-the-Fact CDUA for Work Performed on Olowalu Wharf

Dear Ms. Salmonson:

Thank you for your comment letter of May 9, 2001 regarding the subject matter. We appreciate the input provided and offer the following information to address and clarify items noted in your letter.

Irrigation System

1. Temporary Irrigation lines which were used to re-establish the groundcover have been removed. The drip irrigation line servicing the hao stand is still in place and will continue to be used for another month or two to ensure that plant health has stabilized and to ensure full re-establishment of the stand.
2. Photograph nos. 3 and 4 are all new vegetative growth.
3. The plants which have been re-established at the site include bermuda grass, buffle grass, nutgrass, uhaloa, opiuma and koa haole. In addition, due to the area's past use for sugar cultivation, sugar cane growth is also present.
4. With regard to drainage runoff, groundcover has been fully re-established. When compared to the pre-clearing activities, there have been no changes in conditions which would yield higher rainfall runoff.

Genevieve Salmonson, Director
June 5, 2001
Page 2

Archaeological Survey

The State Historic Preservation Division's concurrence letter will be incorporated in the Final Environmental Assessment.

Historic Wharf

The wharf is not listed on the National or State Historic Registers. Based on ongoing consultation with the State Historic Preservation Division, the wharf is acknowledged to contribute to the historic significance of the Olowalu Mill Complex. This acknowledgement recognizes that the wharf itself has changed continuously since its initial construction in the late 1800's. Therefore, Olowalu Elua Associates, LLC will continue to work with the State Historic Preservation Division to ensure that appropriate historical research is conducted and documented not only on the wharf, but other plantation-era structures at the old mill site as well.

Thank you again for commenting on the Draft EA. If there are any questions regarding the information provided, please do not hesitate to call

Very truly yours,



Michael T. Munekiyo, A.I.C.P.
Project Manager

MTM:to

cc: Bob Horcajo, Olowalu Elua Associates, LLC

olowalu/makaisub/oeqctr.002

RECEIVED
LAND DIVISION
PHONE (808) 594-1888

FAX (808) 594-1865

2001 MAY 17 A 9:22



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
11 KAPOLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

April 25, 2001

Dean Uchida, Administrator
Department of Land and Natural Resources
Land Division
P.O. Box 621
Honolulu, HI 96809

Subject: Conservation District Use Application HA-3026 (Board Permit) After-the-Fact Approval for Landscaping, Dredging, and Wharf Construction
Olowalu, Lahaina, Maui,
TMKs 2nd 4-8-03: por. 43 and por. 06

Dear Mr. Uchida:

Thank you for the opportunity to comment on the above referenced project. The Office of Hawaiian Affairs has the following concerns about this draft environmental assessment and conservation district use application.

Impacts and Restoration

OHA is satisfied with BLNR's requirements for the applicant and notes that Olowalu Elua Associates has made progress in meeting these requirements. OHA requests a copy of the restoration plan for areas of the beach reserve that are not in the conservation district that was to be filed with the CDUA.

Cultural Practices

The draft EA does not address the need to assess effects on cultural practices as mandated by Act 50, SLH 2000. Act 50 amended the definition of "significant effect" to include adverse effects on cultural practices. OHA requests that the draft EA identify, and if necessary mitigate, any effects on Hawai'i's culture and traditional and customary rights pursuant to Section 343-2, Hawai'i Revised Statutes, as amended.

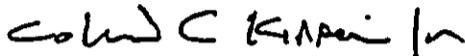
Submerged Lands

OHA is concerned about the issue of title. The draft EA states that OEA owns the wharf and adjoining area. However, the wharf is on submerged lands which are considered public lands held in trust for the people of the state. DLNR must require that OEA apply

for a lease for the use of these lands and ensure that OHA receives 20% of the proprietary revenue that is derived from these lands, pursuant to HRS Chapter 10. OHA requests that such a lease would include terms that would provide for public access to this area.

If you have questions, please contact Sharla Manley, assistant policy analyst at 594-1944.

Sincerely,



Colin C. Kippen, Jr.
Deputy Administrator

CK: sam

cc: Board of Trustees
Randall K. Ogata, Administrator
Maui CAC



June 5, 2001

Colin Kippen, Jr.
Deputy Administrator
State of Hawaii
Office of Hawaiian Affairs
711 Kapiolani Blvd., Suite 500
Honolulu, Hawaii 96813

SUBJECT: Conservation District Use Application for After-the-Fact Approval for Work Performed at Olowalu, Maui, Hawaii (TMK 4-8-03: 06 and 43)

Dear Mr. Kippen:

Thank you for providing us with a copy of your April 25, 2001 letter to Mr. Dean Uchida of the Department of Land and Natural Resources, Land Division. We appreciate your comments and offer the following information to address the points raised.

Impacts and Restoration

As noted in the Draft EA, the re-establishment of the area outside of the Conservation District was accomplished with the installation of a temporary irrigation system to facilitate the regrowth of natural vegetation. The vegetative growth which has been established as a result of the regular watering is reflected in Photographs 1 through 4 included on pages 15 and 16 of the Draft EA. The irrigation lines were removed at the end of the year 2000. The new vegetation continues today as a healthy ground cover for the areas mauka of the Conservation District. Given the continuing health and density of the vegetative cover, no additional work is anticipated at this time.

Cultural Practices

A new section addressing cultural impacts will be incorporated in the Final EA. In general, cultural practices associated with the shoreline area at Olowalu normally involves subsistence gathering of fish, limu, shellfish, and other ocean resources. The practice of hi'uwai and other spiritual practices may also be conducted. The work performed within the beach reserve and wharf has not limited nor adversely affected these practices.

Colin Kippen, Jr.
June 5, 2001
Page 2

Submerged Lands

Based on title information available, the wharf is designated to be a part of lands owned by Olowalu Elua Associates, LLC (OEA). However, OEA will continue to work with the DLNR to ensure that issues relating to title are resolved in a timely manner.

Thank you again for providing comments on the Draft EA. If there are any questions or if additional information or clarification is needed on the responses provided herein, please do not hesitate to call.

Very truly yours,



Michael T. Munekiyo, A.I.C.P.
Project Manager

MTM:to

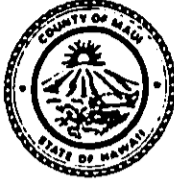
cc: Eric Hill, Department of Land and Natural Resources
Bob Horcajo, Olowalu Elua Associates, LLC

olowalu/makaisub/ohaltr.001

JAMES "KIMO" APANA
Mayor

JOHN E. MIN
Director

CLAYTON I. YOSHIDA
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

May 21, 2001

Mr. Dean Uchida, Administrator
Department of Land and Natural Resources
Land Division
P. O. Box 621
Honolulu, Hawaii 96809

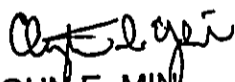
Dear Mr. Uchida:

Re: Conservation District Use Application - After-The-Fact Approval for
Landscaping, Dredging and Wharf Construction at Olowalu, Maui,
Hawaii, TMK: 4-8-003:Por. 43 and Por. 006

The Maui Planning Department is in receipt of the above-referenced application. Please be advised that the applicant has filed an after-the-fact application for an appropriate Special Management Area (SMA) permit pursuant to the requirements of the Maui Planning Commission Special Management Area Rules. Upon completion of our review, we will send you a copy of any action taken by the County of Maui.

Thank you for the opportunity to comment. If additional clarification is required, please contact Ms. Colleen Suyama, Staff Planner, of this office at 270-7735.

Very truly yours,


JOHN E. MIN
Planning Director

JEM:CMS:cmb

c: Clayton Yoshida, AICP, Deputy Planning Director
Jeffrey Chang, Acting Planning Program Administrator
Colleen Suyama, Staff Planner
Michael Munekiyo, AICP, Munekiyo & Hiraga, Inc.
Robert Horcajo, Olowalu Elua Associates, LLC
Patricia Nishiyama, Na Kapuna O Maui
Project File
General File
(K:\WP_DOCS\PLANNING\SM1199sm121Olowalu\CDUAWharfWork.wpd)

250 SOUTH HIGH STREET, WAILUKU, MAUI, HAWAII 96793
PLANNING DIVISION (808) 270-7735; ZONING DIVISION (808) 270-7253; FACSIMILE (808) 270-7634

Quality Seamless Service - Now and for the Future

References

References

Char, Winona P., Botanical Survey-Olowalu Lands, Lahaina District, Maui, prepared for Olowalu Elua Associates, LLC, March 1999.

Xamanek Researches, Archaeological Inventory Survey of Makai Portion (Phase 1) of Olowalu Development Parcel, Olowalu Ahupua'a, Lahaina District, Maui Island (TMK 4-8-3:por. 5), January 28, 2000.

Exhibits

Exhibit A

***Board of Land and Natural
Resources Actions on
April 14, 2000 and July 14, 2000***

RECEIVED

BY DATE 4/22/00



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 821
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref.:PB:EAH

APR 25 2000

File No.: ENFMA00-33
DOCAREMA 00-366

Olowalu Elua Associates, LLC
173 Ho Ohana St., Suite 201
Kahului, HI 96732

Dear Sirs:

Subject: Unauthorized Land Uses on State Unencumbered Lands and Within the State Land Use Conservation District

This is to inform you that at its meeting of April 14, 2000, the Board of Land and Natural Resources (Board) found you in violation of Conservation District law and State Land law relating to the unauthorized tree removal, grubbing and construction at Olowalu, Lahaina, County of Maui.

The Board derives its authority from Article X, Section 2 of the Hawaii State Constitution, and in this specific case, Chapters 171 and 183C, Hawaii Revised Statutes and Chapters 13-5 and 13-221, Hawaii Administrative Rules.

The Board assessed fines totaling \$6,500.00 and administrative fees totaling \$805.00. The total: \$7305.00, is due by May 15, 2000. If the Department of Land and Natural Resources (department) does not receive the total amount by the above date, the matter shall be turned over to the Attorney General for disposition, including all administrative costs.

Specifically, the Board found that you violated Chapter 183C, Hawaii Revised Statutes, by failing to obtain the proper conservation zoning approvals to remove Hau trees, engage in construction on Olowalu Wharf and to engage in construction on the side of Olowalu Wharf. In addition, the Board found that you violated Chapter 171, Hawaii Revised Statutes, by failing to obtain the proper approvals to disrupt geological features on state unencumbered land.

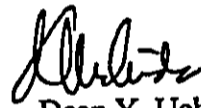
Furthermore, the Board ordered you to: (1) nurture the growth of the still living remnants of one Hau tree; (2) through consultation and concurrence of community groups and the department's Land Division, plant and nurture the retention of two adult Hau trees within 90 days; (3) through consultation and concurrence of community groups and the department's Land Division and Historic Preservation Division, remove cement applied during recent construction at Olowalu Wharf and any extant encroaching cement on state land to the side of Olowalu Wharf within 90 days; and (4)

through consultation with community groups and the department, file a Conservation District Use Application (CDUA) containing a restoration plan.

If you do not accomplish 2-3 above within 90 days you are hereby notified that a fine not to exceed \$2,000.00 per day will be applied to each action not completed starting on July 14, 2000 and that the Board may seek compensation for damages to state land. We advise you to seek the assistance of the department's Historic Preservation Division before removing cement from the wharf and in developing any wharf restoration measures in your CDUA. Furthermore, in your CDUA, you may wish to answer the following questions: how will Olowalu Wharf be restored; what native plants will you plant in what locations; how and where is public access to be provided or not provided; how will landscaping be maintained and by whom? The restoration plan and CDUA may serve as a vehicle to specify what you will do to restore areas of the beach reserve that are not in the Conservation District, however, a CDUA including a restoration plan and a restoration plan for areas of the beach reserve not in the Conservation District must be submitted before July 14, 2000 or the Board may take further action in this matter.

Should you have any questions on this matter, please call Eric Hill of our planning staff at 587-0383.

Aloha,



Dean Y. Uchida, Administrator

c: Chairperson
Maui Board Member
HPD/LD(MDLO, EB)/DOCARE
County of Maui Planning Department
Na Kupuna O Maui
DAGS(Survey)



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

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref.:PB:EAH

JUL - 5 2000

FileNo:ENFMA00-33
DOCAREMA00-366

Olowalu Elua Associates, LLC
173 Ho Ohana St., Suite 201
Kahului, HI 96732

Dear Sirs:

Subject: Board Action of April 14, 2000 Regarding Unauthorized Land Uses on State Unencumbered Lands and Within the State Land Use Conservation District at Olowalu, Maui

This is to confirm and re-inform you that at its meeting of April 14, 2000, the Board of Land and Natural Resources (Board) found you in violation of Conservation District law and State Land law relating to the unauthorized tree removal, grubbing and construction at Olowalu, Lahaina, County of Maui. The Board deferred action regarding dredging to the side of Olowalu Wharf and will take up this matter again at its meeting of July 14, 2000.

The Board derives its authority from Article X, Section 2 of the Hawaii State Constitution, and in this specific case, Chapters 171 and 183C, Hawaii Revised Statutes and Chapters 13-5 and 13-221, Hawaii Administrative Rules.


The Board assessed fines totaling \$6,500.00 and administrative fees totaling \$805.00. We have received payment of fines and fees for this matter. Below are specific conditions related to this Board action:

1. The Board of Land and Natural Resources found that you violated the provisions of Title 13-5, Hawaii Administrative Rules (HAR), by failing to obtain the appropriate approvals for the removal of Hau trees from the shoreline state beach reserve within the Conservation District at TMK (2)4-8-3:6;
2. The Board of Land and Natural Resources found that you violated the provisions of Title 13-221, HAR, by failing to obtain the appropriate approvals for the disruption of geological features at the shoreline state beach reserve at TMK (2)4-8-3:6 and the Board imposed a fine of \$500 pursuant to Title 13-221, HAR;

3. That you nurture the growth of the still living remnants of the one Hau tree. That you plant and nurture the retention of two adult Hau trees to replace those removed in accordance with a plan approved by the department by July 13, 2000. That you plant and nurture the retention of native grasses, native trees and other native plants in the state beach reserve, both within and outside of the Conservation District, in accordance with a plan approved by the department;
4. Deferred
5. The Board of Land and Natural Resources found that you violated the provisions of Title 13-5, HAR, by failing to obtain the appropriate approvals for construction on Olowalu Wharf and for placing cement on state land within the Conservation District at the side of Olowalu Wharf. The Board imposed fines of \$2000 for construction on Olowalu Wharf and \$2000 for the placing of cement on state owned lands. The Board required that you restore Olowalu Wharf by removeing concrete placed on Olowalu Wharf by July 13, 2000 or you will be subject to an additional fine of \$2000 per day;
6. That you remove any extant shoreline encroachments located on Olowalu Wharf, including any cement spill, in accordance with a plan approved by the department;
7. The Board fined you a total of \$6500 for four violations;
8. The Board fined you an additional \$805 for administrative costs associated with the subject violations (\$325 DOCARE, \$150 Maui District Land Office Staff and \$330 Planning Staff);
9. That you pay all imposed fines within 30 days;
10. That in the event of failure of yourself to comply with any of these conditions, the matter shall be turned over to the Attorney General for disposition, including all administrative costs; and
11. The Board required you to develop a plan for complete restoration through consultation with the community group Na Kupuna O Maui as the basis for a new CDUA and submit the new CDUA by April 13, 2000.

Should you have any questions on this matter, please contact Eric Hill of our planning staff at 587-0380.

Aloha,


Dean Y. Uchida, Administrator

c: Chairperson
Board Members
HPD/LD(MDLO, EB)/DOCARE
County of Maui Planning Department
Na Kupuna O Maui



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

RECEIVED
BY _____ DATE 7/25/00

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref.:PB:EAH

JUL 21 2000

File No.:ENF MA 00-33
DOCARE: MA 00-366

Olowalu Elua Associates, LLC
173 Ho Ohana St., Suite 201
Kahului, HI 96732

Dear Sirs:

Subject: Board Action of July 14, 2000 Regarding Unauthorized Dredging on State Land Seaward of the Shoreline and Within the Conservation District Adjacent to Olowalu Wharf, Island of Maui and Amendments to Board Action D-24 April 14, 2000: Conservation District and State Unencumbered Land Violations At Olowalu, Maui

This is to inform you that at its meeting of July 14, 2000, the Board of Land and Natural Resources (Board) found you in violation of Conservation District law and State Land law relating to unauthorized dredging at Olowalu, Lahaina, County of Maui. The Board also amended its action, D-24, of April 14, 2000 regarding Conservation District and State Unencumbered Land Violations At Olowalu, Maui.

The Board derives its authority from Article X, Section 2 of the Hawaii State Constitution, and in this specific case, Chapters 171 and 183C, Hawaii Revised Statutes and Chapters 13-5 and 13-221, Hawaii Administrative Rules.

The Board assessed fines totaling \$49,500.00, administrative fees totaling \$550.00 and damages to state land totaling \$1315.00. \$3365.00 of the total of these amounts is due by August 12, 2000. The balance, \$48,000, is due by September 11, 2000.

Previously, we informed you that the Board's action, D-24, of April 14, 2000 required you to submit a Conservation District Use Application (CDUA) containing a restoration plan for work done on Olowalu Wharf by July 13, 2000. At the Board meeting on July 14, 2000 you made a representation that such a CDUA had been submitted. The department did not, however, receive your CDUA submission by July 13, 2000. On July 19, 2000 we did receive one copy of your CDUA submission. Please immediately submit the CDUA application fee and extra copies of your CDUA submission, pursuant to Chapter 13-5, Hawaii Administrative Rules and the Board's action, D-24, of April 14, 2000.

In regards to unauthorized dredging to the side of Olowalu Wharf and the Board's action D-34 of July 14, 2000:

1. The Board of Land and Natural Resources found that you violated the provisions of Chapter 183C, Hawaii Revised Statutes (HRS), and Chapter 13-5, Hawaii Administrative Rules (HAR), by failing to obtain the appropriate approvals for the dredging of coral rubble and other material to the side of Olowalu Wharf and the placing of that material on Olowalu wharf and fined you \$48,000, pursuant to Chapter 183C, HRS. This portion of the total fine under this action is to be paid within sixty (60) days of this action (September 11, 2000) to allow you to submit legal objections and analysis of the fine to the Department of Attorney General for review;
2. The Board of Land and Natural Resources found that you violated the provisions of Chapter 171, HRS, and Chapter 13-221, HAR, for the unauthorized mining or taking of dead coral and other material from a location seaward of the shoreline on state unencumbered land for a period of three days. The Board of Land and Natural Resources imposed a fine of \$1500 and the collection of \$1315 for damages to unencumbered state land pursuant to Chapter 171, Hawaii Revised Statutes;
3. The Board of Land and Natural Resources imposed a fine of \$550 to pay for additional administrative costs (\$225 DOCARE and \$225 Planning Staff) and required you to pay all fines imposed by this action, \$51,365, excluding the \$48,000 fine for the dredging which will be paid within sixty (60) days (September 11, 2000), within 30 days (August 12, 2000);

In regards to the item D-24 of the agenda of the Board of Land and Natural Resources at its regularly scheduled meeting of April 14, 2000:

4. The Board amended condition number 3 of Board action D-24 of April 14, 2000 to require that Olowalu Elua Associates plant and nurture the retention of two local Hau trees limbs to replace those removed and that Olowalu Elua Associates, its successors and assigns will nurture the growth of the transplanted trees after they are planted and when necessary for the life of the trees. If the transplanted trees do not survive or subsequently die or are removed for any reason, you, your successors and assigns shall transplant more trees according to this condition;
5. That condition number 5 of Board action D-24 of April 14, 2000 be amended regarding cement removal to allow for a stay; and;
6. That in the event of failure of Olowalu Elua Associates, its successors or assigns to comply with any of these conditions, the matters shall be turned over to the Attorney General for disposition, including all administrative costs.

Should you have any questions on this matter, please contact Eric Hill of our planning staff at (808) 587-0380.

Aloha,



Dean Y. Uchida, Administrator

c: Chairperson
Board Members
HPD/LD(MDLO)/DOCARE
County of Maui Planning Department

Exhibit B

***Department of Land and
Natural Resources Letter
Dated August 29, 2000***

MINI-ROULETTE 2211



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 821
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT PROGRAM
AQUATIC RESEARCH, BOATING AND OCEAN RECREATION
CONSERVATION AND RESOURCE ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref.:PR:EAH

File No.:CDUA No.: MA-2999

Mr. James Riley
Olowalu Elua Associates, LLC
173 Ho Ohana St., Suite 201
Kahului, HI 96732

Dear Riley,

Subject: Conservation District Use Application (CDUA) MA-2999, Restoration Plan for Olowalu Lands, Olowalu, Maui

Thank you for your Conservation District Use Application (CDUA) submitted to obtain After-The-Fact approval for work previously conducted at Government Beach Reserve, unencumbered submerged state land to the side of Olowalu Wharf and Olowalu Wharf within the conservation district. We received your application on July 24, 2000 and reviewed it for completeness within 30 days. Unfortunately, we found your application to be incomplete and hereby reject your application for processing.

Your submission was received 10 days past the deadline set by the Board of Land and Natural Resources (Board). However, we understand that you sent the application by U. S. Mail prior to the deadline, therefore, the department will not impose any additional fines at this time. Further information and a subsequent CDUA submission for the above mentioned actions are required. Please include the information outlined below and additional information which you may add to complete your application. We hope you have had the opportunity to obtain input from the local community on the application as you indicated you would do. Please re-submit the application within 30 days or contact the department to inform us of the application's status and keep the department informed as to your progress. The violations will not be fully resolved until you obtain approval for the above mentioned work. Regardless, your lack of an acceptable CDUA submission will not be subject to additional fines while the department is certain that you are making reasonable efforts to complete and submit a revised acceptable application.

Specifically, further information in three general areas is required:

Beach Reserve:

Submit your landscape and landscape management plan for the Government Beach Reserve. Where will you locate any native trees, grasses or other plants?

Dredging:

Information regarding the dredging you performed to the side of the wharf and restoration plans for this dredging should be included. Please describe the dredging and indicate if any live coral or protected species were impacted by this work. Clearly explain the purpose and extent of the dredging work and describe the materials removed and what was done with them. Indicate whether you propose to engage in further dredging work that has yet to occur. Discuss navigation, marine life and water circulation impacts of the completed and of any proposed dredging work.

Olowalu Wharf:

Please confirm whether the statements contained within your application accurately and fully reflect the information contained in the letter included in your application from the Historic Preservation Division. Submit an engineering and historic preservation analysis of the work you have done or propose to do on the wharf. Through the analysis, certified by an engineer and architect with appropriate knowledge, explain why your alterations to the wharf should remain, be removed or modified. If you intend to leave the cement on the wharf and will not make any further alterations, please explain through what engineering and historic preservation decision making process you made alterations to the wharf.

Should you have any questions on this matter, please contact Eric Hill of our planning staff at (808) 587-0380.

Aloha,



Dean Y. Uchida, Administrator

c: Board Members
HPD/LD(MDI.O)
County of Maui Planning Department

Exhibit C

***Letter Dated February 25, 2000
from Don Hibbard (Administrator,
State Historic Preservation
Division) to Robert Horcajo***



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
Keeuhouhehe Building, Room 555
501 Kalia Boulevard
Honolulu, Hawaii 96813

February 25, 2000

TIMOTHY E. JOHNS, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

DEPUTIES
JANET I. KAWILO

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND
STATE PARKS
WATER RESOURCE MANAGEMENT

Mr. Robert Horcajo, Project Manager
Olowalu Elua Associates, LLC
173 Ho Ohana Street, Suite 201
Kahului, Hawaii 96732

LOG NO: 24957 ✓
DOC NO: 0002RC39

Dear Mr. Horcajo:

**SUBJECT: Review of Revised Archaeological Inventory Survey Report – Olowalu Makai
Development Parcel
Olowalu, Lahaina, Maui** TMK: 4-8-3: portion 5

This letter reviews the revised report which was submitted February 7, 2000 and received in our office on February 9th (D. Fredericksen & E. Fredericksen 2000. Archaeological Inventory Survey of Makai Portion (Phase 1) of Olowalu Development Parcel ... Xamanek ms.). This revision addresses our review letter of January 14, 2000 (Log: 24,721; Doc: 0001RC11).

The summary of the ahupua'a settlement pattern in the background section of the report is better, but it still does not summarize the details of all the important information that was presented in that section of the report. However, rather than ask for another revision, our staff will prepare a detailed summary which will be placed in our library along with the report.

The revision has addressed all our other concerns, particularly regarding site size, descriptions, and interpretation matters. The report is now acceptable.

Although many precontact and early 1800s habitation sites may have been along the shoreline in this project area, sugarcane cultivation has apparently destroyed most of these sites. A fishpond to the east seems to be under the highway today, and it appears not to be in the project area. Seven archaeological sites, plus gleyed marsh soils with possible historical importance, survive in the project area. These include 4 precontact to early 1800s sites (3 habitation sites – 4694, 4697, and 4698; 1 burial site – 4693) plus the gleyed marsh soils, and 3 late 1800s-1900s sites (the Olowalu Mill Complex – 1602; a road remnant – 4696; a sea wall apparently associated with a road turnout – 4695).

We agree with the report's significance evaluations. The road remnant (4696) and associated sea wall (4695) are "no longer significant" because the limited important information in these sites was recorded during the survey. The 3 precontact to early 1800s habitation sites are significant for their information content, as are the gleyed marsh soils (which may contain important pollen and charcoal material for dating initial settlement along this coast). The burial site (4693) and the Olowalu Mill Complex (1602) are significant under multiple criteria. As an aside, our review letter of January 14th contained an error in final editing. Table 2 should have "no longer significant", not D, in the significance column for 4695 and 4696 and simply "no further work" or no entry at all in the mitigation column (as only significant sites need mitigation). We apologize for this, but could you please have Table 2 revised accordingly and send a replacement page? This change will clearly show to all readers of the report that these 2 sites are not significant.

Mr. Robert Horcajo
Page 2

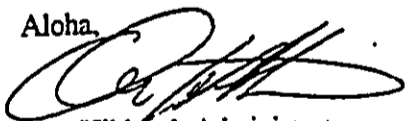
Last, we agree with the revised mitigation proposals for the 5 significant sites and the gleyed marsh soils. The 5 sites will be preserved, and the gleyed marsh soils will undergo archaeological data recovery. These actions will alleviate (mitigate) the adverse effects of the proposed project to these sites.

Thus, by a copy of this letter, we recommend to the County and State permitting agencies that the following standard conditions be attached to any approved permits, to ensure that the mitigation commitments to treat the significant sites are acceptably carried out:

1. Five sites shall be preserved (3 precontact to early 1800s habitations sites – 4694, 4697, 4698; 1 burial site – 4693; and the Olowalu Mill Complex – 1602). A preservation plan for all sites but the burial site must be submitted to and be approved by the State Historic Preservation Division (SHPD) (including buffer zones, as appropriate around the sites, interim protection measures, and long-term preservation measures). The preservation proposal and plan for the burial site shall be submitted to the Maui/Lana'i Islands Burial Council for vote. Minimally, the buffer zones and interim protection measures shall be in place (and verified in writing by the SHPD) prior to land alteration in the area of the sites. The SHPD shall verify in writing to the permitting agencies when the plan has been successfully completed.
2. The gleyed marsh soils shall undergo archaeological data recovery. An archaeological data recovery plan (scope of work) shall be submitted to and be approved by the State Historic Preservation Division (SHPD) prior to the beginning of the data-recovery work. This scope should be completed, before a data recovery contract is negotiated. Minimally, data recovery fieldwork must be successfully concluded (and verified in writing by the SHPD) prior to land alteration in this part of the project area. The SHPD shall verify in writing to the permitting agencies when the plan has been successfully completed.
3. Archaeological monitoring of land altering construction in the sand areas along the shore shall occur, as a contingency to identify, document and treat any burials that might be found. A monitoring plan (scope of work) shall be submitted to and be approved by the State Historic Preservation Division (SHPD) prior to the beginning of the monitoring. This plan (which need only be a few pages long) must specify how any burials that are found will be documented archaeologically, notification procedures, and treatment measures that will be taken. This scope should be completed, before a monitoring contract is negotiated.

If you have any questions, please feel free to contact Dr. Cordy at 692-8025.

Aloha,



Don Hibbard, Administrator
State Historic Preservation Division

RC:jen

c: Land Division, DLNR (CDUA application)
Planning Department, County of Maui
Public Works Department, County of Maui
Burials Program, DLNR
Maui/Lana'i Islands Burial Council Chair

Exhibit D

***Letter Dated May 8, 2000
from Robert Horcajo to
Department of Land and
Natural Resources Land Division***

Olowalu Elua Associates, LLC

173 Ho Ohana Street - Suite 201
Kahului, HI - 96732

Phone 808-877-2434
Fax 808-877-9409

May 8, 2000

Department of Land and Natural Resources
Land Division
Attn: Mr. Eric Hill
P.O. Box 621
Honolulu, Hawaii 96809

Subject: Unauthorized Land Uses Within the State Land Use Conservation
District; Olowalu, Lahaina, Maui, Hawaii

Dear Mr. Hill,

At its April 14, 2000 meeting, the Board of Land and Natural Resources took action and amongst things, required us "to plant and nurture the retention of two adult *hau* trees". This decision was partly based on a community suggestion by a member(s) of *Na Kupuna 'O Maui*.

We recently met with several members of *Na Kupuna 'O Maui*, to include Mr. Renee Sylva, a respected native plant specialist. Based on our on-site discussions, it was decided that genetically speaking, it would be best that a *hau* plant from the Olowalu area be used. Also, instead of removing an existing adult *hau* plant, Renee suggested that given the fact existing *hau* plants in the area have very large mature limbs, it would be appropriate to use those larger limbs to plant instead. Also, his fear was that a mature adult plant might not survive the transplant. On behalf of *Na Kupuna 'O Maui*, Mr. Ed Lindsay's acknowledgment below signifies their concurrence to this matter.

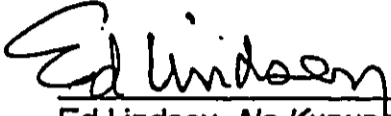
Based on these considerations from *Na Kupuna 'O Maui*, how would you like us to proceed? Do we officially need BLNR approval to this change, or because the original suggestion came from *Na Kupuna 'O Maui*, it will not be necessary? As you know, we have certain time constraints, so I would appreciate your quick response to this matter.

Of course, please feel free to call me at 877-2434 if you have any questions or need further clarification.

Very truly yours,

ACKNOWLEDGED AND ACCEPTED:


Robert L. Horcajo
Project Manager


Ed Lindsey, Na Kupuna 'O Maui

Cc: Na Kupuna 'O Maui

Exhibit E

***Plan Showing Extent of
Work on Olowalu Wharf***

100

Exhibit F

Report of Architect

MAUI ARCHITECTURAL GROUP

November 3, 2000

Mr. Bob Horcajo
Olowalu Elua Associates, LLC
173 Ho Ohana Street, Suite #201
Kahuku, HI 96732

RE: OLOWALU WHARF - PRESERVATION ANALYSIS

Dear Bob,

Per your request I have examined the situation at Olowalu Wharf and present the following analysis for your consideration.

Maintenance and repair of this interesting architectural feature since its creation can be viewed in two broad categories corresponding directly to the sugar growing, harvesting and milling operations of the Olowalu Plantation (later known as the Olowalu Company). The first category encompasses the wharf's construction and care during the years that there was an active mill at the site (~1880 - 1931). The second category follows from 1931 to the present where no active maintenance and/or repair program associated with the wharf has been documented. It is logical to suppose that this was the case since the wharf had lost its economic value to the sugar industry in West Maui and, consequently, its maintenance priority for owners during this period.

The Civil War (1861-1865) on the Mainland caused a large demand for sugar. Many sugar plantations, including Olowalu, were established in the Hawaiian Islands to meet this demand. Investment capital became immediately available after the Reciprocity Treaty of 1876 eliminated duty on sugar shipped to the west coast, making these plantations potentially very profitable.

By 1880 Olowalu was harvesting 700 tons of sugar annually. The Olowalu Sugar Company was incorporated in May of 1881. It is assumed that the mill and wharf were constructed shortly thereafter. A three mile narrow gauge railroad was constructed and a steam engine purchased in 1882. Maintenance records show repairs being made to the wharf in 1884.

The mill continued to operate profitably with improvements to the railroad in 1918 and, it is assumed, an active maintenance and repair program for the mill and wharf structures until 1931 when the Olowalu Company was acquired by Pioneer Mill. This consolidation led to the closure of Olowalu's mill in 1933 and, consequently, the wharf fell into disuse.

While the mill was a viable economic enterprise, the wharf and channel were constantly maintained from an active operating budget. These structures were an integral part of the

system that delivered raw sugar to its eventual market and consequently were given high priority maintenance and repair attention.

An examination of the historic photographic record reveals that this structure has changed in shape and configuration over the latter part of the twentieth century. Since the mill's closure in 1933 it is apparent that no organized or formal maintenance program for the wharf was in place. Consequently the ebb and flow of storms, the sea and human neglect have continually altered the appearance and functional capacity of this structure. With no economic value, maintenance of the wharf was non-existent and repairs were completed on a low priority basis by Pioneer Mill or by interested Olowalu residents and recreational users of the structure.

Conclusion:

Since the wharf is considered historically significant, it is my considered opinion that any effort at stabilizing and maintaining the structure's surface and seaward edges should be encouraged. As discussed above during the category two era, the operant method of such effort for the past sixty odd years has been undirected patch and repair with tools and materials economically available at the time. This methodology is consequently time honored and, in this present circumstance, should not be discouraged since it is simply a continuation of past practice.

Without this seemingly haphazard methodology it is quite likely that, through storm action, erosion and neglect there would be no structure at all in place today. Mala Wharf is an excellent example, - unsightly and dangerous, it has become a public nuisance beyond repair let alone restoration.

Sincerely,


Jim Ness
Principal

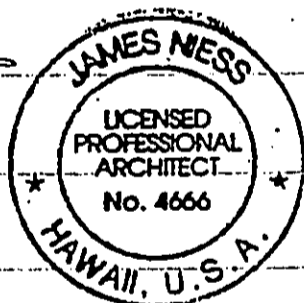


Exhibit G

***Report of Structural
Engineer***

Walter Vorfeld & Associates
CONSULTING STRUCTURAL ENGINEERS

November 9, 2000

Job No. 20016

Olowalu Elua Associates, LLC
173 Ho'ohana St. #201
Kahului, HI 96732

Re: Structural Engineering Review
Olowalu Pier
Olowalu, Maui, Hawaii

Dear Bob:

At your request, on Friday, May 19, 2000, we visited the property at the above-referenced location and met with you to review the condition of the old pier that extends westward from the point near Olowalu stream. In addition, on Wednesday, October 4, 2000, we met with you and Carol Ogata of the State Historic Preservation Division at the wharf to discuss the work performed on the wharf structure. The purpose of these review was to examine the condition of the pier structure and recent concrete topping placed over the western end of it and to attempt to assess whether the concrete topping poses any threat to the integrity of the original pier. Prior to the recent placement of the concrete topping, the pier structure consisted of its original river boulder and mortar perimeter retaining walls filled with large boulders, at the base of the contained area, covered with smaller (2-6 inch) river rock and coral at the surface. At some point within the past twenty years, a portion of the western edge of the pier was unevenly covered with concrete. Although the exact point in time when this was done is not known to me, my familiarity with the area, based on my family's presence in the Lahaina/Olowalu area since 1965 and my frequent use of the pier and surrounding reef for fishing and diving, leads me to conclude that it was performed prior to 1987. The surface of the concrete placed earlier was very uneven and was easy to trip over.

Having frequently observed the condition of the pier structure over the past 15 years and having examined the current condition of the pier with the newly placed concrete the following conclusions were reached on my part:

1. The original structure of the pier perimeter walls was of boulder and mortar construction that has been in a state of deterioration for several years, as evidenced by the partial collapse of the pier surface along the north facing side of the pier end. Placement of the concrete over the tops of the perimeter walls, as well as over the west end of the pier surface, will tie the top of the retaining walls together and help to prevent boulders from

10 Ulana Street
Makawao, Maui, HI 96768
(808)572-3535
Fax (808)572-3616

dislodging from the wall as mortar strength deteriorates due to leaching of lime. As long as the structural integrity of the perimeter wall is maintained, the pier structure, as whole, will be sound. For this reason it is concluded that the concrete that was placed will extend the life of the pier structure.

2. Because the original boulder and mortar construction of the retaining walls is quite brittle, removal of the concrete topping would likely result in fracturing of the underlying walls, which would greatly decrease their structural capability and possibly result in localized collapses, as have occurred on the north edge of the pier. Unless there is some greater compelling reason the concrete must be removed, it is strongly recommended that it be left in place.
3. The surface of the pier prior to placement of the concrete topping was very uneven and unstable for walking because of loose boulders. The current pier surface, because of the concrete topping and the smaller coral and river rock fill that was placed, is much easier and safer to walk on, with few, if any, of the tripping hazards that occurred previously.

Generally speaking, the condition of the pier structure has been improved by the addition of the concrete topping over the west end, and attempts at removal will probably result in damage to the retaining walls that will be difficult to repair.

In addition to the foregoing conclusions, at our October 4, 2000 site visit with Ms. Ogata, we discussed the need to perform additional work on the structure to ensure the continued, long-term structural integrity of the wharf. In particular, we reviewed the partially collapsed portion on the wharf's northernmost face. We explained that this section of the wharf could be treated with gunite or similar material to prevent further deterioration resulting from wave action. After reviewing the condition of that section of the wharf, we believe that its repair will, at some point, be warranted. At this time, however, there does not appear to be any imminent risk of collapse. Prudent management of wharf conditions, however, is warranted, and we therefore recommend the following:

1. Perform annual monitoring of this section of the wharf. The monitoring effort would be based on photographic documentation and where appropriate measurements of the deteriorated area. This baseline information will be used for subsequent analysis of structural integrity of this section of wharf.
2. Annual monitoring would include photographic documentation and remeasurement, as appropriate. Should there be any sign of further deterioration, we will then provide specific recommendations for repair.

Since this section of wharf has been in this condition since approximately January 1999, it is difficult to predict when further deterioration may occur, if at all.

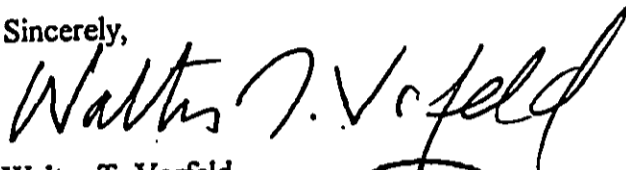
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We understand that, should further repair to this or any other section of the wharf be implemented, new approvals from the Department of Land and Natural Resources will be required.

Hopefully the information presented in this letter answers any questions you might have had. If you require further information, or if our office can be of further assistance, please feel free to call.

Sincerely,



Walter T. Vorfeld

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