

LINDA LINGLE
GOVERNOR OF HAWAII



PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DAN DAVIDSON
DEPUTY DIRECTOR - LAND

ERNEST Y.W. LAU
DEPUTY DIRECTOR - WATER



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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AQUATIC RESOURCES
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref:OCCL:TM

CDUA MA-3171
DEC - 8 2003

MEMORANDUM

To: Ms. Genevieve Salmonson, Director
Office of Environmental Quality Control

From: Dierdre S. Mamiya, Acting Administrator 
Office of Conservation and Coastal Lands

Subject: Final Environmental Assessment (FEA) for Conservation District Use
Application (CDUA) MA-3171 for After the Fact (ATF) Seawall
Improvements

CDUA MA-3171 is a resubmittal of CDUA MA-3134 that was withdrawn on September 19, 2003. The Department of Land and Natural Resources has reviewed the FEA for the subject project, and anticipates a Finding of No Significant Impact (FONSI) determination. Please publish notice of availability for this project in the December 23, 2003 issue of the Environmental Notice. We have enclosed four hard copies of the FEA document. Enclosed are the applicant's project summary and the OEQC Bulletin Publication Form.

Please contact Tiger Mills of our Office of Conservation and Coastal Lands staff at 587-0382 should you have any questions.

Enclosures

DEC 23 2003

FILE COPY
ORIGINAL

2003-12-23-MA-~~FEA~~-Pack Seawall
Improvements

***Conservation District
Use Application***

**AFTER-THE-FACT
PERMITTING FOR SEAWALL
IMPROVEMENTS AT
TMK 4-3-19:47**

Prepared for:

November 2003

Accepting Agency,
State of Hawaii, Department
of Land and Natural
Resources and Richard Pack


MUNEKIYO & HIRAGA, INC.

***Conservation District
Use Application***

**AFTER-THE-FACT
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TMK 4-3-19:47**

Prepared for:

November 2003

Accepting Agency,
State of Hawaii, Department
of Land and Natural
Resources and Richard Pack


MUNEKIYO & HIRAGA, INC.

**CONSERVATION DISTRICT
USE APPLICATION
for
AFTER-THE FACT PERMITTING FOR SEAWALL
IMPROVEMENTS AT TMK 4-3-19:47**

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**1. CONSERVATION DISTRICT USE
APPLICATION AND ATTACHMENTS**

STATE OF HAWAII
 DEPARTMENT OF LAND AND NATURAL RESOURCES
 P. O. BOX 621
 HONOLULU, HAWAII 96809
 CONSERVATION DISTRICT USE APPLICATION FORM

Dec. 1994

FOR DLNR USE ONLY

Reviewed by _____
 Date _____
 Accepted by _____
 Date _____
 Docket/Fine No. _____
 180-Day Exp. _____
 EIS Required _____
 PH Required _____
 Board Approved _____
 Disapproved _____

(Print or Type)

SUMMARY PAGE

I. LANDOWNER

(If State land, to be filled by State of Hawaii or government entity with management control over parcel.)

Name State of Hawaii
Department of Land and Natural Resources
Land Division
 Address P.O. Box 621
Honolulu, Hawaii 96809

Telephone No. (808)587-0400

SIGNATURE ^{requires} * Peter Young's sig.

DATE _____

NOTE: Signature of an authorized representative of DLNR under this section is not to be construed as an approval or as an application which shall be submitted separately with the appropriate fee. Also, for private lands with multiple owners, the application shall be signed by landowners whose property interests constitute or exceed 85% of the fee ownership of the parcel(s).

II. APPLICANT

Name Richard Pack
 Address 3173 Carrigan Canyon
Salt Lake City, Utah 84109
 Telephone No. (801)209-5555
 Interest in Property N/A

(Indicate interest in property; submit written evidence of this interest.)

*SIGNATURE [Signature]

Date 11-7-03

*If for a Corporation, Partnership, Agency or Organization, must be signed by an authorized officer.

AGENT

Name Munekiyo & Hiraga, Inc.
 Address 305 High Street, Suite 104
Wailuku, Hawaii 96793
 Telephone No. (808)244-2015

CONSERVATION DISTRICT USE APPLICATION (Rev. 12/94)

III. TYPE OF PERMIT

- (1) Departmental permit (see section 13-5-33);
- (2) Board permit (see section 13-5-34)
- (3) Emergency permit (see section 13-5-35)
- (4) Temporary variance (see section 13-5-36)
- (5) Nonconforming uses (see section 13-5-37)
- (6) Site plan approval (see section 13-5-38); or
- (7) Management plan (see section 13-5-39)

IV. LAND PARCEL LOCATION

Island Maui
 County Maui
 District Lahaina
 Tax Map Key(s) 4-3-19:47
 Area of Parcel 12,100 sq.ft.
 (Indicate in acres or sq. ft.)
 Term (if lease) _____

V. SUMMARY OF PROPOSED IDENTIFIED LAND USE: (Cite applicable section of Title 13-5, HAR. Attach additional sheet(s) as needed.) See Draft EA

VI. ENVIRONMENTAL REQUIREMENTS

Pursuant to Chapter 343, Hawaii Revised Statutes, and in accordance with Title 11; Chapter 200, Environmental Impact Statement Rules for applicant actions, a Draft Environmental Assessment of the proposed use must be attached. The Draft Environmental Assessment shall include, but not be limited to the following: See Draft EA

- (1) Identification of applicant or proposing agency;
- (2) Identification of approving agency, if applicable;
- (3) Identification of agencies consulted in making assessment;
- (4) General description of the action's technical, economic, social, and environmental characteristics;
- (5) Summary description of the affected environment, including suitable and adequate location and site maps;
- (6) Identification and summary of major impacts and alternatives considered, if any;
- (7) Proposed mitigation measures, if any;
- (8) Determination;
- (9) Findings and reasons supporting determination; and
- (10) Agencies to be consulted in the preparation of the EIS, if applicable.

Following the end of a 30-day review period for the Draft Environmental Assessment, any comments received along with their responses must be incorporated into the Final Environmental Assessment. If appropriate, the text, figures, tables, maps, and other ancillary parts of the Environmental Assessment should be revised.

CONSERVATION DISTRICT USE APPLICATION (Rev. 12/94)

VII. DESCRIPTION OF PARCEL

- A. See Draft EA Existing structures/use. (Attach description or map and one set of original photographs. Also, if applicable, include any previously obtained Federal, State and/or County permit approvals.)
- B. Existing utilities. (If available, indicate size and location on map. Include electricity, water, telephone, drainage, and sewerage.)
- C. Existing access. (Provide map showing roadways, trails, if any. Give street name. Indicate width, type of paving and ownership.)
- D. Flora and Fauna. (Describe and provide map showing location and types of flora and fauna. Indicate if rare or endangered native plants and/or animals are present.)
- E. Topography; if ocean area, give depths. (Submit contour maps for ocean areas and areas where slopes are 40% or more. Contour maps will also be required for uses involving tall structures, gravity flow and other special cases.)
- F. If shoreline area, describe shoreline. (Indicate if shoreline is sandy, muddy, rocky, etc. Indicate cliffs, reefs, or other features such as access to shoreline.)
- G. Existing covenants, easements, restrictions. (If State lands, indicate present encumbrances.)
- H. Historic sites affected. (If applicable, attach map and descriptions.)

VIII. COMMENCEMENT DATE: June, 2001

COMPLETION DATE: June, 2001

IX. CITE AND DESCRIBE IN DETAIL THE PROPOSED IDENTIFIED LAND USE: (Refer to Title 13-5, HAR. Attach additional sheets as needed.)

X. AREA OF PROPOSED USE: See Final EA.
(Indicate in acres or sq. ft.)

XI. NAME AND DISTANCE OF NEAREST TOWN OR LANDMARK:
Lahaina, 7 miles south.

XII. LAND USE COMMISSION BOUNDARY INTERPRETATION: If the area is within fifty feet of the boundary of the Conservation District, include a map showing the interpretation of the boundary by the State Land Use Commission. See Appendix D of Draft EA (shoreline survey)

CONSERVATION DISTRICT USE APPLICATION (Rev. 12/94)

- XIII. SUBZONE BOUNDARY DETERMINATION: Prior to the department receiving for processing any application for a permit, if the applicant's proposed land use lies within fifty feet of a subzone boundary, the applicant shall first notify the department of the intended use and seek a determination of the precise boundary of the subzone with respect to the parcel in question. (Refer to Section 13-5-17, HAR.)
- XIV. FEES. Each application shall be accompanied by such filing fees as specified in Chapter 13-5, HAR. All fees shall be in the form of cash, certified or cashier's check, and payable to the State of Hawaii.
- XV. PLANS. All applications shall contain associated plans such as a location map, site plan, floor plan, elevations and landscaping plans drawn to scale. Additionally, all plans should include a north arrow and graphic scale.
- See Draft EA
- A. Area Plan. Area plan should include but not be limited to relationship of proposed uses to existing and future uses in abutting parcels; identification of major existing facilities; names and addresses of adjacent property owners.
- B. Site Plan: Site plan (maps) should include, but not be limited to, dimensions and shape of lot; metes and bounds, including easements and their use; existing features, including vegetation, water area, roads, and utilities. (For Site Plan Approvals, see Section 13-5-38, HAR.)
- C. Construction Plan: Construction plans should include, but not be limited to, existing and proposed changes in contours; all buildings and structures with indicated use and critical dimensions (including floor plans); open space and recreation areas; landscaping, including buffers; roadways, including widths; offstreet parking area; existing and proposed drainage; proposed utilities and other improvements; revegetation plans; drainage plans including erosion sedimentation controls; and grading, trenching, filling, dredging or soil disposal.
- D. Maintenance Plans: For all uses involving power transmission, fuel lines, drainage systems, unmanned communication facilities and roadways not maintained by a public agency, plans for maintenance shall be included.
- E. Management Plans: If required, refer to Section 13-5-39, HAR, and Exhibit 3, entitled "Management Plan Requirements, dated September 6, 1994.
- F. Historic or Archaeological Site Plan. Where there exists historic or archaeological sites on the State or Federal Register, a plan must be submitted including a survey of the site(s); significant features; protection, salvage, or restoration plans.

CONSERVATION DISTRICT USE APPLICATION (Rev. 12/94)

XVI. DEMONSTRATE THAT THE PROPOSED USE IS CONSISTENT WITH THE FOLLOWING CRITERIA:

1. The proposed land use is consistent with the purpose of the Conservation District;
2. The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur;
3. The proposed land use complies with provisions and guidelines contained in Chapter 205A, Hawaii Revised Statutes (HRS), entitled "Coastal Zone Management," where applicable;
4. The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region;
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;
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;
7. Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District; and
8. The proposed land use will not be materially detrimental to the public health, safety and welfare.

See Draft EA

ATTACHMENT "A"

Letter of Authorization

March 6, 2003

Peter T. Young, Chairperson
State of Hawaii
Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Young:

This letter authorizes Richard Pack and Munekiyo & Hiraga, Inc. to act on behalf of Snowed Inn Hostelry, Inc. to apply to the State of Hawaii, Board of Land and Natural Resources for a Conservation District Use Permit and Grant of Easement application.

Richard Pack for Snowed Inn Hostelry

Snowed Inn Hostelry, Inc.
4605 Lower Honeapiilani Road
Lahaina, Hawaii 96761

Subscribed and sworn to before me
this 21st day of March, 2003

Susan Irwin

Notary Public, State of ~~Hawaii~~ Utah
county=Summit

My commission expires:
pack/seawall/authlr.001
9-3-2004



ATTACHMENT "B"

Evidence of Land Ownership



TITLE GUARANTY OF HAWAII
INCORPORATED
235 QUEEN STREET HONOLULU, HAWAII 96813
PHONE: (808) 533-6261 FAX: (808) 521-0221

TITLE GUARANTY OF HAWAII, INCORPORATED
HEREBY CERTIFIES THAT THIS IS A TRUE COPY
OF THE ORIGINAL DOCUMENT RECORDED
REGULAR SYSTEM DOCUMENT NO. 2001-055643
ON APRIL 18, 2001 AT 8:30 A.M.

BY: _____

C. P. ...

055643 R GBEC XVI LLC
/ E SNOWED INN HOSTELRY INC

DATE OF RECORDING : APRIL 18, 2001

DESCRIPTION : POR OF GR 1166 & C \$1698.80

DOCUMENT TYPE : D

FILE 1477958

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup () To:

MR RICHARD PACK
SNOWED INN HOSTELRY, INC.
3173 CARRIGAN CANYON
SALT LAKE CITY, UT 84109

TG: 147795
TGE: A0-202-0102-000C
Craig H. Yamasaki

Tax Key: (2) 4-3-019-047

Total No. of Pages: _____

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That GBEC-XVI LLC, a Nevada limited liability company, whose address is c/o Drucker + Associates, 300 Montgomery St. Ste. 660, San Francisco, California 94104, hereinafter called the "Grantor," in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to Grantor paid by SNOWED INN HOSTELRY, INC., a Utah corporation, whose address is 3173 Carrigan Canyon, Salt Lake City, Utah 84109, hereinafter called the "Grantee," the receipt whereof is hereby acknowledged, does hereby grant and convey unto the Grantee, as a tenant in

severalty, the real property described in Exhibit "A" attached hereto and by this reference incorporated herein; subject, however, to all encumbrances noted on said Exhibit "A".

TO HAVE AND TO HOLD the same, together with any improvements thereon and the rights, easements, privileges, and appurtenances thereunto belonging or appertaining unto the Grantee, the heirs, representatives, administrators, successors and assigns of the Grantee, forever.

AND the Grantor covenants with the Grantee that the former is now seised in fee simple of the property granted; that the latter shall enjoy the same without any lawful disturbance; that the same is free from all encumbrances, except the liens and encumbrances hereinbefore mentioned, and except also the liens and encumbrances created or permitted by the Grantee after the date hereof; and that the Grantor will WARRANT and DEFEND the Grantee against the lawful claims and demands of all persons claiming the whole or any part of the above bargained and granted lands and premises.

The terms "Grantor" and "Grantee", as and when used herein, or any pronouns used in place thereof, shall mean and include the masculine or feminine, or neuter, the singular or plural number, individuals or corporations, and their and each of their respective successors, heirs, personal representatives, and permitted assigns, according to the context hereof. If these presents shall be signed by two or more Grantors or by two or

more Grantees, all covenants of such parties shall for all purposes be joint and several.

IN WITNESS WHEREOF, the Grantor has executed these presents on this 13 day of April, 2001.

REVISED AS TO FORM:
LINDA POWELL AND B. WELCH

[Signature]

GBEC-XVI LLC

*a Calif. corporation,
By: Golden Beam Exchange Corp, its sole*

Member

By *[Signature]*

Its PRESIDENT

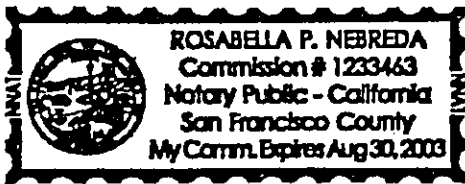
By _____

Its _____

~~Grantor~~

STATE OF California)
) SS.
COUNTY OF San Francisco)

On this 13th day of April, 2001, before me personally appeared CECILY A. DRUCKER, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



[Signature]

Print Name: ROSABELLA P. NEBRED
Notary Public, in and for said State and County.

My commission expires: Aug. 30, 2003

EXHIBIT "A"

PARCEL FIRST:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 1166 to D. Baldwin, et al.) situate, lying and being at Kahana, Lahaina, Island and County of Maui, State of Hawaii, and thus bounded and described:

Beginning at a 1/2-inch pipe found at the most southerly corner of this parcel of land and on the westerly side of Honoapiilani Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MALO" being 16,199.77 feet south and 12,981.16 feet west and running thence by azimuths measured clockwise from true South:

1. 123° 55' 41.50 feet along the remainder of Royal Patent Grant Number 1166 to D. Baldwin, et al., along property owned by William and Katherine Marty Irvine to a pipe;
2. 160° 12' 40" 17.18 feet along Government Beach Reserve to a pipe;
3. 225° 42' 20" 266.19 feet along same to a pipe;
4. 261° 00' 22.37 feet along same to a pipe;
5. 290° 10' 7.00 feet along the remainder of Royal Patent Grant Number 1166 to D. Baldwin, et al., to a pipe;
6. 41° 58' 121.40 feet along the westerly side of Honoapiilani Highway to a pipe;
7. 38° 37' 77.16 feet along same to a pipe;
8. 33° 13' 90.55 feet along same to the point of beginning and containing an area of 9,445 square feet, more or less.

PARCEL SECOND:

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 1166 to D. Baldwin, et al.) situate, lying and being at Kahana, Lahaina, Island and County of Maui, State of Hawaii, and thus bounded and described:

Beginning at the south corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MALO" being 16,160.44 feet south and 13,021.42 feet west and thence running by azimuths measured clockwise from true South:

1. 160° 12' 40" 12.57 feet along top edge of rock revetment;
2. 225° 42' 20" 198.00 feet along top edge of rock revetment;
3. 236° 00' 64.01 feet along top edge of rock revetment;
4. 45° 42' 20" 266.19 feet along Royal Patent Grant Number 1166 to D. Baldwin, et al., to the point of beginning and containing an area of 2,655 square feet, more or less.

Being the premises acquired by the Grantor herein by Warranty Deed of Takeo Yamauchi, Trustee under that certain Declaration of Revocable Trust of Takeo Yamauchi dated February 10, 1978, as amended and restated in its entirety on October 22, 1985, et al., dated July 7, 2000, and recorded in the said Bureau of Conveyances as Document No. 2000-095421.

SUBJECT, HOWEVER, to the following:

1. AS TO PARCEL SECOND:

(A) Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance and the effect, if any, upon the area of the land described herein.

(B) The terms and provisions, including the failure to comply with any covenants, conditions and reservations, contained in Deed dated November 10, 1980, and

recorded in the said Bureau of Conveyances in Liber 15962 on Page 294.

The foregoing includes, but is not limited to, matters relating to reservation of minerals, water and prehistoric and historic remains.

2. Encroachment(s) as shown on the survey map prepared by Sherman Dudley DePonte, Land Surveyor, with Akamai Land Surveying, Inc., dated March 15, 2000.

3. Any unrecorded leases and matters arising from or affecting the same.

END OF EXHIBIT "A"

Tax Key: (2) 4-3-019-047

ATTACHMENT "C"

**Agent's Name, Address and
Telephone Number**

Agent: Michael T. Munekiyo, A.I.C.P.
Munekiyo & Hiraga, Inc.

Address: 305 High Street, Suite 104
Wailuku, Hawaii 96793

Telephone: (808) 244-2015
Facsimile: (808) 244-8729

ATTACHMENT "D"

**Final Environmental
Assessment**

*Final
Environmental Assessment*

**AFTER-THE-FACT
PERMITTING FOR SEAWALL
IMPROVEMENTS AT
TMK 4-3-19:47**

Prepared for:

November 2003

Accepting Agency,
State of Hawaii, Department
of Land and Natural
Resources and Richard Pack


MUNEKIYO & HIRAGA, INC.

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pack/seawall/finalea.rpt

Preface

The applicant is seeking an after-the-fact Conservation District Use Permit for improvements to an existing rock revetment seawall seaward of a single-family residential property identified by TMK 4-3-19:47 in Kahana, Maui, Hawaii. Inasmuch as the completed action is located in the Conservation district, an Environmental Assessment has been prepared in accordance with Chapter 343, Hawaii Revised Statutes and its implementing rules, Hawaii Administrative Rules, Title 11, Department of Health, Chapter 200.

Chapter 1

Overview

I. OVERVIEW

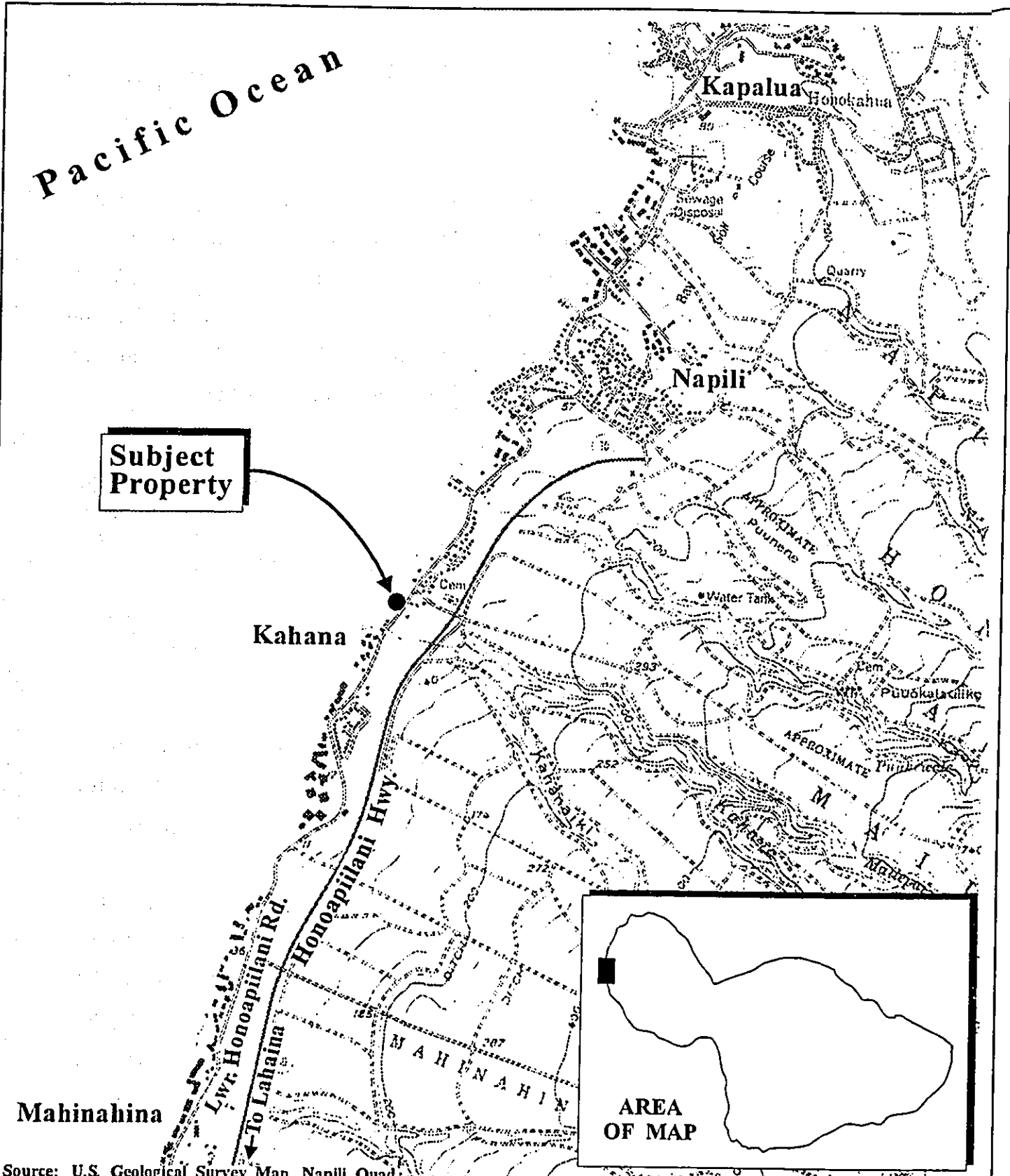
A. BACKGROUND

The applicant, Richard Pack, is seeking an after-the-fact Conservation District Use Application (CDUA) for improvements to an existing rock revetment seawall at TMK: 4-3-19:47 (previously TMK 4-3-05:32), Kahana, Maui, Hawaii. See Figure 1 and Figure 2. In particular, the after-the-fact Conservation District Use Application will address the following completed actions within the Conservation District:

1. In June 2001, the applicant applied a thin protective coating of gunite to prevent an existing rock revetment seawall from breaking down. See Figure 3 and Figure 4. Gunite is a concrete aggregate material composed of crushed basalt, dune sand, lime and water which utilizes portland cement as the hydraulic binder.
2. The applicant increased the height of the rock revetment seawall by placing two (2) courses of CMU blocks to create a planter box on top of the seawall. Refer to Figure 4.

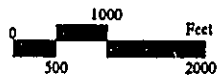
A schematic plan of the original rock revetment was prepared by the Department of Public Works and Environmental Management as part of its Shoreline Structure Inventory prepared in 1986. See Appendix "A".

In review of this case, the Department of Land and Natural Resources (DLNR), Report of Investigation dated April 26, 2002, determined that this structure constitutes a Conservation District violation. See Appendix "B". This violation, as confirmed by DLNR, Division of Conservation and Resource Enforcement, was resolved by Administrative Penalty after which the applicant would be able to apply for an after-the-fact Conservation District Use Application.



Source: U.S. Geological Survey Map, Napili Quad

Figure 1 After-The-Fact Permitting For Seawall Improvements at TMK 4-3-19:47
Regional Location Map



Prepared for: Accepting Agency, State of Hawaii, Department of Land and Natural Resources and Richard Pack

MUNEKIYO & HIRAGA, INC.

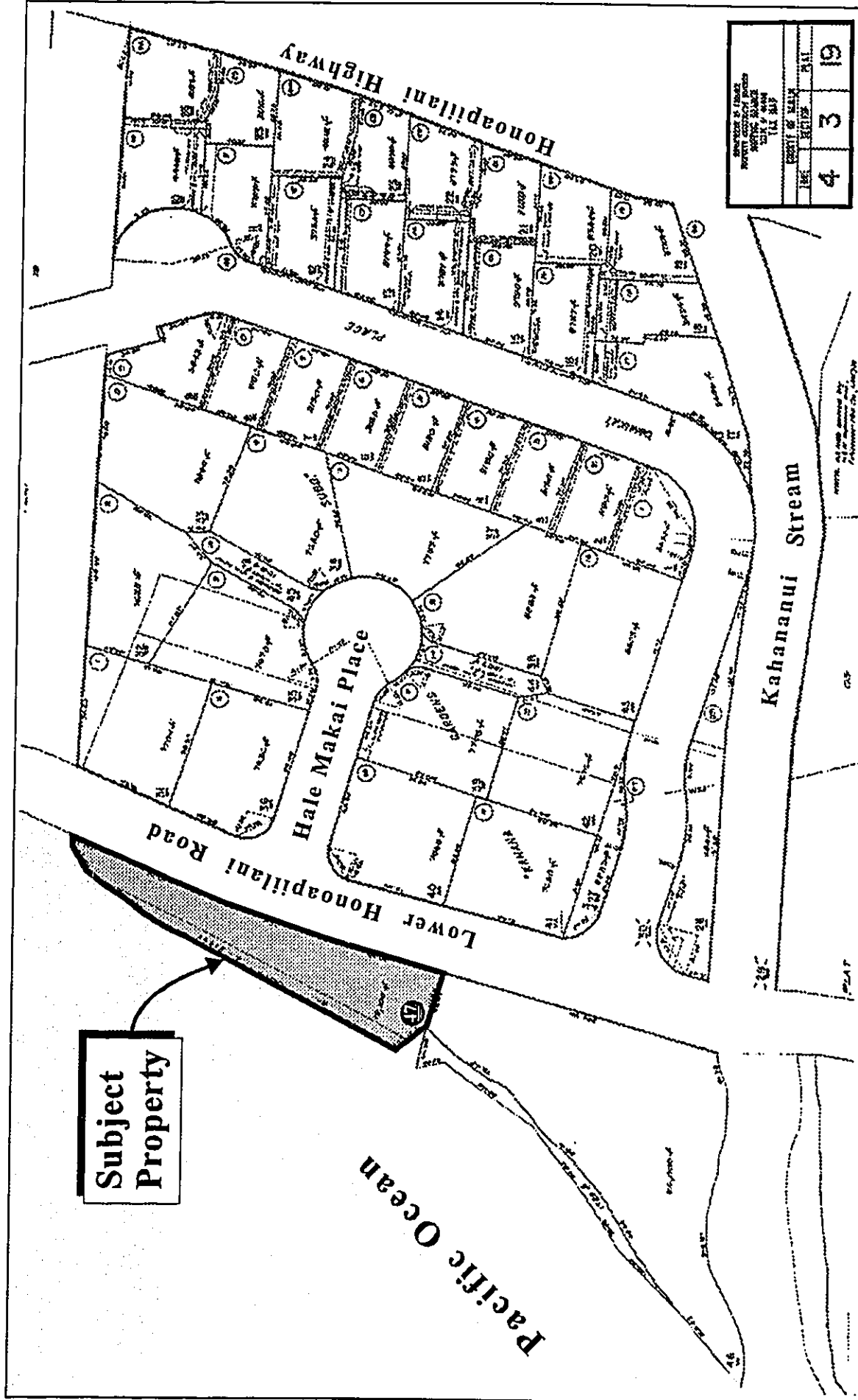


Figure 2

After-The-Fact Permitting for Seawall
Improvements at TMK 4-3-19:47
Property Location Map

NOT TO SCALE



Prepared for: Accepting Agency, State of Hawaii, Department
of Land and Natural Resources and Richard Pack

MUNEKIYO & HIRAGA, INC.



Before June 2001
North View



Before June 2001
North View

Source: Richard Pack

Figure 3 After-The-Fact Permitting For Seawall
Improvements at TMK 4-3-19:47

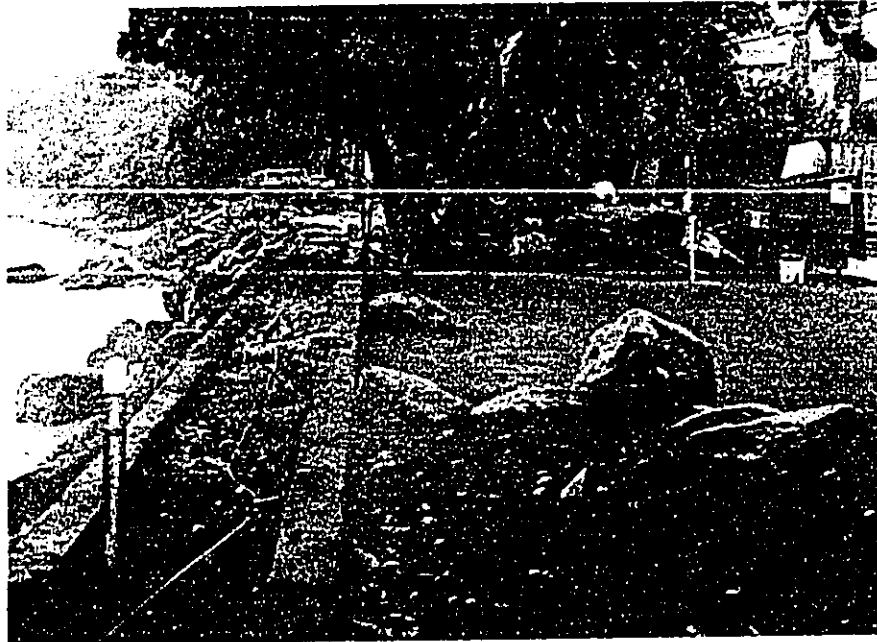
NOT TO SCALE



Photographs of Before
Completed Action Conditions

Prepared for: Accepting Agency, State of Hawaii, Department
of Land and Natural Resources and Richard Pack

MUNEKIYO & HIRAGA, INC.



After June 2001
North View



After June 2001
South View

Source: Richard Pack

Figure 4 After-The-Fact Permitting For Seawall NOT TO SCALE
Improvements at TMK 4-3-19:47
Photographs of After
Completed Action Conditions



Prepared for: Accepting Agency, State of Hawaii, Department
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B. LAND USE HISTORY

This assessment provides relevant background information to the specific actions for which DLNR found the applicant to be in violation of Chapter 13-5, Hawaii Administrative Rules entitled "Conservation District".

1. Previous Land Consolidation

During an undetermined time period prior to 1977, a rock revetment and a fill area were constructed fronting the subject property and parallel with the ocean shoreline. This action, which involved the placement of large rocks and soil along the shoreline boundary of the upland parcel, resulted in the creation of a 2,655 sq. ft. lineal parcel of "reclaimed land". See Figure 5. This parcel of "reclaimed Government Land" was purchased by Quitclaim Deed from the State of Hawaii (see Appendix "C") and subsequently consolidated with the upland parcel in 1980.

Based on the 1977 survey plan, the toe of the rock revetment lies makai of the certified shoreline. The portion of the rock revetment and related improvements which lie makai of the certified shoreline encompasses approximately 1,035 s.f. See Figure 6. As described in the following section, it is this 1,035 s.f. area that is the subject of this environmental assessment.

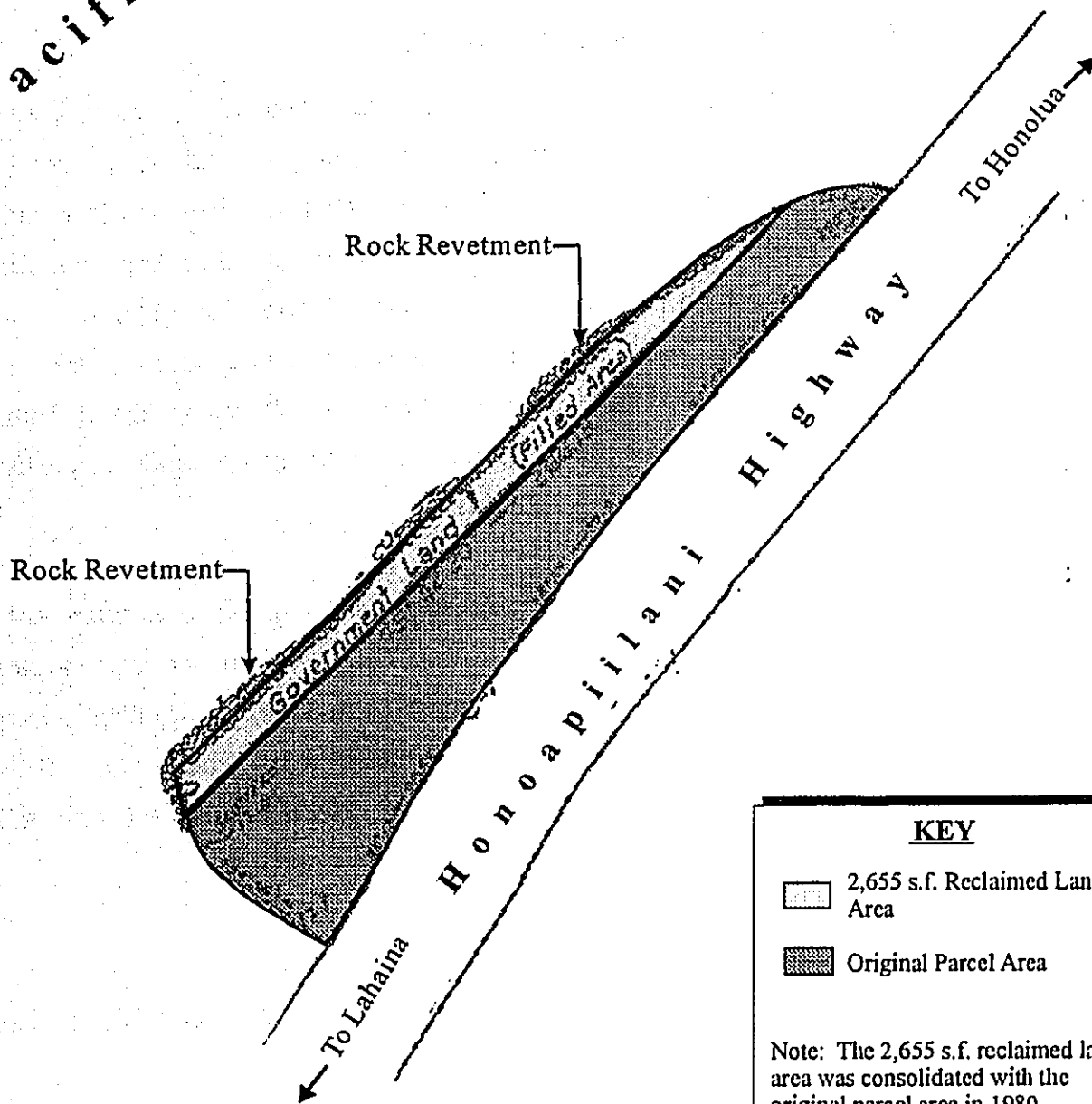
C. CONSERVATION DISTRICT REQUESTS

The applicant is seeking the following approvals from the Board of Land and Natural Resources (BLNR):

1. After-the-fact Conservation District Use Approval

- a. To permit the approximate 1,035 square foot encroachment on State owned land and protective gunite coating over the

Pacific Ocean



Source: State of Hawaii, Survey Division,
Department of Accounting and General Services

Figure 5 After-The-Fact Permitting For Seawall Improvements at TMK 4-3-19:47 NOT TO SCALE
Property Consolidation Plan



Prepared for: Accepting Agency, State of Hawaii, Department
of Land and Natural Resources and Richard Puck

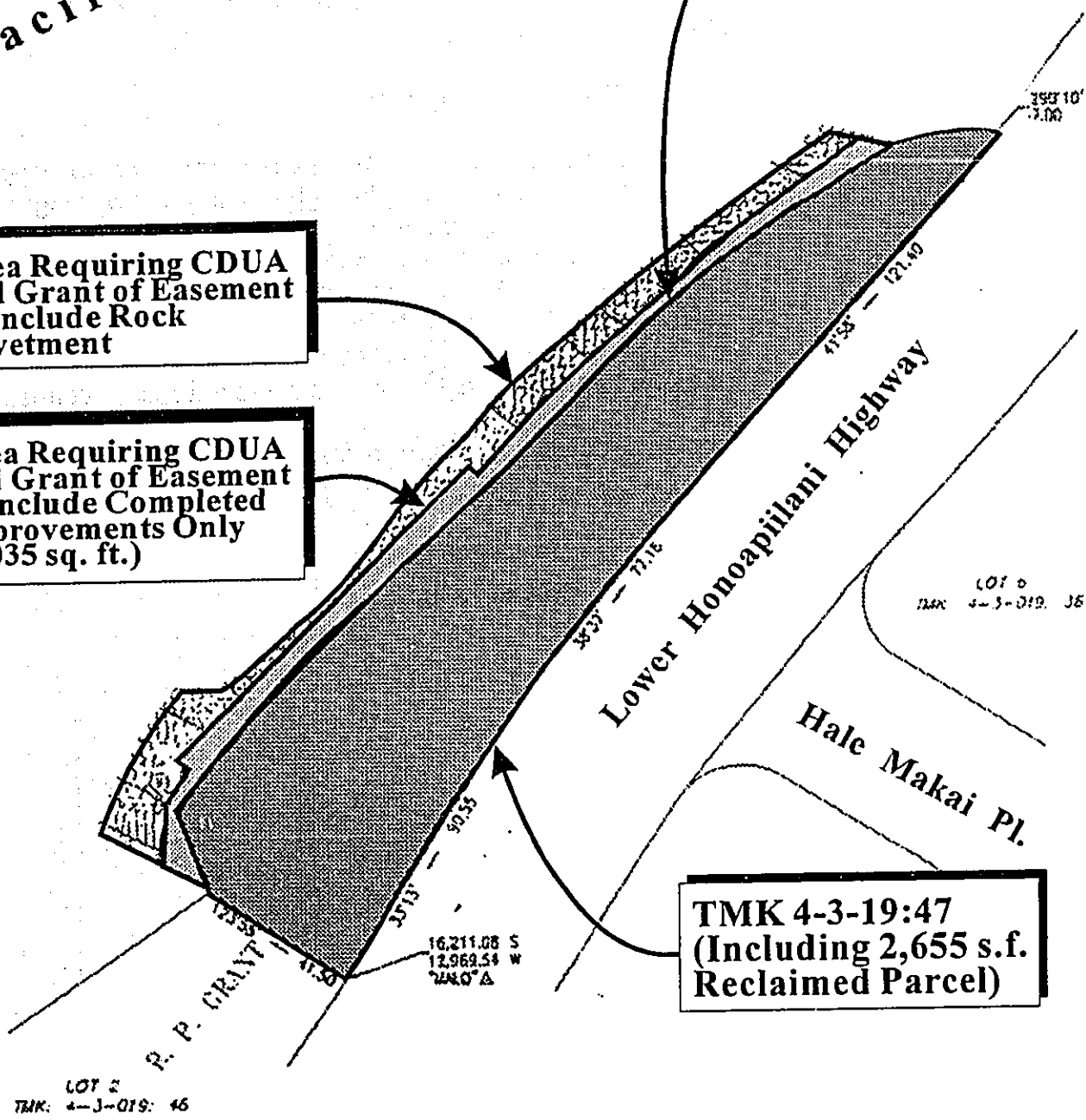
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Pacific Ocean

Shoreline Follows Along Top of Rock Revetment

Area Requiring CDUA and Grant of Easement to Include Rock Revetment

Area Requiring CDUA and Grant of Easement to Include Completed Improvements Only (1,035 sq. ft.)



TMK 4-3-19:47 (Including 2,655 s.f. Reclaimed Parcel)

Source: Austin, Tsutsumi & Associates, Inc.

Figure 6

After-the-Fact Permitting for Seawall Improvements at TMK 4-3-19:47 Proposed Easement and CDUA Area NOT TO SCALE



Prepared for: Accepting Agency, State of Hawaii, Department of Land and Natural Resources and Richard Pack

MUNEKIYO & HIRAGA, INC.

rock revetment seawall and increasing the height of the seawall by adding two (2) courses of CMU block for a planter. See Appendix "D".

2. **Grant of Non-Exclusive Easement**

- a. A non-exclusive and perpetual easement rights, privilege and authority together with the rights of ingress and egress to and from the easement area to maintain and repair the completed landscape improvements will cover an area of approximately 1,035 square feet, more or less, and is delineated in Figure 6. A slightly larger area, also delineated in Figure 6, will be required if the non-exclusive and perpetual easement rights are to include the rock revetment.

Inasmuch as the completed action is located in the Conservation district, an Environmental Assessment has been prepared in accordance with Chapter 343, Hawaii Revised Statutes and its implementing rules, Hawaii Administrative Rules, Title 11, Department of Health, Chapter 200.

Chapter II

Description of Pertinent Environment Parameters

II. DESCRIPTION OF PERTINENT ENVIRONMENT PARAMETERS

A. PHYSICAL SETTING

1. Land Use

The property upon which the completed action occurred is in the residential community of Kahana, West Maui region on the Island of Maui. The subject property (TMK 4-3-19:47) is a shore fronting property located along Lower Honoapiilani Road in a residential neighborhood.

Surrounding land uses are as follows: single-family residence to the south; Lower Honoapiilani Road and single-family residences to the east; State of Hawaii Conservation district land which is designated Open Space in the West Maui Community Plan to the north and single-family residences beyond; and the Pacific Ocean to the west.

2. Topography and Landform

The violation area is within the Conservation district makai of the hardened shoreline which was certified in 1977. The beach directly fronting the subject property is considered poor due to the steep and rocky conditions. The area consists of carbonate pocket beaches with rocky basalt headlands.

3. Soils

Underlying the fill 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 subject property consists of Ewa silty clay loam,

0 to 3 percent slopes (EaA). Ewa silty clay loam is a dark reddish-brown silty clay loam underlain by dark reddish-brown and dark-red silty clay loam that has subangular blocky structure. The substratum is coral limestone, sand and gravelly alluvium.

4. **Flood and Tsunami Hazards**

As indicated by the Federal Emergency Management Agency's Flood Insurance Rate Map, the subject property is designated Zone V24. These areas are subject to 100-year coastal flooding with velocity (wave action). The base flood elevation is 17 feet.

5. **Shoreline Area Characteristics**

The shoreline fronting the subject property is considered poor due to the steep bank. The shoreline consists of rocky basalt headlands and carbonate sandy pockets. The rocky basalt headlands are more predominant along the shoreline to the north of the subject property.

6. **Waves and Currents**

In general, West Maui beaches experience energetic seasonal swell. The islands of Molokai, Lanai and Kahoolawe offer partial protection from the swell. The seasonal wave pattern is described as alternating south-southwest and north-northwest swell events.

7. **Historical Shoreline Analysis of Coastal Erosion and Accretion Rates**

Based on data provided by the School of Ocean and Earth Science, University of Hawaii and obtained from the County of Maui Shoreline Atlas data base, the beach area, from Kaea in the south to Kalaeokaia in the north, has experienced light to moderate

erosion since 1912 with an average annual erosion hazard rate (AEHR) -0.4 feet per year. However, the beach fronting the subject property indicates that very little erosion has occurred over this period. See Figure 7.

8. **Flora and Fauna**

The subject property includes introduced species of ornamental plants and trees. Plant life in the vicinity of the property is reflective of developed and undeveloped properties in the Kahana area. Developed properties are characterized by landscaping typical of single-family residential properties and decorative landscaping such as palms and Bermuda grass. The undeveloped parcel to the north of the subject site is occupied by kiawe and scrub vegetation. There are no known rare, threatened, or endangered species of plant life in the immediate vicinity of the subject property, nor are there any known wetlands.

Avifauna and mammals in the vicinity of the subject property and surrounding areas are typical of species found in the urbanized West Maui area. Species of birds commonly found in the area include Black-Crowned Night-Heron, Golden-Plover, Sanderling and Wandering Tattler. None of the avifauna are listed as endangered or threatened. Feral mammals typically found in the area include rats, mice, cats and mongoose. There are no known rare, threatened, or endangered wildlife species in the vicinity of the site.

9. **Archaeological and Historic Resources**

The subject property has been used for a single-family residence since approximately 1977. The rock revetment seawall has also



Figure 7 After-The-Fact Permitting For Seawall Improvements at TMK 4-3-19:47 NOT TO SCALE
Erosion Rate Map



Prepared for: Accepting Agency, State of Hawaii, Department of Land and Natural Resources and Richard Pack

MUNEKIYO & HIRAGA, INC.

been in place since approximately the same time. No ground altering activities were involved in the action. Therefore, the presence of archaeological, historic or cultural resources involved with the action were unlikely.

10. **Air and Noise Parameters**

There are no point sources of airborne emissions within close proximity of the subject property.

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

11. **Scenic and Open Space Resources**

The West Maui Community Plan provides an open space lateral corridor along the Kahana coastline fronting the subject property. From this corridor the neighboring islands of Lanai and Molokai can be viewed.

B. **PERTINENT PUBLIC SERVICE AND INFRASTRUCTURE CONSIDERATIONS**

1. **Recreational Facilities**

West Maui is served by numerous recreational facilities offering diverse opportunities for the region's residents. There are nearly 20 County parks in West Maui. Approximately one-third of the County parks are situated along the shoreline and provide for excellent swimming, diving, snorkeling, as well as fishing, surfing and other shoreline-related activities. There are no parks or recreational

facilities in the immediate vicinity of the subject property.

2. **Police and Fire Protection**

The Kahana Community 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 3 miles south from Kahana. 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**

Lower Honoapiilani Road is a two-lane County roadway providing north-south access along the West Maui coastline north of Kaanapali. In the vicinity of the subject property, Lower Honoapiilani Road has a posted speed limit of 25 miles per hour.

4. **Water System**

Water to the subject property is provided by the County of Maui, Department of Water Supply. Service is provided by an 8-inch line along Lower Honoapiilani Road.

5. **Wastewater System**

Wastewater disposal from the subject property is provided by the County of Maui Wastewater Collection System. County operated wastewater collection in Kahana is conveyed to the Lahaina Wastewater Reclamation Facility (LWRF) via gravity lines and force mains for treatment and disposal. Service to the subject property is provided by a 10-inch gravity sewerline within the Lower Honoapiilani Road right-of-way.

6. **Drainage**

The subject property contains no drainage improvements. Runoff generally collects in lower depressions on the property and infiltrates into the ground.

7. **Electrical and Telephone Considerations**

Electrical power is provided to the subject property by Maui Electric Company, Ltd. (MECO), via overhead poles. Telephone hookup is available through Verizon Hawaii.

Chapter III

Potential Impacts and Restoration (Mitigation) Measures

III. POTENTIAL IMPACTS AND RESTORATION (MITIGATION) MEASURES

The impacts associated with the coating of the rock revetment seawall with a thin layer of gunite, building a 16-inch high planter box on top of the seawall and encroachment of approximately 1,035 square feet into the Conservation district are addressed in this section.

A. IMPACTS TO THE EXISTING ENVIRONMENT

1. Surrounding Land Uses

The completed action involves the application of a thin layer of gunite to protect an existing rock revetment seawall from further deterioration and building a 16-inch planter box on top of the rock revetment. The subject property (TMK 4-3-19:47) is developed with a single-family residence which was established in 1977 and is located in an area of single-family residences. Accordingly, the completed action is not anticipated to have any significant impacts upon surrounding land uses.

2. Flood and Coastal Hazards

The project site is located in Zone V24, an area subject to 100-year coastal flooding with velocity wave action. The base flood elevation is 17 feet. The completed action will comply with all applicable flood hazard area development standards.

3. Flora and Fauna

The rock revetment seawall has been in existence since 1977. The existing landscaping was introduced to the site and is not considered endangered. The seaward side of the rock revetment is a habitat for marine algae. The presence of the rock revetment seawall is not considered to have an adverse impact to this

component of the natural marine environment. Algae continues to grow and limu continues to be collected on the shoreline fronting the rock revetment seawall.

There are no known rare, endangered or threatened species of avifauna or wildlife in the project vicinity. The completed action will not displace any known significant habitats. The completed action is not anticipated to have an adverse impact to the area's fauna and avifauna population or to marine species.

4. **Water Quality**

Water quality in the area immediately in front of the rock revetment seawall may have increased in turbidity due to loosening of sediments and application of the gunite coating. However, upon discussion with the applicant, the following Best Management Practices (BMPs) were followed during the course of the work to minimize sediment runoff.

- Repair work was conducted at low tide to minimize runoff into ocean waters.
- Work schedules were planned so as to minimize time of gunite application.
- Work was carried out during good weather conditions to minimize runoff during repair work.
- Existing ground cover was removed at the start of landscape operations.
- After achieving the finished grades, all exposed areas were planted as soon as possible.
- Silt fences were constructed along the entire beach side of the rock revetment to ensure on-site runoff did not flow into

the ocean.

- Temporary area sprinklers were used in non-active construction areas to control dust.

5. Air Quality and Noise

The completed action is not expected to adversely impact local and regional ambient air quality conditions. The completed action is not anticipated to have long-term noise impacts upon the environment.

6. Archaeological/Historic Resources

The rock revetment seawall has been in existence since 1977. The completed action did not involve any ground altering activities. As such, the completed action should have no effect upon significant archaeological/historic resources.

7. Cultural Impact Considerations

The geographic and physical attributes of the Kahana coastline, as well as documented history of the area, provide a basis for assessing cultural impacts. In particular, the Kahana shoreline has historically provided opportunities for subsistence gathering of fish, limu, shellfish and other ocean resources. As noted by the State Historic Preservation Division, this area in general is likely to have once been the location of pre-Contact farming, perhaps with scattered houses. Furthermore, as the property is adjacent to the coastline, it is possible that human burials may also be present in the subsurface deposits. Therefore, it is likely that historic sites may be present in the subsurface deposits of the subject property.

Interviews with knowledgeable informants were conducted during the preparation of the Draft Environmental Assessment to obtain a

broader range of cultural resource perspectives on the subject property.

a. **Bobby Takahashi**

The interview with Bobby Takahashi was carried out in front of his residence in Kahana on January 9, 2003.

Bobby Takahashi was born in Lahaina. His family has been in the area for many generations. He lives on Lower Honoapiilani Road across from the subject property. His property is part of a family estate which was handed down from his grandfather, George I. E. Smith, who had the original land deed. He mentioned his grandfather had an extensive parcel of land and many members of his Ohana are presently living on the land originally deeded to his grandfather. His grandfather was of Hawaiian/German ancestry. Bobby remembers playing on the beach in front the family house when he was young. Significant memories or connection to the area includes being baptized in the bay, in front of his house. His grandmother belonged to the Pentecostal church just north of their house. She had Bobby and many members of her family baptized into the church. The baptisms were often performed in the water, in front of their house. He mentioned that the bay was also a favorite bait ground for the big aku fishing boats. He said they would anchor outside the bay, and come into the bay in small boats to get bait fish. He recalled Lower Honoapiilani Road as a dirt trail when he was young. Very few cars were seen on the road in those days. In the early 1950's road improvements were made and the road got bigger. He recalled that the subject property was a low lying flat area with many kiawe trees. The area used to flood during heavy rains. He mentioned seeing County trucks placing rocks and fill into the area of the subject property, to prevent flooding of the low lying land.

Bobby and his family use the beach in front of their house on a daily basis. He mentioned everybody in the neighborhood uses the beach. It is a safe place to swim because it is protected from the current and big surf. The family uses the area for recreation, fishing and collecting limu. They also dive for fish in deeper water fronting the

subject property.

Bobby mentioned that a few years ago there was an algae bloom in the area which caused some problems. However, this algae bloom has not occurred in the past few years. He also mentioned that during the plantation days there was a runoff ditch just north of the bay and during heavy rains the bay would have a lot of sediment from the runoff. Since the termination of sugarcane cultivation and the relocation of the ditch, there is not as much sediment in the water after heavy rains.

Bobby mentioned that access to the beach has not been negatively impacted from the completed repairs and gunite covering on the seawall. He has not noticed any change in use of the area, since the completed repairs were made on the seawall. It has not affected lateral access across the beach and he can still walk across the bay to Kahana Stream. Bobby also noted that when they are fishing, they often walk across the bottom of the rock revetment seawall. There has not been a problem with lateral access and the owner of the seawall has been good about their use for fishing. Bobby felt the repairs to the seawall have not adversely impacted his or his family's use of the area for fishing or for collecting limu.

b. Mike Pupunu

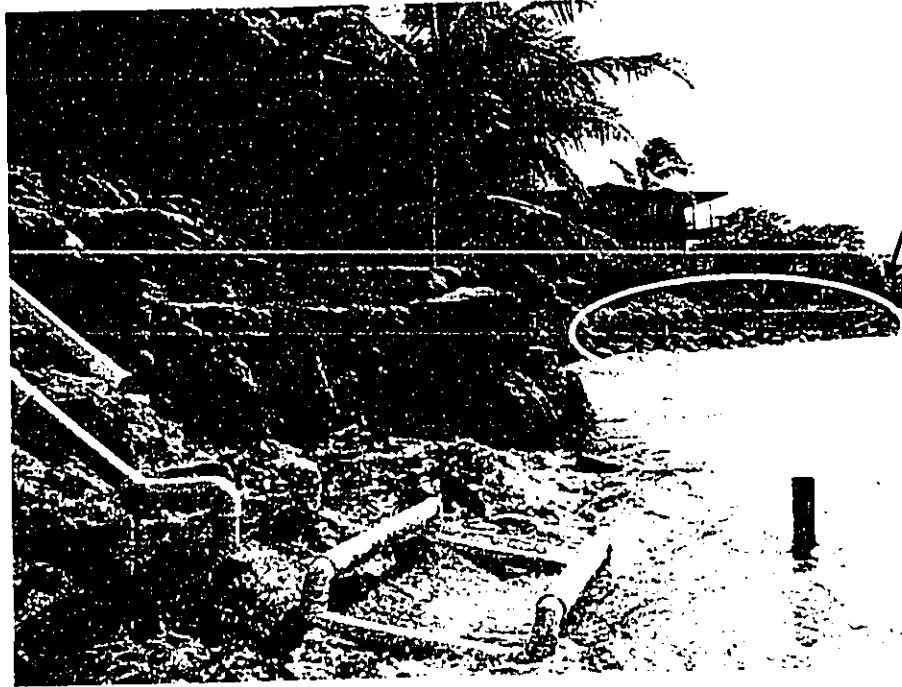
The interview with Mike Pupunu was carried out at the site of the completed action on January 9, 2003.

Mike Pupunu was born in Tonga and has lived in West Maui since 1985. He is married to Michelle Viera and has two sons. His connection to the subject property is through his wife, Michelle, whom is a member of the Lumlung Ohana. The Lumlung family has resided in the area for many generations. The Lumlung family land is part of a family subdivision of a larger land parcel originally owned by George I. E. Smith. The Lumlung parcel of land is located across Lower Honoapiilani Road just north of the subject property. Many family functions are held on their property as well as across the road on the shoreline and bay. Mike, his two sons and other family members use the area for swimming, diving and fishing almost daily. The family feels

the shoreline and bay are very much a part of the family heritage since their use of the area goes back many generations. Cultural activities and practices in the waters fronting the subject property include collecting limu and fishing for moi, papio and mullet. He mentioned that they often fish off the rock revetment seawall fronting the subject property during high tide. He mentioned the south side of the rock revetment seawall has a small level area which is a good spot for fishing. Mike feels the use of the area has not changed since the completed action. Family members often walk across the rock revetment seawall at high tide. He indicated that since repairs were made to the rock revetment seawall, lateral access across the shoreline during high tide has been improved. Mike said the completed action has not impacted any cultural activities in the waters in front of the subject property or their use of the shoreline. Their almost daily use of the area has not been interrupted, changed nor impacted since the completed actions. Mike mentioned the owner has been friendly and supportive of the family use in front of the property and has not prevented anyone from using the rock revetment for lateral access to the shoreline during high tide or from using the area for fishing.

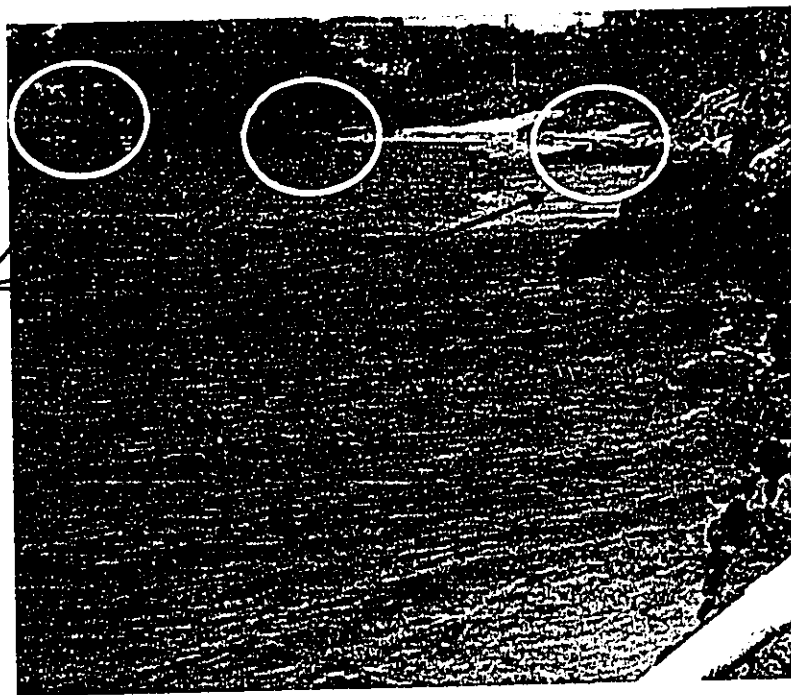
8. Scenic and Open Space Resources

The completed action was intended to repair and enhance the structural integrity of the existing rock revetment seawall and is relatively minimal in scope in comparison with the existing built environment. Surrounding (artificial) structures include a rock revetment seawall fronting a single-family residence to the south which was granted an easement in July, 1995. There is also a rocky shoreline to the north of the subject property. See Figure 8. In the context of the surrounding existing residential improvements, the subject action should not have an adverse impact upon the overall scenic character of the immediate environs.



Rock Revetment
and Seawall

South View from Subject Property of
Rock Revetment of Seawall at
TMK (2) 4-3-19:16



Exposed
Rocks

North View from Subject Property of
Rocky Shoreline at TMK (2) 4-3-15:16

Source: Richard Pack

Figure 8 After-The-Fact Permitting For Seawall Improvements at TMK 4-3-19:47 NOT TO SCALE



Photographs of Shoreline Conditions
of Neighboring Properties

Prepared for: Accepting Agency, State of Hawaii, Department
of Land and Natural Resources and Richard Pack

MUNEKIYO & HIRAGA, INC.

9. **Beach Processes**

The rock revetment seawall has been in existence since approximately 1977. In the context of the improvements involving application of the gunite covering and raising the height of the seawall by approximately 16 inches, the completed action is not anticipated to adversely impact beach processes.

The mean higher high water line in the vicinity of the completed action is 1.07 feet amsl. See Appendix "E". The edge of the gunite layer is mauka or landward of the mean higher high water line.

B. IMPACTS TO THE SOCIO-ECONOMIC ENVIRONMENT

The completed action provided support to the construction industry in the short term. From a long-term perspective, the completed action is not anticipated to adversely impact the socio-economic environment.

C. IMPACTS TO PUBLIC SERVICES

Inasmuch as the completed action is not expected to increase the regional population base, impacts of the action upon public services are not anticipated. Specifically, demands upon existing recreational and educational facilities will not be adversely impacted by the completed action. Similarly, the completed action will not affect the service area requirements for the Lahaina Police and Fire Stations.

D. IMPACTS TO INFRASTRUCTURE

1. **Roadways**

The completed action will not alter existing traffic conditions on surrounding roadways. The completed action should not affect traffic levels on surrounding roadways nor affect off-street parking

requirements nor adversely affect the County of Maui's proposed plans to improve Lower Honoapiilani Road.

2. **Water**

The completed action should have a negligible effect upon water usage. Therefore, the completed action is not anticipated to have an adverse effect on public or private water source and storage facilities, as well as water transmission and distribution systems.

3. **Wastewater**

The completed action is not anticipated to impact existing County wastewater collection and treatment facilities.

4. **Drainage**

The completed action involved the application of a gunite covering to an existing rock revetment seawall and building a planter box on top of the seawall which raised the area by approximately 16 inches. The planter box prevents sediment runoff from entering the ocean. The completed action is not anticipated to adversely affect adjacent or downstream properties nor is it anticipated to alter or impact existing drainage conditions.

E. CUMULATIVE AND SECONDARY IMPACTS

A cumulative impact is defined as an impact to the environment which results from the incremental impact of an action when added to other past, present, and reasonable future actions regardless of what agency or persons undertakes such other actions. There is an existing rock revetment and seawall to the south of the subject property. Based on the analysis of erosion rates along the Kahana shoreline from 1912 to present, it appears the seawalls have not contributed to an acceleration

or abnormally high erosion rate in the surrounding area. Refer to Figure 7. The erosion rate is rated as light to moderate. Therefore, completed action is not anticipated to have cumulative nor secondary adverse impacts.

Chapter IV

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

IV. 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", "Agricultural" and "Conservation". The gunite work described herein was performed within the "Conservation" district's "Resource" subzone. Appropriate reviews and approvals are required pursuant to Chapter 13-5, Hawaii Administrative Rules entitled "Conservation District". However, since the work was performed without proper reviews and approvals, the completed action was deemed to be in violation of Chapter 13-5. Accordingly, the matter was disposed by administrative penalty and an after-the-fact application for a Conservation District Use Permit is being filed for processing with the DLNR.

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

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

The repairs to the seawall and application of a protective gunite covering and raising the height of the seawall by approximately 16 inches for a landscape planter box 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.**

As noted in HAR Section 13-5-13 (a), the objective of the Resource subzone is to develop with proper management, areas to ensure sustained use of the natural resource of the areas. A permitted

land use in the Resource subzone as reflected in HAR 13-5-24, (B-1) is landscaping in an area of 10,000 square feet or less. In addition, all the uses identified under Protective and Limited shall also apply to the Resource subzone. As reflected by HAR 13-5-23 (L-5, D-1), identified land uses in the Limited subzone are seawalls, shoreline protection devices and shoreline structures. The project improvements in the Conservation district are in consonance with the identified land uses for the Limited and Resource subzones.

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

The repairs, maintenance and work carried out on the rock revetment seawall have been implemented to ensure compliance of the completed action with the provisions of Chapter 205A, HRS. See Section D of this chapter.

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

The rock revetment seawall has been in existence since 1977. The seawall was in poor condition. The completed work was carried out to maintain the structural integrity of the seawall and to prevent the loose boulders and cobbles from further damage from wave action. The proposed land use is not anticipated to adversely affect the area's natural resources from a long-term perspective. The removal of the completed work on the rock revetment seawall could cause loosening of sediments to enter the nearshore waters during storms.

-
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 action did not involve work which adversely detracts from the existing man-made environment of the surrounding area. The property to the south has a legal rock revetment seawall with a perpetual easement granted in 1995.

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 repairs carried out on the rock revetment seawall will ensure that the surrounding natural environment and open space characteristics are preserved. The work performed was done to ensure the long-term structural integrity of the seawall. The structure prior to the work was in a state of disrepair and detracted from the existing physical characteristics of the land.

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 action is not detrimental to public health, safety and welfare. As previously noted, the work performed on the rock revetment seawall was intended to address repair and maintenance issues.

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 through administrative penalty with the State DLNR has been identified and implemented for the completed action. With these steps taken, the following objectives and policies of the Maui County General Plan have been respected.

1. **Land Use Objective**

To use the land within the County for the social and economic benefit of all the County's residents.

Policies

- a. Mitigate environmental conflicts and enhance scenic amenities, without having a negative impact on natural resources.

2. **Public Safety Objective**

To create an atmosphere which will convey a sense of security for all residents and visitors and aid in the protection of life and property.

Policies

- a. Maintain a proper state of preparedness for man-made or natural disasters.
- b. Encourage private industries to provide for themselves protection services to meet their special needs.

C. WEST MAUI COMMUNITY PLAN

The Kahana 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 action, which has been resolved through administrative penalty and continuation of this use, subject to a CDUA, supports the following goal, objective and policy of the West Maui Community Plan.

1. Social infrastructure Goal

Develop and maintain an efficient and responsive system of public services which promotes a safe, healthy, and enjoyable lifestyle, and offers opportunities for self improvement and community well being.

Recreation and Open Space Objectives and Policies

Ensure adequate public access to shoreline areas, including lateral access to establish the continuity of public shorelines.

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 action affecting the planter area may be located on property situated in the SMA upon determination of the certified shoreline. In the event a SMA permit by be required, 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 action did not adversely impact coastal recreational opportunities for fishing and collecting limu.

(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 rock revetment seawall has been in place since 1977. The work performed did not involve any ground altering activities. The completed action is not anticipated to adversely impact historic or cultural resources.

(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: There are no anticipated long-term adverse impacts to scenic and open space resources as a result of the completed action.

(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: The completed action involved applying a protective

coating of gunite to an existing rock revetment seawall and raising the height of the planter box along the top of the seawall by 16 inches for landscaping to prevent sediment runoff from entering the ocean. 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 action is 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 completed action was carried out to protect the subject property from hazards to life and from storm waves. No adverse impacts relating to coastal erosion resulted from the repair 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 action is deemed in violation of Chapter 13-5, Hawaii Administrative Rules. Accordingly, the completed action was resolved through the Administrative Penalty System. In addition, an after-the-fact Conservation District Use Application 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 public review process pursuant to Chapter 343, Hawaii Revised Statutes, as well as the Conservation District Use permitting process.

(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 action did not affect beach processes. The rock revetment seawall has been in place since 1977. The shoreline fronting the subject property area is steep and rocky with pockets of sand and cobbles. Removal of the planter box could have an adverse impact on the local environment and cause sediment runoff to enter the nearshore waters.

(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: Marine resources were not adversely impacted as a result of the completed action.

E. SHORELINE SETBACK VARIANCE

The portion of the completed action involving the planter box and landscaping improvements may fall within the County's shoreline setback area upon determination of the certified shoreline. In the event the improvements are within the setback area, the action has been assessed with respect to Chapter 5, Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui, Section 12-5-11,

"A structure in the shoreline area shall not need a variance if:

* * *

- (e) It is determined to be a minor structure by the Director of Planning which does not affect beach processes, does not artificially fix the shoreline, and does not interfere with public access or public views to and along the shoreline. Minor structures shall include, but are not limited to:
 - (1) Landscape features or irrigation designed to stabilize and enhance the shoreline area.

If required, a request for the after-the-fact minor structure within the shoreline setback area will be submitted to the County of Maui, Planning Director for review and approval.

In the event the Planning Director determines that a Shoreline Setback Variance will be required an assessment of the County's shoreline setback criteria has been completed as follows:

1. **Analysis of Shoreline Setback Criteria**

The completed action has been evaluated with respect to applicable criteria and considerations advanced by the subject rules as set forth in Chapter 5, Rules of the Maui Planning Commission Relating to the Shoreline Area of the Islands of Kahoolawe, Lanai, and Maui.

It is noted that Section 12-5-13(a)(9) provides that rock revetment facilities or seawall improvements may be permitted as follows:

"Private facilities or improvements that may artificially fix the shoreline; provided that, the authority also finds that shoreline erosion is likely to cause hardship to the applicant if the facilities or improvements are not allowed within the shoreline area; and provided further that, the authority imposes conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interest."

Response: The subject property is a wide narrow parcel fronting the shoreline. The depth of the subject property along the shoreline ranges from approximately 63 feet in the southern portion of the

property to approximately 15 feet in the north portion. The setting of the residence is confined to a very limited area due to the shoreline and front yard setback requirements. The subject property is vulnerable to storm and wave action. Therefore, shoreline erosion would likely cause hardship to the applicant if the rock revetment seawall and completed action are not allowed within the shoreline setback area. Furthermore, it appears from review of the 1980 Quitclaim Deed, the rock revetment was seaward of the 1977 survey plan which fixed the shoreline. Although it appeared the Quitclaim Deed and property consolidation were carried out to remedy an infraction of the applicable shoreline setback law, the easement for the rock revetment seaward of the shoreline at the time was never carried out. The rock revetment structure was recorded in the County of Maui, Department of Public Works, Shoreline Structure Inventory in 1986. See Appendix "C". Therefore, the public interest would be served by completing this action with a granting of a non-exclusive easement and shoreline setback variance.

The shoreline rules (Section 12-5-3) also provide for mitigate conditions for actions within the shoreline setback as follows:

- (1) To minimize risk of adverse impacts on beach processes;

Response: The completed action has been carried out on a structure that has been in place since 1977 and does not present a risk of adverse impact on beach processes. Removal of the planter box improvements could cause sediment in storm water runoff to enter nearshore water and

impact water quality.

- (2) To minimize risk of structures falling and becoming loose rocks or rubble on public property;

Response: The completed action was carried out to minimize the risk of parts of the rock seawall from becoming loose and falling on public property.

- (3) To minimize adverse impacts on public views to, from, and along the shoreline.

Response: The completed action is not anticipated to have an adverse impact on scenic and open space resources. The shoreline rises steeply to the edge of the subject property. The completed action is set 16 inches above the upland property grade elevation.

Chapter V

***Adverse Environmental Effects
Which Cannot Be Avoided***

V. ADVERSE ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED

The completed action likely resulted in some construction related impacts which included noise generated impacts and temporary air quality impacts associated with dust and exhaust generated from construction equipment. In addition, water quality in the area immediately in front of the rock revetment seawall may have increased in turbidity due to loosening of sediments which may have accumulated within the rubble of the seawall. These impacts were temporary in nature.

The completed action is not anticipated to create any significant long-term adverse environmental effects.

Chapter VI

Alternatives Analysis

VI. ALTERNATIVES ANALYSIS

The action undertaken on State owned lands and within the Conservation district was completed without appropriate approvals. The matter was resolved by Administrative Penalty and accordingly, an after-the-fact Conservation District Use Application 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.

Removal of the rock revetment and seawall and removal of the protective gunite coating and landscape improvements would result in more adverse impacts to the environment than disposal of the encroachment by CDUA and grant of easement for the completed action.

Chapter VII

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

VII. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

The completed action involved the commitment of fuel, labor, funding and material resources. No other irreversible or irretrievable commitments of resources resulted from the project.

Chapter VIII

Findings and Conclusions

VIII. 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 of the completed 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 action undertaken likely resulted in short-term construction-related impacts, there are no long-term losses or adverse impacts to the environment resulting from the action.

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

The completed action does not curtail the range of beneficial uses of the environment. The shoreline fronting the subject property is poor due to steep and rocky conditions. Nevertheless, the completed action improves lateral shoreline access at high tide. Public access to the shoreline is provided by the State owned lands to the north of the subject property.

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**

The completed action is 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 completed action has 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 action does not adversely impact public health.
 6. **No Substantial Secondary Impacts, Such as Population Changes or Effects on Public Facilities are Anticipated**
The completed action does 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 action are considered temporary in nature. 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 action undertaken was 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**
No rare, threatened or endangered species or their habitats have been affected by the completed action.
 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 action. Noise and air quality was temporarily affected with the equipment used to coat the rock revetment seawall with gunite. Water quality in the area immediately around the rock revetment seawall may have increased in turbidity due to loosening

of sediments which may have accumulated within the rubble mound of the seawall. 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 action does not adversely 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 anticipated that the assessment of the completed action results in a Finding of No Significant Impact (FONSI).

Chapter IX

***List of Permits
and Approvals***

IX. LIST OF PERMITS AND APPROVALS

The following State and County permits and approvals may be required for the completed action.

State of Hawaii

1. Section 401 Water Quality Certification (Department of Health).
2. Coastal Zone Management Consistency Approval (State Office of Planning).
3. Conservation District Use Application (Department of Land and Natural Resources).
4. Grant of Non-Exclusive Easement (Department of Land and Natural Resources).

County of Maui

1. Special Management Area Minor Permit (Maui Planning Commission).
2. Approval for a Minor Structure Within the Shoreline Setback Area (Director of Planning).

Coordination with the appropriate administering agencies will be conducted during the Environmental Assessment process.

Chapter X

***Agencies and Organizations
Consulted During The Preparation
of the Draft Environmental
Assessment; Letters Received and
Responses to Substantive Comments***

X. AGENCIES AND ORGANIZATIONS CONSULTED DURING THE PREPARATION OF THE DRAFT ENVIRONMENTAL ASSESSMENT; LETTERS RECEIVED AND RESPONSES TO SUBSTANTIVE COMMENTS

The following agencies and organizations were consulted during the preparation of the Draft Environmental Assessment. Agency comments and responses to substantive comments are also incorporated herein.

1. Neal Fujiwara, Soil Conservationist
Natural Resources Conservation Service
U.S. Department of Agriculture
210 Imi Kala Street, Suite 209
Wailuku, Hawaii 96793-2100
2. William Lennan
Department of the Army
U.S. Army Engineer District, Hnl.
Attn: Operations Division
Bldg. T-1, Room 105
Fort Shafter, Hawaii 96858-5440
3. Robert P. Smith
Pacific Islands Manager
U. S. Fish and Wildlife Service
P.O. Box 50167
Honolulu, Hawaii 96850
4. David Blane, Director
State of Hawaii
Office of Planning
Department of Business, Economic Development and Tourism
P.O. Box 2359
Honolulu, Hawaii 96804
5. Colin Kippen, Deputy Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 500
Honolulu, Hawaii 96813
6. Denis Lau, Chief
Clean Water Branch
State of Hawaii
Department of Health
919 Ala Moana Blvd., Room 300
Honolulu, Hawaii 96814
7. Herbert Matsubayashi
District Environmental Health
Program Chief
State of Hawaii
Department of Health
54 High Street
Wailuku, Hawaii 96793
8. Gilbert Coloma-Agaran, Chairperson
State of Hawaii
Department of Land and Natural Resources
P. O. Box 621
Honolulu, Hawaii 96809
9. Don Hibbard
State of Hawaii
Department of Land and Natural Resources
State Historic Preservation Division
601 Kamokila Blvd., Room 555
Kapolei, Hawaii 96707
10. Brian Minaai, Director
State of Hawaii
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813

-
11. Fred Cajjal, Maui District Engineer
State of Hawaii
Department of Transportation
Highways Division
650 Palapala Drive
Kahului, Hawaii 96732
 12. Clayton Ishikawa, Chief
County of Maui
Department of Fire Control
200 Dairy Road
Kahului, Hawaii 96732
 13. John Min, Director
County of Maui
Department of Planning
250 South High Street
Wailuku, Hawaii 96793
 14. Floyd Miyazono, Director
County of Maui
**Department of Parks and
Recreation**
1580 C. Kaahumanu Avenue
Wailuku, Hawaii 96793
 15. Tom Phillips, Chief
County of Maui
Police Department
55 Mahalani Street
Wailuku, Hawaii 96793
 16. David Goode, Director
County of Maui
**Department of Public Works
and Waste Management**
200 South High Street
Wailuku, Hawaii 96793
 17. David Craddick, Director
County of Maui
Department of Water Supply
200 South High Street
Wailuku, Hawaii 96793



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U. S. ARMY ENGINEER DISTRICT, HONOLULU
FT. SHAFTER, HAWAII 96858-5440

SEP 25 2002

September 23, 2002

Regulatory Branch

Mr. Mich Hirano, AICP
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Hirano:

This letter responds to your request for comments on the Conservation District Use Application and Grant of Easement for a Seawall Encroachment at TMK (2) 4-3-19:47, dated September 16, 2002. The information contained in the project summary was not sufficiently detailed for me to determine if a Department of the Army (DA) permit will be required for this project. If the seawall is seaward of the mean high water line, an after-the-fact DA permit will be required for the repair which was completed in 2001. If the seawall is between the mean high water line and the higher high water line, a DA permit may be required, depending on the nature of the repairs.

The draft environmental assessment for the action should show a plan view of the parcel with the MHWL, HHWL and the certified shoreline clearly shown in relation to the seawall.

If you have any questions concerning this determination, please contact William Lennan of my staff at 438-6986 or FAX 438-4060, and reference File No. 200200548.

Sincerely,

George P. Young, P.E.
Chief, Regulatory Branch



April 2, 2003

George P. Young, P.E., Chief
Regulatory Branch
Department of Army
U.S. Army Engineer District, Honolulu
Fort Shafter, Hawaii 96858-5440

SUBJECT: After-the-Fact Application for a Conservation District Use Application
Permit and Grant of Easement for A Rock Revetment Seawall
Fronting TMK:(2) 4-3-19:47

Dear Mr. Young:

Thank you for your letter dated September 23, 2002 providing early comments on the subject application.

We note your request to provide information on the rock revetment seawall in relation to the mean high water line (MHWL) and the higher high water line (HHWL) as well as the certified shoreline. A survey of the mean higher high water line (MHHL) was carried out on the subject property on February 26, 2003. A copy of the survey is enclosed for your reference. The MHHL is established at 1.07 MSL. The completed improvements are landward of the MHHL. Further coordination in regards to the Department of Army permitting requirements will be carried out as appropriate.

A copy of the Draft Environmental Assessment will be forwarded to the Department of Army Corps of Engineers for further review and comment.

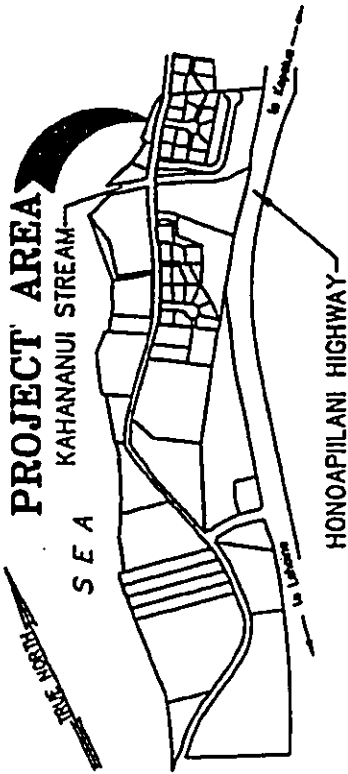
Again, thank you for your participation in the early consultation process.

Very truly yours,

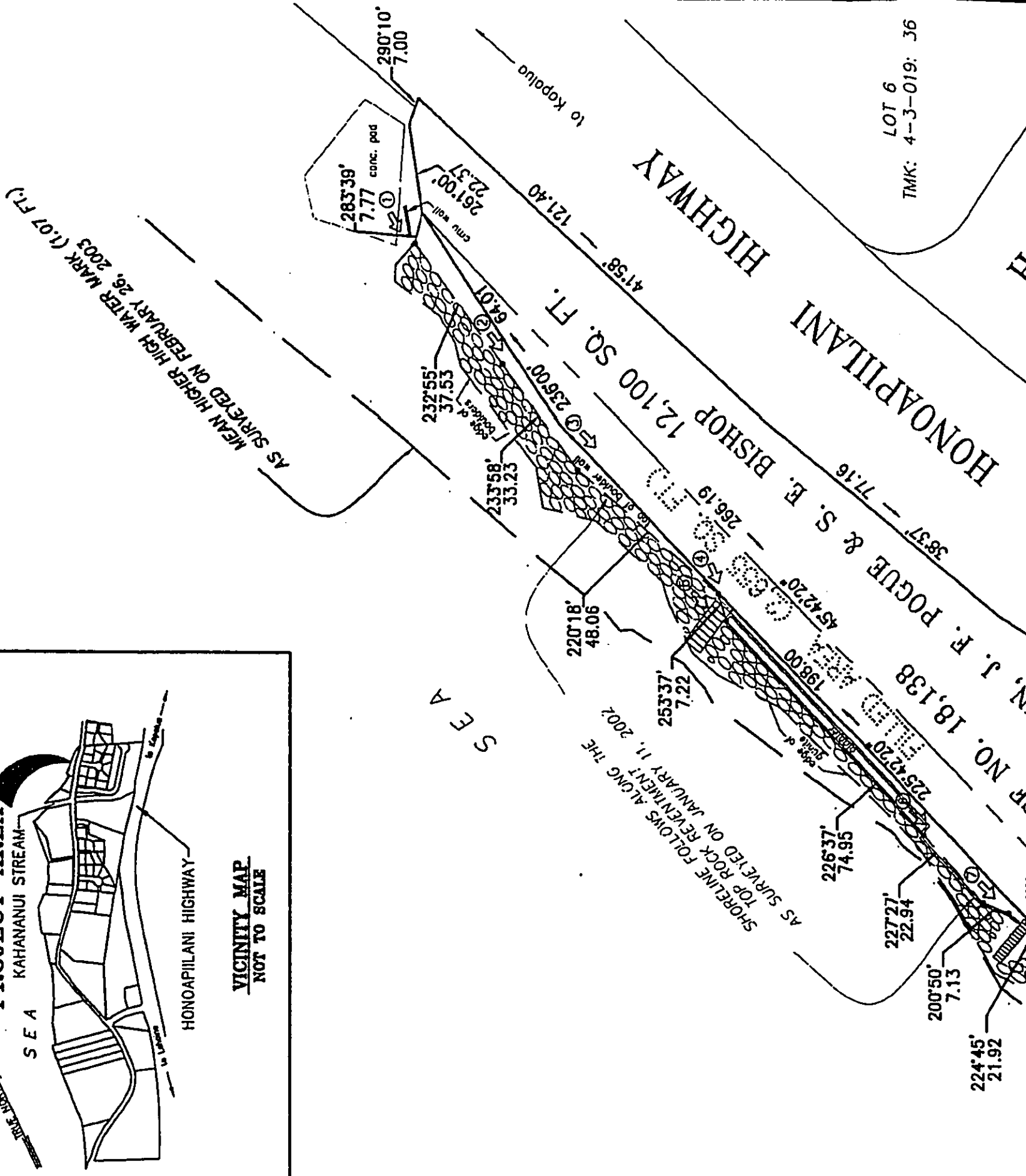
Mich Hirano, AICP

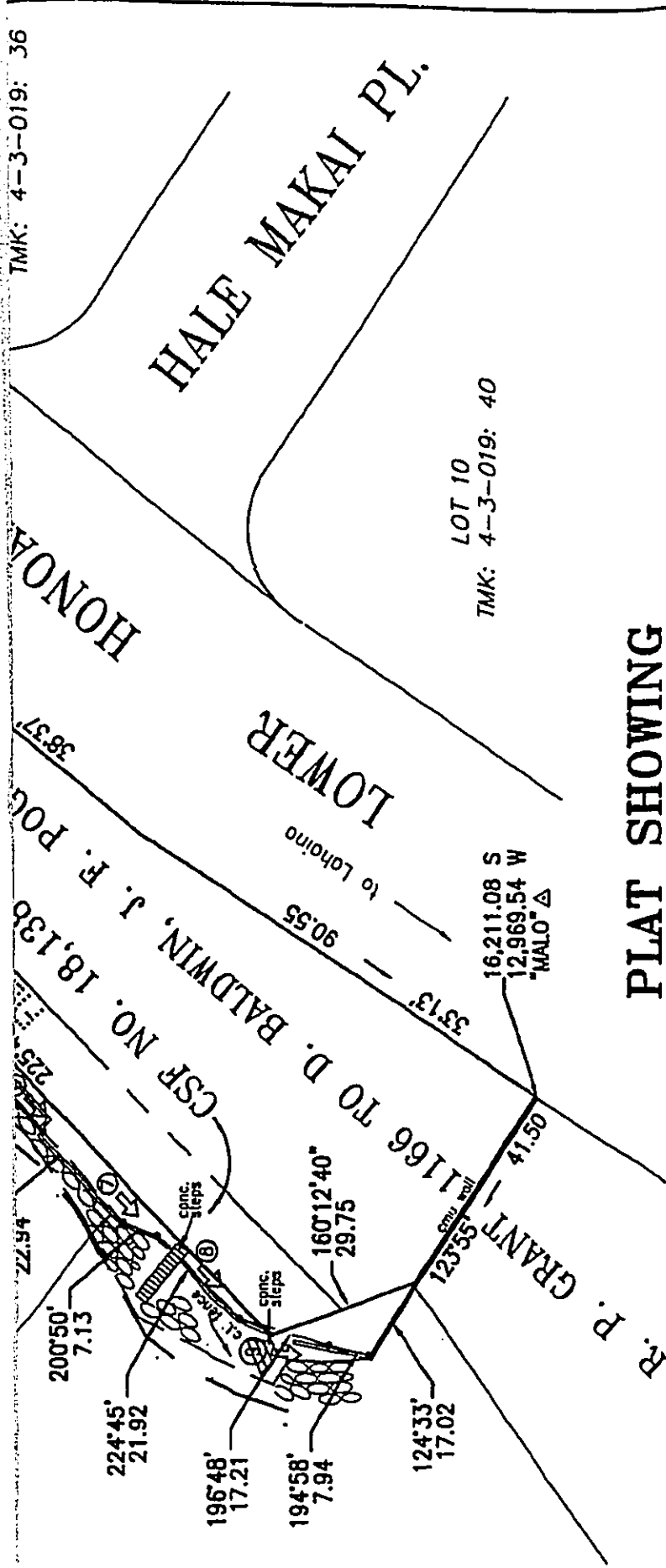
MH:yp
Enclosure
pack@seawall.com

PROJECT AREA



VICINITY MAP
NOT TO SCALE





**PLAT SHOWING
SHORELINE CERTIFICATION
A PORTION OF ROYAL PATENT GRANT 1166 TO
D. BALDWIN, J. F. FOGUE AND S. E. BISHOP
AND FILLED AREA GOVERNMENT LAND (CSF NO. 18,138)
AT KAHANA, LAHAINA, MAUI, HAWAII**

LOT 2
TMK: 4-3-019: 46

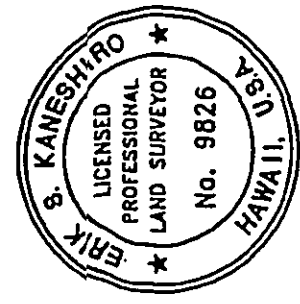
LOT 10
TMK: 4-3-019: 40

AUSTIN, TSUTSUMI, & ASSOCIATES INC.
1871 WILI PA LOOP, SUITE A
HAKALUKO, MAUI, HI 96793

THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION.

Ed S. Kaneshiro

LICENSED PROFESSIONAL LAND SURVEYOR
CERTIFICATE No. 9826



- NOTES:
1. COORDINATES AND AZIMUTHS ARE REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "MALO" Δ.
 2. NAMES OF ADJOINING OWNERS ARE FROM TAX MAP RECORDS.
 3. Ⓞ ⇨ DENOTES PHOTO NUMBER AND DIRECTION.
 4. CERTIFICATION IS FOR PERMITTING PURPOSES.

4605 LOWER HONOAPIILANI ROAD
LAHAINA, HAWAII 96761
TAX MAP KEY (2) 4-3-19: 47

January 16, 2002

11" x 17"

ATA AUSTIN, TSUTSUMI & ASSOCIATES, INC.
ENGINEERS, SURVEYORS • HONOLULU, WAILUKU, HAWAII

BENJAMIN J. CAVETANO
GOVERNOR OF HAWAII



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING, ROOM 555
801 KAMOKILA BOULEVARD
KAPOLEI, HAWAII 96707

DEC 05 2002

GILBERT S. COLOMA-AQARAN, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

DEPUTES
ERIC T. HIRANO
LUNNEL NISHIOKA

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

November 22, 2002

Mr. Mich Hirano
Munekiyo & Hiraga, Inc.
305 South High Street, Suite 104
Wailuku, Hawaii 96793

LOG NO: 31166 ✓
DOC NO: 0211CD23

Dear Mr. Hirano,

**SUBJECT: Chapter 6E-42 Historic Preservation Review Pertaining to an Information Request for an After-the-Fact Conservation District Use Application and Application for Grant of Easement for a Seawall Encroachment Kahana Ahupua`a, Lahaina District, Island of Maui
TMK: (2) 4-3-019:047 (previously 4-3-005:032)**

Thank you for the opportunity to comment on the Information Request for an After-the-Fact Conservation District Use Application (CDUA) and Grant of Easement Application for a Seawall Encroachment, which was received by our staff September 18, 2002. Our comments are based on reports, maps, and aerial photographs maintained at the State Historic Preservation Division; no field inspection was conducted of the subject property.

Based on the submitted information request, we understand that this CDUA and Grant of Easement Application pertain to an undertaking which has already occurred. The rock revetment and fill area were constructed sometime in 1977. The shoreline was certified in September 1977, and at that time a 2655 square foot parcel of government land was consolidated with the upland parcel. In 2001, repairs were made to the revetment. The DLNR has recently determined that this revetment and fill area, 1035 square feet, constitutes an encroachment on state owned Conservation District Lands. In addition, we understand that as required for the CDUA and Grant of Easement Application, an Environmental Assessment (EA) will be prepared, pursuant to Chapter 343, Hawaii Revised Statutes.

A search of our records indicates an archaeological inventory survey has not been conducted of the subject property. This area in general is likely to have once been the location of pre-Contact farming, perhaps with scattered houses. As the subject property is adjacent to the coastline, it is possible that human burials may also be present in the subsurface deposits. Therefore, we believe it is likely that historic sites may be present in the subsurface deposits of the subject property.

We look forward to reviewing and commenting on the CDUA, the Application for a Grant of Easement, and the EA.

If you have any questions, please call Cathleen Dagher at (808) 692-8023.

Aloha,

Don Hibbard, Administrator
State Historic Preservation Division

CD:jen



April 2, 2003

P. Holly McEldowney, Acting Administrator
State of Hawaii
Department of Land and Natural
Resources
State Historic Preservation Division
601 Kamokila Boulevard, Room 555
Kapolei, Hawaii 96707

SUBJECT: After-the-Fact Application for a Conservation District Use Application
Permit and Grant of Easement for A Rock Revetment Seawall
Fronting TMK:(2) 4-3-19:47

Dear Ms. McEldowney:

Thank you for the letter dated October 15, 2002 providing early comments on the subject application.

We note the comments regarding the likelihood that the subject area may have once been the location of pre-Contact farming and the possibility that cultural sites may also be present in the subsurface deposits. In this respect, we wish to advise that the rock revetment seawall has been in place since 1977 and the completed action did not involve any ground altering activities. We have included your Department's comments as well as appropriate information concerning the completed action in the Draft Environmental Assessment.

As requested, a copy of the Draft Environmental Assessment will be forwarded to the State Historic Preservation Division for review. We also look forward to your Department's comment on the Conservation District Use Application as well as the Grant of Easement application.

Thank you again for participating in the early consultation process.

Very truly yours,

Mich Hirano, AICP

MH:yp
pock/seawall/shpd.ltr

OCI 17 2002

BENJAMIN J. CAYETANO
GOVERNOR



BRUCE S. ANDERSON, Ph.D., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to
EMD / CWB

10026CEC.02

October 15, 2002

Mr. Mich Hirano, AICP
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Hirano:

Subject: Notice of Preparing Draft Environment Assessment for an After-the-Fact (ATF) Application for a Conservation District Use Permit (CDUP) and Grant of Easement for a Rock Retention and A Fill Area Constructed Fronting TMK: (2) 4-3-19:47, Kahana, Lahaina, Island of Maui

Reference is made to your letter of September 16, 2002. The involved discharges including a rock retention and a fill area during an undetermined time period prior to 1977. The shoreline was certified in September 1977 and the rock retention was repaired in 2001.

The following are our comments:

1. The Honolulu Engineer District of the U.S. Army Corps of Engineers should be contacted to identify whether an ATF Federal license or permit (including a Department of Army permit) is applicable/required for both the initial construction activity prior to 1977 and the subsequent rock retention repair work conducted in 2001. If it is determined that an ATF Federal license or permit is required for the subject project, then a Section 401 Water Quality Certification (WQC) would also be required from our office. Accepting and processing of an ATF WQC application shall follow requirements contained in subparagraph 11-54-09.1.02(f) of the Hawaii Administrative Rules (HAR), below:

“(f) If a project or activity requiring a federal permit or license involves or may involve the discharge of a pollutant or pollutants and is initiated or completed without a water quality certification, the director may process an After the Fact water quality certification application as follows: After the Fact water quality certification application may be accepted and processed only for the limited purpose of deeming projects or activities requiring federal permits or licenses to be properly permitted or licensed forward of the date of the water quality certification or waiver. No water quality certification or waiver shall be issued which allows the retroactive permitting or licensing of projects or activities before the date the water quality certification or waiver was issued. A water quality

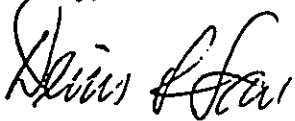
Mr. Mich Hirano, AICP
October 15, 2002
Page 2

certification or waiver may be issued if the following criteria are met: (1) the project or activity is not the subject of an on-going enforcement action by the federal, state or county government; (2) any adverse impacts upon water quality resulting from the project or activity have been mitigated to the maximum extent feasible, and (3) the project or activity will not cause or contribute to any lack of attainment of water quality standards set forth in this chapter."

2. Please provide plans, drawings, typical section of the constructed rock revetment, best management practices and/or water pollution control measures used during the construction, and color photographs or receiving water quality monitoring data collected during both construction events to demonstrate that construction activities did not result in more than minimal adverse impacts to the receiving State waters.
3. The Department of Health reserves the right in taking enforcement action authorized by law.

Should you have any questions, please contact Mr. Edward Chen of the Engineering Section, Clean Water Branch, at (808) 586-4309.

Sincerely,



DENIS R. LAU, P.E., CHIEF
Clean Water Branch

EC:cu

c: Ms. Wendy Wiltse, Pacific Island Contact Office, Region 9/EPA
Regulatory Branch, HED/COE
CZM Program, Office of Planning/DBEDT

SEP 30 2002

BENJAMIN J. CAYETANO
GOVERNOR



BRUCE S. ANDERSON, Ph.D., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

In reply please refer to
EMD / CWB

09055CEC.02

September 24, 2002

Mr. Mich Hirano, AICP
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Subject: Notice of Preparing Draft Environment Assessment for an After-the-Fact (ATF) Application for a Conservation District Use Permit (CDUP) and Grant of Easement for a Rock Revetment and A Fill Area Constructed Fronting TMK: (2) 4-3-19:47, Kahana, Lahaina, Island of Maui

Reference is made to your letter of September 16, 2002. The involved discharges including a rock revetment and a fill area during an undetermined time period prior to 1977. The shoreline was certified in September 1977 and the rock revetment was repaired in 2001.

The following are our comments:

1. The Honolulu Engineer District of the U.S. Army Corps of Engineers should be contacted to identify whether an ATF Federal license or permit (including a Department of Army permit) is applicable/required for both the initial construction activity prior to 1977 and the subsequent rock revetment repair work conducted in 2001. If it is determined that an ATF Federal license or permit is required for the subject project, then a Section 401 Water Quality Certification (WQC) would also be required from our office. Accepting and processing of an ATF WQC application shall follow requirements contained in subparagraph 11-54-09.1.02(f) of the Hawaii Administrative Rules (HAR), below:

“(f) If a project or activity requiring a federal permit or license involves or may involve the discharge of a pollutant or pollutants and is initiated or completed without a water quality certification, the director may process an After the Fact water quality certification application as follows: After the Fact water quality certification application may be accepted and processed only for the limited purpose of deeming projects or activities requiring federal permits or licenses to be properly permitted or licensed forward of the date of the water quality certification or waiver. No water quality certification or waiver shall be issued which allows the retroactive permitting or licensing of projects or activities before the date the water quality certification or waiver was issued. A water quality certification or waiver may be issued if the following criteria are met: (1) the project or activity is not the subject of an on-going enforcement action by the federal, state or county

Mr. Mich Hirano, AICP
September 24, 2002
Page 2

government; (2) any adverse impacts upon water quality resulting from the project or activity have been mitigated to the maximum extent feasible, and (3) the project or activity will not cause or contribute to any lack of attainment of water quality standards set forth in this chapter.”

2. Please provide plans, drawings, typical section of the constructed rock revetment, best management practices and/or water pollution control measures used during the construction, and photographs or receiving water quality monitoring data collected during both construction events to demonstrate that construction activities did not result in more than minimal adverse impacts to the receiving State waters.
3. The Department of Health reserves the right in taking enforcement action authorized by law.

Should you have any questions, please contact Mr. Edward Chen of the Engineering Section, Clean Water Branch, at (808) 586-4309.

Sincerely,



DENIS R. LAU, P.E., CHIEF
Clean Water Branch

EC:ec

c: Ms. Wendy Wiltse, Pacific Island Contact Office, Region 9/EPA
Regulatory Branch, HED/COE
CZM Program, Office of Planning/DBEDT
Chief, DEHP/Maui



April 2, 2003

Denis Lau, Chief
Clean Water Branch
State of Hawaii
Department of Health
919 Ala Moana Boulevard, Room 300
Honolulu, Hawaii 96814

SUBJECT: After-the-Fact Application for a Conservation District Use Application Permit and Grant of Easement for A Rock Revetment Seawall Fronting TMK:(2) 4-3-19:47

Dear Mr. Lau:

Thank you for your letters dated September 24, 2002 and October 15, 2002 providing early comments on the subject application.

We acknowledge your comment regarding Federal license or permits which may be required from the U.S. Army Corps of Engineers for the initial construction activity prior to 1977 and the subsequent completed action carried out in 2001. Further coordination with the Corps of Engineers will be carried out to establish permitting requirements as appropriate.


We also acknowledge your comments regarding the Section 401 Water Quality Certification and will coordinate with the State Department of Health on the permitting requirements as appropriate.

We also acknowledge your comment regarding the provision of plans, drawings, typical section of the constructed rock revetment, Best Management Practices and/or water pollution measures used during the completed action and appropriate documentation to demonstrate that construction activities did not result in more than minimal adverse impacts to the receiving State waters. We confirm that the design information on the rock revetment will be included and discussion of the completed action in relation to the potential impacts on water quality will be provided in the Draft Environmental Assessment.

We also acknowledge that the Department of Health reserves the right to taking enforcement action authorized by law. In this regard, a copy of the Draft Environmental Assessment will be forwarded to your Department for further review.

Denis Lau, Chief
April 2, 2003
Page 2

Again, thank you for your participation in the early consultation process.

Very truly yours,


Mich Hirano, AICP

MH:yp
pack/seawall/doh.lir

BENJAMIN J. CAYETANO
GOVERNOR



BRUCE S. ANDERSON, Ph.D., M.P.H.
DIRECTOR OF HEALTH

LORRIN W. PANG, M.D., M.P.H.
MAUI DISTRICT HEALTH OFFICER

STATE OF HAWAII
DEPARTMENT OF HEALTH
MAUI DISTRICT HEALTH OFFICE
54 HIGH STREET
WAILUKU, MAUI, HAWAII 96793

October 4, 2002

Mr. Mich Hirano
Munekiyo & Hiraga, Inc.
305 South High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Hirano:

Subject: **Conservation District Use Application and Grant of Easement
for a Seawall Encroachment
TMK: (2) 4-3-19: 47**

Thank you for the opportunity to participate in the early consultation process for the environmental assessment. The Army Corps of Engineers and the Clean Water Branch of the Department of Health should be contacted to determine whether their respective permits will be required.

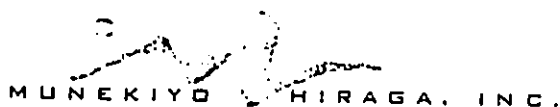
Should you have any questions, please call me at 984-8230.

Sincerely,

A handwritten signature in black ink, appearing to be "H. Matsubayashi".

Herbert S. Matsubayashi
District Environmental Health Program Chief

c: Roland Asakura



April 2, 2003

Herbert Matsubayashi
District Environmental Health
Program Chief
State of Hawaii
Department of Health
54 High Street
Wailuku, Hawaii 96793

SUBJECT: After-the-Fact Application for a Conservation District Use Application Permit and Grant of Easement for A Rock Revetment Seawall Fronting TMK:(2) 4-3-19:47

Dear Mr. Matsubayashi:

Thank you for your letter dated October 4, 2002 providing early comments on the subject application.

We acknowledge your comments regarding the permitting that may be required from the Department of Army Corps of Engineers and the Clean Water Branch of the Department of Health. We are in receipt of comments from these agencies in response to our request for early consultation. We will continue to coordinate with these agencies regarding permitting requirements as appropriate.

Thank you again for your participation in the early consultation process.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mich Hirano", with a horizontal line extending to the right.

Mich Hirano, AICP

MH:yp
pocklseawallndoh2.ltr

OCT 9 2002

PHONE (808) 594-1888

FAX (808) 594-1885



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

Date: October 1, 2002

HRD#02-755

To: Mr. Mich Hirano, AICP
MUNEKIYO & HIRAGA, INC.
305 High Street
Suite 104
Wailuku, Hawaii 96793

Subject: CDUA Application and Easement Grant
for Seawall Encroachment

District, Island: Kahana, Lahaina, Maui, Hawaii
TMK: (2) 4-3-19: 47

Thank you for your letter of September 16, 2002, advising the Office of Hawaiian Affairs of your intention to apply for an after-the-fact Conservation District Use Application (CDUA) and Grant of Easement Application for the property described above.

At this time the Office of Hawaiian Affairs has no comment on the project.

However, we do reserve the right to comment on the Draft Environmental Assessment documents and urge you to send the applications to our office as soon as possible.

If you have further questions, please contact Aulani Apoliona, Policy Analyst, in the Hawaiian Rights Division at 594-1962 and refer to the HRD number at the top of this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jalna Keala".

Jalna Keala
Acting Hawaiian Rights Director

cc:



April 2, 2003

Jaina Keala, Acting Hawaiian Rights Director
State of Hawaii
Office of Hawaiian Affairs
711 Kapi'olani Boulevard, Suite 500
Honolulu, Hawaii 96813

SUBJECT: After-the-Fact Application for a Conservation District Use Application Permit and Grant of Easement for A Rock Revetment Seawall Fronting TMK:(2) 4-3-19:47

Dear Ms. Keala:

Thank you for your letter dated October 1, 2002 providing early comments on the subject application.

We note the Office of Hawaiian Affairs has no comment on the subject application at this time. As requested, a copy of the Draft Environmental Assessment will be forwarded to the Office of Hawaiian Affairs for review and comment.

Again, thank you for your participation in the early consultation review process.

Very truly yours,

Mich Hirano, AICP

MH:yp
pack/seawall@oha.hi

JAMES "KIMO" APANA
Mayor

DAVID C. GOODE
Director

MILTON M. ARAKAWA, A.I.C.P.
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



OCT 04 2002

RALPH NAGAMINE, L.S., P.E.
Land Use and Codes Administration

TRACY TAKAMINE, P.E.
Wastewater Reclamation Division

LLOYD P.C.W. LEE, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

JOHN D. HARDER
Solid Waste Division

COUNTY OF MAUI
**DEPARTMENT OF PUBLIC WORKS
AND WASTE MANAGEMENT**
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

October 2, 2002

Mr. Mich Hirano
MUNEKIYO & HIRAGA, INC.
305 High Street, Suite 104
Wailuku, Maui, Hawaii 96793

Dear Mr. Hirano:

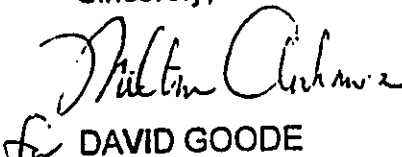
SUBJECT: EARLY CONSULTATION
CONSERVATION DISTRICT USE APPLICATION
GRANT OF EASEMENT
SNOWED INN HOSTELRY, INC
SEAWALL ENCROACHMENT
TMK: (2) 4-3-019:047

We reviewed the subject early consultation for the Environmental Assessment (EA) required for the Conservation District Use Application and have the following comment:

1. We would like to review a copy of the Draft EA as the seawall may affect our adjacent roadway facility.

If you have any questions regarding this letter, please call Milton Arakawa at 270-7845.

Sincerely,


DAVID GOODE
Director

RMN:msc
S:\LUCA\CZM\snowed inn-seawall-ec.wpd

Quality Seamless Service – Now and for the Future



April 2, 2003

Gilbert Coloma-Agaran, Director
County of Maui
**Department of Public Works and
Environmental Management**
200 South High Street
Wailuku, Hawaii 96793

**SUBJECT: After-the-Fact Application for a Conservation District Use Application
Permit and Grant of Easement for A Rock Revetment Seawall
Fronting TMK:(2) 4-3-19:47**

Dear Mr. Coloma-Agaran:

Thank you for the letter dated October 2, 2002 providing early comments on the subject application.

We acknowledge the comment in regards to how the subject application may affect the County's adjacent roadway facility. As requested a copy of the Draft Environmental Assessment will be forwarded to your Department for further review.

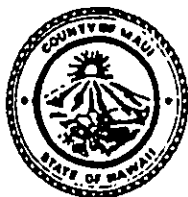
Again, thank you for participating in the early consultation process.

Very truly yours,

Mich Hirano, AICP

MH:yp
pack/seawall/dpwm.ltr

JAMES "KIMO" APANA
Mayor



09.26.02
FLOYD S. MIYAZONO
Director

GLENN T. CORREA
Deputy Director

(808) 270-7230
Fax (808) 270-7934

DEPARTMENT OF PARKS & RECREATION

1580-C Kaahumanu Avenue, Wailuku, Hawaii 96793

September 26, 2002

Mich Hirano, AICP
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

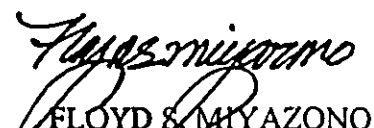
Dear Mr. Hirano:

SUBJECT: Conservation District Use Application and Grant of Easement for a
Seawall Encroachment at TMK:(2) 4-3-19:47

Thank you for the opportunity to review the summary for the subject project. At this time, we have no comments or objections to the proposed action.

Please contact me or Mr. Patrick Matsui, Chief of Parks Planning and Development, at 270-7387 if there are any questions.

Sincerely,


FLOYD S. MIYAZONO
Director

c: Patrick Matsui, Chief of Planning and Development



April 2, 2003

Glenn Correa, Director
County of Maui
Department of Parks & Recreation
1580-C Kaahumanu Avenue
Wailuku, Hawaii 96793

SUBJECT: After-the-Fact Application for a Conservation District Use Application Permit and Grant of Easement for A Rock Revetment Seawall Fronting TMK:(2) 4-3-19:47

Dear Mr. Correa:

Thank you for the letter dated September 26, 2002 providing early comments on the subject application.

We acknowledge that the Department of Parks and Recreation does not object to the subject application. Nevertheless, a copy of the Draft Environmental Assessment will be forwarded to your Department for further review.

Again, thank you for your participation in the early consultation process.

Very truly yours,

Mich Hirano, AICP

MH:yp
pack/seawall/dpr.ltr



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
P.O. BOX 1109
WAILUKU, MAUI, HAWAII 96793-7109
Telephone (808) 270-7816 • Fax (808) 270-7833

November 1, 2002

Mr. Mich Hirano, AICP
Munekiyo & Hiraga, Inc.
305 High Street Suite 104
Wailuku HI 96793

**SUBJECT: Conservation District Use Application and Grant of Easement for a
Seawall Encroachment
TMK: (2)4-3-019:047**

Dear Mr. Hirano:


Thank you for the opportunity to comment on this application as part of the EA early consultation process.

The draft environmental assessment should include discussion on any impacts to water resources resulting from the revetment or repairs.

In the event that any future repairs are intended, we encourage the applicant to adopt best management practices (BMPs) designed to minimize runoff sedimentation and other impacts to nearshore waters. We have attached sample BMPs for your reference. Additional information can be obtained at the State Department of Health.

Should you have any questions, please contact our Water Resources and Planning Division at 270-7199.

Sincerely,


David Craddick
Director

eam
c:: engineering division
applicant with attachment
Guidance Specifying Management Measures For Sources of Nonpoint Pollution in Coastal Waters - EPA

By Water All Things Find Life



April 2, 2003

George Tengan, Director
County of Maui
Department of Water Supply
200 South High Street
Wailuku, Hawaii 96793

SUBJECT: After-the-Fact Application for a Conservation District Use Application Permit and Grant of Easement for A Rock Revetment Seawall Fronting TMK:(2) 4-3-19:47

Dear Mr. Tengan:

Thank you for the letter dated November 1, 2002 providing early comments on the subject application.

We note the comment regarding discussion on any impacts to water resources resulting from the completed action on the rock revetment seawall and confirm that discussion on water resources will be included in the Draft Environmental Assessment as appropriate.

We also note the comment regarding application of Best Management Practices (BMPs) for future repairs and have forwarded a copy of the BMPs to the applicant for future reference.

Thank you again for your participation in the early consultation process.

Very truly yours,

Mich Hirano, AICP

MH:yp
pack/seawall/dwa.ltr

Chapter XI

***Agencies and Organizations
Consulted During The Preparation
of the Final Environmental
Assessment; Letters Received and
Responses to Substantive Comments***

XI. AGENCIES AND ORGANIZATIONS CONSULTED DURING THE PREPARATION OF THE FINAL ENVIRONMENTAL ASSESSMENT; LETTERS RECEIVED AND RESPONSES TO SUBSTANTIVE COMMENTS

The following agencies and organizations were consulted during the preparation of the Final Environmental Assessment. Agency comments and responses to substantive comments are also incorporated herein.

1. Neal Fujiwara, Soil Conservationist
Natural Resources Conservation Service
U.S. Department of Agriculture
210 Imi Kala Street, Suite 209
Wailuku, Hawaii 96793-2100
2. William Lennan
Department of the Army
U.S. Army Engineer District, Hnl.
Attn: Operations Division
Bldg. T-1, Room 105
Fort Shafter, Hawaii 96858-5440
3. Robert P. Smith
Pacific Islands Manager
U. S. Fish and Wildlife Service
P.O. Box 50167
Honolulu, Hawaii 96850
4. Ted Liu, Director
State of Hawaii
Office of Planning
Department of Business, Economic Development and Tourism
P.O. Box 2359
Honolulu, Hawaii 96804
5. Colin Kippen, Deputy Administrator
Office of Hawaiian Affairs
711 Kapiolani Boulevard, Suite 500
Honolulu, Hawaii 96813
6. Denis Lau, Chief
Clean Water Branch
State of Hawaii
Department of Health
919 Ala Moana Blvd., Room 300
Honolulu, Hawaii 96814
7. Herbert Matsubayashi
District Environmental Health
Program Chief
State of Hawaii
Department of Health
54 High Street
Wailuku, Hawaii 96793
8. Peter Young, Chairperson
State of Hawaii
Department of Land and Natural Resources
P. O. Box 621
Honolulu, Hawaii 96809
9. Holly McEldowney, Acting Administrator
State of Hawaii
Department of Land and Natural Resources
State Historic Preservation Division
601 Kamokila Blvd., Room 555
Kapolei, Hawaii 96707
10. Rodney Haraga, Director
State of Hawaii
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813

-
11. Fred Cajigal, Maui District Engineer
State of Hawaii
Department of Transportation
Highways Division
650 Palapala Drive
Kahului, Hawaii 96732
 12. Carl Kaupololo, Chief
County of Maui
Department of Fire Control
200 Dairy Road
Kahului, Hawaii 96732
 13. Michael Foley, Director
County of Maui
Department of Planning
250 South High Street
Wailuku, Hawaii 96793
 14. Glenn Correa, Director
County of Maui
Department of Parks and Recreation
1580 C. Kaahumanu Avenue
Wailuku, Hawaii 96793
 15. Tom Phillips, Chief
County of Maui
Police Department
55 Mahalani Street
Wailuku, Hawaii 96793
 16. Gilbert Coloma-Agaran, Director
County of Maui
Department of Public Works and Waste Management
200 South High Street
Wailuku, Hawaii 96793
 17. George Tengan, Director
County of Maui
Department of Water Supply
200 South High Street
Wailuku, Hawaii 96793



DEPARTMENT OF THE ARMY
U. S. ARMY ENGINEER DISTRICT, HONOLULU
FT. SHAFTER, HAWAII 96858-5440

REPLY TO
ATTENTION OF

June 24, 2003

RECEIVED
2003 JUN 26 A 10:51

Regulatory Branch


Ms. Dierde S. Mamiya
Acting Administrator
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, Hawaii 96809

Dear Ms. Mamiya:

This letter responds to your request for review and comment on the Conservation District Use Application (CDUA) MA-3134, dated June 9, 2003. Based on information provided by the applicant's agent by the enclosed letter, dated April 7, 2003, I determined that a Department of the Army permit was not required for this project.

If you have any questions concerning this determination, please contact William Lennan of my staff at 438-6986 or FAX 438-4060, and reference File No. 200200548.

Sincerely,


George P. Young, P.E.
Chief, Regulatory Branch

Enclosure

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands


Ref.:PB:DH

File Number: CDUA MA-3134

Acceptance Date: May 9, 2003
180 Exp. Date: November 5, 2003
SUSPENSE DATE: 21 Days from
stamped date JUN - 9 2003

MEMORANDUM

TO: Historic Preservation Division, Engineering Division, Division of Forestry and Wildlife, Division of Boating and Ocean Recreation, Division of Aquatic Resources, and Maui District Land Agent

FROM: 
Dierdre S. Mamiya, Acting Administrator
Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS
Conservation District Use Application (CDUA)
BOARD PERMIT

APPLICANT: Munekiyo & Hirago, Inc.

FILE NO.: MA-3134

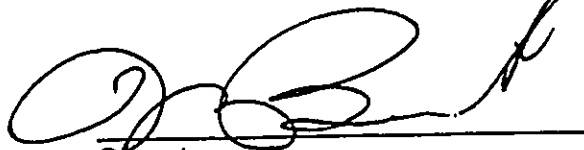
REQUEST: After-The-Fact (ATF) Conservation District Use Application (CDUA)
for Seawall Improvements, TMK: (2) 4-3-019:047

LOCATION: Kahana, Island of Maui

PUBLIC HEARING: YES NO X

Attached, please find a copy of the subject CDUA, the Draft Environmental Assessment (DEA) and our Department's Notice of Acceptance and Preliminary Environmental Determination. Please return the CDUA and all attachments. Should you require additional information, please call Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380. If no response is received by the suspense date, we will assume there are no comments.

Comments Attached
 No Comments


Signature

**MICHAEL G. BUCK, ADMINISTRATOR
DIVISION OF FORESTRY AND WILDLIFE**

JUN 10 2003

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands

RECEIVED
JUN 10 2003

Ref.:PB:DH

File Number: CDUA MA-3134

Acceptance Date: May 9, 2003
180 Exp. Date: November 5, 2003
SUSPENSE DATE: 21 Days from
stamped date JUN - 9 2003

MEMORANDUM

TO: Historic Preservation Division, Engineering Division, Division of Forestry and Wildlife, Division of Boating and Ocean Recreation, Division of Aquatic Resources, and Maui District Land Agent

FROM: Dierdre S. Mamiya, Acting Administrator
Dierdre S. Mamiya
Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS
Conservation District Use Application (CDUA)
BOARD PERMIT

APPLICANT: Munekiyo & Hirago, Inc.

FILE NO.: MA-3134

REQUEST: After-The-Fact (ATF) Conservation District Use Application (CDUA)
for Seawall Improvements, TMK: (2) 4-3-019:047

LOCATION: Kahana, Island of Maui

PUBLIC HEARING: YES NO X

Attached, please find a copy of the subject CDUA, the Draft Environmental Assessment (DEA) and our Department's Notice of Acceptance and Preliminary Environmental Determination. Please return the CDUA and all attachments. Should you require additional information, please call Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380. If no response is received by the suspense date, we will assume there are no comments.

() Comments Attached
(X) No Comments

Dierdre S. Mamiya
Signature

LINDA LINGLE
GOVERNOR



RECEIVED

45485-
RODNEY K. HARAGA
DIRECTOR

Acting Deputy Director
GLENN M. OKIMOTO

'03 JUN 17 A8:28

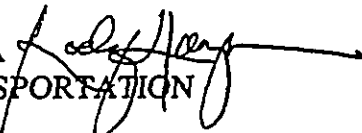
IN REPLY REFER TO:

2003 JUN 18 10 30 AM
STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET DEPT. OF LAND
HONOLULU, HAWAII 96813-5087 NATURAL RESOURCES
STATE OF HAWAII

STP 8.0781

June 12, 2003

TO: THE HONORABLE PETER T. YOUNG, CHAIR
BOARD OF NATURAL LAND AND RESOURCES
DEPARTMENT OF LAND AND NATURAL RESOURCES

FROM: RODNEY K. HARAGA 
DIRECTOR OF TRANSPORTATION

SUBJECT: RICHARD PACK SEAWALL IMPROVEMENTS
AFTER-THE-FACT (ATF) CONSERVATION DISTRICT USE APPLICATION
(CDUA)
TMK: (2) 4-3-019: 047

Thank you for your transmittal requesting our review of the subject project. The subject rock revetment seawall will not impact our State transportation facilities. The portion of Lower Honoapiilani Highway fronting the property fall under the jurisdiction of the county.

We appreciate the opportunity to provide comments.

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands

RECEIVED
DIVISION OF
LAND MANAGEMENT

JUN 10 PM 3:57

Ref.:PB:DH

File Number: CDUA MA-3134

Acceptance Date: May 9, 2003
180 Exp. Date: November 5, 2003
SUSPENSE DATE: 21 Days from
stamped date JUN - 9 2003

MEMORANDUM

TO: Historic Preservation Division, Engineering Division, Division of Forestry and Wildlife, Division of Boating and Ocean Recreation, Division of Aquatic Resources, and Maui District Land Agent

FROM: Dierdre S. Mamiya, Acting Administrator
Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS
Conservation District Use Application (CDUA)
BOARD PERMIT

APPLICANT: Munekiyo & Hirago, Inc.

FILE NO.: MA-3134

REQUEST: After-The-Fact (ATF) Conservation District Use Application (CDUA) for Seawall Improvements, TMK: (2) 4-3-019:047

LOCATION: Kahana, Island of Maui

PUBLIC HEARING: YES NO X

2003 JUN 11 AM 11:15

Attached, please find a copy of the subject CDUA, the Draft Environmental Assessment (DEA) and our Department's Notice of Acceptance and Preliminary Environmental Determination. Please return the CDUA and all attachments. Should you require additional information, please call Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380. If no response is received by the suspense date, we will assume there are no comments.

() Comments Attached
() No Comments

Jaim K. Koye

Signature

DIVISION OF AQUATIC RESOURCES	
DIRECTOR	Suspense Date:
COM.FISHERIES	Draft Reply <input type="checkbox"/>
AQ REC/ENV	Reply Direct <input type="checkbox"/>
AQ RECH'N	Comments <input type="checkbox"/>
STAFF SVCS	Information <input type="checkbox"/>
FISH DEV	Comp Act & File <input checked="" type="checkbox"/>
STATISTICS	Return to:
AFRC	Copies to:
EDUCATION	Remarks:
SECRETARY	
OFFICE SVCS	
FED AID	
RS	03-439

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Office of Conservation and Coastal Lands

File Number: CDUA MA-3134

Acceptance Date: May 9, 2003
180 Exp. Date: November 5, 2003
SUSPENSE DATE: 21 Days from
stamped date JUN - 9 2003
7/1

MEMORANDUM

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Office of Conservation and Coastal Lands

SUBJECT: REQUEST FOR COMMENTS
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APPLICANT: Munekiyo & Hirago, Inc.

FILE NO.: MA-3134

REQUEST: After-The-Fact (ATF) Conservation District Use Application (CDUA) for Seawall Improvements, TMK: (2) 4-3-019:047

LOCATION: Kahana, Island of Maui

PUBLIC HEARING: YES NO X

2003 JUN - 2 A 10:57
RECORDED

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- () Comments Attached
- (X) No Comments

FONS 1

D. Mamiya
Signature

7/1/03



LINDA LINGLE
GOVERNOR



STATE OF HAWAII
OFFICE OF ENVIRONMENT QUALITY CONTROL
235 SOUTH BERETANIA STREET
SUITE 702
HONOLULU, HAWAII 96813
TELEPHONE (808) 586-4185
FACSIMILE (808) 586-4186

July 21, 2003

Mr. Peter Young, Chair
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawai'i 96809

Dear Mr. Young:

Subject: Draft Environmental Assessment for the Pack After-the-Fact CDUA (MA-3134) for Seawall Improvements, Kahana, Maui.

1. Please review the attached "Shoreline Hardening Policy and Environmental Assessment Guidelines." Include the applicable requested information in the final environmental assessment.
2. Please consult with affected neighbors and shoreline users.

Thank you for the opportunity to review the subject document.

Sincerely,

Genevieve Salmonson
Genevieve Salmonson
Director

c: Munekiyo & Hiraga
Richard Pack

45192

RECEIVED
GENEVIEWE SALMONSON
DIRECTOR

03 JUL 24 08:19

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

SHORELINE HARDENING POLICY AND ENVIRONMENTAL ASSESSMENT GUIDELINES
OFFICE OF ENVIRONMENTAL QUALITY CONTROL, DECEMBER 1998

Shoreline Hardening Policy

For a more thorough and detailed discussion of these issues please refer to the Coastal Erosion Management Plan (COEMAP) of the Department of Land and Natural Resources (DLNR).

I. Definition of Problem

Coastal property owners bear tremendous risks. Their property is vulnerable to tsunamis, storm surges, floods, high wave impacts, and hurricanes. In addition, owners along the shoreline bear the risk that their property may erode (Coyne et al., in press). Under common law, a riparian land owner "loses title to lands that are submerged through the process of erosion."¹ The Hawaii Supreme Court has held that "registered ocean front property is subject to the same burdens and incidents as unregistered land, including erosion....[T]he precise location of the high water mark on the ground is subject to change and may always be altered by erosion."² Because the land seaward of the upper reaches of the wash of the waves -including the beach - is a public trust resource,³ the state, as trustee, can restrain those activities that damage the resource.⁴ A private property owner does not have the right to impair public trust resources.

Tide gauges maintained by the National Oceanic and Atmospheric Administration demonstrate that our islands are experiencing a relative rise in sea level due to both global sea-level rise and local geologic factors (Fletcher, 1992). Additionally, in many places, waves and currents and human activities may reduce, or otherwise negatively impact, the volume of sand along beaches. Processes associated with sea-level rise, wave and current action, and/or human impacts may cause chronic erosion of coastal lands leading to a retreat of the shoreline. It is frequently difficult to distinguish natural from anthropogenic causes of erosion, and the two may often operate together along a particular shoreline. In response shoreline movement may occur slowly at an average annual rate, beaches may erode and recover on a seasonal cycle, or erosion may occur episodically associated with storms at unpredictable times and rates. Erosion is only a problem needing mitigation where human developments along the coast are threatened by shoreline fluctuations.

¹R.R. Powell 5A Powell on Real Property § 66.01 [2] (1994).

²County of Hawaii v. Sotomura. 55 Haw. 176, 180 (1973).

³Application of Sanborn. 57 Haw. 585, 562.

⁴Orion Corp. v. State 747 P.2d 1062 (Wash. 1987); U.S. v. State Water Resources Control Board. 227 Cal. Rptr 161 (Cal. App. 1 Dist 1986); State Dept. of Environmental Protection v. Jersey Central P & C Co. 308 A.2d 671 (N.J. Super L. 1973).

Armoring the shoreline with seawalls or revetments often stops the erosion of coastal land mauka of the structure. However, where beaches are undergoing long-term retreat, shoreline hardening eventually leads to beach narrowing, followed by beach loss (Hall, 1964; Birkemeier, 1981; Fischer, 1986; Hanson and Kraus, 1986; Komar and McDougal, 1988; Kraus, 1988; Tait and Griggs, 1990; Fletcher et al., 1997; Pope, 1997, and others). A hardened structure tends to shift the focus of erosion from the land to the beach fronting the wall. Seawalls and revetments are not a cure for the cause of erosion, but rather a defensive mechanism to mitigate land loss without regard for resulting impacts to adjacent environments such as the beach or the laterally adjacent shoreline (Raynor, 1953; U.S. Army Corps of Engineers, 1964; Walton and Sensabaugh, 1983; Tait and Griggs, 1990). Shoreline hardening not only leads to beach loss where shorelines are undergoing long-term retreat, but it may also exacerbate the erosion problem on adjacent shorelines through the process of sediment impoundment, or trapping of sand behind the wall. This has the effect of decreasing the overall sand volume available to beaches in the immediate vicinity thus reducing their ability to withstand and recover from normal seasonal wave stresses (Terich, 1975; McDougal, Sturtevant and Komar, 1987; Wood, 1988; Kraus, 1988; Komar and McDougal, 1988; Pope et al., 1997).

Studies of historical vegetation line movement in Hawaii indicate that many coasts are experiencing long-term retreat (Hwang, 1981; Sea Engineering, 1988; Makai Ocean Engineering and Sea Engineering, 1992; Fletcher et al., 1997; Coyne et al., in press) and that many of these coasts have been hardened as a result of the need to stop land loss. The trend of hardening has led to beach narrowing and beach loss on all islands (Hwang and Fletcher, 1992), especially on the islands of Oahu and Maui, where the combination of sea-level rise, sediment deficiencies, wave and current action, and extensive coastal development has resulted in significant beach loss (Hwang and Fletcher, 1992; Fletcher et al., 1997).

II. General Policy

Hardening of the shoreline should be considered the erosion management option of last resort, and its use should be avoided if other options are available. In addition, development in coastal hazard zones, including erosion hazard zones and coastal flood zones should be avoided in order to:

- (1) prevent the inevitable financial and personal hardships that befall individuals and families, and the expenditure of public funds that accompany the occurrence of coastal hazards on developed shorelines;
- (2) prevent the inevitable need to harden the shoreline where there is chronic erosion and the resulting loss of public beaches, lateral shoreline access, open space and view corridors, and littoral sand due to sediment impoundment behind walls;
- (3) mitigate threats to inhabited structures, and public infrastructure from coastal hazards; and
- (4) avoid the need for future public expenditures in responding to damage caused by hurricanes, tsunami, high wave impacts and other coastal hazards;

III. Response to applications for seawalls, groins and revetments

All decision makers should discourage the construction of seawalls, revetments or other shoreline hardening devices that have the potential to lead to beach loss and that also have the tendency to encourage development in areas of chronic erosion.

As an alternative to a hardened structure, applicants should consider the applicability of coastal dune enhancement, beach and dune restoration, sand replenishment, and other "soft" approaches to mitigating coastal erosion. Applicants should also evaluate the potential for moving dwellings and other structures away from the shoreline as a means of mitigating the effects of erosion. Finally, any application should include the information requested in the attached guidelines for assessing shoreline alteration and hardening projects.

If after a thorough analysis of an application, the decision maker finds by clear and convincing evidence that the impact on public trust resources would be negligible, alternatives to hardening would be impractical, substantial hardship to the applicant is real, and these compelling reasons dictate that a hardened structure should be approved, any approval that is granted should be conditioned on the applicant monitoring shoreline response to the structure. Monitoring should be conducted using standard coastal surveying techniques to document short-term and long term changes in the beach profile both on the subaerial beach and offshore. In order to ensure that planning authorities retain the ability to protect our beaches and because future events may require the removal of seawalls, revetments or groins, all variances and permits should either have an expiration date (subject to renewal), or be revocable upon a finding of environmental impact. In other words, the variance or permit should not confer a vested right to keep the structure in perpetuity.

In general, a variance should be viewed as an extraordinary exception which should be granted sparingly. The reasons to justify approval must be substantial, serious and compelling.⁵

IV. Response to existing illegal seawalls, revetments, groins, or other structure or illegal activity

In assessing whether to remove existing seawalls, revetments and other shoreline hardening devices that have been constructed without proper review and approval, decision makers should consider:

- (1) the impact the structure or activity is having on coastal processes and access;
- (2) the impact of removal of the structure, or cessation of the activity on the coastline;
- (3) the immediate impact of removal of the structure, or cessation of the activity on nearby dwellings; and
- (4) alternatives to the structure or activity which can mitigate erosion impacts;
- (5) the assessment of fines or easement costs to be applied along the coastline as compensation for mitigating the negative impacts of the structure or activity.

⁵R.R. Powell 6 Powell on Real Property § 79c.16[1] (1995).

Removal should be encouraged where removal will lead to restoration or improvement of coastal resources without causing substantial hardship to the owner, or creating a public hazard.

V. Long-term response to development in coastal hazard zones including erosion and flood hazard zones

So long as construction is allowed in coastal hazard zones, landowners and land managers will face financial burdens and threats to human safety. Where development is allowed in erosion or flood hazard zones, and structures are threatened by erosion or flooding, owners will consider protecting their investments with seawalls and revetments that may have a negative impact of the natural environment. A long-term solution will require that land use decision makers use: public awareness and education efforts; community-based resource protection programs; willing-owner redevelopment plans; hazard avoidance and minimization zoning and planning; and other participant-based and proactive environmental restoration, conservation and hazard avoidance discretionary authority they may have to recover lost coastal resources and mitigate future impacts. When state land use classifications are changed, CDUA's and SMA applications approved, zoning amended or subdivisions approved, conditions should be attached that restrict an applicant's (re)development proposals so that all construction activities occur outside of coastal hazard (erosion and flood) zones and future projected coastal hazard zones and above Base Flood Elevations (BFE's) as mapped by the Federal Emergency Management Agency and updated by state programs, and that beaches and coastal dunes are conserved or enhanced. This in general will require that construction activities recognize adequate, site-specific setbacks from the shoreline and appropriate landscaping and development practices. Applicants are encouraged to refer to the FEMA Coastal Construction Manual for guidelines (to be updated in 2000).

Counties should also consider establishing guidelines and procedures for redeveloping coastal areas where the beach and/or dune has been degraded by shoreline armoring. In the case of Honolulu, the use of Community Facilities Districts to establish enhanced opportunities for funding and implementing a combined beach-dune preservation or restoration system may be useful. Such efforts can translate to significant reductions in the cost of homeowner flood insurance through the National Flood-Insurance Program (NFIP) Community Rating System (CRS).

References

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- Kraus, N.C., 1988, The effects of seawalls on the beach: an extended literature review, in Kraus, N.C., and Pilkey, O.H., eds., *The Effects of Seawalls on the Beach*, *Journal of Coastal Research*, Special Issue No. 4, p. 1-28.
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Walton, T.L., Jr., and Sensabaugh, W., 1983, Seawall design on the open coast: Gainesville, Fla., Univ. Florida, Florida Sea Grant Report No. 29, 24p.

Wood, W.L., 1988, Effects of seawalls on profile adjustment along Great Lakes coastlines, in Kraus, N. and Pilkey, O., eds, The Effects of Seawalls on the Beach, Journal of Coastal Research, Spec. Issue No. 4, 135-146.

Guidelines for Assessing Shoreline Alteration and Hardening Projects

It is the policy of the State of Hawaii under HRS Chapter 205A to discourage all shoreline hardening that may affect access to, or the configuration of, our island beaches.

Any Environmental Assessment prepared in conjunction with an application to construct a seawall, revetment or similar structure, or an activity that will alter in any way littoral processes affecting the shoreline, should be accompanied by appropriate justification and detailed studies including, but not limited to, the following:

1. Historical shoreline analysis of coastal erosion and accretion rates

This should include a description of all movements of the neighboring shoreline over at least the past 30 years. This analysis should be based, at least in part, on aerial photographs available through government agencies and private vendors.⁶ The analysis should provide a detailed history of erosion and accretion patterns using all available evidence. This analysis should include descriptions of shoreline erosion rates, a map (with scale, north arrow, and title) showing past positions of the shoreline in the project area, and an analysis of the causes of erosion. It is especially important to describe how the project will mitigate the cause(s) of erosion, and avoid exacerbating erosion on the adjacent shoreline.

2. Shoreline type

A description of the nature of the affected shoreline, whether sandy, rocky, mud flats or any other configuration. The history and characteristics of adjoining sand dunes, streams and channels, and reefs should be included.

3. Site maps

Submit maps with title, north arrow and scale, and photographs that clearly show the current certified shoreline, previous certified shorelines, the private property line and the location of the proposed structure. Any nearby public access right-of-way should also be depicted. Applicants should also include a color copy of a color vertical aerial photograph⁷ that shows the project area and the adjacent offshore region. The applicant may wish to identify important components of the project on the color photo. Color aerial photos exist for most of the shoreline area of Hawaii and often clearly show important geologic and geographic features that are critical to fully evaluating the environmental context, and even the likelihood of success, of a proposed project. Evaluation of an aerial photo of

⁶Aerial photographs may be obtained from Air Surveys Hawaii, Inc.; Towill, R.M., Corp.; City and County of Honolulu, Coastal Lands Program, Department of Planning and Permitting; DBEDT, Office of Planning; and the various planning and permitting departments in each county.

⁷Color vertical aerial photographs usually can be purchased at reasonable price from Air Surveys Hawaii, Inc.

a project site can be an important tool yielding significant information relevant to the applicants planning efforts.

4. Beach profiles

Submit beach profiles that extend offshore at appropriate intervals along the beach indicating the width and slope of both the submerged and dry portions of the beach and showing major features of the beach. Profiles should extend from the mauka toe of the primary dune to the offshore depth of closure of profile fluctuations.⁸

5. Existing walls

Submit an analysis of any existing nearby walls or revetments and their cumulative impacts on the shoreline.

6. Description of improvements

A description of structures and improvements (such as homes or swimming pools) on the subject property, their distance from the property line and shoreline, how they may be affected by the construction of the proposed hardening project, and the specific feasibility of relocating them as a hazard mitigation activity.

7. Coastal hazard history

A coastal hazard analysis for the area in question. This should include any relevant coastal processes such as hazardous currents and seasonal wave patterns, including a description of the recent incidence of damaging high waves, high winds or water levels from storms, vulnerability to tsunamis, and the best estimate of Base Flood Elevations and flood zone designation as mapped by the FEMA Flood Insurance Rate Maps.

8. Waves and currents

A description of the wave and current regime acting along the shoreline in question, including, a wave refraction analysis (one simple form of this analysis is to describe wave crest patterns as shown in an aerial photograph), a description of littoral currents and their seasonal patterns and the impact of the proposed activity on these patterns.

⁸Note: Please refer to U.S. Army Corps of Engineers Coastal Engineering Technical Notices II-31 (11/93), II-40, 3/98, and other relevant documents for guidance.

9. Sediment movement

If the proposed activity involves any action that may interfere with the normal pattern of sediment transport along the coast, or alter in any way the morphology of the shoreline or the resident sand volume, applicants must submit a description of these alterations and their impact on shoreline processes including an estimate of the annual volume of sediment in transport and seasonal patterns of transport, and whether these impacts may have any deleterious effects on neighboring shoreline segments.

10. Thirty-year erosion hazard

An analysis that uses annual erosion rate data to project the location of the 30-yr erosion hazard zone as measured from the certified shoreline or vegetation line in the absence of any shoreline stabilization structures. This information should be provided in the form of a mapped line or zone, and accompany text descriptions. The analysis may be combined with items 1 or 3, or submitted independently.

11. Photographs

Eye-level (taken by an individual standing on the ground) photos of the site that illustrate past and present conditions and locate the proposed structure.

12. Alternatives

All alternatives to shoreline hardening should be thoroughly researched and analyzed. These alternatives should include beach and/or dune restoration using sand replenishment, retreat from the shoreline by moving existing structures inland, and a no action alternative.

13. P.E. Seal

The seal of a Professional Engineer (P.E.) with experience in the area of coastal engineering should be included with any technical plans for a shoreline hardening structure that accompany the application.

The inclusion of this information will help make an Environmental Assessment complete and meet the requirements of Chapter 343, HRS. Only after thorough study and analysis should any permit for shoreline hardening be considered.



November 13, 2003

Genevieve Salmonson, Director
State of Hawaii
Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, Hawaii 96813

SUBJECT: After the Fact (ATF) Conservation District Use Application (CDUA) for Seawall Improvements at TMK (2) 4-3-19:47

Dear Ms. Salmonson:

Thank you for your letter addressed to Peter Young, Chair, Department of Land and Natural Resources dated July 21, 2003 commenting on the subject application. On behalf of the applicant, we wish to provide the following information in response to your comments.

1. **Response to Comments Regarding "Shoreline Hardening Policy and Environmental Assessment Guidelines"**

Please note the completed action pertains to an application of a thin protective coating of gunite to prevent an existing rock revetment seawall from breaking down. The following information is provided regarding the evaluation of the completed action in accordance with the environmental assessment (EA) guidelines for shoreline alteration and hardening projects.

a. **Historical Shoreline Analysis of Coastal Erosion and Accretion Rates**

The final environmental assessment will include the following historical analysis of coastal erosion and accretion rates. Based on data provided by the School of Ocean and Earth Science, University of Hawaii and obtained from the County of Maui Shoreline Atlas data base, the beach area, from Kaea in the south to Kalaeokaia in the north, has experienced light to moderate erosion since 1912 with an average annual erosion hazard rate (AEHR) -0.4 feet per year. However, the beach fronting the subject property indicates that very little erosion has occurred over this period.

b. Shoreline Type

The shoreline type has been described as consisting of carbonate pocket beaches with rocky basalt headlands. The rocky basalt headlands are more predominant along the shoreline to the north of the subject property.

c. Site Maps

Site maps, certified shoreline surveys, private property line and the location of the proposed structure have been provided in the draft EA. Nearby public access has been depicted. Color photographs of the completed action and the adjacent offshore region are provided in the EA. A color aerial photo showing erosion rates from 1912 to present, important geologic and geographic features of the coastline will be provided in the final EA.

d. Beach Profiles

The completed action has been carried out above the mean higher high water line (MHHL) and confirmed to be outside the jurisdiction of the Department of Army Corps of Engineers. As such, discussion of the Department of Army technical criteria for analysis including beach profiles were not incorporated in the final EA.

e. Existing Walls

Existing nearby walls or revetments have been incorporated in the EA. The cumulative impact analysis in the final EA will include discussion of the nearby walls.

f. Description of Improvements

A description of the improvements has been provided in the draft EA.

g. Coastal Hazard History

A coastal hazard analysis of the area will be provided in the final EA as follows. In general, West Maui beaches experience energetic seasonal swell. The islands of Molokai, Lanai and Kahoolawe offer partial protection from the swell. The seasonal wave pattern is described as alternating south-

southwest and north-northwest swell events. The flood and tsunami hazard has been provided in the draft EA.

h. Waves and Currents

An analysis of waves and currents will be provided in the final EA. See item g. above.

i. Sediment Movement

An assessment of the completed action on beach processes has been provided in the draft EA.

j. Thirty-Year Erosion Hazard

An analysis that uses annual erosion rate data will be provided in the final EA as per the guidelines.

k. Photographs

Before and after photographs that illustrate past and present conditions of the completed action have been provided in the draft EA.

l. Alternatives

A discussion of alternatives in the context of the completed action and after the fact application for a CDUA is provided in the draft EA.

m. P.E. Seal

The application for the CDUA does not involve technical plans for a shoreline hardening structure.

2. Response to Consultation with Affected Neighbors and Shoreline Users.

In preparing the draft environmental assessment, affected neighbors and shoreline users were consulted. Specifically, the cultural impact assessment included interviews with neighbors and individuals who have used the area and shoreline fronting the subject property. These individuals indicated that the completed action did not adversely impact their use of the area and their cultural gathering practices.

Genevieve Salmonson, Director
November 13, 2003
Page 4

They confirmed that the completed action improved their lateral access of the shoreline.

Again, thank you for your comments.

Very truly yours,



Mich Hirano, AICP
Planner

MH:yp

cc: Richard Pack
Sam Lemmo, Office of Conservation and Coastal Lands
Peter Young, Department of Land and Natural Resources
pack@seawallfoeqc.res

PHONE (808) 594-1888

FAX (808) 594-1865

2003 JUL 21 10:15



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

HRD 03/1033

July 21, 2003

Diedre S. Mamiya
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
PO Box 621
Honolulu, HI 96809

Dear Ms. Mamiya:

Subject: After the Fact (ATF) Conservation District Use Application (CDUA) for Seawall Improvements

This letter is provided as a response to your request for comments concerning the above referenced project. OHA offers the following comments relating to the issuance of a CDUA for the project. We apologize for our late comments.

Cultural Impact Assessment

The cultural impact assessment should be revised to include more consultation as the applicant appears to have consulted with only two individuals. OHA recommends that the applicant seek as broad a consultation as possible with knowledgeable Native Hawaiian organizations and individuals to improve this cultural impact assessment. This consultation should include the incorporation of the contacts listed below to assist you and the applicant in identifying cultural and historic resources, cultural practices and significance, evaluating cultural places implicated by this project, assessing adverse effects to them, and developing appropriate mitigation and alternatives (where necessary):

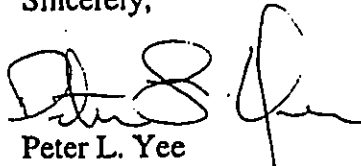
- Local Hawaiian civic clubs
- Local chapters of the royal societies
- Maui Island Burial Council
- Individuals familiar with cultural practices of the areas affected by your undertaking

Easement

The OHA requests more information the grant of the easement to the applicant, including the amount that the State will collect for this disposition of the land. The applicant is asking for non-exclusive and perpetual easement rights and privileges. OHA asks that the State ensure that a fair market price is charged for this easement.

Thank you for the opportunity to comment on the project. If you have any questions, please contact Pua Aiu at 594-1931, or email her at: paiu@oha.org.

Sincerely,



Peter L. Yee
Director
Nationhood and Native Rights

cc: BOT
ADM
Maui CRC



November 13, 2003

Peter L. Yee, Director
Nationhood and Native Rights
Office of Hawaiian Affairs
711 Kapi'olani Boulevard, Suite 500
Honolulu, Hawaii 96813

SUBJECT: After the Fact (ATF) Conservation District Use Application (CDUA) for
Seawall Improvements at TMK (2) 4-3-19:47

Dear Mr. Yee:

Thank you for your letter addressed to Diedre S. Mamiya, Office of Conservation and Coastal Lands, Department of Land and Natural Resources dated July 21, 2003 providing comments on the subject application. On behalf of the applicant, we wish to provide the following information in response to your comments.

1. **Response to Comments on Cultural Impact Assessment**

The interviewees for the cultural impact assessment were chosen based on a criterion indicated in your letter. Namely, "*Individuals familiar with cultural practices of the areas affected by your undertaking*". As mentioned in the cultural impact assessment, Mr. Takahashi, has lived in the area all his life as did his parents and grandparents. His ohana has extensively used the area for gathering practices and continue to do so. In this context, we believe, Mr. Takahashi also meets the criterion of a knowledgeable Native Hawaiian individual. Mr. Pupunu, who is a member of the ohana, was also interviewed because of his familiarity with cultural gathering practices in the area. As mentioned in the cultural impact assessment, the cultural practices include collecting limu and fishing. Not mentioned in the summary, but relevant in the context of your comments, is that one of Mr. Pupunu's sons has been accepted at Kamehameha Schools and will be attending the Maui Kamehameha Schools campus in the near future. As mentioned by both interviewees, their use of the shoreline area for cultural gathering practices have not been adversely impacted by the completed actions.

Peter L. Yee, Director
November 13, 2003
Page 2

2. **Response to Comments Regarding Fair Market Price for the Easement**

Please note that the application is for "non-exclusive use" and for "perpetual easement rights and privileges". The non-exclusivity of the easement would not exclude the area from the public domain. The perpetual easement rights and privileges would allow the applicant to maintain and repair the completed improvements. The granting of these rights and privileges and the price charged for this easement, if the CDUA is approved, will be determined by the Board of Land and Natural Resources in accordance with established policy and administrative rules.

Again, thank you for your comments.

Very truly yours,



Mich Hirano, AICP
Planner

MH:yp

cc: Richard Pack

Sam Lemmo, Office of Conservation and Coastal Lands

Diedre S. Mamiya, Department of Land and Natural Resources

pack@seawallfoha.res

LINDA LINGLE
GOVERNOR OF HAWAII



CHRYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
END / CVB

07010CEC.03

July 7, 2003

Ms. Dierdre S. Mamiya
Acting Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Ms. Mamiya:

**Subject: Comments on the After-the-Fact (ATF)
Conservation District Use Application (CDUA)
Board Permit for A Rock Revetment and
Fill Area Constructed Fronting TMK: (2) 4-3-19:47
Kahana, Lahaina, Island of Maui
File No. CDUA MA-3134**

Thank you for the opportunity to review and comment on the subject ATF CDUA. The following are our comments:

1. We do not condone the issuance of any ATF permit.
2. The Draft Environmental Assessment failed to provide the following information as requested in Items 1 and 2 of our letters (Nos. 09055CEC.02 and 10026CEC.02), dated September 24, 2002 and October 15, 2002, respectively:
 - a. The final determination for the Department of the Army permit from the Honolulu Engineer District of the U.S. Army Corps of Engineers.
 - b. Plans, drawings, typical section of the constructed rock revetment, Best Management Practices and/or water pollution control measures used during the construction, and color photographs or receiving water quality monitoring data collected during both construction events to demonstrate that construction activities did not result in more than minimal adverse impacts to the receiving State waters.

Ms. Dierdre S. Mamiya
July 7, 2003
Page 2

Should you have any questions, please contact Mr. Edward Chen of the Engineering Section,
Clean Water Branch, at 586-4309.

Sincerely,



THOMAS E. ARIZUMI, P.E., CHIEF
Environmental Management Division

EC:ndp



November 14, 2003

Thomas E. Arizumi, P.E., Chief
Environmental Management Division
State of Hawaii
Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

SUBJECT: After the Fact (ATF) Conservation District Use Application (CDUA) for Seawall Improvements at TMK (2) 4-3-19:47

Dear Mr. Arizumi:

Thank you for your letter addressed to Diedre S. Mamiya, Office of Conservation and Coastal Lands, Department of Land and Natural Resources dated July 7, 2003 providing comments on the subject application. On behalf of the applicant, we wish to provide the following information in response to your comments in the same order as presented in your letter.

1. Response to Comment Regarding ATF Permits

We note the Department of Health's position regarding the issuance of ATF permits.

2. Response to Provide the Following Information as Requested in Items 1 and 2 of DOH Letters Dated September 24, 2002 and October 15, 2002, Respectively

- a. Final determination for a Department of Army permit from the Honolulu Engineer District of the U.S. Army Corps of Engineers was not available at the time of early consultation and draft EA. However, based on the information provided in the draft EA regarding the completed action in relation to the mean higher high water line, the Army Corp of Engineers has determined that a Department of Army permit was not required for this project. A letter from George P. Young, P.E., Chief of the Regulatory Branch of the Department of Army Corps of Engineers to Diedre S. Mamiya confirming this determination is provided in Exhibit "A" for your information and file.

Thomas E. Arizumi, P.E., Chief
November 14, 2003
Page 2

- b. As mentioned in the draft EA, the completed actions involved a thin protective coating of gunite and placement of a planter box on top of the rock revetment. The completed actions were cosmetic and maintenance related and not structural improvements. The rock revetment was constructed during an undetermined time period prior to 1977. Therefore, plans, drawings and a typical section of the rock revetment are not available. Best Management Practices (BMPs) that were followed in connection with the completed actions, based on information provided by the applicant were provided in the draft EA. It was noted in the draft EA water quality in the area immediately in front of the rock revetment seawall may have increased in turbidity, due to the loosening of sediments and application of the gunite coating. However, this was a short term impact and it appears the completed actions did not result in more than temporary, minimal impacts to the receiving State waters. The color photographs or receiving water quality monitoring data requested, to confirm no adverse impacts to State waters resulted from the completed actions were not available. Therefore, this assessment relied upon information gained from field observations and interviews with the applicant and with neighbors whom frequent the area.

Again, thank you for your comments and review of the draft environmental assessment.

Very truly yours,



Mich Hirano, AICP
Planner

MH:yp

Enclosure

cc: Richard Pack

Sam Lemmo, Office of Conservation and Coastal Lands

Peter Young, Department of Land and Natural Resources

pack@sewalltsdoh.res



DEPARTMENT OF THE ARMY
U. S. ARMY ENGINEER DISTRICT, HONOLULU
FT. SHAFTER, HAWAII 96858-6440

REPLY TO
ATTENTION OF

June 24, 2003

RECEIVED
JUN 26 2003

2003 JUN 26 A 10:51

Regulatory Branch

Ms. Dierde S. Mamiya
Acting Administrator
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, Hawaii 96809

Dear Ms. Mamiya:

This letter responds to your request for review and comment on the Conservation District Use Application (CDUA) MA-3134, dated June 9, 2003. Based on information provided by the applicant's agent by the enclosed letter, dated April 7, 2003, I determined that a Department of the Army permit was not required for this project.

If you have any questions concerning this determination, please contact William Lennan of my staff at 438-6986 or FAX 438-4060, and reference File No. 200200548.

Sincerely,

George P. Young, P.E.
Chief, Regulatory Branch

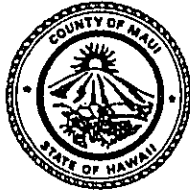
Enclosure

EXHIBIT "A"

ALAN M. ARAKAWA
Mayor

GILBERT S. COLOMA-AGARAN
Director

MILTON M. ARAKAWA, A.I.C.P.
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
AND ENVIRONMENTAL MANAGEMENT
DEVELOPMENT SERVICES ADMINISTRATION
250 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793

RALPH M. NAGAMINE, L.S., P.E.
Development Services Administration

TRACY TAKAMINE, P.E.
Wastewater Reclamation Division

LLOYD P.C.W. LEE, P.E.
Engineering Division

BRIAN HASHIRO, P.E.
Highways Division

JOHN D. HARDER
Solid Waste Division

July 12, 2003

Ms. Dierdre S. Mamiya, Action Administrator
Office of Conservation and Coastal Lands
DEPARTMENT OF LAND & NATURAL RESOURCES
54 South High Street, Room 101
Wailuku, Hawaii 96793

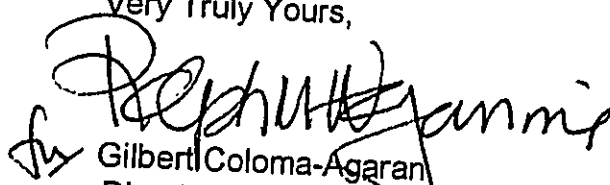
SUBJECT: CONSERVATION DISTRICT USE APPLICATION
PACK'S AFTER-THE-FACT SEAWALL IMPROVEMENTS
TMK: (2)4-3-019:047
CDUA - MA3134

Dear Ms. Mamiya:

We reviewed the subject application and have no comments at this time.

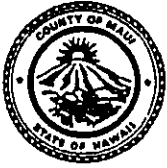
If you have any questions regarding this letter, please call Milton Arakawa at 270-7845.

Very Truly Yours,


Gilbert Coloma-Agaran
Director of Public Works and
Environmental Management

RMN:msc

S:\LUCA\ICZM\snowed Inn-pack-seawall-cdua_msc.03.wpd



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE
tj
YOUR REFERENCE

POLICE DEPARTMENT
COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411

June 16, 2003

JUN 20 2003



THOMAS M. PHILLIPS
CHIEF OF POLICE

KEKUHAPIO R. AKANA
DEPUTY CHIEF OF POLICE

Ms. Dierdre S. Mamiya
Acting Administrator
State of Hawaii
Dept. of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, HI 96809

Dear Ms. Mamiya:

SUBJECT: Conservation District Use Application (CDUA) MA-3134 (Board Permit) for Pack's After-The-Fact (ATF) CDUA for Seawall Improvements, Kahana, Maui, TMK: (2) 4-3-0129:047 Hāna, Maui

Thank you for giving us the opportunity to comment on the proposed project. We have reviewed the application and have no comments or recommendations to offer at this time. Enclosed is the application which was submitted for our review.

Very truly yours,

Assistant Chief Sydney Kikuchi
for: Thomas M. Phillips
Chief of Police

Enclosure

c: Michael Foley, Planning Department
✓ Mich Hirano, Munekiyo & Hiraga, Inc.

References

References

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

Munekiyo & Hiraga, Inc., After-the-Fact Approvals for Work Performed at Olowalu, Maui, Hawaii, prepared for Olowalu Elua Associates, LLC, June 2001.

University of Hawaii, School of Ocean and Earth, Science Technology, Maui Shoreline Atlas.

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.

Appendices

Appendix A

County of Maui, Department of Public Works, Shoreline Structure Inventory at TMK 4-3-19:47 (previously TMK 4-3-05:32), Hawaii Coastal Zone Management Survey, August 18, 1986

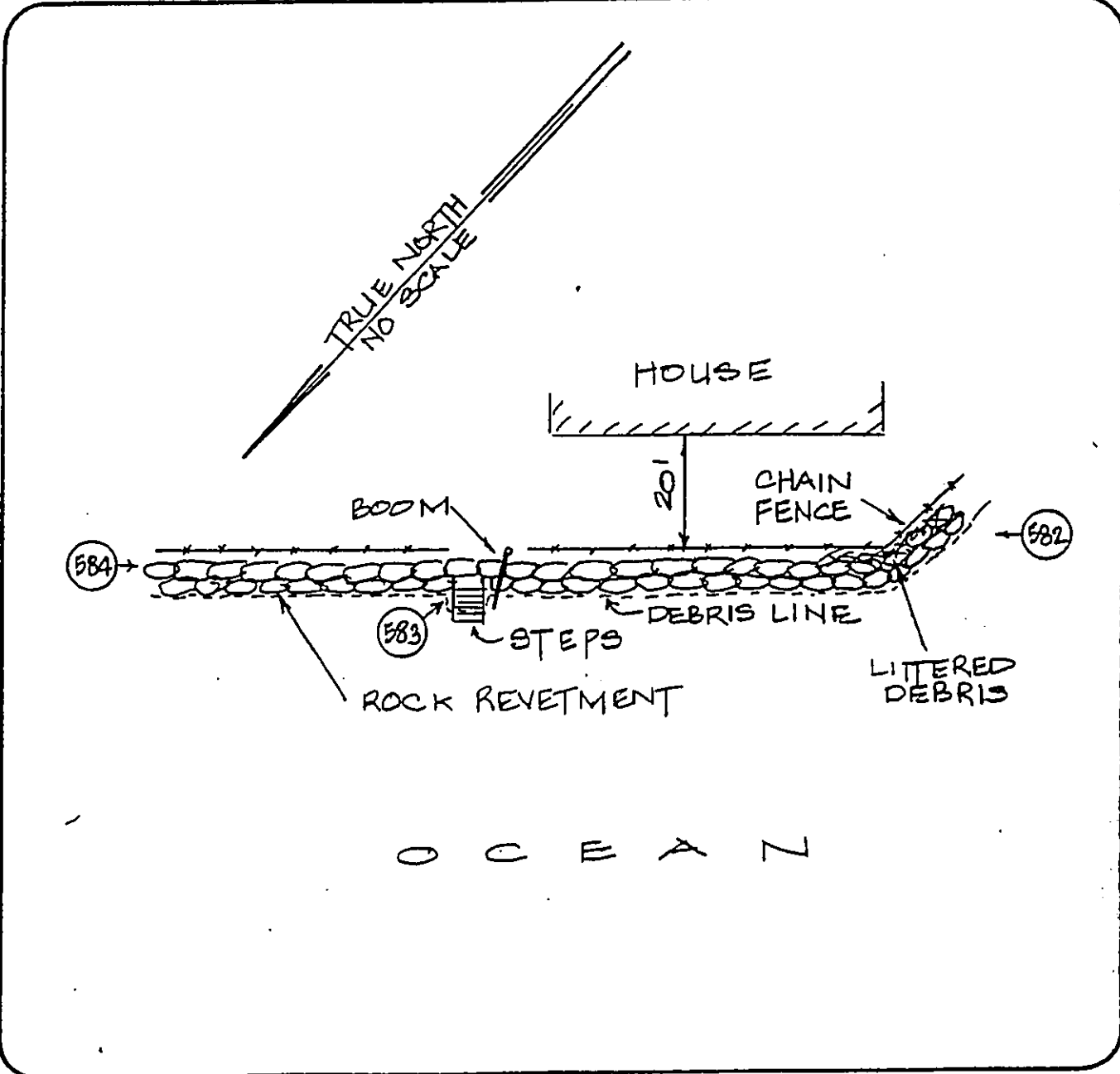
COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
SHORELINE STRUCTURE INVENTORY
 HAWAII COASTAL ZONE MANAGEMENT SHORELINE SURVEY

Surveyor: D. J. Date: 8-18-86
 Tide: High ↓ Low X ↑ X Time: 1023

PLATE NO. LA-151
 TMK: 4-3-03:32
 Location: KAHANA

SHORELINE: SANDY _____ GRAVEL _____ ROCKY _____ OTHER NO BEACH
 FLAT _____ SLOPING _____ VERTICAL X OTHER _____
ACCESS: GOOD _____ DIFFICULT X HAZARDOUS _____ OTHER _____
STRUCTURES: (NUMBER OF) BUILDINGS 1 RETAINING WALLS _____ GROINS _____ PIERS _____
 REVETMENTS 1 BULKHEADS _____ SEAWALLS _____ OTHER STEPS; CHAIN FENCE;

BOOM (HOIST)
 COMMENTS DEBRIS IS LITTERED ALONG THE ROCKS



Appendix B

***State of Hawaii, Department of
Land and Natural Resources,
Hearing Officer/Administrative
Penalty System, Letter Dated
June 13, 2002***

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



GILBERT S. COLOMA-ACARAN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

ERIC T. HIRANO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF CONSERVATION AND RESOURCES ENFORCEMENT
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

HEARING OFFICER/ADMINISTRATIVE PENALTY SYSTEM

June 13, 2002

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

W-
WHT=

CERTIFIED MAIL

Mr. Richard Pack
c/o Mich Hirano, AICP
Munekiyo and Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Pack,

SUBJECT: HOAPS CASE NO. 02-0011-MA-LN

The contents of the Department of Land and Natural Resources (DLNR) Report of Investigation 02-0011-MA-LN provides probable cause to believe that an encroachment onto State land exists at 4605 Lower Honoapiilani Road. This is further described in the attached Case Processing Record.

As noted in Paragraph A on the reverse side of the Case Processing Record, DLNR cases may be referred to the Courts, the Board of Land and Natural Resources, or to disposal by Administrative Penalty. Paragraph F lists the maximum penalties that may be awarded in each instance.

Please read all of the information on the reverse side of the attached Case Processing Record, paying particular attention to Paragraph F.

Paragraph 4 on the front of the Case Processing Record shows the options being offered to you for disposition of this case. PLEASE READ AND MARK YOUR CHOICE IN PARAGRAPH 5, SIGN AND DATE THE FORM AND RETURN IT TO THIS OFFICE IN THE ATTACHED ENVELOPE. Your reply is due in this office on or before June 28, 2002.

Should you have any questions, please contact me at 587-0076.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Edwards".

Patricia Edwards
HOAPS Desk

After hours, weekends and holidays, call The Conservation Hotline 587-0077
Neighbor Islands call Enterprise Operator 5469

**DISPOSITION THROUGH ADMINISTRATIVE PENALTY OR BY A
CONSERVATION AND RESOURCES HEARING OFFICER (CHRO)**

The Chairperson may offer this option after review of the report

- A. Other than referral to the Courts, there are three means for processing violation cases:
1. Appearance of the alleged violator at a formal hearing before the Board of Land and Natural Resources (BLNR).
 2. The Hearing Officer/Administrative Penalty System (HOAPS). This can be:
 - a. Appearance of the alleged violator at a hearing before a CRHO, or
 - b. Disposition by Administrative Penalty without a personal appearance.
- B. The Administrative Penalty procedure consists of a review and analysis of the investigation report and evidence, and a decision by the Chairperson on the merits of the case and on what penalty, if any, is to be awarded.
- C. An alleged violator's request for case disposition under HOAPS (CRHO or Administrative Penalty) SHALL NOT BE CONSTRUED AS AN ADMISSION OF GUILT.
- D. Any finding that a person has committed a violation becomes a matter of record for consideration in future cases. This is true of court convictions, as well as in BLNR, CRHO, and Administrative Penalty findings.
- E. Cases referred to a CRHO require the appearance of the alleged violator at a hearing, at which the allowable penalties are substantially less than what can be imposed by the Courts or by the Board of Land and Natural Resources.
- F. Penalties are most severe if imposed by the Courts or by the BLNR, less severe if imposed by the CRHO, and least severe if imposed as an administrative penalty. In the present case, allowable maximum penalties are:
1. The Court:
 2. The BLNR: \$2000 Fine & Administrative Costs
 3. The CRHO: \$500-1000 Fine & Administrative Costs
 4. Administrative Penalty: \$250-500 Fine & Administrative Costs

CASE PROCESSING RECORD (HOAPS) – Report of Investigation 02-0011-MA-LN

1. LANDOWNER

Mr. Richard Pack

Rec JUNE 25th Salt Lake City, UT (RUP)

2. DATE(S) AND SUMMARY OF ALLEGED VIOLATION

During an undetermined time period prior to 1977, a rock revetment and fill area was constructed fronting parcel TMK: (2) 4-3-19:47 at Kahana, Lahaina, Maui. This revetment and fill area constitutes an encroachment onto state owned Conservation District lands. The encroachment consists of an area of approximately 1035 square feet. The improvement was made without written permission from the Board of Land and Natural Resources or its authorized representative, this act being in violation of Chapter 13-5, Hawaii Administrative Rules.

3. RULE(S) AND/OR STATUTE(S) ALLEGEDLY VIOLATED

The above act was conducted without a temporary variance, emergency authorization or any other valid authorization from the Department of Land and Natural Resources in violation of Chapter 13-5, Hawaii Administrative Rules.

I HAVE READ THE EXPLANATIONS ON THE REVERSE OF THIS PAGE AND UNDERSTAND:

4. That by receiving this form, I have been given the option of requesting case disposition under the Hearing Officer/Administrative Penalty System (HOAPS).
 - a. If I agree to this, the assigned penalty will be:

\$600.00 (\$500.00 fine and 100.00 administrative costs). Be advised that upon successful resolution of this matter, you may apply for an after-the-fact Conservation District Use Application (CDUA) and easement.
 - b. If I decline disposition by HOAPS, or if I fail to return this form by 06/28/02, my case is subject to referral to the Courts or to the Board of Land and Natural Resources.
5. PLEASE REVIEW THE INFORMATION ON THE REVERSE AND CHECK ONE OF THE FOLLOWING OPTIONS. SIGN, DATE AND RETURN THIS FORM IN THE ATTACHED ENVELOPE:



I request disposal of this case by Administrative Penalty.

I decline to have this case disposed of by the HOAPS.

Signature

Date

CORRECTION

THE PRECEDING DOCUMENT(S) HAS
BEEN REPHOTOGRAPHED TO ASSURE
LEGIBILITY
SEE FRAME(S)
IMMEDIATELY FOLLOWING

CASE PROCESSING RECORD (HOAPS) - Report of Investigation 02-0011-MA-LN

1. LANDOWNER

Mr. Richard Pack

Rec JUNE 25th SAUL LAKE CITY, UTAH (RUP)

2. DATE(S) AND SUMMARY OF ALLEGED VIOLATION

During an undetermined time period prior to 1977, a rock revetment and fill area was constructed fronting parcel TMK: (2) 4-3-19:47 at Kahana, Lahaina, Maui. This revetment and fill area constitutes an encroachment onto state owned Conservation District lands. The encroachment consists of an area of approximately 1035 square feet. The improvement was made without written permission from the Board of Land and Natural Resources or its authorized representative, this act being in violation of Chapter 13-5, Hawaii Administrative Rules.

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The above act was conducted without a temporary variance, emergency authorization or any other valid authorization from the Department of Land and Natural Resources in violation of Chapter 13-5, Hawaii Administrative Rules.

I HAVE READ THE EXPLANATIONS ON THE REVERSE OF THIS PAGE AND UNDERSTAND:

4. That by receiving this form, I have been given the option of requesting case disposition under the Hearing Officer/Administrative Penalty System (HOAPS).
- a. If I agree to this, the assigned penalty will be:
- \$600.00 (\$500.00 fine and 100.00 administrative costs). Be advised that upon successful resolution of this matter, you may apply for an after-the-fact Conservation District Use Application (CDUA) and easement.
- b. If I decline disposition by HOAPS, or if I fail to return this form by 06/28/02, my case is subject to referral to the Courts or to the Board of Land and Natural Resources.
5. PLEASE REVIEW THE INFORMATION ON THE REVERSE AND CHECK ONE OF THE FOLLOWING OPTIONS. SIGN, DATE AND RETURN THIS FORM IN THE ATTACHED ENVELOPE:

I request disposal of this case by Administrative Penalty.

I decline to have this case disposed of by the HOAPS.

Signature

Date

Appendix C

Quitclaim Deed

RECORDATION REQUESTED BY:

DEPT. OF LAND AND NATURAL RESOURCES
LAND MANAGEMENT DIVISION

AFTER RECORDATION, RETURN TO:

DEPT. OF LAND AND NATURAL RESOURCES
LAND MANAGEMENT DIVISION

RETURN BY: MAIL () PICKUP (X)

81-111117

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

81 NOV 4 P12: 57

RECEIVED 15962, 294
OF RECORDS REG. REGISTRAR

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT, effective as of the 10th day of
November, 1980, the STATE OF HAWAII, hereinafter
referred to as the "GRANTOR", by its Board of Land and
Natural Resources, acting pursuant to Section 171-53, Hawaii
Revised Statutes, and Special Sale Agreement No. S-5524 dated
June 23, 1978, for and in consideration of the sum of NINE
THOUSAND SIX HUNDRED AND NO/100 DOLLARS (\$9,600.00), paid
at the Department of Land and Natural Resources by TAKEO
YAMAUCHI and LYNETTE S. YAMAUCHI, husband and wife, as Tenants
in Common, whose residence and post office address is 1177
Halepaka Place, Lahaina, Maui, Hawaii 96761, hereinafter
referred to as the "GRANTEES", the receipt whereof is hereby
acknowledged, does hereby remise, release and forever quitclaim
unto the said GRANTEES, their successors and assigns, all of
its right, title, interest, claim and demand in and to that
certain parcel of land situate at Kahana, Lahaina, Maui,
Hawaii, designated as Filled Area, Fronting Portion of Grant
1166 to D. Baldwin, et al., containing an area of 2,655 square
feet, more or less, more particularly described in Exhibit "A"
and delineated on Exhibit "B", both of which are attached

STATE OF HAWAII
CONVEYANCE TAX...
00.00
P.O. BOX 481
HONOLULU, HAWAII 96809
426062
CENTRAL FILED

15962 295

hereto and made parts hereof, said exhibits being, respectively, a survey description and a survey map prepared by the Survey Division, Department of Accounting and General Services, State of Hawaii, designated as C.S.F. No. 18,138 and dated September 20, 1977.

RESERVING TO THE STATE OF HAWAII, ITS SUCCESSORS AND ASSIGNS, THE FOLLOWING:

- (1) All minerals as hereinafter defined, in, on or under the land and the right, on its own behalf or through persons authorized by it, to prospect for, mine and remove such minerals and to occupy and use so much of the surface of the ground as may be required for all purposes reasonably extending to the mining and removal of such minerals by any means whatsoever, including strip mining. "Minerals", as used herein, shall mean any or all oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits, whether solid, gaseous or liquid, including all geothermal resources, in, on, or under the land, fast or submerged; provided, that "minerals" shall not include sand, gravel, rock or other material suitable for use and used in general construction in furtherance of the GRANTEES' permitted activities on the land and not for sale to others.
- (2) All surface and ground waters appurtenant to the said land and the right on its own behalf or through

15962 296

persons authorized by it, to capture, divert or impound the same and to occupy and use so much of the said land as may be required in the exercise of this right reserved.

(3) All prehistoric and historic remains found in, on or under said land.

Provided, however, that as a condition precedent to the exercise of the rights reserved in Paragraphs 1 and 2, just compensation shall be paid to the GRANTEES for any of GRANTEES' improvements taken.

AND the GRANTEES, for themselves, their successors and assigns, covenants with the GRANTOR and its successors as follows:

1. That the use and enjoyment of the land herein conveyed shall not be in support of any policy which discriminates against anyone based upon race, creed, sex, color, national origin or a physical handicap.

2. That the use of said land shall be in combination and consolidation with GRANTEES' abutting property and shall be used in accordance with the appropriate zoning and subdivision ordinances of the County of Maui.

3. That the GRANTEES, their successors and assigns, shall waive, forever, any and all claims and/or causes of action it may have now or in the future against the United States, the State of Hawaii, or an agency or political subdivision of either of them, with regard to issuance of this quitclaim deed to GRANTEES.

TO HAVE AND TO HOLD the same together with all the rights, easements, privileges and appurtenances thereunto

15962 297

belonging or in anywise appertaining or held and enjoyed therewith unto said TAKEO YAMAUCHI and LYNETTE S. YAMAUCHI, husband and wife, as Tenants in Common, their successors and assigns, forever, except as aforesaid.

IN WITNESS WHEREOF, the STATE OF HAWAII, the GRANTOR herein, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be duly executed this 16th day of November, 1980, and TAKEO YAMAUCHI and LYNETTE S. YAMAUCHI, husband and wife, GRANTEES herein, have caused these presents to be executed this 22nd day of October, 1980, both effective as of the day and year first above written.

STATE OF HAWAII

By S. Ono
Chairman and Member
Board of Land and
Natural Resources

Approved by the Board
at its meeting held on

August 12, 1977

[Signature]

And By [Signature]
Member
Board of Land and
Natural Resources

[Signature]
TAKEO YAMAUCHI

[Signature]
LYNETTE S. YAMAUCHI

APPROVED AS TO FORM:

[Signature]
Deputy Attorney General

Dated: October 7, 1980

15962 297

belonging or in anywise appertaining or held and enjoyed therewith unto said TAKEO YAMAUCHI and LYNETTE S. YAMAUCHI, husband and wife, as Tenants in Common, their successors and assigns, forever, except as aforesaid.

IN WITNESS WHEREOF, the STATE OF HAWAII, the GRANTOR herein, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and these presents to be duly executed this 10th day of November, 1980, and TAKEO YAMAUCHI and LYNETTE S. YAMAUCHI, husband and wife, GRANTEEES herein, have caused these presents to be executed this 22nd day of October, 1980, both effective as of the day and year first above written.

STATE OF HAWAII

By [Signature]
Chairman and Member
Board of Land and
Natural Resources

Approved by the Board
at its meeting held on

August 12, 1981

[Signature]

And By [Signature]
Member
Board of Land and
Natural Resources

[Signature]
TAKEO YAMAUCHI

[Signature]
LYNETTE S. YAMAUCHI

APPROVED AS TO FORM:

[Signature]
Deputy Attorney General

Dated: October 7, 1980

15962 298

STATE OF HAWAII)
) SS
COUNTY OF MAUI)

On this 2nd day of October, 1980,
before me personally appeared TAKEO YAMAUCHI and LYNETTE S.
YAMAUCHI, to me known to be the persons described in and who
executed the foregoing instrument and acknowledged that they
executed the same as their free act and deed.

Alvin B. Stahl
Notary Public, State of Hawaii

My commission expires: 4/1/81



15962 299

STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

September 20, 1977

C.S.P. No. 18,138

FILLED AREA

FRONTING PORTION OF GRANT 1166 to D. BALDWIN, et al.

Kahana, Lahaina, Maui, Hawaii

Beginning at the south corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MALO" being 16,160.44 feet South and 13,021.42 feet West and thence running by azimuths measured clockwise from True South:-

1. 160° 12' 40" 12.57 feet along top edge of rock revetment;
2. 225° 42' 20" 198.00 feet along top edge of rock revetment;
3. 236° 00' 64.01 feet along top edge of rock revetment;
4. 45° 42' 20" 266.19 feet along Grant 1166 to D. Baldwin, et al. to the point of beginning and containing an AREA OF 2,655 SQUARE FEET.

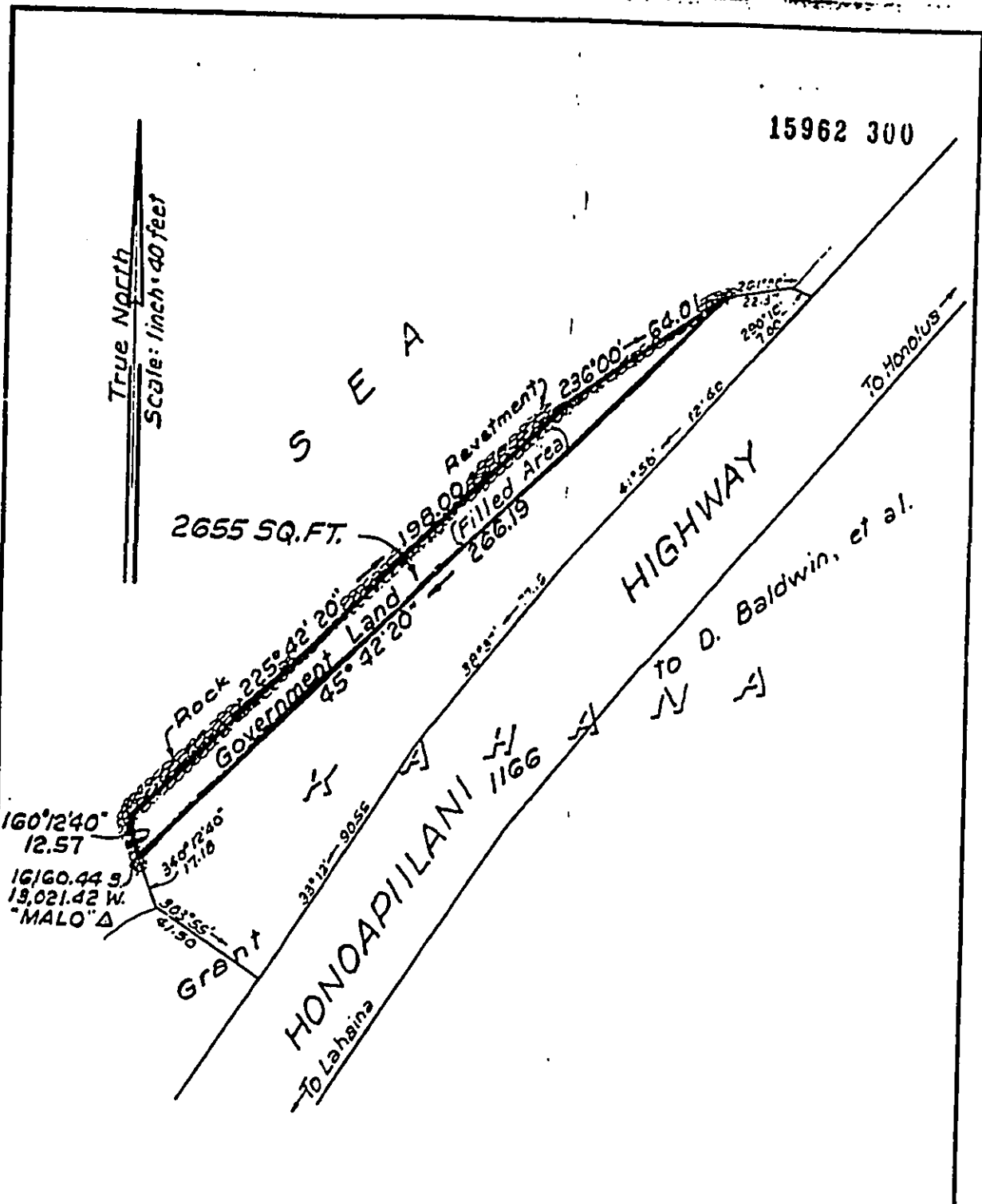
SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: James Chrystal Jr.
James Chrystal Jr.
Land Surveyor

ac

Compiled from map
by W.S. Unemori Engr., Inc.
and Govt. Survey Records.

EXHIBIT "A"



FILLED AREA
 FRONTING PORTION OF GRANT 1166 TO D. BALDWIN, ET AL.
 Kahana, Lahaina, Maui, Hawaii
 Scale: 1 inch = 40 feet

JOB NO. MA-8445
 C. B. F. No. 18138, MAUI

EXHIBIT "g"

TAX MAP 4-3-01:16

SURVEY DIVISION
 DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
 STATE OF HAWAII

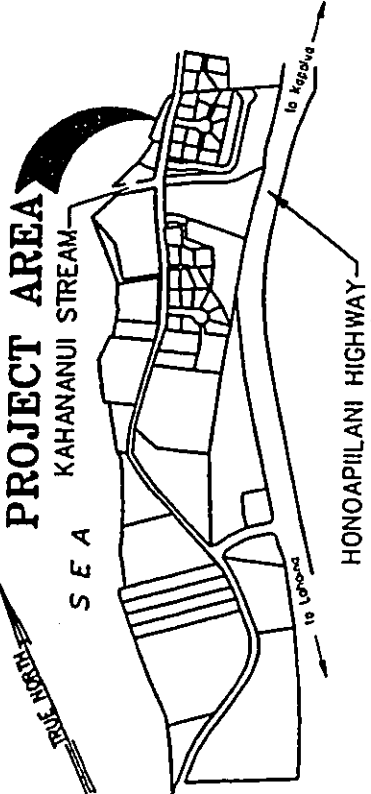
C. B. F. No. 18138

Sept. 20, 1977 J.C.

Appendix D

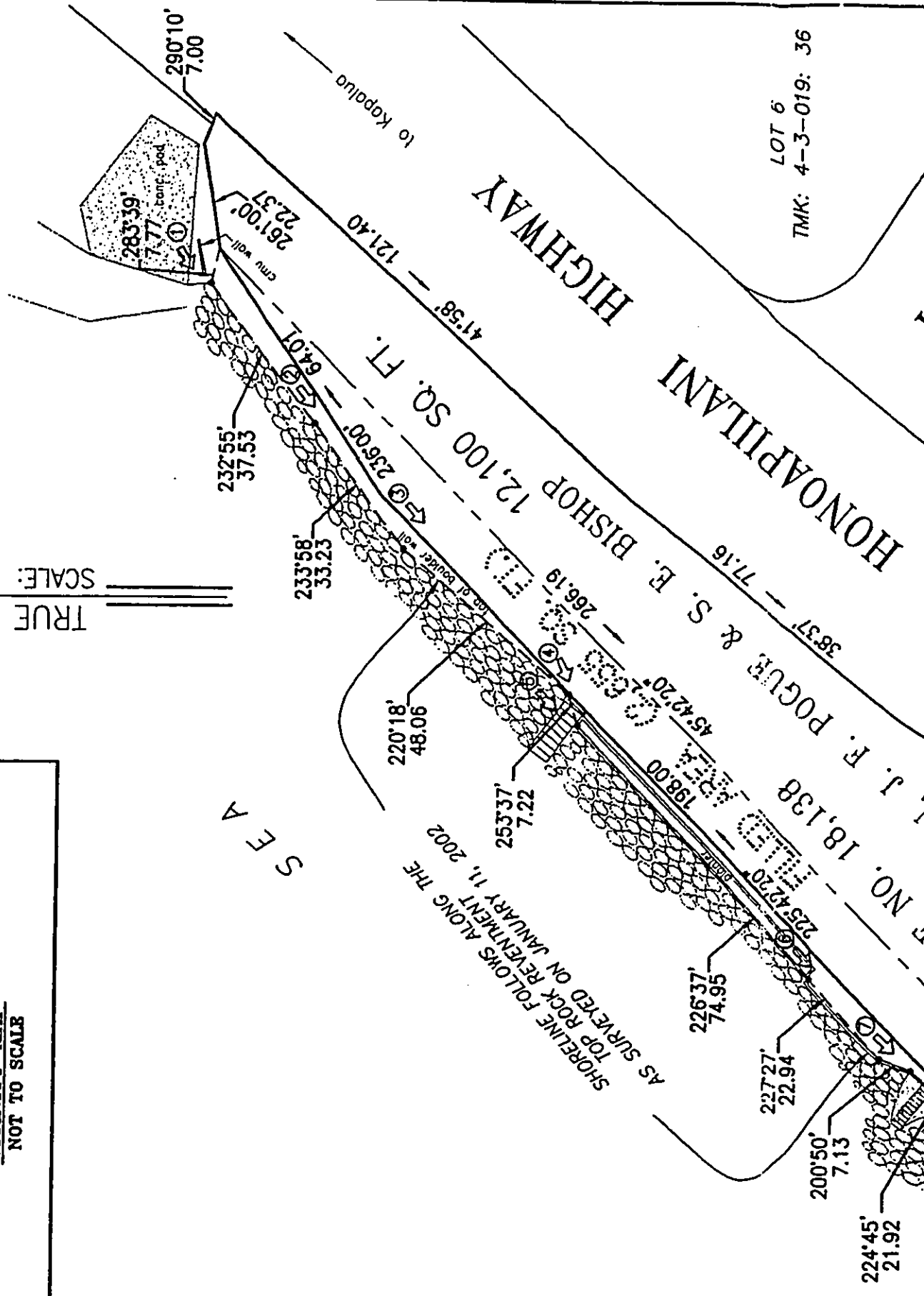
***Shoreline Survey
January 16, 2002***

PROJECT AREA

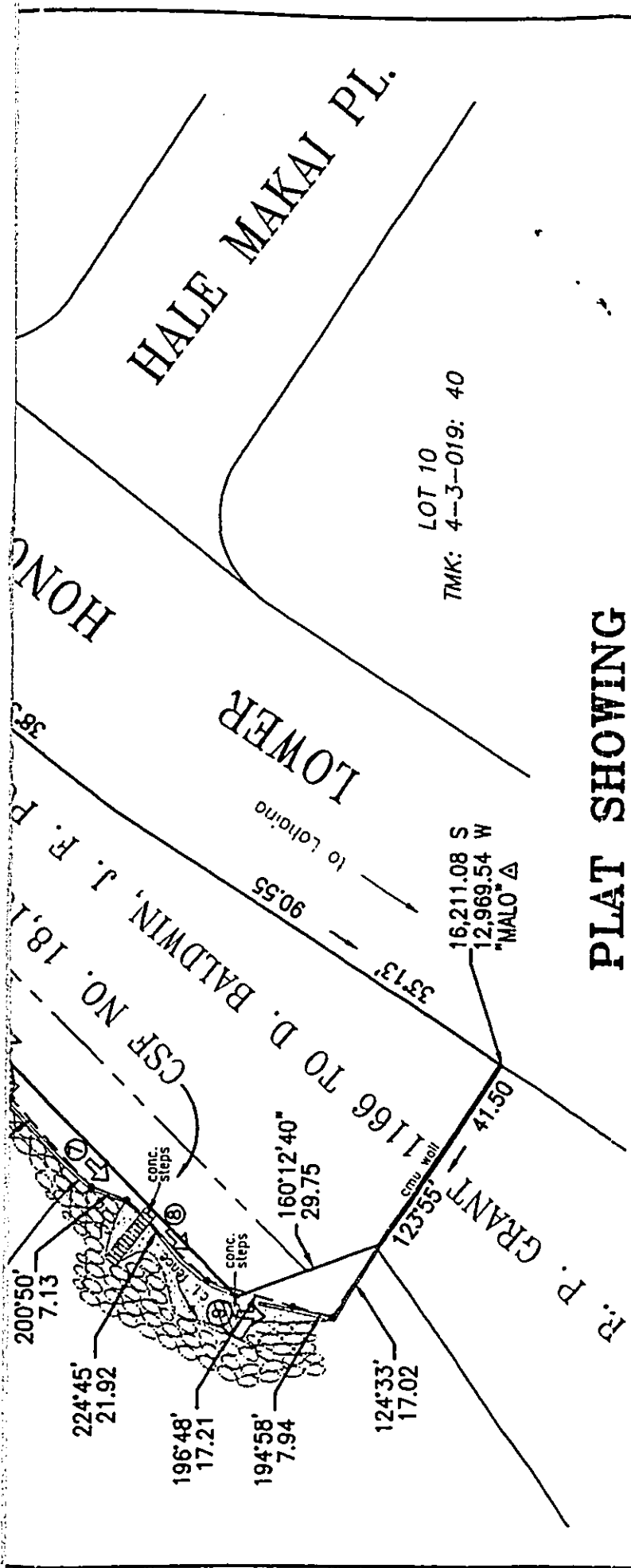


VICINITY MAP
NOT TO SCALE

TRUE NORTH
SCALE: 1" = 30'



LOT 6
TMK: 4-3-019: 36



**PLAT SHOWING
SHORELINE CERTIFICATION
A PORTION OF ROYAL PATENT GRANT 1166 TO
D. BALDWIN, J. F. POGUE AND S. E. BISHOP
AND FILLED AREA GOVERNMENT LAND (CSF NO. 18,138)
AT KAHANA, LAHAINA, MAUI, HAWAII**

LOT 2
TMK: 4-3-019: 46

LOT 10
TMK: 4-3-019: 40



AUSTIN, TSUTSUMI, & ASSOCIATES INC.
1871 WILI PA LOOP, SUITE A
WAILUKU, MAUI, HI 96793

THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION.

Erika S. Kanerhiro

LICENSED PROFESSIONAL LAND SURVEYOR
CERTIFICATE No. 9826

January 16, 2002

- NOTES:
1. COORDINATES AND AZIMUTHS ARE REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "MALO" Δ.
 2. NAMES OF ADJOINING OWNERS ARE FROM TAX MAP RECORDS.
 3. Ⓣ ⇄ DENOTES PHOTO NUMBER AND DIRECTION.
 4. CERTIFICATION IS FOR PERMITTING PURPOSES.

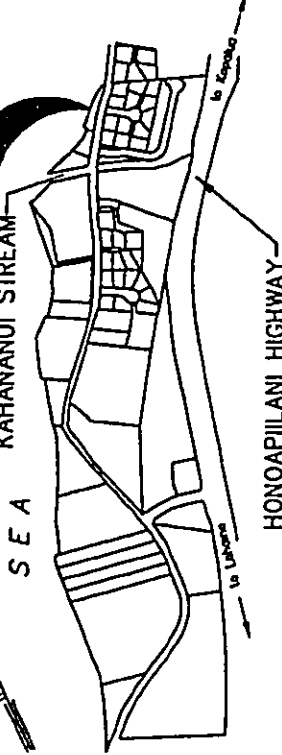
4605 LOWER HONOAPIILANI ROAD
LAHAINA, HAWAII 96761
TAX MAP KEY (2) 4-3-19: 47

Appendix E

***Survey of Mean
Higher High Water,
February 26, 2003***

PROJECT AREA

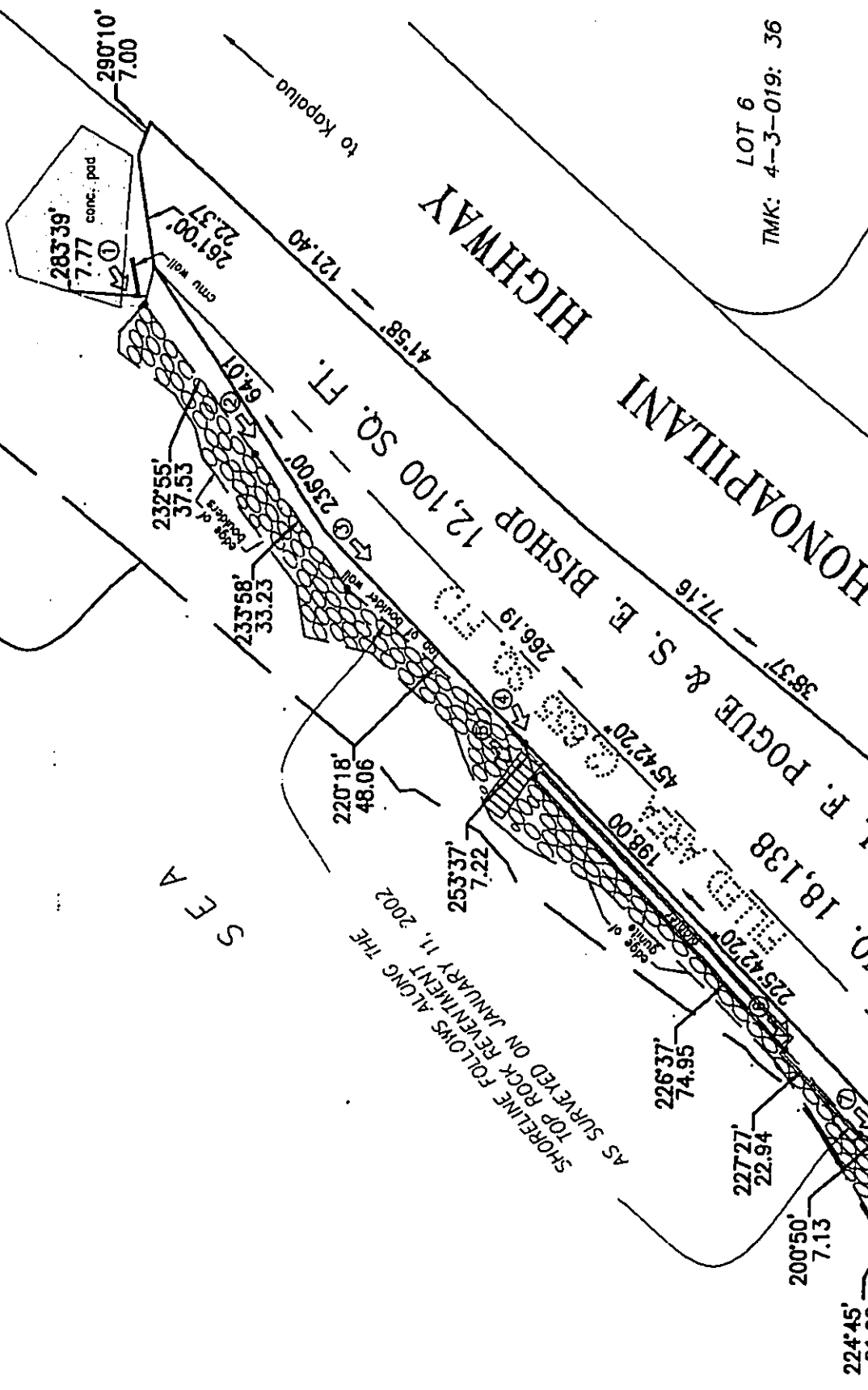
KAHANANUI STREAM

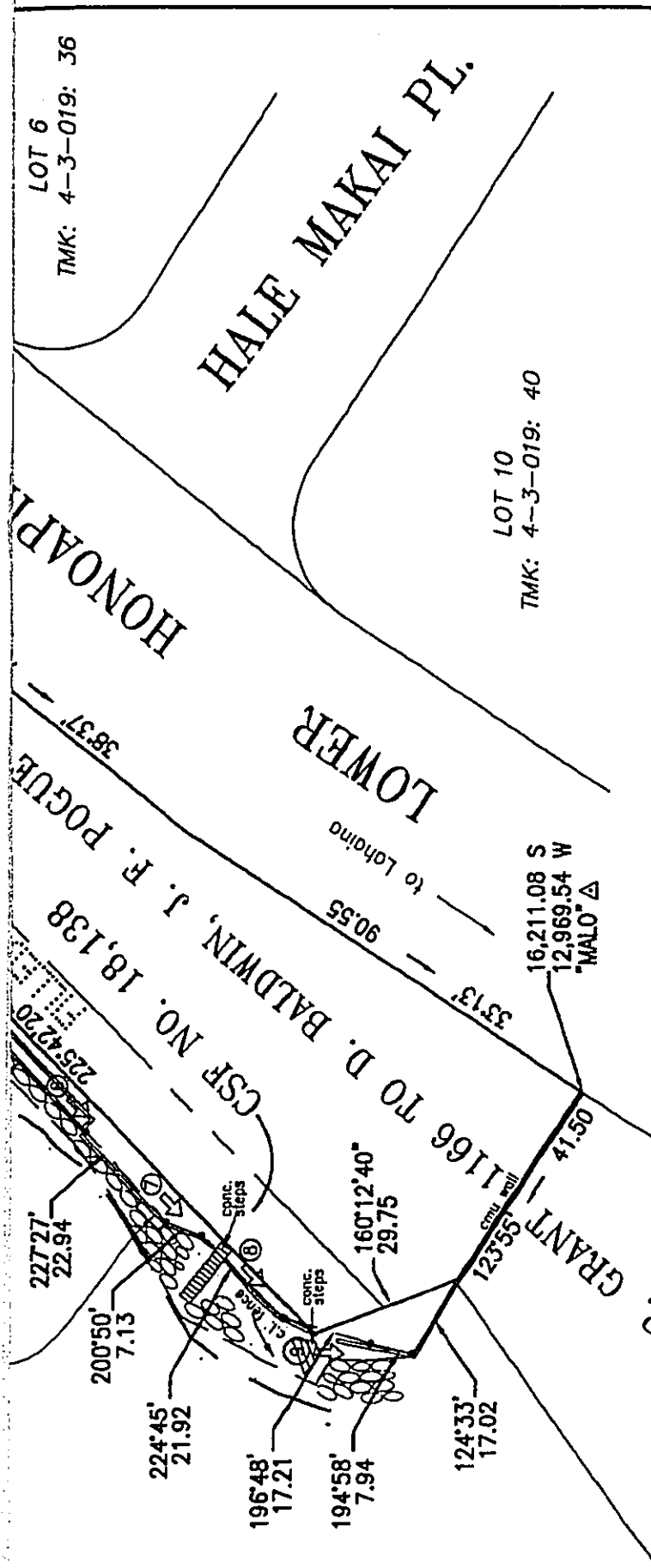


HONOAPIILANI HIGHWAY

VICINITY MAP
NOT TO SCALE

AS SURVEYED ON FEBRUARY 26, 2003
MEAN HIGHER HIGH WATER MARK (1.07 FT.)

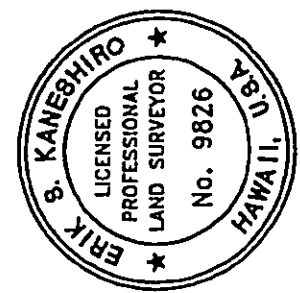




**PLAT SHOWING
 SHORELINE CERTIFICATION**
**A PORTION OF ROYAL PATENT GRANT 1166 TO
 D. BALDWIN, J. F. FOGUE AND S. E. BISHOP
 AND FILLED AREA GOVERNMENT LAND (CSF NO. 18,138)**
AT KAHANA, LAHAINA, MAUI, HAWAII

LOT 2
 TMK: 4-3-019: 46

- NOTES:
- COORDINATES AND AZIMUTHS ARE REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "MALO" Δ.
 - NAMES OF ADJOINING OWNERS ARE FROM TAX MAP RECORDS.
 - ⊙ ⇨ DENOTES PHOTO NUMBER AND DIRECTION.
 - CERTIFICATION IS FOR PERMITTING PURPOSES.



AUSTIN, TSUTSUMI, & ASSOCIATES INC.
 1871 WILI PA LOOP, SUITE A
 WAILUKU, MAUI, HI 96793

THIS WORK WAS PREPARED BY ME
 OR UNDER MY SUPERVISION.

Erik S. Kaneshiro

LICENSED PROFESSIONAL LAND SURVEYOR
 CERTIFICATE No. 9826

4605 LOWER HONOAPIILANI ROAD
 LAHAINA, HAWAII 96761
 TAX MAP KEY (2) 4-3-19: 47

January 16, 2002

11" x 17"

ATA AUSTIN, TSUTSUMI & ASSOCIATES, INC.
 ENGINEERS, SURVEYORS • HONOLULU, WAILUKU, HAWAII

Z:\SURVEY\01-559\01559sl.dwg