

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

March 23, 2018

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

PSF No.: 17MD-152

MAUI

Amend Prior Board Approval of Item D-8 from January 12, 2018: “*Grant of Term, Non-Exclusive Easement to the Association of Apartment Owners of Hololani for Steel Sheet Pile Seawall and Rock Revetment Purposes; Issuance of Management Right-of-Entry; Kahana, Lahaina, Maui, Tax Map Key: (2) 4-3-010: Seaward of 009.*”

The purpose of the amendment is to approve a construction Right-of-Entry permit to the Hololani Association of Apartment Owners for steel sheet seawall and revetment purposes.

BACKGROUND:

On January 12, 2018, under agenda item D-8, the Board authorized the issuance of a 55-year term, non-exclusive easement for seawall and revetment purposes and a management Right-of-Entry (ROE) for that structure to the Association of Apartment Owners of Hololani (Hololani AOA). (See **Exhibit A**).

REMARKS:

Subsequent to the January 12, 2018 Board meeting, representatives acting on behalf of the Hololani AOA expressed concerns regarding the approximate length of time needed to complete the execution of the easement (about 1-1.5 years); citing rising material and maintenance cost of the current OCCL approved erosion control sandbags (see **Exhibit B**), rising interest rates, and rising shipping and material cost for the seawall and revetment. The Hololani AOA representatives requested an ROE be approved so that construction of the seawall and revetment could commence no later than May 10, 2018 (the latest date given by the construction consultant with the completion done before the winter wave swells arrive). The Hololani AOA realized only after the prior Board meeting that the Board had approved a management ROE for the seawall and revetment structure, which did not allow for an early construction of the new structure. The Hololani AOA now comes before the Board to clarify their ROE request.

The Hololani AOA will also simultaneously move forward with the easement process. The Hololani AOA has submitted a concurrent resolution for approval of the easement to the Legislature. The Hololani AOA committed that construction of the seawall and revetment would not commence unless concurrent resolution is approved during the 2018 legislative session. Also, that Hololani AOA will provide to the Department of Land

and Natural Resources (DLNR) a performance bond equal to 150% of the removal cost of the seawall and revetment to be justified by a written estimate, and restoration of the shoreline area to the satisfaction of the Department, should the easement fail to be executed.

The Hololani AOA has secured County of Maui, Special Management Area permits for portions of the seawall and revetment being constructed on private property. As noted in the prior Board approval, the Board has already approved a Conservation District Permit for the new structure. The Hololani AOA has confirmed that there are no further regulatory requirements for the construction of the new structure, only the completion of the easement process is outstanding.

Based on the review of the above information, staff recommends that the Board authorize granting a ROE for the construction of the seawall and revetment to commence on or after May 10, 2018, provided that: (1) concurrent resolution for the seawall and revetment is approved during the 2018 legislative session; and, (2) Hololani AOA provides to DLNR a performance bond equal to 150 % of the cost of the removal of the seawall and revetment to be justified by a written estimate, and the restoration of the shoreline area to the satisfaction of the Department.

**RECOMMENDATION:** Subject to the terms and conditions cited above, that the Board amend its approval of Item D-8 from its meeting on January 12, 2018, by adding the additional recommendation below:

“4. Authorize the issuance of a construction right-of-entry (to commence on or after May 10, 2018) to the Association of Apartment Owners of Hololani covering the subject area for steel sheet seawall and revetment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current right-of-entry permit document form, as may be amended from time to time; and
- B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.”


Respectfully Submitted,



Cal Miyahara

Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

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

January 12, 2018

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

PSF No.: 17MD-152

MAUI

Grant of Term, Non-Exclusive Easement to the Association of Apartment Owners of Hololani for Steel Sheet Pile Seawall and Rock Revetment Purposes; Issuance of Management Right-of-Entry; Kahana, Lahaina, Maui, Tax Map Key: (2) 4-3-010:Seaward of 009.

APPLICANT:

Association of Apartment Owners of Hololani, a domestic nonprofit corporation.

LEGAL REFERENCE:

Sections 171-6, 13, 17, 53(c), and 55 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of Kahana, Lahaina, Maui, identified by Tax Map Key: (2) 4-3-010:Seaward of 009, as shown on the attached maps labeled **Exhibit A-1, A-2, and A-3.**

AREA:

6,128 square feet, more or less, subject to review and approval by the Department of Accounting and General Services, Survey Division

ZONING:

|                          |   |
|--------------------------|---|
| State Land Use District: | Conservation                            |
| County of Maui CZO:      | H-2 [for the abutting private property] |

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
January 12, 2018 *co.*

**EXHIBIT "A"**

CURRENT USE STATUS:

Vacant with encroachments.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove the steel sheet pile seawall and rock revetment over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's The Environmental Notice on October 8, 2013, with a finding of no significant impact (FONSI).

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS: Applicants shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
2. Pay for an appraisal to determine one-time payment; and
3. Obtain concurrent resolution from the Legislature pursuant to 171-53 (c), HRS.

REMARKS:

The applicant is an association of apartment owners who own the abutting property identified as tax map key (2) 4-3-010:009. The applicant is planning to construct a permanent shoreline armoring structure to prevent further coastal erosion that is threatening 2 condominium buildings. One of the corners of the north building is now approximately 20 feet from the shoreline.

In 2007, the Office of Conservation and Coastal Lands (OCCL) issued the applicant a 3-year emergency erosion control authorization for the installation of geotextile sandbags and Tensar (rock filled wire-mesh mattress) structures to address the ongoing shoreline erosion problem (see **Exhibit B**). The initial emergency permit has since been extended four times and remains valid until May 1, 2018. Also, the authorization issued by DLNR required the applicant to develop a more long-term solution.

At its meeting on May 9, 2014, Item K-2, the Board approved Conservation District Use Application (CDUA) MA-3663 (see **Exhibit C**), for the proposed permanent shoreline protection structure. The approved structure will combine a seawall (steel sheet pile wall) and rock revetment. Condition number 4 of the CDUP requires a land disposition for any portion of the permanent structure that will be built on State lands. The applicant now comes before the Board for approval of an easement for the seawall and revetment area. Originally, Condition number 1 of the CDUP required that the shoreline protection structure be located substantially landward of the May 2, 2013 certified shoreline (see **Exhibit D**). However, after lengthy discussions with Sea Engineering, Inc. (consultants for the applicant), OCCL concurred that from an engineering standpoint, the protection structure could only be constructed just a little landward of the 2013 certified shoreline because of the close proximity of the swimming pool and the north building to the shoreline.

Based on the review of the above information, staff recommends the disposition of the shoreline encroachment abutting the Applicant's property through an easement. Staff requests that the Board authorize granting a term, non-exclusive easement for the seawall and revetment.

Comments from other government agencies were sought during the application stage for the conservation district use permit mentioned above which included an environmental assessment. Therefore, staff did not solicit another round of requesting for comment on the proposed easement.

Upon approval of today's request, Applicants will be reminded of the requirement for concurrent resolution from both houses of the legislature under Sect.171-53(c), HRS prior to the issuance of the requested easement.

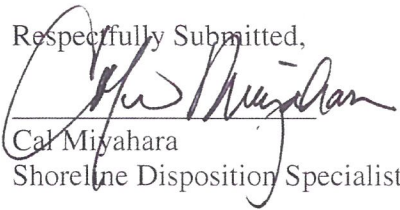
Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and

conditions.

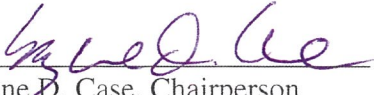
RECOMMENDATION: That the Board:

1. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (2) 4-3-010:009, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
2. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance of a term, non-exclusive easement to the Association of Apartment Owners of Hololani, covering the subject area for steel sheet seawall and revetment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
  - B. Approval by the Governor and concurrence from the Legislature pursuant to 171-53 (c), HRS;
  - C. Review and approval by the Department of the Attorney General;
  - D. Terms and conditions of CDUP MA-3663 as shown on Exhibit C;
  - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
  - F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.
3. Authorize the issuance of management right-of-entry to the Association of Apartment Owners of Hololani covering the subject area for steel sheet seawall and revetment purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current right-of-entry permit document form, as may be amended from time to time; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Cal Miyahara  
Shoreline Disposition Specialist

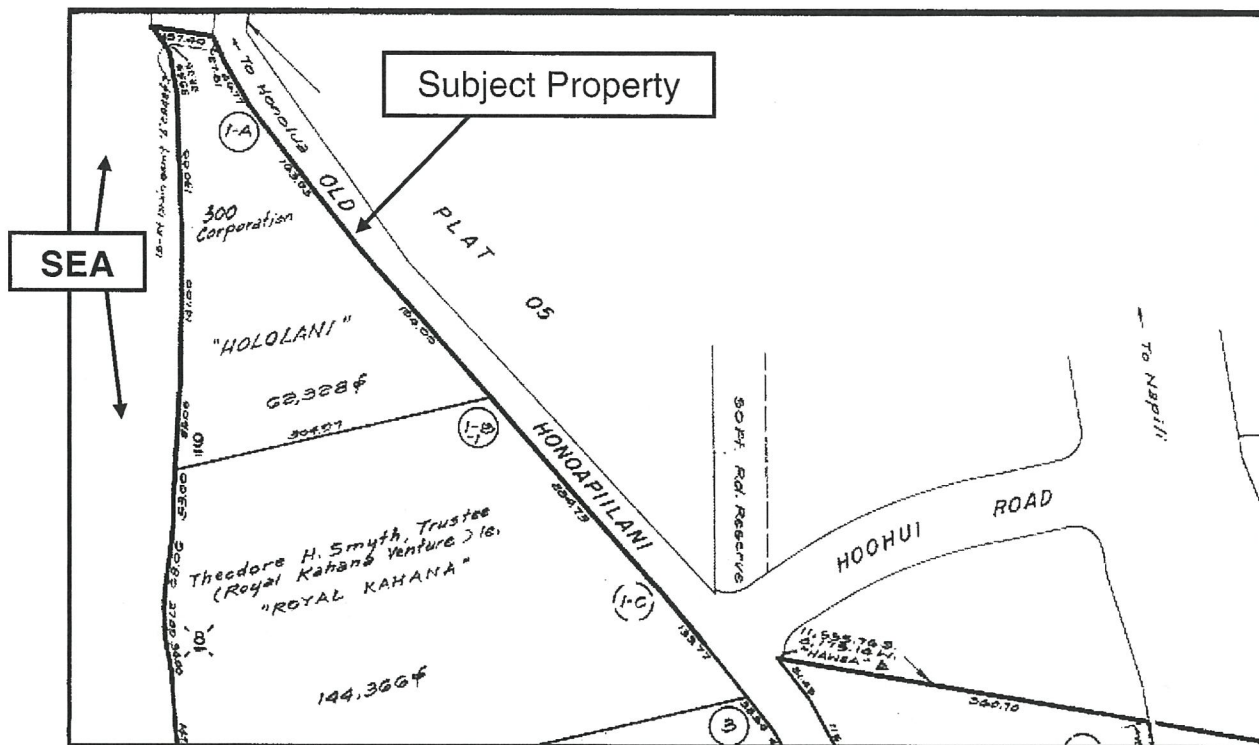
APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

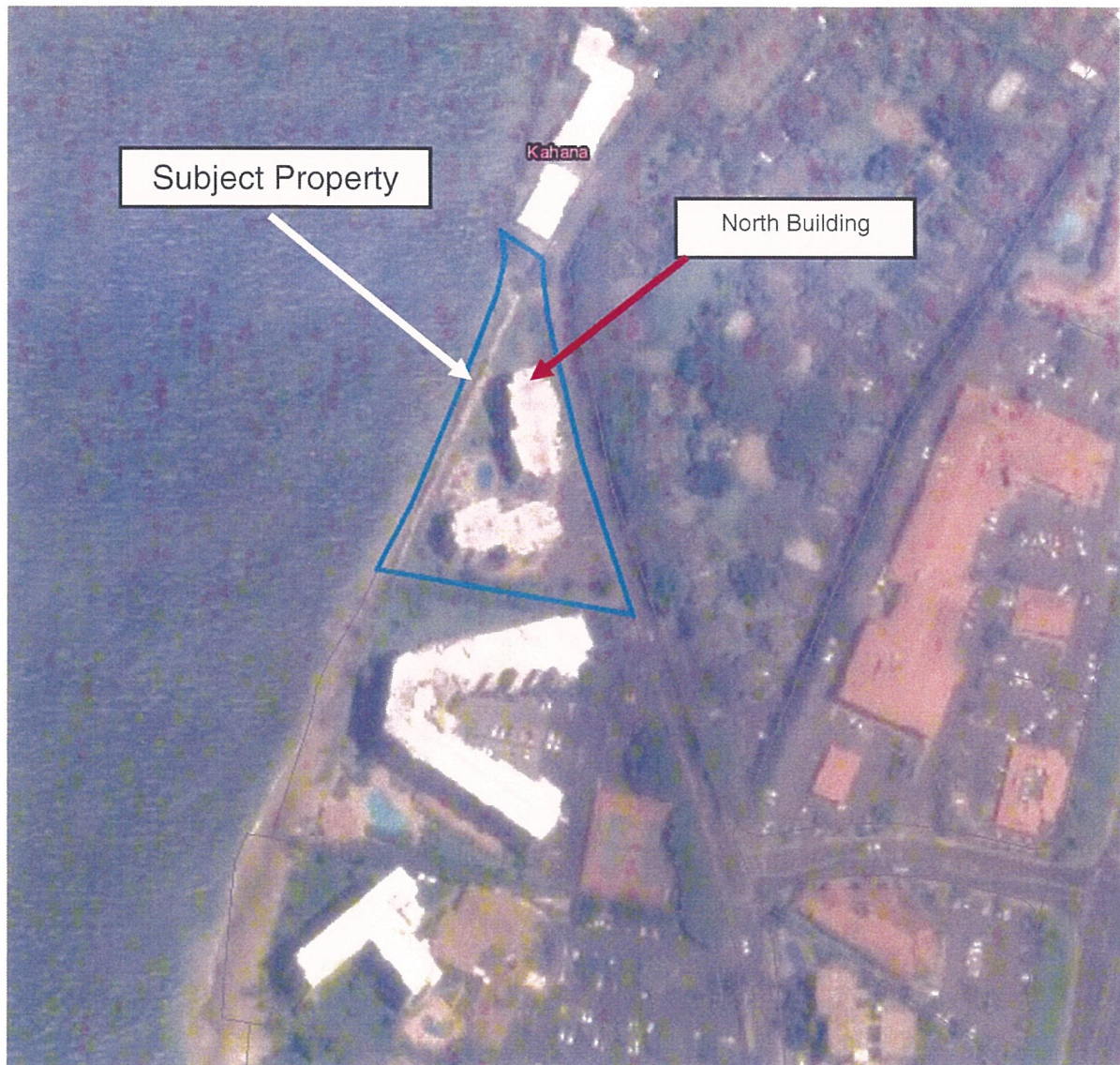




**EXHIBIT A-1**



**EXHIBIT A-2**



**TMK (2) 4-3-010:seaward of 009**

**EXHIBIT A-3**

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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

ROBERT K. MASUDA  
DEPUTY DIRECTOR

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

DLNR:OCCL:DE

File No.: Emergency-OA-07-08

February 6, 2007

John C. Henry  
Hololani Resident Manager  
4401 L. Honoapiilani Rd  
Lahaina, HI 96761

Mr. Henry:

**SUBJECT:** Emergency Erosion Control (Sandbags), Hololani Condominiums  
4401 L. Honoapiilani Rd Lahaina, HI. TMK (2) 4-3-010-09.

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) has received your letter dated January 24, 2007 regarding an emergency request for a sand bag revetment fronting the property. Based on the information presented and a site visit by our staff on January 11, 2007 the large multi-story structure is in danger of collapse without immediate shore protection and justifies a temporary emergency response (Figure 1).

On February 2, 2007, the Department approved an emergency request of behalf of the Hololani Condominium landowners to place additional boulders and fabric on the shoreline in order to prevent a portion of the facility from being undermined by erosion. This authorization allowed Hololani to place boulders in the shoreline area for thirty (30) days. After this period, the boulders must be removed to the satisfaction of the Department.

As an interim measure (subsequent to the boulder removal), the landowner(s) would like to install a temporary engineered structure. The proposed sandbag and Tensar structure consists of approximately 380 linear feet of shoreline fronting the subject property. The revetment will be installed at elevation +2.5 ft to +10.0 (ft sl) and will consist of a combination of 144 Tensar units (0.75' X 5' X 10") (160 cubic yards of rock filled in a plastic mattress) as scour pad and splash apron and approximately 144 (5' X 10' X 1.5') Bulkift S.E.ABAG sandbags (360 cubic yards of sand). These will be installed in a sloping formation and built primarily seaward of the shoreline defined by the active erosional scarp. This authorization is for the referenced design presented in Figure 2 of the January 24, 2007 request letter (Figure 2).

**EXHIBIT "B"**

The DLNR understands that during time the temporary sandbag/Tensar structure is in place, the landowner(s) intend to apply for a shoreline setback variance for an engineered rock revetment placed landward of and to replace the proposed sandbag structure, the installation of the bags is intended to be temporary until the required permits are obtained for a more permanent rock revetment.

#### **Mitigation Measures (Best Management Practices)**

Typical Best Management Practices shall be implemented to ensure that water quality and marine resources are protected and preserved. Mitigation measures involve the use of sand that is free of contaminants and low in silt content (to be determined). The applicant proposes to place the sandbags seaward of the shoreline at and will ensure silt is contained during construction activities. Excessive silt and turbidity shall be contained or otherwise minimized through the use of silt containment devices and barriers. Silt containment should be practiced for the duration of construction activities. The sandbag installation should occur during low tide to ensure activities do not discharge silt into state waters. Visual monitoring of the nearshore water quality condition should be practiced during sand placement; and if excessive turbidity occurs, sand placement shall stop and more effective silt containment measures utilized.

#### **Sand Quality**

Due to the contained use of the proposed sand, Best Management Practices, low silt content, limited duration of exposure and the high rate of flushing and circulation at the site, potential turbidity impacts from the proposed activities are estimated to be negligible. Near-shore turbidity associated with the use of this sand is not expected to impact marine life and will be quite short-lived in the nearshore waters and is not expected to exceed existing background levels.

**Based on the information provided, the Department has made the following determinations:**

1. There is an imminent threat to the existing dwelling with active erosion threatening the structure.
2. This berm is approximately defined by the active scarping and fallen vegetation. Erosion appears to have accelerated landward recently.
3. The proposed structure will provide temporary protection to the threatened structures until a more permanent solution is designed and approved.
4. There is no known beach-quality sand source stored behind the berm, it appears the area is composed a clay and weathered basalt that would not provide a useful source of sediment to the littoral system if were allowed to erode.
5. The area is largely armored with a large number of shoreline structures to the north and south of the property, specifically immediately to the north.
6. The applicant is developing a long-term plan for erosion control that may include stabilizing structures. This plan will be implemented before the 3 year expiration date of the emergency permit.

**DEPARTMENT ACTION**

**Terms and Conditions**

**The Chairperson of the Department of Land and Natural Resources hereby authorizes your emergency request for temporary sandbag and Tensar mattress structure fronting the subject property. This authorization includes, but is not limited to the following terms and conditions:**

1. This authorization will become valid upon the approval by the DLNR of:
  - a. A sand source for the installation of the sand bags.
  - b. A Best Management Practices (BMP's) Plan
  - c. Installation sequence and work plan for the proposed structure.
2. The project includes the installation and replacement of approximately 144 (5' X 10' X 1.5' ) Bulklift S.E.ABAG sandbags ( 360 cubic yards of sand) in conjunction with 114 Tensar rock-filled units (160 cubic yards of rock).
3. This authorization is valid for three (3) years from the date of acceptance, at which time, the authorization shall expire.
4. The applicant shall ensure that excessive siltation and turbidity is contained or otherwise minimized to the satisfaction of the DLNR, DOH or other agency, through silt containment devices or barriers, high sand quality and selective sand placement;
5. Any work or construction authorized by this letter shall be initiated within six (6) months of the approval of such use, and, unless otherwise authorized, shall be completed within twelve (12) months of the approval of such use. The applicant shall notify the Department before construction activity is initiated and when it is completed.
6. Sand utilized for the project will be from an approved commercial sand source. No sand shall be extracted from the beach fronting the property for any purpose.
7. Authorization of the sand used for the bags is contingent upon review and approval of the sand by the Department. **Please submit sediment grain size analysis report** and specify the source to the DLNR for review to ensure the proposed sand meets minimum standards. The sand shall meet the following State quality standards:
  - a) The proposed fill sand shall not contain more than six (6) percent fines, defined as the #200 sieve (0.074 mm).
  - b) The proposed beach fill sand shall not contain more than ten (10) percent coarse sediment, defined as the #4 sieve (4.76 mm) and shall be screened to remove any non-beach-compatible material and rubble.

- c) No more than 50 (fifty) percent of the fill sand shall have a grain diameter less than 0.125 mm as measured by #120 Standard Sieve Mesh.
  - d) Beach fill shall be dominantly composed of naturally occurring carbonate beach or dune sand. Crushed limestone or other man made or non carbonate sands are unacceptable.
8. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization.
  9. This action is temporary to alleviate the emergency until long-term measures can be implemented. The DLNR reserves the right to terminate this authorization if it is determined the structure is having an adverse impact on the environment or if other shore protection alternatives are available.
  10. At the conclusion of work, the area shall be clean of all construction material, and the site shall be restored to a condition acceptable to the Chairperson.
  11. The activity shall not adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat.
  12. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area.
  13. When the Chairperson is notified by the applicant or the public that an individual activity deviates from the scope of an application approved by this letter, or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect.
  14. When the Chairperson is notified by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service or the State DLNR that an individual activity or activities authorized by this letter is adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect.

15. To avoid encroachments upon the area, the applicant shall not use artificially accreted areas due to nourishment or hardening as indicators of the shoreline.
16. Where any interference, nuisance, or harm may be caused, or hazard established by the activities authorized under this authorization, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm or hazard.
17. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this authorization.
18. No motorized construction equipment is to be operated in the water at any time.
19. In the event there is any petroleum spill on the sand, the operator shall promptly remove the contaminated sand from the beach and immediately contact the DLNR/OCCL staff at 587-0377, to conduct a visual inspection and to provide appropriate guidance.
20. For projects authorized by this letter, the applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under projects authorized under this permit.
21. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary.
22. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments for projects authorized under this letter.
23. In the event that historic sites, including human burials are uncovered during construction activities, all work in the vicinity must stop immediately and contact the State Historic Preservation Division at 692-8015.
24. The applicant shall obtain a right-of-entry permit or other land disposition approval from the State of Hawaii, Land Division prior to the inception of project work.
25. Failure on the part of the applicant to comply with any conditions imposed under this authorization shall render the authorization null and void.
26. The applicant shall take measures to ensure that the public is adequately informed of the project work once it is initiated and the need to avoid the project area during the operation and shall notify all abutting property owners and community organizations that may be affected by the proposed action.

February 6, 2007

27. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and minimize silt in nearshore waters and clean up fuel, fluid or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance. The DLNR/OCCL staff shall be contacted immediately at 587-0377, to conduct a visual inspection and to provide appropriate guidance.

**Additional Monitoring:**

28. The applicant must submit a written completion report to the OCCL within two months of completion of the project. The completion report must include, as appropriate, descriptions of the construction activities, discussion(s) of any deviations from the proposed project design and the cause of these deviations, results of any environmental monitoring (primarily sand movement observations and turbidity observations), discussion(s) of any necessary corrective action(s), and photographs documenting the progress of the permitted work before, during and after sand placement.
29. As a temporary emergency project, the applicant shall provide an initial completion report and follow-up summary reports *annually* to the Department for three (3) years from the date of acceptance or until a permitted permanent structure is completed describing the condition of the sandbags and any impacts to the local nearshore processes.

**Authorization Expiration:**

30. This authorization shall expire three (3) years from the date of this letter. At that time, all activities authorized by the authorization shall be removed and the shoreline shall be returned to its original condition, unless a long-term plan has been approved. Failure to comply with these terms and conditions shall constitute a violation of Chapter 183C, Hawaii Revised Statutes and fines of \$2,000 per day shall accrue for each day that the landowner fails to comply with the terms and conditions of this authorization.

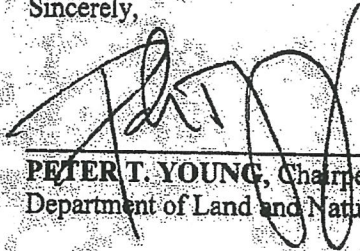
**Please acknowledge receipt of this authorization, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within fifteen (15) days. Please notify the OCCL in advance of the anticipated construction dates and notify the OCCL immediately if any changes to the scope or schedule are anticipated.**

Hololani Emergency Erosion Control

February 6, 2007

Should you have any questions on any of these conditions, please contact the Office of Conservation and Coastal Lands (OCCL) at (808) 587-0377.

Sincerely,

  
\_\_\_\_\_  
PETER T. YOUNG, Chairperson  
Department of Land and Natural Resources

Attachments (Figures 1, 2)

Maui Board Member  
DAR/HPD  
Maui County Planning Dept  
OHA/DOH, Clean Water  
USFWS/NMFS/USACE  
Jim Barry Sea Engineering Makai Research Pier Waimanalo, Hawaii 96795-1820

I concur with the conditions of this letter:

*Hololani AAO*  
*by Stuart Allen, its President*

\_\_\_\_\_  
Applicant's Signature

Date 12.14.07

*Note: transfer of ownership (Title) conveys all terms and conditions of this authorization to the new owner.*

**Figure 1. Site Conditions**  
January 31, 2007

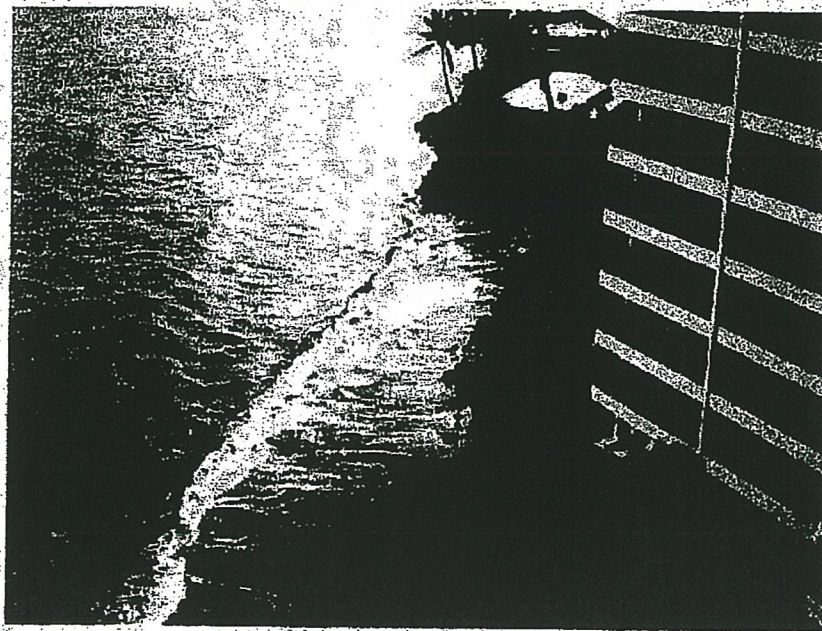
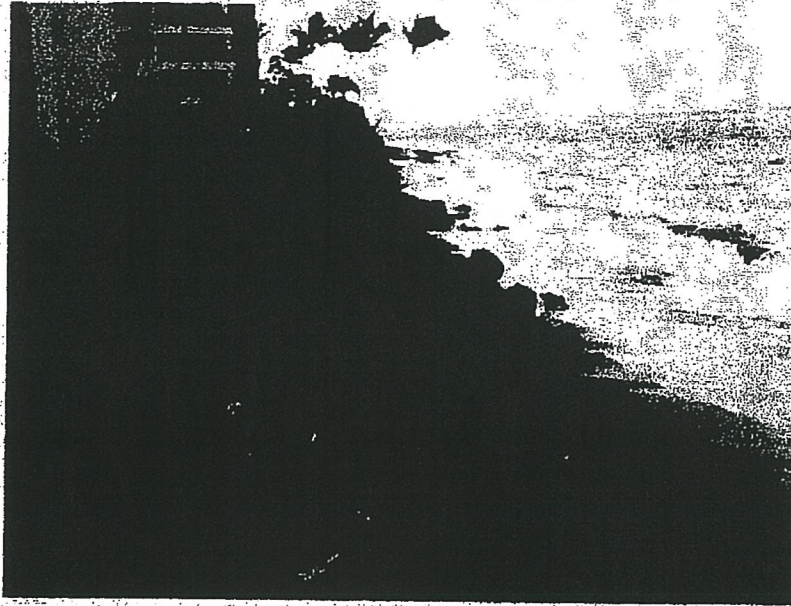


Figure 2. Proposed Plan

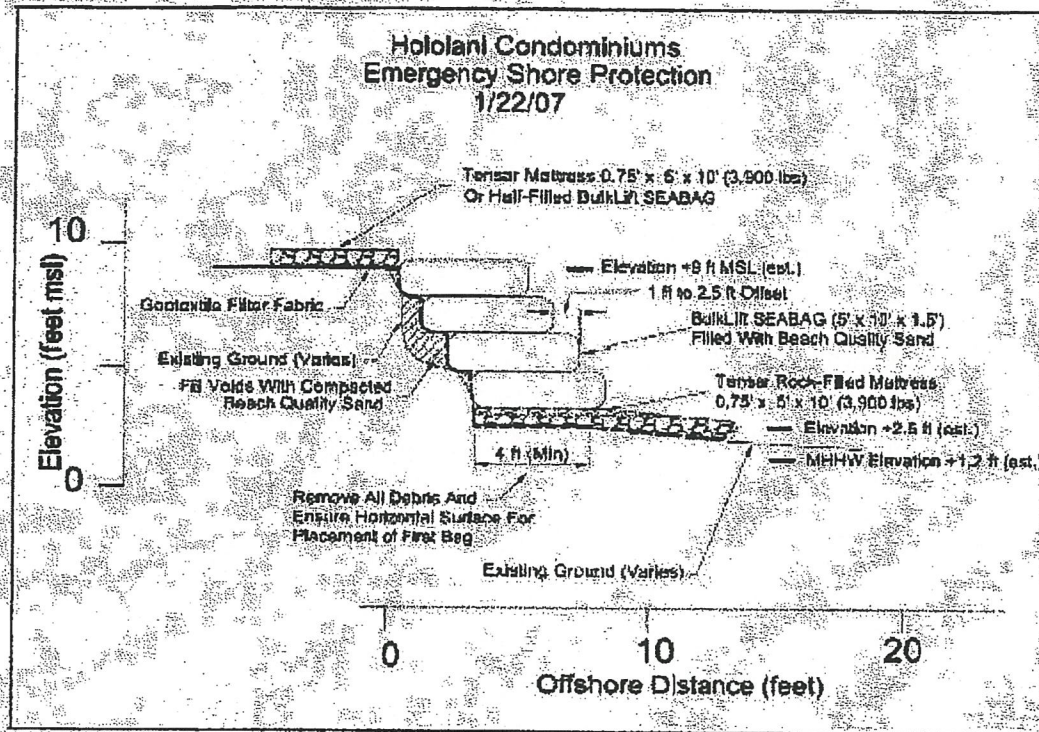


Figure 2. Cross-section of proposed temporary emergency shore protection.

NEEL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

Office of Conservation and Coastal Lands  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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

JESSE K. SOUKI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAOHOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

CDUP: MA-3663  
MAY 13 2014

Jim Barry  
Sea Engineering Inc.  
Makai Research Pier  
Waimanalo, HI 96795

Dear Mr. Barry:

This letter is to inform you that on May 9 2014, the Board of Land and Natural Resources (BLNR) approved Conservation District Use Application (CDUA) MA-3663 for the Hololani Resort Condominiums shore protection project, located at Kahana, Lahaina, Island of Maui - TMK: (2) 4-3-010:009, subject to the following conditions:

1. The permittee shall redesign a shoreline protection structure that is located substantially landward of the May 2, 2013 certified shoreline;
2. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
3. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
4. The permittee shall obtain a land disposition from the department for any remaining portion of the shoreline protection structure on state lands;
5. The permittee shall comply with all applicable department of health administrative rules;
6. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;

**EXHIBIT "C"**

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7. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within two years of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
8. All representations relative to mitigation set forth in the accepted environmental assessment for the proposed use are incorporated as conditions of the permit;
9. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
10. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
11. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
12. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
13. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
14. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
15. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
16. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The Historic Preservation Division shall be contacted (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
17. Monitoring of the nearshore water quality shall be conducted in accordance with best management practices;

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18. Work shall be conducted during calm weather periods to the most practical extent possible and no work shall occur if there is high surf or ocean conditions that will create unsafe work or beach conditions;
19. The permittee shall implement the proposed Best Management Practices (BMPs) and monitoring and assessment plan to maintain BMPs to minimize dirt and silt from entering the ocean and the ability to contain and clean up fuel, fluid, or oil spills immediately under this authorization and immediately report any spills or other contamination(s) that occurs at the project site to the Department of Health and other appropriate agencies;
20. The permittee shall ensure that excessive siltation and turbidity is contained or otherwise minimized to the satisfaction of all appropriate agencies, through silt containment devices or barriers, or other requirements as necessary;
21. Appropriate safety and notification procedures shall be implemented. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project;
22. The activity shall not adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
23. The activities shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;
24. When the Department is notified that an individual activity deviates from the scope of work approved by this authorization or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the permittee to undertake corrective measures to address the condition affecting these resources. The permittee must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
25. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this permit;
26. The Office of Conservation and Coastal Lands shall be notified (587-0377) in advance of the anticipated construction dates and shall be notified immediately if any changes to the scope or schedule are anticipated;
27. The permittee shall maintain safe lateral beach access for the life time of the structure;
28. If flanking or end effects are detected on the Royal Kahana property and can be attributed to the Hololani shoreline protection structure, the permittee shall place beach grade sand in the area to mitigate such effects;
29. The permittee shall provide, maintain, and properly add signage for a public access through the property to the shoreline;

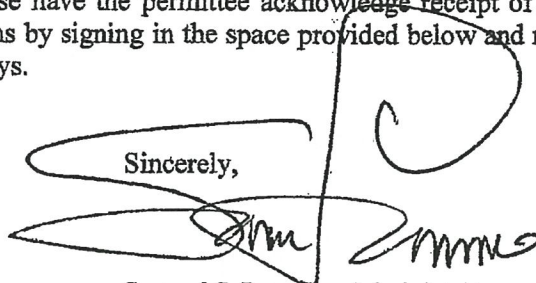
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30. Other terms and conditions as may be prescribed by the Chairperson; and
31. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Finally, we ask that you comply with the recommendation of our State Historic Preservation Division (SHPD) in regards to the need to prepare an archaeological monitoring plan, and that a draft archaeological monitoring plan be provided to SHPD for approval prior to project initiation (letter attached).

Should you have any questions, please contact Sam Lemmo of the Office of Conservation and Coastal Lands at 587-0377. Please have the permittee acknowledge receipt of this permit and acceptance of the above conditions by signing in the space provided below and returning a copy to the OCCL within thirty (30) days.

Sincerely,



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

Hololani AOA

by Stuart Allen, its President

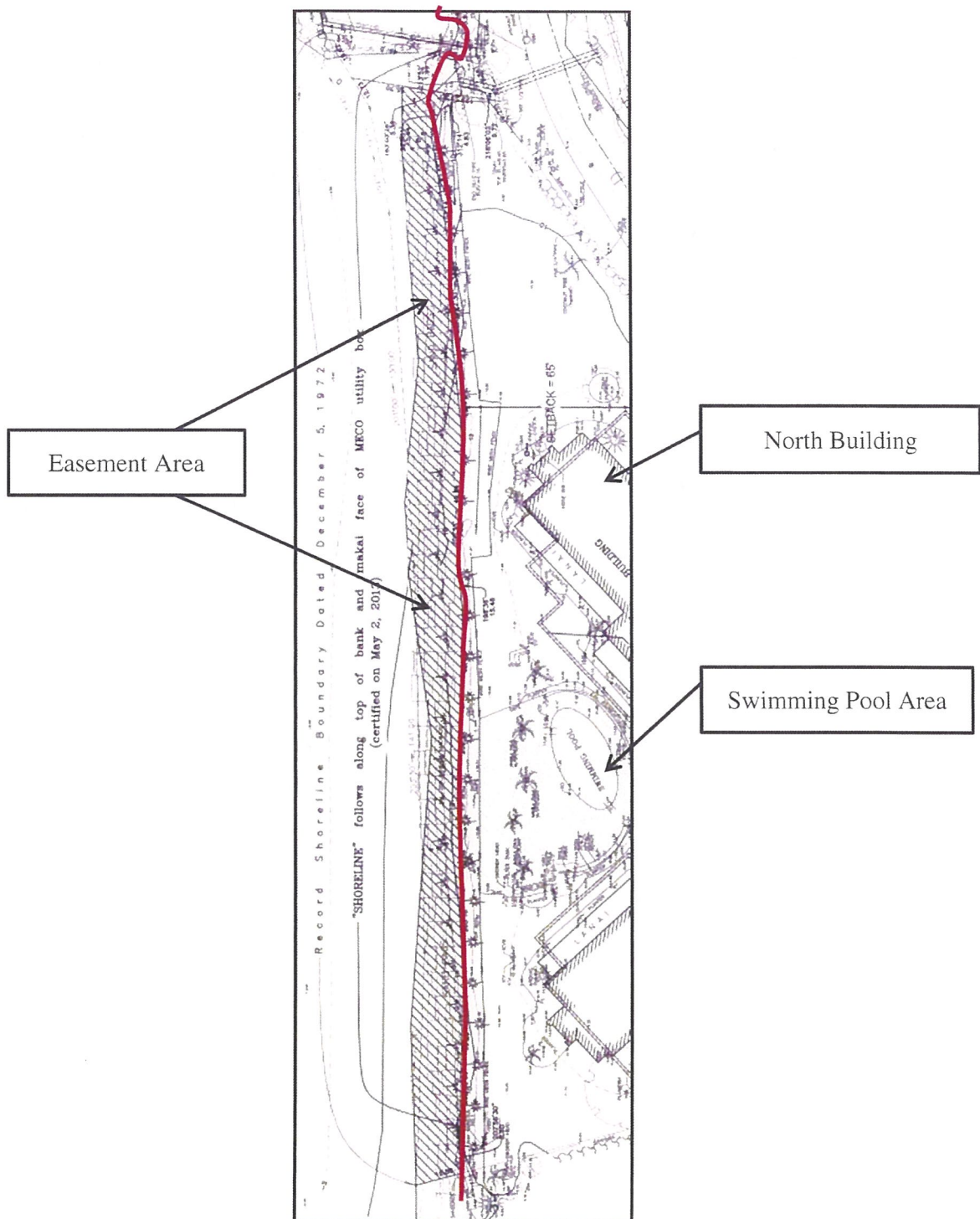
Receipt acknowledged:

12-13-17

Date:

Attachment

c: Chairperson  
MDLO  
County of Maui Planning Department, Public Works



Note: **Red** line indicates May 2, 2013 certified shoreline.

**EXHIBIT D**



Looking northeast – drainage easement area at north end of the property.

**Exhibit B**



Looking southwest – north building area.



Looking southwest – sandbags adjacent to the pool area. Between north and south building.



Looking southwest – sandbags at south end of the property.