

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

May 8, 2020

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

PSF No. 18MD-111  
Maui

Authorize the Issuance of Four Perpetual, Non-Exclusive Easements to the Department of Transportation, Highways Division (“DOT-Highways”), and an Immediate Construction Right-of-Entry Permit to DOT-Highways for Erosion Control Matting and Wire Mesh Paneling System and Slope Stabilization Purposes, Honomanu, Hana, Maui, TMK: (2) 1-1-001:021 (portion) and 044 (portions).

CONTROLLING AGENCY:

Department of Land and Natural Resources, Division of State Parks, and Division of Forestry and Wildlife.

APPLICANT:

Department of Transportation, Highways Division.

LEGAL REFERENCE:

Sections 171-13, -55 and -95, Hawaii Revised Statutes (“HRS”), as amended.

LOCATION:

Government lands situated at Honomanu, Hana, Maui, TMK Nos. (2) 1-1-001:021 (portion) and (2) 1-1-001:044 (portions), as shown on the attached maps labeled **Exhibits A1 and A2**.

ZONING / TRUST LAND STATUS:

TMK Parcel No.	State Land Use District	County of Maui CZO	Trust Land Status**
(2) 1-1-001:021 (portion)	Conservation	Interim	Section 5(b) DHHL: No
(2) 1-1-001:044 (portions)	Conservation	AG Agriculture, Interim	Section 5(b) DHHL: No

\*\* “(Section 5(b))” refers to Section 5(b) lands of the Hawaii Admission Act.

“DHHL: No” means the premises are not former sugarcane lands, and the Department of Hawaiian Home Lands is therefore not entitled to 30% of any lease revenues, pursuant to Article XII, Section 1, of the Hawaii State Constitution.

CURRENT USE STATUS:

TMK Parcel No.	SITE LOCATION	ENCUMBRANCES
(2) 1-1-001:021 (portion)	Site 1 – <i>makai</i>	Unencumbered
(2) 1-1-001:044 (portions)	Site 1 – <i>mauka</i> Site 2 – <i>mauka</i> Site 3 – <i>mauka</i>	Governor’s Proclamations dated August 24, 1905 and June 12, 1907 as modified by Governor’s Proclamation dated May 2, 1938, Relating to the Koolau Forest Reserve under the control and management of the Division of Forestry and Wildlife (“DOFAW”)  Revocable Permit No. 7263 to Alexander & Baldwin, Inc. a Hawaii corporation, for: “Right, privilege and authority for the development, diversion, and use of water from the “Honomanu License” area, pursuant to the terms and conditions in now expired General Lease No. L-3695.”
(2) 1-1-001:044 (portion)	Staging Area	Governor’s Executive Order (“GEO”) No. 4506 to the Department of Land and Natural Resources (“DLNR”) Division of State Parks (“DSP”) for the Kaumahina State Wayside Park

SUMMARY OF EASEMENT AND ROE AREAS (see **Exhibits B1, B2, B3 and B4**):

TMK Parcel No.	SITE LOCATION	CONSTRUCTION AREAS (A sf)	ROW/ EASEMENT AREAS (B sf)	ROE AREAS (A sf + B sf)
(2) 1-1-001:021 (por.)	Site 1 – <i>makai</i>	2,312	<b>528</b>	<b>2,840</b>
(2) 1-1-001:044 (por.)	Site 1 – <i>mauka</i>	8,341	<b>9,676</b>	<b>18,017</b>
(2) 1-1-001:044 (por.)	Site 2 – <i>mauka</i>	6,084	<b>6,065</b>	<b>12,149</b>
(2) 1-1-001:044 (por.)	Site 3 – <i>mauka</i>	5,705	<b>8,771</b>	<b>14,476</b>
(2) 1-1-001:044 (por.)	Staging Area	3,500	---	<b>3,500</b>
TOTAL EASEMENT & ROE AREAS:			25,040	50,982

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove erosion control matting and wire mesh paneling system and slope stabilization measures.

CONSIDERATION:

*Gratis.*

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment (“FEA”) for the subject project was published in the Office of Environmental Quality Control's periodic bulletin, The Environmental Notice, on July 23, 2018, with a Finding of No Significant Impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at the applicant’s own cost.

REMARKS:

The Department of Transportation, Highways Division (“DOT-Highways”) proposes rockfall mitigation and stabilization measures along the Hana Highway (Route 360) to stabilize steep, unstable cliffs from falling rocks, boulders and landslides. Hana Highway is the primary thoroughfare between Kahului and Hana that travels along the coastline with narrow cuts with steep slopes on either side of the highway. Because the area is prone to heavy rainfall, with abundant groundwater and runoff, there is a high probability of rockfall and landslide hazards.

The purpose of this project is to reduce the incidence of rockfall events, damage to property and human life, and road closures that result from the existing rockfall and landslide hazards. This project will improve overall safety and reliability for all users of the Hana Highway.

The proposed mitigation and stabilization measures are planned for four locations at three sites (refer to **Exhibit A2**) along a 0.63 mile section of Hana Highway between milepost (“MP”) 12, near the vicinity of the Kaumahina State Wayside Park, and MP 13, before the entrance to Honomanu Park, more specifically:

- (1) Site 1, *mauka* and *makai* areas, MP 12.06 to 12.12,
- (2) Site 2, *mauka* area only, MP 12.49 to 12.57, and
- (3) Site 3, *mauka* area only, MP 12.59 to 12.69.

Along the upslope, *mauka* side of the highway at all three sites, anchored erosion control

matting and wire mesh paneling will be installed. On the downslope, *makai* side of the highway at Site 1 only, the proposed improvement will include the installation of anchored reinforced shotcrete<sup>1</sup> to stabilize the downslope from further erosion.

The four easements being requested here are the four sites where rockfall mitigation and stabilization measures, including erosion control matting and high strength wire mesh with soil nails/rock bolts, will be constructed. These areas plus four adjacent areas to be used for temporary access to these sites during the construction process, together with a construction staging area at the Kaumahina Wayside State Park parking area, will be included in the right-of-entry also being requested here. (Please refer to **Exhibits B1, B2, B3 and B4** for detailed maps from the FEA identifying these areas.)

Note that, when the project was first described in the FEA, it had been assumed that the permanent installation areas would be withdrawn from the Koolau Forest Reserve and then set aside to DOT-Highways by Governor's Executive Order. However, since that time, an alternative, less complex method suggested by staff has been agreed upon by both agencies—creation of the four easements. This will ensure that DOT-Highways will have appropriate legal use of those lands for the construction of rockfall mitigation and stabilization measures, but the documentation process will be significantly simpler to execute.

DSP, DOFAW, and permittee Alexander and Baldwin, Inc. all concur with the proposed perpetual easements on the subject State lands (see **Exhibits C1 and C2**).

The project at the requested easement areas required a Conservation District Use Permit ("CDUP") from the Office of Conservation and Coastal Lands ("OCCL"), so an application was duly submitted by DOT-Highways in 2019. On October 14, 2019, CDUP: MA-3839 was approved by OCCL for the subject project. All four requested easements will be subject to all terms and conditions of this CDUP (see **Exhibit D**).

No additional agency comments were solicited for this project, as comments were previously sought during the FONSI determination and were published in OEQC's bulletin, The Environmental Notice, on July 23, 2018.

There are no other pertinent outstanding issues or concerns, and DLNR staff have no objections to this request.

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<sup>1</sup> "Shotcrete is a method of applying concrete projected at high velocity primarily on to a vertical or overhead surface....the nature of the placement process results in an excellent bond with most substrates, and rapid or instant capabilities, particularly on complex forms or shapes."  
FROM: [concrete.org/tools/frequentlyaskedquestions.aspx?faqid=746](https://concrete.org/tools/frequentlyaskedquestions.aspx?faqid=746)



RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of four perpetual, non-exclusive easements to the Department of Transportation, Highways Division, covering the subject areas for highway 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 to the most current perpetual easement document form, as may be amended from time to time;
  - B. Review and approval by the Department of Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the in interests of the State.
2. Authorize the issuance of an immediate construction right-of-entry permit to the Department of Transportation, Highways Division covering the subject areas under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

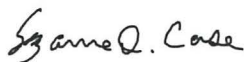
Respectfully Submitted,



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Barbara J. Lee  
Special Projects and Development Specialist

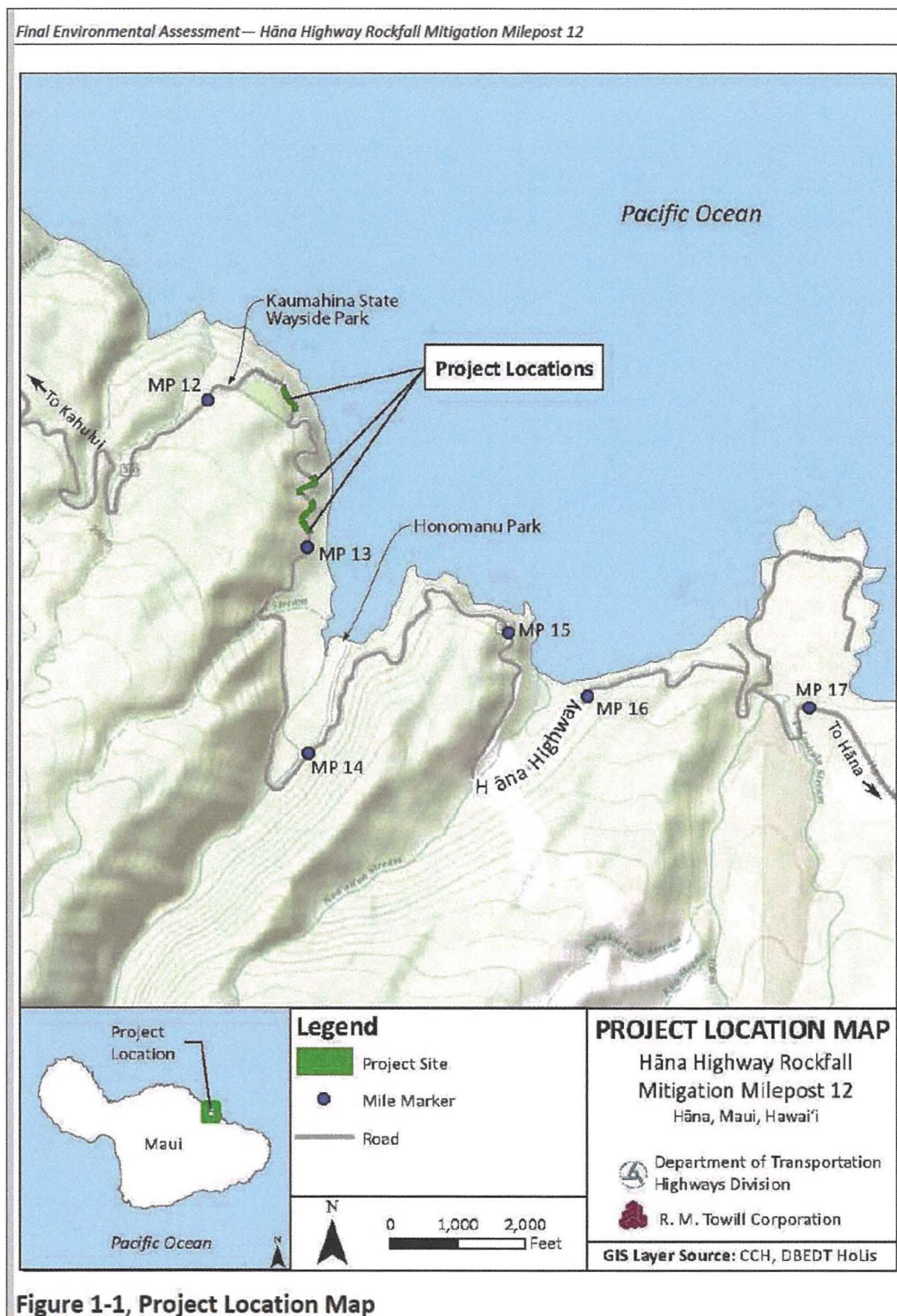
APPROVED FOR SUBMITTAL:



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Suzanne D. Case, Chairperson

RT



Final Environmental Assessment— Hāna Highway Rockfall Mitigation Milepost 12

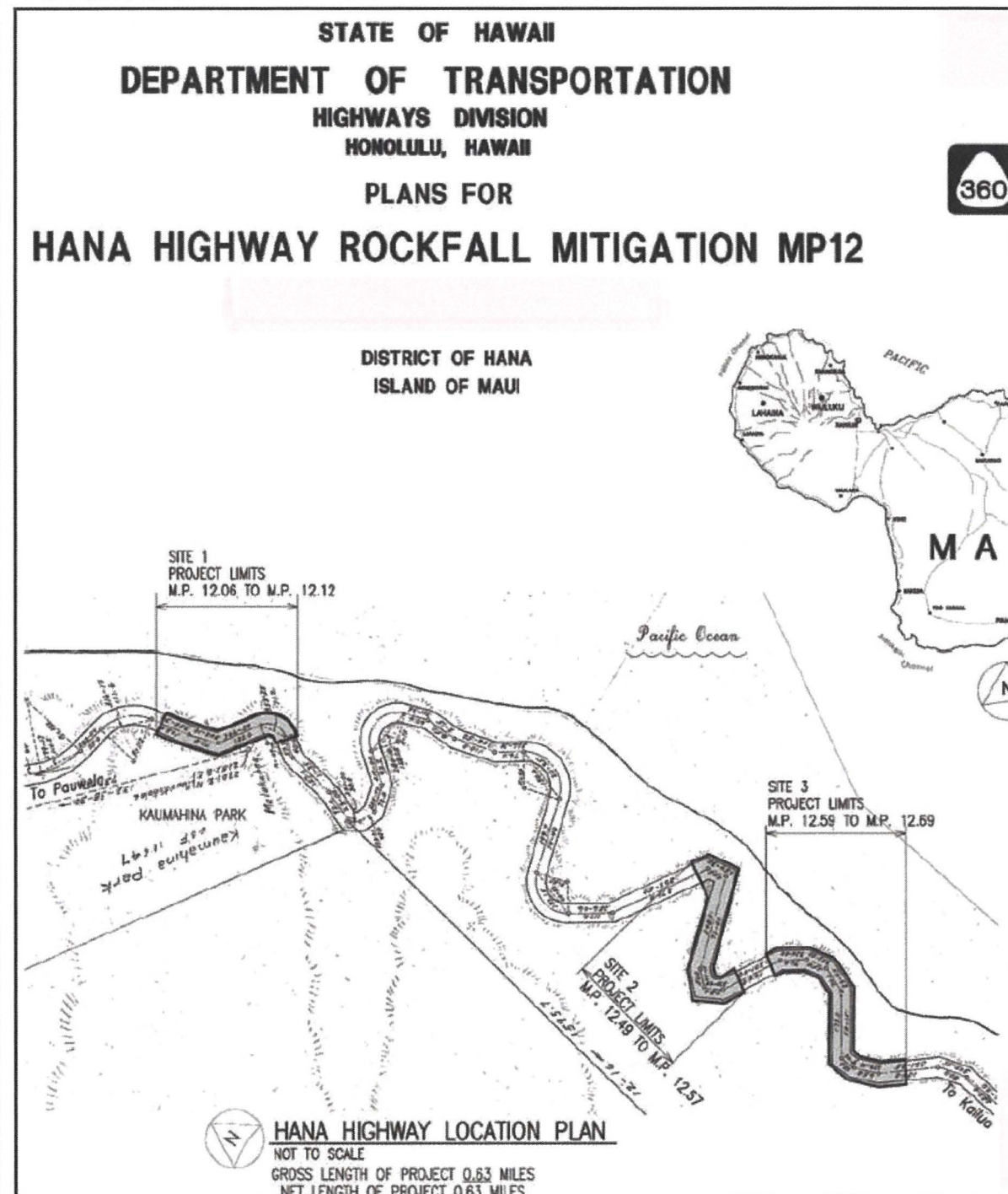
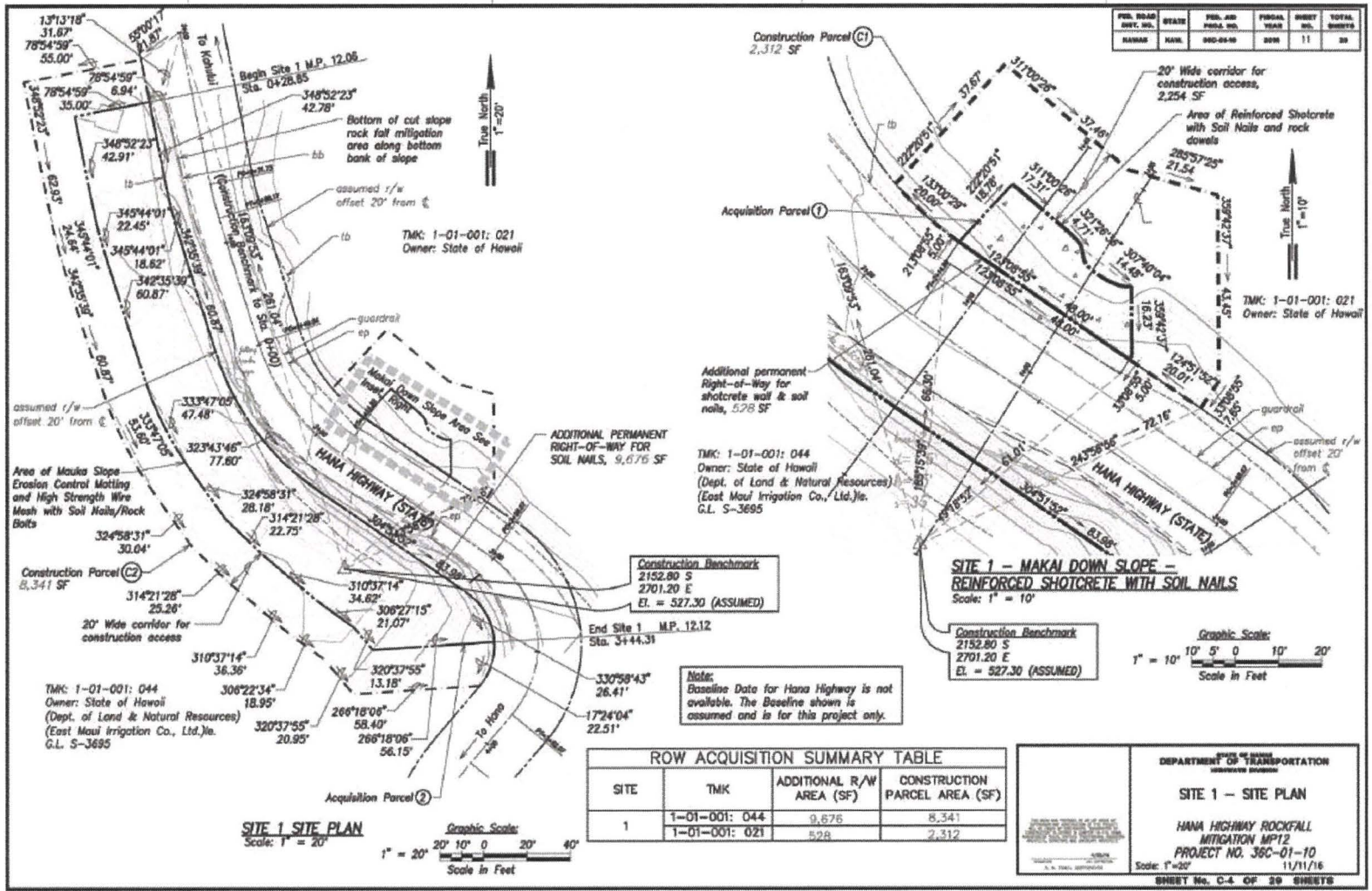


Figure 1-2, General Site Plan





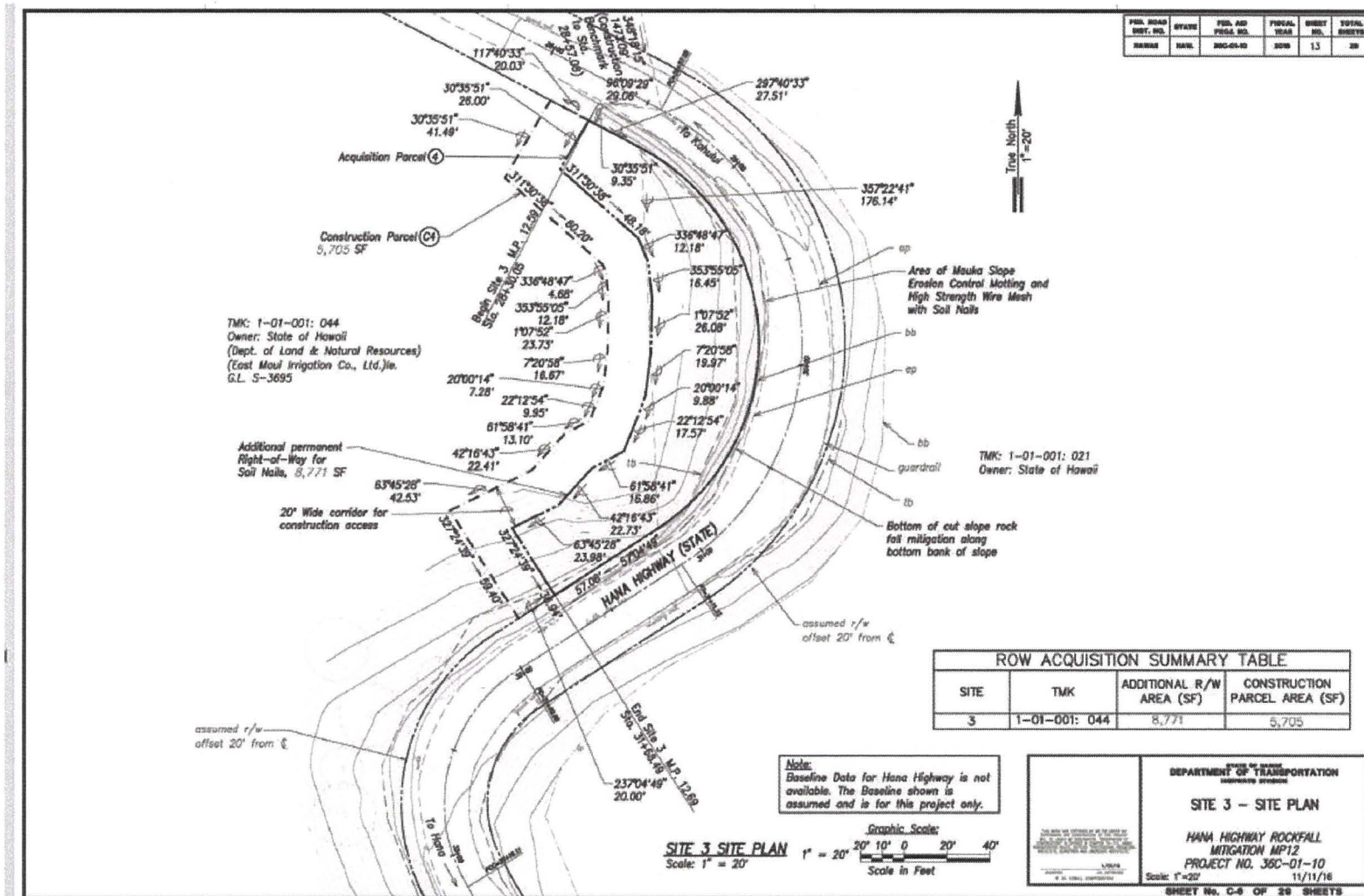
2-7, Site Plan, Site 1

# EXHIBIT B1



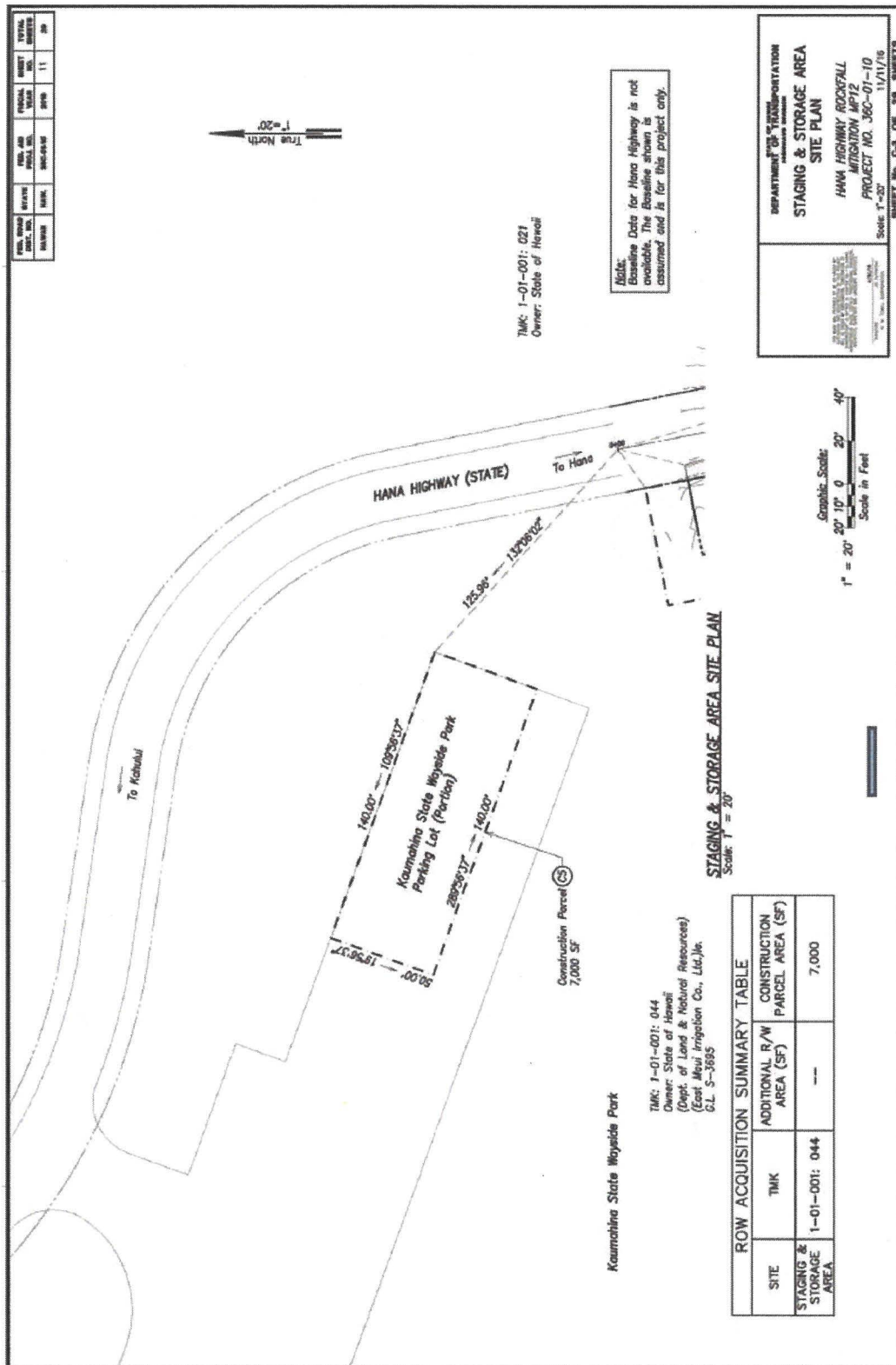


**EXHIBIT B2**



2-9, Site Plan, Site 3

EXHIBIT B3



2-6, Site Plan, Staging and Storage Area

**EXHIBIT B4**



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DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION  
MAUI DISTRICT  
650 PALAPALA DRIVE  
KAHULUI, HAWAII 96732

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKO-REGAN  
ROSS M. HIGASHI  
EDWIN H. SHEFFER  
DEREK J. CHOW

IN REPLY REFER TO:  
HWY-M 2.109-20

March 17, 2020

Alexander & Baldwin, Inc.  
822 Bishop Street  
Honolulu, Hawaii 96813

Dear Mr. Nelson Chun:

**Subject: Request for Concurrence for a Construction and Maintenance Easement for the Construction of Rockfall Mesh and Soil Nails, Project No. 36C-01-10**  
**Tax Map Key: (2) 1-1-001: Parcel 044**  
**Ko'olau Forest Preserve, Honomanu, Hāna, Maui, Hawai'i**

The Hawai'i Department of Transportation (HDOT) requests your concurrence for a construction and maintenance easement for the installation of rockfall mesh and soil nails at three sites on existing cut slopes above and mauka of the Hāna Highway in Honomanu, Maui, Hawai'i. The subject easement would be within Tax Map Key (TMK): (2) 1-1-001: Parcel 044, in which Alexander & Baldwin, Inc. (A&B) has a Revocable Permit for water use (RP No. S-7263, attached) that encompasses the entire 3,381 acres of the parcel.

The proposed work has been subject to environmental review in accordance with Hawai'i Revised Statutes (HRS), Chapter 343. On February 11, 2020, the HDOT approved a declaration of exemption from the requirements for the filing an Environmental Assessment (EA) for the Hāna Highway Rockfall Mitigation Additional Work at Kaumahina State Wayside Park.

Exhibits are attached to show the location and scope of work. These exhibits are:

Exhibit 1	TMK Map with the location of the proposed project
Exhibit 2	Project location and the three proposed sites of the easement
Exhibits 3.1 – 3.3	Site Plans at each location
Exhibits 4.1 – 4.3	Slope Sections where the mesh and soil nails will be installed

**EXHIBIT C1**



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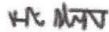
Mr. Chun  
March 16, 2020  
Page 2

HWY-M 2.109-20

The proposed work will have no effect on areas located outside of the requested easement area and work is scheduled to begin in 2021.

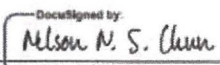
Thank you for your consideration of this request. Should you have any questions or wish to further discuss, do not hesitate to contact Fred C. Gutierrez, Project Manager, at (808) 873-3419 or by e-mail to [fred.c.gutierrez@hawaii.gov](mailto:fred.c.gutierrez@hawaii.gov).

Sincerely,



Robin Shishido  
Maui District Engineer  
Attachments

  X   I concur with the Construction and Maintenance easement for the Installation of Rockfall Mesh and Soil Nails for project No. 36C-01-10.

(signed)   
Alexander & Baldwin, Inc.  
Nelson Chun, Executive Vice President  
822 Bishop Street  
Honolulu, Hawaii 96813

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
HIGHWAYS DIVISION  
MAUI DISTRICT  
650 PALAPALA DRIVE  
KAHULUI, HAWAII 96732-2321

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
ROSS M. HIGASHI  
EDWIN H. SHIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO  
HWY-M 2.154-19

December 20, 2018

Mr. Curt A. Cottrell  
Administrator  
Department of Land & Natural Resources  
Division of State Parks  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

Dear Mr. Cottrell:

Subject: DLNR Concurrence for a perpetual easement to Department of Transportation (DOT) for the Hana Highway Rockfall Mitigation Milepost 12 Project; TMK No. (2) 1-1-001:044 (por.)

The extents of the wire mesh proposed for rockfall mitigation at Milepost 12 along Hana Highway will encroach on the Kaumahina State Wayside Park. The construction of the wire mesh will require relocation of an existing wood fence at the lookout area of the park. To mitigate the permanent impacts caused by the relocation of the existing wood fence at the lookout, DOT proposes to extend the existing concrete pad to create a larger lookout area. The design of the modifications at the lookout will be coordinated with DLNR.

A temporary construction parcel will be required for the Contractor to access the project area with construction equipment.

A temporary staging area during construction of the wire mesh is also proposed within a portion of the parking lot for the park. To mitigate the temporary impacts caused by the staging area, DOT will ensure the Contractor maintains public access to remainder of the parking lot and the restroom facilities while the staging area is in use.


**EXHIBIT C2**

Mr. Curt A. Cottrell  
December 20, 2018  
Page 2

HWY-M 2.154-19

DOT respectfully requests your concurrence with the proposed transfer from DLNR to DOT shown on the attached Right of Way Map. If you do concur, please indicate with a check on the line and your signature below.

Sincerely,



Robin Shishido  
District Engineer, Maui

Enclosure: Right of Way Map

FG:

☒ I concur with the proposed easement to DOT



Curt A. Cottrell  
Administrator  
Department of Land & Natural Resources  
Division of State Parks

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
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  
KAOIOLAWA ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF:OCCL:MC

CDUP: MA-3839

Brian Takeda  
R.M. Towill Corporation  
2024 North King Street, Suite 200  
Honolulu, HI 96819-3470

OCT 15 2019

Dear Mr. Takeda,

SUBJECT: CONSERVATION DISTRICT USE PERMIT (CDUP) MA-3839  
Rockfall Mitigation and Stabilization Measures  
Hāna Highway along Mile Post 12, Honomanū, Hāna, Maui  
TMKs (2) 1-1-001:021 and 044, and adjacent right-of-way

This is to inform you that on October 14, 2019 the Chair of the Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) MA-3839 for for rockfall mitigation and stabilization measures along Hāna Highway near Mile Post 12 and improvements and the Kaumahina State Wayside Park located in Honomanū, Hāna, Maui, Hawai'i, and further identified as TMKs (2) 1-1-001:021 and 044, subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim or demand for property damage, personal injury or 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;
3. The permittee shall comply with all applicable department of health administrative rules;
4. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, 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;
5. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
6. In issuing the permit, the department and board have relied on the information 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

**EXHIBIT D**



inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;

7. 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;
8. 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;
9. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
10. Cleared areas shall be revegetated, in accordance with landscaping guidelines provided in this chapter, within thirty days unless otherwise provided for in a plan on file with and approved by the department;
11. Use of the area shall conform with the program of appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;
12. 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 Hawai'i, and by Hawai'i statutory and case law;
13. All representations relative to best management practices and mitigation set forth in the accepted application and any supplemental information submitted for the proposed use are incorporated as conditions of the permit;
14. 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 contractor shall immediately contact SHPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
15. The permittee will provide for public access to and use of Kaumahina State Wayside Park during construction;
16. The permittee will follow the protocols regarding the use of off-island heavy machinery contained in the Hawai'i Interagency Biosecurity Plan;
17. Trees taller than 15 feet shall not be removed or trimmed 'ōpe'ape'a birthing and pup rearing season from June 1<sup>st</sup> to September 15<sup>th</sup>;
18. Other terms and conditions as may be prescribed by the Chairperson; and
19. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30)

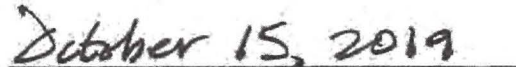
days. Should you have any questions on any of these conditions, please feel free to contact Michael Cain at 587-0048.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Cain", written in a cursive style.

Michael Cain, Planner  
Office of Conservation and Coastal Lands

Receipt acknowledged:

A handwritten signature in black ink, appearing to read "Hiram Takeda", written in a cursive style.  
Applicant's SignatureA handwritten date in black ink, appearing to read "October 15, 2019", written in a cursive style.  
Date

Copy: DOFAW, State Parks, Maui Planning  
Attachment: Staff Report

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

OCT 14 2019

180-Day Exp. Date: October 26, 2019

TO: Chairperson, Department of Land and Natural Resources

REGARDING: Conservation District Use Application (CDUA) MA-3848 for Rockfall Mitigation and Stabilization Measures Along Hāna Highway

APPLICANT: State of Hawai'i, Department of Transportation, Highways Division

LANDOWNERS: State of Hawai'i, Department of Transportation (Right-of-Way)  
State of Hawai'i, Department of Land and Natural Resources

LOCATION: Hāna Highway along Mile Post 12, Honomanū, Hāna, Maui

TAX MAP KEY PARCELS: (2) 1-1-001:021 and 044, and adjacent right-of-way

SUBZONE: Limited and Resource

SYNOPSIS

The Hawai'i Department of Transportation, Highways Division (HIDOT) is proposing to implement rockfall mitigation and stabilization measures at three sites along Hāna Highway between mileposts 12.06 and 12.69, and to conduct staging and accessory improvements at Kaumahana State Wayside Park. The project area is on State-owned lands in the Resource and Limited Subzones of the State Land Use Conservation District.

LIST OF EXHIBITS

- Exhibit 1 Project location
- Exhibit 2 Aerial view of project sites
- Exhibit 3 Kaumahina State Wayside Park
- Exhibit 4 Site reconnaissance survey
- Exhibit 5 Mauka site plan
- Exhibit 6 Typical cross section

DESCRIPTION OF PROJECT AREA

The project area is located along the northwest coast of Maui on the lower slopes of Haleakalā. Hāna Highway at this location is a two-lane road that is approximately 200 feet above sea level, and is bounded by steep slopes on both sides. The Department of Transportation has identified approximately 26 miles of Hāna Highway, between mile post 4 and 30, as an area requiring rockfall mitigation measures. Frequent clearing of the road of fallen debris, rocks, boulders, cobble and sediments is required after heavy rainfall events.



Kaumahina State Wayside Park was set aside for park purposes by Executive Order No. 4506 on July 21, 2016, although there is evidence that the area was used as a park as early as 1953. The park is used as a scenic rest area by motorists offers views over Honomanū Bay and the Maui coast. It is lightly developed, containing restrooms and picnic tables.

A botanical survey was conducted of the project area in November 2015 by LeGrande Biological Surveys, Inc. The vegetation within the project area was described as a disturbed wet forest in which majority of the native plant species have been replaced by alien invasive species. The sheer cliff faces generally had little to no vegetation present. Two native species of native plants were observed in the work area, hala (*Pandanus tectorius*) and 'ōhi'a lehua (*Metrosideros polymorpha*). Neither are listed as endangered or threatened.

In 2015 a new critical habitat was established in proximity to Site 1 for five federally identified species: pua'ala (*Brighamia rockii*), coastal flatsedge (*Cyperus pennatifolius*), Hilo murainagrass (*Ischaemum byrsonae*), makou (*Peucedanum sandwicense*), and O'ahu cowpea (*Vigna owahuensis*).

A biological survey was also conducted in November 2015 by Phillip Bruner. The avian survey observed no native land, water, migratory birds at the project site. The study noted that there is potential for pueo (Hawaiian short-eared owl, *Asio flammeus sandwichensis*), and 'ōpe'ape'a (Hawaiian hoary bat, *Aeorestes semotus*) to be present.

An Archeological Inventory Survey (AIS) was conducted by Cultural Surveys Hawai'i (CSH). The survey identified that a portion of the project area is located within the Hāna Highway Historic District (SIHP #50-50-07-1638). The Hāna Highway Historic District was nominated to the National Register of Historic Places in 2001 with a total of 73 contributing resources spanning from Huelo to Hāna. An additional five contributing resources were identified by CSH in 2014. An architectural recordation and historical data recovery as well as a Historic American Engineering Record has already been completed for the Hāna Highway Historic District.

A Cultural Impact Assessment (CIA) was also conducted by CSH which identified land use patterns of the Ko'oolau Moku, indicating an intensively used area in pre-contact times with historic-era agricultural pursuits, permanent and temporary habitation, and traditional ceremony. Settlement patterns seemed to focus primarily on valley and gulch lands with abundant resources that would have supported a large population. Specific to the project site, it was determined that there are no known present or contemporary cultural uses around the project area nor are they any burial sites.

#### PROPOSED USE

Work at the three sites will involve the installation of erosion control matting and wire mesh panels which will be anchored to the existing slope with soil nails varying in length from ten to twenty-five feet. At Site 1 mitigation on the makai side of the highway will also involve the installation of reinforced shotcrete anchored by soil nails.

During the installation of the rockfall mitigation devices, the use of heavy equipment and/or a helicopter may be required in locations along steep slope faces where difficult terrain is present.

Site preparation will involve the removal of unstable vegetation, scaling of loose and overhanging rock, and the removal of any loose debris.

Twenty-foot wide corridors adjacent to each of the sites will be used for construction access and staging area. There will also be a 3,500 square-foot staging area at the Kaumahina Wayside Park parking lot.



To mitigate impacts caused by the staging area, HDOT will ensure the Contractor maintains public access to the remainder of the parking lot and the restroom facilities while the staging area is in use.

Improvements at the park include moving the wood fence and railing that runs between the park and the highway to make room for the wire mesh. This fence will be relocated approximately sixty-six feet mauka of its existing location. In addition, the current concrete viewing pad will be expanded from 110 square feet to 550 square feet.

The applicant will coordinate with the Division of State Parks during the project to ensure that the park remains open and accessible to visitors.

Construction of the project will be limited to daylight working hours from approximately 8 AM to 4 PM. There will be short term impacts to traffic in the form of slowdowns and delays in both directions of travel between Kahului and Hāna. The closure of both lands of travel should not exceed a total of 20 minutes at a time as heavy equipment is moved along the project area. The surrounding community and residents will be notified prior to the start of construction.

No utilities are anticipated to be affected by the proposed project.

The DOT anticipates starting the project soon after approval, and completing the work by 2022.

Part of the erosion control structure at Site 1 will extend out of the highway's right-of-way, and the DOT anticipates filing a future Conservation District Use Application for consolidation and re-subdivision in order to adjust the boundaries of the right-of-way.

#### BEST MANAGEMENT PRACTICES

The DOT has proposed the following mitigation measures and best management practices (BMPs):

- Construction activities will be conducted in compliance with HAR, Chapter 11-54, Water Quality Standards; HAR, Chapter 11-55, Water Pollution Control, and County of Maui grading and erosion control standards.
- A National Pollution Discharge Elimination System (NPDES) Notice of Intent (NOI) Form C permit for Stormwater Discharges Associated with Construction Activity will be obtained from the State Department of Health. As a part of the NPDES permit, the contractor will be required to develop a Storm Water Pollution Prevention Plan (SWPPP).
- The contractor will implement BMPs in accordance with the SWPPP and NPDES permit approval conditions to prevent soil loss and discharges of sediment and pollutants in storm water runoff from project work sites. BMPs will include structural (i.e. filter socks), vegetative (e.g., grass, mulch, ground cover, soil stabilization), and management measures (e.g. project scheduling and phasing, material storage and equipment maintenance procedures, BMP monitoring) as necessary.
- Prior to construction, DOT will conduct a botanical survey of the portion of Site 1 in proximity to the federal critical habitat area to determine if any of the five identified species are present. The survey would be provided to DOFAW and the U.S. Fish and Wildlife Service prior to the start of construction for appropriate action, including the preparation of a mitigation plan for the protection of the identified species.
- The reuse of native plant species will be considered by HDOT where feasible based on the need to maintain the safety of work crews. Restoration will be made to the extent practicable.

- The use of a portion of the Kaunahina State Wayside Park for construction and equipment staging and storage will be managed by the contractor who will be required to keep the area free from trash and that covered trash receptacles be used to prevent the potential for increasing the attraction of predators to the area.
- As much as practical, 'ōhi'a trees shall be avoided to prevent the spread of Rapid 'Ōhi'a Death.
- As the Hawaiian Hoary bat has the potential to occur at the project site, no cutting or disturbance, including removal or trimming of trees with evidence of the Hawaiian hoary bat shall be permitted during the months of April through September 15. This shall include woody plants greater than 15 feet tall and site clearing shall also be timed to avoid disturbance to breeding bats within this same period.
- Any construction equipment requiring a power source will be operated from a generator.
- Portable toilets will be provided for use by construction and project-related personnel. The portable toilets will be maintained by the contractor.
- All construction related excavated materials and waste debris will be disposed of at a State- and County-approved landfill site. All waste related materials hauled off-site will be handled by the contractor who will be responsible to ensuring that the loads are properly secured and covered to prevent the inadvertent loss of waste along the roadway and to prevent the comingling of rainfall with the waste materials while in transit.

#### SUMMARY OF COMMENTS

The Office of Conservation and Coastal Lands (OCCL) referred the application to the following agencies for review and comment: Department of Land and Natural Resources (DLNR) Division of Conservation and Resource Enforcement, Division of Forestry and Wildlife, Engineering Division, Division of State Parks, Historic Preservation Division, and the Maui District Land Office; Department of Health (DOH) Office of Environmental Quality Control; Office of Hawaiian Affairs; County of Maui Planning Department; and the Hāna Community Association

In addition, this application was also sent to the Hāna Public and School Library, to make this information readily available to those who may wish to review it.

Below is a summary of comments received, as well as the applicant's response to those comments as applicable.

#### Division of Forestry and Wildlife (DOFAW)

DOFAW notes the presence of 'ōhi'a lehua at Sites 1 and 2, and urges caution to avoid injuring the trees to prevent spread of Rapid 'Ōhi'a Death. DOFAW requires that the guidance at the following website be reviewed and followed: <https://cms.ctahr.hawaii.edu/rod>.

DOFAW recommends HDOT consult the Hawai'i Interagency Biosecurity Plan at <http://dlnr.hawaii.gov/hisc/plans/hibp/> for guidance in inspection and decontamination protocols to avoid importing to Maui soil or other plant material on any off-island equipment and team members. For instance, any off-island heavy machinery should be power washed and free of debris and mud inside and outside of the vehicle before transportation to Maui as soil and plant material may have fungi (e.g. ROD), non-native species, and pathogens that could harm our native species and ecosystems.



Applicants Response

*DOT will review the reference provided for regulatory applicability to this project. Regarding inspection and decontamination protocols, HDOT will review comply with all state regulations regarding inspection and decontamination protocols.*

ANALYSIS

Following review and acceptance for processing, the applicant was notified, by correspondence dated April 30, 2019, that:

1. The proposed project was an identified land use within the Conservation District, pursuant to Hawai'i Administrative Rules (HAR), §13-5-22, *Identified land uses in the protective subzone, P-13 LAND AND RESOURCE MANAGEMENT, (C-2) Erosion control, including replanting of trees and groundcover, placement of biodegradable or synthetic materials for slope stabilization, construction of minor swales and check dams, not to include shoreline erosion control structures* and §13-5-22, P-8 LAND USES AND STRUCTURES, EXISTING (B-1) *Demolition, removal, or minor alteration of existing structures, facilities, land, and equipment. Any historic property shall be evaluated by the department for historical significance;*
2. Pursuant to HAR §13-5-40 HEARINGS, a public hearing would not be required.
3. In conformance with Chapter 343, Hawai'i Revised Statutes (HRS), as amended, and HAR, Title 11, Department of Health, Chapter 200, Environmental Impact Statement Rules, an Environmental Assessment (EA) for the project was prepared and a Finding of No Significant Impacts (FONSI) was issued by DOT on July 11, 2018. The Final Environmental Assessment (FEA) for the project was published in the May 23, 2019, issue of *The Environmental Notice*.
4. The proposed project is located within the Special Management Area. On December 21, 2018, the County of Maui, Department of Planning issued a letter stating that "*Per Section 22, Chapter 205A of the Hawai'i Revised Statutes as amended, the rules of the Planning Commission of Maui, and the Department of Planning's SMA Assessment, the proposed activity has been determined not to be a development and is exempt from the applicable requirements of 205A.*"

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in HAR §13-5-30.

- 1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The proposed use is an identified land use in the Resource subzone of the Conservation District; as such, it is subject to the regulatory process established in Chapter 183C, HRS and detailed further in Chapter 13-5, HAR.



The project is to ensure public health, safety, and welfare along this stretch of the Highway. Potential impacts to the Hawaiian Hoary Bat will be mitigated by avoiding cutting large trees during roosting and nesting months. In addition, Site 1 is located adjacent to a newly designated critical habitat. A botanical survey will be conducted prior to construction and submitted to both DOFAW and the USFWS to determine if a mitigation plan is necessary. Further, short-term impacts associated with construction activities are anticipated, however, they will be mitigated through the use of BMPs. View planes may be slightly altered as the rockfall preventative measures may be visible from various points along the highway, however, the trade-off is public safety.

The Kaumahina State Wayside Park will experience short term construction impacts as a portion of the parking lot will be used for construction staging and storage. However, the project will ensure public access be maintained. In addition, as the steel netting for the rockfall mitigation will encroach on a portion of the park, HDOT is proposing improvements to the lookout area to ensure that the current use and views provided by the park are maintained.

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

The objective of the Limited subzone is to limit uses where natural conditions suggest constraints on human activities and the objective of the Resource subzone is to ensure, with proper management, the sustainable use of the natural resources of those areas. The proposed land use is an identified land use that can be applied for pursuant to HAR, §13-5-22. The proposed work shall comply with all Federal, State and County regulations.

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

The proposed project is located within the Special Management Area, but the County of Maui, Department of Planning issued a letter stating that the proposed activity has been determined not to be a development and is exempt from the applicable requirements of 205A. However, as the entire island chain and waters located three nautical miles out is considered to be a part of the Coastal Zone Management Area (CZMA), the project is compliant with HRS, 205A as the project is to improve public health, safety, and welfare and is not anticipated to have any impact on historic, cultural, marine, beach, open space resources, or coastal systems. The project will have minor impacts to recreational resources, however, they will be mitigated through the improvement projects proposed for Kaumahina State Wayside Park. In addition, there may be a slight impact to scenic resources as the rockfall preventative measures may be visible from various points along the highway, however, the trade-off is public safety.

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

Staff believes the proposed land use will not cause substantial adverse impacts to existing natural resources within the surrounding area, community or region provided that mitigative measures are implemented and the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard that the project may cause. Short-term impacts associated with construction activities such as potential dust and debris are anticipated, however BMPs, as cited earlier in this report, shall be implemented to mitigate any potential impacts.

- 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 rockfall mitigation and stabilization project will ensure safety along this stretch of Hāna Highway as the 3 locations being addressed are adjacent to steep, and at times unstable, rock cut cliffs. In addition, frequent clearing of fallen debris, rocks, boulders, cobbles, and sediments is commonplace along the Highway in the wake of heavy rainfall and can be an issue as it drains resources from regular scheduled maintenance and triggers an emergency response for manpower and equipment during non-working hours.

Staff believes the proposed mitigation improvements at Kaumahina State Wayside Park (replacement fence, extended concrete pad for lookout area, and trimming of trees) are sufficient in retaining the current function of the park and lookout area.

- 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.*

Existing views from the project site are from along Hāna Highway. The primary views include forested valleys with small, interspersed residential areas along the Highway. From all three project sites, intermittent views of the ocean and the slopes of Haleakala can be seen while driving. The project is not anticipated to impact existing view planes though the anchored wire mesh along portions of the gulch will be visible from vehicles traversing the Highway.

Views toward the ocean will remain unaffected, with the exception at Kaumahina State Wayside Park where the applicant is proposing to mitigate the impacts of the project by clearing a 350 square foot area of trees fronting the expanded lookout area, thus maintain views of the ocean.

- 7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

No subdivision of land is proposed.

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

Staff is of the opinion that the proposed project will be a benefit to overall public health, safety and welfare.

#### CULTURAL IMPACT ANALYSIS

In *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, 94 Haw. 31 (2000), the Hawai'i Supreme Court laid out a framework for assessing cultural impacts. An assessment must include:

- (1) The identity and scope of "valued cultural, historic, or natural resources" in the area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;
- (2) The extent to which those resources – including traditional and customary native Hawaiian rights – will be affected or impaired by the proposed action; and
- (3) The feasible action, if any, to be taken by the (agency) to reasonably protect native Hawaiian rights if they are found to exist.



The Archaeological Inventory Survey (AIS) determined that a portion of the project area is located within the Hāna Highway Historic District (SIHP #50-50-07-1638) and that an architectural recordation and historical data recovery as well as a Historic American Engineering Record has already been completed for the Hāna Highway Historic District. In addition, the Cultural Impact Assessment (CIA) prepared for the project determined that there are no known present or contemporary cultural uses around the project area nor are there any burial sites.

Based on the findings of the AIS and CIA, no archaeological or cultural resources are anticipated to be impacted as a result of this project. The State Historic Preservation Division (SHPD) reviewed that project, and in a letter dated September 20, 2019 concurred with the applicant's determination that the project would not affect the defining features of Site 50-50-va-10638, and that no historic properties would be affected.

No further action could be taken by the applicant to reasonably protect native Hawaiian rights as the project is located on steep slopes adjacent to the existing Hāna Highway and not easily accessible.

#### DISCUSSION

The continuous natural and human induced erosion of slopes and rock faces of our islands exposes life and property to potentially hazardous situations. The natural occurrences of erosion and rockfall events are difficult to anticipate, however known hazardous areas should be mitigated. In this particular area, a rockfall event or erosive subsidence event in this area has the potential to not only be detrimental to life and private property but may also cause hardship to those who are dependent on Hāna Highway as a transportation corridor.

Staff also conducted a site visit to Kaumahina State Wayside Park on August 21, 2019. Based on that visit, Staff feels that the proposed mitigation to the lookout area is satisfactory and that the proposed improvements will maintain the current function of the park. The applicant has stated that access and use of the park will be maintained during construction; staff will recommend that this be made a condition of any permit issued.

Staff will recommend that the best management practices proposed by the applicant and discussed in this report be made a condition of any permit issued.

In addition, staff concurs with DOFAW on the importance of preventing the spread of invasive species and various pathogens between the islands, and will recommend that the protocols regarding the use of off-island heavy machinery contained in the Hawai'i Interagency Biosecurity Plan be made a condition of any permit issued.

Staff concurs with DOFAW that trees taller than 15 feet shall not be removed or trimmed during the 'ōpe'ape'a birthing and pup rearing season from June 1<sup>st</sup> to September 15<sup>th</sup>, and will recommend that this be made a specific condition of any permit issued.

OCCL concurs with SHPD's determination that the project will have no effect on historic properties, and believes that the standard permit conditions regarding the discovery of historic remains is sufficient.

#### RECOMMENDATION

Based on the preceding analysis, Staff recommends that the Chairperson of the Department of Land and Natural Resources APPROVE this application for rockfall mitigation and stabilization



measures along Hāna Highway near mile post 12 and improvements and the Kaumahina State Wayside Park located in Honomanū, Hāna, Maui, Hawai'i, and further identified as TMK (2) 1-1-001:021 and 044, subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim or demand for property damage, personal injury or 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;
3. The permittee shall comply with all applicable department of health administrative rules;
4. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, 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;
5. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
6. In issuing the permit, the department and board have relied on the information 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;
7. 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;
8. 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;
9. During construction, appropriate mitigation measures shall be implemented to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;
10. Cleared areas shall be revegetated, in accordance with landscaping guidelines provided in this chapter, within thirty days unless otherwise provided for in a plan on file with and approved by the department;
11. Use of the area shall conform with the program of appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;
12. 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 Hawai'i, and by Hawai'i statutory and case law;
13. All representations relative to best management practices and mitigation set forth in the accepted application and any supplemental information submitted for the proposed use are incorporated as conditions of the permit;

14. 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 contractor shall immediately contact SHPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
15. The permittee will provide for public access to and use of Kaumahina State Wayside Park during construction;
16. The permittee will follow the protocols regarding the use of off-island heavy machinery contained in the Hawai'i Interagency Biosecurity Plan;
17. Trees taller than 15 feet shall not be removed or trimmed 'ōpe'ape'a birthing and pup rearing season from June 1<sup>st</sup> to September 15<sup>th</sup>;
18. Other terms and conditions as may be prescribed by the Chairperson; and
19. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Respectfully submitted,

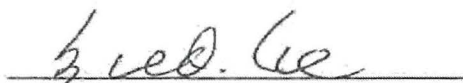


Michael Cain  
Office of Conservation and Coastal Lands

Under the authority of §13-5-30(a), Hawai'i Administrative Rules, this request for a Departmental Permit for CDUA HA-3777 is hereby:

☒ Approved  
☐ Disapproved

Dated at Honolulu, Hawai'i 10/14/19

  
**SUZANNE D. CASE**, Chairperson  
Board of Land and Natural Resources



**Hāna Highway along Mile Post 12  
Kaumahina State Wayside Park to Honomanū Bay**

0 375 750 1,500 Meters

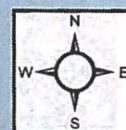
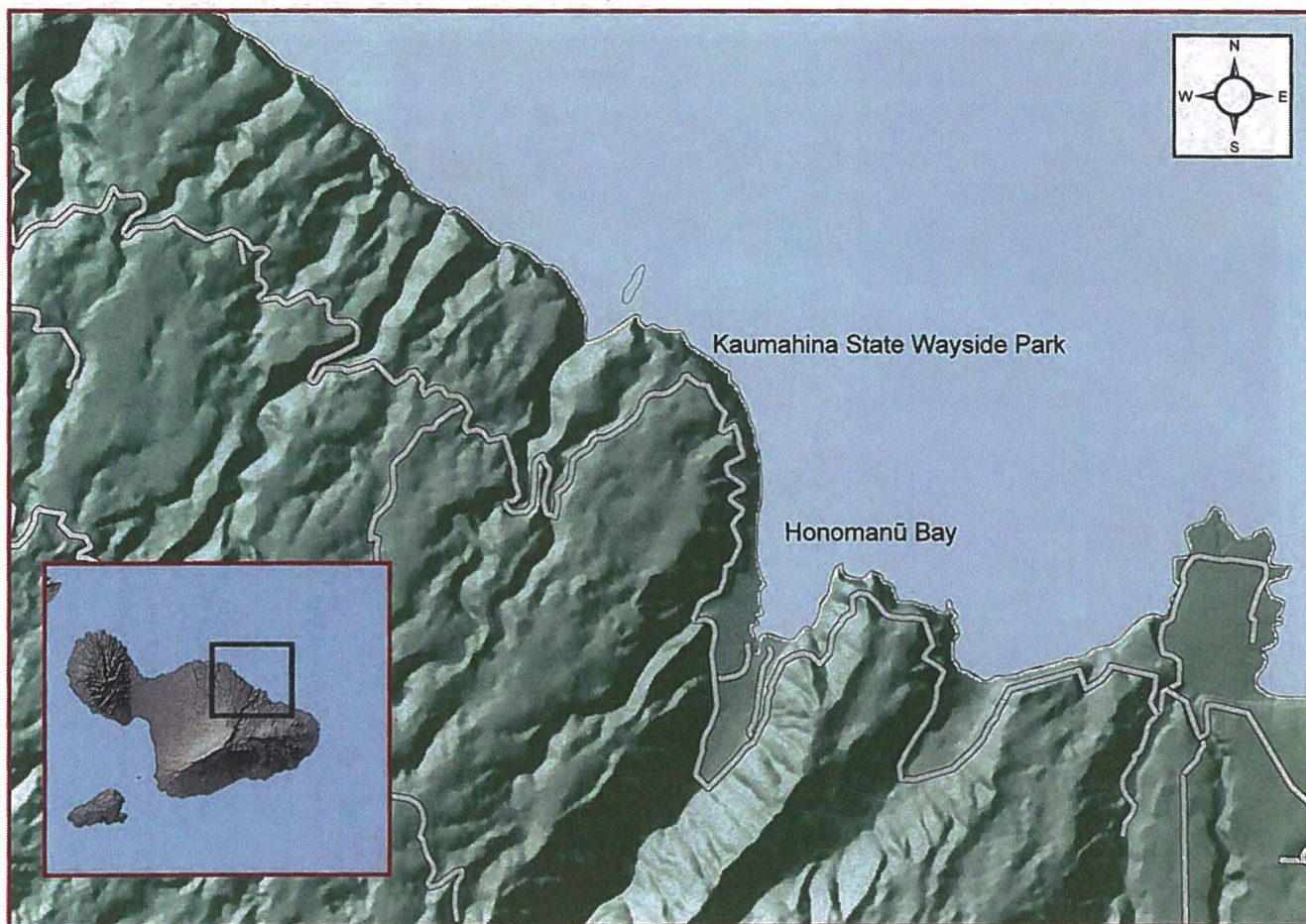


Exhibit 1 Project location



Produced by Michael Cain @ OCCL

All boundaries are approximate

Date: 10/10/2019





Figure 18. 2017 aerial photograph depicting the approximate locations of Hillside Bridge 2 and 3 adjacent to the Project Area Location 3 (Esri 2017) Note that the Hillside bridge locations were georeferenced based on information provided in Nagamine Okawa Engineers Inc. and Fung Associates (2015). The locations depicted on the map should be considered approximate and used for reference information only.

Figure 14, Kaumahina State Wayside Park Accessory Improvements (Schematic 2)

### Kaumahina State Wayside Park

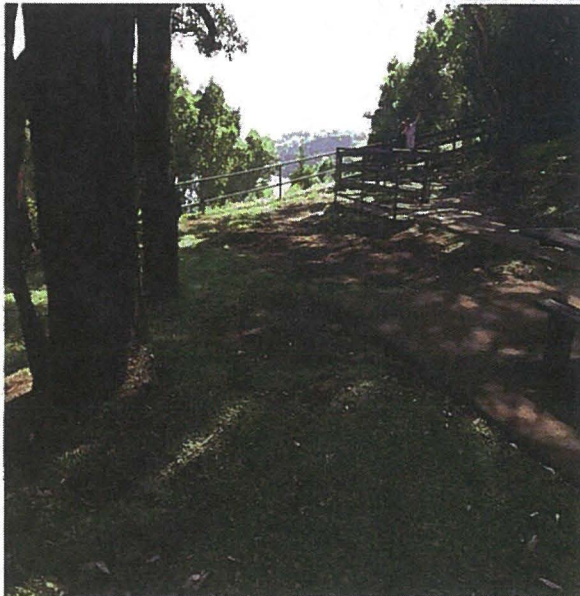


Photo of the project area's current state.

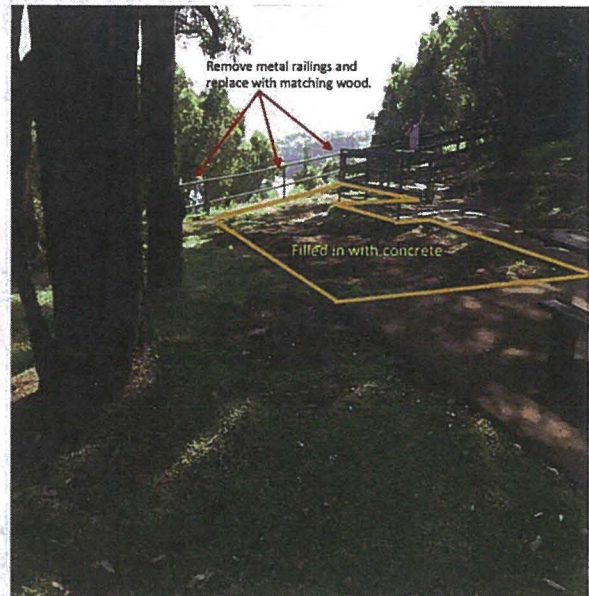


Photo depicts area which will be filled in with concrete (approx. 550 square feet concrete). Metal railings will also be removed and replaced with wood to match the newer existing. Railings will be located above slope mitigation project pins and netting.



Figure 4, Site Reconnaissance Along Project Limits – Site 1

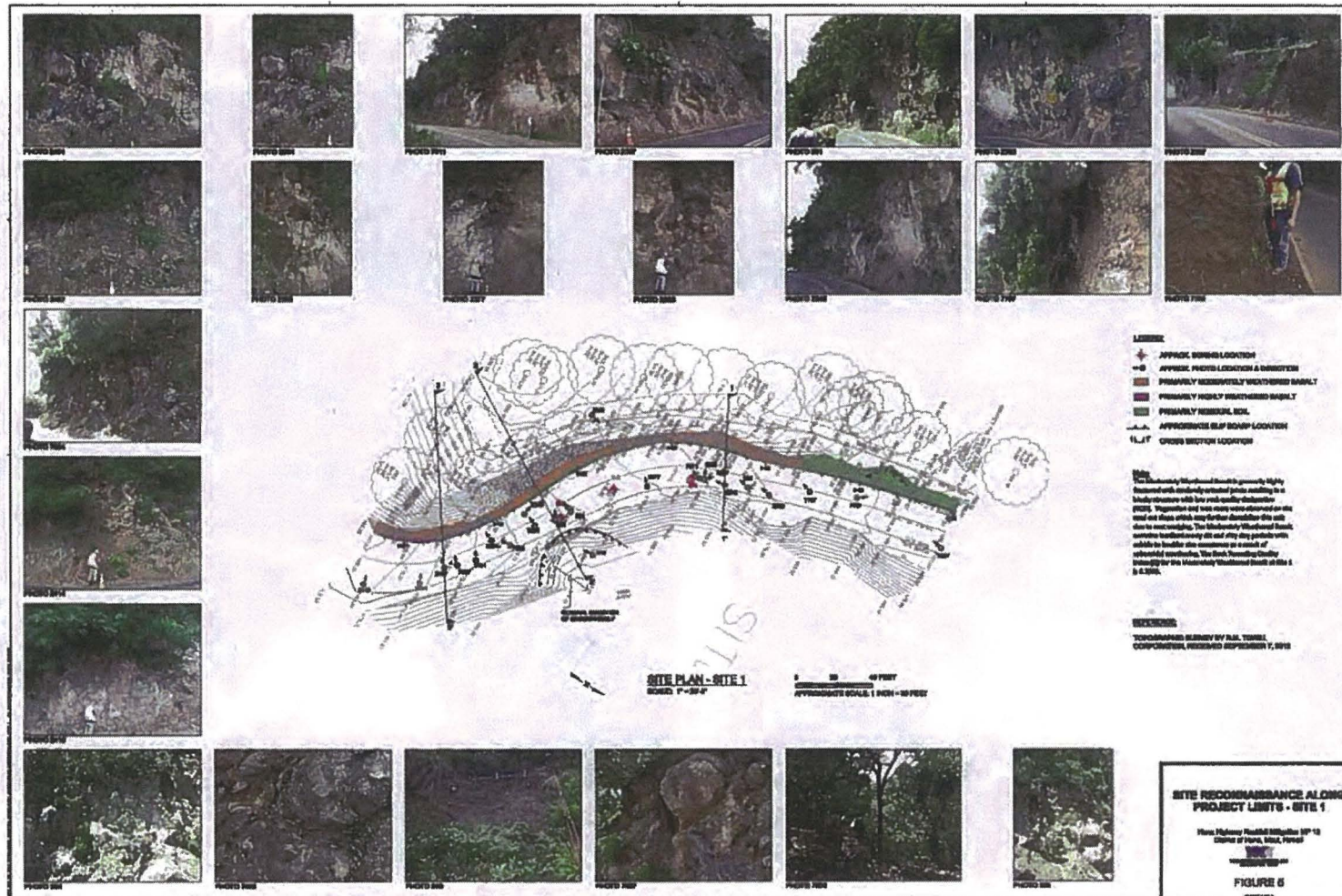
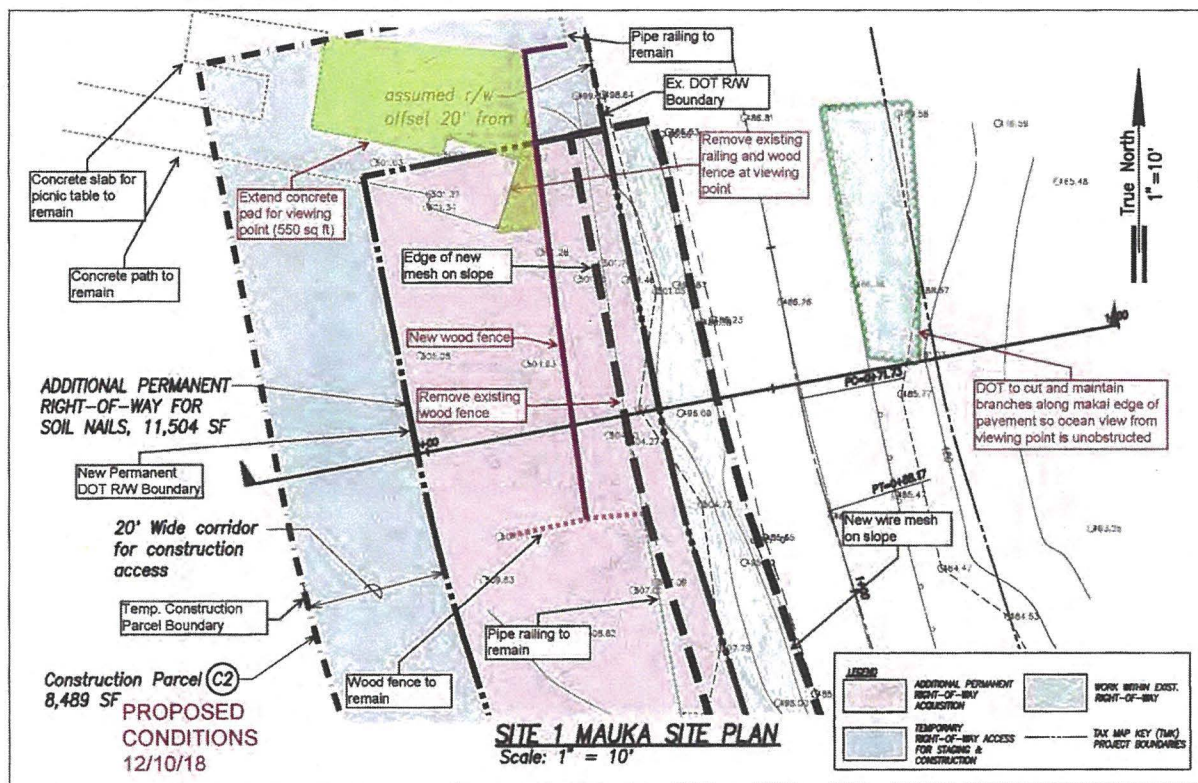


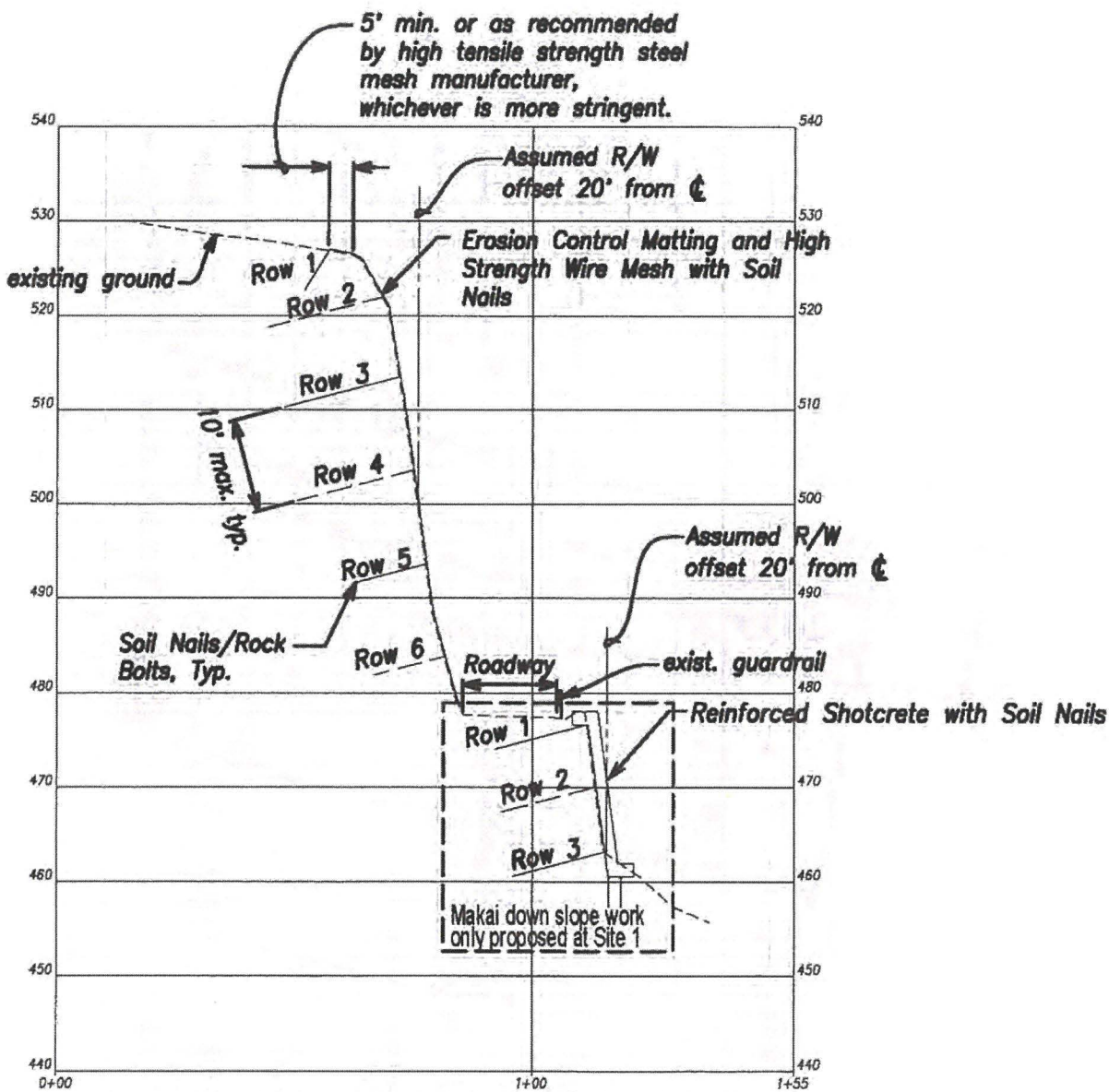


Figure 12, Kaumahina State Wayside Park Accessory Improvements General Site Plan



State of Hawaii Department of Land and Natural Resources Site Plan Approval Application

Figure 10, Typical Cross Section



\*Note: Typical Slope Profile Illustration is from Hāna Highway, Station 0+00 to 1+55