

BLNR Hearing K-1 Punaluu/ Johnson

Written testimony Aug 13, 2021

By Doug Johnson

Thank you for the opportunity to submit this testimony.

Property purchased from Bishop Estate in 2012 after 2 visits to DLNR inquiring about erosion and options for protection. Initial visit was warned of the history of and potential for future erosion. Second visit was reassured that temporary and permanent protection was easy to permit and obtain. Did not want to interfere with the sale of the property.

Temporary and permanent structures have been permitted and built with the help of professionals on every occasion working closely with DLNR. All previous structure sustained significant damage within the first year of installation and needed repairs.

The written testimony submitted by OCCL was reviewed and is largely accurate with a few exceptions and additions as follows:

-on page 2 in paragraph 1 of background, permits were obtained before the construction of the temporary structures and then found to be in violation. Paragraph 2: the property is rented on a monthly basis and usually for two months out of the year to help with the costs of the shoreline protection. The property was purchased with the intention of being my retirement residence.

-page 3 first paragraph. DLNR declined to approve repairs to the 2015 structure and asked that the old structure be removed and rebuilt with like to like replacement.

-page 3 last paragraph. DLNR complained about the structure being in the water on May 29, 2020. This structure was a temporary burrito boom to protect the surrounding water from the turbulence created during construction. This was removed upon completion.

-page 4 paragraph 2: The site inspection was requested by Dr Johnson to show the structure was in compliance with the permit after receiving the notice of violation. It was requested from the contractor to make a pedestrian access and to make the structure aesthetically acceptable. The contractor told the OCCL staff during that visit that the bottom two rows of geotextile bags were the only geotextile bags available from Geotech Solutions at the time and placed to arrange for pedestrian access across the bags during high tide and high surf. They were placed in the same footprint as the previous SEAbags that are no longer available and remains seen in some photos. We were not aware the Elcorock bags were illegal. We had observed that they were used in other coastal protection projects.

-page 4 fourth paragraph: July 21 letter did not say "offered to supervise". It stated that there was to be direct onsite supervision of the demolition of the structure and the building of the

new structure. Johnson solicited Gundaker Works and Shoreline Restoration to complete this task and both declined, I suspect because of the insistence on the supervision. I explained this to DLNR and they said they would be okay with photo documentation of the demolition and rebuilding. This was again presented to Gundaker Works and Shoreline Restoration who again declined to take the project.

-page 5: 3rd paragraph it states that landowners had not taken any meaningful actions. I solicited 2 contractors on 2 separate occasions to do the work. I also contacted Troy Ogasawara of Geotech Solutions about any other contractors that he might be aware of to do the work. He had no one else to offer.

-page 6: 5th paragraph says 10-12 rows of sandbags were used. From the arial and costal photos used by the DLNR(many of which I provided) shows 4 rows of bags above the Elcorock bags.

The current temporary structure appears to have stabilized and grown the beach on the Prchal or North side of the property and has protected the shoreline on the Yim or South side of the property as stated in a letter from him to the DLNR.

Cost of the current temporary structure was \$80K, removal will be \$20K and reconstruction will be another \$80K. Permit application was \$5K. Any fines will be an additional expense for trying to protect my property temporarily.

We are requesting a contested case hearing.

An aerial photograph of the Punalu'u coastline at Makali'i Point. The image shows a lush green mountain in the background, a sandy beach, and turquoise water. A yellow arrow points to a specific location on the shoreline. On the left side of the image, there is a vertical blue bar with a white circuit board pattern.

Punalu'u Shoreline at Makali'i Point
Historical Aerial Photographs 1928-2018

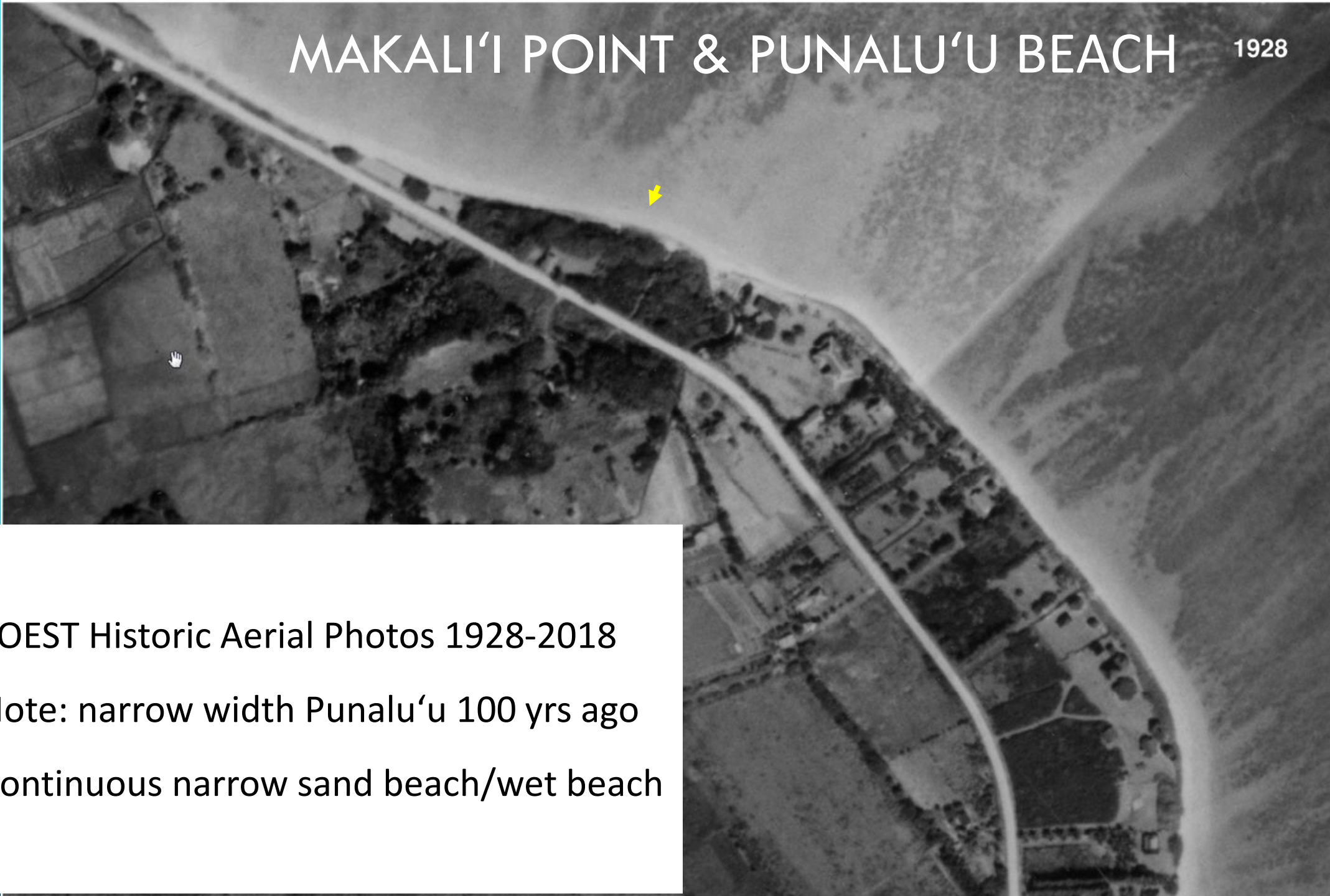
PUNALU'U EMERGENCY SHORELINE PROTECTION

SPA: OA-13-55 EP: OA-20-8

DOUGLAS JOHNSON FAMILY

MAKALI'I POINT & PUNALU'U BEACH

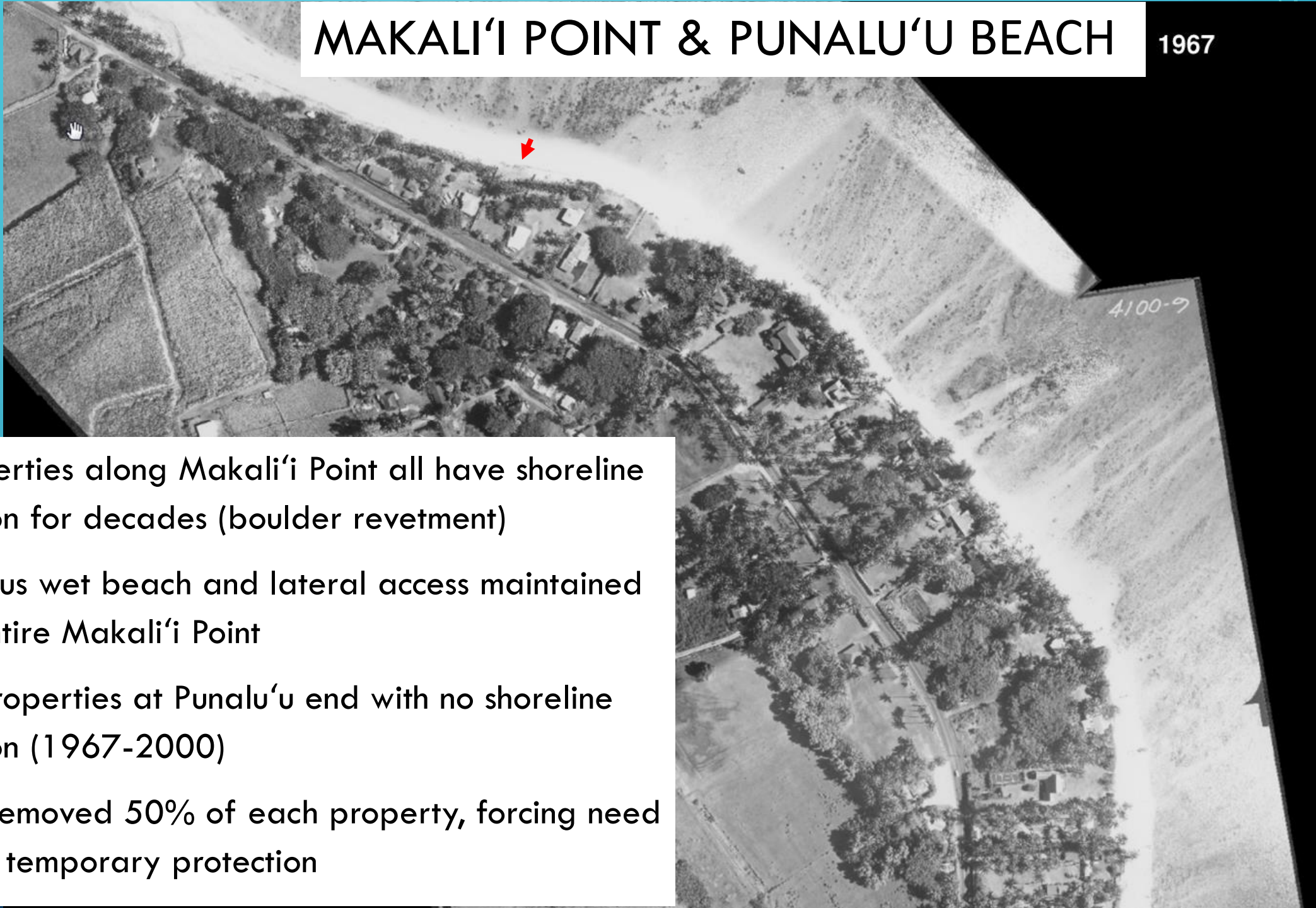
1928



- SOEST Historic Aerial Photos 1928-2018
- Note: narrow width Punalu'u 100 yrs ago
- Continuous narrow sand beach/wet beach

MAKALI'I POINT & PUNALU'U BEACH

1967



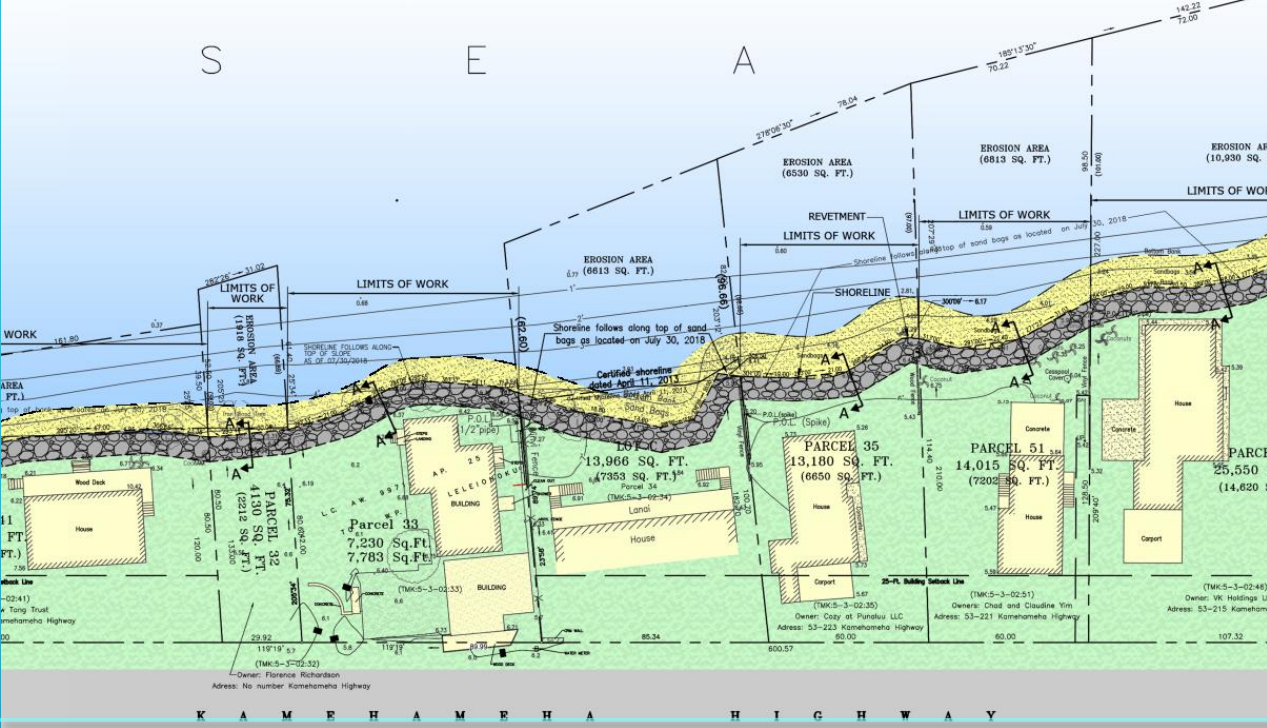
- 38 Properties along Makali'i Point all have shoreline protection for decades (boulder revetment)
- Continuous wet beach and lateral access maintained along entire Makali'i Point
- Seven properties at Punalu'u end with no shoreline protection (1967-2000)
- Erosion removed 50% of each property, forcing need to install temporary protection

MAKALI'I POINT & PUNALU'U BEACH 2006

- 38 Properties along Makali'i Point all have shoreline protection for decades (boulder revetment)
- Evidence of a continuous wet beach and lateral access along entire Makali'i Point
- Seven properties at Punalu'u end did not build shoreline protection 1928-2000
- Erosion removed 50% of each property, forcing need to install temporary protection

HISTORY OF TEMPORARY SHORELINE PROTECTION

- May 2013 - DLNR SPA OA-13-55 sandbag structure (Johnson)
- Oct 2013 - Modifications approved for 5-year term, Expired May 2018
- History of erosion threat to 7 adjoining properties up to Punalu'u Beach Park
- Endless Headache for DLNR OCCL 20+ years of individual owner problems
- Recommended seeking an acceptable long-term solution through joint project



APPLICATION FOR SHORELINE VARIANCE

- Johnson led 7 owners to address erosion as group
- City DPP permit for boulder revetment (e.g. 38 lots)
- 2016-2018 – Design and Tech Studies for EA
- 2017-2018 - City DPP approves Final EA/FONSI
- 2018 – Administration denies Shoreline Variance
- Three Years and \$250,000
- City DPP re-directs owners to go back to DLNR
- Contested Case Hearing Pending – City has failed to schedule now 2+ years waiting

2019 APPROVAL: EMERGENCY EROSION CONTROL

The DLNR authorizes the temporary emergency erosion control measures as described above for three (3) years along the shoreline fronting the subject property while the applicant develops long-term options in an effort to protect public health, welfare, and safety on the subject property under Hawaii Administrative Rules (HAR) §13-5-35, *Emergency Permits*

Johnson OA20-8 Like-to-like replacement two rows geotextile sandbags

Mirafy blanket, Sea Bags and Makai Ranch Sand at the top of structure.

At the time of construction, SeaBags were no longer available

Alternative Elcorock bags placed in same position as previous sandbags

**OCT
2018**

**PRE-
REPAIR**



**APRIL
2018**

**PRE-
REPAIR**





**MAY 2021
POST-REPAIR**



APRIL 2018 (PRE- REPAIR)

- FAILING STRUCTURE**
- DEFLATED SANDBAGS**
- DEBRIS IN NEARSHORE AREA**
- POOR LATERAL ACCESS**

MAY 2021 (POST-REPAIR)

- + SAME STRUCTURE FOOTPRINT**
- + REMOVED NEARSHORE REMNANTS**
- + IMPROVED LATERAL ACCESS ACROSS
2ND ROW OF SANDBAGS**

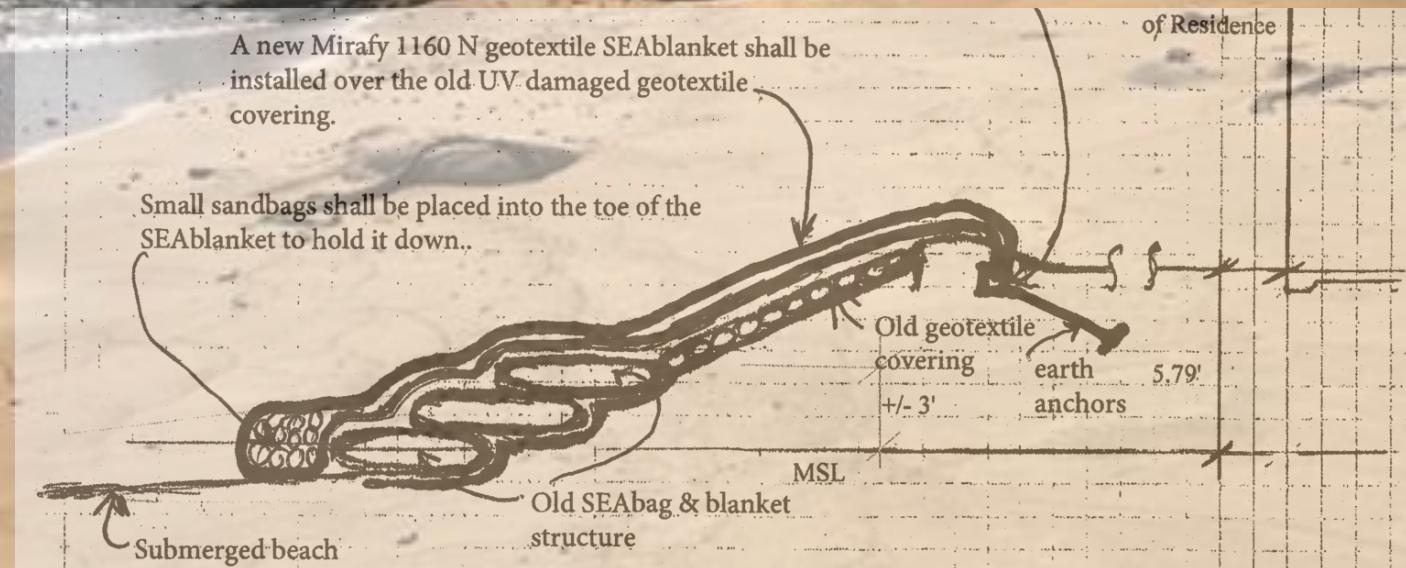




**MAY 2021
POST-REPAIR**

MAY 2021

**FOLLOWS
APPROVED
PLAN**



JUNE 30, 2020 ALLEGED VIOLATION AND ORDER

- Construction of Temporary Erosion Control: May-June 2020
- DLNR Violation: 1. Alleged Seaward Expansion & 2. Different Materials

SUMMARY OF FACTS:

1. Sandbag Structure position matches 2019 Permit Plans (per photos)
2. Burrito Boom was positioned seaward only during construction
 - Burrito Boom was removed at end of construction June 2020
3. Used Available Geotextile Materials for erosion control structure

DLNR DIRECTIVE TO DISMANTLE STRUCTURE

1. DLNR: Relocate/rebuild entire structure 10 ft mauka
2. DLNR: Build steeper slope and use non-durable geotextile material
 - Contrary to Prior Approved Location & Impractical Design (Slope)
 - Would Breakdown the Existing Shoreline Berm & Threaten Neighbors
3. Owner pursued compliance with DLNR Directive
 - Offered to contractors: Gundacker and Shoreline Restoration
 - Contractors declined project as “Infeasible slope with Geotech materials”
4. DLNR April 2021 letter – Referral to BLNR Hearing

EMERGENCY PROTECTION COSTS

Application, Design and Permitting	\$5,000
<u>Emergency Protection Installed</u>	<u>\$80,000</u>
COSTS TO DATE	\$85,000
Remove Emerg. Protection (Per BLNR)	\$20,000
Proposed Fine (Per BLNR)	\$18,000
<u>Install New Emergency Protection</u>	<u>\$80,000+</u>
TOTAL COST	OVER \$200,000 !!

PROPOSED RESOLUTION & ACTIONS

1. Violation Status Resolution

- Confirm the Erosion Control Structure conforms to OA-20-8 Permit location, accept Violation using only available material

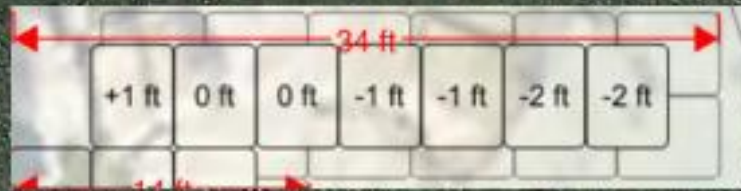
2. Future Repairs

- Approve Renewal of OA-20-8 Emergency Erosion Control to allow for in-kind repairs to Structure pending long-term solution

3. Assistance to DLNR/County

- Owner offers to Assist DLNR and County with a Sandbag Groin Pilot Project to help stabilize this segment of Punalu'u shoreline

SANDBAG GROIN PILOT PROJECT - PUNALU'U



Low Profile Sandbag Groin System
~20-25 sandbags per groin
6 to 8 Groins extend 40 to 50 ft offshore