

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

November 10, 2022

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

MAUI

Request to Rescind Previous Board Action of July 14, 2000, Agenda Item D-32, Rescinding Previous Board Action of October 11, 1985, Agenda Item F-4, and Authorizing a Public Auction; and Amend Previous Board Actions of October 11, 1985, Agenda Item F-4 and September 13, 1985, Agenda Item F-10, Involving the Direct Sale of a Non-Exclusive Easement to Charles M. Foreman, Trustee and Cathedral City Investments, Inc., Kaohai, Lanai, Tax Map Key: (2) 4-9-003:Seaward 010.

The purpose of this rescission and amendment is to cancel the public auction approved by Board Action of July 14, 2000, Agenda Item D-32 and approve the direct sale of a non-exclusive easement, which was previously approved by the Board on September 13, 1985, Agenda Item F-10, as amended on October 11, 1985, agenda item F-4, subject to the same terms and conditions, to current owner, Lanai Resorts, LLC dba Pulama Lanai, and amend the name of the applicant to the current owner of the abutting property, and replacing rent reopening dates instead with known stepped-up rents appraised at fair market value, and other housekeeping amendments.

APPLICANT:

Lanai Resorts, LLC dba Pulama Lanai

LEGAL REFERENCE:

Sections 171-6, 13, and 53, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kaohai, Lanai Hawaii, identified by Tax Map Key: (2) 4-9-003:Seaward of 010, as shown on the map attached as **Exhibit A**.

AREA:

90,300 square feet (2.073 acres), more or less, map and description attached as **Exhibit B**.

ZONING:

State Land Use Commission: Conservation
County of Maui: No zoning designation for submerged land

TRUST LAND STATUS:

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

CURRENT USE STATUS:

Encumbered by Revocable Permit (RP) No. S-7343 issued to Castle & Cooke Lanai Properties, LLC (CCLP) for the purposes of channel clearing, buoy placement, pier construction and maintenance, and conducting of commercial activities (docking, loading, and unloading of commercial tour boats). RP No. S-7343 was last renewed by the Board of Land and Natural Resources (Board) on October 12, 2021. Photos of the pier are attached as **Exhibit C**.

Club Lanai Properties, LLC, who purchased all of CCLP's interest in Lanai, is an affiliate of Lanai Resorts, LLC dba Pulama Lanai.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain, repair, replace and remove, a channel, buoys, and a pier over, under and across State-owned submerged land, and to conduct commercial activities (docking, loading and unloading of commercial tour boats).

ANNUAL RENT:

To be determined by independent appraisal establishing fair market value. Rent shall be set for the twenty (20)-year period, with known fair market rent step-ups every five (5) years, and for the last twenty (20)-year period to be reopened and redetermined by appraisal pursuant to law, with known fair market rent step-ups every five (5) years,¹ all subject to review and acceptance by the Chairperson. In determining the annual fair market rent, the appraiser shall also consider whether the income approach² or other revenue sharing mechanism (in addition to a base annual rent) is appropriate considering the uses and benefits granted by this easement and market conditions.

¹ Appropriate step-ups at the end of the 5th, 10th and 15th years of the initial 20-year period shall be determined by an independent appraiser, subject to review and approval by the Chairperson.

² See handwritten notes on Board submittal dated October 11, 1985 (Exhibit H) that indicate the Board deleting the consideration of mooring or docking fees into the rent and instead that the income approach be considered during the valuation upon reopening. Considering the mandatory fair market value requirement under HRS 171-17, staffs' current approach is to allow the appraiser to determine whether market conditions support an income approach to valuation or other revenue sharing mechanism (such as percentage rent or amount per passenger count, etc.) in addition to a base annual rent, and if affirmative, to provide such revenue sharing mechanism that would represent fair market value.

TERM:

Forty (40) years.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

An Environmental Assessment for the subject project was prepared by Belt, Collins and Associates for the proposed channel clearing and construction of the Lanai Landing pier and published in the October 8, 1984 edition of the OEQC Bulletin with a finding of no significant impact (FONSI). The Environmental Assessment is attached as **Exhibit D**. On March 8, 1985, Agenda Item H-6, as a part of the review and acceptance of the Conservation District Use Application, the Board found that the proposed activity would have no significant long-term environmental impact. See, page 14, paragraph 6 of the Conservation District Use Application attached as **Exhibit E**.

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," and Part 1, Item 39 that states, "Creation or termination of easement, covenants, or other rights in structures or land." The pier, channel and buoys have existed and been in operation since 1986 their continued use and maintenance under a 40-year term, non-exclusive easement will involve negligible or no expansion or change of use beyond that previously existing.

CONSERVATION DISTRICT USE PERMIT:

A Conservation District Use Application was approved by the Board on March 8, 1985, Agenda Item H-6, (CDUA No. LA-9/17/84-1705); and amended on March 10, 1987. The CDUA and Amendment are attached as **Exhibits E** and **F**, respectively.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant 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 annual rent; and
3. Comply with all terms and conditions of Conservation District Use Application No. LA-9/17/84-1705.

REMARKS:

The Lanai Landing site (formerly known as Halepalaoa Landing, Kahalepalaoa Landing, or Maunalei Sugar Co. Landing) has long been used as a boat harbor. However, maintenance of the channel was neglected and by 1985 extensive channel clearing was required, including the removal of approximately 7,200 cubic yards of material. With the objective of reopening the only windward small craft harbor on Lanai, the then-owners of the adjacent fast land requested and were granted a Conservation District Use Application (CDUA) authorizing channel clearing, buoy replacement, pier construction and maintenance, and conducting of commercial activities (docking, loading and unloading of commercial tour boats.) A copy of the CDUA is attached as **Exhibit E**.

On September 13, 1985, under Agenda Item F-10, as amended October 11, 1985, Agenda Item F-4, the Board of Land and Natural Resources (Board) approved the direct sale of a non-exclusive easement³ to then-owners Charles Forman, Trustee, and City Cathedral Investments, Inc. for use of the State-owned Lanai Landing and surrounding submerged land to accommodate the operations, known as Club Lanai Properties, LLC. Consistent with the CDUA, the use of the submerged State land would involve channel clearing, buoy placement, pier construction and conducting of commercial activities (docking, loading and unloading of commercial boat tours). The term of the approved easement was forty (40) years. Board Submittals F-10 and F-4 are attached as **Exhibits G** and **H**, respectively.

The Department of the Attorney General determined that prior approval by the Governor and Legislature was required before the easement could be issued since submerged land was involved. As an interim measure, a revocable permit was issued to Charles Forman, Trustee, and City Cathedral Investments, Inc. until the approvals could be obtained. See, Board Submittal of October 11, 1985, Agenda Item F-4, attached as **Exhibit H**.

³ The Board approval was clearly for a non-exclusive easement. However, the staff submittal incorporated the conditions of the CDUP, which provided that applicants would have exclusive use of the pier in exchange for providing a public access easement over private land connecting the roadway in the area to the ocean or channel basin (not for the public's unfettered use of the pier). The public access to the channel basin requirement was later clarified to require either dedication of the accessway to the County, or if rejected by the County, the applicant/permittee would be required to maintain the accessway to the channel basin into perpetuity. See Exhibit G, item F-10, September 13, 1985. The incorporation of the CDUP conditions would later result in some confusion, as the Department of the Attorney General took the position that the incorporation of the CDUP conditions made the easement exclusive.

In 1986, the legislative and Governor approvals were obtained; however, the easement was not issued. The approvals are attached as **Exhibit I**. Subsequently, Charles Forman, Trustee and Cathedral Investees, Inc. sold Club Lanai Properties, LLC to MRF Lanai, LP. Thereafter, MRF Lanai, LP sold the property to Castle and Cooke, Inc. Finally, Castle and Cooke, Inc. (after a name change) sold to the current owner, Lanai Resorts, LLC dba Pulama Lanai (Pulama Lanai). Despite all the transfers, each owner only held a Revocable Permit for the State's submerged lands.

On July 14, 2000, Agenda Item D-32, the Board rescinded direct sale of a non-exclusive easement and authorized a public auction of Lanai Landing. Board Submittal D-32 is attached as **Exhibit J**. As explained in footnote 3 above, the incorporation of the CDUA conditions regarding the exclusive use of the pier in the approved staff submittal resulted in confusion, with the Department of the Attorney General finding the easement for the pier would necessarily be exclusive and that such exclusive easements are akin to leases that are exclusive use in nature and are generally disposed of by way of public auction unless the nature of the lease allows for direct negotiation, which led to the July 14, 2000 action. However, the public auction was not held, and Lanai Landing remains on a month-to-month revocable permit.

Presently, Pulama Lanai plans to make improvements to the Lanai Landing pier, which was constructed about thirty-six (36) years ago. Prior to spending an estimated one million dollars (\$1,000,000) for the improvements, Pulama Lanai is seeking to ensure its interest in the site is more secure than a month-to-month Revocable Permit.

On October 18, 2022, Pulama Lanai provided a marine impact study conducted by Marine Environmental Research Consulting, LLC (MERC). MERC's marine study is attached as **Exhibit K**. The study evaluated the existing water quality conditions and the marine communities (particularly the coral reef community) surrounding Lanai Landing. MERC found no corals or other sensitive marine organisms on the existing pier or within the sand channel adjacent to the pier. MERC recommended the primary form of mitigation to be the avoidance of the reef adjacent to the existing pier.

The current owner, Pulama Lanai, respectfully requests the direct sale of a non-exclusive easement approved by the Board on September 13, 1985, Agenda Item F-10, as amended October 11, 1985, Agenda Item F-4, be reinstated and amended as herein provided and issued to Lanai Resorts, LLC dba Pulama Lanai for the term of forty (40) years beginning on a commencement date determined by the Chairperson, subject to the terms and conditions previously approved by the Board and the amendments mentioned above and also listed in the below recommendations. The easement will be non-exclusive, however, anyone wishing to use the pier (other than Pulama Lanai) would need to apply to the Board for a nonexclusive submerged lands easement, which would also require payment of fair market value for the easement as well as obtaining the consent⁴ of Pulama Lanai, who owns the pier improvements.

⁴ Cost sharing with Pulama Lanai for the maintenance of the pier and accessway may also be required.

The 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. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15, HAR, the environmental assessment is sufficient, and this project will probably have minimal or no significant effect on the environment.
2. Rescind the prior Board submittal of July 14, 2000, Agenda Item D-32, rescinding the previous Board action of October 11, 1985, Agenda Item F-4 and authorizing a public auction of the subject property.
3. Authorize the amendment of the previous Board action of October 11, 1985, Agenda Item F-4, , by amending the name of the applicant to the current owner of the abutting property (i.e., Lanai Resorts, LLC dba Pulama Lanai), and amending the rent paragraph as noted above by, among other things: (a) replacing the rent reopening dates instead with known stepped-up rents appraised at fair market value; (b) appraiser to determine whether market conditions support an income approach to valuation or other revenue sharing mechanism (such as percentage rent or amount per passenger count, etc.) in addition to a base annual rent, and if affirmative, to provide such revenue sharing mechanism that would represent fair market value; and (c) other housekeeping amendments noted above.
4. Subject to Applicant fulfilling all of the requirements listed above, authorize the issuance of a term, non-exclusive easement to Lanai Resorts, LLC dba Pulama Lanai covering the subject area for the purpose of occupying and using the premises for the right, privilege and authority to construct, use, maintain, repair, replace and remove, a channel, buoys, a pier and to conduct commercial activities (docking, loading and unloading of commercial tour boats), subject to the terms and conditions cited in the previous Board action of October 11, 1985, Agenda Item F-4, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current non-exclusive easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 4-9-003:10, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantor of such transaction in writing, and shall notify Grantee's successors and assigns of the insurance requirement in writing, separate and apart from the easement document;


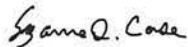
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- E. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.
- F. Authorize the continuation or renewal of RP No. S-7343 up to the time of execution of the grant of easement and the automatic cancellation of RP No. S-7343 upon execution of the grant of easement.

Respectfully Submitted,



Andrew Tellio
Appraisal and Real Estate Specialist

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

EXHIBIT A



EXHIBIT A

EXHIBIT B

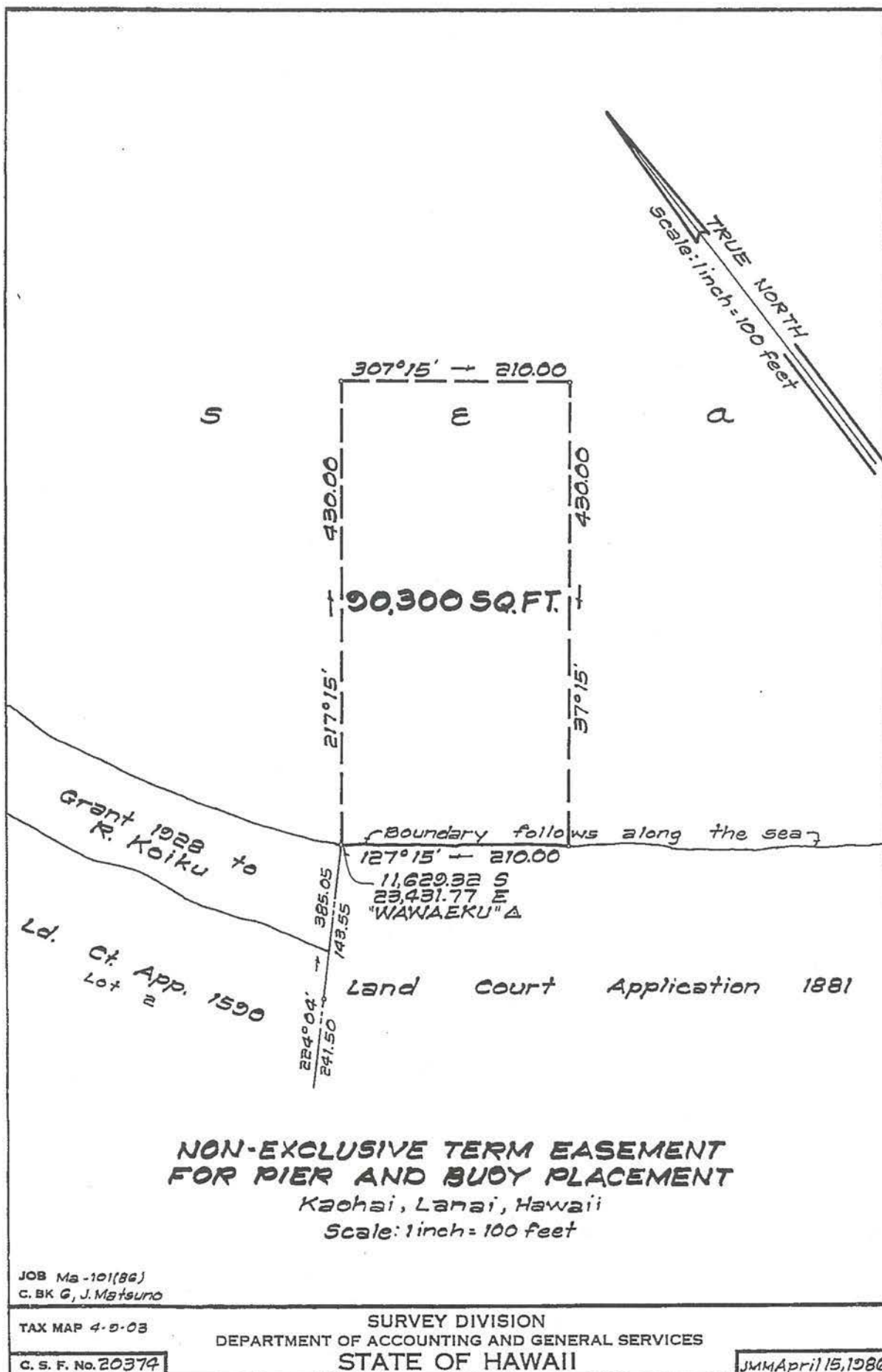


EXHIBIT B

C.S.F. 20,374

NON-EXCLUSIVE TERM EASEMENT
FOR PIER AND BOUY PLACEMENT

Kaohai, Lanai, Hawaii

DLNR
4-17-86
167-Y

EXHIBIT B



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES

HONOLULU

C.S.F. No. 20,374

April 15, 1986

NON-EXCLUSIVE TERM EASEMENT
FOR PIER AND BUOY PLACEMENT

Kaohai, Lanai, Hawaii

Being a portion of the submerged land fronting Land
Court Application 1881.

Beginning at the west corner of this easement and on the north
corner of Land Court Application 1881, the coordinates of said point of
beginning referred to Government Survey Triangulation Station "WAWAEKU"
being 11,629.32 feet South and 23,431.77 feet East, thence running by
azimuths measured clockwise from True South:-

1. 217° 15' 430.00 feet;
2. 307° 15' 210.00 feet;
3. 37° 15' 430.00 feet;
4. Thence along Land Court Application 1881, the direct azimuth and
distance being:
127° 15' 210.00 feet
to the point of beginning and
containing an AREA OF 90,300
SQUARE FEET.

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

By: Joseph M. Matsuno
Joseph M. Matsuno
Land Surveyor

Compiled from data furn.
by Belt, Collins and
Assoc., Ld.Ct.App. 1881
and Govt. Survey Records.

pt

EXHIBIT B

EXHIBIT C



Photos of pier taken Nov. 2018

EXHIBIT C



Photos of pier taken Nov. 2018

EXHIBIT C

EXHIBIT D

**ENVIRONMENTAL ASSESSMENT
PROPOSED MAINTENANCE CLEARING OF
HALEPALAOA LANDING
KAOHAI, LANAI, HAWAII**

Exhibit D

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Exhibit 1	Tax Map 4-9-03:10
Exhibit 2	Certified Shoreline Survey
Appendix A	Dollar, Steven. May 1984. "Baseline Assessment of the Marine Environment in the Vicinity of Halepalaoa Landing, Lanai, Hawaii"
Appendix B	Hawaii Coastal Zone Management Program, Assessment Format

**ENVIRONMENTAL ASSESSMENT
PROPOSED MAINTENANCE CLEARING OF
HALEPALAOA LANDING
KAOHAI, LANAI, HAWAII**

I. APPLICANT

The applicant is Allan D. Starr, landowner in fee of 7.46 acres adjacent to the shoreline and offshore submerged lands owned by the State of Hawaii. The offshore lands are the subject of the proposed maintenance clearing. The applicant's principal place of business is the Pacific Tower, Suite 1956, 1001 Bishop Street, Honolulu, Hawaii 96813.

II. PROJECT LOCATION

The applicant proposes to undertake a nearshore maintenance clearing project at Halepalaoa Landing on the east coast of the Island of Lanai. Figure 1 shows the location of the project. The applicant's property is identified by Tax Map Key 4-9-03:10, Second Division. The tax map is attached as Exhibit 1. The proposed maintenance clearing would occur in an area extending approximately 450 feet seaward of the shoreline of the applicant's property. Exhibit 2 is a copy of the shoreline as located and certified by the Chairman of the Board of Land and Natural Resources as of April 30, 1984.

III. DESCRIPTION OF THE PROPOSED ACTION

Existing Condition

Halepalaoa, also called Kahalepalaoa, is located on the east coast of Lanai approximately nine miles east of Lahaina and Kaanapali, Maui. The Island of Lanai by Kenneth Emory cites J.M. Lydgate and Dr. Hillebrand landing in 1869 at the little native hamlet of Ka-Hale-palaoa where there were a half dozen grass houses, men, women, children and dogs (Emory, 1924:reprint 1969:9). Lawrence Gay makes several references to boats landing at Halepalaoa in his book, True Stories of The Island of Lanai. Although the earliest use of

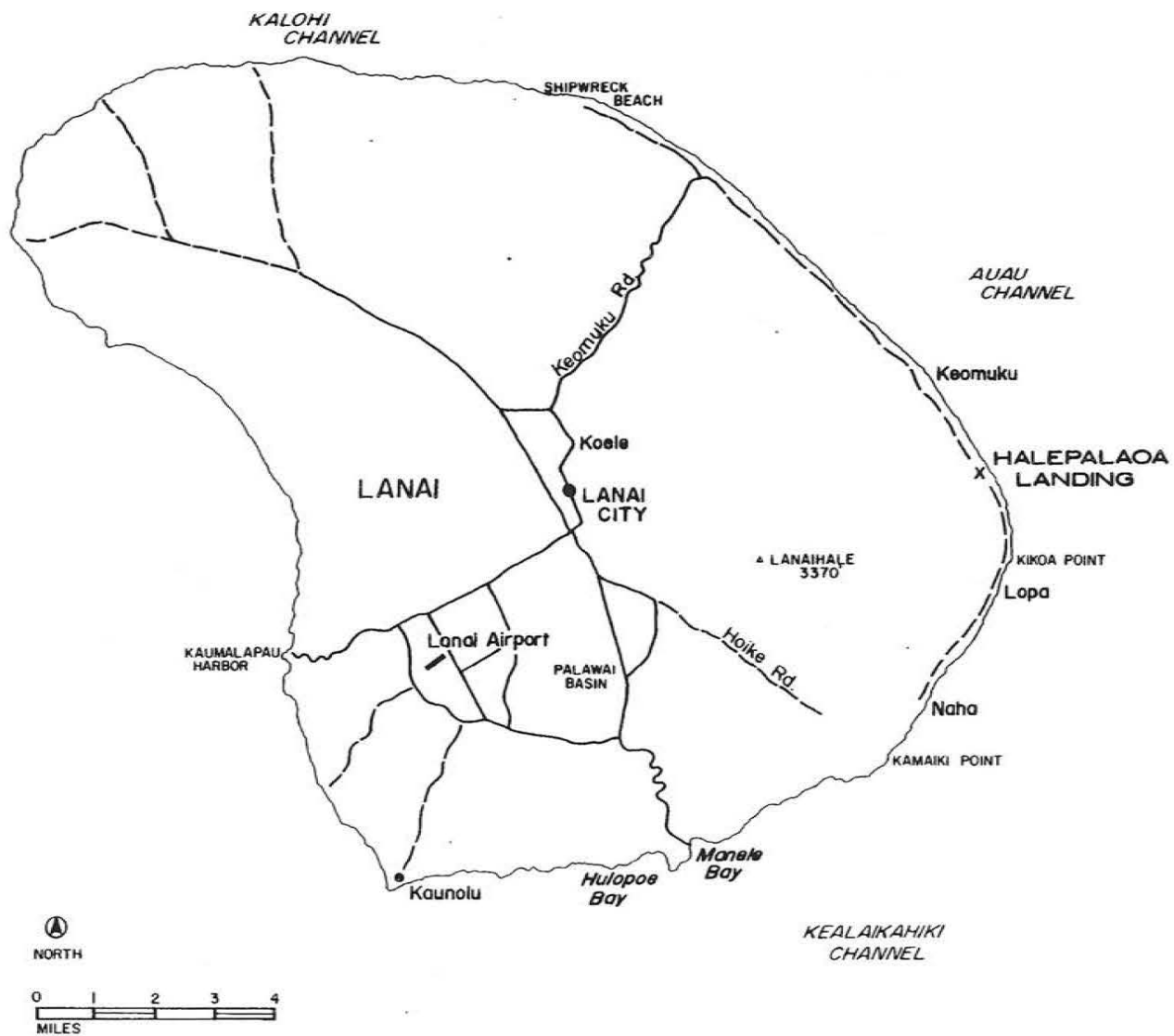


Figure 1. Project Location: Halepalaoa Landing, Lanai

Halepalaoa as a boat landing is not known, Gay writes that it was one of three boat landings in use during the last half of the 19th Century (Gay, 1965:80). It is probably best known as the site of the pier that was built to service the Maunalei Sugar Plantation which was based at Keomuku. About 1899 a wharf was built and a railroad bed was laid from the wharf to Keomuku. The sugar company failed in 1901. Halepalaoa Landing may have been actively used up until the completion of Kaunapali Harbor in 1926. A marine assessment conducted for this application and attached as Appendix A indicates the channel was probably last maintained 30 to 50 years ago (Dollar, 1984:4). It is the closest safe landing for boats travelling from the northwest coast of Maui and it is the only safe landing along Lanai's eastern shoreline. Halepalaoa Landing is located directly offshore of the applicant's property and the restoration of the landing to a safe, usable harbor is the subject of this application.

Proposed Action

CP-100
1000
H. K.

The applicant proposes to undertake maintenance clearing of the existing channel through the reef leading to the turning basin and cleaning of the turning basin to allow boats requiring a four- to five-foot draft to safely enter the harbor. Six permanent buoys would be located in the turning basin. A new pier would be constructed adjacent to the former Halepalaoa Wharf.

Project Objective

The objective of the proposed restorative maintenance of Halepalaoa Landing is to re-activate the only harbor on the windward coast of Lanai for small craft. The main purpose of restoring the Landing is to provide access to the shoreline and the applicant's property for [small craft carrying tour groups] from Kaunapali and Lahaina, Maui. At the present time, four companies operate cruise boats between Lahaina and Manele Harbor on Lanai's south coast. The companies offer the boat trip to Lanai and, upon arrival, picnic, swimming, and snorkeling at Hulopoe Bay. Hulopoe Beach Park is a private park and all facilities are located on property owned by Castle and Cooke.

Except for the harbor facilities at Manele Bay, Hulopoe Beach Park is the only beach on Lanai with restrooms and showers (Clark, 1980:111). It is the most

popular picnic site and offers the best beach for swimming (Clark, 1980:111). Castle and Cooke, owner of 98 percent of the island, provides the beach park for the benefit of the landowners, and the residents of Lanai and their guests, and regulates usage by permit. Commercial cruise boats are restricted to operating Monday through Friday during daylight hours. They are not permitted to use the area on weekends or holidays.

The applicant understands that additional boats from Lahaina would like to operate trips to Manele, but the space is not available to expand this activity. Also, the existing boat tours would like to operate on weekends and holidays to serve the desires of visitors. Presently, this is not possible. With the restoration of the harbor at Halepalaoa Landing, it would be possible for cruise boats to operate seven days a week including holidays. Passengers on the cruise boats would disembark at Halepalaoa Landing to enjoy a picnic lunch, snorkeling, swimming, and other such activities currently offered at Hulopoe Beach Park. These activities would take place on the applicant's private property and the public beach area.

Technical Description

The proposed project will return the channel through the reef and the turning basin at Halepalaoa Landing to a depth of at least five feet. To do so will require clearing the few coral structures that have grown in the channel within the last 30 to 50 years since the harbor was actively used. A maximum of 7,200 cubic yards of material will be cleared. This material consists of several isolated coral heads, rubble, and mud. The amount of solid material to be cleared is approximately 10-20 cubic yards of the total volume to be removed. Only about 10 percent of this solid material would be living coral. Therefore, of the 7,200 cubic yards of material only 1-2 cubic yards would be living coral.

The width of the area to be cleared would vary from 80 feet at the beach to 200 feet at a distance of 150 feet from the shore. The area remains 200 feet wide for the next 200 feet offshore and terminates at the reef's outer edge where the width would be 120 feet (refer to Figure 2).

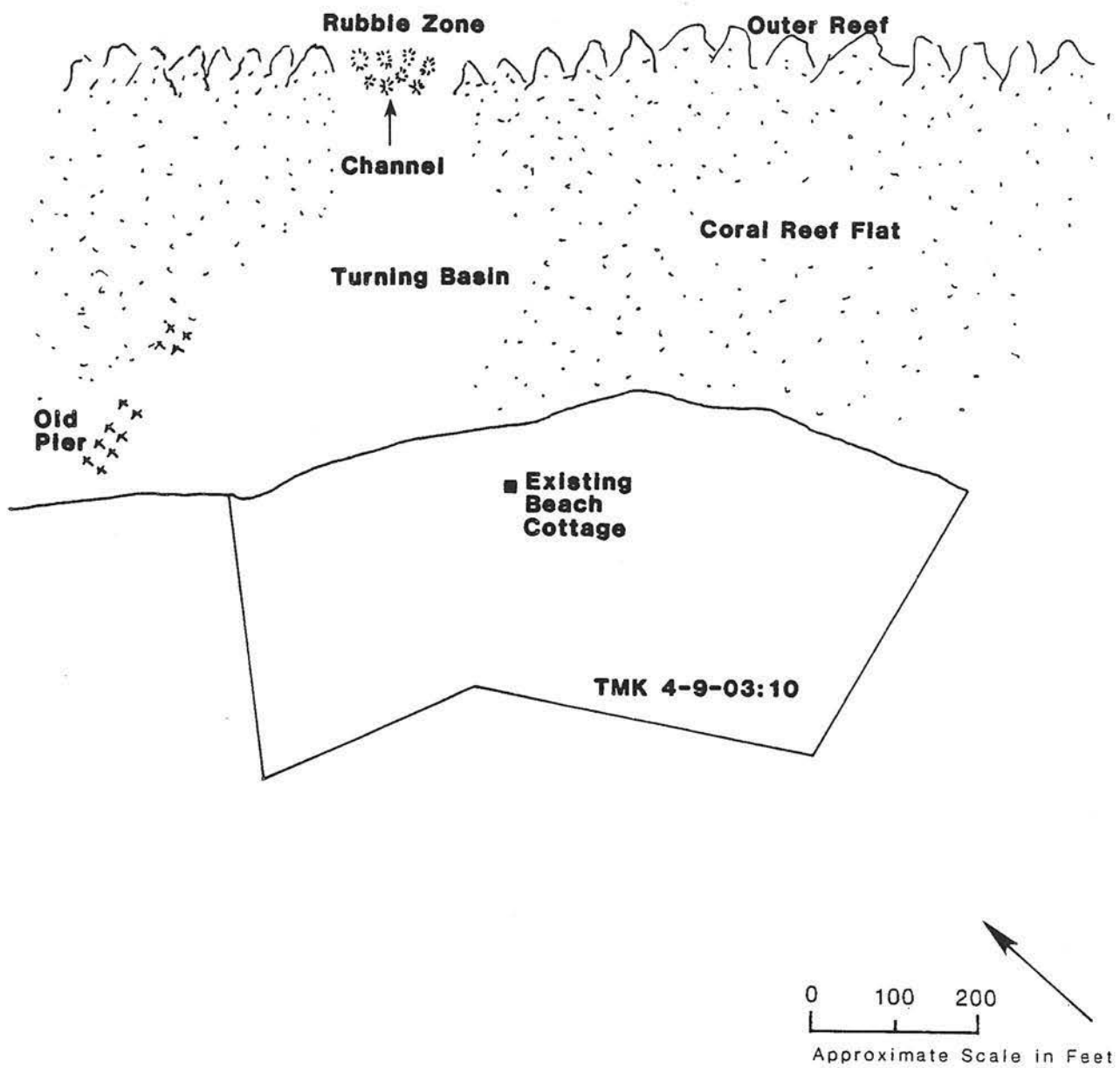


Figure 2. Site Plan

The actual method used to clear the solid material from the channel will be determined by the contractor. Either jackhammers will be used or an amount of dynamite adequate to loosen the solid material will be used. These few solid pieces will either be moved to the side of the channel or carried to shore and stockpiled at a site approved by the State. The mud will be dredged from the floor with a suction-hose and placed on land at an approved site or disposed of at sea at an approved site.

Six concrete blocks will be sunk in the turning basin and buoys will be attached. These will serve as moorings for six boats. A new pier approximately 125 feet long and 10 feet wide will be constructed adjacent to the existing Halepalaoa Wharf. New concrete pilings and foundation will be poured for the pier.

Estimated Cost and Work Schedule

Due to the heavy sediment loads discharged into the ocean along this coastline, the turning basin may possibly fill up within two to three years and require cleaning again. Therefore, the applicant may choose to purchase the dredging equipment. If new equipment is purchased, the initial cost would be approximately \$35,000. The work is expected to take approximately 240 hours. The total estimated cost of the dredging and stockpiling is \$60,000. The six buoys will cost approximately \$3,000 and the construction of the pier is estimated to cost \$95,000. Total project cost is \$193,000.

IV. DESCRIPTION OF THE AFFECTED ENVIRONMENT

Existing Use

The applicant's property has no present use other than the site of a weekend beach cottage for the applicant/owner. The property has approximately 1,000 feet of frontage on Halepalaoa Beach which is frequented by fishermen. The applicant's mauka property boundary is the existing four wheel drive road. Lanai Company (a subsidiary of Castle and Cooke, Inc.) is the landowner on either side and behind. The surrounding property west and south of the applicant's property is in the State Urban District. North of Halepalaoa Landing, the area is within the Rural District. The surrounding land is vacant.

Offshore, the existing channel and turning basin can accommodate small craft with a draft of three feet or less.

Shoreline and Nearshore

Halepalaoa Beach is a white sand beach about one mile long and is one of the nicest beaches on the windward coast of Lanai (Clark, 1980:122). Halepalaoa Landing is the dividing point on the shoreline between the dark detrital sand beach of Keomuku and the white sand of Halepalaoa Beach (Clark, 1980:122). Several streams on the eastern side of Lanai discharge heavy loads of sediment into the nearshore environment. This process has created an extensive sediment reservoir along the coast from Maunalei Gulch to Kamaiki Point (Dollar, 1984:5). Since 1935, the shoreline at Keomuku has accreted 500 feet by soil runoff from the mountains (Clark, 1980:121).

Turning Basin

The existing turning basin is approximately 200 feet wide at its widest point and extends approximately 400 feet from the shoreline. Presently, it is from 3 to 5 feet deep. Its entire floor is covered with extremely fine textured stream-borne clay. During normal tradewinds, a strong wind chop produces sufficient water motion to suspend the sediment causing extremely turbid water conditions. At the seaward margin of the turning basin, the mud bottom is interspersed with coral rubble.

Channel

A solid veneer of reef limestone interspersed with live corals is located at the landside entrance to the channel. Distinct vertical channel walls are cut through the reef platform down to a depth of about six feet. It is not known if the channel is natural or man-made. However, it has not been maintained for at least 30 to 50 years and some live coral has grown on the channel floor and bordering reef flats.

At the juncture of the reef flat and the outer reef, the bottom is covered with a layer of coral rubble and the entire area is covered with a layer of sediment.

Nearshore Water

Tide

Kaunalapau Harbor is the nearest location for which tidal predictions are made. The tide has a mean range of 2.2 feet.

Currents

The currents along the windward coast inside the reef are insignificant.

Floods, Storm Waves, and Tsunamis

There are no flood or coastal high hazard areas on Lanai as identified by the National Flood Insurance Program, Flood Insurance Rate Maps.

Coastal Water Quality

The nearshore waters along Lanai's windward coast receive heavy loads of sediment from several streams. Under normal tradewind conditions a wind chop keeps the finely textured stream borne clay suspended and the water is turbid. The State Department of Health has classified all marine waters around Lanai in Class AA.

Nearshore Marine Biology

An environmental assessment of the proposed project site was conducted by Steven Dollar, a marine research consultant. His report is appended to this environmental assessment (Appendix A).

His survey found diverse and abundant stony reef corals in spite of the reef flat and channel being severely stressed in terms of sediment loading. Eleven species of coral were identified, particularly species whose growth forms inhibit sediment accumulation. Only four species of fish were observed and only one or two individuals from each species. No species of benthic algae and no macrobenthos such as echinoderms i.e., sea urchins, sea cucumbers were observed.

Existing Access

The existing access to the applicant's property and to the shoreline at Halepalaoa Landing is either by four wheel drive vehicle or by small boat. Keomuku Road from Koele (refer to Figure 1) is a partially paved jeep road down a gulch to Maunalei on the coastline. Turning south at Maunalei, it is a bladed jeep trail providing access along the eastern coastline.

The present depth of the channel is about six feet. However, in areas where coral has grown since the harbor was last maintained, the depth is less and boat access is limited to high tide or small craft with a draft less than three feet. The graduated depth of the turning basin is from three to six feet. It is possible for the applicant to reach his shorefront property in a 21-foot twin engine fishing boat.

Existing Vegetation

The applicant's property abutting the shoreline of the proposed project site has been extensively landscaped. Natural vegetation consists of a 25-foot wide band of beach morning glory, and inland of that, kiawe covers any of the property not cleared and planted. A row of coconut palms has been planted inland of the morning glory and screens the applicant's/landowner's beach cottage from view.

Historic Sites

The proposed clearing will occur seaward of the shoreline and no farther than 450 feet from the waters edge. No known archaeological sites exist on this submerged State land.

The material cleared from the channel and the turning basin will be the property of the State and will be disposed of in a manner and a location approved of by the Department of Land and Natural Resources. The stockpiling site has not yet been determined. The material may be placed on land, either the applicant's property or adjacent Castle and Cooke property; or it may be disposed of at an approved ocean dump site.

Public Utilities/Facilities

The proposed maintenance clearing of the channel through the reef and the cleaning of the turning basin will not require the use of any public utilities such as water, sewer, power or telephone nor public facilities such as schools, hospitals, or parks.

V. RELATIONSHIP OF PROPOSED ACTION TO PUBLIC LAND USE POLICIES

Federal

U.S. Department of the Army Corps of Engineers Permit

An Army Corps of Engineers permit is required for work within navigable waters of the United States. An application for maintenance clearing of the channel and cleaning of the turning basin has been submitted to the Corps of Engineers. The material cleared from the area may be disposed of within navigable waters, therefore the disposal of the material is also covered in the Army Corps of Engineers permit application. The construction of the new pier will also require an Army permit.

State

Land Use Commission

All lands in the State are placed into one of four districts: Urban, Agricultural, Rural or Conservation. Land uses within the Urban District are regulated solely by the Counties. Land uses within the Agricultural and Rural Districts are jointly regulated by the State and the Counties and uses within the Conservation District are regulated by the State Department of Land and Natural Resources.

The proposed project area is seaward of the shoreline and is therefore within the State Conservation District. The property abutting the shoreline and owned by the applicant was classified in the Urban District in April 1977. Figure 3 shows the State Land Use District Boundaries in the project vicinity.

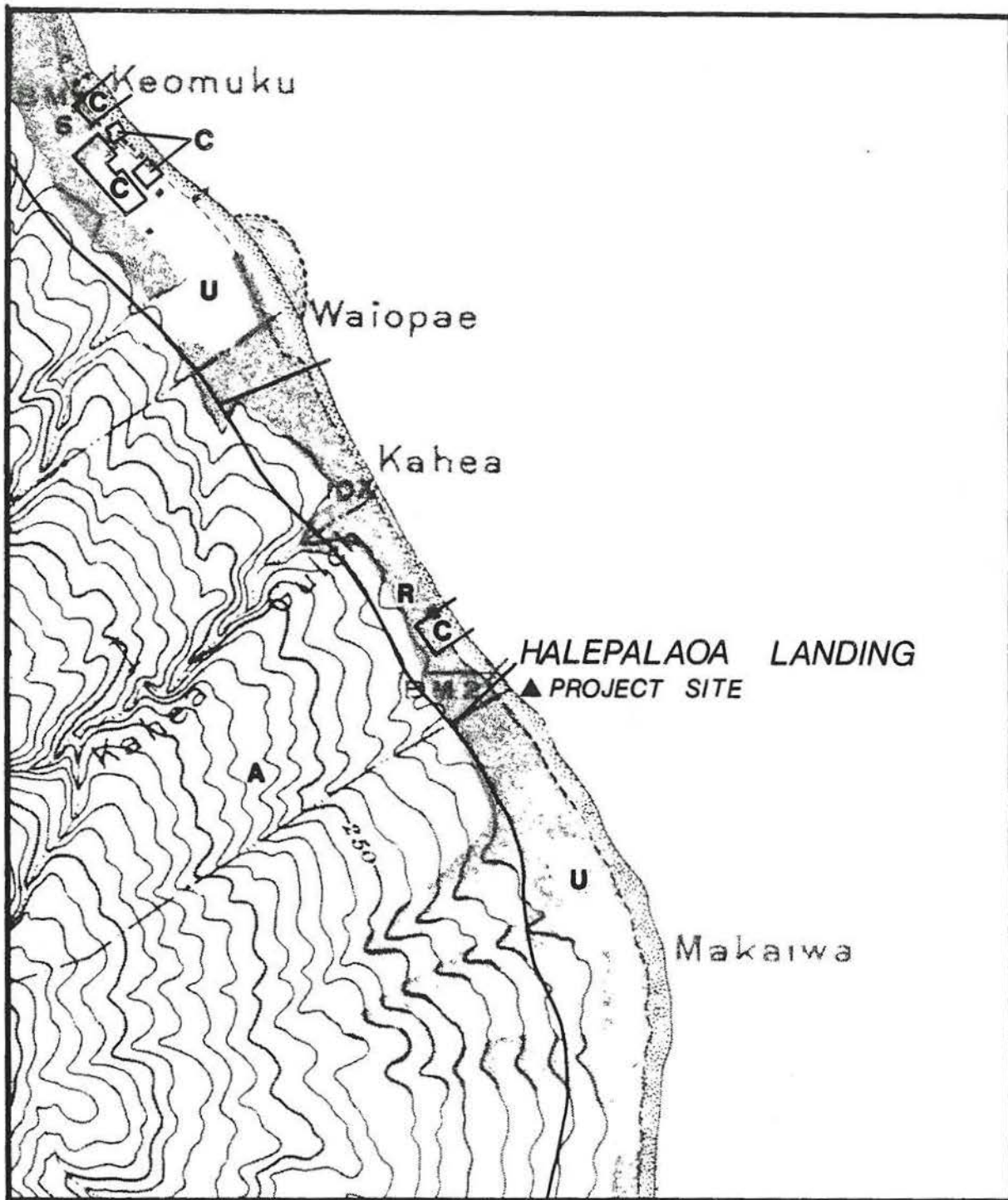
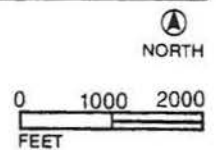


Figure 3. State Land Use District Boundaries

- U** Urban
- R** Rural
- A** Agricultural
- C** Conservation



Source: State Land Use Commission

Department of Land and Natural Resources

Conservation District: Title 13, Chapter 2, Administrative Rules of the Department of Land and Natural Resources establishes sub-zones within the Conservation District and regulates uses in accordance with the sub-zone objective.

The proposed maintenance clearing is within the Conservation District Resource Sub-Zone (refer to Figure 4). The objective of the Resource (R) Sub-Zone is:

...to develop, with proper management, areas to ensure sustained use of the natural resources of those areas (DLNR, 13-2-13:2-10).

The boundaries for the Resource Sub-Zones encompass:

Lands necessary for providing future parkland and lands presently used for national, state, county, or private parks;

Lands suitable for growing and harvesting of commercial timber or other forest products;

Lands suitable for outdoor recreational uses such as hunting, fishing, hiking, camping, and picnicking;

Offshore islands of the State of Hawaii, unless placed in a protected (P) or limited (L) sub-zone;

Lands and territorial waters below the upper reaches of the wash of the waves, usually evidenced by the edge of vegetation or by the debris left by the wash of waves, unless placed in a (P) or (L) sub-zone; and

All territorial water not expressly assigned to any sub-zone shall be in the (R) sub-zone (DLNR, 13-2-13:2-10).

Permissible uses in the Resource sub-zone include all uses permitted in the Protected and Limited sub-zone in addition to:

Aquaculture;

Artificial reefs; and

Commercial fishing operations (DLNR, 13-2-13:2-11).

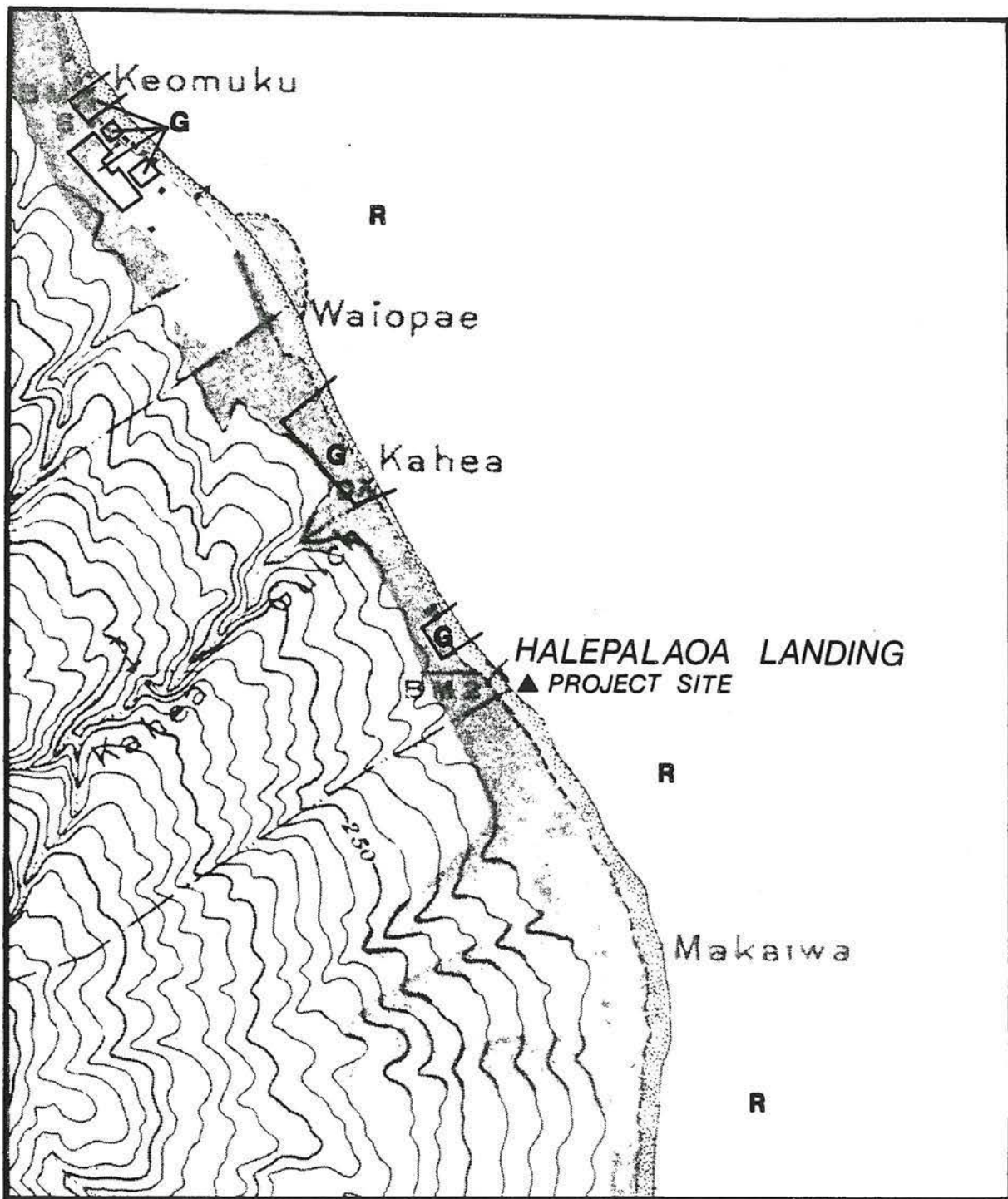


Figure 4. Conservation District Subzones

- R** Resource
- G** General
- P** Protective (None in Project Vicinity)
- L** Limited (None in Project Vicinity)

0 1000 2000
FEET

▲
NORTH

Source: Hawaii, Department of
Land and Natural Resources

Uses permitted in the Protected sub-zone are:

Research, recreational, and educational use which require no physical facilities;

Establishment and operation of marine, plant, and wildlife, sanctuaries and refuges, wilderness and scenic areas, including habitat improvements;

Restoration or operation of significant historic and archaeological sites listed on the national or state register;

Maintenance and protection of desired vegetation, including removal of dead, deteriorated and noxious plants;

Programs for control of animal, plant, and marine population, to include fishing and hunting;

Monitoring, observing, and measuring natural resources;

Occasional use; and

Governmental use not enumerated herein where public benefit outweighs any impact on the conservation district (DLNR, 13-2-11:2-9).

Uses permitted in the Limited sub-zone are:

Emergency warning systems or emergency telephone systems;

Flood, erosion, or siltation control projects; and

Growing and harvesting of forest products (DLNR, 13-2-12:2-10).

The proposed maintenance clearing is a conditional use, not a permitted use, within the Resource Sub-Zone of the Conservation District. The proposed action is consistent with the objective of the Resource Sub-Zone. The objective is to develop, with proper management, areas to ensure sustained use of the natural resources. The clearing of the existing channel and cleaning of the turning basin will restore Halepalaoa Landing to a safe, usable harbor for small craft.

Division of Land Management: The offshore submerged lands are owned by the State of Hawaii. The applicant intends to apply for an easement over State lands for the boat moorings and for the pier.

Department of Health Water Quality Standards

The project site is subject to Chapter 54, Title 11, Administrative Rules of the State Department of Health. All open coastal waters surrounding the Island of Lanai are classified Class AA. It is the objective of this class that these waters remain in their natural pristine state as nearly as possible with an absolute minimum of pollution or alteration of water quality from any human-caused source or actions (State Department of Health, 11-54-03:54-3). Uses to be protected in these waters are oceanographic research, the support and propagation of shellfish and other marine life, conservation of coral reefs and wilderness areas, compatible recreation and aesthetic enjoyment.

The project site is categorized as a Class II nearshore reef Marine Bottom Ecosystem. The objective of this classification is that their use for protection and/or propagation of fish, shellfish, and wildlife, and for recreational purposes not be limited in any way. Uses to be protected in this classification are all uses compatible with the protection and propagation of fish, shellfish, and wildlife, and with recreation. Any action which may permanently or completely modify, alter, consume or degrade marine bottoms, such as navigational structures (harbors, ramps) may be allowed upon approval from the director of health.

Hawaii Coastal Zone Management Program

The Hawaii Coastal Zone Management (CZM) law (Chapter 205A, Hawaii Revised Statutes/Act 188, Session Laws Hawaii, 1977) establishes goals for actions affecting coastal lands. Objectives in seven major areas -- recreation, historic resources, scenic and open space resources, coastal ecosystems, economic uses, coastal hazards, and managing development -- are accompanied by policy statements to guide State and County governments in actions affecting the coastal zone. Hawaii's coastal zone is defined as all land area excluding State forest reserves and Federal lands, and all coastal waters seaward to the limit of the State's jurisdiction. Thus, the proposed project is within the Hawaii Coastal Zone.

Federal agencies are required to conduct all planning, management, development and regulatory activities of their projects within the coastal zone in a manner consistent with the Hawaii Coastal Zone Management Program. "Federal Consistency with Approved Coastal Management Programs" (15 CFR 930) requires the State CZM lead agency to conduct a review of Federal agency actions in the coastal zone to assure consistency. The Hawaii Department of Planning and Economic Development (DPED) is the lead agency for the Hawaii CZM program. The completed Hawaii CZM Program Assessment format is attached to this application and will be reviewed by DPED (Appendix B).

Shoreline Setback

Chapter 205-33A, Hawaii Revised Statutes, prohibits the mining or taking of material within 1,000 feet seaward from the shoreline, or in water of 30 feet or less in depth. The proposed restorative maintenance of the existing harbor is not mining of material for commercial purposes. The material cleared from the area will be disposed of in a manner and at a location approved by the State and will belong to the State. Two land sites and one approved ocean dump site are under consideration for disposal locations.

County

Maui County General Plan

The Maui County General Plan and Interim Zoning do not regulate land uses seaward of the shoreline and therefore do not apply to the proposed project site.

The applicant is considering several options for the placement of the dredged material. If disposed of at an approved ocean dumping site, the County regulations are not applicable. If the material is disposed of on land at a site approved of by the State, the location would probably be either the applicant's property, or adjacent Castle and Cooke property. Both land sites are within the State Urban District and are regulated by Maui County Interim Zoning.

Special Management Area (SMA)

The proposed nearshore project is seaward of the shoreline and therefore is not subject to the Special Management Area Rules and Regulations of the County of Maui. Both of the land sites proposed for stockpiling are within the County SMA and would therefore be subject to the SMA Rules and Regulations. The applicant has submitted concurrently with this application an SMA minor permit application for approval based on the stockpiling operations estimated cost that is less than \$65,000 and because no major effects are anticipated by the proposed stockpiling.

VI. ENVIRONMENTAL IMPACT OF THE PROPOSED ACTION

Physical and Biological

Terrain

The proposed maintenance project would clear approximately 7,200 cubic yards (dry volume) of mud, rubble and coral from the turning basin and the channel. This action would alter the bottom terrain and deepen it from about 3.0 feet below MLLW to about 5.0 feet below MLLW.

Storm Waves and Tsunami

Maui protects the east coast of the Island of Lanai from North Pacific swells; therefore, wave stress is greatly reduced in the proposed project area. The proposed maintenance clearing is not expected to have any impact on wave runup.

Coastal Water Quality

The proposed maintenance dredging would result in a short-term increase in sediment in suspension. The natural levels of sediment loading are so great that any increase, almost regardless of magnitude, would have no effect whatsoever on the existing communities (Dollar, 1984:12).

Nearshore Marine Biology

In evaluating the impact the proposed project would have on the existing marine environment, the marine assessment concluded the maintenance clearing project would cause no adverse environmental effects. Specifically:

1. The several isolated coral heads that would have to be removed, represent re-growth since the channel was last maintained. Its clearing would not disrupt a natural or pristine environment.
2. The total amount of solid material is 10-20 cubic yards. The live coral to be cleared represents approximately 1-2 cubic yards of the 7,200 cubic yards of mud and rubble to be cleared.
3. None of the coral species are rare or endangered or are unique economic or recreational resources.
4. No macrobenthic organisms were observed in the soft sediment within the turning basin.
5. The turbidity caused by the dredging work is short-term and would not affect the existing communities which already encounter heavy sediment loading.

Socio-Economic

Recreational

Except for 16 kuleanas, State facilities at Manele Harbor, and U.S. Coast Guard Lighthouse lands, Lanai is owned by Castle and Cooke Company. Currently, the cruise companies use private facilities at Hulopoe Beach Park by permit from Castle and Cooke. The proposed project would provide boat access to a white sand beach. A picnic area would be provided on the applicant's property. Weekend and holiday use of Hulopoe Beach Park would continue to be reserved for Lanai residents; visitors arriving on cruise boats could enjoy recreational activities on Lanai on weekends as well as weekdays.

Safety

Halepalaoa Landing is the only harbor on the windward coast of Lanai. Returning the Landing to a usable harbor would provide a safe refuge on a stretch of coastline where shipwrecks have been numerous.

Economic

Each cruise boat carries about 50 passengers. Tickets cost \$60.00 per person. Potential additional income generated by increasing the number of operating days in a year is \$1.3 million.

Employment

Employment generated by the proposed maintenance clearing will be moderate and short-term. However, the restoration of the Landing to provide access to the shoreline and the applicant's property for cruise boat operations will increase employment opportunities both on Maui and on Lanai. Currently, the four cruise boat companies can offer trips to Lanai only Monday through Friday. If Halepalaoa Landing is restored, the four existing companies would be able to operate Saturday, Sunday and holidays, adding 114 days a year of work for each company. There are also additional boats from Lahaina that would like to operate tours to Manele but there is no space to expand. If Halepalaoa Landing is restored, new boat tour companies may be formed and they could also operate seven days a week.

Because the boat tour is a same day round trip originating from Maui, additional tour boat company employees will likely live on Maui. There may be part-time employment for one or two Lanai residents for necessary maintenance of the applicant's property.

EXHIBIT E

GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII



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

SUSUMU ONO, CHAIRMAN
BOARD OF LAND & NATURAL RESOURCES
EDGAR A. HAMASU
DEPUTY TO THE CHAIRMAN

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AQUATIC RESOURCES
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

MARCH 14, 1986

REF. NO.: CPO-551-85
FILE NO.: LA-9/17/84-1705
180-Day Exp. Date: 3/16/85

Mr. Joe Vierra
Belt, Collins and Associates
606 Coral Street
Honolulu, Hawaii 96813

Dear Mr. Vierra:

CONSERVATION DISTRICT USE APPLICATION
for Channel Clearing, Buoy Placement, Pier Construction
and Conducting of Commercial Activities on
State-owned Submerged Lands Near Halepalaoa Landing
at Kaohai, Lanai, Hawaii

We are pleased to inform you that the Board of Land and Natural Resources at its meeting of March 8, 1985 approved your application subject to the following conditions:

1. That the applicant comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2, Administrative Rules, as amended;
2. 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 this permit or relating to or connected with the granting of this permit;
3. The State of Hawaii shall not be responsible for any loss, liability, claim or demand for property damage, property loss, or personal injury including death caused by or resulting from any act or omission of the applicant or its contractor in connection with its exercise of the privileges herein granted;

Mr. Joe Vierra
Belt, Collins & Assoc.

CPO-551-85
LA-1705

4. That as this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
5. In the event that any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, paving, or walls are encountered during construction, the applicant shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408 (Honolulu);
6. That the applicant comply with all applicable Public Health regulations;
7. The construction, alteration, moving, demolition and repair of any building or other improvement on lands within the Conservation District shall be subject to the building codes of the respective counties in which the lands are located; provided that prior to the commencement of any construction, alteration, or repair of any building, or other improvement, four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson, or his authorized representative, for approval of which three (3) copies will be returned;
8. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use. Failure to comply with this condition shall render this application null and void;
9. That the applicant shall have exclusive use of the pier provided that he dedicates a 10-foot wide public access easement over his or Castle and Cooke's property (providing access from Keomuku Road to the channel/basin) to the State in exchange for the easement for exclusive use of the pier;

Mr. Joe Vierra
Belt, Collins & Assoc.

CPO-551-85
LA-1705

10. Should the applicant not agree to dedicating a public access easement to the State in exchange for exclusive use of the pier, the pier will be open to the public and signs will be posted indicating that the pier is open for public use;
11. In the event that the applicant's commercial activity fails after the construction of the pier, the pier be removed by the applicant at no expense to the State and the easements, if previously exchanged, be re-exchanged;
12. That an archaeological reconnaissance be conducted on any area of the subject parcel which will be impacted by the construction equipment and/or stockpiling of the dredged materials. This reconnaissance shall be completed by a qualified archaeologist and two copies of the report shall be sent to our office for review and comment prior to the start of any construction activity. At this time, we may make further recommendations toward the protection and/or mitigation of any existing archaeological features within the impacted area;
13. That the applicant take appropriate measures during and after construction to minimize turbidity and degradation of the nearby offshore water;
14. That the applicant prepare an aquatic survey before work begins and after work is completed to determine the effects on the aquatic biology;
15. That should the applicant engage in any fishing activity, the applicant should be aware of the konohiki fishery rights defined in Chapter 188-1 through 14, HRS;
16. That the applicant be limited to a total of six moorings within the channel/basin; two of the six moorings will be non-exclusive for use by the public;
17. That one non-exclusive mooring must be installed prior to the installation of the first two exclusive moorings and the second non-exclusive mooring must be installed prior to the installation of the second two exclusive moorings; and

Mr. Joe Vierra
Belt, Collins & Assoc.

CP0-551-85
LA-1705

18. Other terms and conditions as prescribed by the Chairperson;
Please acknowledge receipt of this permit with the above noted conditions in the space provided below. Please sign two copies. Retain one and return the other.

Should you have any questions on any of these conditions, please feel free to contact our Planning Office staff at 548-7837.

Very truly yours,


SUSUMU ONO, Chairperson
Board of Land and Natural Resources

Receipt acknowledged:



Applicant's Signature

cc: Maui County Board Member
Maui County Land Agent
Maui County Planning Department
DOH/OEQC/EC/DPED/OHA

U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
U.S. National Marine Fisheries
Service
U.S. Coast Guard



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

DISTRIBUTED
SUSUMU ONO, CHAIRMAN
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RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

FILE NO.: LA-9/17/84-1705
180-Day Exp. Date: 3/16/85

March 8, 1985

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

Gentlemen:

CONSERVATION DISTRICT USE APPLICATION for
Channel Clearing, Buoy Placement, Pier Construction and
Conducting of Commercial Activities on
State-owned Submerged Lands
Near Halepalaoa Landing at Kaohai, Lanai

APPLICANT: Mr. Joe Vierra
Belt Collins and Associates
606 Coral Street
Honolulu, Hawaii 96813

AGENT FOR: Mr. Allan D. Starr
Pacific Tower, Suite 1956
1001 Bishop Street
Honolulu, Hawaii 96813

LANDOWNERSHIP: State of Hawaii

LOCATION: Offshore of TMK: 4-9-3:10 near Halepalaoa
Landing, at Kaohai, Lanai

AREA OF USE: 200 feet by 400 feet

SUBZONE: Resource (R)

DESCRIPTION OF AREA/CURRENT USE:

The applicant's property has no present use other than the site of a weekend beach cottage for the applicant/owner. The property has approximately 1,000 feet of frontage on Halepalaoa Beach which is frequented by fishermen. The applicant's mauka property boundary is the existing four wheel drive road. Lanai Company (a subsidiary of Castle and Cooke, Inc.) is the landowner on either side and behind. The surrounding property west and south of the applicant's property is in the State Urban District. North of Halepalaoa Landing, the area is within the Rural District. The surrounding land is vacant.

The existing turning basin is approximately 200 feet wide at its widest point and extends approximately 400 feet from the shoreline. Presently, it is from 3 to 5 feet deep. Its entire floor

ITEM H-6

is covered with extremely fine textured stream-borne clay. During normal tradewinds, a strong wind chop produces sufficient water motion to suspend the sediment causing extremely turbid water conditions. At the seaward margin of the turning basin, the mud bottom is interspersed with coral rubble.

A solid veneer of reef limestone interspersed with live corals is located at the landside entrance to the channel. Distinct vertical channel walls are cut through the reef platform down to a depth of about six feet. It is not known if the channel is natural or man-made. However, it has not been maintained for at least 30 to 50 years and some live coral has grown on the channel floor and bordering reef flats.

PROPOSED USE:

The applicant proposes to undertake maintenance clearing of the existing channel through the reef leading to the turning basin and cleaning of the turning basin to allow boats requiring a four to five-foot draft to safely enter the harbor. Six permanent buoys would be constructed adjacent to the former Halepalaoa Wharf.

The proposed project will return the channel through the reef and the turning basin at Halepalaoa Landing to a depth of at least five feet. To do so will require clearing the coral structures that have grown in the channel within the last 30 to 50 years since the harbor was actively used. A maximum of 7,200 cubic yards of material will be cleared. This material consists of several isolated coral heads, rubble, and mud. The amount of solid material to be cleared will amount to approximately 10-20 cubic yards of the total volume to be removed. All of this material is regrowth since the time it was regularly in use. Only about 10 percent of this solid material would be living coral. Therefore, of the 7,200 yards of material only 1-2 cubic yards would be living coral. None of the species that would be removed are rare or endangered, and none are unique economic or recreational resources.

The width of the area to be cleared would vary from 80 feet at the beach to 200 feet at a distance of 150 feet from the shore. The area remains 200 feet wide for the next 200 feet offshore and terminates at the reef's outer edge where the width would be 120 feet.

The actual method used to clear the solid material from the channel will be determined by the contractor. Either jackhammers will be used or an amount of dynamite adequate to loosen the solid material will be used. These few solid pieces will either be moved to the side of the channel or carried to shore and stock-piled at a site approved by the State. The mud will be dredged from the floor with a suction-hose and placed on land at an approved site or disposed of at sea at an approved site.

Six concrete blocks will be sunk in the turning basin and buoys will be attached. These will serve as mooring for six boats. A new pier approximately 125 feet long and 10 feet wide will be constructed adjacent to the existing Halepalaoa Wharf. New concrete pilings and foundation will be poured for the pier.

The objective of the proposed restorative maintenance of Halepalaoa Landing is to re-activate the only harbor on the windward coast of Lanai for small craft. The main purpose of restoring the Landing is to provide access to the shoreline and the applicant's property for small craft carrying tour groups from Kaanapali and Lahaina, Maui. At the present time, four companies operate cruise boats between Lahaina and Manele Harbor on Lanai's south coast. The companies offer the boat trip to Lanai and, upon arrival, picnic, swim, and snorkel at Hulopoe Bay. Hulopoe Beach Park is a private park and all facilities are located on property owned by Castle and Cooke.

Except for the harbor facilities at Manele Bay, Hulopoe Beach Park is the only beach on Lanai with restroom and showers (Clark, 1980:111). It is the most popular picnic site and offers the best beach for swimming (Clark, 1980:111). Castle and Cooke, owner of 98 percent of the island, provides the beach park for the benefit of the landowners, and the residents of Lanai and their guests, and regulates usage by permit. Commercial cruise boats are restricted to operating Monday through Friday during daylight hours. They are not permitted to use the area on weekends or holidays.

The applicant understands that additional boats from Lahaina would like to operate trips to Manele, but the space is not available to expand this activity. Also, the existing boat tours would like to operate on weekends and holidays to serve the desires of visitors. Presently, this is not possible. With the restoration of the harbor at Halepalaoa Landing, it would be possible for cruise boats to operate seven days a week including holidays. Passengers on the cruise boats would disembark on Halepalaoa Landing to enjoy a picnic lunch, snorkeling, swimming, and other such activities currently offered at Hulopoe Beach Park. These activities would take place on the Applicant's private property and the public beach area.

SUMMARY OF COMMENTS:

This application was sent to the following agencies for their review and comment: the U.S. Coast Guard, Fish and Wildlife Service, and Corps of Engineers; the County of Maui Planning Department, Department of Public Works, and Department of Parks and Recreation; the State of Hawaii Department of Health, Office of Environmental Quality Control, Environmental Council, Office of Hawaiian Affairs, Department of Planning and Economic Development, Department of Transportation-Harbors Division, and the Department of Land and Natural Resources Divisions of Aquatic Resources, Forestry and Wildlife, Conservation and Resource Enforcement, Water and Land Development, Natural Area Reserves System, State Parks/-Historic Sites, and Land Management. Their comments are as follows:

U.S. Fish and Wildlife Service

The proposed dredging will result in a localized suspension of the accumulated sediments in the turning basin. This increase in the suspended sediment load may adversely affect surrounding

nearshore communities that are currently not as influenced by sedimentation. Blasting in the channel may adversely affect the Federally listed endangered humpback whale (Megaptera novaeangliae) and threatened green sea turtle (Chelonia mydas). Sonic disturbances may disrupt the mating and calving behavior of the humpback whales. As both of these species fall under the jurisdiction of the National Marine Fisheries Service, you may wish to contact them regarding the impacts of the proposed project.

In view of the preceding, the Service would not object to the issuance of a Conservation District Use permit provided the following conditions are included in the permit:

1. Suction hoses will be required to remove the bed sediments in the turning basin.
2. Silt curtains will be deployed at the channel end of the turning basin during the dredging operation.
3. Dredged material will be stockpiled on land behind maintained bermed basins above the influence of the tides. Only clean runoff water from the spoil disposal site will be allowed to return to the ocean.
4. The dredged material will be disposed of at an approved landfill site.
5. Blasting will not be conducted during November through March, i.e., the period that humpback whales are found in Hawaiian waters. Blasting will be restricted when sea turtles are observed within 300 yards of the project area.
6. Blasting charges will be sand-bagged to minimize incidental fish kills.
7. Wooden structures treated with creosote or other toxic wood preservatives will not be permanently placed or immersed in the water.

The Service suggests that the applicant contact the Soil Conservation Service regarding the implementation of long-term measures to stabilize surrounding watersheds in order to reduce the sediment loading of the nearshore environment near Halepalaoa Landing. This may reduce the frequency for maintenance dredging of the proposed small craft harbor.

U.S. Coast Guard

We have reviewed the Environmental Assessment prepared by Belt, Collins and Associates for the proposed clearing of Halepalaoa Landing, Kaohai, Lanai, Hawaii. We noted in the correspondence of 24 August 1984 about the Conservation District Use Application that the applicant intends to install basic navigational aids as required to mark passage through the reef to the landing. These are considered private aids to

navigation and must be approved by the Coast Guard prior to their actual establishment. For convenience, the Aids to Navigation Branch has forwarded a Coast Guard Private Aids to Navigation Application to the applicant, as well as a pamphlet that prescribes the new marking system required for these aids.

In regard to the establishment of the six permanent mooring buoys, the applicant should inform the Aids to Navigation Branch of their description and positions when they are installed for inclusion in the Local Notice to Mariners, and so that we can notify the National Ocean Survey for charting.

U.S. Army Engineers

The proposed channel clearing, buoy placement, and pier construction require a Department of the Army permit under Section 10 of the River and Harbor Act of 1899. A permit application has been received and is currently being processed for the action. (Note: permit was approved on January 18, 1985, see attachment C).

County of Maui, Department of Public Works

The applicant has addressed the liquid waste question but should also address the anticipated increase in solid (municipal) waste since the area is not serviced by the Department of Public Works.

County of Maui, Planning Department

Pursuant to your transmittal of September 25, 1984 regarding the above-mentioned project, please be advised of the following comments:

1. The proposed dredging activity is outside of the Special Management Area.
2. The dredged material, proposed to be disposed on shore, would require a Special Management Area Permit. The applicant has submitted a SMA Environmental Assessment which is under review. (Note: SMA permit was approved on November 9, 1985, see attachment B).
3. The proposed use of the applicant's property, (TMK:4-9-03:10) for commercial use does not conform to the County's adopted Lanai Community Plan and Urban Interim Zoning Ordinance.

Subsequent Comments from the County of Maui Planning Department

Pursuant to a request on January 30, 1985 for clarification of our October 10, 1984 letter regarding the above-mentioned project, specifically comment No. 3 which states, "3. The proposed use of the applicant's property, (TMK 4-9-03:10) for commercial use does not conform to the County's adopted Lanai Community Plan and Urban Interim Zoning Ordinance," please be advised of the following:

1. The Lanai Community Plan designates the subject property as open space.
2. The existing zoning is classified as urban interim in which commercial use of lands or buildings are not permitted property uses. Furthermore, it should be noted that outdoor recreational activities such as picnicking and volleyball playing are permissible in this district provided no on-site commercial activities are associated with recreational pursuits.
3. The Rules and Regulations of the Special Management Area requires a Special Management Area Permit for the construction, reconstruction, demolition or alteration of the size of any structure except a single-family residence and its accessory uses which is not part of a larger development.

Department of Health

Our staff has reviewed this request and wish to make the following comments:

There is no information on the quality of the dredge material. If the dredge material contains organic material from the ocean floor resulting in nuisance conditions (odor, flies, etc.), the dredge material should be hauled to a sanitary landfill or a site approved by the Department of Health.

No information is given on existing sanitary facilities. The applicant states that mooring is for recreational purposes (swimming, sunbathing, etc.). Such activities will require improvements to on-shore sanitary facilities.

Department of Transportation

We recommend approval of the proposed application for the subject activity.

The applicant is hereby deemed to have fulfilled the requirements of Section 26-16, Hawaii Revised Statutes, and Section 19-42-161 of our Hawaii Administrative Rules.

Department of Planning and Economic Development

Thank you for the opportunity to comment on the subject CDUA. Since a Department of Army permit is required for this project, we are currently coordinating a review to determine its consistency with the Hawaii CZM Program. In this regard, we are awaiting input from the County of Maui Planning Department and the State Department of Transportation with respect to potential CZM concerns. Therefore, we will defer our comments until we receive their responses. Further, inasmuch as your department is also integral to the CZM network of regulatory agencies, we would very much appreciate being apprised of any actions taken on the application.

Aquatic Resources

The scope of the application is unclear. The EIA (pp. 3-6) describes the project as

- 1) clearing and dredging the basin and channel,
- 2) installing the moorings,
- 3) building a pier;

however, other accommodations for tour customers are mentioned in passing --

- 4) commercial use of public waters (paying customers swimming and snorkeling under the auspices of paid tour operators),
- 5) commercial use of public beach lands (landing, picnicking), and
- 6) periodic maintenance dredging at uncertain intervals.

It is implied further that showers and restroom facilities would be provided on or near the beach; the applicant may expect also to serve food and drink, supply recreational equipment (i.e. rent beach chairs, swim fins, etc.) and sell souvenirs.

The following comments in detail are organized for convenience under general headings (environmental effects, effect on public use, and unresolved questions), and consider the project in four phases -- initial clearance and dredging, pier construction, commercial operations, and long-term maintenance.

Environmental effects

Initial clearing and dredging inevitably will destroy some marine life. Losses are expected to be minor, temporary, and potentially mitigated by accelerated development of corals in unused portions of the basin (if circulation improves and turbidity abates). However, the applicant should be apprised that this Department and concerned Federal agencies are likely to restrict blasting to times when endangered Hawaiian humpback whales are absent from Auau Channel.

Measures should be adopted to remove sediment from waters flowing out of the spoils; if so, we concur that "no major effects are anticipated by (sic) the proposed stockpiling." The applicant maintains that sediment loads from other sources are so great that the project would not affect existing conditions significantly; however, the Statewide Silt Basin Investigation represents coastal waters at Halepalaoa Landing as an existing problem area (Plate VI-26) and coastal lands as "needing a [soil] conservation program" (Plate VI-27). The project, therefore, should include measures to minimize further burden to these Class AA waters. Under such conditions, dredging with suction hoses would be less damaging than dredging by other methods.

Similar precautions should be adopted during maintenance dredging. The Department should retain explicit right to impose further conditions if warranted by actual effects of the initial dredging.

Descriptions of the proposed pier, moorings, and their construction, and of customer activities, and provisions for waste disposal, are inadequate for evaluation of the potential for environmental impacts. The applicant should provide more details if the application is accepted for consideration (see "unresolved questions", below).

Public Access

Clark reports Halepalaoa waters safe (if murky) for swimming, and "the area is frequented by fishermen. The most convenient access to the beach is the short trail to the old Halepalaoa Landing."

Information is inadequate to determine how the designs and placements of pier and moorings, and locations of commercial activities on shore, might affect public use. There is no discussion of public use of pier or moorings.

Easements are proposed for the pier and moorings; apparently the channel and remainder of the basin would continue unencumbered (although maintained by the applicant). Existing use of channel and basin must be impeded during clearing, dredging, pier construction and mooring installation, but this would be temporary and the new effect might be beneficial. We agree that as a harbor or refuge on the notorious windward coast (known popularly as "Shipwreck Beach"), the restored landing might benefit the boating public (including fishermen) significantly.

Evaluation of access, commercial use, appropriateness of mooring area designation, and provisions for navigational aids (e.g. lights, marker buoys) should be requested from State and Federal boating and harbor authorities.

Unresolved questions

Channel and basin

1. What amounts of explosives would be required (if any) and when would they be detonated?
2. How would the suction intake(s) be screened?
3. How would sediments from spoils disposed on land be kept from washing into the sea?
4. Who would be responsible for controlling traffic and maintaining safety within the restored Landing?

Construction of pier and mooring

1. What designs and locations are proposed for these facilities?

2. What materials other than concrete (especially paints, preservatives and liquid products of petroleum) would be used?
3. To what degree would these facilities be fabricated, assembled and finished on land before they would come in contact with the water?
4. What equipment would be used on the beach or in the water to accomplish final assembly, installation and treatment?
5. What use of these facilities would be allowed to the public?

Commercial activity on shore

1. What would occur, in addition to the recreation described in the EIS? -- on public land?
2. What facilities (structures, services) would be added on land? -- public land?
3. What plans (if any) has the applicant to control public passage? -- on public land?

The proposed project would involve considerable private expense to (re-)develop State property for private commercial use. Under proper conditions, the project may not diminish aquatic resources significantly and may improve public access to them; however, appropriate evaluation requires more adequate information.

Note: The applicant has subsequently responded to each of the questions and concerns raised by Aquatic Resources.

Subsequent Comments from Aquatic Resources

Since our previous comments (dated July 11, 1984) we have been provided additional information from the applicant's consulting engineers (memo of August 24), a plan of the proposed pier, and have inspected the site (Field Inspection Report, see attachment A). This information addresses most of the questions we raised previously.

We now understand that

1. the applicant intends to install mooring buoys immediately, but to defer the proposed pier until the level of harbor use warrants construction,
2. the pier would be sited in front of the applicant's property, rather than on the site of the former pier (see attached sketch map),
3. "three or four 500-pound charges of slurmite" would be used, "if necessary," to clear the channel,

- 4, dredged spoils would be stockpiled on a "lowland" site which has not been selected yet,
5. the applicant would install navigational markers as necessary and as required by boating authorities,
6. the applicant will seek lease of State lands under the proposed pier and moorings, and
7. the boating public would be allowed to use the pier and moorings as required for safety (e.g. as haven during bad weather), but not routinely.

The applicant's consultants submit also that tour customers would be paying for transportation to and from Lanai and for commercial services on the applicant's property, but that any use of public beachlands would be without charge, at the customers' own volition, without such commercial service (such as rental of beach chairs, snorkeling equipment and so forth), and that therefore there would be no commercial use of public beach (and emergent Conservation District) lands.

Our direct observations were consistent generally with the description of the site in the EIA attached to the application. Within the basin, fishes present were generally small and were concentrated almost exclusively around the edges of the reef flat and near the "channel," where vertical relief provides shelter and silt-free substrate for limu and benthic invertebrates. However, the seawardmost 20 or 30 yards of the channel were filled with well-developed, complex reef formations. Numerous narrow ridges and grooves wind through this area, but it was impossible to discern a specific channel. As might be suspected, reef fish were abundant here--again small. For example, we did not observe any large surgeonfishes or parrotfishes in the "channel." At the time of observation two dive-charter vessels were anchored immediately offshore, and we understand that four such vessels were present during an inspection by Federal biologists a week before.

On the basis of our observations, we believe that the loss of marine organisms, unavoidable if dredging, channel clearance, mooring installations and pier construction are approved, would be temporary and acceptable provided adequate precautions are observed and sufficient public benefit is realized in mitigation.

Several significant concerns remain. One involves the possible use of explosives to clear the channel. Our staff are trained as biologists, not construction engineers, but have observed the effects of explosives underwater during construction projects (e.g. Barbers Point, Waianae sewer out-fall) and ordnance disposal. On the basis of this limited experience it seems unlikely that "three or four" charges would suffice to clear a channel safe for passenger vessels drawing four to five feet. We suggest, therefore, that the

applicant be invited to reconsider, with understanding that the Board may choose to set the applicant's final proposal as an upper limit on the amount of blasting which would be permitted. We urge that blasting effects be minimized by 1) use of small, directional charges sandbagged to confine the shock waves, 2) a visual watch for "threatened" and endangered sea turtles and marine mammals, with blasting suspended until these animals are clear of danger, 3) an upper limit on the amount of blasting permitted, and 4) prohibition of blasting during the months of December through May (humpback whale "season").

Another concern is sedimentation. Erosion of upland soils is a major reason for the present application (to dredge now and as needed for maintenance), is clearly affecting coral development and the reef community on the flats, and is evident even beyond the reef face. To minimize the adverse effects of sediments resuspended during dredging, we endorse the recommendations of the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service that:

1. spoils be dewatered in bermed settling basins, and
2. silt curtains be required across the inner end of the channel if turbid waters are carried seaward.

We also endorse the recommendation that the applicant be required to control erosion from or through lands under his control.

The question of public access remains uncertain. The status of the road immediately mauka is not clear (the Tax Map reads "government road" but local informants say the State has disclaimed it and the County does not maintain it); in any case, the condition of the road, distance from the nearest population center (Lanai City), and availability of long stretches of undeveloped shoreline to either side make it unlikely that shorefishermen would be inconvenienced significantly by the proposed project. The applicant's desire to avoid liability from public use of the proposed pier and moorings is understandable, and willingness to allow use as required for safety is commendable; however, State law (Section 171-36(a)(9), HRS) may require public access to the pier. Moreover, the applicant proposes to lease lands under the pier and moorings only; the applicant's control over other public use (such as boaters entering the renovated harbor, anchoring, even staying overnight) should be clarified with the applicant and consultation with State and Federal boating authorities.

Similarly, the legality of the proposed dredging and channel clearance should be clarified in light of the present language of Section 205-33(a) [as amended by the Legislature, most recently, in 1982].

Finally, we note in our set of Tax Maps the possible existence of a konohiki ("Kaohai Fishery") in the vicinity of the project site (copy of map attached). The applicant's project

would involve inevitable "harvest" (destruction) of fish, thus legal interest (if any) of the konohiki owner (if any) should be investigated.

Provided these issues are resolved satisfactorily, and with the precautionary conditions recommended above, we believe the proposed project would not have effects excessively adverse to aquatic resource values.

Forestry and Wildlife

This project area lies well outside any area presently under the jurisdiction of the Division of Forestry and Wildlife. We foresee no impact (positive or negative) resulting from this project on our present or future programs.

Water and Land Development

We have no objection to the proposed channel clearing, placement of six buoys and construction of a new pier at Halepalaoa Landing, Lanai, Hawaii.

As we understand, approximately 7,200 cubic yards of material will be cleared from the channel; the applicant should take appropriate measures during and after construction to minimize turbidity and degradation of the nearby offshore waters.

State Parks/Historic Sites

Historic Sites Concerns:

A review of our records indicates that this project does not occur on historic properties that are listed on the Hawaii Register or the National Register of Historic Places, or that have been determined Eligible for Inclusion on the National Register of Historic Places.

As the subject project will occur seaward of the shoreline and no further than 450 feet from the water's edge, we concur with the subject application's statement (1984:9) that "no known archaeological sites exist on this submerged State land." Therefore, no archaeological reconnaissance of the submerged lands will be necessary.

However, the island of Lanai is characterized by many coastal sites which have yet to be recorded in our files. We, therefore, recommend that an archaeological reconnaissance be conducted on any area of the subject parcel which will be impacted by the construction equipment and/or stockpiling of the dredged materials. This reconnaissance shall be completed by a qualified archaeologist and two copies of the report shall be sent to our office for review and comment prior to the start of any construction activity. At this time, we may make further recommendations toward the protection and/or mitigation of any existing archaeological features within the impacted area.

Recreation Concerns:

There are no known public park concerns involved. Offshore boating and fishing interests may be addressed by others.

Land Management

Land Management Division has no objection to the Chairperson signing the application. We believe that public hearing on the matter should be held. Also, if approval is recommended, it should be conditioned upon land (submerged area) tenure request via Land Management Division.

Conservation and Resource Enforcement

In the Notice of Acceptance and Environmental Determination from Susumu Ono to Joe Vierra of Belt Collins and Associates it states on page 1, paragraph 2, that "Halepalaoa Landing is located directly offshore the applicant's property...". This is not the case, as Halepalaoa Landing is located a short distance north of the applicant's property. Castle & Cooke Inc. is the landowner located adjacent to the old Halepalaoa Landing.

Regarding dredging of the proposed site, I would recommend that dredged materials be disposed of on land so as not to adversely affect water quality. Turbidity from ocean dumping could adversely affect the viewing conditions of tourist whale watching vessels that frequent these waters. Ocean dumping may also adversely affect the whales themselves as well as other ocean organisms.

Due to accelerated soil erosion resulting from a long history of over-grazing, dredging will be required periodically to maintain the depth of the proposed harbor. Siltation basins/traps could be constructed on land for this purpose. These basins could be built to minimize soil erosion during Lanai's infrequent but heavy rainfalls.

It is not clear from the application if the public will be allowed any use of this facility. This could create problems of policing and liability.

The Office of Environmental Quality Control and Natural Area Reserves System had no objection to the proposed use.

PUBLIC HEARING SUMMARY

A public hearing pursuant to Chapter 183-41 Hawaii Revised Statutes was held on November 1, 1984 at 1:30 p.m. in the Lanai Community-School Library on Lanai.

Two people testified at the public hearing. Neither of them spoke for or against the proposal; however, they did raise several concerns. We also received written testimony from two parties,

one party was opposed to the proposed use because he did not want to see this type of development on the Keomuku side of the island. The second party, Castle and Cooke, Inc. who is the major land-owner on Lanai, had no objection to the use as proposed.

In addition to the concerns raised by the general public, the Board also expressed concern over various aspects of this project. These concerns, as well as responses to these concerns are as follows:

1. Is the road public or private?

Our Division of Land Management indicates that the road, identified as Keomuku Road in the Environmental Assessment, is a County road according to County records.

2. How deep will the dredging be?

The applicant indicates that they propose to dredge the basin to a depth of 5 feet below MLLW. The exact amount of dredged material removed will vary depending on the amount of silt.

3. Is there another access to the Channel?

Currently, access from the road to the beach is over privately owned land. However, testimony at the hearing indicates that Castle and Cooke has not prohibited public access over their land to get to the beach. Access along the beach or from the sea to the beach is currently available to the public.

4. Where is the landfill for the dredged material located?

The landfill site was approved by the County under a Special Management Area Minor Permit issued on November 9, 1984. (see attachment B). The landfill site will be located on the Castle and Cooke lands mauka of the applicant's property. The actual boundary site and final site boundaries must be approved by the County prior to operation.

5. Was this application reviewed by the National Marine Fisheries Service?

The National Marine Fisheries Service, Fish and Wildlife Service, and Army Corps of Engineers reviewed this proposed as a part of the Department of Army Permit issued January 5, 1985 (see attachment C).

6. Should an EIS be required for this project?

As a part of the review and acceptance of this application, staff determined that a negative declaration was appropriate for the proposed use. Our determination was based on the Environmental Assessment prepared for the

project and the underlying fact that the proposed activity was to reactivate an old harbor. Staff found that while the proposed use would generate some impacts, these impacts would be temporary and limited to the time of actual construction activity. As such, staff found that no significant long-term environmental impact would occur.

7. How does Castle and Cooke feel about the proposed project?

As indicated earlier, Castle and Cooke submitted written testimony indicating that they had no objection to the proposed use.

8. Would the applicant be willing to do an aquatic survey before work begins and after work is completed to determine the effects on the aquatic biology?

The applicant had no objection to this requirement.

Several questions were raised regarding the applicant's request for exclusive use of the pier and moorings. These concerns will be addressed in the analysis.

ANALYSIS:

Following review and acceptance of the application for processing, the applicant, by letter dated September 25, 1984, was notified that:

1. The proposed use is a conditional use in the Resource Subzone of the Conservation District according to Administrative Rules, Title 13, Chapter 2, as amended;
2. A public hearing pursuant to Chapter 183-41, Hawaii Revised Statutes, as amended, will be required; and
3. A negative declaration in accordance with Section 1:30 of the EIS Regulations has been determined for the proposed use and written clearance from the County of Maui regarding SMA requirements has been obtained.

The objective of the Resource Subzone is to develop, with proper management, areas to ensure sustained use of the natural resources of those areas.

Section 13-2-21(b)(1) relating to standards requires all applications be reviewed in such a manner that the objective of the subzone is given primary consideration.

The format for the analysis will follow the three phases of development proposed by the applicant. These three phases are as follows:

- Phase 1 - Dredging
- Phase 2 - Installation of moorings
- Phase 3 - Construction of pier

Phase 1 - Dredging of Channel and Basin

The first phase of the project involves the removal of a maximum 7200 cubic yards of coral heads, rubble and mud from the existing channel/basin. Of the total 7200 cubic yards removed, only 1-2 cubic yards will be living coral. The total area dredged will be approximately 200 feet by 400 feet (see exhibits 4, 5 & 6). The applicant proposes to dredge the channel/basin area to a minimum depth of 5 feet from MLLW to allow for safe passage of tour boats with a 4 to 5 foot draft.

The applicant indicates that the clearing of the channel/basin will involve some blasting at the channel entrance. The solid pieces and rubble will either be moved to the sides of the channel/basin or carried to shore and stockpiled at an approved site. The mud will be removed using a suction hose and also stockpiled at an approved site.

The stockpile site is located mauka of the applicant's property on Castle and Cooke land and was approved by the County of Maui through an SMA minor permit (see attachment B).

The Army Corps of Engineers, after consultation with the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service, has approved of the applicant's proposed activity (including the installation of the moorings and construction of the pier) through a Department of Army Permit (PODCO-0 1807-SD) subject to several special conditions (see attachment C).

Our Division of Aquatic Resources found that the loss of marine organisms would be unavoidable if dredging, channel clearing, mooring installation and pier construction were approved; however, they indicated that the effects would be temporary and acceptable provided adequate precautions are observed and sufficient public benefit is realized in mitigation. The precautionary measures proposed by Aquatic Resources are similar in effect to those encumbered in the Department of Army permit.

In response to the comments from Aquatic Resources regarding the blasting specifications, the applicant indicated that the proposed blasting specifications were prepared by American Divers, a contractor who is experienced in underwater blasting.

Aquatic Resources also questioned the applicability of Chapter 205-33 HRS with respect to the proposed project. Staff has discussed this matter with our Department of Attorney General and found that Chapter 205-33 HRS is not applicable since the proposed activity does not involve a commercial mining operation on the submerged lands.

Apparently, the present status of the channel/basin resulted from a lack of upkeep to remove silt and debris from the channel/basin. In staff's view, the proposed activity does not involve excavation or dredging of a new channel/basin but rather maintenance work to reactivate an existing channel/basin. As such, staff is of the opinion that the proposed channel/basin clearing maintenance activity is consistent with the objectives of the Resource subzone.

Aside from the physical impacts, staff is also concerned with the potential for public use of the area. In staff's view, the direct public benefit derived from this type of activity is subjective at best, since public use of the area will be limited to boats coming into the channel/basin or people walking along the beach. Furthermore, with no "legal" access from the road to the beach, public use of the channel/basin for boat launching will be left to the discretion of the adjacent private landowners.

At a recent public hearing held on Lanai for the proposed dredging of Manele Bay, the Board questioned whether there would be any island wide effects on the marine resources if both this proposed dredging at Halepalaoa and the proposed dredging at Manele were to be conducted simultaneously. Staff has discussed this matter with our Aquatic Resources personnel who indicated that there should be no significant effect on the marine resources, except at the two dredge sites, if both activities were conducted at the same time.

Phase 2 - Installation of Six Moorings for Exclusive Use

Once the channel/basin is dredged, the applicant proposes to install six mooring buoys for his exclusive use. Staff has questioned the need for six moorings since the applicant states that, "at the present time, four companies operate cruise boats between Lahaina and Manele Harbor on Lanai's South Coast". In response, the applicant's consultant indicated that the six moorings are a long-range prediction and that the applicant will not need all six to start.

Staff has consulted with the Department of Attorney General on this request for "exclusive use" of six moorings by the applicant. The Deputy Attorney General has advised us that:

"The custom and practice of the boating industry is to consider a mooring private property. As a practical matter, it may be difficult to impose a public use requirement upon an owner of a mooring. Moorings are a necessity for boat owners who don't already have docking facilities. To allow a third party to use a mooring placed by a lessee/grantee would create a host of problems or disputes between the parties. On the other hand, a permanent mooring may be a valuable asset if there is a limited carrying capacity for boat moorings in a particular area or inlet. Granting a mooring in this hypothetical may deprive other members of the public from enjoying the same benefits.

In this situation, applicant requests a lease of submerged lands for six moorings. In reviewing the request, you may want to consider the following in your review of applicant's request: (a) impact of the particular commercial enterprise upon the ocean resources and public's use of the submerged lands; (b) carrying capacity of this area (i.e. number of moorings); and (c) public use of the area."

Staff's approach to assessing this request for six moorings is based on the anticipated carrying capacity for the dredged channel/basin area. Based upon the information provided by the applicant, the DOT-Harbors personnel estimate that boats with a four to five foot draft would be anywhere from 45 to 65 feet long. Since the applicant also states that they are unable to estimate the use of the area until they begin operation, staff first assumed the worse case situation in estimating the carrying capacity (i.e. six 65 foot long boats moored in the dredged area).

Given the fact that each mooring would require a safe range radius of 65 feet, and assuming that the boats would have a four to five foot draft even after unloading passengers, staff attempted to locate six moorings within the dredged area. As shown in exhibit 9 only four moorings would fit in the dredged area.

To arrive at a maximum figure, staff assumed a smaller vessel size of 45 feet. As shown in exhibit 10, ten vessels could moor in the dredged area with a safe range radius of 45 feet.

Based on the maximum figures for carrying capacity of the channel/basin, and the applicant's proposal for exclusive use, it is conceivable that, with the proper mixture of vessel sizes, the applicant could have exclusive use over all six moorings in the dredged area.

The applicant contends that at the present time he is unable to determine the exact vessel size and the total amount of moorings necessary because of the uncertainty involved in establishing his commercial venture. However, staff is also placed in a similar situation of uncertainty in that staff has no basis to determine what the level of public use of the area will be once the dredge activity is complete. As a result, staff has no means to weigh the public concerns in light of the proposed future incremental mooring installations.

Staff is also cognizant of the public concerns raised at the public hearing regarding any type of exclusive use within the dredged area. Therefore, in light of the fact that only four companies currently operate from Lahaina to Lanai, and the limited carrying capacity of the channel/basin, staff feels that this request for exclusive use by the applicant is unreasonable.

Staff does not rule out the possibility of installing moorings for use by the applicant as well as the general public. However, the need for moorings must be substantiated by either the applicant through his commercial land based operation, or the general public through their use of the channel/basin.

Finally, denying of this mooring request would not prohibit the applicant from conducting his commercial land based operation since in the initial phases of the applicant's commercial operation, commercial tour boats as well as the general public will be allowed to drop anchor in the dredged area. Furthermore, repeated anchorings should not cause any adverse impact to the bottom since the channel/basin topography would be effectively changed with the dredging activity.

Phase 3 - Construction of Pier

The third phase of the development calls for the construction of a pier for loading and unloading of tour boat passengers. Construction of the pier will occur only if the applicant's land-based commercial activities prosper and his client demand is sufficient to warrant construction of the pier. In order to limit his liability, the applicant is requesting exclusive use of the pier. As such, if the applicant's request is approved, the general public would be prohibited from using the pier.

Staff has discussed the applicant's request for exclusive use of the pier with the Department of Attorney General. They indicated that Chapter 171-36,(a)(9) HRS states:

"No lease of public lands, including submerged lands, nor any extension of any such lease, shall be issued by the State to any person to construct, use, or maintain a sunbathing or swimming pier or to use the lands for such purposes, unless such lease, or any extension thereof, contains provisions permitting the general public to use the pier facilities on the public lands and requiring that a sign or signs be placed on the pier, clearly visible to the public, which indicates the public's right to the use of such pier."

While the statute specifically cites public use of sunbathing or swimming pier, it is silent on requiring public use of other types of piers. In staff's view, the mere wording of the statute creates confusion. For example, if a fisherman takes off his shirt while fishing from a pier, is the pier a sunbathing pier, fishing pier or both?

Nevertheless, in an attempt to clarify the confusion, the Department of Attorney General has informed us that if a pier is not used for sunbathing or swimming, the requirement for public use is left to the discretion of the Board. Thus it follows that by specifically prohibiting sunbathing or swimming uses of the pier, the Board may grant exclusive use of the pier to the applicant.

Recently, in cases involving private piers, the Board chose to require public use of these piers constructed on State owned land in Kaneohe Bay. The Board required that signs be posted on all of the piers indicating that the piers are open to the public.

Based on the discretionary powers of the Board and considering the applicant's concern for liability, the applicant could conceivably obtain exclusive use of the pier if the pier were specifically used for loading and unloading of commercial tour boat passengers and no sunbathing or swimming from the pier was allowed. However, staff feels strongly that the State must be fairly compensated if the exclusive use right is bestowed upon the applicant.

At the present time, there is no current legal access from Keomuku Road to the beach near the applicant's property. The nearest point where one can legally access the beach is approximately one mile northwest of the applicant's property where Keomuku Road abuts the beach. In view of the lack of "legal" access from the road to the channel/ basin at Halepalaoa, staff feels that fair compensation for exclusive use of the pier would be for the applicant to dedicate a 15 to 20 foot wide public easement on his property to the State. In effect, the applicant and the State would exchange easements. The easement could run parallel to the applicant's northwest property boundary and provide direct access from the road to the channel/basin.

The width and location of the easement would allow for future boat launching to occur within the channel/basin. Staff understands that at the present time boat trailers are unable to reach Halepalaoa by road because the existing road is unimproved. Nevertheless, although boat launching may not occur right away, establishing a perpetual legal public easement would insure the public's access to the beach and channel/basin. Furthermore, the easement would allow for boat launch activities to occur in the channel/basin when Keomuku Road is improved.

Our Departmental staff on Lanai also informed us that the reef fronting the applicant's property is quite evident and extends all along the north shore of Lanai. A few natural channels exist within the reef allowing boat passage to and from the beach. Presently, small boat fishermen launch at one of these natural channels located at the end of the paved road approximately five miles northwest of Halepalaoa. The channel clearing and dredging at Halepalaoa would be an ideal launching site for small boat fishermen once the road is paved.

The rationale for exchanging easements is based on staff's fear that, should the Board elect to require public use of the pier, public use of the pier may be hindered in the future if the surrounding private landowners decide to prohibit public access across their lands to the beach. This situation of prohibiting public access over private lands has been a common occurrence on all of the other islands. Therefore, even if Board were to require public use of the pier, factors beyond the control of this Department may effectively limit its use by the general public.

This proposal for exchanging easements is, in staff's view, a reasonable request since it allows the applicant to protect his liability on the pier while providing the public with "legal" access to the beach and channel/basin area. The Board may also consider conditioning the terms of the exchange such that in the event that the applicant's commercial endeavor fails after constructing the pier, the easements are re-exchanged and the applicant removes the pier at no expense to the State.

Aside from the three-phased development proposed by the applicant, Aquatic Resources raised a concern regarding the potential impacts on the Kaohai Fishery (see exhibit 11 and attachment D). The Department of Attorney General has advised us that:

"The Kaohai Fishery is a geographical area within the State's shorewaters which is subject to limited private fishing rights. These private fishing rights, commonly known as "konohiki fishing rights" date back to ancient custom and practice but are now statutorily defined in HRS Sec. 188-1 thru -14 generally as follows:

1. Owner of right (or "konohiki") may designate one type of fish annually for the owner's exclusive use; or
2. Owner may establish closed fishing seasons and exact 1/3 of the catch from each fisher during the fishing season.

The Kaohai Fishery was registered and established pursuant to law [Organic Act Sec. 95, 96 (1900); Law No. 147 Fishery Case (2nd Cir.)] and the konohiki fishing rights were vested in William G. Irwin, John D. Spreckles and Adolph B. Spreckles and their successors in the ahupuaa of Kaohai.

Applicant's activities are subject to konohiki fishing rights unless Applicant's source of title to his land is derived from William G. Irwin's et al. title to the ahupuaa of Kaohai. In other words, should Applicant engage in any fishing activity, he should be made aware of the konohiki's right to limit the kind and manner of his activities. These fishing rights, however, have no practical effect upon the proposal before the Land Department because the konohiki does not possess any property rights in the submerged lands and is subject to all laws relating to navigable waters."

As such, staff recommends as follows:

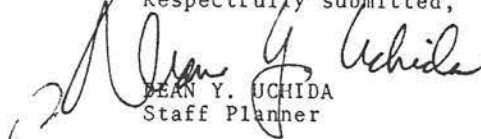
RECOMMENDATION:

- A. That the Board approve this request for channel clearing, basin dredging, pier construction, and loading and unloading of commercial tour boat passengers on the State-owned submerged lands offshore of TMK: 4-9-3:10 near Halepalaoa landing, at Kaohai, Lanai subject to the following conditions:
 1. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2, Administrative Rules, as amended;
 2. 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 this permit or relating to or connected with the granting of this permit;

3. The State of Hawaii shall not be responsible for any loss, liability, claim or demand for property damage, property loss, or personal injury including death caused by or resulting from any act or omission of the applicant or its contractor in connection with its exercise of the privileges herein granted;
4. As this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
5. In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, paving, or walls are encountered during construction, the applicant shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408;
6. The applicant comply with all applicable Public Health Regulations;
7. The construction, alteration, moving, demolition and repair of any building or other improvement on lands within the Conservation District shall be subject to the building codes of the respective counties in which the lands are located; provided that prior to the commencement of any construction, alteration, or repair of any building, or other improvement four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson, or his authorized representative, for approval of which three (3) copies will be returned;
8. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use. Failure to comply with this condition shall render this application null and void;
9. The applicant shall have exclusive use of the pier provided that he dedicates a 15-20 foot wide public access easement over his property (parallel to his north-west property line, providing direct access from Keomuku Road to the channel/basin) to the State in exchange for the easement for exclusive use of the pier;
10. Should the applicant not agree to dedicating a public access easement to the State in exchange for exclusive use of the pier, the pier will be open to the public and signs will be posted indicating that the pier is open for public use;

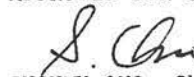
11. In the event that the applicant's commercial activity fails after the construction of the pier, the pier be removed by the applicant at no expense to the State and the easements, if previously exchanged, be re-exchanged;
 12. That an archaeological reconnaissance be conducted on any area of the subject parcel which will be impacted by the construction equipment and/or stockpiling of the dredged materials. This reconnaissance shall be completed by a qualified archaeologist and two copies of the report shall be sent to our office for review and comment prior to the start of any construction activity. At this time, we may make further recommendations toward the protection and/or mitigation of any existing archaeological features within the impacted area;
 13. That the applicant take appropriate measures during and after construction to minimize turbidity and degradation of the nearby offshore water;
 14. That the applicant prepare an aquatic survey before work begins and after work is completed to determine the effects on the aquatic biology;
 15. That should the applicant engage in any fishing activity, the applicant should be aware of the konohiki fishery rights defined in Chater 188-1 thru 14 HRS; and
 16. Other terms and conditions as prescribed by the Chairperson.
- B. That the Board deny, without prejudice, the applicant's request for the placement of six moorings in the channel/basin area due to the following reasons:
1. The carrying capacity of the dredged area may be exceeded if six moorings are placed within the channel/basin; and
 2. Without data to substantiate the quantity and frequency of boater use in the channel/basin, allocation of moorings may be premature at this time.

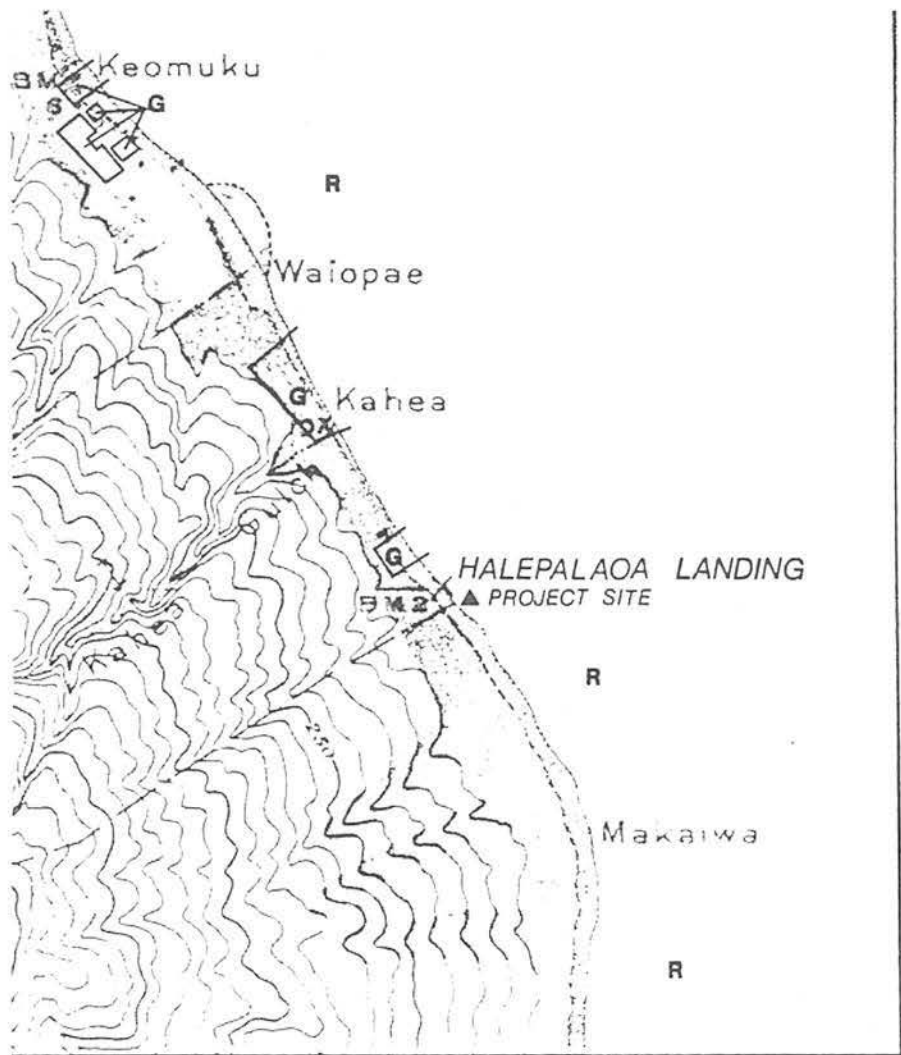
Respectfully submitted,


DEAN Y. UCHIDA
Staff Planner

Attachments

APPROVED FOR SUBMITTAL:

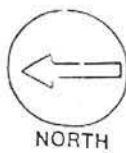

SUSUMU ONO, Chairperson
Board of Land and Natural Resources



Conservation District Subzones

- R Resource
- G General
- P Protective (None in Project Vicinity)
- L Limited (None in Project Vicinity)

Source: Hawaii, Department of Land and Natural Resources



CDUA no. LA-1705
 APPLICANT MR. ALAN D. STARR
 AGENT BOB CORNELL & ASSOC.
 TMK OFFSHORE OF 4-9-3.10
 SCALE _____

Exhibit 1

SUBZONE ☒ PROTECTIVE
☒ RESOURCE
☐ LIMITED
☐ GENERAL
 PROJECT AREA

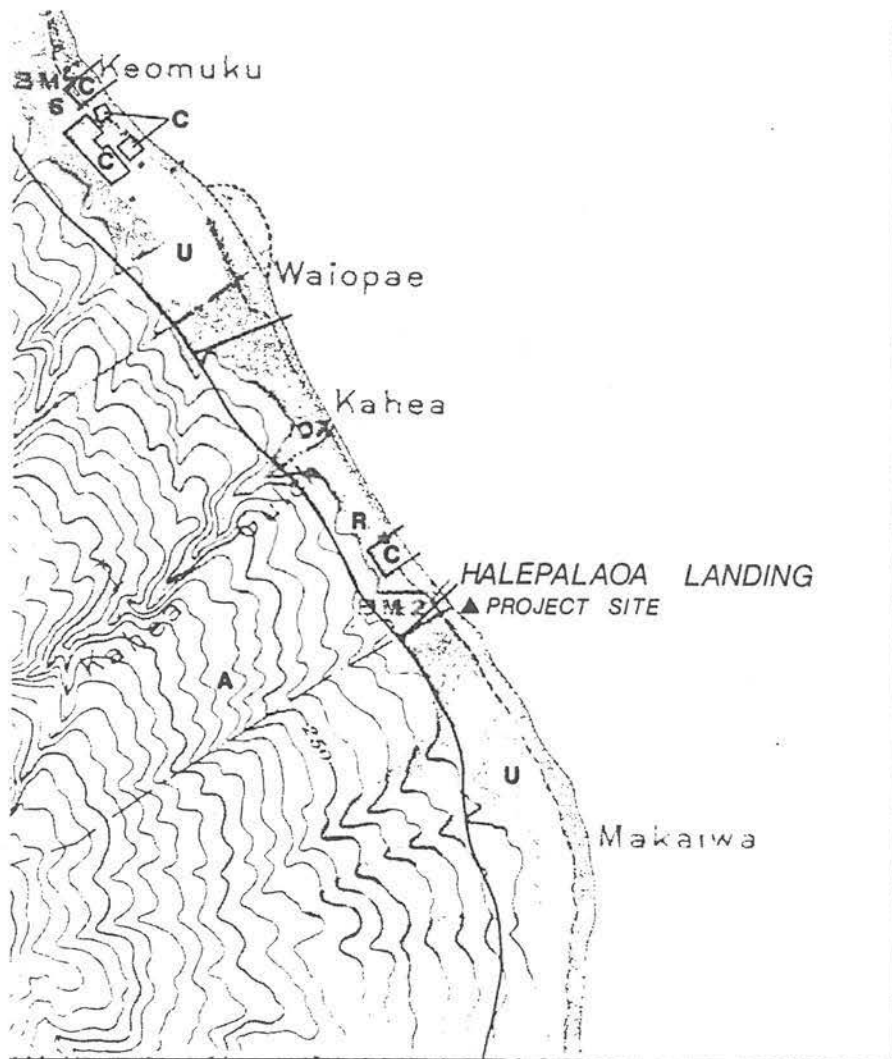
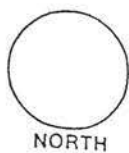
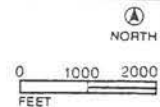


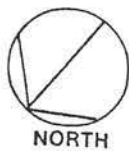
Figure 3. State Land Use District Boundaries

- U Urban
- R Rural
- A Agricultural
- C Conservation



CDUA no. _____
 APPLICANT _____
 AGENT _____
 TMK _____
 SCALE _____

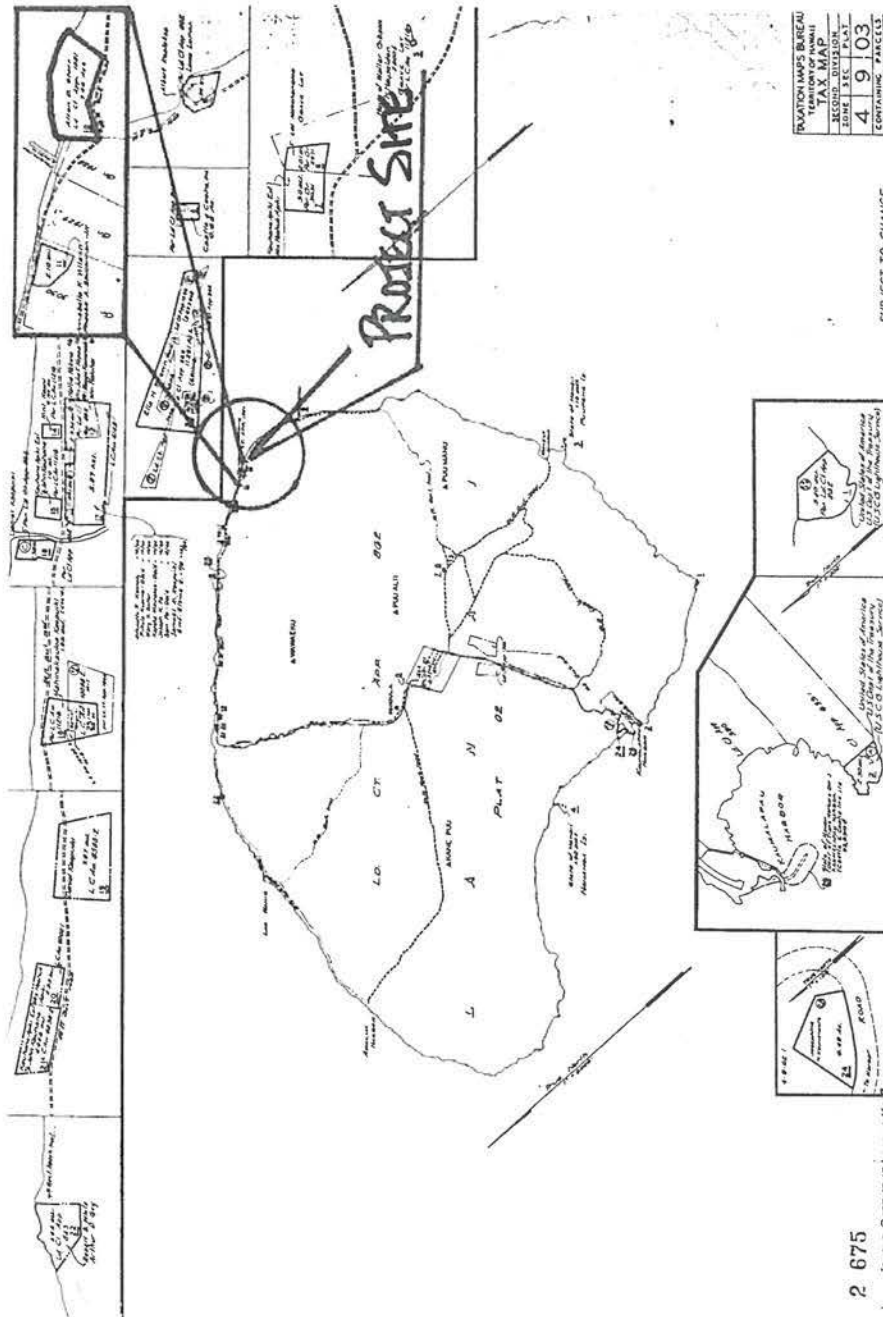
EXHIBIT 2
 SUBZONE ☐ PROTECTIVE
☐ RESOURCE
☐ LIMITED
☐ GENERAL
 PROJECT AREA



CDUA no. LA-1705
 APPLICANT U.R. ALAN D. STARR
 AGENT BOAT COVINS & ASSOCIATES
 TMK OFFSHORE 4-9-3:10
 SCALE _____

EXHIBIT **3**

SUBZONE		PROTECTIVE
		RESOURCE
		LIMITED
		GENERAL PROJECT AREA

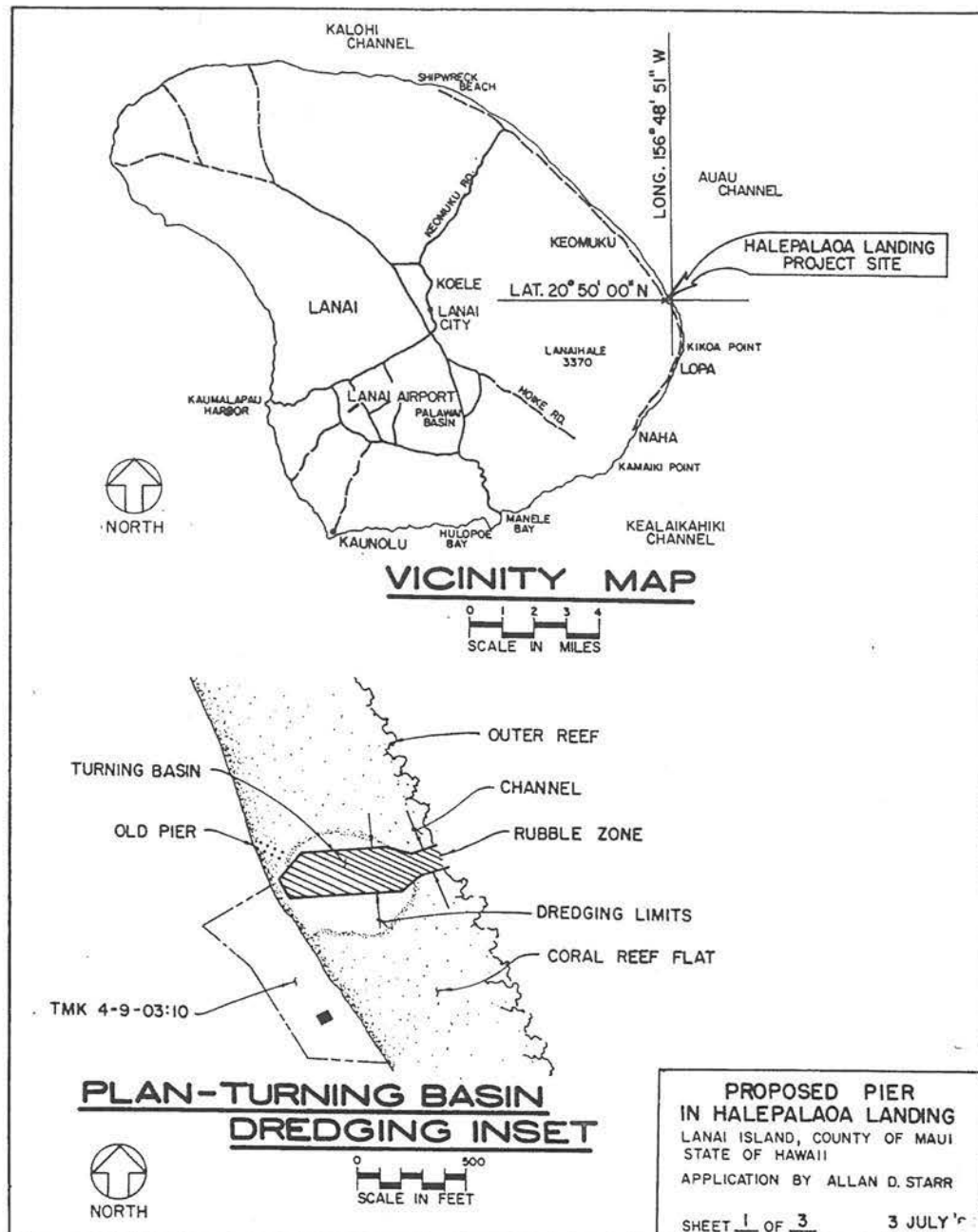


2 675

LA-1705, LA-1706, LA-1707, LA-1708, LA-1709, LA-1710, LA-1711, LA-1712, LA-1713, LA-1714, LA-1715, LA-1716, LA-1717, LA-1718, LA-1719, LA-1720, LA-1721, LA-1722, LA-1723, LA-1724, LA-1725, LA-1726, LA-1727, LA-1728, LA-1729, LA-1730, LA-1731, LA-1732, LA-1733, LA-1734, LA-1735, LA-1736, LA-1737, LA-1738, LA-1739, LA-1740, LA-1741, LA-1742, LA-1743, LA-1744, LA-1745, LA-1746, LA-1747, LA-1748, LA-1749, LA-1750, LA-1751, LA-1752, LA-1753, LA-1754, LA-1755, LA-1756, LA-1757, LA-1758, LA-1759, LA-1760, LA-1761, LA-1762, LA-1763, LA-1764, LA-1765, LA-1766, LA-1767, LA-1768, LA-1769, LA-1770, LA-1771, LA-1772, LA-1773, LA-1774, LA-1775, LA-1776, LA-1777, LA-1778, LA-1779, LA-1780, LA-1781, LA-1782, LA-1783, LA-1784, LA-1785, LA-1786, LA-1787, LA-1788, LA-1789, LA-1790, LA-1791, LA-1792, LA-1793, LA-1794, LA-1795, LA-1796, LA-1797, LA-1798, LA-1799, LA-1800

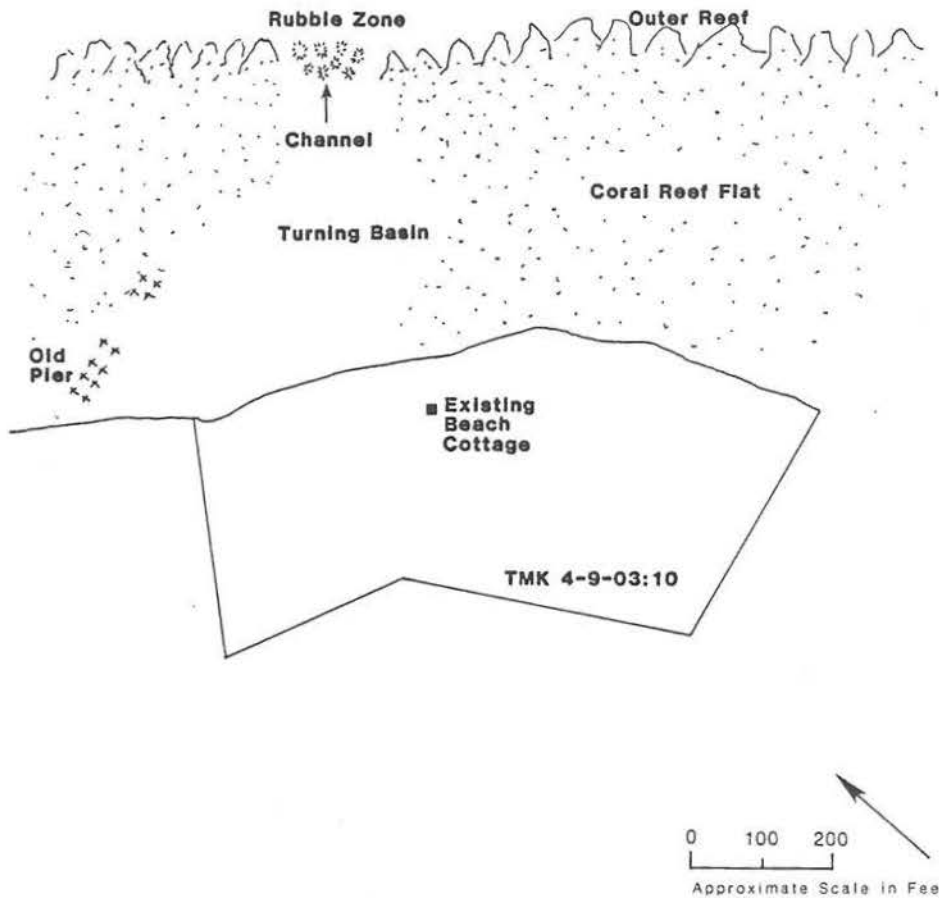
SUBJECT TO CHANGE

TAXATION MAPS BUREAU			
TAX MAP			
LA-1705			
RECORD	DISSEMIN	DATE	FILE
4	9	03	
CONTAINING PARCELS			
SCALE AS NOTED			



CDUA no. LA-1705
 APPLICANT MR. ALLAN D. STARR
 AGENT BEAT CRUNKS & ASSOCIATES
 TMK OPPHREE 4-9-3:10
 SCALE

EXHIBIT 4
 SUBZONE ☒ PROTECTIVE
☒ RESOURCE
☐ LIMITED
☐ GENERAL
 PROJECT AREA



CDUA no. LA-1705

APPLICANT MR. ALAN D. STARR

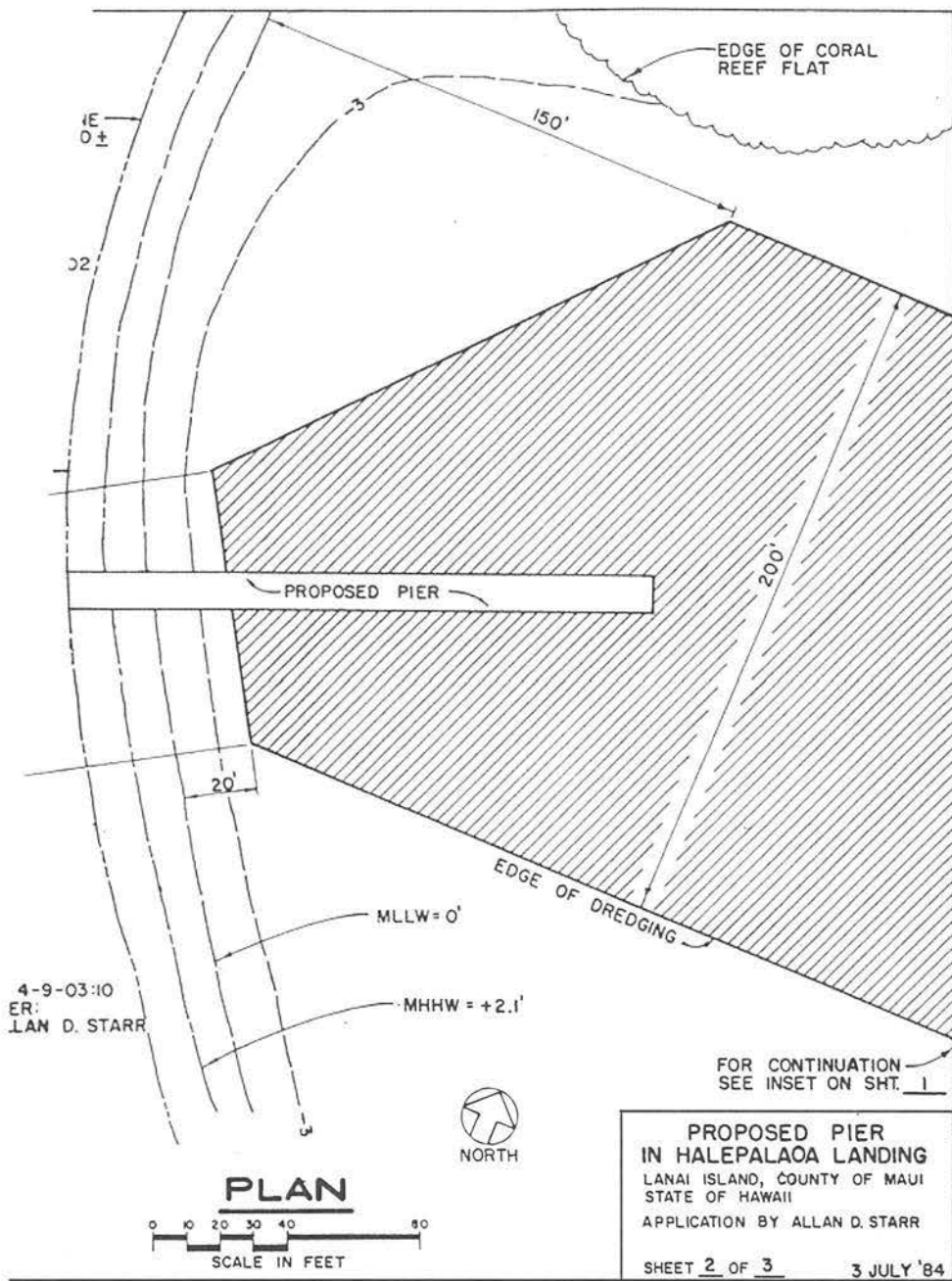
AGENT BELT CONSULTING & ASSOCIATES

TMK OFFSHORE 4-9-3:10

SCALE _____

Exhibit 5

SUBZONE	PROTECTIVE
	RESOURCE
	LIMITED
	GENERAL
	PROJECT AREA



CDUA no. LA-1705

APPLICANT MR. ALLAN D. STARR

AGENT BOB CARROLL & ASSOCIATES

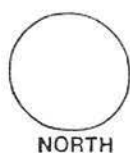
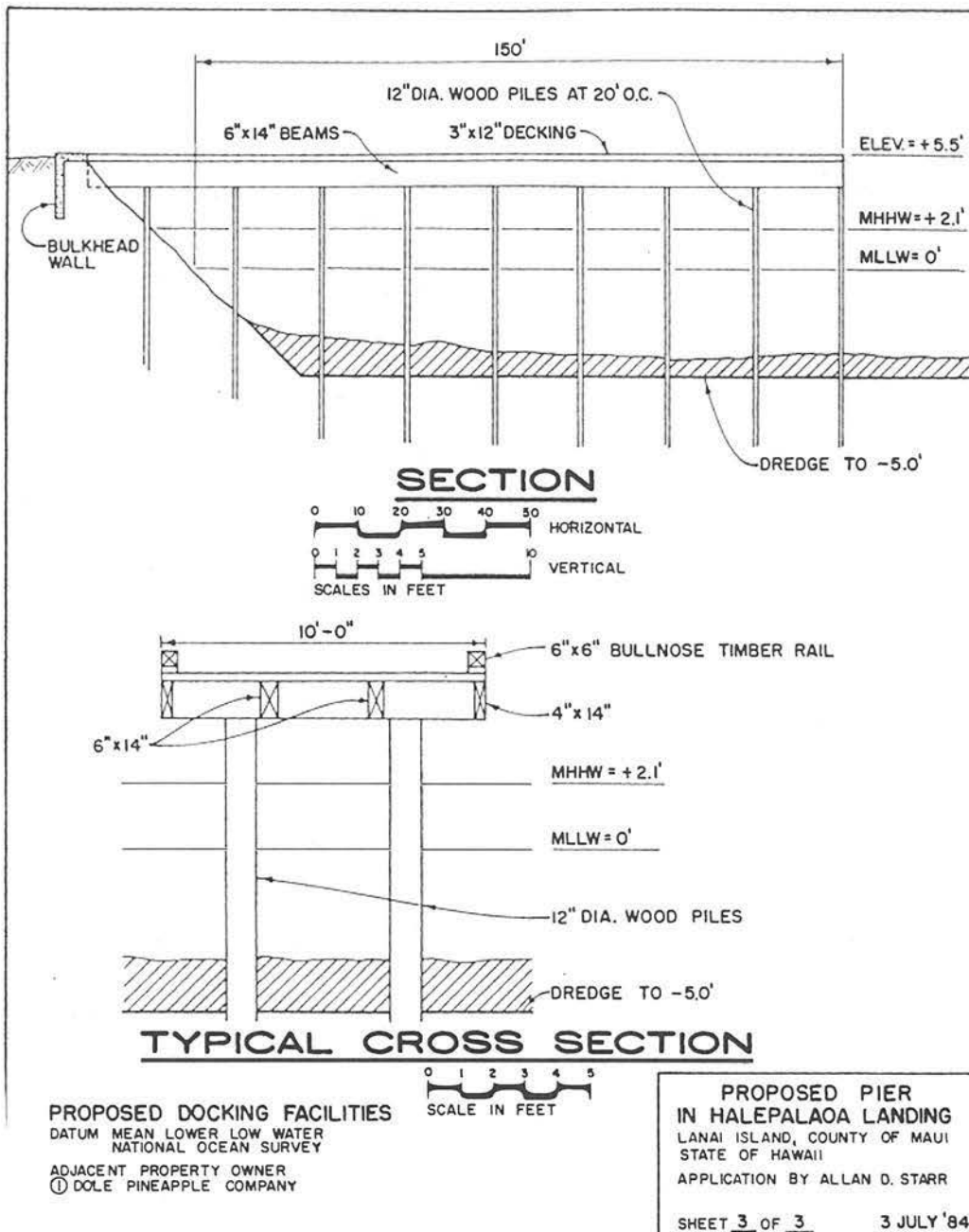
TMK OFFSHORE TMR 4-9-3:10

SCALE _____

Exhibit 6

SUBZONE	<input type="checkbox"/>	PROTECTIVE
	<input checked="" type="checkbox"/>	RESOURCE
	<input type="checkbox"/>	LIMITED
	<input type="checkbox"/>	GENERAL
	<input type="checkbox"/>	PROJECT AREA

NORTH



CDUA no. LA-1705

APPLICANT MR. ALLAN STARR

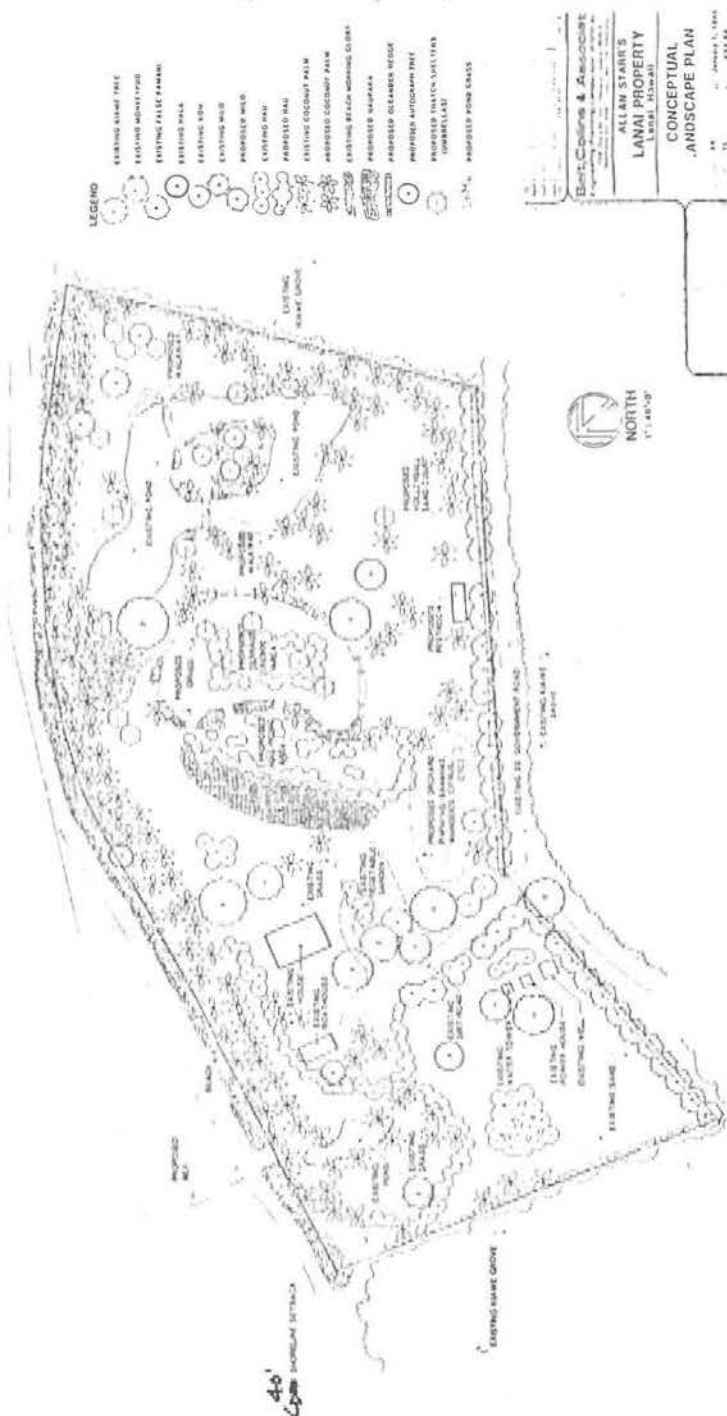
AGENT But Counts & Associates

TMK Offshore 4-9-3:10

SCALE _____

EXHIBIT 4

SUBZONE ☒ PROTECTIVE
☒ RESOURCE
☐ LIMITED
☐ GENERAL
PROJECT AREA



NORTH

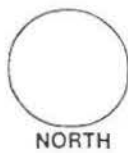
CDUA no. LA-1705
APPLICANT MR. ALAN D. STARK
AGENT Star Comm. & Ass.
TMK OFFSHORE OF 4-9-3:10
SCALE _____

Feature 8

SUBZONE	<input type="checkbox"/>	PROTECTIVE
	<input checked="" type="checkbox"/>	RESOURCE
	<input type="checkbox"/>	LIMITED
	<input type="checkbox"/>	GENERAL
		PROJECT AREA

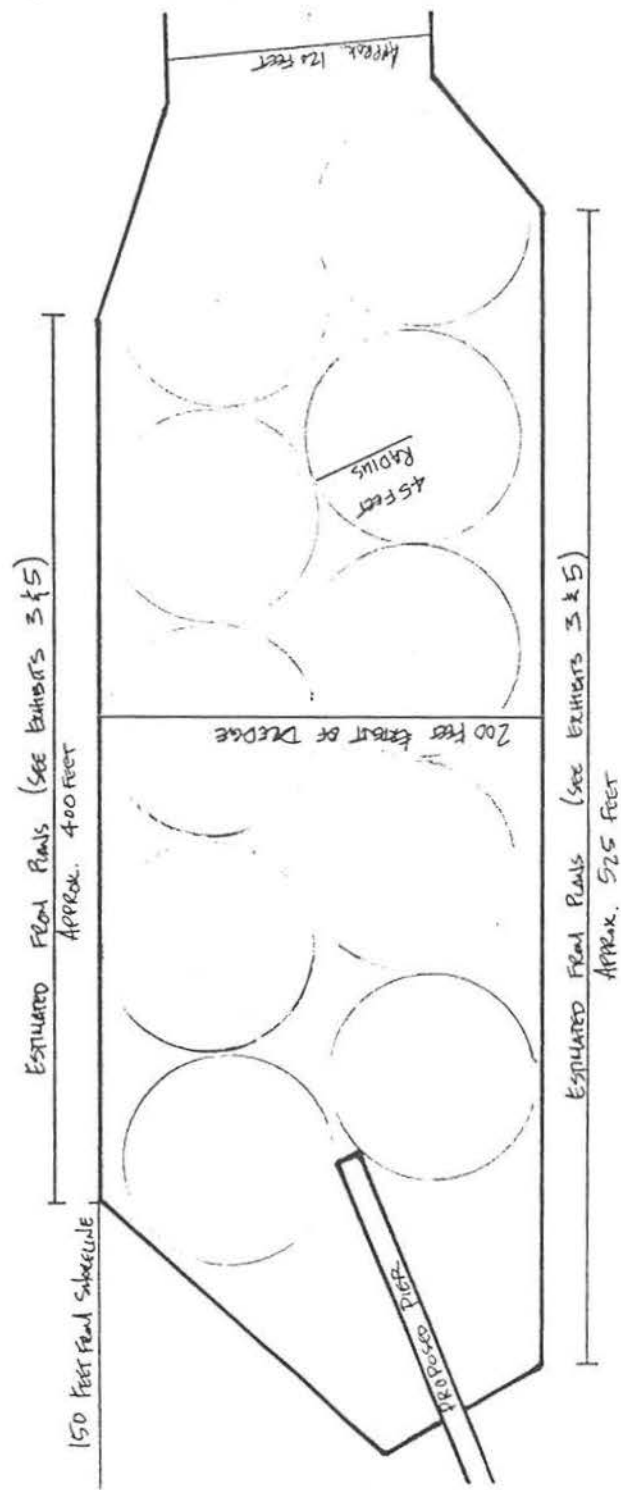
Exhibit 9

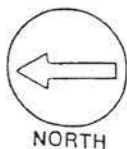
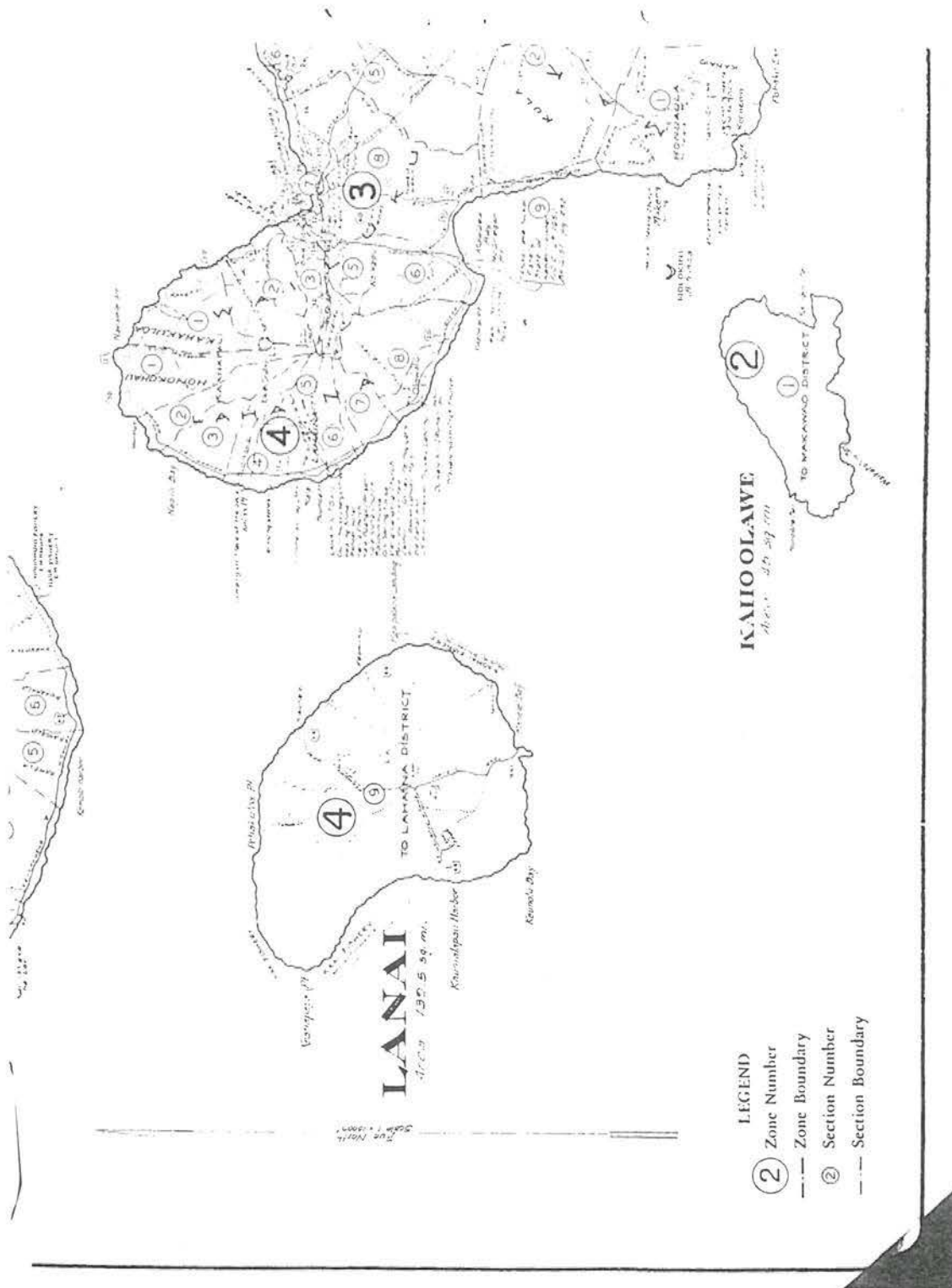
SUBZONE		
		PROTECTIVE
		RESOURCE
		LIMITED
		GENERAL
		PROJECT AREA



CDUA no. LA-1765
 APPLICANT NR. ALAN D. STARR
 AGENT BEST CONSULTANTS & ASSOC.
 TMK OFFSHORE OF 4-9-3:10
 SCALE _____

EXHIBIT 10
 SUBZONE ☒ PROTECTIVE
☒ RESOURCE
☐ LIMITED
☐ GENERAL PROJECT AREA





CDUA no. LA-1705
 APPLICANT MR. ALAN D. STARR
 AGENT Best Causis & Assoc.
 TMK Office of 4-9-3.10
 SCALE _____

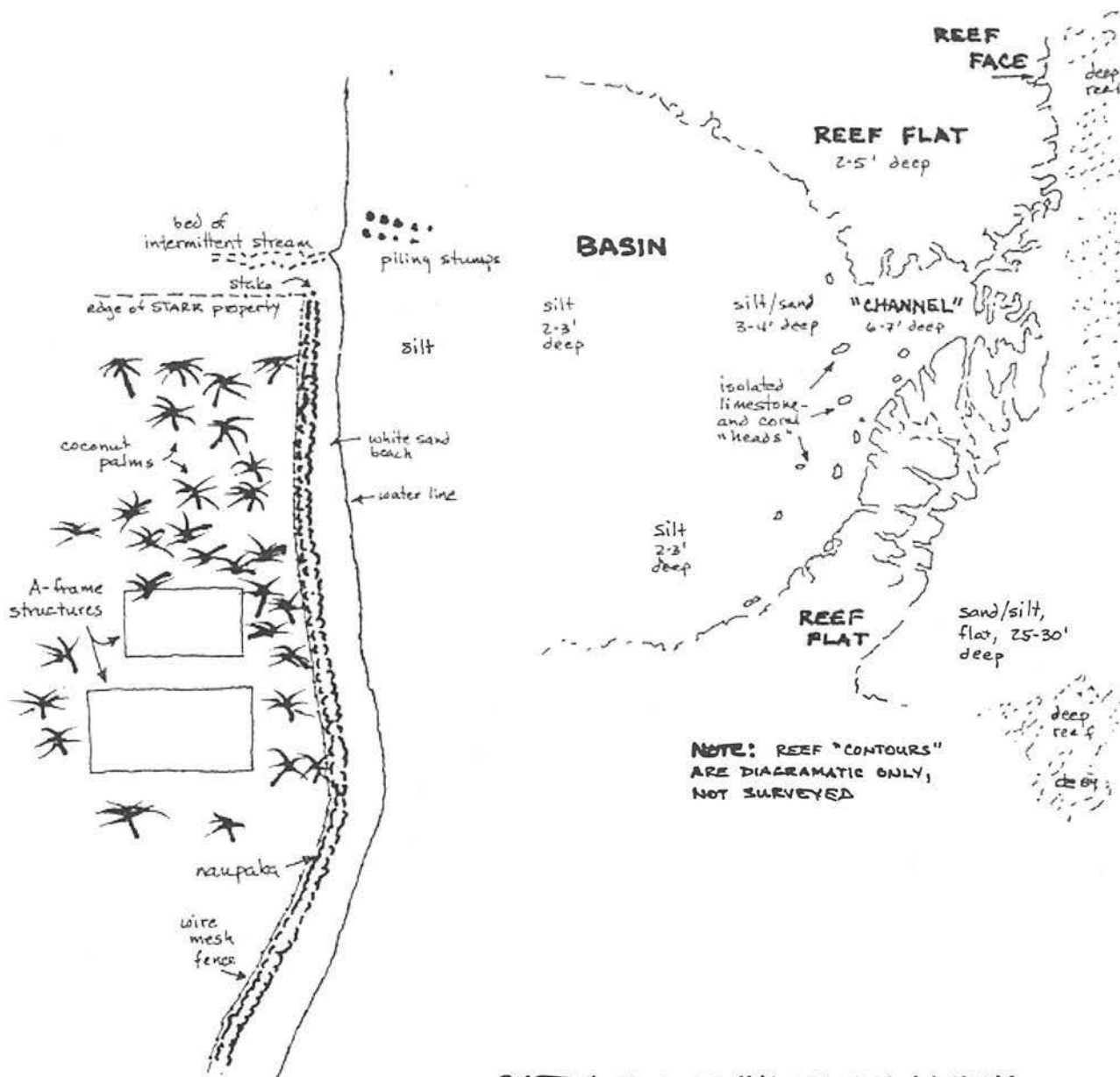
EXHIBIT IV
 SUBZONE ☐ PROTECTIVE
☒ RESOURCE
☐ LIMITED
☐ GENERAL
 PROJECT AREA

FILE NO. LA-1705

FIELD INSPECTION REPORT - CDUA

Applicant: Allan D. Starr Date: 22 October 1984
Use Requested: Harbor renovation By Whom: David Eckert
William Puleloa
Location: Halepalaoa Landing, Lanai Aquatic Resources
TMK: off 4-9-3:10
Area: _____
Tsunami & Flood Hazard Area: submerged land
County Zoning: n/a

1. Distance from nearest town: approximately 7 miles due east of Lanai City
Distance from other landmarks: approximately 1 mile north-northwest of Makaiwa Point
by vessel, along public beach,
2. Access: across private land from unmaintained road
Street Name: none
Condition: unpaved, rough, but 4-wheel drive not required if dry
Width: "20 ft" (one "lane")
Pavement: none
3. Adjacent Land Uses/Structures: public beach; private residence (applicant's); vacant
"ranch" land (Castle & Cooke) used privately for hunting
4. Description of Parcel: former harbor (cane loading),
a. Existing structures/Uses: silted in, stumps of pilings from former pier
b. Shoreline areas:
Property Description: gentle sand beach
c. Existing utilities:
Electricity: n/a
Water: n/a
Telephone: n/a
Drainage: n/a
Sewage: n/a
d. Vegetation: in water: Dictyota (probably D. bartayresii, alani), Lyngbia,
Neomeris; on applicant's property fronting beach: Scaevola (naupaka)
fine terrigenous sediment with small coral/limestone outcroppings
e. Soil: (submerged); "white" sand (beach)
f. Topography: flat, gently sloping from waterline to about 7', with isolated coral
heads and walls nearly sheer (basin); complex reef formations, 80+%
live coral ("channel," seaward end)
g. Elevation: submerged
h. Rainfall: 10-15"
5. Sketch attachment: (optional) attached
6. Other: Mr. Bob Lagoff, the applicant's caretaker, indicated: 1) the pier (if built)
would be sited in front of the applicant's land; and 2) that the site where dredge spoils
would be stockpiled was still indefinite.



**SKETCH MAP OF HALEPALAOA LANDING
(LA-1705)**

LOCATIONS APPROXIMATE, NOT SURVEYED

COUNTY OF MAUI
PLANNING DEPARTMENT
200 S. High Street
Wailuku, Maui, Hawaii 96793

43 0-27
RECEIVED
NOV 14 1984

MR. COLLINS & ASSOCIATES

JV ✓
KIB 11/13

Mr. Joseph Vierra, Jr.
Belt Collins & Associates
606 Coral Street
Honolulu, HI 96813

November 9, 1984 CC: A. Starr 11/13

Dear Mr. Vierra:

Re: Special Management Area (SMA) Assessment/Minor Permit --

for the landfilling of dredged material from Halepalaoa
Landing by Mr. Allan Starr on a portion, TMK 4-9-2:1,
Kaohai, Lanai. (Valuation: \$10,000.00)

In response to your letter, dated/received on June 18, 1984
requesting a determination in accordance with the requirements of the SMA
Rules and Regulations of the County of Maui relative to the above
project, it is hereby determined, in accordance with Section 2-9.5 of
said Rules and Regulations, that an SMA Minor Permit is required for the
following reasons:

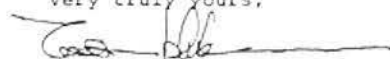
1. Said project is a development;
2. Said project has a valuation not in excess of \$65,000.00;
3. Said project has no significant adverse environmental or ecological effect, taking into account potential cumulative effects; and
4. Said project is consistent with the objectives, policies, and Special Management Area guidelines set forth in the Hawaii Revised Statutes 205-A and is consistent with the County General Plan and Zoning.

In consideration of the above determination, you are hereby granted
an SMA Minor Permit approval, subject to the following conditions:

1. That full compliance with all applicable requirements of the Department of Public Works shall be rendered.
2. That full compliance with all applicable governmental requirements shall be rendered.
3. That stockpiling material shall be limited to dredged material from Halepalaoa Landing project.
4. That the landfilling shall not cause a significant adverse impact on existing drainage patterns.
5. That no landfill operations shall commence prior to the submittal of the actual boundary site and final site boundaries by Castle and Cooke, Inc to the Planning Department for review and approval.
6. That this permit shall be non-transferable.
7. That the amount of landfill shall not exceed the proposed maximum of 7,200 cubic yards.
8. That the applicant, its successors, and assigns shall defend, indemnify, and hold the County of Maui harmless, from and against any loss, liability, claims or demand arising out of this permit.

Thank you for your cooperation. If additional clarification is
required, please contact this office.

Very truly yours,



TOSHIO ISHIKAWA
Planning Director

cc: LUCA/Building Division
LUCA/CZM
DPFD/C74

ATTACHMENT B
Page 41 of 53

EXHIBIT E

PRELIMINARY

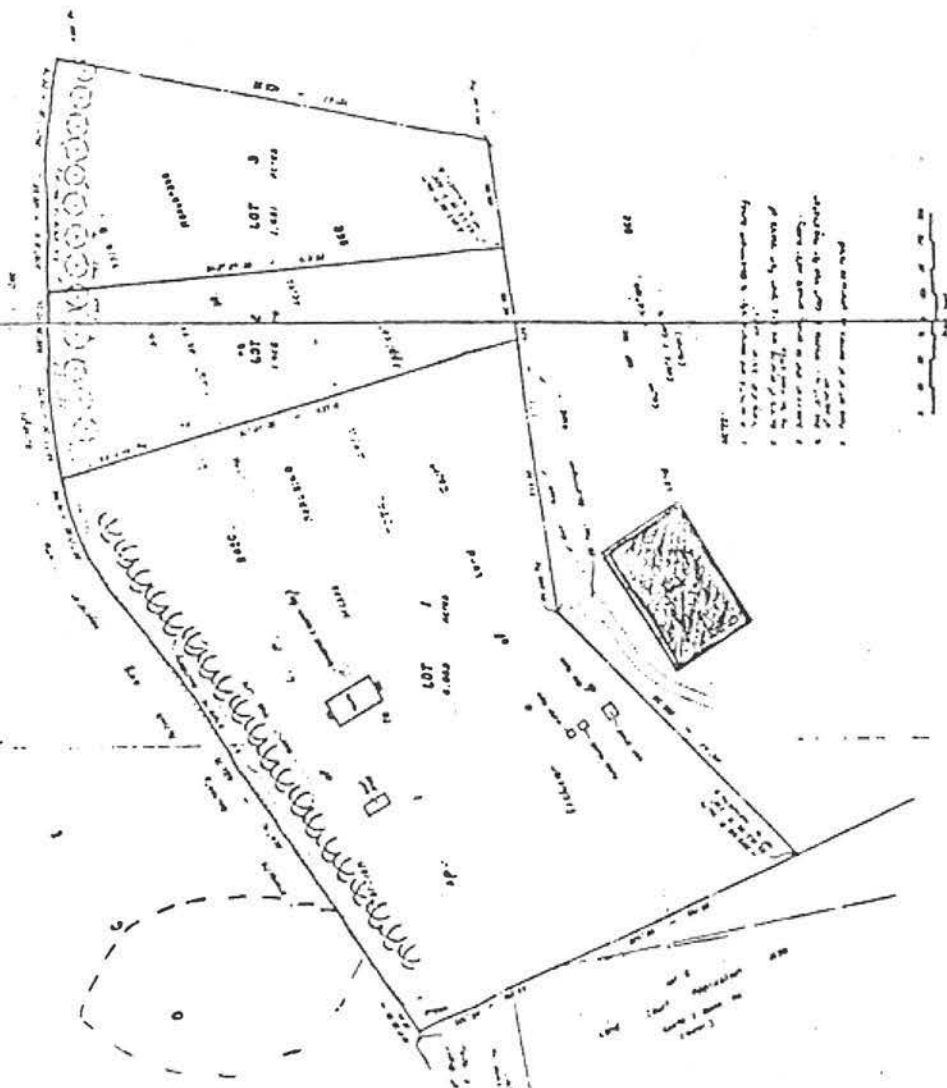
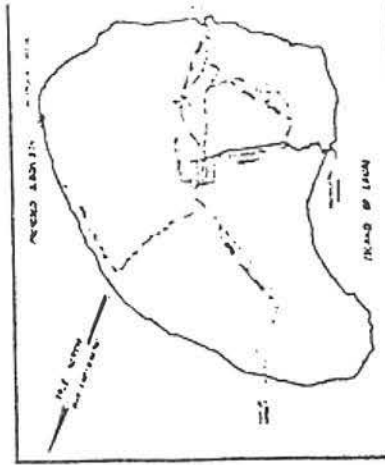
LAND TRACT ACQUISITION AGREEMENT
 BETWEEN THE LAND TRACT ACQUISITION AGREEMENT
 AND THE LAND TRACT ACQUISITION AGREEMENT

THIS AGREEMENT IS MADE THIS 1st day of January, 1999, by and between the Land Tract Acquisition Agreement and the Land Tract Acquisition Agreement.

WHEREAS, the Land Tract Acquisition Agreement and the Land Tract Acquisition Agreement have entered into this Agreement for the purpose of acquiring the land tract described herein.

AND WHEREAS, the Land Tract Acquisition Agreement and the Land Tract Acquisition Agreement have entered into this Agreement for the purpose of acquiring the land tract described herein.

IT IS HEREBY AGREED THAT the Land Tract Acquisition Agreement and the Land Tract Acquisition Agreement shall acquire the land tract described herein.



Application No. PODCO-0 18...-SD

Name of Applicant Allan D. Starr

Effective Date 18 JAN 1985

Expiration Date (if applicable) December 31, 1987

333

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05 JAN 85 A 8:55

DEPARTMENT OF THE ARMY
PERMIT

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Referring to written request dated July 24, 1984 for a permit to:

(X) Perform work in or affecting navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 409);

() Discharge dredged or fill material into waters of the United States upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344);

() Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1002; P.L. 92-532);

Mr. Allan D. Starr
Pacific Tower, Suite 1956
1001 Bishop St.
Honolulu, HI 96813

is hereby authorized by the Secretary of the Army:

to construct a 150-ft long pier, dredge approximately 7,200 cubic yards of material from the adjacent area and install six commercial mooring buoys

in the nearshore waters of Halepalaoa Landing

at Kaohai, Lanai, Hawaii

Roger	_____	Post	_____
Aki	_____	Library	_____
Anne	_____	Maudie	_____
Dean	<input checked="" type="checkbox"/>	Barbara	_____

File in	_____		
To Carol For	_____		

in accordance with the plans and drawings attached hereto which are incorporated in and made a part of this permit (on drawings, give file number or other definite identification marks.) entitled "Proposed Pier in Halepalaoa Landing, Lanai, Hawaii", dated 3 July 1984 (3 sheets);

subject to the following conditions:

I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

ENG FORM 1721, Sep 82

EDITION OF 1 JUL 77 IS OBSOLETE

(ER 1145-2-302)

1
ATTACHMENT B
Page 43 of 53

EXHIBIT E

The following Special Conditions will be applicable when appropriate:

STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES:

- a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.
- b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.
- c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.
- d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.
- e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

MAINTENANCE DREDGING:

- a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for 10 years from the date of issuance of this permit (ten years unless otherwise indicated);
- b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES:

- a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the Clean Water Act and published in 40 CFR 230;
- b. That the discharge will consist of suitable material free from toxic pollutants in toxic amounts.
- c. That the fill created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution.

DISPOSAL OF DREDGED MATERIAL INTO OCEAN WATERS:

- a. That the disposal will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220-225.
- b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or disposal of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

Joe Vrin / Agent
Name & Title PERMITTEE

12/28/84
DATE

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

EVERETTE A. FLANDERS, CH, CONST-OPS DIV, FOR AND IN BEHALF 18 Jan 85 DATE
OF DISTRICT ENGINEER, MICHAEL M. JENKS, COLONEL, CE
U.S. ARMY, CORPS OF ENGINEERS

Transferee hereby agrees to comply with the terms and conditions of this permit.

TRANSFEEE

DATE

PODCO-0 1807-SD

2 Incl

1. Print of Plan (3 sheets)

2. Notice of Authorization (ENG Form 4336)

Copies Furnished: w incl 1

US Fish & Wildlife Service, Portland, OR

US Fish & Wildlife Service, Honolulu, HI

Nat'l Marine Fisheries Service, Terminal Island, CA

Nat'l Marine Fisheries Service, Honolulu, HI

US Environmental Protection Agency, San Francisco, CA

Commander, Fourteenth Coast Guard District

Commanding Officer, U.S. Coast Guard, Marine Safety Office, Honolulu, HI

State Dept of Land & Natural Resources, Honolulu, HI (2 cys)

State Dept of Planning & Economic Devel, ATTN: CZM Program, Honolulu

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT,
TERRITORY OF HAWAII.

WILLIAM G. IRWIN, JOHN D.
SPRECKELS and ADOLPH B.
SPRECKELS,

Plaintiffs,

VS.

THE TERRITORY OF HAWAII.

LAW NO. 147.

FISHERY CASE.

CERTIFICATE IN RE RECORD THIS DAY
FORWARDED TO THE FIRST CIR-
CUIT COURT.

1. Bill of Complaint.
2. Summons.
3. Deft's. Answer.
4. Stipulation to have cause heard in First Circuit Court.
5. Order Transferring cause to First Circuit Court.
6. Clerk's Minutes.

Wailuku, Maui, August 21, 1905.

(SGD.) EDMUND H. HART,
Clerk 2nd. Circuit Court.

I hereby certify that the foregoing is a full, true
and correct copy of the original, now on file in the office
of the Clerk of the First Circuit Court, Territory of
Hawaii.

John M. Cockitt
Deputy Clerk, Circuit Court,
Second Circuit, Territory of Hawaii.

In the Circuit Court of the Second Judicial Circuit
Territory of Hawaii

December Term 1902

C.C.
Law
6261

William G. Irwin, John D. Spreckels)	
and Adolph B. Spreckels)	
Plaintiffs)	Action to Establish
vs)	Fishing Right
The Territory of Hawaii)	
Defendant)	

To the Honorable J. W. Kalua, Judge of the Circuit Court
of the Second Judicial Circuit:

The undersigned William G. Irwin, of Honolulu,
Island of Oahu, Territory of Hawaii, John D. Spreckels and
Adolph B. Spreckels both of the City and County of San
Francisco, State of California, complain of the Territory
of Hawaii, defendant, and for cause of action show:

1. That the plaintiffs claim a vested right as
tenants in common and as sole and exclusive owners in fee
simple of all that certain sea fishery, the same not being
a pond or artificial enclosure, in Kaohai, Island of Lanai,
bounded and described as follows:

Commencing at a red wood post at sea-shore on
the Southeast side of a small inlet of the sea at a place
called Halepalaoa on the boundary of Paawili and Kaohai
and running:

1. N. 56° 46' true 4000 feet along the sea fishery of
Paawili
2. S. 15° 30' E. true 1100 feet
3. S. 29° 05' W. true 21400 feet
4. S. 56° 30' W. true 8400 feet, thence
5. N. 42° 37' W. true 6000 feet, along Kamao sea fishery
to a large pile of stones
over a cross cut in a
stone at sea shore on
the boundary of Kamao
and Kaohai;

6. Thence following along sea shore and around fish pond to initial point, the traverse along the shore being

1. N. 68° 30' E. true 8260 feet
2. N. 34° 15' E. true 3585 feet
3. N. 31° 35' E. true 8696.8 feet
4. N. 29° 36' E. true 3607.8 feet
5. N. 17° 48' E. true 3970 feet
6. N. 5° 34' E. true 2331.7 feet
7. N. 24° 26' W. true 5127 feet to initial point.

Area 3535 Acres.

as delineated on the map attached hereto and made a part hereof, marked Schedule "A".

2. That the fishery to which plaintiffs claim to be entitled as aforesaid consists of the right each year to set apart for themselves for their sole and exclusive use the fishing grounds within the metes and bounds above set out, one given species or variety of fish natural to said fishery giving public notice of the kind and description of the fish so chosen or set apart; and also the right in lieu of setting apart some particular fish to their exclusive use, to prohibit upon consultation with the tenants of their lands, all fishing upon the fishing grounds within the metes and bounds above set forth during certain months of the year; and during the fishing season to exact from each fisherman one third of all the fish taken upon said fishing ground.

3. That from time immemorial the plaintiffs and their grantors by ancient custom and prescription have had an exclusive fishery within the bounds above set out subject only to the rights of tenants on the land of Kaohai, a tract of land situated on the Island of Lanai.

4. That said fishery was originally appurtenant to the land of Kaohai awarded to Kekuaiwa for Kekuanaoa by Apana 1 of Land Commission Award No. 7714B. That the plaintiffs claim an absolute estate in fee simple to the said fishing rights by purchase under various mesne conveyances, devises and descents from said Kekuanaoa.

5. That the plaintiffs also claim a vested right as tenants in common and as sole and exclusive owners in fee simple of all that certain sea fishery, the same not being a pond or artificial enclosure, in Kaa, Island of Lanai, bounded and described as follows:

Commencing at a point on the boundary of Kamoku and Kaa at sea and on north side of Gulch and running:

- | | | | | | | | | |
|-----|------------|---------|------------|-------------------------------|---|---|---|-------------------------|
| 1. | S. 68° 53' | true | 5500 feet | along Kamoku sea fishery, | | | | |
| 2. | S. 49° 00' | W. true | 28500 feet | | | | | |
| 3. | N. 21° 00' | W. true | 8500 feet | | | | | |
| 4. | N. 10° 05' | E. true | 11150 feet | | | | | |
| 5. | N. 62° 50' | E. true | 18000 feet | thence | | | | |
| 6. | N. 11° 50' | E. true | 6000 feet | to point called Hale o Lono | | | | |
| | | | | at shore and on the bound- | | | | |
| | | | | ary of Kaa and Paomai along | | | | |
| | | | | sea fishery of Paomai, thence | | | | |
| | | | | along sea shore | | | | |
| 7. | N. 88° 45' | W. true | 1309 feet | " | " | " | " | |
| 8. | S. 72° 50' | W. true | 3970 | " | " | " | " | |
| 9. | S. 59° 48' | W. true | 6600 | " | " | " | " | |
| 10. | S. 55° 15' | W. true | 2008 | " | " | " | " | |
| 11. | S. 11° 10' | W. true | 3453 | " | " | " | " | |
| 12. | S. 12° 58' | W. true | 3995 | " | " | " | " | |
| 13. | S. 25° 20' | E. true | 7135 | " | " | " | " | |
| 14. | S. 48° 30' | E. true | 1010 | " | " | " | " | |
| 15. | S. 60° 03' | E. true | 4860 | " | " | " | " | |
| 16. | S. 72° 30' | E. true | 4995 | " | " | " | " | |
| 17. | S. 52° 39' | E. true | 8822 | " | " | " | " | |
| 18. | S. 29° 09' | E. true | 5415 | " | " | " | " | |
| 19. | S. 29° 57' | E. true | 4635 | " | " | " | " | to the initial |
| | | | | | | | | point. Area 4152 Acres. |

as delineated on the map attached hereto and made a part hereof, marked Schedule "B".

6. That the fishery to which plaintiffs claim to be entitled as aforesaid consists of the right each year to set apart for themselves for their sole and exclusive use within the fishing grounds within the metes and bounds above set out one given species or variety of fish natural to said fishery giving public notice of the kind and description of

the fish so chosen or set apart; and also the right in lieu of setting apart some particular fish to their exclusive use, to prohibit upon consultation with the tenants of their lands, all fishing upon the fishing grounds within the metes and bounds above set forth during certain months of the year; and during the fishing season to exact from each fisherman one third of all the fish taken upon said fishing ground.

7. That from time immemorial the plaintiffs and their grantors by ancient custom and prescription have had an exclusive fishery within the bounds above set out, subject only to the rights of tenants on the land of Kaa, a tract of land situate on the Island of Lanai.

8. That said fishery was originally appurtenant to the land of Kaa awarded to V. Kamamalu by Apana 29 of Land Commission Award No. 7713 and confirmed by Royal Patent No. 4475. That the plaintiffs claim an absolute estate in fee simple to the said fishing right by purchase under various mesne conveyances, devises and descents from said V. Kamamalu.

Wherefore the plaintiffs pray that said defendant the Territory of Hawaii and all other persons claiming an estate or interest in said fishery adversely to the plaintiffs may be summoned to appear and answer this complaint before a jury of the country at the December term 1902 of this court, unless sooner disposed of by Judicial authority; and that plaintiffs may have judgment establishing their right to said fisheries and for costs.

Jno. D. Spreckels by his atty in
fact W. G. Irwin

A.B. Spreckels by his atty in
fact W. G. Irwin

W. G. Irwin

In the Circuit Court of the Second Judicial Circuit
Territory of Hawaii

William G. Irwin, John D. Spreckels)		
and Adolph B. Spreckels)	
	Plaintiffs)
vs)	Action to Establish Fishing
)	Rights of Kaohai and Kaa,
The Territory of Hawaii)	Island of Lanai
	Defendant)

Decision

This is an action to establish the right of plaintiffs to the sea fisheries of the Ahupuaas of Kaohai and Kaa, Island of Lanai.

The Court after hearing the evidence and argument of counsel for the respective parties finds that the plaintiffs have a vested right as owners in said sea fisheries; and that they may have judgment establishing their right to said fisheries.

W. J. Robinson
3rd Judge, First Circuit
Court

Dated, Honolulu, May 22, 1906

Law no.
6261

William G. Irwin, John D.
Spreckels and A. B. Spreckels
vs

The Territory of Hawaii.

Action to Establish
Fishing Rights.
Kaohai, & Kaa, Lanai

Judgment

This action by petition claiming a vested right in and to the sea fishery of Kaohai and Kaa, Island of Lanai, and asking that the same might be established and awarded to plaintiffs, came to the December, 1902, term of the Circuit Court of the Second Circuit, Territory of Hawaii, and was transferred by order of said Court to this Court, and thence by continuance came to the present term, when the parties appeared and were at issue to the Court, jury being waived. The Court having considered the evidence finds for the plaintiffs and it is hereby adjudged that the plaintiffs have a vested right as owners of all that certain sea fishery within the reef, the same not being a pond or artificial enclosure, situated at Kaohai, Island of Lanai, bounded and described as follows:

Commencing at a red wood post at sea-shore on the Southeast side of a small inlet of the sea at a place called Halepalaoa on the boundary of Paawili and Kaohai and running:

1. N. 56° 46' true 4000 feet along the sea fishery of Paawili
2. S. 15° 30' E. true 1100 feet
3. S. 29° 05' W. " 21400 feet
4. S. 56° 30' W. " 8400 feet, thence
5. N. 42° 37' W. " 6000 feet, along Kamao sea fishery to a large pile of stones over a cross cut in a stone at sea shore on the boundary of Kamao and Kaohai,
6. Thence following along sea shore and around fish pond to initial point, the traverse along the shore being

1. N. 68° 30' E. true 8260 feet

2. N. 34° 15' E. " 3585 "

3. N. 31° 35' E. " 8696.8 "

4. N. 29° 36' E. " 3607.8 "

5. N. 17° 48' E. " 3970 "

6. N. 5° 34' E. " 2331.7 "

7. N. 24° 26' W. " 5127 " to initial point. Area 3535 Acres.

And it is further adjudged that the plaintiffs have a vested right as owners of all that certain sea fishery within the reef, the same not being a pond or artificial enclosure, situated at Kaa, Island of Lanai, bounded and described as follows:

Commencing at a point on the boundary of Kamoku and Kaa at sea and on north side of Gulch and running:

1. S. 68° 53' true 5500 feet along Kamoku sea fishery,

2. S. 49° 00' W. true 28500 feet

3. N. 21° 00' W. " 8500 "

4. N. 10° 05' E. " 11150 "

5. N. 62° 50' E. " 18000 "

6. N. 11° 50' E. " 6000 "

thence to point called Hale o Lono at shore and on the boundary of Kaa and Paomai along sea fishery of Paomai, thence along sea shore

7. N. 88° 45' W. " 1309 "

8. S. 72° 50' W. " 3970 "

9. S. 59° 48' W. " 6600 "

10. S. 55° 15' W. " 2008 "

11. S. 11° 10' W. " 3453 "

12. S. 12° 58' W. " 3995 "

13. S. 25° 20' E. " 7135 "

14. S. 48° 30' E. " 1010 "

15. S. 60° 03' E. " 4860 "

16. S. 72° 30' E. " 4995 "

17. S. 52° 39' E. " 8322 "

18. S. 29° 09' E. " 5415 "

19. S. 29° 57' E. " 4635 "

to the initial point. Area 4152 Acres.

Entered this 22nd day of May, 1906, in the April Term, 1906, by the Court.

M. T. Simonton

Clerk.

EXHIBIT F

MAR 10 1987

FILE NO.: LA-1705
180-Day Exp. Date:
DOCUMENT NO.: 2636P

Mr. Joe Vierra
Felt, Collins and Associates
606 Coral Street
Honolulu, Hawaii 96813

Dear Mr. Vierra:

AMENDMENT TO
Conservation District Use Application LA-1705
for Channel Clearing, Buoy Placement, Pier
Construction and Conducting of Commercial
Activities on State-Owned Submerged Lands
Near Halepapa Landing at Fuchai, Lanai,
Hawaii

We are pleased to inform you that the Board approved your request to amend Conservation District Use Application LA-1705 by replacing the existing condition number 9 with the following condition:

9. That the applicant shall have exclusive use of the pier provided that he creates a 10-foot wide public access easement over his or Castle and Cooke's property (providing access from Keolu Road to the channel/basin) and the applicant be allowed to maintain this easement area for the use of the public until such time as either the State and/or County find it appropriate to have the easement turned over them;

Please acknowledge receipt of this permit with the above noted conditions in the space provided below. Please sign two copies. Retain one and return the other.

EXHIBIT F

Should you have questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 548-7837.

Very truly yours,

/s/ WILLIAM M. PATY

**WILLIAM M. PATY, Chairperson
Board of Land and Natural Resources**

Receipt acknowledged

Applicant's Signature

cc: Maui County Board Member
Maui District Land Agent
Maui Dept. of Planning
DCH/CECC/EC/DPED/CHA

cc: Land Management
DCWALF
DAF
State Parks/Historic Sites
DCFAW
DCCARE
DALE



EXHIBIT G

GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII



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

DIVISIONS:
CONVEYANCES
FISH AND GAME
FORESTRY
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

September 13, 1985

Board of Land and
Natural Resources
Honolulu, Hawaii

Gentlemen:

*come back
out m19*

MAUI

Subject: Direct Sale of Easement and Request for
Right-of-Entry Covering Portion of Government
Submerged Land, Kaohai, Lanai, Hawaii

STATUTE: Chapter, 171, Hawaii Revised Statutes

APPLICANT: CHARLES M. FORMAN, Trustee and CATHEDRAL CITY
INVESTMENTS, INC., by agent Joseph Vierra, Jr.
P.E. of Belt, Collins and Associates, Consulting
Engineers, Planners and Landscape Architects.

FOR: Portion of the Government Submerged land fronting
Land Court Application 1881 being also the area
offshore of parcel TMK: 4-9-03:10 near Halepalaoa
Landing at Kaohai, Lanai as shown outlined in red
on map labeled Land Board Exhibit "A."

AREA: Approximately 90,300 square feet (210' x 430')
subject to confirmation by Department of
Accounting and General Services (DAGS), Survey
Division.

LAND TITLE
STATUS: Subsection 5(b) of Admissions Act.

STATUS: Unencumbered

ZONING: State Land Use Commission: Conservation

County of Maui: No zoning designation for
submerged land.

PURPOSE: Non-exclusive easement rights for channel
clearing, buoy placement, pier construction and
conducting of commercial activities.

CONSIDERATION: To be determined by independent appraisal
establishing fair market value, same subject to
review and acceptance by the Chairperson.

TERM: Twenty (20) years; rental to be set for the first
ten (10) year period, rental for second ten (10)
years to be reopened and redetermined by
independent appraisal pursuant to law.

Exhibit G

ITEM F-10

Board of Land and
Natural Resources

September 13, 1985

METHOD OF
PAYMENT:

Annually in advance

COMMENCEMENT
DATE:

To be determined by the Chairperson.

REMARKS:

At its March 8, 1985 meeting, Agenda Item H-6, the Board approved a Conservation District Use Application (CDUA No. LA-9/17/85-1705) for channel clearing, buoy placement, pier construction and conducting of commercial activities on government-owned submerged lands located seaward and offshore of applicants' property identified as Tax Map Key: 4-9-03:10. The approval was given subject to the following terms and conditions:

1. That the applicants comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2 Administrative Rules, as amended;
2. The applicants, their 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 applicants, their successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The State of Hawaii shall not be responsible for any loss, liability, claim or demand for property damage, property loss, or personal injury including death caused by or resulting from any act or omission of the applicants or their contractor in connection with their exercise of the privileges herein granted;
4. That as this approval is for use of conservation lands only, the applicants shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
5. In the event that any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pacing or walls are encountered during construction, the applicants shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408 (Honolulu);

6. That the applicants comply with all applicable Public Health regulations;
7. The construction, alteration, moving, demolition and repair of any building or other improvement on lands within the Conservation District shall be subject to the building codes of the respective counties in which the lands are located; provided that prior to the commencement of any construction, alteration, or repair of any building, or other improvement, four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson, or his authorized representative, for approval of which three (3) copies will be returned;
8. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use. Failure to comply with this condition shall render this application null and void.
9. That the applicants shall have exclusive use of the pier provided that he dedicates a 10-foot wide public access easement over his or Castle and Cooke's property (providing access from Keomuku Road to the channel/-basin) to the State in exchange for the easement for exclusive use of the pier;
10. Should the applicants not agree to dedicating a public access easement to the State in exchange for exclusive use of the pier, the pier will be open to the public and signs will be posted indicating that the pier is open for public use;
11. In the event that the applicants' commercial activity fails after the construction of the pier, the pier be removed by the applicants at no expense to the State and the easements, if previously exchanged, be re-exchanged;
12. That an archaeological reconnaissance be conducted on any area of the subject parcel which will be impacted by the construction equipment and/or stockpiling of the dredged materials. This reconnaissance shall be completed by a qualified archaeologist and two copies of the report shall be sent to our office for review and comment prior to the start of any construction activity. At this time, we may make further recommendations toward the protection and/or mitigation of any existing archaeological features within the impacted area;

September 13, 1985

13. That the applicants take appropriate measures during and after construction to minimize turbidity and degradation of the nearby off-shore water;
14. That the applicants prepare an aquatic survey before work begins and after work is completed to determine the effects on the aquatic biology;
15. That should the applicants engage in any fishing activity, the applicants should be aware of the konohiki fishery rights defined in Chapter 188-1 through 14, HRS;
16. That the applicants be limited to a total of six moorings within the channel/basin; two of the six moorings will be non-exclusive for use by the public;
17. That one non-exclusive mooring must be installed prior to the installation of the first two exclusive moorings and the second non-exclusive mooring must be installed prior to the installation of the second two exclusive moorings; and
18. Other terms and conditions as prescribed by the Chairperson.

At the time of the CDUA approval, the owner of parcel TMK: 4-9-03:10 was listed as a Allan D. Starr. We understand that Mr. Starr recently sold this property and the applicants are now the new owners.

Pursuant to Condition No. 4 of the CDUA approval, the applicants have now requested authorization to use and occupy the subject area. Also, with respect to providing an access easement over their property in exchange for the exclusive use of the pier (Condition Numbers 9 and 10), applicants have indicated that they will be dedicating to the State, a ten (10) feet wide public access easement over and across the northerly boundary of their property as shown outlined in red on map labeled Land Board Exhibit "B."

In reviewing this matter, we have become aware of a legal point which may delay the processing of the applicants' request. The Attorney General's office recently advised us that prior approval of both the Governor and the Legislature must be obtained before the Board leases submerged lands. Whether these approvals would be necessary for the sale of an easement or for issuance of a revocable permit covering submerged land have not been determined so far. Should the Attorney General's office advise that both approvals are required even for disposition on an easement or a revocable

, September 13, 1985

permit basis, this sale would necessarily have to be delayed until such approvals are gotten.

With regards to the dedication of the public access easement to the State, we believe that the easement should be granted to the County of Maui instead since such beach rights-of-way are normally the responsibility of the respective County governments. Also, dedication of the public access easement should be on terms and conditions acceptable to the County of Maui.

The Board should also be aware that by letter dated August 27, 1985, the applicants' agent, Mr. Joseph Vierra, was cited for commencing construction without obtaining all the necessary clearances/approvals required under the CDUA and was ordered to cease any further activity within the subject submerged land area.

RECOMMENDATION: That the Board:

- A. Authorize the direct sale of the subject easement to the applicant under the foregoing terms and conditions which are by reference incorporated herein and subject to the following terms and conditions:
1. Prior approval of both the Governor and Legislature if deemed necessary by the Attorney General's office.
 2. Applicants shall at all times keep the easement area and any improvements constructed thereon in a clean, sanitary and orderly condition. Said improvements shall be kept in good repair and maintained in a safe condition at all times.
 3. The applicants shall comply with all applicable laws, rules and regulations of the Federal, State and County governments relative to the use and occupancy of the easement area.
 4. The applicants shall obtain a public liability insurance policy covering the easement area and naming the State of Hawaii as additional insureds. The amount of the insurance coverage to be determined by the Chairperson.
 5. Standard indemnification and hold harmless clauses.
 6. Dedication of a public access easement to the County of Maui instead to the State and upon terms and conditions acceptable to the County.

if county does NOT accept, applicant will be responsible in perpetuity

mand to issue RP in interim - applicant in writing to accept responsibility

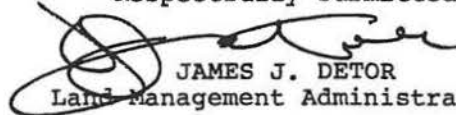
September 13, 1985

7. Upon termination of the easement, the applicants shall at their cost and expense, remove all improvements constructed thereon and shall restore the easement area to its original condition or to a condition acceptable to this department.
 8. The boat mooring and or docking fees assessed the users of the facility shall be subject to review and approval by the Chairperson. The State shall have the right to increase the applicants' annual rent based upon the fees that the applicants charge the users of the facility.
 9. Applicable terms and conditions of the CDUA approval granted by the Board at its March 8, 1985 meeting under Agenda Item H-6 (CDUA No. LA-9/17/84-1705).
 10. Other standard terms and conditions covering easements of this nature.
 11. Other terms and conditions as may be prescribed by the Chairperson.
- B. Approve a right-of entry to the subject area for construction purposes subject to the following terms and conditions:
1. Prior approval of both the Governor and the Legislature if such approvals are deemed necessary by the Attorney General's office.
 2. Applicable terms and conditions of the CDUA approval granted by the Board at its March 8, 1985 meeting under Agenda Item H-6 (CDUA No. LA-9/17/84-1705).
 3. The applicants shall comply with all applicable laws, rules and regulations of the Federal, State and County governments relative to any construction within the easement area.
 4. Notification of the Maui District Land office (244-4272) of the Honolulu Office of the Land Management Division (548-6460) prior to undertaking any construction work within the easement area and also upon completion of work.

Board of Land and
Natural Resources

5. Other terms and conditions as may be prescribed by the Chairperson.

Respectfully submitted,


JAMES J. DETOR
Land Management Administrator

js

APPROVED FOR SUBMITTAL:

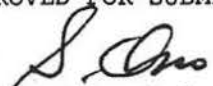

SUSUMU ONO, Chairperson

EXHIBIT H

GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII



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

DIVISIONS:
CONVEYANCES
FISH AND GAME
FORESTRY
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

October 11, 1985

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

Gentlemen:

RESUBMITTAL

LANAI

Subject: Direct Sale of Easement and Issuance of
Revocable Permit Covering Portion of
Government Submerged Land, Kaohai, Lanai,
Hawaii

STATUTE: Chapter 171, Hawaii Revised Statutes

APPLICANT: CHARLES M. FORMAN, Trustee and CATHEDRAL CITY
INVESTMENTS, INC., by agent Joseph Vierra, Jr.,
P.E. of Belt, Collins and Associates, Consulting
Engineers, Planners and Landscape Architects

FOR: Portion of the government submerged land fronting
Land Court Application 1881 being also the area
offshore of parcel TMK 4-9-03:10 near Halepalaoa
Landing at Kaohai, Lanai as shown outlined in red
on map labeled Land Board Exhibit "A," appended to
the basic file.

AREA: Approximately 90,300 square feet (210' x 430'),
subject to confirmation by Department of Accounting
and General Services (DAGS), Survey Division.

LAND TITLE
STATUS: Subsection 5(b) of Admissions Act

STATUS: Unencumbered

ZONING: State Land Use Commission: Conservation
County of Maui: No zoning designation for
submerged land

PURPOSE: Non-exclusive easement rights for channel clearing,
buoy placement, pier construction and conducting
of commercial activities.

CONSIDERATION: To be determined by independent appraisal
establishing fair market value, same subject to
review and acceptance by the Chairperson.

TERM: Forty (40) years; rental to be set for the first
five (5)-year period, rental for the second and
succeeding five (5)-year periods to be reopened and
redetermined by appraisal pursuant to law.

METHOD OF
PAYMENT: Annually in advance.

ITEM F-4

Exhibit H

COMMENCEMENT
DATE:

To be determined by the Chairperson.

REMARKS:

This is an amended submittal of a request that was presented to the Board at its September 13, 1985 meeting under agenda Item F-10.

At this September 13, 1985 meeting, the Board approved the applicants request for a right-of-entry to commence construction within the subject area. This approval was given with the clear understanding that the applicant would assume all risks associated with the granting of the construction right-of-entry and that the applicant would be responsible for removing the boat pier and any other improvements which may be placed in the submerged area if the required approvals of the Governor and the Legislature are not obtained.

The requirement for prior Legislative and Governor's authorization were based on an Attorney General's opinion that these approvals were necessary before the Board disposes an easement over submerged lands. The Board should be aware that although Legislative/Governor's authorization is not required for the issuance of revocable permits covering submerged lands, the Attorney General's office has recommended that such approvals be sought because of the sensitivity in which submerged lands are regarded.

At this same meeting, the Board also authorized coverage of the submerged lands on a revocable permit basis as an interim measure. The Board also directed the staff to resubmit the easement request at the next meeting in Honolulu.

This submittal is for the purpose of spelling out the terms and conditions for the issuance of the revocable permit and also to resubmit the easement request as directed by the Board.

At its March 8, 1985 meeting, agenda Item H-6, the Board approved a Conservation District Use Application (CDUA No. LA-9/17/85-1705) for channel, clearing, buoy placement, pier construction and conducting of commercial activities on government-owned submerged lands located seaward and offshore of applicants' property identified as TMK 4-9-03:10. The approval was given subject to the following terms and conditions:

1. That the applicants comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2 Administrative Rules, as amended;

2. The applicants, their 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 applicants, their successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The State of Hawaii shall not be responsible for any loss, liability, claim or demand for property damage, property loss, or personal injury including death caused by or resulting from any act or omission of the applicants or their contractor in connection with their exercise of the privileges herein granted;
4. That as this approval is for use of conservation lands only, the applicants shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
5. In the event that any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pacing or walls are encountered during construction, the applicants shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408 (Honolulu);
6. That the applicants comply with all applicable Public Health regulations;
7. The construction, alteration, moving, demolition and repair of any building or other improvement on lands within the Conservation District shall be subject to the building codes of the respective counties in which the lands are located; provided that prior to the commencement of any construction, alteration, or repair of any building, or other improvement, four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson, or his authorized representative, for approval of which three (3) copies will be returned;
8. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use. Failure to comply with this condition shall render this application null and void.

9. That the applicants shall have exclusive use of the pier provided that they dedicate a 10-ft.-wide public access easement over their or Castle Cooke's property (providing access from Keomuku Road to the channel/basin) to the State in exchange for the easement for exclusive use of the pier;
10. Should the applicants not agree to dedicating a public access easement to the State in exchange for exclusive use of the pier, the pier will be open to the public and signs will be posted indicating that the pier is open for public use;
11. In the event that the applicants commercial activity fails after the construction of the pier, the pier be removed by the applicants at no expense to the State and the easements, if previously exchanged, be re-exchanged;
12. That an archaeological reconnaissance be conducted on any area of the subject parcel which will be impacted by the construction equipment and/or stockpiling of the dredged materials. This reconnaissance shall be completed by a qualified archaeologist and two (2) copies of the report shall be sent to our office for review and comment prior to the start of any construction activity. At this time, we may make further recommendations toward the protection and/or mitigation of any existing archaeological features within the impacted area;
13. That the applicants take appropriate measures during and after construction to minimize turbidity and degradation of the nearby offshore water;
14. That the applicants prepare an aquatic survey before work begins and after work is completed to determine the effects on the aquatic biology;
15. That should the applicants engage in any fishing activity, the applicants should be aware of the konohiki fishery rights defined in Chapter 188-1 through 14, Hawaii Revised Statutes.
16. That the applicants be limited to a total of six (6) moorings within the channel/basin; two (2) of the six (6) moorings will be non-exclusive for use by the public;
17. That one (1) non-exclusive mooring must be installed prior to the installation of the first two (2) exclusive moorings and the second non-exclusive mooring must be installed prior to the installation of the second two exclusive moorings; and

18. Other terms and conditions as prescribed by the Chairperson.

At the time of the CDDA approval, the owner of parcel TMK 4-9-03:10 was listed as an Allan D. Starr. We understand that Mr. Starr recently sold this property and the applicants are now the new owners.

Pursuant to Condition No. 4 of the CDDA approval, the applicants have now requested authorization to use and occupy the subject area. Also, with respect to providing an access easement over their property in exchange for the exclusive use of the pier (Condition Nos. 9 and 10), applicants have indicated that they will be dedicating to the State, a ten (10)-ft.-wide public access easement over and across the northerly boundary of their property as shown outlined in red on map labeled Land Board Exhibit "B," appended to the basic file.

With regards to the dedication of the public access easement to the State, we believe that the easement should be granted to the County of Maui instead since such beach rights-of-way are normally the responsibility of the respective County governments. Also, dedication of the public access easement should be on terms and conditions acceptable to the County of Maui.

The Board should be aware that the applicants agent, Mr. Joseph Vierra, was earlier assessed a total of \$901.36 (\$500 penalty plus \$401.36 administrative costs) for commencing construction without obtaining all the clearances/approvals required under the CDDA. This \$901.36 assessment has been paid.

RECOMMENDATION: That the Board:

- A. Authorize the direct sale of the subject easement to the applicants under the foregoing terms and conditions which are by reference incorporated herein and subject to the following terms and conditions:
 - 1. Prior approval of both the Governor and Legislature. Should the approval of the Governor and Legislature not be obtained, the applicants shall at their sole cost and expense, remove all improvements constructed thereon and shall restore the easement area to its original condition or to a condition acceptable to this department.

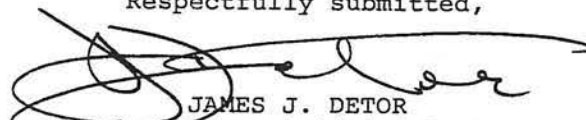
2. Applicants shall at all times keep the easement area and any improvements constructed thereon in a clean, sanitary and orderly condition. Said improvements shall be kept in good repair and maintained in a safe condition at all times.
 3. The applicants shall comply with all applicable laws, rules and regulations of the Federal, State and County governments relative to the use and occupancy of the easement area.
 4. The applicants shall obtain a public liability insurance policy covering the easement area and naming the State of Hawaii as additional insureds. The amount of the insurance coverage to be determined by the Chairperson.
 5. Standard indemnification and hold-harmless clause.
 6. Dedication of a public access easement to the County of Maui instead to the State and upon terms and conditions acceptable to the County.
 7. Upon termination of the easement, the applicants shall at their cost and expense, remove all improvements constructed thereon and shall restore the easement area to its original condition or to a condition acceptable to this department.
 8. The boat mooring and/or docking fees assessed the users of the facility shall be subject to review and approval by the Chairperson. The State shall have the right to increase the applicants annual rent based upon the fees that the applicants charge the users of the facility.
 9. Applicable terms and conditions of the CDUA approval granted by the Board at its March 8, 1985 meeting under agenda Item H-6 (CDUA No. LA-9/17/84-1705).
 10. Other standard terms and conditions covering easements of this nature.
 11. Other terms and conditions as may be prescribed by the Chairperson.
- B. Approve the issuance of a revocable permit to the applicants covering the subject area under the following terms and conditions:

*delete approval
& security
income approval
be considered
in same
regarding*

1. Commencement date: October 11, 1985.
2. Purpose: For channel clearing, buoy placement, pier construction and conducting of commercial activities.
3. Monthly rent: To be determined by staff appraisal.
4. Collateral security deposit: \$22.00 or twice the monthly rental, whichever is higher.
5. Liquidated damage: \$3.00 per day or twenty percent (20%) of the monthly rental per day, whichever is higher.
6. Compliance with all applicable terms and conditions of the Cдуа approval granted by the Board at its March 8, 1985 meeting under agenda Item H-6 (Cдуа No. LA-9/17/84-1705).
7. Compliance with all applicable laws, rules, regulations of the Federal, State and County governments relative to any use and construction within the subject area.
8. The applicants shall assume all risks associated with the issuance of the revocable permit. Applicants shall at their ~~sole~~ cost and expense be responsible for removing the boat pier and all improvements constructed thereon and shall restore the area to its original condition or to a condition acceptable to this department if Legislative/Governor's authorization is not obtained for the sale of an easement covering the submerged lands. Said approval/authorization shall be obtained within one (1) year from date of issuance of this revocable permit.

total harmless

Respectfully submitted,


JAMES J. DETOR
Land Management Administrator *js*

APPROVED FOR SUBMITTAL:



SUSUMU ONO, Chairperson

EXHIBIT I

GEORGE R. ARIYOSHI
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621
HONOLULU, HAWAII 96809

DEC 5 1985

1073
SUSUMU ONO, CHAIRPERSON
BOARD OF LAND & NATURAL RESOURCES

EDGAR A. HAMASU
DEPUTY TO THE CHAIRMAN

DIVISIONS:
AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
LAND MANAGEMENT
STATE PARKS
WATER AND LAND DEVELOPMENT

RECEIVED
DIVISION OF
LAND MANAGEMENT
DEC 11 3 12 PM '85

MEMORANDUM

TO: Honorable George R. Ariyoshi
Governor of Hawaii

FROM: Susumu Ono, Chairperson
Board of Land and Natural Resources

SUBJECT: Issuance by the State of Forty (40) Year Term Easement
for Use and Occupancy of Portion of Government
Submerged Land, Kaohai, Lanai, Hawaii

At its October 11, 1985 meeting, Item F-4 (copy enclosed), the Board of Land and Natural Resources approved a forty (40) year lease of an easement for the use and occupancy of a 90,300 square feet portion of government submerged land located at Kaohai, Lanai, Hawaii.

The proposed easement is for the purposes of allowing a private party (Charles M. Forman, Trustee and Cathedral City Investments, Inc.) to clear an existing channel and boat basin and to use this area for commercial docking of tour boat cruises operating from Maui. A boat pier and six (6) mooring buoys will be constructed on the submerged land for this purpose.

This area abuts the old Halepalaoa Wharf on the windward coast of Lanai and was used many years ago as a landing area for small boats. The opening up of this boat basin will provide the many small boat operators with another docking facility while taking visitors to Lanai.

Pursuant to Section 171-53, H.R.S. covering the disposition of submerged or reclaimed public lands, the Land Board approved the lease of this easement, subject to both your approval and that of the Legislature. Both approvals are necessary before this department can lease or grant an easement of submerged government land.

Should you have no objections to the lease of a forty (40) year term easement covering a portion of the government submerged land located at Kaohai, Lanai, we would appreciate your acknowledging this fact by signing on the space provided below and returning this memorandum to this office.

Exhibit I

Honorable George R. Ariyoshi

Page 2

We will seek the approval of the Legislature if you will approve of the sale of this easement.


SUSUMU ONO

Enclosure

Disposition of this Easement
Covering Submerged Government
Land is Hereby:

APPROVED/~~DISAPPROVED~~


Governor, State of Hawaii

9 Dec 85
Date

DIRECTOR OF TAXATION AND THE FINANCE DIRECTORS OF THE VARIOUS COUNTIES TO PROVIDE IMMEDIATE RELIEF TO VICTIMS OF DESIGNATED NATURAL DISASTER AREAS," was adopted.

Stand. Com. Rep. No. 1014-86 (S.R. No. 203, S.D. 1):

On motion by Senator Mizuguchi, seconded by Senator Fernandes Salling and carried, the report of the Committee was adopted and S.R. No. 203, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING THE STATE DIRECTOR OF TAXATION AND THE FINANCE DIRECTORS OF THE VARIOUS COUNTIES TO PROVIDE IMMEDIATE RELIEF TO VICTIMS OF DESIGNATED NATURAL DISASTER AREAS," was adopted.

Stand. Com. Rep. No. 1015-86 (S.R. No. 17, S.D. 1):

On motion by Senator Mizuguchi, seconded by Senator Fernandes Salling and carried, the report of the Committee was adopted and S.R. No. 17, S.D. 1, entitled: "SENATE RESOLUTION REQUESTING A REVIEW OF THE PROGRAM PLANNING AND BUDGETING FORMAT," was referred to the Committee on Legislative Management.

MATTERS DEFERRED FROM TUESDAY, APRIL 15, 1986

H.C.R. No. 22, H.D. 1 (Hse. Com. No. 649):

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 22, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DISPOSE, BY WAY OF AN EASEMENT, CERTAIN GOVERNMENT SUBMERGED LANDS AND LANDS BENEATH TIDAL WATERS FOR THE PURPOSE OF CONSTRUCTING CERTAIN OFFSHORE IMPROVEMENTS," was adopted.

H.C.R. No. 79, H.D. 1 (Hse. Com. No. 653):

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 79, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DISPOSE, BY WAY OF AN EASEMENT, CERTAIN GOVERNMENT SUBMERGED LANDS AND LANDS BENEATH TIDAL WATERS FOR PURPOSES OF CONSTRUCTING CERTAIN OFFSHORE IMPROVEMENTS," was adopted.

H.C.R. No. 157 (Hse. Com. No. 655):

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 157, entitled: "HOUSE CONCURRENT

RESOLUTION URGING THE USDA, ANIMAL AND PLANT HEALTH INSPECTION SERVICE TO EXPEDITE THE PENDING CHANGE IN REGULATIONS TO ALLOW SHARWIL VARIETY OF AVOCADO TO BE MOVED FROM HAWAII INTERSTATE," was adopted.

H.C.R. No. 19 (Hse. Com. No. 659):

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 19, entitled: "HOUSE CONCURRENT RESOLUTION SUPPORTING THE UNIVERSITY OF HAWAII OUTREACH AND EXTENDED DEGREE EFFORTS AND ENCOURAGING THE CONTINUATION OF THESE EFFORTS," was adopted.

H.C.R. No. 33, H.D. 1 (Hse. Com. No. 660):

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 33, H.D. 1, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE OF HAWAII TO IMPLEMENT A CONTINUUM OF SERVICES IN THE COMMUNITY FOR PERSONS WITH MENTAL RETARDATION, AND FOR PERSONS WHO ARE DEVELOPMENTALLY DISABLED," was adopted.

H.C.R. No. 57, H.D. 2 (Hse. Com. No. 661):

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 57, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION ENCOURAGING FURTHER RESEARCH AND STUDY ON CONGENITAL TOXOPLASMOSIS," was adopted.

H.C.R. No. 60 (Hse. Com. No. 662):

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 60, entitled: "HOUSE CONCURRENT RESOLUTION REQUESTING THE STATE ACQUIRE ADDITIONAL ONELOA BEACH (BIG BEACH) LANDS AT MAKENA, MAUI FOR STATE PARK PURPOSES," was adopted.

H.C.R. No. 66, H.D. 2 (Hse. Com. No. 663):

On motion by Senator Cobb, seconded by Senator Soares and carried, H.C.R. No. 66, H.D. 2, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DISPOSE BY WAY OF A LEASE, TOGETHER WITH AN EASEMENT, CERTAIN GOVERNMENT SUBMERGED LANDS AND LANDS BENEATH TIDAL WATERS FOR PURPOSES OF CONSTRUCTING CERTAIN OFFSHORE IMPROVEMENTS," was adopted.

H.C.R. No. 72, H.D. 2 (Hse. Com. No. 664):

On motion by Senator Cobb, seconded by

Representative Pfeil then rose and stated:

"Mr. Speaker, in the interest of time could I have some written comments in support of H.R. No. 213 be inserted into the Journal?"

The Chair, noting that there were no objections, "so ordered."

The following are the remarks of Representative Pfeil in support of H.R. No. 213:

"The farmers of Hawaii face extreme obstacles in producing a crop. We have the hazards of weather, insect infestations, whims in the marketplace, competition from relatively cheap mainland inshipments, and a host of other known and unknown factors that effect production. Farming is the only gambling that is legal in this State.

"Mr. Speaker, this State has been very supportive of its farmers. Farmers have sold more than one-half billion in crops and livestock each year, and this figure is growing. Continued support, and improvement, is encouraged.

"And, Mr. Speaker, the work of the Hawaii Farm Bureau, the lobby and advocacy group for the farmers, have done such valuable work on the farmers' behalf, it is with great pleasure to see House Resolution No. 213 congratulating the Hawaii Farm Bureau and furthering the State's support and recognition of the valuable agriculture industry of Hawaii."

On motion by Representative Honda, seconded by Representative Nakata and carried, the report of the Committee was adopted and H.R. No. 213 entitled: "HOUSE RESOLUTION CONGRATULATING THE HAWAII FARM BUREAU FEDERATION AND REQUESTING THE GOVERNOR TO PROCLAIM THE WEEK OF JUNE 27 TO JULY 6 AS 'HAWAII AGRICULTURE WEEK'", was adopted.

Representative Honda, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 937-86) recommending that H.C.R. No. 138 be adopted.

On motion by Representative Honda, seconded by Representative Nakata and carried, the report of the Committee was adopted and H.C.R. No. 138 entitled: "HOUSE CONCURRENT RESOLUTION CONGRATULATING THE HAWAII FARM BUREAU FEDERATION AND REQUESTING THE GOVERNOR

TO PROCLAIM THE WEEK OF JUNE 27 TO JULY 6 AS 'HAWAII AGRICULTURE WEEK'", was adopted.

Representative Honda, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 938-86) recommending that H.R. No. 231 be adopted.

On motion by Representative Honda, seconded by Representative Nakata and carried, the report of the Committee was adopted and H.R. No. 231 entitled: "HOUSE RESOLUTION URGING THE USDA, ANIMAL AND PLANT HEALTH INSPECTION SERVICE TO EXPEDITE THE PENDING CHANGE IN REGULATIONS TO ALLOW SHARWIL VARIETY OF AVOCADO TO BE MOVED FROM HAWAII INTERSTATE", was adopted.

Representative Honda, for the Committee on Agriculture, presented a report (Stand. Com. Rep. No. 939-86) recommending that H.C.R. No. 157 be adopted.

On motion by Representative Honda, seconded by Representative Nakata and carried, the report of the Committee was adopted and H.C.R. No. 157 entitled: "HOUSE CONCURRENT RESOLUTION URGING THE USDA, ANIMAL AND PLANT HEALTH INSPECTION SERVICE TO EXPEDITE THE PENDING CHANGE IN REGULATIONS TO ALLOW SHARWIL VARIETY OF AVOCADO TO BE MOVED FROM HAWAII INTERSTATE", was adopted.

Representative Say, for the Committee on Water, Land Use Development and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 940-86) recommending that H.C.R. No. 22, as amended in HD1, be adopted.

On motion by Representative Tam, seconded by Representative Shon and carried, the report of the Committee was adopted and H.C.R. No. 22, HD1, entitled: "HOUSE CONCURRENT RESOLUTION AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DISPOSE BY WAY OF AN EASEMENT, CERTAIN GOVERNMENT SUBMERGED LANDS AND LANDS BENEATH TIDAL WATERS FOR PURPOSES OF CONSTRUCTING CERTAIN OFFSHORE IMPROVEMENTS", was adopted.

Representative Say, for the Committee on Water, Land Use Development and Hawaiian Affairs, presented a report (Stand. Com. Rep. No. 941-86) recommending that H.C.R.

EXHIBIT J

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

July 14, 2000

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

MAUI

Request to Cancel Revocable Permit No. S-6249, Issuance of an Interim Revocable Permit to MRF-Lanai, L.P. and Castle & Cooke, Inc., Rescindment of Previous Board Action of October 11, 1985, Agenda Item F-4, and Authorization to Sell a General Lease at Public Auction, Kaohai, Lanai, Tax Map Key: 4-9-03: Seaward of Parcel 10.

REQUEST:

- ① Cancellation of Revocable Permit No. S-6249 with Charles Forman, Trustee, and Cathedral City Investments, Inc.;
- ② Rescind previous Board action of October 11, 1985, Agenda Item F-4;
- ③ ^{Authorize} Sale of lease at public auction for channel clearing, buoy placement, pier construction and maintenance, and conducting of commercial activities (docking, loading and unloading of commercial tour boats) purposes; and
- ④ Issuance of revocable permit to MRF-Lanai, L.P., a foreign limited partnership, whose business and mailing address is 2714 Bee Cove Road, 2nd Floor, Austin, Texas 78746 and Castle & Cooke, Inc. a Hawaii corporation whose business and mailing address is P.O. Box 898900, Mililani, Hawaii 96789-8900.

LEGAL REFERENCE:

Sections 171-13, -14, -14.5, -16, -17, -55 and other applicable sections of Chapter 171, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lanai situated in Kaohai, Lanai, identified by Tax Map Key: 4-9-03: seaward of Parcel 10, as shown

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

July 14, 2000. *px*

Exhibit J

Item D-32

on the attached maps labeled Exhibits A and B.

AREA:

2.073 acres (90,300 square feet), more or less, subject to confirmation by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation
County of Maui CZO: Conservation

LAND TITLE STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Encumbered by Revocable Permit No. S-6249, Charles Forman, Trustee, and Cathedral City Investments, Inc., permittee, for channel clearing, buoy placement, pier construction and conducting of commercial activities (docking, loading and unloading of commercial tour boats) purposes.

LEASE TERMS AND CONDITIONS:

CHARACTER OF USE:

Channel clearing, buoy placement, pier construction and maintenance and conducting of commercial activities (docking, loading and unloading of commercial tour boats) purposes

LEASE TERM:

Thirty (30) years

COMMENCEMENT DATE:

The date of sale if the current occupant is the successful bidder, otherwise, sixty (60) days after the date of sale;

provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM UPSET ANNUAL RENT:

To be determined by staff or independent appraisal, subject to review and approval by the Chairperson.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the end of the 10th and 20th years of the lease term, by staff or independent appraisal.

PERFORMANCE BOND:

Twice the annual rental amount.

REVOCABLE PERMIT TERMS AND CONDITIONS:

CHARACTER OF USE:

Channel clearing, buoy placement, pier construction and maintenance and conducting of commercial activities (docking, loading and unloading of commercial tour boat) purposes.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

To be determined by staff appraiser, subject to review and approval by the Chairperson.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

LIQUIDATED DAMAGES:

Twenty percent (20%) of the monthly rental per day or three dollars (\$3.00) per day, whichever is greater.

PROPERTY CHARACTERISTICS:

Utilities - yes
Slope - n/a
Elevation - n/a
Rainfall - n/a
SCS Soil Series - n/a
Land Study Bureau - n/a

Legal access to property is provided from the ocean.

Subdivision - Staff has verified that the subject property to be auctioned is required to be legally subdivided.

Encumbrances - Staff has verified that the following encumbrances exist on the property: pier.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The use does not differ from its previous use, therefore, pursuant to Section 11-200-8 (a)(1), of the Environmental Impact Statement Rules, Exempt Classes of Action, the applicant is exempt from the preparation of an environmental assessment.

CONSERVATION DISTRICT USE PERMIT:

A Conservation District Use Permit was approved by the Board on March 8, 1985, Agenda Item H-6, (CDUA No. LA-9/17/85-1705) subject to the terms and conditions listed in Exhibit C; and amendment dated March 10, 1987 (Exhibit D).

DCCA VERIFICATION:

MRF-Lanai, L.P. and Castle & Cooke, Inc.:

Place of business registration confirmed:

YES X NO

Registered business name confirmed:

YES X NO

Applicant in good standing confirmed:

YES X NO

REMARKS:

On October 11, 1985, under Agenda Item F-4, the Board approved the direct sale of an exclusive easement and issuance of a revocable permit to Charles Forman, Trustee, and City Cathedral Investments, Inc. for use of the State-owned Halepalaoa Landing and surrounding submerged land to accommodate their Club Lanai operations. The use of the State land would involve channel clearing, buoy placement, pier construction and conducting of commercial activities (docking, loading and unloading of commercial boat tours). The term of the easement was for forty (40) years.

Since submerged land was involved, the Attorney General's Office determined that prior approval by the Governor and Legislature was required before the easement could be issued, therefore, the revocable permit was granted as an interim measure until the approvals could be obtained.

An appraisal for the annual rent was prepared in 1995 (\$14,750.00/annum), but unfortunately, the processing of the subject easement ended at that point. The revocable permit has remained in use because of this. The current rent amount for this permit is \$508.00/month,

Recently, Charles Forman sold his property, known as Club Lanai, which is adjacent to Halepalaoa Landing. Mr. Forman requested that a new revocable permit be issued to the new owners, MRF, Lanai, L.P. In turn, MRF was approached by Castle & Cooke, Inc. regarding their interest in purchasing this Club Lanai property. A sale involving these two parties is currently pending. Apparently, use of the landing is the key component in the completion of this sale. Castle & Cooke wants to be assured that the revocable permit for the landing is approved prior to their finalizing this sale. Accordingly, both MRF and Castle & Cooke have agreed to apply for the permit as co-holders as a precautionary measure. Once the permit has been approved and the sale finalized, this office will request that the permit be amended to reflect either the current owner or the new owner.

Although this is clearly out of the ordinary, the above circumstances warrants this type of disposition.

In addition, a few months ago, the Attorney General's Office opined that exclusive use of a pier on submerged land cannot be sold directly by way of an easement. Easements of this nature can only be directly sold non-exclusively in order to address members of the public who may want use of the pier also. The only option for exclusive use would be from the sale of a lease by public auction.

Because of the above, staff is recommending that the Board rescind their previous action of October 11, 1985, Agenda Item F-4 regarding the direct sale of the exclusive easement, and, instead, authorize the sale of a general lease at public auction for same. Both MRF and Castle & Cooke have no problems with this type of disposition. The Maui District Land Office has also received a letter from another party who has voiced interest in purchasing this lease.

It should also be noted that the CDUP amendment states that "the applicant shall have exclusive use of the pier provided that he creates a 10-foot wide public access easement over his or Castle and Cooke's property (providing access from Keomuku Road to the channel/basin) and the applicant be allowed to maintain this easement area for the use of the public until such time as either the State and/or County find it appropriate to have the easement turned over to them."

An inspection conducted by Lanai DOCARE staff on March 10, 2000 revealed that there are two (2) public beach accesses being provided by the applicant, one on the north side and the other on the south side of their property. Signs are posted indicating the access and are currently being maintained by the applicant.

RECOMMENDATION: That the Board:

1. Rescind their previous action of October 11, 1985, Agenda Item F-4, involving the direct sale of an exclusive easement.
2. Find the area to be an economic unit in terms of the intended use.

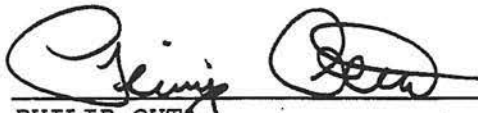
3. Find that the subject area is not suitable for hunting, nor will it become so during the term of the lease.
4. Authorize the sale of a lease at public auction covering the subject area for channel clearing, buoy placement, pier construction and maintenance, and conducting of commercial activities (docking, loading and unloading of commercial tour boats) 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 general lease document, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
 - d. Compliance with the terms and conditions established in CDUA No. LA-9/17-85-1705.
5. Authorize the cancellation of Revocable Permit No. S-6249.
6. Authorize the issuance of a revocable permit to MRF-Lanai, L.P. and Castle & Cooke, Inc. covering the subject area for channel clearing, buoy placement, pier construction and maintenance, and conducting of commercial activities (docking, loading and unloading of commercial tour boats) 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 revocable permit form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney


July 14, 2000

General;


- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- d. Compliance with the terms and conditions established in CDUA No. LA-9/17-85-1705.

Respectfully Submitted,



PHILIP OHTA
Maui District Land Agent 

APPROVED FOR SUBMITTAL:



TIMOTHY E. JOHNS, Chairperson

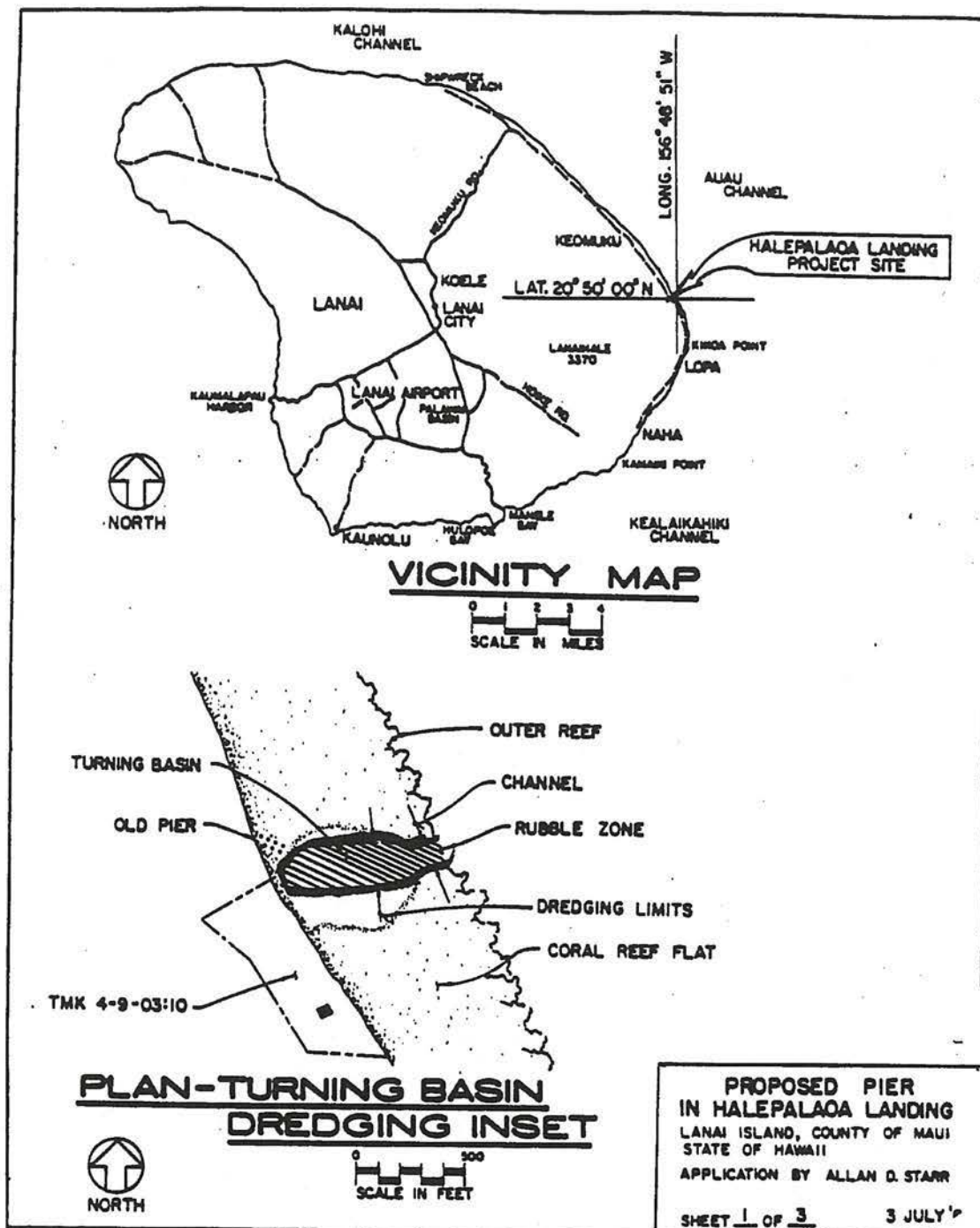


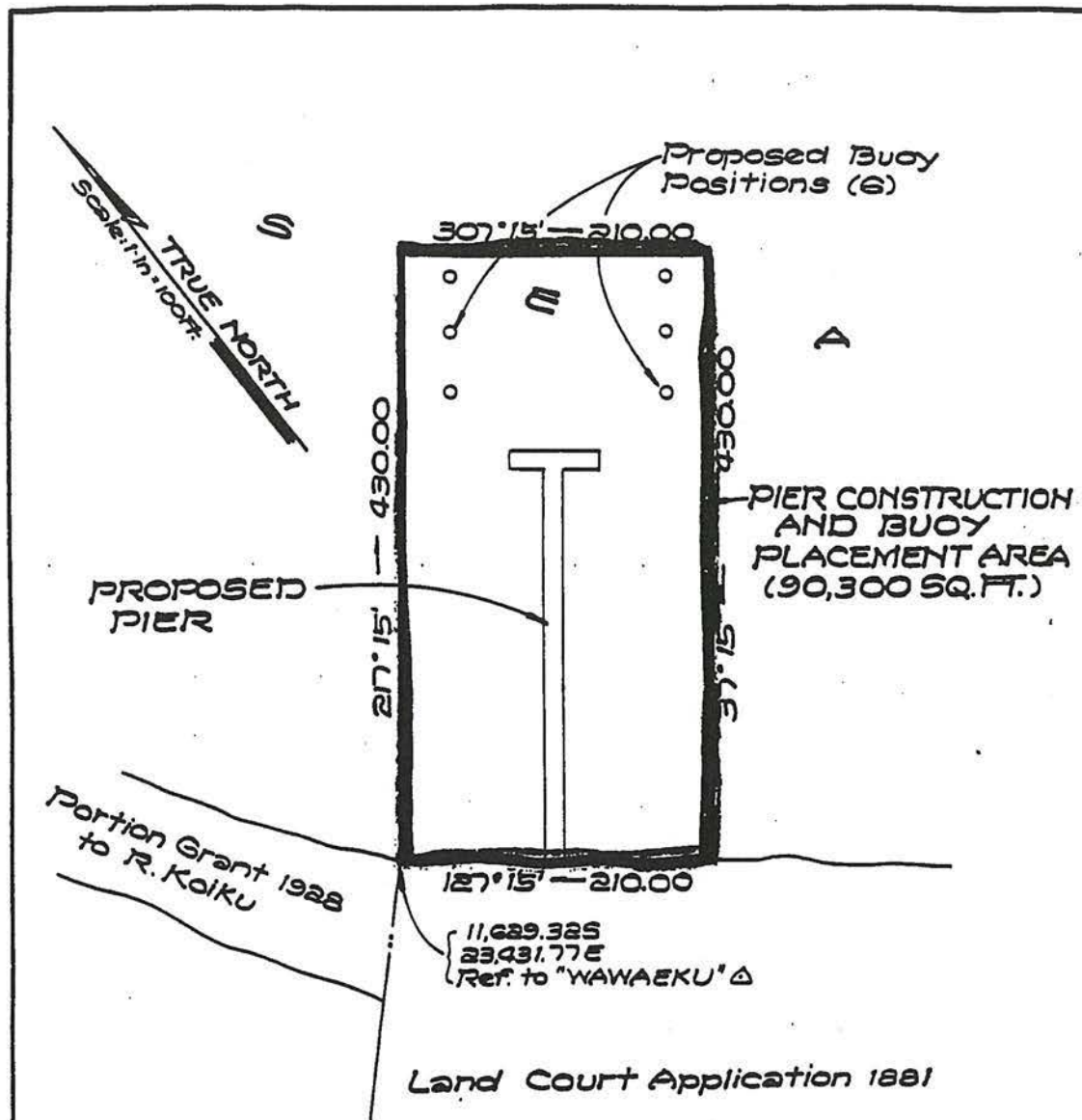
EXHIBIT A



CDUA no. LA-1705
 APPLICANT MR. ALLAN D. STARR
 AGENT BOB CRUICK & Associates
 TMK OPR 4-9-03:10
 SCALE _____

EXHIBIT A

SUBZONE	PROTECTIVE
	RESOURCE
	LIMITED
	GENERAL
	PROJECT AREA



PIER CONSTRUCTION AND BUOY PLACEMENT AREA

Being Submerged Land Fronting
Land Court Application 1881

at Kaohai, Lanai, Hawaii



This work was prepared by me
or under my supervision
Robert W. Cunningham

ITEM F-1

BELT, COLLINS & ASSOCIATES October 11, 1981
606 Coral Street
Honolulu, Hawaii 96813

July 23, 1985

EXHIBIT B

March 14, 1985

REF. NO.: CPO-551-85
FILE NO.: LA-9/17/84-1705
180-Day Exp. Date: 3/16/85

Mr. Joe Vierra
Belt, Collins and Associates
606 Coral Street
Honolulu, Hawaii 96813

Dear Mr. Vierra:

CONSERVATION DISTRICT USE APPLICATION
for Channel Clearing, Buoy Placement, Pier Construction
and Conducting of Commercial Activities on
State-owned Submerged Lands Near Halepalaoa Landing
at Maohai, Lanai, Hawaii

We are pleased to inform you that the Board of Land and Natural Resources at its meeting of March 8, 1985 approved your application subject to the following conditions:

1. That the applicant comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21 of Title 13, Chapter 2, Administrative Rules, as amended;
2. 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 this permit or relating to or connected with the granting of this permit;
3. The State of Hawaii shall not be responsible for any loss, liability, claim or demand for property damage, property loss, or personal injury including death caused by or resulting from any act or omission of the applicant or its contractor in connection with its exercise of the privileges herein granted;

EXHIBIT C

Mr. Joe Vierra
Belt, Collins & Assoc.

CPO-551-85
LA-1705

4. That as this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
5. In the event that any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, paving, or walls are encountered during construction, the applicant shall stop work and contact the Historic Preservation Office at 548-7460 or 548-6408 (Honolulu);
6. That the applicant comply with all applicable Public Health regulations;
7. The construction, alteration, moving, demolition and repair of any building or other improvement on lands within the Conservation District shall be subject to the building codes of the respective counties in which the lands are located; provided that prior to the commencement of any construction, alteration, or repair of any building, or other improvement, four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson, or his authorized representative, for approval of which three (3) copies will be returned;
8. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use. Failure to comply with this condition shall render this application null and void;
9. That the applicant shall have exclusive use of the pier provided that he dedicates a 10-foot wide public access easement over his or Castle and Cooke's property (providing access from Keorulu Road to the channel/basin) to the State in exchange for the easement for exclusive use of the pier;

Mr. Joe Vierra
Belt, Collins & Assoc.

CPO-551-85
LA-1705

10. Should the applicant not agree to dedicating a public access easement to the State in exchange for exclusive use of the pier, the pier will be open to the public and signs will be posted indicating that the pier is open for public use;
11. In the event that the applicant's commercial activity fails after the construction of the pier, the pier be removed by the applicant at no expense to the State and the easements, if previously exchanged, be re-exchanged;
12. That an archaeological reconnaissance be conducted on any area of the subject parcel which will be impacted by the construction equipment and/or stockpiling of the dredged materials. This reconnaissance shall be completed by a qualified archaeologist and two copies of the report shall be sent to our office for review and comment prior to the start of any construction activity. At this time, we may make further recommendations toward the protection and/or mitigation of any existing archaeological features within the impacted area;
13. That the applicant take appropriate measures during and after construction to minimize turbidity and degradation of the nearby offshore water;
14. That the applicant prepare an aquatic survey before work begins and after work is completed to determine the effects on the aquatic biology;
15. That should the applicant engage in any fishing activity, the applicant should be aware of the Konoiki fishery rights defined in Chapter 188-1 through 14, HRS;
16. That the applicant be limited to a total of six moorings within the channel/basin; two of the six moorings will be non-exclusive for use by the public; (1)
17. That one non-exclusive mooring must be installed prior to the installation of the first two exclusive moorings and the second non-exclusive mooring must be installed prior to the installation of the second two exclusive moorings; and

Mr. Joe Vierra
Belt, Collins & Assoc.

CPO-551-25
LA-1705

18. Other terms and conditions as prescribed by the Chairperson;
Please acknowledge receipt of this permit with the above noted conditions in the space provided below. Please sign two copies. Retain one and return the other.

Should you have any questions on any of these conditions, please feel free to contact our Planning Office staff at 548-7837.

Very truly yours,

~~SUSUMU ONO, Chairman~~
~~Board of Land and Natural Resources~~

SUSUMU ONO, Chairperson
Board of Land and Natural Resources

Receipt acknowledged:

Applicant's Signature

cc: Maui County Board Member
Maui County Land Agent
Maui County Planning Department
DOH/OECC/EC/DPED/CNA

U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
U.S. National Marine Fisheries
Service
U.S. Coast Guard

bcc: Land Management
DOWALD
DAR
State Parks/Historic Sites
DOFAW
DOCARE
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MAR 10 1987

FILE NO.: LA-1705
150-Day Exp. Date:
DOCUMENT NO.: 2636P

Mr. Joe Vierra
Felt, Collins and Associates
606 Coral Street
Honolulu, Hawaii 96813

Dear Mr. Vierra:

AMENDMENT TO
Conservation District Use Application LA-1705
for Channel Clearing, Buoy Placement, Pier
Construction and Conducting of Commercial
Activities on State-Owned Submerged Lands
Near Halepapa Landing at Fuchai, Lanai,
Hawaii

We are pleased to inform you that the Board approved your request to amend Conservation District Use Application LA-1705 by replacing the existing condition number 9 with the following condition:

9. That the applicant shall have exclusive use of the pier provided that he creates a 10-foot wide public access easement over his or Castle and Cooke's property (providing access from Keomuku Road to the channel/basin) and the applicant be allowed to maintain this easement area for the use of the public until such time as either the State and/or County find it appropriate to have the easement turned over them;

Please acknowledge receipt of this permit with the above noted conditions in the space provided below. Please sign two copies. Retain one and return the other.

EXHIBIT D

Should you have questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 548-7837.

Very truly yours,

/s/ WILLIAM M. PATY

**WILLIAM M. PATY, Chairperson
Board of Land and Natural Resources**

Receipt acknowledged

Applicant's Signature

cc: Maui County Board Member
Maui District Land Agent
Maui Dept. of Planning
DCH/CECC/EC/DPED/OHA

cc: Land Management
DCVALE
DAI
State Parks/Historic Sites
DCFAW
DCCAF
DALE



EXHIBIT K



MARINE ENVIRONMENTAL RESEARCH CONSULTING, LLC

**ASSESSMENT OF WATER CHEMISTRY AND
MARINE BIOTIC COMMUNITY STRUCTURE
HALEPALAOA LĀNA`I, HAWAII**



Exhibit K

SUBMITTED TO:

Pūlama Lāna`i
735 Bishop St., Suite 1500
Honolulu, HI 96813

PREPARED BY:

Marine Environmental Research
Consultants LLC.
104 Opihikao Way
Honolulu, HI 96825
808-384-2272

DATE: October 18, 2022

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1 Introduction

Pūlama Lānaʻi is interested in utilizing the former Club Lānaʻi site at Halepalaoa on the eastern shore of Lānaʻi for day activities for guests staying at Sensei Lānaʻi or the Four Seasons Lānaʻi resorts (Figure 1-1). The former Club Lānaʻi was operational for a period in the late 1990s to the early 2000s. Pūlama Lānaʻi has received a special management area (SMA) minor permit and shoreline setback approval (SSA) for repair of the portion of the Lānaʻi Landing pier mauka of the shoreline, minor grading, demolition of derelict structures, to include construction of area improvements (SMX 2019/0203, SSA 2021/0011, EAE 2021/0015, and SM7 2021/0001) and associated grading permit (GT2021/0063) from the County of Maui. All the structures were formerly used during the commercial operation of Club Lānaʻi.

A T-shaped pier at Halepalaoa extends approximately 70 meters (m) seaward from the shoreline in a sandy basin/channel (see magenta outline in Figure 1-1). The pier is currently closed owing to the state of disrepair of the structure. Pūlama Lānaʻi is in the planning process to repair Halepalaoa pier to return the structure to a safe, functional state. The pier will be used by vessels owned by Pūlama Lānaʻi to transport guests from the Mānele Small Boat Harbor to the former Club Lānaʻi site.

Repair of Halepalaoa pier and future maintenance are permitted under POH-2016-00249 and WQC0953 issued by the Army Corp of Engineers and will be completed by March 2023. Pūlama Lānaʻi has a Revocable Permit (RP, No. S-7343) from the State of Hawaiʻi, which authorizes channel clearing, buoy placement, pier construction and maintenance, and commercial activity use. Channel clearing (e.g., dredging) is permitted to an extent to ensure the safe passage of vessels.

As part of the planning and permitting process, Marine Environmental Research Consulting LLC was contracted by Pūlama Lānaʻi to conduct an assessment of water chemistry and marine biotic community structure at and around Halepalaoa pier. The present report provides information describing the existing marine environment in the area that may be affected by the proposed repair and maintenance work. These data will provide information valuable to the planning process regarding potential impacts to the marine environment as well as potential mitigative measures to minimize any impacts.

The water quality assessment was designed to determine the effects of materials from land (contribution of groundwater and surface runoff) at the site, and to evaluate the effects that this input has on water quality at the present time, prior to the commencement of any repair activities. The purpose of the marine biotic community structure assessment was to determine the existing condition of the marine communities (particularly the coral reef community) in the nearshore areas at and around the project site. Of particular concern was documentation of the effects to coral reef communities from input of terrigenous sediment from land.

Evaluation of the existing condition of these community provides an insight into the physical and chemical factors that influence the structure of biotic communities. As coral communities are both long-lived and attached to the bottom, they serve as the best indicators of the time-integrated forces that affect offshore reef areas. Understanding the existing physical, chemical, and biological conditions of the marine environment provides a basis for predicting potential effects from the proposed repairs.

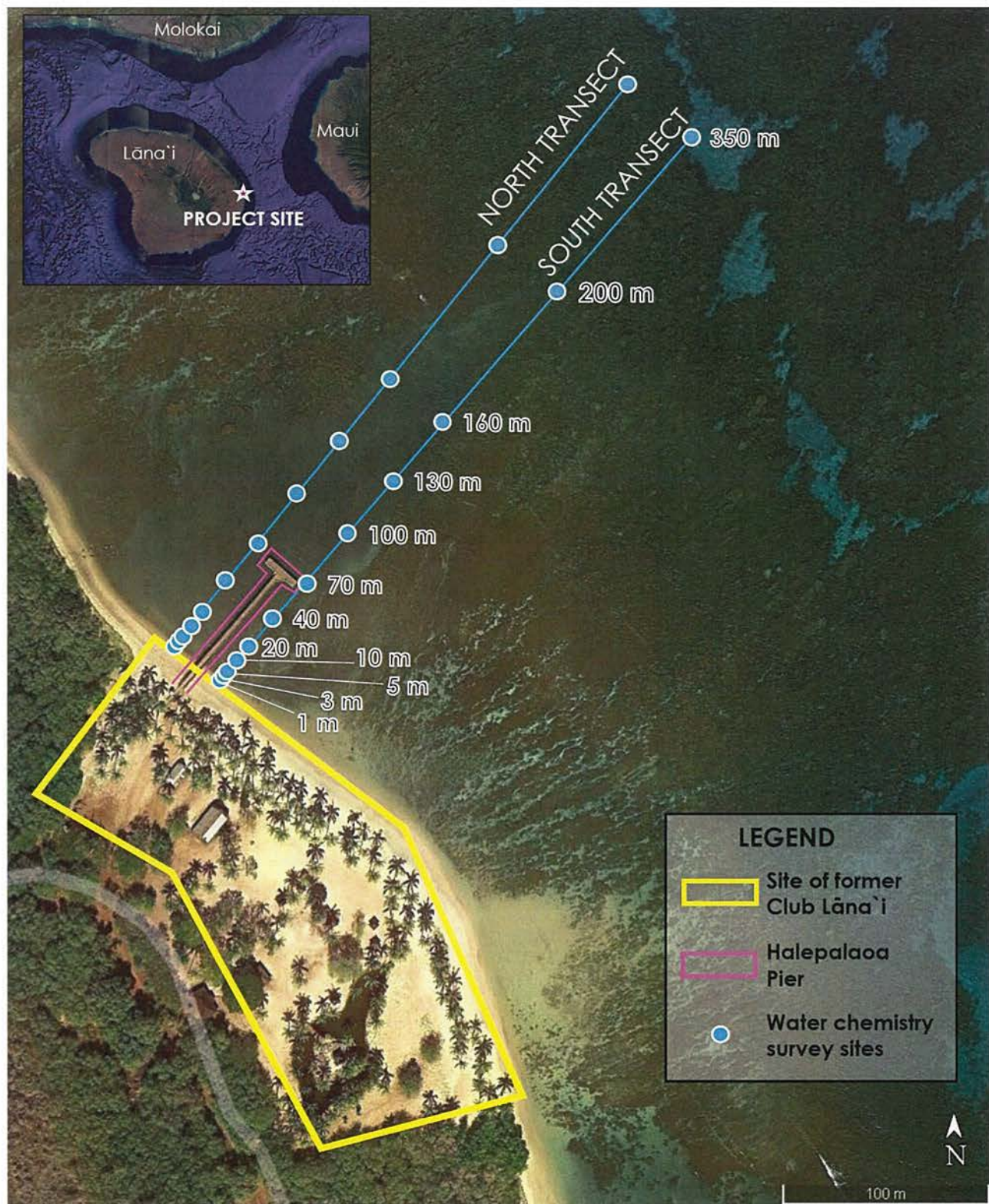


Figure 1-1 Aerial image of the Halepalaoa pier on the eastern coast of the island of Lānaʻi. Also shown are the locations of two water chemistry sampling transects.

2 Methods

2.1 Field Work Operations

The water chemistry and marine biotic community structure surveys were conducted on September 29, 2022, following a five-day period of dry weather. At the time of the survey the sky was overcast, and the temperature reached a high of 27 degrees Celsius (°C). The survey was conducted by two marine biologists working from a 25-foot motorized catamaran.

Note that the eastern coastline of Lānaʻi receives substantial terrigenous runoff after rain events. In order to capture water chemistry data that represents the diverse coastal conditions of this area, sampling may be conducted again immediately following a substantial rainfall event that results in runoff of terrigenous materials to the ocean.

2.2 Water Chemistry

Water chemistry samples were collected along two transects running parallel to Halepalaoa pier: one transect north of the pier and the other south of the pier (Figure 1-1). The transects originated at the sand-water interface of the beach and extended perpendicular to the shoreline for a distance of approximately 350 m offshore to clear, blue water. Water samples were collected at 12 locations along each transect at distances of approximately 1, 3, 5, 10, 20, 40, 70, 100, 130, 160, 200, and 350 m from the shoreline. Sampling was more concentrated in the nearshore zone because this area receives the most groundwater and surface water discharge, and hence is most important with respect to identifying the influence from terrestrial and groundwater sources. Where water depth was less than one meter (1, 3, 5, and 10 m from shore), only surface samples were collected; where water depth was greater than one meter (20, 40, 70, 100, 130, 160, 200, and 350 m), a surface and a deep sample were collected. Surface samples were collected between 10 and 20 centimeters (cm) from the air-water interface and deep samples were collected approximately 10 cm from the seafloor.

All samples were collected in triple-rinsed polyethylene bottles and stored on ice until delivery at the laboratory. Samples inshore of the "T" end of the pier were collected by investigators swimming with snorkel gear. Samples offshore of the end of the pier were collected from the boat by hand for surface samples and with a Niskin bottle for deep samples. The Niskin bottle was lowered through the water column with spring loaded endcaps cocked in an open position. At the desired depth, endcaps were tripped closed by a messenger weight released down the line from the surface. Processing of samples at the laboratory was initiated within approximately six hours of sample collection.

Water quality constituents that were evaluated include all specific criteria designated for open coastal waters in Chapter 11-54, Section 06 (b) (Open Coastal waters) of the State of Hawaiʻi Department of Health (DOH) Clean Water Branch (CWB) Water Quality Standards (Hawaiʻi CWB 2022). These criteria include total nitrogen (TN), nitrate + nitrite nitrogen ($\text{NO}_3^- + \text{NO}_2^-$), ammonium nitrogen (NH_4^+), total phosphorus (TP), Chlorophyll *a* (Chl *a*), turbidity, temperature, pH, and salinity. In addition, dissolved silica (Si) and orthophosphate phosphorus (PO_4^{3-}) were also reported as these constituents are sensitive indicators of biological activity and the degree of groundwater mixing.

All laboratory chemistry analyses were conducted by Marine Consulting and Analytical Resources Laboratory (MCAR) in Honolulu, HI (Lab. No. HI00928). MCAR possesses the acceptable rating from EPA-compliant proficiency and quality control testing. Analyses for Si, NH_4^+ , PO_4^{3-} , and NO_3^- were conducted with a Seal Analytical AutoAnalyzer 3 HR (AA3HR) using standard methods for seawater

analysis. Analyses for TN and TP were conducted in a similar fashion following digestion. Total organic nitrogen (TON) was calculated as the difference between TN and dissolved inorganic N ($\text{NO}_3^- + \text{NO}_2^-$ and NH_4^+); total organic phosphorus (TOP) was calculated as the difference between TP and dissolved inorganic P (PO_4^{3-}). Salinity was determined using a Mettler Toledo Seven Excellence Multi-parameter meter with an InLab 731-ISM conductivity probe.

Chl *a* was measured by filtering 150 mL of sample water through a GFF/F glass-fiber filter. Pigments on filters were extracted in 90% acetone in the dark at -20 °C for 24 hours. Fluorescence of the extract was measured with a Turner Designs Trilogy Fluorometer model 7200-000 equipped with an extracted chlorophyll non-acidification module. Salinity was determined using a Mettler Toledo Seven Excellence Multi-parameter meter with an InLab 731-ISM conductivity probe calibrated to a Hach Instruments traceable salinity standard of 35.00 parts per thousand (‰ or ppt), 53.0 mS/cm, with a readability of 0.01 ppt. Turbidity was determined using a Hanna Instruments Model #HI88703 Turbidimeter and reported in nephelometric turbidity units (NTU) (precision of 0.01 NTU).

In situ field measurements of water temperature, pH, dissolved oxygen (DO), and salinity were measured using an RBR Concerto logger (CTD) calibrated to factory specifications. The CTDs have a readability of 0.001°C, 0.001pH units, 0.001% DO saturation, and 0.001 ppt.

EPA methods, Standard Methods (SM), and detection limits (DL) employed for water chemistry analyses are listed in the Code of Federal Regulations (CRF) Title 40, Chapter 1, Part 136, and are shown below.

DOH Water Quality Standards constituents:

NH_4^+ : EPA 350.1, Rev. 2.0; SM4500-NH3 G, detection limit 0.042 µg/L

$\text{NO}_3^- + \text{NO}_2^-$: (hereafter referred to as NO_3^-) EPA 353.2, Rev. 2.0; SM4500-NO3F, DL 0.084 µg/L

Total P: EPA 365.5, Rev. 2.0; SM4500-P E J, DL 0.93 µg/L

Total N: EPA 353.2, Rev. 2.0; SM 4500-N C., DL 1.96 µg/L

Chlorophyll *a*: EPA 445.0 rev 1.2, DL 0.01 µg/L

pH: EPA 150.1; SM4500H+B, DL 0.002 pH units

Turbidity: EPA 180.1, Rev. 2.0; SM2130 B, DL 0.008 NTU

Temperature: SM 2550 B, DL 0.01 degrees centigrade

Salinity: SM 2520, DL 0.003 ppt

Dissolved Oxygen: SM4500 O G, and DL 0.01% sat

Additional constituents analyzed that serve as indicators of input from terrestrial sources:

PO_4^{3-} : EPA 365.5; SM4500-P F, detection limit 0.28 µg/L

Si: EPA 370.1; SM 4500 SiO2 E, detection limit 0.45 µg/L

2.3 Marine Biotic Community Structure

A survey was conducted to document the existing physical and biotic composition of the nearshore coastal area in the vicinity of Halepalaoa pier. As no corals were observed in the immediate vicinity of the existing pier within the sand channel, investigators surveyed the edges of the reef platform both north and south of the channel to identify the nearest coral resources to the project site (Figure 2-1). Results of the biotic survey in the sand channel and on the reef platform will be considered separately. Investigators working in pairs utilized SCUBA to conduct the biotic survey. During these

investigations notes were recorded on species composition including corals, other invertebrates, fish, and algae. In addition, investigators looked for any federally protected marine species (i.e., turtles, seals, cetaceans) within the area. Mirrorless digital cameras in underwater housings were used to photograph the existing conditions of the area and to provide a visual database of physical structure and marine biotic community composition.

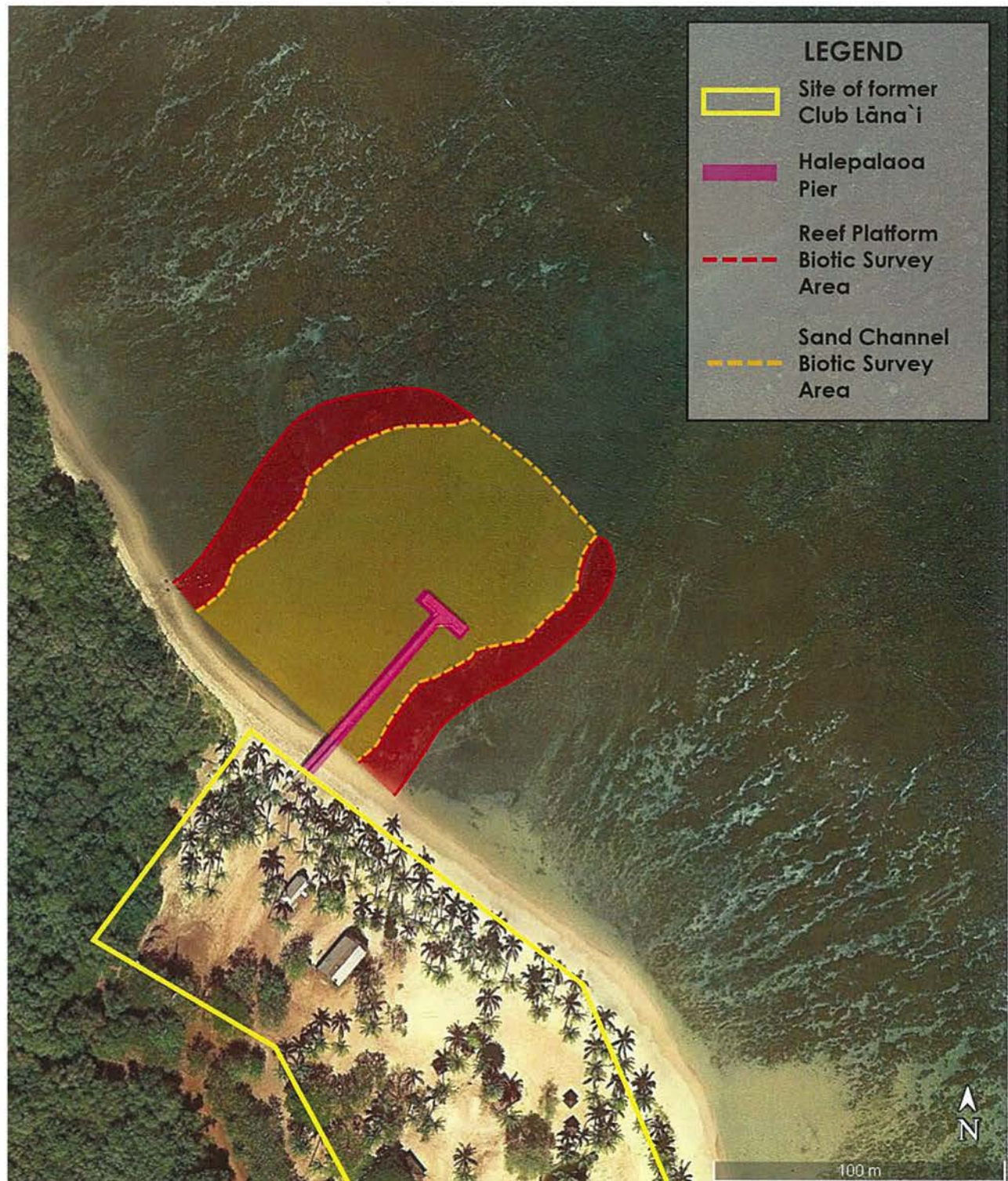


Figure 2-1 Aerial image of Halepalaoa pier showing two biotic community structure survey areas: reef platform and sand channel.

3 Results

3.1 Water Chemistry

3.1.1 Distribution of Chemical Constituents

Table 3-1 and Table 3-2 show results of all water chemistry analyses for samples collected at Halepalaoa on September 29, 2022. Table 3-1 shows concentrations of dissolved nutrients in micromolar (μM) units; Table 3-2 shows concentrations in micrograms per liter ($\mu\text{g/L}$). Figure 3-1 and Figure 3-2 show the data of each constituent plotted as a function of distance from shore.

Several patterns of distribution can be seen in Figure 3-1 and Figure 3-2. The dissolved nutrients Si, NO_3^- , and NH_4^+ display distinctly elevated concentrations in the samples collected near the shoreline and decrease with distance from shore. Surface values of salinity display the opposite trend, with the lowest concentrations in the nearshore samples and gradually increasing values with distance from shore.

These patterns are likely a result of concentrated input of groundwater to the ocean at the shoreline. Low salinity groundwater, which typically contains high concentrations of Si, NO_3^- , and PO_4^{3-} , percolates to the ocean at the shoreline, resulting in a nearshore zone of mixing. In many areas of the Hawaiian Islands, such groundwater percolation results in steep horizontal gradients of increasing salinity and decreasing nutrients moving seaward.

It is also evident that concentrations of NO_3^- , NH_4^+ , and PO_4^{3-} show an area of lower concentration between approximately 10 and 120 m from shore (Figure 3-1). This area of reduced concentration is likely a result of the uptake of these nutrients by the dense population of macroalgae on the reef platform. As most macroalgae do not take up dissolved silica there is no analogous depression in the concentration of silica in the center of the transect.

The horizontal gradients of TN and TP reflect the patterns of NO_3^- and PO_4^{3-} with minimum values in the center of the transect (Figure 3-1). Other water chemistry parameters that are not associated with groundwater input (TON and TOP) do not show distinct gradients of decreasing concentration with respect to distance from the shoreline. Rather, these constituents do not occur in any consistent pattern across the horizontal ranges of the sampling area.

The distribution of turbidity and Chl *a* display peaks near the shoreline, with steadily diminishing values moving offshore (Figure 3-2). Turbidity at Halepalaoa can be considered high with respect to concentrations measured in other nearshore regions in Hawai'i. The elevated values are a result of substantial input of terrigenous sediment that enters the marine environment as runoff from land. Note that a single sample (South transect, 200 m) measured outlying values of Chl *a* and turbidity. As this was a deep sample, it is likely that the Niskin sampler made contact with the seafloor and resuspended sediment. The resuspended sediment likely included sand, algae, and other organic debris that influenced the magnitude of Chl *a* and turbidity measured in this sample.

It is also evident in Table 3-1 and Table 3-2 that while there is distinct horizontal stratification of the distribution of many of the water quality constituents, there is little evidence of vertical stratification. The similarity of surface and deep values indicates that there is essentially complete mixing of the water column by physical forces.

3.1.2 Compliance with DOH WQS

Table 3-1 and Table 3-2 also show samples that exceed DOH WQS for open coastal waters under “dry” conditions. The distinction between the application of wet and dry criteria is based on whether the survey area is likely to receive less than (“dry”) or greater than (“wet”) 3 million gallons of freshwater input per mile per day. DOH standards include specific criteria for three situations: criteria that are not to be exceeded 10% of the time, criteria that are not to be exceeded 2% of the time, and criteria that are not to be exceeded by the geometric mean of repetitive samples. While evaluation of the 10% or 2% of the time criteria for a single data set as was acquired for Halepalaoa in 2022 is not statistically meaningful, comparing sample concentrations to these criteria provide an indication of whether water quality is near the stated specific criteria or not.

Orange shaded values in Table 3-1 and Table 3-2 indicate values that exceed the DOH 10% standards, while blue shaded values indicate values that exceed DOH 2% standards under “dry” conditions. Seven of the 38 values of NO_3^- exceeded the 10% and 2% criteria. All of these samples occurred in surface waters within a maximum distance of 5 m from shore. The shoreline sample on the south transect was the only sample to exceed WQS for NH_4^+ . The shoreline sample on the north transect was the only sample to exceed WQS for TN. No measurements of TP exceeded the WQS criteria.

Samples near the shoreline, which exceed the DOH WQS, include a mix of naturally occurring groundwater and ocean water. As the elevated nutrient concentrations of groundwater were not considered during the establishment of the DOH WQS, it is not unexpected that criteria are exceeded in the nearshore mixing zone.

On both transects Chl *a* exceeded WQS criteria from the shoreline to 40 m offshore. Turbidity at all but two sampling stations exceeded the DOH 2% criteria. While there is presently no development in the area, the measured values of turbidity and Chl *a* reflect natural conditions at Halepalaoa. The magnitude of the values relative to the WQS suggests that the standards were not established from areas with similar natural terrigenous input as is observed at Halepalaoa.

3.2 Physical Structure

Most open coastal areas of the Hawaiian Islands are exposed to a variety of wave forces that serve as the primary factor in shaping the physical and biotic composition of the reefs (Dollar 1982, Dollar and Tribble 1993, Fletcher et al. 2008, Grigg 1998). The east coast of the Island of Lānaʻi is anomalous in this regard in that the surrounding islands of Maui and Kahoʻolawe, as well as the east-facing orientation, shelter the area from the strongest wave forces. Owing to a variety of climatic and geographic factors, the eastern coast of Lānaʻi is subjected to extensive erosion of terrigenous materials during episodic rainfall events, which results in the deposition of mud in the nearshore marine environment. The combination of low wave forces and the large width of the reef restricts the process of resuspension and flushing of the terrigenous materials from the inner reef. This results in a sediment trapping effect in the nearshore areas. As a result, sediment deposition is the primary factor in determining reef structure at Halepalaoa.

The physical composition of the marine environment fronting Halepalaoa Beach consists of three basic zones: a large sand-filled basin-channel system centered at the pier, a shallow sediment covered reef platform, and an outer reef face that is interspersed with sand pockets (these three zones are visible in Figure 1-1). The present survey focused on the sand channel and the edge of the

reef platform, as this is the area most likely to be influenced by maintenance work at Halepalaoa pier.

The shoreline of the Halepalaoa area consists of a sand beach that grades into the sandy channel between the north and south reef edges. The sand bed exhibits well-defined small ripples, which indicate that the area is subjected to wave action (Figure 3-3 A). During previous surveys in the area, the sand channel was covered with a thin surface layer of red terrigenous mud, (Figure 3-3 B). The variation between sand and mud cover in the nearshore area over times suggests that there is a dynamic relationship between terrigenous sediment delivery and wave resuspension and removal.

On either side of the central sand channel, the reef consists of a relatively flat limestone platform comprised of a highly eroded and pitted surface. South of the pier the edge of the reef platform slopes gently up from the sandy substrate and is comprised of a mix of hard substrate, rocks, and sand (Figure 3-3 C). Conversely, north of the pier the edge of the reef platform is well defined with a distinct boundary between the sand channel and the reef (Figure 3-3 D).

3.3 Marine Biotic Community Structure

3.3.1 Sand Channel

The Halepalaoa biotic survey was conducted within two distinct zones: the sand channel and the reef platform (Figure 2-1). It is important to note, however, that the pier footprint and potential dredge footprint would be contained solely within the sand channel habitat.

The pier is located in a channel/basin comprised of a sandy bottom. As the soft sediment surface of the channel does not include any hard substrate for settlement and growth, no coral colonies were observed in this area. In addition to the absence of corals, non-coral invertebrates were also not observed in the sand channel. However, numerous holes in the sand indicate that the channel is colonized by a variety of burrowing organisms, likely crabs, shrimp, and worms (Figure 3-3 D).

Most of the seafloor within the sand channel basin was devoid of any macrobiotic cover. However, macroalgae was prevalent on the southern side of the channel between the pier and the edge of the reef. Macroalgae also comprised the dominant biota on the submerged faces of the pier piles (Figure 3-4). A total of 17 species (or groups) were identified with brown algae (phaeophytes), green algae (chlorophytes), and red algae (rhodophytes) being relatively equally distributed (Table 3-3). The most common species observed in the sand channel were *Caulerpa sertularioides* (a green algae with a feather-like structure) and various species of branching red algae including *Hypnea* sp., *Jania* sp., and *Liagora* sp. Note that none of the 17 species present are classified as invasive by the state of Hawai'i Department of Aquatic Resources (DLNR 2022).

The only species of fish detected in the sand channel were three blacktail snappers (*Lutjanus fulvus*, Table 3-4). The blacktail snapper is common in murky bays and harbors. Although this species was introduced to Hawai'i from Mo'orea, it has not displaced native species.

3.3.2 Reef Platform

A total of 7 species of coral were observed on the edge of the reef platform at Halepalaoa (Table 3-5). The most common corals were encrusting forms of the genera *Montipora* (*M. capitata* and *M. patula*, Figure 3-5 A). Small colonies of mounding *Porites lobata* were also frequently observed on the reef platform (Figure 3-5 B). Coral species observed but not considered common were *Pavona*

duerdeni, *Pocillopora damicornis*, *Porites compressa*, and *Psammocora stellata* (Figure 3-5 C and D). *Pocillopora meandrina*, one of the most common species of coral in Hawai'i, was conspicuously absent from the edge of the reef platform.

Corals on the reef platform at Halepalaoa, particularly in the nearshore area, are subjected to two primary forms of stress: sediment loading and algal overgrowth. For corals to survive in this area they must be tolerant to high levels of turbidity and sediment deposition. *Montipora capitata* and *M. patula* in particular appear to be more tolerant to sediment stress than other species as they often colonize piers and other structures in Hawai'i harbors that are typified by turbid water. The inner reef platform at Halepalaoa is nearly completely colonized by macroalgae (approximately 95% of surface cover) and coral (approximately 5% of surface cover), with no exposed bare hard substrate. This indicates that corals are competing with the macroalgae for space on the reef. Possibly as a response to this competition with macroalgae, many of the *Montipora* spp. colonies exhibited some degree of vertical growth (branching) rather than the typical flat, encrusting growth form (Figure 3-6 A).

While beyond the survey area of the present investigation, biotic structure of the outer reef platform includes a diverse coral community. Typically, the most common corals on Hawaiian fringing reefs are species of *Porites*, with minor components of *Montipora* spp. The Halepalaoa reef displays the opposite pattern, with *Montipora patula* and *M. capitata* dominating coral cover, with relatively little cover of *Porites* spp. *Pocillopora meandrina*, which generally occurs in nearshore wave-swept areas, also occurs sporadically throughout the reef community. Of note is that the primary factor that controls coral occurrence on the inner reef (sediment stress) is not evident on the outer reefs. Rather, coral communities on the outer reefs show no indication of stress and consist of near complete coverage of the reef surface. The apparent lack of impacts from wave forces also indicates that the outer reefs are actively accreting, resulting in net increases in limestone structure.

Macroalgae comprised the dominant biota on the edge of the reef platform. In total, eleven were identified to the species or group level (Table 3-3). Unlike the sand channel where brown, green, and red algae were relatively equally distributed, the reef platform was primarily colonized by green algae. *Caulerpa verticillata* was the dominant species and comprised approximately 90% of all biotic cover on the reef platform (Figure 3-6). This species formed dense mats laden with fine terrigenous sediment throughout the surveyed portion of the reef platform habitat. Note that none of the 11 species present are classified as invasive by the state of Hawai'i Department of Aquatic Resources (DLNR 2022).

A total of 30 individual fish within 8 species were observed on the reef platform (Figure 3-4). The brown surgeonfish (*Acanthurus nigrofusus*) was the most numerous fish (8 individuals) on the reef platform. The next most abundant was the sergeant fish (*Abudefduf* sp.). It is not clear whether this was the endemic Hawaiian sergeant (*Abudefduf abdominalis*) or the Indo-Pacific sergeant (*A. vaigiensis*). The two species are frequently seen together and are known to hybridize, which is likely the case with the individuals observed at Halepalaoa. Other relatively common species included the ringtail surgeonfish (*Acanthurus blochii*), the saddle wrasse (*Thalassoma duperrey*), and the blacktail snapper.

Table 3-1. Water chemistry data with nutrients displayed micromoles (μM) from samples collected at Halepalaoa on September 29, 2022.

SITE	DFS (m)	PO ₄ ³⁻ (μM)	NO ₃ ⁻ (μM)	NH ₄ ⁺ (μM)	SI (μM)	TP (μM)	TOP (μM)	TN (μM)	TON (μM)	pH (rel)	Salt (ppt)	Chl a (μg/l)	TURB (NTU)	TEMP (°C)	DISS. O ₂ (% sat.)
SOUTH TRANSECT	0 S	0.22	1.97	0.89	27.76	0.36	0.14	12.02	9.16	8.08	33.84	3.39	26.50	29.80	97.74
	1 S	0.16	1.17	0.23	21.60	0.27	0.11	8.17	6.76	8.09	34.13	1.63	13.90	29.47	103.16
	3 S	0.14	0.76	0.06	17.64	0.25	0.11	7.20	6.38	8.10	34.36	1.66	9.32	29.41	106.19
	5 S	0.12	0.42	0.03	14.15	0.27	0.15	6.93	6.48	8.12	34.58	1.00	8.91	29.29	109.25
	10 S	0.10	0.15	0.11	9.97	0.27	0.17	6.87	6.61	8.13	34.81	0.74	5.84	29.07	112.34
	20 S	0.11	0.04	0.14	7.58	0.25	0.14	6.83	6.65	8.14	34.89	0.59	2.97	28.63	110.78
	40 S	0.10	0.04	0.05	6.85	0.24	0.14	6.78	6.69	8.14	34.89	0.64	2.81	28.63	109.74
	70 S	0.09	0.03	0.06	4.38	0.21	0.12	6.67	6.59	8.15	34.97	0.40	2.08	29.62	106.39
	70 D	0.09	0.04	0.09	4.15	0.20	0.11	6.71	6.58	8.15	34.97	0.34	1.56	29.54	106.96
	100 S	0.08	0.05	0.07	2.11	0.25	0.17	5.69	5.57	8.14	34.97	0.26	1.79	29.16	111.10
	100 D	0.08	0.05	0.07	2.25	0.19	0.11	6.41	6.29	8.14	34.97	0.37	4.32	29.16	112.98
	120 S	0.07	0.05	0.07	1.80	0.21	0.15	6.62	6.50	8.14	34.85	0.30	1.93	28.99	116.29
	120 D	0.08	0.11	0.06	1.80	0.28	0.20	6.41	6.23	8.15	34.77	0.36	2.18	29.00	116.93
	150 S	0.07	0.21	0.13	1.68	0.19	0.12	6.25	5.90	8.16	34.89	0.32	1.35	28.73	118.27
	150 D	0.07	0.20	0.03	1.87	0.18	0.11	6.04	5.81	8.14	34.93	0.40	1.81	28.77	120.14
	200 S	0.09	0.31	0.32	1.78	0.24	0.15	5.88	5.25	8.16	34.89	0.26	0.89	28.65	117.52
	200 D	0.12	0.22	0.10	2.12	0.27	0.15	5.92	5.59	8.12	34.89	2.34	23.60	28.65	118.47
	350 S	0.15	0.42	0.08	1.44	0.37	0.22	6.24	5.73	8.13	34.85	0.41	1.06	27.58	112.43
	350 D	0.15	0.43	0.11	1.48	0.35	0.20	8.14	7.60	8.12	34.66	0.45	0.75	27.56	101.31
NORTH TRANSECT	0 S	0.18	1.86	0.31	25.64	0.35	0.17	13.41	11.24	8.08	33.91	2.67	22.50	28.72	117.13
	1 S	0.18	1.55	0.18	25.96	0.33	0.15	10.51	8.78	8.08	33.91	2.02	19.40	28.81	124.22
	3 S	0.15	1.01	0.08	21.56	0.32	0.17	9.48	8.39	8.10	34.10	1.49	11.70	29.07	113.43
	5 S	0.14	1.15	0.09	18.99	0.27	0.13	9.69	8.45	8.11	34.24	1.47	6.75	29.48	112.32
	10 S	0.11	0.08	0.09	9.20	0.28	0.17	8.21	8.05	8.14	34.81	1.38	4.24	29.07	111.74
	20 S	0.09	0.03	0.07	5.98	0.20	0.10	8.18	8.08	8.15	34.93	0.58	2.70	28.63	110.54
	40 S	0.09	0.04	0.11	5.81	0.20	0.11	8.10	7.95	8.15	34.97	0.55	3.40	28.34	104.43
	70 S	0.08	0.08	0.06	2.64	0.22	0.14	7.52	7.38	8.16	34.97	0.40	2.35	28.46	118.53
	70 D	0.08	0.05	0.05	2.87	0.23	0.15	7.35	7.25	8.15	34.97	0.48	3.74	27.79	106.13
	100 S	0.07	0.10	0.04	1.73	0.22	0.15	6.92	6.78	8.15	34.93	0.30	1.92	27.51	97.98
	100 D	0.08	0.11	0.06	1.81	0.25	0.17	7.40	7.23	8.15	34.93	0.34	1.89	27.48	97.57
	120 S	0.08	0.21	0.27	1.64	0.26	0.18	7.27	6.80	8.17	34.93	0.34	2.05	28.71	120.69
	120 D	0.07	0.06	0.08	2.22	0.24	0.17	7.16	7.02	8.13	34.81	0.61	4.31	28.16	109.56
	150 S	0.09	0.36	0.04	1.73	0.20	0.11	7.62	7.22	8.16	34.89	0.30	1.29	28.34	117.34
	150 D	0.11	0.34	0.12	2.14	0.24	0.13	7.56	7.10	8.13	34.89	0.61	2.59	27.80	103.64
	200 S	0.11	0.45	0.08	1.77	0.23	0.12	7.40	6.87	8.12	34.77	0.39	1.51	27.64	109.27
	200 D	0.14	0.45	0.23	1.77	0.28	0.14	7.61	6.93	8.12	34.77	0.48	1.80	27.65	109.11
	350 S	0.14	0.59	0.26	1.55	0.30	0.15	8.01	7.17	8.13	34.78	0.40	1.50	27.57	103.90
	350 D	0.15	0.59	0.15	1.56	0.29	0.14	8.04	7.31	8.13	34.78	0.41	1.14	27.56	103.35
DOH	DRY	NTE 10%	0.71	0.36		0.97		12.86		**	*	0.50	0.50	***	****
		NTE 2%	1.43	0.64		1.45		17.86		**	*	1.00	1.00	***	****
WQS	WET	NTE 10%	1.00	0.61		1.29		17.86		**	*	1.50	1.25	***	****
		NTE 2%	1.79	1.07		1.94		25.00		**	*	3.00	2.00	***	****

NOTES: DFS = distance from shore; S = surface sample; D = deep sample. Also shown are State of Hawai'i Department of Health (DOH) Water Quality Standards for Open Coastal Waters Not to Exceed (NTE) 10% and 2% of the time criteria under "Wet" and "Dry" conditions. Values shaded in blue exceed the NTE 2% standards for dry conditions; values in orange exceed the NTE 10% standards for dry conditions.

* Salinity shall not vary more than 10% from natural or seasonal values considering hydrologic input and oceanographic factors.

** pH shall not deviate more than 0.5 units from a value of 8.1.

*** Temperature shall not vary more than one °C from ambient conditions.

**** Dissolved oxygen should not be less than 75% saturation.

Table 3-2. Water chemistry data with nutrients displayed in micrograms per liter (µg/L) from samples collected at Halepalaoa on September 29, 2022.

SITE	DFS (m)	PO ₄ ³⁻ (µg/L)	NO ₃ ⁻ (µg/L)	NH ₄ ⁺ (µg/L)	SI (µg/L)	TP (µg/L)	TOP (µg/L)	TN (µg/L)	TON (µg/L)	pH (rel)	Salt (ppt)	Chl a (µg/l)	TURB (NTU)	TEMP (°C)	DISS. O ₂ (% sat.)
SOUTH TRANSECT	0 S	6.96	27.54	12.39	777.42	11.16	4.20	168.21	128.28	8.08	33.84	3.39	26.50	29.80	97.74
	1 S	4.92	16.42	3.28	604.94	8.28	3.36	114.37	94.67	8.09	34.13	1.63	13.90	29.47	103.16
	3 S	4.30	10.59	0.81	493.93	7.72	3.43	100.76	89.36	8.10	34.36	1.66	9.32	29.41	106.19
	5 S	3.83	5.95	0.43	396.09	8.34	4.50	97.05	90.67	8.12	34.58	1.00	8.91	29.29	109.25
	10 S	3.15	2.07	1.53	279.06	8.43	5.28	96.11	92.52	8.13	34.81	0.74	5.84	29.07	112.34
	20 S	3.34	0.55	1.96	212.14	7.72	4.39	95.66	93.15	8.14	34.89	0.59	2.97	28.63	110.78
	40 S	2.96	0.49	0.76	191.80	7.44	4.48	94.95	93.70	8.14	34.89	0.64	2.81	28.63	109.74
	70 S	2.81	0.42	0.77	122.54	6.51	3.70	93.39	92.20	8.15	34.97	0.40	2.08	29.62	106.39
	70 D	2.75	0.52	1.32	116.18	6.12	3.37	94.00	92.16	8.15	34.97	0.34	1.56	29.54	106.96
	100 S	2.34	0.72	0.92	59.14	7.75	5.41	79.69	78.04	8.14	34.97	0.26	1.79	29.16	111.10
	100 D	2.41	0.71	0.91	62.95	5.94	3.53	89.67	88.05	8.14	34.97	0.37	4.32	29.16	112.98
	120 S	2.13	0.74	0.98	50.51	6.62	4.50	92.68	90.96	8.14	34.85	0.30	1.93	28.99	116.29
	120 D	2.34	1.52	0.88	50.45	8.59	6.24	89.67	87.26	8.15	34.77	0.36	2.18	29.00	116.93
	150 S	2.16	2.97	1.88	47.15	5.78	3.63	87.43	82.59	8.16	34.89	0.32	1.35	28.73	118.27
	150 D	2.28	2.81	0.39	52.49	5.63	3.35	84.56	81.36	8.14	34.93	0.40	1.81	28.77	120.14
	200 S	2.84	4.36	4.45	49.94	7.51	4.67	82.35	73.53	8.16	34.89	0.26	0.89	28.65	117.52
	200 D	3.65	3.14	1.46	59.48	8.29	4.64	82.92	78.33	8.12	34.89	2.34	23.60	28.65	118.47
	350 S	4.54	5.94	1.12	40.39	11.48	6.93	87.33	80.27	8.13	34.85	0.41	1.06	27.58	112.43
	350 D	4.67	6.04	1.47	41.47	10.95	6.28	113.96	106.45	8.12	34.66	0.45	0.75	27.56	101.31
NORTH TRANSECT	0 S	5.63	25.97	4.40	717.93	10.89	5.26	187.74	157.37	8.08	33.91	2.67	22.50	28.72	117.13
	1 S	5.66	21.67	2.45	726.91	10.23	4.57	147.11	122.99	8.08	33.91	2.02	19.40	28.81	124.22
	3 S	4.79	14.14	1.15	603.69	9.92	5.13	132.76	117.47	8.10	34.10	1.49	11.70	29.07	113.43
	5 S	4.45	16.07	1.30	531.76	8.37	3.92	135.60	118.23	8.11	34.24	1.47	6.75	29.48	112.32
	10 S	3.46	1.12	1.19	257.53	8.68	5.22	115.00	112.69	8.14	34.81	1.38	4.24	29.07	111.74
	20 S	2.93	0.39	0.92	167.37	6.14	3.21	114.51	113.19	8.15	34.93	0.58	2.70	28.63	110.54
	40 S	2.87	0.55	1.51	162.60	6.27	3.39	113.39	111.32	8.15	34.97	0.55	3.40	28.34	104.43
	70 S	2.59	1.16	0.88	74.03	6.97	4.38	105.31	103.27	8.16	34.97	0.40	2.35	28.46	118.53
	70 D	2.41	0.65	0.76	80.28	7.19	4.79	102.93	101.53	8.15	34.97	0.48	3.74	27.79	106.13
	100 S	2.10	1.42	0.53	48.40	6.82	4.72	96.84	94.89	8.15	34.93	0.30	1.92	27.51	97.98
	100 D	2.50	1.58	0.83	50.62	7.88	5.38	103.59	101.18	8.15	34.93	0.34	1.89	27.48	97.57
	120 S	2.37	2.90	3.72	45.90	7.98	5.60	101.84	95.21	8.17	34.93	0.34	2.05	28.71	120.69
	120 D	2.19	0.84	1.12	62.21	7.41	5.22	100.25	98.30	8.13	34.81	0.61	4.31	28.16	109.56
	150 S	2.87	4.99	0.52	48.52	6.26	3.39	106.62	101.12	8.16	34.89	0.30	1.29	28.34	117.34
	150 D	3.30	4.78	1.69	59.94	7.44	4.14	105.90	99.43	8.13	34.89	0.61	2.59	27.80	103.64
	200 S	3.55	6.28	1.15	49.66	7.20	3.65	103.61	96.19	8.12	34.77	0.39	1.51	27.64	109.27
	200 D	4.20	6.31	3.16	49.60	8.59	4.39	106.54	97.07	8.12	34.77	0.48	1.80	27.65	109.11
	350 S	4.42	8.21	3.58	43.46	9.21	4.79	112.20	100.40	8.13	34.78	0.40	1.50	27.57	103.90
	350 D	4.64	8.20	2.09	43.69	8.95	4.31	112.60	102.32	8.13	34.78	0.41	1.14	27.56	103.35
DOH	DRY	NTE 10%	10.00	5.00	-	30.00	-	180.00	-	**	*	0.50	0.50	***	****
		NTE 2%	20.00	9.00	-	45.00	-	250.00	-	**	*	1.00	1.00	***	****
WQS	WET	NTE 10%	14.00	8.50	-	40.00	-	250.00	-	**	*	1.50	1.25	***	****
		NTE 2%	25.00	15.00	-	60.00	-	350.00	-	**	*	3.00	2.00	***	****

NOTES: DFS = distance from shore; S = surface sample; D = deep sample. Also shown are State of Hawai'i Department of Health (DOH) Water Quality Standards for Open Coastal Waters Not to Exceed (NTE) 10% and 2% of the time criteria under "Wet" and "Dry" conditions. Values shaded in blue exceed the NTE 2% standards for dry conditions; values in orange exceed the NTE 10% standards for dry conditions.

- * Salinity shall not vary more than 10% from natural or seasonal values considering hydrologic input and oceanographic factors.
- ** pH shall not deviate more than 0.5 units from a value of 8.1.
- *** Temperature shall not vary more than one °C from ambient conditions.
- **** Dissolved oxygen should not be less than 75% saturation.

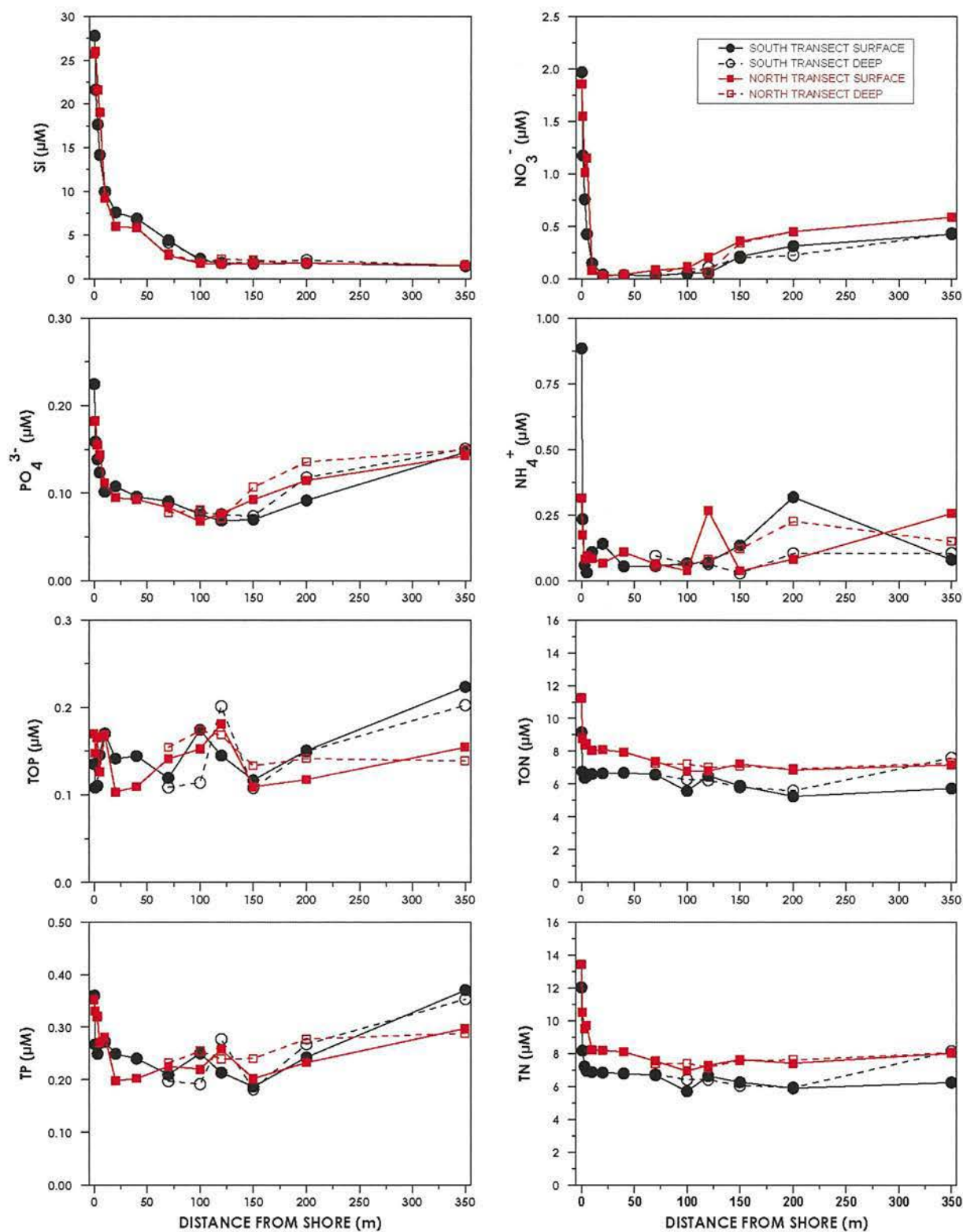


Figure 3-1 Dissolved nutrients plotted as a function of distance from shore along two transects at Halepalaoa.

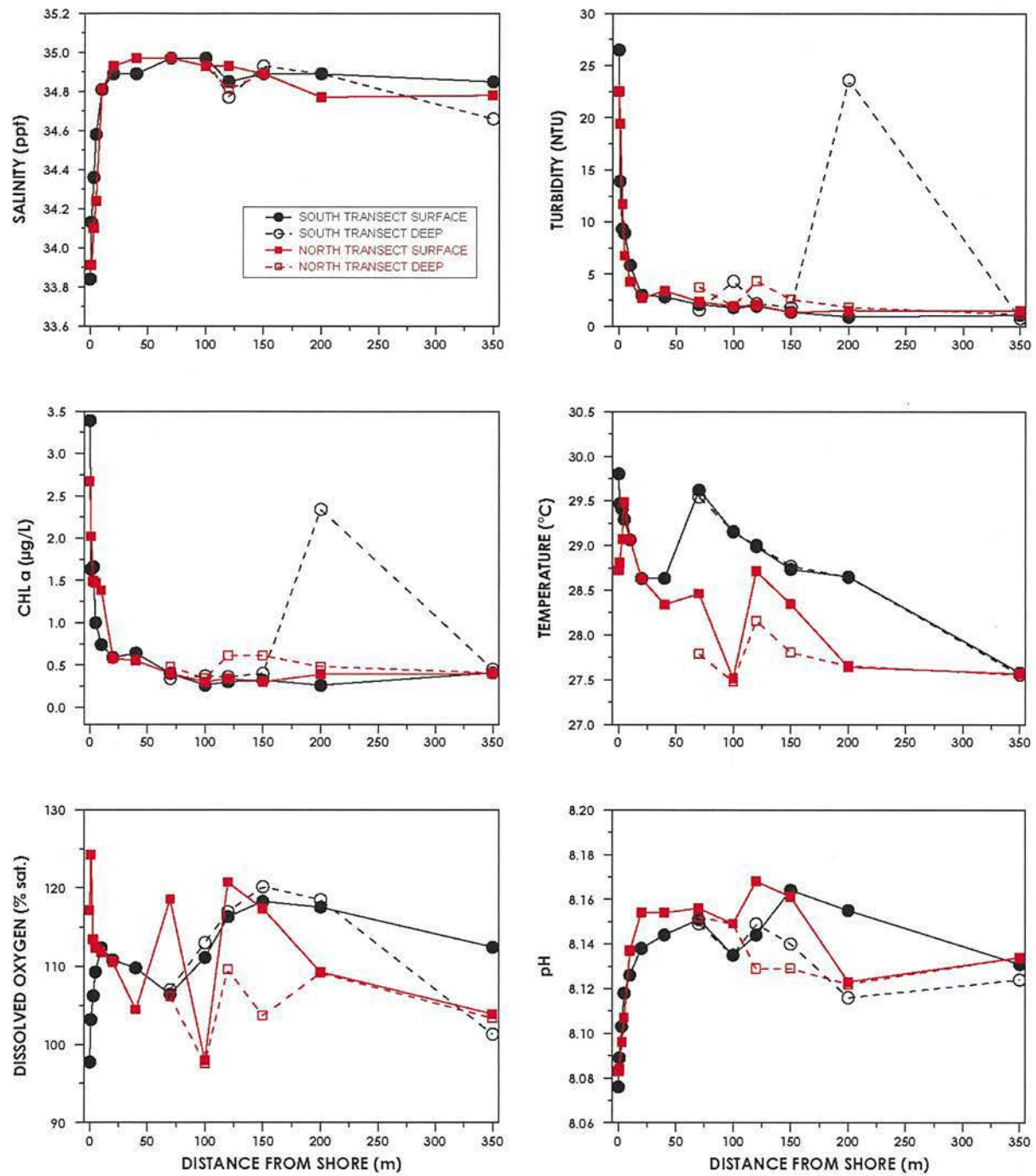


Figure 3-2 Water chemistry constituents plotted as a function of distance from shore along two transects at Halepalaoa.

Table 3-3. Species of algae observed in the sand channel and the reef platform at Halepalaoa

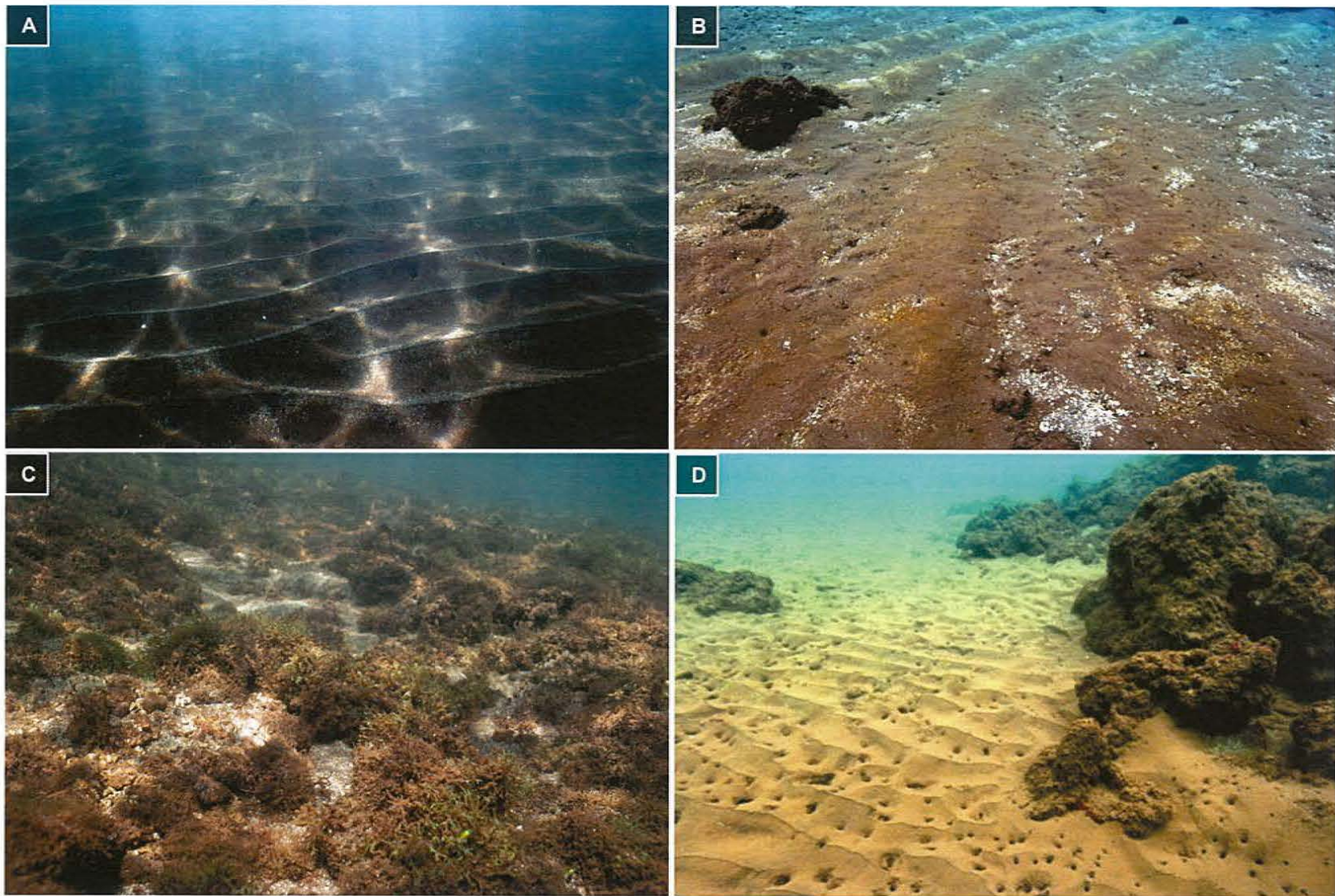
DIVISION	SPECIES	SAND CHANNEL	REEF PLATFORM
Blue Green (Cyanophytes)		X	X
Brown (Phaeocytes)	<i>Dictyota acutiloba</i>	X	
	<i>D. ceylanica</i>	X	X
	<i>D. sandvicensis</i>	X	X
	<i>Padina gymnospora</i>	X	X
	<i>Sargassum echinocarpum</i>	X	
Green (Chlorophytes)	<i>Caulerpa serrulata</i>	X	
	<i>C. sertularioides</i>	X	
	<i>C. verticillata</i>	X	X
	<i>Dictyosphaeria cavernosa</i>		X
	<i>Neomeris annulata</i>	X	X
	<i>N. vanbosseae</i>	X	X
RED (Rhodophytes)	<i>Acanthophora spicifera</i>	X	
	<i>Crustose coralline algae</i>	X	X
	<i>Galaxaura rugosa</i>		X
	<i>Hypnea cervicornis</i>	X	
	<i>Jania</i> sp.	X	
	<i>Liagora</i> sp.	X	
	<i>Lithophyllum</i> sp.		X
	<i>Lobophora variegata</i>	X	
TOTAL		17	11

Table 3-4. Species and number of fish observed in the sand channel and the reef platform at Halepalaoa

FAMILY SPECIES	SAND CHANNEL	REEF PLATFORM
Acanthuridae (Surgeonfishes)		
<i>Acanthurus blochii</i>		5
<i>A. nigrofusus</i>		8
Labridae (Wrasses)		
<i>Stethojulis balteata</i>		1
<i>Thalassoma duperrey</i>		4
Lutjanidae (Snapper)		
<i>Lutjanus fulvus</i>	3	4
Pomacentridae (Damselfishes)		
<i>Abudefduf</i> sp.		6
<i>P. multifasciatus</i>		1
Tetraodontidae (Pufferfishes)		
<i>Canthigaster jactator</i>		1
TOTAL SPECIES	1	8
TOTAL FISH	3	30

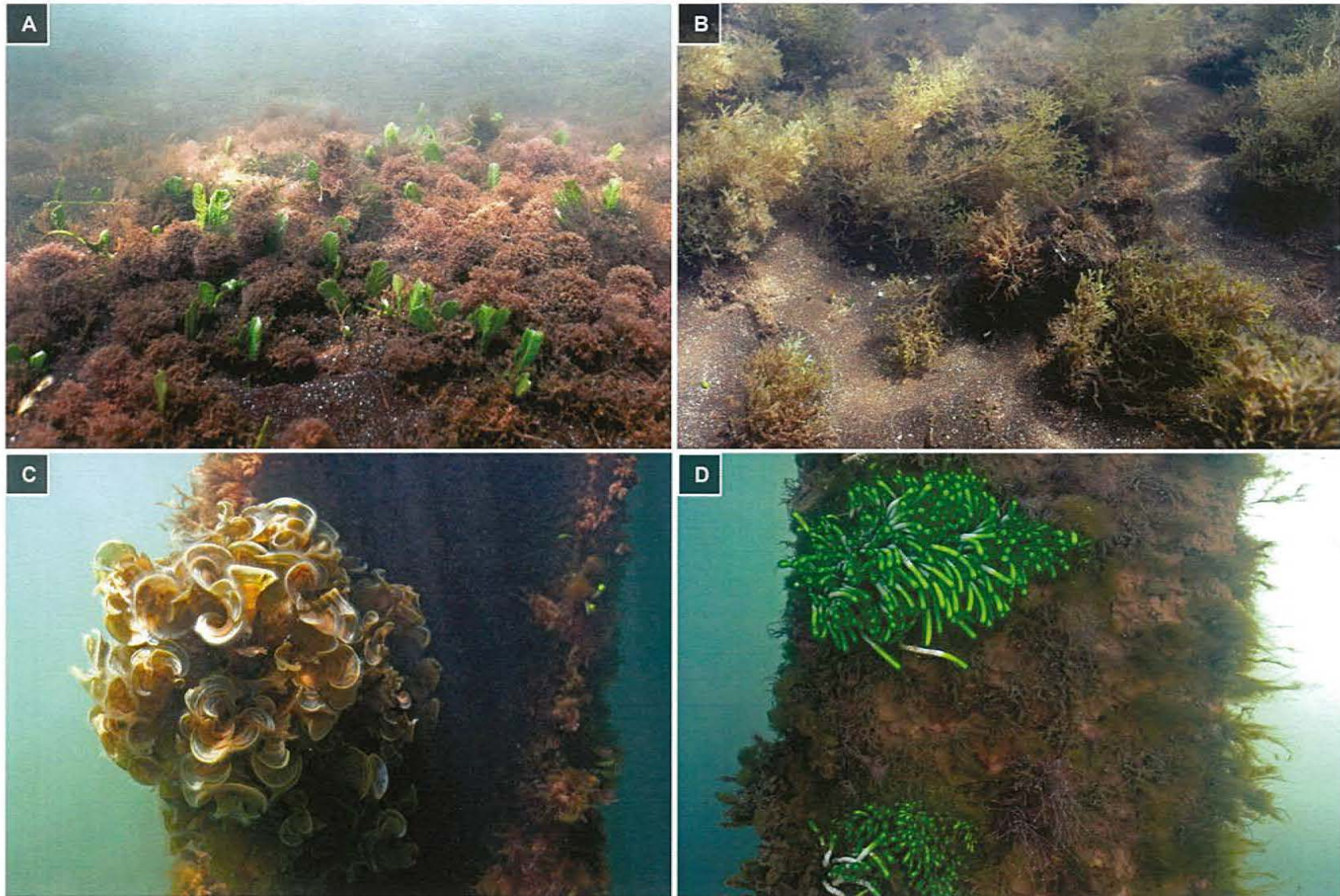
Table 3-5. Species of coral observed on the reef platform at Halepalaoa.

CORAL SPECIES
<i>Montipora capitata</i>
<i>M. patula</i>
<i>Pavona duerdeni</i>
<i>Pocillopora damicornis</i>
<i>Porites compressa</i>
<i>P. lobata</i>
<i>Psammacora stellata</i>



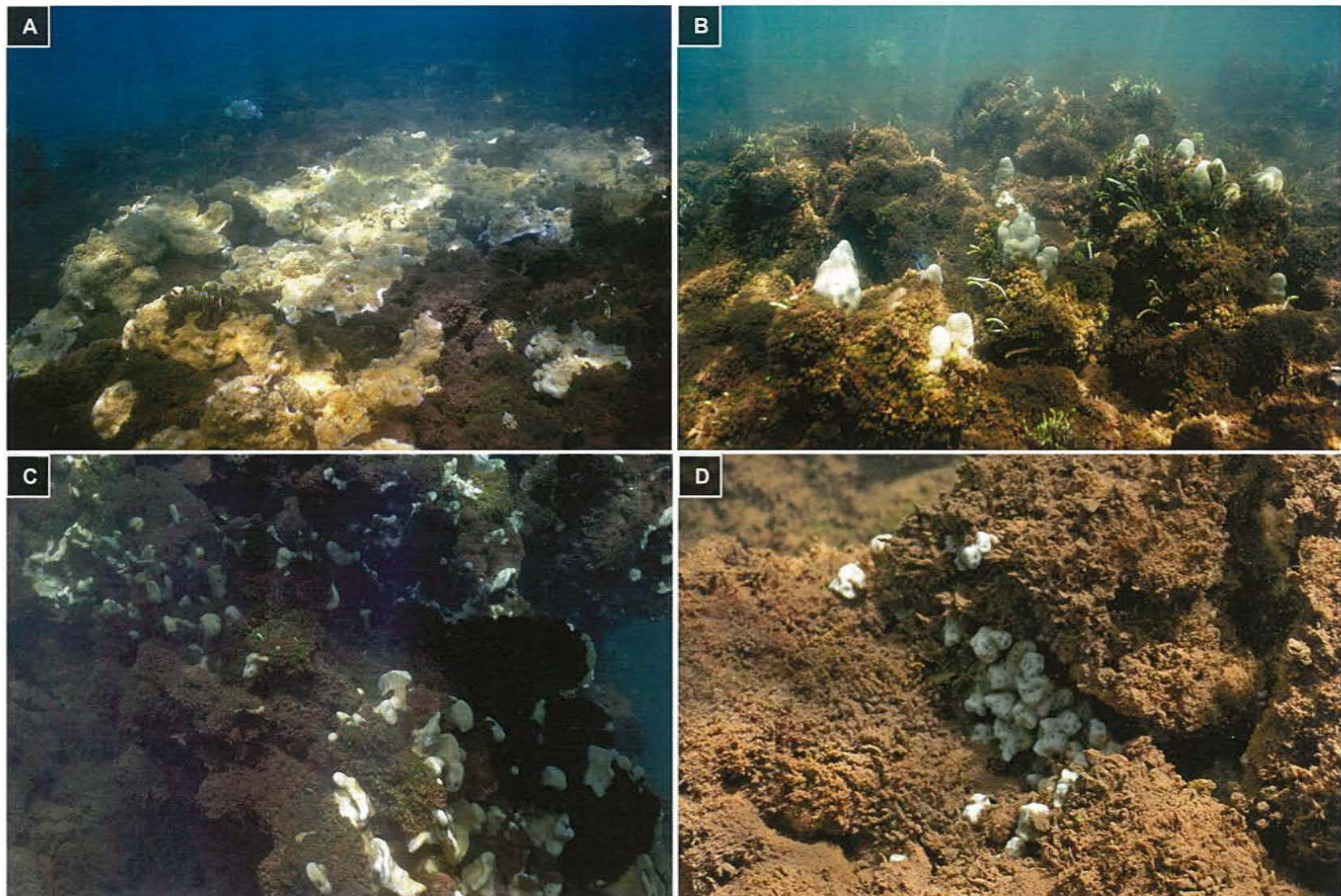
Notes: A – Sandy bottom in the nearshore area surrounding the Halepalaoa pier; B – Sandy bottom with thin surface layer of terrigenous mud (observed in 2015); C – Southern reef flat with a mix of hard substrate and sand covered in a diverse macroalgal community; D – boundary between the sand channel and the reef flat on the north side of the pier.

Figure 3-3 Representative images of the physical environment at Halepalaoa Pier.



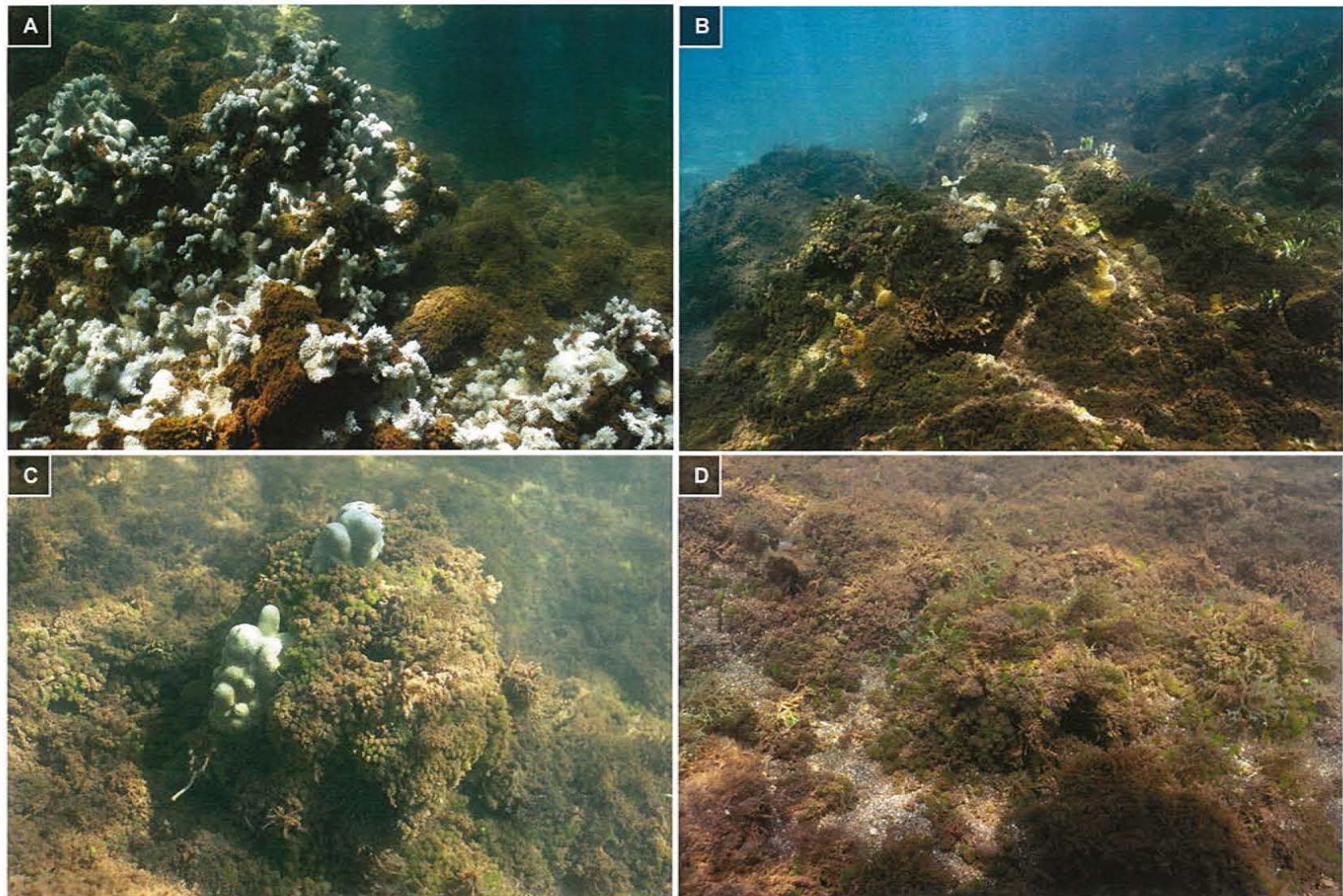
Notes: A – *Caulerpa sertularioides*, *Hypnea cervicornis*, and mixed rhodophytes; B – *Dictyota acutiloba* and *D. ceylanica*; C – *Padina gymnospora*; D – *Neomeris annulata*, *Liagora* sp., *Lobophora variegata*, other rhodophytes, and cyanobacteria.

Figure 3-4 Representative images of the most common macroalgae growing on the sandy substrate beneath and immediately surrounding the existing pier (A and B) and on the piles of the existing pier (C and D).



Notes: A – *Montipora patula* (foreground), *M. capitata* (center), and *Pocillopora damicornis* (background); B – *Porites lobata*; C – *Pavona duerdeni*; and D – *Psammocora stellata*.

Figure 3-5 Representative images of corals and macroalgae observed on the reef platform adjacent to the sand channel.



Notes: A – *Montipora capitata* amidst dense mats of *Caulerpa verticillata*; B and C – macroalgae, primarily *Caulerpa verticillata*, and corals compete for available substrate on the reef platform; D – *Caulerpa verticillata* and other macroalgae.

Figure 3-6 Representative images of dense mats of macroalgae, primarily *Caulerpa verticillata*, and corals on the edge of the reef platform.

4 Summary

Pūlama Lānaʻi is planning to utilize the former Club Lānaʻi site at Halepalaoa on the eastern shore of Lānaʻi for day use activities for hotel guests. The former Club Lānaʻi was operational for a period in the late 1990s to the early 2000s. A T-shaped pier at Halepalaoa extends approximately 70 m seaward from the shoreline in a sandy basin/channel. The pier is currently closed owing to the state of disrepair of the structure. Pūlama Lānaʻi is in the planning process to repair the pier to return the structure to a safe, functional state to be used by vessels owned by Pūlama Lānaʻi (work to be completed by March 2023). Pūlama Lānaʻi has a Revocable Permit from the State of Hawaiʻi, which authorizes channel clearing, buoy placement, pier construction, pier maintenance, and commercial activity use. As part of the planning and permitting process, Marine Environmental Research Consulting LLC was contracted by Pūlama Lānaʻi to conduct an assessment of water chemistry and marine biotic community structure at and around Halepalaoa pier. Surveys were carried out in September 2022.

Thirty-eight water chemistry samples were collected along two transects that extended from the shoreline to the open coastal ocean (~350 meters). Analysis of water chemistry constituents included all specific constituents in DOH water quality standards, as well as several additional constituents.

The dissolved nutrients Si , NO_3^- , and NH_4^+ display elevated concentrations near the shoreline and decrease with distance from shore. Surface values of salinity display the opposite trend, with the lowest concentrations in the nearshore samples and gradually increasing values with distance from shore. These patterns are likely a result of the input of groundwater to the ocean at the shoreline. Concentrations of NO_3^- , NH_4^+ , and PO_4^{3-} exhibit an area of lower concentration between approximately 10 and 120 m from shore. This area of reduced concentration is likely a result of the uptake of these nutrients by the dense population of macroalgae on the reef platform. Horizontal gradients of TN and TP reflected the patterns of NO_3^- and PO_4^{3-} , with minimum values in the center of the transect.

Both turbidity and Chl *a* show peak values near the shoreline, with steadily diminishing values moving offshore. Turbidity at Halepalaoa can be considered high with respect to concentrations measured in other nearshore regions in Hawaiʻi. The elevated values are a result of substantial input of terrigenous sediment that enters the marine environment as runoff from land.

East Lānaʻi is subjected to extensive erosion of terrigenous materials during episodic rainfall events, which results in the deposition of mud in the nearshore marine environment. The east-facing orientation as well as the proximity to Maui and Kahoʻolawe protect the east coast of Lānaʻi from exposure to the largest wave forces. The combination of low wave forces and the large width of the reef restricts flushing of the terrigenous materials from the inner reef. This results in a sediment trapping effect in the nearshore areas. As a result, sediment deposition is the primary factor in determining reef structure at Halepalaoa. The physical composition of the marine environment fronting Halepalaoa Beach consists of three basic zones: a large sand-filled basin-channel system centered at the pier, a shallow sediment covered reef platform, and an outer reef face that is interspersed with sand pockets.

Pūlama Lānaʻi, in partnership with the National Fish and Wildlife Foundation (NFWF), launched the Kuahiwi a Kai: Lānaʻi Watershed Conservation Program (Kuahiwi a Kai Program) in 2019 to

strategically preserve and enhance Lānaʻi's unique natural and cultural resources from mauka to makai, while encouraging community engagement and shared stewardship on the northeast side of Lānaʻi. This partnership has been instrumental in coordinating resources and expertise to restore and enhance Lānaʻi's native fish and wildlife. The program goals are to: reduce sediment runoff to nearshore reefs (benefiting the Halepalaoa beach area), restore native vegetation to improve watershed health, protect and enhance populations of endangered and endemic species, improve habitat and predator management for Hawaiian petrel ('ua'u), improve the quality of the landscape for the local community and visitors through preservation and nearshore resources, beaches and cultural sites (benefitting the Halepalaoa beach area), and increase community conservation ethic and involvement in landscape protection efforts. The Kuahiwi a Kai Program will begin to address some of the root causes associated with the runoff into the shores of Halepalaoa.

Biotic composition at Halepalaoa is largely controlled by the physical zonation and the magnitude of sediment influence. A diverse assemblage of macroalgae comprised the dominant biota within the sand channel as well as on the edge of the reef platform. Corals were not observed on the existing pier structure nor were they found on the soft sediment surface of the sand channel. Coral comprised approximately 5% of all benthic cover on the edge of the reef platform. In total, 7 species of coral were observed with the primary corals being the sediment resistant species of *Montipora* (*M. capitata* and *M. patula*). Coral colonies on the edge of the reef platform within the survey area grew in constant contact with macroalgae, particularly the green alga, *Caulerpa verticillata*. This species formed dense and extensive mats on the reef platform adjacent to Halepalaoa pier.

Three fish were observed within the sand channel (blacktail snapper) and 30 fish comprised of 8 species were observed on the edge of the reef platform. No marine mammals, sea turtles, Hawaiian monk seals, or any other endangered species were observed during the surveys at Halepalaoa pier.

Maintenance work at Halepalaoa pier may include repairs to the existing pier structure as well as dredging of the entrance channel to facilitate safe entry by boats. Should these projects move forward, the planning process will include construction techniques that minimize impacts to the marine environment. As no corals or other sensitive marine organisms were observed on the existing pier or within the sand channel adjacent to the pier, coral relocation will not be required as a best management practice. Corals that were observed occurred on the adjacent reef platform. Therefore, the primary form of mitigation will be avoidance of the reef adjacent to the existing pier.

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Appendix A

Halepalaoa Field Sheets

HALEPALAOA FS

GPS = Andrea & William 2

DATE:

9/29/22

SAMPLE	LOCATION	TIME	CTD CAST	SAMPLE	LOCATION	TIME	CTD CAST
SE 1 side	1			NW side	1		
2	2			22	3		
3	5			23	5		
4	10			24	10		
5	20			25	20		
6	GLN PIER			26	inside pier		
7	Deep			27	Deep		
8	OUT PIER			28	outside pier		
9	Deep			29	Deep		
10	BOAT			30	+20m from pier		
11	Deep			31	Deep		
12	+20m	15:10	GPS 328	32	+20m	15:25	
13	Deep			33	Deep		
14	#328	15:14	GPS 328	34	#331	15:28	
15	Deep			35	Deep		
16	#329	15:17	GPS 329	36	#332	15:30	
17	Deep			37	Deep		
18	#330	15:21	GPS 330	38	#334	15:33	
19	Deep			39	Deep		
20	NONE			40			

Bubble algae
 Caulerpa
 Halimeda
 Neomaris on piles

Turb balls from P.H.
 Di Padina
 Meap Padina
 M. P. 1st
 P. compressa
 P. lucidus

FISH FIELD SHEET - HULO			SITE 1: <i>Haipalaoa</i>	TIME 1: <i>13:16</i>	NAME 1: <i>ALM</i>	DEPTH 1: <i>2'-6'</i>
DATE: <i>9/29/22</i>	SITE 2: <i>away from pier</i>	TIME 2:	NAME 2: <i>ALM</i>	DEPTH 2: <i>2'-7'</i>		
<i>///</i>					Triggerfishes	
A. nigrofuscus					M. niger	
C. agilis					M. vidua	
C. vanderbilti					R. rectangulus	
C. strigosus					R. oculateus	
T. duperrey	<i>///</i>				S. bursa	
Z. flavescens		Hawkfishes			X. auromarginatus	
		C. fasciatus				
Butterflyfishes		C. pinnulatus				
C. auriga		P. arcatus			Wrasses	
C. lunula		P. forsteri			A. chrysocephalus (red wht blk)	
C. multicinctus					B. alboteniatus	
C. ornatissimus		Parrotfishes			C. gaimard (yiw tail)	
C. millaris		C. perspicillatus			G. varius	
C. quadrimaculatus		C. spilurus			C. venusta (black dot gill)	
C. unimaculatus		S. psittacus			H. ornatissimus (red grn)	
F. flavissimus		S. rubroviolaceus			L. pthiophagus	
F. longirostris		C. carolinus			M. geoffroy	
H. thompsoni					O. unifasciatus (wht band)	
H. polylepis		Pufferfishes			P. evanidus	
		A. meleagris			P. octotaenia	
Damselfishes		A. hispidus			P. tetrataenia	
A. abdominalis		C. amboinensis (star eye)			S. balteata	<i>1</i>
A. vaigiensis	<i>///</i>	C. jactator			Others	
C. hanui		D. hystrix			Aphareus furca	
C. ovalis		D. holocanthus			Aulostomus chinensis	
C. verater					Centropyge potteri	
D. albisella		Surgeonfishes			Cephalopholus argus	
P. imparipennis		A. achilles			Cirripectes vanderbilti	
P. johnstonianus		A. dussumieri			Exalias brevis	
S. marginatus		A. leucopareius			Gunnelichthys curiosus	
Filefishes		A. nigroris			Lutjanus fulvus	<i>///</i>
C. dumerilii		A. olivaceus			Lutjanus kasmira	<i>///</i>
P. aspricaudus		A. thompsoni			Monotaxis grandoculis	
P. spilosoma		A. triostegus			Myripristis berndti	
		A. xanthopterus			Myripristis kuntee	
Goatfishes		C. hawaiiensis			Neoniphon	
M. flavolineatus		N. hexacanthus			Ostracion meleagris	
M. vanicolensis		N. lituratus			Sargocentron	
P. insularis		N. unicornis			Zanclus cornutus	
P. multifasciatus	<i>1</i>	Z. veliferum				

A. Blochii

///

Pseudocoris stellate