

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawai'i**

December 8, 2022

Board of Land and
Natural Resources
State of Hawai'i
Honolulu, Hawai'i

REGARDING: Second Time Extension Request for Emergency Conservation District Use Permit (E-CDUP) MA 22-07 for the Hyatt Regency Maui Resort and Spa Erosion Protection Skirt

**APPLICANT/
LANDOWNER:** HMC Maui LP

LOCATION: 200 Nohea Kai Drive
Kā'anapali, Lahaina, Maui

TAX MAP KEY: (2) 4-4-013:008 (seaward/makai of)

AREA OF USE: ≈8,500 square feet

SUBZONE: Resource

BACKGROUND:

- The project area is located at Kā'anapali, West Maui **Exhibit 1**
- January 31, 2022, the Chairperson approved Temporary Emergency Conservation District Use Permit (E-CDUP) MA 22-07 to replace the Hyatt's Erosion Protection Skirt subject to 27 conditions. **Exhibit 2**
- A three-month time extension to initiate and complete construction by October 31, 2022, was authorized by the Chairperson on July 29, 2022. **Exhibit 3**

TIME EXTENSION REQUEST:

Condition No. 6 of E-CDUP MA 22-07 states, *"Unless otherwise authorized, any work or construction to be done on the land shall be completed within 180 days of the approval of such use. the permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed."*

By correspondence dated October 27, 2022, Hyatt Regency Maui through its contractor is requesting a 6-month time extension to finish construction of the emergency erosion control skirt. *"South swells in August delayed the start of construction. The most severely damaged section of the EEPS [Emergency Erosion Protection Skirt] was repaired during September 6-9, 2022. The repair of the remaining two portions of the EEPS was delayed due to four consecutive south swell events following the first repair. The contractor mobilized on October 5, 2022, to perform the remaining repairs; however, the beach was found to have experienced significant sand loss over the previous month and the contractor's excavator would not have been able to access the EEPS from the beach without working in the water...The*

repair effort was put on hold until the beach recovers sand to create large enough space to work in.” Exhibit 4

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in Hawai'i Administrative Rules (HAR) §13-5-43, which allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit. As this is the applicant's third time requesting a time extension, HAR §13-5-43(c) states that *“time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant.*

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed, and that some good faith effort has been made to undertake the project.

DISCUSSION:

In the present case, there are no factors that suggest any reason to deny the requested time extension. Kā'anapali experienced severe erosion in September/October (**Exhibit 5**) and has just recently recovered. Approval of this time extension request should provide the additional time needed to complete the temporary emergency erosion protection skirt.

Staff, therefore, recommends the following:

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to complete the construction of the emergency erosion protection skirt, subject to the following conditions:

1. That Condition 6 of E-CDUP MA 22-07 is amended to provide that the permittee has until April 30, 2023, to complete any work or construction to be done on the land; and
2. That all other conditions imposed by the Chairperson under E-CDUP MA 22-07, as amended, shall remain in effect.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:

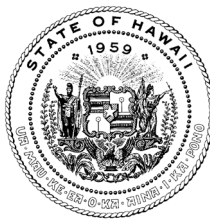
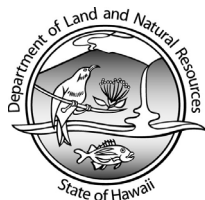


SUZANNE D. CASE., Chairperson
Board of Land and Natural Resources

MC



Exhibit 1



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:TM

E-CDUP: MA 22-02

HMC Maui LP
c/o W. Justin Ried, Vice President
Development, Design and Construction
Host Hotels & Resorts
4747 Bethesda Avenue, Suite 1300
Bethesda, Maryland 20814

January 31, 2022

SUBJECT: Temporary Emergency Conservation District Use Permit (E-CDUP) MA 22-02
for the Hyatt Regency Maui Resort and Spa Erosion Protection Skirt Located at
200 Nohea Kai Drive, Lāhaina, Maui, Makai of TMK; (2) 4-4-013:008

Dear Mr. Ried:

We are re-issuing this emergency permit under your organization's name. This will help to clarify whom the responsible permittee is and provide consistency regarding the land disposition documentation.

The Department has reviewed your request regarding the subject matter. According to your information, you are requesting authorization to replace the existing Emergency Erosion Protection Skirt (EEPS) fronting the Hyatt Regency Maui that was authorized under Emergency Conservation District Use Permit (E-CDUP) MA 17-09 dated September 9, 2016. The skirt needs to be replaced as a tear has developed along a horizontal seam that is estimated to be 10-15-ft long. The erosion control measure is intended to provide temporary mitigation of shoreline erosion and reduce hazards to the infrastructure on the subject property. Without the skirt replacement, the beach is expected to erode.

The existing EEPS will be removed and disposed of offsite. The proposed EEPS will consist of a geotextile blanket noted as a 315-ft x 27-ft sand-colored fabric, TenCate GT1000MB that would be laid out and anchored over an erosion scarp parallel to the shoreline within the County's Special Management Area and the Conservation District. The EEPS blanket will extend from the top of the erosion scarp to an excavated toe trench. **[Exhibits A & B]**

The blanket will be anchored at the top of the scarp using a 50-ft long, 24-inch diameter water-filled tube (Tiger Dams). Small sandbags approximately 45 pounds will be utilized to anchor the toe in the excavated trench and the ends of the geotextile blanket. The blanket features anchor pockets to hold the bags in place. The bags will be filled on site with the existing beach sand so when the skirt is no longer needed, the sand will be placed back on the beach.

W. Justin Ried, Vice President
Development, Design and Construction
Host Hotels & Resorts

Emergency CDUP: MA 22-02

The proposed EEPS is to stabilize the beach resource for the short term. A proposed medium-term solution, the Ka'anapali Beach and Berm Enhancement Project, will hopefully complete the environmental review, so that permit applications may be processed to restore the beach and berm; however, implementation may be more than a year away. Further, Sea Engineering has been monitoring the existing EEPS since June 2017 and has been forwarding monthly reports to the County of Maui and the Office of Conservation and Coastal Lands as part of Maui County's authorization. The monitoring reports reveal that the EEPS has been successful in mitigating further erosion.

ANALYSIS

Portions of the project area lie within the State Land Use Conservation District, Resource subzone. In conformance with Hawaii Revised Statutes, Chapter 343, as amended, and Hawai'i Administrative Rules (HAR) Chapter 11-200.1-16(a)(1), the proposed use falls under **General Exemption Type 1**, which applies to 'Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing,'; and pursuant to the Exemption List for the Department of Land and Natural Resources dated November 10, 2020, specifically: **Part 2, Item #2** Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features,' the proposed use is exempt from the preparation of an environmental assessment. The Maui District Land Office concurred with this exemption.

Based upon records on file with the OCCL, it appears that a right of entry was received from the Division of Boating and Ocean Recreation for the current erosion control blanket and for the future placement of the EEPS under this authorization. The proposed methodology of work will be similar to what was previously implemented under MA 17-09. [**Exhibit C**]

Emergency Authorization

Pursuant to the Hawai'i Administrative Rules §13-5-35 Emergency permits. (a) Notwithstanding any provision of this chapter, the chairperson or deputy director of the department in the absence of the chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety, and welfare, including natural resources, is alleviated (e.g., erosion control, rockfall mitigation). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department.

The Department authorizes Emergency Conservation District Use Permit (E-CDUP) MA 22-02 for the Hyatt Regency Maui Resort and Spa temporary Erosion Protection Skirt located at 200 Nohea Kai Drive, Lāhaina, Maui, makai of TMK; (2) 4-4-013:008 subject but not limited to the following conditions:

1. The Erosion Protection Skirt is **authorized as a temporary erosion control measure for 2 years** from the date of issuance of this letter. Subsequent erosion control efforts that call for modification, other than maintenance of the proposed structure will require a new application. At the end of the authorization period, the materials shall be removed;

W. Justin Ried, Vice President
Development, Design and Construction
Host Hotels & Resorts

Emergency CDUP: MA 22-02

2. The permittee shall continue consultation with the DLNR Division of Boating and Ocean Recreation, Maui District Office (808) 243-5824 and finalize the Right of Entry authorization;
3. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments for projects approved under this authorization and applicable parts of Chapter 13-5, HAR;
4. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
5. The permittee shall comply with all applicable Department of Health administrative rules;
6. Unless otherwise authorized, any work or construction to be done on the land shall be completed **within 180 days of the approval** of such use. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed;
7. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
8. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project. All barriers shall be removed once the project is complete to allow full public access laterally along the beach and alongshore walkway;
9. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and minimize silt in nearshore waters and clean up fuel; fluid or oil spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;
10. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;
11. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;

12. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
13. In issuing the permit, the Department and the Chairperson have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
14. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
15. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the Department;
16. For all landscaped areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in Hawaii Revised Statutes (HRS) §205A-1:
17. The activity shall not adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
18. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;
19. When the Chairperson is notified by the permittee or the public that an individual activity deviates from the scope of an application approved by this letter, or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the permittee to undertake corrective measures to address the condition affecting these resources. The permittee must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
20. When the Chairperson is notified by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service or the State DLNR that an individual activity or activities authorized by this letter is adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the permittee to undertake corrective measures to address the condition affecting these resources. The permittee must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
21. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities under this authorization;
22. No motorized construction equipment is to be operated in the water at any time;

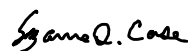
W. Justin Ried, Vice President
Development, Design and Construction
Host Hotels & Resorts

Emergency CDUP: MA 22-02

23. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
24. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
25. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;
26. The Department reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;
27. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies; retain the original and return the copy to our Office within 30-days. Should you have any questions on any of these conditions or pertaining to this authorization, contact Tiger Mills of the Office of Conservation and Coastal Lands at (808) 587-0382.

Sincerely,



Suzanne D. Case, Chairperson
Board of Land and Natural Resources

I concur with the conditions of this temporary emergency authorization:



Permittee

Date 2.3.2022

C: MDLO/DOBOR/DOCARE-Maui
County of Maui
-Planning

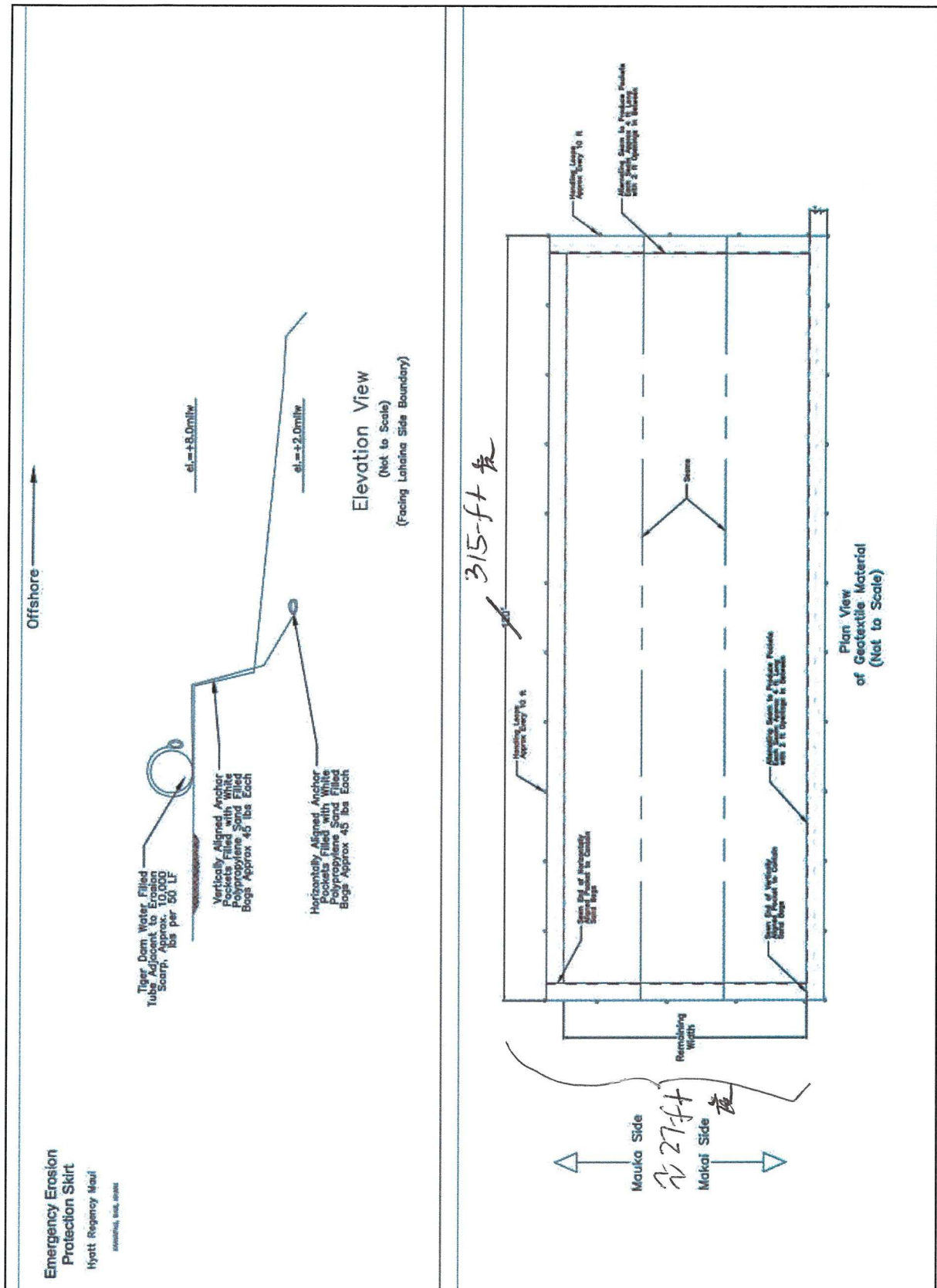


EXHIBIT A



EXHIBIT B

Mills, Kimberly T

From: Mills, Kimberly T
Sent: Monday, November 22, 2021 11:27 AM
To: Mills, Kimberly T
Subject: FW: [EXTERNAL] Fwd: FW: 25475 Right of Entry Request for shoreline fronting the Hyatt Regency Maui, Kaanapali, Maui

Abbreviated E-mail chain with DOBOR ROE and actions to be taken to implement Emergency CDUP MA 17-09 approved on September 9, 2016

~Tiger

K. Tiger Mills, Staff Planner
State of Hawai'i
Department of Land and Natural Resources
Office of Conservation And Coastal Lands
P.O. Box 621
Honolulu, Hawai'i 96809
www.dlnr.hawaii.gov/occl

**Chris Conger**

Coastal Geologist | Project Manager
Sea Engineering, Inc. | <https://www.seaengineering.com>

A: 41-305 Kalaniana'ole Hwy, Makai Research Pier, Waimanalo, HI 96795
VoIP: 808.460.3440 | M: 808.722.1335 | E: cconger@seaengineering.com

Disclaimer: This email message is intended solely for the person or entity to which it is addressed and should not be opened, read, or utilized by any other party. If you have received this email in error, please contact the sender immediately and delete the material from any computer that has received it.

----- Forwarded message -----

From: Sensano, Paul K <paul.k.sensano@hawaii.gov>
Date: Thu, Oct 21, 2021 at 10:01 AM
Subject: FW: 25475 Right of Entry Request for shoreline fronting the Hyatt Regency Maui, Kaanapali, Maui
To: Chris Conger <cconger@seaengineering.com>

Aloha kakahiaka Chris, This email is the best I can offer you to present to OCCL. It was probably a very busy time for me to get you an ROE but know that you did have my approval and permission to start your project. Hope this helps you move forward

From: Chris Conger <cconger@seaengineering.com>
Sent: Thursday, November 10, 2016 1:57 PM
To: Sensano, Paul K <paul.k.sensano@hawaii.gov>
Subject: Re: 25475 Right of Entry Request for shoreline fronting the Hyatt Regency Maui, Kaanapali, Maui

EXHIBIT C

Many thanks Paul,

Have a great weekend.

Chris Conger

Sent from my mobile device.

On Nov 10, 2016 6:26 AM, "Sensano, Paul K" <paul.k.sensano@hawaii.gov> wrote:

OK with me.

On Lanai today, off tomorrow.

No problem with your schedule and will try to get the ROE to you via email before monday

From: Chris Conger <cconger@seaengineering.com>

Sent: Wednesday, November 9, 2016 5:46:08 PM

To: Sensano, Paul K

Subject: Re: 25475 Right of Entry Request for shoreline fronting the Hyatt Regency Maui, Kaanapali, Maui

Aloha Paul,

We would like to start the install on Monday the 14th, if that works with your schedule.

Please let me know if this is OK with you, and if you need any additional information from us.

I hope all is well,

Chris

On Wed, Oct 26, 2016 at 3:17 PM, Chris Conger <cconger@seaengineering.com> wrote:

Aloha Paul,

Thanks for talking this morning. This email is to start our request for a Right of Entry to conduct work inside DOBOR's jurisdiction at Kaanapali Beach, Maui, seaward of TMK (2) 4-4-013:008.

We have been working with Hyatt Regency Maui to stabilize the shoreline next to the Beachwalk and their pool complex. Both OCCL and County of Maui have assisted us with developing the design and permitting for the erosion skirt. Currently, the skirt is deployed along roughly 200 feet of shoreline. This latest round of authorizations is to replace, in-kind, the existing erosion skirt and add another length extending to the southeast.

The skirt consists of:

1. geotextile fabric draped across the erosion scarp

2. small sandbags placed inside a pouch sewn in the toe of the skirt
3. TigerDam water filled tubes on top of the cloth, near the mauka edge
4. steel pipes (strongbacks) inside the sewn pouch at the mauka edge of the skirt
5. buried anchor points, just mauka of the skirt, used for holding the strongbacks and TigerDam tubes

The work will consist of:

1. excavating the toe of the skirt and removing the existing sandbags in the toe pouch
2. draining the TigerDams
3. removing the strongbacks, then the skirt material
4. Prepping the erosion scarp
5. laying out the 3 sections of new skirt and trenching for toe placement
6. backfilling the toe trench after placement, including small sandbags in the toe pouch
7. filling TigerDams, inserting strongbacks, and attaching both to anchor points with nylon straps
8. clean up

Work is to be conducted at lower tides, using typical shoreline BMPs, including no machinery operation in the water.

With appreciation,

Chris

Chris Conger

Coastal Scientist | Project Manager
Sea Engineering, Inc. | www.seaengineering.com

cconger@seaengineering.com
[808.259.7966](tel:808.259.7966) ext. 26 (office) | [808.722.1335](tel:808.722.1335) (cell)
Makai Research Pier | Waimanalo, Hawaii 96795

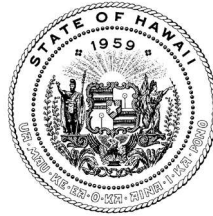
DAVID Y. IGE
GOVERNOR OF
HAWAII

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

REF:OCCL:TM

Time Ext for E-CDUP MA 22-02

HMC Maui LP
c/o W. Justin Ried, Vice President
Development, Design and Construction
Host Hotels & Resorts
4747 Bethesda Avenue, Suite 1300
Bethesda, Maryland 20814

July 29, 2022

SUBJECT: Time Extension for Temporary Emergency Conservation District Use Permit (E-CDUP) MA 22-02 for the Hyatt Regency Maui Resort and Spa Erosion Protection Skirt Located at 200 Nohea Kai Drive, Lāhaina, Maui, Makai of TMK; (2) 4-4-013:008

Dear Mr. Ried:

The Department's Office of Conservation and Coastal Lands is in receipt of a request for a time extension for the temporary Emergency Conservation District Use Permit (E-CDUP) MA 22-02 for an erosion protection skirt on submerged public land. Condition 6 of E-CDUP MA 22-02 requires that work or construction on the land be completed within 180 days of January 31, 2022, which would be July 30, 2022.

According to the submitted information, a Revocable Permit (RP) is required from the Board of Land and Natural Resources. The application for the RP was submitted on February 1, 2022, to the Maui District Land Office and has been undergoing review. It is expected that the Board will be making a determination regarding the RP on August 12, 2022.

Should the Board grant the RP, construction is proposed to be initiated during low tides for Phase 1 of the project on August 22-25, 2022; and for Phase II on September 5-9, 2022. At this time a three-month time extension is requested to complete the project.

The Department is granting a three-month time extension to E-CDUP MA 22-02. Construction of the erosion protection skirt shall be completed by October 31, 2022. All conditions imposed by the Department under E-CDUP MA 22-02 shall remain in effect.

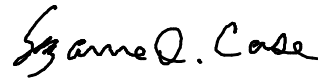
Exhibit 3

HMC Maui LP
c/o W. Justin Ried, Vice President

Time Ext for E-CDUP MA 22-02

Should you have any questions regarding this matter, contact Tiger Mills of our Office of Conservation and Coastal Lands staff at (808) 587-0382 or at kimberly.mills@hawaii.gov.

Sincerely,

A handwritten signature in black ink that reads "Suzanne D. Case". The signature is written in a cursive, flowing style.

Suzanne D. Case, Chairperson
Board of Land and Natural Resources

c: MDLO
County of Maui
-Planning



Sea Engineering, Inc.

Makai Research Pier • 41-305 Kalanianaʻole Hwy • Waimanalo, Hawaii 96795-1820
Phone: (808) 259-7966 • E-mail: hi.engineering@seaengineering.com • Website: www.seaengineering.com

October 27, 2022

Ms. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands
State of Hawaii, Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Dear Ms. Mills:

Subject: Request for E-CDUP MA 22-02 Time Extension
Hyatt Regency Maui Resort and Spa Erosion Protection Skirt
200 Nohea Kai Drive, Lahaina 96761
TMK (2) 4-4-013:008

Fronting the Hyatt Regency Maui is an Emergency Erosion Protection Skirt (EEPS). E-CDUP MA 22-02 was issued on January 31, 2022, to repair the EEPS. Condition 6 of the permit states that:

“Unless otherwise authorized, any work or construction to be done on the land shall be completed within 180 days of the approval of such use. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed.”

The expiration date for construction was July 30, 2022. Condition 2 of the permit states:

“The permittee shall continue consultation with the DLNR Division of Boating and Ocean Recreation, Maui District Office (808) 243-5824 and finalize the Right of Entry Authorization.”

In pursuit of obtaining the Right of Entry, it was determined that instead a Revocable Permit was needed from the Land Division. An application for the Revocable Permit was submitted to the County of Maui Land Division Office on February 1, 2022. A 3-month time extension was requested to allow the Board to hear the matter on August 12, 2022. The time extension was granted by your office on July 29, 2022, with a new expiration date for construction of October 31, 2022. The Board approved the Revocable Permit at the August 12, 2022, meeting.

South swells in August delayed the start of construction. The most severely damaged section of the EEPS was repaired during September 6-9, 2022. The repair of the remaining two portions of the EEPS was delayed due to four consecutive south swell events following the first repair. The contractor mobilized on October 5, 2022, to perform the remaining repairs; however, the beach was found to have experienced significant sand loss over the previous month and the contractor's excavator would not have been able to access the EEPS from the beach without working in the water. Photographs of the beach and EEPS are included at the end of this letter. The

Exhibit 4



Page 2

photographs were taken less than 20 minutes before the lower low tide when tidal elevation was +0.2 ft relative to mean lower low water (mllw). The dry beach width between the waterline and the seaward edge of the EEPS was too narrow to work in. The repair effort was put on hold until the beach recovers sand to create a large enough space to work in.

We respectfully request a 6-month time extension on behalf of the applicant, HMC Maui LP, while we monitor the shoreline condition for an opportunity to finish the construction. We anticipate that by the end of winter sufficient sand will have accreted in front of the EEPS that construction will be possible. Construction will commence at the earliest opportunity.

Should you have any questions or need additional information, please contact David Smith at 808-460-3434 or dsmith@seaengineering.com. I am also happy to meet at your convenience to discuss this in more detail. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "David A. Smith". The signature is fluid and cursive, with the first name "David" being more prominent.

David A. Smith, PhD, PE
Sea Engineering, Inc.
dsmith@seaengineering.com
(808) 460-3434

cc (by e-mail):

Michael Cain, DLNR OCCL Administrator
Justin Reid, HMC Maui LP
Kenneth Keidan, Hyatt Regency Maui
Fred Findlen, Hyatt Regency Maui

Attachments:

E-CDUP MA 22-02 dated January 31, 2022
Time Extension for E-CDUP MA 22-02 dated July 29, 2022



Photograph 1. Center of the EEPS that still needs to be repaired. Photo date October 6, 2022, 6:30 am, tide level +0.2 ft mllw. Photo taken 19 minutes before lower low tide.



Photograph 2. Eastern end of the EEPS that still needs to be repaired. Photo date October 6, 2022, 6:33 am, tide level +0.2 ft mllw. Photo taken 16 minutes before lower low tide.



— The Maui News / MATTHEW THAYER photo

https://www.mauinews.com/news/local-news/2022/10/winter-swells-could-bring-back-beach-but-long-term-fix-elusive/?fbclid=IwAR08jXWK8CgxcRWwuZVaquh3m6b62OsQnW7hVwU5ahktaKMEclWk509-t_Q



Jim Richard of Phoenix walks on the devastated shoreline fronting the Kaanapali Alii Tuesday afternoon. “We have been coming here for 15 years,” Richard said. “You notice the erosion, but this is something else.” — The Maui News / MATTHEW THAYER photo