

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

September 22, 2023

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

OAHU

Amend Prior Chairperson approval dated November 22, 2022 Regarding Issuance of Right-of-Entry to Joshua H. VanEmmerik for Removal of Shoreline Erosion Control Structure, Pupukea, Koolauloa, Oahu, Tax Map Key: (1) 5-9-002: seaward of 002 and 003.

The amendment is to extend the right-of-entry to September 30, 2023.

APPLICANT:

Joshua H. VanEmmerik, an unmarried man, tenant in severalty.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (“HRS”), as amended.

LOCATION:

Portion of Government lands situated at Pupukea, Koolauloa, Oahu, Tax Map Key: (1) 5-9-002: seaward of 002 and 003.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Subject location is unencumbered with unauthorized encroachments.

CHARACTER OF USE:

Removal of shoreline erosion control improvement.

TERM:

Until September 30, 2023. See Remarks section.

FEES:

Gratis, as the request pertains to the Settlement Terms and Conditions dated November 18, 2022 described below.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") § 11-200.1-15 and -16 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," Part 1, Item 44, that states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing". The subject request is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR.

DCCA VERIFICATION:

Individual owner, not applicable.

APPLICANT REQUIREMENTS:

Applicant shall obtain all shoreline and building permits or authorization required from the City and County of Honolulu prior to commencing work.

REMARKS:

In October 2022, Office of Conservation and Coastal Lands ("OCCL") requested Land Division process a land disposition in the form of a right-of-entry for the removal of "unauthorized materials/encroachments". Staff understood that the request was pertaining

to a potential OCCL enforcement case. On November 22, 2022, Chairperson approved the issuance of a right-of-entry permit to remove a shoreline erosion control improvement at the subject location. Applicant was allowed, until December 31, 2022, to remove the subject improvement, pursuant to the Settlement Terms and Agreement dated November 18, 2022 signed by the Chairperson, the Administrator of the Office of Conservation and Coastal Lands, and Applicant's counsel. The agreement was also reviewed and approved by the Department of the Attorney General. Removal plan described by the Applicant's counsel in the 2022 application stated that "hand powered tools (i.e. jack hammers) will be utilized to break up the structures and then the structures will be manually carried to truck for disposal. No heavy machinery (i.e. excavator, backhoe) will be used on the beach. Manual removal will ingress and egress through the property". A right-of-entry permit, in accordance with the terms described in the above-mentioned agreement was issued by the Chairperson.

A copy of the Chairperson submittal and the right-of-entry permit ("ROE") are attached as **Exhibit 1A** and **1B**. In short, the ROE actually expired as it was good only up to December 31, 2022 with no use of heavy equipment allowed.

Around March 2023, Applicant's counsel approached the Land Division requesting for an extension of the ROE. Upon checking with the deputy Attorney General assigned for the settlement case, it was staff's understanding that parties to the above-mentioned agreement were working on an addendum to extend up to September 30, 2023 for the removal work. However, staff did not receive copy of the fully executed addendum until August 25, 2023 and is now attached as **Exhibit 1C**.

Staff interpreted from the original settlement agreement that OCCL would monitor the removal during the duration of the ROE. Staff is not aware of any reason for the delay in the removal work. Now, Applicant's counsel indicated that the use of heavy equipment is necessary for the requested extension to meet the deadline set by the addendum, which is September 30, 2023. The use of the heavy equipment is planned to last one day on the State land.

As shown on the addendum, it only provides the timing and the consequence of failure to complete the removal work pursuant to the deadline set in the addendum. No provisions were provided regarding the use of heavy equipment or other component of a work plan. OCCL indicated that the issue regarding heavy equipment would be under the land disposition.

The Applicant had adequate time to finish the removal since the initial right-of-entry permit issued in November 2022. Staff is not aware of any reasons for the delay that prompted the subject extension request. It is staff's understanding that the owner's counsel would work with OCCL during the removal process.

Staff does not support any use or staging of heavy equipment or vehicle on State beach. If those heavy equipment or truck can be operated from the private property without resting on the beach, staff will have no objection.

Staff has no objection to the proposed extension in order to implement the enforcement action coordinated by OCCL. However, the extension, if granted, should only be confined to manual labor with no use of heavy equipment or vehicle on State beach.

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 and -16, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis activity.
2. Amend Prior Chairperson approval dated November 22, 2022 Regarding Issuance of Right-of-Entry to Joshua H. VanEmmerik for Removal of Shoreline Erosion Control Structure to extend the right-of-entry permit to September 30, 2023 subject to no use or staging of heavy equipment or vehicle on the State beach.

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson *fon*

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

November 22, 2022

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

OAHU

Issuance of Right-of-Entry to Joshua H. VanEmmerik for Removal of Shoreline Erosion Control Structure, Pupukea, Koolauloa, Oahu, Tax Map Key: (1) 5-9-002: seaward of 002 and 003.

APPLICANT:

Joshua H. VanEmmerik.

LEGAL REFERENCE:

Section 171-55, Hawaii Revised Statutes (“HRS”), as amended.

LOCATION:

Portion of Government lands situated at Pupukea, Koolauloa, Oahu, Tax Map Key: (1) 5-9-002: seaward of 002 and 003, as shown on **Exhibit A**.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Subject location is unencumbered with unauthorized encroachments.

EXHIBIT 1A

CHARACTER OF USE:

Removal of shoreline erosion control improvement.

TERM:

To complete the removal before December 31, 2022.

FEES:

Gratis, as the request pertains to the Settlement Terms and Conditions dated November 18, 2022 described below.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") § 11-200.1-15 and -16 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," Part 1, Item 44, that states the "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing". The subject request will probably have minimal or no significant effect on the environmental and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR. See **Exhibit B**.

DCCA VERIFICATION:

Individual owner, not applicable.

APPLICANT REQUIREMENTS:

Applicant shall obtain all shoreline and building permits or authorization required from the City and County of Honolulu prior to commencing work.

REMARKS:

Since 2017, the Office of Conservation and Coastal Lands ("OCCL") has been working with the owners of the subject parcels (Parcel 2 and 3) and some of the neighboring lots regarding the impacts caused by chronic and seasonal coastal erosion. The authorized erosion mitigation measures included sand pushing in 2017 and 2019, in addition to placement of a heavyweight geotextile blanket overlaid by sand-filled tubes in 2018.

After the above-mentioned 2018 approval expired in August 2021, OCCL noted that the

temporary erosion control structure had not been removed. Notification was sent to the then owner of Parcel 3 in October 2021 advising the owner of the expired 2018 approval and the presence of the erosion structures constituted an unauthorized encroachment on State lands.

OCCL provided Mr. VanEmmerik the same notification of October 2021 after he became the owner of Parcel 3 in December 2021. Since January 2022, OCCL visited the site on multiple occasions and observed the ongoing construction work at the subject location. In September 2022, OCCL noted a post on social media about unauthorized work at the location. A subsequent site visit indicated that small polypropylene sandbags had been placed over the failed temporary erosion control measures with concrete poured over them forming an unauthorized revetment in the shoreline fronting Parcel 3. Additional rocks secured by rebar and cement were placed under the dwelling's foundation. In addition, OCCL noticed that the above-mentioned materials underneath the foundation were sprayed with either adhesive or paint. On September 30, 2022, Mr. VanEmmerik was advised by OCCL in writing about the above-described findings and requested to remove the erosion control structures and unauthorized materials within 30 days of receipt of the notice.

On November 1, 2022, Mr. VanEmmerik, through his counsel, turned in an application for a right-of-entry permit to remove the unauthorized structure pursuant to OCCL's letter. According to the application attached as **Exhibit C**, the proposed removal work involves "hand powered tools, nets, and tarps to ensure the beach is kept as it was before the concrete pour. Removal of existing burrito systems in place. No debris will be left on the beach. Hand powered tools (i.e. jack hammers) will be utilized to break up structures and then the structures will be manually carried to trucks for disposal. No heavy machinery (i.e. excavator, backhoe) will be used on the beach. Manual removal will ingress and egress through the property".

Mr. VanEmmerik and the OCCL entered into a Settlement Terms and Agreement dated November 18, 2022 (**Exhibit D**) by which Mr. VanEmmerik agreed to remove the alleged unauthorized structures by December 31, 2022, further subject to OCCL's post-removal inspection. If Mr. VanEmmerik fails to remove the structures to the satisfaction of OCCL by March 1, 2023, the agreement will be considered null and void, and OCCL will bring the enforcement case to the Board for disposition.

There are no other pertinent issues or concerns. Staff recommends the Chairperson authorize the issuance of a right-of-entry for the requested removal work described above.

RECOMMENDATION: That the Chairperson

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1-15 and -16, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Upon Applicant's compliance with the Applicant Requirements above, authorize

the issuance of a right-of-entry permit to Joshua H. VanEmmerik covering the subject area for removal of shoreline erosion control improvement purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

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

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case

Suzanne D. Case, Chairperson

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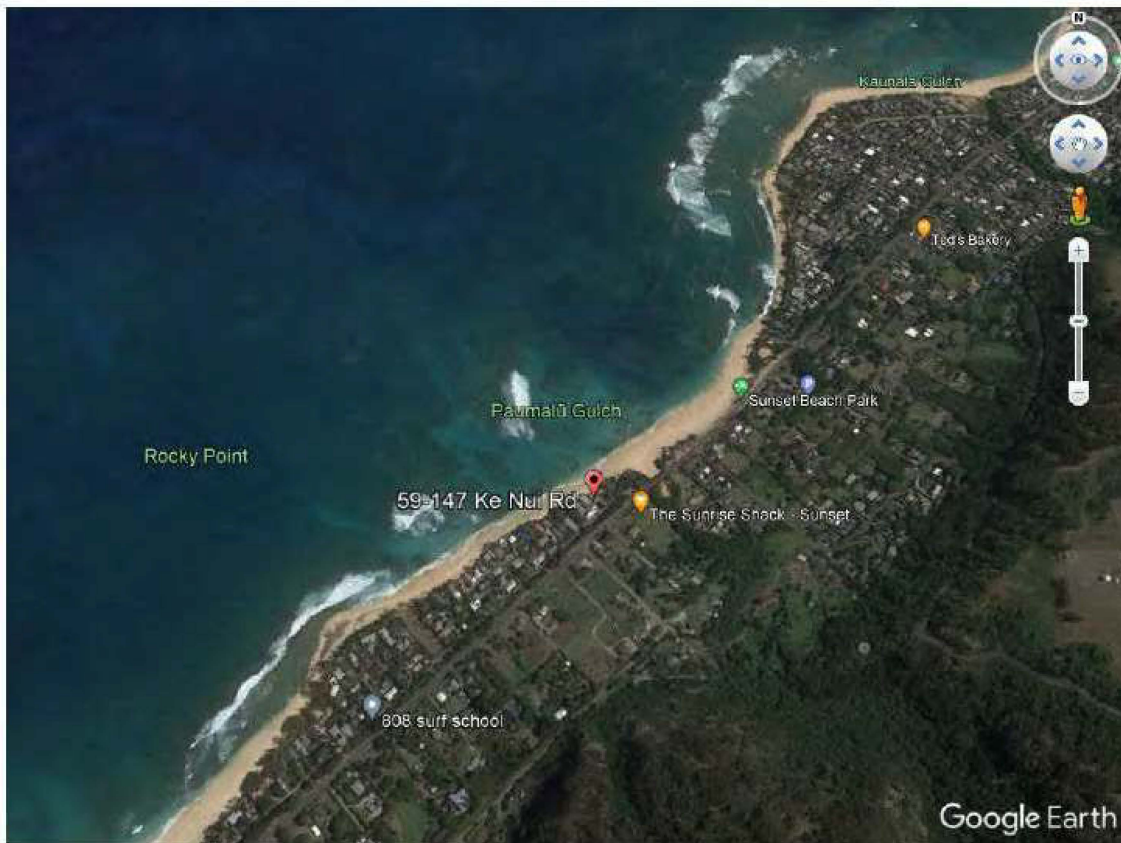


EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR

Project Title: Right-of-Entry Permit to Remove Shoreline Erosion Control Structure.

Project / Reference No.: Not applicable

Project Location: Pupukea, Koolauloa, Oahu: TMK: (1) 5-9-002: seaward of 002 and 003.

Project Description: Removal of Shoreline Erosion Control Structure

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with HAR § 11-200.1-15 and -16 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,” under Part 1, item 45, which states, “Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing”.

Cumulative Impact of Planned Successive Actions in Same Place Significant: No, the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Action May Have Significant Impact on Particularly Sensitive Environment: Staff is not aware of any particularly sensitive environmental issues and use of the area would involve negligible change from what is existing.

Consulted Parties: Office of Conservation and Coastal Lands.

Analysis: The request pertains to restoration of State lands to the condition they were in prior to the installation of unauthorized shoreline erosion control structure. Staff believes the request would involve negligible or no expansion or change in use of the subject location beyond that previously existing.

EXHIBIT B

Recommendation:

That the Chairperson find this project will probably have no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

State of Hawaii
Department of Land and Natural Resources
Land Division

REQUEST FOR STATE LANDS (Direct Negotiation) – APPLICATION FORM

This Application Form is for persons requesting State lands for the following categories:

- Right to temporarily enter onto State lands for a specific purposes
- Access, utility or other easements to private property
- Month-to-month revocable permit where an auction is prohibited
- Direct lease to eleemosynary organizations, public utilities, etc.
- Purchase of remnant
- Land patent in confirmation of Land Commission Award
- Land license

Please note the following important points:

- 1) Statutorily, directly negotiated leases and permits can only be issued in certain situations. In most cases, you must compete for the use of State lands through the public auction process. If you are interested in bidding on State leases through the auction process, please contact the District Branch staff in your county to obtain further information.
- 2) Persons who have had, during the five years preceding a previous sale, lease, license, permit or easement cancelled for failure to satisfy the terms and conditions are not eligible to purchase or lease public lands.
- 3) The use of State lands triggers the environmental assessment requirements of Chapter 343, HRS. Please contact the Office of Environmental Quality Control for their opinion of whether an environmental assessment is required and the process to be followed. Phone number: (808) 586-4185. Website:
<http://hawaii.gov/health/environmental/oeqc/index.html>
- 4) You are responsible for contacting the appropriate agencies to verify that your proposed project has complied with all applicable zoning and permitting laws and regulations (e.g., State Land Use classification, Special Management Area, County General Plan, etc.).
- 5) You will be responsible for paying processing fees. If you are granted a disposition, you will be required to obtain insurance, among other requirements.

EXHIBIT C

All applications must be complete to be considered for processing. Please submit two copies of the completed application form to the District Branch office in your county:

Oahu District Branch
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96813
Phone: (808) 587-0433; Fax: (808) 587-0455

Maui District Branch
130 Mahalani St.
Wailuku, Hawaii 96793
Phone: (808) 984-8103; Fax: (808) 984-8111

Hawaii District Branch
75 Aupuni Street, Room 204
Hilo, Hawaii 96720
Phone: (808) 974-6203; Fax: (808) 974-6222

Kauai District Branch
3060 Eiwa Street, Room 205A
Lihue, Hawaii 96766
Phone: (808) 274-3491; Fax: (808) 241-3537

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

**REQUEST FOR STATE LANDS
APPLICATION FORM**

For DLNR use only:

Date of request:

Date request recvd:

Date request no. issued

Request number

Land Code:

Unit Code:

Status:

Future

Type of Request:

Assigned Land Agent:

Agent address: Goodsill Anderson Quinn & Stifel, LLP
First Hawaii Center, Suite 1600
999 Bishop Street
Honolulu, Hawaii 96813

City State Zip Code

Phone numbers: 808-547-5765

E-mail address: fjenkins@goodsill.com

III. TYPE OF REQUEST

- Right-of-entry (right to temporarily enter onto State lands for a specific purpose)
- Grant of easement (access, utility, seawall, etc.)
- Month-to-month revocable permit
- Direct lease (eleemosynary organizations, public utilities, government, renewable energy producers, etc.)
- Purchase of remnant
- Land patent in confirmation of a Land Commission Award
- Land license (Land Disposition)

Is this request being made to resolve an encroachment or other violation? Yes No

If yes, explain: The purpose of this application is to obtain a right of entry and land disposition, to the extent that such permits/approvals are required to remove the alleged structures identified in ENF: OA-23-13 (which relate to an alleged cement structure and also soft erosion control devices (i.e. burritos)).

IV. LOCATION AND AREA

If your request pertains to a specific parcel, please specify below.

Island: Oahu Kauai Molokai
 Hawaii Maui

Town: HALEIWA Tax Map Key: 5-9-002-002 & 5-9-002-003

Area: 1200 acres/sq.ft. (circle one)

County Zoning:

State Land Use: () Agricultural () Rural
 (>) Conservation () Urban

Is property located in a Special Management Area?

 (>) Yes () No

V. USE

Identify the specific uses intended.

- () Agriculture () Easement - Access
() Business/Commercial () Easement - Utility
() Industrial () Easement – Seawall
() Pasture
(>) Other (specify): Remove of structures. Essentially access for hand removal and use of hand powered tools.

A. Fully describe your proposed use of the public lands:

Full removal of alleged concrete structure (See ENF: OA-23-13) with hand powered tools, nets, and tarps to ensure the beach is kept as it was before the concrete pour.
Removal of existing burrito systems in place. No debris will be left on the beach. Hand powered tools (i.e. jack hammers) will be utilized to break up the structures and then the structures will be manually carried to trucks for disposal. No heavy machinery (i.e. excavator, backhoe) will be used on the beach. Manual removal will ingress and egress through the property.

B. Attach a location map showing a preliminary sketch or plot plan of your proposed project in relation to the tax maps.

Please refer to the *Notice of Alleged Violation* associated with ENF: OA-23-13 for description of the alleged structures that will be removed. A courtesy copy is attached herein.

C. Describe any improvements you intend to place on the land and their approximate value:

NONE

- D. If constructing improvements, attach a Plan of Development showing improvements to be constructed and their location on the public lands including a timeframe for construction.

NONE

- E. Is it your opinion that an environmental assessment is required? () Yes (>) No

If no, identify exemption: We do not believe it is necessary for the removal work.

If yes, describe completion of EA:

- F. Describe what other permits or approvals are required for this use and whether you have obtained such permits or approvals:

To our understanding no other permits are required.

- G. If you intend to do a project, please provide a Scope of Work (SOW) document as an attachment to your application. Also attach any relevant diagrams or photos. Photos may be printed on office paper.

No new work will be performed. Simply a removal project.

VI. OTHER

- A. If you are applying for a revocable permit for any type of use, you are required to provide the following information:

- 1) Describe your qualifications and experience in running this type of operation; and
- 2) Describe your long-term intentions for this operation. (Note: Revocable permits are temporary and may be revoked at any time.)

- B. If you are applying for a revocable permit for pasture or agricultural use, you are required to complete Attachment A.**

VII. CERTIFICATION

I/We hereby certify that the statements and information contained in this application, including all attachments, are true and accurate to the best of my/our knowledge and understand that if any statements are shown to be false or misrepresented, this application may be rejected or my/our lease/permit/agreement may be cancelled.

JOSHUA VANEMMERIK _____
Printed Name

X /s/ Joshua VanEmmerik _____
Signature

Printed Name

X _____
Signature

10/28/22
Date

For DLNR Use Only:

TO CLOSE FUTURE TENANT:

Reason for closing:

Approved by DLA:

Date request closed:

Attachment A
Qualification Questionnaire

Qualifications and Experience

1. Indicate experience to qualify as a bona fide farmer pursuant to Section 171-14.5, HRS. For husband and wife, at least one individual shall qualify. For partnerships, joint ventures and corporations, "Applicant" in the following questions refers to the entity itself, and, therefore, only 1.A, 1.B, 1.G and 1.J below will apply.
- A. Has the Applicant spent not less than two years, full-time, in farming operations? If yes, explain in Question 3. () Yes (>)
No
- B. Is the Applicant an owner-operator of an established farm conducting a substantial farming operation? If yes, explain in Question 3. () Yes (>)
No
- C. Has the Applicant, for a substantial period of the individual's adult life, resided on a farm and depended on farm income for a livelihood? If yes, explain (number of years, location, income, etc): () Yes (>)
No
- D. Is the Applicant an individual who has been a farm tenant or farm laborer or other individual, who has for the last two years obtained the major portion of their income from farming operations? If yes, explain in Question 3. () Yes (>)
No
- E. Does the Applicant have a college degree in agriculture? () Yes (>)
No
If yes, explain in Question 2.
- F. Is the Applicant an individual who, by reason of ability, experience, and training as a vocational trainee, is likely to successfully operate a farm? If yes, explain in Question 2. () Yes (>)
No
- G. Has the Applicant received a commitment for a loan under the Bankhead-Jones Farm Tenant Act for the acquisition of a farm? () Yes (>)
No
If yes, attach copy of executed loan document or notification letter.

- H. Is the Applicant an individual who is displaced from employment () Yes (>)
 No
 in an agricultural production enterprise? If yes, explain in Question 3.
- I. Is the Applicant a member of the Hawaii Young Farmer () Yes (>)
 No
 Association or a Future Farmer of America graduate with two
 years of training with farming projects? If yes, attach letter
 confirming membership and training and explain in Question 2.
- J. Does the Applicant possess the qualifications under the new () Yes (>)
 No
 farmer program pursuant to section 155-1(3), HRS? If yes, explain:
- K. Does the Applicant possess such other qualifications? () Yes (>)
 No
 If yes, briefly describe any other information which you may
 consider pertinent to assessing your qualifications and experience
 and which is not contained in your responses to Questions 2 & 3:

2. Education and Training

- A. List all vocational training, business, trade, college or university, graduate or professional schools:

Name & Location of School (and Name of Person, if applicable)	Field of Study	Degree Type	Date Received

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- B. Attach evidence of your graduation from college (copy of transcripts or diploma).
- C. Describe any vocational or other training you have received which relates to your qualifications and experience to successfully operate your farm/ranch:

- 3. In chronological order starting with the Applicant's most current experience, briefly describe Applicant's farming/ranching experience and business experience (management, financial and marketing) as it relates to the land intended to be bid on. For partnerships, joint ventures and corporations, include both experience of business entity itself as well as experience of principals or managers. **Copy and attach additional sheets as needed.**

Business Name Address Name & Title of Supervisor Your Position Commodity Produced Size of Operations (no. of employees , acres) Duties & Responsibilities	From: Month Year To: Month Year Full-time () Part-time () Average hours worked per week:
Business Name Address Name & Title of Supervisor Your Position Commodity Produced Size of Operations (no. of employees , acres) Duties & Responsibilities	From: Month Year To: Month Year Full-time () Part-time () Average hours worked per week:

Business Name Address Name & Title of Supervisor Your Position Commodity Produced Size of Operations (no. of employees , acres) Duties & Responsibilities	From: Month Year To: Month Year Full-time () Part-time () Average hours worked per week:
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4. For any experience listed above which the Applicant would like to be considered in order to qualify as a bona fide farmer pursuant to Section 171-14.5, HRS, under Question 1, attach verification, including but not limited to: 1) pay stubs or W-2 forms where Applicant was employed as an individual or 2) Schedule F of federal income tax returns or General Excise tax returns where Applicant was a self-employed individual or a corporation.

5. Attach at least two (2) reference letters from people, who are not related to you, verifying agricultural background (applies to farm laborer or previous farm experience).

Settlement Terms and Agreement

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL), through its Administrator, Michael Cain, and through Chairperson Suzanne D. Case of the Board of Land and Natural Resources, hereby agree to close the enforcement file against JOSHUA H. VANEMMERIK (“Mr. VanEmmerik”) for the alleged violation of unauthorized land use within a conservation district, ENF: OA 23-13 subject to completion of the following conditions:

- (1) Mr. VanEmmerik will obtain a contractor carrying a valid contractor’s license for the State of Hawaii and his attorney will provide proof, by way of email, of such to OCCL by November 18, 2022;
- (2) Mr. VanEmmerik will remove all alleged unauthorized structures as noted in the Notice of Alleged Violation under “September 30, 2022-Alleged Unauthorized Activity”, attached as **Exhibit 1**, to the extent that weather conditions and sand migration do not obstruct the alleged unauthorized structures and prevent removal, by December 31, 2022;
- (3) OCCL will conduct an inspection of [REDACTED] Por. Pupukea-Paumalu Beach Lots, Koolauloa, Oahu, Tax Map Keys: (1) 5-9-002:002 & (1) 5-9-002:003 (seaward) during the second week of January 2023 to ensure Mr. VanEmmerik has completed condition 2, to the extent possible considering weather conditions and sand migration;
- (4) If Mr. VanEmmerik has not removed all other alleged unauthorized structures as noted in the Notice of Alleged Violation, dated Sep 30, 2022, attached as **Exhibit 1**, by December 31, 2022, he, through his attorney, will provide a weekly email status update on progress made toward removal;
- (5) If all alleged unauthorized structures as noted in the Notice of Alleged Violation, dated Sep 30, 2022, attached as **Exhibit 1**, have not been removed by March 1, 2023, then Mr. VanEmmerik will meet with OCCL staff to discuss further remediation plans; and
- (6) If Mr. VanEmmerik fails to remove all alleged unauthorized structures as noted in the Notice of Alleged Violation, dated Sep 30, 2022, attached as **Exhibit 1**, by March 1, 2023, and fails to reach an agreement with OCCL staff as to further remediation plans, by March 15, 2023, this agreement will be considered null and void.

IT IS UNDERSTOOD AND AGREED that the State of Hawaii is not responsible for the costs incurred by Mr. VanEmmerik to remove the alleged unauthorized structures as alleged in **Exhibit 1**.

EXHIBIT D

IT IS UNDERSTOOD AND AGREED that this Agreement shall not exempt Mr. VanEmmerik from future fines or enforcement actions for any future violations.

IT IS UNDERSTOOD AND AGREED that failure to comply with this agreement will result in an OCCL staff recommendation to the Board of Land and Natural Resources to impose fines for ENF: OA 23-13.

IT IS UNDERSTOOD AND AGREED that Mr. VanEmmerik's compliance with this agreement will result in OCCL closing the enforcement file against Mr. VanEmmerik and that any and all matters noted in the Notice of Alleged Violation, dated Sep 30, 2022, attached as **Exhibit 1**, will not go before the Board of Land and Natural Resources for any enforcement related action.

IT IS UNDERSTOOD AND AGREED that the final decision of whether to impose fines rests with the Board of Land and Natural Resources and must be decided during a meeting subject the Haw. Rev. Stat. chapter 92.

Dated: Honolulu, Hawaii, November 18, 2022

APPROVED AS TO FORM:



FOREST B. JENKINS
Attorney for Mr. VanEmmerik



JOSHUA H. VANEMMERIK



SUZANNE D. CASE
Chairperson
Board of Land and Natural
Resources

APPROVED AS TO FORM:

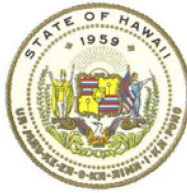


MIRANDA C. STEED
Deputy Attorney General



MICHAEL CAIN
Administrator
Department of Land and Natural
Resources, Office of Conservation
and Coastal Lands

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 22, 2022

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

Joshua H. VanEmmerik

[REDACTED]
Hauula, HI 96717

Dear Mr. VanEmmerik:

Subject: Issuance of Right-of-Entry Permit to Joshua H. VanEmmerik for Removal of Erosion Control Structure, Pupukea, Koolauloa, Oahu: TMK: (1) 5-9-002: seaward of 002 and 003.

Pursuant to the Settlement Terms and Agreement dated November 18, 2022 ("Agreement") signed by you and the Department of Land and Natural Resources regarding the alleged violation of unauthorized land use within a conservation district, ENF: OA 23-13, you will remove the alleged unauthorized structures in accordance with the conditions in the Agreement.

Further, you described your work plan in your application for use of State lands dated October 28, 2022 as "Full removal of alleged concrete structure (*See* ENF: OA-23-13) with hand powered tools, nets, and tarps to ensure the beach is kept as it was before the concrete pour. Removal of existing burrito systems in place. No debris will be left on the beach. Hand powered tools (i.e. jack hammers) will be utilized to break up the structures and then the structures will be manually carried to trucks for disposal. No heavy machinery (i.e. excavator, backhoe) will be used on the beach. Manual removal will ingress and egress through the property."

Pursuant to the authority granted to me by the Board of Land and Natural Resources at its meeting on June 14, 2013 (item D-11) as amended, Joshua H. VanEmmerik ("Applicant"), its contractors, consultants and/or persons acting for or on its behalf are hereby granted a right-of-entry permit for removal of erosion control structure at the location described in ENF OA 23-13 dated September 30, 2022, subject to the following terms and conditions:

1. Applicant shall conduct the subject removal project in accordance with the dates described in above-described Agreement.
2. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall procure, at their own cost and expense, and maintain during the entire period of this right-of-entry, from an insurance company or companies licensed or authorized to do business in the State of Hawaii with an AM Best rating of not less than "A-VIII" or other comparable and equivalent industry rating, a policy or

EXHIBIT 1B

policies of comprehensive public liability insurance or its equivalent, in an amount of at least \$1,000,000 for each occurrence and \$2,000,000 aggregate, and with coverage terms acceptable to the Chairperson of the Board. The policy or policies of insurance shall name the State of Hawaii as an additional insured and a copy shall be filed with the State of Hawaii, Department of Land and Natural Resources (Department). The insurance shall cover the entire premises, including all buildings, improvements, and grounds and all roadways or sidewalks on or adjacent to the premises in the use or control of Applicant and its consultants, contractors and/or persons acting for or on its behalf. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall furnish the Department with a certificate(s) showing the policy(s) to be initially in force, keep certificate(s) on deposit during the entire period and furnish a like certificate(s) upon each renewal of the policy(s). This insurance shall not be cancelled, limited to scope of coverage, or non-renewed until written notice has been given to the Department. The Department shall retain the right at any time to review the coverage, form, and amount of the insurance required. If, in the opinion of the Department, the insurance provisions in this right-of-entry do not provide adequate protection for the Department, the Department may require Applicant, its consultants, contractors and/or persons acting for or on its behalf to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. The Department's requirements shall be reasonable but be designed to assure protection for and against the kind and extent of the risks which exist at the time a change in insurance is required. The Department shall notify Applicant in writing of changes in the insurance requirements and Applicant, its consultants, contractors and/or persons acting for or on its behalf shall deposit copies of acceptable insurance policy(s) or certificate(s) thereof, with the Department incorporating the changes within receipt of the notice. The procuring of the required policy(s) of insurance shall not be construed to limit Applicant, its consultants, contractors and/or persons acting for or on its behalf, liability under this right-of- entry nor to release or relieve the Applicant, its consultants, contractors and/or persons acting for or on its behalf of the indemnification provisions and requirements of this right-of-entry. Notwithstanding the policy(s) of insurance, Applicant, its consultants, contractors and/or persons acting for or on its behalf shall be obligated for the full and total amount of any damage, injury, or loss caused by Applicant's consultants, contractors and/or persons acting for or on its behalf negligence or neglect connected with this right-of-entry.

3. At all times herein, Applicant, its consultants, contractors and/or persons acting for or on its behalf shall keep the right-of-entry area or premises in a strictly clean, sanitary and orderly condition.
4. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall be responsible for cleaning and restoring the area or premises to its original condition or a condition satisfactory to the Department upon termination of the right-of-entry permit. All trash shall be removed from the area or premises.

5. Applicant, its consultants, contractors and/or persons acting for or on its behalf comply with all of the requirements of all municipal, state, and federal authorities and observe all municipal, state and federal laws applicable to the right-of-entry area or premises, now in force or which may be in force.
6. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall indemnify, defend, and hold the State of Hawaii, Department of Land and Natural Resources harmless from and against any claim or demand for loss, liability, or damage, including claims for bodily injury, wrongful death, or property damage, arising out of or resulting from: (1) any act or omission on the part of Applicant, its consultants, contractors and/or persons acting for or on its behalf relating to the use, occupancy, maintenance, or enjoyment of the right-of-entry area or premises by Applicant, its consultants, contractors and/or persons acting for or on its behalf; (2) any failure on the part of Applicant, its consultants, contractors and/or persons acting for or on its behalf to maintain the right-of-entry area or premises and areas adjacent thereto in the use and control of Applicant, its consultants, contractors and/or persons acting for or on its behalf, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of Applicant, its consultants, contractors and/or persons acting for or on its behalf, to maintain the area or premises in a safe condition; and (3) from and against all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance by Applicant, its consultants, contractors and/or persons acting for or on its behalf, of any of the terms, covenants, and conditions of this right-of-entry or the rules, regulations, ordinances, and laws of the federal, state, municipal or county governments.
7. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow to be brought onto the right-of-entry area or premises any such materials except to use in the ordinary course of Applicant, its consultants, contractors and/or persons acting for or on its behalf business, and then only after written notice is given to the Department of the identity of such materials and upon the Department's consent which consent may be withheld at the Department's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Applicant, its consultants, contractors and/or persons acting for or on its behalf, then the Applicant, its consultants, contractors and/or persons acting for or on its behalf shall be responsible for the cost thereof. In addition, Applicant, its consultants, contractors and/or persons acting for or on its behalf shall execute affidavits, representations and the like from time to time at the Department's request concerning the best knowledge and belief of Applicant, its consultants, contractors and/or persons acting for or on its behalf, regarding the presence of hazardous materials on the

right-of-entry area or premises placed or released by Applicant, its consultants, contractors and/or persons acting for or on its behalf.

8. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall indemnify, defend and hold the State of Hawaii, Department of Land and Natural Resources harmless, from any damages and claims resulting from the release of hazardous materials on the right-of-entry area or premises occurring while Applicant, its consultants, contractors and/or persons acting for or on its behalf is/are in possession, or elsewhere if caused by Applicant, its consultants, contractors and/or persons acting for or on its behalf. These covenants shall survive the expiration or earlier termination of this right-of-entry.

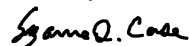
For purposes of this right-of-entry, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

9. Applicant, its consultants, contractors and/or persons acting for or on its behalf in the exercise of this right-of-entry shall use appropriate precautions and measures to minimize inconveniences to surrounding residents, landowners, and the public in general.
10. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall not store any personal belongings in the right-of-entry area or premises during the effective period of this right-of-entry.
11. All costs associated with the construction within the right-of-entry area or premises shall be the sole responsibility of Applicant, its consultants, contractors and/or persons acting for or on its behalf.
12. Applicant, its consultants, contractors and/or persons acting for or on its behalf shall maintain and employ debris, pollution and contamination control measures, safeguards and techniques to prevent debris, pollution or contamination to the ocean waters, streams or waterways resulting from Applicant, its consultants, contractors and/or persons acting for or on its behalf use, maintenance, repair and operation of the right-of-entry area or premises, and shall take immediate corrective action in the event of such pollution or contamination to immediately remove the cause of such pollution or contamination, and shall immediately clean the right-of-entry area or premises and its surrounding waters of such pollutant or contaminant and restore to the Department satisfaction the areas affected by such pollution or contamination, all at Applicant, its consultants, contractors and/or persons acting for or on its behalf own cost and expense.

13. Excavated material (sand) shall be placed on the shoreline and not removed from the shoreline.
14. Best management practices shall be employed to avoid having silt or dirt enter the ocean.
15. In the event any unanticipated sites or remains such as bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered Applicant, its consultants, contractors, and/or persons acting for or on its behalf shall stop work and contact the State Historic Preservations Division in Kapolei at (808) 692-8015 immediately.
16. This right-of-entry or any rights hereunder shall not be sold, assigned, conveyed, leased, let, mortgaged or otherwise transferred or disposed.
17. All disputes or questions arising under this right-of-entry shall be referred to the Chairperson of the Board of Land and Natural Resources for a determination and resolution of the dispute or question. The Chairperson's decision shall be final and binding on the parties herein.
18. The Department of Land and Natural Resources reserves the right to impose additional, but responsible terms and conditions as it deems necessary while this right-of-entry permit is in force.

Should you have no objections to the above terms and conditions, kindly submit a copy of the signed acceptance to the Oahu District Land Office with the required liability insurance. If you have any questions, please contact Barry Cheung of Oahu District Land Office at (808) 587-0430. Thank you.

Sincerely,



Suzanne D. Case

Chairperson *PCM* *RT*

c: Office of Conservation and Coastal Lands

ACCEPTED:

Joshua H. VanEmmerik

Date:

Addendum to Settlement Terms and Agreement

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL), through its Administrator, Michael Cain, and through Chairperson Dawn N.S. Chang of the Board of Land and Natural Resources, hereby agree to the following addendum to the settlement agreement (dated November 18, 2022) regarding alleged violation(s) for unauthorized land uses within the Conservation District against JOSHUA H. VANEMMERIK (“Mr. VanEmmerik”), OCCL enforcement file ENF: OA 23-13, subject to completion of the following conditions:

- (1) Mr. VanEmmerik will remove all alleged unauthorized structures as noted in the Notice of Alleged Violation under “September 30, 2022-Alleged Unauthorized Activity”, attached as **Exhibit 1**, by September 30, 2023 notwithstanding force majeure, defined herein to mean an unforeseen and unanticipated natural disaster, which does not include anticipated seasonal coastal and/or tidal changes;
- (2) Mr. VanEmmerik will provide an update on work done to remove the alleged unauthorized structures twice a week in writing via email to the Department of the Attorney General and in writing via email and postal mail to OCCL;
- (3) The reports in condition (2) must include: (1) a summary of what work was conducted, or if no work was conducted, an explanation of why conditions rendered work unfeasible; and (2) photos of the area where unauthorized structures exist with date and time stamps;
- (4) OCCL will conduct an inspection of [REDACTED] Por. Pupukea-Paumalu Beach Lots, Koolauloa, Oahu, Tax Map Keys: (1) 5-9-002:002 & (1) 5-9-002:003 (seaward) by October 31, 2023 to ensure all unauthorized structures as alleged in condition (1) have been removed; and
- (5) If Mr. VanEmmerik fails to remove all alleged unauthorized structures as noted in the Notice of Alleged Violation, dated Sep 30, 2022, attached as **Exhibit 1**, by September 30, 2023 notwithstanding force majeure, this addendum and underlying agreement attached as **Exhibit 2** will be considered null and void.

IT IS UNDERSTOOD AND AGREED that the State of Hawaii is not responsible for the costs incurred by Mr. VanEmmerik to remove the alleged unauthorized structures as alleged in **Exhibit 1**.

IT IS UNDERSTOOD AND AGREED that this Agreement shall not exempt Mr. VanEmmerik from future fines or enforcement actions for his failure to remove the

alleged unauthorized structures and encroachments by September 30, 2023, or any future violations.

IT IS UNDERSTOOD AND AGREED that failure to remove all of the alleged unauthorized structures and encroachments by September 30, 2023 and/or comply with this agreement will result in an OCCL staff recommendation to the Board of Land and Natural Resources to impose fines for ENF: OA 23-13 and mandate removal of any remaining alleged unauthorized structures and encroachments.

IT IS UNDERSTOOD AND AGREED that Mr. VanEmmerik's compliance with this agreement will result in OCCL closing the enforcement file for ENF: OA-23-13 against Mr. VanEmmerik and will not go before the Board of Land and Natural Resources for any enforcement related action on the above referenced case.

IT IS UNDERSTOOD AND AGREED that the final decision of whether to impose fines rests with the Board of Land and Natural Resources and must be decided during a meeting subject the Haw. Rev. Stat. chapter 92.


Dated: Honolulu, Hawaii, August 24, 2023.

APPROVED AS TO FORM:



FOREST B. JENKINS
Attorney for Mr. VanEmmerik



JOSEPH H. VANEMMERIK

DAWN N.S. CHANG
Chairperson
Board of Land and Natural
Resources

APPROVED AS TO FORM:

S Michael Cain

MICHAEL CAIN
Administrator
Department of Land and Natural

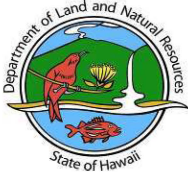
Miranda Steed

MIRANDA C. STEED

Deputy Attorney General

Resources, Office of Conservation
and Coastal Lands

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: TF

ENF: OA 23-13

NOTICE OF ALLEGED VIOLATION

Sep 30, 2022

CERTIFIED MAIL / RETURN RECEIPT

Joshua H. VanEmmerik

[REDACTED]
Kailua, HI 96734

SUBJECT: Alleged Unauthorized Land Use Within the Conservation District
Located at [REDACTED]
Por. Pupukea-Paumalu Beach Lots, Koolauloa, Oahu
Tax Map Keys (TMKs): (1) 5-9-002:002 & (1) 5-9-002:003 (seaward)

Dear Mr. VanEmmerik:

It has come to the attention of the Department of Land and Natural Resources (DLNR) Office of Conservation and Coastal Lands' (OCCL) attention that there appears to be unauthorized materials within the Conservation District fronting the locations listed above.

On August 13, 2018, the Chair of the Board of Land and Natural Resources (BLNR) approved Emergency CDUP OA 19-06 for the placement of temporary erosion control measures fronting the subject properties. The permit allowed for the placement of geotextile fabric erosion control tubes that would be filled with sand from the beach area fronting the subject properties, and subsequently covered with another layer of geotextile fabric erosion control blankets. The material was authorized as a temporary erosion control measure for three (3) years from the date of issuance of the letter. The authorizations granted under Emergency CDUP OA 19-06 expired on August 13, 2021.

On October 28, 2021, the Chair of the BLNR issued the landowner(s) of the subject parcels a NOTIFICATION OF ALLEGED NONCOMPLIANCE regarding alleged noncompliance with the permit conditions of Emergency CDUP OA 19-06. The notification noted that the structure was occupying State-owned lands without active authorization. The notification requested a written report describing how the landowner(s) intended to correct the situation. To date, it appears that the OCCL has not received a response or report. See **Exhibit 1**.

Ground and aerial surveys conducted on September 7 and September 20, 2022, revealed that the structures remained on State-owned and County managed land in a dilapidated condition, debris from torn geotextile bags were in the ocean, rocks appeared to have been placed at the base of the sandbags, and that the alleged unauthorized materials and structures were posing a nuisance as well as blocking lateral shoreline access. Photos from the survey are attached as **Exhibit 2**.

September 28, 2022 – Alleged Unauthorized Activity

A site inspection on September 28, 2022, revealed concrete, painted or adhesive-sprayed sand, rebar, unauthorized erosion control materials and debris in the shoreline area seaward of TMKs: (1) 5-9-002:002 & (1) 5-9-002:003 on State land. Staff observed it appeared that small polypropylene bags had been placed over the failed temporary erosion control measures. Staff also observed that concrete had been poured over the small polypropylene bags and failed temporary erosion control measures. Additionally, it appeared rocks had been placed beneath the portion of the structure's foundation that had been previously exposed and undermined by erosion, and the rocks were secured in place with rebar and cement. Sand appears to have been placed over the concrete, small polypropylene bags, failed erosion control measures, and Staff notes that it appears that the sand had been sprayed with either paint or an adhesive. Photos of the alleged unauthorized materials and encroachments on State-owned and County-managed lands are attached. See **Exhibit 3**.

According to OCCL files, there are no authorizations for these land uses. Pursuant to Hawaii Administrative Rules (HAR) §13-5-2, "land use" is defined as (1) *the placement or erection of any solid material on land if that material remains on the land more than thirty days, or which causes a permanent change in the land area on which it occurs;* (2) *the grading, removing, harvesting, dredging, mining, or extraction of any material or natural resource on land;* (3) *the subdivision of land;* or (4) *the construction, reconstruction, demolition, or alteration of any structure, building, or facility on land.* Additionally, pursuant to HAR §13-5-2, the "Shoreline" is defined as *the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves, or as otherwise defined in section 205A-1, Hawaii Revised Statutes (HRS)*". Lands makai of the shoreline are under the jurisdiction of the State of Hawaii DLNR.

NOTICE IS HEREBY GIVEN that you may be in violation of Hawaii Administrative Rules (HAR) Title 13, Chapter 5, entitled Conservation District providing for land uses within the Conservation District, enacted pursuant to the Hawaii Revised Statutes (HRS), Chapter 183C.

The Department of Land and Natural Resources (DLNR) has reason to believe that:

1. The concrete, painted or adhesive-sprayed sand, rebar, unauthorized erosion control materials and debris has been placed seaward of TMKs: (1) 5-9-002:002 and 003 and located within the State Land Use Conservation District, Resource Subzone;
2. Pursuant to §13-5-22 P-15 (D-1), HAR, "Shoreline Erosion Control " is a regulated land use as stated below:
 - a. *Seawall, revetment, groin, or other coastal erosion control structure or device, including sand placement, to control erosion of land or inland area by coastal waters, provided that the applicant shows that (1) the applicant would be deprived of all reasonable use of the land or building without the permit; (2) the use would not adversely affect beach processes or lateral public access along the shoreline, without adequately compensating the State for its loss; or (3) public facilities (e.g., public roads) critical to public health, safety, and welfare would be severely damaged or destroyed without a shoreline erosion control structure, and there are no reasonable alternatives (e.g., relocation). Requires a shoreline certification;*

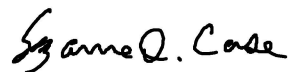
3. These land uses were not authorized by the Department of Land and Natural Resources under Chapter 13-5, HAR; and
4. The land uses have occurred on public land owned by the State without authorization or permission from the State as landowner.

We recommend that you remove the erosion control structures and unauthorized materials located within the shoreline area within 30 days of receipt of this notice. Pursuant to HRS, 171-6, the Board of Land and Natural Resources may bring such actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land shall: (a) Be fined not more than \$1,000 a day for the first offense; (b) Be fined not less than \$1,000 nor more than \$4,000 per day upon the second offense and thereafter; (c) If required by the board, restore the land to its original condition if altered and assume the costs thereof; (d) Assume such costs as may result from adverse effects from such restoration; and (e) Be liable for administrative costs incurred by the Department and for payment of damages.

Additionally, with regards to alleged unauthorized land use(s) in the State Land Use Conservation District, pursuant to 183C-7(b), HRS, the Board of Land and Natural Resources (Board) may subject you to fines of up to \$15,000.00 per violation in addition to administrative costs and costs associated with land or habitat restoration, or both, if required, and damages to state land. Should you fail to immediately cease such activity after written or verbal notification from the department, willful violation may incur an additional fine of up to \$15,000.00 per day per violation for each day in which the violation persists. In addition, criminal penalties may also be assessed. Failure to comply with any part of the letter mentioned above will result in the matter being forwarded to the Board for formal action.

Please respond to this Notice in writing within thirty (30) days. Please note any information provided may be used in civil proceedings. If we do not receive a response within thirty (30) days, we will proceed with enforcement actions. Should you have any questions regarding this matter, contact Trevor Fitzpatrick of our Office of Conservation and Coastal Lands at trevor.j.fitzpatrick@hawaii.gov.

Sincerely,



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

MC

CC: Oahu Board Member
DOCARE (Oahu)
Oahu District Land Office
DCCA - Regulated Industries Complaints Office
City & County of Honolulu, Department of Planning and Permitting
City & County of Honolulu, Department of Parks and Recreation

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

ROBERT K. MASUDA
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JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

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LAND
STATE PARKS

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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

DLNR:OCCL:SH

Emergency CDUA OA-19-06

Mark Ticconi
Gundaker Works, LLC.
931 University Ave. Suite #304
Honolulu, HI 96826

AUG 13 2018

SUBJECT: Emergency Response to Shoreline Erosion Located at Sunset Beach, North Shore of Oahu Tax Map Key: (1) 5-9-002:003

Dear Mr. Ticconi,

The Department of Land and Natural Resources (DLNR) received your July 31, 2018 request to utilize temporary emergency erosion control measures (geotextile fabric erosion control blankets) along the beach at Sunset Beach, North Shore, Oahu.

Recent seasonal wave and current action has resulted in erosion of the shoreline fronting the subject property creating a safety hazard for a single family residence. The erosion appears to be within ten feet or less from the residence and appears to be advancing.

The DLNR understands that the proposed work will occur on State land, seaward of where the shoreline would likely be determined based on HAR §13-5-222, Shoreline Certifications. A heavyweight geotextile fabric blanket will be installed fronting the subject property in response to the erosion. The blanket overlies sand filled tubes constructed of the same geotextile fabric. The blanket and tubes are staked in place with three-foot long wooded spikes. Sand will be used from the beach fronting the properties to fill the fabric tubes and to create an even slope behind the material. The structure will be constructed by hand.

The DLNR authorizes the temporary emergency erosion control measures as described above for three (3) years along the shorefront of the subject property in an effort to protect public health, welfare, and safety on the subject property under Hawaii Administrative Rules (HAR) §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

Exhibit 1

shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department."

In addition, the temporary structure may be considered an exempt action under State environmental laws under HAR. §11-200-8 and as provided in the approved Exemption List for the DLNR, *Exemption Class 1: 1. Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources; and 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 and biological resources.* The Office of Conservation and Coastal Lands consulted with the Land Division, who has concurred with the EA exemption for the proposed project.

The temporary erosion control structure is intended to provide temporary mitigation of the erosion problem and reduce hazards to the subject property. If the subject structure results in adverse flanking of adjacent properties, the DLNR may require you to remove the structure immediately. Any materials that become liberated from the structure must be immediately removed from the beach or ocean. Further it is critical that the property owners maintain lateral shoreline access through the area if the proposed work in any way interferes with lateral public shoreline access. Please review the following Terms and Conditions carefully.

The DLNR is aware of plant material and cement and rock wall structures that have fallen from the property and are now strewn along the beach and nearshore. This authorization is contingent upon the landowner removing and properly disposing of this debris, in addition to any other derelict material that is emanating from the property.

Terms and Conditions

The DLNR authorizes the Emergency Temporary Shoreline Protection as described above fronting the subject property, at TMK (1) 5-9-002:003 provided that you adhere to the following Terms and Conditions:

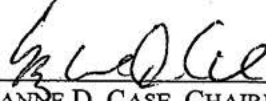
1. It is understood that the Emergency Temporary Shoreline Protection is a temporary response to address a safety hazard to the existing residence on the subject property, which is threatened by both chronic and seasonal beach erosion. **The material is authorized as a temporary erosion control measure for three (3) 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;
2. If the subject structure results in adverse flanking of adjacent properties, the DLNR may require you to remove the structure immediately. Any materials that become liberated from the structure must be immediately removed from the beach or ocean;
3. The permittee shall remove debris that has been strewn along the beach and nearshore, and any other derelict structures or materials emanating from the property, and dispose of them immediately;
4. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;

5. The permittee shall contact the City and County of Honolulu, Department of Parks and Recreation to secure their authorization to work on the beach;
6. The permittee will submit a completion report for the project to the OCCL within ninety (90) days of completion of construction of the temporary structure. It will summarize the construction and detail any deviation from the proposed plans and provide a summary of the beach conditions since installation. The report will also include a photo summary of the temporary structure and beach conditions with documentation of any alterations or repairs;
7. 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;
8. 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, except that the permittee shall call the OCCL (587-0377) and arrange for a site inspection when work is initiated;
9. 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;
10. Authorization of the sand use and placement is contingent upon review and approval of the sand by the Department. The sand shall meet the following State quality standards:
 - a. The proposed fill sand shall not contain more than six (6) percent fines, defined as the #200 sieve (0.074 mm);
 - b. The proposed beach fill sand shall not contain more than ten (10) percent coarse sediment, defined as the #4 sieve (4.76 mm) and shall be screened to remove any non-beach compatible material and rubble;
 - c. No more than 50 (fifty) percent of the fill sand shall have a grain diameter less than 0.125 mm as measured by #120 Standard Sieve Mesh;
 - d. Beach fill shall be dominantly composed of naturally occurring carbonate beach or dune sand. Crushed limestone or other man made or non-carbonate sands are unacceptable;
11. 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;
12. 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;
13. 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;
14. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
 15. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
 16. 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;
 17. 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;
 18. 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;
 19. 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;
 20. 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;
 21. 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;
 22. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this letter;
 23. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to HRS §205A-71. All exterior lighting shall be shielded to protect the night sky;
 24. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
 25. 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;
 26. The DLNR 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.

Should you have any questions pertaining to this letter, please contact the Office of Conservation and Coastal Lands at (808) 587-0377.

Sincerely,



SUZANNE D. CASE, CHAIRPERSON
DEPARTMENT OF LAND AND NATURAL RESOURCES

CC: City and County of Honolulu
Department of Planning and Permitting
Parks and Recreation
DOCARE (Oahu)

I concur with the conditions of this letter:

Applicant

Date _____

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

JEFFREY T. PEARSON, P.E.
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
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

DLNR:OCCL:SH

RE: Emergency CDUA OA-19-06

Mark Ticconi
Gundaker Works, LLC.
931 University Ave. Suite #304
Honolulu, HI 96826

AUG 29 2018

SUBJECT: Correction Regarding Emergency Response to Shoreline Erosion Located at Sunset Beach, North Shore of Oahu Tax Map Key: (1) 5-9-002:003

Dear Mr. Ticconi,

The Department of Land and Natural Resources (DLNR) is in receipt of your August 7, 2018 request to utilize temporary emergency erosion control measures (geotextile fabric erosion control blankets) along the beach at Sunset Beach, North Shore, Oahu fronting TMKs (1) 5-9-002:002 and 003.

We understand that your August 7, 2018 request serves as a correction to the original request received by DLNR on July 31, 2018 regarding erosion control measures for a single property located at TMK (1) 5-9-002:003. We understand that you had intended to request erosion control measures for an additional property located at TMK (1) 5-9-002:002, which is owned by the same party (Sunset Beach Lot 97 Land Trust & Residuary Trust). This letter serves as a correction to the response by DLNR sent August 13, 2018 (DLNR Ref: Emergency CDUA OA-19-06) such that the original authorization pertains to properties located at TMKs (1) 5-9-002:002 and 003. This authorization is subject to all the terms and conditions of the original authorization (OA-19-06).

Should you have any questions pertaining to this letter, please contact the Office of Conservation and Coastal Lands at (808) 587-0377.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo", written over a horizontal line.

SAMUEL J. LEMMO, ADMINISTRATOR
OFFICE OF CONSERVATION AND COASTAL LANDS

Exhibit 1

CC: City and County of Honolulu
Department of Planning and Permitting
Parks and Recreation
DOCARE (Oahu)
Sunset Beach Lot 97 Land Trust & Residuary Trust

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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

VIA CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Ref: Emergency CDUP OA 19-06

NOTIFICATION OF ALLEGED NONCOMPLIANCE

OCT 28 2021

7020 2450 0000 0357 8221
Sunset Beach Lot 96 Land Trust
ATTN: Bunnie Yoneyama, Trustee
[REDACTED]
Honolulu, HI 96825

SUBJECT: Alleged noncompliance with permit conditions
Emergency Conservation District Use Permit (CDUP) OA 19-06
[REDACTED] Sunset Beach, Hale'iwa, O'ahu;
Makai of Tax Map Key parcel: (1) 5-9-002:003

Dear Landowner:

NOTICE IS HEREBY GIVEN that your Emergency Conservation District Use Permit (CDUP) OA 19-06 no longer complies with its original terms and conditions.

1. On August 13, 2018 the Chair of the Board of Land and Natural Resources approved Emergency CDUP OA 19-06 for the parcel for a temporary erosion control measure fronting the subject property. The permit allowed for the placement of geotextile fabric erosion control tubes that would be filled with sand from the beach area fronting the subject property, and subsequently covered with another layer of geotextile fabric erosion control blankets;
2. The structure extends seaward of the erosion scarp fronting the subject property, and was determined to be on State-owned submerged land;
3. Condition 1 of the permit reads: *It is understood that the Emergency Temporary Shoreline Protection is a temporary response to address a safety hazard to the existing residence on the subject property, which is threatened by both chronic and seasonal beach erosion. The material is authorized as a temporary erosion control measure for **three (3) 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;*
4. The authorizations granted under Emergency CDUP OA 19-06 expired on August 13, 2021;

Exhibit 1

5. Condition 5 of the permit reads: *The permittee shall contact the City & County of Honolulu, Department of Parks and Recreation to secure their authorization to work on the beach;*
6. Our office has no record of a Right of Entry Permit or land disposition being obtained to perform the work on State land that was authorized under Emergency CDUP OA 19-6;
7. OCCL staff conducted a site visit on August 15, 2021, and observed that the temporary erosion control structure remained in place despite a lack of authorization to exist on State Land pursuant to the Terms and Conditions of Emergency CDUP OA 19-6 (**Figure 1, below**);
8. Condition 6 of the permit reads: *The permittee will submit a completion report for the project to the OCCL within ninety (90) days of the completion of construction of the temporary structure. It will summarize the construction and detail any deviation from the proposed plans and provide a summary of the beach conditions since installation. The report will also include a photo summary of the temporary structure and beach conditions with documentation of any alterations or repairs;*
9. Our records indicate that no completion report was received for the work performed on State land that was approved in Emergency CDUP OA 19-6;
10. Condition 15 of the permit reads: *Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;*
11. Condition 27 of the permit reads: *Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the Chairperson or BLNR.*

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Exhibit 1

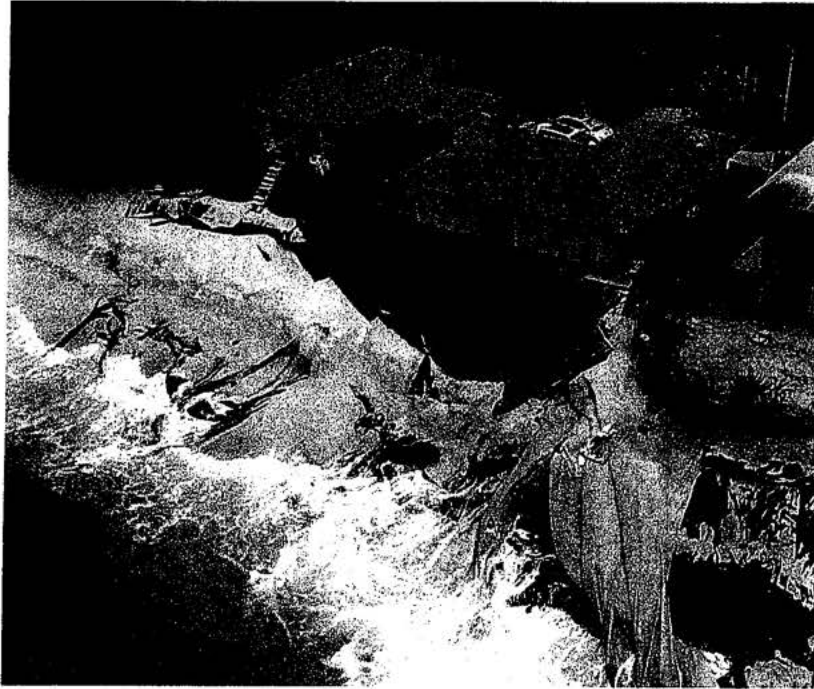


Figure 1: Aerial Image of Subject Property, Taken August 15, 2021

DISCUSSION

Based upon the above, it appears that the subject erosion control structure no longer complies with the terms and conditions of Emergency CDUP OA 19-06, namely expiration of the permit on August 13, 2021 and the lack of proof of authorization to utilize State-owned lands. Upon expiration the structure was to have been removed per Condition 1 of the permit.

Further, the emergency situation for which the structure was originally authorized has existed over an extended period of time and appears likely to continue over an indefinite timeframe such that we now consider the situation an unmanaged hazardous condition. If you apply for a new emergency authorization, you will be required to demonstrate that a concerted effort is being undertaken to develop and implement a long-term solution which will enable removal of the temporary erosion control measures.

For the purposes of such a requirement, "concerted effort" shall mean a bona fide planning effort involving the employment of professional planners, engineers, or consultants to develop and implement a long-term solution whether it involves relocation or abandonment, beach restoration, or some other form of shoreline management. A surety bond or other legal or financial assurance may also be required as part of any potential authorizations for a time extension to guarantee removal of temporary uses at the expiration of any permitted time extension that may be authorized.

To summarize, Emergency CDUP OA 19-6 was contingent on the permittee abiding by all facets of its Terms and Conditions, which included obtaining proper authorization to work in and place the structure within State-owned lands in the shoreline area. Our office has no evidence of a Right of Entry Permit or land disposition being obtained for the subject erosion control structure despite its continued existence, rendering the

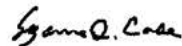
authorization in Emergency CDUP OA 19-6 void pursuant to Condition 27, as stated above.

Please provide this office with a written report which describes how you intend to correct the situation. The report should be submitted to DLNR's Office of Conservation and Coastal Lands (OCCL) within thirty (30) days of the date of this letter. The report shall describe the steps that will be taken moving forward to bring the subject structure into compliance.

Failure to act promptly on these matters may result in this matter being forwarded to the Board of Land and Natural Resources for formal enforcement action.

Please submit all responses and reports in writing to Salvatore Saluga at salvatore.j.saluga@hawaii.gov. Please note that any information provided may be used in civil proceedings.

Sincerely,



SUZANNE D. CASE Chair
Board of Land and Natural Resources

Copy: DLNR Land Division, O'ahu Office
C&C Honolulu: Dept. Planning & Permitting
Dept. Parks & Recreation
DOCARE
Gundaker Works, LLC, c/o Mark Ticconi
Residuary Trust, ATTN: Callie S Konno, Trustee

attachment: Emergency CDUP OA 19-6
Correction Letter re: Emerg. CDUP OA 19-6

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

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OFFICIAL USE

7020 2450 0000 0357 8221

Certified Mail Fee
 \$ _____
 Extra Services & Fees (check box, add fee as appropriate)
 Return Receipt (hardcopy) \$ _____
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 Certified Mail Restricted Delivery \$ _____
 Adult Signature Required \$ _____
 Adult Signature Restricted Delivery \$ _____

Postmark
 Here
OCT 29 2021

Postage
 \$ _____
 Total Postage and _____

Sent To **SUNSET BEACH LOT 96 LAND TRUST**
 Street and Apt. No **ATTN: Bunnie Yoneyama, Trustee**
 City, State, ZIP+4® **[REDACTED]**
Honolulu, HI.. 96825

PS Form 3800, A

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SUNSET BEACH LOT 96 LAND TRUST
ATTN: Bunnie Yoneyama, Trustee
[REDACTED]
Honolulu, HI.. 96825

EMER. COUP 0A-19-06



9590 9402 6440 0346 1406 79

2. Article Number (Transfer from service label)

7020 2450 0000 0357 8221

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 B Yoneyama Agent
 Addressee

B. Received by (Printed Name) **B Yoneyama**
 C. Date of Delivery **10-29**

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery
<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Signature Confirmation™
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Collect on Delivery Restricted Delivery	
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	

PS Form 3811, July 2020 P&N 7530-02-000-9059

Domestic Return Receipt

Exhibit 1



***Exhibit 2: OCCL Staff Photo Taken
9/7/2022***



***Exhibit 2: OCCL Staff Photo Taken
9/7/2022***



Exhibit 2: OCCL Staff Photo Taken 9/20/2022



***Exhibit 3: OCCL Staff Photo Taken
9/28/2022***



Exhibit 3: OCCL Staff Photo Taken 9/28/2022



Exhibit 3: OCCL Staff Photo Taken 9/28/2022



Exhibit 3: OCCL Staff Photo Taken 9/28/2022



Exhibit 3: OCCL Staff Photo Taken 9/28/2022