

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

PSF No. 23OD-047
Emergency Conservation District Use Permit KA-14-03
Emergency CDUP Extension KA-18-12

Grant of Term, Non-Exclusive Easement, Immediate Right of Entry, and Revocable Permit to Marisa and Graham Chelius for Shoreline Protection Structure on State Lands at Kikiaola, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-2-013: seaward of 031, or Alternatively, Requirement of Immediate Removal of Shoreline Protection Structure and Grant of Immediate Right-of-Entry for Removal Purposes.

APPLICANTS:

Dr. Marisa Chelius and Dr. Graham Chelius, a married couple, fee owners, tenants by the entirety.

LEGAL REFERENCE:

Sections 171-13, 171-53, and 171-55, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of State lands at Kikiaola, Kekaha, Kauai, identified as Tax Map Key: (4) 1-2-013: seaward of 031. (**Exhibit A-1** and **Exhibit A-2**)

AREA:

Undetermined. Subject to determination by survey.

ZONING:

State Land Use District: Conservation
County of Kauai Zoning District: O – Open District (for abutting property)

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:

Unencumbered with encroachment.

TERM, NON-EXCLUSIVE EASEMENT:

CHARACTER OF USE:

Shoreline protection structure (sandbag barrier).

COMMENCEMENT DATE:

To be determined by the Board.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market value, subject to review and approval by the Chairperson.

TERM:

Twenty-five (25) years.

The Land Division has reduced the term for which shoreline easements are granted from 55 to 25 years in response to sea level rise projections disclosed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report adopted by the State Climate Change Mitigation and Adaptation Commission and pursuant to the recommendation of the Office of Conservation and Coastal Lands. Landward migration of the shoreline is currently occurring as a direct result of sea level rise. This will progressively expose immobile shoreline structures to an evolving combination of destructive effects from erosion, chronic flooding, and wave inundation. The intention of the term reduction is two-fold: (1) to reduce the potential for accidents and liabilities resulting from dysfunctional shoreline structures by more frequently reviewing and managing shoreline structures and (2) to facilitate a general process of managed retreat from the shoreline.

MONTHLY RENTAL FOR RIGHT-OF-ENTRY AND REVOCABLE PERMIT:

To be determined by the Chairperson.

REMOVAL BOND:

A removal bond is required, in an amount to be determined by Land Division, in consultation with the Engineering Division, and further subject to the approval by the Chairperson.

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, which applies to "[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing,"

The Part I exemption applies to the options presented to the Board for disposition under the present submittal as follows:

1. Grant of term, non-exclusive easement, immediate right-of-entry, and revocable permit is specifically exempt under Part 1, Item 44, which exempts "[p]ermits, licenses, registrations, and rights-of entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."
2. Immediate removal of the shoreline protection structure is specifically exempt under Part I, Item 35, which exempts "[l]aw enforcement, regulation compliance, resources and environmental monitoring, debris or property removal, and other administrative measures."

It is expected that the subject request will have minimal or no significant effect on the environment and therefore should be declared exempt from the preparation of an environmental assessment and the requirements of §11-200.1-17, HAR. (**Exhibit B**)

DCCA VERIFICATION:

Not applicable. Applicants are individual private property owners and are not required to register with DCCA for this purpose.

APPLICANT REQUIREMENTS:

1. If the Board authorizes the grant of a term, non-exclusive easement, immediate right of entry, and revocable permit:
 - a. Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;

- b. Pay for an appraisal to determine one-time payment in consideration of the easement; and
 - c. Obtain the prior concurrence of the Legislature and approval of the Governor pursuant to §171-53(c), HRS; or
2. If the Board orders immediate removal of the shoreline protection structure and grants an immediate right-of-entry for removal purposes:
 - a. Obtain and pay for liability insurance covering the portion of State lands on which removal work will be performed and agree to indemnify the State against any loss or damage incurred on or due to the State land at issue during the effective term of the permit;
 - b. Obtain all required State and County permits for removal of the shoreline protection structure; and
 - c. Immediately remove the shoreline protection structure (sandbag barrier).

JUSTIFICATION FOR REVOCABLE PERMIT:

The land disposition presented to the Board as one of the recommended options in this matter is an orderly process that uses a series of permits structured to allow for immediate use and occupancy and proceed on a direct course to a to a long-term lease, subject to conditions that benefit the State. The land disposition presented in the present submittal as one of the two options recommended to the Board is a three-stage process encompassing:

1. Issuance of a right-of-entry permit for a period of up to six months. This allows the Applicants to immediately legitimize occupancy of the public land in question, begin repair and maintenance of the shoreline protection structure without undue delay and without cost to the State, and begin preparations for the Applicants' obligations under future land dispositions.¹ The right-of-entry permit includes requirements for payment of monthly rent, provision to the Department of a removal bond or equivalent securitized funds, indemnification of the State, and provision of liability insurance by the Applicants.
2. Issuance of a revocable permit for no longer than one year. This allows Land Division time to complete the administrative processes that underlie the grant of easement including approval of the easement contract by the Department of the Attorney General, completion of the appraisal (at the Applicants' cost) to determine the lump-sum payment for value of the easement, and approval of the Legislature

¹ The Applicants' obligations under a revocable permit and easement include obtaining a survey to confirm the size of the disposition area, obtaining a cost estimate for removing the shoreline protection structure which determines the amount of the removal bond, and procurement through Land Division of an appraisal to determine the lump-sum value of the easement.

and Governor of the easement while the Applicants maintain the same obligations for rent payments, removal costs, indemnification, and provision of liability insurance.

3. Issuance of an easement. This final step cannot be executed without prior completion of the prerequisites stated above. Therefore, the interim disposition through revocable permit is necessary.

The interim revocable permit step is limited in its duration and essential in its utility. While the revocable permit is in effect, the Applicant assumes the costs of maintaining the subject parcel of State land and the liability for any damages caused on or by the Applicants' use of the land during the often-lengthy process of consummating the easement.

REMARKS:

The purpose of the present submittal is to recommend that the Board approve an easement on a portion of State submerged land located at TMK: (4) 1-2-013: seaward of 031 so that the Applicants can legitimize their long-term use of State land and repair and maintain the shoreline protection structure that has been in place along approximately 80 linear feet of erosion scarp abutting the Applicants' private property pursuant to a series of temporary permits since 2013. As discussed further herein, the Applicants oppose the requirement of an easement to resolve their encroachment. Therefore, if the Applicants refuse to obtain an easement, as an alternative, staff recommends that the Board require the immediate removal of the shoreline protection structure and authorize a right-of-entry permit allowing the Applicants to complete the removal.

The Applicants are owners of the private property located at 4491 Kikiaola Place, Kekaha, Kauai, TMK: (4) 1-2-013:031. The Applicants were originally granted an emergency authorization pursuant to section 13-5-35, Hawaii Administrative Rules (HAR), for temporary shoreline stabilization to place geotextile bags along the erosion scarp abutting the makai side of their property by the Office of Conservation and Coastal Lands (OCCL) under Emergency Conservation District Use Permit (CDUP) KA-14-03, for a five-year term commencing July 16, 2013. (**Exhibit C**)

The Board granted a corresponding Right-of-Entry (ROE) permit for gratis at its meeting on December 13, 2013, under Agenda Item D-2 for a term of "[r]enewable one-year periods from November 2013 to October 2018 as per OCCL." When the Board approved the original right-of-entry permit in 2013, the Board noted that a long-term trend of beach erosion had created an erosion scarp within approximately 10 feet of the single-family residence on the subject property. That erosion exposed previously buried sandbags and netting, which slumped onto the active beach. Staff was not able to locate records of any permit or other land disposition authorizing those previously placed sandbags and netting and was not able to determine from the record when or by whom they were originally installed. The 2013 authorized shoreline protection device included geotextile bags filled with approximately 1,000 cubic yards of sand, creation of an access ramp, and shaping of the erosion scarp prior to installation of the bags.

The Applicants signed and executed the original Board-authorized ROE permit on January 10, 2014. The terms and conditions of the original ROE included a requirement that the Applicants procure and maintain comprehensive public liability insurance in an amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, and to provide the Department with current certificates of insurance demonstrating compliance with this condition during the entire term of the ROE permit. **(Exhibit D)** Although the Applicants submitted a certificate of insurance for a policy issued by State Farm Fire and Casualty Company for a coverage period of January 28, 2013, through January 28, 2014, the certificate of insurance does not show that the State is named as an additional insured. **(Exhibit E)** Moreover, the Department has no record of the Applicants' further compliance with this insurance requirement after the initial policy expired at the beginning of 2014.

The original Emergency CDUP, KA-14-03, was issued pursuant to section 13-5-35, HAR, Emergency Permits. **(See Exhibit C)** The terms and conditions of the original Emergency CDUP, KA-14-03, included the following, on page 2:

- “2. It is understood that the sand bag structure is a temporary response to prevent the loss of the existing residence, which is threatened by both chronic and seasonal wave run-up and erosion. The material is authorized as a temporary erosion control measure for five (5) years from the date of acceptance by the landowner. Subsequent erosion control efforts that call for modification, other than maintenance or expansion of the proposed structure will require a new application. At the end of five years the materials shall be removed or you must apply for a Conservation District Use Permit under Hawaii Administrative Rules §13-5-22, Shoreline Erosion Control;”

The Applicants have had notice from the beginning that the original Emergency CDUP was always intended to be a temporary disposition to quickly address the situation at hand and was never intended to be a long-term resolution of their erosion issues. The Emergency CDUP term cited above directs the Applicants to apply for a standard, non-emergency use permit, which is clearly distinguishable from an emergency authorization by the respective HAR sections authorizing each type of permit that are cited in the Emergency CDUP language. The Department has no record of any such application pursuant to section 13-5-22, HAR, from the Applicants. Rather, the Applicants have chosen to repeatedly request extensions of their original Emergency CDUP, thereby avoiding Board oversight of their continuing use of State land. **(Exhibits F and G)**

On April 9, 2018, OCCL approved a five-year extension of its original Emergency CDUP, Extension KA-18-12. **(Exhibit H)** An extension of the concurrent right-of-entry permit was thereafter administratively approved under reference number 17KD-046 by the Chairperson pursuant to the Board's delegation of authority. **(Exhibit I)** Because of the emergency nature of the initial CDUP application, the CDUP and subsequent extensions were also issued administratively by the Chairperson. It is unclear why former Department personnel did not enforce the above-cited provision and the relevant administrative rules in these instances. However, past poor practice cannot justify future disregard for clearly

applicable administrative rules and permit terms.

The Applicants contacted OCCL on May 6, 2023, to submit a request for a second extension of the currently effective Emergency Authorization for temporary shoreline stabilization and corresponding right-of-entry permit. After historic ocean swells in January and February of 2023, the accumulated sand and natural vegetation covering the sandbag structure was washed away, leaving the damaged geotextile bags exposed and affecting lateral access along the shoreline. OCCL has approved a second five-year extension of its currently operative Emergency CDUP to repair and maintain the structure, pursuant to the same terms and conditions of the initial emergency permit. **(Exhibit J)**

The May 6, 2023, application triggered Land Division's analysis of the existing permits and the statutory authority that underlies them. Upon review, Land Division determined that the original permits, which were intended to be temporary in nature, have been continuously renewed for ten years. The Applicants have communicated to Land Division that they intend to keep the shoreline protection structure in place and conduct extensive repair and maintenance work on the structure, including excavation on the shoreline and taking sand from the opposite side of Kikialoa Small Boat Harbor to fill large sandbags. As a practical matter, the Applicants' present request for a multi-year renewal of a temporary emergency permit amounts to a request for continued gratis use of State land for an indefinite period without a long-term land disposition which leaves the State unable to collect compensation for use of State land and unprotected by the requirements for liability insurance, indemnification, and removal bond that are standard conditions of land dispositions for encroaching structures.

The Department's past practice of allowing long-term maintenance of shoreline erosion control devices under emergency permits, some of which have expired and remain on the shoreline with no means to ensure removal has been the subject of scrutiny from the public and in the press. A 2020 joint reporting venture by ProPublica and the Honolulu *Star-Advertiser* found that the Department granted sixty-six such emergency permits in the twenty years preceding publication.² Of those, approximately one in five permits were granted for structures that were originally installed in violation of the Department's permit requirements. The 2013 emergency authorization at issue in the present submittal is included in that number.

It is Land Division's position that the continuous renewal of a temporary right of entry permit at gratis in lieu of a long-term land disposition deprives the beneficiaries of the public land trust a fair return for the use of public land. This practice is, in effect, abrogation of the State's right to regulate public resources and of the State's responsibility to beneficiaries of the public land trust. The Applicants in this matter have communicated to Land Division their unwillingness to comply with the land disposition process and adamantly refuse to compensate the State for their use of public land for a private benefit.

² Cocks, Sophie, "Paradise Lost: How Famous Surfers and Wealthy Homeowners are Endangering Hawaii's Beaches", Honolulu *Star-Advertiser*, Dec. 5, 2020. Available at <https://www.propublica.org/article/how-famous-surfers-and-wealthy-homeowners-are-endangering-hawaiis-beaches>.

The Applicants disagree with staff's position and have asserted that they should be exempt from the normal long-term land disposition process that applies to use of State submerged lands. The Applicants contend that the erosion affecting their property is caused entirely by the existence of the Kikiaola Small Boat Harbor, a State facility, and therefore the Applicants should not be required to pay for and obtain a long term disposition from State for their shoreline protection structure. However, staff disagrees with the Applicants' position. Whatever the cause of the erosion may be, staff believes that it is irrelevant to justify the continued presence of the encroachment on public lands without fair compensation.

Staff further notes that, according to Land Court records, the Applicants purchased the property in 2010. (**Exhibit K**) Kikiaola Small Boat Harbor was built in 1959 and improved in 1961 and 1964, therefore existing in its present state for almost 50 years prior to the Applicants' purchase of the residential real property. In fact, Kikiaola Small Boat Harbor pre-dates any development of the area in which the Applicants' property is sited. The land was first subdivided in 1984 and the Land Court subdivision map, filed May 24, 1984, shows that the subdivided land was already experiencing erosion that was significant enough to change the makai boundary of the subdivided parcel at that time, more than twenty-five years prior to the Applicants' purchase of the land. The subdivided parcel that was eventually purchased by the Applicants and which is the subject of the present submittal is identified on the subdivision map at Lot 60-A. (**Exhibit L**).

The presence of the Harbor and a history of coastal erosion to the parcel were known conditions at the time the Applicants made the decision to purchase the property. Additionally, the Applicants are aware that the prior owners of the residential real property attempted and failed to control erosion. Their 2023 request to OCCL for an extension of their emergency CDUP cited "numerous attempts to control erosion by the previous owners" and Applicants' obligation to deal with "the resulting debris from these failed attempts." (See **Exhibit G**). OCCL sent the Applicant's request over to Land Division for an appropriate land disposition but did not condition such disposition on the Applicants obtaining a CDUP or other OCCL approval other than the initial Emergency CDUP. The evidence indicates that coastal erosion on the subject property was a condition that was knowable and known to the Applicants at the time they made the decision to purchase the property. The Applicants made the decision to purchase a costly coastal property that they knew was subject to ongoing erosion conditions. The Applicants, not the State, hold responsibility for any mitigation measures that they choose to undertake for the benefit of the fragile asset they knowingly purchased.

Therefore, given the Applicants' position in consideration of the forgoing, Land Division has determined that it is appropriate to present two alternative disposition recommendations for the Board's consideration as follows:

- I. The primary disposition recommended is authorization of an easement pursuant to the standard process which includes issuance of an immediate right-of-entry that converts to a revocable permit as interim steps to legitimize the Applicants' use of the land and to ensure adequate protections for the State and for beneficiaries of the

public land trust, in accordance with controlling statutes; or

- II. In the alternative, should the Applicants persist in their objection to an easement according to the normal course of business, the alternate disposition recommended is an order for immediate removal of the temporary shoreline protection structure and issuance of a corresponding right-of-entry to enable the Applicants to complete the removal in accordance with controlling statutes and with conditions in place to protect the interests of the State and the public land trust beneficiaries.

RECOMMENDATION: That the Board pursue one of the two following options:

I. Authorize a land disposition as follows:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Sections 11-200.1-15 and -16, HAR, the issuance of a proper land disposition is expected to have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the continued applicability of the subject requests in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 1-2-013:031 when such change in ownership occurs prior to the removal of the structure or prior to execution of the easement alternative, provided that in the latter case, the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.
3. Authorize the issuance of a right-of-entry permit for six months to Marisa and Graham Chelius covering the subject area for encroachment 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. Posting of a removal bond or equivalent securitized funds during the effective period of the right-of-entry permit;
 - C. Removal of the subject encroachment, if required, within the period determined by the Chairperson;
 - D. Commencement of the right-of-entry on the Board date, for a term of six months or until the issuance of the revocable permit described in recommendation 5 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown in accordance with section 171-55, HRS; and

- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Based on the testimony and facts presented, find that approving the revocable permit, under the conditions and rent set forth herein, would serve the best interests of the State.
5. Authorize the issuance of a revocable permit to Marisa and Graham Chelius, covering the subject area for encroachment purposes, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - B. Posting of a removal bond or equivalent securitized funds during the effective period of the revocable permit;
 - C. Removal of the subject encroachment, if required (e.g., if the applicant is unable to secure the prior approval of the legislature or the governor for the issuance of the easement), within the period stipulated by the Chairperson;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
6. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the issuance of a term, non-exclusive easement to Marisa and Graham Chelius, covering the subject area for encroachment 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 term shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: Tax Map Key: (4) 1-2-013:031, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the State, as Grantor, of such transaction in writing, and shall notify Grantee's successors or assigns of the insurance requirement in

writing, separate and apart from the easement document;

- C. Prior concurrence of the Legislature and approval of the Governor through a Concurrent Resolution pursuant to §171-53(c), HRS;
- D. Review and approval by the Department of the Attorney General;
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
- F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement.

II. Or in the alternative, require immediate removal of the shoreline protection structure from the State land at issue in this submittal and authorize the issuance of a right-of-entry permit to Marisa Chelius and Graham Chelius to allow for such removal 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. Provision of liability insurance for the subject State land to insure the State against liability for any activities on or use of the land during the effective term of the permit;
- C. Removal of the subject encroachment and restoration of the State land to the satisfaction of Land Division staff within the period determined by the Chairperson; and
- D. Commencement of the right-of-entry on the Board date, for a term of six months or until the subject encroachment is removed and the State land is restored, whichever is sooner.

Respectfully Submitted,



Rebecca L. Anderson
Shoreline Specialist

APPROVED FOR SUBMITTAL:

RT



Dawn N. S. Chang, Chairperson



TMK (4) 1-2-013: seaward of 031

EXHIBIT A-1



TMK (4) 1-2-013: seaward of 031

EXHIBIT A-2

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1-15, HAR

Project Title: Grant of Term, Non-Exclusive Easement, Immediate Right of Entry, and Revocable Permit to Marisa and Graham Chelius for Shoreline Protection Structure on State Lands at Kikiaola, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-2-013: seaward of 031, or Alternatively, Requirement of Immediate Removal of Shoreline Protection Structure and Grant of Immediate Right-of-Entry for Removal Purposes..

Reference No.: PSF 23OD-047

Project Location: Portion of State Lands at Kikiaola, Waimea, Kauai, Tax Map Key: (4) 1-2-013: seaward of 031.

Project Description: Issuance of right-of-entry, revocable permit and easement for shoreline erosion control structure, or alternatively, removal of the structure along with right-of-entry for removal.

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, which applies to “[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing.” Specifically, the subject request is exempt under Part 1, Item 44, which exempts the “[p]ermits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing” for the right of entry, revocable permit and easement; or Part I, Item 35, which exempts “[l]aw enforcement, regulation compliance, resources and environmental monitoring, debris or property removal, and other administrative measures” for the immediate removal of the structure and right of entry.

EXHIBIT B

Cumulative Impact of
Planned Successive
Actions in Same Place
Significant?

No. No successive actions other than repair and maintenance of the structure, or removal are planned by the Applicants in the same location. As such, staff believes that there would be no significant cumulative impact.

Action May Have
Significant Impact on
Particularly Sensitive
Environment?

No, the requested area is a portion of shoreline State land that contains a temporary erosion control structure makai of the abutting private property which has been in existence for many years and is not likely to have any significant environmental impact. The shoreline abuts a busy beach that is frequently visited and that is already impacted by the presence of Kikiaola Small Boat Harbor and other infrastructure nearby. In addition, based on the analysis below, staff believes there would be no significant impact to sensitive environmental or ecological receptors. If the structure were to be removed, the area would be restored to natural shoreline conditions.

Consulted Parties:

Office of Conservation and Coastal Lands, Kauai District Land Office.

Analysis:

The Board and the Chairperson have authorized rights-of-entry for this shoreline erosion control structure in the past and have also authorized long-term dispositions pursuant to statute for similar shoreline protection structures. The proposed request is of a similar type and scope as other shoreline dispositions across the State. Staff also believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing. Furthermore, in the event the structure would be removed, the subject area would be restored to natural shoreline conditions.

Recommendation:

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

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. YAM
DEPUTY DIRECTOR - WATER

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

DLNR:OCCL:BR

Emergency KA-14-03

Mr. Graham Chelius
[REDACTED]
Waiimea, HI 96796

Dear Mr. Chelius,

SUBJECT: RE: Request for Emergency Temporary Shore Protection at 4491 Kikiaola Place,
Kekaha, Kauai, Hawaii, TMK (4) 1-2-013:031.

The Department of Land and Natural Resources (DLNR) has received your July 9, 2013 request letter to place geotextile ("SEAbag" or "Elcorock") sandbags along approximately 80 feet of erosion scarp at TMK (4) 1-2-013:031. A long-term trend of beach erosion, due in large part to interruption of alongshore sediment transport by Kikiaola Harbor¹, has created an erosion scarp that is now within approximately 10 feet of the single-family residence on the subject property. The erosion is exposing previously buried sandbags and netting, which is slumping onto the active beach.

The request is to place geotextile sandbags stacked to form a 1.5:1 to 2:1 slope fronting the subject parcel. Final project plans are being developed and will be forwarded to DLNR when available. The shoreline will be accessed from the adjacent property (4480 Mamo Road), which has also recently applied for a temporary erosion control structure. Approximately 1,000 cubic yards of sand will be sourced from the updrift (east) side of Kikiaola Boat Harbor for filling sand bags, creation of an access ramp, and shaping the erosion scarp prior to installation of the erosion control structure.

DLNR authorizes the placement of geotextile sandbags and sand covering as described above, fronting the subject properties, in an effort to protect public health, welfare, and safety on the subject property under Hawaii 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

¹ University of Hawaii Coastal Geology Group (2011), Kauai Shoreline Study Erosion Maps, <http://www.sceat.hawaii.edu/coasts/kauaicity/KCounty.html>

EXHIBIT C

TMK (4) 1-2-013:031

██████████ Kekaha, Kauai, HI

7/12/2013

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.”

This authorization is conditional on DLNR’s receipt of the final work plan from the applicant. Project work may not begin until DLNR has approved the final project plans.

In addition, the proposed project is minor in scope and may be considered an exempt action under State environmental laws under Section 11-200-8(A)(1), Hawaii Administrative Rules (HAR) “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.”

Your July 2013 letter also seeks funding for the project. DLNR cannot provide funding for the temporary erosion control structure as proposed by the applicant.

Terms and Conditions

The DLNR has no objections to the placement of geotextile sandbags and beach sand covering to create a 1:5 to 2:1 slope along the erosion scarp fronting the subject properties, at TMK (4) 1-2-013:031, provided that you adhere to the following terms and conditions:

1. That in issuing this letter, the Department and Board has relied on the information and data that the applicant has provided in connection with this letter. If, subsequent to this letter, such information and data prove to be false, incomplete or inaccurate, this letter may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
2. It is understood that the sand bag structure is a temporary response to prevent the loss of the existing residence, which is threatened by both chronic and seasonal wave run-up and erosion. The material is authorized as a temporary erosion control measure for five (5) years from the date of acceptance by the landowner. Subsequent erosion control efforts that call for modification, other than maintenance or expansion of the proposed structure will require a new application. At the end of five years the materials shall be removed or you must apply for a Conservation District Use Permit under Hawaii Administrative Rules §13-5-22, Shoreline Erosion Control;
3. The Contractor shall confine all construction activities to areas defined by the final, approved drawings and specifications;
4. The Contractor shall perform the work in a manner that minimizes environmental pollution and damage as a result of construction operations. The environmental resources within the project boundaries and those affected outside the limits of permanent work shall be protected during the entire duration of the construction period;
5. At the conclusion of work, the area shall be cleaned of all construction material and the site shall be restored to a condition acceptable to the Chairperson;

TMK (4) 1 2 012:021



Kokako, Kaula, HI

7/12/2013

6. The Applicant will prepare a completion report for the project. It will summarize the construction and detail any deviation from the proposed plans;
7. The activity/use 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;
8. The activity/use 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;
9. When the Chairperson is notified by the applicant or the public that an individual activity deviates from the scope of the activity/uses, or activities are adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
10. When the Chairperson is notified by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service or the State Department of Land and Natural Resources that an individual activity/use or activities conducted under this letter is adversely affecting fish or wildlife resources or their harvest, the Chairperson will direct the applicant to undertake corrective measures to address the condition affecting these resources. The applicant must suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect;
11. Where any interference, nuisance, or harm may be caused, or hazard established by the authorized activities/uses, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm or hazard;
12. No contamination of the marine or coastal environment (trash or debris) shall result from project-related authorized activities/uses;
13. No motorized construction equipment is to be operated in the water at any time;
14. In the event there is a petroleum spill on the sand, the operator shall promptly remove the contaminated sand from the beach;
15. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under projects authorized under this letter;
16. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments for authorized projects;

TMK (4) 1-2-013:031

[REDACTED] Kekaha, Kauai, HI

7/12/2013

17. In the event that historic sites, including human burials are uncovered during construction activities, all work in the vicinity must stop and the State Historic Preservation Division contacted at (808) 692-8015;
18. The applicant shall ensure that excessive siltation and turbidity are contained or otherwise minimized through the use of silt containment devices or barriers;
19. The applicant shall take measures to ensure that the public is adequately informed of the project activities/work once it is initiated and the need to avoid the project area during the operation;
20. Public access along the shoreline during construction shall be maintained so far as practicable and within the limitations necessary to ensure safety;
21. All construction material including sand 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; and
22. The applicant shall implement standard Best Management Practices (BMPs), such as daily inspection of equipment for conditions that could cause spills or leaks; cleaning of equipment prior to operation near the water; the ability to contain and clean up fuel; fluid or oil spills immediately for activities/uses; and implementation of adequate spill response procedures, stormy weather preparation plans, and the use of silt curtains and other containment devices. 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. The DLNR/OCCL staff shall be contacted immediately at 587-0381, to conduct a visual inspection and to provide appropriate guidance;

TMK (4) 1-2-013:031

██████████ Kekaha, Kauai, HI

7/12/2013

Should you have any questions, please contact Sea Grant Extension Agent Brad Romine, Bradley.M.Romine@hawaii.gov, at the OCCL.

Sincerely,

William J Aila, Jr, CHAIRPERSON
Board of Land and Natural Resources

CC: DLNR Land Div., Kauai, Kevin Mikasa
Kauai Planning Dept.

I concur with the conditions of this letter:

Applicant

Date _____

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

December 16, 2013

WILLIAM J. AHLA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
TRUST JUDITH

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF COASTAL AFFAIRS
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES DEVELOPMENT
ENGINEERING
FORESTRY AND WILDLIFE
HAWAIIAN PRESERVATION
KAIHOLEAWAI LAND RESERVE COMMISSION
LAND
STATE PARKS

Graham Chelius and Marisa Chelius

██████████
Waimea, Hawaii 96796

Dear Mr. & Mrs. Chelius:

Subject: Right-Of-Entry Permit to Graham Chelius and Marisa Chelius for
Emergency Authorization File KA-14-03 for Temporary Shoreline
Stabilization at 4491 Kikiaola Place, Kekaha, Kauai, TMK: (4) 1-2-
013: 031

We are in receipt of your request for an emergency right-of-entry permit for temporary shoreline stabilization to place geo-textile bags.

Therefore, pursuant to the authority granted by the Board of Land and Natural Resources at its meeting of December 13, 2013 (Item D-2), Graham Chelius and Marisa Chelius is granted a right-of-entry permit to place the geo-textile bags authorized by the Office of Conservation and Coastal Lands, see attached, subject to the following terms and conditions:

1. This right-of-entry shall be effective for a period of five (5) years, commencing from the date of notification in writing from Graham Chelius and Marisa Chelius to the Kauai District Land Office.
2. Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf shall procure at its own 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-" or other comparable and equivalent industry rating, a policy or 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. The insurance shall cover the entire premises, including all buildings, improvements, and grounds and all roadways or sidewalks

EXHIBIT D

on or adjacent to the premises in the use or control of Graham Chelius and Marisa Chelius (or Individual), its consultants, contractors and/or persons acting for or on its behalf. Graham Chelius and Marisa Chelius, 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 no 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 Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf in writing of changes in the insurance requirements and Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf, liability under this right-of-entry nor to release or relieve Graham Chelius and Marisa Chelius, 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, Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf negligence or neglect connected with this right-of-entry.

3. Payment of a \$500.00 refundable deposit for restoration fees of the area is waived by Land Division on the basis that Graham Chelius and Marisa Chelius is agreeable to condition No. 6 of this right-of-entry as mentioned below.
4. At all times herein, Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf shall keep the right-of-entry area of premises in a strictly clean, sanitary and orderly condition.
5. Graham Chelius and Marisa Chelius, 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 of Land and Natural Resources upon completion of the day's event. All trash shall be removed from the area or premises.

6. Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf shall 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.
7. Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf relating to Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf use, occupancy, maintenance, or enjoyment of the right-of-entry area or premises; (2) any failure on the part of Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf use and control, and including any accident, fire or nuisance, growing out of or caused by any failure on the part of Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf non-observance or non-performance 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.
8. All equipment shall be placed within the right-of-entry area or premises described on the attached map.
9. No alcoholic beverages will be served or permitted in the right-of-entry area or premises.
10. Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf will be responsible for providing security for the right-of-entry area or premises during this emergency temporary shore protection.

At your option, you may hire an officer of the Division of Conservation and Resources Enforcement (DOCARE). Please deal directly with the DOCARE office by contacting: Mr. Francis Mission, at 274-3523 to make the necessary arrangements.

11. Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf shall supply to Land Division a name and local

telephone number of the contact person who can be reached at any time around the clock during this event.

12. Graham Chelius and Marisa Chelius, 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. Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf business, and then only after written notice is given to the State of Hawaii, Department of Land and Natural Resources 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf, then the Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf shall be responsible for the cost thereof. In addition, Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf best knowledge and belief regarding the presence of hazardous materials on the right-of-entry area or premises placed or released by Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf.
13. Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf agree to 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 Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf is/are in possession, or elsewhere if caused by Graham Chelius and Marisa Chelius, 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.

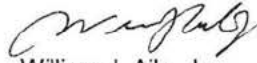

For purposes of this right-of-entry, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, 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.

14. Graham Chelius and Marisa Chelius, 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.
15. Graham Chelius and Marisa Chelius, 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.
16. All costs associated with the construction within the right-of-entry area or premises shall be the sole responsibility of the Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf.
17. Graham Chelius and Marisa Chelius, 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 Graham Chelius and Marisa Chelius, 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 State of Hawaii, Department of Land and Natural Resources satisfaction the areas affected by such pollution or contamination, all at Graham Chelius and Marisa Chelius, its consultants, contractors and/or persons acting for or on its behalf own cost and expense.
18. Best management practices shall be employed to avoid having silt or dirt enter the ocean.
19. 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 the Graham Chelius and Marisa Chelius, 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.
20. In the event any historic properties or burial sites, as defined in section 6E-2, Hawaii Revised Statutes, are found on the premises, the Graham Chelius and Marisa Chelius and the Graham Chelius and Marisa Chelius agents, employees and representatives shall immediately stop all land utilization or work or both and contact the Historic Preservation Office in compliance with chapter 6E, Hawaii Revised Statutes.

21. 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.
22. This right-of-entry is revocable and terminable at anytime for any reason in the sole and absolute discretion of the Chairperson. Include only if rent is being charged: As long as the revocation or termination is not as a result of any fault of, or default by Graham Chelius and Marisa Chelius of any provision of this right-of-entry, then Graham Chelius and Marisa Chelius may apply for a refund of any advanced rental payment made based upon the percentage of use denied by the revocation or termination.
23. This right-of-entry or any rights hereunder shall not be sold, assigned, conveyed, leased, let, mortgaged or otherwise transferred or disposed.
24. 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 is in force.

Sincerely,


William J. Aila, Jr.
Chairperson 

ACCEPTED:


Graham Chelius and Marisa Chelius

By Its:

Date: 1/10, 2019

cc: Land Board Member
DOCARE
OCCL
Central Files



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/24/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER State Farm Insurance 2970 Haleko Rd 106 State Farm Lihue, HI 96766 	CONTACT NAME: Charis Olson PHONE (A/C No. Ext): 808-245-3554 E-MAIL ADDRESS: charis@erickaneda.com	FAX (A/C No): 808-246-0395
	INSURER(S) AFFORDING COVERAGE	
INSURED CHELIUS, GRAHAM & MARISA [REDACTED] WAIMEA HI 96796-0414	INSURER A: State Farm Fire and Casualty Company NAIC # 28143	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Personal Umbrella Liability GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO. <input type="checkbox"/> LOC		51-BA-L668-3 F	01/28/2013	01/28/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (For person) \$ BODILY INJURY (For accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB OCCUR <input type="checkbox"/> CLAIMS-MADE					EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICEMEMBER EXCLUDED? (Mandatory in HI) If yes, describe under DESCRIPTION OF OPERATIONS below					WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Location Address: 4491 Kikiaola Pl Kekaha HI 96752

CERTIFICATE HOLDER [REDACTED]	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

EXHIBIT E

Land Division – Kauaʻi District Office 11/23/2018

Department of Land and Natural Resources
Land Division
3060 Eiwa Street, Room 208
Lihue, HI 96766

RE: Right of entry permit extension 13KD-174 for TMK (4) 1-2-013-031

Aloha,

We greatly appreciated the extension KA-18-12 we were given 1/9/2018, however we also asked to have the right of entry 13KD-174 extended in the same request (see attachment A), however we just learned that the right of entry extension is processed through the Land Division. We need to extend the right of entry to maintain and repair the structure.

Recently there has been a huge south swell that has damaged our sand bag "seawall". We did recently get a 5 year extension of the permit for the shore protection, but we need to complete maintenance and repair hopefully in March or April of 2019. (see attachments B-1 and B-2 for pictures of damaged section)

This will include:

- A) Entry of construction machinery onto the beach from a neighboring property.
- B) Creation of a beach sand path and ramp to the top of the current installation
- C) Removal of loose sand bags that the recent waves knocked loose.
- D) Restacking of the current bags to restore integrity of the revetment.
- E) Installation of some new sand bags on top of the current bags to restore the height and replace damaged bags. (The footprint and final height will be the same as the initial project. Unfortunately the high percentage of silt in the natural beach sand slowly washes out of the bags and they lose about 50% of their volume over time, resulting in settling of the bags allowing waves to break over the top and pull bags off and out of the stack)
- F) Entry onto the beach east of the Kikiaola Harbor to collect sand to fill the new bags, exactly the same process we used in early 2014.

I have attached our original project drawings (attachments C-1 and C-2), our original Right-of-entry permit from 12/23/2013, and our recent extension of the permit for the shore protection from 4/9/2018.

We are grateful for your willingness to assist us, and if we have overlooked anything or need to include more information please let us know and we will do our best.

Thank you,
Graham and Marisa Chelius
[REDACTED]
Waimea HI 96796
[REDACTED]

Michael Cain, Administrator
Hawaii Department of Land and Natural Resources,
Office of Conservation and Coastal Lands
Post Office Box 621
Honolulu, HI 96809

5/6/2023

RE: Permit extension for Emergency Temporary Shore Protection KA-14-03 and Right-of-Entry 13KD-174 for
TMK (4) 1-2-013-031

Aloha Mr. Cain,

I am pleased to inform you that the Emergency Temporary Shore Protection at TMK (4) 1-2-013-031 has been in place since February 2014 and has resulted in stabilization of the erosion and improvement in aesthetics and usability of the beach. This letter is an application to extend the Emergency Temporary Shore Protection Permits for another 1 year, or 5 years if there is a possibility of further extension as we had in the past. Our current permit expires July 16th 2023.

As is well documented from the extensive studies of the down drift effects of the Kikiaola Small Boat Harbor (KSBH), this property is subject to beach sand deprivation due to impounding of sand and obstruction of normal littoral drift by the rock structures of the KSBH. Unless the harbor structures are removed, as per the Corps of Engineers' studies, accelerated erosion of the downdrift land, such as this property, is to be expected. Additionally, written official communication between OCCL and DOBOR (the harbor is subject to a DLNR Conservation District Use Permit CDUP-KA-3003B), noting **"There is a clear and demonstrated need to address the chronic erosion occurring to the west (down drift) of the harbor. The OCCL has been working with several affected landowners in this area who have been struggling with extensive ongoing coastal erosion for decades.....Sand bypassing is an integral part of the project and OCCL strongly supports this component."** (DLNR:OCCL, DE Correspondence: OA-09-211 June 26, 2009)

OCCL's historic lack of proper oversight of DOBOR's ongoing damage to the Kikiaola beach and DOBOR's lack of appropriate action has resulted in serious degradation to the harbor and to the adjoining beach. We deserve equal protection from ongoing property damage and property loss.

You may observe that the following text and format of this letter is nearly identical to our successful request from 2018, attached. This is intentional. The situation has not changed, we are aware that the draft rules have not been finalized, so the rules have not changed as of the writing of this letter, so logic would suggest that the letter requesting the extension (and the outcome of the letter) should also not change.

Historical overview

Prior to our purchase of the property, there had been numerous attempts to control erosion by the previous owners, the Brobyns. We received your letter COR: KA-12-189(c) in Feb 2012 regarding the resulting debris from these failed attempts and we embarked on finding a long-term solution to the erosion.

Soon after, the highway west of the property was subject to erosion that was threatening its integrity and in addition to a massive, submerged piling system the erosion was initially controlled with large sandbags which are produced by several companies and are known as "Softrock" or "Elcorock." After some study we elected along with our westward neighbors to apply for a temporary permit to install a similar system to address the chronic erosion. Thankfully, the permits for the system and right-of-entry were granted in late 2013.

The bags for this project were sourced from Naue, a German firm, and using a Kauai-based contractor, 250 approximately 4000 lb bags were placed in early 2014. Just prior to initiation of the project a high energy swell hit the beach and our eastern neighbors lost 30 feet of depth along their entire property width within a few days.

Soon after the completion of our portion of the project (the western neighbors would be several months later) we noted that the sandbags were losing a substantial amount of volume, due to the high percentage of silt that the naturally present sand contained. This silt problem also complicated the sand bypass which came later in 2014. For our project, we eventually required some reworking of the bags, but since then the bags have been remarkably stable. The neighbors to the west, the Beckenfolds, having seen the issues we were having with our project,

substantially increased the fill percentage of their bags, and have not had as much problem with volume loss. We have been subject to several bags being vandalized and the Beckenfelds have had ongoing and numerous problems with intentional damage to their bags.

By August 2014 the first sand bypass project was completed, and in 2019 the second sand replenishment project with sand from the Waimoa river mouth was completed. We have had an opportunity to observe the effect of the projects.

In 2018 we had contemplated and had gotten approval for a project to repair and restack the sandbags of the revetment as they have shifted over time, however the 2019 sand bypass was very effective at replenishing the sand so we never completed the restacking project.

Current status

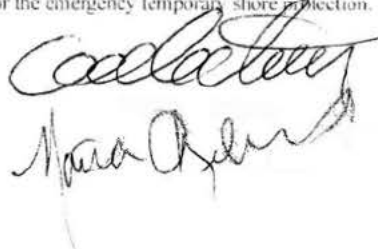
The shore protection has been 100% effective at halting further inland erosion at our property and has had a protective effect when compared to the erosion of the eastern adjoining property. Extrapolating the erosion to the west from where the neighbor's erosion scarp is currently, the erosion would have undermined our patio and our house would no longer be safe to live in due to the erosion being about 5 feet from the foundation. The sand bypass projects have been very beneficial with improved erosion of the beach for hundreds of yards west of the project properties, however gradual western drift has eventually resulted in elimination of this improvement. A future sand bypass is funded but until it is completed, we expect the beach to be starved of sand. Due to the uncertainty of timing of this and future sand bypass programs and continued impounding of sand by the KSBH, continuation of the shore protection is required and requested.

The current bags were nearly covered with sand and natural vegetation, mostly Beach Morning-glory and Naupaka as of 11/2022, however the historic swells of January/ February of 2023 deeply eroded the sand, and the bags are largely exposed at this time. The debris left by the previous landowners is gone, and a wide and usable beach is usually present especially after bypass projects. Beach walkers and shoreline fishermen are frequently present on the beach. However, it appears that we will soon need to complete the repair and restacking project we began planning a few years ago, as shifting has continued to degrade the project.

Conclusion

Thank you for the initial permits to complete this shore protection project. We feel that the project has benefited our property, adjoining properties, and has resulted (in combination with the sand bypass) in improved access to the beach by the community and a huge aesthetic improvement. Currently beach erosion on the westward, downdrift beach from KSBH continues, and periodic swell associated erosion events will continue to cause rapid erosion and without the current shore protection system potentially threaten structures on our property. The KSBH is a community asset and is extremely unlikely to be removed, resulting in a long-term need for the current shore protection system at TMK (4) 1-2-013-031 unless a multi-year, long-term sand bypass program is funded. Please grant us an extension of the current permits for the emergency temporary shore protection.

Thank You,
Graham and Marisa Chelius
[Redacted] Waimoa HI 96796
[Redacted]
[Redacted]



DAVID L. ROE
GOVERNOR
2019



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

1959 OFFICE, 1908 021
HONOULULU, HAWAII 96809

SUZANNE B. CASE
COMMISSIONER
ROBERT K. MASUDA
JERRIE T. PARKSON, JR.
DEPARTMENT OF LAND AND NATURAL RESOURCES
1959 OFFICE, 1908 021
HONOULULU, HAWAII 96809

DLNR.OCCL:BR

Extension KA-18-12

APR - 9 2018

Mr. Graham and Mrs. Marisa Chelius
[REDACTED]
Waimea, HI 96796

Dear Mr. and Mrs. Chelius,

SUBJECT: Request for Extension of Emergency Temporary Shore Protection at [REDACTED]
[REDACTED] Kekaha, Kauai, Hawaii, TMK (4) 1-2-013:031.

The Department of Land and Natural Resources (DLNR) has received your January 31, 2018 letter requesting an extension of five (5) years for the temporary emergency structure (DLNR ref. Emergency CDA KA-14-03) fronting the subject property. Emergency CDA KA-14-03 was originally authorized by DLNR on July 15, 2013 for the placement of geotextile sandbags along approximately 80 feet of erosion scarp fronting the subject property, as a temporary measure in response to ongoing coastal erosion. This temporary authorization was valid for five (5) years from the date of acceptance (July 16, 2013).

A long-term trend of beach erosion, due in large part to interruption of alongshore sediment transport by Kikaola Harbor¹, had created an erosion scarp that was within approximately 10 feet of the single-family residence on the subject property. The sandbag structure was authorized as a temporary means of controlling the shoreline erosion fronting the subject property, with the understanding that a long-term erosion control plan will be devised. According to your letter, the temporary structure is protecting the erosion scarp and single-family residence and is needed until a sand replenishment program is resumed around Kikaola Harbor to stabilize the beach.

¹University of Hawaii Coastal Geology Group (2011). Kauai Shoreline Study Erosion Maps. http://www.soest.hawaii.edu/coasts/kauai/county_KCounty.htm

EXHIBIT H

TMK (4) 1-2-013:031

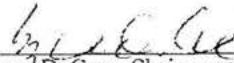
[REDACTED], Kekaha, Kauai, HI

3/13/2018

Your request to extend Emergency Authorization KA-14-05 for temporary erosion control for five (5) years is **APPROVED**. The authorization of the temporary erosion structure is extended five years and will expire on July 16, 2023. This authorization is subject to all the Terms and Conditions of the original authorization (Emer. CDUA KA-14-03).

Should you have any questions, please contact Sea Grant Extension Agent Brad Romine at 808-587-0049 or Bradley.M.Romine@hawaii.gov, at the DLNR Office of Conservation and Coastal Lands.

Sincerely,



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

Cc: KDLO
County of Kauai, Planning Dept

DAVID Y. IGE
GOVERNOR OF HAWAII



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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 15, 2019

Mr. Graham Chelius
Mrs. Marisa Chelius
[REDACTED]
Waimea, HI 96796

Ref. No.: 17KD-046
KA-18-12

Subject: Five Year Extension on Existing Right-of-Entry Permit Upon
Unencumbered State Lands at Kikiaola, Waimea, Kauai, Tax Map Key: (4)
1-2-013:031.

Dear Mr. & Mrs. Chelius:

We acknowledge receipt of your request for a five-year term extension of an existing right-of-entry permit which was originally approved by the Board of Land and Natural Resources at its meeting of December 13, 2013, under agenda item D-2. Purpose of the permit was to conduct temporary emergency measures in response to ongoing coastal erosion seaward of your private property, identified as TMK: (4) 1-2-013:031.

On July 15, 2013, the Office of Conservation and Coastal Lands (OCCL) approved a Conservation District Use Permit No. KA-14-03, for emergency shore protection purposes at Kikiaola, Waimea, Kauai, TMK: (4) 1-2-013:031. The emergency CDUA for a five year term commenced on July 16, 2013.

On April 9, 2018, OCCL approved a five-year extension (Extension KA-18-12), which is scheduled to expire on July 16, 2023.

The above Right-of-Entry Permit and Conservation District Use Applications are subject to all the Terms and Conditions of the original authorizations.

If you have any questions, please contact Wesley T. Matsunaga at the Kauai District Land Office at (808) 274-3491. Thank you.

Sincerely,


Suzanne D. Case,
Chairperson

cc: Hawaii Land Board Member
District Files
Central Files

EXHIBIT I

JOSH GREEN, B.S.
GOVERNOR | KE KAHŪNA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE NĀ'ĀNA



STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA
P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
LAURA H.E. KAAKUA
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

REF:OCCL:MC

RE: Extension KA-23-06
Emergency CDUP KA-14-03

Graham and Marisa Chelius

Waimea, HI 96796

MAY 30 2023

SUBJECT: Permit Extension for Emergency Temporary Shore Protection KA-14-03 for Tax
Map Key: (4) 1-2-013: seaward of 031

Dear Drs. Chelius,

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) has received your 06 May 2023 request for a second extension and repair of the temporary structure fronting the subject property initially authorized by Emergency Conservation District Use Permit (CDUP) KA-14-03.

Emergency CDUP KA-14-03 which authorized a geotextile sandbag revetment along approximately 80 feet of erosion scarp fronting your property was issued on July 15, 2013 for a period of five years. Extension KA-18-12 of Emergency CDUP KA-14-03 was issued on 9 April 2018 and is set to expire on 16 July 2023. The sandbag revetment is currently in a state of disrepair.

As acknowledged in Extension KA-18-12, a long-term trend of beach erosion along the shoreline fronting your property is due in large part to the interruption of alongshore sediment transport by Kikiaola Small Boat Harbor (KSBH). The CDUP issued to the DLNR Division of Boating and Ocean Resources (DOBOR) for KSBH was amended in 2013 as follows:

"The project scope of KA-3240 be amended to include 1) an initial transport of 80,000 cubic yards of sand, 2) the repair of the west breakwater root, and 3) the annual maintenance transport of 5000 cubic yards of sand."

DOBOR conducted an initial sand bypassing of approximately 40,000 cubic yards of sand from the east side of KSBH to a section the depleted beach on the west side of the harbor in 2014, temporarily alleviating the erosion along the receiving shoreline. DOBOR has not conducted

EXHIBIT J

Graham and Marisa Chelius

Extension KA-23-06
Emergency CDUP KA-14-03

additional sand bypassing since 2014. In 2019, DLNR Land Division conducted maintenance dredging of the Waimea River mouth and placed approximately 14,000 cubic yards of sand on a section of the beach to the west of KSBH.

Since 2019, the shoreline to the west of KSBH continues to erode in the absence of ongoing bypassing. The shoreline along many of Hawaii's carbonate sand beaches are retreating due to natural wave dynamics and sea level rise. However, the sand in the subject area originates from volcanic sediments transported by the Waimea River. The shoreline along this region should be naturally accreting due to the steady source of sand from the river, as demonstrated by the significant expansion of the dry beach to the east of KSBH. DOBOR is currently engaged in planning an ongoing sand bypassing program to alleviate the disruption of KSBH to the natural longshore transport of sand originating from the Waimea River mouth. The temporary revetment fronting the subject property is considered necessary to protect the occupied dwelling until a regular program of sand bypassing is established by DOBOR.

OCCL notes extensions to temporary shoreline revetments are rarely given. This case is unique given the history and DLNR commitments discussed above. **Your request to extend Emergency Authorization KA-14-03 for temporary erosion control and to conduct repairs and restacking of the structure to its original configuration is APPROVED.** The authorization of the temporary erosion structure is extended for five years from the date of this letter or until DOBOR has established a regular program of annual sand bypassing to redistribute impounded sand from the east of KSBH to the degraded shoreline west of KSBH, whichever occurs first. This authorization is subject to all the Terms and Conditions of the original authorization (Emer. CDUP KA-14-03).

Please contact DLNR's Land Division to secure any land disposition that might be required.

Should you have any questions pertaining to this letter, please contact Michael Cain, Administrator Office of Conservation and Coastal Lands at (808) 798-6912 or michael.cain@hawaii.gov.

Sincerely,



Dawn Chang, Chairperson
Board of Land and Natural Resources

C: KDLO
DOBOR
County of Kauai Planning Dept
Ruby Pap, Hawai'i Sea Grant

State of Hawaii Certificate of Title

Certificate No: 997304

Issued: 9/23/2010
Transfer from: 375972

Document No: T-4001873

I hereby certify that pursuant to Chapter 501 of the Hawaii Revised Statutes, the REGISTERED OWNER below is the owner in fee simple of the LAND described, subject, however to encumbrances mentioned in Section 501-82 of the Hawaii Revised Statutes and subject also to such exceptions, encumbrances, interests and entries as may appear under ENCUMBRANCES.

/s/ Ka'iulani J Lambert
Assistant Registrar

REGISTERED OWNER

GRAHAM TIMOTHY CHELIUS &wf MARISA KAY CHELIUS
[REDACTED] Waimea, Hawaii 96796

Tenants by the Entirety

LAND

Situate at Waimea, Kauai

LOT 60A, 1.216 acres, Map 31,
Land Court Application 1076 of Bishop Trust Company, Limited, Trustee

ENCUMBRANCES/MEMORIALS			
Document Number	Document Type	Recorded Date	Running in Favor Of
-			Perpetual covenants in Doc 1266687
T1180006	GRANT	08/15/1993	Citizens Utilities Company & GTEHawaiian Telephone Co, Inc.
L71423	LAND COURT ORDER	06/15/1990	Restriction of Access Rights, Map 31
T4001874	MORTGAGE	09/23/2010	Compass Bank
T9495344	MORTGAGE	12/31/2015	Mortgage Electronic Registration Systems, Inc, Nominee
T11266262	MORTGAGE	11/05/2020	Mortgage Electronic Registration Systems, Inc, Nominee
T11354334	RELEASE	02/01/2021	Mig 9495344



This seal of the Court has been affixed on this 20th day of April, 2016.

MAP 31

LAND COURT

STATE OF HAWAII

LAND COURT APPLICATION 1076

EROSION TO LOT 31 AS SHOWN ON MAP 28 AND DESIGNATION OF SAID LOT 31 LESS EROSION AS LOT 60

AND FURTHER SUBDIVISION OF LOT 60 INTO LOTS 60-A, 60-B, 60-C AND 60-D AND THE DESIGNATION OF RESTRICTION OF VEHICLE ACCESS RIGHTS AFFECTING LOTS 60-A AND 60-C AT KIKIAOLA, WAIMEA, KAUI, HAWAII

New Highwater Mark as shown hereon is from an actual survey on the ground made under the direction and supervision of the undersigned on May 4, 1984, and may be checked by the state surveyor with my Field Book Number C, Calculation and Work Sheet filed in our office.



PETER N. TAYLOR & ASSOC'S, INC.
Consulting Engineer
Rm. 201-A, 4444 Rice Street
Lihue, Kauai, Hawaii
March 13, 1984

Masao Fujishige
Masao Fujishige
Registered Professional Surveyor
Certificate Number 1025
Land Court Certificate Number 142

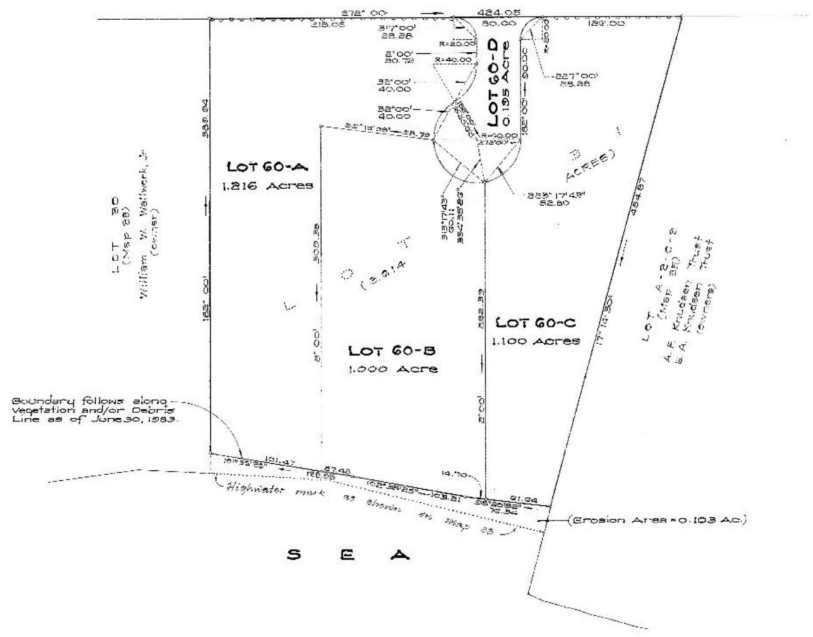
Owners: Kekaha Sands Associates "A"
Kekaha Sands Associates "B"

Owners' Certificate of Title 156707

I hereby certify that the description of survey and map hereon designating the boundaries of Lots 60-A, 60-B and 60-C as of June 30, 1983 has been checked and the same found to be in accord.
Honolulu, Hawaii
July 8, 1984
Walter J. Baker
State Land Surveyor

I hereby certify that Decree re-establishing Highwater mark as of June 30, 1983, of new Lot 60 and the approving of the subdivision of said Lot 60 into Lots 60-A, 60-B, 60-C and 60-D as requested in the herein application has been entered on September 20, 1984 and the same has been noted on Owners Transfer Certificate of Title No. 156707
Honolulu, Hawaii
September 20, 1984
Clifford S. Raman
Registrar of the Land Court

KAUAMUALII HIGHWAY To Kaneohe To Kaimua



NOTES:
--- denotes no vehicle access permitted
--- denotes access permitted

Tax Map Key: 1-2-1572 (4th Division)

Filed May 23, 1984 Paul Coyloff

31' x 32' = 4.27 Sq. Ft.

EXHIBIT L