STATE OF HAWAIʻI
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaiʻi

January 24, 2025

180-Day Exp. Date: February 16, 2025

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

REGARDING:	Conservation District Use Application (CDUA) HA-3953 for the North Kawaihae Small Boat Harbor Breakwater Repair Project
APPLICANT:	Department of Land and Natural Resources, Division of Boating & Ocean Recreation
LANDOWNER:	State of Hawaiʻi, Department of Land and Natural Resources
AGENT:	Berna Senelly, Regulatory Lead Oceanit
LOCATION:	North Kawaihae Small Boat Harbor , Kawaihae-Māhukona Road, Kawaihae, Hawaiʻi
TAX MAP KEY:	At and Makai of (3) 6-1-003:023
AREA OF PARCEL:	22,700 square feet
AREA OF USE:	1,950 square feet
SUBZONE:	Resource
EXHIBITS:	1. Harbor Damage 2. State Land Use Districts & Project Area 3. Location Map 4. Project Illustration (Cross Section) 5. EO 1862 Map

Item K-2

SUMMARY (EXHIBIT 1)

Division of Boating and Ocean Recreation (DOBOR) proposes to redesign and improve the damaged North Kawaihae Small Boat Harbor (Harbor) main breakwater to better withstand winter swells. The existing breakwater has undergone repeated damage from heavy north and northwest winter swells, which have resulted in extensive and repeated repairs to the breakwater and internal harbor facilities, thereby creating hazardous conditions inside the harbor. The modified breakwater will be designed to withstand larger wave forces and reduce wave intrusion into the harbor, thus minimizing damage to harbor structure and vessels that use the harbor.

DESCRIPTION OF AREA/CURRENT USE (EXHIBIT 2 & 3)

The Harbor is located at the northwest corner of the Kawaihae Deep Draft Harbor and at the end of Kawaihae-Māhukona Harbor Road of Akone Pule Highway. The land north of the project area is undeveloped with the exception of the lighthouse. The Harbor was constructed by the United States Army Corps of Engineers (USACE) in the late 1950's. It consists of a 1.6-acre basin protected by a 390 feet long main breakwater that runs along the north and northwest boundary and by a stub groin on the east side of the Harbor entrance. Vessels entering the Harbor use the deep draft harbor entrance for the initial approach and then make a left turn to enter the harbor basin. The Breakwater lies within the State Land Use Urban District; however the proposed expansion means the makai portion lies within the Resource subzone of the State Land Use Conservation District.

The breakwater is constructed with a mixed rock core covered with roughly 1,000-pound armor stones, topped with a concrete crest. The elevation of the breakwater varies between five to seven ft above mean lower low water level (MLLW). The breakwater crest is a 10-inch-thick concrete slab between three and five ft wide. The mauka end of the breakwater is at the beach berm at about seven ft MLLW elevation, which lowers to about five ft at the concrete boat ramp.

During the winter season, waves frequently overtop the structure during large swells and cause damage to harbor facilities. An assessment of the harbor and wave analysis indicated that the breakwater in its current condition is not adequate to withstand the wave climate at this site. Many years of repeated heavy winter swells and storm events have heavily damaged the main breakwater by washing out the concrete crest, displacing armor rocks, and completely removing the breakwater core spanning an approximately 40-ft section. Stated in the Final Environmental Assessment (FEA), an inspection of the structure in May 2018 concluded that the structural condition and overall function of the breakwater was unsatisfactory.

Coastal Hazards

Possible coastal hazards at the project site include flooding from upland storms, tsunamis, or storm surges generated by passing hurricanes. The project site is located in zone VE. These areas are subject to high velocity waves, coastal inundation from storm surges, tides, and tsunamis.

Flora and Fauna

A marine biological survey was conducted by AECOS, Inc in May 2023 to assess the

biological composition of the nearshore waters that may be affected by the proposed action.

Scattered corals were observed on the breakwater section near the shore and the surrounding loose boulders and urchins are common on the breakwater. In the area at the break of the breakwater (approximately 256 feet from the shore), boulders and broken slabs on concrete and other breakwater material are scattered on the seafloor. Mostly small corals occur on the boulders and debris in this area, and a school of yellowfin goatfish was observed here during a benthic survey. Makai of the damaged breakwater location, corals are abundant on the breakwater and boulders surrounding the breakwater. Sea cucumbers were also commonly observed surrounding the breakwater. Fishes in the surrounding area include surgeonfish, sergeants, butterflyfishes, and wrasses.

State and federally-listed marine species—green sea turtle, hawksbill sea turtle and monk seal— were not encountered during the survey. However, they may occur in the general vicinity of the project area, considering the distribution of these species and their occurrences throughout the Hawaiian Islands. The waters in and around the Harbor are designated as Essential Fish Habitat (EFH). Of the thousands of species which are federally managed, at least 50 juvenile and adult life stages are known to occur in waters in the project vicinity.

The outer ocean area of the Harbor is within the Whale Sanctuary. However, the Hawaiʻi Statewide GIS program website states that all small boat and commercial harbors should be excluded from the Humpback Whale National Marin Sanctuary. Regardless, the contractor for the project shall conduct visual survey daily before the start of construction to ensure that no protected species are in the area and that construction will be stopped immediately if a sea turtle, monk seal, or any other endangered or protected species enters the construction site or nearby vicinity.

The project will require a Special Activity Permit (SAP) to move coral from Division of Aquatic Resources (DAR). The applicant will coordinate with DAR regarding the quantity of coral to be moved and their relocation sites.

Historical & Cultural Resources

There are no known historic properties within the proposed project area. Pacific (PCSI) has prepared an archaeological literature review (ALR) that details the legendary, historical, and archaeological history near the project area.

From the 1970s to the present, archaeological investigations have been conducted near the current project area in support of roadway, harbor, and utilities developments. The construction of Kawaihae Harbor removed surficial evidence of archaeological sites and no subsurface historic properties have been encountered.

PROPOSED USE (EXHIBIT 2, 4, & 5)

A majority of the project is located within the State Land Use Urban District. The portion of the project that lies within the Resource subzone of the Conservation District includes extending the breakwater out 15 ft and elevating the crest from 6’ Mean Sea Level (MSL) to 10’ MSL. The extension of the breakwater will be the south portion. The estimated area of construction in the Conservation District is 1,950 SF. The area of

expansion extends beyond the boundaries of Executive Order (EO) 1862.

The proposed breakwater repair and modification for preventing siltation of the boat ramp will not change the flood zone or elevation and will be designed to make the small boat harbor more resilient to flood events. The increased height and footprint of the modified breakwater is designed to reduce wave action into the harbor and wave overtopping, which will decrease flooding in the parking lot area during high wave storm events. Once in place, the breakwater extension will redirect uprush from the backshore from flowing down and depositing sediment in the concrete boat ramps so that it can be kept unobstructed with less maintenance for continued use.

Given the breakwater's current damaged condition, the harbor basin is exposed to large winter swells that come over and through the gap in the breakwater. Boats using the harbor are moved to alternate sites when heavy wave climate is expected.

The proposed project is anticipated to begin construction in February 2025 and end in November of 2025.

Alternatives Considered

Five alternatives were considered but not chosen for the project: Alternative A: Breakwater Crest Elevation of 12 ft Above MLLW; Alternative B: Breakwater Modification with New Shore Berm Construction; Alternative C: Breakwater Modification with New Shore Berm Construction Plus Harbor Entrance Modification Option 1; Alternative D: Breakwater Modification with New Shore Berm Construction Plus Harbor Entrance Modification Option 2; and the No Action Alternative.

Mitigation and Best Management Practices

The construction activities will temporarily affect the water quality in the nearshore area adjacent to the breakwater and the neighboring beach to the west as the removal of scattered materials from the existing breakwater, excavation at the footprint of the modified structure and rock placement below water level will increase the turbidity in the area. The turbidity levels will revert to pre-construction levels once the construction work is completed. To prevent or minimize degradation of water quality, the construction contractor is required to install appropriate Best Management Practices (BMPs), such as full-depth silt curtains around the in-water work area and biosocks, silt fences, and covering material stockpiles on the land side to satisfy Department of Health administered Clean Water Act requirements. The contractor will employ appropriate construction methods to minimize pollutant generation and use adequate BMPs to prevent contamination of water adjacent to the project site.

Fill materials stored onshore will be covered with suitable material to prevent dispersion by wind and rainfall. Fill materials discharged in water will be limited to those suitable to be placed in ocean water such as clean filter materials, rocks and boulders that will be used in breakwater construction. Materials excavated to prepare the base of the breakwater will be disposed as required by Federal, State and County regulations. The size of the construction site is less than one acre (20,000 square feet). Therefore, a National Pollution Discharge Elimination System (NPDES) permit for Discharge of Storm Water Associated with Construction Activities is not required. However, storm water runoff from construction site will be controlled using appropriate BMPs and construction

methods.

All corals occurring on the breakwater structure and the surrounding area would be directly impacted by the proposed action. Impacts to corals could be minimized by relocating suitable coral heads that occur in the project area. Before the start of the project, a coral response and rescue team will be formed to removed corals, as practicable, from the project area and transplant them to another site. For the corals that are not suitable candidates for relocation, their loss may be mitigated by taking a sample of these corals to the Department of Land and Natural Resources (DLNR), Division of Aquatic Resources' Coral Nursery, propagating them into larger corals, and transplanting them back on the new breakwater structure. It is anticipated, however, that the new breakwater structure will provide a larger and better habitat for corals to grow. Therefore, in the long-term view, the proposed action will provide increased habitat area and positive impacts to the resources of biological assembled at the project area.

Because sea turtles and marine mammals typically avoid human activity, the expected effect of this interaction would be an avoidance behavior leading to an exposed animal leaving the project area without injury. The likelihood of interaction will be reduced through a Best Management Practice (BMP) of watching for and avoiding protected marine life before commencing work and by postponing certain activities when protected species are within 50 yards of that activity. The proposed action is expected to have no long-term effect on the foraging characteristics or upon the quality or quantity of monk seal prey. In terms of mitigation, National Marine Fisheries Service (NMFS) provided the following conservation recommendations for the Harbor Repairs:

1. Conservation Recommendations for Physical Impacts to Benthic Communities

   • Equipment, anchors, structures, or fill shall not be deployed in project areas containing live corals, seagrass beds, or visible benthic organisms. Perform pre-deployment reconnaissance (e.g., divers, drop cameras, etc.) to ensure these resources are avoided.

   • Minimize direct impact (direct or indirect contact causing damage) by divers and construction related tools, equipment, and materials with benthic organisms, regardless of size, especially corals and seagrass.

   • Prevent trash and debris from entering the marine environment during the project.

   • Maintain all structures, gear, instrumentation, mooring lines, and equipment to prevent failures.

   • Select work platforms based on the following preferential hierarchy:

   • Conduct all work from land or an existing structure;

   • Use a barge with auto-positioning systems where thrusters will not cause increased turbidity;

   • Anchor barges to (1) shoreline infrastructure; (2) nearby existing moorings; and, (3) anchors or spuds on sand only (as possible, have SCUBA divers lay anchors by hand in sand areas).

• Mooring systems (e.g., buoys, chains, ropes) must:

• Be kept taut to the minimum length necessary.

• Employ the minimum line length necessary to account for expected fluctuations in water depth due to tides or waves.

• Use a mid-line floats or other buoyancy devices to prevent contact with the ocean floor.

• Be properly maintained.

• All temporary structures must be removed at the completion of construction and this timeframe will be defined as aligned with General Condition #30 of the Nationwide Permit Program.

2. Conservation Recommendations for Increase in Sedimentation and/or Turbidity

   • Appropriate silt containment devices must be properly installed, monitored and maintained.

   • Debris and sediment that is removed from the water shall be disposed of at an appropriate upland location. Sediment and debris must be contained while in transit or on the shore.

   • Project operations must cease under unusual conditions, such as large tidal events, storms, and high surf conditions.

   • Conduct intertidal work at low and/or slack tide to the greatest extent feasible.

   • To minimize impacts to coral larvae, avoid in-water work during mass-coral spawning times or peak coral spawning seasons. Permittees shall coordinate with local NMFS Habitat Conservation Division representatives to determine the exact period when coral spawning would occur for the given year at the project site.

   • Utilize environmental clamshell buckets for mechanical dredging.

3. Conservation Recommendations for Increase in Nutrients, Pesticides and Herbicides and Contaminants

   • Conduct work during the dry season when possible; stop work during storms or heavy rains.

   • Prevent discharges into the water.

   • Inspect all equipment prior to beginning work each day to ensure the equipment is in good working condition, and there are no contaminant (e.g., oil, fuel) leaks. Work must be stopped until leaks are repaired, and equipment is cleaned. Equipment should always be stored in appropriate staging area designed to be preventative in terms of containing unexpected spills when equipment is not in use or during fueling.

   • Fueling of project-related vehicles and equipment shall take place at least 50 feet, or the maximum distance possible, from the water and within a containment area, preferably over an impervious surface.

4. Conservation Recommendations for Increase in Acoustic Impacts

• Use a vibratory hammer to install piles when possible. Under conditions where impact hammers are required, when possible, drive as deep a possible with a vibratory hammer prior to the use of an impact hammer.

• Implement measures to attenuate the sound or minimize impacts to aquatic resources during pile installation. Methods to mitigate sound impacts include, but are not limited to, the following: surround the pile with a dewatered cofferdam and/or air bubble curtain system.

5. Conservation Recommendations for Increase in Invasive Species

• Prior to in-water work, sanitize equipment or dive gear that has been previously used in an area known to contain invasive species.

• Small boats that have been deployed in the field will be cleaned and inspected daily for organic material, including any algal fragments or other organisms. Organic material, if found, will be physically removed and disposed of according to the ship's solid waste disposal protocol or in approved secure holding systems.

• The internal and external surfaces of vessels will be rinsed daily with freshwater and always rinsed and be allowed to dry before redeployment.

• Vegetated areas impacted during construction must be revegetated with appropriate native species.

The potential air pollutant is dust that may arise from movement of equipment, land clearing activities and excavation in the backshore area for the landward breakwater extension. Soil in the area is sandy and the potential for pollution is low. These impacts are short term, and watering and other dust-minimizing Best Management Practices (BMPs) will be used during construction. No long-term impacts are anticipated. A temporary increase in exhaust emissions from the heavy machinery and other construction vehicles is anticipated in the project area during construction. No adverse impacts on air quality are anticipated due to the short-term construction activity. Therefore, no long-term mitigation is required.

During project construction, noise levels will increase in the short term from construction related vehicles and equipment. Typical construction equipment will include cranes, backhoes, loaders and rock transportation trucks. The noise generated will be minor and will occur only during the construction phase. Noise generated by equipment during construction will be compliant with levels established by the State Department of Health and no additional mitigation measures are needed. To mitigate noise emissions and community effects of noise emissions from construction activities, BMPs such as the following will be employed:

• Equipment operation on the shoreline will be limited between 7:00 AM and 7:00 PM;

• Broadband noise backup alarms in lieu of higher frequency beepers will be required for construction vehicle equipment; and

• Equipment substitution will be used to ensure that the quietest locally available

equipment is used (e.g., high insertion loss mufflers, fully enclosed engines, and rubber-tired equipment if possible). In the long term, no increase in harbor traffic or ambient noise levels are anticipated after construction.

SUMMARY OF COMMENTS

The Office of Conservation and Coastal Lands referred the application to the following agencies for review and comment:

Federal Agency

- US Fish & Wildlife Services and US Army Corps of Engineers

State Agencies:

- DLNR: Hawai'i District Land Office, Division of Forestry and Wildlife, Aha Moku Advisory Committee, Engineering, and Division of Aquatic Resources
- Office of Hawaiian Affairs
- Department of Health, Clean Water Branch

County Agencies

- County of Hawai'i: Department of Planning, Fire Department, Police Department, and Emergency Management

This application was forwarded to the Thelma Parker Memorial Public and School Library, the Kawaihae Canoe Club, and the Waimea-Kawaihae Community Association. It was also available on OCCL's website to make this information readily available for those who may wish to review it.

Comments were received by the following agencies, and summarized by Staff as follows:

US Fish and Wildlife Service

The agency provided information on how to use their new online portal.

Also enclosed was avoidance and minimization measures that the FWS recommends, with attachments including Animal and Plant Avoidance and Minimization Measures, General Biosecurity Protocols, and Recommended Standard Best Management Practices for the project. Additionally, the proposed critical habitat rule for Green Sea Turtles was attached.

The U.S. Fish and Wildlife Service recommends the following measures are incorporated into project planning to avoid or minimize impacts to fish and wildlife resources:

1. Authorized dredging and filling-related activities that may result in the temporary or permanent loss of aquatic habitats should be designed to avoid indirect, negative impacts to aquatic habitats that extend beyond the planned project area.

2. Dredging/filling in the marine environment should be scheduled to avoid coral spawning and recruitment periods, and sea turtle nesting and hatching periods. Because these periods vary throughout the Pacific islands, we recommend contacting the relevant local, state, or Federal fish and wildlife resource agency for site specific guidance.

3. Turbidity and siltation from project-related work should be minimized and contained within the project area by silt containment devices and curtailing work during flooding or adverse tidal and weather conditions. The BMPs should occur for the life of the construction period until turbidity and siltation within the project area is stabilized. All project construction-related debris and sediment containment devices should be removed and disposed of at an approved site.

4. All project construction-related materials and equipment (i.e., dredges, vessels, backhoes, silt curtains, etc.) to be placed in an aquatic environment should be inspected for pollutants including, but not limited to; marine fouling organisms, grease, oil, etc., and cleaned to remove pollutants prior to use. Project related activities should not result in any debris disposal, non-native species introductions, or attraction of non-native pests to the affected or adjacent aquatic or terrestrial habitats. Implementing both a litter-control plan and a Hazard Analysis and Critical Control Point plan (HACCP – see https://www.fws.gov/policy/A1750fw1.html) can prevent attraction and introduction of non-native species.

5. Project construction-related materials (i.e., fill, revetment rock, pipe, etc.) should not be stockpiled in, or in close proximity to aquatic habitats and should be protected from erosion (e.g., with filter fabric, etc.), to prevent materials from being carried into waters by wind, rain, or high surf.

6. Fueling of project-related vehicles and equipment should occur away from the aquatic environment and a contingency plan to control petroleum products accidentally spilled during the project should be developed. The plan should be retained on site with the person responsible for compliance with the plan. Absorbent pads and containment booms should be stored on-site to facilitate the clean-up of accidental petroleum releases.

7. All deliberately exposed soil or under-layer materials used in the project near water should be protected from erosion and stabilized as soon as possible with geotextile, filter fabric or native or non-invasive vegetation matting, hydro-seeding, etc.

Applicant's Response

Your response included information that PIFWO is transitioning to the Information for Planning and Consultation (IPaC) online portal and guidance on using IPaC, as well as Avoidance and Minimization Measures and 50 CFR Parts 223, 224, and 226 Related to Endangered and Threatened Wildlife and Plants: Proposed Rule to Designate Marine Critical Habitat for Six Distinct Population Segments of Green Sea Turtles.

We are currently working with the U.S Department of Army Corps of Engineers (USACE) regarding a Department of Army permit for this project. Based on consultation with the USACE project manager, we understand that USACE is coordinating project review with federal agencies, including matters related to endangered species. We are providing information to the USACE project manager as requested.

We verify that project implementation will incorporate the seven BMPs recommended by the U.S Fish and Wildlife Service.

ANALYSIS

On August 20, 2024, the Department notified the applicant that:

1. The proposed use is an identified land use in the Resource subzone of the Conservation District, pursuant to the Hawai'i Administrative Rules (HAR), §13-5-22 P-6 PUBLIC PURPOSE USES (D-1) *Not for profit land uses undertaken in support of a public service by an agency of the county, state, or federal government, or by an independent non-governmental entity, except that an independent non-governmental regulated public utility may be considered to be engaged in a public purpose use. Examples of public purpose uses may include nut are not limited to public roads, marinas, harbors, airports, trails, water systems and other utilities, energy generation from renewable sources, communication systems, flood or erosion control projects, recreational facilities, community centers, and other public purpose uses, intended to benefit the public in accordance with public policy and the purpose of the conservation district.* This use requires a Board Permit approved by the Board of Land and Natural Resources. Please be advised, however, that this finding does not constitute approval of the proposal;

2. Pursuant to §13-5-40 of the HAR, a Public Hearing will not be required;

3. In conformance with Hawai'i Revised Statutes (HRS), Chapter 343, as amended, and HAR Chapter 11-200.1, the Final Environmental Assessment has been reviewed and accepted by the Department. Notice was published in the February 23, 2024, issue of the Environmental Notice; and

4. The FEA notes that per consultation with the Hawai'i County Planning Department, the proposed action is exempt from a Special Management Area (SMA) permit under HRS 171-6(19).

Additionally, notice of CDUA HA-3953 was published in the September 8, 2024, edition of *The Environmental Notice*.

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in HAR, §13-5-30:

1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare.

The proposed action is to repair the nonconforming North Kawaihae Small Boat Harbor breakwater. It is believed the work will have short term negative impacts on marine water quality, marine biota, and recreational resources.

Long term impacts on coral could be minimized by relocation suitable coral heads that occur in the project area, and a coral response and rescue team will be formed to remove corals, as practicable. The rescue team will be comprised of marine biologists and divers, commercial divers, and possibly DAR. It Is anticipated that the new breakwater structure will provide a larger and better habitat or corals to grow. Therefore, in long-term view, the proposed action will provide increased habitat area and positive impacts to the resources of biological assemblage at the project area.

2) *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur*.

The objective of the Resource subzone is to “ensure, with proper management, the sustainable use of natural resources in the area.” The proposed action is to manage, repair and maintain the damaged breakwater with a design to mitigate the 50-year return period wave.

The proposed land use complies with the provisions and guidelines contained in Hawai‘i Revised Statutes (HRS), Chapter 205A, entitled "Coastal Zone

The proposed land use addresses the following specific Coastal Zone Management (CZM) objectives outline in HRS Chapter 205A:

(1) Recreational Resources: The proposed action complies with Recreational Resources objectives in that the new breakwater will result in better wave climate in the entrance to the deep draft harbor, thereby making it easier for small recreational and other craft to make sharp turn into the harbor.

(2) Scenic and open space resources: By restoring the structural integrity of the severely damaged breakwater, the proposed action will improve the visual environment of the harbor. The proposed action will not impact mauka-makai views or affect open space resources.

(3) Coastal ecosystem: The new breakwater structure will provide a larger and better habitat for corals to grow. The proposed action will provide increased habitat area and positive impacts to the resources of biological assemblage at the project area.

(4) Economic uses: The proposed action supports continued operations at the existing Harbor facility for recreational and commercial activities.

(5) Coastal Hazards: The purpose of the proposed action is to improve safety conditions within the Harbor, restore its functionality and increase its resilience to coastal hazards such as sea level rise (SLR) and storm events.

(6) (8) Public participation: Community pre-consultation meetings were held on March 32 and April 1, 2023, at the Harbor, where participants were asked to comment on the concept designs for breakwater repair and extension. Based on the community meeting, many alternatives were not further considered, and the proposed action was revised and finalized. A public information meeting on the draft EA was held on November 23, 2023. The purpose of that meeting was to clarify project information and assist the public in providing comments on the draft EA.

(7) (10) Marine and Coastal resources: The proposed action combines supporting water-dependent uses (e.g., canoeing, boating, fishing) in coastal areas that are well -suited to their continued operation with improving benthic habitat for marine life as well as the visual aesthetics of the harbor.

3) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community, or region*.

Proposed improvements to the Harbor will not substantially and adversely impact natural resources. The proposed repairs will strengthen the structure and minimize the level and frequency of damage, thereby ensuring, with proper management, the sustainable use of the area. The new breakwater structure will provide a larger and better habitat for corals to grow and provide increased habitat area and positive impacts to the resources of biological assemblage at the project area.

4) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

The proposed action involves the repair of an existing breakwater. It is compatible with nearby uses including the Kawaihae Deep Draft Harbor and supports the Kawaihae Canoe Club that is based mauka of the NKSHBH.

5) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

The area is in the vicinity of the Department of Transportation commercial harbor. The breakwater is an existing structure that needs to be reinforced to receive the brunt of wave energy. The character of the area will be preserved.

6) *Describe how subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

The proposed action does not involve subdivision of land.

7) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

The proposed action will improve conditions related to public health, safety and welfare by achieving calmer conditions in the harbor that will allow fishing boats and tourist servicing vessels continued operation in the harbor basin.

CULTURAL IMPACT ANALYSIS

As part of the CIA, several entities and individuals were contacted to solicit information about historic properties, cultural resources, traditional cultural properties, and traditional and customary practices potentially within the current project area. During consultation, the Kawaihae Canoe Club (located adjacent to and user of the Harbor) was identified as a potential traditional cultural property/traditional cultural practitioner.

Previous archaeological investigations conducted on the harbor property south of the Harbor encountered fill during subsurface testing, and no historic properties have been recorded at Kawaihae Harbor. Less the 100 meters north of the Harbor, subsurface testing did not encounter any intact cultural deposits and the surface survey noted the area was previously disturbed by storms and modern rubbish was present. Additionally, the current project area is seaward of the former coastline and underlain by up to 13 ft of fill, which is material dredged from the bay during construction of the harbor facility in the late 1950s. Consequently, the applicant believes it is extremely unlikely that any traditional Hawaiian cultural deposits, human burials, or buried post Contact historic properties are present in the project area.

To date, PCSI has received two responses regarding cultural resources or historic properties within the project area:

• Mr. Flores requested a copy of the draft ALR to understand the project more. No further comments were provided by Mr. Flores.

• Ms. Willette Kalāokahaku Akima-Akau of the Kawaihae Canoe Club (KCC) expressed a desire to have the club considered as a historic site or traditional cultural property (TCP). KCC occupies a property adjacent to the Harbor and has used the Harbor consistently for more than 50 years to conduct canoeing and community-related events. KCC was founded in 1972. Additional meetings between PCSI and KCC are planned to gather information to assist in evaluating the potential for KCC to be considered a TCP.

The consultant for the project submitted the HRS 6E form to HICRIS on 4/26/2024, project # 2024PR00528. There has yet to be a response from State Historic Preservation Division (SHPD).

The Ka Pa‘akai three-part assessment, based primarily on archival research, is summarized. Additional consultation may occur.

1) The identity and scope of valued cultural, historical, or natural resources, including the extent to which traditional and customary native Hawaiian rights are exercised.

No known cultural resources or historic properties have been identified within the project area.

2) The extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action.

No known cultural resources or historic properties will be affected or impaired by the proposed action.

3) The feasible action, if any, to be taken by the agency to reasonably protect native Hawaiian rights if they are found to exist:

No known cultural resources or historic properties have been identified within the project area. If historic properties are discovered during the proposed project, they will be evaluated in accordance with HRS 6E and its associated Administrative Rules. If traditional and customary native Hawaiian resources or practices are identified, appropriate mitigation or preservation measures will be implemented.

DISCUSSION

DOBOR proposes to redesign and improve the damaged Harbor main breakwater to better withstand winter swells. This would require extending the breakwater out 15 ft and elevating the crest from 6’ MSL to 10’ MSL. The extension of the breakwater will be the south portion. The estimated area of construction in the Conservation District is 1,950 SF.

To repair the main breakwater, demolition of the existing structure will be needed prior to placing the foundation bedding layer. The breakwater consists of a trapezoidal underlayer overlaid by two layers of armor rocks. Some of the material from the existing breakwater will be used to supplement imported materials. The final modified breakwater will have a crest elevation of 10 ft above the MLLW and 1.5H:1V side slopes. The increased height will make the structure more resilient to wave actions from storm events. The design crest width is 10 ft to accommodate construction and maintenance equipment. The modified structure is anticipated to significantly reduce wave overtopping and the risk of breakwater.

The new breakwater will result in better wave climate at the entrance to the deep draft harbor. That will make it easier for small recreational and other craft to make the sharp turn into the harbor. Further, the proposed action will protect the harbor piers and moorings and the boats that use them. In the past, the high waves and surges in the harbor have damaged the harbor piers and moorings making them unsafe and unusable.

Standard BMPs will be followed during construction. Within the Environmental Assessment, the applicant has identified several mitigative measures, conditions, and practices to ensure that the proposal will have minimal negative effects on the natural resources of the land. As such these proposed measures, conditions, and practices are incorporated into the permit. Additionally, the comments received by USFW should be taken into consideration to minimize the impact to native flora or fauna.

Construction activities will result in short term negative impacts on marine water quality, marine biota and recreational resources. Long term impacts include ocean water quality and turbidity levels will revert to pre-construction levels once the construction work is completed. The new breakwater will result in better wave climate at the entrance to the deep draft harbor. That will make it easier for small recreational and other craft to make the sharp turn into the harbor. Further, the proposed project will protect the harbor piers and moorings and the boats that use them. Long term impacts on corals could be minimized by relocating suitable coral heads that occur in the project area, and a coral response and rescue team will be formed to remove corals, as practicable. It is anticipated that the new breakwater structure will provide a larger and better habitat for corals to grow.

Staff believes that the project will have negligible adverse environmental or ecological effects provided that best management practices and mitigation measures as described in the application and environmental assessment are fully implemented.

OCCL recommends that the seven BMPs listed by USFWS be made conditions of the permit.

RECOMMENDATION

Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources APPROVE Conservation District Use Application HA 3953 for Division of Boating and Ocean Recreation North Kawaihae Small Boat Harbor project at and makai of North Kawaihae Small Boat Harbor, located at Kawaihae-Māhukona Road, Kawaihae, island of Hawai'i, Tax Map Key: (3) 6-1-003:023. subject to the following conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of HAR Chapter 13-5;

2. The permittee shall comply with all applicable Department of Health administrative rules;

3. Before proceeding with any work authorized by the department or the board, the permittee shall submit four (4) copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the permittee. Plan approval by the chairperson does not

constitute approval required from other agencies;

4. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, in accordance with construction plans that have been signed by the chairperson or an authorized representative and shall be completed within three (3) years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;

5. All representations relative to mitigation set forth in the accepted application and environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;

6. 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 SHPD (808) 692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;

7. The permittee shall utilize Best Management Practices for the proposed project;

8. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;

9. In issuing the permit, the department and board 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;

10. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;

11. 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;

12. Obstruction of public roads, trails, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, or pathways acceptable to the department;

13. During construction, appropriate mitigation measures shall be implemented

to minimize impacts to the aquatic environment, off-site roadways, utilities, and public facilities;

14. The permittee shall obtain a county building or grading permit or both for the use;

15. Artificial light from exterior lighting fixtures, including but not limited to floodlights, up lights, 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 section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;

16. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawai‘i, and by Hawai‘i statutory and case law;

17. Authorized dredging and filling-related activities that may result in the temporary or permanent loss of aquatic habitats should be designed to avoid indirect, negative impacts to aquatic habitats that extend beyond the planned project area.

18. Dredging/filling in the marine environment should be scheduled to avoid coral spawning and recruitment periods, and sea turtle nesting and hatching periods. Because these periods vary throughout the Pacific islands, we recommend contacting the relevant local, state, or Federal fish and wildlife resource agency for site specific guidance.

19. Turbidity and siltation from project-related work should be minimized and contained within the project area by silt containment devices and curtailing work during flooding or adverse tidal and weather conditions. The BMPs should occur for the life of the construction period until turbidity and siltation within the project area is stabilized. All project construction-related debris and sediment containment devices should be removed and disposed of at an approved site.

20. All project construction-related materials and equipment (i.e., dredges, vessels, backhoes, silt curtains, etc.) to be placed in an aquatic environment should be inspected for pollutants including, but not limited to; marine fouling organisms, grease, oil, etc., and cleaned to remove pollutants prior to use. Project related activities should not result in any debris disposal, non-native species introductions, or attraction of non-native pests to the affected or adjacent aquatic or terrestrial habitats. Implementing both a litter-control plan and a Hazard Analysis and Critical Control Point plan (HACCP – see https://www.fws.gov/policy/A1750fw1.html) can prevent attraction and introduction of non-native species.

21. Project construction-related materials (i.e., fill, revetment rock, pipe, etc.) should not be stockpiled in, or in close proximity to aquatic habitats and should be protected from erosion (e.g., with filter fabric, etc.), to prevent materials from being carried into waters by wind, rain, or high surf.

22. Fueling of project-related vehicles and equipment should occur away from the aquatic environment and a contingency plan to control petroleum products accidentally spilled during the project should be developed. The plan should be retained on site with the person responsible for compliance with the plan. Absorbent pads and containment booms should be stored on-site to facilitate the clean-up of accidental petroleum releases.

23. All deliberately exposed soil or under-layer materials used in the project near water should be protected from erosion and stabilized as soon as possible with geotextile, filter fabric or native or non-invasive vegetation matting, hydro-seeding, etc.

24. The permittee shall secure a Special Activity Permit (SAP) with the Division of Aquatic Resources prior to initiating construction;

25. The permittee is responsible for complying with HRS Chapter 6E-8;

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

27. Failure to comply with any of these conditions shall render this Conservation District Use Permit void under HAR Chapter 13-5, as determined by the chairperson or board.

Respectfully submitted,

Alyssa Accardo

Alyssa Accardo, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:

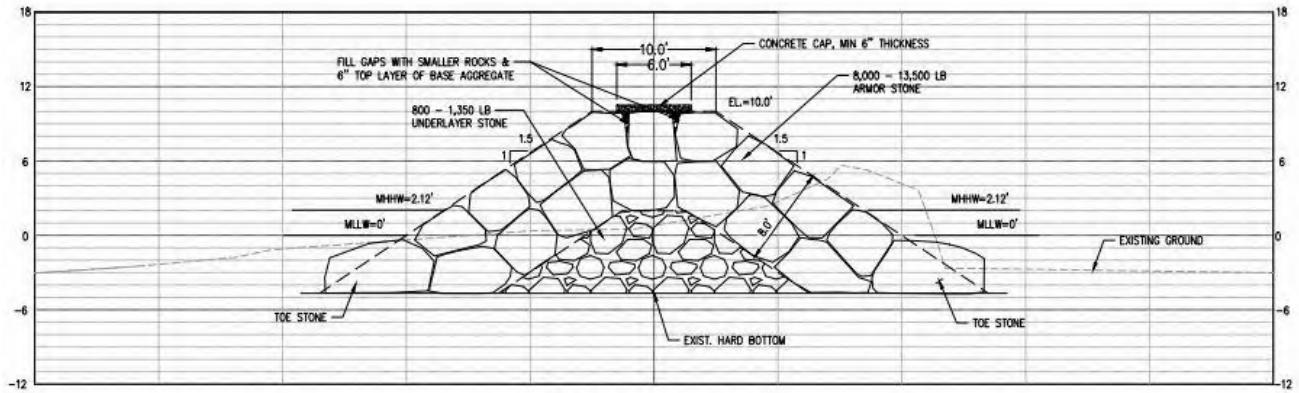
DAWN N.S. CHANG, Chairperson
Board of Land and Natural Resources

Exhibit 1: Harbor Damage

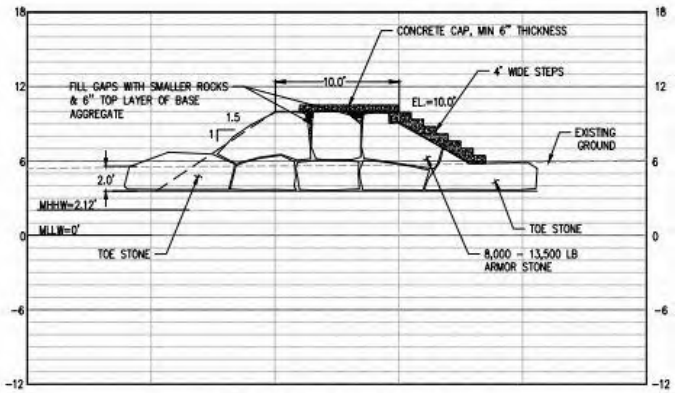
~~Figure 4-1: State Land Use Districts~~

Exhibit 2: State Land Use District & Project Area

Exhibit 3: Location Map



1 C-3 C-4 TYPICAL SECTION
SCALE: 1" = 5'



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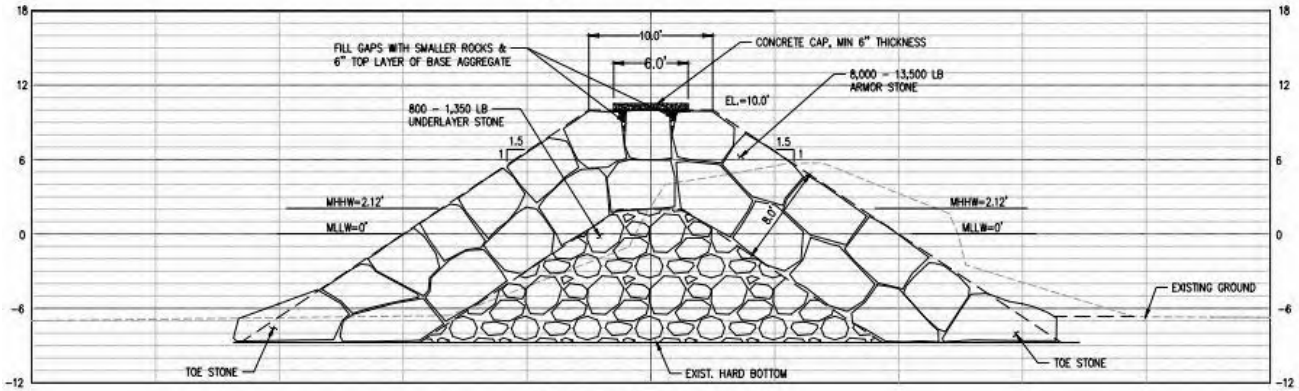

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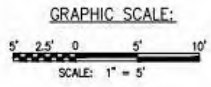

Exhibit 4: Project Illustration (Cross Section)

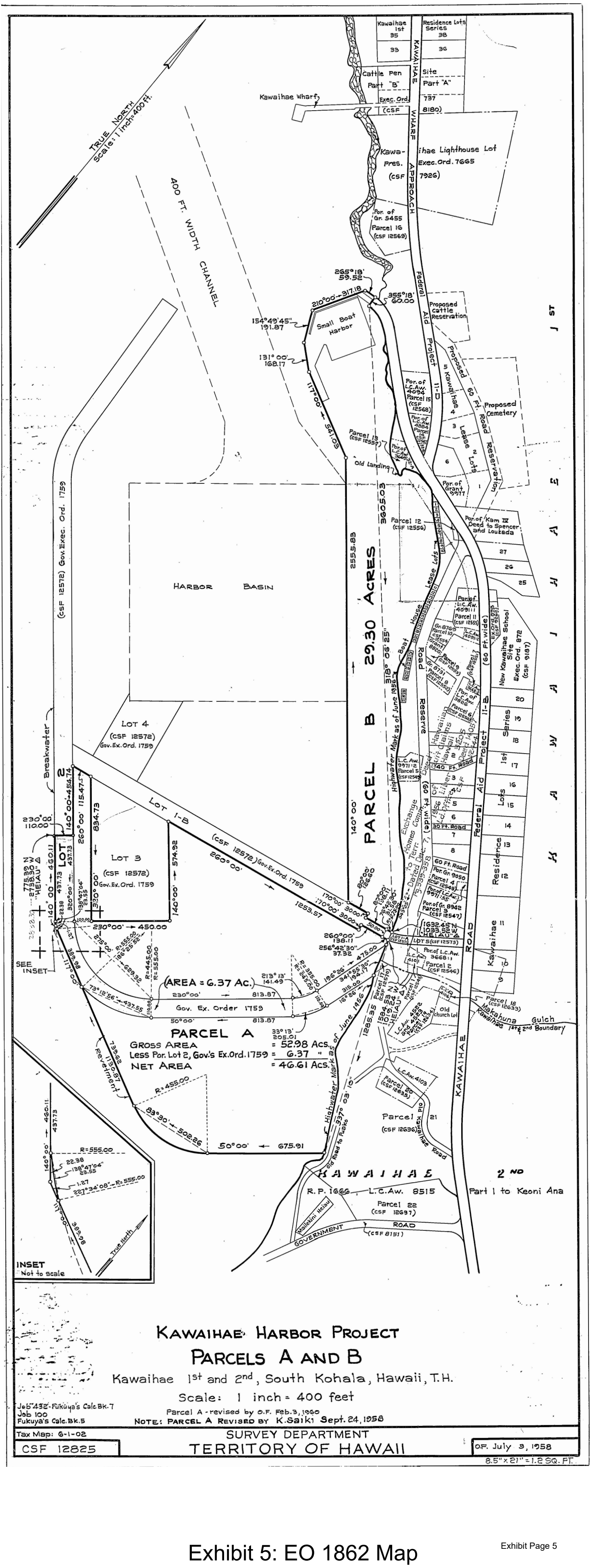

Exhibit 5: EO 1862 Map