

December 10, 2025

**VIA E-MAIL**

Board of Land and Natural Resources  
State of Hawai'i  
P.O. Box 621  
Honolulu, HI 96809  
E-mail: [blnr.testimony@hawaii.gov](mailto:blnr.testimony@hawaii.gov)

**Re: December 12, 2025 BLNR Hearing Agenda, Item K-1: Request for Administrative Fines and Other Penalties Against James D. Greig and Rhodette R. M. Greig ("Greigs") for Conservation District Enforcement Case OA 25-29 Regarding the Alleged Permit Noncompliance, Construction of Shoreline Erosion Control Device, and Encroachment Upon State Land Located Makai of 55-271 Kamehameha Highway, Tax Map Key (TMK): (1) 5-5-002:088 (the "Property")**

Dear Chairperson and Board Members:

We represent James D. Greig and Rhodette R. M. Greig (the "Greigs") with regard to Item K-1 on the Board's December 12, 2025 agenda. This is a continuation of Item K-2 from the Board's October 24, 2025 meeting agenda.

### **1. The History of the Property.<sup>1</sup>**

The Greigs purchased the Property in 1998. The Property has been used as a family beach home and not for short-term rental. When the Property was purchased, the dunes were considerably larger than today—an estimated 30-50 feet makai of their present location. Over time, the dunes and fronting beach have eroded, primarily due to up-coast shoreline hardening and large storm events. To be clear, the Greigs have done nothing to their Property to contribute to the erosion that has taken place; they are the victims of other man-made structures and freak storm/wave events.

Located approximately ½ mile North of the Property is a large (approximately 75 foot) concrete storm drain that acts as a jetty on Onini Beach. This structure prevents sand from its natural movement southerly towards the Property. The lack of sand movement south has contributed to the erosion of Bathtub beach. In-between the storm drain and the Property are a series of coastal sea-walls and rock revetments that—coupled with a natural stone shelf offshore—creates a longshore or lateral current toward Kehuku'uana Point. Kehuku'uana Point is located on the North side of Pahumoa (Pounders) Beach near the Property's frontage. The lateral current exits a narrow area at Kehuku'uana Point, which prevents sand from naturally moving North around the point towards Bathtub beach. The sand accretion at Bathtub beach is important because it eventually blocks the southward longshore current around

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<sup>1</sup> Staff contends that there is an easement over the property for public access. December 12 Meeting Staff Report, Exhibit B, p. 2. This is incorrect. The easement referred to in Exhibit 2 of the October 24, 2025 Staff Report is a private easement between the property owners. There is no public easement over the property for access.

Kehuku'uana Point , which allows the Property's dune to naturally replenish. The lack of sand accumulating at Bathtub beach contributes to the erosion of the dune fronting the Property and ultimately leads to the deposit of the Property dunes south along Pahumoa Beach and eventually into the muliwai where they can be trapped until the stream floods and the sands are pushed back out to sea. See December 12 Meeting Staff Report, Exhibit C, Greig's Dune Replenishment and Habitat Restoration Plan, pp. 7-20.

## **2. The 2017 Emergency Protection Measures**

In addition to the manmade effects of shoreline hardening North of the Property, there have been large storm events that have resulted in significant loss of dunes over very short periods of time. One such event occurred in 2017, which resulted in the Request for a Temporary Emergency Erosion Control measures at the Property (sandbags). The DLNR approval letter signed by Suzanne Case as Chairperson of the Board, noted that the Property is the southernmost of 24 properties that are armored by a contiguous series of seawalls and other erosion control structures. And, "[t]he erosion... is likely due in part to "end effects" or "flanking erosion" at the terminus of the shoreline structures." October 24 Meeting Staff Report, Exhibit 4.

The sandbags worked well to protect the Property while alternative solutions became less likely to be approved and subject to significant risk. In 2020, the State effectively outlawed private shoreline hardening (SB 2060). When the temporary measures expired, the Greigs made efforts to remove the sandbags by hand. During many months of the year the sandbags were covered and un-accessible. When they were exposed, the Greigs removed what they could without destroying the integrity of the bags. The only way to practically remove the bags, however, is to utilize heavy equipment during the winter months when the dunes are replenished. Removal of the sandbags poses a significant risk not only to their dunes and home but to their neighbors property as well. Without a significant amount of sand replenishment, removal of the bags could have devastating consequences. The Greig's concern is and has always been that if the bags are removed and no con-current sand replenishment is provided, the dunes and beach will be further eroded and their home lost.

## **3. The April 2025 Notice of Violation**

On April 7, 2025, the Governor's Office forwarded a complaint to the DLNR alleging unauthorized erosion control materials in the shoreline area of the Property. One week later, on April 14, 2025, DLNR issued a Notice of Alleged Violation (OA-25-29) ("NOV"). The Greigs immediately responded after receipt of the NOA and requested a meeting that occurred on May 5, 2025 with Trevor Fitzpatrick and Michael Cain. The parties talked at length about removal, sand pushing and longer term solutions such as the use of a groin to slow the movement of sand past bathtub beach and around Kehuku'uana Point . From the Greig's perspective, their appeared to be interest in the long-term plans and at the end of the meeting Mr. Cain seemed more focused on long-term plans than the sandbags removal.

At the time, the Greigs believed they needed a Right-of-Entry (ROE) to use heavy equipment and that they needed to submit a plan to DLNR to start that process. Based on the apparent interest in long-term solutions and the tenor of the meeting, the Greigs honestly believed that staff would be open to sand pushing/replenishment as part of the bag removal in order to secure the dunes, which is what they worked on along with removing bags as they were exposed.

On August 11, 2025, Mr. Cain followed up with a demand that the erosion control structure and devices (sandbags) be removed from the shoreline area within 30-days. To the Greigs, this was not possible given the amount of sand covering the bags, the need for heavy equipment and Board approval of the ROE. The Greigs responded by providing a picture of the pile of sandbags they were able to remove. The Greigs were not able to remove more given level of the tides and lack of heavy equipment. As noted above, the best time to remove the bags is in the winter months but it requires heavy equipment to dig the bags out from under the sand.

#### 4. The Board Enforcement Action

The next communication from DLNR was the enforcement action noticed for the October 24, 2025 Board meeting seeking \$213,000 in fines<sup>2</sup>. This was the first time that the Greigs were on notice of the fines sought. The fines appear to be redundant by charging \$15,000 for installing the sandbags (which was a permitted activity) and another \$15,000 for violating the conditions of the permit. The staff also demand \$1,000 per day from alleged notice of the NOV despite the fact that it was not possible to remove the sandbags without the use of heavy equipment and the Greigs understood that a ROE was required from the Board as part of an approved removal plan.

Counsel was retained shortly before the October 24, 2025 hearing and requested a continuance which the Board graciously granted. After the meeting, counsel immediately contacted the Deputy AG to set up a meeting. In response, Ms. Patel cautioned that the Greigs should temper their expectations and the focus of any plan needed to be strictly on removal, not a plan of restoration or replenishment. As this was contrary to the Greigs' expectations (Ms. Patel read the situation correctly), they needed to switch gears to amend their plan to focus only on removal. Counsel chose to wait until a new plan was formulated to schedule a meeting.

As the Greigs amended their plan, counsel was preparing for a two week jury trial in Kona prior to Thanksgiving. Ms. Patel contacted Greig's counsel on November 17, 2025 to follow up on the status indicating that the staff submittal to the Board was due soon. Counsel responded immediately asking for the deadline for submittal. Ms. Patel responded on November 26, 2025 stating the "OCCL's submittal to the Board secretary goes out today." By this time, the Greig's plan was re-worked and we forwarded it to staff asking that it be included with the staff's submittal. Ms. Patel stated that it was too late but that the plan should be provided to staff and that a meeting could be set up after the Holiday weekend. See **Exhibit 1**, Email string of communications.

The Greigs, counsel, OCCL staff and Ms. Patel all met on December 3, 2025. At the meeting, the Greigs learned for the first time that they did not need a ROE from the Board but only needed OCCL staff approval of the heavy equipment sandbag removal plan. The Greigs were also informed that DNLNR would not process any applications related to the Property (including any Small Scale Beach Restoration (SSBR) permits) until the sandbags were removed and the enforcement action resolved. The Greigs were made aware that any SSBR application would likely not be approved in time to protect the dunes this season. Accordingly, removal of the sandbags without any dune restoration will likely lead to irreversible impacts to the Property dunes, the Greig's home, the neighbors property and the public beach.

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<sup>2</sup> Since the last Board meeting, staff has increased the proposed fines to \$243,000.

## 5. The Greigs' Plan

The Greigs have a plan to remove the sandbags and the next few months are the ideal window to use heavy equipment for complete removal. Part of the Greig's plan is to utilize excess sand south of the sand bags toward the muliwai (all on their Property frontage) to restore the dunes so that the Property can make it through this season and the focus can shift to a long-term solution. See **Exhibit 2**, Sandbag Removal Plan. The Greig's concern remains that if they remove the bags without any beach restoration, additional erosion will occur to the dunes that will result in loss of their home and potentially the neighbor's structures.

The Greigs understand the need to remove the bags but doing so without protecting the dunes near Kehuku'uana Point will not only create a health and safety issue for the private property owners but may cause long-term effects on the Pahumo beach. The line of erosion will narrow the beach moving North to Kehuku'uana Point thereby preventing public access up the coast to Bathtub beach. This does not have to be the case. There are long-term solutions to protect both the public beach and the Property but those solutions may be undermined if the existing dunes are not protected and the beach is narrowed.

## 6. Conclusion

The Greigs, again, request that the State pursue a "win win" solution and allow a small scale beach restoration to coincide with the removal of the sandbags. This can be accomplished prior to the March 12, 2026 deadline set by OCCL staff. The next few months are the optimal window to get the work done. Rather than punish the Greigs with excessive fines, we request that Greigs' funds be spent on long-term restoration of the littoral cell system that has been severely impacted by armoring of the 24 homes North of Kehuku'uana Point.<sup>3</sup> Bringing the system back to its more natural state will not only restore the Property dunes but will protect Pahumo beach for generations to come.

If, on the other hand, the Board is committed to following staff's recommendations, the Greig's respectfully request a contested case hearing pursuant to Hawai'i Administrative Rules § 13-1-28 et seq..

Sincerely,



Timothy H. Irons  
Counsel

**Exhibit 1** (email string)

**Exhibit 2** (sandbag removal plan)

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<sup>3</sup> The solution could be as simple as a single groin at Kehuku'uana Point that allows Bathtub beach to naturally replenish bringing back the annual accretion that occurred at Kehuku'uana Point prior to the armoring up the coast.

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**From:** Irons, Tim  
**Sent:** Wednesday, November 26, 2025 1:42 PM  
**To:** Patel, Danica L  
**Cc:** Vega, Courtney A.  
**Subject:** RE: BLNR October 24, 2025 Meeting Item K-2  
**Attachments:** Sandbag Removal Plan 102625.pdf

Dear Ms. Patel,

I apologize if there was any confusion. My prior email was intended to seek the deadline to get the plan to be part of staff's submittal. The Greigs have been actively working on the removal plan. They modified their original plan based on your email regarding the need to focus on removal. The plan is attached. The Greigs will go ahead and submit the proposed plan directly to the administrator, Mr. Michael Cain, as well. Could we have it included in the submittal please?

If it is too late at this point to modify the submittal with the plan, I would appreciate you including our email chain in the submittal.

Sincerely,  
Tim

Tim Irons

 +1 808 441 6147

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**From:** Patel, Danica L <danica.l.patel@hawaii.gov>  
**Sent:** Wednesday, November 26, 2025 12:00 PM  
**To:** Irons, Tim <tim.ironson@dentons.com>  
**Cc:** Vega, Courtney A. <courtney.vega@dentons.com>  
**Subject:** RE: BLNR October 24, 2025 Meeting Item K-2

[WARNING: EXTERNAL SENDER]

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OCCL's submittal to the Board secretary goes out today.

There's no deadline for a submission to the Board, other than the public testimony requirements of Chapter 92 which I think is 2 business days before the meeting, but OCCL's submittal reflects that to date you and your clients have not met with OCCL and I nor provided any plans.

---

**From:** Irons, Tim <tim.ironson@dentons.com>  
**Sent:** Monday, November 17, 2025 10:37 AM  
**To:** Patel, Danica L <danica.l.patel@hawaii.gov>

**Cc:** Vega, Courtney A. <[courtney.vega@dentons.com](mailto:courtney.vega@dentons.com)>

**Subject:** [EXTERNAL] RE: BLNR October 24, 2025 Meeting Item K-2

I am in a jury trial this week in Kona up to the holiday. What is the deadline for a submission?

Tim Irons

 +1 808 441 6147

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**From:** Patel, Danica L <[danica.l.patel@hawaii.gov](mailto:danica.l.patel@hawaii.gov)>

**Sent:** Monday, November 17, 2025 9:51 AM

**To:** Irons, Tim <[tim.ironson@dentons.com](mailto:tim.ironson@dentons.com)>

**Cc:** Vega, Courtney A. <[courtney.vega@dentons.com](mailto:courtney.vega@dentons.com)>

**Subject:** RE: BLNR October 24, 2025 Meeting Item K-2

[WARNING: EXTERNAL SENDER]

Hi Tim,

OCCL staff asked if I could follow up with you on the Grieg matter. They have to finalize their submittal to the Board for the December meeting soon and don't have any updates to provide the Board other than your clients' request to continue the matter at the 10/24/25 meeting.

Do you still want to arrange a meeting to discuss or do you have any updates that I can provide to OCCL?

Thanks,

Danica

Danica L. Patel

Deputy Attorney General

Land Division

Phone: (808) 587-2992

Email: [danica.l.patel@hawaii.gov](mailto:danica.l.patel@hawaii.gov)

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**From:** Swenson, Danica L

**Sent:** Friday, October 24, 2025 3:01 PM

**To:** Irons, Tim <[tim.ironson@dentons.com](mailto:tim.ironson@dentons.com)>

**Cc:** Vega, Courtney A. <[courtney.vega@dentons.com](mailto:courtney.vega@dentons.com)>

**Subject:** RE: BLNR October 24, 2025 Meeting Item K-2

Good afternoon Tim,

Thank you for reaching out to me so quickly. Yes, we can arrange a time next week to discuss but I want to temper your expectations accordingly:

The Board of Land and Natural Resources (BLNR) deferred today's Agenda Item K.2. until the December 2025 meeting per your request as you were just retained yesterday.

The violations and penalties sought by DLNR/OCCL will not be resolved through your client's long-term plan for restoration of the dune and beach. DLNR/OCCL is interested in your client's plan to remove all structures currently in the shoreline and we would like to see such a plan as soon as possible, well before the December 2025 BLNR meeting. If your clients are unable to do the work by hand, your clients should propose a solution for removal of all materials in the shoreline. DLNR/OCCL can provide technical recommendations on a plan proposed by your clients, but your client needs to make the plan.

It is neither DLNR/OCCL's, BLNR's, or my role to assist with a long-term plan for restoration of the dune or beach system fronting your client's property. Once the violations have been resolved, DLNR/OCCL can provide technical recommendations on a dune or beach renourishment plan proposed by your clients. Please see HAR 13-5-6(c).

Next week Tuesday afternoon or Thursday works best for me. Let me know what time you would like to meet, I can use Teams or Zoom.

Thank you,

Danica L. Swenson  
Deputy Attorney General  
Land Division  
Phone: (808) 587-2992  
Email: danica.l.swenson@hawaii.gov

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**From:** Irons, Tim <[tim.iron@dentons.com](mailto:tim.iron@dentons.com)>  
**Sent:** Friday, October 24, 2025 1:57 PM  
**To:** Swenson, Danica L <[danica.l.swenson@hawaii.gov](mailto:danica.l.swenson@hawaii.gov)>  
**Cc:** Vega, Courtney A. <[courtney.vega@dentons.com](mailto:courtney.vega@dentons.com)>  
**Subject:** [EXTERNAL] BLNR October 24, 2025 Meeting Item K-2

Dear Danica:

I am following up on the Board's instruction today to contact you about the above-referenced Item. Perhaps we could arrange a call early next week to discuss the Board's expectations moving

forward on the Item and working out a long-term plan for restoration of the dune and beach? Please let me know when you are free and I will set up a call.

Sincerely,  
Tim

Tim Irons

 +1 808 441 6147

[tim.irons@dentons.com](mailto:tim.irons@dentons.com) | [Bio](#) | [Website](#)

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## EROSION CONTROL STRUCTURE REMOVAL & DUNE TOPOGRAPHY RESTORATION

December 9, 2025

Mr. Michael Cain, Administrator  
Office of Conservation and Coastal Lands  
State of Hawaii, Department of Land and Natural Resources  
P. O. Box 621  
Honolulu, HI 96809

Dear Mr. Cain

SUBJECT: Request for Authorization for a Sandbag Removal and Beach Restoration Plan  
55-271 & 55-273 Kamehameha Highway, Laie, Oahu, Hawaii  
Tax Map Keys (1) 5-5-002:088 & (1) 5-5-002:019  
Conservation District Enforcement Case OA 25-29

We are submitting this request for authorization for a Sandbag Removal and Beach Restoration Plan for the beach fronting the residential home of the Greig family, located at 55-271 Kamehameha Hwy, Laie, Oahu, Hawaii; Tax Map Keys: (1) 5-5-002:088 & (1) 5-5-001:057 (Figure 3-2 & 3-3). The adjoining properties are located at Kehuku'uana Point, north of Pahumoa Beach Park (Pounders Beach) (Figures 1-1).

This proposal describes the removal of all remaining alleged encroaching sandbags structures from the beach that were constructed and placed as a form of erosion control under permit number Emerg. CDUP OA 18-04. Removal will include all geotextiles, sand bags, and ropes that are currently fronting our home, as well as describe the one time dune replenishment that will restore the beach and dune to a historic topography as the foreign materials are removed.

# Erosion Control Structure Removal & Dune topography restoration



**Prepared for:** Department of Land and Natural Resources,  
& Office of Conservation and Coastal Lands

**Prepared by:** Greig Family

**November 26, 2025**

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# 1. INTRODUCTION

## 1.1 Background

Our home is located on the Island of Oahu (Figure 3-1) at 55-271 Kamehameha Hwy. Laie, Oahu, Hawaii; Tax Map Key(s): (1) 5-5-002:088 & (1) 5-5-001:057 (Figure 3-2 & Figure 3-3). The property has a history of annual beach erosion and accretion with periods of dune erosion during severe storms. The Sandbag erosion control structures placed in 2017 were a satisfactory way of managing this erosion. This plan will aim to remove all remnants of the placed sandbags and restore the beach to a more natural dune topography with native plantings to help anchor the existing dune.



Figure 1-1 Location Map

## 2. SITE ASSESSMENT

### 2.1 Plan

We propose to do all work to remove the encroaching sandbags (Figure 3-4) during end of winter and early spring (January-March) while the beach is naturally widening during the winter swells. This will give the needed space to use machinery during the removal of the sandbags from the beach. The best tidal windows currently identified (Figure 3-7) for this project are January 10 to January 13, January 24 to January 31, February 6 to February 14, February 22 to February 28, March 8 to March 16, and March 22 to March 28. The tidal window are only the first factor for ideal work conditions and work will still be dependent on weather and swells on those dates.

Machinery to be use will be a mini-excavator and wheeled loader, all machine and work access will be through our property (Figure 3-8). All machinery will be cleaned, fueled, and stored on property with no storage on the beach of any materials except during active work. Signs informing the public of the work will be placed along our property and will remain in place until all work is completed, one sign will be placed on the beach during active work to inform the public (Figure 3-9). The sign will be approximately two feet by three feet (Figure 3-10), though exact measurements may change depending on print shop ability. Work will only take place during suitable wave, weather, and tidal conditions. Total working days will be approximately 24 days, depending on weather.

Once all sandbags, ropes, and geotextile fabrics are removed, sand will be collected from our property frontage (Figure 3-5) and deposited in front of our home to restore a more natural topography to the beach and dune (Figure 3-6). This will allow for a natural and safer beach and allow time for the existing and new plants to establish themselves to better anchor the dune and encapsulate the sand away from the wash of normal waves. Additional native plants will be installed at the boundary between this newly placed dune and our property to help better retain the dune. All plantings will follow the 2022 Hawai'i Dune Restoration Manual provided by University of Hawai'i Sea Grant College Program. The area to be planted will emulate a natural foredune and will consist mainly of pl'aki'aki grass, Huna kai, Pā'ūohi'iaka, and pohuehue vines as ground cover.

Upon completion of this project, a report will be filed with the OCCL detailing the removal process, what was removed, and the dune replenishment. This project will act as a small scale test and proof of the effectiveness of our longer term Habitat and Dune restoration Plan previously submitted.



### 3. ATTACHMENTS: FIGURES & DRAWINGS



Figure 3-1: Location Map



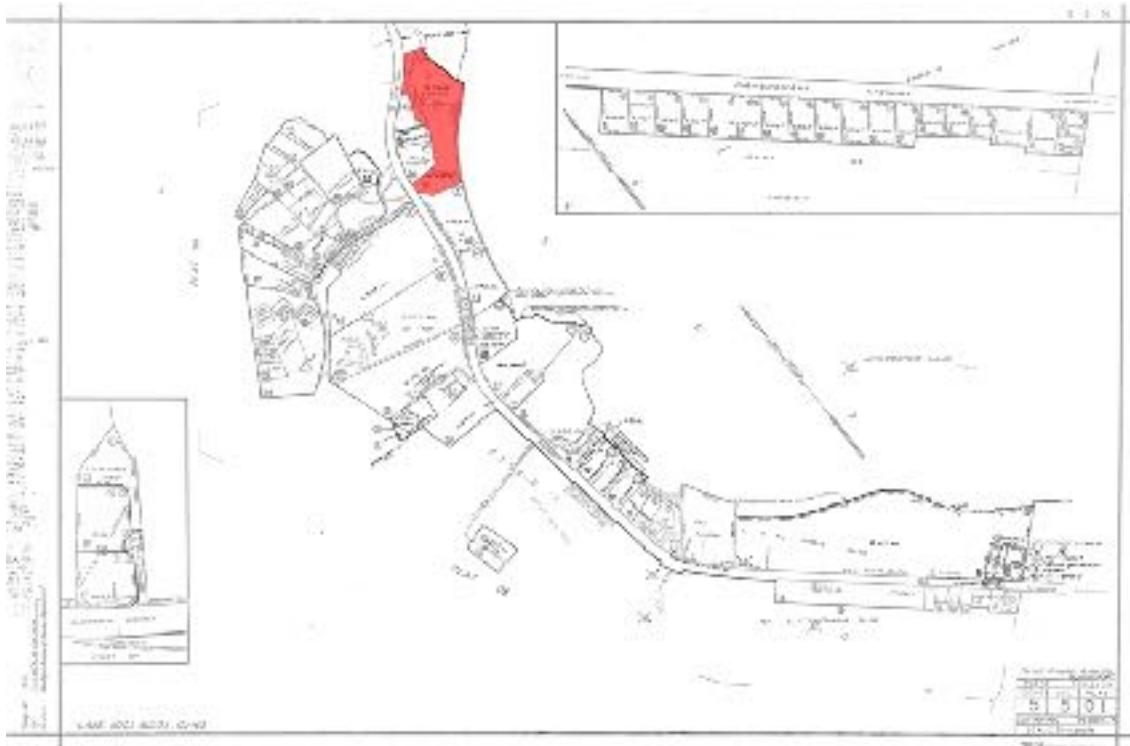


Figure 3-2: Tax Map (Subject properties highlighted in red)

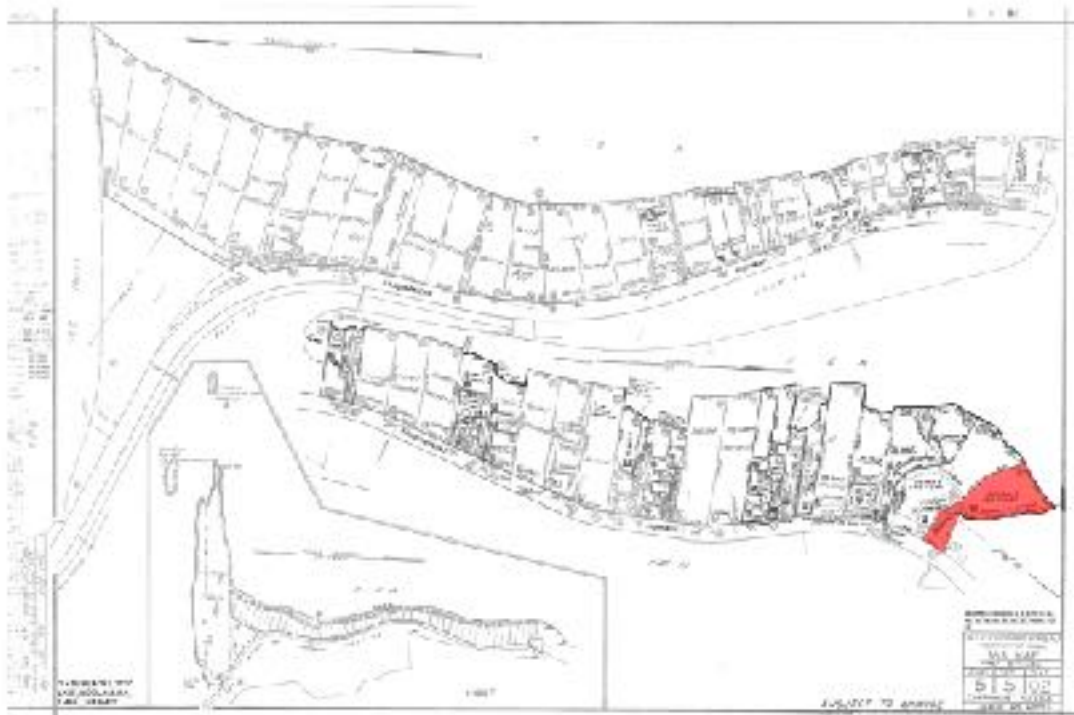


Figure 3-3: Tax map (Subject Properties highlighted in red)

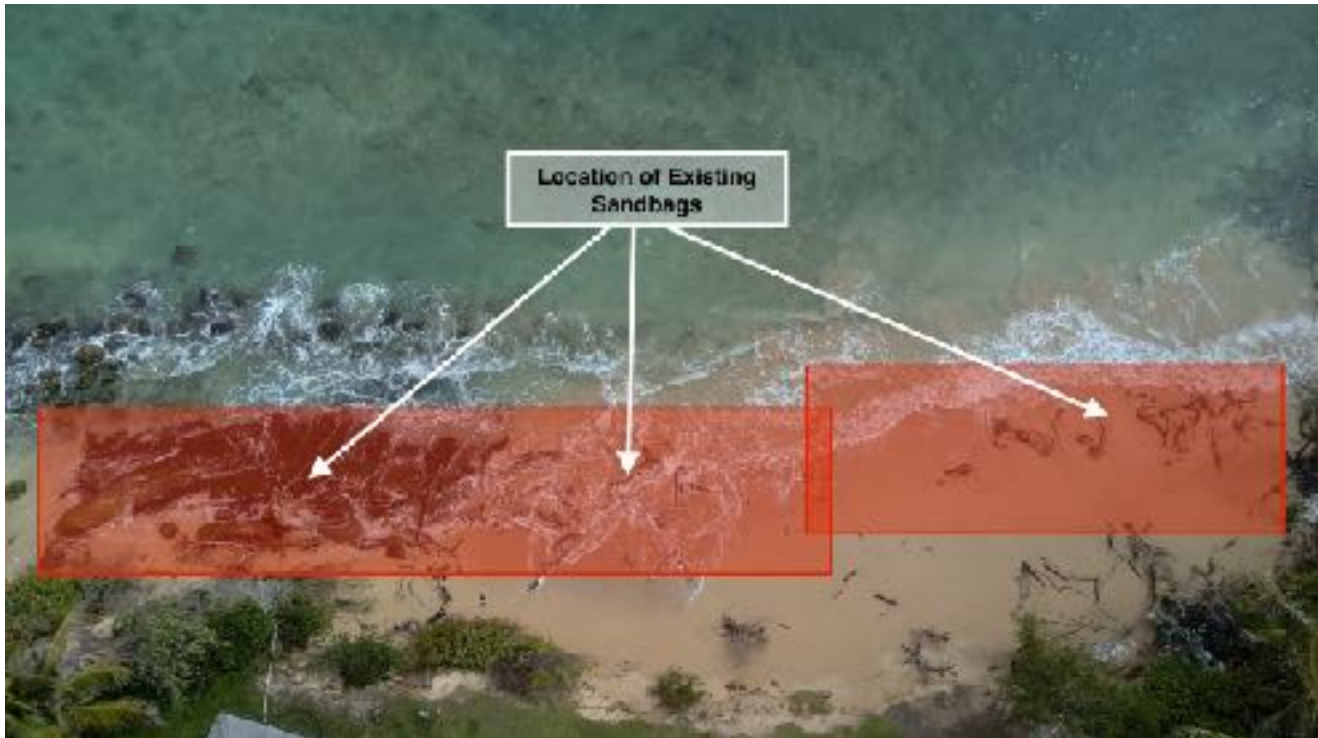


Figure 3-4 Remaining Sandbag Structures



Figure 3-5 Sand Replenishment

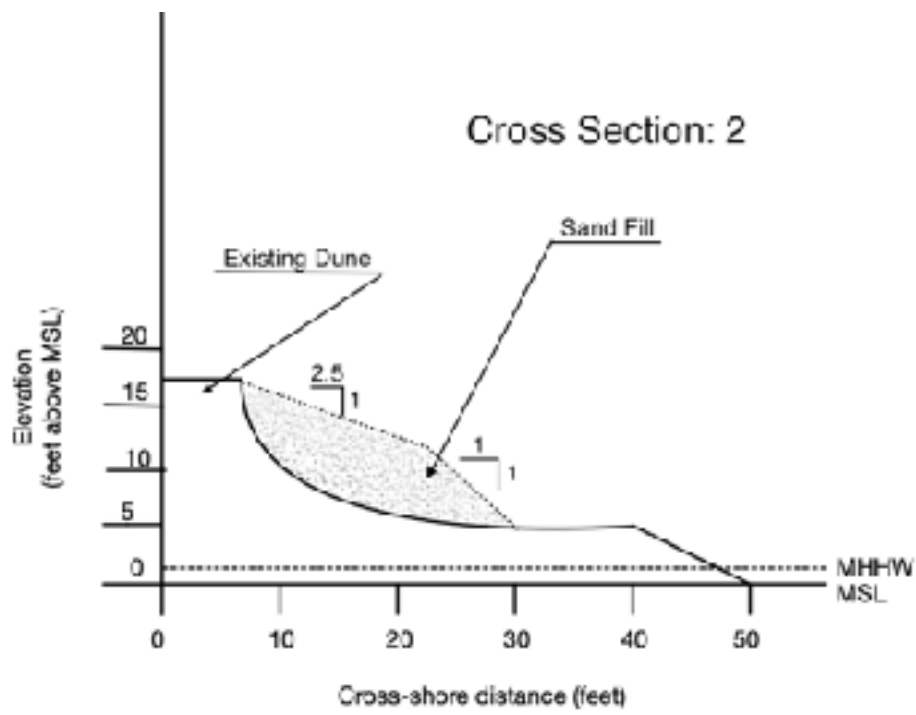


Figure 3-6: Cross Sectional Drawing



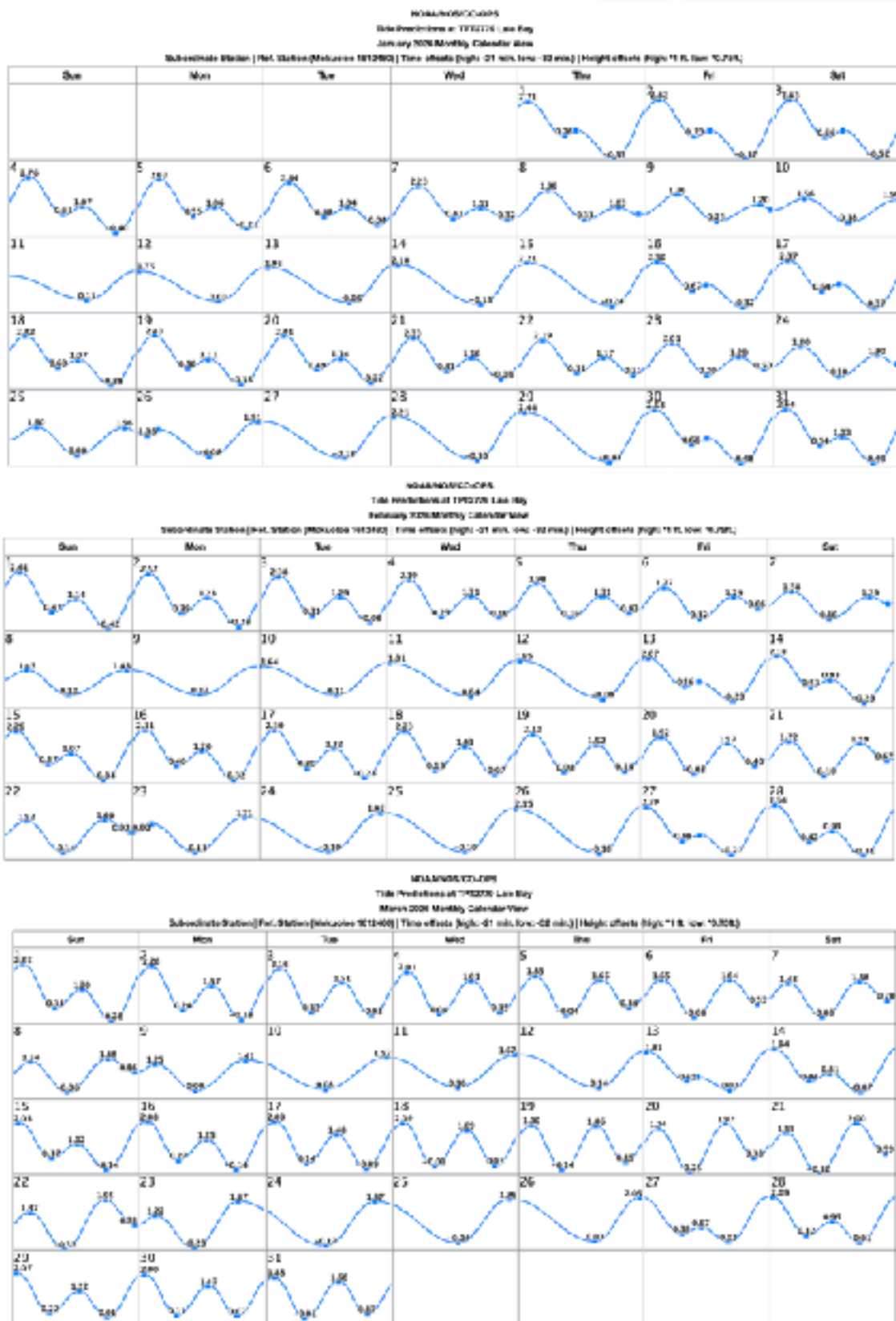


Figure 3-7: Tide Forecast January, February, March

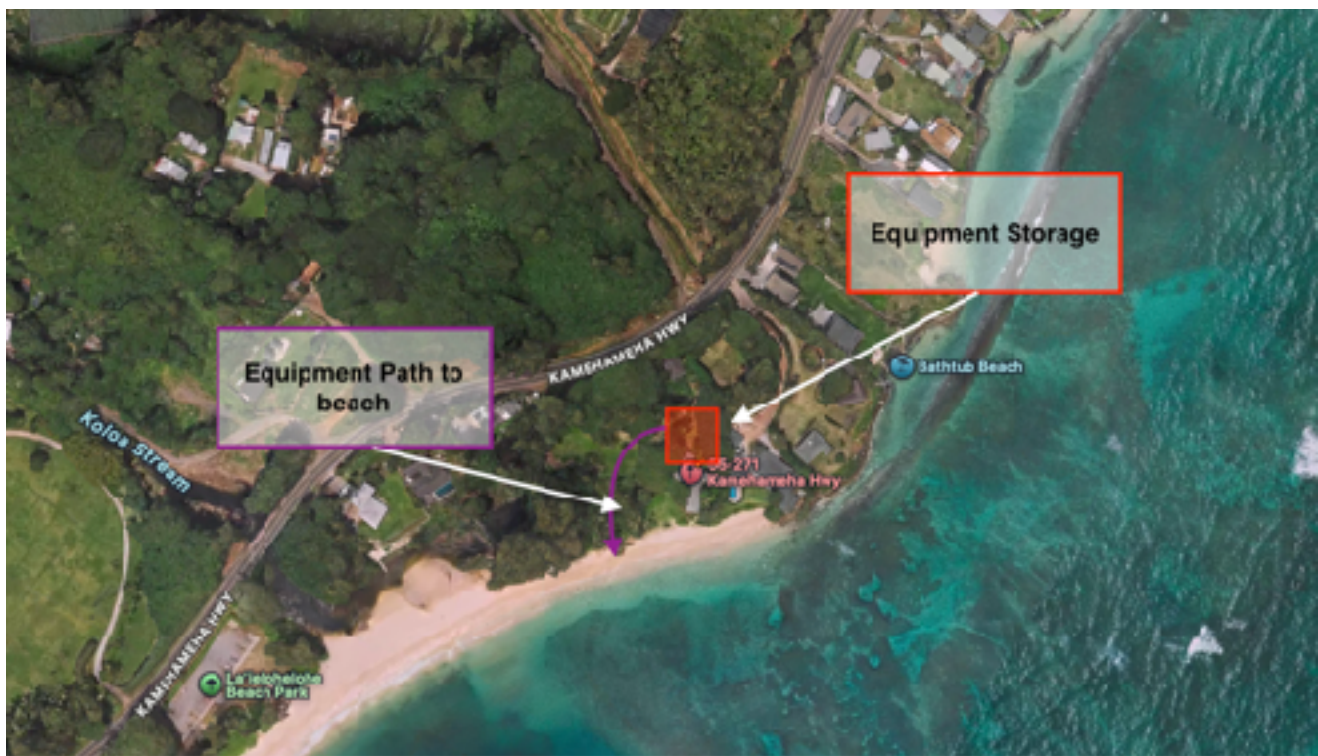


Figure 3-8: Equipment Storage and Path Across Property



Figure 3-9: Sign Placement

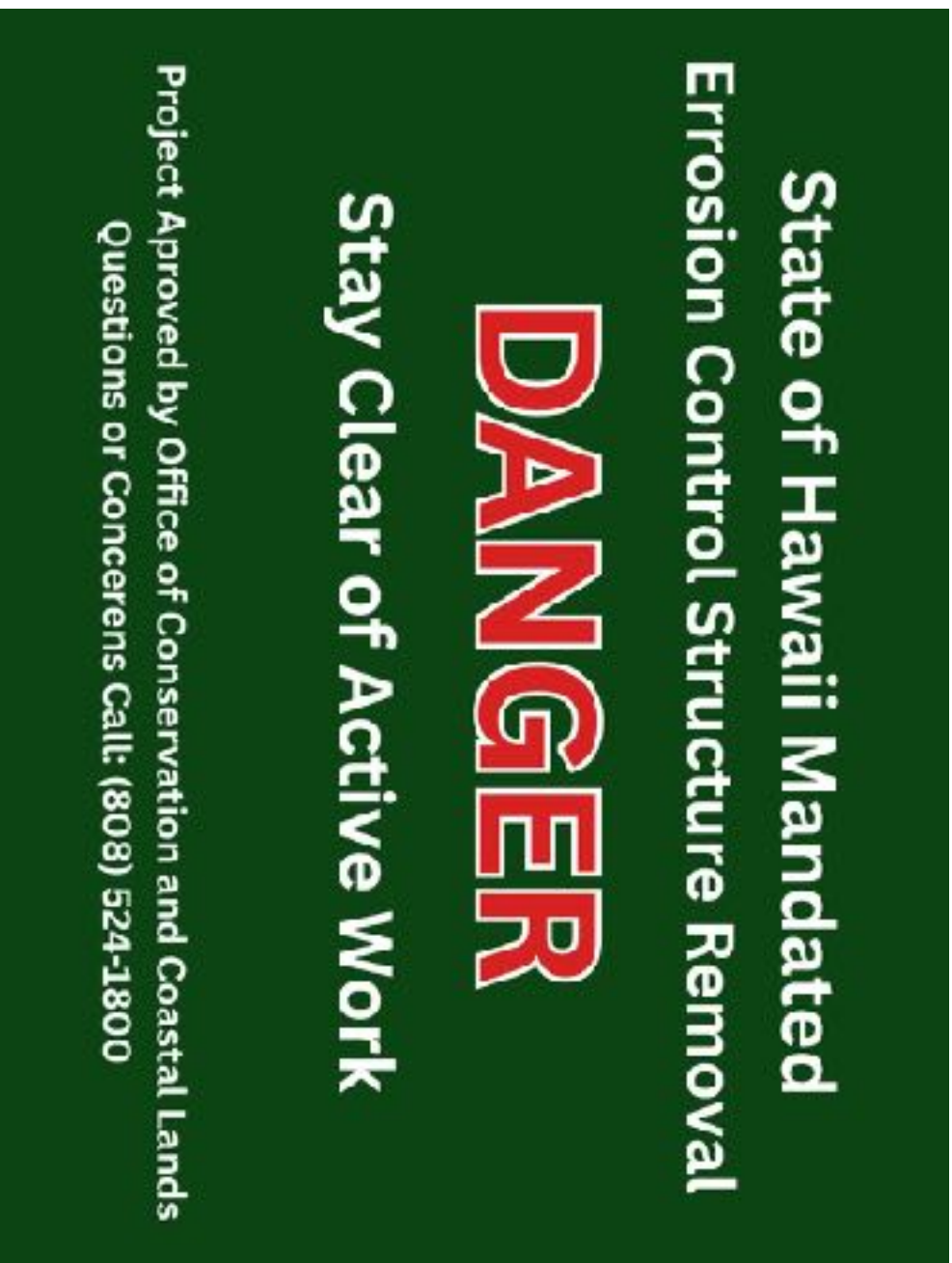


Figure 3-10: 2'x 3' Sign to be Displayed