



STATE OF HAWAII
 DEPARTMENT OF LAND AND NATURAL RESOURCES
 LAND DIVISION
 P.O. BOX 621
 HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT PROGRAM
 AQUATIC RESOURCES
 BOATING AND OCEAN RECREATION
 CONSERVATION AND RESOURCES ENFORCEMENT
 CONVEYANCES
 FORESTRY AND WILDLIFE
 HISTORIC PRESERVATION
 LAND DIVISION
 STATE PARKS
 WATER RESOURCE MANAGEMENT

RECEIVED

00 MAR 13 12:34
 FILE NO.: CDUA KA-2966B
 (IFC. OF ENVIRONMENTAL QUALITY CONTROL

Ref.PB:EAH

MAR 13 2000

MEMORANDUM

TO: Ms Genevieve Salmonson, Director
 Office of Environmental Quality Control

FROM: Dean Uchida, Administrator
 Land Division *Uchida*

SUBJECT: Notice of Determination: Environmental Assessment (EA) for a Stairway to
 Kauapea Beach, Namahana, Hanalei, Kauai (TMK 5-2-5:36).

The Department of Land and Natural Resources, Land Division, has reviewed the comments received during the 30-day public comment period, which began on December 23, 2000 and the subject EA. We have determined that the subject project will not have significant environmental effects and hereby issue a Finding of no Significant Impact (FONSI) for the subject EA. Please publish this notice in the March 23, 2000 OEQC Environmental Notice.

We have enclosed a completed OEQC Publication Form, a completed OEQC Publication form on computer disk and four copies of the final EA. The reasons supporting this FONSI can be found at the end of the EA Addendum 1 in a letter dated March 8, 2000 from the applicant to the Land Division. Please contact Eric Hill of our planning staff at 587-0383 if you have any questions.

MAR 23 2000

FILE COPY

2000-03-23-KA-PEA-Secret Beach Trail

FINAL
ENVIRONMENTAL IMPACT ASSESSMENT
FOR
IMPROVED TRAIL WITH STAIRS
AT
KILAUEA, ISLAND OF KAUAI, STATE OF HAWAII
TAX MAP KEY: 5-2-005-036 (4th)

The following is an environmental impact assessment for a trail which has already been completed, leading from the bluffline to the shoreline at Secret Beach, Kilauea, Island and County of Kauai, State of Hawaii, on real property more particularly identified as Kauai Tax Map Key: 5-2-005-036.

(1) Identification of Applicant

Steven Cohen
c/o Walton D. Y. Hong
3135-A Akahi Street
Lihue, HI 96766
Tel. (808) 245-4757
Fax. (808) 245-5175

(2) Identification of Approving Agency

Board of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, HI 96808

(3) Identity of Agencies Consulted in Making Assessment

Department of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, HI 96808

County of Kauai
Building Division
4444 Rice Street
Lihue, HI 96766

(4) General Description of the action's characteristics

(a) Technical. The subject trail consists in most part of stairs of railroad ties, sunken into the ground. The ground was first cleared of existing vegetation, and where appropriate, cuts were made into the side of the bluff to allow

the placement of the stairs. There are approximately 250 stairs.

At one point in the descent, a concrete foundation was laid to anchor wooden stairs and railings, as the grade was too steep to accommodate the ties. The stairs end more than 40 feet from the edge of vegetation on the shoreline, at which point users of the trail must climb over naturally existing rocks at the base of the bluff to access the sand beach.

The trail begins at the top of the bluffline, from real property identified as Kauai Tax Map Key: 5-2-005-025, and cross over the Conservation District on real property identified as Kauai Tax Map Key: 5-2-005-036. The former property was formerly owned by the Applicant, Steven Cohen, who has since sold the same. The latter property is owned by Kane Enterprises, which gave permission to landowners along the bluffline to access the shoreline over his property.

Kane Enterprises was not aware of the construction of the trail, and the Applicant has accepted full responsibility for the same. At a violation hearing, the Applicant noted the foregoing, and was fined \$2,500.00, which has already been paid.

Attached hereto as Exhibit "A" is a copy of the Island of Kauai, showing the area of the subject property. Attached hereto as Exhibit "B" is a copy of the tax map for the area, which show the approximate location of the trail.

(b) Economic. As the trail has already been constructed, there are no economic benefits from the action. However, the significant costs of constructing the stairs (in excess of \$30,000) provided economic benefits to those persons employed for such work.

(c) Social. There will not be any significant social benefits or detriment from the trail.

(d) Environmental. The environmental characteristics of the trail and action are as follows:

(1) Flora and Fauna: Vegetation was removed during the construction of the trail, and some cuts were made into the hillside into which the stairs could be built. However, due to the ample rainfall in the area, the vegetation

is growing back to cover the cuts. The vegetation removed during the construction included ironwood trees, guava trees, java plums, and buffalo grass. No endangered or threatened species of flora or fauna were affected during the construction process.

(2) Erosion: The trail has not shown to be the cause of any erosion, notwithstanding that cuts were made into the hillside to provide for placement of the stairs. Vegetation in the cut areas has begun to grow back, and will further minimize any possibility of erosion.

(3) Historical and Archaeological: There are no known historical or archaeologically significant sites on the subject site.

(4) Visual: The trail, cut into the hillside, is not readily visible from the bluffline or from the shoreline. As such, the trail does not have any significant adverse visual impacts.

(5) Summary Description of Affected Environment. The subject area is the pali between the bluffline and the shoreline at Secret Beach, Island and County of Kauai, State of Hawaii. The difference in elevation between the bluffline and the shoreline is several hundred feet. The subject area contains the natural flora of the area, including ironwood trees, guava trees, java plums, ferns, and grasses. The fauna include doves, mynahs, and sparrows. It is possible that Newell Shearwaters may nest in the bluff area, although none were observed by the Applicant in the vicinity of the trail.

(6) Identification and summary of major impacts. The only impacts of the trail are the disruption of the natural grade to place the stairs, and the clearing of vegetation in the path of the trail. As the topography is fairly steep, there are no reasonable alternatives for access to and from the shoreline, other than denial of access.

(7) Proposed mitigation measures. As the vegetation removed during the construction process is beginning to grow back, no mitigation measures are necessary.

(8) Determination. Based on the foregoing and the absence of any significant long term effects from the placement of the trail, it is determined that the said action will not result in

any significant adverse environmental or ecological impacts be adopted, and that an environmental impact statement is not required of the Applicant for the already completed trail.

(9) Findings and Reasons Supporting Determination. As the foregoing indicate, the trail within the Conservation District is a relative limited and passive use which will not result in any significant adverse environmental or ecological impacts. The regrowth of the vegetation cut during the creation of the trail and placement of the stairs will mitigate the effects, if any, of the work.

(10) Agencies consulted and to be consulted. The Department of Land and Natural Resources, Land Division, and the Department of Land and Natural Resources, Conservation and Resource Enforcement Division, were involved in investigating and reporting on the construction of the subject trail. As a recommendation of negative declaration is proposed, no other agency need to be consulted for preparation of an environmental impact statement.

(11) Comments received and responses. Attached hereto are copies of comments received during the public comment period and the responses thereto.

PHONE (808) 594-1888

FAX (808) 594-1865



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

DEC 9 10 59 AM '99
OFFICE OF HAWAIIAN AFFAIRS
HONOLULU, HAWAII

December 2, 1999

Mr. Dean Uchida, Administrator
Land Division
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

(PA #333)

Subject: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact Improvements at
Kilauea, Kaua'i (TMKs: 5-02-05:36)

Dear Mr. Uchida,

Thank you for the opportunity to comment on the above referenced project. At this time the Office of Hawaiian Affairs has no comment to the application. If you have any questions, please contact Mark A. Mararagan, Policy Analyst at 594-1945.

Sincerely,

A handwritten signature in cursive script, appearing to read "Colin Kippen".

Colin Kippen
Deputy Administrator

cc: OHA Board of Trustees
Kaua'i CRS

WALTON D.Y. HONG

LORNA A. NISHIMITSU

LAW OFFICES OF

WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

February 2, 2000

Office of Hawaiian Affairs
State of Hawaii
Attention: Mr. Colin Kippen
Deputy Administrator
711 Kapiolani Boulevard, Suite 500
Honolulu, Hawaii 96813

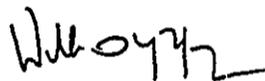
Re: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact
Improvements at Kilauea, Kauai (TMKs: 5-02-05:36)

Dear Mr. Kippen:

Thank you for your response to the Department of Land and
Natural Resources on the above referenced application.

If there are any questions regarding the application,
please feel free to call or write the undersigned.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

Division of Forestry & Wildlife

1151 Punchbowl Street, Rm. 325 • Honolulu, HI 96813 • (808) 587-0166 • Fax: (808) 587-0160

January 10, 2000

MEMORANDUM

TO: Sam Lemmo, Planner
Land Division

THRU: Dean Uchida, Administrator
Land Division

FROM: Michael G. Buck, Administrator
Division of Forestry and Wildlife



SUBJECT: Request for Comments CDUA KA-2966B for After-the-Fact Improvements
at Kilauea, Kauai, Hawaii by Mr. Steven Cohen, TMK 5-02-05:36.

We have reviewed the document regarding the subject above and have no objections to the proposed After-the-Fact Improvements for Mr. Steven Cohen. Thank you for giving us the opportunity to review the CDUA.

C: Kauai Branch DOFAW

JAN 12 3 53 PM '00

RECEIVED
DIVISION OF FORESTRY & WILDLIFE
HONOLULU, HAWAII

LAW OFFICES OF

WALTON D.Y. HONG

WALTON D.Y. HONG

TELEPHONE (808) 245-4757

TELECOPIER (808) 245-5175

LORNA A. NISHIMITSU

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

February 2, 2000

Division of Forestry & Wildlife
Department of Land and Natural
Resources, State of Hawaii
Attention: Mr. Michael G. Buck
Administrator
1151 Punchbowl Sreet, Room 325
Honolulu, Hawaii 96813

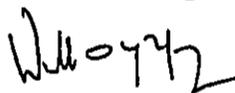
Re: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact
Improvements at Kilauea, Kauai (TMKs: 5-02-05:36)

Dear Mr. Buck:

Thank you for your response to the Department of Land and
Natural Resources on the above referenced application.

If there are any questions regarding the application,
please feel free to call or write the undersigned.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



TIMOTHY E. JOHNS, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DEPUTIES
JANET E. KAWALO
LINNEL NISHIOKA

STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

HISTORIC PRESERVATION DIVISION
Kakuhihewa Building, Room 555
601 Kamokila Boulevard
Kapolei, Hawaii 96707

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND
STATE PARKS
WATER RESOURCE MANAGEMENT

December 14, 1999

MEMORANDUM

LOG NO: 24573 ✓
DOC NO: 9912NM03

TO: Dean Uchida, Administrator
Land Division

FROM: Don Hibbard, Administrator
State Historic Preservation Division *DH*

SUBJECT: **Historic Preservation Review --File No. KA-2966B**
For After-the-Fact Improvements at Kilauea, Kauai
TMK: 5-02-05: 36
Kilauea, Halelea, Kaua'i

We do not believe that the unauthorized improvement (trail from the bluff to the Secret Beach) destroyed any significant historic sites. This project will have "no effect" on significant historic sites

If you have any questions, please call Nancy McMahon 742-7033.

NM:lm

LAW OFFICES OF

WALTON D.Y. HONG

LORNA A. NISHIMITSU

WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

February 2, 2000

Historic Preservation Division
Department of Land and Natural
Resources, State of Hawaii
Attention: Mr. Don Hibbard
Administrator
Kakuhihewa Building, Room 555
601 Kamokila Boulevard
Kapolei, Hawaii 96707

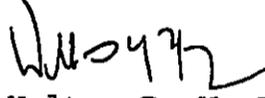
Re: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact
Improvements at Kilauea, Kauai (TMKs: 5-02-05:36)

Dear Mr. Hibbard:

Thank you for your response to the Department of Land and
Natural Resources on the above referenced application.

If there are any questions regarding the application,
please feel free to call or write the undersigned.

Yours very truly,



Walton D. Y. Hong

WDYH:wh



LIFE OF THE LAND

Ua Mau Ke Ea O Ka 'Aina I Ka Pono
Hawaii's own local Community Action Group
Protecting our Fragile Natural & Cultural Resources
through Research, Education, Advocacy & Litigation

January 5, 2000

Steven Cohen
c/o Walton Hong
3135-A Akahi St.
Lihue, Hawaii 96766

Sam Lemmo
DLNR
P.O. Box 621
Honolulu, HI 96809

re: Secret Beach Trail

Aloha,

After reading the DEA it was unclear how close the waves approach the lower steps. Under what conditions do waves approach the steps and how close do the waves come?

Are the steps open to the public?

Do the steps cross any intermittent or continuous streams?

Are the steps in the SMA?

Mahalo,
Henry Curtis
Henry Curtis
Executive Director

JAN 10 9 21 AM '00
DEPARTMENT OF LAND AND NATURAL RESOURCES
HONOLULU, HAWAII

WALTON D.Y. HONG
LORNA A. NISHIMITSU

LAW OFFICES OF
WALTON D.Y. HONG
ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

February 2, 2000

Life of the Land
Attention: Mr. Henry Curtis
Executive Director
76 North King Street, Suite 203
Honolulu, HI 96817

Re: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact
Improvements at Kilauea, Kauai (TMKs: 5-02-05:36)

Dear Mr. Curtis:

Thank you for your response to the Department of Land and
Natural Resources on the above referenced application.

In response to your questions, please be advised as
follows:

(a) An on-site inspection by the County of Kauai
Planning Department indicated that the trail presently ends
approximately 35 feet from the line of vegetation along the
shoreline. The owner of the trail has committed in writing to
the County of Kauai that the last railroad tie of the trail will
be removed, which will result in the trail not encroaching into
the 40 feet shoreline setback area. As the trail is beyond the
line of vegetation, the waves will not reach the steps. As to
how close the waves approach the steps will depend on the
season; winter storms may result in waves coming closer to the
line of vegetation than during the summer months when the beach
fronting the trail may be hundreds of feet in depth. In any
event, the waves will not come any closer than the line of
vegetation, which will be in excess of forty feet from the end
of the trail;

(b) The trail is not open to the public. However, in
the case of any emergency, people will not be stopped from using
the steps to gain faster access in notifying authorities of the
emergency;

Life of the Land
Attention: Mr. Henry Curtis
Executive Director
February 2, 2000

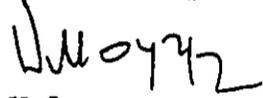
(c) The trail does not cross any intermittent or continuous stream;

(d) The trail is within the Special Management Area established by the County of Kauai. The Applicant has made application on November 29, 1999 for a Special Management Area Permit from the County of Kauai Planning Department, and is awaiting action on the application.

I trust that you will find the foregoing responses satisfactory.

If there are any questions regarding the application or the responses herein, please feel free to call or write the undersigned.

Yours very truly,


Walton D. Y. Hong

WDYH:wh

W
BENJAMIN J. CAYETANO
GOVERNOR



STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

235 SOUTH BERETANIA STREET
SUITE 702
HONOLULU, HAWAII 96813
TELEPHONE (808) 688-4188
FACSIMILE (808) 688-4188

January 24, 2000

RECEIVED
DIVISION OF
LAND MANAGEMENT
JAN 25 3 56 PM '00
GENEVIEVE SALMONSON
DIRECTOR

Mr. Tim Johns, Chair
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Johns:

Subject: Draft Environmental Assessment for the Secret Beach
Trail, Kauai (CDUA KA-2966B)

RECEIVED
09 JAN 25 PM 2:44
DIVISION OF LAND MANAGEMENT
STATE OF HAWAII

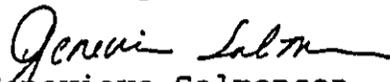
Thank you for the opportunity to review the subject document. We have the following questions and comments.

1. Please consult with the Kauai Planning Department to determine whether a shoreline setback permit is required for this project.
2. Please discuss the findings and reasons for supporting the FONSI determination based on all 13 significant criteria listed in §11-200-12 of the EIS rules. Please see the enclosed example.
3. Please provide a plan that shows the following: A) The property lines; B) The stairs; C) The shoreline; D) The shoreline setback line; and E) Locations of vertical and lateral access to the beach.
4. Please include a list of all permits and approvals (State, Federal, County) required for the project in the final environmental assessment.
5. Please discuss the alternative of removing the stairs. What impacts would it create?

Mr. Johns
Page 2

Should you have any questions, please call Jeyan Thirugnanam at
586-4185.

Sincerely,


Genevieve Salmonson
Director

c: Walton Hong

6.0 DETERMINATION, FINDINGS AND REASONS FOR SUPPORTING DETERMINATION

To determine whether the proposed action may have a significant impact on the environment, the project and its expected consequences, both primary and secondary, and the cumulative as well as short- and long-term effects have been evaluated. Based on the studies performed and research evaluated, a finding of no significant impact is anticipated and is summarized below.

6.1 SIGNIFICANCE CRITERIA

According to the Department of Health Rules (11-200-12), an applicant or agency must determine whether an action may have a significant impact on the environment, including all phases of the project, its expected consequences both primary and secondary, its cumulative impact with other projects, and its short- and long-term effects. In making the determination, the Rules establish "Significance Criteria" to be used as a basis for identifying significant environmental impacts. According to the Rules, an action shall be determined to have significant impacts on the environment if it meets any one of the following criteria:

- (1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resources;

An archaeological assessment and field reconnaissance study for the project has determined that cultural deposits and possibly historic burials may exist in the sand dunes adjacent to Farrington Highway. The Landscape Master Plan has therefore been designed to protect the cultural resources and stop the current practice of allowing unrestricted vehicular access onto these areas by limiting parking to designated areas. Planned treatments for the dune areas will include landscape plantings of low shrubs and vines consisting of coastal native species. In the event that any cultural deposits or human burials are uncovered, all work will immediately be halted and planting would shift to an area free of any cultural resources.

The proposed project will not impact scenic views of the ocean or any ridgelines from Farrington Highway or other heavily traveled roadways in the area. The visual character of the area will be enhanced by the additional landscaping with heritage trees and other coastal native plantings. The landscape plantings will also mitigate existing soil erosion. The existing three-mile park is designated as State Urban lands dedicated for Park purposes, an important natural and cultural resource. Presently, the study area is only minimally landscaped and not improved for aesthetic purposes.

- (2) Curtails the range of beneficial uses of the environment;

The existing Ulehawa Beach Park has been dedicated for shoreline recreational uses for many decades. Its improvement as described by the Landscape Master Plan will enhance the range of beneficial uses of the environment.

Controlled access onto the property will directly enhance access to the shoreline while simultaneously protect the cultural and natural resources by restricting vehicular access onto the sand dunes and beach. This shoreline has historically been used for food gathering and recreational purposes. The planned park improvements will enhance those functions.

(3)

Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS; and any revisions thereof and amendments thereto, court decisions, or executive orders;

The proposed development is consistent with the Environmental Policies established in Chapter 344, HRS.

(4) Substantially affects the economic or social welfare of the community or state;

The proposed project will provide a significant contribution to the Wai'anae District population by establishing an improved recreational resource. The proposed improvements are also consistent with the City's Development Plan for the area. Surrounding land use patterns will not be negatively or significantly altered, nor will unplanned population growth or its distribution be stimulated.

Consequently, development of the park improvements will provide Wai'anae coast residents with a quality recreational facility. This harmonious relationship between park and the existing community will significantly improve the quality of life for many residents.

(5) Substantially affects public health;

Although the public health may be affected by the short-term construction impacts which may affect air, noise, traffic and water quality, these should be insignificant especially when weighed against the positive economic, social, and quality of life implications associated with the project. Mitigation measures will be used to address impacts that could potentially affect public health.

(6) Involves substantial secondary impacts, such as population changes or effects on public facilities;

The improvement of this existing beach park will not have any secondary impact associated with population growth or the need for public facilities.

(7) Involves a substantial degradation of environmental quality;

The renovation of an existing regional park will improve a much used natural resource. The proposed project may improve erosion control, reduce runoff into nearshore waters, and control access. There are no anticipated impacts that would degrade environmental quality. The addition of new landscaping with Hawaiian heritage plants will enhance the park environment by providing new natural materials and shade. The coastal visual resource from Farrington Highway will also be improved.

(8) Is individually limited but cumulatively has considerable effect on the environment, or involves a commitment for larger actions;

The planned improvements to an existing park is consistent with the existing and planned urban character expressed in the Wai'anae Development Plan and is not anticipated to have a considerable effect on the environment. The commitment of fiscal resources to construct the improvements will foreclose other uses of those resources.

(9) Substantially affects a rare, threatened or endangered species or its habitat;

Field wildlife and botanical studies indicate that there are no endangered plant or animal species located at this highly utilized beach park. The federal and state natural resource agencies have not

identified Ulehawa Beach Park as a site for monk seals or turtle nesting, however, it is possible that seals may beach there from time to time.

- (10) Detrimently affects air or water quality or ambient noise levels;

Any possible impact to near-shore ecosystems resulting from surface runoff will be mitigated by the establishment of on-site detention basins during the construction phases of development.

- (11) Affects or is likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, freshwater, or coastal waters;

Ulehawa Beach Park, like all other coastal parks in the State is susceptible to high wave and tsunami inundation.

- (12) Substantially affects scenic vistas and view planes identified in county or state plans or studies;

The City and County of Honolulu's *Coastal View Study* identifies the Nānākuli Viewshed as a major viewshed within the Wai'anae area. Lateral coastal views which are available from all points along the shoreline are significant, especially in the Ka'ena direction due to the descending ridges which can be seen in the distance. The Pu'u o Hulu Kai / Pu'u o Hulu Uka landmark is designated as an important coastal land form. Although new landscape plantings will impact views, the overall visual resource will be enhanced. The proposed project is in conformance with both State and County plans for the area and no public facilities are designated on the Wai'anae Development Plan Public Facilities Map.

- (13) Requires substantial energy consumption;

The location of the beach park is proximate to Wai'anae area communities and are all within short driving distances from the property, thereby reducing travel times and energy consumption. Construction of the proposed project will not require substantial energy consumption.

6.2 DETERMINATION

On the basis of the above criteria, and the discussion of impacts and mitigative measures contained in this document, it is anticipated that the proposed project will not have a significant negative effect on the environment and will conversely, result in positive effects to the natural, cultural, and social environments.

WALTON D.Y. HONG

LORNA A. NISHIMITSU

LAW OFFICES OF

WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

February 9, 2000

Office of Environmental Quality Control
Attention: Ms. Genevieve Salmonson
Director
236 South Beretania Street, Suite 702
Honolulu, HI 96813

Re: Draft Environmental Assessment for the Secret
Beach Trail, Kauai (CDUA KA-2966B)

Dear Ms. Salmonson:

Thank you for your response to the above-referenced matter to the Department of Land and Natural Resources.

In response to our questions and comments, please be advised as follows:

(1) The Applicant has already made application with the County of Kauai Planning Department for a Special Management Area Permit for the trail. The application was submitted on November 29, 1999, and the Applicant is awaiting the issuance of the permit;

(2) The findings and reasons for supporting the FONSI determination is attached hereto as Addendum 1;

(3) As discussed in my telephone conversation with Jeyan Thirugnanam of your office, the cost of providing plans for the trail would be cost prohibitive in relation to the magnitude of the trail use. Mr. Thirugnanam indicated that the concern of your office was that the trail did not intrude into the shoreline setback area. In this regard, please be advised that the County of Kauai Planning Department made an on-site inspection of the trail, and found that the trail ended in boulders approximately 30 feet from the vegetation line along the shoreline. The owners of the trail have agreed in writing with the County of Kauai to remove the last railroad tie or ties as necessary in the trail, such that the trail would terminate before reaching the 40 feet shoreline setback area fronting the

Office of Environmental Quality Control
Attention: Ms. Genevieve Salmonson
February 9, 2000

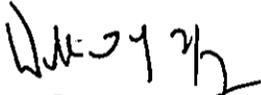
property. For your reference, and as discussed with Mr. Thirugnanam, we are attaching a map indicating the foregoing for your records, in lieu of the plans requested in your January 24, 2000 letter to the Department of Land and Natural Resources;

(4) Permits required for the trail are a Conservation District Use Permit and a Special Management Area Use Permit, both of which have been applied for and awaiting action thereon;

(5) Removal of the stairs may result in greater environmental impacts to the area than leaving the same in place. For the reasons discussed in the environmental impact assessment and Addendum 1 hereto, the existing trail has not resulted in any significant adverse environmental or ecological impacts. Removal of the trail will involve the removal of the railroad ties, resulting in a less stable soil condition due to the topography and the grade of the trail down the cliffside. This could result in additional erosion along the side of the cliff, and possible siltation of the beach when surface water runoffs reach the bottom of the trail.

I trust that the foregoing responses satisfactorily address your concerns. If there are any questions regarding the above, please feel free to call or write me.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

Encl.

ADDENDUM 1

DETERMINATION, FINDINGS AND
REASONS FOR SUPPORTING DETERMINATION

The following are supportive of the finding of no significant adverse impacts from the existing trail at Secret Beach, Kauai, Hawaii, and addresses the significance criteria therefor:

(1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resources:

The subject trail consists of placing railroad ties on a grade cut into the side of the pali. While the trail resulted in the loss of some vegetation, such vegetation has grown back, and, but for maintenance of the trail, would overgrow the trail. There is thus no irrevocable commit to loss or destruction of any natural resource. The Historic Preservation Division of the State Department of Land and Natural Resources has indicated that the trail has not destroyed any significant historic sites.

(2) Curtails the range of beneficial uses of the environment:

The trail does not curtail the public's use of the beach in any fashion. The trail is located entirely on private property and was constructed for the benefit of the owners of the lot at the top of the bluff. On the other hand, the trail affords the owners access to the shoreline and enhances the beneficial uses of the environment by them.

(3) Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, H.R.S., and any revisions thereof and amendments thereto, court decisions, or executive orders:

The trail is not inconsistent with the Environmental Policies established in Chapter 344, Hawaii Revised Statutes.

(4) Substantially affects the economic or social welfare of the community of State:

The trail, intended to provide better access to the shoreline from one dwelling, will not substantially affect the economic or social welfare of the Kilauea community, the County of Kauai or the State of Hawaii.

(5) Substantially affects public health:

The trail will not affect public health in any manner, except that it may provide a faster means of informing the authorities of an emergency on the beach through an improved and shorter access to a telephone.

(6) Involves substantial secondary impacts, such as population changes or effects on public facilities:

The trail will not have any secondary impact associated with population growth or the need for additional public facilities.

(7) Involves a substantial degradation of environmental quality:

While the trail involved some grading and removal of vegetation, the effects on the environment have been minimal. The vegetation has grown back. The limited use of the trail has not resulted in any degradation of environmental quality.

(8) Is individually limited but cumulatively has considerable effect on the environment, or involves a commitment for larger actions:

As the trail is not part of any larger scheme or proposed development, there will be no cumulative effects on the environment nor any commitment for larger actions.

(9) Substantially affects a rare, threatened or endangered species or its habitat:

No rare, threatened or endangered species were encountered or affected by the construction of the trail. As the only activity would be the limited use of the trail, the flora and fauna of the area will not be affected.

(10) Detrimentially affects air or water quality or ambient noise levels:

There will not be any significant adverse effects from the trail on air or water quality or ambient noise levels.

(11) Affects or is likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, freshwater, or coastal water:

The trails meanders down the side of the bluff overlooking Secret Beach, and could be considered to be within an erosion-prone area. However, the cutting of the hillside and placing of railway ties in the ground, as well as revegetation of the cuts, have mitigated the possibility of erosion. The trail is not located within a flood plain, tsunami zone, beach, geologically hazardous land, estuary, freshwater or coastal water.

(12) Substantially affects scenic vistas and view planes identified in county or State plans or studies:

The trail is not visible from the coastline nor from the abutting properties. As such, it does not affect any scenic vista or view plane.

(13) Requires substantial energy consumption:

The trail does not require any energy consumption.

DETERMINATION:

Based on the foregoing, the trail will not have any significant adverse impact on the environment.

O C E A N

Sand beach

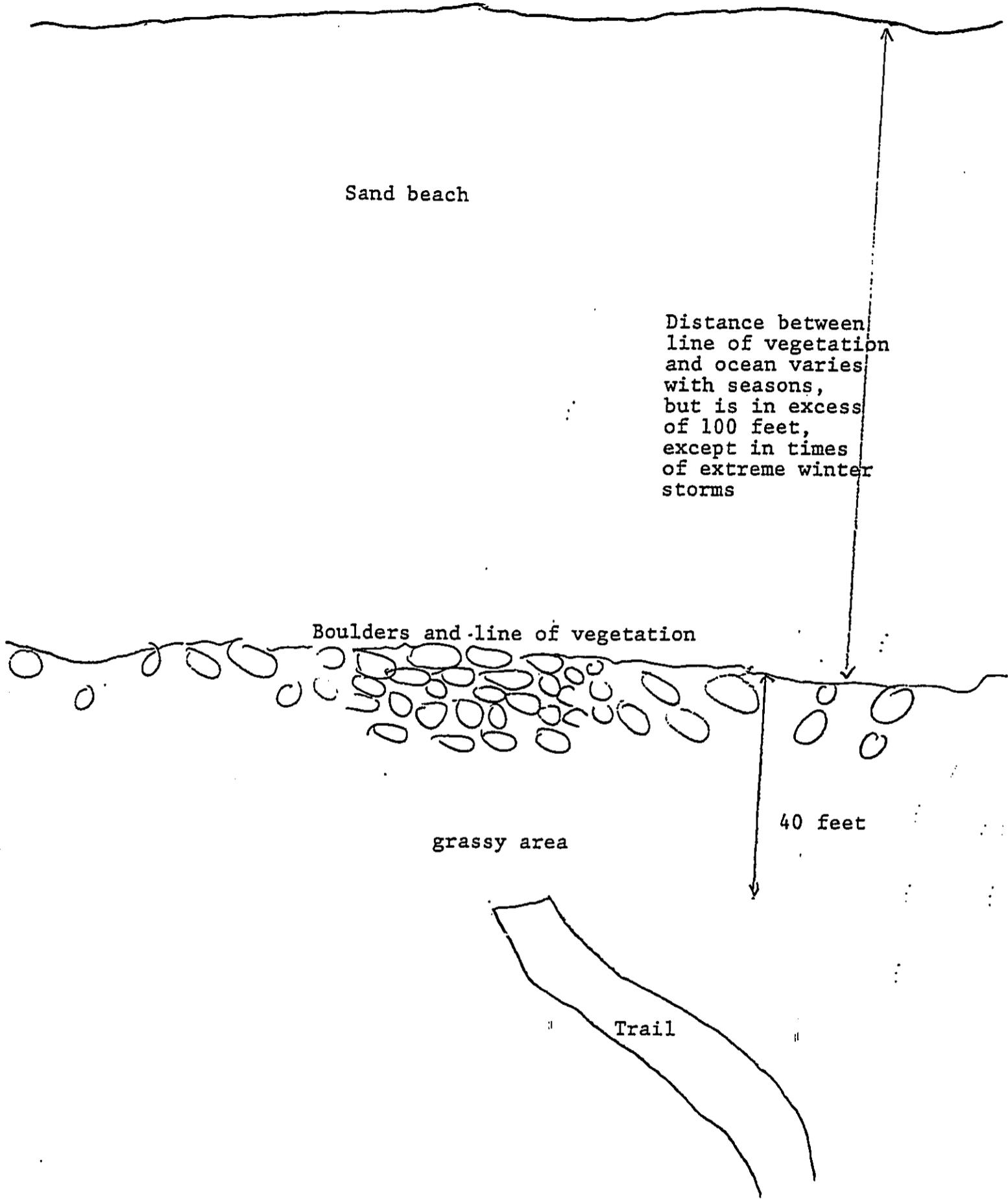
Distance between
line of vegetation
and ocean varies
with seasons,
but is in excess
of 100 feet,
except in times
of extreme winter
storms

Boulders and line of vegetation

40 feet

grassy area

Trail



LAW OFFICES OF

WALTON D. Y. HONG

WALTON D. Y. HONG

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5173

LORNA A. NISHIMITSU

ATTORNEY AT LAW
A Law Corporation
1135-A AKAHU STREET
LIHUE, KAUAI, HAWAII 96766

March 8, 2000

Sent via fax (808/587-0455).
hard copy to follow

Department of Land and
Natural Resources
Land Division
Attention: Mr. Dean Y. Uchida
Administrator
P. O. Box 621
Honolulu, HI 96809

Re: Conservation District Use Application KA-2966B and
Environmental Assessment for Private Stairway at
Kaupea Beach, Namahana, Hanalei, Kauai
(TMK: 5-2-5:36)

Dear Mr. Uchida:

In response to your letter of March 8, 2000, we respond as follows as to why the project will not have significant effects for each of the thirteen significance criteria:

(1) The project will not involve an irrevocable commitment to loss or destruction of any natural or cultural resources. As previously stated, the subject trail consists of placing railroad ties on a grade cut into the side of the pali. While the trail resulted in the loss of some vegetation, such vegetation has grown back, and, but for maintenance of the trail, would overgrow the trail. There is thus no irrevocable commitment to loss or destruction of any natural resource. The Historic Preservation Division of the State Department of Land and Natural Resources has indicated that the trail has not destroyed any significant historic sites. There are no plans to expand the trail in any fashion; accordingly, there is no irrevocable commitment to loss or destruction of any natural or cultural resources as additional areas will not be affected.

(2) The project does not curtail the range of beneficial uses of the environment, as the trail does not curtail, stop or hinder the public's use of the beach in any

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

fashion. The trail is located entirely on private property and was constructed for the benefit of the owners of the lot at the top of the bluff. On the other hand, the trail affords the owners access to the shoreline and enhances the beneficial uses of the environment by them.

(3) The project is consistent with the State's long-term environmental policies or goals as expressed in Chapter 344, H.R.S., and any revisions thereof and amendments thereto, court decisions or executive orders.

Among the policies expressed in Chapter 344, H.R.S., are to conserve the natural resources so that they are protected by controlling pollution, by preserving or augmenting natural resources, by safeguarding the State's unique natural environment characteristics in a manner which will foster and promote the general welfare, create and maintain conditions under which humanity and nature can exist in productive harmony, and fulfill the social, economic and other requirements of the people of Hawaii.

The project does not waste natural resources. It is non-polluting. It augments the natural beauty of the area by making the shoreline more accessible to the users of the trail, thus promoting the general welfare and creating conditions under which the persons using the trail can exist in harmony with nature. The project will not affect nor fulfill the social, economic and other requirements of the people of Hawaii due to its limited scope.

Another policy expressed in Chapter 344, H.R.S., is the enhancing of quality of life by (a) setting population limits so that the interaction between the natural and artificial environments and the population is mutually beneficial, (b) creating opportunities for residents to improve their quality of life through diverse economic activities which are stable and in

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

balance with the physical and social environments, (c) establishing communities providing a sense of identity and harmony with the natural environment which is uniquely Hawaiian, and (d) establishing a commitment on the part of each person to protect and enhance Hawaii's environment and reduce the drain on nonrenewable resources.

The project is not inconsistent with the foregoing. It does not affect population growth, so there is no concern with respect to setting population limits. Although the project will create the opportunity for the owners of the land using the trail to improve their quality of life by providing a safe and reasonable access to the shoreline with minimal or insignificant effect to the physical environment, it is not an economic activity which needs to be balanced with the physical and social environments.

The project will not have effect on establishing communities which can provide a sense of identity. However, the project will allow a sense of harmony with the natural environment by allowing safe access through the natural vegetation of the area to access the shoreline at the base of the pali, an experience which could be uniquely Hawaiian. The trail is a commitment on the part of each person using the trail not to stray therefrom; this is a better alternative to having people randomly making their own way up and down the pali with the attendant destruction of vegetation and increased erosion. Nonrenewable resources are not involved in the activity.

(4) The project will not substantially affect the economic or social welfare of the community or State. The trail will be limited in use, and be for the access to the shoreline by the occupants of one dwelling. This limited scope will have no effect on the economic or social welfare of the community or State.

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

(5) As noted before, the trail will not affect public health in any manner, except that it may provide a faster means of summoning assistance for emergencies on the beach through an improved and shorter access to communication facilities at the residences at the time of the bluff.

(6) As the trail will be limited in use and be for the use of the occupants of a single dwelling, the project will not have any secondary impact associated with population growth or the need for additional public facilities.

(7) The project will not involve a substantial degradation of environmental quality. While the trail involved some grading and removal of vegetation, the effects on the environment have been minimal. With the regrowth of the vegetation and the limited use of the trail, there has been no degradation of environmental quality.

(8) As the trail is not part of any larger scheme or proposed development, there will be no cumulative effects on the environment or any commitment for larger actions. The trail is intended for use and will continue to be used by the occupants of a single dwelling at the top of the bluffline.

(9) As noted previously, no rare, threatened or endangered species were encountered or affected by the construction of the trail. As the only activity would be the limited use of the trail by the occupants of one dwelling, the flora and fauna of the area will not be affected.

(10) The project will not detrimentally affect air or water quality or ambient noise levels. The project does not involve releasing of any matters or pollutants into the air or water. The only noise would be the noise of people walking on the trail and possibly conversation, which is not unreasonable or detrimental to the ambient noise levels.

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

(11) The trail would not affect nor be likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, beach, erosion-prone area, geologically hazardous land, estuary, freshwater, or coastal water. To begin, it is not located in a flood plain, a beach, geologically hazardous land, estuary, freshwater, or coastal water. Although the trail meanders down the side of the bluff and could be considered an erosion-prone area, the cutting of the hillside, the placing of railway ties in the ground and the revegetation of the cuts, have mitigated the possibility of erosion.

The Applicant previously stated that the trail was not in a tsunami zone; however, this was in error as the lowest portion of the trail is within the tsunami inundation area. Should there be a tsunami, the trail may be damaged but such damage would not be significant nor a hazard to life. The trail, on the other hand, could provide a faster means of getting to higher elevations should high waves or a tsunami suddenly materialize and threaten people on the beach.

(12) The trail will not affect scenic vistas and view planes identified in county or State plans, as the trail is not visible from the coastline nor from the abutting properties.

(13) The trail will not require any energy consumption, as there are no lights or other appliances requiring the use of energy on the trail.

In further response to your letter, please be also advised as follows: There are no plans to install an emergency telephone at the top of the trail. The owner of Parcel 25 will eventually construct a home on the parcel. The users of the trail will be the people occupying the home and their guests and invitees. Public access will not be allowed to the trail from Parcel 25. However, should an emergency occur on the beach and someone uses the trail to get to the nearest residence, access to a telephone

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

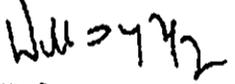
in the residence would be permitted. Should no one be home at the time, the trail would nonetheless allow that person to be within a developed residential area where telephone communication is available.

With respect to 11-200-10(6) (HAR), prospective mitigation measures for short-term erosion control relating to the alternative of removing the trail would be to flatten out the steeper portions of the trails after taking out the railway ties to minimize the slope and surface runoff. Long term erosion control would be to permit the natural vegetation to regrow and eventually cover the trail. There would not be any plans to regrade the route of the trail to restore the original slope, as such grading would entail substantial earthmoving and increased erosion and clipping concerns.

I trust that you will find the foregoing satisfactory. The additional information relating to the processing of the CDUA will be sent you by March 20, 2000, as requested.

If there are any questions regarding the above, please feel free to contact me.

Yours very truly,


Walton D. Y. Hong

WDYH:wh

cc: Steve Cohen



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref.PB:EAH

MAR 13 2000

FILE NO.:CDUA KA-2966B

MEMORANDUM

TO: Ms Genevieve Salmonson, Director
Office of Environmental Quality Control

FROM: Dean Uchida, Administrator 
Land Division

SUBJECT: Notice of Determination: Environmental Assessment (EA) for a Stairway to
Kauapea Beach, Namahana, Hanalei, Kauai (TMK 5-2-5:36).

The Department of Land and Natural Resources, Land Division, has reviewed the comments received during the 30-day public comment period, which began on December 23, 2000 and the subject EA. We have determined that the subject project will not have significant environmental effects and hereby issue a Finding of no Significant Impact (FONSI) for the subject EA. Please publish this notice in the March 23, 2000 OEQC Environmental Notice. ✓

We have enclosed a completed OEQC Publication Form, a completed OEQC Publication form on computer disk and four copies of the final EA. The reasons supporting this FONSI can be found at the end of the EA Addendum 1 in a letter dated March 8, 2000 from the applicant to the Land Division. Please contact Eric Hill of our planning staff at 587-0383 if you have any questions.

MAR 23 2000

FILE COPY

2000-03-23-KA-PEA-Secret Beach Trail

FINAL
ENVIRONMENTAL IMPACT ASSESSMENT
FOR
IMPROVED TRAIL WITH STAIRS
AT
KILAUEA, ISLAND OF KAUAI, STATE OF HAWAII
TAX MAP KEY: 5-2-005-036 (4th)

The following is an environmental impact assessment for a trail which has already been completed, leading from the bluffline to the shoreline at Secret Beach, Kilauea, Island and County of Kauai, State of Hawaii, on real property more particularly identified as Kauai Tax Map Key: 5-2-005-036.

(1) Identification of Applicant

Steven Cohen
c/o Walton D. Y. Hong
3135-A Akahi Street
Lihue, HI 96766
Tel. (808) 245-4757 .
Fax. (808) 245-5175

(2) Identification of Approving Agency

Board of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, HI 96808

(3) Identity of Agencies Consulted in Making Assessment

Department of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, HI 96808

County of Kauai
Building Division
4444 Rice Street
Lihue, HI 96766

(4) General Description of the action's characteristics

(a) Technical. The subject trail consists in most part of stairs of railroad ties, sunken into the ground. The ground was first cleared of existing vegetation, and where appropriate, cuts were made into the side of the bluff to allow

the placement of the stairs. There are approximately 250 stairs.

At one point in the descent, a concrete foundation was laid to anchor wooden stairs and railings, as the grade was too steep to accommodate the ties. The stairs end more than 40 feet from the edge of vegetation on the shoreline, at which point users of the trail must climb over naturally existing rocks at the base of the bluff to access the sand beach.

The trail begins at the top of the bluffline, from real property identified as Kauai Tax Map Key: 5-2-005-025, and cross over the Conservation District on real property identified as Kauai Tax Map Key: 5-2-005-036. The former property was formerly owned by the Applicant, Steven Cohen, who has since sold the same. The latter property is owned by Kane Enterprises, which gave permission to landowners along the bluffline to access the shoreline over his property.

Kane Enterprises was not aware of the construction of the trail, and the Applicant has accepted full responsibility for the same. At a violation hearing, the Applicant noted the foregoing, and was fined \$2,500.00, which has already been paid.

Attached hereto as Exhibit "A" is a copy of the Island of Kauai, showing the area of the subject property. Attached hereto as Exhibit "B" is a copy of the tax map for the area, which show the approximate location of the trail.

(b) Economic. As the trail has already been constructed, there are no economic benefits from the action. However, the significant costs of constructing the stairs (in excess of \$30,000) provided economic benefits to those persons employed for such work.

(c) Social. There will not be any significant social benefits or detriment from the trail.

(d) Environmental. The environmental characteristics of the trail and action are as follows:

(1) Flora and Fauna: Vegetation was removed during the construction of the trail, and some cuts were made into the hillside into which the stairs could be built. However, due to the ample rainfall in the area, the vegetation

is growing back to cover the cuts. The vegetation removed during the construction included ironwood trees, guava trees, java plums, and buffalo grass. No endangered or threatened species of flora or fauna were affected during the construction process.

(2) Erosion: The trail has not shown to be the cause of any erosion, notwithstanding that cuts were made into the hillside to provide for placement of the stairs. Vegetation in the cut areas has begun to grow back, and will further minimize any possibility of erosion.

(3) Historical and Archaeological: There are no known historical or archaeologically significant sites on the subject site.

(4) Visual: The trail, cut into the hillside, is not readily visible from the bluffline or from the shoreline. As such, the trail does not have any significant adverse visual impacts.

(5) Summary Description of Affected Environment. The subject area is the pali between the bluffline and the shoreline at Secret Beach, Island and County of Kauai, State of Hawaii. The difference in elevation between the bluffline and the shoreline is several hundred feet. The subject area contains the natural flora of the area, including ironwood trees, guava trees, java plums, ferns, and grasses. The fauna include doves, mynahs, and sparrows. It is possible that Newell Shearwaters may nest in the bluff area, although none were observed by the Applicant in the vicinity of the trail.

(6) Identification and summary of major impacts. The only impacts of the trail are the disruption of the natural grade to place the stairs, and the clearing of vegetation in the path of the trail. As the topography is fairly steep, there are no reasonable alternatives for access to and from the shoreline, other than denial of access.

(7) Proposed mitigation measures. As the vegetation removed during the construction process is beginning to grow back, no mitigation measures are necessary.

(8) Determination. Based on the foregoing and the absence of any significant long term effects from the placement of the trail, it is determined that the said action will not result in

any significant adverse environmental or ecological impacts be adopted, and that an environmental impact statement is not required of the Applicant for the already completed trail.

(9) Findings and Reasons Supporting Determination. As the foregoing indicate, the trail within the Conservation District is a relative limited and passive use which will not result in any significant adverse environmental or ecological impacts. The regrowth of the vegetation cut during the creation of the trail and placement of the stairs will mitigate the effects, if any, of the work.

(10) Agencies consulted and to be consulted. The Department of Land and Natural Resources, Land Division, and the Department of Land and Natural Resources, Conservation and Resource Enforcement Division, were involved in investigating and reporting on the construction of the subject trail. As a recommendation of negative declaration is proposed, no other agency need to be consulted for preparation of an environmental impact statement.

(11) Comments received and responses. Attached hereto are copies of comments received during the public comment period and the responses thereto.



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

DEC 9 10 59 AM '99
OFFICE OF HAWAIIAN AFFAIRS
HONOLULU, HAWAII

December 2, 1999

Mr. Dean Uchida, Administrator
Land Division
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

(PA #333)

Subject: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact Improvements at
Kilauea, Kaua'i (TMKs: 5-02-05:36)

Dear Mr. Uchida,

Thank you for the opportunity to comment on the above referenced project. At this time the Office of Hawaiian Affairs has no comment to the application. If you have any questions, please contact Mark A. Mararagan, Policy Analyst at 594-1945.

Sincerely,

Colin Kippen
Deputy Administrator

cc: OHA Board of Trustees
Kaua'i CRS

WALTON D.Y. HONG

LORNA A. NISHIMITSU

LAW OFFICES OF

WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

February 2, 2000

Office of Hawaiian Affairs
State of Hawaii
Attention: Mr. Colin Kippen
Deputy Administrator
711 Kapiolani Boulevard, Suite 500
Honolulu, Hawaii 96813

Re: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact
Improvements at Kilauea, Kauai (TMKs: 5-02-05:36)

Dear Mr. Kippen:

Thank you for your response to the Department of Land and
Natural Resources on the above referenced application.

If there are any questions regarding the application,
please feel free to call or write the undersigned.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

Division of Forestry & Wildlife

1151 Punchbowl Street, Rm. 325 • Honolulu, HI 96813 • (808) 587-0166 • Fax: (808) 587-0160

January 10, 2000

MEMORANDUM

TO: Sam Lemmo, Planner
Land Division

THRU: Dean Uchida, Administrator
Land Division

FROM: Michael G. Buck, Administrator
Division of Forestry and Wildlife



SUBJECT: Request for Comments CDUA KA-2966B for After-the-Fact Improvements
at Kilauea, Kauai, Hawaii by Mr. Steven Cohen, TMK 5-02-05:36.

We have reviewed the document regarding the subject above and have no objections to the proposed After-the-Fact Improvements for Mr. Steven Cohen. Thank you for giving us the opportunity to review the CDUA.

C: Kauai Branch DOFAW

JAN 12 3 53 PM '00

LAW OFFICES OF

WALTON D.Y. HONG

WALTON D.Y. HONG

TELEPHONE (808) 245-4757

TELECOPIER (808) 245-5175

LORNA A. NISHIMITSU

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

February 2, 2000

Division of Forestry & Wildlife
Department of Land and Natural
Resources, State of Hawaii
Attention: Mr. Michael G. Buck
Administrator
1151 Punchbowl Sreet, Room 325
Honolulu, Hawaii 96813

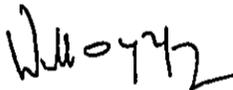
Re: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact
Improvements at Kilauea, Kauai (TMKs: 5-02-05:36)

Dear Mr. Buck:

Thank you for your response to the Department of Land and
Natural Resources on the above referenced application.

If there are any questions regarding the application,
please feel free to call or write the undersigned.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



TIMOTHY E. JOHNS, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DEPUTIES
JANET E. KAWALO
LINNEL NISHIOKA

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
HISTORIC PRESERVATION DIVISION
Kakuhikawa Building, Room 555
601 Kamokila Boulevard
Kapolei, Hawaii 96707

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND RESOURCES
ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND
STATE PARKS
WATER RESOURCE MANAGEMENT

December 14, 1999

MEMORANDUM

LOG NO: 24573 ✓
DOC NO: 9912NM03

TO: Dean Uchida, Administrator
Land Division

FROM: Don Hibbard, Administrator
State Historic Preservation Division *DH*

SUBJECT: **Historic Preservation Review --File No. KA-2966B**
For After-the-Fact Improvements at Kilauea, Kauai
TMK: 5-02-05: 36
Kilauea, Halelea, Kaua'i

We do not believe that the unauthorized improvement (trail from the bluff to the Secret Beach) destroyed any significant historic sites. This project will have "no effect" on significant historic sites

If you have any questions, please call Nancy McMahon 742-7033.

NM:lm

LAW OFFICES OF

WALTON D.Y. HONG

LORNA A. NISHIMITSU

WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

February 2, 2000

Historic Preservation Division
Department of Land and Natural
Resources, State of Hawaii
Attention: Mr. Don Hibbard
Administrator
Kakuhihewa Building, Room 555
601 Kamokila Boulevard
Kapolei, Hawaii 96707

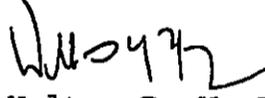
Re: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact
Improvements at Kilauea, Kauai (TMKs: 5-02-05:36)

Dear Mr. Hibbard:

Thank you for your response to the Department of Land and
Natural Resources on the above referenced application.

If there are any questions regarding the application,
please feel free to call or write the undersigned.

Yours very truly,



Walton D. Y. Hong

WDYH:wh



LIFE OF THE LAND

Ua Mau Ke Ea O Ka 'Aina I Ka Pono
Hawaii's own local Community Action Group
Protecting our Fragile Natural & Cultural Resources
through Research, Education, Advocacy & Litigation

January 5, 2000

Steven Cohen
c/o Walton Hong
3135-A Akahi St.
Lihue, Hawaii 96766

Sam Lemmo
DLNR
P.O. Box 621
Honolulu, HI 96809

re: Secret Beach Trail

Aloha,

After reading the DEA it was unclear how close the waves approach the lower steps. Under what conditions do waves approach the steps and how close do the waves come?

Are the steps open to the public?

Do the steps cross any intermittent or continuous streams?

Are the steps in the SMA?

Mahalo,
Henry Curtis
Henry Curtis
Executive Director

JAN 10 9 21 AM '00
DEPARTMENT OF LAND AND NATURAL RESOURCES
HONOLULU, HAWAII

WALTON D.Y. HONG
LORNA A. NISHIMITSU

LAW OFFICES OF
WALTON D.Y. HONG
ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

February 2, 2000

Life of the Land
Attention: Mr. Henry Curtis
Executive Director
76 North King Street, Suite 203
Honolulu, HI 96817

Re: Request for comments Conservation District Use
Application (CDUA) KA-2966B for After-the-Fact
Improvements at Kilauea, Kauai (TMKs: 5-02-05:36)

Dear Mr. Curtis:

Thank you for your response to the Department of Land and
Natural Resources on the above referenced application.

In response to your questions, please be advised as
follows:

(a) An on-site inspection by the County of Kauai
Planning Department indicated that the trail presently ends
approximately 35 feet from the line of vegetation along the
shoreline. The owner of the trail has committed in writing to
the County of Kauai that the last railroad tie of the trail will
be removed, which will result in the trail not encroaching into
the 40 feet shoreline setback area. As the trail is beyond the
line of vegetation, the waves will not reach the steps. As to
how close the waves approach the steps will depend on the
season; winter storms may result in waves coming closer to the
line of vegetation than during the summer months when the beach
fronting the trail may be hundreds of feet in depth. In any
event, the waves will not come any closer than the line of
vegetation, which will be in excess of forty feet from the end
of the trail;

(b) The trail is not open to the public. However, in
the case of any emergency, people will not be stopped from using
the steps to gain faster access in notifying authorities of the
emergency;

Life of the Land
Attention: Mr. Henry Curtis
Executive Director
February 2, 2000

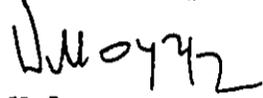
(c) The trail does not cross any intermittent or continuous stream;

(d) The trail is within the Special Management Area established by the County of Kauai. The Applicant has made application on November 29, 1999 for a Special Management Area Permit from the County of Kauai Planning Department, and is awaiting action on the application.

I trust that you will find the foregoing responses satisfactory.

If there are any questions regarding the application or the responses herein, please feel free to call or write the undersigned.

Yours very truly,


Walton D. Y. Hong

WDYH:wh

W
BENJAMIN J. CAYETANO
GOVERNOR



STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

216 SOUTH BERETANIA STREET
SUITE 702
HONOLULU, HAWAII 96813
TELEPHONE (808) 688-4188
FACSIMILE (808) 688-4188

January 24, 2000

RECEIVED
DIVISION OF
LAND MANAGEMENT
JAN 25 3 56 PM '00
GENEVIEVE SALMONSON
DIRECTOR

Mr. Tim Johns, Chair
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Johns:

Subject: Draft Environmental Assessment for the Secret Beach
Trail, Kauai (CDUA KA-2966B)

RECEIVED
09 JAN 25 PM 2:44
DIVISION OF LAND MANAGEMENT
STATE OF HAWAII

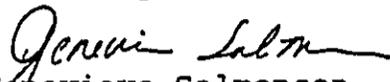
Thank you for the opportunity to review the subject document. We have the following questions and comments.

1. Please consult with the Kauai Planning Department to determine whether a shoreline setback permit is required for this project.
2. Please discuss the findings and reasons for supporting the FONSI determination based on all 13 significant criteria listed in §11-200-12 of the EIS rules. Please see the enclosed example.
3. Please provide a plan that shows the following: A) The property lines; B) The stairs; C) The shoreline; D) The shoreline setback line; and E) Locations of vertical and lateral access to the beach.
4. Please include a list of all permits and approvals (State, Federal, County) required for the project in the final environmental assessment.
5. Please discuss the alternative of removing the stairs. What impacts would it create?

Mr. Johns
Page 2

Should you have any questions, please call Jeyan Thirugnanam at
586-4185.

Sincerely,


Genevieve Salmonson
Director

c: Walton Hong

6.0 DETERMINATION, FINDINGS AND REASONS FOR SUPPORTING DETERMINATION

To determine whether the proposed action may have a significant impact on the environment, the project and its expected consequences, both primary and secondary, and the cumulative as well as short- and long-term effects have been evaluated. Based on the studies performed and research evaluated, a finding of no significant impact is anticipated and is summarized below.

6.1 SIGNIFICANCE CRITERIA

According to the Department of Health Rules (11-200-12), an applicant or agency must determine whether an action may have a significant impact on the environment, including all phases of the project, its expected consequences both primary and secondary, its cumulative impact with other projects, and its short- and long-term effects. In making the determination, the Rules establish "Significance Criteria" to be used as a basis for identifying significant environmental impacts. According to the Rules, an action shall be determined to have significant impacts on the environment if it meets any one of the following criteria:

- (1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resources;

An archaeological assessment and field reconnaissance study for the project has determined that cultural deposits and possibly historic burials may exist in the sand dunes adjacent to Farrington Highway. The Landscape Master Plan has therefore been designed to protect the cultural resources and stop the current practice of allowing unrestricted vehicular access onto these areas by limiting parking to designated areas. Planned treatments for the dune areas will include landscape plantings of low shrubs and vines consisting of coastal native species. In the event that any cultural deposits or human burials are uncovered, all work will immediately be halted and planting would shift to an area free of any cultural resources.

The proposed project will not impact scenic views of the ocean or any ridgelines from Farrington Highway or other heavily traveled roadways in the area. The visual character of the area will be enhanced by the additional landscaping with heritage trees and other coastal native plantings. The landscape plantings will also mitigate existing soil erosion. The existing three-mile park is designated as State Urban lands dedicated for Park purposes, an important natural and cultural resource. Presently, the study area is only minimally landscaped and not improved for aesthetic purposes.

- (2) Curtails the range of beneficial uses of the environment;

The existing Ulehawa Beach Park has been dedicated for shoreline recreational uses for many decades. Its improvement as described by the Landscape Master Plan will enhance the range of beneficial uses of the environment.

Controlled access onto the property will directly enhance access to the shoreline while simultaneously protect the cultural and natural resources by restricting vehicular access onto the sand dunes and beach. This shoreline has historically been used for food gathering and recreational purposes. The planned park improvements will enhance those functions.

(3)

Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS; and any revisions thereof and amendments thereto, court decisions, or executive orders;

The proposed development is consistent with the Environmental Policies established in Chapter 344, HRS.

(4) Substantially affects the economic or social welfare of the community or state;

The proposed project will provide a significant contribution to the Wai'anae District population by establishing an improved recreational resource. The proposed improvements are also consistent with the City's Development Plan for the area. Surrounding land use patterns will not be negatively or significantly altered, nor will unplanned population growth or its distribution be stimulated.

Consequently, development of the park improvements will provide Wai'anae coast residents with a quality recreational facility. This harmonious relationship between park and the existing community will significantly improve the quality of life for many residents.

(5) Substantially affects public health;

Although the public health may be affected by the short-term construction impacts which may affect air, noise, traffic and water quality, these should be insignificant especially when weighed against the positive economic, social, and quality of life implications associated with the project. Mitigation measures will be used to address impacts that could potentially affect public health.

(6) Involves substantial secondary impacts, such as population changes or effects on public facilities;

The improvement of this existing beach park will not have any secondary impact associated with population growth or the need for public facilities.

(7) Involves a substantial degradation of environmental quality;

The renovation of an existing regional park will improve a much used natural resource. The proposed project may improve erosion control, reduce runoff into nearshore waters, and control access. There are no anticipated impacts that would degrade environmental quality. The addition of new landscaping with Hawaiian heritage plants will enhance the park environment by providing new natural materials and shade. The coastal visual resource from Farrington Highway will also be improved.

(8) Is individually limited but cumulatively has considerable effect on the environment, or involves a commitment for larger actions;

The planned improvements to an existing park is consistent with the existing and planned urban character expressed in the Wai'anae Development Plan and is not anticipated to have a considerable effect on the environment. The commitment of fiscal resources to construct the improvements will foreclose other uses of those resources.

(9) Substantially affects a rare, threatened or endangered species or its habitat;

Field wildlife and botanical studies indicate that there are no endangered plant or animal species located at this highly utilized beach park. The federal and state natural resource agencies have not

identified Ulehawa Beach Park as a site for monk seals or turtle nesting, however, it is possible that seals may beach there from time to time.

- (10) Detrimently affects air or water quality or ambient noise levels;

Any possible impact to near-shore ecosystems resulting from surface runoff will be mitigated by the establishment of on-site detention basins during the construction phases of development.

- (11) Affects or is likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, freshwater, or coastal waters;

Ulehawa Beach Park, like all other coastal parks in the State is susceptible to high wave and tsunami inundation.

- (12) Substantially affects scenic vistas and view planes identified in county or state plans or studies;

The City and County of Honolulu's *Coastal View Study* identifies the Nānākuli Viewshed as a major viewshed within the Wai'anae area. Lateral coastal views which are available from all points along the shoreline are significant, especially in the Ka'ena direction due to the descending ridges which can be seen in the distance. The Pu'u o Hulu Kai / Pu'u o Hulu Uka landmark is designated as an important coastal land form. Although new landscape plantings will impact views, the overall visual resource will be enhanced. The proposed project is in conformance with both State and County plans for the area and no public facilities are designated on the Wai'anae Development Plan Public Facilities Map.

- (13) Requires substantial energy consumption;

The location of the beach park is proximate to Wai'anae area communities and are all within short driving distances from the property, thereby reducing travel times and energy consumption. Construction of the proposed project will not require substantial energy consumption.

6.2 DETERMINATION

On the basis of the above criteria, and the discussion of impacts and mitigative measures contained in this document, it is anticipated that the proposed project will not have a significant negative effect on the environment and will conversely, result in positive effects to the natural, cultural, and social environments.

WALTON D.Y. HONG

LORNA A. NISHIMITSU

LAW OFFICES OF

WALTON D.Y. HONG

ATTORNEY AT LAW
A Law Corporation
3135-A AKAHI STREET
LIHUE, KAUAI, HAWAII 96766

TELEPHONE (808) 245-4757
TELECOPIER (808) 245-5175

February 9, 2000

Office of Environmental Quality Control
Attention: Ms. Genevieve Salmonson
Director
236 South Beretania Street, Suite 702
Honolulu, HI 96813

Re: Draft Environmental Assessment for the Secret
Beach Trail, Kauai (CDUA KA-2966B)

Dear Ms. Salmonson:

Thank you for your response to the above-referenced matter to the Department of Land and Natural Resources.

In response to our questions and comments, please be advised as follows:

(1) The Applicant has already made application with the County of Kauai Planning Department for a Special Management Area Permit for the trail. The application was submitted on November 29, 1999, and the Applicant is awaiting the issuance of the permit;

(2) The findings and reasons for supporting the FONSI determination is attached hereto as Addendum 1;

(3) As discussed in my telephone conversation with Jeyan Thirugnanam of your office, the cost of providing plans for the trail would be cost prohibitive in relation to the magnitude of the trail use. Mr. Thirugnanam indicated that the concern of your office was that the trail did not intrude into the shoreline setback area. In this regard, please be advised that the County of Kauai Planning Department made an on-site inspection of the trail, and found that the trail ended in boulders approximately 30 feet from the vegetation line along the shoreline. The owners of the trail have agreed in writing with the County of Kauai to remove the last railroad tie or ties as necessary in the trail, such that the trail would terminate before reaching the 40 feet shoreline setback area fronting the

Office of Environmental Quality Control
Attention: Ms. Genevieve Salmonson
February 9, 2000

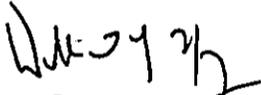
property. For your reference, and as discussed with Mr. Thirugnanam, we are attaching a map indicating the foregoing for your records, in lieu of the plans requested in your January 24, 2000 letter to the Department of Land and Natural Resources;

(4) Permits required for the trail are a Conservation District Use Permit and a Special Management Area Use Permit, both of which have been applied for and awaiting action thereon;

(5) Removal of the stairs may result in greater environmental impacts to the area than leaving the same in place. For the reasons discussed in the environmental impact assessment and Addendum 1 hereto, the existing trail has not resulted in any significant adverse environmental or ecological impacts. Removal of the trail will involve the removal of the railroad ties, resulting in a less stable soil condition due to the topography and the grade of the trail down the cliffside. This could result in additional erosion along the side of the cliff, and possible siltation of the beach when surface water runoffs reach the bottom of the trail.

I trust that the foregoing responses satisfactorily address your concerns. If there are any questions regarding the above, please feel free to call or write me.

Yours very truly,



Walton D. Y. Hong

WDYH:wh

Encl.

ADDENDUM 1

DETERMINATION, FINDINGS AND
REASONS FOR SUPPORTING DETERMINATION

The following are supportive of the finding of no significant adverse impacts from the existing trail at Secret Beach, Kauai, Hawaii, and addresses the significance criteria therefor:

(1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resources:

The subject trail consists of placing railroad ties on a grade cut into the side of the pali. While the trail resulted in the loss of some vegetation, such vegetation has grown back, and, but for maintenance of the trail, would overgrow the trail. There is thus no irrevocable commit to loss or destruction of any natural resource. The Historic Preservation Division of the State Department of Land and Natural Resources has indicated that the trail has not destroyed any significant historic sites.

(2) Curtails the range of beneficial uses of the environment:

The trail does not curtail the public's use of the beach in any fashion. The trail is located entirely on private property and was constructed for the benefit of the owners of the lot at the top of the bluff. On the other hand, the trail affords the owners access to the shoreline and enhances the beneficial uses of the environment by them.

(3) Conflicts with the State's long-term environmental policies or goals and guidelines as expressed in Chapter 344, H.R.S., and any revisions thereof and amendments thereto, court decisions, or executive orders:

The trail is not inconsistent with the Environmental Policies established in Chapter 344, Hawaii Revised Statutes.

(4) Substantially affects the economic or social welfare of the community of State:

The trail, intended to provide better access to the shoreline from one dwelling, will not substantially affect the economic or social welfare of the Kilauea community, the County of Kauai or the State of Hawaii.

(5) Substantially affects public health:

The trail will not affect public health in any manner, except that it may provide a faster means of informing the authorities of an emergency on the beach through an improved and shorter access to a telephone.

(6) Involves substantial secondary impacts, such as population changes or effects on public facilities:

The trail will not have any secondary impact associated with population growth or the need for additional public facilities.

(7) Involves a substantial degradation of environmental quality:

While the trail involved some grading and removal of vegetation, the effects on the environment have been minimal. The vegetation has grown back. The limited use of the trail has not resulted in any degradation of environmental quality.

(8) Is individually limited but cumulatively has considerable effect on the environment, or involves a commitment for larger actions:

As the trail is not part of any larger scheme or proposed development, there will be no cumulative effects on the environment nor any commitment for larger actions.

(9) Substantially affects a rare, threatened or endangered species or its habitat:

No rare, threatened or endangered species were encountered or affected by the construction of the trail. As the only activity would be the limited use of the trail, the flora and fauna of the area will not be affected.

(10) Detrimentially affects air or water quality or ambient noise levels:

There will not be any significant adverse effects from the trail on air or water quality or ambient noise levels.

(11) Affects or is likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, freshwater, or coastal water:

The trails meanders down the side of the bluff overlooking Secret Beach, and could be considered to be within an erosion-prone area. However, the cutting of the hillside and placing of railway ties in the ground, as well as revegetation of the cuts, have mitigated the possibility of erosion. The trail is not located within a flood plain, tsunami zone, beach, geologically hazardous land, estuary, freshwater or coastal water.

(12) Substantially affects scenic vistas and view planes identified in county or State plans or studies:

The trail is not visible from the coastline nor from the abutting properties. As such, it does not affect any scenic vista or view plane.

(13) Requires substantial energy consumption:

The trail does not require any energy consumption.

DETERMINATION:

Based on the foregoing, the trail will not have any significant adverse impact on the environment.

O C E A N

Sand beach

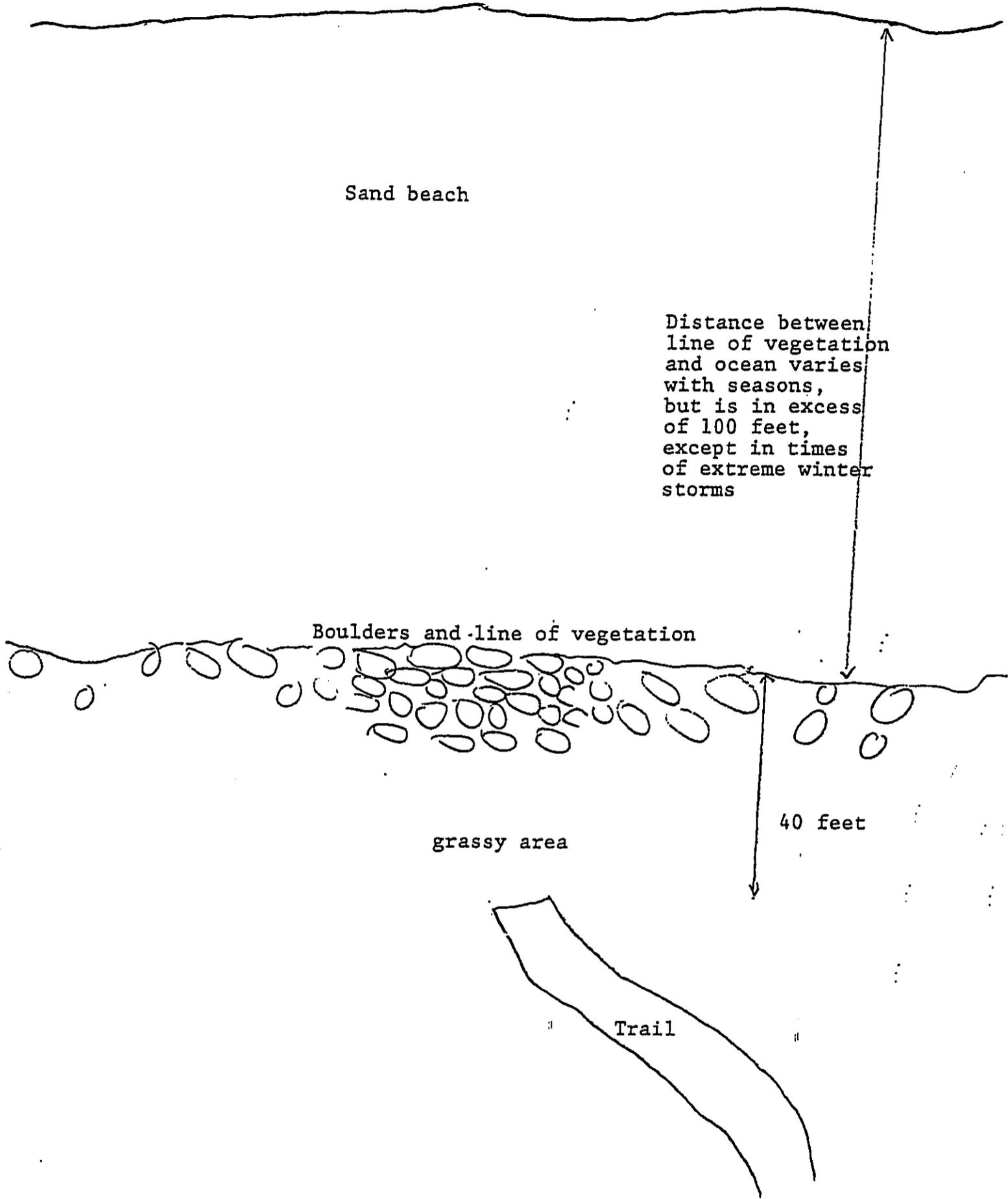
Distance between
line of vegetation
and ocean varies
with seasons,
but is in excess
of 100 feet,
except in times
of extreme winter
storms

Boulders and line of vegetation

40 feet

grassy area

Trail



LAW OFFICES OF

WALTON D. Y. HONG

WALTON D. Y. HONG

TELEPHONE (808) 245-4757
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LORNA A. NISHIMITSU

ATTORNEY AT LAW
A Law Corporation
1135-A AKAHU STREET
LIHUE, KAUAI, HAWAII 96766

March 8, 2000

Sent via fax (808/587-0455).
hard copy to follow

Department of Land and
Natural Resources
Land Division
Attention: Mr. Dean Y. Uchida
Administrator
P. O. Box 621
Honolulu, HI 96809

Re: Conservation District Use Application KA-2966B and
Environmental Assessment for Private Stairway at
Kaupea Beach, Namahana, Hanalei, Kauai
(TMK: 5-2-5:36)

Dear Mr. Uchida:

In response to your letter of March 8, 2000, we respond as follows as to why the project will not have significant effects for each of the thirteen significance criteria:

(1) The project will not involve an irrevocable commitment to loss or destruction of any natural or cultural resources. As previously stated, the subject trail consists of placing railroad ties on a grade cut into the side of the pali. While the trail resulted in the loss of some vegetation, such vegetation has grown back, and, but for maintenance of the trail, would overgrow the trail. There is thus no irrevocable commitment to loss or destruction of any natural resource. The Historic Preservation Division of the State Department of Land and Natural Resources has indicated that the trail has not destroyed any significant historic sites. There are no plans to expand the trail in any fashion; accordingly, there is no irrevocable commitment to loss or destruction of any natural or cultural resources as additional areas will not be affected.

(2) The project does not curtail the range of beneficial uses of the environment, as the trail does not curtail, stop or hinder the public's use of the beach in any

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

fashion. The trail is located entirely on private property and was constructed for the benefit of the owners of the lot at the top of the bluff. On the other hand, the trail affords the owners access to the shoreline and enhances the beneficial uses of the environment by them.

(3) The project is consistent with the State's long-term environmental policies or goals as expressed in Chapter 344, H.R.S., and any revisions thereof and amendments thereto, court decisions or executive orders.

Among the policies expressed in Chapter 344, H.R.S., are to conserve the natural resources so that they are protected by controlling pollution, by preserving or augmenting natural resources, by safeguarding the State's unique natural environment characteristics in a manner which will foster and promote the general welfare, create and maintain conditions under which humanity and nature can exist in productive harmony, and fulfill the social, economic and other requirements of the people of Hawaii.

The project does not waste natural resources. It is non-polluting. It augments the natural beauty of the area by making the shoreline more accessible to the users of the trail, thus promoting the general welfare and creating conditions under which the persons using the trail can exist in harmony with nature. The project will not affect nor fulfill the social, economic and other requirements of the people of Hawaii due to its limited scope.

Another policy expressed in Chapter 344, H.R.S., is the enhancing of quality of life by (a) setting population limits so that the interaction between the natural and artificial environments and the population is mutually beneficial, (b) creating opportunities for residents to improve their quality of life through diverse economic activities which are stable and in

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

balance with the physical and social environments, (c) establishing communities providing a sense of identity and harmony with the natural environment which is uniquely Hawaiian, and (d) establishing a commitment on the part of each person to protect and enhance Hawaii's environment and reduce the drain on nonrenewable resources.

The project is not inconsistent with the foregoing. It does not affect population growth, so there is no concern with respect to setting population limits. Although the project will create the opportunity for the owners of the land using the trail to improve their quality of life by providing a safe and reasonable access to the shoreline with minimal or insignificant effect to the physical environment, it is not an economic activity which needs to be balanced with the physical and social environments.

The project will not have effect on establishing communities which can provide a sense of identity. However, the project will allow a sense of harmony with the natural environment by allowing safe access through the natural vegetation of the area to access the shoreline at the base of the pali, an experience which could be uniquely Hawaiian. The trail is a commitment on the part of each person using the trail not to stray therefrom; this is a better alternative to having people randomly making their own way up and down the pali with the attendant destruction of vegetation and increased erosion. Nonrenewable resources are not involved in the activity.

(4) The project will not substantially affect the economic or social welfare of the community or State. The trail will be limited in use, and be for the access to the shoreline by the occupants of one dwelling. This limited scope will have no effect on the economic or social welfare of the community or State.

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

(5) As noted before, the trail will not affect public health in any manner, except that it may provide a faster means of summoning assistance for emergencies on the beach through an improved and shorter access to communication facilities at the residences at the time of the bluff.

(6) As the trail will be limited in use and be for the use of the occupants of a single dwelling, the project will not have any secondary impact associated with population growth or the need for additional public facilities.

(7) The project will not involve a substantial degradation of environmental quality. While the trail involved some grading and removal of vegetation, the effects on the environment have been minimal. With the regrowth of the vegetation and the limited use of the trail, there has been no degradation of environmental quality.

(8) As the trail is not part of any larger scheme or proposed development, there will be no cumulative effects on the environment or any commitment for larger actions. The trail is intended for use and will continue to be used by the occupants of a single dwelling at the top of the bluffline.

(9) As noted previously, no rare, threatened or endangered species were encountered or affected by the construction of the trail. As the only activity would be the limited use of the trail by the occupants of one dwelling, the flora and fauna of the area will not be affected.

(10) The project will not detrimentally affect air or water quality or ambient noise levels. The project does not involve releasing of any matters or pollutants into the air or water. The only noise would be the noise of people walking on the trail and possibly conversation, which is not unreasonable or detrimental to the ambient noise levels.

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

(11) The trail would not affect nor be likely to suffer damage by being located in an environmentally sensitive area, such as a flood plain, beach, erosion-prone area, geologically hazardous land, estuary, freshwater, or coastal water. To begin, it is not located in a flood plain, a beach, geologically hazardous land, estuary, freshwater, or coastal water. Although the trail meanders down the side of the bluff and could be considered an erosion-prone area, the cutting of the hillside, the placing of railway ties in the ground and the revegetation of the cuts, have mitigated the possibility of erosion.

The Applicant previously stated that the trail was not in a tsunami zone; however, this was in error as the lowest portion of the trail is within the tsunami inundation area. Should there be a tsunami, the trail may be damaged but such damage would not be significant nor a hazard to life. The trail, on the other hand, could provide a faster means of getting to higher elevations should high waves or a tsunami suddenly materialize and threaten people on the beach.

(12) The trail will not affect scenic vistas and view planes identified in county or State plans, as the trail is not visible from the coastline nor from the abutting properties.

(13) The trail will not require any energy consumption, as there are no lights or other appliances requiring the use of energy on the trail.

In further response to your letter, please be also advised as follows: There are no plans to install an emergency telephone at the top of the trail. The owner of Parcel 25 will eventually construct a home on the parcel. The users of the trail will be the people occupying the home and their guests and invitees. Public access will not be allowed to the trail from Parcel 25. However, should an emergency occur on the beach and someone uses the trail to get to the nearest residence, access to a telephone

Department of Land and
Natural Resources
Attention: Mr. Dean Y. Uchida
Administrator
March 8, 2000

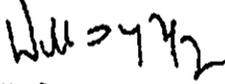
in the residence would be permitted. Should no one be home at the time, the trail would nonetheless allow that person to be within a developed residential area where telephone communication is available.

With respect to 11-200-10(6) (HAR), prospective mitigation measures for short-term erosion control relating to the alternative of removing the trail would be to flatten out the steeper portions of the trails after taking out the railway ties to minimize the slope and surface runoff. Long term erosion control would be to permit the natural vegetation to regrow and eventually cover the trail. There would not be any plans to regrade the route of the trail to restore the original slope, as such grading would entail substantial earthmoving and increased erosion and clipping concerns.

I trust that you will find the foregoing satisfactory. The additional information relating to the processing of the CDUA will be sent you by March 20, 2000, as requested.

If there are any questions regarding the above, please feel free to contact me.

Yours very truly,


Walton D. Y. Hong

WDYH:wh

cc: Steve Cohen



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION
P.O. BOX 621
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT
PROGRAM
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
CONSERVATION AND
RESOURCES ENFORCEMENT
CONVEYANCES
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
LAND DIVISION
STATE PARKS
WATER RESOURCE MANAGEMENT

Ref.PB:EAH

MAR 13 2000

FILE NO.:CDUA KA-2966B

MEMORANDUM

TO: Ms Genevieve Salmonson, Director
Office of Environmental Quality Control

FROM: Dean Uchida, Administrator *[Signature]*
Land Division

SUBJECT: Notice of Determination: Environmental Assessment (EA) for a Stairway to
Kauapea Beach, Namahana, Hanalei, Kauai (TMK 5-2-5:36).

The Department of Land and Natural Resources, Land Division, has reviewed the comments received during the 30-day public comment period, which began on December 23, 2000 and the subject EA. We have determined that the subject project will not have significant environmental effects and hereby issue a Finding of no Significant Impact (FONSI) for the subject EA. Please publish this notice in the March 23, 2000 OEQC Environmental Notice. ✓

We have enclosed a completed OEQC Publication Form, a completed OEQC Publication form on computer disk and four copies of the final EA. The reasons supporting this FONSI can be found at the end of the EA Addendum 1 in a letter dated March 8, 2000 from the applicant to the Land Division. Please contact Eric Hill of our planning staff at 587-0383 if you have any questions.