

HB 1808, HD 3

**Representative Hermina Morita**

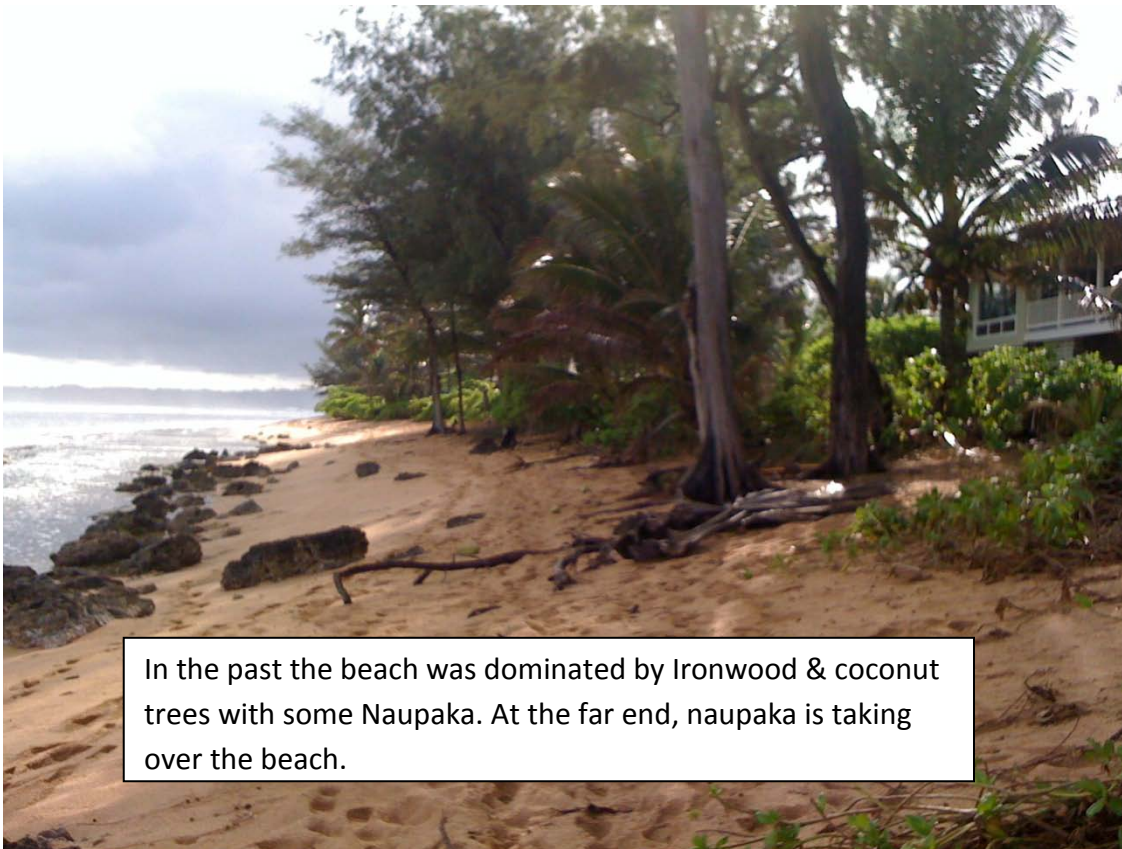
**RE: HB1808 HD3**

**Testimony cover sheet**

**7 pages**



Ironwood trees were cut back to allow Naupaka overgrowth.



In the past the beach was dominated by Ironwood & coconut trees with some Naupaka. At the far end, naupaka is taking over the beach.





Orange fence is where the owner is attempting to establish shoreline through artificial planting.







Survey Markers are in the middle of the photo. The Ironwood tree to the left is where public had access in the past. The property owner has planted all vegetation to the right of the tree to prevent access.





Tree indicates original access.

Irrigation line in the middle of vegetation mangled from wave run-up.





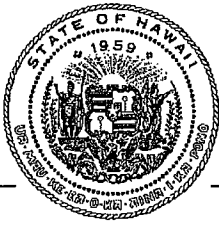












**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE  
GOVERNOR  
THEODORE E. LIU  
DIRECTOR  
PEARL IMADA IBOSHI  
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DIRECTOR  
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Statement of  
**ABBEY SETH MAYER**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON WATER, LAND, AGRICULTURE,  
AND HAWAIIAN AFFAIRS**  
**AND SENATE COMMITTEE ON TRANSPORTATION, INTERNATIONAL,  
AND INTERGOVERNMENTAL AFFAIRS**  
Friday, March 12, 2010  
1:15 PM  
State Capitol, Conference Room 224  
  
in consideration of  
**HB 1808 HD3**  
**RELATING TO COASTAL AREAS.**

Chairs Hee and English, Vice Chairs Tokuda and Gabbard, and Members of the Committees on Water, Land, Agriculture, and Hawaiian Affairs, and Senate Committee on Transportation, International, and Intergovernmental Affairs.

We support HB1808 HD3 Relating to Coastal Areas, with amendments. The HD3 amends Ch. 115, HRS to authorize the Department of Land and Natural Resources (DLNR) to issue a violation citation to landowners who fail to maintain public beach transit corridors abutting or adjoining their property. It also authorizes the cost incurred for removal to be collected from the landowner.

We support this bill because it provides a cost-effective way to address the problem of human induced vegetation blocking lateral access along the beach. However, we recommend several amendments. In Sections 2 and 3 of the bill, the term "transit areas and public transit corridors" should be replaced with the words "beach transit corridors" to be



consistent with the title of the new section added under Section 2. This change minimize any confusion that “transit areas and public transit corridors” mean “streets” or “roads”.

In addition, HB1808 HD3 adds two policies under beach protection in Section 205A-2 (c) which contain new terms, specifically, “public nuisance”, “public transit area” and “public transit corridor”. If definitions are not provided, these new terms may generate confusion. Further, these two policies are mostly related to public access rather than beach protection and would be better placed under the category of public access rather than beach protection. We recommend adding language pertaining to unmaintained vegetation (see below double underlined):

(D) Prohibit private property owners from inducing vegetation or allowing unmaintained vegetation seaward of the shoreline where it interferes with public lateral access or natural shoreline processes.

To be consistent with the policy umbrella concept of CZM, such a policy statement should be supported by provisions in a functional statute to assure implementation, in this case as in this bill, amendments to Ch. 115, HRS related to DLNR. We also support the reference in the existing language in Section 2 which refers to Chapter 183C, HRS, because these lands are in the Conservation District.

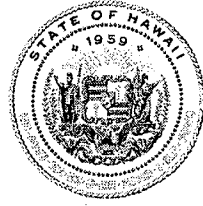
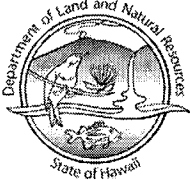
HCR 258 SLH 2008 requested the Office of Planning (OP) to coordinate city and state agencies in addressing the overgrowth of vegetation on Kahala beach. OP facilitated meetings of state and county agencies and community members on this issue.

Human induced vegetation that blocks access to beaches is a statewide problem. At Kahala Beach, there have been numerous community complaints about the human induced vegetative growth and its adverse effects on access to and transit along the beach. The Department of Land and Natural Resources issued letters to twelve property owners requesting voluntary removal of vegetation that encroached onto the beach seaward of the shoreline. However, only one landowner removed vegetation on the beach.

Public beach corridors are similar to public sidewalks in the sense that they are for public use. The bill proposes provisions patterned after the sidewalk maintenance ordinance of the City and County of Honolulu (ROH Ch.14 Article 20) which requires property owners to maintain adjacent sidewalks. If a sidewalk is not maintained, a property owner may be cited and given a certain amount of time to clean up the sidewalk. If the sidewalk is not cleaned, the City cleans up the sidewalk and seeks reimbursement from the property owner.

Thank you for the opportunity to testify.

LINDA LINGLE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the Senate Committees on  
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS  
AND  
TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS**

**Friday, March 12, 2010  
1:15 PM  
State Capitol, Conference Room 224**

**In consideration of  
HOUSE BILL 1808, HOUSE DRAFT 3  
RELATING TO COASTAL AREAS**

House Bill (HB) 1808, House Draft (HD) 3 proposes to require maintenance of public beach access by adjacent landowners and imposes penalties and a reimbursement mechanism for noncompliance. The Department of Land and Natural Resources (Department) supports HB 1808 HD3 with the caveat that due to the current budget shortfall, it would be unlikely that the Department would have the resources necessary to actually remove artificially induced vegetation, and would rely almost exclusively on voluntary compliance, or the threat of penalty due to noncompliance.

The Department has two main concerns with the current language. First, it should be noted that implementation of Chapter 115, Hawaii Revised Statutes (HRS), is the responsibility of all agencies in the State, not just the Department. The current language could be interpreted to mean that the Department is responsible for the maintenance of all public access ways because the bill uses three alternative phrases to describe a "beach transit corridor" e.g., "beach transit corridors," "transit areas," and "public transit corridors." This could be interpreted to include public access ways (mauka-makai) to the beach currently owned and managed by the counties or other entities. In addition, if the purpose of the bill is to keep unmanaged and induced vegetation off the beaches, the bill language should consistently refer to these areas as "beach transit corridors" and not introduce alternative language that only appears to take away from this primary purpose. Thus, we recommend that language in the bill be revised to include the phrase "beach transit corridors" and deleting reference to "transit areas" and "public transit corridors" which are already provided for in Section 115-9, HRS, and which might be managed by entities

LAURA H. THIELEN  
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BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
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KEN C. KAWAHARA  
DEPUTY DIRECTOR - WATER

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



other than the Department. The Department also recommends that civil fines for encroaching vegetation along beach transit corridors be levied under Section 183C-7, HRS, rather than Section 115-9, HRS. Section 183C-7, HRS, allows for penalties of up to \$15,000 per violation in addition to administrative costs, costs associated with land or habitat restoration and damages to public land or natural and resources. If the Department is going to be conducting enforcement on this matter, it would prefer to utilize its own penalty provisions under its own conservation district laws, with which it has years of successful enforcement actions under its belt.

In this regard, the Department recommends the following language:

1. Page 2, line 15, rewrite section to read as follows: "Under chapter 183C and this chapter, the department of land and natural resources shall maintain beach transit corridors by requiring private property owners to ensure that beach transit corridors abutting or adjoining their lands are kept passable and free from human induced, enhanced, or unmaintained vegetation that interferes with beach transit."
2. Page 3, line 1, rewrite to read as follows: "The department is authorized to issue notice to landowners who fail to maintain beach transit corridors abutting or adjoining their property. If any landowner fails to remove the obstruction within twenty-one days of notice being issued, the department must elect to either impose civil fines and other actions as necessary to maintain beach transit corridors pursuant to Section 183C-7, HRS, or remove the obstruction as may be necessary to allow public access." Explanation: If the Department is going to be doing enforcement on this specific matter, the Department would prefer to utilize our penalty schedule in Section 183C-7, HRS.
3. Page 3, line 20, replace the phrase "transit area" with "beach transit corridors."
4. Page 4, lines 5, remove the phrases "transit areas" and "public transit corridors" and replace them with "beach transit corridors."
5. Page 5, lines 14-15, remove reference to the department of land and natural resources. There are many other types of physical impediments in public transit areas that might be regulated or managed by entities other than the Department. Thus, this section should not refer to any one entity at the possible exclusion of others.
6. Page 7, retain language in HD1 in regards to the definition of shoreline. The definition of shoreline in HD3 is not consistent with the definition of shoreline as found in Chapter 205A, HRS, and other relevant statutes. Modification of the definition of shoreline carries serious consequences for the Department's ability to delineate shoreline locations throughout the state.
7. Page 15, lines 1-8, since this section of Chapter 205A, HRS, is in regards to beach protection, we recommend that the language be focused on "beach transit corridors" rather than "public transit area" or "public transit corridors," which may include areas that are not along the beach.
8. The Department also recommends that a definition of "beach transit corridor" be provided in the law. This could be a simple definition that states that "beach transit corridor" means the area seaward of the shoreline as defined in Chapter 205A, HRS.



**HB 1808 HD3**

**RELATING TO COASTAL AREAS; PUBLIC ACCESS**

Senate Committee on Water, Land, Agriculture and Hawaiian Affairs  
Senate Committee on Transportation, International and Intergovernmental Affairs

March 12, 2010

1:15 p.m.

Room: 224

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1808 HD 3, which would require maintenance by adjacent landowners of public beach access corridors and lateral beach access, imposes penalties for noncompliance, and establishes shoreline access as a component of the Coastal Zone Management Program.

OHA appreciates the amendments made to strengthen this latest draft of the bill, because we have always been a strong advocate for shoreline access issues in Hawai'i. Hawai'i's beaches must be accessible for the use and benefit of us all. And, the Native Hawaiian gathering and cultural practices that occur along and from beach areas are protected traditional and customary rights under the Hawai'i Constitution, Article XII, Section 7. Many Native Hawaiians not just recreate in these areas, but heavily depend on them as a source of sustenance, both physically and spiritually. Currently, shoreline areas are threatened from a variety of sources, ranging from coastal development to sea level rise. O'ahu alone has lost nearly 25 percent of its beaches due to shoreline hardening. We must preserve what public trust shoreline we have left.

For homeowners privileged enough to live along Hawai'i's shores to promote the growth of shoreline vegetation, or even to simply not maintain the makai limits of the vegetation, violates Hawai'i's legal definition of "shoreline," the public trust and Native Hawaiian rights. This bill would prohibit private property owners from inducing vegetation seaward of the shoreline where it interferes with lateral public access, as well as corridor access to the coastline. OHA recognizes that limiting shoreline access poses a serious concern and can be a public health and safety issue in some of our coastal areas, where the beach essentially disappears into landowner's shrubbery at the high tide. As such, this bill would create much-needed tools in the shoreline access arena. Agencies have been hobbled for too long in their efforts to enforce clear polices that promote an open shoreline. This bill would allow the various agencies mandated with this specific application of public trust access, and Native Hawaiian access and gathering rights, to better enforce their constitutional mandates.

Therefore, OHA urges the Committee to change HB1808 HD 3's effective date back to November 1, 2010 and PASS the bill. Thank you for the opportunity to testify.



# Sierra Club Hawai'i Chapter

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808.538.6616 hawaii.chapter@sierraclub.org

## SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

## SENATE COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS

March 12, 2010, 1:15 P.M.  
(Testimony is 2 page long)

### TESTIMONY IN SUPPORT OF HB 1808 HD3 WITH PROPOSED AMENDMENT

Aloha Chair Hee, Chair English, and Members of the Committees:

The Hawai'i Chapter of the Sierra Club *supports* HB 1808 HD3, which requires ongoing maintenance by adjoining properties in order to ensure continued access to our public beaches.

#### *Proposed Amendment:*

In order to maintain the Supreme Court's interpretation of word "shoreline,"<sup>1</sup> which we believe is the intent of this bill, we suggest amending the definition of the term "shoreline" to state:

"Shoreline" means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the furthest mauka of the edge of natural vegetation growth[<sub>5</sub>] or the upper limit of debris left by the wash of the waves.

#### *Supporting Position:*

Overgrown plants, sometimes intentionally allowed to overgrow the shoreline and beach access, deter the reasonable use of our public beaches and trails. In order to maintain the safety of our residents and our guests, we need to ensure access and use of our beaches is maintained.

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<sup>1</sup> See, e.g., *Diamond v. State of Hawai'i*, 112 Hawai'i 161, 145 P.3d 704 (2006).

As one Sierra Club member on Kauai notes:

Landscaping on the public beach has become rampant here on Kauai's North Shore. Our pristine sandy beaches are now oasis of lush green vegetation. Salt tolerant plants continue to grow seaward onto the public beach. More plants continue to be planted, further and further seaward in what appears to be a never ending movement seaward.

Beach front landowners and their landscapers have planted the beach very aggressively, creating colonies of salt tolerant vegetation on the beach.

Naupaka, spiderlilies, ironwood trees, wedlia, and beach heliotrope trees, are most commonly used. The heliotropes are repeatedly trimmed low to encourage their low lateral growth, covering large expanses of what was public beach. Naupaka is regularly planted and replanted after the seasonal high surf.

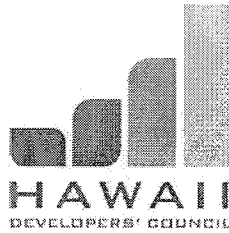
The vegetating of our beaches has become a problem of epic proportions. Low growing salt tolerant grasses such as aki aki grass have been planted even more seaward of the planted naupaka. The vegetation has the effect of privatizing the beach for the adjacent landowners.

Irrigation of the planted vegetation is commonplace as is the fertilizer used to encourage its growth. The fertilizer has an additional negative impact on our coral reefs. The vegetation also changes the slope and profile of the sandy beach. When the waves wash, the sand gets trapped in the vegetation. After a period of time, the beach is much steeper, leading to scarping. It also impacts the Hawaiian Monk Seals ability to haul out of the ocean and rest on the beach.

By ensuring the public continues to have access and use of our beaches, HB 1808 helps protect Hawaii's proud public access tradition.

Please move this measure forward. Thank you for the opportunity to testify.





March 12, 2010

The Honorable Clayton Hee, Chair  
Committee on Water, Land, Agriculture, and Hawaiian Affairs  
The Honorable Kalani English, Chair  
Committee on Transportation, International and Intergovernmental Affairs  
State Senate  
State Capitol, Room 224  
Honolulu, Hawaii 96813

Dear Chairs Hee and English, and Members:

**Subject: Senate Bill No. HB 1808, HD3 Relating to Coastal Areas**

My name is Lance Wilhelm, President of the Hawaii Developers' Council (HDC). We represent over 200 members and associates in development-related industries. The mission of Hawaii Developers' Council (HDC) is to educate developers and the public regarding land, construction and development issues through public forums, seminars and publications. It is also the goal of HDC to promote high ethics and community responsibility in real estate development and related trades and professions.

The bill proposes to amend Chapter 115 HRS to prohibit a private property owner from blocking or impeding public access along the public beach area by allowing vegetation from the private property to grown onto, over or along the public beach area. The bill also attempts to require the DLNR to require the private property owner to maintain the area and if not, allow the DLNR to do the maintenance at the owner's expense.

While we understand the intent of the bill, we believe that some thought should be provided in how to implement the intended actions.

For example, most public shoreline accesses occurs makai of the shoreline on state-owned unencumbered lands which are regulated and managed by DLNR pursuant to chapter 171 HRS.

It is our understanding that DLNR presently has the ability to remove "induced or man-made" vegetation from the state-owned public beaches through their normal course of maintenance. Any attempt to impede or block lateral shoreline access, makai of the shoreline would be a violation of Chapter 171 and, depending on the circumstances,

Chapter 183C HRS. Chapter 183 C HRS involves the management of the conservation district and is effectively a zoning authority on all lands makai of the shoreline.

One suggestion is to improve the Administrative Rules for the DLNR dealing with unencumbered lands. It is unclear why this legislation, proposed in Chapter 115 HRS is necessary if the existing statutes and rules appear to address the problem identified in this bill. Reviewing and improving the existing statutes for public lands, Chapter 171 HRS and its associated Administrative Rules maybe more appropriate than creating more statutes.

Thank you for the opportunity to provide comments.

Jeannine Johnson, Legislative Sub-Committee Chair

## **Kuli'ou'ou / Kalani Iki Neighborhood Board #2**

5648 Pia Street, Honolulu, Hawai'i 96821

Phone: 373-2874 (h) / 537-7261 (w)

March 10, 2010

### COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair

Senator Jill N. Tokuda, Vice Chair

### COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS

Senator J. Kalani English, Chair

Senator Mike Gabbard, Vice Chair

[HB 1808, HD3](#)

RELATING TO COASTAL AREAS

[Hearing:](#)

Friday, March 12, 2010 at 1:15 pm in Conference Room 224

Aloha mai kākou,

As Committee Chair of the **Kuli'ou'ou / Kalani Iki Neighborhood Board #2** Legislative Sub-Committee, I am pleased to inform you **Neighborhood Board #2** strongly supports HB1808, HD3 which requires maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance; establishes shoreline access as a policy of the Coastal Zone Management Program; and clarifies the definition of "shoreline." **Neighborhood Board #2** represents over 6,000 households, with a population of almost 20,000 people (State of Hawai'i Data Book 2002) in East Honolulu.

The purpose of Hawai'i Revised Statutes (HRS) Chapter 115 is to guarantee the right of public access to the sea, shorelines, and inland recreational areas, and transit along the shorelines, and to provide for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit corridors. In 1968 the Hawai'i State Supreme Court established that the land below the high water mark is a natural resource that belongs to the State of Hawai'i and held in trust for the benefit of its people and whose ownership may not be relinquished. Hawai'i's coastal protection law, HRS Chapter 205A, requires the State to provide and manage adequate public access to and along shorelines with recreational value and establishes that seaward of the shoreline is part of the conservation district and regulating uses of the conservation district is the responsibility of the Department of Land and Natural Resources (DLNR).

For years beachfront homeowners have intimidated the public with walls, gates, keep out signs, video cameras, and dogs. There is also evidence in many areas of induced vegetative overgrowth in the beach area by beachfront property owners by artificially cultivating aggressively growing, salt water tolerant vegetation, such as naupaka and hau, reducing beach width and squeezing or eliminating corridors of access. This deprives residents of the precious natural resource of its beaches and has the effect of turning many Hawai'i beaches into private, exclusive

ones. Thus, without enforcement, the public's rights of access to and use of coastal and inland recreational areas mandated by the Hawai'i Supreme Court and the Hawai'i Revised Statutes are meaningless.

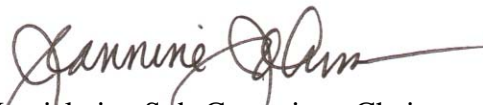
Therefore, at its November 6, 2008 meeting, **Neighborhood Board #2** voted in favor of the following:

- Appropriating funds for the Office of Planning, Coastal Zone Management Program, to survey and map all existing public access ways to shoreline areas and nearby public parking areas;
- Before permits are issued that may affect public access to the sea, the shoreline, or any coastal or inland public recreational area, the relevant agency shall ensure that a public right-of-way is available to access any and all public recreational areas, including beaches, shores, parks, and trails; and
- Requiring state and county agencies to enforce the public's rights of access to and use of coastal and inland recreational areas as mandated in HRS Chapter 115 and increase penalties for the offense of obstructing access to public property.

In addition, at its February 4, 2010, meeting, **Neighborhood Board #2** concluded that public beach corridors are similar to public sidewalks in the sense that they are for public use and should be maintain with provisions similar to those pertaining to the maintenance of sidewalks to guarantee public transit along the shoreline. Consequently, **Neighborhood Board #2** unanimously voted in favor of legislation consistent with Hawaii's coastal protection laws that would provide the mechanism for the DLNR to restore access to and along the shoreline where induced vegetative overgrowth is inhibiting access and use of the beach. (See signed Resolution attached.)

Your support of HB1808, HD3 is respectfully requested.

Mahalo,

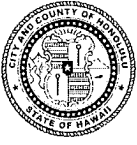


Legislative Sub-Committee Chair

**Kuli'ou'ou / Kalani Iki Neighborhood Board #2**

cc via email: Chair Robert Chuck  
Sen. Sam Slom  
Rep. Lyla Berg  
Rep. Barbara Marumoto  
Livable Hawai'i Kai Hui  
Lucinda Pyles





**KULI'OU'OU/KALANI IKI NEIGHBORHOOD BOARD NO. 2**

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813  
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET <http://www.honolulu.gov/nco>

**RESOLUTION IN SUPPORT OF LEGISLATION THAT  
ADDRESSES THE REMOVAL OF ARTIFICIALLY INDUCED  
VEGETATION SEAWARD OF THE SHORELINE**

WHEREAS, the Hawaii State Supreme Court has established that the shoreline lies along the upper annual reaches of the waves, excluding storm and tidal waves and is usually evidenced by the edge of vegetation or by the upper limit of debris left by the wash of the waves (Hawaii Revised Statutes §205A-1); and

WHEREAS, the Hawaii State Supreme Court has established that the land below the high water mark is a natural resource that belongs to the State of Hawaii and held in trust for the benefit of its people and whose ownership may not be relinquished; and

WHEREAS, Hawaii coastal access law, HRS §115, guarantees the right of transit along the shoreline exists seaward of the shoreline as defined in HRS §205A-1; and

WHEREAS, Hawaii coastal protection law, HRS §205A, requires the State to provide and manage adequate public access to and along shorelines with recreational value and establishes that seaward of the shoreline is part of the conservation district and regulating uses of the conservation district is the responsibility of the department of land and natural resources; and

WHEREAS, state agencies have determined that there are many shoreline areas throughout the state where the overgrowth of vegetation inhibits access to and transit along the beach, thereby denying the public of use and enjoyment of the public domain; and

WHEREAS, there is evidence in many areas of induced vegetative overgrowth in the beach area by private property owners artificially cultivating aggressively growing, salt water tolerant vegetation, such as naupaka and hau, which is able to withstand regular inundation; and

WHEREAS, such vegetation grows ever seaward in a trenchant and unrelenting manner, carpeting the shoreline with unnaturally occurring vegetation, reducing beach width and squeezing or elimination corridors of access which deprive the residents of the precious natural resource of its beaches; and

WHEREAS, artificially cultivated vegetation that is unnaturally watered and nourished develops deep penetrating root balls which prevents sand from moving onto the beach during period of high waves and has the potential of narrowing beaches due to sand loss; and

WHEREAS, in December 2007, the State Department of Business, Economic Development and Tourism (DBEDT)'s Office of Coastal Zone Management provided a written report indicating the Kahala Beach inspection revealed extensive vegetative overgrowth of hau, naupaka and other plant species that are growing on the beach corridor blocking lateral access at even moderate tides and that this problem is found through out the islands on other beaches; and



WHEREAS, in 2008, House Concurrent Resolution H.C.R. 258 was passed requesting the DBEDT Office of State Planning, along with community leaders and district legislators, to coordinate the City and State Agencies in addressing the encroaching vegetation on beaches and adopt a strategy and plan to rectify it and to report its finding to the State Legislature; and

WHEREAS, there is agreement among community leaders, elected representatives and City and State agencies that there is indeed a state wide problem; and

WHEREAS, there is agreement that State law provides within its policies and objectives for the protection of natural beach processes and the preservation of access and recreational use of the *shoreline*; and

WHEREAS, public beach corridors are similar to public sidewalks in the sense that they are for public use, therefore, to maintain public transit along the shoreline, provisions similar to those pertaining to the maintenance of sidewalks are needed; now, therefore

BE IT RESOLVED, that the Kuli'ou'ou/Kalani Iki Neighborhood Board No. 2 of the City & County of Honolulu fully supports the efforts of State Representative Mina Morita to introduce legislation consistent with Hawaii's coastal protection laws that will provide the mechanism for the department of land and natural resources to restore access to and along the shoreline where induced vegetative overgrowth is inhibiting access and use of the beach.

BE IT FURTHER RESOLVED, that the Kuli'ou'ou/Kalani Iki Neighborhood Board No. 2 of the City & County of Honolulu urges House and Senate committee chairs to hear the bill addressing this problem and subsequently pass the bill out of their committee in a speedy manner so as not to delay it's progress.

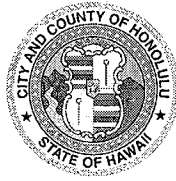
BE IT FURTHER RESOLVED, that a copy of this Resolution be transmitted to Governor Linda Lingle, Honolulu Mayor Mufi Hannemann, State Representative Mina Morita, State Representative Calvin K.Y. Say (House Speaker), State House Committee Chairs: Representative Ken Ito (Water, Land & Ocean Resources), Representative Jon Riki Karamatsu (Judiciary), Representative Marcus R. Oshiro (Finance), and all members of the State House of Representatives and State Senate, the Director of the Department of Land and Natural Resources and the Director of the Department of Business, Economic Development and Tourism.

This resolution was adopted by unanimous consent by the Kuli'ou'ou/Kalani Iki Neighborhood Board No. 2 of the City & County of Honolulu at its February 4, 2010 regular meeting.

Submitted by:

Handwritten signature in black ink that reads "R. Russell Ho Forc".

Robert T. Chuck  
Chair



**HAWAII KAI  
NEIGHBORHOOD BOARD**

March 10, 2010

**Testimony in Support of HB1808, HD3, Relating to Coastal Areas**

**GREG KNUDSEN**  
At-Large  
Chairperson

**ELIZABETH REILLY**  
At-Large  
Vice Chairperson

**FRANK DE GIACOMO**  
At-Large

**RENÉ GARVIN**  
At-Large

**ROBERT CLARK**  
Subdistrict #1

**MARIAN GREY**  
Subdistrict #2

**CARL MAKINO**  
Subdistrict #3

**MAXINE RUTKOWSKI**  
Subdistrict #4

**GARY WELLER**  
Subdistrict #5

**(vacant)**  
Subdistrict #6

**AMY MONK**  
Subdistrict #7

**(vacant)**  
Subdistrict #8

**DAVID TANABE**  
Subdistrict #9

**AARON ISGAR**  
Subdistrict #10

**WAYNE LEVY**  
Subdistrict #11

Hawaii Kai  
Neighborhood Board No. 1  
c/o Neighborhood Commission  
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Web Pages:  
• www.honolulu.gov/nco/nb1  
• HKNB.org

*Hawaii Kai Neighborhood  
Board meets the last Tuesday  
of every month (except Dec.),  
7 p.m., Hahaione Elementary  
School cafeteria. The public is  
welcome to attend.*

**Senate Committees on Water, Land, Agriculture, and Hawaiian Affairs**  
*Sen. Clayton Hee, Chairperson; Sen. Jill Tokuda, Vice Chairperson*

**Transportation, International and Intergovernmental Affairs**  
*Sen. Kalani English, Chairperson; Sen Mike Gabbard, Vice Chairperson*

March 12, 2010, 1:15 p.m., State Capitol Room 224

On February 23, the Hawaii Kai Neighborhood Board unanimously approved the following resolution:

**Resolution in Support of House Bill 1808**

*In order to protect access to public transit corridors along the shorelines – which are often blocked by various obstructions including human-induced, enhanced, or unmaintained vegetation fronting private beachfront properties – the Hawaii Kai Neighborhood Board supports the Legislative adoption of House Bill 1808, which requires maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance.*

Board members and those giving public testimony noted that this was a statewide problem and referenced several cases where vegetation obstructs public beach access in East Oahu.

We join fellow neighborhood boards from Waiialae-Kahala, Kuliouou/Kalani Iki, and Kailua – plus OHA and a number of respected environmental organizations – in urging the Legislature to approve House Bill 1808. Mahalo.

Aloha,

Greg Knudsen  
Chairperson

1205 Kaeleku Street  
Honolulu, Hawaii 96825  
(808) 395-3725, 224-0790  
knudsen123@gmail.com





## Conservation Council for Hawai'i

Testimony Submitted to Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs  
And Senate Committee on Transportation, International, and Intergovernmental Affairs

HB 1808 HD 3 Relating to Coastal Areas  
Hearing: Friday, March 12, 2010 1:15 pm Room 224

In support of HB 1808 HD 3

Aloha. Conservation Council for Hawai'i supports HB 1808 HD 3, which requires maintenance of public beach accesses by adjacent landowners and imposes penalties for noncompliance. Establishes shoreline access as a policy of the Coastal Zone Management Program.

Access to public beaches ensures that Hawai'i residents and visitors are able to use and enjoy this important public resource.

Please pass HB 1808 HD 3. Mahalo nui loa for the opportunity to testify.

*Marjorie Ziegler*

Marjorie Ziegler



Hawai'i's Voice for Wildlife – *Ko Leo Hawai'i no na holoholona lohiu*

Telephone/Fax 808.593.0255 • email: [info@conservehi.org](mailto:info@conservehi.org) • web: [www@conservehi.org](http://www@conservehi.org)  
P.O. Box 2923 • Honolulu, HI 96802 • Office: 250 Ward Ave., Suite 212 • Honolulu, HI 96814  
President: Maura O'Connor \* Treasurer: Kim Ramos \* Secretary: Douglas Lamerson  
Directors: Madelyn D'Enbeau \* Maka'ala Ka'aumoana \* Hannah Springer  
Executive Director: Marjorie Ziegler



**From:** HKH [hawaiikaihui@aol.com]  
**Sent:** Thursday, March 11, 2010 2:29 PM  
**To:** TIATestimony  
**Subject:** Testimony for HB 1808 - hearing March 12 @ 1:15 PM ROOM 224

Aloha, please forward for us as we are not able to attend.  
Mahalo,  
Elizabeth at 864-8081  
Livable Hawaii Kai Hui

---

**Subject:** Re: Testimony for HB1808 on 3/12/2010 1:15:00 PM

Livable Hawai'i Kai Hui  
[www.hawaiikaihui.org](http://www.hawaiikaihui.org)

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS  
COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS  
HB 1808, HD3  
Relating to Coastal Areas  
Hearing: Friday, March 12, 2010 at 1:15 PM in Conference Room 224

Aloha Senator Clayton Hee, Chair and Senator Jill N. Tokuda, Vice Chair and Honorable Committee Members,  
COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Aloha Senator J. Kalani English, Chair and Senator Mike Gabbard, Vice Chair and Honorable Committee Members,  
COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS

**Livable Hawaii Kai Hui is in strong support of HB 1808 HD2.**

The ocean and shoreline are precious resources for all Hawai'i residents. Our Hawai'i state government rightly made sure the shoreline and ocean around our island chain belong to all people of Hawai'i. They also passed laws to make sure the community has access to those shorelines. Establishing a law and enforcing a law are two different matters. In many areas the community cannot access the shoreline because the lack of enforcing the law for the creation of Public Rights of Way.

Another area which denies the public access to the shoreline is when homeowners do not maintain their property and allow their vegetation to grow outside of their property line and into public rights of way, or into and along shorelines, thus infringing on a public resource. These homeowners should be held accountable to established penalties, fines and should also pay for the removal of the vegetation.

Currently in East O'ahu homeowners have allowed naupaka plants to grow into the public beach in areas which include; Portlock, Paiko/ Kuliou'ou, Aina Haina, and Kahala. At high tide community members cannot walk along the shoreline because the beach is heavily overgrown with naupaka foliage. Not only does this hinder the freedom of lateral movement across the public beach, but it creates a safety issue because people, from keiki to kupuna, are forced into the ocean at high tide just to make their way along

the public beach front.

In another area of East O'ahu, at Hanapepe Loop, homeowners have allowed a large tree to grow into and engulf a public right of way. The public right of way is now closed because the damage the tree and its roots have caused to the access point have made it unsafe. The community has been waiting for the issue to be resolved for over 6 months.

These scenarios would not have been allowed to escalate to the point where they are today had the current proposed legislation been in effect.

We are writing **in strong support of HB 1808 HD2** which requires maintenance of public beach accesses by adjacent landowners and imposes penalties for non-compliance and which established shoreline access as a policy of CZM.

Livable Hawaii Kai Hui humbly request your support of HB 1808 HD2.

Mahalo for your consideration.

Ann Marie Kirk

**Cultural and Natural Resource Committee | Livable Hawaii Kai Hui | [www.hawaiiikaihui.org](http://www.hawaiiikaihui.org)**

Livable Hawaii Kai Hui is a non profit (501c3) community organization dedicated to upholding the integrity of the East Honolulu Sustainable Communities Plan as well as protecting and celebrating our cultural and natural resources. Serving the Maunalua region (East Honolulu) since 2004.

**Stephanie Burrows**  
**1750 Kalakaua Ave. #3803**  
**Honolulu, HI 96826**

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS

Senator J. Kalani English, Chair  
Senator Mike Gabbard, Vice Chair

**HB1808**

Committee: WTL/TIA Room: 224  
Hearing Date: 3/12/2010 1:15:00 PM

Dear Honorable Chair Members of the Senate:

I strongly oppose HB1808 due to 2 years of personal photographic documentation of beach erosion and my environmental concern of the damage that is caused by the cutting of native vegetation. I have the desire to see beautiful Hawaiian beaches and not the horrible aesthetic mess that forcing mass cutback of this type would cause.

Please consider an environmental impact statement and doing proper scientific research before imposing a bill that does not consider the special issues of each beach individually. Erosion prone areas are going to get increasingly worse and we will keep losing our beaches due to unnatural fencing and seawalls that residents will want to construct to replace the security of the lost vegetation.

To cover the sandbags that will inevitably have to be installed all along the coasts after the vegetation has been cut back, just as the DLNR has already approved for Kahala beach, sand has been brought in by the truckloads. At every high tide this sand gets washed away killing all of the marine life in that area, and does not return. This is what we can expect if the bill gets passed: lots of big trucks, workers, loss of natural habitat and possible legal liabilities for years to come. It has already been almost 2 years since the first cut back and the constant repair still continues on Kahala beach. This will only get worse and destroy beaches that were once a beautiful place to relax if we pass this bill. This cutback did not increase public lateral access in this area and the sandbags make it much more hazardous, so the entire purpose of Bill HB1808 has been defeated.

Don't let the DLNR take away the rights of private citizens to be able to enjoy our own beaches.

Mahalo,

Stephanie Burrows

Lucinda & John Pyles  
Honolulu, HI  
808-732-6262

March 2010

Members of the Senate  
Hawaii State Capitol

Dear Senators,

**Subject: HB1808 Relating to Coastal Areas, Testimony in SUPPORT**

My husband and I have been residents of the Waialae-Kahala area for nearly forty years. We raised three sons who spent many hours enjoying East Oahu beaches. Over the past two decades we have watched the public's accessibility to beaches shrink, even beaches that are accreting (documented by the UH Sea Grant Program). Most of the shrinkage to Kahala's beach has occurred slowly over two decades due to the overgrowth of vegetation, planted and irrigated along the shoreline by adjacent landowners. The salt-water tolerant naupaka and hau has slowly migrated seaward shrinking the beach to the point that in some areas lateral access and use are obstructed even at moderate to low tides. This is not unique to Kahala. Throughout the islands the public is now denied the use and enjoyment of thousands of square feet of beach smothered in dense vegetation. In addition, the dense overgrowth creates a form of armament, interfering with natural beach processes, exacerbating erosion.

For several years I served on the Waialae-Kahala Neighborhood Board. In 2004, after receiving numerous complaints from the community, the neighborhood board met with community members, elected representatives, and City and County of Honolulu Department of Planning and Permitting (City) personnel, DBEDT, Office of Planning and CZM and DLNR/OCCL personnel. This bill is the result of many collaborative meetings, beach inspection tours and coastal law investigation.

Since Hawaii State law clearly defines the shoreline, the public domain and protects the public's right to access shorelines, as well as ensuring use of the beach as public trust lands, a mechanism is needed for the Department of Land and Natural Resources, charged with regulating use within the conservation district, i.e. public domain, to effectively restore and preserve access to and use of beaches.

There are no planned increased staffing requirements associated with this bill. It is our understanding that the DLNR's Office of Conservation and Coastal Lands, responsible for coastal regulation and protection, would be responding on a complaint basis as they do now for most shoreline issues under their jurisdiction. In recent years DLNR/OCCL has been responding to overgrowth complaints on several islands but they lack a specific and effective mechanism to enforce coastal protection policies and objectives when it comes to induced vegetative overgrowth seaward of the shoreline. HB1808 provides the mechanism, allows the DLNR to charge fines and, if necessary, remove vegetation and charge the landowner.



**By not addressing this growing trend, it will not go away. If not controlled now, it will demand increased attention due to inhibited access and beach loss.** Property owners who claim vegetation seaward of the shoreline deters erosion are either using this argument as an excuse or misinformed. Published research (UH Sea Grant, NOAA) declares that a healthy, active beach and dune system that migrates with the shoreline is the most effective natural barrier for coastal hazards. UH SOEST shoreline studies show the range that Hawaii's beaches have historically migrated landward and seaward over the past 80 years. **A healthy beach system has plants behind the dune, not in the wash of the waves. Unnatural vegetation, which is induced or allowed to grow too far seaward, can lead to beach loss, unnatural steeping of beach faces, interruption of sediment transport, and reduced recovery capacity after large wave events.** Altered and narrowed beach and dune systems provide less effective hazard defenses because they do not have the range or sediment needed to rapidly respond to changes in near shore wave activity. Property owners who disregard historic beach migrations and artificially hardened or fix the shoreline with dense induced vegetation should not be allowed to do so at the expense of public access or environmental stewardship.

**DLNR needs the power to enforce coastal preservation, the ability to recoup some cost of doing so and a strong deterrent. We urge you to support House Bill HB1808.**

Yours truly,  
Lucinda and John Pyles

Enclosures

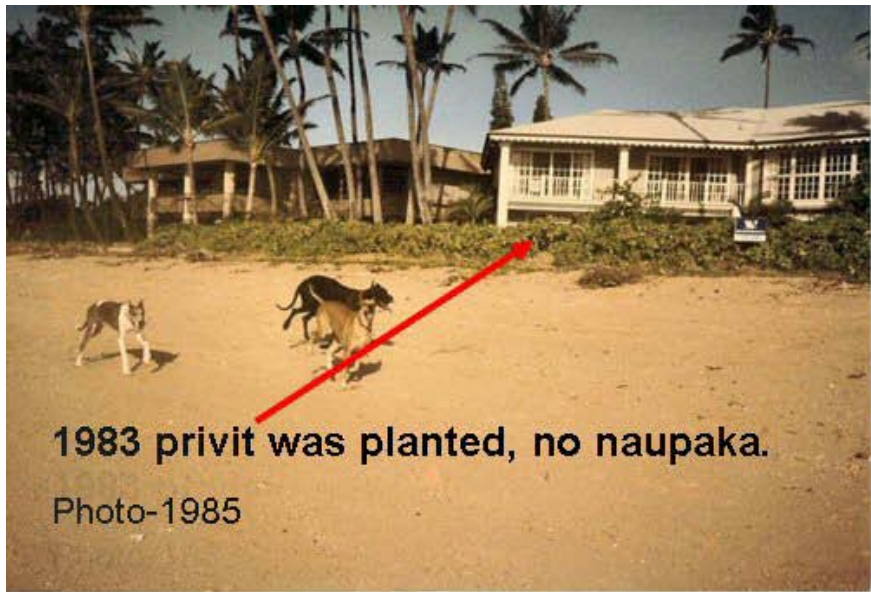
- *Typical Hawaiian Coastal Dune and Vegetation* graphic, provided by DLNR/OCCL
- *Dynamic Beach Profile* graphic, Hawaii Coastal Hazard Mitigation Guidebook, Fig 1-1 (NOAA, UH Sea Grant, CZM Hawaii, DLNR publication)
- 4 pages of photographs documenting induced vegetative overgrowth seaward of the shoreline.



## Induced vegetation

- Obstructs lateral access along the shoreline
- Deprives the public of recreation use
- Interferes with natural beach processes





**1983 privit was planted, no naupaka.**

Photo-1985



**Today induced naupaka & hau plants extend makai of privit 20 feet or more.**



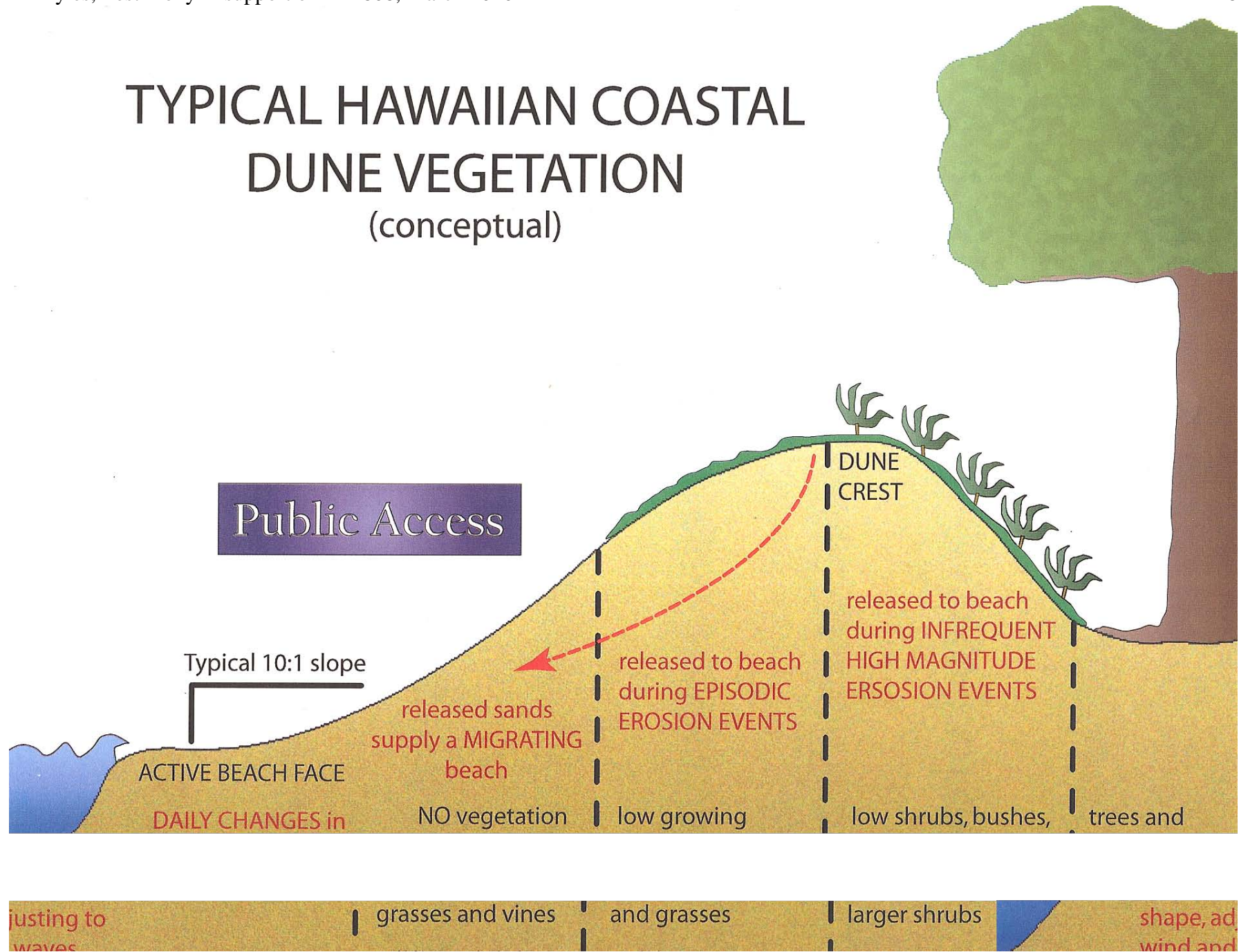








# TYPICAL HAWAIIAN COASTAL DUNE VEGETATION (conceptual)





## The Dynamic Beach Profile

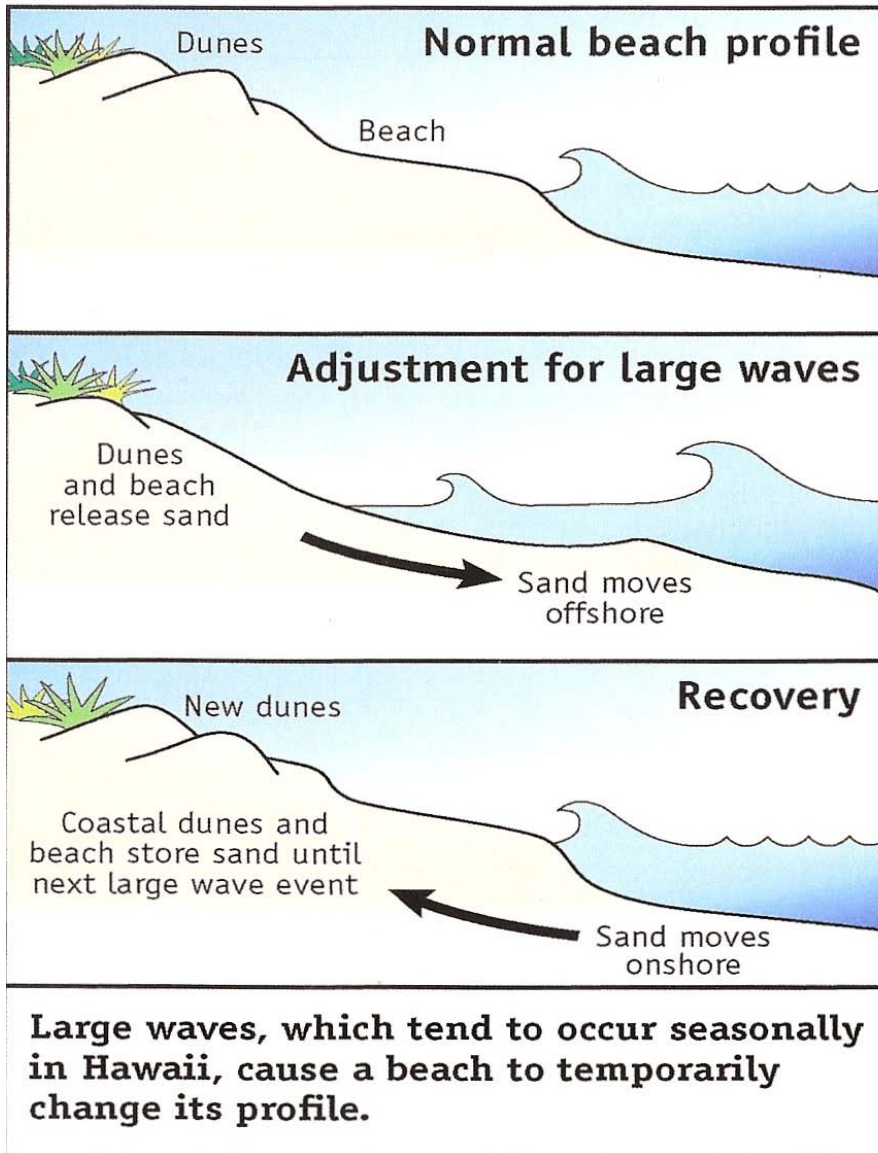


Figure 1-1 – The Dynamic Beach Profile - Wave action grinds up the skeletons of marine organisms to create the white sand on Hawaiian beaches. The dunes are made from sand that is washed or blown inland. During periods of high wave action, sand from erosion of the dunes and from the beach is transported offshore. This raises the seafloor and flattens the beach profile. Waves then shoal and break farther offshore, minimizing their erosive effects. Beaches recover when smaller waves move the sand back onto the beach and winds blow it into the dunes to be captured by coastal vegetation. From Fletcher, SOEST, UH.

Stanton Johnston  
4653 Kahala Ave.  
Honolulu, HI 96816

March 10, 2010

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS  
Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
Senator J. Kalani English, Chair  
Senator Mike Gabbard, Vice Chair

Hawaii State Capitol, Room 224  
Honolulu, HI 96813

Hearing Date: Tuesday March 12, 2010 1:15PM  
Opposition and Comments to HB 1808/Companion SB1144: Relating to Coastal Areas

Honorable Chair Members:

I have been a resident of Kahala Beachfront property for 64 years and have seen the beach erode dramatically due to errors in judgment. This bill will cause serious beach reconstruction and is open to liability issues. In our area it is not the vegetation overtaking the beach but the beach disappearing. It has never been necessary to water or fertilize the Naupaka on our property, and it has remained the same for over 60 years. The salt water naturally kills beach encroachment and keeps it trimmed back. This may not be the case in Kailua; this is why each beach property should be treated with regards to its special individual needs. The provisions of this bill result in the forced mass cutting of a naturally growing, non-irrigated indigenous plant that presently armors the shoreline. We have seen the consequence of its removal which has exacerbated a serious erosion problem. Two residents have initiated the cutting process within the last two years, and I have the photographic documentation showing that it resulted in considerable damage to the shoreline after every high tide. The sand disappears and does not return, possibly due to the large storm drain pipe near the Hunakai access that is wrongly positioned above the ocean floor. When the shoreline erodes, in an erosion prone area, the sand accretes further down the beach and the resulting sediment is killing the marine life in that vicinity. I have shown that cutting back the native Naupaka Kai in an erosion prone area does not improve beach access at either high or low tide, and because of subsequent armoring has caused these residents to spend over a \$100,000 so far. In fact, the measures to secure the shoreline from further erosion with the coconut fiber 800 lb sandbags and coconut fiber matting now make it impossible to access the beach at high tide. It also creates a libelous hazard while also exacerbating a serious erosion problem. To make matters worse, the



consequences of all the construction and sand replenishment has destroyed a good size area of our precious marine life.

I understand the seawall construction will only last about a year. Instead of a temporary and costly quick fix, which won't last; the cause of erosion with the scientific study of currents and tides should be funded and researched before drastic measures are made to cut back an indigenous shoreline native plant. The supporters of this Bill might suggest that the sandbags and coconut matting are eco-friendly. I can show that not only are they unsightly, but installing this material creates a seawall. This bill forces residents to cut a shoreline retaining plant which will result in the consequence of building more seawalls. It is known that seawalls are the reason the southwest part of Kahala beach sand has now disappeared, although it was there back in the 50's. If this bill passes, there will not be a beach in the erosion prone area of Kahala within the next 5 years!

There should be an Environmental Impact Statement and Shoreline Certification before a mass cutback of this extreme. It should be questioned on whether the DLNR has been using or plans to use State money on this project to install sandbags and seawalls. Each beach should be treated individually and with special concern for erosion prone areas. Also, please remember the extreme unsightliness on all of our shorelines that would result from this. The purpose of this bill was to increase the size of our "shrinking beaches". Not only does it not serve this purpose in the Kahala area but it will open up many more erosion and liability issues in the future.

I urge you to oppose Bill HB1808/SB1144. Thank you for the opportunity to express my view on this serious ecological matter.

Sincerely,

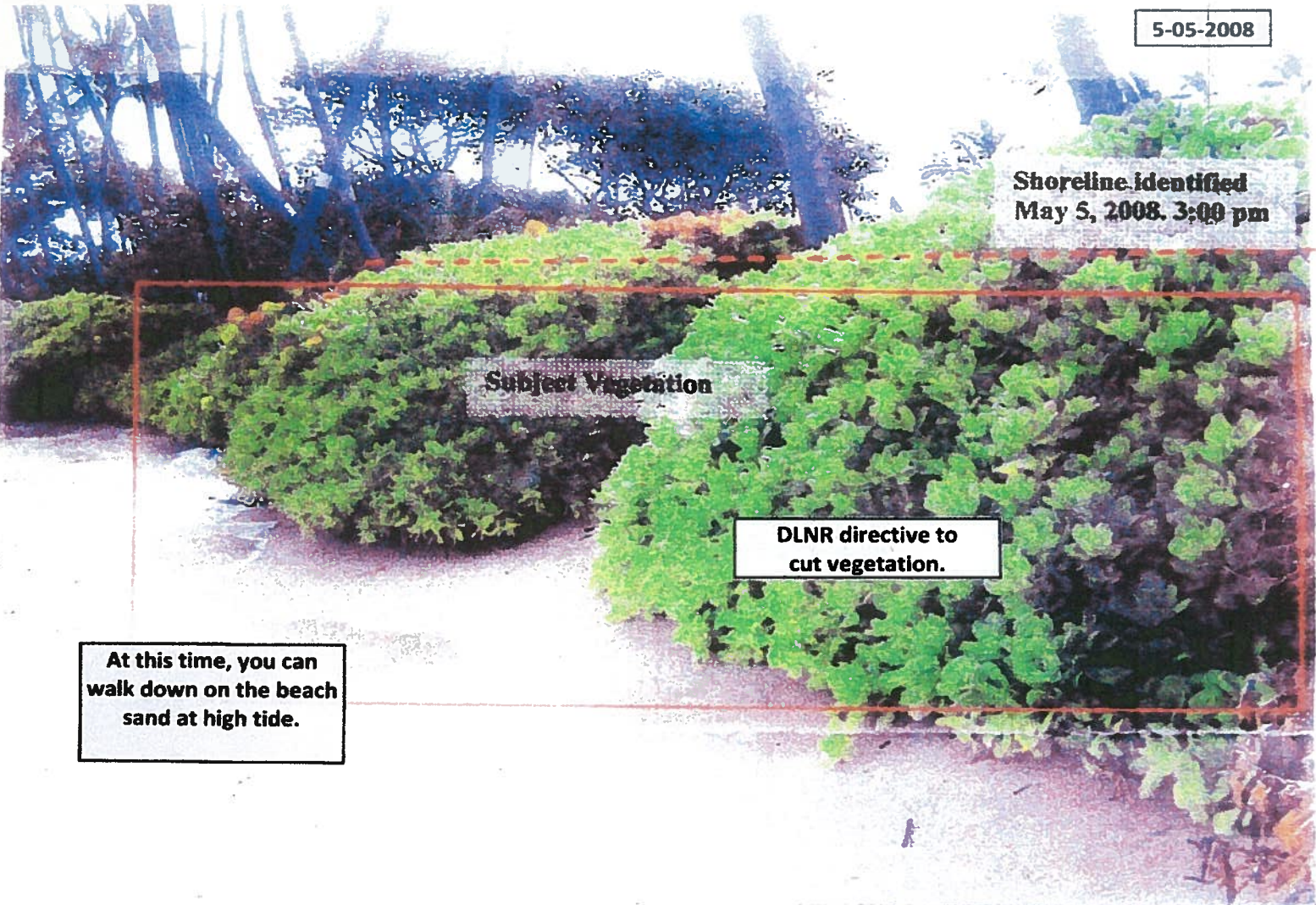
Stanton Johnston

**KAHALA BEACH  
SHORELINE  
EXAMPLES**

**4623 Kahala Avenue - Before Cutback**

5-05-2008

1



**Shoreline identified  
May 5, 2008. 3:00 pm**

**Subject Vegetation**

**DLNR directive to  
cut vegetation.**

**At this time, you can  
walk down on the beach  
sand at high tide.**

**DLNR PHOTO**



4623 Kahala Avenue – After Cutback





**4623 Kahala - Erosion**





## 4623 Kahala Avenue -- High Tide

10-19-2009

5

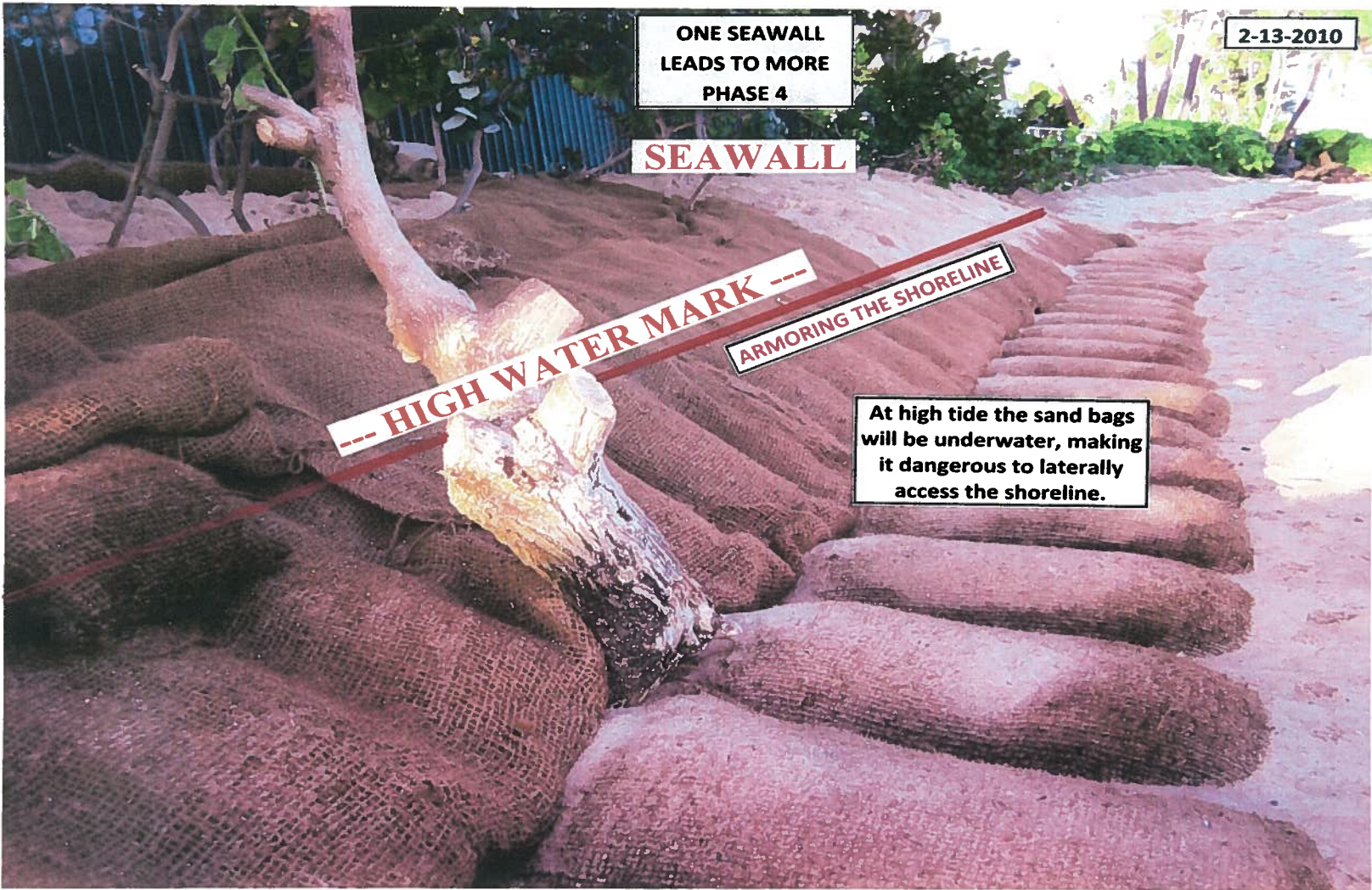
**Armoring may impound sand thereby impacting the sediment budget of a beach and exacerbating the erosion. Shoreline armoring also increases wave turbulence and reflection. Armoring a chronically eroding coast leads to beach loss.**  
(Fletcher, et.al., 1997) Professor Chip Fletcher, SOEST

**Temporary quick-fix seawalls only lead to concrete ones.**

**-Bottom Line -  
Cutting back the Naupaka has not increased lateral beach access but has created an impediment.**

**Unable to laterally access the beach without possible injury.**







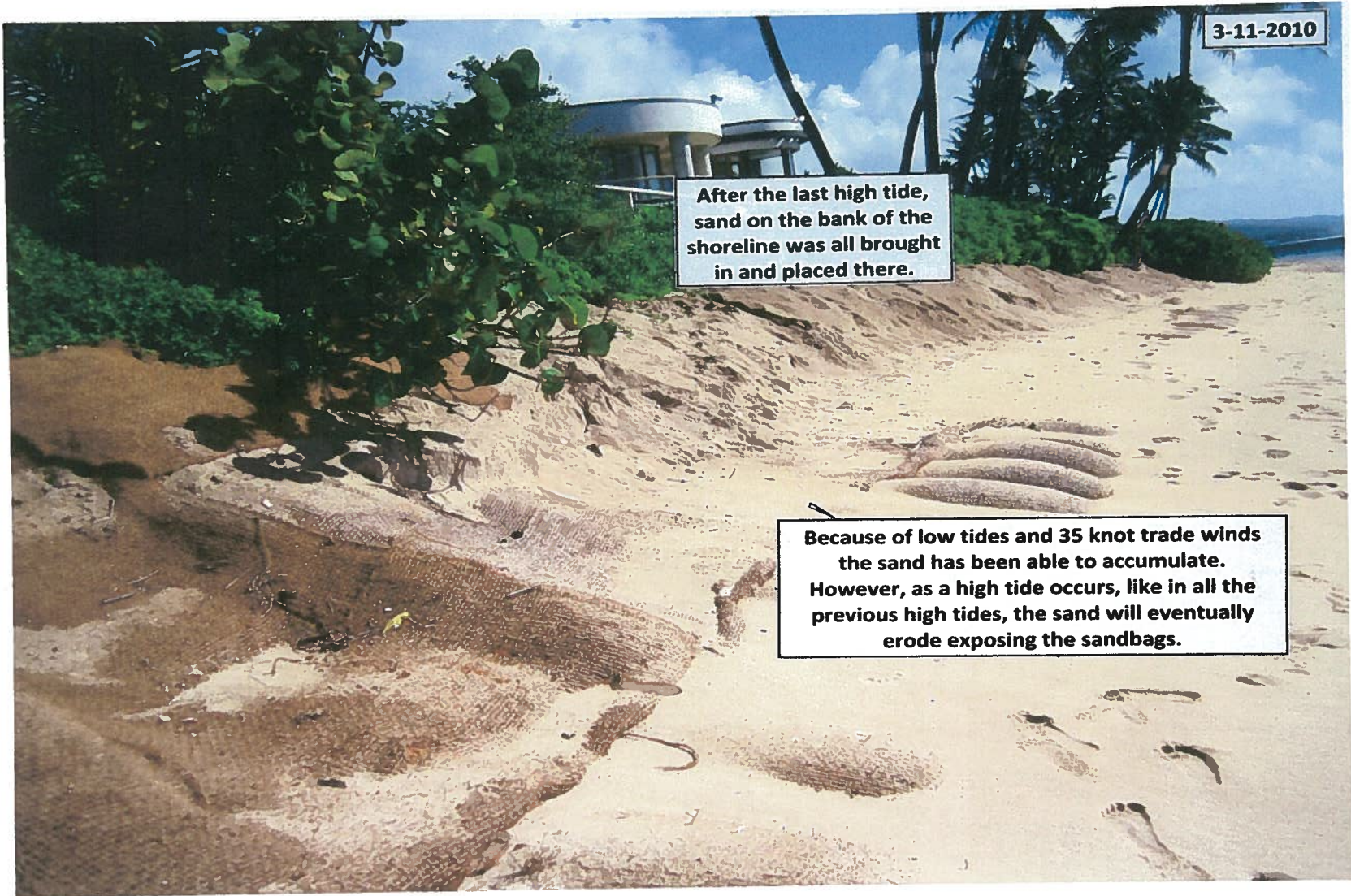


**SECOND  
SEAWALL**

**After seawall  
construction, unable to  
walk down beach at  
high tide. Lateral beach  
access is obstructed.**

**Was safe shoreline access achieved to ensure public transit of beach corridors with the cutting back of native vegetation? The Naupaka Kahakai is gone and has been replaced by seawalls!  
Beach access was not achieved, but obstructed at high tide.**





3-11-2010

After the last high tide, sand on the bank of the shoreline was all brought in and placed there.

Because of low tides and 35 knot trade winds the sand has been able to accumulate. However, as a high tide occurs, like in all the previous high tides, the sand will eventually erode exposing the sandbags.

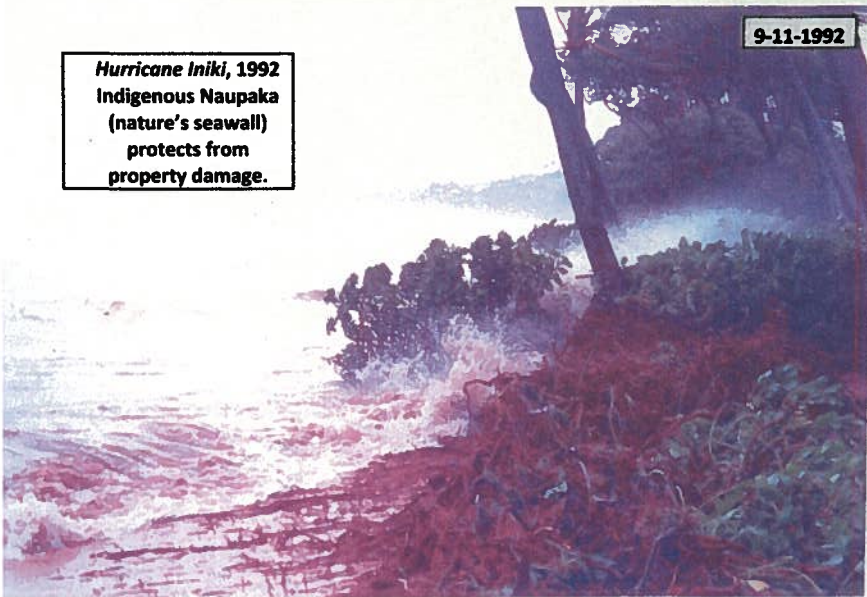


# 4653 Kahala Avenue

## HURRICANE - TSUNAMI

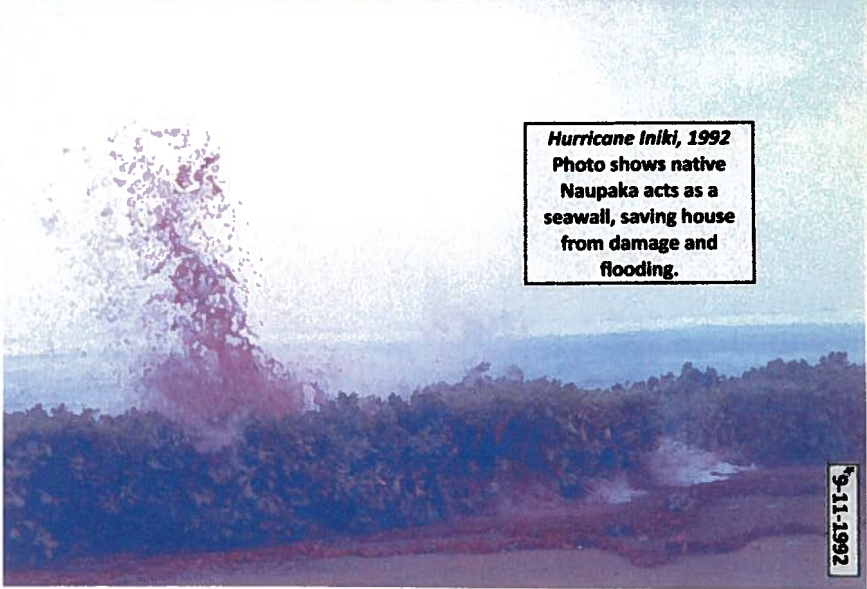
**Hurricane Iniki, 1992**  
Indigenous Naupaka  
(nature's seawall)  
protects from  
property damage.

9-11-1992



**Hurricane Iniki, 1992**  
Photo shows native  
Naupaka acts as a  
seawall, saving house  
from damage and  
flooding.

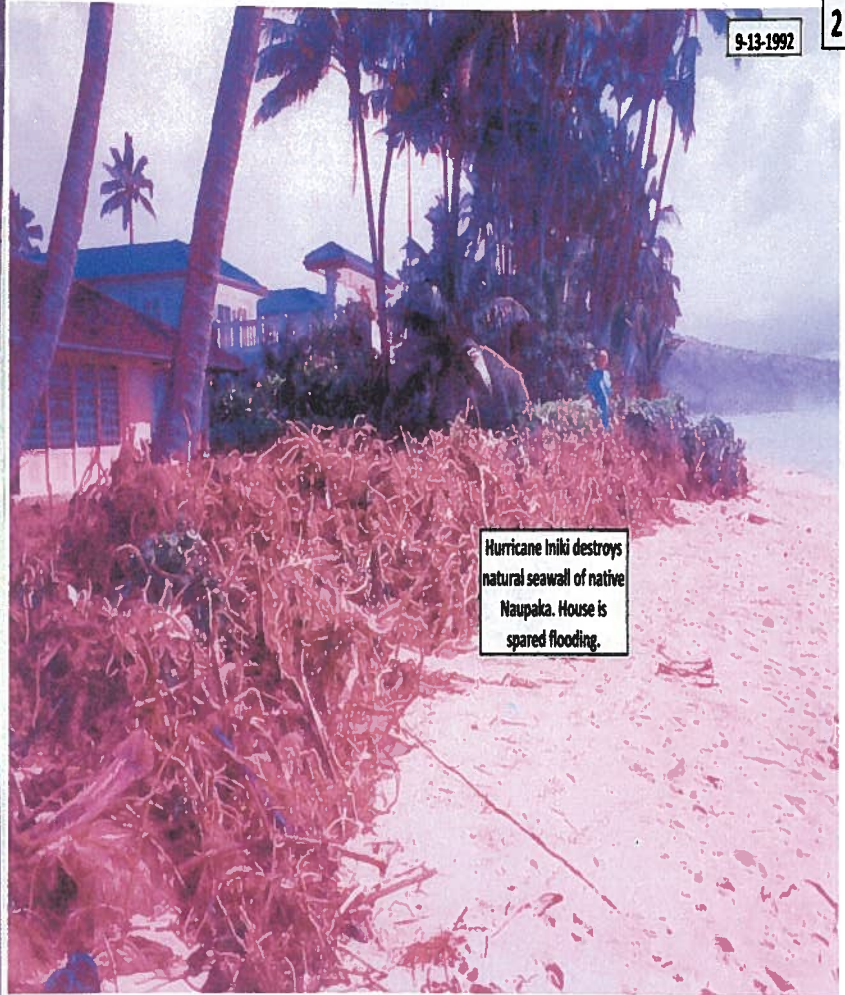
9-11-1992



**Naupaka is a seawall that does not contribute to erosion like man made seawalls. Here is shows how it protected the property during a hurricane. Residents will be forced to build fences and try to construct concrete seawalls if the vegetation is gone.**

9-13-1992

2



**Hurricane Iniki destroys  
natural seawall of native  
Naupaka. House is  
spared flooding.**



9-13-1992

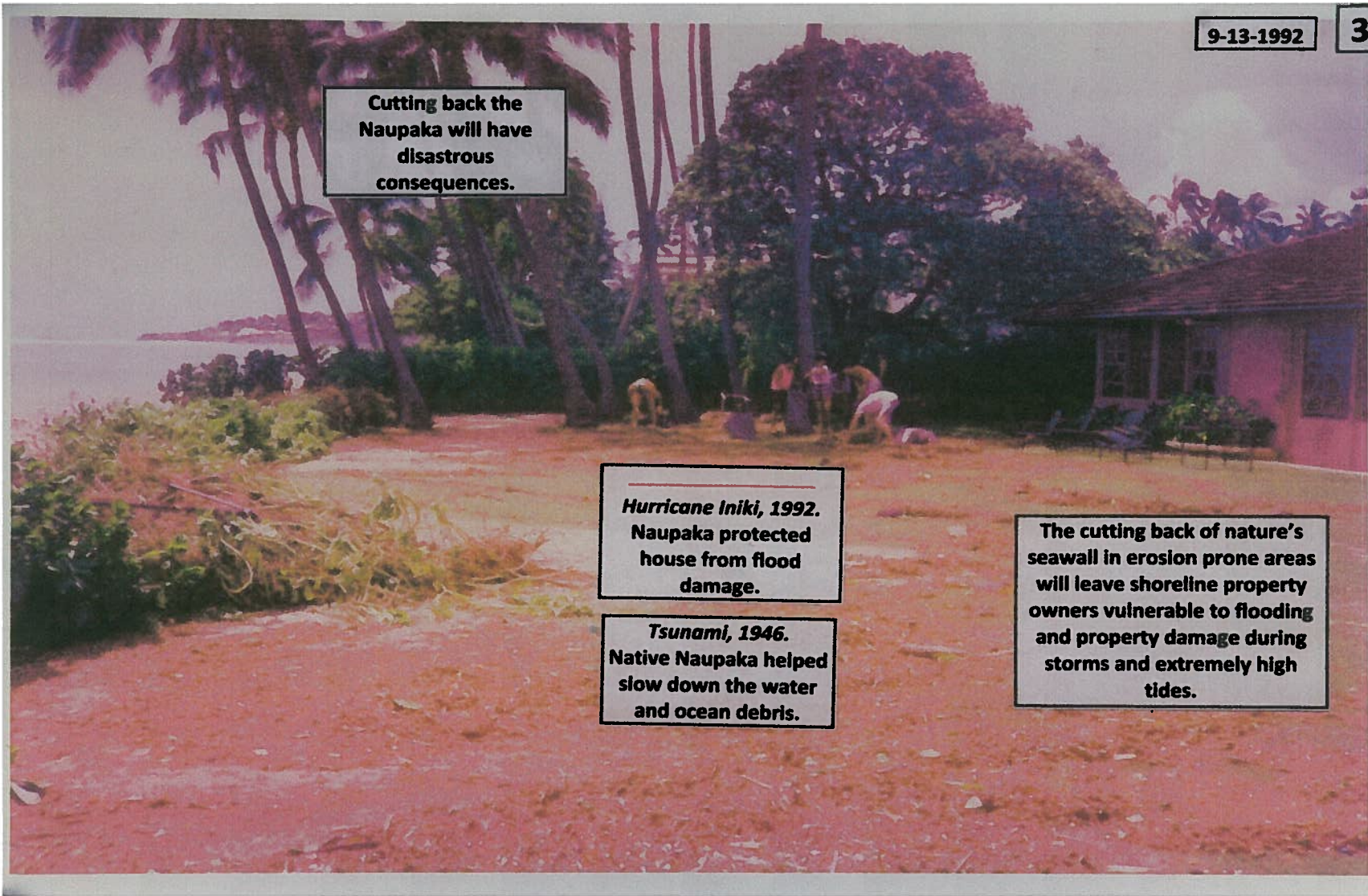
3

**Cutting back the Naupaka will have disastrous consequences.**

***Hurricane Iniki, 1992.***  
Naupaka protected house from flood damage.

***Tsunami, 1946.***  
Native Naupaka helped slow down the water and ocean debris.

**The cutting back of nature's seawall in erosion prone areas will leave shoreline property owners vulnerable to flooding and property damage during storms and extremely high tides.**





6-03-2008

Pre-existing Naupaka still protecting shoreline. Where the Naupaka was cut back, substantial erosion is taking place.

Ocean erosion after cutting.



# **Erosion & Ecological Damage**





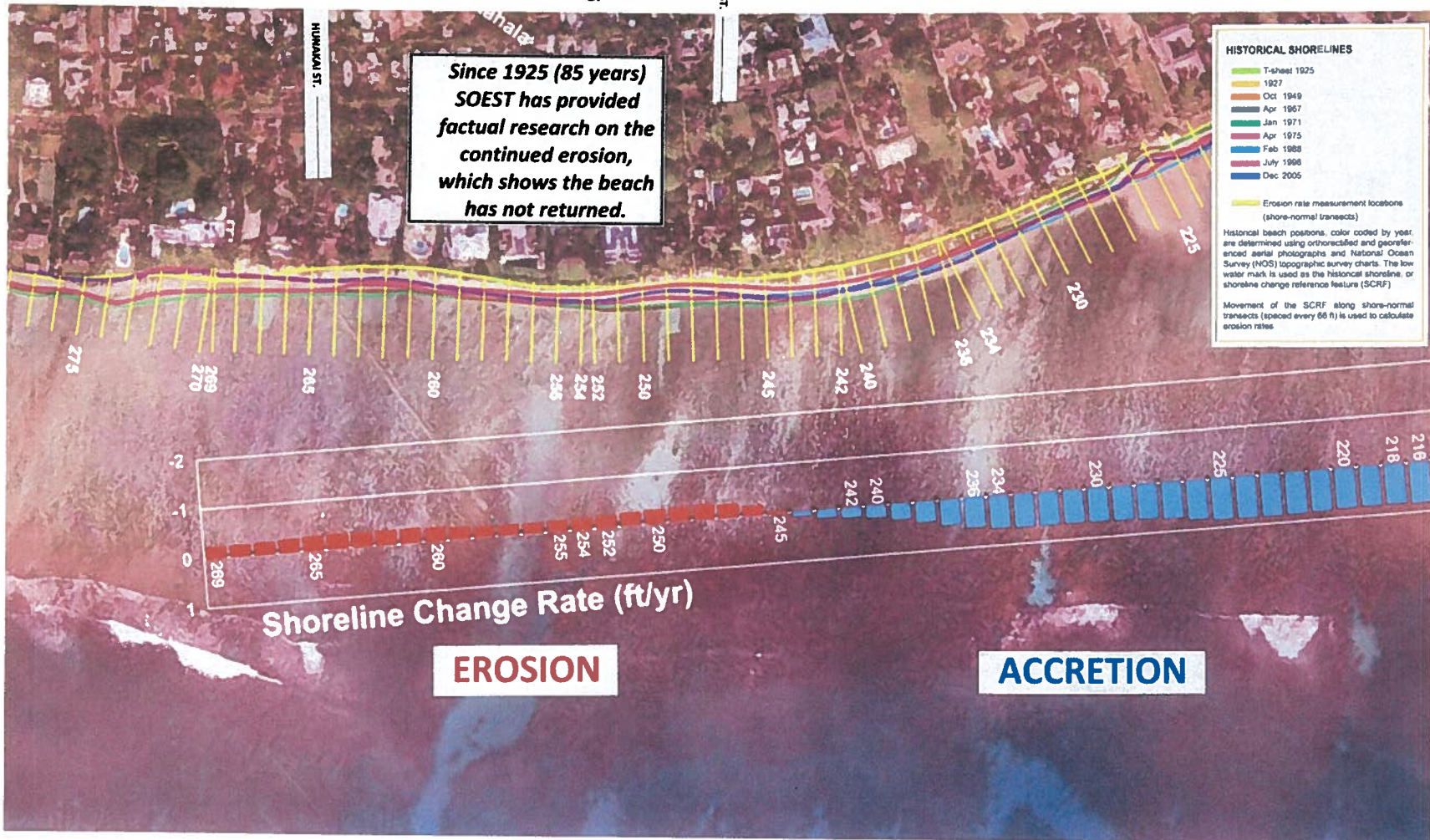
1949 Sandy beach all the way down to Black Point. Before Seawalls.

Kahala Beach Feb. 16, 1949

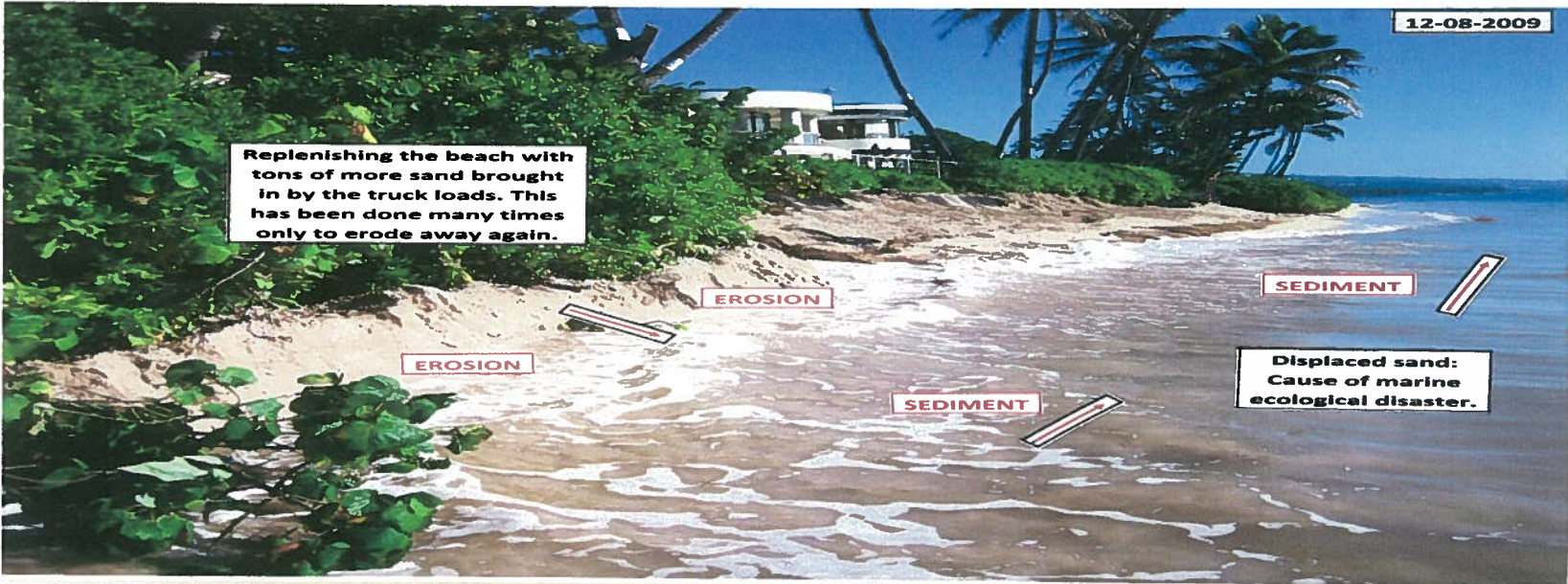
Hunakai St.

Koloa St.



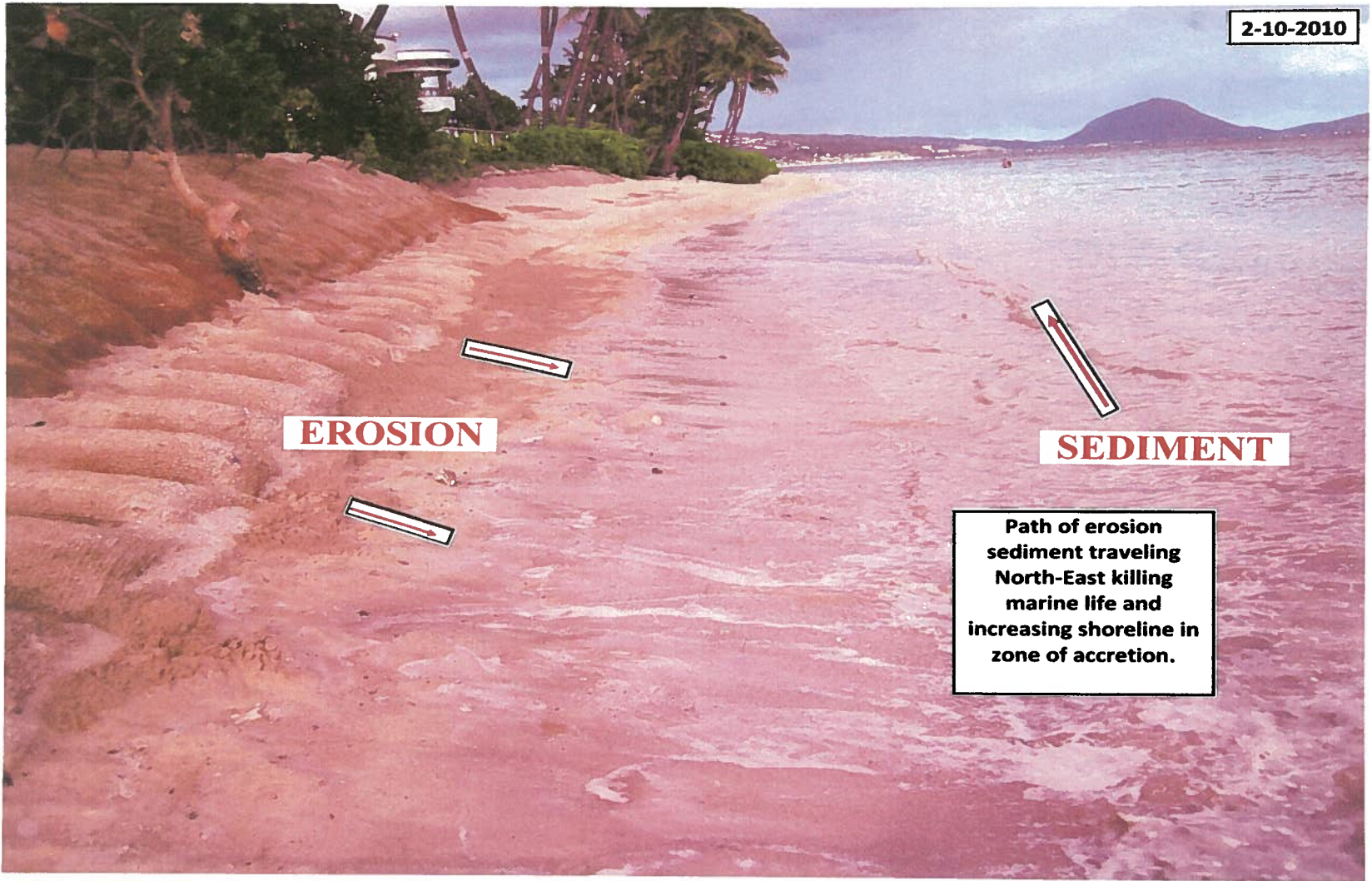








2-10-2010



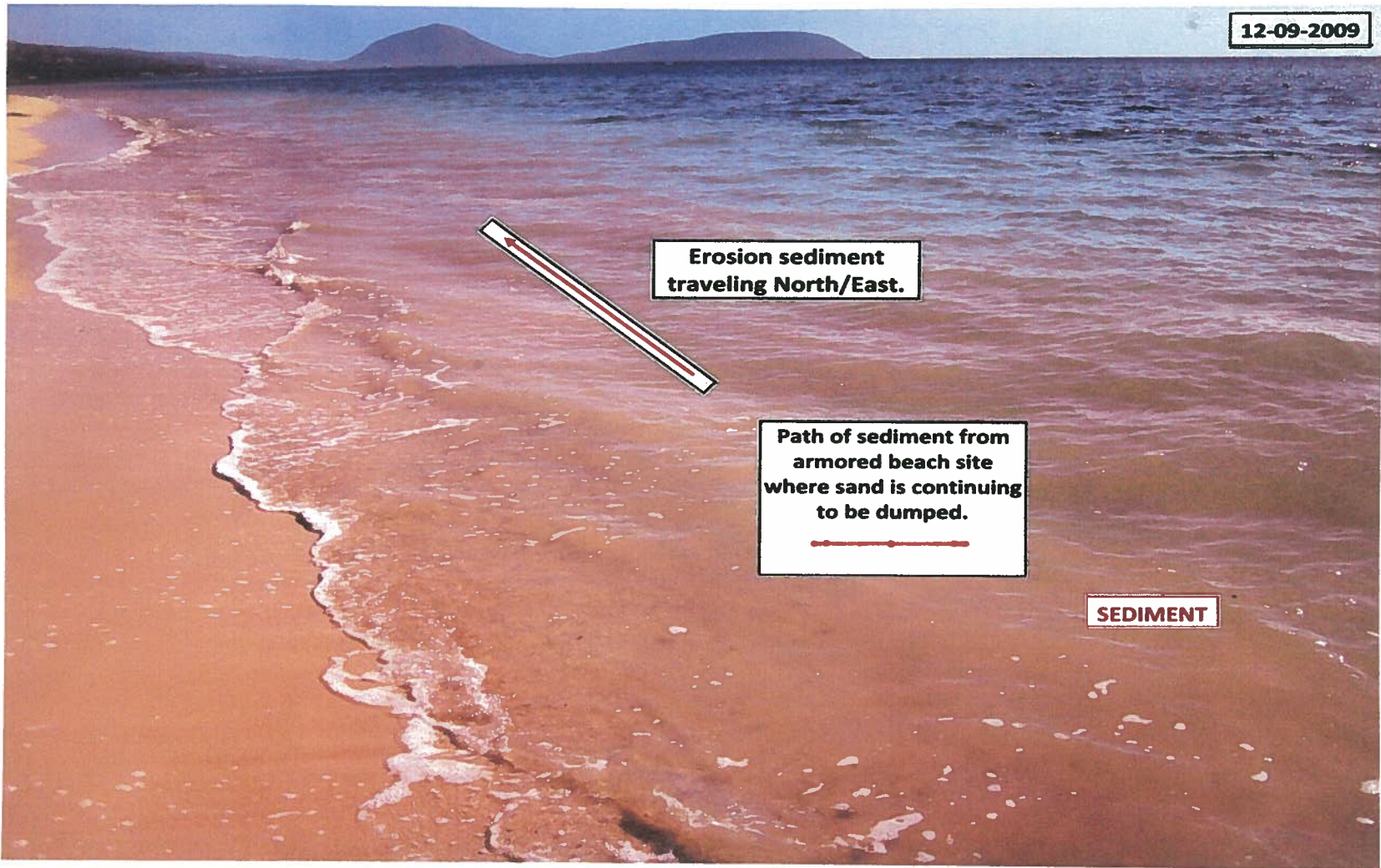
**EROSION**

**SEDIMENT**

**Path of erosion  
sediment traveling  
North-East killing  
marine life and  
increasing shoreline in  
zone of accretion.**



12-09-2009



**Erosion sediment  
traveling North/East.**

**Path of sediment from  
armored beach site  
where sand is continuing  
to be dumped.**

**SEDIMENT**

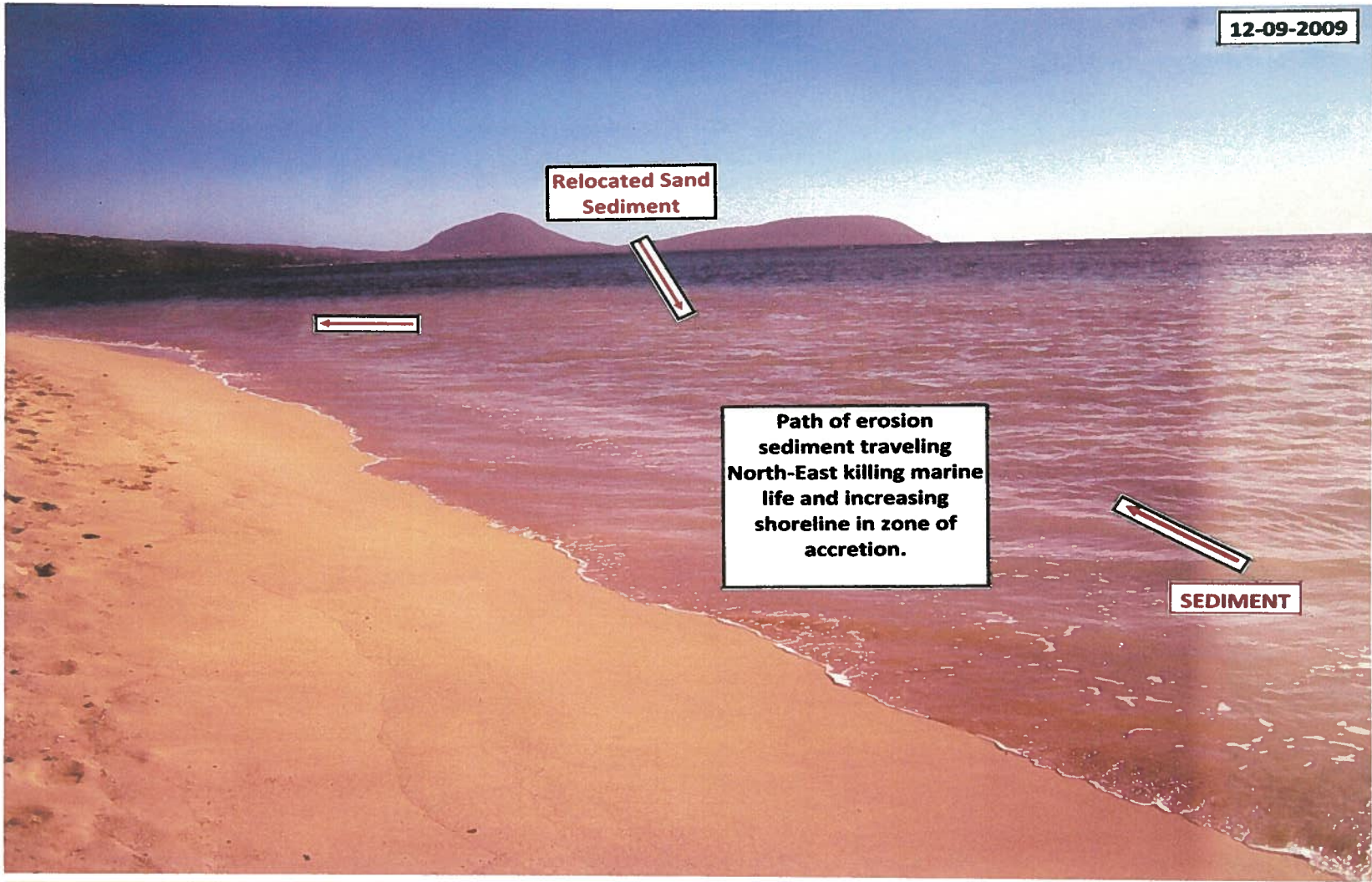


12-09-2009

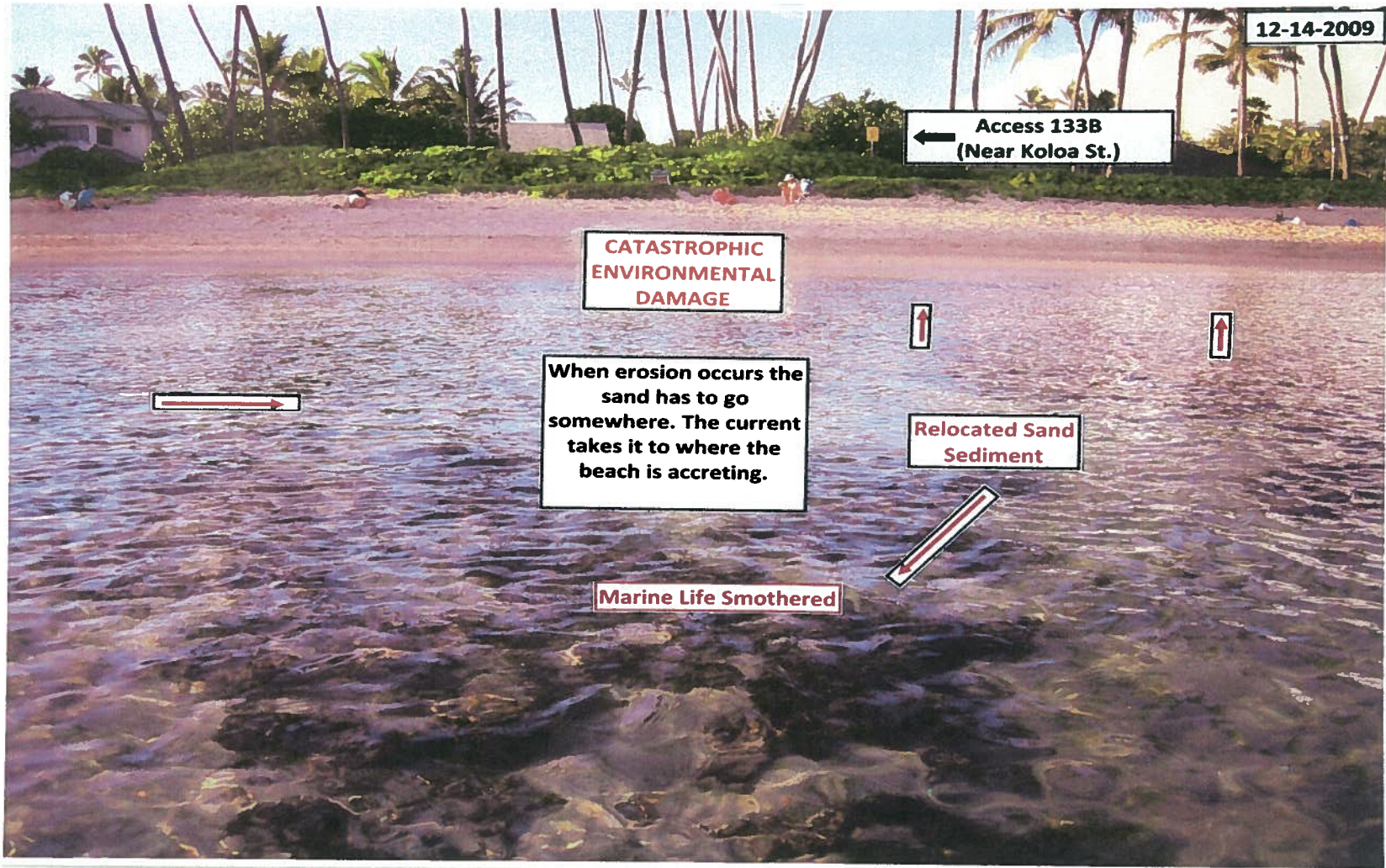
Relocated Sand  
Sediment

Path of erosion  
sediment traveling  
North-East killing marine  
life and increasing  
shoreline in zone of  
accretion.

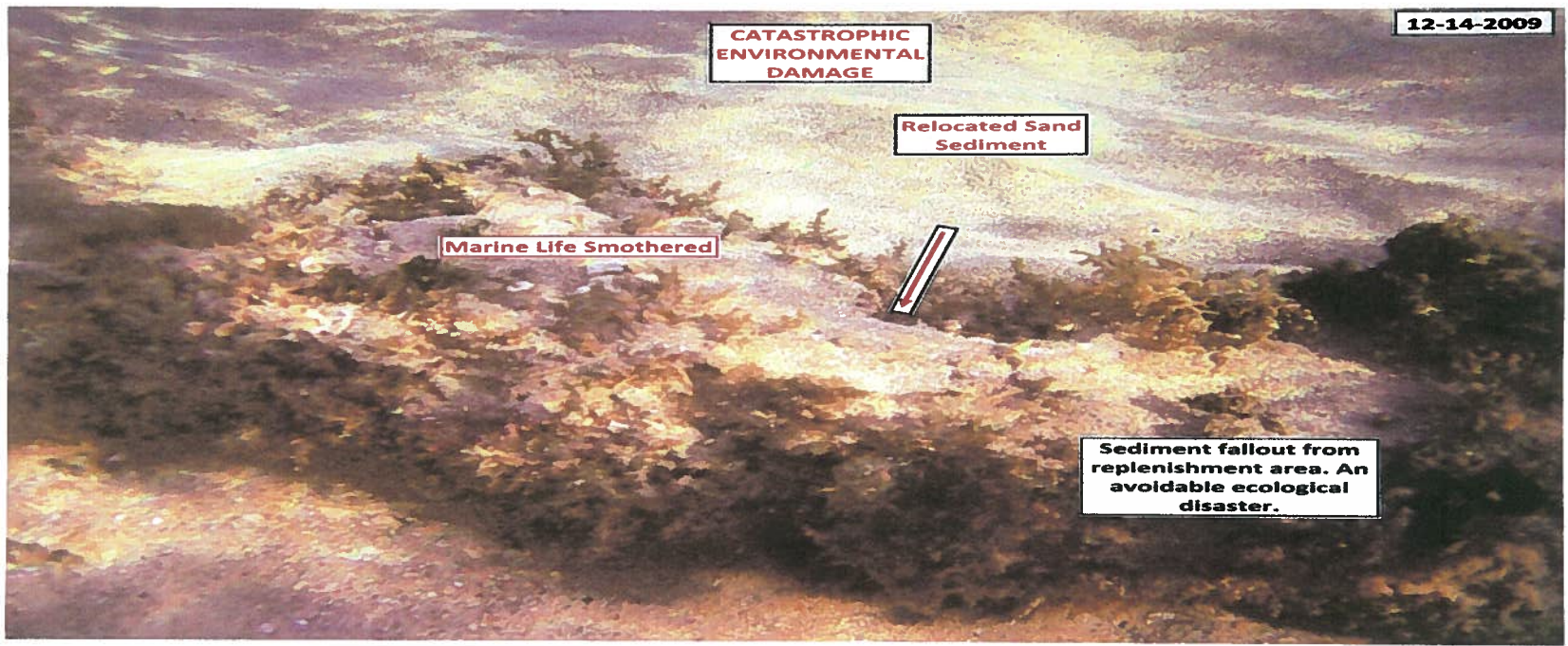
SEDIMENT













12-14-2009

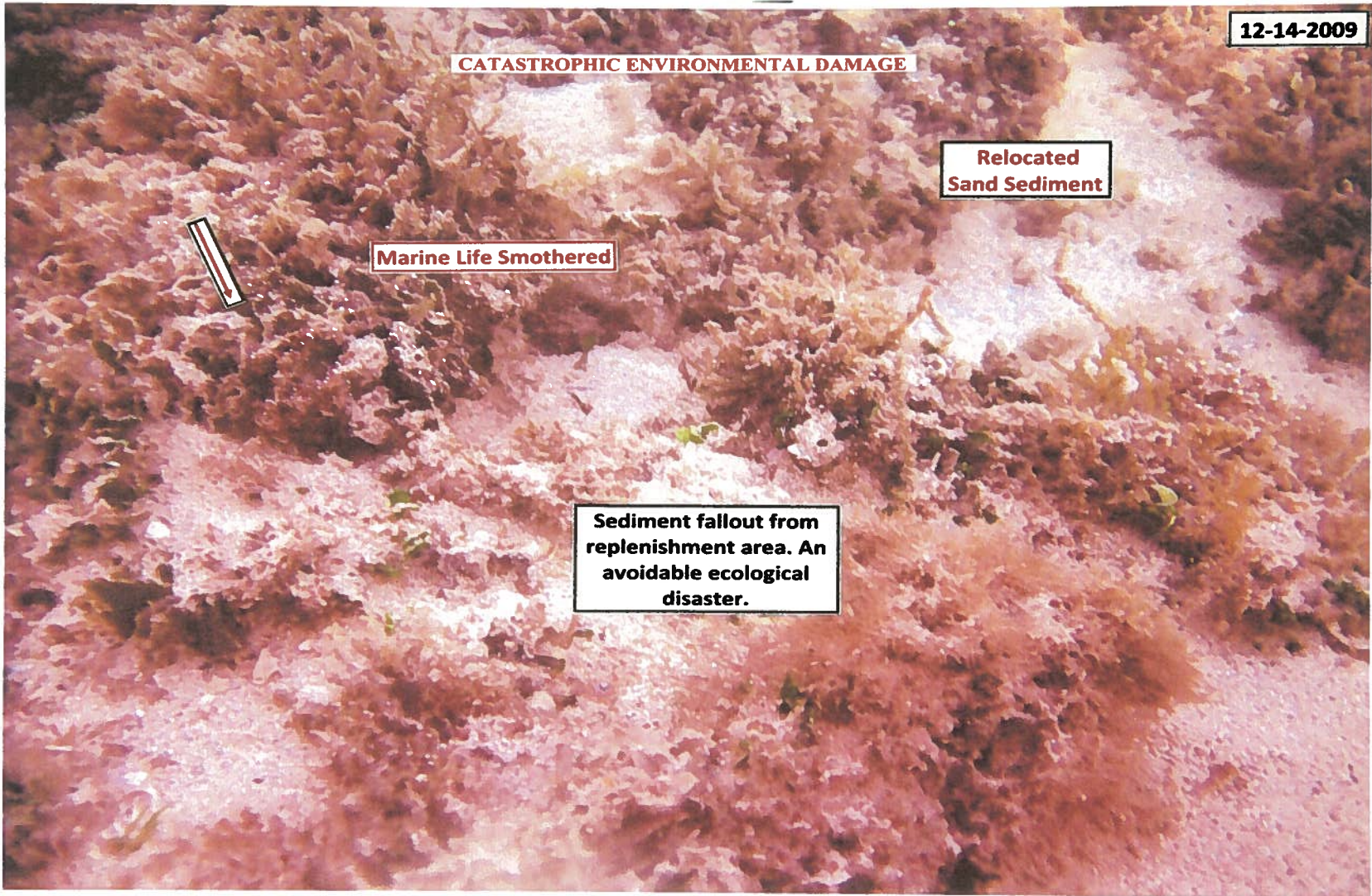
**CATASTROPHIC ENVIRONMENTAL DAMAGE**

**Relocated  
Sand Sediment**

**Marine Life Smothered**



**Sediment fallout from  
replenishment area. An  
avoidable ecological  
disaster.**





Kahala Erosion, Pollution and Damage to Marine Life



Copyright: © 2009 i-cubed





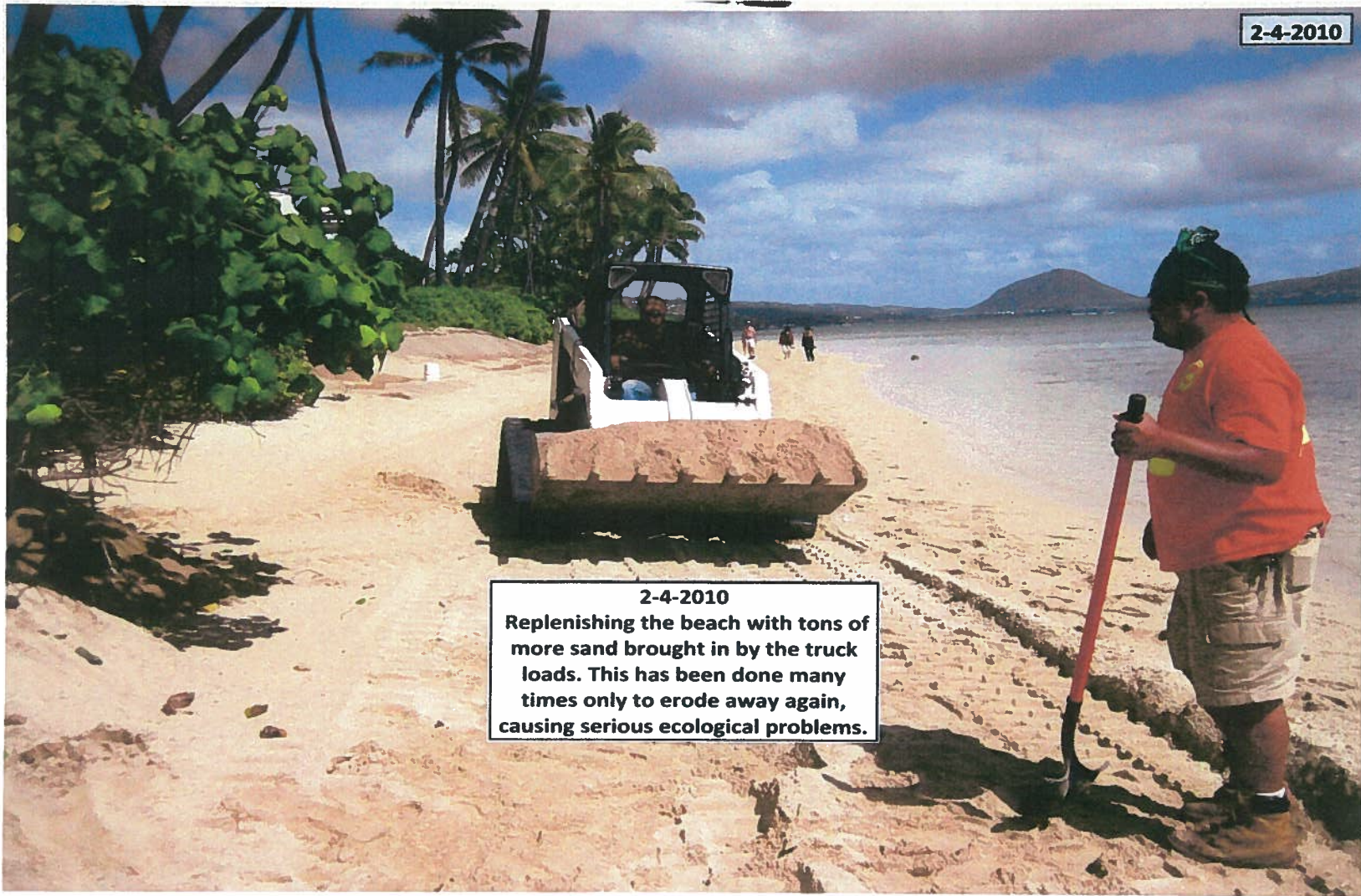
# **Construction & Sand Replenishment**



2-12-2010

**Over \$100,000 spent as temporary erosion fix. This seawall will exacerbate the serious erosion problem. Not a penny spent on erosion prevention research.**





2-4-2010

**2-4-2010**  
**Replenishing the beach with tons of more sand brought in by the truck loads. This has been done many times only to erode away again, causing serious ecological problems.**





**2-4-2010 Replenishing the beach with tons of more sand brought in by the truck loads. This has been done many times only to erode away again.**









2-23-2010

2-23-2010 Replenishing the beach with tons of more sand brought in by the truck loads. This has been done many times only to erode away again.



12-07-2009

Installation of felt  
before high tide to  
prevent shoreline  
erosion after Naupaka  
was cut back. Tons of  
sand brought in.







12-11-2009

Re-installation after first armoring was destroyed by high tide.



**Bottom Line**  
**Factual Historical Information**

1. Eighty five years of scientific documentation show that you always had to traverse the Kahala shoreline in sea water at high tide.
2. There is a serious erosion problem taking place at the South West portion of Kahala Beach as documented by SOEST.
3. In erosion prone areas, it is not the vegetation encroaching on the beach but the beach eroding making it appear the vegetation is blocking transit.
4. Since the 1925 accumulation of erosion evidence, the beach has not returned in the affected area.
5. Cutting back and indigenous plant in erosion prone areas does not increase the publics' ability to transit the shoreline.
6. Removing the native Naupaka Kahakai increases shoreline erosion and will lead to armoring the shoreline with seawalls as has been demonstrated. Temporary quick-fix seawalls only lead to concrete ones.
7. Seawalls are known to exacerbate erosion problems and limit safe public transit of beach corridors and in most cases make it impossible to pass.
8. Depositing sand to try and replenish the beach leads to a serious ecological problem causing eroding sediment destroying marine life.
9. The Naupaka Kahakai helps protect beachfront residents from flooding and property damage. Removing or cutting back this protection in erosion prone areas will result in severe property destruction and financial litigation.
10. Heavy trade winds and low tides will increase beach sand; however high tides will eventually erode the deposited sand.
11. All beaches propose varied circumstances. A broad law will harm the environment in some areas.
12. Passing Bill HB 1808, as written, will do more harm than good and will lead to grave consequences.

### **Questions:**

- 1. Were any state funds used for the Kahala beach erosion project?**
- 2. Was there an Environmental impact statement and shoreline certification approval?**
- 3. What will happen after 1 year when the temporary seawall falls apart?**
- 4. Who is liable if someone is injured by sandbags walking down beach at high tide?**
- 5. Who is responsible for the ecological damage to the marine life created by the replenished sand sediment?**

### **Beach (Kahakai)**

The legendary Naupaka Kahakai is an indigenous plant defending our seashore. It is there for a practical reason, to naturally armor the 'Ae Kai (shoreline) from erosion, and should be respected for its historical mission.



**From:** s.fineran@gmail.com  
**Sent:** Thursday, March 11, 2010 3:00 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Stacey Fineran

[s.fineran@gmail.com](mailto:s.fineran@gmail.com)

1520 Ward Ave. Unit 1403

Honolulu, hi 96822

Thursday, March 11, 2010 04:59 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224

Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

**From:** nicole.bilodeau@gmail.com  
**Sent:** Wednesday, March 10, 2010 4:47 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Nicole Bilodeau

[nicole.bilodeau@gmail.com](mailto:nicole.bilodeau@gmail.com)

700 Bishop Street, Suite 2000

Honolulu, HI 86406

Wednesday, March 10, 2010 06:46 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224

Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee.

I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement?



**From:** sales@mauilongboards.com  
**Sent:** Wednesday, March 10, 2010 4:51 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Shone Sempell

[sales@mauilongboards.com](mailto:sales@mauilongboards.com)

PO Box 235668

Honolulu, Hi 96823

Wednesday, March 10, 2010 06:50 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

SL [REDACTED]

**From:** seesaints@msn.com  
**Sent:** Wednesday, March 10, 2010 5:46 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Thomas Milcarek

[seesaints@msn.com](mailto:seesaints@msn.com)

59-111 Paumalu Pl.

Sunset Beach, Hawaii 96712

Wednesday, March 10, 2010 07:46 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

Access to beaches is The Best Thing about Hawaii's ocean life. Please not restricted access. Thank You



**From:** alysswatanabe@gmail.com  
**Sent:** Wednesday, March 10, 2010 7:16 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Alyssa Kapaona

[alysswatanabe@gmail.com](mailto:alysswatanabe@gmail.com)

2902 Ardoch Avenue

Henderson, Nevada 89044

Wednesday, March 10, 2010 09:15 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

**From:** ruey.hwu@gmail.com  
**Sent:** Wednesday, March 10, 2010 9:00 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Ruey Hwu

[ruey.hwu@gmail.com](mailto:ruey.hwu@gmail.com)

2833 Leialoha Ave. Apt.4

Honolulu, HI 96816

Wednesday, March 10, 2010 10:59 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.



**From:** Maykaloha2@aol.com  
**Sent:** Thursday, March 11, 2010 9:06 AM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

darryl May

[Maykaloha2@aol.com](mailto:Maykaloha2@aol.com)

1075 Naalae Rd.

Kula, HI 96790

Thursday, March 11, 2010 11:06 AM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

**From:** jeri.macres@gmail.com  
**Sent:** Thursday, March 11, 2010 10:45 AM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

jeri macres

[jeri.macres@gmail.com](mailto:jeri.macres@gmail.com)

77-6242 Mamalahoa Hwy

Holualoa, Hawaii 96725

Thursday, March 11, 2010 12:45 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.



[REDACTED]

---

**From:** LUSQUARED@EARTHLINK.NET  
**Sent:** Thursday, March 11, 2010 12:04 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

LULU BAGNOL

LUSQUARED@EARTHLINK.NET

84-687 ALA MAHIKU


WAI'ANAЕ, HAWAII 96792

Thursday, March 11, 2010 02:04 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

Too many "mailanders" who import themselves here in Hawai'i also important their self-centeredness, stripping away the culture of Hawaiians and local people alike who use the ocean as they way of life. Their willingness NOT to share goes against our culture that land and water is for EVERYONE, NOT JUST THE WEALTHY WHO CAN AFFORD TO LIVE ON BEACH FRONT PROPERTY. Malama aina.



---

**From:** anuenue@att.net  
**Sent:** Thursday, March 11, 2010 7:48 AM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Robin Akina

[anuenue@att.net](mailto:anuenue@att.net)

3012 Hinano Street

Honolulu, Hawaii 96815

Thursday, March 11, 2010 09:48 AM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.



**From:** zimmi123@gmail.com  
**Sent:** Thursday, March 11, 2010 6:09 AM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Nancy Zimmerman

[zimmi123@gmail.com](mailto:zimmi123@gmail.com)

84-664 Ala Mahiku St. #187b

Waianae, HI 96792

Thursday, March 11, 2010 08:09 AM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

~~SI~~  
~~XXXXXXXXXX~~  

---

**From:** t\_smitty2@hotmail.com  
**Sent:** Wednesday, March 10, 2010 3:30 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

trevor smith

[t\\_smitty2@hotmail.com](mailto:t_smitty2@hotmail.com)

726A 16th Ave

honolulu, HI 96816

Wednesday, March 10, 2010 05:29 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

**From:** jburmeis@hawaii.edu  
**Sent:** Wednesday, March 10, 2010 3:41 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Jillian Burmeister

[jburmeis@hawaii.edu](mailto:jburmeis@hawaii.edu)

5360 Malu Pl

Honolulu, HI 96816

Wednesday, March 10, 2010 05:40 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, My name Jillian and I am a resident of the Kahala area. As you are aware there are many public access roads and pathways that lead onto my neighborhoods beaches. I strongly support the HB1808 bill because it protects our justified rights to access the beautiful shoreline of this island. Property owners of whom line the access roads are not doing their part to upkeep and protect those rights. It is a vital process to let these property owners know they are abusing our rights. Please push this bill through, so we can continue to enjoy our sacred island.

Thank you for your time.

Much Aloha



**From:** rob@electronicinsight.com  
**Sent:** Wednesday, March 10, 2010 4:08 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Robert Barreca

[rob@electronicinsight.com](mailto:rob@electronicinsight.com)

3535 Maluhia St

Honolulu, HI 96816

Wednesday, March 10, 2010 06:08 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee,

My name is Rob and I live in Palolo Valley but spend a lot of time surfing and visiting beaches on the North Shore, Kailua, Waimanalo, West Side and Town. I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our right to access the shoreline. There are too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness.

The state cannot afford to remove obstructions to public beach access so we should make property owners liable when they break the law and prevent free and clear access for everyone.

S [REDACTED]

---

**From:** e\_pfundtner@yahoo.com  
**Sent:** Wednesday, March 10, 2010 4:13 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Erin Pfuntner

[e\\_pfundtner@yahoo.com](mailto:e_pfundtner@yahoo.com)

3176 Papala Street

Honolulu, HI 96822

Wednesday, March 10, 2010 06:13 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.

**Strong Support**

---

**From:** kent@trisland.com  
**Sent:** Wednesday, March 10, 2010 4:19 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Kent Fonoimoana

[kent@trisland.com](mailto:kent@trisland.com)

PO Box 122

Laie, HI 96762

Wednesday, March 10, 2010 06:18 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support the forward movement of House Bill 1808 because it provides much needed protection for our sacred right to access the shoreline. Too many property owners disregard "public access" laws and obstruct the walkways adjacent to their property out of selfishness. How can we blame them if we don't try to stop them? Enforcement is a necessary part of protecting public access in Hawaii. What good are laws if we have no clear method of enforcement? Please push this bill forward. Mahalo for your time and consideration.



[REDACTED]

---

**From:** WTLTestimony  
**Sent:** Thursday, March 11, 2010 4:52 PM  
**To:** TIATestimony  
**Subject:** FW: Testimony for HB1808 on 3/12/2010 1:15:00 PM

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]  
Sent: Thursday, March 11, 2010 4:52 PM  
To: WTLTestimony  
Cc: judimoore@hotmail.com  
Subject: Testimony for HB1808 on 3/12/2010 1:15:00 PM

Testimony for WTL/TIA 3/12/2010 1:15:00 PM HB1808

Conference room: 224  
Testifier position: support  
Testifier will be present: No  
Submitted by: Judi Moore  
Organization: Individual  
Address: 1782 Halekoa Drive Honolulu, Hawaii 96821  
Phone: 732-3256  
E-mail: [judimoore@hotmail.com](mailto:judimoore@hotmail.com)  
Submitted on: 3/11/2010

Comments:

The problem of homeowners planting naupaka and hau on their beachfront property needs to be controlled by a law that will give teeth to the DLNR when they inspect complaints. The State can then levy stiff fines to beachfront home owners. There is long standing evidence that the building of berms, seawalls, and planting vegetation to reclaim public land causes more beach erosion. Hawaiian beaches are among the most beautiful in the world and we need to preserve them. Please pass this bill so that everyone can enjoy the public access to our beaches and not just a few wealthy who are lucky to live on beachfront property. Thank you, Judi Moore

**From:** mychaleinagaki@hotmail.com  
**Sent:** Thursday, March 11, 2010 5:06 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Mychale Inagaki

[mychaleinagaki@hotmail.com](mailto:mychaleinagaki@hotmail.com)

1050 9th Avenue

Honolulu, HI 96816

Thursday, March 11, 2010 07:05 PM PST

Strong Support for  
Search returned no results

Aloha, my name is Mychale Inagaki. I am a Graduate student at Chaminade University and work in the Financial Aid Office as well. I would like to support House Bill 1808 because it is simply not "pono" for our accesses to public beaches be obstructed and off limits to everyday people who do not live in multi-million dollar homes and want to keep people out of their back yards which just happens to be...the beach. About 2 years ago, my grandpa, my friend and I stood at the intersection of Ala Moana Blvd. and protested with the Surfrider Foundation that Beach Access is for everyone! The ocean is such a special place to so many people, please don't take that away!

**From:** wats@hawaii.rr.com  
**Sent:** Thursday, March 11, 2010 6:02 PM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Watson Okubo

[wats@hawaii.rr.com](mailto:wats@hawaii.rr.com)

94-1046 Lelepua Place

Waipahu, Hawaii 96797

Thursday, March 11, 2010 08:02 PM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224 Aloha members of the Water, Land, Agriculture, and Hawaiian Affairs Committee, and members of the Transportation, International and Intergovernmental Affairs Committee, I strongly support HB1808. Besides access for the public, this bill makes sure there is access for gov't agencies like Clean Water Branch, DOH to monitor water quality at beaches, to conduct investigations of pollution complaints along the shoreline, and permit compliances (beach restoration, water quality certification, etc. Please continue to move this bill forward.



**From:** Stanfordpools@aol.com  
**Sent:** Thursday, March 11, 2010 6:51 PM  
**To:** TIATestimony  
**Subject:** Hanapepe Beach Right of Way

Aloha to all the people that have the power to save lives this summer when the south shore swells come into our shores. This is a statement regarding the Hanapepe BROW in East Honolulu. This BROW, as you know, has been closed by Park and Rec. due to overgrowth blocking the access and has been deemed "unsafe." Unfortunately, this is an escape route for people who get caught by large waves and have to exit the water in a safer location other than climbing up the rocks at Portlock point when the waves are bigger than three feet. The next location is a half mile down the coast and is even a more "unsafe BROW" location to make it back to the street. My name is Kyle Stanford and I was born and raised at 152 Kokee Pl. where this BROW is located. I started surfing here when I was six years old. I am thirty nine years of age now and surf every south swell that comes in and still reside in Hawaii Kai. We use the Hanapepe BROW to assist with rescues every summer and it has saved lives. This is a crucial tool to the numerous rescue efforts that go on through this Hanapepe BROW every summer. Please do everything in your power to re-open this BROW so we are able to save more lives and other people can also save themselves. Without it this location is a "one way street." You can enter, but you can not get out. Thank you for your time in concerning this matter. Please feel free to contact me if you have any questions regarding this location as I know it very well.

Aloha, Kyle Stanford  
375-7103  
[stanfordpools@aol.com](mailto:stanfordpools@aol.com)

Harold Bronstein

Attorney and Counsellor at Law

P.O. Box 3064, Lihue, Hawaii 96766 • Phone (808) 245-1997  
Fax (808) 245-8929

March 11, 2010

Honorable Clayton Hee  
Chairperson, Committee on Water,  
Land, Agriculture and Hawaiian Affairs  
Senate  
Hawaii State Legislature  
Twenty Fifth State Legislature  
Regular Session, 2010  
Honolulu, Hawaii 96813

Honorable J. Kalani English  
Chairperson, Committee on  
Transportation, International and  
Intergovernmental Affairs  
Hawaii State Legislature  
Twenty Fifth State Legislature  
Regular Session, 2010  
Honolulu, Hawaii 96813

Re: H.B. No. 1808  
H.D. 3

Dear Chairperson Hee, Chairperson English and Members of your  
respective Committees:

Thank you for the opportunity to comment on H.B. No. 1808,  
H.D. 3.

Although I support the general intent and purpose of House  
Bill 1808, I disagree with the proposed language amending the  
definition of "shoreline", which amendment currently reads as  
follows:

"Shoreline" means the upper reaches of the  
wash of the waves, other than storm and seismic  
waves, at high tide during the season of the year  
in which the highest wash of the waves occurs,  
usually evidenced by the edge of natural vegetation

Honorable Clayton Hee  
Chairperson, Committee on Water,  
Land, Agriculture and Hawaiian Affairs  
Honorable J. Kalani English  
Chairperson, Committee on  
Transportation, International and  
Intergovernmental Affairs

March 11, 2010

Page 2

growth, [øæ] but never lower than the upper limit  
of debris left by the wash of the waves."

(See H.B. No. 1808, H.D. 3, at pages 6-7)

In Diamond v. State of Hawaii, 112 Haw. 161, 145 P.3d 704  
(2006), the Hawaii Supreme Court in discussing certified shorelines  
concluded as follows:

. . . to the extent that the [BLNR's] Order Denying Appeal suggests that, as a matter of law, the shoreline is not demarcated by the highest point that the waves reach on shore in non-storm or tidal conditions, the Order is erroneous. (Emphasis added).

In Diamond, at page 718, the Court in discussing its prior  
decision in the County of Hawaii v. Sotomura, 55 Hawaii 171, 517  
P.2d 57 (Haw. 1973), stated:

Although the decision [Sotomura] acknowledged that  
the vegetation line is a "more permanent monument,"  
based on the legislative intent and public policy  
favoring shoreline access, that statement is best  
read as merely supporting the court's decision to  
use the most mauka line. Indeed, as evidenced by  
the facts of the present case, vegetation is not  
always permanent, and there is no indication that  
the decision in Sotomura contemplated owners  
planting and promoting salt-tolerant vegetation.  
See infra Section III.C.3. (Emphasis added).

I would respectfully suggest that any change to the definition  
of "shoreline" contained in HRS 205A-1, must clearly reflect that  
it is the legislative intent and public policy of the State of



Honorable Clayton Hee  
Chairperson, Committee on Water,  
Land, Agriculture and Hawaiian Affairs  
Honorable J. Kalani English  
Chairperson, Committee on  
Transportation, International and  
Intergovernmental Affairs

March 11, 2010

Page 3

Hawaii to use the most mauka evidence of the "upper reaches of the wash of the waves" to determine the "shoreline".

Accordingly, I would urge the Committee that the definition of "shoreline" as contained in H.B. No. 1808, H.D. 3 be further amended as follows:

"Shoreline" means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of natural vegetation growth, or the upper limit of debris left by the wash of the waves, whichever is further most mauka, but never lower than the upper limit of debris left by the wash of the waves." (New material is underscored).

Such an amendment is consistent with the "legislative intent and public policy favoring shoreline access" and the "legislative intent to reserve as much of the shore as possible to the public", as contained in the Coastal Zone Management Act, HRS 205A-1, et. seq. and this proposed bill.

As always, thank you for your time and consideration of this very important issue.

Very truly yours,

  
HAROLD BRONSTEIN

HB:tes

**From:** vallofoto@yahoo.com  
**Sent:** Friday, March 12, 2010 12:51 AM  
**Cc:** WTLTestimony; TIATestimony  
**Subject:** Protect Beach Access!

Search returned no results

Valerie Loh

[vallofoto@yahoo.com](mailto:vallofoto@yahoo.com)

Honolulu, HI 96816

Friday, March 12, 2010 02:51 AM PST

Strong Support for  
Search returned no results

Re: HB1808 WTL/TIA Public Hearing, March 12, 2010 @ 1:15pm in Room 224

Aloha:

Please support House Bill 1808 because it provides the necessary protection for public access to our shorelines. Many property owners disregard "public access" laws and obstruct the walkways next to their properties.

If they build obstructions, they should be made to pay for the removal of their obstructions. Our tax dollars, i.e., State funds, should not be used for that since the property owners are the ones putting up the obstructions in the first place.

Enforcement is a crucial part of protecting public access in Hawai'i. We must have a clear method of enforcement or the laws have no "teeth."

Please push this bill forward. Mahalo for your time and consideration.