



US Army Corps
of Engineers
Honolulu District

Public Notice of Application for Permit

Regulatory Branch (1145b)
Building 230
Fort Shafter, Hawaii 96858-5440

Public Notice Date: May 23, 2012
Expiration Date: June 23, 2012
Permit File Number: POH-2010-00318

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached drawings.

APPLICANT: **Mr. David R. Houston**, property owner

AGENT: **Mr. Ronald J. Wagner**, Honua Engineering, Inc.

LOCATION: **Moloaa Stream**, Moloaa, Island of Kauai, Hawaii; TMK (4) 4-9-014:021
[22.19271°N, -159.33401°W] (see attached location map)

WORK: The applicant is proposing to stabilize a 70-foot portion of the Moloaa Stream bank fronting his property with rip rap over geotextile fabric.

PURPOSE: To stabilize the foundation under the applicant's streamside residence that is being undermined by accelerated erosion of the stream bank.

ADDITIONAL INFORMATION: Heavy rains have increased flows along the northern coast of the island of Kauai, including the Moloaa Stream. Increased flows within the Moloaa Stream have subsequently increased erosion along the banks and are directly impacting the foundations of residents in the area.

The applicant is proposing to stabilize approximately 70 linear feet of the Moloaa Stream (left bank) with approximately 250 cubic yards (1,000 square feet) of stabilizing material. A small excavator staged on the adjacent bank would excavate a trench running parallel to the bank approximately 5-feet below grade by 1.5-foot wide. Excavated sediments will be stored on the adjacent bank in an area surrounded by silt fencing to dry prior to transport to an approved, upland location. The trench will be backfilled with 50-cubic yards of bedding gravel, creating the foundation for the rock rip-rap (200-cubic yards of 18-inch diameter stone) placed over geotextile fabric along the bank (70 linear feet by 14-feet high). The last 8-feet of geotextile fabric of the upstream and downstream ends of the stabilization structure will be constructed inwards into the existing bank face

to tie-in to the existing profile. Prior to all in-water activities applicant proposes to install a turbidity curtain (anchored with 36-inch long fence posts driven to a minimum of 16-inches into the substrate) to isolate the construction area, with post-construction removal once suspended sediments have settled. Construction of the stabilization structure is anticipated to take 2-3 weeks to complete. (See attached design drawings)

MITIGATION: The applicant has stated that avoidance, minimization and/or mitigation associated with the proposed streambank stabilization is **not applicable** as the Moloaa Stream is not a special aquatic site.

WATER QUALITY CERTIFICATION: The **proposed action will result in a discharge of fill material into a water of the U.S.** and will require authorization from the U.S. Army Corps of Engineers (Corps) in accordance to Section 404 of the Clean Water Act of 1972 (CWA). Under Section 401 of the CWA (Public Law 95-217), the Corps may not issue a permit for the described work until the applicant obtains a certification, or waiver of certification, from the State of Hawaii, Department of Health – Clean Water Branch.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: **The proposed activity will affect land or water uses in the Coastal Zone.** Under Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), the Corps may not issue a permit for the described work until the applicant obtains a Federal Consistency Concurrence from the State of Hawaii, Department of Business, Economic Development, and Tourism – Office of Planning.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state clearly and concisely, the reasons and rationale for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the National Register of Historic Places (NRHP) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. The NRHP did not identify any properties in the Area of Potential Effect (APE) or within the vicinity of the worksite that are included in, or eligible for inclusion in, the NRHP. Therefore, the Corps has preliminarily determined that the proposed streambank stabilization **will not affect the historical, structural or cultural integrity of any historic properties at this location.**

Consultation of the NRHP constitutes the extent of cultural resource investigations by the Corps at this time, and the Corps is unaware of the presence of any such resources in the APE. This application is being coordinated with the State Historic Preservation Office (SHPO), various Native Hawaiian Organizations, and other interested parties. Any comments SHPO and others may have concerning presently unknown archeological, cultural or historic data that may be lost or destroyed by the proposed work will be considered in our final assessment of the described work. In accordance with the requirements set forth in Section 106 of the National Historic Preservation Act (NHPA), the Corps requests consultation from the Hawaii SHPD on this determination.

ENDANGERED SPECIES: Pursuant to Section 7 of the Endangered Species Act (ESA), federal agencies must consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) on any action that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or any designated critical habitat.

Based on the project location, the following protected marine species have the potential to occur near the project location: Hawksbill sea turtle (*Eretmochelys imbricate*), endangered, Green sea turtle (*Chelonia mydas*), threatened, and Hawaiian monk seal (*Monachus schauinslandi*), endangered. The

Corps has preliminarily determined that the proposed streambank stabilization will have **No Effect on the above marine species listed or proposed for listing under the ESA** because although the project is located in a tidally influenced reach of the Moloaa Stream, the project area is located approximately 1,200-linear feet upstream from the stream mouth, as such, is inaccessible to these protected species. It is unlikely the above-listed protected marine species will forage or inhabit within 50-yards of the project footprint and will therefore eliminate risks for direct or indirect impacts to protected species.

Based on the project location, the following protected waterfowl species have the potential to occur near the project location and have been observed near the project location: Hawaiian common moorhen (*Gallinula chloropus sandvicensis*) endangered. The Corps has preliminarily determined that the proposed streambank stabilization **may affect but is not likely to adversely affect waterfowl species listed or proposed for listing under the ESA**, in particular the common moorhen. The proposed work is not likely to adversely affect the common moorhen because the proposed work is minor in nature and short in duration. In addition, the applicant has proposed use of turbidity curtains to isolate the work area and prevent siltation of the surrounding environment. The Corps would require that the applicant observe the work area to assure that the common moorhen is not within 50-yards of the project work area at any time during construction and if present, the applicant would be required to halt or postpone work until the common moorhen or any other protected species have voluntarily departed the area.

In accordance with informal consultation procedures under Section 7 of the Endangered Species Act (ESA), we request concurrence from National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Protected Resources Division (NOAA, NMFS – PRD) and U. S. Fish & Wildlife Service (USFWS) on the determinations for the species under each agency’s respective jurisdiction.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq* and associated federal regulations found at 50 CFR 600 Subpart K. The substrate in and around the project area is characterized by a hardened limestone layer covered with alluvial sediments/deposits consisting of silt, mud and sand. No live coral heads or coral reefs are known to exist within the project footprint. The minor nature and short duration of the bank stabilization work in combination with erosion control measures will reduce the risk for any direct or indirect impacts that may reduce the quality and/or quantity of EFH such as elevated turbidity levels due to benthic disturbance. The excavator will be staged in the adjacent upland area and thus will reduce substrate disturbance and adverse impacts typically associated with in-stream work. The stabilization of the currently eroding streambank will reduce the impacts of siltation of nearby EFH, in effect, improving the quality of surrounding EFH. Therefore, we have preliminarily determined that the proposed streambank stabilization **will not adversely affect EFH**, including anadromous fish and federally managed fishery resources. In accordance with the requirements set forth in Section 305(b)(1-4) of the Magnuson-Stevens Act, the Corps requests written concurrence from the NOAA, NMFS – Habitat Conservation Division (HCD) for the above finding.

AUTHORITY: This permit application will be reviewed under the following authorities:

- (X) Perform work in or affecting navigable waters of the United States – **Section 10** Rivers and Harbors Act 1899 (33 U.S.C. 403).
- (X) Discharge dredged or fill material into waters of the United States – **Section 404** Clean Water Act (33 U.S.C. 1344). The Corps’ public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

- () Transport dredged material for the purpose of dumping it into ocean waters - Section 103 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). The Corps' public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

COMMENT AND REVIEW PERIOD: Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal.

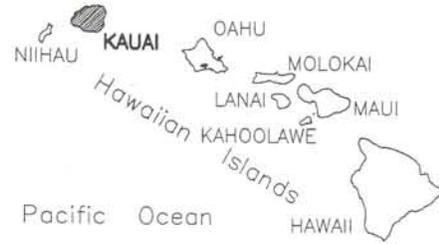
In order to be accepted, e-mail comments must originate from the author's e-mail account. All e-mail comments should be sent to *Jessie.K.Paahana@usace.army.mil*. Conventional mail comments should be sent to the U.S. Army Corps of Engineers, Regulatory Branch, Building 230, Ft. Shafter, HI 96848. Both conventional mail and e-mail comments must include the permit applicant's name and reference number, as shown below, and the commentor's name, address, and phone number. **All comments whether conventional mail or e-mail must reach this office, no later than the expiration date of this public notice, June 23, 2012, to ensure consideration.** Please include the following reference number: **POH-2010-00318.**

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Ms. Jessie K. Paahana by phone at (808) 835-4107 or by e-mail at *Jessie.K.Paahana@usace.army.mil* if further information is desired concerning this notice.

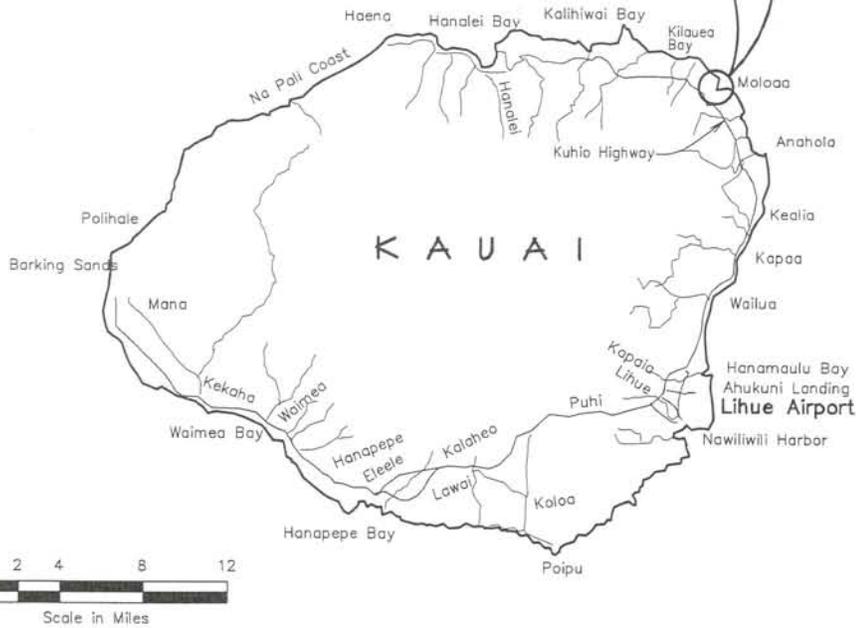
District Engineer
U.S. Army, Corps of Engineers

Attachment

1. Project Location Map, Plan Drawings, Photographs (9 sheets total)



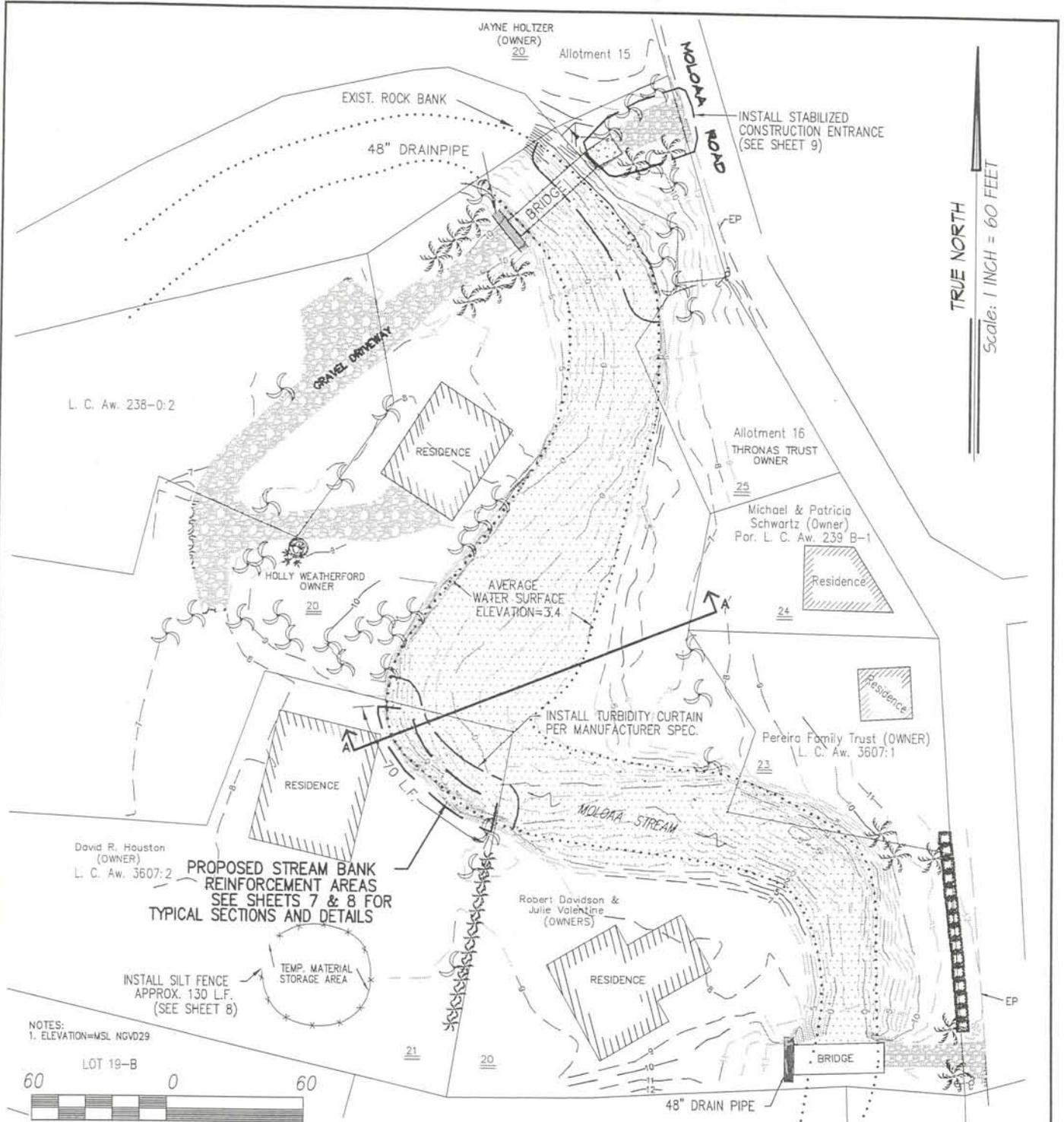
PROJECT SITE



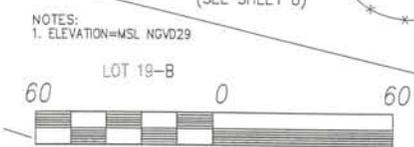
Owner: David R. Houston

MOLOA'A STREAM BANK REINFORCEMENT KAUAI VICINITY MAP

PURPOSE: REDUCE EROSION		APPLICANT REFERENCE: DEPT. OF THE ARMY PERMIT POH-2010-00318	PROPOSED: STREAMBANK STABILIZATION
DATUM: MSL, NAD83		ADDRESS 3578 B MOLOAA ROAD MOLOAA, KAWAIHAU, KAUAI, HAWAII	IN: MOLOAA RIVER
ADJACENT PROPERTY OWNERS: SEE PROJECT SITE PLAN		TAX MAP KEY TMK (4) 4-9-14:21	NEAR/AT: MOLOAA COUNTY: KAUAI STATE: HAWAII SHEET 1 OF 9 DATE: APRIL , 2012

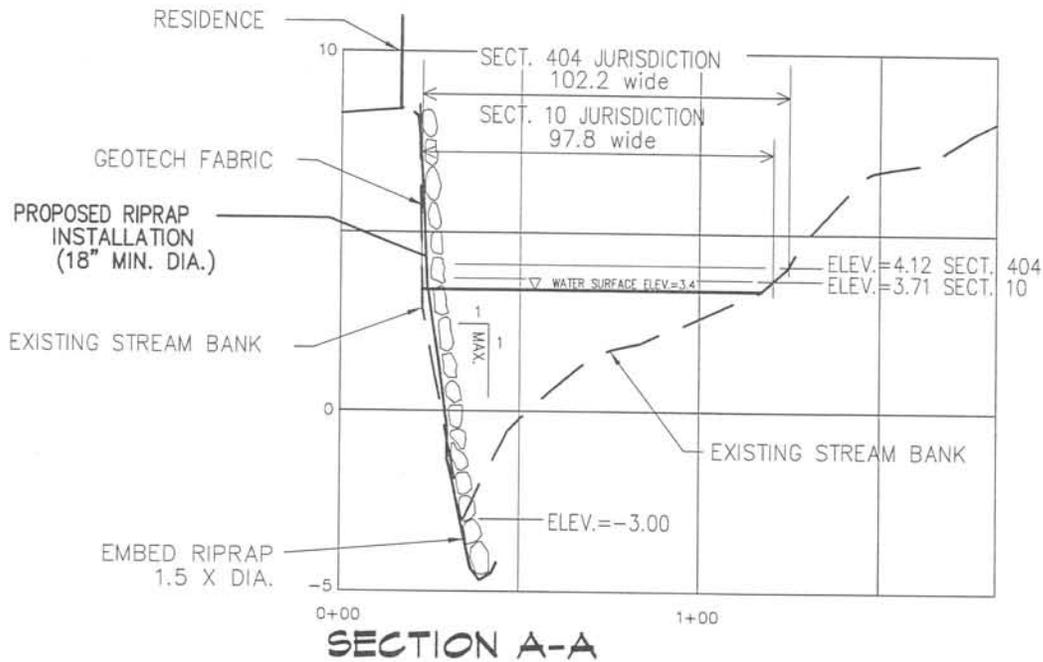


TRUE NORTH
 Scale: 1 INCH = 60 FEET



Owner: David R. Houston **MOLOO'A STREAM BANK REINFORCEMENT** PROJECT NO. 4841
 SHEET TITLE: **PROJECT SITE PLAN/BMP'S**

PURPOSE: REDUCE EROSION	APPLICANT REFERENCE: DEPT. OF THE ARMY PERMIT POH-2010-00318	PROPOSED: STREAM BANK STABILIZATION
DATUM: MSL, NAD83	ADDRESS 3578 B MOLOAA ROAD MOLOAA, KAWAIHAU, KAUAI, HAWAII	IN: MOLOAA RIVER
ADJACENT PROPERTY OWNERS: SEE PROJECT SITE PLAN	TAX MAP KEY TMK (4) 4-9-14:21	NEAR/AT: MOLOAA COUNTY: KAUAI STATE: HAWAII SHEET 6 OF 9 DATE: APRIL, 2012

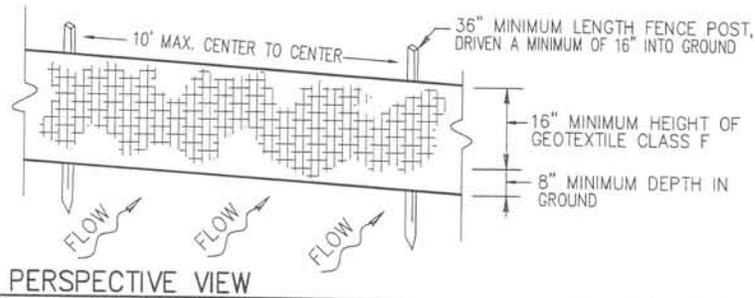


NOTE:
 JURISDICTION ELEVATION
 REF. NOAA DATUM STATION 1611400
 Owner: David R. Houston

MOLOA'A STREAM BANK REINFORCEMENT

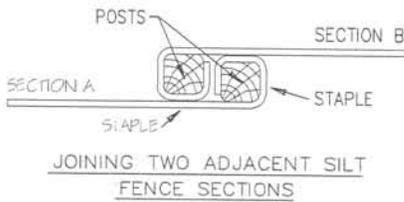
HORIZONTAL SCALE: 1"=50'
 VERTICAL SCALE: 1"=5'
 PROJECT NO. 4841

SHEET TITLE: CROSS SECTIONS		
PURPOSE: REDUCE EROSION	APPLICANT REFERENCE: DEPT. OF THE ARMY PERMIT POH-2010-00318	PROPOSED: STREAM BANK STABILIZATION IN: MOLOAA RIVER
DATUM: MSL, NAD83	ADDRESS 3578 B MOLOAA ROAD MOLOAA, KAWAIHAU, KAUA'I, HAWAII	NEAR/AT: MOLOAA COUNTY: KAUA'I STATE: HAWAII
ADJACENT PROPERTY OWNERS: SEE PROJECT SITE PLAN	TAX MAP KEY TMK (4) 4-9-14:21	SHEET 7 OF 9 DATE: APRIL, 2012



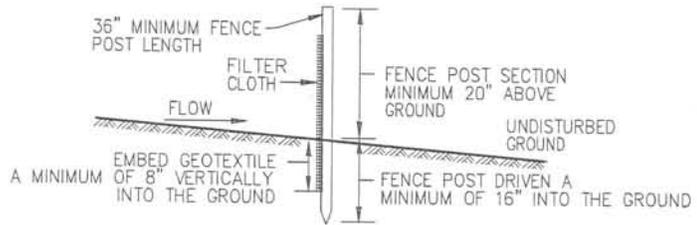
PERSPECTIVE VIEW

N.T.S.



TOP VIEW

N.T.S.

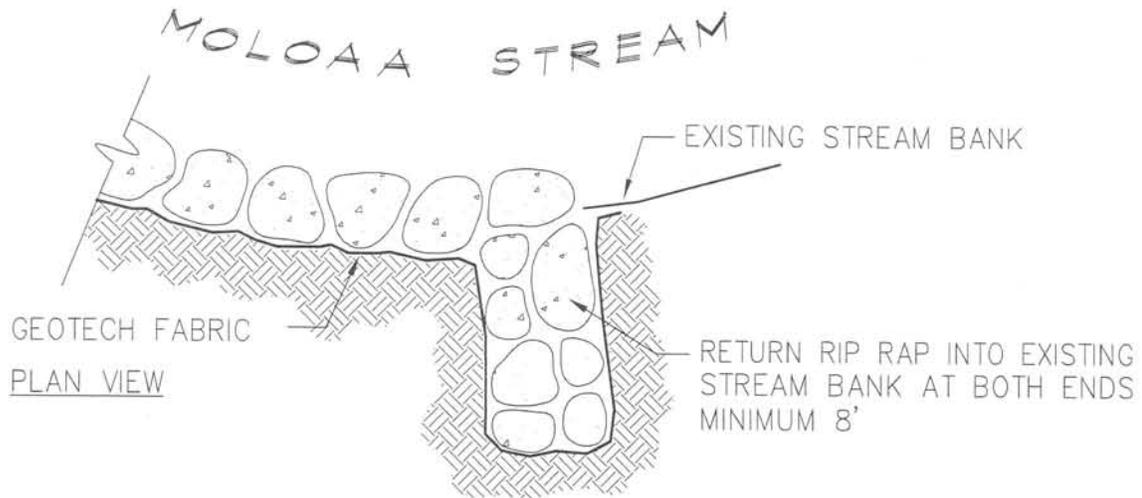


CROSS SECTION

N.T.S.

SILT FENCE DETAIL

N.T.S.



TYPICAL END RETURN DETAIL

N.T.S.

Owner: David R. Houston

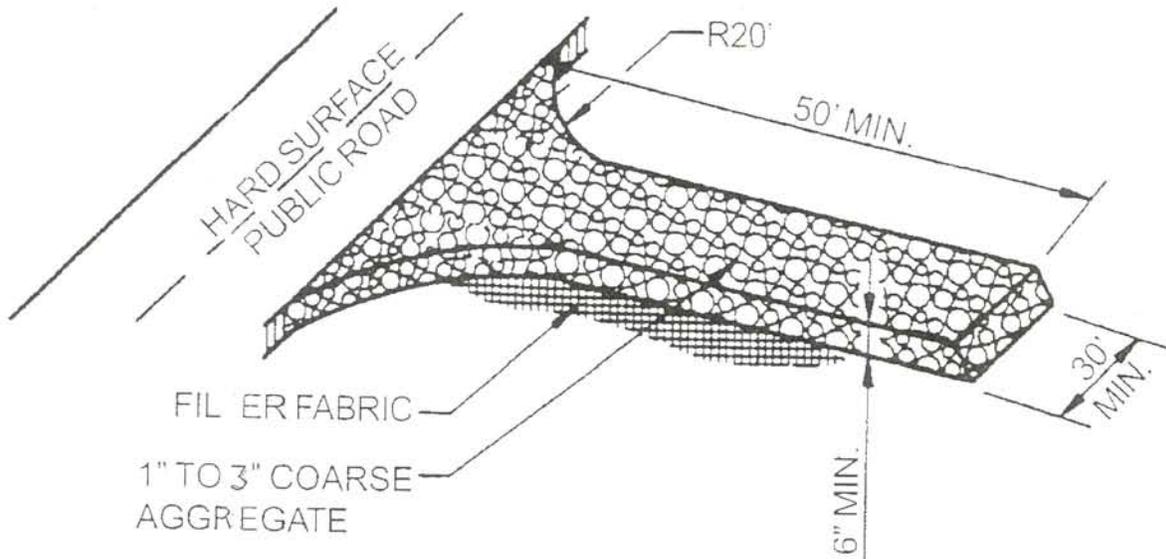
MOLOA'A STREAM BANK REINFORCEMENT

PROJECT NO. 4841

SHEET TITLE:

DETAILS

PURPOSE: REDUCE EROSION	APPLICANT REFERENCE: DEPT. OF THE ARMY PERMIT POH-2010-00318	PROPOSED: STREAM BANK STABILIZATION
DATUM: MSL, NAD83	ADDRESS 3578 B MOLOAA ROAD MOLOAA, KAWAIHAU, KAUAI, HAWAII	IN: MOLOAA RIVER
ADJACENT PROPERTY OWNERS: SEE PROJECT SITE PLAN	TAX MAP KEY TMK (4) 4-9-14:21	NEAR/AT: MOLOAA COUNTY: KAUAI STATE: HAWAII SHEET 8 OF 9 DATE: APRIL, 2012



STABILIZED CONSTRUCTION ENTRANCE

Owner: David R. Houston

**MOLOA'A STREAM BANK REINFORCEMENT
STABILIZED CONSTRUCTION ENTRANCE**

PROJECT NO. 4841

SHEET TITLE:		
PURPOSE: REDUCE EROSION	APPLICANT REFERENCE: DEPT. OF THE ARMY PERMIT POH-2010-00318	PROPOSED: STREAM BANK STABILIZATION
DATUM: MSL, NAD83	ADDRESS 3578 B MOLOAA ROAD MOLOAA, KAWAIHAU, KAUAI, HAWAII	IN: MOLOAA RIVER
ADJACENT PROPERTY OWNERS: SEE PROJECT SITE PLAN	TAX MAP KEY TMK (4) 4-9-14:21	NEAR/AT: MOLOAA COUNTY: KAUAI STATE: HAWAII SHEET 9 OF 9 DATE: APRIL, 2012



PHOTOGRAPH PRIOR TO MARCH 2012 STORM EVENTS

MOLOAA STREAM BANK REINFORCEMENT

MOLOAA, KAUAI, HAWAII

T.M.K. (4) 4-9-14

PROJECT NO. 4841



PHOTOGRAPH PRIOR TO MARCH 2012 STORM EVENTS

MOLOAA STREAM BANK REINFORCEMENT
MOLOAA, KAUAI, HAWAII
T.M.K. (4) 4-9-14

PROJECT NO. 4841



PHOTOGRAPH POST MARCH 2012 STORM EVENTS

MOLOAA STREAM BANK REINFORCEMENT

MOLOAA, KAUA'I, HAWAII

T.M.K. (4) 4-9-14

PROJECT NO. 4841



PHOTOGRAPH POST MARCH 2012 STORM EVENTS

MOLOAA STREAM BANK REINFORCEMENT
MOLOAA, KAUAI, HAWAII

T.M.K. (4) 4-9-14

PROJECT NO. 4841