



US Army Corps
of Engineers
Honolulu District

Public Notice of Application for Permit

Regulatory Branch
Building 230
Fort Shafter, Hawaii 96858-5440

Public Notice Date: October 15, 2010
Expiration Date: November 14, 2010
Permit File Number: POH-2010-00079

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: Grant Y.M. Chun, A&B Properties, Inc., 11 S. Puunene Avenue, Kahului, Hawaii 96732

AGENT: Hideo Kawahara, P.E. Same address as applicant.

LOCATION: In the Maui Industrial Park Offsite Drainage Channel at TMK (2) 3-7-011:027, Kahului, Maui, Hawaii (LAT: N 20.89233, LONG: W 156.4597)

WORK: The applicant has removed approximately 40 cubic yards of vegetation and attached sediment from a six foot wide area of channel sideslopes by use of a mechanical excavator with a clamshell bucket. The material was removed from approximately 900' along the eastern bank of the channel and approximately 600' along the western bank of the channel. The existing and future proposed dredging commenced approximately 110' makai of Hana Highway. The applicant has discharged the material in an upland disposal site. The applicant has maintained this channel, without a Department of the Army permit, since its construction in 1975 and is requesting a long term (10-year) permit to remove the material every three (3) to five (5) years to maintain channel capacity.

The applicant also has removed, and proposes to remove, approximately 22 cubic yards of sand from the makai end of the culverts connecting the channel to the ocean, on an as-needed basis over the next 10 years. Plywood boards are currently in place on the makai end of the culverts to prevent sand, which could block outflow during storm events, from flowing into the pipes. During a storm event, the boards are removed and the 22 cubic yards of sand are removed from an area makai of the culvert ends and sidecast onto the beach area. When the storm has passed, the boards are replaced and eventually wave action returns sand to the makai side of the boards.

PURPOSE: The purpose of the completed and proposed work is to restore and maintain channel drainage capacity to prevent flooding of properties up-channel in the Maui Industrial Park subdivisions west of Hana Highway in Kahului.

MITIGATION: The applicant has not proposed any mitigation efforts to reduce impacts to the aquatic environment; however, use of a mechanical excavator with a clamshell bucket ensures that any sediment removed is limited to that found on the roots of the vegetation.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the State of Hawai'i Department of Health.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone Management Act of 1972 (Public Law 92-583), as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the State's Coastal Zone Management Program. A permit will not be issued until the Office of State Planning, Department of Business, Economic Development, and Tourism has concurred with the applicant's certification.

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 Corps has determined that the proposed work has no potential to cause effect to any historic property listed, or eligible for listing, in the National Register of Historic Places because the Hawai'i and National Register of Historic Places do not list any historic properties within or in the vicinity of the area of potential effect (APE) for the project.

The Corps also requests consultation with Native Hawaiian organizations and individuals to gather information regarding historic properties as well as the ethnographic and historic uses in the proposed permit area.

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

The Corps has assessed potential impacts to Federal candidate, proposed, and listed endangered and threatened species in the project area. Below are the species under NMFS's jurisdiction that occur or have potential to occur within the project area and the Corps' determination of effect:

- Loggerhead sea turtles (*Caretta caretta*), threatened, no effect.
- Olive ridley sea turtles (*Lepidochelys imbricate*) threatened, no effect.
- Leatherback Sea turtles (*Dermochelys imbricate*) endangered, no effect.
- Hawksbill sea turtles (*Eretmochelys imbricate*) endangered, no effect.
- Green sea turtles (*Chelonia mydas*), threatened, may affect, not likely to adversely affect
- Hawaiian monk seals (*Monachus schauinslandi*) endangered, may affect, not likely to adversely affect

This project may affect green sea turtles and Hawaiian monk seals, but is not likely to adversely affect them because the vegetation removal will not occur in an area containing any of those species and the area is effectively isolated from areas potentially used by the species, and the culvert end work is minor in nature and short in duration so any impacts to listed species are expected to be insignificant.

Below are the species under USFWS's jurisdiction that occur or have potential to occur within the project area and the Corps' determination of effect:

- Hawaiian coot (*Fulica americana alai*), may affect, not likely to adversely affect.
- Hawaiian duck (*Anas wyvilliana*), may affect, not likely to adversely affect.
- Hawaiian stilt (*Himantopus mexicanus knudseni*), may affect, not likely to adversely affect.
- Newell's shearwater (*Puffinus auricularis newelli*), may affect, not likely to adversely affect.
- Hawaiian petrel (*Pterodroma phaeopygia sandwichensis*), may affect, not likely to adversely affect.
- Blackburn's sphinx moth (*Manduca blackburni*), may affect, not likely to adversely affect.
- Hawaiian hoary bat (*Lasiurus cinereus semotus*), no affect.

To ensure the project will not adversely affect species listed or proposed for listing, the following conditions will be implemented:

1. To ensure waterbirds are not impacted by the proposed vegetation clearing, vegetation removal work will not be performed during the bird nesting season between April 1st and September 30th of any year.

In accordance with informal consultation procedures under Section 7 of the Endangered Species Act (ESA), we request concurrence from NMFS and USFWS, respectively, that the project may affect, but is not likely to adversely affect the listed species for which the Corps made such a determination.

ESSENTIAL FISH HABITAT: The completed and 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 (MSFCMA), 16 U.S.C. § 1801 et seq. and associated federal regulations found at 50 CFR 600 Subpart K. The Honolulu District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, Western Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

In accordance with the requirements of the MSFCMA, the Corps has determined that the proposal would not adversely affect EFH as the vegetation removal will not occur in an area containing EFH and is effectively isolated from these areas, and the culvert end work will consist of sidecasting sand onto beach areas, not waterward of the shoreline. We request concurrence from NFMS.

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).

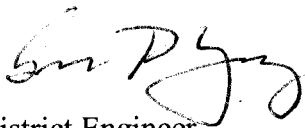
EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, 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 U.S. Army Corps of Engineers 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 and must include on the subject line of the e-mail message the permit applicant's name and reference number as shown below. All e-mail comments should be sent to robert.d.deroche2@usace.army.mil. Conventional mail comments should be sent U.S. Army Corps of Engineers, Regulatory Branch, Building 230, Ft. Shafter, HI 96858-5440. Both conventional mail and e-mail comments must include the permit applicant's name and reference number, as shown below, and the commenter's name, address, and phone number. All comments, whether by conventional mail or e-mail, must reach this office no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number: **POH-2010-00079**.

Comments on the described work, with the reference number, should reach this office no later than November 14, 2010 to become part of the record and be considered in the decision. Please contact Mr. Robert Deroche at (808) 438-2039 if further information is desired concerning this notice.

Project Drawings are attached to this Public Notice.


District Engineer
U.S. Army, Corps of Engineers

Attachments

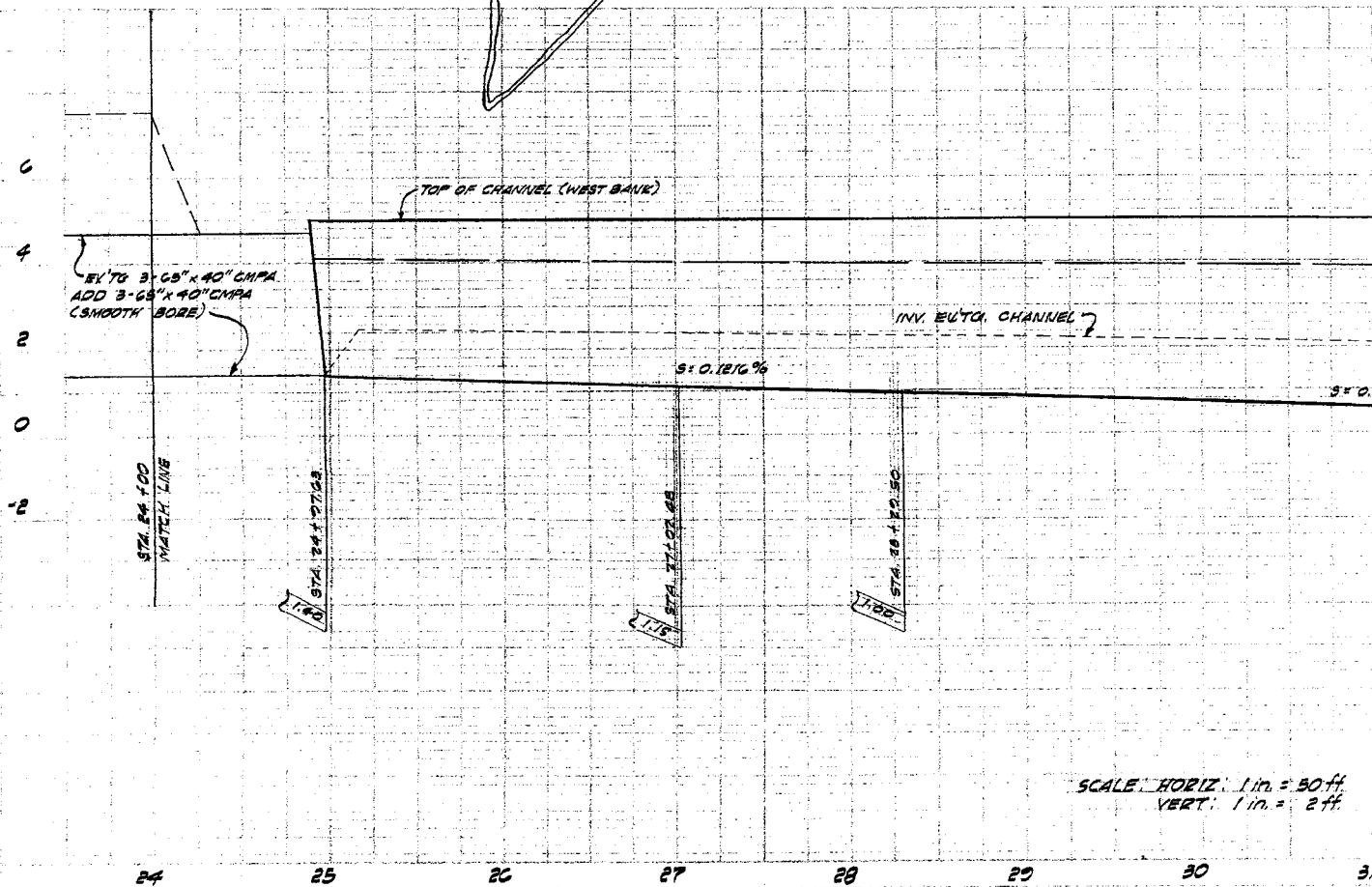
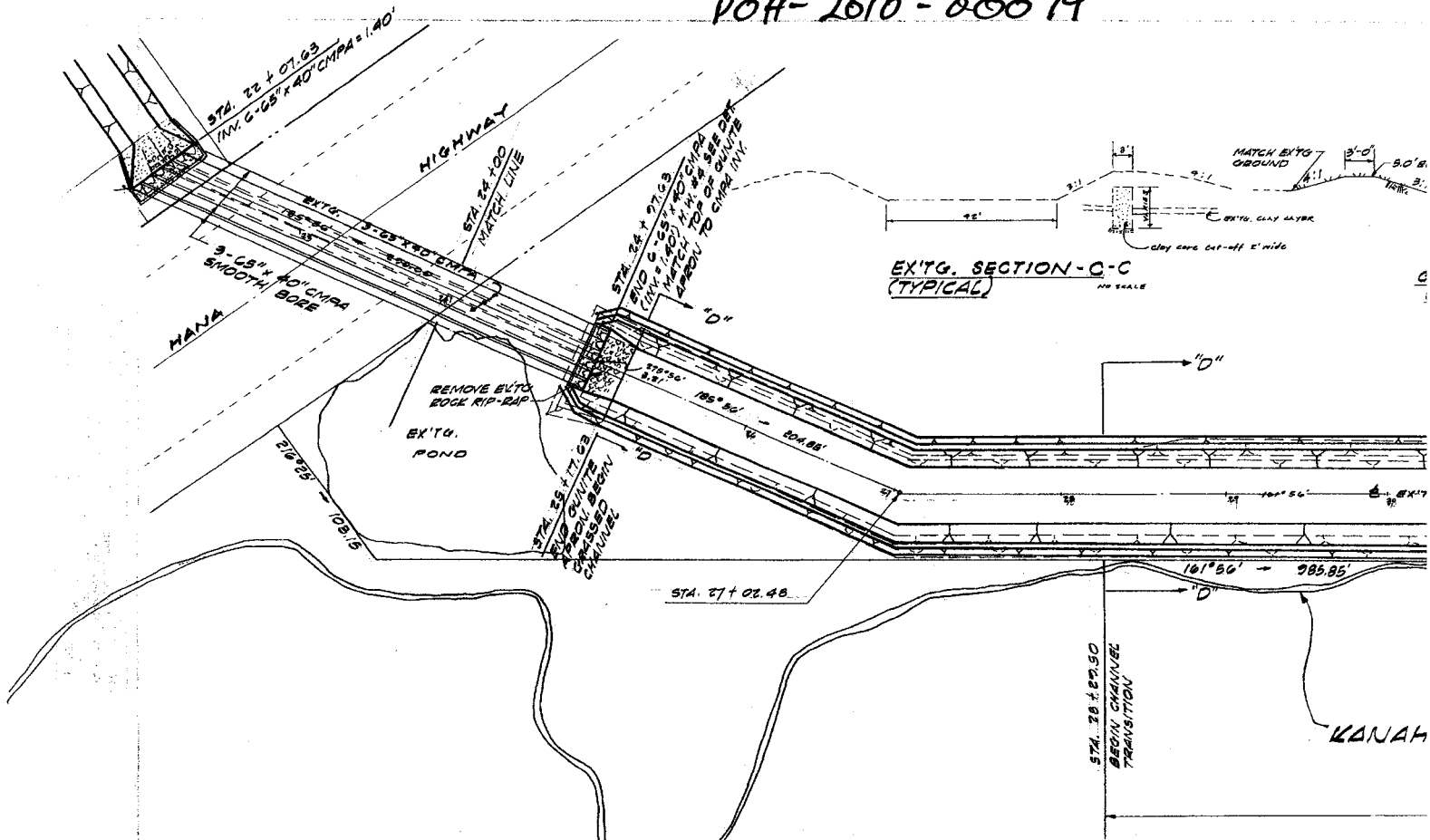
VICINITY MAP

Kahala, Maui

NO SCALE

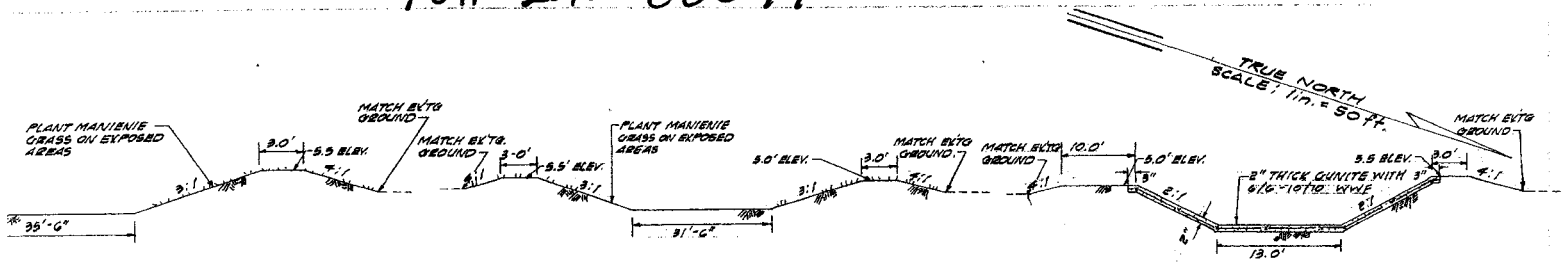


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SCALE: HORIZ. 1 in. = 50 ft.
VERT. 1 in. = 2 ft.

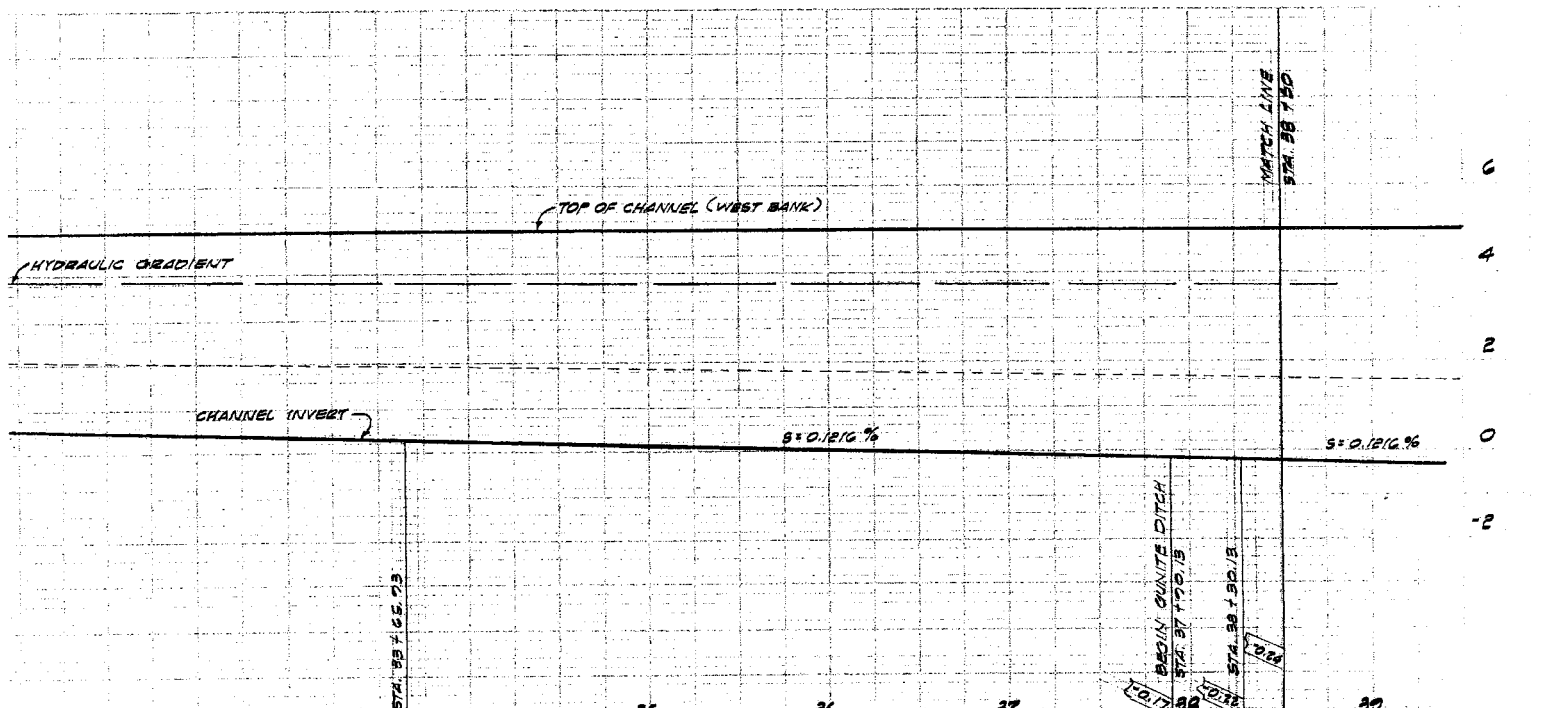
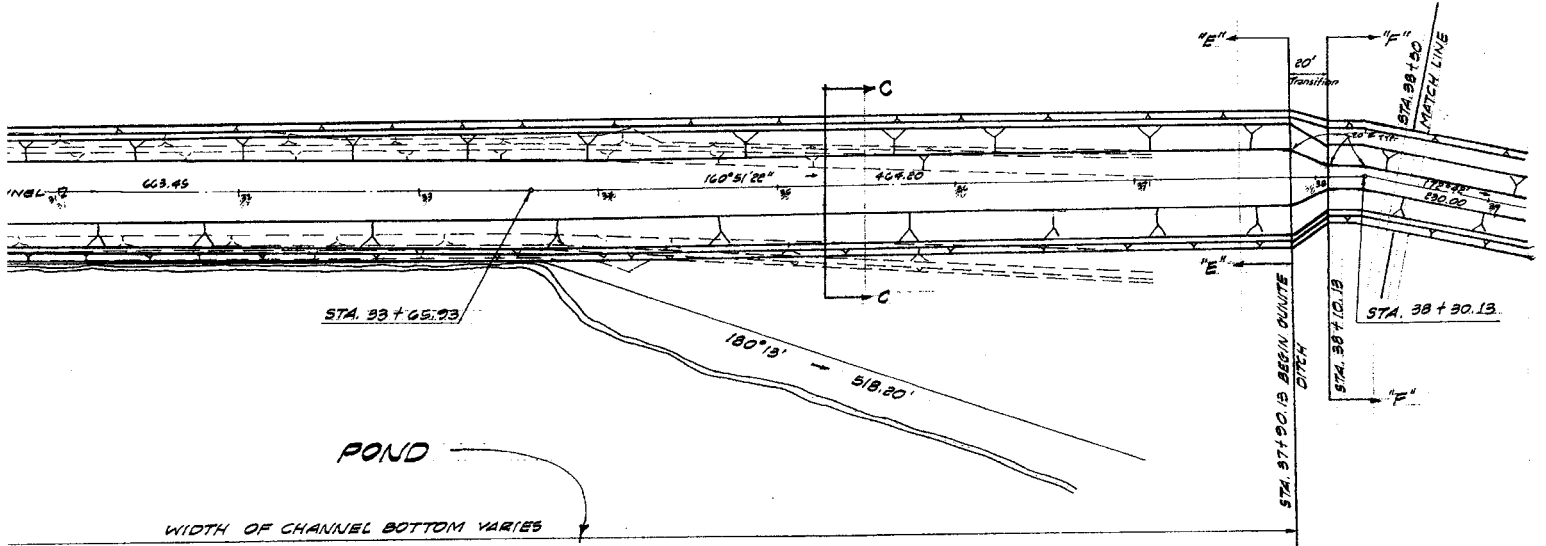
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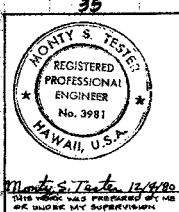
CHANNEL SECTION - "D"- "D"
7.63 THRU STA. 38+29.80
NO SCALE

GRASSED CHANNEL SECTION - "E"- "E"
NO SCALE

QUINITE CHANNEL TYP SECTION - "F"- "F"
STA. 38+10.13 THRU STA. 40+40.13
NO SCALE



RECORD DRAWINGS



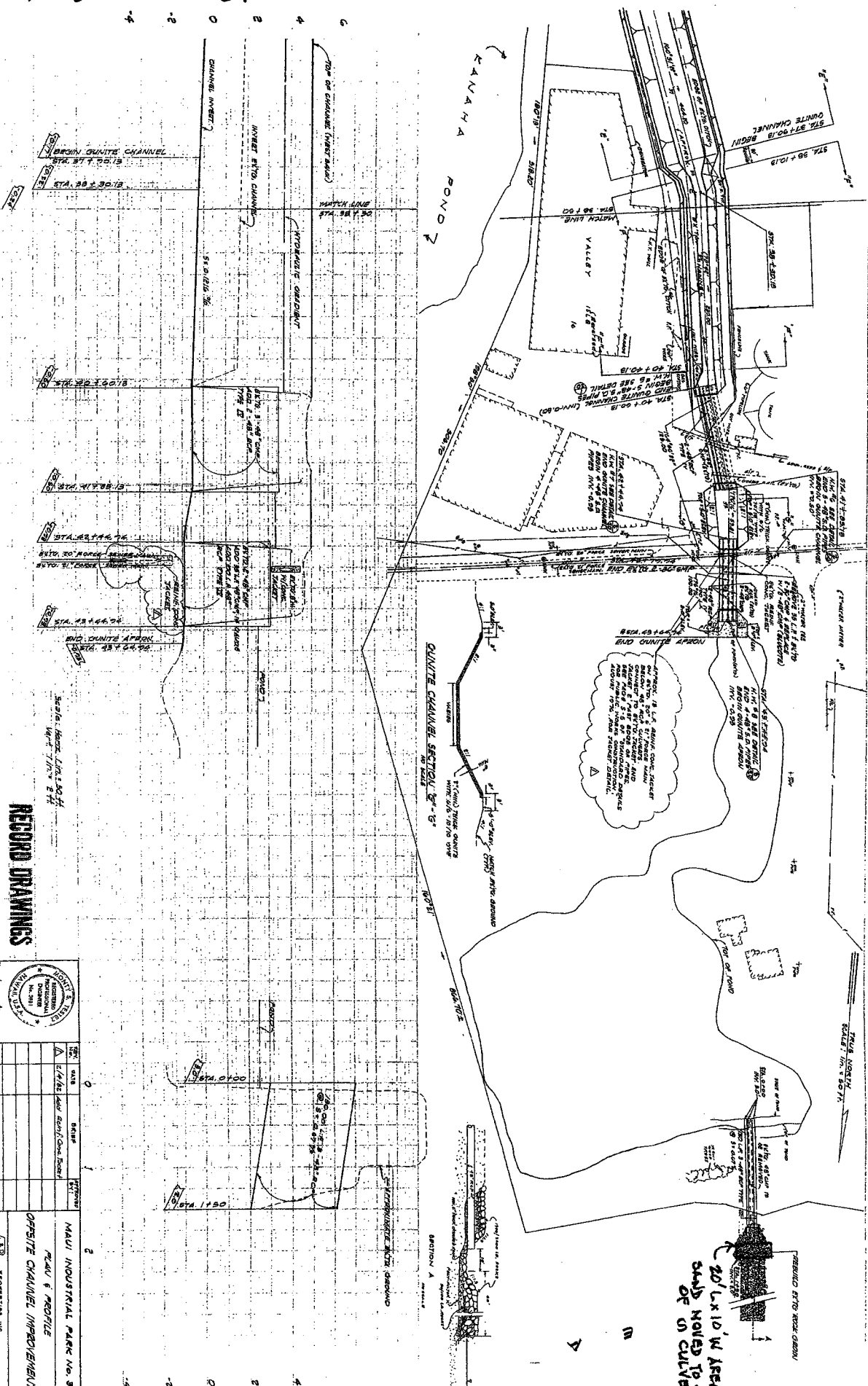
REV. NO.	DATE	DESC.	APPROVED BY:
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MAUI INDUSTRIAL PARK NO. 3

PLAN & PROFILE

OFFSITE CHANNEL IMPROVEMENTS

AD PROPERTIES, INC.
33 LONO AVENUE - KAHULUI, MAUI, HI 96732

[illegible]

RECORD DRAWINGS

MAUI INDUSTRIAL PARK NO. 3

DATE	DEPT.	BY	APPROVED
4/24/82	NEW Bldg./Office/Mgmt	[Signature]	[Signature]

PLANT & PEOPLE

OPPOSITE CHANNEL IMPROVEMENTS

A&D ENGINEERING, INC.
 25 LUMPKIN DRIVE • MAHAKULA, HAWAII 96725
 TEL. 935-7525

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Looking Mauka

