

COUNCIL OF THE COUNTY OF MAUI
**PUBLIC WORKS AND
TRAFFIC COMMITTEE**

June 20, 2003

Committee
Report No.

03-45

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Public Works and Traffic Committee, having met on June 5, 2003, makes reference to County Communication No. 03-132, from the Director of Public Works and Environmental Management, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.08, MAUI COUNTY CODE, PERTAINING TO SOIL EROSION AND SEDIMENTATION CONTROL".

The purpose of the proposed bill is to: a) clarify certain definitions; b) restrict the grading of a coastal or frontal dune except to permit the placing of sand on dunes for the purpose of rebuilding or enhancing the protective capacity and environmental quality of the coastal dune; c) permit the removal of sand from drainage outlets; and d) require a written evaluation, map, and other information for grubbing and grading permits on properties adjacent to the shoreline.

At its meeting, your Committee met with the Director and an Engineer V, Department of Public Works and Environmental Management; a Deputy Corporation Counsel; Zoe Norcross, Coastal Geologist and Sea Grant Extension Agent, University of Hawaii; and Charles Maxwell, Sr., Chair, Island Burial Council, Islands of Maui and Lanai.

Your Committee received testimony from three individuals. Two of the testifiers noted concerns that sand dunes fronting Wailea Ekahi and Maluhia at Wailea Condominiums require grading for storm drainage purposes. One of the testifiers stated that the process to secure approval for grading sand dunes is very long and difficult. He requested that the application and review process be simplified to expedite addressing flood protection. The other testifier noted that the sand dune near Maluhia at Wailea must be graded near the center to adequately address the storm drainage run-off; however, the State Department of Land and Natural Resources is restricting such activity. She requested authorization to grade the dune at its center.

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The third testifier stated that the County has removed sand from certain rights-of-way. He suggested that the sand that was removed has not been properly relocated to the beach from which it was retrieved. He noted that the displaced sand was stock-piled elsewhere, which is contrary to Hawaii Revised Statute requirements.

The Director provided your Committee with an overview of the matter. He stated that the proposed bill revises the definition of coastal dunes and sand. He further noted that the proposed bill would prohibit grading of coastal dunes, permit sand to be placed on dunes for rebuilding or enhancing its environmental quality, allow the removal of sand from drainage outlets to permit the passage of flood waters, require grading permits for coastal properties, and request that evaluation, mapping, and other materials be submitted prior to grading or grubbing of sand dunes.

Ms. Norcross noted that the proposed bill would help to protect our beaches, preserve the volume of coastal sand dunes, maintain sand dunes as buffers to protect inland properties during storms, and preserve sensitive turtle nesting areas. She noted that current definitions do not adequately protect the coastal dunes. In response to an inquiry by one of the testifiers, she indicated that the proposed bill would protect the integrity of the sand dune and minimize the overall impact to the coastal eco-system by restricting grading at the center of the dune.

Mr. Maxwell stated that the proposed bill is very timely and provided protection to sand dunes, which are a value to Hawaiian culture. He noted that sand dunes were commonly used by Hawaiians as burial sites. Mr. Maxwell made reference to a sand dune adjacent to Kahekili Highway in Waiehu, where remains that were taken from the area and exhibited at the Smithsonian Institute have been re-interred. He suggested that the removal of sand and motor vehicle access be prohibited in this area. He also suggested that, as a general rule, any area commonly known as a burial site, or so designated, should be restricted from these activities.

In response to an inquiry by your Committee, Ms. Norcross stated that sand dunes should be recognized as a system of dunes instead of being identified by a coastal setback. She also noted that the goal of the proposed bill is to protect the coastal and frontal dunes. However, she explained that

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establishing restrictions for all sand dunes may be problematic, especially in areas proposed for development, which are located outside the coastal setback.

Your Committee also noted concerns about the type of sand that may be imported to enhance, rebuild or protect the environmental quality of the dune. Ms. Norcross stated that the importation of sand must be reviewed by the Department of Land and Natural Resources and the County's Department of Planning. Therefore, she suggested that these agencies require that the quality of sand be suitable for replenishment purposes. She also noted that 100 percent carbonate sand should be used for replacement.

Your Committee also noted concerns relating to the removal of sand from potential burial sites, the use of motorcycles or vehicles upon sand dunes, and the potential stock-piling of sand removed from the beach.

Your Committee requested the following:

1. That the Department of the Corporation Counsel review the legal implications of restricting the use of vehicles and motorcycles on sand dunes and the removal of sand from areas known to be burial sites, including culturally or historically significant areas; and
2. That the Department of Public Works and Environmental Management investigate whether sand has been removed from beaches and stock-piled in areas other than the beach from which it was removed.

Your Committee voted to recommend passage of the proposed bill on first reading and filing of the communication.

Your Public Works and Traffic Committee **RECOMMENDS** the following:

1. That Bill No. _____ (2003), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 20.08, MAUI COUNTY CODE, PERTAINING TO SOIL EROSION AND SEDIMENTATION CONTROL", be PASSED ON FIRST READING and be ORDERED TO PRINT; and

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2. That County Communication No. 03-132 be FILED.

Adoption of this report is respectfully requested.

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