



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

June 27, 2007
Honolulu, Hawaii

EMERGENCY AUTHORIZATION/After-the-Fact
Application for a Stream Channel Alteration Permit
for Retaining Wall Footing Repair (SCAP-OA-400)
Ms. Beth-Ann Coller and Mr. Kent Harada
Heeia Stream, Kaneohe, Oahu
TMK: (1) 4-6-026:060

APPLICANT:

Ms. Beth-Ann Coller
Mr. Kent Harada
46-287 Auna Street
Kaneohe, Hawaii 96744

LANDOWNER:

Same as Applicant

SUMMARY OF REQUEST:

Application for an Emergency Authorization/After-the-Fact Stream Channel Alteration Permit (SCAP) to repair the footing for a retaining wall on Heeia Stream. (An After-the-Fact SCAP Application for the same retaining wall on Heeia Stream is being processed separately. See SCAP-OA-398.)

LOCATION: Exhibits 1a and 1b.

BACKGROUND:

On July 13, 2005, Construction Engineering Labs, Inc., contractor for Mr. Riley, sent a letter to Mr. Riley certifying that the retaining wall at 46-287 Auna Street was built in conformance with the approved construction plans and Chapter 14 of the Revised Ordinances of Honolulu relating to grading, soil erosion and sediment control (Exhibits 2&3).

In August 2005, Beth-Ann Coller and Ken Harada (Coller/Harada) purchased 46-287 Auna Street from Dana and Larry Riley.

In March and April 2006, the state received a record-breaking amount of rainfall that lasted for 40 days and created state-wide flooding problems.

On August 9, 2006, Commission staff received an email from the City and County of Honolulu, Department of Planning and Permitting (DPP), Civil Engineering Branch, about a complaint that a contractor was excavating rock from Heeia Stream to use on the project at 46-287 Auna Street.

On August 15, 2006, Michael Fisher with Construction Engineering Lab (CEL) sent Collier/Harada a letter stating:

- During the site visit on August 14, 2006, CEL observed that the streambed had apparently “eroded a horizontal distance of up to approximately three to four feet behind the face of the lower wall and to varying depths of up to one to two feet under the base of the lower wall.”
- CEL reviewed the proposed repairs which “consist of constructing a bulkhead of cast-in-place concrete which will be pumped under the base of the lower wall and in front of the lower wall to not only provide support for the lower wall but to also reduce the possibility of future erosion or undermining of the lower wall.”
- CEL recommended that the existing streambed be over-excavated to a depth of four feet below the elevation of the base of the existing lower wall or to solid parent rock in front of the wall to further reduce the possibility of erosion or undermining the lower wall.
- CEL recommended that any loose rocks or soil under the wall be removed under the base of the wall itself, provided that this could be performed safely.

On August 21, 2006, Commission staff sent a Notice of Unpermitted Activities, Alterations of Heeia Stream, Kaneohe, Oahu to Collier/Harada by certified mail informing Collier/Harada that a SCAP had not been obtained for the retaining wall that was constructed and that an after-the-fact SCAP would be required.

On August 30, 2006, Collier/Harada stated the following in a letter to the City and County of Honolulu, DPP:

- Collier/Harada purchased 46-287 Auna Street from Larry and Dana Riley in August 2005.
- Construction of the retaining wall had just been completed at that time.
- The excessive flooding in February, March, and April 2006 undermined the upstream portion of the retaining wall supporting their home.
- During one flash flood episode, a significant portion of the original river bank that included trees, boulders, and three-four feet of dirt was washed away.
- The base of the wall at the upstream portion of the retaining wall was “severely and critically” exposed and there was “inadequate support to keep the structure intact for very long.”
- Collier/Harada was working with the original engineer (Roscoe Ford), the original contractor (G.B. Construction), and Michael Fisher with CEL to develop a plan to repair the base of the wall and restore the soundness of the retaining wall.

On September 4, 2006, Collier/Harada sent Commission staff an email stating that they and the previous owners had assumed that a SCAP was not required based on the COE’s determination that the retaining wall was built above the OHWM.

On September 5, 2006, Commission staff responded to Collier/Harada’s September 4, 2006, email and stated that the second paragraph of the COE’s April 12, 2004, letter to Ms. Riley did not relieve the owner from obtaining other authorizations from the State or the City and County of Honolulu.

On September 5, 2006, Collier/Harada emailed the Commission staff and acknowledged the need to submit an after-the-fact SCAP application for the retaining wall on Heeia Stream.

On September 5, 2006, Mr. Roscoe Ford, Structural/Civil Engineer, sent the City and County of Honolulu a letter explaining that plans had been revised based on preliminary DPP feedback and called for repair and reinforcement of the base of the wall using a four-foot excavation of loose rock and installing poured concrete and rebar. The goal was to fill in the undermined areas and provide a deeper, solid base along the front side of the existing rock wall to shield the wall from the erosive effects of the stream.

On September 22, 2006, the City and County of Honolulu, DPP issued a Building Permit (BP #602283) to Collier/Harada to repair the existing wall footing.

On, October 5, 2006, Collier/Harada submitted an application for a stream channel alteration permit (SCAP-OA-400) to repair the existing wall footing on Heeia Stream.

On October 13, 2006, Commission, COE and DOH, Clean Water Branch staff inspected the site with Collier/Harada to understand the urgency and necessity of repairs to the CRM wall outlined in Collier/Harada's application (SCAP-OA-400).

On October 19, 2006, Collier/Harada sent a letter to the Commission requesting authorization for emergency repair work to shore up the upstream portion of the retaining wall as discussed previously with the COE.

On October 21, 2006, Collier/Harada submitted a revised application for a Section 401 Water Quality Certification (WQC) to the Department of Health, Clean Water Branch for the proposed repair work at Heeia Stream and requested a waiver of a WQC.

On October 23, 2006, Commission staff issued an emergency authorization to perform work to stabilize the bank of Heeia Stream on the Collier/Harada property at TMK (1) 4-6-026:060.

DESCRIPTION:

Work to repair about 80 lineal feet of an existing CRM retaining wall to stabilize its undermined footing and placement of about 50 cubic yards of concrete below the CRM retaining wall to reinforce the footing.

Repair work activities include: 1) isolation of the work area using rocks from the streambed and plywood forms, 2) excavation next to the wall to a depth of four feet below the base of the wall, 3) reinforcement and lining of the form to provide containment, 4) placement of concrete into sealed form in sections beginning at the upstream portion of wall, 5) formation of above-water wall at 1:1 angle with rough surface to dissipate the force of water during floods, and 6) replacement of streambed rocks along the footing reinforcement (Exhibits 4 & 5).

ANALYSIS:

The COE verified that the maintenance repair of the Collier/Harada retaining wall was under the COE's Nationwide Permit Authority and the Honolulu Engineer District Regional Conditions for Nationwide Permits, pursuant to Section 404 of the Clean Water Act. The COE stated that repair activity must comply with the Nationwide Permit General Conditions, and with the conditions of the Section 401 Water Quality Certification (WQC) issued by the DOH, Clean Water Branch. The COE issued a Compliance Certification Permit No. POH-2006-358 on November 3, 2006.

The State Department of Health waived its requirements for the processing of an application for a Section 401 WQC for the project subject to monitoring, reporting, notification, and best management practices requirements.

The City and County of Honolulu, DPP did not require a Special Management Area (SMA) Permit because the parcel was not in a SMA, and the parcel is outside the FEMA study. DPP records indicated that a permit was issued on September 21, 2006, for repairs of a retaining wall. DPP stipulated that the repair work must insure that the existing cross-section of Heeia Stream would not be altered and that the proposed action would not result in damage to adjoining properties.

The Office of Hawaiian Affairs (OHA) commented that in future situations, SCAP applications should be treated separately as the Commission staff was doing with the two applications (SCAP-OA-398 and SCAP-OA-400) so that reviewing agencies can focus on specific issues that surround the separate applications. OHA appreciated the applicants' commitment to the use of best management practices, since traditional and customary native Hawaiian rights were being practiced downstream at Heeia fishpond and throughout Heeia ahupuaa.

The Division of Aquatic Resources (DAR) commented previously on SCAP-OA-398 that it did not condone the submission of after-the-fact SCAP applications and noted that the Heeia Stream provides habitats for five native freshwater fish species (*Lentipes concolor*, *Awaous guamensis*, *Stenogobius hawaiiensis*, *Eleotris sandwicensis*, and *Kuhlia sp.*), native freshwater crustacean (*Atyoida bisulcata*), and two native damsel flies (*Nesogonia blackburni* and *Megalagrion nigrohamatum nigrolineatum*).

State Parks and the Division of Forestry and Wildlife had no objections. The Land Division and the Department of Hawaiian Home Lands indicated that the project was not subject to their regulatory authority or permit.

The State Historic Preservation Division, U.S. Fish and Wildlife Service and the University of Hawaii, Environmental Center did not submit comments as of the date of preparation of this submittal.

RECOMMENDATION:

That the Commission approve an Emergency Authorization/After-the-Fact Stream Channel Alteration Permit for repair of the footing for a retaining wall on Heeia Stream, Kaneohe, Oahu. The permit shall be valid for two years subject to the Commission's standard conditions in Exhibit 6 (standard conditions 4 to 7 do not apply to this after-the-fact permit).

Respectfully submitted,


W. ROY HARDY
Hydrologic Program Manager

- Exhibits:
1. Location map (1a and 1b)
 2. Site Plan
 3. Section and Elevations
 4. Photos of the CRM retaining wall during construction
 5. Photos of the CRM retaining wall after construction
 6. Standard Stream Channel Alteration Permit Conditions

APPROVED FOR SUBMITTAL:


ALLAN A. SMITH
Interim Chairperson