



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

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

October 20, 2020
Honolulu, Hawai'i

Approval of Stream Channel Alteration Permit Application
(SCAP.5383.3) by the City and County of Honolulu for the
Installation of an Anchored Gabion Retaining Wall, and
Find that SCAP.5383.3 is Exempt from Hawaii Revised Statutes, Chapter 343,
Mānoa Stream, Mānoa, O'ahu, TMK: (1) 2-9-044:064; 2-9-066:042 and 043

APPLICANT

Mark Yonamine, Director
Department of Design and Construction
City and County of Honolulu
Honolulu, HI 96813

LANDOWNERS

Peggy A. Brandt and Michael C. Liu
TMK (1) 2-9-044:064

Jenessa S. Murphy Trust and Eva H. Ikeda Trust
TMK (1) 2-9-066:042

Colin T. and Michelle C. Higuchi
TMK (1) 2-9-066:043

SUMMARY OF REQUEST

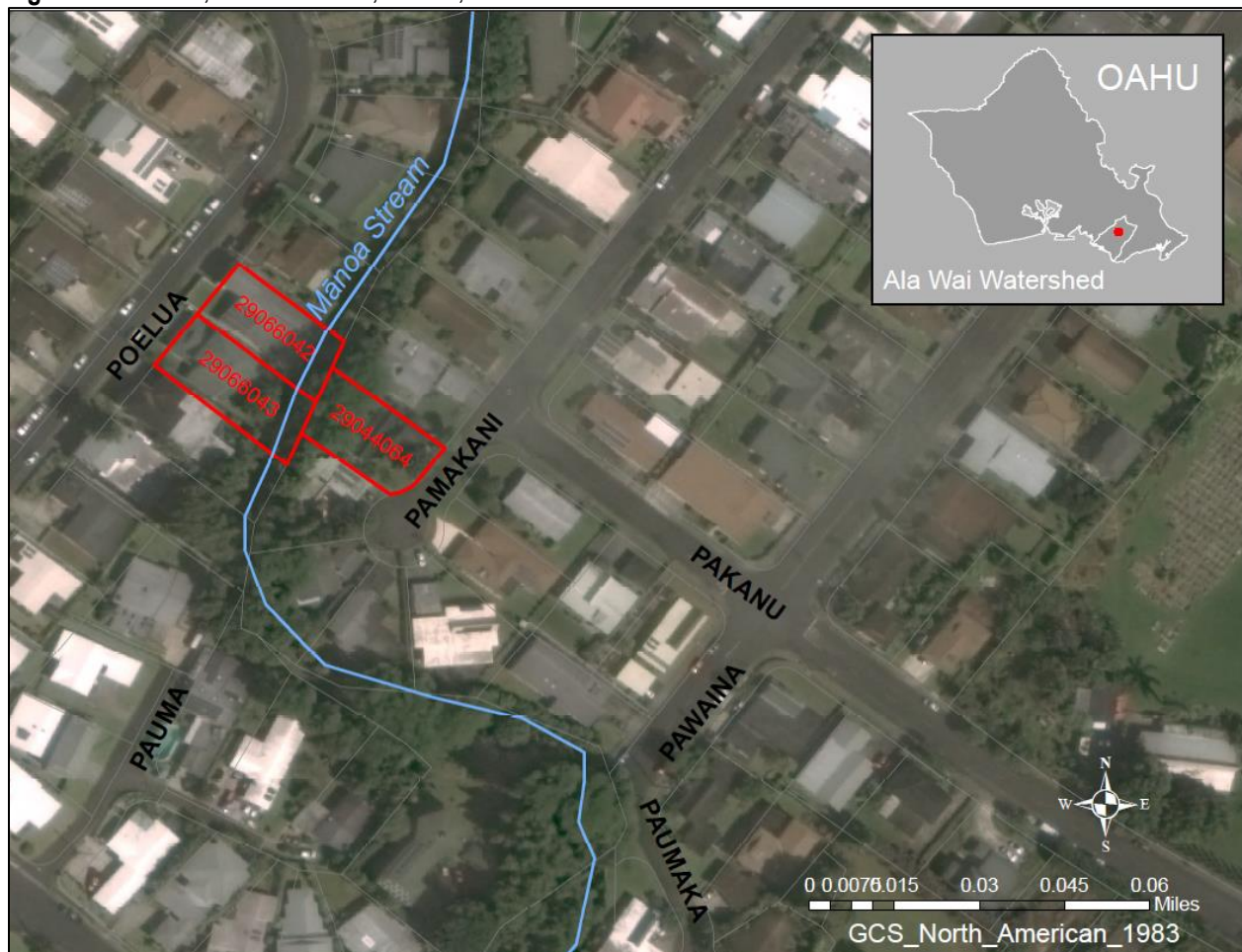
Approve the Stream Channel Alteration Permit (SCAP.5383.3) Application that proposes to install a gabion cage retaining wall along the side slope downstream of the drain outlet, demolish and replace the existing concrete apron below the culvert outlet including repair of the scoured area beneath the concrete apron, construct scour protection with gabions, and make other adjacent infrastructure repairs.

Find that SCAP.5383.3 is exempt from Hawaii Revised Statutes, Chapter 343. The trigger is the use of County funds. The subject project is exempt from the preparation of an environmental assessment in accordance with Hawaii Administrative Rule §11-200.1-15(c)(2), Replacement or reconstruction of existing structures and facilities on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced; and §11-200.1-15(c)(3)(D), Construction and location of single new, small facilities or structures and the

alteration and modification of the facilities or structures and installation of new, small equipment or facilities and the alteration and modification of the equipment or facilities, including but not limited to: (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.

LOCATION: Mānoa Stream, Mānoa, O‘ahu. See **Figure 1**.

Figure 1: Location, Mānoa Stream, Mānoa, O‘ahu.



BACKGROUND

On August 7, 2020, the Applicant filed a stream channel alteration permit application for the installation of a gabion cage retaining wall along the side slope downstream of the drain outlet, demolition and replacement of the existing concrete apron below the culvert outlet including repair of the scoured area beneath the concrete apron, construction of scour protection with gabions, and other adjacent infrastructure repairs. The stream channel permit application

(SCAP.5383.3) can be viewed on the Commission website at https://files.hawaii.gov/dlnr/cwrm/swreview/SCAP_5383_3.pdf.

STREAM DESCRIPTION

Mānoa Stream is a perennial stream about 10 miles long and is one of 15 streams that occur within the Ala Wai watershed. The median daily flow is 2.4 million gallons per day. There is a mix of native and non-native fish, crustaceans, snails, and amphibians in the watershed. The watershed was rated moderate for aquatic species according to the Hawaii Stream Assessment (1990). The rating is based, in part, on the presence and abundance of four key native species (*‘o‘opu nākea*, *‘o‘opu ‘alamo‘o*, *‘o‘opu nōpili*, and *hīhīwai*) as indicators of the health of the ecosystem. No site-specific flora and fauna surveys are available for the project location.

PROJECT DESCRIPTION

The stream bank below the 7-foot by 3-foot box drain near is eroding, resulting in undermining of the drain outlet structure. See **Figure 2A** and **2B**. The project proposes to stabilize the stream bank near the outlet by:

1. Construction of an anchored gabion wall along the side slope just downstream of the outlet.
2. Demolition and replacement of the concrete apron below the 84-inch x 36-inch concrete box culvert outlet. This includes repair of the scoured area beneath the concrete apron with a stone/grout infill; and construction of a concrete cutoff wall.
3. Installation of scour protection below the new cutoff wall consisting of gabion units.
4. Repair of the damaged grouted rubble paving (GRP) lining along the existing concrete outfall. Missing GRP is to be replaced at the edge of the outfall, GRP is to be installed from the concrete outfall to the edge of the gabions.

Figure 2A: Site photo from left bank looking toward right bank.



Figure 2B: Site photo from right bank looking toward left bank.



AGENCY REVIEW COMMENTS

City and County of Honolulu, Department of Planning and Permitting: No comments received.

Department of Hawaiian Home Land (DHHL): No comments received.

Department of Land and Natural Resources (DLNR), Aha Moku: No comments received.

DLNR, Aquatic Resources: DAR requests that the following Best Management Practices (BMPs) or mitigative measures should be implemented during the demolition, repair, and construction activities to minimize the potential for erosion, siltation, pollution, and degradation of the aquatic environment.

- 1) Stream bank areas denuded of vegetation should be planted or covered as quickly as possible to prevent erosion;
- 2) Scheduling work activities during periods of minimal rainfall;
- 3) Prevent construction materials, petroleum products, debris and landscaping products from falling, blowing or leaching into the aquatic environment; and,
- 4) Minimize the disturbance and impacts to stream channel bottom and its substrate (cobble, boulders, etc.) as much as possible as these substrate are essential components of the habitat for the native stream biota.

CWRM Staff Response: Recommendation to be added as a special condition of the Stream Channel Alteration Permit.

DLNR, Engineering: The rules and regulations of the National Flood Insurance Program (NFIP), Title 44 of the Code of Federal Regulations (44CFR), are in effect when development falls within Special Flood Hazard Area (high risk areas). State projects are required to comply with 44CFR regulations as stipulated in Section 60.12. Be advised that 44CFR reflects the minimum standards as set forth by the NFIP. Local community flood ordinances may stipulate higher standards that can be more restrictive and would take precedence over the minimum NFIP standards. The owner of the project property and/or their representative is responsible to research the Flood Hazard Zone designation for the project. Flood Hazard Zones are designated on FEMA's Flood Insurance Rate Maps (FIRM), which can be viewed on our Flood Hazard Assessment Tool (FHAT) (<http://gis.hawaiiinfip.org/FHAT>).

*CWRM Staff Response: The subject project is primarily repair and maintenance of an existing structure. The applicant has attached a Federal Emergency Management Agency Certification of No-rise Determination (See **Exhibit 1**) and a City and County of Honolulu Flood Hazard Districts Certification (See **Exhibit 2**).*

DLNR, Forestry and Wildlife (DOFAW): No comments.

DLNR, State Historic Preservation Division (SHPD): No comments received.

DLNR, Land Division: No comments received.

DLNR, State Parks: No comments received.

Dept. of Health (DOH), Clean Water Branch: No comments received.

Office of Hawaiian Affairs: No comments received.

US Army Corps of Engineers: No comments received.

US Fish and Wildlife Service (FWS): The Hawaiian hoary bat (‘ōpe‘ape‘a) and Damselfly may occur in the area.

CWRM Staff Response: Contractors will be required to follow federal guidelines regarding endangered species when working in the stream.

Public Comments: No comments received.

CWRM Staff Response: Recommend that project information be formally submitted to the Mānoa Neighborhood Board No. 7 to communicate project information, timeline, and potential impacts to the general public as best as possible.

TRADITIONAL AND CUSTOMARY PRACTICES

- 1) The identity and scope of cultural, historical, or natural resources in which traditional and customary native Hawaiian rights are exercised in the area.

The Applicant stated “A review by DLNR-SHPD indicates that no historic properties will be affected and that it is unlikely that traditional Hawaiian agriculture was practiced within the stream banks. Access to the stream is very limited since it runs through private lots and is approximately 13' below the rear yards of the homes. Due to these constraints, limited, if any, traditional and customary native Hawaiian rights can be exercised in the area.”

CWRM Staff Response: Lo‘i kalo and rice paddies were traditionally and historically cultivated in Manoa valley, but area is urban zoned and was developed decades ago. The Office of Hawaiian Affairs’ Kipuka database shows no historic sites, land awards, or crown lands involved. No comments were received by DLNR Aha Moku. No comments from the public.

- 2) The extent to which those resources, including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed action.

The Applicant stated, “Project BMPs will be monitored closely during construction to ensure that native stream fauna are not impacted by water quality impairments. Stream flow is to be maintained at all times so as not to impede stream passage of native species.”

CWRM Staff Response: Affected or impaired resources are minimal since the area is fully developed.

- 3) What feasible action, if any, could be taken by the Commission in regards to this application to reasonably protect native Hawaiian rights.

The Applicant stated, “In the event that evidence of cultural, historical, or traditional rights of Native Hawaiians is uncovered during construction, work will be halted and the DLNR-SHPD will be notified.”

CWRM Staff Response: No further action as identified.

HRS CHAPTER 343 – ENVIRONMENTAL ASSESSMENT (EA) COMPLIANCE

Under Hawaii Revised Statutes (HRS) §343-5(a), an EA shall be required for actions, as summarized in part below, that propose:

- (1) use of state land or county lands, or the use of state or county funds;
- (2) use within any land classified as a conservation district;
- (3) use within a shoreline area;
- (4) use within any historic site as designated in the National Register or Hawaii Register;
- (5) use within the Waikiki area of O‘ahu;
- (6) any amendments to existing county general plans where the amendment would result in designations other than agriculture, conservation, or preservation;
- (7) any reclassification of any land classified as a conservation district;
- (8) construction of new or the expansion or modification of existing helicopter facilities within the State, that may affect: (A) any land classified as a conservation district; (B) a shoreline area; or (C) any historic site as designated in the National Register or Hawaii Register;
- (9) any (A) wastewater treatment unit, except an individual wastewater system or a wastewater treatment unit serving fewer than fifty single-family dwellings or the equivalent; (B) Waste-to-energy facility; (C) Landfill; (D) Oil refinery; or (E) Power-generating facility.

The proposed action triggers an EA because it uses County funds. However, per Hawaii Administrative Rule (HAR) §11-200.1-15(a) some actions, because they will individually and cumulatively probably have minimal or no significant effects, can be declared exempt from the preparation of an EA.

The subject project is exempt from the preparation of an environmental assessment in accordance with Hawaii Administrative Rule §11-200.1-15(c)(2), Replacement or reconstruction of existing structures and facilities on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced; and §11-200.1-15(c)(3)(D), Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small equipment or facilities

and the alteration and modification of the equipment or facilities, including but not limited to: (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.

The subject project also falls within the types of projects included in the Comprehensive Exemption List (List) for the City and County of Honolulu, Department of Design and Construction, reviewed and concurred upon by the Environmental Council on September 1, 2020. Under General Type of Action 2, the List provides for the “Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced, including, but not limited to the following: 25. Essential utilities, including but not limited to wastewater systems, drainage systems, water systems, electrical systems, communication systems, irrigation systems, and fuel systems, except where a State Department of Health permit is required

Under General Type of Action 3, the List provides for the “Construction and location of single, new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small, equipment or facilities and the alteration and modification of the equipment or facilities, including but not limited to: 33. Retaining walls and slope retaining structures, except in shoreline areas

STAFF REVIEW

HAR §13-169-52 sets out the general criteria for ruling on SCAP applications.

(b) Based upon the findings of fact concerning an application for a stream channel alteration permit, the commission shall either approve in whole, approve in part, approve with modifications, or reject the application for a permit.

- (1) Channel alterations that would adversely affect the quantity and quality of the stream water or the stream ecology should be minimized or not be allowed.

CWRM Staff Response: Upon approval of the construction plans as proposed, the quantity of stream water is unchanged. The Hawaii Department of Health is the lead agency regarding water quality (HRS §174C-66). The project is expected to have a positive impact on native stream organisms with repair of the scoured area beneath the concrete apron with a stone/grout infill to eliminate the current overhang that native macrofauna might not otherwise be able to pass during upstream migration.

- (2) Where instream flow standards or interim instream flow standards have been established pursuant to subchapters 3 and 4, no permit shall be granted for any channel alteration which diminishes the quantity or quality of stream water below the minimum established to support identified instream uses, as expressed in the standards.

CWRM Staff Response: HRS §174C-71, requires the Commission to protect stream channels from alteration whenever practicable to provide for fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses. The current interim instream flow standard for Leeward O‘ahu is an unmeasured amount and the status quo of streamflow conditions on the effective date of this standard (1988), and as that flow may naturally vary throughout the year (HAR §13-169-49). The identified instream uses include fish habitat and streamflow contribution to the nearshore waters, among others. The water quantity and quality appear unchanged.

- (3) The proposed channel alterations should not interfere substantially and materially with existing instream or non-instream uses or with channel alterations previously permitted.

CWRM Staff Response: The proposed work plan should not interfere with instream or non-instream uses. There are five registered diversions located in the upper watershed of Mānoa valley and one registered diversion downstream. The downstream diversion is approximately 1.8 miles downstream of the project location and provides water to Ka Papa Lo ‘i O Kānewai at the University of Hawai‘i’s Hawai‘inuiākea School of Hawaiian Knowledge. This project is not anticipated to impact the availability of water to any diversions.

RECOMMENDATION

That the Commission:

1. Approve the Stream Channel Alteration Permit (SCAP.5383.3) Application subject to the standard conditions in **Exhibit 3** and special condition below.
 - a. Applicant shall formally submit project details, timeline, and potential impacts to the Mānoa Neighborhood Board No. 7 to communicate project information to the general public as best as possible.
 - b. Implement the following Best Management Practices (BMPs) recommended by the Department’s Division of Aquatic Resources during the demolition, repair, and construction activities to minimize the potential for erosion, siltation, pollution, and degradation of the aquatic environment.
 - 1) Stream bank areas denuded of vegetation should be planted or covered as quickly as possible to prevent erosion;
 - 2) Scheduling work activities during periods of minimal rainfall;
 - 3) Prevent construction materials, petroleum products, debris and landscaping products from falling, blowing or leaching into the aquatic environment; and,
 - 4) Minimize the disturbance and impacts to stream channel bottom and its substrate (cobble, boulders, etc.) as much as possible as these substrate are essential components of the habitat for the native stream biota.
 - c. Contractors will be required to follow federal guidelines regarding endangered species when working in the stream.

2. Find that SCAP.5383.3 is exempt from HRS, Chapter 343 (See **Exhibit 4**).

Ola i ka wai,

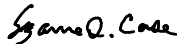


M. KALEO MANUEL
Deputy Director

Exhibits:

1. Federal Emergency Management Agency Certification of No-rise Determination
2. City and County of Honolulu Flood Hazard Districts Certification
3. Standard Stream Channel Alteration Permit and Stream Diversion Works Permit Conditions.
4. HRS Chapter 343 Exemption Notification.
5. Legal Authorities.

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson



Federal Emergency Management Agency
Washington, D.C. 20472

CERTIFICATION OF A "NO-RISE" DETERMINATION
FOR A PROPOSED FLOODWAY DEVELOPMENT

CITY & COUNTY OF HONOLULU

Community Name

MĀNOA STREAM FLOOD CONTROL PROJECT

Development Name

TMK: (2)2-9-66:43 & 2-9-44:64

Lot/Property Designation

COLIN & MICHELLE HIGUCHI

PEGGY BRANDT & MICHAEL LIU

Property Owner

I hereby certify that the proposed remedial measures, in combination with the property development designated above, will result in no loss of flow conveyance during the occurrence of the 1 percent annual chance of exceedence (100-year flood) discharge.

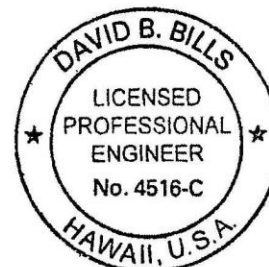
I further certify that the data submitted herewith in support of this request are accurate to the best of my knowledge, that the analyses have been performed correctly and in accordance with sound engineering practice, and that the proposed structural works are designed in accordance with sound engineering practice.

Date

9/30/2019

Registered Professional Engineer

Seal



FLOOD HAZARD DISTRICTS CERTIFICATION
(Section 21-9.10 of the Land Use Ordinance)

Projects and Improvements including repairs, maintenance, reconstruction, additions, and alterations pursuant to Sections 21-9.10-12 and 21-9.10-13 of the Land Use Ordinance, and other projects where standards do not fully apply except as required to be certified below.

PROJECTS IN FLOODWAY() COASTAL HIGH HAZARD() DISTRICTS (check one)

Project Description: MANOA STREAM FLOOD CONTROL PROJECT

Address: 2748 POELUA STREET

City: MANOA State HI Zip 96822

Tax Map Key: (1) 2-9-66:43 & 2-9-44:64

Section I – Flood Insurance Rate Map Information

COMMUNITY NO.	PANEL NO.	SUFFIX	DATE OF FIRM	FIRM ZONE	REGULATORY FLOOD ELEV. (in AO Zone use depth)	COMMUNITY ESTIMATED REG. FLOOD ELEVATION ESTABLISHED FOR ZONE A IF AVAILABLE
150001	0360	G	1/19/2011	AE	206	-

Section II – Certification Statement

I certify that based upon development and/or review of design, specifications, and plans for construction, the design and methods of construction are in accordance with accepted standards of practice and:

1. Within the Floodway District, the structures and improvements would not result in any increase of the regulatory flood levels.
2. Within the Coastal High Hazard District, the structures and improvements would not affect the regulatory flood nor aggravate existing flood-related erosion hazards.

Section III – Certification

This certification is conditioned upon the actual construction of the project being in strict accordance with the plans and specifications as stamped and signed by me.

Certifier's Name DAVID B. BILLS
(print or type)

Title PRESIDENT

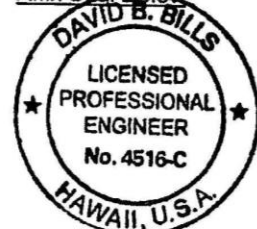
Company Name BILLS ENGINEERING INC.

Street Address 1124 FORT STREET MALL STE 200

City HONOLULU State HI Zip 96813

Signature *David B. Bills* Date 9/30/2019

Affix Seal Below



Engineer or
Architect

STANDARD STREAM CHANNEL ALTERATION PERMIT AND
STREAM DIVERSION WORKS PERMIT CONDITIONS
(Revised May 15, 2018)

1. The permit application and staff submittal approved by the Commission at its meeting on the above date shall be incorporated herein by reference.
2. The project may require other agency approvals regarding wetlands, water quality, grading, stockpiling, endangered species, and floodways. The permittee shall comply with all other applicable statutes, ordinances, and regulations of the Federal, State and county governments, including, but not limited to, instream flow standards.
3. The permittee, his successors, assigns, officers, employees, contractors, agents, and representatives, shall indemnify, defend, and hold the State of Hawaii harmless from and against any claim or demand for loss, liability, or damage including claims for property damage, personal injury, or death arising out of any act or omission of the permittee or his successors, assigns, officers, employees, contractors, and agents under this permit or related to the granting of this permit.
4. The permittee shall notify the Commission, by letter, of the actual dates of project initiation and completion. The permittee shall submit a set of as-built plans and photos in pdf format of the completed work to the Commission upon completion of this project. This permit may be revoked if work is not started within six (6) months after the date of approval or if work is suspended or abandoned for six (6) months, unless otherwise specified. The proposed work under this stream channel alteration permit shall be completed within two (2) years from the date of permit approval, unless otherwise specified. The permit may be extended by the Commission upon showing of good cause and good-faith performance. A request to extend the permit shall be submitted to the Commission no later than three (3) months prior to the date the permit expires. If the commencement or completion date is not met, the Commission may revoke the permit after giving the permittee notice of the proposed action and an opportunity to be heard.
5. Before proceeding with any work authorized by the Commission, the permittee shall submit one set of construction plans and specifications in PDF format to determine consistency with the conditions of the permit and the declarations set forth in the permit application.
6. The permittee shall implement site-specific, construction Best Management Practices in consultation with the DOH Clean Water Branch and other agencies as applicable, that are designed, implemented, operated, and maintained by the permittee and its contractor to properly isolate and confine activities and to contain and prevent any potential pollutant(s) discharges from adversely impacting State waters per HRS Ch. 342D Water Pollution; HAR §11-54-1 through §11-54-8 Water Quality Standards; and HAR Ch. 11-55 Water Pollution Control, Appendix C.
7. The permittee shall protect and preserve the natural character of the stream bank and stream bed to the greatest extent possible. The permittee shall plant or cover lands denuded of vegetation as quickly as possible to prevent erosion and use native plant species common to riparian environments to improve the habitat quality of the stream environment.
8. In the event that subsurface cultural remains such as artifacts, burials or deposits of shells or charcoal are encountered during excavation work, the permittee shall stop work in the area of the find and contact the Department's Historic Preservation Division immediately. Work may commence only after written concurrence by the State Historic Preservation Division.

EXHIBIT 3

CHAPTER 343 HRS EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200.1, HAR.

Project Title:	Stream Channel Alteration Permit Application (SCAP.5383.2) by the City and County of Honolulu for the Installation of an Anchored Gabion Retaining Wall
Project / Reference No.:	SCAP.5383.2
Project Location:	TMK: (1) 2-9-044:064; 2-9-066:042 and 043. Mānoa Stream, O‘ahu.
Project Description:	Construction of an anchored gabion wall along the side slope just downstream of the outlet; Demolition and replacement of the concrete apron below the 84-inch x 36-inch concrete box culvert outlet. This includes repair of the scoured area beneath the concrete apron with a stone/grout infill; and construction of a concrete cutoff wall; Installation of scour protection below the new cutoff wall consisting of gabion units; Repair of the damaged grouted rubble paving (GRP) lining along the existing concrete outfall. Missing GRP is to be replaced at the edge of the outfall, GRP is to be installed from the concrete outfall to the edge of the gabions.
Chap. 343 Trigger(s):	(1) Use of county funds.
Exemption Class No(s).:	Hawaii Administrative Rule §11-200.1-15(c)(2), Replacement or reconstruction of existing structures and facilities on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced; and §11-200.1-15(c)(3)(D), Construction and location of single new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small equipment or facilities and the alteration and modification of the equipment or facilities, including but not limited to: (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.
Cumulative Impact of Actions in Same Place Significant?:	No cumulative impact of actions in the same place.
Action May Have Significant Impact on Particularly Sensitive Environment?:	No particularly sensitive environments present, or anticipated impacts if they are present.

Analysis: Based on project description above, the construction is low impact with a minimal footprint and improves instream flow values.

Consulted Parties: DLNR Division of Aquatic Resources
DLNR Division of Forestry and Wildlife

Declaration: The Commission finds that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment under the exemption classes identified above.

Suzanne D. Case, Chairperson

Date

LEGAL AUTHORITIES

Water as a Public Trust. The four public trust purposes are:

1. Maintenance of waters in their natural state;
2. Domestic water use of the general public, particularly drinking water;
3. The exercise of Native Hawaiian and traditional and customary rights, including appurtenant rights. *Waiahole*, 94 Hawaii 97; 9 P.3d 409 (2000).
4. Reservations of water for use on Hawaiian home lands. *Waiola O Molokai, Inc.*, 103 Hawaii 401; 83 P.3d 664 (2004).

Activities on undeveloped lands. *Public Access Shoreline Hawaii v. Hawaii County Planning Commission (PASH I)*. 79 Hawaii 246 (1993).

HRS §174C-71 Protection of instream uses. The commission shall establish and administer a statewide instream use protection program. In carrying out this part, the commission shall cooperate with the United States government or any of its agencies, other state agencies, and the county governments and any of their agencies. In the performance of its duties the commission shall:

- (2) Establish interim instream flow standards;
 - (D) In considering a petition to adopt an interim instream flow standard, the commission shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water for non-instream purposes, including the economic impact of restricting such uses;
- (3) Protect stream channels from alteration whenever practicable to provide for fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses;
 - (A) The commission shall require persons to obtain a permit from the commission prior to undertaking a stream channel alteration; provided that routine streambed and drainageway maintenance activities and maintenance of existing facilities are exempt from obtaining a permit;
 - (C) The commission shall establish guidelines for processing and considering applications for stream channel alterations consistent with section 174C-93;

HRS §174C-93 Permits for construction or alteration. No person shall construct or alter a stream diversion works, other than in the course of normal maintenance, without first obtaining a permit from the commission.

HAR §13-169-2 Definitions.

“Channel alteration” means to obstruct, diminish, destroy, modify, or relocate a stream channel; to change the direction of flow of water in a stream channel; to place any material or structures in a stream channel; or to remove any material or structures from a stream channel.

“Stream channel” means a natural or artificial watercourse with a definite bed and banks which periodically or continuously contains flowing water.

HAR §13-169-49 Interim instream flow standard for Leeward Oahu. The Interim Instream Flow Standard for all streams on Leeward Oahu, as adopted by the commission on water resource

management on October 19, 1988, shall be that amount of water flowing in each stream on the effective date of this standard, and as that flow may naturally vary throughout the year and from year to year without further amounts of water being diverted offstream through new or expanded diversions, and under the stream conditions existing on the effective date of the standard.

HAR §13-169-50 Permit required. (a) Stream channels shall be protected from alteration whenever practicable to provide for fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses. No stream channel shall be altered until an application for a permit to undertake the work has been filed and a permit is issued by the commission; provided that routine streambed and drainageway maintenance activities and maintenance of existing facilities are exempt from obtaining a permit.

HAR §13-169-52 Criteria for ruling on application. (a) The commission shall act upon an application within ninety calendar days after acceptance of the application.

(b) Based upon the findings of fact concerning an application for a stream channel alteration permit, the commission shall either approve in whole, approve in part, approve with modifications, or reject the application for a permit.

(c) In reviewing an application for a permit, the commission shall cooperate with persons having direct interest in the channel alteration and be guided by the following general considerations:

- (1) Channel alterations that would adversely affect the quantity and quality of the stream water or the stream ecology should be minimized or not be allowed.
- (2) Where instream flow standards or interim instream flow standards have been established pursuant to subchapters 3 and 4, no permit shall be granted for any channel alteration which diminishes the quantity or quality of stream water below the minimum established to support identified instream uses, as expressed in the standards.
- (3) The proposed channel alteration should not interfere substantially and materially with existing instream or non-instream uses or with channel alterations previously permitted.

(c) Notwithstanding subparagraph (b) above, the commission may approve a permit pursuant to subparagraph (a) above in those situations where it is clear that the best interest of the public will be served, as determined by the commission.

HAR §13-169-53 Term of permit. (a) Every permit approved and issued by the commission shall be for a specified period, not to exceed two years, unless otherwise specified in the permit.