

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

May 25, 2012

OAHU

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Request That the Board of Land and Natural Resource (Board) Authorize the Extension of a Construction and Management Right-of-Entry For a Temporary Sewage Bypass Line to be Placed Within the Ala Wai Canal to the City and County of Honolulu (CCH), Waikiki, Honolulu, Hawaii, Tax Map Key: (1) 2-3-034:, 035:, 036:, 037:, (1) 2-7-036:, (1) 2-6-017 and any other State Lands Adjacent and Within the Ala Wai Canal Surrounding Area

APPLICANT:

The CCH, by its Department of Design and Construction, whose business and mailing address is 650 S. King Street, Honolulu, Hawaii, 96813.

REQUEST:

Extension of Construction and Management Right-of-Entry
Letter of request for extension from CCH, EXHIBIT A

LEGAL REFERENCE:

Sections 171-13 & 55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of the Ala Wai Canal situated at Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 2-3-34:, 35, 36, 37; (1) 2-7-036, and (1) 2-6-017

AREA:

1.7 acres, more or less

ITEM J-3

ZONING:

State Land Use District: Urban
CCH LUO: Waikiki Special District, Diamond Head Special District, Public
Precinct, P-2 (General Preservation)

TRUST LAND STATUS:

Section 5(a) and (b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:
YES: _ NO: X

CURRENT USE STATUS:

Vacant and Unencumbered

CHARACTER OF USE:

Right, privilege, and authority to construct, use, maintain, and repair a Right-of-Way
over, under and across State-owned land for a temporary sewage transmission line.

TERM OF EXTENSION:

June 1, 2012 to December 31, 2013

CONSIDERATION:

Gratis

CHAPTER 343- ENVIRONMENTAL ASSESSMENT:

At the time of the emergency the CCH was prepared to move ahead with an
Environmental Assessment. The Governor issued a Proclamation on May 24, 2006 that
suspended the requirement of Chapter 343, allowing for the installation of the emergency
temporary construction of the sewage bypass line. The Governor's Proclamation is
attached as EXHIBIT B.

REMARKS:

On March of 2006, the existing Beachwalk force main ruptured under Kaiolu Street, and
the CCH diverted approximately 48 million gallons of raw wastewater into the Ala Wai
Canal. To avoid a reoccurrence and allow for permanent repairs to take place on the
existing Beachwalk force main, an Emergency Temporary Bypass Line was constructed
and installed by the City and CCH, Department of Design and Construction.

A Construction and Management Right-of-Entry (ROE) and easement were approved by the Board on May, 26, 2006, under J-1 with various requirements. The ROE dated June 5, 2006 was issued to the CCH. The ROE is attached as EXHIBIT C.

The CCH is in the process of completing the installation of the new permanent 42 inch sewage line which runs directly under and across the Ala Wai Canal to its mauka bank. Once across, this new permanent line continues on a path along the Canal's mauka bank underground until nearing McCully Street. The new permanent line then crosses under the bottom of the Canal and continues on a path along Ala Wai Boulevard until nearing Ala Moana Boulevard. The new permanent line then crosses under the bottom of the Canal and continues underground to terminate at the existing discharge manhole near the Moana Park Pump Station.

The temporary line was planned to be in place for approximately 5-6 years during the project, with the ROE terminating on June 1, 2012. The project is still unfinished at this time and has experienced delay in the last segment. The CCH has requested an extension of the ROE to December 31, 2013 so as to complete the project. Once the new permanent 42 inch sewage line is installed, the temporary bypass line will be removed in its entirety and any other related items. The ROE provided that an extension may be granted only by written request from the CCH and subsequent approval from the Board. The CCH has complied with this requirement and provided written request to the Department of Land and Natural Resources.

In regard to the permanent Beachwalk force main, on November 19, 2009, under Item D-11, the Board approved a perpetual easement and granted a ROE for sewer main purposes for the Beachwalk force main. The Department of Land and Natural Resources is in the process of working with the CCH to provide easements for any permanent portions of the new pipeline.

At the onset of the project, the State Historic Preservation Division (SHPD) provided comments regarding archaeological mitigation measures associated with the proposed undertaking. Specifically, SHPD recommended archaeological monitoring of all subsurface excavation below the existing road base coarse layers and made note that the walls of the Ala Wai canal were understood to be historic. The CCH acknowledged that care will continue to be taken in the final removal of temporary improvements.

In recent weeks, a portion of the bypass line has floated to the surface. The CCH is in the process of securing it to the original position.

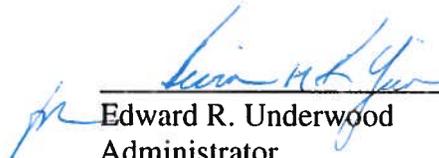
Staff recommends the board authorize the extension to the ROE to complete the project and requests the Board authorize the Chairperson to approve further amendments to the ROE and extension should it be necessary in the best interest of the State.

RECOMMENDATION:

That the Board authorize an extension of the Construction and Management Right-of-Entry Permit to CCH covering the subject area under the terms and conditions, which are by this reference incorporated herein and further subject to the following:

1. The City and County of Honolulu understands that all terms of the Construction and Management Right-of-Entry Permit remain intact. The Right-of-Entry for all portions of the Temporary Sewage Bypass Line will now terminate on December 31, 2013 at which time all temporary improvements related to the project shall be removed from the Ala Wai Canal. Should there be any unforeseen delay in the extended term, CCH must immediately contact the Department of Land and Natural Resources.
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL:



William J. Aila Jr.
Chairperson

JAN 31 2012

COPY

WD.PDW 12-016

January 27, 2012

Mr. Russell Tsuji, Administrator
Land Division
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Tsuji:

**Subject: Construction and Management Right-of-Entry
Temporary Sewage Bypass Line within the Ala Wai Canal
Request of Extension of Termination Date**

We respectfully request an extension of the June 1, 2012 termination date of the enclosed Construction and Management Right-of-Entry for a Temporary Sewage Bypass Line within the Ala Wai Canal.

In March of 2006, the City's existing Beachwalk force main ruptured and caused approximately 48 million gallons of raw wastewater to be diverted into the Ala Wai Canal. In order to avoid another catastrophic diversion, the City installed, by emergency procurement provisions, the subject temporary sewage bypass line. The temporary sewage bypass line was intended to remain in place for 5 to 6 years, until the construction of a permanent force main was completed.

The construction of the permanent force main began in late 2009, and the anticipated construction completion date was June 2012. At this time, the majority of the permanent force main piping is installed, but the installation of the last segment of the permanent force main has experienced a recent delay that will extend the completion date of the construction of the permanent force main, and the removal of the temporary sewage bypass line, past June 2012. At this time, the firm construction completion date is being determined, but please be assured that it is important to our Department to complete the construction of the permanent force main, and remove the temporary sewage bypass line, as soon as possible.

EXHIBIT A

Mr. Russell Tsuji
January 27, 2012
Page 2

We respectfully request that the termination date of the subject construction and management right-of-entry be extended to December 31, 2013.

Please contact Cindy Masuoka of our Wastewater Division at 768-8761 if there are any questions, or if further information is needed.

Very truly yours,

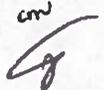


Lori M. K. Kahikina, P.E.
FOH Director

Enclosure

c. Ms. Mary Browne, Land Division
Wastewater Division, Construction Branch (Jon Yamane)

CM: jp

cmj


OFFICE OF THE GOVERNOR
STATE OF HAWAII

PROCLAMATION

By the authority vested in me as Governor by the Constitution and laws of the State of Hawaii, in order to protect the health, safety, and welfare of the people, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine, designate, and proclaim as follows:

WHEREAS, on or about March 24, 2006, the City and County of Honolulu's existing Beachwalk sewer force main ruptured;

WHEREAS, beginning on or about March 24, 2006, and continuing for several days thereafter raw wastewater, totaling tens of millions of gallons, was diverted into the Ala Wai Canal and flowed into the ocean, degrading water quality at Waikiki and other beaches in the area;

WHEREAS, in order to avert another catastrophic diversion of wastewater, the City and County of Honolulu intends to install, by emergency procurement provisions, a temporary construction bypass of the Beachwalk force main;

WHEREAS, in order to avert another catastrophic diversion of wastewater, the City and County of Honolulu would like to begin construction immediately and complete the installation of the temporary construction bypass of the Beachwalk force main by January 2007;

WHEREAS, the City and County of Honolulu intends to use the temporary construction bypass as a backup force main that would remain in place for up to five to six years, until permanent and redundant force mains are in place;

WHEREAS, the rupture of the Beachwalk sewer force main and wastewater diversion created extraordinary conditions that may, if repeated, endanger the health and safety of the

people in the City and County of Honolulu, and harm the economy of Hawaii, and therefore emergency action is necessary;

WHEREAS, certain existing laws may delay the City and County's ability to avert another catastrophic diversion of wastewater by installing the temporary construction bypass and therefore are inconsistent with assuring the public health and safety;

WHEREAS, section 127-10, Hawaii Revised Statutes, provides that when sections 127-1 to 127-9, Hawaii Revised Statutes (pertaining to disaster relief), are not in effect, the Governor may exercise any and all powers that relate to disasters, as contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief;

WHEREAS, because sections 127-1 to 127-9, Hawaii Revised Statutes, have been indefinitely suspended, the Governor may exercise any and all of the Governor's powers contained in chapter 128, Hawaii Revised Statutes, in order to provide other disaster relief, and during the applicable civil defense emergency period, the provisions set forth in chapter 128, Hawaii Revised Statutes, are made applicable to other disaster relief;

WHEREAS, in accordance with section 127-10, Hawaii Revised Statutes, "other disaster relief" means "the preparation for and the carrying out of all functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters caused by fire, flood, tidal wave, volcanic eruption, earthquake, or other natural causes and major disasters caused by acts of man, including but not limited to, massive oil spills, nuclear accidents, airplane crashes, and civil disturbances;"

WHEREAS, pursuant to section 128-8(4), Hawaii Revised Statutes, the Governor is authorized to suspend any law which impedes or tends to impede, or be detrimental to or conflict with, the expeditious and efficient execution of civil defense or other emergency functions;

WHEREAS, pursuant to section 128-9(8), Hawaii Revised Statutes, the Governor is further authorized to relieve hardship and inequities, or obstructions to the public health, safety,

and welfare, found by the Governor to exist in the laws by suspending laws in whole or in part, or by alleviating the provisions of laws on such terms and conditions as the Governor may impose;

WHEREAS, pursuant to section 128-10(9), Hawaii Revised Statutes, the Governor is further authorized to provide for the repair and maintenance of public property, whenever adequate provision therefor is not otherwise made and to make temporary restoration of public utilities and other vital facilities in the event of an attack or other disaster;

WHEREAS, pursuant to section 128-10(10), Hawaii Revised Statutes, the Governor may suspend chapter 103D and section 103-50, section 103-53, section 103-55, section 105-1 to section 105-10 and section 464-4, Hawaii Revised Statutes, if the Governor finds that these provisions, in whole or in part, impede or tend to impede the expeditious discharge of civil defense and other emergency functions, including the performance of emergency disaster relief functions, or that compliance is impracticable due to existing conditions; and

WHEREAS, pursuant to section 128-10(15), Hawaii Revised Statutes, the Governor is further authorized to take any and all steps necessary or appropriate to carry out the civil defense and other emergency functions,

NOW THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, hereby determine that a danger or threat of disaster contemplated by chapters 127 and 128, Hawaii Revised Statutes, exists in the City and County of Honolulu, State of Hawaii, and:

I. Proclamation of disaster. Do hereby proclaim the City and County of Honolulu to be a disaster area and hereby authorize and invoke the following measures under Hawaii Revised Statutes;

II. Exercise of emergency relief powers. Do hereby declare that all preconditions for exercising the powers and authority granted to me under section 127-10, section 128-8(4), section 128-9(8), section 128-10(5), section 128-10(6), section 128-10(9), section 128-10(10),

and section 128-10(15), Hawaii Revised Statutes, have been found and satisfied, and that I hereby exercise such powers and authority in relation to this disaster; and

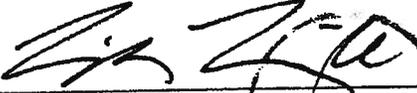
III. Implementation of specific measures. In order to provide the expeditious and efficient performance, execution, and implementation of disaster relief and other emergency functions, pursuant to and in accordance with section 128-8(4), section 128-9(8), section 128-10(5), section 128-10(6), section 128-10(9), section 128-10(10), and section 128-10(15), Hawaii Revised Statutes, I hereby suspend, as allowed by federal law and as they apply to the political subdivision of the City and County of Honolulu in the installation of the temporary construction bypass of the Beachwalk force main, the following sections of State law to the extent necessary to significantly reduce the danger of another catastrophic diversion of wastewater by facilitating the prompt installation of the temporary construction bypass of the Beachwalk force main:

1. Chapter 6E, **historic preservation, except for those provisions regarding burial sites.**
2. Chapter 46, **county organization and administration.**
3. Chapter 174C, **state water code.**
4. Chapter 205A, **coastal zone management.**
5. Chapter 264, **highways.**
6. Chapter 342B, **air pollution control.**
7. Chapter 342D, **water pollution, along with the administrative rules adopted under its authority, provided that this suspension does not authorize further discharges of wastewater into State waters.**
8. Chapter 342F, **noise pollution.**
9. Chapter 343, **environmental impact statement.**
10. Chapter 286, **highway safety.**
11. Chapter 180C, **soil erosion and sediment control.**
12. Chapter 183, **forest reserves, water development, zoning.**
13. Chapter 195, **natural areas reserves system.**

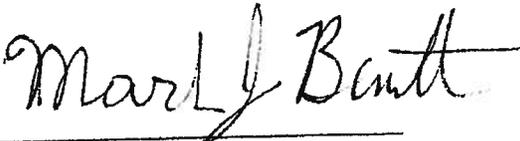
IV. Pursuant to and in accordance with section 128-10(5), Hawaii Revised Statutes, I hereby direct, in order to provide emergency functions, all state agencies and officers to cooperate with and extend their services, materials, and facilities as may be required to assist in all efforts to reduce significantly the potential danger of another catastrophic diversion of wastewater.

V. I FURTHER DECLARE that for the City and County of Honolulu, State of Hawaii, a civil defense emergency relief period in order to implement such measures as may be necessary to reduce significantly the danger of another catastrophic diversion of wastewater, shall commence on this 24th day of May, 2006, and shall continue through January 31, 2007.

Done in the City and County of Honolulu,
State Capitol, this 24th day of May, 2006.


LINDA LINGSEAL
Governor of Hawaii

APPROVED AS TO FORM:


MARK J. BENNETT
Attorney General
State of Hawaii

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

Kalanimoku Building
1151 Punchbowl St.
Honolulu, HI 96813
June 5, 2006

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAROO LAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ms. Cindy M. Masuoka P.E.
Mr. Guy M. Inouye P.E.
City and County of Honolulu
Department of Design and Construction
650 S. King Street
Honolulu, Hawaii 96813

Subject: Construction and Management Right-of-Entry for a Temporary Sewage Bypass Line to be Place within Ala Wai Canal to the City and County of Honolulu, Waikiki, Honolulu, Hawaii, Tax Map Key: (1) 2-3-034:, 035:, 036:, 037:, (1) 2-7-036::, (1) 2-6-017 Any Other State Lands Adjacent and Within the Ala Wai Canal Surrounding Area

Dear Ms. Masuoka and Mr. Inouye:

The Board of land and Natural Resources on May 26, 2006, under agenda Item J-1, approved your request for a Temporary and Permanent non-exclusive easement for a sewage transmission line and a Construction and Management right-of-entry.

Briefly, the City and County of Honolulu (hereinafter referred to as CCH), Department of Design and Construction is currently planning to install an Emergency Temporary Construction Bypass Sewage Line for the existing Beachwalk force main. This line will originate on the makai bank of the Ala Wai Canal through a series of portable pumps, and then at a point near Kaiolu Street, shall enter the water of the canal and run across its bottom. The line will exit the water at a point on the mauka side and then return to the water and be placed on the bottom at its deepest point to allow for at minimum (3) three feet of clearance at lowest tide over the positioned pipe. This shall allow for motorized vessels and canoes to safely pass over the pipe. The alignment will run along its bottom and exit at a point directly alongside the makai side of Ala Moana Bridge. From this point it will proceed toward the Moana Pump station. See Exhibit A.

The Governor's Emergency Proclamation waives the normal permit and approval process of County and State agencies, so that the Ala Wai Bypass Sewage Line project can be

PRELIM. APPR'D.
Department of the
Attorney General

EXHIBIT C

expedited. We recommend that CCH still continue open consultation with all County and State agencies.

The State Division of Historical Preservation has stated that the walls of the canal are historic in nature and the utmost care be taken.

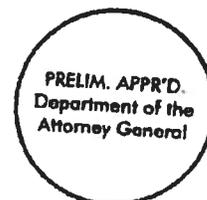
Pursuant to the authority granted by the Board of Land and Natural Resources at its meeting of May 26, 2006 (ItemJ-1), CCH is hereby granted a Right-of-Entry, in the areas shown on the attached map, subject to the following terms and conditions:

1. CCH shall be required to obtain all appropriate Federal, State, and County required permits.
2. CCH shall be solely responsible for the maintenance and cleaning of all construction areas, debris, and inclusive shall be the monitoring of the project area within the waters within the Ala Wai Canal for the term of the construction project.
3. CCH shall be solely responsible for the immediate removal of any debris that comes down the Ala Wai canal and lodges in anyway with the Temporary Sewage Bypass in anyway or related improvements during the entire term the pipe is in the Ala Wai canal.
4. CCH understands that the Department of Land and Natural Resources (DLNR) has approximately \$3-million budgeted for future dredging of the Ala Wai Canal. If such dredging project is adversely affected by the presence of the emergency temporary bypass line, the CCH will be responsible for and will promptly pay additional costs incurred, up to \$1-million. The Chairperson is authorized to negotiate a Memorandum of Agreement with the appropriate parties, with the terms and conditions subject to the review and approval by the Department of the Attorney General.
5. CCH understands that DLNR is currently conducting an Ala Wai Watershed Study in partnership with the U.S. Army Corps of Engineers. The CCH also understands that any improvements proposed in the canal as a result of this study may conflict with the emergency temporary bypass. The CCH further understands that they shall be solely responsible to resolve any conflict that occurs between their Temporary Bypass Project and any DLNR projects.
6. CCH understands that the Non-Exclusive Easement or Construction and Management Right of entry permit inclusive of all portions of the Temporary Sewage Bypass Line will terminate on June 1, 2012 at which time all temporary improvements related to the emergency Temporary Bypass portion shall be removed from the Ala Wai Canal. The CCH also



understands that an extension may be granted only by written request from the CCH and subsequent approval from the Board of Land and Natural Resources. This request must be made at minimum of ninety (90) days in advance of the termination date.

7. This Construction and Management Right-of-Entry shall be effective from June 1, 2006 to June 1, 2012.
8. CCH shall insure that its consultants, contractors and/or persons acting for or on its behalf shall procure, at their own cost and expense, and maintain during the entire period of this right-of-entry, from an insurance company or companies licensed to do business in the State of Hawaii, a policy or policies of comprehensive public liability insurance, in an amount acceptable to the Department (\$500,000 per incident/\$1,000,000 aggregate) insuring the State of Hawaii against all claims for personal injury, death, and property damage; that said policy shall cover the entire right-of-entry area, including all improvements and grounds and all roadways or sidewalks on or adjacent to the said right-of-entry area in the control or use by its consultants, contractors and/or persons acting for or on its behalf. CCH shall insure that its consultants, contractor and/or persons acting for or on its behalf furnish the Department with a Certificate showing the policy to be initially in force and shall furnish a like Certificate upon each renewal of the policy, each Certificate to contain or be accompanied by an assurance of the insurer to notify the Department of any intention to cancel any policy sixty (60) calendar days prior to actual cancellation. The procuring of this policy shall not release or relieve CCH, its consultants, contractor and/or persons acting for or on its behalf of its responsibility under this right-of-entry as set forth herein or limit the amount of its liability under this right-of-entry.
9. CCH, its consultants, contractors and/or persons acting for or on its behalf shall comply with all laws, statutes, ordinances, rules and regulations of the Federal, State, and County governments relative to the use of the subject area or rights granted herein or Right-of-Entry area including those relating to public health.
10. CCH, its consultants, contractors and/or persons acting for or on its behalf shall indemnify, defend and hold harmless the State of Hawaii, Department of Land and Natural Resources from and against any loss, liability, claim or demand for property damage, personal injury, and death arising out of any act or omission of CCH, its consultants, contractors and/or persons acting for or on its behalf, under this approval or relating to or connected with the granting of this approval. This covenant shall survive the expiration or earlier termination of this right-of-entry.



11. CCH, its consultants, contractors and/or persons acting for or on its behalf shall not cause or permit the escape, disposal or release of any hazardous materials except as permitted by law. CCH, its consultants, contractors and/or persons acting for or on its behalf shall not allow the storage or use of such materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of such materials, nor allow it to be brought onto the Right-of-Entry area any such materials except to use in the ordinary course of business. CCH, its consultants, contractors and/or persons acting for or on its behalf and then only after written notice is given to the State of the identity of such materials and upon the State's consent which may be withheld at the State's sole and absolute discretion. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by CCH, its consultants, contractors and/or persons acting for or on its behalf, then CCH, its consultants, contractors and/or persons acting for or on its behalf, shall be responsible for the cost thereof. In addition, CCH, its consultants, contractors, and/or persons acting for or on its behalf shall execute affidavits, representations and the like from time to time at the State's request concerning the best knowledge and belief of CCH, its consultants, contractors and/or persons acting for or on its behalf, regarding the presence of hazardous materials on the right-of-entry area placed or released by CCH, its consultants, contractors and/or persons acting for or on its behalf. This covenant shall survive the expiration or earlier termination of this right-of-entry.

12. CCH, its consultants, contractors and/or persons acting for or on its behalf agree to indemnify, defend and hold the State harmless, from any damages and claims resulting from the release of hazardous materials on the right-of-entry area occurring while CCH, its consultants, contractors and/or persons acting for or on its behalf are in possession or elsewhere if caused by CCH, its consultants, contractors and/or persons acting for or on its behalf. This covenant shall survive the expiration or earlier termination of this right-of-entry.

For purposes of this right-of-entry, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous substance, or oil as defined in pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Clean Water Act, or any ordinance, rule, or by-law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

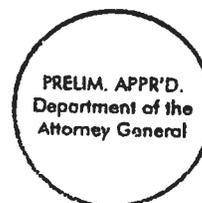
PRELIM. APPR'D.
Department of the
Attorney General

13. CCH, its consultants, contractors and/or persons acting for or on its behalf in the exercise of this right-of-entry shall use appropriate precautions and measures to minimize inconveniences to surrounding residents, landowners, and the public in general.
14. In the event any unanticipated sites or remains such as bone or charcoal deposits, human burials, rock or coral alignments, paving or walls are encountered, and its consultants, contractors and/or persons acting for or on its behalf in the exercise of this Right-of-Entry shall stop work and contact the State Historic Preservation Division in Kapolei at (808) 692-8015 immediately as part of the Archeological Monitoring Plan.
15. Compliance with Historic State Preservation Letters dated May 19, 2006, and June 5, 2006. See attached letter Exhibit B and C.
16. All disputes or questions arising under this right-of-entry shall be referred to the Chairperson of the Board of Land and Natural Resources for a determination and resolution of the dispute or question. The Chairperson's decision shall be final and binding on the parties herein.
17. This Right-of-Entry is revocable and terminable at anytime for any reason in the sole and absolute discretion of the Chairperson.
18. This Right-of-Entry or any rights hereunder shall not be sold, assigned, conveyed, leased, let, mortgaged or otherwise transferred or disposed.
19. The Department of Land and Natural Resources reserves the right to impose additional, but responsible terms and conditions as It deems necessary while this Right-of-Entry is in force.

Should you have no objections to the above-mentioned items, kindly sign in the space provided below and submit your signed concurrence to the Division of Boating and Ocean Recreation, 333 Queen Street, Suite 300, Honolulu, Hawaii, 96813. If you have additional questions, please contact Mr. William Andrews, Property Manager at (808) 587-1978.

Sincerely,


Chairperson



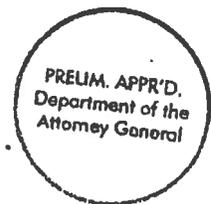
WE CONCUR:

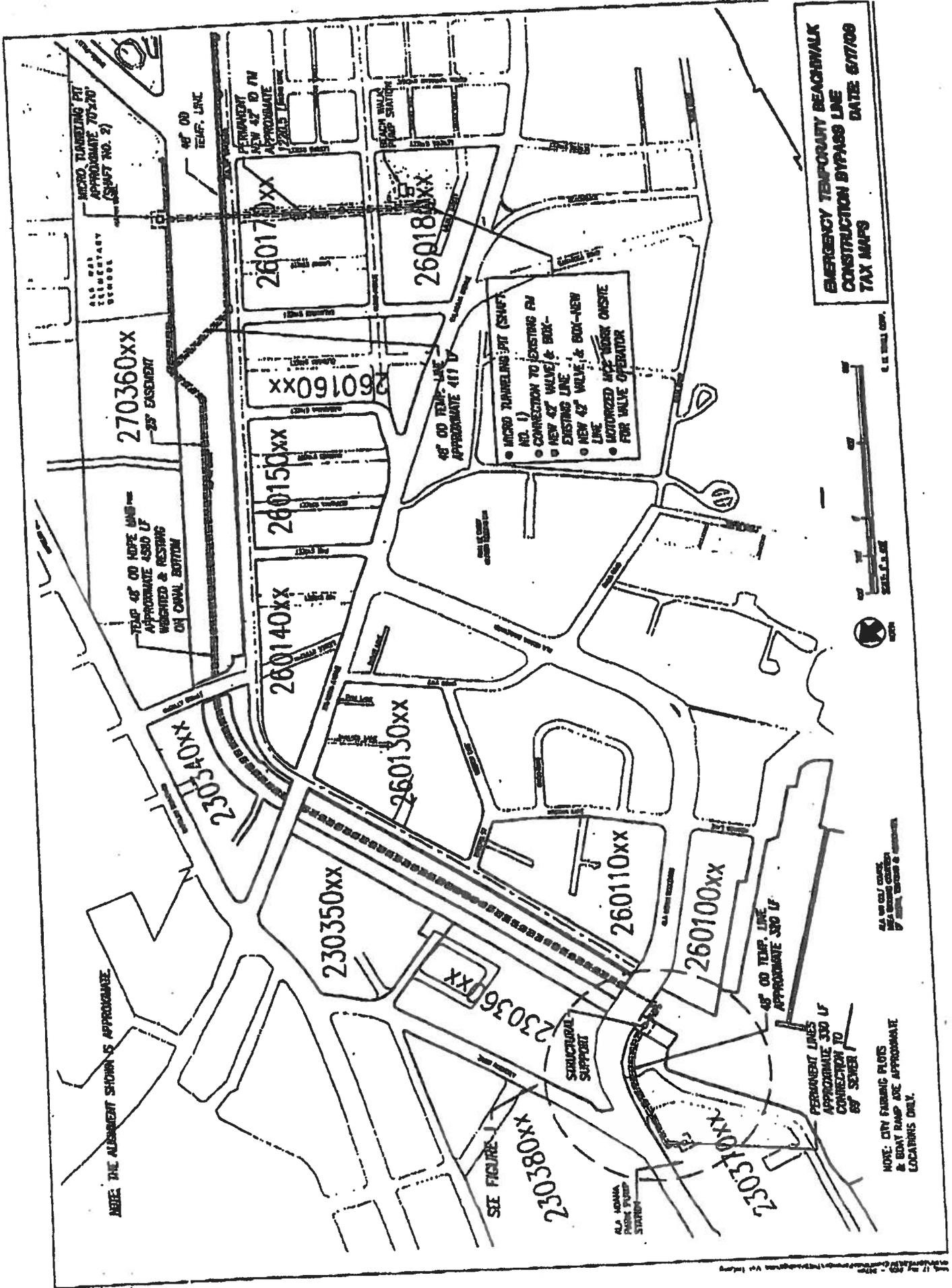
Angela C. Chen
City and County of Honolulu
By its: *Deputy Director*
Dated: JUN 7 2006

APPROVED AS TO FORM:

[Signature]
Deputy Attorney General
Dated: 6/7/06

cc: Land Board Member
BOR
BOR-PM
BOR-O





**EMERGENCY TEMPORARY BEACHWALK
CONSTRUCTION BYPASS LINE
TAX MAPS**
DATE 6/7/08

- MICRO TUNNELING PIT (SNFV NO. 1)
- CONNECTION TO EXISTING PM
- NEW 42" VALVE & BOX-EXISTING LINE
- NEW 42" VALVE & BOX-NEW LINE
- AUTORIZED WPC WORK ON-SITE FOR VALVE OPERATOR



ALL UNCOLL CODED
DATA BEING CORRECTED
BY THIS, THROUGH & OTHERWISE

NOTE: CITY FARMING PLOTS
& BONY RAMP USE APPROXIMATE
LOCATIONS ONLY.

NOTE: THE ALIGNMENT SHOWN IS APPROXIMATE.

TEMP 48" OD HOPE LINE
APPROXIMATE 4500 LF
WELDED & RESTING
ON OVAL BOTTOM

230340xx

260140xx

260150xx

260160xx

260170xx

260150xx

230350xx

230360xx

230380xx

260110xx

260100xx

270370xx

270360xx

260180xx

MICRO TUNNELING PIT
APPROXIMATE 70'x50'
(SNFV NO. 2)

48" OD
TEMP. LINE

PERMANENT
NEW 42" OD PM
APPROXIMATE

BEACH WALK
PUMP STATION

48" OD TEMP. LINE
APPROXIMATE 411 LF

48" OD TEMP. LINE
APPROXIMATE 380 LF

PERMANENT LINES
APPROXIMATE 330 LF
CONNECTION TO
BY SEWER

A.L. HONMA
PUMP STATION

STRUCTURAL
SUPPORT

SEE FIGURE 1

LINDA LINGLE
GOVERNOR OF HAWAII



PETITION
CHAUFFEUR
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

ROBERT K. MASUDA
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

May 19, 2006

Mr. Peter Young
Chairperson
Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawai'i 96809

LOG NO: 2006.1559
DOC NO: 0605CM35
Archaeology

Dear Mr. Young:

**SUBJECT: Chapter 6E-8 Historic Preservation Review [State] -
Emergency Temporary Beachwalk Construction Bypass Line
Waikiki Ahupua'a, Honolulu [Kona] District, Island of O'ahu
TMK: (1) 2-6-various plats & parcels**

Thank you for the opportunity to review the aforementioned project. We received your documents, including a brief cover letter and enclosures, on May 18, 2006. The proposed undertaking consists of installing an emergency bypass for wastewater removal between the Beachwalk Wastewater Pumping Station (WWPS) to the Ala Moana WWPS. Our review of this project is based on resources available at the State Historic Preservation Division (SHPD). No site inspection was conducted.

According to the provided documents, most of the sewer pipe for this project will be installed using 'microtunneling' (also known as 'direction drilling') technology, which will minimize the amount of open-trenching. Based on our experience, multiple 'jacking' and 'receiving' pits will need to be excavated in support of microtunneling. We believe other open-trench excavation will need to be conducted in other portions of the project area (e.g., vicinity of Ala Moana Park Drive).

Given the well-documented presence of subsurface sites and features in the vicinity of the project area, including numerous burials and evidence of Pre-Contact Hawaiian activities, we have determined that the proposed undertaking may have adverse effects on historically-significant sites that may be present below the ground surface. For these reasons, we recommend archaeological monitoring of all open-trench excavation below the road base-course layers.

Please submit an archaeological monitoring plan (AMP), which we will review immediately upon receipt, in order to expedite the historic preservation review process. Please instruct the archaeological contractor to contact the State Historic Preservation Division (SHPD) as soon as possible.

An acceptable AMP must contain the following nine (9) specifications: (1) the kinds of remains that are anticipated and where in the construction area the remains are likely to be found; (2) How the remains and deposits will be documented; (3) How the expected types of remains will be treated; (4) The monitoring archaeologist has the authority to halt construction in the immediate area of the find in order to carry out

EXHIBIT E

Mr. Young
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the plan; (5) A coordination meeting between the archaeologist and construction crew is scheduled, so that the construction team is aware of the plan; (6) What laboratory work will be done on remains that are collected; (7) A schedule of report preparation; (8) Details concerning the archiving of any collections that are made; and (9) An acceptable monitoring report shall be submitted to the SHPD for review following completion of the proposed undertaking. The SHPD shall be notified via facsimile upon the onset and completion of the proposed undertaking.

Please contact Dr. Chris Monahan at (808) 692-8015 if you have any questions about this letter.

Aloha,



Melanie Chinen, Administrator
State Historic Preservation Division

CM

cc: Mr. William Andrews, DLNR, Division of Boating and Ocean Recreation (State)
Mr. Guy Inouye, Department of Design and Construction (City and County of Honolulu)
Mr. Kai Markell, OHA

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 535
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CHAIRPERSON
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DIVISION OF CONSERVATION
COORDINATION OF WATER RESOURCES MANAGEMENT
RESTORATION AND NATURAL LANDS
CONSERVATION AND RECREATION DEVELOPMENT
PROGRAMS

PROPERTY AND RECORDS
STATE HISTORIC PRESERVATION
DIVISION
LANDS AND NATURAL RESOURCES
STATE PARKS

June 5, 2006

Mr. Peter Young, Chairperson
Department of Land and Natural Resources
Kalanimoku Building, 1161 Punchbowl Street, Rm. 130
Honolulu, Hawaii 96819

LOG NO: 2006.1855
DOC NO: 0606ST05
Architecture

Dear Mr. Young:

**SUBJECT: Chapter 6E-8 (HRS) Review
Ala Wai Canal - Beachwalk Sewage Pump Station Force Main (BSPFM)
Construction Bypass, City and County of Honolulu, Honolulu, Hawaii
TMK: (1) 2-3-037:008**

We are writing in regards to the proposed construction of a Beachwalk Sewage Pump Station Force Main (BSPFM) to be placed across and within the Ala Wai Canal for a period of five to six years while a new sewage line is installed under and on the north (mauka) side of the Canal. Part of the new permanent line will be microtunneled under the canal. The pipe will be cantilevered over the wall, creating an elbow that will enter the water with the support of a foundation that will be attached to an existing ledge below the water level of the Canal. SHPD's archaeology branch has already submitted their comments. This letter addresses the architecture branch's concerns.

The Ala Wai Canal is listed on the Hawaii Register of Historic Places (7/17/1992) and has been determined to be eligible for the National Register of Historic Places (10/28/1985). Therefore, we believe that the determination for the architectural concerns of the proposed project is "effect, with proposed mitigation commitments." We request that the proposed mitigation commitments include the complete and careful removal of the temporary pipe, its support foundation, and its attachments to the underwater ledge. We request that the least amount and smallest necessary size of holes be made to any parts of the Canal's structure and that the utmost care is taken to avoid any unnecessary damages to the historic fabric.

Furthermore, we request that repairs are carefully made after removal of the temporary pipe and support system to restore the affected areas back to their original condition and appearance as closely as possible and that "in kind" materials be used. We request submittal to SHPD for review of ways to camouflage the visible portion of the pipe system while it remains, which will be removed along with the installation's removal.

Thank you for the opportunity to comment. Should you have any questions regarding architectural concerns please call Susan Tasaki in our Oahu office at (808) 692-8032.

Aloha,

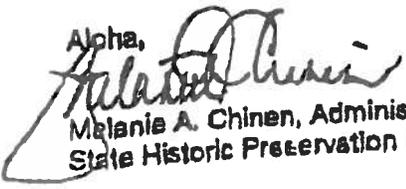

Melanie A. Chinen, Administrator
State Historic Preservation Division

EXHIBIT C

ST:jen
c:

Mr. William R. Andrews, Property Manager, Division of Boating and Ocean Recreation