

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawai`i

May 23, 2014

CDUP: OA-3494

**Board of Land and
Natural Resources
State of Hawai`i
Honolulu, Hawai`i**

REGARDING: Time Extension Request for Conservation District Use Permit (CDUP) OA-3494 for the Honolulu Marine Shipyard at Ke`ehi Lagoon

APPLICANT: Honolulu Marine, LLC.

LANDOWNER: State of Hawai`i

LOCATION: Submerged Lands, Kapalama, Oahu

Tax Map Key: (1) 1-2-025:0113¹ & 114

AREA OF USE: approximately (≈) 40,300 square feet

SUBZONE: Resource

BACKGROUND (Exhibit A & B)

On May 08, 2009, the Board of Land and Natural Resources approved CDUP OA-3494 for the marine shipyard subject to 16 conditions of which condition #6 states that work would be completed within three years of approval. A time extension was requested on January 13, 2011 due to delays in the project and granted on January 27, 2011. The time extension was granted to complete the project by May 8, 2014.

TIME EXTENSION REQUEST (Exhibit C)

On May 1, 2014, the Office of Conservation and Coastal Lands (OCCL) received correspondence from the Honolulu Marine LLC requesting an additional time extension due to unanticipated delays in meeting permit condition #12 [Coral Protection Plan] in addition to resuming the permitting process for the Department of the Army permit and Section 401 Water Quality Certification. It is anticipated that the contractor will complete all work by "early 2016."

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in §13-5-43, Hawaii Administrative Rules (HAR) that allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

¹ Former TMK noted as (1) 1-2-025:024

Additionally, §13-5-43(c), HAR, states: "time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant."

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

DISCUSSION:

In the present case, none of these factors suggest any reason to deny the request. The Department believes that work has been initiated for the project. The permittee has endeavored to obtain all permits and approvals in addition to complying with permit conditions for project construction. Although work is anticipated to be completed by "early 2016," staff is recommending additional time to complete the project given the type of authorizations that still need to be acquired. Approval of the time extension request shall hopefully provide the time needed to complete the marine shipyard.

RECOMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to complete the Honolulu Marine Shipyard project by December 31, 2016 subject to the following conditions:

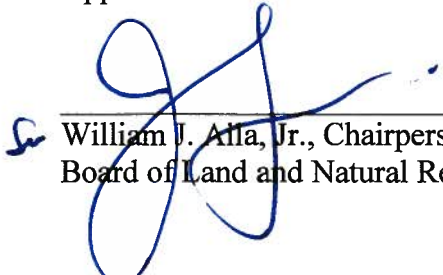
1. That condition #6 of CDUP OA-3494 is amended to provide that the Permittee has until December 31, 2016 to complete construction; and
2. That all other conditions imposed by the Board under CDUP OA-3494, as amended, shall remain in effect.

Respectfully submitted,

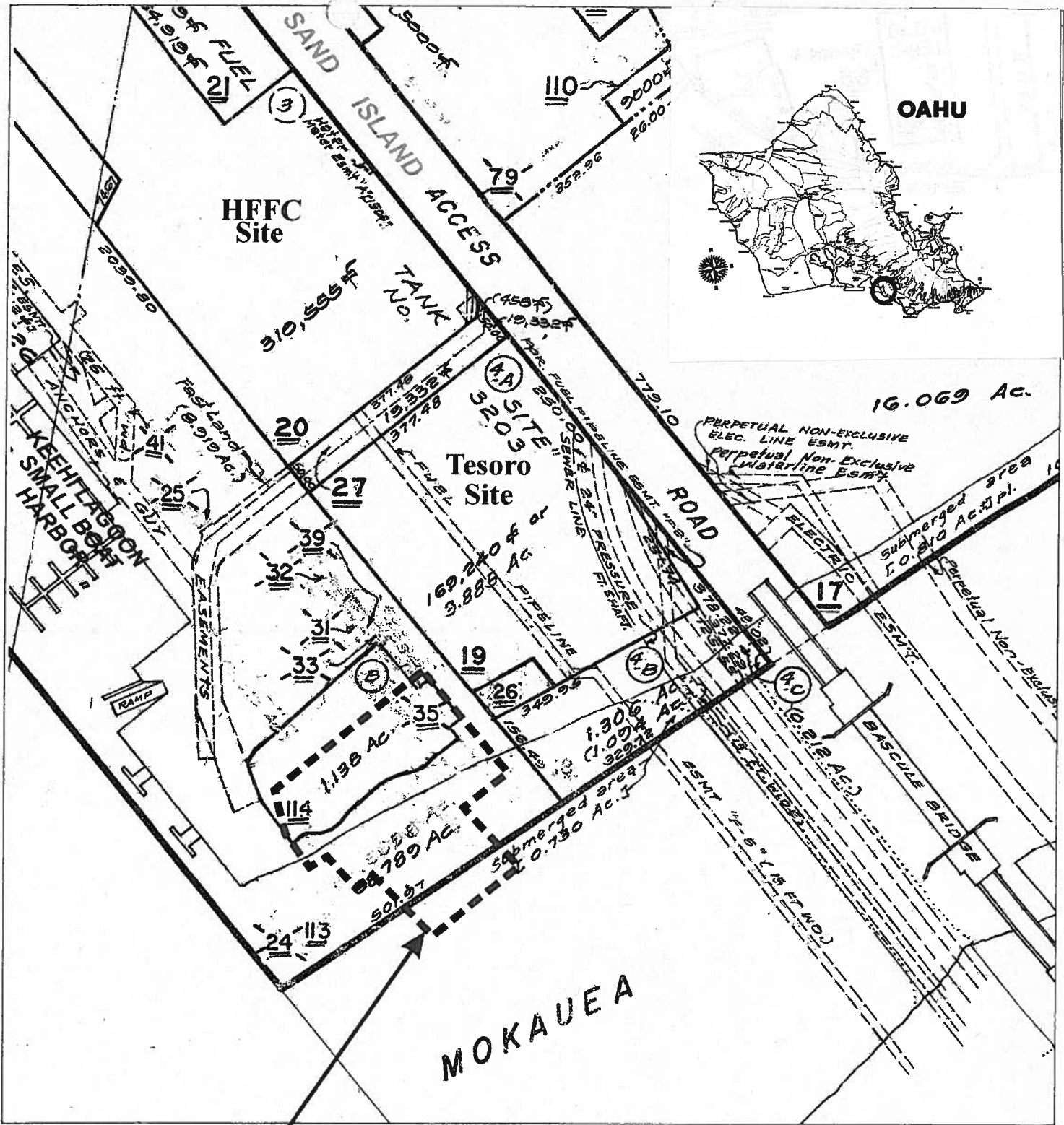


K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



William J. Alla, Jr., Chairperson
Board of Land and Natural Resources



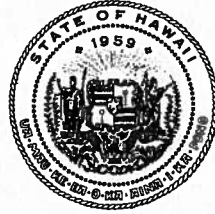
Project Area

EXHIBIT A

FIGURE 3 TMK MAP
 Honolulu Marine Shipyard at Ke'ehi Lagoon
 Honolulu, O'ahu, Hawai'i



LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS
2009 JUN -3 A 10:00
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

REF:OCCL:TM

CDUP: OA-3494

MAY - 8 2009

Brian Takeda
RM Towill Corporation
2024 N. King Street, Suite 200
Honolulu, Hawaii 96819-3494

Dear Mr. Takeda:

SUBJECT: Conservation District Use Permit (CDUP) OA-3494

This is to inform you that on May 8, 2009, the Board of Land and Natural Resources APPROVED Conservation District Use Application (CDUA) OA-3494 for the Honolulu Marine Shipyard located at the Kalihi Channel outlet of Honolulu Harbor, south end of the Keehi Small Boat Harbor on the island of Oahu subject to the following conditions:

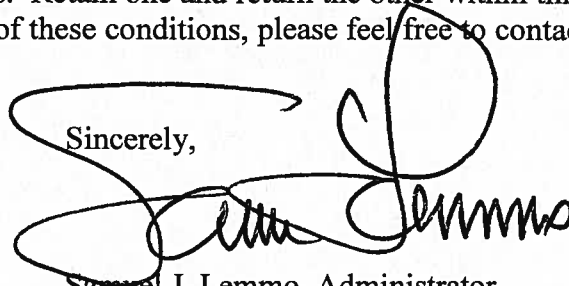
1. The applicant shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State, and County governments, and applicable parts of the Hawaii Administrative Rules, Chapter 13-5;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. The applicant shall obtain a land disposition from the Department for the occupancy of State lands;
4. The applicant shall comply with all applicable Department of Health administrative rules ~~that~~ ~~he~~ includes the various permits administered by the Department of Health under the National Pollutant Discharge Elimination System (NPDES) permits (Discharges of Storm Water Associated With Industrial Activities, Discharges of Storm Water Associated With Construction Activities, Hydro-testing Discharges, Discharges Associated With Construction Activity Dewatering) and the Section 41 Water Quality Certification;
5. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit

EXHIBIT B

- and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not constitute approval required from other agencies;
6. Any work done or construction to be done on the land shall be initiated within 18 months of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within three (3) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
 7. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
 8. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
 9. In issuing this permit, the Department and Board have relied on the information and data that the applicant has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
 10. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take the measures to minimize or eliminate the interference, nuisance, harm, or hazard;
 11. An access easement to the shoreline on the east side of the site shall be required;
 12. Prior to construction plan approval, a coral protection plan must be approved by the Department;
 13. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact HPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
 14. The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
 15. Other terms and conditions as may be prescribed by the Chairperson; and
 16. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions, please feel free to contact Tiger Mills at 587-0382.

Sincerely,



Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:

Brian Takeda Date *June 1, 2009*
Applicant's Signature
Agent for Applicant

- c: Chairperson
- ODLO/DOBOR/DAR
- DOH/DOT-Harbors
- USACE
- City and County of Honolulu
- ~Department of Planning and Permitting

RECEIVED
CONSERVATION
DISTRICT LANDS

Honolulu Marine LLC

2014 MAY 1 A 11: 01

April 22, 2014

Mr. Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
P. O. Box 621
Honolulu, Hawai'i 96809

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Dear Mr. Lemmo:

**Status and Request for Time Extension for Conservation District Use Permit
(CDUA) OA-3494, Honolulu Marine Shipyard at Ke'ehi Lagoon
Tax Map Key: (1) 1-2-025: Portion of 024 and 035
Honolulu Harbor, Island of O'ahu, Hawai'i**

This is in follow-up to the approved CDUA Permit No. OA-3494, for construction of the Honolulu Marine Shipyard at Ke'ehi Lagoon, Honolulu Harbor. We have prepared the following to update you on the status of this project and to request an extension of time for the completion of this project.

Background

On May 8, 2009, the Board of Land and Natural Resources (BLNR) approved the subject permit. On January 13, 2011, a time extension was requested due to delays involving acquisition of the required environmental permits for the project. On January 27, 2011, the BLNR approved a two year extension, stating that construction of the Honolulu Marine Shipyard shall be completed by May 8, 2014.

Request for Time Extension

Honolulu Marine, LLC, acknowledges and thanks the BLNR for allowing the prior two year time extension for the subject CDUP. However, due to extraordinary circumstances involving lack of funding we were unable to complete the acquisition of all required environmental permits within the deadline of May 8, 2014. Recently, this situation has improved and sufficient resources have been made available to allow us to complete this important project. Accordingly, we are requesting a second and final extension of time to late 2014 when we anticipate that all of the environmental entitlements will be completed.

We resumed consultation with the governmental agencies involved and are making every effort to construct this important project. A brief summary and explanation of our effort is as follows:

- Honolulu Marine, LLC, is required to complete a coral protection plan in accordance with Condition No. 12 of the approved CDUA permit OA-3494. The completion of this

123 Ahui Street, Honolulu Hawaii 96813

office: 808-526-9311

fax: 808-526-9811

EXHIBIT C

Mr. Samuel J. Lemmo, Administrator

Date

Page 2 of 2

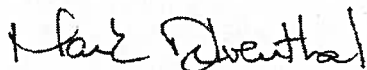
plan required further sampling and analytical evaluation of the potential for environmental impacts. Work related to the plan was resumed with a recent marine survey of the project site, which included the invaluable assistance of Mr. Eric Yuasa, P.E., and the Division of Boating and Ocean Recreation (DOBOR). Further coordination to complete this plan will be met through consultation with the federal agencies, the U. S. Army Corps of Engineers (ACOE) and U. S. Fish and Wildlife Service (USFWS), as applicable.

- Communication with the Office of Coastal Zone Management (OCZM) has been resumed to address the requirements of the OCZM for the processing of the Coastal Zone Management Federal Consistency Determination (CZM FEDCON) permit in accordance with their communication dated October 11, 2011, letter reference no. P-13428. This will include our submittal of the coral protection plan.
- Honolulu Marine, LLC, has contacted Ms. Jessie Pa'ahana, ACOE, regarding the resumption of processing for the Department of the Army Permit, No. POH-2008-00324, pursuant to Section 404, Clean Water Act, and Section 10, Rivers and Harbors Act. We intend to further discuss and submit all required information to the ACOE including federal consultations with the agencies: USFWS; National Marine Fisheries Service (NMFS); Department of Land and Natural Resources (DLNR), Division of Aquatic Resources; and DLNR, DOBOR.
- The Section 401 Water Quality Certification was previously filed with the Department of Health, Clean Water Branch (DOH-CWB), WQC No. WQC0805; however due to postponement of the subject project the processing of this application was suspended. Honolulu Marine, LLC, will resume communication with the DOH-CWB, following its consultation with the ACOE to address all requirements.

The kind approval of this request for time extension would allow us the time needed to complete the permitting process and construct the Honolulu Marine Small Boat Shipyard. If granted, we hope to complete construction and resume operations by the late 2015 to early 2016 timeframe.

Thank you in advance for your consideration. Should there be any questions do not hesitate to contact our consultant, Brian Takeda, Planning Project Coordinator, at R. M. Towill Corporation, 842-1133, or by e-mail to: briant@rmtowill.com.

Sincerely,



Mark Delventhal
General Manager

cc: R. M. Towill Corporation
2024 N. King Street, Suite 200
Honolulu, Hawaii 96819-3494