



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES | KA 'OIHANA KUMUWAIWAI 'ĀINA
COMMISSION ON WATER RESOURCE MANAGEMENT | KE KAHUWAI PONO
P.O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

March 18, 2025
Honolulu, Hawai'i

Approval of Stream Channel Alteration Permit (SCAP.6363.8) Application and
Special Conditions, County of Hawai'i, Department of Public Works
South Wilder Road Culvert Replacement
Kaūmana Stream, Hilo, Hawai'i, Tax Map Key(s): (3) 2-5-045:001 and 999; 2-5-005:157 & 159

APPLICANT

Hugh Ono, P.E., Director
County of Hawai'i, Department of Public
Works
101 Pauahi Street, Suite 7
Hilo, HI 96720

LANDOWNER

County of Hawai'i, Department of Public Works
101 Pauahi Street, Suite 7
Hilo, HI 96720

Department of Hawaiian Home Lands
91-5420 Kapolei Pkwy
Kapolei, HI 96707

Pacific Chiloe Forest LLC
P.O. Box 1350
Santa Rosa Beach, FL 32459-1350

Yamamoto Electrical Services LLC
356 Kipuni St.
Hilo, HI 96720-6049

Kent R. Smith Trust
c/o Russell Yamane & Associates
2158 Main St., Suite 202
Wailuku, HI 96793-1686

SUMMARY OF REQUEST

Approve Stream Channel Alteration Permit (SCAP.6363.8) by the County of Hawai‘i, Department of Public Works. The project proposes to replace the existing 96-inch diameter, twin corrugated metal pipe culverts with two 8-foot (ft) by 8-ft precast box culverts and replace the eroded gunite stream channel lining with grouted rubble pavement at South Wilder Road at Kaūmana Stream.

BACKGROUND

On January 16, 2025, the County of Hawai‘i, Department of Public Works filed a complete stream channel alteration permit application that is available online at https://files.hawaii.gov/dlnr/cwrm/swreview/SCAP_6363_8.pdf.

LOCATION: Kaūmana Stream, Hilo, Hawai‘i. See **Figure 1**.

Figure 1: Location, Kaūmana Stream, Hilo, Hawai‘i.



STREAM DESCRIPTION

The National Hydrography Dataset classified the Kaūmana Stream as intermittent. The Division of Aquatic Resources classified the Kaūmana Stream as non-perennial. The total drainage area is 0.4 square miles with a maximum basin elevation of 1,826 feet. The mean annual precipitation is 210 inches and the longest flow path is approximately 2.3 miles.

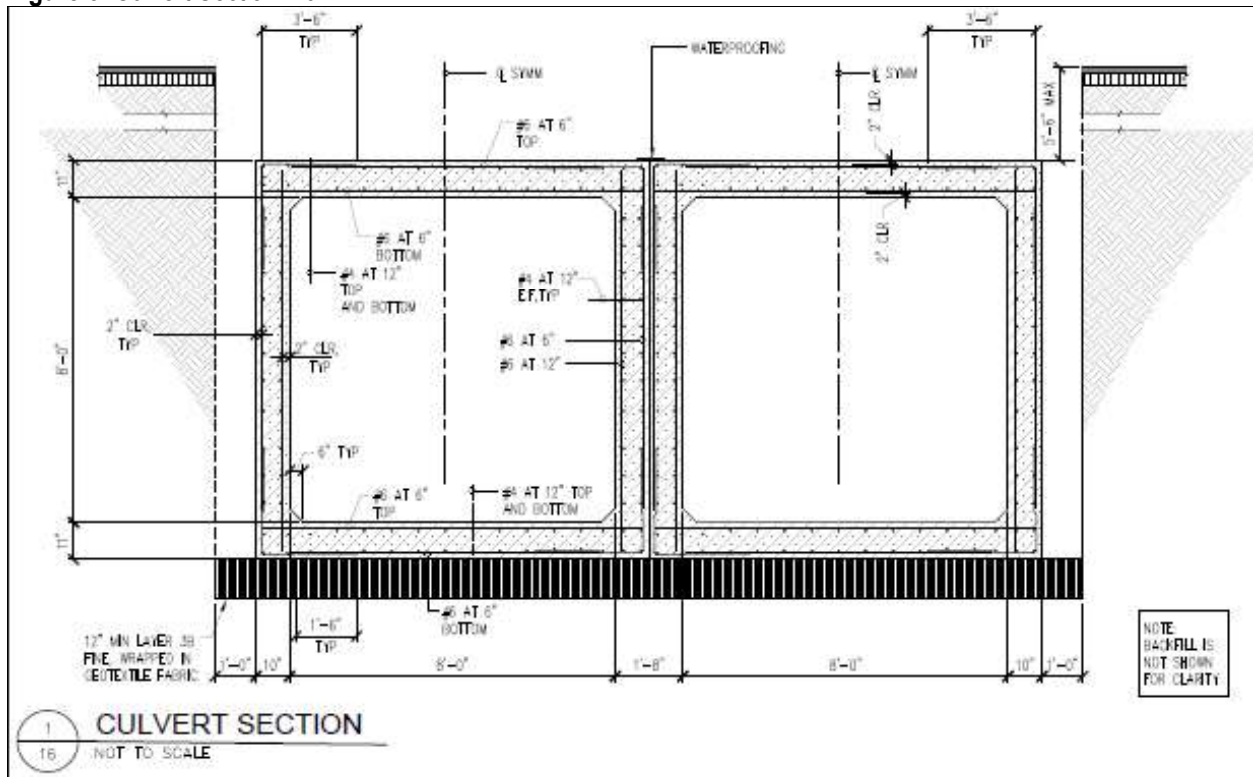
PROJECT DESCRIPTION

The project proposes to replace the existing 96-inch diameter, twin corrugated metal pipe culverts with two 8-foot (ft) by 8-ft precast box culverts that pass under South Wilder Road at Kaūmana Stream; replace and restore approximately 82 linear feet of eroded gunite erosion protection in the downstream channel bottom with new grouted rubble pavement and cutoff walls. The purpose of the project is to replace the drainage structure and eliminate the deteriorated conditions to ensure that the drainage system continues to reliably convey the design storm water drainage flows from the surrounding area. Best Management Practices (BMP) will include bulk bags filled with #4 sand, concrete washout area, drain inlet sediment barrier, silt fence, and filter sock. See **Figure 2** Site Photos and **Figure 3** Culvert Section Plan.

Figure 2: Kaūmana Stream site photos.



Figure 3: Culvert Section Plan.



AGENCY REVIEW COMMENTS

County of Hawai‘i, Planning Department: No comments received.

Department of Hawaiian Home Lands (DHHL): DHHL has land holdings in close proximity to the County of Hawai‘i’s Department of Public Works’ proposed South Wilder Road Culvert Replacement project on Leie Road. The Department requests that prior to taking action on the SCAP, that the Commission on Water Resource Management ensure that there was sufficient consideration and analysis conducted by CWRM staff and/or the applicant to ensure that the proposed action will not create unintentional adverse impacts on DHHL lands including but not limited to issues such as flooding and drainage and whether sufficient mitigation measures are in place to ensure there will be no unintentional impacts to downstream properties, including DHHL’s lands on Leie Road. See **Exhibit 1**.

CWRM staff response: According to the application, the purpose of the project is to replace the drainage structure and eliminate the deteriorated conditions to ensure that the drainage system continues to reliably convey the design storm water drainage flows from the surrounding area. The National Hydrography Dataset classified the Kaūmana Stream as intermittent. The Division of Aquatic Resources classified the Kaūmana Stream as non-perennial. Upon approval of the construction plans as proposed, the quantity and quality of stream water should not be adversely affected.

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

DLNR, Aquatic Resources: During the time of construction we ask that appropriate best management practices be incorporated. These should include, but not be limited to: silt fences, inlet protection, sediment traps, check dams, erosion control blankets, straw bales, vegetative stabilization, grading to minimize slopes, limiting land disturbance, preserving natural vegetation, and directing runoff towards designated areas like swales or rain gardens. Additionally, project leads should consider carrying out work during the dry season when flow is minimal at this perennial stream to prevent the continuous transport of sediments or other pollutants down stream. We also ask project leads to consider the use of green-gray infrastructure, which combines natural systems with structures to help manage water and improve the environment. As managers of aquatic resources, we encourage these structural improvements to mimic the natural structure of a stream to facilitate the maintenance of habits for aquatic species such as native fishes and invertebrates. If at all possible we ask project leads to avoid creating a stream habitat that is smooth concrete. In this case it seems that grouted rubble pavement is being proposed. This may suffice if the rubble is large (3ft diameter). See **Exhibit 2**.

CWRM staff response: Added as a special condition by reference.

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 a Special Flood Hazard Area (high-risk areas). Be advised that 44CFR, Chapter 1, Subchapter B, Part 60 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 for researching the Flood Hazard Zone designation for the project. Flood zones subject to NFIP requirements are identified on FEMA's Flood Insurance Rate Maps (FIRM). The official FIRMs can be accessed through FEMA's Map Service Center (msc.fema.gov). Our Flood Hazard Assessment Tool (FHAT) (fbat.hawaii.gov) could also be used to research flood hazard information. See **Exhibit 3**.

CWRM staff response: The project site is in Zone AE, or areas subject to inundation by the 1-percent-annual-chance flood event.

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

DLNR, Historic Preservation (SHPD): SHPD Project No. 2024PRO1457 concurrence letter not received.

CWRM Staff Response: Approval of the application is subject to SHPD Project No. 2024PRO1457 concurrence. If SHPD requires certain actions, authority shall be delegated to the Deputy Director to add any follow-on actions as a special condition of this permit.

DLNR, Land Division: No comments received.

DLNR, State Parks: No comments received.

Dept. of Health (DOH), Clean Water Branch: The DOH standard comments can be reviewed on the DOH website at: <https://health.hawaii.gov/cwb/files/2018/05/Memo-CWB-Standard-Comments.pdf>.

CWRM staff response: The lead agency for the protection of water quality is the Department of Health, Clean Water Branch, which administers the Federal Clean Water Act (33 U.S.C. §1251 et seq.) and the State Water Pollution Act (HRS Ch. 342D; HAR Ch. 11-54 Water Quality Standards; and HAR Ch. 11-55 Water Pollution Control). HAR §11-54-1 through §11-54-8 defines Best Management Practices and water quality criteria applicable to inland and nearshore waters and are based on the Federal Clean Water Act. HAR Ch. 11-55 Appendix C defines discharges of storm water associated with construction activity. HRS 174C-66 states that the DOH oversees the State’s water quality control program.

Office of Hawaiian Affairs: No comments received.

US Army Corps of Engineers: No comments received.

US Fish and Wildlife Service (FWS): Your IPaC-generated Official Species List will include all federally listed species, critical habitat, migratory birds, and wetland habitat that occurs, or may transit through, the project vicinity. For projects in Hawai‘i, each species on your Official Species List page (links directly below it) provides the Service’s recommended avoidance and minimization measures for that species. Our general avoidance and minimization measures for both animals and plants are provided at our website here: <https://www.fws.gov/office/pacific-islands-fish-and-wildlife/library>, please refer to them in the preliminary stages of project design. These "General project design guidelines" are our avoidance and minimization measures intended to avoid or minimize adverse effects to federally protected species. The endangered ‘ope‘ape‘a or Hawaiian hoary bat as well as seabirds may occur or transit the project area; therefore, we recommend incorporating the following applicable measures into your project to avoid and minimize impacts to ‘ope‘ape‘a and seabirds. Endangered ‘ope‘ape‘a (Hawaiian hoary bat, *Lasiurus cinereus semotus*): The Hawaiian hoary bat roosts in woody vegetation across all islands and will leave their young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet or taller are cleared during the pupping season, June 1 through September 15, there is a risk that young bats could inadvertently be harmed or killed, since they are too young to fly or move away from disturbance. Hawaiian hoary bats forage for insects from as low as 3 feet to higher than 500 feet above the ground and can become entangled in barbed wire used for fencing. To avoid and minimize impacts to the endangered Hawaiian hoary bat we recommend you incorporate the following applicable measures into your project description:

- Do not disturb, remove, or trim woody plants greater than 15 feet tall during the bat birthing and pup rearing season (June 1 through September 15).
- Do not use barbed wire for fencing.

Hawaiian seabirds (Hawaiian petrel, *Pterodroma sandwichensis*; Newell’s shearwater, *Puffinus newelli*; and band-rumped storm-petrel, *Hydrobates castro*) Hawaiian seabirds may traverse the project area at night during the breeding, nesting and fledging seasons (March 1 to December 15). Outdoor lighting could result in seabird disorientation, fallout, and injury or mortality. Seabirds are attracted to lights and after circling the lights they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators. Young birds (fledglings) traversing the project area between September 15 and December 15, in their first flights from their mountain nests to the sea, are particularly vulnerable to light attraction. It was indicated that the project would avoid and minimize risks to seabirds by not conducting nighttime construction and not adding sources of nighttime lighting to the Project design. The Service recommends that nighttime construction should be avoided during the seabird fledging period, September 15 through December 15. See **Exhibit 4**.

CWRM staff response: Added as a special condition by reference.

Public Comments: No comments received.

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 “The project area is located within the, Kaūmana ahupua‘a in the Hilo District, historically used for upland agriculture. Although traditional Hawaiian practices such as farming and gathering likely occurred here, the area has been significantly developed over time for agricultural and infrastructural use, including the construction of roads and drainage structures. Cultural Surveys Hawai‘i (CSH) identified one potential historic property: elements of the existing drainage channel modifications (CSH-1) are greater than 50 years old. Further archaeological study is not recommended.”

CWRM Staff Response: No comments were received by DLNR Aha Moku. No comments were received from the public. No impacts to traditional and customary native Hawaiian rights which may be exercised in the area are anticipated.

- 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, “Given the extensive alterations, including agricultural use and infrastructure changes, the impact on traditional Native Hawaiian rights and resources is minimal. The project is unlikely to affect access to resources or impair customary practices. Therefore, the proposed action will have little to no impact on traditional rights or resources in the area. It is unlikely there are lava tubes within the project area. In the event a lava tube is breached during project construction, it is recommended that ground

disturbing activities at the location of the breach cease immediately and that the SHPD be notified. Elements of the existing drainage channel (CSH-1) are over 50 years old. The 1973 Wilder Road Improvement plans may suffice as architectural documentation of these features. While project-related ground disturbance is indicated, the potential for encountering subsurface archaeological deposits is low based on extensive prior ground disturbance within the project area and the nature of the proposed improvements. Further archaeological study is not recommended.”

CWRM Staff Response: There are no anticipated impacts to traditional and customary practices or upstream/downstream movement of native macrofauna.

- 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, “To protect these rights, the Commission on Water Resource Management could ensure that water flow and access to downstream resources are maintained. If any unanticipated cultural or natural features are discovered during construction, work should halt, and the appropriate agencies should be notified for further evaluation. No additional actions are deemed necessary.”

CWRM Staff Response: The project BMPs are feasible actions that will be employed during the project period to ensure water and stream resources mauka and makai of the project area are not impacted to the detriment of traditional and customary practices of Native Hawaiians.

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.

CWRM Staff Response: The project triggers an EA because it proposes the use of state or county lands or the use of state or county funds. On February 24, 2024, the County of Hawai‘i considered the direct, cumulative, and potential impacts and declared the actions stated above will have minimal or no significant impact on the environment and exempted it from the preparation of an EA in accordance with HAR, Section 11-200.1 and per its Comprehensive Exemption List for the County of Hawai‘i reviewed and concurred upon by the Environmental Council on January 5, 2021.

STAFF REVIEW

Review of the permit application by Commission staff is subject to the consideration of the legal authorities cited in **Exhibit 6**.

HAR §13-169-52(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 and quality of stream water should not be adversely affected.

- (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 identified instream uses include fish habitat and streamflow contribution to the nearshore waters, among others. The project is not anticipated to impact the status quo interim instream flow standard which was established on June 15, 1988, pursuant to HAR §13-169-46.

- (3) The proposed channel alteration 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 is limited to the project area and should not interfere with instream or non-instream uses, including existing diversions. Commission records indicate that there are no active diversions located downstream of the project area. No adverse impacts are anticipated.

RECOMMENDATION

That the Commission:

1. Approve Stream Channel Alteration Permit (SCAP.6363.8) Application that proposes to replace the existing 96-inch diameter, twin corrugated metal pipe culverts with two 8-ft by 8-ft precast box culverts and replace the eroded gunite stream channel lining with grouted rubble pavement at South Wilder Road at Kaūmana Stream; replace and restore approximately 82 linear feet of eroded gunite erosion protection in the downstream channel bottom with new grouted rubble pavement and cutoff wall. Best Management Practices will include bulk bags filled with #4 sand, concrete washout area, drain inlet sediment barrier, silt fence, and filter sock. subject to the standard conditions in **Exhibit 3** and the special conditions below.
 - a. In conformance with the Division of Aquatic’s recommendations, incorporated by reference as **Exhibit 1**, please incorporate appropriate best management practices, consider carrying out work during the dry season when flow is minimal at this perennial stream to prevent the continuous transport of sediments or other pollutants down stream, and consider the use of green-gray infrastructure, which combines natural systems with structures to help manage water and improve the environment. If at all possible we ask project leads to avoid creating a stream habitat that is smooth concrete. In this case it seems that grouted rubble pavement is being proposed. This may suffice if the rubble is large (3ft diameter).
 - b. In conformance with the U.S. Fish and Wildlife’s recommendations, incorporated by reference as **Exhibit 2**, do not disturb, remove, or trim woody plants greater than 15 feet tall during the bat birthing and pup rearing season (June 1 through September 15), and do not use barbed wire for fencing.
 - c. Approval of the application is subject to SHPD Project No. 2024PRO1457 concurrence. If SHPD requires certain actions, authority shall be delegated to the Deputy Director to add any follow-on actions as a special condition for issuance of this permit.

Ola i ka wai,



CIARA W.K. KAHAHANE
Deputy Director

Exhibits:

1. Department of Hawaiian Home Lands, letter dated February 14, 2025.
2. DLNR, Division of Aquatic Resources, letter dated February 14, 2025.
3. DLNR, Engineering Division, letter dated February 13, 2025.
4. US Fish and Wildlife, email dated January 23, 2025.
5. Standard Stream Channel Alteration Permit Conditions.
6. Legal Authorities.

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG
Chairperson

JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ko Koa Ikaika o ka Mōhaka Ikaika
o Hawai'i*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ko Ho'oponopono o ka Mōhaka Ikaika
o Hawai'i*



KALI WATSON
CHAIRPERSON, IHAC
Ko Kōka Mōhaka

KATIE L. LAMBERT
DEPUTY TO THE CHAIR
Ko Ho'oponopono Mōhaka

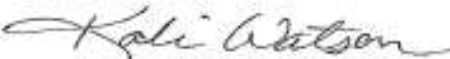
STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Aina Ho'opuniapula Hawai'i
P. O. BOX 1879
HONOLULU, HAWAII 96805

February 14, 2025

MEMORANDUM

PO-25-020

TO: Dawn Chang, Chairperson
Commission on Water Resource Management

FROM: Kali Watson, Chairperson
Hawaiian Homes Commission 

SUBJECT: Stream Channel Alteration Permit Application No.6363.8
Kaūmana Stream, Hilo, Hawai'i

Mahalo for sending the above referenced Stream Channel Alteration Permit (SCAP) to the Department of Hawaiian Home Lands (DHHL) for review and comments. We appreciate the opportunity to review the application and offer the following background and comments.

Comments for the applicant and Commission

DHHL has land holdings in close proximity to the County of Hawai'i's Department of Public Works' proposed South Wilder Road Culvert Replacement project on Leie Road. The Department requests that prior to taking action on the SCAP, that the Commission on Water Resource Management ensure that there was sufficient consideration and analysis conducted by CWRM staff and/or the applicant to ensure that the proposed action will not create unintentional adverse impacts on DHHL lands including but not limited to issues such as flooding and drainage and whether sufficient mitigation measures are in place to ensure there will be no unintentional impacts to downstream properties, including DHHL's lands on Leie Road.

Mahalo for the opportunity to comment. If you have any questions or require additional information please contact Cherie Kaanana, Water Program Specialist by email at: cherie-noelle.k.kaanana@hawaii.gov.

JOHN GREEN, III
GOVERNOR | KE KAUANA
SYLVA LIKE
LIEUTENANT GOVERNOR | KA HOPE KAUNA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL
RESOURCES DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET, ROOM 330
HONOLULU, HAWAII 96813

Date: 2/14/2025

DAR # AR6530

DAWN H.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
RYAN K.P. KAHANA'OLE
FIRST DEPUTY
CIARA W.K. KAHANE
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
HAWAIIAN ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

TO: Brian J. Neilson
DAR Administrator

FROM: Ryan Okano ^{RO}, Aquatic Biologist

SUBJECT: Request for Comments, Stream Channel Alteration Permit (SCAP.6363.8)
Application, County of Hawai i, Department of Public Works, Engineering Division,

Request Submitted by: Ciara W.K. Kahane, Deputy Director, CWRM
Kaumana Stream, Hilo Hawaii. TMK: (3)2-5-045:001 and 999; 2-5-005:157, 158, and

Location of Project: 159

Brief Description of Project

The County of Hawaii Department of Public Works proposes to replace the existing 2.4m (96-inch) diameter, twin corrugated metal pipe culverts beneath with two 8ft by 8ft precast box culverts and replace the eroded granite stream channel lining by installing grouted rubble pavement at South Wilder Road, in Kaumana ahupuaa Hilo, Hawaii. The purpose of the project is to replace the drainage structure and eliminate the deteriorated conditions to ensure that the drainage system continues to reliably convey the design storm water drainage flows from the surrounding area.

(continued)

Comments:

No Comments Comments Attached

Thank you for providing DAR the opportunity to review and comment on the proposed project. Should there be any changes to the project plan, DAR requests the opportunity to review and comment on those changes.


Comments Approved: Brian J. Neilson Date: 02/14/2025
Brian J. Neilson
DAR Administrator

DAR# AR6530

Comments

During the time of construction we ask the the appropriate best management practices be incorporated. These should include, but not be limited to: silt fences, inlet protection, sediment traps, check dams, erosion control blankets, straw bales, vegetative stabilization, grading to minimize slopes, limiting land disturbance, preserving natural vegetation, and directing runoff towards designated areas like swales or rain gardens. Additionally, project leads should consider carrying out work during the dry season when flow is minimal at this perennial stream to prevent the continuous transport of sediments or other pollutants down stream.

We also ask project leads to consider the use of green-gray infrastructure, which combines natural systems with structures to help manage water and improve the environment. As mangers of aquatic resources, we encourage these structural improvements to mimic the natural structure of a stream to facilitate the maintenance of habits for aquatic species such as native fishes and invertebrates. If at all possible we ask project leads to avoid creating a stream habitat that is smooth concrete. In this case it seems that grouted rubble pavement is being proposed. this may suffice if the rubble is large (3ft diameter).

Signature: 

Email: ryan.ly.okano@hawaii.gov

**DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION**

CWRM/Ciara W.K. Kahahane

**Ref: Request for Comments, Stream Channel Alteration Permit (SCAP.6363.8)
Application, County of Hawai'i, Department of Public Works, Engineering Division,
South Wilder Road Culvert Replacement
Location: Kaūmana Stream, Hilo, Hawai'i
TMK(s): (3) 2-5-045:001 and 999; 2-5-005:157, 158, and 159
Applicant: County of Hawaii, Department of Public Works, Engineering Division**

COMMENTS

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 a Special Flood Hazard Area (high-risk areas). Be advised that 44CFR, Chapter 1, Subchapter B, Part 60 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 zones subject to NFIP requirements are identified on FEMA's Flood Insurance Rate Maps (FIRM). The official FIRMs can be accessed through FEMA's Map Service Center (msc.fema.gov). Our Flood Hazard Assessment Tool (FHAT) (<http://gis.hawaiiinfip.org/FHAT>) could also be used to research flood hazard information.

In addition, in accordance with the 44CFR, Chapter 1, Subchapter A, a permit is required before construction or development begins within any Special Flood Hazard Area (SFHA). Information regarding these permit requirements can be found on the FEMA website (www.fema.gov).

If there are questions regarding the local flood ordinances, please contact the applicable County NFIP coordinating agency below:

- Oahu: City and County of Honolulu, Department of Planning and Permitting (808) 768-8098.
- Hawaii Island: County of Hawaii, Department of Public Works (808) 961-8327.
- Maui/Molokai/Lanai: County of Maui, Department of Planning (808) 270-7139.
- Kauai: County of Kauai, Department of Public Works (808) 241-4849.

Signed: 
DINA U. LAU, ACTING CHIEF ENGINEER

Date: Feb 13, 2025

From: [Gary, Deena T](#)
To: [Alakai, Rebecca R](#)
Cc: [Jawar-Salas, Chelsea](#)
Subject: [EXTERNAL] Comments for the South Wilder Road Culvert Replacement, Kaumana Stream, Hilo, Hawai'i Ref: SCAP.6363.8
Date: Thursday, January 23, 2025 7:15:41 AM

Aloha Rebecca,

Our office received your correspondence requesting technical assistance for the SCAP.6363.8 County DPS, South Wilder Road Culvert Replacement, Kaumana. Can you please confirm the start and end dates of the project for our records.

Your IPaC-generated Official Species List will include all federally listed species, critical habitat, migratory birds, and wetland habitat that occurs, or may transit through, the project vicinity. For projects in Hawai'i, each species on your Official Species List page (links directly below it) provides the Service's recommended avoidance and minimization measures for that species. Our general avoidance and minimization measures for both animals and plants are provided at our website here: <https://www.fws.gov/office/pacific-islands-fish-and-wildlife/library>, please refer to them in the preliminary stages of project design. These "General project design guidelines" are our avoidance and minimization measures intended to avoid or minimize adverse effects to federally protected species.

The endangered 'ope'ape'a or Hawaiian hoary bat as well as seabirds may occur or transit the project area; therefore, we recommend incorporating the following applicable measures into your project to avoid and minimize impacts to 'ope'ape'a and seabirds.

Endangered 'ope'ape'a (Hawaiian hoary bat, *Lasiurus cinereus semotus*): The Hawaiian hoary bat roosts in woody vegetation across all islands and will leave their young unattended in trees and shrubs when they forage. If trees or shrubs 15 feet or taller are cleared during the pupping season, June 1 through September 15, there is a risk that young bats could inadvertently be harmed or killed, since they are too young to fly or move away from disturbance. Hawaiian hoary bats forage for insects from as low as 3 feet to higher than 500 feet above the ground and can become entangled in barbed wire used for fencing.

To avoid and minimize impacts to the endangered Hawaiian hoary bat we recommend you incorporate the following applicable measures into your project description:

- Do not disturb, remove, or trim woody plants greater than 15 feet tall during the bat birthing and pup rearing season (June 1 through September 15).
- Do not use barbed wire for fencing.

Hawaiian seabirds (Hawaiian petrel, *Pterodroma sandwichensis*; Newell’s shearwater, *Puffinus newelli*; and band-rumped storm-petrel, *Hydrobates castro*)

Hawaiian seabirds may traverse the project area at night during the breeding, nesting and fledging seasons (March 1 to December 15). Outdoor lighting could result in seabird disorientation, fallout, and injury or mortality. Seabirds are attracted to lights and after circling the lights they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators. Young birds (fledglings) traversing the project area between September 15 and December 15, in their first flights from their mountain nests to the sea, are particularly vulnerable to light attraction.

It was indicated that the project would avoid and minimize risks to seabirds by not conducting nighttime construction and not adding sources of nighttime lighting to the Project design. The Service recommends that nighttime construction should be avoided during the seabird fledging period, September 15 through December 15.

We appreciate your efforts to conserve federally protected species. Please contact me for additional assistance.

Deena Gary
Fish and Wildlife Biologist
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
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STREAM CHANNEL ALTERATION PERMIT STANDARD CONDITIONS
(Revised December 15, 2020)

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.

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 I, 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;

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 §13-169-46 Interim instream flow standard for Hawaii. The Interim Instream Flow Standard for all streams on Hawaii, as adopted by the commission on water resource management on June 15, 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.