

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF  
CONSERVATION AND COASTAL LANDS  
Honolulu, Hawaii**

**March 9, 2012**

CDUP: HA-3495

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

**REGARDING:** Time Extension Request (*HA-12-03*) for Conservation District Use Permit (**CDUP**) **HA-3495** Regarding Initiation and Completion of Construction of the Hawaii Oceanic Technology, Inc. Open Ocean Fish Farm

**PERMITTEE/  
LANDOWNER:** Bill Spencer, Hawaii Oceanic Technology, Inc.

**LOCATION:** 3 mi. west of Malae Point, North Kohala, Island of Hawaii

**TMK:** *(3) SUBMERGED LANDS*

**AREA OF USE:** 247 acre area of sea

**SUBZONE:** Submerged Lands / Resource

**BACKGROUND:**

On *October 23, 2009*, the Board of Land and Natural Resources (Board) approved Conservation District Use Application (CDUA) HA-3495 and Management Plan for the construction of the Hawaii Oceanic Technology, Inc. open ocean fish farm subject to 33 conditions. Condition 6 provides that, *any work or construction to be done shall be initiated within two years 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 five years of the approval of such use. The applicant shall notify the department in writing when construction activity is initiated and when it is completed;*

**TIME EXTENSION REQUEST:**

On *January 3, 2012*, the Office of Conservation and Coastal Lands (OCCL) received a correspondence requesting an extension of the construction initiation and construction completion dates. The correspondence submitted by Hawaii Oceanic Technology, Inc. indicates that the request is for a two-year extension to the construction initiation date.

At this time Hawaii Oceanic Technology, Inc. is in the process of completing the section 10, US Army Corps of Engineers (USACOE) permitting process, applied for in November, 2010. Similarly the storm-water discharge permit (NPDES) has been granted but is in the process of a public comment period. For these reasons the time extension request is being made. An extension to **October 23, 2013** to initiate construction and to complete construction by **October 23, 2016** is proposed.

#### **AUTHORITY FOR GRANTING TIME EXTENSIONS:**

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

Additionally, pursuant to HAR §13-5-43:

*(d) Unless otherwise authorized, all time extensions shall be submitted to the Department prior to the expiration deadline; and*

*(e) If a time extension request is received after the expiration deadline, it shall be forwarded to the board for review. If a request for a time extension is not received within one year after the expiration deadline, the permit shall be void.*

#### **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 requested time extension. Hawaii Oceanic Technology, Inc. has submitted all the required documents to obtain permits and approvals to initiate project construction from a variety of federal, state and local government agencies. Approval of the time extension request shall provide the additional time needed to complete the permitting process and to initiate and complete construction. Should the Board choose to approve this request, Hawaii Oceanic Technology, Inc. will have had four years to initiate construction and seven years to complete construction. Staff therefore, has the following:

#### **RECOMMENDATION:**

That the Board of Land and Natural Resources **APPROVE** an extension to **October 23, 2013** to initiate construction and an extension to **October 23, 2016**, to complete construction of the Hawaii Oceanic Technology, Inc. Open Ocean Fish Farm located 3

miles due west of Malae Point, North Kohala, Island of Hawaii, *TMK: (3) Submerged Lands*; subject to the following conditions:

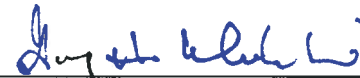
1. That condition 6 of CDUP HA-3495 is amended to provide that the Hawaii Oceanic Technology, Inc. will have until **October 23, 2013** to initiate construction and must complete construction by **October 23, 2016**;
2. That all other conditions imposed by the Board under **CDUP HA-3495**, as amended, shall remain in effect; and
3. That no further extensions be given to initiate construction.

Respectfully submitted,



Alex J. Roy, M.Sc., Planner  
Office of Conservation and Coastal Lands

Approved for submittal:

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*For* WILLIAM J. AILA, Jr., Chairperson  
Board of Land and Natural Resources