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AND COASTAL LANDS

January 26, 2023

2023 JAN 30 P 1:09

Michael Cain, Administrator
ATTN: Rachel Beasley
Office of Conservation and Coastal Lands (OCCL)
Department of Land and Natural Resources (DLNR)
Kalanimoku Building
1151 Punchbowl Street, Room 131
Honolulu, HI 96813

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

RE: Courtesy Notification of Intent to Commence Work for Small-Scale Beach Nourishment (SSBN) KA 19-3830 at Kauai Kailani Condominiums, 4-856 Kūhiō Highway, Kapa'a, Kaua'i, Hawai'i, TMK (4) 4-3-009:041 (formerly TMK [4] 4-3-009:050)

Dear Mr. Cain,

On behalf of the Kauai Kailani Association of Unit Owners (AOUO), we are respectfully notifying the OCCL that the scope of work proposed in the Conservation State Land Use District as part of SSBN KA 19-3830 is intended to commence next week, as early as January 30, 2023. The Contractor, Estrella Enterprises LLC, has begun mobilizing equipment and installing Best Management Practices (BMPs) within the Urban District in anticipation of the work.

If we may provide any additional information, please contact me via telephone at (808) 531-3017 or email at bsenelly@oceanit.com.

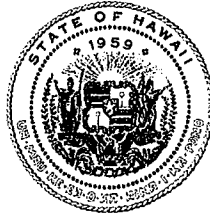
Sincerely,

Berna Senelly
Senior Regulatory Lead

Attachments: SSBN KA 19-3830, dated June 4, 2019
SSBN KA 19-3830 extension no. 1, dated July 3, 2020
SSBN KA 19-3830 extension no. 2 (KA-21-11), dated June 8, 2021
SSBN KA 19-3830 extension no. 3 (KA-22-08), dated April 23, 2022

Cc: Estrella Enterprises LLC
Kauai Kailani AOUO

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

DEAN D. UYENO
ACTING DEPUTY DIRECTOR - WATER

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

DLNR:OCCL:SH

File: SSBN KA 19-3830

JUN - 4 2019

MEMORANDUM:

TO: Michael Foley
Oceanit Laboratories, Inc.

FROM: Suzanne Case, Chairperson *Me*
Department of Land and Natural Resources

SUBJECT: **NOTICE OF APPROVAL OF CATEGORY II SMALL-SCALE BEACH NOURISHMENT (SSBN) CONSERVATION DISTRICT USE PERMIT (CDUP), Kauai Kailani Condominiums Small Scale Beach Nourishment and Temporary Groin Construction Project, 4-856 Kuhio Highway, Kauai, Hawaii; TMK: (4) 4-3-009:050 (seaward)**

This is to inform you that on June 4, 2019 the Chair of the Board of Land and Natural Resources (BLNR) approved Category II Small-Scale Beach Nourishment (SSBN) Conservation District Use Permit (CDUP) No. SSBN KA-19-3830 seaward of 4-856 Kuhio Highway, Kauai, Hawaii; TMK: (4) 4-3-009:050. A copy of the Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands' (OCCL) report and recommendation to the BLNR Chair is enclosed for your reference.

TERMS AND CONDITIONS

The project is subject to the following Terms and Conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules, and regulations of the Federal, State, and County governments, and applicable parts of Chapter 13- 5, HAR;
2. The applicant shall comply with all applicable Department of Health administrative rules;
3. Any work or construction to be done on the land shall be initiated within one (1) year 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 ten (10) years of the approval of such use;

4. The applicant understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
5. Work shall be conducted at low tide during minimal rainfall and calm weather periods to the most practical extent possible and no work shall occur if there is high surf or ocean conditions that will create unsafe work or beach conditions;
6. Authorization of the sand use and placement is contingent upon review and approval of the sand by the Department. The sand shall meet the following State quality standards:
 - a. The proposed fill sand shall not contain more than six (6) percent fines, defined as the #200 sieve (0.074 mm);
 - b. The proposed beach fill sand shall not contain more than ten (10) percent coarse sediment, defined as the #4 sieve (4.76 mm) and shall be screened to remove any non-beach compatible material and rubble;
 - c. No more than 50 (fifty) percent of the fill sand shall have a grain diameter less than 0.125 mm as measured by #120 Standard Sieve Mesh;
 - d. Beach fill shall be dominantly composed of naturally occurring carbonate beach or dune sand. Crushed limestone or other man-made or non-carbonate sands are unacceptable;
7. Sand used for beach maintenance shall be screened of course material (rocks) and any non-beach compatible material;
8. To avoid encroachments upon the area, the applicant shall not use artificially accreted areas due to nourishment as indicators of the shoreline;
9. The applicant shall implement Best Management Practices (BMPs) to minimize dirt and silt from entering the ocean and the ability to contain and clean up fuel, fluid, or oil spills immediately for projects authorized under this authorization and immediately report any spill(s) or other contamination(s) that occurs at the project site to the Department of Health and other appropriate agencies;
10. A beach monitoring program shall be carried out to monitor and evaluate post-construction project performance of the nourished beach. The program shall capture pre-construction beach conditions in addition to post-construction beach conditions at monthly intervals for a period of two years following the initial phase of nourishment.
11. The applicant shall ensure that excessive siltation and turbidity is contained or otherwise minimized to the satisfaction of the all appropriate agencies, through silt containment devices or barriers, high sand quality and selective sand placement;

12. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project;
13. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;
14. A survey of the project area shall be conducted prior to commencement of the proposed activities to ensure no protected marine species are in the project area. If protected species are detected activities shall be postponed until the animal(s) voluntarily leave the area. All on-site personnel shall be apprised of the status of any protected species;
15. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;
16. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
17. The permittee, 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, and 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;
18. The permittee shall obtain appropriate authorization from the department for the occupancy of state lands, if applicable;
19. The permittee shall comply with all applicable department of health administrative rules;
20. In issuing the permit, the department and board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the 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 the department may, in addition, institute appropriate legal proceedings;
21. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;

June 3, 2019

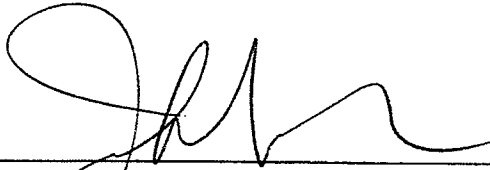
22. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
23. For all landscaped areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in section 205A-1, HRS;
24. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean waters, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
25. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
26. 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;
27. Other terms and conditions as prescribed by the chairperson;
28. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board.

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.**

Ms. Suzanne Case
June 3, 2019

I concur with the conditions of this letter:

JOHN SORGENFREI
Applicant's Name (Print)


Applicant's Signature

Date 1/9/2020

CC: *DAR/HPD/LAND*
DOH-CWB/ACOE/OHA/CZM
DPP

Attachments: *OCCL Staff Report*

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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SUZANNE D. CASE
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Ref: OCCL:SH

RE: SSBN KA 19-3830

Dayan Vithanage, Ph.D, P.E.
Oceanit Laboratories, Inc.
Oceanit Center
828 Fort Street Mall, Suite 600

Dear Mr. Vithanage,

Subject: Request for Time Extension of Small-Scale Beach Nourishment Authorization SSBN KA 19-3830, Kauai Kailani Condominiums (seaward), 4-856 Kuhio Highway, Kapaa, HI – TMK (4) 4-3-009:041 (formerly TMK (4) 4-3-009:050)

The Department of Land and Natural Resources (DLNR) is responding to your March 10, 2020 request to extend the timeframe in which implementation of small-scale beach nourishment activities are required to be initiated (DLNR Ref: SSBN 19-3830) seaward of Kauai Kailani Condominiums, 4-856 Kuhio Highway, Kapaa, HI – TMK (4) 4-3-009:041 (formerly TMK (4) 4-3-009:050). According to your request, the one-year extension is necessary to accommodate the ongoing permitting process, uncertainty in weather conditions, and the associated construction contracting process. Specifically, you are requesting an amendment to condition 3 of the original permit, which states that, "[a]ny work or construction to be done on the land shall be initiated within one (1) year 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 ten (10) years of the approval of such use". Subject authorization was granted on June 4, 2019, thus work was required to be initiated by June 4, 2020. You are requesting a one-year time extension of work initiation such that work will be required to begin by June 4, 2021.

DLNR has no objection to the requested one-year time extension of the original deadline for work initiation (DLNR Ref: SSBN 19-3830) such that initiation is required to begin by June 4, 2021; a period of two (2) years following authorization.

This amendment to the authorization is subject to all the Terms and Conditions of SSBN 19-3830.

Should you have any questions pertaining to this letter, please contact Shellie Habel, Sea Grant Extension Agent and Coastal Lands Program Coordinator at DLNR OCCL, at (808) 587-0049 or Shellie.L.Habel@hawaii.gov.

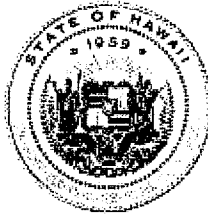
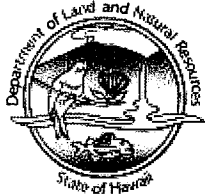
Sincerely,

Suzanne D. Case

Suzanne D. Case, CHAIRPERSON
Board of Land and Natural Resources

CC: LAND
DOCARE
Kauai County Planning Department

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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LAND
STATE PARKS

Ref: OCCL:RB

RE: SSBN KA 19-3830
TIME EXT: KA-21-11

Michael Foley, Ph.D, P.E.
Oceanit
Oceanit Center
828 Fort Street Mall, Suite 600
Honolulu, HI. 96813

JUN - 8 2021

Subject: Request for a Second Time Extension of Small-Scale Beach Nourishment Authorization SSBN KA 19-3830, Kauai Kailani Condominiums (seaward), 4-856 Kuhio Highway, Kapaa, HI – TMK (4) 4-3-009:041 (formerly TMK (4) 4-3-009:050)

Dear Mr. Foley,

The Department of Land and Natural Resources (DLNR) is responding to your April 21, 2021 request to extend the timeframe in which implementation of small-scale beach nourishment activities are required to be initiated (DLNR Ref: SSBN 19-3830) seaward of Kauai Kailani Condominiums, 4-856 Kuhio Highway, Kapaa, HI – TMK (4) 4-3-009:041 (formerly TMK (4) 4-3-009:050). This is the second time extension request for this project. A one-year extension to this SSBN permit requesting an amendment to Condition 3, "*[a]ny work or construction to be done on the land shall be initiated within one (1) year 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 ten (10) years of the approval of such use,*" was granted with work to begin by June 4, 2021.

According to your request, the second one-year extension is necessary due to delays in the easement permitting process. Specifically, you are requesting an amendment to Condition 3 of the original permit. Subject authorization was granted on June 4, 2019; thus, work was required to be initiated by June 4, 2020. The first-time extension was approved and required work to begin by June 4, 2021. You are requesting a second one-year time extension of work initiation such that work will be required to begin by June 4, 2022.

Pursuant to the Hawaii Administrative Rules (HAR), §13-5-43, TIME EXTENSIONS (b), "time extension may be granted as determined by the Chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant."

Therefore, the Department is granting a 1-year time extension to SSBN KA 19-3830. Work shall be initiated by June 4, 2022 and shall be completed by June 4, 2029. All other conditions imposed by the Department under SSBN KA 19-3830 shall remain in effect.

Should you have any questions pertaining to this letter, please contact Rachel Beasley at (808) 798-6481 or rachel.e.beasley@hawaii.gov.

Sincerely,

Suzanne D. Case

Suzanne D. Case, CHAIRPERSON
Board of Land and Natural Resources

SC

CC: KDLO
DOCARE-Kauai
Kauai County Planning Department

DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
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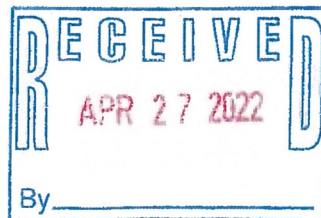
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ref: OCCL:RB

RE: SSBN KA 19-3830
TIME EXT: KA-22-08

Apr 23, 2022

Michael Foley, Ph.D, P.E.
Oceanit Center
828 Fort Street Mall, Suite 600
Honolulu, HI. 96813



Subject: Request for a Third Time Extension of Small-Scale Beach Nourishment Authorization SSBN KA 19-3830, Kauai Kailani Condominiums (seaward), 4-856 Kuhio Highway, Kapaa, HI – TMK (4) 4-3-009:041 (formerly TMK (4) 4-3-009:050)

Dear Mr. Foley,

The Department of Land and Natural Resources (DLNR) is responding to your March 28, 2022, request to extend the timeframe in which implementation of small-scale beach nourishment activities are required to be initiated (DLNR Ref: SSBN 19-3830) seaward of Kauai Kailani Condominiums, 4-856 Kuhio Highway, Kapaa, HI – TMK (4) 4-3-009:041 (formerly TMK (4) 4-3-009:050). This is the third time extension request for this project. Two previous one-year extensions were permitted to this SSBN permit. The previously requested time extensions amended Condition 3, “[a]ny work or construction to be done on the land shall be initiated within one (1) year 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 ten (10) years of the approval of such use.” The first time extension granted work to begin by June 4, 2021, and the second time extension granted work to begin by June 4, 2022.

According to your request, the third one-year extension is necessary because a construction contractor has yet to be selected. You state, “the project is progressing as all other required permits have been approved, construction specifications have been prepared, and the project was put out to bid to construction contractors.” Thus, you are requesting an amendment to Condition 3 of the original permit. Subject authorization was granted on June 4, 2019; thus, work was required to be initiated by June 4, 2020. The first one-year time extension was approved and required work to begin by June 4, 2021. The second one-year time extension was approved and required work to begin by June 4, 2022.


The OCCL notes that Emergency Conservation District Use Application (CDUA) KA-17-16 received authorization to repair and extend the length of the emergency temporary shoreline protection in March 2020. Condition #1 of this authorization states, in part, "the material is authorized as a temporary erosion control measure for three years from the date of issuance of this letter or until the second sand placement effort is conducted as part of SSBN KA 19-3830, whichever occurs sooner." Please note that the Department may not be inclined to extend a time extension for the emergency control structure. At this time, it appears you must remove these structures by March 2023.

Pursuant to the Hawaii Administrative Rules (HAR), §13-5-43, TIME EXTENSIONS (b), "time extension may be granted as determined by the Chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant."

Therefore, the Department is granting a 1-year time extension to SSBN KA 19-3830. Work shall be initiated by June 4, 2023 and shall be completed by June 4, 2029. All other conditions imposed by the Department under SSBN KA 19-3830 shall remain in effect.

Should you have any questions pertaining to this letter, please contact Rachel Beasley at (808) 798-6481 or rachel.e.beasley@hawaii.gov.

Sincerely,



Suzanne D. Case, CHAIRPERSON
Board of Land and Natural Resources *MC*

CC: KDLO
DOCARE-Kauai
Kauai County Planning Department