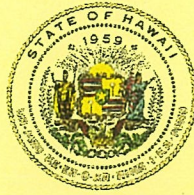


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



KA MOKU'ĀINA 'O HAWAI'I
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KA 'OIHANA KUMUWAIWAI 'ĀINA
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LAND
STATE PARKS

REF:OCCL:CM

HO 'ALA LOKO I 'A: HA 24-01

Sep 8, 2023

Scott Sullivan
Sea Engineering, Inc.
41-305 Kalaniana'ole Highway
Waimanalo, Hawai'i 96795

SUBJECT: HO 'ALA LOKO I 'A Permit HA 24-01 for Kahapapa Fishpond Improvement Project; Anaehoomalu Bay, Waikoloa, Hawai'i; Tax Map Key (3) 6-9-007:011

Dear Mr. Sullivan,

The Department of Land and Natural Resources (Department), Office of Conservation and Coastal Lands (OCCL) has reviewed your application regarding the proposed improvement work at the Kahapapa Fishpond located on the subject parcel. The privately owned pond, along with the connecting Ku 'uali 'i pond, is in the Resource subzone of the State Land Use Conservation District.

BACKGROUND

The ponds are pu 'uone-type loko i 'a that are bounded on the makai side by an 1,100 feet long sandy dune, and on the mauka side by a rocky basalt geography. A short channel connects the two ponds, and the smaller Kahapapa pond is connected to the ocean by an approximately 150 feet long channel. This channel provides the only outlet to the sea for both ponds, therefore water circulation in the ponds are minimal. However, there is a significant number of freshwater springs providing groundwater flow into the ponds to aid in flushing and water exchange.

Kahapapa pond is irregularly shaped with dimension of approximately 200 feet long by 150 feet wide and has a surface area of approximately 0.75 acres. Maintenance of the pond is the responsibility of the Waikoloa Beach Association.

On August 11, 1972, the Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) HA-315, as part of the resort development, for beach and pond clearing at Anaehoomalu Bay subject to 15 conditions. Condition no. 5 of the permit

states the permittee or any future successors and assigns to the project shall be responsible for the maintenance of the pond and beach areas.

In 2011, a tsunami destroyed a 220 feet section of the protective wall fronting the Ku 'uali 'i pond. During the restoration work (allowed under CDUP ST-3703 for the Ho 'ala Loko I 'a program), the wall was rebuilt to a height of 6 feet, instead of its original height of 4 feet under Loko I 'a permit HA 15-05 and Correspondence HA 13-82. The additional height allowed for a higher beach elevation and prevented wave overtopping of the wall during seasonal high waves and king tide events which resulted in deposition of sand within with fishpond. This aided in the long-term maintenance and stewardship of the pond resources.

PROPOSED PROJECT

The Kahapapa pond improvement plan consists of raising approximately 350 linear feet of the existing wall on the makai side of the pond from 4 feet to approximately 6 feet, consistent with the adjacent Ku 'uali 'i pond wall, to better protect the Kahapapa pond.

The wall height increase will be constructed of cemented lava rock and would replicate the existing wall construction. Rebars of 2 feet length would be used within the extension area for added strength. The lava rock would be obtained from the near vicinity. All work will be done from the beach side of the wall, and no work will be done in the water. The construction will be done by hand. Mortar will be mixed by a powered concrete mixer, and a small, mechanized equipment (Bobcat loader) would be used to move the stone from a stockpile to the construction area. No new structures or widening of the original wall thickness will be constructed.

The reason for the request is the necessity to maintain a higher beach elevation and prevent wave overtopping and sand deposition within the pond. This is in line with the reason for rebuilding the Ku 'uali 'i pond wall higher. This would be important with future climate changes and sea level rise.

The proposed fishpond wall improvement plan is consistent with the intent of CDUP ST-3703. The CDUP provides for the maintenance, restoration, and protection of fishponds while still allowing access to beach and submerged lands makai of the pond.

The proposed work is classified as Tier II, involving "fishpond repair, restoration, maintenance, and operation involving work that is in excess of 10 percent but less than 50 percent of the original fishpond structure."

Best management practices developed by Sea Engineering, Inc. will be followed. These include, but is not limited to, (1) Use of temporary berms, sediment basins, and silt fences for erosion control; (2) Stopping work and contacting State of Hawai'i Historic Preservation Office in the event of unearthing unanticipated archaeological sites, including artifacts, burials, etc.; (3) No waste water discharge into State waters; and, (4) Restoration of the area to its original state upon completion of the project.

The following agencies were solicited for comments: Division of Aquatic Resources, State Historic Preservation Division, Division of Forestry and Wildlife, Land Division, Office of Hawaiian Affairs, City and County Department of Planning and Permitting, and Kua 'āina Ulu 'Auamo. No comments were received.

After reviewing the information, the OCCL finds that:

1. The proposed work at the Kahapapa fishpond is consistent with the statewide programmatic general permit for restoration, repair, maintenance, and operation of loko i'a (CDUP ST-3703: Ho'āla loko i'a), as approved by the Board of Land and Natural Resources on June 27, 2014;
2. The activities described were covered in the Final Environmental Assessment (FEA) and Finding of No Significant Impact (FONSI) for the Ho'āla loko i'a program, which was published on October 23, 2013;
3. The proposal requires the need for a Tier 2 loko i'a permit signed by the Chair of the Board of Land and Natural Resources; and
4. The State Department of Health water quality certifications are waived pursuant to Hawai'i Revised Statutes (HRS) Chapter 342D Water Pollution §6.5 Hawaiian loko i'a (b) *The department shall waive the requirement to obtain water quality certification under this chapter for any person that has received notice of authorization to proceed from the Department of Land and Natural Resources Office of Conservation and Coastal Lands under the statewide programmatic general permit for the restoration, repair, maintenance, and operation of loko i'a.*

After review of the proposed project, the Department finds that the proposed work will not negatively impact water quality, endangered or threatened species, archaeological and cultural resources, provided that the permittee implement appropriate mitigation measures, and therefore, authorizes a Tier II loko i'a permit for the Kahapapa Fishpond Improvement project at Anaehoomalu Bay, Waikoloa, Hawai'i, TMK (3) 6-9-007:011, subject to the following general and standard conditions:

1. 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;
2. The permittee shall implement and sustain throughout the duration of the work all applicable best management practices described in the Ho'āla Loko I'a Permit Application Guidebook as well as those mitigation measures outlined in the permittee's application;


3. The permittee shall comply with all applicable statutes, ordinances, rules, and regulation of the federal, state, and county governments, and applicable parts of this chapter;
4. The permittee, its successors and assigns, shall indemnify and hold the State of Hawai'i harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act of 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;
5. The permittee shall obtain appropriate authorization from the department for the occupancy of state lands, if applicable;
6. The permittee shall comply with all applicable Department of Health rules;
7. All best management practices outlined in the permit application shall be incorporated as conditions of the permit;
8. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
9. 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;
10. 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;
11. 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;
12. 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 Hawai'i, and by Hawai'i statutory and case law;
13. Should historic remains such as artifacts, burials or concentration of charcoal be encountered, work shall cease immediately in the vicinity of the find, and

the find shall be protected from further damage. The contractor shall immediately contact SHPD (808-692-8015) which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;

14. Other terms and conditions as prescribed by the chairperson;
15. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board.
16. That in issuing this permit, the Department has relied on the information and data that Sea Engineering, Inc. has provided. If, subsequent to this permit, such information proved to be false, incomplete, or inaccurate, enforcement proceedings may be initiated, as necessary; and,
17. Observe and implement the Best Management Practices Plan prepared by Sea Engineering, Inc. for the Kahapapa Fishpond Improvement project dated July 13, 2023.

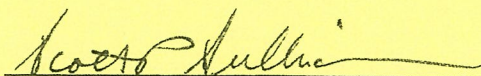
Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign and date below and return a copy to our office. Should you have any questions regarding this correspondence, contact Cal Miyahara of the Office of Conservation and Coastal Lands at (808) 798-6147 or calen.miyahara@hawaii.gov.

Sincerely,



mc Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources

Receipt acknowledged:



Permittee's Signature

9/14/2023
Date