

**STATE OF HAWAI‘I
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawai‘i**

June 9, 2016

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

REGARDING: Second Time Extension Request for Conservation District Use Permit (CDUP) OA-3579 for the Honolulu Seawater Air Conditioning Project

APPLICANT: Frederic Berg
Honolulu Seawater Air Conditioning, LLC.

LOCATION: Submerged Land, Makai of Kaka‘ako Waterfront Park, Offshore of Plat (1) 2-1-060 and Channel D of Ke‘ehi Lagoon, Island of O‘ahu

LANDOWNER: State of Hawai‘i

USE: Kaka‘ako - Approximately (≈) 8.0 Acres
Ke‘ehi Lagoon - ≈ 50.0 Acres

SUBZONE: Resource

BACKGROUND (Exhibit 1, 2 & 3)

On June 23, 2011, the Board of Land and Natural Resources (Board) approved CDUP OA-3579 for the Honolulu Seawater Air Conditioning (HSWAC) Project subject to 18 conditions. On December 12, 2014 the Board amended condition #9 of CDUP OA-3579 to provide that the Permittee has until June 23, 2016 to initiate construction and until June 23, 2018 to complete construction.

TIME EXTENSION REQUEST (Exhibit 4)

The Office of Conservation and Coastal Lands (OCCL) received a request for a second time extension request from HSWAC to extend the time to initiate construction. Further discussion with HSWAC indicated that an extension to complete construction would also be necessary.

According to HSWAC, the Department of Health (DoH) Section 401 for water quality certification was approved on November 27, 2015. However other DOH permit applications noted as the National Pollution Discharge Elimination System and the Zone of Mixing application continue to be under review. This review process has been ongoing since November of 2010 and may be completed as early as the third quarter of 2016.

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in §13-5-43, Hawai'i 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.

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 for review."

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:

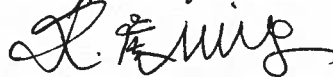
In the present case, none of these factors suggest any reason to deny the request. The Permittee has endeavored to obtain all permits and approvals prior to initiating the project. Approval of the time extension request shall hopefully provide the time needed to complete the seawater air conditioning project.

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to initiate and complete the Honolulu Seawater Air Conditioning Project located upon submerged land, makai of Kaka'ako Waterfront Park, Offshore of Plat (1) 2-1-060 and Channel D of Ke'ehi Lagoon, Island of O'ahu subject to the following conditions:

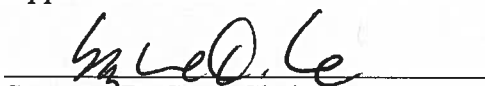
1. That condition #9 of CDUP OA-3579 is amended to provide that the Permittee has until June 23, 2018 to initiate construction and until June 23, 2020 to complete construction; and
2. That all other conditions imposed by the Board under CDUP OA-3579, as amended, shall remain in effect.

Respectfully submitted,

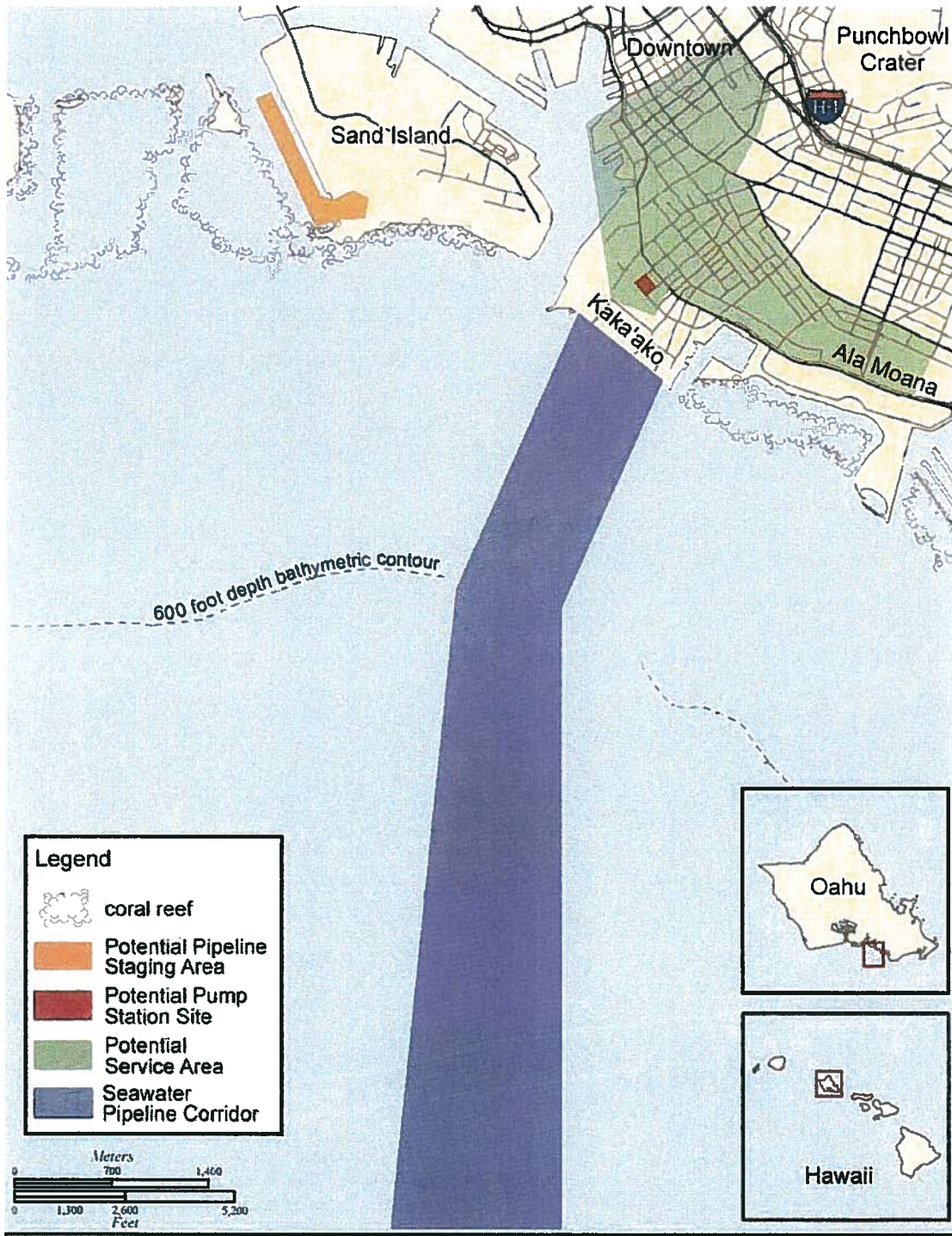


K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



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

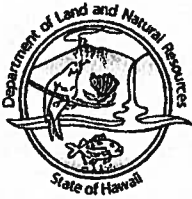


HSWAC Project Area



EXHIBIT 1

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM AL TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
HUNTING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
FISHBERG
FORESTRY AND WILDLIFE
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUP: OA-3579

George Krasnick
TEC Inc.
1003 Bishop Street
Pauahi Tower, Suite 1550
Honolulu, HI 96814

JUN 27 2011

SUBJECT: Conservation District Use Permit (CDUP) OA-3579 for the Honolulu Seawater Air Conditioning Project

Dear Mr. Krasnick:

This is to inform you that on June 23, 2011, the Board the Board of Land and Natural Resources approved your client, Honolulu Seawater Air Conditioning, LLC's Conservation District Use Application OA-3579 for the Honolulu Sea Water Air Conditioning Project located upon submerged land, makai of Kakaako Waterfront Park, offshore of plat (1) 2-1-060 and temporary use of Channel D of Keehi Lagoon, 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 appropriate authorization from the Department for the occupancy of State lands;
4. The applicant shall consult with the Division of Aquatic Resources in regards to a determination for a Special Activity Permit;
5. The applicant shall coordinate with the Department of Transportation's Oahu District Office due to the proximity of the project to Honolulu Harbor to avoid conflicts with maritime operations during construction of this project;

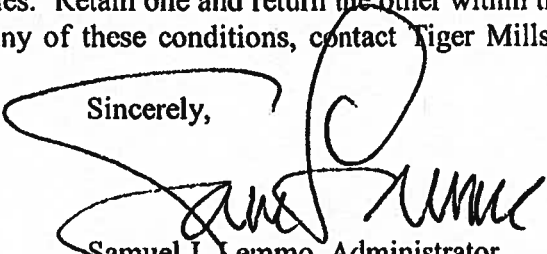
EXHIBIT 2

6. The applicant shall coordinate with the Division of Boating and Ocean Recreation at Keehi Lagoon and the Coast Guard relative to maintaining safe navigation during construction activities and operations;
7. The applicant shall comply with all applicable Department of Health administrative rules;
8. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction and grading plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit 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;
9. Any work done or construction to be done on the land shall be initiated within three 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. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
10. All mitigation measures set forth in the application materials, in the final environmental impact statement, and all required permits within the conservation District for this project are hereby incorporated as conditions of this permit;
11. The Applicant shall provide public notification to inform the public of the project;
12. The applicant understands and agrees that this permit does not convey any vested rights or exclusive privilege;
13. 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;
14. 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;
15. 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;
16. The applicant shall insure access to Mokauea Island to those individuals that have a vested interest related to the island;

- 17. Other terms and conditions as may be prescribed by the Chairperson; and
- 18. Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

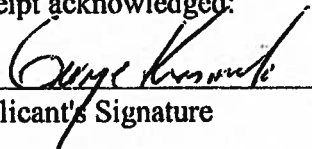
Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions, contact Tiger Mills at (808) 587-0382.

Sincerely,



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

Receipt acknowledged:



Applicant's Signature

Date 6/29/11

c: Chairperson
ODLO/DAR/DOBOR/SP
DOT-Harbors/Coast Guard/DOA
City & County of Honolulu, DPP

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUP: OA-3579

Mr. Frederic Berg
Honolulu Seawater Air Conditioning, LLC.
1132 Bishop St., Suite 1410
Honolulu, HI 96813

DEC 22 2014

SUBJECT: Time Extension Request for Conservation District Use Permit (CDUP) OA-3579 for the Honolulu Seawater Air Conditioning Project Proposed Upon Submerged Land, Makai of Kaka'ako Waterfront Park, Offshore of Plat (1) 2-1-060 and Channel D of Ke'ehi Lagoon, Island of O'ahu

Dear Mr. Berg:

On December 12, 2014, the Board of Land and Natural Resources approved your time extension request to initiate and complete the Honolulu Seawater Air Conditioning Project located upon submerged land, makai of Kaka'ako Waterfront Park, Offshore of Plat (1) 2-1-060 and Channel D of Ke'ehi Lagoon, Island of O'ahu subject to the following conditions:

1. That condition #9 of CDUP OA-3579 is amended to provide that the Permittee has until June 23, 2016 to initiate construction and until June 23, 2018 to complete construction; and
2. That all other conditions imposed by the Board under CDUP OA-3579, as amended, shall remain in effect.

Should you have any questions regarding this matter, contact Tiger Mills of our Office of Conservation and Coastal Lands staff at (808) 587-0382.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo".

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

C: ODLO
City and County of Honolulu, DPP

EXHIBIT 3



**COOL GREEN CLEAN™
Honolulu**

Honolulu Seawater Air Conditioning, LLC
1132 Bishop Street, Suite 1410
Honolulu, Hawaii 96813

Tel 808.531.7922
Fax 808.531.7923
www.honoluluswac.com

Affiliate of Renewable Energy Innovations, LLC

April 8, 2016

Mr. Samuel J. Lemmo, Administrator
State of Hawaii, Department of Natural Resources
Office of Conservation and Coastal Land
P.O. Box 621
Honolulu, Hawaii 96809
Attn: Tiger Mills

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

2016 APR 11 A 10:42

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

**Subject: Conservation District Use Permit (CDUP) OA - 3579
Honolulu Seawater Air Conditioning Project**

Dear Mr. Lemmo:

Honolulu Seawater Air Conditioning respectfully requests an extension of time to initiate construction on submerged lands, makai of Kakaako Water Front Park, offshore of plat (1) 2-1-060 and temporary use of Channel D in Keehi Lagoon, island of Oahu, as permitted in CDUP OA - 3579.

Department of Health permit applications, including the National Pollution Discharge Elimination System and Zone of Mixing applications are currently under review. This review process has been ongoing since November of 2010 and may be completed as early as the third quarter of 2016. The Section 401 of the Clean Water Act for water quality certification was approved on November 27, 2015.

In view of the delays experienced in obtaining these permits, we respectfully request a two year extension per the Hawaii Administrative Rules §13-5-43(e).

If additional information is necessary, please feel free to contact me at (808) 284-4221.

Sincerely,

Frederic Berg

EXHIBIT 4