

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

June 23, 2017

CDUP: OA-3673

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

REGARDING: Time Extension Request (OA-17-11) for Conservation District Use Permit (CDUP) OA-3673 Regarding Completion of Construction for the Hanauma Bay Nature Preserve Rockfall Mitigation Project

**PERMITTEE/
LANDOWNER:** City and County of Honolulu – Department of Design and Construction

LOCATION: Hanauma Bay Nature Preserve, Honolulu District, Island of Oahu

TMK: (1) 3-9-012:002

AREA OF USE: 15,000 sq. ft.

SUBZONE: Limited

BACKGROUND:

On *August 1, 2013*, the Board of Land and Natural Resources (BLNR) approved Conservation District Use Application (CDUA) OA-3673 for the ‘Hanauma Bay Nature Preserve Rockfall Mitigation Project’ subject to 21 conditions (**Exhibit 1, 1a**). Condition 5 provides that: *unless otherwise authorized, any work or construction to be done 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 three (3) years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed.*

TIME EXTENSION REQUEST:

On *June 1, 2017*, the Office of Conservation and Coastal Lands (OCCL) received a correspondence requesting an extension of the construction completion dates (**Exhibit 2**).

The correspondence submitted by the agent for the applicant (i.e., AECOM) indicates that the request is for a three (3) year extension to the construction initiation date.

As stated by the agent for the applicant, this project has been undertaken in three (3) separate phases, which all bid as separate construction contracts. Phase I work for this project commenced in November 2013 and was completed in May 2014. Phase 2 work for this project commenced in November 2015 and was completed in April 2016. The contract for Phase 3 work was originally awarded in December 2016. However, this award was contested by another bidder, further delaying the start of Phase 3 construction. Phase 3 work is currently scheduled to commence in late spring or summer 2017, with anticipated completion prior to August 2019.

Therefore, an extension to **August 1, 2019** to complete construction 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 BLNR 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. The *City and County of Honolulu – Department of Design and Construction* 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 construction process due to procurement delays. Should the BLNR choose to approve this request, the CCH-DDC will have had one year to initiate construction and six (6) years to complete construction. Staff therefore, has the following:

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to **August 1, 2019** to complete construction of the Hanauma Bay Nature Preserve Rockfall Mitigation Project located at Hanauma Bay, Honolulu District, Island of Oahu, *TMK: (1) 3-9-012:002*; subject to the following conditions:

1. That condition 5 of CDUP: OA-3673 is amended to provide that the *City and County of Honolulu - Department of Design and Construction* will have until **August 1, 2019** to complete construction; and
2. That all other conditions imposed by the Board under CDUP: OA-3673, as amended, shall remain in effect.

Respectfully submitted,



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

Approved for submittal:



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

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

MAY 22 A 11:27

DEPT. OF LAND &
NATURAL RESOURCES
STATE 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

ESTHER KIA'AUNA
POST DEPUTY

WILLIAM M. TAM
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
ENFORCEMENT

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAOIOLAWA ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF: OCCL: AJR

CDUA: OA-3673

AUG - 6 2013

Julie Zimmerman
c/o AECOM
1001 Bishop St., Suite. 1600
Honolulu, HI 96813-3698

SUBJECT: CONSERVATION DISTRICT USE PERMIT (CDUP) NO. OA-3673 FOR THE HANAUMA BAY NATURE PRESERVE ROCKFALL MITIGATION PROJECT
Hanauma Bay, Honolulu District, Island of Oahu
TMK: (1) 3-9-012:002

Dear Ms. Zimmerman,

This is to inform you that on August 1, 2013 the Chair of the Board of Land and Natural Resources approved Conservation District Use Permit (CDUP) OA-3673 for the Hanauma Bay Nature Preserve Rockfall Mitigation Project, TMK: (1) 3-9-012:002, located in Hanauma Bay, Honolulu District, Island of Oahu, subject to the following 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, 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;
3. The permittee shall comply with all applicable department of health administrative rules;
4. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;
5. Unless otherwise authorized, 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 shall be completed within three (3) years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;

EXHIBIT 1A TE: OA-17-11

6. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
7. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
8. 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;
9. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
10. Provisions for access, parking, drainage, fire protection, safety, signs, lighting, and changes on the landscape shall be provided;
11. 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;
12. 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;
13. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
14. Cleared areas shall be revegetated, in accordance with landscaping guidelines provided in this chapter, within thirty days unless otherwise provided for in a plan on file with and approved by the department;
15. Use of the area shall conform with the program of appropriate soil and water conservation district or plan approved by and on file with the department, where applicable;
16. The permittee shall obtain a county building or grading permit or both as necessary for the use prior to final construction plan approval by the department;
17. 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;
18. 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;
19. Where applicable, provisions for protection of beaches and the primary coastal dune shall be established by the permittee, to the satisfaction of the department, including but not limited to avoidance, relocation, or other best management practices;

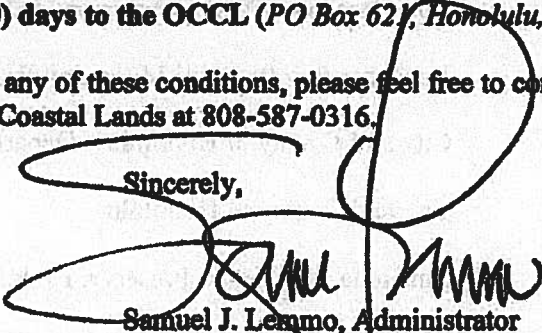
20. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law; and

21. Other terms and conditions as prescribed by the chairperson.

Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign the original and the provided copy. Please keep the original and return the copy within thirty (30) days to the OCCL (PO Box 621, Honolulu, 96809).

Should you have any questions on any of these conditions, please feel free to contact Alex J. Roy of the Office of Conservation and Coastal Lands at 808-587-0316.

Sincerely,


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

Receipt acknowledged:


Applicant's Signature

Date

August 19, 2013

CC: DLNR -Land
City and County of Honolulu - DPP
City and County of Honolulu - Dept. of Parks and Rec.

Attachments: OCCL Staff Report



AECOM 808 523 8874 tel
 1001 Bishop Street, Suite 1600 808 523 8950 fax
 Honolulu, Hawaii 96813-3698
 www.aecom.com

May 31, 2017

Mr. Samuel Lemmo
 Administrator
 Office of Conservation and Coastal Lands
 Department of Land and Natural Resources
 Kalanimoku Building
 1151 Punchbowl St., Room 131
 Honolulu, HI 96813

RECEIVED
 OFFICE OF CONSERVATION
 AND COASTAL LANDS
 2017 JUN -2 A 10:53
 DEPT. OF LAND &
 NATURAL RESOURCES
 STATE OF HAWAII

Subject: CONSERVATION DISTRICT USE PERMIT (CDUP) No. OA-3673
 TIME EXTENTION REQUEST FOR THE HANAUMA BAY NATURE
 PRESERVE ROCKFALL MITIGATION PROJECT
 Hanauma Bay, Honolulu District, Island of Oahu TMK: (1) 3-9-012:002

Attention: Mr. Alex Roy

Dear Mr. Lemmo,

On the behalf of the City and County of Honolulu (CCH), Department of Design and Construction (DDC), and as their designated agent AECOM is requesting a time extension to CDUP No. OA-3673 issued on August 1, 2013, for the Hanauma Bay Natural Preserve Rockfall Mitigation Project. Per CDUP No. OA-3673 condition No. 5, unless otherwise authorized 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 shall be completed within three (3) years of the approval of such use. Therefore this permit authorization expired on August 1, 2016.

This project has been undertaken in three (3) separate phases, which were all bid as separate construction contracts. Phase 1 work for this project commenced in November 2013 and was completed in May 2014. Phase 2 work for this project commenced in November 2015 and was completed in April 2016. The contract for Phase 3 work was originally awarded in December 2016. However, this award was contested by another bidder, further delaying the start of Phase 3 construction. Phase 3 work is currently scheduled to commence in late spring or summer 2017, with anticipated completion prior to August 2019. Therefore we are requesting a three (3) year time extension to CDUP No. OA-3673.

Should you have any questions or need additional information please contact Courtney Cacace at Courtney.Cacace@aecom.com or at (808) 529-7297.

Sincerely,


 Randy Hamamoto
 AECOM Project Manager

EXHIBIT 2
 TE: OA-17-11