

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawai'i
August 24, 2018

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

REGARDING: Time Extension Request for Conservation District Use Permit (CDUP) KA-3668 for the Kalāheo Water System Improvements and Subdivision

APPLICANT County of Kaua'i- Department of Water Supply (DOW)

LANDOWNER: State of Hawai'i
Tax Map Keys: (4) 2-4-003: 006 & 007; 2-4-004: 005, 039, 049 & 058; 2-4-009:003

LANDOWNER: Marty Hoffman, Trustee of the Hoffman, Marty Rev Living Trust
Tax Map Keys: (4) 2-4-003:006

LOCATION: Kalāheo and Wahiawa, Kaua'i

SUBZONE: Limited, Resource and General

BACKGROUND (Exhibit A & B)

On September 13, 2013, the Board of Land and Natural Resources approved CDUP KA-3668 for the Kalāheo Water System improvements and subdivision of land subject to 21 conditions of which condition #6 states that work would be completed within three years of approval. A time extension was requested on July 15, 2016 due to delays for construction right of entry notifications and the processing of a subdivision and authorized on August 4, 2016. The time extension was granted to complete the project by September 13, 2018.

TIME EXTENSION REQUEST (Exhibit C)

On June 28, 2018, the Office of Conservation and Coastal Lands (OCCL) received correspondence from consultant, Belt Collins LLC requesting additional time to complete the project. Construction drawings were amended to reduce the size of one of the water tanks, financing processes needs to be completed, and a contractor needs to be procured. The improvements include construction of new reservoirs, a well, waterlines and supporting facilities and must be installed in a prescribed sequence to provide proper switching of services and phasing in of the new facilities. It is anticipated that work will take over 3 years to complete.

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in the Hawaii Administrative Rules (HAR), §13-5-43, 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."

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 completing 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 Department believes that work has been initiated for the project with the processing of the subdivision. The permittee has endeavored to obtain all permits and approvals in addition to complying with permit conditions for project construction. Although work is anticipated to be completed over 3 years, staff is recommending additional time to complete the project given the required sequencing and phasing of services to insure uninterrupted water services. Approval of the time extension request shall hopefully provide the time needed to complete the project.

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to complete the County of Kauai's Kalaheo Water System Improvements by September 13, 2023 subject to the following conditions:

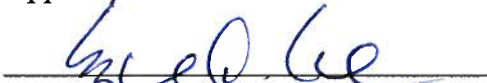
1. That condition #6 of CDUP KA-3668 is amended to provide that the Permittee has until by September 13, 2023 to complete construction; and
2. That all other conditions imposed by the Board under CDUP KA-3668, as amended, shall remain in effect.

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

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
ESTHER KIA'AINA
FIRST 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
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:TM

CDUP: KA-3668

Glen T. Koyama
Belt Collins Hawaii LLC.
2153 North King St, Suite 200
Honolulu, Hi 96819

SEP 16 2013

SUBJECT: Conservation District Use Permit (CDUP) KA-3668

Dear Mr. Koyama:

This is to inform you that on September 13, 2013, the Board of Land and Natural Resources approved your client's application for the Kalāheo Water System improvements and subdivision of land on parcel (4) 2-4-003:007 located at Kalāheo and Wahiawa, Kaua'i, Tax Map Keys: (4) 2-4-003:006 & 007; 2-4-004: 005, 039, 049 & 058; and 2-4-009:003 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 obtain appropriate authorization from the department for the occupancy of state lands;
- (4) The permittee shall comply with all applicable department of health administrative rules;
- (5) 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;
- (6) Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one 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 years

EXHIBIT A

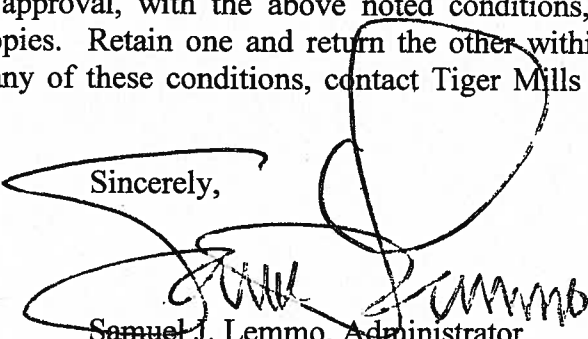
of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;

- (7) 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;
- (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) 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;
- (11) Provisions for access, parking, drainage, fire protection, safety, signs, lighting, and changes on the landscape shall be provided;
- (12) 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;
- (13) Obstruction of public roads 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;
- (14) During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
- (15) 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;
- (16) The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
- (17) The permittee shall obtain the required authorizations from the Commission on Water Resource Management prior to the initiation of any well construction work;
- (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 except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;

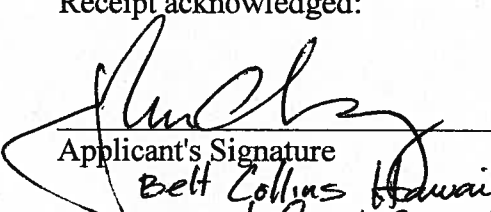
- (19) The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
- (20) Other terms and conditions as prescribed by the chairperson; and
- (21) 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 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

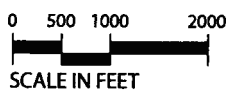
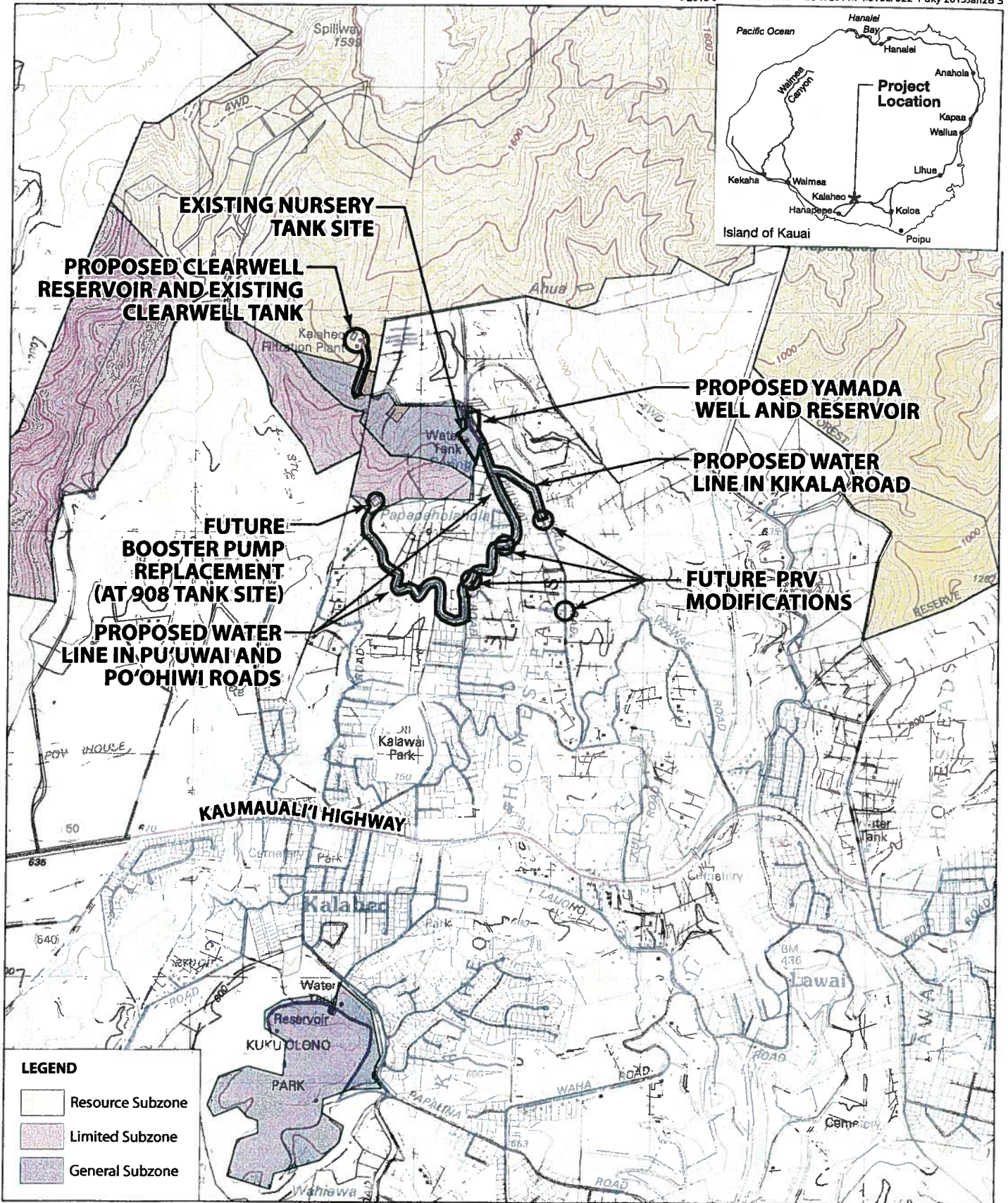
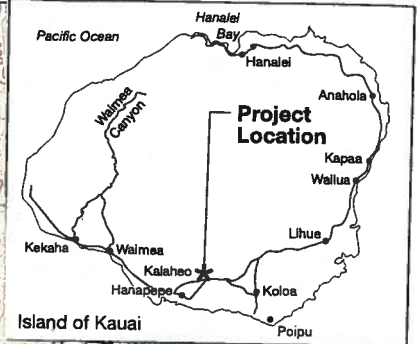
Belt Collins Hawaii
agent for Kauai Dept of Water

c: Chairperson
KDLO

County of Kauai

-Department of Planning

Date 10/3/13

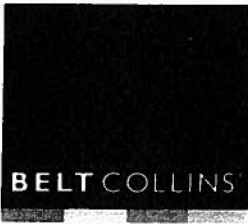


LOCATION MAP WITH CONSERVATION DISTRICT SUBZONES
Kalāheo Water System Improvements
Kalāheo, Kaua'i

EXHIBIT B

Ext.

KA-18-11



RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2018 JUN 28 P 12:03

June 26, 2018
2011.74.0100 / 18E-135

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

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

Dear Mr. Lemmo:

**Request for Extension
Conservation District Use Permit (CDUP) KA-3668
Proposed Kalāheo Water System Improvements
Kōloa, Kaua'i, Hawai'i**

On behalf of the County of Kaua'i (County), Department of Water (DOW), we respectfully request an extension of CDUP KA-3668 which is scheduled to expire on September 13, 2018. The CDUP was initially issued on September 13, 2013, and administratively extended on August 4, 2016. Construction has not started and is currently estimated to start in late 2019.

Since the CDUP was approved, the subdivision for the Yamada Tank site was approved in April 2015. The construction drawings for the Yamada Reservoir, Clearwell Reservoir, and watermain replacement are in the process of being approved. The preparation of the construction drawings required more time due to the decision to change the Clearwell tank size from 0.5 million gallons to 100,000 gallons. After the construction drawings are approved, funding for the project will be processed by DOW. Upon approval of the funding, the project will be advertised. Subsequently, the project will be awarded to a contractor and then constructed. The construction for the current construction packages is estimated to take over three (3) years. In addition to the lengthy construction time, future construction packages are required to complete the water system improvements necessitating additional time extensions.

As described in the original application, DOW is upgrading its water system in upland Kalāheo, Kaua'i, to meet future Maximum Day Demand storage and fire flow requirements. These improvements are needed to adequately serve the current and future customers of the Kalāheo-Lāwa'i-Ōma'o water service area. The water system improvements include construction of new reservoirs, a well, waterlines, and supporting facilities. The construction must be installed in a prescribed sequence to provide proper switching of services and phasing in of the new facilities.

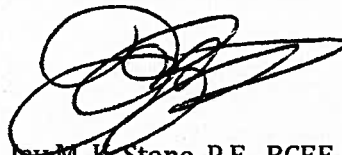
EXHIBIT C

Mr. Samuel J. Lemmo, Administrator
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Page 2

We appreciate your consideration of this request. Please call me at (808) 521-5361 or email me at jstone@bchdesign.com should you have any questions on this request.

Very truly yours,

BELT COLLINS HAWAII LLC

A handwritten signature in black ink, appearing to read 'Jay M. K. Stone', with a large, sweeping flourish extending to the right.

Jay M. K. Stone, P.E., BCEE, CFM, CPESC, LEED AP
Senior Associate / Chief Engineer

JMKS:ajk

cc: Mr. Eric Fujikawa, Kaua'i - DOW