

BOARD OF LAND AND NATURAL RESOURCES
STATE OF HAWAII

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2014 JUN 13 P 5:36

In the matter of a Contested Case Petition)
Regarding Conservation District Use Application)
(CDUA) OA 3604 for a Portion of the Kalo'i Gulch)
Drainage Improvements Located on State)
Submerged Land Makai of TMKs: (1) 9-1-011:007)
and (1) 9-1-134:006)
_____)

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII
OFFICE OF THE CHIEF OF OFFICE
12-01

Findings of Fact,
Conclusions of Law, and
Decision and Order

Findings of Fact, Conclusions of Law, and

Decision and Order

EXHIBIT B

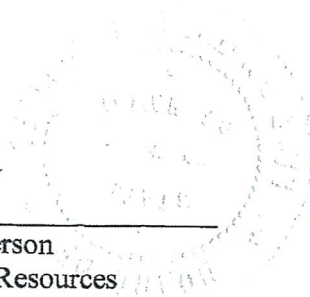
1 **III. DECISION AND ORDER**

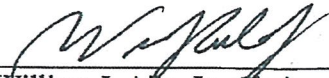
2 The application for the Kalo`i Gulch Drainage Improvements located on submerged land
3 makai of TMKs: (1) 9-1-011:007 and (1) 9-1-134:006 is approved, subject to the following
4 conditions:

- 5 1. The permittees shall comply with all applicable statutes, ordinances, rules, and
6 regulations of the federal, state, and county governments, and applicable parts of Title 13-
7 5 of the Hawai`i Administrative Rules (HAR).
- 8 2. The permittees, their successors and assigns, shall indemnify and hold the State of
9 Hawai`i harmless from and against any loss, liability, claim, or demand for property
10 damage, personal injury, and death arising out of any act or omission of the applicant, its
11 successors, assigns, officers, employees, contractors, and agents under this permit or
12 relating to or connected with the granting of this permit. This condition shall not apply to
13 governmental departments or agencies.
- 14 3. The permittees shall obtain appropriate authorization from the Department for the
15 occupancy of state lands.
- 16 4. The permittees shall comply withal applicable Department of Health administrative rules.
- 17 5. Before proceeding with any work authorized by the Department or the Board, the
18 permittees shall submit four copies of the construction plans and specifications to the
19 Chairperson or an authorized representative for approval for consistency with the
20 conditions of the permit and the declarations set forth in the permit application. Three of
21 the copies will be returned to the permittees. Plan approval by the Chairperson does not
22 constitute approval required from other agencies.
- 23 6. Unless otherwise authorized, any work or construction to be done on the land shall be
24 initiated within one year of the approval of such use, in accordance with construction
25 plans that have been signed by the Chairperson, and shall be completed within three years
26 of the approval of such use.
- 27 7. The permittees shall notify the Department in writing when construction activity is
28 initiated and when it is completed.
- 29 8. All mitigation measures that were recommended for implementation pursuant to the
30 accepted environmental impact statement for the proposed use are incorporated as
31 conditions of the permit.

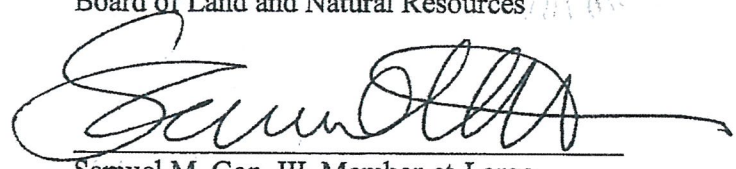
- 1 9. The permittees understand and agree that the permit does not convey any vested right(s)
2 or exclusive privileges.
- 3 10. In issuing the permit, the Department and Board have relied on the information and data
4 that the permittees have provided in connection with the permit application. If,
5 subsequent to the issuance of the permit such information and data prove to be false,
6 incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole
7 or in part, and the Department may, in addition, institute appropriate legal proceedings.
- 8 11. Where any interference, nuisance, or harm may be caused, or hazard established by the
9 use, the permittees shall be required to take measures to minimize or eliminate the
10 interference, nuisance, harm, or hazard.
- 11 12. During construction, appropriate mitigation measures shall be implemented to minimize
12 impacts to off-site roadways, utilities, and public facilities.
- 13 13. The permittees acknowledge that the approved work shall not hamper, impede, or
14 otherwise limit the exercise of traditional, customary, or religious practices of native
15 Hawaiians in the immediate area, to the extent the practices are provided for by the
16 Constitution of the State of Hawai`i, and by Hawai`i statutory and case law.
- 17 14. Should historic remains such as artifacts, burials or concentration of charcoal be
18 encountered during construction activities, work shall cease immediately in the vicinity
19 of the find, and the find shall be protected from further damage. The contractor shall
20 immediately contact SHPD (808-692-8015), which will assess the significance of the find
21 and recommend an appropriate mitigation measure, if necessary.
- 22 15. The permittees shall plan to minimize the amount of dust-generating materials and
23 activities. Material transfer points and on-site vehicular traffic routes shall be centralized.
24 Dusty equipment shall be located in areas of least impact. Dust-control measures shall be
25 provided during weekends, after hours and prior to daily start-up of project activities.
26 Dust from debris being hauled away from the project site shall be controlled.
27 Landscaping and dust control of cleared areas will be initiated promptly.
- 28 16. Other terms and conditions as may be prescribed by the Chairperson.
- 29 17. Failure to comply with any of these conditions may constitute grounds for the
30 Department terminating this Conservation District Use Permit if such failure is not
31 corrected within thirty (30) days of written notice of such failure from the Department.

DATED: June 13, 2014, Honolulu, Hawai'i.






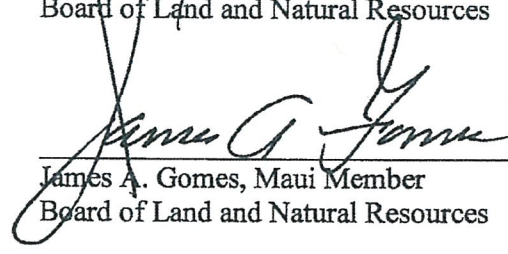
William J. Aila, Jr., Chairperson
Board of Land and Natural Resources



Samuel M. Gon, III, Member-at-Large
Board of Land and Natural Resources



David Goode, Member-at-Large
Board of Land and Natural Resources



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Board of Land and Natural Resources

Reed Kishinami, Oahu Member
Board of Lands Natural Resources

Thomas Oi, Kauai Member
Board of Land and Natural Resources

Robert Pacheco, Hawaii Member
Board of Land Natural Resources

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

In The Matter of a Contested Case Regarding)	
Conservation District Use Application (CDUA))	
OA 3604 for the Kalo'i Gulch Drainage)	DLNR File OA 12-01
Improvements Located on State Submerged)	
Land Makai of TMKs: (1) 9-1-011:007 and)	
(1) 9-1-134:006)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order was duly served upon the following parties as indicated, by means of State Messenger or U.S. Mail, postage prepaid on June 17, 2014, addressed as follows:

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Dated: Honolulu, Hawaii, June 17 2014


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Department of Land & Natural Resources
State of Hawai'i