



US Army Corps
of Engineers
Honolulu District

Public Notice of Application for Permit

Regulatory Branch (1145b)
Building 230
Fort Shafter, Hawaii 96858-5440

Public Notice Date: March 12th, 2013
Expiration Date: **April 12th, 2013**
Permit File Number: POH-2012-00016

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached drawings.

APPLICANT: Mr. Neil Anthony Sims, CEO, Kampachi Farms, LLC

LOCATION: The proposed mooring site is located approximately 6 nautical miles west of Keauhou Bay and 7 nautical miles south-southwest of Kailua Bay, off the Kona Coast of the Island of Hawaii, Hawaii.

Latitude: 19.55 N Longitude: -156.066667

WORK: The proposed project is the culture and harvest of a managed coral reef species of fish, kampachi (*Seriola rivolina*) using a fixed mooring and a single proprietary Aquapod net pen. To accomplish this, the proposed action will require the deployment of a single-point mooring array, consisting of a deadweight anchor (approximately 15,000 lbs), mooring line (12,000 ft of 1.5" Polypropylene and nylon catenary), surface buoy (4 ft diameter foam-filled steel sphere), surface vessel (modified 28-ft Sportfisher, plywood and fiberglass), and the submerged Aquapod net pen (22-ft diameter plastic, lumber, and brass mesh) to conduct a single-cohort experimental grow-out of around 2,000 native, hatchery-reared kampachi in a reiteration of the Velella "drifter-cage" experiment.

PURPOSE: The proposed project's purpose is to determine if similar biological performance of the fish can be attained in very deep water on a single-point mooring rather than an unanchored "drifter" pen, as was done in the Velella "beta trial." In addition, approximately 8,000 lbs of fish are proposed to be cultured for commercial sale.

ADDITIONAL INFORMATION: Please see the attached documentation for additional information on the proposed project and its potential impacts.

MITIGATION: To avoid impacts to waters of the U.S., the proposed project has been designed in such a way that no discharge of dredged or fill material will occur for the installation of the structure. To further minimize impacts to waters, as well as prevent adverse effects to endangered species, Best Management Practices (BMPs) are proposed to prevent detrimental impacts to the aquatic resources

present in the open-ocean environment adjacent to the proposed project site. Please see the attached information for details of the proposed BMPs.

WATER QUALITY CERTIFICATION: The Corps may not issue a DA permit for any activity that may result in a discharge into waters of the United States until the applicant has obtained a certification or waiver of certification as required under Section 401 of the Clean Water Act, from the **State of Hawaii Department of Health – Clean Water Branch**.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307 of the Coastal Zone Management Act of 1972, as amended, requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the enforceable policies of the State/Territory's approved Coastal Zone Management Program and that the activity will be conducted in a manner consistent with the Program. A permit may not be issued until the **Office of State Planning, Department of Business, Economic Development, and Tourism** has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request that a public hearing be held to consider this application. Requests for public hearings must be in writing, within the comment period specified in this notice, and state clearly and concisely, the reasons and rationale for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the National and State Registers of Historic Places (NRHP and SRHP) has been consulted to assist in determining the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the NRHP and SRHP constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. In addition, activities are limited to a land form or waterway (the Pacific Ocean approximately 6 nautical miles offshore) with low probability for intact cultural deposits. Therefore, the Corps has determined that the proposed work has **no potential to cause effect** to any historic property listed, or eligible for listing, in the NRHP. This application is being coordinated with the State Historic Preservation Division (SHPD). Any comments SHPD may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in the final assessment of the proposed work.

ENDANGERED SPECIES: Section 7 of the Endangered Species Act (ESA) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of species listed as threatened or endangered under the ESA or result in the destruction or adverse modification of designated critical habitat. Concurrently with the issuance of this public notice, the USACE will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat and provide separate consultation letters to the NMFS and/or USFWS, as required, with the USACE's effects determination for the proposed project.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC) pursuant to Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA) (16 U.S.C. 1855 (b)) and associated federal regulations found at 50 CFR Part 600 Subpart K. The Honolulu District area of responsibility includes EFH for species managed under Fishery Management Plans. Concurrently with the issuance of this public notice, the USACE will evaluate further the potential impacts to EFH and provide a separate consultation letter to the NMFS.

We have preliminarily determined that the described activity may adversely affect EFH, but that adverse effects will not be substantial. The proposed work may affect approximately 9 acres of EFH for **bottomfish and seamount groundfish, precious corals and coral reef ecosystems and crustaceans**. This Public Notice initiates consultation requirements with the NFMS under the MSFCMA. We have insufficient information at this time to assess the cumulative effects of the proposed work on EFH, but cumulative effects will be considered in our final assessment of the described work. Any conservation recommendations regarding EFH for federally managed fish will also be considered in our final assessment of the described work. This proposed project may also adversely affect associated species such as major prey or predator species which are not covered by Fishery Management Plans.

SPECIAL AREA DESIGNATION: None

AUTHORITY: This permit application will be reviewed under the following authorities:

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

() Discharge dredged or fill material into waters of the United States – Section 404 Clean Water Act (33 U.S.C. 1344). The Corps’ public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

() Transport dredged material for the purpose of dumping it into ocean waters - Section 103 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). The Corps’ public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

USACE is soliciting comments from the public; Federal, State, and local agencies and officials; and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the USACE to determine whether to issue, modify, condition or deny a permit for the work. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

COMMENT AND REVIEW PERIOD: Conventional mail or e-mail comments on this public notice will be accepted and made part of the record and will be considered in determining whether it would be in the public interest to authorize this proposal. In order to be accepted, e-mail comments must originate from the author’s e-mail account and must include on the subject line of the e-mail message

the permit applicant's name and reference number as shown below. All e-mail comments should be sent to emilee.r.stevens2@usace.army.mil. Conventional mail comments should be sent to U.S. Army Corps of Engineers, Honolulu District, Building 230 (Attn: CEPOH-EC-R), Ft. Shafter, HI 96858-5440. Both conventional mail and e-mail comments must include the permit applicant's name and reference number, as shown below, and the commentor's name, address, and phone number. All comments, whether conventional mail or e-mail, must reach this office no later than the expiration date of this public notice to ensure consideration. Please include the following name and reference number: **Veella Gamma Trial, POH-2012-00016**. Please contact **Emilee Stevens** at (808) 835-4310 if further information is desired concerning this notice.

Additional Project Information and Exhibits (**15 pages**) are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments