



US Army Corps of Engineers
Honolulu District
BUILDING STRONG®

Public Notice of Application for Permit

Regulatory Office
Building 230
Fort Shafter, Hawaii 96858-5440

Public Notice Date: January 16, 2018
Expiration Date: February 16, 2018
Corps File No.: **POH-2016-00132**

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

APPLICANT: Garret Matsunami, Castle & Cooke Homes Hawaii, Inc., 680 Iwilei Road, Suite 510, Honolulu, Hawaii 96817

AGENT: Doraine Young, Engineering Concepts, Inc., 1150 South King Street, Suite 700, Honolulu, Hawaii 96814

LOCATION: Kipapa Stream, Mililani/Waipio, Island of Oahu, Hawaii (TMK 9-5-003:014; Latitude: 21.4581° N; Longitude -157.9936° W)

PROPOSED ACTIVITY: The applicant proposes to discharge fill material into approximately 0.14-acre of waters of the United States (U.S.) to construct an offsite detention basin in support of the Koa Ridge Development project. An estimated total of 683 cubic yards of fill material would be discharged into the Kipapa Stream and an unnamed tributary to Kipapa Stream.

AUTHORITY(S): This permit application will be reviewed under Section 404 of the Clean Water Act (33 USC § 1344). The Corps' public interest review will consider the guidelines set forth under Section 404(b)(1) of the Clean Water Act (40 CFR part 230).

EVALUATION FACTORS: 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.

The Corps is soliciting comments from the general public, Federal, State and local agencies and officials, Native Hawaiian Organizations, and other interested parties in order to consider and evaluate the impacts of this activity. Any comments received will be considered by the Corps 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 (EA) and/or an Environmental Impact Statement (EIS) 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.

ADDITIONAL INFORMATION:

PROJECT DESCRIPTION: The applicant proposes to construct an off-site detention basin (OSDB) to manage stormwater flows entering Kipapa Stream. The OSDB would consist of an approximate 24-foot-high earthen berm with a maximum storage capacity of approximately 49-acre-feet at its maximum water surface elevation. A 12-foot-wide paved maintenance road connecting to the existing unpaved access road would be constructed to allow access into the basin and around its perimeter. A new grouted riprap apron would be provided at the base of an existing baffled chute structure and a 16-foot by 4.5-foot reinforced concrete emergency spillway would be constructed. Other OSDB project features would include an outlet structure for low flows, a grouted riprap channel, and turf reinforcement matting along the banks of Kipapa Stream.

Proposed Activity(s) Requiring DA Authorization. The applicant has applied for DA authorization to discharge fill material into Kipapa Stream (0.017-acre) and an unnamed tributary to Kipapa Stream (0.119-acre), permanently affecting a total of approximately 0.14-acre of waters of the U.S.

Table 1 – Summary of Impacts to Waters of the U.S.

Activity	Impacts to Waters of the U.S.			
	Permanent Impacts		Temporary Impacts	
	Acres/LF	Cubic Yards	Acres/LF	Cubic Yards
Riprap	--	365	--	--
Grouted riprap	--	173	--	--
Temporary diversion channel – gabion	--	--	--	5

Temporary cofferdam	--	--	144 LF	120
Reinforced concrete	--	80	--	--
Rock cushion	--	40	--	--
Concrete spillway	--	25	--	--
TOTAL:	0.14-ac	683 cy	144 LF	125 cy

PROJECT PURPOSE AND NEED:

Applicant’s Proposed Project Purpose and Need: According to the DA permit application, construction of Koa Ridge is anticipated to increase the peak flow runoff into the adjacent Kipapa Stream due to the rise in impervious areas associated with the proposed residential development and its appurtenances. The purpose of the proposed OSDB is to mitigate the adverse impacts of this increased stormwater runoff to ensure there is no net increase in predevelopment peak flows discharged into Kipapa Stream. Since land within the Koa Ridge development project area could not be reasonably obtained by the applicant to construct an adequately sized detention basin, an offsite area was identified upstream of the proposed development area. The proposed OSDB would be sited and designed to intercept stormwater runoff that is generated from existing urbanization upstream of the Koa Ridge development and would detain the stormwater for a prolonged period in order to dampen and control the peak discharge entering Kipapa Stream.

Corps’ Basic and Overall Project Purpose: The *basic project purpose* is defined by the Corps and is used to determine whether a project is “water dependent” and requires access or proximity to, or siting within, a special aquatic site in order to fulfill its basic purpose. An activity that is not water dependent may still be authorized as long as the U.S. Environmental Protection Agency’s Section 404(b)(1) Guidelines (“404(b)(1) Guidelines”) presumption against such discharges is successfully rebutted, the discharge meets other criteria of the 404(b)(1) Guidelines, the activity is not contrary to the public interest, and it satisfies all other statutory and regulatory requirements. For the proposed OSDB for the Koa Ridge Makai development project, the basic project purpose is “stormwater management”, a non-water dependent activity that does not require siting in special aquatic sites.

The *overall project purpose* serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose is used to evaluate less environmentally damaging practicable alternatives and applies to all waters of the U.S., not just special aquatic sites. The 404(b)(1) Guidelines state that an alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. The Corps has generally concurred with the applicant’s stated project purpose (above) and as such, has determined the overall project purpose for evaluation of alternatives under the Section 404(b)(1) Guidelines is as follows: “to provide stormwater management for the proposed Koa Ridge development to ensure a no net increase in the one percent chance peak discharge entering Kipapa Stream.”

BASELINE INFORMATION:

General Site and Project Area Conditions. The proposed site for the OSDB is loosely bounded by the H-2 Freeway to the east and by existing residential neighborhoods, known as Mililani Town, to the north and west of the project site. Portions of the OSDB support an active small-scale farm and related agricultural structures, but the project area is otherwise relatively undeveloped.

The Kipapa Stream is a tributary of Waikele Stream, which drains one of the largest watersheds on the Island of Oahu. Kipapa Stream is perennial and flows primarily westward and west-southwest onto the central Oahu plain east and south of Mililani Town. The approximate 300-foot-long unnamed tributary to Kipapa Stream is ephemeral and typically flows only in response to heavy rain events. In the vicinity of the OSDB in Kipapa Stream, the stream channel is approximately 33 feet wide and its streambed consists of boulders and rocks embedded in silt (AECOS, Inc. 2017). The area in and around the proposed detention basin is dominated by koa haole with an understory comprised mostly of Guinea grass. Other non-native species occur in this mesic forest, including kukui that dominates the overstory (tree canopy). Much of the vegetation in this area reflects prior land uses that resulted in highly disturbed grounds and soils that often give rise to non-native and ruderal species. Based on surveys and other fieldwork, no plants proposed or listed as threatened or endangered were observed within the OSDB project area. Similarly, no federal endangered or threatened aquatic species were encountered during any of the stream surveys conducted by the applicant's consultants.

MITIGATION: The applicant's proposed mitigation (i.e., avoidance, minimization, and compensation) may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the Section 404(b)(1) Guidelines and the public interest review factors. In consideration of the above, the proposed mitigation sequencing as applied to the proposed project is summarized below.

Avoidance and Minimization. To avoid and minimize impacts to the aquatic environment, the applicant has proposed best management practices (BMPs) that would be included in the contract documents and implemented during the life of the proposed project. These BMPs are considered to be part of the applicant's proposed action and include, but are not limited to, the following measures:

- Installation of compost filter sock at the top of the "main" stream bank;
- Installation of erosion control measures at the bottom of the bank;
- Installation of turf reinforcement matting and grassing exposed areas;
- Installation of turbidity barrier and temporary cofferdam within the stream to divert flow;
- Compliance with local grading ordinances;

- Compliance with local ordinances and regulations of the State Department of Health regarding dust and noise control; and
- Construction of a substantial portion of the detention basin during the “dry” season to reduce impacts to Kipapa Gulch and Kipapa Stream.

Compensation. The applicant did not propose any compensatory mitigation measures for the unavoidable adverse impacts to 0.14-acre of non-wetland waters of the U.S. According to the applicant’s mitigation statement, compensatory mitigation is not warranted since the construction of the OSDB is expected to result in minimal adverse impacts to waters of the U.S. (a total of 0.14-acre) and the existing quality of the non-wetland waters that would be permanently affected is considered of relatively low value. Moreover, the operation of the OSDB would be expected to improve downstream water quality in Kipapa Stream and Waikele Stream by temporarily retaining high flows during peak events, thereby allowing sediments and other pollutants to settle out before stormwaters are discharged and released downstream.

WATER QUALITY CERTIFICATION: A final DA permit decision for the proposed work would not be issued until an individual water quality certification, or waiver thereof, as required under Section 401 of the Clean Water Act has been issued by the State of Hawaii, Department of Health, Clean Water Branch (DOH-CWB). Based on information contained in the DA permit application, the applicant submitted a Section 401 water quality certification application to the DOH-CWB in September 2017; the application is pending.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)(3)), requires the lead federal action agency to certify that the described activity affecting land or water uses in the coastal zone complies with the State’s Coastal Zone Management (CZM) Program. The applicant applied for CZM federal consistency review to the State of Hawaii, Department of Business, Economic Development and Tourism, Hawaii CZM Program on December 21, 2017; the CZM review process is underway and pending.

CULTURAL RESOURCES: An archeological inventory survey (AIS) was performed by Cultural Surveys Hawaii, Inc. on behalf of the applicant that identified one historic property within the footprint of the permit area for the OSDB (Tulchin et al. 2009). This resource consists of a C-shaped wall (SIHP: 50-80-09-7050) that is interpreted to be associated with historic agriculture. The structure is assessed as significant under Criterion D of the National and Hawai’i Registers of Historic Places evaluation criteria. The AIS concluded sufficient information on the location has been generated by the current inventory survey investigation to mitigate any adverse effect. However, since the C-shaped wall is to be impacted by the proposed undertaking, archaeological data recovery of the feature could be conducted as a mitigation measure to better determine the function of the C-shaped wall. Therefore, toward this end, the applicant has committed to performing archeological data recovery at SIHP #50-80-09-7050 Feature B to further mitigate adverse effects; the details of which are provided for in the December 2017 Final Archeological Data Recovery Plan for TMK: [1] 9-5-003:014

(Cultural Surveys Hawaii, Inc., 2017). The data recovery would seek to address planned research objectives for the historic property that were designed based on the AIS documentation of SIHP #-7050, as well as provide background research and previous archeological research for Waipio Ahupua'a. A detailed description of the proposed excavation, sampling and laboratory methodology is presented in the data recovery plan, Sections 4 and 5.

Based on the aforementioned and pursuant to Section 106 of the National Historic Preservation Act (NHPA) of 1966, the Corps has preliminarily determined that an historic property occurs within the permit area for the proposed undertaking that would be adversely affected. A determination of adverse effect letter will be transmitted to the State of Hawaii, State Historic Preservation Division (SHPD) requesting their concurrence with the Corps' determination and the proposed archeological data recovery plan to mitigate this adverse effect.

This public notice is being coordinated with the SHPD and other consulting parties. Any comments SHPD or other consulting parties may have concerning unknown archeological or historic properties, including properties of traditional religious or cultural importance, and that may be affected by the proposed undertaking, will be considered in our public interest review determination, EA, and final permit decision.

Furthermore, additional coordination was conducted by the applicant as part of the State Hawaii Revised Statutes Chapter 343 process that included Hawaiian organizations, agencies, and community members. These entities and individuals were contacted to identify potentially knowledgeable individuals with cultural expertise and/or knowledge of the project area. The organizations consulted included the SHPD, Office of Hawaiian Affairs, the O'ahu Island Burial Council, and community and cultural organizations including Hui Mālama I Nā Kūpuna 'O Hawai'i Nei, Hui Pū and the Hawaiian Civic Club of Wahiawā.

ENDANGERED SPECIES: Section 7 of the Endangered Species Act (ESA) of 1973, as amended, requires federal agencies to consult with NOAA Fisheries and/or U.S. Fish and Wildlife Service (USFWS) on all federal actions that may affect species listed (or proposed for listing) as threatened or endangered or that may destroy or adversely modify their designated critical habitat. Based on the environmental survey report prepared by AECOS Inc. (2017), the Corps has preliminarily determined no federal threatened or endangered species occur within the action area and therefore, the construction of the proposed OSDB would have no effect on federally listed threatened or endangered species or designated critical habitat.

As part of the DA permit application review and evaluation process, the Corps will consider any comments received from NOAA Fisheries and USFWS in response to this public notice regarding the presence/absence of federal threatened and endangered species and will incorporate by reference into our DA permit decision any agreed upon BMPs or other measures necessary to further avoid and/or minimize adverse effects to fish and wildlife resources.

ESSENTIAL FISH HABITAT: Essential fish habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, does not occur within the project area and therefore, no EFH is affected, directly or indirectly, by the proposed project.

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

COMMENT AND REVIEW PERIOD: Conventional mail or e-mail comments on this public notice received during the comment period will be 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 Corps file number POH-2016-00132.

All e-mail comments should be sent to:

susan.a.meyer@usace.army.mil.

Conventional mail comments should be sent to:

U.S. Army Corps of Engineers
Honolulu District, Regulatory Office
Building 230 (Attn: CEPOH-RO)
Ft. Shafter, Hawaii 96858-5440

Both conventional mail and e-mail comments must reach this office no later than the expiration date of this public notice to become part of the record and be considered in the decision. Please contact Susan A. Meyer Gayagas at (808) 835-4599 if further information is desired concerning this notice.

This public notice is issued by the Chief, Regulatory Office.

Attachment

REFERENCES CITED

AECOS, Inc. 2017. Environmental surveys of Kipapa Stream for Koa Ridge Makai development in central Oahu. 35 pp.

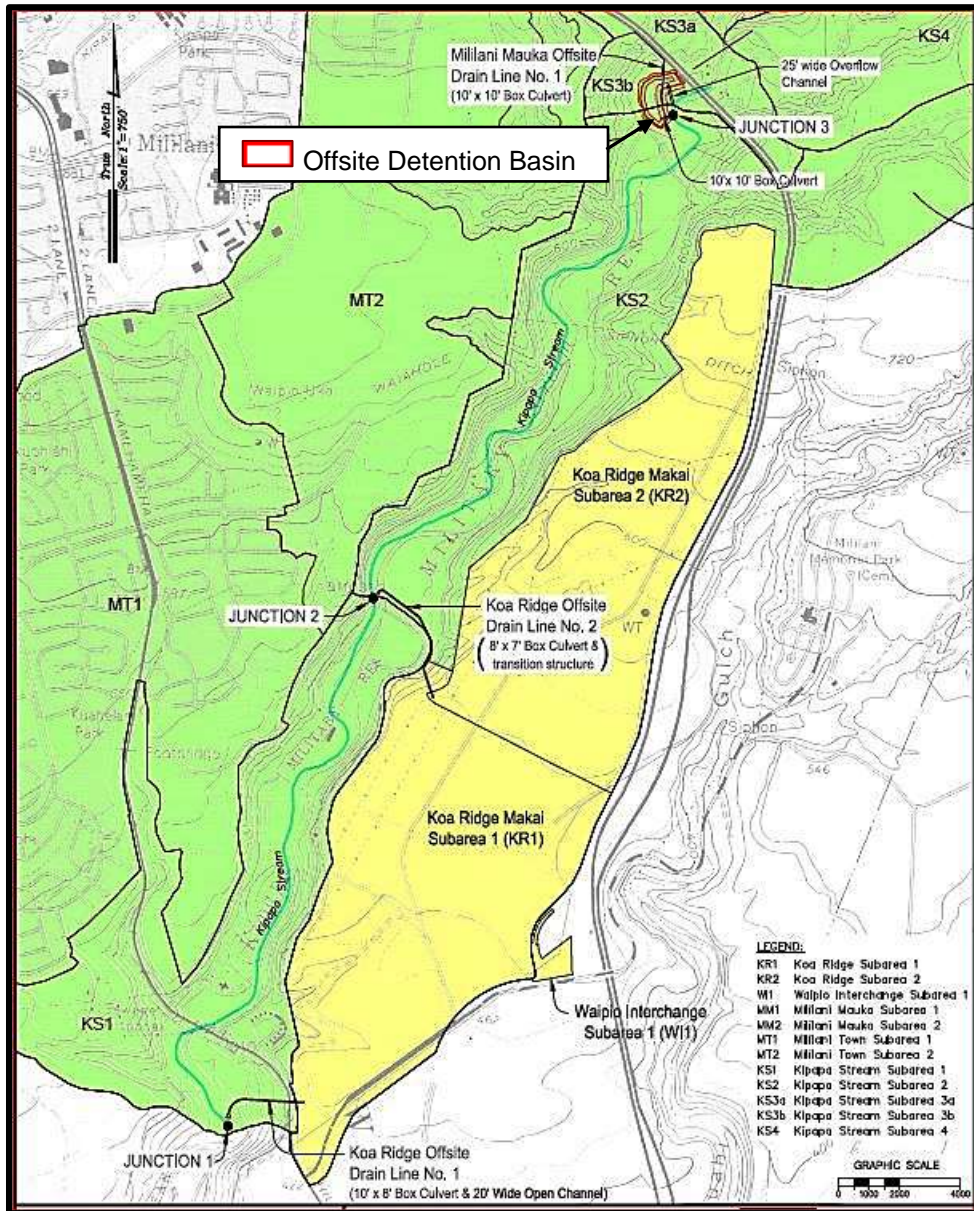
Cruz, Brian, Chris Monahan, David W. Shideler, Hallet H. Hammatt. 2008. Cultural Impact Assessment for Off-Site Detention Basins, Traffic Interchanges, and Sewer Line Work Related to the Koa Ridge Makai Development, Waipio and Waikele Ahupua'a, Ewa District, Island of Oahu. Cultural Surveys Hawaii, Inc.

Cultural Surveys Hawaii, Inc. 2017. Final Archeological Data Recovery Plan for SIPH #50-80-09-7050 Feature B, Koa Ridge Development Project, Waipio Auupua'a, Ewa District, Oahu. 30 pp.

Tulchin, Todd, Trever Yucha, David W. Shideler, and Hallett H. Hammatt. 2009. Archeological Inventory Survey of Proposed Detention Basins, Associated Appurtenances, and an H-2 Freeway Interchange Associated with the Koa Ridge Makai Development Project, Waipio Ahupua'a, Ewa District, Oahu. Cultural Surveys Hawaii, Inc.

Location Map

Offsite Detention Basin for the Koa Ridge Development Project



Corps File No. POH-2016-00132