



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, HONOLULU
FORT SHAFTER, HAWAII 96858-5440

REPLY TO
ATTENTION OF:

August 15, 2012

Regulatory Branch

File No. **POH-2011-00098**

State of Hawaii
Department of Transportation, Highways Division
Attn: Mr. Eddie Chiu
869 Punchbowl Street
Honolulu, Hawaii 96813-5097

NATIONWIDE PERMIT VERIFICATION

NWP #14, Linear Transportation Projects

Umauma Bridge Replacement

Umauma (Hakalau), Hawaii Island, Hawaii

Dear Mr. Chiu:

This letter informs you that the U.S. Army Corps of Engineers (Corps), Honolulu District has completed another review of the information submitted with your Department of the Army (DA) permit application for the proposed bridge rehabilitation and foundation repairs at the Hawaii Belt Road Umauma Bridge located at 19.907182 °N, 155.135722 °W in Umauma (Hakalau), Hawaii Island, Hawaii.

On August 17, 2011, we issued a 2007 Nationwide Permit (NWP) #14, Linear Transportation Project verification for the proposed project. This verification expired on March 18, 2012 without being eligible for a one (1) year extension provided by the 2012 NWP grandfathering provision because no authorized activity had commenced or was under contract to start by the 2007 NWP expiration date March 18, 2012. On June 7, 2012, we received your email request for another DA permit authorization and subsequent Water Quality Certification (WQC) WQC0826 (dated July 3, 2012) from the State of Hawaii Department of Health, Clean Water Branch and Coastal Zone Management (CZM) Act consistency determination (dated March 16; 2012 and verified by email June 23, 2012) from the State of Hawaii, Department of Business, Economic Development and Tourism, Office of Planning.

Based on the project information provided with in your original DA permit application and the DOT's assertion that no changes have been incorporated to the original project scope of work since the August 17, 2007 NWP verification issued for the project, the 2012 Nationwide Permit (NWP) #14, Linear Transportation Projects (Federal Register, February 21, 2012 Vol. 77, No. 34), authorizes your proposal as depicted on the enclosed drawings dated July 18, 2012 (Enclosure 1, abbreviated set of plans). In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the enclosed *Nationwide Permit National General Conditions* (Enclosure 2), the *Honolulu District Regional Conditions* (Enclosure 3) and the following special conditions:

- a. The Permittee and/or their designated contractor(s) representative must notify the Regulatory Branch POC by phone or e-mail one week prior to the start and completion. Photos of the project site shall be taken before, at least once during, and at the end of construction field activities, and submitted to the POC. All figures shall be noted with a brief description/caption.
- b. The Permittee and/or their designated contractor(s) representative(s) will conduct daily visual inspections of the construction site and environs by a designated individual, or his representative, to verify that the permitted activities do not result in uncontrolled adverse environmental impacts and that where environmental harm occurs, it is minimized to the maximum extent practicable.

For compliance with the National Historic Preservation Act (NHPA):

- a. The Permittee and/or their designated contractor(s) representative(s) must immediately stop work and notify the Regulatory Branch POC within 24 hours if, during the course of conducting authorized work, human burials, cultural resources, or historic properties, as identified by the National Historic Preservation Act, are discovered and may be affected by the work. Failure to stop work in the area of discovery until the Corps can comply with the provisions of 33 CFR 325 Appendix C, the National Historic Preservation Act, and other pertinent laws and regulations could result in a violation of state and federal laws. Violators are subject to civil and criminal penalties.

For compliance with the Endangered Species Act:

The following list of federally-protected species are identified for the proposed project:

- Hawksbill sea turtles (*Eretmochelys imbricate*), endangered
- Green sea turtles (*Chelonia mydas*), threatened
- Hawaiian monk seals (*Monachus schauinslandi*), endangered
- Hawaiian dark-rumped petrel (*Pterodroma phaeopygia sandwichensis*), endangered
- Newell Townsend's shearwater (*Puffinus auricularis newelli*), threatened

- a. All on-site personnel will be apprised of the federally-protected species listed above and informed of the legal protections afforded to these species under the Endangered Species Act and state and federal laws. Regional Condition 6c and 6d requires the project area will be surveyed each work day and prior to the resumption of work following a break of more than one half hour to ensure no protected species are present within or in the vicinity of the project area (typically within 50 yards of the proposed work). All work shall be postponed/halt when protected species are present, and shall only begin/resume after the animals have voluntarily departed. Workers will not interact (feed, touch, ride, etc) or *take* (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct; *harass* is to create likelihood of injury to such an extent to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering) any protected species. The Permittee and/or their designated contractor(s) representative(s) will immediately report to the Regulatory Branch POC and either the U.S Fish and Wildlife Service (for seabirds and sea animals

on shore) at 1-808-861-8525 and the National Oceanic Atmospheric Administration at 1-888-256-9840 if any of the previously described actions occurs to protected species.

- b. To avoid impacts to protected seabirds and sea turtles, no nighttime construction shall occur between May 1 and December 15. Nighttime construction may occurring outside of the May to December period with all lighting shielded and directed towards the ground and away from the sea to avoid attracting migrating adult seabirds and nesting/hatching sea turtles.
- c. Fueling of project-related vehicles and equipment will take place at least 50 feet away from the water, preferably over an impervious surface.
- d. All project-related waste shall be managed until proper disposal at an authorized landfill/disposal site.

For compliance with Essential Fish Habitat (EFH) of the Magnuson Stevens Fishery Conservation and Management Act of 1996 (Magnuson-Stevens Act):

- a. All in-stream activities during should be conducted during the dry season and at low tide.

Upon completing the work activities, you must fill out and return the enclosed *Compliance Certificate with Department of the Army Permit* form (Enclosure 4).

This NWP is verified under the Corps' authority at Section 404 of the Clean Water Act (33 U.S.C. 1344). This verification is valid for 2 years from date of this letter (**expires on August 15, 2014**) unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed within 2 years of issuance of the WQC, please contact us to discuss the status of your authorization. Failure to comply with all terms and conditions of this provisional NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act and Section 10 of the 1899 Rivers and Harbors Act.

We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey form at <http://per2.nwp.usace.army.mil/survey.html>. Please contact Ms. Joy Anamizu at 808-835-4308 (FAX 808-438-4060) or joy.n.anamizu@usace.army.mil, if you have any questions. File No. **POH-2011-00098** is assigned to this project. Please refer to this number in any correspondence with us.

Sincerely,



George P. Young, P.E.
Chief, Regulatory Branch

Enclosures

Copy furnished w/ encls via email:

John Nakagawa, Office of Planning, CZM Program,

Darryl Lum & Ed Chen, Clean Water Branch, State DOH

Don Hubner/Patrick Opay, NOAA Fisheries Protected Resources Division

U.S. Fish and Wildlife Service (pifwo_ea@fws.gov)

D. Jayewardene/K. Strang/A. Zielke, NOAA Fisheries, Habitat Conservation Division

Phyllis Cayan, State Historic Preservation Division

Keola Lindsey, Office of Hawaiian Affairs

Wendy Wiltse; EPA Region XI