



DAVID Y. IGE  
GOVERNOR OF HAWAII

BRUCE S. ANDERSON, Ph.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. BOX 3378

In reply, please refer to:  
File:

August 25, 2020

Brandon Ching  
Structural Engineer  
KAI Hawaii, Inc.  
50 S. Beretania Street, #C-119C  
Honolulu, Hawaii 96813

Dear Mr. Ching:

Enclosed is the VARIANCE (Docket No. 20-NR-VN-28) for Community Noise Control which was granted on August 24, 2020. The Decision and Order specifies the conditions and restrictions that are applicable to your project.

Non-compliance with the conditions and restrictions of the Decision and Order may bring about additional restrictions or possible suspension of the variance. Should you have any questions relative to the variance, please do not hesitate to contact me at (808) 586-4700 or at james.toma @doh.hawaii.gov.

Sincerely,

A handwritten signature in blue ink, reading "James E. Toma", is positioned above the typed name and title.

James E. Toma  
Noise Section Supervisor  
Indoor and Radiological Health Branch



STATE OF HAWAII  
DEPARTMENT OF HEALTH

In the Matter of the Application	)	
For Variance for:	)	
	)	
KAI HAWAII, INC.	)	Docket No. 20-NR-VN-28
Noise – Installation of New Bridge Deck	)	V-1178
Assembly, above the Kaumualii Highway	)	
At mile post 16, Eleele, Kauai.	)	
_____	)	

**FINDINGS OF FACT AND CONCLUSION OF LAW**

The application of KAI Hawaii, Inc., 50 South Beretania Street, #C-119C, Honolulu, Hawaii for a variance from Section 11-46-6(a) of Chapter 11-46, Hawaii Administrative Rules, Community Noise Control, was reviewed by the Indoor and Radiological Health Branch of the Department of Health.

Findings of Fact

1. Section 342F-5, Hawaii Revised Statutes (H.R.S.), and Section 11-46-8, Hawaii Administrative Rules (H.A.R.), authorize the director to grant variances.
2. Section 11-46-6(a), H.A.R., states, "Without a permit or variance issued pursuant to Section 11-46-7 or 11-46-8, no person within the state shall operate from any premises or land owned, rented, leased, occupied or controlled by that person, any excessive noise source."
3. The applicant proposes to install new bridge superstructure at a higher elevation to increase the clearance above Kaumualii Highway.
4. The project will occur along Kaumualii Highway at mile post 16, Eleele, Kauai.
5. The variance is requested for the following days/times:

Monday through Friday      10:00 p.m. to 5:00 a.m.

The variance is requested from August 1, 2020 until February 28, 2021. The project is expected to take 1 to 2 nights. Night work will not be performed from September 15 through December 15, during the shearwater fledgling season.



6. This project requires that the Highway be closed while the new bridge is put into place. Kaumualii Highway is the only access from the West side of the island to all other parts of the island. Traffic will have to be diverted through the Eleele Shopping Center and has been deemed unsafe during daytime hours.
7. The immediate area surrounding the nighttime construction area is a mixture of residential and commercial uses.
8. Quiet work procedures will be employed to attenuate and control noise emissions emanating from the construction site, such as:
  - Disabling back-up alarms and ground guides will be used for signaling when equipment backs up at night (8:00 p.m. to 6:00 a.m.).
  - Construction activity constraints for night work, where applicable.
  - The use of temporary noise barriers for both daytime and night-time sensitive receptors, where feasible.
  - The strategic placement of stationary equipment such as compressors and generators.
  - All equipment will be maintained in good working order and with appropriate mufflers.
  - A job-site representative will be designated to whom immediate complaints can be forwarded for prompt response, and who shall have the general responsibility of monitoring quiet work procedures.
  - Instructional meetings will be held for construction crews and truck drivers to discuss noise abatement procedures, including the use of engine brakes, loading and unloading cargo, shouting, use of signal callers, and other practices as required.
9. A public information program will be employed prior to and during construction. The program will consist of:
  - The contractor sending an informational flyer to all residents and businesses within 500 feet of the project area approximately two weeks prior to the start of construction. The flyer will include general project information and the name and phone number of a contractor representative to contact.
  - Providing information to the press on at least a monthly basis.
  - Updating HDOT's website as needed with current information regarding the time and location of night work as well as a name and phone number to contact with questions or complaints.

#### Conclusion of Law

Section 342F-5(c), H.R.S., states that no variance shall be granted by the Department unless the application and supporting information clearly show that:



1. The granting of the variance is in the public interest as defined in Section 342F-4(c)(4), H.R.S..
2. The granting of this variance will not substantially endanger human health or safety.
3. Compliance with the rules, regulations, or standards from which the variance is sought would produce serious hardship without equal or greater benefits to the public.

Based upon the application and the foregoing findings of fact, it is concluded that these requirements have been met.

#### Recommendation

It is recommended that the variance request be GRANTED with the following restrictions and conditions:

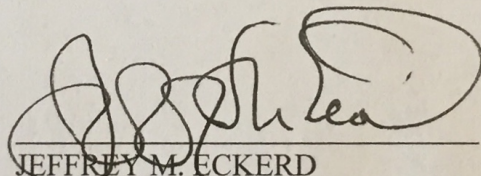
1. The variance shall be granted to install new bridge superstructure at on Kaumualii Highway, at mile post 16, Eleele, Kauai.
2. The variance shall be granted until February 28, 2021 (excluding holidays).
3. The variance shall be granted for the following days/times:

Monday	10:00 p.m. to midnight.
Tuesday through Friday	midnight to 5:00 a.m. and 10:00 p.m. to midnight.
Saturday	midnight to 5:00 a.m.
4. The applicant shall notify the Indoor and Radiological Health Branch as to the date and time of any variance hour activity as soon as the dates are confirmed, and when the project is completed.
5. The applicant shall make every effort to minimize noise emanating from the project.
6. The use of reverse signal alarms is prohibited from 8:00 p.m. to 7:00 a.m. Alternative methods such as utilizing a ground guide for signaling shall be employed. The operation of the white noise back-up alarms shall be granted during the days & times allowed by the variance.
7. Traffic noise from heavy vehicles travelling to and from the project site shall be minimized near residences.



8. The applicant shall have a job-site inspector to whom immediate complaints can be forwarded for prompt response, and who shall have the general responsibility of monitoring quiet work procedures.
9. Residents and businesses that may be impacted by the activity shall be given sufficient notice regarding the project. The notification for the planned activity will also contain the name and telephone number of the job-site inspector. In addition, a copy of any notifications, as well as progress reports, will also be sent to the Indoor and Radiological Health Branch.
10. If the noise level is such that numerous complaints are received by the Department, the applicant shall cease operations upon receipt of an order and complete the project during hours on weekdays and weekends as directed.
11. Pursuant to Section 342F-5(d)(3), H.R.S., the applicant shall be required to perform noise sampling during the variance hours and report the results of such sampling to the Indoor and Radiological Health Branch.
12. Should the duration of the project continue beyond the expiration date, the applicant shall submit a request for extension along with an updated work schedule prior to February 28, 2021.

DATED: Honolulu, Hawaii, AUG 24 2020.

A handwritten signature in black ink, appearing to read "Jeffrey M. Eckerd", written over a horizontal line.

JEFFREY M. ECKERD  
Program Manager  
Indoor and Radiological Health Branch



STATE OF HAWAII  
DEPARTMENT OF HEALTH

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_____	)	

**DECISION AND ORDER**

Pursuant to Chapter 342F, Hawaii Revised Statutes (H.R.S.), and Chapter 11-46, Hawaii Administrative Rules (H.A.R.), Community Noise Control; and based upon the application and review by the Indoor and Radiological Health Branch, the variance request from the provisions of Section 11-46-6(a), H.A.R., is hereby GRANTED with the following restrictions and conditions:

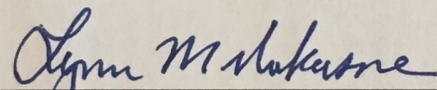
1. The variance shall be granted to install new bridge superstructure at on Kaumualii Highway, at mile post 16, Eleele, Kauai.
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DATED: Honolulu, Hawaii, AUG 24 2020.



LYNN M. NAKASONE  
Environmental Health Program Administrator  
Environmental Health Services Division