



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

NOV 02 2010

REPLY TO
ATTENTION OF:

October 29, 2010

Regulatory Branch

File No. POH-2006-00500

Mr. Brennon T. Morioka
Director, Highways Division
State of Hawaii Department of Transportation
869 Punchbowl Street
Honolulu, HI 96813

NOTICE OF PROVISIONAL VERIFICATION
NATIONWIDE PERMIT 14 (Linear Transportation Projects)
Construction of Kawela Bridge Replacement Project on Kamehameha V Highway,
Moloka'i, Hawai'i

Dear Mr. Morioka:

We have completed our review of your application to construct the Kawela Bridge Replacement Project, Island of Moloka'i [Federal Highway Administration (FHWA), Federal Aid Project No. BR-0450/8], which is depicted in the attached Project Overview, drawings, and plans.

The existing Kawela Bridge, located on Kamehameha V Highway at Milepost 5.110, East of Kaunakakai (Figures 1, 2), will be replaced, increasing the dimensions to approximately 56 feet long by 47 feet wide, with two 12-foot wide lanes and a bikeway/pedestrian walkway on each side. Improvements will also include new 20-foot approach slabs at both ends of the bridge, new guard rails, and new concrete abutments. To support the concrete abutments, forty 7-5/8 inch diameter steel micropiles will be installed by drilling, placement, and filling with grout (Figure 3). The stream channel under the bridge will be lined with concrete for maintenance purposes, and the stream embankments will be protected with grouted rubble paving (GRP), with inclusion of 12-foot wide concrete access ramps for maintenance on both sides of the new bridge (Figure 4). A temporary bypass roadway, including six 42-inch concrete culverts under the detour route to maintain stream flow, will be constructed seaward of the bridge construction site to provide two lanes of traffic flow during the construction period (Figure 5); this temporary detour road will be removed upon completion of bridge construction and the land restored to its pre-project condition, to the extent practicable. The project will include measures to avoid and minimize impacts to the stream and downstream coastal waters, including the Best Management Practices Plan (Attachment "C"), phased construction (Phasing Plan) and erosion controls (Erosion control Notes, Plan, and Details).

The Corps has determined that the proposed work can be authorized under the Corps' Nationwide Permit authority at 33 CFR 330 and the March 12, 2007 Notice of Issuance of Nationwide Permits (72 FR 11092), Paragraph B.14 (Linear Transportation Projects), pursuant to

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

This letter is to inform you that although the Corps has completed its review of your application, we **cannot** issue a final verification under NWP 14 until the Clean Water Branch, Hawaii State Department of Health issues a Section 401 Water Quality Certification (WQC) or waiver for your proposed replacement project. Therefore, this is a **Provisional NWP Verification** until a valid WQC, or waiver, is issued and received by the Corps. **Upon our receipt of the WQC issued by the Clean Water Branch, DOH, the proposed work will be considered verified and will then remain authorized until the NWP is modified, reissued, or revoked (see below). Do not begin the work until the issued WQC is received by this office.** You are cautioned that commencement of the proposed work prior to DA NWP verification would constitute a violation of Federal laws and subject you to possible enforcement action.

The following determinations have been made pursuant to this action:

Compliance with Section 7, Endangered Species Act: As the federal lead agency, the FHWA, Hawaii Division made a "no effect" determination for this action and received confirmation from the Protected Species Division of the National Marine Fisheries Service Pacific Islands Regional Office (NMFS-PIRO) that no consultation is required. The DOT received a similar confirmation from the U.S. Fish and Wildlife Service on August 10, 2010.

Compliance with Magnuson-Stevens Fishery Conservation and Management Act: The NOAA Habitat Conservation Division (HCD) issued its determination on October 15, 2010 that the project will not adversely affect Essential Fish Habitat (EFH), confirming a prior FHWA determination to the Corps on September 20, 2010.

Compliance with Section 106, National Historic Preservation Act (NHPA): In its Section 106 NHPA Review letter to the DOT dated April 24, 2009, the State Historic Preservation Division (SHPD) concluded that replacement of the bridge, including construction of the temporary *makai* detour road, will have *no adverse effect* on culturally significant historic or archaeological properties because it has undergone the historic preservation review process. However, the SHPD specified that an appropriately prepared archaeological monitoring plan be submitted for review and acceptance by the SHPD prior to commencement of the project. This requirement is incorporated as a Special Condition of this authorization (see below).

CZM Consistency: The Hawaii Coastal Zone Management (CZM) Program issued general consistency concurrence for NWP 14 on May 11, 2007, and confirmed on October 4, 2010 via e-mail and by letter that they do not have any objects to authorization of the proposed activity under NWP 14.

In order for you to utilize this authorization, your activity must comply with the enclosed *2007 Nationwide Permit General Conditions* and *Honolulu District Nationwide Permit Regional Conditions*, and with the following Special Conditions:

1. Before proceeding with the authorized work, you must confirm that the USACE Honolulu District Regulatory Branch has received a copy of the Section 401 WQC issued by the State of Hawaii Department of Health, Clean Water Branch.
2. Archaeological monitoring of the bridge replacement work shall be conducted during ground disturbing activities in accordance with an SHPD-accepted archaeological monitoring plan, unless this requirement is waived by the SHPD.
3. In the event any previously unknown historic or archaeological remains are discovered during the authorized work, you must immediately notify the SHPD.

Upon our receipt of a valid WQC issued by the Clean Water Branch, DOH, the proposed work will be considered verified until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to **March 18, 2012**. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

You are advised that a nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property rights of others, nor any interference with any existing or proposed Federal projects. This authorization does not relieve the permittee of any need to obtain other Federal, State, or local authorizations required by law.

General Condition 26 requires that a signed certification be submitted upon completion of work. Therefore, please sign, date, and return the enclosed compliance certification form upon completion of all authorized in-stream portions of the project.

File No. **POH-2006-00500** is assigned to this action and should be cited in any correspondence with us relating to this project. Please contact Mr. Peter Galloway of my Regulatory Staff at 438-8416 or by email at peter.c.galloway@usace.army.mil if you have any questions. 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>.

Sincerely,



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

Enclosures

Copy Furnished (w/o encls):

State Office of Planning, CZM Program, P.O. Box 2359, Honolulu, HI 96804

Clean Water Branch, State Dept. of Health, P.O. Box 3378, Honolulu, HI 96801

State Historic Preservation Office, 601 Kamokila Blvd. #555, Kapolei, HI 96707

Office of Conservation and Coastal Lands, State of Hawaii DLNR, P.O. Box 621,
Honolulu, HI 96809

Office of Hawaiian Affairs, 711 Kapiolani Blvd., Suite 500, Honolulu, HI 96813

U.S. Fish and Wildlife Service, Ecological Services, P.O. Box 50088, Honolulu, HI 96850

NOAA Fisheries, Protected Resources, 1601 Kapiolani Blvd. #1110, Honolulu, HI 96814

NOAA Fisheries, Habitat Conservation, 1601 Kapiolani Blvd. #1110, Honolulu, HI 96814

NOAA Office of Coast Survey, Marine Chart Division, 1315 East-West Hwy., Silver Spring,
MD 20852

Mr. Pat Phung, P.E., Federal Highway Administration, Hawaii Division, 300 Ala Moana Blvd,
Rm. 3-306, Honolulu, HI 96850-3306

Mr. Mich Hirano, AICP, Munekiyo & Hiraga, Inc., 305 High Street, Suite 104, Wailuku, HI 96793

COMPLIANCE CERTIFICATION

FILE NUMBER **POH-2006-00500**
DATE OF ISSUANCE **October 29, 2010**

Name of

Permittee: Mr. Brennon T. Morioka
 Director, Highways Division
 State of Hawaii Department of Transportation
 869 Punchbowl Street
 Honolulu, HI 96813

Upon completion of the construction of the Kawela Bridge Replacement Project (Federal Aid Project No. BR-0450/8), located on Kamehameha V Highway, East of Kaunakakai, Island of Moloka'i, authorized by Nationwide Permit 14 and applicable conditions, please sign this certification and return it to the following address:

Regulatory Branch (CEPOH-EC-R/P. Galloway)
U.S. Army Engineer District, Honolulu
Building 230
Fort Shafter, Hawaii 96858-5440

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit, you are subject to permit suspension, modification or revocation.

I hereby certify that the work authorized by the above-referenced Nationwide permit has been completed in accordance with the terms and conditions of the said permit.

Signature of Permittee

Date