

Attachment F

**USACE Revised Nationwide Permit Verification for Kaipapa‘u Stream
Bridge Replacement Project – POH-2005-00342**



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

September 19, 2014

**SUBJECT: Revised Nationwide Permit Verification for
Kaipapa'u Stream Bridge Replacement Project – POH-2005-00342**

Mr. Glenn Okimoto
Department of Transportation, Highways Division
869 Punchbowl Street
Honolulu, Hawaii 96813

Dear Mr. Okimoto:

The U.S. Army Corps of Engineers, Honolulu District, has completed its review of your request for authorization dated March 24, 2014 for the proposed Kaipapa'u Stream Bridge Replacement Project – POH-2005-00342 on Kamehameha Highway, near mile marker 21, in Hau'ula, Oahu, Hawaii. This office has verified that your proposed activity complies with the terms and conditions of Nationwide Permit #3 (Maintenance Activities), Nationwide Permit #14 (Linear Transportation Projects) and the overall Nationwide Permit Program issued on March 17, 2012. Please reference file number POH-2005-00342 in any future correspondence relating to this permit.

This NWP verification is being issued pursuant to Section 10 of the Rivers and Harbors Act of 1899 (Section 10) and/or Section 404 of the Clean Water Act (Section 404) authorizing the following work as described below and as depicted on the enclosed drawings (Enclosure 1):

The proposed project originally did not include the temporary detour bridge and was previously authorized on April 19, 2010. The authorization expired with the expiration of the 2012 Nationwide Permits and was not constructed. The project was then revised and a new application was submitted to the Corps on March 25, 2014. The proposed project includes replacing the existing bridge with a new bridge that will be 110 feet long by 57 feet wide. The new bridge includes 6 drilled shafts that will be located outside of the Ordinary High Water Mark (OHWM) and Mean Higher High Water mark (MHHW). One existing concrete center wall pier located below MHHW will be removed as part of the project. The project will also involve maintenance dredging of five cubic yards below MHHW to remove accumulated sediment and debris. Temporary fill includes the placement of sand bags to redirect the stream during construction, with 25 CY of fill placed within the MHHW and 5 CY of fill placed within the OHWM. Temporary concrete footing for the detour bridge will include 1 CY of fill below MWWH. The

temporary detour bridge will be removed entirely once the project has been constructed.

In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the *Nationwide Permit General Conditions* (Enclosure 2), the *Honolulu District Regional Conditions* (Enclosure 3), and the following project-specific Special Conditions:

1. Photographic documentation of the existing bridge acceptable to the SHPD shall be completed prior to start of the bridge replacement work.
2. Archaeological monitoring of the bridge replacement work shall be conducted during ground disturbing activities in accordance with the SHPD-accepted archaeological monitoring plan.
3. In-stream work will be during the low rainfall season, and during fair weather conditions.
4. You understand and agree that, if future operations by the United States require the removal, relocation, or other alteration, of the nourished beach herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said nourished beach shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from this office, to remove, relocate, or alter the nourished beach or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
5. You must comply with the attached Pacific Standard Local Operating Procedure for Endangered Species (Pac-SLOPES) general conditions, special conditions, and activity-specific best management practices (BMPs) to avoid effects to threatened or endangered marine species (Enclosure 4).

Our verification of this NWP authorization is valid until **March 18, 2017** unless this NWP is modified, reissued, or revoked prior to that date. Failure to comply with all terms and conditions of this 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. This authorization does not relieve you of the responsibility to obtain any other Federal, State, and/or local authorizations required by law.

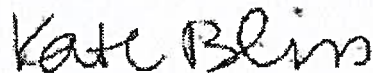
We have prepared and enclosed a *Preliminary Jurisdictional Determination* (JD) (Enclosure 5), which is a written indication that wetlands and waterways within your project area may be waters of the United States. Such waters will be treated as jurisdictional waters of the U.S. for purposes of computation of impact area and

compensatory mitigation requirements associated with your permit application. If you believe the Preliminary JD is inaccurate, you may request an Approved JD, which is an official determination regarding the presence or absence of waters of the U.S. If you choose to request an Approved JD, please be aware that we may require the submittal of additional information and work authorized in this letter may not occur until the approved JD has been finalized.

Finally, General Condition #30 requires a signed certification be submitted to this office upon completion of work. Therefore, please sign, date and return the enclosed *Compliance Certification* form (Enclosure 6) within 7 days of completion of work to CEPOH-RO@usace.army.mil.

Thank you for your cooperation with the Honolulu District Regulatory Program. Should you have any questions, please contact Ms. Shelly Lynch at 808-832-4300 or via e-mail at Michelle.R.Lynch@usace.army.mil. You are encouraged to provide comments on your experience with the Honolulu District Regulatory Office by accessing our web-based customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0. Please reference file number **POH-2005-00342** in any future correspondence relating to this permit.

Sincerely,



Kate Bliss
Acting Chief, Regulatory Office

Enclosure(s)

cc:

R.M. Towill Corporation (Koga)
State of Hawaii DBEDT Office of Planning (Nakagawa)
State of Hawaii DOH-CWB (Lum)

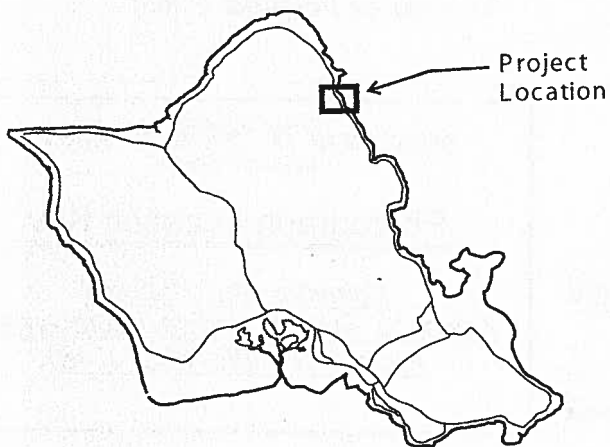
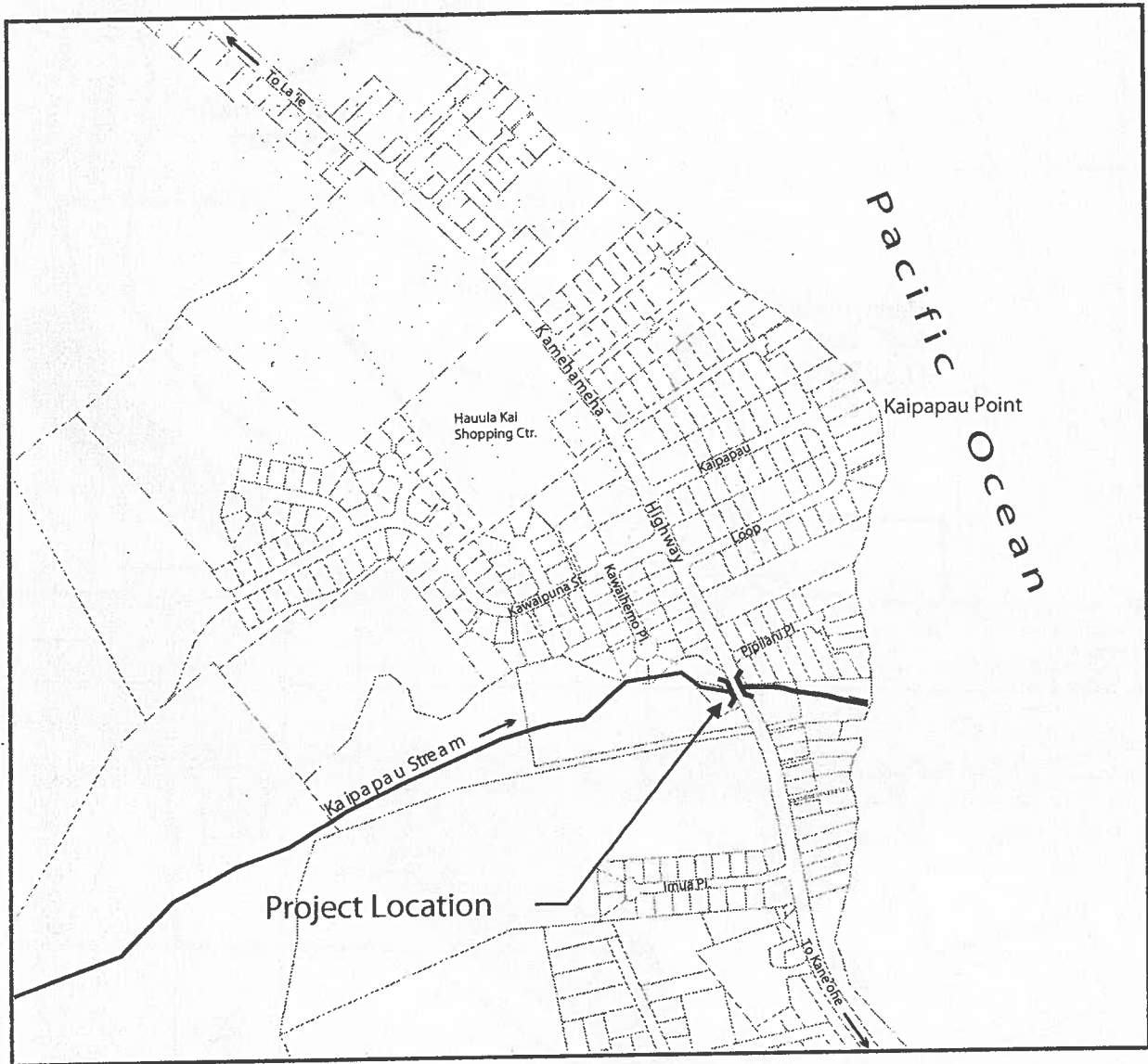


FIGURE 1
PROJECT LOCATION
Kaipapa'u Stream Bridge Replacement
Ko'olaupua District, O'ahu, Hawai'i



0 1000 Feet 2000

R. M. TOWILL CORPORATION

October 2013

2012 NATIONWIDE PERMIT GENERAL CONDITIONS

As excerpted from the *Federal Register* /Vol. 77, No. 34 /Tuesday, February 21, 2012 /Notices pp. 10282-10287

1. Navigation.

- (a) No activity may cause more than a minimal adverse effect on navigation.
- (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements.

No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

3. Spawning Areas.

Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas.

Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds.

No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material.

No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

15. Single and Complete Project.

The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers.

No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

17. Tribal Rights.

No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species.

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified

for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2)–(14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, and ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water

27. Regional and Case-By-Case Conditions.

The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits.

The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications.

If the permittee sells the property associated with nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: "When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below:

(Transferee)

(Date)

30. Compliance Certification.

Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in

2012 NATIONWIDE PERMIT HONOLULU DISTRICT REGIONAL CONDITIONS

Honolulu District has adopted the following Regional Conditions as a means to ensure no more than minimal impacts, on an individual and/or cumulative basis, will occur in waters of the United States by projects authorized by Nationwide Permit (NWP). The following Regional Conditions are applicable unless the Honolulu District makes a written determination, based on project-specific information, that omitting or deviating from a particular Regional Condition is both merited and would not result in more than minimal impacts to the aquatic environment.

Coral Reef Advisory: Please be advised that coral reefs are special aquatic sites with complex ecosystems that may consist of many contributing biological assemblages, including sponges, macroalgae, seagrass, soft corals, gorgonians, etc., in addition to reef-building coral colonies. It should not be assumed that low live coral cover or the absence of live coral colonies in a particular sample or location indicates the absence of potential impacts to a coral reef by a given project. The Honolulu District determines, after coordinating with the appropriate resource agencies, the presence and magnitude of impacts to coral reef special aquatic sites, as well as appropriate and practicable compensatory mitigation requirements, commensurate with the scope and scale of specific authorized activities.

Regional Condition 1 – Exclusions

1. Revoked Permits.

The following NWPs may not be used to authorize activities within the geographic areas subject to the regulatory jurisdiction of the Honolulu District:

- NWP 21 - Surface Coal Mining Activities
- NWP 24 - Indian Tribe or State Administered Section 404 Programs
- NWP 29 - Residential Developments
- NWP 34 - Cranberry Production Activities
- NWP 39 - Commercial and Institutional Developments
- NWP 42 - Recreational Activities
- NWP 44 - Mining Activities
- NWP 49 - Coal Remining Activities
- NWP 50 - Underground Coal Mining Activities
- NWP 52 - Water-Based Renewable Energy Generation Pilot Projects

2. Kihei Wetlands.

The following NWPs may not be used to authorize activities on the island of Maui, Hawaii, within the area bounded by Mokulele Highway to the north, Kilohana Drive to the south, Piilani Highway to the east, and extending to the Pacific Ocean to the west:

- NWP 12 - Utility Line Activities
- NWP 13 - Bank Stabilization
- NWP 14 - Linear Transportation Projects
- NWP 18 - Minor Discharges
- NWP 19 - Minor Dredging
- NWP 33 - Temporary Construction, Access, and Dewatering
- NWP 40 - Agricultural Activities
- NWP 41 - Reshaping Existing Drainage Ditches
- NWP 43 - Stormwater Management Facilities

6. Coral Reefs.

No activity that directly results in a permanent loss of coral reef may be authorized by NWP if the District Engineer determines, after coordinating with appropriate resource agencies, that compensatory mitigation is required.

7. Stream Modification.

The following NWPs may not be used to authorize permanent stream channelization or the construction of dams that impound waters of the United States:

- NWP 7 - Outfall Structures and Associated Intake Structures
- NWP 12 - Utility Line Activities
- NWP 14 - Linear Transportation Projects
- NWP 18 - Minor Discharges
- NWP 25 - Structural Discharges
- NWP 40 - Agricultural Activities
- NWP 41 - Reshaping Existing Drainage Ditches
- NWP 51 - Land-Based Renewable Energy Generation Facilities

Regional Condition 2 – Regional Conditions that apply to all NWPs in the Honolulu District

1. Pre-Construction Notification (PCN).

Notification to the Honolulu District is required, in accordance with General Condition 31, for any activity authorized by NWP that will take place within any of the geographic areas subject to the regulatory jurisdiction of the Honolulu District. You must obtain a written NWP verification from the Honolulu District before commencing the authorized activity.

2. Compensatory Mitigation.

Upland vegetation buffers may not be used as the primary or sole method to offset permanent losses of wetland or aquatic resources within the geographic areas subject

4. Site Identification

Prior to clearing and construction, project limits of authorized sites must be clearly identified in the field (e.g., by staking, flagging, silt fencing, buoys, existing footprint for maintenance activities, etc.) to ensure that impacts to waters of the United States (including wetlands) beyond project footprints are avoided. Such identification of project limits must be properly maintained until construction is completed and the soils have been stabilized.

5. Protected or Endangered Species

a. Constant vigilance shall be kept for the presence of protected species during all aspects of the proposed action. Protected species include plants and animals listed or proposed for listing as threatened or endangered under Endangered Species Act (ESA), birds covered under the Migratory Bird Conservation Act, as well as all marine mammals. Although the protected species potentially affected would be determined on a project-specific basis, protected species typically of concern in Hawaii include: Hawaiian stilt, Hawaiian coot, Hawaiian moorhen, Hawaiian duck, Hawaiian goose, green sea turtle, hawksbill sea turtle, and Hawaiian monk seal. In the Territory of Guam or the Commonwealth of the Northern Mariana Islands species include: nightingale wee-warbler, Mariana common moorhen, green sea turtle, and hawksbill sea turtle. In American Samoa species also include: green sea turtle and hawksbill sea turtle.

b. All on-site project personnel, irrespective of their employment arrangement or affiliation (e.g. employee, contractor, etc.), shall be apprised of the status of any protected species potentially present in the project area and the protections afforded to those species under Federal laws. Brochures explaining the laws and guidelines for listed species in Hawaii, American Samoa, and Guam may be downloaded from http://www.nmfs.noaa.gov/prot_res/MMWatch/hawaii.htm and <http://www.fws.gov/pacificislands/species.html>.

c. The project foreman shall designate an appropriate number of competent observers to survey the area adjacent to the proposed action for protected species. The project foreman shall also have in his/her possession at the jobsite a handout with photographs of protected species that may enter the construction site to assist with identification of the protected species. (U.S. Fish and Wildlife Service – Pacific Islands Fish and Wildlife Office (PIFWO) will provide the informational handout).

d. Surveys of the project area shall be made prior to the start of work each day, and prior to resumption of work following any break of more than one half hour, to ensure that no protected species are in the project area (typically within 50 yards of the proposed work). All work shall be postponed or halted when protected species are present, and shall only begin/resume after the animals have voluntarily departed the area. In the case of sessile species, a

c. To the extent practicable, work in the aquatic environment must be scheduled to avoid coral spawning and recruitment periods and sea turtle nesting and hatching periods. Coordination with federal resource agencies (U.S. Fish and Wildlife Service and/or NOAA) can assist in identifying these time periods.

d. Dredging and filling in the aquatic environment must be designed to avoid or minimize adverse impacts to or the loss of special aquatic sites (wetlands (swamps, marshes, bogs, etc.), mudflats, vegetated shallows/seagrass beds, coral reefs and/or riffle and pool complexes).

e. All project-related materials (fill, landscaping, etc.) and equipment (dredges, barges, backhoes, etc.) to be placed in any aquatic environment shall be inspected and cleaned of pollutants, organic matter, and invasive species (including snakes, frogs, and marine plants and animals, etc.) prior to use in any aquatic environment.

f. No project-related materials (fill, revetment rock, pipe etc.) shall be stockpiled in the aquatic environment (intertidal zones, reef flats, stream channels, wetlands etc.) or in close proximity such that materials could be carried into waters by wind, rain, or high surf.

g. All construction debris and material removed from the marine/aquatic environment shall be disposed of at an approved upland or alternative disposal site.

h. No contamination (by trash, debris, sediment, non-native species introductions, attractions of non-native pests, etc.) of adjacent waters of the United States, including special aquatic sites, shall result from project-related activities. Special attention must be paid to the fouling level on barges, vessels, and equipment whereas to minimize the transport and potential introduction and spread of aquatic non-native species. In addition, if dredged or excavated material or structural members are removed from the water or placed in the water, measures must be taken to prevent the spread or introduction of any aquatic non-native species. This shall be accomplished by implementing a litter-control plan and on a site or project specific need basis, developing a Hazard Analysis and Critical Control Point Plan (HACCP – see <http://www.haccp-nrm.org/Wizard/default.asp>) to prevent attraction and introduction of non-native species.

i. Fueling of project-related vehicles and equipment shall take place away from the water and a contingency plan to control petroleum products accidentally spilled during the project shall be developed. The plan shall be retained on site with the person charged with the responsibility of compliance with the plan. Absorbent pads and containment booms shall be stored on-site, if appropriate, to facilitate the clean-up of accidental petroleum releases.

1899, any best management practices (BMPs) required or recommended by the DOH for purposes of avoiding and minimizing the discharge of pollutants, other than dredged or fill material, into state waters, including 303(d)-listed impaired waters, are hereby incorporated into the NWP verification. These conditions are subject to discretionary enforcement by the Honolulu District.

c. For projects directly impacting "Impaired Waters" as listed on the most recent CWA Section 303(d) list (<http://hawaii.gov/health/environmental/water/cleanwater/integrated/index.html>), the PCN shall:

- (1) Identify the waterbody as an "Impaired Water" and,
- (2) Identify mitigating measures or BMPs necessary to avoid further degradation of the impaired water.

d. You may dispose of dredged spoils at state permitted landfills, provided you comply with the landfill's acceptance criteria. Preapproval by the DOH-Solid and Hazardous Waste Branch is not required for this action. The generator shall provide documentation to DOH upon request. You may use dredge spoils at off-site locations, provided the dredged spoils meet the Hawaii DOH Soil Environmental Action Levels for unrestricted use. You must adequately characterize the dredged spoils, including conducting sampling and analysis in accordance with the HEER Office Technical Guidance Manual and other relevant guidance documents. Sampling methodology and analytical results shall be documented, including a comparison to EALs, and maintained by the generator. The spoils shall also meet the definition of inert fill material, which generally includes "...earth, soil, rocks, and rock-like materials... [that do not] contain vegetation or other organic material, or other solid waste." The generator shall provide the documentation to the DOH upon request. Offsite placement of dredged spoils that do not meet the above criteria or occur without adequate records may be considered illegal dumping, subject to enforcement action.

Regional Condition 3 – Acreage Limitation

The maximum acreage loss of waters of the United States for the total project may not exceed 1/10-acre resulting from any discharge of dredged or fill material in a special aquatic site, including wetlands, if authorized by the following NWPs, or a combination of any of these NWPs:

- NWP 3 - Maintenance
- NWP 7 - Outfall Structures and Associated Intake Structures
- NWP 40 - Agricultural Activities
- NWP 41 - Reshaping Existing Drainage Ditches
- NWP 43 - Stormwater Management Facilities
- NWP 45 - Repair of Uplands Damaged by Discrete Events

measures must be incorporated to prevent perching of the culvert or scouring that could obstruct up- and downstream native stream species migration. To preserve a natural stream bed, bridge designs that span the stream or river, including pier or pile supported spans, are encouraged.

Regional Condition 7 – Bank Stabilization.

Vertical walls and/or non permeable rigid structures such as pre-cast concrete, concrete rubble masonry, and cast-in-place structures may not be used for bank stabilization authorized under the following NWP:

NWP 13 - Bank Stabilization

NWP 14 - Linear Transportation Projects

NWP 27 - Aquatic Habitat Restoration, Establishment, and Enhancement

Activities

NWP 45 - Repair of Uplands Damaged by Discrete Events

Regional Condition 8 - Mooring Buoys.

Within 7 days of installation of a mooring buoy authorized by NWP 10, you must provide the as-built coordinates of its location to the Honolulu District and the U.S. Coast Guard.

Regional Condition 9 – Runways and Taxiways.

NWP 14 may not be used to authorize runways or taxiways.

Pac-SLOPES General Conditions

GENERAL CONDITIONS: The Corps will apply the following set of general conditions to each action authorized under Pac-SLOPES. Additionally, specific BMPs described in section 5 under the specific activity types will be required as applicable.

1. Each applicable condition, BMP, and conservation measure will be included as an enforceable part of the permit document.
2. The Corps will retain the right of reasonable access to projects authorized under Pac-SLOPES to monitor the compliance with and effectiveness of permit conditions.
3. Each permit will contain the requirement that the permittee document and report to the Corps and NMFS, all interactions with listed species, including the disposition of any listed species that are injured or killed. Should an ESA-listed species be adversely affected, all work must stop pending reinitiation of consultation between the Corps and NMFS PRD for that action.
4. Constant vigilance shall be kept for the presence of ESA-listed marine species during all aspects of a proposed action

a) A responsible party, i.e., permittee/site manager/project supervisor, shall designate a competent observer to survey work sites and the areas adjacent to the proposed action for ESA-listed marine species;

b) Surveys shall be made prior to the start of work each day, including prior to resumption of work following any break of more than one half hour. Periodic additional surveys throughout the work day are strongly recommended;

c) All in-water work will be postponed or halted when ESA-listed marine species are within 50 yards of the proposed work, and will only begin/resume after the animals have voluntarily departed the area, with the following exception: if ESA-listed marine species are noticed within 50 yards after work has already begun, that work may continue only if, in the best judgment of the responsible party, the activity is unlikely disturb or harm the animal(s), for example, divers performing surveys or underwater work (excluding the use of toxic chemicals) is likely safe, the use of heavy machinery is not; and

d) No one shall attempt to feed, touch, ride, or otherwise intentionally interact with any protected species.

5. Project footprints must be limited to the minimum area necessary to complete the project.

6. The project area must be flagged to identify sensitive resource areas, such as seagrass beds, listed terrestrial plants, and turtle nests.

access routes must be utilized or improved whenever possible, in lieu of construction of new access routes.

13. All disturbed areas must be immediately stabilized following cessation of activities for any break in work longer than 4 days.

14. Drilling and sampling are restricted to uncontaminated areas, and any associated waste or spoils must be completely isolated and disposed of in an upland location.

15. Authorized work must comply with all applicable NWP General and Regional Conditions.

Pac-SLOPES SPECIAL CONDITIONS

In addition to the general conditions listed the following special conditions are required under Pac-SLOPES for each activity:

2.2.6 Maintenance Dredging

1. With the exception of the actual dredging apparatus (e.g. clamshell buckets, or the scoop and articulated arm of a backhoe, etc.), heavy equipment will be operated from above and out of the water;
2. The portions of the equipment that enter the water will be clean and free of pollutants;
3. Appropriate silt containment devices must be used and properly installed to avoid degradation of adjacent coral reefs, and aquatic vegetation; and
4. Dredged material must be deposited at upland sites, or at EPA designated ocean disposal sites provided sediment standards are met.
5. Dredging of coral reefs, sites that support submerged aquatic vegetation (including sites where submerged aquatic vegetation is documented to exist but may not be present in a given year), and wetlands, is not authorized;
6. Use of hydraulic dredging (aka vacuum, suction, hopper) is not authorized;
7. Any form of blasting is not authorized; and
8. Any dredging for the purpose of connecting canals or other artificial waterways to navigable waters is not authorized.

2.2.12 Road Construction, Repair, and Improvement

1. Maximum road width shall be limited to the minimum width necessary;
2. Roads shall be designed and constructed in a manner that minimizes adverse impacts on surface and marine waters due to runoff and erosion;
3. Roads shall be constructed as near as possible to pre-construction contours and elevations; and
4. Roads must be bridged or culverted in a manner that maintains surface flows with minimal modification to flow direction or velocity.

2.2.13 Bridge Repair & Replacement

1. Temporary fills must consist of stable materials, and be placed in a manner, that will not be eroded by expected high flows;
2. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations within 30 days of project completion; and
3. Installation of pilings, including steel sheetpile cofferdams, is expressly excluded from coverage under Pac-SLOPES, as is any in-water drilling.

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

A. REPORT COMPLETION DATE: September 3, 2014

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD: Mr. Glenn Okimoto
Department of Transportation, Highways Division, 869 Punchbowl Street, Honolulu, Hawaii 96813

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: POH, Kaipapa'u Stream Bridge Replacement Project, POH-2005-00342

D. PROJECT LOCATION(S), BACKGROUND INFORMATION, AND WATERS:

State: Hawaii
Island: Oahu
City: Hau'ula
County: Honolulu
Name of nearest waterbody: Kaipapa'u Stream

Identify amount of waters in the review area:

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal: 554 feet of Kaipapa'u Stream is tidally influenced.

Non-Tidal: 306 feet of Kaipapa'u Stream is non-tidal.

Waters of the U.S.

| Waterbody | Latitude (dd.ddd °N) | Longitude (dd.ddd °W) | Cowardin Class | Area (Acres) | Length (Feet) | Width (Feet) |
|------------------|-------------------------|--------------------------|-------------------|-----------------|------------------|-----------------|
| Kaipapa'u Stream | 21°37'02" | 157°54'50" | E1UBL | 0.38 | 554 | 30 |
| Kaipapa'u Stream | | | R3UBH | 0.21 | 306 | 30 |
| | | | | | | |

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒
☐

Office (Desk) Determination. Date: September 3, 2014
Field Determination. Date(s):

G. EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

COMPLIANCE CERTIFICATION

PERMIT NO.: POH-2005-00342, Kaipapa'u Stream Bridge Replacement Project

DATE OF VERIFICATION: September 5, 2014

DATE VERIFICATION EXPIRES: March 18, 2017

NAME OF PERMITTEE: Mr. Glenn Okimoto, Department of Transportation, Highways Division, 869 Punchbowl Street, Honolulu, Hawaii 96813

In accordance with General Condition #30, the permittee must, upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Honolulu District
Attn: CEPOH-EC-R, Regulatory Branch
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 the terms and conditions of this permit, you are subject to permit suspension, modification or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date