

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

In reply, please refer to:
EMD/CWB

WQC808.FNL.13

January 9, 2013

The Honorable Glenn M. Okimoto, Ph.D.
Director
Department of Transportation
869 Punchbowl Street
Honolulu, Hawaii 96813-5097

Dear Dr. Okimoto:

**Subject: Section 401 Water Quality Certification (WQC) for
Interstate Route H-1, Aiea Stream Erosion Control Project
D.O.T. Project No. H1-E-01-11M
File No. WQC808/DA File No. POH-2009-00312**

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of your January 7, 2013 revised Application for a Section 401 WQC transmitted with your letter (No. HWY-DE 2.1833), dated January 7, 2013. The revised Application was received on January 8, 2013.

Item 7.b (Describe the overall project scope and activities) of your January 7, 2013 revised Application stated that:

"The project involves the construction of a Shotcrete Wall to stabilize an eroding stream bank slope on the Aiea Shopping Center property. The Shotcrete Wall is approximately 180 feet in length (see Attachment E-Shotcrete Wall Construction Plan.)

The proposed project would stabilize a portion of the Ewa bank of Aiea Stream by installing soil nails which are connected to the shotcrete facing. Soil nails are installed by drilling small diameter holes into the slope, inserting approximately 25 to 35 -foot long high strength steel bars (nails) into the hole and then grouting. Shotcrete, which is concrete mixed with coarse aggregate, is pneumatically applied to the bank slope surface using high velocity spray from a hose and nozzle. Shotcrete is applied at specified angles at a close range to the surface in order to ensure proper adhesion and compaction. These specifications also create an application process where fugitive shotcrete or overspray is limited to the immediate work surface. The contractor will develop a Spill Prevention Plan that includes measures to prevent and address spills once they've occurred. The Spill Prevention Plan will be submitted to DOH within seven (7) calendar days before the project commencement date.

The project limits would start on the Ewa bank of Aiea Stream at the existing H-1 Freeway double cell box culvert and to a point approximately 180 feet downstream. The proposed soil nail wall would be within the privately owned Aiea Shopping Center, where the severely eroded stream bank requires protection to prevent further undercutting."

Item 7.c (Describe the “discharge” activity and the purpose of the proposed discharge activity) of your January 7, 2013 revised Application stated that:

“Discharge activities during construction include:

- Installation of temporary BMPs (to isolate and contain the work area)
- Removal of temporary BMPs (to restore site to the maximum extent practicable)
- Construction of Shotcrete Wall (to stabilize stream bank)
- Construction of Cut-off wall (to support Shotcrete Wall)

Sandbags and Silt Fences will be used to separate work areas and contain disturbed work areas from discharging pollution into the stream flow..”

Item 7.d of your January 7, 2013 revised Application further stated that the “discharge” activities you are seeking coverage for under this Section 401 WQC Application are:

“Installation of the following:

- Temporary BMPs (see Attachment K – Site-Specific BMP Plan)
- Permanent Structures
 - Shotcrete Wall (above & below the OHWM)
 - Cut-off Wall (below the OHWM)”

You have stated in your January 7, 2013 letter (No. HWY-DE 2.1833) that:

“In accordance with HAR Section 11-54-09.1.04(b), we request a waiver from the public participation process as the proposed construction work for the Aiea Stream Erosion Control Project is covered under a Nationwide Permit Authorization, the project will only result in minor discharge, and the project is noncontroversial.”

In a “**NATIONWIDE PERMIT AGENCY COORDINATION**” dated June 15, 2011, from Mr. George P. Young, Chief of the Regulatory Branch, Pacific Ocean Division, Honolulu District Office (POH) of the U.S. Army Corps of Engineers (COE), Mr. Young stated that:

“Reference: Hawaii Department of Transportation, Highways Division, 869 Punchbowl Street, Honolulu, Hawaii 96813

Agent: Richard Dahilig, PB Americas, Inc., 1001 Bishop Street, ASB Tower, Suite 2400, Honolulu, Hawaii 96813

Location: In Aiea Stream at TMK: 9-9-042:027 & 059 at the H-I crossing in Aiea, County of Honolulu, Island of Oahu, Hawaii

Permit Type: Nationwide Permit No. 13 (Bank Stabilization) & 33 (Temporary Construction, Access, and Dewatering)

Permit Authority: Section 404 of the Clean Water Act

Project Description: As shown on the attached application and drawings, the applicant proposes to harden approximately 160 linear feet of the western bank of Aiea Stream. As part of the proposed work, the applicant will use a construction method called "soil nailing and shotcrete facing" to stabilize the bank. Narrow bars or anchors are inserted into the bank slope through pre-drilled holes in order to fasten shotcrete directly to the slope. Volume of concrete in the slope protection is 320 cubic yards. Approximately 24 cubic yards of material will be excavated from a 160' x 1.0' x 4' deep trench at the toe of the proposed bank stabilization and disposed of in an upland location and 24 cubic yards of concrete will be used to fill this trench below the ordinary High Water Mark of Aiea Stream.

During construction, temporary BMPs will include a 5' high sandbag barrier at the existing double cell box culvert; two (2) 36" HDPE pipes to bypass stream flows; a 12" HDPE pipe to channel runoff within the construction area; a 10' construction access road; and a temporary stream crossing. The project will take approximately six months to complete. The purpose of the project is to prevent additional erosion which could compromise existing commercial structures in the Aiea Shopping Center."

Based on the Department of the Army (DA) Nationwide Permit (NWP) No. 13 (Bank Stabilization) and 33 (Temporary Construction, Access, and Dewatering) permitting jurisdictional determination (JD) rendered by POH-COE on June 15, 2011; information contained in your January 7, 2013 revised Section 401 WQC; your written waiver request and in accordance with Hawaii Administrative Rules (HAR), Paragraph 11-54-9.1.04(b); the Department of Health (DOH) waives the notification requirements for the processing of an Application for a Section 401 WQC for the subject project with the following conditions:

1. The determination of waiving the notification requirements for the processing of an Application for a Section 401 WQC for the subject project:
 - a. Shall become effective the date of this letter and expire at midnight **January 8, 2015**, or until the applicable State Water Quality Standards (WQS) is revised or modified, or the applicable DA NWP No. 13 or 33 expires or is revised or modified, or the mandatory requirements in implementing the Total Maximum Daily Load (TMDL) implementation Plan for Pearl Harbor watershed (or for the entire Aiea Stream Network System) is established by the DOH and approved by the U.S. Environmental Protection Agency (EPA), or the project construction is completed, whichever is earliest. If the applicable WQS is revised or modified, before **January 8, 2015**, and such that the activity complies with the revisions or modifications to the WQS, the determination of waiving the notification requirements shall continue to be valid until **January 8, 2015**.
 - b. Shall become invalid if the project construction activity is found to be controversial after the effective date of this letter. The DOT-HWYS shall cease all discharge activities as specified in Item No. 7.d for the purposes as specified in Item Nos. 7.b and 7.c of January 7, 2013 revised Section 401 WQC Application. The DOT-HWYS, General Contractor (GC) and subcontractor(s),

if any, shall not hold the DOH responsible for any damages or costs incurred due to the cessation of the discharge activity.

c. May be revoked when:

- (1) New State WQS are subsequently established before the activity is completed and/or the Director of Health (Director) determines that the activity is violating new State WQS. The Director will notify the DOT-HWYS of the violation. The DOT-HWYS shall cease the violation within 180 calendar days of the date of the notice. If the DOT-HWYS fails within 180 calendar days of the date of the notice to cease the violation, the Director may revoke this waiver determination; or
- (2) The Director determines that the discharge(s) from the activity is violating the existing State WQS or any condition specified in this letter. The Director will notify the DOT-HWYS of the violation. DOT-HWYS shall cease the violation within seven (7) calendar days of the date of the notice. If the DOT-HWYS fails within seven (7) calendar days of the date of the notice to cease the violation, the Director may revoke this waiver determination.

These actions shall not preclude the DOH from taking appropriate enforcement action authorized by law.

Written notification by the Director under this section is complete upon mailing or sending a facsimile transmission of the document or actual receipt of the document by DOT-HWYS.

2. In accordance with Item No. 7.d. of the January 7, 2013 revised Section 401 WQC Application, the discharge activities that the DOT-HWYS is seeking coverage under this Section 401 WQC Application are those activities associated with stream bank stabilization work along the Aiea Stream Ewa Bank (TMKs: (1) 9-9-042:059 and 027) between Coordinates: Latitude: 21°22'45"N and Longitude 157°55'44"W; and Latitude 21°22'43"N and Longitude 157°55'45"W.
3. The DOT-HWYS shall:
 - a. Notify the DOH's Clean Water Branch (CWB) via e-mail cleanwaterbranch@doh.hawaii.gov of the following construction activities:
 - (1) Commencement date within seven (7) calendar days before any work is to begin.

- (2) Completion date within 14 calendar days after the completion of the proposed stream bank protection structure construction activities (including the disturbed sites restoration activities).

All communication, including but not be limited to the e-mail, with the CWB shall indicate **File No. WQC0808** and the certification statement below.

- b. Submit to the CWB within seven (7) calendar days before any work is to begin:
 - (1) GC's information, which shall, at a minimum, include the GC's legal name, address, contact person's name and position, telephone and fax numbers, and e-mail address.
 - (2) GC's emergency contact information which shall, at a minimum, include the contact person's name, position, telephone (including cellular phone) and fax numbers, and e-mail address.
 - (3) An updated construction schedule.
- c. Ensure that there shall be no discharge of construction site dewatering effluent without first obtaining the applicable National Pollutant Discharge Elimination System (NPDES) permit issued by the DOH.
- d. Comply, and shall also require the GC and subcontractor(s), if any, to comply, with applicable specifications, schedules, procedures, drawings, Erosion Control Plan (attachment F), Erosion Control Notes (Attachment G), "AIEA STREAM SITE RESTORATION PLAN" dated October 2012 (Attachment H), "Aiea Stream Water Quality Monitoring and Assessment Plan" dated October 2012 and prepared by Oceanit Laboratories (Attachment J, hereafter the "WQMAP"), "SITE-SPECIFIC BMP PLAN FOR AIEA STREAM WORK" dated October 2012 (Attachment K), AIEA STREAM SPILL PREVENTION PLAN" dated October 2012 (Attachment L), and any other project construction related requirements or information contained in your revised Section 401 WQC Application, dated January 7, 2013 and received on January 8, 2013.

Test methods promulgated in 40 CFR Part 136 effective on July 1, 2001, and when applicable, the chemical methodology for sea water analyses (HAR, Section 11-54-10) shall be used. The detection limits of the test methods used shall be equal to or lower than the applicable WQS as specified in HAR, Chapter 11-54. For situations where the applicable WQS is below the detection limits of the available test methods, the test method which has the detection limit closest to the applicable WQS shall be used. If a test method has not been

promulgated for a particular parameter, the applicant may submit an application through the Director for approval of an alternate test procedure by following 40 CFR §136.4.

The Director may, at the Director's own discretion or upon written request from the DOT-HWYS and on a case-by-case basis, require the DOT-HWYS to modify the monitoring frequency(ies) or change the sampling locations and/or parameter, as appropriate. If a written request is submitted for the reduction of monitoring frequency(ies), it shall be accompanied by an assessment of monitoring results which shall clearly demonstrate that the project construction activity related discharge has fully complied with the applicable WQS.

Field measurement results for pH and turbidity results shall be submitted to the CWB, before the closing of the next business day the sample was taken, via e-mail in Excel and/or pdf formats to cleanwaterbranch@doh.hawaii.gov. All communication, including but not be limited to the e-mail with the CWB shall include **File No. WQC0808** and the certification statement below.

e. Ensure that:

(1) All "discharges" associated with the proposed construction activities are conducted in a manner that will not cause or contribute to a violation to the "Basic Water Quality Criteria Applicable to All Waters" as specified in HAR, Section 11-54-4.

(2) All material(s) placed or to be placed in State waters are free of waste metal products, organic materials, debris, and any pollutants at toxic or potentially hazardous concentrations to aquatic life as identified in HAR, Subsection 11-54-4(b).

- f. Ensure that temporarily constructed structures such as stream flow diversion devices (diversion pipes, sand bags, overflow pipe, etc.), construction access, appropriate and effective silt containment or treatment device(s), soil erosion control measures, etc., will be properly deployed prior to the commencement of the proposed stream bank construction work; be properly maintained throughout the entire period of the construction work; and not be removed until the construction work is completed and the condition in the affected area has been stabilized and returned to its pre-construction condition or better, as demonstrated by the monitoring results.
- g. Ensure that construction debris, including but not limited to those resulting from the excavation/dredging activity, is contained on land and prevented from entering or re-entering State waters, including Aiea Stream.

- h. Ensure that all temporarily constructed structures and other effective silt containment device(s) and/or soil erosion control structures, are properly removed immediately after the completion of the construction work and when the affected water body has returned to its pre-construction condition or better, as demonstrated by the monitoring results, including the color photographs.
- i. Ensure that the permitted activity will not result in non-compliance or cause violations to the applicable State WQS. Although temporary increases in turbidity level is expected, any visible floating debris, oil, grease, scum, other floating materials, or objectionable color, or turbidity plume, detected within Aiea Stream channel or outside BMPs confined/isolated areas constitutes a violation to HAR, Subsection 11-54-4(a) requirements.

The DOT-HWYS shall immediately cease the portion of the construction work which is causing or may cause non-compliance with HAR, Subsection 11-54-4(a), Subsection 11-54-4(b), or the portion of the construction is damaging or will cause damage to the aquatic environment as is indicated through WQMAP results or during the daily inspection or observations. The construction activity shall not resume until adequate mitigative measures are implemented and appropriate corrective actions are taken and approved by the Director.

The DOT-HWYS, GC, and subcontractor(s), if any, shall not hold the DOH responsible for any damages or costs incurred due to the temporary cessation of the construction operation.

This action shall not preclude the DOH from taking appropriate enforcement action authorized by law.

- j. Immediately report any spill(s) or other contamination(s) that occurs at the project to the CWB via telephone number (808) 586-4309 or through e-mail to: cleanwaterbranch@doh.hawaii.gov.
- k. Ensure that:
 - (1) Erosion and Sediment Control Measures are in place and functional before earthmoving operations begin;
 - (2) Temporary soil stabilization shall be applied on areas that will remain unfinished for more than 30 calendar days; and
 - (3) Permanent soil stabilization shall be applied as soon as practicable after final grading.

The DOT-HWYS shall ensure that GC and the subcontractor(s) maintain, at the construction site or in the nearby field office, a record that these requirements have been fully complied with.

- I. Not discharge concrete truck washing effluent, and any other types of effluent without first obtaining the required NPDES permit from the DOH.
 - m. Maintain, and require the GC and the subcontractor(s), if any, to maintain, a copy of the January 7, 2013 revised Section 401 WQC Application (with all attachments) and this letter at the construction site or in the nearby field office.
4. Work shall be discontinued during storm events or during flood condition.
 5. Clearing and grubbing shall be held to the minimum, if any.
 6. The DOT-HWYS shall review and update the effectiveness and adequacy of the WQMAP, implemented site-specific BMPs measures and other environmental protection measures as often as needed. The DOT-HWYS shall modify the site-specific BMPs Plan, WQMAP, and/or other environmental protection measures upon request or when instructed by the Director.

Any change(s) to the implemented site-specific BMPs Plan, WQMAP, and/or correction(s) or modification(s) to information already on file with the DOH shall be submitted to the CWB for review and comment, as such change(s), correction(s) or modification(s) arises. The DOT-HWYS shall properly address all comment(s) and/or concern(s) to the Director's satisfaction before such change(s), correction(s) or modification(s) become effective.

7. By applying for and accepting this Section 401 WQC determination, the DOT-HWYS agrees that the DOH may conduct routine inspection of the construction site in accordance with Hawaii Revised Statutes, Section 342D-8.
8. Construction debris, vegetation and/or dredged material removed from the construction site shall be disposed of at the upland State or County approved sites. A Solid Waste Disclosure Form for Construction Sites shall be completed and returned to the DOH, Solid and Hazardous Waste Branch, Solid Waste Section. The form can be downloaded at:
<http://www.hawaii.gov/health/environmental/waste/sw/pdf/swdiscformnov2008.pdf>.

No construction material or construction activity related materials shall be stockpiled, stored or placed in State waters (including Aiea Stream Estuary) or in ways that will disturb or adversely impact the aquatic environment.

9. Runoff, return flow or airborne particulate pollutants, if any, from the excavated/dredged material dewatering process or from the stockpiling site shall be contained on land and not be allowed to enter State waters.
10. The DOT-HWYS, duly authorized representative and GC shall comply with all new State WQS adopted by the DOH after the effective date of this letter.
11. The DOH reserves the right of taking appropriate enforcement action authorized by law against any non-compliance/violation to the applicable State WQS or any conditions contained in this letter.
12. Ensure that there will be no pesticides application in State waters without first obtaining an NPDES permit issued by the CWB.

Please include **File No. WQC0808** and the following certification statement in all future correspondence with the DOH for the subject project:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

If you have any questions, please contact Mr. Alec Wong, Chief of CWB or have your staff contact Mr. Edward Chen of the Engineering Section, CWB, at 586-4309.

Sincerely,



for LORETTA J. FUDDY, A.C.S.W., M.P.H.
Director of Health

- c: Regulatory Branch, POH, COE, [via fax 835-4187 only]
CZM Program, Office of Planning, DBEDT [via fax 587-2899 only]
Mr. Todd Nishioka, DOT-HWYS [via e-mail Todd.Nishioka@hawaii.gov only]
Ms. Larissa Sato, Parson Brinckerhoff [via e-mail sato@pbworld.com only]