

BEFORE THE LAND USE COMMISSION

LAND USE COMMISSION
STATE OF HAWAII

OF THE STATE OF HAWAII

2013 OCT 18 P 3:06

In The Matter Of The Petition Of)	Docket No. DR08-36
)	
KO OLINA DEVELOPMENT, LLC)	KO OLINA DEVELOPMENT, LLC
)	
To Amend The Agricultural Land Use)	
District Boundary into the Urban Land)	
Use District for approximately 642 acres)	
At Honouliuli, Ewa, Oahu, Tax Map)	
Keys: 9-1-14: Portion of Parcel 2; 9-1-15:)	
3, 6, 7, 10, Portion of Parcel 4; 9-2-03: 3,)	
7, Portion of 2)	
_____)	

**KO OLINA DEVELOPMENT, LLC'S BOAT
LAUNCH RAMP SIXTEENTH STATUS REPORT**

EXHIBITS "A" - "B"

AND

CERTIFICATE OF SERVICE

OF COUNSEL:
MATSUBARA -- KOTAKE
A Law Corporation

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Attorneys for Petitioner
KO OLINA DEVELOPMENT, LLC

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**KO OLINA DEVELOPMENT, LLC'S BOAT
LAUNCH RAMP SIXTEENTH STATUS REPORT**

KO OLINA DEVELOPMENT, LLC ("Petitioner") submits this boat launch ramp Status Report to the State Land Use Commission ("Commission") pursuant to the Commission's request at its August 28, 2009 status report hearing in the above-referenced docket.

I. INTRODUCTION

On August 28, 2009, the Commission held its meeting at Leiopapa A Kamehameha, Conference Room 405, 235 South Beretania Street, Honolulu, Hawai'i, for a continued status report on Docket No. DR08-36 Ko Olina Development Company pursuant to Condition 4 of the Findings of Fact, Conclusions of Law, and Decision and

Order filed November 19, 2008, ("Declaratory D&O") in the matter of the petition for a Declaratory Order in the above-referenced docket.

At the conclusion of the August 28, 2009 status report presentation the Commission orally requested that Petitioner submit a quarterly written status report on Petitioners progress on relocating the boat launch ramp in the marina. Petitioner's First Status Report was filed with the Commission on December 4, 2009. Petitioner's Second Status Report was filed on March 15, 2010. Petitioner's Third Status Report was filed on June 14, 2010. Petitioner's Fourth Status Report was filed on September 13, 2010. Petitioner's Fifth Status report was filed on December 28, 2010. Petitioner's Sixth Status report was filed on March 10, 2011. Petitioner's Seventh Status report was filed on June 3, 2011. Petitioner's Eighth Status report was filed on August 31, 2011. Petitioner's Ninth quarterly status report was filed on December 6, 2011. Petitioner's tenth quarterly status report was filed on March 9, 2012. Petitioner's Eleventh quarterly status report was filed on June 13, 2012. Petitioner's Twelfth quarterly status report was filed on September 9, 2012. Petitioner's Thirteenth quarterly status report was filed on December 14, 2012. Petitioner's Supplemental to its Thirteenth quarterly status report was filed on January 17, 2013. Petitioner attended a "Status/Update Report-Boat Launch Ramp" hearing and provided an oral status and update of the boat launch ramp before the Commission on January 24, 2013. Petitioner's Fourteenth quarterly status report was filed on March 15, 2013. Petitioner's Supplemental to its Fourteenth

quarterly status report was filed on April 8, 2013 pursuant to the Commission's request for a follow up status hearing on the boat launch ramp. Petitioner attended a "Status/Update Report-Boat Launch Ramp" hearing and provided an oral status and update of the boat launch ramp before the Commission on April 19, 2013. Petitioner's Fifteenth quarterly status report was filed on July 17, 2013. Petitioner hereby provides its Sixteenth quarterly status report to the Commission.

II. STATUS

While Petitioner is currently in compliance with the obligations within their control regarding the Boat Ramp project schedule submitted to the Commission on July 13, 2009, delays in the permitting process will push back the final completion date of the boat launch ramp. Petitioner is firmly committed to constructing and completing the boat launch ramp in the marina as soon as possible.

Petitioner has filed all permit applications, which were able to be filed, on or ahead of schedule. Petitioner has also continued to monitor and follow up on the progress with the permitting authorities as much as possible in an effort to finalize the permitting process. Petitioner has already expended a significant amount of time and capital in this process in the hope that the progression of the boat launch ramp project moves forward as quickly as possible. It is clearly understood that the permitting process is unpredictable and Petitioner had provided the best time estimates for obtaining the required permits. While Petitioner has control over when we submit the

required permit applications it is clearly outside of our control as to the time it takes for the permitting authority to review, process and grant permits.

Generally, Petitioner's consultants have finalized the boat launch ramp design based upon the soil borings, soil investigations, topographic survey and bathymetric survey on the ramp area, boat launch area, parking lot and drainage area.

The preliminary master plan continues to be revised and refined to address the results of the soil investigations, various surveys, specific site characteristics, as well as to accommodate where feasible public and boater comments.

As noted in Petitioner's Sixth quarterly report, consultants finalized and submitted the Conditional Use Permit ("CUP") application for the Boat Ramp project to the City Department of Planning and Permitting ("DPP") in February ahead of schedule. On May 16, 2011, DPP approved the CUP for the boat ramp project.

Petitioners timely submitted the Department of Army Permit ("DOAP"), a requirement for the Boat Ramp project, to the Army Corps. On May 31, 2012, the State of Hawai'i, Department of Health issued a Section 401 Water Quality Certification for the Boat Launch Ramp and Trailer Parking at Ko Olina Resort and Marina. As the DOAP process had exceeded our initial timeframe expectations and in an effort to expedite matters, Petitioner, as stated in our Twelfth status report, submitted its building permit applications for construction of the Boat Launch Ramp ahead of time to

DPP¹ on November 7, 2012. Although DPP will not issue its final approval of the building permits until the DOAP permit is issued, Petitioner feels that submittals for the building permits to DPP at this time will help optimize the project schedule going forward.

On November 30, 2012, the Army Corps sent out a, "NATIONAWIDE PERMITS AGENCY COORDINATION NOTICE And REQUEST FOR EXPEDITIED REVIEW" ("Notice") with a response deadline by December 7, 2012 to over 14 Federal, State and City departments regarding Petitioner's boat launch ramp project. As of December 14, 2012, only the National Oceanic and Atmospheric Administration ("NOAA") and the Historic Preservation Division, Department of Land and Natural Resources ("SHPD") responded to the Army Corps Notice with comments and follow up. NOAA's December 12, 2012 response indicated the requirement for an evaluation of the Essential Fish Habitats ("EFH") for the boat launch ramp project and SHPD indicated the requirement for Petitioner to provide an archaeological inventory survey ("AIS"), subsurface testing and monitoring of the boat launch ramp project area. Petitioner, as previously represented, has already retained two well respected consultants, AECOS,

¹ Normal process would be to wait until all comments are provided by the permitting authority before building permit applications are submitted to DPP. Petitioner in good faith is assuming the risk of having to make further adjustments to the building permit application if required by the Army Corp at a later date. However, after consultations with the DPP, Petitioner feels it to be prudent to submit the building permit at this time.

Inc. and Hal Hammett of Cultural Surveys Hawaii Inc. ("CSH") to respectively address the respective issues raised in this matter.

On February 6, 2013, the Army Corps approved Petitioner's DOAP and authorized the new boat ramp and loading docks project at Ko Olina Marina subject to multiple special conditions. Most of the special conditions are somewhat standard special conditions; however, two (2) special conditions in the DOAP require further follow up by KOD prior to actual construction of the boat ramp.

i. NOAA Special Conditions:

The DOAP contained multiple NOAA special conditions such as providing Best Management Practices Plan ("BMPP") for construction, Endangered Species Act monitoring and hydroacoustic monitoring. However, NOAA's special conditions as to the EFH required further follow up from Petitioner. The EFH special condition states:

4. For Essential Fish Habitat (EFH) administered by Habitat Conservation Division (HCD), NOAA Fisheries, you must ensure the following conditions:

a. The contractor that is responsible for executing BMPs should be held responsible for the monitoring and successful implementation of BMPs to avoid impacts to the EFH. Construction should be halted if BMPs are not working effectively and only commence once BMPs have been adjusted to successfully avoid impacts to the marine environment. The monitoring results should be shared with the USACE once construction is completed. NMFS should be notified if BMPs were not successfully implemented to avoid impacts to EFH.

b. Conserve and restore soil quality with controls that affect soil's ability to regulate water flow, and act as an environmental filter (e.g., permeability, water holding capacity, nutrient availability, organic matter content, and biological activity) with use of low-impact equipment when practicable and avoidance of heavy equipment in water.

c. Increase landscape buffers to provide protection against the cumulative effects of small, but unavoidable, sediment and pollutant discharges associated with upland improvement runoff. The full range of buffer practices (e.g., filter strips, grassed waterways with vegetative filters, and vegetative barriers) should be systematically deployed, protected and managed across the project landscape.

d. Incorporate other Low Impact Development (LID) approaches where practicable. Information on LID can be found at: <http://water.epa.gov/polwaste/green/index.cfm>.

On February 21, 2013, Petitioner, with AECOS' assistance, submitted a response letter with proposals to the Army Corps to address NOAA's EFH and BMPP concerns during the construction of the boat launch ramp project. Petitioner's believes that its response letter has addressed NOAA's concerns at this time and will continue to follow up and work with the Army Corps/NOAA going forward if necessary.

ii. SHPD Special Conditions:

In regards to SHPD special conditions the DOAP contained the following:

6. You must ensure that the work on uplands (parking lot and access routes) implements measures recommended by the State Historic Preservation Division, Department of Land & Natural Resources.

SHPD recommended the follow relevant measures:

We request archaeological monitoring in TMK: (1) 9-1-057:019 to address the potential of inadvertent finds (including human remains) within the marina area and **an archaeological inventory survey of TMK: (1) 9-1-057:024** to determine if surface and/or subsurface historic properties are present within the project area and, if so, to determine an appropriate course of mitigation for those properties. We request that the applicant submit an inventory survey report for the project area within parcel 024 for review and approval; the report should include all information as specified in HAR §13-276-5. Upon review of the survey report, we will be able to determine whether monitoring is warranted in Parcel 024 as well as Parcel 019.

(See Exhibit "A")

Regarding SHPD's special condition, CSH has completed its background review, analysis and written section of their report to SHPD and has completed its site investigation of the Ko Olina Marina. CSH finalized its Archaeological Assessment Report ("AA") and submitted the AA to SHPD on May 17, 2013 for review and processing. SHPD filed the AA Report on May 21, 2013 and is currently in the review process of our AA Report.

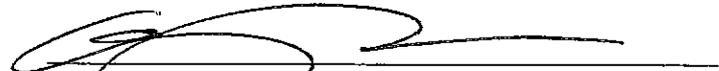
The CSH report, as hoped for, indicated to SHPD that there is a "no findings" and that no subsurface assessment is needed for the project site. However, it is understood that SHPD will have final determination as to whether a subsurface assessment on the project site is required or not. On the evening of Friday, September 27, 2013, counsel for Petitioner received a copy of SHPD's "Chapter 6E-42 Historic Preservation Review" dated September 24, 2013. (See Exhibit "B") On Monday, September 30, 2013, counsel for Petitioner confirmed that CSH had also already received the SHPD review letter and was already preparing its follow up response to address the sixteen (16) items that SHPD requested as "issues and concerns" that are in need of revision prior to acceptance of the archaeological inventory survey report. At this time Petitioner is preparing and finalizing its response and revisions to SHPD's 16 items and expects to provide its response to SHPD by early next week.

III. CONCLUSION

Petitioner will continue to provide its quarterly report on the status of the boat launch ramp at the end of each quarter.

Dated: Honolulu, Hawai'i October 18, 2013.

OF COUNSEL:
MATSUBARA – KOTAKE
A Law Corporation


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CURTIS T. TABATA
WYETH M. MATSUBARA
Attorneys for Petitioner
KO OLINA DEVELOPMENT, LLC

Ko Olina Ocean Marina, LLC

1100 Alakea Street, Suite 2500
Honolulu, Hawaii 96813

(808) 531-9761

February 21, 2013

George P. Young, P. E.
Chief, Regulatory Branch
US Army Corps of Engineers,
Regulatory Branch, Bldg. 214
Ft. Shafter, HI 96858

RE: POH-2012-00202 Ko Olina Marina

Mr. George Young,

The attached letter from our consultant AECOS, Inc., Katie Laing, Senior Biologist, responds to the comments from NOAA related to the fisheries habitat and impacts thereto for the referenced project. For your ready reference attached is a copy of the NOAA undated letter (December 2012) from Gerry Davis.

Please let us know if EFH informal consultation with NOAA is still requested to further discuss and clarify NOAA's concerns for the EFH.

Thank you for your cooperation in moving this project forward, please advise us on your thoughts in moving forward. Please feel free to call me directly at (808) 791-2192.

Sincerely,
Ko Olina Ocean Marina, LLC



Ralph F. Harris
Resort Asset Manager

cc: First Class Mail
Arnold T. Okubo and Associates, Inc., Via Email: (okuboa004@hawaii.rr.com)
Farley K. Watanabe, Via Email: (Farley.K.Watanabe@usace.army.mil)

EXHIBIT "A"



E-MAIL TRANSMITTAL

AECOS, Inc.

45-939 Kamehameha Hwy, Suite 104

Kaneohe, Hawaii 96744

Tel: 234-7770 Fax: 234-7775

February 19, 2013

Arnold T. Okubo and Associates, Inc.
Consulting Structural Engineers
94-529 Ukee St., Suite 107
Waipahu, HI 96797
(808) 671-5184

Mr. Arnold Okubo,

Per your request, we have reviewed the comments provided by NOAA-National Marine Fisheries Service-Habitat Conservation Division (NOAA-NMFS-HCD) regarding impacts to Essential Fish Habitat (EFH) with construction of and use of a proposed boat ramp facility at Ko Olina Marina (POH-2010-00202). According to the letter, EFH informal consultation is being requested by NOAA. Below we have prepared a response that addresses concerns presented and incorporates recommendations provided.

We understand your confusion as to whether the project site is designated as EFH or not. On August 22, 2011 a memorandum for record was written and signed by Robert D. Deroche of the Honolulu District Regulatory Branch in response to your application for verification under Nationwide Permit No. 36 (boat ramps).

This letter states in part:

2. The following conditions exist at the location of the proposed new boat ramp: the project is located entirely within a portion of private marina constructed from karstic limestone uplands; there is not designated critical habitat or essential fish habitat in the marina; there are no coral communities present; . . .

The Nationwide Permit agency coordination letter from the Army Corps of Engineers (ACOE) Regulatory Branch to the federal agencies (November 30, 2012) requests evaluation for possible effects to EFH indicating that the project site is designated as EFH. The letter of response from NOAA (undated, but presumed early December 2012) also indicates that Ko Olina Marina is designated as EFH.

This discrepancy led us to consult the Essential Fish Habitat Mapper on the NOAA website which excludes Ko Olina Marina and a portion of Barber's Point Deep Draft Harbor from Hawaiian bottomfish EFH designation (visited December 26, 2012 and February 8, 2013 at <http://www.habitat.noaa.gov/protection/efh/efhmapper/index.html>). From our experience, the Marina would be considered EFH for the coral reef ecosystem group management unit species. However, if further clarification is needed the NOAA-NMFS-HCD and ACOE could be contacted for further assistance.

Although EFH designation may be unclear at this time, we respond below to the comments provided by NOAA-NMFS-HCD regarding impacts to EFH.

The project involves the construction of a boat ramp, boat washdown facilities, boat trailer parking area, and an access road. The purpose of the boat ramp facility is to meet a Land Use Commission, State of Hawai'i condition of the Ko Olina development that requires the construction of a boat launch ramp in the Marina that is open to the public. Although Ko Olina Marina is private, the new boat ramp facility will be open to the public. Users are anticipated to be the same users previously displaced by the closure of the nearby ramp (and presumably presently launching from more distant facilities, increasing fuel costs to trailer boats to these distant sites).

The project site is arid and has limited rainfall. However, the harbor is connected to a storm water system and receives runoff through culverts during periods of heavy rainfall. Benthic marine life is primarily restricted to vertical surfaces (e.g., pilings and the sides of floating docks) owing to deposits of silt on horizontal surfaces. No live coral is present.

The project design team has produced a project design and a Best Management Practices (BMPs) Plan that will best minimize and avoid direct and indirect impacts to the marine environment to the greatest extent practicable. BMPs recommended by NOAA have been incorporated, including Low Impact Development (LID) approaches such as the use of landscape buffers to reduce runoff. In addition, daily operational conditions that will minimize long term impacts have been incorporated.

Various project design features minimize direct and indirect impacts to marine waters. The boat ramp will be created through the excavation of existing uplands, yielding a minimal in-

water footprint. Excavating uplands to create the boat ramp avoids encroachment on and loss of fish habitats. Sediment suspension and erosion caused by propeller wash will be reduced or avoided through the placement of concrete filled bags at the toe of the boat ramp. To prevent oil, sediment, and debris from entering the Marina from the two washdown areas (one designed for handicapped use), runoff will be directed through 1,000 gallon oil/sediment separators, one for each washdown area. To prevent polluted runoff from entering marine waters from the parking lot, a downslope gravel bed (5 ft wide x 2 ft deep) will act as a buffer by intercepting and filtering potentially polluted runoff. Two floating docks will be relocated for use within the harbor and will not constitute a loss.

Construction BMPs will minimize direct and indirect impacts to marine waters. All in-water work will be separated from harbor waters by a double full-depth silt curtain installed around the entire in-water work area. Silt curtains are especially effective in slack water conditions, such as those at the project area. Landside runoff will be prevented from entering marine water by proper siting of works and silt fences installed between upland work areas and the harbor. Material excavated for the creation of the boat ramp will be transferred to an upland stockpile area and an earth berm and silt fence will prevent runoff from reaching the harbor. Pre-cast concrete structures will be used whenever possible and where cast in-place concrete is required the following BMPs will be used. An anti-wash mixture will be added to concrete to prevent separation, and concrete will be poured into watertight forms or piped into confined spaces to prevent loss of concrete into marine waters. Concrete pours near the waterline will be conducted when tide is below or at normal low tide. The contractor will monitor and ensure successful implementation of BMPs on a daily basis and will prepare weekly monitoring reports that will be submitted to USACE once construction is completed.

Daily operational procedures for the boat ramp facility will also avoid impacts to marine waters. Boat ramp hours of operation will be restricted and limited to daylight use only. Fishing will not be permitted inside Ko Olina Marina and signs indicating this can be installed. Additional signs can be installed at the new boat ramp area to inform users of other harbor policies designed to maintain a clean marina. Trash can be a problem at boat ramps and boat harbors, a large commercial dumpster will be provided as well as numerous lidded trash cans to prevent trash from entering marine waters. Washing of vehicles will not be permitted at the washdown area and boaters can be required to avoid use of detergents when washing down boats.

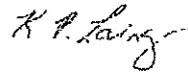
Fisherman plying local waters will most likely go to traditional fishing sites along this coast as is presently the case, the difference being that these boats are presently launched elsewhere. It is possible that the waters directly off Ko Olina could see an increase in fishing activity due to this proposed ramp facility. However, most of this increased activity will be

accompanied by a decrease in fishing activity elsewhere along the coast. Any actual increase in fishing pressure off leeward O'ahu attributable specifically to availability of a launch ramp at Ko Olina Marina would be difficult to quantify and more likely driven by the increase in human population occurring on the 'Ewa Plain rather than availability of boat launching sites there.

The project design, BMPs discussed here and those in the BMP Plan, and daily operational procedures lead to avoidance and minimization of impacts to marine waters. With the avoidance and minimization strategies employed it is highly unlikely that this project will adversely affect EFH.

Please let us know how we may be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. P. Laing".

Katie Laing
Senior Biologist



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1601 Kaplofani Blvd., Suite 1110
Honolulu, Hawaii 96814-4700
(808) 944-2200 • Fax: (808) 973-2941

George P. Young, P.E.
Chief, Regulatory Branch
US Army Corps of Engineers,
Regulatory Branch, Bldg. 214
Ft. Shafter, HI 96858

Mr. George Young,

The NOAA, National Marine Fisheries Service, Habitat Conservation Division (NMFS) has reviewed the permit application for a new boat ramp located at KoOlina, Oahu (POH-2010-00202) as pursuant to Essential Fish Habitat (EFH) provision §305(b) of the Magnuson Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1855(b)), the Fish and Wildlife Coordination Act (16 U.S.C. § 662(a)), and the Clean Water Act (33 U.S.C. § 1251 et seq.)

The project involves constructing a new two-lane boat ramp that will be 32 feet wide and 132 feet long, consisting of precast concrete slabs which will require relocating 110 feet of existing floating docks, removing 5 existing concrete piles, and removing about 40 lineal feet of existing shoreline revetment boulder and rip-rap. After construction of the new boat ramp, five replacement octagonal concrete piles will be pre-drilled and driven for constructing two new replacement loading docks, one four-foot wide and the other five-feet wide and each 60 feet long, and a replacement rock revetment. Work associated with this project includes upland improvements for an ADA access ramp, a boat wash down facility, water, telephone, cable and sewer line utilities, and a 30-space truck and boat trailer parking lot.

An EFH determination was not provided in the USACE NWP Agency Coordination notice. The notice states that the proposal is being evaluated for possible effects to EFH. NMFS will require the EFH evaluation to define direct and indirect impacts resulting from the proposed development and expected use of the facility. One element of special interest will be to quantify the anticipated use and any potential EFH impacts, for example any expected increase in fishing effort. There is also interest in having clarity in defining the public access to the site. In addition, the attachment with project details states that there will be 50 cubic yards of fill for the boat ramp. The AECOS Marine biological survey for KoOlina Marina improvements report states that the harbor bottom consists of reddish-brown silt and describes the proposed project water column as having poor water quality. A sublittoral biofouling community exists on concrete piles that are proposed for removal as well. There were a few species of fishes observed in the water column. Most of the fish appeared to be juveniles or new recruits.



EFH is defined as those waters and substrate necessary to federally managed species for spawning, breeding, feeding or growth to maturity. The water column, bottom, and the in water areas adjacent to proposed project site are all designated as EFH. These areas most likely support an assortment of life stages for several EFH management unit species (MUS) identified in the Western Pacific Regional Fishery Management Council's Pelagic and Hawaii Archipelago Fishery Ecosystem Plans (FEPs). Although the EFH in the proposed project area is described as degraded, it is nonetheless fish habitat.

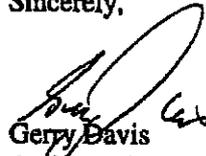
The proposed 50 cubic yards of fill will result in loss of EFH. The applicant has not proposed mitigation to offset or compensate for the loss of EFH. An informal EFH consultation should be initiated to discuss practicable approaches to avoid, minimize, and off set adverse affects to EFH before this project moves forward. In addition, as pursuant to the Clean Water Act, Section 404, if there is no practicable alternative that would be less damaging to aquatic resources by avoiding and minimizing, mitigation for unavoidable impacts to the aquatic environment is required (CWA section 404(b)(1)).

In addition to construction BMPs, precautions should be taken to avoid and minimize the encroachment of EFH and to control sediments and pollutants from the proposed upland improvements that add impervious surfaces. NMFS recommends that the following BMPs, avoidance, and minimization measures be taken into consideration for the proposed project:

1. The contractor that is responsible for executing BMPs should be held responsible for the monitoring and successful implementation of BMPs to avoid impacts to the EFH. Construction should be halted if BMPs are not working effectively and only commence once BMPs have been adjusted to successfully avoid impacts to the marine environment. The monitoring results should be shared with the USACE once construction in completed. NMFS should be notified if BMPs were not successful implementation to avoid impacts to EFH.
3. Conserve and restore soil quality with controls that affect soil's ability to regulate water flow, and act as an environmental filter (e.g., permeability, water holding capacity, nutrient availability, organic matter content, and biological activity) with use of low-impact equipment when practicable and avoidance of heavy equipment in water.
4. Increase landscape buffers to provide protection against the cumulative effects of small, but unavoidable, sediment and pollutant discharges associated with upland improvement runoff. The full range of buffer practices (e.g., filter strips, grassed waterways with vegetative filters, and vegetative barriers) should be systematically deployed, protected and managed across the project landscape.
5. Incorporate other Low Impact Development (LID) approaches where practicable. Information on LID can be found at: <http://water.epa.gov/polwaste/green/index.cfm>.

Marine ecosystems face synergistic impacts which include coastal development and non-point sources of pollution among others. Precautions should be taken to avoid, minimize, and mitigate affects from land based sources of pollution to EFH and other NOAA trust resources. The applicant should also propose mitigation for affects to the loss of EFH from fill. Further questions should be directed to Aydee Zielke at aydee.zielke@noaa.gov or 808-944-2146. Thank you for the opportunity to comment.

Sincerely,



Gerry Davis
Assistant Regional Administrator
Habitat Conservation Division

Cc via email: U.S. Fish and Wildlife Service
State of Hawai'i, Department of Land and Natural Resources, Division of Aquatic
Resources
U.S.E.P.A Region 9

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**HISTORIC PRESERVATION DIVISION
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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Kapolei, HI 96806

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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

September 24, 2013

Dr. Hallett Hammatt
Cultural Surveys Hawai'i, Inc.
P.O. Box 1114
Kailua, Hawaii 96734

LOG NO: 2013.3491
DOC NO: 1309SL23
Archaeology

Dear Dr. Hammatt:

**SUBJECT: Chapter 6E-42 Historic Preservation Review –
Archaeological Assessment Ko Olina Marina Improvements
Honouliuli Ahupua'a, 'Ewa District, Island of O'ahu
TMK: (1) 9-1-057:019 por. and 024 por.**

Thank you for the opportunity to review this draft report titled *Archaeological Assessment Ko Olina Marina Improvements Honouliuli Ahupua'a, 'Ewa District, O'ahu Island TMK: (1) 9-1-057:019 por. and :024 por.* (Stine and Hammatt, May 2013). We received this submittal on May 21, 2013; we apologize for the delay and thank you for your patience.

In our review of the U.S. Army Corps of Engineers (Corps) submittal titled *Nationwide Permits and Agency Coordination Notice and Request for Expedited Review POH-2010-00202, Construct New Boat Ramp and Replace Loading Docks Project Ko Olina Marina, Oahu Island, Hawaii*, we requested archaeological monitoring in TMK: (1) 9-1-057:019 and an archaeological inventory survey of TMK: (1) 9-1-057:024 (December 6, 2012; Log No. 2012.3466, Doc. No. 1212SL10). The present study involves only the archaeological inventory survey of TMK: (1) 9-1-057:024. This study was re-designated as an archaeological assessment because no historic properties were identified.

An archaeological inventory survey involving only a surface pedestrian survey was conducted on behalf of Ko Olina Ocean Marina, LLC in support of constructing a new boat ramp and replacement docks within the marina to comply with an administrative order issued by the State Land Use Commission. The primary activity consists of constructing a two-lane boat ramp, two new 60-foot long replacement loading docks, and a replacement rock revetment in TMK: (1) 9-1-057:019. Additional work includes upland improvements in TMK: (1) 9-1-057:024 for an access ramp; a boat wash down facility; water, telephone, cable, and sewer line utilities; and a 30-space truck and boat trailer parking lot.

The archaeological assessment report provides adequate discussion of the environs, cultural and historical background, previous investigations, field methods, and field findings. However, several concerns exist regarding the adequate identification of project acreage for the survey area within TMK: (1) 9-1-057:024, and insufficient discussion regarding the project area being located within the Barber's Point Archaeological District, designated as SIHP #50-80-12-2888, which is listed on the National Register of Historic Places.

The report indicates that no historic properties were identified within the survey area. However, because the survey area is located within SIHP 2888, the effect determination should be revised to "no historic properties will be adversely affected" by the proposed marina-related development of the current project area. In addition, because of the absence of historic properties and the extensive loss of deposits above bedrock, the mitigation recommendation is "no further work."

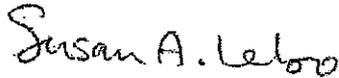
We have included an attachment that identifies the issues and concerns that are in need of revision prior to the acceptance of this archaeological inventory survey report pursuant to HAR §13-276-4. To aid in rapid review of the

EXHIBIT "B"

subsequent revision please include a cover letter that specifies the changes made to this document and their page numbers.

Please contact me at (808) 692-8019 or at Susan.A.Lebo@hawaii.gov if you have any questions or concerns regarding this letter.

Aloha,



Susan A. Lebo, PhD
Oahu Lead Archaeologist

ATTACHMENT

Comments and Questions: *Archaeological Assessment Ko Olina Marina Improvements Honouliuli Ahupua'a, 'Ewa District, O'ahu Island TMK: (1) 9-1-057:019 por. and :024 por.* (Stine and Hammatt, May 2013).

1. Revise report title (cover, management summary, etc.) to indicate TMK: (1) 9-1-057:024 only. The AA does not apply to TMK: (1) 9-1-057:019. Also, revise island info to read Island of O'ahu.
2. Revise (page i) Historic Preservation Regulatory Context – to read:

“... legislation. This archaeological assessment (AA) addresses the SHPD request for an archaeological inventory survey of the project area located within TMK: (1) 9-1-057:024 (December 6, 2012; Log No. 2012.3466, Doc. No. 1212SL10). The AA report was prepared in accordance with Hawaii Administrative Rules (HAR) 13-27-5 for SHPD review and acceptance.”

3. Revise (page i) Project acreage – verify acreage which is recorded as 3 different sizes in several locations of report.
4. Revise (page 1) Project Background –to read:

At the request of Ko Olina Ocean Marina, LLC, Cultural Surveys Hawaii, Inc. (CSH) completed an archaeological inventory survey for the Ko Olina Marina Improvements Project in Honouliuli Ahupua'a, 'Ewa District, Island of Oahu. The project area is located in coastal Kalaeloa, within the West Beach Development area. The Ko Olina Marina Improvements Project area consists of portions of TMK: (1) 9-1-057:019 and 024, comprising 5 acres (20,513 square meters) [verify acreage]. The project area is shown on a U.S. Geological Survey topographic map (Figure 1), an aerial photograph (Figure 2 and Figure 4), a Hawai'i State tax map plat [1] 9-1-057 (Figure 3), and client-supplied topographic maps of the area (Figure 5 and Figure 6).

The Ko Olina Marina Improvements Project involves constructing a new boat ramp and replacement docks within the marina to comply with an administrative order issued by the State Land Use Commission. The primary activity consists of constructing a two-lane boat ramp, two new 60-foot long replacement loading docks, and a replacement rock revetment in TMK: (1) 9-1-057:019. Additional work includes upland improvements in TMK: (1) 9-1-057:024 for an ADA access ramp; a boat wash down facility; water, telephone, cable, and sewer line utilities; and a 30-space truck and boat trailer parking lot.

The focus of this study, and this report, is the archaeological inventory survey conducted within a 1-acre (3,862 square meters) portion of TMK: (1) 9-1-057:024 (see Figure 4). This archaeological inventory survey was requested because of the proximity of this previously un-surveyed area to historic properties identified during archaeological studies of nearby areas (December 6, 2012; Log No. 2012.3466, Doc. No. 1212SL10).

The archaeological inventory survey of the TMK: (1) 9-1-057:024 portion of the Ko Olina Marina Improvements Project area was conducted in accordance with the requirements of Hawaii Administrative Rules (HAR) §13-13-276. Because no archaeological historic properties were identified, this investigation has been re-designated as an archaeological assessment pursuant to the language of HAR §13-284-5. This document is intended to support the proposed project's historic preservation review under Hawaii Revised Statutes (HRS) Chapter 6E-42 and HAR §13-284.

5. Revise throughout to be consistent re: Ko'olina Marina versus Ko Olina Marina; Ko'olina Resort, etc.
6. Revise (page 11) Field Methods – to read:

An archaeological inventory survey was conducted on March 12, 2013, by archaeologist Cary Stine, B.A., and Principal Investigator, Hallett H. Hammatt, Ph.D. The survey of the ___-acre project area within TMK: (1) 9-1-057:024 was conducted at the request of SHPD because of the proximity of this previously un-surveyed area to prior study areas with historic properties (December 6, 2012; Log No. 2012.3466, Doc. No. 1212SL10). A Garmin Global Positioning System (GPS) with the appropriated uploaded TMK parcel lines was used to identify the boundary area for the archeological inventory survey.

7. Revise (page 11) Document Review – to read: “Background research conducted for this archaeological study included a review of... Waiihona ‘Aina database.” [include fixing okina]
8. Revise (page 13) Fig 8 caption to read: (adapted from USGS...)
9. Revise (page 14) 5th paragraph to read: ... (II):318; Nakuina, E. M. 1904, in Sterling and Summers...
10. Revise to fix format glitches, typos and grammar issues marked in text (see attached pdf).
11. Revise (page 27) Table 1 to put all references in author/year order (see page 29); insert Komori and Dye 1979 in Table 1 into Fig 17
12. Revise (page 31) Fig 17 to address inconsistencies – Hoffman & Hammatt 2004 is missing from Table 1, text & references cited; Folk & Hammatt 1992 should be Hammatt & Folk 1992; Komori and Dye 1979 is missing from fig 17.
13. Revise (page 41) descriptions of previous studies.
14. Revise (page 42) Fig 20 to colorize or otherwise make visible the Davis & Haun's project boundary.
15. Revise (page 46) Results of Field Inspection section which currently is confusing and jumbled.
16. Revise (page 5) Summary – to read:

Based on previous studies, quarry activities have greatly disturbed the Barber's Point area including the current project area within TMK: (1) 9-1-057:024. In more recent decades, additional disturbance has significantly impacted the project area. A survey map provided by the client reveals the project land surface is over 10 feet below the original elevation recorded for this area on the 1998 USGS Quadrangle (see Figure 1 and Figure 6). This massive disturbance likely relates to development of the Ko Olina Marine and Golf Club properties during the past several decades.

No historic properties were identified during archaeological inventory survey of TMK: (1) 9-1-057:024. However, because this survey area is located within the boundaries of the Barber's Point Archaeological District, designated as SIHP #50-80-12-2888, which is listed on the National Register of Historic Places, our effect determination is “no historic properties will be adversely affected” by the proposed marina-related development of the current project area. In addition, because of the absence of historic properties, our mitigation recommendation is “no further work.”

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of) Docket No. DR08-36
)
KO OLINA DEVELOPMENT, LLC) KO OLINA DEVELOPMENT, LLC
)
To Amend The Agricultural Land Use)
District Boundary into the Urban Land)
Use District for approximately 642 acres)
At Honouliuli, Ewa, Oahu, Tax Map)
Keys: 9-1-14: Portion of Parcel 2; 9-1-15:)
3, 6, 7, 10, Portion of Parcel 4; 9-2-03: 3,)
7, Portion of 2)
_____)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a file-marked copy of the foregoing document was duly served upon the parties listed below **VIA HAND DELIVERY** on October 18, 2013:

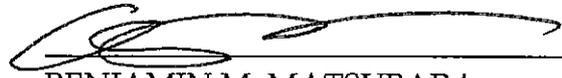
JESSE SOUKI, Director
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235 South Beretania Street, 6th Floor
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Attorney for THE OFFICE OF
PLANNING

Dated: Honolulu, Hawai'i October 18, 2013.

OF COUNSEL:
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