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## County of Hawai'i

### PLANNING DEPARTMENT

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July 08, 2022

Brian Takeda  
R.M. Towill Corporation  
2024 North King St., Ste. 200  
Honolulu, HI 96819

Dear Mr. Takeda:

**SUBJECT: Special Management Area (SMA) Use Permit Assessment Application  
(PL-SAA-2022-000061)**

**Special Management Area (SMA) Minor Permit  
(PL-SMM-2022-000023)**

**Applicant(s): Tom Venus & B P Bishop Estate**  
**Landowner(s): Hawai'i Water Service & B P Bishop Estate**  
**Project: Keauhou Sewer Line Rehabilitation Project**  
**Tax Map Key(s): (3) 7-8-012:055, 999, and 7-8-010:044**  
**Location: Keauhou Bay, South Kona District, Hawai'i**

We have reviewed the subject Special Management Area (SMA) Use Permit Assessment Application (PL-SAA-2022-000061), received by this office on March 2, 2022, with additional information provided on May 16, 2022, and June 16, 2022.

The three (3) subject parcels encompass approximately 1,600 linear feet across an area adjacent to Keauhou Bay that includes various zoning designations, which are presented below:

County Zoning:

378012055: Resort-Hotel (V-.75)  
378012999: Road Right-of-Way (ROW)  
378010044: Resort-Hotel (V-1.25)

Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) map:

378012055: Open (ope)  
378012999: Road ROW  
378010044: Open (ope) and Resort Node (ren)

The subject parcels are entirely within the State Land Use (SLU) Urban District, including all areas adjacent to the shoreline. All of the project parcels and entire work area are located within the Special Management Area (SMA); however, only TMK: (3) 7-8-012:055 is considered a “shoreline parcel” as defined by Section 205A-41(as amended), Hawai‘i Revised Statutes (HRS).

**Existing Land Uses:**

The Hawai‘i Water Service (HWS) currently operates the existing Keauhou Community Services Inc. sewer system on the Kona Coast, which includes the proposed gravity sewer pipe near Keauhou Bay. The gravity sewer pipe was constructed in 1968 and conveys water from the Keauhou Kai condominiums, a private residence, and offices for commercial tour operations to the Keauhou Wastewater Pump Station. The majority of the proposed project will occur within the existing Kaleiopapa Road and Kamehameha III Road Right of Ways (ROW).

**Proposed Project:**

The proposed project has both exempt actions and those defined as “development.” Exempt actions are authorized by the issuance of the SMA determination, while the proposed uses deemed “development,” in this case, require a SMA minor permit in accordance with SMA rules and regulations. The proposed project includes:

Exempt Actions (not “development”):

- Coating of the interior of the existing gravity sewer main using the Cured-in-Place-Pipe (CIPP) method. The 10-inch CIPP will coat the interior from Sewer Manhole (SMH) 3B5 to SMH 3A1 as shown on Exhibit 1.
- Five (5) SMH (3A1, 3B1, 3B2, 3B3, 3B5) will be rehabilitated using CIPP methods.
- A 900-foot temporary bypass force main and portable pump will be installed to convey wastewater from SMH 3B6 to the He‘eia Wastewater Treatment Plant (WWTP) gravity system via an aboveground 4-inch diameter HDPE pipe. Approximately 372 feet of 1.5-foot-high pipe ramps will be installed to accommodate pedestrian access. The applicant states that the temporary pump, bypass, and pipe ramps will be in place for approximately two (2) weeks, with bypassing only occurring during the day (while the CIPP is in progress).

Not Exempt Actions (“development”):

- SMH 3B4 will be removed and backfilled with controlled low-strength material (CSLM) which is a self-compacted, cementitious material used primarily as a backfill in place of compacted fill. Staff notes that SMH 3B4 is within the shoreline setback area.

**Purpose of Project:**

The existing sewer line and SMHs were constructed approximately 50 years ago and are in poor condition due to the coastal climate and age of the infrastructure. The proposed project will allow for critical maintenance activities to rehabilitate an essential wastewater system to ensure it



continues to accommodate the wastewater demands of system users. Staff notes that in addition to maintaining basic health and sanitation standards related to wastewater treatment, the proposed action will also protect water quality and valuable coastal ecosystems by ensuring no sewage leaks out of the line, and no groundwater enters the system.

**Shoreline Setback Area Determination:**

Planning Department Staff notes that approval for the existing Keauhou Sewer Line was provided by the Chief Engineer of the County of Hawai'i on July 2, 1968, prior to the enactment of the Special Management Area (SMA) rules and regulations.

While the majority of the proposed project is outside the Shoreline Setback Area (SSA), a portion of the project will occur within the SSA and therefore requires review against Planning Department Rule 11 relating to the Shoreline Setback.

Pursuant to County of Hawai'i Planning Department (PD) Rule 11-7(a): *The following structures or activities may be permitted within the shoreline setback area provided written clearance is secured from the Planning Department.*

- (6) *Structures which were completed by or activities which commenced prior to June 22, 1970.*

Regulatory review of the subject parcel has revealed that approval for the gravity main, which includes the sewer manholes and other appurtenant structures, received approval from the Chief Engineer of the County of Hawai'i on July 2, 1968. Therefore, in conformance to PD Rule 11-7(b): *Structures of activities that qualify under section 11-7(a)(6) through (10) may be repaired in conformance with plans approved by the Planning Department but shall not be enlarged without a shoreline setback variance.*

The proposed project is a repair of the existing sewer main that will be conducted without the need to excavate, trench or demolish the existing pipe. The CIPP method of rehabilitation minimizes the impact of the repair project on the environment. There is no enlargement of the sewer line, and no change in location or use will occur within the SSA. Alternatively, by not closing this SMH, it could lead to issues within seawater infiltration or possible failure of the SMH that could lead to potential effluent release. Public access will not be affected during the closure of SMH 3B4, nor will it impede or restrict future access or uses in this area after completion.

The proposed action will not alter the existing grade of the shoreline setback area; work will be conducted at the SMH with the staging or materials outside the SSA. BMPs that include silt/sediment control fencing will be in place during closure to ensure none of the CSLM is released into the surrounding area or ocean.

Based on the preceding information, the Planning Department has determined the proposed activity will not affect beach processes or artificially fix the shoreline and will not interfere with public access or public views to and along the shoreline and therefore is a permitted use within the Shoreline Setback Area.

**Special Management Area Determination:**

Pursuant to Hawai‘i Revised Statutes (HRS) §205A-22, as amended, and Planning Commission Rule 9-4(e)(2) relating to the Special Management Area, “Development” means *any of the [listed] uses, activities, or operations on land or in or under water within the special management area.*

According to the application, the following definition of “Development” can be applied to the proposed use:

- *Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste.*
- *Construction, reconstruction, demolition, or alteration of the size of any structure, and*
- *Grading, removing, dredging, mining, or extraction of any materials.*

Pursuant to Planning Commission Rule 9-4(e)(3): *Any proposed use, activity, or operation listed in Section 9-4(e)(1) shall be deemed to be “Development” until the Director has determined it to be exempted from the definition of “Development.”* According to 9-4(e)(2) “Development” does not include the following uses, activities, or operations, and therefore, is determined to be exempt from the definition of “Development”:

- *Repair and maintenance of utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations.*
- *Repair, maintenance, or interior alterations to existing structures or relating to existing uses*
- *Demolition or removal of structures, except those structures located on any historic site as designated in the State or National registers.*
- *Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors*

As stated above, the following activities are not considered “development” and may proceed with the issuance of this SMA exemption letter:

- Coating of the interior of the existing gravity sewer main using the Cured-in-Place-Pipe (CIPP) method. The 10-inch CIPP will coat the interior from Sewer Manhole (SMH) 3B5 to SMH 3A1 as shown on Exhibit 1.
- Five (5) SMH (3A1, 3B1, 3B2, 3B3, 3B5) will be rehabilitated using CIPP methods.



- A 900-foot temporary bypass force main and portable pump will be installed to convey wastewater from SMH 3B6 to the He'eia Wastewater Treatment Plant (WWTP) gravity system via an aboveground 4-inch diameter HDPE pipe. Approximately 372 feet of 1.5-foot-high pipe ramps will be installed to accommodate pedestrian access. The applicant states that the temporary pump, bypass, and pipe ramps will be in place for approximately two (2) weeks, with bypassing only occurring during the day (while the CIPP is in progress).

The Planning Department finds that a portion of the proposed activity (listed above as “not exempt actions”) is not exempt from the definition of “development,” therefore, pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. **PL-SMM-2022-000023**, is hereby issued for those portions of the proposed project. It is the applicant’s responsibility to read and comply with the conditions listed in the enclosed permit, that cover both the SMA exemption determination and the SMA minor permit.

While further review of the proposed project against the Special Management Area rules and regulations will not be required, all other applicable Zoning Code and Building Code requirements must be satisfied. Additionally, any future development or activities not included in this approval shall require further review and approval as provided under Chapter 205A, HRS and Rule 9, Planning Commission Rules of Practice and Procedure.

If you have any questions, please contact Alex J. Roy of this office at (808) 961-8140 or via email at [Alex.Roy@hawaiicounty.gov](mailto:Alex.Roy@hawaiicounty.gov).

Sincerely,

ZENDO KERN  
Planning Director

AJR:jaa

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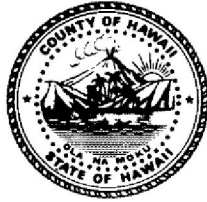
Enclosure: SMM Permit No. PL-SMM-2022-000023  
Exhibit 1 – Map of Project Area

Cc (via e-mail): Director, Office of Planning and Sustainable Development, DBEDT  
Shichao Li, State-OPSD  
Lisa E. Webster, State-OPSD  
GIS Section

Mitchell D. Roth  
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## **Special Management Area Minor Permit No. PL-SMM-2022-000023**

**Project:** Keauhou Sewer Line Rehabilitation Project  
**Applicant(s):** Tom Venus & B P Bishop Estate  
**Landowner(s):** Hawai'i Water Service & B P Bishop Estate  
**TMK(s):** (3) 7-8-012-055, 999, and 7-8-010:044  
**Location:** Keauhou Bay, South Kona District, Hawai'i  
**Land Area:** (underground) 700 linear feet, (above ground) 900 linear feet

### **Applicant's Request**

- 1. Project Description:** This Special Management Area (SMA) Minor Use Permit is being pursued as the proposed project includes both exempt actions and those defined as "development." Exempt actions are authorized by the issuance of the SMA determination, while the proposed uses deemed "development," in this case, require the SMA minor permit in accordance with SMA rules and regulations. The proposed project includes:

#### Exempt Actions (not "development"):

- Coating of the interior of the existing gravity sewer main using the Cured-in-Place-Pipe (CIPP) method. The 10-inch CIPP will coat the interior from Sewer Manhole (SMH) 3B5 to SMH 3A1 as shown on Exhibit 1.
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#### Not Exempt Actions ("development"):

- SMH 3B4 will be removed and backfilled with controlled low-strength material (CSLM) which is a self-compacted, cementitious material used primarily as a



backfill in place of compacted fill. Staff notes that SMH 3B4 is within the shoreline setback area.

2. **Purpose of Project:** The proposed project will allow for critical maintenance activities to rehabilitate an essential wastewater system to ensure it continues to accommodate the wastewater demands of system users.
3. **Project Valuation:** \$225,000 (exempt actions); \$75,000 (development) – total valuation \$300,000.
4. **Determination:** According to Chapter 205A-22, Hawai‘i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(1) relating to Special Management Area (SMA): “Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste,” “Construction, reconstruction, demolition, or alteration of the size of any structure,” and “Grading, removing, dredging, mining, or extraction of any materials” is defined as “development.” Therefore, the proposed rehabilitation of an existing sewer gravity pipe and appurtenant structures is considered “development” and requires a SMA Minor Permit.

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| <b>State and County Plans</b> |
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5. **State Land Use (SLU) District:** The subject parcels are within the SLU Urban District.
6. **General Plan:** The parcels are designated as Open (ope) and Resort Node (ren) by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
7. **County Zoning:** The parcels are currently zoned as both Resort-Hotel (V-1.25) and Resort-Hotel (V-.75).
8. **Special Management Area:** The project parcels are located within the Special Management Area (SMA); however, only one portion of the project is located within the “shoreline area” as defined by section 205A-41, Hawai‘i Revised Statutes (HRS).
9. **Flood Zone:** Zone X, AE, VE.

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| <b>Compliance with Objectives and Policies of Chapter 205A, Hawai‘i Revised Statutes (HRS), Regarding the Special Management Area</b> |
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Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

**The proposed development is consistent with the following objectives and policies:**

- ☒ Development will not have any significant adverse environmental or ecological effect, except as any adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Those adverse effect shall include but not be limited to the potential cumulative impact of individual developments, each of which taken by itself might not have a significant adverse effect and the elimination of planning options.
- ☒ The proposed development is consistent with the Hawai'i County General Plan, community plan, and zoning; provided that a finding of consistency shall not preclude concurrent processing where a general plan, community plan, or zoning amendment may also be required.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS (as amended), to:
  - ☒ Provide coastal recreational opportunities accessible to the public.
  - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
  - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
  - ☒ Protect valuable coastal ecosystems, including reefs, beaches, and coastal dunes, from disruption and minimize adverse impacts on all coastal ecosystems.
  - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
  - ☒ Reduce hazard to life and property from coastal hazards.
  - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
  - ☒ Stimulate public awareness, education, and participation in coastal management.
  - ☒ Protect beaches and coastal dunes for: Public use and recreation; The benefit of coastal ecosystems; Use as natural buffers against coastal hazards; and coordinate and fund beach management and protection.



- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
  - ☒ Recreational Resources
  - ☒ Historic Resources
  - ☒ Scenic and Open Space Resources
  - ☒ Coastal Ecosystems
  - ☒ Economic Uses
  - ☒ Coastal Hazards
  - ☒ Managing Development
  - ☒ Public Participation
  - ☒ Beach and Coastal Dune Protection
  - ☒ Marine and Coastal Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

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| <b>Findings</b> |
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1. As discussed above, the proposed activities will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.
2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost of \$75,000 for the “development” portion of the Keauhou Sewer Line Rehabilitation Project is not in excess of \$500,000.

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| <b>Approved Uses, Activities and Operations</b> |
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Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. PL-SMM-2022-000023** is hereby approved for the following activities:

- SMH 3B4 will be removed and backfilled with controlled low-strength material (CSLM) which is a self-compacted, cementitious material used primarily as a backfill in place of compacted fill. Staff notes that SMH 3B4 is within the shoreline setback area.

Staff notes the following activities were covered under the SMA exemption determination; however, the conditions of PL-SMM-2022-000023 apply to all portions of the proposed project, including:

- Coating of the interior of the existing gravity sewer main using the Cured-in-Place-Pipe (CIPP) method. The 10-inch CIPP will coat the interior from Sewer Manhole (SMH) 3B5 to SMH 3A1 as shown on Exhibit 1.
- Five (5) SMH (3A1, 3B1, 3B2, 3B3, 3B5) will be rehabilitated using CIPP methods.
- A 900-foot temporary bypass force main and portable pump will be installed to convey wastewater from SMH 3B6 to the He'eia Wastewater Treatment Plant (WWTP) gravity system via an aboveground 4-inch diameter HDPE pipe. Approximately 372 feet of 1.5-foot-high pipe ramps will be installed to accommodate pedestrian access. The applicant states that the temporary pump, bypass, and pipe ramps will be in place for approximately two (2) weeks, with bypassing only occurring during the day (while the CIPP is in progress).

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| <b>Conditions of Approval</b> |
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The Planning Director has approved **SMA Minor Permit No. PL-SMM-2022-000023**, **subject to the following conditions:**

1. The applicant(s), its successor(s), or assign(s) (Applicant) shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.



3. Other than the proposed project as described in this permit, no further work is permitted under this approval.
4. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
5. All construction and maintenance activities on the subject parcel shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
6. The Applicant shall ensure that excessive siltation and turbidity of ocean waters are contained or otherwise minimized through the use of silt containment devices or barriers, or other approved Best Management Practices as approved by the Planning Director for the closure of SMH 3B4.
7. The Applicant shall provide adequate and safe pedestrian access throughout the project area and will not alter or block any shoreline or coastal access.
8. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
9. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

If you have any questions, please feel free to contact Alex J. Roy at (808) 961-8140 or via email at [Alex.Roy@hawaiicounty.gov](mailto:Alex.Roy@hawaiicounty.gov).

APPROVED:

Zendo Kern  
Zendo Kern (Jul 8, 2022 11:11 HST)

ZENDO KERN  
Planning Director

July 08, 2022

Date

Enclosure 1, General Site Plan

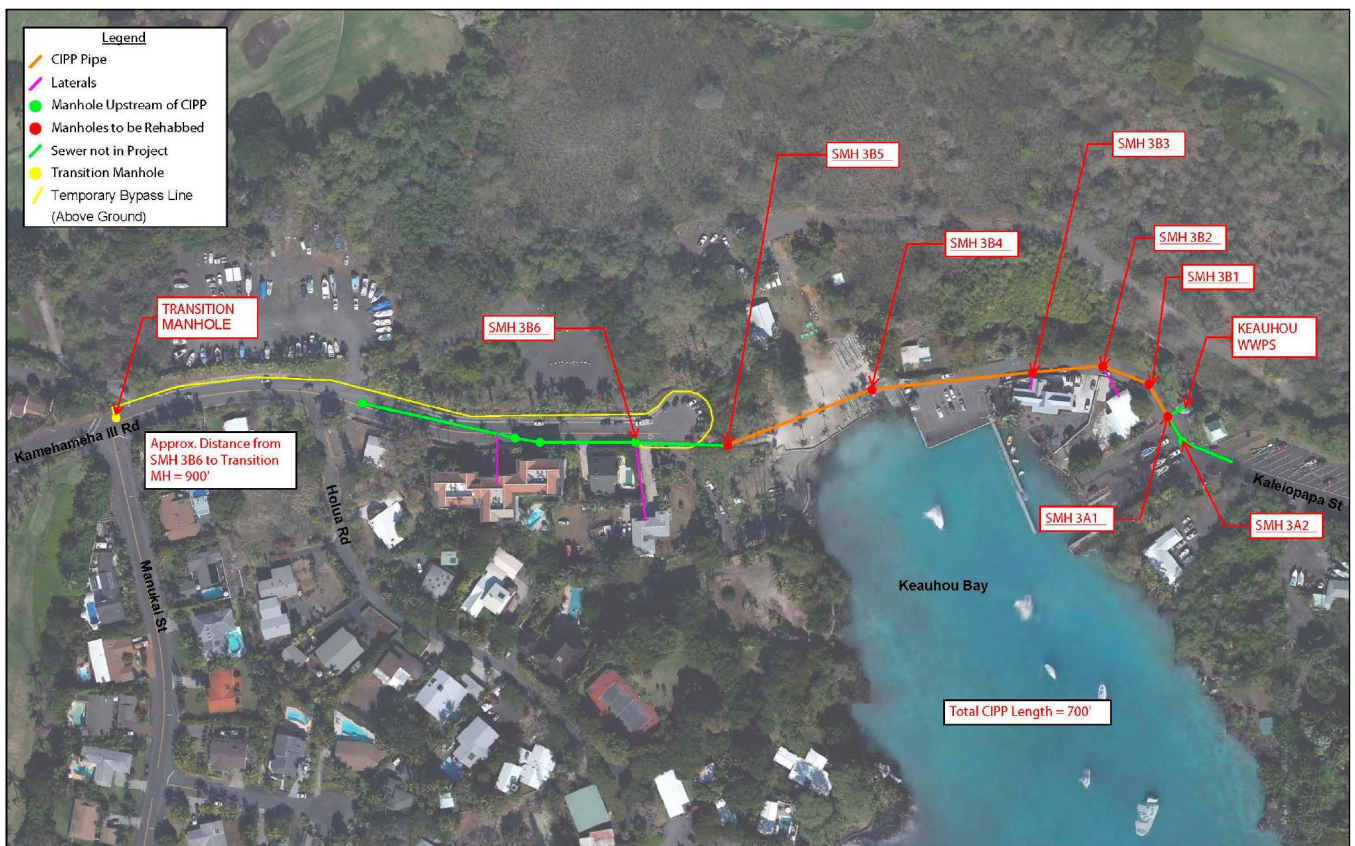


EXHIBIT 1