

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 30 Oct 2012.

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CEPOH-EC-R, Tsunami Damage Remediation for Kona Inn Shopping Village, POH-2012-00093

Name of water being evaluated on this JD form: Pacific Ocean at Kailua Bay

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State/Territory: Hawaii County: Hawaii City: Kailua-Kona

Center coordinates of site (lat/long in degree decimal format): Lat: 19.637701N, Long: 155.994056W

Universal Transverse Mercator: 4.

Name of nearest waterbody: Pacific Ocean (Kailua Bay).

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Kailua Bay, Pacific Ocean.

Name of watershed or Hydrologic Unit Code (HUC): 200100001103/Waiaha Stream

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
 Check if other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different JD form. List other JDs: _____

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

Office (Desk) Determination. Date: 30 Oct 2012.

Field Determination. Date(s): _____.

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Appear to be and appear to be no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain: The Pacific Ocean is a navigable waterbody used in the past, present, and future to transport interstate and foreign commerce.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- TNWs, including territorial seas
 Wetlands adjacent to TNWs
 Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
 Non-RPWs that flow directly or indirectly into TNWs
 Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
 Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
 Impoundments of jurisdictional waters
 Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: 178 linear feet _____ width (ft) and/or 0.05 acres.

Wetlands: _____ acres.

c. Limits (boundaries) of jurisdiction based on: Established by mean (average) high waters. and **Not applicable.**

Elevation of established OHWM (if known): _____.

2. Non-regulated waters/wetlands (check if applicable):³

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: _____.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

Identify TNW: Pacific Ocean (Kailua Bay).

Summarize rationale supporting determination: Subject to ebb and flow of tide.

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": _____.

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS - Not applicable

C. SIGNIFICANT NEXUS DETERMINATION - Not applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:

TNWs: 178 linear feet _____ width (ft), or 0.05 acres.

Wetlands adjacent to TNWs: _____ acres.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS – NOT APPLICABLE

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY): Not applicable

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD:

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Permit application dtd rec'd 26 Jul 2012.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: _____.
- Corps navigable waters' study: _____.
- U.S. Geological Survey Hydrologic Atlas: Google Earth 2012 with Hydrologic Unit overlay.
- USGS NHD data.
- USGS 8 and 12 digit HUC maps. (200100001103/Waiaha Stream)
- U.S. Geological Survey map(s). Cite scale & quad name: USGS Kailua Quad 7.5-minute series Topo Map overlay, Google Earth, 2012
- USDA Natural Resources Conservation Service Soil Survey. Citation: _____.
- National wetlands inventory map(s). Cite name: Google Earth 2012, USFWS NWI overlay; .
- State/Local wetland inventory map(s): _____
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____ (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth, 2012
or Other (Name & Date): Site photos, submitted by A. Kalawe_via email dtd recv'd 5 Apr 2012
- Previous determination(s). File no. and date of response letter: _____.
- Applicable/supporting case law: _____.
- Applicable/supporting scientific literature: _____.
- Other information (please specify): NOAA Station Datum (Sta ID 1617433, Kawaihae, HI)

B. ADDITIONAL COMMENTS TO SUPPORT JD: