

Docket No. SP92-380

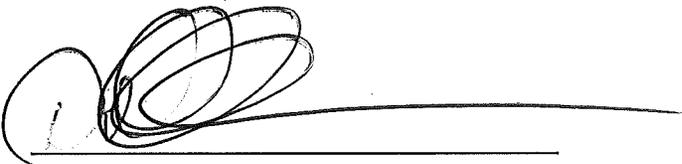
Hawaiian Cement

(Request for Expansion of Quarry,
Deletion of Condition No. 16, and 15-Year
Time Extension)

Staff Report

Action Meeting

November 20, 2014

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Daniel Orodener, Executive Officer

Submitted: November 14, 2014

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1. PROCEDURAL MATTERS

On February 20, 2013, Hawaiian Cement ("Applicant") filed a request with the County of Maui Department of Planning ("DP") to (1) expand the existing Puunene Quarry by an additional 41.968 acres of land ("Quarry Site 'C'") (see attached map entitled *Plan Showing Hawaiian Cement Quarry Mining Sites*, Revised December 13, 2013); (2) include 9.697 acres of land within the existing quarry operation as part of the permitted area; (3) delete Condition No. 16 of the Decision and Order Approving Amendment to Special Permit filed December 18, 2006; and (4) extend the life of the special permit by 15 years.

On May 27, 2014, the County of Maui Planning Commission ("Planning Commission") considered the Applicant's request. There was no public testimony received by the Planning Commission. After due deliberation, at its meeting on May 27, 2014, the Planning Commission recommended approval of the request to the Land Use Commission ("LUC").

On July 30, 2014, the LUC received a copy of the decision and a portion of the record of the Planning Commission's proceedings on the Applicant's request. On October 15, 2014, the LUC received the remaining portion of the record.

TRUE NORTH
SCALE: 1 in. = 800 ft.

- KEY**
- (A) Area included in SUP and CUP approvals for Quarry
 - (B) Proposed 41.9-acre expansion location for quarry
 - (C) 9.7-acre site that was previously quarried

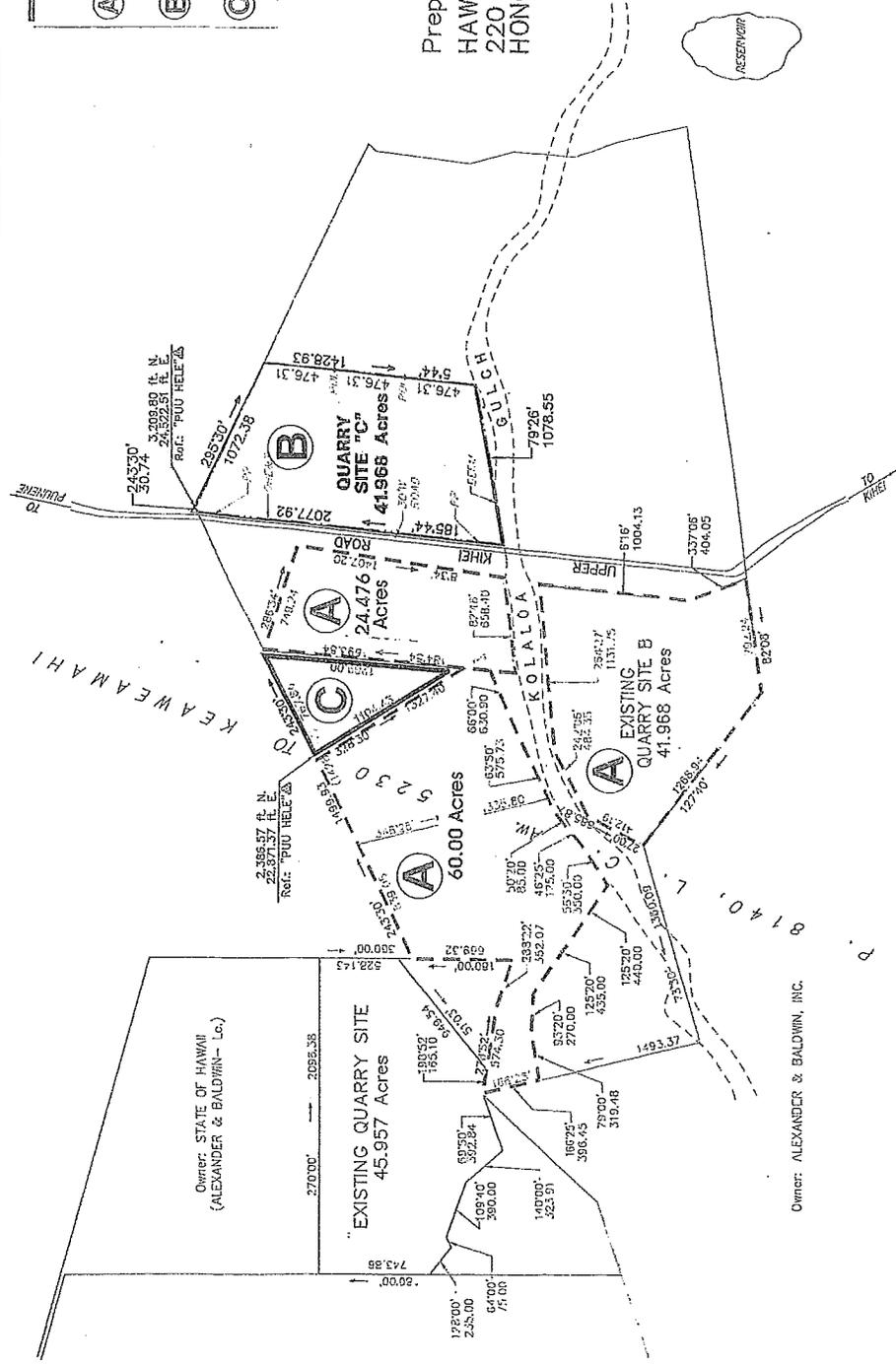
Prepared for:
**HAWAIIAN CEMENT
 220 SOUTH KING STREET
 HONOLULU, HAWAII 96813**

PLAN SHOWING HAWAIIAN CEMENT QUARRY MINING SITES AT PULEHUNUI, WAILUKU (KULA), MAUI, HAWAII

REVISED: DECEMBER 13, 2013
 REVISED: OCTOBER 15, 2012
 REVISED: JUNE 14, 2012
 DECEMBER 10, 2007

HawaiianCementQuarryMiningSites JOB NO. 05-065

EXHIBIT 5



GRAPHIC SCALE IN FEET
 0 500 1000 1500

R. T. TANAKA ENGINEERS, INC.
 LAND SURVEYORS - CIVIL & STRUCTURAL ENGINEERS

Tax Map Key (2) 3-8-04: 01 (Portion)
 571 KOLU STREET, SUITE 201
 WAILUKU, MAUI, HAWAII 96793

2. DESCRIPTION OF PROPERTY AND SURROUNDING AREAS

The existing Puunene Quarry is located on approximately 172.401 acres of land comprised by Tax Map Keys: 3-8-04: por. 1 and 3-8-08: por. 1 and por. 31¹ situated at Pulehunui, Wailuku, Maui. The quarry is approximately one mile east of Mokulele Highway and three miles south of Puunene.

Much of the surrounding lands are currently in sugarcane cultivation by Hawaiian Commercial & Sugar Company ("HC&S"). The State of Hawaii owns a significant portion of the lands surrounding the quarry.

The quarry and proposed expansion area are owned by Alexander & Baldwin, LLC. The Applicant has a long-term lease with A&B to operate the quarry. The lease expires in 2032 with options for renewals.

¹ The tax map keys are based on the Applicant's current representation of the quarry. Due to changes in the tax map parcels and in the representation of the quarry boundaries in the past, the quarry area historically may have been identified by different parcels.

The proposed expansion area is identified as Tax Map Key: 3-8-04: por. 1.

3. SUMMARY OF REQUEST

The Applicant is requesting (1) an expansion of the existing Puunene Quarry by an additional 41.968 acres of land (aka Quarry Site "C");² (2) inclusion of 9.697 acres of land within the existing quarry operation as part of the permitted area;³ (3) deletion of Condition No. 16 of the Decision and Order Approving Amendment to Special Permit filed December 18, 2006; and (4) a 15-year time extension to the life of the special permit.

The Applicant requests that the existing quarry be expanded by an additional 41.968 acres. According to the Applicant, additional rock material is needed to support the construction projects on Maui. At the present time, no rock is being extracted at the quarry.

As part of its request, the Applicant is also requesting that an additional 9.697 acres of the quarry be included within the permitted area. The Applicant points out that this acreage has been previously quarried despite its omission from the current acreage approved under the special permit.

In addition, the Applicant requests the deletion of Condition No. 16. Condition No. 16 states as follows:

16. That the applicant shall file within one year of the issuance of this Decision and Order a request with the County of Maui Department of Planning to amend the special use permit to reflect the current boundaries of the existing 105.957-acre quarry site.

The Applicant believes that this condition has already been complied with and points out that its surveyor had submitted an updated map of the boundaries of the previously permitted quarry areas to the DP.⁴ According to the Applicant's

² By Decision and Order Approving Amendment to Special Use Permit filed December 18, 2006, the Applicant also requested expansion of the quarry into two areas: a 24.476-acre area and a 41.968-acre area (66.444 acres in total). The latter area, identified as "Existing Quarry Site B," should not be confused with Quarry Site "C," the currently proposed 41.968-acre expansion area that involves the identical number of acres.

³ Both the 9.697 acres and Quarry Site "C" are identified as Tax Map Key: 3-8-04: por. 1.

consultant, the DP did not formally acknowledge receipt of the updated map. However, the consultant noted that by including the request to delete Condition No. 16 in the Planning Commission hearing, the DP implicitly acknowledged receipt of the map.

Finally, the Applicant requests a 15-year time extension to the special permit. Pursuant to Condition No. 1, the special permit is currently valid until July 13, 2017. Condition No. 1 states as follows:

1. That the State Land Use Commission Special Use Permit shall be valid for a period of fifteen (15) years from July 13, 2002, subject to further extension by the Land Use Commission upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate Planning Commission shall make a recommendation to the Land Use Commission and may require a public hearing on the time extension.

⁴ Staff notes that the condition was imposed to address certain discrepancies between the area approved for quarrying and the actual area being quarried.

4. STATE AND COUNTY PLANS AND PROGRAMS

Both Quarry Site "C" and the 9.697-acre quarried area are designated within the State Land Use Agricultural District.

Under the Maui Island Plan, both Quarry Site "C" and the 9.697-acre quarried area are undesignated.

Both Quarry Site "C" and the 9.697-acre quarried area are designated Agricultural by the Wailuku-Kahului Community Plan.

Both Quarry Site "C" and the 9.697-acre quarried area are within the Agricultural Zoning District.

5. SUMMARY OF COMMENTS BY COUNTY AND STATE AGENCIES ON THE REQUEST

County

The Department of Public Works had no comments.

The Department of Environmental Management, Solid Waste Division, and the Wastewater Reclamation Division, had no comments.

State

The Department of Land and Natural Resources (“DLNR”), Engineering Division, noted that the project site is located in Zone X, and that the National Flood Insurance Program does not have any regulations for developments within Zone X.

The Commission on Water Resource Management (“CWRM”) recommended coordination with the County of Maui to incorporate the proposed expansion into the County’s Water Use and Development Plan. The CWRM also recommended that water efficient fixtures be installed and water efficient practices be implemented throughout the development to reduce the increased demand on the area’s freshwater resources, and that alternative water sources be used wherever practicable.⁵ The CWRM further recommended the use of best management practices (“BMPs”) for stormwater management to minimize the impact of the project to the existing area’s hydrology while maintaining onsite infiltration and preventing polluted runoff from storm events.⁶ Finally, the CWRM recommended the adoption of landscape irrigation conservation BMPs endorsed by the Landscape Industry Council of Hawaii.⁷

⁵ The Applicant noted that water use for the quarry operation is limited to dust control and consists of non-drinking water from a brackish well located onsite. No change in water use was anticipated with Quarry Site “C.”

⁶ The Applicant responded that it currently utilizes BMPs as they are required to be implemented as part of its National Pollutant Discharge Elimination System (“NPDES”) permit for the quarry.

⁷ The Applicant noted that no landscaping activities are proposed, and that upon completion of its quarrying activities, the lands will be returned to the landowner.

The CWRM pointed out that the proposed request needs a water license from the Board of Land and Natural Resources, but that it did not have documentation of such a license. The CWRM added that in its absence, the pump installation permit issued with the well construction permit was suspended on April 29, 2008, when completion of well construction was certified. It was noted that said permit could not be reinstated until an approved water license is documented, and water from the well may not be used without a pump installation permit.⁸

The Department of Health, Maui District Health Office, noted that an NPDES permit coverage may be required for the proposed request.⁹

The LUC staff requested a status of the Applicant's compliance with the conditions of approval. The LUC staff also asked whether there was an Archaeological Inventory Survey ("AIS") prepared for Quarry Site "C."

⁸ The Applicant pointed out that it is working with staff of the DLNR, Land Management Division, and the CWRM to address the matter, and will continue to work with the DLNR to resolve any outstanding matters so that the new non-drinking water well can be utilized for the quarry.

⁹ The Applicant responded that it will secure the applicable permits prior to the use of the proposed quarry area.

6. IMPACTS UPON THE RESOURCES OF THE AREA

Archaeological Resources

Condition No. 14 requires that prior to commencement of quarry operations into the total 66.444-acre expansion area approved in 2006, the Applicant submit an AIS to the State Historic Preservation Division ("SHPD") for their review and comply with their subsequent comments.

The Applicant prepared an AIS for a 24.476-acre portion of the expansion area and submitted it to the SHPD. The SHPD subsequently approved the AIS and concurred with the recommendation that no further archaeological work was needed based on the negative findings.

Quarrying activities have not yet commenced on the remaining 41.968-acre expansion area approved in 2006.

The Applicant is willing to provide an AIS for Quarry Site "C" to the SHPD prior to commencement of quarry activities in the area.

Flora and Fauna

Although there is no specific information on the impact of the Applicant's request on flora and fauna, information in the record of this docket does not indicate that there are rare, threatened, or endangered species of flora and fauna on Quarry Site "C."

Air Quality

Although there is no specific information on the impact of the Applicant's request on air quality, Condition No. 10 of the Decision and Order Approving a Time Extension to a Special Use Permit filed July 15, 2005, requires that air pollution control permits be obtained for the rock crushing, asphalt batching, and all other operations, including restoration of the site. The Applicant has obtained these permits which are on file at the quarry site. The Applicant will continue to be bound by this condition, which remains in full force and effect.

Visual Resources

Although there is no specific information on the impact of the Applicant's request on visual resources, information in the record of this docket indicates that Quarry Site "C" is not located near any urbanized areas. Condition No. 6 of the Decision and Order Approving a Time Extension to a Special Use Permit filed July 15, 2005, requires that a revised restoration plan be submitted showing that upon termination of operations, the depleted and excavated areas are to be graded to blend with the surrounding natural contours and that appropriate vegetative cover consisting of trees, shrubs, and ground cover be established. According to the Applicant, such a restoration plan has been submitted. The Applicant will continue to be bound by this condition, which remains in full force and effect.

7. ADEQUACY OF INFRASTRUCTURE AND FACILITIES

Water

Drinking water is provided onsite through private bottle water vendors. Non-drinking water is provided through a private well that the Applicant constructed on parcel 31. The non-drinking water is utilized for concrete batching, dust control and washdown of the equipment.

Wastewater

There is no existing County wastewater service to the existing quarry site or the proposed expansion area. Wastewater service for the existing operation is provided via port-a-potty units provided at the existing quarry site. The Applicant contracts the units through a private vendor.

Drainage

R. T. Tanaka Engineering, Inc., prepared a Preliminary Drainage and Soil Erosion Control Study for Quarry Site "C." The total drainage area including the Hapapa Gulch watershed is approximately 6.03 square miles. The Hapapa Gulch watershed encompasses an area mauka of Quarry Site "C." Land use is varied throughout the drainage area. The upper portion of the Hapapa Gulch watershed is characterized by poor range land and pasture land. The central portion is characterized by diversified agriculture and pasture lands. The lower portion of the watershed is characterized by pasture lands and canefields in the vicinity of the quarry.

Quarry Site "C" is generally under sugarcane cultivation and has an average slope of 3 percent. The ground elevation ranges from approximately 280 to 300 feet above mean sea level.

Existing runoff from the southern half of Quarry Site "C" flows towards Kolaloa Gulch where it is blocked from directly entering the gulch by a dirt berm situated along the top bank of the gulch. The runoff flows along a dirt road to the paved cane haul road where it enters the gulch. Runoff from the northern half of Quarry Site "C" is currently directed to the northwest where it ponds in low lying areas adjacent to the paved cane haul road. Runoff from sugarcane fields

above Quarry Site "C" is also directed to Kolaloa Gulch by existing diversionary ditches. Based on the existing condition, runoff from these areas is not anticipated to affect the expansion area.

Quarrying in Quarry Site "C" is expected to increase storm runoff during active excavation when the ground is bare. This runoff is planned to be retained onsite by retention ponds that the Applicant will construct at the downstream end of the quarry area. The ponds will be designed to contain the 50-year, 1-hour runoff volume increase at a minimum. The retention ponds are intended to keep the runoff flow at pre-quarrying levels and reduce or prevent potential sediment from stormwater runoff from entering Kolaloa Gulch and adversely affecting downstream properties.

The Applicant intends to implement BMPs during construction to control soil erosion and sedimentation, including measures during quarry operations. Such BMPs include construction of temporary drainage swales or berms and drainage basins as well as stabilization of mining areas. Pursuant to chapter 20.08 entitled *Soil Erosion and Sedimentation Control* of the Maui County Code, active quarrying will be done in an incremental manner up to a maximum area of 15 acres at a time. When quarrying is completed on each increment, the exposed areas will be backfilled with soil and returned to the landowner.

Highway and Roadway Facilities

The Puunene area is serviced by Mokulele Highway, a State roadway, and by privately-owned Mehamaha Loop and Kamaaina Road. In the vicinity of the proposed expansion area, Mokulele Highway is a four-lane divided highway with a north-south orientation. A traffic signal is provided at the intersection of Mehamaha Loop and Kamaaina Road.

Access to Quarry Site "C" will continue to be provided via its existing access off of Kamaaina Road via Mokulele Highway. No adverse impacts to traffic conditions are expected as a result of the expansion area as the Applicant does not anticipate an intensity of use that will require additional trucks.

8. CONFORMANCE WITH THE SPECIAL PERMIT CRITERIA

The DP notes that the proposed expansion of the Puunene Quarry is consistent with the special permit guidelines for determining an “unusual and reasonable” use in the State Land Use Agricultural District as follows:

1. The proposed expansion of the quarry has been undertaken in coordination with HC&S and in recognition of the need to provide a source of aggregate products and a location for associated operations essential to sustaining the local construction industry and the demand for concrete-based products. The use of the site for quarrying and related operations is considered important to the welfare interests of the island’s residents and crucial to infrastructure for the island’s businesses and governmental operations. The use of Quarry Site “C” for quarrying and related uses is not expected to affect sugarcane cultivation and yield outcomes. The Applicant is also required to restore completed quarry areas to agricultural uses as part of its land lease.
2. The use of Quarry Site “C” for quarrying activities is not anticipated to adversely affect surrounding properties, which primarily consist of lands that are part of the quarry operation or are in sugarcane cultivation.
3. The Applicant’s quarrying and related operations are an existing and established use in the area. Quarry Site “C” is adjacent to currently quarried lands. No improvements to the existing infrastructure are anticipated with the addition of Quarry Site “C,” and no adverse impacts are expected to public agencies in providing services and facilities.
4. Since the establishment of the district boundaries, the County of Maui has experienced strong economic and population growth. This has necessitated the identification and development of material resources to support the local construction industry and the demand for infrastructure aggregate-based products. The proposed expansion is consistent with the quarry’s overall objective of providing a reliable source of concrete and aggregate products.

5. The removal of sugarcane lands for the quarry operations has continued to be coordinated with the landowner. According to the Land Study Bureau's detailed land classification, the soils on the expansion area are classified as overall (master) productivity rating class "A," "B," and "E," indicating varying productivity. In addition, the Applicant is required by the terms of its lease agreement to restore quarried areas for agricultural use after completion of quarrying activities, allowing agricultural operations to continue.

9. PLANNING COMMISSION RECOMMENDATION

On May 27, 2014, the Planning Commission voted to recommend approval of the Applicant's request and to forward its decision to the LUC for final action.¹⁰

¹⁰ In its vote to recommend approval of the Applicant's request, the Planning Commission adopted the DP's report and recommendation as its Findings of Fact, Conclusions of Law, and Decision and Order. With respect to the Applicant's request for a 15-year time extension, the DP recommended that the date be aligned with the time extension approved for the Applicant's County Special Use Permit. Thus, the recommended expiration date is July 21, 2032, rather than July 13, 2032.

10. STAFF RECOMMENDATION

Staff recommends that the DP clarify whether it acknowledges the December 10, 2007, revised map of the boundaries of the then 105.957-acre Puunene Quarry in accordance with Condition No. 16. Upon this clarification, staff recommends approval of the Applicant's request, subject to an amendment to existing Condition No. 1 as follows (addition underscored; deletion struckthrough):

1. That the State Land Use Commission Special Use Permit shall be valid ~~for a period of fifteen (15) years from July 13, 2002, to July 21, 2032,~~ subject to further extension by the Land Use Commission upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate Planning Commission shall make a recommendation to the Land Use Commission and may require a public hearing on the time extension.

In addition, staff recommends the following conditions be imposed:

- 16.¹¹ That prior to commencement of quarry operations on Quarry Site "C," the Applicant shall submit an archaeological inventory survey of Quarry Site "C" to the State Historic Preservation Division for their review and shall comply with their subsequent comments.
17. That the new quarry operations on Quarry Site "C" shall be confined to the area identified as Quarry Site "C" on the attached Exhibit "A" entitled *Plan Showing Hawaiian Cement Quarry Mining Sites* (Revised December 13, 2013).

Finally, staff recommends that all other conditions to the Decision and Order Approving a Time Extension filed July 15, 2005, and the Decision and Order Approving Amendment to Special Use Permit filed December 18, 2006, shall remain in full force and effect.

¹¹ This new condition will replace the previous Condition No. 16 that will be deleted.