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LAND USE COMMISSION
STATE OF HAWAII

2015 AUG 24 P 12:18

Attorneys for Petitioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of

McCLEAN HONOKOHAU PROPERTIES, a
Hawaii Limited Partnership,

To Amend the Land Use District Boundary to
Reclassify Approximately 89.527 acres of land
in the Conservation and the Agricultural
Districts to the Urban District at Honokohau,
North Kona, Hawaii, Tax Map Key Nos.: 7-4-
24: 1, 2, 4, 6, 7, 8, 9, 10, 11 and 12

DOCKET NO. A89-643

FIRST SUPPLEMENTAL MEMORANDUM
AND EXHIBITS OF McCLEAN
HONOKOHAU PROPERTIES IN SUPPORT
OF MOTION TO RELEASE CONDITIONS
IN THE LAND USE COMMISSION'S
FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECISION AND ORDER,
ENTERED APRIL 16, 1991; EXHIBITS 6
THROUGH 20; VERIFICATION OF JAMES
S. McCLEAN; CERTIFICATE OF SERVICE

FIRST SUPPLEMENTAL MEMORANDUM AND EXHIBITS IN SUPPORT OF MOTION
TO RELEASE CONDITIONS

Petitioner McClean Honokohau Properties ("MHP") submits this Memorandum and Exhibits 6 through 20 in support of its Motion to Release Conditions in the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order, Entered April 16, 1991, filed with the Land Use Commission ("LUC") on December 23, 2014 ("Motion"). Subsequent to filing its Motion, MHP has engaged in discussions and has met with representatives of the Office of Planning ("OP") and its counsel and engaged in discussions with the LUC Staff and County of Hawaii (the "County"). The purpose of this Memorandum is to provide additional information resulting from such discussions.

1. **Satisfaction of Conditions.** Each of the conditions relating to the development of Increment I of MHP's property has been set forth in full in MHP's initial Memorandum in Support of Motion. As indicated in its Motion, MHP believes it has satisfied the Conditions. As far as ongoing compliance is concerned, the County has continuing jurisdiction over substantially all of the matters addressed in the Conditions. **Exhibit 6** is a copy of County of Hawaii Ordinance 99-89 relating to the zoning of Petitioner's property. The following LUC Conditions are addressed in the indicated paragraphs of the Ordinance:

Condition 1. Ordinance paragraphs D, E and F.

Condition 2. Ordinance paragraph K.

Condition 3. Ordinance paragraphs H and I.

Condition 5. Ordinance paragraph G.

Condition 7. Ordinance paragraph N.

Condition 8. Ordinance paragraph M.

Condition 9. Ordinance paragraph N.

Condition 10. Ordinance paragraph L.

Condition 11. Ordinance paragraph P.

In addition to MHP's satisfaction of the LUC Conditions in its development of Increment I, the requirements of the Ordinance and the jurisdiction of the County to enforce them provide additional safeguards for compliance on an ongoing basis. Those references in the Ordinance to certain of the LUC Conditions are definitional only, and describe what continues to be required by the County. The release of the Conditions will not in any way lessen the County's ability to enforce the Ordinance requirements.

2. **Condition 1.** **Exhibit 7** is a copy of Division 14 (ML, Limited Industrial Districts) and Division 15 (MG, General Industrial Districts) of Chapter 25 of the Hawaii County Zoning Code. Sections 25-5-147 and 25-5-157 provide for landscaping and other lot requirements, and

are enforceable by the County. These requirements apply to Increment I and are in addition to the requirements stated in paragraphs D, E and F of Ordinance No. 99-89.

3. **Condition 2.** MHP has constructed Road G (now Kamanu Street). It will be dedicated to the County, and the County has the ability to assure this pursuant to paragraph K of Ordinance 99-89 relating to local and regional transportation improvements.

Main Street is to be completed in connection with MHP's development of Increment II of its property, and also is subject to paragraph K of Ordinance 99-89.

4. **Condition 3.** The following Exhibits describe what has been done relating to the Condition 3 drainage and erosion control provisions.

Exhibit 8. Drainage Site Plan for U.I.C. Permit Application prepared by Belt Collins, Final Report for Drywells dated 11/28/00, and January 9, 2001 letter from the Department of Health which states that MHP is allowed to operate the constructed drainage injection well system.

Exhibit 9. Erosion Control Plan prepared by Belt Collins in May, 2004.

Exhibit 10. The following documents prepared by Riehm Owensby that are the equivalent of an erosion control plan:

- a. BMP Control Measures (C-7).
- b. Storm Water Pollution Prevention Plan (C-8).
- c. BMP Details (C-9).

As evidence of the County's jurisdiction to enforce Condition 3, **Exhibit 11** is Chapter 10 of the Hawaii County Code relating to Erosion and Sedimentation Control. Article 2 requires grading permits, and Section 10-9 provides that no grading, grubbing or stockpiling work shall be commenced or performed without a permit.

The foregoing Exhibits demonstrate that Condition 3 has been satisfied. Paragraphs H and I of Ordinance 99-89 continue to be applicable and enforceable by the County after the release of Condition 3.

5. **Condition 4. Exhibit 12** consists of August 13, 2001 and August 21, 2001 letters from the County of Hawaii Department of Water Supply indicating that MHP has paid for its water facilities.

6. **Condition 5. Exhibit 13** consists of correspondence with the State Department of Health indicating the construction of the waste-water disposal improvements. Paragraph G of Ordinance 99-89 provides for the eventual hookup to the municipal sewer system.

7. **Condition 6. Exhibit 14** is the August 18, 2008 letter from the County Planning Director requesting a copy of MHP's tenant rules regarding the risk of pollutant spills. MHP's rules were provided to the County and are set forth in Sections 4 and 7(a) of Exhibit 3 to MHP's Motion. MHP also has included in its deeds the Covenants and Restrictions set forth in Exhibit C to Exhibit 3 of MHP's Motion, and will do so in the future if any lots are sold. However, MHP has no intent to sell any lots in the foreseeable future.

8. **Condition 7. Exhibit 15** consists of correspondence with HELCO regarding the installation of the electrical distribution system for Increment I. MHP has paid the full cost to HELCO of the installed electrical distribution system, for its own use and for others, and is not responsible for any further payment. Paragraph N of Ordinance 99-89 requires compliance by MHP with all requirements of HELCO.

9. **Condition 8.** MHP has demonstrated compliance with this condition as evidenced by the November 29, 2001 letter from Don Hibbard attached as Exhibit 4 to its Motion, which states that the historic review process has been completed. In addition, **Exhibit 16** to this

Memorandum is a July 27, 1999 photo showing the Increment I area existing at that time. The top layer in the photo, which was at least 20 feet high, was excavated to create Lot 13 of MHP's Increment I. To provide perspective, the bottom two layers are each around 25 feet high. Therefore, Lots 8 and 9 at the base were formed by over 70 feet of excavation, with no archaeological resources being discovered. MHP does not intend to do any further excavation on Increment I, so it is clear that no further additional archeological resources will be encountered.

In addition, Section 10-10 (b) (1) (C) of the Hawaii County Code relating to Erosion and Sedimentation Control (**Exhibit 11**) also covers historic and archaeological sites, as does paragraph M of Ordinance 99-89, indicating the County's jurisdiction to enforce Condition 8, although MHP has demonstrated no such sites exist.

10. **Condition 9.** MHP has not received any request from the County relating to police, fire or solid waster disposal, but paragraph N of Ordinance 99-89 provides the authority to the County to require the payment of a pro rata share of such services if and when appropriate.

11. **Condition 10.** **Exhibit 5** to MHP's Motion is the November 29, 2000 letter from the Department of Health indicating that MHP's Air Quality Study satisfied this condition.

12. **Condition 11.** MHP has completed all of its grading and has provided effective dust control and soil erosion procedures, as indicated in its Memorandum in Support of Motion. Although this Condition states that it applies to all Increments of MHP's property, Increment II has its own Condition 8 relating to soil erosion and dust control measures, and Condition 11 for Increment I can be released without affecting the requirements for Increment II.

13. **Condition 12.** **Exhibit 17** is Dr. David A Ziemann's April 19, 2002 letter that was attached as Exhibit 3 to the Supplement to MHP's FEIS relating to Increment II of MHP's property, which is immediately mauka of Increment I. Dr. Ziemann's letter demonstrates that

neither Increment I nor Increment II of MHP's property present a risk to the ocean waters or the Kaloko-Honokohau National Park.

The Following Findings of Fact are contained in the LUC's Findings of Fact, Conclusions of Law, and Order filed on April 16, 1991;

"Coastal/Aquatic Resources

42. Petitioner's water quality, marine ecology and anchialine pond ecology consultant, Dr. David A. Ziemann, prepared an Anchialine Pond Impact Assessment and testified that ponds located in the Kaloko and Honokohau areas, including both Kaloko and Aimakapa fishpond, are outside the region of potential impact of sanitary wastes and surface runoff. Only Honokohau Small Boat Harbor and anchialine ponds in the Maliu and Kealakehe areas are located within the envelope of potential impact from the proposed light industrial development project. Petitioner states that there is little likelihood of significant environmental impact on the nearshore marine waters or anchialine ponds within the envelope as long as facilities to handle and collect industrial waste are properly maintained according to Federal, State and County regulations, and the area is ultimately hooked into a municipal sewage system." (at page 14)

"CONFORMANCE TO COASTAL ZONE MANAGEMENT OBJECTIVES AND POLICIES

83. The proposed development of the Property is not anticipated to adversely affect the ocean or the shoreline, and the proposed reclassification of the Property is consistent with the objectives and policies of the Coastal Zone Management Program, Chapter 205A, HRS." (at page 24)

14. Prior Removal of All LUC Conditions on Makai Adjoining Property.

LUC Docket No. A87-618, the Petition of Isemoto Contracting Co., Ltd., SJA Partnership, and March E. Taylor (collectively "Isemoto") related to the 9.9 acres of property immediately makai of and between Increment I of Petitioner's property and the Queen Kaahumanu Highway. **Exhibit 18** shows the Isemoto property in relation to Increment I of MHP's property. The LUC released all of the conditions relating to the Isemoto property. Many of the conditions relating to the Isemoto property were the same as those relating to Increment I of Petitioner's property.


In the Isemoto Motion to Release Conditions, Sandra Schutte, representing Isemoto, stated that the Isemoto conditions "have either been satisfied by Petitioner or there is adequate assurance of satisfaction of the conditions so that the continued supervision of Petitioner's performance by the Commission is no longer required." **Exhibit 19** is a copy of the Isemoto

Motion to Release Conditions and the Isemoto Memorandum in Support of Motion to Release Conditions. The Isemoto conditions are set forth in the Isemoto Memorandum, and it is pointed out there that the Isemoto zoning ordinance contained similar conditions as the LUC conditions and would provide “adequate assurance of Petitioner’s compliance.” Exactly the same situation is present in Ordinance 99-89 relating to MHP’s Increment I.

Exhibit 20 is a file-stamped copy of the LUC’s Order granting the release of the Isemoto conditions. The 9.9 Isemoto acres border the Queen Kaahumanu Highway and are closer to the ocean than Increment I of Petitioner’s property. The release of the Isemoto conditions in 1995 without any adverse effect to the adjoining area, the ocean waters or the National Park demonstrates that the MHP Increment I conditions also should be released, as there is continuing jurisdiction of the County, and other State and Federal requirements, that assure that any ongoing matters related to the conditions will be adequately addressed. Most importantly, MHP’s development and activities on Increment I over more than 25 years demonstrate its continuing good faith compliance and justifies the removal of the LUC conditions.

13. Additional Supplement. MHP will file a further supplement to address any questions or concerns raised by LUC Staff, OP or the County.

DATED: August 24, 2015



ROBERT J. SMOLENSKI
Attorney for Petitioner
McClellan Honokohau Properties

ORDINANCE NO. 99 89

AN ORDINANCE AMENDING ORDINANCE NO. 93-38 (AMENDED BY ORDINANCE NOS. 96-3 AND 97-118) AND SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM LIMITED INDUSTRIAL (ML-40a) AND GENERAL INDUSTRIAL (MG-5a) TO LIMITED INDUSTRIAL (ML-1a) AND GENERAL INDUSTRIAL (MG-5a) AT HONOKOHAU 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-4-8:PORTIONS OF 26 AND 49.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Ordinance No. 93-38 (Amended by Ordinance Nos. 96-3 and 97-118) is amended as follows:

"SECTION 1. Section 25-8-3, Article 8 [25-87, Article 3], Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of properties described hereinafter as follows:

[The district classification of the following area situated at Honokohau 2nd, North Kona, Hawaii, shall be Limited Industrial (ML-40a):

PARCEL 1:

Beginning at an angle point on the Northerly boundary of this parcel of land, being also the Northwesterly corner of the Proposed Change of Zone from "O" to "MG" and being a point on the Southerly boundary of Land Commission Award 11,216, Apana 36 to M. Kekauonohi, the coordinates of said point of beginning referred to The Hawaii State Plane Coordinate System, Zone 1 being 307,363.43 feet North and 323,586.32 feet East and running by azimuths measured clockwise from True South:

Thence, for the next five (5) courses following along the remainder of Parcel VII of the Honokohau Partition and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku:

1. 348° 15' 10" 600.00 feet along the remainders of Lots 7-A and 7-B to a point;

| | | | | | |
|-----|------|-----|-----|----------|--|
| 2. | 258° | 15' | 10" | 340.32 | feet along the remainder of Lot 7-B to a point; |
| 3. | 169° | 56' | | 60.90 | feet along the remainder of Lot 7-B to a point; |
| 4. | 195° | 16' | | 142.00 | feet along the remainders of Lots 7-B and 7-A to a point; |
| 5. | 170° | 43' | 30" | 413.00 | feet along the remainder of Lot 7-A to a point; |
| 6. | 258° | 15' | 10" | 443.09 | feet along Land Commission Award 11,216, Apana 36 to M. Kekauonohi to a point; |
| 7. | 349° | 30' | 28" | 937.23 | feet along the remainders of Lots 7-A and 7-B and along the remainder of Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point; |
| 8. | 79° | 32' | 41" | 575.50 | feet along Government Land (State of Hawaii) to a point; |
| 9. | 80° | 03' | 53" | 1,438.58 | feet along Government Land (State of Hawaii) to a point; |
| 10. | 148° | 10' | | 935.44 | feet along Parcels IX and VIII of the Honokohau Partition and along the remainder of Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku to a point; |
| 11. | 258° | 15' | 10" | 1,487.49 | feet along Land Commission Award 11216, Apana 36 to M. Kekauonohi to the point of beginning and containing an area of 40.001 Acres. (Refer to Parcel 1 as shown on Exhibit "A".) |

The district classification of the following area situated at Honokohau 2nd, North Kona, Hawaii, shall be General Industrial (MG-5a):

PARCEL 2:

Beginning at the Northwesterly corner of this parcel of land, being also a point on the Northerly boundary of Lot 7-A and being a point on the Southerly boundary of Land Commission Award 11,216, Apana 36 to M. Kekauonohi, the coordinates of said point of beginning referred to the Hawaii State Plane Coordinate System, Zone 1 being 307,363.43 feet North and 323,586.32 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|--------------|--------|--|
| 1. | 258° 15' 10" | 424.42 | feet along Land Commission Award 11,216, Apana 36 to M. Kekauonohi to a point; |
|----|--------------|--------|--|

Thence, for the next five (5) courses following along the remainders of Parcel VII of the Honokohau Partition and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku:

- | | | | |
|----|--------------|--------|--|
| 2. | 350° 43' 30" | 413.00 | feet along the remainder of Lot 7-A to a point; |
| 3. | 15° 16' | 142.00 | feet along the remainders of Lots 7-A and 7-B to a point; |
| 4. | 349° 56' | 60.90 | feet along the remainder of Lot 7-B to a point; |
| 5. | 78° 15' 10" | 340.32 | feet along the remainder of Lot 7-B to a point; |
| 6. | 168° 15' 10" | 600.00 | feet along the remainders of Lots 7-B and 7-A to the point of beginning and containing an area of 5.500 Acres. (Refer to Parcel 2 as shown on Exhibit "A".)] |

The district classification of the following area situated at Honokohau 2nd, North Kona, Hawaii, shall be Limited Industrial (ML-1a):

PARCEL 1

Beginning at the Northwesterly corner of this parcel of land, being also the Northwesterly corner of Lot 7-A, the Northeasterly corner of Parcel VIII and being a point on the Southerly boundary of Lot A-1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHUOLU" being 9,236.75 feet North and 3,906.39 feet East and running by azimuths measured clockwise from True South:

1. 258° 04' 55" 1,424.51 feet along Lot A-1 and along Royal Patent 7587, Land Commission Award 11216, Apana 36 to M. Kekauonohi (Certificate of Boundaries No. 138) to a point:

Thence, for the next six (6) courses following along the remainder of Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27):

2. 348° 05' 431.97 feet along the remainder of Lot 7-A to a point:

3. 284° 30' 85.76 feet along the remainders of Lots 7-A and 7-B to a point:

Thence, following along the remainder of Lot 7-B on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:

4. 267° 43' 17" 25.98 feet to a point:

Thence, following along the remainder of Lot 7-B on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being:

5. 296° 47' 02" 64.57 feet to a point:

6. 259° 50' 342.00 feet along the remainder of Lot 7-B to a point:

7. 168° 05' 525.30 feet along the remainders of Lots 7-B and 7-A to a point:

| | | | | | |
|------------|-------------|------------|------------|-----------------|--|
| <u>8.</u> | <u>258°</u> | <u>04'</u> | <u>55"</u> | <u>435.88</u> | <u>feet along Lot A-1 and along Royal Patent 7587, Land Commission Award 11216, Apana 36 to M. Kekauonohi (Certificate of Boundaries No. 138) to a point;</u> |
| <u>9.</u> | <u>349°</u> | <u>22'</u> | | <u>937.26</u> | <u>feet along the remainders of Lots 7-A and 7-B and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27) to a point;</u> |
| <u>10.</u> | <u>79°</u> | <u>22'</u> | <u>20"</u> | <u>574.41</u> | <u>feet along Lot 2 of The Villages of La'i'opua, Phase 1 (File Plan 2128) and along the Government Land of Kealakehe to a point;</u> |
| <u>11.</u> | <u>79°</u> | <u>53'</u> | <u>50"</u> | <u>1,439.11</u> | <u>feet along Lot 2 of The Villages of La'i'opua, Phase 1 (File Plan 2128) and along the Government Land of Kealakehe to a point;</u> |
| <u>12.</u> | <u>147°</u> | <u>59'</u> | <u>20"</u> | <u>935.44</u> | <u>feet along Parcels 1X-A and VIII and along the remainder of Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27) to the point of beginning and containing an area of 39.783 Acres.</u> |

The district classification of the following area situated at Honokohau 2nd, North Kona, Hawaii, shall be General Industrial (MG-5a):

PARCEL 2

Beginning at the Southwesterly corner of this parcel of land, being also the Southeasterly corner of Proposed Lot 7 and being a point on the Northerly side of Proposed Road "A" of this subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHUOLU" being 9,108.27 feet North and 5,389.39 feet East and running by azimuths measured clockwise from True South:

| | | | |
|-----------|---------------------|---------------|---|
| <u>1.</u> | <u>168° 05'</u> | <u>431.97</u> | <u>feet along Proposed Lot 7 of this subdivision and along the remainders of Lot 7-A and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27) to a point;</u> |
| <u>2.</u> | <u>258° 04' 55"</u> | <u>494.65</u> | <u>feet along Lot A-1 and along Royal Patent 7587, Land Commission Award 11216, Apana 36 to M. Kekauonohi (Certificate of Boundaries No. 138) to a point;</u> |
| <u>3.</u> | <u>348° 05'</u> | <u>525.30</u> | <u>feet along Proposed Lot 13 of this subdivision and along the remainders of Lots 7-A and 7-B and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W.P. Leleiohoku (Certificate of Boundaries No. 27) to a point;</u> |
| <u>4.</u> | <u>79° 50'</u> | <u>342.00</u> | <u>feet along Proposed Lot 9 of this subdivision and along the remainders of Lot 7-B and Royal Patent 6855, Land Commission Award 9971, Apana 9 to W. P. Leleiohoku (Certificate of Boundaries No. 27) to a point;</u> |

Thence, for the next three (3) courses following along the Northerly side of Proposed Road "A" of this subdivision:

Thence, following on a curve to the left with a radius of 45.00 feet, the chord azimuth and distance being:

| | | | |
|-----------|---------------------|--------------|-------------------------|
| <u>5.</u> | <u>116° 47' 02"</u> | <u>64.57</u> | <u>feet to a point;</u> |
|-----------|---------------------|--------------|-------------------------|

Thence, following on a curve to the right with a radius of 45.00 feet, the chord azimuth and distance being:

| | | | |
|-----------|--------------------|--------------|-------------------------|
| <u>6.</u> | <u>87° 43' 17"</u> | <u>25.98</u> | <u>feet to a point;</u> |
|-----------|--------------------|--------------|-------------------------|

7. 104° 30' 85.76 feet to the point of beginning and containing a gross area of 5.713 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. These changes in district classification are conditioned upon the following:

- A. The applicant, its successors or assigns shall comply with all of the stated conditions of approval.

- B. Final Subdivision Approval or Final Plan Approval, whichever occurs first, shall be secured within five (5) years from the effective date of this ordinance.

- [B.] C. [Final plan approval for the project and related improvements shall be secured from the Planning Department within eighteen (18) months from the effective date of this approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date for which plan approval must be secured.] Plans for Final Plan Approval shall indicate proposed structures, landscaping, the buffer and landscaping area approved by Housing Finance Development Corporation or its successor, parking and interior traffic circulation.

- [C. Construction shall commence within eighteen (18) months from the date of receipt of Final Plan Approval and be completed within two years thereafter.]

- D. A comprehensive landscaping/buffer plan, including visual analysis from the Queen Kaahumanu Highway and surrounding properties, shall be submitted to the Planning Department for review and approval prior to submittal of plans for plan approval review. The plan shall include, but not be limited to, landscaping

improvements along the zoned area's western, northern and southern boundaries, interior landscaping, and provisions for maintenance. Identified priority landscaped areas shall be established prior to issuance of a certificate of occupancy for any portion of the development.

- E. As required by the State Land Use Commission's Decision and Order, a plan for a buffer and its maintenance along the southern boundary with the Kealakehe lands shall be submitted to, and approved by the Housing Finance and Development Corporation or its successors prior to submittal of plans for plan approval review.
- F. In the design and review of any improvements, due consideration shall be given to the minimization of noise and adverse visual impacts through appropriate siting, height, bulk, color schemes, signage, and landscaping.
- G. An interim method of sewage disposal shall meet with the approval of the appropriate governmental agencies. Sewer lines shall be installed within the project site for eventual hookup to the municipal sewer system.
- H. A drainage system shall be installed meeting with the approval of the Department of Public Works.
- I. As required by the State Land Use Commission's Decision and Order, a drainage and erosion control plan shall be prepared to control drainage within the property and to maintain ocean water quality. Said plan and construction of the drainage improvements shall meet with the approval of the Department of Health and/or the Department of Public Works, as appropriate.
- J. A 60-foot wide dedicable road shall be constructed to commercial standards

within the project site to the south property line prior to the issuance of Final Subdivision Approval or a certificate of occupancy for any portion of the proposed development, whichever occurs first. This road shall be constructed to connect to future Road "G" connection to Kealakehe Parkway and shall meet with the approval of the Department of Public Works.

- K. As required by the State Land Use Commission's Decision and Order, the applicant shall participate in the funding and construction of local and regional transportation improvements on a pro rata basis as determined by the State Department of Transportation. A letter of compliance with this condition shall be submitted prior to issuance of Final Subdivision Approval or a certificate of occupancy for any portion of this development, whichever occurs first.
- L. As required by the State Land Use Commission's Decision and Order, a letter from the Department of Health shall be submitted prior to the issuance of Final Subdivision Approval or a certificate of occupancy for any portion of the development, whichever occurs first, indicating that participation with the air quality monitoring program has been executed.
- M. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
- N. Comply with all applicable laws, rules, regulations and requirements, including those of the Housing Finance and Development Corporation, Departments of Public Works, Health and Fire and Hawaii Electric Light Company.

- O. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- P. The applicants, its successors, or assigns of the development on the above described Parcel 2, designated in the MG-5 zoned district, shall be required to take appropriate measures as required by the State Land Use Commission's Decision and Order to control and minimize any environmental conditions which include, but are not limited to odor, dust, noise, and nuisances caused by the operation of a ready-mix concrete batching plant. [It is the county's intent that the use of Parcel 2 shall be limited to the construction and operation of a ready-mix concrete batching plant and its subordinate accessory uses. In the event that either (1) the ready-mix concrete batching plant is not constructed and in operation within five years of the effective date of this amendment or (2) the ready-mix concrete batching plant terminates its operations or fail to comply with any provisions as required by the State Land Use Commission's Decision and Order and the Conditions of Approval, the Planning Director may initiate rezoning of its original or more appropriate designation.]
- Q. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this Change of Zone. The report shall address the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
- R. An extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances:

1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
2. Granting of the time extension would not be contrary to the general plan or zoning code.
3. Granting of the time extension would not be contrary to the original reasons for the granting of the Change of Zone.
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicant should require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation."

SECTION 2. Material to be deleted is bracketed. New material is underscored.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Patricia K. Orford
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

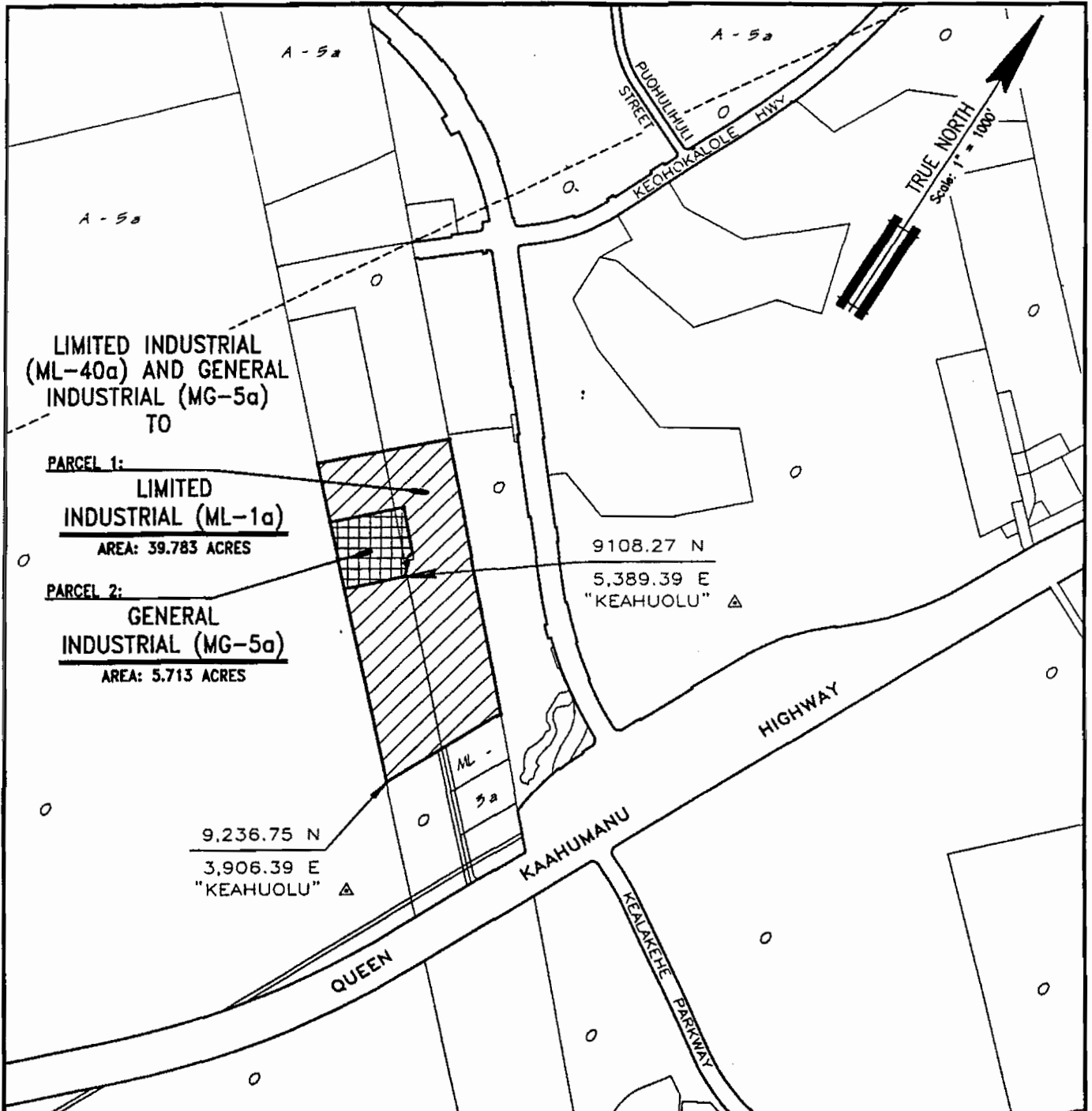
Date of Introduction: July 8, 1999
Date of 1st Reading: July 8, 1999
Date of 2nd Reading: July 28, 1999
Effective Date: August 12, 1999

REFERENCE: Comm. 327

APPROVED AS TO FORM AND LEGALITY

Patricia K. Orford
CORPORATION COUNSEL

DATED: _____



AMENDMENT TO THE ZONING CODE

AMENDING ORDINANCE NO. 93-38 (AMENDED BY ORDINANCE NOS. 96-3 AND 97-118) AND SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM LIMITED INDUSTRIAL (ML-40a) AND GENERAL INDUSTRIAL (MG-5a) TO LIMITED INDUSTRIAL (ML-1a) AND GENERAL INDUSTRIAL (MG-5a) AT HONOKOHAU 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-4-B:PORTIONS OF 26 & 49

MAY 4, 1999

EXHIBIT "A"

(McCLEAN)

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

Introduced By: Bobby Jean Leithead-Todd
Date Introduced: July 8, 1999
First Reading: July 8, 1999
Published: N/A

REMARKS: _____

Second Reading: July 28, 1999
To Mayor: July 30, 1999
Returned: August 12, 1999
Effective: August 12, 1999
Published: August 23, 1999

REMARKS: _____

RECEIVED

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Arakaki | X | | | |
| Chung | | | X | |
| Elarionoff | | | | |
| Jacobson | X | | | |
| Leithead-Todd | X | | | |
| Pisicchio | X | | | |
| Smith | X | | | |
| Tyler | X | | | |
| Yagong | X | | | |
| | 8 | 0 | 1 | 0 |

| ROLL CALL VOTE | | | | |
|----------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Arakaki | X | | | |
| Chung | X | | | |
| Elarionoff | X | | | |
| Jacobson | | X | | |
| Leithead-Todd | | | X | |
| Pisicchio | X | | | |
| Smith | | | X | |
| Tyler | X | | | |
| Yagong | X | | | |
| | 6 | 1 | 2 | 0 |

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY:

Patricia K. O'Leary
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date AUG 3 1999

[Signature]
COUNCIL CHAIRMAN
[Signature]
COUNTY CLERK

Approved/Disapproved this 12 day
of August, 1999

[Signature]
MAYOR, COUNTY OF HAWAII

Bill No.: 91
Reference: C-327/PWPC-36
Ord. No.: 99 89

Chapter 25

ZONING

Article 1. General Provisions.

- Section 25-1-1. Title.
- Section 25-1-2. Scope, purposes and applicability.
- Section 25-1-3. Severability.
- Section 25-1-4. Adoption of rules.
- Section 25-1-5. Definitions.

Article 2. Administration and Enforcement.

Division 1. General Administration.

- Section 25-2-1. Duties of county officers.
- Section 25-2-2. Issuance of permits or licenses in conformance with chapter.
- Section 25-2-3. Review and acceptance of applications.
- Section 25-2-4. Notice to property owners and lessees of record of pending application.
- Section 25-2-5. Public hearing notices.
- Section 25-2-6. Waiting period after denial of application.
- Section 25-2-7. Utilization of approvals within two years.
- Section 25-2-8. Effect of changing districts on prior approvals.
- Section 25-2-9. Applications including lesser actions; concurrent applications.
- Section 25-2-10. Privileges granted run with land.
- Section 25-2-11. Waiver of requirements in consolidation and resubdivision.
- Section 25-2-12. Posting of signs for public notification.

Division 2. Appeals.

- Section 25-2-20. Persons who may appeal; procedure.
- Section 25-2-21. Performance of permit conditions pending appeal.
- Section 25-2-22. Conduct of appeal hearing; costs.
- Section 25-2-23. Standard of review.
- Section 25-2-24. Adoption of rules.
- Section 25-2-25. Further appeal rights.

Division 3. Violations, Penalties, Enforcement.

- Section 25-2-30. Violations.
- Section 25-2-31. Criminal prosecution.
- Section 25-2-32. Right of entry for authorized personnel.
- Section 25-2-33. Limited liability of authorized personnel.
- Section 25-2-34. Injunctive action.
- Section 25-2-35. Administrative enforcement.
- Section 25-2-36. Remedies cumulative.

Section 25-5-138. Other regulations.

- (a) Plan approval shall be required for all new structures and additions to existing structures in the MCX district.
 - (b) Exceptions to the regulations for the MCX district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2015, Ord. No. 15-33, sec. 4.)

Division 14. ML, Limited Industrial Districts.**Section 25-5-140. Purpose and applicability.**

The ML (limited industrial) district applies to areas for business and industrial uses which are generally in support of but not necessarily compatible with those permissible activities and uses in other commercial districts.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-141. Designation of ML districts.

Each ML (limited industrial) district shall be designated by the symbol "ML" followed by a number which indicates the minimum land area, in thousands of square feet, required for each building site.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-142. Permitted uses.

- (a) The following uses shall be permitted in the ML district:
 - (1) Agricultural products processing, minor.
 - (2) Airfields, heliports and private landing strips.
 - (3) Animal hospitals.
 - (4) Animal quarantine stations.
 - (5) Aquaculture activities.
 - (6) Automobile and truck storage facilities.
 - (7) Automobile and truck sales and rentals.
 - (8) Automobile service stations.
 - (9) Bakeries.
 - (10) Bars.
 - (11) Broadcasting stations.
 - (12) Car washing.
 - (13) Carpentry, hardwood products and furniture manufacturing and storage establishments.
 - (14) Catering establishments.
 - (15) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (16) Churches, temples and synagogues.
 - (17) Cleaning and dyeing plants.
 - (18) Commercial parking lots and garages.
 - (19) Community buildings, as permitted under section 25-4-11.
 - (20) Contractors' yards for equipment, material, and vehicle storage, repair, or maintenance.
 - (21) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (22) Day care centers.
 - (23) Financial institutions.
 - (24) Food manufacturing and processing facilities.
 - (25) Greenhouses, plant nurseries.
 - (26) Heavy equipment sales, service and rental.

- (27) Home improvement centers.
 - (28) Junkyards, provided that the building site is not less than one acre in area.
 - (29) Laboratories, medical and research.
 - (30) Laundries.
 - (31) Lumberyards and building material yards, but not including concrete or asphalt mixing and the fabrication by riveting or welding of steel building frames.
 - (32) Manufacturing, processing and packaging establishments, light.
 - (33) Motion picture and television production studios.
 - (34) Photographic processing.
 - (35) Plumbing, electrical, air conditioning and heating establishments.
 - (36) Public uses and structures, as permitted under section 25-4-11.
 - (37) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
 - (38) Recycling centers, which do not involve the processing of recyclable materials.
 - (39) Repair establishments, minor.
 - (40) Restaurants.
 - (41) Self storage facilities.
 - (42) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
 - (43) Telecommunication antennas, as permitted under section 25-4-12.
 - (44) Temporary real estate offices, as permitted under section 25-4-8.
 - (45) Transportation and tour terminals.
 - (46) Truck, freight and draying terminals.
 - (47) Utility facilities, public and private, including offices or yards for equipment, material, vehicle storage, repair or maintenance.
 - (48) Utility substations, as permitted under section 25-4-11.
 - (49) Veterinary establishments.
 - (50) Vocational schools.
 - (51) Warehousing, which does not include retail sales or discount houses or establishments open to the general public or defined members.
 - (52) Wholesaling and distribution, including the storage of incidental materials and equipment, except for highly flammable or explosive products.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the ML district, provided that a use permit is issued for each use:
- (1) Major outdoor amusement and recreation facilities.
 - (2) Schools.
 - (3) Yacht harbors and boating facilities.
- (c) The following uses may be permitted in the ML district as incidental and subordinate to any permitted use:
- (1) Living quarters for watchmen or custodians in connection with the operation of any permitted use.
 - (2) Retail sales.
 - (3) Services for persons working in an ML district which are conducted within an integral part of a main structure with entrances from the interior of the building and which have no display or advertising visible from the street.
- (d) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the ML district.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2011, Ord. No. 11-26, sec. 4; Am. 2012, Ord. No. 12-28, sec. 16.)

Section 25-5-143. Height limit.

The height limit in the ML district shall be forty-five feet.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-144. Minimum building site area.

The minimum building site area in the ML district shall be ten thousand square feet.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-145. Minimum building site average width.

Each building site in the ML district shall have a minimum building site average width of seventy-five feet.
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-146. Minimum yards.

Minimum yards in the ML district shall be as follows:

- (1) Front yard, fifteen feet; and
- (2) Side and rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-147. Other regulations.

- (a) All front yards in the ML district shall be landscaped, except for drives and walkways.
- (b) Where any required side or rear yard in the ML district adjoins a building site in an RS, RD, RM or RCX district, the side or rear yard shall be landscaped with a screening hedge not less than forty-two inches in height, along the side or rear property lines so adjoining, except for necessary drives and walkways.
- (c) Plan approval shall be required for all new structures and additions to existing structures in the ML district.
- (d) Exceptions to the regulations for the ML district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2015, Ord. No. 15-33, sec. 4.)

Division 15. MG, General Industrial Districts.**Section 25-5-150. Purpose and applicability.**

The MG (general industrial) district applies to areas for uses that are generally considered to be offensive or have some element of danger.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-151. Designation of MG districts.

Each MG (general industrial) district shall be designated by the symbol "MG" followed by a number which indicates the minimum land area, in number of thousands of square feet, required for each building site, or if the number is followed by the symbol "a," by the minimum number of acres required for each building site.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-152. Permitted uses.

- (a) The following uses shall be permitted in the MG district:
- (1) Agricultural products processing, major and minor.
 - (2) Airfields, heliports and private landing strips.
 - (3) Animal hospitals.
 - (4) Animal quarantine stations.
 - (5) Animal sales, stock, and feed yards.
 - (6) Aquaculture activities and facilities.
 - (7) Automobile and truck storage facilities.
 - (8) Automobile body and fender establishments.
 - (9) Automobile service stations.
 - (10) Bakeries.
 - (11) Bars.
 - (12) Breweries, distilleries, and alcohol manufacturing facilities.
 - (13) Broadcasting stations.
 - (14) Bulk storage of flammable products and bulk storage of explosive products.
 - (15) Car washing.
 - (16) Catering establishments.
 - (17) Cemeteries and mausoleums, as permitted under chapter 6, article 1 of this Code.
 - (18) Churches, temples and synagogues.
 - (19) Cleaning and dyeing plants.
 - (20) Commercial parking lots and garages.
 - (21) Community buildings, as permitted under section 25-4-11.
 - (22) Concrete or asphalt batching and mixing plants and yards.
 - (23) Contractors' yards for equipment, material, and vehicle storage, repair, or maintenance.
 - (24) Crematoriums, funeral homes, funeral services, and mortuaries.
 - (25) Day care centers.
 - (26) Dumping, disposal, incineration, or reduction of refuse or waste matter.
 - (27) Expansion of an existing commercial excavation operation, provided that plan approval is secured from the director.
 - (28) Fabricating establishments.
 - (29) Fertilizer manufacturing plants.
 - (30) Financial institutions.
 - (31) Food manufacturing and processing facilities.
 - (32) Freight movers.
 - (33) Greenhouses, plant nurseries.
 - (34) Heavy equipment sales, service and rental.
 - (35) Home improvement centers.
 - (36) Junkyards.
 - (37) Kennels.
 - (38) Laboratories, medical and research.
 - (39) Laundries.
 - (40) Lava rock or stone cutting or shaping facilities.
 - (41) Lumberyards and building material yards.
 - (42) Machine, welding, sheet metal, and metal plating and treating establishments.
 - (43) Manufacturing, processing and packaging establishments, light and general.
 - (44) Marine railways, drydocks, and ship or boat yards.

- (45) Motion picture and television production studios.
 - (46) Photographic processing.
 - (47) Public dumps.
 - (48) Public uses and structures, as permitted under section 25-4-11.
 - (49) Publishing plants for newspapers, books and magazines, printing shops, cartographing, and duplicating processes such as blueprinting or photostating shops.
 - (50) Recycling centers.
 - (51) Reduction, refining, smelting, or alloying of metals, petroleum products or ores.
 - (52) Repair establishments, major and minor.
 - (53) Restaurants.
 - (54) Saw mills.
 - (55) Self storage facilities.
 - (56) Slaughterhouses.
 - (57) Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.
 - (58) Storage, curing, or tanning of raw, green, or salted hides or skins.
 - (59) Telecommunication antennas, as permitted under section 25-4-12.
 - (60) Temporary real estate offices, as permitted under section 25-4-8.
 - (61) Transportation and tour terminals.
 - (62) Truck, freight and draying terminals.
 - (63) Utility facilities, public and private, including power plants, offices or yards for equipment, material, vehicle storage, repair or maintenance.
 - (64) Utility substations, as permitted under section 25-4-11.
 - (65) Veterinary establishments.
 - (66) Warehousing.
 - (67) Wholesaling and distribution, including the storage of incidental materials and equipment.
 - (68) Yacht harbors and boating facilities.
- (b) In addition to those uses permitted under subsection (a) above, the following uses may be permitted in the MG district, provided that a use permit is issued for each use:
- (1) Commercial excavation.
 - (2) Major outdoor amusement and recreation facilities.
 - (3) Schools.
- (c) Any other use not otherwise permitted in subsection (a) that relates to the manufacturing, transportation, processing, assembling, distributing, repairing, and storage of goods, products, or materials, shall be permitted in the MG district.
- (d) The following uses shall be permitted in the MG district as incidental and subordinate to any permitted use:
- (1) Living quarters for watchmen or custodians in connection with the operation of any permitted use.
 - (2) Retail sales.
 - (3) Services for persons working in an MG district which are conducted within an integral part of a main structure with entrances from the interior of the building and which have no display or advertising visible from the street.
- (e) Buildings and uses normally considered directly accessory to the uses permitted in this section shall also be permitted in the MG district.
- (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2005, Ord. No. 05-68, sec. 2; Am. 2011, Ord. No. 11-26, sec. 5; Am. 2012, Ord. No. 12-28, sec. 17.)

Section 25-5-153. Height limit.

The height limit in the MG district shall be fifty feet. An industrial structure may be built to a height of one hundred feet, provided the extra height is determined by the director to be functionally necessary. (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-154. Minimum building site area.

The minimum lot area in the MG district shall be twenty thousand square feet. (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-155. Minimum building site average width.

Each building site in the MG district shall have a minimum building site average width of one hundred feet. (1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-156. Minimum yards.

The minimum yards in the MG district shall be as follows:

- (1) Front yard, twenty feet; and
- (2) Side and rear yards, none, except where the adjoining building site is in an RS, RD, RM or RCX district. Where the side or rear property line adjoins the side or rear yard of a building site in an RS, RD, RM or RCX district, there shall be a side or rear yard which conforms to the side or rear yard requirements for dwelling use of the adjoining district.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

Section 25-5-157. Other regulations.

- (a) All front yards in the MG district shall be landscaped, except for drives and walkways.
- (b) Where any required side or rear yard in the MG district adjoins a building site in an RS, RD, RM or RCX district, a solid wall six feet in height shall be erected and maintained along the side and rear property lines so adjoining.
- (c) Plan approval shall be required for all new structures and additions to existing structures in the MG district.
- (d) Exceptions to the regulations for the MG district regarding heights, building site areas, building site average widths and yards, may be approved by the commission within a planned unit development.

(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999; Am. 2015, Ord. No. 15-33, sec. 4.)

Division 16. O, Open Districts.**Section 25-5-160. Purpose and applicability.**

The O (open) district applies to areas that contribute to the general welfare, the full enjoyment, or the economic well-being of open land type use which has been established, or is proposed. The object of this district is to encourage development around it such as a golf course and park, and to protect investments which have been or shall be made in reliance upon the retention of such open type use, to buffer an otherwise incompatible land use or district, to preserve a valuable scenic vista or an area of special historical significance, or to protect and preserve submerged land, fishing ponds, and lakes (natural or artificial tide lands).

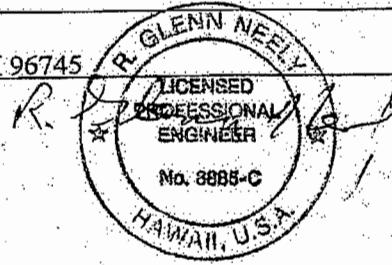
(1996, Ord. No. 96-160, sec. 2; ratified April 6, 1999.)

**FINAL REPORT FOR DRYWELLS
UNDERGROUND INJECTION CONTROL(UIC), CHAPTER 23
(October 1995)
UIC APPLICATION NO. UH - 1895
DATE 11/28/00**

1. Facility Name: Honokohau Properties Makai Infrastructure
Address: Honokohau, North Kona, Hawaii County
2. Project's TMK: (3) 7-4-08:por 26
Latitude: 19° - 40' - 37" Longitude: 156° - 00' - 50"
3. Name of Owner: Honokohau Properties
Address: P.O. Box 3000, Kailua-Kona, HI 96745
4. Name of Operator: Honokohau Properties
Address: P.O. Box 3000, Kailua-Kona, HI 96745

5. Drywell System:

Number of Drywells: 10
 Design Capacity: 2 - 6 cfs
 Date(s) of Construction: Fall/Winter 1994
 Drywell Dedication: yes no To: Hawaii County



Describe any changes from original proposal:
 Recorded depths are from top of catch basin. Ground elevations are estimated
 Wells 7 - 10 lined with precast concrete rings 6' inside diameter.

| <u>Drywell No.</u> | <u>As-built Diameter</u> | <u>As-built Depth</u> | <u>Ground Elevation</u> |
|--------------------|--------------------------|-----------------------|-------------------------|
| 1 | 5 foot | 19.81 feet | 97.88 + MSL |
| 2 | 5 foot | 21.67 feet | 97.88 + MSL |
| 3 | 5 foot | 26.50 feet | 108.63 + MSL |
| 4 | 5 foot | 23.58 feet | 108.63 + MSL |
| 5 | 5 foot | 24.00 feet | 114.23 + MSL |
| 6 | 5 foot | 24.17 feet | 114.23 + MSL |
| 7 | 6 foot | 24.25 feet | 111.23 + MSL |
| 8 | 6 foot | 22.00 feet | 111.23 + MSL |
| 9 | 6 foot | 26.25 feet | 117.74 + MSL |
| 10 | 6 foot | 26.42 feet | 117.74 + MSL |

6. **Hydrogeologic Characteristics: Attach the Following to this report:**
- a. **Lithology (geologic profile including soil and rock descriptions, and geologic Conditions of significance) of the following drywells.
See attached bore logs for Wells # 6 & # 10**

 - b. **Injection test results which shall include a brief description of the test and shall state the maximum rate of discharge into drywell. Injection testing shall be conducted on the following drywell.

See attached injection well test results for Wells # 6 & #10**
7. **Special Considerations to be Addressed by this Report:**

N/A
8. **This report shall include the Department's "Signatory and Certification Statement" signed and dated by the operator or legal representative of the facility.**
9. **This report shall hereby be signed by the geologist and licensed engineer and shall bear the engineers stamp.**

BENJAMIN J. CAYETANO
GOVERNOR OF HAWAII



BRUCE S. ANDERSON, Ph.D., M.P.H.
DIRECTOR OF HEALTH

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

In reply, please refer to:
EMD/SDWB

January 9, 2001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert S. McClean
General Partner
Honokohau Properties
P.O. Box 3000
Kailua-Kona, Hawaii 96745

Dear Mr. McClean:

SUBJECT: HONOKOHAU PROPERTIES MAKAI INFRASTRUCTURE
UNDERGROUND INJECTION CONTROL (UIC)
UIC FILE NO. UH-1895

The Department of Health has completed its review of your UIC permit application to operate a Class V, Subclass C, drainage injection well system consisting of eleven (11) injection wells having diameters that varies from approximately 5 to 6 feet and depths ranging from approximately 19 to 26 feet to dispose of rainfall runoff water.

The facility and injection wells have been assigned the following identification numbers in addition to the UIC file number:

Facility ID No. 8-4060.05
Wells No. 1 through 11

Pursuant to Hawaii Administrative Rules, Title 11, Chapter 23, Underground Injection Control, Section 12(f), as amended and effective since November 12, 1992; the Department has determined that an exemption be granted to the facility which then allows the facility to operate the drainage injection well system without an issued UIC permit.

Although the facility is now exempt from an issued UIC permit, the facility shall remain subject to applicable rules of Chapter 23. You are required to operate the injection well system in accordance with the specifications as described in the preliminary UIC application and final report for the facility. If operating conditions should change, you are required to notify and submit a new application to the Department for evaluation to determine whether or not a UIC permit would be necessary to authorize the operation of the injection well system under the new conditions. Changes to operating conditions shall include and not be limited to any actions that involve a change in the type of discharge into the injection well, a modification to the dimensions of the injection well, the construction of a new injection well, and the abandonment of any injection well.


Mr. Robert S. McClean
January 9, 2001
Page 2

After the dedication and transfer of the injection well system to the County of Hawaii, you are required to notify the Department of the change of ownership of the injection well system. Also, please inform the County of Hawaii to submit to the Department their acceptance of the dedication. When the Department receives the County of Hawaii's acceptance, the Department will revise UIC File No. UH-1895 to reflect the County of Hawaii as the new operator of the injection well system. Until the Department receives your notification and the County's notification, you will remain responsible for the operation of the injection well system.

All of the information that has been submitted to the Department regarding the injection well system will be kept on active file. Field inspections by departmental personnel may be conducted on the injection well system to verify compliance to Chapter 23. You are requested to make reference to the assigned file number in all correspondence to the Department regarding this facility.

If you have any question about this subject, please contact Jaime Rimando of the Safe Drinking Water Branch (SDWB) at 586-4258 (Honolulu) or call from Big Island the direct toll free number 974-4000, ext. 64258.

Sincerely,



THOMAS E. ARIZUMI, P.E., CHIEF
Environmental Management Division

JR:chl

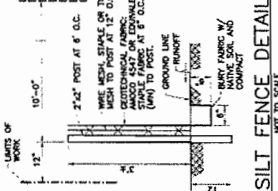
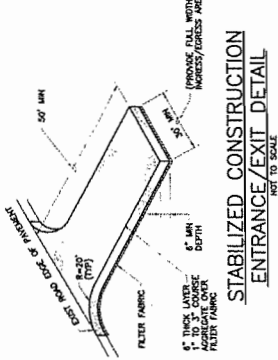
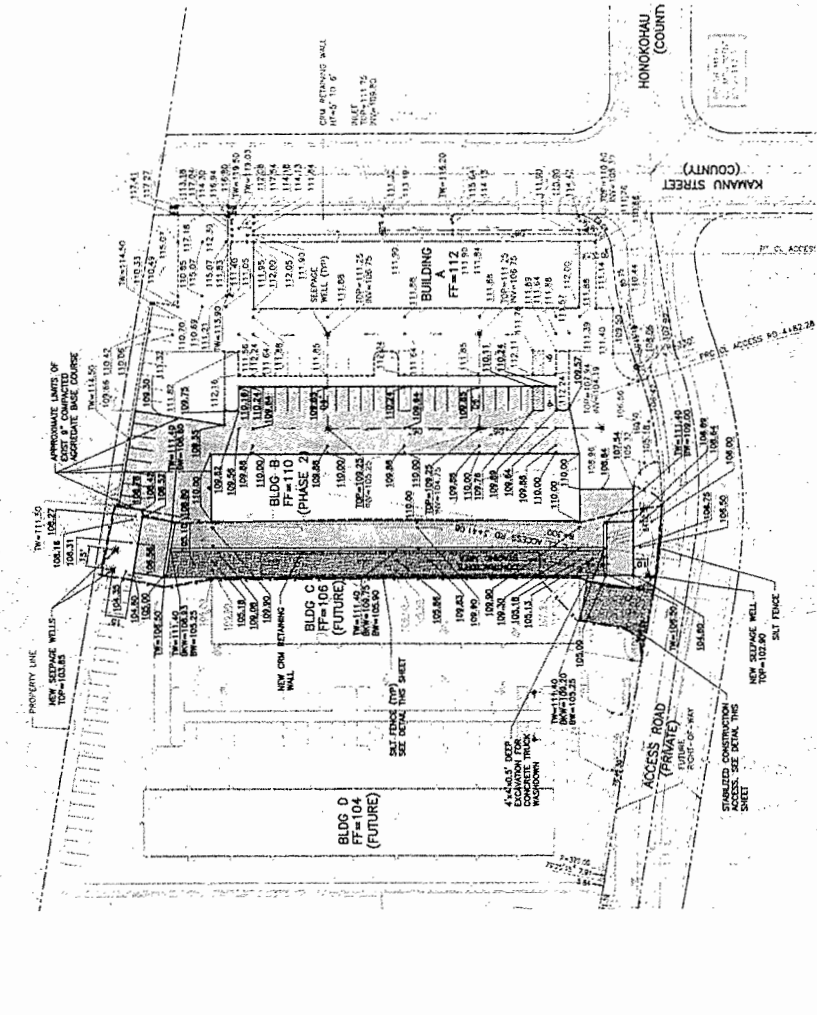
c: 1. Paul Okuna, SDWB Sanitarian, Kona
2. Mr. Ted Baldau
P.O. Box 390628
Kailua-Kona, HI 96739

EROSION CONTROL AND BEST MANAGEMENT PRACTICE NOTES:

1. CLEANING, GRADING AND GRASSING SHALL BE HELD TO THE MAXIMUM NECESSARY. THE USE OF GRASSING AND SILT FENCE SHALL BE SEQUENCED TO MINIMIZE THE EXPOSURE TIME OF GRASSING AND SILT FENCE.
2. INSTALL SILT FENCE WHERE INDICATED ON THIS SHEET. SILT FENCE MAY BE ADJUSTED TO FIT CONTRACTOR'S OPERATIONS AFTER CONTRACTOR'S APPROVAL FROM THE DEPARTMENT OF PUBLIC WORKS INSPECTOR.
3. CONTRACT STABILIZED CONSTRUCTION ENTRANCE/EXIT WHERE INDICATED ON THIS SHEET. STABILIZED CONSTRUCTION ENTRANCE/EXIT SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD OR COMPACTED BASE COURSE. ALL VEHICLES DRIVING THE SITE ARE TO BE KEPT ON THE STABILIZED CONSTRUCTION ENTRANCE/EXIT. CONTRACTOR'S APPROVAL FROM THE DEPARTMENT OF PUBLIC WORKS INSPECTOR SHALL BE OBTAINED BEFORE ANY ADJUSTMENTS TO THE STABILIZED CONSTRUCTION ENTRANCE/EXIT ARE MADE. TEMPORARY PROTECTION SHALL BE INSTALLED TO FACILITATE GROWTH OF STABILIZATION DO NOT OVERWATER.
4. STABILIZATION SHALL BE ACCOMPANIED BY TEMPORARY OR PERMANENT PROTECTIVE MEASURES TO PREVENT EROSION OF THE STABILIZED CONSTRUCTION ENTRANCE/EXIT. STABILIZATION SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
5. EROSION AND SEDIMENT CONTROL MEASURES SHALL BE IN PLACE AND FUNCTIONAL BEFORE GRADING AND GRASSING OPERATIONS BEGIN. THESE MEASURES SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD.
6. ALL CONTROL MEASURES SHALL BE CHECKED AND REPAIRED AS NECESSARY. FOR EXAMPLE, WEEDS IN SILT FENCE SHOULD BE REMOVED WITHIN TWENTY-FOUR HOURS AFTER ANY MAINTENANCE. DAILY CHECKING IS NECESSARY. THE PERMITTEE SHALL MAINTAIN RECORDS OF CHECKS AND REPAIRS.
7. IF HEAVY RAINS ARE PROJECTED DURING A WINDSTOP, ALL CONTROL STRUCTURES WILL BE REPAIRED IMMEDIATELY AND REINSPECTED AS NECESSARY.
8. ALL SILT FENCE WILL REMAIN IN PLACE UNTIL VEGETATION IS ESTABLISHED.
9. ANTIPODERS AND PROTECTIVE APPLICATIONS SHALL NOT OCCUR IF HEAVY RAINS ARE ANTICIPATED DURING THE WINDSTOP, OR DURING HEAVY RAINS.
10. THE PERMITTEE SHALL MAINTAIN RECORDS OF THE DURATION AND ESTIMATED VOLUME OF STORM WATER DISCHARGES.
11. A SEDIMENT MONITORING SHALL BE CONDUCTED TO BE RESPONSIBLE FOR EROSION AND SEDIMENT CONTROL IN THIS AREA. THESE MONITORS SHALL BE MAINTAINED FOR STORAGE OF MATERIALS AND FLOWING INTO WATERWAYS AND FERTILIZERS TO PREVENT SPILLAGE FROM OCCURRING. MONITORS SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD AND SHALL BE MAINTAINED ON-SITE.
12. SWAMPY AND SEPTIC FACILITIES SHALL BE COLLECTED FROM ON-SITE FACILITIES ON A REGULAR BASIS BY A LICENSED HAULER. SWAMPY AND SEPTIC FACILITIES SHALL NOT BE LOCATED NEAR WINDSTOPS.
13. ALL SILT CONTROL WITH WATER SPRAY (BY TRUCK OR TEMPORARY SPRINKLERS) SHALL BE INSTALLED AS NEEDED. DO NOT OVERWATER.
14. CONTRACTORS AND SUBCONTRACTORS SHALL BE TRAINED ON THE BEST MANAGEMENT PRACTICES.
15. ANY RAINFALL THAT EXCEEDS SIX INCHES ON THE PERMITTEE SHALL BE STOPPED IMMEDIATELY FOLLOWING THE END OF THE RAINFALL THAT EXCEEDS SIX INCHES ON THE PERMITTEE.

LEGEND:

- EXISTING SPOT ELEVATION
- EXISTING CONTOUR
- EXISTING MAIN SILT FENCE
- EXISTING DRAINAGE WELL
- EXISTING DRAIN LINE
- TOP OF WALL
- FINISH GRADE SPOT ELEVATION
- FUTURE FINISH GRADE SPOT ELEVATION
- LIMITS OF GRASSING
- SILT FENCE
- NEW PAVEMENT
- STABILIZED CONSTRUCTION ACCESS
- APPROXIMATE LIMITS OF COMPACTED AGGREGATE BASE COURSE
- APPROXIMATE LIMITS OF EXISTING BASE COURSE
- CONTRACTOR'S STAGING AREA



EROSION CONTROL PLAN
SCALE: 1"=40'



HONOKOHAU PROPERTIES
P.O. BOX 3000
KAILUA-KONA, HAWAII 98745

EROSION CONTROL PLAN

Project No. HAK 2002.33.4300
Date: MAY 2004
Approved By: _____

Professional Engineer
APR 20 2009
STATE OF HAWAII



R. A. Owebery

A Warehouse
Project
For
McClellan
Honokohau
Properties, LP

North Kona
Island &
County Hawaii

**BMP
NOTES**

Per Planning Permit Only

DRAWN BY: JWF
DATE: 10/14/08
REVISED: NO. 2 (2/11/09)

SHEET NUMBER:
C-7

Site-Specific Construction BMP Control Measures
Control for Land Disturbances

Construction Activities
Construction includes the widening of Hialeah Road from 24' to 36' and the construction of a 36' wide concrete parking lot and a 36' wide concrete ramp. The site is located on the east side of Hialeah Road, north of the intersection with Hialeah Road. The site is located on the east side of Hialeah Road, north of the intersection with Hialeah Road. The site is located on the east side of Hialeah Road, north of the intersection with Hialeah Road.

Control for Land Disturbances
The owner and/or general contractor shall comply with the following BMPs for the construction activities. The BMPs are listed in the table below. The BMPs are listed in the table below. The BMPs are listed in the table below.

Erosion and Sediment Control Requirements
The contractor shall have the county-approved grading permit available for inspection 30 days before the start of construction activities. The contractor shall have the county-approved grading permit available for inspection 30 days before the start of construction activities.

Potential Pollutants
Removed vegetation and other debris will be stored on site. Debris will not be stored on site. Debris will not be stored on site. Debris will not be stored on site. Debris will not be stored on site.

Product Specifications for BMPs
Filter fabric shall be 60 oz./sq. yd. geotextile. Filter fabric shall be 60 oz./sq. yd. geotextile. Filter fabric shall be 60 oz./sq. yd. geotextile. Filter fabric shall be 60 oz./sq. yd. geotextile.

Quality of Discharge
The discharge from the construction site shall be free of sediment, silt, and other pollutants. The discharge from the construction site shall be free of sediment, silt, and other pollutants. The discharge from the construction site shall be free of sediment, silt, and other pollutants.

Construction Management Techniques
Construction management techniques shall be implemented to minimize erosion and sediment. Construction management techniques shall be implemented to minimize erosion and sediment. Construction management techniques shall be implemented to minimize erosion and sediment.

Erosion and Sediment Control Measures
Erosion and sediment control measures shall be implemented to prevent erosion and sediment. Erosion and sediment control measures shall be implemented to prevent erosion and sediment. Erosion and sediment control measures shall be implemented to prevent erosion and sediment.

Standard Controls
Standard controls shall be implemented to prevent erosion and sediment. Standard controls shall be implemented to prevent erosion and sediment. Standard controls shall be implemented to prevent erosion and sediment.

Vegetation Controls
Vegetation controls shall be implemented to prevent erosion and sediment. Vegetation controls shall be implemented to prevent erosion and sediment. Vegetation controls shall be implemented to prevent erosion and sediment.

Stormwater Management
Stormwater management measures shall be implemented to prevent erosion and sediment. Stormwater management measures shall be implemented to prevent erosion and sediment. Stormwater management measures shall be implemented to prevent erosion and sediment.

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Notes on Controls for Land Disturbances

HAR CHAPTER 11-55 APPENDIX C REQUIREMENTS

(1) The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment.

(2) The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment.

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(6) The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment.

(7) The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment.

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(10) The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment.

(11) The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment.

(12) The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment. The following BMPs shall be implemented to prevent erosion and sediment.



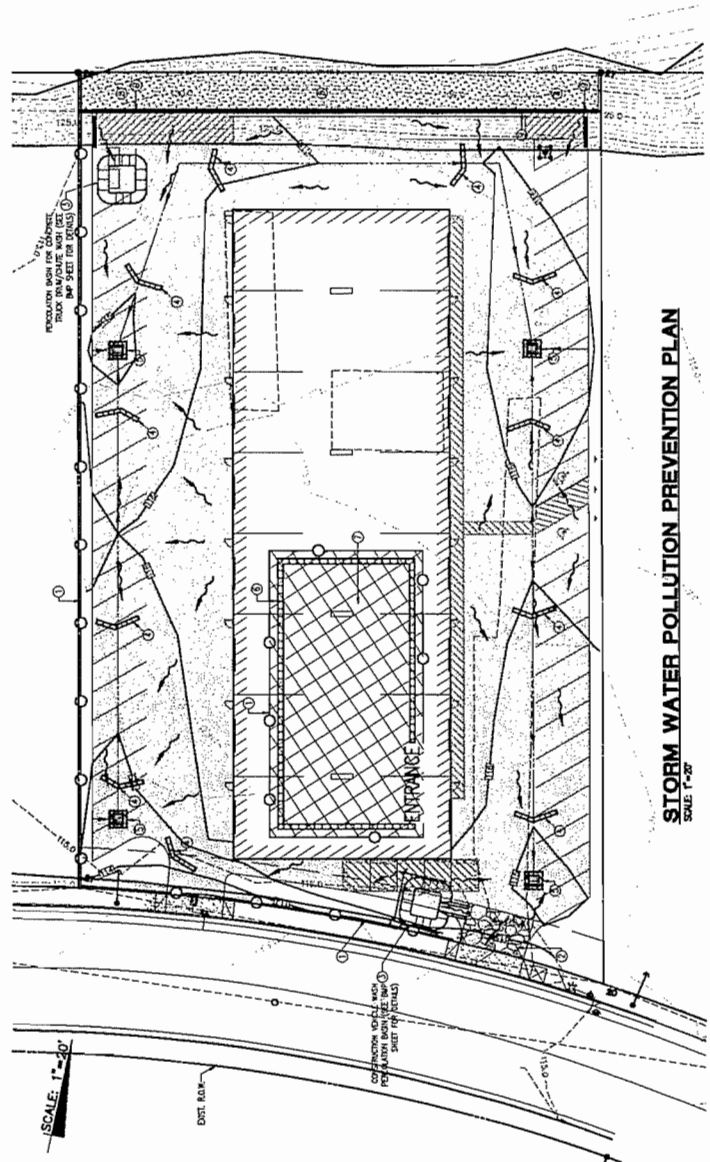
A. C. King
Professional Engineer
No. 10123
State of Hawaii
10/15/06

A
Warehouse
Project
For
McClean
Honokohau
Properties, LP
North, Kona
Island &
County Hawaii

SWPPP
PLAN

Permit No.
For Permitting Purposes Only
DATE: 10/14/06
REVISED: 10/06/06

SHEET NUMBER
C-8



STORM WATER POLLUTION PREVENTION PLAN
SCALE: 1"=20'

- LEGEND:**
- AREA TO BE ASPHALT PAVED
 - AREA TO BE CONCRETE BALDRMS
 - STABILIZED CONSTRUCTION ENTRANCE AND VEHICLE/EQUIPMENT WASH AREA
 - PROTECTED STOCKPILE, DEBRIS, AND VEHICLE/EQUIPMENT STORAGE AREA
 - HYDRO-SEED MULCH OR GRASS SEED W/ BIODEGRADABLE EROSION CONTROL TAMP MAT
 - SILT FENCE
 - BLOCK AND GRATE FILTER AT DUMP INLET
 - GRATE Silt FILTERS/GRATE CHECK DAM
 - SEDIMENT WOODS
 - RUNOFF FLOW DIRECTION
 - SEDIMENT & PERCOLATION BASIN

BMP CONSTRUCTION NOTES (ORDER OF PRECEDENCE FOR INSTALLATION)

1. CONSTRUCT SILT FENCE PER (1)
2. CONSTRUCT STABILIZED CONSTRUCTION ENTRANCE AND VEHICLE/EQUIPMENT WASH AREA
3. CONSTRUCT 10' X 10' X 2' CONSTRUCTION EQUIPMENT (2)
4. CONSTRUCT GRATE CHECK DAM PER (3)
5. CONSTRUCT BLOCK AND GRATE FILTER PREVENTION AT DUMP INLET PER (4)
6. INSTALL GRATE Silt Filter PER (5)
7. CONSTRUCT SILT FENCE AROUND STOCK PILE/DEBRIS/VEHICLE/EQUIPMENT STORAGE AREA
8. PLACE HYDRO-SEED MULCH OR GRASS SEED W/ BIODEGRADABLE EROSION CONTROL TAMP MAT PER (6)
9. PLACE SEDIMENT WOODS AT (7)



Chapter 10

EROSION AND SEDIMENTATION CONTROL

Article 1. General Provisions.

| | |
|---------------|---|
| Section 10-1. | Definitions. |
| Section 10-2. | Hazardous conditions. |
| Section 10-3. | Exclusions. |
| Section 10-4. | Completion by County; recovery of cost. |
| Section 10-5. | Waivers. |
| Section 10-6. | Appeals. |
| Section 10-7. | Liability. |
| Section 10-8. | Violations and penalty. |

Article 2. Permits.

| | |
|----------------|---|
| Section 10-9. | Required. |
| Section 10-10. | Application. |
| Section 10-11. | Fees. |
| Section 10-12. | Conditions and limitations. |
| Section 10-13. | Expiration. |
| Section 10-14. | Denial. |
| Section 10-15. | Suspension or revocation. |
| Section 10-16. | Construction prohibited prior to grading. |
| Section 10-17. | Inspections. |

Article 3. Conditions and Specifications.

| | |
|----------------|---|
| Section 10-18. | Conditions of permit. |
| Section 10-19. | Distance from property line of cut or fill slope. |
| Section 10-20. | Maximum cleared area. |
| Section 10-21. | Fill materials. |
| Section 10-22. | Preparation of ground surface; vegetation. |
| Section 10-23. | Report after grading; notification on completion. |
| Section 10-24. | Special conditions and requirements. |
| Section 10-25. | Drainage. |
| Section 10-26. | Erosion and sedimentation control. |

Chapter 10

EROSION AND SEDIMENTATION CONTROL

Article 1. General Provisions.

Section 10-1. Definitions.

- (a) Wherever used in this chapter, the following words shall have the meaning indicated:
- (1) "Designated historic and archaeological sites" means those sites listed with the County general plan or the Hawai'i register of historic places.
 - (2) "Engineer" means a professional engineer (civil or structural) registered in the State of Hawai'i.
 - (3) "Engineer's soils report" means a report on soils conditions prepared by an engineer experienced in the practice of soil mechanics and foundations engineering.
 - (4) "Erosion" means the wearing away of the ground surface as a result of action by wind and/or water.
 - (5) "Excavation," "cut" or "borrow" means any act by which soil, sand, gravel, rock or any similar material is cut into, dug, uncovered, removed, displaced, relocated or bulldozed. State land use commission and County zoning and other agencies' regulations on shoreline improvements are made a part hereof by reference.
 - (6) "Fill" means any act by which soil, sand, gravel, rock or any other material is deposited, placed, pushed, dumped, pulled, transported, or moved to a new location. State land use commission and County zoning and other agencies' regulations on shoreline improvements are made a part hereof by reference.
 - (7) "Grading" means any excavation or fill or any combination thereof.
 - (8) "Grubbing" means any act by which vegetation, including trees, timber, shrubbery and plants, is removed, dislodged, uprooted or cleared from the surface of the ground.
 - (9) "Land surveyor" means a person duly registered as a professional land surveyor in the State.
 - (10) "Overburden" means a soil material overlaying another geologic formation.
 - (11) "Permittee" means the person or party to whom the permit is issued and shall include but not be limited to the property owner, his lessee, developer, agent, or attorney in fact.
 - (12) "Plasticity" means the property of a soil which allows it to be deformed beyond the point of recovery without cracking or appreciable volume change.
 - (13) "Sedimentation" means the deposition of erosional debris-soil sediment displaced by erosion and transported by water from a high elevation to an area of lower gradient where sediments are deposited as a result of slack water.
 - (14) "Soil and water conservation districts" means the legal subdivisions of the State of Hawai'i authorized under chapter 180, Hawai'i Revised Statutes.
 - (15) "Stockpiling" means the temporary storage of soil, sand, gravel, rock or other similar material in excess of five hundred cubic yards upon any premises for the purpose of using the material as fill material at some future time.

(1975, Ord. No. 168, sec. 1.2; Am. 1976, Ord. No. 190, sec. 1; Am. 2001, Ord. No. 01-108, sec. 3.)

Section 10-2. Hazardous conditions.

- (a) Whenever the director of public works determines that any existing excavation, fill, grubbing or stockpiling has become a hazard to property, or adversely affects the safety, use, or stability of a public way or drainage channel, the owner of the property upon which the excavation, fill, grubbing or stockpiling is located, or other person or agent in control of said property, upon receipt of notice in writing from the director of public works shall within the period specified therein repair or eliminate the hazard and be in conformance with the requirements of this chapter.
 - (b) The director of public works or the director's authorized representatives are hereby authorized to enter any property to determine or to enforce the provisions of this chapter.
- (1975, Ord. No. 168, sec. 1.3; Am. 1976, Ord. No. 190, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-3. Exclusions.

- (a) All work in this section must conform to the provisions of section 10-26 to be considered for exclusion.
- (b) This chapter shall not apply to the following:
 - (1) Mining or quarrying operations regulated by other County ordinance or governmental agencies.
 - (2) Grading within the building lines for basements and footings of a building, retaining wall, or other structure, authorized by a valid building permit.
 - (3) Grading and grubbing on individual cemetery plots.
 - (4) Sanitary filling and operation of rubbish dumps.
 - (5) Agricultural operations, including ranching incidental to or in conjunction with crop or livestock production and all other operations that are in conformance with soil conservation practices acceptable to the applicable soil and water conservation district directors and in accordance with an actively pursued comprehensive conservation program, providing:
 - (A) Such operations do not alter the general and localized drainage patterns with respect to abutting properties.
 - (B) A conservation program for the affected properties acceptable to and approved by the applicable soil and water conservation district directors is filed with the soil conservation district.
 - (C) The conservation program, with appropriate modifications is reviewed and re-approved by the soil and water conservation district directors periodically but not less than once every five years.
 - (6) Excavation which does not alter the general drainage pattern with respect to abutting properties, which does not exceed one hundred cubic yards of material on any one site, and does not exceed five feet in vertical height at its highest point; provided that the cut meets the cut slopes and the distance from property lines requirements in article 3 of this chapter.
 - (7) Fill which does not alter the general drainage pattern with respect to abutting properties, which does not exceed one hundred cubic yards of material on any one site and does not exceed five feet in vertical depth at its deepest point, provided that the fill meets the fill slopes and distance from property lines requirements in article 3 of this chapter.
 - (8) Grubbing which does not alter the general and localized drainage pattern with respect to abutting properties and does not exceed a total area of one acre.
 - (9) Exploratory excavations not to exceed fifty cubic yards under the direction of an engineer for the purpose of subsurface investigations required by the director of public works and provided that the director of public works has been advised in writing prior to the start of such excavation.

- (10) Clearing, excavation and filling required in conjunction with the installation of pole lines by electric, telephone and public utilities.

(1975, Ord. No. 168, sec. 1.4; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-4. Completion by County; recovery of cost.

- (a) In the event that any permittee under this chapter fails to:

- (1) Comply with all the terms and conditions of the permit to the satisfaction of the director of public works;
- (2) Complete all of the work authorized under the permit within the time limit specified in the permit;
- (3) Comply with all special precautions enumerated in section 10-24 and with all the requirements of the director of public works pursuant to section 10-24; or
- (4) Proceed under section 10-15(b); within thirty days after a permittee has been served with written notice thereof, either by mail or personal service, the council may order the permittee to be prosecuted as a violator of the provisions of this chapter and may order the director of public works to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council who shall cause the same to be paid. Such cost shall be charged to the permittee or owner or both of the premises involved.

- (b) The County may enforce payment of such cost in any manner provided by law, including proceedings under chapter 507, part II, Hawai'i Revised Statutes. For the purposes of the operation of part II of chapter 507, Hawai'i Revised Statutes, the permittee shall be deemed to come within the definition of "owner" as defined in said chapter; the County shall be deemed to come within the definition of "general contractor" as defined in that chapter and the execution of work specified in the notice shall be deemed a contract between the permittee and the County.

(1975, Ord. No. 168, sec. 2.8; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-5. Waivers.

In all applicable cases, if a permittee, supported by accompanied engineer's report, finds that strict adherence to the provisions of this chapter causes undue hardship or practical difficulty, the permittee may seek waivers from these provisions and the director of public works may grant a waiver with conditions if the director finds that the request will not likely create any problems to the adjoining properties nor endanger any life or limb nor be in conflict with existing ordinances and statutes.

(1975, Ord. No. 168, sec. 5; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-6. Appeals.

Any person aggrieved by the decision of the director of public works in the administration or application of this chapter, may, within thirty days after the director of public works' decision, appeal the decision to the board of appeals. The board of appeals may affirm the decision of the director of public works or it may reverse or modify the decision if the decision is:

- (a) In violation of this chapter or other applicable law;
- (b) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (c) Arbitrary, or capricious, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

The board of appeals shall adopt rules pursuant to chapter 91, Hawai'i Revised Statutes, necessary for the purposes of this section.

(1975, Ord. No. 168, sec. 6; Am. 1981, Ord. No. 729, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-7. Liability.

The provisions of this chapter shall not be construed to relieve or alleviate the liability of any person for damages resulting from performing, or causing to be performed, any grading, grubbing or stockpiling operation. The director of public works or any employee charged with the enforcement of this chapter, acting in good faith and without malice for the County in the discharge of their duties, shall not thereby render themselves liable personally and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any required act or omission in the discharge of their duties.

(1975, Ord. No. 168, sec. 4.2; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-8. Violations and penalty.

- (a) No person shall do any act forbidden, or fail to perform any act required by the provisions of this chapter.
- (b) The failure to comply with the requirements set forth under the provisions of this chapter shall be deemed a new offense for each day of such noncompliance.
- (c) Any person violating any of the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$500, or by imprisonment not to exceed fifty days, or both, for each offense.

(1975, Ord. No. 168, sec. 4.1.)

Article 2. Permits.**Section 10-9. Required.**

- (a) Except as excluded in section 10-3:
 - (1) No grading work shall be commenced or performed without a grading permit.
 - (2) No grubbing work shall be commenced or performed without a grubbing permit except where grubbing concerns land for which a grading permit has been issued.
 - (3) No stockpiling work shall be commenced or performed without a stockpiling permit.
- (b) No grading, grubbing, or stockpiling permit shall be issued without the director of public works' review of the applicant's compliance with the County general plan or with chapters [6E],* 205 and 343, Hawai'i Revised Statutes.

(1975, Ord. No. 168, sec. 2.1; Am. 2001, Ord. No. 01-108, sec. 1.)

* Editor's Note: Chapter 6, Hawai'i Revised Statutes, was repealed and replaced with chapter 6E, pursuant to Act 104, SLH 1976.

Section 10-10. Application.

- (a) An applicant for a grading, grubbing, or stockpiling permit shall first file an application on a form furnished by the County department of public works. Each application shall:
 - (1) Describe by tax key or street address the land on which the proposed work is to be done;
 - (2) State the estimated dates for the starting and completion of the proposed work; and
 - (3) Show the name of the permittee and owner including engineer, if applicable, who shall be responsible for the work to be performed by the engineer, the engineer's contractors and employees and for requesting the inspections required herein.
- (b) Each application for a grading permit shall also be accompanied by two sets of plans and specifications, including:
 - (1) For all areas:
 - (A) A vicinity sketch or other data adequately indicating the site location;
 - (B) Boundary lines of the property on which the work is to be performed;

- (C) Location of any buildings, structures, or designated historic and archaeological sites, on the property where the work is to be performed and location of any building or structure on land of adjacent property which is within fifteen feet of the property to be graded when the grading may affect the buildings, structures, or designated historic and archaeological sites;
 - (D) Contours showing the topography of the existing ground and extending five feet into adjacent property when required by the director of public works. The scale and contour are to be appropriate to the work in question;
 - (E) Elevations, dimensions, location, extent and the slopes of all proposed grading shown by contours and other means;
 - (F) The area in square feet of the land to be graded and the quantities of excavation and fill involved. Show separately quantities for excavation within and outside of building lines; and
 - (G) Any additional plans, drawings, or calculations required by the director of public works.
- (2) For grading of areas of more than fifteen thousand square feet, a contour map prepared by an engineer or land surveyor and approved by the director of public works and showing the contours and elevations of the land before and after the completion of the proposed grading. This map shall include the location of existing large trees, designated historic and archaeological sites, and definable rock outcroppings, lava tubes, detailed plans, and specifications of all drainage devices and utilities, including bank protection, walls, cribbing, dams, silting or sediment basins, landscaping, screen planting, erosion control planting, or other protective devices to be constructed in connection with, or as a part of the proposed work, together with a map showing the drainage area and estimated runoff of the area served by any drains.
- (3) Where a proposed cut or fill is greater than fifteen feet in height, or on land with slopes exceeding fifteen percent in an area with high plasticity soils, or when any fill is to be placed over a swamp, pond, gully, or lake, the permittee shall submit an engineer's soils report which shall include data regarding the nature, distribution and strength of existing soils and substantiating data from an engineer regarding the safety of the proposed grading, the fill, and the material to be used, and describing the cut sections showing the height, cut slope, benches, and material composing the cut bank.
- (c) An applicant for a grubbing permit shall furnish two sets of plot plans showing the location, the property boundaries, and any other pertinent information as may be required by the director of public works. Grubbing or land clearing by bulldozer for the purpose of making topographic survey shall not be permitted without an authorized grubbing permit. No permit will be required for cutting or bulldozing of trails for survey lines and access for soil exploration equipment.
- (d) An applicant for a stockpiling permit shall furnish two sets of plot plans showing the property lines and the location of the proposed stockpile, quantities, height of stockpile, duration of stockpile, source, and type of the material to be stockpiled and furnish any other pertinent information as may be required by the director of public works to control the creation of dust, drainage, or sedimentation problems. The plot plan for stockpiling shall be approved by the director of public works.
- (e) If no action (approval, disapproval, deferral, or modification) is taken by the director of public works within thirty days after submittal of the initial request the permit shall be deemed approved.
- (1975, Ord. No. 168, sec. 2.2; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-11. Fees.

- (a) Before issuing a grading permit, the director of public works shall collect a permit fee for grading on the same site based on the volume of excavation or fill, whichever is greater, according to the following schedule:

| Volume of Material | Permit Fee |
|----------------------------------|--|
| 0 — 100 cubic yards | \$5 |
| 101 — 1,000 cubic yards | \$5 for the first 100 cubic yards plus \$2 for each additional 100 cubic yards or fraction thereof. |
| 1,001 — 10,000 cubic yards | \$25 for the first 1,000 cubic yards plus \$2 for each additional 1,000 cubic yards or fraction thereof. |
| 10,001 cubic yards or more | \$41 for the first 10,000 cubic yards plus \$2 per 1,000 cubic yards or fraction thereof. |

- (b) Before issuing a grubbing permit, the director of public works shall collect a permit fee of \$5 for grubbing in excess of one acre, plus \$2 for each additional five acres or fraction thereof.
 - (c) Before issuing a stockpiling permit the director of public works shall collect a permit fee of \$5 for stockpiling in excess of the first five hundred cubic yards plus \$2 for each additional one thousand cubic yards or fraction thereof.
 - (d) Where work for which a permit is required by this chapter is started or proceeded prior to obtaining the permit, the fees specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this chapter in the execution of the work nor from any other penalties prescribed herein.
 - (e) When grading, grubbing, or stockpiling is performed by or on behalf of the County, State, or Federal government, the director of public works shall waive the collection of any permit fee required in subsections (a), (b), and (c) above.
 - (f) All permit fees shall be deposited in the general fund.
- (1975, Ord. No. 168, sec. 2.4; Am. 1986, Ord. No. 86-124, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-12. Conditions and limitations.

- (a) The issuance of a grading permit shall constitute an authorization to do only that work which is described on the permit and on the plans and specifications approved by the director of public works.
- (b) Permits issued under the requirements of this chapter shall not relieve the owner of responsibility for securing required permits for work to be done which is regulated by any other code, department or division of the governing agency.
- (c) In granting any permit, the director of public works may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property. Such conditions may include, but shall not be limited to:
 - (1) Improvement of any existing grading to bring it up to the standards of this chapter;
 - (2) Requirements for fencing of excavations or fills which otherwise would be hazardous;
 - (3) Screen planting, landscaping, erosion control planting, or other treatments to maintain good appearance of graded area and reduce the detrimental impact on adjacent properties of the community;
 - (4) Cleaning up the area; and
 - (5) Days and hours of operation.

(1975, Ord. No. 168, sec. 2.3; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-13. Expiration.

- (a) Every grading or grubbing permit shall expire and become void unless the work permitted herein is started within ninety days after the date of issuance or within ninety days after the completion date

specified thereon but not later than one year after the date of issuance. Extension of time may be granted if, in the judgment of the director of public works, the work authorized under the permit would not be exceeded. In such cases, no additional fee will be imposed.

- (b) Every stockpiling permit shall expire and become void one year after the date of issuance. All stockpiled material temporarily stored on the premises shall be removed from the premises or used on the premises as fill material under a grading permit for fill prior to the expiration date. Extension of time may be granted if, in the judgment of the director of public works, the work authorized under the permit would not be exceeded. In such cases, no additional fee will be imposed.

(1975, Ord. No. 168, sec. 2.5; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-14. Denial.

- (a) If the director of public works finds that the work as proposed by the applicant is likely to endanger any property or public way or structure or endanger the public health or welfare, the director shall deny the grading, grubbing or stockpiling permit. Factors to be considered in determining probability of hazardous conditions shall include, but not be limited to, possible saturation of the ground by rains, earth movements, geological or flood hazards, undesirable surface water runoff, subsurface conditions such as the stratification and faulting of rock and the nature and type of soil or rock.
- (b) Failure of the director of public works to observe or recognize hazardous conditions or the director's failure to deny the grading, grubbing or stockpiling permit shall not relieve the permittee or the permittee's agent from being responsible, or cause the County, its officers or agents, to be held responsible for the conditions or damages resulting therefrom.

(1975, Ord. No. 168, sec. 2.6; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-15. Suspension or revocation.

- (a) The director of public works may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever:
 - (1) The permit has been issued on the basis of incorrect or insufficient information supplied by the permittee;
 - (2) The grading, grubbing, or stockpiling is not being performed in accordance with the terms and provisions of the permit; or
 - (3) The grading, grubbing, or stockpiling discloses objectionable or unsafe conditions.
- (b) When a permit has been suspended or revoked, the permittee may submit detailed plans and proposals for compliance with the provisions of this chapter and for correcting the objectionable or unsafe conditions. Upon approval of such plans and proposals by the director of public works, the director may authorize the permittee in writing, to proceed with the work.

(1975, Ord. No. 168, sec. 2.7; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-16. Construction prohibited prior to grading.

No construction of any structure upon the premises involved shall be permitted until the director of public works has received the notice of completion that the grading, grubbing, or stockpile work has been completed in accordance with the grading permit.

(1975, Ord. No. 168, sec. 2.9; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-17. Inspections.

- (a) Each permit issued under this chapter shall be deemed to include the right of the director of public works or the director's authorized representatives to enter upon and to inspect the grading, grubbing, or stockpiling operations.

- (b) The permittee shall notify the director of public works at least two days before the permittee or the permittee's agent begins any grading, grubbing or stockpiling. A copy of the permit, approved plans and specifications for grading, grubbing, or stockpiling shall be maintained at the site during the progress of any work. Where it is found by inspection that the soil or other conditions are not the same as stated or shown in the application for grading, grubbing, or stockpiling permit, the director of public works may stop the grading, grubbing, or stockpiling until revised plans, based upon the existing conditions, are submitted by the permittee and approved by the director of public works. Approval or disapproval of applicant's revised plan shall be made within fourteen days from the date of receipt by the director of public works.
- (c) If the director of public works or the director's representative finds that the work is not being done in conformance with this chapter or the plans and specifications approved by the director of public works, the director shall immediately notify the person in charge of the grading work of the nonconformity and immediately notify the responsible party of need for corrective measures to be taken. Grading operations shall cease until corrective measures satisfactory to the director of public works have been taken.
- (d) When a permittee has been served with a written notice, either by mail or personal service for failure to comply with any provision of this chapter, or when a permittee has had the permittee's permit suspended or revoked by the director of public works, the permittee and any person connected with execution of the work authorized by the permit shall be denied a grading, grubbing, or stockpiling permit for such work until the permittee has complied and initiated action satisfactory to the director of public works to comply with the provisions of this chapter.

(1975, Ord. No. 168, sec. 2.10; Am. 2001, Ord. No. 01-108, sec. 1.)

Article 3. Conditions and Specifications.

Section 10-18. Conditions of permit.

- (a) The requirements of this section may be waived by the director of public works after the permittee submits an engineer's soils report substantiating data regarding the stability of the cut or fill slopes without complying with any of the requirements therein.
 - (1) Height. Where a cut or fill is greater than fifteen feet in height, terraces or benches shall be constructed at vertical intervals of fifteen feet except that where only one bench is required, it shall be at the midpoint. The minimum width of such terraces or benches shall be eight feet or as determined by the director of public works, based upon the type of material encountered and shall have suitable drainage provisions to control erosion on the slope face.
 - (2) Cut Slopes. Under the following soil conditions, no cut may be steeper in slope than the ratio of its horizontal to its vertical distance as shown below:
 - ½ horizontal to 1 vertical in unweathered rock;
 - 1½ horizontal to 1 vertical in decomposed rocks or rock and soil mixture;
 - 2 horizontal to 1 vertical in low plasticity soils;
 - 3 horizontal to 1 vertical in high plasticity soils for cuts up to five feet in vertical depths.
 Slopes for cuts exceeding this depth shall be as recommended in the engineer's soils report.
 - (3) Fill Slopes. Under the following soil conditions, no fill may be steeper in slope than the ratio of its horizontal to its vertical distance as shown below:
 - 1½ horizontal to 1 vertical in rock and soil mixture;
 - 2 horizontal to 1 vertical in low plasticity soils;
 - 3 horizontal to 1 vertical in high plasticity soils for fills up to five feet in vertical height.
 Slopes for fills exceeding this height shall be as recommended in the engineer's soils report.

(1975, Ord. No. 168, sec. 3.1; Am. 1986, Ord. No. 86-6, sec. 1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-19. Distance from property line of cut or fill slope.

- (a) The horizontal distance from the top of a cut slope or the bottom of a fill slope to the adjoining property line shall be as follows:

| Height of Cut or Fill | Distance from Property Line (in feet) |
|------------------------------|--|
| Zero feet to 4 feet | 2 |
| More than 4 feet to 8 feet | 4 |
| More than 8 feet to 15 feet | 6 |
| More than 15 feet | 8 |

These requirements may be modified by the director of public works when cuts or fills are supported by retaining walls, approved by the building department, or when the permittee submits an engineer's soils report stating that the soil conditions will permit a lesser horizontal distance without causing damage or danger to the adjoining property.

- (b) A retaining wall of six feet and over shall be designed by a professional engineer when deemed necessary by the director of public works. Setback requirements of the County zoning ordinance are referenced herein and the State land use commission and County zoning ordinance and other agencies' requirements on shoreline improvements shall be complied with.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-20. Maximum cleared area.

The maximum area of land that may be cleared for grading or grubbing is twenty acres. The area of land that may be cleared may be increased or reduced by the director of public works to control pollution and minimize storm damage. Additional area shall not be cleared for grading or grubbing until measures to prevent dust or erosion problems in the area already graded or grubbed have been completed.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-21. Fill materials.

The fill material may consist of rock, gravel, sand, soil, or a mixture thereof. Except for slopes, the fill shall be compacted to ninety percent of maximum density as determined by the ASTM soil compaction test D1557, as amended. The director of public works shall inspect the work and may require adequate inspection and compaction control substantiated by test results by an engineer qualified to prepare an engineer's soils report. These requirements may be modified by the director of public works if the permittee submits an engineer's soils report substantiating with appropriate investigation and analysis that the required ninety percent compaction density may be lowered without causing excessive settlement, creep, or stability problems.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-22. Preparation of ground surface; vegetation.

- (a) Before placing fill or stockpiling, the natural ground surface shall be prepared by removing the vegetation and, if required by the director of public works, shall be keyed by a series of benches. No fill shall be placed over any water spring, marsh, refuse dump, nor upon a soggy or springy foundation, provided that this requirement may be waived by the director of public works if the permittee submits an engineer's soils report substantiating data regarding the safety of the fill.

- (b) Whenever feasible natural vegetation should be retained. If removed, trees, timber, plants, shrubbery, and other vegetation, after being uprooted, displaced, or dislodged from the ground by excavation, clearing, or grubbing, shall not be stored or deposited along the banks of any stream, river, or natural water course. After being uprooted, displaced or dislodged, such vegetation shall be disposed of and removed from the site within a reasonable time, but not to exceed three months. Exceptions providing for burial in open areas may be allowed as determined by the director of public works.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-23. Report after grading; notification on completion.

- (a) When grading involves cuts or fills for which an engineer's soils report is required, the permittee shall submit a report summarizing the construction technique and inspection data as well as a statement regarding conformity to this chapter and the project specifications.
- (b) The permittee or the permittee's agent shall notify the director of public works or the director's representative when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage structures and their protective devices have been completed and the required reports have been submitted.

(1975, Ord. No. 168, sec. 3.1; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-24. Special conditions and requirements.

- (a) Any person performing or causing to be performed an excavation or fill shall, at that person's own expense, provide the necessary means to prevent the movement of earth of the adjoining properties, to protect the improvements thereon, and to maintain the existing natural grade of adjoining properties.
- (b) Any person performing or causing to be performed, any excavation or fill shall be responsible for the maintenance or restoration of street pavements, sidewalks, curbs, and improvements of public utilities which may be affected. The maintenance or restoration of street pavements, sidewalks and curbs shall be performed in accordance with the requirements of the County and the maintenance and restoration of improvements of public utilities shall be in conformity with the standards of the public utilities companies affected.
- (c) Any person depositing or causing to be deposited, any silt or other debris in ditches, water courses, drainage facilities, and public roadways, shall remove such silt or other debris. In case such person shall fail, neglect, or refuse to comply with the provisions of this section within forty-eight hours after written notice, served upon the person, either by mail or by personal service, the director of public works may proceed to remove the silt and other debris or to take any other action the director deems appropriate. The costs incurred for any action taken by the director of public works shall be paid by such person.
- (d) At any stage of the grading, grubbing or stockpiling work, if the director of public works finds that further work as authorized by an existing permit is likely to create soil erosion problems or to endanger any life, limb, or property, the director may require safety precautions, which may include but shall not be limited to the construction of more gradual slopes, the construction of additional silting or sediment basins, drainage facilities or benches, the removal of rocks, boulders, debris, and other dangerous objects which, if dislodged, are likely to cause injury or damage, the construction of fences or other suitable protective barriers, the planting and sodding of slopes and bare areas and the performance of additional soil compaction. All planted or sodded areas shall be maintained. An irrigation system or watering facilities may be required by the director of public works.
- (e) At any stage of the grading, grubbing, or stockpiling operations, if the director of public works finds that further work as authorized by an existing permit is likely to create dust problems which may jeopardize health, property, or the public welfare, the director of public works may require additional dust control

precautions and, if these additional precautions are not effective in controlling dust, may stop all operations. These additional dust control measures may include such items as sprinkling water, applying mulch treated with bituminous material, or applying hydro mulch.

(1975, Ord. No. 168, sec. 3.2; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-25. Drainage.

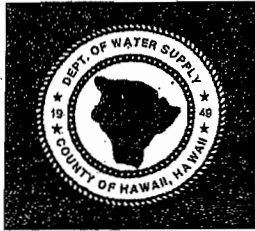
- (a) Adequate provisions shall be made to prevent surface waters from damaging the cut face of an excavation or the sloping surfaces of a fill. All drainage provisions shall be designed to carry surface waters to a street, storm drain, natural water course, or other area, approved by the director of public works as a safe place to deposit and receive such waters. The director of public works may require such drainage structures and pipes to be constructed or installed, which in his opinion, are necessary to prevent erosion damage and to satisfactorily carry off surface waters.
- (b) Whenever the surface of a lot is excavated or filled, positive drainage shall be provided to prevent the accumulation or retention of surface water in pits, gullies, holes, or similar depressions which may create a hazard or nuisance.
- (c) The flow of any existing and known natural underground drainage shall not be impeded or changed so as to cause damage to adjoining property.

(1975, Ord. No. 168, sec. 3.3; Am. 2001, Ord. No. 01-108, sec. 1.)

Section 10-26. Erosion and sedimentation control.

All grading, grubbing, and stockpiling permits and operations shall conform to the erosion and sedimentation control standards and guidelines established by the department of public works in conformity with chapter 180C, Hawai'i Revised Statutes.

(1975, Ord. No. 168, sec. 3.4.)



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKUAANOA STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 13, 2001

William Moore Planning
159 Halai Street
Hilo, HI 96720

SUBDIVISION APPLICATION NO. 2000-172
APPLICANT: McCLEAN HONOKOHAU PROPERTIES
TAX MAP KEY: 7-4-008:026 AND 049

We have reviewed your letter of August 8, 2001, and have the following comments.

For your information, the following is a break down of the 63 units of water committed to the property, Facilities Charge (FC), and Capital Assessment Fee (CAF), which are subject to change:

| Number of Units | |
|--|-------------------------------|
| Equivalent units for a 2-inch meter (FC and CAF paid) | 50 |
| Kealakekua Source Agreement (FC paid) | 1 |
| 2 existing lots with services (Existing services) | 2 |
| Water commitment for 10 additional units, which will expire on January 1, 2003 | <u>10</u> |
| Total number of units | <u>63</u> |
| | |
| Facilities Charge (FC) for 10 Additional Units | |
| Total (FC) for 10 additional units at \$4,350.00/unit | \$43,500.00 |
| Water commitment deposit credit for 10 additional units at \$150.00/unit | - 1,500.00 |
| Water commitment deposit for 2 additional units (committed and not required) | - 300.00 |
| Facilities charge balance | \$41,700.00 |
| | |
| Capital Assessment Fee (CAF) for 10 additional units | |
| Total (CAF) for 10 additional units at \$500.00 (CAF)/unit | <u>\$ 5,000.00</u> |
| Total amount due for 63 units | <u>\$46,700.00</u> |

Please be informed that the above facilities charge (FC) and the capital assessment fee (CAF) amounts are subject to change.

Should there be any questions, please call our Water Resources and Planning Branch at 961-8070.

Sincerely yours,

Milton D. Pavao, P.E.
Manager

WA:jh

copy - Planning Department
✓ McClean Honokohau Properties, Inc.

... Water brings progress...

EXHIBIT 12



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKUANAOA STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

August 21, 2001

McClellan Honokohau Properties
P.O. Box 3000
Kailua-Kona, HI 96745

SUBDIVISION APPLICATION NO. 2000-172
TAX MAP KEY: 7-4-008:026 AND 049

This is to acknowledge receipt of the required facilities charge balance and capital assessment fee of \$41,700.00 and \$5,000.00, respectively, for the proposed subdivision development. We are enclosing receipt No. 226422 for your files.

Should there be any questions, please call our Water Resources and Planning Branch at 961-8070.

Sincerely yours,

Milton D. Pavao, P.E.
Manager

WA:jh

Enc.

copy - Planning Department
William Moore Planning

...Water brings progress...



August 1, 2003
2002-33-4300/03E-531

Mr. William Wong, P.E., Chief
Safe Drinking Water Branch
State of Hawaii Department of Health
919 Ala Moana Boulevard, Room 308
Honolulu, Hawaii 96814

Attn: Mr. Norris Uehara

Dear Mr. Uehara:

**Request for Cesspool Determination for
Honokohau Properties, Lot 3 Warehouse – Phase 1
Honokohau, North Kona, Hawaii**

We are hereby requesting a determination as to whether the proposed cesspool for the above project, a warehouse building, is considered a large capacity cesspool, and if it is not considered a large capacity cesspool, we would like confirmation that an underground injection control (UIC) permit will not be required. Plans call for the project site (see Figure 1) to ultimately house four warehouse buildings; however, the current project (Phase 1) consists of the following:

- grading of approximately half of the site;
- installation of the required infrastructure (water, wastewater, drainage, fire, etc.) for this phase; and
- construction of a single warehouse building.

Honolulu
Guam
Hong Kong
Philippines
Seattle
Singapore
Thailand

The proposed cesspool (see attached design calculations) will serve a single warehouse building, which consists of eight bays. This building will accommodate approximately 40 workers. The estimated total volume of wastewater generated would be 600 gallons per day.

Please review the enclosed documentation and advise us, in writing, of your determination regarding the proposed cesspool. Should you need any additional information or wish to discuss this request further, please contact Vanessa Kawamura or me at (808) 521-5361.

Sincerely,

BELT COLLINS HAWAII LTD.

Walter A. Billingsley, P.E.

VRK:jm

cc: ✓ Mr. Robert McClean, Honokohau Properties
Mr. Dane Hiromasa, DOH Wastewater Branch, Kona

Enclosures: Figure 1 – Project Site Location
Cesspool Design Calculations

Belt Collins Hawaii Ltd.

2153 North King Street, Suite 200 ■ Honolulu, Hawaii 96819-4554 USA

T/808 521 5361 ■ F/808 538 7819 ■ honolulu@beltcollins.com ■ www.beltcollins.com

Belt Collins Hawaii is an Equal Opportunity Employer

EXHIBIT 13

LINDA LINGLE
GOVERNOR OF HAWAII

RECEIVED

2003 SEP -9 PM 2:08

BELT COLLINS HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH

P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

September 4, 2003

| | | |
|----------------------|---------------|-------|
| _____ | Bull, J. | _____ |
| _____ | Byrnes, A. | _____ |
| _____ | Hirata, P. | _____ |
| _____ | Warr, J. | _____ |
| _____ | Agona, L. | _____ |
| ✓ | Falsh, G. | EF |
| _____ | Wasserman, P. | _____ |
| ✓ | El-Sayid, W. | WAB |
| _____ | Chung, J. | _____ |
| _____ | Chang, B. | _____ |
| _____ | Choi, H. | _____ |
| ✓ | Kato, A. | _____ |
| _____ | Kondo, G. | _____ |
| _____ | Lee, L. | _____ |
| _____ | Lum, D. | _____ |
| _____ | McIntyre, R. | _____ |
| _____ | Morgan, E. | _____ |
| _____ | Carroll, T. | _____ |
| _____ | Prater, M. | _____ |
| _____ | Finch, A. | _____ |
| _____ | Ueda, Chuan | _____ |
| _____ | Yoshizawa, J. | _____ |
| _____ | Young, J. | _____ |
| Job No. 2002.33.4300 | | |

CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

In reply, please refer to:
EMO/SDWB

VRK

Mr. Walter A. Billingsley, P.E.
Belt Collins Hawai'i Ltd.
2153 North King Street, Suite 200
Honolulu, Hawai'i 96819-4554

Dear Mr. Billingsley:

SUBJECT: REPLY TO YOUR 8/1/2003 LETTER REGARDING
CESSPOOL DETERMINATION FOR
HONOKOHAU PROPERTIES, LOT 3 WAREHOUSE - PHASE I
HONOKOHAU, NORTH KONA, HAWAII

Based on the information submitted, the preliminary determination is that the proposed cesspool, at a wastewater discharge volume of 600 gallons per day, is not a large-capacity cesspool. Therefore, the Hawai'i Underground Injection Control (UIC) permitting requirements for an injection well are not applicable.

Please heed the following conditions that may affect the status of the cesspool, especially when actual building-permit applications occur from prospective tenants:

1. The Department of Health's Wastewater Branch requires specific information regarding wastewater generation and characteristics, the property's tax map key number, the site layout, and the type of wastewater fixtures to be installed in the building. The Wastewater Branch's review of these details will lead to a final determination affecting the type of individual wastewater system that would be permissible;
2. Wastewater from industrial, commercial/processing, manufacturing, animal waste, aquaculture, runoff, and more do not qualify for exclusion from UIC regulations, regardless of the wastewater discharge volume. Facilities (tenants) having such waste-streams should not expect to use a cesspool for wastewater disposal;

Mr. Walter A. Billingsley
September 4, 2003
Page 2

3. Domestic wastewater flows exceeding 1000 gallons per day into the cesspool is a large-capacity cesspool. The construction of any new large-capacity cesspool is prohibited;
4. Motor-vehicle waste disposal wells, or any subsurface disposal system of such wastes, are prohibited;
5. Where appropriate, the precautionary remarks of items No. 1, 2, 3, and 4 above should be disclosed in documents or building plans that would affect the selection of tenants or activities having special wastewater disposal needs; and
6. The contents of this letter does not preclude the U.S. Environmental Protection Agency's (EPA) review and action regarding large-capacity cesspools, injection wells, and matters related to Underground Injection Control.

If you have any questions about this subject, please call Chauncey Hew of the Safe Drinking Water Branch at 586-4258.

Sincerely,



WILLIAM WONG, P.E., CHIEF
Safe Drinking Water Branch
Environmental Management Division

CH:nbp

- c: 1. Harold Yee, Wastewater Branch
2. Shannon FitzGerald
Ground Water Office
U.S. EPA, Region 9
75 Hawthorne St., (WTR-9)
San Francisco, CA 94105



September 19, 2003
2002.33.4300 / 03E662

Mr. Dane Hiromasa
Kealekekua Health Office
Wastewater Branch
Department of Health
State of Hawaii
81-980 Halekii Street, Suite 103
Kealakekua, HI 96750

Dear Mr. Hiromasa:

**Honokohau Industrial Park Subdivision,
Honokohau Properties, Lot 3 Warehouse - Phase 1
Honokohau, North Kona, Hawaii**

We are providing civil engineering design services for the proposed Honokohau Properties, Lot 3 Warehouse – Phase 1 at Honokohau Industrial Park Subdivision, Honokohau, Hawaii, at Tax Map Key: 7-4-24: Portion of 001. The project consists of grading the *mauka* portion (approximately 2.03 acres) of the 6.23-acre lot, installing the utilities (water, sewer and drainage), constructing one warehouse building, and paving the driveways and parking area around this building. Riehm Owensby Planner Architects is preparing the construction plans for the warehouse building.

Honolulu
Guam
Hong Kong
Philippines
Seattle
Singapore
Thailand

The project includes the installation of one (1) cesspool to dispose of domestic wastewater from the warehouse building. Six (6) seepage wells capture and percolate runoff into the ground. The seepage wells are six (6)-foot diameter wells with a depth of approximately five feet.

Enclosed for your review and approval is one (1) set of the civil construction plans for the project. If you have any questions or require any additional information, please contact our office. Thank you.

Very truly yours,

BELT COLLINS HAWAII LTD.

Vanessa R. Kawamura

VRK:va
Enclosure

cc: ~~Mr. Robert McClean~~ Honokohau Properties (w/o attachments)
Mr. Michael Riehm, ROPA (w/o attachments)

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

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

In reply, please refer to:
EMD /WB

DEPARTMENT OF HEALTH - WASTEWATER BRANCH
INDIVIDUAL WASTEWATER SYSTEM (IWS)
OWNER'S CERTIFICATION FORM

Subject: Individual Wastewater System for Honokohau Industrial Park Subdivision
Lot 3 Warehouse - Phase 2
Tax Map Key (TMK) Number: (3) 7 - 4 - 24 : Portion of 001
Mailing Address: P.O. Box 3000
Kailua-Kona, HI 96745-3000

I, Honokohau Properties/Robert McClean hereby certify that I am the owner(s) of the
(please print name)
subject property and that I have read the following and shall comply with all provisions. Failure
to comply with any or all of the provisions can lead to imposition of the penalties and remedies
as provided for in Administrative Rule, Title 11, Chapter 62, Section 11-62-42, Penalties and
remedies.

1. I certify that as the owner of the Individual Wastewater System (IWS) serving the
subject property, the IWS will be inspected, operated and maintained in
accordance with the operation and maintenance manual developed by my IWS
design engineer section (section 11-62-31.1(e)(2)).

Furthermore, if an aerobic unit is utilized for wastewater treatment, an active
service contract for the proper operation and maintenance shall be maintained at
all times (section 11-62-33.1.(b)(3)).

2. I understand and shall comply with the provision of section 11-62-08 (g) which
requires that the IWS be constructed by a licensed contractor.

Furthermore, the licensed contractor information form shall be completed and
submitted to the Department prior to final inspection.

3. I understand and shall comply with the provisions of section 11-62-31.(f) which
states that the IWS must be inspected and approved of by the Department prior to
use.

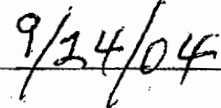
Furthermore, I shall instruct and require my contractor to leave uncovered for inspection, various parts of the IWS system. These parts include manhole/access openings, distribution boxes, ends of trenches to visually see gravel, pipe and geotextile fabrics used and/or seepage pit openings. I understand that I will be required to re-expose these areas if at the time of inspection they are not visible.

4. I understand and shall comply with the provisions of section 11-62-31.1.(e)(2) which required me to certify upon sale or transfer of the subject property, that the appropriate transfer or sales documents and provisions shall bind the new owners to the operation and maintenance provisions referenced in item 1 above.
5. I understand and shall submit any and all changes made to my IWS plans to the Department (section 11-62-08(b)) for review and approval. Changes to the approved IWS plans that need to be submitted to the Department include but are not limited to the following -changes in location of any component of the wastewater system, changes in the type of products used, changes in the disposal system methods, changes in the dwellings/buildings location or size and changes in the design engineer for the IWS.

Signed:


For Honokohau Properties

Dated:



LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

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

In reply, please refer to:
File:

March 3, 2005

Mr. Stephen J. Herbert, P.E.
74-5606 Pawai Place, #203
Kailua-Kona, Hawaii 96740

Dear Mr. Herbert:

Subject: Individual Wastewater System (IWS) Plans for
Aloha Aina Homes
Project Site: 74-5039d Kaahumanu, Honokohau, Hawaii
TMK: (3) 7-4-024: 002
IWS File No.: 5250

IWS plans consisting of a septic tank and soil absorption bed to serve restrooms in a new manufacturing building located at the above site have been reviewed by the Wastewater Branch for conformance to applicable provisions of Hawaii Administrative Rules, Title 11, Chapter 62, entitled "Wastewater Systems." The IWS plan conforms to applicable provisions of Chapter 11-62.

The Department of Health will sign an applicable county building permit application provided that all information submitted as part of the IWS plan and county building permit application are consistent with each other and meet applicable provisions of Chapter 11-62 at the time of permit signature.

As the professional engineer responsible for the design of the above wastewater plan, it is your responsibility to inform the owner/lessee of the property that a) the IWS plans must be attached to each set of permit construction plans, b) the IWS must be installed by a licensed contractor, c) inspected by the engineer, and d) authorized in writing by the Department before use.

Should you have any questions, please feel free to contact Mr. Dane Hiromasa at 322-1507.

Sincerely,

Handwritten signature of Harold K. Yee in black ink.

HAROLD K. YEE, P.E.
Chief, Wastewater Branch

DH:cle

Attachment



June 23, 2005
2002.33.4300 / 05E-343

Mr. Dane Hiromasa
Kealakekua Health Office
Department of Health, Wastewater Branch
State of Hawaii
81-980 Halekii Street, Suite 103
Kealakekua, HI 96750

Dear Mr. Hiromasa:

**Honokohau Industrial Park Subdivision,
Honokohau Properties, Lot 3 Warehouse - Phase 3
Honokohau, North Kona, Hawaii**

We are providing engineering design services for the proposed Honokohau Properties, Lot 3 Warehouse - Phase 3 at Honokohau Industrial Park Subdivision, Honokohau, Hawaii, at Tax Map Key: 7-4-24: Portion of 001. The project consists of grading the makai portion (approximately 2.38 acres) of the 6.23 acre lot, installing the on-site utilities (water, sewer and drainage), constructing the third and fourth warehouse buildings on the site, and paving the driveways and parking area around the buildings. Riehm Owensby Planners Architects is preparing the construction drawings for the warehouse buildings.

Honolulu
Guam
Hong Kong
Philippines
Seattle
Singapore
Thailand

The project includes the installation of two (2) individual wastewater systems to dispose of domestic wastewater from the warehouse buildings. Seven (7) seepage wells capture and percolate runoff into the ground. The seepage wells are 6-foot diameter wells with a depth of approximately 5 feet.

Enclosed for your review and approval is one (1) set of the civil construction plans for the project. If you have any questions or require additional information, please contact our office. Thank you.

Very truly yours,

BELT-COLLINS HAWAII LTD.

Alan M. Kato, P.E.

AMK:aca
Enclosure
cc: Mr. Robert McClean, Honokohau Properties (w/o enc.)
Mr. Michael Riehm, ROPA (w/o enc.)

LINDA LINGLE
GOVERNOR OF HAWAII



RECEIVED

CHYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

2005 NOV -2 PM 2:23

BELT COLLINS HAWAII

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

October 26, 2005

Mr. Walter Billingsley, P.E.
Belt Collins Hawaii, Ltd.
2153 North King Street, Ste. 200
Honolulu, Hawaii 96819-4554

Dear Mr. Billingsley:

Subject: Individual Wastewater System (IWS) Plans for
Honokohau Properties
Project Site: Honokohau/kaman, North Kona, Hawaii
TMK: (3) 7-4-024:001
IWS File #: 5280

| | | |
|----------------------|----------------------------|-------|
| _____ | DeL. J. | _____ |
| _____ | In reply, please refer to: | _____ |
| _____ | Ames, A. | _____ |
| _____ | Vierra, J. | _____ |
| _____ | Terry, M. | _____ |
| _____ | Agens, L. | _____ |
| _____ | Palish, C. | _____ |
| ✓ | Billingsley, W. | WBS |
| _____ | Chung, J. | _____ |
| _____ | Cunningham, B. | _____ |
| _____ | Griho, K. | _____ |
| _____ | Hamura, S. | _____ |
| ✓ | Kato, A. | _____ |
| _____ | Kondo, C. | _____ |
| _____ | Lee, L. | _____ |
| _____ | Lin, C. | _____ |
| _____ | Matsunaga, R. | _____ |
| _____ | Miyashiro, E. | _____ |
| _____ | Norcross, D. | _____ |
| _____ | Onuma, T. | _____ |
| _____ | Rivera, A. | _____ |
| _____ | Tamashiro, E. | _____ |
| _____ | Turro, Y. | _____ |
| _____ | Young, J. | _____ |
| Job No. 2002-33-4300 | | |

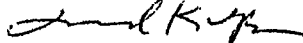
IWS plans consisting of a septic tank and soil absorption bed to serve a new office located at the above site have been reviewed by the Wastewater Branch for conformance to applicable provisions of Hawaii Administrative Rules, Title 11, Chapter 62, entitled "Wastewater Systems." The IWS plan conforms to applicable provisions of Chapter 11-62.

The Department of Health will sign an applicable county building permit application provided that all information submitted as part of the IWS plan and county building permit application are consistent with each other and meet applicable provisions of Chapter 11-62 at the time of permit signature.

As the professional engineer responsible for the design of the above wastewater plan, it is your responsibility to inform the owner/lessee of the property that a) the IWS plans must be attached to each set of permit construction plans, b) the IWS must be installed by a licensed contractor, c) inspected by the engineer, and d) authorized in writing by the Department before use.

Should you have any questions, please feel free to contact the Wastewater Branch at 586-4294.

Sincerely,


HAROLD K. YEE, P.E., CHIEF
Wastewater Branch

DH:cle

LINDA LINGLE
GOVERNOR OF HAWAII



CHEYOME LEINAALA-FUKINO, M.D.
DIRECTOR OF HEALTH

**STATE OF HAWAII
DEPARTMENT OF HEALTH**

P.O. BOX 9378
HONOLULU, HAWAII 96801

January 4, 2007

In reply, please refer to:
EMD /WB

Mr. Yen Wen Fang
Engineering Partners, LLC
P.O. Box 4159
Hilo, Hawaii 96720

Dear Mr. Fang:

Subject: Individual Wastewater System (IWS) Plans for
Robert McClean
Project Site: Honokohau, North Kona, Hawaii
TMK: (3) 7-4-024: 004
IWS File No. : 6489

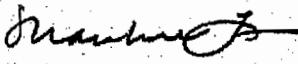
IWS plans consisting of a septic tank and soil absorption bed to serve a new commercial space located at the above site have been reviewed by the Wastewater Branch for conformance to applicable provisions of Hawaii Administrative Rules, Title 11, Chapter 62, entitled "Wastewater Systems." The IWS plan conforms to applicable provisions of Chapter 11-62.

The Department of Health will sign an applicable county building permit application provided that all information submitted as part of the IWS plan and county building permit application are consistent with each other and meet applicable provisions of Chapter 11-62 at the time of permit signature.

As the professional engineer responsible for the design of the above wastewater plan, it is your responsibility to inform the owner/lessee of the property that a) the IWS plans must be attached to each set of permit construction plans, b) the IWS must be installed by a licensed contractor, c) inspected by the engineer, and d) authorized in writing by the Department before use.

Should you have any questions, please feel free to contact Mr. Dane Hiromasa of the Wastewater Branch at 322-1963.

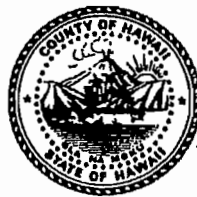
Sincerely,


HAROLD K. YEE, P.E.
Chief, Wastewater Branch

DH:lmh

Attachment

Harry Kim
Mayor



LAND USE COMMISSION
STATE OF HAWAII

Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii AUG 20 A 8 40

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

August 18, 2008

Orlando Davidson, Executive Officer
State Land Use Commission
P.O. Box 2359
Honolulu, HI 96804-2359

Dear Mr. Davidson:

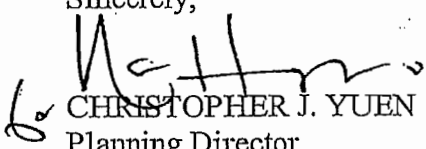
LUC Docket No. A89-643 for McClean Honokohau Properties; REZ 744 & LUC 774
Subject: 2008 Annual Progress Report
Tax Map Key: (3) 7-4-24: 1, 2, 4, 6-12

This is to acknowledge receipt of the annual progress report submitted to the LUC by Smolenski & Wooddell on behalf of McClean Honokohau Properties.

The petitioner has requested that Condition Nos. 4, 5, 6, 7 and 10 for Increment I be released. Condition Nos. 4, 5, 7 and 10 have been fulfilled and therefore we have no objections to these conditions being released. However, before we can support the release of Condition No. 6, please provide a copy of the adopted tenant rules for eliminating the risk of spills of pollutants.

If you have any questions, please feel free to contact Norman Hayashi or Maija Cottle at (808) 961-8288, ext 205 and 253, respectively.

Sincerely,


CHRISTOPHER J. YUEN

Planning Director

MJC:smn

P:\wpwin60\Maija\Letters\Annual Reports\LSLU-McCleanHonokohau-062008-LUC774-REZ744.doc

cc w/ report: Planning Commission
Planning Department – West Hawaii Office

cc w/out report: Robert J. Smolenski
Robert S. McClean

EXHIBIT 14

CUSTOMER COPY

Cust 3-3-1
H-W/G



August 9, 1995

Honokohau Properties
P O Box 3000
Kailua-Kona, Hawaii 96745

Attention: Robert S McClean

Gentlemen:

Subject: Robert S McClean Industrial Development, Honokohau, North Kona

This proposal is in reply to your request concerning the installation of an overhead electrical distribution system to serve the above subject development.

Our Company will provide, install, and maintain 14 poles, 12 anchors, and 3,400 circuit feet of primary conductors in accordance with our enclosed Drawing No. 95-E-67.

Our Company will make this installation in accordance with Rule No. 13 of our Company's Tariff as approved by the Public Utilities Commission and our attached copy of "General Requirements for Installation of Overhead Electrical Distribution Systems in Subdivisions/ Developments" dated March 1, 1983. The cost and specific requirements are noted as follows:

1. The total charges of the overhead system as shown on our attached Drawing No. 95-E-67 is \$78,628.00. The advance is \$78,628.00.
2. Refunds will be made to the developer or subdivider making the advance when permanent customers or additional permanent loads within the subdivision are connected to the lines in an amount equal to the annual revenue received from the lines in the subdivision. If permanent customers within the subdivision require line extension from the existing lines within the subdivision, such permanent customers shall be considered as individual applicants under Rule 13(B) and entitled to the extension allowance in computing any advance that may be due.

The developer or subdivider shall only be entitled to a refund in the amount of a permanent customer's extension allowance less the cost of the line extension to serve such permanent customer and shall not be entitled to any credits for individual line extension requests where the permanent customer is required to make an advance payment to the utility. The total amount to be refunded is limited to the amount of the advance made by the developer or subdivider and no refund will be made after five years from the date of the advance. No interest will be paid on these advances made by the developer or subdivider.

An HEI Company

EXHIBIT 15

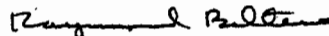
The developer or subdivider shall not be entitled to any refund from permanent customers attaching to the line outside of the subdivision boundaries including another subdivision that may connect to the line to which the first developer or subdivider contributed an advance to the utility. Each developer or subdivider will be subject to Rule 13(C) and the advance requirements.

In addition to the above, joint pole shares purchased by Hawaiian Telephone Company will be refunded when transactions are completed.

3. The above costs will be in effect for a period of six months from the date of this letter. If HELCO is not permitted to begin its work within the six-months period, this proposal will be invalid and a revised proposal will be sent to you. Please note the items in paragraph 3 of the General Requirements relating to estimated costs.
4. The developer is responsible for the cutting and trimming of trees along the proposed pole line route and providing the property corner pins prior to our Company starting its construction. All tree trimming will be done in accordance with HELCO's Tree Trimming Specifications.
5. The developer is required to make a 10% payment of the sum of the advance at the time that he returns this proposal letter with his signature to our Company. This amount is \$7,863.00. The developer will be required to pay the balance which is \$70,765.00 at least four (4) weeks prior to work orders being processed.

Please signify acceptance of this proposal by appropriate execution in the space provided below. We are including one (1) extra copy of this proposal and request that the signed original, Customer Data Input Sheet and \$7,863.00 payment be mailed to HELCO in the enclosed self-addressed envelope or delivered directly to HELCO's Customer Service Division located at 74-5519 Kaiwi Street, Kailua-Kona, Hawaii. Should you have any questions, please write or call me at (808) 329-9553.

Very truly yours,



Raymond Baltero
Sr Customer Planner
Customer Engineering Division

RB:ll
Enclosures
Request No. H133477



CUSTOMER COPY



Cust 3-3-1
H-W/G

April 23, 1998

Wallace T Oki, PE, Inc
P O Box 4070
Hilo, Hawaii 96720

Attention: Wallace T Oki

Gentlemen:

Subject: Three-Phase Overhead Electrical Service to Serve Robert McClean's
Office Building located at McClean Subdivision, North Kona

This proposal is in reply to your request concerning the above subject installation.

I. POLE LINE EXTENSION

Our Company will provide, install, and maintain an overhead line extension in accordance with our enclosed Drawing No. 98-B-244, Revision No. 1.

Our Company will install at its expense the proposed line extension from the existing utility pole no. 5 to the proposed pole no. 1 and in accordance to our Company's Rule No. 13, a copy of which is attached, provided the cost of the line required does not exceed thirty-six months' estimated revenue of the applicant. The cost of the line extension is \$5,083.00, which does not include the Hawaiian Telephone Company's joint pole shares. The Hawaiian Telephone Company will be paying us for their joint pole shares.

From the information that you have provided, it is understood and agreed that the connected lighting and miscellaneous load is 135 kw with an estimated demand of 54 kw, which will be billed on our Rate Schedule "G", a copy of which is enclosed.

On this basis, the estimated thirty-six months' revenue will exceed the cost; and, therefore, no advance is required for this portion of the work.

The line extension from proposed pole no. 1 to the proposed pole no. 2 will be considered "Special Facilities" and will be installed in accordance with our Company's Rule No. 13, Section B-1b. The customer's non-refundable contribution for this portion of installation is \$2,690.00, which includes State General Excise Tax of 4.166%. This payment classification is subject to change after a permanent service is connected off of pole no. 2, at which time our Company will reclassify this to an advance payment which is subject to refund. There is a time limit for this of five years after the pole line construction is completed.

It is understood that this office building will be occupied within one year from the date that the line extension is constructed and energized. If this office building is not in operation within one

year from this date, the thirty-six months' estimated revenue credit which was applied to the line extension will be considered an advance and will be paid to the Company by the applicant.

An advance is the amount of money paid to our Company which may be subject to refund in whole or in part.

The revenue received from your business will be reviewed annually for five years, and annual revenue in excess of one-fifth of the amount advanced by you for construction of the line extension will be refunded to you. The total refunded over five years will not exceed the amount advanced. No interest will be paid on the advance.

If, within five years from the date service is first rendered, new permanent customers or additional permanent loads are added to the line for which you made an advance, a refund will be made to you equal to the line extension allowance for the new permanent customers or loads applicable to the line constructed with the advance, in the amount of the residual from the extension allowance over the cost of the line extension for the new permanent customer or additional permanent load. Such refund shall be credited sequentially from the new permanent customer's or load's point of service toward the source of supply and shall be applicable only to that section of line used for the new customer or load. In no case shall the refund exceed the advance for that section of line. No interest will be paid on these advances.

II. PERMANENT OVERHEAD SERVICE

Our Company will provide, install, and maintain an overhead service drop from our proposed utility pole No. 1 to the customer's weatherhead as shown on Drawing No. 98-B-244, Rev. No. 1. In addition, our Company will provide, install, and maintain the transformer. The secondary voltage for this installation is 120/208 volts, three-phase, four-wire. There is no cost to the customer for this service installation.

The customer is to provide and install the following:

1. Meter loop equipped with test by-pass facilities.
2. Necessary service support.
3. Label meter sockets.
4. Refer to our "Service Installation Manual" for specifications.

III. COST SUMMARY

| <u>Description of Work</u> | <u>Charges</u> |
|----------------------------------|-----------------------------------|
| A. Overhead Line Extension | <u>Contribution</u> \$2,690.00 |
| B. Temporary Underground Service | 0.00 |
| Total Contribution | \$2,690.00 |
| Total Cost | \$2,690.00 |



Wallace T Oki, PE, Inc
April 23, 1998
Page 3

You are required to make a 10% payment of the sum of the contribution at the time that you return this proposal letter with your signature to our Company. This amount is \$269.00. In addition, you will be required to pay the balance which is \$2,421.00 at least two (2) weeks prior to work orders being processed.

We recommend that your equipment be installed with proper and adequate protection. We especially recommend the use of three overcurrent protective relays instead of two in all three-phase motor circuits because several types of abnormal voltage conditions, particularly those due to single phasing, may result in motor burnouts if only two conductors to the motor are protected. We emphasize this because motor starters are normally supplied with only two protective relays, unless three are specified in the order.

The above costs are exclusive of line transformers, meters, the cutting and trimming of trees, if any, and are based on the route determined by the Company.

The above costs will be in effect for a period of six months from the date of this letter. If HELCO is not permitted to begin its work within the six-months period, this proposal will be invalid and a revised proposal will be sent to you.

The above quotations are also exclusive of the Hawaiian Telephone Company's costs for their facilities. Please contact them for their cost estimate.

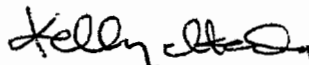
You are reminded that the operating voltage will be 120/208 volts; and when ordering equipment, the correct voltage should be specified.

The installation of the permanent overhead service drop is subject to approval from the County of Hawaii Electrical Inspector.

These installations in their entirety will be owned and maintained by this Company.

Please signify your acceptance of this proposal by appropriate execution in the space provided below. We are including two (2) extra copies of this proposal and request that the signed original, Customer Data Input Sheet, and \$269.00 payment be mailed to HELCO in the enclosed self-addressed envelope or delivered directly to HELCO's Customer Service Division located at 74-5519 Kaiwi Street, Kailua-Kona, Hawaii. In addition, please include the approximate date our Company will be permitted to begin its installation so that we may proceed with obtaining the necessary easements and ordering the necessary materials. Should you have questions, please write or call me at (808) 329-9553.

Very truly yours,



Kelly Ikeda
Customer Planner
Customer Engineering Division



CUSTOMER COPY

CUST 3-3-1
H-W/G



March 31, 2001

Wallace T. Oki, PE, Inc.
P. O. Box 4070
Hilo, HI. 96720

Attention: Wallace T. Oki

Gentlemen:

Subject: McClean Properties

This proposal letter is in reply to your request concerning the installation of an overhead electrical distribution system to serve one lot of the above subject development located at Honokohau 2nd, North Kona Tax Map Key: 3-7-4-008-026.

HELCO will provide, install, own and maintain an overhead electrical distribution system and service in accordance with our enclosed Drawing No. 00-C-1220 dated February 16, 2001.

HELCO will make this installation in accordance with the Company's Rule No. 13 and "General Requirements for Installation of Overhead Electrical Distribution Systems in Subdivisions or Developments" revised date of November 11, 1985, copies attached.

The cost and specific requirements are noted as follows:

1. The total charges of the overhead electrical distribution system is as follows:

| | | |
|---|--------------------|-------------|
| TOTAL DEVELOPER COST | \$49,958.00 | |
| TOTAL PROJECT COST | | \$47,959.44 |
| Developer Cost (refundable advance) (Includes \$1434.00 State GET) | | \$35,859.00 |
| Verizon Hawaii Inc. Joint Pole Shares (refundable advance) (Includes \$564.00 State GET) | | \$14,099.00 |

Based on the cost noted above, you are required to pay HELCO a refundable customer advance of \$49,958.00, which include State General Excise Tax of 4.166%.

You are required to make a 10% payment of the advance and non-refundable contribution at the time that you return this proposal letter with your signature to our Company. This amount is ~~\$4,996.00~~. Payment will enable the processing of material orders, easement acquisition, permit approvals and miscellaneous items. These requirements may require

approximately one (1) month to obtain and /or complete. In addition, HELCO shall notify you when your payment balance of \$44,962.00 is due. Payment shall be required prior to the processing of our construction work orders.

An advance is the amount of money paid to our Company which may be subject to refund in whole or in part in accordance with HELCO's Rule 13. (See attached copy.)

Joint pole shares purchased by Verizon Hawaii, Inc., will be refunded when transactions are completed.

2. This proposal is valid for a period of six months from the date of this letter. If HELCO is not permitted to issue its construction work orders by September 30, 2001, this proposal will be invalid. If the starting date, as specified below by you, is later than this date, this proposal will be invalid and a revised proposal will be sent to you. Our Company shall not be held liable for delays caused by material shortages or delays caused by materials being strikebound.

(The developer is also responsible for the cutting and trimming of trees along the proposed pole line route and providing property corner pins prior to our Company's construction. All tree trimming will be done in accordance to HELCO's Tree Trimming Specifications.)

3. This proposal is subject to our Company obtaining a satisfactory easement. Occasionally, parties granting easements to us will require survey descriptions and/or document processing fees. If applicable, this cost will be added to the cost of this project.
4. HELCO shall bill the Developer all additional costs incurred should there be a determination of special findings not available during the development of HELCO's cost estimate. An example would be archeological findings, which would require mitigation by working around or redesigning the proposed project to enable completion.

HELCO's construction work orders will be issued upon receipt and/or completion of all required documentation and necessary payments.

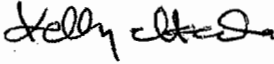
Please signify your acceptance of this proposal by appropriate execution in the space provided below. We are including one extra copy of this proposal and request that the signed original, Customer Data Input Sheet and payment of \$4,996.00 be mailed to HELCO in the enclosed self-addressed envelope or delivered directly to HELCO's Customer Service Division located at 74-5519 Kaiwi Street, Kailua-Kona, Hawaii.

In addition, please include the approximate date our Company will be permitted to begin its installation.



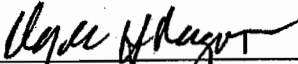
Wallace T. Oki, PE, Inc.
March 31, 2001
Page 3

Should you have any questions, please write or call me at 327-0515 between the hours of 7:00 a.m. - 3:30 p.m.

Sincerely,

Kelly Ikeda
Senior Customer Planner
Customer Engineering Division

Enclosures
Request No. H6039

HAWAII ELECTRIC LIGHT COMPANY, INC.


Clyde H. Nagata, P.E.
Manager, Engineering Department

Approved by Developer: _____


Signature in Ink

Name of Signer: _____

ROBERT S. McCLEAN
Type or Print

Title: _____

GEN PTW

Date: _____

4/11/01

Name of Company: _____

MCCLEAN HONOKOHAI PROPERTIES
dba HONOKOHAI PROPERTIES

Approximate date your contractor will be ready for HELCO to begin its construction: _____

4/15/01

Refunds made to: _____

HONOKOHAI PROPERTIES
Type or Print

Mailing Address: _____

P.O. Box 3000

P.O. Box/Street Address

KAILUA-KONA, HI

City

State

96745

Zip Code





CUSTOMER COPY

CUST 3-3-1
H-W/G

June 13, 2001

Ronald N.S. Ho & Associates
2138 Algaroba Street, Suite A
Honolulu, Hawaii 96826

Attention: Steve Sakai

Gentlemen:

Subject: Villages of Lai'opua

This proposal letter is in reply to your request concerning the installation of an overhead electrical distribution system to serve Road "G" of the above subject development located at Honokohau 1st, North Kona, Tax Map Key: 3-7-4-008-026.

HELCO will provide, install, own and maintain an overhead electrical distribution system in accordance with our enclosed Drawing No. 00-E-381 dated May 11, 2001.

HELCO will make this installation in accordance with the Company's Rule No. 13 and "General Requirements for Installation of Overhead Electrical Distribution Systems in Subdivisions or Developments" revised date of November 11, 1985, copies attached.

The cost and specific requirements are noted as follows:

1. The total charges of the overhead electrical distribution system is as follows:

| | |
|---|--------------------|
| TOTAL DEVELOPER COST | \$30,047.00 |
| TOTAL PROJECT COST | \$28,845.00 |
| Developer Cost (refundable advance) (Includes \$1,202.00 State GET) | \$25,215.00 |
| Developer Cost – Street Lighting Joint Pole Share/s (non-refundable contribution - (Includes \$193.00 State GET) | \$ 4,832.00 |
| | <u>30,047.00</u> |

Ronald N.S. Ho & Asso. (Road G)
June 13, 2001
Page 2

Based on the cost noted above, you are required to pay HELCO a refundable customer advance of \$25,215.00 and a non-refundable contribution of \$4,832.00 which include State General Excise Tax.

You are required to make a 10% payment of the advance and non-refundable contribution at the time that you return this proposal letter with your signature to our Company. This amount is \$3,005.00. Payment will enable the processing of material orders, easement acquisition, permit approvals and miscellaneous items. These requirements may require approximately one (1) month to obtain and/or complete. In addition, HELCO shall notify you when your payment balance of \$27,043.00 is due. Payment shall be required prior to the processing of our construction work orders.

An advance is the amount of money paid to our Company which may be subject to refund in whole or in part in accordance with HELCO's Rule 13. (See attached copy.)

Joint pole shares purchased by Verizon Hawaii Inc., will be refunded when transactions are completed.

This proposal is valid for a period of six months from the date of this letter. If HELCO is not permitted to issue its construction work orders by December 13, 2001, this proposal will be invalid. If the starting date, as specified below by you, is later than this date, this proposal will be invalid and a revised proposal will be sent to you. Our Company shall not be held liable for delays caused by material shortages or delays caused by materials being strike bound.

This proposal is subject to our Company obtaining a satisfactory easement. Occasionally, parties granting easements to us will require survey descriptions and/or document processing fees. If applicable, this cost will be added to the total cost of this project.

HELCO Shall bill the Developer all additional costs incurred should there be a determination of special findings not available during the development of HELCO's cost estimate. An example would be archeological findings, which would require mitigation by working around or redesigning the proposed project to enable completion.

HELCO's construction work orders will be issued upon receipt and/or completion of all required documentation and necessary payments.

Please signify your acceptance of this proposal by appropriate execution in the space provided below. We are including one extra copy of this proposal and request that the signed original, Customer Data Input Sheet and payment of \$3,005.00 be mailed to HELCO in the enclosed self-addressed enveloped or delivered directly to HELCO's Customer Service Division located at 74-5519 Kaiwi Street, Kailua-Kona, Hawaii.

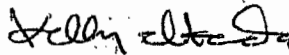


Ronald N.S. Ho & Asso. (Road G)
June 13, 2001
Page 3

In addition, please include the approximate date our Company will be permitted to begin its installation.

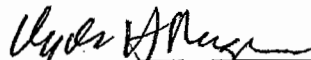
Should you have any questions, please write or call me at 327-0515 between the hours of 7:00 a.m. - 3:30 p.m.

Sincerely,



Kelly Ikeda
Sr. Customer Planner
Customer Engineering Division

HAWAII ELECTRIC LIGHT COMPANY INC.



Clyde H. Nagata, P.E.
Manager, Engineering Department



Ronald N.S. Ho & Asso. (Road G)
June 13, 2001
Page 4

Enclosures
Request No. H1709

Approved by Developer: Robert S. McClean
Signature in Ink

Name of Signer: ROBERT S. McCLEAN
Type or Print

Title: General Partner Date: 6/28/01

Name of Company: McCLEAN HONOKOHAU PROPERTIES

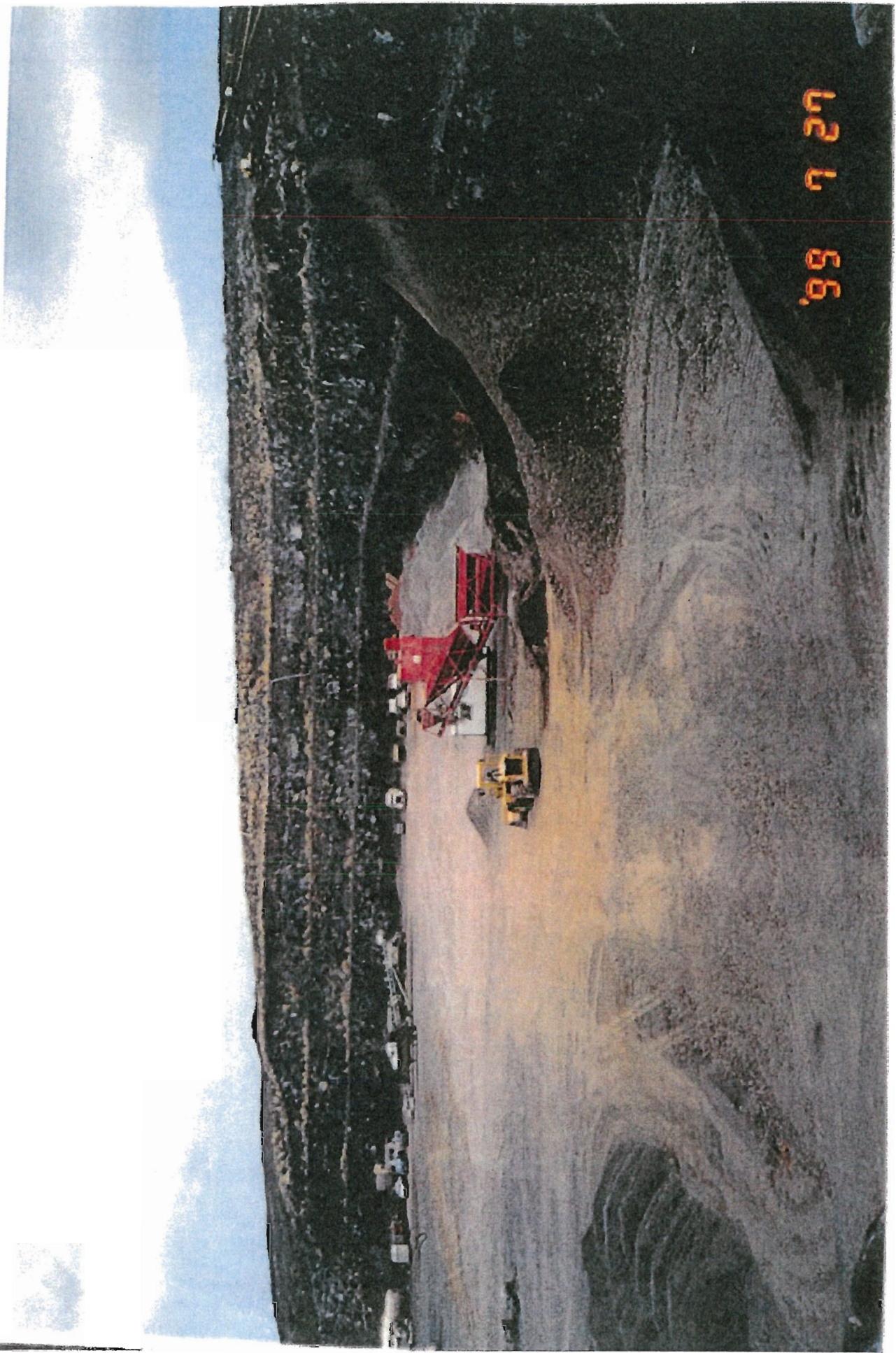
Approximate date your contractor will be ready
For HELCO to begin its construction: 7/1/01

Refunds made to: McCLEAN HONOKOHAU PROPERTIES
Type or Print

Mailing Address: P.O. Box 3000
P.O. Box/Street Address

KAILUA-KONA HI 96745
City State Zip code





626 56,
99 7 27

EXHIBIT 16



CENTER FOR APPLIED AQUACULTURE AND MARINE BIOTECHNOLOGY

April 19, 2002

Robert J. Smolenski; Esq.
Smolenski & Wooddell
1717 Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii 96813

Dear Mr. Smolenski:

Re: Land Use Commission Docket No. A89-643; McClean Honokohau Properties

At your request, I have reviewed the proposed Supplement to Petitioner McClean Honokohau Properties' Application to Approve Increment II of the project site for incremental redistricting from Conservation and Agriculture to Urban classification; the Final Environmental Impact Statement for Kaloko Industrial Park, Phases III & IV, dated October 2000, by TSA International; and the Application to Intervene dated April 11, 2002, submitted by Kaloko-Honokohau National Historical Park. I have also reviewed the anchialine pond impact assessment I prepared in support of Petitioner's Final Environmental Impact Statement (April 1990), a copy of which is attached as Appendix F thereto.

After consideration of Petitioner's proposed uses for the Increment II site and the current and planned industrial, commercial and residential developments in the Kaloko-Honokohau area, I conclude that the proposed change in land use classification and light industrial development of the Increment II site will have no significant impact on the anchialine pond resources of the Kaloko-Honokohau National Historic Park.

Development of the Increment II site will not result in any significant change in groundwater flow pattern or groundwater quality. As stated in my 1990 assessment, the projected flow envelope for the project site does not include the fishponds or the majority of the anchialine ponds of the National Historical Park. The projected flow envelope includes a small number of ponds both to the immediate north and south of the Honokohau small boat harbor. Our anchialine pond survey conducted in 1985 showed higher salinities in these ponds near the harbor compared to ponds located within the park between Aimakapa and Kaloko Fishponds. These higher salinities suggest water quality conditions within the ponds near the harbor are less influenced by groundwater than ponds within the Park to the north.

The National Historical Park's Application to Intervene makes mention of potential impacts to the Park due to reduced groundwater flow, and indicates the FEIS does not document the potential impacts of reduced freshwater to the Park. No extractive uses for groundwater are planned by Petitioner. The majority of the water used on the site will be returned to the groundwater through discharge wells. Since the Underground Injection Control line is more than one mile further inland from the site, disposal of water at the site would be into a groundwater area of brackish, non-potable water. Because the majority of the water used on the site will be discharged to the groundwater by dispersion wells, the net loss to areal groundwater flow through use at the site will be very small.

If you have any questions or require further information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Ziemann". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

David A. Ziemann, Ph.D.



LEGEND

| | |
|---|-------------|
| | INDUSTRIAL |
| | URBAN OPEN |
| | RESIDENTIAL |

Richard Owensby
 PLANNERS
 ARCHITECTS

STATE OF HAWAII
 COUNTY OF HONOLULU
 DEPARTMENT OF LAND AND NATURAL RESOURCES

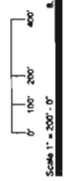
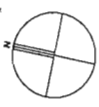
McClean Honokohau Properties

North Kona, Island & County of Hawai'i

Sheet No. **MP-1.1**

EXHIBIT 18

Master Plan Proposed



8.175.15

SANDRA PECHTER SCHUTTE 1552
 Attorney at Law
 101 Aupuni Street, Suite 1014A
 Hilo, Hawaii 96720
 Telephone No.: 969-7331

Attorney for Petitioners
 ISEMOTO CONTRACTING CO., LTD.,
 S J A PARTNERSHIP, and MARCH E. TAYLOR

BEFORE THE LAND USE COMMISSION
 OF THE STATE OF HAWAII

| | | |
|---------------------------------------|---|-------------------------------|
| In the Matter of the Petition of |) | Docket No. A87-618 |
| |) | |
| ISEMOTO CONTRACTING CO., LTD., |) | |
| S J A PARTNERSHIP, and MARCH E. |) | MOTION TO RELEASE CONDITIONS |
| TAYLOR |) | IMPOSED BY ORDER ADOPTING THE |
| |) | RECOMMENDATION OF HEARING |
| To Amend the Conservation Land Use |) | OFFICER DATED MAY 23, 1989; |
| District Boundary into the Urban |) | MEMORANDUM IN SUPPORT OF |
| Land Use District for |) | MOTION TO RELEASE CONDITIONS; |
| Approximately 9.9 acres at |) | EXHIBITS "A" THROUGH "F"; |
| Honokohau, North Kona, Hawaii, |) | CERTIFICATE OF SERVICE |
| State of Hawaii Tax Map Key No. |) | |
| 7-4-08:33 (presently Tax Map Key Nos. |) | |
| 7-4-8:33, 54 and 55) |) | |
| _____ |) | |

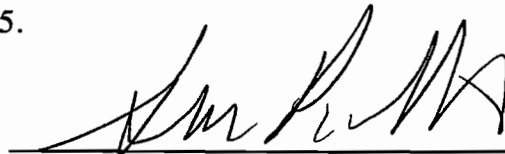
**MOTION TO RELEASE CONDITIONS IMPOSED
 BY ORDER ADOPTING THE RECOMMENDATION
 OF HEARING OFFICER DATED MAY 23, 1989**

Come now ISEMOTO CONTRACTING CO., LTD., SJA PARTNERSHIP and
 MARCH E. TAYLOR, Petitioners herein, by and through their undersigned counsel, pursuant
 to Sections 15-15-70 and 15-15-95 of the Hawaii Land Use Commission Rules, and Condition
 10 of the Order Adopting the Recommendation of Hearing Officer dated May 23, 1989, and
 move this Commission for an order releasing in conditions imposed by the Commission in the
 subject boundary amendment proceeding.

This motion is based upon the grounds that all of the conditions imposed by the Commission have either been satisfied by the Petitioners or there is adequate assurance of satisfaction of the conditions so that the continued supervision of Petitioner's performance by the Commission is no longer required.

This motion is supported by the records and files herein, by the memorandum attached hereto and incorporated herein by reference, and by the affidavits and other documentary evidence to be submitted by Petitioners prior to the hearing on this motion.

DATED: Hilo, Hawaii, July 7, 1995.



SANDRA PECHTER SCHUTTE
Attorney for Petitioners

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

| | | |
|---------------------------------------|---|--------------------|
| In the Matter of the Petition of |) | Docket No. A87-618 |
| |) | |
| ISEMOTO CONTRACTING CO., LTD., |) | |
| S J A PARTNERSHIP, and MARCH E. |) | |
| TAYLOR |) | |
| |) | |
| To Amend the Conservation Land Use |) | |
| District Boundary into the Urban |) | |
| Land Use District for |) | |
| Approximately 9.9 acres at |) | |
| Honokohau, North Kona, Hawaii, |) | |
| State of Hawaii Tax Map Key No. |) | |
| 7-4-08:33 (presently Tax Map Key Nos. |) | |
| 7-4-8:33, 54 and 55) |) | |
| _____ |) | |

MEMORANDUM IN SUPPORT OF
MOTION TO RELEASE CONDITIONS

I. INTRODUCTION

On May 23, 1989, by Order Accepting and Adopting the Recommendation of Hearing Officer in the subject boundary amendment proceeding, the Land Use Commission ("Commission") reclassified approximately 9.9 acres of land situated at Honokohau, North Kona, Hawaii, owned jointly by Petitioners ISEMOTO CONTRACTING, LTD., SJA PARTNERSHIP and MARCH E. TAYLOR, from the State Land Use Conservation District to the State Land Use Urban District. Since the issuance of this Order in 1989, the Petitioners have subdivided the property into three lots so that each of the Petitioners would own a separate parcel of land. They have also improved and have established businesses on each of the parcels. Two of the three parcels were developed by 1991, as indicated by the 1990 and

The ground work for the remaining parcel and together with the installation of landscaping along the Queen Kaahumanu Highway were completed in 1995, as indicated by Exhibits "E" and "F" attached hereto.

With the installation of the landscaping, all performance conditions within the Petitioners' control have been completed for the subject project. Accordingly, Petitioners have filed the subject motion seeking an order from the Commission which would release them from filing annual reports with the Commission regarding the progress of their development and from the other performance conditions imposed by the Commission in the Order Accepting and Adopting the Recommendation of Hearing Officer dated May 23, 1989.

II. LAW/ANALYSIS

The release of conditions, imposed by the Commission in conjunction with the subject boundary amendment approval, is authorized under the conditions of approval in this proceeding and under the Commission Rules. Condition 10 of the Order Accepting and Adopting the Recommendation of the Hearing Officer provides:

"The Commission may fully or partially release these conditions as to all or any portion of the Property upon timely motion, and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioners."

Likewise, Section 15-15-94 of the Commission Rules provides:

(a) If a Petitioner, pursuant to this subsection desires to have a modification or deletion of a condition that was imposed by the commission, the petitioner shall file a motion in accordance with section 15-15-70 and serve a copy to all parties to the boundary amendment proceeding in which the condition was imposed.

(b) For good cause shown, the commission may act to modify or delete any of the conditions imposed."

(b) For good cause shown, the commission may act to modify or delete any of the conditions imposed.”

Under the Commission rules, the Commission may delete any condition “for good cause shown.” Further under Condition 10 of the Order in this proceeding the Commission may release any condition upon “provision of adequate assurance of satisfaction of the conditions by the Petitioners.” In the subject proceeding, the Petitioners have fulfilled all of the performance conditions imposed by the Commission that were within their control, as evidenced by the annual reports to the Commission attached hereto as Exhibits “A” through “D”, and the verification regarding the completion of landscaping attached hereto as Exhibit “E”. With respect to the conditions regarding regional improvements that were not within Petitioners’ control, similar conditions to those imposed by the Commission are contained in County of Hawaii Ordinance No. 90-40 (attached hereto as a portion of Exhibit “A”). Thus, the County ordinance provides the Commission with adequate assurance of the Petitioners’ compliance with any regional improvement requirements if such improvements are made at some time in the future.

The status of the performance conditions required of the Petitioners in this proceeding may be summarized as follows:

1. Condition 1 requires a landscaped buffer area to be established along Queen Kaahumanu Highway to maintain the visual integrity of Queen Kaahumanu Highway. A similar condition was contained as Condition “D” of Ordinance No. 90-40, and a landscaping plan was approved by the County of Hawaii in 1991. Installation of the landscaping was completed in March, 1995, as indicated by Exhibit “F.”

Transportation, and to construct on and off-site transportation improvements necessitated by the development. These improvements were completed in 1991 as indicated in the 1991 annual report (Exhibit "B").

The Condition 2 also requires Petitioners to participate in any required regional traffic improvements. A similar condition regarding regional traffic improvements is contained as Condition "F" of Ordinance No. 90-40. As of the present time, the Department of Transportation has not proposed any regional improvements that would require participation by Petitioners.

3. Condition 3 requires the Petitioners to fund and construct necessary improvements for hook-up of its wastewater disposal improvements to a municipal sewer system, if such a system is constructed. A similar condition is contained as Condition "G" of Ordinance No. 90-40. As of the present time, a municipal sewer system has not been constructed for the area; nor, are there any definite plans for the construction of such a system.

4. Condition 4 requires the Petitioners to coordinate with the County of Hawaii and the State Department of Health to establish appropriate systems to contain spills and prevent pollutants from leaching into storm drains and adversely affect groundwater and coastal waters. Petitioners ISEMOTO and SJA complied with this condition for their respective parcels in 1991 (See Exhibit "B"). Petitioner TAYLOR complied with the subject condition this past year (See Exhibit "F").

5. Condition 5 requires the Petitioners to pursue a power line alignment along the State highway right-of-way as a first preference and use the alignment across the State Kealakehe lands as an alternative alignment. The alignment of the power line for the property

was established over the Kealakehe lands, as indicated in the 1991 annual report to the Commission (Exhibit "B"). Since 1991, Petitioners have not been advised that this alignment conflicts, in any way, with the State's Kealakehe master plan.

6. Condition 6 requires the Petitioners to stop work on the impacted area if any archaeological resources are discovered during construction. A similar condition was contained as Condition "I" of Ordinance No. 90-40. Construction work has been completed throughout the property without the discovery of any such sites.

7. Condition 7 requires the Petitioners to give notice to the Commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter their ownership of the property prior to the development of the property. Petitioners still own the property as three separate parcels. The Commission was also informed as to the conveyance of the individual lots to each of the owners in the 1993 annual report to the Commission (Exhibit "C").

8. Condition 8 requires the Petitioners to develop the property in substantial compliance with the representations made to the Commission in obtaining the reclassification. The Petitioners represented to the Commission that they intended to develop the property for light industrial uses. The Property was rezoned by the County of Hawaii to light industrial, with a minimum lot size of three acres (ML-3a) under Ordinance No. 90-40. Further, Petitioners Isemoto and SJA each established base yards on their respective lots as represented to the Commission. Petitioner Taylor also established a fuel facility as represented to the Commission.

9. Condition 9 requires the Petitioners to provide annual reports to the Commission regarding the status of the project and their progress in complying with the conditions

imposed. Petitioners have submitted such reports to the Commission as indicated by Exhibits "A" through "D" attached hereto. An annual report for the last reporting period has not been submitted to the Commission in light of the fact that Petitioners have filed the subject motion.

III. CONCLUSION

Based on the foregoing, Petitioners respectfully request that the Commission release them from the performance conditions contained in the Order Accepting and Adopting the Recommendation of Hearing Officer dated May 23, 1989 in the subject boundary amendment proceeding.

DATED: Hilo, Hawaii, July 7, 1995.



SANDRA PECHTER SCHUTTE
Attorney for Petitioners
ISEMOTO CONTRACTING CO., LTD., S J A
PARTNERSHIP, and MARCH E. TAYLOR

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION TO RELEASE CONDITIONS IMPOSED BY ORDER ADOPTING THE RECOMMENDATION OF HEARING OFFICER DATED MAY 23, 1989; MEMORANDUM IN SUPPORT OF MOTION TO RELEASE CONDITIONS; EXHIBITS "A" THROUGH "F", was filed with the Land Use Commission by facsimile transmission on this date, that the original plus fifteen (15) copies of the foregoing were forwarded to the Land Use Commission by U.S. mail, postage prepaid, and that a copy of the aforementioned was personally served to each of the following persons on this date as addressed as follows:

Gregory Pai, Ph.D.
Office of State Planning
State of Hawaii
Post Office Box 3540
Honolulu, HI 96811-3540 (mailed)

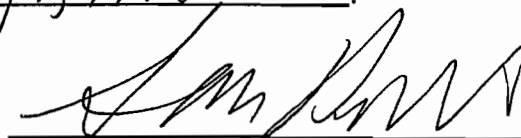
Virginia Goldstein
County of Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720 (hand delivered)

Wilton Wong
Planning Commission
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720 (hand delivered)

Robert J. Smolenski, Esq.
Smolenski & Wooddell
Attorneys at Law
841 Bishop Street, Suite 1717
Honolulu, Hawaii 96813 (mailed)

DATED: Hilo, Hawaii, _____

July 7, 1995



SANDRA PECHTER SCHUTTE
Attorney for Petitioners
ISEMOTO CONTRACTING CO., LTD., S J A
PARTNERSHIP, and MARCH E. TAYLOR

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
ISEMOTO CONTRACTING CO., LTD., SJA)
PARTNERSHIP, and MARCH E. TAYLOR)
To Amend the Conservation Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
9.9 Acres at Honokohau, North Kona,)
Hawaii, State of Hawaii, Tax Map)
Key No.: 7-4-08: 33, 54, and 55)
(formerly TMK: 7-4-08: 33))

DOCKET NO. A87-618
ORDER GRANTING MOTION TO
RELEASE CONDITIONS
IMPOSED BY ORDER
ADOPTING THE
RECOMMENDATION OF
HEARING OFFICER DATED
MAY 23, 1989

This is to certify that this is a true and correct
copy of the document on file in the office of the
State Land Use Commission, Honolulu, Hawaii.

AUG 22 1995 by *Robert Lead*
Date Executive Officer

ORDER GRANTING MOTION TO RELEASE CONDITIONS
IMPOSED BY ORDER ADOPTING THE
RECOMMENDATION OF HEARING OFFICER DATED MAY 23, 1989

LAND USE COMMISSION
STATE OF HAWAII
AUG 22 7 47 AM '95

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

| | | |
|-------------------------------------|---|--------------------------|
| In the Matter of the Petition of |) | DOCKET NO. A87-618 |
| |) | |
| ISEMOTO CONTRACTING CO., LTD., SJA |) | ORDER GRANTING MOTION TO |
| PARTNERSHIP, and MARCH E. TAYLOR |) | RELEASE CONDITIONS |
| |) | IMPOSED BY ORDER |
| To Amend the Conservation Land Use |) | ADOPTING THE |
| District Boundary into the Urban |) | RECOMMENDATION OF |
| Land Use District for Approximately |) | HEARING OFFICER DATED |
| 9.9 Acres at Honokohau, North Kona, |) | MAY 23, 1989 |
| Hawaii, State of Hawaii, Tax Map |) | |
| Key No.: 7-4-08: 33, 54, and 55 |) | |
| (formerly TMK: 7-4-08: 33) |) | |
| |) | |

ORDER GRANTING MOTION TO RELEASE CONDITIONS
IMPOSED BY ORDER ADOPTING THE
RECOMMENDATION OF HEARING OFFICER DATED MAY 23, 1989

On July 10, 1995, Isemoto Contracting Co., Ltd., SJA Partnership, and March E. Taylor (collectively referred to as "Petitioner") filed a Motion To Release Conditions Imposed By Order Adopting The Recommendation Of Hearing Officer Dated May 23, 1989 ("Motion") pursuant to sections 15-15-70 and 15-15-95, Hawaii Administrative Rules ("HAR").

The Motion requests release of all conditions imposed in the Order Accepting And Adopting The Recommendation Of Hearing Officer filed on May 23, 1989 which reclassified approximately 9.9 acres from the Conservation District to the Urban District identified as TMK: 7-4-08: 33, which subsequently became TMK: 7-4-08: 33, 54, and 55.

On August 7, 1995, Petitioner filed Petitioners' Supplemental Exhibits In Support Of Motion To Release Conditions

Imposed By Order Adopting The Recommendation Of Hearing Officer
Dated May 23, 1989.

The Motion, having come on for action before this Land Use Commission ("Commission") on August 10, 1995 at its meeting in Kailua-Kona, Hawaii, and the Commission having heard the arguments presented by the Petitioner, and with no objections by the Office of State Planning, the County of Hawaii Planning Department, and the Intervenor, and having reviewed the entire record herein, and good cause existing therefrom;

IT IS HEREBY ORDERED that the Motion To Release Conditions Imposed By Order Adopting The Recommendation Of Hearing Officer Dated May 23, 1989 is granted and Condition Nos. 1 through 10, inclusive, are released.

DOCKET NO. A87-618 - ISEMOTO CONTRACTING CO., LTD., SJA PARTNERSHIP
AND MARCH E. TAYLOR

Done at Honolulu, Hawaii, this 22nd day of August 1995,
per motion on August 10, 1995.

LAND USE COMMISSION
STATE OF HAWAII

By *Allen K. Hoe*
ALIEN K. HOE
Chairperson and Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Vice Chairperson and Commissioner

By (absent)
RUPERT K. CHUN
Commissioner

By *M. Casey Jarman*
M. CASEY JARMAN
Commissioner

By *Lloyd F. Kawakami*
LLOYD F. KAWAKAMI
Commissioner

By *Joann N. Mattson*
JOANN N. MATTSON
Commissioner

Filed and effective on
August 22, 1995

Certified by:

Robert Lind
Executive Officer

By *Trudy K. Senda*
TRUDY K. SENDA
Commissioner

By (absent)
ELTON WADA
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A87-618
ISEMOTO CONTRACTING CO., LTD., SJA)
PARTNERSHIP, and MARCH E. TAYLOR) CERTIFICATE OF SERVICE
To Amend the Conservation Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
9.9 Acres at Honokohau, North Kona,)
Hawaii, State of Hawaii, Tax Map)
Key No.: 7-4-08: 33, 54, and 55)
(formerly TMK: 7-4-08: 33))

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion to Release Conditions Imposed by Order Adopting the Recommendation of Hearing Officer Dated May 23, 1989 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

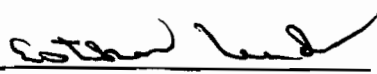
GREGORY G.Y. PAI, PH.D., Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540

CERT. VIRGINIA GOLDSTEIN, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. SANDRA PECHTER SCHUTTE, ESQ., Attorney for Petitioners
101 Aupuni Street, Suite 1014A
Hilo, Hawaii 96720

CERT. ROBERT J. SMOLENSKI, ESQ., Attorney for Intervenor
1717 Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii 96813-3970

DATED: Honolulu, Hawaii, this 22nd day of August 1995.


ESTHER UEDA
Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of
McCLEAN HONOKOHOU PROPERTIES, a
Hawaii Limited Partnership,

To Amend the Land Use District Boundary to
Reclassify Approximately 89.527 acres of land
in the Conservation and the Agricultural
Districts to the Urban District at Honokohau,
North Kona, Hawaii, Tax Map Key Nos.: 7-4-
24: 1, 2, 4, 6, 7, 8, 9, 10, 11 and 12

DOCKET NO. A89-643

VERIFICATION OF JAMES S. McCLEAN

VERIFICATION OF JAMES S. McCLEAN

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

JAMES S. McCLEAN, being first sworn on oath, deposes and says that:

1. I am a General Partner of McClean Honokohau Properties, a Hawaii limited partnership.

2. I have read the foregoing First Supplemental Memorandum and Exhibits in Support of Motion to Release Conditions in the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order, Entered April 16, 1991, know the contents thereof, and the contents therein contained are true to the best of my knowledge, information and belief.

3. I have personal knowledge of the matters set forth in the foregoing Supplemental Memorandum and Exhibits and related documents, am qualified and competent to make this verification, and I make this verification under Hawaii Administrative Rules, § 15-15-39.

Further affiant sayeth naught.

DATED: August 18, 2015.

James S. McClean

JAMES S. McCLEAN

General Partner of

McCLEAN HONOKOHAU PROPERTIES

The attached document: Verification of James S. McClean which consists of 2 pages including this page), was executed by James S. McClean and was subscribed and sworn to before me this 18th day of August, 2015, in the Third Judicial Circuit of the State of Hawai'i.

Melanie R. Pierson

[Notary Signature]

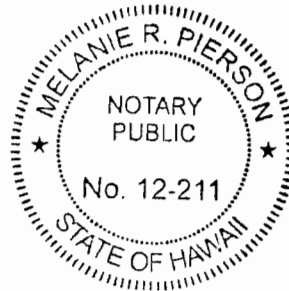
MELANIE R. PIERSON

Printed

Name:

MP

My commission expires: JUL 01 2016



NOTARY CERTIFICATION

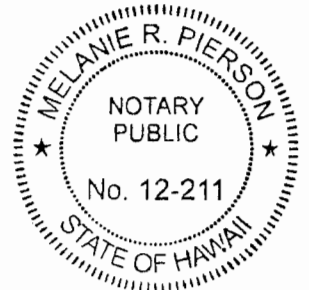
DOC. DATE: AUG 18 2015 NO. OF PAGES: 2

DOC. DESCRIPTION: Before the Land Use Commission of the State of Hawaii Docket No. A89-613 Verification of James S. McClean

NOTARY NAME: MELANIE R. PIERSON THIRD JUDICIAL CIRCUIT

Melanie R. Pierson
NOTARY SIGNATURE

AUG 18 2015
DATE



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following by depositing the same in the U.S. Postal Service on the date hereof:

DUANE KANUHA, Director
Planning Department
County of Hawaii
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

BRANDI BEAUDET, Chairman
Leeward Planning Commission
County of Hawaii
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

MYLES MIYASATO, Vice Chair
Windward Planning Commission
County of Hawaii
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

LEO ASUNCION, Acting Director
Office of Planning
P.O. Box 2359
Honolulu, Hawaii 96804


INTERVENORS:

Isemoto Contracting Co., Ltd.
648 Piilani Street
Hilo, Hawaii 96720

SJA Partnership
P.O. Box 429
Captain Cook, Hawaii 96704

Tiffany Taylor
Taylor Family Limited Partnership
73-5601 Maiiau Street
Kailua-Kona, Hawaii 96740

DATED: Honolulu, Hawaii, August 24, 2015.


ROBERT J. SMOLENSKI
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McClellan Honokohau Properties