

**EXHIBIT "D"**

**Sixth Amendment to SP77-271**

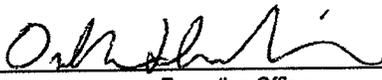


BEFORE THE LAND USE COMMISSION  
STATE OF HAWAI'I

In the Matter of the Petition of )  
AMERON HC&D ) DOCKET NO. SP77-271  
To Obtain a Sixth Amendment to Land ) DECISION AND ORDER  
Use Commission Special Use Permit To ) APPROVING THE  
Add Approximately 9.5 Acres Within the ) SIXTH AMENDMENT TO  
State Land Use Agricultural District For ) THE LAND USE  
The Quarry Operations and To Withdraw ) COMMISSION SPECIAL  
41.2 Acres Within the State Land Use ) USE PERMIT  
Agricultural District for the Quarrying )  
Operations at Puunene, Maui, State of )  
Hawai'i, TMK Nos: 3-8-003:portion of 004 )  
portion of 020, and portion of 021 and 3- )  
8-001:portion of 001 )  
\_\_\_\_\_ )

DECISION AND ORDER APPROVING THE  
SIXTH AMENDMENT TO THE LAND USE COMMISSION SPECIAL USE PERMIT

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.

MAR 23 2009 BY   
Date Executive Officer



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. SP77-271
	)	
AMERON HC&D	)	DECISION AND ORDER
	)	APPROVING THE SIXTH
To Obtain a Sixth Amendment to Land Use	)	AMENDMENT TO THE LAND
Commission Special Use Permit To Add	)	USE COMMISSION SPECIAL USE
Approximately 9.5 Acres Within the State	)	PERMIT
Land Use Agricultural District For The	)	
Quarry Operations and To Withdraw 41.2	)	
Acres Within the State Land Use	)	
Agricultural District for the Quarrying	)	
Operations at Puunene, Maui, State of	)	
Hawai'i, TMK Nos: 3-8-003:portion of 004	)	
portion of 020, and portion of 021 and 3-8-	)	
001:portion of 001	)	
_____	)	

DECISION AND ORDER APPROVING A SIXTH AMENDMENT TO THE  
LAND USE COMMISSION SPECIAL USE PERMIT

On June 16, 2008, Michael T. Munekiyo of Munekiyo & Hiraga, Inc., filed a written request on behalf of Ameron HC&D ("Petitioner" or "Applicant") with the County of Maui Department of Planning pursuant to Section 205-6, Hawaii Revised Statutes ("HRS") and Sections 15-15-95 and 15-15-96 of the Hawaii Administrative Rules ("HAR"), to seek a Sixth Amendment to

Special Use Permit LUC Docket No. SP 77-271. Applicant requested to add approximately 9.5 Acres of land within the State Agricultural District for quarrying operations and to withdraw approximately 41.2 Acres of land from the existing Permit Area for quarrying activities. The "Permit Area" is located at Puunene, Maui, Hawai`i, and identified as TMK Nos: 3-8-003: portion of 004, 020 and 021, and 3-8-001:portion of 001. The landowner of the Permit Area is Alexander and Baldwin.

On October 28, 2008, the County of Maui Planning Commission ("Planning Commission") conducted a hearing on Petitioner's Request. After due deliberation, the Planning Commission recommended approval of Petitioner's Request to the LUC.

On December 24, 2008, the LUC received a copy of the decision and a portion of the record of the Planning Commission's proceedings on Petitioner's Request. On February 9, 2009 the LUC received the remaining portions of the record.

On February 19, 2009, the LUC met in Kahului, Maui, Hawai`i, to consider Petitioner's Request. Michael T. Munekiyo and Eric Yoshizawa appeared on behalf of Petitioner. Michael Hopper, Esq., Cheryl Okuma, Tracy Takamine, and Robyn Loudermilk appeared on behalf of the County of Maui.

At the meeting, Petitioner stated that in a recent review of project

operations, it noted an approximately 7.4 acre area used for parking as well as used by mining sublessee Walker Industries for storage is located outside of the SUP Permit area. The 7.4 acre area is owned by A & B Hawai'i and is identified as a portion of TMK 3-8-003-004 and a portion of 3-8-001:001. In addition, Petitioner determined that approximately 2.1 acres located outside the current SUP Permit is part of the mine area where processing and storage of rock materials are conducted. The 2.1 acre portion is also owned by A & B Hawai'i, within the overall area leased for quarry operations by Ameron, and is identified as a portion of TMK 3-8003:004.

On October 9, 2008 by letter to Jeffrey Hunt, Director, County of Maui Department of Planning, Petitioner withdrew 41.2 acres of the land contained in the Permit Area, identified as TMK Nos. 3-8-003:004 (por) and 020 (por.) from quarrying operations. This is to allow the County of Maui, Department of Environmental Management to expand the Central Maui Landfill by incorporating the aforementioned 41.2 acres.

Following discussion, a motion was made and seconded to approve Petitioner's Request for a Sixth Amendment to SP77-21 with the following amendments to existing Conditions 11. and 15.:

11. Applicant, its successors or permitted assigns shall utilize non-drinking water, to the extent possible, for grading and dust control of the quarry.

15. Applicant, its successors or permitted assigns, shall clarify the entire acreage that is subject of LUC Docket No. SP77-271 with the Maui Planning Commission and the State Land Use Commission by filing an aerial photographic map with overlay and a site map clearly depicting the proper acreage of SP77-271 within six (6) months of the Land Use Commission's Decision and Order approving the Sixth Amendment to the Special Use Permit. If any parcel within the Permit Area is sold or transferred to any other person or entity, the Applicant shall provide a metes and bounds survey as approved by the Executive Officer.

Following deliberation by the Commissioners, a vote was taken on the motion. There being a vote tally of 7 ayes and 2 absent, the motion carried.

ORDER

Having duly considered the complete record of Petitioner's Request and the oral arguments presented by the parties present in the proceeding, and a motion having been made at a meeting on February 19, 2009, in Kahului, Maui, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion, the LUC hereby APPROVES Petitioner's Request to add approximately 9.5 acres to the Permit Area and withdraw approximately 41.2 Acres of land from the Permit Area as is shown on Exhibit "A" attached hereto and incorporated by reference herein, subject to the following amendment to Condition Number 11 and Condition Number 15 of the Decision and Order dated April 10, 2002, as further amended on January 28, 2008 :

11. Applicant, its successors or permitted assigns shall utilize non-drinking water, to the extent possible, for grading and dust control of the quarry.
  
15. Applicant, its successors or permitted assigns, shall clarify the entire acreage that is subject of LUC Docket No. SP77-271 with the Maui Planning Commission and the State Land Use Commission by filing an aerial photographic map with overlay and a site map clearly depicting the proper acreage of SP77-271 within six (6) months of the Land Use Commission's Decision and Order approving the Sixth Amendment to the Special Use Permit. If any parcel within the Permit Area is sold or transferred to any other person or entity, the Applicant shall provide a metes and bounds survey as approved by the Executive Officer.

All other conditions to the Decision and Order dated April 10, 2002, as further amended on January 28, 2008, are hereby reaffirmed and shall continue in effect.

DONE at Honolulu, Hawai'i, this 17th day of March, 2009, per motion on February 19, 2009.

APPROVED AS TO FORM:

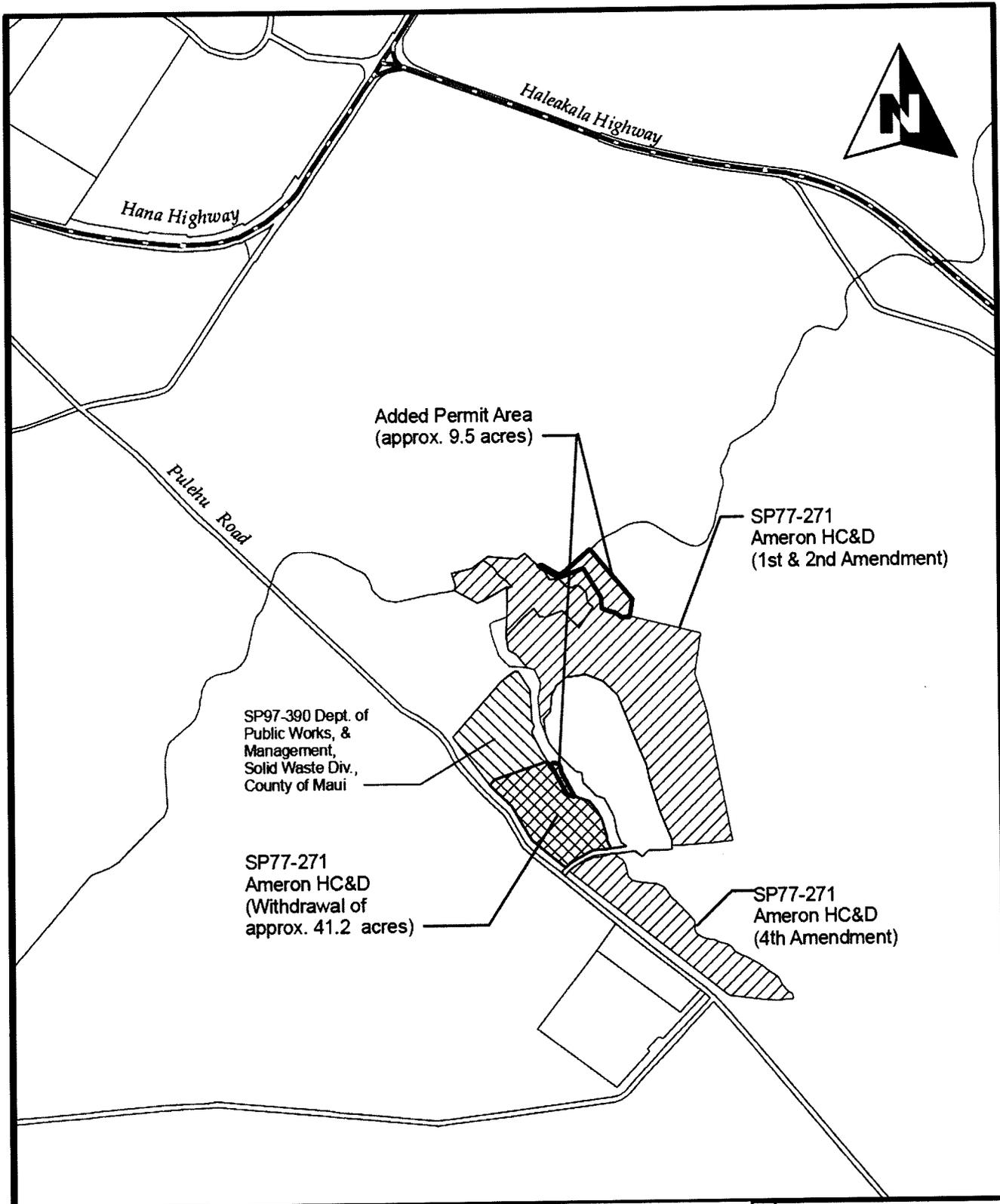
Niana Oueksin  
Deputy Attorney General

LAND USE COMMISSION  
STATE OF HAWAII

By Duane Kanuha  
DUANE KANUHA  
Chairperson and Commissioner

Filed on: MAR 23 2009

Anthony White  
Executive Officer



**SP77-271 AMERON HC&D**

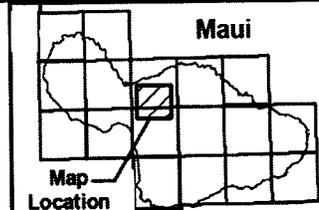
Location Map

Tax Map Key: 3-8-003: por. 04, por. 20, & por. 21

Pu'unene, Maui, Hawai'i

Scale: 1" = 2,000 ft,

**Exhibit "A"**





BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. SP77-271  
)  
AMERON HC&D ) CERTIFICATE OF SERVICE  
)  
To Obtain a Sixth Amendment to Land Use )  
Commission Special Use Permit To Add )  
Approximately 9.5 Acres Within the State )  
Land Use Agricultural District For The )  
Quarry Operations and To Withdraw 41.2 )  
Acres Within the State Land Use )  
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Operations at Puunene, Maui, State of )  
Hawai'i, TMK Nos: 3-8-003:portion of 004 )  
portion of 020, and portion of 021 and 3-8- )  
001:portion of 001 )  
\_\_\_\_\_ )

CERTIFICATE OF SERVICE

I hereby certify that a copy of DECISION AND ORDER APPROVING THE SIXTH AMENDMENT TO THE LAND USE COMMISSION SPECIAL USE PERMIT was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

DEL.        ABBEY SETH MAYER, Director  
              Office of Planning  
              P. O. Box 2359  
              Honolulu, Hawaii 96804-2359

REGULAR BRYAN YEE, Esq.  
MAIL: Deputy Attorney General  
Hale Auhau, Third Floor  
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Honolulu, Hawaii 96813

REGULAR Mr. Michael Hopper Esq.,  
MAIL: County of Maui  
Department of Environmental Management  
200 South High Street, Room 322  
Wailuku, Hawaii 96793

REGULAR Cheryl Okuma, Director  
MAIL: County of Maui  
Department of Environmental Management  
200 South High Street, Room 322  
Wailuku, Hawaii 96793

CERTIFIED Mr. Mike Munekiyo  
MAIL: Munekiyo & Hiraga, Inc.  
395 High Street, Suite 104  
Wailuku, Hawai'i 96793

Dated: Honolulu, Hawai'i, MAR 23 2009.



ORLANDO DAVIDSON  
Executive Officer