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

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
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

DOCKET NO. SP77-271
DECISION AND ORDER
APPROVING THE
SIXTH AMENDMENT TO
THE LAND USE
COMMISSION SPECIAL
USE PERMIT

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.

MARCH 23, 2009
Date

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

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 17, 2009.

APPROVED AS TO FORM:

[Signature]
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

[Signature]
Chairperson and Commissioner

Filed on: March 23, 2009

[Signature]
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 HAWAI'I

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To Obtain a Sixth Amendment to Land Use
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Hawai‘i, TMK Nos: 3-8-003:portion of 004
portion of 020, and portion of 021 and 3-8-
001:portion of 001

DOCKET NO. SP77-271
CERTIFICATE OF SERVICE

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
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        Honolulu, Hawaii 96804-2359
REGULAR MAIL: BRYAN YEE, Esq.
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REGULAR MAIL: Cheryl Okuma, Director
County of Maui
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CERTIFIED MAIL: Mr. Mike Munekiyo
Munekiyo & Hiraga, Inc.
395 High Street, Suite 104
Wailuku, Hawaii 96793

Dated: Honolulu, Hawaii, ______ MAR 23 2009

ORLANDO DAVIDSON
Executive Officer