

CARLSMITH BALL LLP 2015 OCT 9 PM 12 30

A LIMITED LIABILITY LAW PARTNERSHIP

ASB TOWER, SUITE 2100
1001 BISHOP STREET
HONOLULU, HAWAII 96813
TELEPHONE 808.523.2500 FAX 808.523.0842
WWW.CARLSMITH.COM

PLANNING DEPARTMENT
COUNTY OF HAWAII

DIRECT DIAL NO.
808.523.2557

JLIM@CARLSMITH.COM

OUR REFERENCE NO.:
035536-00006

October 12, 2015

HAND DELIVERY

Duane Kanuha
Planning Director
Hawai'i County Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720

Re: **Affidavit of Sign Posting; Affidavit of Mailing**
Applicant: WHC, Ltd. dba West Hawaii Concrete
Amendment to Special Permit No. 833 to Allow a Time Extension to
Condition No. 12, Allow Greenwaste Composting, and Allow the Processing
of Portland Cement Concrete and Asphalt Concrete Pavement
Tax Map Key No. (3) 6-8-001: 066 (formerly portion of (3) 6-8-001: 005)

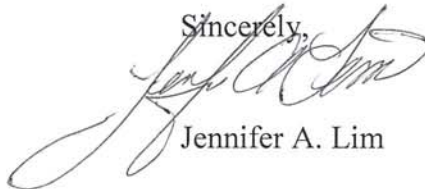
Dear Mr. Kanuha:

Enclosed please find an Affidavit of Sign Posting attesting to the posting of a sign on the above-referenced property, which serves to notify the public of the pending Application for Amendment to Special Permit No. 833, filed with the Planning Department on September 15, 2015 ("**Application**"). Photographs of the sign in place are enclosed as Exhibit A to said Affidavit.

Also enclosed please find an Affidavit of Mailing of Notice of Filing Application, attesting to our transmittal of a notification letter regarding the filing of the Application to the owners of properties within 500 feet of the perimeter of the above-referenced property.

Please feel free to contact me at (808) 523-2557 or jlim@carlsmith.com should you have any questions concerning this submittal.

Sincerely,



Jennifer A. Lim

JAB1/PPT
Enclosure(s)
cc: Mel Macy, West Hawaii Concrete

EXHIBIT
8

HONOLULU

HILO

KONA

MAUI

GUAM

4841-7310-4937.3.035536-00006



ORIGINAL

2015 OCT 9 PM 12 30
PLANNING DEPARTMENT
COUNTY OF HAWAII

Applicant: WHC, Ltd. dba West Hawaii Concrete

Location: Tax Map Key No. (3) 6-8-001: 066 (por.) (formerly a portion of TMK No. (3) 6-8-001: 005), District of South Kohala, Island and County of Hawaii

Request: Special Permit No. 833 (Docket No. 92-000001)
Amendment to Special Permit No. 833 to Allow a Time Extension to Condition No. 12, Allow Greenwaste Composting, and Allow the Processing and Recycling of Portland Cement Concrete and Asphalt Concrete Pavement ("**Application**")

**AFFIDAVIT OF MAILING OF
NOTICE OF FILING APPLICATION**

STATE OF HAWAI'I)
) SS.
CITY AND COUNTY OF HONOLULU)

JENNIFER A. LIM, being first duly sworn on oath, deposes and says that:

1. I am a partner at the law firm of Carlsmith Ball LLP, which represents the Applicant in this Special Permit proceeding, WHC, Ltd., a Hawai'i corporation doing business as West Hawaii Concrete, who is requesting an amendment to Special Permit No. 833 to extend the expiration date of Special Permit No. 833, to allow greenwaste composting, and to allow the processing and recycling of Portland Cement Concrete and Asphalt Concrete Pavement on TMK No. (3) 6-8-001: 066 (formerly a portion of TMK No. (3) 6-8-001: 005), situated at Waikoloa, District of South Kohala, Island and County of Hawaii (the "**Property**").

2. On September 15, 2015, Affiant filed the above-referenced Application with the Planning Department.


3. By letter dated September 24, 2015, which was received by Affiant on October 1, 2015, and by Applicant on October 5, 2015, the Planning Department acknowledged receipt of the Application.

4. Affiant has compiled a list of names and addresses of property owners within 500 feet of the perimeter boundary of the Property, a copy of said list being attached hereto as **Exhibit 1**.

5. On October 5, 2015, Affiant mailed to all said property owners the Notice of Filing Application, which included a copy of the Tax Map Key map showing the Property, a Site Plan of the Property, and the County's form application for Petition for Standing in a Contested Case Hearing. A copy of said Notice being attached hereto as **Exhibit 2**.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: Honolulu, Hawai'i, October 8, 2015.



JENNIFER A. LIM

2015 OCT 9 PM 12 30


STATE OF HAWAI'I)
)
CITY AND COUNTY OF HONOLULU) ss.

PLANNING DEPARTMENT
COUNTY OF HAWAII

On this 8th day of October, 2015, before me personally appeared **JENNIFER A. LIM**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)


Name: Jeannie Hirabara

Notary Public, State of Hawai'i

My commission expires: 2/7/18

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Affidavit of Mailing of Notice of Filing Application

Document Date: 10-08-15

No. of Pages: - 10 -

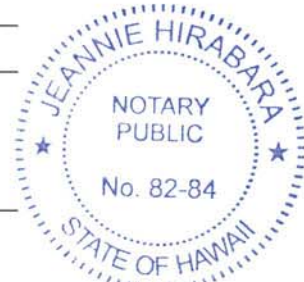
Jurisdiction (in which notarial act is performed): First Circuit

 10/8/15

Signature of Notary Date of Notarization and Certification Statement

Jeannie Hirabara

Printed Name of Notary



(Notary Stamp or Seal)

WHC, Ltd.
Special Permit Application
Surrounding Property Owners Within 500'
of
TMK:(3) 6-8-001:066

<u>TMK</u>	<u>Owner Name and Address</u>
6-8-001:005 027 067	Waikoloa Mauka LLC Attn: Mr. Kevin C. Kellow 431 N Brand Blvd., Suite 201 Glendale, CA 91203-4418
6-8-001:999	County of Hawaii Department of Public Works Highway Maintenance 101 Pauahi Street, Suite 7 Hilo, HI 96720
7-1-003:001	State of Hawaii Department of Land and Natural Resources Land Division 75 Aupuni Street, Room 204 Hilo, HI 96720 AT&T Wireless Services of HI LLC 500 Kahelu Avenue Mililani, HI 96789-3938
6-8-002:019	Waikoloa Village Association P.O. Box 383910 Waikoloa, HI 96738

Exhibit 1

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

ASB TOWER, SUITE 2100
1001 BISHOP STREET
HONOLULU, HAWAII 96813
TELEPHONE 808.523.2500 FAX 808.523.0842
WWW.CARLSMITH.COM

DIRECT DIAL NO.
808.523.2557

JLIM@CARLSMITH.COM

October 5, 2015

Notice of Filing Application

- Applicant:** WHC, Ltd., a Hawaii corporation doing business as West Hawaii Concrete
- Owners:** WQJ2008 Investment, LLC, a Washington limited liability company
Ukumehame Quarry Company Limited Partnership, a Hawaii limited partnership
- Location:** Approximately four (4) miles mauka of Queen Kaahumanu Highway, south of Waikoloa Road, in Waikoloa, District of South Kohala, Island and County of Hawaii
- Request:** To amend Special Permit No. 833 to allow a time extension to Condition No. 12 to allow the current quarrying operations to continue within the 219.990-acre property, and to allow greenwaste composting, and the processing and recycling of Portland cement concrete and asphalt concrete pavement pursuant to Section 6-3, Planning Commission Rules of Practice and Procedure

Tax Map Key ("**TMK**") No. (3) 6-8-001: 066 (por.) (formerly a portion of TMK No. (3) 6-8-001: 005) ("**Property**")

Dear Surrounding Property Owners:

Pursuant to Rule 6 of the Planning Commission Rules of Practice and Procedure, on September 15, 2015, Applicant WHC, Ltd. dba West Hawaii Concrete filed with the Planning Department of the County of Hawaii, a Special Permit application seeking to amend the current Special Permit No. 833, which allows quarrying activities on the Property until December 31, 2018, to (1) extend the expiration date of Special Permit No. 833 so that the quarrying and other activities can continue to 2043 or for so long as the Owners allow the Applicant to continue quarrying operations, which could extend the permit until 2063, (2) allow greenwaste composting and, (3) allow the processing and recycling of Portland cement concrete and asphalt concrete pavement, on approximately 219.990-acres of the Property, located within the State Land Use Agricultural District.

In accordance with Hawaii County Zoning Code, Section 25-2-4, we are notifying owners of interest in properties within 500 feet of the perimeter boundary of the Property of the filing of the

October 5, 2015

Page 2

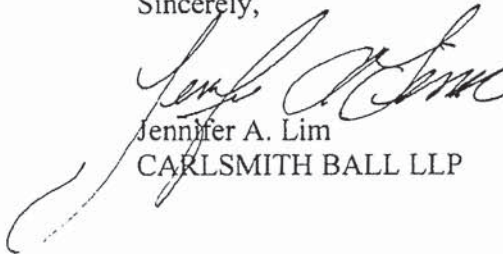
subject Special Permit application. Copies of the TMK map indicating the location of the Property and site plan are attached for your reference.

In accordance with Rule 4 of the Planning Commission Rules of Practice and Procedure, you have the right to submit a written request for a contested case proceeding in this matter. Should you seek to intervene as a party, a written request on the attached form, "Petition for Standing in Contested Case Hearing," should be filed with the Planning Commission located at 101 Pauahi Street, Suite 3, Hilo Hawaii 96720, accompanied by a filing fee of \$200.00 payable to the Director of Finance, no later than seven (7) calendar days prior to the Planning Commission's first scheduled public hearing to consider the application. In the event that you choose not to submit a written request for a contested case procedure, you may express your support/opposition in writing or by oral testimony at the Planning Commission public hearing to be scheduled. A second public notice will be sent to you informing you of the date, time and place on which the Planning Commission hearing will be held to consider the subject application.

Maps showing the general location and boundary of the area under consideration are on file in the offices of the Planning Department in the Aupuni Center, 101 Pauahi Street, Suite 3, Hilo, Hawaii 96720 at 808.961.8288, or at the Planning Department's West Hawaii Office, 74-5044 Ane Keohokalole Highway, Building E, 2nd Floor, Kailua-Kona, Hawaii 96740 at 808.323.4770, and are open to inspection during office hours.

Should you have any additional questions concerning this matter, please call our office at 808.523-2557, or the Planning Department in Hilo at 808.961.8288, or in Kona at 808.323.4770. Thank you for your kind attention.

Sincerely,



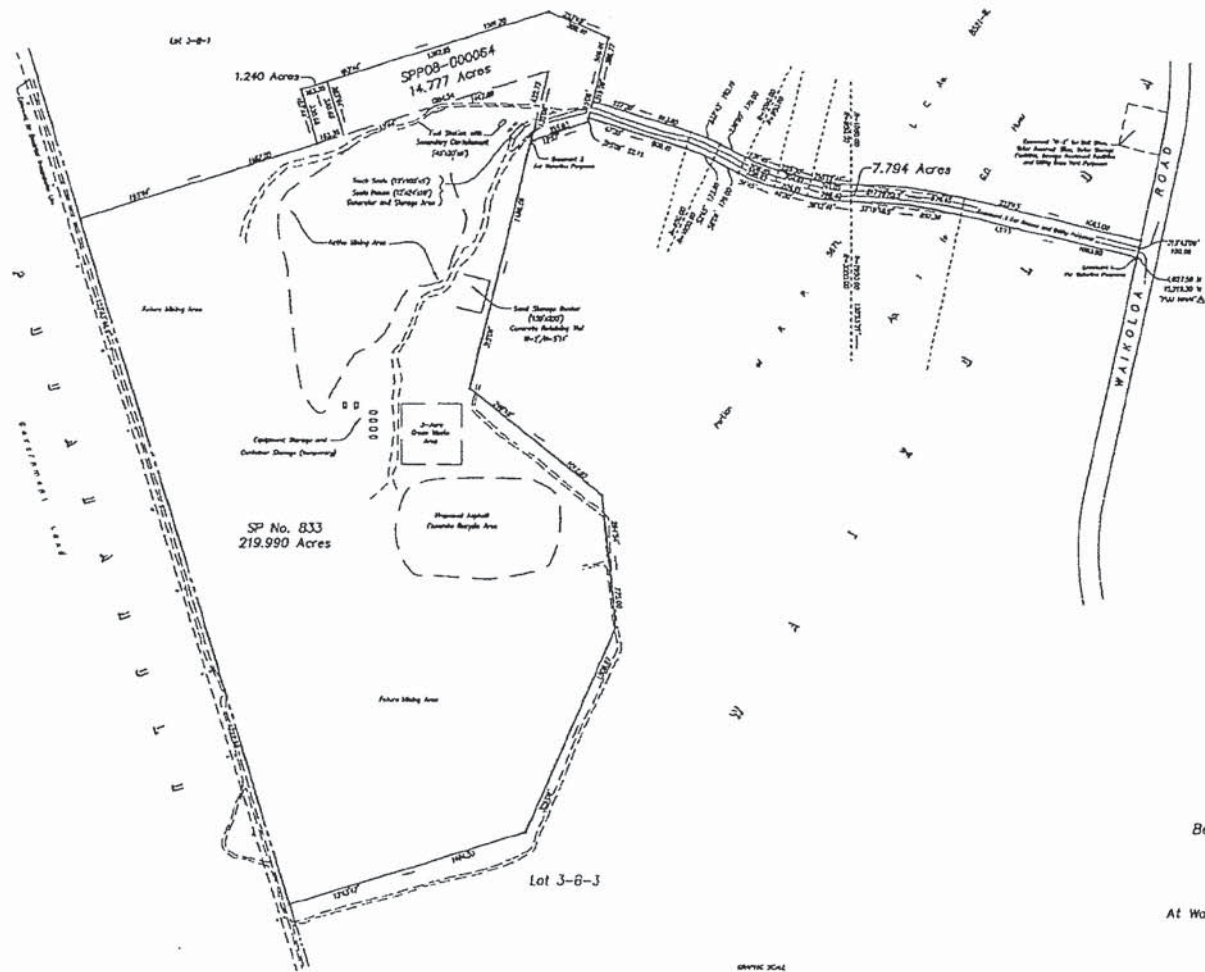
Jennifer A. Lim
CARLSMITH BALL LLP

JAB1/PPT

Enclosures: TMK Map/Site Plan/Appendix A (Petition for Standing in a Contested Case Hearing)

xc w/enclosures: Mel Macy, West Hawaii Concrete

4845-0707-5369.3



Lot 3-B-2
 Being a Portion of Royal Patent 5671,
 Land Commission Award 8521-B,
 Apana 1 to G.D. Hueu

At Waikoloa, North Kohala, Island of Hawaii Hawaii
 Tax Map Key: (3) 6-B-01: 066

243.794 Acres



A.J.A. ENGLISH ENGINEERING

7/20/2011 10:00 AM
 11/20/2011 10:00 AM
 11/20/2011 10:00 AM

PETITION FOR STANDING IN A CONTESTED CASE HEARING

(Page 1 of 2)

NAME: _____

ADDRESS: _____

PHONE NO.: _____

APPLICANT/

DOCKET NO.: _____

A. Is your interest in this matter clearly distinguishable from that of the general public?

Yes _____ No _____

If the answer is "yes", please explain:

If the answer is "no", please explain how the proposed action will nevertheless cause you actual or threatened injury:

B. Are you a government agency whose jurisdiction includes the land involved in the subject request?

Yes _____ No _____

If the answer is "yes", please explain the nature of the agency's jurisdiction:

C. Do you lawfully reside on or have some property interest in the land involved in the subject request?

Yes _____ No _____

If the answer is "yes", please explain:

PETITION FOR STANDING IN A CONTESTED CASE HEARING

(Page 2 of 2)

D. Are you a person or persons descended from native Hawaiians who inhabited the Hawaiian Islands prior to 1778, who practiced those rights which were customarily and traditionally exercised for subsistence, cultural, or religious purposes?

Yes _____ No _____

If the answer is "yes", please submit any genealogical evidence and historical evidence showing the exercise of those rights to support your statement:

Petitioner's Signature

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this _____ day of _____, 20____, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Notary Public, State of Hawaii

My commission expires: _____

ORIGINAL

2015 OCT 9 PM 12 30

Applicant: WHC, Ltd. dba West Hawaii Concrete

PLANNING DEPARTMENT
COUNTY OF HAWAII

Location: Tax Map Key No. (3) 6-8-001: 066 (por.) (formerly a portion of TMK No. (3) 6-8-001: 005), District of South Kohala, Island and County of Hawaii

Request: Special Permit No. 833 (Docket No. 92-000001)
Amendment to Special Permit No. 833 to Allow a Time Extension to Condition No. 12, Allow Greenwaste Composting, and Allow the Processing and Recycling of Portland Cement Concrete and Asphalt Concrete Pavement

AFFIDAVIT OF SIGN POSTING

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

JENNIFER A. LIM, being first duly sworn on oath, deposes and says that:

1. I am a partner at the law firm of Carlsmith Ball LLP, which represents the applicant in this Special Permit proceeding, WHC, Ltd., a Hawai'i corporation doing business as West Hawaii Concrete ("**Applicant**"), who is requesting an amendment to Special Permit No. 833 to extend the expiration date of Special Permit No. 833, to allow greenwaste composting, and to allow the processing and recycling of Portland Cement Concrete and Asphalt Concrete Pavement on TMK No. (3) 6-8-001: 066 (formerly a portion of TMK No. (3) 6-8-001: 005), situated at Waikoloa, District of South Kohala, Island and County of Hawaii (the "**Property**").

2. The Applicant posted a sign near the boundary of the Property, which is viewable from Waikoloa Road, on October 8, 2015, notifying the public of the nature of the application, the proposed use of the Property, the size of the Property, the tax map key, that the public may contact the Planning Department for additional information and the contact address and telephone number of the Planning Department, in compliance with Hawaii County Code Section 25-2-12, relating to posting of signs for public notification. Photographs of the posted sign are attached hereto as **Exhibit A**.

3. The Applicant will not remove the sign until the application has been granted, denied or withdrawn.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: Honolulu, Hawai'i, October 8, 2015.

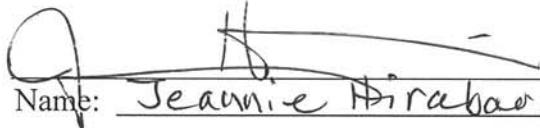


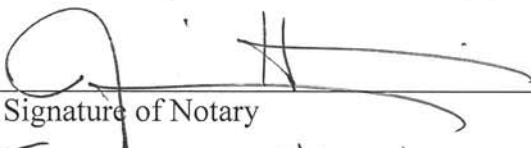
JENNIFER A. LIM


STATE OF HAWAI'I)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 8th day of October, 2015, before me personally appeared **JENNIFER A. LIM**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.




Name: Jeannie Hirabara
Notary Public, State of Hawai'i
My commission expires: 2/7/18

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: <u>Affidavit of Sign Posting</u>	
Document Date: <u>10-08-15</u>	
No. of Pages: <u>-4-</u>	
Jurisdiction (in which notarial act is performed): <u>First Circuit</u>	
 Signature of Notary	<u>10-08-15</u> Date of Notarization and Certification Statement
<u>Jeannie Hirabara</u> Printed Name of Notary	



(Notary Stamp or Seal)

Exhibit A





WEST HAWAII CONCRETE

V - FRI 7:00 - 3:30

**NOTICE PURSUANT TO HAWAII
COUNTY CODE SECTION 25-2-12**

Request: Amendment to Special Permit No. 833 to allow: (1) a time extension to Condition No. 12, (2) greenwaste composting and (3) processing and recycling of portland cement concrete and asphalt concrete pavement.

TMK: (3) 6-8-001-066 (por.) (formerly portion of 6-8-001-005) of approximately +219.990 acres, located at Walkoloa, District of South Kohala.

For additional information, contact the offices of the Planning Department in Hilo at the County Building, 101 Pauahi St., Room 3, Hilo, HI at 961-8288, and in Kona at the West Hawaii Office at 74-5044 Ane Keohokalole Hwy., Building E, 2nd Floor, Kailua-Kona, HI at 323-4770.