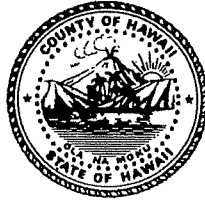


Harry Kim  
Mayor



Michael Yee  
Director

Daryn Arai  
Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563

**County of Hawai'i**  
**PLANNING DEPARTMENT**

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

September 6, 2017

Steven S. C. Lim, Esq.  
Carlsmith Ball, LLP  
121 Waianuenue Avenue  
Hilo, HI 96720

Dear Mr. Lim:

**SUBJECT: Special Permit No. 724 (LUC Docket No. SP 90-374)**  
**Applicant: WHC Ltd., dba West Hawaii Concrete**  
**Subject: Lease Extension Notification**  
**Tax Map Key: (3) 6-7-001: Portion of 025**

2017 SEP - 8 A 8:16  
LAND USE COMMISSION  
STATE OF HAWAII

This is to acknowledge receipt of your letter dated July 28, 2017 notifying the Planning Director of an extension of a lease agreement between your client, PR Mauna Kea, LLC (PRMK) and the applicant, WHC Ltd., dba West Hawaii Concrete for an additional 20 years (from September 30, 2017 to September 30, 2037) in response to Condition No. 7 of LUC Docket No. SP 90-374. This Special Permit allowed for the expansion of an existing rock quarry for a total land area of 143.48 acres in the State Land Use Agricultural District, and amended conditions of the permit, that include Condition No. 7 (Life of the Permit). Please be advised that any decisions on this matter lie with the State Land Use Commission (LUC) as the final authority over Special Permits issued by that body.

Condition No. 7 states: *"The life of this Special Permit shall run co-terminous (sic) with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."*<sup>1</sup>

Our review of the LUC's Order found a footnote affixed to Condition No. 7 which states, *"Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000 from the Applicant to Esther Ueda, Executive Officer, State Land Use Commission."* The May 1, 2000 letter referenced in the footnote indicated the Applicant's understanding that any extension beyond September 30, 2017 would require the approval of both the Planning Director and the LUC.

Steven S. C. Lim, Esq.  
Carlsmith Ball, LLP  
Page 2  
September 6, 2017

We also found an April 28, 2000 letter from Esther Ueda, then Executive Officer of the State Land Use Commission, to the Planning Director requesting the County's interpretation of the intent of Condition No. 7. The County responded with a May 3, 2000 letter from then Planning Director Virginia Goldstien indicating that, *"Any amendments to the lease forwarded to the Planning Director and State Land Use Commission is for their information and official records. It is also our understanding that the quarrying activities are an on-going operation and as such, the reason the life of the permit to run co-terminous with the lease and any amendments, provided quarrying occurs within the metes and bounds of the permitted quarry area."* Despite the County's interpretation of the condition, it was the LUC certified that the order with the footnote still affixed. Copies of the above-mentioned documents are enclosed for your information.

Based on the preceding discussion, we hold the position that the State Land Use Commission must determine if the executed lease extension will be supported by the terms and conditions of LUC Docket No. SP 90-374.

If you have any questions, please feel free to contact Christian Kay at 961-8136.

Sincerely,



MICHAEL YEE  
Planning Director

CRK:mad

P:\wpwin60\CKay\Planning Commission\Letters\Acknowledgements\LLim-WHC-SPP274-LeaseExtensionNotification.doc

Enclosures: April 28, 2000 Letter from Esther Ueda, Executive Officer, State Land Use Commission to the Planning Director

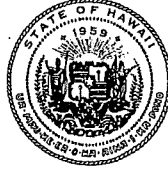
May 3, 2000 Letter from Planning Director Virginia Goldstein to LUC

May 17, 2000 Memo from Virginia Goldstein with the LUC Docket No. 90-374 Decision and Order and May 1, 2000 letter from West Hawaii Concrete to LUC

July 28, 2017 Letter from Carlsmith Ball to Planning Department

cc w/ copy of encl.: Daniel E. Orondenker, Executive Officer, State Land Use Commission  
WHC, Ltd. dba West Hawaii Concrete

BENJAMIN J. CAYETANO  
GOVERNOR



ESTHER UEDA  
EXECUTIVE OFFICER

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LAND USE COMMISSION

P.O. Box 2359  
Honolulu, HI 96804-2359  
Telephone: 808-587-3822  
Fax: 808-587-3827

April 28, 2000

**FAXED**

'00 MAY 1 PM 1 12

PLANNING DEPT.  
COUNTY OF HAWAII

Ms. Virginia Goldstein  
Planning Director  
County of Hawaii  
25 Aupuni Street, Room 109  
Hilo, Hawaii 96721-4252

Dear Ms. Goldstein:

Subject: LUC Docket No. SP90-374/Richard Smart Trust, dba,  
Parker Ranch

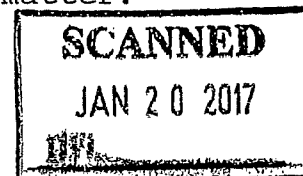
We are writing in regard to the Land Use Commission's (LUC) recent action on West Hawaii Concrete's (WHC) request to expand the existing quarry and to extend the life of the special permit in the subject docket.

As part of its action, the LUC approved an amended Condition No. 7 which requires that any amendments to the terms of the lease between WHC and Parker Ranch be submitted to the County of Hawaii Planning Director and the LUC. The LUC approved the amended Condition No. 7 based on the understanding that the life of the special permit would run co-terminous with the current lease, which expires on September 30, 2017, and that any extension to the life of the permit beyond the term of the current lease would require the approval of both the Planning Director and the LUC. However, questions were raised regarding the County's interpretation of this condition.

We would appreciate written clarification as to whether it is also your understanding that the permit timeframe is based on the existing lease terms and that such extension to the life of the permit would require the approval of the Planning Director and the LUC.

For your information, we have also requested WHC to provide written clarification on this matter. Please provide the requested information to our office by May 3, 2000.

Thank you for your cooperation in this matter.



Ms. Virginia Goldstein  
April 28, 2000  
Page 2

Should you have any questions, please feel free to call me  
or Bert Saruwatari of our office at 587-3822.

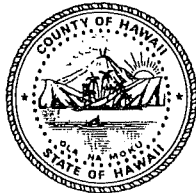
Sincerely,

A handwritten signature in cursive script, appearing to read "Esther Ueda", written in dark ink.

ESTHER UEDA  
Executive Officer

EU:th

Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Russell Kokubun  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

May 3, 2000

Ms. Esther Ueda, Executive Officer  
Land Use Commission  
Department of Business, Economic Development & Tourism  
P. O. Box 2359  
Honolulu, HI 96804-2359

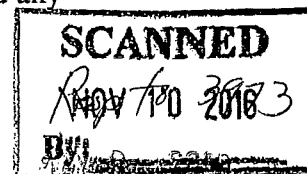
Dear Ms. Ueda:

**LUC Docket No. SP90-374 (SPP No. 724)**  
**Applicant: WHC, Ltd. dba West Hawaii Concrete**  
**Request: Expansion of Existing Quarry and**  
**Amendment to Condition No. 7 (Life of Quarry)**  
**Tax Map Key: 6-7-1:Portion of 25**

This is in response to your letter dated April 28, 2000, requesting clarification of our interpretation of Condition No. 7 for the above-referenced request. Amended Condition No. 7 states as follows:

- "7. [The quarrying operations and its allied uses shall be terminated within ten years from the date of approval of the Special Permit or its prior abandonment, whichever occurs first.] The life of this Special Permit shall run co-terminous with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."

It is our understanding that the life of the special permit would run co-terminous with the current lease and any amendments (extension) to the lease. Any amendments to the lease forwarded to the Planning Director and the State Land Use Commission is for their information and official records. It is also our understanding that quarrying activities are an on-going operation and as such, the reason for the life of the permit to run co-terminous with the lease and any



Ms. Esther Ueda, Executive Officer  
Land Use Commission  
Department of Business, Economic Development & Tourism  
Page 2  
May 3, 2000

amendments provided quarrying occurs within the metes and bounds of the approved quarry area.

Should you have any questions, please feel free to contact me or staff Alice Kawaha at 961-8288.

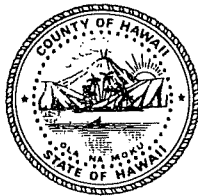
Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

AK:pak  
p:\wpwin60\alicerwin\LLUCPP72403agk

xc: Mr. Gregory R. Mooers

Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Russell Kokubun  
Deputy Director

## County of Hawaii

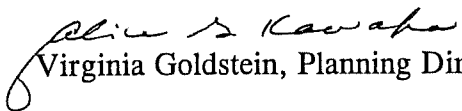
### PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 • Fax (808) 961-8742

May 17, 2000

#### MEMORANDUM

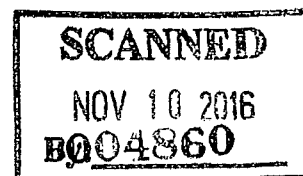
TO: Department of Public Works  
County Real Property Taxes  
West Hawaii Office  
Department of Water Supply  
Kazu Hayashida, Director/DOT-Highways, Honolulu

FROM:  Virginia Goldstein, Planning Director

SUBJECT: Special Permit No. 724 (LUC Docket No. 90-374)  
Applicant: WHC Ltd. dba West Hawaii Concrete  
Request: Expansion of Existing Quarry and Extension of  
Time to Condition No. 7 (Life of Quarry)  
Tax Map Key: 6-7-1:Portion of 25

Enclosed for your information is the State Land Use Commission's Order Granting Applicant's Request to Expand Existing Quarry and to Amend Condition No. 7 (Life of Quarry) for the above-referenced special permit.

mwhc03syw  
Enclosure



MAY 18 2000



## WEST HAWAII CONCRETE

Mel D. Macy  
West Hawaii Concrete  
P.O.Box 1390  
Kailua-Kona HI. 96740

May 1, 2000

VIA REGULAR MAIL AND FACSIMILE 808-587-3827

State of Hawaii  
Land Use Commission  
P.O.Box 2359  
Honolulu, HI 96805-2359  
Attn: ESTER UEDA

LAND USE COMMISSION  
STATE OF HAWAII  
2000 MAY -3 A 10:31

Subject: LUC Docket No. SP90-374 Parker Ranch

Dear Ester Ueda:

I am writing in response to your letter dated April 28, 2000. In the letter you requested written clarification on the expiration date of the special permit. The LUC approved the amended condition No. 7 based on the understanding that the special permit would expire on September 30, 2017, co-terminous with the current Parker Ranch lease.

West Hawaii Concrete understands that any extension to the life of the permit beyond September 30, 2017 would require the approval of the Planning Director and the LUC.

Sincerely,

Mel D. Macy  
Executive Vice President  
cc: Greg Mooers Enterprises



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

00 MAY 10 PM 2 20  
COMPTROLLER

In the Matter of the Petition of )  
 )  
RICHARD SMART TRUST, dba, )  
PARKER RANCH )  
 )  
For a Special Permit to Continue )  
and Expand an Existing Rock Quarry )  
and Related Uses on Approximately )  
91.827 Acres of Land Within the )  
Agricultural District at Waikoloa, )  
South Kohala, Hawai'i, Tax Map Key )  
No.: 6-7-01: portion 25 )  
\_\_\_\_\_ )

DOCKET NO. SP90-374

ORDER GRANTING  
APPLICANT'S REQUEST TO  
EXPAND EXISTING QUARRY  
AND TO AMEND CONDITION  
NUMBER 7

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.

MAY 09 2000

by

Date

Executive Officer

ORDER GRANTING APPLICANT'S REQUEST TO EXPAND  
EXISTING QUARRY AND TO AMEND CONDITION NUMBER 7

LAND USE COMMISSION  
STATE OF HAWAII  
2000 MAY -9 A 7:40

004411

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. SP90-374
	)	
RICHARD SMART TRUST, dba,	)	ORDER GRANTING
PARKER RANCH	)	APPLICANT'S REQUEST TO
	)	EXPAND EXISTING QUARRY
For a Special Permit to Continue	)	AND TO AMEND CONDITION
and Expand an Existing Rock Quarry	)	NUMBER 7
and Related Uses on Approximately	)	
91.827 Acres of Land Within the	)	
Agricultural District at Waikoloa,	)	
South Kohala, Hawai'i, Tax Map Key	)	
No.: 6-7-01: portion 25	)	
	)	

ORDER GRANTING APPLICANT'S REQUEST TO EXPAND  
EXISTING QUARRY AND TO AMEND CONDITION NUMBER 7

On November 22, 1999, the County of Hawai'i Planning Department received a request from Gregory R. Mooers on behalf of WHC, Ltd., dba West Hawaii Concrete ("Applicant"), to 1) expand the existing approximately 91.827-acre rock quarry by an additional 51.653 acres of land; and 2) amend Condition Number 7 to extend the life of the special permit for an additional 20 years.

On February 4, 2000, the County of Hawai'i Planning Commission ("Planning Commission") conducted a public hearing on this matter. After due deliberation, the Planning Commission recommended approval of the expansion of the existing rock quarry by an additional 51.653 acres of land and amendments to Condition Numbers 3 and 7 of the Land Use Commission's ("Commission") Findings of Fact, Conclusions of Law, and Decision and Order ("Decision and Order") dated March 16, 1990, as follows:

3. Prior to any grading activity, a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.

7. The life of this Special Permit shall run co-terminus with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.

On February 28, 2000, the Commission received a portion of the Planning Commission's record in this proceeding.

On March 28, 2000, the Commission received the remaining portion of the record, consisting of a full size vicinity map/enlargement.

This matter came on for hearing before this Commission on April 6, 2000, in Honolulu, Hawai'i, with appearances by the parties as noted in the minutes. At the hearing, the Commission heard public testimony from Abe Mitsuda, Administrator, Land Use Division, Office of Planning. Mr. Mitsuda stated that the Department of Land and Natural Resources, State Historic Preservation Division ("DLNR-SHPD"), recommended that the Applicant comply with Condition Number 6 with respect to the proposed 51.653-acre expansion area. The Applicant stated that it had no objections to the DLNR-SHPD's recommendation. The Applicant also stated that it had no objections to amend Condition Numbers 10 and 11 to require the Applicant to provide annual reports to this Commission and to obtain the Commission's approval for an extension of time for the performance of conditions, respectively.

Thereafter, a motion was made and seconded to grant the expansion of the existing rock quarry by an additional approximately 51.653 acres and to amend Condition Numbers 3, 7, 10, and 11. Following discussion by the Commissioners, a vote

was taken on this motion. There being a vote tally of 8 ayes, 0 nays, and 1 excused, the motion carried.

ORDER

Having duly considered the Applicant's request, the arguments provided by the parties present in the proceeding, the statement made by the public witness, and a motion having been made at a hearing conducted on April 6, 2000, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, Hawai'i Administrative Rules, and there being good cause for the motion, the Commission ORDERS as follows:

The existing rock quarry shall be expanded by an additional 51.653 acres for a total area of 143.48 acres, as approximately identified on Exhibit "A," attached hereto and incorporated by reference herein.

Condition Numbers 3, 7, 10, and 11 shall be amended as follows:

3. Prior to any grading activity, a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.
7. The life of this Special Permit shall run co-terminous with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.<sup>1</sup>
10. An annual monitoring report shall be submitted to the Planning Director and the Commission prior to the anniversary date of the approval of the issuance of the Commission's Decision and Order. The report shall include, but not be limited to, the amount of material quarried, a detailed

---

<sup>1</sup> Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000, from the Applicant to Esther Ueda, Executive Officer, State Land Use Commission.

listing of public complaints or problems and their disposition, and the applicant's progress in complying with the conditions imposed herein.

Should a conflict arise which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding properties.

11. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 8, may be granted by the Planning Director subject to the approval by the Commission upon the following circumstances: a) 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; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

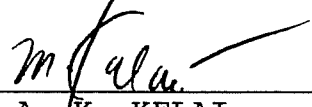
All other conditions to the Decision and Order dated March 16, 1990, are hereby reaffirmed and shall continue in effect.

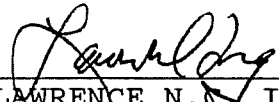
#### ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and the proceedings, hereby adopt and approve the foregoing ORDER this 4th day of May 2000.

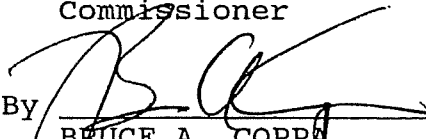
The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by the Commission.

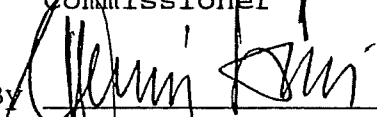
LAND USE COMMISSION  
STATE OF HAWAII

By   
MERLE A. K. KELAI  
Chairperson and Commissioner

By   
LAWRENCE N. KING  
Vice Chairperson and Commissioner

By (absent)  
P. ROY CATALANI  
Commissioner

By   
BRUCE A. COPPA  
Commissioner


By   
PRAVIN DESAI  
Commissioner

By (absent)  
ISAAC FIESTA, JR.  
Commissioner

By   
M. CASEY JARMAN  
Commissioner

Filed and effective on  
May 9, 2000

Certified by:

  
Executive Officer

By (absent)  
STANLEY ROEHRIG  
Commissioner

By (absent)  
PETER YUKIMURA  
Commissioner



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. SP90-374
	)	
RICHARD SMART TRUST, dba,	)	CERTIFICATE OF SERVICE
PARKER RANCH	)	
	)	
For a Special Permit to Continue	)	
and Expand an Existing Rock Quarry	)	
and Related Uses on Approximately	)	
91.827 Acres of Land Within the	)	
Agricultural District at Waikoloa,	)	
South Kohala, Hawaii, Tax Map Key	)	
No.: 6-7-01: portion 25	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Applicant's Request To Expand Existing Quarry And To Amend Condition Number 7 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:


DEL.        DAVID W. BLANE, Director  
            Office of Planning  
            P. O. Box 2359  
            Honolulu, Hawaii 96804-2359

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

CERT.       RICHARD D. WURDEMAN, ESQ.  
            Corporation Counsel  
            County of Hawaii  
            The Hilo Lagoon Center  
            101 Aupuni Street, Suite 325  
            Hilo, Hawaii 96720

CERT.       GREGORY R. MOOERS, President  
            Mooers Enterprises  
            P. O. Box 1101  
            Kamuela, Hawaii 96743

DATED:     Honolulu, Hawaii, this 9th day of May 2000.

  
\_\_\_\_\_  
ESTHER UEDA  
Executive Officer



BENJAMIN J. CAYETANO  
GOVERNOR



ESTHER UEDA  
EXECUTIVE OFFICER

**STATE OF HAWAII**  
**DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM**  
**LAND USE COMMISSION**

P.O. Box 2359  
Honolulu, HI 96804-2359  
Telephone: 808-587-3822  
Fax: 808-587-3827

May 16, 2000

**NOTIFICATION OF SPECIAL PERMIT DECISION**  
**FILED BY THE STATE LAND USE COMMISSION**

100 MAY 18 PM 1 50  
COUNTY OF HAWAII

To all concerned agencies:

The Order Granting Applicant's Request to Expand Existing Quarry and To Amend Condition Number 7 for the following special permit docket has been filed by the Land Use Commission:

<u>Petition</u> <u>Docket No.</u>	<u>Request</u>	<u>LUC Action on May 4, 2000</u>	<u>Date of</u> <u>Decision</u> <u>And Order</u>
SP90-374 RICHARD SMART TRUST, dba, PARKER RANCH	To expand the existing 91.827-acre rock quarry within the Agricultural District at Waikoloa, South Kohala, Hawaii, by an additional 51.653 acres of land and amend Condition 7 to extend the life of the special permit.	Approved the expansion of the existing quarry at Waikoloa, South Kohala, Hawaii, by an additional 51.653 acres and amendments to Condition Nos. 3, 7, 10, and 11.  TMK No. 6-7-01: portion 25 (see map attached)	May 09, 2000

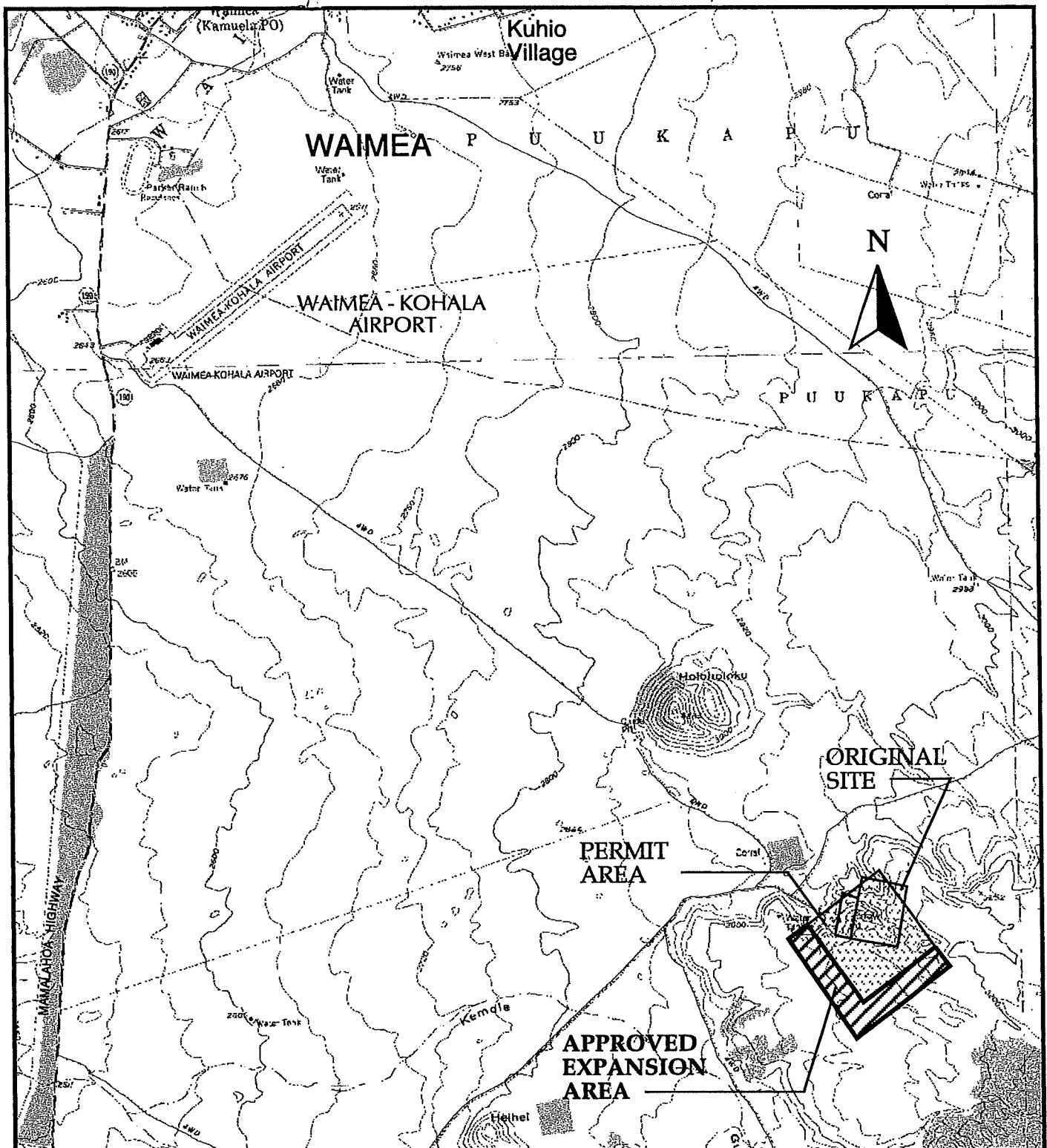
The above decision may include conditions which affect your agency. If you would like a copy of the conditions or more information on this matter, please contact Bert Saruwatari of our office at 587-3822.

Sincerely,

ESTHER UEDA  
Executive Officer

EU:aa

Att.



**SP90-374 RICHARD SMART TRUST,  
dba, Parker Ranch**

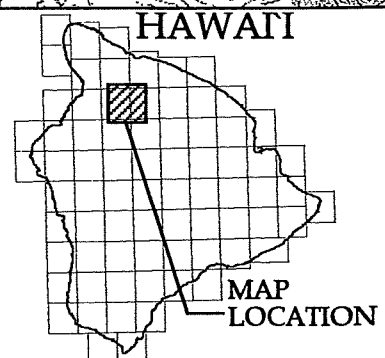
**LOCATION MAP**

Tax Map Key: 6-7-01: portion of 25  
Waikoloa, South Kohala, Hawai'i



**APPROVED EXPANSION  
AREA**

**EXHIBIT "A"**



# CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAIANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

2017 JUL 28 PM 1 02  
PLANNING DEPARTMENT  
COUNTY OF HAWAII

July 28, 2017

Michael Yee  
Planning Director  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720  
Attention: Jeff Darrow

Re: Special Permit No. 724 / LUC Docket No. SP 90-374  
Applicant: WHC, Ltd., dba West Hawaii Concrete  
TMK: (3) 6-7-001:034 ("Property")

Dear Mr. Yee:

This firm represents PR Mauna Kea LLC, a Hawaii limited liability company ("**PRMK**"), fee owner<sup>1</sup> of the Property. Applicant WHC, Ltd., a Hawaii corporation, doing business as West Hawaii Concrete ("**WHC**") has been leasing and operating the quarry site<sup>2</sup> on the Property since June 15, 1998.

The Planning Commission ("**Commission**") amended Special Permit No. 724 ("**SP 724**") on February 23, 2000, as amended by letter dated February 29, 2000, to allow for the expansion of the existing rock quarry for a total land area of 144± acres, and amended Condition Nos. 3 and 7 for the Property located within the State Land Use Agricultural District at Waikoloa, District of South Kohala, Island and County of Hawaii. Condition 7 provides as follows:

"7. The life of this Special Permit shall run co-terminous (sic) with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."

By Order Granting Applicant's Request to Expand Existing Quarry and to Amended Condition No. 7 filed May 9, 2000, in Docket No. SP 90-374 ("**SP 90-374**"), the State Land Use Commission ("**LUC**") granted the expansion of the existing rock quarry for a total land area of 143.448 acres of land, and amended Condition Nos. 3, 7 and 10 for the Property located within

<sup>1</sup> The interest of Parker Ranch, Inc., as Lessor under the Lease with WHC was assigned to PRMK.

<sup>2</sup> The quarry site covered under the Lease is Lot 26-A, as approved by the Planning Department on January 10, 2017 under SUB-17-0001692.

Michael Yee  
July 28, 2017  
Page 2

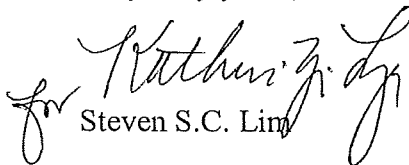
the State Land Use Agricultural District at Waikoloa, District of South Kohala, Island and County of Hawaii ("**LUC Order**"). Condition 7 provides as follows:

"7. The life of this Special Permit shall run co-terminous (sic) with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."

This is to inform you that PRMK and WHC, Ltd. have extended the current Lease for an additional 20 years (from September 30, 2017 to September 30, 2037). On behalf of PRMK, and in compliance with Condition 7 under the SP 724, as amended, and the LUC Order, we respectfully submit the enclosed fully executed copy of the Memorandum of Quarry Lease Agreement.

Please do not hesitate to contact me should you have any questions concerning this submittal. Thank you for your consideration.

Very truly yours,

  
Steven S.C. Lim

SSL/KYL

Enclosure

xc with enclosure: Client  
WHC, Ltd.

LAND COURT	REGULAR SYSTEM
Return By Mail <input type="checkbox"/> Pick-Up <input checked="" type="checkbox"/> To:	
CARLSMITH BALL LLP ASB Tower, Suite 2100 1001 Bishop Street Honolulu, Hawaii 96813  Attention: Robert E. Strand Telephone: (808) 523-2500	
TITLE OF DOCUMENT:  <b>MEMORANDUM OF QUARRY LEASE AGREEMENT</b>	
PARTIES TO DOCUMENT:  LESSOR: <b>PR MAUNA KEA LLC</b> , a Hawaii limited liability company, whose principal place of business and mailing address is 66-1304 Mamalahoa Highway, Kamuela, Hawaii 96743  LESSEE: <b>WHC, LTD.</b> , a Hawaii corporation, whose address is P.O. Box 1390, Kailua-Kona, Hawaii 96745	
TAX MAP KEY: (3) 6-7-001:034 (Lot 26-A under Subdivision No. SUB-17-001692) (This document consists of <u>9</u> pages.)	

**MEMORANDUM OF  
QUARRY LEASE AGREEMENT**

THIS MEMORANDUM OF QUARRY LEASE AGREEMENT (the "Memorandum") is made and entered into as of the 27<sup>th</sup> day of July, 2017, by and between PR MAUNA KEA LLC, a Hawaii limited liability company ("Lessor"), whose principal place of business and mailing address is 66-1304 Mamalahoa Highway, Kamuela, Hawaii 96743, and WHC, LTD., a Hawaii corporation, whose address is P.O. Box 1390, Kailua-Kona, Hawaii 96745 ("Lessee");

RECITALS:

This Memorandum is made with respect to the following facts:

A. On June 15, 1998, Parker Ranch, Inc. and Lessee entered into an unrecorded written Quarry Lease Agreement with respect to those certain leasehold premises ("Premises") commonly known as the Quarry Site and consisting of approximately 91.827 acres, the same being a portion of the real property owned by Parker Ranch, Inc. in Waikoloa, South Kohala, Island, County and State of Hawaii, and identified as TMK 3-6-7-001:025.

B. The Quarry Lease Agreement was amended by (i) an unrecorded amendment dated October 1, 1998 that changed the "Premises" covered by the Lease by replacing Exhibit "A" to the Quarry Lease Agreement subject to certain terms and conditions set forth therein and (ii) an unrecorded amendment dated October 8, 1999 that amended Exhibit "C" to the Quarry Lease Agreement. The "Premises" as currently demised by the Lease is the land now designated as Lot 26-A as shown on the final plat for SUB-17-0001692 dated January 10, 2017, consisting of approximately 143.480 acres.

C. The interests of Parker Ranch, Inc. as Lessor under the Lease were assigned to and are now held by PR Mauna Kea LLC, the Lessor named in this Memorandum.

D. Lessor and Lessee entered into that certain Third Amendment of Quarry Lease Agreement dated October 1, 2012 under which Lessor and Lessee acknowledged that the term of the Lease will end on September 30, 2037, unless sooner terminated as provided in the Lease, and agreed to amend the royalty payments to be made from and after October 1, 2012 as more particularly set forth therein (said Quarry Lease Agreement and such amendments being referred to herein collectively as the "Lease").

In consideration of the mutual advantages and benefits to be derived by Lessor and Lessee on account of the Lease, Lessor and Lessee agree as follows:

1. Lease. Lessor and Lessee acknowledge and agree that the Lease demises the Premises described in Exhibit "A" attached hereto and incorporated herein for a term ending on September 30, 2037 unless sooner terminated as set forth therein and that all of the terms and conditions of the Lease are incorporated herein by reference.

2. **Confirmation and Ratification of Lease.** This Memorandum shall be effective as of the date hereof, and except as expressly set forth herein or heretofore, the Lease shall remain unchanged and shall continue in full force and effect. Without limitation to the generality of the foregoing, Lessee shall continue to observe and perform all other terms and covenants of the Lease to be observed and performed by Lessee thereunder and shall make all payments and other charges thereunder payable by Lessee pursuant to the Lease. The Lease, as set forth herein and heretofore amended, and the respective obligations of the parties thereunder, are hereby ratified and confirmed.

3. **Defined Terms.** Any word, term or phrase which begins with initial capitalization and which is not defined in this Memorandum or defined in another identified document, shall be given the definition of such word, term or phrase in the Lease.


4. **Counterparts.** This Memorandum may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument binding on all the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart.

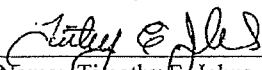
[Remainder of page intentionally left blank.]


IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum as of the date first above written.

**PR MAUNA KEA LLC**

By **TRUSTEES OF THE PARKER RANCH  
FOUNDATION TRUST** under that certain  
Trust Agreement dated August 9, 2007,  
acting in their fiduciary and not their  
individual capacities  
Its Sole Member


By   
Name: Michael W. Gibson  
Title: Trustee, Chair

By   
Name: Timothy E. Johns  
Title: Trustee

By   
Name: B.G. Moyhahan  
Title: Trustee

Lessor

**WHC, LTD.**

By   
Name: JASON MACY  
Title: PRESIDENT



COUNTY OF HAWAII

**MICHAEL W. GIBSON**, 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.



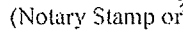
Julian Guilloz

'My commission expires: 9/2/2019

(Notary Stamp or Seal)

COUNTY OF HAWAII

On this 6th day of July, 2017, before me personally appeared **TIMOTHY E. JOHNS**, 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.



My commission expires: 9/2/2019

A circular notary seal for Juliann Guilloz, a Notary Public in the State of Hawaii. The seal features the name "JULIANN GUILLOZ" at the top, "NOTARY" in the center, and "07-447" below it. The words "PUBLIC" and "STATE OF HAWAII" are at the bottom. The seal is surrounded by a decorative border of small dots. Below the seal, the text "(Notary Stamp or Seal)" is written in parentheses.

STATE OF HAWAII                                 )  
COUNTY OF HAWAII                            ) ss.

On this 6th day of July, 2017, before me personally appeared **B. G. MOYNAHAN**, 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.

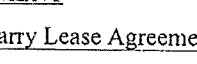
Name Julianne Guillot

Notary Public, State of Hawaii

My commission expires: 9/2/2019



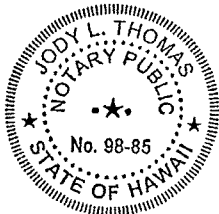
NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Memorandum of Quarry Lease Agreement</u>
Document Date:	<u>undated</u>
No. of Pages:	<u>8</u>
Jurisdiction (in which notarial act is performed):	<u>Third</u>
Signature of Notary	<u>7/14/2017</u>
<b>Juliann Guilloz</b>	Date of Notarization and Certification Statement
Printed Name of Notary	



(Notary Stamp or Seal)

STATE OF HAWAII                                 )  
  ) ss.  
COUNTY OF HAWAII                             )

On this 27th day of July, 2017, before me personally appeared JASON MACY, 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)

Jody L. Thomas  
Name: Jody L. Thomas  
Notary Public, State of Hawaii  
My commission expires: 2/17/2018

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: <u>Memorandum of Quarry Lease Agreement</u>	
Document Date: <u>undated at the time of notary</u>	
No. of Pages: <u>Nine (9), including exhibit</u>	
Jurisdiction (in which notarial act is performed): <u>First Circuit</u>	
<u>Jody L. Thomas</u> Signature of Notary	<u>7/27/2017</u> Date of Notarization and Certification Statement
Jody L. Thomas Printed Name of Notary	(Notary Stamp or Seal)



