

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

00 MAY 10 PM 2 20
COUNTY OF HAWAII

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 *[Signature]*
Date Executive Officer

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

LAND USE COMMISSION
STATE OF HAWAII
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RICHARD SMART TRUST, dba,)	ORDER GRANTING
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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.¹
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

¹ 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.

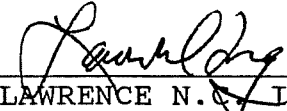
ADOPTION OF ORDER

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

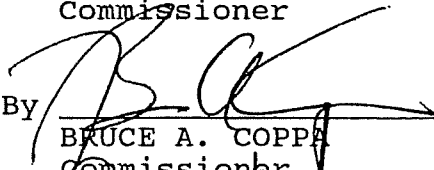
The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by the Commission.

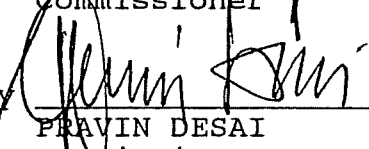
LAND USE COMMISSION
STATE OF HAWAII

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

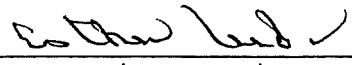
By 
PRAVIN DESAI
Commissioner

By (absent)
ISAAC FIESTA, JR.
Commissioner

By 
M. CASEY JARMAN
Commissioner

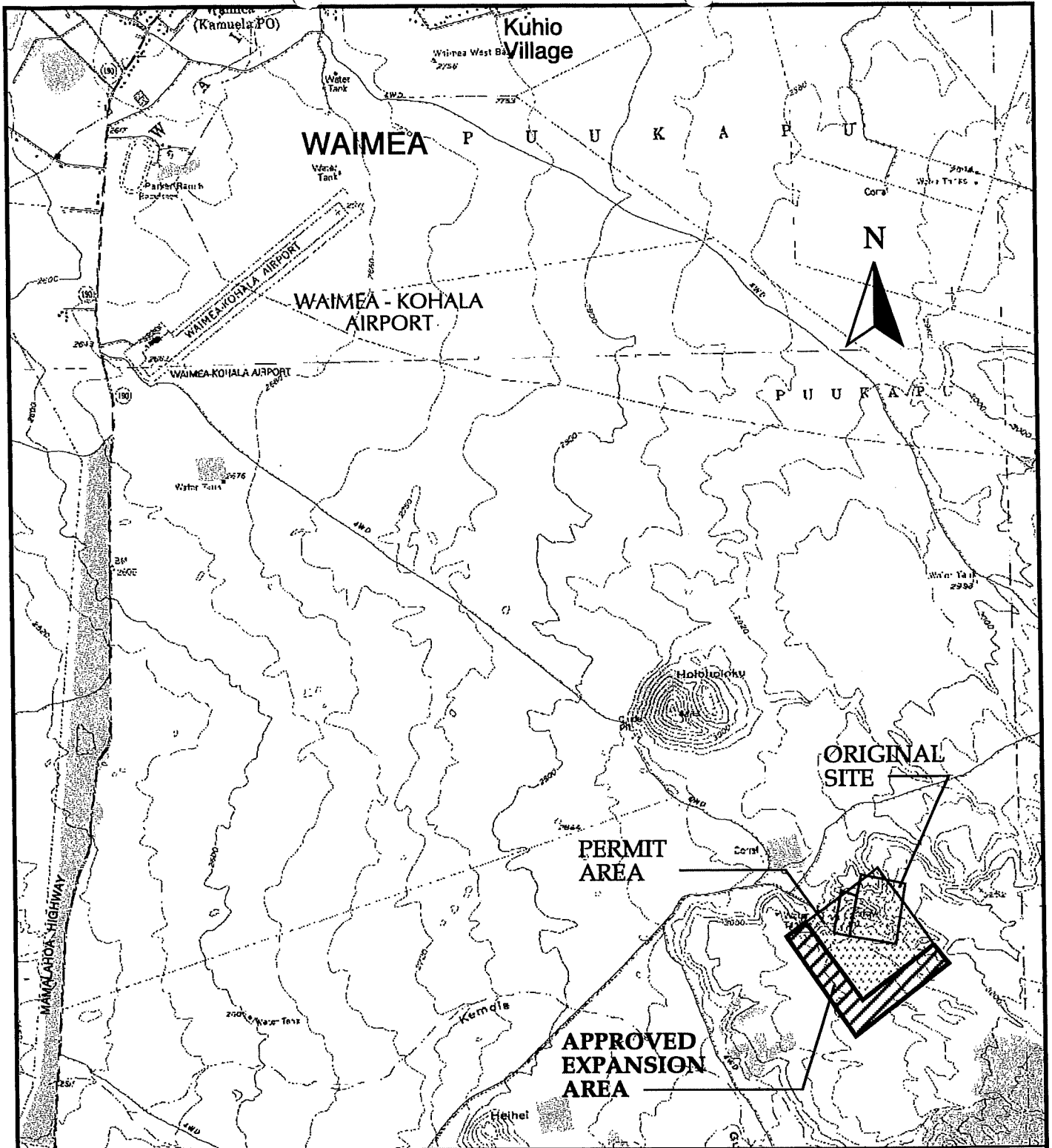
Filed and effective on
May 9, 2000

Certified by:


Executive Officer

By (absent)
STANLEY ROEHRIG
Commissioner

By (absent)
PETER YUKIMURA
Commissioner



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

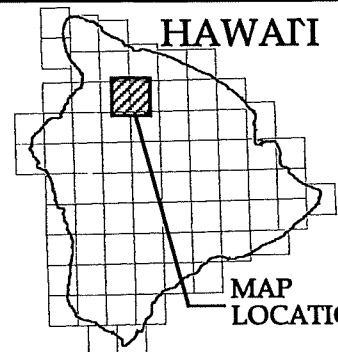
LOCATION MAP

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



**APPROVED EXPANSION
AREA**

EXHIBIT "A"



HAWAII

**MAP
LOCATION**

BEFORE THE LAND USE COMMISSION
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DOCKET NO. SP90-374
CERTIFICATE OF SERVICE

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

SP 924 PC

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

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HAWAII
COUNTY OF HAWAII

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

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 Docket No.</u>	<u>Request</u>	<u>LUC Action on May 4, 2000</u>	<u>Date of Decision 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

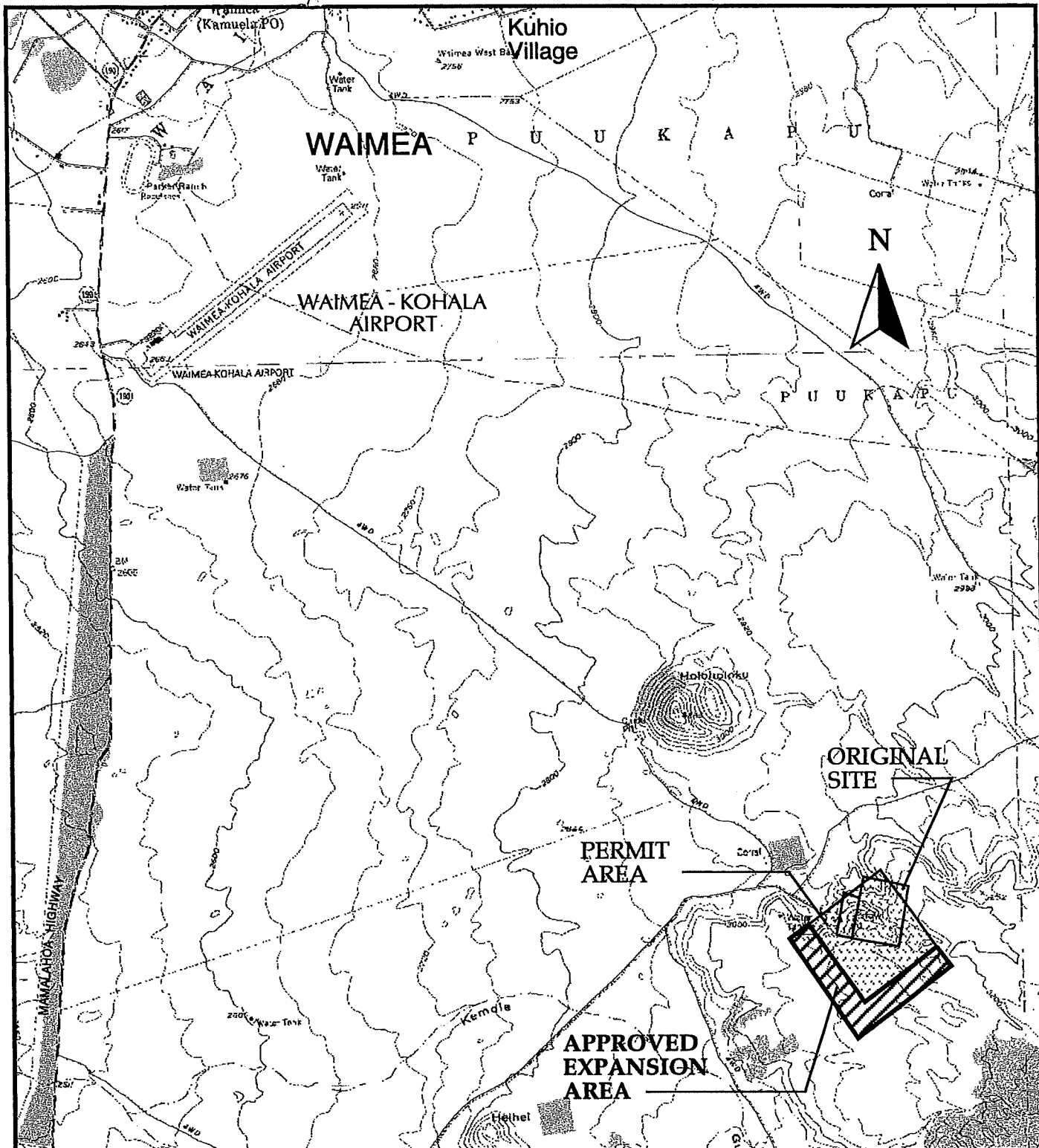
The above decision may include conditions which affect your agency. If you would like a copy of the conditions or more information on this matter, please contact Bert Saruwatari of our office at 587-3822.

Sincerely,

ESTHER UEDA
Executive Officer

EU:aa

Att.



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

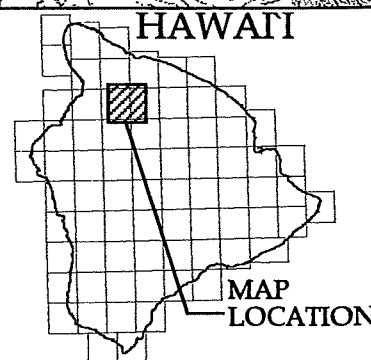
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EXHIBIT "A"



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