JAS. W. GLOVER, LTD.

GENERAL CONTRACTORS

License No. ABC-3

LAND USE COMMISSION
STATE OF HAWAII

2019 MAR 18 A 9:06

March 12, 2019

Daniel Orodenker, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
State of Hawaii
P. O. Box 2359
Honolulu, Hawaii 96804

Dear Mr. Orodenker:

Re: 2019Annual Report for State LUC Docket No. SP92-382
Jas. W. Glover, Ltd., TMK: 2-9-03: Portions 05 and 06
Mahaulepu, Koloa, Kauai
Use Permit U-92-36, Special Permit SP-92-6
Class IV Zoning Permit A-IV-92-38

This report is written relative to Condition #5 of the Land Use Commission's Decision and Order dated March 19, 1993, for the subject Docket and is due annually on the anniversary date of the project's approval.

All of the conditions of approval for the subject permits are addressed below. Please note that for condition no. 3, we have restated the individual agencies' conditions or requirements as submitted to the Planning Department, County of Kauai during its permitting process, and responded accordingly.

On September 21, 1998 the quarrying operations of Grove Farm Rock Company were transferred to Jas. W. Glover, Ltd. The Land Use Commission acknowledged this transfer in a letter to Grove Farm Rock Company dated October 20, 1998.

The conditions are bold faced with the responses beneath.

1. **The Planning Commission reserves the right to add additional conditions, revise existing conditions, or revoke the subject permits through proper procedures should the applicant fail to comply with conditions of approval, or should unforeseen circumstances arise that may be detrimental to the environment or to public health, safety and welfare.**

   This condition is acknowledged. No unforeseen circumstances have arisen that may be detrimental to the environment or to public health, safety and welfare.

2. a. **Applicant shall employ dust control measures including but not limited to compacting, graveling, watering and/or paving.**

   This condition is acknowledged and is observed.

   b. **Applicant shall implement erosion control methods including but not limited to berms, terrace excavation, collection ponds, and re-vegetation. Erosion, siltation and drainage shall not affect abutting properties, nor the Special Management Area.**

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This condition is acknowledged and is observed. Only areas that are currently being quarried are disturbed. Other areas remain under natural vegetation. Storm-water run-off from the areas being quarried flow into a detention basin. There has been no discharge from the detention basin since commencement of operations. Additional previously quarried areas were revegetated in 2016.

3. **Applicant shall comply with the requirements of the Public Works Department, Fire Department, Water Department, State Health Department, and State Land and Natural Resources-Historic Preservation Division.**

a. **Public Works Department:**
In a response dated May 14, 1992, the Public Works Department stated "Mining or quarrying operations regulated by the State or Federal Government is exempt from the Grading Ordinance and no permits are required."

The response is acknowledged.

b. **Fire Department:**
In a response dated May 1, 1992, the Fire Department stated "The Fire Dept. has no objection to proposed development – Applicant shall apply for a fuel tank installation permit prior to conducting operations."

Our current operations do not include any bulk fuel storage. We will comply with this requirement if a fuel tank is installed.

c. **Water Department:**
In a response dated May 15, 1992, the Kauai Department of Water stated "We have no objection to this Zoning. Use and Special Permit Application. However, the Applicant shall be made aware that the Department of Water does not have a domestic water system in this area and that prior to granting building permit approval, Applicant will be required to sign a Waiver and Release form with the Department of Water; agreeing that no County water service is available to this development."

An Agreement stating that we are aware that the Department of Water does not have a domestic water system in this area was executed by Grove Farm Rock Company and sent to the Bureau of Conveyances with a letter dated December 16, 1994 for recordation. A recorded copy of the Agreement was sent to the Department of Water with a transmittal dated January 6, 1995 and to your office with a transmittal dated February 16, 1995.

d. **State Health Department:**

1. **The proposed limestone and basalt quarrying operation will be situated within an area designated as CRITICAL WASTEWATER DISPOSAL AREA – NO EXCEPTION. Should a sanitary facility with an individual wastewater system other than portable toilets be used at the site, the individual wastewater system shall meet the minimum applicable requirements of Chapter 62, Wastewater Systems, Title 11, Administrative Rules, State of Hawaii.**

   This condition is acknowledged and is observed. Only portable toilets are used.

2. **The applicant shall obtain an Authority to Construct (ATC) permit for the proposed stationary source from the Clean Air Branch of Department of Health prior to commencing construction. The applicant shall start construction within one year after the ATC permit is issued. The applicant**

shall also obtain a Permit to Operate from the Clean Air Branch to operate the crushing plant.

On August 16, 1998 Grove Farm Rock Company received a Temporary Noncovered Source Permit (NSP) No. 0299-01-NT, dated August 8, 1998. This permit was transferred to Jas. W. Glover, Ltd. on September 21, 1998. This permit has since expired and the same equipment has been permitted under Covered Source Permit (CSP) No. 0257-01-C.

Current operations do not include any stationary source crushing plants. All necessary permits will be obtained prior to construction of the new or relocated limestone crushing plant when that occurs.

3. **The applicant shall properly handle and dispose of the used oil from the maintenance of the equipment and vehicles.**

This condition is acknowledged and is observed.

4. **The fuel for the equipment and vehicles shall be stored and handled in a manner that will not contaminate the ground. If underground storage tanks are used, the applicant shall contract the Underground Storage Tank program of the Solids and Hazardous Waste Branch of the Department of Health.**

This condition is acknowledged and is observed. Underground tanks are not being used.

5. **A permit for stormwater discharge during the construction of the proposed operation may be required should the construction activities not be completed by October 1, 1992. The applicant shall contact the Clean Water Branch of the Department of Health for more information.**

NPDES Permit No. HI R10C314 was issued on March 4, 2009 for construction activities. Construction activities were completed 10/9/09 and Notice of Cessation for the above permit was submitted to the Clean Water Branch of the Department of Health.
NPDES Permit No. HI 0021491, was issued on April 12, 2006 for operational activities. Operational activities commenced on 10/19/09. NPDES Permit No. HI 0021491 was renewed on July 20, 2011.
NGPC Permit File No. HI R32E854 was issued on December 29, 2015 and supersedes NPDES Permit No. HI 0021491.

6. **The applicant shall employ the best management practice for the prevention of storm runoff water, dust control water and wash water from discharging into the ocean.**

This condition is acknowledged and is observed. In compliance with NGPC Permit File No. HI R32E854, and associated Storm Water Pollution Control Plan, storm water run-off from areas being quarried is contained in a detention basin. There has been no discharge from the detention basin since commencement of operations. Our compliance with NGPC Permit File No. HI R32E854 has been verified by PG Environmental, a consultant representing the Clean Water Branch during a routine inspection held on December 7, 2018. Compliance submittals for 2018 were filed timely in early 2019.

7. **Effective water pollution, soil erosion and fugitive dust control measures shall be implemented by the applicant during all phases of site development and quarry operation.**

This condition is acknowledged and is observed.

8. **Grubbed material shall be disposed of at a solid waste disposal facility that is permitted by the Department of Health. Open burning of the material is prohibited.**

This condition is acknowledged and is observed.

9. **The applicant should ensure the prevention from bacterial and chemical contamination of the potable water during and after delivery to the site in tanker trucks in order to protect the health of the user.**

This condition is acknowledged and is observed.

10. **The Office of State Planning is proposing to reclassify the land use district boundary of the area the proposed quarry site is situated in from Agriculture to Conservation. The reason for the proposed change is to "protect the most important assemblage of the geological areas of interest and the important biological and archaeological resources" as stated in the <u>Draft State Land Use District Boundary Review Report – Kauai County.</u> The proposed land use will be in conflict with the proposed land use designation.**

Comment only. No condition imposed.

e. **<u>State Department of Land and Natural Resources – Historic Preservation Division</u>:**

1. A copy of the archaeological inventory survey for the new project areas was forwarded to the agency. Mr. Don Hibbard's letter of October 6, 1992 to the Planning Department, County of Kauai, affirmed S.H.P.D.S.'s satisfaction with the report and that " ..... the proposed quarry will have "no effect" on significant historic sites."

2. Regarding the existing limestone quarry at Mahaulepu: In accordance with the licensing agreement with Jas. W. Glover, Ltd., Grove Farm Rock Company, Inc. is responsible for restoration of the existing quarry. Statements by Grove Farm Rock Company, Inc. for the 1998 Annual Report are as follows:

   a. All limestone and structures which have impacted the Waiopili Heiau will be removed;

   b. Access to the hole in the cave from the quarry will be restricted or the cave sealed;

   c. Any burial site damaged by the quarry operation shall be left in place and stabilized. All operations in any such burial area will cease until a mitigation plan is agreed upon and executed.

Jas. W. Glover, Ltd. (Glover) ceased quarrying operations and removed all equipment from the Old Mahaulepu quarry site prior to August 18, 2011. The site was then handed back to Grove Farm, the landowner.

Grove Farm continues working with Dr. David Burney, Lida Pigott Burney, and the Makauwahi Cave Reserve staff to expand their neighboring native plants re-vegetation program into the old quarry area. Drip irrigation is installed, and 15 different species of native trees and ground cover have been planted to date.

4. **Prior to the issuance of a grading, grubbing or building permit for this project, applicant shall submit the following for review and/or approval by the Planning Director:**

a. **<u>Grading and reclamation master plan</u>. Said plan shall also reflect the "green belt/no disturbance zone" at the ridge top, a drainage master plan that conforms to NPDES guidelines, and landscaping/re-vegetation master plan. This "no disturbance zone" shall also be staked in accordance with item 4b below, and shall be no less that 60 ft. wide, as represented. This grading master plan should also reflect projected areas as they are needed to be quarried, on an annual basis. As additional areas are opened up for quarrying, those previously quarried areas should be back-filled and re-vegetated.**

The grading and reclamation master plan shall include both the proposed site and the current quarry site. The applicant shall schedule and hold a public meeting prior to the submittal of the reclamation plan for the current quarry site.

The grading and reclamation master plans for both the existing and proposed sites were submitted to your office by Grove Farm Rock Company with a letter dated March 8, 1995. A public meeting was held regarding the reclamation master plan for the existing quarry site on February 20, 1995 at the Koloa Neighborhood Center. There were a total of 12 people in attendance. A copy of the Notice that appeared in the Garden Island newspaper was forwarded to your office with a transmittal dated February 16, 1995.

b. **<u>A metes and bound map</u> of the site, prepared by a registered surveyor. A stake line shall be established on this perimeter utilizing 10 ft. high poles painted fluorescent orange, set in concrete, every 100 ft. The Planning Department shall confirm the type of pole to be utilized, and the staking of the site. Applicant shall maintain these poles so as to prevent equipment operators from exceeding the quarry limits. A copy of the approved metes and bounds map of the site shall also be submitted to the Land Use Commission.**

This condition is acknowledged and will be observed. A copy of the metes and bounds map of the site was included with a Grove Farm Rock Company letter to your office on December 21, 1994 with copies to the County Planning Director and the County Engineer. A detailed drawing of the stake line poles for the site boundary was also submitted for review and approval by the Planning Department with the same letter. Verbal approval for the stake line pole plan was received from the Planning Department in January of 1995. The poles have been subsequently installed.

c. **Those items required by the CZO Secs. 8-14.3 and 8-15.3 relative to the requirements for development within the Soils and Slope Constraint Districts.**

We will comply with Constraint District requirements. However, this project is exempt from the requirements involving structures as there will be no structures within the Constraint Districts.

d. **For baseline purposes, an aerial photo of the subject site as exists now.**

A copy of an aerial photo of the site taken in April, 1995 was submitted to your office along with the 1996 annual report.

5. **Applicant shall submit an annual report (for information purposes) to the Planning Commission and the Land Use Commission on the anniversary date of the project's approval. Said report should include:**

a. **A map of the site showing the areas being quarried, intended to be quarried, those areas still under vegetation and those areas re-vegetated;**

Attached please find map showing this area. Additional previously quarried areas were revegetated in 2016.

b. **Drainage and ponding areas;**

The attached map shows this. Note that drainage of the areas still under vegetation shown in the map are as they existed prior to our initial application.

c. **Environmental, social or historical problems encountered and how they were handled;**

No Environmental, social or historical problems encountered have been encountered since commencement of operations at the site.
The U. S. Fish and Wildlife Service published a Proposed Rule and Determination of Critical Habitat for the Kauai Cave Wolf spider and Kauai Cave Amphipod dated March 12, 2002 and the Draft Economic analysis of Proposed Critical Habitat Designation for the Kauai Cave Wolf Spider and the Kauai Cave Amphipod, Island of Kauai, Hawaii dated November 2002. Portions of this proposed habitat are located in or adjacent to the New Mahaulepu Quarry. Jas. W. Glover, Ltd. read the two reports, met with representatives of the U.S. Fish and Wildlife Service, assisted the landowner in evaluation of critical habitat areas, and provided comments on the two reports. The U. S. Fish and Wildlife Service met with us after receiving the comments. The final rule was issued in 2003 and the final habitat area excludes the New Mahaulepu Quarry.

d. **An aerial photo of the site reflecting the extent of operations from the past year;**

Attached please find aerial photo.

e. **Applicant's progress in complying with the conditions imposed;**

This condition is acknowledged and will be complied with. This report identifies the progress made in complying with the conditions imposed.

The Planning Commission reserves the right to schedule such document for a public hearing should problems be occurring that need to be adequately addressed.

This condition is acknowledged.

On March 11, 2010, Malama Maha'ulepu sent a letter to the Chairman of the County of Kauai Planning Commission requesting a review of the permit conditions and a site visit. Malama Maha'ulepu presented further testimony and public comment during the Planning Commission meetings of April 4, 2010, May 25, 2010 and July 27, 2010. The County of Kauai Planning Department performed a site visit and review of the permits and concluded that the existing use of the old quarry and start of operations at the new quarry are in compliance with the conditions of the County permits and documented this in the Planning Director's report dated July 23, 2010. At its meeting of July 27, 2010, the County of Kauai Planning Commission accepted the report.

The 2011 Annual Report, dated March 16, 2011 was reviewed by the County of Kauai Planning Commission at its meeting of April 12, 2011. After discussions, comments by Jas. W. Glover,

Ltd. and Grove Farm representatives, and comments from members of the public including Malama Maha'ulepu, the Commission accepted the report.

Subsequent Annual Reports for 2012, 2013, 2014, 2015, 2016, 2017 and 2018 were submitted and accepted by the County of Kauai Planning Commission.

Upon request of the County of Kauai Planning Commission, a copy of the July 23, 2010 Planning Director's report was forwarded for use in the November 13, 2018 Planning Commission meeting.

6. **Should any archaeological or historic sites, artifacts, or remains be unearthed during the excavation and construction, the applicants shall cease all work at the site and contact the State Historic Preservation Division of the State Department of Land and Natural Resources and the Planning Department. Disinternment of any burial related items shall be resolved in accordance with Chapter 3E, Hawaii Revised Statutes.**

   This condition is acknowledged.

7. **The permits approved herein are applicable to the subject property and applicants. Said permits shall be rendered null and void upon the sale and/or transferal of ownership interests in the subject property to third parties prior to completion of the project.**

   This condition is acknowledged. As stated earlier and confirmed by the LUC. licensing of the quarry operations to Jas. W. Glover, Ltd. was transferred on September 21, 1998. Ownership interests in the subject property have not been transferred to third parties.

8. **The conditions of approval of this permit shall be recorded at the State Bureau of Conveyances. Applicant shall furnish a recorded copy to the Planning Department prior to issuance of the Building Permit. Said recordation shall not be amended unless reviewed and approved by the Planning Commission.**

   A copy of the recorded conditions of approval for this permit were forwarded to your office by Grove Farm Rock Company with transmittal of February 16, 1995. The conditions were recorded with the Bureau of Conveyances and in the Land Court on December 14, 1994. This condition is acknowledged.

9. **The proposed quarry operations shall not overlap the existing quarry operations beyond two years from the date of the commencement of grading/grubbing activities beginning on the proposed site. Applicant shall submit the necessary documentation to the Planning Department reflecting the start up of such operations.**

   This condition is acknowledged. The Land Use Commission acknowledged compliance in a letter to Grove Farm Rock Company dated September 16, 1998.

   Grading and grubbing activities at the site commenced on August 19, 2009. Operations at the Old Mahaulepu Quarry ceased before August 18, 2011.

10. **The applicant is advised that prior to and/or during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).**

    This condition is acknowledged.

11. The applicant shall commence quarrying operations no later than two years from the date of approval by the Land Use Commission.

This condition is acknowledged. The Land Use Commission acknowledged compliance in a letter to Grove Farm Rock Company dated September 16, 1998.

We trust that the foregoing adequately describes the status of the subject Docket. If you have any questions or require additional information regarding this report, please call us in Honolulu at 591-8977

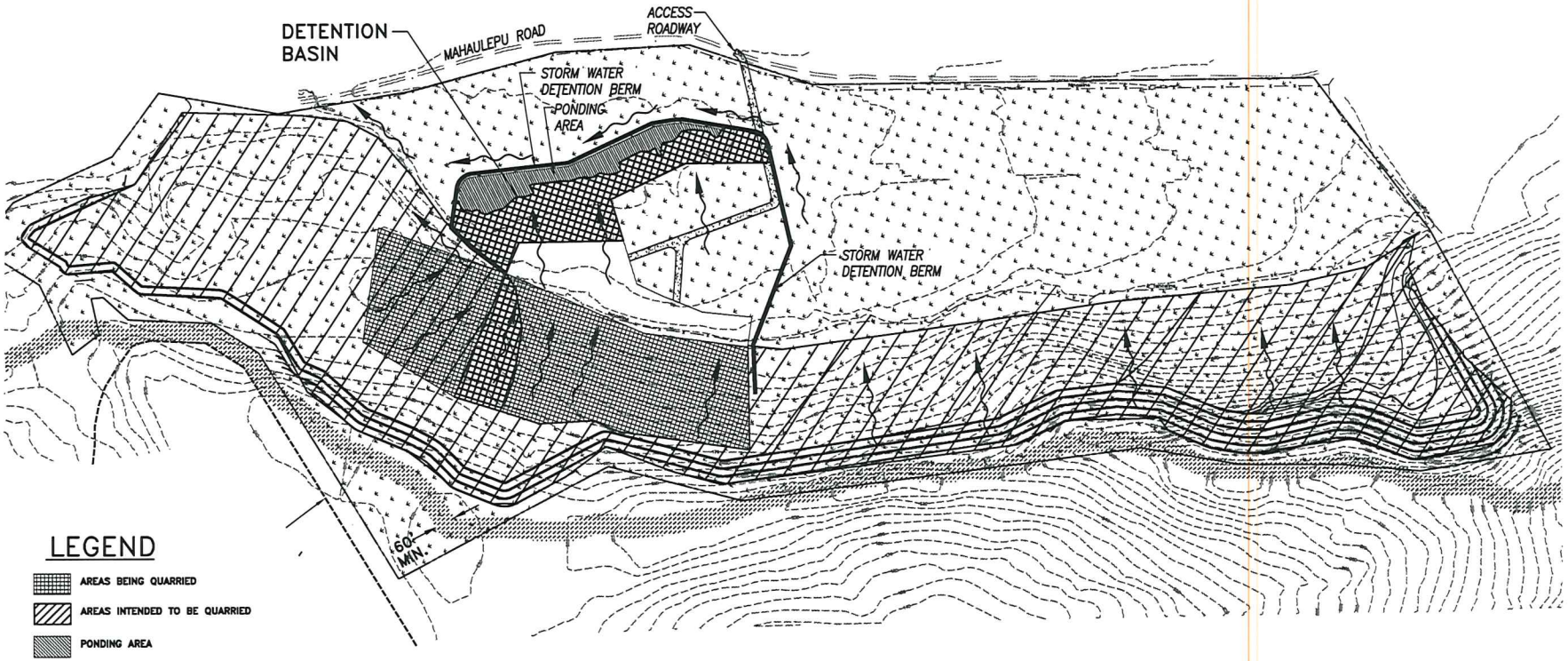
With regards,

Dustin Rivera

Dustin Rivera
Materials Superintendent

Enclosures: map and aerial photograph (one copy of each)

Cc: Mr. Ka'aina S. Hull
Planning Director
County of Kauai
4444 Rice Street, Room 473
Lihue, HI 96766



LEGEND

- AREAS BEING QUARRIED
- AREAS INTENDED TO BE QUARRIED
- PONDING AREA
- AREAS STILL UNDER VEGETATION
- AREAS REVEGETATED
- DRAINAGE

PLAN

SCALE: 1" = 160'

REVISION	DATE	DESCRIPTION	MADE BY	APPROVED

DESIGNED BY: -
REVIEWED BY: -
DRAWN BY: -
DATE: -
APPROVED: -

NEW MAHAULEPU QUARRY MAP SHOWING QUARRYING AREAS, VEGETATION AND DRAINAGE

PLAN

JOB NO.	XX
DRAWING NO.	C-1
SHEET NO. 1 OF 1	FILE NO. XX

File:C:\Users\Velizav.GLOVER\Documents\PROJECTS - JWG\Kauai-Mahaulepu Quarry\LUC Annual Report\LUC Annual Report\LUC 2019.03.08.dwg Drawing Scale:1:160 Plot Scale:1:2 Date:3/11/2019 8:35 AM