



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 3, 1996

Mr. David W. Blane
Planning Director
County of Maui
250 S. High Street
Wailuku, Hawaii 96793

Dear Mr. Blane:

Subject: Application for Consolidation of Special Use Permit SP90-376/Hawaiian Cement with SP92-380/Hawaiian Cement, TMKs 3-8-04: por. 1 and por. 2; 3-8-08: por. 1 and por. 31, Pulehunui, Wailuku, Maui

We have reviewed the subject application forwarded by your transmittal dated April 15, 1996, and have the following comments:

- 1) Based on a telephone conversation between Bert Saruwatari of our office and Daren Suzuki of your staff on May 1, 1996, we understand that the applicant requests to amend Docket No. SP92-380 to incorporate the quarry area subject of Docket No. SP90-376, which has since expired. The applicant should clarify whether he intends to incorporate the 60 acres that were approved under the special permit or the 367.25 acres that comprised the entire quarry property.

In either case, the applicant should provide updated information on the additional acreage, including but not limited to, an assessment of socio-economic impacts, agricultural resources, flora and fauna, scenic resources, archaeological and cultural resources, adequacy of highways and roadway facilities, drainage, water, solid waste, wastewater, police and fire protection, and electricity and telephone service.

- 2) Based on our review of the tax maps for the subject area, the letter of authorization from A&B Properties,

Mr. David W. Blane
May 3, 1996
Page 2

Inc., appears to reference an erroneous tax map key designation.

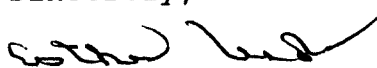
- 3) Based on the 1995 annual report filed for Docket No. SP92-380, the applicant reported that it had retained a consultant to prepare a sight distance analysis and traffic assessment pursuant to the request of the Department of Transportation (DOT), in conjunction with Condition No. 11 of the Commission's Decision and Order issued on July 13, 1992. Clarification should be obtained as to whether the analysis and assessment have been completed and approved by DOT.

The applicant also reported that Allied Hauling, Inc., had submitted a request through the Maui Planning Commission to revoke its special permit (SP87-367) on the property, as required by Condition No. 12. The applicant should clarify the disposition of this matter.

We have no further comments to offer at this time. We appreciate the opportunity to comment on this matter.

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

Sincerely,



ESTHER UEDA
Executive Officer

EU:th



**COUNTY OF MAUI
PLANNING DEPARTMENT**

250 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

TRANSMITTAL:

TO: State Agencies:

- Dept of Health, Maui
- Dept of Health, Honolulu
- Dept of Transportation,
Statewide Planning Office (3) copies
- DLNR (2 copies)
- DLNR-Historic Preservation Div.
- DLNR-Maui Office
- Dept of Agriculture, Honolulu
- Dept of Agriculture, Maui
- DAGS, Survey Division (SMA Only)
- DOE, Office of Business Services
- Office of State Planning
- State Land Use Commission
- DBEDT
- Dept of Hawaiian Homes Land
- Office of Hawaiian Affairs
- Dept of Labor
- Dept of Human Services, Maui

Date: April 15, 1996

County Agencies:

- DPW, LUCA (5 copies)
- Dept of Public Works
- Water Department
- Parks and Recreation
- Fire Dept
- Police Department
- Human Concerns
- Corporation Counsel
- County Clerk
- Mayor's Office
- Finance Dept
- Civil Defense (CPA/CIZ only)

Federal Agencies:

- Natural Resources Conservatn. Svc
- Army Corps of Engineers
- Fish & Wildlife Service
- Molokai-Lanai Soil & Water
Conservation District

Others:

- Maui Electric Company
- Hawaiian Telephone Co.

APR 30 10 35 AM '96
LAND USE COMMISSION
STATE OF HAWAII

SUBJECT:

I.D. No.: SP 92-380
 TMK: 3-8-8: POR 1, 2, & 31
 Project Name: HAWAIIAN CEMENT (CONSOLIDATION OF SPECIAL USE
 PERMIT 90/376 WITH 92/380)
 Applicant: BILL HORNEMAN

TRANSMITTED TO YOU ARE THE FOLLOWING:

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Application | <input type="checkbox"/> Traffic Report | <input type="checkbox"/> Housing Agreements |
| <input type="checkbox"/> Project Plans | <input type="checkbox"/> Archaeological Report | <input type="checkbox"/> Unilateral Agreement |
| <input type="checkbox"/> Environmental Assessment | <input type="checkbox"/> Infrastructure Report | <input type="checkbox"/> Draft Ordinances |
| <input type="checkbox"/> Shoreline Map | <input type="checkbox"/> Drainage Report | <input checked="" type="checkbox"/> SP 90/376 |
| <input type="checkbox"/> Previous Agency Comments | <input type="checkbox"/> Soils Report | <input checked="" type="checkbox"/> SP 92/380 |

THESE ARE TRANSMITTED AS CHECKED BELOW:

- | | |
|---|--|
| <input checked="" type="checkbox"/> For Your Comment/Recommendation | <input type="checkbox"/> For Your Information |
| <input type="checkbox"/> For Your Approval/Signature | <input type="checkbox"/> For Appropriate Attention |
| <input type="checkbox"/> As Requested | <input type="checkbox"/> |

Please Submit Your Comments/Recommendations By MAY 15, 1996.

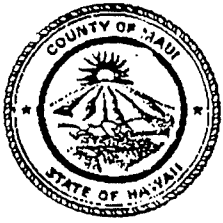
Remarks:

If additional clarification is required please contact me at 243-7735.

Daren M. Suzuki
 Planner: DAREN M. SUZUKI
 for DAVID W. BLANE
 Planning Director

DS:cmp

cc: Colleen Suyama, Planning Program Manager-Land Use Management
 Daren Suzuki, Staff Planner
 Applicant
 General File
 Project File (G:\PLANNING\ALL\DAREN\HWNCEM.TRN)



COUNTY OF MAUI
 PLANNING DEPARTMENT
 250 SOUTH HIGH STREET
 WAILUKU, MAUI, HAWAII 96793

LAND USE COMMISSION
 STATE OF HAWAII

APR 30 10 36 AM '96

APPLICATION TYPE: LAND USE COMMISSION SPECIAL USE PERMIT (Rev. 8/95)

DATE: 3/28/96

PERMIT TYPE: SPECIAL USE PERMIT PROJECT NAME: HAWAIIAN CEMENT

PROPOSED DEVELOPMENT: AMEND SPECIAL USE PERMIT (SP92-380) IN ORDER TO
CONSOLIDATE SPECIAL USE PERMIT SP90-376 WITH SPECIAL USE PERMIT (SP92-380)

TAX MAP KEY #: 3 - 8 - 04 : 1 (PORTION)
3 - 8 - 04 : 2 " HPR # N/A

PROPERTY ADDRESS: PULEHUNUI, WAILUKU, MAUI, HAWAII

OWNER: A&B HAWAII, INC. Phone: 877-5523

Address: 33 LONO AVENUE

City / State: KAHULUI, HI Zip: 96732

Signature: *Stephen J. Westala*

APPLICANT: HAWAIIAN CEMENT Phone (res): _____

Address: P.O. BOX 488 Phone (work): 871-7004

City / State: KAHULUI, HI Zip: 96732

Signature: *Bill Horneman*

CONTACT: BILL HORNEMAN Phone (res): _____

Address Line 1: P.O. BOX 488 Phone (work): 871-7004

City / State: KAHULUI, HI Zip: 96732

EXISTING USE OF PROPERTY: THE QUARRYING OF AGGREGATE

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: AGRICULTURAL

COMMUNITY PLAN DESIGNATION: AGRICULTURAL

MAUI COUNTY ZONING DESIGNATION: AGRICULTURAL

OTHER SPECIAL DESIGNATIONS: _____

DATE 3/28/96

TO:

Please be informed that the undersigned has applied to the Maui Planning Commission of the County of Maui for a Land use Commission Special Use Permit at the following parcel:

1. Tax Map Key: 3-8-04 :1 (PORTION) AND 3-8-04:2 (PORTION)
2. Location: In the vicinity of PULEHUNUI, WAILUKU, MAUI, HI
3. Zoning Designation: AGRICULTURAL
4. Proposed Use: QUARRY OPERATION (AGGREGATE)

THIS SECTION TO BE COMPLETED BY THE PLANNING DEPARTMENT:

Public Hearing Date: _____

Time: _____

Place: _____

Information relative to the application is available for review at the Planning Department, 250 South High Street, Wailuku, Maui, Hawaii, Telephone 243-7735.

Attached please find a map identifying the location of the specific parcel being considered in the request for Land Use Commission Special Use Permit Application.

Petitions to intervene shall be in conformity with SS12-201-20 of the Rules of Practice and Procedure for the Maui Planning Commission and shall be filed with the commission and served upon the applicant no less than ten days before the first public hearing date. Filing of all documents of the commission is c/o the Maui Planning Department, 250 S. High Street, Wailuku, Maui, Hawaii 96793.

The computation of time begins with the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday or legal state holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday or state holiday. When the prescribed period of time is 10 days or less, Saturdays, Sundays, or state holidays within the designated period shall be excluded in the computation.

Testimony relative to this request may be submitted in writing to the Maui Planning Commission, 250 South High Street, Wailuku, Hawaii, 96793, or presented in person at the time of the public hearing.

Name of Applicant

Signature

Address

Phone Number

1879



**HAWAIIAN
CEMENT**

Maui Concrete and Aggregate Division

'96 APR -3 A11:13

April 02, 1996

DEPT OF PLANNING
COUNTY OF MAUI

County of Maui
Dept. of Planning
Kalana Pakui Building
250 s. High Street
Wailuku, HI 96793

Mr. David W. Blane
Director of Planning

Subject: Amendment of Special Use Permit 92-380

Dear Mr. Blane,

I am in receipt of your letter dated, March 20, 1996. Please find enclosed the application and the submittals you requested in order to process the amendment to the subject Special Use Permit.

Should you require any additional information or material for this processing procedure, please contact me at 871-7004.

Yours truly,

W.W. Horneman
Vice President and
Maui Concrete & Aggregate
Division Manager

cc. John Delong
Jack Burford

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail () Pickup () To:

00660/0012/lease.hwr/ed/1.5/7.17.90

THIS INDENTURE, made this 17th day of July, 1990, by and between A&B-HAWAII, INC., a Hawaii corporation, whose principal place of business and post office address on Maui is 33 Lono Avenue, Kahului, Maui, Hawaii 96732, hereinafter called "Licensor", and HAWAIIAN CEMENT, a Hawaii general partnership, whose principal place of business and post office address is 220 S. King Street, Suite 1700, Honolulu, Hawaii 96813, hereinafter called "Licensee" (this Indenture is hereinafter called this "license");

W I T N E S S E T H

Licensor hereby licenses exclusively to Licensee that certain property, hereinafter referred to as the "licensed premises", situate at Puunene, Maui, Hawaii, containing approximately 60 acres as more particularly shown on Exhibit A attached hereto and by this reference made a part hereof; provided, however, that notwithstanding anything to the contrary contained in the foregoing or elsewhere in this license, at no time shall Licensee use at any one time more than 30 acres of the licensed premises for quarrying operations.

Together with the following:

(a) The right to stockpile upon the licensed premises stone, crusher and quarry waste, cinders, overburden and concrete products;

A&B PROPERTIES, INC.

April 1, 1996

Mr. David Blane, Director
Department of Planning
County of Maui
250 S. High Street
Wailuku, Hawaii 96793

Dear Mr. Blane:

Permission is hereby granted to Hawaiian Cement, whose principal place of business is P.O. Box 488, Kahului, Hawaii 96732, for a Special Use Permit application, for land owned by A&B-Hawaii Inc., which is designated by Tax Map Key: 3-8-7:101 and situated at Kahului, Maui, Hawaii.

Sincerely,

A&B PROPERTIES, INC.

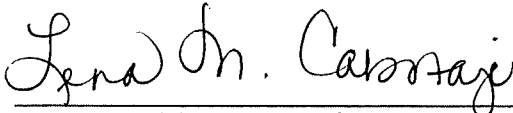


Hideo Kawahara, Manager
Engineering & Construction

HK:lmc

cc: Properties, Honolulu

Subscribed and sworn to before me this
1st day of April, 1996.



Notary Public, State of Hawaii

My commission expires: 11/29/96

L.S.

April 01, 1996

List of Landowners and recorded lessees of Real Property
abutting the subject parcel:

OWNERS	LESSEES	ADDRESS	TAX MAP KEY
A&B HAWAII	N/A	33 LONO AVENUE KAHULUI, HI 96732	3-8-04 : PARCEL 1
A&B HAWAII	N/A	33 LONO AVENUE KAHULUI, HI 96732	3-8-04 : PARCEL 2
*STATE OF HAWAII	A&B HAWAII	* 54 S. HIGH ST. RM 101 WAILUKU, HI 96793	3-8-08 : 20
A&B HAWAII	N/A	33 LONO AVENUE KAHULUI, HI 96732	3-8-08 : PARCEL
*STATE OF HAWAII	A&B HAWAII	* 54 S. HIGH ST. RM 101 WAILUKU, HI 96793	3-8-08 : PARCEL 2

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HAWAIIAN CEMENT)
For a Special Permit to Establish)
a Rock Mining Operation on)
Approximately 367.25 Acres of)
Land Situated Within the State)
Land Use Agricultural District)
at Pulehunui, Wailuku, Maui,)
Tax Map Key Number: 3-8-04:)
Portions of 01 and 02)

DOCKET NO. SP90-376

HAWAIIAN CEMENT

**This is to certify that this is a true and correct
copy of the Decision and Order on file in the office
of the State Land Use Commission, Honolulu Hawaii.**

OCT 17 1990

Date

by

[Signature]
Executive Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

LAND USE COMMISSION
STATE OF HAWAII
RECEIVED
OCT 17 9 17 AM '90
PROPERTY OF LUCAS

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. SP90-376
HAWAIIAN CEMENT)	HAWAIIAN CEMENT
For a Special Permit to Establish)	
a Rock Mining Operation on)	
Approximately 367.25 Acres of)	
Land Situated Within the State)	
Land Use Agricultural District)	
at Pulehunui, Wailuku, Maui,)	
Tax Map Key Number: 3-8-04:)	
Portions of 01 and 02)	

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Hawaiian Cement (hereinafter "Applicant") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and subchapter 12 of chapter 15, of the Hawaii Land Use Commission Rules. The Land Use Commission (hereinafter the "Commission"), having considered the entire record on this matter, hereby makes the following findings of fact, conclusions of law and decision and order:

FINDINGS OF FACT

Procedural Matters

1. Applicant filed the Special Permit application with the County of Maui Planning Department (the "Planning Department") on March 5, 1990.
2. The Maui Planning Commission (hereinafter the "Planning Commission") conducted public hearings on

June 12, 1990, and June 26, 1990. The Planning Commission did not receive any public testimony.

3. On June 26, 1990, the Planning Commission voted to recommend approval of the Special Permit subject to seven conditions. A copy of the record of the proceedings before the Planning Commission was received by the Commission on July 20, 1990.

Description of the Property and Permit Background

4. The subject property is identified as Maui Tax Map Key Number 3-8-04: portion of parcel 1 and portion of parcel 2 and consists of approximately 367.25 acres (hereinafter the "Property").

5. The Property is bound entirely by sugarcane cultivation, with the exception of the western boundary which abuts an existing quarry operation operated by M. Funes Concrete, a wholly owned subsidiary of the Applicant.

6. The Commission conditionally approved the existing rock quarry operation under Special Permit No. 87-367 to Allied Hauling, Inc. by Order filed on February 18, 1988.

7. The Property is currently in sugarcane cultivation, with the exception of vacant lands within Kolaloa Gulch which bisects the Property.

8. The Applicant has a lease agreement for the Property from the Property owner, Alexander and Baldwin, Inc., which has authorized the Applicant to submit the Special Use Permit request.

9. According to the Land Study Bureau Detailed Land Classification System 75 percent (approximately 275 acres) of the Property are rated "A" and "B" lands, and 25 percent (approximately 92 acres) of the Property is rated as "E" lands.

10. According to the Agricultural Lands of Importance to the State of Hawaii classification system (ALISH), approximately 45 percent of the Property is classified as "Prime," 33 percent is classified as "Other Important," and 22 percent of the Property is not classified.

11. The United States Department of Agriculture Soil Conservation Service indicates that soils on the Property are clay loam of the Waikoa series (WGB & WhB) and Pulehu series (Psa & PtA) which are very stony and extremely stony silty clay loam.

12. According to an archaeological reconnaissance survey prepared by the Applicant, no cultural material was located on the Property.

Description of Proposed Use

13. Applicant proposes to use the Property for rock mining in 30-acre increments. The Applicant proposes that excavated rock will be transported by truck or conveyor belt to the existing rock quarrying and processing facility located directly to the west.

14. Applicant indicates that after mining is completed for each increment, the exposed areas will be backfilled using

topsoil that was removed and stockpiled to permit cane cultivation.

15. Applicant indicates that each increment will be mined for a period of three to five years.

16. The Property is not served by the County of Maui, Department of Water Supply.

17. To control dust that is associated with mining operations, the Applicant intends to use water trucks to dampen problem areas. Water for this dust control will be drawn from a well at the existing quarry site.

State and County Plans

18. The Property is designated within the State Land Use Agricultural District as reflected on the Commission's Official Map M-8, Puu O Kali.

19. The County of Maui Kihei-Makena Community Plan Designates the Property as Agriculture. This Plan also limits the use of special permits in such lands to:

1. limited public and quasi-public uses
2. public facilities
3. uses clearly accessory and subordinate to a permitted agricultural use
4. extractive industries, such as quarrying, where the operation would not adversely affect the environment or surrounding agricultural uses

20. The County zoning designates the Property as Agriculture.

21. The Property is not located within the County's Special Management Area.

22. Approximately one-half of the Property is located mauka of the Department of Health's Underground Injection Control line which follows Upper Kihei Road.

Summary of Agency Comments

23. The State Department of Agriculture, in its letter dated June 6, 1990, offered the following comments:

"The applicant is seeking to quarry rock from the subject site in 30-acre increments. Upon completion of each increment, the applicant intends to backfill the quarried area to permit replanting with sugarcane cultivation by the Hawaiian Commercial and Sugar Company (HC&S).

"References to the Soil Conservation Service Soil Survey are correct. A little less than half of the property is classified "Prime" according to the Agricultural Lands of Importance to the State of Hawaii (ALISH) system. About 33 percent is classified "Other Important" and the remainder is not classified.

"More than 75 percent of the project site is comprised of "A"- and "B"-rated lands according to the Land Study Bureau's Detailed Land Classification for the island of Maui. This indicates that most of the property has good to excellent productivity potential for most agricultural uses. The remaining area has an "E" or generally poor productivity potential.

"The Environmental Assessment does not discuss the economic impact on HC&S of removing 30 acres of sugarcane per increment. Will cane haul roads and irrigation networks be rerouted to allow unobstructed access to adjacent sugarcane fields?

"According to the Preliminary Drainage and Soil Erosion Control Study, the quarry operator will backfill and grade each increment" . . . to its original ground condition (more or less) and eventually be planted with sugarcane. What was HC&S's response to the backfill and replant proposal?"

24. The Department of Agriculture also noted the large amount of prime agricultural land impacted, and asked whether or not other sites of lesser agronomic suitability have been considered.

25. The Applicant's lessor, Alexander & Baldwin Properties, addressed the State Department of Agriculture's concern for sugar operations in a letter dated June 20, 1990, which stated that:

"While the removal of any cane acreage has some effect on the Plantation, limiting the open or quarry area to a maximum of 30 acres at any given time reduces the impact to a minimal level. HC&S Co. has 35,628 acres under cultivation at this time. It is now increasing this total by the addition of 400± acres formerly leased to Wailuku Agribusiness in the Waiale and Puunene areas. This additional land will replace cane land lost in other areas, including the proposed quarry area.

"The long term net loss of cane land due to Hawaiian Cement's activities will be zero, due to the reclamation plan that is an essential part of our agreement. It is our intent to return all of the quarried acres to cane cultivation and have no intention of making any part of the quarry floor available for sanitary landfill or any other purposes."

26. The State Department of Land and Natural Resources, in its letter date stamped June 6, 1990, offered the following comments:

"The proposed project area has been in agriculture for several years and the Environmental Assessment states that this may be the reason why no historic sites are present. It also refers to an archaeological survey report . . . that documents the absence of historic sites. We concur with the study's finding. Thus, the proposed project will have "no effect" on significant historic sites."

27. The County Department of Public Works, memorandum dated June 5, 1990, had the following comments:

"That a final detailed drainage and erosion control plan including, but not limited to, hydrologic and hydraulic calculations, scheme for controlling erosion and disposal of runoff water, and an analysis of the soil loss analysis using the HESL erosion formula to be submitted for our review and approval. The plan shall provide verification that the grading and all runoff water generated by the project will not have an adverse effect on the adjacent and downstream properties, including Kolaloa Gulch.

"That the applicant provide information on the vehicular and truck access to Mokulele Highway, to include but not be limited to, location of access roadway onto Mokulele Highway, requirement for turning and acceleration and deceleration lanes, heavy truck traffic impacts on existing pavement structure and anticipated hauling trips to be generated by the project. Roadway improvements may be required.

"That no clearing and grubbing material shall be disposed of at the County sanitary landfill. The developer is requested to contact the Solid Waste Division to discuss the possibility of the future use of this site as a sanitary landfill."

"That the site be subdivided per the County's Subdivision Ordinance."

28. The County of Maui Department of Water Supply had no objections to the proposed development.

Conformance with Special Permit tests

29. The County Planning Department provided the following in evaluating the proposed project:

"1. The use shall not be contrary [to the objectives] to be accomplished by chapters 205 and 205A, HRS, and the rules of the commission.

The objectives sought to be accomplished by chapters 205 and 205A, HRS, encourage the protection of prime agricultural lands. The applicant does propose to return the land to sugarcane cultivation once the rock mining is complete. However, further clarification should be provided as to the impact of the proposed quarry use on sugar operations, as noted in the Department of Agriculture's comments."

"2. The desired use would not adversely affect surrounding property.

Because there are no residences in the area, the quarrying use should not have an adverse impact on surrounding property. There will be no adverse impacts on agriculture if the applicant reroutes cane haul roads and irrigation systems per Department of Agriculture comments. Also, the proposed use should not preclude further planning options for the old Pu'unene airport site or affect existing uses of this site.

"3. The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and schools improvements, and police and fire protection.

The use would not unreasonably burden public agencies to provide additional services or improvements:

- a) Water. The Department of Water Supply had no objections to the proposed uses.
- b) Schools. There will be no burden on the school system.
- c) Police. It is not expected that police service would be impacted by the proposed use.
- d) Fire Protection. The Applicant would be required to provide adequate fire protection, however, no structures are proposed.
- e) Sewer. There will be no sewer impacts.

- f) Roads and Streets. The Department of Public Works has requested more information on the project's impacts on Mokulele Highway, and has indicated that roadway improvements may be required.
- g) Parking. Not applicable.
- h) Drainage and Erosion Control. Both the Department of Agriculture and the Department of Public Works have requested additional information regarding drainage and erosion control.

"4. Unusual conditions, trends and needs have arisen since the district boundaries and rules were established.

Resource extraction, including rock quarrying is listed in the Kihei-Makena Community Plan as an example of special uses that may be appropriate within the State Agricultural District.

The proposed use is reasonable because it is adjacent to an existing rock quarry, and would use existing machinery already in place. The applicant proposes to return the land to sugarcane production, once the rock is extracted and therefore support long-term agricultural use of the site. However, because of the amount of prime agricultural land involved in this request, the applicant should provide additional justification as to the need for such a large area at this time.

"5. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

The land upon which the proposed use is sought is well suited for sugarcane cultivation, however, the applicant is proposing incremental development and will return the quarried areas to cultivation after incremental completion.

PLANNING COMMISSION RECOMMENDATION

30. At its meeting of June 26, 1990, the Planning Commission recommended approval of the Permit to the LUC subject to the following conditions:

- "1. That the Special Use Permit shall be valid for a period of five (5) years from the date of the granting of the permit. However, further extensions may be granted upon a timely application and a favorable review and approval by the Planning Commission.
- "2. That the area shall be limited to sixty (60) acres for the initial period of the permit. However, at the end of the five year period, the area may be increased upon Planning Commission and agency review of a detailed plan of incremental development addressing the issues of drainage, erosion control, impacts on agriculture, and the feasibility of returning the quarried area to sugarcane cultivation.
- "3. That full compliance with the Department of Public Works requirements dated June 5, 1990 (Exhibit 6) shall be rendered, unless written verification is received deleting any of the requirements.
- "4. That the applicant shall work with the Department of Agriculture to address its concerns (Exhibit 8).
- "5. That the conditions of this permit shall be self enforcing and, accordingly, upon due notice by the Planning Department and Planning Commission to the permit holder that there is prima facie evidence that a breach has occurred the permit shall be automatically suspended pending a hearing on the continuity of such Land Use Commission Special Use Permit, provided that a written request for such hearing is filed with the department within the (10) day period, the Planning Commission may revoke said Special Use Permit.
- "6. That the subject Special Use Permit shall not be transferred without the prior written approval of the Planning Commission.
- "7. That full compliance by the permittee, with all other State and County laws, permits, requirements or restrictions shall be a condition of this permit. Failure to comply may be grounds for revocation of this permit."

CONCLUSIONS OF LAW

The proposed use is an "unusual and reasonable" use as defined in Chapter 205-6, Hawaii Revised Statutes and the proposed use is not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect and encourage development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare.

ORDER

IT IS HEREBY ORDERED that a 60-acre portion of the Property which is the subject area of Special Permit Docket Number 90-376 filed by Hawaiian Cement to operate a rock quarry on approximately 367.25 acres of land, Tax Map Key Number: 3-8-04: portion of parcel 01 and portion of Parcel 02 at Puunene, Pulehunui, Maui is hereby approved, subject to the following conditions:

1. That the Special Use Permit shall be valid for a period of five (5) years from the date of the granting of the permit. However, extensions may be granted upon a timely application and a favorable review and approval by the Planning Commission and the State Land Use Commission.

2. That the area shall be limited to sixty (60) acres for the initial period of the permit. However, at the end of the five year period, the area may be increased upon State Land Use Commission, Planning Commission, and other appropriate reviews by governmental agencies of a detailed plan of

incremental development addressing the issues of drainage, erosion control, impacts on agriculture, and the feasibility of returning the quarried area to sugarcane cultivation.

3. That full compliance with the Department of Public Works requirements dated June 5, 1990, shall be rendered, unless written verification is received deleting any of the requirements.

4. That the Applicant shall work with the Department of Agriculture to address its concerns.

5. That the conditions of this permit shall be self enforcing and, accordingly, upon due notice by the Planning Department and Planning Commission to the permit holder that there is prima facie evidence that a breach has occurred, the permit shall be automatically suspended pending a hearing on the continuance of such Land Use Commission Special Use Permit, provided that a written request for such hearing must be filed with the Planning Department within ten days of the notice. If no written request for hearing has been filed or upon hearing and a finding of a breach of the conditions to the permit, the Planning Commission may revoke said Special Use Permit.

6. That the subject Special Use Permit shall not be transferred without the prior written approval of the Land Use Commission and the Planning Commission.

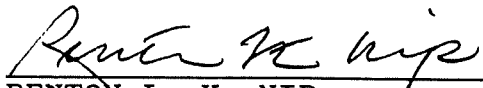
7. That the Applicant shall commence quarrying operations no later than 180 days of approval by the Land Use Commission.


8. That the Applicant shall submit a map to the Land Use Commission outlining a 60 acre portion of the area that is the subject of this Special Permit prior to the commencement of quarrying operations.

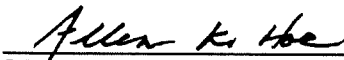
9. That full compliance by the permittee of all other State and County laws, permits, requirements or restrictions shall be a condition of this permit. Failure to comply may be grounds for revocation of this permit.

Done at Honolulu, Hawaii, this 17th day of October 1990,
per motions on August 29, 1990 and October 12, 1990.

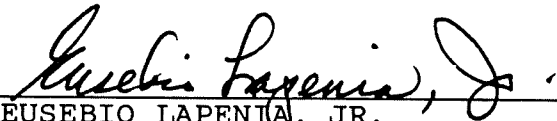
LAND USE COMMISSION
STATE OF HAWAII

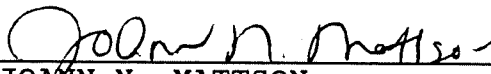
By 
RENTON L. K. NIP
Chairman and Commissioner


By 
KAREN S. AHN
Commissioner

By 
ALLEN K. HOE
Commissioner

By (absent)
ALLEN Y. KAJIOKA
Commissioner

By 
EUSEBIO LAPENIA, JR.
Commissioner

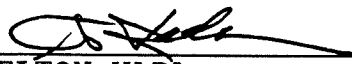
By 
JOANN N. MATTSON
Commissioner

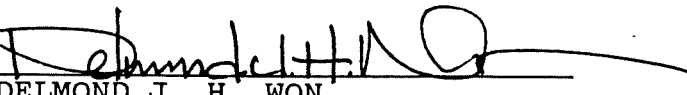
By 
JAMES M. SHINNO
Commissioner

Filed and effective on
October 17, 1990

Certified by:


Executive Officer

By 
ELTON WADA
Commissioner

By 
DELMOND J. H. WON
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HAWAIIAN CEMENT) DOCKET NO. SP90-376
For a Special Permit to Establish)
a Rock Mining Operation on)
Approximately 367.25 Acres of)
Land Situated Within the State)
Land Use Agricultural District)
at Pulehunui, Wailuku, Maui,)
Tax Map Key Number: 3-8-04:)
Portions of 01 and 02)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

CERT. CHRISTOPHER L. HART, Planning Director
Planning Department, County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. GLENN KOSAKA, ESQ.
Corporation Counsel
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. W. W. HORNEMAN, Representing Petitioner
Vice President
Hawaiian Cement
P. O. Box 488
Kahului, Hawaii 96732

DATED: Honolulu, Hawaii, this 17th day of October 1990.


ESTHER UEDA
Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HAWAIIAN CEMENT)
For a Special Permit to Allow a)
Rock Quarrying/Crushing Operation)
and Related Uses on Approximately)
45.957 Acres on Land Situated)
Within the State Land Use)
Agricultural District at Pulehunui,)
Wailuku, Maui, Tax Map Key No.:)
3-8-08: portion of 1 and portion)
of 31)

DOCKET NO. SP92-380

HAWAIIAN CEMENT

**This is to certify that this is a true and correct
copy of the Decision and Order on file in the office
of the State Land Use Commission, Honolulu Hawaii.**

JUL 13 1992 by *Rother Lead*
Date Executive Officer

JUL 13 10 49 AM '92
LAND USE COMMISSION
STATE OF HAWAII

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

DEPT OF LAND AND NATURAL RESOURCES

JUL 14 11:04

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. SP92-380
HAWAIIAN CEMENT)	HAWAIIAN CEMENT
For a Special Permit to Allow a)	
Rock Quarrying/Crushing Operation)	
and Related Uses on Approximately)	
45.957 Acres on Land Situated)	
Within the State Land Use)	
Agricultural District at Pulehunui,)	
Wailuku, Maui, Tax Map Key No.:)	
3-8-08: portion of 1 and portion)	
of 31)	

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER

Hawaiian Cement (hereinafter "Applicant") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, (hereinafter "HRS") and subchapter 12 of Chapter 15-15, Hawaii Administrative Rules. The Land Use Commission (hereinafter "LUC"), having considered the entire record on this matter, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

PROCEDURAL MATTERS

1. The special permit application (hereinafter "Permit") to allow a rock quarrying/crushing operation and related uses on approximately 45.957 acres at Pulehunui, Wailuku, Maui was filed by the Applicant with the County of Maui Planning Department (hereinafter "Department") on October 1, 1991.

2. The Department transmitted the application to the Department of Public Works (hereinafter "DPW") as part of the standard submittal procedures for all permit applications. The application was deemed to be complete and ready for processing by the DPW on October 4, 1991.

3. The Maui County Planning Commission (hereinafter "Planning Commission") conducted a public hearing on the Permit on February 11, 1992 pursuant to notice published in the Maui News on January 10, 1992. The Planning Commission did not receive any public testimony on the Permit.

4. On February 11, 1992, the Planning Commission recommended approval of the Permit to the LUC subject to 11 conditions. The LUC received the record of the County's proceedings on the Permit on April 14, 1992.

PERMIT BACKGROUND

5. On December 28, 1979, the Board of Land and Natural Resources (hereinafter "BLNR") granted Allied Hauling, Inc.'s (hereinafter "Allied") request for a land license (Land License No. S-291) (hereinafter "License") for quarrying operations on a portion of the present Permit area. This License expires on October 16, 1993 and was subject to the concurrence of Alexander & Baldwin, Inc.

6. At its meeting on April 21, 1982, the LUC approved a special permit (SP82-354) (hereinafter "Special Permit") for Allied to operate a rock crushing and concrete batching plant at

its licensed area. The Special Permit was subject to seven conditions as specified in the order:

- "1. That the Special Use Permit be nontransferable and limited to a period of 5 years. Further extensions may be granted upon favorable review by the Maui Planning Commission.
- "2. That the uses of the subject property shall be limited to rock crushing, quarrying and concrete batching operations only, as proposed by the subject Special Use Permit application.
- "3. That the applicant, prior to construction and operation, comply with the following requirements of the Department of Public Works as per their Memorandum dated February 3, 1982:
 - a. That a detailed drainage and erosion control plan including, but not limited to, hydrologic and hydraulic calculations, scheme for controlling erosion and disposal of runoff water, and an analysis of the soil loss using the HESL erosion formula, be submitted for review and approval by the Maui Department of Public Works.
 - b. That the project conform to the Maui Off-Street Parking and Loading Ordinance.
 - c. That the lot be subdivided per the County's Subdivision Ordinance.
 - d. That the access road be improved with a minimum pavement width of twenty (20) feet and graded shoulders.
 - e. That the intersection of the access road with Mokulele Highway be addressed relative to providing adequate sight distance, road signage, etc.
- "4. That the applicant, prior to construction, submit a detailed water consumption and development program for approval by the Director of Planning, County of Maui.
- "5. That the applicant comply with State Department of Health, Air Pollution Control regulations.

"6. That all other Federal, State and County requirements be met.

"7. The applicant shall commence quarrying operations within one year from the effective date of approval of the Special Permit by the Land Use Commission."

7. On May 24, 1985, the BLNR approved a consent document between Allied and M. Funes Concrete, Inc. (hereinafter "Funes") to allow Funes to conduct quarrying operations on a 40.341 acre portion of Allied's Special Permit area with the balance of 5.616 acres to be retained by Allied. The term of the operating agreement between Allied and Funes extended from July 1, 1985 to April 16, 1993.

8. On January 5, 1988, under Docket No. SP87-367/ Allied Hauling, Inc., the LUC approved Allied's request of a five-year extension to the life of its Special Permit to October 16, 1993, (the termination date of Allied's License agreement with the State of Hawaii), subject to 11 conditions:

- "1. That said operation shall be limited to quarrying, rock crushing, and concrete batching and shall be valid until October 16, 1993, the time when the applicant's land license agreement with the State of Hawaii terminates. Time extensions may be granted upon timely request and favorable review by the Maui Planning Commission and the State Land Use Commission.
- "2. That appropriate measures shall be taken to mitigate potential adverse impacts relative to soil erosion from wind and rain, ambient noise levels, and traffic disruptions.
- "3. That full compliance with the requirements of the Department of Public Works in their memo dated November 10, 1987 shall be rendered unless written verification be submitted to the Planning Department that the conditions have been modified or deleted.

- "4. That the Special Use Permit shall be valid only for the uses as approved and in accordance with plans submitted therein.
- "5. That the uses or structures allowable by the Special Use Permit shall not be expanded or increased in size or area or changed to another special use, unless authorized by law, utilizing the proper procedures.
- "6. In the event any historic, archaeological, or cultural sites, remains, artifacts, or resources are discovered, work shall stop and the State Historic Site Office, Department of Land and Natural Resources, the Office of Hawaiian Affairs, and the County Planning Department shall be duly notified to advise of appropriate action.
- "7. That upon termination of operations depleted and excavated areas shall be graded to blend with the surrounding natural contours and that appropriate vegetative cover consisting of trees, shrubs, and groundcover shall be established.
- "8. That this permit shall be non transferable (Allied Hauling holding the land license agreement and M. Funes Concrete, Inc. being the Operator) unless prior approval has been obtained from the Planning Commission, the State Land Use Commission, and the Board of Land and Natural Resources.
- "9. In the event that any of the conditions of this permit are breached the applicant/permittee shall be served a written notice by the Planning Department or appropriate County enforcement agency and shall be required to cease all operations from and after receipt of said notice of the Planning Commission to address the breach of conditions. If no appeal is duly filed by the applicant, the Planning Commission shall revoke the subject Special Use Permit.
- "10. That the project shall conform to the requirements of any other applicable Federal, State, and County statutes, ordinances, rules, and regulations or codes.
- "11. Petitioner shall incorporate the above Special Permit Conditions Numbers one through ten in its operating agreement with the Operator, M. Funes Concrete, Inc."

9. On January 11, 1988, the Applicant acquired all the shares of stock in Funes (Funes is now a wholly-owned subsidiary of the Applicant).

10. On July 14, 1989, the BLNR approved Allied's request to revise the boundaries of its licensed area to include lands to its immediate east, which were believed to contain larger quantities of rock material, and to delete the northern portion of the licensed area. The licensed area, which was originally identified as Tax Map Key No.: 3-8-08: portion of 1 (and subsequently identified as Tax Map Key No.: 3-8-08: 31 due to the subdivision of parcel 1), was now composed of Tax Map Key No.: 3-8-08: portion of 1 and portion of 31. Although the boundaries of the licensed area were reconfigured, the land area remained approximately 45.957 acres.

11. With the pending expiration on April 16, 1993 of the operating agreement between Allied and Funes, as well as of both the Special Permit and the License granted to Allied on October 16, 1993, the Applicant petitioned the Planning Commission for its own special permit on Allied's reconfigured licensed area to operate and expand the quarry's facilities. The Applicant has already applied to the BLNR for a license to remove and sell rock from the quarry. Upon the issuance of the license and special permit to the Applicant, Allied plans to surrender its License and Special Permit.

DESCRIPTION OF THE PROPERTY AND SURROUNDING AREAS

12. The Permit area, approximately 45.957 acres, is located one mile east off of Mokulele Highway and three miles south of Pu'unene. It is identified as Tax Map Key No.: 3-8-08: portion of 1 and portion of 31 (hereinafter "Property").

13. The Property is owned by the State of Hawaii. Alexander and Baldwin, Inc. has a general lease (S-4197) for the Property and surrounding areas for sugarcane cultivation.

14. Access to the area from Mokulele Highway is along Kamaaina Road, onto a cane haul road, and through an access easement on the adjoining lot. The total road distance from the highway to the Property is approximately two miles.

15. To the north, south, and east of the Property are cane fields. An irrigation reservoir and the Maui Factors Pig Farm lie to the west of the Property. Another quarry operated by the Applicant abuts the Property's eastern boundary. This rock quarry was conditionally approved by the LUC under Special Permit No. SP90-376/Hawaiian Cement by order issued on October 17, 1990.

16. Average rainfall in the area is between 20-30 inches annually.

17. Runoff from sugarcane fields above the Property is directed to Kolaloa Gulch by existing diversionary ditches.

18. According to the U.S. Department of Agriculture, Soil Conservation Service, the predominant type of soil at the Property belongs to the Waiakoa and Pulehu series. The Waiakoa

series includes stony silty clay loam (WGB & WhB). The Pulehu series includes clay loam and cobly clay loam (PsA & PtA) and silt loam and cobly silt loam (PbB & PrB).

19. The slope of the Property averages two to three percent.

20. According to the Land Study Bureau's Detailed Land Classification system, the Property has an overall master productivity of "E".

DESCRIPTION OF THE PROPOSED USE

21. The Applicant proposes to continue the existing rock crushing and concrete batching plant operations, as well as provide additional operations of concrete and asphalt batching plants and related concrete and asphaltic products. The Applicant is requesting that the Permit be granted for ten years to allow for sufficient time in upgrading the existing concrete batching plant and support facilities and establish additional production and services, resulting in competitive prices for the Maui consumer.

STATE AND COUNTY PLANS AND PROGRAMS

22. The State Land Use District Classification of the Property is Agricultural, as reflected on State Land Use District boundary map, M-8, Puu O Kali.

23. The County of Maui zoning designation is Agriculture.

24. The Kihei-Makena Community Plan designates the Property as Agriculture.

25. The Property is not located within the County's Special Management Area.

SUMMARY OF STATE AND COUNTY AGENCIES COMMENTS

26. The DPW offered the following comments on the Applicant's request (Exhibit 3):

- "1. That a detailed drainage and erosion control plan including, but not limited to, hydrologic and hydraulic calculations, scheme for controlling erosion and disposal of runoff water, and an analysis of the soil loss using the HESL erosion formula, be submitted for our review and approval. The plan shall provide verification that the grading and runoff water generated by the project will not have an adverse effect on the adjacent and downstream properties. Also, measures to address the overflows of the ponding area shall be provided.
- "2. That paved parking spaces be provided per the County's Off-Street Parking and Loading Ordinance.
- "3. That a sight distance analysis and traffic assessment be conducted to determine if a left turn lane is warranted at the project's access onto Mokulele Highway.
- "4. That the developer shall submit a solid waste management plan acceptable to the Department of Public Works to include the following:
 - a. Solid waste reduction, re-use and recycling programs to reduce the amount of solid waste to be disposed of at the County landfills.
 - b. All yard debris shall be composted and re-used on their landscape plantings.
 - c. Alternatives means of disposal of grubbed material and rock shall be utilized other than disposed of at the County landfills.

For additional information, the developer is requested to contact the Solid Waste Division.

"5. That the subject parcel may need to be subdivided. The applicant is requested to submit copies of the lease, rental, license, and other related documents for our review."

27. The Department of Land and Natural Resources, Historic Preservation Division (hereinafter "DLNR") offered the following comments (Exhibits 4 & 5):

"We believe that this (special permit) application will have 'no effect' on significant historic sites. There are no known historic sites within this property and previous archaeological surveys on adjacent parcels identified no historic sites."

28. The State Department of Transportation, Highways Division (hereinafter "DOT") offered the following comments (Exhibit 6):

- "1. Mokulele Avenue will be turned over to the state soon. We request the opportunity to review all requests and/or applications of abutting land parcels to ensure that negative impacts are minimized;
- "2. The intersection of Mokulele Avenue and the plantation road (quarry access road) needs to be maintained regularly. The intersection contains loose aggregates that may have fallen from trucks hauling aggregates from the quarry;
- "3. The presence of the company sign at the intersection needs to be evaluated. It may be a violation of the outdoor advertising statutes;
- "4. The proposed operation is located mauka of the highway, which is flooded regularly. The applicant shall make sure that no additional runoff created by its operation be added into this plain. Diverting runoff to the adjacent gulches will contribute to this problem. We recommend that the onsite retention basin be designed to store more than 10 year, 1 hour storm runoff; and,

- "5. Design of intersection geometrics should be verified if it meets current design standards. If the intersection was designed for agricultural equipment crossing only, existing geometrics may not be adequate for heavy vehicles, say WB50, to execute the required movements without affecting the mainstream traffic. Auxiliary lanes may need to be constructed to mitigate this problem; and,
- "6. We request the opportunity to review roadway improvement plans, if any."

29. The State Department of Health, Maui District Health Office (hereinafter "DOH") had no objections to the Permit, and commented that the rock crushing and asphalt batching plants would require air pollution control permits.

SOCIO-ECONOMIC IMPACTS

30. The quarry provides another source of concrete and crushed rock at competitive prices to the local building and construction firms. Many jobs are directly and indirectly affected by the quarry and rock crushing plant.

IMPACTS UPON THE RESOURCES OF THE AREA

Agricultural Resources

31. Prior use of the area has been as a rock and cinder quarry. The land has poor productivity potential for most agricultural uses.

Flora and Fauna

32. Inasmuch as the area has previously been used as a rock quarry and the surrounding lands remain under sugarcane cultivation, the effects of the continued quarrying operations on flora and fauna will be minimal. There are no rare, threatened, or endangered species of flora or fauna on the Property.

Scenic Resources

33. The existing quarry is not located near any urbanized areas and is not visible from any major roads.

Archaeological and Cultural Resources

34. The continuance of the quarry mining and rock crushing plant operations will have "no effect" on historical sites since no known historic sites occur within the Property. Earlier archaeological surveys on adjacent parcels identified no historic sites.

ADEQUACY OF PUBLIC FACILITIES AND UTILITIES

Highways and Roadway Facilities

35. The intersection of Mokulele Highway and the plantation road needs to be maintained regularly because of the presence of loose aggregates on the road, which may have fallen from trucks hauling aggregates from the quarry. The design of the intersection geometrics should be verified to determine whether it meets current design standards. Auxiliary lanes may be necessary to handle heavy vehicles associated with quarry activity if the intersection is designed for agricultural equipment crossing only.

Drainage

36. Due to the periodic flooding of the highway, an on-site retention basin designed to store more than a hypothetical ten year-one hour storm runoff is recommended by the DOT as a preventive measure.

Water

37. Existing water is being supplied by an on-site non-potable well with potable water being brought in. The Property is not currently being serviced by the Department of Water Supply.

Solid Waste

38. The nearest landfill site is located at Pu'unene. The DPW has requested that a solid waste management plan be submitted by the Applicant to the DPW with the following requirements: a) solid waste reduction, reuse, and recycling programs to reduce solid waste; b) all yard debris shall be composted and reused on their landscape plantings; c) alternative means of disposal of grubbed material and rock shall be utilized other than disposed of at the County landfills; and d) refuse collection shall be by a private collector.

Sewage

39. Sewage disposal is currently handled through an on-site cesspool. No further improvements will be required by the DOH.

Police and Fire Protection

40. A fully manned police station is located in Wailuku approximately seven miles from the Property. A fully manned fire station is located at Kahului approximately 4.5 miles from the Property.

Electricity and Telephone Service

41. Electrical and telephone services are currently available to the Property from overhead lines within the immediate area.

CONFORMANCE WITH SPECIAL USE PERMIT TESTS

42. The Department did not offer any specific comments with respect to the Permit's conformance with the Special Use Permit Tests. The LUC finds that the Permit conforms with the criteria as follows:

1. The use shall not be contrary to the objectives sought to be accomplished by Chapter 205 and Chapter 205A, HRS, and Chapter 15-15, Hawaii Administrative Rules.

The potential for agricultural activity on the Property is poor. The Land Study Bureau's Detailed Land Classification designates the Property with an overall master productivity of "E".

The area has been the site of a rock and cinder quarry for the past ten years.

According to the Kihei-Makena Community Plan, Special Permits in the State Agricultural District may be allowed only to accommodate extractive industries, such as quarrying, where the operation would not adversely offset the environment or surrounding agricultural uses. The proposed use is an extracting industry that would not adversely impact the environment and surrounding agricultural uses provided appropriate mitigative measures are incorporated.

2. The desired use would not adversely affect surrounding property.

Prior use of the area as a rock and cinder quarry has not adversely affected surrounding properties nor precluded other viable agricultural activities in the area.

3. The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.

The proposed use would not unreasonably burden public agencies to provide additional infrastructure. There are adequate facilities existing to serve the proposed use. Mitigative measures have been proposed in the event improvements to the infrastructure are deemed necessary.

4. Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established.

The Applicant has stated that the Maui consumer will benefit by continued and improved quarrying and rock crushing services and products.

5. The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

The Property has poor productivity potential for most agricultural uses.

PLANNING COMMISSION RECOMMENDATIONS

43. At its meeting of February 11, 1992, the Planning Commission recommended approval of the Permit to the LUC subject to the following conditions:

- "1. That the Land Use Commission Special Use Permit shall be valid for a period of ten (10) years from the date of its granting, subject to further extensions by the Land Use Commission upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate Planning Commission shall make a recommendation to the Land Use Commission and may require a public hearing on the time extension.
- "2. That the conditions of this Land Use Commission Special Use Permit shall be self enforcing and, accordingly, upon due notice by the Planning Department to the permit holder and the Land Use Commission that there is prima facie evidence that a breach has occurred the permit shall be automatically suspended pending action by the Land Use Commission. A hearing on the continuity of such Land Use Commission Special Use Permit may be held, provided that written request for such a hearing is filed with the Land

Use Commission within ten (10) working days of the date of such notice of alleged breach. If no request for hearing is filed within said ten (10) working day period, the Land Use Commission may revoke said Land Use Commission Special Use Permit.

- "3. That the subject Land Use Commission Special Use Permit shall not be transferred without the prior written approval of the Land Use Commission. The appropriate Planning Commission shall make a recommendation to the Land Use Commission. However, in the event that a contested case hearing preceded issuance of said Land Use Commission Special Use Permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
- "4. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Land Use Commission Special Use Permit and shall hold the County of Maui State of Hawaii harmless from and against any loss, liability, claim or demand arising out of this permit.
- "5. That full compliance with all applicable governmental requirements shall be rendered.
- "6. That a restoration plan be submitted, showing that upon termination of operations depleted and excavated areas shall be graded to blend with the surrounding natural contours and that appropriate vegetative cover consisting of trees, shrubs, and ground cover shall be established.
- "7. That a detailed drainage plan be submitted to the Department of Public Works and Department of Transportation for their review and approval.
- "8. That a detailed solid waste management plan be submitted to Public Works for their review and approval.
- "9. That a regular maintenance program for the access road be submitted to Department of Transportation Highways Division and Department of Public Works for review and approval to ensure that loose aggregate, which may have fallen from trucks coming from the quarry site, shall be removed.
- "10. That air pollution control permits, for the rock crushing and asphalt batching plants, be obtained.

"11. That a sight distance analysis and traffic assessment shall be conducted to determine if intersection improvements are warranted at the projects' access to Mokulele Highway to the satisfaction of the Director of Public Works. If improvements are warranted, such improvements shall be provided at the applicant's expense to county or state standards as may be applicable at the time of the improvements."

CONCLUSIONS OF LAW

The Special Permit request to allow a rock quarrying/crushing operation and related uses constitutes an "unusual and reasonable" use as defined in Chapter 205-6, HRS, as amended, and the proposed use is not contrary to the objectives sought to be accomplished by the State Land Use Law to preserve, protect, and encourage development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare.

ORDER

IT IS HEREBY ORDERED that Special Permit Docket No. SP92-380 to allow a rock quarrying/crushing operation and related uses on approximately 45.957 acres of land designated within the State Land Use Agricultural District, Tax Map Key No.: 3-8-08: portion of 1 and portion of 31 at Pulehunui, Wailuku, Maui, and approximately identified on Exhibit "A" attached hereto and incorporated by reference herein, is hereby approved with modification and subject to the following conditions:

1. That the Land Use Commission Special Use Permit shall be valid for a period of ten (10) years from the date of its granting, subject to further extensions by the Land Use

Commission upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate Planning Commission shall make a recommendation to the Land Use Commission and may require a public hearing on the time extension.

2. That the conditions of this Land Use Commission Special Use Permit shall be enforced by the County of Maui pursuant to Section 205-12, Hawaii Revised Statutes, and accordingly, upon due notice by the Planning Department and Planning Commission to the permit holder and the Land Use Commission that there is prima facie evidence that a breach has occurred, a hearing on the continuity of such Special Use Permit may be held, provided that written request for such a hearing is filed by Applicant with the Planning Department and Planning Commission within ten (10) working days of the date of such notice of alleged breach. If no request for hearing is filed by Applicant within said ten (10) working day period, the Planning Department and Planning Commission may revoke said Land Use Commission Special Use Permit.

3. That the subject Land Use Commission Special Use Permit shall not be transferred without the prior written approval of the Land Use Commission. The appropriate Planning Commission shall make a recommendation to the Land Use Commission. However, in the event that a contested case hearing preceded issuance of said Land Use Commission Special Use Permit, a public hearing shall be held by the appropriate Planning

Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

4. That Applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Land Use Commission Special Use Permit and shall hold the County of Maui and the State of Hawaii harmless from and against any loss, liability, claim or demand arising out of this permit.

5. That full compliance with all applicable governmental requirements shall be rendered.

6. That a restoration plan be submitted, showing that upon termination of operations, depleted and excavated areas shall be graded to blend with the surrounding natural contours and that appropriate vegetative cover consisting of trees, shrubs, and ground cover shall be established.

7. That a detailed drainage plan be submitted to the Department of Public Works and Department of Transportation for their review and approval.

8. That a detailed solid waste management plan be submitted to Public Works for their review and approval.

9. That a regular maintenance program for the access road be submitted to Department of Transportation Highways Division and Department of Public Works for review and approval to ensure that loose aggregate, which may have fallen from trucks coming from the quarry site, shall be removed.

10. That air pollution control permits, for the rock crushing and asphalt batching plants, be obtained.

11. That a sight distance analysis and traffic assessment shall be conducted to determine if intersection improvements are warranted at the projects' access to Mokulele Highway to the satisfaction of the Director of Public Works. If improvements are warranted, such improvements shall be provided at the applicant's expense to county or state standards as may be applicable at the time of the improvements.

12. Applicant shall cause Allied Hauling, Inc. to submit a request through the Maui Planning Commission to revoke its special use permit issued under Docket No. SP87-367/Allied Hauling, Inc. for quarrying purposes on the Property within two (2) months from filing of the Decision and Order of the Land Use Commission approving this application.

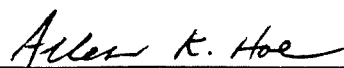
13. An annual progress report shall be submitted to the Planning Director and the State Land Use Commission prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

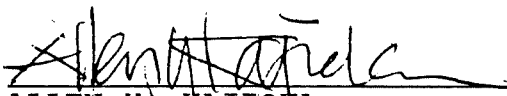
DOCKET NO. SP92-380 - HAWAIIAN CEMENT


Done at Honolulu, Hawaii, this 13th day of July 1992,
per motions on May 28, 1992 and July 10, 1992.

LAND USE COMMISSION
STATE OF HAWAII

By 
RENTON L. K. NIP
Chairman and Commissioner

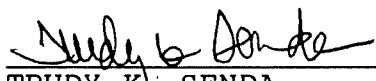
By 
ALLEN K. HOE
Vice Chairman and Commissioner

By 
ALLEN Y. KAJIOKA
Vice Chairman and Commissioner

By 
KAREN S. AHN
Commissioner

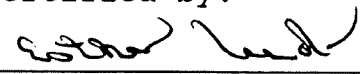
By (absent)
EUSEBIO LAPENIA, JR.
Commissioner


By 
JOANN N. MATTSON
Commissioner

By 
TRUDY K. SENDA
Commissioner

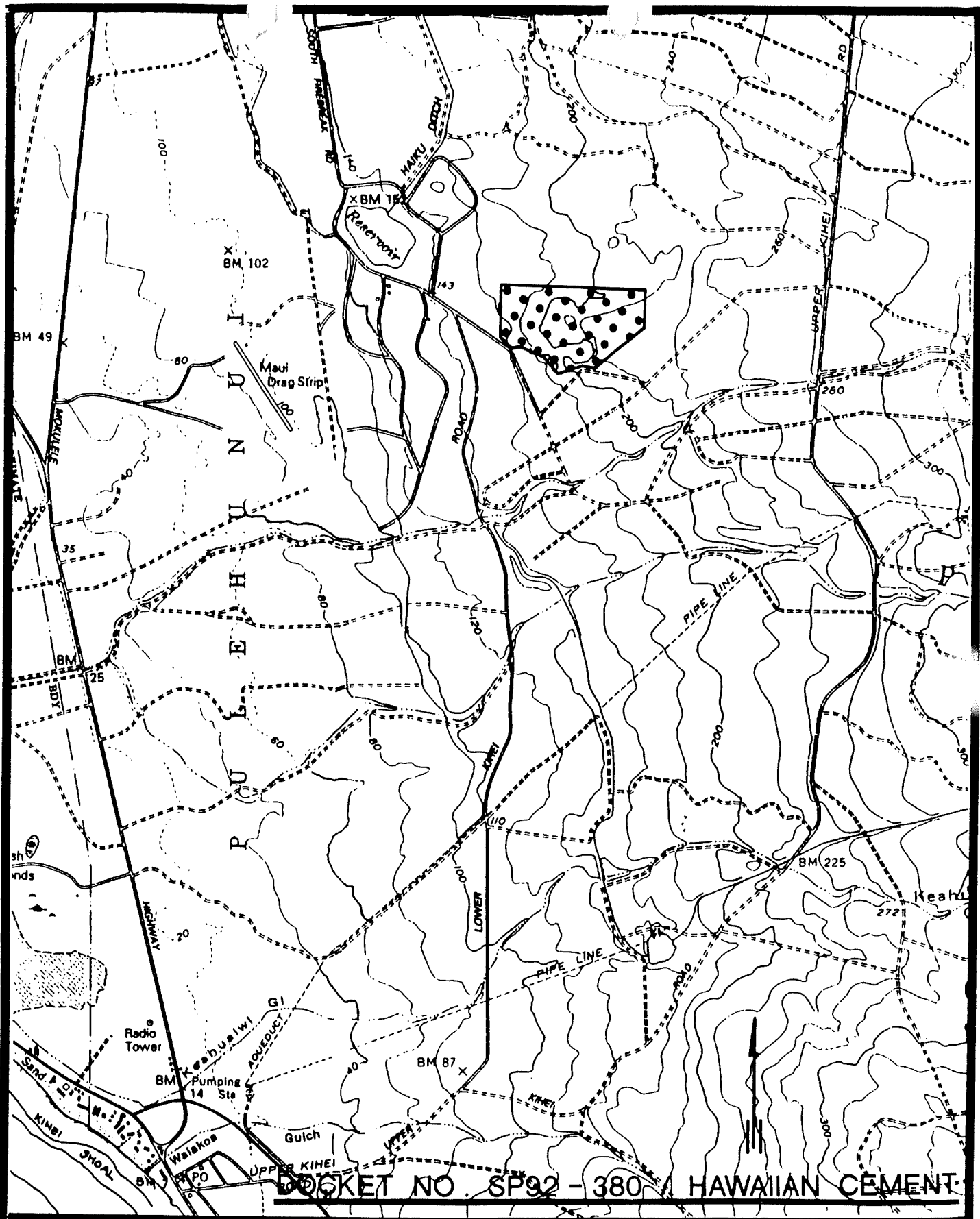
Filed and effective on
July 13, 1992

Certified by:


Executive Officer

By 
ELTON WADA
Commissioner

By (absent)
DELMOND J. H. WON
Commissioner



DOCKET NO. SP92 - 380 HAWAIIAN CEMENT

LOCATION MAP
 TAX MAP KEY: 3 - 8 - 08: por. 01 & por. 31
 PULEHUNUI, WAILUKU, MAUI
 SCALE: 1" = 2,000 ft. ±



PERMIT AREA

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. SP92-380
HAWAIIAN CEMENT)	HAWAIIAN CEMENT
For a Special Permit to Allow a)	
Rock Quarrying/Crushing Operation)	
and Related Uses on Approximately)	
45.957 Acres on Land Situated)	
Within the State Land Use)	
Agricultural District at Pulehunui,)	
Wailuku, Maui, Tax Map Key No.:)	
3-8-08: portion of 1 and portion)	
of 31)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:


CERT. BRIAN MISKAE, Planning Director
Planning Department, County of Maui
250 South High Street
Wailuku, Hawaii 96793

CERT. GUY A. HAYWOOD, ESQ.
Corporation Counsel
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. LAWRENCE ING, ESQ, Attorney for Petitioner
Ing and Ige
Wells Street Professional Center
2145 Wells Street
Wailuku, Hawaii 96793-2222

CERT. W. W. HORNEMAN, Vice President
Hawaiian Cement
Suite 1700, 220 South King Street
Honolulu, Hawaii 96813-4547

DATED: Honolulu, Hawaii, this 13th day of July 1992.

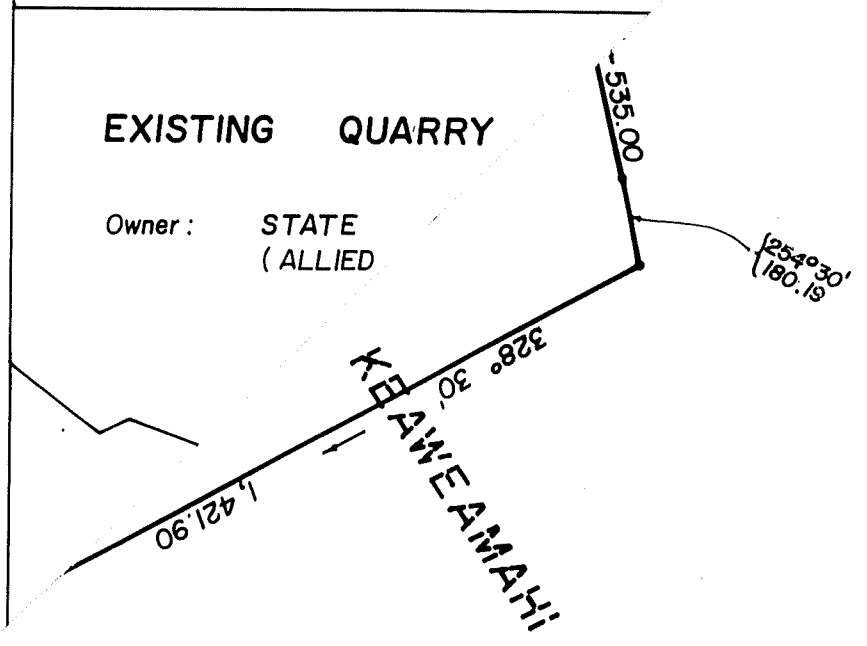

ESTHER UEDA
Executive Officer

Owner : STATE OF HAWAII
(ALEXANDER & BALDWIN, INC)



EXISTING QUARRY

Owner : STATE
(ALLIED)



Owner :