

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of	)	DOCKET NO. SP92-380
	)	
HAWAIIAN CEMENT	)	DECISION AND ORDER
	)	APPROVING AMENDMENT
For A Special Permit To Allow A Rock	)	TO SPECIAL USE PERMIT
Quarrying/Crushing Operation And Related	)	
Uses On Approximately 105.957 Acres Of	)	
Land Situated Within The State Land Use	)	
Agricultural District At Pulehunui, Wailuku,	)	
Maui, Hawai'i, Tax Map Keys: 3-8-04: Portion	)	
Of 1 And Portion Of 2 And 3-8-08: Portion Of	)	
1 And Portion Of 31	)	
_____	)	

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_____	)	

DECISION AND ORDER APPROVING AMENDMENT TO SPECIAL USE PERMIT

On August 30, 2005, Hawaiian Cement ("Applicant") filed a written request to amend the special use permit issued in the above-entitled docket ("Proposed Amendment") with the County of Maui Department of Planning ("DP"), pursuant to section 205-6, Hawai'i Revised Statutes ("HRS"), and sections 15-15-95 and 15-15-96, Hawai'i Administrative Rules ("HAR"). The Applicant requested the expansion of its existing rock quarry and concrete aggregate operations on approximately 66.444 acres of land within the State Land Use Agricultural District,

identified as Tax Map Key: 3-8-04: por. 1, at Pulehunui, Wailuku, Maui, Hawai'i ("Expansion Areas").<sup>1</sup>

The LUC has jurisdiction over the Applicant's Proposed Amendment. Section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR, authorize the LUC to approve special use permits and amendments thereto for areas greater than 15 acres.

On June 27, 2006, the County of Maui Planning Commission ("Planning Commission") conducted a hearing on the Applicant's Proposed Amendment. There was no public testimony provided on the Proposed Amendment. After due deliberation, the Planning Commission recommended approval of the Applicant's Proposed Amendment to the LUC, subject to the following five additional conditions, which augment the existing 11 conditions previously imposed by the LUC in its Decision And Order Approving A Time Extension To A Special Use Permit ("Decision And Order Approving A Time Extension") dated July 15, 2005:

12. That a grading permit from the Public Works Department shall be obtained prior to any land disturbance in the new quarry areas.

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<sup>1</sup> By Findings Of Fact, Conclusions Of Law, And Decision And Order issued on July 13, 1992, the Land Use Commission ("LUC") approved the special use permit to establish the rock quarry and concrete aggregate operations on approximately 45.957 acres of land. By Findings Of Fact, Conclusions Of Law, And Decision And Order issued on November 25, 1996, the LUC approved an additional approximately 60 acres of land to the special use permit for a total area of 105.957 acres. Based on the configuration of the 105.957 acres in the record and the current tax maps, the existing rock quarry and concrete aggregate operations are located on Tax Map Keys: 3-8-04: por. 1 and 3-8-08: por. 20 and por. 31.

The existing configuration of the 105.957 acres in the record differs significantly from the boundaries of the actual area of use.



13. That prior to issuance of a grading permit, the applicant shall provide evidence of approval from the State Department of Transportation regarding a maintenance program for the driveway and surrounding roadway.
14. That prior to issuance of a grading permit, the applicant will provide evidence of approval from the State Department of Health regarding modifications to the Clean Air Branch permit.
15. That prior to issuance of a grading permit, the applicant shall submit an archeological [sic] inventory survey to the State Historic Preservation Division for their review; and shall comply with their subsequent comments.
16. That the new quarry operations shall be confined to the areas depicted on Exhibit 2 of the Planning Department staff report as "24.476 Acres" and "41.968 Acres" (attached as "Proposed Quarry Mining Site" map, dated July 7, 2005).

On August 25 and October 30, 2006, the LUC received a copy of the decision and a portion of the record of the Planning Commission's proceedings on the Applicant's Proposed Amendment. On November 14, 2006, the LUC received the remaining portion of the record.

On December 8, 2006, the LUC met at the Hapuna Beach Prince Hotel located on the Kohala Coast, South Kohala, Hawai'i, to consider the Applicant's Proposed Amendment. William Horneman appeared on behalf of the Applicant. Jeff Hunt appeared on behalf of the DP. Bryan C. Yee, Esq., and Abe Mitsuda also were present on behalf of the State Office of Planning ("OP").

At the meeting, the DP stated, among other things, that based on an e-mail received on July 18, 2006, the County Department of Public Works and Environmental Management clarified that the expansion of the quarry was in fact exempt from a grading permit, and therefore Condition Number 12 should be deleted and that references to the issuance of a grading permit in Condition Numbers 13, 14, and 15 should be rephrased to require that the respective actions occur prior to initiating the proposed quarry operations. The DP also clarified that Condition Number 13 addresses a maintenance program for the driveway and surrounding roadway including Mokulele Highway, whereas Condition Number 9 pertains primarily to a maintenance program for the access road. The Applicant then provided a background of the existing rock quarry and concrete aggregate operations. The Applicant pointed out, among other things, that he provided approximately 80,000 tons of aggregate per year and in excess of 160,000 cubic yards of concrete from the existing quarry to the economy of Maui. The Applicant noted that at the current rate of mining, he would run out of material at the current site by the middle of 2007, and therefore he intended to start quarrying operations into the Expansion Areas as soon as possible. In response to questioning from the LUC, the Applicant clarified that its existing restoration plan will apply to the Expansion Areas, and that it will amend or supplement its existing solid waste management plan to include the Expansion Areas. The Applicant further noted that it had no



objections to the revisions to Condition Numbers 13, 14, and 15 as recommended by the DP. The OP was then asked to provide comments on the Proposed Amendment. The OP stated that it had not yet received confirmation that the State Department of Transportation ("DOT") reviewed and approved the Applicant's maintenance program. The OP added, however, that with the assumption that (i) the term "surrounding roadway" in Condition Number 13 includes Mokulele Highway; (ii) the DOT's approval of a maintenance program is necessary prior to commencement of quarrying in the Expansion Areas; and (iii) the County of Maui will enforce violations of any maintenance program approved by the DOT, the OP had no objections to the Proposed Amendment.

Thereafter, a motion was made and seconded to approve the Applicant's Proposed Amendment, subject to the following additional conditions to the Decision And Order Approving A Time Extension dated July 15, 2005:

12. That prior to commencement of quarry operations into the Expansion Areas, the applicant shall provide evidence of approval from the State Department of Transportation regarding a maintenance program for the driveway and surrounding roadway.
13. That prior to commencement of quarry operations into the Expansion Areas, the applicant shall provide evidence of approval from the State Department of Health regarding modifications to the Clean Air Branch permit.
14. That prior to commencement of quarry operations into the Expansion Areas, the applicant shall submit an archaeological inventory survey to the State Historic Preservation Division for their review; and shall comply with their subsequent comments.

15. That the new quarry operations shall be confined to the areas depicted on Exhibit 2 of the Planning Department staff report as "24.476 Acres" and "41.968 Acres" (attached as "Proposed Quarry Mining Site" map, dated July 7, 2005).
16. That the applicant shall file within one year of the issuance of this Decision and Order a request with the County of Maui Department of Planning to amend the special use permit to reflect the current boundaries of the existing 105.957-acre quarry site.

Following deliberation by the Commissioners, a vote was taken on the motion. There being a vote tally of 7 ayes, 0 nays, and 2 absent, the motion carried.

#### ORDER

The LUC, having duly considered the complete record of the Applicant's Proposed Amendment and the oral arguments presented by the parties present in the proceeding, and a motion having been made at a meeting on December 8, 2006, at the Hapuna Beach Prince Hotel located on the Kohala Coast, South Kohala, Hawai`i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that the Applicant's Proposed Amendment to expand its existing rock quarry and concrete aggregate operations on approximately 66.444 acres of land within the State Land Use Agricultural District at Pulehunui, Wailuku, Maui, Hawai`i, identified as Tax Map Key: 3-8-04: por. 1, and approximately identified on Exhibit "A," attached hereto and incorporated by



reference herein, be APPROVED, subject to the following conditions to the Decision

And Order Approving A Time Extension dated July 15, 2005:

12. That prior to commencement of quarry operations into the Expansion Areas, the applicant shall provide evidence of approval from the State Department of Transportation regarding a maintenance program for the driveway and surrounding roadway.
13. That prior to commencement of quarry operations into the Expansion Areas, the applicant shall provide evidence of approval from the State Department of Health regarding modifications to the Clean Air Branch permit.
14. That prior to commencement of quarry operations into the Expansion Areas, the applicant shall submit an archaeological inventory survey to the State Historic Preservation Division for their review; and shall comply with their subsequent comments.
15. That the new quarry operations shall be confined to the areas depicted on Exhibit 2 of the Planning Department staff report as "24.476 Acres" and "41.968 Acres" (attached as "Proposed Quarry Mining Site" map, dated July 7, 2005).
16. That the applicant shall file within one year of the issuance of this Decision and Order a request with the County of Maui Department of Planning to amend the special use permit to reflect the current boundaries of the existing 105.957-acre quarry site.

All other conditions to the Decision And Order Approving A Time Extension dated July 15, 2005, are hereby reaffirmed and shall continue in effect.



Done at Honolulu, Hawai'i, this 18th day of

December, 2006.

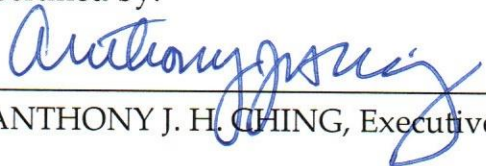
APPROVED AS TO FORM:

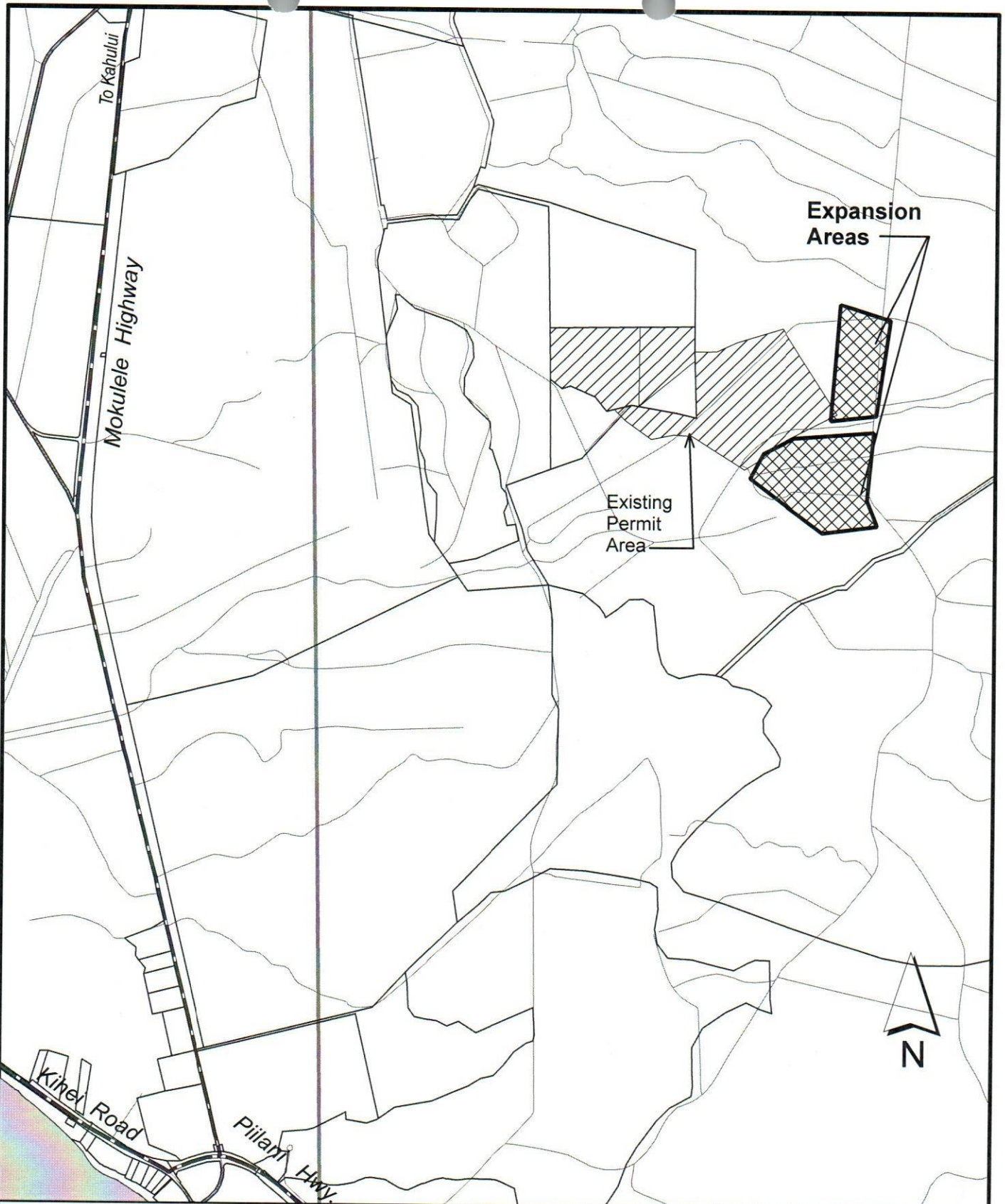
  
Deputy Attorney General

LAND USE COMMISSION  
STATE OF HAWAII

By   
LISA JUDGE  
Chairperson and Commissioner

Filed and effective on  
DEC 18 2006

Certified by:  
  
ANTHONY J. H. CHING, Executive Officer



**SP92-380 HAWAIIAN CEMENT**

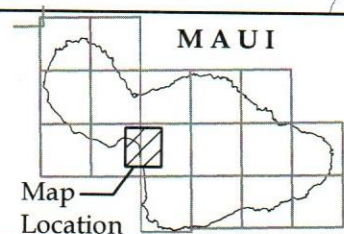
**LOCATION MAP**

Tax Map Key: 3-8-04: 1 (por.), 2 (por.), and  
3-8-08: 1 (por.) and 31 (por.)

Pulehunui, Wailuku, Maui, Hawai'i

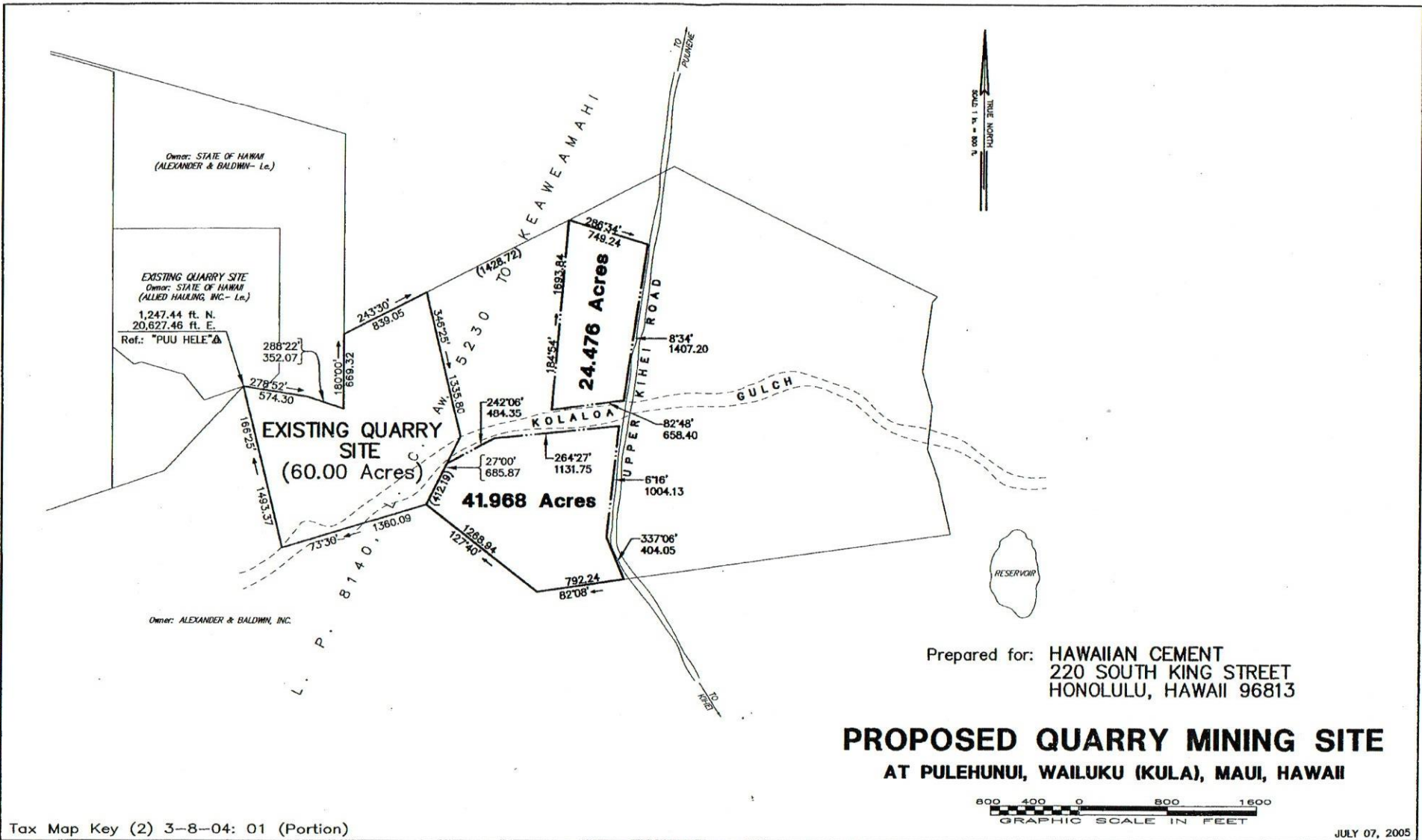
Scale 1" = 2,000 feet

Exhibit "A"





CA\2005\05-065\PROP-QUARRY-MINING-SITE-JULY2005.dwg



Tax Map Key (2) 3-8-04: 01 (Portion)

871 KOLU STREET, SUITE 201  
WAILUKU MAUI HAWAII 96793

**R. T. TANAKA ENGINEERS, INC.**

JULY 07, 2005  
JOB NO. 05-065

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

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Maui, Hawai'i, Tax Map Keys: 3-8-04: Portion )  
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1 And Portion Of 31 )  
\_\_\_\_\_)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Decision And Order Approving  
Amendment To Special Use Permit was served upon the following by either hand  
delivery or depositing the same in the U. S. Postal Service by regular or certified mail as  
noted:

DEL. LAURA THIELEN, Director  
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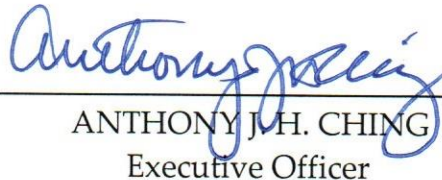


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Aiea, Hawaii 96701-3289

Honolulu, Hawai'i, DEC 18 2006.

  
\_\_\_\_\_  
ANTHONY J. H. CHING  
Executive Officer