

## **Mori, Ashley**

---

**From:** Daryn Arai <Daryn.Arai@outlook.com>  
**Sent:** Friday, April 29, 2022 2:29 PM  
**To:** Heit, Gordon C  
**Cc:** Shellby Yamada; Planning Internet Mail  
**Subject:** Regarding Land License No. S-359 and Special Permit Application PL-2022-000012 (Yamada and Sons, Inc.) affecting TMK: (3) 2-1-013: 002 (por), Waiākea, South Hilo, Hawai'i  
**Attachments:** Request for DLNR Acknowledgement per Sec 15-15-95 HAR (Yamada and Sons, Inc.).pdf

Aloha Mr. Heit,

As a follow-up to our recent discussion regarding the above-described matter, please find attached a request for the State of Hawaii, or its designee if appropriate, as it pertains to the Licensee's current effort to secure a Special Permit from the State Land Use Commission in accordance with its rules and procedures.

Appreciate your efforts to assist the licensee, Yamada and Sons, Inc. Please let me know if additional information is necessary.

Daryn

Daryn Arai  
Land Use Planning Consultant  
PO Box 4501  
Hilo, HI 96720  
Mobile: (808) 895-3218

---

**Daryn Arai**  
Land Use Planning Consultant

April 29, 2022

Mr. Gordon Heit, District Land Agent  
State Department of Land and Natural Resources  
75 Aupuni Street, Suite 214  
Hilo, HI 96720

Dear Mr. Heit:

Subject: Request for Written Acknowledgement from DLNR acknowledging  
itself to be bound by Special Permit Application PL-SPP-2022-000012  
Applicant: Yamada and Sons, Inc.  
TMK: (3) 2-1-013 : 002 (por), Waiākea, South Hilo, Hawai‘i

I am a land use planning consultant assisting Yamada and Sons, Inc. with the preparation and processing of a Special Permit application affecting the above-described project site before both the Windward Planning Commission and the State Land Use Commission.

As you are aware, the State Board of Land and Natural Resources (BLNR) executed a 20-year license (Land License No. S-359) to Yamada and Sons, Inc. on October 28, 2021 to enter and quarry, stockpile, and remove rock and waste deposits for commercial use from 37.882-acres of land (licensed area) situated within a larger 2,407.72-acre property identified above.

As required by Condition 6 of Land License No. S-359, Yamada and Sons, Inc. subsequently filed with the County of Hawai‘i Planning Department an application for a Special Permit to allow for the licensed activities to be conducted on the 37.882-acre licensed area that is situated within the State Land Use Agricultural District, for which a tentative hearing date before the Windward Planning Commission has been scheduled for Thursday, June 2, 2022.

Yamada and Sons, Inc., as licensee, is respectfully requesting that the State of Hawai‘i, or its designee as appropriate, issue a written statement that the State of Hawai‘i, as owner of the licensed area, acknowledges that it will be bound by the subject Special Permit and its conditions of approval should it be approved by the State Land Use Commission pursuant to Title 15, Chapter 15 of the Hawai‘i Administrative Rules as recited, in part, below:

§15-15-95 Petition before county planning commission.

(a ) Any person who desires to use land within an agricultural or rural district for other than a permissible agricultural or rural use may petition the county planning commission of the county within which the land is located for a special permit to use the land in the manner desired; provided that if the person is not the owner or sole owner in fee simple of the land, the record shall include evidence that the

Mr. Gordon Heit, District Land Agent  
State Department of Land and Natural Resources  
Page 2 of 2  
April 29, 2022

person requesting the special permit has written authorization of all fee simple owners to file the petition, which authorization shall also include an acknowledgement that the owners and their successors shall be bound by the special permit and its conditions. (emphasis added)

The Applicant's receipt of this written acknowledgement from the State of Hawai'i is essential to the proper processing of the Special Permit application as required by the Administrative Rules of the State Land Use Commission. As I interpret these rules, there is no exception to this requirement. I was not able to identify any specific language within Land License No. S-359 that would appear to satisfy this particular requirement of the Land Use Commission, although I would hope to be corrected.

Due to the upcoming Windward Planning Commission meeting on the application tentatively scheduled for June 2, 2022, we look forward to receiving prompt written acknowledgement from the State of Hawai'i, or its appropriate designee, that it will be bound by the requested Special Permit and its conditions, should it be approved by the State Land Use Commission.

Should you have any questions regarding this matter or require additional information, please do not hesitate to contact me.

Sincerely,



Daryn Arai

copy via email: County of Hawai'i Planning Department, attn: Planning Division  
Yamada and Sons, Inc.