

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

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March 23, 2018

Michael Yee
Planning Department
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Attention: Christian Kay

2018 MAR 23 PM 1:52
PLANNING DEPARTMENT
COUNTY OF HAWAII

Re: Amendment to Condition No. 7 (life of the permit)
Land Use Commission Docket No. SP90-374 / County of Hawaii Planning
Commission Special Permit No. 724 ("SP 724")
Applicant: PR Mauna Kea LLC
at Waikoloa, District of South Kohala, Hawaii
Tax Map Key No.: (3) 6-7-001:034 [formerly (3) 6-7-01: portion 25]

Dear Mr. Yee:

Pursuant to Rule 6-9, Planning Commission Rules of Practice and Procedure, Applicant PR Mauna Kea LLC, a Hawaii limited liability company is requesting an Amendment to Condition No. 7 of SP 724, to extend the life of the permit for the quarrying and other related uses and activities to continue co-terminous with the Lease between the Applicant and WHC, Ltd., a Hawaii corporation to September 30, 2037.

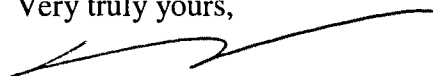
Enclosed, please find the following:

1. Original and twenty (20) copies of the Special Permit Amendment Request;
2. Listing of the surrounding property owner within 500 feet; and
3. Real Property Tax Clearance.

We respectfully request that the Special Permit amendment request be considered at the June 21, 2018 Leeward Planning Commission hearing. Please direct all correspondence on this matter to my office.

Should you have any questions concerning this submittal, please feel free to contact me. Thank you for your assistance.

Very truly yours,



Katherine A. Garson

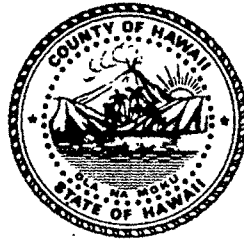
KAG:KYL
Enclosures
Client / WHC

117419

PR MAUNA KEA LLC
Surrounding Property Owner Within 500'
of
TMK: (3) 6-7-001:034

<u>TMK</u>	<u>Owner Name and Address</u>
6-7-001:025	PR Mauna Kea LLC 66-1304 Mamalahoa Highway Kamuela, HI 96743

Harry Kim
Mayor



Deanna S. Sako
Finance Director

Nancy Crawford
Deputy Director

County of Hawai'i

DEPARTMENT OF FINANCE - REAL PROPERTY TAX

Aupuni Center • 101 Pauahi Street • Suite No. 4 • Hilo, Hawai'i 96720 • Fax (808) 961-8415
Appraisers (808) 961-8354 • Clerical (808) 961-8201 • Collections (808) 961-8282
West Hawai'i Civic Center • 74-5044 Ane Keohokalole Hwy. • Bldg. D, 2nd Flr. • Kailua Kona, Hawai'i 96740
Fax (808) 327-3538 • Appraisers (808) 323-4881 • Clerical (808) 323-4880
Website: www.hawaiipropertytax.com

REAL PROPERTY TAX CLEARANCE

(Rev. 07/13)

Date: February 5, 2018

TMK(s): (3) 6-7-001-034-0000

This is to certify that the real property taxes due to the County of Hawai'i on the parcel(s) listed above have been paid for the tax year 2017-18, **up to and including June 30, 2018.**

The County's real property taxes are levied on July 1st each year. The taxes become a lien on the property assessed as of the levy date.

This clearance was requested on behalf of PR MAUNA KEA LLC (Owner(s) of record) and is issued for this/these parcel(s) only.

By Namele Walker

REAL PROPERTY TAX DIVISION

Paid up to and including June 30, 2018 .

SPECIAL PERMIT APPLICATION

Amendment to Condition No. 7 (Life of the Permit)

LUC Docket No. SP90-374 / Special Permit No. 724

**Existing Rock Quarry and Related Uses
situate at Waikoloa, District of South Kohala, Hawai`i**

TMK: (3) 6-7-001:034 [formerly (3) 6-7-001:portion 025]

Prepared for:

PR Mauna Kea LLC, a Hawai`i limited liability company

Prepared by:

STEVEN S.C. LIM

KATHERINE A. GARSON

Carlsmith Ball LLP

121 Waiuanue Avenue

Hilo, Hawai`i 96720

Telephone: 808-935-6644

Facsimile: 808-935-7975

E-mail: slim@carlsmith.com / kgarson@carlsmith.com

March, 2018

**SPECIAL PERMIT APPLICATION
COUNTY OF HAWAII
PLANNING DEPARTMENT**

(Type or Print the requested information)

APPLICANT PR Mauna Kea LLC, a Hawaii limited liability company

APPLICANT'S SIGNATURE: See attached authorization letter DATE: _____

ADDRESS: 66-1304 Mamalahoa Highway, Kamuela, Hawaii 96743

LIST APPLICANT'S INTEREST IF NOT OWNER: _____

TELEPHONE: (Bus) 808-885-7311 (Home) _____ (Fax) _____

REQUEST: Amendment to Condition 7 (life of Special Permit) LUC Docket No. SP90-374 (Special Permit No 724)

TAX MAP KEY: (3) 6-7-001:034 [formerly (3) 6-7-001:025 por.] ZONING: A-40a

AREA OF PROPERTY/AREA OF REQUESTED USE 143.480 acres / 143.480 acres

LANDOWNER: PR Mauna Kea LLC, a Hawaii limited liability company

LANDOWNER'S SIGNATURE: See attached authorization letter DATE: _____
(May be by letter)

LANDOWNER'S ADDRESS: 66-1304 Mamalahoa Highway, Kamuela, Hawaii 96743

AGENT: Steve S.C. Lim / Katherine A. Garson, Carlsmith Ball LLP

ADDRESS: 121 Waianuenue Avenue, Hilo, Hawaii 96720

TELEPHONE: (Bus.) 935-6644 (Home) _____ (Fax) 935-7975

Please indicate to whom original correspondence and copies should be sent to:

ORIGINAL Steven S.C. Lim/Katherine A. Garson COPIES: Nahua Guilloz, PR Mauna Kea LLC

2018 MAR 23 pm 1 52
PLANNING DEPARTMENT
COUNTY OF HAWAII

FEE OWNER'S LETTER OF AUTHORIZATION

Tax Map Key No.: (3) 6-7-001:034
Waikoloa, District of South Kohala, Island and County of Hawaii

The undersigned is the Fee Owner of the real property above-identified, and hereby authorizes its attorney, CARLSMITH BALL LLP to communicate with, apply for, execute and process an amendment to State Special Permit Docket No. SP90-374 with the County of Hawaii Planning Department, County of Hawaii Leeward Planning Commission and the State Land Use Commission to extend the term of the Special Permit.

A photostatic or facsimile copy of this executed authorization shall also be considered as effective and valid as the original.

PR MAUNA KEA, LLC,
a Hawaii limited liability company


By **TRUSTEES OF THE PARKER RANCH
FOUNDATION TRUST**, under that certain
Trust Agreement dated August 9, 2007
Its Member

By 
MICHAEL K. FUJIMOTO
Trustee

By _____
MICHAEL W. GIBSON
Trustee

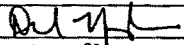
By _____
TIMOTHY E. JOHNS
Trustee

Subscribed and sworn (or affirmed) before me this 27th day of February, 2018..


Name: Darlene Yoshida

Notary Public, State of Hawaii
My commission expires: 02/06/20



NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Fee Owner's Letter of Authorization</u>
Document Date:	<u>Undated</u>
No. of Pages:	<u>2, incl. notary page</u>
Jurisdiction (in which notarial act is performed): <u>Third</u>	
<u></u> Signature of Notary	<u>2/27/18</u> Date of Notarization and Certification Statement
<u>Darlene Yoshida</u> Printed Name of Notary	



FEE OWNER'S LETTER OF AUTHORIZATION

Tax Map Key No.: (3) 6-7-001:034
Waikoloa, District of South Kohala, Island and County of Hawaii

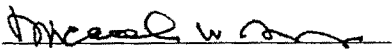
The undersigned is the Fee Owner of the real property above-identified, and hereby authorizes its attorney, CARLSMITH BALL LLP to communicate with, apply for, execute and process an amendment to State Special Permit Docket No. SP90-374 with the County of Hawaii Planning Department, County of Hawaii Leeward Planning Commission and the State Land Use Commission to extend the term of the Special Permit.

A photostatic or facsimile copy of this executed authorization shall also be considered as effective and valid as the original.

PR MAUNA KEA, LLC,
a Hawaii limited liability company

By **TRUSTEES OF THE PARKER RANCH
FOUNDATION TRUST**, under that certain
Trust Agreement dated August 9, 2007
Its Member

By _____
MICHAEL K. FUJIMOTO
Trustee

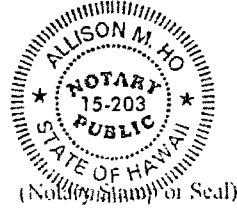
By 
MICHAEL W. GIBSON
Trustee

By _____
TIMOTHY E. JOHNS
Trustee

Subscribed and sworn (or affirmed) before me this 27th day of February, 2018..

Allison M. Ho
Name: Allison M. Ho

Notary Public, State of Hawaii
My commission expires: June 14, 2019



NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Fee Owner's Letter of Authorization</u>
Document Date:	<u>No date</u>
No. of Pages:	<u>4</u>
Jurisdiction (in which notarial act is performed):	<u>First</u>
<u>Allison M. Ho</u> Signature of Notary	<u>February 27, 2018</u> Date of Notarization and Certification Statement
<u>Allison M. Ho</u> Printed Name of Notary	



FEE OWNER'S LETTER OF AUTHORIZATION

Tax Map Key No.: (3) 6-7-001:034
Waikoloa, District of South Kohala, Island and County of Hawaii

The undersigned is the Fee Owner of the real property above-identified, and hereby authorizes its attorney, CARLSMITH BALL LLP to communicate with, apply for, execute and process an amendment to State Special Permit Docket No. SP90-374 with the County of Hawaii Planning Department, County of Hawaii Leeward Planning Commission and the State Land Use Commission to extend the term of the Special Permit.

A photostatic or facsimile copy of this executed authorization shall also be considered as effective and valid as the original.

PR MAUNA KEA, LLC,
a Hawaii limited liability company

By **TRUSTEES OF THE PARKER RANCH
FOUNDATION TRUST**, under that certain
Trust Agreement dated August 9, 2007
Its Member

By _____
MICHAEL K. FUJIMOTO
Trustee

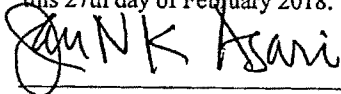
By _____
MICHAEL W. GIBSON
Trustee

By  _____
TIMOTHY E. JOHNS
Trustee

State of Hawaii)
) ss.
City and County of Honolulu)

[RE: Signature of TIMOTHY E. JOHNS, Trustee of THE PARKER RANCH
FOUNDATION TRUST, under that certain Trust Agreement dated August 9, 2007]

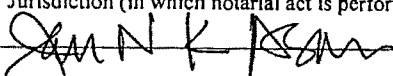
Subscribed and affirmed before me
this 27th day of February 2018.

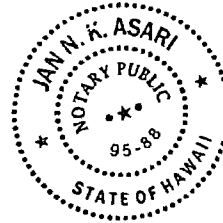


Name: Jan N. K. Asari
Notary Public, State of Hawaii
My commission expires: 03/14/2019



(Notary Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	FEE OWNER'S LETTER OF AUTHORIZATION (re: Tax Map Key No.: (3) 6-7-001:034; Waikoloa, District of South Kohala, Island and County of Hawaii)
Document Date:	<u>UNDATED</u>
No. of Pages:	One (1) Page plus Three (3) notary acknowledgment / certification pages of each signer / Trustee); <u>Total Four (4) Pages</u>
Jurisdiction (in which notarial act is performed):	First
Signature of Notary	 February 27, 2018
Jan N. K. Asari	Date of Notarization and Certification Statement
Printed Name of Notary	



(Notary Stamp or Seal)

LESSEE'S LETTER OF AUTHORIZATION

Tax Map Key No.: (3) 6-7-001:034
 Waikoloa, District of South Kohala, Island and County of Hawaii

WHC, LTD., a Hawaii corporation, doing business as West Hawaii Concrete, is the Lessee of the real property above-identified, and hereby authorizes CARLSMITH BALL LLP to communicate with, apply for, execute and process an amendment to State Special Permit Docket No. SP90-374 with the County of Hawaii Planning Department, County of Hawaii Leeward Planning Commission and the State Land Use Commission to extend the term of the Special Permit.

A photostatic or facsimile copy of this executed authorization shall also be considered as effective and valid as the original.

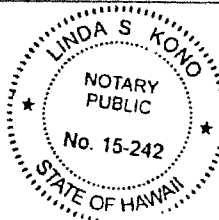
WHC, LTD.,
 a Hawaii corporation

By Terilyn Esperanza
 Name: Terilyn Esperanza
 Its: Controller

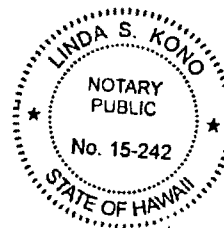
Subscribed and sworn (or affirmed) before me this 27th day of February 2018..

Name: Linda S. Kono
 Notary Public, State of Hawaii County of Honolulu

My commission expires: 7-19-19 (Notary Stamp or Seal)



NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Lessee's Letter of Authorization</u>
Document Date:	<u>2-27-18</u>
No. of Pages:	<u>1</u>
Jurisdiction (in which notarial act is performed):	
<u>Linda S. Kono</u>	<u>2-27-18</u>
Signature of Notary Linda S. Kono Notary Public, State of Hawaii My commission expires July 19 2019	Date of Notarization and Certification Statement
Printed Name of Notary	(Notary Stamp or Seal)



4829-5722-8122, v. 1

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EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	May 9, 2000 Order Granting Applicant's Request to Expand Existing Quarry and to Amend Condition Number 7 (" 2000 Order ")
2	July 28, 2017 letter to Michael Yee, Planning Director, from Steven S.C. Lim, Carlsmith Ball LLP
3	September 6, 2017 letter from Michael Yee, Planning Director, to Steven S.C. Lim, Carlsmith Ball, LLP
4	Tax Map of the Property
5	Subdivision Map (SUB 17-001692)
6	March 29, 2000 Staff Summary to the Land Use Commission Regarding the Request to Expand Existing Quarry and Amend Condition No. 7 (Life of Permit) (" 2000 Staff Summary ")
7	March 16, 1990 Findings of Fact, Conclusions of Law and Decision and Order (Docket No. SP90-374) (" 1990 Special Permit ")
8	Transcript from April 6, 2000 Land Use Commission hearing
9	April 28, 2000 letter from Executive Officer, Esther Ueda, to County of Hawai'i Planning Director, Virginia Goldstein
10	May 1, 2000 letter from WHC
11	May 3, 2000 letter from County of Hawai'i Planning Director
12	Metes and Bounds description of Lot 26-A
13	April 27, 2000 letter from Mooers Enterprises, LLC, to Planning Director with enclosures
14	Combined Annual Monitoring Reports for 2008 - 2016, filed on February 17, 2017
15	April 3, 2017 letter from Planning Director acknowledging compliance with Condition 10
16	FIRM map
17	Land Study Bureau Map
18	Photos from Mamalahoa Highway
19	State Land Use District Map
20	LUPAG Map
21	South Kohala Development Plan Map - Waimea Town Conceptual Plan
22	County Zoning Map
23	Special Management Area Map
24	ALISH Map
25	Former Waikoloa Maneuver Area Map
26	Former Waikoloa Maneuver Area Phase II EE/CA Investigation Area Map

I. SUMMARY

Applicant / Owner: PR MAUNA KEA LLC, a Hawai`i limited liability company ("**Applicant**"), a successor in interest to the Richard Smart Trust dba Parker Ranch.

Lessee: The Property is leased to WHC, Ltd., a Hawai`i corporation doing business as West Hawai`i Concrete ("**WHC**").

Property Location: The Project Area is located on the makai/westerly side of Mamalahoa Highway, approximately 3 miles inland at Waikoloa, District of South Kohala, Hawai`i,

Tax Map Key: Tax Map Key No. (3) 6-7-001:034 (the "**Property**") [formerly (3) 6-7-01: portion 25]

Request: The Special Permit granted in Land Use Commission Docket No. SP90-374 (County of Hawai`i Planning Commission Special Permit No. 724) (hereinafter "**SP90-374**") was originally issued in 1990 and amended on May 9, 2000. The ending date of the term of SP90-374 is ambiguous, but at the earliest ended September 30, 2017. Applicant seeks approval to amended Condition No. 7 to extend the life of the Special Permit so that the quarrying and other activities can continue co-terminously with the Lease between the Applicant and WHC as originally approved by the Planning Commission in 2000 (i.e. until September 30, 2037).

Petition Area	Approximately 143.48 acres
State Land Use District	Agricultural District
General Plan (LUPAG) Map	Extensive Agriculture
Community Development Plan	South Kohala Community Development Plan
Zoning	Agricultural-40 acres (A-40a)
Special Management Area	Outside of Special Management Area
Land Study Bureau	"D"
ALISH	Unclassified
Archaeological Resources	Archaeological survey completed in 1990 over 90 acre portion (Barrera 1990) (no sites discovered); Archeological field survey of expansion area (approximately 52 acres) completed in April of 2000 by Robert B. Rechtman, Ph.D. (no archaeological resources observed within expanded Petition Area)
Access	Private road off Mamalahoa Highway
FIRM:	Zone X

II. PROJECT DESCRIPTION

A. Background of Request for Amendment to Condition No. 7 of SP90-374 for Time Extension

On May 9, 2000, the Land Use Commission ("**Commission**") entered an Order Granting Applicant's Request to Expand Existing Quarry and to Amend Condition No. 7 of SP90-374 ("**2000 Order**") which allowed the continued operation and expansion of an existing rock quarry on Applicant's Property which currently is, and has been since 1972, leased to WHC. The ending date of the term of SP90-374 is ambiguous, but at the earliest ended September 30, 2017. Applicant seeks approval of amend Condition No. 7 to extend the life of the Special Permit such that the quarrying and other activities can continue co-terminously with the Lease between the Applicant and WHC, as originally approved by the Planning Commission in 2000 (i.e., until September 30, 2037).

The 2000 Order allowed the expansion of the approximately 91.827-acre rock quarry by an additional 51.653 acres of land (for a total of approximately 143.48 acres), and amended Condition Number 7 to extend the life of the special permit "co-terminus with the Parker Ranch Lease" [See **Exhibit 1**]. Condition No. 7 was amended to provide:

The life of this Special Permit shall run co-terminus with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.¹ [*Footnote is contained in the 2000 Order*].

The peculiar footnote to Condition No. 7 was added after the April 6, 2000 hearing on the Special Permit application, and after certain communications took place between the Commission's Executive Officer, the County of Hawai'i Planning Director, and WHC. The

¹ Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000, from the Applicant to Esther Ueda, Executive Officer, State Land Use Commission.

requirement for further action by the Commission was not discussed by the Commission during the April 6, 2000 hearing.

On July 28, 2017, Carlsmith Ball LLP, on behalf of the Applicant, submitted a letter to the Planning Director informing him that the Lease between the Applicant and WHC had been extended for the additional 20 years (from September 30, 2017 to September 30, 2037), and submitted a Memorandum of Quarry Lease Agreement in compliance with amended Condition No. 7 of SP90-374, and the 2000 Order. [See **Exhibit 2**].

On September 6, 2017, the Planning Director, citing to the post-hearing communications with the Commission's Executive Officer and the footnote in the 2000 Order, responded: "we hold the position that the State Land Use Commission must determine if the executed lease extension will be supported by the terms and conditions of LUC Docket No. SP90-374." [See **Exhibit 3**].

Based on the Planning Director's response, the Applicant, by this Special Permit Application requests approval of a time extension to coincide with the present lease extension to **September 30, 2037**, and thus seeks an amendment to Condition No. 7 of SP90-374 to remove the footnote to Condition No. 7. Applicant is NOT seeking an expansion of the Special Permit area, nor a change in the allowed quarry uses.

Thus, Applicant requests that Condition No. 7 be amended as follows:

The life of this Special Permit shall run co-terminus with the Parker Ranch lease, which terminates on September 30, 2037. Any amendments to the terms of the lease with Parker Ranch which extend the term of the lease beyond September 30, 2037, shall be submitted to the Planning Commission and the State Land Use Commission for approval.

Applicant and WHC have both provided authorization to allow Applicant and Applicant's attorneys, Carlsmith Ball LLP, to prepare and process this amendment to the term of SP90-374. [See attached Fee Owner's Letter of Authorization and Lessee's Letter of Authorization].

B. Property Location, Description and Ownership

The Property is approximately 143.480 acres in size and is located on the makai/westerly side of Mamalahoa Highway, approximately 3 miles inland, at Waikoloa, District of South Kohala, Island and County of Hawai`i. At the time SP90-374 was issued and subsequently amended in 2000, the Property was a portion of Tax Map Key No.: (3) 6-7-001: portion of 025. On June 16, 2017, Final Subdivision Approval was granted, as amended by the Planning Department letter dated December 20, 2017 (SUB-17-001692-Revised), such that the 143.480-acre Property is its own separate lot designated Tax Map Key No.: (3) 6-7-001:034. [See **Exhibit 4**]. A copy of the approved Revised Final Plat Map is attached as **Exhibit 5**.

PR MAUNA KEA LLC, a Hawai`i limited liability company ("**Applicant**"), whose business and mailing address is 66-1304 Mamalahoa Highway, Kamuela, Hawai`i 96743, is the fee owner of the Property located within the State Land Use Agricultural District in Waikoloa, District of South Kohala, Hawai`i (the "**Property**") [See **Exhibit 19**]. Applicant is a successor-in-interest to the Richard Smart Trust dba Parker Ranch, the original Applicant under SLU Docket No. SP90-374. The Property is leased to WHC, Ltd., a Hawai`i corporation, ("**WHC**") whose mailing address is P.O. Box 1390, Kailua-Kona, Hawai`i 96745, for purposes of operating a rock quarry and related uses. The Property, or a portion thereof has continuously been so leased by WHC since 1972. A true and correct copy of an unrecorded Memorandum of Quarry

Lease Agreement ("**Memorandum of Quarry Lease**") is attached to **Exhibit 2**. As noted in the Memorandum of Quarry Lease, the term of the Lease will end on September 30, 2037².

Special Permit Docket No. 90-374/Richard Smart Trust dba Parker Ranch was issued in the March 16, 1990 *Findings of Fact, Conclusions of Law and Decision and Order* ("**1990 Special Permit**") to allow the continued operation and expansion of an existing quarry and related uses, on approximately 91.827 acres of land on Tax Map Key No.: (3) 6-7-001: portion 025 [See **Exhibit 7**]. While this was a new special permit, it was proposed to continue and expand a 30-acre non-conforming quarry site which had been established in 1945 and was previously approved by the Commission under Special Permit 77-260/Richard Smart dba Parker Ranch on May 4, 1977. See **Exhibit 7**, 1990 Special Permit, page 2, Findings of Fact, Nos. 5 and 6.

Condition No. 7 of the 1990 Special Permit provided:

The quarrying operations and its allied uses shall be terminated within ten years from the date of approval of the Special Permit or its prior abandonment, whichever occurs first.

In 1999, a Special Permit Application for the West Hawai'i Concrete Quarry Operations was submitted by WHC's consultant Gregory R. Mooers ("**1999 Application**") requesting an amendment to Condition No. 7 to extend the time period for the Special Permit to run co-terminously with the Parker Ranch lease, as well as to expand the quarry area.

² The original Quarry Lease Agreement dated June 15, 1998 was for a term from October 1, 1997 to September 30, 2017 and contained the right to extend the term of the lease for twenty additional years. See page 2 of the March 29, 2000 Staff Summary provided to the Commission regarding Applicant WHC, Ltd.'s previous Request to Expand Existing Quarry and Amend Condition No. 7 [See Staff Recommendation and Summary attached as **Exhibit 6**, and hereinafter referred to as "**Staff Summary**"]. The extension option was exercised effective as of October 1, 2012 in a Third Amendment of Quarry Lease Agreement Dated June 15, 1998, and thus the lease terms ends on September 30, 2037. See, Memorandum of Quarry Lease attached to **Exhibit 2**.

The existing rock quarry was allowed to be expanded by an additional 51.653 acres, for a total area of 143.48 acres, and the 2000 Order was entered which amended Condition No. 7 to provide:

The life of this Special Permit shall run co-terminus with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.³ [*Footnote is contained in the 2000 Order*].

A review of the record in this Docket through the hearing which resulted in the 2000 Order, reveals that the renewal option for the 20-year period beyond 2017 to 2037 was recommended by the Planning Commission and by the Commission staff and approved by the Commission at the time of the April 6, 2000 hearing before the Commission, but due to post-hearing communications between Commission staff and WHC, the footnote was added at the hearing on the adoption of the 2000 Order.⁴

³ Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000, from the Applicant to Esther Ueda, Executive Officer, State Land Use Commission.

⁴ The County of Hawai'i Planning Department's Recommendations to the Planning Commission for approval of the Special Permit ("**2000 Planning Commission's Recommendation**") provided:

"It is recommended that rather than grant a 20-year extension, Condition No. 7 be amended to allow the Special Permit to run co-terminus with the Parker Ranch Lease. This is a more practical agreement and condition which would be consistent with wording of recent quarry approvals..." See page 6 of the 2000 Staff Summary attached as **Exhibit 6**.

The County of Hawai'i Planning Commission then recommended approval of an amendment to Special Permit 724 (SP90-374) which amended Condition No. 7 as follows: "[the quarrying operations and its allied uses shall be terminated within ten years from the date of approval of the Special Permit or its prior abandonment, whichever occurs first.] The life of this Special Permit shall run co-terminus with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission." See page 9 of the 2000 Staff Summary attached as **Exhibit 6**.

The Commission staff summaries and recommendations provided to the Commission for the April 6, 2000 hearing recommended adoption of the Planning Commission's recommendation to amend Condition No. 7. [See **Exhibit 6**].

At the Commission hearing, a motion to approve the Special Permit, with the staff recommendation was passed. [See page 8 of the Transcript from the April 6, 2000 hearing, attached as **Exhibit 8**].

Because of the footnote in the 2000 Order, Applicant is bringing this request for approval for the extension of the life of the permit under SP90-374 through September 30, 2037, the lease extension period, to the extent such approval is necessary.

III. BACKGROUND AND CONDITIONS OF APPROVAL

A quarry has existed on this site since 1945. The quarry, called "Site No. 4", was originally a 30-acre area operated by Shield Pacific Ltd.⁵ Special Permit 77-260/Richard Smart dba Parker Ranch was issued by the Commission on May 4, 1977 for Site No. 4, as well as four other non-conforming quarry sites in the Waikoloa area. In 1990, a new Special Permit was issued to continue and expand Site No. 4. The 1990 Special Permit allowed an expansion of the 30-acre quarry site to include an additional 61.827 acres for a total of 91.827 acres, and was subject to eleven (11) conditions.

In 2000, the quarry was allowed to be expanded by an additional 51.653 acres, the life of the Special Permit was extended, and four (4) of the eleven (11) conditions were amended. The Applicant is in compliance with all conditions as provided below:

After the April 6, 2000 hearing, but before the 2000 Order was issued, the Commission through its then Executive Officer, Esther Ueda, wrote to the then County of Hawai'i Planning Director, Virginia Goldstein, on April 28, 2000 asking for the Planning Director's written clarification as to whether a lease extension would require approval of the Planning Director and the Commission [See **Exhibit 9**]. The April 28, 2000 letter indicated that they were also making the same inquiry of the applicant, WHC. In a letter dated May 1, 2000, WHC responded that they understood that any extension to the life of the permit beyond the September 30, 2017 date of the initial expiration of the lease would require the approval of the Planning Director and the Commission as this was their original request [See **Exhibit 10**], which is not a surprise, because as indicated in the 2000 Staff Summary, the applicant at the time, WHC, had only requested a 20-year extension. See page 2 of the 2000 Staff Summary. In a letter dated May 3, 2000, the Planning Director responded that it was her understanding that based on the Planning Commission's recommended amendment of Condition 7 for the Special Permit to encompass the life of the Parker Ranch lease, the life of the special permit would run co-terminus with the current lease and any amendments (extension) to the lease, and that any amendments to the lease forwarded to the Planning Director and the Commission was solely for their information and official records [See **Exhibit 11**].

On May 9, 2000, the Commission entered the 2000 Order with the footnote referring to WHC's May 1, 2000 letter, despite the Planning Director's position, and the Commission's approval of the staff recommendation at the April 6, 2000 hearing.

⁵ See 1990 Special Permit, paragraph 6.

CONDITION NO.	CONDITION	STATUS
1	The applicant, successors, or assigns shall comply with all of the stated conditions of approval.	Acknowledged.
2	A map and metes and bounds description of the quarry site shall be filed with the Planning Department within one year from the effective date of this permit. [1990 Special Permit]	<p>A map and metes and bounds description of the Property was filed in 1990. [See 2000 Staff Summary, page 4]</p> <p>The quarry area was recently consolidated and resubdivided to create Lot 26-A [SUB 17-001692-Revised]. Attached as Exhibit 5 is the Final Plat Map for SUB-17-001692-Revised.</p> <p>Attached as Exhibit 12 is the Amended and Restated Affidavit of Miles S. Horie which contains the metes and bounds description of Lot 26-A, containing an area of 143.480 acres, more or less, recorded in the Bureau of Conveyances of the State of Hawai'i on January 16, 2018</p>
3	Prior to any grading activity, a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate. [2000 Order]	Submitted to the Planning Department on April 24, 2000. See attached Exhibit 13 (April 24, 2000 letter from Mooers Enterprises, LLC to Planning Director, with enclosures).
4	The quarry operation shall be limited to dynamiting, portable crushing, loading, and limited stockpiling. [1990 Special Permit]	Acknowledged.
5	The quarrying activity, including the loading and hauling, shall be limited to between the hours of 5:00 a.m. and 8:00 p.m. on Mondays through Saturdays only [1990 Special Permit].	Acknowledged.
6	An archaeological reconnaissance survey shall be conducted of the affected area and a report submitted to the Planning Department for review and approval, in consultation with the Department for review and approval, in consultation with the Department of Land and Natural Resources - Historic Sites Section, prior to obtaining a grading permit and/or land alterations. Further, approved mitigation measures shall be implemented, as applicable, prior to any land alterations. [1990 Special Permit]	<p>The Planning Department acknowledged compliance with this condition on July 17, 1992. [See 2000 Staff Summary, page 4].</p> <p>An archaeological survey of the expansion area was completed in April, 2000. [See Exhibit 13 (April 24, 2000 letter from Mooers Enterprises, LLC to Planning Director, with enclosures)].</p>

CONDITION NO.	CONDITION	STATUS
7	The life of this Special Permit shall run co-terminus with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.* [*Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000, from the Applicant to Esther Ueda, Executive Officer, State Land Use Commission.][2000 Order]	Applicant is presently seeking clarification/approval for time extension in this application.
8	Upon termination of the operations or abandonment of any portion of the affected site, the land shall be graded to blend with the surrounding areas and revegetated. Further, the site shall be left in a nonhazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Planning Director for review and approval within ninety (90) days from the termination or abandonment date. [1990 Amendment]	Acknowledged.
9	That all other applicable laws, requirements, rules, and regulations be complied with. [1990 Amendment]	Acknowledged.
10	An annual monitoring report shall be submitted to the Planning Director and the Commission prior to the anniversary date of the approval of the issuance of the Commission's Decision and Order. The report shall include, but not be limited to, the amount of material quarried, a detailed listing of public complaints or problems and their disposition, and the applicant's progress in complying with the conditions imposed herein. Should a conflict arise which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding properties. [2000 Order]	The Combined Annual Monitoring Reports for 2008 - 2016 were filed with the Planning Department on February 17, 2017. See Exhibit 14 and April 3, 2017 letter from Planning Director Acknowledging compliance with condition 10 attached as Exhibit 15 .
11	An extension of time for the performance of conditions within the permit, with the exception of Condition No. 8, may be granted by the Planning Director subject to the approval by the Commission upon the following circumstances: a) the non-conformance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) contrary to the original reasons for the granting of the permit and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be perforated within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.	Acknowledged.

IV. QUARRYING ACTIVITIES

As noted above, a quarry has operated on the Property since 1945. WHC has successfully operated a quarry on the Property since 1972, and wishes to continue those operations. There is approximately eight (8) million tons of material remaining in the quarry that can be mined. WHC mines approximately three-hundred thousand (300,000) tons per year. Depending on market conditions, it would take approximately twenty-six (26) years to mine the Property.

Utilizing the Property for quarrying means more locally sourced materials can be used for construction. The material mined is used for concrete, asphalt, road base course and fill material and is all locally sourced. If WHC is not allowed to continue its quarry operations on the Property, it would cause disruption to the local construction market. WHC currently supplies all their concrete aggregates out of the quarry on the Property. The rock source in the Property is unique, as it is the only quarry that WHC utilizes which produces rock aggregate that does not result in Alkalai Silica Reactivity in the finished concrete products. Alkalai Silica Reactivity is a condition which occurs when concrete is exposed over time to wet conditions causing it to expand, and results in premature concrete failure.

A. Access

Access to the Property is via the State Department of Transportation owned and maintained paved two-lane Mamalahoa Highway, which connects to a private 20-foot wide AC paved driveway on the Property. There are no sight distance concerns given the relatively flat terrain along Mamalahoa Highway in this area (see **Exhibit 18** view plane and site photographs).

B. Traffic

The current quarry operation on the Property generates twenty (20) to thirty (30) vehicles per day, during normal operating hours. As such, the quarry operation does not generate any significant additional traffic in the area.

C. Employees

The number of employees that work in the quarry on a daily basis varies from 3 to 10.

D. Days and Hours of Operation

SP90-374 allows the hours of operation to be 5:00 a.m. to 8:00 p.m., Monday through Saturday, although typically WHC operates the quarry from 6:00 a.m. to 4:00 p.m. Generally, WHC is mining and processing rock through their crushing operation and stockpiling of material. If WHC needs to produce more material, they will extend the crushing time from 6:00 a.m. to 8:00 p.m. During crushing hours, WHC operates two loaders which feed the crusher, one loader loading customers, a D10 Dozer, and one excavator.

V. DESCRIPTION OF THE AREA AND SURROUNDING PROPERTIES

As noted above, the Property, as it has permissibly been expanded, has been utilized for quarry purposes since 1945. The Property is remote and approximately 5 to 6 miles from Waimea Town, and 3 miles inland from the Mamalahoa Highway entrance. The surrounding properties are largely owned by or controlled by Parker Ranch. There are no other owners within approximately one mile from the perimeter of the boundary of the quarry site.

A. Flood Insurance Rate Map Designation

The Property is within FIRM Zone X, which is an area determined to be outside of the 0.2% annual chance floodplain. [See **Exhibit 16**].

B. Archaeological and Historical Resources

As required by Condition No. 6 of the 1990 Order, an archaeological reconnaissance survey was conducted within a portion of the Property covered under the 1990 Order. The Planning Department acknowledged compliance with Condition No. 6 of the 1990 Order on July 17, 1992. After the 2000 Order, an archaeological reconnaissance survey of the expansion area was completed in April, 2000 and submitted to the Planning Department. [See **Exhibit 13**]. The

site has had significant land alterations previously. WHC has not encountered any archaeological evidence on the Property.

C. Cultural Resources

Article XII, Section 7, of the Hawai'i State Constitution requires the State and its political subdivisions to protect native Hawaiian traditional and customary rights. The State and its agencies are obligated to protect the reasonable exercise of customarily and traditionally exercised native Hawaiian rights to the extent feasible. *Public Access Shoreline Hawai'i v. Hawai'i County Planning Commission*, 79 Haw. 425, 450, n. 43, cert. denied, 517 U.S. 1163 (1996); *Ka Pa'akai O Ka 'Āina v. Land Use Commission*, 94 Hawai'i 31, 7 P.3d 1068 (2000). In accordance with the *Ka Pa'akai O Ka 'Āina* case, the following are addressed:

- (1) *The identity and scope of "valued, cultural, historical, or natural resources" in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area;*

Discussion: The Applicant is unaware of any known traditional and customary native Hawaiian practices occurring within the Property, since the Property has been mostly graded and has been used as a quarry since the 1940s. As noted in the April 14, 2000 Archaeological Survey conducted by Robert B. Rechtman, Ph.D., no archeological or historical remains of any kind were observed in a field survey of the Property by a person on foot. Dr. Rechtman and a prior archeological survey (Barrera 1990) indicated that that Property was a "barren zone not likely to contain significant archaeological sites." Despite this an on-foot reconnaissance was conducted, and no archeological resources were observed within the Property. [See **Exhibit 13**] Therefore, continuation of SP90-374 will not impair any valued cultural or natural resources, or the practice of any traditional or customary native Hawaiian rights.

- (2) *The extent to which those resources - including traditional and customary native Hawaiian rights - will be affected or impaired by the proposed action; and*

Discussion: As no valued cultural, historical or natural resources and no traditional and customary native Hawaiian rights were found or being practiced in the Property, these rights will not be affected or impaired by the proposed uses.

- (3) *The feasible action, if any, to be taken by the Commission to reasonably protect native Hawaiian rights if they are found to exist.*

Discussion: There is no feasible action to be taken by the Planning Department, Planning Commission, or Commission other than to require that if in the future, any valued, cultural, historical, natural resources and/or traditional and customary native Hawaiian rights are discovered in the Property, the Applicant will report the discovery to the SHPD for review and assessment.

D. Soils

The soils on the Property are not well suited for agricultural uses. The Land Study Bureau soil rating within the Property is "D" which indicates poor productivity. [See **Exhibit 17**]. Soils of the area are of the Puu Pa Series. In a representative profile, the surface layer is very dark brown extremely stony very fine sandy loam about six inches thick. The next layer is dark -brown and dark yellowish-brown very stony very fine sandy loam about 34 inches thick. It is underlain by fragmental A'a lava [See Paragraph 11 of 1990 Order].

E. Flora and Fauna Resources

No rare or endangered species of flora were found on the Property. Virtually the entire Property has been cleared and mined, leaving an unwelcoming habitat for plants or animals. There is approximately thirty (30) acres that has natural foliage on it. The only animals ever encountered on the Property are goats. Further, no known endangered, threatened or candidate plant or animal species are within the Property, and there is no known existing or proposed federally designated critical plant or animal habitat within the Property.

F. Formerly Used Defense Site ("FUDS")

The Project Area is located within the former Waikoloa Maneuver Area (Sector 7, Area F) (see **Exhibit 25** - Former Waikoloa Maneuver Area Map; **Exhibit 26** - Former Waikoloa Maneuver Area Phase II EE/CA Investigation Area). In 2002, the U.S. Army Corps of Engineers conducted a Phase II Engineering Evaluation / Cost Analysis at the former Waikoloa Maneuver Area and Nansay Sites ("Phase II report") to characterize the ordnance and explosives ("OE") hazard risk and for field inspection data management purposes. The investigated lands in Sector 7 – Holoholoku, consists of 21,601 acres, which lands were used as a live-fire target and assault training area during World War II training for the Iwo Jima invasion. As reported in the Phase II report, OE scrap and evidence of military use (i.e., small arms), in addition to potential OE-related ground features (i.e., craters) were identified in Sector 7. The risk evaluation for Area F found that there is no: (1) risk associated with OE type since no unexploded ordnances ("UXO") or OE scrap items were found, (2) no OE sensitivity since there were no UXO in this area, and (3) no evidence of OE potential since there was no evidence of UXO or OE scrap in this area during field investigation, and therefore, the potential for OE in Area F is low. Therefore, the Project Area likely does not pose a risk of containing OE or UXO.

G. Water Use, Groundwater, and Surface Water Resources

The Department of Water Supply's ("DWS") nearest water system is at the Waimea-Kohala Airport, a distance of approximately 3.6 miles from the Property. Water for the quarry is supplied by Parker Ranch through their private lines which they generally use for cattle. This water is used for washing hands, filling radiators, washing equipment and general spraying around the quarry in compliance with the State Clean Air Branch. The use is minimal, approximately five-hundred (500) gallons per month. For general dust control in the quarry, WHC utilizes water from a 2,000 gallon water truck.

Article XI, Section 7, of the Hawai'i State Constitution provides that the State has an obligation to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people. Article XI, Section 1, of the Hawai'i State Constitution states that all public natural resources are held in trust by the State for the benefit of the people. A County agency's duty and authority is to maintain the purity and flow of our waters for future generations and to assure that the waters of our land are put to reasonable and beneficial public benefit.

No new water sources are necessary for continued operation of the quarry.

It is not anticipated that the existing uses will have any impact on groundwater resources. The existing activities do not generate pollutants that could be discharged to groundwater.

The Property is located in the Waimea Aquifer System Area, which has a sustainable yield of 24 MGD per the County of Hawai'i Water Use and Development Plan (2010) ("**2010 WUDP**"). Per the 2010 WUPD, full build out according to present County Zoning is 13.8 MGD. See page 803-24 of the 2010 WUPD. If agricultural demands are included, the water demand would be 150.6 MGD. Thus, not utilizing the Property for strict agricultural use preserves water for other uses.

The Property is located more than twelve (12) miles from the shoreline and therefore water use on the Property will have no effect on the shoreline area.

H. Public Access

There is no known public access to the mountains or the shoreline that traverses through the Property.

I. Air and Noise Quality

Applicant understands that it needs to meet the permit requirements of the Department of Health ("**DOH**") Air Pollution Rules, Chapter 60.1, Title 11, for its quarry operations, and has done so for all previous permit years, as evidenced by the Annual Monitoring Reports attached

as **Exhibit 14**.

In all of the years of operation, neither the Applicant nor WHC have received any complaints about air quality, dust or noise due to operations at the quarry. With respect to noise control, daily operations at the Property are relatively limited. However, during periods of rock crushing, noise could be a concern. To date, there have not been any noise complaints, in part due to the fact that the closest residential neighbor is approximately six (6) miles from the Property. The quarry itself is about three (3) miles from Mamalahoa Highway.

J. Scenic and Open Space Resources

The 2000 Order required a visual impact analysis of the Property from Mamalahoa Highway to be conducted and landscaping required. A visual impact analysis was submitted to the Planning Department on April 27, 2000. See attached **Exhibit 13** (April 27, 2000 letter from Mooers Enterprises, LLC, to Planning Director, with enclosures).

At the present time, WHC's working face can be seen from Mamalahoa Highway. However, WHC is presently working near the Property line, and that area will be renaturalized with native dirt when the work is completed. Attached as **Exhibit 18** are view plane and site photographs.

K. Public Facilities and Services

The current use at the Property generates no demands on public facilities and services. As noted above, water is provided by Parker Ranch, wastewater demands, which are fairly minimal, are addressed through the use of chemical toilets that are provided by WHC. Electrical power is provided by a generator and phone service is by cell phone.

VI. STATE AND COUNTY LAND USE PLANS AND DESIGNATIONS

A. State Land Use District

The Property is within the State Land Use Agricultural District, as shown on **Exhibit 19**. Under Chapter 205, HRS, when establishing the boundaries of the State Agricultural Districts, "the greatest possible protection shall be given to those lands with a high capacity for intensive cultivation." HRS § 205-2(a)(3).

The legislature recognized that some lands could be placed within the State Agricultural District which are especially well suited for agricultural activities. In addition, certain activities could be considered reasonable, although not strictly agricultural in nature. In light of these considerations, the legislature provided for a Special Permit process to allow the various Planning Commissions to permit certain "unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified." HRS § 205-6(a).

The LUC already determined that the establishment of the quarry and related uses constituted an "unusual and reasonable" use as defined under HRS § 205-6. *See* 2000 Order, and 1990 Order. Continuing the quarry operations would also be an unusual and reasonable use within the Property Area.

B. Conformance with the Goals, Objectives and Policies of the Hawai'i State Plan

HRS §205-16 provides that, "No amendment to any land use district boundary nor any other action by the land use commission shall be adopted unless such amendment or other action conforms to the Hawai'i State Plan." The proposed amendment to SP90-374 is consistent with applicable goals, objectives and policies of the Hawai'i State Plan, HRS Chapter 226.

One of the State goals is to achieve a strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawaii's present and future generations. *See* HRS § 226-4(1). Continuing the quarry operations within

the Property is consistent with this goal in that WHC's business will continue to provide employment opportunities to Hawai'i residents, and supply materials that can be used in development, landscaping, and in the repair of roads and other facilities.

The proposed amendment to SP90-374 is consistent with the following objectives and policies of the Hawai'i State Plan for population, the economy, agriculture and the physical environment:

HRS §226-5: Objectives and Policies for Population

(a) It shall be the objective in planning for the State's population to guide population growth to be consistent with the achievement of physical, economic, and social objectives contained in this chapter.

(b) To achieve the population objective, it shall be the policy of this State to:

(1) Manage population growth statewide in a manner that provides increased opportunities for Hawaii's people to pursue their physical, social, and economic aspirations while recognizing the unique needs of each county.

(2) Encourage an increase in economic activities and employment opportunities on the neighbor islands consistent with community needs and desires.

* * *

(7) Plan the development and availability of land and water resources in a coordinated manner so as to provide for the desired levels of growth in each geographic area.

The requested amendment to SP90-374 will allow the existing employment opportunities from the quarry to continue, and will increase economic opportunities within Hawai'i County by making construction materials more readily available for use in local projects.

HRS §226-6: Objectives and Policies for the economy - In general

(a) Planning for the State's economy in general shall be directed toward achievement of the following objectives:

(1) Increased and diversified employment opportunities to achieve full employment, increased income and job choice, and improved living standards for Hawaii's people, while at the same time stimulating the development and expansion of economic activities capitalizing on defense, dual-use, and science and

technology assets, particularly on the neighbor islands where employment opportunities may be limited.

(2) A steadily growing and diversified economic base that is not overly dependent on a few industries, and includes the development and expansion of industries on the neighbor islands.

(b) To achieve the general economic objectives, it shall be the policy of this State to:

(1) Promote and encourage entrepreneurship within Hawaii by residents and nonresidents of the State.

** * **

(7) Expand existing markets and penetrate new markets for Hawaii's products and services.

(8) Assure that the basic economic needs of Hawai'i's people are maintained in the event of disruptions in overseas transportation.

(9) Strive to achieve a level of construction activity responsive to, and consistent with, state growth objectives.

** * **

(12) Encourage innovative activities that may not be labor-intensive, but may otherwise contribute to the economy of Hawaii.

The requested amendment to SP90-374 will continue the economic benefits presently derived from the quarry, and will make new construction and repair materials available for local markets.

HRS §226-7: Policies for the economy - Agriculture

(b) To achieve the agriculture objectives, it shall be the policy of this State to:

(2) Encourage agriculture by making best use of natural resources.

** * **

(10) Assure the availability of agriculturally suitable lands with adequate water to accommodate present and future needs.

(16) Facilitate the transition of agricultural lands in economically nonfeasible agricultural production to economically viable agricultural uses.

The Property is not suited for agricultural activities. The soils are poor, the climate is dry and the water availability is limited. The quarry operations will continue to make economically productive use of the Agricultural District land, without the added pressure of seeking to reclassify additional State Agricultural District lands into State Urban District lands.

HRS §226-11: Objectives and Policies for the physical environment - Land based, shoreline, and marine resources

(a) Planning for the State's physical environment with regard to land-based, shoreline, and marine resources shall be directed towards achievement of the following objectives:

(1) Prudent use of Hawaii's land-based, shoreline, and marine resources.

(2) Effective protection of Hawaii's unique and fragile environmental resources.

(b) To achieve the land-based, shoreline, and marine resources objectives, it shall be the policy of this State to:

** * **

(2) Ensure compatibility between land-based and water-based activities and natural resources and ecological systems.

(3) Take into account the physical attributes of areas when planning and designing activities and facilities.

** * **

(6) Encourage the protection of rare or endangered plant and animal species and habitats native to Hawaii.

(8) Pursue compatible relationships among activities, facilities, and natural resources.

Use of the Property as a quarry is consistent with these goals and objectives. The Property is far from areas of existing and proposed future residential or resort development. Quarrying operations have been underway for many years without complaint, demonstrating that the use is compatible with the surrounding area.

C. County General Plan

The Property is designated as Extensive Agriculture on the County General Plan Land Use Pattern Allocation Guide Map. See **Exhibit 20**.

Extensive Agriculture includes lands not classified as Important Agricultural Land. It includes lands that are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine tillability and climate. Other less intensive agricultural uses such as grazing and pasture may be included in the Extensive Agriculture category. The continuation of the quarry operations on the Property is consistent with these

General Plan goals and policies.

D. South Kohala Community Development Plan

The Property is within the jurisdiction of the South Kohala Community Development Plan ("SKCDP"). It is South of the Waimea Town Plan and North East of the Waikoloa Village Plan area. [See **Exhibit 21**].

The continued use of the Property for quarry activity is consistent with the goals and policies in the SKCDP.

E. Zoning

The County zoning for the subject area is Agriculture 40-acre (A-40a). The surrounding properties are undeveloped. [See **Exhibit 22**]. The quarry uses allowed under this SP90-374 are considered permitted uses in the A-40a zoning pursuant to Hawai'i County Code Section 25-4-5.

VII. CONSISTENCY WITH THE OBJECTIVES UNDER CHAPTER 205, HAWAII REVISED STATUTES AND HAR 15-15-95

The proposed amendment to SP90-374 is not contrary to the objectives sought to be accomplished under HRS Chapter 205 and the related regulations. The Planning Commission and Commission have already determined that the establishment of the quarry and related uses constituted an "unusual and reasonable" use as defined under HRS § 205-6. *See* 1990 Special Permit and 2000 Order. Continuing the quarry operations would also be an unusual and reasonable use within the Property.

Article XI, Section 3, of the Hawai'i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands. The Property is not classified as Important Agricultural Land under Part III of HRS Chapter 205. The current requested amendment is not contrary to the objectives of Chapter 205, HRS, which seeks to protect lands

that have a high potential of being agriculturally productive from inappropriate or premature development.

A. Consistency with the Objectives Under Chapter 205A, Hawai'i Revised Statutes

The requested amendment to SP90-374 is consistent with the objectives and policies of HRS Chapter 205A, the Coastal Zone Management Act, and the guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The Property is not located within the Special Management Area. [See **Exhibit 23**]. The Property is located more than twelve (12) miles from the nearest shoreline and therefore will not be affected by coastal hazards and beach erosion, and will not negatively affect coastal ecosystems, marine resources, public access to the shoreline or shoreline recreational resources. *See* HRS § 205A-2(b).

Although the Property is not within the Special Management Area, it is within the Coastal Zone Management Area.

The Property and the area surrounding has been used for quarry purposes since 1945. As such, there has been no adverse effect on natural and man-made historic and prehistoric resources that are significant in Hawaiian and American history and culture. *See* HRS § 205A-2(b)(2); (c)(2).

The requested amendment will not have an adverse impact on traditional and customary Hawai'i rights.

Article XI, Section 7, of the Hawai'i State Constitution states that the State has an obligation to protect, control, and regulate the use of Hawai'i's water resources for the benefit of its people. Article XI, Section 1, of the Hawai'i State Constitution states that all public natural resources are held in trust by the State for the benefit of the people. When an agency is confronted with its duty to perform as a public trustee under the public trust doctrine, it must

preserve the rights of present and future generations in the waters of the state. The agency's duty and authority is to maintain the purity and flow of our waters for future generations and to assure that the waters of our land are put to reasonable and beneficial public use. *Kauai Springs v. Planning Comm'n of the Cnty. of Kauai*, 324 P.3d 951, 984, 133 Hawaii 141, 174 (2014). The continuation of the quarry operations pursuant to the proposed amendment will not entail any significant use of, nor generate significant impacts to, groundwater resources.

B. Effects on Surrounding Property

As mentioned above, the Property has been used as a quarry since 1945 without complaints from residents. The closest neighbor is about six miles away. The Property is surrounded by vacant land, with the exception of another quarry site.

C. Impacts on Public Agencies

The approval of the proposed amendment to SP90-374 and the continuation of the quarry activities do not trigger any requirements under Hawaii's environmental review law, HRS Chapter 343. The proposed amendment will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.

The quarry and related operations require very little in terms of wastewater services, and what is needed is addressed through private chemical toilets. Water service is provided by Parker Ranch, and no significant increase in water demand will occur as a result of the proposed amendment. Due to the topography of the Property, and the very high permeability of the surface lava, it is not physically possible for surface runoff to leave the Property. The Project does not put additional demands on existing public services.

D. Unusual Conditions, Trends, and Needs have Arisen since the Land was First Put into the State Agricultural District

Applicant, through its lessee, has operated the quarry at the Property since 1945. If anything, the pressure to retain Agricultural District land within the Agricultural District is stronger now than when the district boundaries were first put into place. Continuing the use of the Property as a quarry will allow for productive use of this land, without perhaps prematurely seeking a district boundary amendment. The nature of the quarry is that it is not permanent. Once the requisite amount of rock is removed, the quarry will be closed. Therefore, it is not appropriate to seek reclassification into the Urban District for a use that is not intended to be permanent.

E. Land is Unsuitable for Agricultural Purposes

Soils within the Property are classified as "D" or "Poor" for agricultural productivity by the Land Study Bureau, and are unclassified by the Agricultural Lands of Importance to the State of Hawai'i Map. [See Exhibits 17 and 24]. Additionally, the U.S.D.A. Soil Survey Report identifies the soil type as the Puu Pa Series. In a representative profile, the surface layer is very dark brown extremely stony very fine sandy loam about six inches thick.

In light of these characteristics, the Property is not well suited for agricultural purposes.

F. Proposed Use will not Substantially alter or Change the Essential Character of the Land and Present Use

The essential character of the Property and surrounding lands is barren. The quarry has been operated at the Property since 1945, without complaints. As such, the requested amendment will not alter or change the essential character of the land and the present use.

G. Proposed Use is Not Contrary to the General or the Community Development Plan

The proposed amendment to SP90-374 is consistent with the General Plan and the SKCDP. The General Plan Land Use Pattern Allocation Guide Map component of the General Plan is a representation of the goals and policies to guide coordinated growth and development within the County of Hawai`i.

The proposed amendment to SP90-374 supports the Economic Element of the General Plan⁶ by:

- offering diversity and stability in the economic systems by providing for the development of construction materials locally;
- providing for diversification of the economy by strengthening existing industries by allowing the continued use of the quarry and its unique supply of a rock source that does not have Alkalai Silica Reactivity;
- providing an economic climate that allows its residents a choice of occupation. As noted above, WHC employs approximately sixty (60) total employees with three (3) to ten (10) working on the Property itself depending on whether the crusher is on the Property;
- striving for full employment in that allowing the continuation of the quarry will allow the continued employment of employees who work at the quarry.

The proposed amendment to SP90-374 is not contrary to any of the Economic Courses of Action for the South Kohala Region: the quarry is not located on important agricultural lands nor does it infringe on the preservation of the rural, ranching character within the town of Waimea as the quarry is located 5 - 6 miles from the town.

Neither does the development of the quarry infringe on Natural Beauty Sites identified in the General Plan for the South Kohala Region - The pastures and pu`u immediately above Waimea Town have been identified as a vista of exceptional natural beauty. This area is best defined by running an imaginary line from the top of the trees below Hokuula west to the trees at

⁶ See § 2.2 "Goals" of the Economic Element of the General Plan.

Hawaii Preparatory Academy and east to the tree line above Church Row. The area included in this proposed amendment to SP90-374 is not within that area.

The proposed amendment to SP90-374 also encourages compatible uses between important agricultural land and adjacent uses of land. In this case, there is a pocket of important agricultural land near the mauka border of this site, but the Property is otherwise surrounded by extensive agricultural land. Additionally, although the Property was previously used for limited cattle grazing, it is not well suited for other agricultural activity.

Under the SKCDP, the Property is proposed to remain zoned Agricultural for the long-range future. The requested amendment to SP90-374 is consistent with that proposition. In addition, the existing activities and uses within the Property do not interfere with scenic views, the protection of which is a concern under the SKCDP.

VIII. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Planning Commission and State Land Use Commission approve the amendment to Condition No. 7 for the extension of the Special Permit to provide that the life of this Special Permit shall run co-terminus with the Parker Ranch lease, which terminates on September 30, 2037. Any amendments to the terms of the lease with Parker Ranch which extend the term of the lease beyond September 30, 2037, shall be submitted to the Planning Commission and the State Land Use Commission for approval.

○

○

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

In the Matter of the Petition of)
)
RICHARD SMART TRUST, dba,)
PARKER RANCH)
)
For a Special Permit to Continue)
and Expand an Existing Rock Quarry)
and Related Uses on Approximately)
91.827 Acres of Land Within the)
Agricultural District at Waikoloa,)
South Kohala, Hawai'i, Tax Map Key)
No.: 6-7-01: portion 25)
_____)

DOCKET NO. SP90-374
ORDER GRANTING
APPLICANT'S REQUEST TO
EXPAND EXISTING QUARRY
AND TO AMEND CONDITION
NUMBER 7

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

MAY 09 2000 by *[Signature]*
Date Executive Officer

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

LAND USE COMMISSION
STATE OF HAWAII
MAY 11 9 40 AM '00

004411

EXHIBIT 1

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

In the Matter of the Petition of	)	DOCKET NO. SP90-374
)	
RICHARD SMART TRUST, dba,	)	ORDER GRANTING
PARKER RANCH	)	APPLICANT'S REQUEST TO
	)	EXPAND EXISTING QUARRY
For a Special Permit to Continue	)	AND TO AMEND CONDITION
and Expand an Existing Rock Quarry	)	NUMBER 7
and Related Uses on Approximately)	
91.827 Acres of Land Within the)	
Agricultural District at Waikoloa,)	
South Kohala, Hawai'i, Tax Map Key)	
No.: 6-7-01: portion 25)	

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

On November 22, 1999, the County of Hawai'i Planning Department received a request from Gregory R. Mooers on behalf of WHC, Ltd., dba West Hawaii Concrete ("Applicant"), to 1) expand the existing approximately 91.827-acre rock quarry by an additional 51.653 acres of land; and 2) amend Condition Number 7 to extend the life of the special permit for an additional 20 years.

On February 4, 2000, the County of Hawai'i Planning Commission ("Planning Commission") conducted a public hearing on this matter. After due deliberation, the Planning Commission recommended approval of the expansion of the existing rock quarry by an additional 51.653 acres of land and amendments to Condition Numbers 3 and 7 of the Land Use Commission's ("Commission") Findings of Fact, Conclusions of Law, and Decision and Order ("Decision and Order") dated March 16, 1990, as follows:

3. Prior to any grading activity, a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.

7. The life of this Special Permit shall run co-terminus with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.

On February 28, 2000, the Commission received a portion of the Planning Commission's record in this proceeding.

On March 28, 2000, the Commission received the remaining portion of the record, consisting of a full size vicinity map/enlargement.

This matter came on for hearing before this Commission on April 6, 2000, in Honolulu, Hawai'i, with appearances by the parties as noted in the minutes. At the hearing, the Commission heard public testimony from Abe Mitsuda, Administrator, Land Use Division, Office of Planning. Mr. Mitsuda stated that the Department of Land and Natural Resources, State Historic Preservation Division ("DLNR-SHPD"), recommended that the Applicant comply with Condition Number 6 with respect to the proposed 51.653-acre expansion area. The Applicant stated that it had no objections to the DLNR-SHPD's recommendation. The Applicant also stated that it had no objections to amend Condition Numbers 10 and 11 to require the Applicant to provide annual reports to this Commission and to obtain the Commission's approval for an extension of time for the performance of conditions, respectively.

Thereafter, a motion was made and seconded to grant the expansion of the existing rock quarry by an additional approximately 51.653 acres and to amend Condition Numbers 3, 7, 10, and 11. Following discussion by the Commissioners, a vote

was taken on this motion. There being a vote tally of 8 ayes, 0 nays, and 1 excused, the motion carried.

ORDER

Having duly considered the Applicant's request, the arguments provided by the parties present in the proceeding, the statement made by the public witness, and a motion having been made at a hearing conducted on April 6, 2000, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, Hawai'i Administrative Rules, and there being good cause for the motion, the Commission ORDERS as follows:

The existing rock quarry shall be expanded by an additional 51.653 acres for a total area of 143.48 acres, as approximately identified on Exhibit "A," attached hereto and incorporated by reference herein.

Condition Numbers 3, 7, 10, and 11 shall be amended as follows:

3. Prior to any grading activity, a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.
7. The life of this Special Permit shall run co-terminous with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.¹
10. An annual monitoring report shall be submitted to the Planning Director and the Commission prior to the anniversary date of the approval of the issuance of the Commission's Decision and Order. The report shall include, but not be limited to, the amount of material quarried, a detailed

¹ Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000, from the Applicant to Esther Ueda, Executive Officer, State Land Use Commission.

listing of public complaints or problems and their disposition, and the applicant's progress in complying with the conditions imposed herein.

Should a conflict arise which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding properties.

11. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 8, may be granted by the Planning Director subject to the approval by the Commission upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

All other conditions to the Decision and Order dated March 16, 1990, are hereby reaffirmed and shall continue in effect.

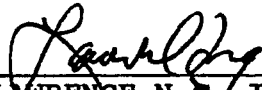
ADOPTION OF ORDER

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

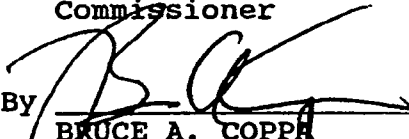
The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by the Commission.

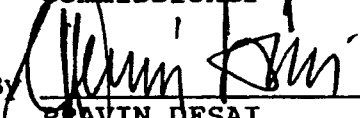
LAND USE COMMISSION
STATE OF HAWAII

By 
MERLE A. K. KELAI
Chairperson and Commissioner

By 
LAWRENCE N. KING
Vice Chairperson and Commissioner

By (absent)
P. ROY CATALANI
Commissioner


By 
BRUCE A. COPPE
Commissioner

By 
PRAVIN DESAI
Commissioner

By (absent)
ISAAC FIESTA, JR.
Commissioner

By 
M. CASEY JARMEN
Commissioner

Filed and effective on
May 9, 2000

Certified by:

Executive Officer

By (absent)
STANLEY ROEHRIG
Commissioner

By (absent)
PETER YUKIMURA
Commissioner

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

In the Matter of the Petition of)
RICHARD SMART TRUST, dba,)
PARKER RANCH)
DOCKET NO. SP90-374
CERTIFICATE OF SERVICE
For a Special Permit to Continue)
and Expand an Existing Rock Quarry)
and Related Uses on Approximately)
91.827 Acres of Land Within the)
Agricultural District at Waikoloa,)
South Kohala, Hawai'i, Tax Map Key)
No.: 6-7-01: portion 25)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Applicant's Request To Expand Existing Quarry And To Amend Condition Number 7 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:


DEL. DAVID W. BLANE, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

CERT. VIRGINIA GOLDSTEIN, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. RICHARD D. WURDEMAN, ESQ.
Corporation Counsel
County of Hawaii
The Hilo Lagoon Center
101 Aupuni Street, Suite 325
Hilo, Hawaii 96720

CERT. GREGORY R. MOOERS, President
Mooers Enterprises
P. O. Box 1101
Kamuela, Hawaii 96743

DATED: Honolulu, Hawaii, this 9th day of May 2000.


ESTHER UEDA
Executive Officer

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

SP90 924 PC

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

May 16, 2000

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

RECEIVED
MAY 17 2000

To all concerned agencies:

The Order Granting Applicant's Request to Expand Existing Quarry and To Amend Condition Number 7 for the following special permit docket has been filed by the Land Use Commission:

<u>Petition Docket No.</u>	<u>Request</u>	<u>LUC Action on May 4, 2000</u>	<u>Date of Decision And Order</u>
SP90-374 RICHARD SMART TRUST, dba, PARKER RANCH	To expand the existing 91.827-acre rock quarry within the Agricultural District at Waikoloa, South Kohala, Hawaii, by an additional 51.653 acres of land and amend Condition 7 to extend the life of the special permit.	Approved the expansion of the existing quarry at Waikoloa, South Kohala, Hawaii, by an additional 51.653 acres and amendments to Condition Nos. 3, 7, 10, and 11. TMK No. 6-7-01: portion 25 (see map attached)	May 09, 2000

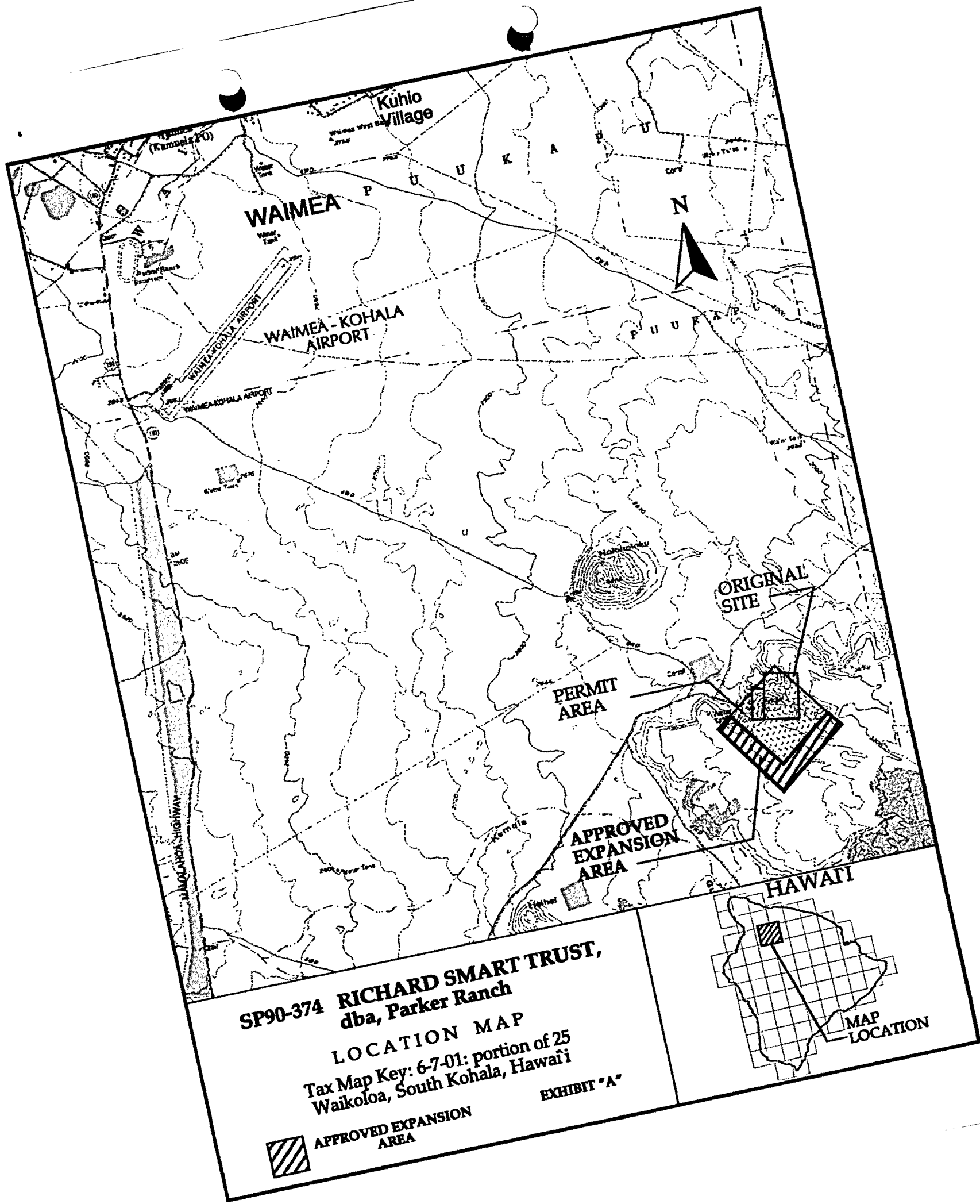
The above decision may include conditions which affect your agency. If you would like a copy of the conditions or more information on this matter, please contact Bert Saruwatari of our office at 587-3822.

Sincerely,

ESTHER UEDA
Executive Officer

EU:aa

Att.



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

LOCATION MAP
Tax Map Key: 6-7-01: portion of 25
Waikoloa, South Kohala, Hawaii


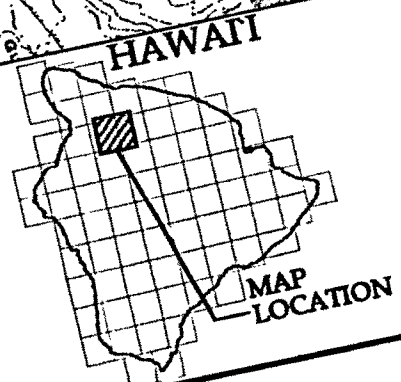
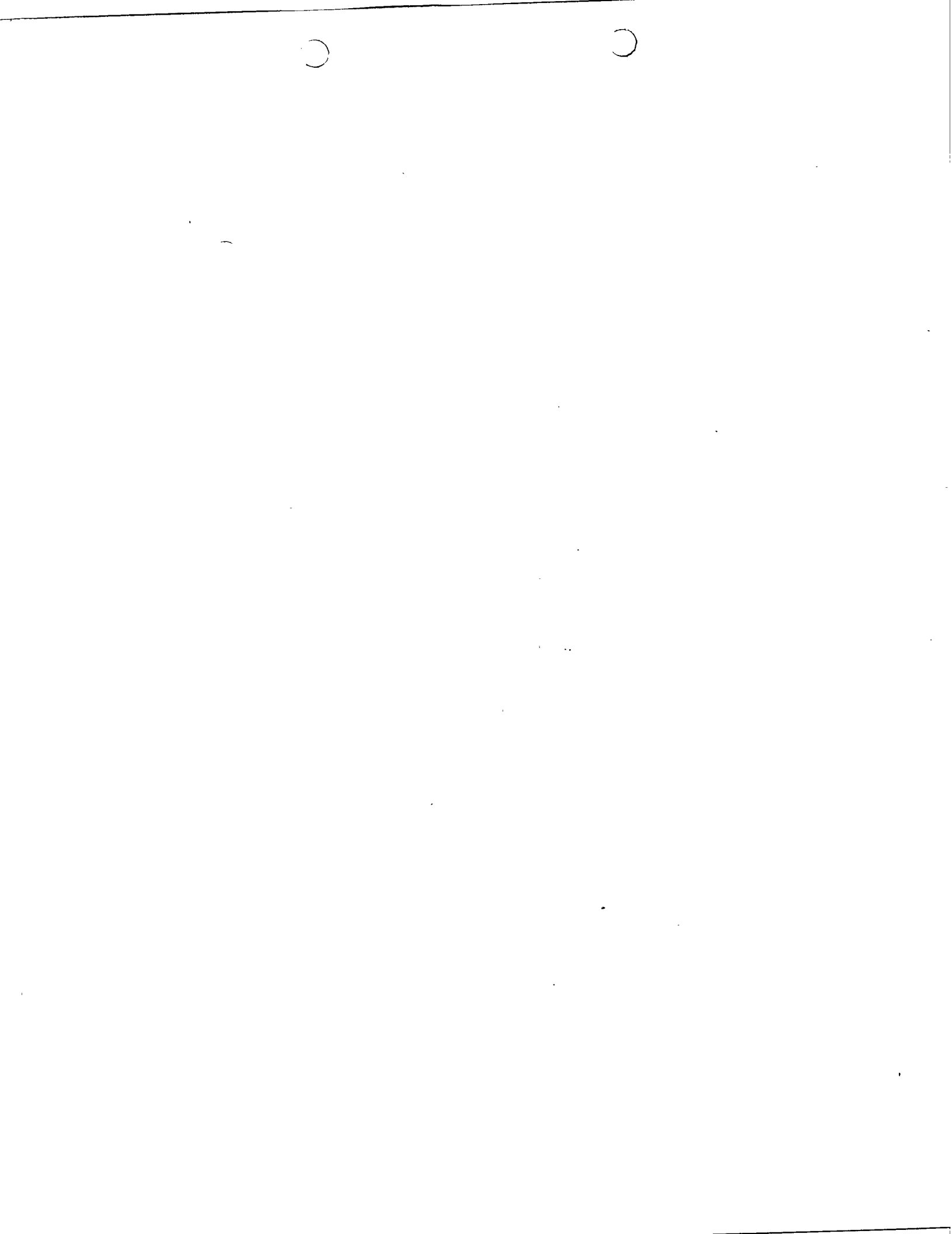
 **APPROVED EXPANSION
AREA**

EXHIBIT "A"



**MAP
LOCATION**



CARLSMITH BALL LLP

M (H) F P
DATE: 7/28/17 BY: SBJ

A LIMITED LIABILITY LAW PARTNERSHIP

COPY

121 WAIANUENUE AVENUE

P.O. Box 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

July 28, 2017

2017 JUL 28 PM 1 02
PLANNING DEPARTMENT
COUNTY OF HAWAII

Michael Yee
Planning Director
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Attention: Jeff Darrow

Re: Special Permit No. 724 / LUC Docket No. SP 90-374
Applicant: WHC, Ltd., dba West Hawaii Concrete
TMK: (3) 6-7-001:034 ("Property")

Dear Mr. Yee:

This firm represents PR Mauna Kea LLC, a Hawaii limited liability company ("PRMK"), fee owner¹ of the Property. Applicant WHC, Ltd., a Hawaii corporation, doing business as West Hawaii Concrete ("WHC") has been leasing and operating the quarry site² on the Property since June 15, 1998.

The Planning Commission ("Commission") amended Special Permit No. 724 ("SP 724") on February 23, 2000, as amended by letter dated February 29, 2000, to allow for the expansion of the existing rock quarry for a total land area of 144+ acres, and amended Condition Nos. 3 and 7 for the Property located within the State Land Use Agricultural District at Waikoloa, District of South Kohala, Island and County of Hawaii. Condition 7 provides as follows:

"7. The life of this Special Permit shall run co-terminous (sic) with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."

By Order Granting Applicant's Request to Expand Existing Quarry and to Amended Condition No. 7 filed May 9, 2000, in Docket No. SP 90-374 ("SP 90-374"), the State Land Use Commission ("LUC") granted the expansion of the existing rock quarry for a total land area of 143.448 acres of land, and amended Condition Nos. 3, 7 and 10 for the Property located within

¹ The interest of Parker Ranch, Inc., as Lessor under the Lease with WHC was assigned to PRMK.

² The quarry site covered under the Lease is Lot 26-A, as approved by the Planning Department on January 10, 2017 under SUB-17-0001692.

Michael Yee
July 28, 2017
Page 2

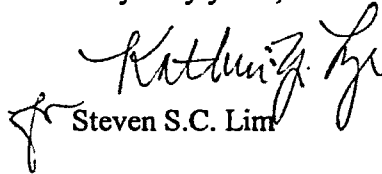
the State Land Use Agricultural District at Waikoloa, District of South Kohala, Island and County of Hawaii ("**LUC Order**"). Condition 7 provides as follows:

"7. The life of this Special Permit shall run co-terminous (sic) with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."

This is to inform you that PRMK and WHC, Ltd. have extended the current Lease for an additional 20 years (from September 30, 2017 to September 30, 2037). On behalf of PRMK, and in compliance with Condition 7 under the SP 724, as amended, and the LUC Order, we respectfully submit the enclosed fully executed copy of the Memorandum of Quarry Lease Agreement.

Please do not hesitate to contact me should you have any questions concerning this submittal. Thank you for your consideration.

Very truly yours,


Steven S.C. Lim

SSL/KYL

Enclosure

xc with enclosure: Client
WHC, Ltd.

Michael Yee
July 28, 2017
Page 3

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

CARLSMITH BALL LLP
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, Hawaii 96813

Attention: Robert E. Strand
Telephone: (808) 523-2500

TITLE OF DOCUMENT:

MEMORANDUM OF QUARRY LEASE AGREEMENT

PARTIES TO DOCUMENT:

LESSOR: PR MAUNA KEA LLC, a Hawaii limited liability company, whose principal place of business and mailing address is 66-1304 Mamalahoa Highway, Kamuela, Hawaii 96743

LESSEE: WHC, LTD., a Hawaii corporation, whose address is P.O. Box 1390, Kailua-Kona, Hawaii 96745

TAX MAP KEY: (3) 6-7-001:034 (Lot 26-A under
Subdivision No. SUB-17-001692)

(This document consists of 4 pages.)

MEMORANDUM OF
QUARRY LEASE AGREEMENT

THIS MEMORANDUM OF QUARRY LEASE AGREEMENT (the "Memorandum") is made and entered into as of the 27th day of July, 2017, by and between PR MAUNA KEA LLC, a Hawaii limited liability company ("Lessor"), whose principal place of business and mailing address is 66-1304 Mamalahoa Highway, Kamuela, Hawaii 96743, and WHC, LTD., a Hawaii corporation, whose address is P.O. Box 1390, Kailua-Kona, Hawaii 96745 ("Lessee");

RECITALS:

This Memorandum is made with respect to the following facts:

A. On June 15, 1998, Parker Ranch, Inc. and Lessee entered into an unrecorded written Quarry Lease Agreement with respect to those certain leasehold premises ("Premises") commonly known as the Quarry Site and consisting of approximately 91.827 acres, the same being a portion of the real property owned by Parker Ranch, Inc. in Waikoloa, South Kohala, Island, County and State of Hawaii, and identified as TMK 3-6-7-001:025.

B. The Quarry Lease Agreement was amended by (i) an unrecorded amendment dated October 1, 1998 that changed the "Premises" covered by the Lease by replacing Exhibit "A" to the Quarry Lease Agreement subject to certain terms and conditions set forth therein and (ii) an unrecorded amendment dated October 8, 1999 that amended Exhibit "C" to the Quarry Lease Agreement. The "Premises" as currently demised by the Lease is the land now designated as Lot 26-A as shown on the final plat for SUB-17-0001692 dated January 10, 2017, consisting of approximately 143.480 acres.

C. The interests of Parker Ranch, Inc. as Lessor under the Lease were assigned to and are now held by PR Mauna Kea LLC, the Lessor named in this Memorandum.

D. Lessor and Lessee entered into that certain Third Amendment of Quarry Lease Agreement dated October 1, 2012 under which Lessor and Lessee acknowledged that the term of the Lease will end on September 30, 2037, unless sooner terminated as provided in the Lease, and agreed to amend the royalty payments to be made from and after October 1, 2012 as more particularly set forth therein (said Quarry Lease Agreement and such amendments being referred to herein collectively as the "Lease").

In consideration of the mutual advantages and benefits to be derived by Lessor and Lessee on account of the Lease, Lessor and Lessee agree as follows:

1. Lease. Lessor and Lessee acknowledge and agree that the Lease demises the Premises described in Exhibit "A" attached hereto and incorporated herein for a term ending on September 30, 2037 unless sooner terminated as set forth therein and that all of the terms and conditions of the Lease are incorporated herein by reference.

2. **Confirmation and Ratification of Lease.** This Memorandum shall be effective as of the date hereof, and except as expressly set forth herein or heretofore, the Lease shall remain unchanged and shall continue in full force and effect. Without limitation to the generality of the foregoing, Lessee shall continue to observe and perform all other terms and covenants of the Lease to be observed and performed by Lessee thereunder and shall make all payments and other charges thereunder payable by Lessee pursuant to the Lease. The Lease, as set forth herein and heretofore amended, and the respective obligations of the parties thereunder, are hereby ratified and confirmed.

3. **Defined Terms.** Any word, term or phrase which begins with initial capitalization and which is not defined in this Memorandum or defined in another identified document, shall be given the definition of such word, term or phrase in the Lease.

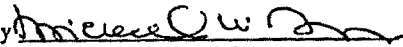
4. **Counterparts.** This Memorandum may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument binding on all the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart.


[Remainder of page intentionally left blank.]

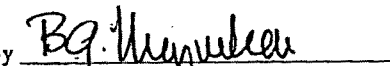
IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum as of the date first above written.

PR MAUNA KEA LLC

By TRUSTEES OF THE PARKER RANCH FOUNDATION TRUST under that certain Trust Agreement dated August 9, 2007, acting in their fiduciary and not their individual capacities
Its Sole Member


By 
Name: Michael W. Gibson
Title: Trustee, Chair

By 
Name: Timothy E. Johns
Title: Trustee

By 
Name: B.G. Moynahan
Title: Trustee

Lessor


WHC, LTD.

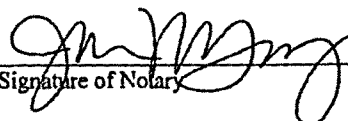
By 
Name: JASON MACY
Title: PRESIDENT

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 6th day of July, 2017, before me personally appeared **MICHAEL W. GIBSON**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



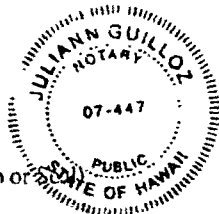

Name: Juliann Guilloz
Notary Public, State of Hawaii
My commission expires: 9/2/2019

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: <u>Memorandum of Quarry Lease Agreement</u>	
Document Date: <u>undated</u>	
No. of Pages: <u>8</u>	
Jurisdiction (in which notarial act is performed): <u>Third</u>	
Signature of Notary 	Date of Notarization and Certification Statement: <u>7/16/17</u>
Printed Name of Notary: <u>Juliann Guilloz</u>	

(Notary Seal)

STATE OF HAWAII)
) ss.
 COUNTY OF HAWAII)

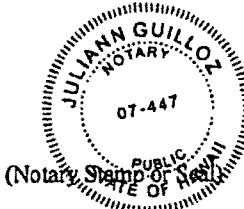
On this 6th day of July, 2017, before me personally appeared **TIMOTHY E. JOHNS**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp of)

Juliann Guilloz
 Name: Juliann Guilloz
 Notary Public, State of Hawaii
 My commission expires: 9/2/2019

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description: <u>Memorandum of Quarry Lease Agreement</u>	
Document Date: <u>undated</u>	
No. of Pages: <u>8</u>	
Jurisdiction (in which notarial act is performed): <u>Third</u>	
<u>Juliann Guilloz</u> Signature of Notary	<u>7/16/2017</u> Date of Notarization and Certification Statement
<u>Juliann Guilloz</u> Printed Name of Notary	



(Notary Stamp of)

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 6th day of July, 2017, before me personally appeared
B. G. MOYNAHAN, personally known/proved to me on the basis of satisfactory evidence, who,
being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the capacity shown, having been duly
authorized to execute such instrument in such capacity.


Name: Julann Guilloz

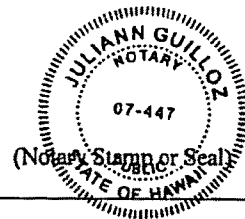
Notary Public, State of Hawaii

My commission expires: 9/2/2019



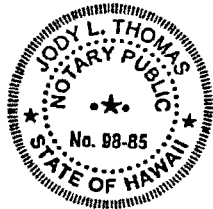
(Notary Public, State of Hawaii)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Memorandum of Quarry Lease Agreement</u>
Document Date:	<u>undated</u>
No. of Pages:	<u>8</u>
Jurisdiction (in which notarial act is performed):	<u>Third</u>
Signature of Notary	<u>7/16/2017</u>
Printed Name of Notary	Date of Notarization and Certification Statement



STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 27th day of July, 2017, before me personally appeared JASON MACY, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)

Jody L. Thomas
Name: Jody L. Thomas

Notary Public, State of Hawaii

My commission expires: 2/17/2018

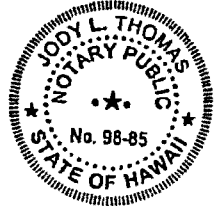
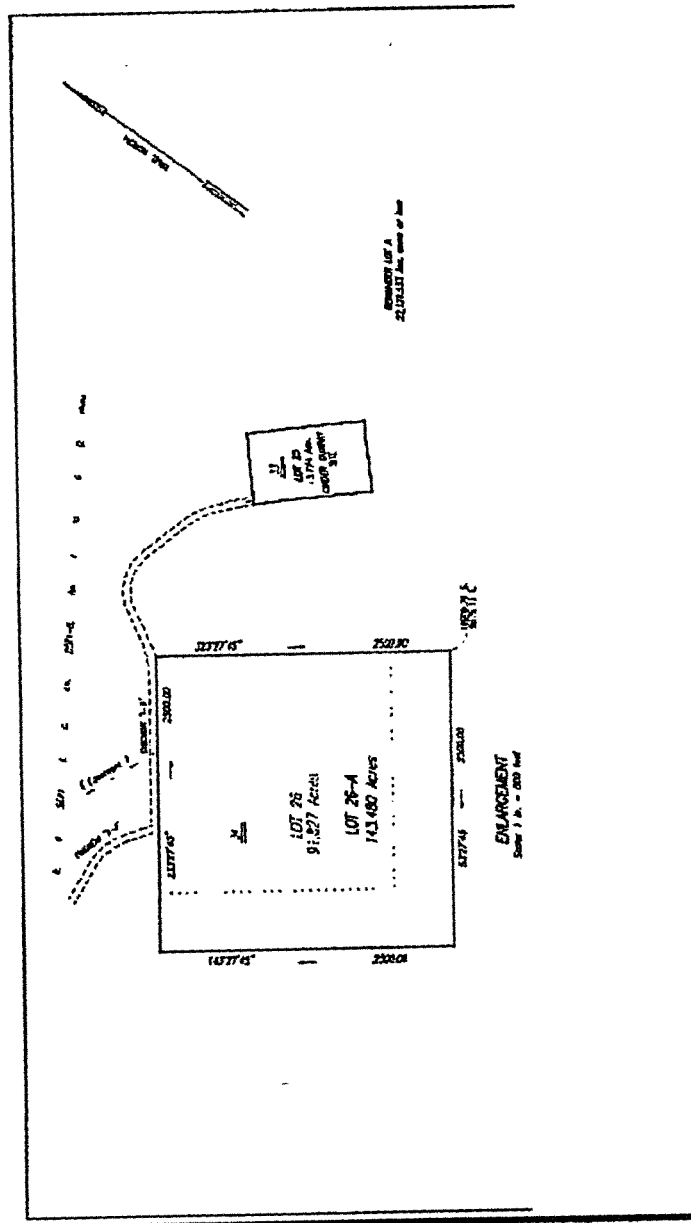
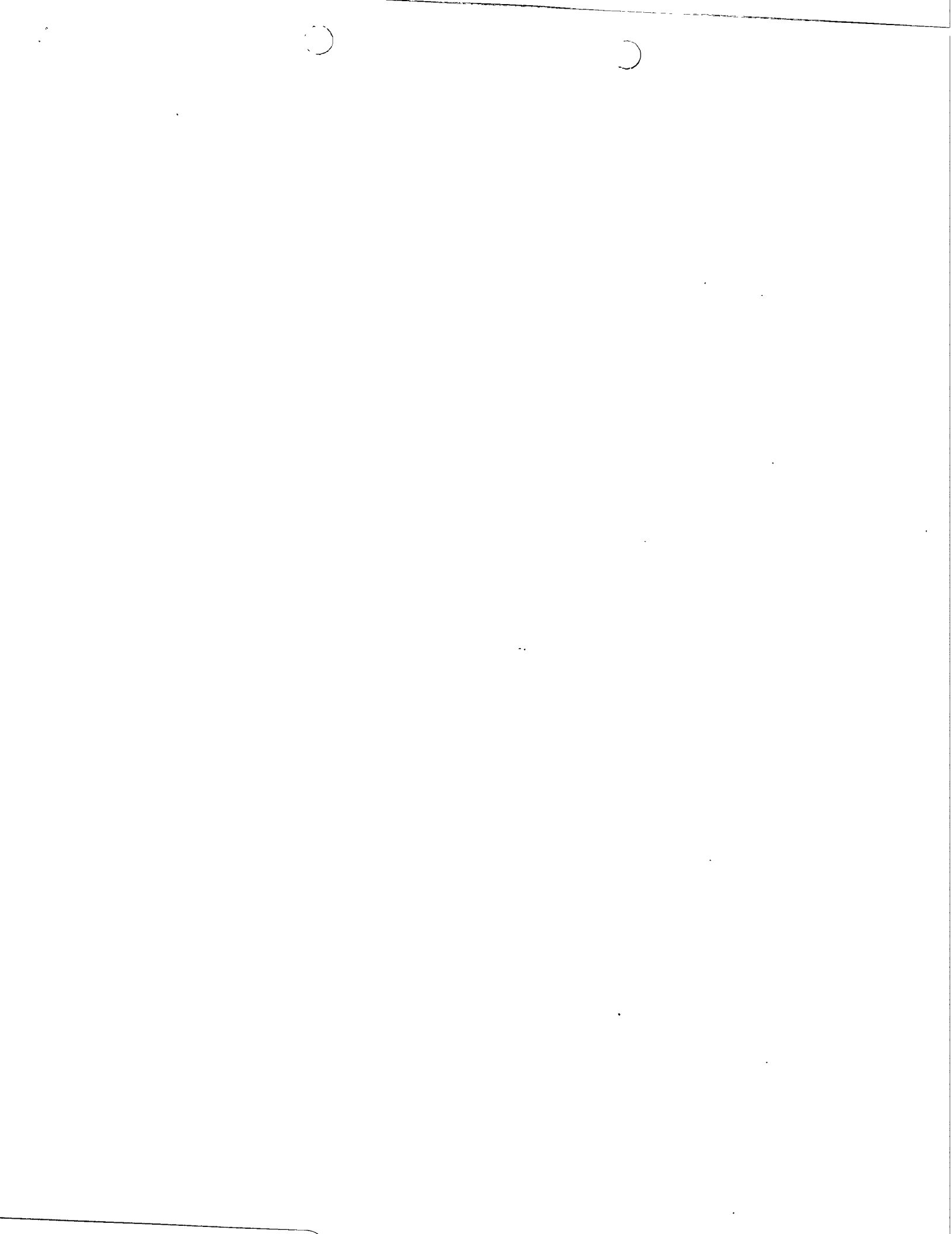
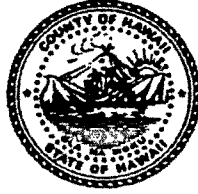
NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Memorandum of Quarry Lease Agreement</u>
Document Date:	<u>undated at the time of notary</u>
No. of Pages:	<u>Nine (9), including exhibit</u>
Jurisdiction (in which notarial act is performed):	<u>First Circuit</u>
<u>Jody L. Thomas</u> Signature of Notary	<u>7/27/2017</u> Date of Notarization and Certification Statement
<u>Jody L. Thomas</u> Printed Name of Notary	 (Notary Stamp or Seal)

EXHIBIT A





Harry Kim
Mayor



REC'D SEP 08 2017

Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

September 6, 2017

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

SUBJECT: Special Permit No. 724 (LUC Docket No. SP 90-374)
Applicant: WHC Ltd., dba West Hawaii Concrete
Subject: Lease Extension Notification
Tax Map Key: (3) 6-7-001: Portion of 025

This is to acknowledge receipt of your letter dated July 28, 2017 notifying the Planning Director of an extension of a lease agreement between your client, PR Mauna Kea, LLC (PRMK) and the applicant, WHC Ltd., dba West Hawaii Concrete for an additional 20 years (from September 30, 2017 to September 30, 2037) in response to Condition No. 7 of LUC Docket No. SP 90-374. This Special Permit allowed for the expansion of an existing rock quarry for a total land area of 143.48 acres in the State Land Use Agricultural District, and amended conditions of the permit, that include Condition No. 7 (Life of the Permit). Please be advised that any decisions on this matter lie with the State Land Use Commission (LUC) as the final authority over Special Permits issued by that body.

Condition No. 7 states: *"The life of this Special Permit shall run co-terminous (sic) with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.¹"*

Our review of the LUC's Order found a footnote affixed to Condition No. 7 which states, *"Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000 from the Applicant to Esther Ueda, Executive Officer, State Land Use Commission."* The May 1, 2000 letter referenced in the footnote indicated the Applicant's understanding that any extension beyond September 30, 2017 would require the approval of both the Planning Director and the LUC.

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
Page 2
September 6, 2017

We also found an April 28, 2000 letter from Esther Ueda, then Executive Officer of the State Land Use Commission, to the Planning Director requesting the County's interpretation of the intent of Condition No. 7. The County responded with a May 3, 2000 letter from then Planning Director Virginia Goldstien indicating that, "*Any amendments to the lease forwarded to the Planning Director and State Land Use Commission is for their information and official records. It is also our understanding that the quarrying activities are an on-going operation and as such, the reason the life of the permit to run co-terminous with the lease and any amendments, provided quarrying occurs within the metes and bounds of the permitted quarry area.*" Despite the County's interpretation of the condition, it was the LUC certified that the order with the footnote still affixed. Copies of the above-mentioned documents are enclosed for your information.

Based on the preceding discussion, we hold the position that the State Land Use Commission must determine if the executed lease extension will be supported by the terms and conditions of LUC Docket No. SP 90-374.

If you have any questions, please feel free to contact Christian Kay at 961-8136.

Sincerely,



MICHAEL YEE
Planning Director

CRK:mad

P:\wpwin60\CKay\Planning Commission\Letters\Acknowledgements\LLim-WHC-SPP274-LeaseExtensionNotification.doc

Enclosures: April 28, 2000 Letter from Esther Ueda, Executive Officer, State Land Use Commission to the Planning Director

May 3, 2000 Letter from Planning Director Virginia Goldstein to LUC

May 17, 2000 Memo from Virginia Goldstein with the LUC Docket No. 90-374 Decision and Order and May 1, 2000 letter from West Hawaii Concrete to LUC

July 28, 2017 Letter from Carlsmith Ball to Planning Department

cc w/ copy of encl.: Daniel E. Orondenker, Executive Officer, State Land Use Commission
WHC, Ltd. dba West Hawaii Concrete

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION

100 MAY 1 PM 1 12

FILED

FAXED

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

April 28, 2000

Ms. Virginia Goldstein
Planning Director
County of Hawaii
25 Aupuni Street, Room 109
Hilo, Hawaii 96721-4252

Dear Ms. Goldstein:

Subject: LUC Docket No. SP90-374/Richard Smart Trust, dba,
Parker Ranch

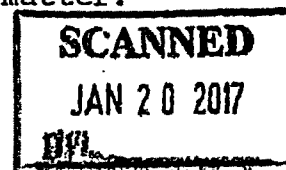
We are writing in regard to the Land Use Commission's (LUC) recent action on West Hawaii Concrete's (WHC) request to expand the existing quarry and to extend the life of the special permit in the subject docket.

As part of its action, the LUC approved an amended Condition No. 7 which requires that any amendments to the terms of the lease between WHC and Parker Ranch be submitted to the County of Hawaii Planning Director and the LUC. The LUC approved the amended Condition No. 7 based on the understanding that the life of the special permit would run co-terminous with the current lease, which expires on September 30, 2017, and that any extension to the life of the permit beyond the term of the current lease would require the approval of both the Planning Director and the LUC. However, questions were raised regarding the County's interpretation of this condition.

We would appreciate written clarification as to whether it is also your understanding that the permit timeframe is based on the existing lease terms and that such extension to the life of the permit would require the approval of the Planning Director and the LUC.

For your information, we have also requested WHC to provide written clarification on this matter. Please provide the requested information to our office by May 3, 2000.

Thank you for your cooperation in this matter.



3973

Ms. Virginia Goldstein
April 28, 2000
Page 2

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

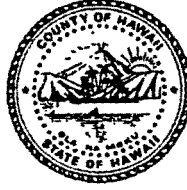
Sincerely,



ESTHER UEDA
Executive Officer

EU:th

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

May 3, 2000

Ms. Esther Ueda, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
P. O. Box 2359
Honolulu, HI 96804-2359

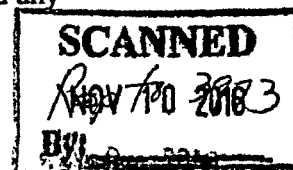
Dear Ms. Ueda:

LUC Docket No. SP90-374 (SPP No. 724)
Applicant: WHC, Ltd. dba West Hawaii Concrete
Request: Expansion of Existing Quarry and
Amendment to Condition No. 7 (Life of Quarry)
Tax Map Key: 6-7-1:Portion of 25

This is in response to your letter dated April 28, 2000, requesting clarification of our interpretation of Condition No. 7 for the above-referenced request. Amended Condition No. 7 states as follows:

- "7. [The quarrying operations and its allied uses shall be terminated within ten years from the date of approval of the Special Permit or its prior abandonment, whichever occurs first.] The life of this Special Permit shall run co-terminous with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."

It is our understanding that the life of the special permit would run co-terminous with the current lease and any amendments (extension) to the lease. Any amendments to the lease forwarded to the Planning Director and the State Land Use Commission is for their information and official records. It is also our understanding that quarrying activities are an on-going operation and as such, the reason for the life of the permit to run co-terminous with the lease and any



Ms. Esther Ueda, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
Page 2
May 3, 2000

amendments provided quarrying occurs within the metes and bounds of the approved quarry area.

Should you have any questions, please feel free to contact me or staff Alice Kawaha at 961-8288.

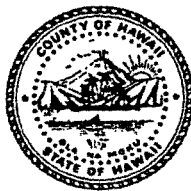
Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

AK:pak
p:\wpwin60\alicewin\LLUCPP72403agk

xc: Mr. Gregory R. Mooers

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

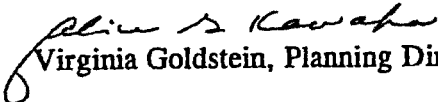
PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

May 17, 2000

MEMORANDUM

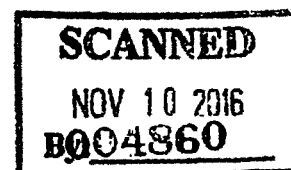
TO: Department of Public Works
County Real Property Taxes
West Hawaii Office
Department of Water Supply
Kazu Hayashida, Director/DOT-Highways, Honolulu

FROM: 
Virginia Goldstein, Planning Director

SUBJECT: Special Permit No. 724 (LUC Docket No. 90-374)
Applicant: WHC Ltd. dba West Hawaii Concrete
Request: Expansion of Existing Quarry and Extension of
Time to Condition No. 7 (Life of Quarry)
Tax Map Key: 6-7-1:Portion of 25

Enclosed for your information is the State Land Use Commission's Order Granting Applicant's Request to Expand Existing Quarry and to Amend Condition No. 7 (Life of Quarry) for the above-referenced special permit.

mwhc03syw
Enclosure



MAY 18 2000



WEST HAWAII CONCRETE

Mel D. Macy
West Hawaii Concrete
P.O.Box 1390
Kailua-Kona HI. 96740

May 1, 2000

VIA REGULAR MAIL AND FACSIMILE 808-587-3827

State of Hawaii
Land Use Commission
P.O.Box 2359
Honolulu, HI 96805-2359
Attn: ESTER UEDA

LAND USE COMMISSION
STATE OF HAWAII
2000 MAY - 3 A 10: 31

Subject: LUC Docket No. SP90-374 Parker Ranch

Dear Ester Ueda:

I am writing in response to your letter dated April 28, 2000. In the letter you requested written clarification on the expiration date of the special permit. The LUC approved the amended condition No. 7 based on the understanding that the special permit would expire on September 30, 2017, co-terminous with the current Parker Ranch lease.

West Hawaii Concrete understands that any extension to the life of the permit beyond September 30, 2017 would require the approval of the Planning Director and the LUC.

Sincerely,

Mel D. Macy
Executive Vice President

cc: Greg Mooers Enterprises

P.O. Box 1390
Kailua-Kona
Hawaii
96745-1390

CONSTRUCTION MATERIALS AND SERVICES
Ready Mix Concrete Aggregates
Pumping Block

Sales Office
(808) 329-3507
Administrative Office
(808) 329-3561
(808) 329-2267 Fax

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

APPROVED MAY 2 2000

In the Matter of the Petition of)
RICHARD SMART TRUST, dba,)
PARKER RANCH)
For a Special Permit to Continue)
and Expand an Existing Rock Quarry)
and Related Uses on Approximately)
91.827 Acres of Land Within the)
Agricultural District at Waikoloa,)
South Kohala, Hawai'i, Tax Map Key)
No.: 6-7-01: portion 25)

DOCKET NO. SP90-374
ORDER GRANTING
APPLICANT'S REQUEST TO
EXPAND EXISTING QUARRY
AND TO AMEND CONDITION
NUMBER 7

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

MAY 09 2000 by *[Signature]*
Date Executive Officer

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

LAND USE COMMISSION
STATE OF HAWAII
2000 MAY -9 A 7:40

004411

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. SP90-374
RICHARD SMART TRUST, dba,	)	ORDER GRANTING
PARKER RANCH	)	APPLICANT'S REQUEST TO
For a Special Permit to Continue	)	EXPAND EXISTING QUARRY
and Expand an Existing Rock Quarry	)	AND TO AMEND CONDITION
and Related Uses on Approximately	)	NUMBER 7
91.827 Acres of Land Within the)	
Agricultural District at Waikoloa,)	
South Kohala, Hawai'i, Tax Map Key)	
No.: 6-7-01: portion 25)	

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

On November 22, 1999, the County of Hawai'i Planning Department received a request from Gregory R. Mooers on behalf of WHC, Ltd., dba West Hawaii Concrete ("Applicant"), to 1) expand the existing approximately 91.827-acre rock quarry by an additional 51.653 acres of land; and 2) amend Condition Number 7 to extend the life of the special permit for an additional 20 years.

On February 4, 2000, the County of Hawai'i Planning Commission ("Planning Commission") conducted a public hearing on this matter. After due deliberation, the Planning Commission recommended approval of the expansion of the existing rock quarry by an additional 51.653 acres of land and amendments to Condition Numbers 3 and 7 of the Land Use Commission's ("Commission") Findings of Fact, Conclusions of Law, and Decision and Order ("Decision and Order") dated March 16, 1990, as follows:

3. Prior to any grading activity, a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.

7. The life of this Special Permit shall run co-terminus with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.

On February 28, 2000, the Commission received a portion of the Planning Commission's record in this proceeding.

On March 28, 2000, the Commission received the remaining portion of the record, consisting of a full size vicinity map/enlargement.

This matter came on for hearing before this Commission on April 6, 2000, in Honolulu, Hawai'i, with appearances by the parties as noted in the minutes. At the hearing, the Commission heard public testimony from Abe Mitsuda, Administrator, Land Use Division, Office of Planning. Mr. Mitsuda stated that the Department of Land and Natural Resources, State Historic Preservation Division ("DLNR-SHPD"), recommended that the Applicant comply with Condition Number 6 with respect to the proposed 51.653-acre expansion area. The Applicant stated that it had no objections to the DLNR-SHPD's recommendation. The Applicant also stated that it had no objections to amend Condition Numbers 10 and 11 to require the Applicant to provide annual reports to this Commission and to obtain the Commission's approval for an extension of time for the performance of conditions, respectively.

Thereafter, a motion was made and seconded to grant the expansion of the existing rock quarry by an additional approximately 51.653 acres and to amend Condition Numbers 3, 7, 10, and 11. Following discussion by the Commissioners, a vote

was taken on this motion. There being a vote tally of 8 ayes, 0 nays, and 1 excused, the motion carried.

ORDER

Having duly considered the Applicant's request, the arguments provided by the parties present in the proceeding, the statement made by the public witness, and a motion having been made at a hearing conducted on April 6, 2000, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, Hawai'i Administrative Rules, and there being good cause for the motion, the Commission ORDERS as follows:

The existing rock quarry shall be expanded by an additional 51.653 acres for a total area of 143.48 acres, as approximately identified on Exhibit "A," attached hereto and incorporated by reference herein.

Condition Numbers 3, 7, 10, and 11 shall be amended as follows:

3. Prior to any grading activity, a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.
7. The life of this Special Permit shall run co-terminous with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.¹
10. An annual monitoring report shall be submitted to the Planning Director and the Commission prior to the anniversary date of the approval of the issuance of the Commission's Decision and Order. The report shall include, but not be limited to, the amount of material quarried, a detailed

¹ Any extension to the life of the Special Permit beyond the term of the current lease, which expires on September 30, 2017, would require the approval of both the Planning Director and the State Land Use Commission. See attached letter dated May 1, 2000, from the Applicant to Esther Ueda, Executive Officer, State Land Use Commission.

listing of public complaints or problems and their disposition, and the applicant's progress in complying with the conditions imposed herein.

Should a conflict arise which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding properties.

11. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 8, may be granted by the Planning Director subject to the approval by the Commission upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

All other conditions to the Decision and Order dated March 16, 1990, are hereby reaffirmed and shall continue in effect.

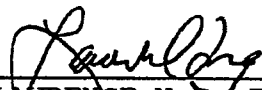
ADOPTION OF ORDER

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


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

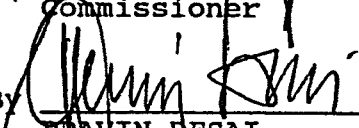
LAND USE COMMISSION
STATE OF HAWAII

By 
MERLE A. K. KELAI
Chairperson and Commissioner

By 
LAWRENCE N. KING
Vice Chairperson and Commissioner

By (absent)
P. ROY CATALANI
Commissioner

By 
BRUCE A. COPPER
Commissioner

By 
PRAVIN DESAI
Commissioner

By (absent)
ISAAC FIESTA, JR.
Commissioner

By 
M. CASEY JARMAN
Commissioner

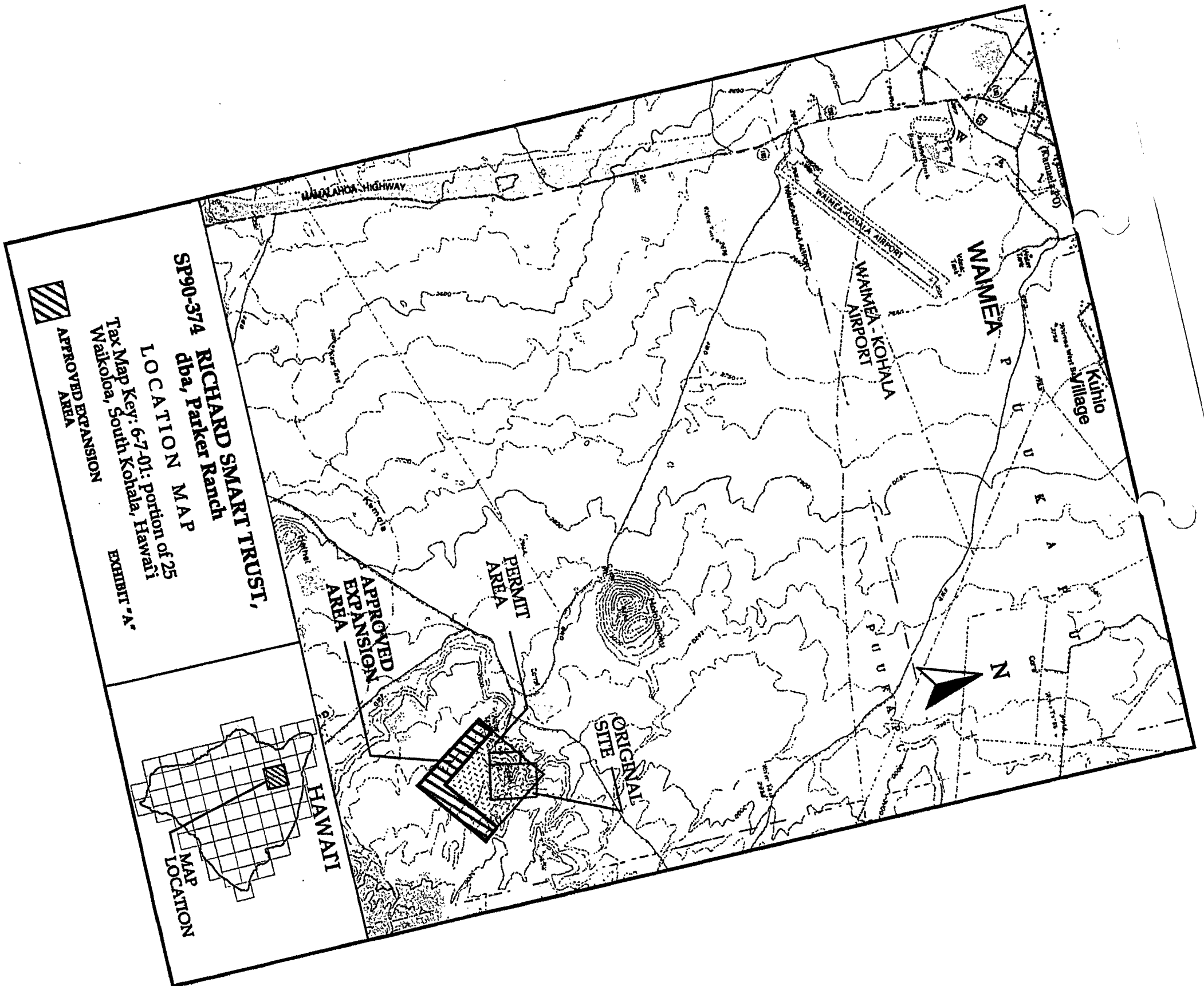
Filed and effective on
May 9, 2000

Certified by:



Executive Officer

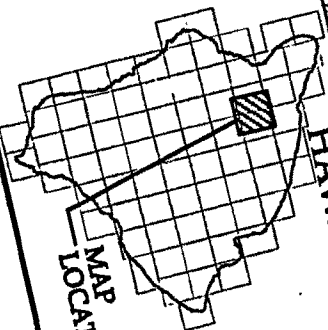
By (absent)
STANLEY ROEHRIG
Commissioner

By (absent)
PETER YUKIMURA
Commissioner



SP90-374 RICHARD SMART TRUST,
 dba, Parker Ranch
 LOCATION MAP
 Tax Map Key: 6-7-01: portion of 25
 Walkoloa, South Kohala, Hawaii
 EXHIBIT "A"

 APPROVED EXPANSION AREA


 HAWAII
 MAP LOCATION

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

In the Matter of the Petition of)
RICHARD SMART TRUST, dba,)
PARKER RANCH)
DOCKET NO. SP90-374
CERTIFICATE OF SERVICE
)
For a Special Permit to Continue)
and Expand an Existing Rock Quarry)
and Related Uses on Approximately)
91.827 Acres of Land Within the)
Agricultural District at Waikoloa,)
South Kohala, Hawai'i, Tax Map Key)
No.: 6-7-01: portion 25)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Applicant's Request To Expand Existing Quarry And To Amend Condition Number 7 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:


DEL. DAVID W. BLANE, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

CERT. VIRGINIA GOLDSTEIN, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. RICHARD D. WURDEMAN, ESQ.
Corporation Counsel
County of Hawaii
The Hilo Lagoon Center
101 Aupuni Street, Suite 325
Hilo, Hawaii 96720

CERT. GREGORY R. MOOERS, President
Mooers Enterprises
P. O. Box 1101
Kamuela, Hawaii 96743

DATED: Honolulu, Hawaii, this 9th day of May 2000.


ESTHER UEDA
Executive Officer

BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

SP 924 PC

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION
P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

May 16, 2000

100 May 18 PM 1:50
Clerk

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

To all concerned agencies:

The Order Granting Applicant's Request to Expand Existing Quarry and To Amend Condition Number 7 for the following special permit docket has been filed by the Land Use Commission:

<u>Petition Docket No.</u>	<u>Request</u>	<u>LUC Action on May 4, 2000</u>	<u>Date of Decision And Order</u>
SP90-374 RICHARD SMART TRUST, dba, PARKER RANCH	To expand the existing 91.827-acre rock quarry within the Agricultural District at Waikoloa, South Kohala, Hawaii, by an additional 51.653 acres of land and amend Condition 7 to extend the life of the special permit.	Approved the expansion of the existing quarry at Waikoloa, South Kohala, Hawaii, by an additional 51.653 acres and amendments to Condition Nos. 3, 7, 10, and 11. TMK No. 6-7-01: portion 25 (see map attached)	May 09, 2000

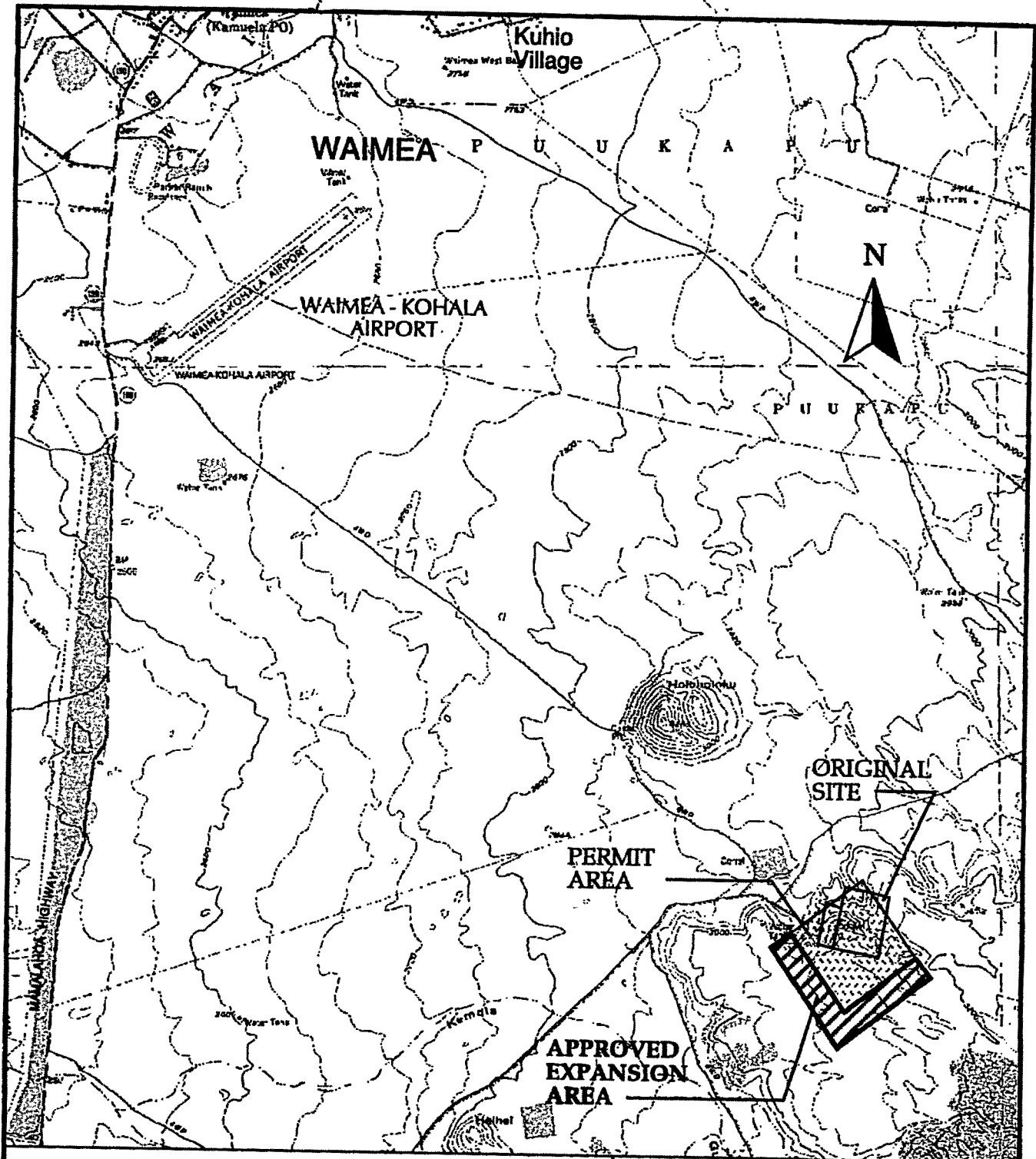
The above decision may include conditions which affect your agency. If you would like a copy of the conditions or more information on this matter, please contact Bert Saruwatari of our office at 587-3822.

Sincerely,

ESTHER UEDA
Executive Officer

EU:aa

Att.



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

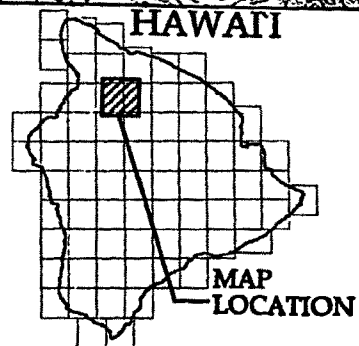
LOCATION MAP

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



**APPROVED EXPANSION
AREA**

EXHIBIT "A"



CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJANUENUE AVENUE
P.O. Box 686
HILO, HAWAII 96721-0686
TELEPHONE 808.935.6644 FAX 808.935.7975
WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

2017 JUL 28 PM 1 02
PLANNING DEPARTMENT
COUNTY OF HAWAII

July 28, 2017

Michael Yee
Planning Director
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720
Attention: Jeff Darrow

Re: Special Permit No. 724 / LUC Docket No. SP 90-374
Applicant: WHC, Ltd., dba West Hawaii Concrete
TMK: (3) 6-7-001:034 ("Property")

Dear Mr. Yee:

This firm represents PR Mauna Kea LLC, a Hawaii limited liability company ("PRMK"), fee owner¹ of the Property. Applicant WHC, Ltd., a Hawaii corporation, doing business as West Hawaii Concrete ("WHC") has been leasing and operating the quarry site² on the Property since June 15, 1998.

The Planning Commission ("Commission") amended Special Permit No. 724 ("SP 724") on February 23, 2000, as amended by letter dated February 29, 2000, to allow for the expansion of the existing rock quarry for a total land area of 144± acres, and amended Condition Nos. 3 and 7 for the Property located within the State Land Use Agricultural District at Waikoloa, District of South Kohala, Island and County of Hawaii. Condition 7 provides as follows:

"7. The life of this Special Permit shall run co-terminous (sic) with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."

By Order Granting Applicant's Request to Expand Existing Quarry and to Amended Condition No. 7 filed May 9, 2000, in Docket No. SP 90-374 ("SP 90-374"), the State Land Use Commission ("LUC") granted the expansion of the existing rock quarry for a total land area of 143.448 acres of land, and amended Condition Nos. 3, 7 and 10 for the Property located within

¹ The interest of Parker Ranch, Inc., as Lessor under the Lease with WHC was assigned to PRMK.

² The quarry site covered under the Lease is Lot 26-A, as approved by the Planning Department on January 10, 2017 under SUB-17-0001692.

HONOLULU

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LOS ANGELES

113053

Michael Yee
July 28, 2017
Page 2

the State Land Use Agricultural District at Waikoloa, District of South Kohala, Island and County of Hawaii ("LUC Order"). Condition 7 provides as follows:

"7. The life of this Special Permit shall run co-terminous (sic) with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission."

This is to inform you that PRMK and WHC, Ltd. have extended the current Lease for an additional 20 years (from September 30, 2017 to September 30, 2037). On behalf of PRMK, and in compliance with Condition 7 under the SP 724, as amended, and the LUC Order, we respectfully submit the enclosed fully executed copy of the Memorandum of Quarry Lease Agreement.

Please do not hesitate to contact me should you have any questions concerning this submittal. Thank you for your consideration.

Very truly yours,


for Steven S.C. Lim

SSL/KYL
Enclosure

xc with enclosure: Client
WHC, Ltd.

Michael Yee
July 28, 2017
Page 3

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

CARLSMITH BALL LLP
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, Hawaii 96813

Attention: Robert E. Strand
Telephone: (808) 523-2500

TITLE OF DOCUMENT:

MEMORANDUM OF QUARRY LEASE AGREEMENT

PARTIES TO DOCUMENT:

LESSOR: PR MAUNA KEA LLC, a Hawaii limited liability company, whose principal place of business and mailing address is 66-1304 Mamalahoa Highway, Kamuela, Hawaii 96743

LESSEE: WHC, LTD., a Hawaii corporation, whose address is P.O. Box 1390, Kailua-Kona, Hawaii 96745

TAX MAP KEY: (3) 6-7-001:034 (Lot 26-A under
Subdivision No. SUB-17-001692)

(This document consists of 9 pages.)

**MEMORANDUM OF
QUARRY LEASE AGREEMENT**

THIS MEMORANDUM OF QUARRY LEASE AGREEMENT (the "Memorandum") is made and entered into as of the 27th day of July, 2017, by and between PR MAUNA KEA LLC, a Hawaii limited liability company ("Lessor"), whose principal place of business and mailing address is 66-1304 Mamalahoa Highway, Kamuela, Hawaii 96743, and WHC, LTD., a Hawaii corporation, whose address is P.O. Box 1390, Kailua-Kona, Hawaii 96745 ("Lessee");

RECITALS:

This Memorandum is made with respect to the following facts:

A. On June 15, 1998, Parker Ranch, Inc. and Lessee entered into an unrecorded written Quarry Lease Agreement with respect to those certain leasehold premises ("Premises") commonly known as the Quarry Site and consisting of approximately 91.827 acres, the same being a portion of the real property owned by Parker Ranch, Inc. in Waikoloa, South Kohala, Island, County and State of Hawaii, and identified as TMK 3-6-7-001:025.

B. The Quarry Lease Agreement was amended by (i) an unrecorded amendment dated October 1, 1998 that changed the "Premises" covered by the Lease by replacing Exhibit "A" to the Quarry Lease Agreement subject to certain terms and conditions set forth therein and (ii) an unrecorded amendment dated October 8, 1999 that amended Exhibit "C" to the Quarry Lease Agreement. The "Premises" as currently demised by the Lease is the land now designated as Lot 26-A as shown on the final plat for SUB-17-0001692 dated January 10, 2017, consisting of approximately 143.480 acres.

C. The interests of Parker Ranch, Inc. as Lessor under the Lease were assigned to and are now held by PR Mauna Kea LLC, the Lessor named in this Memorandum.

D. Lessor and Lessee entered into that certain Third Amendment of Quarry Lease Agreement dated October 1, 2012 under which Lessor and Lessee acknowledged that the term of the Lease will end on September 30, 2037, unless sooner terminated as provided in the Lease, and agreed to amend the royalty payments to be made from and after October 1, 2012 as more particularly set forth therein (said Quarry Lease Agreement and such amendments being referred to herein collectively as the "Lease").

In consideration of the mutual advantages and benefits to be derived by Lessor and Lessee on account of the Lease, Lessor and Lessee agree as follows:

1. **Lease.** Lessor and Lessee acknowledge and agree that the Lease demises the Premises described in Exhibit "A" attached hereto and incorporated herein for a term ending on September 30, 2037 unless sooner terminated as set forth therein and that all of the terms and conditions of the Lease are incorporated herein by reference.

2. **Confirmation and Ratification of Lease.** This Memorandum shall be effective as of the date hereof, and except as expressly set forth herein or heretofore, the Lease shall remain unchanged and shall continue in full force and effect. Without limitation to the generality of the foregoing, Lessee shall continue to observe and perform all other terms and covenants of the Lease to be observed and performed by Lessee thereunder and shall make all payments and other charges thereunder payable by Lessee pursuant to the Lease. The Lease, as set forth herein and heretofore amended, and the respective obligations of the parties thereunder, are hereby ratified and confirmed.

3. **Defined Terms.** Any word, term or phrase which begins with initial capitalization and which is not defined in this Memorandum or defined in another identified document, shall be given the definition of such word, term or phrase in the Lease.

4. **Counterparts.** This Memorandum may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument binding on all the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart.

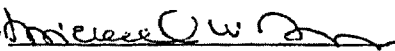
[Remainder of page intentionally left blank.]


Michael Yee
July 28, 2017
Page 6


IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum as of the date first above written.

PR MAUNA KEA LLC

By **TRUSTEES OF THE PARKER RANCH FOUNDATION TRUST** under that certain Trust Agreement dated August 9, 2007, acting in their fiduciary and not their individual capacities
Its Sole Member


By 
Name: Michael W. Gibson
Title: Trustee, Chair

By 
Name: Timothy E. Johns
Title: Trustee

By 
Name: B.G. Moyhahan
Title: Trustee

Lessor

WHC, LTD.

By 
Name: JASON MACY
Title: PRESIDENT

Michael Yee
July 28, 2017
Page 7

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 16th day of July, 2017, before me personally appeared
MICHAEL W. GIBSON, personally known/proved to me on the basis of satisfactory evidence,
who, being by me duly sworn or affirmed, did say that such person executed the foregoing
instrument as the free act and deed of such person, and if applicable in the capacity shown, having
been duly authorized to execute such instrument in such capacity.

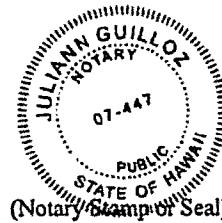


Juliann Guilloz
Name: Juliann Guilloz

Notary Public, State of Hawaii

My commission expires: 9/2/2019

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Memorandum of Quarry Lease Agreement</u>
Document Date:	<u>undated</u>
No. of Pages:	<u>8</u>
Jurisdiction (in which notarial act is performed):	<u>Third</u>
Signature of Notary	Date of Notarization and Certification Statement
<i>Juliann Guilloz</i>	<u>7/16/17</u>
Printed Name of Notary	
Juliann Guilloz	



Michael Yee
 July 28, 2017
 Page 8

STATE OF HAWAII)
) ss.
 COUNTY OF HAWAII)

On this 6th day of July, 2017, before me personally appeared
 TIMOTHY E. JOHNS, personally known/proved to me on the basis of satisfactory evidence,
 who, being by me duly sworn or affirmed, did say that such person executed the foregoing
 instrument as the free act and deed of such person, and if applicable in the capacity shown, having
 been duly authorized to execute such instrument in such capacity.



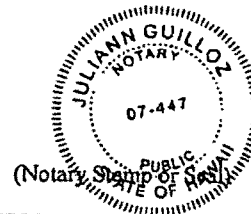
(Notary Stamp of)

Juliann Guilloz
 Name: Juliann Guilloz

Notary Public, State of Hawaii

My commission expires: 9/2/2019

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Memorandum of Quarry Lease Agreement</u>
Document Date:	<u>undated</u>
No. of Pages:	<u>8</u>
Jurisdiction (in which notarial act is performed):	<u>Third</u>
Signature of Notary <u>Juliann Guilloz</u> Juliann Guilloz	Date of Notarization and Certification Statement <u>7/16/2017</u>
Printed Name of Notary	



STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 6th day of July, 2017, before me personally appeared
B. G. MOYNAHAN, personally known/proved to me on the basis of satisfactory evidence, who,
being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as
the free act and deed of such person, and if applicable in the capacity shown, having been duly
authorized to execute such instrument in such capacity.


Name: Juliann Guilloz

Notary Public, State of Hawaii

My commission expires: 9/2/2019



(Notary Stamp or Seal)

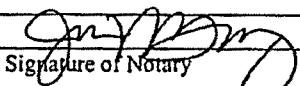
NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Memorandum of Quarry Lease Agreement

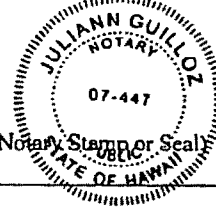
Document Date: undated

No. of Pages: 8

Jurisdiction (in which notarial act is performed): Third


Signature of Notary 7/16/2017
Date of Notarization and
Certification Statement

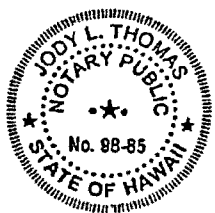
Juliann Guilloz
Printed Name of Notary



(Notary Stamp or Seal)

STATE OF HAWAII)
) ss.
COUNTY OF HAWAII)

On this 27th day of July, 2017, before me personally appeared JASON MACY, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



Jody L. Thomas

Name: Jody L. Thomas

Notary Public, State of Hawaii

My commission expires: 2/17/2018

(Notary Stamp or Seal)

NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Memorandum of Quarry Lease Agreement</u>
Document Date:	<u>undated at the time of notary</u>
No. of Pages:	<u>Nine (9), including exhibit</u>
Jurisdiction (in which notarial act is performed):	<u>First Circuit</u>
<u><i>Jody L. Thomas</i></u>	<u>7/27/2017</u>
Signature of Notary	Date of Notarization and Certification Statement
<u>Jody L. Thomas</u>	
Printed Name of Notary	(Notary Stamp or Seal)

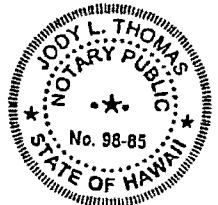
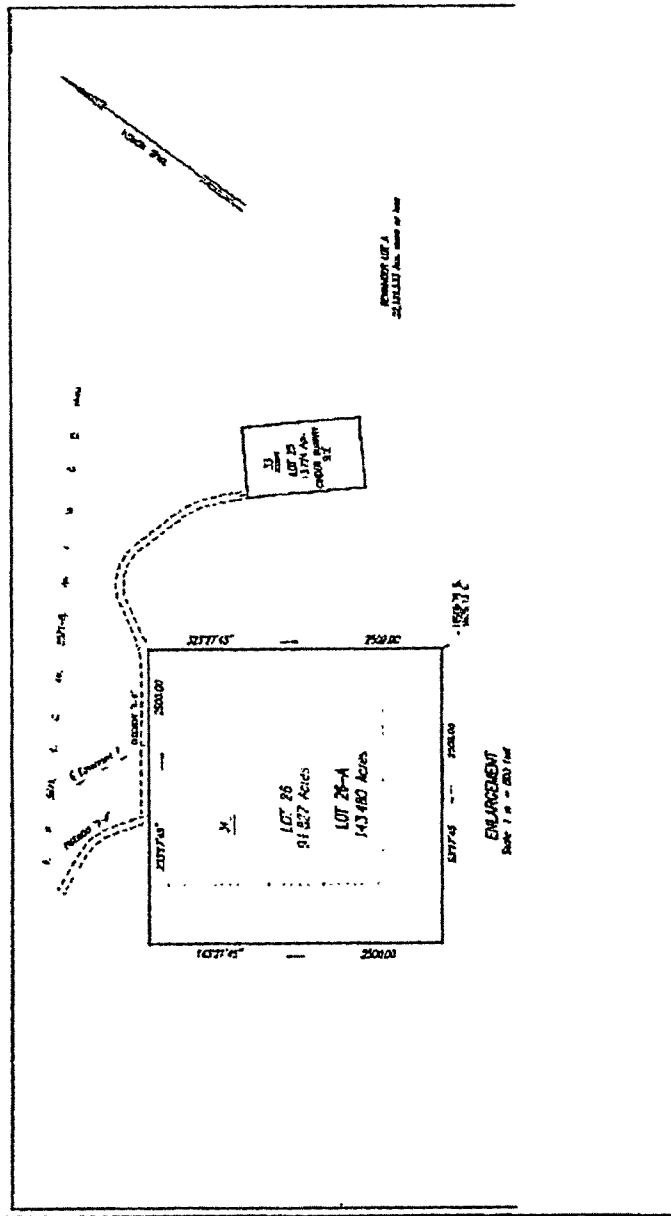


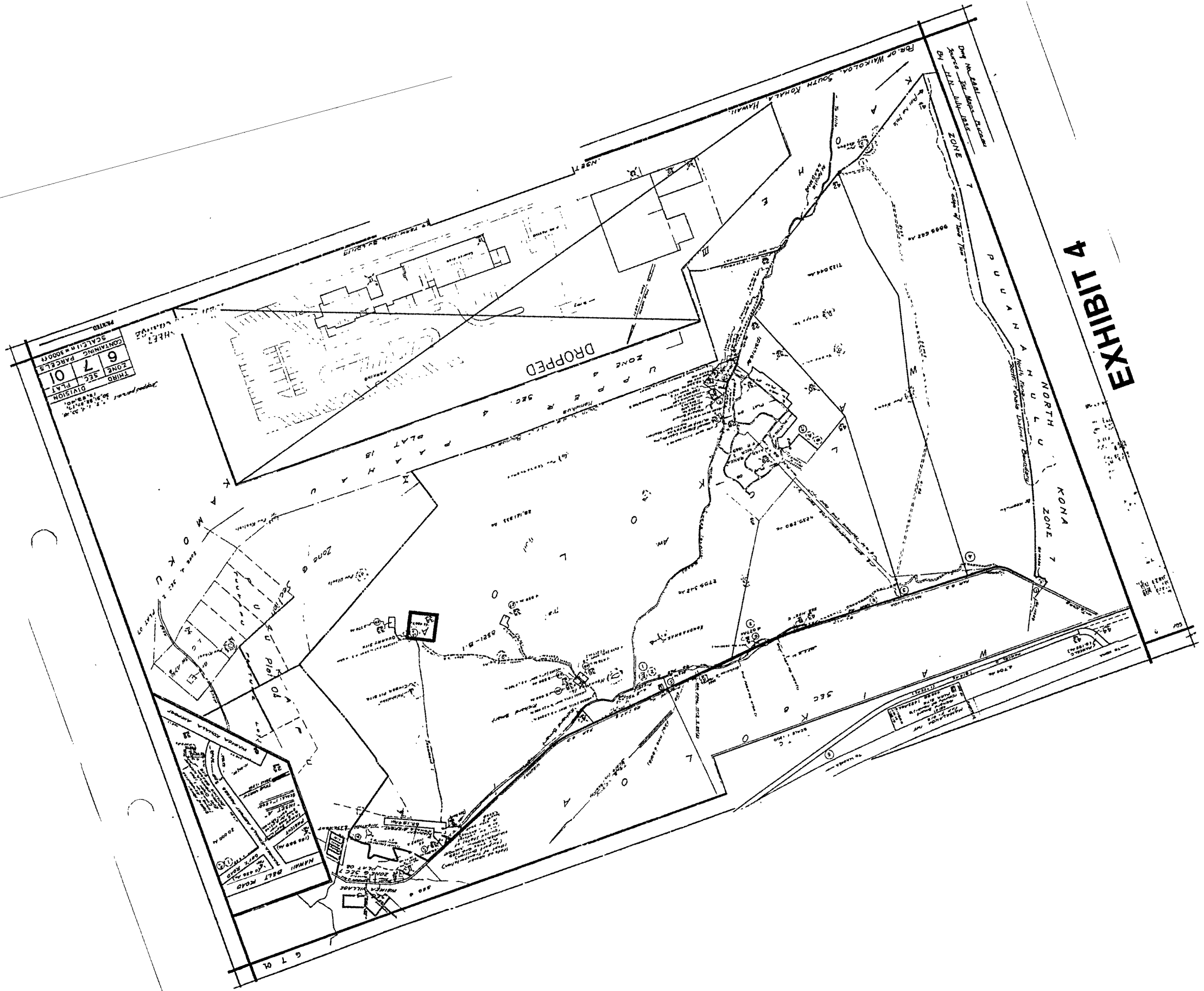
EXHIBIT A



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EXHIBIT A



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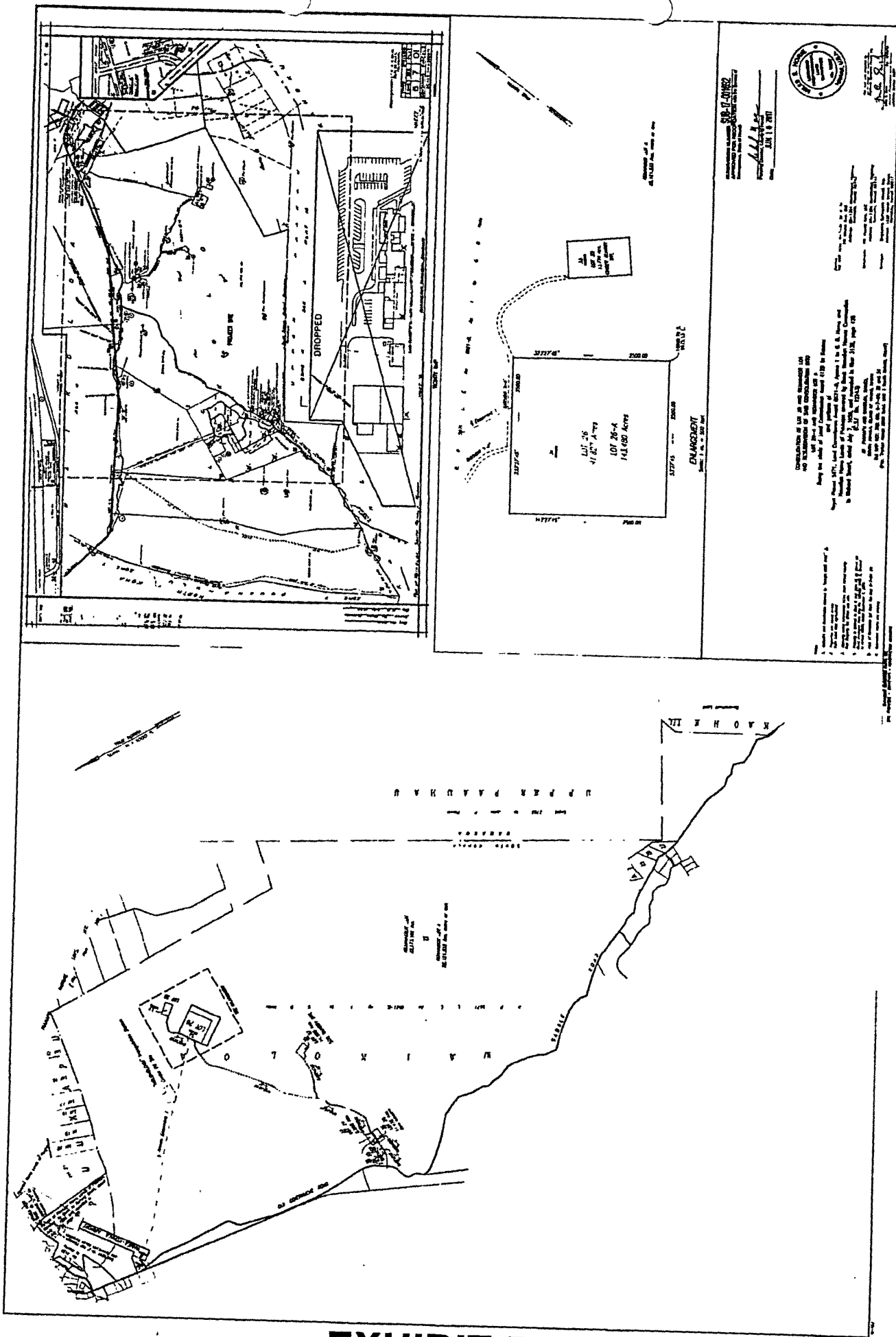
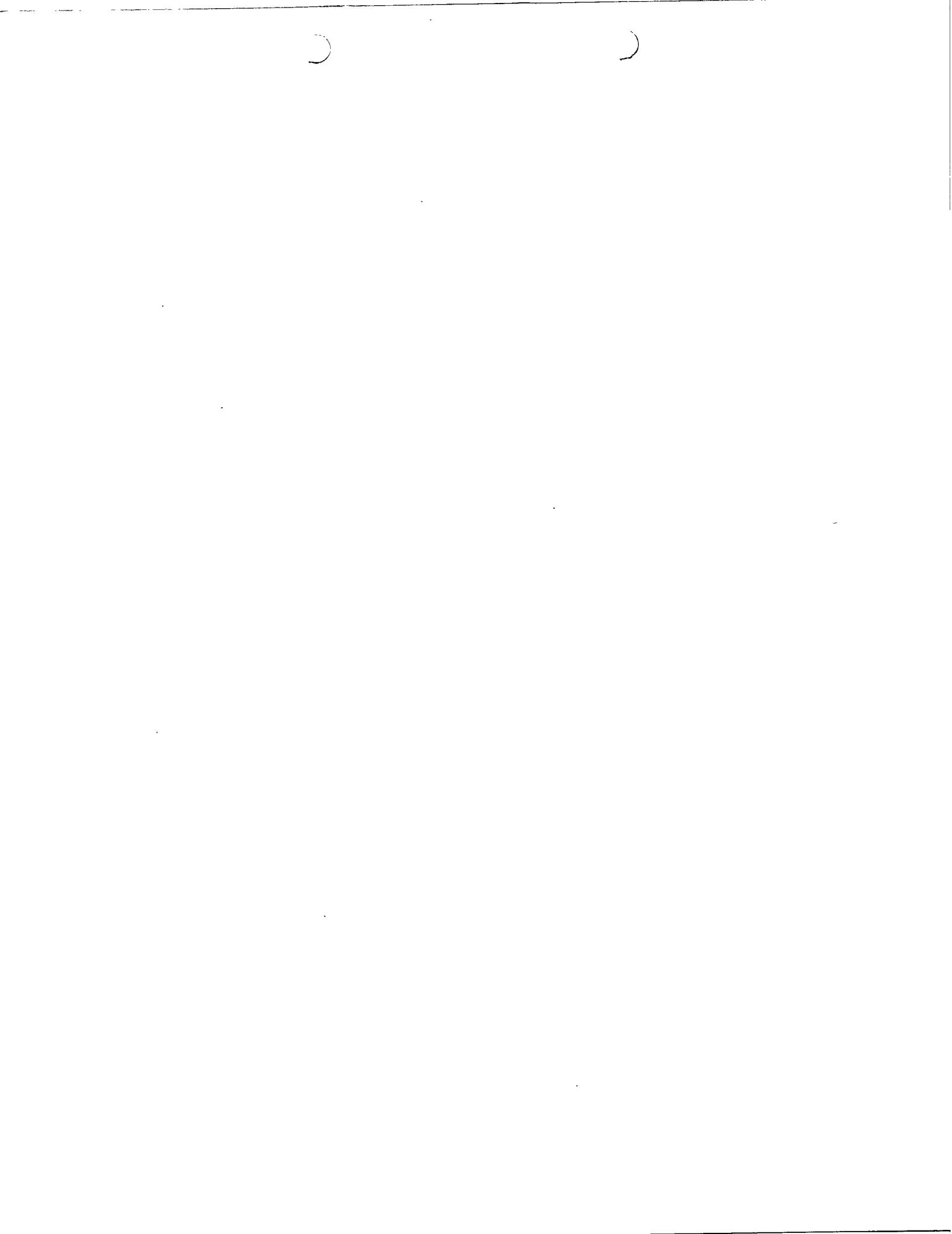


EXHIBIT 5



BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

March 29, 2000

MEMORANDUM

TO: Land Use Commission

FROM: Staff *Esther Ueda*

SUBJECT: Summary of LUC Docket No. SP90-374/Richard Smart Trust, dba, Parker Ranch: Request to Expand Existing Quarry and Amend Condition No. 7 (Life of Permit)

PROCEDURAL MATTERS

On November 22, 1999, the County of Hawaii Planning Department received a request from Gregory R. Mooers on behalf of WHC, Ltd., dba West Hawaii Concrete ("Applicant") to i) expand the existing 91.827-acre quarry by an additional 51.653 acres of land; and ii) amend Condition No. 7 to extend the life of the special permit for an additional 20 years.

On February 4, 2000, the County of Hawaii Planning Commission ("Planning Commission") conducted a hearing on the Applicant's request. There was no written or oral public testimony provided at the hearing. After due deliberation at its meeting on February 4, 2000, the Planning Commission recommended approval of the Applicant's request to the Land Use Commission ("LUC").

On February 28, 2000, the LUC received a copy of the Planning Commission's record in this proceeding.

On March 28, 2000, the LUC received the remaining portion of the record, consisting of a full size vicinity map/enlargement.

BACKGROUND ON APPLICANT'S SPECIAL PERMIT

By Findings of Fact, Conclusions of Law, and Decision and Order ("Decision and Order") dated March 16, 1990, the LUC approved the subject special permit to continue and expand an existing rock quarry and related uses, subject to 11 conditions,

EXHIBIT 6

on approximately 91.827 acres of land, identified as TMK 6-7-01: por. 25, at Waikoloa, South Kohala, Hawaii ("Property").

The existing rock quarry, identified as Quarry Site No. 4, was one of five non-conforming quarry sites approved by the LUC under Docket No. SP77-260/Richard Smart dba Parker Ranch pursuant to Findings of Fact, Conclusions of Law, and Decision and Order dated May 4, 1977. The quarry was subject to seven conditions.

Quarry Site No. 4 was a 30-acre area that was established in 1945 and operated by Shield Pacific Ltd. The operation included dynamiting, crushing, loading, and limited stockpiling. Approximately 50,000 cubic yards of hard rock was to have been removed annually. The special permit expired on May 5, 1987.

By Decision and Order dated March 16, 1990, the LUC approved the Applicant's request to expand the Quarry Site No. 4 to include an additional 61.827 acres, for a total of 91.827 acres. The expanded quarry measured approximately 2,000 feet by 2,000 feet. The expansion occurred in a southerly direction. Onsite activities included quarry rock excavation, rock crushing, sand and aggregate sorting, and scraping and removal of loading material. It was anticipated that approximately 12,000 cubic yards of material per month would be quarried.

DESCRIPTION OF THE APPLICANT'S REQUEST

The Applicant is requesting to i) expand the existing 91.827-acre quarry by an additional 51.653 acres of land; and ii) amend Condition No. 7 to extend the life of the special permit for an additional 20 years.

The Applicant states that additional time to run coterminous with the land lease with Parker Ranch would be a more secure situation for making business plans and financing any needed improvements.¹ The Applicant notes that the lease extension would provide the needed security for the company to continue to deliver the products that it provides to the West Hawaii community.

The Applicant also states that the expansion of the quarry will meet the demands of present and future construction activity in West Hawaii. The Applicant adds that the subject requests have been submitted in the hope of creating a stronger and more secure environment for this business to survive for all who are involved in the construction industry.

¹ The Applicant's present lease with Parker Ranch is to September 30, 2017, with a renewal option for another 20-year period.

SUMMARY OF AGENCY COMMENTS

County Agencies

The Department of Finance-Real Property Tax Office commented that the Property was dedicated to agricultural use and that there were possible rollback taxes. The Office also stated that the real property taxes were paid through December 31, 1999.

The Police Department stated that it had reviewed the request and found no adverse effects to public safety or traffic impact created by the proposed action.

The Department of Water Supply ("DWS") stated that its nearest water system was at the Waimea-Kohala Airport, a distance of approximately 3.6 miles from the Property. The DWS noted that since water was hauled to the Property, DWS had no requirements of the Applicant.

The County Department of Public Works and Fire Department provided no response to the subject request.

State Agencies

The Department of Transportation, Highways Division-Hawaii District, stated that the subject request was not applicable.

The Department of Health ("DOH") stated that the Applicant would need to meet the permit requirements of the DOH Air Pollution rules, Chapter 60.1, Title 11, for the proposed expansion of the existing quarry operations.

The LUC staff confirmed that the Property was designated within the State Land Use Agricultural District, and that the subject request involved a quarry that was approved in the subject docket on March 16, 1990.

The LUC staff also requested clarification regarding the status of the quarry operations and the applicant's efforts to comply with the conditions.

The Department of Land and Natural Resources-Land Division, Land Management Division, and State Historic Preservation Division, Department of Agriculture, and Natural Resource Conservation Service provided no response to the subject request.

Others

No comments or objections were received from the Waimea Community Association, adjacent landowners, or the general public to the subject request.

APPLICANT'S COMPLIANCE WITH CONDITIONS OF THE DECISION AND ORDER

According to the Applicant, it has been in full compliance with all of the conditions of approval.

Staff notes that the Applicant filed a map and metes and bounds description of the Property in 1990 with the Planning Department in compliance with Condition No. 2. In addition, in compliance with Condition No. 6, the State Historic Preservation Division ("SHPD") and the Planning Department accepted the archaeological reconnaissance survey report with addendum in 1992. The SHPD concurred with the findings of the survey that no historic sites were located on the Property, and determined that the quarry will have "no effect" on historic sites. Finally, in compliance with Condition No. 10, the Applicant has filed annual monitoring reports to the Planning Director which include information regarding the amount of material quarried and a detailed listing of public complaints or problems and their disposition.²

The remaining conditions pertained to procedural matters and to the operations of the quarry itself.

PLANNING DEPARTMENT RECOMMENDATION

In support of the request, the Planning Department provided the following:

Such use is not contrary to the objectives sought to be accomplished by the land use law and regulations. The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. The proposed project will be located within an area whose soils are classified as "D" of [sic] "Poor" by the Land Study Bureau's Overall Master Productivity Rating and unclassified by the Department of Agriculture's ALISH Map.

In recognizing that lands within agricultural districts might not be best suited for agricultural activities

² For the years 1996 to 1998, the Planning Department has provided our office with copies of the monitoring reports. According to the Planning Department, the Applicant submitted a monitoring report for 1999 on January 11, 2000.

and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district. The subject property is situated within the County's Agriculture 40-acre (A-40a) zone district. The existing quarry presently encompasses 91.827 acres of land on a portion of a 22,478-acre parcel. The applicant is proposing to expand the quarry operation on a total of 143.48 acres of land. This expansion would be within the 22,478-acre parcel of land, portions of which are already used for quarrying operations. The proposed expansion of 51.653 acres of land that will be taken out of the agricultural inventory for this area will not significantly affect the agricultural resource of the area, as the proposed use will be confined to an area which is presently being quarried and no additional surrounding lands are to be developed. In addition, no active agricultural lands will be taken out of production to provide the area necessary to establish this use. The Parker Ranch activities will still be ongoing. The entire Island of Hawaii is within the Coastal Zone Management Area. The project site as well as the entire property is located on the mauka side of the Mamalahoa Highway, more than 11 miles from the coastline and not within the Special Management Area. Therefore, the proposed expansion of the quarry would not have any adverse impact to the coastal recreational resources, public access to the shoreline, coastal ecosystem and marine resources, and beach erosion. In addition, the quarry would not impact any scenic and open space resources nor be a coastal hazard due to its location at a very considerable distance from Mamalahoa Highway and the coastline. The State Historic Preservation Division and the Planning Department accepted the archaeological reconnaissance survey report, which found that no historic sites were located within the project site. The natural resources from the expanded quarry is in demand by the construction industry in the West Hawaii region.

A favorable recommendation of this request would not be contrary to the General Plan or the Zoning Code nor the original reasons for the granting of Special Permit No. 724. The request for an extension of time for the life of the Special Permit would not be contrary to the General Plan or the Zoning Code. The applicant's present lease with Parker Ranch for the rock quarry is to September 30, 2017 with a renewal option for another 20 years. The applicant feels that an additional time period running coterminous with the land lease is a

more secure situation for making business plans and financing any improvements. The increased construction activity in West Hawaii will create a greater demand for quarry products. West Hawaii Concrete is attempting to improve and assist the local construction industry here in the West Hawaii district by enhancing its ability to meet the increasing demand for the quarry products. It is recommended that rather than grant a 20-year extension, Condition No. 7 be amended to allow the Special Permit to run co-terminous with the Parker Ranch Lease. This is a more practical agreement and condition which would be consistent with wording of recent quarry approvals. Approval of this request would be consistent with the Land Use Element of the General Plan. It would also continue to complement the Industrial goal of the General Plan which states that "Designate and allocate industrial areas in appropriate proportions and in keeping with the social, cultural, and physical environment of the County."

Therefore, based on the above circumstances, approval of the subject requests for expansion of the existing quarry and extending the life of the permit to run co-terminous with the Parker Ranch lease would not be contrary to the objectives of the State Land Use Law Rules and Regulations given the subject conditions. The proposed use would not displace agricultural activity nor diminish the agricultural potential of the area since this parcel has not been in agricultural use in years. Therefore, the proposed use would not be contrary to the objectives of the State Land Use Law for the Agricultural district.

The request is not contrary to the General Plan. The subject request to expand the quarry operations and extend the life of the quarry is not contrary to the General Plan LUPAG Map, which designates the property for Extensive Agricultural uses. The proposed use is consistent with the following goals, policies and standards of the General Plan:

Land Use - Industrial Element

- * Industrial activities may be located close to raw materials or key resources.

Land Use - Natural Resources

- * Ensure that alterations to existing land forms and vegetation, except crops, and construction of structures cause minimum adverse effect to water resources, and scenic

and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake.

Economic Element

- * Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- * The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

With appropriate conditions the request can support the Natural Resources element of the General Plan which states a goal to "Ensure that alterations to existing land forms and vegetation, except crops, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake" and "The County of Hawaii should require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse impacts on the environment." The ability of the subject property to provide the needed raw material vital to the construction industry while able to absorb the noxious nature of quarries speaks to the appropriateness of the area for such uses.

The desired use will not adversely affect the surrounding properties. The subject property is currently used for ongoing ranch operations including office, shop, warehouse, paddock and pasture as well as existing quarrying activities. The proposed site is remote and approximately 5 to 6 miles from Waimea Town. The surrounding properties are largely owned by or controlled by Parker Ranch. There are no owners or residents within 500 feet of the perimeter of the boundary of the subject parcel. In addition, because of the proposed facilities remote location, access to it will be from Mamalahoa Highway and privately maintained roads. Dust and air-borne particles have and will be mitigated through the application of operating procedures and compliance with the regulations of the Department of Health. From a visual and public safety standpoint, a condition of this approval requires the applicant to restore the area to a state which would blend with surrounding topography of the area. Based upon submittal of appropriate

documentation, such as photographs, landscaping plans, and contours, the Planning Department would review and, if acceptable, approve the restoration. The property is of sufficient size to allow for adequate setbacks and buffers in minimizing any physical, social, or other impacts that this facility use may have on the area.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, police and fire protection. Water is provided by Parker Ranch for dust control. The Department of Water Supply has no objections to the request. The traffic to be generated by the expansion of the quarry would maintain its present volume, 12 full time employees based at the quarry site. All requirements of the Department of Health, Department of Public Works and Fire Department shall be continued to be complied with.

The land upon which the proposed use is sought is not suitable for the uses permitted within the district. The soils within the project area are not suitable for many types of agriculture uses. The nature of the request is to allow for an expansion of the quarry facility and extend the life of the permit.

The use will not substantially alter or change the essential character of the land and the present use. The proposed use will alter the character of the land. However, the applicant will be required to submit photographs of existing conditions and submit restoration plans, including landscaping of the land to be altered. This condition of approval will help ensure that the restoration, visual and public safety concerns will be mitigated to the best extent possible.

Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The rapid growth experienced in West Hawaii has created a demand for natural resources by the construction industry. No existing or proposed areas for agricultural activities will be curtailed or diminished as a result of the establishment of this activity on this property. As such, other undeveloped areas are still available for agricultural development and the removal of 51.653 acres of land from the agricultural inventory will not have a detrimental impact on the agricultural resources of the area or the County of Hawaii.

PLANNING COMMISSION RECOMMENDATION

At its meeting on February 4, 2000, after discussion of the Applicant's request, the Planning Commission voted to recommend approval of the request to the LUC, subject to amendments to Condition Nos. 3 and 7 as follows (deletions bracketed; additions underscored):

3. [A grading permit for the affected site shall be secured within one year from the date of approval of this permit.] Prior to [issuance of a] any grading [permit] activity, a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.

7. [The quarrying operations and its allied uses shall be terminated within ten years from the date of approval of the Special Permit or its prior abandonment, whichever occurs first.] The life of this Special Permit shall run co-terminus with the Parker Ranch lease. Any amendments to the terms of the lease with Parker Ranch shall be submitted to the Planning Director and the State Land Use Commission.

All other conditions of the special permit were to remain unchanged.



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

March 29, 2000

MEMORANDUM

TO: Land Use Commission

FROM: Staff *[Signature]*

SUBJECT: LUC Docket No. SP90-374/Richard Smart Trust, dba, Parker Ranch

If the Commission approves the request for expansion of the quarry and the amendment to Condition No. 7 (Life of the Permit), Staff recommends the adoption of the Planning Commission's recommendations to amend Condition Nos. 3 and 7 of the Findings of Fact, Conclusions of Law, and Decision and Order dated March 16, 1990, with the following proposed amendments by the LUC Staff to amend Condition Nos. 10 and 11 as follows (additions are underscored and deletions are bracketed):

1. Amendment of Condition No. 10 to require the Applicant to submit the annual monitoring report to the LUC and to clarify the submittal date and content of the report, and to read as follows:
10. An annual monitoring report shall be submitted to the Planning Director and the Commission prior to the anniversary date of the approval of the [amendment request.] issuance of the Commission's Decision and Order. The report shall include, but not be limited to, the amount of material quarried, a detailed listing of public complaints or problems[,] and their disposition[.], and the applicant's progress in complying with the conditions imposed herein.

Should a conflict arise[,] which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding properties.

2. Amendment to Condition No. 11 to require the approval of the LUC for an extension of time for the performance of conditions, and to read as follows:

11. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 8, may be granted by the Planning Director subject to the approval by the Commission upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
RICHARD SMART TRUST, dba,)
PARKER RANCH)
For a Special Permit to Continue)
and Expand An Existing Rock Quarry)
and Related Uses on Approximately)
91.827 Acres of Land Within the)
Agricultural District at Waikoloa,)
South Kohala, Hawaii, Tax Map Key)
No.: 6-7-01: portion 25)

DOCKET NO. SP90-374
RICHARD SMART TRUST, dba,
PARKER RANCH

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.

MAR 16 1990 by [Signature]
Date Executive Officer

MAR 16 5 13 PM '90
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NO 25 PM

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. SP90-374
RICHARD SMART TRUST, dba,)	RICHARD SMART TRUST, dba,
PARKER RANCH)	PARKER RANCH
For a Special Permit to Continue)	
and Expand An Existing Rock Quarry)	
and Related Uses on Approximately)	
91.827 Acres of Land Within the)	
Agricultural District at Waikoloa,)	
South Kohala, Hawaii, Tax Map Key)	
No.: 6-7-01: portion 25)	

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

Richard Smart Trust, dba, Parker Ranch (hereinafter the "Petitioner") initiated this proceeding pursuant to Section 205-6, Hawaii Revised Statutes, as amended, and Subchapter 12 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. Petitioner filed the Special Permit application with the County of Hawaii Planning Department on November 8, 1989.
2. On January 18, 1990, the County Planning Commission conducted a public hearing pursuant to a public hearing notice published on January 7, 1990, in the West Hawaii

Today. The Planning Commission did not receive any public witness testimonies.

3. On January 18, 1990, the Planning Commission recommended approval of the Special Permit subject to 11 conditions.

4. On January 29, 1990, the Commission received the record of the County's proceedings on the Special Permit from the County of Hawaii Planning Department.

BACKGROUND

5. Petitioner proposes to obtain a new special permit to continue and expand quarry site No. 4, one of five non-conforming quarry sites approved by the Commission under Special Permit 77-260/Richard Smart dba Parker Ranch on May 4, 1977.

6. Site No. 4, is a 30-acre area which was established in 1945 and operated by Shield Pacific Ltd. Approximately 50,000 cubic yards of hard rock was to have been removed annually. The operation included dynamiting, crushing, loading and limited stockpiling.

7. The Commission's approval of SP77-260 was subject to the following conditions:

- "1. That the petitioner or his authorized representative(s) shall file with the County Planning Department a map and metes and bounds description of the five (5) quarry sites within six (6) months of the effective date of the Special Permit.

"2. That the following requirements shall be applied to the specified sites:

- a. Site No. 1 (TMK: 4-7-07: Portion of 11 - identified as Exhibit BB on file with the County of Hawaii Planning Department).
 - 1) Maximum of ten (10) acres.
 - 2) Operation limited to dynamiting, portable crusher, loading and stockpiling.
 - 3) Stockpiled material shall be outside of the government right-of-way (Mamalahoa Highway).
 - 4) Any debris left on Mamalahoa Highway as a result of the quarry operation shall be cleared by the quarry operator.
- b. Site No. 2 (TMK: 5-6-01: Portion of 52 - Exhibit CC)
 - 1) Maximum of six (6) acres.
 - 2) Operation limited to dynamiting, portable crusher, loading and stockpiling.
 - 3) Stockpiled material shall be outside of the government right-of-way (Mamalahoa Highway).
 - 4) Any debris left on Mamalahoa Highway as a result of the quarry operation shall be cleared by the quarry operator.
- b. Site No. 2 (TMK: 5-6-01: Portion of 52 - Exhibit CC)
 - 1) Maximum of six (6) acres.
 - 2) Operation limited to scraping, loading and limited stockpiling.
 - 3) Operation shall be confined to the side of the existing cinder cone away from the Kawamoto dwelling.

- c. Site No. 3 (TMK: 6-7-01: Portion of 3 - Exhibit DD)
 - 1) Maximum of sixty (60) acres.
 - 2) Operation limited to scraping, loading, limited stockpiling and installation of scales.
 - 3) Any debris left on Saddle Road as a result of the quarrying operation shall be cleared by the quarry operator.
- d. Site No. 4 (TMK: 6-7-01: Portion of 25 - Exhibit DD)
 - 1) Maximum of thirty (30) acres.
 - 2) Operation limited to dynamiting, portable crusher, loading and limited stockpiling.
- e. Site No. 5 (TMK: 6-7-01: Portion of 25 - Exhibit DD)
 - 1) Maximum of five (5) acres.
 - 2) Operation limited to scraping, loading, and limited stockpiling.
- "3. That the rules and regulations of the State Department of Health shall be complied with.
- "4. That the operations, including the loading and hauling, be limited to between the hours of 7:00 a.m. and 5:00 p.m. on Mondays through Saturdays only.
- "5. That the quarrying operations and its allied uses be terminated ten (10) years after the effective date of the Special Permit or their prior abandonment, whichever occurs first.
- "6. That upon termination of the operations, the lands shall be graded to blend with the surrounding areas and revegetated. Further, the sites shall be left in a nonhazardous condition, subject to the approval of the County of Hawaii Planning Director.

"7. That all other applicable rules and regulations be complied with."

"Should any of the foregoing conditions not be met, the Special Permit may be deemed null and void."

8. The ten year time limit on Special Permit

77-260/Richard Smart dba Parker Ranch expired on May 5, 1987.

DESCRIPTION OF THE PROPERTY

9. The Petition area (hereinafter "Property") consists of approximately 91.827 acres, located at Waikoloa, South Kohala, Hawaii, and is identified as TMK: 6-7-01: portion of 25.

10. The Property is owned by Petitioner and is leased to West Hawaii Concrete.

11. Soils of the area are of the Puu Pa Series. In a representative profile, the surface layer is very dark brown extremely stony very fine sandy loam about six inches thick. The next layer is dark-brown and dark yellowish-brown very stony very fine sandy loam about 34 inches thick. It is underlain by fragmental Aa lava.

12. The mean annual soil temperature is between 69°-71° Fahrenheit.

13. Permeability is moderately rapid, runoff is medium and erosion hazard is moderate.

14. Natural vegetation consists of bermudagrass, swollen finger grass, lantana, ilima and cactus.

15. The Land Study Bureau's Overall Master Productivity system rates the area as Class E or Very Poor for agricultural productivity.

16. The land is not classified by the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) map.

17. The Property is at an elevation of approximately 2,900 feet above mean sea level.

18. The area receives approximately 20-35 inches of rainfall annually.

19. The wind comes from a northeasterly direction.

20. The U.S. Army Corps of Engineers Flood Insurance Rate Map (FIRM) designates the Property to be in Zone X (an area outside of the minimal 500-year flood plain).

21. Access is from Mamalahoa Highway via a paved 30-foot wide private easement.

22. Water is not available to the Property. However, water is hauled to a 10,000 gallon water tank on the quarry site.

23. Sewage is handled by utilizing portable toilets.

SUMMARY OF PROPOSED USE

24. Petitioner proposes to expand the existing 30-acre quarry site to include an additional 61.827 acres for a total of 91.827 acres. The site would essentially be square in shape with dimensions of 2,000 feet by 2,000 feet. The expansion would occur in a southerly direction.

25. On-site activities include excavation of quarry rock, crushing the rock, sorting sand and aggregate, scraping and loading material for removal. An estimated 12,000 cubic yards per month would be quarried.

26. The equipment on-site will include from time to time rock crushers (4 presently in operation and 3 others), bulldozers (2), loaders (4), and a trailer used as a job shack.

27. Thirteen persons are employed at the site and eight truck drivers are employed to haul material from the site.

28. According to Petitioner, the quarry is presently in operation Monday through Friday from 5:00 a.m. to 8:00 p.m. At times of strong demand, the quarry will operate on Saturdays and for longer hours on week days. Employees are regularly on the site on Saturdays for maintenance of the equipment.

29. Petitioner indicates that increased construction activity in West Hawaii has created a larger demand for quarry products. In order to accommodate that demand, it will be necessary to extend the quarry operations into the remainder of the 92-acre site leased to West Hawaii Concrete. Over the last 10 years the quarry has been in operation without a controversy or substantial complaint and Petitioner proposes that a new special permit be issued without a time limit.

STATE AND COUNTY PLANS AND PROGRAMS

30. The Property is designated within the State Land Use Agricultural District as reflected on Land Use Commission Map No. H-26, Nohonaohae.

31. The Property is zoned Agricultural - 40 acres (A-40a) by the Hawaii County Zoning Code.

32. The Property is not within the Special Management Area (SMA) of the County of Hawaii.

SUMMARY OF STATE AND COUNTY AGENCY COMMENTS

33. The State Department of Health indicates that it found no environmental health concerns with regulatory implications of the Permit.

34. The State Departments of Agriculture and Transportation did not have any comments or objections on the Permit.

35. The County Departments of Water Supply, Real Property Tax Office, Public Works, Police and the Hawaii Electric Light Company did not have any comments or objections on the request.

CONFORMANCE WITH SPECIAL PERMIT TESTS

36. The County Planning Department provided, in part, the following:

"The proposed use will not be contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations. The intent of the Land Use Law and Regulations is to preserve, protect, and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. The subject

property is situated within the County's Agricultural-40 acre (A-40a) zoned district and the State Land Use Agricultural District.

"The Agricultural District not only includes lands with a high capacity or potential for agricultural uses, but also includes lands which are surrounded by or contiguous to agricultural lands that are not suited for agricultural or ancillary activities by reasons of topography, soils, and other related characteristics. The affected area is rated "E" or very poor for agricultural productivity by the Land Study Bureau's Overall Productivity rating system. The project site is unclassified by the State's Agricultural Lands of Importance to the State of Hawaii (ALISH) system map. Aside from grazing activities in the area, no other agricultural resources would be affected. Surrounding pasturage will be minimally affected by the expansion of an existing quarry site. Therefore, it is determined that the subject request would not be detrimental to the agricultural resources of the county or state. It should be noted that the Department of Agriculture had no objections to the application.

"The continued operations and expansion of a quarry site will not adversely affect the surrounding properties. The requested use is such a significant distance from any established businesses or residences it can be concluded that the site will not affect surrounding properties. The closest business affected by the request is another quarry along the

same private roadway easement about one mile makai of the project site. While the quarry site was in operation over the past 45 years, no complaints were received by either the Department of Health or the Planning Department. Dust and air-borne particulates have and will be mitigated through the application of existing quarry operating procedures and compliance with the regulations of the Department of Health. From a visual and public safety standpoint, a condition of this approval requires the applicant to restore the area to a state which would blend with surrounding topography of the area. Based upon submittal of appropriate documentation, such as pictures, landscaping plans, and contours, the Planning Department would review and, if acceptable, approve the restoration.

"The proposed use will not unreasonably burden public agencies to provide additional facilities and services. Water is hauled to the project site and stored in a tank. The Department of Water Supply had no objections to the request. Traffic generated by the proposed expansion would maintain its present volume. The existing quarry site has not generated concerns for additional services as reflected in the affected agencies' response. The area is not affected by drainageways or flood plains as designated on the Flood Insurance Rate Map (FIRM), which is administered by the Department of Public Works.

"Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were

established. The rapid growth experienced especially in West Hawaii has created a demand for natural resources by the construction industry. To meet this demand, the applicant is seeking to expand his existing operations to include a total of 91± acres of land.

"The proposed use will alter the character of the land. However, it is felt that with the review and approval of restoration efforts by the Planning Department, visual and public safety concerns can be mitigated to the best extent practicable.

"The subject request is not contrary to the General Plan LUPAG Map, which designates the property for Extensive Agricultural uses. It would also support the following goal and policy in the Natural Resources Element of the General Plan which says "Ensure that alterations to existing land forms and vegetation, except crops, and construction of structures cause minimum adverse effect to water resources, and scenic and recreational amenities and minimum danger of floods, landslides, erosion, siltation, or failure in the event of earthquake" and "The County of Hawaii should require users of natural resources to conduct their activities in a manner that avoids or minimizes adverse effects on the environment."

"Based on the foregoing, it is determined that the proposed quarrying activity within a 91±-acre area is an unusual and reasonable use of the land within the State Land

Use Agricultural District and that approval of the subject request would promote the effectiveness and objectives of Chapter 205, HRS, as amended."

RECOMMENDATIONS OF THE PLANNING COMMISSION

37. On January 18, 1990, the Hawaii Planning Commission recommended approval of the subject special permit to allow the continued operation and expansion of a quarry and related uses on approximately 91.827 acres of land subject to the following conditions:

1. The applicant, successors, or assigns shall comply with all of the stated conditions of approval.
2. A map and metes and bounds description of the quarry site shall be filed with the Planning Department within one year from the effective date of this permit.
3. A grading permit for the affected site shall be secured within one year from the date of approval of this permit. Prior to issuance of a grading permit a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.
4. The quarry operation shall be limited to dynamiting, portable crusher, loading, and limited stockpiling.
5. The quarrying activity, including the loading and hauling, shall be limited to between the hours of 5:00 a.m. and 8:00 p.m. on Mondays through Saturdays only.
6. An archaeological reconnaissance survey shall be conducted of the affected area and a report submitted to the Planning Department for review and approval, in consultation with the Department of Land and Natural Resources - Historic Sites Section, prior to obtaining a grading permit and/or land alterations. Further, approved

mitigative measures shall be implemented, as applicable, prior to any land alterations.

7. The quarrying operations and its allied uses shall be terminated within ten years from the date of approval of the Special Permit or its prior abandonment, whichever occurs first.
8. Upon termination of the operations or abandonment of any portion of the affected site, the land shall be graded to blend with the surrounding areas and revegetated. Further, the site shall be left in a nonhazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Planning Director for review and approval within ninety (90) days from the termination or abandonment date.
9. That all other applicable laws, requirements, rules, and regulations be complied with.
10. An annual monitoring report shall be submitted to the Planning Director prior to the anniversary date of the approval of the amendment request. The report shall include, but not be limited to, the amount of material quarried, a detailed listing of public complaints or problems, and their disposition.

Should a conflict arise, which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding properties.

11. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 8, may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted

shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

CONCLUSIONS OF LAW

The Special Permit request to allow the continued operation and expansion of an existing quarry and related uses is an "unusual and reasonable" use as defined in Section 205-6, Hawaii Revised Statutes, and the proposed use, subject to conditions in the Order, 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. 90-374/Richard Smart Trust dba Parker Ranch to allow the continued operation and expansion of an existing quarry and related uses, on approximately 91.827 acres of land, designated within the State Land Use Agricultural District, Hawaii Tax Map Key No.: 6-7-01: portion of parcel 25, and approximately identified on Exhibit "A" attached hereto and incorporated by reference herein, is hereby approved, subject to the following conditions:

1. The applicant, successors, or assigns shall comply with all of the stated conditions of approval.

2. A map and metes and bounds description of the quarry site shall be filed with the Planning Department within one year from the effective date of this permit.

3. A grading permit for the affected site shall be secured within one year from the date of approval of this permit. Prior to issuance of a grading permit a visual impact analysis of the affected site from Mamalahoa Highway shall be conducted and landscaping required, if appropriate.]

4. The quarry operation shall be limited to dynamiting, portable crusher, loading, and limited stockpiling.

5. The quarrying activity, including the loading and hauling, shall be limited to between the hours of 5:00 a.m. and 8:00 p.m. on Mondays through Saturdays only.

6. An archaeological reconnaissance survey shall be conducted of the affected area and a report submitted to the Planning Department for review and approval, in consultation with the Department of Land and Natural Resources - Historic Sites Section, prior to obtaining a grading permit and/or land alterations. Further, approved mitigative measures shall be implemented, as applicable, prior to any land alterations.

7. The quarrying operations and its allied uses shall be terminated within ten years from the date of approval of the Special Permit or its prior abandonment, whichever occurs first.

8. Upon termination of the operations or abandonment of any portion of the affected site, the land shall be graded to blend with the surrounding areas and revegetated. Further, the site shall be left in a nonhazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Planning Director for review and approval within ninety (90) days from the termination or abandonment date.

9. That all other applicable laws, requirements, rules, and regulations be complied with.

10. An annual monitoring report shall be submitted to the Planning Director prior to the anniversary date of the approval of the amendment request. The report shall include, but not be limited to, the amount of material quarried, a detailed listing of public complaints or problems, and their disposition.

Should a conflict arise, which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the Planning Commission that the introduced use will have an adverse impact on surrounding properties.

11. An extension of time for the performance of conditions within the permit, with the exception of Condition No. 8, may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that

are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

DOCKET NO. SP90-374 - RICHARD SMART TRUST dba PARKER RANCH

Done at Honolulu, Hawaii, this 16th day of March 1990,
per motions on February 22, 1990 and March 14, 1990.

LAND USE COMMISSION
STATE OF HAWAII

By (absent)
RENTON L. K. NIP
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By (absent)
LAWRENCE F. CHUN
Commissioner

By (absent)
SHARON R. HIMENO
Commissioner

By (absent)
ALLEN K. HOE
Commissioner

By *Allen Y. Kajioka*
ALLEN Y. KAJIOKA
Commissioner

By *Eusebio Lapenia, Jr.*
EUSEBIO LAPENIA, JR.
Commissioner

By *James M. Shinno*
JAMES M. SHINNO
Commissioner

By *Elton Wada*
ELTON WADA
Commissioner

Filed and effective on
March 16, 1990

Certified by:

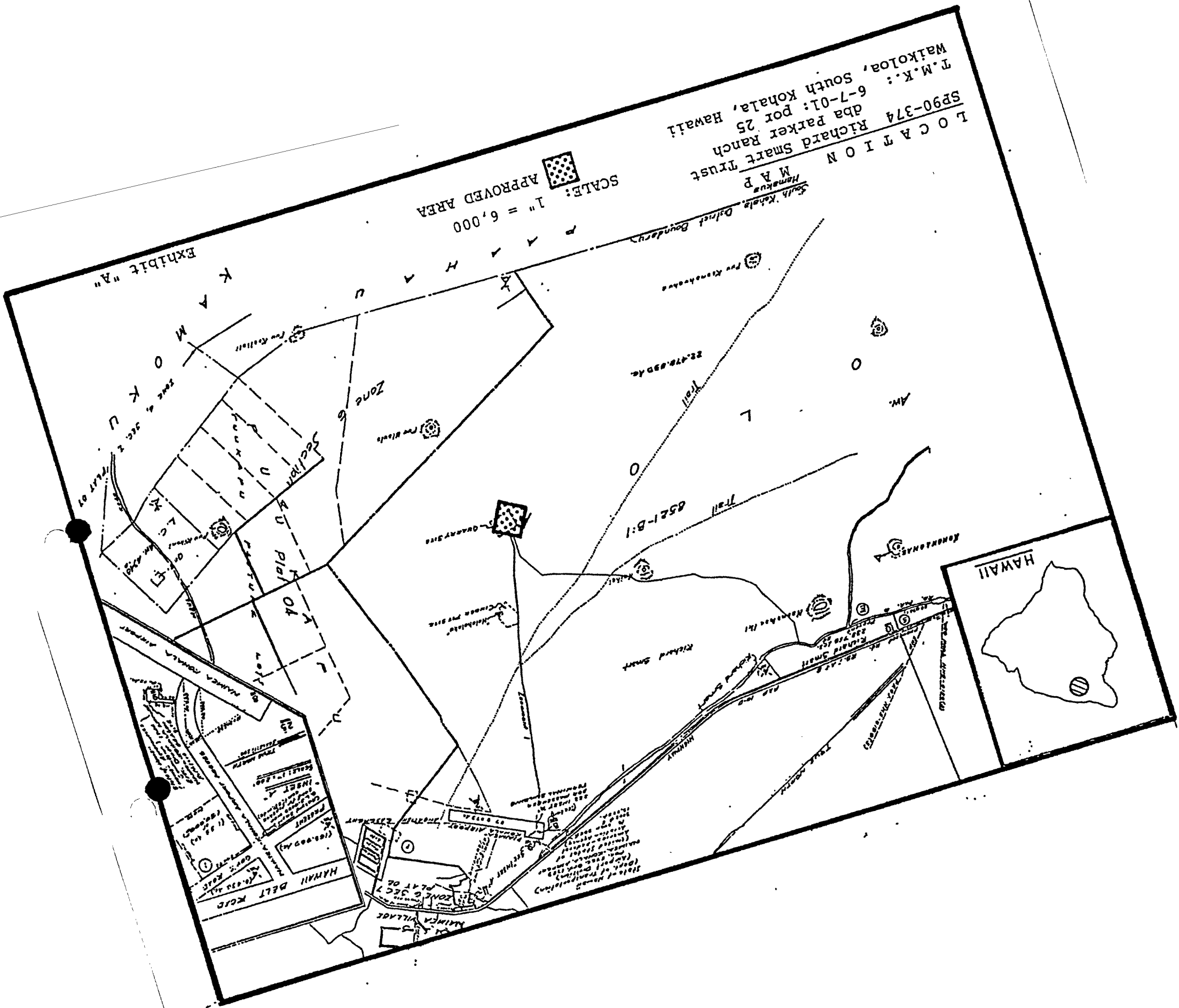
Elton Wada
Executive Officer

LOCATIONS
 M A P
 South Kohala Hamakua
 Richard Smart Trust
 dba Parker Ranch
 6-7-01: por 25
 T.M.K.:
 Waikoloa, South Kohala, Hawaii

SCALE: 1" = 6,000
 APPROVED AREA

Exhibit "A"

HAWAII



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. SP90-374
)
RICHARD SMART TRUST, dba,) RICHARD SMART TRUST, dba,
PARKER RANCH) PARKER RANCH
)
For a Special Permit to Continue)
and Expand An Existing Rock Quarry)
and Related Uses on Approximately)
91.827 Acres of Land Within the)
Agricultural District at Waikoloa,)
South Kohala, Hawaii, Tax Map Key)
No.: 6-7-01: portion 25)
_____)

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. DUANE KANUHA, Planning Director
Planning Department, County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT ROBERT W. CARLSMITH, ESQ., Attorney for Petitioner
Carlsmith, Wichman, Case, Mukai & Ichiki
P. O. Box 1720
Kailua-Kona, Hawaii 96754-1720

DATED: Honolulu, Hawaii, this 16th day of March 1990.



ESTHER UEDA
Executive Officer

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BENJAMIN J. CAYETANO
GOVERNOR



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

April 20, 2000

Ms. Virginia Goldstein
Director
Hawaii County Planning Department
25 Aupuni Street, Room 109
Hilo, Hawaii 96720

Dear Ms Goldstein

We are enclosing a copy of the transcript for the following Land Use Commission meeting: April 6, 2000

Please be advised that this copy is being provided with the understanding that it will be made available for use by the public

Sincerely,

A handwritten signature in cursive script, appearing to read "Esther Ueda".

Esther Ueda
Executive Officer

Enclosure

EU jt

004020

EXHIBIT 8

STATE OF HAWAI'I
LAND USE COMMISSION

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ACTION

SP90-374 RICHARD SMART TRUST)
dba PARKER RANCH (Hawaii))
)
)
)

Taken on April 6, 2000 at Hearing Room 204, Leiopapa A
Kamehameha, 235 South Beretania Street, Honolulu,
Hawaii'i, commencing at 9:30 a.m.

LAND USE COMMISSION
STATE OF HAWAII
2000 APR 18 A 10:53

REPORTED BY: HOLLY M. HACKETT, RPR, CSR #130
Notary Public, State of Hawaii

1 APPEARANCES:

2

CHAIRPERSON:

MERLE KELAI

3

4 COMMISSIONERS:

5

P. ROY CATALANI

BRUCE A. COPPA

PRAVIN DESAI

6

ISAAC FIESTA, JR.

LAWRENCE N.C. ING

7

STANLEY ROHRIG

PETER YUKIMURA

8

EXECUTIVE OFFICER:

ESTHER UEDA

9

CHIEF CLERK:

TERI HEE

STAFF PLANNERS:

BERT SARUWATARI

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Case No. SP90-374

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For the Petitioner:

GREGORY R. MOOERS, President

Mooers Enterprises

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MEL MACY

West Hawai'i Concrete

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For the State of Hawaii:

ABE MITSUDA, Office of Planning

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1 CHAIRPERSON KELAI: Good morning, gentlemen. This is
2 an action meeting on Docket No. SP90-374 Richard Smart Trust dba
3 Parker Ranch to consider requests for a time extension and
4 expansion of an existing quarry to approximately 144 acres of
5 land situated within the Agricultural District at Waikoloa,
6 South Kohala, Hawai'i.

7 On April 5, 2000 the Commission received a fax letter
8 from Virginia Goldstein informing the Commission that the County
9 of Hawai'i Planning Department will not be attending today's
10 meeting and have no objections to the Petitioner's motion.

11 I will have the parties introduce themselves and
12 state their interests in this matter. The Commission staff will
13 give an orientation of the special permit area and a summary of
14 the special permit.

15 I'll take the testimony of public witnesses, if any.
16 I'll have the parties present their position in this matter. Be
17 very brief unless you have something new to add. We're all
18 familiar with the docket.

19 I'll ask the Commissioners if they have any questions
20 of the parties, and then I'll ask for a motion. Go ahead.

21 MR. MOOERS: My name is Greg Mooers. I'm an agent
22 for West Hawai'i Concrete who operates the quarry for the Parker
23 Ranch.

24 CHAIRPERSON KELAI: Thank you.

25 MR. MACY: My name is Mel Macy. I'm a co-owner of

1 West Hawai'i Concrete.

2 CHAIRPERSON KELAI: Thank you.

3 MR. MITSUDA: Abe Mitsuda from the Office of
4 Planning.

5 CHAIRPERSON KELAI: Thank you, too. Staff.

6 MR. SARUWATARI: Staff has prepared two maps on the
7 wall which depict the original permit area and expansion area.
8 Map No. 1 is a GIS composite of the Commission's official maps,
9 H-25 and H-26. Scale a always is 1 inch equal to 2,000 feet.

10 Map 2 is tax map 6-7-01 and scale on this map is 1
11 inch equal to 3,000 feet. Both maps are oriented so north is
12 straight up.

13 The Urban District is represented in red.
14 Conservation District is represented in green and the
15 Agricultural District is represented in white or uncolored. The
16 Rural Districts are represented in brown.

17 The original 30-acre quarry site approved in 1977 and
18 the 91-acre quarry approved under the subject special permit are
19 shown with yellow hatch marks. And the 51-acre expansion area
20 is represented in solid yellow. It's an L shape.

21 The quarry is located in the Agricultural District.
22 The closest urban areas are represented Waimea about 4 miles to
23 the northwest. There have been no LUC dockets in the area other
24 than for other quarry and related uses.

25 The staff report gives you a background of the

1 special permit and the current requests. The agency comments
2 are included on page 3. And the applicant's compliance with the
3 conditions is noted on page 4. The basis for the Planning
4 Department's recommendation is included verbatim on pages 4
5 through 8, with its recommendation to amend condition numbers 3
6 and 7 on page 9. Are there any questions?

7 CHAIRPERSON KELAI: Commissioners, any questions?
8 Any public witnesses? Public witness? Yes.

9 MR. MITSUDA: I guess we're classified as a public
10 witness today. We notice that the Department of Agriculture and
11 the DLNR Historic Preservation Division did not comment to the
12 LUC staff. We checked with them in terms of how they felt about
13 this special permit.

14 We have no objections -- they have no objections to
15 the expansion and extension of time just as long as a condition
16 No. 6 is followed which is reconnaissance of the new area and
17 mitigation if necessary. The county agrees. The Petitioner
18 also agrees with that.

19 CHAIRPERSON KELAI: Okay. All right.

20 MR. MITSUDA: Department of Ag had no objections.

21 CHAIRPERSON KELAI: Thank you. All right. Present
22 your position, please.

23 MR. MOOERS: The applicant has received the Ag report
24 recommendation and is current with all of these. We have
25 discussed with Mr. Mitsuda the issue of archaeological

1 reconnaissance. And if the permit is granted we will comply
2 with that condition, condition 6.

3 CHAIRPERSON KELAI: Thank you.

4 MR. MACY: I have no comments.

5 CHAIRPERSON KELAI: Comment, Abe?

6 MR. MITSUDA: No comments.

7 CHAIRPERSON KELAI: No comments. Commissioners, any
8 questions? Commissioner Coppa.

9 COMMISSIONER COPPA: The recommendation then, Abe, is
10 that from our -- is this from our staff on the condition No. 3
11 and 7? To amend the condition No. 10 to require the applicant
12 to submit annual monitoring report. Has that not been
13 happening?

14 MR. MOOERS: The annual report has been filed
15 annually. I think the amendment requires that it be filed with
16 this Commission in addition to the Planning Department.
17 Presently it goes to the Planning Department. So no problem at
18 all.

19 COMMISSIONER COPPA: You're okay with these
20 conditions?

21 MR. MOOERS: Absolutely.

22 COMMISSIONER COPPA: Nobody said anything so...

23 CHAIRPERSON KELAI: Commissioners, any more
24 questions?

25 COMMISSIONER CATALANI: I don't know if this is for

1 Petitioner and OSP. In that special use permits practice
2 generally is it common to have the term of a permit be
3 co-terminus with a private lease? In other words have the term
4 of the lease basically be determined by two private parties
5 rather than by a state agency? Actually the term of the special
6 use permit.

7 MR. MITSUDA: I wish I had my attorney here.

8 CHAIRPERSON KELAI: Go ahead. Answer, Abe, to the
9 best of your ability.

10 MR. MITSUDA: I'd rather talk to Ann.

11 MR. MOOERS: I think this is an issue that I know the
12 Planning Commission they raise on sites that are less than
13 15 acres that don't come to the Land Use Commission. They felt
14 that since the quarries, they tend to have extremely long life.
15 They thought it was more practical to have them run co-terminus
16 with the lease.

17 Given the conditions there are several safeguards, if
18 issues change, if there are complaints, if there's problems with
19 the public that shows up in the annual report they felt they
20 could regulate, terminate the permit if conditions changed.

21 So I think for the Planning Commission they have
22 changed their philosophy from going from 10 year terms to
23 co-terminus with the life of the lease.

24 COMMISSIONER CATALANI: I see. As far as you know
25 that's specific to quarry operations?

1 MR. MOOERS: That's my belief, yes.

2 CHAIRPERSON KELAI: Okay. Esther.

3 MS. UEDA: Just for the Commission's information the
4 staff can recall there was one incident before, previously where
5 we did run the term of the special permit co-terminus with the
6 lease terms, the term of the lease. So there has been a
7 previous situation when we did that.

8 COMMISSIONER CATALANI: Do you recall the facts?

9 MS. UEDA: I recall, I sort of recall that what
10 happened was it was a situation where the applicant was asking
11 for a set number of years, similar to this case, and we noted
12 that the term of the lease ran a shorter term. So the term of
13 the special permit was shortened to the term of the lease.

14 CHAIRPERSON KELAI: Any more questions,
15 Commissioners? May I have a motion please.

16 COMMISSIONER FIESTA: I make a motion to approve
17 Docket No. SP90-374 Richard Smart Trust dba Parker Ranch,
18 Hawai'i.

19 CHAIRPERSON KELAI: Second?

20 COMMISSIONER ROEHRIG: Second.

21 CHAIRPERSON KELAI: With the staff recommendation.

22 COMMISSIONER FIESTA: With the staff recommendation.

23 CHAIRPERSON KELAI: Second?

24 COMMISSIONER ROEHRIG: Second.

25 CHAIRPERSON KELAI: Objections? Esther.

1 MS. UEDA: Commissioner Fiesta?

2 COMMISSIONER FIESTA: Aye.

3 MS. UEDA: Commissioner Ing?

4 COMMISSIONER ING: Aye.

5 MS. UEDA: Commissioner Coppa?

6 COMMISSIONER COPPA: Aye.

7 MS. UEDA: Commissioner Yukimura?

8 COMMISSIONER YUKIMURA: Aye.

9 MS. UEDA: Commissioner Catalani?

10 COMMISSIONER CATALANI: Aye.

11 MS. UEDA: Commissioner Roehrig?

12 COMMISSIONER ROEHRIG: Aye.

13 MS. UEDA: Commissioner Desai?

14 COMMISSIONER DESAI: Yes.

15 MS. UEDA: Chair Kelai?

16 CHAIRPERSON KELAI: Yes.

17 MS. UEDA: We have eight votes in support of the
18 motion.

19 CHAIRPERSON KELAI: Thank you, very much. Thank you
20 for coming.

21 (Proceedings concluded at 9:40 a.m.)

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C E R T I F I C A T E

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3 I, HOLLY HACKETT, R.P.R., C.S.R. in and for the State of
4 Hawai'i, do hereby certify;

5 That I was acting as shorthand reporter in the foregoing
6 matter on the 6th day of April 2000.

7 That the proceedings were taken down in computerized
8 machine shorthand by me and were thereafter reduced to print
9 under my supervision; that the foregoing represents,
10 to the best of my ability, a correct transcript of the
11 proceedings had in the foregoing matter.

12 I further certify that I am not counsel for any of the
13 parties hereto, nor in any way interested in the outcome of the
14 cause named in the caption.

15 DATED: April 9, 2000

16 Holly M. Hackett

17 HOLLY M. HACKETT, R.P.R., C.S.R. #130
Certified Shorthand Reporter

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APR 28 2000

*Jan,
I gave copy to
Virginia = Alice*



ESTHER UEDA
EXECUTIVE OFFICER

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
LAND USE COMMISSION

P.O. Box 2359
Honolulu, HI 96804-2359
Telephone: 808-587-3822
Fax: 808-587-3827

April 28, 2000

APR 28 11 3 14

Ms. Virginia Goldstein
Planning Director
County of Hawaii
25 Aupuni Street, Room 109
Hilo, Hawaii 96721-4252

Dear Ms. Goldstein:

Subject: LUC Docket No. SP90-374/Richard Smart Trust, dba,
Parker Ranch

We are writing in regard to the Land Use Commission's (LUC) recent action on West Hawaii Concrete's (WHC) request to expand the existing quarry and to extend the life of the special permit in the subject docket.

As part of its action, the LUC approved an amended Condition No. 7 which requires that any amendments to the terms of the lease between WHC and Parker Ranch be submitted to the County of Hawaii Planning Director and the LUC. The LUC approved the amended Condition No. 7 based on the understanding that the life of the special permit would run co-terminous with the current lease, which expires on September 30, 2017, and that any extension to the life of the permit beyond the term of the current lease would require the approval of both the Planning Director and the LUC. However, questions were raised regarding the County's interpretation of this condition.

We would appreciate written clarification as to whether it is also your understanding that the permit timeframe is based on the existing lease terms and that such extension to the life of the permit would require the approval of the Planning Director and the LUC.

For your information, we have also requested WHC to provide written clarification on this matter. Please provide the requested information to our office by May 3, 2000.

Thank you for your cooperation in this matter.

EXHIBIT 9

003973

Ms. Virginia Goldstein
April 28, 2000
Page 2

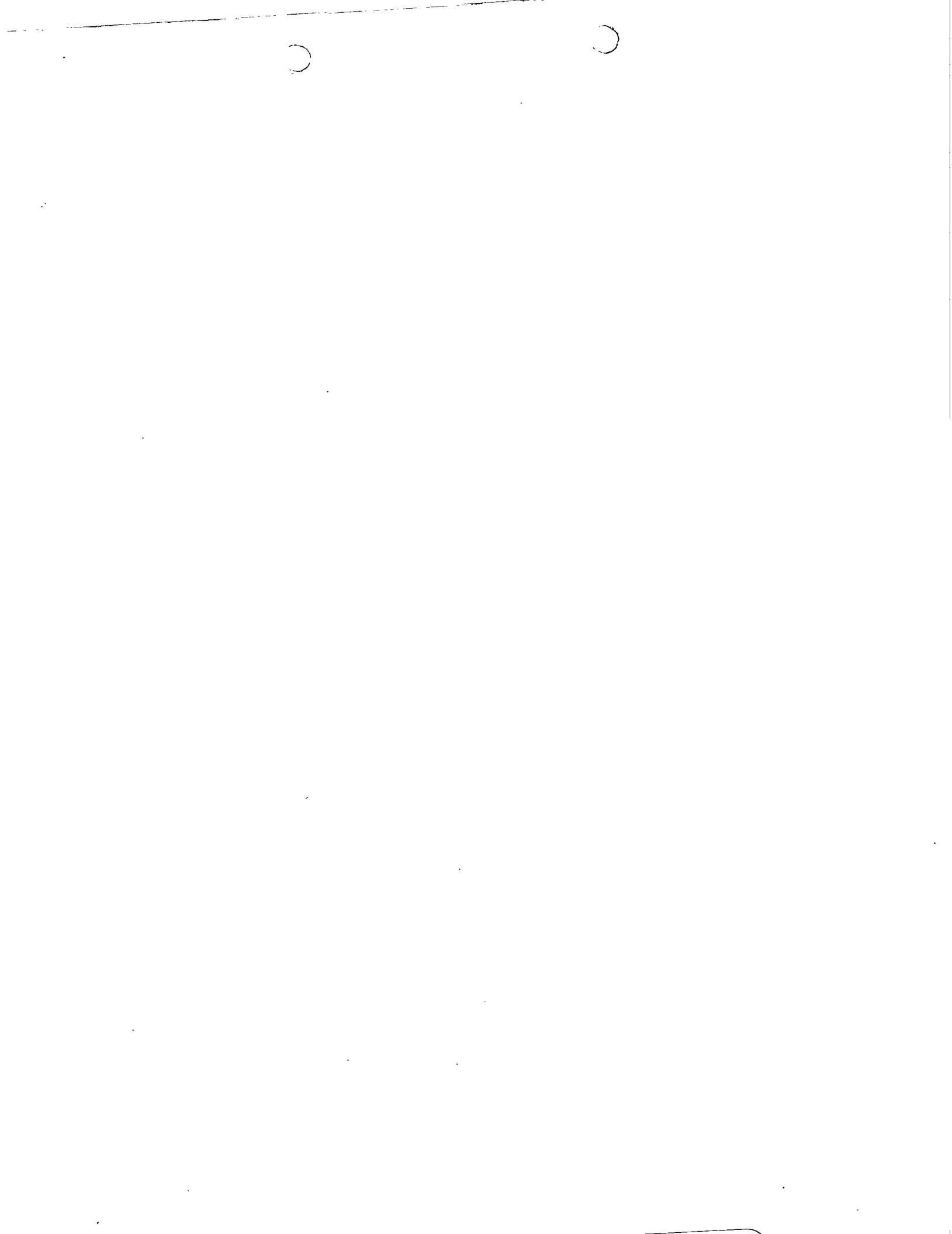
Should you have any questions, please feel free to call me
or Bert Saruwatari of our office at 587-3822.

Sincerely,



ESTHER UEDA
Executive Officer

EU:th



Ms. Esther Ueda, Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
Page 2
May 3, 2000

amendments provided quarrying occurs within the metes and bounds of the approved quarry area.

Should you have any questions, please feel free to contact me or staff Alice Kawaha at 961-8288.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

AK:pak
p:\wpwin60\alicewin\LLUCPP72403agk

xc: Mr. Gregory R. Mooers

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THE ORIGINAL OF THIS DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII
BUREAU OF CONVEYANCE
DOCUMENT Doc A-64090829
DATE July 19, 2017 3:29 PM

LAND COURT

REGULAR SYSTEM

Return By Mail Pick-Up To:

CARLSMITH BALL LLP
121 Waianuenue Avenue
Hilo, Hawaii 96720

Attention: Steven S.C. Lim
Telephone: (808) 935-6644

(This document consists of 7 pages.)

TITLE OF DOCUMENT:

AFFIDAVIT OF MILES S. HORIE

TAX MAP KEYS: (3) 6-7-001:portion of 025 and 034

4835-0771-4891/ 07-13-17

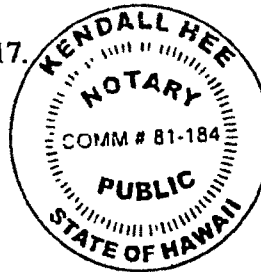
EXHIBIT 12

Subscribed and sworn (or affirmed) before me this 14th day of July, 2017.

[Signature]

Name: KENDALL HEE
Notary Public, State of Hawaii

My commission expires: 3-11-21



<u>NOTARY CERTIFICATION STATEMENT</u>	
Document Identification or Description: <u>Affidavit of Miles S. Horie</u>	
Document Date: <u>UNDATED</u>	
No. of Pages: <u>7</u>	
Jurisdiction (in which notarial act is performed): <u>First Circuit</u>	
<u>[Signature]</u>	<u>7-14-17</u>
Signature of Notary	Date of Notarization and Certification Statement
<u>KENDALL HEE</u>	
Printed Name of Notary	



(Notary Stamp or Seal)

Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokaloie Hwy
Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
Fax (808) 327-3563

County of Hawai'i
PLANNING DEPARTMENT

East Hawai'i Office
101 Pauahi Street, Suite 3
Hilo, Hawai'i 96720
Phone (808) 961-8288
Fax (808) 961-8742

June 16, 2017

Steven S.C. Lim, Esq.
Carlsmith Ball LLP
A Limited Liability Law Partnership
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

FINAL SUBDIVISION APPROVAL NO. SUB-17-001692
SUBDIVIDER: PR MAUNA KEA, LLC
Proposed Consolidation Lot 26 & Remainder Lot,
And Resubdivision into Lot 26-A & Remainder Lot A,
Pu'ukapu & Waikoloa, Waimea, South Kohala, Island of Hawai'i, Hawai'i
TMK: 6-7-001:025 & 034

This is to acknowledge receipt of an Affidavit of Posting, Real Property Tax Clearances, and Surveyor's Certification for the above referenced application.

Please be informed that final subdivision approval for recordation is hereby granted to the final plat map dated January 10, 2017, as attached herewith inasmuch as all requirements of the Subdivision Code, Chapter 23, have been met.

You and the subdivider may wish to consult an attorney for the preparation of the necessary legal documents and description of the certified final plat map for the purpose of recordation with the State of Hawai'i, Bureau of Conveyances.

Copies of the certified final plat map are enclosed.

Sincerely,

Handwritten signature of Michael Yee in black ink.

MICHAEL YEE
Planning Director

JRH:lnm

\\COH33\planning\public\Admin Permits Division\Subdivision\2017\2017-2\SUB-17-001692PRMaunaKeaFSA 06-16-17.doc

Encs.: 3 Certified FPM

www.co.hi.planningdept.com

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planning@hawaiicounty.gov

EXHIBIT A

Steven S.C. Lim, Esq.
Carlsmith Ball LLP
A Limited Liability Law Partnership
Page 2
June 16, 2017

xc: **Manager, DWS w/Certified FPM & application**
 Director, DPW w/Certified FPM & application
 District Environmental Health Program Chief, DOH w/Certified FPM & application
 Planning Department-Kona w/Certified FPM & application
 Real Property Tax Division-Kona w/Certified FPM
 Tax Maps and Records Supervisor w/Certified FPM
 PR Mauna Kea, LLC
 Blaine W. Ito, LPLS, Engineers Surveyors Hawai'i, Inc.
 Miles S. Horie, LPLS, Engineers Surveyors Hawai'i, Inc.

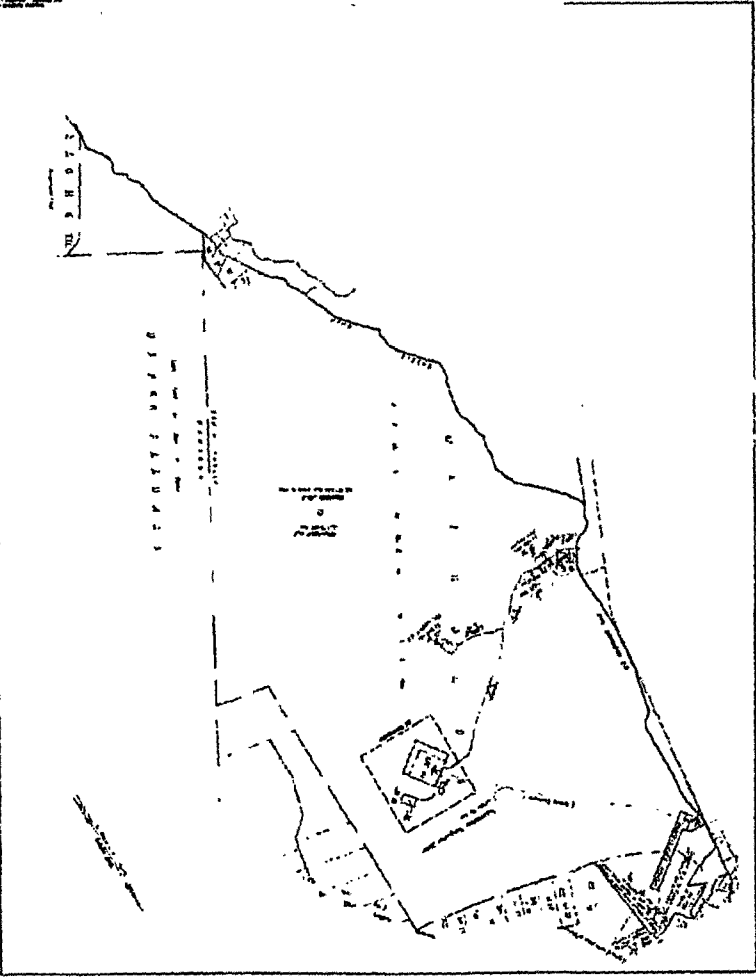
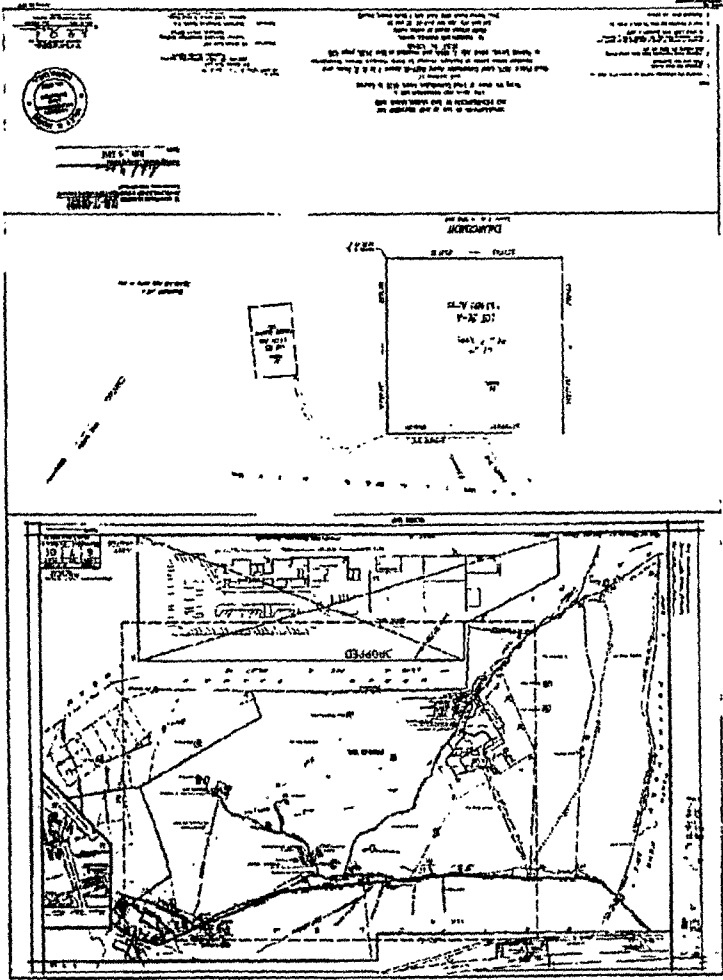


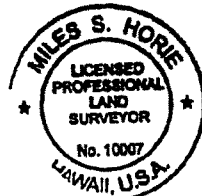
EXHIBIT B

**LOT 26-A
BEING A PORTION OF ROYAL PATENT 5671,
LAND COMMISSION AWARD 8521-B, APANA 1 TO G. D. HUEU;
SITUATE AT WAIKOLOA, WAIIMEA, SOUTH KOHALA, ISLAND OF HAWAII, HAWAII**

Beginning at a 1/2" pipe, at the East corner of this parcel of land, the coordinates of which referred to Government Survey Triangulation Station "WAIIMEA WEST BASE" being 18909.79 feet South and 9675.13 feet East and running by azimuths measured clockwise from true South:

1. 53° 27' 45" 2500.00 feet along remainder of Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu, to a 1/2" pipe;
2. 143° 27' 45" 2500.00 feet along remainder of Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu, to a 1/2" pipe;
3. 233° 27' 45" 2500.00 feet along remainder of Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu, to a 1/2" pipe;
4. 323° 27' 45" 2500.00 feet along remainder of Royal Patent 5671, Land Commission Award 8521-B, Apana 1 to G. D. Hueu; to the point of beginning and containing and area of 143.480 Acres.

Together with, Easements A-3 to A-9, inclusive, for Access and Utility purposes.



1320 N School Street
Honolulu, Hawaii 96817
July 12, 2017
Tax Map Key: (3) 6-7-01: 34
Job No. 15-12.2

Description Prepared By:
ENGINEERS SURVEYORS HAWAII, INC.

Miles S. Horie

Miles S. Horie exp. 4/30/18
Licensed Professional Land Surveyor
Certificate Number 10007

EXHIBIT C





File B 14-26 T Permit

MOOERS ENTERPRISES, LLC
P.O. Box 1101
KAMUELA, HAWAII 96743

April 27, 2000

COPY

Ms. Virginia Goldstein
Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Re: Special Permit No. 724
Applicant: WHC, Ltd, dba West Hawaii Concrete
Tax Map Key: 6-7-001: portion of 25

Dear Ms. Goldstein:

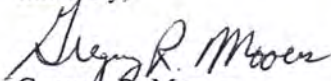
February 4, 2000, the Planning Commission voted to send a favorable recommendation to the Land Use Commission for the Special Permit identified above. At its April 6, 2000 meeting the Land Use Commission voted unanimously to approve the extension of this permit.

Condition of approval No. 3 requires that a visual impact analysis of the affected site from Mamalahoa Highway be conducted prior to any land altering activity. Please find enclosed a series of photographs taken by Mr. Mel Macy of West Hawaii Concrete on April 3, 2000, of the affected site from Mamalahoa Highway. Please note that the quarrying operation is not visible from the Highway.

Condition of approval No. 6 requires that an archaeological reconnaissance survey of the affected site be conducted prior to any altering activity. Rechtman Consulting was contracted to do the survey and it was conducted on April 13, 2000. As with the previous survey, no archaeological features were discovered. Please find enclosed a copy of Dr. Rechtman's report. Should you or your staff have any questions regarding this work, please contact Dr. Rechtman directly.

I believe that we have now complied with all conditions of approval required in order for the applicant to begin land altering activities at the expanded quarry site. Please confirm this understanding by letter so that the applicant can begin to use this expanded quarry area. Should you or your staff require any additional information, please contact me directly. Thank you for your prompt review of this request.

Sincerely,


Gregory R. Mooers
President

GRM:jy
enclosure

PHONE: (808) 885-6839
FAX: (808) 885-1574
EMAIL: GMOOERS@IBM.NET
EXHIBIT 13

RECHTMAN CONSULTING

HC 1 Box 4149 • Kea'au, Hawai'i 96749
phone: (808) 966-7636 • (808) 966-6235
toll free fax: (800) 406-2665 • e-mail: brechtman@aol.com

April 14, 2000

RC-0012

Mr. Mel Macy
West Hawaii Concrete
P.O. Box 1390
Kailua-Kona, HI 96745

Dear Mr. Macy:

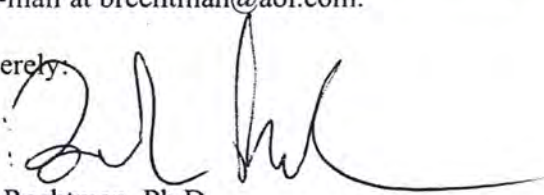
At your request Rechtman Consulting performed an archaeological survey of the proposed expansion area for West Hawaii Concrete's main quarry location in Waikoloa Ahupua'a, South Kohala District, Island of Hawai'i (*Figure 1*). The main 90-acre quarry location was subject to an archaeological survey in 1990 (Barrera 1990). The current proposed expansion is for 500 feet in both westerly and southerly directions, thus the current study area is L-shaped with an area of roughly 52 acres. This roughly 52-acre area ranges in elevation from about 3040 feet (927 meters) to 3120 feet (951 meters) within TMK:3-6-7-01:25 (por.), on land leased from the Richard Smart Trust (*Figure 2*). The project site is characterized by Puu Pa extremely stony very fine sandy loam [PVD] (Sato et al. 1973) and is currently used as cattle pasturage. Vegetation cover is sparse and dominated by grasses with excellent ground visibility.

During the previous archaeological survey (Barrera 1990) no sites were discovered. Barrera aptly described the area as a barren zone not likely to contain significant archaeological sites. However, the possibility exists that both prehistoric and historic trails may have traversed the area. To explore this possibility maps were examined and an on-foot reconnaissance was conducted of the entire proposed expansion area.

On April 13, 2000, Robert B. Rechtman, Ph.D. with the assistance of Matthew Clark, B.A. performed a field survey of the project area. Transects were walked with a spacing interval of 30 meters. The terrain within the study area was open and rolling. No archaeological resources were observed within the project area. It is therefore concluded that the expansion of the quarry as described will not adversely affect any historic properties.

Thank you for the opportunity to provide you with these services. Should you have any questions, or would like further information please feel free to contact me at (808) 966-7636, or by e-mail at brechtman@aol.com.

Sincerely,



Bob Rechtman, Ph.D.

Attachments (2): *Figure 1, Figure 2*
Enclosure: *Invoice*

References Cited

Barrera, W.

1990 Archaeological Survey of Quarry Site Leased to WHC Ltd. At Waikoloa, South Kohala, Hawaii. Chiniago Inc. Letter Report on file DLNR-SHPD, Kapolei.

Sato, H., W. Ikeda, R. Paeth, R. Smythe, and M. Takehiro, Jr.

1973 *Soil Survey of the Island of Hawai'i, State of Hawai'i*. USDA, Soil Conservation Service, Government Printing Office, Washington, D.C.

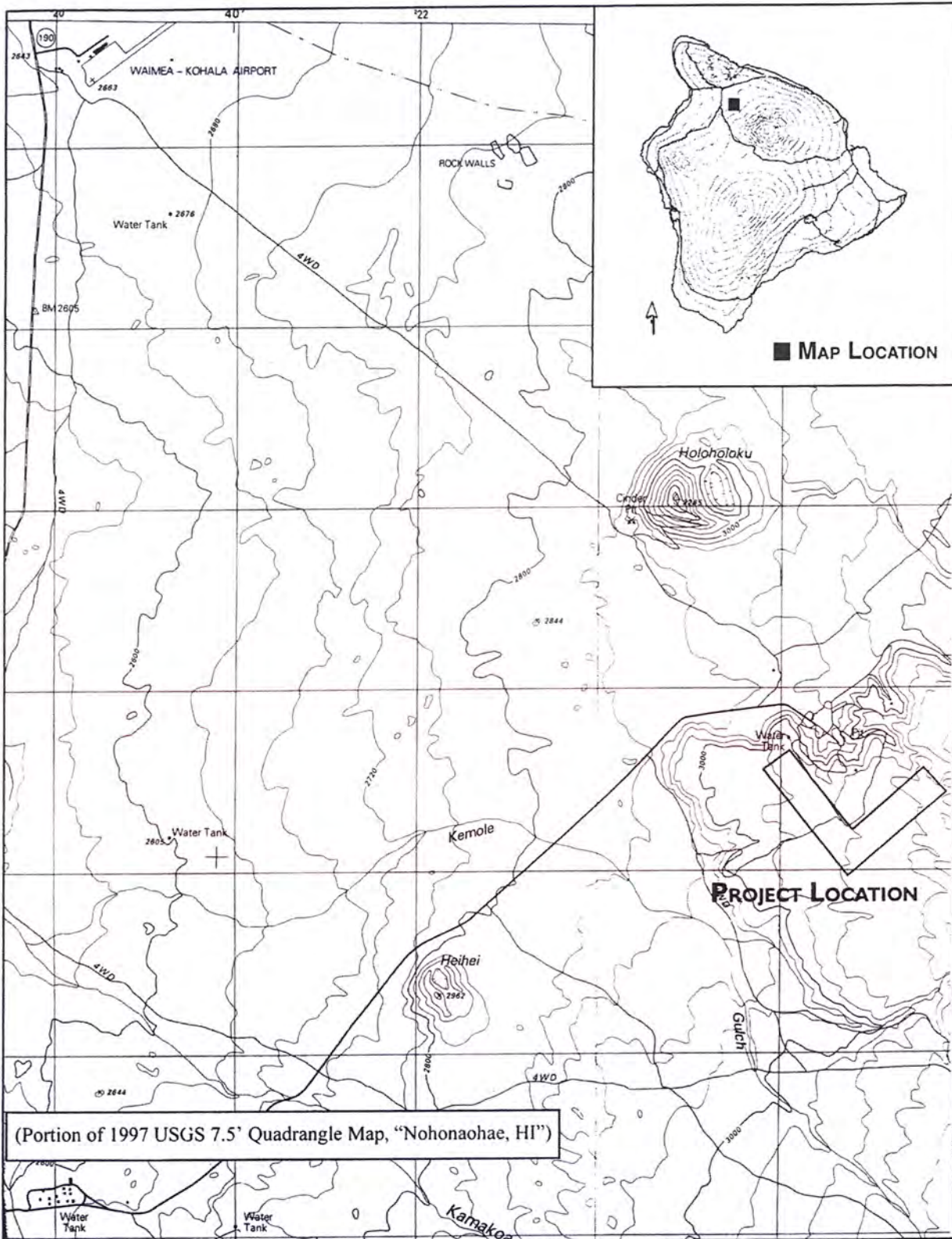


Figure 1. Project location.

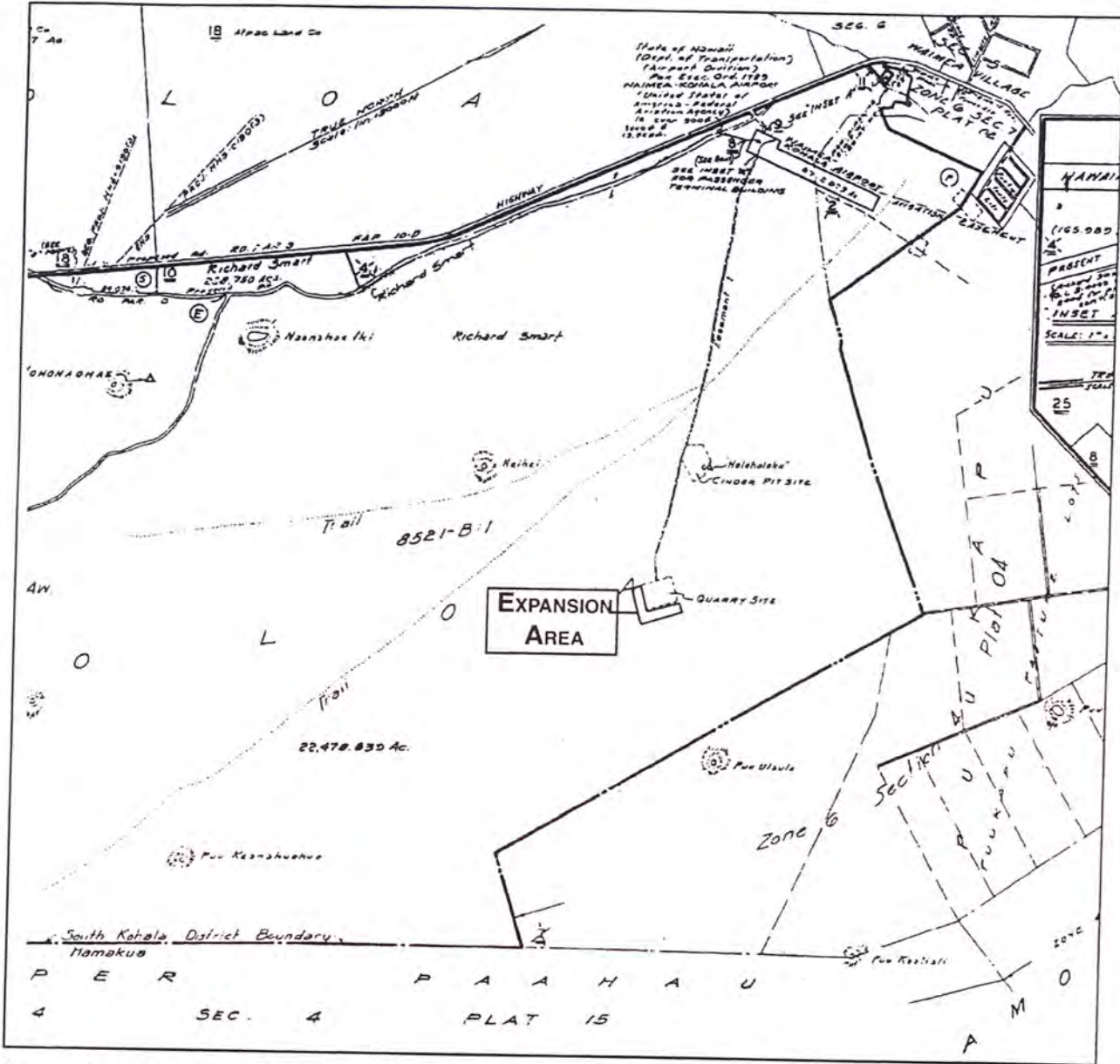


Figure 2. Project area showing proposed expansion.

SITE PHOTOGRAPHS



View from Mamalahoa Highway mile marker 5, approximately 4 miles to quarry.



View from Mamalahoa Highway mile marker 4, approximately 4.5 miles to quarry.

SITE PHOTOGRAPHS



View from Mamalahoa Highway mile marker 3, approximately 5 miles to quarry.



View from Mamalahoa Highway mile marker 2, approximately 5.5 miles to quarry.

DATE: 02.17.17 BY: LSS

CARLSMITH BALL LLP

FEB 17 PM 2 21

A LIMITED LIABILITY LAW PARTNERSHIP

121 WAJIANUENUE AVENUE

P.O. BOX 686

HILO, HAWAII 96721-0686

TELEPHONE 808.935.6644 FAX 808.935.7975

WWW.CARLSMITH.COM

SLIM@CARLSMITH.COM

PLANNING DEPARTMENT
COUNTY OF HAWAII

February 17, 2017

Daniel E. Orodenker
Executive Officer
235 S. Beretania Street, Suite 406
Honolulu, Hawaii 96813

Michael Yee
Planning Director
101 Pauahi Street, Suite 3
Hilo, Hawaii 96720

Re: Combined 2008 to 2016 Annual Monitoring Report
Special Permit No. 724 / LUC Docket No. SP 90-374
Applicant: WHC, Ltd., dba West Hawaii Concrete
Successor Applicant: PR Mauna Kea LLC
TMK: (3) 6-7-001:025 (portion) ("Property")

Gentlemen:

This firm represents PR Mauna Kea LLC, a Hawaii limited liability company ("PRMK"), who will assume the role of "Applicant" in this proceeding in the place of prior Applicant WHC, Ltd., a Hawaii corporation, doing business as West Hawaii Concrete ("WHC").

On February 23, 2000, the Planning Commission of the County of Hawaii ("Commission") amended Special Permit No. 724 ("SP 724") pursuant to WHC's letter dated February 29, 2000, which requested expansion of the existing rock quarry to a total land area of approximately 144 acres, and amended Condition Nos. 3 and 7 for lands within the State Land Use Agricultural District at Waikoloa, District of South Kohala, Island and County of Hawaii.

On May 9, 2000, by its Order Granting Applicant's Request to Expand Existing Quarry and to Amend Condition No. 7 filed in Docket No. SP 90-374 ("SP 90-374"), the State Land Use Commission ("LUC") granted the expansion of the existing rock quarry to a total land area of 143.48 acres of land, and amended Condition Nos. 3, 7 and 10 for lands within the State Land Use Agricultural District at Waikoloa, District of South Kohala, Island and County of Hawaii ("LUC Order").

We understand that the last annual monitoring report under SP 724 and SP 90-374 was submitted to the Planning Department and Commission, respectively, by WHC, Ltd., in 2007.

HONOLULU

HILO

KONA

MAUI

LOS ANGELES

EXHIBIT 14

February 17, 2017

Page 2

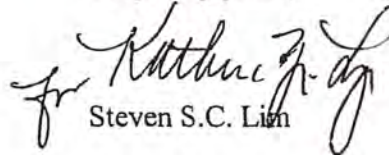
Only recently did it come to the attention of PRMK that the annual monitoring reports had not been transmitted to the Planning Director and Commission.

On behalf of PR Mauna Kea LLC, we respectfully submit the Combined 2008 to 2016 Annual Monitoring Report, in compliance with Condition No. 10 of SP 724 and Condition No. 10 of SP 90-374, and enclose the Annual Emissions / Monitoring Report Forms covering the periods January to December 2008, through January to December 2016. To date, PRMK is unaware of any public complaints or problems associated with the rock quarry operations.

We sincerely apologize for the delay in providing the required annual monitoring reports to both the Planning Director and the LUC, and have taken steps to insure that the annual monitoring reports are timely filed in the future (i.e., prior to the March 16 anniversary date of the LUC Order under SP 90-374).

Please do not hesitate to contact me should you have any questions concerning this submittal. Thank you for your consideration.

Very truly yours,


for *Steven S.C. Lim*
Steven S.C. Lim

SSL/KYL

Enclosures

xc with enclosures: Client
WHC, Ltd.

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

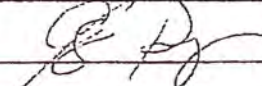
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60 1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually.

(Make copies for future use and fill out a form for each location)

Period: January - December 2008 Date: January 10, 2017
 Facility Name: West Hawaii Concrete
 Equipment Location: Waimea Quarry
 Equipment Description: 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No.: 52037 & 2177-03

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record

Responsible Official (PRINT): George Purdy
 TITLE: Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January		886926	Start in Kona Quarry
February		871258	Kona Quarry
March		863563	Kona Quarry
April		814061	4/28 move to Waikoloa Landfill
May		783228	5/27 move to Waikoloa Quarry
June		786316	Waikoloa Quarry
July		769949	Waikoloa Quarry 7/28 move to Kamuela
August	50319	738208	Kamuela Quarry
September	34597	687367	Kamuela Quarry move to Kona 9/15
October		627642	Kona Quarry
November		591394	Kona Quarry
December		531544	Kona Quarry

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

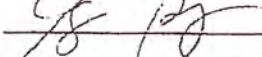
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60-1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually.

(Make copies for future use and fill out a form for each location)

Period January - December 2009 Date: January 11, 2017
 Facility Name West Hawaii Concrete
 Equipment Location Waimea Quarry
 Equipment Description 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No : 52037 & 2177-03

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT) George Purdy
 TITLE: Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January		563445	Start in Kona Quarry
February	11769	522668	Kona Quarry
March	41306	485738	Kona Quarry
April	34095	467704	4/28 move to Waikoloa Landfill
May	21788	448387	5/27 move to Waikoloa Quarry
June	30726	414638	Waikoloa Quarry
July		370524	Waikoloa Quarry 7/28 move to Kamuela
August		335117	Kamuela Quarry
September		311942	Kamuela Quarry move to Kona 9/15
October		289430	Kona Quarry
November		296883	Kona Quarry
December		316115	Kona Quarry

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

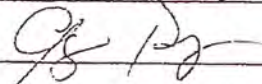
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60 1. Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually.

(Make copies for future use and fill out a form for each location)

Period January - December 2009 Date. January 11, 2017
 Facility Name: West Hawaii Concrete
 Equipment Location: Waimea Quarry
 Equipment Description: 800 THP Stone Processing Plant w/ 545kW DEG
 Serial/ID No : 43383

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record

Responsible Official (PRINT) George Purdy
 TITLE Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January	0	31812	In storage, Start Pohakuloa 1/11
February	0	20214	Store in Waikoloa / Start Waikoloa 2/22
March	0	20214	In storage in Waikoloa
April	0	20214	In storage in Waikoloa
May	0	20214	In storage in Waikoloa
June	0	21986	In storage in Waikoloa
July	0	43988	In storage in Waikoloa
August	0	48229	In storage in Waikoloa
September	0	48229	In storage in Waikoloa
October	13739	61968	Move to Kamuela
November	19231	81974	Move to Pohakuloa
December	26377	63160	Pohakuloa

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

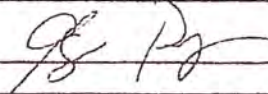
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60 1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually.

(Make copies for future use and fill out a form for each location)

Period January - December 2010 Date January 11, 2017
 Facility Name West Hawaii Concrete
 Equipment Location Waimea Quarry
 Equipment Description 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No : 52037 & 2177-03

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record

Responsible Official (PRINT): George Purdy
 TITLE Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January		302061	Kona Quarry
February		292137	Kona Quarry
March		284009	Pohakuloa
April		300977	Pohakuloa
May		292686	Pohakuloa
June		321850	Pohakuloa
July		410618	Pohakuloa
August		422922	Pohakuloa
September		458215	Pohakuloa
October		506313	Pohakuloa
November	8072	535467	Waimea
December	33007	542097	Waimea

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

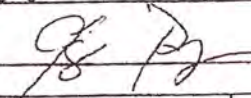
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60.1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually.

(Make copies for future use and fill out a form for each location)

Period January - December 2011 Date January 11, 2017
 Facility Name: West Hawaii Concrete
 Equipment Location: Waimea Quarry
 Equipment Description: 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No: 52037 & 2177-03

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT): George Purdy
 TITLE Aggregate Division Manager

Responsible Official (Signature) 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January	42221	553585	Waimea Quarry
February	52845	579927	Waimea Quarry
March		594191	Kona Quarry
April		600991	Kona Quarry
May		613208	Kona Quarry
June		581815	Kona Quarry
July		511305	Kona Quarry
August		515128	Kona Quarry
September		466001	Kona Quarry
October		399123	Storage
November		350738	Storage
December		317731	Storage

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

Issuance Date: October 16, 2003

Expiration Date: October 15, 2008

In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60.1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually

(Make copies for future use and fill out a form for each location)

Period January - December 2011 Date January 11, 2017

Facility Name: West Hawaii Concrete

Equipment Location: Waimea Quarry

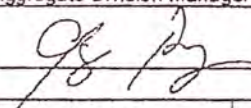
Equipment Description: 800 THP Stone Processing Plant w/ 545kW DEG

Serial/ID No.: 43383

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT) George Purdy

TITLE: Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January	0	196912	Kona Quarry
February	0	200172	Kona Quarry
March	0	185208	Kona Quarry
April	0	161821	Storage
May	0	133863	Storage
June	0	122448	Storage
July	0	109129	Kona Quarry
August	0	85385	Storage
September	0	65682	Storage
October	0	81293	Kona Quarry
November	25156	85641	Waimea Quarry
December	40269	125910	Waimea Quarry

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

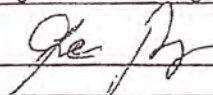
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60.1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually.

(Make copies for future use and fill out a form for each location)

Period January - December 2012 Date: January 11, 2017
 Facility Name: West Hawaii Concrete
 Equipment Location: Waimea Quarry
 Equipment Description: 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No.: 52037 & 2177-03

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT): George Purdy
 TITLE: Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January		275510	Storage
February		222665	Storage
March		196796	Kona Quarry
April		179215	Kona Quarry
May		185173	Kona Quarry
June		185155	Kona Quarry
July		195190	Kona Quarry
August		199902	Kona Quarry
September		194846	Kona Quarry
October		206607	Kona Quarry
November		222419	Kona Quarry
December		228946	Pohakuloa

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

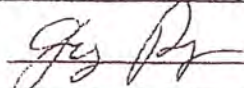
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60 1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually:

(Make copies for future use and fill out a form for each location)

Period January - December 2012 Date: January 11, 2017
 Facility Name West Hawaii Concrete
 Equipment Location Waimea Quarry
 Equipment Description: 800 THP Stone Processing Plant w/ 545kW DEG
 Serial/ID No : 43383

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record

Responsible Official (PRINT) George Purdy
 TITLE Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January	37652	149137	Waimea Quarry
February	37327	182664	Waimea Quarry
March	7668	189282	Waimea Quarry
April	1697	190979	Waimea Quarry
May	17636	208615	Waimea Quarry
June	5670	214285	Waimea Quarry
July	5570	215836	Waimea Quarry
August	0	215836	Storage
September	19992	235828	Waimea Quarry
October	33432	232069	Waimea Quarry
November	24165	231078	Waimea Quarry
December	2879	193688	Waimea Quarry

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

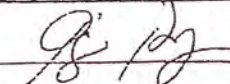
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60.1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually:

(Make copies for future use and fill out a form for each location)

Period: January - December 2013 Date: January 11, 2017
 Facility Name: West Hawaii Concrete
 Equipment Location: Waimea Quarry
 Equipment Description: 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No.: 52037 & 2177-03

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT): George Purdy
 TITLE: Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January		299203	Pohakuloa
February		376333	Pohakuloa
March		424521	Pohakuloa
April		429066	Pohakuloa
May		428489	Kona Quarry
June		431405	Kona Quarry
July		434389	Kona Quarry
August		422224	Kona Quarry
September	32559	445987	Waimea Quarry
October	42028	476254	Waimea Quarry
November	24016	484458	Waimea Quarry
December	26620	504551	Waimea Quarry

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

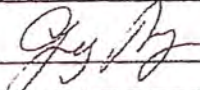
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60 1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually:

(Make copies for future use and fill out a form for each location)

Period: January - December 2013 Date: January 11, 2017
 Facility Name: West Hawaii Concrete
 Equipment Location: Waimea Quarry
 Equipment Description: 800 THP Stone Processing Plant w/ 545kW DEG
 Serial/ID No.: 43383

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT): George Purdy
 TITLE: Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January	2168	158204	Waimea Quarry
February	9136	13013	Waimea Quarry
March		140191	Pohakuloa
April		146924	Pohakuloa
May		144915	Pohakuloa
June		165939	Storage
July		195650	Pohakuloa
August		205150	Pohakuloa
September		195316	Kona Quarry
October		183640	Kona Quarry
November		170691	Kona Quarry
December		178459	Kona Quarry

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

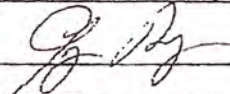
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60.1, Air Pollution Control the permittee shall report to the Department of Health the following information semi-annually:

(Make copies for future use and fill out a form for each location)

Period January - December 2014 Date January 11, 2017
 Facility Name: West Hawaii Concrete
 Equipment Location: Waimea Quarry
 Equipment Description: 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No.: 52037 & 2177-03

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT): George Purdy
 TITLE: Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January	31711	466005	Waimea Quarry
February	30928	419803	Waimea Quarry
March	43219	393261	Waimea Quarry
April	3263	388989	Kona Quarry
May		394149	Kona Quarry
June		406025	Waikoloa Quarry
July		416740	Waikoloa Quarry
August		441751	Waikoloa Quarry
September	33712	442904	Waimea Quarry
October	38956	439832	Waimea Quarry
November	28888	444704	Waimea Quarry
December	48031	466135	Waimea Quarry

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

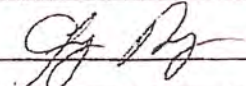
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60 1, Air Pollution Control the permittee shall report to the Department of Health the following information semi-annually.

(Make copies for future use and fill out a form for each location)

Period January - December 2015 Date: January 11, 2017
 Facility Name West Hawaii Concrete
 Equipment Location Waimea Quarry
 Equipment Description: 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No 52037 & 2177-03

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT) George Purdy
 TITLE: Aggregate Division Manager

Responsible Official (Signature) 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January	10365	476342	Waimea Quarry
February		483869	Kona Quarry
March		493133	Kona Quarry
April		507743	Kona Quarry
May	43604	515092	Waimea Quarry
June	43950	515771	Waimea Quarry
July	37950	511729	Waimea Quarry
August	27191	490323	Waimea Quarry
September	4056	487596	Waimea Quarry
October		529678	Kona Quarry
November		549861	Kona Quarry
December		542182	Kona Quarry

**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

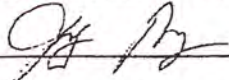
In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60.1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually

(Make copies for future use and fill out a form for each location)

Period January - December 2016 Date January 11, 2017
 Facility Name: West Hawaii Concrete
 Equipment Location: Waimea Quarry
 Equipment Description: 800 THP Stone Processing Plant w/ 545kW DEG
 Serial/ID No.: 43383

I certify that I have knowledge of the facts herein set forth, that the same are true, accurate and complete to the best of my knowledge and belief, and that all information not identified by me as confidential in nature shall be treated by Department of Health as public record.

Responsible Official (PRINT) George Purdy
 TITLE: Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January	23761	130636	Waimea Quarry
February	30298	150928	Waimea Quarry
March	39080	189652	Waimea Quarry
April	37543	227105	Waimea Quarry
May	41377	258167	Waimea Quarry
June	22280	299544	Waimea Quarry
July		298494	Waikoloa Quarry
August		303788	Waikoloa Quarry
September		332089	Waikoloa Quarry
October		332607	Landfill
November		328965	Landfill
December		327403	Kona Quarry

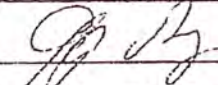
**ANNUAL EMISSIONS / MONITORING REPORT FORM
STONE PROCESSING PLANT PRODUCTION
TEMPORARY COVERED SOURCE PERMIT NO. 0355-02-CT**

In accordance with the Hawaii Administrative Rules, Title 11, Chapter 60.1, Air Pollution Control, the permittee shall report to the Department of Health the following information semi-annually
(Make copies for future use and fill out a form for each location)

Period January - December 2016 Date January 11, 2017
 Facility Name West Hawaii Concrete
 Equipment Location Waimea Quarry
 Equipment Description 1130 TPH Stone Processing Plant w 1000kW DEG
 Serial/ID No 52037 & 2177-03

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Responsible Official (PRINT) George Purdy
 TITLE Aggregate Division Manager

Responsible Official (Signature): 

MONTH	MONTHLY PRODUCTION (TONS)	ROLLING 12 MONTH TOTAL (TONS)	NOTES
January		533457	Kona Quarry
February		528334	Kona Quarry
March		531428	Kona Quarry
April		519352	Kona Quarry
May		504112	Kona Quarry
June		499786	Kona Quarry
July	38266	504211	Waimea Quarry
August	29139	506159	Waimea Quarry
September	33777	508951	Waimea Quarry
October	44010	471923	Waimea Quarry
November	44175	467027	Waimea Quarry
December	35105	461760	Waimea Quarry

Harry Kim
Mayor



REC'D APR 05 2017

Michael Yee
Director

Daryn Arai
Deputy Director

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County of Hawai'i
PLANNING DEPARTMENT

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101 Pauahi Street, Suite 3
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Fax (808) 961-8742

April 3, 2017

Steven S. C. Lim, Esq.
Carlsmith Ball, LLP
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

SUBJECT: Special Permit No. 724 (LUC Docket No. SP 90-374)
Applicant: WHC Ltd., dba West Hawaii Concrete
Subject: Annual Monitoring Report for 2008 through 2016
Tax Map Key: (3) 6-7-001: Portion of 025

This is to acknowledge receipt of your annual monitoring report dated February 17, 2017 in compliance with Condition No. 10 of the State Land Use Commission's Decision and Order dated March 16, 1990 and amended May 9, 2000. Thank you for complying with the annual report requirement.

As a reminder, your next annual report will be due on or before March 16, 2018. If you have any questions, please feel free to contact Jeff Darrow at 961-8158.

Sincerely,

For MICHAEL YEE
Planning Director

JWD:mad
P:\public\wpwin60\Jeff\Letters\Annual Reports\LLim-WHC-SPP274-2008-2016.doc

cc w/ copy of letter: Daniel E. Orondenker, Executive Officer, State Land Use Commission

HISTORIC








0350F
0825C
PANEL NOT PRINTED
(AREA ALL IN ZONE X)
Historic

0375F



BASEMAP: FIRM BASEMAP

FLOOD HAZARD ASSESSMENT TOOL LAYER LEGEND
(Note: legend does not correspond with NFHL)


SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD - The 1% annual chance flood (100 year), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. SFHAs include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

	Zone A: No BFE determined.
	Zone AE: BFE determined.
	Zone AH: Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
	Zone AO: Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
	Zone V: Coastal flood zone with velocity hazard (wave action); no BFE determined.
	Zone VE: Coastal flood zone with velocity hazard (wave action); BFE determined.
	Zone AEF: Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA - An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

	Zone XS (X shaded): Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
	Zone X: Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

	Zone D: Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase apply, but coverage is available in participating communities.
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Flood Hazard Assessment Report

www.hawaiiinfip.org

Waimea Quarry

Property Information

COUNTY: HAWAII
TMK NO: (3) 6-7-001 034
WATERSHED: POHAKULOA
PARCEL ADDRESS: 1435 MAMALAOHA HIGHWAY
KAMUELA, HI 96743

Notes:

Flood Hazard Information

FIRM INDEX DATE: SEPTEMBER 29, 2017
LETTER OF MAP CHANGE(S): NONE
FEMA FIRM PANEL: 1551660350F
PANEL EFFECTIVE DATE: SEPTEMBER 29, 2017

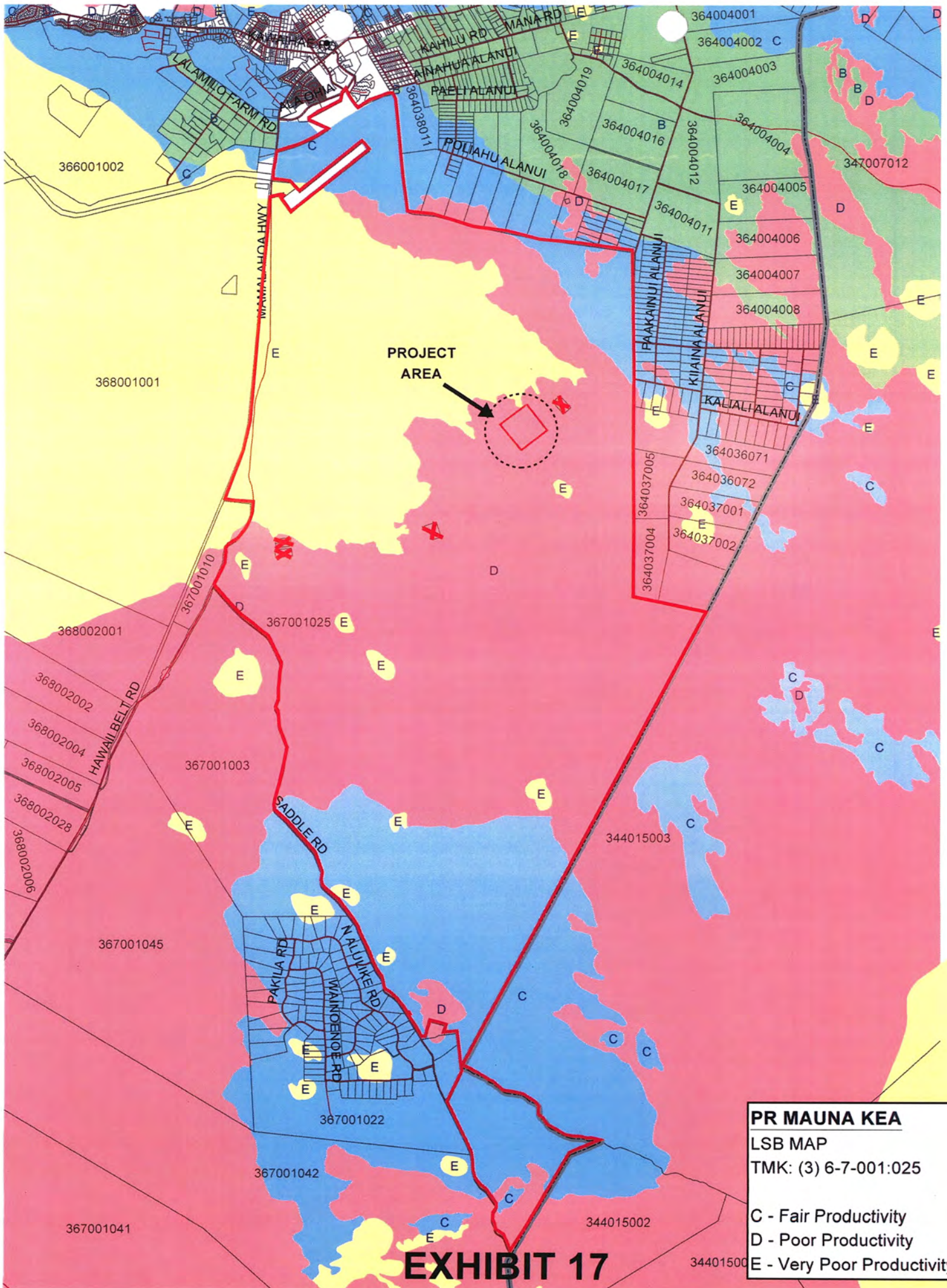
THIS PROPERTY IS WITHIN A TSUNAMI EVACUATION ZONE: NO
FOR MORE INFO, VISIT: <http://www.scd.hawaii.gov/>

THIS PROPERTY IS WITHIN A DAM EVACUATION ZONE: NO
FOR MORE INFO, VISIT: <http://dlnreng.hawaii.gov/dam/>



Disclaimer: The Hawaii Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use, accuracy, completeness, and timeliness of any information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR, its officers, and employees from any liability which may arise from its use of its data or information.

If this map has been identified as 'PRELIMINARY', please note that it is being provided for informational purposes and is not to be used for flood insurance rating. Contact your county floodplain manager for flood zone determinations to be used for compliance with local floodplain management regulations.



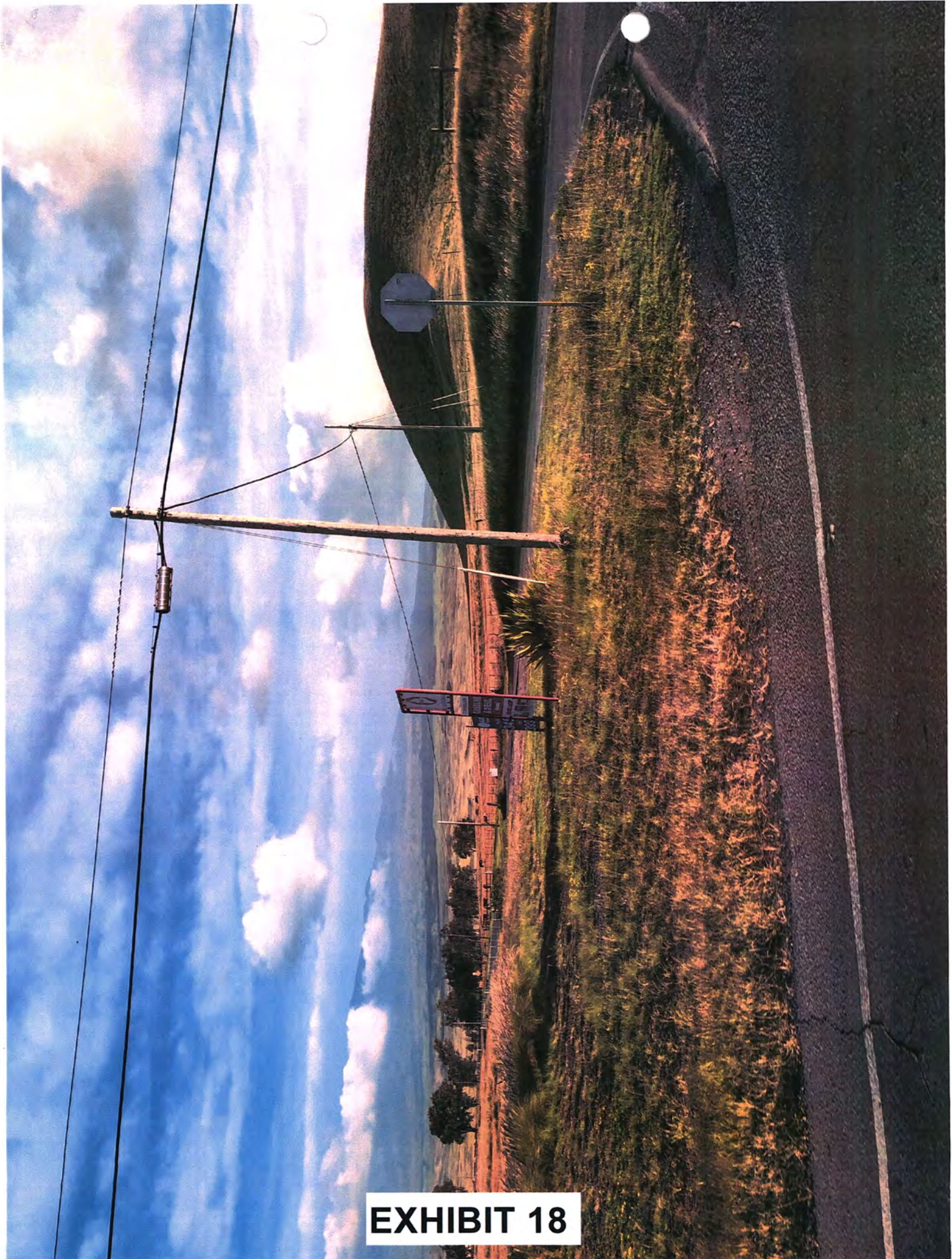
PROJECT AREA

PR MAUNA KEA
 LSB MAP
 TMK: (3) 6-7-001:025

C - Fair Productivity
 D - Poor Productivity
 E - Very Poor Productivity

EXHIBIT 17

EXHIBIT 18



**PROJECT
AREA**







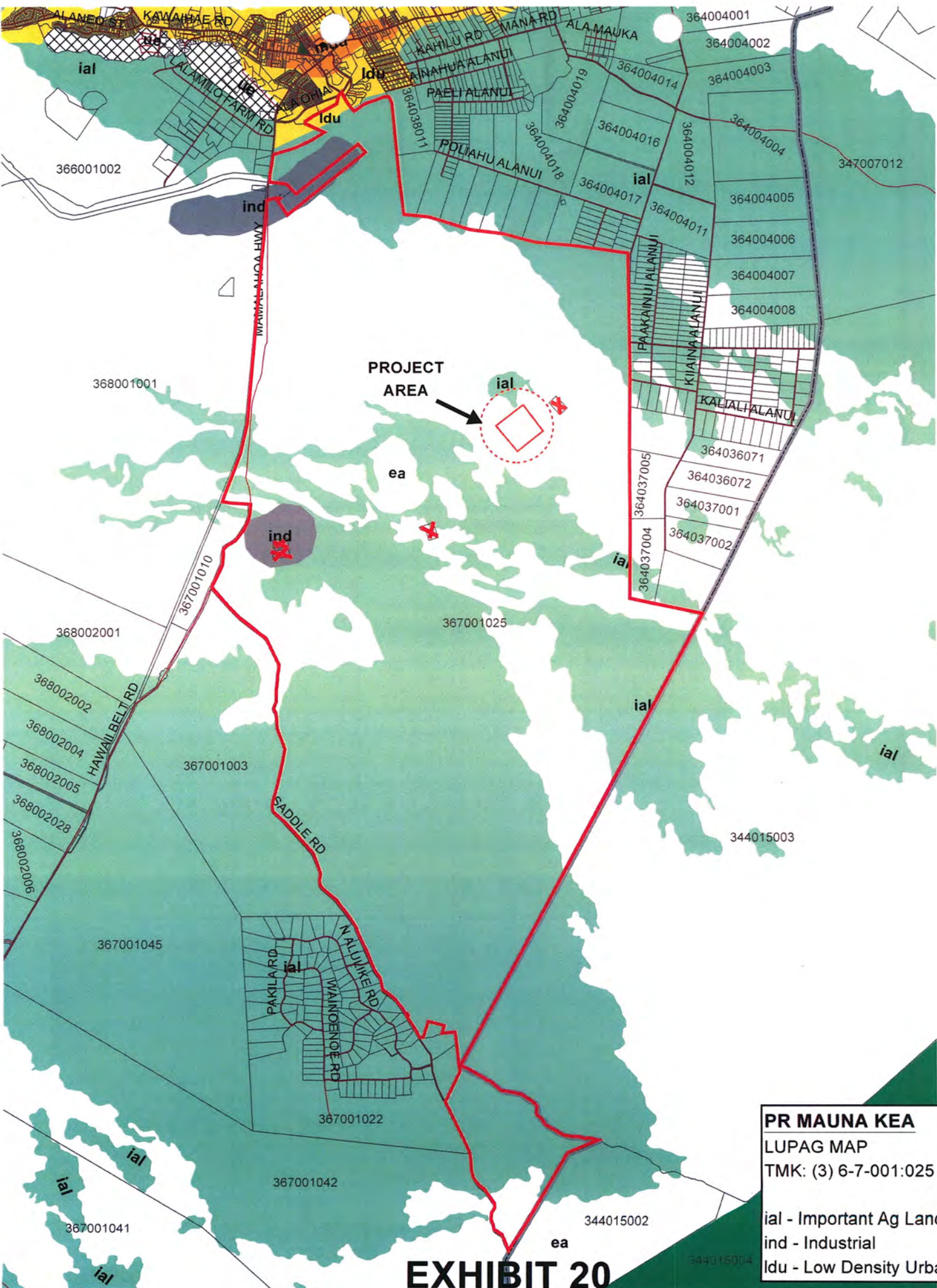


PROJECT
AREA

367001025
A

PR MAUNA KEA
SLU MAP
TMK: (3) 6-7-001:034
A - Agricultural Land Use

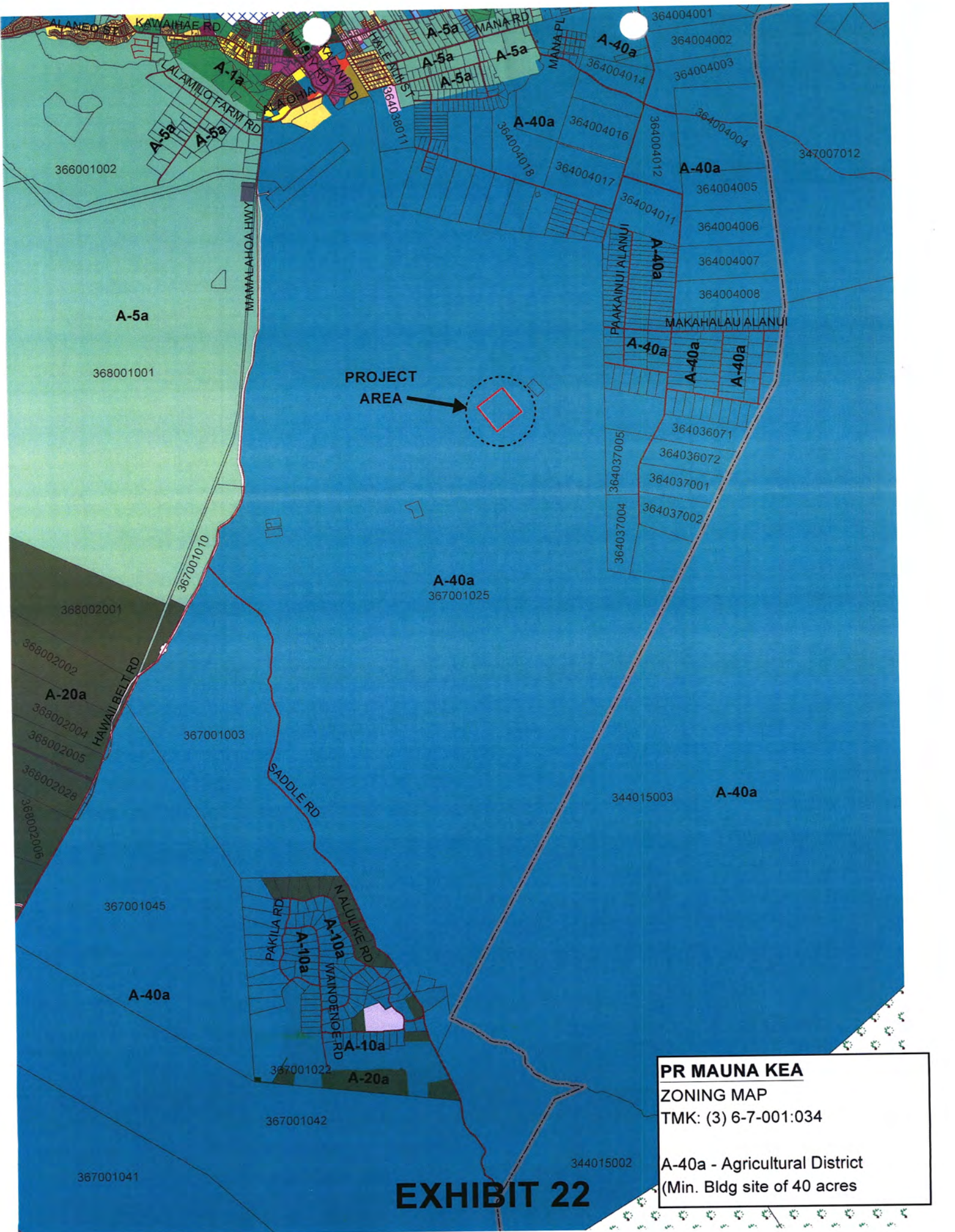
EXHIBIT 19



PR MAUNA KEA
LUPAG MAP
TMK: (3) 6-7-001:025

ial - Important Ag Lands
ind - Industrial
Idu - Low Density Urban

EXHIBIT 20

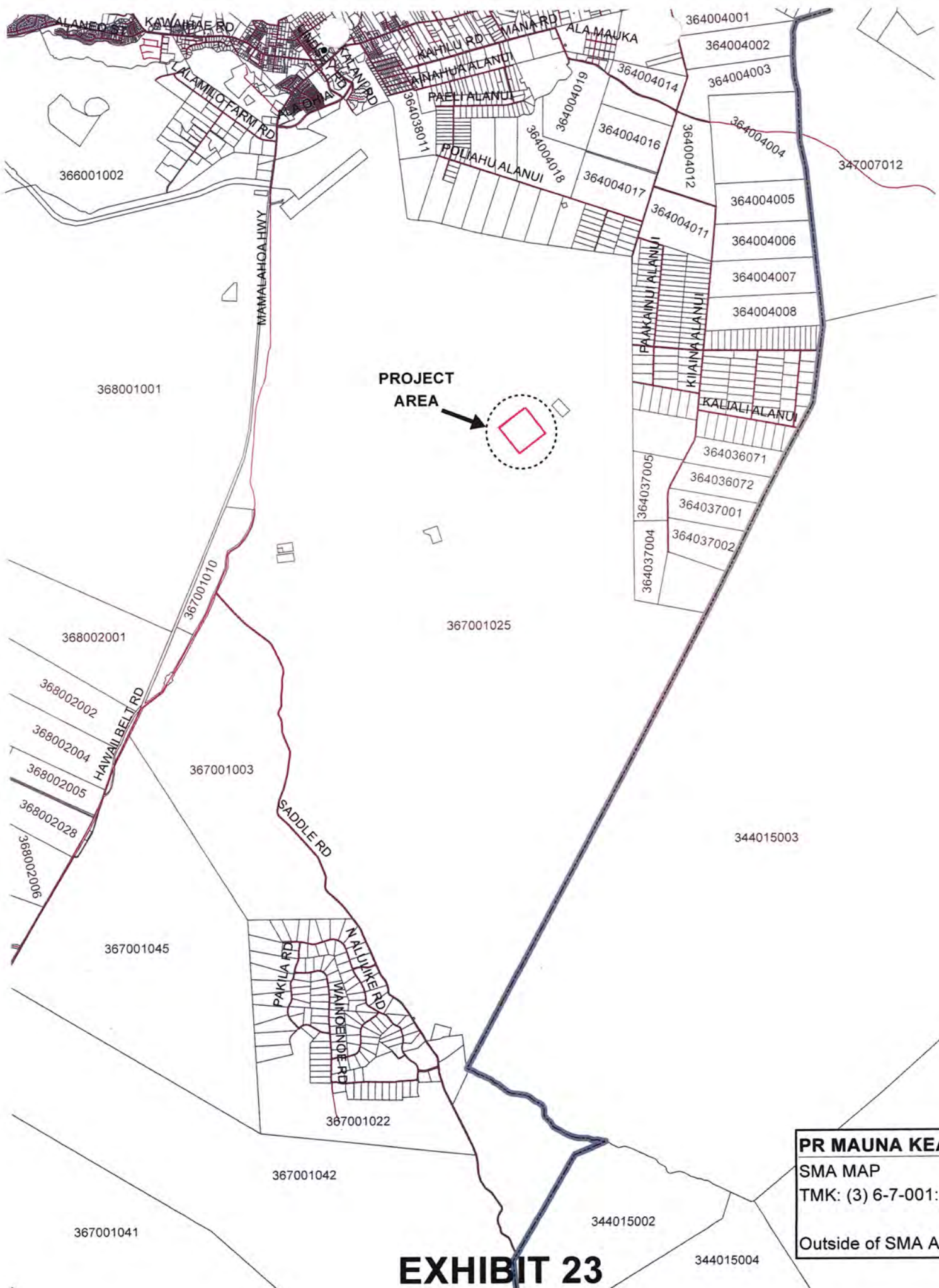


PROJECT AREA →

PR MAUNA KEA
ZONING MAP
 TMK: (3) 6-7-001:034

A-40a - Agricultural District
 (Min. Bldg site of 40 acres)

EXHIBIT 22



PROJECT AREA

PR MAUNA KEA
 SMA MAP
 TMK: (3) 6-7-001:034
 Outside of SMA Area

EXHIBIT 23



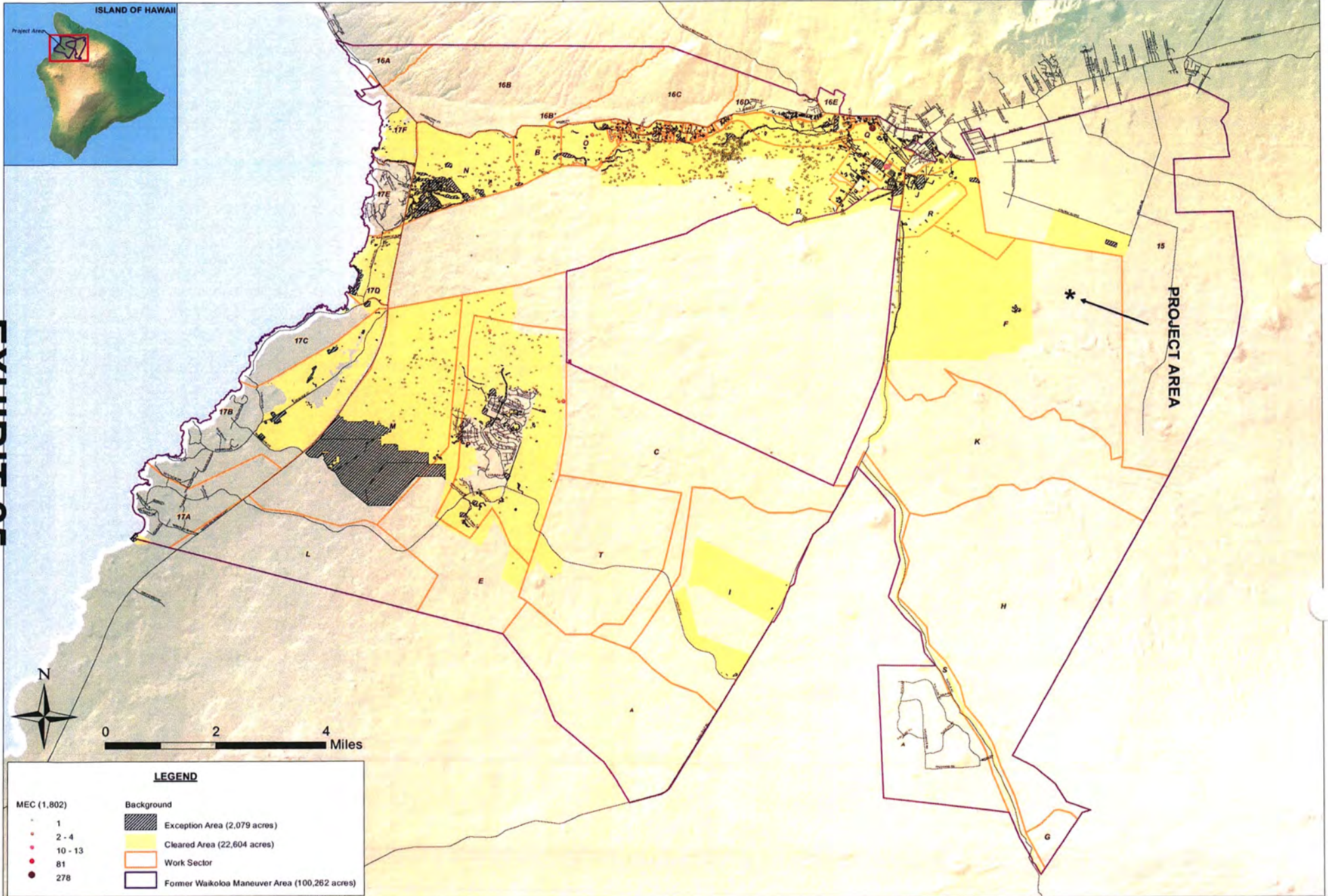
**PROJECT
AREA**

PR MAUNA KEA
ALISH MAP
TMK: (3) 6-7-001:034
Zone 0 - Unclassified Lands

EXHIBIT 24

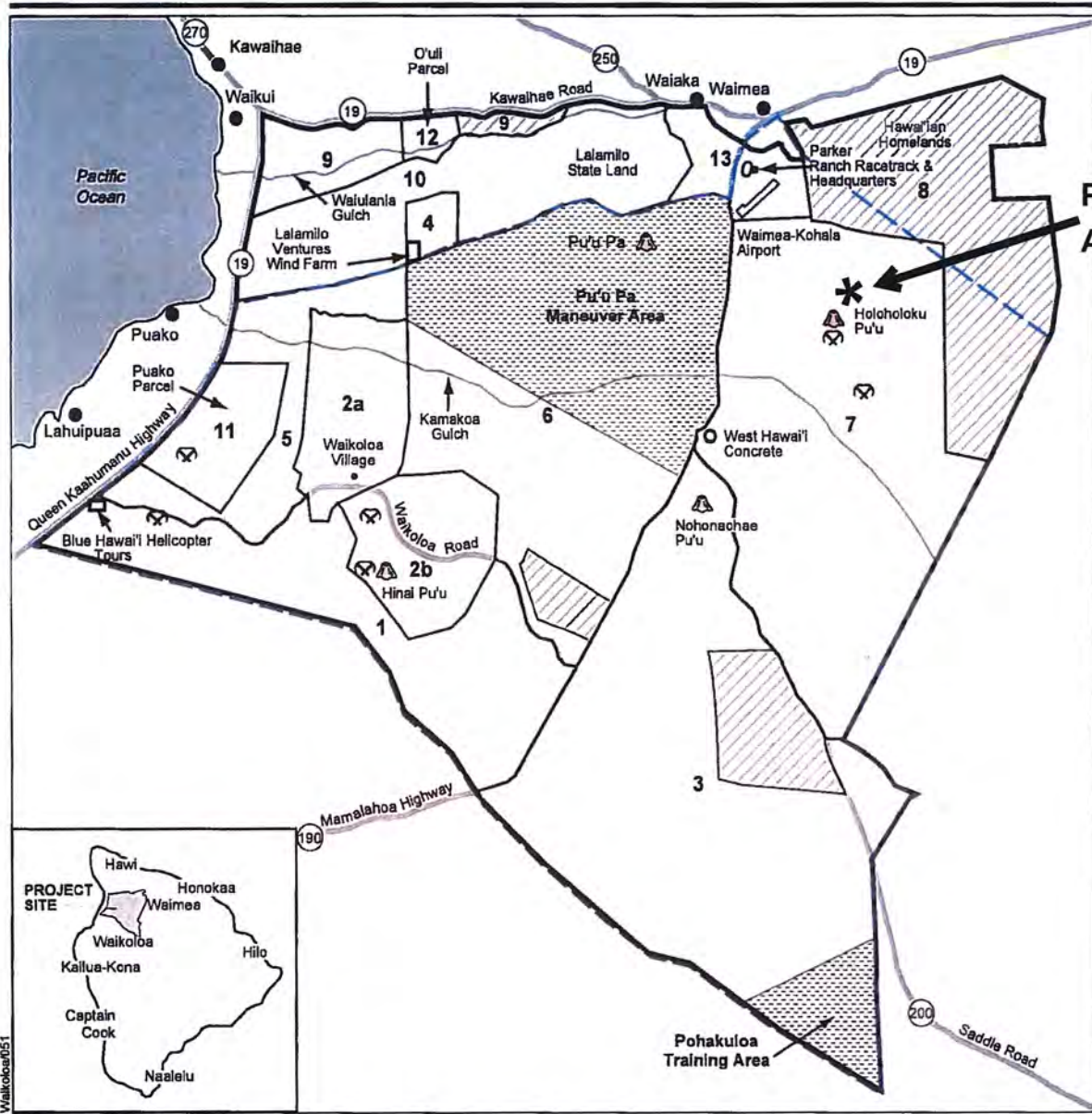


EXHIBIT 25



LEGEND

MEC (1,802)	Background
1	Exception Area (2,079 acres)
2 - 4	Cleared Area (22,604 acres)
10 - 13	Work Sector
81	Former Waikoloa Maneuver Area (100,262 acres)
278	



PROJECT AREA

EXPLANATION

- Phase II EE/CA Project Boundary (123,000 acres)
- Sector Boundary
- Original Former Maneuver Area Boundary (91,000 acres)
- Active military training areas not investigated during the EE/CA
- No right-of-entry areas not investigated during the EE/CA

	Cinder Hill	
	Quarry	
Sector 1 (Kaniku Lava Flow)		10,193 acres
Sector 2a (Waikoloa Village - West)		4,062 acres
Sector 2b (Waikoloa Village - East)		4,255 acres
Sector 3 (Keamuku)		28,059 acres
Sector 4 (Lalamilo Wind Farm)		677 acres
Sector 5 (Waikoloa Road)		4,273 acres
Sector 6 (Pu'u Pa Maneuver Area)		22,501 acres
Sector 7 (Holoholoku)		21,601 acres
Sector 8 (Hawaiian Homelands)		11,070 acres
Sector 9 (Kawaihae Road)		2,458 acres
Sector 10 (Lalamilo State Lands)		8,553 acres
Sector 11 (Puako Parcel)		2,629 acres
Sector 12 (O'uli Parcel)		493 acres
Sector 13 (West Waimea/Kamuela Airport)		2,142 acres

Phase II EE/CA Investigation Areas Former Waikoloa Maneuver Area and Nansay Sites

Figure 2-2

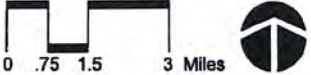


EXHIBIT 26