

May 11, 2023

Daniel Orodener, Executive Director
State of Hawai'i
Land Use Commission
P.O. Box 2359
Honolulu, Hawai'i 96804-2359



SUBJECT: State Land Use Commission Special Permit for Hawaiian Cement
Pohakea Quarry, TMK (2)3-6-004:007(por.), Mā'alaea, Maui,
Hawai'i; (SUP1 2006/0001)

Dear Mr. Orodener:

In December 2006, the State Land Use Commission (LUC) approved a Special Permit (SUP) for the expansion of an existing rock quarry and base course operation at Pohakea Quarry, subject to 23 conditions. On January 7, 2011, the LUC approved a time extension request for the above-mentioned SUP. See **Exhibit "A"**. The SUP time extension was granted until December 15, 2019. A time extension request until December 15, 2035 for the SUP was approved by the Maui Planning Commission at its meeting of November 24, 2020. In June 2021, the State Land Use Commission also voted to approve the SUP time extension request.

Condition Number 6 was amended with the 2011 SUP time extension approval and now states:

On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the LUC and DP in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

On behalf of the SUP holder, Hawaiian Cement, we are submitting this compliance report for the year 2023 to meet Condition Number 6 and address compliance with the conditions set forth in the approved SUP.

Additionally, we note that the Pohakea Quarry is covered by two (2) additional approvals by the County of Maui, a County Special Use Permit (CUP) and a Conditional Permit

(CP). Both County permits also include regular reporting requirements (CUP – biannual report and CP – annual report). The CUP and CP conditions are similar in nature to the SUP conditions. A copy of the most recent CUP and CP compliance reports filed with the Department of Planning are attached for reference as **Exhibit “B”** and **Exhibit “B-1”**, respectively.

Condition No. 1

That the LUC Special Use Permit shall be valid until December 15, 2035, subject to further extensions by the LUC upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate Planning Commission shall make a recommendation to the LUC and may require a public hearing on the time extension.

Response: The permittee concurs with the condition and will comply with time extension request procedures.

Condition No. 2

That the conditions of this State Special Use Permit shall be enforced pursuant to sections 205-12 and 205-13, HRS. Failure to comply with one or more of the conditions herein shall result in a notice of violation issued by the appropriate enforcement agency, notifying the permit holder of the violation and providing the permit holder no more than sixty days to cure the violation. If the permit holder fails to cure the violation within sixty days of said notice, the appropriate enforcement agency shall issue an order which may require one or more of the following: that the violative activity cease; that the violative development be removed; that a civil fine be paid not to exceed \$1,000 per violation; that a civil fine not to exceed \$5,000 shall be issued if violation not cured within six months of the issuance of the order. The order shall become final thirty days after the date of its mailing or hand-delivery unless written request for a hearing is mailed or delivered to the DP within said thirty days. Upon receipt of a request for a hearing, the DP shall specify a time and place for the permit holder to appear and be heard. The hearing shall be conducted by the planning director or the director's designee in accordance with the provisions of chapter 91, HRS, as amended.

Response: The permittee concurs with the condition and submits this report to address compliance with all conditions of the SUP.

Condition No. 3

That the subject LUC Special Use Permit shall not be transferred without the prior written approval of the LUC. The appropriate Planning Commission shall make a recommendation to the LUC. However, in the event that a contested case hearing preceded issuance of said LUC Special Use Permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

Response: The permittee concurs with the condition. No permit transfer request is anticipated for the SUP.

Condition No. 4

That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject LUC Special Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this LUC Special Use Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui and State of Hawai'i as an additional named insured, insuring and defending the applicant, County of Maui and State of Hawai'i against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming County of Maui as an additional named insured shall be submitted to the DP within ninety (90) calendar days from the date of transmittal of the decision and order.

Response: A current Certificate of Insurance is provided as **Exhibit "C"**.

Condition No. 5

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

Response: The permittee concurs with the condition.

Condition No. 6

On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the LUC and DP in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

Response: The permittee concurs with the condition and submits this report for the year 2023 to address compliance with all conditions of the SUP.

Condition No. 7

That the Applicant shall develop the Property in substantial compliance with the representations made to the LUC in obtaining the Special Use Permit. Failure to so develop the property may result in the revocation of the permit.

Response: The property is currently in use as a rock quarry and base course operation as represented to the LUC while obtaining the SUP.

Condition No. 8

That the Applicant shall comply with the following recommendations of the State Department of Transportation ("DOT"):

- a. *The Applicant shall develop a maintenance plan to regularly remove dirt, debris, gravel, and other by-products of quarry operations from the quarry access road's intersection with Honoapi'ilani Highway. The Applicant shall also develop a plan for rapid removal of any quarry products spilled on the State highway right-of-way. Both plans shall be reviewed and approved by the DOT;*
- b. *No increase in storm water runoff will be allowed onto the State highway right-of-way. Plans for the construction and maintenance of retention basins shall be submitted to the DOT for review and approval; and*
- c. *Plans for work within the State highway right-of-way shall be reviewed and approved by the Highways Division, Maui District.*

- Response:**
- a. A roadway maintenance plan has been prepared as per this condition. A copy of the maintenance plan is attached as Exhibit “D”. The plan has been submitted for review and approved by the State Department of Transportation (SDOT).
 - b. Plans for the construction of a retention basin and its maintenance have been prepared as per this condition. A copy of the grading and maintenance plan is attached as **Exhibit “E”**.
 - c. No work in State highways is proposed as part of the quarry’s operations.

Condition No. 9

That in the event any significant cultural deposits or human skeletal remains are encountered, work shall stop in the immediate vicinity and the DLNR, SHPD, shall be contacted.

Response: The permittee concurs with the condition.

Condition No. 10

That prior to initiation of any excavation work within the 64.4-acre expansion, the following shall be resolved with the DLNR, SHPD:

- a. *Clarification in the form of archaeological inventory survey level documentation as to whether Temporary Site T-9 is a previously identified historic site;*
- b. *A preservation plan for the “agreed upon preservation areas”; and*
- c. *A thorough field inspection of the 65+ acres into which the proposed quarry will expand to determine the condition of the previously identified sites as well as documentation of any additional sites. Documentation from the DLNR, SHPD, that all concerns have been addressed shall be filed with the DP and the County Department of Public Works and Environmental Management (“DPWEM”) prior to issuance of any grading permit, if required, and initiation of excavation work within the expansion area.*

Response: As mentioned previously, an Application to Amend Permit Terms, Conditions, and Time Stipulations requesting a time extension was prepared and filed with the County of Maui, Department of Planning and was reviewed and approved at the Maui Planning Commission's (MPC) November 24, 2020 meeting. The MPC approved the removal of Condition No. 10, however, the LUC retained Condition No.10. An Archaeological Inventory Survey (AIS) and Archaeological Monitoring Plan (AMP) have been prepared for the quarry expansion area and was submitted to the State Historic Preservation Division (SHPD) for review. Both the AIS and AMP were accepted in 2008 by SHPD. A copy of the SHPD's acceptance letter is provided as **Exhibit "F"**. Further, it is noted that no new expansion is being proposed.

Condition No. 11

That the Applicant shall have an onsite monitor to ensure that the load is covered and material is removed from the exterior of the truck bed and wheels to reduce debris falling onto the public roadways.

Response: The permittee concurs with the condition and confirms that monitoring of loads occurs as part of normal operations.

Condition No. 12

That upon cessation of the Pohakea Quarry operations the Applicant, including the owner of the land, shall prepare and timely implement a closure plan to revegetate the site or other measures to reduce erosion prior to the expiration of the SUP. The closure plan shall be reviewed and approved by the DP.

Response: The permittee concurs with this condition. In the event the Pohakea Quarry operations ceases, a closure plan approved by the landowner will be submitted to the Department of Planning.

Condition No. 13

That the Applicant shall incorporate applicable Best Management Practices ("BMP") to mitigate noise, dust, runoff, and infiltration related to the Pohakea Quarry.

Response: The permittee concurs with this condition and incorporates BMPs for noise and dust mitigation into normal operations.

Condition No. 14

That the Applicant shall maintain the area between the Pohakea Stream and the southern boundary of the Property for the life of the Pohakea Quarry to provide a visual buffer.

Response: The permittee concurs with this condition.

Condition No. 15

That base course materials from the Pohakea Quarry shall not be exported off island.

Response: The permittee concurs with this condition and confirms that no base course materials from the quarry is shipped off-island.

Condition No. 16

That the protective construction fencing located around Site T-9 (a remnant of an historic wall) shall be maintained for the life of the LUC Special Use Permit. All individuals and/or organizations working on the site shall be briefed on the location of Site T-9 to avoid damaging this site.

Response: As mentioned previously, an AIS and AMP for the quarry expansion area have been submitted to and approved by the SHPD and that no new expansion of the quarry is being proposed. As such, the permittee requested that this condition be removed from the SUP approval by the LUC. The requested was approved by the MPC however, the LUC voted to retain Condition 16 for the SUP in June 2021.

Condition No. 17

That the Applicant will maintain a 25-foot buffer along the northern boundary of the Pohakea Stream. That the bed or banks of Pohakea Stream shall not be altered without an approved stream-channel alteration permit prior to construction.

Response: The permittee concurs with this condition. Alteration of Pohakea Stream is not anticipated.

Condition No. 18

That the Applicant shall obtain a National Pollutant Discharge Elimination System permit for the expansion of the Pohakea Quarry.

Response: The permittee concurs with this condition. The National Pollutant Discharge Elimination System Permit extension is in progress with the State Department of Health. See **Exhibit “G”**.

Condition No. 19

That the Applicant shall maintain its existing State Department of Health air quality permits throughout the operation of the Pohakea Quarry and shall obtain any additional air quality permits that may be required for the quarry expansion.

Response: The permittee concurs with this condition and confirms that it maintains its required air quality permits.

Condition No. 20

That the Applicant shall submit a detailed and final drainage report and a BMP Plan to the DPWEM for its review and approval.

Response: The permittee concurs with this condition and abides by its approved drainage report and BMP plan.

Condition No. 21

That the Applicant shall operate the Pohakea Quarry from Monday through Saturday, 7:00 a.m. to 5:00 p.m.

Response: The permittee concurs with this condition and confirms that the quarry's operational hours are not in excess of the approved hours of 7:00 a.m. to 5:00 p.m., Monday through Saturday.

Condition No. 22

That the Applicant shall file a request with the DP to terminate SUP2 96/0013 within six months following the issuance of this Decision and Order.

Response: The permittee concurs with this condition and confirms that SUP2 96/0013 has been terminated.

Condition No. 23

That the permitted uses and activities on the existing 14.8-acre site shall be limited to quarrying, base course production recycling of concrete debris, greenwaste composting, screening of compost material, maintenance and storage facilities to support the onsite rock crusher, and office facilities for the operation. Permitted uses and activities on the approximately 64.4-acre expansion area shall be limited to quarrying and base course production only. There shall be no composting of greenwaste and grubbed material or the recycling of concrete rubble on the expansion area.

Response: The permittee concurs with this condition and confirms that the uses occurring at the site are in compliance with the SUP approval.

Condition No. 24

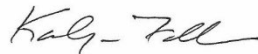
That the Department of Land and Natural Resources-Division of Forestry and Wildlife (DOFAW) and the United States Fish and Wildlife Service (USFWS) be consulted with regard to the issue raised on Hawaiian “yellow-faced bees” in the Petition Area.

Response: Consultation letters were submitted to the USFWS and DOFAW on June 29, 2021 to request comments on the potential for “yellow-faced bees” which may be located within the Petition Area. Comments were received from the USFWS in August 2021 which noted that none of the federally listed species were known to occur in the Pohakea Gulch area adjacent to the Pohakea Quarry, however, the area had not been specifically surveyed for “yellow-faced bees”. The USFWS recommended that a survey be completed for the bee species. See **Exhibit “H”**. Based on the comment from the USFWS, the applicant had a biological consultant complete a survey in September 2021 for flora and fauna in the project area, with a specific focus for the “yellow-faced bees” and their habitat. The report found no “yellow-faced bees” in the area and identified only one (1) of their plant food species was identified. However, the biological report noted that the ilima plants identified were heavily defoliated by the Axis Deer in the area and as such, it concluded that the bees were unlikely to occur in the area. See **Exhibit “H-1”**.

DOFAW provided comments via letter in March 2022. The DOFAW requested a site visit to the area to conduct a survey of the area. See **Exhibit "H-2"**. The applicant coordinated with DOFAW personnel and a visit for the yellow-faced bee was conducted with the Applicant and DOFAW in April 2022. Via email dated April 8, 2022, the DOFAW technician noted that there were no yellow-faced bees identified during the site visit and that the bee's food plant species (ilima) were browsed and as such the bees were unlikely to be present in the area. See **Exhibit "H-3"**.

Should you have any questions, please do not hesitate to contact me at (808)244-2015.

Very truly yours,



Karlynn Fukuda
President

KF:tn

Enclosures

cc: Dave Gomes, Hawaiian Cement (w/enclosures)
Clayton Yoshida, Department of Planning (w/enclosures)
Ann Cua, Department of Planning (w/enclosures)

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List of Exhibits

- | | |
|---------------------|--|
| EXHIBIT A. | State Land Use Commission Special Permit Time Extension Request Approval Dated January 7, 2011 |
| EXHIBIT B. | 2022 County Special Use Permit Bi-Annual Report |
| EXHIBIT B-1. | 2022 County Conditional Permit Annual Report |
| EXHIBIT C. | Certificate of Insurance |
| EXHIBIT D. | Roadway Maintenance Plan |
| EXHIBIT E. | Retention Basin Grading and Maintenance Plan |
| EXHIBIT F. | Letters from the State Historic Preservation Division Dated April 1, 2008 Accepting the Archaeological Inventory Survey and Archaeological Monitoring Plan |
| EXHIBIT G. | Letter from Department of Health Regarding National Pollutant Discharge Elimination System Permit |
| EXHIBIT H. | Letter from U.S. Fish and Wildlife Service Dated August 2, 2021 |
| EXHIBIT H-1. | Flora and Fauna Survey of Pohakea Quarry - September 2021 |
| EXHIBIT H-2. | Letter from Division of Forestry and Wildlife Dated March 17, 2022 |
| EXHIBIT H-3. | Email from Division and Forestry and Wildlife Dated April 8, 2022 |

EXHIBIT A.

**STATE LAND USE COMMISSION SPECIAL
USE PERMIT TIME EXTENSION REQUEST
APPROVAL DATED JANUARY 7, 2011**



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

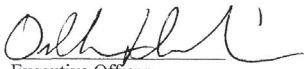
LAND USE COMMISSION
STATE OF HAWAII
2011 JAN -7 A 6:54

In The Matter Of The Application Of)	DOCKET NO. SP06-400
)	
WILLIAM HORNEMAN ON BEHALF OF)	DECISION AND ORDER
HAWAIIAN CEMENT)	APPROVING TIME EXTENSION
)	TO SPECIAL USE PERMIT
To Operate And Expand A Quarry And Base)	
Course Operation On Approximately 79.2)	
Acres Of Land Within The State Land Use)	
Agricultural District At Mā`alaea, Maui,)	
Hawai`i, Tax Map Key: 3-6-04: 7)	
)	

DECISION AND ORDER APPROVING TIME EXTENSION TO SPECIAL USE PERMIT

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, Hawai`i.

January 7, 2011 by


Executive Officer



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Application Of)	DOCKET NO. SP06-400
)	
WILLIAM HORNEMAN ON BEHALF OF)	DECISION AND ORDER
HAWAIIAN CEMENT)	APPROVING TIME EXTENSION
)	TO SPECIAL USE PERMIT
To Operate And Expand A Quarry And Base)	
Course Operation On Approximately 79.2)	
Acres Of Land Within The State Land Use)	
Agricultural District At Mā`alaea, Maui,)	
Hawai`i, Tax Map Key: 3-6-04: 7)	
)	

DECISION AND ORDER APPROVING TIME EXTENSION TO SPECIAL USE PERMIT

On July 16, 2009, Karlynn Fukuda filed a request on behalf of Hawaiian
Cement ("Applicant") for a ten-year time extension to the life of the State Land Use
Commission ("LUC") Special Use Permit issued in County Docket No. SUP1 2006/0001
(LUC Docket No. SP06-400) with the County of Maui Department of Planning ("DP"),
pursuant to section 205-6, Hawai`i Revised Statutes ("HRS"), and sections 15-15-95 and
15-15-96, Hawai`i Administrative Rules ("HAR").

On January 26, 2010, the County of Maui Planning Commission
("Planning Commission") conducted a hearing on the Applicant's request. There was
no public testimony. After due deliberation, the Planning Commission voted to

approve the Applicant's request and to delete Condition Numbers 6 and 7 of the Decision And Order Approving Special Use Permit dated December 4, 2006.

The LUC has jurisdiction over this matter. Section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR, confer jurisdiction upon the LUC to approve special use permits and amendments thereto for areas greater than 15 acres.

On April 13, 2010, the LUC received copies of the Planning Commission's decision and the record on the request. Upon review of the record, the LUC staff believed that it was incomplete because there was an ambiguity as to the nature of the Planning Commission's action with respect to the disposition of certain conditions previously imposed by the LUC on the Special Use Permit. By letter dated April 15, 2010, the LUC staff notified the DP that it would suspend further processing of the request until such time that the record in this matter was clarified by the County of Maui.

On July 13, 2010, the Planning Commission conducted a hearing to address the concerns of the LUC staff. There was no public testimony. After due deliberation, the Planning Commission clarified that all of the remaining 23 conditions previously imposed by the LUC are included as part of its decision to approve the Applicant's request for a ten-year time extension to the life of the Special Use Permit and to delete Condition Numbers 6 and 7.

On October 20, 2010, the LUC received copies of the Planning Commission's agenda and minutes for its July 13, 2010, hearing.

On December 2, 2010, the LUC met in Honolulu, Hawai'i, to consider the Applicant's request. Karlynn Fukuda and Dave Gomes appeared on behalf of the Applicant. Michael Hopper, Esq., and Paul Fasi appeared on behalf of the DP. Bryan C. Yee, Esq., and Abe Mitsuda were also present on behalf of the State Office of Planning ("OP").

At the meeting, the LUC staff provided a summary of the Applicant's request and recommended that if the LUC were inclined to approve the Applicant's request for a ten-year time extension to the life of the Special Use Permit, Condition Number 6 be amended to read as follows:

6. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the LUC and the DP in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

The LUC staff further recommended that Condition Number 7 be retained.

Following the presentation by the LUC staff, the Applicant stated that it currently has a 20-year lease for the subject property that expires in 2024, with an option to extend the lease for another 20 years. The Applicant then requested that in addition to its request for a ten-year time extension, the LUC consider the deletion of Condition

Numbers 8, 10, and 16 of the Decision And Order Approving Special Use Permit dated December 4, 2006, as the Applicant represented that these conditions have been met.

The DP stated that it had no objection to amending Condition Number 6 and retaining Condition Number 7 as recommended by the LUC staff nor any objection to the Applicant's request to delete Condition Numbers 8, 10, and 16.

The OP stated that it had a concern about deleting the requirement in Condition Number 8b that no increase in storm water runoff be allowed onto the State highway right-of-way as OP believed that this was a continuing obligation. Upon discussion, the Applicant stated that it had no objection to retaining that part of Condition Number 8b. With respect to Condition Number 10, OP requested the Applicant to clarify whether the State Historic Preservation Division ("SHPD") formally agreed that Site T-9 was not marked for preservation as represented by the Applicant. The Applicant clarified that as part of its compliance report, it included a letter from the SHPD dated April 1, 2008, in which the SHPD did not require the preservation of Site T-9 but recommended the presence of a full-time archaeological monitor for the proposed ground altering activities on the parcel. Upon additional questioning by OP, the Applicant referenced an excerpt from the revised archaeological inventory survey prepared for the expansion area and subsequently accepted by the SHPD, in which Site T-9 was determined following a thorough inspection to be a naturally occurring, unmodified boulder field as there was no evidence of human alteration or uses. Based

on the findings of the survey, Site T-9 was no longer considered an archaeological site, did not warrant archaeological data recovery, and no longer warranted implementation of measures to prevent accidental encroachment.

The DP clarified the requirement that no increase in storm water runoff be allowed onto the State highway-right-of-way was also a condition of the County Special Use Permit.

Upon further discussion, the LUC advised the Applicant that its request to delete Condition Numbers 8, 10, and 16 would not be considered by the LUC at this time as it was not part of the Planning Commission's decision in this matter pursuant to section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR.

Following discussion by the Commissioners, a motion was made and seconded to (i) grant a ten-year time extension to the life of the Special Use Permit by amending Condition Number 1 of the Order Amending Decision And Order Approving Special Use Permit dated December 18, 2006, to read as follows:

1. That the LUC Special Use Permit shall be valid until December 15, 2019, subject to further extensions by the LUC upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate Planning Commission shall make a recommendation to the LUC and may require a public hearing on the time extension.
- (ii) amend Condition Number 6 of the Decision And Order Approving Special Use Permit dated December 4, 2006, to read as follows:

6. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the LUC and the DP in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

and (iii) retain Condition Number 7 of the Decision And Order Approving Special Use Permit dated December 4, 2006.

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

ORDER

The LUC, having duly considered the complete record of the Planning Commission's proceedings on the Applicant's request and the oral arguments presented by the parties in this proceeding, and a motion having been made at a meeting conducted on December 2, 2010, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that Condition Number 1 of the Order Amending Decision And Order Approving Special Use Permit dated December 18, 2006, be amended as follows:

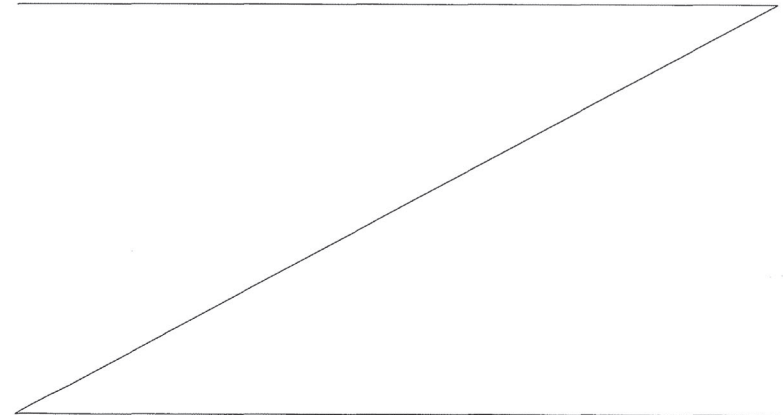
1. That the LUC Special Use Permit shall be valid until December 15, 2019, subject to further extensions by the LUC upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The appropriate Planning Commission shall

make a recommendation to the LUC and may require a public hearing on the time extension.

IT IS FURTHER ORDERED that Condition Number 6 of the Decision And Order Approving Special Use Permit dated December 4, 2006, be amended as follows:

6. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the LUC and the DP in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

All other conditions to the Decision And Order Approving Special Use Permit dated December 4, 2006, are hereby reaffirmed and shall continue in effect.¹



¹ Condition Number 1 was amended pursuant to Order Amending Decision And Order Approving Special Use Permit dated December 18, 2006, and is further amended herein.

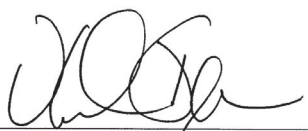
Done at Honolulu, Hawai'i, this 6TH day of January, 2011, per motion on December 2, 2010.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII

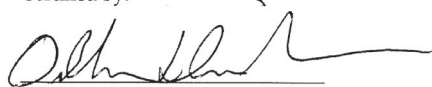
Devin Greiner
Deputy Attorney General

By 
VLADIMIR DEVENS
Chairperson and Commissioner

Filed and effective on:

January 7, 2011

Certified by:


ORLANDO DAVIDSON
Executive Officer



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of) DOCKET NO. SP06-400
)
WILLIAM HORNEMAN ON BEHALF OF) CERTIFICATE OF SERVICE
HAWAIIAN CEMENT)
)
To Operate And Expand A Quarry And Base)
Course Operation On Approximately 79.2)
Acres Of Land Within The State Land Use)
Agricultural District At Mā'alaea, Maui,)
Hawai'i, Tax Map Key: 3-6-04: 7)
_____)

CERTIFICATE OF SERVICE

I hereby certify that an ORDER DETERMINING TIME EXTENSION TO SPECIAL USE PERMIT was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	X		
BRYAN YEE, ESQ. Deputy Attorney General Hale 'Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		X	

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
Martin Luna, Esq. Carlsmith Ball, LLP One Main Plaza, Suite 400 2200 Main Street Wailuku, Hawaii 96793-1691			X
William Spence, Director of Planning Department of Planning County of Maui 250 South High Street Wailuku, Hawaii 96793		X	
MICHAEL HOPPER, Esq. Corporation Counsel County of Maui 250 South High Street Wailuku, Hawaii 96793			X

Honolulu, Hawai'i, January 7, 2011.

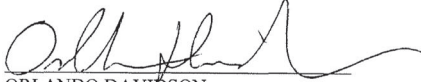

 ORLANDO DAVIDSON
 Executive Officer

EXHIBIT B.

**2022 COUNTY SPECIAL USE PERMIT
BI-ANNUAL REPORT**



Karlynn K. Fukuda
PRESIDENT
Mark Alexander Roy AICP, LEED AP
VICE PRESIDENT
Tessa Munekiyo Ng AICP
VICE PRESIDENT
Michael T. Munekiyo AICP
SENIOR ADVISOR

March 28, 2022

Via email: Paul.Fasi@mauicounty.gov

Michele Chouteau McLean, AICP, Director
County of Maui
Department of Planning
Attention: Paul Fasi, Planner
One Main Plaza
2200 Main Street, Suite 315
Wailuku, Hawai'i 96793

SUBJECT: Hawaiian Cement Pohakea Quarry; County Special Use Permit,
TMK (2) 3-6-004:007, Maalaea, Maui, Hawai'i (CUP 2006/0001)

Dear Mr. Fasi:

The Maui Planning Commission (Commission), at a regularly scheduled meeting on November 24, 2020, approved the 15-year time extension request for the County Special Use Permit (CUP) for the Hawaiian Cement's Pohakea Quarry. The Commission's approval of the time extension request is subject to 13 conditions. See **Attachment "1"**.

Condition Number 5 of the 2021 CUP time extension approval stated:

That the Applicant shall submit bi-annually to the Department, one digital copy of a detailed report addressing its compliance with the conditions established by the County Special Use Permit.

On behalf of the CUP permit holder, Hawaiian Cement, we are submitting this bi-annual compliance report in order to meet Condition No. 5 for the year 2022.

Maui: 305 High Street, Suite 104 • Wailuku, Hawaii 96793 • Tel: 808.244.2015 • Fax: 808.244.8729
Oahu: 735 Bishop Street, Suite 412 • Honolulu, Hawaii 96813 • Tel: 808.983.1233
www.munekiyoahiraga.com

Paul Fasi
March 28, 2022
Page 2

COUNTY SPECIAL USE PERMIT CONDITIONS

Condition No. 1:

That the County Special Use Permit shall be valid until December 15, 2035, subject to extension by the Commission upon a timely request for extension

filed at least 120 days prior to its expiration date. The Commission may require a public hearing on the time extension.

Response: The permittee concurs with this condition and will comply with the time extension request procedures for any future time extensions that may be needed.

Condition No. 2:

That the County Special Use Permit shall not be transferred without the prior written approval of the Commission.

Response: The permittee concurs with this condition. No permit transfer request is anticipated for the CUP.

Condition No. 3:

That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject County Special Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this County Special Use Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000.00 naming the County of Maui as an additional named insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any terms and conditions of this permit. Proof of a policy naming County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the Decision and Order.

Response: The permittee concurs with the condition. The current certificate of insurance naming the County of Maui as an additional insured is attached as **Attachment "2"**.

Condition No. 4:

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

Response: The permittee concurs with the condition.

Condition No. 5:

That the Applicant shall submit bi-annually to the Department, one digital copy of a detailed report addressing its compliance with the conditions established by the County Special Use Permit.

Response: This bi-annual report is being submitted to satisfy this condition.

Condition No. 6:

That the Applicant shall continue to develop the property in substantial compliance with the representations made to the Commission in obtaining the County Special Use Permit. Failure to so develop the property may result in the revocation of the permit.

Response: The permittee concurs with the condition and continues to utilize the property in substantial compliance with representations made to the Commission.

Condition No. 7:

That the Applicant shall continue compliance with the following recommendations of the State Department of Transportation:

- A. *The Applicant shall continue to regularly remove dirt, debris, gravel, and other byproducts of quarry operations from the quarry access road's intersection with Honoapiilani Highway. The Applicant shall abide by its previous plan for rapid removal of any quarry products spilled on the State highway right-of-way; and*

- B. *No increase in stormwater runoff will be allowed into the State highway right-of-way.*

Response: The permittee concurs with this condition and abides by its plans and procedures regarding quarry operations to remove byproducts from the quarry's access road to maintain its drainage improvements.

Condition No. 8:

That in the event of any significant cultural deposits or human skeletal remains are encountered, work shall stop in the immediate vicinity and the State Historic Preservation Division shall be contacted.

Response: The permittee concurs with this condition and will comply with the procedures.

Condition No. 9:

That the Applicant shall have an on-site monitor to ensure that the load is covered and material is removed from the exterior of the truck bed and wheels to reduce debris falling onto public roadways.

Response: The permittee concurs with this condition and has an on-site monitor.

Condition No. 10:

That upon cessation of the Pohakea Quarry operations, a closure plan shall be prepared to re-vegetate the site or other measures to reduce erosion and shall be reviewed and approved by the Department.

Response: The permittee concurs with this condition. In the event the Pohakea Quarry operations ceases, a closure plan approved by the landowner, will be submitted to the Department of Planning.

Condition No. 11:

That the Applicant shall incorporate applicable Best Management Practices (BMPs) to mitigate noise and dust related to the Pohakea Quarry expansion.

Paul Fasi
March 28, 2022
Page 5

Response: The permittee concurs with this condition and incorporates BMPs for noise and dust mitigation.

Condition No. 12:

That the Applicant shall maintain the existing natural landscape buffer along the southern boundary of the project site for the life of the quarry to provide a visual buffer.

Response: The permittee concurs with this condition and has maintained the natural buffer between the quarry operations and Pohakea Gulch.

Condition No. 13:

That base course materials from the quarry shall not be exported off-island.

Response: The permittee concurs with this condition. No base course materials from the quarry are shipped off-island.

Should you have any further questions, please do not hesitate to contact me at (808)983-1233 or Karlynn Fukuda at (808)244-2015.

Very truly yours,



Bryan Esmeralda, AICP
Senior Associate

BE:la
Enclosures

cc: Dave Gomes, Hawaiian Cement (w/enclosures)
K:\DATA\HawCemt\PohakeaQuarry\CUP BiAnnual Comp Reports\2022 CUP Report\2022_CUP_BiAnnual_Rpt.doc

List of Attachments

- Attachment 1.** Time Extension Request Approval Letter Dated April 20, 2021
- Attachment 2.** Current Certificate of Insurance

ATTACHMENT 1.

Time Extension Request Approval Letter Dated April 20, 2021

MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director
JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793



April 20, 2021

Mr. David Gomes
Hawaiian Cement
Post Office Box 488
Kahului, Hawaii 96733

Dear Mr. Gomes:

SUBJECT: 15 YEAR TIME-EXTENSION REQUEST FOR STATE LAND USE COMMISSION SPECIAL PERMIT AND COUNTY SPECIAL USE PERMIT TO CONTINUE OPERATION OF THE POHAKEA QUARRY IN THE STATE AND COUNTY AGRICULTURAL DISTRICTS AT MAALAEA, ISLAND OF MAUI, HAWAII; TMK: (2) 3-6-004:007 (SUP1 2006/0001) (CUP 2006/0001)

At its regular meeting on November 24, 2020, the Maui Planning Commission (Commission) voted to recommend approval of the State Land Use Commission Special Use Permit, subject to the following recommended conditions:

STATE LAND USE COMMISSION SPECIAL PERMIT

1. That the State Land Use Commission (SLUC) Special Permit shall be valid until December 15, 2035, subject to further extensions by the LUC upon a timely request for extension filed at least 120 days prior to its expiration date. If the appropriate Planning Commission approves the LUC Special Permit, it shall forward its approval to the LUC for final determination.
2. That the conditions of this SLUC Special Permit shall be enforced pursuant to Sections 205-12 and 205-13, Hawaii Revised Statutes (HRS). Failure to comply with one or more of the conditions herein shall result in a notice of violation issued by the appropriate enforcement agency, notifying the permit holder of the violation, and providing the permit holder no more than 60 days to cure the violation. If the permit holder fails to cure the violation within 60 days of said notice, the appropriate enforcement agency shall issue an order which may require one or more of

the following: that the violative activity cease; that the violative development be removed; that a civil fine be paid not to exceed \$1,000.00 per violation; and that a civil fine not to exceed \$5,000.00 shall be issued if violation not cured within six months of the issuance of the order. The order shall become final 30 days after the date of its mailing or hand-delivery unless written request for a hearing is mailed or delivered to the Department of Planning (Department) within said 30 days. Upon receipt of a request for a hearing, the Department shall specify a time and place for the permit holder to appear and be heard. The hearing shall be conducted by the Planning Director (Director) or the Director's designee in accordance with the provisions of Chapter 91, HRS, as amended.

3. That the subject SLUC Special Permit shall not be transferred without the prior written approval of the SLUC. The appropriate Planning Commission shall make a recommendation to the SLUC Special Permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
4. That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject SLUC Special Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this SLUC Special Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000.00 naming the County of Maui and State of Hawaii as an additional named insured, insuring and defending the Applicant, County of Maui and State of Hawaii against any and all claims or demands for property damage, personal injury, and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming County of Maui as an additional named insured shall be submitted to the Department within 90 calendar days from the date of transmittal of the Decision and Order.
5. That full compliance with all applicable governmental requirements shall be rendered.

COUNTY SPECIAL USE PERMIT

At the same meeting, the Commission also approved the 15-year time-extension request for the County Special Use Permit subject to the following conditions:

Standard Conditions:

1. That the County Special Use Permit shall be valid until December 15, 2035, subject to extension by the Commission upon a timely request for extension filed at least 120 days prior to its expiration date. The Commission may require a public hearing on the time extension.
2. That the County Special Use Permit shall not be transferred without the prior written approval of the Commission.
3. That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject County Special Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this County Special Use Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000.00 naming the County of Maui as an additional named insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury, and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming County of Maui as an additional named insured shall be submitted to the Department within 90 calendar days from the date of transmittal of the Decision and Order.
4. That full compliance with all applicable governmental requirements shall be rendered.
5. That the Applicant shall submit bi-annually to the Department, one digital copy of a detailed report addressing its compliance with the conditions established by the County Special Use Permit.
6. That the Applicant shall continue to develop the property in substantial compliance with the representations made to the Commission in obtaining

Mr. David Gomes
April 20, 2021
Page 4

the County Special Use Permit. Failure to so develop the property may result in the revocation of the permit.

Project Specific Conditions:

7. That the Applicant shall continue compliance with the following recommendations of the State Department of Transportation:
 - a) The Applicant shall continue to regularly remove dirt, debris, gravel, and other byproducts of quarry operations from the quarry access road's intersection with Honoapiilani Highway. The Applicant shall abide by its previous plan for rapid removal of any quarry products spilled on the State highway right-of-way; and
 - b) No increase in storm water runoff will be allowed onto the State highway right-of-way.
8. That in the event any significant cultural deposits or human skeletal remains are encountered, work shall stop in the immediate vicinity and the State Historic Preservation Division shall be contacted.
9. That the Applicant shall have an on-site monitor to ensure that the load is covered and material is removed from the exterior of the truck bed and wheels to reduce debris falling onto the public roadways.
10. That upon cessation of the Pohakea Quarry operations, a closure plan shall be prepared to re-vegetate the site or other measures to reduce erosion and shall be reviewed and approved by the Department.
11. That the Applicant shall incorporate applicable Best Management Practices (BMPs) to mitigate noise and dust related to the Pohakea Quarry expansion.
12. That the Applicant shall maintain the existing natural landscape buffer along the southern boundary of the project site for the life of the quarry to provide a visual buffer.
13. That base course material from the quarry shall not be exported off-island.

Mr. David Gomes
April 20, 2021
Page 5

Thank you for your cooperation. If additional clarification is required, please contact Senior Staff Planner Paul Fasi at paul.fasi@mauicounty.gov or at (808) 270-7814.

Sincerely,



MICHELE MCLEAN, AICP
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
Paul F. Fasi, Staff Planner (PDF)
State Land Use Commission (PDF)
Bryan Esmeralda, Munekiyo Hiraga, Inc. (PDF)
Project File
MCM:PFF:rma
K:\WP_DOCS\Planning\SUP1\2006\0001_PohakeaQuarry\2020 Time Extension Docs\MPCAppv12020a.doc

ATTACHMENT 2.
Certificate of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/07/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA Inc. 333 South 7th Street, Suite 1400 Minneapolis, MN 55402-2100 Attn: MDU CertRequest@marsh.com	CONTACT NAME: Marsh U.S. Operations PHONE: 866-966-4684 FAX: (A/C, No): E-MAIL: MDU.CertRequest@marsh.com ADDRESS:
CN102299309-HAWAII-GAWX-22-23 2037 HAWAII AI Y	INSURER(S) AFFORDING COVERAGE INSURER A: Liberty Mutual Fire Ins Co 23035 INSURER B: Associated Electric & Gas Ins Services Ltd 3190004 INSURER C: Liberty Insurance Corporation 42404 INSURER D: INSURER E: INSURER F:

COVERAGES CERTIFICATE NUMBER: CHI-007164427-31 REVISION NUMBER: 9
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSTR LTR	TYPE OF INSURANCE	ADDITIONAL INSURED	POLICY NUMBER	POLICY EFF DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENERAL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:		TB2-641-005097-042	01/01/2022	01/01/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (EA occurrence) \$ 2,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPIOP AGG \$ 4,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		A12-641-005097-052	01/01/2022	01/01/2023	COMBINED SINGLE LIMIT (EA accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> COED <input type="checkbox"/> RETENTION \$		XL5063411P	01/01/2022	01/01/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	WA7-64D-405097-022 (Regulated) WA7-64D-405097-012 (AOS) "INCLUDES" STOP-GAP"	01/01/2022 01/01/2022	01/01/2023 01/01/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: Pohakaea Quarry
County of Maui is included as an additional insured as required by permit 20060001 as respects the General Liability and Auto Liability. The State of Hawaii is included as an additional insured as required by permit SP06-400 as respects the General Liability and Auto Liability. Blanket Additional insured for General Liability is included per attached CG 2010 and CG 2037 Endorsements and does not include professional liability coverage. Blanket Additional insured for Automobile Liability is included per attached designated insured endorsement CA 20 48. Excess liability applies to general liability, products and completed operations, automobile liability, and employers liability.

CERTIFICATE HOLDER County of Maui Department of Planning 200 S. High Street Waikuku, Maui, HI 96793	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. <i>Marsh USA Inc.</i>
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ACORD 25 (2016/03)

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EXHIBIT B-1.

**2022 COUNTY CONDITIONAL PERMIT
ANNUAL REPORT**



Karlynn K. Fukuda
PRESIDENT
Mark Alexander Roy AICP, LEED AP
VICE PRESIDENT
Tessa Munekiyo Ng AICP
VICE PRESIDENT
Michael T. Munekiyo AICP
SENIOR ADVISOR

September 26, 2022

via email: currentdivision@mauicounty.gov

Michele Chouteau McLean, AICP, Director
County of Maui
Department of Planning
Attention: Ann Cua, Planning Program Supervisor
One Main Plaza
2200 Main Street, Suite 315
Wailuku, Hawai'i 96793

SUBJECT: County Conditional Permit for Hawaiian Cement Pohakea Quarry,
TMK (2)3-6-004:007(por.), Mā'alaea, Maui, Hawai'i; (CP 97/0002)

Dear Ms. McLean:

Ordinance No. 3787, granting a time extension to the above mentioned Conditional Permit (CP), was passed on final reading by the Maui County Council on October 19, 2010 and took effect on October 22, 2010. The CP time extension was granted until December 15, 2019. The approval of the time extension request was subject to seven (7) conditions. See **Attachment "1"**. On September 2, 2020, the Director of the Department of Planning administratively approved a time extension request for the CP until December 15, 2035. See **Attachment "1-A"**.

Condition Number 7 of the CP approval stated:

"That Hawaiian Cement shall submit to the Department of Planning annual reports addressing its compliance with the conditions established with the subject Conditional Permit."

On behalf of the CP holder, Hawaiian Cement, we are submitting this compliance report for the year 2022 to meet Condition Number 7 and address compliance with the conditions set forth in the approved CP time extension.

Michele Chouteau McLean, AICP, Director
Page 2
September 26, 2022

Condition No. 1

That full compliance with all conditions of the State Special Use Permit, with the conditions of the State Department of Health, Clean Air Branch, Noncovered Source Permit, and with all other applicable governmental requirements shall be rendered;

Response: The permittee concurs with this condition and will comply with the conditions in the State Special Use Permit, with the conditions of the State Department of Health, Clean Air Branch, Noncovered Source Permit and applicable governmental requirements. The permittee submitted a renewal modification application for a Covered Source Permit as required, to the State Department of Health (DOH). By letter dated July 21, 2008, DOH acknowledged receipt of permittee's permit renewal-modification application. DOH confirmed via email on April 28, 2014, that permittee follow the guidelines of covered source permit 0386-02-C issued on June 12, 2008. See attached **Attachment "2"**.

DOH notified the permittee by letter dated December 9, 2013, that a new National Pollutant Discharge Elimination System (NPDES) permit was granted for stormwater discharge in accordance with Hawai'i Administration Rules, Title 11, Chapter 55, Appendix B which became effective December 9, 2013. The NPDES Permit extension was approved by the State Department of Health in August 2022 and expires on January 14, 2027. See **Attachment "3"**.

Condition No. 2

That the Conditional Permit is hereby granted to Hawaiian Cement and shall be valid for a period of 15 years until December 15, 2035; provided that, an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code;

Response: The permittee concurs with the condition and will comply with time extension request procedures. As previously noted, a time extension request for the CP was approved by the Director of Planning in September 2020 and is valid until December 15, 2035.

In addition, it is noted that the permittee sent the DOH, Solid and Hazardous Waste Branch a letter dated December 6, 2013, that it will not be seeking a permit renewal application for a green waste composting operation. The green waste operation was not initiated and as such, no green waste has been accepted and no composting activities were performed. DOH sent permittee a letter dated December 26, 2013, that it closed its file regarding

the green waste composting permit which expired December 4, 2013. See **Attachment "4"**.

Condition No. 3

That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance;

Response: The permittee concurs with the condition. No permit transfer request is anticipated for the CP.

Condition No. 4

That Hawaiian Cement, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00), naming the County of Maui as an additional [named] insured, insuring and defending Hawaiian Cement and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Hawaiian Cement of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or non-performance of any of the terms and conditions of this permit. A copy of a policy naming County of Maui as an additional [named] insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of the most recent amendment to this ordinance.

Response: An updated Certificate of Insurance is attached hereto as **Attachment "5"**.

Condition No. 5

That this Conditional Permit shall be limited to the composting of green waste and grubbed material and the recycling of concrete rubble in connection with the base course production, and the use of the scale house/office structure located on the site;

Response: In regards to the recycling of concrete rubble, the permittee concurs with the condition and continues to comply. The permittee did not seek a renewal of the green waste composting permit which expired December 4, 2013. The green waste operation was not initiated and as such no green

waste has been accepted and no composting activities were performed on the quarry site. See response to Condition No. 2.

Condition No. 6

That Hawaiian Cement shall employ dust control measures at the green waste composting area to minimize dust emissions.

Response: The green waste permit expired December 4, 2013 and the permittee did not seek a renewal of the permit. The green waste operation was not initiated and as such no green waste has been accepted and no composting activities were performed on the quarry site. See response to Condition No. 2. As such, there are no dust emissions at this area.

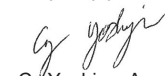
Condition No. 7

That Hawaiian Cement shall submit to the Department of Planning annual reports addressing its compliance with the conditions established with the subject Conditional Permit.

Response: This report is being submitted to satisfy this condition for the year 2022.

Should you have any further questions, please do not hesitate to contact me at (808) 244-2015.

Very truly yours,



Cy Yoshizu, Associate

CY:lh

Enclosures

cc: Ann Cua, Department of Planning (w/enclosures)
Dave Gomes, Hawaiian Cement (w/enclosures)
Keoni DeRego, Hawaiian Cement (w/enclosures)

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List of Attachments

- Attachment 1.** Conditional Permit Approval Ordinance No. 3787
- Attachment 1-A.** Conditional Permit Time Extension Approval Letter Dated September 2, 2020
- Attachment 2.** Letter from Department of Health Dated July 21, 2008
- Attachment 3.** National Pollutant Discharge Elimination System (NPDES) Permit (Stormwater Discharge Dated August 9, 2022 - Expires on January 14, 2027)
- Attachment 4.** Department of Health Letters Dated December 6, 2013 and December 26, 2013
- Attachment 5.** Current Certificate of Insurance

ATTACHMENT 1.

**Conditional Permit Approval
Ordinance No. 3787**

ORDINANCE NO. 3787

BILL NO. 74 (2010)

A BILL FOR AN ORDINANCE TO EXTEND A CONDITIONAL PERMIT TO ALLOW THE OPERATION OF A CONCRETE RECYCLING AND GREEN WASTE COMPOSTING FACILITY IN CONJUNCTION WITH THE PERMITTED QUARRY AND ROCK CRUSHING OPERATION WITHIN THE COUNTY AGRICULTURAL DISTRICT FOR PROPERTY SITUATED AT TAX MAP KEY NO. (2) 3-6-004:007 (POR.),
WAILUKU, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, the Conditional Permit granted by Ordinance No. 2669 (1998), as amended by Ordinance No. 2853 (2000), as amended by Ordinance No. 3232 (2004), is extended, subject to the conditions imposed in Section 2 of this ordinance, for the operation of a concrete recycling and green waste composting facility in conjunction with the permitted quarry and rock crushing operation within the County Agricultural District. The site is identified for real property tax purposes by Tax Map Key No. (2) 3-6-004:007 (por.), and is comprised of approximately 14.8 acres of land.

SECTION 2. The conditions imposed in Ordinance No. 3232 (2004) are amended to read as follows:

- "1. That full compliance with all conditions of the State Special Use Permit, with the conditions of the State Department of Health, Clean Air Branch, Noncovered Source Permit,

and with all other applicable governmental requirements shall be rendered;

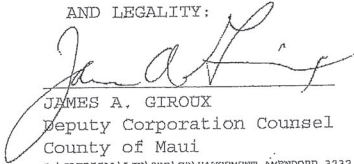
2. That the Conditional Permit is hereby granted to Hawaiian Cement and shall be valid [for a period of five years from the effective date of the most recent amendment to this ordinance;]until December 15, 2019; provided that, an extension of this permit beyond this [five-year] period may be granted pursuant to Section 19.40.090, Maui County Code;
3. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance;
4. That Hawaiian Cement, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00), naming the County of Maui as an additional [named] insured, insuring and defending Hawaiian Cement and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Hawaiian Cement of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. A copy of a policy naming County of Maui as an additional [named] insured shall be submitted

to the Department of Planning within ninety (90) calendar days from the effective date of the most recent amendment to this ordinance[.]

5. That this Conditional Permit shall be limited to the composting of green waste and grubbed material, [and] the recycling of concrete rubble in connection with the base course production, and the use of the scale house/office structure located on the site;
6. That Hawaiian Cement shall employ dust control measures at the green waste composting area to minimize dust emissions; and
7. That Hawaiian Cement shall submit to the [Planning Department] Department of Planning annual reports addressing its compliance with the conditions established with the subject Conditional Permit."

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:


JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

S:\CLERICAL\JLN\ORD\CP\HANCEMENT AMENDORD 3232 EXTEND CP 2010.wpd

WE HEREBY CERTIFY that the foregoing BILL NO. 74 (2010)

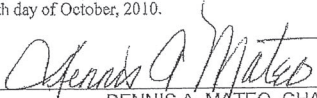
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 19th day of October, 2010, by the following vote:

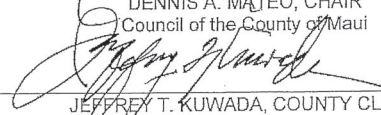
Dennis A. MATEO Chair	Michael J. MOLINA Vice-Chair	Gladys C. BAISA	Jo Anne JOHNSON	Solomon P. KAH'O'OHALAHALA	William J. MEDEIROS	Wayne K. NISHIKI	Joseph PONTANILLA	Michael P. VICTORINO
Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 20th day of October, 2010.

DATED AT WAILUKU, MAUI, HAWAII, this 20th day of October, 2010.

RECEIVED
2010 OCT 20 AM 9:43
OFFICE OF THE MAYOR

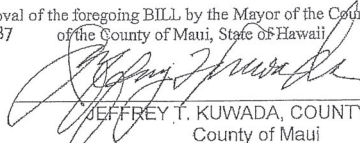

DENNIS A. MATEO, CHAIR
Council of the County of Maui


JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 22nd DAY OF ~~OCTOBER~~, 2010.


CHARMAINE TAVARES, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 3787 of the County of Maui, State of Hawaii


JEFFREY T. KUWADA, COUNTY CLERK
County of Maui

Passed First Reading on October 1, 2010.
Effective date of Ordinance October 22, 2010.

RECEIVED
2010 OCT 25 PM 12:51
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 3787, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

SEP 14 2020

MICHAEL P. VICTORINO
Mayor
MICHELE CHOUTEAU MCLEAN, AICP
Director

JORDAN E. HART
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793



September 2, 2020

Mr. Michael Munekiyo, AICP
Munekiyo Hiraga
305 High Street, Suite 104
Wailuku, Hawaii 96793

Dear Mr. Munekiyo:

**SUBJECT: HAWAIIAN CEMENT POHAKEA QUARRY 15 YEAR
TIME EXTENSION REQUEST FOR CONDITIONAL
PERMIT, MAALAEA, MAUI, HAWAII;
TMK: (2) 3-6-004:007 (por.) (SUP 1 2006/0001)
(CUP 2006/0001) (CP 97/0002)**

Upon review and analysis of the subject request referenced above, the Department of Planning (Department) has made the following determinations:

1. The permit holder is in compliance with the conditions of approval for CP 97/0002 granted by County Council Ordinance No. 3787 (2010);
2. The permitted use has not been substantially changed and new uses have not been added that may result in significant impacts above what would result from the approved CP;
3. Agencies have not identified new matters of concern that require mitigation;
4. The notice of filing of the application for a time extension of the CP was mailed by the applicant on June 4, 2020, with no protests received during the challenge period;
5. The criteria enumerated in Ordinance No. 3787, have been met, allowing the Planning Director to approve a 15 year time extension of the subject CP for the continued recycling of concrete rubble and the use of the scale house/office on site;

ATTACHMENT 1-A.

Conditional Permit Time Extension Approval Letter Dated September 2, 2020

Mr. Michael Munekiyo, AICP
September 2, 2020
Page 2

6. The conditions of approval as outlined in Ordinance No. 3787 remain in effect as a result of this time extension of CP 97/0002.

The request for a 15 year time extension for CP 97/0002 is approved and is valid until December 15, 2015. Condition No. 2 of Ordinance No. 3787 is hereby amended to read as follows:

2. ***"That the Conditional Permit shall be valid for a period of 15 years until December 15, 2035..."***

All other conditions of the permit remain unchanged with the exceptions noted above.

If additional clarification is required, please contact Staff Planner Paul Fasi at paul.fasi@mauicounty.gov or 878-8633.

Sincerely, .



MICHELE MCLEAN, AICP
Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
Paul F. Fasi, Staff Planner (PDF)
Project File

MCM:PFF:lk
K:\WP_DOCS\Planning\SUP1\2006\0001_PohakeaQuarry\2020 Time Extension Docs\2020
CPTimeExtApprovalLetter2.doc

ATTACHMENT 2.

**Letter From Department Of Health
Dated July 21, 2008**

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3578
HONOLULU, HAWAII 96801-3578

CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH

In reply, please refer to:
File:

July 21, 2008

08-656E CAB
File No. 0386-02

Mr. John H. DeLong
President
Hawaiian Cement
91-1300 Halawa Valley Street
Honolulu, Hawaii 96701

Dear Mr. DeLong:

Subject: Covered Source Permit (CSP) 0386-02-C
Renewal-Modification Application No. 0386-08
Hawaiian Cement
800 tph Crushing and Screening Plant
Located at: Waikapu Quarry, Waikapu, Maui

The Department of Health acknowledges receipt of your renewal-modification application on June 24, 2008, for the subject facility. The renewal-modification application has been assigned No. 0386-08. Please reference this number in future correspondence regarding this permit. A receipt for the application filing fee of \$500.00 is enclosed.

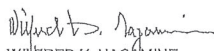
The Department has completed the initial review of your permit application. You propose to add a grizzly feeder, jaw crusher, and a diesel engine generator, and to delete the annual production limit of 640,800 tons per year and the annual hourly limit of 2,080 hours per year.

In your application, the Department of Health has noted a discrepancy in the ambient air quality impact assessment. In Appendix A, page A-10, ISC3 Screening calculations, for the nitrogen dioxide annual concentration, the multi-tiered ambient ratio method was applied. But in the ambient ratio method, the 2080 hours of operation was used to proportionally reduce the annual concentration, which is no longer applicable since you requested to delete the annual hourly limit of 2,080 hours per year. Without that hourly limit, the predicted nitrogen dioxide annual concentration exceeds the allowable Hawaii air standard of 70 micrograms per cubic-meter. The proposed operation for the new diesel engine generator needs to be revised to meet the Hawaii air standard for the annual nitrogen dioxide ambient air quality impact.

Please note that in accordance with Hawaii Administrative Rules (HAR), Title 11, Chapter 60.1, during the processing of an application, if it is determined that additional information is necessary to evaluate the application, the Department may request additional information.

If you have any questions, please call Mr. Glenn Nagamine of my staff at (808) 586-4200.

Sincerely,


WILFRED K. NAGAMINE
Manager, Clean Air Branch

GN:tkc
Enclosure

cc: James W. Morrow, DrPH
Blake Shilgi, EHS Maui
CAB Monitoring Section

Cheryl Okuma

From: Wurlitzer, Dane <Dane.Wurlitzer@hawallcement.com>
Sent: Monday, April 28, 2014 3:03 PM
To: Cheryl Okuma
Cc: Gomes, David
Subject: FW: Hawaiian Cement CSP 0386-02-C - Waikapu Quarry

FYI

From: Khara, Kevin M [mailto:kevin.khara@doh.hawaii.gov]
Sent: Monday, April 28, 2014 2:35 PM
To: Wurlitzer, Dane
Subject: RE: Hawaiian Cement CSP 0386-02-C - Waikapu Quarry

Dane,

The application was submitted in a timely manner, so as long as you follow the guidelines of covered source permit 0386-02-C, issued on June 12, 2008, you are in good standing.

Kevin Khara
State of Hawaii
Department of Health
Clean Air Branch
Phone: 808-686-4200
Fax: 808-686-4369

From: Wurlitzer, Dane [mailto:Dane.Wurlitzer@hawallcement.com]
Sent: Monday, April 28, 2014 1:31 PM
To: Khara, Kevin M
Subject: Hawaiian Cement CSP 0386-02-C - Waikapu Quarry

Kevin,

We are doing a compliance review for Waikapu Quarry. Can you confirm we are in good standing by replying to this e-mail.

Your July 21, 2008 letter acknowledges receipt of our renewal-modification application. The technical details for developing a new permit are being worked out between your office and our consultant, Dr. Jim Morrow. In the meantime, we are following the guidelines of permit 0386-02-C issued June 12, 2008.

Let me know if more information is required.

Thank you,

Dane Wurlitzer
Hawaiian Cement
532-3407

ATTACHMENT 3.

National Pollutant Discharge Elimination System (NPDES) Permit

**(Stormwater Discharge Dated August 9,
2022 – Expires on January 14, 2027)**

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

In reply, please refer to:
EMDCWB

R32G891.FNL.22

August 9, 2022

Via e-mail only (dave.gomes@hawaiiancement.com)

Mr. Dave Gomes
President
Hawaiian Cement
99-1300 Halawa Valley Street
Aiea, Hawaii 96701

Dear Mr. Gomes:

**Subject: NOTICE OF GENERAL PERMIT COVERAGE (NGPC)
National Pollutant Discharge Elimination System (NPDES)
Hawaiian Cement Waikapu Quarry
Kahului, Island of Maui, Hawaii
File No. HIR32G891**

This NGPC supersedes the NPDES Permit Coverage File Number HIR32C427.

This letter is to notify you that:

HAWAIIAN CEMENT

(Permittee) is now covered under the NPDES General Permit authorizing discharges of storm water associated with industrial activities. This only authorizes the Permittee to discharge to certain receiving State waters discharge point(s) from certain project location(s), all as identified in the Notice of Intent (NOI) e-Permitting Submission:

HPK-4DGB-N9NBS

(submitted online on July 14, 2022);

provided that Permittee shall comply with applicable administrative rules¹ and the information submitted in the NOI (Administrative Requirements).

¹ Hawaii Administrative Rules (HAR) Chapter 11-54; HAR Chapter 11-55; HAR Chapter 11-55, Appendix A; HAR Chapter 11-55, Appendix B. HAR Chapters 11-54 and 11-55 are available on the DOH, Clean Water Branch website at: <https://health.hawaii.gov/cwb/>.

Mr. Dave Gomes
August 9, 2022
Page 2

R32G891.FNL.22

Unauthorized Discharges. Discharges of any pollutants not authorized by or not in accordance with HAR Chapter 11-55, Appendix B, including unauthorized discharges of storm and non-storm water, process and non-process wastewater, toxics, nutrients, and other water pollutants to State waters are prohibited. This NGPC cannot be modified (not including changes to contact information), including additions of discharge point locations.

Term. This NGPC shall take effect on the date of this letter. **This NGPC shall expire at midnight, January 14, 2027**, or when amendments to HAR Chapter 11-55, Appendix B, are adopted, whichever occurs first.

Certain Requirements. As a reminder, this NGPC requires the Permittee, among other things, to do the following.

1. Comply with the sector and subsector-specific requirements contained in HAR Chapter 11-55, Appendix B applicable for the Facility's primary SIC, sector, and subsector (bolded below) as well as the identified SICs, sectors, and subsectors for co-located activities at the Facility.

SIC Code	Sector	Subsector
1429	Sector J - Mineral Mining and Dressing	J2

2. Implement and maintain the Facility's Storm Water Pollution Prevention Plan (SWPPP) that was prepared prior to submittal of the NOI in accordance with HAR Chapter 11-55, Appendix B, Part 5.

Compliance Submittals. All NGPC compliance submittals, including the Notice of Cessation, Notification of Start of Construction or Discharge, Discharge Monitoring Report, and other required information shall be submitted on the CWB Compliance Submittal Form for Individual NPDES Permits and NGPCs. This form shall be completed on the e-Permitting Portal located at: <https://eha-cloud.doh.hawaii.gov/epermit>.

Other Authorizations. The Permittee is responsible for obtaining other Federal, State, or local authorizations as may be required by law.

Failure to Comply. Failure to comply with Administrative Requirements is an enforceable violation and this NGPC may be terminated. Violations may be enforced pursuant to Hawaii Revised Statutes (HRS) Chapter 342D and are punishable by civil and criminal penalties thereunder.

Mr. Dave Gomes
August 9, 2022
Page 3

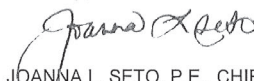
R32G891.FNL.22

Falsification of Information. Providing information (including in the NOI) that does not accurately describe what is actually occurring at the project site/facility, may result in criminal penalties for the Permittee and their authorized representative as provided in Clean Water Act², Section 309 and HRS § 342D-35.

DOH Survey. Please complete the DOH Customer Satisfaction Survey regarding your request for General Permit coverage. This brief survey is available on the e-Permitting Portal located at: <https://eha-cloud.doh.hawaii.gov/epermit>. Please use the Application Finder button and search for the "Customer Satisfaction Survey."

If you have any questions, please contact the CWB Enforcement Section or Mr. Darryl Lum of the Engineering Section at (808) 586-4309.

Sincerely,


JOANNA L. SETO, P.E., CHIEF
Environmental Management Division

BGS:ms

c: Mr. Keoni Derego, Hawaiian Cement
[via e-mail keoni.derego@hawaiiancement.com only]
Ms. Izabella Marlin, Hawaiian Cement
[via e-mail izabella.marlin@hawaiiancement.com only]
CWB Maui District Health Office

² Federal Water Pollution Control Act, 33 USC § 1251, et seq.

ATTACHMENT 4.

Department of Health Letters Dated December 6, 2013 and December 26, 2013

MUNEKIYO HIRAGA, INC.

MICHAEL W. VANCE
PRESIDENT
CAROLYN FLICKER
EXECUTIVE VICE PRESIDENT
JIMMY CHANG
SENIOR VICE PRESIDENT
MICHAEL H. HIRAGA
SENIOR VICE PRESIDENT
MARK A. JENSEN
VICE PRESIDENT

December 6, 2013

CERTIFIED MAIL NO. - 7003 1680 0000 5101 6220

Steven Y.K. Chang, P.E., Chief
Solid Waste and Hazardous Waste Branch
Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801-3378

SUBJECT: Solid Waste Management Permit-by-Rule RY-0087-08 (Greenwaste Composting) located in the Vicinity of Kuihelani Highway and Honoapiilani Highway Intersection, Maui, Hawaii, TMK (2)3-6-04:007
WARNING LETTER (S1134SL)

Dear Mr. Chang:

On behalf of our client, Hawaiian Cement, we provide this response to the State Department of Health's Warning Letter dated November 27, 2013 which was received by Hawaiian Cement on December 4, 2013.

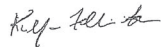
Hawaiian Cement's Green Waste Recycling permit (Solid Waste Management Permit No. RY-0087-08) expired December 4, 2013. Please be informed that Pohakulepo Recycling, LLC and Hawaiian Cement will not be seeking a permit renewal application for a Greenwaste Composting operation. The greenwaste operation was not initiated and, as such, no greenwaste has been accepted and no composting activities were performed.

MAUI
305 High St., Suite 104 Wailuku, Hawaii 96793
PH: (808)244-2015 FAX: (808)244-8729
OAHU
735 Bishop St., Suite 238 Honolulu, Hawaii 96813 PH: (808)983-1233
WWW.MHPLANNING.COM

Steven Y.K. Chang, P.E., Chief
December 6, 2013
Page 2

If there are any questions, please call me at (808) 244-2015.

Very truly yours,



Cheryl K. Okuma, Senior Associate

CKO:yp

cc: Ronald Jacintho, Pohakulepo Recycling, LLC
David Gomes, Hawaiian Cement
Sue Liu, Department of Health, Solid Waste Section

K:\DATA\HawaiiCement\Quarry\Permit\byRule\Greenwaste\Info\DOH.doc

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

DEC 31 2013

GARY L. GILL
ACTING DIRECTOR OF HEALTH

In reply, please refer to:
File:

December 26, 2013

S1237SL

Mr. Ronald Jacintho, Sr., Owner
Pohakulepo Recycling, LLC
255-B East Waiko Road
Wailuku, Hawaii 96793

Mr. David Gomes, Operator
Hawaiian Cement
P.O. Box 488
Kahului, Hawaii 96732

Dear Messrs. Jacintho, Sr. and Gomes:

SUBJECT: Solid Waste Management Permit by Rule No. CO-0087-08 File Closure
Pohakulepo Recycling, LLC and Hawaiian Cement
Approximately 0.2 Miles West of Honoapiilani, in the Vicinity of
Kuihelani Hwy. and Honoapiilani Hwy. Intersection, Maui
TMK: 3-6-04:007

The Department of Health, Solid Waste Section received a letter dated December 6, 2013 responding to our warning letter dated November 27, 2013. The letter was submitted by Munekiyo and Hiraga, Inc.

The letter stated that Pohakulepo Recycling, LLC and Hawaiian Cement would not be seeking a permit renewal for the greenwaste composting operation. The letter further stated that the greenwaste operation was never initiated—no greenwaste has been accepted and no composting activities have been performed. The subject permit expired on December 4, 2013.

With this understanding, we have closed the subject permit file. If, in the future, you decide to open a greenwaste facility at the subject site, or any other site, a new solid waste management permit application is required to be submitted to our office for our review and approval prior to commencement of activities.

Mr. Ronald Jacintho, Sr.
Mr. David Gomes
December 26, 2013
Page 2

Should you have any questions regarding this letter, please call Ms. Sue Liu of our Solid Waste Section at (808) 586-4226.

Sincerely,



STEVEN Y.K. CHANG, P.E., CHIEF
Solid and Hazardous Waste Branch

c: Cheryl K. Okuma; Munekiyo and Hiraga, Inc.

ATTACHMENT 5.

Current Certificate of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/07/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA Inc. 333 South 7th Street, Suite 1400 Minneapolis, MN 55402-2400 Attn: MDU.CertRequest@marsh.com	CONTACT NAME: Marsh U.S. Operations PHONE (A/C, No, Ext): 866-966-4684 E-MAIL: MDU.CertRequest@marsh.com FAX (A/C, No): INSURER(S) AFFORDING COVERAGE NAIC #
CN102289309-HAWAC-GAWX-22-23 2037 HAWCE AI Y	INSURER A: Liberty Mutual Fire Ins Co 23035 INSURER B: Associated Electric & Gas Ins Services Ltd 3190004 INSURER C: Liberty Insurance Corporation 42404 INSURER D: INSURER E: INSURER F:
INSURED HAWAIIAN CEMENT 99-1300 HALAWA VALLEY STREET AIEA, HI 96701	

COVERAGES CERTIFICATE NUMBER: CHI-007164427-31 REVISION NUMBER: 9
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSTR	TYPE OF INSURANCE	ADDL INSR	POLICY NUMBER	POLICY EFF	POLICY EXP	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:		TB2-641-005097-042	01/01/2022	01/01/2023	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPOP AGG \$ 4,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		A12-641-005097-052	01/01/2022	01/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$		XL5063411P	01/01/2022	01/01/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	WA7-64D-005097-022 (Regulated) WA7-64D-005097-012 (AOS) "INCLUDES 'STOP-GAP'"	01/01/2022 01/01/2022	01/01/2023 01/01/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Pohakaea Quarry
County of Maui is included as an additional insured as required by permit 2006/0001 as respects the General Liability and Auto Liability. The State of Hawaii is included as an additional insured as required by permit SP06-400 as respects the General Liability and Auto Liability. Blanket Additional Insured for General Liability is included per attached CG 2010 and CG 2037 Endorsements and does not include professional liability coverage. Blanket Additional Insured for Automobile Liability is included per attached designated insured Endorsement CA 20 48. Excess liability applies to general liability, products and completed operations, automobile liability, and employers liability.

CERTIFICATE HOLDER

County of Maui
Department of Planning
200 S. High Street
Wailuku, Maui, HI 96793

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.

Marsh USA Inc.

© 1988-2016 ACORD CORPORATION. All rights reserved.

EXHIBIT C.

CERTIFICATE OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/21/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Marsh U.S. Operations
55402-2400	PHONE (A/C No. Ext.): 866-966-4664 FAX (A/C No.): 212-948-5382
Marsh USA Inc.	E-MAIL ADDRESS: MDU.CertRequest@marsh.com
333 South 7th Street, Suite 1400	INSURER(S) AFFORDING COVERAGE
UNAWAC-GAWX-23-24	INSURER A : Liberty Mutual Fire Ins Co
2010 2037 HAWCE AI Y	INSURER B : Associated Electric & Gas Ins Services Ltd
INSURED	INSURER C : Liberty Insurance Corporation
HAWAIIAN CEMENT	INSURER D :
99-1300 HALAWA VALLEY STREET	INSURER E :
AIEA, HI 96701	INSURER F :

COVERAGES CERTIFICATE NUMBER: CHI-007164427-32 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY		TB2-641-445905-323	01/01/2023	01/01/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					
	GEN'L AGGREGATE LIMIT APPLIES PER:					
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
	OTHER:					
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY		AI2-641-005097-053	01/01/2023	01/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> ANY AUTO					
	<input type="checkbox"/> OWNED AUTOS ONLY	<input type="checkbox"/> SCHEDULED AUTOS				
	<input checked="" type="checkbox"/> HIRED AUTOS ONLY	<input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY				
B	<input type="checkbox"/> UMBRELLA LIAB	<input type="checkbox"/> OCCUR	XL5063412P	01/01/2023	01/01/2024	EACH OCCURRENCE \$ 5,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE				AGGREGATE \$ 5,000,000
	DED RETENTION \$					
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N	WA7-64D-005097-023 (Regulated)	01/01/2023	01/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A	WA7-64D-005097-013 (AOS)	01/01/2023	01/01/2024	E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below		INCLUDES "STOP-GAP"			E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Pohakea Quarry
County of Maui is included as an additional insured as required by permit 2006/0001 as respects the General Liability and Auto Liability. The State of Hawaii is included as an additional insured as required by permit SP06-400 as respects the General Liability and Auto Liability. Blanket Additional Insured for General Liability is included per attached CG 2010 and CG 2037 Endorsements and does not include professional liability coverage. Blanket Additional Insured for Automobile Liability is included per attached designated Insured Endorsement CA 20 48. Excess liability applies to general liability, products and completed operations, automobile liability, and employers liability.

CERTIFICATE HOLDER

CANCELLATION

County of Maui 96793 Department of Planning 200 S. High Street Wailuku, Maui, HI	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE of Marsh USA Inc <i>Carol Mammella</i>

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ACORD 25 (2016/03)

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POLICY NUMBER: AI2-641-005097-053

COMMERCIAL AUTO
CA 20 48 10 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

SCHEDULE

Name Of Person(s) Or Organization(s):

Any person or organization whom you have agreed in writing to add as an additional insured, but only to coverage and minimum limits of insurance required by the written agreement, and in no event to exceed either the scope of coverage or the limits of insurance provided in this policy.

This policy will be primary and non-contributory to any like insurance available to the person or organization noted above.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II - Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I - Covered Autos Coverages of the Auto Dealers Coverage Form.

CA 20 48 10 13

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Page 1 of 1

Policy Number: AI2-641-005097-053
Issued By: Liberty Mutual Fire Insurance Co.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
NOTICE OF CANCELLATION TO THIRD PARTIES

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART
MOTOR CARRIER COVERAGE PART
GARAGE COVERAGE PART
TRUCKERS COVERAGE PART
EXCESS AUTOMOBILE LIABILITY INDEMNITY COVERAGE PART
SELF-INSURED TRUCKER EXCESS LIABILITY COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
EXCESS COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART

Schedule		
Name of Other Person(s)/ Organization(s):	Email Address or mailing address:	Number Days Notice:
Per schedule on file with the Company	Per schedule of certificate holders on file with the Company	90

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the persons or organizations shown in the Schedule above. We will send notice to the email or mailing address listed above at least 10 days, or the number of days listed above, if any, before the cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.
- B. This advance notification of a pending cancellation of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.
- All other terms and conditions of this policy remain unchanged.

POLICY NUMBER: TB2-641-445905-323

COMMERCIAL GENERAL LIABILITY
CG 20 10 12 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
1. Your acts or omissions; or
 2. The acts or omissions of those acting on your behalf;
- in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.
- However:
1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:
- This insurance does not apply to "bodily injury" or "property damage" occurring after:
1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**
- If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.
- This endorsement shall not increase the applicable limits of insurance.

Schedule

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any person or organization with whom you have agreed in writing in a contract or agreement, prior to an "occurrence" or "offense", that such person or organization be added as an additional insured on your policy	All locations as required by a written contract or agreement entered into prior to an "occurrence" or offense.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

Schedule

Name Of Additional Insured Person(s)
Or Organization(s):

Any person or organization with whom you have agreed in writing in a contract or agreement, prior to an "occurrence" or "offense", that such person or organization be added as an additional insured on your policy.

Location And Description Of Completed Operations

All locations as required by a written contract or agreement entered into prior to an "occurrence" or offense.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO THIRD PARTIES

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE PART
MOTOR CARRIER COVERAGE PART
GARAGE COVERAGE PART
TRUCKERS COVERAGE PART
EXCESS AUTOMOBILE LIABILITY INDEMNITY COVERAGE PART
SELF-INSURED TRUCKER EXCESS LIABILITY COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
EXCESS COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
COMMERCIAL LIABILITY - UMBRELLA COVERAGE FORM

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the persons or organizations shown in the Schedule of this endorsement. We will send notice to the email or mailing address listed above at least 10 days, or the number of days listed above, if any, before the cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.
- B. This advance notification of a pending cancellation of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.

All other terms and conditions of this policy remain unchanged.

Schedule

Name of Other Person(s) /
Organization(s):

Per Schedule on file with the Company

Email Address or mailing address:

Per Schedule on file with the company

Number Days Notice:

90

NOTICE OF CANCELLATION TO THIRD PARTIES

- A.** If we cancel this policy for any reason other than nonpayment of premium, we will notify the persons or organizations shown in the Schedule below. We will send notice to the email or mailing address listed below at least 10 days, or the number of days listed below, if any, before cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.
- B.** This advance notification of a pending cancellation of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.

Schedule

Name of Other Person(s) / Organization(s):	Email Address or mailing address:	Number Days Notice:
Per Schedule on file with the Company	Per Schedule on file with the Company	90

All other terms and conditions of this policy remain unchanged.

Issued by Liberty Insurance Corporation 21814

For attachment to Policy No. WA7-64D-005097-013

Effective Date

Premium \$

Issued to Centennial Energy Holdings, Inc.

Endorsement No.

NOTICE OF CANCELLATION TO THIRD PARTIES

- A.** If we cancel this policy for any reason other than nonpayment of premium, we will notify the persons or organizations shown in the Schedule below. We will send notice to the email or mailing address listed below at least 10 days, or the number of days listed below, if any, before cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.
- B.** This advance notification of a pending cancellation of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.

Schedule

Name of Other Person(s) / Organization(s):	Email Address or mailing address:	Number Days Notice:
Per schedule on file with the Company	Per schedule on file with the Company	90

All other terms and conditions of this policy remain unchanged.

Issued by Liberty Insurance Corporation 21814

For attachment to Policy No. WA7-64D-005097-023

Effective Date

Premium \$

Issued to MDU Resources Group, Inc.

Endorsement No.

EXHIBIT D.

ROADWAY MAINTENANCE PLAN



Maui Concrete and Aggregate Division

August 1, 2006

Mr. Ferdinand Cajigal
State of Hawaii
Department of Transportation
Highways Division

Subject: Maintenance Plan

Dear Mr. Cajigal,

The following is Hawaiian Cement's proposed maintenance plan for the Puunene quarry (located off Mokulele Highway) and Waikapu quarry (located off Honoapiilani Highway) :

1. *Inspection(s)* – Routine daily inspections will be made by our aggregate and concrete manager's (they travel in and out of our quarry on a constant daily basis). If spillage is found during these inspections, our water wagon operator will be dispatched to shoot off any aggregate build up from the affected area.
2. *Spillage* – In the event of any material spillage (concrete or aggregate) a labor crew will be dispatched to control the flow of traffic and immediately clean the affected area of roadway (or intersection). If necessary, our water wagon and front end loader can be utilized to assist in the clean up process.
3. *Major Spillage* – In the event of a major spillage....the same actions will be taken, however, a larger work force will be dispatched and a designated manager will be sent to supervise the clean up process.
4. *Contacts* – Should the need arise to contact a Hawaiian Cement representative, please call the following phone numbers:

- | | |
|--------------------------------------|----------------------|
| • Concrete - David Padgett | Cell. (808) 870-7605 |
| • Aggregate - Kconi DeRego | Cell. (808) 357-7458 |
| • Alternate to the above - Ed McCary | Cell. (808) 357-7900 |

If we can be of any further assistance or answer any questions, please contact me at our Maui Office.

Very Truly Yours,

David Gomes
Assistant Division Manager, Maui

POST OFFICE BOX 488 - KAHULUI, MAUI, HI 96733

TELEPHONE (808) 871-7004

FAX (808) 877-7414

Gomes, David

From: Karlynn Kawahara [karlynn@mhincnline.com]
Sent: Wednesday, October 31, 2007 10:59 AM
To: Gomes, David
Subject: FW: Hawaiian Cement Maintenance Plan

Attachments: 081506 Transmittal to DOT Regarding Letter from Hawaiian Cement.pdf

081506
mittal to DOT R

Hi Dave,

Got your message. I am researching the original permit and will try to e-mail to you soon. This is the DOT message on the maintenance plan.

Thank you,
Karlynn

Karlynn Kawahara
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793
Telephone: (808) 244-2015
Facsimile: (808) 244-8729
Email: karlynn@mhincnline.com

CONFIDENTIAL COMMUNICATION: This message is intended for the use of the designated recipient(s) named above. If you have received this message in error, kindly notify us immediately by email or telephone. Thank you.

-----Original Message-----

From: Douglas.Meller@hawaii.gov [mailto:Douglas.Meller@hawaii.gov]
Sent: Wednesday, November 15, 2006 3:18 PM
To: Karlynn Kawahara
Subject: Hawaiian Cement Maintenance Plan

Here are Freddie's comments on the proposed maintenance plan.

----- Forwarded by Douglas Meller/HWY/HIDOT on 11/15/2006 03:01 PM -----

Ferdinand

Cajigal/HWY/HIDOT

To: 11/15/2006 12:34 PM
Antonie Wurster/HWY/HIDOT@HIDOT

cc: Ronald Tsuzuki/HWY/HIDOT@HIDOT,
Douglas Meller/HWY/HIDOT@HIDOT,
David Shimokawa/ADMIN/HIDOT@HIDOT

Subject

Hawaiian Cement Maintenance Plan

Toni: I understand that the matter will be heard by State Land Use Commission tomorrow. The maintenance plans is acceptable to us --- therefore recommend approval of the special use permit. My understanding is that the Maui Planning Commission granted the applicant a 3 year extension, thus, we recommend the same. Fifteen years would be too long for us..... fred

----- Forwarded by Ferdinand Cajigal/HWY/HIDOT on 11/15/2006 12:29 PM

"Karlynn
Kawahara"
<karlynn@mhincnline.com>
ine.com> <ferdinand.cajigal@hawaii.gov>
cc 11/15/2006 12:01 "David Gomes"
PM <Dave.Gomes@hawaiiancement.com>
Subject Hawaiian Cement Maintenance Plan

Hi Freddie,

Per your request, please see attached transmittal and maintenance plan for

Hawaiian Cement. Please let me know if you have trouble opening the file or if you have questions.

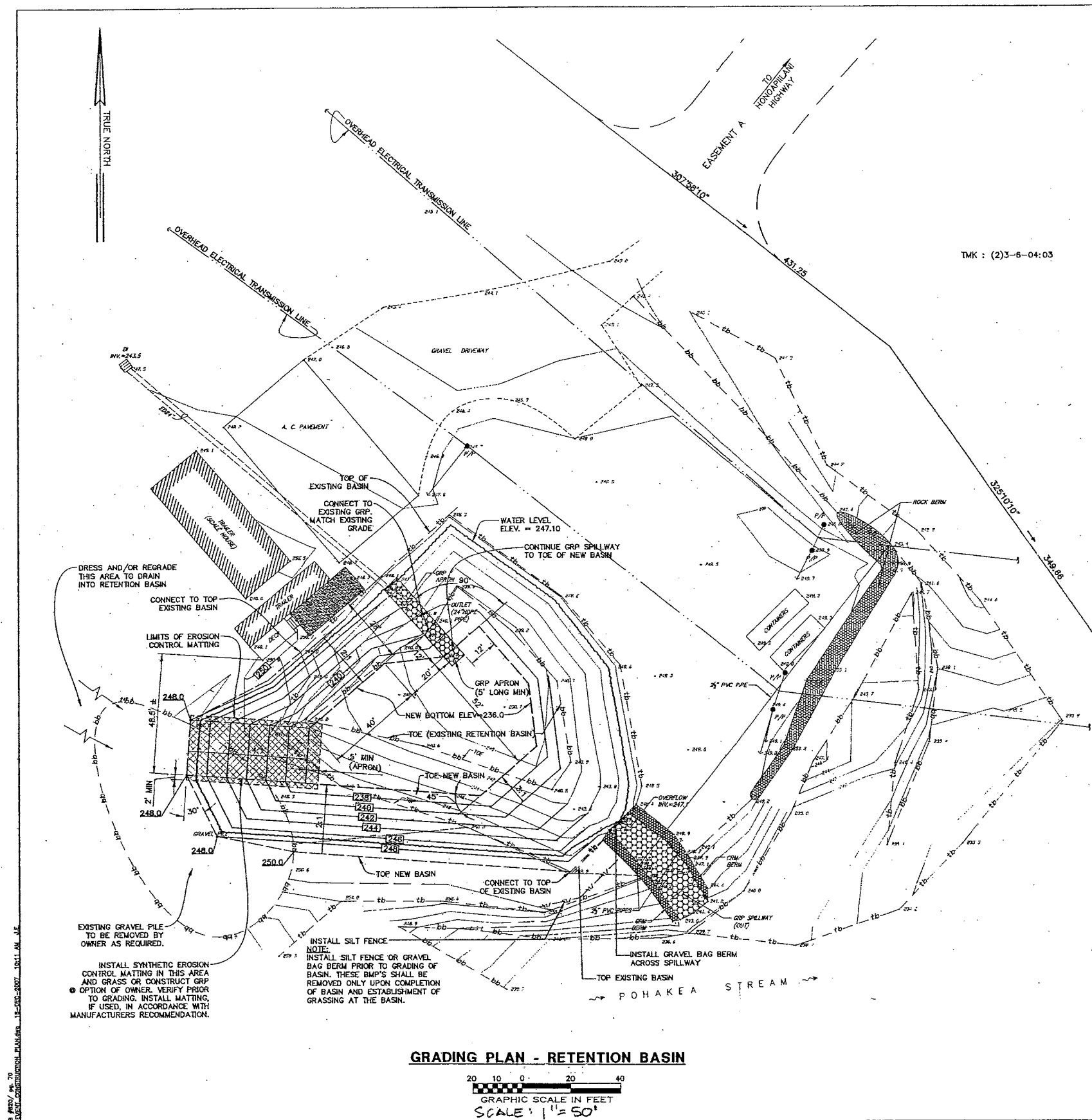
Thank you,
Karlynn

Karlynn Kawahara
Munekiyo & Hiraga, Inc.
305 High Street, Suite 104
Wailuku, Hawaii 96793
Telephone: (808) 244-2015
Facsimile: (808) 244-8729
Email: Karlynn@mhincnline.com

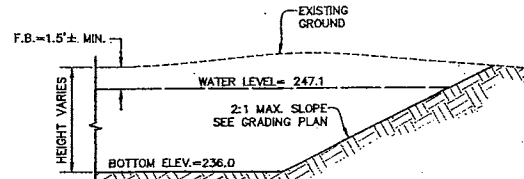
CONFIDENTIAL COMMUNICATION: This message is intended for the use of the designated recipient(s) named above. If you have received this message in error, kindly notify us immediately by email or telephone. Thank you. (See attached file: 081506 Transmittal to DOT Regarding Letter from Hawaiian Cement.pdf)

EXHIBIT E.

RETENTION BASIN GRADING AND MAINTENANCE PLAN



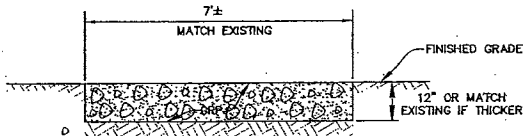
TMK : (2)3-6-04:03



**TYPICAL BASIN PARTIAL SECTION
AT NEW CUT SLOPE**
NOT TO SCALE

PERMANENT STABILIZATION MEASURES:

1. SIDESLOPE: INSTALL BIODEGRADABLE EROSION CONTROL MATTING. UNLESS OTHERWISE NOTED AND GRASS. INSTALL MATTING IN ACCORDANCE WITH MANUFACTURERS RECOMMENDATION.
2. BOTTOM: GRASS.



TYPICAL GRP APRON/SPILLWAY
NOT TO SCALE

LEGEND:

- EAC EXISTING EDGE AC PAVEMENT
- tb EXISTING TOP BANK
- bb EXISTING BOTTOM BANK
- PP EXISTING POWER POLE
- 240 EXISTING GROUND CONTOUR
- 5' EXISTING SPOT ELEVATION
- DI EXISTING DROP INLET
- 240 NEW GROUND CONTOUR
- 248.0 FINISHED SPOT ELEVATION

DRESS AND/OR REGRADE
THIS AREA TO DRAIN
INTO RETENTION BASIN

CONNECT TO TOP
EXISTING BASIN

LIMITS OF EROSION
CONTROL MATTING

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248.0

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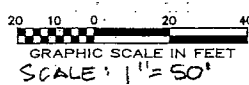
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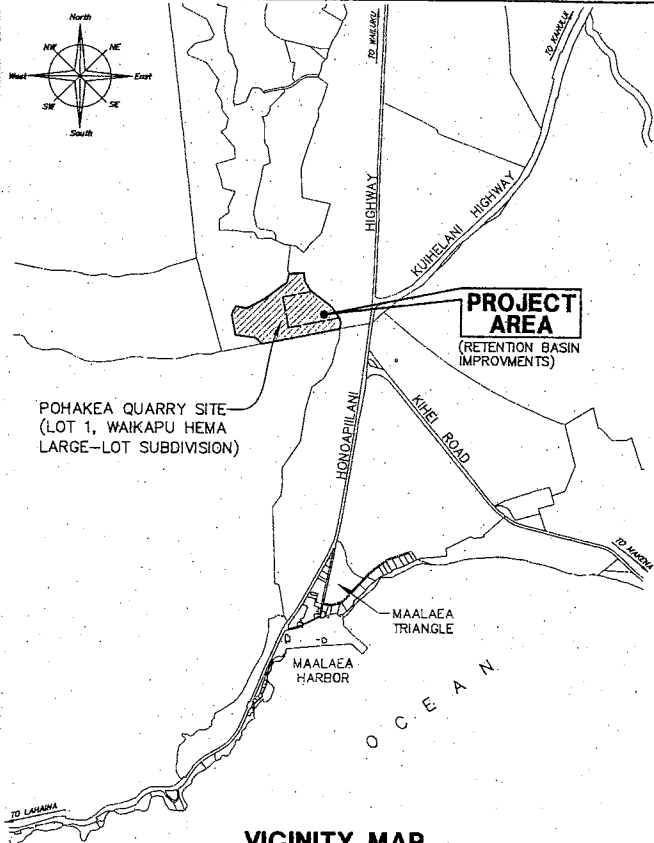
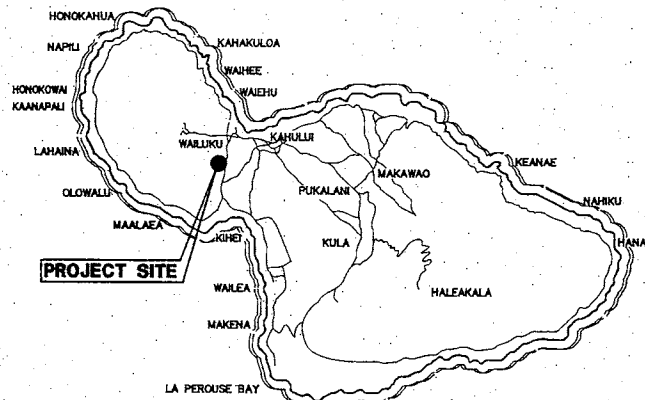
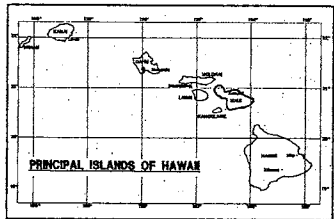
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INSTALL SILT FENCE
NOTE:
INSTALL SILT FENCE OR GRAVEL
BAG BERM PRIOR TO GRADING OF
BASIN. THESE BMP'S SHALL BE
REMOVED ONLY UPON COMPLETION
OF BASIN AND ESTABLISHMENT OF
GRASSING AT THE BASIN.

GRADING PLAN - RETENTION BASIN





VICINITY MAP
NOT TO SCALE

PERMITTEE NOTES TO CONTROL DRAINAGE AND EROSION:

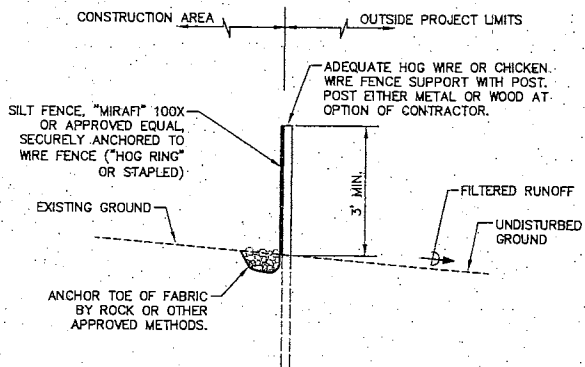
- CONTROL DUST BY MEANS OF WATER WAGONS OR BY INSTALLING TEMPORARY SPRINKLER SYSTEMS OR BOTH IF NECESSARY.
- GRADED AREAS SHALL BE THOROUGHLY WATERED AFTER CONSTRUCTION ACTIVITY HAS CEASED FOR THE DAY AND FOR THE WEEKEND AND HOLIDAYS.
- ALL EXPOSED AREAS SHALL BE PAVED, GRASSED, OR PERMANENTLY LANDSCAPED AS SOON AS FINISHED GRADING IS COMPLETED.
- THE CONTRACTOR SHALL BE RESPONSIBLE TO OBTAIN AND PAY FOR THE WATER NECESSARY FOR DUST CONTROL AND IRRIGATION PURPOSES.
- CONTRACTOR TO CONSTRUCT TEMPORARY DIVERSION DITCHES OR SWALES AWAY FROM GRADED AREAS TO NATURAL DRAINAGEWAYS DURING CONSTRUCTION.
- CONTRACTOR SHALL SUBMIT A SATISFACTORY SOIL EROSION CONTROL PLAN TO MINIMIZE SOIL EROSION PRIOR TO AN ISSUANCE OF A GRADING PERMIT.
- SEE ALSO GRADING NOTES NO. 2.
- THE FOLLOWING ADDITIONAL MEASURES SHALL BE TAKEN TO CONTROL SOIL EROSION DURING THE SITE DEVELOPMENT PERIOD:
 - MINIMIZE TIME OF CONSTRUCTION.
 - RETAIN EXISTING GROUND COVER UNTIL LATEST DATE TO COMPLETE CONSTRUCTION.
 - STATION WATER TRUCK(S) ON SITE DURING CONSTRUCTION PERIOD TO PROVIDE FOR IMMEDIATE SPRINKLING, AS NEEDED, IN ACTIVE CONSTRUCTION ZONES (WEEKENDS AND HOLIDAYS INCLUDED).
 - ALL CUT AND FILL SLOPES SHALL BE PROVIDED WITH EROSION CONTROL BLANKETS AND BE SODDED OR PLANTED IMMEDIATELY AFTER GRADING WORK HAS BEEN COMPLETED.
 - INSTALLATION OF SILT AND DUST CONTROL FENCE IN UET OF SILT FENCE, GRAVEL BAGS OR OTHER APPROVED SEDIMENT-TRAPPING DEVICES CAN BE USED.
- THE CONTRACTOR IS THE SOLE PARTY RESPONSIBLE FOR THE ADEQUACY OF ALL TEMPORARY CONTROL MEASURES TO PROTECT THE WORK FROM THE EFFECTS OF DUST AND EROSION. HE SHALL BE RESPONSIBLE FOR RESPONDING TO COMPLAINTS FROM NEIGHBORING PROPERTIES AND WILL PROVIDE ADDITIONAL MITIGATION MEASURES AS NECESSARY AT NO ADDITIONAL COST TO OWNER.
- OIL OR PETROLEUM-BASED PRODUCTS SHALL NOT BE USED FOR DUST CONTROL.
- STORM WATER CONTROL MEASURES SHALL BE IN PLACE AND FUNCTIONAL PRIOR TO CONSTRUCTION AND SHALL REMAIN OPERATIONAL THROUGHOUT THE CONSTRUCTION PERIOD OR UNTIL PERMANENT CONTROLS ARE IN PLACE.
- DISCHARGES ASSOCIATED WITH THE OPERATION AND MAINTENANCE OF EQUIPMENT SHALL BE FIELD MONITORED BY THE CONTRACTOR. ANY MECHANICAL AND HYDRAULICS FLUID LEAKAGE SHALL BE REPAIRED AS SOON AS IT IS IDENTIFIED AND LOCATED. LARGE LEAKAGE OF MECHANICAL FLUIDS SHALL BE CONTAINED, PROPERLY DISPOSED AND NOT ALLOWED TO IMPACT THE OCEAN.
- DUST AND SILT FENCES SHOWN ARE MINIMUM REQUIREMENTS. CONTRACTOR SHALL LOCATE OR INSTALL ADDITIONAL FENCES AS NECESSARY TO PROVIDE MAXIMUM PROTECTION AT NO ADDITIONAL COST TO THE OWNER.
- PRIOR TO ISSUANCE OF THE GRADING PERMIT, THE CONTRACTOR SHALL MEET WITH THE DEVELOPMENT SERVICES ADMINISTRATION AND PROVIDE INFORMATION ON THE SOURCE OF WATER FOR DUST CONTROL, AND JUSTIFY THE NUMBER OF WATER TRUCKS TO BE USED FOR THE CLEARING, GRUBBING, AND LOADING OPERATIONS.
- IF THE CONTRACTOR IS NOT ABLE TO SATISFACTORILY CONTROL DUST EMISSIONS FROM THE PROJECT SITE, ALL CONSTRUCTION WORK SHALL CEASE EXCEPT FOR WATERING AND OTHER STABILIZATION EFFORTS.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR IMMEDIATELY CLEANING THE ROADWAY OF MUD OR SILT TRACKED FROM THE PROJECT SITE.

BMPS NOTES

- APPLICABLE SECTIONS, WHETHER CALLED FOR OR NOT ON THIS PLAN, OF THE COUNTY STANDARD BEST MANAGEMENT PRACTICES (STD. BMPS), "CONSTRUCTION BEST MANAGEMENT PRACTICES FOR THE COUNTY OF MAUI", MAY 2001 SHALL BE COMPLIED WITH DURING CONSTRUCTION. SECTIONS, BUT NOT LIMITED TO THE FOLLOWING ARE APPLICABLE TO THIS PROJECT:
 - SECTION 6.06 - TEMPORARY GRAVEL CONSTRUCTION ENTRANCE/EXIT
 - SECTION 6.10 - SEEDING
 - SECTION 6.30 - MATS, NETS & BLANKETS
 - SECTION 6.31 - MULCHING
 - SECTION 6.32 - PRESERVATION OF EXISTING VEGETATION
 - SECTION 6.33 - PROTECTION OF STOCKPILES
 - SECTION 6.62 - SEDIMENT FENCE (SILT FENCE)
 - SECTION 6.70 - DUST CONTROL
 - SECTION 6.71 - GOOD NEIGHBOR BARRIERS
 - SECTION 6.91 - SOLID WASTE MANAGEMENT
 - SECTION 6.92 - CONCRETE WASTE MANAGEMENT
 - SECTION 6.93 - VEHICLE FUEL & MAINTENANCE MANAGEMENT

GRADING NOTES:

- CONTRACTOR SHALL OBTAIN A GRADING PERMIT FROM THE DEVELOPMENT SERVICES ADMINISTRATION TWO (2) WEEKS PRIOR TO COMMENCEMENT OF ANY GRADING OR GRUBBING.
- CONTRACTOR SHALL BE REQUIRED TO SUBMIT A SATISFACTORY GRADING WORK METHOD TO MINIMIZE DUST POLLUTION BEFORE A GRADING PERMIT IS ISSUED.
- ALL GRADING OPERATIONS SHALL CONFORM WITH APPLICABLE PROVISIONS OF THE "WATER POLLUTION CONTROL AND WATER QUALITY STANDARDS" CONTAINED IN THE STATE OF HAWAII PUBLIC HEALTH REGULATIONS, STATE DEPT. OF HEALTH ON WATER POLLUTION CONTROL AND WATER QUALITY STANDARDS AND THE COUNTY GRADING ORDINANCE.
- THE CONTRACTOR, AT HIS OWN EXPENSE, SHALL KEEP THE PROJECT AREA AND SURROUNDING AREA FREE FROM DUST NUISANCE AT ALL TIMES, INCLUDING WEEKEND AND HOLIDAYS. THE WORK SHALL BE IN CONFORMANCE WITH THE AIR POLLUTION CONTROL STANDARDS AND REGULATION OF THE STATE DEPARTMENT OF HEALTH AND GRADING ORDINANCE.
- THE CONTRACTOR SHALL REMOVE ALL SILTS AND DEBRIS RESULTING FROM HIS WORK. THE COST INCURRED FOR ANY NECESSARY REMEDIAL ACTION BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS (DPW) OF THE COUNTY OF MAUI SHALL BE PAYABLE BY THE CONTRACTOR.
- CONSTRUCTION DEBRIS AND WASTES SHALL BE DEPOSITED AT AN APPROPRIATE SITE. THE CONTRACTOR SHALL INFORM THE DIRECTOR OF DPW OF THE LOCATION OF THE DISPOSAL SITES. THE DISPOSAL SITE SHALL ALSO FULFILL THE REQUIREMENTS OF THE GRADING ORDINANCE.
- APPROXIMATE:
EXCAVATION = 2190 C. Y.
EMBANKMENT = 0 C. Y.
AREA = 0.4 ACRES
FOR GRADING PERMIT PURPOSES ONLY



MAINTENANCE NOTES:

- SILT FENCES OR FILTER BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
- SHOULD THE FABRIC ON THE SILT FENCE OR FILTER BARRIER DECOMPOSE OR BECOME INEFFECTIVE PRIOR TO THE END OF THE EXPECTED USABLE LIFE AND THE BARRIER STILL BE NECESSARY, THE FABRIC SHALL BE REPLACED PROMPTLY.
- SEDIMENT DEPOSITS SHOULD BE REMOVED AFTER EACH STORM EVENT. THEY MUST BE REMOVED WHEN DEPOSITS REACH APPROXIMATELY ONE-HALF THE HEIGHT OF THE BARRIER.
- ANY SEDIMENT DEPOSITS REMAINING IN PLACE AFTER THE SILT FENCE OR FILTER BARRIER IS NO LONGER REQUIRED SHALL BE DRESSED TO CONFORM WITH THE EXISTING GRADE, PREPARED AND SEED.

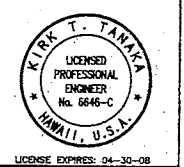
TYPICAL INSTALLATION - SILT FENCE

NOT TO SCALE

LAY BAGS WITHOUT
APPARENT GAPS

**PLACEMENT OF TEMPORARY
SANDBAG OR GRAVEL BAG BERM**

NOT TO SCALE



THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION AND
CONSTRUCTION OF THIS PROJECT
WILL BE UNDER MY OBSERVATION.

Kirk T. Tanaka

DATE: 11/15/07

REVISIONS:

T.M.K.: (2)3-6-04:07(Por.)

SCALE: AS NOTED

DESIGNED BY: R.H.

CHECKED BY: K.T.

DRAWN BY: D.S.

DATE: NOVEMBER 2007

JOB No.: 04-056

EXHIBIT F.

**LETTERS FROM THE STATE HISTORIC
PRESERVATION DIVISION DATED APRIL 1, 2008
ACCEPTING THE ARCHAEOLOGICAL INVENTORY
SURVEY AND ARCHAEOLOGICAL MONITORING
PLAN**

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

LAURA H. THELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

RUSSELL Y. TSUI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCES MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAWAHALE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Ms. Cathleen A. Dagher
Page 2

Again, this revised Archaeological Inventory Survey Report is now acceptable. Should there be any concerns, please feel free to contact the Maui/Lana'i section of the SHPD at (808) 243-4641.

Aloha,

Nancy McMahon, Archaeologist and Acting Archaeology Branch Chief
State Historic Preservation Division

JP:

c: Director, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793
Maui Cultural Resources Commission, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793

April 1, 2008

Cathleen A. Dagher
Scientific Consulting Services Archaeology
711 Kapiolani Boulevard, Suite 975
Honolulu, Hawai'i 96813

LOG NO: 2007.0464
DOC NO: 0803JP20
Archaeology

Dear Ms. Dagher:

**SUBJECT: Chapter 6E-42 Historic Preservation Review –
Revised Archaeological Inventory Survey Review of the
Proposed Pohakea Rock Quarry Expansion Project
Waikapu Ahupua'a, Wailuku District, Island of Maui
TMK (2) 3-6-004:007**

Thank you for the opportunity to review this revised report which our Maui staff received on December 28, 2007 (Dagher and Dega, *An Archaeological Inventory Survey of a 60 Acre Property for the Proposed Pohakulepo Quarry Expansion Project TMK (2) 3-6-004:007, Waikapu Ahupua'a, Wailuku District, Maui, Hawai'i*)...Scientific Consultant Services, Inc.

We reviewed the original report which was received on August 10, 2006 and requested some revisions (LOG NO: 2006.3729/ DOC NO: 0611JP27). Thank you for making the recommended revisions and submitting the final report to our office. Pursuant to the applicable Hawaii Revised Statutes, this Archaeological Inventory Survey Report is now acceptable.

Prior to the submittal of the inventory survey report, we provided comments for the Land Use Commission Special Use Permit and the County Special Use permit applications for the expansion and indicated that some outstanding archaeological issues need to be addressed (LOG NO: 2006.1656/ DOC NO: 0605MK47).

Seven historic properties comprising 23 features were documented and issued Statewide Inventory of Historic Places (SIHP) 50-50-09-6061 (rock wall and an enclosure); 50-50-09-6062 (rock wall); 50-50-09-6063 (16 features: walls, C-shape, circular enclosure, depressions, modified boulder field); 50-50-09-6064 (modified outcrop/rock wall); 50-50-09-6065 (rock wall); 50-50-09-6066 (enclosure); 50-50-09-6067 (modified outcrop/rock wall). Five of the seven sites were originally identified in 1988 by Paul H. Rosendahl, Inc. (PHRI). The current inventory survey re-identified and recorded five of the six previously identified archaeological sites in the project area. All of the sites are significant under Criterion D and have yielded adequate information. Archaeological monitoring has been agreed upon and the Archaeological Monitoring Plan specifying details of the monitoring program has been submitted to our office for review (refer to DOC NO: 0803JP21).

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESEVERATION DIVISION
601 KAMOKILA BOULEVARD, ROOM 555
KAPOLEI, HAWAII 96707

LAURA H. THIRLEN
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CONSERVATION AND RESOURCES ENFORCEMENT
DIVISION
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KANOA LAKE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

April 1, 2008

Dr. Michael Dega
Scientific Consultant Services, Inc.
711 Kapiolani Boulevard, Suite 975
Honolulu, Hawaii 96813

LOG NO: 2007.2875
DOC NO: 0803JP21
Archaeology

Dear Dr. Dega:

**SUBJECT: Archaeological Monitoring Plan Review and Acceptance for the
Proposed Pohakea Rock Quarry Expansion Project
Waikapu Ahupua'a, Wailuku District, Island of Maui
TMK (2) 3-6-004:007**

Thank you for the opportunity to review the archaeological monitoring plan, which was received by our staff in August 2007 [Chaffee and Spear 2007, *An Archaeological Monitoring Plan for the Proposed Pohakea (Pohakulepo) Quarry Expansion Project TMK (2) 3-6-004:007, Waikapu Ahupua'a, Wailuku District, Island of Maui, Hawaii*]. Scientific Consultant Services, Inc.

We have recently accepted the correlating revised Archaeological Inventory Survey related to this monitoring plan (Dagher and Dega, *An Archaeological Inventory Survey of a 60 Acre Property for the Proposed Quarry Expansion Project SHPD DOC NO: 0803JP20*).

We have previously provided comments pertaining to the subject property, including the Land Use Commission Special Use Permit and the County Special Use permit applications for the expansion and indicated that some outstanding archaeological issues need to be addressed (LOG NO: 2006.1656/ DOC NO: 0605MK47). We reviewed the first submittal of the Archaeological Inventory Survey report (received August 10, 2006) and recommended some revisions (LOG NO: 2006.3729/ DOC NO: 0611JP27). Seven historic properties comprising 23 features were documented during the inventory survey and issued Statewide Inventory of Historic Places (SIHP) 50-50-09-6061 (rock wall and an enclosure); 50-50-09-6062 (rock wall); 50-50-09-6063 (16 features: walls, C-shape, circular enclosure, depressions, modified boulder field); 50-50-09-6064 (modified outcrop/rock wall); 50-50-09-6065 (rock wall); 50-50-09-6066 (enclosure); 50-50-09-6067 (modified outcrop/rock wall). Five of the seven sites were originally identified in 1988 by Paul H. Rosendahl, Inc. (PHRI).

The current inventory survey re-identified and recorded five of the six previously identified archaeological sites in the project area. We understand that two sites were identified and documented by your firm for the first time. All seven of the sites are significant under Criterion D and have yielded adequate information. During the lengthy process of the completion of the additional archaeological work and the completion of the requested revisions, some of the historic properties were bulldozed. A road was bulldozed through the middle of the parcel and several features were impacted. Full-time archaeological monitoring has previously been agreed upon in order to document any undocumented sites that may have been missed during the fieldwork and to identify any inadvertent significant findings.

Dr. Michael Dega
Page 2

We have recommended the presence of a full time archaeological monitor for the proposed ground altering activities on the parcel. Subsequently, this archaeological monitoring plan was submitted to our office. Until we receive adequate correspondence indicating otherwise, we will continue to recommend and anticipate that full time archaeological monitoring will ensue for any proposed construction activities on the subject parcel.

The Archaeological Monitoring Plan is acceptable and conforms to Hawaii Administrative Rules Chapter 13-279, which governs standards for archaeological monitoring. This archaeological monitoring program includes the following provisions: A qualified archaeologist will be on-site on a full-time basis and one archaeologist will be assigned for each piece of operating heavy equipment. All excavation activities on the subject parcel will have an archaeological monitor actively observing the construction activities. The on-site archaeologist will have the authority to halt excavation in the event that cultural materials are identified. Consultation with the State Historic Preservation Division (SHPD) will occur in this event, to determine an acceptable course of action.

If human burials are identified, work will immediately cease, and your firm will notify the SHPD Burial Sites Program/Culture and History Branch (243-4640), Maui SHPD Archaeology Branch (243-1285), Oahu SHPD (692-8015), and the Maui/Lanai Islands Burial Council. Compliance with procedures outlined in HRS 6E-43 will be followed. Coordination meetings with the construction crew will be held prior to project initiation. The plan further indicates that an acceptable report will be submitted to this office within 45 days of project completion. Please note that our rules indicate that the report shall be submitted within 180 days of project completion.

We believe it is unlikely that any historic properties will be affected by construction work related to the project, with the implementation of this accepted archaeological monitoring plan. Please notify our Maui (243-5838) and Oahu offices (692-8020), via facsimile, at onset and completion of the project and monitoring program (and/or submit phased reports based on findings). If there are any concerns or questions, feel free to contact us at (808) 243-4641 or (808) 243-1285.

Aloha,

Nancy McMahon, Archaeologist and Acting Archaeology Branch Chief
State Historic Preservation Division

JP:

c: Director, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793
Maui Cultural Resources Commission, Dept. of Planning, 250 S. High Street, Wailuku, HI 96793

EXHIBIT G.

**LETTER FROM DEPARTMENT OF HEALTH
REGARDING NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM PERMIT**

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

In reply, please refer to:
DOH005

R32C427.EXT.17

November 14, 2017

Mr. Jason Macy
President
Hawaiian Cement
99 Halawa Valley Street
Aiea, Hawaii 96701

Dear Mr. Macy:

**Subject: Administrative Extension of
Notice of General Permit Coverage (NGPC) for
Hawaiian Cement – Waikapu Quarry
Island of Maui, Hawaii
File No. HI R32C427**

The Department of Health (DOH), Clean Water Branch (CWB), acknowledges receipt of your 2017 Renewal Notice of Intent (NOI) and \$500 filing fee for coverage under the National Pollutant Discharge Elimination System general permit provisions, in accordance with the Hawaii Administrative Rules (HAR), Section 11-55-34.08.

The DOH is unable to complete the processing of your NOI prior to the current NGPC expiration date. Therefore, in accordance with HAR, Section 11-55-34.09(d), the DOH hereby administratively extends the subject NGPC until a notice of renewed coverage under the applicable general permit is issued or until notified by the DOH, whichever occurs first. Please note that the DOH may request you submit additional information in order to complete the processing of your NOI for renewed coverage.

The Permittee shall not be held in violation of Hawaii Revised Statutes, Chapter 342D-6(h), and HAR, Chapter 11-55, during the pendency of its renewal NOI, so long as it acts consistently with the NGPC presently granted. **Note: The Permittee shall continue any sampling required by the current NGPC.** Any non-compliance with the conditions of the administratively extended NGPC may be subject to penalties of up to \$25,000 per violation per day.

It is the Permittee's responsibility to ensure that anyone working under this administrative extension of your NGPC understands and complies with the terms and conditions therein.

Mr. Jason Macy
November 14, 2017
Page 2

R32C427.EXT.17

Should you have any questions, please contact Ms. Kris Poentis of the Engineering Section, CWB, at 586-4309.

Sincerely,

STUART YAMADA, P.E., CHIEF
Environmental Management Division

KP

c: Mr. Dane Wurlitzer, Hawaiian Cement
[via e-mail dane.wurlitzer@hawaiiancement.com only]

EXHIBIT H.

**LETTER FROM U.S. FISH AND
WILDLIFE SERVICE
DATED AUGUST 2, 2021**



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
Honolulu, Hawai'i 96850



In Reply Refer To:
01EPIF00-2021-TA-0390

August 2, 2021

Bryan Esmeralda
Munekiyo Hiraga
305 High Street, Suite 104
Wailuku, Hawai'i 96793

Subject: Technical Assistance for Hawaiian Cement, Pōhākea Quarry, Waikapū, Maui

Dear Bryan Esmeralda:

The U.S. Fish and Wildlife Service (Service) received your correspondence on July 6, 2021, requesting a list of proposed listed, threatened, or endangered species under section 7 Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (ESA) for the proposed time extension of the Hawaiian Cement State Land Use Commission Special Permit (SUP) to December 15, 2035. The SUP allows Hawaiian Cement to continue operations at its Pōhākea Quarry, located at TMK (2)3-6-004-007. Operations in the current 14.8 acre base yard include quarrying, base course production, which includes recycling of concrete debris, maintenance and storage facilities to support the onsite rock crusher, and office facilities for the operation. Permitted activities on the 64.4-acre expansion area are limited to quarrying and base course production. Noise and dust associated with quarrying and rock crushing activities may extend beyond TMK (2)3-6-004-007.

We have reviewed the information you provided, and pertinent information in our files, including data compiled by the Hawai'i Biodiversity and Mapping Program as it pertains to federally listed species and designated critical habitat. Our data indicate the following listed species may occur or transit through the vicinity of the proposed project area: the threatened nēnē or Hawaiian goose (*Branta sandvicensis*), the endangered 'ōpe'a or Hawaiian hoary bat (*Lasiurus cinereus semotus*), the endangered 'ua'u or Hawaiian petrel (*Pterodroma sandvicensis*), the endangered 'ake'ake or Hawai'i distinct population segment of the band-rumped storm-petrel (*Oceanodroma castro*), the threatened 'a'o or Newell's shearwater (*Puffinus auricularis newelli*), the endangered ae'o or Hawaiian stilt (*Himantopus mexicanus knudseni*), the endangered anthracine yellow-faced bee (*Hylaeus anthracinus*), the endangered assimulans yellow-faced bee (*Hylaeus assimulans*), the endangered easy yellow-faced bee

INTERIOR REGION 9
COLUMBIA-PACIFIC NORTHWEST
IDAHO, MONTANA*, OREGON*, WASHINGTON
*PARTIAL

INTERIOR REGION 12
PACIFIC ISLANDS
AMERICAN SAMOA, GUAM, HAWAII, NORTHERN
MARIANA ISLANDS

Bryan Esmeralda

2

(*Hylaeus facilis*), the endangered Hawaiian yellow-faced bee (*Hylaeus longiceps*), the endangered Blackburn's sphinx moth (*Manduca blackburni*), endangered *Schiedea salicaria* (no common name), and the endangered *Hibiscus brackenridgei* (ma'o hau hele). The Hawaiian petrel, band-rumped storm-petrel, and Newell's shearwater will hereafter, collectively be referred to as "Hawaiian seabirds," the *Hylaeus* bees will be referred to as "yellow-faced bees," and *S. salicaria* and *H. brackenridgei* will be referred to as "listed plants."

The parcel is adjacent to a critical habitat unit; Maui—Lowland Dry—Unit 6, (USFWS 2016). This unit is occupied by the endangered plants *Hibiscus brackenridgei* and *Schiedea salicaria*, and contains habitat essential to the conservation of these and 16 other listed plant species, including *Asplenium dielectum*, *Bidens campylothea* ssp. *pentamera*, *Cenchrus agrimonoides*, *Ctenitis squamigera*, *Cyanea obtusa*, *Gouania hillebrandii*, *Hesperomannia arbuscula*, *Kadua coriacea*, *Lysimachia lydgatei*, *Neraudia sericea*, *Remya mauiensis*, *Santalum haleakalae* var. *lanaiense*, *Sesbania tomentosa*, *Spermolepis hawaiiensis*, *Tetramolopium capillare*, or *T. remyi* (USFWS 2016).

We provide the following recommendations to assist in the planning process and avoiding adverse effects to federally listed species and their habitat.

Hawaiian goose

The Hawaiian goose is found on the islands of Hawai'i, Maui, Moloka'i, and Kaua'i. They are observed in a variety of habitats, but prefer open areas, such as pastures, golf courses, wetlands, natural grasslands and shrublands, and lava flows. Threats to this species include introduced mammalian and avian predators, wind facilities, and vehicle strikes.

To avoid and minimize potential project impacts to the Hawaiian goose we recommend you incorporate the following measures into your project description:

- Do not approach, feed, or disturb the Hawaiian goose.
- If a Hawaiian goose is observed loafing or foraging within the project area during the breeding season (September through April), have a biologist familiar with Hawaiian goose nesting behavior survey for nests in and around the project area prior to the resumption of any work. Repeat surveys after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest).
- Cease all work immediately and contact the Service for further guidance if a nest is discovered within a radius of 150 feet (ft) of proposed project, or a previously undiscovered nest is found within the 150-ft radius after work begins.
- In areas where Hawaiian goose presence is known, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.

Hawaiian hoary bat

The Hawaiian hoary bat roosts in both exotic and native woody vegetation across all islands and will leave young unattended in trees and shrubs when they forage. If trees or shrubs 15 ft or taller are cleared during the pupping season, there is a risk that young bats could inadvertently be harmed or killed since they are too young to fly or may not move away. Additionally, Hawaiian

hoary bats forage for insects from as low as 3 ft to higher than 500 ft above the ground and can become entangled in barbed wire used for fencing.

To avoid and minimize impacts to the endangered Hawaiian hoary bat we recommend you incorporate the following applicable measures into your project operations:

- Do not disturb, remove, or trim woody plants greater than 15-ft tall during the bat birthing and pup-rearing season (June 1 through September 15).
- Do not use barbed wire for fencing.

Hawaiian seabirds

Hawaiian seabirds may traverse the project area at night during the breeding, nesting, and fledging seasons (March 1 to December 15). Outdoor lighting could result in seabird disorientation, fallout, and injury or mortality. Seabirds are attracted to lights and after circling the lights, they may become exhausted and collide with nearby wires, buildings, or other structures or they may land on the ground. Downed seabirds are subject to increased mortality due to collision with automobiles, starvation, and predation by dogs, cats, and other predators. Young birds (fledglings) traversing the project area between September 15 and December 15, in their first flights from their mountain nests to the sea, are particularly vulnerable to light attraction.

To avoid and minimize adverse effects to seabirds we recommend you incorporate the following measures into your project operations:

- Fully shield all outdoor lights so the bulb can only be seen from below.
- Install automatic motion sensor switches and controls on all outdoor lights or turn off lights when human activity is not occurring in the lighted area.
- Avoid nighttime construction during the seabird-fledging period, September 15 through December 15.

Hawaiian stilt

In addition to wetland habitats including freshwater marshes and ponds, coastal estuaries and ponds, artificial reservoirs, *Colocasia esculenta* (kalo or taro) lo'i or patches, irrigation ditches, sewage treatment ponds, Hawaiian stilts may also be found wherever ephemeral or persistent standing water may occur. The Hawaiian stilt is known to nest in sub-optimal locations (e.g., any ponding water), if water is present. Hawaiian stilts attracted to sub-optimal habitat may suffer adverse impacts, such as predation and reduced reproductive success, and thus the project may create an attractive nuisance.

The Pōhākea Quarry is located approximately 1.5 miles away from Keālia Pond National Wildlife Refuge, which is a core wetland for Hawaiian stilts (USFWS 2011). Based on the project details provided, your project may result in the creation of standing water or open water that could attract Hawaiian stilts to the project site.

To avoid and minimize potential project impacts to Hawaiian stilts, we recommend you incorporate the following applicable measures into your project operations:

- In areas where Hawaiian stilts are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.
- If water resources are located within or adjacent to the project site, incorporate applicable best management practices regarding work in aquatic environments into the project design (see enclosed Aquatic Best Management Practices).
- Have a biological monitor that is familiar with the species' biology conduct Hawaiian stilt nest surveys where appropriate habitat occurs within the vicinity of the proposed project site prior to project initiation. Repeat surveys again within 3 days of project initiation and after any subsequent delay of work of 3 or more days (during which the birds may attempt to nest). If a nest or active brood is found:
 - Contact the Service within 48 hours for further guidance.
 - Establish and maintain a 100-ft buffer around all active nests and/or broods until the chicks have fledged. Do not conduct potentially disruptive activities or habitat alteration within this buffer.
 - Have a biological monitor that is familiar with the species' biology present on the project site during all construction or earth moving activities until the chicks fledge to ensure that Hawaiian stilts and nests are not adversely impacted.

Yellow-faced bees

Of the seven yellow-faced bee species that are listed as endangered, three are extant on Maui (*Hylaeus anthracinus*, *Hylaeus assimulans*, and *Hylaeus longiceps*) and one is possibly extirpated from Maui (*Hylaeus facilis*). The majority of the known plants visited by yellow-faced bees that may occur in the lowlands are native plants, with the exception of nonnative *Heliotropium arboreum* (tree heliotrope) (only found on the coast). Some documented pollen and nectar plants include naupaka, *Sida fallax* ('ilima), *Chamaesyce* spp. ('akoko), *Argemone glauca* (pua kala), *Myoporum sandwicense* (naio), and tree heliotrope, but this is not a comprehensive list. Threats to yellow-faced bees include habitat destruction and modification from land use change, nonnative plants, ungulates, and fire, along with predation by nonnative ants and wasps.

None of the listed species are specifically known from the Pōhākea Gulch area at the site of the Pōhākea Quarry (Daly and Magnacca 2003). However, the area has not been surveyed for yellow-faced bees.

To avoid and minimize project impacts to yellow-faced bees and their nests, we recommend you incorporate the following applicable measures into your project:

- Have a qualified biologist survey area of proposed activities for yellow-faced bees. Depending on survey methodology, a permit may be required to conduct surveys.
- If an action will occur in or adjacent to known occupied yellow-faced bee habitat, a buffer area around the habitat may be required and can be developed on a site-specific basis through consultation with the Service.

Blackburn's sphinx moth

The adult Blackburn's sphinx moth feeds on nectar from native plants, including *Ipomoea pes-caprae* (beach morning glory), *Plumbago zeylanica* ('ilie'e), *Capparis sandwichiana* (maiapilo), and others. Blackburn's sphinx moth larvae feed on nonnative *Nicotiana glauca* (tree tobacco)

and native *Nothocestrum* sp. ('aiea). To pupate, the larvae burrow into the soil and can remain in a state of torpor for a year or more before emerging from the soil. Soil disturbance can result in death of the pupae.

We offer the following survey recommendations to assess whether the Blackburn's sphinx moth occurs within the project area:

- A biologist familiar with the species should survey areas of proposed activities for Blackburn's sphinx moth and its larval host plants prior to work initiation.
 - Surveys should be conducted during the wettest portion of the year (usually November-to-April or several weeks after a significant rain) and within 4-to-6 weeks prior to construction.
 - Surveys should include searches for adults, eggs, larvae, and signs of larval feeding (i.e., chewed stems, frass, or leaf damage).
 - If moths, eggs, larvae, or native 'aiea or tree tobacco over 3-ft tall, are found during the survey, please contact the Service for additional guidance to avoid impacts to this species.

If no Blackburn's sphinx moth, 'aiea, or tree tobacco are found during surveys, it is imperative that measures be taken to avoid attraction of Blackburn's sphinx moth to the project location and prohibit tree tobacco from entering the site. Tree tobacco can grow greater than 3-ft tall in approximately 6 weeks. If it grows over 3-ft, the plants may become a host plant for Blackburn's sphinx moth. We therefore recommend that you:

- Remove any tree tobacco less than 3-ft tall.
- Monitor the site every 4-to-6 weeks for new tree tobacco growth before, during, and after the proposed ground-disturbing activity.
 - Monitoring for tree tobacco can be completed by any staff, such as groundskeeper or regular maintenance crew, provided with picture placards of tree tobacco at different life stages.

Listed plants

Project activities may affect listed plant species by causing physical damage to plant parts (roots, stems, flowers, fruits, seeds, etc.) as well as impacts to other life requisite features of their habitat which may result in reduction of germination, growth and/or reproduction. Cutting and removal of vegetation surrounding listed plants has the potential to alter microsite conditions (e.g., light, moisture, temperature), damaging or destroying the listed plants and also increasing the risk of invasion by nonnative plants which can result in higher incidence or intensity of fire. Activities such as grazing, use of construction equipment and vehicles, and increased human traffic (i.e., trails, visitation, monitoring), can cause ground disturbance, erosion, and/or soil compaction which decrease absorption of water and nutrients and damage plant root systems and may result in reduced growth and/or mortality of listed plants. Soil disturbance or removal has the potential to negatively impact the soil seed bank of listed plant species if such species are present or historically occurred in the project area.

In order to avoid or minimize potential adverse effects to listed plants that may occur on the proposed project site, we recommend minimizing disturbance outside of existing developed or otherwise modified areas. When disturbance outside existing developed or modified sites is

proposed, conduct a botanical survey for listed plant species within the project action area, defined as the area where direct and indirect effects are likely to occur. Surveys should be conducted by a knowledgeable botanist with documented experience in identifying native Hawaiian and Pacific Islands plants, including listed plant species. Botanical surveys should optimally be conducted during the wettest part of the year (typically October to April) when plants and identifying features are more likely to be visible, especially in drier areas. If surveys are conducted outside of the wet season, the Service may assume plant presence.

The boundary of the area occupied by listed plants should be marked with flagging by the surveyor. To avoid or minimize potential adverse effects to listed plants, we recommend adherence to buffer distances for the activities in the **Table below**. Where disturbed areas do not need to be maintained as an open area, restore disturbed areas using native plants as appropriate for the location. Whenever possible we recommend using native plants for landscaping purposes. The following websites are good resources to use when choosing landscaping plants: Landscape Industry Council of Hawai'i Native Plant Poster (<http://hawaiiscape.wpengine.com/publications/>), Native Hawaiian Plants for Landscaping, Conservation, and Reforestation (<https://www.ctahr.hawaii.edu/oc/freepubs/pdf/of-30.pdf>), and Best Native Plants for Landscapes (<https://www.ctahr.hawaii.edu/oc/freepubs/pdf/OF-40.pdf>).

If listed plants occur in a project area, the avoidance buffers are recommended to reduce direct and indirect impacts to listed plants from project activities. However, where project activities will occur within the recommended buffer distances, additional consultation is required. The impacts to the plants of concern within the buffer area may be reduced by placing temporary fencing or other barriers at the boundary of the disturbance, as far from the affected plants as practicable.

The above guidelines apply to areas outside of designated critical habitat. If project activities occur within designated critical habitat unit boundaries, additional consultation is required.

All activities, including site surveys, risk introducing nonnative species into project areas. Specific attention needs to be made to ensure that all equipment, personnel and supplies are properly checked and are free of contamination (weed seeds, organic matter, or other contaminants) before entering project areas. Quarantines and or management activities occurring on specific priority invasive species proximal to project areas need to be considered or adequately addressed. This information can be acquired by contacting local experts such as those on local invasive species committees (Maui Nui: <https://mauiinvasive.org/>).

Table 1. Recommended buffer distances to minimize and avoid potential adverse impacts to listed plants from activities listed below.

Action		Buffer Distance (feet (meters)) - Keep Project Activity This Far Away from Listed Plant	
		Grasses/Herbs/Shrubs and Terrestrial Orchids	Trees and Arboreal Orchids
Walking, hiking, surveys		3 ft (1 m)	3 ft (1 m)
Cutting and Removing Vegetation By Hand or Hand Tools (e.g., weeding)		3 ft (1 m)	3 ft (1 m)
Mechanical Removal of Individual Plants or Woody Vegetation (e.g., chainsaw, weed eater)		3 ft up to height of removed vegetation (whichever greater)	3 ft up to height of removed vegetation (whichever greater)
Removal of Vegetation with Heavy Equipment (e.g., bulldozer, tractor, "bush hog")		2x width equipment + height of vegetation	820 ft (250 m)
Use of Approved Herbicides (following label)	Ground-based Spray Application; hand application (no wand applicator; spot treatment)	10 ft (3 m)	Crown diameter
	Ground-based Spray Application; manual pump with wand, backpack	50 ft (15 m)	Crown diameter
	Ground-based Spray Application; vehicle-mounted tank sprayer	50 ft (15 m)	Crown diameter
	Aerial Spray (ball applicator)	250 ft (76 m)	250 ft (76 m)
	Aerial Application – herbicide ballistic technology (individual plant treatment)	100 ft (30 m)	Crown diameter
	Aerial Spray (boom)	Further consultation required	Further consultation required
Ground/Soil Disturbance/Outplanting/Fencing (Hand tools, e.g., shovel, 'ō'ō; Small mechanized tools, e.g., auger)		20 ft (6 m)	2x crown diameter
Ground/Soil Disturbance (Heavy Equipment)		328 ft (100 m)	820 ft (250 m)
Surface Hardening/Soil compaction	Trails (e.g., human, ungulates)	20 ft (6 m)	2x crown diameter
	Roads/Utility Corridors, Buildings/Structures	328 ft (100 m)	820 ft (250 m)

Definitions (Wagner *et al.* 1999)

Crown: The leafy top of a tree.

Herb: A plant, either annual, biennial, or perennial, with the non-woody stems dying back to the ground at the end of the growing season.

Shrub: A perennial woody plant with usually several to numerous primary stems arising from or relatively near the ground.

Tree: A woody perennial that usually has a single trunk

Critical Habitat Maui—Lowland Dry—Unit 6

This unit provides critical habitat for 18 listed plants species. Federally-listed plant species in Hawai'i face numerous threats, including habitat destruction and modification by agriculture and development, nonnative ungulates, nonnative plants, fire, hurricanes, drought, disease and pathogens, herbivory by nonnative invertebrates, introduced small mammals and ungulates, and other factors such as small population size, reduced genetic variation, hybridization, the effects of climate change, and other stochastic factors.

Although the disturbed nature of this site makes it unlikely for listed plants to occur in the current operation area (approximately 15 acres), the parcel is in close proximity to critical habitat and several known listed plants. The Service has heightened concern related to the increased fire risk that could occur during construction and due to increased human traffic.

The Service recommends the following measures as applicable to avoid and minimize impacts to sensitive, adjacent critical habitat and its rare and endangered plant species:

- If listed plants are found in the project area, install avoidance buffers as defined in Table 1 using temporary fencing or other barriers as far from the affected plants as practicable.
- Where disturbed areas do not need to be maintained as an open area, restore disturbed areas using native plants as appropriate for the location. Whenever possible we recommend using native plants for landscaping purposes.
 - The following websites are good resources to use when choosing landscaping plants: Pacific Island Ecosystems at Risk (www.hear.org/Pier/), Hawai'i-Pacific Weed Risk Assessment (www.botany.hawaii.edu/faculty/daehler/wra/full_table.asp.html), and Global Compendium of Weeds (www.hear.org/gcw).
- Implement an invasive-weed control plan on the property and along roadsides to minimize fire-prone, nonnative vegetation on-site. Ensure that all equipment, personnel, and supplies are properly checked and are free of contamination (weed seeds, organic matter, or other contaminants) before entering natural areas and areas with native habitat.
- Prepare a detailed fire management plan which includes adequate firebreaks and addresses fire risk from construction activities, road usage, and increased human traffic.

We appreciate your efforts to conserve protected species. If you have questions regarding this letter, please contact Melissa Cady, Fish and Wildlife Biologist, at 808-933-6963, or melissa_cady@fws.gov. When referring to this project, please include this reference number: 01EPIF00-2021-TA-0390.

Sincerely,

Island Team Manager
Maui Nui and Hawai'i Island

Enclosure: Aquatic Best Management Practices

cc: Pacific Islands Fish and Wildlife Office Administration

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U.S. Fish and Wildlife Service Recommended Standard Best Management Practices

The U.S. Fish and Wildlife Service (USFWS) recommends the following measures to be incorporated into project planning to avoid or minimize impacts to fish and wildlife resources. Best Management Practices (BMPs) include the incorporation of procedures or materials that may be used to reduce either direct or indirect negative impacts to aquatic habitats that result from project construction-related activities. These BMPs are recommended in addition to, and do not over-ride any terms, conditions, or other recommendations prepared by the USFWS, other federal, state or local agencies. If you have questions concerning these BMPs, please contact the USFWS Aquatic Ecosystems Conservation Program at 808-792-9400.

1. Authorized dredging and filling-related activities that may result in the temporary or permanent loss of aquatic habitats should be designed to avoid indirect, negative impacts to aquatic habitats beyond the planned project area.
2. Dredging/filling in the marine environment should be scheduled to avoid coral spawning and recruitment periods, and sea turtle nesting and hatching periods. Because these periods are variable throughout the Pacific islands, we recommend contacting the relevant local, state, or federal fish and wildlife resource agency for site specific guidance.
3. Turbidity and siltation from project-related work should be minimized and contained within the project area by silt containment devices and curtailing work during flooding or adverse tidal and weather conditions. BMPs should be maintained for the life of the construction period until turbidity and siltation within the project area is stabilized. All project construction-related debris and sediment containment devices should be removed and disposed of at an approved site.
4. All project construction-related materials and equipment (dredges, vessels, backhoes, silt curtains, etc.) to be placed in an aquatic environment should be inspected for pollutants including, but not limited to; marine fouling organisms, grease, oil, etc., and cleaned to remove pollutants prior to use. Project related activities should not result in any debris disposal, non-native species introductions, or attraction of non-native pests to the affected or adjacent aquatic or terrestrial habitats. Implementing both a litter-control plan and a Hazard Analysis and Critical Control Point plan (HACCP – see <https://www.fws.gov/policy/A1750fw1.html>) can help to prevent attraction and introduction of non-native species.
5. Project construction-related materials (fill, revetment rock, pipe, etc.) should not be stockpiled in, or in close proximity to aquatic habitats and should be protected from erosion (e.g., with filter fabric, etc.), to prevent materials from being carried into waters by wind, rain, or high surf.
6. Fueling of project-related vehicles and equipment should take place away from the aquatic environment and a contingency plan to control petroleum products accidentally spilled during the project should be developed. The plan should be retained on site with the person responsible for compliance with the plan. Absorbent pads and containment booms should be stored on-site to facilitate the clean-up of accidental petroleum releases.
7. All deliberately exposed soil or under-layer materials used in the project near water should be protected from erosion and stabilized as soon as possible with geotextile, filter fabric or native or non-invasive vegetation matting, hydro-seeding, etc.

EXHIBIT H-1.

**FLORA AND FAUNA SURVEY OF
POHAKEA QUARRY - SEPTEMBER 2021**

FLORA AND FAUNA SURVEY
for the
HAWAIIAN CEMENT PŌHĀKEA QUARRY
WAIKAPŪ, MAUI

by
Robert W. Hobdy
Environmental Consultant
Kokomo, Maui
September 2021

Prepared for:
Hawaiian Cement
Maui Concrete and Aggregate Division

FLORA AND FAUNA SURVEY
HAWAIIAN CEMENT PŌHĀKEA QUARRY
WAIKAPŪ, MAUI, HAWAII

INTRODUCTION

The Hawaiian Cement Pōhākea Quarry lies on 64.4 acres of land in lower Pōhākea Gulch in southern Waikapu, Maui TMK (2) 3-6-04:07, (see Figures 1 & 2). This flora and fauna resources study was initiated by Hawaiian Cement in fulfillment of environmental requirements of the planning process.

SITE DESCRIPTION

The project area lies on moderately and unevenly sloping land within a broad section of stony bottom land in Pōhākea Gulch. The soil is characterized as stony Alluvial Land (rSM) Foote et al (1972) resulting from erosional movement and rockslides with abundant boulders. Vegetation consists of dryland forest with openings of grass and shrubs. Rainfall averages about 20 inches per year with most occurring during the winter months (Armstrong, 1983).

SURVEY OBJECTIVES

This report summarizes the findings of a flora and fauna survey of the Hawaiian Cement Pōhākea Quarry which was conducted in September 2021. The objectives of the survey were to:

1. Document what plant, and animal species occur on the property or may likely occur in the existing habitat.
2. Document the status and abundance of each species.
3. Determine the presence or likely occurrence of any native flora and fauna, particularly any that are Federally listed as Threatened or Endangered (USFWS, 2021). If such occur, identify what features of the habitat may be essential for these species.
4. Determine if the project area contains any special habitats which if lost or altered might result in a significant negative impact on the flora and fauna in this part of the island.

FLORA SURVEY REPORT

SURVEY METHODS

A walk-through botanical survey method was used for covering the entire project area. Notes were made on plant species, distribution and abundance as well as on terrain and substrate. An inventory of all species was created for analysis.

DESCRIPTION OF THE VEGETATION

The vegetation throughout the project area was mostly non-native in the numbers of species present. A total of twenty-four plant species were recorded during the survey. Two species were abundant throughout the area, the kiawe tree (*Prosopis pallida*) and buffelgrass (*Cenchrus ciliaris*). Three other species were common, the koa haole (*Leucaena leucocephala*), Madagascar fireweed (*Senecio madagascariensis*) and lion's ear (*Leonotis nepetifolia*). Five other species were uncommon and fourteen were of rare occurrence.

Just three native species were found. The endemic wiliwili tree (*Erythrina sandwicensis*) was uncommon, and the indigenous 'ilima (*Sida fallax*) and 'uhaloa (*Waltheria indica*) were both of rare occurrence.

DISCUSSION AND RECOMMENDATIONS

The vegetation throughout the project area is dominated by non-native species that are of no particular environmental interest or concern. Three native Hawaiian species were found, the wiliwili, the 'ilima and the 'uhaloa. The endemic wiliwili tree is generally uncommon in leeward dry forests throughout Hawaii but is also fairly common in some areas. The indigenous 'ilima and 'uhaloa are quite common in mesic and dry leeward areas in Hawaii and occur in other tropical countries as well but were both rare in the project area because of occasional large brush fires and, also by severe over grazing by large herds of wild axis deer (*Axis axis*) that have consumed almost all edible plant species that they can access.

No federally listed Endangered or Threatened plant species (USFWS, 2021) were found, nor were any plant species that are candidates for such status found in the project area. Two endangered plant species, *Hibiscus brackenridgei* and *Shiadea salicaria*, occur in a protective enclosure in an adjacent gulch approximately 0.4 miles to the north of Pōhākea Gulch. Sixteen other endangered plant species are known to occur at higher elevations 2 to 3 miles to the west of the Pōhākea quarry in mesic to wet forests.

This project is not expected to have a significant negative impact on the botanical resources in this part of Maui. No recommendations regarding botanical resources are deemed necessary or appropriate.

FLORA SPECIES LIST

Following is a checklist of all those vascular plant species inventoried during the field studies. Plant families are arranged alphabetically within each of two groups: Monocots and Dicots. Taxonomy and nomenclature of the plants are in accordance with Wagner et al. (1999).

For each species, the following information is provided:

1. Scientific name with author citation
2. Common English or Hawaiian name.
3. Bio-geographical status. The following symbols are used:
 - endemic = native only to the Hawaiian Islands; not naturally occurring anywhere else in the world.
 - indigenous = native to the Hawaiian Islands and, also to one or more other geographic area(s).
 - Polynesian = all those plants brought to Hawaii during the course of Polynesian migrations.
 - non-native = all those plants brought to the islands intentionally or accidentally after western contact.
4. Abundance of each species within the project area:
 - abundant = forming a major part of the vegetation within the project area.
 - common = widely scattered throughout the area or locally abundant within a portion of it.
 - uncommon = scattered sparsely throughout the area or occurring in a few small patches.
 - rare = only a few isolated individuals within the project area.

SCIENTIFIC NAME	COMMON NAME	STATUS	ABUNDANCE
MONOCOTS			
POACEAE (Grass Family)			
<i>Cenchrus ciliaris</i> L.	buffelgrass	non-native	abundant
<i>Megathyrsus maximus</i> (Jacq.) Simon & Jacobs	Guinea grass	non-native	uncommon
DICOTS			
AMARANTHACEAE (Amaranth Family)			
<i>Chenopodium murale</i> L.	'āheahea	non-native	uncommon
<i>Kali tragus</i> (L.) Scop.	tumbleweed	non-native	rare
APOCYNACEAE (Dogbane Family)			
<i>Asclepias physocarpa</i> (E.Mey.) Schlechter	baloon plant	non-native	rare
ASTERACEAE (Sunflower Family)			
<i>Senecio madagascariensis</i> Poir.	Madagascar fireweed	non-native	common
<i>Verbesina encelioides</i> (Cav.) Benth. & Hook.	golden crown-beard	non-native	rare
<i>Xanthium strumarium</i> L.	kikania	non-native	rare
CUCURBITACEAE (Gourd Family)			
<i>Cucumis dipsaceus</i> Enrenh. ex Spach	hedgehog gourd	non-native	rare
FABACEAE (Pea Family)			
<i>Crotalaria pallida</i> Aiton	smooth rattlepod	non-native	uncommon
<i>Desmanthus pernambucanus</i> (L.) Thellung	slender mimosa	non-native	rare
<i>Erythrina sandwicensis</i> Degener	wiliwili	endemic	uncommon
<i>Indigofera suffruticosa</i> Mill.	īnikoa	non-native	uncommon
<i>Leucaena leucocephala</i> (Lam.) de Wit	koa haole	non-native	common
<i>Neonotonia wightii</i> (Wight & Arnott) Lackey	glycine	non-native	rare
<i>Prosopis pallida</i> (Humb. & Bonpl. ex Willd.) Kunth	kiawe	non-native	abundant
<i>Vachellia farnesiana</i> (L.) Wight & Arnott	klu	non-native	rare
LAMIACEAE (Mint Family)			
<i>Leonotis nepetifolia</i> (L.) R. Br.	lion's ear	non-native	common
MALVACEAE (Mallow Family)			
<i>Abutilon grandifolium</i> (Willd.) Sweet	hairy abutilon	non-native	uncommon
<i>Malvastrum coromandelianum</i> (L.) Garcke	false mallow	non-native	uncommon
<i>Sida fallax</i> Walp.	'ilima	indigenous	rare
<i>Waltheria indica</i> L.	'uhaloa	indigenous	rare
SOLANACEAE (Nightshade Family)			
<i>Datura stramonium</i> L.	jimson weed	non-native	uncommon
<i>Nicandra physalodes</i> (L.) Gaertn.	apple-of-Peru	non-native	rare
<i>Nicotiana glauca</i> R.C. Graham	tree tobacco	non-native	rare

SCIENTIFIC NAME	COMMON NAME	STATUS	ABUNDANCE
<i>Solanum linneanum</i> Happer & P. Jaeger	apple of Sodom	non-native	rare

FAUNA SURVEY REPORT

SURVEY METHODS

A walk-through fauna survey method was conducted in conjunction with the flora survey. All parts of the project area were covered. Field observations were made with the aid of binoculars and by listening to vocalizations. Notes were made on species, abundance, activity and location as well as observations of trails, tracks, scat and signs of feeding. In addition, an evening visit was made to the area to record crepuscular activities and vocalizations and to see if there was any evidence of occurrence of the Hawaiian hoary bat (*Lasiurus cinereus semotus*) in the area.

RESULTS

MAMMALS

Just one mammal species was observed during the survey. A herd of wild axis deer (*Axis axis*) was encountered. Their trails, tracks, droppings, antler rubbings and their heavy feeding impact on the vegetation was everywhere.

Several other common non-native mammals, however, could be expected to be occasionally found in this habitat. These include the mongoose (*Herpestes auropunctatus*), feral cats (*Felis catus*), rats (*Rattus* spp.) and mice (*Mus domesticus*). Taxonomy and nomenclature follow Tomich (1986).

A special effort was made to look for the native Hawaiian hoary bat by making an evening survey of the project area. When present in an area these bats can be easily identified as they forage for insects, their distinctive flight patterns clearly visible in the glow of twilight. No evidence of such activity was observed though visibility was excellent. In addition, a bat detecting device was used at two locations, set to the frequency of 27,000 to 28,000 Hertz which is the typical range within which these bats are known to echolocate for flying insect prey. No activity was detected using this device.

BIRDS

Birdlife was rather sparse in both species diversity and in total numbers in the project area during two site visits. Five non-native species were recorded. Four species were uncommon, the zebra dove (*Geopelia striata*), the common myna (*Acridotheres tristis*), the African silverbill (*Lonchura cantans*) and the house sparrow (*Passer domesticus*). The common chicken (*Gallus gallus*) was of rare occurrence. Taxonomy and nomenclature follow American Ornithological Society (2021). A few other non-native birds are likely to occasionally show up here, the gray francolin (*Francolinus pondicerianus*), the house finch (*Haemorrhous mexicanus*), the northern mockingbird (*Mimus polyglottos*) and the northern cardinal (*Cardinalis cardinalis*).

INSECTS

Insects were uncommon in this habitat. Five non-native insect species were recorded during two site visits. Taxonomy and nomenclature follow Nishida et al (1992). One species was common, the short-horned grasshopper (*Oedaleus abruptus*). Two species were uncommon, the dung fly (*Musca sorbens*) and the graybird grasshopper (*Schistocerca nitens*). Two other species were of rare occurrence, the housefly (*Musca domesticus*) and the pale-winged grasshopper (*Trimerotropis pallidipennis*). No native insects were seen.

DISCUSSION AND RECOMMENDATIONS

The fauna in the project area were composed entirely of non-native mammal, bird and insect species. Some Endangered and other native mammals, birds and insects, not recorded during the survey that might occur in this project area occasionally or seasonally are here addressed.

‘Ōpe‘ape‘a or Hawaiian hoary bat

While no Endangered ‘Ōpe‘ape‘a were observed or detected here during the survey, they are wide ranging and powerful flyers that follow seasonal spikes of nocturnally active flying insects upon which they prey, especially during the rainy season. Adult bats can move away from disturbances, but they may keep their young in trees during the summer months when they are not yet able to fly and are vulnerable. It is recommended that any trees that are to be removed should be taken out between October and April to avoid the possibility of harming any young bats.

Nēnē or Hawaiian goose

No Endangered nēnē were observed here during the dry summer months but these wide-ranging geese could show up during the briefly wet winter months when young green vegetation is present. If nēnē do show up they should be left alone until they depart on their own choice. Any nests found should be reported to the U.S. Fish and Wildlife Service (USFWS) to get recommendations for how to mitigate the situation.

Hawaiian stilt

No Hawaiian stilts were seen during the survey. There are no wetland or other aquatic features in this dry, rocky gulch that could be considered to be even temporary habitat for these water birds.

Seabirds

While no seabirds were found in the project area, three federally protected species, the Endangered ‘ua‘u or Hawaiian petrel (*Phaeopygia sandwichensis*) the Threatened ‘a‘o or Newells shearwater (*Puffinus newelli*) and the band-rumped storm petrel (*Oceanodroma castro*) are known to fly from the ocean at dusk to their nesting burrows high in the mountains and return to the ocean at dawn during the breeding season between March and November. They fly over the lowlands during these flights. These birds are known to be disoriented by bright lights and strike tall structures and be injured and grounded where they become vulnerable to vehicle strikes and predators. During October and November fledging young birds are particularly vulnerable to these threats. It is recommended that any outdoor lighting be hooded so the light is only visible from below.

Kōlea or Pacific golden-plover

The kōlea are migratory birds that are common during the winter months throughout Hawaii in a wide variety of habitats. They are of no special conservation concern and no recommendations are made regarding the kōlea.

Blackburn's sphinx moth

No Endangered Blackburn's sphinx moth (*Manduca blackburni*) adults, larvae or eggs were found during the survey. Just one of their known host plants, tree tobacco (*Nicotiana glauca*), was seen clinging to a rockface. No feeding damage from previous larval activity was observed. However, the dry summer and fall months are not when these moths can be observed. It is possible that they may show up during the wet winter months. It is recommended that a survey be done during the winter months to see if there is any activity of the moths, its eggs or larvae to assess what management approach or mitigation may be necessary.

Yellow-faced bees

The fauna survey included focus on yellow-faced bees and their potential food plants. None of the Maui endangered bees were seen and only one of their known food plant species was found. Three 'ilima plants (*Sida fallax*) were seen, but all of them were heavily defoliated by the large axis deer population and none had any flowers. It is highly unlikely that any yellow-faced bees occur in this project area or surroundings.

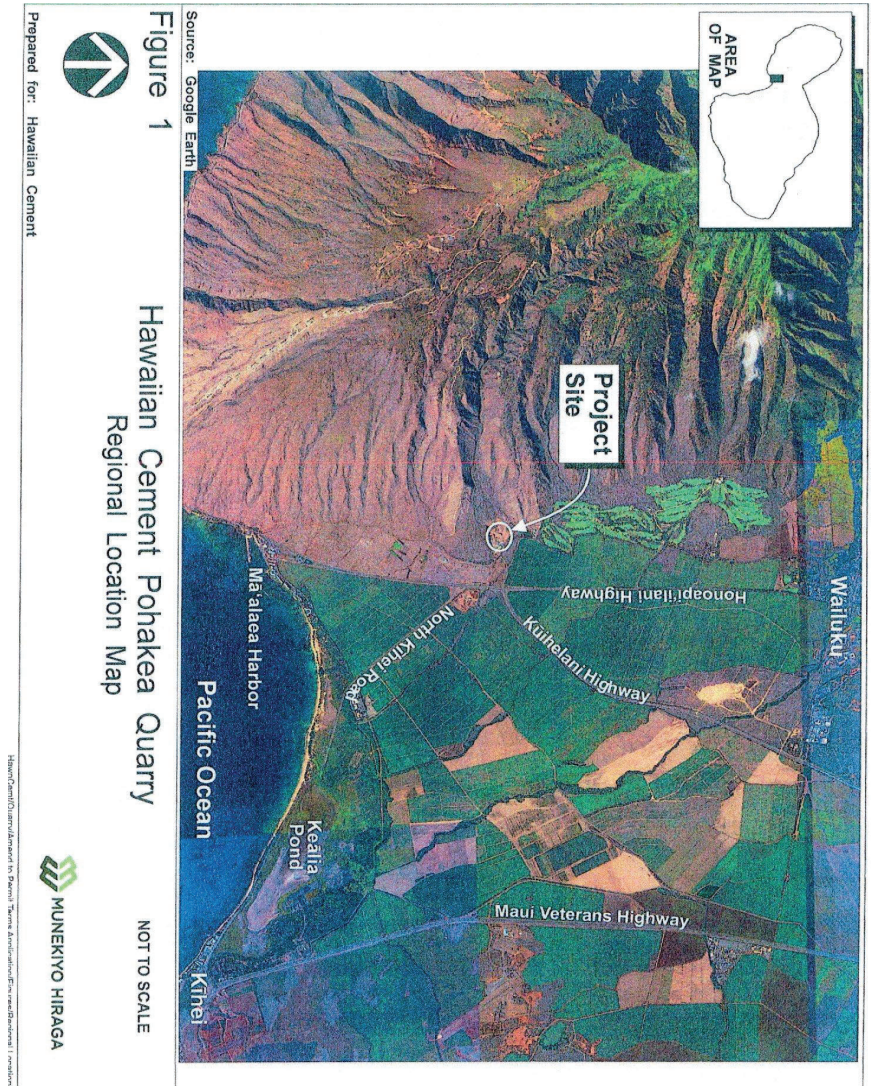
With the above recommendations in place, it is determined that the continued operation of the Hawaiian Cement Pōhākea Quarry is not expected to have a significant negative impact on the native fauna resources in this part of Maui.

FAUNA SPECIES LIST

Following is a checklist of the fauna species inventoried during the field work. Animal species are arranged in descending abundance within three groups: Mammals, Birds and Insects. For each species the following information is provided:

- Common name
1. Scientific name
2. Bio-geographical status. The following symbols are used:
 3. endemic = native only to Hawaii; not naturally occurring anywhere else in the world.
 - indigenous = native to the Hawaiian Islands and also to one or more other geographic area(s).
 - non-native = all those animals brought to Hawaii intentionally or accidentally after western contact.
 - migratory = spending a portion of the year in Hawaii and a portion elsewhere. In Hawaii the migratory birds are usually in the overwintering/non-breeding phase of their life cycle.
- Abundance of each species within the project area:
 4. abundant = many flocks or individuals seen throughout the area at all times of day.
 - common = a few flocks or well scattered individuals throughout the area.
 - uncommon = only one flock or several individuals seen within the project area.
 - rare = only one or two seen within the project area.

SCIENTIFIC NAME	COMMON NAME	STATUS	ABUNDANCE
MAMMALS			
CERVIDAE (Deer Family)			
<i>Axis axis</i> Erxleben	axis deer	non-native	abundant
BIRDS			
COLUMBIDAE (Dove Family)			
<i>Geopelia striata</i> L.	zebra dove	non-native	uncommon
ESTRILDIDAE (Estrildid Finch Family)			
<i>Lonchura cantans</i> Gmelin	African silverbill	non-native	uncommon
PASSERIDAE (Sparrow Family)			
<i>Passer domesticus</i> L.	house sparrow	non-native	uncommon
PHASIANIDAE (Pheasant Family)			
<i>Gallus gallus</i> L.	common chicken	non-native	rare
STURNIDAE (Starling Family)			
<i>Acridotheres tristis</i> L.	common myna	non-native	uncommon
INSECTS			
Order DIPTERA - flies			
MUSCIDAE (Housefly Family)			
<i>Musca domestica</i> L.	housefly	non-native	rare
<i>Musca sorbens</i> Wiedemann	dung fly	non-native	uncommon
Order ORTHOPTERA - grasshoppers, crickets			
ACRIDIDAE (Grasshopper Family)			
<i>Oedaleus abruptus</i> Thunberg	short-horned grasshopper	non-native	common
<i>Schistocerca nitens</i> Thunberg	graybird grasshopper	non-native	uncommon
<i>Trimerotropis pallidipennis</i> Burmeister	pallid-winged grasshopper	non-native	rare





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EXHIBIT H-2.

**LETTER FROM DIVISION OF FORESTRY
AND WILDLIFE
DATED MARCH 17, 2022**

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL STREET, ROOM 325
HONOLULU, HAWAII 96813

March 17, 2022

Bryan Esmeralda
Munekiyo Hiraga
735 Bishop St. Suite 321
Honolulu, HI 96813

Subject: Request for Division of Forestry and Wildlife Comment Related to the presence of Threatened and Endangered Species in the Vicinity of Hawaiian Cement's Pohakea Quarry, Maui

Dear Mr. Esmeralda,

The Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) did receive your letter, dated 29 June 2021, requesting to initiate consultation with us regarding the presence of Yellow-Faced Bees in the vicinity of Hawaiian Cement's Pōhākea Quarry in Waikapū on Maui, Hawai'i, TMK: (2) 3-6-004:007. As we understand it, the existing project operates a rock quarry, base course operation and concrete recycling facility on approximately 79.2 acres. Due to administrative issues, a letter with DOFAW comments regarding Yellow-faced Bees in relation to this project was mistakenly never submitted to your office within the requested timeframe; we therefore apologize for this late mailing.

DOFAW, however, does confirm that Yellow-Faced Bees (*Hylaeus assimulans*) have recently been documented in the vicinity of the project site. This species is listed as endangered and protected under the State endangered species laws—Hawai'i Revised Statutes (HRS) Chapter 195D. Under these laws, take of endangered or threatened species is illegal. As reference, HRS § 195D-2 defines take as the act of harassing, harming, pursuing hunting, shooting, wounding, killing, trapping, capturing, or collecting endangered or threatened species or attempting to engage in any such conduct.

Normally we recommend that surveys by a DOFAW approved biologist be conducted to determine if ongoing project operations can result in take of Yellow-Faced Bees. Due to the cryptic nature of Yellow-Faced Bees, surveys should normally occur between the spring months of February through April. Mapping of preferred host plants, such as 'Ilima (*Sida fallax*), can be done ahead of time to expedite surveys with a targeted approach.

However, DOFAW has been notified that new areas of the quarry property have recently been cleared and / or bulldozed. As the Yellow-faced Bee season is currently active, we would like to request access to the site as soon as possible to allow a DOFAW staff biologist to assess the presence of Yellow-faced Bees on the project site.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

We appreciate your efforts to work with our office for the conservation of our native species. To coordinate access to the quarry for Yellow-faced Bee surveys by DOFAW, please contact Paul Radley, Protected Species Habitat Conservation Planning Coordinator, as soon as possible at (808) 295-1123 or paul.m.radley@hawaii.gov.

Sincerely,

DAVID G. SMITH
Administrator

cc: Cynthia King, DOFAW; cynthia.b.king@hawaii.gov

EXHIBIT H-3.

**EMAIL FROM DIVISION OF FORESTRY
AND WILDLIFE
DATED APRIL 8, 2022**

Karlynn Fukuda

From: Bustamente, Keahi <keahi.bustamente@hawaii.gov>
Sent: Friday, April 8, 2022 1:15 PM
To: Bryan Esmeralda; King, Cynthia B; Radley, Paul M
Cc: Karlynn Fukuda; Giraldo-Perez, Myrna
Subject: Re: Regarding DOFAW consultation for Hawaiian Cement's Pohakea Quarry on Maui

Aloha,

I was able to complete the *Hylaues* survey today. Keoni DeRego met me at 9am and walked with me through out the survey till about 1100.

No *Hylaues* were detected. The site is highly degraded and infested with Axis deer. We saw at least 100 on our survey. The few flowereing Ilima (the main host plant) I saw were browsed and any seedling we saw were also browsed. It may be worth taking another look in the coming years to see if bees move into the area from nearby, but at this point it is unlikely that they are present.

I appreciate Hawaiian Cement and the land owners for access to the site and Keoni for his interest in joining me.

Mahalo,
Keahi

Keahi Bustamente
Hawai'i Invertebrate Program
Maui Nui Technician
808.268.3247
<https://dlnr.hawaii.gov/ecosystems/hip/>

From: Bustamente, Keahi <keahi.bustamente@hawaii.gov>
Sent: Wednesday, March 30, 2022 10:06 AM
To: Bryan Esmeralda <bryan@munekiyohiraga.com>; King, Cynthia B <cynthia.b.king@hawaii.gov>; Radley, Paul M <paul.m.radley.researcher@hawaii.gov>
Cc: Karlynn Fukuda <karlynn@munekiyohiraga.com>; Giraldo-Perez, Myrna <myrna.giraldo-perez.researcher@hawaii.gov>
Subject: Re: Regarding DOFAW consultation for Hawaiian Cement's Pohakea Quarry on Maui

Got it.

Keahi Bustamente
Hawai'i Invertebrate Program
Maui Nui Technician
808.268.3247
<https://dlnr.hawaii.gov/ecosystems/hip/>

From: Bryan Esmeralda <bryan@munekiyohiraga.com>
Sent: Wednesday, March 30, 2022 9:52 AM