

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
BIG ISLAND TOPSOIL LLC )  
For Extension of Motor Carrier )  
Certificate. )  
\_\_\_\_\_)

DOCKET NO. 02-0094

ORDER NO. 20276

Filed June 30, 2003  
At 10:00 o'clock A.M.

Karen Higashi.  
Chief Clerk of the Commission

RECEIVED  
2003 JUN 30 P 4:20  
DIV. OF COLLECTORIAL SERVICES  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

K. Higashi.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)	)	
BIG ISLAND TOPSOIL LLC	)	Docket No. 02-0094
For Extension of Motor Carrier	)	Order No. 20276
Certificate.	)	
_____	)	

ORDER

I.

By Order No. 20051, filed on March 3, 2003 (Order No. 20051), the commission voided Decision and Order No. 19514, filed on August 14, 2002 (Decision and Order No. 19514). Decision and Order No. 19514 granted the application of BIG ISLAND TOPSOIL LLC (Movant), to extend its certificate of public convenience and necessity number 5129-C (CPCN) to include the general commodities (excluding break bulk and delivery) and dump truck classifications on the islands of Kauai and Maui.<sup>1</sup> By letter filed on May 9, 2003,<sup>2</sup> Movant requested that the commission reconsider the voiding of Decision and Order No. 19514. The commission will treat Movant's letter as a motion for reconsideration of Order No. 20051.

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<sup>1</sup>At the time of its application, Movant was authorized to operate as a property carrier on the islands of Oahu and Hawaii.

<sup>2</sup>Movant's letter was dated March 11, 2003 and included copies of its CPCN and information to supplement its application.

## II.

The filing of Movant's motion for reconsideration is governed by Hawaii Revised Statutes (HRS) § 271-32(b) and Hawaii Administrative Rules (HAR) § 6-61-137. These sections require, among other things, that a motion seeking any change in a commission's decision, order, or requirement, be filed within 10 days after the decision or order is served upon the party.

Order No. 20051 was properly served upon Movant, by United States mail, on March 3, 2003. As a result, the last permissible day for timely filing Movant's motion for reconsideration was March 24, 2003.<sup>3</sup> Movant's motion for reconsideration was filed on May 9, 2003. Accordingly, we find Movant's motion for reconsideration to be untimely. Thus, since Movant failed to timely file its motion for reconsideration pursuant to HRS § 271-32(b) and HAR § 6-61-137, we conclude that Movant's motion for reconsideration should be dismissed as moot.

## III.


THE COMMISSION ORDERS that Movant's motion for reconsideration, filed on May 9, 2003, is dismissed as moot.

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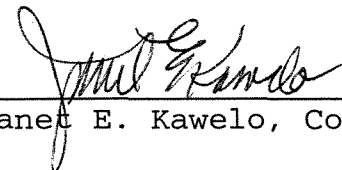
<sup>3</sup>See HAR §§ 6-61-21 and 6-61-22.

DONE at Honolulu, Hawaii this 30th day of June, 2003.

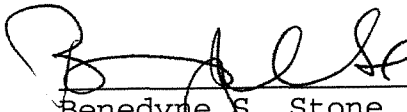
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Benedyne S. Stone  
Commission Counsel

02-0094.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 20276 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

BIG ISLAND TOPSOIL LLC  
P. O. Box 1999  
Kamuela, HI 96743

BILL BATHE  
c/o PACIFIC ACADEMY & ACCOUNTING SERVICES, INC.  
87-979 C Farrington Highway  
Waianae, HI 96792

  
\_\_\_\_\_  
Karen Higashi

DATED: June 30, 2003