

**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF  
CONSERVATION AND COASTAL LANDS  
Honolulu, Hawaii**

**July 13, 2012**

CDUP: HA-3250

**Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii**

**REGARDING:** Time Extension Request (*HA-12-11*) for Conservation District Use Permit (**CDUP**) **HA-3250** Regarding the Continuation of Hand Quarrying of Volcanic Ash at the Pu'u Nene Cinder Cone

**PERMITTEE/  
LANDOWNER:** Dr. John Lockwood, Geohazards Consultants Int, Inc.

**LOCATION:** Saddle Road (SR200), Pu'u Nene, North Hilo District, Island of Hawaii

**TMK:** (3) 3-8-001:001

**AREA OF PARCEL/  
USE:** 52,982 Acres  
3500 yd<sup>2</sup>

**SUBZONE:** Resource

**BACKGROUND:**

On *October 12, 2006*, the Board of Land and Natural Resources (BLNR) approved the *Finding of Fact, Conclusions of Law and Decision and Order* for Conservation District Use Application (CDUA) **HA-3250** and the *Martian Regolith Simulant Project Management Plan* for the hand quarrying of volcanic ash (palagonitized tephra) from the Pu'u Nene Cinder Cone; a Conservation District Use Permit (CDUP) was issued subject to twenty (20) terms and conditions. Condition five (5) provides that, *any work to be done on the land shall be initiated within one year of this approval, and shall be completed within six (6) years of this approval. The applicant shall notify the Department of Land and Natural Resources in writing when work is initiated and when it is completed.* Based on this condition the applicant will have until *October 12, 2012* to complete quarrying activities.

**TIME EXTENSION REQUEST:**

On *March 30, 2012*, the Office of Conservation and Coastal Lands (OCCL) received a correspondence requesting an extension to continue hand quarrying activities at Pu'u

Nene. The applicant has stated that the permitted use under CDUP **HA-3250** allowed for three (3) separate phases to produce a total of 125 tons of the “Martian Soil Simulant”. Phase I (feasibility and design) was completed and produced 3 tons of material; similarly Phase II (test production) was completed and produced 8 tons of material for a total of 11 tons. After the initial 11 tons was collected from the site, funding ceased for quarrying activities and production was put on hold. New interest in the “Martian Soil Simulant” necessitates continued quarrying operations to meet the needs of a new generation of science and educational based investigations. Based on the original approval, the applicant has a remainder of 114 tons authorized to be mined. The correspondence, submitted by Geohazards Consultants International, Inc., indicates that the specific needs of the resource require that the applicant request a six (6) year extension to complete quarrying activities. Pursuant to CDUP **HA-3250** the applicant was to complete hand quarrying activities by *October 12, 2012*, at this time the applicant is requesting that the new completion deadline be extended until *October 12, 2018*.

#### **AUTHORITY FOR GRANTING TIME EXTENSIONS:**

The authority for the granting of time extensions is provided in Hawaii Administrative Rules (HAR), §13-5-43, which allows for a permittee to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

Additionally, pursuant to HAR §13-5-43:

*(b) Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant;*

*(c) Time extensions may be granted by the board upon the second or subsequent request for time extension on a board permit, based on supportive documentation from the applicant; and*

*(d) Unless otherwise authorized, all time extensions shall be submitted to the Department prior to the expiration deadline.*

Additionally, pursuant to the terms and conditions of CDUP **HA-3250**:

Condition 13 states that; *deviation from any of the conditions provided herein may be considered by the Board of land and Natural Resources, only when supported by a satisfactory written justification.*

#### **BASIS FOR TIME EXTENSIONS:**

A time extension may be sought when a permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a permittee demonstrates some sort of hardship or delay in initiating work on a particular project or if more time is required to continue the project as proposed. Moreover, the

permittee should be able to demonstrate to the BLNR and Department that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project under the approved conditions.

**DISCUSSION:**

In the present case, none of these factors suggest any reason to deny the requested time extension. In the previously approved CDUP **HA-3250**, Geohazards Consultants International, Inc. provided a comprehensive Final Environmental Assessment (FEA) document which supported the necessity of quarrying efforts and the minimal impact to local environmental resources; similarly an archeological investigation revealed that there would not be any potential effects on Hawaii's cultural and historical resources.

Geohazards Consultants International, Inc "Mars Simulant" soil mining supports a variety of scientific research, engineering studies and educational activities. While a majority is utilized by NASA, a significant amount has been dedicated to educational and community outreach. The impact due to continued mining is minimal compared to the large scar left by ash mining done prior to GCI, Inc. mining activities. Mining will continue to utilize hand quarrying methods, leading to minimal impact on natural resources. Approval of the time extension request shall provide adequate time needed to complete the mining of "Martian Soil Simulant" and allow GCI, Inc. to continue to provide this resource to interested parties while reaffirming the dedication of Hawaii to new technology and science based businesses.

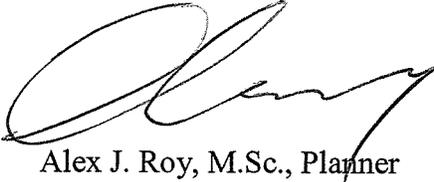
Staff, therefore, has the following:

**RECOMMENDATION:**

That the Board of Land and Natural Resources **APPROVE** Geohazards Consultants International, Inc. time extension to **October 12, 2018** to continue "Martian Soil Simulant" quarrying activities on Pu'u Nene, located at Saddle Road (SR200), Pu'u Nene, North Hilo District, Island of Hawaii, *TMK: (3) 3-8-001:001*; subject to the following conditions:

1. That condition 5 of CDUP **HA-3250** is amended to provide that the Geohazards Consultants International, Inc. will have until **October 12, 2018** to complete ash mining activities of the remainder of the previously approved 125 tons;
2. That all other conditions imposed by the Board under **CDUP HA-3250** as amended, shall remain in effect; and
3. No other time extensions under this permit are allowed.

Respectfully submitted,



Alex J. Roy, M.Sc., Planner  
Office of Conservation and Coastal Lands

Approved for submittal:



---

WILLIAM J. AILA, Jr., Chairperson  
Board of Land and Natural Resources