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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of -----)  
 )  
 CABRAL'S EXCAVATION, LLC )  
 )  
 Notice of Failure to Comply )  
 With Hawaii Revised Statutes )  
 and Commission's Regulations; )  
 Order to Show Cause Why )  
 Respondent's Operating )  
 Authority Should Not Be )  
 Suspended or Revoked. )  
 \_\_\_\_\_)

DOCKET NO. 03-0233

ORDER NO. 22128

Filed Nov. 23, 2005  
 At 10 o'clock A .M.

Karen Higashi.  
 Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY  
 DEPT. OF COMMERCE AND  
 CONSUMER AFFAIRS  
 STATE OF HAWAII

2005 NOV 25 A 8:00

RECEIVED

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 -----)	
CABRAL'S EXCAVATION, LLC )	Docket No. 03-0233
Notice of Failure to Comply )	Order No. 22128
With Hawaii Revised Statutes )	
and Commission's Regulations; )	
Order to Show Cause Why )	
Respondent's Operating )	
Authority Should Not Be )	
Suspended or Revoked. )	
_____ )	

NOTICE OF VIOLATION, ORDER TO SHOW CAUSE, AND NOTICE OF HEARING

CABRAL'S EXCAVATION, LLC ("Respondent") is the holder of a motor carrier certificate issued pursuant to Hawaii Revised Statutes ("HRS") § 271-12. Under certificate of public convenience and necessity no. 4079-C ("Certificate No. 4079-C"), Respondent is authorized to transport property by motor vehicle over irregular routes on the island of Maui in the general commodities and dump truck classifications.

By letter filed on August 22, 2003, Respondent requested that Certificate No. 4079-C be placed on inactive status. Finding good cause, the commission granted Respondent's request by Order No. 20450, filed on September 18, 2003, and placed Certificate No. 4079-C on inactive status for one year, effective from September 18, 2003.

By letter dated August 10, 2004, Respondent requested that the inactive status of Certificate No. 4079-C be extended for an additional year. Again, finding good cause, the

commission granted the request by Order No. 21381, filed on September 29, 2004. In Order No. 21381, the commission stated: "If Certificate No. 4079-C is not reactivated prior to the expiration of the period of inactivity, it shall be declared abandoned and revoked. The request to reactivate Certificate No. 4079-C, along with the filing of all required documents necessary for reactivation must be completed prior to the expiration of the inactivity period, or Certificate No. 4079-C shall be revoked." (Emphasis added.) Certificate No. 4079-C was placed on inactive status for an additional one-year period, until September 18, 2005.

By letter dated July 27, 2005, the commission reminded Respondent that Certificate No. 4079-C would be declared abandoned and revoked if it was not reactivated by September 18, 2005:

If you desire to reactivate Certificate No. 4079-C, please submit the following: (1) a written request to reactivate Certificate No. 4079-C; (2) a certificate of insurance indicating that you have the required liability and cargo insurance coverage; (3) a tariff that conforms to the provisions of Hawaii Administrative Rules, Chapter 6-63 (or evidence that you have joined a tariff bureau); (4) a vehicle inventory list; and (5) a copy of the current Certificate of Registration or Ownership document for all vehicles, including trailers, listed on the vehicle inventory list. All of the above documents must be filed with the Commission no later than September 17, 2005.

(Emphasis added.)

HRS § 271-19(b) states, in relevant part: "Prior to the termination of the approved inactive period, the certificate or permit must be reactivated or it shall be declared abandoned and

the certificate or permit revoked." HRS § 271-19(a), moreover, authorizes the commission, after notice and hearing, to suspend or revoke any certificate of public convenience and necessity, in part or in whole, if the commission finds the holder violated any provision of HRS chapter 271. Accordingly, the commission may suspend or revoke Respondent's Certificate No. 4079-C for failure to comply with the legal requirements set forth above, unless Respondent is able to show why such suspension or revocation should not occur.

THE COMMISSION ORDERS:


1. Respondent shall appear at State Office Building #1, 54 S. High Street, 3<sup>rd</sup> Floor Conference Room A, Wailuku, Hawaii 96813, at 9:30 a.m., on December 20, 2005, to show cause why Respondent's Certificate No. 4079-C should not be revoked for failure to comply with the legal requirements set forth in this order.

2. Respondent may be represented by counsel. If Respondent does not retain counsel, Respondent may be represented at the hearing as follows: (a) an individual may appear on his or her own behalf; (b) a partner may represent a partnership; and (c) an officer or authorized employee of a corporation, trust, or association may represent the corporation, trust, or association.

If Respondent fails to appear at the scheduled hearing, Respondent's Certificate No. 4079-C shall be revoked.

DONE at Honolulu, Hawaii, NOV 23 2005.

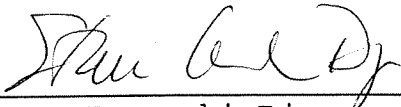
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By (EXCUSED)  
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Stacey Kawasaki Djou  
Commission Counsel

03-0233.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22128 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

CABRAL'S EXCAVATION, LLC  
1370 Olinda Road  
Makawao, HI 96768  
(CM #7002 2030 0006 6798 5490)

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

DATED: NOV 23 2005