

2019 DEC 12 A 9:46

Michael T. Munekiyo
CHAIRMANKarlynn K. Fukuda
PRESIDENTMark Alexander Roy
VICE PRESIDENTTessa Munekiyo Ng
VICE PRESIDENT

December 9, 2019

Daniel Orodenker, Executive Officer
Land Use Commission
State of Hawai'i
P.O. Box 2359
Honolulu, Hawai'i 96804

SUBJECT: Hawaiian Cement Pohakea Quarry 10-Year Time Extension Request; (2)3-6-004:007; Waikapū, Maui, Hawai'i; SUP1 2006/0001, CUP 2006/0001, CP 1997/0002 (LUC Docket No. SP06-400)

Dear Mr. Orodenker:

Thank you for your letter dated August 22, 2019, to Michele McLean, Director of the County of Maui, Department of Planning, related to the subject time extension requests for the Hawaiian Cement Pohakea Quarry. On behalf of Hawaiian Cement, we offer the following information in response to your comments.

We acknowledge your comment that Condition No. 6 of the Land Use Commission (LUC) Special Use Permit (SUP), requiring Hawaiian Cement to submit Annual Progress Reports has not been complied with. We apologize for this oversight. In April 2019, we submitted a compliance report and acknowledged that no other reports had been submitted to date, and as such, we requested that the report be used to satisfy past reporting requirements. However, in a follow-up conversation with your staff, we were requested to submit summaries of the quarry operations and any impacts for the periods from December 4, 2006 (date of the original SUP Decision and Order) to January 6, 2011 (date of first time extension), and from January 6, 2011 until present to demonstrate after the fact compliance with this condition. As such, please find the requested summaries included herein as **Exhibit "A"**, and **Exhibit "B"**.

We acknowledge your comment stressing the importance of periodic reporting requirements. We note that the Pohakea Quarry also operates under a County Conditional Permit (CP) and County Special Use Permit (CUP). Conditions of these approvals also require periodic reporting; annually for the CP and biannually for the CUP. Annual and biannual reports, as required for the CP and CUP applications respectively, have been submitted as required since the permit approvals were granted

in 2006 with a number of exceptions. We note that in reviewing our project files, it appears that compliance reports were not filed in the years 2009 and 2010. Furthermore, in 2008 and 2014, while no CUP compliance report was filed, our office did file compliance reports for the CP. In reviewing the conditions for both permits, the conditions appear to be extremely similar. We have had follow up discussions with the County of Maui, Department of Planning regarding this matter. They have asked us to provide your office with copies of the reports that were filed. We further note that nothing has changed with regards to the project and its operations since the original permits were approved, and all but two (2) years were covered by at least one (1) compliance report. In light of this, we respectfully request the LUC's acknowledgment of fulfillment of this condition. Copies of all compliance reports filed with the County to date are provided on the enclosed compact disc.

As requested, an updated Certificate of Insurance is provided in **Exhibit "C"**.

The Pohakea Quarry has been, and continues to operate to support the demand for rock and base course products on Maui. The average amount of product quarried annually is approximately 121,000 tons. In addition, based on current construction demand on Maui and quarry operations, the quarry has approximately 26 years of product left that is able to be quarried.

Should you have any questions or require additional information, please feel free to contact me at 983-1233 or via email at planning@munekiyohiraga.com.

Very truly yours,



Bryan K. Esmeralda, AICP
Senior Associate

BKE:yp

Enclosures

cc: Paul Fasi, Department of Planning (w/enclosures)
Dave Gomes, Hawaiian Cement (w/enclosures)

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EXHIBIT A.

Operations and Impacts Summary for Hawaiian Cement Pohakea Quarry for the Period of December 4, 2006 to January 6, 2011



MUNEKIYO HIRAGA

Planning. Project Management. Sustainable Solutions.

Michael T. Munekiyo
CHAIRMAN

Karlynn K. Fukuda
PRESIDENT

Mark Alexander Roy
VICE PRESIDENT

Tessa Munekiyo Ng
VICE PRESIDENT

December 9, 2019

Date: December 9, 2019

To: Daniel Orodener, Executive Officer
State of Hawai'i, Land Use Commission

From: Bryan K. Esmeralda, AICP on behalf of Hawaiian Cement

Subject: Operations and Impacts Summary for Hawaiian Cement Pohakea Quarry
for the Period of December 4, 2006 to January 6, 2011

I. BACKGROUND

In 2006, the State of Hawai'i, Land Use Commission (LUC) granted a Special Use Permit (SUP) to Hawaiian Cement for the operation of a 79.2-acre rock quarry and base course operation on a portion of Tax Map Key (TMK) (2)3-6-004:007, owned by Pohakulepo Recycling, LLC, in Waikapū, Maui, Hawai'i (LUC Docket No. SP06-400). The SUP approval was granted through December 15, 2016, and was subject to 23 conditions, as listed in the Decision and Order (D&O). Condition No. 6 of this approval reads:

That the Applicant shall submit to the LUC and DP [County of Maui, Department of Planning] copies of a detailed report addressing its compliance with the conditions established with the subject LUC Special Use Permit. The compliance report shall be reviewed and approved by the LUC and the DP prior to establishment of the Special Use within the expansion area.

In 2011, the LUC granted a time extension for the SUP for Pohakea Quarry through December 15, 2019. In this approval, Condition No. 6 of the D&O was also amended to read as follows:

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.

On April 9, 2019, our office, on behalf of Hawaiian Cement, filed a compliance report with the DP and LUC for the SUP. In this report, we acknowledged that Condition No. 6 requiring annual compliance reports be submitted had not been complied with as no other reports had been submitted to date. As such, we requested that the report be used to satisfy past reporting requirements.

On August 22, 2019, the LUC sent a letter to Michele McLean, Director of the Department of Planning recommending that the current request for a time extension for Pohakea Quarry, filed on June 20, 2019, not be approved in part due to the non-compliance of SUP Condition No. 6. Following receipt of this letter, our office contacted the LUC for guidance. LUC staff requested that summaries of the quarry operations and any impacts for the periods from December 4, 2006 (date of the original SUP Decision and Order) to January 6, 2011 (date of first time extension), and from January 6, 2011 until present be submitted to demonstrate after the fact compliance with SUP Condition No. 6. As such, this summary is being submitted for the period from December 4, 2006 to January 6, 2011 in partial fulfillment of this request.

A. Summary of Operations

Since 2006, the Pohakea Quarry at Waikapū has continued to operate to support the demand for rock and base course products on Maui. The average amount of product quarried annually was approximately 121,000 tons. In addition, based on current construction demand on Maui and quarry operations, the quarry has approximately 26 years of product left that is able to be quarried. Of the total 79.2 acres of the permitted project area, approximately ten (10) acres have been accessed for quarry purposes.

As previously discussed, since 2006, the Applicant has been granted a time extension of the SUP for the continued operations at Pohakea Quarry. It is also noted that on March 9, 2010 and October 22, 2010, the County Special Use Permit (CUP) and County Conditional Permit (CP), respectively, were also granted time extensions through December 15, 2019.

B. Summary of Impacts

As discussed in the April 2019 annual compliance report, the Pohakea Quarry continues to operate in full compliance of all imposed conditions. The quarry location, being surrounded by undeveloped lands and being set back from Honoapiʻilani Highway, does not contribute to any adverse impacts upon surrounding property owners or land uses.

With regards to the Applicant's compliance with conditions requiring specific actions:

- **Condition No. 8** – A roadway maintenance plan has been prepared and approved by the State Department of Transportation to ensure that rock materials from quarry and rock recycling operations do not impact roadways. In addition, a retention basin and its maintenance plan have been reviewed and approved by the County Department of Public Works as part of the grading permit for the site. Said retention basin has been constructed and is in use
- **Condition No. 10** – An Archaeological Inventory Survey and Archaeological Monitoring Plan for the expansion area approved as part of the 2006 permit approval were submitted and accepted by the State Historic Preservation Division in 2008. Since this time, the quarry has not expanded its boundaries outside of the currently permitted area.

- **Condition No. 11** – Truck loads continue to be monitored to ensure that loads are covered and material and debris are removed from the exterior of the trucks and wheels to reduce debris on roadways.
- **Condition No. 13** – Hawaiian Cement continues to implement Best Management Practices (BMPs) to minimize noise, dust, runoff, and infiltration impacts due to operations. As previously noted, due to the quarry's location, adverse impacts are not present as a result of quarry and base course processing operations.
- **Condition No. 14** – The area between the Pohakea Stream and the southern boundary of the property has been maintained as a physical separation between the quarry area and Honoapi'ilani Highway.
- **Condition No. 15** – Base course materials processed at the site are not exported off island.
- **Condition No. 18** – National Pollutant Discharge Elimination System permitting requirements continue to be complied with.
- **Condition No. 19** – Air quality permits are maintained for the quarry and base course processing operations.
- **Condition No. 20** – The approved drainage report and BMP plan for the site continue to be abided by.
- **Condition No. 21** – Operating hours continue to be Monday to Friday, 7:00 a.m. to 5:00 p.m.

Thank you for your consideration of the SUP time extension request for this project. Should you have any questions regarding this memorandum, please feel free to contact me at 983-1233.



Bryan K. Esmeralda, AICP
Senior Associate

BKE:yp

cc: Dave Gomes, Hawaiian Cement

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EXHIBIT B.

Operations and Impacts Summary for Hawaiian Cement Pohakea Quarry for the Period of January 6, 2011 to Present

December 9, 2019

Date: December 9, 2019

To: Daniel Orodener, Executive Officer
State of Hawai'i, Land Use Commission

From: Bryan K. Esmeralda, AICP on behalf of Hawaiian Cement

Subject: Operations and Impacts Summary for Hawaiian Cement Pohakea Quarry
for the Period of January 6, 2011 to Present

I. BACKGROUND

In 2006, the State of Hawai'i, Land Use Commission (LUC) granted a Special Use Permit (SUP) to Hawaiian Cement for the operation of a 79.2-acre rock quarry and base course operation on a portion of Tax Map Key (TMK) (2)3-6-004:007, owned by Pohakulepo Recycling, LLC, in Waikapū, Maui, Hawai'i (LUC Docket No. SP06-400). The SUP approval was granted through December 15, 2016, and was subject to 23 conditions, as listed in the Decision and Order (D&O). Condition No. 6 of this approval reads:

That the Applicant shall submit to the LUC and DP [County of Maui, Department of Planning] copies of a detailed report addressing its compliance with the conditions established with the subject LUC Special Use Permit. The compliance report shall be reviewed and approved by the LUC and the DP prior to establishment of the Special Use within the expansion area.

In 2011, the LUC granted a time extension for the SUP for Pohakea Quarry through December 15, 2019. In this approval, Condition No. 6 of the D&O was also amended to read as follows:

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.

On April 9, 2019, our office, on behalf of Hawaiian Cement, filed a compliance report with the DP and LUC for the SUP. In this report, we acknowledged that Condition No. 6 requiring annual compliance reports be submitted had not been complied with as no other reports had been submitted to date. As such, we requested that the report be used to satisfy past reporting requirements.

On August 22, 2019, the LUC sent a letter to Michele McLean, Director of the Department of Planning recommending that the current request for a time extension for Pohakea Quarry, filed on June 20, 2019, not be approved in part due to the non-compliance of SUP Condition No. 6. Following receipt of this letter, our office contacted the LUC for guidance. LUC staff requested that summaries of the quarry operations and any impacts for the periods from December 4, 2006 (date of the original SUP Decision and Order) to January 6, 2011 (date of first time extension), and from January 6, 2011 until present be submitted to demonstrate after the fact compliance with SUP Condition No. 6. As such, this summary is being submitted for the period from January 6, 2011 to present in partial fulfillment of this request.

A. Summary of Operations

Since 2011, the Pohakea Quarry at Waikapū has continued to operate to support the demand for rock and base course products on Maui. The average amount of product quarried annually is approximately 121,000 tons. In addition, based on current construction demand on Maui and quarry operations, the quarry has approximately 26 years of product left that is able to be quarried. Of the total 79.2 acres of the permitted project area, approximately ten (10) acres have been accessed for quarry purposes.

B. Summary of Impacts

As discussed in the April 2019 annual compliance report, the Pohakea Quarry continues to operate in full compliance of all imposed conditions. The quarry location, being surrounded by undeveloped lands and being set back from Honoapiʻilani Highway, does not contribute to any adverse impacts upon surrounding property owners or land uses.

With regards to the Applicant's compliance with conditions requiring specific actions:

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- **Condition No. 10** – An Archaeological Inventory Survey and Archaeological Monitoring Plan for the expansion area approved as part of the 2006 permit approval were submitted and accepted by the State Historic Preservation Division in 2008. Since this time, the quarry has not expanded its boundaries outside of the currently permitted area.
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infiltration impacts due to operations. As previously noted, due to the quarry's location, adverse impacts are not present as a result of quarry and base course processing operations.

- **Condition No. 14** – The area between the Pohakea Stream and the southern boundary of the property has been maintained as a physical separation between the quarry area and Honoapi'ilani Highway.
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- **Condition No. 20** – The approved drainage report and BMP plan for the site continue to be abided by.
- **Condition No. 21** – Operating hours continue to be Monday to Friday, 7:00 a.m. to 5:00 p.m.

Thank you for your consideration of the SUP time extension request for this project. Should you have any questions regarding this memorandum, please feel free to contact me at 983-1233.



Bryan K. Esmeralda, AICP
Senior Associate

BKE:yp

cc: Dave Gomes, Hawaiian Cement

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EXHIBIT C.

Certificate of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/14/2018

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: PHONE (A/C, No, Ext): E-MAIL ADDRESS:		FAX (A/C, No):
CN102289309-HAWAC-GAWX-19- 2010 2037 HAWCE AI Y		INSURER(S) AFFORDING COVERAGE		
INSURED HAWAIIAN CEMENT 99-1300 HALAWA VALLEY STREET AIEA, HI 98701		INSURER A: Liberty Mutual Fire Ins Co		NAIC # 23035
		INSURER B: Associated Electric & Gas Ins Services Ltd		3180004
		INSURER C: Liberty Insurance Corporation		42404
		INSURER D:		
		INSURER E:		
		INSURER F:		

COVERAGES**CERTIFICATE NUMBER:**

CHI-007184427-25

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 <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		TB2-641-005097-049	01/01/2019	01/01/2020	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 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		A12-641-005097-059	01/01/2019	01/01/2020	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 checked="" type="checkbox"/> EXCESS LIAB DED RETENTION \$		X15063408P	01/01/2019	01/01/2020	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	WA7-64D-005097-029 (Regulated) WA7-64D-005097-019 (AOS) "INCLUDES "STOP-GAP"	01/01/2019 01/01/2019	01/01/2020 01/01/2020	<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: 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 HOLDERCounty 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.

Manashi Mukherjee

Manashi Mukherjee

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