

2020 STATE SPECIAL
USE PERMIT ANNUAL
COMPLIANCE REPORT

APPENDIX

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January 31, 2020

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

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

SUBJECT: State Special Use Permit for Puunene Rock Quarry, TMK: (2)3-8-004:001(por.), and 002(por.), (2)3-8-008:001(por.) and 031(por.),
Pulehunui, Wailuku, Hawai'i (SP 92-380) (SUP1 91-0013)

Dear Mr. Orodenker and Ms. McLean:

The State Land Use Commission (SLUC) at a regularly scheduled meeting on November 20, 2014, voted to approve a time extension request and amendments to the existing State Special Use Permit (SUP) (SP92-380) for the Puunene Quarry. The SUP time extension was granted through July 21, 2032. The approval of the time extension request was subject to 11 conditions. See **Exhibit "A"**.

Condition Number 11 of the SUP approval stated:

"An annual progress report shall be submitted to the Planning Director and the State Land Use Commission prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required."

On behalf of the SUP permit holder, Hawaiian Cement, we are submitting this compliance report to meet Condition No. 11 of the SUP. No changes in the operations have occurred since 2013.

Condition No. 1

That the State Land Use Commission Special Use Permit shall be valid to July 21, 2032, subject to further extensions by the Land Use Commission 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 Land Use Commission and may require a public hearing on the time extension.

Response: The permittee concurs with the condition and will comply with the extension request procedures. We note that the SUP for the Puunene Quarry would expire in July 2032.

Condition No. 2

That the conditions of this Land Use Commission Special Use Permit shall be enforced pursuant to Sections 205-12 and 205-13, Hawaii Revised Statutes. 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 (60) days to cure the violation. If the permit holder fails to cure the violation within sixty (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 ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00) per violation; that a civil fine not to exceed FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) shall be issued if violation not cured within six months of the issuance of the order. The order shall become final thirty (30) days after the date of its mailing or hand-delivery unless written request for a hearing is mailed or delivered to the planning department within said (30) days. Upon receipt of a request for a hearing, the Planning 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 or the Director's designee in accordance with the provisions of Chapter 91, HRS, as amended.

Response: The permittee concurs with this condition.

Condition No. 3

That the subject State Land Use Commission Special Use Permit shall not be transferred without the prior written approval of the Land Use Commission. The appropriate Planning Commission shall make a recommendation to the Land Use Commission. However, in the event that a contested case hearing preceded issuance of said State Land Use Commission 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 this 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 State Land Use Commission Special Use Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this State Land Use Commission 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 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 nonobservance or nonperformance 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 within ninety (90) calendar days from the date of transmittal of the decision and order.

Response: Please find attached, as Exhibit "B", current Certificate of Insurance for the Puunene Quarry, naming the State of Hawai'i as an additional insured.

Condition No. 5

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

Response: The permittee concurs with the condition.

Condition No. 6

That a restoration plan be submitted, showing upon termination of operations, depleted and excavated areas shall be graded to blend with the surrounding natural contours and that appropriate vegetative cover consisting of trees, shrubs, and ground cover shall be established.

Response: The permittee understands this condition. A restoration plan, approved by the landowner, has previously been submitted to the SLUC upon termination of the quarry operations. See **Exhibit "C"**.

Condition No. 7

That a detailed drainage plan be submitted to the Department of Public Works and Department of Transportation for their review and approval.

Response: A detailed drainage plan was submitted and approved by the Department of Public Works (DPW). Said plan approvals have been previously submitted by the applicant.

Condition No. 8

That a detailed solid waste management plan be submitted to the Public Works for their review and approval.

Response: A solid waste management plan was submitted to the DPW for their review and approval. Said plan approval has been previously submitted by the applicant.

Condition No. 9

That a regular maintenance program for the access road be submitted to Department of Transportation Highways Division and Department of Public Works for review and approval to ensure that loose aggregate, which may have fallen from trucks coming from the quarry site, shall be removed.

Response: A maintenance program was for the access road and was submitted to the SDOT, Highway Division and DPW for review and approval. The SDOT approved said plan. See **Exhibit "D"**.

Condition No. 10

That the applicant shall continue to comply with air pollution control and all other permits for rock crushing, asphalt batching, and all other operations, including the restoration of the site.

Response: The permittee understands this condition and is continuing to comply with air pollution control and other related permits for the quarry operation. Copies of the Covered Source Permit (which expired on April 19, 2016) and an acceptance letter from the Department of Health for a renewal application are attached as **Exhibit "E"**. It is noted that approval of the renewal application is pending.

Condition No. 11

An annual progress report shall be submitted to the Planning Director and the State Land Use Commission prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

Response: This report is being submitted to satisfy this condition for the years 2014, 2015, 2016, 2017, 2018, and 2019.

To date, approximately 77 percent of the acres in the permitted area have been quarried for use.

Condition No. 12

That prior to commencement of quarry operations into the Expansion Areas, the applicant shall provide evidence of approval from the State Department of Transportation regarding a maintenance program for the driveway and surrounding roadway.

Response: As previously noted in the response to Condition No. 9, the SDOT has approved the maintenance program for the Puunene Quarry. Refer to **Exhibit “D”**.

Condition No. 13

That prior to commencement of quarry operations into the Expansion Areas, the applicant shall provide evidence of approval from the State Department of Health regarding modifications to the Clean Air Branch permit.

Response: The permittee understands this condition. As noted, a Covered Source Permit renewal application has been filed and an approval is pending. Refer to **Exhibit “E”**.

Condition No. 14

That prior to commencement of quarry operations into the Expansion Areas, the applicant shall submit an archaeological inventory survey to the State Historic Preservation Division for their review; and shall comply with their subsequent comments.

Response: The permittee had an archaeological inventory survey report prepared for the expansion area at the Puunene Quarry. The report was submitted to the State Historic Preservation Division (SHPD) for review and approval on January 24, 2011. SHPD approved said report via letter dated August 8, 2012. See **Exhibit “F”**. The SHPD concurred that no further archaeological work is required for the site.

Condition No. 15

That the new quarry operations shall be confined to the areas depicted on Exhibit 2 of the Planning Department staff report as “24.476 Acres” and “41.968 Acres” (attached as “Proposed Quarry Mining Site” map, dated July 7, 2005).

Response: The permittee understands this condition. New quarry activities are limited to the expansion area identified on the “Proposed Quarry Mining Site” map that was attached to the SLUC Decision and Order.

It is noted that a request to amend the SUP to add approximately 51.67 acres to the quarry operation was approved by the SLUC in December 2014.

Condition No. 16

That prior to commencement of quarry operations on Quarry Site "C," the Applicant shall submit an archaeological inventory survey of Quarry Site "C" to the State Historic Preservation Division for their review and shall comply with their subsequent comments.

Response: The Applicant had an Archaeological Assessment prepared for Quarry Site "C" and the document was submitted to the State Historic Preservation Division (SHPD) in October 2014. The SHPD provided comments on the report via letter in May 2015. See **Exhibit "G"**. A revised report was revised and re-submitted to SHPD by the Applicant's consultant in July 2015. See **Exhibit "H"**. The Applicant is continuing to coordinate with SHPD on their review of the aforementioned reports.

Condition No. 17

That the new quarry operations on Quarry Site "C" shall be confined to the area identified as Quarry Site "C" on the attached Exhibit "A" entitled Plan Showing Hawaiian Cement Quarry Mining Sites (Revised December 13, 2013).

Response: The Applicant concurs with this condition and has confined the Quarry Site "C" operations as illustrated in the map attached to the December 2014 Decision and Order document. Refer to **Exhibit "A"**.

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Should you have any further questions regarding this report, please do not hesitate to contact me at (808) 983-1233.

Very truly yours,



Bryan Esmeralda, AICP
Senior Associate

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Enclosures

cc: **Dave Gomes, Hawaiian Cement (w/enclosures)**

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