



DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

GEORGE R. ARIYOSHI
Governor
CHARLES W. DUKE
Chairman
SHINICHI NAKAGAWA
Vice Chairman

Old Federal Building, Room 104, 335 Merchant Street,
Honolulu, Hawaii 96813

COMMISSION MEMBERS:
Richard Choy
William Yuen
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell
Edward Yanai
GORDAN FURUTANI
Executive Officer

March 11, 1981

Hawaii Planning Commission
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Attention: Mr. Sidney Fuke, Planning Director

Gentlemen:

At its meeting on February 25, 1981, the Land Use Commission voted to approve a request by Transcontinental Development Company (formerly Boise Cascade) SP70-085 for a 10-year time extension to allow the continued operation of two quarry sites and allied uses on approximately 162 acres of land situated within the State Land Use Agricultural District at Waikoloa, South Kohala, Hawaii, Tax Map Key 6-8-02: portions of 15 and 16.

Approval of this extension is subject to the conditions stipulated in the original Special Permit. Please be advised that the petitioner's failure to comply with any of the delineated conditions of approval shall be reason for termination of the Special Permit. The Land Use Commission will not consider any request for time extension which is filed after the stipulated commencement or expiration dates.

A copy of the staff memorandum is herewith enclosed for your information. The Land Use Commission's Decision and Order on SP70-085 will be forwarded to you at a later date.

Sincerely,

GORDAN Y. FURUTANI
Executive Officer

GYF:jy
Encl.
cc: Mr. Willis H. Sanburn

STATE OF HAWAII
LAND USE COMMISSION

MEMORANDUM

TO: Land Use Commission DATE: February 15, 1981
FROM Staff
SUBJECT: SP70-085 - Transcontinental Development Company (formerly
Boise Cascade) Extension of Time Condition

Transcontinental Development Company (TDC) is requesting a time extension to Special Permit 70-085 which was originally approved by the Land Use Commission on December 11, 1970, allowing the operation of two quarry sites and allied uses on approximately 162 acres of land situated within the State Land Use Agricultural District at Waikoloa, South Kohala, Hawaii; Tax Map Key 6-8-02: portions of 15 and 16. For the Commission's information, a location map is appended as Attachment #1.

Site #1, the Pu'u Hinai Quarry, is located on the southwest face of a cinder cone of the same name, which reaches an elevation of 1,439 feet above sea level or approximately 230 feet above the surrounding area. It is located on the south side of the Waikoloa Road, approximately 4.5 miles inland of the Kaahumanu Highway, within the bounds of a rectangular area 1,500 feet by 2,000 feet. This quarry provides heavily burnt 'a'a cinders and ash which is used as bedding material for water and sewer pipes, and as temporary surfacing for roads. These products are also used as a form to topsoil in nurseries and landscaping, and as the cover material at the petitioner's sanitary landfill. Since the special permit was first issued, the tax map key designation for this quarry area of approximately 69 acres has been changed from 6-8-01: portion of 04 to 6-8-02: portion of 16.

Site #2, the Village Quarry, is located within the bounds of a square 2,000 feet on each side, located adjacent and to the south of the Waikoloa Village urban district, at an elevation of approximately 1,000 feet. Encompassing approximately 92 acres, it is on the south side of the Waikoloa Road, approximately 3.0 miles inland of the Kaahumanu Highway. The Village Quarry provides basically blue rock aggregate which is used for road construction and base course material. The screening plant, rock crusher, scales A.C. and concrete batching plants and equipment repair facilities are located on this site. Since the special permit was first issued, the tax map key designation for this quarry area has been changed from 6-8-01: portion of 04 to 6-8-02: portion of 15.

The original petitioner, Boise Cascade, has transferred its development holdings and their related permits to Transcontinental Development Company.

Approval of the original SP70-085 was subject to a condition that it was to expire within 5 years from the date of approval by the State Land Use Commission. In 1975, a request was made for a five-year extension of the special permit. Following the recommendation of the Hawaii County Planning Commission, the Land Use Commission, on December 23, 1975, granted the five (5) year time extension.

By letter dated September 26, 1980, Mr. Willis H. Sanburn, petitioner's Director of Business Relations, has requested that the expiration date for SP70-085 of December 11, 1980 be extended to December 11, 1990. In support of this 10-year extension request, Mr. Sanburn stated the following:

"As you know, we have developed Increment 1 of Waikoloa Village, including some 968 single-family lots, the golf course, commercial sites and multi-family sites. Waikoloa Village is now a reality with approximately 300 single-family homes in place and approximately 160 multi-family units. There remains to be developed in the urban zoned land at Waikoloa Village Units 2,3,4 and 5 of single-family lots (approximately 1300 acres). With the development of the resort areas along the coast and with the build-out at Waikoloa Village, we see a demand for more lots and intend to bring them on in the next few years. In addition to this, there will be at some point in time requirements for employee housing which will require additional (sic) roads and infrastructure. These two quarry sites are essential to provide material for roads, pipe bedding, etc. for the infrastructure which will be required.

"Quarry 1 provides cinders for bedding material for water and sewer pipes and also provides temporary surfacing for roads. Quarry 2 is our source of basalt for crushed aggregate for base course and asphalt for the roads and aggregates for concrete curb, etc.

"Because the two quarries are essential for the continued development of the Waikoloa project, we respectfully (sic) request a 10-year extension of SP70-085, December 11, 1980 to December 11, 1990.

"The conditions established by the Planning Commission at its meeting of September 25, 1980 and adopted by the Land Use Commission at granting the Special Permit are being met in the operation of the two quarries and related facilities."

For the Commission's information, the County Special Permit form which lists the findings and conditions of the original SP70-085 approval is attached (Attachment #2).

At a meeting on November 25, 1980, the Hawaii County Planning Commission voted unanimously to recommend approval of the ten year extension based on the following findings:

"That the subject quarry sites are a necessary and integral part of the applicant's overall development. The material which is obtained from the two sites is used to meet various construction needs. The Puu Hinai Quarry provides cinders for bedding material for water and sewer pipes and also provides temporary surfacing for roads. The material from the Village Quarry is basically a blue rock aggregate used for construction and base course material. These materials are essential for the improvements which must be made by the applicant.

"The applicant's development is an on-going project, and the need for the quarry operations and the related uses allowed by the Special Permit will continue some time into the future. The applicant has made substantial improvements to date evidenced by the 968 single-family lots, the golf course, commercial sites and multi-family sites of Waikoloa Village. The quarrying operations have been essential in the this development and will continue to be so in the construction of further improvements.

"In addition, it is determined that approval of the continuation of the quarrying operations and related use will contribute to the applicant's compliance with the intent, purpose and requirements of land use changes which have been previously approved. The continuance of these operations and uses will have minimal adverse effects on the public health and welfare.

"It is further recommended that approval of the extension request be subject to all conditions stipulated in the granting of the original Special Permit including compliance with applicable Department of Health regulations. In addition, every precaution must be taken by the applicant so as not to create any inconvenience to surrounding properties in regard to traffic, noise and dust problems during the quarry operations. Should the quarrying operations have an adverse effect on surrounding properties, sufficient and documented evidence may be submitted to the Planning Director to support any claims which are made that the applicant is creating an inconvenience. If the Planning Director finds that the evidence submitted shows sufficient cause to re-evaluate the Special Permit, he shall transmit such evidence to the Planning Commission who shall hold a public hearing to gather evidence relative to the impact of the quarrying operations on surrounding lands. Upon receiving any complaint which is accompanied by documented evidence relative to the impact of the quarry operations, the applicant shall cease operations until a determination is made as to whether operations can continue or the Special Permit is to be revoked.

"Should the stated conditions not be met, the Special Permit may be deem null and void."

For the Commission's information, the transcript of the County Planning Commission hearing of November 25, 1980 related to this request is attached (Attachment #3).


BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. SP70-85
)	
EDWIN DeLUZ TRUCKING & GRAVEL, LLC)	ORDER GRANTING AMENDMENT TO CONDITION NO. 2 AND ADDITION OF NEW CONDITION NOS. 3 AND 5
To Consider An Amendment To Condition No. 2 Of The Special Permit To Extend The Life Of The Permit For An Additional Five Years From December 11, 2010 To December 11, 2015 To Allow The Continued Operation At Quarry Site 1 Located Within The Agricultural District At Waikoloa, South Kohala, Hawai'i, TMK No. 6-8-002: por. 16.)	
)	
)	
)	
)	
)	
)	

ORDER GRANTING AMENDMENT TO CONDITION NO. 2 AND ADDITION OF
NEW CONDITION NOS. 3 AND 5

This is to certify that this is a true and correct copy of the document on file in the office of the State Land Use Commission, Honolulu, Hawai'i.

February 7., 2011 by


Executive Officer

069547

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of) DOCKET NO. SP70-85
)
EDWIN DeLUZ TRUCKING & GRAVEL,) ORDER GRANTING AMENDMENT
LLC) TO CONDITION NO. 2 AND
) ADDITION OF NEW CONDITIONS
To Consider An Amendment To Condition) NOS. 3 AND 5
No. 2 Of The Special Permit To Extend The)
Life Of The Permit For An Additional Five)
Years From December 11, 2010 To December)
11, 2015 To Allow The Continued Operation)
At Quarry Site 1 Located Within The)
Agricultural District At Waikoloa, South)
Kohala, Hawai'i, TMK No. 6-8-002: por. 16.)
)
)
)

ORDER GRANTING AMENDMENT TO CONDITION NO. 2 AND ADDITION OF
NEW CONDITIONS NOS. 3 AND 5

On September 10, 2010, Steven S.C. Lim on behalf of Edwin DeLuz Trucking & Gravel, LLC ("Applicant"), filed an application to amend Condition No. 2 of the existing special permit ("Amendment") with the County of Hawai'i Planning Department ("County"), pursuant to Hawai'i Revised Statutes ("HRS") Section 205-6, and Hawai'i Administrative Rules ("HAR") Sections 15-15-95 and 15-15-96. The Applicant requests amendment of Condition No. 2 to extend the life of the special permit for the approximately 63.648-acre Quarry Site 1 (known as the "Pu'u Hinai Site" or "Site 1") for an additional five years from December 11, 2010 to December 11, 2015 to allow the continued operation at Site 1.

On November 24, 2010, the County of Hawai'i Leeward Planning Commission ("Planning Commission") conducted a hearing on the Amendment, pursuant to a public

notice published on November 10, 2010. After due deliberation, the Planning Commission recommended approval of the Amendment to the Land Use Commission ("LUC"), subject to the following amendments to read as follows:

"2. Quarrying operations at Site 1 (Puu Hina`i) shall be terminated by December 11, ~~[2010]~~2015, or prior to final subdivision approval of the increment of adjacent RA zoned lands which abut the quarry boundaries, or prior abandonment, whichever occurs first.

3. Mining of Pu`u Hina`i shall immediately cease, to protect and preserve the pu`u, in compliance with the South Kohala Community Development Plan.

5. The applicant shall submit a soils report of the mined area of Pu`u Hina`i by an engineer qualified in the field of soil mechanics and licensed within the State of Hawai`i within ninety (90) days from the effective date of this amendment. The soils report, which shall provide recommendations for the stabilization of Pu`u Hina`i, shall be submitted to the Planning Director for review and approval, in consultation with the Department of Public Works. The applicant shall comply with the recommendation(s) of the approved soils report to stabilize the pu`u and bring it into a non-hazardous condition. Additionally, the applicant shall comply with any other measures determined by the Planning Director to provide reasonable assurance of the stability of Pu`u Hina`i and the safety of people who may work or have reason to be in close proximity to the pu`u."

On December 22, 2010, the LUC received a copy of the decision and complete record of the Planning Commission's proceedings on the Application.

The LUC has jurisdiction over the Application. HRS, Section 205-6, and HAR, Sections 15-15-95 and 15-15-96, authorize the LUC to approve special permits and amendments thereto for areas greater than 15 acres.

On January 21, 2011, the LUC met in Waikoloa, Hawai`i, to consider the Amendment. Ed Haitzuka, Esq. of Carlsmith Ball, LLP and Kevin Balog appeared on behalf of the Applicant. William Brillhante, Esq., and Bobbie Jean Leithead-Todd appeared on behalf of the County. Bryan Yee, Esq., and Mary Alice Evans appeared on behalf of the State of Hawai`i Office of Planning (“OP”).

Following discussion and deliberation by the Commissioners, a motion was made and seconded to approve the Amendment to Condition No. 2 and add the additional two conditions recommended by the Planning Commission. There being a vote of 7 ayes, 0 nays, and 2 excused, the motion carried.

ORDER

Having duly considered the complete record of the Amendment and the oral arguments presented by the parties in the proceeding, and a motion having been made and seconded at a meeting conducted on January 21, 2011, in Waikoloa, Hawai`i, and the motion having received the affirmative votes required by HAR, Section 15-15-13, and there being good cause for the motion, the LUC hereby GRANTS the Amendment, subject to the following conditions to supersede all previous conditions imposed in this docket:

1. The Applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Quarrying operations at Site 1 (Pu`u Hina`i Quarry) shall be terminated by December 11, 2015, or prior to final subdivision approval of the increment of

adjacent RA zoned lands which abut the quarry boundaries, or prior abandonment, whichever occurs first.

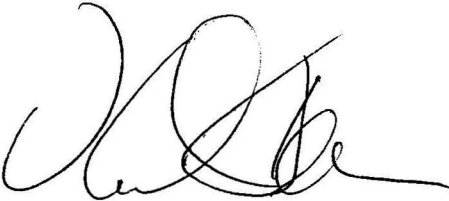
3. Mining of Pu`u Hina`i shall immediately cease, to protect and preserve the pu`u, in compliance with the South Kohala Community Development Plan.
4. Upon termination of operations or abandonment of any portion of Site 1 (Pu`u Hina`i Quarry), the land shall be graded to blend with the surrounding areas and re-vegetated. Further, the site shall be left in a non-hazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Hawai`i County Planning Director for review and approval within ninety (90) days from the termination or abandonment date.
5. The applicant shall submit a soils report of the mined area of Pu`u Hina`i by an engineer qualified in the field of soil mechanics and licensed within the State of Hawai`i within ninety (90) days from the effective date of this amendment. The soils report, which shall provide recommendations for the stabilization of Pu`u Hina`i, shall be submitted to the Planning Director for review and approval, in consultation with the Department of Public Works. The applicant shall comply with the recommendation(s) of the approved soils report to stabilize the pu`u and bring it into a non-hazardous condition. Additionally, the applicant shall comply with any other measures determined by the Planning Director to provide reasonable assurance of the stability of Pu`u Hina`i and the safety of people who may work or have reason to be in close proximity to the pu`u.
6. All other applicable laws, requirements, rules and regulations, including those of the Department of Health, shall be complied with.
7. An annual monitoring report shall be submitted to the Hawai`i County Planning Director and the State Land Use Commission prior to the anniversary date of the approval of this amendment. The report shall include, but not be limited to, the amount of material quarried or removed, a detailed listing of public complaints or problems, and their disposition. Should conflict arise, which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the County of Hawai`i Planning Commission that the quarry use will have an adverse impact on surrounding properties.
8. Should any of the conditions not be met or substantially complied with in a timely fashion, the Hawai`i County Planning Director shall initiate procedures to revoke the permit.
9. Within thirty (30) days of the effective date of the Commission's approval of the Amendment, the Applicant shall issue public notice of the action taken by

the Commission approving the Amendment in the name of Waikoloa Development Company to invite public comment on the Amendment. The Applicant shall inform the Commission of responses (or lack thereof) to the public notice and forward all public comments to the LUC.

This ORDER shall take effect upon the date it is certified and filed by this Commission.

DATED: Honolulu, Hawai'i, February 7, 2011 per motion in Waikoloa, Hawai'i, on January 21, 2011.

APPROVED AS TO FORM:


By 
VLADIMIR DEVENS
Chairperson and Commissioner


Deputy Attorney General

Filed and effective on:

February 7, 2011

Certified by:


ORLANDO DAVIDSON
Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. SP70-85
)	
EDWIN DeLUZ TRUCKING & GRAVEL, LLC)	CERTIFICATE OF SERVICE
)	
To Consider An Amendment To Condition)	
No. 2 Of The Special Permit To Extend The)	
Life Of The Permit For An Additional Five)	
Years From December 11, 2010 To December)	
11, 2015 To Allow The Continued Operation)	
At Quarry Site 1 Located Within The)	
Agricultural District At Waikoloa, South)	
Kohala, Hawai'i, TMK No. 6-8-002: por. 16.)	
)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Amendment To Condition No. 2 and addition of new Condition Nos. 3 and 5 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

BOBBIE JEAN LEITHEAD-TODD, Director
Planning Department
County of Hawai'i
25 Aupuni Street
Hilo, Hawai'i 96720

WILLIAM BRILHANTE, Esq.
Deputy Corporation Counsel
County of Hawai'i
101 Aupuni Street, Suite 325
Hilo, Hawai'i 96720

DEL. MARY LOU KOBAYASHI, Acting Director
Office of Planning
P. O. Box 2359
Honolulu, Hawai'i 96804-2359

BRYAN YEE, Esq.
Deputy Attorney General
Hale `Auhau, Third Floor
425 Queen Street
Honolulu, Hawai'i 96813

CERT. STEVEN S.C. LIM, Esq.
ED HAITSUKA, Esq.
Carlsmith Ball, LLP
121 Waiuanue Ave.
Hilo, HI 96720

Dated: Honolulu, Hawai'i, February 7, 2011.



ORLANDO DAVIDSON
Executive Officer

PLANNING DEPARTMENT
2012 AUG 6 AM 10:11

2012 AUG -6 AM 10: 11



BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. SP70-85
)	
EDWIN DeLUZ TRUCKING & GRAVEL, LLC)	ORDER GRANTING AMENDMENT TO CONDITION NO. 5 EXTENDING TIME TO COMPLY
)	
To Allow a Time Extension Until June 30, 2012 To Comply With Condition No. 5 For Special Permit At Waikoloa, South Kohala, Hawai'i, TMK No. 6-8-002: por. 16.)	
)	
)	

ORDER GRANTING AMENDMENT TO CONDITION NO. 5 EXTENDING TIME TO
COMPLY

THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT
COPY OF THE DOCUMENT ON FILE IN THE OFFICE OF THE
STATE LAND USE COMMISSION, HONOLULU, HAWAII.

8/1/12
Date

BY

Executive Officer

080249



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

2012 AUG - 1 A 8 15
LAND USE COMMISSION
STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. SP70-85
)	
EDWIN DeLUZ TRUCKING & GRAVEL, LLC)	ORDER GRANTING AMENDMENT TO CONDITION NO. 5 EXTENDING TIME TO COMPLY
)	
To Allow a Time Extension Until June 30, 2012 To Comply With Condition No. 5 For Special Permit At Waikoloa, South Kohala, Hawai`i, TMK No. 6-8-002: por. 16.)	
)	
)	

ORDER GRANTING AMENDMENT TO CONDITION NO. 5 EXTENDING
TIME TO COMPLY

On February 8, 2012, the Hawai`i County Planning Department ("Planning Department") sent a notice of violation to Steven S.C. Lim, Esq., legal representative for Edwin DeLuz Trucking & Gravel, LLC, identifying a failure to comply with Condition No. 5 of Special Permit No. 164 (Land Use Commission SP70-85) for submitting a required soils report. The Planning Department ordered the permittee to take the following corrective action(s) by February 28, 2012:

- 1) The applicant is to immediately cease all quarry operations relating to Special Permit No. 164; and,
- 2) The applicant is required to submit a time extension amendment request to comply with Condition No. 5 (requirement to submit soils report) of Special

Permit No. 164 to the Planning Department. Operations of the quarry may resume if the applicant is granted an approval for a time extension to comply with Condition No. 5 from the State Land Use Commission.

On February 28, 2012, Steven S.C. Lim on behalf of Edwin DeLuz Trucking & Gravel, LLC ("Applicant"), filed an application to amend Condition No. 5 of the existing special permit ("Amendment") with the County of Hawai'i Planning Department ("County"), pursuant to Hawai'i Revised Statutes ("HRS") Section 205-6, and Hawai'i Administrative Rules ("HAR") Sections 15-15-95 and 15-15-96. The Applicant proposes to amend Condition No. 5 to extend the time to comply with the requirement to submit a soils report for the special permit for the approximately 63.648-acre Quarry Site 1 (known as the "Pu'u Hina'i Site" or "Site 1") until June 30, 2012.

On May 17, 2012, the County of Hawai'i Leeward Planning Commission ("Planning Commission") conducted a hearing on the Amendment, pursuant to a public notice published on April 27, 2012. After due deliberation, the Planning Commission recommended approval of the Amendment to the Land Use Commission ("LUC") Special Permit, subject to the following amendments to Condition No. 5 to read as follows:

"5. The applicant shall submit a soils report of the mined area of Pu'u Hina'i by an engineer qualified in the field of soil mechanics and licensed within the State of Hawai'i within ~~ninety (90) days~~ one (1) year from the effective date of this amendment. The soils report, which shall provide recommendations for the stabilization of Pu'u Hina'i, shall be submitted to the Planning Director for review and approval, in consultation with the Department of Public Works. The

applicant shall comply with the recommendation(s) of the approved soils report to stabilize the pu`u and bring it into a non-hazardous condition. Additionally, the applicant shall comply with any other measures determined by the Planning Director to provide reasonable assurance of the stability of Pu`u Hina`i and the safety of people who may work or have reason to be in close proximity to the pu`u.”

On June 25, 2012, the LUC received a copy of the decision and complete record of the Planning Commission’s proceedings on the Amendment.

The LUC has jurisdiction over the Amendment. HRS, Section 205-6, and HAR, Sections 15-15-95 and 15-15-96, authorize the LUC to approve special permits and amendments thereto for areas greater than 15 acres where application for LUC approval is made within 60 days after the decision is rendered on the request to the Planning Commission.

On July 20, 2012, the LUC met in Kahului, Maui, Hawai`i, to consider the Amendment. No representative appeared on behalf of the Applicant. Bobbie Jean Leithead-Todd appeared on behalf of the County. Bryan Yee, Esq., and Rodney Funakoshi appeared on behalf of the State of Hawai`i Office of Planning (“OP”).

Following discussion and deliberation by the Commissioners, a motion was made to approve the Amendment to Condition No. 5 as recommended by the Planning Commission. There being a vote of 7 ayes, 0 nays, and 2 excused, the motion carried.

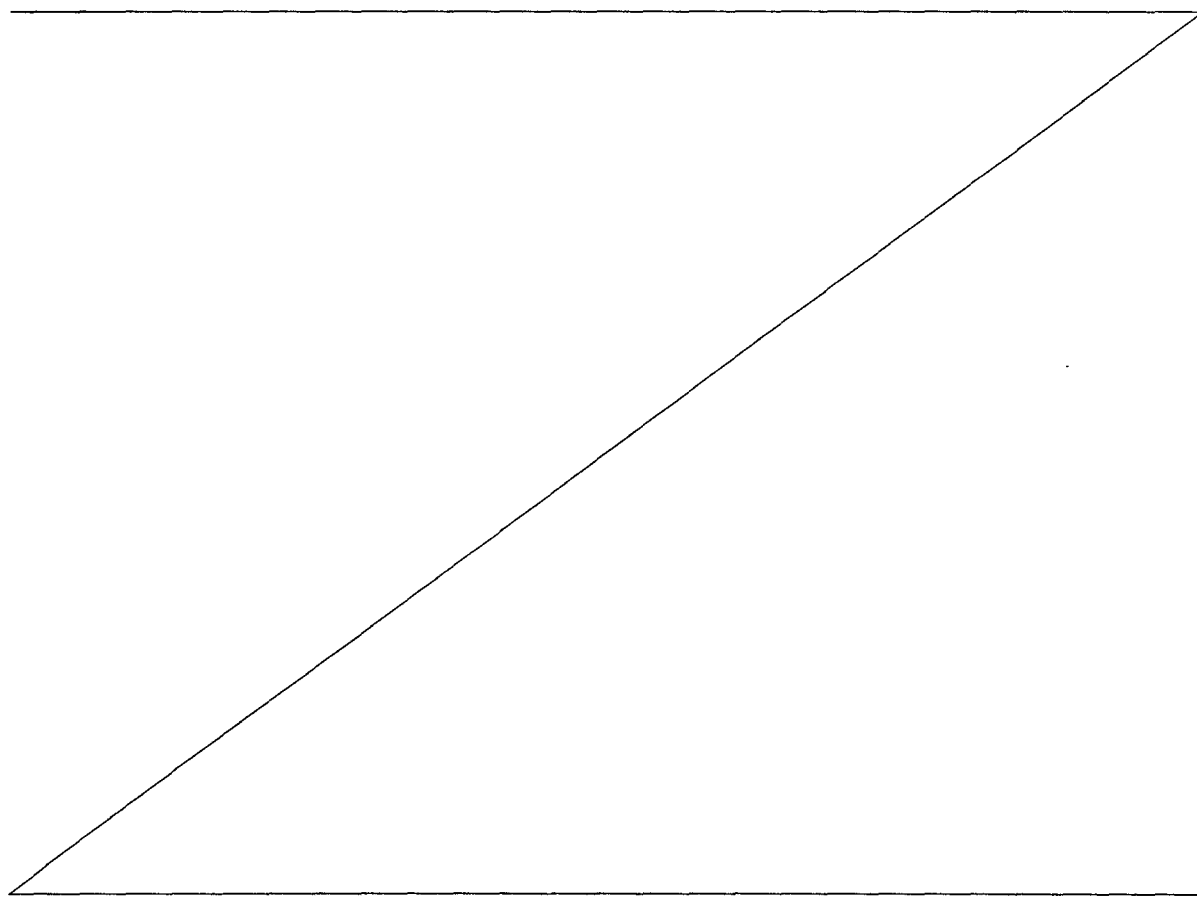
ORDER

Having duly considered the complete record of the Amendment and the oral arguments presented by the parties in the proceeding, and a motion having been

made at a meeting conducted on July 20, 2012, in Kahului, Maui, Hawai`i, and the motion having received the affirmative votes required by HAR, Section 15-15-13, and there being good cause for the motion, the LUC hereby GRANTS the Amendment, subject to the following conditions to supersede all previous conditions imposed in this docket:

1. The Applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Quarrying operations at Site 1 (Pu`u Hina`i Quarry) shall be terminated by December 11, 2015, or prior to final subdivision approval of the increment of adjacent RA zoned lands which abut the quarry boundaries, or prior abandonment, whichever occurs first.
3. Mining of Pu`u Hina`i shall immediately cease, to protect and preserve the pu`u, in compliance with the South Kohala Community Development Plan.
4. Upon termination of operations or abandonment of any portion of Site 1 (Pu`u Hina`i Quarry), the land shall be graded to blend with the surrounding areas and re-vegetated. Further, the site shall be left in a non-hazardous condition. Appropriate documentation which demonstrates compliance with this condition shall be submitted to the Hawai`i County Planning Director for review and approval within ninety (90) days from the termination or abandonment date.
5. The applicant shall submit a soils report of the mined area of Pu`u Hina`i by an engineer qualified in the field of soil mechanics and licensed within the State of Hawai`i within one (1) year from the effective date of this amendment. The soils report, which shall provide recommendations for the stabilization of Pu`u Hina`i, shall be submitted to the Planning Director for review and approval, in consultation with the Department of Public Works. The applicant shall comply with the recommendation(s) of the approved soils report to stabilize the pu`u and bring it into a non-hazardous condition. Additionally, the applicant shall comply with any other measures determined by the Planning Director to provide reasonable assurance of the stability of Pu`u Hina`i and the safety of people who may work or have reason to be in close proximity to the pu`u.
6. All other applicable laws, requirements, rules and regulations, including those of the Department of Health, shall be complied with.

7. An annual monitoring report shall be submitted to the Hawai`i County Planning Director and the State Land Use Commission prior to the anniversary date of the approval of this amendment. The report shall include, but not be limited to, the amount of material quarried or removed, a detailed listing of public complaints or problems, and their disposition. Should conflict arise, which cannot be mitigated or mediated, the quarry operations shall cease upon appropriate findings by the County of Hawai`i Planning Commission that the quarry use will have an adverse impact on surrounding properties.
8. Should any of the conditions not be met or substantially complied with in a timely fashion, the Hawai`i County Planning Director shall initiate procedures to revoke the permit.
9. Within thirty (30) days of the effective date of the Commission's approval of the Amendment, the Applicant shall issue public notice of the action taken by the Commission approving the Amendment in the name of Waikoloa Development Company to invite public comment on the Amendment. The Applicant shall inform the Commission of responses (or lack thereof) to the public notice and forward all public comments to the LUC.




ADOPTION OF ORDER

This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

DATED: Honolulu, Hawai'i, 8/1/12 per motion in Kahului, Maui, Hawai'i, on July 20, 2012.

APPROVED AS TO FORM:

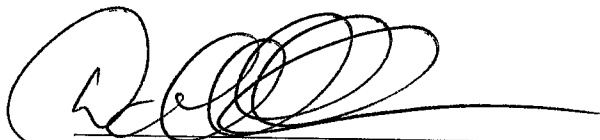
By 
for KYLE CHOCK
Chairperson and Commissioner


Deputy Attorney General

Filed and effective on:

8/1/12

Certified by:


DANIEL E. ORODENKER
Executive Officer



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of) DOCKET NO. SP70-85
EDWIN DeLUZ TRUCKING & GRAVEL,)
LLC) CERTIFICATE OF SERVICE
To Allow a Time Extension Until June 30,)
2012 To Comply With Condition No. 5 For)
Special Permit At Waikoloa, South Kohala,)
Hawai`i, TMK No. 6-8-002: por. 16.)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Amendment To Condition No. 5 Extending Time to Comply was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

CERT. BOBBIE JEAN LEITHEAD-TODD, Director
Planning Department
County of Hawai`i
25 Aupuni Street
Hilo, Hawai`i 96720

CERT. WILLIAM BRILHANTE, Esq.
Deputy Corporation Counsel
County of Hawai`i
101 Aupuni Street, Suite 325
Hilo, Hawai`i 96720

DEL. JESSIE SOUKI, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawai`i 96804-2359

DEL. BRYAN YEE, Esq.
Deputy Attorney General
Hale `Auhau, Third Floor
425 Queen Street
Honolulu, Hawai`i 96813

CERT. STEVEN S.C. LIM, Esq.
MASON M. YAMAKI
Carlsmith Ball, LLP
121 Waiianuenue Ave.
Hilo, HI 96720

Dated: Honolulu, Hawai`i, 8/1/12.



DANIEL E. ORODENKER
Executive Officer