

JAN 26 1979

Mr. Gordon Furutani
Executive Officer
Land Use Commission
190 South King Street, Suite 1795
Honolulu, HI 96813

Dear Mr. Furutani:

Special Permit Application
Petitioner: Geothermal Exploration and
Development Corporation

In accordance with Chapter 205, Section 205-6, Hawaii Revised Statutes, we are transmitting the decision and findings of the County Planning Commission on the above application.

The special permit request was to allow the drilling of four exploratory geothermal deep wells within the State Land Use Agricultural District. The area involved is located at the southeastern side of the Pu'u Anahulu Homesteads, at approximately the 2,360-foot elevation, North Kona, Hawaii, Tax Map Key 7-1-05:18, 54 and 56.

The Planning Commission at its duly advertised public hearings on October 12, 1978 and November 15, 1978 at the Kealakehe School Cafetorium, Kealakehe, North Kona, Hawaii, discussed the subject request. The Commission on January 11, 1979 voted to recommend the approval of the Special Permit to the Land Use Commission based on the following findings:

1. The proposed use will not be contrary to the objectives to be accomplished by the State Land Use Law and Regulations. The Land Use Law and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which these lands are best suited in the interest of public health and welfare of the people.

The Agricultural District category, within which the subject area is situated, includes those lands with a high capacity or potential for agricultural uses. It also includes lands surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reason of topography, soils and other related characteristics. The subject area is classified as "Rock Land" by the USDA Soil Conservation Service. Rock Land is a miscellaneous land type that consists of pahoehoe lava bedrock covered in places by a thin layer of soil material. The Land Study Bureau's Overall Capability Rating for these soils is Class "E" or "Very Poor". Although it is possible for some form of agricultural activity to be conducted on these soils, as evidence by the surrounding agricultural uses, it is determined that the use of this parcel for the proposed activities will not adversely affect the agricultural potential of the region, the island, and the State.

2. That unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established.

Electricity is the major form of energy utilized in Hawaii County. Power rate on this island is among the highest in the nations. A factor which contributes to this situation is the present method of power generation. Most of the electricity is obtained through the burning of imported oil. The cost of fuel coupled with transportation costs cause higher rates.

Nationally, for the remainder of the 20th Century, most of the energy demand will be met with fossil fuels and nuclear fission. In turn, fossil fuels are fast becoming a scarce world commodity due to increasing demand. Hawaii is currently most vulnerable to dislocations in the global oil market, but is also endowed with a variety of natural energy resource alternatives which are renewable or inexhaustible and potentially low polluting. Hawaii's near total dependence on imported petroleum provides the incentive for the promotion of energy conservation and the development of technology to harness local natural energy resources, such as geothermal. Therefore, the primary goal of the County of Hawaii relative to energy is "Energy self-sufficiency". It is felt that we must strive to attain energy self-sufficiency in order to

minimize the dependence on imported fossil fuels. A commitment must be made by both the government and the public for research, planning, and development to attain the goal of energy self-sufficiency. In doing so, the County as well as the entire State would be benefited.

As a result of the 1974 oil crisis, there has been concern over Hawaii's dependence on imported petroleum. Recognizing this concern, the Hawaii County General Plan has stated as a policy that the "County shall encourage the continuation of studies concerning the development of power which can be distributed at lower costs to consumers". It is also determined that the granting of this particular request would be in the direction of fulfilling the above-stated policy as well as the goals of the General Plan's Public Utilities element of "Ensuring that adequate, efficient and dependable public utility service will be available for users," and "Maximizing efficiency and economy in the provision of public utility service."

Further, the State Legislature has since then enacted several significant bills which were designed to promote the research and development of natural energy resources, and the conservation of energy in order to foster a greater independence from imported fossil fuels.

The nation is embarking on an aggressive program to develop its indigenous resources of geothermal energy. For over a decade, geothermal energy has been proclaimed as one of the more promising forms of alternate energy supply. It has been the County and State's policy to encourage the development of alternative energy power. Both levels of government, as well as the Federal Government, have provided substantial funding and services for energy resource research and development to reduce the State's dependence on imported fuels. The island of Hawaii is believed to possess a vast resource base of geothermal heat. However, the extent and magnitude of geothermal resources in Hawaii must still be determined. There is no way of knowing if the island actually has a geothermal resource of economic importance unless further testing is conducted. As a potential power source, geothermal may either prove to be of major importance or no importance at all. Only by drilling and testing can this uncertainty be resolved. It is from these exploratory wells that data for evaluating the suitability of the resources as a production reservoir are obtained.

Therefore, by allowing the proposed use, we would also be in the direction of fulfilling the County's goal of encouraging and supporting the expansion of the research and development industry. The development of geothermal power could bring the County closer to becoming a scientific model as articulated under the Economic Element of the General Plan.

3. Geothermal energy source could have tremendous benefits for people of this County as well as the rest of the State. Aside from providing power, the successfulness of the geothermal project can also be a major factor in accomplishing several other goals. A reduction in the County's current high cost of energy could aid existing industries as well as possibly attract new endeavors. Should the project prove successful, it can open the doors for economic development of a nature and magnitude beyond the realm of reality a few years ago. The success of geothermal energy could possibly stimulate economic activity which would provide new employment opportunities for the residents of the County. New industries, such as the mining and processing of manganese nodules, will be attracted into the island in the event that large amounts of power become available. These industries would provide job opportunities for construction, operation and other essential services. Thus, if the source of geothermal energy is successful and properly developed, it will be of great importance and benefit to the future of Hawaii.
4. The proposed use will not substantially alter or change the essential character of the land and its present use. Although an area of 143+ acres is involved in this request, only a small acreage will be used for the drilling of the four (4) wells. The remaining area can still be used for agricultural purposes should the landowners so desire. Furthermore, should the proposed project prove to be successful, as part of the ultimate development, the geothermal water could be used for agricultural irrigation purposes. The by-products of the geothermal water could also be used for other agricultural purposes. It is therefore determined that the granting of this particular request would not be in conflict with the State and County's Agricultural policies. In fact, it may even further foster agricultural development in the general area.

5. Although it has been pointed out that the proposed use of the land for its intended purpose may have some adverse effects, such as problems of noise and fumes, to the surrounding property and the residents in the immediate area, stringent controls and conditions will be attached to this Special Permit in order that the concerns may be alleviated. The petitioner will be required to comply with all applicable requirements of the State of Hawaii Department of Health.

Finally, we are cognizant of the fact, that the granting of this particular Special Permit may lead to similar types of requests. As such, it should be pointed out that we are working on a policy of such exploratory programs to minimize rampant development of test sites. The qualification of our favorable recommendation to allow the petitioner to proceed with this development is that the total project shall be closely monitored and the petitioner will be held accountable to stringent standards to insure minimal damage to our environment. We are cognizant of the possible dangers to health of residents in the area, and as stated earlier, will require preventative measures as conditions of approval of the Special Permit.

At this time, it should be pointed out that as part of the County's General Plan Update Program, the Planning Department has drafted a new Energy element for inclusion in the General Plan document. Certain goals and policies relative to the development of Geothermal and other energy resources are being proposed. The County Planning Commission has sent a favorable recommendation on this draft Energy element to the County Council. The adoption of this element, along with other proposed General Plan amendments are presently being reviewed by the Council.

The favorable recommendation was also subject to the following conditions:

1. That prior to commencement of any operation, the petitioner or its authorized representative shall receive approval from the State Board of Land and Natural Resources to conduct the proposed activity.

Mr. Gordan Furutani

Page Six

2. That prior to commencement of any drilling activity, the petitioner/representative shall submit plans to the Planning Department showing the exact location of the well sites to be drilled.
3. That the drilling of the first well shall commence within one (1) year from the effective date of approval of the Special Permit.
4. That the length of this Special Permit shall be for a period not to exceed three (3) years from the effective date of the Special Permit.
5. That the rules, regulations, and requirements of the State Department of Health shall be complied with.
6. That the petitioner/representative shall be responsible in assuring that every precaution is taken to reduce any nuisances, whether it be noise or fumes, which may affect the residents and properties in the immediate area. Should it be determined by the Planning Director that these precautionary measures are not being applied, he will prepare and present a written report to the Planning Commission for its appropriate action which may involve the termination of the Special Permit.
7. That should any unanticipated archaeological or historical sites be found in the area, the petitioner/representative shall immediately notify the Planning Department, and shall cease operation until a clearance to recommence work is given by the Department.
8. That all other applicable rules, regulations, and requirements shall be complied with.

It should be noted that failure to comply with any of the delineated conditions of approval, particularly those relating to time commencement and expiration, shall be reason for termination of the

Mr. Gordan Furutani
Page Seven

Special Permit, unless an extension is requested prior to the expiration date and approved.

Enclosed are copies of the Exhibits from the subject docket.

Sincerely,



William F. Mielcke
Chairman, Planning Commission

WFM:mh

Enclosures

cc: Mr. E. C. Craddick
Land Use Division, DPED
Kona Service Office
Stephen K. Morse

January 22, 1979

Mr. E. C. Craddick, President
Geothermal Exploration & Development Corporation
2828 Paa Street
Honolulu, HI 96819

Dear Mr. Craddick:

Special Permit Application
Tax Map Key 7-1-05:18, 54 & 56

The Planning Commission at its regular meeting of January 11, 1979 considered your application for a special permit to allow the drilling of four exploratory geothermal deep wells within the State Land Use Agricultural District. The area involved is located at the southeastern side of the Pu'u Anahulu Homesteads, at approximately the 2,360-foot elevation, North Kona, Hawaii.

The Commission voted to forward a favorable recommendation to the Land Use Commission subject to the following conditions:

1. That prior to commencement of any operation, the petitioner or its authorized representative shall receive approval from the State Board of Land and Natural Resources to conduct the proposed activity.
2. That prior to commencement of any drilling activity, the petitioner/representative shall submit plans to the Planning Department showing the exact location of the well sites to be drilled.
3. That the drilling of the first well shall commence within one (1) year from the effective date of approval of the Special Permit.
4. That the length of this Special Permit shall be for a period not to exceed three (3) years from the effective date of the Special Permit.

JAN 26 1979

Mr. E. C. Craddick
January 22, 1979
Page 2

5. That the rules, regulations, and requirements of the State Department of Health shall be complied with.
6. That the petitioner/representative shall be responsible in assuring that every precaution is taken to reduce any nuisances, whether it be noise or fumes, which may affect the residents and properties in the immediate area. Should it be determined by the Planning Director that these precautionary measures are not being applied, he will prepare and present a written report to the Planning Commission for its appropriate action which may involve the termination of the Special Permit.
7. That should any unanticipated archaeological or historical sites be found in the area, the petitioner/representative shall immediately notify the Planning Department, and shall cease operation until a clearance to recommence work is given by the Department.
8. That all other applicable rules, regulations and requirements shall be complied with.

It should be noted that failure to comply with any of the delineated conditions of approval, particularly those relative to time commencement and expiration, shall be reason for termination of the Special Permit, unless an extension is requested prior to the expiration date and approved.

In the meantime, should you have any questions, please feel free to contact the Planning Department at 961-8288.

Sincerely,



WILLIAM F. MIELCKE
Chairman, Planning Commission

lgv

cc State Land Use Commission
Land Use Division, DPED
Kona Service Office
Mr. Stephen Morse

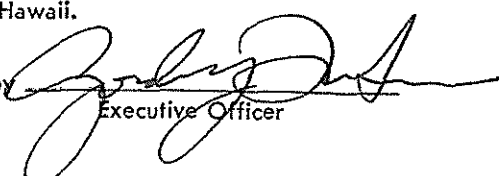
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)
Petition for Special Permit) SP79-333
of GEOTHERMAL EXPLORATION)
AND DEVELOPMENT CORPORATION) GEOTHERMAL EXPLORATION
AND DEVELOPMENT CORPORATION)
_____)

This is to certify that this is a true and correct copy of the
Decision and Order on file in the office of the State Land Use
Commission, Honolulu, Hawaii.

JUN 1 1979
Date

by


Executive Officer

DECISION AND ORDER

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the)
Petition for Special Permit) SP79-333
of GEOTHERMAL EXPLORATION)
AND DEVELOPMENT CORPORATION) FINDINGS OF FACT,
) CONCLUSIONS OF LAW AND
) DECISION AND ORDER
)
_____)

The Land Use Commission of the State of Hawaii,
having duly considered the entire record on the above entitled
matter, makes the following findings of fact and conclusions
of law.

FINDINGS OF FACT

1. The Petition for Special Permit was filed by
GEOTHERMAL EXPLORATION AND DEVELOPMENT CORPORATION, to allow
the drilling of four (4) exploratory geothermal deep wells on
approximately 143 acres of land situated within the State Land
Use Agricultural District at Puu Anahulu Homesteads, North Kona,
Hawaii, Tax Map Key 7-1-05: 18, 54 and 56.

2. The subject property is located on the south
eastern side of the Puu Anahulu Homesteads, at approximately the
2,360 foot elevation.

3. The Petitioner intends to drill the four (4) wells
in an attempt to discover and develop a geothermal energy reservoir
for electrical generation.

4. The subject 143 acre area is owned by F. Newell
Bohnett. The Petitioner has leased the geothermal development
rights to the subject parcels from the landowner.

5. The Petitioner has submitted written documents which show that the mineral rights for the subject parcels have not been reserved to the State of Hawaii.

6. The County of Hawaii's General Plan Land Use Pattern Allocation Guide Map designates the subject area for extensive agricultural use. County Zoning for the site is Agricultural one-acre (A-1a).

7. The U.S.D.A. Soil Conservation Service's Soil Survey of December, 1973, classifies the subject land as "Rock Land". This land type consists of pahoehoe lava bedrock covered by a thin layer of soil material. Pahoehoe outcrops occupy 50 to 90 percent of the surface.

8. The Land Study Bureau's overall master productivity soil rating for agricultural use is Class "E" or "Very Poor" for soils of the subject site.

9. The State Department of Agriculture, under its Agricultural Lands of Importance to the State of Hawaii classification system, has designated a small portion of the subject property as Other Important Agricultural Land.

10. The subject property is principally pasture land with open stands of silver oak and pride of India trees. Wiliwili trees are also present at the site. Native dryland forest is located southeast of the site, approximately 1.5 miles away.

11. There are approximately five (5) homes on the north side of the Mamalahoa Highway, in the Puu Anahulu Homestead area. The American Honey Company has some facilities in the area.

12. Access to the subject property is off a jeep road near the northern end of the Puu Anahulu Homesteads.

13. On September 26, 1978, a geothermal well permit was issued to Puuwaawaa Stream Company (of which the Petitioner

is a general partner) for the drilling of a geothermal well on Tax Map Key 7-1-05: 56.

14. The County Department of Water Supply commented that the applicant should address the effects of the proposed geothermal project on the basal ground water.

15. The Hawaii Electric Light Co., Ltd., has stated its support for the proposed project.

16. The State Department of Transportation noted that accessibility to the site may have to be improved to accommodate equipment hauling.

17. The Forestry Division of the Department of Land and Natural Resources has indicated the type of vegetation existing in the vicinity of the subject property.

18. Other cooperating governmental agencies including the State Department of Agriculture, Hawaii Fire Department, Department of Public Works, Police Department and U.S.D.A. Soil Conservation Service had no objections to the permit application.

19. The Hawaii County Planning Commission conducted a public hearing on the application for Special Permit on October 12 and November 15, 1978. At that time the Petitioner was represented by Mr. George Sheets and Mr. Ed Craddick. Mr. Stephen K. Morse was declared an interested party to speak on behalf of the Congress of Hawaiian People, Hawaii Island Chapter; the Puna Hui Ohana, and the Onipaa Kakou-Kona Chapter of the Protect Kahoolawe Ohana. Mr. Morse and four (4) witnesses spoke in opposition to the granting of the permit request.

CONCLUSIONS OF LAW

1. "Unusual and reasonable" uses other than those which are permitted in an Agricultural District may be permitted

by Special Permit pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

2. The approval of the subject request will be consistent with the Land Use Law and Regulations. The Land Use Law and Regulations are intended to preserve, protect, and encourage the development of lands in the State for those uses to which these lands are best suited in the interest of public health and welfare of the people.

The Agricultural District category, within which the subject area is situated, includes those lands with a high capacity or potential for agricultural uses. It also includes lands surrounded by or contiguous to agricultural lands and which are not suited to agricultural and ancillary activities by reason of topography, soils and other related characteristics. The subject area is classified as "Rock Land" by the U.S.D.A. Soil Conservation Service. Rock Land is a miscellaneous land type that consists of pahoehoe lava bedrock covered in places by a thin layer of soil material. The Land Study Bureau's Overall Capability Rating for these soils is Class "E" or "Very Poor". Although it is possible for some form of agricultural activity to be conducted on these soils, as evidence by the surrounding agricultural uses, it is determined that the use of this parcel for the proposed activities will not adversely affect the agricultural potential of the region, the island, and the State.

3. Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. Electricity is the major form of energy utilized in Hawaii County. The power rate on this island is among the highest in the nation. A factor which contributes to this situation is

the present method of power generation. Most of the electricity is obtained through the burning of imported oil. The cost of fuel coupled with transportation costs cause higher rates.

Hawaii is currently most vulnerable to dislocations in the global oil market, but is also endowed with a variety of natural energy resource alternatives which are renewable or inexhaustible and potentially low polluting. Hawaii's near total dependence on imported petroleum provides the incentive for the promotion of energy conservation and the development of technology to harness local natural energy resources, such as geothermal.

The island of Hawaii is believed to possess a vast resource base of geothermal heat. However, the extent and magnitude of geothermal resources in Hawaii must still be determined. There is no way of knowing if the island actually has a geothermal resource of economic importance unless further testing is conducted. As a potential power source, geothermal may either prove to be of major importance or no importance at all. Only by drilling and testing can this uncertainty be resolved. It is from these exploratory wells that data for evaluating the suitability of the resources as a production reservoir are obtained.

4. The proposed use will not substantially alter or change the essential character of the land and its present use. Although an area of 143+ acres is involved in this request, only a small acreage will be used for the drilling of the four (4) wells. The remaining area can still be used for agricultural purposes should the landowners so desire. Furthermore, should the proposed project prove to be successful, as part of the ultimate development, the geothermal water could be used for agricultural irrigation purposes. The by-products of the geothermal water

could also be used for other agricultural purposes. It is, therefore, determined that the granting of this particular request would not be in conflict with the State and County's Agricultural policies.

5. Although it has been pointed out that the proposed use of the land for its intended purpose may have some adverse effects, such as problems of noise and fumes, to the surrounding property and the residents in the immediate area, stringent controls and conditions will be attached to this Special Permit in order that the concerns may be alleviated. The petitioner will be required to comply with all applicable requirements of the State of Hawaii Department of Health.

6. The use described in the Petition is an unusual and reasonable use pursuant to HRS Chapter 205-6, and State Land Use Commission District Regulation, Part V.

DECISION AND ORDER

IT IS HEREBY ORDERED that Special Permit Number 79-333 for the drilling of four (4) exploratory geothermal deep wells on approximately 143 acres of land situated within the State Land Use Agricultural District at Puu Anahulu Homesteads, North Kona, Hawaii, Tax Map Key 7-1-05: 18, 54 and 56, be approved subject to the following conditions:

1. That prior to commencement of any operation, the petitioner or its authorized representative shall receive approval from the State Board of Land and Natural Resources to conduct the proposed activity.

2. That prior to commencement of any drilling activity, the petitioner/representative shall submit plans to the Planning Department showing the exact location of the well sites to be drilled.

3. That the drilling of the first well shall commence within one (1) year from the effective date of approval of the Special Permit.

4. That the length of this Special Permit shall be for a period not to exceed three (3) years from the effective date of the Special Permit.

5. That the rules, regulations, and requirements of the State Department of Health shall be complied with.

6. That the petitioner/representative shall be responsible in assuring that every precaution is taken to reduce any nuisances, whether it be noise or fumes, which may affect the residents and properties in the immediate area. Should it be determined by the Planning Director that these precautionary measures are not being applied, he will prepare and present a written report to the Planning Commission for its appropriate action which may involve the termination of the Special Permit.


7. That should any unanticipated archaeological or historic sites be found in the area, the petitioner/representative shall immediately notify the Planning Department, and shall cease operation until a clearance to recommence work is given by the Department.

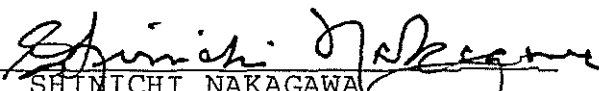
8. That all other applicable rules, regulations, and requirements shall be complied with.


9. That failure to comply with any of the delineated conditions of approval, particularly those relating to time commencement and expiration, shall be reason for termination of the Special Permit, unless an extension is requested prior to the expiration date and approved.

DATED: Honolulu, Hawaii, May 30, 1979.

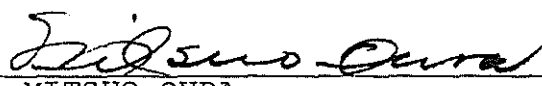
LAND USE COMMISSION

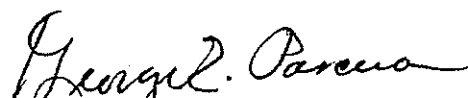
By 
C. W. DUKE
Chairman and Commissioner


By 
SHINICHI NAKAGAWA
Vice Chairman and Commissioner


By 
JAMES R. CARRAS
Commissioner

By 
SHINSEI MIYASATO
Commissioner

By 
MITSUO OURA
Commissioner

By 
GEORGE R. PASCUA
Commissioner

By 
CAROL B. WHITESELL
Commissioner

By 
EDWARD YANAI
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition) SP79-333
for Special Permit of)
)
GEOHERMAL EXPLORATION) GEOHERMAL EXPLORATION
AND DEVELOPMENT CORPORATION) AND DEVELOPMENT CORPORATION
)
)
_____)

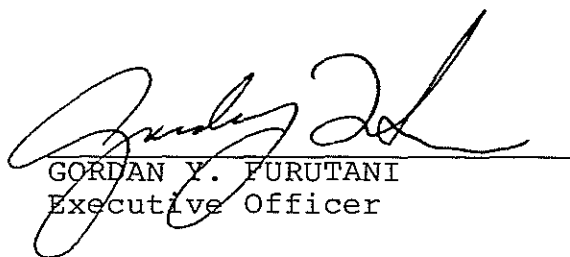
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use
Commission's Decision and Order was served upon the follow-
ing by certified mail:

SIDNEY FUCE, Planning Director
Hawaii Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

E. C. CRADDICK, President
Geothermal Exploration and
Development Corporation
2828 Paa Street, Suite 2085
Honolulu, Hawaii 96819

DATED: Honolulu, Hawaii, this 1st day of June, 1979.


GORDAN Y. FURUTANI
Executive Officer

July 2, 1982

Mr. Gordan Furutani
Executive Officer
Land Use Commission
Old Federal Building, Room 104
335 Merchant Street
Honolulu, HI 96813

Dear Mr. Furutani:

Nullification of Special Permit No. 79-333 (LUC 411)
Petitioner: Geothermal Exploration & Development Corporation
Tax Map Key 7-1-05:18, 54 and 56

On June 1, 1979, the State Land Use Commission approved a Special Permit request by Geothermal Exploration & Development Corporation to allow the drilling of 4 exploratory geothermal deep wells on approximately 143 acres of land situated within the State Land Use Agricultural District at Puu Anahulu Homesteads, North Kona, Hawaii. Condition No. 4 of the permit stated "That the length of this Special Permit shall be for a period not to exceed three (3) years from the effective date of the Special Permit."

Since the petitioner's initial exploration results do not warrant further drilling at this time, the Planning Commission at its duly held public hearing on July 1, 1982, voted to recommend to the State Land Use Commission that the Special Permit be nullified.

We would appreciate hearing from you on the Planning Commission's decision on this matter. Should you have any questions or need further information, please feel free to contact the Planning Department at 961-8288.

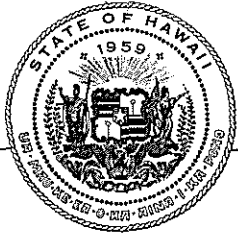
Sincerely,

Clyde Imada
CLYDE IMADA
Chairman-Pro Tem
Planning Commission

lgv

cc: Mr. E. C. Craddick

JUL 7 1982



STATE OF HAWAII
DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT

LAND USE COMMISSION

Room 104, Old Federal Bldg., 335 Merchant Street
Honolulu, Hawaii 96813 Telephone: 548-4611

GEORGE R. ARIYOSHI
Governor

WILLIAM W. L. YUEN
Chairman

RICHARD B. F. CHOY
Vice Chairman

COMMISSION MEMBERS:

Lawrence F. Chun
Everett L. Cuskaden
Shinsei Miyasato
Winona E. Rubin
Teofilo Phil Tacbian
Robert S. Tamaye
Frederick P. Whittemore

GORDAN Y. FURUTANI
Executive Officer

August 2, 1982

Mr. Clyde Imada
Chairman-Pro Tem
Hawaii County Planning Commission
25 Aupuni Street
Hilo, HI 96720

ATTENTION: SIDNEY FUKU, DIRECTOR, PLANNING DEPARTMENT

Dear Mr. Imada:

Subject: Nullification of Special Permit No. 79-333 (LUC 411)
Geothermal Exploration and Development Corporation

Thank you for notifying us of the Hawaii County Planning Commission's action to revoke the above Special Permit. Section 9-3(2) of the Land Use Commission's Rules of Practice and Procedure states with regard to conditions imposed on Special Permit approvals that "if the permitted use is not substantially established to the satisfaction of the County Planning Commission within the specified time, it may revoke the Permit." Therefore, upon proper notice and hearing, the County Planning Commission may revoke a Special Permit if conditions are not met. A decision by the County to deny or revoke a Special Permit is final and does not require review and concurrence of county action by the Land Use Commission. In the event of an adverse decision to the applicant at this junction, the petitioner's recourse is to appeal the revocation to the Circuit Court.

Although action by the Land Use Commission is not required to revoke a Special Permit, we would appreciate being notified of any Special Permit applications involving land areas greater than fifteen acres that the County Planning Commission revokes for our records.

Sincerely,

GORDAN Y. FURUTANI
Executive Officer

GYF:gm

cc: Mr. Willard Tim Chow, Chief Planning Officer, Department of General Planning
Mr. Michael M. McElroy, Director, Department of Land Utilization
Mr. Tosh Ishikawa, Planning Director, Maui County Planning Department
Mr. Brian Nishimoto, Planning Director, Kauai County Planning Department