

**STATE OF HAWAI‘I  
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF  
CONSERVATION AND COASTAL LANDS  
Honolulu, Hawai‘i**

File No: CDUP HA-3847

January 12, 2024

**Board of Land and  
Natural Resources  
State of Hawai‘i  
Honolulu, Hawai‘i**

**REGARDING:** Request for Second Time Extension for Conservation District Use Permit (CDUP) HA-3847 to Complete a Single-Family Residence, Subsistence Agriculture, Landscaping, and Associated Improvements, And AgroForestry Management Plan

**APPLICANT:** Michael S. Moore

**LANDOWNER:** EQUITY TRUST COMPANY, Custodian FBO Michael Scott Moore IRA

**LOCATION:** Pōpōkī, Puna, Island of Hawai‘i

**TAX MAP KEY:** (3) 1-5-010:031

**AREA OF USE:** Approximately 7-acres

**SUBZONE:** Resource

**BACKGROUND:**

On November 8, 2019, the Board of Land and Natural Resources (Board) approved CDUP HA-3847 for the Moore single-family residence, subsistence agriculture, landscaping and associated improvements, and AgroForestry Management Plan in Pōpōkī, Puna, Island of Hawai‘i (see Location and Parcel maps – **Exhibit 1**) subject to 30 conditions.<sup>1</sup>

On September 25, 2020, the landowners filed for their first time extension (Time Ext. Req: HA 21-7) of 1-year to initiate construction and complete construction approved by CDUP HA-3847. The reasoning for their first time extension request

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<sup>1</sup> The Staff Report for K-2 and CDUA HA-3847 can be viewed at <https://dlnr.hawaii.gov/wp-content/uploads/2019/11/K-2.pdf> .

was due to delays caused by a number of unforeseen events including property damage caused by wildfires in California, being deployed overseas for work related duties, and disruptions caused by the COVID-19 global pandemic. On October 26, 2020, the initial time extension was granted by the Chairperson of 1-year to initiate construction by November 1, 2021, and complete construction by November 8, 2023. See **Exhibit 2**, pp. 8-9.

The landowners notified the Department on October 31, 2021, that they had commenced the construction of the project in accordance with Conditions #8 and #16 of CDUP HA-3847.

**TIME EXTENSION REQUEST:**

Condition No. 8 of CDUP HA-3847 states *“Unless otherwise authorized, any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise authorized, shall be completed within three (3) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed.”*

By correspondence dated September 2023 and received by the Department on October 13, 2023, the applicant is requesting a second time extension to CDUP HA-3847; for approximately 1-year to complete the construction of their single-family residence, subsistence agriculture, landscaping and associated improvements, and AgroForestry Management Plan by November 8, 2024. The applicant notes the following progress on project construction:

- Grading and grubbing work is approximately 90% complete;
- Installation of agricultural fencing at the perimeter of the property is approximately 90% complete;
- The septic tank and leach field are fully installed;
- The foundation, walls, roof, and most windows of the single-family residence, including the porte cochere portion, have been completed;
- Construction of the on-site well and initiation of the plumbing for the dwelling was scheduled to or has started; and
- Work on the entry wall and gate is ready to be initiated near the end of project completion and the removal of all construction equipment.

Despite the progress made, the applicant finds that they will not meet the November 8, 2023, construction completion deadline due to initial delays in starting the project, heavy winter rains, numerous supply-chain issues, and difficulties in scheduling specialty contractors when needed (**Exhibit 2**).

**AUTHORITY FOR GRANTING TIME EXTENSIONS:**

The authority for the granting of time extensions is provided in Hawai'i Administrative Rules (HAR) § 13-5-43, which allows for permittees to request time

extensions for the purpose of extending the period of time to comply with the conditions of a permit. As this is the applicant's second time requesting a time extension, HAR § 13-5-43(c) states that "*Time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based on supportive documentation from the applicant*".

**BASIS FOR TIME EXTENSIONS:**

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating and completing work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

**DISCUSSION:**

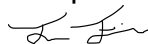
In the present case, none of these factors suggest any reason to deny the requested time extension. Approval of the time extension request will hopefully provide the additional time needed to for the landowners to complete their single-family residence, subsistence agriculture, landscaping and associated improvements, and AgroForestry Management Plan.

**STAFF RECOMMENDS:**

That the Board of Land and Natural Resources **APPROVE** a 1-year extension to complete the construction of the single-family residence, subsistence agriculture, landscaping and associated improvements, and AgroForestry Management Plan, subject to the following conditions:

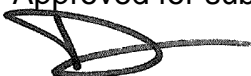
1. That Condition 8 of CDUA HA-3847 is amended to provide that the Permittee has until November 8, 2024, to complete any work or construction to be done on the land; and
2. That all other conditions imposed by the Board under CDUP HA-3847, as amended, shall remain in effect.

Respectfully submitted,



Trevor J. Fitzpatrick, Staff Planner  
Office of Conservation and Coastal Lands

Approved for submittal:



DAWN N. S. CHANG, Chairperson  
Board of Land and Natural Resources

MC

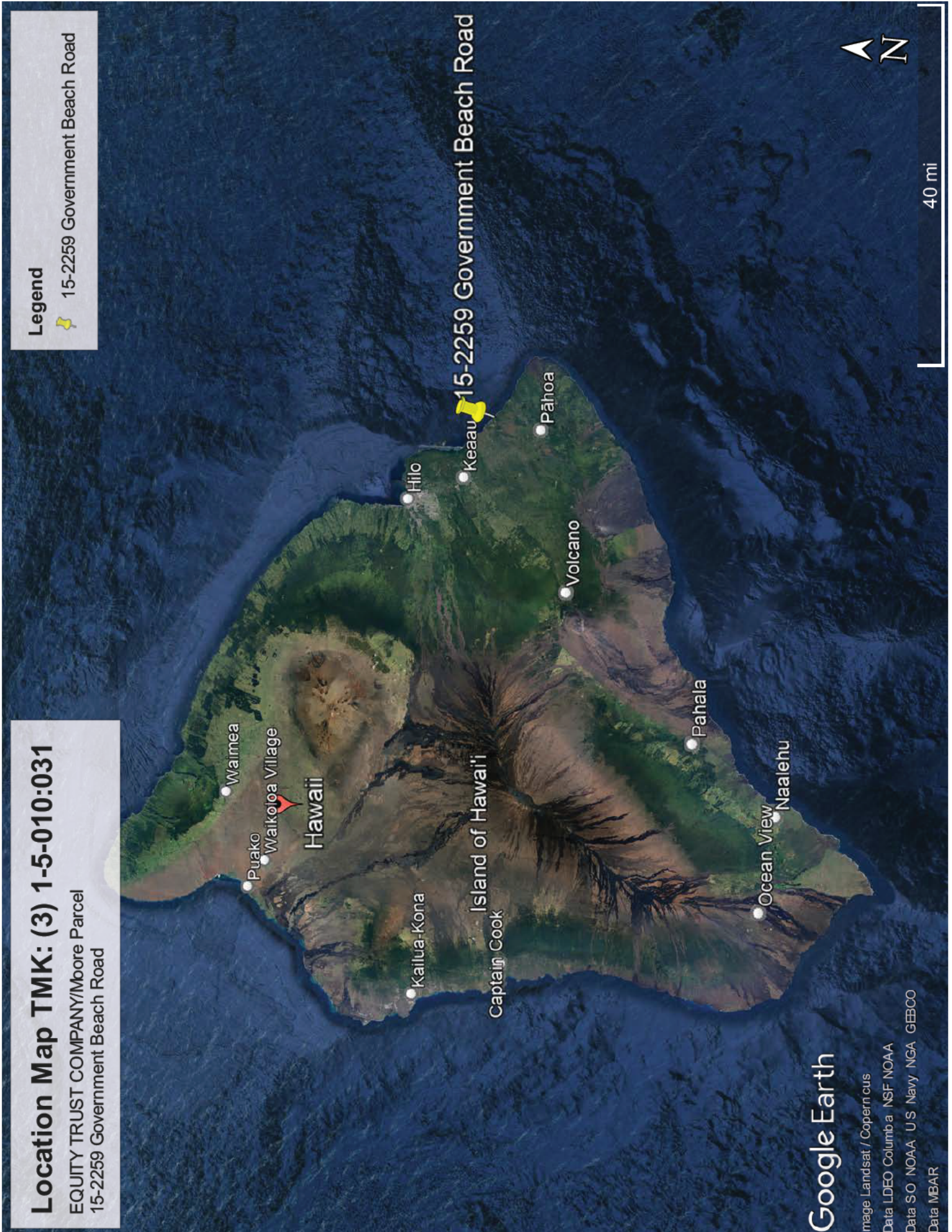
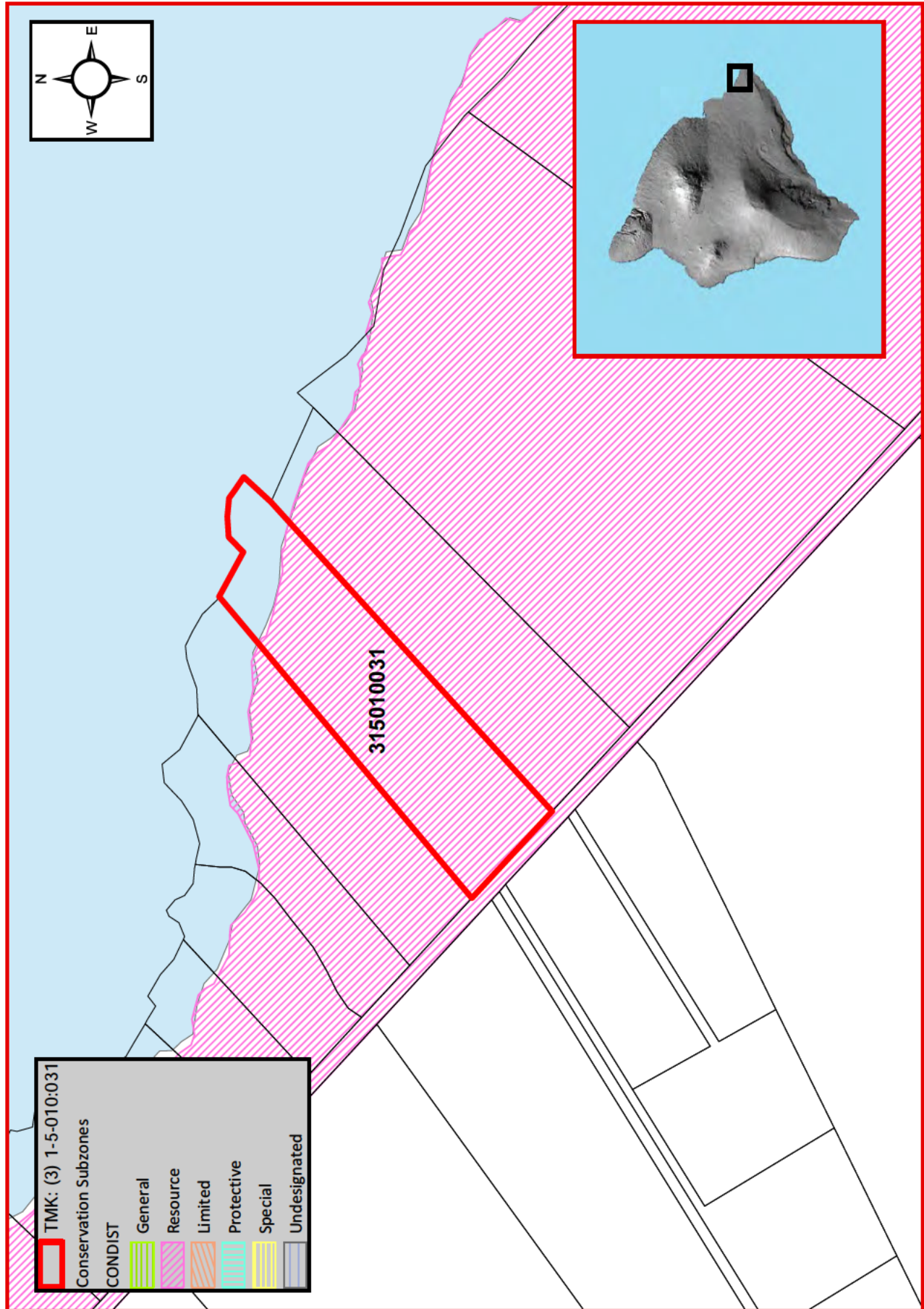


Exhibit 1

1,000 Feet  
500  
250  
0

**TMK: (3) 1-5-010:031 EQUITY TRUST COMPANY/Moore Parcel**



Date: 12/4/2023

All boundaries are approximate

Produced by Trevor Fitzpatrick @ OCCL

**Exhibit 1**

Extension  
HA-24-05

TF

September , 2023

Michael Cain, Administrator  
Hawai'i Department Of Land And Natural Resources  
Office of Conservation and Coastal Lands  
P.O. BOX 621  
Honolulu, HI 96809

2023 OCT 13 A 8:55  
OFFICE OF CONSERVATION AND COASTAL LANDS  
STATE OF HAWAII

**Subject: Time Extension Request for Conservation District Use Permit (CDUP) HA-3847 to Meet CDUP Condition No. 8 Regarding Work or Construction Located at 15-2259 Government Beach Road, Pōpōkī, Puna, Hawai'i Tax Map Key: (3) 1-5-010:031**

Dear Mr. Cain:

I am writing to request an extension of time of one (1) year to meet the timing requirements for the completion of work within Condition No. 8 of the subject CDUP approval, which states:

"8. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of approval of such use in accordance with construction plans that have been signed by the chair person, and shall be completed within three years of the approval of such use."

In October 2020, Mr. James Leonard, who served as my agent in relation of the Conservation District Use Application and subsequent approvals from the Department, sought and received on my behalf an extension of one (1) year to meet the requirements of Condition No. 8. Consequently, as stated in the approval to the extension request (attached), all work was to be initiated by November 8th, 2021 and completed by November 8th, 2023.

While work was initiated prior to the November 8th, 2021 date, as noted in the letter from James Leonard of October 31, 2021, and substantial progress has been made on construction of the home, farm building and related improvements, we find that all work will not be able to be completed by the November 8, 2023 deadline due to the initial delays to the start of the site work which was postponed to follow after the bat rearing season, as required per Condition No. 12 of the CDUP, and also during the winter season due to heavy rains. Also, following the start of construction, there have been further delays to the construction as a result of numerous supply-chain disruptions and difficulty in scheduling the specialty contractors when needed. For instance, we are currently experiencing problems in getting our plumber onsite to finish the plumbing within the home and supply-chain disruptions have long delayed the installation of the slider windows needed to complete the home.

The following is to provide you with a summary of our progress on the construction, to date:

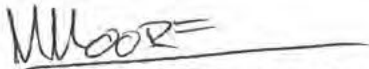
- Grading and grubbing work is roughly 90% complete, though currently on hold during the bat rearing season;
- Installation of the agricultural fencing at the perimeter of the property is also about 90% complete;
- The septic tank and leach field is fully installed;

- The foundation, walls, roof and most windows of the house, including the porte cochere portion, have been completed other than installation of the slider windows;
- Construction of the on-site well and initiation of the plumbing on the house is scheduled to start in a couple of weeks; and
- Work on the Entry Wall and Gate will be initiated near the end following the removal of all construction equipment.

In light of the above, although we have made substantial progress, we find that we will be unable to finish all work and construction on the home, farm shed and related improvements prior to the November 8, 2023 deadline and respectfully request an additional extension of time of one (1) year to complete the construction.

Please let me know if you need any additional information related to this request. You can reach me by email at: [REDACTED] or by phone at: [REDACTED]

Sincerely Yours



Mike Moore, Applicant and Property Owner

Enclosures

DAVID V. IGE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
OFFICE OF CONSERVATION AND COASTAL LANDS  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

REF: OCCL: TF

Time Ext. Req: HA 21-7  
CDUP HA-3847

OCT 26 2020

James M. Leonard  
JM Leonard Planning, LLC  
56 Laukona Street  
Hilo, HI 96720

SUBJECT: Time Extension Request for Conservation District Use Permit (CDUP) HA-3847 to Meet CDUP Condition No. 8 Regarding the Initiation of Work or Construction Located at 15-2259 Government Beach Road, Pōpōkī, Puna, Hawai'i  
Tax Map Key: (3) 1-5-010:031

Dear Mr. Leonard:

The Department is in receipt of your request regarding the subject matter. According to the information you have provided, the landowner and permittee, Mr. Michael Moore, is requesting a time extension of one (1) year to meet Condition No. 8 of Conservation District Use Permit (CDUP) HA-3847 which states that:

8. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use.

CDUP HA-3847 for a Single-Family Residence; Subsistence Agriculture; Landscaping and Associated Improvements; and the AgroForestry Management Plan were approved on November 8<sup>th</sup>, 2019 subject to thirty (30) conditions. The time extension request states that Mr. Moore has made progress in meeting the conditions of CDUP HA-3847 by recording the permit approval with the Bureau of Conveyances in accordance with Condition No. 6 and has submitted a draft of final construction plans for preliminary review with the intent of submitting final construction plans for review and consistency with the conditions of the permit and declarations set forth in the permit application in the near future.

However, Mr. Moore has been delayed in moving forward with his projects related to CDUP HA-3847 due to unforeseen events such as having to reconstruct his existing home that was destroyed



James M. Leonard  
JM Leonard Planning, LLC

Time Ext Req: HA 21-7

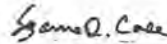
by the California wildfires, being deployed overseas for work related duties, and disruptions caused by the COVID-19 global pandemic. Mr. Moore is therefore requesting a time extension of one (1) year to meet Condition No. 8 of CDUP HA-3847 which would allow Mr. Moore until November 8<sup>th</sup>, 2021 to initiate construction and complete construction by November 8<sup>th</sup>, 2023.

Pursuant to Hawai'i Administrative Rules (HAR) §13-5-43, Time Extensions, (a) *Permittees may request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.*

Therefore, the Department grants a 1-year time extension to CDUP HA-3847. Work shall be initiated by November 8<sup>th</sup>, 2021 and completed by November 8<sup>th</sup>, 2023. All other conditions imposed by the Board of Land and Natural Resources under CDUP HA-3847 shall remain in effect.

Should you have any questions regarding this matter, please contact Trevor Fitzpatrick of our Office of Conservation and Coastal Lands staff at (808) 798-6660.

Sincerely,



SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources



CC: *Hawaii Division Land Office*  
*County of Hawaii – Planning Department*



