

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Office of Conservation and Environmental Affairs  
Honolulu, Hawaii

File No.: HA-1948

June 9, 1995

Board of Land and  
Natural Resources  
State of Hawaii  
Honolulu, Hawaii

REGARDING: Revocation of Conservation District Use  
Application HA-1948 for a Single Family  
Residence at Pao'o, North Kohala, Hawaii

PERMITTEE/  
LANDOWNER: Rearden Family Irrevocable Trust  
Janice Williams-Reardon, Trustee  
P.O. Box 2244  
Kamuela, Hawaii, 96743

FORMER PERMITTEE/  
LANDOWNER: J. & J. S.R.T., Inc,  
Michael Rearden, President

LOCATION: Pao'o, North Kohala, Hawaii

TMK: 5-7-001: 005

AREA OF PARCEL/ 9.9 Acres  
USE: 2,800 Square Feet

SUBZONE: Resource

BACKGROUND: (See chronology, Exhibit 1)

On February 13, 1987, the Board of Land and Natural Resources (Board) approved Conservation District Use Application HA-1948 for the construction of a single family residence situated at Pao'o, North Kohala, Hawaii, subject to sixteen (16) conditions (Exhibit 2). (Also, see 1987 staff report included as Exhibit 3.)

As of this date, the Board has granted four (4) time extensions to the permit, such that the deadline to complete construction of the single family residence is June 25, 1995.

Upon approval of the third and fourth time extensions, the Board imposed the following condition:

That in issuing this permit, the Department and Board has relied on the information and data which the permittee has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings (Exhibits 4-5).

On April 2, 1994, a citizen's group representing the North Kohala coastline of Hawaii submitted a report detailing allegations that the former permittee (Michael Rearden) provided information to the Board that was false, incomplete, and inaccurate in seeking approval of CDUP HA-1948, and subsequent time extensions (Exhibit 6).

The citizens group documented 13 areas alleging that the former permittee provided false, inaccurate, or incomplete information to the Board. They further called for a declaratory ruling from the Board for revocation of the permit under Title 13, Chapter 2-22, Hawaii Administrative Rules.

A copy of the report, complete with over 100 pages of exhibits was forwarded to the current permittee (Janice Williams-Rearden) on May 26, 1994. Her responses to the subject allegations are included as Exhibits 7-9.

#### ANALYSIS OF ALLEGATIONS:

Staff has reviewed the subject report, and, with oversight from the Department of Attorney General, has the following comments.

##### 1. OWNERSHIP:

As noted previously, the subject permit was issued on February 13, 1987 to J&J S.R.T., Inc. The former permittee (Michael Rearden) was identified as the President of J&J S.R.T., Inc. The property was conveyed from J&J S.R.T. Inc. to the Foundation Epsil, Valduz, Liechenstein, by a Warranty Deed that was signed by the former permittee on March 24, 1987 and was recorded with the Bureau of Conveyances on September 2, 1987 (Exhibit 10).

In seeking time extensions to the permit in 1988, 1990, and 1991, the former permittee failed to disclose information to the Board and Department that the Foundation Epsil (not J&J S.R.T., Inc.) held legal title to the property. (Note: J&J S. R.T. Inc. was dissolved by the Department of Commerce and Consumer Affairs on February 28, 1990 for failure to submit an annual report for a period of two years.)

The problem stems from the fact that the former permittee did not inform the Department or Board of the property conveyance from J&J S.R.T. to the Foundation Epsil when he made three written requests and two oral presentations to the Department for time extensions. (Note: An applicant is required to identify the land owner of a parcel of land on the permit application and/or time extension request.)

The former permittee made no representation that he held a legal interest in the subject property subsequent to its transfer from J&J S.R.T., Inc. to the Foundation Epsil, but led the Department and Board to believe that J&J S.R.T., Inc. was still the owner of property and that he, as its President, was authorized to act on its behalf.

## 2. AUTHORITY TO REPRESENT THE PROPERTY:

As a defendant in a civil case brought on by his ex-wife, the former permittee denied having any legal authority to represent the Foundation Epsil on matters relative to the North Kohala property (see Exhibit 15). However, the Court did, in fact, conclude that the former permittee was a general representative of the Foundation Epsil (see Exhibit 11, Findings of Fact, Conclusions of Law).

While the former permittee may have been authorized to act on behalf of the Foundation, no such authorization was provided to the Department by the Foundations's Board or Trustee, during the period when he sought three time extensions. As noted previously, the landowner (Foundation Epsil) was not disclosed to the Department or Board.

The fact that he failed to disclose this information seems to support the conclusion held by the Third Circuit Court that he was trying to shield assets that he allegedly used from his ex-wife's trust to buy the North Kohala property.

3. FAILURE TO NOTIFY BOARD OF \$677,000 LIEN ON PROPERTY:

The former permittee did, in fact, disclose information to the Board that there was a lien against the property. The subject lien was the result of an Exemplified Foreign Judgement, dating back to 1988, granting the permittee's ex-wife an amount of \$677,000. The former permittee fought the case for several years and was finally denied any relief from the courts. Staff notes that the lien is now part of the current deed to the property.

Although the permittee failed to disclose the amount of the lien to the Department or Board, staff does not believe that this would, in and of itself, be a breach of the permit conditions.

4. PROPERTY CONVEYANCE/BOARD NOTIFICATION:

As noted previously, the property was officially conveyed to the Foundation Epsil by J&J S.R.T., Inc. on September 2, 1987.

In February 1993, the subject property was transferred from the Foundation Epsil, Valduz to the Rearden Family 1993 Irrevocable Trust, with Janice Williams-Rearden identified as its trustee.

In addition, in December, 1991 and June, 1992 the former permittee obtained Stipulated Orders from the court permitting him to sell the subject North Kohala property to a second party. The selling price was \$2,800,000.00 and \$2,400,000.00 respectively. (Note: The former permittee purchased the land for \$280,000.00 in 1985).

Although there is nothing in the Department's Administrative Rules or CDUP conditions prohibiting the transfer or sale of the subject property, one could infer (based on the former permittee's attempts to sell the North Kohala property), that he was not putting forth a "good faith" effort to build the residence, as he represented to the Board, but was trying to sell the property at a large profit.

5. ACCESS EASEMENT ON STATE LAND:

Condition ten (10) of the original Board approval required the former permittee to obtain an access easement over State land to the North Kohala property. However, according to the Department's Division of Land Management (DLM), the agreement was not actually executed since the former permittee never remitted the required \$500.00 deposit for sale.

On September 10, 1991 the former permittee submitted additional information to the Department identifying what actions had been

taken to comply with the permit conditions. He mentioned, among other things, that the subject easement had been obtained.

Staff notes that the Board did, in fact, approve an easement for access to the property, but the former permittee failed to remit the required \$500.00 deposit for sale.

6. ALLEGED ILLEGAL GRADING:

The subject citizen's group alleges that unauthorized bulldozing had been conducted in the vicinity of the subject parcel back in 1985. This information was purportedly obtained from a County of Hawaii enforcement report. Staff has not been able to obtain a copy of the subject report.

At the request of the Department's, Division of Land Management, a Division of Conservation and Resources Enforcement (DOCARE) officer inspected the North Kohala site on September 27, 1988. The DOCARE officer was able to verify reports that unauthorized grading did, in fact, take place on State land and on the shoreline next to the illegal shed.

The DOCARE officer reported seeing a bulldozed road leading to and through the former permittee's property. In addition, the officer reported seeing a boat ramp on the shoreline that was created by a bulldozer having pushed earth over an embankment thus creating a very large and easy access to the ocean adjacent to the shack.

The DOCARE officer reported communicating with the contractor who allegedly conducted the work. The contractor related that he had been hired by the former permittee between the dates of February 28 and March 6, 1988 to conduct the alleged grading work.

Be as it may, no authorization was granted by Department of Land and Natural Resources to construct a boat ramp on the shoreline of the North Kohala property, nor was any permit issued for grading work on the adjacent State land. As far as staff knows, the only plans that have been approved by the DLNR relative to this case were construction plans for the single family residence in July, 1988. (Note: A right of entry permit was granted by DLM to do survey work on the subject easement.)

Furthermore, the County of Hawaii Planning Department identifies that the applicant never submitted an application to them for any work in or around the subject property, including grading within the Special Management Area and/or the construction of a residence, although this would have been required under the County's rules and regulations.

7. LOCKED GATES:

On November 24, 1993, the Division of Conservation and Resources Enforcement investigated the subject gates and determined that they were on State land (see Exhibit Map 12).

Staff notes that the former permittee testified, at an earlier Board meeting, that the gate had been put up by people who moved into the illegal shack. The current permittee also testified that the gate was not put up by her (see Exhibit 14, pg. 3).

However, written statements have been submitted to the subject citizen's group by individuals who claim to have seen the former permittee working on repairs to the subject gates.

Staff notes that the former permittee did not categorically deny installing the subject gates. In fact, in a June 9, 1993 letter from the former permittee to the Department, he notes that it was his understanding that he could secure the road with a gate until the final grading/paving is completed (Exhibit 13). Although this does not prove that he actually installed or fortified the subject gates, it indicates a possible contradiction in his representation to the Board.

8. CONSTRUCTION OF THE SINGLE FAMILY RESIDENCE:

The permittee informed the DLNR that construction of the single family residence was initiated. In a letter to the Department dated September 10, 1991, the permittee claimed in whole that:

- a. Obtained easement for road access. Sept. 6, 1988
- b. Obtained survey
- c. Completed archaeological survey for easement
- d. Obtained permit and constructed water well for irrigation and fire control
- e. Laid surface pipe for water supply to construction site
- f. Purchased and moved on temporary construction and tool shed for construction workers approximately 10x20
- g. Implemented plan for protection of the historical sites
- h. Purchase generator for operation of well and construction equipment
- i. Completed and obtained approval of building plans.

In seeking a fourth time extension to the CDUP, the former permittee (speaking on behalf of the current permittee) testified before the Board that there was a full house under construction on his property (Exhibit 14).

However, staff questions the former permittee's information, inasmuch as he had not obtained a building permit from the County of Hawaii to build the house. (Note: Staff contacted the County of Hawaii Building Department who indicated that the permittee has not obtained a building or grading permit for the residence.)

A DOCARE officer visited the site on February 2, 1995 and reported that "...no new construction or grading has been done".. and.."that the area looks the same as it did a couple of years ago". The DOCARE officer notes that the "Shed, well, boat ramp, roadways have all been there since at least 3/88. Nothing looks to have been touched since that date".

Staff brings attention to the former permittee's testimony before the Board on June 25, 1993, while seeking a fourth time extension to the permit (see Exhibit 14). In that testimony, he stated that, "there is a full house under construction on my property - footings have been laid, etc". However, based on the submitted DOCARE report, which states that "No house is under construction at the time of inspection. No footings laid etc.", this statement seems to be misleading and/or false. It appears that only work that has been conducted on the property was done without the authorization of the Board back in 1986/'87 (e.g., shed, well, boat ramp, grading on state land).

9. TOOL SHED:

The former permittee testified before the Board that the illegal shed was placed on the land when he applied for the well permit which was June 16, 1986. However, the subject citizens group now alleges that the illegal shed was placed on the land at an earlier date. This information was based on a County of Hawaii enforcement report which staff has not been able to obtain.

In addition, it does appear that the subject "tool shed" may have been used as a dwelling, as identified in a report by the Division of Forestry and Wildlife, and in comments transmitted to the Board via staff report.

However, this issues was already resolved by the Board when the original permit was issued.

10. FINE:

When the CDUP was issued in 1987, the applicant was fined \$200.00 for an illegal shed. In a letter dated May 15, 1994, from the present permittee to the Chairman of the DLNR, it was stated that

the fine is not due until completion of the residence. This is incorrect. Condition B. of the original approval states that:

That after the fine imposed by the condition A has been paid, the applicant may construct a single family dwelling subject to the following conditions (see Exhibit 2):

The fine was due prior to the construction of the single family residence, not afterwards as stated in the permittee's letter (see Exhibit 8).

11. ALLEGED HOSTILE TREATMENT:

The citizen's group alleges that the former permittee has been hostile to people in the Kohala community. Several letters were submitted to the subject citizens group from people in the Kohala community alleging that they were the subject of hostile treatment from the former permittee. However, the former permittee testified before the Board that "He has been hospitable and open to everybody who uses the coastline for a given useful purpose but they have not been hospitable to people who come down there to grade, to steal, to break beer bottles in the water, etc".

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when an applicant is unable to either initiate construction of a project or complete it, within the Board stipulated time frame. Time extensions are granted by the Board when an applicant demonstrates some sort of hardship or delay, in attempting to either initiate or complete a particular project. Moreover, the applicant should, at a minimum, be able to demonstrate that the hardship and/or delay has not been self imposed and that some good faith effort has been made to either initiate or complete the project.

In the subject case, time extensions were granted on the basis of information suggesting that the primary difficulty in proceeding with the construction of the residence stemmed from factors that were not entirely within the permittee's control (i.e., a lengthy divorce, and/or hardships imposed by the courts, injunctions and encumbrances, etc.).

While it is technically true that there was nothing in the temporary restraining orders prohibiting the construction of the residence, the court orders did, practically speaking, make it difficult to do, inasmuch as any construction probably would have required a loan secured by the subject property. This probably

would have been prohibited by the court order prohibiting any encumbrances.

Conversely, one could argue that any hardships or delays in proceeding with construction of the residence may have been self imposed by the former permittee, through his attempts to conceal his assets from or otherwise defraud his ex-wife and then contest the court's judgement in his ex-wife's favor.

Furthermore, the fact that the former permittee has a legal right to appeal the court's decision against him may not be just cause for the granting of a time extension, in of itself.

In fact, if staff would have had more information concerning the source, history, and nature of the subject litigation, at the time of the previous time extension requests, the recommendations might have been different.

#### PERMITTEE'S RESPONSE TO THE ALLEGATIONS:

Staff notes that the permittee was given an opportunity to respond to the subject allegations. In her first transmittal, she stated that she took title to the land in 1993. She also asserted that she nor the former permittee committed any acts to invalidate the permit. She also proposed a land exchange with the State to put an end to the on-going conflict between private land owners and Hawaiian activist groups (see Exhibit 7).

The Department did respond to the permittee indicating that its sole concern was that the permittee complete the residence by the June 25, 1995 deadline.

On May 15, 1994 a second letter was received by the Department from the current permittee. In that letter, she noted that the permit could only be revoked if the Department proved, "beyond a doubt," that the former permittee was not the land owner while making applications to the Department (see exhibit 8).

As noted previously, staff has been primarily concerned with the questionable representations made by the permittees in connection with this permit application and subsequent time extensions, rather than the singular issue of whether he owned the land. Because the definition of "landowner" is somewhat broad under the Department's Administrative Rules, (i.e, ...an owner of land, or any estate or interest in that land), staff has had some difficulty addressing the issue of whether the former permittee actually had or continues to have a legal interest in the subject land. Notwithstanding the legal issue of ownership, staff believes that the former permittee

erred by failing to inform the Department of the Foundation while seeking three time extensions.

She also notes that any issues relative to the gates on State property have been resolved and that the \$500.000 fine was not due until completion of the residence. Actually, the fine was to be paid prior to construction of the residence (see conditions, Exhibit 2).

In reference to comments made by the former permittee before a Third Circuit Court judge in which he considered himself to be a absolute stranger to the Foundation Epsil, the current permittee noted that he (Michael Rearden) had been making a legal argument related to whether service on the Foundation was proper because he was not an officer of the Foundation (see Exhibit 8).

In response to the permittee's comment that the former permittee had only been making a legal argument related to whether service on the Foundation by him was proper, staff brings attention to Exhibit 15, pgs. 6-10.

She also notes that the subject property has always been held in the interest of the immediate (Rearden) family.

On July 5, 1994 a third letter was received by the Department. In that letter, the current permittee stated that she discussed the content of paragraphs 1,2,3,4,5,8,9,10 with the former permittee and can represent that the statements made in those paragraphs do not represent the facts as stated (see Exhibit 9). The permittee goes on to say that all other statements made by the subject citizen's group are misleading or false.

In addition, on June 9, 1993 the former permittee submitted a letter to the Department in response to various concerns that were raised by the citizens's group on a previous time extension request (see Exhibit 13).

To summarize, the former permittee indicated that he had been authorized to act on behalf of the "Corporation" and the "trust" for the Rearden family in all areas relating to the Conservation permit and that he and the "Corporation" were one in the same in regards to dealings with the property.

He also noted that the current "Hawaii Trust" is simply an extension of the Rearden Family Trust now registered in Hawaii under court order now called the Rearden Family Trust for the benefit of the same parties.

CONCLUSION:

The North Kohala citizen's group has done a very thorough job of documenting alleged permit violations and in general pursuing their case against the permittees. The permittees have in turn referred to their actions as malicious and vindictive.

The Department's role in this matter, as in all matters related to Conservation District Use Permits, is to ensure that all permit conditions have been satisfied.

While many of the comments and allegations made by the said group cannot be verified, staff found other allegations to be true, or at least, partially true.

Be as it may, upon review and analysis of the pertinent facts of this case which includes the said citizen group's exhibits, DOCARE reports, Board meeting transcripts, and the CDUP file itself, staff feels that the permittees have misled the Department and Board by submitting false, incomplete and inaccurate information, and/or concealing other information in pursuit of the CDUA and subsequent time extensions.

For instance, in seeking a fourth time extension to the permit, the former permittee misled the Board into believing that some work on the house had actually been conducted when, in fact, the only work that had been conducted, was done without the Board's authorization back in 1986-'87 and perhaps in 1985 (e.g., shed, well, boat ramp, grading on state land, etc).

The former permittee's testimony before the Board identified that a full house was under construction on the property, "footings have been laid, etc" (see Exhibit 14). This statement contradicts a DOCARE report that found no evidence of a house being built nor footings being laid.

In addition, the \$200.00 fine that was imposed by the Board in 1987 has not been paid, nor has the subject easement through State land been effectuated.

Furthermore, staff believes that the former permittee graded lands in and around the subject property without authorization from the County or State. Information regarding the unauthorized grading was not provided to the Department when the permit was originally approved in 1987 or thereafter.

With regards to the two locked gates on State land, the former permittee's information is also questionable. The former permittee

testified at an earlier Board meeting that the gate had been put up by people who moved into the illegal shack (see Exhibit 14). The current permittee also testified that the gate was not put up by her. However in the June 9, 1993 letter to the Department, the former permittee notes that it was his understanding he could secure the road with a gate until the final grading and paving is completed (see Exhibit 13).

Also, staff brings attention to the Declaration of Restrictive Covenants document that was recorded with the Department's Bureau of Conveyances on July 21, 1988, by the former permittee. The document identifies J&J S.R.T., Inc. as the property owner (Exhibit 16). This is false, inasmuch the subject property was conveyed from J&J S.R.T., Inc. to the Foundation Epsil on September 2, 1987, almost eleven months before the document was recorded with the Bureau. This was clearly a misrepresentation inasmuch as J&J S.R.T, Inc. was no longer the legal owner of the North Kohala property in 1988.

Moreover, the former permittee failed to inform the Department or Board, while seeking three time extensions, that the property had been conveyed to the Foundation Epsil.

Finally, whether or not the property has always been in the immediate interest of the Rearden family, the facts suggest, and even prove, that there have been many misrepresentations made to the Department and the Board by the permittees in their attempt to either build a single family residence on the property, or to speculate on the property with the sole intent of profiting from the approvals granted by the Board.

As such, staff finds that:

FINDINGS:

1. That the former permittee violated condition four (4) of a November 22, 1991 Board approval by providing information to the Board that was false, incomplete and inaccurate in seeking a CDUP and subsequent time extensions for the construction of a Single Family Residence at Pao'o, North Kohala, Hawaii.
2. That the permittees failed to pay the Board imposed fine of \$200.00 as required by the permit conditions.
3. That the former permittee concealed the following material information from the Department and Board:

- A. That unauthorized grading was conducted on the property, the shoreline, and on the adjacent State land;
  - B. That there was a failure to disclose the identity of the Foundation Epsil, and the permittee's relationship to the Foundation, while seeking time extensions from the Department and Board;
4. That the former permittee provided the following false or misleading information to the Department and Board:
- A. That misleading statements were made by the former permittee suggesting that the easement over State land had been obtained when it had not been effectuated;
  - B. That a false/misleading statement was made before the Board that a full house was under construction, when it was not;
5. That the permittees have not made a good faith effort to construct the subject residence based on the following information:
- A. That no progress has been made on the residence since the permit was originally granted in 1987;
  - B. That it is improbable that construction will be completed by the June 25, 1995 Board imposed deadline;
  - C. That there are two signed contracts to sell the subject property in the exhibit record;
6. That based on the court documents submitted in connection with this case, the hardships or delays in proceeding with construction of the residence may have been self imposed by the former permittee, by his attempts to conceal his assets from his ex-wife and then contest the court's judgement in his ex-wife's favor.

Staff, therefore, recommends as follows:

RECOMMENDATION:

- A. That the Board direct the Chairperson to revoke CDUA HA-1948 pursuant to Section 13-5-44 of the Administrative Rules which states as follows:

"In any case where an applicant has failed to comply with any of the conditions imposed by the Board, the Board may direct the Chairperson to revoke the permit."

- B. That the permittee be required to remove the subject shed from the premises, subject to the following conditions:
1. That the permittee remove the illegal shed or any other unauthorized structures from the property within 90-days of the Board decision to revoke the permit;
  2. That the permittee pay the Department the \$200.00 fine that was previously imposed by the Board, within 90-days of the Board decision to revoke the permit;
  3. That in the event of failure of the permittee to comply with conditions one and two, the matter shall be turned over to the Attorney General for disposition including all administrative costs.
- C. That the Department of Land and Natural Resources demolish and remove the two gates located on State land adjacent to the permittee's property.

Respectfully submitted,

*Samuel J. Lemmo*

SAMUEL J. LEMMO  
Staff Planner

*for  
RCC*

Attachment (s)

Approved for Submittal

*Michael D. Wilson*

f MICHAEL D. WILSON, CHAIRPERSON  
Board of Land and Natural Resources

CHRONOLOGY

1. AUGUST 20, 1986: The Department receives a Conservation District Use Application (HA-8/26/86-1948) for a single family residence at Pao'o North Kohala, submitted by Michael Reardon, President, J.&J. S.R.T., Inc.
2. FEBRUARY 13, 1987: The application is approved subject to sixteen (16) conditions (See Exhibit 2). In addition the applicant is fined \$200.00 for the installation of a tool shed without CDUA approval. Part B of that approval states that after the fine has been paid, the applicant may construct the residence.
3. DECEMBER 18, 1987: A grant of easement over a portion of the adjoining State land is approved by the Board, subject to numerous conditions. The term of the lease is perpetual, effective upon the date of sale.
4. JANUARY 16, 1988: The DLNR, Division of Land Management notifies Michael Reardon of its approval of the subject easement and request's his concurrence with the terms and conditions. DLM also asks Reardon to remit a deposit in the amount of \$500.000 subject to an independent appraisal.
5. FEBRUARY 5, 1988: Michael Rearden (note change in spelling from Reardon to Rearden) requests a six month time extension to initiate construction of the residence due to a delay in finalizing the subject easement.
6. FEBRUARY 26, 1988: The extension is approved by the Board. The Board also grants a six month extension to complete the project such that the new deadline to complete construction is August 13, 1991.
7. AUGUST 15, 1990: Michael Rearden requests a second time extension until September of 1991 to complete the residence due to a lengthy divorce. He indicates in that letter that the family court issued an order in 1988 forbidding the sale or encumbrance of the property until final resolution of the divorce.
8. JUNE 14, 1991: The Board grants the time extension request, such that the new deadline to complete construction of the residence is September 30, 1991.

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Revocation of Conservation District Use Application HA-1948 to Construct a  
Single Family Residence at Pao'o, North Kohala, Hawaii  
Chronology

Current Permittee: Janice Rearden-Williams  
Former Permittee: Michael Rearden

9. SEPTEMBER 2, 1991: Michael Rearden seeks a third time extension for a period of one year to complete construction of the residence. At this time he indicates that although the court dismissed the pending family court action which was obstructing development of the property, his ex-wife had brought new actions in the Circuit Court restraining their ability to build a home on the property.
10. SEPTEMBER 10, 1991: Michael Rearden submits additional information in support of the time extension request. He also identifies at this time that the residence is for his minor son. He also identifies the actions that have thus far been taken to comply with the permit:
  - a. Obtained easement for road access. Sept. 6, 1988
  - b. Obtained survey
  - c. Completed archaeological survey for easement
  - d. Obtained permit, and constructed water well for irrigation and fire control
  - e. Laid surface pipe for water supply to construction site
  - f. Purchased and moved on temporary construction and tool shed for construction workers approximately 10x20
  - g. Implemented plan for protection of the historical sites
  - h. Purchase generator for operation of well and construction equipment
  - i. Completed and obtained approval of building plans.
11. NOVEMBER 22, 1991: The Board of Land and Natural Resources approves the time extension request to complete the residence, subject to four conditions:
  1. That the Board approved an eighteen (18) month time extension to complete the subject single family residence, such that the new deadline to complete construction be established as March 30, 1993;
  2. That in issuing this permit, the Department and Board has relied on the information and data which the permittee has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;

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Revocation of Conservation District Use Application HA-1948 to Construct a  
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3. That all representation relative to mitigation set forth in the accepted Environmental Assessment for this proposed use are hereby incorporated as conditions of this approval; and
  4. That failure to comply with any of these conditions shall render this Conservation District Land Use Permit null and void.
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12. FEBRUARY 26, 1993: Janice Rearden, stating that she represents the Rearden family, requests a two year time extension to complete construction of the residence and the subject road easement.
  13. MARCH 22, 1993: A follow-up letter is submitted by Janice Rearden which summarizes the pending court litigation that has restrained her from selling or encumbering the subject property.
  14. MARCH 30, 1993: Citizens for Protection of the North Kohala Coastline (Hui Lihikai) submits a letter requesting that the subject time extension request be denied.
  15. MAY 5, 1993: The Division of Land Management provides a copy of the Stipulated Final Judgement and Stipulated Order for Civil No. 91-137, Galke vs. McGonigle, Rearden, J& J. S.R.T. Inc. filed on February 12, 1993. The order directed the defendant, Foundation Epsil Valdus Liechenstein to convey the subject property to Janice A. Williams-Rearden, Trustee of the Rearden Family 1993 Irrevokable Trust, subject to plaintiff's judgement Lien.  
  
By that court order, all prohibitions against selling, transferring, conveying, encumbering the subject property are vacated.
  16. JUNE 9, 1993: Michael Rearden submits a letter to the Department in response to Hui Lihikai's recommendation to deny the time extension request (SEE EXHIBIT 13).
  17. JUNE 25, 1993: Based on a positive recommendation from staff, the Board approves the subject time extension request subject to six conditions:
    1. That the applicant has two (2) years to complete construction of the subject residence, from the date of the Board approval, which was June 25, 1993;

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Revocation of Conservation District Use Application HA-1948 to Construct a  
Single Family Residence at Pao'o, North Kohala, Hawaii  
Chronology

Current Permittee: Janice Rearden-Williams  
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2. That the applicant finalize a lease agreement from the Division of Land Management for the access easement over State land;
  3. That the applicant agree to implement a 20-foot wide buffer zone around the historic sites to provide an added measure of protection from inadvertent damage;
  4. That in issuing this time extension, the Department and Board has relied on the information and data which the permittee has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
  5. That the State Historic Preservation Division review the matter of an existing lateral historic trail on the premises;
  6. That failure to comply with any of these permit conditions shall render this Conservation District Land Use application null and void.
18. APRIL 2, 1994: Hui Lihikai (Citizens for Protection of the North Kohala Coastline) submits documentation to the DLNR alleging that the permittee provided information to the Board that was false, incomplete, and inaccurate in seeking approval of CDUP HA-1948, and subsequent time extensions. Hui Lihikai further calls for a declaratory ruling from the Board for revocation of the permit under Title 13, Chapter 2-22, Hawaii Administrative Rules (See Exhibit 6).
19. APRIL 29, 1994: Janice Williams-Rearden identifies herself as the legal owner and permittee of the subject property. She also requests a copy of the Hui Lihikai exhibits from the Department and an opportunity to respond to the allegations.
20. MAY 9, 1994: The Department seeks an opinion from the Department of the Attorney General whether the subject permit can be revoked based on the submission of false, inaccurate or incomplete information to the Department and Board in connection with the permit application.

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Revocation of Conservation District Use Application HA-1948 to Construct a  
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Chronology

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Former Permittee: Michael Rearden

21. MAY 11, 1994: Jay Williams (as Trustee of the Rearden Family Trust) submits a letter to the Department identifying that she took title to the subject property pursuant to a court order. In that letter, she proposes a property exchange with the Department and further states that she would agree to a moratorium on any further development on the property while the Board considers the exchange (see Exhibit 7).
22. MAY 15, 1994: Janice Williams-Rearden responds in writing to some of Hui Lihikai's allegations (see Exhibit 8).
23. MAY 26, 1994: Per written request, the Department forwards Hui Lihikai's exhibits to Janice Williams-Rearden for review and comment. In that letter, the Department notifies her (in response to her request for the land exchange) that our only concern is that she complete construction of the residence by the Board stipulated date of June 25, 1995.
24. JULY 5, 1994: Janice Williams-Rearden submits another letter in response to Hui Lihikai's allegations. In that letter, she states that any further expenditures of moneys and further development of the property will be withheld until the Department informs her of its decision as to its intent to revoke the permit (see Exhibit 9).
25. SEPTEMBER 26, 1994: Hui Lihikai submits a letter to the Department alleging they have not been given access to information in connection with the permit investigation.
26. OCTOBER 6, 1994: The Attorney General's opinion is received by the Department.
27. OCTOBER 14, 1994: The Department responds to Hui Lihikai's concerns and states that because the issues is being treated as an enforcement case, all documentation submitted in connection with the investigation is not available for public review at this time.
28. FEBRUARY 3, 1995: The Office of Conservation and Environmental Affairs requests that a site inspection be conducted by the Division of Conservation and Resources Enforcement to substantiate the permittee's claims that certain work has been completed on the property.
29. MARCH 6, 1995: The DOCARE report is submitted to the Office of Conservation and Environmental Affairs which identifies that no new work had been conducted on the premises.

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