

**EXHIBIT**  
**2189-WCEIC-459**

**[RESERVED]**

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, )  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow )  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao )  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

Case No. CCH-MA 15-01

DECLARATION OF:

EPIFANIO HERRERA

DECLARATION OF \_\_\_\_\_

EPIFANIO HERRERA

I, Epifanio D. Herrera, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.

2. I am an owner of Lot 4/35 at the Wailuku Country Estates agricultural subdivision in Wailuku, Maui, Hawaii.

3. I am a member of the Wailuku Country Estates Community Association.

4. As with all of the agricultural lots at Wailuku Country Estates, my lot receives non-potable water for irrigation and agricultural purposes from the Wailuku Country Estates Irrigation Company.

5. I am a party to the Agreement Regarding Irrigation Water (Individual Lots) with Wailuku Country Estates Irrigation Company, a true and accurate copy of which is marked as an exhibit in this proceeding. Pursuant to that agreement, I agreed that I would use the non-potable water supplied by the Wailuku Country Estates Irrigation Company only for irrigation and agricultural activities on my lot (and only on my lot). Since entering into the agreement, I have been in compliance with the agreement regarding non-potable water.

6. As a member of the Wailuku Country Estates Community Association, I understand that agreements signed by the developer of Wailuku Country Estates, including a Unilateral Water Use Agreement dated November 28, 2002 and a Modification of Subdivision Requirements Agreement No. 2 dated December 26, 2006, have provisions regarding the use of County-supplied potable water and the use of non-potable water supplied by the Wailuku Country Estates Irrigation Company.

7. As with all agricultural lots at Wailuku Country Estates, my lot has a water meter that measures the amount of non-potable water received from the Wailuku Country Estates Irrigation Company.

8. If applicable, the tables relating to my lot attached to the surface water use permit application (for existing use) dated April 22, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information: a) the average daily use of the non-potable water on my lot; b) the amount of water requested relating to my lot for existing use; and c) irrigation information relating to my lot.

9. A true and accurate copy of the existing use application, including the tables relating to my lot, if applicable, is marked as an exhibit in this proceeding.

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10. If applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture, and the amount of non-potable water used for that agriculture, as of the date of the submission of the surface water use permit application (for existing use), is included and summarized in a spreadsheet entitled, "Wailuku Country Estates Irrigation Company Agricultural Spreadsheet for Wailuku Country Estates Owners TMK 3-3-017-Lot#." A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

11. If applicable, true and accurate photographs of agricultural activities on my lot as of the date of the submission of the surface water use permit application (for existing use) are marked as exhibits in this proceeding.

12. The tables relating to my lot attached to the surface water use permit application (for new use) dated April 15, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information, estimated irrigation information for agricultural activities and the requested amount of non-potable water for those agricultural activities on my lot after April 30, 2008. A true and accurate copy of the new use application, including the tables relating to my lot, is marked as an exhibit in this proceeding.

13. As applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture and the amount of non-potable water used for that agriculture after April 30, 2008, is included and summarized in a spreadsheet entitled, "Na Wai Eha New Use Spreadsheet for Wailuku Country Estates Irrigation Company." A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

14. To the best of my knowledge and belief, the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company reflected in the documents relating to irrigation and agricultural activities on my lot described above are necessary for economic and efficient utilization of my agricultural property in a manner that is not wasteful, and is both reasonable and consistent with state and county land use plans and the public interest.

15. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company for the irrigation and agricultural activities described in the documents relating to my agricultural property.

16. If applicable, supplemental information regarding the agricultural activities on my lot and other matters is attached hereto, which is incorporated herein by reference.

17. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

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I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE  
AND CORRECT.

DATED: Wailuku, Hawaii, Jan 27, 2016

Eugene D. Ferrera 

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, )  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow )  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao )  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

Case No. CCH-MA 15-01

DECLARATION OF:

Rui Yi CHEN

DECLARATION OF Rui Yi CHEN

I, Rui Yi CHEN, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.

2. I am an owner of Lot 139 at the Wailuku Country Estates agricultural subdivision in Wailuku, Maui, Hawaii.

3. I am a member of the Wailuku Country Estates Community Association.

4. As with all of the agricultural lots at Wailuku Country Estates, my lot receives non-potable water for irrigation and agricultural purposes from the Wailuku Country Estates Irrigation Company.

5. I am a party to the Agreement Regarding Irrigation Water (Individual Lots) with Wailuku Country Estates Irrigation Company, a true and accurate copy of which is marked as an exhibit in this proceeding. Pursuant to that agreement, I agreed that I would use the non-potable water supplied by the Wailuku Country Estates Irrigation Company only for irrigation and agricultural activities on my lot (and only on my lot). Since entering into the agreement, I have been in compliance with the agreement regarding non-potable water.

6. As a member of the Wailuku Country Estates Community Association, I understand that pursuant to the Unilateral Water Use Agreement effective November 28, 2002 signed by the developer of Wailuku Country Estates on behalf of itself and the Wailuku Country Estates Community Association (a true and accurate copy of which marked as an exhibit in this proceeding), I am limited to receiving 540 gallons per day of potable water from the County of Maui Department of Water Supply; I may only use such potable water for domestic purposes within a dwelling; and I am not entitled to agricultural water rates from the County of Maui Department of Water Supply.

7. I also understand that the Unilateral Water Use Agreement expressly requires that I use the non-potable water provided by the Wailuku Country Estates Irrigation Company for all outdoor purposes, including for irrigation and agricultural purposes.

8. As with all agricultural lots at Wailuku Country Estates, my lot has a water meter that measures the amount of non-potable water received from the Wailuku Country Estates Irrigation Company.

9. If applicable, the tables relating to my lot attached to the surface water use permit application (for existing use) dated April 22, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information: a) the average daily use of the non-potable water on my lot; b) the amount of water requested relating to my lot for existing use; and c) irrigation information relating to my lot. A true and accurate copy of the existing use application, including the tables relating to my lot, if applicable, is marked as an exhibit in this proceeding.

10. If applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture, and the amount of non-potable water used for that agriculture, as of the date of the submission of the surface water use permit application (for existing use), is included and summarized in a spreadsheet entitled, "Wailuku Country Estates Irrigation Company Agricultural Spreadsheet for Wailuku Country Estates Owners TMK 3-3-017-Lot#." A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

11. If applicable, true and accurate photographs of agricultural activities on my lot as of the date of the submission of the surface water use permit application (for existing use) are marked as exhibits in this proceeding.

12. The tables relating to my lot attached to the surface water use permit application (for new use) dated April 15, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information, estimated irrigation information for agricultural activities and the requested amount of non-potable water for those agricultural activities on my lot after April 30, 2008. A true and accurate copy of the new use application, including the tables relating to my lot, is marked as an exhibit in this proceeding.

13. As applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture and the amount of non-potable water used for that agriculture after April 30, 2008, is included and summarized in a spreadsheet entitled, "Na Wai Eha New Use Spreadsheet for Wailuku Country Estates Irrigation Company." A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

14. To the best of my knowledge and belief, the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company reflected in the documents relating to irrigation and agricultural activities on my lot described above are necessary for economic and efficient utilization of my agricultural property in a manner that is not wasteful, and is both reasonable and consistent with state and county land use plans and the public interest.

15. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company for the irrigation and agricultural activities described in the documents relating to my agricultural property.

16. If applicable, supplemental information regarding the agricultural activities on my lot and other matters is attached hereto, which is incorporated herein by reference.

17. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

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I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE  
AND CORRECT.

DATED: Wailuku, Hawaii, 1 26. 16.

K CJ

ADDENDUM TO DECLARATION

I further declare as follows, which shall be incorporated by reference in the declaration to which this addendum is attached:

Nothing right now. In future.

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) PAUL MIYOSHI/REBECCA FAN  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF Paul Miyoshi/Rebecca Fan

I, Paul Miyoshi/Rebecca Fan, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.
2. I am an owner of Lot 150 at the Wailuku Country Estates agricultural subdivision in Wailuku, Maui, Hawaii.
3. I am a member of the Wailuku Country Estates Community Association.
4. As with all of the agricultural lots at Wailuku Country Estates, my lot receives non-potable water for irrigation and agricultural purposes from the Wailuku Country Estates Irrigation Company.
5. I am a party to the Agreement Regarding Irrigation Water (Individual Lots) with Wailuku Country Estates Irrigation Company, a true and accurate copy of which is marked as an exhibit in this proceeding. Pursuant to that agreement, I agreed that I would use the non-potable water supplied by the Wailuku Country Estates Irrigation Company only for irrigation and agricultural activities on my lot (and only on my lot). Since entering into the agreement, I have been in compliance with the agreement regarding non-potable water.

6. As a member of the Wailuku Country Estates Community Association, I understand that agreements signed by the developer of Wailuku Country Estates, including a Unilateral Water Use Agreement dated November 28, 2002 and a Modification of Subdivision Requirements Agreement No. 2 dated December 26, 2006, have provisions regarding the use of County-supplied potable water and the use of non-potable water supplied by the Wailuku Country Estates Irrigation Company.

7. As with all agricultural lots at Wailuku Country Estates, my lot has a water meter that measures the amount of non-potable water received from the Wailuku Country Estates Irrigation Company.

8. If applicable, the tables relating to my lot attached to the surface water use permit application (for existing use) dated April 22, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information: a) the average daily use of the non-potable water on my lot; b) the amount of water requested relating to my lot for existing use; and c) irrigation information relating to my lot.

9. A true and accurate copy of the existing use application, including the tables relating to my lot, if applicable, is marked as an exhibit in this proceeding.

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10. If applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture, and the amount of non-potable water used for that agriculture, as of the date of the submission of the surface water use permit application (for existing use), is included and summarized in a spreadsheet entitled, "Wailuku Country Estates Irrigation Company Agricultural Spreadsheet for Wailuku Country Estates Owners TMK 3-3-017-Lot#." A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

11. If applicable, true and accurate photographs of agricultural activities on my lot as of the date of the submission of the surface water use permit application (for existing use) are marked as exhibits in this proceeding.

12. The tables relating to my lot attached to the surface water use permit application (for new use) dated April 15, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information, estimated irrigation information for agricultural activities and the requested amount of non-potable water for those agricultural activities on my lot after April 30, 2008. A true and accurate copy of the new use application, including the tables relating to my lot, is marked as an exhibit in this proceeding.

13. As applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture and the amount of non-potable water used for that agriculture after April 30, 2008, is included and summarized in a spreadsheet entitled, "Na Wai Eha New Use Spreadsheet for Wailuku Country Estates Irrigation Company." A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

14. To the best of my knowledge and belief, the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company reflected in the documents relating to irrigation and agricultural activities on my lot described above are necessary for economic and efficient utilization of my agricultural property in a manner that is not wasteful, and is both reasonable and consistent with state and county land use plans and the public interest.

15. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company for the irrigation and agricultural activities described in the documents relating to my agricultural property.

16. If applicable, supplemental information regarding the agricultural activities on my lot and other matters is attached hereto, which is incorporated herein by reference.

17. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

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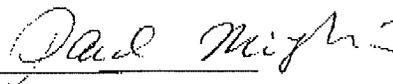
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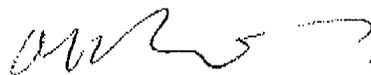
I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE  
AND CORRECT.

DATED: Wailuku, Hawaii, \_\_\_\_\_

01-27-2016  
Paul Miyoshi



01-27-2016  
Rebecca Fan



ADDENDUM TO DECLARATION

I further declare as follows, which shall be incorporated by reference in the declaration to which this addendum is attached:

This is a Vacant Land We are planning to built a retirement resident.

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, )  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow )  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao )  
and Waikapu Streams, Maui )

Case No. CCH-MA 15-01

DECLARATION OF:

PAUL MIYOSHI/REBECCA FAN

DECLARATION OF Paul Miyoshi/Rebecca Fan

I, Paul Miyoshi/Rebecca Fan declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.

2. I am an owner of Lot 151 at the Wailuku Country Estates agricultural subdivision in Wailuku, Maui, Hawaii.

3. I am a member of the Wailuku Country Estates Community Association.

4. As with all of the agricultural lots at Wailuku Country Estates, my lot receives non-potable water for irrigation and agricultural purposes from the Wailuku Country Estates Irrigation Company.

5. I am a party to the Agreement Regarding Irrigation Water (Individual Lots) with Wailuku Country Estates Irrigation Company, a true and accurate copy of which is marked as an exhibit in this proceeding. Pursuant to that agreement, I agreed that I would use the non-potable water supplied by the Wailuku Country Estates Irrigation Company only for irrigation and agricultural activities on my lot (and only on my lot). Since entering into the agreement, I have been in compliance with the agreement regarding non-potable water.

6. As a member of the Wailuku Country Estates Community Association, I understand that agreements signed by the developer of Wailuku Country Estates, including a Unilateral Water Use Agreement dated November 28, 2002 and a Modification of Subdivision Requirements Agreement No. 2 dated December 26, 2006, have provisions regarding the use of County-supplied potable water and the use of non-potable water supplied by the Wailuku Country Estates Irrigation Company.

7. As with all agricultural lots at Wailuku Country Estates, my lot has a water meter that measures the amount of non-potable water received from the Wailuku Country Estates Irrigation Company.

8. If applicable, the tables relating to my lot attached to the surface water use permit application (for existing use) dated April 22, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information: a) the average daily use of the non-potable water on my lot; b) the amount of water requested relating to my lot for existing use; and c) irrigation information relating to my lot.

9. A true and accurate copy of the existing use application, including the tables relating to my lot, if applicable, is marked as an exhibit in this proceeding.

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11. If applicable, true and accurate photographs of agricultural activities on my lot as of the date of the submission of the surface water use permit application (for existing use) are marked as exhibits in this proceeding.

12. The tables relating to my lot attached to the surface water use permit application (for new use) dated April 15, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information, estimated irrigation information for agricultural activities and the requested amount of non-potable water for those agricultural activities on my lot after April 30, 2008. A true and accurate copy of the new use application, including the tables relating to my lot, is marked as an exhibit in this proceeding.

13. As applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture and the amount of non-potable water used for that agriculture after April 30, 2008, is included and summarized in a spreadsheet entitled, "Na Wai Eha New Use Spreadsheet for Wailuku Country Estates Irrigation Company." A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

14. To the best of my knowledge and belief, the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company reflected in the documents relating to irrigation and agricultural activities on my lot described above are necessary for economic and efficient utilization of my agricultural property in a manner that is not wasteful, and is both reasonable and consistent with state and county land use plans and the public interest.

15. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company for the irrigation and agricultural activities described in the documents relating to my agricultural property.

16. If applicable, supplemental information regarding the agricultural activities on my lot and other matters is attached hereto, which is incorporated herein by reference.

17. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

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I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE  
AND CORRECT.

DATED: Wailuku, Hawaii, \_\_\_\_\_.

01-27-2016  
Paul Miyoshi

Paul Miyoshi

01-27-2016  
Rebecca Fan

Rebecca Fan

ADDENDUM TO DECLARATION

I further declare as follows, which shall be incorporated by reference in the declaration to which this addendum is attached:

This is a Vacant Land We are planning to built a retirement resident.

COMMISSION ON WATER RESOURCE MANAGEMENT  
STATE OF HAWAII

Surface Water Use Permit Applications, )  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow )  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao )  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

Case No. CCH-MA 15-01

DECLARATION OF:

JERRY SANTIAGO

DECLARATION OF JERRY SANTIAGO

I, JERRY SANTIAGO, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.

2. I am an owner of Lot 156 at the Wailuku Country Estates agricultural subdivision in Wailuku, Maui, Hawaii.

3. I am a member of the Wailuku Country Estates Community Association.

4. As with all of the agricultural lots at Wailuku Country Estates, my lot receives non-potable water for irrigation and agricultural purposes from the Wailuku Country Estates Irrigation Company.

5. I am a party to the Agreement Regarding Irrigation Water (Individual Lots) with Wailuku Country Estates Irrigation Company, a true and accurate copy of which is marked as an exhibit in this proceeding. Pursuant to that agreement, I agreed that I would use the non-potable water supplied by the Wailuku Country Estates Irrigation Company only for irrigation and agricultural activities on my lot (and only on my lot). Since entering into the agreement, I have been in compliance with the agreement regarding non-potable water.

6. As a member of the Wailuku Country Estates Community Association, I understand that agreements signed by the developer of Wailuku Country Estates, including a Unilateral Water Use Agreement dated November 28, 2002 and a Modification of Subdivision Requirements Agreement No. 2 dated December 26, 2006, have provisions regarding the use of County-supplied potable water and the use of non-potable water supplied by the Wailuku Country Estates Irrigation Company.

7. As with all agricultural lots at Wailuku Country Estates, my lot has a water meter that measures the amount of non-potable water received from the Wailuku Country Estates Irrigation Company.

8. If applicable, the tables relating to my lot attached to the surface water use permit application (for existing use) dated April 22, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information: a) the average daily use of the non-potable water on my lot; b) the amount of water requested relating to my lot for existing use; and c) irrigation information relating to my lot.

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10. If applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture, and the amount of non-potable water used for that agriculture, as of the date of the submission of the surface water use permit application (for existing use), is included and summarized in a spreadsheet entitled, “Wailuku Country Estates Irrigation Company Agricultural Spreadsheet for Wailuku Country Estates Owners TMK 3-3-017-Lot#.” A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

11. If applicable, true and accurate photographs of agricultural activities on my lot as of the date of the submission of the surface water use permit application (for existing use) are marked as exhibits in this proceeding.

12. The tables relating to my lot attached to the surface water use permit application (for new use) dated April 15, 2009 and filed with the Commission on Water Resource Management by the Wailuku Country Estates Irrigation Company states, among other information, estimated irrigation information for agricultural activities and the requested amount of non-potable water for those agricultural activities on my lot after April 30, 2008. A true and accurate copy of the new use application, including the tables relating to my lot, is marked as an exhibit in this proceeding.

13. As applicable, best estimates of the type(s) of agriculture (including landscaping) on my lot, the acreage of that agriculture and the amount of non-potable water used for that agriculture after April 30, 2008, is included and summarized in a spreadsheet entitled, “Na Wai Eha New Use Spreadsheet for Wailuku Country Estates Irrigation Company.” A true and accurate copy of the spreadsheet is marked as an exhibit in this proceeding.

14. To the best of my knowledge and belief, the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company reflected in the documents relating to irrigation and agricultural activities on my lot described above are necessary for economic and efficient utilization of my agricultural property in a manner that is not wasteful, and is both reasonable and consistent with state and county land use plans and the public interest.

15. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from Wailuku Country Estates Irrigation Company for the irrigation and agricultural activities described in the documents relating to my agricultural property.

16. If applicable, supplemental information regarding the agricultural activities on my lot and other matters is attached hereto, which is incorporated herein by reference.

17. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

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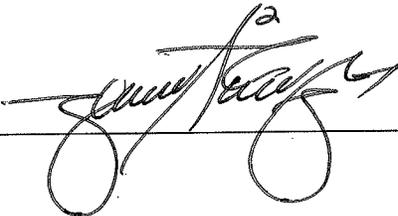
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I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE  
AND CORRECT.

DATED: Wailuku, Hawaii, 23rd of December 2015

  
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**EXHIBIT**  
**2189-WCEIC-465**

**[RESERVED]**

**EXHIBIT**  
**2189-WCEIC-466**

**[RESERVED]**

**EXHIBIT**  
**2189-WCEIC-467**

**[RESERVED]**

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) MALCOLM WONG  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF MALCOLM WONG

I, MALCOLM WONG, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.
2. I have been a resident of Hawaii for forty-one (41) years. I am married and have two (2) children.
3. I am the owner of Anekona Farms.
4. In 2007, my wife and I purchased a 2-acre lot (Lot 175) at the Wailuku Country Estates agricultural subdivision. A major factor of our purchase was the ability to conduct agricultural activities. When we purchased the property, our understanding was that water would be available for the agricultural activities at an acceptable cost.
5. Since our purchase, we have grown the following agricultural crops on our property: taro; mango; papaya; banana; lilikoi; coconut; avocado; herbs; various lettuces; chili pepper; tomatoes; pia; awa; mamaki; maile; macadamia nuts; lime; and okra. Most of our agricultural activity takes place year-round, with the exception of certain seasonal crops.

6. Our irrigation consists of a drip method and spray on timers, both of which are considered economical and conserve the valuable water resource within the Na Wai Eha Surface Water Management Area.

7. We also have an aquaponics system, which utilizes less than one-tenth the amount of water that comparable soil-based gardens would use. In our aquaponics system, we grow lettuce, kale, coffee, strawberries, basil, cabbage, watercress, mizuna, and flowers.

8. We regularly sell the produce from our agricultural crops to local businesses, including Arias Restaurant, Farmacy Restaurant, and Down to Earth. We typically make about \$2.00-\$3.00 per pound, which makes up part of our livelihood, but is not alone sufficient to sustain us. It is difficult being a small farmer without government subsidies. Moving forward, we hope to increase our income from the sales of agricultural products produced from our property.

9. In addition to selling our produce, we regularly donate our produce to kupuna and other members of the native Hawaiian community in an effort to combat health issues, including diabetes and heart failure. Our donations are typically made through our hula halau.

10. The continued availability of water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company) is extremely important to our continued cultivation of our agricultural crops.

11. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from the Irrigation Company to irrigate the crops we cultivate on our property.

12. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

13. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE  
AND CORRECT.

DATED: Wailuku, Hawaii, Jan 21, 2016.



\_\_\_\_\_  
MALCOLM WONG

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) DAIN KANE  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF DAIN KANE

I, DAIN KANE, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.

2. I was born and raised in Hawaii. I have been living on the island of Maui for over thirty (30) years.

3. I am married and have three (3) adult children.

4. In 2003, my wife and I decided that we wanted to purchase a place in an agricultural subdivision in close proximity to Wailuku. It was important to us that we have access to a water supply to grow crops of our choosing.

5. In 2004, we purchased Lot 095 at the Wailuku Country Estates agricultural subdivision. A major factor of our purchase was the ability to conduct agricultural activities. When we purchased the property, our understanding was that water would be available for the agricultural activities at an acceptable cost.

6. Since our purchase, we have grown the following agricultural crops on our property: banana (both apple banana and ice cream banana varieties); mango; chili pepper; breadfruit; papaya; citrus (naval and valencia orange); dry-land taro; and turf. Most of our

agricultural activity takes place year-round, with the exception of certain seasonal crops. We chose these crops based upon the local demand & personal preference.

7. It is our intent to begin growing more types of fruit trees, including avocado and more varieties of mango, different varieties of chili pepper, and different types of dry-land taro at some point in the future.

8. Our irrigation consists of a drip method, which is considered the most efficient irrigation method and conserves the valuable water resource within the Na Wai Eha Surface Water Management Area.

9. We regularly sell the produce from our agricultural crops to various wholesale and retail outlets. Our approximate gross income per year ranges from \$2,500 to more than \$10,000. Moving forward, we plan to continue the sales of agricultural products produced from our property.

10. In addition to selling our produce, we provide/donate our off-grade produce at local age group swimming meets (year around), occasionally to the Maui Food Bank, and a preschool in the area. We also utilize some of the produce for our own sustenance.

11. The continued availability of water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company) is extremely important to our continued cultivation of our agricultural crops. It is very difficult to plan for the long-term future of our agricultural operations with the water availability at issue in this proceeding.

12. Without water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company), our crops would not be viable, and we would be forced to shut down our agricultural cultivation and harvesting.

13. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from the Irrigation Company to irrigate the crops we cultivate on our property.

14. I am also the current President of the Wailuku Country Estates Community Association (“Association”).

15. The Wailuku Country Estates agricultural subdivision was developed as an agricultural community.

16. Article XVI of the Declaration of Covenants, Conditions, and Restrictions for Wailuku Country Estates (the “CC&Rs”), provides that each lot within the subdivision is designated for, and restricted to, agricultural use as defined in the zoning laws, and that agricultural use shall be conducted on the lots to provide economic benefit to the lot owners in a manner consistent with the zoning laws.

17. The Wailuku Country Estates Irrigation Company (the “Irrigation Company”) manages the irrigation system that provides non-potable water for irrigation and agricultural purposes to every lot owner of Wailuku Country Estates and for the common areas managed by the Association.

18. The Association uses water to irrigate the common areas of the agricultural subdivision, which include approximately 32.5 acres of property. This includes a community park (which is open to the public) of 2.26 acres; 20 acres of roadside setbacks along six miles of roads (the setbacks consist of a 24 foot setback on the mauka side of the roadways and a 9.5 foot setback on the makai side of roadways); nine acres of lot drainage swales; and one acre of retention basins.

19. The common areas are irrigated through sprinklers using timers and other portions are irrigated manually as needed.

20. Photographs representing various areas of the common areas described above are marked as exhibits in this proceeding.

21. The amount of water requested by the Association is essential for the continued maintenance of the common areas of Wailuku Country Estates and in some circumstances, the health and safety of Wailuku Country Estates residents and others.

22. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

23. A true and accurate copy of excerpts from the Declaration of Covenants, Conditions, and Restrictions for Wailuku Country Estates, filed with the State of Hawaii Bureau of Conveyances on February 27, 2003 as Document No. 2003-036607, is marked as an exhibit in this proceeding.

24. A true and accurate copy of excerpts from the Wailuku Country Estates Community Association, Inc. Architectural Design Guidelines, dated October 28, 2002 and April 24, 2013, is marked as an exhibit in this proceeding.

25. A true and accurate copy of the County of Maui's Subdivision Approval for the Wailuku Country Estates agricultural subdivision, as reflected in letters dated December 28, 1996 and December 27, 2002, is marked as an exhibit in this proceeding.

26. A true and accurate copy of the County of Maui's Subdivision Approval for the Wailuku Country Estates agricultural subdivision revising Condition No. 1, as reflected in letters dated January 25, 1997, January 23, 1997, February 3, 1998, and January 20, 1998, is marked as an exhibit in this proceeding.

27. A true and accurate copy of the Unilateral Water Use Agreement, dated November 28, 2002, is marked as an exhibit in this proceeding.

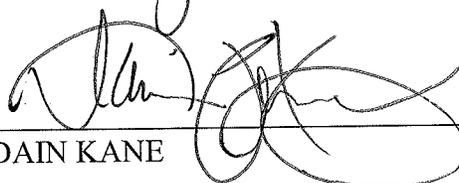
28. A true and accurate copy of the Grant of Drainage Easement, filed with the State of Hawaii Bureau of Conveyances on August 24, 2005 as Document No. 2005-168419, is marked as an exhibit in this proceeding.

29. A true and accurate copy of the Modification of Subdivision Requirements Agreement No. 2 (Restriction on Use of Potable Water), dated December 26, 2006, is marked as an exhibit in this proceeding.

30. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE  
AND CORRECT.

DATED: Wailuku, Hawaii, January 25, 2016.

  
\_\_\_\_\_  
DAIN KANE

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) KENT CARLSON  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF KENT CARLSON

I, KENT CARLSON, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.

2. I was born and raised on Maui.

3. After graduating from high school, I joined the United States Air Force, where I enjoyed a successful thirty-year career in service. Following that, I spent fourteen years working in a federal research and development laboratory. Upon retiring, I returned to Maui permanently.

4. I am married and have seven (7) children.

5. While in the Air Force, I had done some part-time farming. In 2004, my wife and I decided that we wanted to purchase a place in central Maui to live on and do some part-time farming. At the time, the Wailuku Country Estates agricultural subdivision was the only place we could find that was conducive to our doing so.

6. In 2004, we purchased Lot 106 in the Wailuku Country Estates agricultural subdivision. A major factor of our purchase was the ability to conduct agricultural

activities. When we purchased the property, our understanding was that water would be available for the agricultural activities at an acceptable cost.

7. In 2009 we moved on to the property and planted various crops and fruit trees. We also kept about 25 of the pre-existing macadamia nut trees. We chose the various crops based upon the local demand and our interests as well as the availability of irrigation water. Our primary cash crops now are bananas and squash, although we have sold some avocados and citrus. We will sell more fruit as our trees grow larger. We tend our crops year around except for the squash, which is seasonal.

8. We are considering growing some taro in the future.

9. We primarily use drip irrigation which is considered the most efficient irrigation method and conserves the valuable water resource within the Na Wai Eha Surface Water Management Area. We have more than 1,000 feet of drip irrigation employed in our banana and fruit trees. We water our squash by hand, which helps us to be conservative in our water use.

10. We regularly sell the produce from our crops to a vendor at the Farmer's Market at the Queen Kaahumanu Center. We deliver our produce twice a week, on Tuesdays and Fridays, throughout the year. In 2014, we sold approximately 8,300 pounds of bananas and our gross revenue was \$5,650. Moving forward, we plan to continue the sales of agricultural products produced from our property.

11. In addition to selling our produce, we regularly donate our produce to the Maui Food Bank, a Wailuku church, and to family and friends. We also utilize some of the produce for our own sustenance.

12. The continued availability of water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company) is essential to the continued cultivation of our agricultural crops.

13. Without water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company), our banana crop would not be viable, and we would be forced to shut down our commercial banana operation.

14. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from the Irrigation Company to irrigate the crops we cultivate on our property.

15. It is very difficult for small-scale sustainable agricultural operations on Maui. Eliminating our current water supply would have an extremely detrimental effect.

16. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

17. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Wailuku, Hawaii, Jan 23, 2016.

Kent R. Carlson

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) ROMEO YANOS  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF ROMEO YANOS

I, ROMEO YANOS, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.
2. I have been a resident of the State of Hawaii since 1976.
3. I am married and have two (2) children.
4. In 2004, my wife and I purchased Lot 31 (consisting of approximately 2.4 acres) at the Wailuku Country Estates agricultural subdivision. A major factor of our purchase was the ability to conduct agricultural activities. We purchased the property with the intent to grow vegetables and palm trees. When we purchased the property, our understanding was that water would be available for the agricultural activities at an acceptable cost.
5. Since our purchase, we have grown bananas and palm trees. Our agricultural activity takes place year-round.
6. It is our intent to begin growing vegetables at some point in the future.
7. Our irrigation consists of a drip method, which is considered the most efficient irrigation method and conserves the valuable water resource within the Na Wai Eha

Surface Water Management Area. We also utilize a sprinkler method on an as-needed basis, which allows us to be conservative in our water use.

8. We regularly sell the agricultural products from our crops. We deliver our products 2 to 3 times per month. Our income from these sales is approximately \$600 to \$800 per month, which we rely upon in part for our livelihood. Moving forward, we plan to continue the sales of agricultural products produced from our property.

9. The continued availability of water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company) is extremely important to our continued cultivation of our agricultural crops.

10. Without water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company), our agricultural crops would not be viable, and we would be forced to shut down our agricultural cultivation and harvesting.

11. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from the Irrigation Company to irrigate the crops we cultivate on our property.

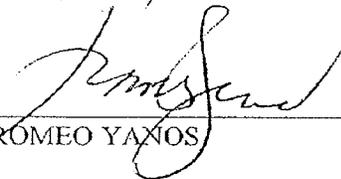
12. It is very difficult for small-scale sustainable agricultural operations on Maui. Eliminating our current water supply would have an extremely detrimental affect.

13. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

14. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Wailuku, Hawaii, 1/22/16

  
ROMEO YAXOS

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waichu, Iao ) GARY BRITO  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF GARY BRITO

I, GARY BRITO, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.

2. I have been a resident of Hawaii for sixty-seven (67) years. I am married to Evelyn Brito, and we have five (5) children together.

3. My wife and I own property within the Frank Antone Haleakala subdivision located to the west of the Puuohala subdivision in Wailuku, Maui, Hawaii.

4. We do not own property in the Wailuku Country Estates agricultural subdivision, and we are not members of the Wailuku Country Estates Community Association (the "Association"). However, our property is serviced by the Wailuku Country Estates Irrigation Company.

5. The Wailuku Country Estates Irrigation Company (the "Irrigation Company") manages the irrigation system that provides non-potable water for irrigation and agricultural purposes to every lot owner of Wailuku Country Estates, for the common areas managed by the Association, and for our property.

6. We purchased our property with the intent of growing and cultivating agricultural crops for family use.

7. Since our purchase, we have grown the following agricultural crops on our property: wetland taro; fruit trees; coconut trees; mango trees; ulu trees; and vegetables. This agricultural activity takes place year-round. We chose these particular crops because they grow well in this area.

8. We utilize traditional native Hawaiian irrigation methods for the wetland taro that we grow on our property. We also use a drip method of irrigation for our vegetables and water hoses for other crops. The methods of irrigation we utilize are intended to conserve the valuable water resource within the Na Wai Eha Surface Water Management Area.

9. We do not sell any of our agricultural produce. It is utilized by our family for sustenance.

10. The continued availability of water from the Na Wai Eha Surface Water Management Area (via the Irrigation Company) is important to our continued cultivation of the crops utilized by our family.

11. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from the Irrigation Company to irrigate the crops we cultivate on our property.

12. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

13. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

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I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE  
AND CORRECT.

DATED: Wailuku, Hawaii, 25 January 2016

Gary Brito  
GARY BRITO

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) ANN EMMSLEY  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF ANN EMMSLEY

I, ANN EMMSLEY, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.
2. I have been a resident of the State of Hawaii since 1987 and have lived at the Wailuku Country Estates agricultural subdivision since June 2007.
3. I married a local boy from Hana, Thomas Emmsley, and we have two daughters, Kuaola and Makaanahale.
4. I am a Professor and Program Coordinator for the Agriculture and Natural Resources Program at the University of Hawaii Maui College.
5. In 2004, my husband and I decided that our family had outgrown our condominium and that we wanted to purchase a place where we could do some part-time farming. My husband grew up on his father's papaya farm in Hana, and my husband's family are flower farmers, so we really wanted space to grow and cultivate agricultural products in the same way. My profession as a Professor and Program Coordinator for the Agriculture and Natural Resources Program at the University of Hawaii Maui College also encouraged us to look for space to grow and keep plants.

6. In 2004, we purchased Lot 75 at the Wailuku Country Estates agricultural subdivision. A major factor of our purchase was the ability to conduct agricultural activities. When we purchased the property, our understanding was that water would be available for the agricultural activities at an acceptable cost.

7. Since our purchase, our main crop has been ti leaves. We specialize in growing large green ti leaves that we sell to hula halau and hula dancers for traditional hula skirts. We also cultivate gardenia, stephanotis, and vines, which we sell to a florist. We have a small nursery for palms and other potted crops. We have a large collection of native plants that I utilize for seed and cutting material in connection with my profession.

8. At one point, we also began cultivating sod, but when the economy dropped, our plans changed. We still have some areas of sod left.

9. We also grow citrus, macadamia nuts, ulu, banana, asparagus, strawberries, sweet potato, coconut, vegetables, and sweet corn, which we use for home consumption. Sometimes the kids sell sweet corn.

10. Most of our agricultural activity takes place year-round, with the exception of certain seasonal crops. We chose these crops based upon my husband's experience with farming and our access to the planting material, as well as the availability of irrigation water.

11. It is our intent to expand and further market our awa and taro in the near future.

12. Our irrigation consists of a drip method, which is considered the most efficient irrigation method and conserves the valuable water resource within the Na Wai Eha Surface Water Management Area. The permanent crops are on Rainbird 2 foot low flow

landscape drip line, and the taro is on 8-inch spacing low flow T tape. The sod is the only thing sprinkler irrigated.

13. I spent a lot of time calculating the correct watering times based upon the drip tape output in an effort to stay at or below 80,000 gallons per month.

14. We regularly sell the produce from our agricultural crops. We sell the gardenias and stephanotis to a florist. Our ti leaf customers call in and pick up their orders at our home. Poi is usually delivered. In sales, we average about 2 sales of ti leaves per month, 3-5 large orders of poi per year, weekly orders of gardenia (when in season) and smaller orders of poi or other products 1-2 times month. Moving forward, we plan to continue the sales of agricultural products produced from our property.

15. In addition to selling our produce, we utilize some of the produce for our own sustenance. Our average poi consumption is about 10 pounds per week.

16. We also regularly donate ti leaves and foliage for community events, including the University of Hawaii Maui College graduation ceremonies, Hoomau, and May Day celebrations. We donate ti leaves and banana for imu fundraisers, and we donate hookupu for opening and closing of makahiki for Kula Kaiapuni.

17. The continued availability of water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company) is extremely important to our continued cultivation of our agricultural crops.

18. Without water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company), our agricultural crops would not be viable, and we would be forced to shut down our agricultural cultivation and harvesting.

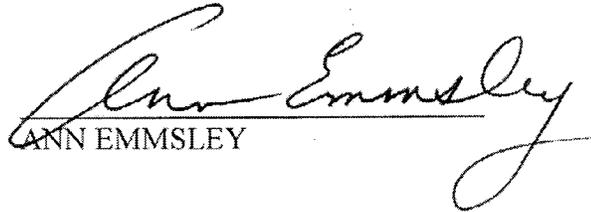
19. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from the Irrigation Company to irrigate the crops we cultivate on our property.

20. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

21. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Wailuku, Hawaii, 01/18/16

  
ANN EMMSLEY

LOT 75 Existing and New Use 1/3/16

Irrigated Acreage:

Crop	Acres	Use & type of irrigation
Ti	0.25	cut and sold - specialize in large leaf for skirts Drip Irrigation
Gardenia & stephanotis	0.15	cut and sold to florist - seasonal Drip Irrigation
Taro (sweet corn, strawberries, vegetables, cover crops, fallow)	0.45	sales as poi to personal contacts and home use, and provide poi to extended family All Taro fields are rotated between other crops - sweet corn is sold, other vegetables are home use, and cover crops and fallows are employed between plantings. Drip Irrigation when in taro or vegetables Cover crops - occasional hand water Fallow - no water
Awa	0.40	0.20 A Just reaching maturity now - will sell processed roots , remaining acres currently being planted Drip Irrigation
Nursery	0.03	On ground and benches - potted plants sold, cuttings for planting on farm Drippers and micro spray
Native Plant Landscape	0.25	Steep area on road frontage - all native plants Use - cuttings and lei material Drip Irrigation
Asparagus	0.02	Home consumption Drip Irrigation
Sod	0.15	Unsold - used as erosion control & water retention & top area for recreation Sprinkler
Landscaping and turf around house	0.10	Lawn and foundation plantings Sprinkler lawn, foundation drip
Windbreaks and hedge plantings	0.10	Windbreaking, foliage and materials for cuttings

Area	Acres	Use - Unirrigated
Steep Cliff	0.23	Conservation
Access "roads"	0.10	Access to fields
Unplanted flat area	0.15	Future use - planting - drip irrigation currently mowed guinea grass

#### Notes on Irrigation:

Sod - planted 'El Toro' and 'Links' Zoysia with intent to sell but drop in market in 2008 - never panned out. Original 'Links' area reduced and planted to Taro. Sod is sprinkler irrigated but is only watered to keep alive when dry - not watered as a commercial sod anymore. Because the lot is quite sloped the sod has turned out to be good as an erosion barrier between the taro fields. Water from very steep driveway is now directed onto sod area with swales and berms. Also downspouts from roof directed to top sod area.

Lawn area is also sprinkler irrigated but as minimal as possible. And turned on only when turf shows signs of being dry.

All other watering is done via drip irrigation. All driplines are low flow - either rainbird landscape or t-tape in row crops. Irrigation times are determined by PET rates for Wailuku, gpm of driplines and rate of use of crop.

For example Taro is irrigated 1 hour 10 minutes 4 times per week in the summer. But for 1 hour in winter. In contrast - Native plants are irrigated only twice per week for 1 hour. Irrigation is turned off when rainfall exceeds 0.5". Generally stay in 80,000 GPM/month limit. In dry summer this can be difficult and means keeping some crops below their optimal watering times. Shift water to ti, taro, and awa. -our commercial crops.

#### New Uses

-Sprinkler area has been reduced from 0.5 to 0.25 A

- **Total New use from 1.0 A to 1.9 A. 1.65 A is in Drip, 0.25 A sprinkler**

-Taro (row crop Fields) increased from .25 to .4 A

-“Ornamental” plants - Ti, Gardenia, Stephanotis, nursery - increased from .25 to .38

-Landscape - Native plant area, Sod, lawn area, windbreaks - from 0.5 to 0.6 - the increase was due to additional plantings of the native plant area above the driveway.

This was not installed during 2008. (with reduction in sod but increase in that area - total now is 0.6) with only 0.25 of this total now in sprinkler irrigation.

-Awa - these plantings are all new - 0.40 A

-Ti- some additions here - see map

-Home use - bananas, coconut, ulu, citrus, avocado - scattered in ti & awa fields -drip

Future - only .15 area left for potential expansion - final would be about 2 A under irrigation

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) DORIS MOANA ROWLAND  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF DORIS MOANA ROWLAND

I, DORIS MOANA ROWLAND, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.
2. I am an employee of the Department of Land and Natural Resources of the State of Hawaii.
3. I am fluent in the English and Hawaiian languages.
4. I hold a degree in Hawaiian Language from the School of Indo Pacific Language from the University of Hawaii at Manoa (May 1991).
5. I have served as an expert witness for various cases, including Walter J Kelly et al v. 1250 Oceanside Partners et al (also known as Hokulia), Civil No. 00-1-00192K (Third Circuit Court) and Public Access Trails Hawaii et al v. Haleakala Ranch Co. et al, Civil No. 11-1-000031 (Second Circuit Court).
6. I was retained by Wailuku Country Estates Irrigation Company and Wailuku Country Estates Community Association to review and translate land commission awards (“LCA”) and royal patents (“RP”) in connection with their applications for water use permits in the above-entitled matter.

7. I accurately translated the following documents from the Hawaiian language to the English language:

LCA 406	RP 5376
LCA 453	RP 997
LCA 2434	RP 6397
LCA 2436	RP 2009
LCA 2495	RP 7790
LCA 2502	RP 5973
LCA 2503	RP 3652
LCA 2533	RP 6529, 6437
LCA 3225	RP 6298
LCA 3237	RP 6888
LCA 3275	RP 5154
LCA 3292	
LCA 3294B	RP 6102
LCA 3330	RP 4424, 4622
LCA 3335	RP 7774
LCA 3387	RP 6065
LCA 3388	RP 6101
LCA 4461	RP 6630

8. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

9. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Honolulu, Hawaii, January 22, 2014.

Doris Moana Rowland  
DORIS MOANA ROWLAND

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) ROBERT PAHIA  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF ROBERT PAHIA

I, ROBERT PAHIA, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.
2. I was born and raised on Oahu. I have been a resident of Maui for thirty-five (35) years.
3. I am the owner of Hawaii Taro Farms, which has been in existence for over ten years. The sole purpose of Hawaii Taro Farms is the cultivation, harvesting, and sale of agricultural produce.
4. I am married, and I have three (3) children and eight (8) grandchildren. All of my family members are either employed by Hawaii Taro Farms or somehow assist with the farming operations.
5. In about 2010, I began farming on three (3) lots in the Wailuku Country Estates subdivision.
6. A major factor for choosing the Wailuku Country Estates agricultural subdivision was the ability to conduct agricultural activities. When we began farming on these

lots, our understanding was that water would be available for the agricultural activities at an acceptable cost.

7. Since 2010, we have grown the following agricultural crops on the lots: taro; banana. Most of our agricultural activity takes place year-round. We chose these crops based upon the local demand and my field of expertise, as well as the availability of irrigation water.

8. Our irrigation consists of a drip method, which is considered the most efficient irrigation method and conserves the valuable water resource within the Na Wai Eha Surface Water Management Area.

9. We regularly sell the produce from our agricultural crops to local businesses, which we depend upon for our livelihood. We deliver our produce weekly. Moving forward, we plan to continue the sales of agricultural products.

10. In addition to selling our produce, we regularly donate our produce to the various nonprofit organizations and family and friends. We also utilize the produce for my family's own sustenance.

11. The continued availability of water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company) is extremely important to our continued cultivation of our agricultural crops.

12. Without water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company), our crops would not be viable, and we would be forced to shut down our agricultural activities in the Wailuku Country Estates subdivision. My family's livelihood would be jeopardized.

13. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from the Irrigation Company to irrigate the crops we cultivate.

14. It is very difficult for small-scale sustainable agricultural operations on Maui. Eliminating our current water supply would have an extremely detrimental affect.

15. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

16. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Wailuku, Hawaii, 1-25-16

RH Pahi

COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

Surface Water Use Permit Applications, ) Case No. CCH-MA 15-01  
Integration of Appurtenant Rights and )  
Amendments to the Interim Instream Flow ) DECLARATION OF:  
Standards, Na Wai Eha Surface Water )  
Management Areas of Waihee, Waiehu, Iao ) JOSEPH G. BLACKBURN II  
and Waikapu Streams, Maui )  
\_\_\_\_\_ )

DECLARATION OF JOSEPH G. BLACKBURN II

I, JOSEPH G. BLACKBURN II, declare as follows.

1. I am competent to make this declaration, and I make this declaration upon personal knowledge.
2. I was born and raised in Hawaii and have spent my entire life as a Hawaii resident.
3. I am married to Shirley Lokelani Blackburn, the daughter of Kalua Kaiahua, a native Hawaiian healer. Together we have three (3) children and seven (7) grandchildren.
4. My wife and I own lots 81 and 136 at the Wailuku Country Estates agricultural subdivision in Wailuku, Maui, Hawaii.
5. I am a member of the Wailuku Country Estates Community Association (the "Association").
6. Since 2008, I have been the co-owner and president of a real estate sales and association management company, Maui Land Broker and Property Management, Inc. I have been involved in real estate sales since 1983.

7. Prior to founding Maui Land Broker and Property Management, Inc., I was the safety director at Maui Electric Company (“MECO”) from 2002 to 2008, and was responsible for the development, administration and monitoring of all aspects of MECO’s occupational health and safety programs.

8. I also served with the Maui Department of Fire and Public Safety from 1981 to 2002, and served as a fire rescue captain, with responsibility for administrative functions, as well as for specialized operations and training of personnel in a variety of rescue settings.

9. I have also served as a police officer, a fire science lecturer with Maui Community College, a security director and supervisor in various capacities, a MIL basketball official, and a director of various state and county recreation programs.

10. I have a Masters of Education and Higher Education Administration degree from the University of Hawaii; a Bachelor of Science in Fire Services Administration degree from Western Oregon State College; a Bachelor of Science in Business Administration degree from California State University at Chico; and an Associate of Arts in Business Management degree from Santa Rosa Junior College. I also have numerous certifications from various continuing education programs, including certifications relating to emergency management, public safety, hazardous materials, emergency rescue, fire science, and leadership.

11. Since 2008, Maui Land Broker and Property Management, Inc. has been the property manager for the Association.

12. Wailuku Country Estates is an agricultural subdivision with 184 lots in Wailuku, Maui. The agricultural subdivision is located within an agricultural district under the

state land use laws and the zoning ordinances of the County of Maui, and is also designated as agricultural land in the Wailuku Community Plan.

13. The County of Maui granted final approval of the subdivision on December 27, 2002.

14. Land within the agricultural subdivision have been classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Classes B, C and E.

15. The agricultural subdivision is subject to a Subdivision Agreement (Agricultural Use) dated July 26, 2002 and a Farm Dwelling Agreement dated December 5, 1988.

16. Article XVI of the Declaration of Covenants, Conditions, and Restrictions for Wailuku Country Estates (the "CC&Rs"), provides that each lot within the subdivision is designated for, and restricted to, agricultural use as defined in the zoning laws, and that agricultural use shall be conducted on the lots to provide economic benefit to the lot owners in a manner consistent with the zoning laws.

17. The Wailuku Country Estates Irrigation Company (the "Irrigation Company") manages the irrigation system that provides non-potable water for irrigation and agricultural purposes to every lot owner of Wailuku Country Estates and for the common areas managed by the Association.

18. I signed two declarations dated December 8, 2015 regarding the agricultural activities on my two lots and the use of water from the Irrigation Company. In addition to the information in those declarations (which are incorporated in this declaration by

reference), I also provide the following information regarding the Wailuku Country Estates agricultural subdivision, my lots and my use of the surface water.

19. When we purchased the property, a major factor of our purchase was the ability to conduct agricultural activities. Our understanding was that water would be available for the agricultural activities at an acceptable cost.

20. Since our purchase, we have grown taro, banana, avocado, mango, fruit trees, and native plants on our property. Our agricultural activity takes place year-round.

21. Our irrigation consists of a drip method, which is considered the most efficient irrigation method and conserves the valuable water resource within the Na Wai Eha Surface Water Management Area. We also use rotor spray heads and consistently read our irrigation meter to ensure water is conserved.

22. Previously, we had been selling produce from our agricultural crops every other week at Waikapu on 30. More recently, as our schedules have gotten busier, we have not had the opportunity to make these sales, and instead, we have been donating the produce to friends, family, and certain charities. We also utilize the produce for our own sustenance.

23. In the future, we intend to plant more fruit trees and continue the sales and donations of agricultural produce.

24. The continued availability of water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company) is extremely important to our continued cultivation of our agricultural crops.

25. Without water from the Na Wai Eha Surface Water Management Area (via the Wailuku Country Estates Irrigation Company), our agricultural crops would not be viable, and we would be forced to shut down our cultivation and harvesting.

26. To the best of my knowledge and belief, there are no practical alternatives to the use and quantity of non-potable water from the Irrigation Company to irrigate the crops we cultivate on our property.

27. I assisted with obtaining the information for, and the preparation of, the existing and new surface water use permit applications for the Irrigation Company (designated in this proceeding, respectively, as SWUPA Nos. 2189 and 2190N), and the existing surface water use permit application for the Association (designated in this proceeding as SWUPA No. 2196).

28. I also assisted with obtaining and submitting documents supporting the Irrigation Company's appurtenant rights claims on behalf of the individual lot owners.

29. The Irrigation Company receives its water exclusively from Wailuku Water Company, LLC (fka Wailuku Agribusiness Co., Inc.) ("Wailuku Water Company") pursuant to a Water Delivery Agreement between Wailuku Agribusiness Co., Inc. and the Irrigation Company dated August 30, 2002 (the "Water Delivery Agreement").

30. Based on information provided by Wailuku Water Company, my understanding is that the surface water hydrologic unit and code for the surface water provided to the Irrigation Company is Iao/6024; the TMK of the stream diversion location is 3-3-3:3; the TMK of the ditch diversion location is 3-3-2:1; and the water is diverted from Iao Stream through pipes, pumps, and ditches, and routed to a reservoir on the Wailuku Country Estates agricultural subdivision property. Photographs of the reservoir intakes are attached to the Irrigation Company's and the Association's surface water use permit applications.

31. Pursuant to the Water Delivery Agreement, all water received from Wailuku Water Company (up to a maximum average of one million gallons per day) must be

used exclusively for irrigation of landscaping and agricultural activities at the Wailuku Country Estates agricultural subdivision and only within the subdivision.

32. Wailuku Water Company charges the Irrigation Company a Minimum Charge (defined as a minimum delivery of 500,000 gallons per day at the County Rate). The County Rate is defined as the rate charged by the Maui Department of Water Supply for the delivery of water for agricultural uses (which is currently \$1.90 per one thousand gallons from 0-5,000 gallons, \$3.60 per one thousand gallons for the next 5,001-15,000 gallons, and \$1.00 per one thousand gallons for anything over 15,000 gallons); however, the rate charged by Wailuku Water Company is currently set by the Public Utilities Commission at \$.90 per one thousand gallons.

33. In addition to the Minimum Charge, the Irrigation Company pays to Wailuku Water Company an additional amount by which the Delivery Charge for each quarter exceeds the Minimum Charge. The Delivery Charge is defined as the County Rate times the gallons delivered each month plus general excise tax.

34. Delivery of the non-potable water to each of the 184 agricultural lots at Wailuku Country Estates is governed by the Agreement Regarding Irrigation Water (Individual Lots) executed by the Irrigation Company and each lot owner upon closing (“Individual Lot Irrigation Agreement”)

35. The Individual Lot Irrigation Agreement requires each lot owner to use the non-potable water delivered by the Irrigation Company only for irrigation and agricultural activities and only on the owner’s own lot.

36. Each of the agricultural lots at Wailuku Country Estates has a water meter to measure the amount of non-potable water delivered by the Irrigation Company to each lot.

37. The Irrigation Company charges each lot owner \$100.00 per month for 2,666 gallons per day or 80,000 gallons per month. Any water used in excess of these amounts is charged at \$2.00 per thousand gallons. For reference, the \$2.00 per thousand gallons rate is higher than the County of Maui Department of Water Supply's agricultural rate of \$1.00 per one thousand gallons, and is imposed to encourage water conservation throughout the development.

38. The Association also regularly encourages its members to conserve water resources. Attached to my declaration as Exhibits A and B, respectively, are the Association's newsletters from October 15, 2008 and February 15, 2010. The October 15, 2008 newsletter advised members to "continue your cooperation in keeping excess water use to a minimum" and reminded homeowners that "irrigation water is a precious resource and must not be wasted." The February 15, 2010 newsletter asked members to "check your timers for your sprinklers" and provided recommendations on watering times in an effort to conserve water resources.

39. For the Irrigation Company's existing use application (SWUPA No. 2189), our office compiled the information used to prepare "Table 1: 12-Month Average Daily Use" for the period of May, 2007 through April, 2008 by using the water meter readings for each lot as reflected in the spreadsheet, "Meter Readings All Lots Na Wai Eha" (the "Master Meter Spreadsheet").

40. The Master Meter Spreadsheet states the actual water meter readings (or as noted, reasonable estimates of the readings in the limited instances where the meters were inoperable for a period of time) for each of the 184 agricultural lots for the period of May, 2007 through April, 2008 and also reflects the calculated average daily use of the irrigation water for each of the lots.

41. As noted in the Master Meter Spreadsheet, there were approximately 120 lots (out of the 184 lots within the development) that had existing use of water for irrigation and agricultural purposes on or before April 30, 2008.

42. The information from the individual lot meter readings (or reasonable estimates as noted) was compiled for each month in the spreadsheet "Breakdown for Daily Use Between Common Areas and Owners, WCE Existing Use". As noted in the spreadsheet, the average daily use of the non-potable water from May, 2007 through April, 2008 for all of the approximately 120 lots with agricultural activity as of April 30, 2008 was 210,890 gallons per day.

43. The foregoing information was then compiled in "Table 1: 12-Month Average Daily Use" for the Irrigation Company's existing use application.

44. The average daily use of 210,890 gallons per day for the 120 lots with agricultural activity as of April 30, 2008 equates to an average of 1,757 gallons per day for each of the 120 lots.

45. There were approximately 98.75 acres with agricultural activity in the development using non-potable water as of April 30, 2008. At an average of 210,890 gallons per day, this equates to an average of approximately 2,135 gallons per day per acre for agricultural activity.

46. Our office conducted a site visit of each of the 184 lots in the development and observed and noted the types of agricultural activity, if any, on each lot. As noted above, there were approximately 120 lots with agricultural activity and existing water use on or before April 30, 2008. This information is reflected in the photos of the agricultural activity on each lot and in the spreadsheet, "Na Wai Eha Existing Use Spreadsheet," ("Agricultural Spreadsheet").

47. For each of lots with agricultural activity on or before April 30, 2008, our office noted the type of activity and the approximate area of the activity. Based on discussions with the Commission on Water Resource Management staff, our office categorized the crops on each lot into one or more of the following categories: nursery; turf grass; landscaping; livestock; vegetables; orchard; bananas; papayas; macadamia nuts; and dry land taro. Our office estimated the approximate acreage of each type of crop in ¼ acre increments based on the size of the crop in relation to the size of each lot. This information is reflected in the Agricultural Spreadsheet.

48. Based on the type and area of the agricultural activity, water usage tables (including, but not limited to, Water System Standards published by the State of Hawaii in 2002; Oahu Water Management Plan dated May, 1992; and Water Use in Wetland Kalo Cultivation in Hawaii published by the U.S. Department of the Interior and U.S. Geological Survey (Open-File Report 2007-1157) ), and the water meter readings, our office estimated the approximate amount of water for each of the crops on each of the lots with existing water use as reflected in the Agricultural Spreadsheet.

49. Our office also observed the type of irrigation systems and irrigation practices used on the lots with agricultural activity. The lot owners use multiple types of irrigation systems, including drip, spray, rotor, and manual irrigation methods, and irrigation practices include the use of timers.

50. The information compiled in the Agricultural Spreadsheet was used to prepare “Table 2: Land Use Consistency / Efficiency” and “Table 3: Irrigation Information” for the Irrigation Company’s existing use application.

51. As noted on Table 2, the Irrigation Company requests an allocation of the following quantities of non-potable water for the following existing uses and acreages: crops

and processing (125,328 gpd / 50.25 acres); ornamental and nursery plants (20,449 gpd / 7.75 acres); livestock, processing and pasture (1,640 gpd / 2.0 acres); and irrigation for landscaping / water features (63,473 gpd / 38.75 acres). The Irrigation Company's total request for existing use is 210,895 gpd, which represents agricultural activity on approximately 98.75 acres.

52. The Irrigation Company reserves the right to present further evidence with respect to the foregoing request and/or amend the foregoing request.

53. Our office also assisted with obtaining the information for, and the preparation of, the existing surface water use permit application for the Association (designated in this proceeding as SWUPA No. 2196).

54. The Association uses water to irrigate the common areas of the agricultural subdivision, which include approximately 32.5 acres of property. This includes a community park (which is open to the public) of 2.26 acres; 20 acres of roadside setbacks along six miles of roads (the setbacks consist of a 24 foot setback on the mauka side of the roadways and a 9.5 foot setback on the makai side of roadways); nine acres of lot drainage swales; and one acre of retention basins.

55. The common areas are irrigated through sprinklers using timers and other portions are irrigated manually as needed.

56. Photographs representing various areas of the common areas described above are marked as exhibits in this proceeding. Attached to my declaration as Exhibits C and D, respectively, are true and accurate photographs of the community park and retention basin.

57. Water use for most of the common areas is not separately metered; however, the total amount of water provided by Wailuku Water Company to the Irrigation

Company is metered, and as noted in the Irrigation Company's existing surface water use permit application, the water provided to each of the lot owners is also separately metered.

58. Although the community park has a separate water meter, the Association could not obtain the park meter readings for the entire period of May, 2007 through April, 2008.

59. Accordingly, the Association calculated the amount of water used for all the common areas from May, 2007 through April, 2008 by first determining the ratio of the average daily gallons per day delivered by Wailuku Water Company to the Irrigation Company (369,658 gpd) to the average daily use of the lot owners (210,890 gpd) during the period. Based on the foregoing figures, the calculated ratio is .4295.

60. The Association then applied the ratio of .4295 to the metered daily use of water delivered by Wailuku Water Company to the Irrigation Company for each month from May, 2007 through April, 2008 to estimate the average daily use for the common areas. Based on the foregoing, the calculated average daily use for the common areas is 158,768 gpd for the 32.5 acres of common areas within the agricultural subdivision. These calculations are reflected in the Association's existing surface water use permit application at "Table 1: 12-Month Average Daily Use" and "Table 2: Land Use Consistency / Efficiency".

61. Although the Association requested 158,768 gpd in its existing use application, the requested amount may be slightly overestimated because of several faulty lot owner water meters and irrigation line breaks during the relevant reporting period of May, 2007 through April, 2008.

62. The Association reserves the right to present further evidence with respect to the foregoing request and/or amend the foregoing request.

63. The requested amount of water requested is essential for the continued maintenance of the common areas of Wailuku Country Estates and in some circumstances, the health and safety of Wailuku Country Estates residents and others.

64. Engineering plans of the swales and retention basins at Wailuku Country Estates are marked as exhibits in this proceeding.

65. The design of the in-lot swales as described in the engineering plans requires the continued maintenance of vegetation to hold down the swale matting to keep the swales from eroding from water flow. This requires irrigation of the vegetation on a regular basis.

66. The maintenance of the swales is necessary to divert water and prevent flooding within and outside of Wailuku Country Estates, including Kahekili Highway and the Happy Valley area.

67. The maintenance of the roadside setbacks and vegetation are also necessary to divert water from the roadways within the development and prevent flooding of the roads and parcels abutting the roadways.

68. Attached to my declaration as Exhibits E, F, and G are true and accurate pictures showing the flooding that has and can occur when the vegetation on the common areas is not properly maintained.

69. The community park located within Wailuku Country Estates is open to the public, and it is designated in the CC&Rs as an extension of Puuohala Park, which is an existing public park owned by the County of Maui.

70. The CC&Rs provides for an easement for public access to the community park, and the Association has no authority to restrict or change the public's right to access the

park. Residents from the surrounding developments and communities also use and enjoy the park.

71. Although the CC&Rs provide that the community park will be dedicated to the County of Maui at some point, the dedication has not taken place and the CC&Rs provide that the Association is therefore responsible for the maintenance of the entire park, including irrigation of the park.

72. I also assisted with obtaining the information for, and the preparation of, the new surface water use permit application for the Irrigation Company (designated in this proceeding as SWUPA No. 2190N).

73. For the Irrigation Company's new use application, our office compiled the information used to prepare "Table 2: Irrigation Information" by estimating, based on discussions with each lot owner and observations of each lot, the crops grown (or crops planned to be grown) after April 30, 2008.

74. For each of 184 lots with agricultural use (or planned agricultural use) after April 30, 2008, our office noted the type of existing or planned agricultural activity and the approximate area of the activity. Based on discussions with the Commission on Water Resource Management staff, our office categorized the crops for each lot into one or more of the following categories: nursery; turf grass; landscaping; livestock; vegetables; orchard; bananas; papayas; macadamia nuts; and dry land taro. Our office estimated the approximate acreage of each type of crop in ¼ acre increments based on the size of the crop existing after April 30, 2008 (and/or the planned size of the crop) in relation to the size of each lot. This information is reflected in the spreadsheet entitled "Na Wai Eha New Use Spreadsheet for Wailuku Country Estates Irrigation Company," ("New Agricultural Use Spreadsheet").

75. Based on the type and area of the agricultural activity existing (and/or planned) after April 30, 2008, water usage tables (including, but not limited to, Water System Standards published by the State of Hawaii in 2002; Oahu Water Management Plan dated May, 1992; and Water Use in Wetland Kalo Cultivation in Hawaii published by the U.S. Department of the Interior and U.S. Geological Survey (Open-File Report 2007-1157) ) (which are marked as exhibits in this proceeding), our office estimated the approximate amount of water for each of the crops on each of the lots as reflected in the New Agricultural Use Spreadsheet.

76. The lots at the Wailuku Country Estates agricultural subdivision were first offered for sale by the developer in approximately 2002-2003. Accordingly, even as of the date of the submission of the existing and new use surface water use permits by the Irrigation Company in 2009, orchards and other agricultural activity on a number of the lots had not reached full maturity (and in many cases, orchards were planned but not yet planted). Accordingly, the Irrigation Company's estimates for new use were also based on water use required to adequately maintain orchards and other agriculture within the development upon full maturity.

77. Our office also observed the type of irrigation systems and irrigation practices used on the lots with agricultural activity. The lot owners used (or planned to use) multiple types of irrigation systems, including spray, rotor, drip, and manual irrigation practices.

78. The information compiled in the New Use Agricultural Spreadsheet was used to prepare "Table 1: Land Use Consistency / Efficiency" and "Table 2: Irrigation Information" for the Irrigation Company's new use application.

79. As noted on Table 1, the Irrigation Company requests an allocation of the following quantities of non-potable water for the following new uses and acreages: crops and

processing (444,400 gpd / 181 acres); landscape / water features (30,650 gpd / 24.5 acres); ornamental and nursery plants (35,700 gpd / 13.75 acres); and livestock, processing and pasture (900 gpds / 1.25 acres). The Irrigation Company's total request for new use is 511,700 gpd, which represents agricultural activity on 220.5 acres.

80. The Irrigation Company reserves the right to present further evidence with respect to the foregoing request and/or amend the foregoing request.

81. There are no practical potable or non-potable alternatives to using water from Na Wai Eha for the Wailuku Country Estates agricultural subdivision for the uses described in the Irrigation Company's existing and new use surface water use permits, and the Association's existing use surface water use permit.

82. Article XX of the CC&Rs requires that two water systems provide water to the Wailuku Country Estates agricultural subdivision: a potable water system and a non-potable system run by the Irrigation Company and designed to provide non-potable water for agricultural use within the subdivision.

83. Pursuant to the Water Delivery Agreement, all water received from Wailuku Water Company must be used exclusively for irrigation of landscaping and agricultural activities at the Wailuku Country Estates agricultural subdivision and only within the subdivision.

84. In addition, pursuant to the Agreement Regarding Irrigation Water (Individual Lots) with Wailuku Country Estates Irrigation Company, non-potable water supplied by the Irrigation Company must only be used for irrigation and agricultural activities on individual lots.

85. Sections 3.8 and 5.3 of the Water Delivery Agreement and the Declaration of Covenants, Conditions, Easements, Reservations and Restrictions dated August 21, 2002 between Wailuku Agribusiness Co., Inc. and CGM, LLC (the "Wailuku CC&Rs") restrict the Irrigation Company and the lot owners from using water from the Spreckels, Waihee and other irrigation ditches and lines, or pumping ground water.

86. Under current practices, Wailuku Country Estates lot owners limit their use of potable water from the County of Maui for domestic purposes within their households.

87. Other ostensible alternatives for water for irrigation and agricultural purposes at Wailuku Country Estates are impracticable and/or extremely cost prohibitive.

88. The nearest wastewater treatment plant, the Kahului Wastewater Treatment Plant, which is approximately 6 miles from the subdivision, has no reclaimed water lines in the area, and the cost to install a distribution line to Wailuku Water Company's system is cost prohibitive.

89. Desalinization is not practicable or cost effective because there is no existing desalinization plant in close proximity to Wailuku Country Estates.

90. Storm water reclamation is also not practicable or cost effective because there are no storm water reclamation facilities in close proximity to Wailuku Country Estates.

91. Our office also assisted with obtaining the information for, and the preparation of, the materials in support of the appurtenant rights claims of the various lot owners at the Wailuku Country Estates agricultural subdivision.

92. The following Royal Patents / Land Commission Awards are located within the boundaries of the Wailuku Country Estates agricultural subdivision, File Plan 2367:

- i. Royal Patent Number 7774, Land Commission Award Number 3335 to Naonohi;
- ii. Royal Patent Number 6101, Land Commission Award Number 3388 to Paiwi;
- iii. Royal Patent Number 6102, Land Commission Award Number 3294-B, Apana 2 and Apana 1 (Mahele 1) and portion of Apana 1 (Mahele 2) to Moomooiki;
- iv. Royal Patent Number 5289, Land Commission Award Number 3488 to Kaawa;
- v. Royal Patent Number 5366, Land Commission Award Number 377 to John Pillitier;
- vi. Royal Patent Number 7432, Land Commission Award Number 3498 to Kaupe;
- vii. Royal Patent Number 7790, Land Commission Award Number 2495, Apana 1, 2, 3 and 4 to Kaiaholokuaau;
- viii. Royal Patent Number 5376, Land Commission Award Number 406, Apana 1 to Napela;
- ix. Royal Patent Number (none), Land Commission Award Number 3292 to Mua;
- x. Royal Patent Number 997, Land Commission Award Number 453, Apana 2 and portion of Apana 1 to Kuihelani;
- xi. Royal Patent Number 5154, Land Commission Award Number 3275-E to Kaleo;

- xii. Royal Patent Number 6630, Land Commission Award Number 4461,  
Apana 1 and 2 to Kawaa;
- xiii. Royal Patent Number 2009, Land Commission Award Number 2436,  
Apana 1 and 3 and portion of Apana 2 to Kahaiki;
- xiv. Royal Patent Number 5973, Land Commission Award Number 2502,  
Apana 1 and portion Apana 3 to Ihumai;
- xv. Portion of Royal Patent Numbers 6298 and 6458, Land Commission  
Award Number 3225 to Opunui;
- xvi. Portion of Royal Patent Number 6888, Land Commission Award Number  
3237 to Hewahewa;
- xvii. Portion of Royal Patent Number 3652, Land Commission Award Number  
2503, Apana 2 to Ohule;
- xviii. Portion of Royal Patent Numbers 6529 and 6437, Land Commission  
Award Number 2533, Apana 1 to Malaihi;
- xix. Portion of Royal Patent Number 6397, Land Commission Award Number  
2435 to Kahooke;
- xx. Portion of Royal Patent Number 6065, Land Commission Award Number  
3387 to Pooliilii;
- xxi. Portion of Royal Patent Numbers 4424 and 4622, Land Commission  
Award Number 3330 to Lonohiwa; and
- xxii. Portion of Royal Patent Number 7302, Land Commission Award Number  
4452, Apana 9 to H. Kalama.

93. The foregoing Royal Patents (“RPs”), Land Commission Awards (“LCAs”) and related documentation, including testimony and pertinent translations, are marked as exhibits in this proceeding.

94. Colorized maps of the TMKs associated with each of the foregoing LCAs and RPs are marked as exhibits in this proceeding.

95. A cross tabulation of the TMKs associated with each LCA and RP, and information regarding the percentage of the LCAs attributable to each TMK are marked as exhibits in this proceeding.

96. A summary of the lots at Wailuku Country Estates with associated appurtenant rights is marked as an exhibit in this proceeding.

97. The RPs, LCAs and related documentation support that water from Na Wai Eha was used on the foregoing parcels for cultivating various types of taro and other crops, as well as for domestic and residential uses at the time of the Mahele.

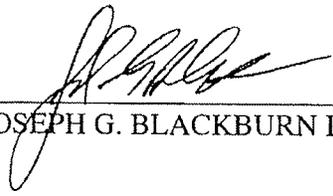
98. The Irrigation Company reserves the right to present further evidence with respect to the foregoing appurtenant rights claims and/or amend the foregoing claims.

99. True and accurate copies of documents referenced in my declaration have been marked as exhibits in this proceeding.

100. I reserve the right to amend and/or supplement this declaration, including, but not limited to, for rebuttal purposes in this proceeding.

I DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Wailuku, Hawaii, JANUARY 28, 2010.



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JOSEPH G. BLACKBURN II

# Wailuku Country Estates Association Newsletter

October 15, 2008

Volume 2, Number 2

## In This Issue

- Get to Know Your Neighbor Community Get Together
- Irrigation Water Monthly Use is Increased
- Status of Dedication of Improvements to the County of Maui
- Design Review Questions and Answers

## Contact Us

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Broker and Property  
Management, Inc (MLB)

PO Box 400, Wailuku, HI  
96793

Drop off Plans at 2743  
Kamaile Street, Wailuku, HI  
96793 (Cedar House Corner  
of Kamaile and Maika  
Streets) also have mail drop  
box at this location

Business Address: 37  
Central Av. Wailuku, HI  
96793

## Get to Know Your Neighbor at the Maui Land Broker and WCE Association Party

**WHEN:** November 9, 2008

**WHERE:** 2743 Kamaile Street, WCE Corner of Kamaile and Maika Streets

**TIME:** 2:00 PM TO 5:00 pm

**ENTERTAINMENT:** Ke Ahe Lawe Malie (Ikaika Blackburn, Piilani Arias and Zack Kekona) Great Hawaiian Music

**FOOD:** Bring a sample of your favorite dish, from your yard would be great.

**CHILDREN:** Bring their swimsuit.

## Irrigation Water Monthly Use is Increased

On September 30, 2008, your board voted to increase your water allotment to 80,000 gallons per month. The board has decided to decrease the amount of water used for the roadways, parks, and increase water available for our owners. Please continue your cooperation in keeping excess water use to a minimum. We must show conservation in our water use. Upcoming in the next month will be information regarding the Designation of the Surface Water Hydrologic Units of Waihee, Waiehu, Iao and Waikapu Streams (NA WAI EHA) AS A SURFACE WATER MANAGEMENT AREA. This will affect every owner, the Irrigation Company and the Association. Reminder the maximum usage allowed is 5,000 gallons a day or 150,000 gallons a month. Excess water use is billed at \$2.00 per 1,000 gallons over 80,000 gallons a month. Your irrigation water is a precious resource and must not be wasted. If you exceed 150,000 gallons a month you will be sent a notice that you water use will be terminated unless water use is decreased.

## Status on Dedication of Improvements to the County of Maui

The developer has not moved forward with dedication of roadways, sewage, drainage and other improvements to the County of Maui. The only Bond remaining with the County is \$1,250,000.00 and it is for drainage only. Normally dedication follows acceptance of improvements in a timely manner. In our subdivision, the developer did not follow up on necessary easements and requirements by the County of Maui for

## What Kind of Plants should I plant on my Property?

### Where can I go for advice.

MCC will be offering many classes this Spring that may be helpful to folks here in WCE. On Tuesdays at 5:30 to 7:30 PM from January 13 to March 3<sup>rd</sup> we will have *Farm Business Recordkeeping* which will use the USDA Farm Service

Agency's required forms, look at Tax schedule F and introduce QuickBooks. Scholarships to pay the cost of this class are available. Got Weeds? Then you may want to sign up for *Weed Science* on Wednesday nights from 5:30-9. It will help you identify what weeds you have and find out how to control them. The rainy season stimulates various fungi and other plant pathogens so we have a Monday evening class *Plant Disease*. Daytime classes include *Tropical Landscape Horticulture* that focuses on landscape design, installation and maintenance.

*Flower and Foliage Crop Production* that examines commercial production of indoor and outdoor floral and foliage crops in Hawaii, and for those of us wishing to decrease our food bill. *Home Gardening*. Spring Semester begins January 12 and continues until May 14<sup>th</sup>. The schedule, catalog and how to enroll can be found at

<http://maui.hawaii.edu/prospective/proStudents.php> For more information call Ann at 984-3243.

**Another great resource is the College of Tropical Agriculture and Human Resources. Here is the website:**

<http://www.ctahr.hawaii.edu/ctahr2001/>

How could I get an Agriculture Exemption with the County of Maui? You must plant saleable crops and only that amount of land in agriculture will be considered for an agricultural exemption. Crops must be in the ground.

dedication of improvements. At this time, the management company is working toward dedication of roads with the County of Maui. The developer is facing severe financial problems and has not paid his attorney, engineer etc. The Board is concerned that if we use Association funds for road dedication our owners will be upset, but without paying for professional work, the dedication of finished improvements may never be done. The association would get great savings from dedication of improvements; otherwise, we could be help responsible for a large amount of reserves necessary for roads, sewer, and water lines. Etc. Let your board member or the management company know how you feel.

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## Design Review Questions and Answers

### **I want to build a greenhouse on my property. What do I need to do and where can it go?**

You need to first submit a plan to the Design Review Committee (DRC) for any size of greenhouse and it must be placed within the building envelope. After approval by the DRC you will need a permit from the County of Maui.

### **I do not have enough storage on my property and want to build a farm storage building?**

You will first need to submit plans for the storage building of any size to the DRC and it must be within the building envelope. After approval from the DRC, if the structure is over 200 square feet in size, the County of Maui will require the storage building to have a County Permit.

### **I want to put up a non-retaining rock or hollow tile wall (hollow tile must be finished, no cut joints) on my boundary line?**

If the wall is, less than 4' and non retaining you will should still submit a plan to the DRC. Be very careful when digging for the wall as the irrigation lines for the subdivision are between 9' and 10' from the road and are in your property. The board suggests setting back the wall at least 10' from the road. Plans could be hand drawn for under 4'. If your wall is over 4' and does not let 50% light through (HOLLOW TILE, ROCK, VINYL ETC) you will need to go through the DRC and get a permit from the County of Maui. **VERY IMPORTANT FOR AGRICULTURAL SUBDIVISIONS YOU MUST PLACE THE WALL OUTSIDE OF THE COUNTY OF MAUI SETBACK WHICH IS 25' FROM THE FRONT AND 15' FROM THE SIDES AND BACK.**

### **I want to build a Barn, what do I need to do?**

You will need approval for any size Barn from the DRC. Must be placed within the building envelope. You will also need a permit from the County of Maui for any size barn. Barns are not non-habitable and for agriculture use only.

### **I want to fence in my crops or livestock?**

Green vinyl chain link fence has been approved for the side and back yards of your property. Wood fencing of any type needs DRC approval. Any other type of fence should be considered temporary or screened from view.

### **I want to build a bridge or swale crossing what should I do?**

Contact Joe Blackburn for swale engineers who can help you as your bridge or swale crossing must be engineered and approved by both the DRC and the County of Maui.

**How Can I contact the DRC?** Call Segolene Wilson at 264-2313 or email at [segolene.wilson@gmail.com](mailto:segolene.wilson@gmail.com), or contact Joe Blackburn.

CLASS BY OUR OWN ANN EMMSLEY AT MCC THIS COMING SEMESTER

**AGRICULTURE**

45714	1	AG 92U	Farm Business Recordkeepg	T	5:30 pm-7:30 pm	AG 104	A. Emmsley	1/13-1/3
45473	3	AG 101	Home Gardening	TR	3:00 pm-4:50 pm	AG 104	TBA	
45400	3	AG 201	Plant Disease	M	5:30 pm-9:00 pm	AG 104	A. Emmsley	<i>Plus 2 labs: Saturday @ 8am-noon on February 7 and March 7.</i>
45401	4	AG 250	Tropical Landscape Hort	TR	9:00 am-11:45 am	AG 104	A. Emmsley	
45399	3	AG 263	Flower/Foliage Crops	MW	9:00 am-11:00 am	AG 104	A. Emmsley	<i>Prereq: AG 200 [D].</i>
45402	3	AG 281	Weed Science	W	5:30 pm-9:00 pm	AG 104	A. Emmsley	<i>Plus 2 labs: Saturday @ 8am-noon on April 4 and April 18.</i>

# Wailuku Country Estates Association Newsletter

February 15, 2010

Volume 7, Number 7

## In This Issue

- Status of Dedication of Improvements to the County of Maui: We got our second punch list!
- Change in Irrigation Water Meter Reading Schedule
- CC&R.s and Enforcement Issues
- WCEAS Current Concerns
  - Guinea Grass
- Protect the Environment and Help your Association
- Board Meetings every fourth Wednesday of the Month @ 12:00 PM at the Pono Center. Email MLB to get on the agenda. Submit a written request at least one week prior to the meeting.

Design Review Meeting every third Thursday of the Month @ 12:00 PM at the Pono Center. To submit plans get DRC guidelines from MLB, submit \$1,000 dollar fee to the WCE DRC. Try and get plans to MLB at least two weeks prior to the DRC meeting.

## Status on Dedication of Improvements to the County of Maui

Wailuku Country Estates (WCE) is now in the deeds and documentation stage of road dedication. We are working to provide the County of Maui the proper deeds and easements for the roadways. Two punch list items remain, which should be done soon.

## Change in Irrigation Water Meter Reading Schedule

Many of our owners have expressed an interest in having our 80,000 gallons of allowable water usage roll over quarterly. The WCE Board of Directors (BOD) is now having our landscaper read meters quarterly, except for the summer months. The quarters are (December, January, February), (March, April and May), Summer months of June, July and August will be read monthly due to high use and the last quarter is (September, October and November). Lot owners are allocated 80,000 gallons a month, which translates to 240,000 gallons a quarter, except for the summer months which remain monthly. BE AWARE that if you are using water over 240,000 gallons a quarter, you will receive a bill for the excess water used. Wailuku Water Company billings are set up on this quarterly schedule. We need to read the meters monthly during the summer months because some owners have very high usage and quarterly reading could result in an extremely high bill. Be sure to check your timers for your sprinklers. It is recommended that you not water every day, but about three days a week for longer watering times. When it rains turn off your sprinkler system.

## C.C. & R.s and Enforcement Issues

**Any structure or wall you are constructing on your property needs to come before the Design Review Committee.** We have several lots in the subdivision that have not finished their driveways. These homeowners are claiming financial hardship. This is very difficult position for the board as it is inequitable to those homeowners that put in their driveways and complied with our CC&Rs. Also as we get closer to road dedication the inspections of our roadways are more frequent and mud and gravel on the roads is an issue. **Contact a board member with your concerns regarding this issue. Another area of concern is improper use structures.** You cannot live in a barn or in the garage of the 2<sup>nd</sup> Farm Dwelling. This is considered living area and is not allowed by zoning ordinance for this type of structure. This is not only a CC&R violation, but a County of Maui Zoning Violation. Please keep WCE a quality agricultural subdivision by not violating zoning laws with illegal use of barns, garages, storage buildings, etc for living area. You will be fined up to \$500.00 dollars every two weeks for this type of violation.

## Contact Us

Email:

joeb@mauiproperty4you.com

Ph. 808 442-3063 or Fax:  
808-442-3029 or 242-1478

Joseph Blackburn: Cell 808  
870-2123

Mailing Address: Maui Land  
Broker and Property  
Management, Inc (MLB)

PO Box 400, Wailuku, HI  
96793

Drop off Plans at 2743  
Kamaile Street, Wailuku, HI  
96793 (Cedar House Corner  
of Kamaile and Maika  
Streets) also have mail drop  
box at this location or at our

Business Address: The Pono  
Center, 62 N. Market Street,  
Suite 303, Wailuku, HI  
96793

**How Can I contact the  
DRC?** Email:

joeb@mauiproperty4you.com

Want Documents, Financials  
and Minutes of your  
association?

Go to [mauiproperty4you.com](http://mauiproperty4you.com)

Click on association  
members: Click on Wailuku  
Country Estates Community  
Association.

Log in is: wceas

Password is: owner

**BEFORE DOING ANY  
CLEARING OR GRUBBING  
WORK ON YOUR  
PROPERTY CONTACT BRIT  
STISHER @ 870-5517 TO  
LOCATE IRRIGATION  
LINES. THEY ARE IN  
YOUR PROPERTY AND AT  
A VERY SHALLOW DEPTH**



*Dry Land Taro Grown by Lot 30 Jose Lampitoc*

## WCEAS Current Concerns

Please help our association save money. The guinea grass from lots is affecting our common areas. The grass and other vegetation blocks sprinkler heads, makes mowing difficult and costs you money for herbicides needed to push back the grass. Please take the time to weed eat or clean up the three feet at your boundary that is next to our common areas. We will be sending out letters to ask our owners to please trim back these sections.



*Lot with Guinea Grass Growing Into Common Area*

## Annual Meeting

Our annual meeting is coming up on March 18, 2010 at the Maui Art and Cultural Center Alexa Higashi Meeting room. Registration will begin at 5:00 PM and the meeting will start at 6:00 PM. **WE NEED YOUR PROXIES AS OUR BYLAWS REQUIRE A 50% QUORUM TO CONDUCT THE MEETING. THE COST TO RESCHEDULE A MEETING WILL BE OVER \$600.00.** We also have two board positions up for election. Kathy Haake, Lot 2 and Jean-Claude Mademba-Sy, Lot 93 have expressed an interest in running for the board. The current directors up for election are Susie Baker, Lot 36 and Ann Emmsley, Lot 75, for two year terms.



Exhibit C



Exhibit D



Exhibit E



Exhibit F



Exhibit G