



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

December 19, 2012

DOLE FOOD COMPANY
REVOCATION OF WATER USE PERMITS (8.957 mgd)
WAIALUA GROUND WATER MANAGEMENT AREA, OAHU

1. GWUP 942 (3307-01 to -10, Pump 2) Waialua Sugar; Well TMK: 6-7-002:014 9 (1.957 mgd)
2. GWUP 960 (3307-07 and -11 to 14, Pump 2A) Waialua Sugar; Well TMK: 6-7-003:019 (2.000 mgd)
3. GWUP 961 (3404-01, Pump 17) Waialua Sugar; Well TMK: 6-4-001:001 (2.000 mgd)
4. GWUP 943 (3407-04 to 06, -14 & 15, Pump 1) Waialua Sugar; Well TMK: 6-7-002:014 (2.000 mgd)
5. GWUP 944 (3407-11 & 12, Pump 7 B&C) Waialua Sugar; TMK: 6-6-025:001 (1.000 mgd)

APPLICANT:

Dole Food Company Hawaii
1116 Whitmore Avenue
Wahiawa, HI 96786

LANDOWNER:

Dole Food Company, Inc.
P.O. Box 2990
Honolulu, HI 96802

SUMMARY OF REQUEST:

At the October 10, 2012 Water Commission meeting, the Commission gave Dole Food Company Hawaii (Dole) one last extension and deadline (Monday, December 3, 2012) to file complete ground water use permit applications that included Dole's *actual* water use data. For more than two years, Dole repeatedly failed to complete its WUP application and repeatedly refused to report its actual water use data as required.

Dole failed to meet the December 3, 2012 deadline and filed yet another request for an extension.

This submittal takes seriously the Commission's October 10, 2012 order. Dole's water use permits should be revoked for failure to complete their application and presumptive non-use of the remaining 8.957 mgd covered under five existing ground water use permits.

LOCATION MAP: See Exhibit 1

BACKGROUND:

The February 15, 2012 through October 10, 2012 Water Commission Staff Submittals outline the complex history of the Waialua Aquifer System & Ground Water Management Area. Over the past several years, the Commission changed the aquifer boundaries, revised the sustainable yields, revised ground water use permits, and revoked ground water use permits for non-use. The revocations for non-use were especially important to accommodate new Board of Water Supply needs. Refer to those submittals for a more detailed background. The October 10, 2012 submittal is summarized here.

October 10, 2012 Commission approved Dole's voluntary cutback totaling 13.710 mgd spread among the 5 listed ground water use permits. The balance of 8.957 mgd, (See Attachment B in this submittal) is subject to standard water use permit conditions and the following special conditions:

1. Should an alternate permanent source of water be found for this use, then the Commission reserves the right to revoke this permit, after a hearing.
2. In the event that the tax map key at the location of the water use is changed, the permitted shall notify the Commission in writing of the tax map key change within thirty (30) days after the permitted receives notice of the tax map key change.

The Commission also deferred action on Dole's remaining claim to continue ground water use of 8.957 mgd. The Commission expressly required that:

By December 3, 2012, Dole shall submit a complete ground water use permit application (with the necessary water use footprint information identifying the field, crop, and water demand) to justify its claims and proposed uses. In the absence of a complete water use permit application, the permit and the claim for 8.957 mg will be presented to the Commission for action including revocation for the Waialua Sugar Co. permit.

December 3, 2012 Dole did not file applications by the deadline.

December 4, 2012 Dole requested that the deadline be extended to December 11, 2012.
(See Exhibit 2)

ISSUES/ANALYSIS

The February 15, 2012 CWRM submittal proposed to revoke Dole's Water Use Permits in the Waialua Ground Water Management Area (WGWMA), in whole or in part, based upon the known pumpage and more than four (4) continuous years of non-use. See Haw. Rev. Stat. §174C-58 and HAR §13-171-24). Dole reported limited-to-no pumping from these wells. The 20-year review confirmed that most of the sources had not been used for many years.

Dole submitted figures for actual use just prior to the December 30, 2011 Commission meeting. The February 15, 2012 submittal showed the updated use, graphs, and recommended continued use and revocations. New analysis provides a clearer basis on which to judge Dole's actual use. This information is shown in Exhibits 3(a) to 3(e).

Dole seeks to retain 8.957 mgd ground water as a so called "well use." This "well use" is *not an actual use*. It is an estimate of the amount of water Dole believes it would need if Dole did not use surface water from Lake Wilson (via the Wahiawa Irrigation Ditch) . It is a non-use back up source.

The record shows that Pumps 1, 2, and 7 have been pumped only sporadically since sugar operations closed in 1996. Other than Pump 2, no water was pumped from 1 and 7 for nearly seven years (since January 2006). Pumps 2A and 17 have not shown any record of use or reporting since 1996 (sixteen years).

Water use *reporting* for Pump 2 resumed in October, 2009, but there has been no actual pumping since then. The latest reporting covers only Pump 2 (Well Nos. 3307-01 to -10). The 12-MAV for Pump 2 has been 0.000 mg over the last 14 months.

The summary in Table 1 (Attachment B) outlines: the total allocation as of 1993, current allocations from the October 10, 2012 revocation hearing, the initial reported use Dole submitted in January 2011, updated use (February 2012 submittal), the February 2012 recommendations, the current 12-MAV, and the current 4-year continuous non-use amounts.

The "use" of this groundwater is as a "back up" for the surface water from Lake Wilson and the Kaukonahua watershed via the Wahiawa Irrigation System. While every user would like a fully permitted and committed backup source of water (excluding others from such sources) should their primary source fail, the Water Code only authorizes a water use permit for an actual use.

Issuing a water use permit for an uncertain, infrequent, periodic, and "potential" purpose and "use" necessarily excludes other users and reduces and restricts the availability of water for other actual needs. At the present time, pumping is below the current sustainable yield. But that could change rapidly in the next ten years. Water use permits, once issued, are valid indefinitely so long as an actual use continues in a reasonable beneficial manner in the same place, amount, and purpose. Thus, the approval of a water use permit is a firm and nearly unalterable commitment of a public resource that may not be undone for convenience at a later date.

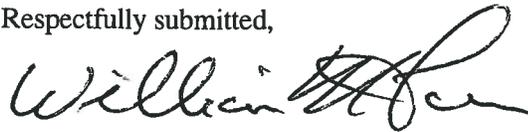
Water banking is fundamentally inconsistent with the very concept of a water use permit and deprives other potential users of access to a public resource. Moreover, if Dole is allowed a water use permit for a "non-use" back source, every other water user will seek a similar benefit. There is no logical end point to such claims. The Water Code will be eviscerated.

RECOMMENDATION:

As set forth above and based on the evidence, record, and analysis in this matter, the Staff recommends that the Commission:

1. RECOGNIZE that Dole currently meets its agricultural irrigation needs with surface water from Lake Wilson; and
2. REVOKE Dole Food Company's Water Use Permits for 8.957 million gallons per day of water for Agricultural use in accordance with Attachment B.
3. RECOGNIZE that Dole may at any time file a new application for a water use permit for an actual use.

Respectfully submitted,



WILLIAM M. TAM
Deputy Director

- Attachment(s): A (Voluntary Reduction – Proposal by Dole Food Company.
 Approved by the Commission on October 10, 2012)
 B (Table 1: Dole Waialua GWMA Use)

- Exhibit(s): 1 (Location Map)
 2 (December 4, 2012 emailed extension request)
 3 (4-year non-use graphs based upon reported data)
 3(a) Pump 2 Battery
 3(b) Pump 2A Battery
 3(c) Pump 17 Battery
 3(d) Pump 1 Battery
 3(e) Pump 7B/C Battery
 4 February 15, 2012 CWRM Submittal.
 5 September 11, 2012 CWRM letter to Dole.
 6 October 10, 2012 CWRM Submittal

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson

Addendum

On December 10, 2012, Dole submitted five (5) Water Use Permit applications for the five wells. The staff has had no time to analyze any of these applications. The applications are still incomplete as they have not provided: 1) application fees; and 2) 'footprint' information as specified in Table 2 of the applications (i.e. net irrigated acres, crops, duties, etc) with regard to end use TMKs. For two years the Commission has asked repeatedly for this footprint information without success. The applications do, instead, provide more recent water use data that appear to show a total average use from the subject wells of about 3.3 mgd in the past year. None of this has been confirmed.

Voluntary Cutbacks – Proposal by Dole Food Company Hawaii

<u>WUP #</u>	<u>Well Name</u>	1993 <u>Allocation to Waialua Sugar</u>	Reported <u>Ditch Use (Backup)¹</u>	Allocation <u>Request Feb 15, 2012</u>	Voluntary <u>Reduction</u>	<u>%</u>	<u>New WUP #</u>	<u>Use</u>
		<u>(Mgd)</u>	<u>(Mgd)</u>	<u>(Mgd)</u>	<u>(Mgd)</u>			
35	Pump 2	4.370	0.359	2.000	2.370	54.2 %	942	Domestic water Ag irrigation
36	Pump 2A	4.450	0.555	2.000	2.450	55.1 %	960	Potential to irrigate over 1007 acres
39	Pump 17	8.630	0.453	2.000	6.630	76.8 %	961	Irrigation – over 400 acres
46	Pump 1	2.330	1.047	2.000	0.330	14.2 %	943	Irrigation – over 278 acres
136	Pump 7 (B & C)	<u>2.930</u>	<u>0.331</u>	<u>1.000</u>	<u>1.930</u>	65.9 %	944	Irrigation – over 390 acres
Totals		22.710	2.745	9.000	13.710	59.9 %		

1. As offered on amended WUP application forms submitted by Dole February 23, 2012 to again clarify voluntary cutbacks. Numbers in parentheses were minimum 4-year 12-Month moving Average reported to and recommended by staff at 2-15-2102 CWRM hearing for partial or total revocations.

Note: Of the original permits, only WUP 36 (Pump 2A) had a domestic component; current proposed preservation of domestic use is from WUP #35 (Pump 2).

Table 1: Dole Waialua GWMA Use

original WUP #	Well Name	Well # ¹	1993 Allocation	10/10/12 Balance ²	new WUP#	Jan 2011 Report	Dec 2011 Report	4-year Non-Use	Dec 2012 12-MAV	Recomm Cont. Use	Recomm Revocation ⁴
35	Pump 2	3307-01	4.37	2.000	942	0.290	0.262	1.957 ³	0.000	0.043	1.957
36	Pump 2A	3307-07	4.45	2.000	960	0.000	0.000	2.000	0.000	0.000	2.000
39	Pump 17	3404-01	8.63	2.000	961	0.000	0.000	2.000	0.000	0.000	2.000
46	Pump 1	3407-04	2.33	2.000	943	0.622	1.047	2.000	0.000	0.000	2.000
136	Pump 7 B	3407-11	2.93	1.000	944	0.193	0.361	1.000	0.000	0.000	1.000
Totals			22.71	9.000		1.105	1.670	8.957	0.000	0.043	8.957

1. Batteries include several well numbers that are listed under this first number. Other well numbers under each permit are as follows:
 - WUP 35: Well Nos. 3307-01 to -06, 3307-08 to -10
 - " 36: " 3307-07 & 3307-11 to -14
 - " 39: Well No. 3404-01 alone
 - " 46: Well Nos. 3404-04 to -06, 3404-14 & -15
 - " 136: Well Nos. 3407-11 & -12
2. After voluntary cutbacks approved by CWRM October 10, 2012
3. Pump 2 reported pumpage from January to August 2010; monthly pumping averages for that period averaged to 0.043 mgd over 4years.
4. Recommended balance from voluntary cutbacks recommended to be revoked = 2.000 – 0.043 mgd

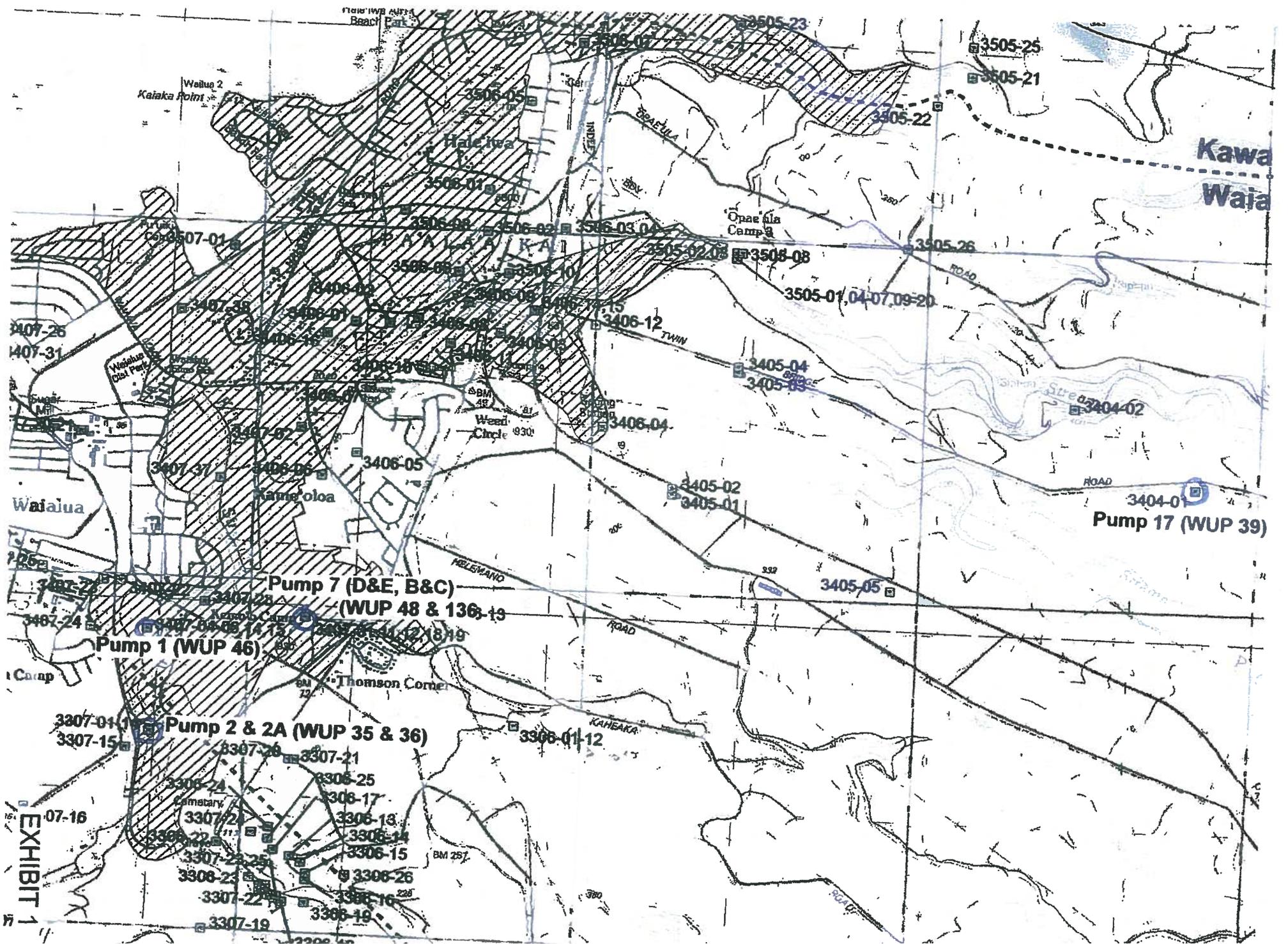


EXHIBIT 1



Food Company Hawaii

1116 Whitmore Avenue Wahiawa, Hawaii 96786

CERTIFIED MAIL

December 4, 2012

Mr. William M. Tam, Deputy Director
State of Hawaii, Department of Land and Natural Resources
Commission on Water Resource Management
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Tam:

Subject: Notice of Commission Action
Dole Water Use Permit Voluntary Cutbacks, Waialua, Oahu
And Deadline for New Water Use Permit Applications

We are in receipt of your letter dated November 9, 2012 regarding the above captioned. We are requesting that the deadline of December 3, 2012 for the water use permit application be extended for one week from the date of this letter. We have hired Tom Nance of Tom Nance Water Resource Engineering and we will need a little more time to complete this application process.

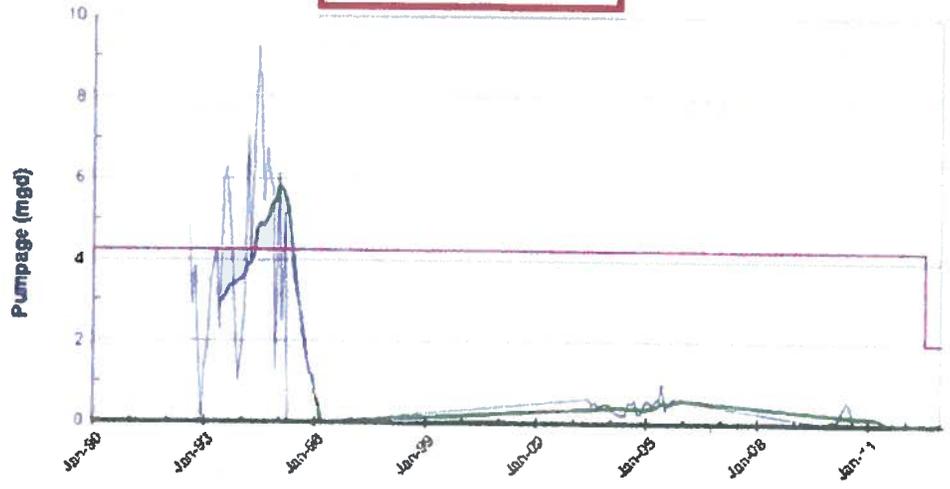
If you have any questions, concerns, or need more information, please contact me at your earliest convenience at (808)-621-3206, by email at gary.paracuelles@dole.com or at the address above. You may also contact Daniel X. Nellis, Operations Director, at (808)-621-3200, or Barbara L. Awo, Human Resources Director, at (808)-621-3207.

Sincerely,
Dole Food Company Hawaii

Gary M. Paracuelles
Property Administrator

Cc: Barbara L. Awo
Daniel X. Nellis
Tom Nance

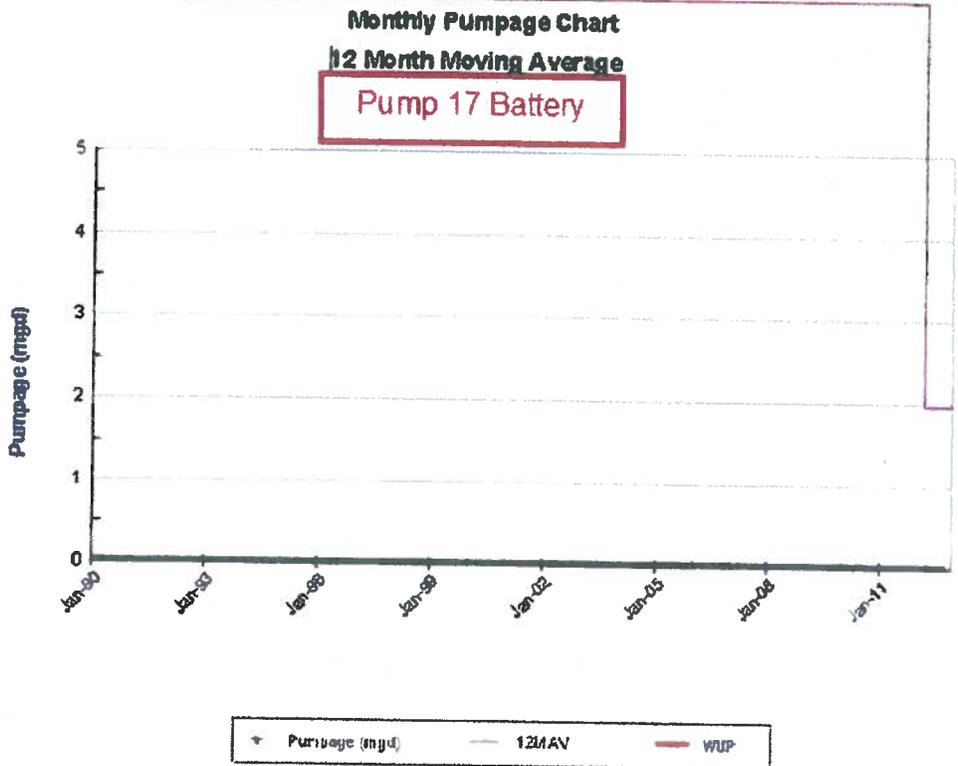
Monthly Pumpage Chart
12 Month Moving Average
Pump 2 Battery



← Pumpage (mgd) — 12MAV — WUP

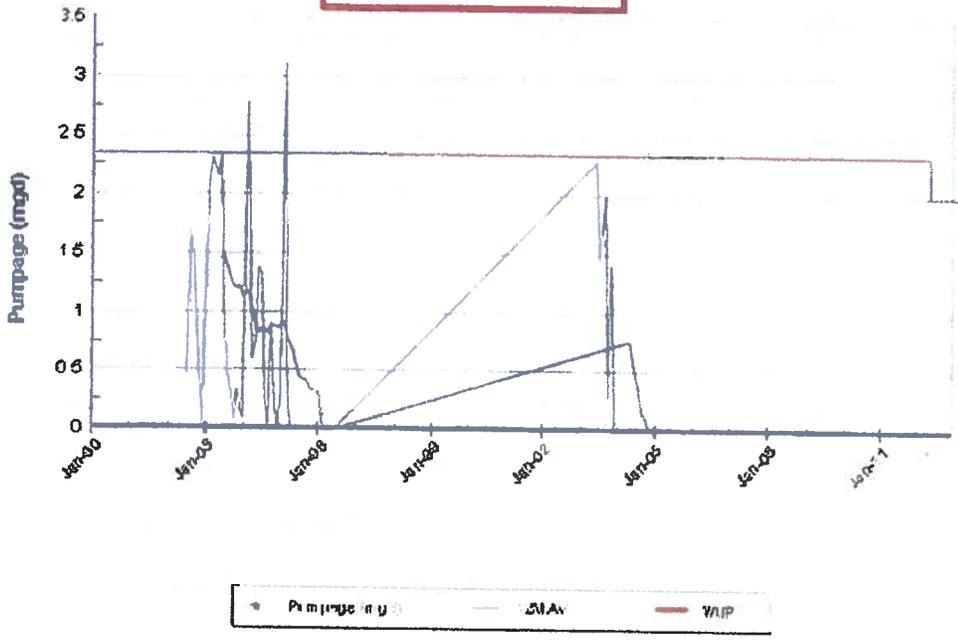
Request Parameters

Order	01/01/1990 - 12/31/2011
Format	AR
AggType	AR
Web Owner	AR
Web Reporter	AR
Unit	AR
Well ID Prefix	1-0001-001
Squidex Type	AR
Well Use	AR



Report Parameters
 Date: 01/01/2012 - 12/31/2012
 Agency: All
 Agency: All
 Use District: All
 Use Report: All
 Title:
 User Name: J. J. (10-10)
 Agency Type: All
 Use District: All

Monthly Pumpage Chart
12 Month Moving Average
Pump 1 Battery

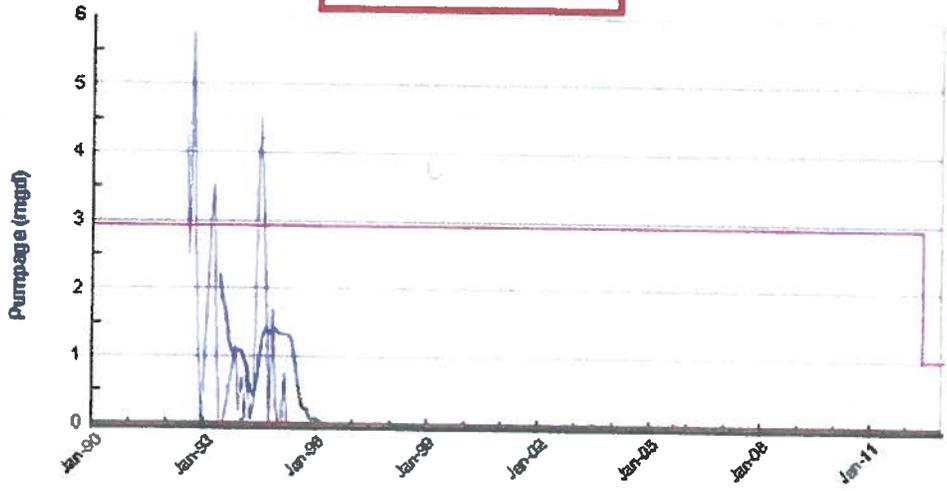


WIP 11/1/2011

DATE	2/16/2011 11:10:03.7
STATION	41
INSTRUMENT	41
PARAMETER	41
WELL NUMBER	41
WELL TYPE	41
UNIT	41
UNIT PREFIX	3.2-117.000
UNIT TYPE	41
UNIT USE	41

Monthly Pumpage Chart
12 Month Moving Average

Pump 7B/C



* Pumpage (mgd) 12MAV WUP

#=51717030+142
 Date: 01/01/2012 12/02/2012
 Station: All
 Agency: All
 Well: All
 Well Purpose: All
 Title: All
 Well # Pie Cr: 2-210-011
 Agency Type: All
 Well Use: All



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU HAWAII 96809

COMMISSION ON WATER RESOURCE MANAGEMENT

February 15, 2012
Honolulu, Hawaii

STAFF SUBMITTAL

**HEARING TO REVIEW AND PARTIALLY AND/OR COMPLETELY
MODIFY OR REVOCATE WATER USE PERMITS IN THE
WAIALUA GROUND WATER MANAGEMENT AREA, OAHU**

1. GWUP 035 (3307-01 to -10, Pump 2) Waialua Sugar; Well TMK: 6-7-002:014
2. GWUP 036 (3307-07 and -11 to 14, Pump 2A) Waialua Sugar; Well TMK: 6-7-003:019
3. GWUP 039 (3404-01, Pump 17) Waialua Sugar; Well TMK: 6-4-001:001
4. GWUP 040 (3405-01 & 02, Waialua Wells) HBWS; Well TMK: 6-4-001:008
5. GWUP 041 (3405-03 & 04, Haleiwa Wells) HBWS; Well TMK: 6-1-001:001
6. GWUP 043 (3406-03, Kawamata Well) S. Kawamata; Well TMK: 6-2-007:021 & 022
7. GWUP 044 (3406-06 and 3407-02, Kunihiro Wells) S. Kunihiro, Well TMK: 66-023:009 & 004
8. GWUP 046 (3407-04 to 06, -14 & 15, Pump 1) Waialua Sugar; Well TMK: 6-7-002:014
9. GWUP 048 & 136 (3407-11& 12, -18 & 19, Pump 7 D&E, B&C) Waialua Sugar;
TMK: 6-6-025:001
10. GWUP 175 (3205-02, Poamoho A) Poamoho Venture; Well TMK: 6-5-001:16
11. GWUP 263 (3407-02, Lopez Well) Native Hawaiian Advisory Council; TMK: 6-6-023:004
12. GWUP 353 (3406-16, Lopez 1) R. Sterman; Well TMK: 6-6-015:004
13. GWUP 455 (3506-10, BG Farm) BG Farm; Well TMK: 6-2-006:012
14. GWUP 643 (3407-38, Paradise Production) Paradise Shrimp; Well TMK: 6-7-001:032
15. GWUP 732 (3406-02, Pump 9) M. Jewett & M. Ward; Well TMK: 6-6-016:013
16. GWUP 894 (3505-01 to 20, Pump 3) Kamehameha Schools; TMK: 6-2-010:001
17. GWUP 895 (3506-03 & 04, Pump 8) Kamehameha Schools; TMK: 6-2-006:007
18. GWUP 898 (3406-08, Gora Well) ML Gora; Well TMK: 6-6-016:015

Exhibit 4

SUMMARY:

The current Waialua Ground Water Management Area (Waialua GWMA) sustainable yield is 25 million gallons /day (mgd) – reduced from 40 mgd in 2008. The current allocation of water that may be withdrawn from the aquifer is 30.887 mgd. The over allocation is 5.887 mgd.

The Waialua Ground Water Management Area was first designated by the State Board of Land and Natural Resources in 1981 under the pre-Water Code law (Haw. Rev. Stat. chap. 177 (repealed 1987)) and reflected plantation agriculture practices which have largely disappeared. The old permits are no longer used. Nor do they reflect current needs. Therefore, it is time to revisit the old permits and revoke the unused allocations so that new demand may be met.

Accordingly, the Commission staff requests that water use permits in the Waialua Ground Water Management Area which show four (4) or more years of continuous non-use and/or voluntary cancellation should be modified and/or revoked. The purpose of this action is to bring allocations a) below the current estimated sustainable yield of 25 mgd; and b) make water available for requested new allocations.

The Honolulu Board of Water Supply (BWS) is requesting additional ground water from the Waialua GWMA, but this request may not be addressed until unused allocations are revoked and the total allocations reduced below 25 mgd.

This submittal requests that the Commission approve a **Total Revocation of 21.651 mgd** (see Tables 1 & 2).

LOCATION MAP: See Exhibit 1 – Current Waialua GWMA

BACKGROUND:**a. Current Necessity**

On August 28, 2008, the Commission adopted the updated Water Resource Protection Plan which revised the sustainable yield for ground water aquifers throughout the state. Specifically, the Waialua Aquifer System Area (Waialua ASA) sustainable yield was reduced from 40 mgd to 25 mgd. The Waialua ASA was first designated in 1981. The current ground water use permit allocations total 30.887 mgd. This creates an over-allocation of 5.887 mgd (see Exhibit 2).

On October 5, 2010, the BWS submitted a ground water use permit application (GWUPA) for 0.270 mgd from the “Waialua Wells” (Well Nos. 3405-01 & 02, Waialua GWMA). Although reporting is limited, the current 12-month moving average (12-MAV) for actual pumpage is about 6 mgd. The existing allocations exceed the sustainable yield so there is no available water to meet new applications. If unused portions of existing allocations are not revoked or other modifications to existing uses are not made, then new requests must be denied. The BWS waived the normal 90-day processing for their GWUP application in order for these revocations to be made.

The minimum amount that needs to be evoked to accommodate the BWS is 6.157 mgd. In light of the recent statewide 20-year water use permit review and the carry-over of pre-1987 ground water permits from the Board of Land and Natural Resources, it is appropriate to review all permits in the

Waiialua GWMA for a comprehensive update.

The staff did initial fact-finding and field investigations. Letters were sent on August 1, 2011 and August 9, 2011 to all ground water use permittees with wells in the Waiialua Aquifer System area. The staff requested missing information on water use and the permittees' intentions for future use.

b. History

Prior to the Water Code, Haw. Rev. Stat. Chap 174C (1987), the Board of Land and Natural Resources (BLNR) governed ground water management areas under Haw. Rev. Stat. Chap. 177 (replaced 1987). In 1981, the BLNR designated the Waiialua Ground Water Control Area (GWCA). The BLNR made allocations to existing users which for Waiialua Sugar in 1981 totaled nearly 40 mgd. The sustainable yield then was 60 mgd for the area from Mokuleia to Kawailoa (see Exhibit 3).

Following the adoption of the Water Code (1987), improved understanding of aquifer boundaries, types, and sustainable yield modeling led to a new set of hydrologic units, aquifer system areas and sustainable yields. In 1990, the Commission adopted the Waiialua, Mokuleia, and Kawailoa aquifer system areas (ASA) in the Water Resource Protection Plan. The smaller Waiialua ASA retained 40 mgd of the former 60 mgd sustainable yield for the larger Waiialua GWCA. For comparison, Exhibit 4 shows the current boundaries and sustainable yield of the Waiialua GWMA.

In 1993, new ground water use applications required a reduction of allocations in the Waiialua GWMA. Waiialua Sugar voluntarily cutback about 1.5 mgd in June 1993 to make water available for Poamoho Ventures (WUP 175, Well 3205-02). By 1996, the plantation closed operations. In September, 2002 the mill closed. The "Mill Pumps" and "Pump 10" were sealed further reducing pumping by 10.65 mgd. This reduced the then existing allocation in the Waiialua GWMA to approximately 30 mgd. (see Exhibit 5). Although ownership of the Waiialua Sugar production wells changed, the Commission was not notified. The ground water use permits were not transferred as required under Haw. Rev. Stat. 174C-56. Most of those allocations have remained unused. The new well owners have some continuing use.

The Commission reviewed and adopted sustainable yield figures most recently in the 2008 Water Resource Protection Plan. Updated recharge data, loss of return irrigation flow, loss of Wahiawa "spillover," and additional modeling efforts to identify a range of reasonable sustainable yield estimates led to a revised downward calculation of 25 mgd for the Waiialua GWMA.

Existing ground water use permit allocations exceed the 25 mgd sustainable yield. Revocation of unused allocations is required; 1) to bring the total allocations within the sustainable yield; and 2) to accommodate new applications from this aquifer. Exhibit 6 graphically summarizes these sustainable yields vs. allocation history for the entire Waiialua ASA.

When BWS submitted its Ground Water Use Permit Applications for the Waiialua Well batteries, the staff began to review the overall Waiialua GWMA situation to resolve the over-allocation issue. The recent 20-year Water Use Permit Review raised a number of gaps and inconsistencies suggesting further field investigations and contacts with existing permittees were necessary. The 20-year review highlighted outdated information about use and non-use. Staff made initial inquiries to major existing permit holders. Waiialua Sugar wells were transferred primarily to Dole Food Company. A few wells went to Kamehameha Schools and individual owners. Dole Foods assumed ownership of productive

wells with a total allocation of about 22.9 mgd, yet the water use permits have never been officially transferred to them. Dole has been delinquent in reporting its use as required by the Commission's Hawaii Administrative Rule, section 13-168-7. Dole agreed to prepare new water use permit applications to forecast ongoing and new uses. After one year, Dole finally submitted its new ground water use applications. Based upon the new use applications, staff recommends revoking those unused balances identified by Dole.

REVOCATION DISCUSSION

a. Summary

The Commission adopted 25 mgd as the sustainable yield for the Waialua Aquifer System Area. After investigation and consultation with the various permittees (where possible), the staff proposes to proceed with revoking unused allocations.

Given actual reported use plus anticipated restoration of agriculture through this area, the total continuing allocations appear to be approximately 9.308 mgd. Table 1 summarizes the current ground water available in the aquifer area.

Table 1. Waialua Aquifer System Area

<u>ITEM</u>	Waialua Aquifer System Area (mgd)
Sustainable Yield	25
Existing Ground Water Use Allocations	30.887
Less: Recommended continued allocations (Existing Reported Water Use = 5.027 (shown in Table 2) Reservation to DHHL	9.308 0
Total Recommended Allocation Cutback/Revocations	21.651
Sustainable Yield less continued allocations (25.000 – 9.308) (Amount Made Available with this recommendation)	15.692

Details supporting Table 1 are described below and further summarized in Table 2 and Exhibit 7. **Current User Status Details** (in chronological/numerical order of approval):

1. **GWUP 035 (Well Nos. 3307-01 to -10, Pump 2).** 4.370 mgd to Waialua Sugar for cane irrigation. Ownership of this gallery of 10 wells was transferred to Dole Foods, but the water use permit was not transferred. Dole Foods' initial response in May 2011 indicated minimal use of these wells, approximately 0.290 mgd (7% of allocation). An incomplete December 30, 2011 application for a new ground water use permit included metered pumpage between January to August 2010, slightly less than the earlier figures (average = 0.262 mgd). It is over a year old. Dole's applications do not include irrigation map boundary footprints.

Recommendation: Modify GWUP 035 to an allocation of 0.262 mgd.

Revoke 4.180 mgd. Require irrigation footprint of service area.

2. GWUP 036 (Well Nos. 3307-07 and -11 to 14, Pump 2A). 4.450 mgd to Waiialua Sugar - 3.586 mgd irrigation plus 0.864 mgd drinking water. Ownership of this gallery of five wells was transferred to Dole Foods without the transfer of the ground water use permit. Dole refurbished the wells for standby use. A December 30, 2011 transmittal indicated there are no current plans for using this well including the drinking water portion. Some, if not all, of the drinking water demands under this GWUP are now met through BWS sources.

Recommendation: Revoke GWUP 036 entirely.

3. GWUP 039 (Well No. 3404-01, Pump 17). 8.630 mgd to Waiialua Sugar for cane irrigation. The ownership was transferred to Dole Foods without the transfer of the ground water use permit. A December 30, 2011 transmittal indicated there are no current plans for using this well.

Recommendation: Revoke GWUP 039 entirely.

4. GWUP 040 (Well Nos. 3405-01 & 02, Waiialua Wells) 1.730 mgd to the Honolulu Board of Water Supply for municipal drinking uses. Pumping from this pair of wells exceeds its water permit allocation by 0.160 mgd (9%). BWS filed an application to increase the allocation by 0.270 (16%), for a new total of 2.000 mgd. This would allow for additional growth in municipal service within the near future.

Recommendation: Approve increase to 2.000 mgd when water is available.

5. GWUP 041 (Well Nos. 3405-03 & 04, Haleiwa Wells). 1.000 mgd to the Honolulu Board of Water Supply for municipal drinking uses. The 12-MAV pumpage in December 2011 for this pair of wells exceeded the BWS allocation by 0.04 mgd (4%).

Recommendation: Maintain existing WUP 041 at 1.000 mgd.

6. GWUP 043 (Well No. 3406-03, Kawamata Well) 0.100 mgd to Kengo Kawamata for irrigation. The property is held by Kengo's son and wife, and a cousin and wife, but the permit has not been transferred. The property will be sold so there will be a new owner.

Staff received a letter dated January 18, 2011 voluntarily cancelling their water use permit.

7. GWUP 044 (Well Nos. 3406-06 and 3407-02, "Kunihiro Wells"), a name given to two wells, one owned by Hannah Gilman Trust (Well No. 3406-06), the other by the Theo J. P. Lopez Trust (Well No. 3407-02) with a GWUPA of 0.200 mgd to Shizuo Kunihiro for both wells for irrigation. Use of Well No. 3407-02 under this GWUP has been superseded by GWUP 263 (see below) and GWUP 044 should have been revoked entirely back on October 13, 1993. Therefore, this is the official follow-up to do so now. Well No. 3406-06 has been lost to overgrowth. It was drilled in 1957 by Hawaiian Drilling, 100 ft deep from a ground elevation of less than 10 feet, with an 8-inch casing and an original artesian head (+11 ft. msl) higher than the ground elevation. Both wells originally were under artesian pressure above the ground surface and are believed to continue to flow freely under artesian pressure. These need to be sealed or modified to avoid waste. If future use is anticipated, the wellheads should be modified, then capped and locked, to avoid waste pending future use supported by a new GWUPA from the Gilman Trust well owners. Future use would be conditioned upon metering and reporting.

Recommendation: Revoke GWUP 044, for Well No. 3406-06. Recover available 0.200 mgd as anticipated in the October 13, 1993 approval of WUP 263;

Require locating and either sealing or valving, capping, and locking the well.

8. GWUP 046 (Well Nos. 3407-04 to -06, -14 & -15; Pump 1) 2.330 mgd to Waialua Sugar for irrigation. Ownership of this gallery of five wells was transferred to Dole Foods, but the water use permit was not transferred. Dole reported early in this process a 12-month moving average use of 0.622 mgd. An incomplete December 30, 2011 application for a new ground water use permit included some current metered figures, increased to a single year 12-month moving average of 1.047 mgd. Dole's applications do not include irrigation footprints.

Recommendation: Modify WUP 046 to 1.047 mgd. Revoke 1.283 mgd. Require current footprint areas serviced by this source.

9. GWUP 048 & 136 (Well Nos. 3407-18 & 19; -11 & 12 Pump 7 D&E, Pump 7 B&C) 0.180 mgd and 2.930 mgd, respectively, to Waialua Sugar for irrigation. Ownership of all four wells under these two water use permits are now under Dole Foods, but the water use permits were not transferred. Total current use for all four wells and two water use permits was reported early in this process to be 0.193 mgd. An incomplete December 30, 2011 application for a new ground water use permit included some current metered figures for all four pumps, two water permits, in a lump sum, increased to a single year annualized average of 0.361 mgd. Dole's applications do not include irrigation footprints.

Recommendation: Revoke WUP 048 by 0.180 mgd. Modify GWUP 136 to 0.361 mgd to Dole for diversified agriculture. Revoke 2.569 mgd. Require current footprint areas serviced by this source.

10. GWUP 175 (Well No. 3205-02, Poamoho Well A) 0.600 mgd to Poamoho Venture, LP for 150 acres of agricultural irrigation since 1993. Water use reporting shows a maximum 12 month moving average of about 0.092 mgd (15.3% of allocation) over the past 4 years. Communications from the owners indicate changing conditions have prevented the full use of the approved allocation, but that efforts continue and full use is anticipated. The 20-year review and recent staff field investigations verified substantial investments in a first-class facility have been made for full build out of this agricultural project. The owners also have access to surface water from the Wahiawa Reservoir Ditch, which is a significant alternative to using potable ground water for crops that do not require potable water. Some of the lot owners are using this water. The owners intend to offer potable water from the well to other farmers in the vicinity who need it for certain food crops, and to encourage tenants within their service area who do not need potable water to use ditch water.

Recommendation: Maintain WUP 175 at 0.600 mgd; additional plans on the alternative use options needs to be submitted as well as periodic updates of the respective end use footprints.

11. GWUP 263 (Well No. 3407-02, Lopez Well 2). 0.200 mgd to the Native Hawaiian Advisory Council (NHAC) for domestic and emergency potable uses and for aquaculture (prawn) and irrigation of 4.5 ac watercress, taro, ong choy, hasu, etc irrigation. This well was formerly covered by WUP 044 but later changed to this subsequent permit back on October 13 1993 at the request of NHAC. The well continues to be owned by the Lopez Family Trust. For clarification we are referring to this well as Lopez Well 2. NHAC is no longer in operation. The 20-year review and a field investigation by staff on November 25, 2011 verified the family continues to use it for fishponds and kalo. The artesian source has several historic measurements showing a flow of 100 gpm (0.144 mgd) as of 1983. Also, it does not have a flow meter as required under the October 13, 1993 permit approval. Estimated reported use for 2011 averages to 0.007 mgd (3.5% of their allocation).

Recommendation: Modify WUP 263 to 0.144 mgd. Revoke 0.056 mgd.
Transfer to Theo J Lopez Trust.

12. GWUP 353 (Well No. 3406-16, Lopez Well 1) 0.072 mgd to A.J. Lopez Sons, Inc. for irrigation. The GWUPA allows a 300 gpm pump to operate 4 hours a day, which translates into the 0.072 allocation. During the 20-year review, it was discovered that the property had been sold to Mr. Richard Sterman, but the 20-year review did not perform a field investigation. The water use permit was never officially transferred. Staff verified that the well ownership was actually sold to Kaala View LLC, c/o Mr. Richard Sterman and recently followed up with a field investigation on December 14, 2011. The well was overgrown with vegetation but flowed freely through a culvert into an irrigation drainage ditch that empties into Paukauila Stream about 1,000 feet from the mouth of Kaiaka Bay. Mr. Sterman stated the well or the ditch water over the 13 acre parcel is not pumped or used, but at least one other neighbor does take water from the common drainage ditch downstream. There are several drainage ditches like this in the area that appear to expose the water table. Mr. Sterman stated the intention to use the well productively in the future, but plans are still being developed. In the meantime, the well needs to be maintained and artesian flow needs to be controlled.

Recommendation: Maintain WUP 353 at 0.072 mgd; written transfer for GWUP needs to be requested by Kaala View, LLC c/o Mr. Sterman. Wellhead modifications are needed to valve flow to eliminate waste, a meter must be installed, and water use reporting must begin.

13. GWUP 455 (Well No. 3506-10, BG Farm Well) 0.003 to BG Farm for irrigation. The owner responded to our letter, indicating that the allocation had not been used in years, with no plans to use it. Moreover, the 20 year review shows that the source is a spring and pond, not a well, flowing in to the adjacent stream.

Staff received a letter dated January 20, 2011, voluntarily cancelling the water use permit, and announcing the removal of the pump from the pond.

14. GWUP 643 (Well No. 3407-38, Paradise Production Well) 0.576 mgd of brackish water to Paradise Shrimp Farm for aquaculture. Recently, the permittee filed an application to deepen the well because the current water quality is brackish rather than salt (for which GWUPA was originally approved). It is not yet clear whether the existing well can be easily modified or if a new well will be drilled and the existing well sealed. The objective is to develop salt water rather than brackish ground water. If a new well is constructed, the salt water use permit would be transferred administratively to it under DEC-ADM97-A1, which allows such modification without a new application. A properly constructed salt water well should not affect the sustainable yield. The GWUPA to clarify this switchover to salt water is not yet complete.

Recommendation: Maintain WUP 643 at 0.576 mgd as it currently uses brackish water.

The permittee is acting to remedy the violation since the GWUP is restricted to salt water only. The incomplete application should be finished within three months.

15. GWUP 732 (Well No. 3406-02, Pump 9) 0.160 mgd to Michael Jewett and Megan Ward for diversified agriculture irrigation. This well and the water use permit were transferred from Waialua Sugar to the new owner. The 20-year review established that the pumping equipment was rusted and non-functional, although the owner intended to refurbish it. Staff recently revisited the site. The well is back in service with a flow meter intended for full use. No water use reports have yet been received. Little use is currently being made.

Recommendation: Maintain WUP 732 at 0.160 mgd.

16. GWUP 894 (Well Nos. 3505-01 to -20, Pump 3 Battery "Opaepala") 1.552 mgd to Kamehameha Schools (KS) for agricultural irrigation served by 20 wells. The original GWUP 137 approved by the BLNR and reviewed in 1993 by the Commission was transferred to KS in 2010. KS responded that the allocation is not in full use now, but they plan to make full use of the allocation. KS made a presentation to staff and later to the Commission during the December 12, 2011 briefing. KS stated it had made a substantial (more than \$10M) investment in infrastructure upgrades. This includes drilling new access wells to the sump gallery, piping and valving to bring well controls to the surface, and pipe replacements for ditch distribution lines to extensive agricultural holdings. These holdings will be served both by high quality ground water and by surface water once used by Waialua Sugar. A recent Assessment of the Wahiawa Irrigation System, which serves the Waialua area, corroborates KS's upgrades on its lands, including the removal of the Opaepala siphon and installation of piping across their holdings at a lower elevation.

Recommendation: Maintain WUP 894 at 1.552 mgd.

17. GWUP 895 (Well Nos. 3506-03 & 04, Pump 8A-B) 1.660 mgd to Kamehameha Schools for agricultural irrigation served by two wells. The original GWUP 054 approved by the BLNR and reviewed in 1993 by the Commission was transferred to KS in 2010. KS responded that the allocation is not in full use now, but they have plans to make full use of the allocation, same as noted for Pump 3 (GWUP 894). The recent presentation to staff noted plans to refurbish these wells similar to Pump 3. This includes drilling new access to the sump gallery, piping and valving to bring well controls to the surface.

Recommendation: Maintain WUP 895 at 1.660 mgd.

18. GWUP 898 (Well No. 3406-08, Gora Well) 0.144 mgd for aquaculture and irrigation. The ground water use permit was transferred to the current holder from her deceased husband, but a family dispute over the well and property was resolved by changing ownership of the existing well and end use area to a different member of the family. This well continues to be used but has not been reporting use. Staff has requested a written response from the new owner to affirm continued use of the GWUP.

Recommendation: Maintain WUP 898 at 0.144 mgd. Administratively transfer to new owner Mr. Michael Aki.

Table 2: Recommended water use permit allocations (mgd)

GWUP	Well No	Well Name	Well Owner	WUP Alloc.	4-Year Use*	Recommendation
035	3307-01 to -10	Pump 2	Dole Foods	4.370	0.262	0.262 -4.180
036	3307-07 to -14	Pump 2A	Dole Foods	3.586 0.864	0.000	0.000 -4.450
039	3404-01	Pump 17	Dole Foods	8.630	0.000	0.000 -8.630
040	3405-1&2	Waialua	HBWS	1.730	2.125	1.730
041	3405-3&4	Haleiwa	HBWS	1.000	0.679	1.000
043	3406-03	Kawamata	S. Kawamata	0.100	0.000 written cancellation	0.000 -0.100
044	3406-06	"Kunihiro" (Gilman)	Gilman Trust	0.200	unknown	0.000 -0.200
046	3407-4, 5, 6; -14&15	Pump 1	Dole Foods	2.330	1.047	1.047 -1.283
048	3407-18 & -19	Pump 7D,E	Dole Foods	0.180	No report	0.000 -0.180
136	3407-11 & -12	Pump 7B,C	Dole Foods	2.930	0.361	0.361 -2.569
175	3205-02	Poamoho A	Poamoho Ventures	0.600	0.092	0.600
263	3407-02	"Kunihiro" (Lopez 2)	Theo Lopez Trust	0.200	0.007	0.144 0.056
353	3406-16	Lopez 1	Richard Sterman	0.072	No report	0.072
455	3506-10	BG Farm	BG Farm	0.003	0.000 written cancellation	0.000 -0.003
643	3407-38	Paradise Production	Paradise Shrimp	0.576	No report	0.576
732	3406-02	Pump 9	Jewett & Ward	0.160	No report	0.160
894	3505-01 to -20	Pump 3	Kamehameha Schools	1.552	0.870 (7 mo)	1.552
895	3506-03 & 04	Pump 8 (A&B)	Kamehameha Schools	1.660	0.317 (7 mo)	1.660
898	3406-08	Gora	Mary Lou Gora	0.144	No report	0.144

(Totals:) 30.887 ~6 **9.308**

(Municipal total = 2.730)

(Irrigation total = 6.578)

Revocation total = -21.651

* 4-year use is the reported maximum 12-month moving average in the past 4 years.

RECOMMENDATION:

Staff recommends:

1. That the Commission revoke portions of existing ground water use permits in the Waialua Ground Water Management Area as set forth above and in Table 2. Total revocations are 21.651 mgd (as shown in Table 2).

2. Special conditions and orders are recommended for ground water use permits (GWUPs) being partially or completely revoked, or allowed to continue under this revocation review as follows:

GWUP 035 (3307-01 to 10, Pump 2). Revoke 4.180 mgd of the original 4.370 mgd. Continue use of 0.262 mgd for agricultural irrigation to be issued under GWUP 942. Require a current end use footprint map be submitted.

GWUP 036 (3307-07 & -11 to 14, Pump 2A). Total revocation of 4.450 mgd. Submit plans within 6 months either for maintaining or sealing the wells.

GWUP 039 (3404-01, Pump 17). Total revocation of 8.630 mgd; plans shall be submitted within 6 months either for maintaining or sealing the well.

GWUP 043 (3406-03, Kawamata Well). 0.100 mgd is voluntarily cancelled by consent letter dated January 18, 2011, which is an administrative action that normally does not require a hearing but is brought up as part of this comprehensive at the Waialua GWMA revocation review.

GWUP 044 (3406-06, Gilman Trust Well). Total revocation of 0.200 mgd;

1. Lost well shall be located
2. If the well is to be retained for future use, the wellhead must be valved and kept capped and locked.
3. If the well is not to be retained, it shall be sealed six months from the date of this meeting.

GWUP 046 (3407-04 to 06, 14 & 15, Pump 1). Revoke 1.283 mgd of the original 2.330 mgd, continuing use of 1.047 mgd for agricultural irrigation to be issued under a GWUP 943 and requiring a current end use footprint map.

GWUP 048 (3407-18 & 19, Pump 7 D&E). Total revocation of 0.180 mgd; plans shall be submitted within 6 months either for maintaining or sealing the wells.

GWUP 136 (3407-11 & 12, Pump 7 B&C). Revoke 2.569 mgd of original 2.930 mgd. Continue use of 0.361 mgd for agricultural irrigation to be issued under GWUP 944. Require a current end use footprint map.

GWUP 175 (3205-02, Poamoho Well A) continue 0.600 mgd for irrigation:

1. As use increases, reflected in periodic increases reported to the Commission, a new footprint of the end use area shall be filed for the record.
2. Use of Wahiawa Reservoir Ditch water shall be support by a periodically submitted end use footprint map.

GWUP 263 (3407-02, "Lopez Well 2"). Revoke 0.056 mgd of original 0.200 mgd. Continue use of 0.144 mgd for agricultural irrigation to be issued under GWUP 950. Require a current end use footprint map. A flow meter must be installed and water use reported starting within 6 months. Following six months' reporting, the amount of use will be reviewed for possible modification of the water use permit.

GWUP 353 (3406-16, Lopez Well 1). Continue 0.072 mgd for diversified agriculture irrigation, subject to revocation in 90-days, unless:

1. The well is cleared of overgrown vegetation and maintained.
2. A well construction permit to modify the well to control flow and install a flow meter is submitted.
3. A footprint map of the end use area for GWUP 353 is filed for the record.
4. Monthly flow from the well commences on an annual basis.

GWUP 455 (3506-10, BG Farm Well). 0.003 mgd is voluntarily cancelled by consent letter dated January 20, 2012, which is an administrative action that normally does not require a hearing but is brought up as part of this comprehensive at the Waialua GWMA revocation review.

GWUP 643 (3407-38, Paradise Production). Continue 0.576 mgd for agricultural irrigation. Application to modify existing well or construct new well and seal existing well to be completed in three months, subject to action on potential violation of water use permit conditions.

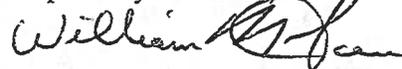
GWUP 732 (3406-02, Pump 9). Continue 0.160 mgd for diversified irrigation.

GWUP 894 (3505-01 to -20, Pump Battery 3 "Opauala"). Continue 1.552 mgd for agricultural irrigation.

GWUP 895 (3506-03, Pump 8). Continue 1.660 mgd for agricultural irrigation.

GWUP 898 (3406-08, Gora Well). Continue 0.144 mgd for agricultural irrigation. Reassign to the current owner of well and end use property (Aki) under a new GWUP number to be assigned administratively when the written transfer request is received from the new owner. If the written request for transfer is not received within 90 days, then GWUP 898 shall be revoked.

Respectfully submitted,



WILLIAM M. TAM
Deputy Director

Exhibit(s):	1	(Location Map – Current Waialua Ground Water Management Area)
	2	(Current GWUP Allocations in Waialua GWMA)
	3	(Original 1981 Waialua Ground Water Control Area)
	4	(Current 2012 Waialua Ground Water Management Area)
	5	(Tabular History of GWUP Allocations and Changing SY Limits)
	6	(Graphical History of GWUP Allocations and Changing SY Limits)
	7	(Graphical Water Use History Current Permittees in WGMA)

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson

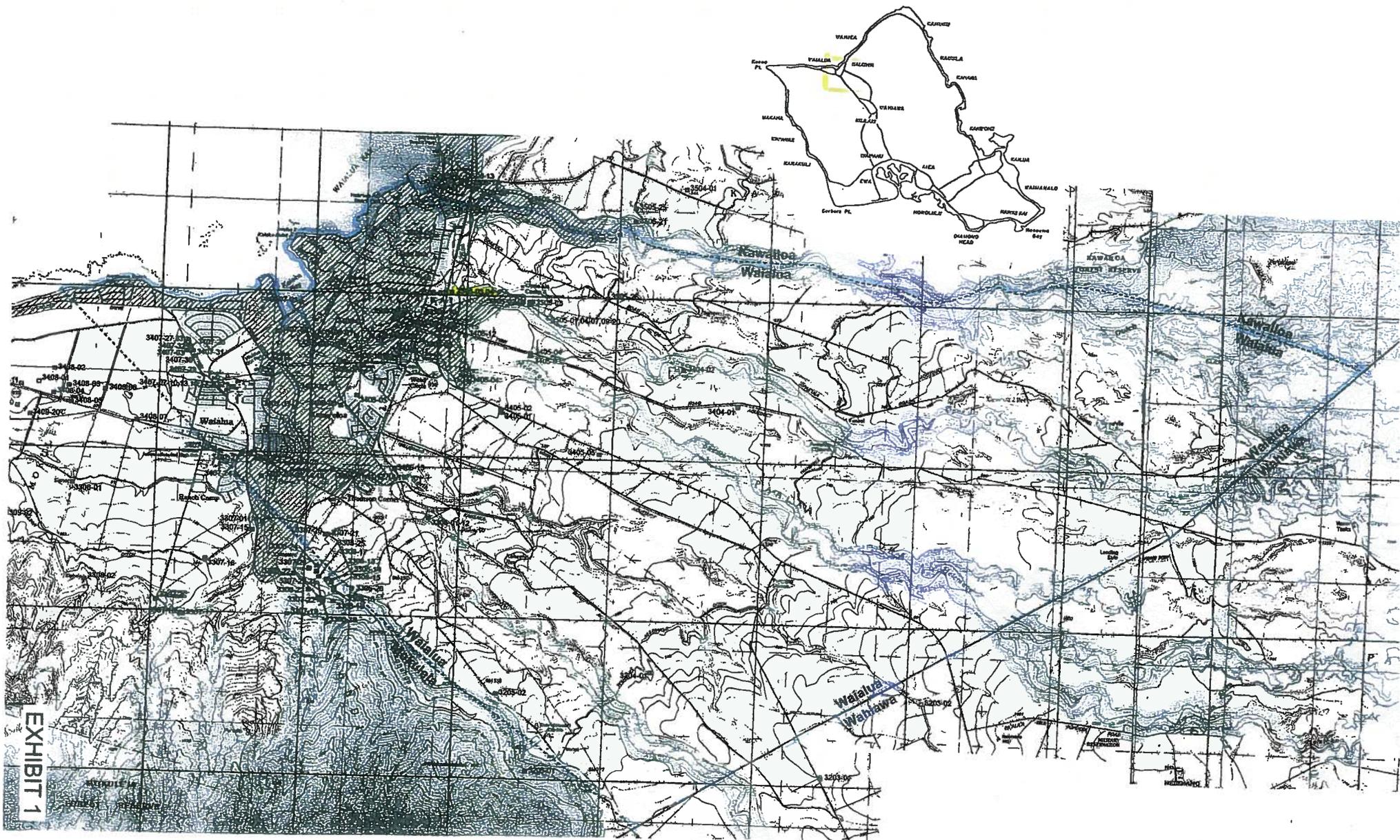


EXHIBIT 1

Aquifer System Water Use Permit Index (non-salt-caprock-dike)

ISLAND OF OAHU

WUP No. Approved

Permittee

Well No.

Well Name

**WUP
(mgd)**

**12-M.
(mg)**

WMA Aquifer System: WAIALUA

Sustainable Yield = 25

WUP No. Approved	Permittee	Well No.	Well Name	WUP (mgd)	12-M. (mg)	
035	6/2/1993	WAIALUA SUGAR [02]	3307-01	PUMP 2	4.370	0.26;
	6/2/1993	WAIALUA SUGAR [02]	3307-02	PUMP 2		
	6/2/1993	WAIALUA SUGAR [02]	3307-03	PUMP 2		
	6/2/1993	WAIALUA SUGAR [02]	3307-04	PUMP 2		
	6/2/1993	WAIALUA SUGAR [02]	3307-05	PUMP 2		
	6/2/1993	WAIALUA SUGAR [02]	3307-06	PUMP 2		
	6/2/1993	WAIALUA SUGAR [02]	3307-08	PUMP 2		
	6/2/1993	WAIALUA SUGAR [02]	3307-09	PUMP 2		
	6/2/1993	WAIALUA SUGAR [02]	3307-10	PUMP 2		
036	6/2/1993	WAIALUA SUGAR [02]	3307-07	PUMP 2A		
	6/2/1993	WAIALUA SUGAR [02]	3307-11	PUMP 2A	0.864	0.0 N
	6/2/1993	WAIALUA SUGAR [02]	3307-12	PUMP 2A		
	6/2/1993	WAIALUA SUGAR [02]	3307-13	PUMP 2A		
	6/2/1993	WAIALUA SUGAR [02]	3307-14	PUMP 2A		
039	6/2/1993	WAIALUA SUGAR [02]	3404-01	PUMP 17	8.630	0.0 N
040	9/11/1981	HONOLULU BWS	3405-01	WAIALUA	1.730	2.125
	9/11/1981	HONOLULU BWS	3405-02	WAIALUA		
041	9/11/1981	HONOLULU BWS	3405-03	HALEIWA	1.000	0.679
	9/11/1981	HONOLULU BWS	3405-04	HALEIWA		
043	9/11/1981	KAWAMATA, S.	3406-03	KAWAMATA, S.	0.100	0.0 N
044	9/11/1981	KUNIHURO, S.	3406-06	KUNIHURO, S.	0.200	0.0 N
	9/11/1981	KUNIHURO, S.	3407-02	KUNIHURO, S.		
046	6/2/1993	WAIALUA SUGAR [02]	3407-04	PUMP 1	2.330	1.047
	6/2/1993	WAIALUA SUGAR [02]	3407-05	PUMP 1		
	6/2/1993	WAIALUA SUGAR [02]	3407-06	PUMP 1		
	6/2/1993	WAIALUA SUGAR [02]	3407-14	PUMP 1		
	6/2/1993	WAIALUA SUGAR [02]	3407-15	PUMP 1		
048	6/2/1993	WAIALUA SUGAR [02]	3407-18	PUMP 7D	0.180	NR
	6/2/1993	WAIALUA SUGAR [02]	3407-19	PUMP 7E		
136	6/2/1993	WAIALUA SUGAR	3407-11	PUMP 7B	2.930	0.361
	6/2/1993	WAIALUA SUGAR	3407-12	PUMP 7C		
175	10/13/1993	POAMOHO VENTURE, L.P.	3205-02	POAMOHO A	0.600	0.092
263	10/13/1993	NHAC	3407-02	LOPEZ	0.200	NR
353	11/16/1994	A.J. LOPEZ SONS, INC.	3406-16	LOPEZ NO. 1	0.072	NR
455	12/18/1996	BG FARM	3506-10	BG FARM	0.003	0.0 NI

<i>WUP No.</i>	<i>Approved</i>	<i>Permittee</i>	<i>Well No.</i>	<i>Well Name</i>	<i>WUP (mgd)</i>	<i>12-M. (mg)</i>
643	7/16/2003	PARADISE SHRIMP FARM	3407-38	PARADISE PRODUCTION #1	0.576	NR
732	6/2/1993	MICHAEL JEWETT & MEGAN WARD	3406-02	PUMP 9	0.160	NR
894	6/2/1993	Kamehameha Schools	3505-01	Pump 3	1.552	NR
	6/2/1993	Kamehameha Schools	3505-02	Pump 3		
	6/2/1993	Kamehameha Schools	3505-03	Pump 3		
	6/2/1993	Kamehameha Schools	3505-04	Pump 3		
	6/2/1993	Kamehameha Schools	3505-05	Pump 3		
	6/2/1993	Kamehameha Schools	3505-06	Pump 3		
	6/2/1993	Kamehameha Schools	3505-07	Pump 3		
	6/2/1993	Kamehameha Schools	3505-08	Pump 3		
	6/2/1993	Kamehameha Schools	3505-09	Pump 3		
	6/2/1993	Kamehameha Schools	3505-10	Pump 3		
	6/2/1993	Kamehameha Schools	3505-11	Pump 3		
	6/2/1993	Kamehameha Schools	3505-12	Pump 3		
	6/2/1993	Kamehameha Schools	3505-13	Pump 3		
	6/2/1993	Kamehameha Schools	3505-14	Pump 3		
	6/2/1993	Kamehameha Schools	3505-15	Pump 3		
	6/2/1993	Kamehameha Schools	3505-16	Pump 3		
	6/2/1993	Kamehameha Schools	3505-17	Pump 3		
	6/2/1993	Kamehameha Schools	3505-18	Pump 3		
	6/2/1993	Kamehameha Schools	3505-19	Pump 3		
	6/2/1993	Kamehameha Schools	3505-20	Pump 3		
895	6/2/1993	B P Bishop Estate Trust	3506-03	Pump 8	1.660	NR
	6/2/1993	B P Bishop Estate Trust	3506-04	Pump 8		
898	9/11/1981	Mary Lou Gora	3406-08	Gora	0.144	NR

Summary for 'SYSTEM' = WAIALUA (60 detail records)

Totaling 30.887
 Available -5.887

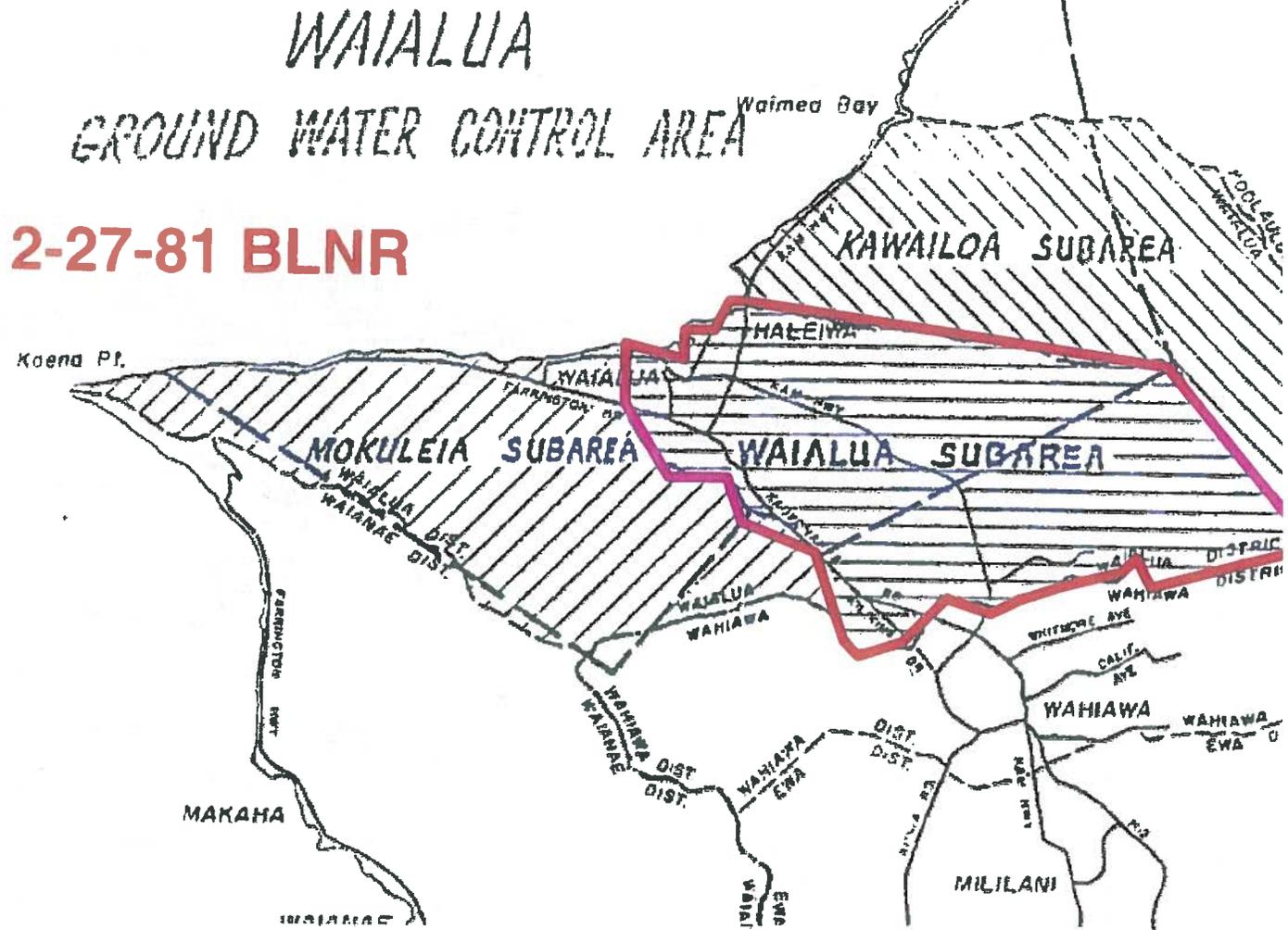


EXHIBIT 3

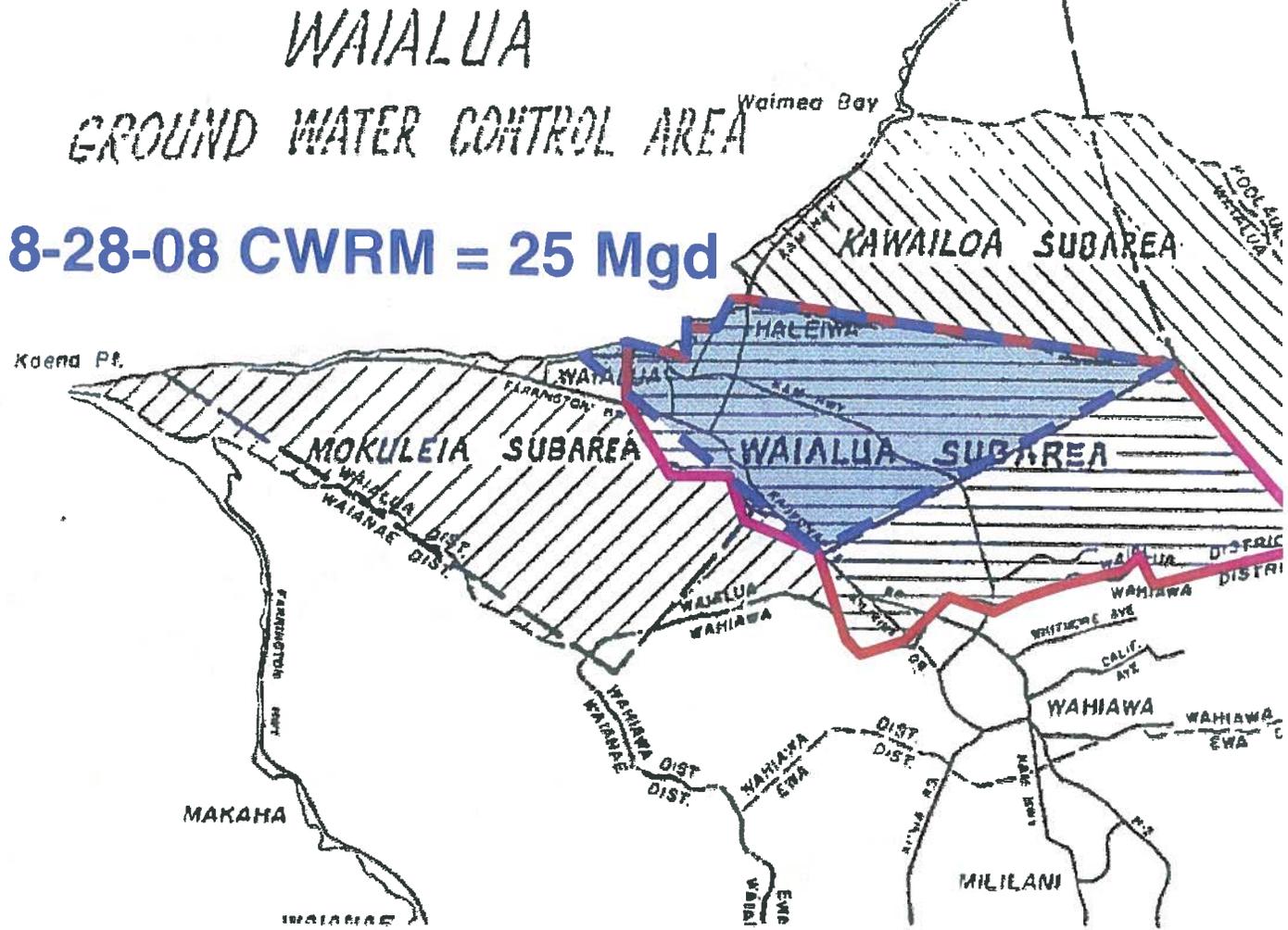


EXHIBIT 4

WaiialuaAqWUP.table

Exhibit 2: Tabular History of Water Use Permit Allocations and Changing SY Limits
Waiialua Aquifer System Area
 for agriculture irrigation for domestic use use not defined

WUP#	Well #	Well Name	Approval dates and Quantities			proposed mgd
			9/11/81 ¹ mgd	WGWMA ² appr. date	mgd	
035	3307-01 to -06 -08 to -10	"Pump 2"	4.37	6/2/93	4.37	0.2623
036	3307-07, -11 to -14	"Pump 2A"	3.586 0.864	6/2/93	3.586 0.864	0.000
039	3404-01	"Pump 17"	8.198 0.432	6/2/93	8.630	0.000
040	3405-01 & -02	"Waiialua Wells"	1.73	6/2/93	1.730	1.730
041	3405-03 & -04	"Haleiwa Wells"	1.0	6/2/93	1.000	1.000
043	3406-03	Kawamata	0.1	6/2/93	0.100	0.000
044	3406-06 3407-02 ⁴	Kunihiro "	0.2	10/13/93 ³ 6/2/93	0.000 --	0.000
046	3407-04 to -06 -14, -15	"Pump 1"	2.33	6/2/93	2.330	1.047
047	3407-07 to 10, -16-17, 20-21	"Mill Pumps" ⁴	4.63	9/18/02	0.000	(sealed)
048	3407-18 & 19	"Pump 7D/E"	0.18	6/2/93	0.180	0.000
135	3306-01 to 12	"Pump 10" ⁴	6.02	9/18/02	0.000	(sealed)
136	3407-11 & 12	"Pump 7B/C" ⁵	3.75	6/2/93 ⁶	2.930	0.361
175	3205-02	Poamoho A ⁶		10/13/93	0.600	0.600
263	3407-02	Lopez ³		10/13/93	0.200	0.144
353	3406-16	Lopez #1 ⁷		11/16/94	0.072	0.072
455	3506-10	BG Farm ⁸		12/18/96	0.003	0.000
643	3407-38	Paradise Production ⁹		7/16/03	0.576*	0.576
732	3406-02	"Pump 9" ¹⁰	0.16	6/2/93	0.160	0.160
894	3505-01 to -20	"Pump 3" ^{5,11}	3.052 0.108	6/2/93 ⁶	1.552	1.552
895	3506-03 & 04	"Pump 8" ¹¹	1.66	6/2/93	1.660	1.660
898	3406-08	Gora ¹²	0.144	6/2/93	0.144	0.144
Totals			42.514		30.111*	9.308
SY (Waiialua Aquifer System Area) (8/28/08)			60 (July 1981)		40 (3/17/93)	25

* Paradise Production is for salt water, not counted against SY

EXHIBIT 5

Notes:

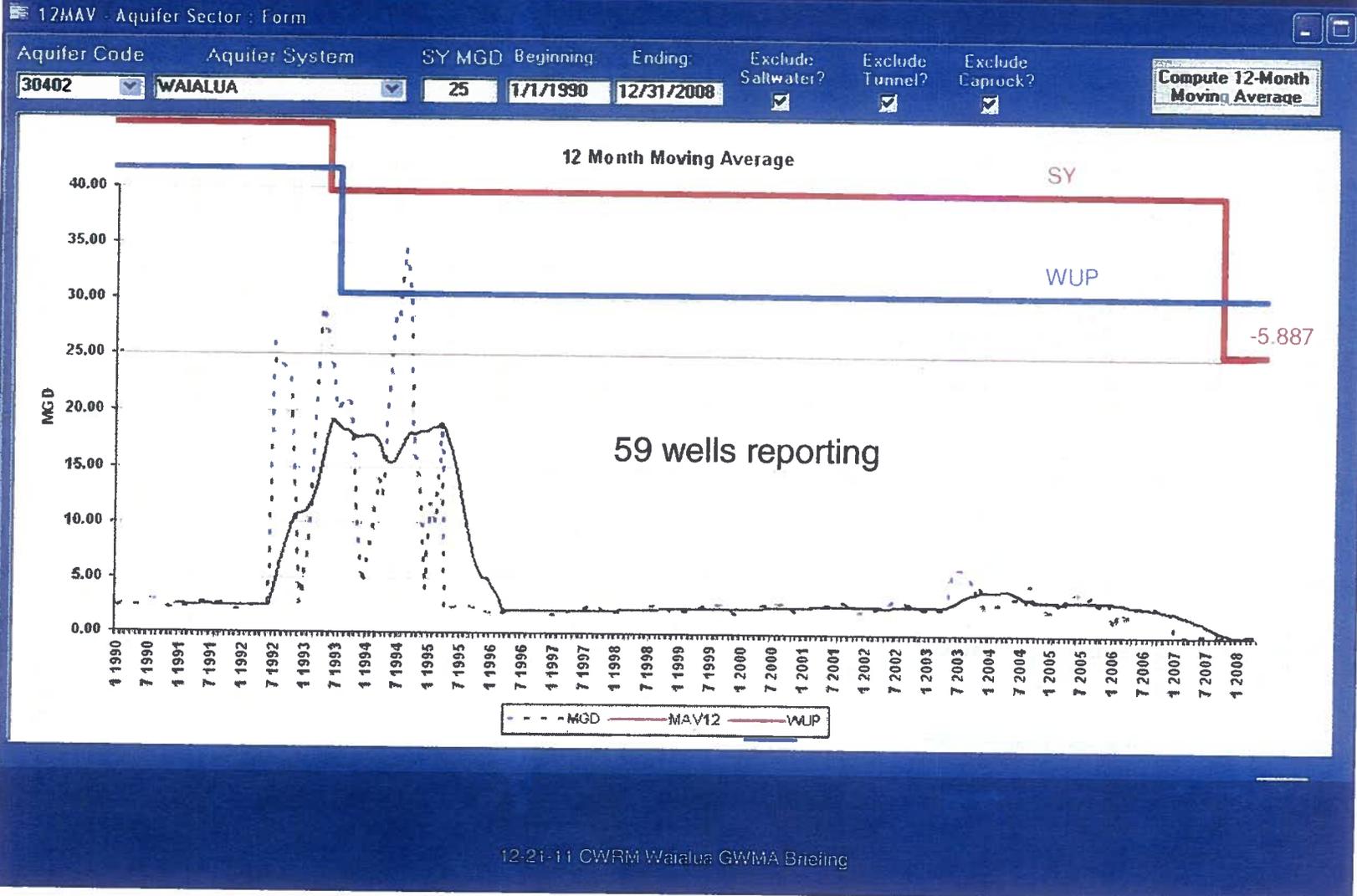
- 1 9/11/81 BLNR action under Waialua Ground Water Control Area (established 2/27/81): allocations preserved 5-year average historical use and were subject to special conditions, were not given water use permit numbers.
- 2 under the Water Code, continuing use is allowed under the Waialua Ground Water Management Area, and assigned permit numbers. New uses are based on the reasonable-beneficial test. Estimated sustainable yields assigned in 1990 Water Resource Protection Plan are depicted retroactively under column showing 1981 continuing allocations, showing an appropriate total allocation under existing conditions. (cont. next p.)
- 3 3407-02 ("Kunihiro Well") owned by Theodore J.P Lopez Trust, aka Lopez Sons, water used in 1981 on separate parcel by S. Kunihiro, original water use declarant. Following Kunihiro disuse, Lopez granted use to Native Hawaiian Advisory Council (NHAC); well name changed to "Lopez Well" to reflect owner. Property and well transferred to Richard Sterman, used by ___. Well name to be clarified as "Lopez Well #2". Kunihiro WUP 44 reduced to 0.000 by CWRM action 10/13/93.
- 4 3407-var ("Mill Pumps") WUP revoked by CWRM action 9/18/02; abandonment acknowledged 1/13/03
3306-01 to -12 ("Pump 10") " " " "
8/05/02
- 5 3407-11 & -12 ("Pump 7 B&C"), and 3505-01 to-20 ("Pump 3"), voluntarily cutback approved by CWRM 6/3/93
- 6 3205-02 (Poamoho Well A) drilled in September 1994; WCR1 not accepted as complete until 2/17/98; WCR2 complete 5/15/98
- 7 3406-16 (Lopez Well #1) apparently dug around 1935, not declared during official window. Registered 8/18/94 to enter system with water use permit.
- 8 3506-10 (BG Farm Well) registered 5/31/89
- 9 3407-38 (Paradise Shrimp Farm Production Well) drilled in November 2003
- 10 3406-02 ("Pump 9") property and water transferred 1/24/05 from Waialua Sugar to M. Jewett & M. Ward
- 11 3505-01 to -20 ("Opae'ula Pump 3") transferred 7/7/10 from Waialua Sugar to Kamehameha Schools
3506-03 & -04 ("Pump 8") " " " "
; both sets of wells were assigned new WUP Nos.
- 12 3406-08 (Gora Well) water use permit transferred to person no longer controlling well or end use; to be reassigned.

Initial allocations under the Waialua Ground Water Control Area of the Board of Land and Natural Resources were approved September 11, 1981. Following the creation of the Water Code and the Commission, the existing permits were continued and assigned permit numbers which would change with each new use, owner, or change of allocation. The first Water Resource Protection Plan was approved by the Commission in 1990, setting the estimated sustainable yields.

Commission action on June 2, 1993 reflected the need to reduce overall pumpage (42.514 mgd) from the area defined as the Waialua Ground Water Management Area and assigned a lower sustainable yield (40 mgd). Voluntary cutbacks were offered by Waialua Sugar and accepted by the Commission, affecting three sets of wells, one of which ("Pump 10") was subsequently abandoned and sealed.

The 2008 review of sustainable yields for the revised Water Resource Protection Plan resulted in a still lower sustainable yield estimated for the Waialua Aquifer System (25 mgd). Although this timing followed the closing of sugar production and consequent drop in ground water withdrawals, the 20-year review of all water use permits during this same period suggested strongly that all users should be addressed simultaneously, rather than simply seeking voluntary cutbacks. The trigger for this action is the current proposal by the Honolulu Board of Water Supply to increase pumpage at Well Nos. 3405-01 & 02 ("Waialua Wells") against allocations still in effect, in excess of the adopted sustainable yield.

Waialua Ground Water Pumpage



Graphical representation of timeline for WGWMA changes in sustainable yield and allocations.

EXHIBIT 6

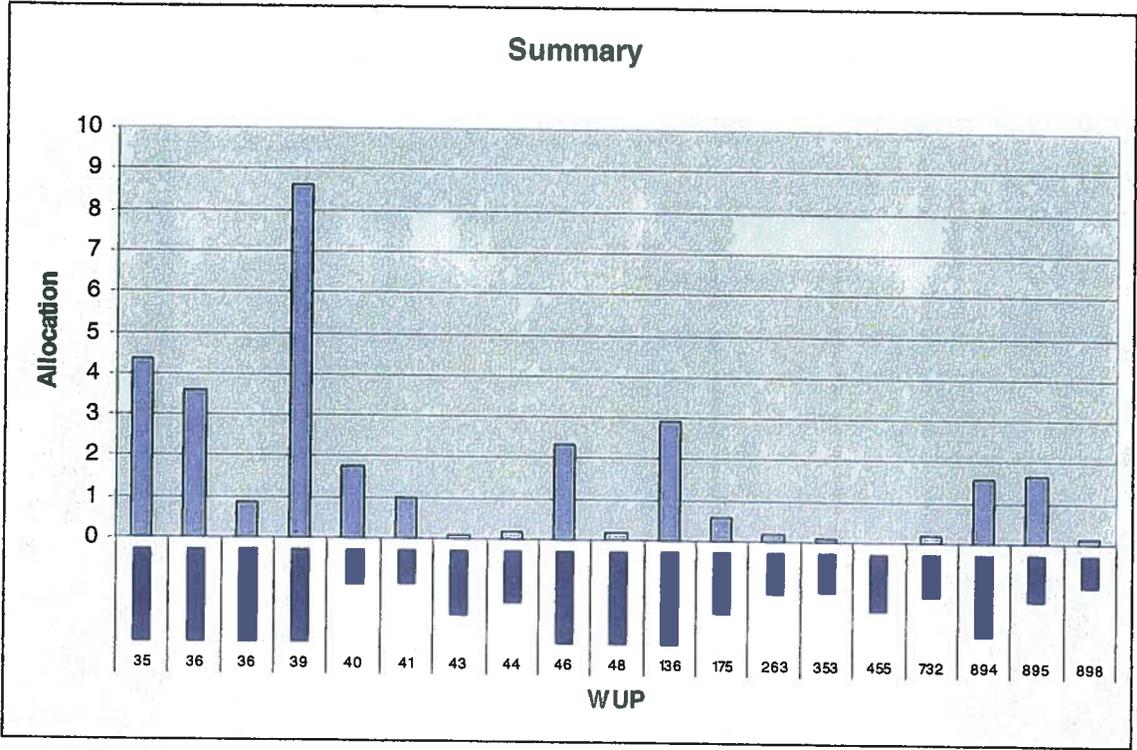


Exhibit 7

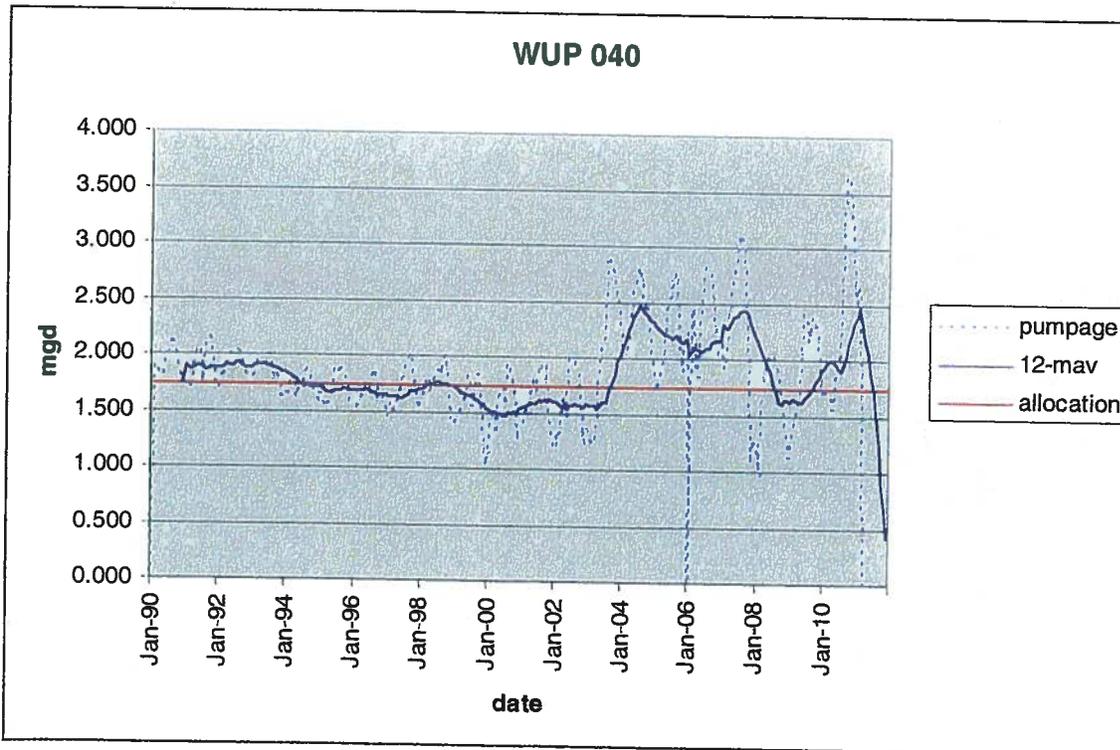
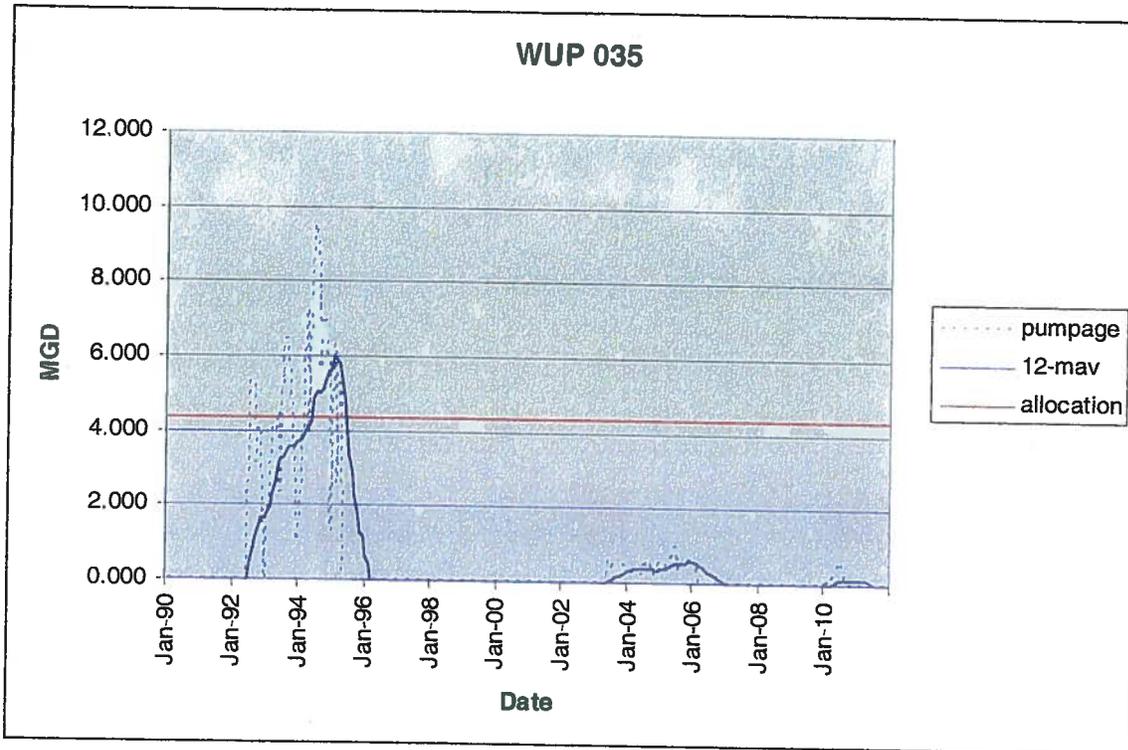


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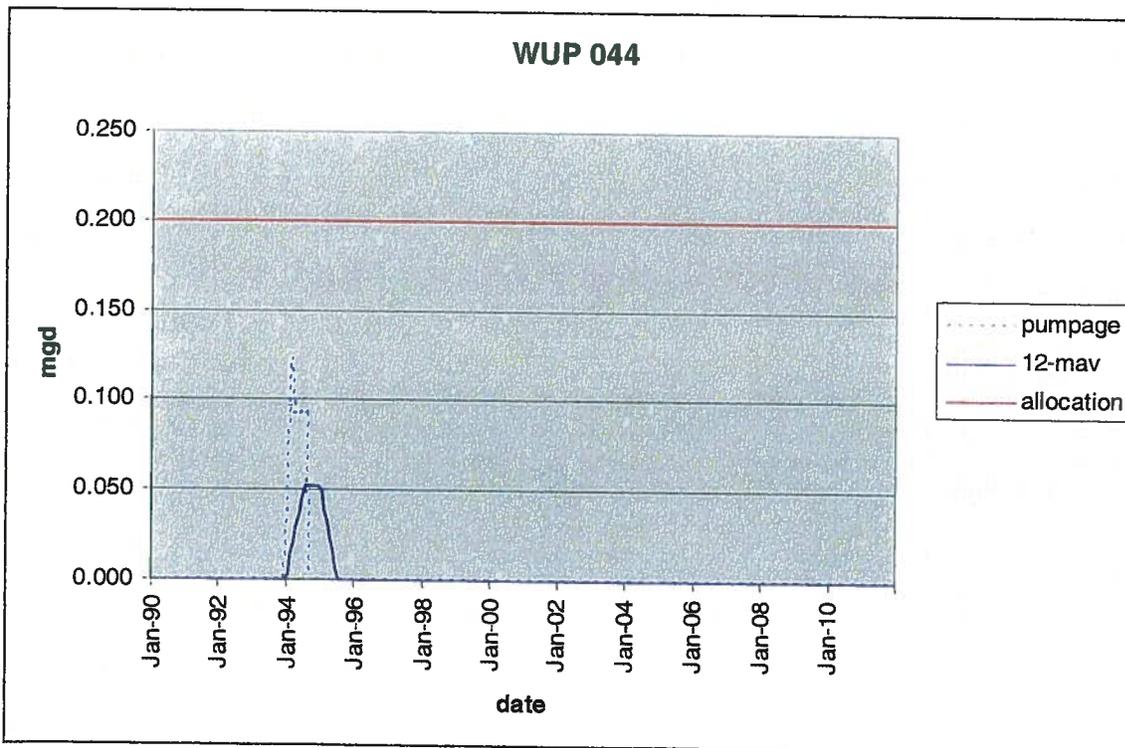
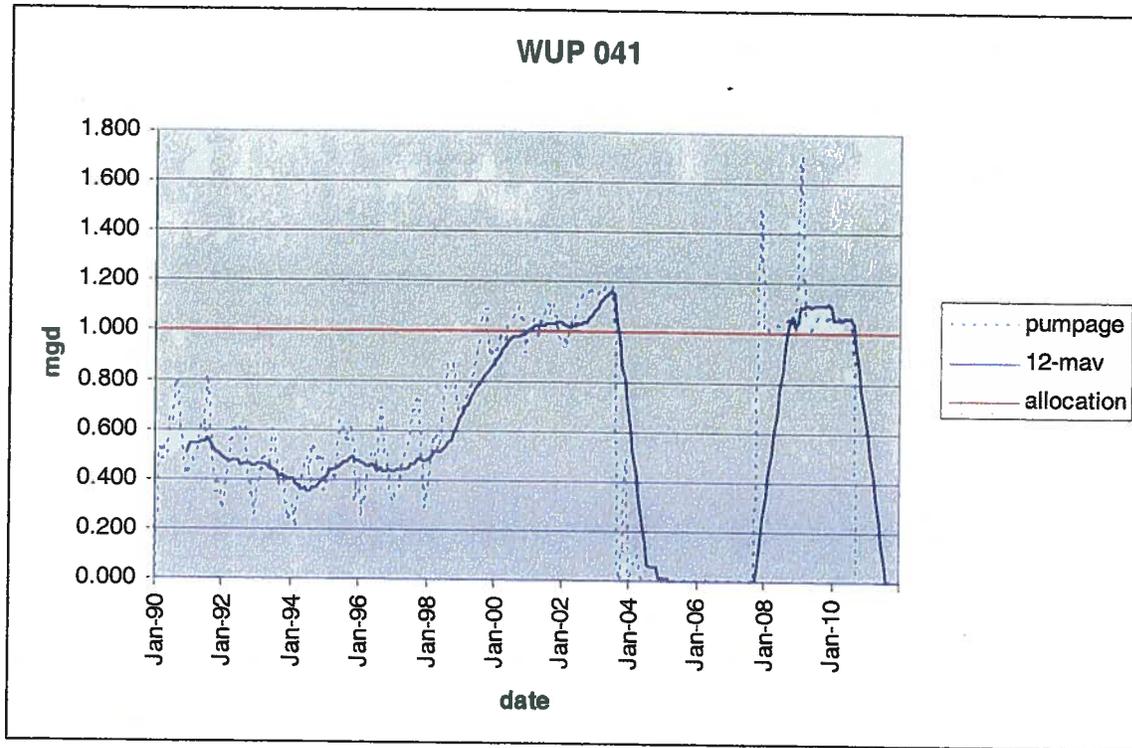


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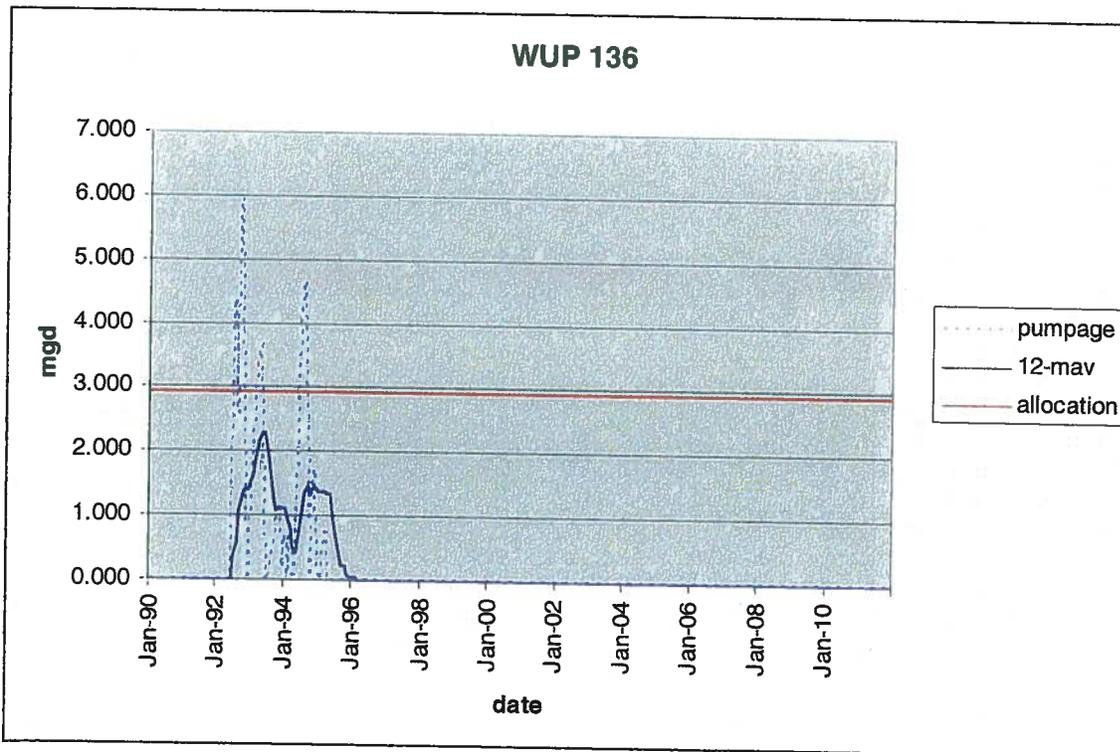
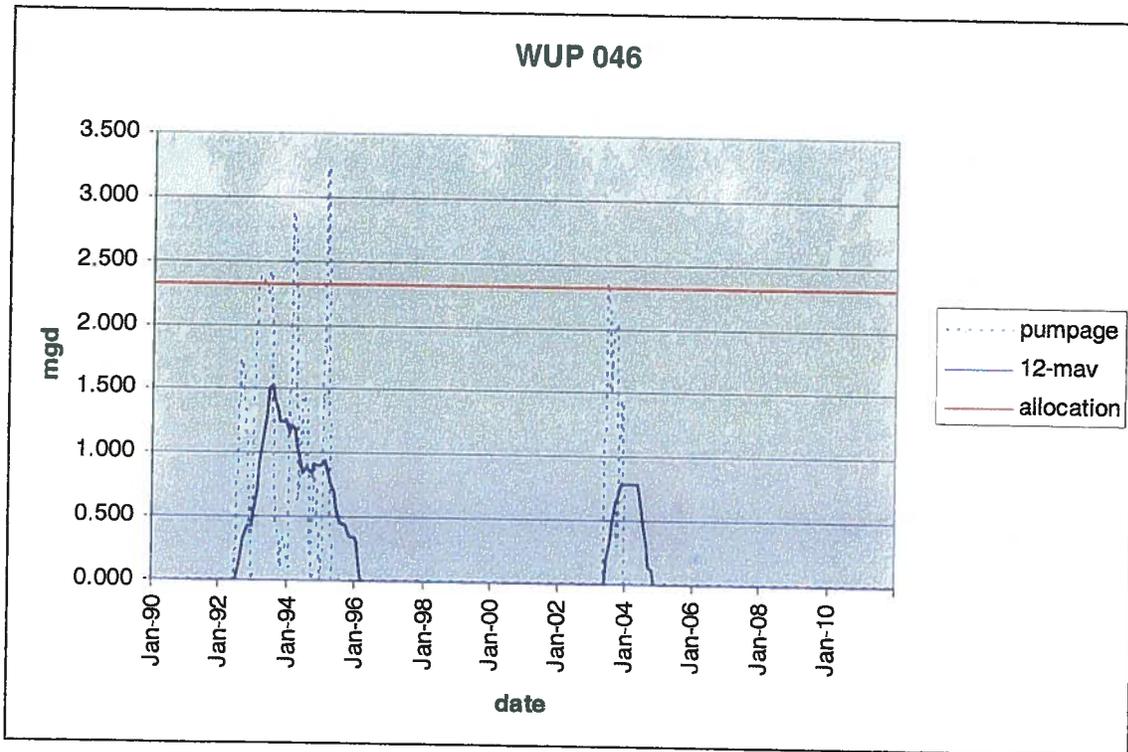


Exhibit 7

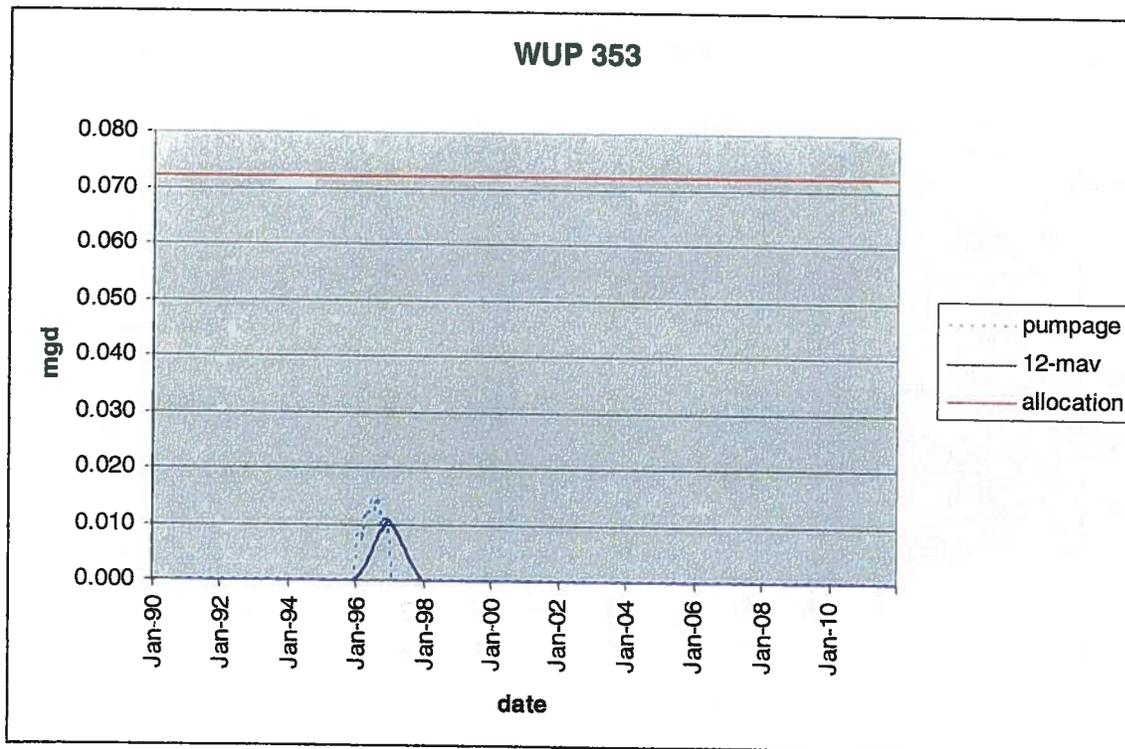
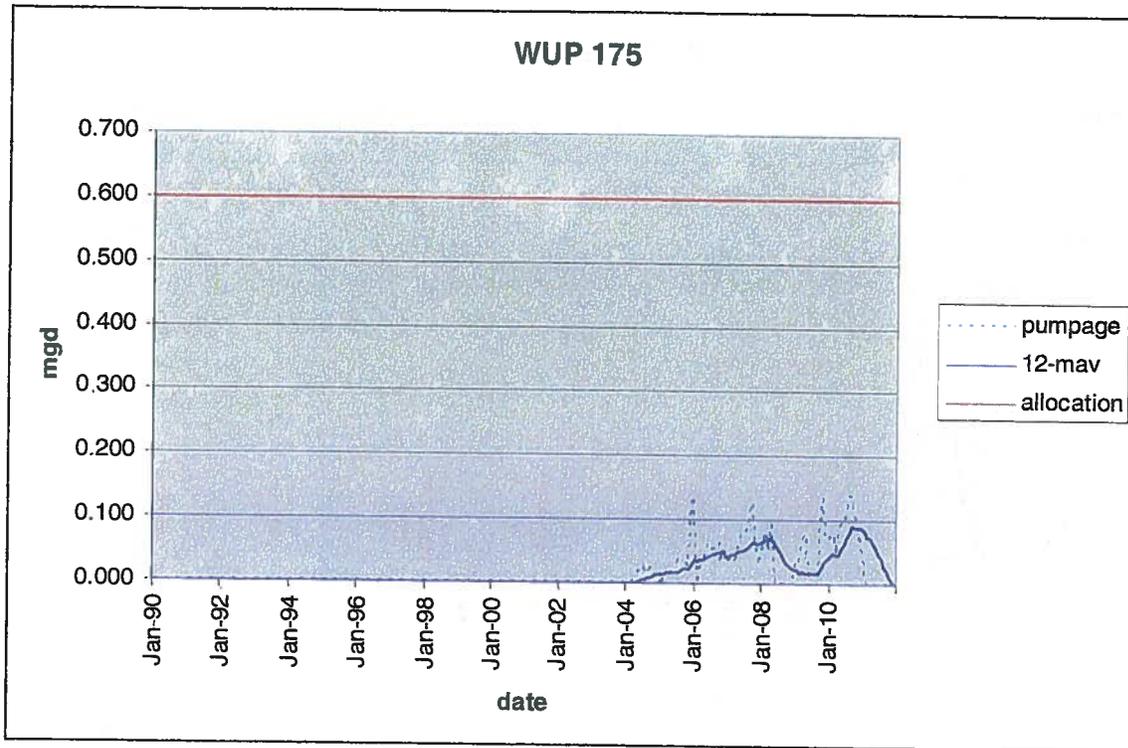


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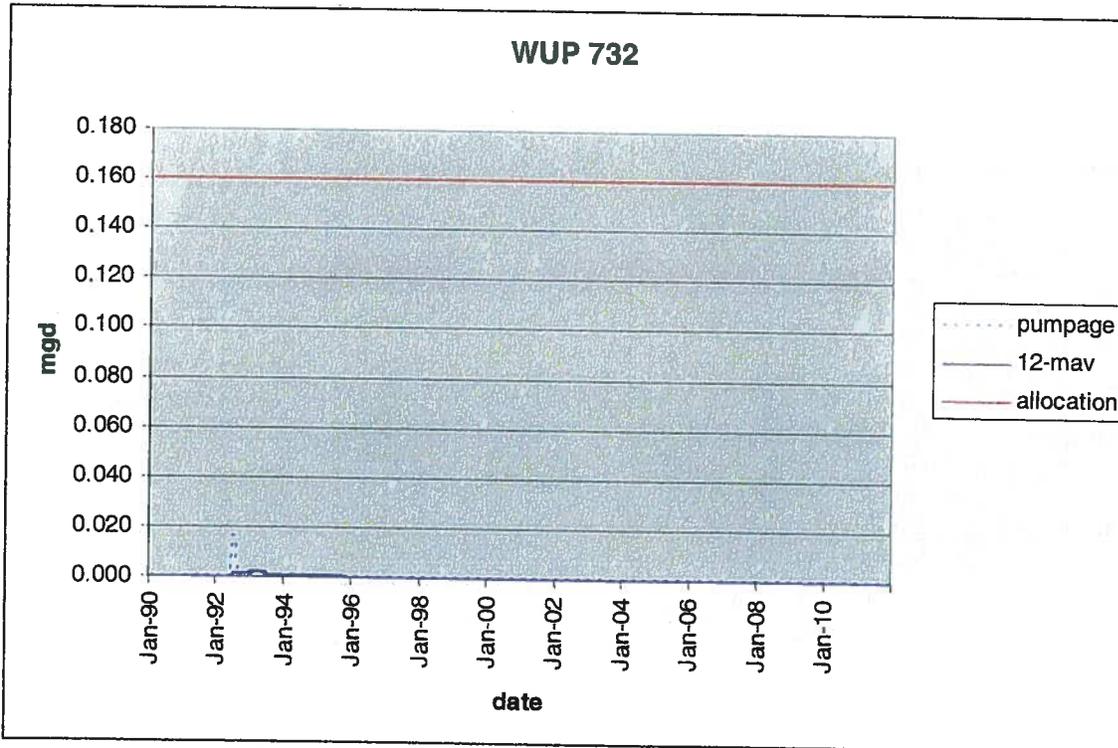
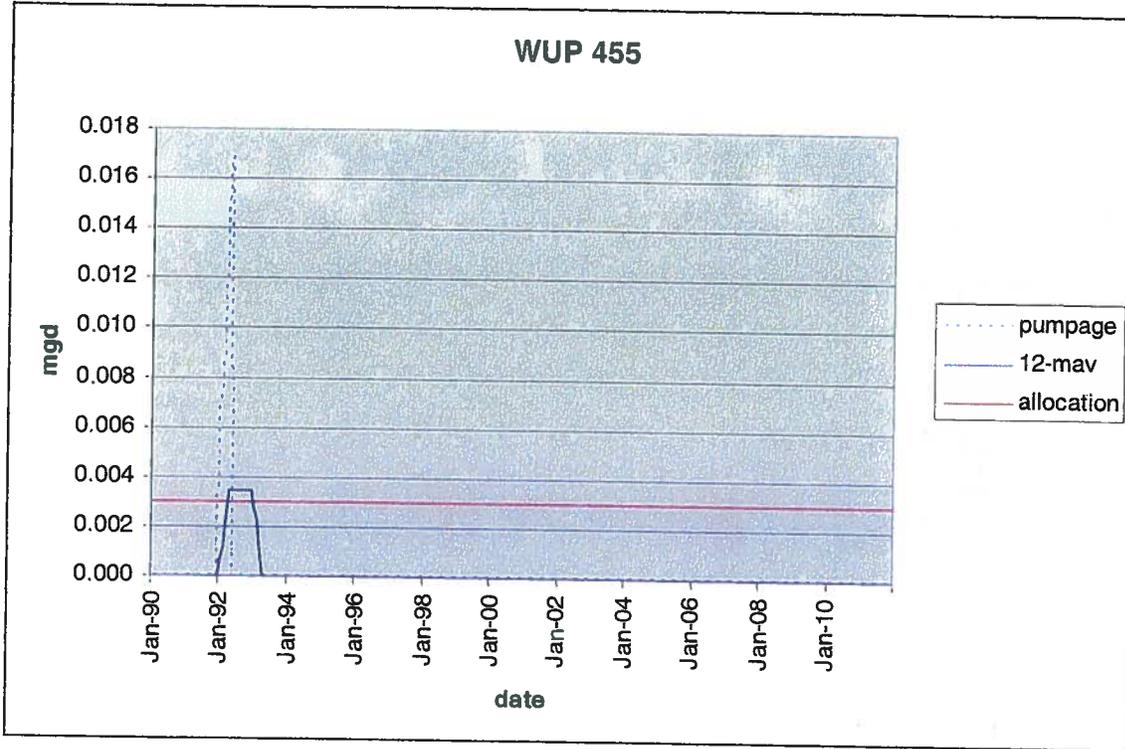


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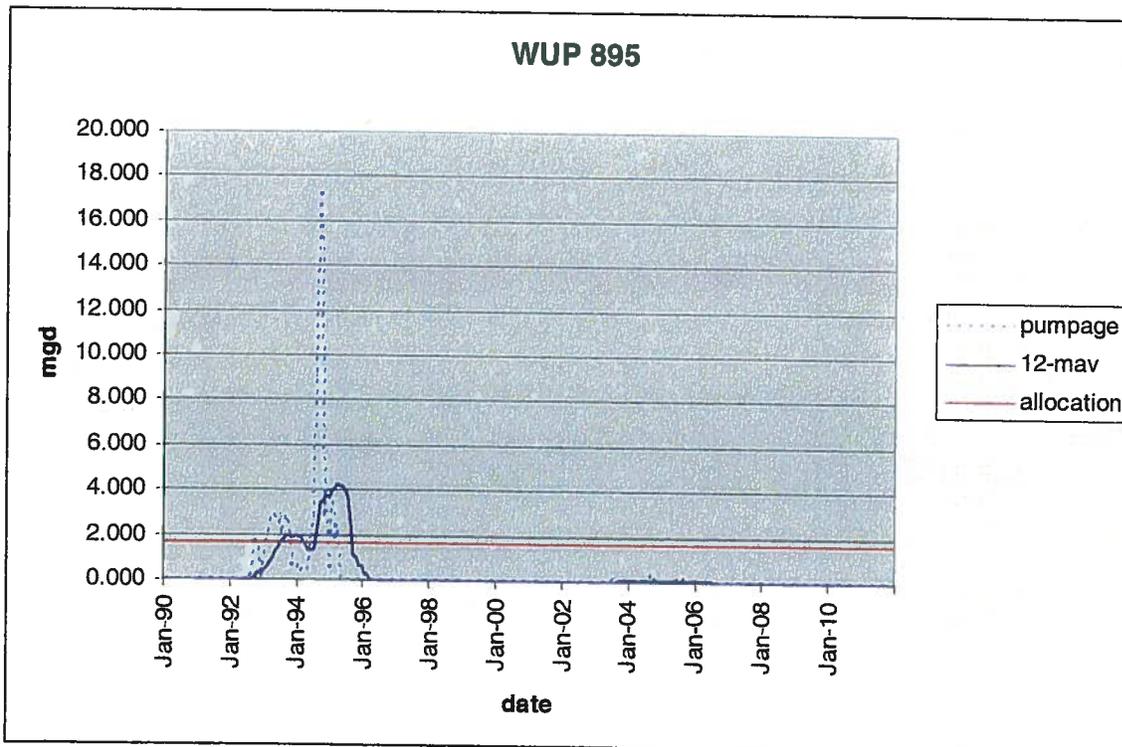
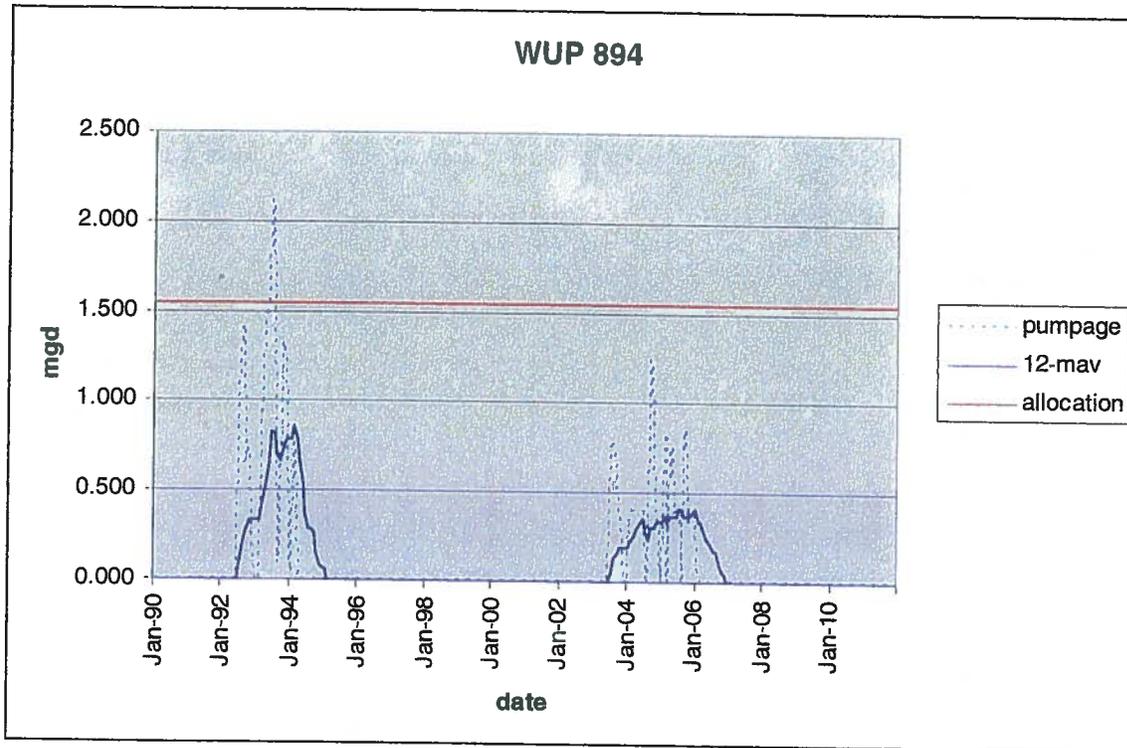


Exhibit 7

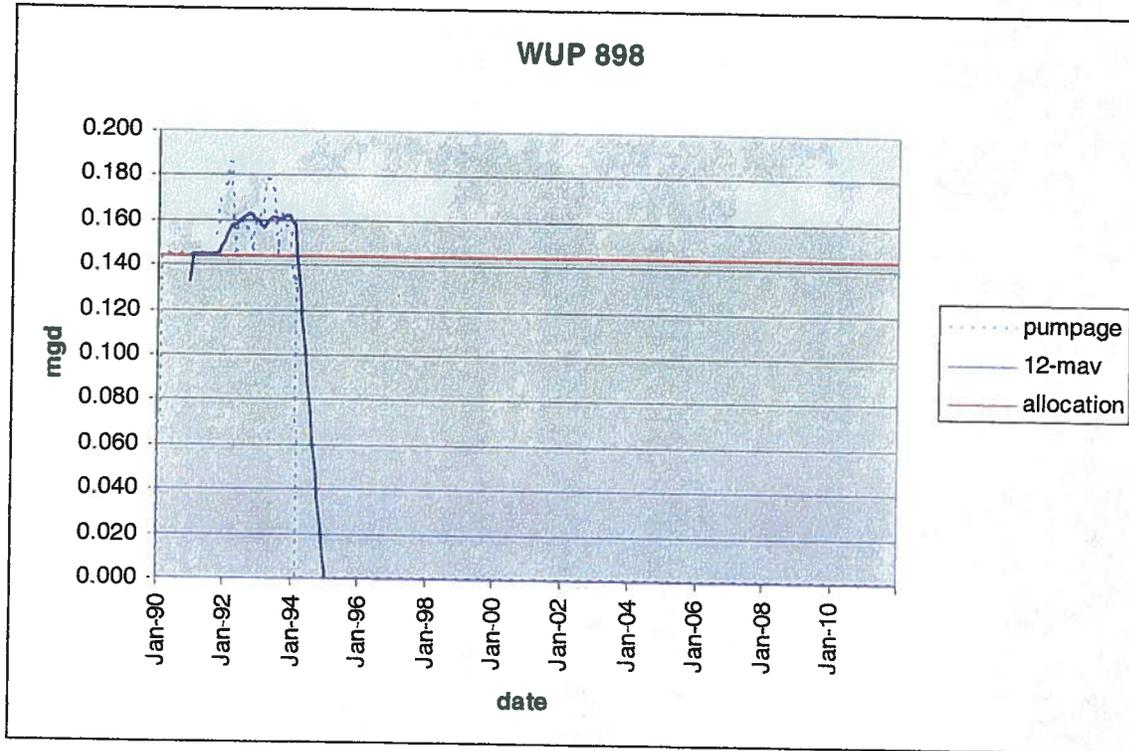


EXHIBIT 7



Ke Kahawai Pono

"The trustee who oversees the rightful sharing of water."

**Review of Water Use Permits
Complete and Partial Revocations
Waialua Ground Water Management Area
Waialua, Oahu**

State Commission on Water Resource Management



February 15, 2012



Haleiwa O

Pump 8A 3506-03

Pump 8B 3506-04

Opaeha P3 3505-01 to 20

B G Farm 3506-10

Paradise Shrimp 3407-38

Kawamata 3406-03

BWS Haleiwa 1 3405-03&04

Waialua Pump 9 3406-02

Waialua O

Lopez 2 3407-02

Gilman 3405-06

Pump 17 3404-01

BWS Waialua 3405-01 & 02

Farrington Hwy

Pump 7 D 3407-18&19

Pump 7B 3407-11&12

Pump 1 3407-04 to 06-14, 15

Kamehameha Hwy

99

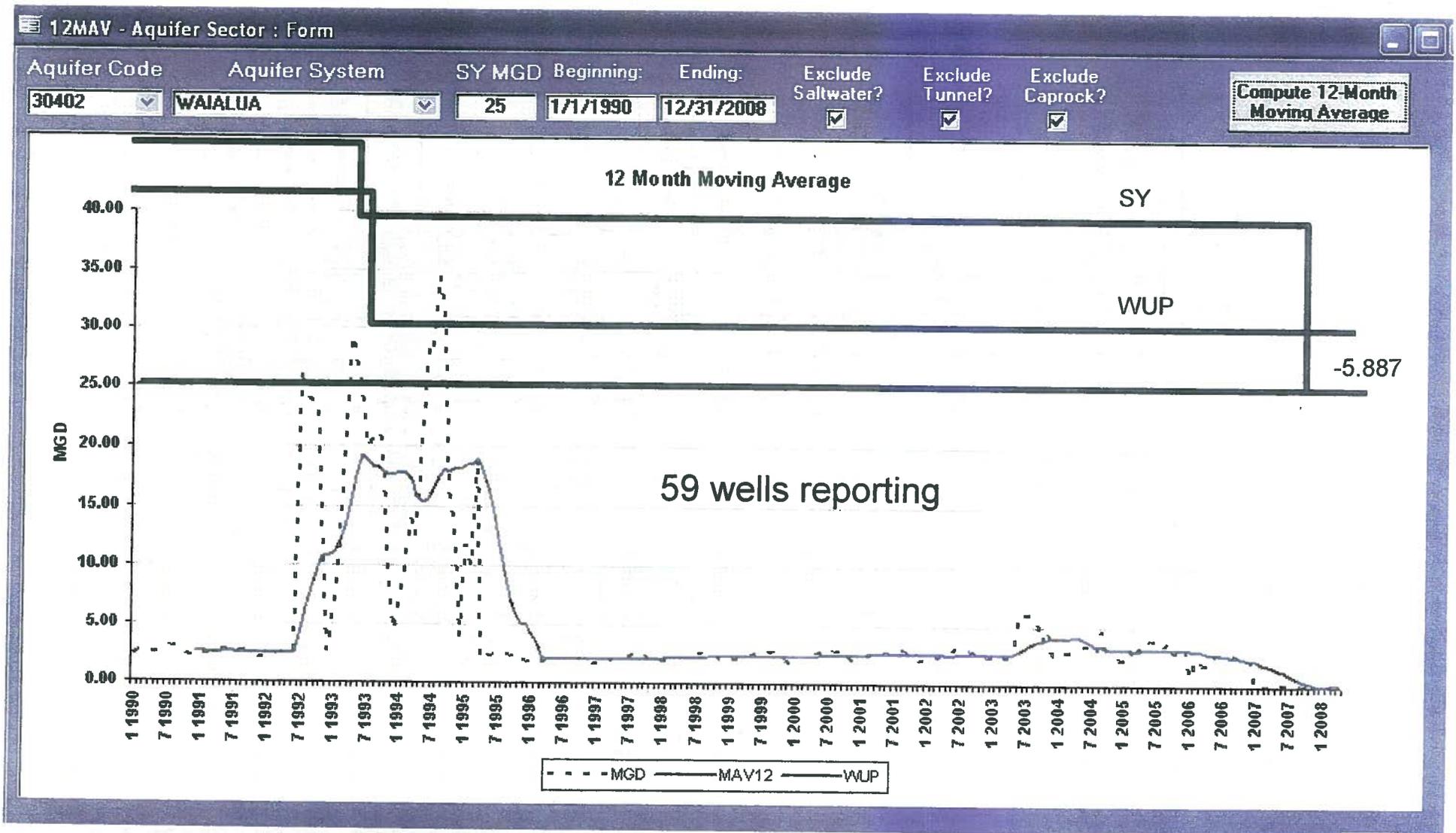
Pump 2A 3307-07 & 11 to 14

Pump 2 3307-01 to 05 & 08 to 10

Kaukonahua Rd

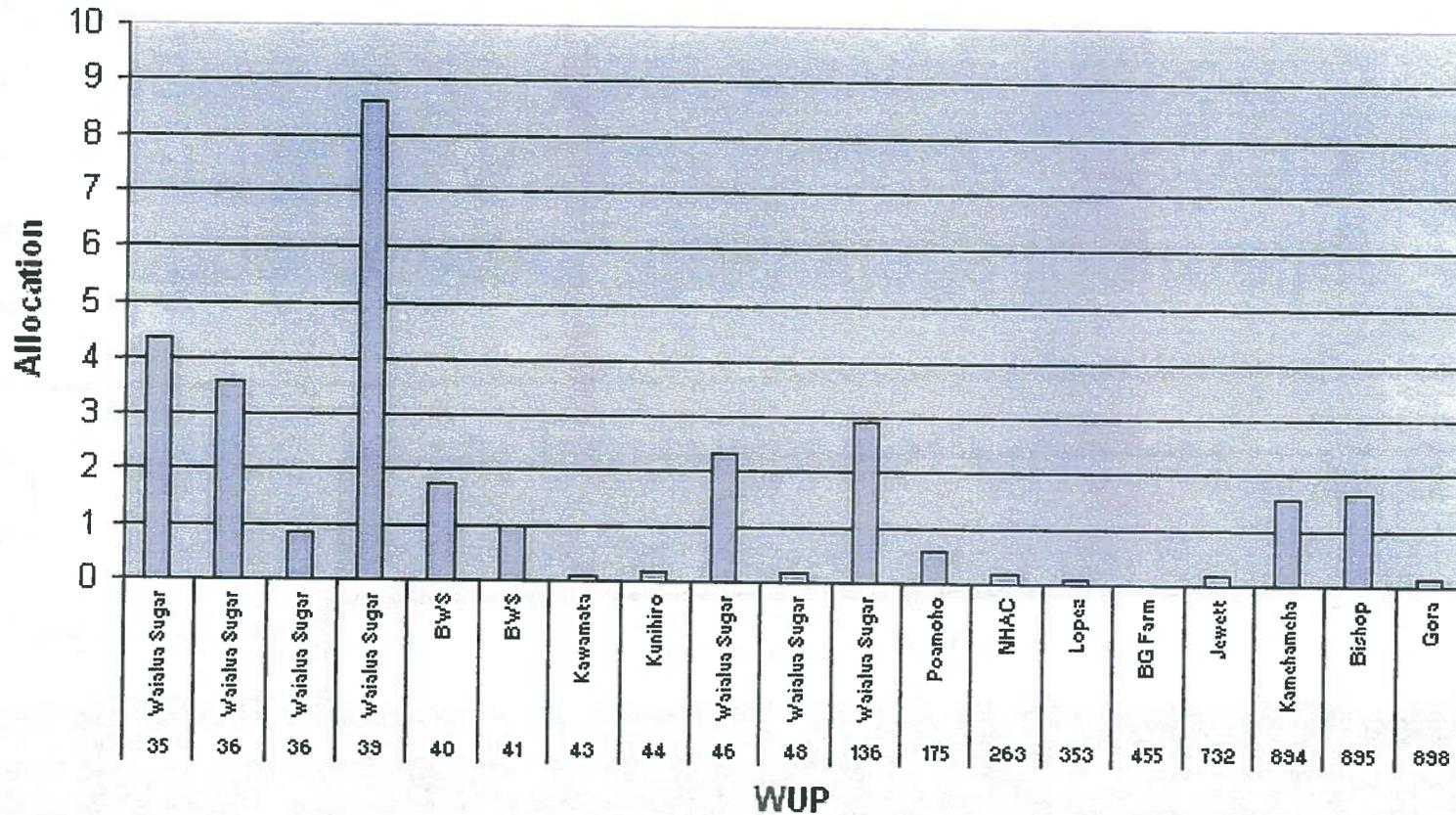
Poamoho A 3205-02

Waialua Ground Water Pumpage



Waialua Current Allocations

Summary



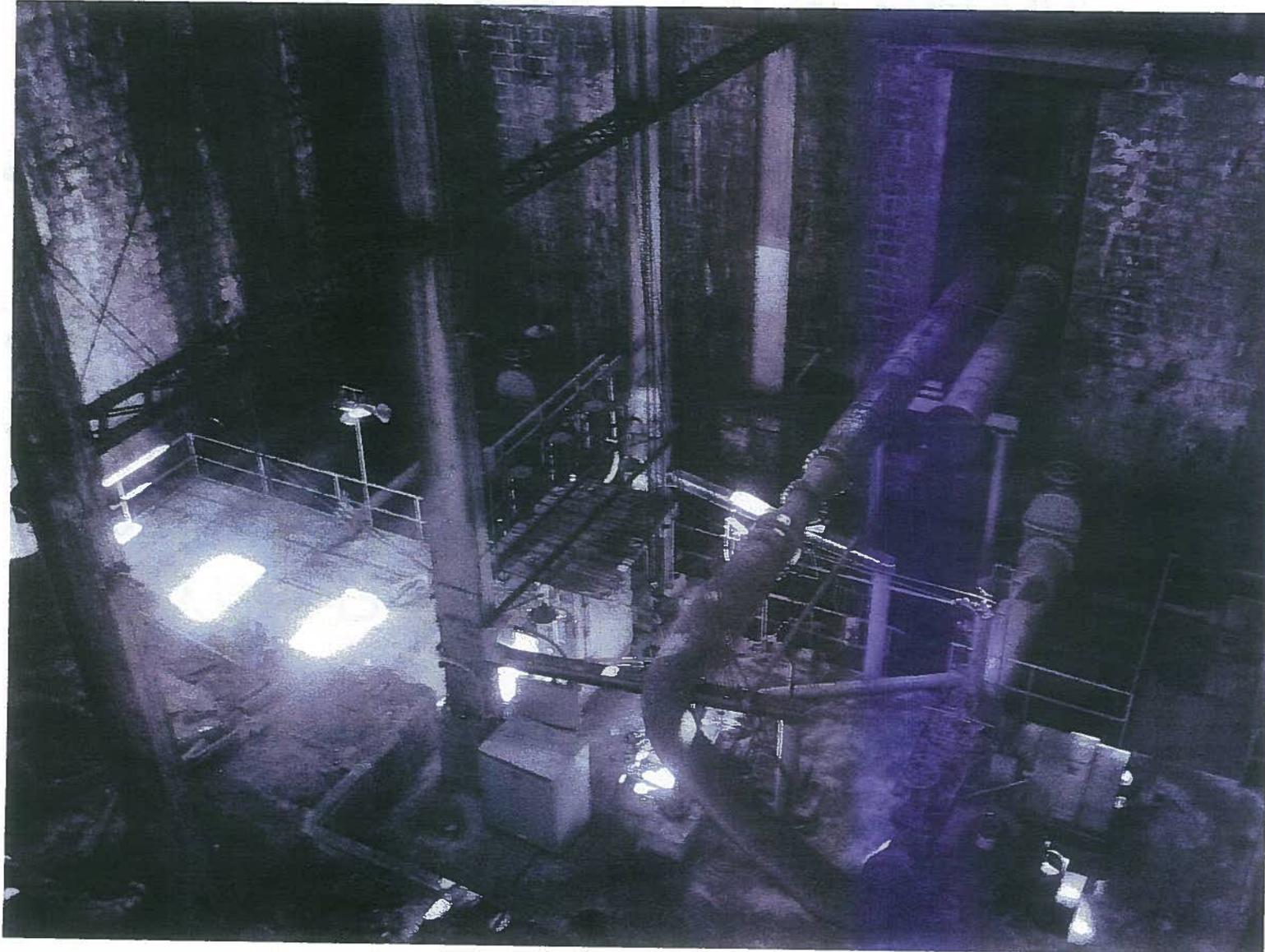
- Total allocations are 30.887 Mgd
- Overallocation is 5.887 mgd

Interactions with Permittees

- 20-Year Review (2008-2009) contact and field visits
- Follow-up phone calls with larger users
- Letters to all permittees, August 1 & 9, 2011
- Phone contact, field visits to smaller permittees for clarification; delivery of copies of 20-Year Review Report.
- Hearing Submittal to all permittees by Certified Letter and by Email
- Opportunity to Request Contested Case

Waialua User Status

- KSBE Plans – pump 3 renovations



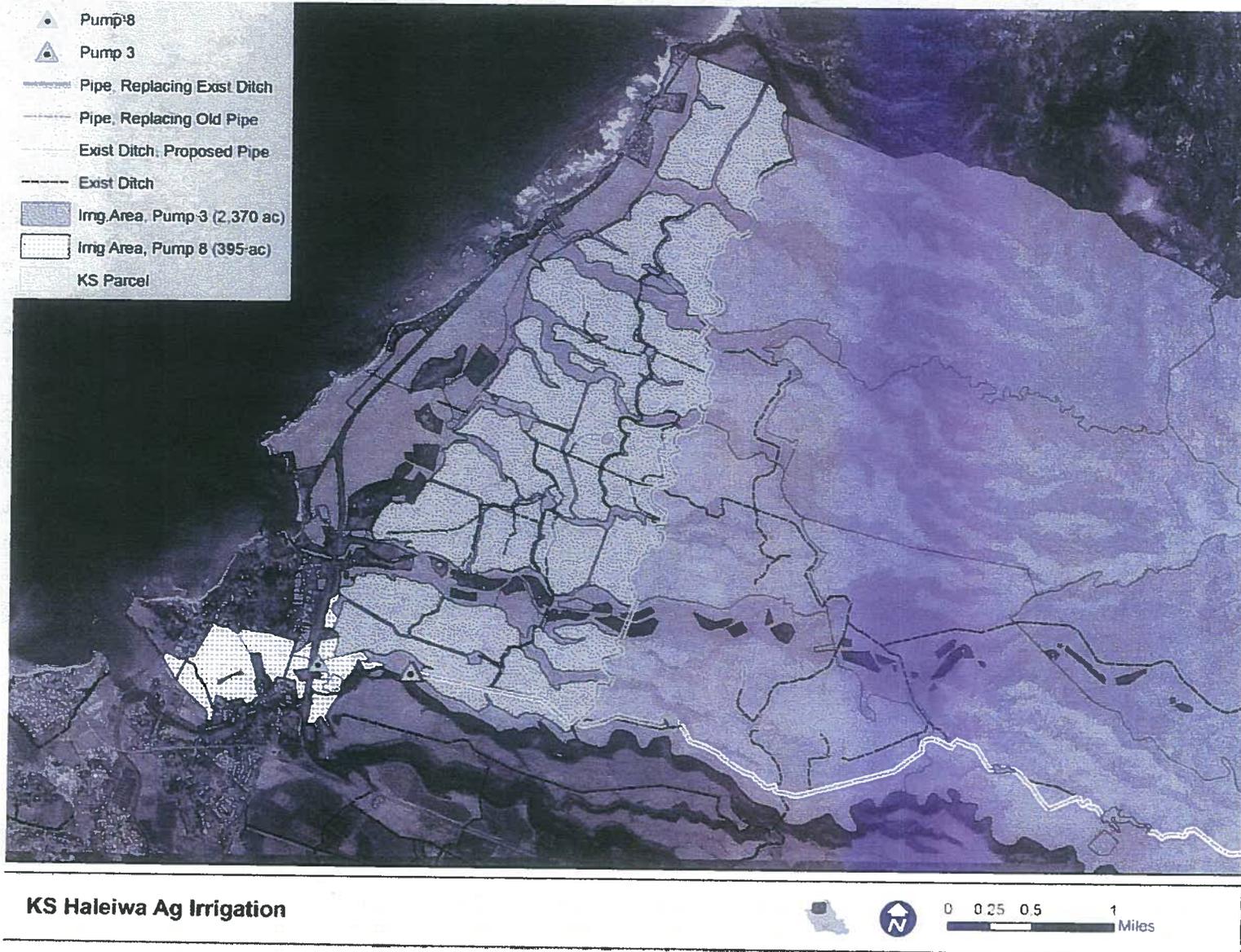
Waialua User Status

- KSBE Plans – pump 3 renovations



Waialua User Status

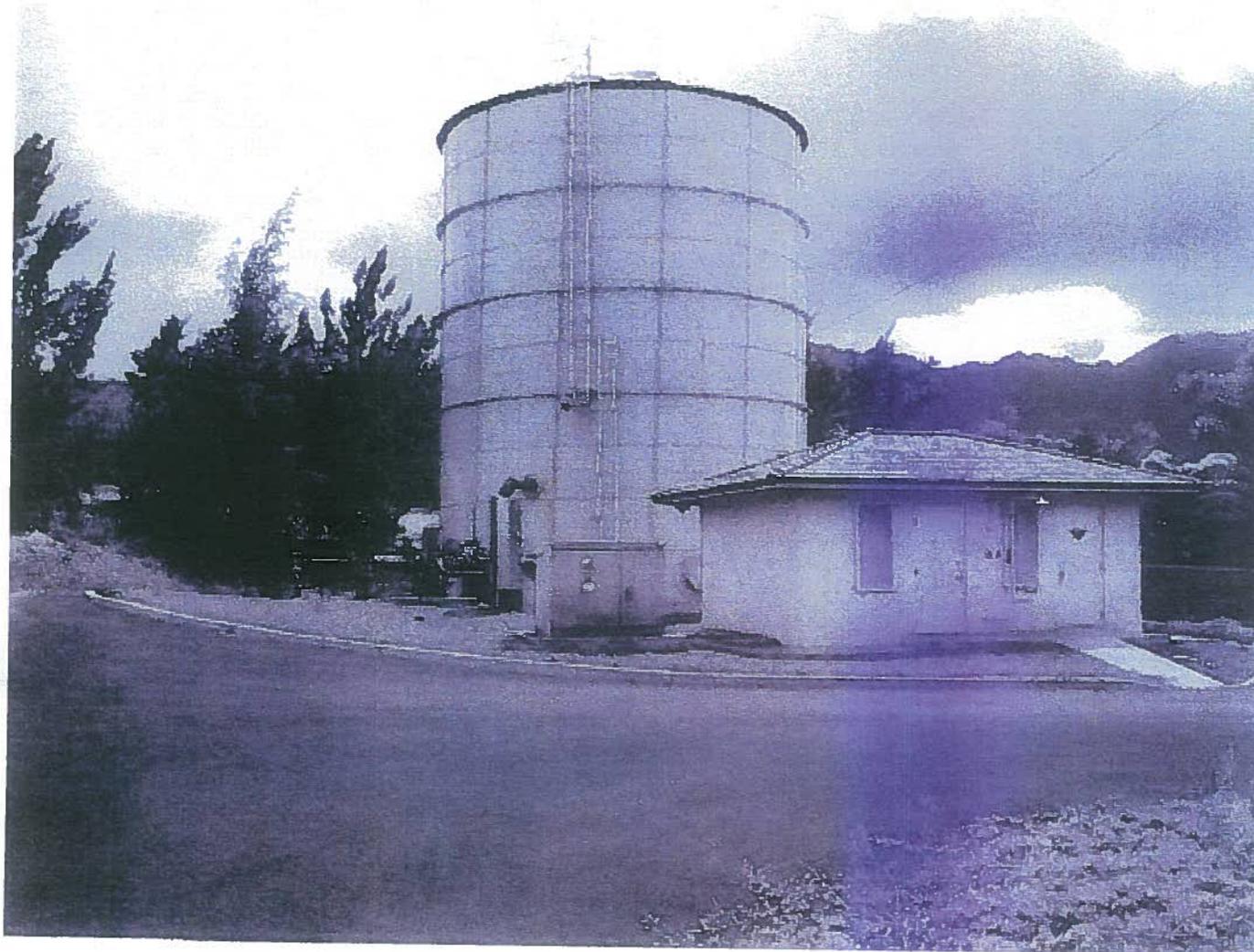
- **KSBE Plans** Have expended \$10M on improvements so far



Waialua User Status

- Other small users

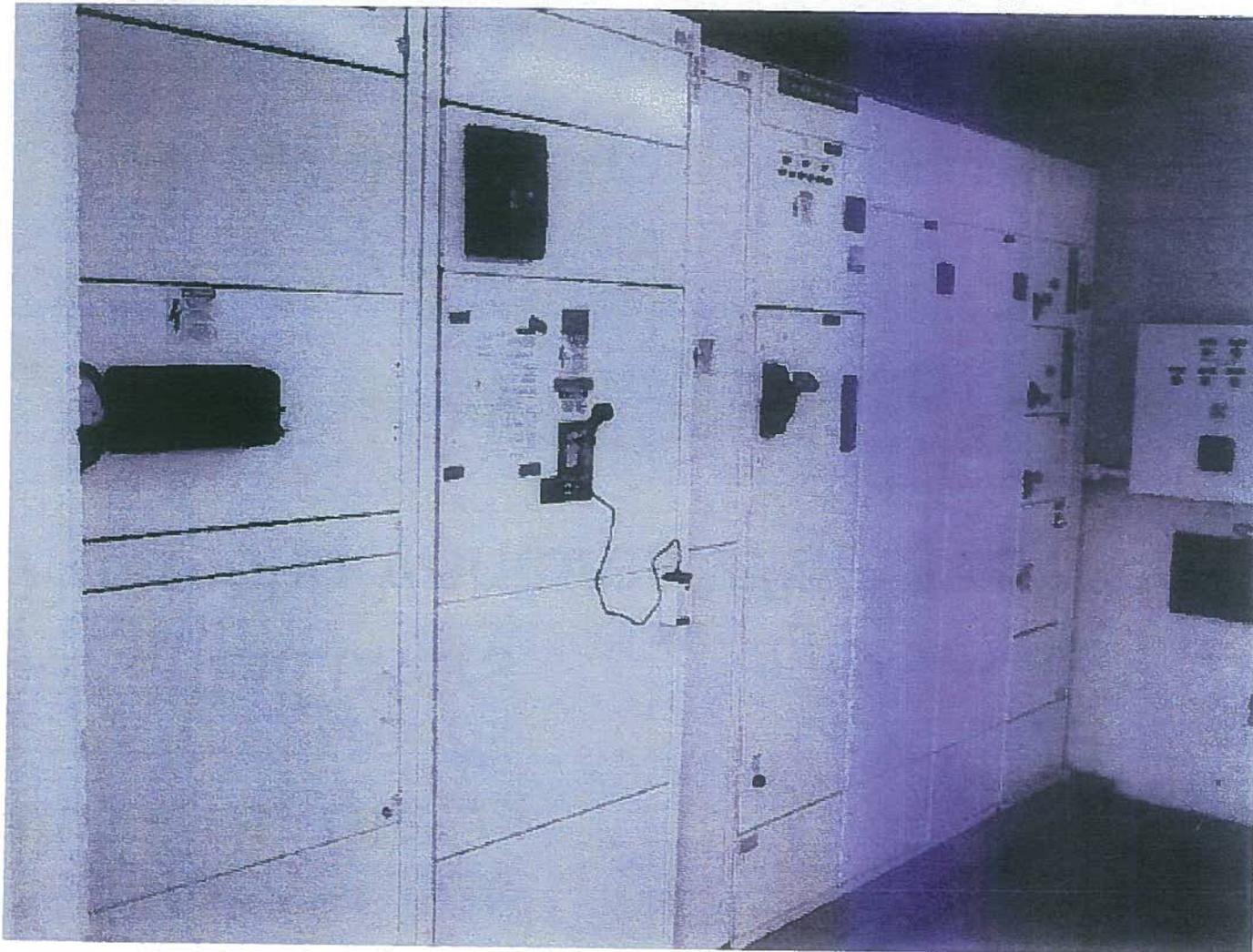
Poamoho Ventures WUP 175



Waialua User Status

- Other small users

Poamoho Ventures WUP 175



Waialua User Status

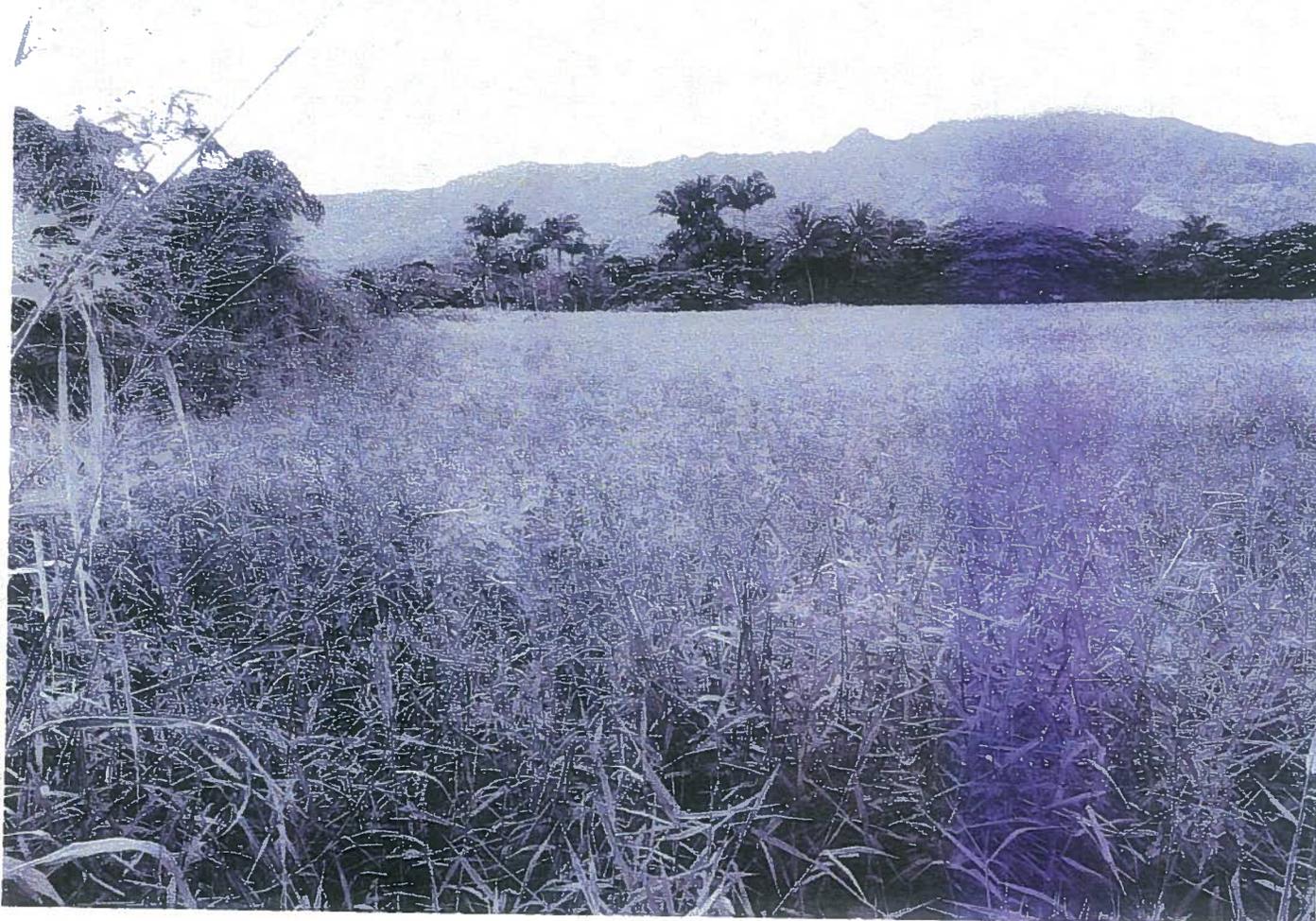
- Other small users

Poamoho Ventures WUP 175



Waialua User Status

- Other small users
Kunihiro WUP 44, 263

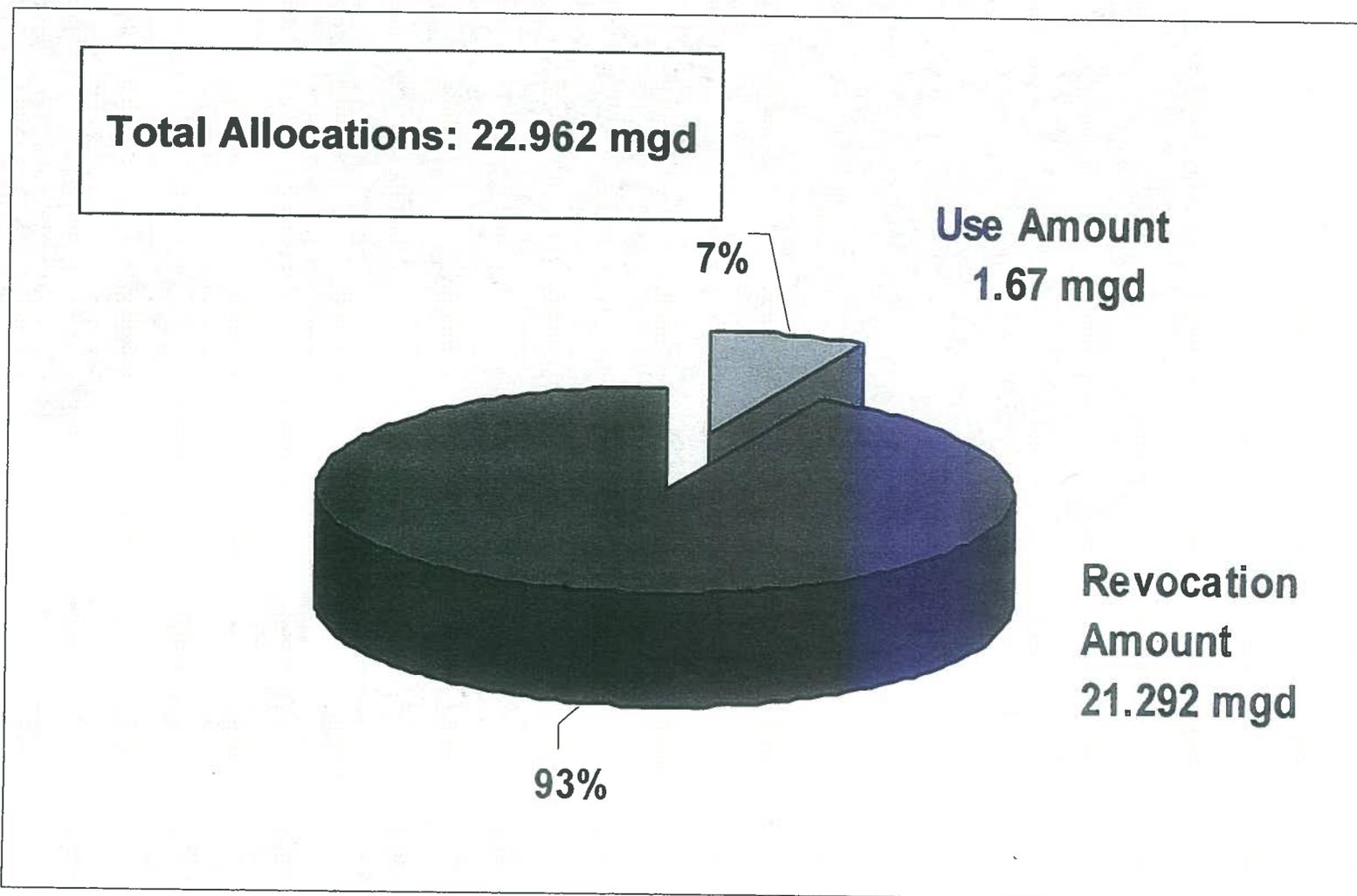


Waialua User Status

- Other small users
Lopez WUP 353



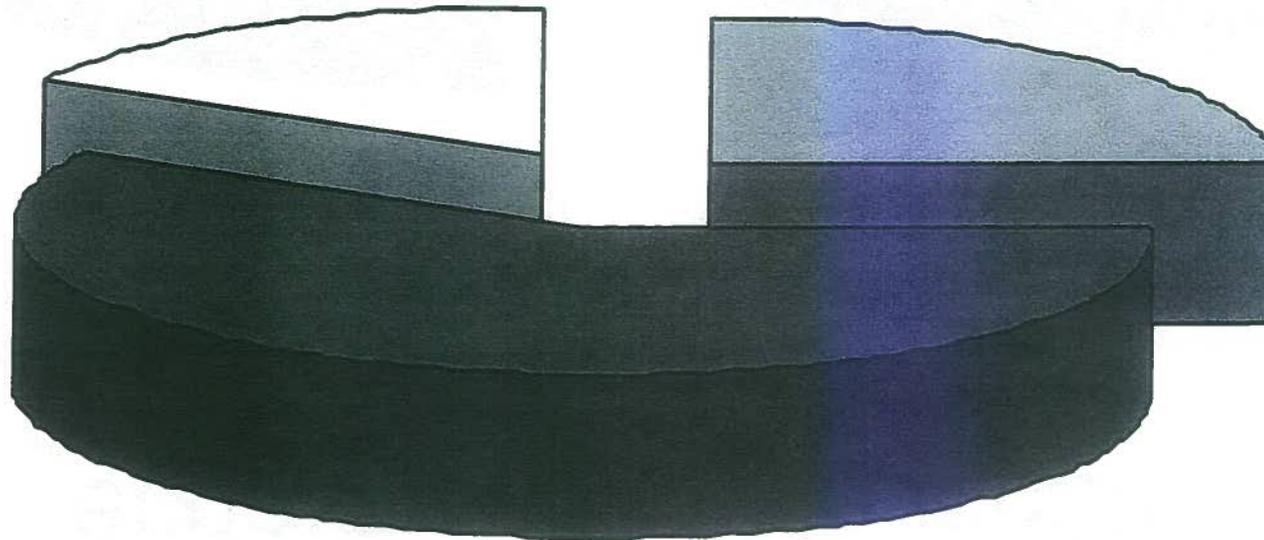
Total Allocations to Waialua Sugar



4 Small Users Status Change

**2 Voluntary Cancellations:
Total = 0.103 mgd**

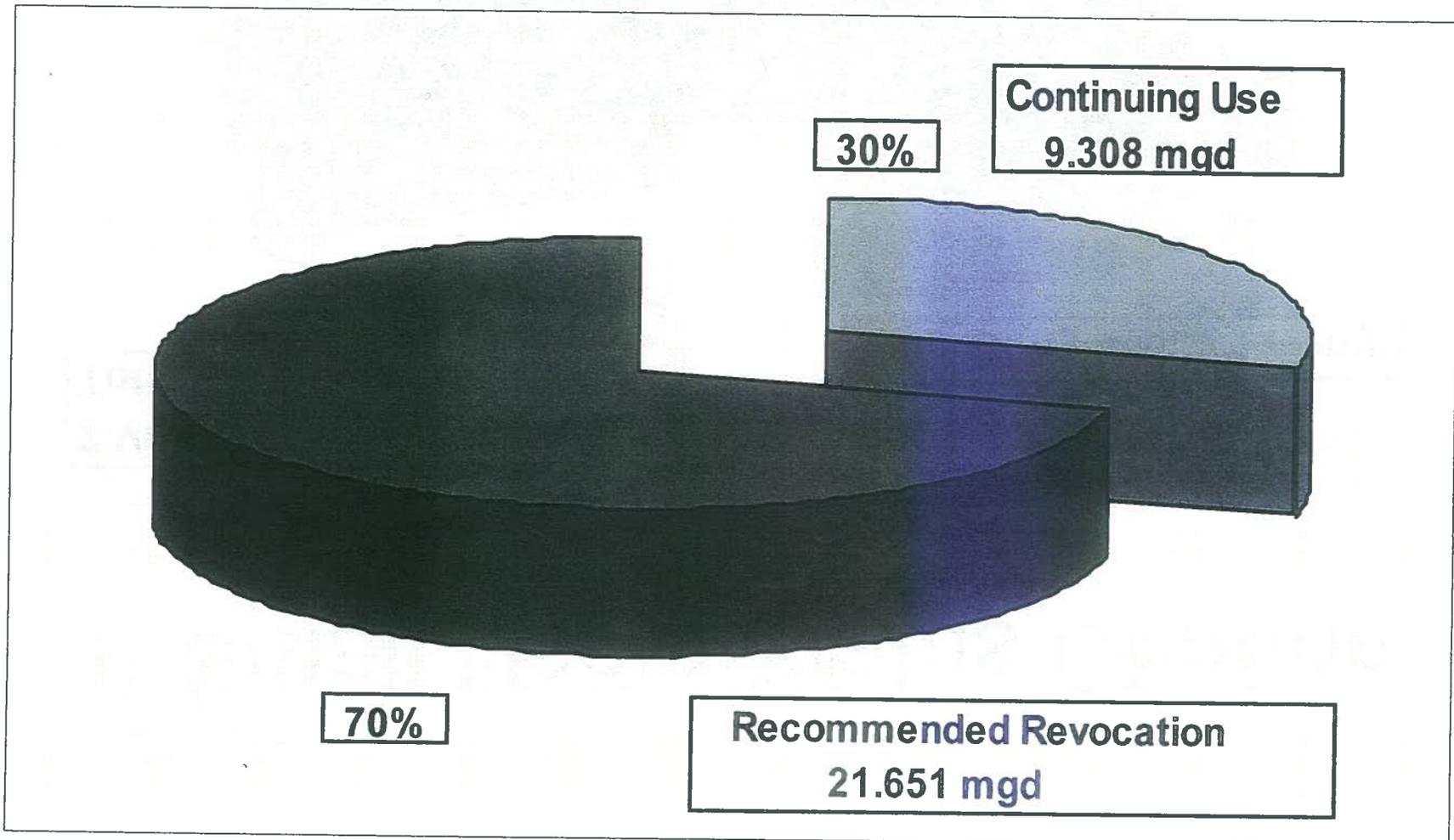
Continuing Use: 0.144 mgd



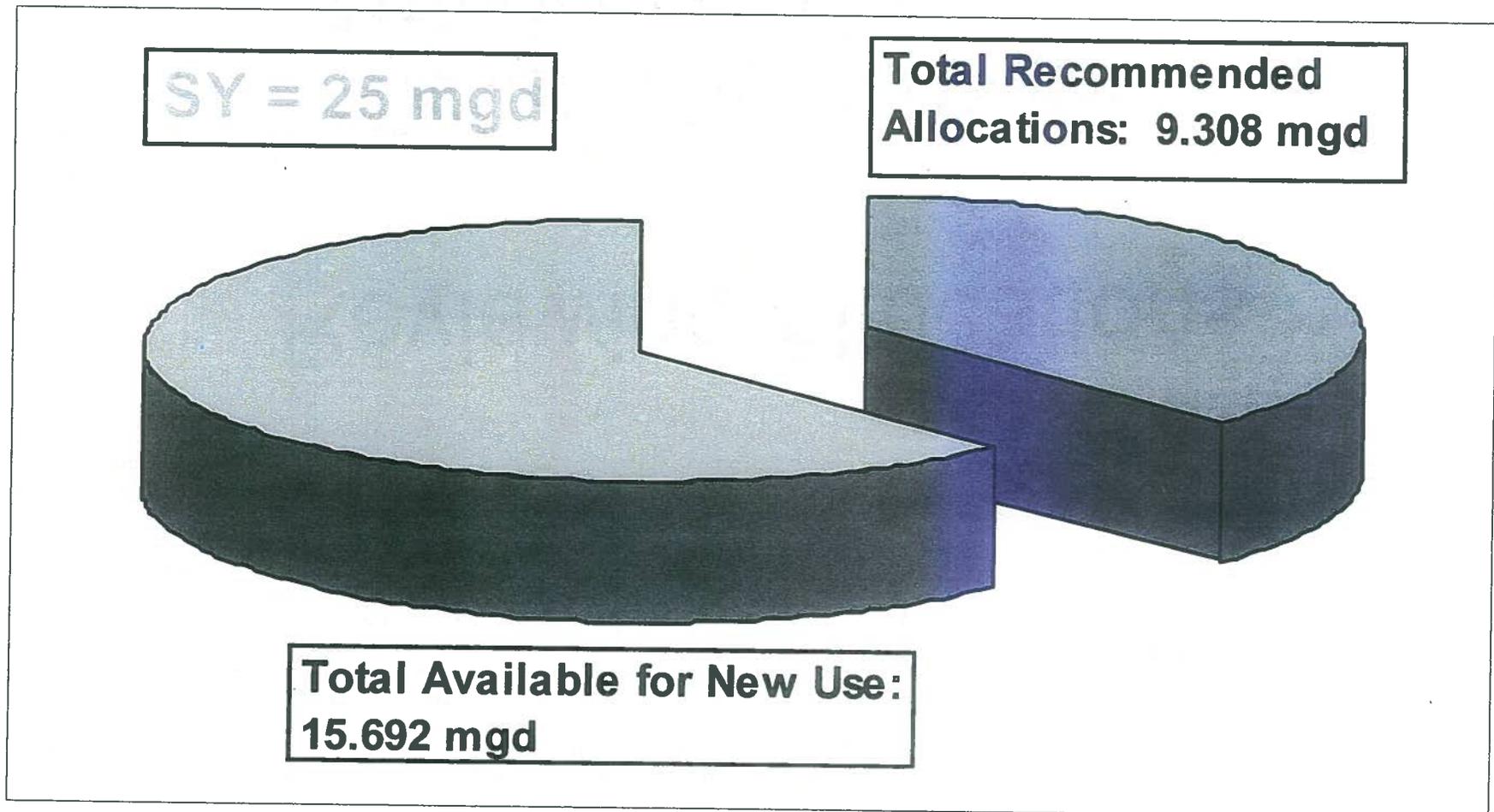
Recommended Revocation: 0.256 mgd

4 Small User Allocation Total: 0.503 mgd

Total Continuing Use and Recommended Revocation



Availability from Waialua Aquifer



Reviewing Allocations

Waialua Ground Water
Management Area (O'ahu)
Water Use Permits

Reasons for Review

- Reduced Estimated Sustainable Yield from 40 mgd to 25 mgd (2008 WRPP)
- Current overallocation Existing Water Use Permits is 5.311 mgd
- 4 Years Non-use 22.392 mgd (as of 1/2011)
- BWS WUPA 868 requesting new use (0.270 mgd more than 1.730 mgd from 2 wells)

Notes: Waialua GWMA History

- 2-27-81 Original designation of Waialua Ground Water Control Area under BLNR.
- 7-1-87 CWRM is established and Waialua Ground Water Control becomes Waialua Ground Water Management Area.
- 1990 WRPP updates boundaries and reduced sustainable yield from 60 to 40 mgd.
- 1995-96 Main user, Waialua Sugar, phases out production.
- 8-28-08 WRPP update reduced SY from 40 to 25 Mgd.

Current Situation

- Sugar plantations closed with outstanding allocations of about 23 mgd for wells in Waialua Aquifer System
- Wells transferred to new owners without transferring water use permits
- CWRM to determine reasonable-beneficial use

Chronology

1. 10-5-10 completed Application for modification of WUP 40 (WUPA 657) (Honolulu BWS Waialua Wells 3405-1&2) to increase allocation ~15% (1.73 to 2.0)
2. Staff review of allocations in Waialua Ground Water Management Area
3. Request waiver of 90-day WUPA review

Chronology (cont. 1)

- Staff review of water use reporting, permit status, land use and well ownership, 20-Year Water Use Permit Review Reports for other users for 59 wells amongst 12 users.
- 12 letters sent by August '11 asking for past pumpage use and future plans, various responses, 3 no responses.
- 10 new field investigations needed.

Chronology (cont. 2)

- Notify permittees of public hearing to review 4 years of non-use; include staff recommendations
- Conduct combined public hearing on revocation of 4 years non-use, providing each permittee to respond to recommendation (opportunity for CCH)
- Present findings to CWRM at regular meeting, for action

Following Actions

- Issue/Reissue water use permits
- Enforce conditions on flowmeters and water use reporting
- Take action on HBWS WUPA for Waialua Wells

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



WILLIAM J. AILA, JR.
CHAIRPERSON
WILLIAM D. BALFOUR, JR.
SUMNER ERDMAN
LORETTA J. FUDDY, A.C.S.W., M.P.H.
NEAL S. FUJIWARA
JONATHAN STARR
TED YAMAMURA
WILLIAM M. TAM
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

September 11, 2012

Mr. Gary Paracuelles
Mr. Dan Nellis
Dole Foods Hawaii
1116 Whitmore Avenue
Wahiawa, HI 96786

Dear Messrs Paracuelles and Nellis:

Re: Water Use Permit Applications for Waialua Wells
Waialua Aquifer System Area, North Shore, Oahu

Thank you for your response and request to meet at Dole's office.

The Hawaii Commission on Water Resource Management ("Water Commission") began writing Dole Foods Hawaii more than two years ago to request information required to support the continuation of water use permits issued to Waialua Sugar Co for various Waialua (north shore, Oahu) wells. For more than fourteen (14) years there has been little or no apparent use of the water from these wells for the purposes authorized. Thus, the permits could have been revoked for non-use more than ten (10) years ago. By law, the water use permittee has the obligation to provide the information to justify its use. It is not the Water Commission's burden to go out and seek it.

To date, Dole Foods Hawaii has not provided satisfactory answers to the Water Commission.

Currently, water use allocations in the Waialua Aquifer System Area exceed the available sustainable yield. Other land owners and potential users (including the Honolulu Board of Water Supply) have applied to use water from the Waialua Aquifer System Area. They have a legitimate right to make productive reasonable beneficial use of Waialua ground water. However, the Water Commission is not able to make new allocations until existing permits are reviewed and modified to correspond with actual use. This review process has been stalled due to Dole Foods Hawaii's continued failure to provide the necessary information.

On February 15, 2012 (6 months ago), the Water Commission took up but deferred the matter to allow time for Dole Foods Hawaii to provide the necessary information. Commission staff met

with Dole representatives on March 8 and 20, 2012. On May 11 and 15, 2012, the parties exchanged further emails on these issues.

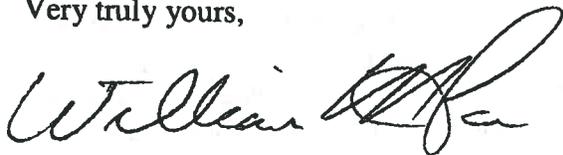
On July 17, 2012 the Commission staff sent Dole Foods Hawaii a certified letter itemizing five (5) matters that must be completed on Dole's application. Dole's response was inadequate. Without the required information, the Commission staff must recommend both 1) denial of an incomplete applications, and 2) revocation of unused portions of existing allocations. Based on the partial information available, the Commission staff presented estimates at the February 15, 2012 Commission meeting. Unless the additional and verified information (including identification of field use) is provided, the February 15, 2012 estimates are the only basis on which the Commission staff may act.

Pursuant to Haw. Rev. Stat. §174C-58(4), a water use permittee may request a hearing before the Commission prior to the revocation of an existing allocation for non-use.

By law, any person may apply for a water use permit and have the opportunity to demonstrate how they meet the criteria to receive water. Thus, Dole Foods Hawaii may always apply in the future for a new use of Waialua Aquifer water.

If you have any questions, please contact Charley Ice (ph (808) 587-0218) on the Commission staff..

Very truly yours,



WILLIAM M. TAM
Deputy Director

CI:ss

cc: William Aila

Attachments:

Deficiencies list

WUP form

February 15, 2012 CWRM water use estimates

**Deficiencies In Water Use Permit Application of Dole Food Company Hawaii
Pumps 1, 2, 2A, 7, and 17 (multiple well numbers)**

There are four few key unresolved issues and a host of minor ones:

1. Footprint: CWRM has maps showing all the parcels to be served by the pump stations. However, CWRM does not have a footprint of acreage currently under cultivation. This is important for later comparison with expanded or changed acreage. See WUPA Item 11: Table 1, col G, Item 12: Table 2, col D.
2. Reasonable-Beneficial Use requires accurate data on rainfall, soils, acreage cultivated versus fallowed, types of crops, irrigation method, evapotranspiration -- all specific to the areas of actual cultivation. There is no specific discussion of these issues to determine whether the amounts used qualify as a reasonable, beneficial use. See WUPA Items 11-14: Tables 1-3.
3. Surface Water: The amount of water requested is now served through the Wahiawa Irrigation System (from Lake Wilson). The monthly numbers are unintelligible. Some months are zero. Several months show identical amounts. Then the next month shows a huge jump or a huge drop. There is no clear idea of how much is needed. There is no way to establish or project a 12 month moving average. See WUPA Item 12: Table 2
4. Backup Sources: The pump stations under consideration are used as backups for the irrigation system. They apply to a variety of circumstances presumably in a few different contexts: periods of low rainfall or long drought; ditch sections or connections temporarily out of service; poor reservoir conditions; major system failure. There is no information about the quantity required for crops under cultivation. There is a long period of history to provide evidence of different scales of need, different types of distress. Dole provides no examples and no expectation of frequency, no programmatic concept of mitigation. Moreover, there is no assessment of general everyday system loss to fold in to the accounting. See WUPA Items 13 and 14: Table 3.



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

For Official Use Only:

**APPLICATION FOR GROUND WATER USE PERMIT FOR
 PROPOSED NEW USE IN A DESIGNATED GROUND WATER
 MANAGEMENT AREA**

FORM GWUPA-N Application for New Use
 Application to Modify WUP No. _____

For detailed instructions on filling out this application form completely, refer to the attached instructions. Incomplete applications will not be accepted for processing.

The following must be attached before this application is accepted as complete:

- Portion of 7.5-Minute Series USGS topographic map (scale 1:24,000) with source location labeled and include the name of the quad map.
- Property tax map, showing source location referenced to established property boundaries.
- Photograph(s) of the source(s) and location(s) of proposed end use(s), if applicable.

APPLICANT INFORMATION

Note 1: In accordance with HRS § 174C-51(1), the landowner shall be the joint applicant in the event the applicant is a lessee, licensee, developer or any person with a terminable interest or estate in the land that is the water source of the permitted water.

1. APPLICANT'S INFORMATION			2. SOURCE LANDOWNER'S INFORMATION		
Name/Company		Contact Person	Name/Company		Contact Person
Mailing Address					
Phone	Fax	E-mail	Phone	Fax	E-mail

SOURCE INFORMATION

3. ISLAND
4. GROUND WATER MANAGEMENT AREA
4A. SUSTAINABLE YIELD FOR ITEM 4 MGD

5. SOURCE INFORMATION
 Attach additional sheets, if necessary.

Well Number (if known)	Well Name	Existing or Proposed?	TMK	Flowmeter Installed?
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No
			zone sector plat parcel	<input type="checkbox"/> Yes, date installed ___ / ___ / ___ <input type="checkbox"/> No

PROPOSED USE INFORMATION §§174C-51(4), (5), (6), HRS

6. TOTAL QUANTITY OF WATER REQUESTED: In the space below, enter total from Box M in Item 11 (Table 1) of this application.
 gallons per day, averaged over 1 year

7. PROPOSED USE(S): Agriculture Domestic Industrial
 Check all that apply. Irrigation Military Municipal

8. LOCATION OF PROPOSED WATER USE(S): Show the location of the proposed use on the same USGS and TMK maps as the proposed source location. Otherwise, attach similar maps. See Item 11 (Table 1, column B) of this application.

Note 2: Signing below indicates that the signatories understand and affirm that the information provided on this application is accurate and true to the best of their knowledge. Further, the signatories understand that: (1) if necessary, further information may be required before the application is considered complete; (2) if a water use permit is granted by the Commission, this permit is subject to any existing legal uses, changes in sustainable yields and instream flow standards, reserved uses as defined by the Commission, and Hawaiian Home Lands' future uses; and (3) the applicant is responsible for paying the public notice fees associated with this application. Additionally, as stated in Note 1, above, HRS § 174C-51(1) the landowner shall be the joint applicant in the event the applicant is a lessee, licensee, developer or any person with a terminable interest or estate in the land that is the water source of the permitted water.

9. APPLICANT	10. SOURCE LANDOWNER/JOINT APPLICANT (if applicable)
Signature _____	Signature _____
Print Name _____	Print Name _____
Date _____	Date _____

PROPOSED NEW USE OR MODIFIED USE INFORMATION

11. TABLE 1: LAND USE CONSISTENCY / EFFICIENCY OF USE (Attach additional copies, if necessary.)

LAND USE CONSISTENCY										EFFICIENCY OF USE				
A	B				C	D	E	F	G	H	I	J		
PURPOSE / WATER USE CATEGORY (See the instructions for water use category descriptions.)	TMK FOR PROPOSED LOCATION OF USE ATTACH THE FOLLOWING: • Property tax map, showing proposed location of use referenced to established property boundaries. • Photograph of the area of proposed use.				STATE LAND USE DISTRICT	CDUP REQUIRED? Check the appropriate box, and write in the date approved, if applicable.	COUNTY ZONING CODE	SMAP REQUIRED? Check the appropriate box, and write in the date approved, if applicable.	UNITS OR NET ACREAGE	GPD/UNIT or GPD/ACRE	QUANTITY OF USE (GPD)	JUSTIFICATION FOR QUANTITY OF WATER REQUESTED (If applicable, attach additional sheets showing how the quantity was calculated.) For irrigation uses, see Table 2.		
USES THAT REQUIRE POTABLE (DRINKING) WATER														
	zone	sector	plat	parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No						
	zone	sector	plat	parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No						
	zone	sector	plat	parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No						
	zone	sector	plat	parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No						
										TOTAL POTABLE USE	K	GPD		
USES THAT DO NOT REQUIRE POTABLE WATER														
	zone	sector	plat	parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No						
	zone	sector	plat	parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No						
	zone	sector	plat	parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No						
	zone	sector	plat	parcel		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No		<input type="checkbox"/> Yes, date approved: / / <input type="checkbox"/> Yes, not acquired <input type="checkbox"/> No						
										TOTAL NON-POTABLE USE	L	GPD		
										TOTAL QUANTITY OF WATER REQUESTED (sum of total potable use and total non-potable use) =	M	GPD		
Please explain if there are any limitations (e.g., legal, contractual) on the proposed water use(s) described in Table 1. Ref. HRS § 174C-51(5).														

PROPOSED NEW USE OR MODIFIED USE INFORMATION (continued)

12. TABLE 2: IRRIGATION INFORMATION

List all crops that will be grown, including landscape and golf course irrigation uses. Copy Table 2 and attach additional sheets to complete your list, if necessary.

A TMX FOR PROPOSED LOCATION OF USE ATTACH THE FOLLOWING: • Property tax map with an outline around the area of each proposed irrigation use listed in this table. • Photograph of the area of each proposed use.	B CROP	C TOTAL ACREAGE	D NET IRRIGATED ACREAGE	E BEGIN GROWTH PERIOD (month)	F END GROWTH PERIOD (month)	G IRRIGATION SYSTEM (refer to instructions)	H IRRIGATION PRACTICE (refer to instructions)	I COMMENTS (Continue comments below, if more space is needed)
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								
zone _____ sector _____ plat _____ parcel _____								

Comments (continued from Column I). Please clearly indicate the crop (i.e., the row in table) these comments relate to.

OTHER PERTINENT INFORMATION

13. TABLE 3: ALTERNATIVES ANALYSIS

	A. Analysis of <i>potable</i> alternatives Attach additional sheets if necessary.	B. Analysis of <i>non-potable</i> alternatives Attach additional sheets if necessary.
Municipal sources		
Wastewater reuse		
Ditch system		
Desalination		
Surface water		
Conservation Measures		
Other (specify)		

14. PUBLIC INTEREST

§174C-2(C), HRS states: *The state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.*

Explain how the proposed new use(s) in your application are consistent with the public interest.

15. INTERFERENCE WITH THE RIGHTS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS

Explain how the proposed new use(s) of water will not interfere with the rights of the Department of Hawaiian Home Lands, as provided in section 221 of the Hawaiian Homes Commission Act.

16. INTERFERENCE WITH ANY EXISTING LEGAL USES

Explain how the proposed new use(s) of water will not interfere with any other existing legal use(s) of water.

17. PUBLIC WATER SYSTEM INFORMATION

Check the appropriate box or boxes.

- PUC-Regulated Private System /
 Non-PUC-Regulated Private System /
 Not a Public Water System
 Intended dedication to Honolulu Board of Water Supply or to County of Maui, Department of Water Supply.

INSTRUCTIONS FOR FILLING OUT APPLICATION FOR GROUND WATER USE PERMIT FOR A PROPOSED NEW USE OR TO MODIFY A GROUND WATER USE PERMIT

This application form is to be used for proposed new uses, including modifications of existing ground water use permits. If you are applying for an existing ground water use, which are uses prior to the effective date of designation, do not use this form. Instead, use the *Application for Ground Water Use Permit for Existing Use* (Form GWUPA-E) for existing uses.

Most questions can be addressed by visiting our website at <http://www.hawaii.gov/dlnr/cwrm> or by contacting the Regulation Branch at 587-0225 or by e-mail at dlnr.cwrm@hawaii.gov. If you need further assistance, call the Regulation Branch. The current application forms are available at: http://www.hawaii.gov/dlnr/cwrm/resources_permits.htm.

REQUIREMENTS FOR A COMPLETE APPLICATION

- a. Fill in the most recent application form. A current form can be obtained by going to our website or contacting us by phone or e-mail.
- b. Print in ink or type the information on the application.
- c. The application form has a total of 16 items on 4 pages. Items 11, 12, and 13 are tables, with multiple line items. Fill in the required information for every item in the application form as it relates to your proposed new use or permit modification.
- d. Enclose a check for the non-refundable filing fee of \$25 payable to: Department of Land and Natural Resources. (Government agencies are not required to pay the filing fee.)
- e. Please be aware that the applicant is responsible for paying the cost of publishing any required public notices associated with this application. The cost for public notices is currently approximately \$400.00. Commission staff will provide instructions later in the permit process regarding payment of these costs.
- f. Mark the proposed source and end use location(s) on the appropriate USGS quad map (scale 1:24,000) and property tax map, and attach these maps to the application.
- g. Attach photos showing the existing or proposed source(s), meter(s) (if applicable), and end use area(s).
- h. Both the applicant and the landowner where the source is located ("source landowner") must sign the application form in ink.
- i. Submit the original application, 15 copies of the application form and all attachments (maps, photos, and other attachments), and the filing fee to the Commission on Water Resource Management, P.O. Box 621, Honolulu, HI 96809.

Further, the applicant must address §174C-49(a) of the State Water Code, which states that:

To obtain a permit pursuant to this part, the applicant shall establish that the proposed use of water:

- (1) *Can be accommodated with the available water source;*
- (2) *Is a reasonable-beneficial use¹ as defined in section 174C-3;*
- (3) *Will not interfere with any existing legal use of water;*
- (4) *Is consistent with the public interest²;*
- (5) *Is consistent with state and county general plans and land use designations;*
- (6) *Is consistent with county land use plans and policies; and*
- (7) *Will not interfere with the rights of the department of Hawaiian home lands as provided in section 221 of the Hawaiian Homes Commission Act.*

¹ According to §174C-3, HRS, "Reasonable-beneficial use" means the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and the public interest.

² Public interest is described in §174C-2(c), HRS, which states: [t]he state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.

NOTE: Filing in the application completely will address §174C-49(a), HRS.

LINE-BY-LINE INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM

APPLICANT INFORMATION

In accordance with the Hawaii Water Code, both the applicant and the person who owns the property where the water source is located are required to apply for a water use permit. §174C-51(1)(B), HRS, states, *In the event a lessee, licensee, developer, or any other person with a terminable interest or estate in the land, which is the water source of the permitted water, applies for a water permit, the landowner shall also be stated as a joint applicant for the water permit.*

1. **APPLICANT INFORMATION** Fill in the information for the applicant. This should be the person who will be responsible for all conditions of the water use permit.
2. **SOURCE LANDOWNER INFORMATION** Fill in the information for the landowner of the property where the proposed ground water source (e.g., well, modified spring, tunnel, shaft, etc.) is located.

SOURCE INFORMATION

3. **ISLAND** Check the appropriate box, noting the island where the source is located.
4. **GROUND WATER MANAGEMENT AREA** The name of the aquifer system area where the source is located.
- 4A. **SUSTAINABLE YIELD** The sustainable yield for the aquifer system area.

SOURCE INFORMATION

- **WELL NUMBER** If the source already has a state-assigned well number, write the state well number here.
- **WELL NAME** If the proposed source already has a name, write the name here. Otherwise, give it a short name that will differentiate it from other wells.
- **SOURCE TMK** Fill in the current Tax Map Key number of the parcel where the source is located.
- **FLOWMETER INFORMATION** Check either "Yes" or "No." If you answer "Yes," write in the date the flowmeter was installed month/day/year in the space provided. (The definition of a working flowmeter is a water meter with a totalizer that gives the total quantity of water used from a source.)

PROPOSED USE INFORMATION

(Ref. §§ 174C-51(4), (5), (6), HRS)

6. **TOTAL QUANTITY OF WATER REQUESTED** Enter the amount of water requested as gallons per day (GPD) averaged over one year. Fill out Table 1 and enter the amount in Box 14, "Total Use Requested."

7. **PROPOSED USE(S)** Check all the boxes that apply for the proposed use. Refer to the instructions for Table 1: Land Use Consistency/Efficiency of Use, Item 1: Purpose/Water Use Category below to determine which water use category to use.
8. **LOCATION OF PROPOSED WATER USE(S)** Show the location of the proposed use on the same USGS and TMK maps as the proposed source location. Otherwise, attach similar maps and show the location of the proposed use.

APPLICANT SIGNATURES REQUIRED

9. **APPLICANT** The Applicant must sign and date the application. Please print or type the Applicant's name in the space provided.
10. **SOURCE LANDOWNER** The Source Landowner must also sign and date the application. Please print or type the Source Landowner's name in the space provided.

PROPOSED NEW USE OR MODIFIED USE INFORMATION

11. **Table 1: LAND USE CONSISTENCY / EFFICIENCY OF USE** Provide information on all of the proposed uses you are applying for or seeking to modify. In the space provided below the table or on a separate sheet, explain whether there are any limitations [e.g., a contract or other legal agreement(s)] on your proposed water use(s), as required by §174C-51(5), HRS.

- A. **PURPOSE / WATER USE CATEGORY** For each purpose of use, choose one of the categories listed in the table below and enter the appropriate code in the space provided (e.g., AGRAQ, IRRGC, etc.)

AGRICULTURE AGRAQ Aquatic Plants & Animals AGRCP Crops & Processing AGRLI Livestock & Processing, and Pasture AGRON Ornamental & Nursery Plants AGROTH Other	DOMESTIC DOM Single & Multi Low-Rise & High-Rise Household DOMN Domestic (Non-residential) DOMNCB Commercial Businesses DOMNRI Religious Institutions DOMNHOS Hospitals DOMNHOT Hotels DOMNOB Office buildings DOMNOTH Domestic Non-Residential - Other DOMNSC Schools
IRRIGATION IRRGC Golf Course IRRHM Habitat Maintenance IRRHOT Hotel IRRLA Landscape/Water Features IRROTH Other IRRPA Parks IRRSC Schools	INDUSTRIAL INDEL Geothermal, Thermoelectric Cooling, Power Development INDFP Fire Protection INDMI Mining, Dust Control INDOTH Industrial - Other
MILITARY MIL Military	MUNICIPAL MUNCO County MUNPR Privately-owned but defined as public water system by DOH MUNST State

- B. **USE TMK** Enter the tax map key (TMK) number for the parcel of land over which the use is applied. There should only be one parcel for each line. Also, attach:
 - (1) A TMK map (or maps) showing each of the lots listed and the boundaries of the end use area(s); and
 - (2) A photograph of the area of use.
- C. **STATE LAND USE DISTRICT** Write in the name of the current land use district. To find the Land Use District, contact the Land Use Commission at (808) 587-3822.
- D. **CDUP REQUIRED?** Check the appropriate box. If a Conservation District Use Permit (CDUP) is required and you have a CDUP applicable to this project, check "Yes" and write in the date approved in the space provided (month/day/year). If your parcel is in a conservation district, as indicated in Column C of this table, contact the Office of Conservation and Coastal Lands at (808) 587-0328 to find out if a CDUP is required.
- E. **COUNTY ZONING CODE** To find out the County Zoning Code for Oahu, contact the City and County of Honolulu at 768-8041. For Maui County, contact at 270-7253.
- F. **SMAP REQUIRED?** Check the appropriate box. If a Special Management Area Permit (SMAP) is required, and you have an SMAP applicable to this project, check "Yes" and write in the date approved in the space provided (month/day/year). To find out if your parcel is in a Special Management Area and requires an SMAP, for Oahu call the City and County of Honolulu at 768-8014 or for Maui County call the Planning Department at 270-8205.
- G. **UNITS or NET ACREAGE** This is the total number of units or the net number of acres as a basis for calculating your requested allocation. "Unit" can mean a dwelling unit, number of people, or number of animals. Some examples of units or acreages to enter in this column would be 400 dwelling units, 500 people, or 3.74 acres.
- H. **GPD/UNIT or GPD/ACRE** (GPD = gallons per day) Enter the gallons per day per unit (GPD/unit) or gallons per day per acre (GPD/acre) for each water use category listed in Column A.
- I. **QUANTITY OF USE** Enter the proposed quantity of water use in gallons per day (GPD). Justification (see Column J) for the quantity(ies) requested may depend on the information provided in columns G and H of this table.
- J. **JUSTIFICATION FOR QUANTITY OF WATER REQUESTED** Explain how you are justifying the quantity of water requested for each use, in Column I of this table. Attach additional sheets, if necessary, showing how the proposed quantity was calculated. For all proposed irrigation uses, you are required to also complete Item 12 (Table 2) of the application.
- K. **TOTAL POTABLE USE** Add the quantities listed in the Column I for proposed potable water use(s). Enter the total quantity in gallons per day (GPD) in Box K.
- L. **TOTAL NON-POTABLE USE** Add the quantities listed in Column I for proposed uses that do not require potable water. Enter the total quantity of proposed non-potable water use in gallons per day (GPD) in Box L.
- M. **TOTAL QUANTITY OF WATER REQUESTED** Add the totals in Box K and Box L, and enter the sum in Box M. The quantity in Box M should be the same as the amount entered under Item 6 on the page 1 of the application.

12. TABLE 2: IRRIGATION INFORMATION

On Table 2, provide the information requested for all the crops you are proposing to grow, including landscapes and golf course turf and plants. Enter only one crop and one parcel number (TMK) per line. For multiple crops, list each one as a separate line item. All proposed or modified irrigation uses you are applying for must be listed. Attach additional copies of Table 2, if necessary.

- A. **TMK FOR PROPOSED LOCATION OF USE** Enter the parcel number where the crop will be grown. Also, attach a property tax map with an outline around the area(s) of proposed use(s) and a photograph of each area of proposed use.
- B. **CROP** Enter the crop type
- C. **TOTAL ACREAGE** Enter the total acreage of the parcel listed.
- D. **NET IRRIGATED ACREAGE** Enter the acreage that the specific crop will be grown.
- E. **BEGIN GROWTH PERIOD (MONTH)** This is the month of the start of the growth cycle.
- F. **END GROWTH PERIOD (MONTH)** This is the month of the end of the growth cycle.
- G. **IRRIGATION SYSTEM** Enter one of the following:
 - TRICKLE, DRIP
 - TRICKLE, SPRAY
 - MULTIPLE SPRINKLERS
 - SPRINKLER, CONTAINER NURSERY
 - SPRINKLER, LARGE GUNS
 - SEEPAGE, SUBIRRIGATION
 - CROWN FLOOD
 - FLOOD (TARO)
 - OTHER - Please describe in the space provided for comments (Column I and/or below the table).
- H. **IRRIGATION PRACTICE** Enter one of the following:
 - IRRIGATE TO FIELD CAPACITY
 - APPLY A FIXED DEPTH PER IRRIGATION
 - DEFICIT IRRIGATION
 - OTHER - Please describe in the space provided for comments (Column I and/or below the table).

13. TABLE 3: ALTERNATIVES ANALYSIS

You should address every alternative and explain why each alternative is or is not available for your proposed potable and non-potable water needs. Other alternatives (last row of Table 3), may include stormwater reclamation, rainwater catchment, or other alternatives not already listed above.

Surface water is defined in §174C-3, HRS as: *both contained surface water—that is, water upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, reservoirs, and coastal waters subject to state jurisdiction—and diffused surface water—that is, water occurring upon the surface of the ground other than in contained waterbodies. Water from natural springs is surface water when it exits from the spring onto the earth's surface.*

For Conservation Measures, please describe any conservation measures that will be used to ensure that your water use is or will be efficient. Conservation measures may include, but are not limited to, water reuse or recycling systems, monitoring the water distribution system for pressure drops that are indicative of leaks or line breaks, or use of drought-tolerant and xeriscape landscape plants.

14. PUBLIC INTEREST

Explain in the space provided or on a separate sheet why the proposed new use(s) on your application are consistent with the public interest.

15. INTERFERENCE WITH THE RIGHTS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS

Explain in the space provided or on a separate sheet how the proposed new use(s) of water will not interfere with the rights of the Department of Hawaiian Home Lands, as provided in section 221 of the Hawaiian Homes Commission Act. To inquire about potential interference, you may contact the Department of Hawaiian Home Lands Planning Office at 586-3836.

The State Water Code in §174C-101(a), HRS [Native Hawaiian water rights], states: *Provisions of this chapter shall not be construed to amend or modify rights or entitlements to water as provided for by the Hawaiian Homes Commission Act, 1920, as amended, and by chapters 167 and 168, relating to the Molokai irrigation system. Decisions of the commission on water resource management relating to the planning for, regulation, management, and conservation of water resources in the State shall, to the extent applicable and consistent with other legal requirements and authority, incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands as set forth in section 221 of the Hawaiian Homes Commission Act.*

16. INTERFERENCE WITH ANY EXISTING LEGAL USES

Explain in the space provided or on a separate sheet how the proposed new use(s) of water will not interfere with any other existing legal use(s) of water.

17. PUBLIC WATER SYSTEM INFORMATION

Check the appropriate box or boxes relating to your existing or proposed new water system.

	<u>1993 Allocation to Waialua Sugar</u>	<u>Reported Ditch Use requiring Backup¹</u>	<u>Request at CWRM February 15, 2012</u>	<u>Voluntary Reduction</u>	<u>% Reduction</u>	<u>Use</u>
	mgd	mgd	mgd	mgd		
WUP #36 Pump 2A	4.450	0.555	2.000	2.450	55 %	Potential to irrigate over 1007 acres
WUP #35 Pump 2	4.370	0.359	2.000	2.370	54 %	Domestic water Ag irrigation
WUP #46 Pump 1	2.330	1.047	2.000	0.330	14 %	Irrigation – over 278 acres
WUP #136 Pump 7	2.930	0.331	1.000	1.930	66 %	Irrigation – over 390 acres
WUP #39 Pump 17	8.630	0.453	2.000	6.630	77 %	Irrigation – over 400 acres
Totals	22.710	2.745	9.000	13.710	60 %	

1. As offered on WUP application forms submitted February 23, 2012

Note: Of the original permits, only WUP 36 (Pump 2A) had a domestic component; current proposed preservation of domestic use is from WUP #35 (Pump 2)

This is our understanding of your request

We agree to this understanding

William M. Tam

Daniel X. Nellis



Approved by Commission on
Water Resource Management
at the meeting held on
OCT 10 2012

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

COMMISSION ON WATER RESOURCE MANAGEMENT

October 10, 2012 Meeting
Honolulu, Oahu

STAFF SUBMITTAL

**HEARING TO REVIEW AND ACT ON
WATER USE PERMITS IN THE
WAIALUA GROUND WATER MANAGEMENT AREA, OAHU**

- 1) DOLE FOOD CO. VOLUNTARY REDUCTION OF 13.710 MGD;
 - 2) DOLE FOOD CO.'S PARTIALMODIFICATION OR REVOCATION TO 9.00 MGD
EXISTING USES (UNDER CONTINUING INVESTIGATION);
AND
 - 3) THEO J.P. LOPEZ TRUST VOLUNTARY REDUCTION AND PARTIAL REVOCATION OF
0.056 MGD, AND CONTINUED USE OF 0.144 MGD
1. GWUP 035 (3307-01 to -10, Pump 2) Waialua Sugar; Well TMK: 6-7-002:014
 2. GWUP 036 (3307-07 and -11 to 14, Pump 2A) Wailua Sugar; Well TMK: 6-7-003:019
 3. GWUP 039 (3404-01, Pump 17) Waialua Sugar; Well TMK: 6-4-001:001
 4. GWUP 046 (3407-04 to 06, -14 & 15, Pump 1) Waialua Sugar; Well TMK: 6-7-002:014
 5. GWUP 136 (3407-18 & 19, Pump 7 B&C) Waialua Sugar; TMK: 6-6-025:001
 6. GWUP 263 (3407-02, Lopez 2 (Kunihiro) Well) Native Hawaiian Advisory Council;
TMK: 6-6-023:004

PERMITEES:

Dole Food Company Hawaii
1116 Whitmore Avenue
Wahiawa, HI 96786

Theo J.P. Lopez Trust
5090 Likini Street
Honolulu, HI 96818

LANDOWNER:

Same

Same

SUMMARY OF REQUEST:

This meeting and submittal is a continuation of the February 15 2012 hearing on Commission-initiated modifications and revocations to existing Ground Water Use Permits (GWUPs) in the Waialua Ground Water Management Area (GWMA). This action was initiated because the Honolulu Board of Water Supply (BWS) requested additional ground water pumping from the Waialua GWMA. BWS's request may not be addressed until unused allocations are revoked and the total allocations reduced below the Sustainable Yield ("SY") for this area.

In 2008, the estimated sustainable yield for the Waialua Aquifer System Area was revised downward. The SY for this area is **25 million gallons per day (mgd)**. The total **outstanding water use permit allocations equal 30.404 mgd**. This results in an **over-allocation of 5.404 mgd**. At the Commission's February, 2012 hearing several existing GWUPs were addressed. However the total revocations did not bring the SY below 25 mgd. The existing, but unused allocations (listed above) must be reviewed and reduced or revoked before any new allocations may be made.

After further investigation, Staff now requests that the Commission approve the following actions::

1. DOLE FOOD CO. VOLUNTARY REDUCTION OF 13.710 MGD;

Dole controls wells with allocations totaling **22.890 mgd**. Dole will voluntary cutback a portion of the Waialua Ground Water Use Permits ("GWUP") totaling **13.710 mgd** (which it has not used for more than 20 years). These permits were issued to Waialua Sugar, but were never transferred to Dole Foods Company ("Dole") when it acquired the wells.

2. DOLE FOOD CO.'S PARTIALMODIFICATION OR REVOCATION TO 9.00 MGD EXISTING USES (UNDER CONTINUING INVESTIGATION)

Dole seeks to establish its use of **9.000 mgd**. However, to date, Dole Foods, Co. has failed to identify specifically on what fields the water is being used, in what quantities, or for what crops. Until the actual use information is established and verified, a water use permit may not be issued.

3. THEO J. P. LOPEZ TRUST VOLUNTARY REDUCTION AND PARTIAL REVOCATION OF 0.056 MGD, AND CONTINUED USE OF 0.144 (GWUP 263)

The Theo J. P. Lopez Trust will voluntarily reduce its permitted allocation from 2.000 MGD to 0.144 MGD. The Trust seeks continued use of the 0.144 mgd

If these actions are approved, the revocations for non-use will allow approval of new ground water use permits from this aquifer. The voluntary cutbacks proposed here will make up to **8.306 mgd** available for new uses.

LOCATION MAP: See Exhibit 1 – Current WGWMA; Exhibit 1a – Dole Wells

BACKGROUND:

A. Current Necessity

On August 28, 2008, the Commission adopted the updated Water Resource Protection Plan which revised the sustainable yield for ground water aquifers throughout the state. The Waialua Aquifer System Area (Waialua ASA) sustainable yield was reduced from 40 mgd to 25 mgd. The Waialua ASA was first designated in 1981. The current ground water use permit allocations total 30.404 mgd. This creates an over-allocation of 5.404 mgd (see Exhibit 2).

On October 5, 2010, the BWS submitted a ground water use permit application (GWUPA) for 0.270 mgd from the "Waialua Wells" (Well Nos. 3405-01 & 02, Waialua GWMA). Although reporting is limited, the current 12-month moving average (12-MAV) for actual pumpage is about 6 mgd. The existing permitted allocations exceed the sustainable yield. Therefore, there is no additional water that may be permitted to meet new applications. If unused portions of existing allocations are not revoked or other modifications to existing uses are not made, then new requests must be denied. The BWS waived the normal 90-day processing for their GWUP application in order for these revocations to be made.

The minimum amount that needs to be revoked to accommodate the BWS is 5.674 mgd. In light of the recent statewide 20-year water use permit review and the carry-over of pre-1987 ground water permits from the Board of Land and Natural Resources, it is appropriate to review all permits in the Waialua GWMA for a comprehensive update.

The staff did initial fact-finding and field investigations. Letters were sent on August 1, 2011 and August 9, 2011 to all ground water use permittees with wells in the Waialua Aquifer System area. The staff requested missing information on water use and the permittees' intentions for future use.

B. History

Prior to the Water Code, Haw. Rev. Stat. Chap 174C (1987), the Board of Land and Natural Resources ("BLNR") managed ground water management areas under Haw. Rev. Stat. Chap. 177 (replaced 1987). In 1981, the BLNR designated the Waialua Ground Water Control Area (GWCA). The BLNR made allocations to existing users. In 1981, Waialua Sugar's allocation totaled nearly 40 mgd. At that time, the sustainable yield for the area from Mokuleia to Kawaihoa was 60 mgd (see Exhibit 3).

Following the adoption of the Water Code (1987), improved understanding of aquifer boundaries, types, and sustainable yield modeling led to a new set of hydrologic units, aquifer system areas, and sustainable yields. In 1990, the Commission adopted the Waialua, Mokuleia, and Kawaihoa aquifer system areas (ASA) in the Water Resource Protection Plan. The smaller Waialua ASA retained 40 mgd of the former 60 mgd sustainable yield for the larger Waialua GWCA. For comparison, Exhibit 4 shows the current boundaries and sustainable yield of the Waialua GWMA.

In 1993, new ground water use applications required allocations be reduced in the Waialua GWMA. Waialua Sugar voluntarily cutback about 1.5 mgd in June 1993 to make water available for Poamoho Ventures (WUP 175, Well 3205-02). By 1996, the plantation closed operations. In September, 2002 the mill closed. The "Mill Pumps" and "Pump 10" were sealed further reducing pumping by 10.65 mgd. This reduced the then existing allocation in the Waialua GWMA to approximately 30 mgd. (See Exhibit 5). Although ownership of the Waialua Sugar production wells changed, the Commission was not notified. The ground water use permits were not transferred as required under Haw. Rev. Stat. 174C-56. Most of those allocations remain unused. The new well owners have some continuing use.

The Commission reviewed and adopted new sustainable yield figures in the 2008 Water Resource Protection Plan. Updated recharge data, loss of return irrigation flow, loss of Wahiawa "spillover," and additional modeling efforts to identify a range of reasonable sustainable yield estimates revised the sustainable yield downward to 25 mgd for the Waialua GWMA.

Existing ground water use permit allocations exceed the 25 mgd sustainable yield. Revocation of unused allocations is required; 1) to bring the total allocations within the sustainable yield; and 2) to accommodate new applications from this aquifer. Exhibit 6 graphically summarizes these sustainable yields vs. allocation history for the entire Waialua ASA.

When BWS submitted its Ground Water Use Permit Applications for the Waialua Well batteries, the staff began to review the overall Waialua GWMA situation to resolve the over-allocation issue. The recent 20-year Water Use Permit Review raised a number of gaps and inconsistencies indicating a need for further field investigations and contacts with existing permittees. The 20-year review revealed that the Commission's information about use and non-use is seriously outdated.

Staff made initial inquiries to all existing ground water use permittees within the Waialua GWMA. The majority of ground water use permits applied to former Waialua Sugar wells (now owned by Dole. Kamehameha Schools held a few permits. Individual owners had the remainder.

Dole assumed ownership of productive wells with a total allocation of about 22.9 mgd. However, the permits were never officially transferred to Dole. This is grounds for revocation under Haw. Rev. Stat. §174C-59. Dole has been delinquent in reporting its use as required by the Commission's Haw. Admin. Rule ("HAR") §13-168-7. Dole agreed to prepare new water use permit applications to forecast ongoing and new uses to help define voluntary cutbacks. After more than one year, Dole finally submitted its new ground water use applications to help define their voluntary cutbacks for revocation purposes.

After the February Commission hearing on revocations, the Commission modified or reaffirmed several GWUPs, but deferred action on those listed in this submittal to allow the opportunity for further discussions. Additional formal discussions have taken place since February.

- February 15, 2012 At a regular Commission meeting, staff presented a summary review of all WGMA water use permits, including those issued to Waialua Sugar, recommending revocations and continuances. The Commission approved continuing use of 4.908 mgd for several small users and revoked 0.359 mgd. Dole presented new information and new estimates of its water requirements. Dole disclosed an agreement with Pioneer Hi-Bred International by which Pioneer could use ground water from Dole wells "as available". The Commission deferred action on Dole GWUPs. (see Exhibits 6a and 6b) and Lopez GWUP 263.
- February 23, 2012 Dole submitted revised ground water use permit application forms to define their voluntary cutbacks for revocation purposes, with general maps showing parcels irrigated by the various pump stations, new use estimates, and explanatory tables.
- March 8, 2012 Staff met with Dole representatives in Wahiawa to review water use application requirements and information. Staff held a second meeting on March 20, 2012.
- May 11, 2012 Staff emailed Dole seeking further clarifications; Dole responded in part.
- May 18, 2012 Louis A. Lopez responded to staff's offer of a requested case by accepting the proposed reduction, but stated that "any further reduction will be challenged" (see Exhibit 7)..
- July 17, 2012 Staff sent Dole (by certified mail) a request to itemize five matters.
- September 11, 2012 Staff sent Dole a letter reiterating efforts to correct overallocations to Waialua Sugar in light of more than four years of non-use. The Staff requested action on several matters necessary to justify continuing allocations and explaining that the Commission would soon address revocations e non-used portions.

ANALYSIS:

Staff attempted to further clarify voluntary cutback to both Dole and the Theo Lopez Trust since the February 15, 2012 hearing. Table 1 shows the updated accounting changes proposed here.

Table 1. Waialua Aquifer System Area

ITEM	Waialua Aquifer System Area (mgd)
Sustainable Yield	25
Less: Other Existing Water Use Permits (shown in Exhibit 2)	30.404
Reservation to DHHL	0
Subtotal (Current Available Allocation)	-5.404
Less: Pending Other Completed Applications	0.299
(3405-01 & 02) HBWS Waialua Wells: 0.270 mgd	
(3406-17) Mary Lou Gora 0.029 mgd	
Subtotal (Current deficit)	-5.703
Add: Dole voluntary cutbacks	13.710
Theo Lopez Trust voluntary cutback	0.056
Amount available for new applications (assuming approval of pending applications)	8.063

If the 13.71 mgd and the 0.056 mgd unused allocations are revoked, there will be adequate water available to accommodate pending and some future permits in the Waialua GWUPA.

Dole

Dole's voluntary cutbacks represent the first step in a larger process. The primary goal at this stage is to make water available for BWS's pending applications (which has been on hold for more than a year). In the second step, Dole must show in detail (by field, by quantity, by crop) a reasonable-beneficial daily use of its Waialua water as required by the Water Code and the Hawaii Supreme Court's *Waiahole* and *Na Wai Ehe* decisions. Dole has not yet met that standard.

Dole proposes to hold the ground water use permits as a backup in case Dole's surface water system (the Wahiawa Irrigation Ditch) fails. But water use permits for backup reserves to existing systems (however convenient or desirable for the applicant) are not reasonable beneficial uses, are inconsistent with the actual use requirements of the Water Code (which does not allow water banking), are fundamentally unfair to other applicants, and creates a principle that is untenable if extended to all others similarly situated. A permanent ground water use permit allocation to a "non-use" is contrary to the very concept and nature of a permit under the Code and prevailing law.

The way to address emergency pumping when a surface water system fails is through the "Water Emergency" powers of the Water Commission. See HAR 13-171-50 through -53. The Commission is considering how the emergency response process works in another application. (See October 10, 2012 Staff Submittal on Monsanto Water Use Permit Application).

Because Dole has not yet provided water use information in sufficient detail to proceed on its application for 9.0 mgd, the Commission is not in a position to act and must continue Dole's application to a later meeting. At such later time as Dole provides the information, the Commission may consider how the "Water Emergency" provisions address Dole's need for reassurance in the case of a surface water system failure.

Theo Lopez Trust

The Trustee of the Theo J.P. Lopez Trust accepted Staff's recommendation to adjust the allocation reflect the natural artesian flow of 100 gpm, as shown by earlier historical measurements. See the Trustee's May 17, 2012 letter (Exhibit 7). The Trustee notes that the water source has been in the family for over 100 years and the revised amount is essential for the family's needs. .

Conditions in the permit support the continued agricultural uses in question. Agriculture is in the public interest and consistent with the land use designations and plans, water use and development plans, and both State and county plans. The rights of Hawaiian home lands are not impacted by this use.

Compliance with Haw Rev. Stat. Chapter 343 – Environmental Assessment (EA)

Haw. Rev. Stat. Chapter 343 (Environmental Assessment Compliance) is not an issue where there is a voluntary cutback for non-use of water.

RECOMMENDATION:

Staff RECOMMENDS that the Commission:

- A. APPROVE DOLE FOOD CO'S VOLUNTARY CUTBACK TOTALING 13.710 MGD as shown in Exhibit 6b. Continued use is subject to the standard water use permit conditions listed in Attachment B and the following special conditions:
1. Should an alternate permanent source of water be found for this use, then the Commission reserves the right to revoke this permit, after a hearing.
 2. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.
- B. DEFER ACTION ON DOLE'S REMAINING 9.00 MGD CLAIM.
By December 3, 2012, Dole shall submit a complete ground water use permit application (with the necessary water use footprint information identifying the field, crop, and water demand) to justify its claims and proposed uses. In the absence of a complete water use permit application, the permit and the claim for 9.0 mgd will be presented to the Commission for action including revocation of the Waialua Sugar Co. permit.
- C. APPROVE THEO J. P. LOPEZ TRUST'S VOLUNTARY REDUCTION AND PARTIAL REVOCATION OF 0.056 MGD and CONTINUED USE OF 0.144 MGD

The continued use is subject to the standard water use permit conditions listed in Attachment B and the following special conditions:

1. Require a current end use footprint map.
2. A flow meter must be installed and water use reported starting within 6 months.

STANDARD WATER USE PERMIT CONDITIONS

1. The water described in this water use permit may only be taken from the location described and used for the reasonable beneficial use described at the location described above. Reasonable beneficial uses means "the use of water in such a quantity as is necessary for economic and efficient utilization which is both reasonable and consistent with State and County land use plans and the public interest." (Haw. Rev. Stat. § 174C-3)
2. The right to use ground water is a shared use right.
3. The water use must at all times meet the requirements set forth in Haw. Rev. Stat. § 174C-49(a), which means that it:
 - a. Can be accommodated with the available water source;
 - b. Is a reasonable-beneficial use as defined in Haw. Rev. Stat. § 174C-3;
 - c. Will not interfere with any existing legal use of water;
 - d. Is consistent with the public interest;
 - e. Is consistent with State and County general plans and land use designations;
 - f. Is consistent with County land use plans and policies; and
 - g. Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act and Haw. Rev. Stat. § 174C-101(a).
4. The ground water use here must not interfere with surface or other ground water rights or reservations.
5. The ground water use here must not interfere with interim or permanent instream flow standards. If it does, then:
 - a. A separate water use permit for surface water must be obtained in the case an area is also designated as a surface water management area;
 - b. The interim or permanent instream flow standard, as applicable, must be amended.
6. The water use authorized here is subject to the requirements of the Hawaiian Homes Commission Act, as amended, if applicable.
7. The water use permit application and submittal, as amended, approved by the Commission at its June 2, 1993 meeting are incorporated into this permit by reference.
8. Any modification of the permit terms, conditions, or uses may only be made with the express written consent of the Commission.
9. This permit may be modified by the Commission and the amount of water initially granted to the permittee may be reduced if the Commission determines it is necessary to:
 - a. protect the water sources (quantity or quality);
 - b. meet other legal obligations including other correlative rights;
 - c. insure adequate conservation measures;
 - d. require efficiency of water uses;
 - e. reserve water for future uses, provided that all legal existing uses of water as of June, 1987 shall be protected;
 - f. meet legal obligations to the Department of Hawaiian Home Lands, if applicable; or
 - g. carry out such other necessary and proper exercise of the State's and the Commission's police powers under law as may be required.

Prior to any reduction, the Commission shall give notice of its proposed action to the permittee and provide the permittee an opportunity to be heard.

10. An approved flow meter(s) must be installed to measure monthly withdrawals and a monthly record of withdrawals, salinity, temperature, and pumping times must be kept and reported to the Commission on Water Resource Management on forms provided by the Commission on a monthly basis (attached).
11. This permit shall be subject to the Commission's periodic review of the **Waialua** Aquifer System's sustainable yield. The amount of water authorized by this permit may be reduced by the Commission if the sustainable yield of the **Waialua** Aquifer System, or relevant modified aquifer(s), is reduced.
12. A permit may be transferred, in whole or in part, from the permittee to another, if:
 - a. The conditions of use of the permit, including, but not limited to, place, quantity, and purpose of the use, remain the same; and
 - b. The Commission is informed of the transfer within ninety days.

Failure to inform the department of the transfer invalidates the transfer and constitutes a ground for revocation of the permit. A transfer which involves a change in any condition of the permit, including a change in use covered in Haw. Rev. Stat. § 174C-57, is also invalid and constitutes a ground for revocation.
13. The use(s) authorized by law and by this permit do not constitute ownership rights.
14. The permittee shall request modification of the permit as necessary to comply with all applicable laws, rules, and ordinances which will affect the permittee's water use.
15. The permittee understands that under Haw. Rev. Stat. § 174C-58(4), that partial or total nonuse, for reasons other than conservation, of the water allowed by this permit for a period of four (4) continuous years or more may result in a permanent revocation as to the amount of water not in use. The Commission and the permittee may enter into a written agreement that, for reasons satisfactory to the Commission, any period of nonuse may not apply towards the four-year period. Any period of nonuse which is caused by a declaration of water shortage pursuant to section Haw. Rev. Stat § 174C-62 shall not apply towards the four-year period of forfeiture.
16. The permittee shall prepare and submit a water shortage plan within 30 days of the issuance of this permit as required by Hawaii Administrative Rule ("HAR") § 13-171-42(c). The permittee's water shortage plan shall identify what the permittee is willing to do should the Commission declare a water shortage in the **Waialua** Ground Water Management Area.
17. The water use permit shall be subject to the Commission's establishment of instream standards and policies relating to the Stream Protection and Management ("SPAM") program, as well as legislative mandates to protect stream resources.
18. Special conditions in the attached cover transmittal letter are incorporated herein by reference.
19. The permittee understands that any willful violation of any of the above conditions or any provisions of Haw. Rev. Stat. § 174C or HAR § 13-171 may result in the suspension or revocation of this permit.

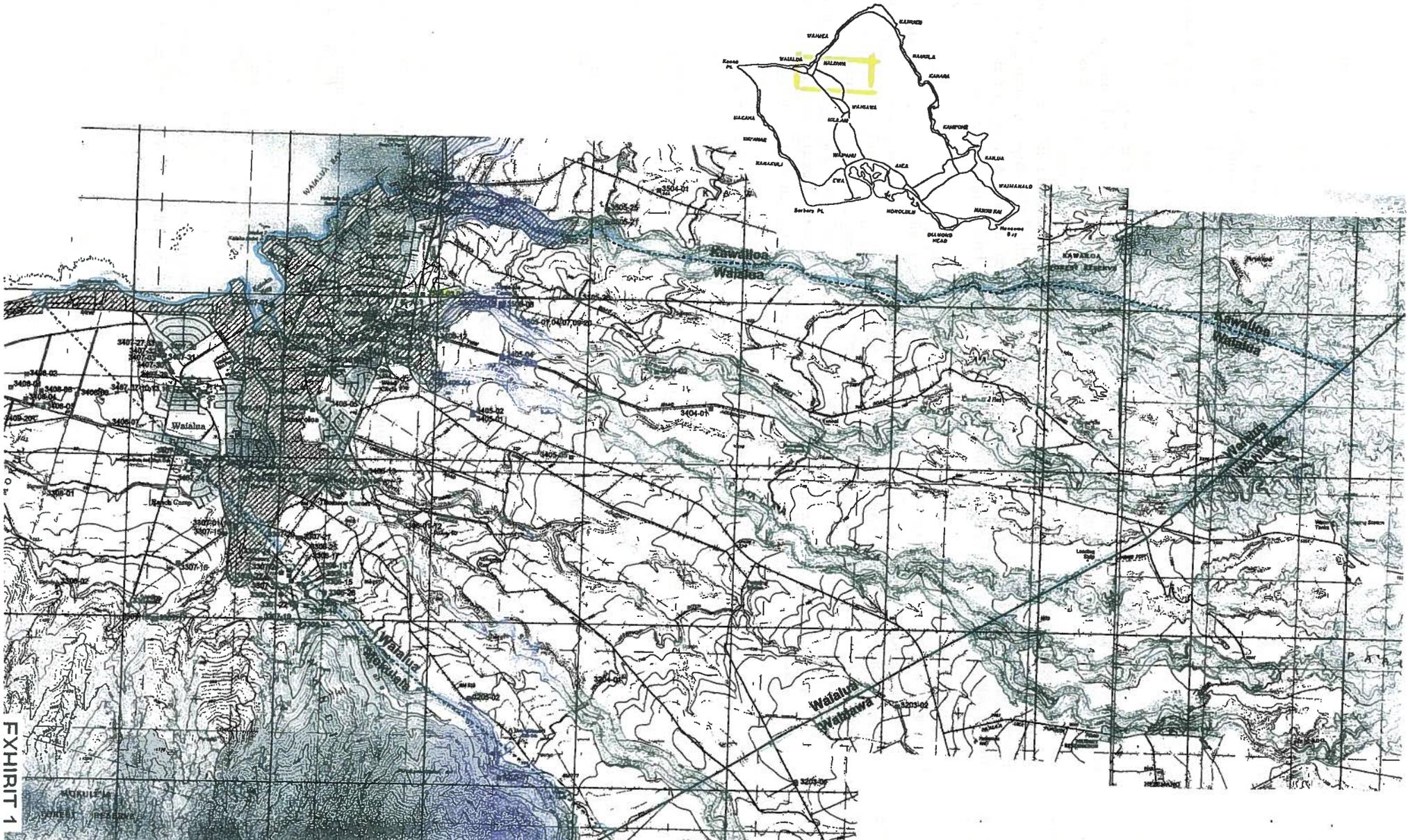
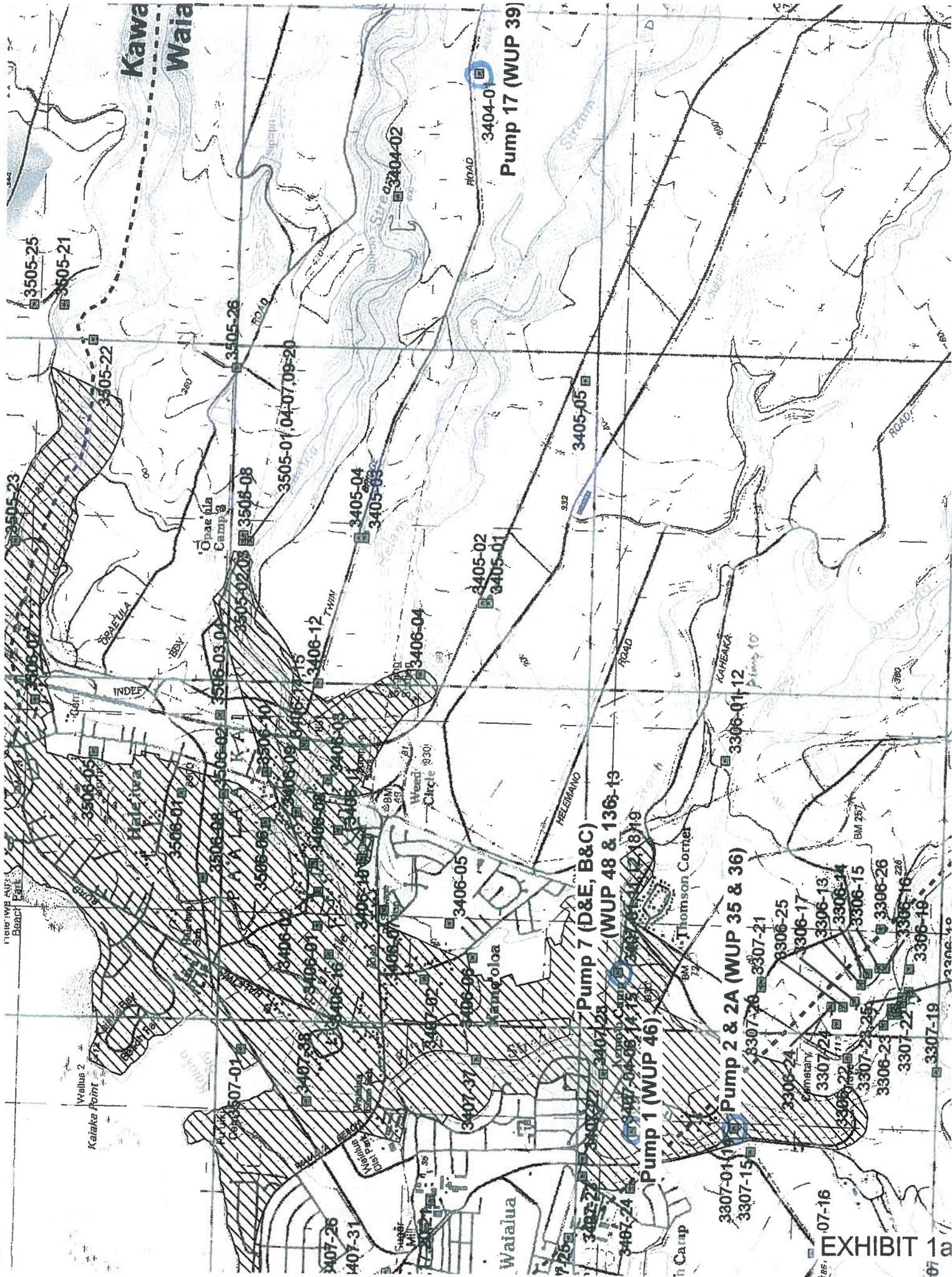


EXHIBIT 1



Pump 17 (WUP 39)

Pump 7 (D&E, B&C)
(WUP 48 & 136, 13)

Pump 1 (WUP 46)

Pump 2 & 2A (WUP 35 & 36)

EXHIBIT 1a



Report Parameters

Island: Oahu
 Applicant: All
 Well # Prefix: All
 Date: All
 Aquifer: 30402 Waialua
 TMK: All
 Aquifer Type: All

WUP = Water Use Permit, 12-MAV = 12 month moving average, Diff = WUP-12-MAV, mgd = million gallons per day

Island of Oahu

Aquifer System Ground Water Management Area: 30402 Waialua
Sustainable Yield (mgd): 25

WUP No	Approved	Permittee	Well No	Well Name	WUP (mgd)
35	06/02/1993	Waialua Sugar Co.	3-3307-001	Waialua P2 Batt	4.370
			3-3307-002	Waialua P2 Batt	
			3-3307-003	Waialua P2 Batt	
			3-3307-004	Waialua P2 Batt	
			3-3307-005	Waialua P2 Batt	
			3-3307-006	Waialua P2 Batt	
			3-3307-008	Waialua P2 Batt	
			3-3307-009	Waialua P2 Batt	
			3-3307-010	Waialua P2 Batt	
			36	06/02/1993	
3-3307-011	Waialua P2A Batt				
3-3307-012	Waialua P2A Batt				
3-3307-013	Waialua P2A Batt				
3-3307-014	Waialua P2A Batt				
39	06/02/1993	Waialua Sugar Co.	3-3404-001	Waialua Pump 17	8.630
40	09/11/1981	Board of Water Supply, BWS	3-3405-001	Waialua	1.730
			3-3405-002	Waialua	
41	09/11/1981	Board of Water Supply, BWS	3-3405-003	Haleiwa 1	1.000
			3-3405-004	Haleiwa 2	
46	06/02/1993	Waialua Sugar Co.	3-3407-004	Pump 1	2.330
			3-3407-005	Pump 1	
			3-3407-006	Pump 1	
			3-3407-014	Pump 1	
			3-3407-015	Pump 1	
			3-3407-011	Pump 7 B	
136	06/02/1993	Waialua Sugar Co.	3-3407-012	Pump 7 C	2.930
175	10/13/1993	Poamoho Venture, L.P.	3-3205-002	Poamoho A	0.600
263	10/13/1993	Native Hawaiian Advisory Council 2	3-3407-002	Waialua-Lopez 2	0.200
353	11/16/1994	A.J. LOPEZ SONS, INC.	3-3406-016	Haleiwa-Lopez 1	0.072
643	07/16/2003	Paradise Shrimp Farm	3-3407-038	Paradise Shrimp	0.576
732	06/02/1993	MICHAEL JEWETT & MEGAN WARD	3-3406-002	Waialua Pump 9	0.160
894	06/02/1993	Kamehameha Schools	3-3505-001	Opaeula P3 Battery	1.552
			3-3505-002	Pump 3 Well B	
			3-3505-003	Pump 3 Well C	
			3-3505-004	Opaeula P3 Battery	
			3-3505-005	Opaeula P3 Battery	
			3-3505-006	Opaeula P3 Battery	



Island of Oahu

Aquifer System Ground Water Management Area:
Sustainable Yield (mgd):

30402 Waialua
25

WUP No	Approved	Permittee	Well No	Well Name	WUP (mgd)
			3-3505-007	Opaeula P3 Battery	
			3-3505-008	Pump 3 Well H	
			3-3505-009	Opaeula P3 Battery	
			3-3505-010	Opaeula P3 Battery	
			3-3505-011	Opaeula P3 Battery	
			3-3505-012	Opaeula P3 Battery	
			3-3505-013	Opaeula P3 Battery	
			3-3505-014	Opaeula P3 Battery	
			3-3505-015	Opaeula P3 Battery	
			3-3505-016	Opaeula P3 Battery	
			3-3505-017	Opaeula P3 Battery	
			3-3505-018	Opaeula P3 Battery	
			3-3505-019	Opaeula P3 Battery	
			3-3505-020	Opaeula P3 Battery	
895	06/02/1993	B P Bishop Estate Trust	3-3506-003	Pump 8A	1.660
			3-3506-004	Pump 8B	
898	09/11/1981	Mary Lou Gora	3-3406-008	Gora	0.144
<i>Summary for Waialua (54 detail records)</i>					
					Total: 30.404
					Available: -5.404

WaialuaAqWUP.ta

Exhibit 2: Tabular History of Water Use Permit Allocations and Changing SY Limits
Waialua Aquifer System Area
for agriculture irrigation for domestic use use not defined

WUP#	Well #	Well Name	Approval dates and Quantities			
			9/11/81 ¹ mgd	WGWMA ² appr. date	mgd	proposed mgd
035	3307-01 to -06 -08 to -10	"Pump 2"	4.37	6/2/93	4.37	0.2623
036	3307-07, -11 to -14	"Pump 2A"	3.586 0.864	6/2/93	3.586 0.864	0.000
039	3404-01	"Pump 17"	8.198 0.432	6/2/93	8.630	0.000
040	3405-01 & -02	"Waialua Wells"	1.73	6/2/93	1.730	1.730
041	3405-03 & -04	"Haleiwa Wells"	1.0	6/2/93	1.000	1.000
043	3406-03	Kawamata	0.1	6/2/93	0.100	0.000
044	3406-06 3407-02 ⁴	Kunihiro "	0.2	10/13/93 ³ 6/2/93	0.000 --	0.000
046	3407-04 to -06 -14, -15	"Pump 1"	2.33	6/2/93	2.330	1.047
047	3407-07 to 10, -16-17, 20-21	"Mill Pumps" ⁴	4.63	9/18/02	0.000	(sealed)
048	3407-18 & 19	"Pump 7D/E"	0.18	6/2/93	0.180	0.000
135	3306-01 to 12	"Pump 10" ⁴	6.02	9/18/02	0.000	(sealed)
136	3407-11 & 12	"Pump 7B/C" ⁵	3.75	6/2/93 ⁶	2.930	0.361
175	3205-02	Poamoho A ⁶		10/13/93	0.600	0.600
263	3407-02	Lopez ³		10/13/93	0.200	0.144
353	3406-16	Lopez #1 ⁷		11/16/94	0.072	0.072
455	3506-10	BG Farm ⁸		12/18/96	0.003	0.000
643	3407-38	Paradise Production ⁹		7/16/03	0.576*	0.576
732	3406-02	"Pump 9" ¹⁰	0.16	6/2/93	0.160	0.160
894	3505-01 to -20	"Pump 3" ^{5,11}	3.052 0.108	6/2/93 ⁶	1.552	1.552
895	3506-03 & 04	"Pump 8" ¹¹	1.66	6/2/93	1.660	1.660
898	3406-08	Gora ¹²	0.144	6/2/93	0.144	0.144
Totals			42.514		30.111*	9.308
SY (Waialua Aquifer System Area)			60 (July 1981)		40 (3/17/93)	25
(8/28/08)						

* Paradise Production is for salt water, not counted against SY

EXHIBIT 5

Notes:

- 1 9/11/81 BLNR action under Waialua Ground Water Control Area (established 2/27/81): allocations preserved 5-year average historical use and were subject to special conditions, were not given water use permit numbers.
- 2 under the Water Code, continuing use is allowed under the Waialua Ground Water Management Area, and assigned permit numbers. New uses are based on the reasonable-beneficial test. Estimated sustainable yields assigned in 1990 Water Resource Protection Plan are depicted retroactively under column showing 1981 continuing allocations, showing an appropriate total allocation under existing conditions. (cont. next p.)
- 3 3407-02 ("Kunihiro Well") owned by Theodore J.P Lopez Trust, aka Lopez Sons, water used in 1981 on separate parcel by S. Kunihiro, original water use declarant. Following Kunihiro disuse, Lopez granted use to Native Hawaiian Advisory Council (NHAC); well name changed to "Lopez Well" to reflect owner. Property and well transferred to Richard Sterman, used by __. Well name to be clarified as "Lopez Well #2". Kunihiro WUP 44 reduced to 0.000 by CWRM action 10/13/93.
- 4 3407-var ("Mill Pumps") WUP revoked by CWRM action 9/18/02; abandonment acknowledged 1/13/03
3306-01 to -12 ("Pump 10") " " " "
8/05/02
- 5 3407-11 & -12 ("Pump 7 B&C"), and 3505-01 to-20 ("Pump 3"), voluntarily cutback approved by CWRM 6/3/93
- 6 3205-02 (Poamoho Well A) drilled in September 1994; WCR1 not accepted as complete until 2/17/98; WCR2 complete 5/15/98
- 7 3406-16 (Lopez Well #1) apparently dug around 1935, not declared during official window. Registered 8/18/94 to enter system with water use permit.
- 8 3506-10 (BG Farm Well) registered 5/31/89
- 9 3407-38 (Paradise Shrimp Farm Production Well) drilled in November 2003
- 10 3406-02 ("Pump 9") property and water transferred 1/24/05 from Waialua Sugar to M. Jewett & M. Ward
- 11 3505-01 to -20 ("Opae'ula Pump 3") transferred 7/7/10 from Waialua Sugar to Kamehameha Schools
3506-03 & -04 ("Pump 8") " " " "
; both sets of wells were assigned new WUP Nos.
- 12 3406-08 (Gora Well) water use permit transferred to person no longer controlling well or end use; to be reassigned.

Initial allocations under the Waialua Ground Water Control Area of the Board of Land and Natural Resources were approved September 11, 1981. Following the creation of the Water Code and the Commission, the existing permits were continued and assigned permit numbers which would change with each new use, owner, of change of allocation. The first Water Resource Protection Plan was approved by the Commission in 1990, setting the estimated sustainable yields.

Commission action on June 2, 1993 reflected the need to reduce overall pumpage (42.514 mgd) from the area defined as the Waialua Ground Water Management Area and assigned a lower sustainable yield (40 mgd). Voluntary cutbacks were offered by Waialua Sugar and accepted by the Commission, affecting three sets of wells, one of which ("Pump 10") was subsequently abandoned and sealed.

The 2008 review of sustainable yields for the revised Water Resource Protection Plan resulted in a still lower sustainable yield estimated for the Waialua Aquifer System (25 mgd). Although this timing followed the closing of sugar production and consequent drop in ground water withdrawals, the 20-year review of all water use permits during this same period suggested strongly that all users should be addressed simultaneously, rather than simply seeking voluntary cutbacks. The trigger for this action is the current proposal by the Honolulu Board of Water Supply to increase pumpage at Well Nos. 3405-01 & 02 ("Waialua Wells") against allocations still in effect, in excess of the adopted sustainable yield.

	<u>Allocation Approved</u> 1993	<u>Proposed Allocation</u>	<u>Requesting</u>	<u>% Reduction</u>	<u>Use</u>
	mgd	mgd	mgd		
WUP #36 Pump 2A	4.450	0.000	2.000	55%	Potential to irrigate over 1007 acres
WUP #35 Pump 2	4.37	0.262	2.000	54%	Domestic water Ag Irrigation
WUP #46 Pump 1	2.33	1.047	2.000	14%	Irrigation - over 278 acres
WUP #136 Pump 7	2.93	0.361	1.000	66%	Irrigation - over 390 acres
WUP #39 Pump 17	8.63	0.000	2.000	77%	Irrigation - over 400 acres

**Retained Allocation & Voluntary Cutback
Proposed by Dole February 15, 2012**

Voluntary Cutbacks – Proposal by Dole Food Company

<u>WUP #</u>	<u>Well Name</u>	1993 Allocation to Waialua Sugar	Reported Ditch Use (Backup) ¹	Allocation Request 2/ 15/ 12	Corresponding Voluntary Reduction	%	<u>New WUP #</u>	<u>Use</u>
		(Mgd)	(Mgd)	(Mgd)	(Mgd)			
35	Pump 2 (3307-01)	4.370	0.359 (0.262)	2.000	2.370	54.2 %	942	Domestic water Ag irrigation
36	Pump 2A (3307-07)	4.450	0.555 (0.000)	2.000	2.450	55.1 %	960	Potential to irrigate over 1007 acres
39	Pump 17 (3404-01)	8.630	0.453 (0.000)	2.000	6.630	76.8 %	961	Irrigation – over 400 acres
46	Pump 1 (3407-04)	2.330	1.047 (1.047)	2.000	0.330	14.2 %	943	Irrigation – over 278 acres
136	Pump 7 B/C (3407-11)	<u>2.930</u>	<u>0.331 (0.361)</u>	<u>1.000</u>	<u>1.930</u>	65.9 %	944	Irrigation – over 390 acres
Totals		22.890	2.745 (1.670)	9.000	13.710	59.9 %		

1. As offered on amended WUP application forms submitted by Dole February 23, 2012 to again clarify voluntary cutbacks. Numbers in parentheses were minimum 4-year 12-Month moving Average reported to & recommended by staff at 2-15-2012 CWRM hearing for partial or total revocations.

Note: Of the original permits, only WUP 36 (Pump 2A) had a domestic component; current proposed preservation of domestic use is from WUP #35 (Pump 2)

THEODORE J. P. LOPEZ TRUST
5090 LIKINI STREET
PH 206
HONOLULU, HAWAII 96818-2394

May 17, 2012

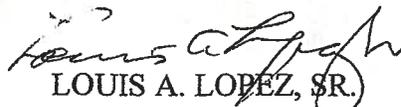
Mr. William Tam, Deputy Director
Department of Land and Natural Resources
Commission on Water Resource Management
P. O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Tam:

Re: Notice of Commission Action dtd May 8, 2012
Water Use Permit No. 263 (Well No. 3407-02)

1. This acknowledges receipt of your letter and commission action dated May 9, 2012. in which you permit the allocation of 0.144 million gallons per day, on a 12 month moving average basis, as a measure of actual artisan flow. For the present the proposal reduction to 0.144 mgd is acceptable. Any further reduction will be challenged.
2. As you probably know we have a taro crop growing on the property (TMK 6-6-23-04) and the success of this operation depend entirely on the continual flow of water from the existing spring.
3. We intend to defined our rights to this spring water against the world and with every dollar we have. This property has been in the possession of the Lopez Family for over 100 years and is part of the Antone Joaquin Lopez heritage. We love this land and the spring water. It is more than just water coming out of the ground.

Respectfully,


LOUIS A. LOPEZ, SR.
Trustee

cc: Mr. Charley Ice

2012 MAY 18 AM 9:09

EXHIBIT 7

	<u>1993 Allocation to Waialua Sugar</u>	<u>Reported Ditch Use requiring Backup¹</u>	<u>Request at CWRM February 15, 2012</u>	<u>Voluntary Reduction</u>	<u>% Reduction</u>	<u>Use</u>
	(Mgd)	(Mgd)	(Mgd)	(Mgd)		
WUP #36 Pump 2A	4.450	0.555	2.000	2.450	55 %	Potential to irrigate over 1007 acres
WUP #35 Pump 2	4.370	0.359	2.000	2.370	54 %	Domestic water Ag irrigation
WUP #46 Pump 1	2.330	1.047	2.000	0.330	14 %	Irrigation – over 278 acres
WUP #136 Pump 7	2.930	0.331	1.000	1.930	66 %	Irrigation – over 390 acres
WUP #39 Pump 17	8.630	0.453	2.000	6.630	77 %	Irrigation – over 400 acres
Totals	22.710	2.745	9.000	13.710	60 %	

1. As offered on WUP application forms submitted February 23, 2012

Note: Of the original permits, only WUP 36 (Pump 2A) had a domestic component; current proposed preservation of domestic use is from WUP #35 (Pump 2)

This is our understanding of your request


William M. Tam

We agree to this understanding


Daniel X. Nellis

2012 OCT 10 PM 12: 59

UOH
WATER
RESOURCES
CENTER